

Limpopo, South Africa

Limpopo Houses of Traditional Leaders Act, 2005

Act 5 of 2005

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Limpopo South Africa

Limpopo Houses of Traditional Leaders Act, 2005

Act 5 of 2005

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ACT

To provide for the establishment of Provincial House of Traditional Leaders and local Houses of traditional leaders; determine powers, functions and duties of Provincial House of Traditional Leaders and local Houses of traditional leaders; and to provide for matters incidental thereto.

Chapter 1 Definitions

1. Definitions

In this Act, unless the context otherwise indicates-

"**acting traditional leader**" means a traditional leader appointed in terms of section 15 of the Limpopo Traditional Leadership and Institutions Act, 2005;

"**community authority**" means a community authority established by proclamation or other notice issued by the Premier or person who before the commencement of the Constitution was-

- (a) the State President of the Republic within the meaning of the Republic of South Africa Constitution Act, 1983 (Act 110 of 1983);
- (b) the President, Chief Minister or other chief executive in a government under any other constitution or constitutional arrangement which was in force in an area which forms part of the Republic of South Africa;

"**Constitution**" means the Constitution of the Republic of South Africa, 1996;

"**Executive Committee**" means the Executive Committee established in terms of section 20(a);

"**Executive Council**" means the Executive Council of the Province;

"**local House**" means local Houses of Traditional Leaders established under section 10

"**member**"-

- (a) in relation to the Provincial House of Traditional Leaders means the member referred to in section 3;
- (b) in relation to a local House of Traditional Leaders means the member referred to in section 13;

"**Premier**" means the Premier of Limpopo elected in terms of section 145 of the Constitution and includes an Acting Premier appointed under section 148(1) of the Constitution;

"**prescribed**" means prescribed by regulation;

"**Province**" means Limpopo as defined in the Constitution;

"**Provincial House**" means the Limpopo House of Traditional Leaders established under [section 2](#);

"**Provincial Legislature**" means the Legislature for the Province;

"**Regulations**" means any regulations made under this Act;

"**this Act**" includes any regulation made and in force under [section 26](#);

"**traditional council**" means a traditional council established under the Limpopo Traditional Leadership and Institutions Act, 2005 and includes a tribal or community authority established by proclamation or other notice issued by the Premier or a person who immediately before the commencement of the [Constitution](#) was-

- (a) the State President of the Republic within the meaning of the Republic of South Africa Constitution Act, 1983 ([Act 110 of 1983](#));
- (b) the President, Chief Minister or other chief executive in a government under any other constitution or constitutional arrangement which was in force in an area which forms part of the Republic;

"**traditional leader**" means a person duly appointed or recognized as a traditional leader by-

- (a) the person who before the commencement of the [Constitution](#) was-
 - (i) the State President of the Republic within the meaning of the Republic of South Africa Constitution Act, 1983 ([Act 110 of 1983](#));
 - (ii) the President, Chief Minister or other chief executive in a government under any other constitution or constitutional arrangement which was in force in an area which forms part of the Republic; and
- (b) the Premier, and includes any person appointed to act temporarily in the place of such a traditional leader.

"**senior traditional leader**" means a traditional leader of a specific traditional community who exercises authority over a number of headmen or headwomen in accordance with customary law, or within whose area of jurisdiction a number of headmen or headwomen exercise authority;

Chapter 2

Provincial House of Traditional Leaders

2. Establishment of Provincial House of Traditional Leaders

- (1) There is hereby established a provincial House of Traditional Leaders to be known as the Limpopo Provincial House of Traditional Leaders.
- (2) The Provincial House must have any power conferred upon it by or under the [Constitution](#), this Act, or any other Act of Parliament or Provincial Legislature.
- (3) The Provincial House may exercise such other powers conferred and must perform such duties as may be imposed upon it under any other law of the Provincial Legislature.

3. Members of Provincial House

- (1) The members of the Provincial House must not exceed thirty-six in number and such members must be fairly and reasonably representative of the Districts established in terms of Chapter 3 of [Proclamation 51 of 1995](#).
- (2) The members representing the Provincial House must be nominated and elected by members of the respective local Houses: Provided that only persons who are members of the local Houses concerned are eligible to be so nominated and elected.

- (3) A third of the members of the Provincial House must consist of women, provided that if the Premier is satisfied that there is an insufficient number of women to participate in the Provincial House, the Premier may, after consultation with the local Houses, determine a lower threshold.
- (4)
 - (a) Subject to the provisions of paragraph (b) the Provincial House must continue for five years as from the day on which the first meeting of the National House after its constitution takes place as contemplated in section 3 of the National House of Traditional Leaders Act, 1997 ([Act 10 of 1997](#)).
 - (b) Notwithstanding the dissolution of the Provincial House by virtue of the provisions of paragraph (a)-
 - (i) every person who at the date of the dissolution is a member of the Provincial House remains a member thereof;
 - (ii) the Provincial House remains competent to exercise or to perform its powers and functions; and
 - (iii) the Premier has powers to summon the Provincial House by Proclamation in the *Gazette* to an extraordinary meeting for the dispatch of urgent business, during the period following such dissolution up to and including the day immediately preceding the day on which the first meeting of the Provincial House after such dissolution takes place.
- (5) The Provincial House must be reconstituted in accordance with the provisions of subsection (1) within 30 days from the date on which its term of office has been terminated in terms of subsection (4).
- (6) The procedure to be followed to conduct an election referred to in subsection (2) and the number of representatives in each District must be prescribed by the Premier by proclamation from time to time.
- (7) Whenever for any reason, a local House fails to nominate and elect a representative or representative(s) as contemplated in subsection (2) within the prescribed period, the Premier may nominate such representative(s) to the Provincial House in its stead.

4. Seat and meetings of Provincial House

- (1) The Provincial House must meet at the seat of the Provincial Legislature unless the Premier directs otherwise.
- (2) There must be an ordinary meeting of the Provincial House twice every year during a sitting of the Provincial Legislature.
- (3) Subject to subsections (2) and (4), the Provincial House must sit during such periods and on such days and during such hours as it may determine: Provided that the chairperson or the deputy chairperson of the Provincial House must call a meeting of the Provincial House within 10 days from the date on which a draft Bill has been referred to the Provincial House in terms of [section 7\(2\)](#).
- (4) The Executive Committee may at any time, and if so directed by the Premier, must call a special meeting of the Provincial House on a day to be determined by the said Committee with the approval of the Premier and at such special meeting only such matters as are placed before the Provincial House must be dealt with: Provided that if a special meeting be called by direction of the Premier, only such matters as necessitated the calling of the special meeting must be dealt with.
- (5) The Premier must within a reasonable time after the date of commencement of this Act convene the Provincial House in such manner as he or she may deem suitable.

5. Qualification for membership of Provincial House

Only a member of a local House of Traditional Leaders is qualified to be a member of the Provincial House.

6. Vacation of seats

- (1) The seat of a member of the Provincial House becomes vacant-
 - (a) upon the death of such member; or
 - (b) if the member resigns by written notice under his or her hand; or
 - (c) if the member ceases to possess qualifications mentioned in [section 5](#); or
 - (d) If the member becomes a Member of Parliament or Provincial Legislature.
- (2) If a member vacates his or her seat, the vacancy must be filled as soon as possible as provided for in [section 3](#).

7. Powers, functions and duties of Provincial House

- (1) The Provincial House is entitled to advise and make proposals to the Provincial Legislature or Provincial Government in respect of matters relating to traditional councils, indigenous law or the traditions and customs of traditional communities within the Province.
- (2) Any Provincial Bill pertaining to traditional authorities, indigenous law or such traditions and customs, or any other matters having a bearing thereon, must be referred by the Speaker of the Provincial Legislature to the Provincial House for its comments before the Bill is passed by the said Legislature.
- (3) The Provincial House must, within 30 days as from the date of such referral, indicate by written notification to the Provincial Legislature its support for or opposition to the Bill, together with any comments it wishes to make.
- (4) If the Provincial House indicates in terms of subsection (3) that it is opposed to the Bill, the Provincial Legislature must not pass the Bill before a period of 30 days as from the date of receipt by the Speaker of such written notification has lapsed.
- (5) If the Provincial House fails to indicate within the period prescribed by subsection (3) whether it supports or opposes the Bill, the Provincial Legislature may proceed with the Bill.
- (6) The Provincial House may exercise such other powers and must perform such duties as may be conferred or imposed on it under any other law.

8. Chairperson and Deputy Chairperson

- (1) At its first meeting after it has been convened under [section 4](#)(5) the Provincial House with the Premier or any person designated by the Premier as chairperson, must elect one of its members to be the Chairperson, and must thereafter elect another of its members to be the Deputy Chairperson.
- (2) The Chairperson and Deputy Chairperson must hold office for a period of five years from the date on which they were elected by the Provincial House and when their period of office has expired they must be eligible for re-election.
- (3) The Chairperson must be vested with all powers and functions assigned to him or her by this Act and the rules and orders of the Provincial House.
- (4) If the Chairperson is absent or for any reason unable to exercise or perform the powers or functions vested in the office of Chairperson, or when the office of Chairperson is vacant, the Deputy Chairperson must act as Chairperson during the Chairperson's absence or inability or until a Chairperson is elected.

- (5) If any of the circumstances described in subsection (4) applied with reference to both the Chairperson and the Deputy Chairperson, a member of the Provincial House designated in terms of the rules and orders of the Provincial House must act as Chairperson while the said circumstances prevail.
- (6) The Deputy Chairperson or the member designated in terms of subsection (5), while acting as Chairperson, may exercise the powers and must perform the functions vested in the office of Chairperson.
- (7) The Chairperson, the Deputy Chairperson or any other member designated for that purpose in terms of the rules and orders of the Provincial House, must preside over meetings of the Provincial House.
- (8) While presiding at a meeting of the Provincial House, the Chairperson, Deputy Chairperson or other member presiding must not have a deliberative vote, but must have and exercise a casting vote in the case of an equality of votes.
- (9) The Chairperson or Deputy Chairperson must vacate the office if he or she-
 - (a) ceases to be a member;
 - (b) is removed from office by resolution of the Provincial House; or
 - (c) resigns by lodging a written resignation with the Secretary to the Provincial House.
- (10) If the office of Chairperson or Deputy Chairperson becomes vacant, the Provincial House, under the chairpersonship of the Premier or a person designated by the Premier, must elect a member to fill the vacancy: Provided that the Chairperson must in such event preside at the election of the Deputy Chairperson.

9. Representation in National House of Traditional leaders

At least one of the representatives of the Provincial House nominated in terms of section 4 of the National House of Traditional Leaders Act, 1997 ([Act No. 10 of 1997](#)), must be a woman.

Chapter 3 Local Houses of Traditional Leaders

10. Establishment of local Houses

- (1) There is hereby established, a local House of Traditional Leaders for each of the Districts established in terms of Chapter 3 of [Proclamation 51 of 1995](#).
- (2) The local Houses established in terms of subsection (1) are known as-
 - (a) Bohlabela Local House of Traditional Leaders
 - (b) Capricorn Local House of Traditional Leaders
 - (c) Mopani Local House of Traditional Leaders
 - (d) Sekhukhune Local House of Traditional Leaders
 - (e) Vhembe Local House of Traditional Leaders
 - (f) Waterberg Local House of Traditional Leaders

11. Qualification for membership of local House

No person is eligible to become a member of a local House of Traditional Leaders unless that person is a king, queen or senior traditional leader.

12. Persons disqualified from being members

No person is eligible to become a member of a local House if that person-

- (a) at the time of the election of members of the local House is serving a sentence of imprisonment;
- (b) is an unrehabilitated insolvent; or
- (c) is of unsound mind and has been so declared by a competent court.

13. Members of local House

- (1) The Premier must, from time to time after consultation with an electoral college referred to in subsection (2), determine the number of members of each of the local Houses in accordance with the specific circumstances of the local House concerned, provided that such number must not be less than five and must not exceed ten.
- (2) The members of a local House must be elected by an electoral college consisting of senior traditional leaders residing within the District in question.
- (3) The Premier must, by notice in the *Gazette*, call the first elections of the respective local Houses, within sixty days after the coming into operation of this Act, provided that such elections must take place within thirty days of the said notice and thereafter by notice in the *Gazette* call elections of the local Houses which must take place within thirty days of the dissolution of the local Houses in terms of subsection (6).
- (4) The Premier must determine the procedure to be followed at the elections referred to in subsection (3).
- (5) A third of the members of a local House must consist of women, provided that if the Premier is satisfied that there is an insufficient number of women to participate in the local House, the Premier may, after consultation with the relevant electoral college referred to in subsection (2), determine a lower threshold.
- (6)
 - (a) Subject to the provisions of paragraph (b) a local House must continue for a period of five years from the date on which the Provincial House is elected.
 - (b) Notwithstanding the dissolution of a local House by virtue of the provisions of paragraph (a)-
 - (i) every person who at the date of the dissolution is a member of a local House remains a member thereof;
 - (ii) a local House remains competent to exercise or to perform its powers and functions; and
 - (iii) the Premier has powers to summon a local House to an extraordinary meeting for the dispatch of urgent business after consultation with chairperson,

during the period following such dissolution up to and including the day immediately preceding the day on which the first meeting of the local House after such dissolution takes place.
- (7) A local House must be reconstituted in accordance with the provisions of subsection (1) within thirty days from the date on which its term lapsed in terms of subsection (6).
- (8) Whenever for any reason, an electoral college fails to elect its local House within the prescribed period, the Premier may nominate eligible persons to constitute such local House in its stead.

14. Election of representatives to Provincial House

- (1) A local House must, in its first sitting which must take place within fourteen days of its election, elect its representatives in the Provincial House in accordance with [section 3](#).

- (2) The Premier or the Premier's designate must preside over the sitting referred to in subsection (1).

15. Seat and meetings of local House

- (1) A local House must, by resolution, decide on its own seat.
- (2) There must be an ordinary meeting of a local House at least twice every year
- (3) The Executive Committee may at any time, and if so directed by the Premier, must call a special meeting of the local House on a day to be determined by the said Committee with the approval of the Premier and at such special meeting only such matters as are placed before the local House must be dealt with: Provided that if a special meeting be called by direction of the Premier, only such matters as necessitated the calling of the special meeting must be dealt with.
- (4) The Premier must within a reasonable time after the election of the local Houses, subject to [section 14\(1\)](#), convene the local Houses in such manner as the Premier may deem suitable.

16. Vacation of seats

- (1) The seat of a member of the local House becomes vacant-
- (a) upon the death of such member;
 - (b) if the member resigns by written notice under his or her hand; or
 - (c) if the member ceases to possess qualifications mentioned in [section 11](#).
- (2) If a member vacates his or her seat, the vacancy must be filled as soon as possible as provided for in [section 13](#).

17. Powers, functions and duties of local House

- (1) The functions of a local House are-
- (a) to advise the relevant district municipality on-
 - (i) matters pertaining to customary law, customs, traditional leadership and the traditional communities within the district municipality or metropolitan municipality;
 - (ii) the development of planning frameworks that impact on traditional communities; or
 - (iii) the development of by-laws that impact on traditional communities;
 - (b) to participate in local programmes that have the development of rural communities as an object; or
 - (c) to participate in local initiatives that are aimed at monitoring, reviewing or evaluating government programmes in rural communities.
- (6) A local House may exercise such other powers and must perform such duties as may be conferred or imposed on it under any other law.

[Please note: numbering as in original.]

18. Chairperson and Deputy Chairperson

- (1) At its first meeting after it has been convened under [section 15\(4\)](#) a local House with the Premier or any person designated by him as chairperson, must elect one of its members to be the Chairperson, and must thereafter elect another of its members to be the Deputy Chairperson.

- (2) The Chairperson and Deputy Chairperson must hold office for a period of five years from the date on which they were elected by the local House and when their period of office has expired they are eligible for re-election for one additional term.
- (3) The Chairperson must be vested with all powers and functions assigned to the Chairperson by this Act and the rules and orders of the local House.
- (4) If the Chairperson is absent or for any reason unable to exercise or perform the powers or functions vested in the office of Chairperson, or when the office of Chairperson is vacant, the Deputy Chairperson must act as Chairperson during the Chairperson's absence or inability or until a Chairperson is elected.
- (5) If any of the circumstances described in subsection (4) applied with reference to both the Chairperson and the Deputy Chairperson, a member of the local House designated in terms of the rules and orders of the local House must act as Chairperson while the said circumstances prevail.
- (6) The Deputy Chairperson or the member designated in terms of subsection (5), while acting as Chairperson, may exercise the powers and must perform the functions vested in the office of Chairperson.
- (7) The Chairperson, the Deputy Chairperson or any other member designated for that purpose in terms of the rules and orders of the local House, must preside over meetings of the local House.
- (8) While presiding at a meeting of the local House, the Chairperson, Deputy Chairperson or other member presiding must not have a deliberative vote, but must have and exercise a casting vote in the case of an equality of votes.
- (9) The Chairperson or Deputy Chairperson must vacate the office if he or she-
 - (a) ceases to be a member;
 - (b) is removed from office by resolution of the local House; or
 - (c) resigns by lodging a written resignation with the Secretary to the local House.
- (10) If the office of Chairperson or Deputy Chairperson becomes vacant, the local House, under the chairpersonship of the Premier or a person designated by the Premier, must elect a member to fill the vacancy: Provided that the Chairperson must in such event preside at the election of the Deputy Chairperson.

Chapter 4

General matters

19. Interpretation

In this chapter, unless the context otherwise indicates, "House" means the Provincial and local Houses.

20. Rules and orders of the House

The House may make rules and orders in connection with the conduct of its business and proceedings, including rules and orders regulating-

- (a) the establishment, constitution, powers and functions, procedures and duration of committees of the House: Provided that provision must be made for a standing Executive Committee consisting of the Chairperson, Deputy Chairperson and three other members elected by the House;
- (b) restrictions on access to such committees;
- (c) the competency of any such committee to perform or dispose of its business and proceedings at venues other than the seat of the House; and

- (d) the designation of members as presiding officers to preside over meetings of the House, as and when the Chairperson so requires.

21. Quorum

The presence of at least one-third or when a vote is taken on a Bill by the Provincial House, of at least one-half, of all the members other than the Chairperson or other presiding member, is necessary to constitute a meeting of that House.

22. Requisite majorities

All decisions of the House must be taken by the majority of members constituting the meeting of the House.

23. Moneys payable to members

There must be paid out of and as a charge to the Provincial Revenue Fund of the Province to a member such moneys as may be determined by the President in terms of the Remuneration of Public Office Bearers Act, 1998 ([Act No. 20 of 1998](#)).

24. Administration of the House

- (1) The Premier must appoint a Secretary and such other staff as may be necessary for the discharge of the work of the House.
- (2) Until the necessary staff is appointed as contemplated in subsection (1), the Premier must designate such staff as may be necessary for the purpose of subsection (1).
- (3) Persons appointed under this section must be remunerated out of and as a charge on the Provincial Revenue Fund.

25. Powers, privileges and immunities of members of House and benefits of members

- (1) A House must have full power to control, regulate and dispose of its internal affairs and must have all such other powers, privileges and immunities as may, subject to the [Constitution](#), be prescribed by law.
- (2) Subject to the rules and orders of the House there must be freedom of speech and debate in or before such House and any committee therefor and such freedom must not be impeached or questioned in any court.
- (3) A member of a House must not be liable for any civil or criminal proceedings, arrest, imprisonment by reason of anything which the member has said, produced or submitted in or before or to such House or any Committee thereof.

26. Regulations

The Premier may make regulations-

- (a) for the regulation and orderly conduct of the proceedings of a House; and
- (b) for all other matters for which the Premier deems it necessary or expedient to make regulations in order to achieve the objects of this Act.

27. Repeal of laws, transitional provisions and savings

- (1) The Northern Province House of Traditional Leaders Act, 1994 ([Act No. 6 of 1994](#)), is hereby repealed.

- (2) The House of Traditional Leaders established under the Act referred to in subsection (1) is deemed to have been established in terms of this Act and must continue to function in terms of this Act for the remainder of its term.
- (3) Anything done or any act performed under the Act referred to in subsection (1) is deemed to have been done or performed under this Act.

28. Short title and commencement

This Act must be called the Limpopo Houses of Traditional Leaders Act, 2005, and comes into operation on a date determined by the Premier by proclamation in the *Gazette*.