

Limpopo, South Africa

Limpopo Traditional Leadership and Institutions Act, 2005

Limpopo Traditional Council Regulations, 2011

Premiers Notice 6 of 2011

Legislation as at 8 March 2011

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Limpopo Traditional Council Regulations, 2011

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Limpopo South Africa

Limpopo Traditional Leadership and Institutions Act, 2005

Limpopo Traditional Council Regulations, 2011

Premiers Notice 6 of 2011

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includes any amendments published up to 15 March 2024.]*

The Premier has under section 31 of the Limpopo Traditional Leadership and Institutions Act, 2005 ([Act No. 6 of 2005](#)) made the Regulations in the Schedule.

Part 1 – Definitions and recognition of traditional community

1. Definitions

In these Regulations any word or expression to which a meaning has been assigned in section 1 of the Limpopo Traditional Leadership and Institutions Act, 2005 ([Act No. 6 of 2005](#)), retains that meaning and in addition –

“**assigned official**” means an official of government assigned in terms of regulation 8(1) to assist the traditional community during the election of the traditional council;

“**Department**” means the Department responsible for the administration of traditional matters;

“**Election Tribunal**” means the Tribunal established in terms of regulation 15; and

“**the Act**” means the Limpopo Traditional Leadership and Institutions Act, 2005 ([Act No. 6 of 2005](#)).

2. Application for recognition as traditional community

- (1) A community wishing to apply for recognition as a traditional community must through a duly authorised representative of that community –
 - (a) comply with the provisions of section 3(2) of the Act;
 - (b) complete and sign Form A in full; and
 - (c) lodge Form A with the Premier by hand delivery or posted by pre-paid registered post.
- (2) An officer delegated by the Premier must, within five days of receiving the application, acknowledge in writing, having received the application.
- (3) The Premier must, on receiving the application and if satisfied that the community concerned complies with the provisions of section 3(2) of the Act, refer the matter for comments to the –
 - (a) provincial house of traditional leaders;
 - (b) relevant local house of traditional leaders;
 - (c) senior traditional leader whose traditional community is, in the opinion of the Premier, likely to have an interest in the matter; and
 - (d) king or queen, if applicable, under whose jurisdiction the community will be located.

- (4) The referral in terms of sub-regulation (3) must reach all the parties within 14 days of the Premier receiving the application.
- (5) A party wishing to comment on the matter must do so within 30 days.
- (6) Upon expiry of the 30-day period, the Premier may take a decision -
 - (a) after considering any comments that were received; or
 - (b) where no comments were received.
- (7) The Premier must take a decision to recognise a community as a traditional community within three months of receiving the duly completed application.
- (8) Where the Premier intends to refuse to recognise the community as a traditional community, the Premier must provide the reasons for the intended refusal and afford the community concerned an opportunity to make representations in writing within 30 days.
- (9) When the Premier takes a final decision to recognise a community as a traditional community, the Premier must -
 - (a) notify the community concerned in writing;
 - (b) issue the prescribed certificate of recognition; and
 - (c) publish that decision by notice in the *Gazette* within 30 days.
- (10) The notice in which a community is recognised as a traditional community must, amongst others, specify the -
 - (a) name of the traditional community;
 - (b) territorial area of that traditional community; and
 - (c) number of members of that traditional council.
- (11) After being recognised as a traditional community, that traditional community must take appropriate steps to comply with the Act.
- (12) A community remains being recognised as a traditional community until the recognition is withdrawn in terms of section 9 of the Act.
- (13) When a traditional community requests the Premier to withdraw its recognition as a traditional community in terms of section 9 of the Act, it must do so in writing and provide sufficient information to enable the Premier to properly consider the request, including -
 - (a) a full motivation for the request; and
 - (b) the extent of the support for the request within that community, and how that support was determined.
- (14) The Premier may, on reasonable grounds, after consultation with the -
 - (a) local house of traditional leaders;
 - (b) community concerned; and
 - (c) king or queen under whose jurisdiction the traditional community concerned is located,withdraw the recognition of that traditional community.
- (15)
 - (a) The Premier must publish a notice in the *Gazette* withdrawing the recognition of that traditional community.
 - (b) The withdrawal takes effect on the date the notice is published.

- (16) Where the recognition of a traditional community is withdrawn, the traditional council of that traditional community ceases to exist from the date of the notice referred to in sub-regulation (15) (b).

Part 2 – Establishment of traditional council

3. Establishment

When the Premier recognises a traditional community in terms of regulation 2(9), the Department must provide that traditional community with reasonable support to enable that traditional community to establish a traditional council within 30 days.

4. Composition

- (1) The number of members for each traditional council must be in accordance with Annexure A.
- (2) A traditional council in terms of section 4(2) of the Act must comprise of –
 - (a) 60 percent being traditional leaders and members nominated by the senior traditional leader, in terms of that community's customs; and
 - (b) 40 percent being other members of the traditional community democratically elected in accordance with the criteria provided for in regulation 9.
- (3) At least a third of the members of a traditional council must be women.
- (4) The senior traditional leader is an *ex officio* member and chairperson of the traditional council.

5. Term of office

Subject to section 6 of the Act, a member of a traditional council holds office for a period of 5 years, provided that a member who holds a casual vacancy holds such office for the remainder of his or her predecessor's term.

Part 3 – Election procedure

6. Election date and venue

- (1) The Premier must, after consultation with the Provincial House of Traditional Leaders, publish in the *Gazette* the date of election of the traditional council.
- (2) The election must be conducted at the capital of the traditional community or any central venue within the jurisdictional area of the traditional council to be elected.

7. Qualification to stand for election and to vote

- (1) A person who wishes to stand for or accepts a nomination as member of the traditional council of a community must –
 - (a) reside within the jurisdictional area of the traditional community where the elections will be conducted;
 - (b) be at least eighteen years of age;
 - (c) possess a South African identity document;
 - (d) not be an office bearer of a political party or a political movement;

- (e) not have been convicted and sentenced to an effective period of twelve months or more without the option of a fine for an offence relating to dishonesty, incitement or any other offence involving violence or public disorder;
 - (f) not be a member of a municipal council, provincial legislature or national parliament; and
 - (g) not have been selected by a senior traditional leader as part of the 60% selected councillors for that traditional council.
- (2) A person who wishes to vote in the elections of a traditional council must –
 - (a) be a citizen of the Republic of South Africa;
 - (b) be a member of the traditional community concerned;
 - (c) possess a valid South African identity document;
 - (d) be at least eighteen years of age; and
 - (e) having complied with (a), (b), (c) and (d) of this subregulation, be listed on the voters' roll for the village concerned.
- (3) A person who lives outside of the jurisdictional area of the traditional community, but who belongs to the said traditional community may participate in the proceedings of the traditional community meeting and vote in the election.

8. Election process

- (1) The Premier must designate the assigned official who must assist the traditional community during the election process.
- (2) After the Premier has proclaimed the date of elections in terms of regulation 6(1), the assigned official must, within a reasonable time prior to the date of election, begin the processes of -
 - (a) explaining the provisions of these regulations and the Act to the traditional community;
 - (b) compiling the voters' roll for each and every village; and
 - (c) calling for nominations, subject to regulation 9(1).
- (3) Members of the local and provincial houses of traditional leaders within whose area of jurisdiction the traditional community is located may observe the election process.

9. Nomination of candidates

- (1) Before the assigned official calls for nominations, the senior traditional leader must announce the names of the selected members that will constitute 60% of the membership of the traditional council in terms of section 4(2)(a) of the Act.
- (2) The number of the nominees must be twice the number reflected in the column "Elected Members" in Annexure A.
- (3) When conducting the nominations the assigned official must ensure that there are sufficient women nominated in order to comply with the one third women gender requirement contemplated in the Act.
- (4) A person who wishes to nominate another person must complete Form B and the nominee must accept the nomination by completing Form C.

10. Election of candidates by secret ballot

- (1) The assigned official must —
 - (a) complete the ballot form by filling in the names of the candidates nominated during the meeting in terms of these regulations; and
 - (b) distribute all the election material listed in Annexure B.
- (2) Before voting takes place, the assigned official must explain —
 - (a) the secret ballot voting procedure;
 - (b) that each voter may only vote for one candidate;
 - (c) that the ballot papers will be reconciled against the number of voters after the voting has taken place;
 - (d) that the counting of votes and finalisation of results will take place once voting has been done; and
 - (e) that the results will be announced immediately after counting has been completed.
- (3) The assigned official must determine the number of participating voters in terms of the voters' roll and distribute the exact number of ballot papers.
- (4) Once the voter has received a ballot paper, the voter must—
 - (a) enter an empty voting compartment;
 - (b) mark the ballot paper in secrecy in a way that indicates the candidate the voter wishes to vote for;
 - (c) fold the ballot paper to conceal the voter's vote;
 - (d) place the ballot paper in the ballot box; and
 - (e) immediately leave the voting station.
- (5) When the voting has been finalised the assigned official must immediately reconcile the ballot papers and count the votes and may for this purpose be assisted by other officers.
- (6) When counting has been finalised and the results have been determined, the assigned official must immediately announce the results to the meeting.
- (7)
 - (a) The Senior Traditional Leader and the assigned official must sign the record of the election process.
 - (b) The assigned official must submit the signed record to the Premier within 48 hours.
- (8) The record of the elections referred to in sub-regulation (7) must be kept for the whole term of office of the traditional council.

11. Assistance to certain voters

- (1) A person, other than the assigned official may assist a voter in voting, but only if—
 - (a) the voter requires assistance due to physical disability;
 - (b) the voter has requested to be assisted by that person; and
 - (c) the assigned official is satisfied that the person rendering assistance is—
 - (i) at least 18 years old; and
 - (ii) not an observer of the election or a candidate.

- (2) In applying this regulation, one must preserve the secrecy of voting as far as possible.

12. Election tie

- (1) After counting all votes and before the results are announced at a community meeting, election ties must be resolved by conducting a draw using identical envelopes with the names of the candidates who are involved in the tie placed therein.
- (2) The assigned official must draw the envelope.
- (3) The candidate whose name has been picked first is elected.
- (4) Where the required minimum of one third of women representivity has not been reached, the female candidate should be declared elected in order to satisfy the provisions of gender representivity contemplated in the Act: Provided that where only women candidates are involved in a tie the draw must still be conducted.
- (5) The outcome of a draw must be announced at the traditional community meeting called for that purpose.

13. Swearing in councillors

Newly elected members of the traditional council must, in terms of section 5(2) of the Act, be sworn in by a Commissioner of Oaths designated by the Premier within 14 days after the traditional council has been recognised by notice in the *gazette*.

Part 4 – Disputes

14. Election disputes

- (1) Where any interested party, including an observer or candidate, wishes to lodge a complaint regarding the procedures, processes or the results of the elections, he or she must lodge a complaint in writing on Form D with the assigned official at the venue where voting took place.
- (2) The assigned official must attempt to resolve the dispute through mediation or negotiation failing which the assigned official must take a decision.
- (3) The assigned official must, record the objection and his or her decision and inform the objector and any other party involved or affected, verbally of the decision taken.
- (4) Where the objector is still not satisfied with the decision of the assigned official the objector may lodge an appeal within 48 hours with the election tribunal established in terms of regulation 15.

15. Establishment of Election Tribunal

- (1) The Premier must, immediately after the proclamation of the election date, establish an Election Tribunal consisting of not less than three and not more than five people.
- (2) The members of the Tribunal must be fit and proper persons and must possess at least one or more of the following skills and competencies:
 - (a) knowledge of legal procedures;
 - (b) knowledge of election processes;
 - (c) knowledge of traditional leadership issues;
 - (d) knowledge of dispute resolution procedures; or
 - (e) any other competency that the Premier deems suitable.

- (3) The Premier must appoint one of the members as the chairperson of the Tribunal.
- (4) The Tribunal must adopt rules of procedure to conduct its business.
- (5) The Tribunal will, in terms of Regulation 14(4), hear appeals against decisions of the assigned official and may confirm, vary or set aside the decision.
- (6) The Tribunal must convene within 3 days of the appeal being lodged.
- (7) The term of office of the Election Tribunal ends after the announcement of its decision or such other time as may be recommended for the proper finalisation of its responsibilities.

Part 5 – Prohibited conduct, offences and penalties

16. Prohibited conduct

- (1) No person may conduct himself or herself in a manner that may —
 - (a) unduly influence a person to vote or not to vote;
 - (b) compel or unlawfully persuade a person to vote or not to vote for a particular candidate;
 - (c) unlawfully prevent voters from access to voting stations;
 - (d) make intentional false statements or publish false information which may disrupt or prevent an election taking place;
 - (e) unlawfully create hostility or fear in order to influence the conduct or outcome of an election;
 - (f) unlawfully interfere with a voter's right to secrecy;
 - (g) unlawfully remove, destroy or damage any election material;
 - (h) unlawfully print, transport or remove ballot papers or manufacture any election material;
 - (i) unlawfully remove or damage any billboard or placard;
 - (j) unlawfully obstruct or fail to comply with an instruction of a presiding officer inside the boundary of a voting station;
 - (k) unlawfully carry or display any dangerous weapon within the boundaries of the voting station; or
 - (l) within the boundaries of the voting station engage in any political activity other than casting a vote.
- (2) Any person who contravenes or fails to comply with the provisions sub-regulation (1), commits an offence and on conviction is liable to a fine or a period of imprisonment, or to both such fine and imprisonment determined by a competent court of law.

Part 6 – Miscellaneous matters

17. First meeting of traditional council

- (1) The senior traditional leader must call the first meeting of a traditional council within twenty-one days of that council being established.
- (2) He or she must do so in a written notice setting out the date, time and place of the proposed meeting and the notice must be delivered to each member at least seven days prior to the date of the meeting.

18. Short title

These regulations are called the Limpopo Traditional Council Regulations, 2011.

Form A (Regulation 2(1))**Application for recognition as a traditional community (Section 3(2))**

Limpopo Traditional Leadership and Institutions Act, 2005 (Act 6 of 2005)

To: The Premier

1. Name of the traditional community:

2. Other names by which the Community may be known:

3. Physical location of the community and description of the area within which the community generally resides:

4. Postal address:

5. The Senior Traditional Leader under whose authority the community falls:

6. The King / Queen (if any) under whose authority the community falls:

7. General background of the community (*including the history of the community and other general facts relevant to the background and history of that community*):

(use additional paper if necessary).

8. Names of the persons whom the community regard as their leaders, and their designations in terms of applicable custom:

9.

(a) _____

Designation _____

(b) _____

Designation _____

(c) _____

Designation _____

(d) _____

Designation _____

(e) _____

Designation _____

Dated at _____ (place)

this _____ (date) _____

Name of the Representative: _____

Designation: _____

Form B (Regulation 9)

Nomination of candidates for traditional council elections

Limpopo Traditional Leadership and Institutions Act, 2005 ([Act 6 of 2005](#))

Nomination of candidates for traditional council elections
<p>Election date:</p> <p>Traditional Community:</p>

<p>I, _____ (identity number: _____) residing in the abovementioned Traditional Community and traditional ward and being registered as a voter on that Traditional Community's segment of the voters' roll, hereby nominate _____ (Name used _____) (Identity number: _____) to contest the election in the abovementioned Traditional Community as a candidate.</p>				
Attached is -				
(a) the prescribed acceptance of nomination signed by the candidate:				
(b) a certified copy of the page of the candidate's identification document on which the candidate's photo, name and identity number appear; and				
Signature Nominator:				
Place:			Date:	
Contact details and physical address of -				
(a) Nominator				
(b) Candidate				

Form C (Regulation 9)

Acceptance of nomination by a candidate for traditional council

Limpopo Traditional Leadership and Institutions Act, 2005 (Act 6 of 2005)

Elections
Election date: Traditional Community:

I, _____ (Identity number: _____) hereby accept my nomination as a candidate in the abovementioned election and confirm that I accept that the nomination is valid only for this election and not for any subsequent or by-election. A copy of my identification document is attached thereto.			
Place:		Date:	
		Signature of candidate	

Form D (Regulation 14(5))

Objection concerning voting in the traditional council elections

Limpopo Traditional Leadership and Institutions Act, 2005 ([Act 6 of 2005](#))

Election date: Traditional Community: Voting District:

Objector					
Identity number:					
Full names					
Agent/Candidate/Voter: (Where applicable)					
I object to:					
	A voter being allowed to vote				
	A voter being allowed to vote at this station				
	A voter (or myself) being refused a ballot paper				
	The conduct of an officer, an agent				
Reasons for objection <i>(giving full particulars of voter, officer, agent or other person involved)</i>					
Signature of objector					Date
Assigned officer's decision					

Signature of objector		Date

Annexure A (Regulation 4(1))

Number of councillors of traditional council

Limpopo Traditional Leadership and Institutions Act, 2005 (Act 6 of 2005)

Estimated population of traditional community	Selected members = 60%				Elected members = 40% of members	Number of members = 100%
	RFM ¹ + CM ²	Recognised headmen/ headwomen	STL ³	Total		
10 000 - 30,000	*	*	1	5	3	8
31,000 - 80 000	*	*	1	7	5	12
81,000 - 150, 000	*	*	1	11	7	18
151,000 - 250 000	*	*	1	18	12	30
251,000 - 400,000	*	*	1	24	16	40
401,000 and more	*	*	1	30	20	50

* The number of RFM and CM and STL members to be decided by the senior traditional leader: Provided that the RFM and CM members may not be less than 20% and not more than 80% of total number of selected members and the STL members may not be less than 20% and not more than 80% of the total number of selected members: Provided further that in the event that there are no recognised headmen/headwoman, the selected membership consists of royal family members and other community members.

¹RFM means Royal Family Members

²CM means Community Member

³STL means Senior Traditional Leaders

Annexure B (Regulation 10(1)(b))

Voting material

Limpopo Traditional Leadership and Institutions Act, 2005 ([Act 6 of 2005](#))

Voting material needed at each voting station -

ballot papers;

ballot boxes;

voting compartments;

the certified segment of the voters' roll for the voting district;

indelible ink

seals

official stamp

all prescribed forms

pencils and pens

rulers

boundary tape

banners

industrial tape

envelopes

paper clips

stickers and nametags

punch