

Mpumalanga, South Africa

## Mpumalanga Provincial House and Local Houses of Traditional Leaders Act, 2005

Act 6 of 2005

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# Mpumalanga Provincial House and Local Houses of Traditional Leaders Act, 2005

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## Mpumalanga South Africa

### Mpumalanga Provincial House and Local Houses of Traditional Leaders Act, 2005 Act 6 of 2005

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**Assented to on 14 December 2005**

**Commenced on 7 April 2006 by Mpumalanga Provincial House and  
Local Houses of Traditional Leaders Act, 2005: Commencement**

*[This is the version of this document from 13 January 2006  
and includes any amendments published up to 7 March 2024.]*

**To provide for the establishment and composition of Mpumalanga Provincial House and Local Houses of Traditional Leaders; to determine the procedure for the election of Members of the Provincial House and Local Houses; to provide for the powers and functions of the Mpumalanga Provincial House and Local Houses of Traditional Leaders; and to provide for matters incidental thereto.**

WHEREAS the Constitution recognizes-

- the institution, status and role of traditional leadership according to customary law; and
- traditional councils that observe a system of customary law;

AND WHEREAS -

- the State must respect, protect and promote the institution of traditional leadership in accordance with the dictates of democracy in South Africa; and
- the State recognizes the need to provide appropriate support and capacity building to the institution of traditional leadership;

AND WHEREAS the institution of traditional leadership must be transformed to be in harmony with the Constitution and the Bill of Rights so that-

- democratic governance and the values of an open and democratic society may be promoted; and
- gender equality within the institution of traditional leadership may progressively be advanced; and

AND WHEREAS the institution of traditional leadership must-

- promote freedom, human dignity and the achievement of equality and non-sexism;
- derive its mandate and primary authority from applicable customary law and practices;
- strive to enhance tradition and culture;
- promote nation building and harmony and peace amongst people; and
- promote the principles of co-operative governance in its interaction with all spheres of government and organs of state.

BE IT THEREFORE ENACTED by the Provincial Legislature of the Province of Mpumalanga, as follows:

## Chapter 1 Definitions

### 1. Definitions

In this Act, unless the context otherwise indicates-

**"Constitution"** means the [Constitution of the Republic of South Africa, 1996](#);

**"District"** means the area of jurisdiction in the Province in respect of which a District Municipality has been established;

**"District Municipalities"** means those District Municipalities which have been duly established in the Province, as contemplated in section 12 of the Local Government: Municipal Structures Act, 1998 ([Act No. 117 of 1998](#)), read with section 21 of the Local Government: Municipal Demarcation Act, 1998 ([Act No. 27 of 1998](#));

**"Executive Committee"** in relation to the Provincial House means a committee of the Provincial House as contemplated in [section 26\(a\)](#), and in relation to a Local House means a committee of the Local House as contemplated in [section 11\(a\)](#);

**"Executive Council"** means the Executive Council of the Province as contemplated in section 132 of the [Constitution](#);

**"headman or headwoman"** means a traditional leader who-

- (a) is under the authority of, or exercises authority within the area of jurisdiction of, a senior traditional leader in accordance with customary law; and
- (b) is recognised as such in terms of the Traditional Leadership and Governance Framework Act, 2003;

**"King or Queen"** means a Traditional Leader-

- (a) under whose authority, or within whose area of jurisdiction, Senior Traditional Leaders exercise authority in accordance with customary law; and
- (b) recognized as such in terms of the Traditional Leadership and Governance Framework Act, 2003;

**"Local Electoral College"** means an Electoral College established in [section 32](#);

**"Local House"** means a Local House of Traditional Leaders established by [section 2](#);

**"Member"** means a Member of the Provincial House or a Member of a Local House, depending on the context;

**"National House"** means the National House of Traditional Leaders established by Section 2 of the National House of Traditional Leaders Act, 1997;

**"Premier"** means the Premier of the Province as contemplated in section 125 of the [Constitution](#);

**"Prescribed"** means prescribed by regulation as contemplated in [section 33](#);

**"Province"** means the Province of Mpumalanga as contemplated in section 103(1)(e) of the [Constitution](#);

**"Provincial Gazette"** means the *Provincial Gazette* of the Province;

**"Provincial House"** means the Mpumalanga Provincial House of Traditional Leaders established by [section 17](#);

**"Provincial Legislature"** means the legislative authority of the Province contemplated in section 104(1) of the [Constitution](#);

**"responsible Member"** means the Member of the Executive Council responsible for traditional matters in the Province;

**"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;

**"Speaker"** means the Speaker of the Mpumalanga Provincial Legislature; and

**"Traditional Leader"** means any person who, in terms of customary law of the traditional community concerned, holds a traditional leadership position, and is recognised in terms of the Traditional Leadership and Governance Framework Act, 2003.

## Chapter 2

### Local Houses of Traditional Leaders

#### 2. Establishment and composition of Local Houses

- (1) There is hereby established a Local House, as contemplated in section 17(1) of the Traditional Leadership and Governance Framework Act, 2003, a Local House for each of the District Municipalities in the Province.
- (2) The number of Members of a Local House may not be less than five and may not be more than ten qualifying persons in terms of [section 20](#) below permanently residing in the District for which such Local House has been established.
- (3) The eligible persons representing the District in a Local House as contemplated in subsection (2), must consist of at least two women, to the extent that there are women who are duly appointed and who are eligible for election to such Local House, at the date of election of Members of such Local House.

#### 3. Term of office of Members of Local Houses

- (1) The term of office of a Member is not more than five years where after he or she is eligible for re-election.
- (2) If a Member is re-elected for a successive term of office, the terms are, for remunerative purposes and other service conditions, deemed to be one continuous term of office.

#### 4. Seat and meetings of Local Houses

- (1) A Local House must meet in the District Municipality in respect of which such Local House has been established and at the seat as may be determined by the Chairperson of the Local House concerned in accordance with its Rules and Orders.
- (2) There must be an ordinary meeting of a Local House at least once in two months.
- (3) Subject to subsections (2) and (4), a Local House site during such periods, days and hours as it may determine.
- (4) The Executive Committee of a Local House may at any time, call a special meeting of the Local House concerned on a day to be determined by the said Executive Committee, and at such special meeting, only matters that necessitated the calling of the special meeting may be dealt with.

#### 5. Qualification for Membership of Local Houses

A person is eligible to be elected as Member of a Local House if he or she-

- (a) is a King, Queen, inkhosi or Senior Traditional Leader;

- (b) is a South African citizen over the age of 18 years; and
- (c) is permanently resident within the District concerned.

## 6. Persons disqualified from being Members of Local Houses

- (1) A person is not eligible to be elected as Member of a Local House if he or she-
  - (a) at the time of the first election of the Provincial Legislature held under the [Constitution](#) was serving a sentence of imprisonment of more than 12 months without the option of a fine;
  - (b) at any time after the promulgation of the [Constitution](#) is convicted of an offence in the Republic, or outside the Republic if the conduct constituting such offence would have constituted an offence in the Republic, and for which he or she has been sentenced to imprisonment of more than 12 months without an option of a fine, unless he or she has received a pardon;
  - (c) is an unrehabilitated insolvent; and
  - (d) is of unsound mind and has been so declared by a competent court.
- (2) For the purposes of subsection (1)(b) no person is deemed as having been convicted of an offence until any appeal against the conviction or sentence has been determined, or, if no appeal against the conviction or sentence has been noted, the time for noting such an appeal has expired.

## 7. Vacation of seat by Members of Local Houses

The seat of a Member becomes vacant-

- (a) upon the death of such Member;
- (b) if, without having obtained leave in accordance with the Rules and Orders of the Local House concerned, the Member absents himself or herself voluntarily from sittings of such Local House or any other forum of such Local House of which he or she is a Member, for three consecutive days on which the said Local House or any such forum sat;
- (c) if the Member resigns his or her seat by written notice under his or her hand, submitted to the responsible Member and the Chairperson or Deputy Chairperson of the Local House concerned;
- (d) if the Member ceases to possess the qualifications mentioned in [section 5](#) or becomes disqualified in terms of [section 6](#);
- (e) if the Local House concerned, by resolution, on good cause shown, withdraws the Member's membership of such Local House, and informs the responsible Member; or
- (f) upon the expiry of his or her term of office.

## 8. Filling of vacancies in Local Houses

- (1) If a Member vacates his or her seat as contemplated in [section 7](#), the vacancy must be filled as soon as possible, in accordance with the procedure set out in subsection (3) and Schedule 2.
- (2) A Member elected to fill a vacancy in terms of subsection (1) holds membership for the remainder of his or her predecessor's term of office.
- (3) In the event of a vacancy in a Local House-
  - (a) the Chairperson of the Local House concerned must forthwith notify the responsible Member in writing of such vacancy; and
  - (b) the responsible Member must, within 15 days after receipt of the notice contemplated in paragraph (a), or after becoming aware of a vacancy in the Local House concerned, convene,



by written invitation to all the Members of the Local Electoral College concerned, a meeting of such Local Electoral College, as contemplated in Schedule 2.

## **9. Powers and functions of Local Houses**

- (1) A Local House has the powers and functions to, in writing, advise and make proposals to the Provincial House in respect of matters relating to traditional councils, customary law or the traditions and customs of traditional communities within the District concerned.
- (2) The powers and functions of the Local Houses are furthermore to-
  - (a) advise the District Municipalities within which the respective Local Houses are situated, on-
    - (i) matters pertaining to customary law, customs, traditional leadership and the traditional communities within the District Municipality concerned;
    - (ii) the development of planning frameworks that impact on traditional communities within the District Municipality concerned; or
    - (iii) the development of by-laws that impact on traditional communities within the District Municipality concerned;
  - (b) participate in local programmes that have the development of rural communities within the Province as an object;
  - (c) participate in local initiatives that are aimed at monitoring, reviewing or evaluating Provincial Government in rural communities within the Province.
- (3) A Local House must, in respect of any power or function exercised or performed as contemplated in subsection (2), forthwith inform the Provincial House, in writing, thereof and, on a continuous basis, keep the Provincial House so informed.
- (4) A Local House may exercise such other powers and must perform such functions as may be conferred or imposed on it under any other law.

## **10. Chairperson and Deputy Chairperson of Local Houses**

- (1) At the first meeting of a Local House after its constitution, the Local House concerned, with the responsible Member or any person designated by him or her as Chairperson, must elect one of its members as the Chairperson and another member as the Deputy Chairperson.
- (2) The elections referred to in subsection (1) must be conducted in accordance with the procedure set out in Schedule 3.
- (3) The Chairperson and Deputy Chairperson holds office for a period of not more than five years from the date on which they were respectively elected by a Local House to such office: Provided that the period of such term of office may not exceed such person's Membership of such Local House.
- (4) The Chairperson and Deputy Chairperson are eligible for re-election when their respective periods of office as Chairperson and Deputy Chairperson have expired.
- (5) The Chairperson of a Local House must preside over meetings of such Local House and is further vested with all the powers and functions assigned to him or her by this Act and the Rules and Orders of the Local House concerned.
- (6) While presiding at a meeting of a Local House, the Chairperson concerned has a deliberative vote, and must exercise a casting vote in the case of an equality of votes.
- (7) If the Chairperson is absent or for any reason unable or unwilling 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, unwillingness or inability or until a Chairperson is elected.

- (8) If any of the circumstances described in subsection (7) applies simultaneously with reference to both the Chairperson and the Deputy Chairperson, a Member of the Local House concerned, designated in terms of the Rules and Orders of such Local House, must act as Chairperson while the said circumstances prevail.
- (9) The Deputy Chairperson or the Member designated in terms of subsection (8), while acting as Chairperson, may exercise the powers and must perform the functions vested in the office of the Chairperson.
- (10) The Chairperson or Deputy Chairperson must vacate his or her office if he or she-
  - (a) ceases to be a Member of the Local House concerned;
  - (b) is removed from office by resolution of the Local House concerned; or
  - (c) resigns by lodging his or her resignation in writing with the responsible Member, the Chairperson or Deputy Chairperson, as the case may be, and the Secretary of the Local House concerned.
- (10) If the office of the Chairperson or Deputy Chairperson becomes vacant, the Local House concerned, with the responsible Member or any person designated by him or her acting as Chairperson, must elect a Member to fill the vacancy in accordance with the procedure set out in Schedule 3: Provided that the Chairperson must in such event preside over the election of the Deputy Chairperson.

*[Please note: numbering as in original.]*

## **11. Rules and Orders of Local Houses**

A Local 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 such Local House: Provided that provision must be made for a standing Executive Committee consisting of the Chairperson, Deputy Chairperson and three other Members designated by such Local House;
- (b) restrictions on access to committees of the Local House concerned; and
- (c) the competency of any committee of the Local House concerned to perform or dispose of its business and proceedings at venues other than the seat of such Local House.

## **12. Quorum of Local Houses**

The presence of at least one third of all the Members other than the Chairperson or other presiding Member is necessary to constitute a meeting of a Local House.

## **13. Requisite majorities in Local Houses**

All resolutions of a Local House must be adopted by a majority of votes cast.

## **14. Remuneration of Members of Local Houses**

Members are remunerated in accordance with the Remuneration of Public Office-Bearers Act, 1998 ([Act No. 20 of 1998](#)).

## **15. Administration of Local Houses**

- (1) The Chairperson of the Local House must in consultation with the Executive Committee, appoint a Secretary as may be necessary for the discharge of the work of the Local House, who must -
  - (a) exercise and perform the powers and functions conferred upon or assigned to him or her by this Act and the Rules and Orders of such Local House; and
  - (b) subject to the directions of such Local House, perform the work incidental to the exercise and performance of the powers and functions of the Local House concerned.
- (2) The Secretary of a Local House must be assisted in the exercise and performance of his or her powers and functions by those officers who are appointed for that purpose, by the Secretary with the approval of the Chairperson of the Local House.

## **16. Oath or affirmation by Chairperson, Deputy Chairperson and Members of Local Houses**

The Chairperson, Deputy Chairperson and every Member of a Local House, before taking his or her seat, must make and subscribe to an oath or solemn affirmation in the terms set out in Schedule 5, before a Chief Magistrate.

# **Chapter 3**

## **Provincial House of Traditional Leaders**

## **17. Establishment and composition of Provincial House**

- (1) There is hereby established a Provincial House of Traditional Leaders, to be known as Mpumalanga Provincial House of Traditional Leaders.
- (2) The Provincial House consists, subject to subsection (4), of those Senior Traditional Leaders, Inkhosi, Kings or Queens elected as contemplated in [section 23](#), read with Schedule 1.
- (3) Each District in the Province must be represented in the Provincial House by not more than three elected Members of the Local House established for such District, plus four qualifying persons who are not Members of the Local House concerned in terms of [section 20](#) below, elected for direct representation in the Provincial House.
- (4) The eligible person representing each District as contemplated in subsection (3), must consist of at least two women, to the extent that there are women who are eligible for election to the Provincial House, at the date of election of Members of the Provincial House.

## **18. Term of office of Members of Provincial House**

- (1) The term of office of a Member is not more than five years, where after he or she is eligible for re-election.
- (2) If a Member is re-elected for a successive term of office, the terms are, for remunerative purposes and other service conditions, deemed to be one continuous term of office.

## **19. Seat and meetings of Provincial House**

- (1) The Provincial House has its seat in such a place as may be determined by the Chairperson of the Provincial House, in accordance with the Rules and Orders of the Provincial House.
- (2) There must be an ordinary meeting of the Provincial House at least once every three months.
- (3) Subject to subsections (2) and (4), the Provincial House sits during such periods, days and hours as it may determine.

- (4) The Executive Committee of the Provincial House may at any time call a special meeting of the Provincial House on a day to be determined by the said Executive Committee and at such special meeting only the matters as necessitated the calling of the special meeting may be dealt with.

## 20. Qualification for Membership of Provincial House

A person is eligible to be elected as Member of the Provincial House if he or she-

- (a) is a King, Queen, Inkhosi or Senior Traditional Leader;
- (b) is a South African citizen over the age of 18 years; and
- (c) is permanently resident within the Province.

## 21. Persons disqualified from being Members of Provincial House

- (1) A person is not eligible to be elected as Member of the Provincial House if he or she-
  - (a) at the time of the first election of the Provincial Legislature held under the [Constitution](#) was serving a sentence of imprisonment of more than 12 months without the option of a fine;
  - (b) at any time after the promulgation of the [Constitution](#) is convicted of an offence in the Republic, or outside the Republic if the conduct constituting such offence would have constituted an offence in the Republic, and for which he or she has been sentenced to imprisonment of more than 12 months without an option of a fine, unless he or she has received a pardon;
  - (c) is an unrehabilitated insolvent; and
  - (d) is of unsound mind and has been so declared by a competent Court.
- (2) For the purpose of subsection (1)(b) no person is deemed as having been convicted of an offence until any appeal against the conviction or sentence has been determined, or, if no appeal against the conviction or sentence has been noted, the time for noting such an appeal has expired.

## 22. Vacation of seat by Member of Provincial House

The seat of a Member becomes vacant-

- (a) upon the death of such Member
- (b) if, without having obtained leave in accordance with the Rules and Orders of the Provincial House, the Member absents himself or herself voluntarily from sittings of the Provincial House or any other forum of the Provincial House of which he or she is a Member, for three consecutive days on which the Provincial House or any such forum sat;
- (c) if the Member resigns his or her seat by written notice under his or her hand, submitted to the Chairperson or the Deputy Chairperson of the Provincial House;
- (d) if the Member ceases to possess the qualifications mentioned in section 20 or becomes disqualified in terms of [section 21](#);
- (e) if the Local House of the District which the Member represents, by resolution and on good cause shown, withdraws the Member's membership of the Provincial House;
- (f) if the Provincial House, by resolution, and on good cause shown, withdraws the Member's membership of the Provincial House, and
- (g) upon the expiry of his or her term of office.

## 23. Filling of vacancies in Provincial House

- (1) If a Member vacates his or her seat as contemplated in [section 22](#), the vacancy must be filled as soon as possible, subject to subsection (4) and in accordance with the procedure set out in subsection (3) and Schedule 1.
- (2) A Member elected to fill a vacancy in terms of subsection (1) holds membership for the remainder of his or her predecessor's term of office.
- (3) In the event of a vacancy in the Provincial House–
  - (a) the Chairperson of the Provincial House must forthwith notify the responsible Member in writing of such vacancy; and
  - (b) the responsible Member must, within 15 days after receipt of the notice contemplated in paragraph (a), or after becoming aware of a vacancy in the Provincial House, convene, by written invitation to all the Members of the Local Electoral College concerned, a meeting of such Local Electoral College, as contemplated in Schedule 1.
- (4) No vacancy in the Provincial House may be filled whilst a vacancy exists in the Local House concerned.

## 24. Powers and functions of Provincial House

- (1) The Provincial House has the power–
  - (a) subject to subsection (2), to advise and make proposals to the Provincial Legislature or Provincial Government in respect of matters relating to traditional councils, customary law or the traditions and customs of traditional communities within the Province whilst having due regard to any recommendation by the Local House or Local Houses concerned; and
  - (b) to comment on any Bill of the Provincial Legislature pertaining to traditional councils, customary law or such traditions and customs, or any other matter having a bearing thereon.
- (2) No matter contemplated in subsection (1)(a) may be discussed by the Provincial House unless the Local House or Local Houses concerned first had a reasonable opportunity to discuss such matter and to make a written recommendation regarding such matter, to the Provincial House for its consideration: Provided that the Chairperson of the Provincial House, after consultation with the Chairpersons of all Local Houses, may, by prior written notice, direct otherwise, in respect of a particular matter.
- (3) A Bill contemplated in subsection (1)(b) must be referred by the Speaker of the Provincial Legislature to the Provincial House for its comments before the Provincial Legislature passes the Bill.
- (4) The Provincial House must, within 30 days as from the date of such referral, indicate by written notification to the Speaker, its support for or opposition to the Bill concerned, together with any comments the Provincial House wishes to make.
- (5) If the Provincial House fails to indicate within the period prescribed in subsection (4) whether it supports or opposes the Bill concerned, the Provincial Legislature may proceed with such Bill.
- (6)
  - (a) The Provincial House must, subject to subsection (7), nominate three Members of the Provincial House who must represent the Provincial House in the National House as contemplated in section 4 of the National House of Traditional Leaders Act, 1997 ([Act No. 10 of 1997](#)).
  - (b) The Provincial House may, by resolution, on good cause shown, withdraw a Member's membership of the National House of Traditional Leaders, contemplated in paragraph (a).

- (7) The three Members of the Provincial House who represent the Provincial House in the National House must consist of at least one woman, to the extent that there is a woman who is a Member of the Provincial House and who is eligible for election to the National House of Traditional Leaders, at the date of election of Members of the National House.
- (8) The Provincial House may exercise such other powers and must perform such functions as may be conferred or imposed on it under any other law.
- (9) When a Local House falls to fulfill a power or function conferred to it in terms of this Act, the Provincial House may intervene by taking any appropriate steps to ensure fulfillment of that power or function.

## **25. Chairperson and Deputy Chairperson of Provincial House**

- (1) At the first meeting of the Provincial House after its constitution, the Provincial House, with the responsible Member or any other person designated by him or her acting as Chairperson, must elect one of its members as the Chairperson and another member as the Deputy Chairperson who will be full-time members of the Provincial House.
- (2) The elections referred to in subsection (1) must be conducted in accordance with the procedure set out in Schedule 3.
- (3) The Chairperson and Deputy Chairperson holds office for a period of not more than five years from the date on which they were respectively elected by the Provincial House to such office: Provided that the period of such term of office may not exceed such person's Membership of the Provincial House.
- (4) The Chairperson and Deputy Chairperson are eligible for re-election when their respective periods of office as Chairperson and Deputy Chairperson have expired.
- (5) The Chairperson of the Provincial House must preside over meetings of the Provincial House and is further vested with all the powers and functions assigned to him or her by this Act and the Rules and Orders of the Provincial House.
- (6) While presiding at a meeting of the Provincial House, the Chairperson has a deliberative vote, and must exercise a casting vote in the case of an equality of votes.
- (7) If the Chairperson is absent or for any reason unable or unwilling 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, unwillingness or inability or until a Chairperson is elected.
- (8) If any of the circumstances described in subsection (7) applies simultaneously 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 prevails.
- (9) The Deputy Chairperson or the Member designated in terms of subsection (8), while acting as Chairperson, may exercise the powers and must perform the functions vested in the office of the Chairperson.
- (10) The Chairperson or Deputy Chairperson must vacate his or her office if he or she-
  - (a) ceases to be a Member of the Provincial House;
  - (b) is removed from office by resolution of the Provincial House; or
  - (c) resigns by lodging his or her resignation in writing with the Chairperson or Deputy Chairperson, as the case may be, and the Secretary of the Provincial House.
- (11) If the office of the Chairperson or Deputy Chairperson becomes vacant, the Provincial House, with the responsible Member or any other person designated by him or her acting as Chairperson, must

elect a Member to fill the vacancy in accordance with the procedure set out in Schedule 3: Provided that the Chairperson must in such event preside over the election of the Deputy Chairperson.

## **26. Rules and orders of Provincial House**

The Provincial 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 Provincial House: Provided that provision must be made for a standing Executive Committee consisting of the Chairperson, Deputy Chairperson and three other Members designated by the Provincial House;
- (b) restrictions on access to committees of the Provincial House; and
- (c) the competency of any committee of the Provincial House to perform or dispose of its business and proceedings at venues other than the seat of the Provincial House.

## **27. Quorum of Provincial House**

The presence of at least-

- (a) one third; or
- (b) when a vote is taken on a Bill, half of all the Members other than the Chairperson or other presiding Member is necessary to constitute a meeting of the Provincial House.

## **28. Requisite majorities in Provincial House**

All resolutions of the Provincial House must be adopted by a majority of votes cast.

## **29. Remuneration of Members of Provincial House**

- (1) Members are remunerated in accordance with the Remuneration of Public Office-Bearers Act, 1998 ([Act No. 20 of 1998](#)).
- (2) The responsible Member may, after consultation with the Provincial House, determine that certain Members of the Provincial House are full-time members of the Provincial House.

## **30. Administration of Provincial House**

- (1) The Chairperson of the Provincial House must in consultation with the Executive Committee, appoint a Secretary as may be necessary for the discharge of the work of the Provincial House, who must-
  - (a) exercise and perform the powers and functions conferred upon or assigned to him or her by this Act and the Rules and Orders of the Provincial House; and
  - (b) subject to the directions of the Provincial House, perform the work incidental to the exercise and performance of the powers and functions of the Provincial House.
- (2) The Secretary of the Provincial House must be assisted in the exercise and performance of his or her powers and functions by those officers appointed for that purpose, by the Secretary with the approval of the Chairperson of the Provincial House.



### 31. Oath or affirmation by Chairperson, Deputy Chairperson and Members of Provincial House

The Chairperson, Deputy Chairperson and Members of the Provincial House, before taking his or her seat, must take and subscribe to an oath or solemn affirmation in the terms set out in Schedule 4, before a Judge of the High Court designated by the Chief Justice, for this purpose.

## Chapter 4 General provisions

### 32. Establishment and composition of Local Electoral Colleges

- (1) There is hereby established a Local Electoral College in respect of each of the Districts within the Province.
- (2) A Local Electoral College contemplated in subsection (1) consists of all Kings or Queens, or their representatives, Inkhosi, and all Senior Traditional Leaders residing within the District concerned.
- (3) No person may be a member of more than one Local Electoral College.

### 33. Regulations

- (1) The responsible Member may, in consultation with the Provincial House and Local Houses, make regulations regarding the exercise and performance by Members of their powers, functions and responsibilities under this Act and regarding any other matter that may be expedient, necessary for or incidental to the effective and efficient implementation of any provision of this Act.
- (2) Any regulation made in terms of this section must be duly promulgated in the *Provincial Gazette*.

### 34. Repeal of law and savings

- (1) The Mpumalanga House of Traditional Leaders Act, 1994 ([Act No. 4 of 1994](#)), is hereby repealed.
- (2) Any right acquired, power exercised, obligation or liability incurred or duty performed under any provision of the law repealed by subsection (1), is deemed to have been acquired, exercised, incurred or performed under the corresponding provision or provisions of this Act.

### 35. Transitional provisions

- (1) Notwithstanding the repeal of the Mpumalanga House of Traditional Leaders Act, 1994, the Mpumalanga House of Traditional Leaders established by Section 2 of that Act, continues to function, as if it has been established in terms of this Act, until the dissolution of the current term of the National House contemplated in Section 3 of the National House of Traditional Leaders Act, 1997.
- (2) At the commencement of this Act, the Rules and Orders of the Mpumalanga House of Traditional Leaders established by section 2 of the Mpumalanga House of Traditional Leaders Act, 1994, remains in place as the Rules and Orders of the Mpumalanga Provincial House of Traditional Leaders, until new Rules and Orders are made in terms of [section 11](#).
- (3) Any person duly appointed as Secretary to, or officer of the Provincial House as contemplated in terms of subsections (1) and (2), at the commencement of this Act, remains in such position as if he or she has been appointed in terms of this Act.



### 36. Short title and commencement

- (1) This Act is called the Mpumalanga Provincial House and Local Houses of Traditional Leaders Act, 2005 ([Act No. 6 of 2005](#)), and comes into operation on a date fixed by the Premier by proclamation in the *Provincial Gazette*.
- (2) Different dates may be so determined in terms of subsection (1) in respect of different provisions of this Act.

## Schedule 1

### Procedure in the Local Electoral College for the election of Members of the Provincial House of Traditional Leaders

#### Part A – General principles

1. Whenever it is necessary to elect Members of or to fill a vacancy in the Provincial House, the responsible Member must, in writing, invite all Senior Traditional Leaders, Inkhosi, Kings or Queens residing in the District concerned, being Members of the Local Electoral College concerned, to a meeting of such Local Electoral College, on a date, time and place specified in such invitation.
2. The invitation referred to in item 1 must clearly state the purpose for the said meeting of the Local Electoral College concerned and must also invite Senior Traditional Leaders, Inkhosi, Kings or Queens to submit nominations in respect of the election of Members or the filling of vacancy or vacancies concerned to the responsible Member prior to the commencement of the said meeting, which nominations must be signed by both the nominator and the nominee.
3. The invitation referred to in item 1 must also clearly indicate whether any election or vacancy to be filled, must be done from amongst those Senior Traditional Leaders, Inkhosi, Kings or Queens who are Members of the Local House concerned or from amongst those Senior Traditional Leaders, Inkhosi, Kings or Queens who are not Members of the Local House concerned.
4. The responsible Member must ensure that the invitations referred to in item 1, reach all the Senior Traditional Leaders, Inkhosi, Kings or Queens concerned, not later than 14 days before the date of the meeting of the Local Electoral College, specified in the invitation referred to in item 1.
5. At the meeting of the Local Electoral College concerned, the responsible Member must make known the names of all Senior Traditional Leaders, Inkhosi, Kings or Queens duly nominated as contemplated in item 2 above, whilst having due regard to the requirements of section 2 of this Act.

#### Part B – Procedure to be followed at the meeting of a Local Electoral College in respect of the election of or filling of a vacancy in the Provincial House from amongst those Senior Traditional Leaders, Kings or Queens who are Members of a Local House

1. In the event that the number of duly nominated Senior Traditional Leaders, Inkhosi, Kings or Queens duly elected in terms of item 2 of Part A is less than the number of Members to be elected or vacancies to be filled in the Provincial House from amongst those Senior Traditional Leaders, Inkhosi, Kings or Queens who are Members of a Local House, the responsible Member must declare such duly nominated Senior Traditional Leaders, Inkhosi, Kings or Queens as duly elected, subsequent to which the procedure set out in item 2 must be followed.
2. In the event that the number of Senior Traditional Leaders, Inkhosi, Kings or Queens duly elected in terms of item 1 is less than the number of Members to be elected or vacancies to be filled in the Provincial House

from amongst those Senior Traditional Leaders, Inkhosi, Kings or Queens who are Members of a Local House, the responsible Member must forthwith provide for a reasonable opportunity during the meeting, for further nominations by the Members of the Local Electoral College concerned who are present, to be submitted to the responsible Member in respect of the remaining seats from amongst those Senior Traditional Leaders, Inkhosi, Kings or Queens who are Members of a Local House, which nominations must also be in writing and be signed by both the nominator and the nominee, subsequent to which the procedure set out in either item 3 or item 4 must be followed, depending on whether the further nominees are equal to the number of remaining vacancies, or exceed the number of vacancies.

3. In the event that the number of duly nominated Senior Traditional Leaders, Inkhosi, Kings or Queens from amongst those Senior Traditional Leaders, Inkhosi, Kings or Queens who are Members of a Local House is equal to the number of Members to be elected or vacancies to be filled in the Provincial House from amongst those Senior Traditional Leaders, Inkhosi, Kings or Queens who are Members of a Local House, the responsible Member must declare such duly nominated Senior Traditional Leaders, Inkhosi, Kings or Queens as duly elected.
4. In the event that the number of duly nominated Senior Traditional Leaders, Inkhosi, Kings or Queens from amongst those Senior Traditional Leaders, Inkhosi, Kings or Queens who are Members of a Local House exceeds the number of Members to be elected or vacancies to be filled in the Provincial House from amongst those Senior Traditional Leaders, Inkhosi, Kings or Queens who are Members of a Local House, the responsible Member must declare that a secret ballot is to be held during that meeting, in order to elect Senior Traditional Leaders, Inkhosi, Kings or Queens from the nominations so received, in order to fill the vacancies concerned.
5. Voting must be by secret ballot on the basis that each Member of the Local Electoral College concerned, has one vote for each vacancy to be filled in the Provincial House from amongst those Senior Traditional Leaders, inkhosi, Kings or Queens who are Members of a Local House: Provided that no more than one vote may be cast in respect of any one nominee per ballot paper.
6. The ballot paper must contain, in alphabetical order, the full surname and first names, in that order, of all the nominees in the same print, with a space next to each name to allow for the exercise of choice by means of the making of a mark on the said paper.
7.
  - (a) If it cannot be determined by the outcome of the secret ballot who the nominees with the highest number of votes are in relation to the vacancies, the nominee who has received the smallest number of votes must be eliminated as a nominee and a further secret ballot must be taken in respect of the remaining nominees, this procedure being repeated as often as may be necessary until the vacancies concerned, have been filled.
  - (b) For the purpose of paragraph (a), whenever two or more nominees being the lowest on the poll have received the same number of votes, the Local Electoral College concerned must, by separate vote, to be repeated as often as may be necessary, determine which of those nominees must be eliminated as nominees.
8. In the event that the Local Electoral College concerned, and after having duly followed the procedure set out in this Schedule, is unable to elect Members or to fill a vacancy or vacancies due to an equality of votes received by the remaining nominees, the responsible Member must, when announcing the result of the election, fix the time at, the date on which and the place where a further meeting of the Local Electoral College concerned will be held, being a date not more than seven days thereafter, in order to elect the Members or to fill the vacancy or vacancies concerned.
9. At the further meeting referred to in item 8, the provisions of this Schedule must apply as if such further meeting was the first meeting called for the purpose of the election in question.

**Part C – Procedure to be followed at the meeting of a Local Electoral College in respect of the filling of a vacancy in the Provincial House from amongst those Senior Traditional Leaders, Kings or Queens who are not Members of a Local House**

1. In the event that the number of duly nominated Senior Traditional Leaders, Inkhosi, Kings or Queens from amongst those Senior Traditional Leaders, Inkhosi, Kings or Queens who are not Members of a Local House is less than the number of Members to be elected or vacancies to be filled in the Provincial House from amongst those Senior Traditional Leaders, Inkhosi, Kings or Queens who are not Members of a Local House, the responsible Member must declare such duly nominated Senior Traditional Leaders, Inkhosi, Kings or Queens as duly elected, subsequent to which the procedure set out in item 2 must be followed.
2. In the event that the number of Senior Traditional Leaders, Inkhosi, Kings or Queens duly elected in terms of item 1 is less than the number of Members to be elected or vacancies to be filled in the Provincial House from amongst those Senior Traditional Leaders, Inkhosi, Kings or Queens who are not Members of a Local House, the responsible Member must forthwith provide for a reasonable opportunity during the meeting, for further nominations by the Members of the Local Electoral College concerned who are present, to be submitted to the responsible Member in respect of the remaining vacancies from amongst those Senior Traditional Leaders, Inkhosi, Kings or Queens who are not Members of a Local House, which nominations must also be in writing and be signed by both the nominator and the nominee, subsequent to which the procedure set out in either item 3 or item 4 must be followed, depending on whether the further nominees are equal to the number of remaining vacancies, or exceed the number of such vacancies.
3. In the event that the number of duly nominated Senior Traditional Leaders, Inkhosi, Kings or Queens from amongst those Senior Traditional Leaders, Inkhosi, Kings or Queens who are not Members of a Local House is equal to the number of Members to be elected or vacancies to be filled in the Provincial House from amongst those Senior Traditional Leaders, Inkhosi, Kings or Queens who are not Members of a Local House, the Responsible Member must declare such duly nominated Senior Traditional Leaders, Inkhosi, Kings or Queens as duly elected.
4. In the event that the number of duly nominated Senior Traditional Leaders, inkhosi, Kings or Queens from amongst those Senior Traditional Leaders, Inkhosi, Kings or Queens who are not Members of a Local House exceeds the number of Members to be elected or vacancies to be filled in the Provincial House from amongst those Senior Traditional Leaders, Inkhosi, Kings or Queens who are not Members of a Local House, the responsible Member must declare that a secret ballot is to be held during that meeting, in order to elect Senior Traditional Leaders, Inkhosi, Kings or Queens from the nominations so received, to fill the vacancies concerned.
5. Voting must be by secret ballot on the basis that each Member of the Local Electoral College concerned, has one vote for each vacancy to be filled in the Provincial House from amongst those Senior Traditional Leaders, Inkhosi, Kings or Queens who are not Members of a Local House: Provided that no more than one vote may be cast in respect of any one nominee per ballot paper.
6. The ballot paper must contain, in alphabetical order, the full surname and first names, in that order, of all the nominees in the same print, with a space next to each name to allow for the exercise of choice by means of the making of a mark on the said paper.
7.
  - (a) If it cannot be determined by the outcome of the secret ballot who the nominees with the highest number of votes are in relation to the vacancies, the nominee who has received the smallest number of votes must be eliminated as a nominee and a further secret ballot must be taken in respect of the remaining nominees, this procedure being repeated as often as may be necessary until the vacancy or vacancies concerned, have been filled.
  - (b) For the purpose of paragraph (a), whenever two or more nominees being the lowest on the poll have received the same number of votes, the Local Electoral College concerned must, by separate vote, to be repeated as often as may be necessary, determine which of those nominees must be eliminated as nominees.

8. In the event that the Local Electoral College concerned, and after having duly followed the procedure set out in this Schedule, is unable to fill a vacancy or vacancies due to an equality of votes received by the remaining nominees, the responsible Member must, when announcing the result of the election, fix the time at, the date on which and the place where a further meeting of the Local Electoral College concerned will be held, being a date not more than seven days thereafter, in order to fill the vacancy or vacancies concerned.
9. At the further meeting referred to in item 8, the provisions of this Schedule must apply as if such further meeting was the first meeting called for the purpose of the election in question.

## **Schedule 2**

### **Procedure in the Local Electoral College for the election of Members of a Local House of Traditional Leaders**

1. Whenever it is necessary to elect Members or to fill a vacancy in a Local House, the responsible Member must, in writing, invite all Senior Traditional Leaders, Inkhosi, Kings or Queens residing in the District concerned, being Members of the Local Electoral College concerned, to a meeting of such Local Electoral College, on a date, time and place specified in such invitation.
2. The invitation referred to in item 1 must clearly state the purpose for the said meeting of the Local Electoral College concerned and must also invite Senior Traditional Leaders, Inkhosi, Kings or Queens to submit nominations in respect of the election of the Members or the filling of the vacancy or vacancies concerned to the responsible Member prior to the commencement of the said meeting, which nominations must be signed by both the nominator and the nominee.
3. The responsible Member must ensure that the invitations referred to in item 1, reach all the Senior Traditional Leaders, Inkhosi, Kings or Queens concerned, not later than 14 days before the date for the meeting of the Local Electoral College concerned, specified in the invitation referred to in item 1.
4. At the meeting of the Local Electoral College concerned, the responsible Member must make known the names of all Senior Traditional Leaders, Inkhosi, Kings or Queens duly nominated as contemplated in item 2 above, whilst having due regard to the requirements of section 17 of this Act.
5. In the event that the number of Senior Traditional Leaders, Inkhosi, Kings or Queens is less than the number of Members to be elected or vacancies to be filled, the responsible Member must declare such duly nominated Senior Traditional Leaders, Inkhosi, Kings or Queens as duly elected, subsequent to which the procedure set out in item 6 must be followed.
6. In the event that the number of Senior Traditional Leaders, Inkhosi, Kings or Queens duly elected in terms of item 5, is less than the number of Members to be elected or vacancies to be filled, the responsible Member must forthwith provide for a reasonable opportunity during the meeting, for further nominations by the Members of the Local Electoral College concerned who are present, to be submitted to the responsible Member in respect of the remaining vacancies, which nominations must also be in writing and be signed by both the nominator and the nominee, subsequent to which the procedure set out in either item 7 or item 8 must be followed, depending on whether the further nominees are equal to the number of the remaining vacancies, or exceed the number of remaining vacancies.
7. In the event that the number of duly nominated Senior Traditional Leaders, Inkhosi, Kings or Queens is equal to the number of Members to be elected or vacancies to be filled, the responsible Member must declare such duly nominated Senior Traditional Leaders, inkhosi, Kings or Queens as duly elected.
8. In the event that the number of duly nominated Senior Traditional Leaders, Inkhosi, Kings or Queens exceeds the number of Members to be elected or the vacancies to be filled, the responsible Member must declare that a secret ballot is to be held during that meeting, in order to elect Senior Traditional Leaders, Inkhosi, Kings or Queens from the nominations so received, to fill the vacancies concerned.

9. Voting must be by secret ballot on the basis that each Member of the Local Electoral College concerned, has one vote for each vacancy to be filled: Provided that no more than one vote may be cast in respect of any one nominee per ballot paper.
10. The ballot paper must contain, in alphabetical order, the full surname and first names, in that order, of all the nominees in the same print, with a space next to each name to allow for the exercise of choice by means of the making of a mark on the said paper.
11.
  - (a) If it cannot be determined by the outcome of the secret ballot who the nominees with the highest number of votes are in relation to the vacancies, the nominee who has received the smallest number of votes must be eliminated as a nominee and a further secret ballot must be taken in respect of the remaining nominees, this procedure being repeated as often as may be necessary until the vacancy or vacancies concerned, have been filled.
  - (b) For the purpose of paragraph (a), whenever two or more nominees being the lowest on the poll have received the same number of votes, the Local Electoral College concerned must, by separate vote, to be repeated as often as may be necessary, determine which of those nominees must be eliminated as nominees.
12. In the event that the Local Electoral College concerned, and after having duly followed the procedure set out in this Schedule, is unable to fill a vacancy or vacancies due to an equality of votes received by the remaining nominees, the responsible Member must, when announcing the result of the election, fix the time at, the date on which and the place where a further meeting of the Local Electoral College concerned will be held, being a date not more than seven days thereafter, in order to fill the vacancy or vacancies concerned.
13. At the further meeting referred to in item 12, the provisions of this Schedule must apply as if such further meeting was the first meeting called for the purpose of the election in question.

### **Schedule 3**

#### **Procedure for election of Chairperson and Deputy Chairperson**

1. Nominations of Senior Traditional Leaders, Inkhosi, Kings or Queens for election as Chairperson or Deputy Chairperson, as the case may be, must be called for by the responsible Member at the meeting at which the Chairperson and Deputy Chairperson are to be elected.
2. Every nomination must be submitted in writing to the responsible Member and must be signed by two Members of the Provincial House or Local House as the case may be, and also by the person so nominated.
3. The names of the persons duly nominated as provided for in item 2 must be announced by the responsible Member at the meeting at which the election is to take place, and no debate may take place in respect of such announcement.
4. If in respect of any election for a position, only one duly submitted nomination has been received in accordance with item 2 in respect of that position, the responsible Member must, at the meeting, declare the nominee in question to be duly elected to the position he or she was nominated for.
5. Where more than one nominee has been duly nominated in respect of any position, a vote must be taken by secret ballot, each Member of the Provincial House or Local House concerned who is present, having one vote, and any nominee in whose favour the majority of all the votes cast is recorded, must be declared duly elected by the responsible Member to the position he or she was nominated for.
6. The ballot paper contemplated in Item 5 must contain, in alphabetical order, the full surname and first names, in that order, of all the nominees in the same print, with a space next to each name to allow for the exercise of choice by means of the making of a mark on the said paper.
7.
  - (a) If no nominee obtains a majority of all the votes so cast, the nominee who has received the smallest number of votes must be eliminated and a further ballot must be taken in respect of the remaining

nominees, this procedure being repeated as often as may be necessary until a nominee receives a majority of all the votes cast and is declared duly elected.

- (b) For the purpose of paragraph (a), whenever two or more nominees being the lowest on the poll have received the same number of votes, the Provincial House or Local House concerned must, by separate vote, to be repeated as often as may be necessary, determine which of those nominees must be eliminated.
8. Whenever-
- (a) only two nominees have been nominated; or
  - (b) after the elimination of one or more nominees in accordance with this Schedule, only two nominees remain, and there is an equality of votes between those two nominees, the responsible Member must, when announcing the result of the election, fix the time at, the date on and the place where a further meeting of the Provincial House or Local House concerned will be held, being a date not more than seven days thereafter.
9. At the further meeting referred to in item 8, the provisions of this Schedule must apply as if such further meeting was the first meeting called for the purpose of the election in question.

#### Schedule 4

Oath of office or solemn affirmation of \_\_\_\_\_

I, A. B., do hereby swear/solemnly affirm to be faithful to the Republic of South Africa and undertake before those assembled here to hold my office with honour and dignity; to respect and uphold the [Constitution](#) and all other Laws of the Republic of South Africa; to be a true and faithful Chairperson / Deputy Chairperson / Member of the Mpumalanga Provincial House of Traditional Leaders; not to divulge directly or indirectly any matters which are entrusted to me under secrecy, and to perform the duties of my office conscientiously and to the best of my ability.

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

#### Schedule 5

Oath of office or solemn affirmation of \_\_\_\_\_

I, A. B., do hereby swear/solemnly affirm to be faithful to the Republic of South Africa and undertake before those assembled here to hold my office with honour and dignity to respect and uphold the [Constitution](#) and all other Laws of the Republic of South Africa; to be a true and faithful Chairperson / Deputy Chairperson / Member of the \_\_\_\_\_ Local House of Traditional Leaders; not to divulge directly or indirectly any matters which are entrusted to me under secrecy; and to perform the duties of my office conscientiously and to the best of my ability.

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