

NORTHERN CAPE PROVINCE

PROFENSIYA KAPA-BOKONE



NOORD-KAAP PROVINSIE

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PREMIER'S NOTICES • PREMIERS KENNISGEWINGS**PREMIER'S NOTICE 5 OF 2022****Northern Cape Provincial Administration****Office of the Premier****Notice by the****Premier of the Northern Cape****COMMISSION OF INQUIRY INTO THE SENIOR TRADITIONAL LEADERSHIP DISPUTE OF THE BATLHAPANG BA GA PHUDUHUTSWANA BA GA JANTJIE TRADITIONAL COMMUNITY**


I **Dr Zamani Saul**, in my capacity as Premier of the Northern Cape and in line with the provisions of Sections 59(1) (a) of the Northern Cape Traditional Leadership and Governance and Houses of Traditional Leaders Act 2 of 2007, the Traditional and Khoi-San Leadership Act 3 of 2019; read with section 2 of Northern Cape Commissions of Inquiry Act 4 of 1996, hereby appoint a Commission of Inquiry to investigate the Senior Traditional Leadership succession dispute of the Batlhaping Ba Ga Phuduhutswana Ba Ga Jantjie Traditional Community in Kuruman, Northern Cape.

The Commission is made up of the following persons:-

1. Mr Simon Ruthoane: Chairperson
2. Mr Johan Meiring: Member; and
3. Mr Lulama Gideon Lobi: Member.

This notice replaces provincial gazette number 2509, published on 3 June 2022 save for paragraphs 3 and 5 of the Schedule thereto.

Given under my hand and seal at **KIMBERLEY** on ^{3rd} August 2022.


Dr Zamani Saul
Premier: Northern Cape Province

Schedule

1. TERMS OF REFERENCE

- 1.1. The mandate of the commission is to investigate and make findings and recommendations to the Premier as to who the rightful incumbent of the Senior Traditional Leadership position of the Batlhaping Ba Ga Phuduhutswana Ba Ga Jantjie Traditional Community is in terms of their customary law of succession.
- 1.2. The commission must determine in terms of customary law who are eligible members of the Royal Family.
- 1.3. The work of the Commission includes research and verification of the application of custom, informed by-
 - (i) the evidence;
 - (ii) literature;
 - (iii) oral submissions, and
 - (iv) proof of the existence and use of such custom.
- 1.4. The Premier may extend the duration of the Commission at the request of the Chairperson.

2. PLACE OF THE COMMISSION

The Commission shall sit at the following address:

**MANYEDING COMMUNITY HALL, JOHN TAOLO GAETSEWE DISTRICT,
KURUMAN, NORTHERN CAPE.**

The time and place of any further sittings of the Commission will be determined by the Chairperson, and notified by him in such a manner as he may think fit.

PREMIER'S NOTICE 6 OF 2022**Northern Cape Provincial Administration****Office of the Premier****Notice by the****Premier of the Northern Cape****COMMISSIONS OF INQUIRY ACT: REGULATIONS**

I **Dr. Zamani Saul**, in my capacity as Premier of the Northern Cape and in line with the provisions of Sections 18 of the Northern Cape Commissions of Inquiry Act (Act No 4 of 1996), hereby issue regulations in the attached schedule.

Given under my hand and seal at **KIMBERLEY** on^{3rd}.....**AUGUST 2022.**



DR. ZAMANI SAUL
PREMIER: NORTHERN CAPE PROVINCE

SCHEDULE

REGULATIONS UNDER ACT NO 4 OF 1996

The Premier has, in terms of Section 18 of the Northern Cape Commissions of Inquiry Act No 4 of 1996 made the following regulations :-

DEFINITIONS

1. In the regulations any word or expression to which a meaning has been assigned in the act bears the same meaning unless the context indicates otherwise: –
 - “**Chairperson**” means the Chairperson of the Commission duly designated by the Premier in terms of Section 3(2) of the Act;
 - “**Commission**” means a Commission established in terms Section 2 of the Act;
 - “**Document**” includes, whether in electronic form or otherwise, any book, pamphlet, record, list, circular, plan, poster, publication, drawing, photograph, picture or data, and also any disc, hard drive recording or the other device by means of which information or data is recorded or stored;
 - “**Evidence**” all evidence including transcripts, documentary, oral, audio, videos, photos and any other evidence presented before the Commission;
 - “**Inquiry**” means the inquiry conducted by the Commission;
 - “**Member**” means a member of the Commission appointed in terms of Section 2 of the Act;
 - “**Officer**” means a person in the full-time service of the State who has been designated to assist the Commission in the execution of its functions;
 - “**Premier**” means the Premier of the Northern Cape Province;
 - “**Premises**” includes any land, building, structure, part of a building or structure; and

“The Act” refers to the Northern Cape Commissions of Inquiry Act (Act No 4 of 1996).

CONDUCT OF PROCEEDINGS OF THE COMMISSION

2. The proceedings of the Commission shall be recorded in the manner determined by the Chairperson.
3. Any person appointed or designated to take down or record the proceedings of the Commission in shorthand or by mechanical or electronic means or to transcribe such proceedings which have been so taken down or recorded shall at the outset take an oath or make an affirmation in the following form:
 - I, A... B...declares under oath/affirm and declare –
 - a) That I shall faithfully and to the best of my ability take down/record the proceedings of the Commission of Inquiry into -----in shorthand /by mechanical / by electronic means as ordered by the Chairperson of the Commission; and
 - b) That I shall transcribe fully and to the best of my ability, any shorthand notes/mechanical record / electronic record of the proceedings of the said Commission made by me or by any other person.
 - c) No shorthand notes or mechanical or electronic record of the proceedings of the Commission shall be transcribed except by order of the Chairperson.

COMPOSITION OF THE COMMISSION

4. (1) The Chairperson may designate one or more knowledgeable or experienced persons to assist the Commission in the performance of some of its functions in a capacity other than that of a member;
- (2) Notwithstanding the composition of the Commission, the proceedings thereof shall not be affected by the absence of any member. It shall be competent for two Commissioners to proceed with the business of the Commission.

- (3) The Commission shall, where necessary be assisted by officers of any State Department seconded to its services or persons in the service of any public or other body who are by arrangement with the body concerned seconded to the service of the Commission.
- (4) Any officer or person designated thereto by the Chairperson may be present at any stage of the inquiry or the gathering of information or the hearing of evidence at the inquiry.

LEGAL REPRESENTATION

- 5. Any person appearing before the Commission may be assisted by an advocate or an attorney at own cost.

APPEARANCE BEFORE THE COMMISSION

- 6. (1) No person appearing before the Commission may refuse to answer any question on any ground other than the privilege contemplated in Section 10(1)(d) of the Act.
 - (2) No evidence regarding questions and answers contemplated in sub regulation (1), and no evidence regarding any fact or information that comes to light in consequence of any such questions or answers, shall be admissible in any criminal proceedings, except in criminal proceedings where the person concerned is charged with an offence in terms of section 10(1) of the Act.
 - (3) Any witness appearing before the Commission may be cross-examined by a person only if the Chairperson permits such cross-examination should he or she deem it necessary and in the interest of the functions of the Commission.
 - (4) Any witness may be re-examined by his or her legal representative for the purpose of explaining the evidence given by the witness during his or her examination.
- 7. Where, at the time of any person presenting information to or giving evidence before the Commission, members of the general public are or have been excluded from attendance at the proceedings of the Commission, the Chairperson may, on

the request of such a person, direct that no person shall disclose in any manner whatsoever the name or address of such person or any information likely to reveal this or her identity.

8. Whenever the Commission is satisfied upon evidence or information presented to it that the Commission's inquiry may adversely affect any existing, instituted or pending legal proceedings or any inquiry instituted in terms of any law, evidence which is relevant to such legal proceedings or inquiry shall be dealt with by the Commission in such a manner as not to adversely affect such legal proceedings or inquiry.

MANNER OF OBTAINING EVIDENCE

9. (1) Any officer may, with a warrant, for the purposes of the inquiry, at any reasonable time and without prior notice, or with such notice as he or she may deem appropriate, enter and inspect any premises and demand and seize any document or article which is on such premises.
- (2) Any entry upon or search of any premises or person thereon in terms of this regulation, shall be conducted with strict regard to decency and order including:-
- a) a person's right to, respect for and the protection of his or her dignity;
 - b) the right of a person to freedom and security; and
 - c) the right of a person to his or her personal privacy.
- (3) The premises referred to in sub-regulation (1) may be entered only by virtue of a warrant issued in chambers by a magistrate, regional magistrate or judge of the area of jurisdiction within which the premises is situated.
- (4) A warrant referred to in sub-regulation (1) may be issued by a judge in respect of premises situated in another area of jurisdiction, if he or she deems it justified.
- (5) A warrant referred to in sub-regulation (1) may be issued only if it appears to the magistrate, regional magistrate or judge from information revealed under oath or affirmation that there is a need for a warrant authorising a search and

seizure and that there are reasonable grounds to believe that any document or article referred to in sub-regulation (1) is on or at such premises or suspected to be on or at such premises.

CONFIDENTIALITY OF INFORMATION

10. (1) No person shall communicate to any other person any matter or information which may have come to his or her knowledge in connection with the inquiry to allow or permit any other person to have access to any of his or her duties in connection with the functions of the Commission or by order of a competent court.

(2) Every person in the service of the Commission and every officer but not the Chairperson or member, shall, before performing any duty in connection with the Commission, take and subscribe before the Chairperson an oath in the following form:

"I, A, B, declare under oath / affirm and declare that , except in so far as it is necessary in the performance of my duties in connection with the functions of the Commission or by order of a competent court, I shall not communicate to any person any matter or information which comes to my knowledge in connection with the inquiry, or including any notes , record or transcription of the proceedings of the Commission in my possession or custody or in possession or custody of the Commission or any officer".

DISSEMINATION OF INFORMATION

11. No person shall without the written permission of the Chairperson –

(1) Disseminate any document submitted to the Commission by any person in connection with the inquiry or publish the contents or any portion of the of such document, or

(2) Peruse any document, including any statement, which is destined to be submitted to the Chairperson or intercept such document while it is being taken or forwarded to the Chairperson.

12. No person shall, except in so far as shall be necessary in the execution of the terms of reference of the Commission, publish or furnish any person with the report or any interim report of the Commission or a copy or a part thereof or information regarding the consideration of evidence by the Commission unless the Premier has authorised the publication.
13. The Commission may by means of rules determine its own procedures.
14. Regulations issued under Act No 4 of 1996 (Ordinance No1 of 1945) published in the Provincial Notice No 614 of 1969 and dated 15 August, 1969 are repealed.

APPENDIX**COMMISSION OF INQUIRY APPOINTED UNDER SECTION 2 OF NORTHERN CAPE
COMMISSIONER OF INQUIRY ACT (ACT NO 4 OF 1996) :-----**To: -----

You are hereby authorised and required to serve the accompanying summons on -----
-----in the manner prescribed in Section 6 of Act No4 of 1996

Given under my hand at -----this -----day of -----2022

SUMMONS TO APPEAR BEFORE A COMMISSION OF INQUIRY

To: -----

(Name of person summonsed and residence)

You are hereby summonsed in terms of Section 6 of the Commissioners of Inquiry Act (Act No4 of 1996) to appear at -----upon the -----day -----of -----
-----2022 at -----09h00 in the noon ,before the Commission of Inquiry
appointed to investigate----- to give evidence regarding-----and you
are required to bring with you books ,documents or objects set out and described in the
Appendix hereto.

Given under my hand at -----this-----day of -----2022

Secretary of the Commission

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