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EXTRACT FROM
TRADITIONAL LEADERS ACT [Chapter 29:17]
showing changes proposed by Electoral Laws Amendment Bill
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**Insertions are indicated by green underlined font,
deletions by red strikethrough font**

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PART IX

PROVINCIAL ASSEMBLIES AND THE COUNCIL OF CHIEFS

35 Provincial assemblies

(1) For each province there shall be an assembly of all the chiefs of that province, which shall be known as a provincial assembly.

(2) Subject to section 38(3) of the Electoral Act [Chapter 2:13] (No. 25 of 2004), a ~~△~~ provincial assembly shall meet at least twice a year at such time and place as the Minister may from time to time determine:

Provided that the Minister shall call a meeting of a provincial assembly whenever requested to do so by not less than one-third of the members of that provincial assembly.

(3) At every meeting of a provincial assembly, the chiefs present shall elect one of their number to preside over that meeting.

36 Functions of provincial assemblies

The functions of a provincial assembly shall be—

- (a) subject to section thirty-seven, to elect persons from among its members to be members of the Council; and
- (b) to consider and report on any matter which is referred to it by the Minister, the Council or a member of such provincial assembly; and
- (c) to bring to the notice of—
 - (i) the Council, any matter of national interest;
 - (ii) the Minister, any matter of local interest;

which affects the inhabitants of the province concerned or any part thereof, or which concerns their interests or well-being.

37 Council of Chiefs

(1) There shall be a Council of Chiefs for communal land and resettlement land which shall, subject to this section, consist of chiefs elected by the provincial assemblies.

(2) Subject to subsection (3), each provincial assembly shall, on the day or days fixed by the President in terms of section 38(3) of the Electoral Act [Chapter 2:13] (No. 25 of 2004) ~~on such dates as may be prescribed~~, elect such number of its members as may be prescribed, to be members of the Council.

(3) The Minister shall, when prescribing

- (a) the dates of elections to be held in terms of subsection (2), ensure that each provincial assembly holds such elections at intervals of not more than five years;
- (b) the number of members to be elected by each assembly in terms of subsection (2), ensure that—
 - (i) a provincial assembly elects neither fewer than three nor more than five members; and
 - (ii) so far as is possible each province, having regard to the number of inhabitants therein, is equitably represented on the Council.

(4) Subject to subsections (5), (6) and (7), every Chief elected to the Council shall hold office as a member thereof for a period of five years concurrent with the life of Parliament referred to in section 63(4) of the Constitution, or—

(a) a lesser period where the President earlier dissolves Parliament in terms of section 63(2) of the Constitution; or

(b) a longer period where the life of Parliament referred to in section 63(4) of the Constitution is extended under section 63(5) or (6) of the Constitution;

in which event term of office of the Chief as a member of the Council shall terminate on the expiration of such lesser or longer period, as the case may be:

Provided that the Chief shall continue in office as a member of the Council until the Chief is re-elected or another Chief is elected in his or her place.

~~Subject to subsections (5), (6) and (7), every chief elected to the Council shall hold office for a period of five years, but shall cease to hold office if he ceases to be a chief.~~

(5) Where any chief ceases for any reason to be a member of the Council before the next elections are due to take place, the provincial assembly that elected such chief to the Council shall elect another chief from among its members to fill the vacancy created:

Provided that, if the period between the date the vacancy occurs and the date of the next election is less than six months, the vacancy shall not be filled.

(6) Whenever a person is elected in terms of subsection (5) to fill a vacancy on the Council, he shall, subject to subsection (4), serve as a member of the Council until the next elections.

(7) A chief whose term of office as a member of the Council expires shall be eligible for re-election.

38 Meetings of Council

(1) Subject to section 38(3) of the Electoral Act [Chapter 2:13] (No. 25 of 2004), the ~~The~~ Council shall meet at least twice a year at such times and places as it may determine from time to time in consultation with the Minister.

(2) The Minister shall call a meeting of the Council whenever requested to do so by not less than one-third of the members of the Council.

(3) On the day or days fixed by the President in terms of section 38(3) of the Electoral Act [Chapter 2:13] (No. 25 of 2004), the members of the Council shall elect one of their number as president and another as deputy president of the Council

~~At the first meeting of the Council following an election, the members of the Council shall elect one of their number as president and another as deputy president of the Council.~~

(4) The president of the Council shall preside over the meetings of the Council:

Provided that if for any reason—

- (a) the president of the Council is unable to attend a meeting, the deputy president of the Council shall preside over such meeting;
- (b) both the president and the deputy president of the Council are unable to attend a meeting, the members present shall elect one of their number to preside over such meeting.

(5) The president or deputy president of the Council may be removed from office by a majority vote of the members of the Council present at a meeting of the Council and, in such event, the members shall elect one of their number to fill the vacancy.

(6) In the event of a vacancy in the office of president or deputy president occurring before the next elections are due, the Council shall elect one of their number to fill the vacancy.

~~(7) An election for the purposes of subsection (3) or (6) may be combined with the election of a member or members of Parliament by the Council in its capacity as an electoral college for the purposes of Part XI of the Electoral Act [Chapter 2:01].~~

39 Functions of Council

Subject to the Constitution and to any enactment, the functions of the Council shall be^{3/4}

- (a) to make representations to the Minister concerning the needs and wishes of the inhabitants of communal and resettlement land; and

- (b) to consider any representations made to it by a provincial assembly and, in its discretion, to report thereon to the Minister; and
- (c) to consider and report on any matter referred to it by the Minister for consideration; and
- (d) to superintend the activities of the ward assemblies and village assemblies and to give them such directions as it considers necessary.

40 Representation of interests of Government

The Minister may designate a member of the Public Service to present the views of the Minister on any matter to a provincial assembly or the Council or to represent him at any meetings of a provincial assembly or the Council.

41 Clerks of Council and provincial assemblies and other staff

(1) There shall be a clerk of the Council and of each provincial assembly appointed by the Minister from among members of the Public Service employed in his Ministry.

(2) A clerk referred to in subsection (1) shall—

- (a) keep a record of the proceedings of the provincial assembly or Council to which he is appointed;
- (b) advise members of the provincial assembly or the Council on the procedures to be followed at meetings;
- (c) perform such other functions as he may be directed to perform by the Minister.

(3) If the Minister considers it necessary to do so, he may designate from among members of the Public Service employed in his Ministry persons to perform the administrative and clerical work of a provincial assembly or the Council.

(4) Any duties which a member of the Public Service may be required to perform in terms of this section shall, for the purposes of the law relating to the Public Service, be deemed to be duties of his office as a member of the Public Service.

42 Meetings of provincial assemblies and Council to be private

(1) Subject to this section, all meetings of a provincial assembly or the Council shall be conducted in private.

(2) The Minister or any person authorized by the Minister may attend any meeting of a provincial assembly or the Council and may take part in the proceedings thereat but shall not be entitled to vote.

(3) A person designated in terms of section forty-one may attend a meeting of a provincial assembly or the Council, as the case may be, if so requested by the provincial assembly or the Council and may take part in the proceedings thereat but shall not be entitled to vote.

(4) Nothing in this section shall be construed as preventing the holding of a meeting by a provincial assembly or the Council without the Minister or any person designated in terms of section forty-one being present.

43 Transaction of business notwithstanding vacancies

Subject to this Act and any regulations relating to the quorum at a meeting of a provincial assembly or the Council or any committee of a provincial assembly or the Council, a provincial assembly or the Council shall not be disqualified from transacting business by reason of any vacancy in the membership of the provincial assembly, the Council or the committee, as the

case may be, and no proceedings thereof shall be invalid solely on the ground that a person who was not entitled to do so sat and voted at, or otherwise took part in the proceedings of, a meeting of the provincial assembly, the Council or the committee.

44 Offences relating to proceedings of meetings

(1) Any person who, being present without lawful authority at a meeting of a provincial assembly, the Council or a committee thereof, fails or refuses to leave the meeting after being ordered to do so by the person presiding at the meeting shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

(2) Any person who, at a meeting of a provincial assembly, the Council or a committee thereof, interrupts the proceedings of the meeting or otherwise disturbs the peace or order of the proceedings shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

(3) Any person who sits or votes in a meeting of a provincial assembly, the Council, or a committee of a provincial assembly or of the Council thereof or otherwise takes part in their proceedings, knowing that he is not entitled to do so, shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

PART X GENERAL

45 Election of chief, headman or village head to political office

(1) No chief, headman or village head shall be eligible for election as—

- (a) President; or
- (b) a member of Parliament in terms of paragraph (a) of subsection (1) of section 38 of the Constitution; or
- (c) a councillor in any local government elections;

whilst still holding office as chief, headman or village head.

(2) No chief, headman or village head shall canvass or serve as an election agent or manager for any candidate, or nominate any candidate, for election as state President, member of Parliament or councillor in any local authority:

Provided that the chief, headman or village head may exercise his right to vote in any national or local government election or referendum.