

OFFICE OF THE PRESIDENT

No. 2077

2 December 1994

NO. 31 OF 1994: COUNCIL OF TRADITIONAL LEADERS ACT, 1994.

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:

ACT

To provide for the composition of, the election of representatives to and the powers and functions of the Council of Traditional Leaders; for procedures according to which such powers and functions have to be exercised and performed; and to provide for matters incidental thereto.

(English text signed by the President.)  
(Assented to 23 November 1994.)

BE IT ENACTED by the Parliament of the Republic of South Africa as follows:-

Definitions

1. In this Act, unless the context otherwise indicates-

(i) "Council" means the Council of Traditional Leaders established by section 184(1) of the Constitution; (iii)

(ii) "electoral college" means the electoral college contemplated in section 184(2) of the Constitution and constituted in terms of section 4;  
(ii)

(iii) "House" means a House of Traditional Leaders contemplated in section 183 of the Constitution. (i)

Composition of Council

2. (1) The Council shall consist of an elected chairperson and 19 elected representatives.

(2) The President shall, after consultation with the chairperson of the Council, determine which members shall be full-time and which members shall be part-time members.

Powers and functions of Council

3. The Council shall, in addition to the powers and functions entrusted to it by section 184 of the Constitution, have the powers conferred upon and the functions assigned to it by this Act or any other law, and shall exercise such powers and perform such functions in accordance with the provisions of this Act and section 184 of the Constitution.

Composition of electoral college and election of representatives to Council

4. (1) The chairperson and members of the Council shall be elected by an electoral college constituted by the members of the Houses.

(2) (a) The President shall, after taking into consideration the recommendations of the select committees of the National Assembly and the Senate responsible for constitutional matters, make rules with regard to-

(i) the way in which the electoral college referred to in

subsection (1) shall be constituted;

(ii) the fair distribution among the various Houses of representatives on the Council; and

(iii) the procedure to be observed at the election of the chairperson and members of the Council.

(b) A person designated by the President shall-

(i) convene the electoral college within 60 days of the commencement of this Act or within 30 days after a vacancy has arisen in the Council or the Council has been dissolved in terms of this Act, as the case may be; and

(ii) preside over such meeting.

(3) The President shall make rules with regard to the convening of and procedure to be observed at a special meeting of the electoral college at which the passing of a vote of no confidence in the Council or the impeachment of the chairperson or a member of the Council is to be discussed.

#### Duration of Council

5. (1) The Council elected in terms of section 4 shall, subject to subsection (2), continue for five years as from the date of such election, at the expiry of which a new election shall be held in accordance with this Act: Provided that members of the Council shall be eligible for re-election.

(2) If during the period referred to in subsection (1) the Council is dissolved in terms of section 7, the Council as constituted then, shall continue for the period up to the day immediately preceding the election held in pursuance of such dissolution.

(3) Notwithstanding any dissolution of the Council-

(a) every person who at the date of the dissolution is a member of the Council shall remain a member thereof; and

(b) the Council shall remain competent to perform its functions, during the period for which the Council continues in terms of subsection (2) after the dissolution.

(4) If the Council is dissolved and a new Council is elected, this section shall apply mutatis mutandis in respect of such new Council save that the new Council shall continue for the unexpired part of the period referred to in subsection (1).

#### Removal from office of chairperson or member of Council

6. The chairperson or a member of the Council shall cease to hold office on a resolution adopted at a special meeting by a majority of at least two-thirds of the total number of members of the electoral college and impeaching the chairperson or a member of the Council on the ground of a serious violation of the Constitution or any other law of the Republic, or of misconduct or inability rendering him or her unfit to exercise and perform his or her powers and functions as chairperson or member.

#### Vote of no confidence

7. If at a special meeting the electoral college passes a vote of no confidence in the Council by a majority of at least two-thirds of the total

number of members of the electoral college, the Council shall be dissolved and a new election in terms of this Act shall be held.

#### Meetings of Council

8. (1) The Council shall meet in Cape Town, unless the chairperson of the Council, in accordance with the rules and orders of the Council, directs otherwise.

(2) There shall be an ordinary meeting of the Council at least once every year during a sitting of Parliament.

(3) Subject to subsections (2), (4) and (5), meetings of the Council shall be held at a time and place as determined by the Council or, if authorised thereto by the Council, by the chairperson.

(4) The Executive Committee of the Council may at any time, and if so requested by the President shall, convene a special meeting of the Council on a date determined by the said Committee with the approval of the President and at such special meeting only such matters as are placed before the Council shall be dealt with: Provided that if such special meeting is called by the direction of the President, only such matters as necessitated the calling of the special meeting shall be dealt with.

(5) The chairperson shall within 30 days of the first election of the Council in terms of section 4, convene the Council in the manner he or she may deem expedient.

#### Chairperson and deputy chairperson

9. (1) At its first meeting after it has been convened under section 8(5) the Council shall elect one of its members as deputy chairperson of the Council.

(2) The chairperson and deputy chairperson shall, subject to sections 5, 6 and 5 7, hold office from the date on which they were elected until the duration of the Council in respect of which they were elected has expired: Provided that they shall be eligible for re-election at the expiration of their term of office.

(3) The chairperson shall be vested with all the powers and functions conferred upon or assigned to him or her by this Act and the rules and orders.

(4) If the chairperson is absent or is for any reason unable to exercise or perform the powers or functions vested in the office of chairperson, or when the office of chairperson is vacant, the deputy chairperson shall act as chairperson during the chairperson's absence or inability or until a chairperson is elected.

(5) If any of the circumstances described in subsection (4) applies with reference to both the chairperson and the deputy chairperson, a member of the Council designated in terms of the rules and orders shall act as chairperson while the said circumstances prevail.

(6) The deputy chairperson or the member designated in terms of subsection (5), while acting as chairperson, may exercise the powers and shall perform the functions vested in the office of chairperson.

(7) The chairperson, the deputy chairperson or any other member of the Council designated for this purpose in terms of the rules and orders, shall preside over meetings of the Council.

(8) While presiding at a meeting of the Council, the chairperson, deputy chairperson or other member presiding shall not have a deliberative vote,

but shall have and exercise a casting vote in the case of an equality of votes.

(9) The chairperson or deputy chairperson shall vacate his or her office if he or she is impeached in terms of section 6, and may resign by lodging his or her resignation in writing with the Secretary to the Council.

(10) If the office of deputy chairperson becomes vacant, the members of the Council shall elect a member to fill the vacancy.

#### Vacation of seat and filling of vacancies

10. (1) The seat of a member of the Council shall become vacant-

(a) if he or she is impeached in terms of section 6;

(b) upon his or her death; or

(c) if he or she resigns his or her seat by written notice under his or her hand.

(2) A vacancy shall be filled as soon as possible in terms of section 4.

#### Rules and orders

11. The Council may make rules and orders to regulate its business and proceedings, including rules and orders regulating-

(a) the establishment, constitution, powers, functions, procedures and duration of committees of the Council: Provided that provision shall be made for a standing Executive Committee consisting of the chairperson, deputy chairperson and three other members elected by the Council;

(b) restrictions on access to such committees;

(c) the competency of any such committee to perform or dispose of its business and proceedings at venues other than the seat of the Council; and

(d) the designation of members to preside over meetings of the Council.

#### Quorum

12. The presence of at least half of all the members of the Council other than the chairperson or other presiding member, shall be necessary to constitute a meeting of the Council.

#### Requisite majorities

13. All questions before the Council shall be determined by a majority of votes cast.

#### Moneys payable to members

14. (1) There shall be paid from monies appropriated by Parliament for this purpose to a member of the Council such remuneration and allowances as determined by the President, having due regard to the recommendations of the Commission on Remuneration of Representatives contemplated in section 207 of the Constitution and the recommendations of the select committees of the National Assembly and the Senate responsible for constitutional matters.

(2) Those members of the Council who receive remuneration and allowances

by virtue of their membership of a House and who continue to receive such remuneration and allowances while serving on the Council, shall not receive any remuneration and allowances by virtue of subsection (1), except to the extent required to place those members in the position in which they would have been were it not for such membership.

(3) The remuneration and allowances contemplated in this section may differ according to whether a member is a full-time or part-time member of the Council.

#### Administration of Council

15. (1) The Council may, with the approval of the Director-General of the Department of Constitutional Development and in consultation with the Public Service Commission, appoint a secretary and such other staff as may be necessary for the discharge of the work of the Council.

(2) There shall be paid from monies appropriated by Parliament for this purpose to persons appointed under this section such remuneration as determined by the Minister for Provincial Affairs and Constitutional Development in consultation with the Minister of Finance.

#### Short title and commencement

16. This Act shall be called the Council of Traditional Leaders Act, 1994, and shall come into operation on a date fixed by the President by proclamation in the Gazette.