

TITLE 29

Chapter 29:01

[PREVIOUS CHAPTER](#)**CHIEFS AND HEADMEN ACT**

Acts 29/1982, 7/1992 (s. 5).

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AN ACT to provide for the appointment of chiefs and headmen and to define their functions; to provide for the establishment of provincial assemblies and a council of chiefs and to define their functions; and to provide for other matters incidental to or connected with the foregoing.

[Date of commencement: 1st February, 1983.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Chiefs and Headmen Act [Chapter 29:01].

2 Interpretation

In this Act—

“chief” means—

(a) any person appointed as a chief in terms of subsection (1) of section three;

(b) any person appointed as an acting chief in terms of subsection (1) of section four;

(c) any person appointed as a deputy chief in terms of subsection (1) of section five;

“community” means a community of persons who recognize and are subject to customary law;

“Council” means the Council of Chiefs referred to in section eighteen;

“headman” means any headman, acting headman or deputy headman appointed in terms of section eight;

“inhabitant” means a person who, under customary law, is for the time being recognized as a member of a community;

“messenger” means a messenger appointed by a chief or headman in terms of section eleven;

“Minister” means the Minister of Local Government, Rural and Urban Development or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“principal election” means an election held in terms of subsection (2) of section eighteen;

“province” means a province referred to in section fifteen;

“provincial assembly” means an assembly referred to in section sixteen.

PART II

CHIEFS

3 Appointment of chiefs

(1) The President shall appoint chiefs to preside over communities.

(2) In appointing a chief in terms of subsection (1) the President shall give due consideration to the customary principles of succession, if any, applicable to the community over which such chief is to preside.

(3) The President may, where he is of the opinion that good cause exists, remove a chief appointed in terms of subsection (1) from office.

(4) Subject to this Act, a chief appointed in terms of subsection (1) shall be paid such allowances as may from time to time be prescribed from moneys appropriated for the purpose by Act of Parliament.

4 Appointment of acting chiefs

(1) Subject to subsection (2), in the event of the office of a chief becoming vacant through the death of the chief, his removal from office or his suspension for any reason, the President may appoint an acting chief to preside in his stead.

(2) An appointment in terms of subsection (1) shall cease to have effect—

(a) on the date the President, in terms of subsection (1) of section three, appoints a chief for the community concerned; or

(b) on the cancellation of the suspension of the chief of the community concerned in terms of subsection (3) of section seven; or

(c) when the President cancels such appointment.

(3) An acting chief shall be paid such allowances as may from time to time be prescribed from moneys appropriated for the purpose by the Legislature.

5 Appointment of deputy chiefs

(1) Subject to subsections (2) and (3), whenever a chief is for any reason unable to carry out his duties unassisted, the President may appoint a deputy chief to assist the chief to carry out his duties and, if necessary, to perform such duties on behalf of the chief.

(2) Before making an appointment in terms of subsection (1) the President shall take into account any representations of the chief concerned as to who should be his deputy.

(3) An appointment in terms of subsection (1) may be cancelled at any time by the President and shall lapse upon the death or removal from office of the chief concerned.

6 Duties of chiefs

A chief shall be responsible for—

(a) performing the duties and functions pertaining to the office of a chief as the traditional head of his community; and

(b) carrying out, in accordance with Part V, the functions of a chief in relation to provincial assemblies and, where appropriate, the Council; and

(c) performing such other duties and functions as may be prescribed or as may be assigned to him in terms of any law.

7 Disciplinary procedure where chief commits offence

(1) Any chief who has been convicted of any offence, whether in terms of this Act or otherwise, or against whom any criminal proceedings in respect of any such offence are instituted or are about to be instituted, may be suspended from his duties by the Minister.

(2) During any period of suspension in terms of subsection (1) the person who is suspended shall not carry out his duties or exercise his powers or be entitled to any allowances.

(3) Where any person who has been suspended in terms of subsection (1) is acquitted of every offence in respect of which he was suspended, the suspension shall be deemed to have been cancelled with effect from the date of such acquittal and the person who was suspended shall thereupon be entitled to be paid the full amount of his allowances for the period of suspension:

Provided that the Minister may reduce such amount where, in his opinion, the circumstances of the case so require.

(4) Where any person who has been suspended in terms of subsection (1) is convicted of an offence, the Minister may cancel the suspension with effect from such date as he may determine and—

(a) caution and reprimand him; or

(b) order a reduction of his allowances; or

(c) both caution and reprimand him and order a reduction of his allowances.

PART III

HEADMEN

8 Appointment of headmen

(1) Subject to subsection (2), the Minister shall appoint a sufficient number of headmen for each community to assist the chief properly to carry out his duties.

(2) Before appointing any person as headman in terms of subsection (1), the Minister shall invite the chief concerned to nominate a suitable person for such appointment and, unless in the opinion of the Minister there are good reasons to the contrary, the Minister shall appoint as headman any person so nominated by the chief.

(3) Whenever the office of headman in a particular area is vacated for any reason, the Minister, after considering the views of the chief concerned on the subject, may appoint an acting headman for that area.

(4) Whenever a headman is for any reason unable to carry out his duties unassisted, the Minister, after considering the views of the chief and of the headman concerned, may appoint a deputy headman to assist the headman to carry out his duties and, if

necessary, to perform such duties on behalf of the headman.

(5) The Minister may at any time cancel any appointment made in terms of subsection (1), (3) or (4).

(6) A headman shall be paid such allowances as may from time to time be prescribed from money appropriated for the purpose by Act of Parliament.

9 Duties of headmen

It shall be the duty of every headman—

- (a) to assist his chief to perform his duties; and
- (b) to carry out all lawful and reasonable orders given by his chief; and
- (c) to perform such other duties as may be prescribed.

10 Disciplinary procedure where headman commits offence

(1) Any headman who has been convicted of any offence, whether in terms of this Act or otherwise, or against whom any criminal proceedings in respect of any such offence are instituted or about to be instituted, may be suspended from his duties by the Minister.

(2) During any period of suspension in terms of subsection (1) the person who is suspended shall not carry out his duties or exercise his powers or be entitled to any allowances.

(3) Where any person who has been suspended in terms of subsection (1) is acquitted of every offence in respect of which he was suspended, the suspension shall be deemed to have been cancelled with effect from the date of such acquittal and the person who was suspended shall thereupon be entitled to be paid the full amount of his allowances for the period of suspension:

Provided that the Minister may reduce such amount where, in his opinion, the circumstances of the case so require.

(4) Where any person who has been suspended in terms of subsection (1) is convicted of an offence, the Minister may cancel the suspension with effect from such date as he may determine and—

- (a) caution and reprimand him; or
- (b) order a reduction of his allowances; or
- (c) both caution and reprimand him and order a reduction of his

allowances.

PART IV

MESSENGERS OF CHIEFS AND HEADMEN

11 Appointment of messengers

(1) A chief or headman may, with the approval of the Minister, appoint messengers who shall—

- (a) generally assist the chief or headman, as the case may be, in the discharge of his duties; and
- (b) carry out all lawful and reasonable orders of the chief or headman, as the case may be; and
- (c) perform such other duties as may be prescribed.

(2) A chief or headman may suspend from duty or dismiss his messenger for incapacity, neglect of his duties or improper conduct.

(3) The date of dismissal of a messenger who is dismissed after being suspended in terms of subsection (2) shall be the date upon which such messenger is actually dismissed.

(4) The Minister may increase the allowances referred to in sections three and eight by such amount as may be prescribed a chief or headman to employ messengers.

12 Uniforms and badges of messengers

(1) The Minister shall prescribe a distinctive uniform or badge which shall be worn by all messengers when on duty.

(2) No person who is not a messenger shall wear, and no employer shall supply to his employee, any uniform or badge prescribed in terms of subsection (1), or any dress, badge or other article having the appearance or bearing any of the distinctive marks of

any such uniform or badge.

13 Limitation of liability for actions of messengers

No liability shall attach to the State for any loss or damage sustained by any person as a result of the exercise or performance by a messenger of any power or duty referred to in paragraph (a), (b), or (c) of subsection (1) of section eleven.

14 Offences by messengers

Any messenger who—

(a) takes any bribe or, without the consent of his chief or headman, as the case may be, takes in connection with his official duties any present from any person; or

(b) acts contrary to any instruction given to him by the chief or headman who appointed him; or

(c) neglects to perform any duties or instructions given to him by the chief or headman who appointed him, or unnecessarily delays in the fulfilment of such duties or instructions; or

(d) wilfully fails to assist any person in approaching any chief or headman for any legitimate object or obstructs or hinders any person from so approaching any chief or headman; or

(e) abuses or misuses his authority and position to his own advantage or to the advantage of a member of his family;
shall be guilty of an offence.

PART V

PROVINCIAL ASSEMBLIES AND THE COUNCIL OF CHIEFS

15 Division of Communal Land into provinces

(1) The Minister shall, by a statutory instrument, divide Communal Land into not less than seven provinces, describing each province and assigning a name thereto.

(2) After consultation with the Council and with the district councils concerned the Minister may, by a statutory instrument—

(a) alter the description or number of the provinces into which Communal Land is divided:

Provided that—

(i) the number of provinces shall be not less than seven;

(ii) any alteration in the description or number of the provinces shall have effect only at the expiration of the term of office of the Council in consultation with which such alteration is made; or

(b) assign a new name to any province.

16 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) A provincial assembly shall meet at such times and places 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 the proceedings at that meeting.

17 Functions of provincial assemblies

The functions of a provincial assembly shall be—

(a) subject to section eighteen, 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.

18 Council of Chiefs

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

(2) Each provincial assembly shall, on such dates as may, subject to subsection (3), be prescribed, elect such number of its members as may, subject to the provisions of subsection (3), 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 for a period of not more than five years, but shall cease to hold office if he ceases to be a chief.

(5) Where the membership of any chief on the Council is vacated for any reason before the next principal election, the provincial assembly that elected such chief to the Council shall elect another chief from its members to fill the vacancy so left:

Provided that, if the period between the date of the vacancy and the date of the next principal 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 remain as a member of the Council until the next principal election, unless he ceases to be a chief before that date.

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

19 Meetings of Council

(1) Subject to subsection (2), the Council shall meet at such times and places as may be determined from time to time by the Minister.

(2) Except in the case of the first meeting after each principal election, the Minister shall consult the president of the Council before fixing the time and place of any meeting in terms of subsection (1).

(3) 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.

(4) At the first meeting of the Council after each principal election, and thereafter from time to time as the Council deems necessary, it shall be the duty of members of the Council to elect one of their number as president of the Council and one of their number as deputy president of the Council.

(5) The president of the Council shall preside at 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;

(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 at such meeting.

(6) The president or deputy president of the Council may be removed from office by a majority vote of the members of Council present at a meeting of the Council.

(7) In the event of a vacancy in the office of president or deputy president occurring before the next principal election, the Council shall elect one of their number to fill the vacancy.

(8) An election for the purposes of subsection (4) or (7) 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].

20 Functions of Council

Subject to the Constitution and of any enactment, the functions of the Council shall be—

- (a) to make representations to the Minister in regard to the needs and wishes of the inhabitants of Communal Land;
- (b) to consider any representation made to it by a provincial assembly and in its discretion to report thereon to the Minister;
- (c) to consider and report on any matter referred to it by the Minister for consideration.

21 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 the Council or to a provincial assembly or to represent him or the Government at any meetings of the Council or a provincial assembly.

22 Administrative and clerical work of Council and provincial assemblies

(1) The administrative and clerical work in connection with the Council and the provincial assemblies shall be performed by persons deputed thereto by the Minister from among members of the Public Service in his Ministry.

(2) Any duties which a member of the Public Service may be required to perform in terms of subsection (1) shall, for the purposes of the law relating to the Public Service, be deemed to be duties of the office of such member.

23 Clerks of Council and provincial assemblies

(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 in his Ministry.

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

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

(3) Any duties which a clerk may be required to perform under this section or by direction of the Minister shall, for the purposes of the law relating to the Public Service, be deemed to be the duties of his office as a member of the Public Service.

24 Meetings of Council and provincial assemblies to be private

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

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

(3) A person designated in terms of section twenty-one may attend a meeting of the Council or of a provincial assembly, as the case may be—

- (a) if so requested by the Council or provincial assembly holding the meeting; or
- (b) for the purpose of presenting the views of, or representing, the Minister or the Government;

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 the Council or a provincial assembly without the Minister or any person designated in terms of section twenty-one being present.

25 Transaction of business notwithstanding vacancies

Subject to the provisions of any regulations relating to the presence of such quorum as may be prescribed, the Council, provincial assembly or a committee of the Council or of a provincial assembly shall not be disqualified from transacting business by

reason of any vacancies in the membership of the Council, such assembly or such committee, as the case may be, and no proceedings thereof shall be invalid notwithstanding that some person sat or voted in the Council, assembly or committee or otherwise took part in the proceedings who was not entitled so to do.

26 Offences relating to proceedings of meetings

(1) Any person who, being present without lawful authority at a meeting of the Council or of a provincial assembly, fails or refuses to leave such meeting after being requested to do so by the person presiding thereat shall be guilty of an offence and liable to a fine not exceeding fifty dollars 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 the Council or of a provincial assembly, wilfully interrupts the proceedings of the meeting or otherwise wilfully disturbs the peace or order of such proceedings shall be guilty of an offence and liable to a fine not exceeding fifty dollars 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 the Council, a provincial assembly or a committee of the Council or of a provincial assembly, or otherwise takes part in the proceedings thereof knowing that he was not entitled to do so shall be guilty of an offence and liable to a fine not exceeding one hundred dollars or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

PART VI

GENERAL

27 General provision as to penalties

(1) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence.

(2) Any person who is guilty of an offence in terms of this Act for which no penalty is specially provided shall be liable to a fine not exceeding two hundred dollars or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

28 Regulations

The Minister may by regulation provide for all matters which in terms of this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be provided for in order to give effect to the provisions of this Act.

(2) Regulations made in terms of subsection (1) may—

(a) provide for the appointment of one or more committees of the Council or of any provincial assembly;

(b) prescribe the procedure to be followed at meetings of the Council or a provincial assembly or of any committee of the Council or of a provincial assembly;

(c) prescribe the requirements for membership of the Council or provincial assemblies, the circumstances in which members of these bodies shall vacate their seats or may be suspended from membership, and the filling of vacancies in the membership of these bodies;

(d) prescribe the allowances which may be paid to chiefs and headmen and to members of the Council or provincial assemblies and the terms and conditions under which such allowances shall be payable or under which payment of such allowances may be suspended or withdrawn;

(e) provide for penalties for contravention of such regulations:

Provided that no penalty shall exceed the penalties provided for in section twenty-seven.