



# **DRAFT TRADITIONAL AND KHOI-SAN LEADERSHIP BILL, 2024**



**Bill Review and  
Summary (2025)**

Developed by Natural Justice in February 2025



## BACKGROUND CONTEXT

In May 2023, the Constitutional Court in **Mogale v Speaker of the National Assembly**, declared the **Traditional and Khoi-San Leadership Act 3 of 2019** (TKLA) unconstitutional and invalid. The Court held that Parliament had failed to ensure sufficient public participation during the enactment of the TKLA, thus violating sections 59 and 72 of the **Constitution**. The TKLA was established to formally recognise the Khoi and San communities, along with their leadership structures, and aimed to address the shortcomings of the **Traditional Leadership and Governance Framework Act 41 of 2003** (TLGFA). The Constitutional Court suspended the order for 24 months, allowing Parliament the opportunity to rectify the identified constitutional deficiencies of the TKLA. Consequently, the TKLA remains in effect until new legislation is enacted by May 2025.

On November 29, 2024, the Department of Cooperative Governance and Traditional Affairs (CoGTA) published the **draft Traditional and Khoi-San Leadership Bill 2024** (TKLB) for public comment. In the notice by CoGTA it is stated that the Minister of Cooperative Governance and Traditional Affairs published the draft TKLB for public comment in accordance with section 154(2) of the Constitution. Furthermore, the draft TKLB makes provision for the recognition of the Khoi-San communities; and repeals and replaces the TLGFA and the **National House of Traditional Leaders Act 22 of 2009**.



## OBJECTIVES OF THE TKLB

Under the long title of the draft TLKB 2024, the following key objectives are set out:

- To provide for the recognition of traditional and Khoi-San communities, leadership positions and for the withdrawal of such recognition.
- To provide for the functions and roles of traditional and Khoi-San leaders.
- To provide for the recognition, establishment, functions, roles and administration of kingship or queenship councils, principal traditional councils, traditional councils, Khoi-San councils and traditional sub-councils, as well as the support to such councils.
- To provide for the establishment, composition and functioning of the National House of Traditional and Khoi-San Leaders; to provide for the establishment of provincial houses of traditional and Khoi-San leaders.
- To provide for the establishment and composition of local houses of traditional and Khoi-San leaders.
- To provide for the establishment and operation of the Commission on Khoi-San Matters.



# KEY DEFINITIONS (SECTION 1)

*“Khoi-San” means any person who lives in accordance with the customs and customary law of the Cape-Khoi, Griqua, Koranna, Nama or San people, or any subgrouping thereof, and is consequentially a member of a particular Khoi-San community as contemplated in section 5.*

*“Khoi-San community” means a Khoi-San community recognised as such in terms of section 5.*

## Recognition of Khoi-San community (section 5)

A community may apply to the Premier concerned to be recognised as a Khoi-San community if it:

- has a history of self-identification by members of the community concerned, as belonging to a unique community distinct from all other communities;
- observes distinctive established Khoi-San customary law and customs;
- is subject to a system of hereditary or elected Khoi-San leadership with structures exercising authority in terms of customary law and customs of that community;
- has an existence of distinctive cultural heritage manifestations;
- has a proven history of existence of the community from a particular point in time up to the present; and
- occupies a specific geographical area or various geographical areas together with other non-community members.

An application must be accompanied by:

- an application for the recognition of the position of a senior Khoi-San leader of that community;
- a list of all community members: Provided that such a list must in respect of each community member contain his or her full names and surname; identification number and a certified ID copy or birth certificate if under 16, physical address, contact details, and signature acknowledging his or her association with such community.

A person who has confirmed his or her association with a particular Khoi-San community by signing a list may not be a member of any other Khoi-San community.



## Recognition of Khoi-San branch (section 5)

A Khoi-San community may, where applicable, consist of branches. A branch may be recognised if it:

- is recognised by the Khoi-San community as a branch of that community;
- consists of not less than 10% of the total number of members of such community as reflected in the list of community members;
- will contribute to a more effective and efficient administration of the Khoi-San council; and
- recognises the senior Khoi-San leader in terms of customary law and customs.

*"traditional community"* means a traditional community recognised as such in terms of section 3.

## Recognition of a traditional community (section 3)

A community may be recognised as a traditional community if it:

- has a system of traditional leadership at a senior traditional leadership level recognised by other traditional communities;
- observes a system of customary law;
- recognises itself as a distinct traditional community with a proven history of existence, from a particular point in time up to the present, distinct and separate from other traditional communities;
- occupies a specific geographical area;
- has an existence of distinctive cultural heritage manifestations; and
- where applicable, has a number of headmanship or headwomanship.

An application must be accompanied by an application for the recognition of the position of a senior traditional leader of that community. If the traditional council is of the view that the portion of the traditional community does not meet the criteria, the traditional council must inform the community and the Premier accordingly and provide reasons for such view.

*"Kingship or queenship"* means a kingship or queenship recognised in terms of section 3.

## Recognition of kingship or queenship (section 3)

Traditional communities that are grouped together may be recognised as a kingship or queenship if:

- they are recognised as traditional communities;
- each has a recognised traditional council with a defined area of jurisdiction
- each has a recognised senior traditional leader
- they recognise as their king or queen, a specific recognised senior traditional leader who, in terms of custom and customary law, is of a higher status than the other senior traditional leaders;
- they recognise themselves as a distinct group of traditional communities with a proven history of existence, from a particular point in time up to the present, distinct from principal traditional communities and other traditional communities;
- they have a system of traditional leadership at a kingship or queenship level;
- they have an existence of distinctive cultural heritage manifestations.

An application must be accompanied by an application for the recognition of the position of a king or queen of those communities.

## Recognition of headmanship or headwomanship (sec 3)

‘headmanship or headwomanship’ means a headmanship or headwomanship recognised in terms of section 3.

A headmanship or headwomanship may be recognised as such if it:

- has a system of traditional leadership at a headmanship or headwomanship level and is recognised as such by the relevant traditional community;
- consists of an area within the area of jurisdiction of the traditional council of the relevant traditional community; and
- will contribute to the more effective and efficient administration of the relevant traditional council.

**“traditional leadership”** means the institutions or structures established in terms of customary law or customs, or customary systems or procedures of governance, recognised, utilised or practiced by traditional communities.

**“traditional leader”** means a person who has been recognised as a king or queen, principal traditional leader, senior traditional leader or headman or headwoman and includes regents, acting traditional leaders and deputy traditional leaders.

**“traditional council”** means a traditional council established and recognised in terms of section 16 and includes a traditional sub-council contemplated in section 17.



## GUIDING PRINCIPLES (SECTION 2)

A kingship or queenship, principal traditional community, traditional community, headmanship, headwomanship and Khoi-San community must transform and adapt customary law and customs relevant to the application of this Act to comply with the relevant principles contained in the Bill of Rights in the Constitution, by:

- preventing unfair discrimination;
- promoting equality;
- seeking to progressively advance gender representation in the succession to traditional and Khoi-San leadership positions.

The resources of any community, leader, council, house, Commission or committee recognised or established in accordance with a provision of this Act:

- must not be used to promote or prejudice the interest of any political party or any grouping of such party, or to promote or prejudice any candidate in any election, irrespective whether such election is an internal election within the relevant party or an external election; and
- may only be used for purposes of the functions, duties and responsibilities allocated by this Act to such community, leader, council, house, Commission or committee.

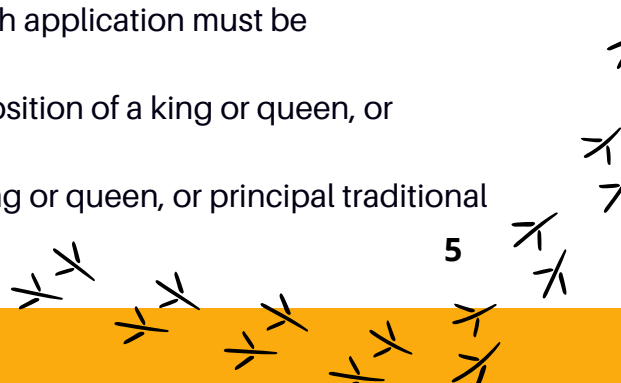


## RECOGNITION

### Recognition of king or queen, principal traditional leader, senior traditional leader, headman or headwoman (sec 8)

The royal family concerned must, within 90 days after the need arises for the position of a king or queen, or principal traditional leader to be filled, and with due regard to applicable customary law and customs:

- identify a person who qualifies in terms of customary law and customs to assume the position of a king or queen, or principal traditional leader; and
- apply to the President or relevant Premier for the recognition of the person so identified as a king or queen or principal traditional leader which application must be accompanied by:
  - ▶ the particulars of the person so identified to fill the position of a king or queen, or principal traditional leader; and
  - ▶ the reasons for the identification of that person as king or queen, or principal traditional leader.



The President may, after consultation with the Minister and the Premier concerned, recognise as a king or queen a person so identified, considering whether a kingship or queenship has been recognised

The Premier may recognise as the successor to a principal traditional leader a person so identified, considering whether a principal traditional community still exists.

Whenever the position of senior traditional leader, headman or headwoman is to be filled:

- the royal family concerned must, in the event of hereditary succession, within 90 days after the need arises for any of those positions to be filled, identify a person who qualifies in terms of customary law or customs to assume the position in question;
- if hereditary succession is not applicable, a person who is to assume the position of headman or headwoman must, in terms of customs or customary law be identified or elected by the community concerned, within 90 days after the need arises for such a position to be filled;
- the royal family in the case of hereditary succession, through the relevant customary structure, and the traditional council concerned in the case of an identified or elected headman or headwoman, must apply to the Premier for the recognition of the person so identified or elected and provide the Premier with the particulars of such person and the Premier concerned must recognise the person so identified or elected as senior traditional leader, headman or headwoman.

# Recognition of senior Khoi-San leader or branch head (section 10)

Whenever the position of a senior Khoi-San leader or branch head is to be filled:

- the royal family concerned, in the event of hereditary succession must, within 90 days after the need arises for a position to be filled and with due regard to applicable customary law and customs, identify a senior Khoi-San leader as the hereditary successor,
- the Khoi-San council concerned, in the case of succession by election must, within 90 days after the need arises for a position to be filled and with due regard to applicable customary law and customs, elect a senior Khoi-San leader or a branch head to assume the position in question,
- the royal family or the Khoi-San council must apply to the Premier for the recognition of the person identified or elected.

Other considerations:

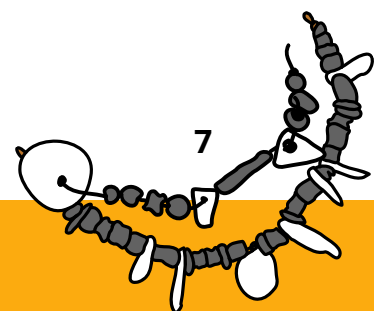
- branch head is elected for a period of five years which term must coincide with the term of the Khoi-San council concerned.
- An election must be conducted in terms of rules and procedures adopted by the Khoi-San council concerned.
- The royal family or Khoi-San council must inform the Premier concerned of the particulars of the person identified or elected.

An election must be conducted in terms of rules and procedures adopted by the Khoi-San council concerned.

The royal family or Khoi-San council must inform the Premier concerned of the particulars of the person identified or elected.

The Premier concerned must, where a senior Khoi-San leader or branch head has been identified or elected:

- recognise the person identified or elected;
- issue a certificate of recognition to the person so identified or elected and indicate the term of office of an elected person; and
- inform the Minister and the relevant provincial house of the particulars of the person.







# WITHDRAWAL OF RECOGNITION

## **Withdrawal of recognition of kingship or queenship, principal traditional community, traditional community, headmanship or headwomanship (section 4)**

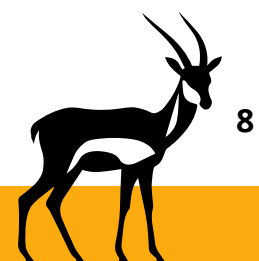
The withdrawal of the recognition of a kingship or queenship or principal traditional community only be considered where the majority of traditional communities under the jurisdiction of the kingship or queenship or principal traditional community concerned request the President or the relevant Premier to withdraw the recognition of their kingship or queenship or principal traditional community: provided that such request must be accompanied by a resolution of each traditional council of such traditional communities and the grounds on which the request is based.

The President or relevant Premier, must before taking a decision, cause an investigation to be conducted by the Minister or member of the Executive Council responsible for traditional affairs of the province concerned, as the case may be, in order to establish whether there is sufficient cause for the withdrawal of the recognition of the kingship or queenship or principal traditional community.

The withdrawal of the recognition of a kingship or queenship must be done by the President by notice in the Gazette after consultation with the kingship or queenship council, the National House, the Minister, the relevant Premier and the provincial house concerned.

The withdrawal of the recognition of a principal traditional community must be done by the Premier concerned by notice in the Provincial Gazette.

Before the withdrawal of a recognition, the Premier concerned must consult the relevant provincial house, any community that may be affected and the senior traditional leaders who form part of the principal traditional community.



The withdrawal of the recognition of a community as a traditional community may only be considered where:

- the community concerned requests the relevant Premier to withdraw its recognition as a traditional community: provided that if such traditional community forms part of a kingship or a queenship or a principal traditional community, such request may only be submitted after the traditional community has consulted the kingship or queenship council or principal traditional council;
- a kingship or a queenship council or a principal traditional council requests the relevant Premier to withdraw the recognition of a traditional community which forms part of such kingship, queenship or principal traditional community: provided that such request may only be submitted after the kingship or queenship council or principal traditional council has consulted the relevant traditional community;
- the Premier concerned is requested by any affected community or communities to review the position of such a community or communities that was or were divided or merged in terms of applicable legislation; or
- two or more recognised communities request the Premier concerned to merge such communities into a single traditional community: provided that any request for the withdrawal of the recognition of a traditional community must be accompanied by the grounds on which the request is based: provided further that any such request must be accompanied by information setting out the details of the consultation contemplated in this subsection.

## Withdrawal of recognition of Khoi-San community or branch (section 6)

The withdrawal of the recognition of a Khoi-San community or a branch may only be considered where:

- a Khoi-San council requests the Premier concerned that the recognition of a Khoi-San community or the recognition of a branch or branches of such community be withdrawn; or
- the Khoi-San councils of two or more recognised Khoi-San communities request the Premier concerned to merge such communities into a single Khoi-San community: provided that such request must be accompanied by the grounds on which the request is based.

The Premier concerned may, after consultation with the relevant provincial house, withdraw the recognition of a Khoi-San community or a branch.



Where the branches of a Khoi-San community which are to be withdrawn, are situated in more than one province, the Premiers of the provinces where the branches are situated must withdraw the recognition of the branches.

The Premier or Premiers concerned may, before withdrawing the recognition of the Khoi-San community or branch, cause an investigation to be conducted to establish whether the communities to be affected by a request were consulted and support such request.

## **Withdrawal of recognition of king or queen, principal traditional leader, senior traditional leader, headman or headwoman (section 9)**

The recognition of a king or queen, principal traditional leader, senior traditional leader, headman or headwoman must be withdrawn if he or she:

- has been convicted of an offence with a sentence of imprisonment for more than 12 months without the option of a fine;
- is declared mentally unfit or mentally disordered by a court; or
- no longer permanently resides within the area of the kingship or queenship council, principal traditional council or traditional council.

May be withdrawn if he or she:

- has been removed from office in terms of the code of conduct; or
- has transgressed customary law or customs, on a ground that warrants withdrawal of recognition; and
- must be withdrawn if so ordered by a court.

Whenever in the case of a king or a queen, any of the grounds come to the attention of the royal family, the royal family must, within 90 days from the date of becoming aware of such grounds and through the relevant customary structure inform the President, the Premier concerned, the Minister and the senior traditional leaders within the kingship or queenship, of the particulars of such king or queen, and of the particulars relating to the specific ground.

The President or Premier must, after consultation with the Minister or member of the Executive Council responsible for traditional affairs in the particular province, withdraw the recognition of the relevant king or queen, principal traditional leader, senior traditional leader, headman or headwoman.



## Withdrawal of recognition of senior Khoi-San leader or branch head (section 11)

The recognition of a senior Khoi-San leader or branch head must be withdrawn if:

- has been convicted of an offence with a sentence of imprisonment for more than 12 months without the option of a fine;
- is declared mentally unfit or mentally disordered by a court; or

may be withdrawn if he or she:

- has been removed from office in terms of the code of conduct; or
- has transgressed customary law or customs, on a ground that warrants withdrawal of recognition; and
- must be withdrawn if so ordered by a court.

Whenever any of the grounds come to the attention of the royal family or Khoi-San council, the royal family or Khoi-San council may recommend the withdrawal of the recognition of the senior Khoi-San leader or branch head and must furnish the Premier with reasons for such recommendation.

When the Premier is informed of the presence of any of the grounds, the Premier must withdraw the recognition of the relevant senior Khoi-San leader or branch head.



## FUNCTIONS AND RESOURCES

### Functions and resources of Traditional and Khoi-San leaders (section 15)

A traditional or Khoi-San leader performs the functions provided for:

- in terms of customary law and customs of the traditional or Khoi-San community concerned; and
- in terms of any applicable national or provincial legislation.
- The Minister may publish a notice to determine the resources to be made available to traditional and Khoi-San leaders as may be necessary for them to perform their functions effectively.



# TRADITIONAL AND KHOI-SAN COUNCILS

## Partnerships and agreements (Section 24)

Kingship or queenship councils, principal traditional councils, traditional councils, Khoi-San councils and traditional sub-councils may enter into partnerships and agreements with each other, and with:

- municipalities;
- government departments; and
- any other person, body or institution.

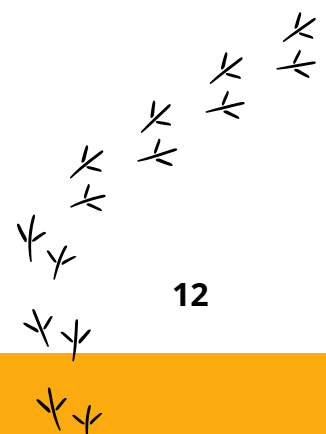
Any partnership or agreement entered by any of the councils must be in writing and, notwithstanding the provisions of any other law:

- must be beneficial to the community represented by such council;
- must, in addition to any other provisions, contain clear provisions on the responsibilities of each party and the termination of such partnership or agreement;

is subject to:

- a prior consultation with the relevant community represented by such council;
- a decision in support of the partnership or agreement taken by a majority of the community members present at the consultation; and
- a prior decision of such council indicating in writing the support of the council for the partnership or agreement.

Any council may enter into a service delivery agreement with a municipality in accordance with the Local Government: Municipal Systems Act, 2000.



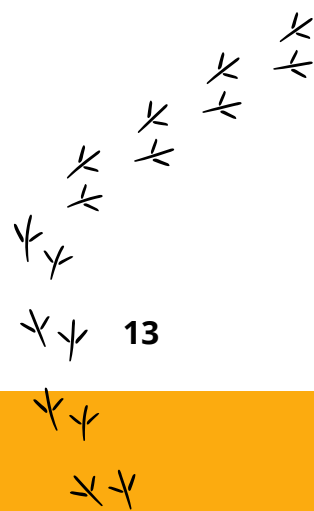
# Allocation of roles to kingship or queenship council, principal traditional council, traditional council, Khoi-San council, traditional sub-council and traditional and Khoi-San leaders (Section 25)

A department within the national or provincial sphere of government may, through legislative or other measures provide a role for councils and traditional and Khoi-San leaders in respect of any functional area of such department: Provided that such a role may not include any decision-making power.

Where a department has made provision for a role for any council or leader, such department must monitor the execution of the role and ensure that:

- the execution of the role is consistent with the Constitution and any other relevant law; and
- the role is being executed efficiently and effectively

Where any of the councils or leaders does not execute a role as envisaged, such role or any resources provided to such a council or leader to perform that role may be withdrawn by the department concerned: Provided that before any such withdrawal, the relevant department must first establish the reasons for the non-execution of the relevant role and, where necessary, capacitate such councils or leaders to enable them to execute the role.





# HOUSES OF TRADITIONAL AND KHOI-SAN LEADERS



## NATIONAL HOUSES

### Composition of National House (Section 28)

The National House consists of senior traditional and senior Khoi-San leaders elected by each provincial house.

In a province where a provincial house has been established and there are:

- Only senior traditional leaders must elect 3 senior traditional leaders to the national House
- Only Khoi San leaders must elect 3 senior Khoi San leaders to the National House
- More senior traditional leaders than Khoi San leaders- Must elect 3 traditional leaders and 1 Khoi San leaders
- More Khoi San leaders than Traditional leaders- Must elect 3 Khoi San leaders and 1 Khoi San Leaders to the National House
- Equal number of Khoi San and Traditional Leaders- 2 of each must be elected to the National House

In a province where a provincial house has not been established:

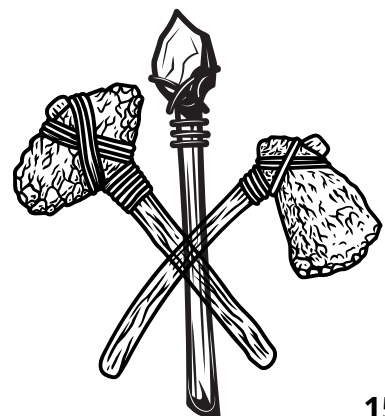
- the senior traditional leaders or the senior Khoi-San leaders or the senior traditional leaders and the senior Khoi-San leaders must elect from amongst themselves representatives to the National House, or
- where there are two or less than two of either or of both senior traditional leaders and senior Khoi-San leaders in such province, such leaders are ex officio members of the National House.

At least a third of the members of the National House must consist of women: Provided that if this requirement cannot be met, the Minister must, after consultation with the Premiers concerned and the relevant provincial houses, determine a lower threshold in respect of the representation of women in the National House.

# Disqualification for membership of National House (Section 30)

A person is disqualified from becoming a member of the National House if that person:

- is a member of a municipal council, a member of a provincial legislature or a member of Parliament;
- Is serving a sentence of imprisonment of more than 12 months without the option of a fine;
- is an unrehabilitated insolvent;
- is of unsound mind and has been so declared by a competent court;
- has been convicted of a criminal offence and sentenced to more than 12 months imprisonment without the option of a fine, either in the Republic or outside the Republic;
- is not a member of a provincial house;
- is not a South African citizen; or
- is not permanently resident within the Republic.







# PROVINCIAL HOUSES

## Provincial houses of Traditional and Khoi-San leaders (Section 49)

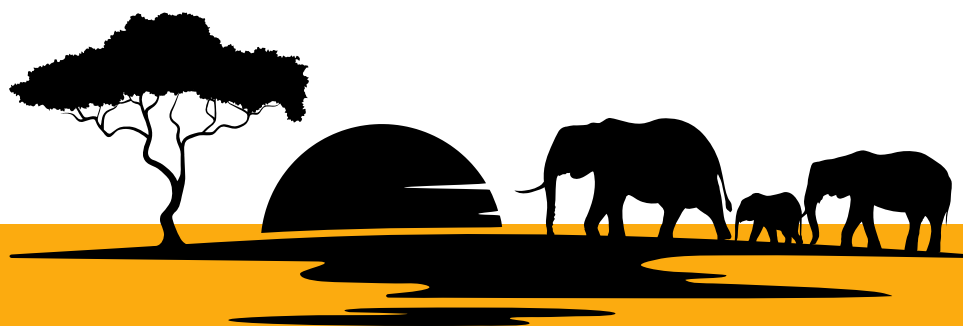
Provincial House may be established guided by provincial legislation and subject to provisions of the Act

The provincial legislation must include provisions that provide for:

- fair representation of women in the provincial houses
- the term of provincial houses to be five years
- the membership of both senior traditional leaders and senior Khoi-San leaders in provincial houses
- the election of both senior traditional leaders and senior Khoi-San leaders
- a relationship between the provincial house and any kingship or queenship council or principal traditional council within the province, including meetings with such councils or the respective recognised traditional leaders
- full-time and part-time members of the provincial house; and
- administrative and financial support to the provincial house.

The membership must be composed in such a way that both senior traditional leaders and senior Khoi-San leaders are represented in the provincial house concerned:

- in the same proportion that they are represented in the local houses concerned; or
- if local houses have not been established, in the same proportion that they would have been represented in such local houses had such houses been established.



## **Local houses of Traditional and Khoi-San leaders (Section 50)**

Premier may establish a local house of tradition or Khoi San leadership for the area of jurisdiction within a municipality, where there is one or more traditional or Khoi San councils.

A Local House must consist of no less than 5 members, at least 1 must be a senior leader. All senior leaders that reside within the area of jurisdiction of a local municipality are members of the Local House.

Where there is only one traditional council or Khoi San council, the local house will consist of members elected by the owners from amongst its members and senior leader who is ex-officio member or chairperson of the Local House.

If there is more than 1 but less than 5 traditional or Khoi San councils, traditional sub council or branches, the Local House consists of:

- All senior traditional or Khoi San leaders
- All chairpersons of such traditional sub councils
- All branch heads- if there is more than one branch of the same Khoi San or traditional community then a branch head must be elected

If there is more than 5 traditional council and Khoi San councils, traditional subcouncils or branches, Local House consists of:

- All senior traditional and Khoi San leaders
- All chairperson of such traditional sub councils
- All Branch heads

Functions of a Local House to advise local municipality on:

- Matters pertaining to customary law, customs of traditional and Khoi San communities within the municipality
- Development of planning frameworks that impact on Traditional and Khoi San communities
- Development of by-laws that impact on traditional and Khoi San communities



## Establishment of Commission (Section 51)

The Commission on Khoi-San Matters must carry out its functions in a manner that is fair, objective and impartial.

## Appointment of members of Commission (Section 52)

The Minister must, after inviting nominations from the general public, appoint a chairperson, deputy chairperson and not more than five other persons, as members of the Commission for a period not exceeding five years or any such further period as the Minister may determine.

A member of the Commission must be a South African citizen and have a qualification or experience in or knowledge appropriate to:

- anthropology;
- history relating to the Khoi-San;
- customary law and customs and the institutions of Khoi-San leadership; or
- law.

The members of the Commission must collectively represent a pool of knowledge concerning issues relevant to the Khoi-San groupings.

A nomination made by the public must contain all the information as may be specified in the invitation and must indicate whether the nominee is eligible for possible recognition as a senior Khoi-San leader or is a member of a community which may apply for possible recognition as a Khoi-San community: Provided that no such person may serve on the Commission.

The Minister may remove a member of the Commission on the grounds of:

- having been convicted of an offence with a sentence of imprisonment for more than 12 months without the option of a fine;
- such member having been declared mentally unfit or mentally disordered by a court;
- such member having been declared insolvent by a court;
- misconduct, incapacity or incompetence; or
- such member becoming eligible for recognition as a senior Khoi-San leader or branch head or being a member of a community which applied for recognition as a Khoi-San community.

A decision to remove a member of the Commission on the grounds of misconduct or incompetence must be based on a finding to that effect by an investigative committee appointed by the Minister.

## **Application for recognition of Khoi-San communities, branches, senior Khoi-San leaders and branch heads (Section 56)**

A community that meets the criteria set out in section 5 may lodge a detailed application in writing with the Commission for the recognition of that community and if applicable, the branches of that community as well as for the recognition of a senior Khoi-San leader who meets the criteria set out in section 7 and if applicable, a branch head.

An application must be in the format as may be determined by the Commission, must comply with the provisions of section 5 and must:

- be lodged by a member of the community duly authorised by such community or the royal family concerned, as the case may be; and
- be accompanied by information setting out the details on which the claim for the recognition of the community as well as the leadership positions are based;
- be accompanied by details of the geographical area or areas referred to in section 5, the number of members of the community occupying such areas;
- be submitted within the period of two years referred to in section 57;
- if the community has a proven history of hereditary or elected leadership, be accompanied by details of the hereditary or elected leadership position.

When considering an application, the Commission must consider and apply customary law and customs of the Khoi-San community concerned.

The Commission must, in respect of an application for the recognition of:

- a community and branches, apply the criteria set out in section 5; and
- hereditary or elected senior Khoi-San leaders, apply the criteria set out in sections 7 and 10.

# Functions of the Commission (Section 57)

The Commission must investigate and make recommendations to the Minister on the recognition of:

- Khoi-San communities;
- hereditary senior Khoi-San leaders;
- elected senior Khoi-San leaders; and
- branches and branch heads.

The Commission:

may only investigate and make recommendations in respect of those applications that have been lodged with the Commission in terms of section 56 within a period of two years from a date to be determined by the Minister, or any such further period as the Minister may determine; and

must complete the investigations and make recommendations within the period of five years referred to in section 52, or any such further period as the Minister may determine.

Any application that has not been lodged with the Commission by the period specified, may not be dealt with by the Commission and must be dealt with in accordance with the provisions of sections 5 or 10.

Any dispute that may arise after the period specified, must be dealt with by the relevant Premier and for this purpose the provisions of section 59 apply with the necessary changes.

## Recommendations and decisions (Section 58)

A recommendation of the Commission must be agreed to by at least two-thirds of the members of the Commission.

A recommendation of the Commission must, within a period of two weeks of the recommendation having been made, be referred for comments to the Premier of the province where the applicant community, leader and branch head reside or where the branch is located.

A Premier must submit his or her comments to the Commission within a period of 60 days from the date of referral of the recommendation: Provided that if no comments are received within the period of 60 days, it shall be deemed that the Premier is in support of the specific recommendation.

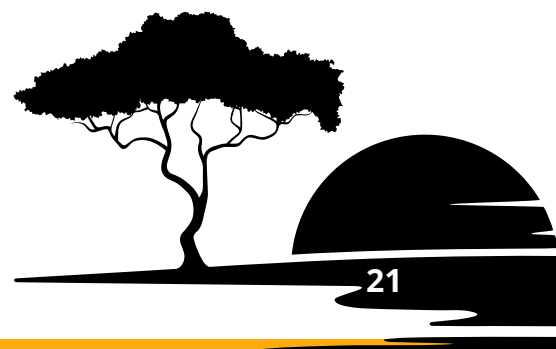
The Commission must, within a period of two weeks from the expiry of the 60 days, submit its recommendation together with the Premier's comments, if any, to the Minister.

The Minister must, within a period of 60 days from the date of receipt of the submission, make a decision on the recommendation.

If the Minister takes a decision that differs with the recommendation submitted, the Minister must provide written reasons for such decision to the Commission and relevant Premier.

Subject to the decision of the Minister, the Minister must:

- recognise a Khoi-San community, branch, senior Khoi-San leader or branch head; and
- issue a certificate of recognition to such leader.



## Disputes (Section 59)

Provincial legislation may provide for a mechanism to deal with traditional leadership disputes, excluding any dispute relating to a king or a queen or a kingship or a queenship: Provided that such legislation may not be inconsistent with this section.

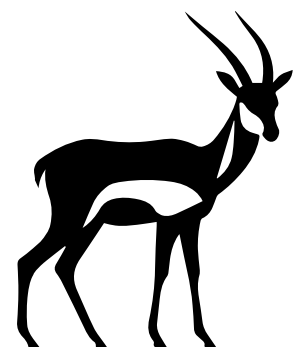
In the absence of provincial legislation, a Premier must apply the provisions of this section.

Any traditional leadership dispute must be dealt with by the President in the case of a king, queen, kingship or queenship and by the Premier concerned in the case of any other dispute and the President or Premier must:

- cause an investigation to be conducted by an investigative committee to provide a report as well as recommendations on the matter in dispute within 60 days from the date of designation of the investigative committee; and
- refer the report to the relevant royal family or, where applicable, relevant traditional council for its written comments which must be submitted to the President or Premier within 60 days from the date of such referral.

The President or the relevant Premier may refer any dispute, including any report, recommendations and comments to the Minister for written comments and advice which must be submitted to the President or Premier within 60 days from the date of such referral.

After having considered the report and recommendations of the investigative committee, the comments of the royal family or traditional council and, where applicable, the comments and advice of the Minister, the President or relevant Premier must take a decision on the matter in dispute and inform the parties to the dispute in writing of his or her decision.



## Regulations (Section 60)

The Minister may make regulations regarding:

- any matter that must or may be prescribed in terms of this Act;
- the traditional, ceremonial and any other roles and functions of a king or queen, or principal traditional leader, after consultation with a delegation consisting of not more than two members of each kingship or queenship council or principal traditional council designated by such councils;
- any matter that may be necessary to ensure the effective functioning of any local house; and
- any ancillary or administrative matter that is necessary to prescribe for the proper implementation or administration of this Act.

## Transitional arrangements (Section 63)

The Commission on Khoi-San Matters is referred to as the previous Commission and the Commission on Khoi-San Matters to be established in terms of this Act is referred to as the new Commission.

Any application for the recognition of a Khoi-San community, branch, senior Khoi-San leader or branch head that was lodged with the previous Commission and in respect of which the previous Commission—

- has not conducted any research or the research is incomplete; or
- has not conducted any investigation or the investigation is incomplete; or
- has finalised the research and investigation but has not made a recommendation to the Minister

is deemed to have been lodged with the new Commission in terms of this Act.

If the previous Commission has made a recommendation to the Minister but the Minister has not taken a decision, the Minister must, within 60 days from the commencement of this Act, comply with section 58(3) of this Act.

