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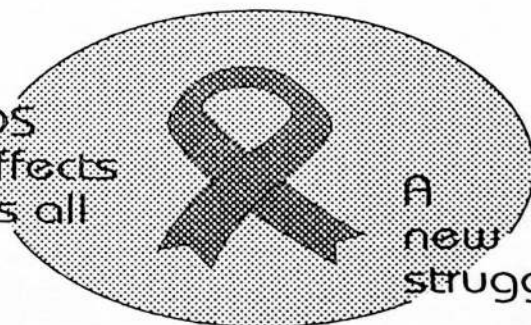
Vol. 12

BISHO/
KING WILLIAM'S TOWN, 8 APRIL 2005

No. 1326
(Extraordinary)

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PROVINCIAL NOTICE

NOTICE 13 OF 2005

DEPARTMENT OF HOUSING, LOCAL GOVERNMENT AND TRADITIONAL AFFAIRS

HOUSE OF TRADITIONAL LEADERS ACT, 1995 (ACT NO. 1 OF 1995): AMENDMENT OF RULES RELATING TO THE NOMINATION, AND THE COMPOSITION, OF THE HOUSE OF TRADITIONAL LEADERS

It is hereby made known for general information that the Member of the Executive Council responsible for Housing, Local Government and Traditional Affairs has, under the powers vested in him by section 3 of the House of Traditional Leaders Act (Eastern Cape), 1995 (Act No. 1 of 1995), and after taking into consideration the recommendations of the relevant Standing Committee of the Legislature of the Province of the Eastern Cape, amended Provincial Notice No. 7 of 1996 published in Provincial Gazette No. 182 of 1996, by the substitution for the Schedule thereto of the Schedule hereto.

GUGILE NKWINTI

**MEMBER OF THE EXECUTIVE COUNCIL RESPONSIBLE
FOR HOUSING, LOCAL GOVERNMENT AND TRADITIONAL
AFFAIRS**

SCHEDULE

GENERAL EXPLANATORY NOTE

[] Words in bold type in square brackets indicate omission from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

1. *Definitions*

In these rules, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Act shall bear that meaning, and –

- [(a)] "*Ciskei*" means the territorial area of Ciskei constituted in terms of the constitutional dispensation in force prior to the 27th of April 1994, and includes the area of jurisdiction of a traditional authority which operated in the Border area of the Republic of South Africa prior to the 27th of April 1994, and "Ciskei region" has a corresponding meaning;];
- [(b)] "*House of Traditional Leaders*" or "*House*" means the House of Traditional Leaders established by section 2 of the Act;
- [(c)] "*Province*" means the Province of the Eastern Cape;
- [(d)] "*region*" means a territorial area referred to in the Annexure hereto;
- [(e)] "*regional authority*" means a regional authority established in terms of a law contemplated in [section 181 of] item 2 of Schedule 6 to the Constitution of the Republic of South Africa, 1996(Act No. 108 of 1996);

- [(f)] "*the Act*" means the House of Traditional Leaders Act (Eastern Cape), 1995 (Act No. 1 of 1995)[;].
- [(g)] "*the Constitution*" means the Constitution of the Republic of South Africa, [1993 Act No. 200 of 1993;] 1996(Act No. 108 of 1996)];
- (h) "*traditional authority*" means a tribal authority established in terms of law contemplated in section 181 of the Constitution; and]
- (i) "*traditional leader*" means the head of a traditional authority appointed or designated as such in terms of any law and includes any descendant of such a leader, any person who is in charge of an administrative area and who is also a member of a royal family, and also includes any member of a royal family.]

2. *Selection of candidates for nomination*

(1) (a) The [Premier shall] MEC must by notice in the *Provincial Gazette*, determine the date on which a community meeting (imbizo) [shall] must be held by each traditional authority in the Province for purposes of selecting candidates from amongst whom the members of the House of Traditional Leaders will be nominated in terms of rule 3.

(b) The head of a traditional authority [shall] must, in respect of his or her area of jurisdiction, convene the community meeting (imbizo) which [shall] must be held on the date determined in terms of paragraph (a).

(2) The meetings contemplated in subrule (1) [shall] must be presided over by the head of the relevant traditional authority or a person designated by him or her.

(3) All the meetings referred to in subrule (1) [shall] must, subject to rule 4(7)(k), be held on the same day throughout the Province.

(4) The traditional leaders and members of the community present at each meeting [shall] must select [two] three candidates who will, as

provided in rule 3(2), participate in the nomination of the members of the House of Traditional Leaders and who will represent each [region] constituency in the House in accordance with the Annexure hereto.

(5) The procedure to be followed in selecting the [two] three candidates [shall] must be determined by those attending the community meeting (imbizo).

(6) The [two] three persons selected in terms of this rule [shall] must be persons who are traditional leaders.

3. *Nomination by each [region] constituency of members of the house*

(1) The secretary of each traditional authority [shall] must in writing, notify the relevant magistrate referred to in rule 4(2) of the names of the [two] three candidates selected by each traditional authority in the Province in terms of rule 2.

(2) (a) The traditional leaders selected in terms of rule 2 [shall] must, within a [region] constituency, constitute a single electoral college in respect of that [region] constituency and the electoral colleges so constituted [shall] must nominate the members of the House from amongst their number.

(b) The number of persons to be nominated in respect of each [region] constituency [shall] must be equal to the number of [members] representatives allocated to each particular [region] constituency in accordance with the Annexure hereto.

(3) [For the purposes of subrule (2), the Ciskei area shall be deemed to be a single region.]

(4) (a) Subject to paragraph (b), no traditional leader [shall] must be selected as a candidate unless such a traditional leader is qualified to be a member of the House in terms of the Act.

(b) [Traditional leaders nominated to the House in terms of this rule shall, in respect of a particular region and where practicable, not be persons from the same traditional area, shall not be from the same magisterial district and shall not be from the same clan.]

4. *Procedural matters relating to nomination of members of the house*

(1) (a) The electoral colleges constituted in terms of rule 3(2) [shall] must meet on the same day at the seats of the [regional authorities] constituencies which have jurisdiction in each [region] constituency referred to in the Annexure.

(b) [In the case of the Ciskei region the electoral college shall meet in the municipal area of King William's Town.]

(c) The [Premier shall] MEC must, by notice in the *Provincial Gazette*, determine the date on which the meetings contemplated in paragraph (a) [shall] must be held.

(2) (a) A magistrate of the district in which the seat of the [regional authority] constituency concerned is situate [shall] must convene and preside over the meeting at which members of the House of Traditional Leaders will be nominated.

(b) [In the case of the Ciskei region a magistrate of the King William's Town District shall preside over the meeting.]

(3) The meeting at which nominations will take place [shall] must be open to the public but no member of the public [shall] must participate in the nomination process, or in any discussion relating thereto, whilst the meeting is in progress.

(4) The [Director-General of the Province will] head of department responsible for traditional affairs must identify officers who will assist the magistrates, amongst others, to take record of the proceedings.

(5) A candidate selected for nomination in terms of rule 2 [shall] must be entitled to vote at the meeting of the electoral college concerned and [shall] must have one vote.

(6) The chairperson presiding over each electoral college [shall] must cause the proceedings of such college to be recorded in such a manner as he or she may direct.

(7) (a) The chairperson at a meeting of an electoral college [shall] must call for the nomination of candidates from amongst [whom] the persons selected in terms of rule 2.

(b) A person so nominated [shall] must rise and indicate whether he or she accepts the nomination or not.

(c) The nomination of a candidate [shall] must be seconded by at least [two] three persons entitled to vote at the meeting and who are from different traditional authorities.

(d) If the number of persons nominated at the meeting exceeds the number of persons who may be nominated for a particular [region] constituency in terms of the Annexure, the Chairperson [shall] must call upon the members of the electoral college concerned to vote for the members of the House by secret ballot.

(e) A traditional leader who has been nominated may decline his or her nomination at any time during the course of the meeting.

(f) Should a ballot be necessary, the ballot paper [shall] must contain all the names of the nominees in alphabetical order in the same print with space next to each name to allow for the exercise of choice by means of a mark on the said paper.

(g) Each voter [shall] must vote by placing a cross (X) on the ballot paper opposite the name of the nominee for whom he or she wishes to vote and each such ballot paper [shall] must be folded inwards.

(h) The chairperson [shall] must provide ballot boxes and such ballot boxes [shall] must be opened at the election before voting takes place to demonstrate to the voters that the boxes are empty.

(i) The chairperson or any other person assisting the chairperson in the election [shall] must maintain secrecy and [shall] must not attempt to ascertain, or directly, or indirectly aid in ascertaining, for which nominee any voter has voted.

(j) Each voter [shall] must put the ballot paper into a ballot box.

(k) The election process [shall] must continue until all voters present have voted : Provided that such election [shall] must not proceed beyond seventeen hours (17:00) on the day concerned : Provided further that the election may continue on the following day if unforeseen circumstances necessitate this.

(l) The chairperson and the persons assisting him or her in terms of rule 4(4)[shall] must be responsible for the counting of votes.

(m) The counting [shall] must commence immediately after voting.

(n) The procedure outlined above [shall] must be repeated until the electoral college concerned has nominated persons who, in number, are equal to the number of [members] representatives each [region] constituency is entitled to in accordance with the Annexure.

(o) The procedure set out above [shall *mutatis mutandis*] must be followed in case of further nomination being necessary for the filling of vacancies.

(8) Kings must designate their representatives to the House in writing, and a letter of designation must be submitted by the King concerned in respect of each representative to the MEC for publication in terms of rule 5.

5. *Results of elections*

The results of the nomination processes [shall] must be published or caused to be published by the [Premier] MEC by notice in the *Provincial Gazette* immediately after they all become available to him or her.

6. *Vacation of seat by member of the house*

A traditional leader who is a member of the House [shall] must on being elected to the National [Council] House of Traditional Leaders, be deemed to have vacated his or her seat in the House, and the resultant vacancy [shall] must be filled in accordance with rules 2, 3 and 4.

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