



# **NORTH WEST NOORDWES**

## **PROVINCIAL GAZETTE PROVINSIALE KOERANT**

**Vol. 260**

**MAHIKENG**  
26 DECEMBER 2017  
26 DESEMBER 2017

**No. 7838**

**We all have the power to prevent AIDS**



**Prevention is the cure**

**AIDS  
HELPLINE**

**0800 012 322**

DEPARTMENT OF HEALTH

*N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes*

ISSN 1682-4532



9 771682 453002

07838



**IMPORTANT NOTICE:**

**THE GOVERNMENT PRINTING WORKS WILL NOT BE HELD RESPONSIBLE FOR ANY ERRORS THAT MIGHT OCCUR DUE TO THE SUBMISSION OF INCOMPLETE / INCORRECT / ILLEGIBLE COPY.**

**No FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.**

**CONTENTS**

*Gazette*    *Page*  
*No.*        *No.*

**PROCLAMATION • PROKLAMASIE**

49	Constitution of the Republic of South Africa (108/1996): Commission of inquiry into the Traditional Leadership dispute in respect of the Bakgatla ba Kgafela Community Dispute .....	7838	11
50	Act (108/1996): Commission of Inquiry into the Traditional Leadership Disputes in respect of Bapo I and II Community Disputes Respectively .....	7838	27
51	Constitution of the Republic of South Africa (108/1996): Commission of inquiry into the traditional leadership disputes in respect of Bapo I and II community disputes respectively .....	7838	43
52	North West Traditional Leadership and Governance Act (2/2005): Provincial Notice on issuing and withdrawal of Recognition Certificates to Traditional Leaders .....	7838	59
53	Constitution of the Republic of South Africa (108/1996): Commission of inquiry into the traditional leadership disputes in respect of Batlhako ba Leema .....	7838	64



# Closing times for **ORDINARY WEEKLY** **2018** **NORTHWEST PROVINCIAL GAZETTE**

*The closing time is **15:00** sharp on the following days:*

- **20 December 2017**, Wednesday for the issue of Tuesday **02 January 2018**
- **02 January**, Tuesday for the issue of Tuesday **09 January 2018**
- **09 January**, Tuesday for the issue of Tuesday **16 January 2018**
- **16 January**, Tuesday for the issue of Tuesday **23 January 2018**
- **23 January**, Tuesday for the issue of Tuesday **30 January 2018**
- **30 January**, Tuesday for the issue of Tuesday **06 February 2018**
- **06 February**, Tuesday for the issue of Tuesday **13 February 2018**
- **13 February**, Tuesday for the issue of Tuesday **20 February 2018**
- **20 February**, Tuesday for the issue of Tuesday **27 February 2018**
- **27 February**, Tuesday for the issue of Tuesday **06 March 2018**
- **06 March**, Tuesday for the issue of Tuesday **13 March 2018**
- **13 March**, Tuesday for the issue of Tuesday **20 March 2018**
- **19 March**, Monday for the issue of Tuesday **27 March 2018**
- **23 March**, Friday for the issue of Tuesday **03 April 2018**
- **03 April**, Friday for the issue of Tuesday **10 April 2018**
- **10 April**, Tuesday for the issue of Tuesday **17 April 2018**
- **17 April**, Tuesday for the issue of Tuesday **24 April 2018**
- **23 April**, Tuesday for the issue of Tuesday **01 May 2018**
- **30 April**, Monday for the issue of Tuesday **08 May 2018**
- **08 May**, Tuesday for the issue of Tuesday **15 May 2018**
- **15 May**, Tuesday for the issue of Tuesday **22 May 2018**
- **22 May**, Tuesday for the issue of Tuesday **29 May 2018**
- **29 May**, Tuesday for the issue of Tuesday **05 June 2018**
- **05 June**, Tuesday for the issue of Tuesday **12 June 2018**
- **12 June**, Tuesday for the issue of Tuesday **19 June 2018**
- **19 June**, Tuesday for the issue of Tuesday **26 June 2018**
- **26 June**, Tuesday for the issue of Tuesday **03 July 2018**
- **03 July**, Tuesday for the issue of Tuesday **10 July 2018**
- **10 July**, Tuesday for the issue of Tuesday **17 July 2018**
- **17 July**, Tuesday for the issue of Tuesday **24 July 2018**
- **24 July**, Tuesday, for the issue Tuesday **31 July 2018**
- **31 July**, Tuesday, for the issue of Tuesday **07 August 2018**
- **06 August**, Monday, for the issue of Tuesday **14 August 2018**
- **14 August**, Tuesday, for the issue of Tuesday **21 August 2018**
- **21 August**, Tuesday, for the issue of Tuesday **28 August 2018**
- **28 August**, Tuesday, for the issue of Tuesday **04 September 2018**
- **04 September**, Tuesday, for the issue of Tuesday **11 September 2018**
- **11 September**, Tuesday, for the issue of Tuesday **18 September 2018**
- **17 September**, Monday, for the issue of Tuesday **25 September 2018**
- **25 September**, Tuesday, for the issue of Tuesday **02 October 2018**
- **02 October**, Tuesday, for the issue of Tuesday **09 October 2018**
- **09 October**, Tuesday, for the issue of Tuesday **16 October 2018**
- **16 October**, Tuesday, for the issue of Tuesday **23 October 2018**
- **23 October**, Tuesday, for the issue of Tuesday **30 October 2018**
- **30 October**, Tuesday, for the issue of Tuesday **06 November 2018**
- **06 November**, Tuesday, for the issue of Tuesday **13 November 2018**
- **13 November**, Tuesday, for the issue of Tuesday **20 November 2018**
- **20 November**, Tuesday, for the issue of Tuesday **27 November 2018**
- **27 November**, Tuesday, for the issue of Tuesday **04 December 2018**
- **04 December**, Tuesday, for the issue of Tuesday **11 December 2018**
- **10 December**, Monday, for the issue of Tuesday **18 December 2018**
- **18 December**, Tuesday, for the issue of Tuesday **25 December 2018**

## LIST OF TARIFF RATES FOR PUBLICATION OF NOTICES

**COMMENCEMENT: 1 APRIL 2016**

### NATIONAL AND PROVINCIAL

Notice sizes for National, Provincial & Tender gazettes 1/4, 2/4, 3/4, 4/4 per page. Notices submitted will be charged at R1000 per full page, pro-rated based on the above categories.

Pricing for National, Provincial - Variable Priced Notices		
Notice Type	Page Space	New Price (R)
Ordinary National, Provincial	1/4 - Quarter Page	250.00
Ordinary National, Provincial	2/4 - Half Page	500.00
Ordinary National, Provincial	3/4 - Three Quarter Page	750.00
Ordinary National, Provincial	4/4 - Full Page	1000.00

### EXTRA-ORDINARY

All Extra-ordinary National and Provincial gazette notices are non-standard notices and attract a variable price based on the number of pages submitted.

The pricing structure for National and Provincial notices which are submitted as **Extra ordinary submissions** will be charged at **R3000** per page.

## GOVERNMENT PRINTING WORKS - BUSINESS RULES

The **Government Printing Works (GPW)** has established rules for submitting notices in line with its electronic notice processing system, which requires the use of electronic *Adobe Forms*. Please ensure that you adhere to these guidelines when completing and submitting your notice submission.

### CLOSING TIMES FOR ACCEPTANCE OF NOTICES

1. The *Government Gazette* and *Government Tender Bulletin* are weekly publications that are published on Fridays and the closing time for the acceptance of notices is strictly applied according to the scheduled time for each gazette.
2. Please refer to the Submission Notice Deadline schedule in the table below. This schedule is also published online on the Government Printing works website [www.gpwonline.co.za](http://www.gpwonline.co.za)

All re-submissions will be subject to the standard cut-off times.

**All notices received after the closing time will be rejected.**

Government Gazette Type	Publication Frequency	Publication Date	Submission Deadline	Cancellations Deadline
National Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 days prior to publication
Regulation Gazette	Weekly	Friday	Friday 15h00, to be published the following Friday	Tuesday, 15h00 - 3 days prior to publication
Petrol Price Gazette	As required	First Wednesday of the month	One week before publication	3 days prior to publication
Road Carrier Permits	Weekly	Friday	Thursday 15h00, to be published the following Friday	3 days prior to publication
Unclaimed Monies (justice, labour or lawyers)	January / As required 2 per year	Any	15 January / As required	3 days prior to publication
Parliament (acts, white paper, green paper)	As required	Any		3 days prior to publication
Manuals	As required	Any	None	None
State of Budget (National Treasury)	Monthly	Any	7 days prior to publication	3 days prior to publication
Legal Gazettes A, B and C	Weekly	Friday	One week before publication	Tuesday, 15h00 - 3 days prior to publication
Tender Bulletin	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 days prior to publication
Gauteng	Weekly	Wednesday	Two weeks before publication	3 days after submission deadline
Eastern Cape	Weekly	Monday	One week before publication	3 days prior to publication
Northern Cape	Weekly	Monday	One week before publication	3 days prior to publication
North West	Weekly	Tuesday	One week before publication	3 days prior to publication
KwaZulu-Natal	Weekly	Thursday	One week before publication	3 days prior to publication
Limpopo	Weekly	Friday	One week before publication	3 days prior to publication
Mpumalanga	Weekly	Friday	One week before publication	3 days prior to publication
Gauteng Liquor License Gazette	Monthly	Wednesday before the First Friday of the month	Two weeks before publication	3 days after submission deadline
Northern Cape Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 days after submission deadline
National Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 days after submission deadline
Mpumalanga Liquor License Gazette	2 per month	Second & Fourth Friday	One week before	3 days prior to publication

## GOVERNMENT PRINTING WORKS - BUSINESS RULES

### EXTRAORDINARY GAZETTES

3. *Extraordinary Gazettes* can have only one publication date. If multiple publications of an *Extraordinary Gazette* are required, a separate Z95/Z95Prov *Adobe* Forms for each publication date must be submitted.

### NOTICE SUBMISSION PROCESS

4. Download the latest *Adobe* form, for the relevant notice to be placed, from the **Government Printing Works** website [www.gpwonline.co.za](http://www.gpwonline.co.za).
5. The *Adobe* form needs to be completed electronically using *Adobe Acrobat / Acrobat Reader*. Only electronically completed *Adobe* forms will be accepted. No printed, handwritten and/or scanned *Adobe* forms will be accepted.
6. The completed electronic *Adobe* form has to be submitted via email to [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za). The form needs to be submitted in its original electronic *Adobe* format to enable the system to extract the completed information from the form for placement in the publication.
7. Every notice submitted **must** be accompanied by an official **GPW** quotation. This must be obtained from the e*Gazette* Contact Centre.
8. Each notice submission should be sent as a single email. The email **must** contain **all documentation relating to a particular notice submission**.
  - 8.1. Each of the following documents must be attached to the email as a separate attachment:
    - 8.1.1. An electronically completed *Adobe* form, specific to the type of notice that is to be placed.
      - 8.1.1.1. For *National Government Gazette* or *Provincial Gazette* notices, the notices must be accompanied by an electronic Z95 or Z95Prov *Adobe* form
      - 8.1.1.2. The notice content (body copy) **MUST** be a separate attachment.
    - 8.1.2. A copy of the official **Government Printing Works** quotation you received for your notice .  
(Please see *Quotation* section below for further details)
    - 8.1.3. A valid and legible Proof of Payment / Purchase Order: **Government Printing Works** account customer must include a copy of their Purchase Order. **Non-Government Printing Works** account customer needs to submit the proof of payment for the notice
    - 8.1.4. Where separate notice content is applicable (Z95, Z95 Prov and TForm 3, it should **also** be attached as a separate attachment. (Please see the *Copy Section* below, for the specifications).
    - 8.1.5. Any additional notice information if applicable.
9. The electronic *Adobe* form will be taken as the primary source for the notice information to be published. Instructions that are on the email body or covering letter that contradicts the notice form content will not be considered. The information submitted on the electronic *Adobe* form will be published as-is.
10. To avoid duplicated publication of the same notice and double billing, Please submit your notice **ONLY ONCE**.
11. Notices brought to **GPW** by "walk-in" customers on electronic media can only be submitted in *Adobe* electronic form format. All "walk-in" customers with notices that are not on electronic *Adobe* forms will be routed to the Contact Centre where they will be assisted to complete the forms in the required format.
12. Should a customer submit a bulk submission of hard copy notices delivered by a messenger on behalf of any organisation e.g. newspaper publisher, the messenger will be referred back to the sender as the submission does not adhere to the submission rules.

**GOVERNMENT PRINTING WORKS - BUSINESS RULES****QUOTATIONS**

13. Quotations are valid until the next tariff change.
  - 13.1. **Take note:** GPW's annual tariff increase takes place on **1 April** therefore any quotations issued, accepted and submitted for publication up to **31 March** will keep the old tariff. For notices to be published from 1 April, a quotation must be obtained from **GPW** with the new tariffs. Where a tariff increase is implemented during the year, **GPW** endeavours to provide customers with 30 days' notice of such changes.
14. Each quotation has a unique number.
15. Form Content notices must be emailed to the *eGazette* Contact Centre for a quotation.
  - 15.1. The *Adobe* form supplied is uploaded by the Contact Centre Agent and the system automatically calculates the cost of your notice based on the layout/format of the content supplied.
  - 15.2. It is critical that these *Adobe* Forms are completed correctly and adhere to the guidelines as stipulated by **GPW**.
16. **APPLICABLE ONLY TO GPW ACCOUNT HOLDERS:**
  - 16.1. **GPW** Account Customers must provide a valid **GPW** account number to obtain a quotation.
  - 16.2. Accounts for **GPW** account customers **must** be active with sufficient credit to transact with **GPW** to submit notices.
    - 16.2.1. If you are unsure about or need to resolve the status of your account, please contact the **GPW** Finance Department prior to submitting your notices. (If the account status is not resolved prior to submission of your notice, the notice will be failed during the process).
17. **APPLICABLE ONLY TO CASH CUSTOMERS:**
  - 17.1. Cash customers doing **bulk payments** must use a **single email address** in order to use the **same proof of payment** for submitting multiple notices.
18. The responsibility lies with you, the customer, to ensure that the payment made for your notice(s) to be published is sufficient to cover the cost of the notice(s).
19. Each quotation will be associated with one proof of payment / purchase order / cash receipt.
  - 19.1. This means that **the quotation number can only be used once to make a payment.**

**GOVERNMENT PRINTING WORKS - BUSINESS RULES****COPY (SEPARATE NOTICE CONTENT DOCUMENT)**

20. Where the copy is part of a separate attachment document for Z95, Z95Prov and TForm03

- 20.1. Copy of notices must be supplied in a separate document and may not constitute part of any covering letter, purchase order, proof of payment or other attached documents.

The content document should contain only one notice. (You may include the different translations of the same notice in the same document).

- 20.2. The notice should be set on an A4 page, with margins and fonts set as follows:

Page size = A4 Portrait with page margins: Top = 40mm, LH/RH = 16mm, Bottom = 40mm;  
Use font size: Arial or Helvetica 10pt with 11pt line spacing;

Page size = A4 Landscape with page margins: Top = 16mm, LH/RH = 40mm, Bottom = 16mm;  
Use font size: Arial or Helvetica 10pt with 11pt line spacing;

**CANCELLATIONS**

21. Cancellation of notice submissions are accepted by **GPW** according to the deadlines stated in the table above in point 2. Non-compliance to these deadlines will result in your request being failed. Please pay special attention to the different deadlines for each gazette. Please note that any notices cancelled after the cancellation deadline will be published and charged at full cost.
22. Requests for cancellation must be sent by the original sender of the notice and must be accompanied by the relevant notice reference number (N-) in the email body.

**AMENDMENTS TO NOTICES**

23. With effect from 01 October 2015, **GPW** will not longer accept amendments to notices. The cancellation process will need to be followed according to the deadline and a new notice submitted thereafter for the next available publication date.

**REJECTIONS**

24. All notices not meeting the submission rules will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za)). Reasons for rejections include the following:
- 24.1. Incorrectly completed forms and notices submitted in the wrong format, will be rejected.
- 24.2. Any notice submissions not on the correct *Adobe* electronic form, will be rejected.
- 24.3. Any notice submissions not accompanied by the proof of payment / purchase order will be rejected and the notice will not be processed.
- 24.4. Any submissions or re-submissions that miss the submission cut-off times will be rejected to the customer. The Notice needs to be re-submitted with a new publication date.

**GOVERNMENT PRINTING WORKS - BUSINESS RULES****APPROVAL OF NOTICES**

25. Any notices other than legal notices are subject to the approval of the Government Printer, who may refuse acceptance or further publication of any notice.
26. No amendments will be accepted in respect to separate notice content that was sent with a Z95 or Z95Prov notice submissions. The copy of notice in layout format (previously known as proof-out) is only provided where requested, for Advertiser to see the notice in final Gazette layout. Should they find that the information submitted was incorrect, they should request for a notice cancellation and resubmit the corrected notice, subject to standard submission deadlines. The cancellation is also subject to the stages in the publishing process, i.e. If cancellation is received when production (printing process) has commenced, then the notice cannot be cancelled.

**GOVERNMENT PRINTER INDEMNIFIED AGAINST LIABILITY**

27. The Government Printer will assume no liability in respect of—
  - 27.1. any delay in the publication of a notice or publication of such notice on any date other than that stipulated by the advertiser;
  - 27.2. erroneous classification of a notice, or the placement of such notice in any section or under any heading other than the section or heading stipulated by the advertiser;
  - 27.3. any editing, revision, omission, typographical errors or errors resulting from faint or indistinct copy.

**LIABILITY OF ADVERTISER**

28. Advertisers will be held liable for any compensation and costs arising from any action which may be instituted against the Government Printer in consequence of the publication of any notice.

**CUSTOMER INQUIRIES**

Many of our customers request immediate feedback/confirmation of notice placement in the gazette from our Contact Centre once they have submitted their notice – While **GPW** deems it one of their highest priorities and responsibilities to provide customers with this requested feedback and the best service at all times, we are only able to do so once we have started processing your notice submission.

**GPW** has a 2-working day turnaround time for processing notices received according to the business rules and deadline submissions.

Please keep this in mind when making inquiries about your notice submission at the Contact Centre.

29. Requests for information, quotations and inquiries must be sent to the Contact Centre **ONLY**.
30. Requests for Quotations (RFQs) should be received by the Contact Centre at least **2 working days** before the submission deadline for that specific publication.



## GOVERNMENT PRINTING WORKS - BUSINESS RULES

### PAYMENT OF COST

31. The Request for Quotation for placement of the notice should be sent to the Gazette Contact Centre as indicated above, prior to submission of notice for advertising.
32. Payment should then be made, or Purchase Order prepared based on the received quotation, prior to the submission of the notice for advertising as these documents i.e. proof of payment or Purchase order will be required as part of the notice submission, as indicated earlier.
33. Every proof of payment must have a valid **GPW** quotation number as a reference on the proof of payment document.
34. Where there is any doubt about the cost of publication of a notice, and in the case of copy, an enquiry, accompanied by the relevant copy, should be addressed to the Gazette Contact Centre, **Government Printing Works**, Private Bag X85, Pretoria, 0001 email: [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za) before publication.
35. Overpayment resulting from miscalculation on the part of the advertiser of the cost of publication of a notice will not be refunded, unless the advertiser furnishes adequate reasons why such miscalculation occurred. In the event of underpayments, the difference will be recovered from the advertiser, and future notice(s) will not be published until such time as the full cost of such publication has been duly paid in cash or electronic funds transfer into the **Government Printing Works** banking account.
36. In the event of a notice being cancelled, a refund will be made only if no cost regarding the placing of the notice has been incurred by the **Government Printing Works**.
37. The **Government Printing Works** reserves the right to levy an additional charge in cases where notices, the cost of which has been calculated in accordance with the List of Fixed Tariff Rates, are subsequently found to be excessively lengthy or to contain overmuch or complicated tabulation.

### PROOF OF PUBLICATION

38. Copies of any of the *Government Gazette* or *Provincial Gazette* can be downloaded from the **Government Printing Works** website [www.gpwonline.co.za](http://www.gpwonline.co.za) free of charge, should a proof of publication be required.
39. Printed copies may be ordered from the Publications department at the ruling price. The **Government Printing Works** will assume no liability for any failure to post or for any delay in despatching of such *Government Gazette*(s).

## GOVERNMENT PRINTING WORKS CONTACT INFORMATION

#### Physical Address:

**Government Printing Works**  
149 Bosman Street  
Pretoria

#### Postal Address:

Private Bag X85  
Pretoria  
0001

#### GPW Banking Details:

**Bank:** ABSA Bosman Street  
**Account No.:** 405 7114 016  
**Branch Code:** 632-005

**For Gazette and Notice submissions:** Gazette Submissions:

**For queries and quotations, contact:** Gazette Contact Centre:

**E-mail:** [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za)

**E-mail:** [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za)

**Tel:** 012-748 6200

**Contact person for subscribers:** Mrs M. Toka:

**E-mail:** [subscriptions@gpw.gov.za](mailto:subscriptions@gpw.gov.za)

**Tel:** 012-748-6066 / 6060 / 6058

**Fax:** 012-323-9574



---

**PROCLAMATION • PROKLAMASIE**

---

**PROCLAMATION 49 OF 2017****COMMISSION OF INQUIRY INTO THE TRADITIONAL LEADERSHIP  
DISPUTES IN RESPECT OF THE BAKGATLA BA KGAFELA COMMUNITY  
DISPUTE**

I, Supra Obakeng Ramoeletsi Mahumapelo, hereby in my capacity as Premier of the North West Province and in terms of section 127(2)(e) of Act 108 of 1996 (Constitution of the Republic of South Africa), read with hereby appoint a Commission of Inquiry to investigate traditional succession disputes and claims around:-

(1) Bakgatla Ba Kgafela traditional dispute and claim;

1. Bakgatla Ba Kgafela

Succession dispute broke at the time of Kgosi Tidimane Ramono Pilane, on or about 1993. Certain members of the Community have approached the High Court to seek various orders.

Furthermore Mr Merafe Ramono during 2013 referred the leadership dispute to the North West Provincial Committee of the Commission, and recommendations thereof were not approved as per reasons advanced on 24/02/2016 hence this Commission to investigate and find solution and settlement of all issues raised as terms of reference.

2. The Commissioner shall be made of the following persons:-

2.1 Adv. S. Baloyi – Chairperson

Professor M. Moleleki – Member

Kgosi/ Adv. A. Mahumani - Member

2.2 The evidence leader shall be:

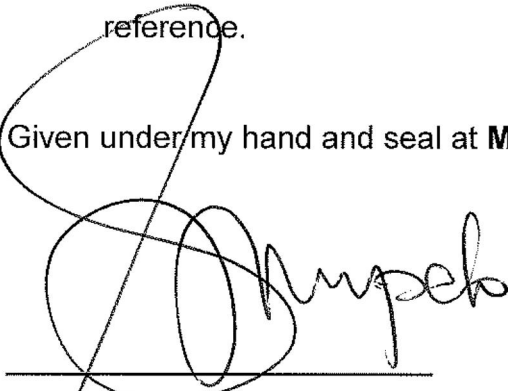
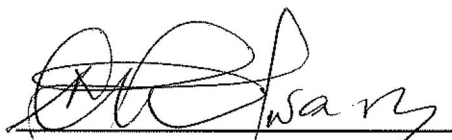
Advocate Benny Makola

2.3 To assist the Commission as and when required only is:

Advocate S. Kabelo

3. The Commission shall make recommendations to the Premier.
4. In considering all the terms of reference and the Regulations, the Commission shall be enjoined to apply section 39(2) and 212 of the Constitution and any relevant case laws, in relation to all terms of reference.

Given under my hand and seal at **Mahikeng** on **28<sup>th</sup>**.....November 2017

  
\_\_\_\_\_  
**PREMIER: NORTH WEST PROVINCE**  
\_\_\_\_\_  
**MEC: ARTS, CULTURE AND TRADITIONAL AFFIARS**

---

## ANNEXURE A

---

### DIRECTIVES

---

#### A COMMISSION OF INQUIRY INTO TRADITIONAL CLAIMS AND DISPUTES WITHIN THE NORTH WEST PROVINCE AND CLAIMS AND DISPUTE OF BAKGATLA BA KGAFELA SENIOR TRADITIONAL LEADERSHIP

#### DEFINITIONS

1. In this directive, unless the context indicates the contrary.
  - “Affected person”** means any natural or affected by the manner in which custom is observed.
  - “Chairperson”** means Adv. M.S Baloyi, appointed by the Premier.
  - “Confidential”, “Secret” or “Classified”** means any communication or documentation which by law is protected from public disclosure.
  - “Designated Person”** means a person appointed by the Chairperson in terms of Regulation 4.
  - “Discovery”** means the discovery of all relevant documents, record, tape recordings, electronic communications and data message as are directed to be discovered by the Chairperson through in Secretary.
  - “Evidence”** all evidence including, transcripts, documentary, oral, audio, videos, photos and any other evidence including transcripts record presented before the Maluleke Commission shall form part of and be evidence before this Commission.
  - “Document”** includes whether in electronic form or otherwise, any book, pamphlet, record, list, circular, plan, poster, publication, drawing, photograph, picture or data, and also any disc, hard drive recording or other device by means of which information or data is recorded or stored.
  - “Evidence Leader”** means the person/s appointed whose primary responsibility shall be to be present evidence to the Commission at its hearings by way of leading witnesses and give assistance to the Commission as may be necessary.

**“Hearing”** means that taking of evidence only on matters as the Chairperson may direct.

**“Investigation”** means the investigation of issues referred to in the Terms of Reference or such issues as the Chairperson may direct.

**“Issues”** means the issues defined in the Terms of Reference.

**“Regulations”** means relating to this Commission published in Government Gazette.

**“Secretary”** means the Secretary of the Commission.

**“Terms of Reference”** means the Terms of Reference of the Commission, as published in the Government Notice.

**“Third Parties”** means that person who have been invited by the Chairperson and/or those persons with a special interest and/or knowledge who have been invited to make representations and submissions to the inquiry.

**“Witness”** means a person contemplated in paragraphs 12 to 17.

Any reference to singular includes plural and vice versa.

Any reference to gender includes the other genders.

Any reference to a person includes natural and juristic persons.

## GENERAL

2. These directives are subject to, and should be read in conjunction, with the North West Commissions Act 18 of 1994 (“the North West Commissions Act”) and the Commission Regulations.
3. The conduct of and the procedure of this inquiry shall be under the control and discretion of the Chairperson.
4. The Commission shall determine whether the evidence presented to the inquiry or a representation to the inquiry is to be in writing or oral.
5. The Commission shall determine a person can participate in the inquiry and the manner and extent of their participation after considering:

- (a) whether the person's interest may be adversely affected by the findings of the Commission.
  - (b) whether the participation of the person would further the conduct of the inquiry; and
  - (c) whether the participation would contribute to the fairness and openness of the inquiry.
- 6. All parties shall be deemed to undertake to adhere to the directives. The Chairperson shall deal with the breach of these directives as she sees fit.
- 7. The directives outlined below are not intended to cover every eventuality or procedural issue. Where interests of justice and fairness require it, Commission may depart from these directives. Further, these directives may be amended by the Chairperson in keeping with his obligation to act fairly and avoid unnecessary costs. Should the directives be amended, the amended version will be published.
- 8. Any person who intends giving oral evidence before the Commission shall submit to the Chairperson, through the Secretary:
  - (a) a brief summary of the evidence that he or she wishes to lead before the Commission; and
  - (b) a statement as to how he or she satisfies the criteria set out in paragraph 5.
- 9. On instruction of the Chairperson, the Secretary shall furnish to every affected person the submission together with all relevant documents which implicate such person.
- 10. Any affected person shall have the right to make submission and produce documents in answers to the allegations made against him or her. No evidence regarding any fact or information that comes to light in consequence of any such submission, shall be admissible in any criminal proceedings,



except in criminal proceedings in terms of section 6 of the North West Commission Commissions Act or Regulation 14.

## HEARING

11. The Commission may, after receipt of a submission, require by means of a notice or summons, any deponent or any person to appear before it to make oral representations on any aspect of the Terms of Reference.
12. The Commission may call upon any competent and compellable person to give evidence on any of the issues.
13. Any party may, through the Secretary and after approval from the Chairperson, call upon any competent and compellable person to give evidence on any relevant aspect of the Terms of Reference.
14. In making a determination whether to exercise the powers contemplated in the directives above, the Chairperson shall consider whether:
  - (a) the person played or may have played, a direct and significant role in relation to the matter to which this inquiry relates;
  - (b) the person has significant interest in an important aspect of the matter to which the inquiry relates; or
  - (c) the person has been implicated in the evidence submitted to it or may be subject to explicit or significant criticism during the inquiry proceedings or in the report or in any interim report.
15. Where a witness gives oral evidence at the hearing, the Evidence Leader shall present information relevant to the inquiry to the witness and the Commissioners may put questions to a witness if they deem this necessary.
16. Where a witness has been questioned orally the Chairperson may allow his or her legal representative to put questions to him or her to clarify certain aspects.

17. Where a witness has been questioned by the Evidence Leader, or by the Commissioners, and that witness's evidence directly relates to the evidence of another witness or implicates another person, the legal representative of the witness to whom the evidence relates or person implicated may apply to the Chairperson for permission to question the witness giving oral evidence. When making such application, the legal representative must state:
  - (a) the issues in respect of which the witness is to be questioned; and
  - (b) whether questioning will raise new issues and if not, why the questioning should be permitted.
18. It is in the discretion of the Chairperson to allow the cross-examination and re-examination of any witness called to give evidence.
19. The hearing shall be open to the public unless on good cause shown the Chairperson directs otherwise.
20. The Commission may by order or notice restrict or prohibit the publishing or broadcast of any of its proceedings if the Commission has reason to believe that the order or notice is necessary for the effective and efficient fulfilment of the Commission's Terms of Reference and would make available to the Commission evidence that would otherwise not be available.
21. The Commission shall sit at such premises and at such dates and times as the Chairperson may direct.
22. The Chairperson may invite any party to make legal submission addressing any of the issues in the Terms of Reference.

#### **APPLICATION FOR ANONYMITY AND OTHER PROTECTIVE MEASURE**

23. Any person who believes that he or she has relevant evidence to submit to the inquiry but believes that there is a need to provide such evidence

anonymously may apply to the Chairperson of the Commission for confidentiality.

24. The Chairperson will, in the first instance, discuss with any such person the nature of the evidence which that person can give to the Inquiry, the measures sought to protect anonymity and the reasons for seeking anonymity. If following this preliminary stage the Chairperson considers the evidence to be of sufficient relevance as to be of interest, and he accepts that there is a *prima facie* case for anonymity, then he will invite a formal application for protective measures to be submitted. If a witness statement has not been provided voluntarily already then he will request one in writing at this stage.
25. A formal application for anonymity or other protective measure shall be made in writing and shall contain a statement setting out the protective measures sought, reasons in support of the application for anonymity and other protective measures and any other factual material relied on. For the purposes of the inquiry, anonymity may include the right to have his or her identity disclosed only by way of non-identifying initials, and if the person so wishes, the right to testify before the Commission in private, together with any other privacy measures that the person may request from the Chairperson and which the Chairperson, in her discretion, grants. Subject further to the discretion of the Chairperson, specified persons may be present during testimony being heard in private.
26. A person who is granted confidentiality shall be identified in the records, transcripts of the hearing and any reports of the Commission by non-identifying initials.
27. The witness shall reveal his or her name to the Commissioners and to the Evidence Leaders for the purposes of preparation. The Commission and Evidence Leaders shall maintain the confidentiality of the names revealed to them.



28. Commission staff and other contracted service providers, and media representatives shall be deemed to undertake to adhere to the directives in respect of confidentiality.
29. Where the Chairperson refuses the application for protective measures either in whole or in part, then the Chairperson will not ordinarily be expected to compel the application to give evidence.

## **DISCOVERY**

30. The Commission may, at any stage, call on any person to make discovery on oath to the inquiry within a time-frame directed by the Chairperson.
31. Any interested person may, with the approval of the Chairperson, call upon any person through the Secretary to make discovery of any document relevant to the inquiry. The request must state:
  - (a) the reasons the interested person believes that the holder of document possesses the document; and
  - (b) the reasons the interested person believes the document is relevant to a matter before the Commission.
32. Documents which by law are protected from public disclosure will remain so protected.

## **CONTEMPT**

33. Any person summoned to attend and give evidence or to produce any book, document, or object before the Commission who, without sufficient cause, fails to attend at the time and place specified in the summons or remain in attendance until the conclusion of the inquiry or until he or she is excused by the Chairperson of the Commission from further attendance, or having attended, refuses to be sworn-in or to make affirmation as a witness after he or she has been required by the Chairperson of the Commission to do so or,

having been sworn in or having made affirmation, fails to answer fully satisfactorily any question lawfully put to him or her or fails or produce any book, document or object in his or her possession or custody, or under his or her control which she or he has been summoned to produce shall dealt with in terms of section 1(2) and (3) of the North West Commissions Act read in conjunction with Regulation 8(1), 15(1)(b) and (2)(a).

## **REPORT**

34. Pursuant to Regulation 15, the contents of the report, and any interim report or information regarding the consideration of evidence by the Commission will be treated as confidential unless the Premier has unauthorised the publication thereof.

## **IN COMPILING THE DIRECTIVE WE BORROWED AND DISTILLED THE BEST PRACTICE FROM SOURCES IN THE REPUBLIC AND OTHER JURISDICTIONS**

### **ADV. MABEL SESI BALOYI**

Chairperson of the Traditional Claims and Disputes  
within the Province and also of claim and Dispute  
of Bakgatla Ba Kgafela's claim.

## REGULATIONS

1. In the regulations, unless the context otherwise indicates –
  - “Chairperson”** means the Chairperson of the Commission;
  - “Commission”** means the Commission of Inquiry into Traditional Claims and Disputes in the North West Province in particular those of the Bakgatla Ba Kgafela.
  - “document”** includes, whether in electronic form or otherwise, any book, pamphlet, record, list, circular, plan, poster, publication, drawing, photograph, picture or data, and also any disc, harddrive recording or the other device by means of which information or data is recorded or stored;
  - “evidence”** all evidence including, transcripts, documentary, oral, audio, videos, photos and any other evidence presented before the Maluleke Commission (published on 15 June 2016, Gazette No. 7657 and 27 September 2016, Gazette No. 7696) shall form part of the evidence before this newly constituted Commission.
  - “inquiry”** means the inquiry conducted by the Commission;
  - “member”** means a member of the Commission;
  - “Premier”** means the Premier of North West Province;
  - “MEC”** means Member of the Executive Council responsible for Traditional Affairs in the North West Province;
  - “officer”** means a person in the full-time service of the State who has been appointed to designated to assist the Commission in the execution of its functions; and
  - “premises”** includes any land, building, structure, part of a building or structure, vehicle, conveyance, vessel or aircraft.
2. The proceedings of the Commission shall be recorded in the manner determined by the Chairperson.
3. (1) Any person appointed or designated to take down or record the proceedings of the Commission in shorthand or by mechanical or electronic means or to transcribe such proceedings which have been so taken down or

recorded shall at the outset take an oath or make an affirmation in the following form:

I, A.....B....., declares under oath/ affirm and declare –

- (a) That I shall faithfully and to the best of my ability take down/record the proceedings of the Commission of Inquiry into Traditional Claims and Disputes in the North West Province in shorthand/ by mechanical/ by electronic means as ordered by the Chairperson of the Commission; and;
    - (b) That I shall transcribe fully and to the best of my ability any shorthand notes/ mechanical record/ electronic record of the proceedings of the said Commission made by me or by any other person.
  - (2) No shorthand notes or mechanical or electronic record of the proceedings of the Commission shall be transcribed except by order of the Chairperson.
4. (1) The Chairperson may designate one or more knowledgeable or experienced persons to assist the Commission in the performance of some of its functions, in a capacity other than that of a member;
- (2) Notwithstanding the composition of the Commission, the proceedings thereof shall not be affected by the absence of any member. It shall be competent for two Commissioners to proceed with the business of the Commission.
- (3) The Commission shall, where necessary be assisted by officers of any Department of State seconded to its services or persons in the service of any public or other body who are by arrangement with the body concerned seconded to the service of the Commission.
5. Any person designated or seconded under regulation 4 who is not an employee in the public service, may be paid such fees or travelling and subsistence allowance, while engaged upon the business of the Commission,



as the responsible Member of the Executive Council for Traditional Affairs may with the concurrence of the responsible Member of the Executive Council for Finance may determine.

6. Any officer or person designated thereto by the Chairperson may be present at any stage of the inquiry or the gathering of information or the hearing of evidence at the inquiry.
7. Any person appearing before the Commission may be assisted by an advocate or an attorney, at own cost.
8. (1) No person appearing before the Commission may refuse to answer any question on any ground other than the privilege contemplated in section 3(4) of the North West Commissions Act, 1994 (Act No. 18 of 1994).  
  
(2) No evidence regarding questions and answers contemplated in sub regulation (1), and no evidence regarding any fact or information that comes to light in consequence of any such questions or answers, shall be admissible in any criminal proceedings, except in criminal proceedings where the person concerned is charged with an offence in terms of section 6 of the North West Commissions Act, 1994 (Act No. 18 of 1994), or regulation 14.  
  
(3) Any witness appearing before the Commission may be cross-examined by a person only if the Chairperson permits such cross-examination by such person because the Chairperson deems it necessary in the interest of the functions of the Commission.  
  
(4) Any witness may be re-examined by his or her legal representative for the purpose of explaining then evidence given by the witness during his or her examination.
9. Where, at the time of any person presenting information to or giving evidence before the Commission, members of the general public are or have been excluded from attendance at the proceedings of the Commission, the

Chairperson may, on the request of such a person, direct that no person shall disclose in any manner whatsoever the name or address of such person or any information likely to reveal his or her identity.

10. Whenever the Commission is satisfied upon evidence or information presented to it that the Commission's inquiry may adversely affect any existing, instituted or pending legal proceedings or any inquiry instituted in terms of any law, evidence which is relevant to such legal proceedings or inquiry shall be dealt with by the Commission in such a manner as not to adversely affect such legal proceedings or inquiry.
11.
  - (1) Any officer may, with a warrant, for the purposes of the inquiry, at any reasonable time and without prior notice, or with such notice as he or she may deem appropriate, enter and inspect any premises and demand and seize any document or article which is on such premises.
  - (2) Any entry upon or search of any premises or person thereon in terms of this regulation, shall be conducted with strict regard to decency and order, including –
    - (a) a person's right to, respect for and the protection of his or her dignity;
    - (b) the right of a person to freedom and security; and
    - (c) the right of a person to his or her personal privacy.
  - (3) The premises referred to in sub-regulation (1) may be entered only by virtue of a warrant issued in chambers by a magistrate, regional magistrate or judge of the area of jurisdiction within which the premises is situated.
  - (4) A warrant referred to in sub-regulation (1) may be issued by a judge in respect of premises situated in another area of jurisdiction, if he or she deems it justified.
  - (5) A warrant referred to in sub-regulation (1) may be issued only if it appears to the magistrate, regional magistrate or judge from information revealed under oath or affirmation that there is a need for a warrant

authorising a search and seizure and that there are reasonable grounds to believe that any document or article referred to in sub-regulation (1) is on or at such premises or suspected to be on or at such premises.

12. (1) No person shall communicate to any other person any matter or information which may have come to his or her knowledge in connection with the inquiry or allow or permit any other person to have access to any of his or her duties in connection with the functions of the Commission or by order of a competent court.

(2) Every person in the service of the Commission and every officer, but not the Chairperson or member, shall, before performing any duty in connection with the Commission, take and subscribe before the Chairperson an oath in the following form:

"I, A,B, declare under oath/ affirm and declare that, except in so far as it is necessary in the performance of my duties in connection with the functions of the Commission of Inquiry into Traditional Claims and Disputes in the North West Province, I shall not communicate to any person any matter or information which comes to my knowledge in connection with the inquiry, or allow or permit any person to have access to any records of the Commission, including any notes, record or transcription of the proceedings of the Commission in my possession or custody or in possession or custody of the Commission or any officer".

13. No person shall insult, disparage or belittle the Chairperson or any member of the Commission or prejudice the inquiry or proceedings or findings of the Commission in any way.
14. No person shall without the written permission of the Chairperson –
- (a) disseminate any document submitted to the Commission by any person in connection with the inquiry or publish the contents or any portion of the contents of such document; or

- (b) peruse any document , including any statement, which is destined to be submitted to the Chairperson or intercept such document while it is being taken or forwarded to the Chairperson.
15. No person shall, except in so far as shall be necessary in the execution of the terms of reference of the Commission, publish or furnish any person with the report or any interim report of the Commission or a copy or a part thereof or information regarding the consideration of evidence by the Commission, unless the Premier has authorised the publication.
16. (1) Without derogating from the provision of the North West Commissions Act, a person is guilty of an offence if he or she –
- (a) wilfully hinders, resists or obstructs any officer in the exercise of any power contemplated in regulation 11; or
  - (b) contravenes regulation 8(1), 12(1), 14 or 15; or
  - (c) contravenes regulation 13.
- (2) A person convicted of an offence in terms of sub-regulation (1) is liable-
- (i) in the case of an offence referred to in paragraph (a) or (b), to a fine not exceeding two hundred rand, or to imprisonment for a period not exceeding six months; and
  - (ii) in the case of an offence referred to in paragraph (c), to a fine not exceeding one thousand rand, or to imprisonment for a period not exceeding 12 months
17. These regulations may be added to, varied or amended from time to time.



**PROCLAMATION 50 OF 2017****COMMISSION OF INQUIRY INTO THE TRADITIONAL LEADERSHIP  
DISPUTES IN RESPECT OF BAPO I AND II COMMUNITY DISPUTES  
RESPECTIVELY**

I, Supra Obakeng Ramoeletsi Mahumapelo, hereby in my capacity as Premier of the North West Province and in terms of section 127(2)(e) of Act 108 of 1996 (Constitution of the Republic of South Africa), hereby appoint a Commission of Inquiry to investigate traditional succession disputes and claims around:-

(1) Bapo I and II traditional disputes.

1. Bapo I and II

There was also a High Court matter in this regard under case No. M9/14 whereby a number of orders were sought, even subsequent interventions were unsuccessful hence this Commission with the following terms of reference:-

1.1 To investigate whether the bogosi of the Bapo I and II traditional community is properly constituted and in accordance with the customs of the traditional community and determine the rightful successor to the bogosi of the Bapo I and II traditional community.

1.2 To determine the relationship amongst the Mogale clan, the Maimane sub-clan and the Moerane sub-clan.

1.3 To identify the legitimate members of the Royal Family and the Khuduthamaga of the Bapo I and II traditional community.

2. The Commissioner shall be made of the following persons:-

2.1 Adv. S. Baloyi – Chairperson

Professor M. Moleleki – Member

Kgosi/Adv. A. Mahumani

- 2.2 The evidence leader shall be:  
Advocate Benny Makola
- 2.3 To assist the Commission as and when required only is:  
Advocate S. Kabelo
3. The Commission shall make recommendations to the Premier.
4. In considering all the terms of reference and the regulations, the Commission shall be enjoined to apply section 39(2) and 212 of the Constitution and any relevant case laws, in relation to all terms of reference.

Given under my hand and seal at **Mahikeng** on .....**November 2017**

---

**PREMIER: NORTH WEST PROVINCE**

---

**MEC: ARTS CULTURE AND TRADITIONAL AFFAIRS**

---

## ANNEXURE A

---

---

### DIRECTIVES

---

#### A COMMISSION OF INQUIRY INTO TRADITIONAL CLAIMS AND DISPUTES WITHIN THE NORTH WEST PROVINCE AND CLAIMS AND DISPUTE OF INVESTIGATION OF BOGOSI OF BAPO BA MOGALE I AND II.

#### DEFINITIONS

1. In this directive, unless the context indicates the contrary.

**“Affected person”** means any natural or affected by the manner in which custom is observed.

**“Chairperson”** means Adv. M.S Baloyi, appointed by the Premier.

**“Confidential”, “Secret” or “Classified”** means any communication or documentation which by law is protected from public disclosure.

**“Designated Person”** means a person appointed by the Chairperson in terms of Regulation 4.

**“Discovery”** means the discovery of all relevant documents, record, tape recordings, electronic communications and data message as are directed to be discovered by the Chairperson through in Secretary.

**“Evidence”** all evidence including, transcripts, documentary, oral, audio, videos, photos and any other evidence including transcripts record presented before the Maluleke Commission shall form part of and be evidence before this Commission.

**“Document”** includes whether in electronic form or otherwise, any book, pamphlet, record, list, circular, plan, poster, publication, drawing, photograph, picture or data, and also any disc, hard drive recording or other device by means of which information or data is recorded or stored.

**“Evidence Leader”** means the person/s appointed whose primary responsibility shall be to be present evidence to the Commission at its hearings by way of leading witnesses and give assistance to the Commission as may be necessary.

**“Hearing”** means that taking of evidence only on matters as the Chairperson may direct.

**“Investigation”** means the investigation of issues referred to in the Terms of Reference or such issues as the Chairperson may direct.

**“Issues”** means the issues defined in the Terms of Reference.

**“Regulations”** means relating to this Commission published in Government Gazette.

**“Secretary”** means the Secretary of the Commission.

**“Terms of Reference”** means the Terms of Reference for the Commission as published in the Government Notice.

**“Third Parties”** means that person who have been invited by the Chairperson and/or those persons with a special interest and/or knowledge who have been invited to make representations and submissions to the inquiry.

**“Witness”** means a person contemplated in paragraphs 13 to 20.

Any reference to singular includes plural and vice versa.

Any reference to gender includes the other genders.

Any reference to a person includes natural and juristic persons.

## GENERAL

2. These directives are subject to, and should be read in conjunction, with the North West Commissions Act 18 of 1994 (“the North West Commissions Act”) and the Commission Regulations.
3. The conduct of and the procedure of this inquiry shall be under the control and discretion of the Chairperson.
4. The Commission shall determine whether the evidence presented to the inquiry or a representation to the inquiry is to be in writing or oral.
5. The Commission shall determine a person can participate in the inquiry and the manner and extent of their participation after considering:

- (a) whether the person's interest may be adversely affected by the findings of the Commission.
  - (b) whether the participation of the person would further the conduct of the inquiry; and
  - (c) whether the participation would contribute to the fairness and openness of the inquiry.
- 6. All parties shall be deemed to undertake to adhere to the directives. The Chairperson shall deal with the breach of these directives as he sees fit.
- 7. The directives outlined below are not intended to cover every eventuality or procedural issue. Where interests of justice and fairness require it, Commission may depart from these directives. Further, these directives may be amended by the Chairperson in keeping with his obligation to act fairly and avoid unnecessary costs. Should the directives be amended, the amended version will be published.
- 8. Any person who intends giving oral evidence before the Commission shall submit to the Chairperson, through the Secretary:
  - (a) a brief summary of the evidence that he or she wishes to load before the Commission; and
  - (b) a statement as to hoe he or she satisfies the criteria set out in paragraph 5.
- 9. On instruction of the Chairperson, the Secretary shall furnish to every affected person the submission together will all relevant documents which implicate such person.
- 10. Any affected person shall have the right to make submission and produce documents in answers to the allegations made against him or her. No



evidence regarding any fact or information that comes to light in consequence of any such submission, shall be admissible in any criminal proceedings, except in criminal proceedings in terms of section 6 of the North West Commissions Act or Regulation 14.

## HEARINGS

11. The Commission may, after receipt of submission, require by means of a notice or summons, any deponent or any person to appear before it to make oral representations on any aspect of the Terms of Reference.
12. The Commission may call upon any competent and compellable person to give evidence on any of the issues.
13. Any party may, through the Secretary and after approval from the Chairperson, call upon any competent and compellable person to give evidence on any relevant aspect of the Terms of Reference.
14. In making a determination whether to exercise the powers contemplated in the directives above, the Chairperson shall consider whether:
  - (a) the person played or may have played, a direct and significant role in relation to the matter to which this inquiry relates;
  - (b) the person has significant interest in an important aspect of the matter to which the inquiry relates; or
  - (c) the person has been implicated in the evidence submitted to it or may be subject to explicit or significant criticism during the inquiry proceedings or in the report or in any interim report.
15. Where a witness gives oral evidence at the hearing, the Evidence Leader shall present information relevant to the inquiry to the witness and the Commissioners may put questions to a witness if they deem this necessary.

16. Where a witness has been questioned orally the Chairperson may allow his or her legal representative to put questions to him or her to clarify certain aspects.
17. Where a witness has been question by the Evidence Leader, or by the Commissioners, and that witness's evidence directly relates to the evidence of another witness or implicates another person, the legal representative of the witness to whom the evidence relates or person implicated may apply to the Chairperson for permission to question the witness giving oral evidence. When making such application, the legal representative must state:
  - (a) the issues in respect of which the witness is to be questioned; and
  - (b) whether questioning will raise new issues and if not, why the questioning should be permitted.
18. It is in the discretion of the Chairperson to allow the cross-examination and re-examination of any witness called to give evidence.
19. The hearing shall be open to the public unless on good cause shown the Chairperson directs otherwise.
20. The Commission may by order or notice restrict or prohibit the publishing or broadcast of any of its proceedings if the Commission has reason to believe that the order or notice is necessary for the effective and efficient fulfilment of the Commission's Terms of Reference and would make available to the Commission evidence that would otherwise not be available.
21. The Commission shall sit at such premises and at such dates and times as the Chairperson my direct.
22. The Chairperson may invite any party to make legal submission addressing any of the issues in the Terms of Reference.

## APPLICATION FOR ANONYMITY AND OTHER PROTECTIVE MEASURE

23. Any person who believes that he or she has relevant evidence to submit to the inquiry but believes that there is a need to provide such evidence anonymously may apply to the Chairperson of the Commission for confidentiality.
24. The Chairperson will, in the first instance, discuss with any such person the nature of the evidence which that person can give to the Inquiry, the measures sought to protect anonymity and the reasons for seeking anonymity. If following this preliminary stage the Chairperson considers the evidence to be of sufficient relevance as to be of interest, and he accepts that there is a *prima facie* case for anonymity, then he will invite a formal application for protective measures to be submitted. If a witness statement has not been provided voluntarily already then he will request one in writing at this stage.
25. A formal application for anonymity or other protective measure shall be made in writing and shall contain a statement setting out the protective measures sought, reasons in support of the application for anonymity and other protective measures and any other factual material relied on. For the purposes of the inquiry, anonymity may include the right to have his or her identity disclosed only by way of non-identifying initials, and if the person so wishes, the right to testify before the Commission in private, together with any other privacy measures that the person may request from the Chairperson and which the Chairperson, in his discretion, grants. Subject further to the discretion of the Chairperson, specified persons may be present during testimony being heard in private.
26. A person who is granted confidentiality shall be identified in the records, transcripts of the hearing and any reports of the Commission by non-identifying initials.



27. The witness shall reveal his or her name to the Commissioners and to the Evidence Leaders for the purposes of preparation. The Commission and Evidence Leaders shall maintain the confidentiality of the names revealed to them.
28. Commission staff and other contracted service providers, and media representatives shall be deemed to undertake to adhere to the directives in respect of confidentiality.
29. Where the Chairperson refuses the application for protective measures either in whole or in part, then the Chairperson will not ordinarily be expected to compel the application to give evidence.

## **DISCOVERY**

30. The Commission may, at any stage, call on any person to make discovery on oath to the inquiry within a time-frame directed by the Chairperson.
31. Any interested person may, with the approval of the Chairperson, call upon any person through the Secretary to make discovery of any document relevant to the inquiry. The request must state:
  - (a) the reasons the interested person believes that the holder of document possesses the document; and
  - (b) the reasons the interested person believes the document is relevant to a matter before the Commission.
32. Documents which by law are protected from public disclosure will remain so protected.

## **CONTEMPT**

33. Any person summoned to attend and give evidence or to produce any book, document, or object before the Commission who, without sufficient cause,

fails to attend at the time and place specified in the summons or remain in attendance until the conclusion of the inquiry or until he or she is excused by the Chairperson of the Commission from further attendance, or having attended, refuses to be sworn-in or to make affirmation as a witness after he or she has been required by the Chairperson of the Commission to do so or, having been sworn in or having made affirmation, fails to answer fully satisfactorily any question lawfully put to him or her or fails to produce any book, document or object in his or her possession or custody, or under his or her control which she or he has been summoned to produce shall be dealt with in terms of section 1(2) and (3) of the North West Commissions Act read in conjunction with Regulation 8(1), 15(1)(b) and (2)(a).

## **REPORT**

34. Pursuant to Regulation 15, the contents of the report, and any interim report or information regarding the consideration of evidence by the Commission will be treated as confidential unless the President has unauthorised the publication thereof.

## **IN COMPILING THE DIRECTIVE WE BORROWED AND DISTILLED THE BEST PRACTICE FROM SOURCES IN THE REPUBLIC AND OTHER JURISDICTIONS**

### **ADV. MABEL SESI BALOYI**

Chairperson of the Traditional Claims and Disputes  
within the Province and also of claim and Dispute  
of Bogosi of Bapo I and II

## REGULATIONS

1. In the regulations, unless the context otherwise indicates –
  - “**Chairperson**” means the Chairperson of the Commission;
  - “**Commission**” means the Commission of Inquiry into Traditional Claims and Disputes within the North West Province in particular those of Bapo Ba Mogale I and II.
  - “**document**” includes, whether in electronic form or otherwise, any book, pamphlet, record, list, circular, plan, poster, publication, drawing, photograph, picture or data, and also any disc, harddrive recording or the other device by means of which information or data is recorded or stored;
  - “**evidence**” all evidence including transcripts documentary, oral, audio, videos, photos and any other evidence presented before the Maluleke Commission (published on 15 June 2016, Gazette No. 7657 and 27 September 2016, Gazette No. 7696) shall form part of the evidence before this newly constituted Commission.
  - “**inquiry**” means the inquiry conducted by the Commission;
  - “**member**” means a member of the Commission;
  - “**Premier**” means the Premier of North West Province;
  - “**MEC**” means Member of the Executive Council responsible for Traditional Affairs in the North West Province;
  - “**officer**” means a person in the full-time service of the State who has been appointed to designated to assist the Commission in the execution of its functions; and
  - “**premises**” includes any land, building, structure, part of a building or structure, vehicle, conveyance, vessel or aircraft.
2. The proceedings of the Commission shall be recorded in the manner determined by the Chairperson.
3. (1) Any person appointed or designated to take down or record the proceedings of the Commission in shorthand or by mechanical or electronic means or to transcribe such proceedings which have been so taken down or

recorded shall at the outset take an oath or make an affirmation in the following form:

I, A.....B....., declares under oath/ affirm and declare –

(a) That I shall faithfully and to the best of my ability take down/record the proceedings of the Commission of Inquiry into Traditional Claims and Disputes in the North West Province in shorthand/ by mechanical/ by electronic means as ordered by the Chairperson of the Commission; and;

(b) That I shall transcribe fully and to the best of my ability any shorthand notes/ mechanical record/ electronic record of the proceedings of the said Commission made by me or by any other person.

(2) No shorthand notes or mechanical or electronic record of the proceedings of the Commission shall be transcribed except by order of the Chairperson.

4. (1) The Chairperson may designate one or more knowledgeable or experienced persons to assist the Commission in the performance of some of its functions, in a capacity other than that of a member;

(2) Notwithstanding the composition of the Commission, the proceedings thereof shall not be affected by the absence of any member. It shall be competent for two Commissioners to proceed with the business of the Commission.

(3) The Commission shall, where necessary be assisted by officers of any Department of State seconded to its services or persons in the service of any public or other body who are by arrangement with the body concerned seconded to the service of the Commission.

5. Any person designated or seconded under regulation 4 who is not an employee in the public service, may be paid such fees or travelling and subsistence allowance, while engaged upon the business of the Commission,



as the responsible Member of the Executive Council for Traditional Affairs may with the concurrence of the responsible Member of the Executive Council for Finance.

6. Any officer or person designated thereto by the Chairperson may be present at any stage of the inquiry or the gathering of information or the hearing of evidence at the inquiry.
7. Any person appearing before the Commission may be assisted by an advocate or an attorney, at own cost.
8.
  - (1) No person appearing before the Commission may refuse to answer any question on any ground other than the privilege contemplated in section 3(4) of the North West Commissions Act, 1994 (Act No. 18 of 1994).
  - (2) No evidence regarding questions and answers contemplated in sub regulation (1), and no evidence regarding any fact or information that comes to light in consequence of any such questions or answers, shall be admissible in any criminal proceedings, except in criminal proceedings where the person concerned is charged with an offence in terms of section 6 of the North West Commissions Act, 1994 (Act No. 18 of 1994), or regulation 14.
  - (3) Any witness appearing before the Commission may be cross-examined by a person only if the Chairperson permits such cross-examination by such person because the Chairperson deems it necessary in the interest of the functions of the Commission.
  - (4) Any witness may be re-examined by his or her legal representative for the purpose of explaining then evidence given by the witness during his or her examination.
9. Where, at the time of any person presenting information to or giving evidence before the Commission, members of the general public are or have been excluded from attendance at the proceedings of the Commission, the



Chairperson may, on the request of such a person, direct that no person shall disclose in any manner whatsoever the name or address of such person or any information likely to reveal his or her identity.

10. Whenever the Commission is satisfied upon evidence or information presented to it that the Commission's inquiry may adversely affect any existing, instituted or pending legal proceedings or any inquiry instituted in terms of any law, evidence which is relevant to such legal proceedings or inquiry shall be dealt with by the Commission in such a manner as not to adversely affect such legal proceedings or inquiry.
11. (1) Any officer may, with a warrant, for the purposes of the inquiry, at any reasonable time and without prior notice, or with such notice as he or she may deem appropriate, enter and inspect any premises and demand and seize any document or article which is on such premises.
  - (2) Any entry upon or search of any premises or person thereon in terms of this regulation, shall be conducted with strict regard to decency and order, including –
    - (a) a person's right to, respect for and the protection of his or her dignity;
    - (b) the right of a person to freedom and security; and
    - (c) the right of a person to his or her personal privacy.
  - (3) The premises referred to in sub-regulation (1) may be entered only by virtue of a warrant issued in chambers by a magistrate, regional magistrate or judge of the area of jurisdiction within which the premises is situated.
  - (4) A warrant referred to in sub-regulation (1) may be issued by a judge in respect of premises situated in another area of jurisdiction, if he or she deems it justified.
  - (5) A warrant referred to in sub-regulation (1) may be issued only if it appears to the magistrate, regional magistrate or judge from information revealed under oath or affirmation that there is a need for a warrant

authorising a search and seizure and that there are reasonable grounds to believe that any document or article referred to in sub-regulation (1) is on or at such premises or suspected to be on or at such premises.

12. (1) No person shall communicate to any other person any matter or information which may have come to his or her knowledge in connection with the inquiry or allow or permit any other person to have access to any of his or her duties in connection with the functions of the Commission or by order of a competent court.

(2) Every person in the service of the Commission and every officer, but not the Chairperson or member, shall, before performing any duty in connection with the Commission, take and subscribe before the Chairperson an oath in the following form:

"I, A,B, declare under oath/ affirm and declare that, except in so far as it is necessary in the performance of my duties in connection with the functions of the Commission of Inquiry into Traditional Claims and Disputes in the North West Province, I shall not communicate to any person any matter or information which comes to my knowledge in connection with the inquiry, or allow or permit any person to have access to any records of the Commission, including any notes, record or transcription of the proceedings of the Commission in my possession or custody or in possession or custody of the Commission or any officer".

13. No person shall insult, disparage or belittle the Chairperson or any member of the Commission or prejudice the inquiry or proceedings or findings of the Commission.

14. No person shall without the written permission of the Chairperson –  
(a) disseminate any document submitted to the Commission by any person in connection with the inquiry or publish the contents or any portion of the contents of such document; or

- (b) peruse any document , including any statement, which is destined to be submitted to the Chairperson or intercept such document while it is being taken or forwarded to the Chairperson.
15. No person shall, except in so far as shall be necessary in the execution of the terms of reference of the Commission, publish or furnish any person with the report or any interim report of the Commission or a copy or a part thereof or information regarding the consideration of evidence by the Commission, unless the Premier has authorised the publication.
16. (1) Without derogating from the provision of the Commissions Act, a person is guilty of an offence if he or she –
- (a) wilfully hinders, resists or obstructs any officer in the exercise of any power contemplated in regulation 11; or
  - (b) contravenes regulation 8(1), 12(1), 14 or 15; or
  - (c) contravenes regulation 13.
- (2) A person convicted of an offence in terms of sub-regulation (1) is liable-
- (i) in the case of an offence referred to in paragraph (a) or (b), to a fine not exceeding two hundred rand, or to imprisonment for a period not exceeding six months; and
  - (ii) in the case of an offence referred to in paragraph (c), to a fine not exceeding one thousand rand, or to imprisonment for a period not exceeding 12 months
17. These regulations may be added to, varied or amended from time to time.

## PROCLAMATION 51 OF 2017

**COMMISSION OF INQUIRY INTO THE TRADITIONAL LEADERSHIP DISPUTES IN RESPECT OF BAPO I AND II COMMUNITY DISPUTES RESPECTIVELY**

I, Supra Obakeng Ramoeletsi Mahumapelo, hereby in my capacity as Premier of the North West Province and in terms of section 127(2)(e) of Act 108 of 1996 (Constitution of the Republic of South Africa), hereby appoint a Commission of Inquiry to investigate traditional succession disputes and claims around:-

(1) Bapo I and II traditional disputes.

**1. Bapo I**

1.1 To investigate whether the bogosi of the Bapo I traditional community is properly constituted and in accordance with the customs of the traditional community and determine the rightful successor to the bogosi of the Bapo I.

1.2 To determine the relationship amongst the Mogale clan, the Maimane sub-clan and the Moerane sub-clan.

**2. Bapo 2 (Phorotlhoane)**

2.1 To investigate whether the bogosi of the Bapo II traditional community is properly constituted and in accordance with the customs of the traditional community and determine the rightful successor to the bogosi of the Bapo II traditional community.

2.2 To determine the relationship amongst the Mogale clan, the Maimane sub-clan and the Moerane sub-clan.

2.3 To identify the legitimate members of the Royal Family and the Khuduthamanaga of the Bapo II traditional community.



3. The Commission shall be made of the following persons:-
  - 3.1 Adv. S. Baloyi – Chairperson  
Professor M. Moleleki – Member  
Kgosi/Adv. A. Mahumani
  - 3.2 The evidence leader shall be:  
Advocate Benny Makola
  - 3.3 To assist the Commission as and when required only is:  
Advocate M. Matlapeng
4. The Commission shall make recommendations to the Premier.
5. In considering all the terms of reference and the regulations, the Commission shall be enjoined to apply section 39(2) and 212 of the Constitution and any relevant case laws, in relation to all terms of reference.

Given under my hand and seal at **Mahikeng** on .....<sup>28<sup>th</sup></sup> November 2017



**PREMIER: NORTH WEST PROVINCE**



**MEC: ARTS CULTURE AND TRADITIONAL AFFAIRS**



---

## ANNEXURE A

---

---

### DIRECTIVES

---

#### A COMMISSION OF INQUIRY INTO TRADITIONAL CLAIMS AND DISPUTES WITHIN THE NORTH WEST PROVINCE AND CLAIMS AND DISPUTE OF INVESTIGATION OF BOGOSI OF BAPO BA MOGALE I AND II.

#### DEFINITIONS

1. In this directive, unless the context indicates the contrary.
  - “**Affected person**” means any natural or affected by the manner in which custom is observed.
  - “**Chairperson**” means Adv. M.S Baloyi, appointed by the Premier.
  - “**Confidential**”, “**Secret**” or “**Classified**” means any communication or documentation which by law is protected from public disclosure.
  - “**Designated Person**” means a person appointed by the Chairperson in terms of Regulation 4.
  - “**Discovery**” means the discovery of all relevant documents, record, tape recordings, electronic communications and data message as are directed to be discovered by the Chairperson through in Secretary.
  - “**Evidence**” all evidence including, transcripts, documentary, oral, audio, videos, photos and any other evidence including transcripts record presented before the Maluleke Commission shall form part of and be evidence before this Commission.
  - “**Document**” includes whether in electronic form or otherwise, any book, pamphlet, record, list, circular, plan, poster, publication, drawing, photograph, picture or data, and also any disc, hard drive recording or other device by means of which information or data is recorded or stored.
  - “**Evidence Leader**” means the person/s appointed whose primary responsibility shall be to be present evidence to the Commission at its hearings by way of leading witnesses and give assistance to the Commission as may be necessary.

**“Hearing”** means that taking of evidence only on matters as the Chairperson may direct.

**“Investigation”** means the investigation of issues referred to in the Terms of Reference or such issues as the Chairperson may direct.

**“Issues”** means the issues defined in the Terms of Reference.

**“Regulations”** means relating to this Commission published in Government Gazette.

**“Secretary”** means the Secretary of the Commission.

**“Terms of Reference”** means the Terms of Reference for the Commission as published in the Government Notice.

**“Third Parties”** means that person who have been invited by the Chairperson and/or those persons with a special interest and/or knowledge who have been invited to make representations and submissions to the inquiry.

**“Witness”** means a person contemplated in paragraphs 13 to 20.

Any reference to singular includes plural and vice versa.

Any reference to gender includes the other genders.

Any reference to a person includes natural and juristic persons.

## GENERAL

2. These directives are subject to, and should be read in conjunction, with the North West Commissions Act 18 of 1994 (“the North West Commissions Act”) and the Commission Regulations.
3. The conduct of and the procedure of this inquiry shall be under the control and discretion of the Chairperson.
4. The Commission shall determine whether the evidence presented to the inquiry or a representation to the inquiry is to be in writing or oral.
5. The Commission shall determine a person can participate in the inquiry and the manner and extent of their participation after considering:

- (a) whether the person's interest may be adversely affected by the findings of the Commission.
  - (b) whether the participation of the person would further the conduct of the inquiry; and
  - (c) whether the participation would contribute to the fairness and openness of the inquiry.
- 6. All parties shall be deemed to undertake to adhere to the directives. The Chairperson shall deal with the breach of these directives as he sees fit.
- 7. The directives outlined below are not intended to cover every eventuality or procedural issue. Where interests of justice and fairness require it, Commission may depart from these directives. Further, these directives may be amended by the Chairperson in keeping with his obligation to act fairly and avoid unnecessary costs. Should the directives be amended, the amended version will be published.
- 8. Any person who intends giving oral evidence before the Commission shall submit to the Chairperson, through the Secretary:
  - (a) a brief summary of the evidence that he or she wishes to load before the Commission; and
  - (b) a statement as to hoe he or she satisfies the criteria set out in paragraph 5.
- 9. On instruction of the Chairperson, the Secretary shall furnish to every affected person the submission together will all relevant documents which implicate such person.
- 10. Any affected person shall have the right to make submission and produce documents in answers to the allegations made against him or her. No

evidence regarding any fact or information that comes to light in consequence of any such submission, shall be admissible in any criminal proceedings, except in criminal proceedings in terms of section 6 of the North West Commissions Act or Regulation 14.

## HEARINGS

11. The Commission may, after receipt of submission, require by means of a notice or summons, any deponent or any person to appear before it to make oral representations on any aspect of the Terms of Reference.
12. The Commission may call upon any competent and compellable person to give evidence on any of the issues.
13. Any party may, through the Secretary and after approval from the Chairperson, call upon any competent and compellable person to give evidence on any relevant aspect of the Terms of Reference.
14. In making a determination whether to exercise the powers contemplated in the directives above, the Chairperson shall consider whether:
  - (a) the person played or may have played, a direct and significant role in relation to the matter to which this inquiry relates;
  - (b) the person has significant interest in an important aspect of the matter to which the inquiry relates; or
  - (c) the person has been implicated in the evidence submitted to it or may be subject to explicit or significant criticism during the inquiry proceedings or in the report or in any interim report.
15. Where a witness gives oral evidence at the hearing, the Evidence Leader shall present information relevant to the inquiry to the witness and the Commissioners may put questions to a witness if they deem this necessary.



16. Where a witness has been questioned orally the Chairperson may allow his or her legal representative to put questions to him or her to clarify certain aspects.
17. Where a witness has been question by the Evidence Leader, or by the Commissioners, and that witness's evidence directly relates to the evidence of another witness or implicates another person, the legal representative of the witness to whom the evidence relates or person implicated may apply to the Chairperson for permission to question the witness giving oral evidence. When making such application, the legal representative must state:
  - (a) the issues in respect of which the witness is to be questioned; and
  - (b) whether questioning will raise new issues and if not, why the questioning should be permitted.
18. It is in the discretion of the Chairperson to allow the cross-examination and re-examination of any witness called to give evidence.
19. The hearing shall be open to the public unless on good cause shown the Chairperson directs otherwise.
20. The Commission may by order or notice restrict or prohibit the publishing or broadcast of any of its proceedings if the Commission has reason to believe that the order or notice is necessary for the effective and efficient fulfilment of the Commission's Terms of Reference and would make available to the Commission evidence that would otherwise not be available.
21. The Commission shall sit at such premises and at such dates and times as the Chairperson my direct.
22. The Chairperson may invite any party to make legal submission addressing any of the issues in the Terms of Reference.



**APPLICATION FOR ANONYMITY AND OTHER PROTECTIVE MEASURE**

23. Any person who believes that he or she has relevant evidence to submit to the inquiry but believes that there is a need to provide such evidence anonymously may apply to the Chairperson of the Commission for confidentiality.
24. The Chairperson will, in the first instance, discuss with any such person the nature of the evidence which that person can give to the Inquiry, the measures sought to protect anonymity and the reasons for seeking anonymity. If following this preliminary stage the Chairperson considers the evidence to be of sufficient relevance as to be of interest, and he accepts that there is a *prima facie* case for anonymity, then he will invite a formal application for protective measures to be submitted. If a witness statement has not been provided voluntarily already then he will request one in writing at this stage.
25. A formal application for anonymity or other protective measure shall be made in writing and shall contain a statement setting out the protective measures sought, reasons in support of the application for anonymity and other protective measures and any other factual material relied on. For the purposes of the inquiry, anonymity may include the right to have his or her identity disclosed only by way of non-identifying initials, and if the person so wishes, the right to testify before the Commission in private, together with any other privacy measures that the person may request from the Chairperson and which the Chairperson, in his discretion, grants. Subject further to the discretion of the Chairperson, specified persons may be present during testimony being heard in private.
26. A person who is granted confidentiality shall be identified in the records, transcripts of the hearing and any reports of the Commission by non-identifying initials.

27. The witness shall reveal his or her name to the Commissioners and to the Evidence Leaders for the purposes of preparation. The Commission and Evidence Leaders shall maintain the confidentiality of the names revealed to them.
28. Commission staff and other contracted service providers, and media representatives shall be deemed to undertake to adhere to the directives in respect of confidentiality.
29. Where the Chairperson refuses the application for protective measures either in whole or in part, then the Chairperson will not ordinarily be expected to compel the application to give evidence.

## **DISCOVERY**

30. The Commission may, at any stage, call on any person to make discovery on oath to the inquiry within a time-frame directed by the Chairperson.
31. Any interested person may, with the approval of the Chairperson, call upon any person through the Secretary to make discovery of any document relevant to the inquiry. The request must state:
  - (a) the reasons the interested person believes that the holder of document possesses the document; and
  - (b) the reasons the interested person believes the document is relevant to a matter before the Commission.
32. Documents which by law are protected from public disclosure will remain so protected.

## **CONTEMPT**

33. Any person summoned to attend and give evidence or to produce any book, document, or object before the Commission who, without sufficient cause,

fails to attend at the time and place specified in the summons or remain in attendance until the conclusion of the inquiry or until he or she is excused by the Chairperson of the Commission from further attendance, or having attended, refuses to be sworn-in or to make affirmation as a witness after he or she has been required by the Chairperson of the Commission to do so or, having been sworn in or having made affirmation, fails to answer fully satisfactorily any question lawfully put to him or her or fails to produce any book, document or object in his or her possession or custody, or under his or her control which she or he has been summoned to produce shall be dealt with in terms of section 1(2) and (3) of the North West Commissions Act read in conjunction with Regulation 8(1), 15(1)(b) and (2)(a).

## **REPORT**

34. Pursuant to Regulation 15, the contents of the report, and any interim report or information regarding the consideration of evidence by the Commission will be treated as confidential unless the President has unauthorised the publication thereof.

## **IN COMPILING THE DIRECTIVE WE BORROWED AND DISTILLED THE BEST PRACTICE FROM SOURCES IN THE REPUBLIC AND OTHER JURISDICTIONS**

### **ADV. MABEL SESI BALOYI**

Chairperson of the Traditional Claims and Disputes  
within the Province and also of claim and Dispute  
of Bogosi of Bapo I and II

## REGULATIONS

1. In the regulations, unless the context otherwise indicates –  
    **“Chairperson”** means the Chairperson of the Commission;  
    **“Commission”** means the Commission of Inquiry into Traditional Claims and Disputes within the North West Province in particular those of Bapo Ba Mogale I and II.  
    **“document”** includes, whether in electronic form or otherwise, any book, pamphlet, record, list, circular, plan, poster, publication, drawing, photograph, picture or data, and also any disc, harddrive recording or the other device by means of which information or data is recorded or stored;  
    **“evidence”** all evidence including transcripts documentary, oral, audio, videos, photos and any other evidence presented before the Maluleke Commission (published on 15 June 2016, Gazette No. 7657 and 27 September 2016, Gazette No. 7696) shall form part of the evidence before this newly constituted Commission.  
    **“inquiry”** means the inquiry conducted by the Commission;  
    **“member”** means a member of the Commission;  
    **“Premier”** means the Premier of North West Province;  
    **“MEC”** means Member of the Executive Council responsible for Traditional Affairs in the North West Province;  
    **“officer”** means a person in the full-time service of the State who has been appointed to designated to assist the Commission in the execution of its functions; and  
    **“premises”** includes any land, building, structure, part of a building or structure, vehicle, conveyance, vessel or aircraft.
2. The proceedings of the Commission shall be recorded in the manner determined by the Chairperson.
3. (1) Any person appointed or designated to take down or record the proceedings of the Commission in shorthand or by mechanical or electronic means or to transcribe such proceedings which have been so taken down or



recorded shall at the outset take an oath or make an affirmation in the following form:

I, A.....B....., declares under oath/ affirm and declare –

- (a) That I shall faithfully and to the best of my ability take down/record the proceedings of the Commission of Inquiry into Traditional Claims and Disputes in the North West Province in shorthand/ by mechanical/ by electronic means as ordered by the Chairperson of the Commission; and;
  - (b) That I shall transcribe fully and to the best of my ability any shorthand notes/ mechanical record/ electronic record of the proceedings of the said Commission made by me or by any other person.
- (2) No shorthand notes or mechanical or electronic record of the proceedings of the Commission shall be transcribed except by order of the Chairperson.
4.
  - (1) The Chairperson may designate one or more knowledgeable or experienced persons to assist the Commission in the performance of some of its functions, in a capacity other than that of a member;
  - (2) Notwithstanding the composition of the Commission, the proceedings thereof shall not be affected by the absence of any member. It shall be competent for two Commissioners to proceed with the business of the Commission.
  - (3) The Commission shall, where necessary be assisted by officers of any Department of State seconded to its services or persons in the service of any public or other body who are by arrangement with the body concerned seconded to the service of the Commission.
5. Any person designated or seconded under regulation 4 who is not an employee in the public service, may be paid such fees or travelling and subsistence allowance, while engaged upon the business of the Commission,



as the responsible Member of the Executive Council for Traditional Affairs may with the concurrence of the responsible Member of the Executive Council for Finance.

6. Any officer or person designated thereto by the Chairperson may be present at any stage of the inquiry or the gathering of information or the hearing of evidence at the inquiry.
7. Any person appearing before the Commission may be assisted by an advocate or an attorney, at own cost.
8.
  - (1) No person appearing before the Commission may refuse to answer any question on any ground other than the privilege contemplated in section 3(4) of the North West Commissions Act, 1994 (Act No. 18 of 1994).
  - (2) No evidence regarding questions and answers contemplated in sub regulation (1), and no evidence regarding any fact or information that comes to light in consequence of any such questions or answers, shall be admissible in any criminal proceedings, except in criminal proceedings where the person concerned is charged with an offence in terms of section 6 of the North West Commissions Act, 1994 (Act No. 18 of 1994), or regulation 14.
  - (3) Any witness appearing before the Commission may be cross-examined by a person only if the Chairperson permits such cross-examination by such person because the Chairperson deems it necessary in the interest of the functions of the Commission.
  - (4) Any witness may be re-examined by his or her legal representative for the purpose of explaining then evidence given by the witness during his or her examination.
9. Where, at the time of any person presenting information to or giving evidence before the Commission, members of the general public are or have been excluded from attendance at the proceedings of the Commission, the

Chairperson may, on the request of such a person, direct that no person shall disclose in any manner whatsoever the name or address of such person or any information likely to reveal his or her identity.

10. Whenever the Commission is satisfied upon evidence or information presented to it that the Commission's inquiry may adversely affect any existing, instituted or pending legal proceedings or any inquiry instituted in terms of any law, evidence which is relevant to such legal proceedings or inquiry shall be dealt with by the Commission in such a manner as not to adversely affect such legal proceedings or inquiry.
11. (1) Any officer may, with a warrant, for the purposes of the inquiry, at any reasonable time and without prior notice, or with such notice as he or she may deem appropriate, enter and inspect any premises and demand and seize any document or article which is on such premises.  
  
(2) Any entry upon or search of any premises or person thereon in terms of this regulation, shall be conducted with strict regard to decency and order, including –
  - (a) a person's right to, respect for and the protection of his or her dignity;
  - (b) the right of a person to freedom and security; and
  - (c) the right of a person to his or her personal privacy.  
(3) The premises referred to in sub-regulation (1) may be entered only by virtue of a warrant issued in chambers by a magistrate, regional magistrate or judge of the area of jurisdiction within which the premises is situated.  
  
(4) A warrant referred to in sub-regulation (1) may be issued by a judge in respect of premises situated in another area of jurisdiction, if he or she deems it justified.  
  
(5) A warrant referred to in sub-regulation (1) may be issued only if it appears to the magistrate, regional magistrate or judge from information revealed under oath or affirmation that there is a need for a warrant

authorising a search and seizure and that there are reasonable grounds to believe that any document or article referred to in sub-regulation (1) is on or at such premises or suspected to be on or at such premises.

12. (1) No person shall communicate to any other person any matter or information which may have come to his or her knowledge in connection with the inquiry or allow or permit any other person to have access to any of his or her duties in connection with the functions of the Commission or by order of a competent court.

(2) Every person in the service of the Commission and every officer, but not the Chairperson or member, shall, before performing any duty in connection with the Commission, take and subscribe before the Chairperson an oath in the following form:

"I, A,B, declare under oath/ affirm and declare that, except in so far as it is necessary in the performance of my duties in connection with the functions of the Commission of Inquiry into Traditional Claims and Disputes in the North West Province, I shall not communicate to any person any matter or information which comes to my knowledge in connection with the inquiry, or allow or permit any person to have access to any records of the Commission, including any notes, record or transcription of the proceedings of the Commission in my possession or custody or in possession or custody of the Commission or any officer".

13. No person shall insult, disparage or belittle the Chairperson or any member of the Commission or prejudice the inquiry or proceedings or findings of the Commission.
14. No person shall without the written permission of the Chairperson –
- (a) disseminate any document submitted to the Commission by any person in connection with the inquiry or publish the contents or any portion of the contents of such document; or

- (b) peruse any document , including any statement, which is destined to be submitted to the Chairperson or intercept such document while it is being taken or forwarded to the Chairperson.
15. No person shall, except in so far as shall be necessary in the execution of the terms of reference of the Commission, publish or furnish any person with the report or any interim report of the Commission or a copy or a part thereof or information regarding the consideration of evidence by the Commission, unless the Premier has authorised the publication.
16. (1) Without derogating from the provision of the Commissions Act, a person is guilty of an offence if he or she –
- (a) wilfully hinders, resists or obstructs any officer in the exercise of any power contemplated in regulation 11; or
  - (b) contravenes regulation 8(1), 12(1), 14 or 15; or
  - (c) contravenes regulation 13.
- (2) A person convicted of an offence in terms of sub-regulation (1) is liable-
- (i) in the case of an offence referred to in paragraph (a) or (b), to a fine not exceeding two hundred rand, or to imprisonment for a period not exceeding six months; and
  - (ii) in the case of an offence referred to in paragraph (c), to a fine not exceeding one thousand rand, or to imprisonment for a period not exceeding 12 months
17. These regulations may be added to, varied or amended from time to time.

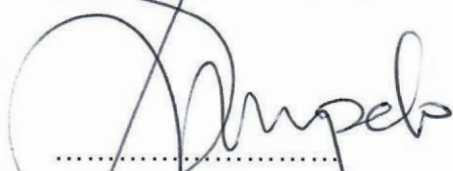


## PROCLAMATION 52 OF 2017

**NOTICE BY THE PREMIER  
NORTH WEST PROVINCIAL GOVERNMENT****PROVINCIAL NOTICE ON ISSUING AND WITHDRAWAL OF RECOGNITION  
CERTIFICATES TO TRADITIONAL LEADERS: NORTH WEST TRADITIONAL  
LEADERSHIP AND GOVERNANCE ACT, 2005 (ACT NO. 2 OF 2005)**

I, Supra Obakekng Ramoeletsi Mahumapelo in my capacity as the Premier of the North West Province, hereby, in terms of Chapter 3 of the North West Traditional Leadership and Governance Act, 2005 (Act No. 2 of 2005), publish a notice of recognition of traditional leaders and withdrawal of recognition of traditional leaders.

Given under my Hand at Mahikeng this 24 day of November, Two thousand and Seventeen.

  
.....  
**SOR MAHUMAPELO**  
Premier of the North West Province



**SCHEDULE I**  
**RECOGNISED TRADITIONAL LEADERS**

NAME OF TRADITIONAL LEADER	CATEGORY	NAME OF TRADITIONAL COMMUNITY
1. Tetebe Dinah Maimane	Kgosigadi	Bakwena Ba Ga Maimane
2. Tebogo Reneilwe Motheo Mamogale	Kgosi	Bakwena Ba Ga Mogopa
3. Edward Moefi Mabalane	Kgosi	Baphiring
4. Kgalalelo Bridgette Sedumedi	Kgosigadi	Batlokwa Ba Ga Sedumedi
5. Baruti Samson Mokoto	Kgosana	Barolong Ba Ga Phoi
6. Modiakgotla Tawana	Kgosana	Barolong Boora Tshidi
7. Kgosiebonya Kinsley Letsapa	Kgosana	Barolong Ba Ga Phoi
8. Godfrey Letukile Maselwane	Kgosi	Bakwena Ba Ga Mmatau
9. Rapulana Victor Matlaba	Kgosi	Barolong Boo Rapulana Ba Ga Matlaba
10. Modise Tonse Ramokoka	Kgosi	Baphalane
11. Kgosietsile Joseph Tsiepe	Kgosi	Balete Ba Ga Mokgojwa
12. James Joy Ernest Manotshe Ramokoka	Kgosi	Baphalane
13. Kogodi Jefferson Molete	Kgosi	Bakolobeng
14. Thuso Gregory Letlhogile	Kgosi	Barolong Ba Ga Letlhogile
15. Thebeetsile Hordes Letlhogile	Kgosi	Barolong Ba Ga Letlhogile
16. Boikgantsho Justice Sefanyetso	Kgosi	Bataung Boo Selale Ba Ga Sefanyetso
17. Mateisi John Maimane	Kgosi	Bakwena Ba Manamela
18. Simon Sebono Malefo	Kgosana	Bakwena Ba Molopyane
19. Letsogile John Lekwene	Kgosi	Baphuduhucwana
20. Oscar Monkatswi Motseoakhumo	Kgosana	Barolong Ba Ga Makgobi
21. Margaret Mapaseka Monnakgotla	Kgosigadi	Bakubung Ba Ga Ratheo
22. Dikolo Elizabeth Motsatsi	Kgosigadi	Batlokwa Ba Bogatsu
23. Keatlaletse Antoinette Mankuroane	Kgosana	Ba Phuduhucwana
24. David Shashapa Tsajoa	Kgosana	Bataung Ba Hlalele
25. Katlego Segano Serobatse	Kgosi	Bafokeng Ba Ga Motlatla
26. Mokopi Mirenda Lekoko	Kgosana	Barolong Boora Tshidi



27.	Mmusi Tuswell Kgositau	Kgosana	Barolong Ba Ga Makgobi
28.	Hendrick Lekuka Letlape	Kgosana	Baphalane
29.	Lehlomela Emmanuel Lion	Kgosana	Bataung Ba Hlalele
30.	Thabo Milton Seatlholo	Kgosana	Barolong Boo Rapulana
31.	Gabaratane Benjamin Gopane	Kgosi	Bahurutshe Ba Ga Gopane
32.	Nchaupe Ramolepo Edward Makapan	Kgosi	Bakgatla Ba Mosetlha
33.	Tlotlo Art Seru	Kgosana	Barolong Boora Tshidi
34.	Phenyo Solomon Motshegare	Kgosana	Barolong Boora Tshidi
35.	Molelekasilo Sidwell Montshioa	Kgosana	Barolong Boora Tshidi
36.	Kereeditse Lillian Gopane	Kgosigadi	Bahurutshe Ba Ga Gopane
37.	Boitumelo Patrick Mankuroane	Kgosana	Baphuduhucwana
38.	Israel Saku	Kgosana	Baphuduhucwana
39.	Basatla Johannes Mahura	Kgosana	Baphuduhucwana
40.	Mogonono Ben Motlhabane	Kgosana	Batlhaping Ba Ga Maidi
41.	Mohao Alfred Mahumapelo	Kgosana	Batlhaping Ba Ga Maidi
42.	Keatweng Thomas Motlhabane	Kgosana	Batlhaping Ba Ga Maidi
43.	Kebalepile Joseph Kgantlapane	Kgosana	Batlhaping Ba Ga Maidi
44.	Keipiditse James Motlhabane	Kgosana	Batlhaping Ba Ga Maidi
45.	Kekgetheng Winston Ntshidi	Kgosana	Barolong Ba Ga Marumolwa
46.	Morena Savour Marumola	Kgosana	Barolong Ba Ga Marumolwa
47.	Mothusi Israel Marumolo	Kgosana	Barolong Ba Ga Marumolwa
48.	Motbethata Joseph Phoi	Kgosana	Barolong Ba Ga Phoi
49.	Pule Richard Mokoto	Kgosana	Barolong Ba Ga Phoi
50.	Keobakile Benjamin Mongala	Kgosana	Barolong Ba Ga Phoi
51.	Thebeetsile Hordes Letlhogile	Kgosi	Barolong Ba Ga Letlhogile
52.	Ponatshego Lizzy Mothibi	Kgosigadi	Batlhaping Ba Ga Mothibi
53.	Mokgadi Antoinette Motsepe	Kgosigadi	Bakgatla Ba Mmakau
54.	Ntebogang Theodosia Moiloa	Kgosigadi	Bahurutshe Ba Ga Moiloa
55.	Tuelo James Moseki	Kgosana	Batlhaping Ba Ga Mothibi
56.	Jakoba James Babuseng	Kgosana	Batlhaping Ba Ga Mothibi
57.	Rabie Albert Seleka	Kgosana	Batlhaping Ba Ga Mothibi

58.	Rankgwathi Jonathan Mokgophe	Kgosana	Barokologadi
59.	Mathews E Motlhajoe	Kgosana	Barokologadi
60.	Shashapa David Tsajoa	Kgosana	Bataung Ba Hlalele
61.	Godfrey Sepoakana Motsepe	Kgosi	Bakgatla Ba Mmakau
62.	Bonnabothata Solomon Moiloa	Kgosana	Bahurutshe Ba Moiloa
63.	Setlalekgosi Francis Baisitse	Kgosana	Baphuduhucwana
64.	Kgosietsile Joseph Baisitse	Kgosana	Baphuduhucwana
65.	Lutho Nqobile Zibi	Deputy Kgosi	Amahlubi
66.	Kelebonye Kingsley Motlhabane	Deputy Kgosi	Batlhaping Ba Ga Maidi
67.	Kwena Darius Mangope	Kgosi	Bahurutshe Boo Manyana



**SCHEDULE II**  
**WITHDRAWN RECOGNITION CERTIFICATES**

NAME OF TRADITIONAL LEADER	CATEGORY	NAME OF TRADITIONAL COMMUNITY
1. Letlamoreng Felix Motsei Sefanyetso	Kgosi	Bataung Boo Selale Ba Ga Sefanyetso
2. Modise Tonse Ramokoka	Kgosi	Baphalane
3. Thuso Gregory Letlhogile	Kgosi	Barolong Ba Ga Letlhogile
4. Patrick Moshoele	Kgosi	Barolong Ba Ga Seitshiro
5. Margaret Mapaseka Monnakgotla	Kgosigadi	Bakubung Ba Ga Ratheo
6. Motshubelo Ezekiel Monnakgotla	Kgosigadi	Bakubung Ba Ga Ratheo
7. David Shashapa Tsajoa	Kgosana	Bataung Ba Hlalele
8. Gosame Anthea Seatlholo	Kgosigadi	Barolong Boo Rapulana
9. Tshipiyareng Petrus Motlhabane	Kgosana	Barolong Ba Ga Phoi
10. Bahenyi Rodney Mokoto	Kgosana	Barolong Ba Ga Phoi
11. Melere Miller Motase	Kgosana	Barolong Ba Ga Letlhogile
12. Setlalekgosi Francis Baisitse	Kgosana	Baphuduhucwana
13. Emmanuel Lehlomela Lion	Kgosana	Bataung Ba Hlalele
14. Kereeditse Lillian Gopane	Kgosigadi	Bahurutshe Ba Ga Gopane
15. Mokgadi Antoinette Motsepe	Kgosigadi	Bakgatla Ba Mmakau



**PROCLAMATION 53 OF 2017****COMMISSION OF INQUIRY INTO THE TRADITIONAL LEADERSHIP  
DISPUTES IN RESPECT OF BATLHAKO BA LEEMA**

I, Supra Obakeng Ramoeletsu Mahumapelo, hereby in my capacity as Premier of the North West Province and in terms of section 127(2)(e) of Act 108 of 1996 (Constitution of the Republic of South Africa), hereby appoint a Commission of Inquiry to investigate traditional succession disputes and claims around:-

(1) Batlhako Ba Leema succession and dispute

1. Batlhako Ba Leema

Since the death of Kgosi Leema Batleng in October 2005 and the subsequent appointment of his widow Kgosigadi Nkibi Batleng as regent for her then teenage daughter Semodieng, there has been discontent amongst members of the royal family and the Khuduthamaga. This has led to a split in the Khuduthamaga which has culminated in a number of court cases wherein the Premier was cited as a party. The daughter being of age has not be enthroned.

With the last court matter, an order of court was made to refer the matter to the Commission hence this appointment to look into the crux of the dispute and find solution and settlement to the matter.

2. The Commissioner shall be made of the following persons:-

Adv. S. Baloyi – Chairperson

Professor M. Moleleki – Memeber

Kgosi/Adv A. Mahumani - Memeber

3. The evidence leaders shall be:


Advocate Benny Makola



Adv. M. Moagi

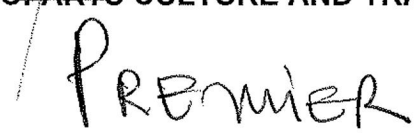
4. The Commission shall make recommendations to the Premier.

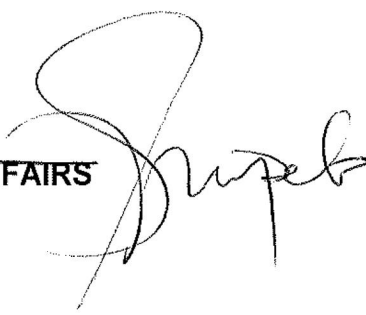
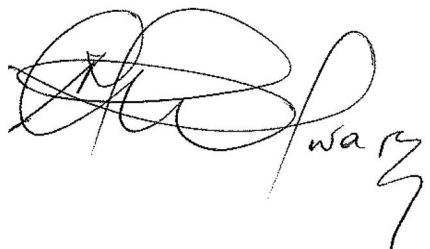
5. In considering all the terms of reference and the regulations, the Commission shall be enjoined to apply section 39(2) and 212 of the Constitution and any relevant case laws, in relation to all terms of reference.

Given under my hand and seal at **Mahikeng** on ...<sup>28<sup>th</sup></sup>.....November 2017

  
\_\_\_\_\_  
**PREMIER: NORTH WEST PROVINCE**

  
  
\_\_\_\_\_  
**MEC: ARTS CULTURE AND TRADITIONAL AFFAIRS**

  
**PREMIER**

---

## ANNEXURE A

---

---

### DIRECTIVES

---

#### A COMMISSION OF INQUIRY INTO TRADITIONAL CLAIMS AND DISPUTES WITHIN THE NORTH WEST PROVINCE AND CLAIMS AND DISPUTE OF CHIEFTAINSHIP OF BATLHAKO BA LEEMA

#### DEFINITIONS

1. In this directive, unless the context indicates the contrary.
  - “Affected person”** means any natural or affected by the manner in which custom is observed.
  - “Chairperson”** means Adv. M.S Baloyi, appointed by the Premier.
  - “Confidential”, “Secret” or “Classified”** means any communication or documentation which by law is protected from public disclosure.
  - “Designated Person”** means a person appointed by the Chairperson in terms of Regulation 4.
  - “Discovery”** means the discovery of all relevant documents, record, tape recordings, electronic communications and data message as are directed to be discovered by the Chairperson through in Secretary.
  - “Evidence”** all evidence including, transcripts, documentary, oral, audio, videos, photos and any other evidence including transcripts record presented before the Maluleke Commission shall form part of and be evidence before this Commission.
  - “Document”** includes whether in electronic form or otherwise, any book, pamphlet, record, list, circular, plan, poster, publication, drawing, photograph, picture or data, and also any disc, hard drive recording or other device by means of which information or data is recorded or stored.
  - “Evidence Leader”** means the person/s appointed whose primary responsibility shall be to be present evidence to the Commission at its hearings by way of leading witnesses and give assistance to the Commission as may be necessary.

**“Hearing”** means that taking of evidence only on matters as the Chairperson may direct.

**“Investigation”** means the investigation of issues referred to in the Terms of Reference or such issues as the Chairperson may direct.

**“Issues”** means the issues defined in the Terms of Reference.

**“Regulations”** means relating to this Commission published in Government Gazette.

**“Secretary”** means the Secretary of the Commission.

**“Terms of Reference”** means the Terms of Reference for the Commission, as published in the Government Notice.

**“Third Parties”** means that person who have been invited by the Chairperson and/or those persons with a special interest and/or knowledge who have been invited to make representations and submissions to the inquiry.

**“Witness”** means a person contemplated in paragraphs 13 to 20.

Any reference to singular includes plural and vice versa.

Any reference to gender includes the other genders.

Any reference to a person includes natural and juristic persons.

## GENERAL

2. These directives are subject to, and should be read in conjunction, with the North West Commissions Act 18 of 1994 (“the North West Commissions Act”) and the Commission Regulations.
3. The conduct of and the procedure of this inquiry shall be under the control and discretion of the Chairperson.
4. The Commission shall determine whether the evidence presented to the inquiry or a representation to the inquiry is to be in writing or oral.
5. The Commission shall determine a person can participate in the inquiry and the manner and extent of their participation after considering:



- (a) whether the person's interest may be adversely affected by the findings of the Commission.
  - (b) whether the participation of the person would further the conduct of the inquiry; and
  - (c) whether the participation would contribute to the fairness and openness of the inquiry.
- 6. All parties shall be deemed to undertake to adhere to the directives. The Chairperson shall deal with the breach of these directives as he sees fit.
- 7. The directives outlined below are not intended to cover every eventuality or procedural issue. Where interests of justice and fairness require it, Commission may depart from these directives. Further, these directives may be amended by the Chairperson in keeping with her obligation to act fairly and avoid unnecessary costs. Should the directives be amended, the amended version will be published.
- 8. Any person who intends giving oral evidence before the Commission shall submit to the Chairperson, through the Secretary:
  - (a) a brief summary of the evidence that he or she wishes to lead before the Commission; and
  - (b) a statement as to how he or she satisfies the criteria set out in paragraph 5.
- 9. On instruction of the Chairperson, the Secretary shall furnish to every affected person the submission together with all relevant documents which implicate such person.
- 10. Any affected person shall have the right to make submission and produce documents in answers to the allegations made against him or her. No evidence regarding any fact or information that comes to light in consequence

of any such submission, shall be admissible in any criminal proceedings, except in criminal proceedings in terms of section 6 of the North West Commissions Act or Regulation 14.

## HEARINGS

11. The Commission may, after receipt of submission, require by means of a notice or summons, any deponent or any person to appear before it to make oral representations on any aspect of the Terms of Reference.
12. The Commission may call upon any competent and compellable person to give evidence on any of the issues.
13. Any party may, through the Secretary and after approval from the Chairperson, call upon any competent and compellable person to give evidence on any relevant aspect of the Terms of Reference.
14. In making a determination whether to exercise the powers contemplated in the directives above, the Chairperson shall consider whether:
  - (a) the person played or may have played, a direct and significant role in relation to the matter to which this inquiry relates;
  - (b) the person has significant interest in an important aspect of the matter to which the inquiry relates; or
  - (c) the person has been implicated in the evidence submitted to it or may be subject to explicit or significant criticism during the inquiry proceedings or in the report or in any interim report.
15. Where a witness gives oral evidence at the hearing, the Evidence Leader shall present information relevant to the inquiry to the witness and the Commissioners may put questions to a witness if they deem this necessary.

16. Where a witness has been questioned orally the Chairperson may allow his or her legal representative to put questions to him or her to clarify certain aspects.
17. Where a witness has been question by the Evidence Leader, or by the Commissioners, and that witness's evidence directly relates to the evidence of another witness or implicates another person, the legal representative of the witness to whom the evidence relates or person implicated may apply to the Chairperson for permission to question the witness giving oral evidence. When making such application, the legal representative must state:
  - (a) the issues in respect of which the witness is to be questioned; and
  - (b) whether questioning will raise new issues and if not, why the questioning should be permitted.
18. It is in the discretion of the Chairperson to allow the cross-examination and re-examination of any witness called to give evidence.
19. The hearing shall be open to the public unless on good cause shown the Chairperson directs otherwise.
20. The Commission may by order or notice restrict or prohibit the publishing or broadcast of any of its proceedings if the Commission has reason to believe that the order or notice is necessary for the effective and efficient fulfilment of the Commission's Terms of Reference and would make available to the Commission evidence that would otherwise not be available.
21. The Commission shall sit at such premises and at such dates and times as the Chairperson my direct.
22. The Chairperson may invite any party to make legal submission addressing any of the issues in the Terms of Reference.

**APPLICATION FOR ANONYMITY AND OTHER PROTECTIVE MEASURE**

23. Any person who believes that he or she has relevant evidence to submit to the inquiry but believes that there is a need to provide such evidence anonymously may apply to the Chairperson of the Commission for confidentiality.
24. The Chairperson will, in the first instance, discuss with any such person the nature of the evidence which that person can give to the Inquiry, the measures sought to protect anonymity and the reasons for seeking anonymity. If following this preliminary stage the Chairperson considers the evidence to be of sufficient relevance as to be of interest, and he accepts that there is a *prima facie* case for anonymity, then he will invite a formal application for protective measures to be submitted. If a witness statement has not been provided voluntarily already then he will request one in writing at this stage.
25. A formal application for anonymity or other protective measure shall be made in writing and shall contain a statement setting out the protective measures sought, reasons in support of the application for anonymity and other protective measures and any other factual material relied on. For the purposes of the inquiry, anonymity may include the right to have his or her identity disclosed only by way of non-identifying initials, and if the person so wishes, the right to testify before the Commission in private, together with any other privacy measures that the person may request from the Chairperson and which the Chairperson, in his discretion, grants. Subject further to the discretion of the Chairperson, specified persons may be present during testimony being heard in private.
26. A person who is granted confidentiality shall be identified in the records, transcripts of the hearing and any reports of the Commission by non-identifying initials.



27. The witness shall reveal his or her name to the Commissioners and to the Evidence Leaders for the purposes of preparation. The Commission and Evidence Leaders shall maintain the confidentiality of the names revealed to them.
28. Commission staff and other contracted service providers, and media representatives shall be deemed to undertake to adhere to the directives in respect of confidentiality.
29. Where the Chairperson refuses the application for protective measures either in whole or in part, then the Chairperson will not ordinarily be expected to compel the application to give evidence.

## **DISCOVERY**

30. The Commission may, at any stage, call on any person to make discovery on oath to the inquiry within a time-frame directed by the Chairperson.
31. Any interested person may, with the approval of the Chairperson, call upon any person through the Secretary to make discovery of any document relevant to the inquiry. The request must state:
  - (a) the reasons the interested person believes that the holder of document possesses the document; and
  - (b) the reasons the interested person believes the document is relevant to a matter before the Commission.
32. Documents which by law are protected from public disclosure will remain so protected.

## **CONTEMPT**

33. Any person summoned to attend and give evidence or to produce any book, document, or object before the Commission who, without sufficient cause,

fails to attend at the time and place specified in the summons or remain in attendance until the conclusion of the inquiry or until he or she is excused by the Chairperson of the Commission from further attendance, or having attended, refuses to be sworn-in or to make affirmation as a witness after he or she has been required by the Chairperson of the Commission to do so or, having been sworn in or having made affirmation, fails to answer fully satisfactorily any question lawfully put to him or her or fails to produce any book, document or object in his or her possession or custody, or under his or her control which she or he has been summoned to produce shall be dealt with in terms of section 1(2) and (3) of the North West Commissions Act read in conjunction with Regulation 8(1), 15(1)(b) and (2)(a).

## **REPORT**

34. Pursuant to Regulation 15, the contents of the report, and any interim report or information regarding the consideration of evidence by the Commission will be treated as confidential unless the Premier has unauthorised the publication thereof.

## **IN COMPILING THE DIRECTIVE WE BORROWED AND DISTILLED THE BEST PRACTICE FROM SOURCES IN THE REPUBLIC AND OTHER JURISDICTIONS**

### **ADV. MABEL SESI BALOYI**

Chairperson of the Traditional Claims and Disputes  
within the Province and also of claim and Dispute  
of Senior Traditional Leader Chieftainship of Batlhako Ba Leema

## REGULATIONS

1. In the regulations, unless the context otherwise indicates –
  - “**Chairperson**” means the Chairperson of the Commission;
  - “**Commission**” means the Commission of Inquiry into Traditional Claims and Disputes within the North West Province in particular those of Batlhako Ba Leema.
  - “**document**” includes, whether in electronic form or otherwise, any book, pamphlet, record, list, circular, plan, poster, publication, drawing, photograph, picture or data, and also any disc, harddrive recording or the other device by means of which information or data is recorded or stored;
  - “**evidence**” all evidence including transcripts documentary, oral, audio, videos, photos and any other evidence presented before the Maluleke Commission (published on 15 June 2016, Gazette No. 7657 and 27 September 2016, Gazette No. 7696) shall form part of the evidence before this newly constituted Commission.
  - “**inquiry**” means the inquiry conducted by the Commission;
  - “**member**” means a member of the Commission;
  - “**Premier**” means the Premier of North West Province;
  - “**MEC**” means Member of the Executive Council responsible for Traditional Affairs in the North West Province;
  - “**officer**” means a person in the full-time service of the State who has been appointed to designated to assist the Commission in the execution of its functions; and
  - “**premises**” includes any land, building, structure, part of a building or structure, vehicle, conveyance, vessel or aircraft.
2. The proceedings of the Commission shall be recorded in the manner determined by the Chairperson.
3. (1) Any person appointed or designated to take down or record the proceedings of the Commission in shorthand or by mechanical or electronic means or to transcribe such proceedings which have been so taken down or

recorded shall at the outset take an oath or make an affirmation in the following form:

I, A.....B....., declares under oath/ affirm and declare –

(a) That I shall faithfully and to the best of my ability take down/record the proceedings of the Commission of Inquiry into Traditional Claims and Disputes within the North West Province in shorthand/ by mechanical/ by electronic means as ordered by the Chairperson of the Commission; and;

(b) That I shall transcribe fully and to the best of my ability any shorthand notes/ mechanical record/ electronic record of the proceedings of the said Commission made by me or by any other person.

(2) No shorthand notes or mechanical or electronic record of the proceedings of the Commission shall be transcribed except by order of the Chairperson.

4. (1) The Chairperson may designate one or more knowledgeable or experienced persons to assist the Commission in the performance of some of its functions, in a capacity other than that of a member;

(2) Notwithstanding the composition of the Commission, the proceedings thereof shall not be affected by the absence of any member. It shall be competent for two Commissioners to proceed with the business of the Commission.

(3) The Commission shall, where necessary be assisted by officers of any Department of State seconded to its services or persons in the service of any public or other body who are by arrangement with the body concerned seconded to the service of the Commission.

5. Any person designated or seconded under regulation 4 who is not an employee in the public service, may be paid such fees or travelling and



subsistence allowance, while engaged upon the business of the Commission, as the responsible Member of the Executive Council for Traditional Affairs may with the concurrence of the responsible Member of the Executive Council for Finance.

6. Any officer or person designated thereto by the Chairperson may be present at any stage of the inquiry or the gathering of information or the hearing of evidence at the inquiry.
7. Any person appearing before the Commission may be assisted by an advocate or an attorney, at own cost.
8.
  - (1) No person appearing before the Commission may refuse to answer any question on any ground other than the privilege contemplated in section 3(4) of the North West Commissions Act, 1994 (Act No. 18 of 1994).
  - (2) No evidence regarding questions and answers contemplated in sub regulation (1), and no evidence regarding any fact or information that comes to light in consequence of any such questions or answers, shall be admissible in any criminal proceedings, except in criminal proceedings where the person concerned is charged with an offence in terms of section 6 of the North West Commissions Act, 1994 (Act No. 18 of 1994), or regulation 14.
  - (3) Any witness appearing before the Commission may be cross-examined by a person only if the Chairperson permits such cross-examination by such person because the Chairperson deems it necessary in the interest of the functions of the Commission.
  - (4) Any witness may be re-examined by his or her legal representative for the purpose of explaining then evidence given by the witness during his or her examination.
9. Where, at the time of any person presenting information to or giving evidence before the Commission, members of the general public are or have been

excluded from attendance at the proceedings of the Commission, the Chairperson may, on the request of such a person, direct that no person shall disclose in any manner whatsoever the name or address of such person or any information likely to reveal his or her identity.

10. Whenever the Commission is satisfied upon evidence or information presented to it that the Commission's inquiry may adversely affect any existing, instituted or pending legal proceedings or any inquiry instituted in terms of any law, evidence which is relevant to such legal proceedings or inquiry shall be dealt with by the Commission in such a manner as not to adversely affect such legal proceedings or inquiry.
11. (1) Any officer may, with a warrant, for the purposes of the inquiry, at any reasonable time and without prior notice, or with such notice as he or she may deem appropriate, enter and inspect any premises and demand and seize any document or article which is on such premises.  
  
(2) Any entry upon or search of any premises or person thereon in terms of this regulation, shall be conducted with strict regard to decency and order, including –
  - (a) a person's right to, respect for and the protection of his or her dignity;
  - (b) the right of a person to freedom and security; and
  - (c) the right of a person to his or her personal privacy.  
(3) The premises referred to in sub-regulation (1) may be entered only by virtue of a warrant issued in chambers by a magistrate, regional magistrate or judge of the area of jurisdiction within which the premises is situated.  
  
(4) A warrant referred to in sub-regulation (1) may be issued by a judge in respect of premises situated in another area of jurisdiction, if he or she deems it justified.  
  
(5) A warrant referred to in sub-regulation (1) may be issued only if it appears to the magistrate, regional magistrate or judge from information

revealed under oath or affirmation that there is a need for a warrant authorising a search and seizure and that there are reasonable grounds to believe that any document or article referred to in sub-regulation (1) is on or at such premises or suspected to be on or at such premises.

12. (1) No person shall communicate to any other person any matter or information which may have come to his or her knowledge in connection with the inquiry or allow or permit any other person to have access to any of his or her duties in connection with the functions of the Commission or by order of a competent court.

(2) Every person in the service of the Commission and every officer, but not the Chairperson or member, shall, before performing any duty in connection with the Commission, take and subscribe before the Chairperson an oath in the following form:

"I, A,B, declare under oath/ affirm and declare that, except in so far as it is necessary in the performance of my duties in connection with the functions of the Commission of Inquiry into Traditional Claims and Disputes within the North West Province, I shall not communicate to any person any matter or information which comes to my knowledge in connection with the inquiry, or allow or permit any person to have access to any records of the Commission, including any notes, record or transcription of the proceedings of the Commission in my possession or custody or in possession or custody of the Commission or any officer".

13. No person shall insult, disparage or belittle the Chairperson or any member of the Commission or prejudice the inquiry or proceedings or findings of the Commission.
14. No person shall without the written permission of the Chairperson –
- (a) disseminate any document submitted to the Commission by any person in connection with the inquiry or publish the contents or any portion of the contents of such document; or

- (b) peruse any document , including any statement, which is destined to be submitted to the Chairperson or intercept such document while it is being taken or forwarded to the Chairperson.
15. No person shall, except in so far as shall be necessary in the execution of the terms of reference of the Commission, publish or furnish any person with the report or any interim report of the Commission or a copy or a part thereof or information regarding the consideration of evidence by the Commission, unless the Premier has authorised the publication.
16. (1) Without derogating from the provision of the Commissions Act, a person is guilty of an offence of he or she –
- (a) wilfully hinders, resists or obstructs any officer in the exercise of any power contemplated in regulation 11; or
  - (b) contravenes regulation 8(1), 12(1), 14 or 15; or
  - (c) contravenes regulation 13.
- (2) A person convicted of an offence in terms of sub-regulation (1) is liable-
- (i) in the case of an offence referred to in paragraph (a) or (b), to a fine not exceeding two hundred rand, or to imprisonment for a period not exceeding six months; and
  - (ii) in the case of an offence referred to in paragraph (c), to a fine not exceeding one thousand rand, or to imprisonment for a period not exceeding 12 months
17. These regulations may be added to, varied or amended from time to time.



Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001.  
Contact Centre Tel: 012-748 6200. eMail: [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za)  
Publications: Tel: (012) 748 6053, 748 6061, 748 6065

Also available at the **North-West Province**, Private Bag X2036, Mmabatho, 8681. Tel. (0140) 81-0121.