



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

N\$1.13

WINDHOEK - 16 October 1997

No. 1706

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## Government Notice

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### OFFICE OF THE PRIME MINISTER

No. 207

1997

#### PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 13 of 1997: Council of Traditional Leaders Act, 1997.

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# ACT

**To provide for the establishment of the Council of Traditional Leaders and to define its powers, duties and functions; and for matters incidental thereto.**

*(Signed by the President on 6 October 1997)*

**BE IT ENACTED** by the Parliament of the Republic of Namibia, as follows:

## **Definitions**

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

“Council” means the Council of Traditional Leaders established by section 2;

“Minister” means the Minister of Regional and Local Government and Housing;

“Traditional Authority” means the Traditional Authority of a traditional community comprising the traditional leaders of that community who have been designated and recognised as such in accordance with the provisions of the Traditional Authorities Act, 1995 (Act 17 of 1995).

## **Establishment of Council**

2. Pursuant to Article 102(5) of the Namibian Constitution, there is hereby established a Council of Traditional Leaders in order to advise the President on -

- (a) the control and utilization of communal land; and
- (b) all such other matters as may be referred to it by the President for advice.

## **Members of the Council**

3. (1) The Council shall be composed of such representatives of Traditional Authorities as may be designated and appointed as members of the Council under this section.

(2) Every Traditional Authority may, with due regard to the provisions of section 4, designate two representatives for appointment as members of the Council, who shall include -

- (a) the chief of the Traditional Authority, as defined in section (1) of the Traditional Authorities Act, 1995 (Act 17 of 1995) or, if not the chief, any other person who has been designated and recognised under that Act as the senior traditional councillor or as a traditional councillor of the traditional community concerned; and
- (b) one other person, being either the senior traditional councillor or a traditional councillor or any other member of that traditional community.

(3) The designation of representatives in terms of subsection (2) shall be made to the Minister in writing within such period as may be determined and notified by the Minister whenever such a designation becomes necessary for purposes of constituting the Council.

(4) A notification by the Minister under subsection (3) may be made in any manner which the Minister considers appropriate to come to the attention of Traditional Authorities.

(5) The Minister shall, subject to section 4, appoint the persons designated by Traditional Authorities in terms of subsection (2) as members of the Council with effect from such date as the Minister may determine.

(6) Upon every constitution of the Council, the Minister shall, by notice in the *Gazette* -

- (a) announce the names of the persons who have been designated and appointed as members of the Council, with an indication in each case of the Traditional Authority by whom they have been designated; and
- (b) specify the date with effect from which they have been appointed.

#### **Persons disqualified from being members of the Council**

4. No person shall be qualified to become or remain a member of the Council if he or she -

- (a) is not a Namibian citizen;
- (b) is a member of the National Assembly;

- (c) is a member of the National Council;
- (d) is a member of a Regional Council established under section 2 of the Regional Councils Act, 1992 (Act 22 of 1992); or
- (e) is a leader of any political party, whether or not such political party is registered in terms of any law.

**Term of office of members**

5. Subject to section 6, a member of the Council shall hold office for a period of five years, and shall be eligible for re-appointment.

**Vacation of office and filling of vacancies**

6. (1) A member of the Council shall cease to hold office if -

- (a) he or she becomes subject to a disqualification referred to in section 4;
- (b) he or she resigns his or her office by giving notice in writing to the Minister;
- (c) his or her authority to act as representative of the Traditional Authority by whom he or she was designated is withdrawn by that Traditional Authority by notice in writing to the Minister; or
- (d) his or her appointment as a member is terminated by the Minister under subsection (2).

(2) The Minister may, after consultation with the Traditional Authority concerned, terminate the appointment of any member of the Council if the Minister is satisfied that such member -

- (a) is incapacitated by physical or mental illness;
- (b) has been absent from three consecutive meetings of the Council without the consent of the Council; or
- (c) is guilty of conduct which, in the opinion of the Minister, renders his or her continued membership of the Council unseemly,

but the Minister may only so terminate a member's appointment after giving

notice to the member and after affording him or her an opportunity to be heard.

(3) Where the office of any member of the Council becomes vacant, such vacancy shall be filled by the appointment of another person, in accordance with the provisions of section 3, to represent the Traditional Authority concerned on the Council and any such new member shall hold office for the unexpired portion of the term of office of the person who ceased to be a member: Provided that if the unexpired portion of the vacating member's term of office is less than six months the vacancy shall not be filled, unless the Minister directs otherwise by reason of the existence of several vacancies among the members of the Council.

### **Temporary members**

7. (1) If any member of the Council is unable to attend a meeting of the Council, the Traditional Authority by whom such member was designated may appoint another person from among the members of its traditional community to act temporarily in the place of that member at the meeting during such member's absence.

(2) Any person appointed as a temporary member under subsection (1) shall, while he or she acts as such, be deemed to be a member of the Council.

### **Payment to members**

8. (1) There shall be paid to the members of the Council such allowances as may be determined by the Minister in consultation with the Minister of Finance.

(2) Different allowances may under subsection (1) be determined for the different offices held by members in the Council.

(3) A person who attends a meeting of the Council in the capacity of a temporary member by virtue of the provisions of section 7(1), shall be entitled to be paid the allowance that would have been payable to the member of the Council in whose place he or she is acting, had such member attended the meeting.

### **Secretary and staff**

9. (1) The secretary of the Council, and such other officers as are required for the proper performance of the Council's functions, shall be designated by the Minister from among staff members in the Public Service or a regional council established under section 2 of the Regional

Councils Act, 1992 (Act 22 of 1992).

(2) The Minister shall, before designating any person in the employment of a regional council, consult with the chairperson of that regional council.

### **Chairperson and Vice-Chairperson of Council**

**10.** (1) The members of the Council shall at their first meeting elect a Chairperson and Vice-Chairperson of the Council from their number.

(2) The Chairperson and Vice-Chairperson of the Council shall hold office until he or she -

- (a) ceases to be a member of the Council; or
- (b) resigns as Chairperson or Vice-Chairperson by giving notice in writing to the Council; or
- (c) is removed from office as Chairperson or Vice-Chairperson by resolution of the Council.

(3) In the event of any casual vacancy arising in respect of the office of the Chairperson or Vice-Chairperson, the Council shall elect a person from among their number to fill the vacancy.

### **Meetings of Council**

**11.** (1) The first meeting of the Council shall be convened by the Minister in such manner, and to be held at such time and place, as the Minister may determine and thereafter meetings of the Council shall be held at the times and places determined by the Chairperson of the Council in consultation with the Minister.

(2) The Chairperson, or in his or her absence, the Vice-Chairperson, shall at the request in writing of the Minister or of at least one-tenth of the members of the Council, but subject to the consent of the Minister, convene a special meeting of the Council.

(3) The Chairperson or, in his or her absence, the Vice-Chairperson, shall preside at every meeting of the Council, and in the absence of both of them the members present shall elect one of their number to preside at that meeting.

(4) The majority of the members of the Council shall constitute a quorum for a meeting of the Council.

(5) All questions at a meeting of the Council shall be determined by a majority of votes of the members present, and where the votes are equal, the member presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

(6) The Council may, and shall if the Minister thinks fit, request the attendance of any person to act as adviser at any meeting of the Council, and that person while so attending may participate in the deliberations but shall not be entitled to vote.

(7) The validity of any act or proceedings of the Council shall not be affected by any vacancy among its members or by any defect in the appointment of a member thereof.

(8) The Council may regulate the procedure at its meetings and shall cause minutes to be kept of the proceedings.

### **Committees of Council**

12. (1) The Council may from time to time establish from among its members any committee to advise the Council on any matter in relation to its functions as it may deem necessary.

(2) The Council shall designate the chairperson of a committee established under subsection (1).

### **Investigations by Council**

13. (1) The Council may for the purpose of performing its functions, and with the approval of the Minister, conduct an investigation regarding any matter pertaining to communal land.

(2) For the purposes of any investigation by the Council in terms of subsection (1), the Commissions Act, 1947 (Act 8 of 1947) shall apply to the Council and to witnesses summoned to appear before the Council, as if the Council were a commission with reference to which the provisions of that Act had been declared to be applicable under section 2 thereof.

### **Report of Council**

14. The Council shall prepare a full report containing its recommendations in regard to any matter investigated by it and shall submit such report through the Minister to the President for consideration.

### **Draft legislation pertaining to communal land**

15. (1) Any draft legislation pertaining to communal land

shall be laid before the Council for its consideration and recommendation before it is introduced in the National Assembly.

(2) Any comments or recommendations which the Council may wish to make in relation to any bill laid before it in terms of subsection (1), shall be submitted by the Council to the Minister within 90 days after the referral of such bill to the Council, or such extended period as the Minister may approve, failing which the introduction of the bill in the National Assembly may be proceeded with.

#### **Short title and commencement**

**16.** This Act shall be called the Council of Traditional Leaders Act, 1997 and shall come into operation on a date fixed by the Minister by notice in the *Gazette*.

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