

REPUBLIC OF SOUTH AFRICA

NATIONAL HOUSE OF TRADITIONAL LEADERS AMENDMENT BILL

*(As introduced in the National Assembly as a section 76 Bill) (Explanatory summary of Bill
published in Government Gazette No. 20973 of 10 March 2000)
(The English text is the official text of the Bill)*

(MINISTER FOR PROVINCIAL AND LOCAL GOVERNMENT)

[B 15—2000]

REPUBLIEK VAN SUID-AFRIKA

WYSIGINGSWETSONTWERP OP DIE NASIONALE HUIS VAN TRADISIONELE LEIERS

*(Soos ingedien in die Nasionale Vergadering as 'n artikel 76-wetsontwerp)
(Verduidelikende opsomming van Wetsontwerp in Staatskoerant No. 20973 van 10 Maart
2000 gepubliseer)
(Die Afrikaanse teks is die amptelike vertaling van die Wetsontwerp)*

(MINISTER VIR PROVINSIALE EN PLAASLIKE REGERING)

[W 15—2000]

ISBN 0 621 29171 4

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.
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BILL

To amend the National House of Traditional Leaders Act, 1997, so as to provide for the person presiding at a meeting of the National House of Traditional Leaders to have a deliberative vote as well as a casting vote; to provide for the removal from office of the Chairperson or Deputy Chairperson of the said National House by way of a resolution supported by a majority of the members thereof; to empower the President to determine that certain members of the said National House shall be full-time members; and to effect certain textual amendments; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 9 of Act 10 of 1997, as amended by section 4 of Act 85 of 1998

1. Section 9 of the National House of Traditional Leaders Act, 1997 (hereinafter referred to as the principal Act), is hereby amended— 5
- (a) by the substitution for subsection (5) of the following subsection:
- “(5) While presiding at a meeting of the National House, the Chairperson or Deputy Chairperson of the National House, or any other member presiding, shall **[not have a]** in addition to his or her deliberative vote **[but shall]** have **[and exercise]** a casting vote in the case of an equality of votes.”; and 10
- (b) by the addition to subsection (6) of the following paragraph, the existing subsection becoming paragraph (a):
- “(b) The Chairperson or Deputy Chairperson of the National House may be removed from office by a resolution adopted with a supporting vote of the majority of the members of the National House.” 15

Amendment of section 13 of Act 10 of 1997, as amended by section 4 of Act 85 of 1998

2. Section 13 of the principal Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1): 20
- “(2) The President may, after consultation with the National House, determine that certain members of the National House shall be full-time members of the National House.”.

Amendment of section 14 of Act 10 of 1997, as amended by section 4 of Act 85 of 1998

3. Section 14 of the principal Act is hereby amended—

(a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“Subject to the laws governing the Public Service, the Minister for Provincial **[Affairs]** and **[Constitutional Development]** Local Government shall, with the approval of the National House, appoint a person as Secretary to the National House, who shall—”; and

(b) by the substitution for subsection (3) of the following subsection:

“(3) The Secretary shall be assisted in the exercise or performance of his or her powers and functions by officers of the Department of **[Constitutional Development]** Provincial and Local Government designated for that purpose by the relevant Director-General, with the approval of the National House.”.

Short title

4. This Act is called the National House of Traditional Leaders Amendment Act, 2000.

MEMORANDUM ON THE OBJECTS OF THE NATIONAL HOUSE OF TRADITIONAL LEADERS AMENDMENT BILL, 2000

1.1 Section 9 of the National House of Traditional Leaders Act, 1997 (Act No. 10 of 1997) (hereinafter referred to as “the Act”), gives the Chairperson or the Deputy Chairperson of the National House of Traditional Leaders (hereinafter referred to as “the National House”), or any other member presiding, a casting vote which he or she must exercise in the case of an equality of votes. In view of the fact that upon his or her election to the National House, the Chairperson or Deputy Chairperson of the National House does not cease to be a member of the provincial House of Traditional Leaders that nominated him or her to the National House, it has become necessary to enable such Chairperson or Deputy Chairperson, or such other presiding member to have, in addition to his or her casting vote, a deliberative vote.

Section 9 of the Act does not provide for the removal of the Chairperson or the Deputy Chairperson of the National House from office. Recent experiences have shown that it should be possible to remove the Chairperson or Deputy Chairperson from office without the person concerned having to vacate his or her seat in the National House.

1.2 To give effect to the Cabinet decision that the Chairperson and Deputy Chairperson of the National House must be full-time members of the National House, it is necessary to amend section 13 of the Act to allow the President to determine that certain members of the National House shall be full-time members of the National House.

1.3 In view of the fact that the name of the portfolio of the Minister has changed from “Minister for Provincial Affairs and Constitutional Development” to “Minister for Provincial and Local Government” and that of the Department to “Department of Provincial and Local Government”, it is appropriate to amend the Act to reflect the name of the new portfolio and the name change of the Department.

2.1 Clause 1 of the Bill proposes to amend section 9 of the Act by providing for the person presiding at a meeting of the National House to have a deliberative vote in addition to his or her casting vote. It is also proposed that provision be made for the removal of the Chairperson or Deputy Chairperson from office by a resolution adopted with a supporting vote of the majority of the members of the National House.

2.2 Clause 2 of the Bill proposes to amend section 13 of the Act to allow the President to determine that certain members of the National House shall be full-time members of the National House.

2.3 Clause 3 of the Bill proposes to amend section 14 of the Act to reflect the change of the name of the portfolio of the Minister and of the Department.

Bodies/organisations consulted

National House of Traditional Leaders
MINMEC on Traditional Affairs

Financial implications for the State

Sufficient funds have been budgeted for salaries, should the Chairperson and/or Deputy Chairperson of the National House be determined to be full-time members of that House.

Implications for provinces

None

Implications for municipalities

None

Parliamentary procedure

The Department and the State Law Advisers are of the view that as traditional leadership is a functional area listed in Schedule 4 to the Constitution, the procedure established by section 76 of the Constitution must apply in dealing with the Bill.