



FREE STATE PROVINCE

# PROVINCIAL GAZETTE

## PROVINSIALE KOERANT

PROVINSIE VRYSTAAT

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| OFFICE OF THE PREMIER  | OFISI YA TONAKGOLO   | KANTORO YA TONAKGOLO   |
|--|--|--|
| No. 8<br>2 December 2005   | Nomoro ya 8<br>2 Tshitwe 2005  | No. 8<br>2 Sedimonthole 2005   |
| It is hereby notified that the Premier has assented to the following Act which is hereby published for general information:- | Mona ho tsebiswa hore Tonakgolo e ananetse Molao o latelang o phatlalatswang bakeng la tlhahisoleseding ya kakaretso:- | Se ke kitsiso ya gore Tonakgolo o amogetse Molao o o latelang o o phatlaladiwang go fa tshedimoso ka Kakaretso:- |
| No. 8 of 2005 : Free State Traditional Leadership and Governance Act, 2005   | Nomoro ya 8 wa 2005 : Molao wa Freistata wa Boetapele ba Botjhaba le Puso, 2005  | No. 8 ya 2005 : Molao wa Freistata wa Boeteledipele jwa Setso le Puso, 2005                                      |

# ACT

To provide for the recognition of traditional communities, recognition and establishment of traditional councils, recognition of traditional leaders, their roles and functions, to provide for their removal from office; to provide for a provincial code of conduct; and for matters connected therewith.

## PREAMBLE

WHEREAS the Constitution recognises –

- the institution, status and role of traditional leadership according to customary law; and
- a traditional authority that observes a system of customary law;

WHEREAS it is necessary to enact provincial legislation within the framework provided by Act No. 41 of 2003 and the provincial legislation must provide for matters which are peculiar to the Province;

WHEREAS it is the intention of the provincial government to transform the institution of traditional leadership in line with the Constitution, by taking into consideration, amongst others, gender equality;

AND WHEREAS it is necessary for traditional leaders within the Province to exercise their powers within a statutory framework that enhances certainty and uniformity.

**BE IT THEREFORE ENACTED** by the Provincial Legislature of the Free State Province, as follows:

*(English text assented to and signed by the Premier.)*

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## CHAPTER 1 DEFINITIONS AND INTERPRETATION

### Definitions

1. (1) In this Act, unless the context otherwise indicate – 10
- “**Act No. 41 of 2003**” means the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003); 15
- “**code of conduct**” means the provincial code of conduct contained in Schedule 2; 15
- “**Commission**” means the Commission established by section 22 of Act No. 41 of 2003; 20
- “**Constitution**” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

# MOLAO

Ho etsa hore ho be le kamohelo ya baahi ba setjhaba, kamohelo le ho thehwa ha makgotla a setjhaba, kamohelo le ho thonngwa ha baetapele ba botjhaba, tema eo ba e kgathang le mesebetsi ya bona, ho etsa hore ho kgonahale hore ba tloswe ofising; ho etsa hore ho be le molao wa boitshwaro wa provense; mmoho le dintlha tse amanang le tsena.

## SELELEKELA

**EREKAHA** Molao wa Motheo o amohela -

- setheo, maemo le tema ya boetapele ba botjhaba ho latela molao wa moetlo; le
- bolaodi ba botjhaba bo hlomphang mokgwa wa tshebetso wa molao wa moetlo;

**EREKAHA** ho bohlokwa ho kenya tshebetsong molao wa provense kahara moralo wa tshebetso o hlahellang kahara Molao wa Nomoro ya 41 wa 2003 mme molao wa provense o tlameha ho shebana le dintlha tse ikgethang tsa Provense;

**EREKAHA** ke sepheo sa mmuso wa provense ho tliša diphetoho setheong sa boetapele ba botjhaba ho latela Molao wa Motheo, ka ho hlokomela, hara tse ding, tekano ya bong;

**MME EREKAHA** ho bohlokwa hore baetapele ba botjhaba kahara Provense ba sebedise matla a bona kahara moralo wa tshebetso o molaong o ntlafatsang botshepehi le ho tshwana.

**KA HONA E TLA KENNGWA TSHEBETSONG** ke Lekgotla la Ketsamolao la Provense ya Freistata, ka mokgwa ona:

*(Sengolwa sa Senyesemane se ananetswe le ho saenelwa ke Tonakgolo.)*

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## KGAOLO YA 1 DITLHALOSO LE MOELELO

### Ditlhaloso

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1. (1) Molaong ona, ntle le ha se ngotsweng se bolela ho hong -

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“**Kgosana kapa Morena wa Motse**” ho hlaloswa Ramotse jwalokaha ho hlalositswe karolong ya 1 ya Molao wa Nomoro ya 41 wa 2003, eo maemo a hae a leng jwalo ka tswalo mme ya amohetsweng jwalo ho latela dintlha tsa karolo ya 19 ya Molao ona;

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“**Kgosi kapa Morena**” ho bolelwa moetapele wa botjhaba ya ka sehloohong jwalokaha ho hlalositswe karolong ya 1 ya Molao wa Nomoro ya 41 wa 2003 mme a amohetswe jwalo ho latela dintlha tsa karolo ya 18 ya Molao ona;

“**Khomeshene**” ho bolelwa Khomeshene e thehilweng ke karolo ya 22 ya Molao wa Nomoro ya 41 wa 2003;

- “customary institution or structure”** means those institutions or structures established in terms of customary law;
- “Kgosana or Morena wa Motse”** means a headman or headwoman as defined in section 1 of Act No. 41 of 2003, whose position is hereditary and who is recognised as such in terms of section 19 of this Act; 5
- “Kgosi or Morena”** means a senior traditional leader as defined in section 1 of Act No. 41 of 2003 recognised as such in terms of section 18 of this Act; 10
- “Morena e moholo”** means a King or Queen as defined in section 1 of Act No. 41 of 2003;
- “Moemedi”** means any person who, in terms of customary law of the traditional community concerned, acts in a traditional leadership position in a temporary capacity whilst the traditional leadership position is vacant or the incumbent is temporarily unable to perform his or her duties, is recognised as contemplated in section 25 of this Act; 15
- “Motlatsi”** means any person who, in terms of customary law of the traditional community concerned, acts in a traditional leadership position in a temporary capacity whilst the incumbent of the traditional leadership position is unable to perform his or her duties as envisaged in section 26(1) of the Act; 20
- “Motshwaredi”** means any person who, in terms of customary law of the traditional community concerned, holds a traditional leadership position in a temporary capacity until a successor of that position, who is a minor, is recognised as contemplated in section 24 of this Act; 25
- “pitso”** means a general meeting of members of a traditional community; 30
- “Premier”** means the Premier of the Province;
- “prescribe”** means prescribe by Regulation; 35
- “province”** means the Free State Province as envisaged in section 103 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996); 40
- “Provincial House of Traditional Leaders”** means the Free State Provincial House of Traditional Leaders established by the House of Traditional Leaders Act, 1994 (Act No. 6 of 1994);
- “Ramotse”** means a headman or headwoman as defined in section 1 of Act No. 41 of 2003, who has been elected and whose position is not hereditary; 45

**“laela”** ho bolelwa ho laela ho latela Molawana;

**“lekgotla la setjhaba”** ho bolelwa lekgotla le thehilweng ho latela dintlha tsa karolo ya 7;

**“lelapa la borena”** ho bolelwa setheo sa moetlo se bohareng kapa popeho e nang le ba leloko la lelapa le busang kahara setjhaba ba hlwailweng ho latela dintlha tsa moetlo, mme ho kenyeleditswe, moo ho hlokehang, ditho tse ding tsa lelapa bao e leng ba leloko ba tswalanang le lelapa la borena;

**“Moemedi”** ho bolelwa motho ofe kapa ofe eo ho latela dintlha tsa molao wa moetlo wa setjhaba se amehang, ya tshwereng mokobobo wa boetapele ba botjhaba nakong eo maemo a boetapele ba botjhaba a se nang motho kapa moo ya kgethetsweng maemo a jwalo a sa kgoneng ho phetha mesebetsi ya hae nakwana, mme motho enwa a amohetswe e le ya jwalo ho ya kamoo ho lohothilweng kateng karolong ya 25 ya Molao ona;

**“molao wa boitshwaro”** ho bolelwa molao wa boitshwaro wa provense o kahara Sejule ya 2;

**“Molao wa Motheo”** ho bolelwa Molao wa Motheo wa Rephabliki ya Afrika Borwa, wa 1996 (Molao wa Nomoro ya 108 wa 1996);

**“Molao wa Nomoro ya 41 wa 2003”** ho bolelwa Molao wa Moralo wa Boetapele ba Botjhaba le Puso, 2003 (Molao wa Nomoro ya 41 wa 2003);

**“Morena e moholo”** ho bolelwa morena e moholo kapa mofumahadi jwalokaha ho hlalositswe karolong ya 1 ya Molao wa Nomoro ya 41 wa 2003;

**“Motlatsi”** ho bolelwa motho ofe kapa ofe eo ho latela dintlha tsa molao wa moetlo setjhaba se amehang, ya tshwereng mokobobo wa boetapele ba botjhaba nakwana nakong eo ya kgethetsweng maemo a jwalo a sa kgoneng ho phetha mesebetsi ya hae ho ya kamoo ho lohothilweng kateng karolong ya 26(1) ya Molao;

**“Motshwaredi”** ho bolelwa motho ofe kapa ofe ofe eo ho latela dintlha tsa molao wa moetlo wa setjhaba se amehang, ya tshwereng mokobobo wa boetapele ba botjhaba nakwana ho fihlela mohlahlami maamong ao, eo a sa leng monnyane, a lokela maemo ao, mme motho enwa a amohetswe e le ya jwalo ho ya kamoo ho lohothilweng kateng karolong ya 24 ya Molao ona;

**“Ntlo ya Marena/Dikgosi ya Provense”** ho bolelwa Ntlo ya Baetapele ba Botjhaba ya Provense ya Freistata e thehilweng ho latela Molao wa Ntlo ya Baetapele ba Botjhaba, 1994 (Molao wa Nomoro ya 6 wa 1994);

**“pitso”** ho bolelwa kopano ya kakaretso ya setjhaba;

**“royal family”** means the core customary institution or structure consisting of immediate relatives of the ruling family within a traditional community who have been identified in terms of custom, and includes, where applicable, other family members who are close relatives of the ruling family;

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**“traditional community”** means a traditional community recognised as such in terms of section 3; and

**“traditional council”** means a council established in terms of section 7.

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(2) The definitions in Act No. 41 of 2003 apply to the provisions of the Act.

### Interpretation and application

2. This Act is subject to the Constitution and the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003).

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## CHAPTER 2 TRADITIONAL COMMUNITIES AND TRADITIONAL COUNCILS

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### Recognition of traditional communities

3. (1) A community may be recognised as a traditional community if –
- (a) it is subject to the system of traditional leadership in terms of that community’s customs; and
- (b) it observes a system of customary law.
- (2) A community envisaged by section 2(1) of Act No. 41 of 2003 may apply to the Premier to be recognised as a traditional community.
- (3) An application referred to in subsection (2) must contain the following particulars:
- (a) A description of the community;
- (b) An indication of the size of the community;
- (c) The generally accepted name of the community;
- (d) The name of the senior traditional leader under whose authority the community falls;

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“**provense**” ho bolelwa Provense ya Freistata ho latela kamoo ho lohothwang kateng karolong ya 103 ya Molao wa Motheo wa Rephabliki ya Afrika Borwa, 1996 (Molao wa Nomoro ya 108 wa 1996);

“**Ramotse**” ho bolelwa ramotse jwalokaha ho hlalositswe karolong ya 1 ya Molao wa Nomoro ya 41 wa 2003, ya kgethilweng mme maemo a hae a se jwalo ka tswalo;

“**setheo kapa popeho ya moetlo**” ho bolelwa ditheo kapa dipopeho tseo tse thehilweng ho latela molao wa moetlo,

“**setjhaba**” ho bolelwa setjhaba se amohetsweng jwalo ho latela dintlha tsa karolo ya 3; mme

“**Tonakgolo**” ho bolelwa Tonakgolo ya Provense.

- (2) Ditlhaloso tse kahara Molao wa Nomoro ya 41 wa 2003 di sebetsa diphehlong tsa Molao ona.

### **Moelelo le ho kenngwa tshebetsong**

2. Molao ona o itshetlehile ho Molao wa Motheo le ho Molao wa Moralo wa Boetapele ba Botjhaba le Puso, 2003 (Molao wa Nomoro ya 41 wa 2003).

## **KGAOLO YA 2**

### **BAAHI BA SETJHABA LE MAKGOTLA A METSE**

#### **Kamohelo ya setjhaba**

3. (1) Baahi se ka amohelwa e le setjhaba ebang -
- (a) sena se etswa ho itshetlehlwe mokgweng wa tshebetso wa boetapele ba botjhaba ho latela dintlha tsa meetlo ya setjhaba seo; mme
- (b) ho hlokometswe mokgwa wa tshebetso wa molao wa moetlo.
- (2) Baahi ba lohothwang ke karolo ya 2(1) ya Molao wa Nomoro ya 41 wa 2003, se ka etsa kopo e ngotsweng ho Tonakgolo hore se amohelwe e le setjhaba.
- (3) Kopo e boletsweng karolwaneng ya (1) e tlameha ho ba le dintlha tse latelang:
- (a) Tlhaloso e mabapi le baahi;

- (e) The names of persons who the community regard as their leaders and their designation in terms of applicable custom;
  - (f) A definition of the area within which the community generally resides.
- (4) On receipt of an application referred to in subsection (2), the Premier –
  - (a) may refer the application to any member of the Provincial Executive Council for comment or advice;
  - (b) must refer the application to the Provincial House of Traditional Leaders.
- (5) The Premier must, within three months after receipt of an application referred to in subsection (2) –
  - (a) consult the Kgosi or Morena, Provincial House of Traditional Leaders, the community concerned, and, if applicable, the Morena e moholo under whose authority that community would fall, on the application; and
  - (b) take a decision on whether to recognise the community concerned as a traditional community; and
  - (c) inform the community of the decision referred to in paragraph (b).
- (6) The Premier must issue a prescribed certificate of recognition to a community that has been recognised as a traditional community in terms of subsection (5).
- (7) A traditional community must transform and adapt customary law and custom so as to comply with the principles enshrined in the Constitution, in particular –
  - (a) prevention of unfair discrimination;
  - (b) promotion of equality; and
  - (c) progressive advance of gender representation in the succession to traditional leadership positions.

#### **Admission of new individuals into existing traditional communities**

- 4. The Kgosi or Morena in council may admit any new individual into an existing traditional community in compliance with rules of the community staying there.



- (b) Se bontshang hore baahi ba bakae,
- (c) Lebitso leo setjhaba se tsejwang ka lona;
- 5 (d) Lebitso la moetapele wa botjhaba ya ka sehloohong eo baahi ba ikarabellang ho yena;
- (e) Mabitso a batho bao ho ya ka baahi e leng baetapele ba bona mmoho le maemo a bona ho latela meetlo e teng;
- 10 (f) Tlhaloso ya sebaka seo baahi ba dulang ho sona.
- (4) Nakong eo Tonakgolo e amohelang kopo e boletsweng karolwaneng ya (2) e -
- 15 (a) ka fetisetsa kopo ho setho sefe kapa sefe sa Lekgotla la Phethahatso la Provense hore se ntshe maikutlo kapa se nehelane ka keletso;
- (b) tlameha ho fetisetsa kopo Ntlong ya Marena/Dikgosi ya Provense.
- 20 (5) Tonakgolo e tlameha hore pele ho feta dikgwedi tse tharo kamora kamohelo ya kopo e boletsweng karolwaneng ya (2) e -
- (a) buisane le Kgosi kapa Morena, Ntlo ya Marena/Dikgosi ya Provense, baahi ba amehang, mme moo ho hlokehang, Morena e moholo eo baahi ba ikarabellang tlasa hae nakong ya kopo; mme
- 25 (b) e etse qeto mabapi le hore na ho amohelwa baahi ba amehang jwaloka setjhaba; mme
- 30 (c) e tsebise baahi ka qeto e boletsweng serapeng sa (b).
- (6) Tonakgolo e tlameha ho neha setjhaba se amohetsweng setifikeiti se pakahatsang kamohelo ya sona ho latela dintlha tsa karolwana ya (5).
- 35 (7) Setjhaba se tlameha ho fetola le ho lokisa molao wa moetlo le moetlo hore di tsamaelane le metheo e kahara Molao wa Motheo, haholo-holo -
- (a) thibelo ya kgethollo e leeme;
- 40 (b) ho phahamiswa ha tekano; le
- (c) kgatelopele boemeding ba bong dintlheng tse mabapi le ho hlahlamana ha baetapele ba botjhaba.
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### **Ho amohelwa ha batho ba batjha ho ba karolo ya setjhaba se teng**

4. Kgosi kapa Morena lekgotleng a ka amohela motho ofe kapa ofe ya motjha setjhabeng se teng ho latela melao ya setjhaba se dulang moo.

**Withdrawal of recognition of traditional communities**

5. (1) The Premier must consider the withdrawal of the recognition of a community as a traditional community where –
- (a) the community concerned requests the Premier to withdraw its recognition as a traditional community; 5
  - (b) the Premier has been requested by the community or communities concerned to review the position of that community or communities that was or were divided or merged prior to 1994 in terms of applicable legislation; or 10
  - (c) two or more recognised traditional communities request the Premier that they be merged into a single traditional community. 15
- (2) The recognition of a community as a traditional community is withdrawn where –
- (a) the Premier accedes to the request of a community to withdraw the recognition of that community as a traditional community; 20
  - (b) a review envisaged by subsection (1)(b) indicates that –
    - (i) an existing traditional community that came about as a result of a merger prior to 1994 in terms of applicable legislation must be divided; or 25
    - (ii) two or more traditional communities that came about as a result of a division prior to 1994 in terms of applicable legislation must be merged; or 30
  - (c) the Premier accedes to the request of two or more traditional communities to be merged into one traditional community. 35
- (3) The Premier must consult the Provincial House of Traditional Leaders and any community that may be affected and if applicable, Morena e moholo under whose authority such a community falls, before the withdrawal of the recognition of a traditional community may be made. 40
- (4) (a) The withdrawal of the recognition of a traditional community is effected by way of a notice in the *Provincial Gazette*. 40
- (b) The notice referred to in subsection (4)(a) must also provide for the withdrawal of the recognition of the traditional council concerned at the same time the recognition of its traditional community is withdrawn. 45

**Ho fediswa ha kamohelo ya setjhaba**

5. (1) Tonakgolo e tlameha ho lekola ho fediswa ha kamohelo ya baahi jwaloka setjhaba ebang -
- 5
- (a) baahi ba amehang ba etsa kopo e ngotsweng ho Tonakgolo hore e fedise kamohelo ya bona jwaloka setjhaba;
- (b) Tonakgolo e kopilwe ke baahi ba amehang ho lekola ntlhakemo ya setjhaba se neng se arotswe kapa se neng ba kopantswe pele ho 1994 ho latela melao e neng e sebetsa; kapa
- 10
- (c) dihlopha tse pedi kapa ho feta tsa setjhaba di kopa Tonakgolo hore di kopanngwe ho ba sehlopha se le seng sa setjhaba.
- 15
- (2) Kamohelo ya baahi jwaloka setjhaba e fediswa ha -
- (a) Tonakgolo e amohela kopo ya baahi ya ho fediswa ha kamohelo ya bona jwaloka setjhaba;
- 20
- (b) tekolo e lohothwang ke karolwana ya (1)(b) e bontsha hore -
- (i) setjhaba se seng se teng se bileng teng ka lebaka la ho kopanngwa pele ho 1994 ho latela dintlha tse teng tsa molao ba tlameha ho arolwa; kapa
- 25
- (ii) dihlopha tse pedi kapa ho feta tsa setjhaba tse bileng teng ka lebaka la ho arolwa pele ho 1994 ho latela molao o neng o sebetsa ba tlameha ho kopanngwa; kapa
- 30
- (c) Tonakgolo e amohela kopo ya dihlopha tse pedi kapa ho feta tsa setjhaba hore di kopanngwe ho ba sehlopha se le seng sa setjhaba.
- (3) Tonakgolo e tlameha ho buisana le Ntlo ya Marena/Dikgosi ya Provense mmoho le setjhaba sefe kapa sefe se ka amehang, mme moo ho lokelang, Morena e moholo eo setjhaba se leng ka tlasa hae, pele ho fediswa ho amohelwa ha setjhaba se jwalo.
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- (4) (a) Ho fediswa ha kamohelo ya ho ba setjhaba ho kenngwa tshebetsong ka tsela ya tsebiso *Koranteng ya Mmuso wa Provense*.
- 40
- (b) Tsebiso e boletsweng karolwaneng ya (4)(a) e tlameha ho boela e nehelana ka ho fediswa ha ho amohelwa ha lekgotla la setjhaba le amehang mme ka yona nako eo, ho amohelwa ha setjhaba ho a fediswa.

## Number of traditional councils

6. The Premier must determine, in accordance with a prescribed formula, the number of the members of each traditional council, taking into consideration the population of the traditional community. Such number may not be more than 30. 5

## Establishment and recognition of traditional councils

7. (1) A traditional community that has been recognised as such in terms of section 3, must, within three months after the community has been informed accordingly in terms of section 3(5)(c), and subject to section 3 of Act No. 41 of 2003, establish a traditional council as provided for in this section. 10
- (2) The following principles apply to the establishment of a traditional council: 15
- (a) The Kgosi or Morena concerned must convene a pitso. The Kgosi or Morena presides at such a pitso. 20
- (b) At least a third of the members of a traditional council must be women. 25
- (c) Taking into consideration the number of the members of the traditional council determined by the Premier, and the provisions of paragraph (b), the Kgosi or Morena concerned must select traditional leaders and members of the traditional community in terms of that community's customs to occupy 60 % of the membership of the traditional council. The names of the selected members of the traditional council must be announced by the Kgosi or Morena at a pitso contemplated in paragraph (a), before the other members of the traditional council are elected. 30
- (d) The pitso must elect other members of the traditional community in a democratic manner, and for a period of five years, to occupy the remaining 40 % of the membership of the traditional council. 35
- (3) (a) Within two weeks after a traditional council has been established in terms of subsection (1), particulars of the establishment of the traditional council and the names of the members thereof must be submitted to the Premier in writing. 40
- (b) Where an insufficient number of women are available to participate in the traditional council as envisaged in subsection (2)(b), the Kgosi or Morena concerned must submit proof that an insufficient number of women are available to so participate. 45
- (4) (a) On receipt of the information referred to in subsection (3)(a) or (b), the Premier must consider whether the establishment of the traditional council concerned was done in accordance with this section and section 3 of Act No. 41 of 2003. 50

**Palo ya makgotla a setjhaba**

6. Tonakgolo, ho latela mokgwa o laetsweng, e tlameha ho etsa qeto mabapi le palo ya ditho tsa lekgotla ka leng la setjhaba, a hlokometsa palo ya batho. Palo eo e ka se fete 30.

**Ho thehwa le ho amohelwa ha makgotla a metse**

7. (1) Baahi ba amohetsweng e le setjhaba ho latela dintlha tsa karolo ya 3, ba tlameha ho theha lekgotla la setjhaba jwalokaha ho boletsweng karolong ena, ho e so fete dikgwedi tse tharo kamora hore setjhaba se tsebiswe, ho latela dintlha tsa karolo ya 3(5)(c), ho itshetlehlwe karolong ya 3 ya Molao wa Nomoro ya 41 wa 2003.
- (2) Ho sebediswa metheo e latelang ha ho thehwa lekgotla la setjhaba:
- (a) Kgosi kapa Morena ya amehang o tlameha ho epa pitso. Kgosi kapa Morena o tlameha ho tsamaisa pitso eo.
- (b) Bonnyane nngwe borarong ba ditho tsa lekgotla la setjhaba e tlameha ho ba bomme.
- (c) Ho shebilwe palo ya ditho tsa lekgotla la setjhaba eo ho entsweng qeto ka yona ke Tonakgolo, le diphelelo tsa serapa sa (b), Kgosi kapa Morena ya amehang o tlameha ho kgetha baetapele ba botjhaba le ditho tsa setjhaba ho latela meetlo ya setshaba seo hore ba be 60% ya ditho tsa lekgotla la setjhaba. Mabitso a ditho tsa lekgotla la setjhaba tse kgethilweng a tlameha ho tsebahatswa ke Kgosi kapa Morena pitsong e lohothwang serapaneng sa (a) pele ditho tse ding tsa lekgotla la setjhaba di kgethwa.
- (d) Pitsong ho tlameha hore ho kgethwe ditho tse ding tsa setjhaba ka mokgwa wa demokrasi, bakeng la nako ya dilemo tse hlano, hore di tlatselletse 40 % e saletseng ya ditho tsa lekgotla la motse.
- (3) (a) Ho e so fele dibeke tse pedi ho thehilwe lekgotla la setjhaba ho latela dintlha tsa karolwana ya (1), dintlha tse felletseng tse mabapi le ho thehwa ha lekgotla la setjhaba le mabitso a ditho tsa lona di tlameha ho ngolwa di nehwe Tonakgolo.
- (b) Ebang palo ya bomme ba teng ba ka bang le seabo lekgotleng la setjhaba jwalokaha ho lohothwa karolwaneng ya (2)(b) e fokola, Kgosi kapa Morena ya amehang o tlameha ho nehelana ka bopaki bo bolelang hore palo ya bomme ba fumanehang ho ka ba le seabo e a fokola.
- (4) (a) Kamora hore Tonakgolo e amohele tlhahisoleseding e boletsweng karolwaneng ya (3)(a) kapa (b), e tlameha ho ela hloko hore na ho thehwa ha lekgotla la setjhaba ho phethilwe ho ya ka karolo ena le karolo ya 3 ya Molao wa Nomoro ya 41 wa 2003.

- (b) Where subsection (3)(b) is not applicable, and if the Premier is satisfied that this section and section 3 of Act No. 41 of 2003 have been complied with, the Premier must by notice in the *Provincial Gazette*, recognise the traditional council and determine the area of its jurisdiction. 5
- (5) (a) Where subsection (3)(b) is applicable, the Premier may, after consultation with the traditional community concerned, determine a lower threshold than that required by section 3(2)(b) of Act No. 41 of 2003 for that traditional council, if the Premier is satisfied that it has been proved that an insufficient number of women are available to participate in the traditional council. 10
- (b) After the Premier has determined a lower threshold in terms of subsection (5)(a), and the Premier is satisfied that the other provisions of this section and section 3 of Act No. 41 of 2003 have been complied with, the Premier must, by notice in the *Provincial Gazette*, recognise the traditional council and determine the area of its jurisdiction. 15
- (c) The Premier must – 20
- (i) review the lower threshold referred to in subsection (5)(a) every five years, and 25
- (ii) by notice in the *Provincial Gazette*, redetermine or confirm the lower threshold.
- (d) Subsection (5)(c) must be complied with until such lower threshold has been set aside. 30
- (6) (a) A vacancy amongst –
- (i) the selected members of a traditional council must be filled within six weeks of the vacancy occurring by the Kgosi or Morena concerned selecting a member of the traditional community to fill the vacancy; or 35
- (ii) the elected members of a traditional council must be filled within three weeks of a vacancy occurring by electing members of the traditional community in terms of section 7(2)(d) to fill the vacancies. 40
- (b) A vacancy amongst members of a traditional council occurs when – 45
- (i) a member resigns in writing;
- (ii) the term of the elected members has expired;

- 5 (b) Moo karolwana ya (3)(b) e sa hlokeheng, le haeba Tonakgolo e kgotsofetse hore ho ikamahantswe le karolo ena le ya 3 ya Molao wa Nomoro ya 41 wa 2003, Tonakgolo e tlameha ho amohela lekgotla la setjhaba le ho etsa qeto ka tikoloho eo le tla bang le taolo hodima yona, ka ho etsa tsebiso *Koranteng ya Mmuso wa Provense*.
- 10 (5) (a) Moo karolwana ya (3)(b) e hlokehang, Tonakgolo e ka etsa qeto ka palo e tlase ho feta e batlwang ke karolo ya 3(2)(b) ya Molao wa Nomoro ya 41 ya 2003 bakeng la lekgotla la setjhaba, kamora ho buisana le baahi ba setjhaba ba amehang, le hona ebang Tonakgolo e kgotsofetse hore ho na le bopaki bo reng palo ya bomme ba teng ba ka bang le seabo lekgotleng la motse e a fokola.
- 15 (b) Kamora hore Tonakgolo e etse qeto ka palo e tlase ya ditho ho latela karolwana ya (5)(a), le ha Tonakgolo e kgotsofetse hore ho ikamahantswe le karolo ena le ya 3 ya Molao wa Nomoro ya 41 wa 2003, Tonakgolo e tlameha ho amohela lekgotla la setjhaba le ho etsa qeto ka tikoloho eo le tla bang le taolo hodima yona, ka ho etsa tsebiso *Koranteng ya Mmuso wa Provense*.
- 20 (c) Tonakgolo e tlameha -
- 25 (i) ho lekola palo e tlase e boletsweng karolwaneng ya (5)(a) dilemong tse ding le tse ding tse hlano, mme
- (ii) e lekole qeto eo kapa e tiise ntlha ya palo e tlase, ka ho etsa tsebiso *Koranteng ya Mmuso wa Provense*.
- 30 (d) Ho lokela hore ho ikamahantswe le karolwana ya (5)(c) ho fihlela ntlha e mabapi le palo e tlase e tlohelwa.
- (6) (a) Sekgeo sa mosebetsi hara -
- 35 (i) ditho tse kgethilweng tsa lekgotla la setjhaba se tlameha ho tlatswa ho e so fete dibeke tse tshelatseng sekgeo se hlahile mme se tlatswe ke Kgosi kapa Morena ya amehang ka ho kgetha setho sa setjhaba ho se tlatsa, kapa
- 40 (ii) ditho tsa lekgotla la setjhaba tse kgethilweng se tlameha ho tlatswa ho e so fete dibeke tse tharo sekgeo se hlahile ka ho kgetha ditho tsa setjhaba ho latela dintlha tsa karolo ya 7(2)(d) ho di tlatsa.
- 45 (b) Sekgeo sa mosebetsi hara ditho tsa lekgotla la setjhaba se hlaha ha -
- (i) setho se itokolla ka ho ngola lengolo;
- (ii) nako ya mosebetsi ya ditho tse kgethilweng e fela;

- (iii) a member dies;
- (iv) a member for any other reason is no longer a member.

## **General functions of traditional councils** 5

### **8. (1) Functions of traditional councils are:**

- (a) Administering the affairs of the traditional community in accordance with customs and tradition; 10
- (b) Assisting, supporting and guiding traditional leaders in the performance of their functions;
- (c) Working together with municipalities in the identification of community needs; 15
- (d) Facilitating the involvement of the traditional community in the development or amendment of the integrated development plan of a municipality in whose area that community resides; 20
- (e) Recommending, after consultation with the relevant local and provincial houses of traditional leaders, appropriate interventions to government that will contribute to development and service delivery within the area of jurisdiction of the traditional council; 25
- (f) Participating in the development of policy and legislation at local level;
- (g) Participating in development programmes of municipalities and of the provincial and national spheres of government; 30
- (h) Promoting the ideals of co-operative governance, integrated development planning, sustainable development and service delivery; 35
- (i) Promoting indigenous knowledge systems for sustainable development and disaster management;
- (j) Alerting any relevant municipality to any hazard or calamity that threatens the area of jurisdiction of the traditional council in question, or the well-being of people living in such area of jurisdiction, and contributing to disaster management in general; 40
- (k) Sharing information and co-operating with other traditional councils; and 45
- (l) Performing the functions conferred by customary law, customs and statutory law consistent with the Constitution.



(iii) setho se hlokahala;

(iv) setho e sa hlole e ba setho ho latela lebaka lefe kapa lefe.

5 **Mesebetsi ya kakaretso ya makgotla a setjhaba**

8. (1) Mesebetsi ya makgotla a setjhaba ke:

- 10 (a) Ho tsamaisa merero ya setjhaba ho latela meetlo;
- (b) Ho thusa, ho tshehetsa le ho tataisa baetapele ba botjhaba ha ba phethahatsa mesebetsi ya bona;
- 15 (c) Ho sebetsa le bomasepala ho hlwaya ditlhoko tsa baahi;
- (d) Ho bebofatsa seabo sa setjhaba ntshetsopeleng kapa tokisong ya moralo wa ntshetsopele o momahaneng wa masepala oo baahi ba dulang ho ona;
- 20 (e) Ho kgothaletsa bonamodi bo nepahetseng mmusong, bo tla ba le seabo ntshetsopeleng le phumantshong ya ditshebeletso tikolohong eo lekgotla la setjhaba le nang le matla ho yona; kamora ho tshwara dipuisano le matlo a baetapele ba botjhaba mebusong ya lehae le ya provense;
- 25 (f) Ho ba le seabo ntshetsopeleng ya leano le melao boemong ba lehae;
- (g) Ho ba le seabo mananeong a ntshetsopele ya bomasepala le a boemo ba mebuso ya provense le naha;
- 30 (h) Ho phahamisa metheo ya puso ya tshebedisano, ho ralwa ha ntshetsopele e momahaneng, ntshetsopele ya nako e telele le phumantsho ya ditshebeletso;
- 35 (i) Ho phahamisa mekgwa ya tshebetso ya tsebo ya boholo bakeng la ntshetsopele ya nako e telele le botsamaisi ba dikoduwa;
- (j) Ho lemosa masepala ofe kapa ofe ya amehang ka ketsahalo e ka behang kotsing tikoloho eo lekgotla la setjhaba le amehang le nang le matla hodima yona, kapa ka polokeho ya batho ba dulang tikolohong eo le ka ho ba le seabo botsamaising ba dikoduwa ka kakaretso;
- 40 (k) Ho arolelana tlhahisoleseding le ho sebetsa le makgotla a mang a setjhaba mmoho; le
- 45 (l) Ho phetha mesebetsi eo a e nehilweng ho latela melao e thehilweng meetlong, ka moetlo le ho latela melao ya naha ho itshetlehlwe ho Molao wa Motheo.

- (2) A traditional council must –
- (a) keep proper records;
  - (b) have its financial statements audited by the Auditor General; 5
  - (c) disclose the receipt of gifts;
  - (d) hold an annual meeting with its traditional community to give account of the activities and finance of the traditional council and income received by the traditional council; and 10
  - (e) adhere to code of conduct.

**Administration of justice** 15

9. The traditional council must exercise powers and perform duties and functions in connection with the administration of justice as may be conferred on or assigned to it by law.

**Partnership between traditional councils and municipalities** 20

10. (1) The Provincial Government must promote partnerships between municipalities and traditional councils through legislative and other measures. 25
- (2) The partnership envisaged in subsection (1) must be based on the principle of mutual respect and recognition of the status and roles of the parties.
- (3) Without derogating from the generality of subsection (1), a traditional council may submit a proposal to the municipal council to adopt a by-law which the traditional council may consider to be necessary in respect of any matter directly affecting the area of its authority. 30
- (4) The proposal envisaged in subsection (3), may be accompanied by a draft of the proposed by-law and must be motivated in writing. 35
- (5) The municipal council must consider the proposed by-law at its next meeting and may request comments from the municipal manager. 40
- (6) In the event that the proposed by-law may not be accepted by the municipal council, the municipal council must consult the traditional council concerned before declining any proposed by-law. The municipal council must give its decision in writing and must give reasons for its decision.

(2) Lekgotla la setjhaba le tlameha ho -

(a) boloka direkoto tse nepahetseng;

5 (b) etsa bonnete ba hore ditlaleho tsa ditjhelete tsa lona di hlahlojwa ke Mohlahlobikakaretso wa Diakhaonte;

(c) bolela dimpho tseo ba di fumaneng;

10 (d) tshwara kopano ya selemo le selemo le setjhaba sa lona ho tla nehelana ka tlhaloso e mabapi le diketsahalo le ditjhelete tsa lekgotla la setjhaba mmoho le tjhelete e unnweng ke lekgotla; le ho

(e) ikamahanya le molao wa boitshwaro.

15

### **Tsamaiso ya toka**

9. Lekgotla la setjhaba le tlameha ho sebedisa matla a lona le ho phetha mesebetsi e mabapi le tsamaiso ya toka ho latela kamoo le ka fuwang matla ka molao.

20

### **Bolekane bo pakeng tsa makgotla a setjhaba le bomasepala**

10. (1) Mmuso wa Provense o tlameha ho phahamisa bolekane pakeng tsa bomasepala le makgotla a setjhaba ka tshebediso ya melao le mehato e meng.

25

(2) Bolekane bo lohothwang karolwaneng ya (1) bo tlameha ho thehwa motheong wa tlhomphano le kamohelo ya maemo le seabo sa mekga.

30

(3) Ntle le ho kgeloha ho sa kakaretso se karolwaneng ya (1), lekgotla la setjhaba le ka etsa tlhahiso lekgotleng la masepala hore le amohele molawana oo lekgotla lena la setjhaba le tla o bona o hlokeha dintlheng dife kapa dife tse amang bolaodi ba lona ka kotloloho.

35

(4) Tlhahiso e lohothwang karolwaneng ya (3), e ka tsamaya le moralo wa molawana o lohothwang mme e tlameha ho ba kgothaletso e ngotsweng.

(5) Lekgotla la masepala le tlameha ho lekola molawana o lohothwang kopanong ya lona e latelang mme le ka kopa maikutlo a motsamaisi wa masepala.

40

(6) Ebang molawana o lohothwang o ka se amohelwe ke lekgotla la masepala, lekgotla lena la masepala le tlameha ho buisana le lekgotla la setjhaba le amehang pele le hanana le molawana ofe kapa ofe o lohothwang. Lekgotla la masepala le tlameha ho nehelana ka qeto ya lona e ngotsweng mme le tlameha ho nehelana ka mabaka a qeto eo.

45

**Support to traditional councils**

11. (1) The Provincial Government may adopt such legislative or other measures as may be necessary to support and strengthen the capacity of traditional councils within the Province to fulfil their functions. 5
- (2) The Premier must, within the provincial government's means, give traditional councils financial support to enable the traditional councils to perform their functions. 10
- (3) The support envisaged in this section may include transport assistance where it is feasible taking into consideration budgetary means.

**Staffing of traditional councils**

12. (1) The Premier must, in accordance with the Public Service Act, 1994 (Proclamation 103 of 1994), second public servants to traditional councils, taking into consideration the extent of the traditional areas and the needs of its resident. 15
- (2) The personnel seconded to traditional councils must report to a person designated by the Kgosi or Morena under whose authority the concerned traditional council fall. 20
- (3) Any unacceptable behaviour or conduct of the personnel must be reported to a person designated by the Premier, who may decide whether any disciplinary steps must be taken. 25

**Meeting of traditional councils**

13. (1) Every traditional council must hold an ordinary meeting at least once every month on a day, time and place determined by the chairperson. 30
- (2) A written notice of the meeting must be given to all members of the traditional council at least four days prior to the date of the meeting. 35
- (3) The procedure to be followed at any meeting of the traditional council must be in accordance with customary laws and customs.
- (4) A special meeting may be called by the chairperson or two members of the traditional council, to discuss a specific agenda item which cannot wait for a scheduled meeting. 40

**Minutes of meetings**

14. (1) Every traditional council must keep a minute book in respect of each of its meetings in which the following must be recorded: 45

**Tshehetso makgotleng a setjhaba**

11. (1) Mmuso wa Provense o ka amohela melao e jwalo kapa mehato e meng e ka hlokehang ho tshehetsa le ho matlafatsa bokgoni ba makgotla a setjhaba kahara Provense e le ho e thusa ho phethahatsa mesebetsi ya ona.
- (2) Tonakgolo, ho latela bokgoni ba mmuso wa provense, e tlameha ho neha makgotla a setjhaba tshehetso ya ditjhelete ho a kgontsha ho phetha mesebetsi ya ona.
- (3) Tshehetso e lohothwang karolong ena e ka kenyeletsa thuso ya dipalangwang moo ho kgonehang, ho etswe hloko ditekanyetso.

**Ho fumanelwa ha makgotla a setjhaba basebetsi**

12. (1) Tonakgolo, ho latela Molao o mabapi le Ditshebeletso tsa Setjhaba, 1994 (Tsebahatso ya 103 ya 1994), e tlameha ho kgetha basebeletsi ba setjhaba ba tla ba makgotleng a setjhaba, e etse hloko boholo ba ditikoloho tsa makgotla a setjhaba le ditlhoko tsa baahi ba tsona.
- (2) Basebeletsi ba kgethetsweng ho ba makgotleng a setjhaba ba tlameha ho itlaleha mothong ya kgethilweng ke Kgosi kapa Morena ya laolang lekgotla leo la setjhaba le amehang.
- (3) Boitshwaro bofe kapa bofe bo sa amoheleng kapa bo bobele ba basebeletsi bo tlameha ho tlalehwa ho motho ya kgethilweng ke Tonakgolo, ya tlang ho etsa qeto mabapi le mehato ya kgalemo e tlamehang ho nkuwa.

**Kopano ya makgotla a setjhaba**

13. (1) Lekgotla le leng le le leng la setjhaba le tlameha ho tshwara kopano e tlwaelehileng bonnyane hang ka kgwedi letsatsing, nakong, le tulong e tlang ho tsebahatswa ke modulasetulo.
- (2) Tsebisano e ngotsweng e mabapi le kopano e tlameha ho nehwa ditho tsohle tsa makgotla a setjhaba bonnyane ho e so fete matsatsi a mane pele ho kopano.
- (3) Motjha oo ho tlang ho ipapiswa le ona kopanong efe kapa efe ya lekgotla la setjhaba e tlameha ho tsamaelana le melao e thehilweng molaong wa setso le meetlong.
- (4) Kopano e ikgethang e ka hlophiswa ke modulasetulo kapa ditho tse pedi tsa lekgotla la setjhaba, ho buisana ka ntlha e itseng lenanetsamaisong e ke keng ya emela kopano e neng e se e hlophisitswe.

**Metsotso ya dikopano**

14. (1) Lekgotla le leng le le leng la setjhaba le tlameha ho ba le buka ya metsotso ya kopano ka nngwe moo tse latelang di tlamehang ho ngolwa:

- (a) the date, time and place of the meeting;
  - (b) the names of the members present;
  - (c) a summary of every decision taken at the meeting; 5
  - (d) if a member so requests, the fact that he or she voted against any decision taken.
- (2) A copy of the minutes must, within fifteen days after any meeting, be forwarded to the official designated by the Premier. 10

### **Key issues relating to communities and traditional councils**

15. The traditional councils must – 15
- (a) uphold traditional African values;
  - (b) reject and proscribe such practices as the sowing of divisions based on tribalism; 20
  - (c) promote peace and stability amongst members of traditional communities;
  - (d) promote social cohesiveness of the traditional community. 25

### **Subsistence and travelling allowances for members of traditional councils**

16. The Premier, in consultation with the Member of the Executive Council responsible for finance, must determine the subsistence and travelling allowances payable to members of traditional councils. 30

### **Determination of boundaries of traditional councils**

17. (1) The Premier must determine boundaries of traditional councils and publish this information in a *Provincial Gazette* for general information. 35
- (2) The Premier may not amend the existing boundaries, except if the Commission decides otherwise.

## **CHAPTER 3 LEADERSHIP POSITIONS WITHIN THE INSTITUTION OF TRADITIONAL LEADERSHIP**

### **Recognition of Kgosi or Morena**

18. (1) A Kgosi or Morena must be recognised in terms of customary law and customs subject to this Act. 45

- (a) letsatsi, nako le sebaka sa kopano;
- (b) mabitso a ditho tse teng;
- 5 (c) kgutsufatso ya qeto e nngwe le e nngwe e entsweng kopanong;
- (d) ebang setho se etsa kopo e jwalo, ntlha e reng o voutile kgahlano le qeto e entsweng.
- 10 (2) Khopi ya metsotso e tlameha ho romellwa ofisiri e kgethilweng ke Tonakgolo pele ho feta matsatsi a leshome le metso e mehlano kamora kopano efe kapa efe.

### **Dintlha tsa bohlokwa tse amanang le baahi le makgotla a setjhaba**

15

#### **15. Makgotla a setjhaba a tlameha ho -**

- (a) hlompha metheo ya botjhaba ya Boafrika;
- 20 (b) hana le ho leka ho nena diketsahalo tse bakang dikarohano tse thehilweng kgethollong ya borabe;
- (c) phahamisa kgotso le botsitso hara setjhaba;
- 25 (d) phahamisa kopano ya setjhaba.

### **Dithuso tsa dijo le tsa maeto a ditho tsa makgotla a setjhaba**

- 30 16. Tonakgolo, ka dipuisano le Setho sa Lekgotla la Phethahatso se ikarabellang ho tsa ditjhelete, e tlameha ho etsa qeto ka dithuso tsa dijo le tsa maeto tse tlang ho lefshwa ditho tsa makgotla a setjhaba.

### **Ho behwa ha meedi ya makgotla a setjhaba**

- 35 17. (1) Tonakgolo e tlameha ho etsa qeto e mabapi le meedi ya makgotla a setjhaba mme e phatlalatse tlhahisoledising ena *Koranteng ya Mmuso wa Provense* hore e tsejwe ke bohle.
- 40 (2) Tonakgolo e ka se tlise ditokiso meeding e teng, ntle feela le haeba Khomeshene e etsa qeto e jwalo.

### **KGAOLO YA 3**

### **MAEMO A BOETAPELE KAHARA SETHEO SA BOETAPELE BA BOTJHABA**

45

#### **Ho amohelwa ha Kgosi kapa Morena**

18. (1) Kgosi kapa Morena o tlameha ho amohelwa ho latela dintlha tsa molao wa moetlo le meetlo ho itshetlehilwe Molaong ona.

- (2) Whenever the position of a Kgosi or Morena is to be filled, the following process must be followed:
- (a) The royal family must, within three months after the need arises for the position of a Kgosi or Morena to be filled, and with due regard to applicable customary law – 5
    - (i) identify a person who qualifies in terms of customary law to assume the position of a Kgosi or Morena, after taking into account whether any of the grounds referred to in section 22(1)(a), (b) or (d) apply to that person; and 10
    - (ii) through the relevant customary structure –
      - (aa) inform the Premier of the particulars of the person so identified to fill the position of a Kgosi or Morena; and 15
      - (bb) provide the Premier with the reasons for the identification of that person as a Kgosi or Morena; and 20
  - (b) the Premier must, subject to subsection (6), recognise a person so identified in terms of subsection (1)(a)(i) as a Kgosi or Morena. 25
- (3) The recognition of a person as a Kgosi or Morena in terms of subsection (1)(b) must be done by way of –
- (a) a notice in the *Provincial Gazette* recognising the person identified as a Kgosi or Morena; and 30
  - (b) the issuing of a certificate of recognition to the identified person.
- (4) The Provincial House of Traditional Leaders must be informed of the recognition of a Kgosi or Morena. 35
- (5) Subject to the provision of this Act, the Premier may remove from Office or dismiss any recognised Kgosi or Morena after consulting the Provincial House of Traditional Leaders and the traditional council concerned. 40
- (6) Where there is evidence or an allegation that the identification of a person to be appointed as Kgosi or Morena was not done in accordance with customary law, customs or processes, the Premier –
- (a) must refer the matter to the Provincial House of Traditional Leaders for its recommendation; or 45
  - (b) may refuse to issue a certificate of recognition; and
  - (c) must refer the matter back to the royal family for reconsideration and resolution where the certificate of recognition has been refused. 50



(2) Ebang ho lokela ho tlatswa maemo a Kgosi kapa Morena, motjha o latelang o tlameha ho latelwa:

5 (a) Lelapa la boreneng le tlameha hore ho e so fete dikgwedi tse tharo kamora hore ho hlahelle sekgeo sa Kgosi kapa Morena, le ka tlhokomelo ya molao wa moetlo -

10 (i) le qolle motho eo ho latela molao wa moetlo a tlang ho nka maemo a ho ba Kgosi kapa Morena, kamora ho hlokomela hore na dipehelo tse behilweng karolong ya 22(1)(a), (b) kapa (d) ebe di a sebetsa mothong eo na, le

(ii) ho latela popeho e amehang ya moetlo -

15 (aa) le tsebise Tonakgolo mabapi le dintlha tsa motho ya supilweng ho tlatsa sekgeo sa maemo a ho ba Kgosi kapa Morena; mme

20 (bb) le nehe Tonakgolo mabaka a ho supuwa ha motho eo ho ba Kgosi kapa Morena; mme

(b) Tonakgolo ho ipapisitswe le karolwana ya (6), e tlameha ho amohela motho ya supilweng ho ba Kgosi kapa Morena ho latela dintlha tsa karolwana ya (1)(a)(i).

25 (3) Ho amohelwa ha motho ho ba Kgosi kapa Morena ho latela dintlha tsa karolwana ya (1)(b) ho tlameha ho etswa ka tsela ya -

30 (a) tsebiso *Koranteng ya Mmuso wa Provense* moo ho ananelwang motho ya supilweng ho ba Kgosi kapa Morena; le

(b) ho ntshuwa ha setifikeiti se pakahatsang ho amohelwa ha motho ya supilweng.

35 (4) Ntlo ya Baetapele ya Marena/Dikgosi e tlameha ho tsebiswa ka ho amohelwa ha Kgosi kapa Morena.

40 (5) Tonakgolo e ka tlosa kapa ya nyaola Ofising Kgosi kapa Morena ofe kapa ofe ya amohetsweng kamora hore e buisane le Ntlo ya Marena/Dikgosi ya Provense le lekgotla la setjhaba le amehang.

45 (6) Moo ho nang le bopaki kapa diqoso tse reng motho ya supilweng ho ba Kgosi kapa Morena o supilwe ka mokgwa o ka thoko ho molao wa moetlo, moetlo kapa metjha, Tonakgolo -

(a) e tlameha ho fetisetsa taba ena Ntlong ya Marena/Dikgosi ya Provense ho fumana kgothaletso ya yona; kapa

50 (b) e ka hana ho nehelana ka setifikeiti sa pakahatso; mme

(c) e tlameha ho fetisetsa taba ena morao ho lelapa la boreneng hore e lekolwe botjha mme ho etswe qeto ebang ho hannwe ka setifikeiti sa pakahatso.

- (7) Where the matter which has been referred back to the royal family for reconsideration and resolution in terms of subsection (6) has been reconsidered and resolved, the Premier must recognise the person identified by the royal family if the Premier is satisfied that the reconsideration and resolution by the royal family has been done in accordance with customary law. 5

### **Recognition of Kgosana or Morena wa Motse**

19. (1) A Kgosana or Morena wa Motse must be recognised in terms of customary law and customs subject to this Act. 10
- (2) Whenever the position of a Kgosana or Morena wa Motse is to be filled, the following process must be followed: 15
- (a) The royal family must, within a reasonable time after the need arises for the position of a Kgosana or Morena wa Motse to be filled, and with due regard to applicable customary law –
- (i) identify a person who qualifies in terms of customary law to assume the position of a Kgosana or Morena wa Motse, after taking into account whether any of the grounds referred to in section 22(1)(a), (b) or (d) apply to that person; and 20
- (ii) through the relevant customary structure – 25
- (aa) inform the Premier of the particulars of the person so identified to fill the position of a Kgosana or Morena wa Motse; and 30
- (bb) provide the Premier with the reasons for the identification of that person as a Kgosana or Morena wa Motse; and 35
- (b) the Premier must, subject to subsection (5), recognise a person so identified in terms of subsection (2)(a)(i) as a Kgosana or Morena wa Motse. 40
- (3) The recognition of a person as a Kgosana or Morena wa Motse in terms of subsection (1)(b) must be done by way of – 40
- (i) a notice in the *Provincial Gazette* recognising the person identified as a Kgosana or Morena wa Motse; and 45
- (ii) the issuing of a certificate of recognition to the identified person.

- (7) Moo taba e neng e se e kgutliseditswe lelapeng la borena hore e lekolwe botjha mme ho etswe qeto ho latela dintlha tsa karolwana ya (6) e seng e lekotswe mme e rarollotswe, Tonakgolo e tlameha ho amohela motho ya supilweng ke lelapa la boreneng ebang Tonakgolo e kgotsofetse hore tekolobotjha le qeto ya lelapa la boreneng e entswe ho latela molao wa moetlo.

### Ho amohelwa ha Kgosana kapa Morena wa Motse

- 10      19.      (1)      Kgosana kapa Morena wa Motse o tlameha ho kgethwa ho latela dintlha tsa molao wa moetlo le Molao ona.
- 15      (2)      Ebang ho lokela ho tlatswa maemo a Kgosana kapa Morena wa Motse, motjha o latelang o tlameha ho latelwa:
- 20      (a)      Lelapa la boreneng le tlameha hore ho e so fete nako e seng kae kamora hore ho hlahelle sekgeo sa Kgosana kapa Morena wa Motse, le ka tlhokomelo ya molao wa moetlo -
- 25      (i)      le qolle motho eo ho latela molao wa moetlo a tlang ho nka maemo a ho ba Kgosana kapa Morena wa Motse, kamora ho hlokomela hore na dipehelo tse behilweng karolong ya 22(1)(a), (b) kapa (d) ebe di a sebetsa mothong eo na, le
- 30      (ii)     ho latela popeho e amehang ya moetlo -
- 35      (aa)     le tsebise Tonakgolo mabapi le dintlha tsa motho ya supilweng ho tlatsa sekgeo sa maemo a ho ba Kgosana kapa Morena wa Motse; mme
- 40      (bb)     le nehe Tonakgolo mabaka a ho supuwa ha motho eo ho ba Kgosana kapa Morena wa Motse; mme
- 45      (b)      Tonakgolo ho ipapisitswe le karolwana ya (5), e tlameha ho amohela motho ya supilweng ho ba Kgosana kapa Morena wa Motse ho latela dintlha tsa karolwana ya (2)(a)(i).
- 40      (3)      Ho amohelwa ha motho ho ba Kgosana kapa Morena wa Motse ho latela dintlha tsa karolwana ya (1)(b) ho tlameha ho etswa ka tsela ya -
- 45      (i)      tsebiso *Koranteng ya Mmuso wa Provense* moo ho ananelwang motho ya supilweng ho ba Kgosana kapa Morena wa Motse; le
- 45      (ii)     ho ntshuwa ha setifikeiti se pakahatsang ho amohelwa ha motho ya supilweng.

- (4) The Provincial House of Traditional Leaders must be informed by the Premier of the recognition of a Kgosana or Morena wa Motse.
- (5) Where there is evidence or an allegation that the identification of a person to be recognised as a Kgosana or Morena wa Motse was not done in accordance with customary law, customs or processes, the Premier – 5
- (a) must refer the matter to the Provincial House of Traditional Leaders for its recommendation; or 10
- (b) may refuse to issue a certificate of recognition; and
- (c) must refer the matter back to the royal family for reconsideration and resolution where the certificate of recognition has been refused. 15
- (6) Where the matter which has been referred back to the royal family for reconsideration and resolution in terms of subsection (5) has been reconsidered and resolved, the Premier must recognise the person identified by the royal family if the Premier is satisfied that the reconsideration and resolution by the royal family has been done in accordance with customary law. 20

#### **Number of Bokgosana, Borena ba metse or Boramotse**

20. (1) The Premier must, by notice in the *Provincial Gazette*, determine the number of Bokgosana, Borena ba metse or Boramotse for each traditional community. 25
- (2) The number of Boramotse is dependent on the size and administrative needs of a traditional community taking into consideration customary law. 30

#### **Recognition of Ramotse**

21. (1) A Ramotse must be elected or selected in terms of customary law and customs at a pitso called for that purpose. 35
- (2) Whenever the position of a Ramotse is to be filled –
- (a) the Kgosi or Morena concerned must – 40
- (i) select or request the pitso to elect a person as a Ramotse, after taking into account whether any of the grounds referred to in section 22(1)(a), (b) or (d) apply to that person; and 45
- (ii) inform the Premier of the particulars of the person so selected or elected; and
- (b) the Premier must recognise a person so selected or elected to fill the position of a Ramotse. 50

- (4) Ntlo ya Marena/Dikgosi e tlameha ho tsebiswa ke Tonakgolo ka ho amohelwa kapa ho kgethwa ha Kgosana kapa Morena wa Motse.
- 5 (5) Moo ho nang le bopaki kapa diqoso tse reng motho ya supilweng ho ba Kgosana kapa Morena wa Motse o supilwe ka mokgwa o ka thoko ho molao wa moetlo, moetlo kapa metjha, Tonakgolo -
- (a) e tlameha ho fetisetsa taba ena Ntlong ya Marena/Dikgosi ya Provense ho fumana kgothaletso ya yona; kapa
- 10 (b) e ka hana ho nehelana ka setifikeiti sa pakahatso; mme
- (c) e tlameha ho fetisetsa taba ena morao ho lelapa la boreneng hore e lekolwe botjha mme ho etswe qeto ebang ho hannwe ka setifikeiti sa pakahatso.
- 15 (6) Moo taba e neng e se e kgutliseditswe lelapeng la borena hore e lekolwe botjha mme ho etswe qeto ho latela dintlha tsa karolwana ya (5) e seng e lekotswe mme e rarollotswe, Tonakgolo e tlameha ho amohela motho ya supilweng ke lelapa la boreneng ebang Tonakgolo e kgotsofetse hore tekolobotjha le qeto ya lelapa la boreneng e entswe ho latela molao wa moetlo.
- 20

#### **Palo ya Bokgosana, Borena ba metse kapa Boramotse**

- 25 20. (1) Tonakgolo, ka tsebiso *Koranteng ya Mmuso wa Provense* e tlameha ho beha palo ya Bokgosana, Borena ba metse le Boramotse bakeng la setjhaba se seng le se seng.
- 30 (2) Palo ya Bokgosana, Borena ba metse kapa Boramotse, e itshetlehile boholong le ditlhokong tsa taolo tsa setjhaba ho hlokometswe molao wa moetlo.

#### **Ho amohelwa ha Ramotse**

- 35 21. (1) Ramotse o tlameha ho kgethwa ho latela dintlha tsa molao wa moetlo le ho latela meetlo, pitsong e epetsweng mosebetsi oo.
- (2) Nakong efe kapa efe moo ho lokelang ho tlatswa sekgeo sa Ramotse -
- 40 (a) Kgosi kapa Morena ya amehang o tlameha ho -
- (i) kgetha motho kapa a kope pitso ho kgetha motho ya tlang ho ba Ramotse kamora ho lekodisa hore na boemo bofe kapa bofe bo boletsweng karolong ya 22(1)(a), (b) kapa (d) bo ama motho eo na; le ho
- 45 (ii) tsebisa Tonakgolo ka dintlha tsa motho ya hlwauweng kapa ya kgethilweng; mme
- 50 (b) Tonakgolo e tlameha ho amohela motho ya kgethilweng ho tlatsa sekgeo sa ho ba Ramotse.

- (3) The Premier must recognise a person as a Ramotse in terms of subsection (2)(b) by –
- (i) publishing a notice in the *Provincial Gazette* recognising the person identified as a Ramotse; and 5
  - (ii) issuing a certificate of recognition to the identified person.
- (4) The Provincial House of Traditional Leaders must be informed by the Premier of the recognition of Ramotse. 10

### **Removal of Kgosi, Morena, Kgosana or Morena wa Motse**

22. (1) A Kgosi, Morena, Kgosana or Morena wa Motse may be removed from office on the grounds of – 15
- (a) conviction of an offence with a sentence of imprisonment for more than 12 months without an option of a fine;
  - (b) physical incapacity or mental infirmity which, based on acceptable medical evidence, makes it impossible for that Kgosi, Morena, Kgosana or Morena wa Motse to function as such; 20
  - (c) wrongful recognition; or 25
  - (d) a transgression of a customary rule or principle that warrants removal.
- (2) Whenever any of the grounds referred to in subsection (1)(a), (b) and (d) come to the attention of the royal family and the royal family decides to remove a Kgosi, Morena, Kgosana or Morena wa Motse, the royal family concerned must, within a reasonable time and through the relevant customary structure – 30
- (a) inform the Premier of the particulars of the Kgosi, Morena, Kgosana or Morena wa Motse to be removed from office; and 35
  - (b) furnish reasons for such removal.
- (3) Where it has been decided to remove a Kgosi, Morena, Kgosana or Morena wa Motse in terms of subsection (2), the Premier must – 40
- (a) withdraw the certificate of recognition with effect from the date of removal; 45
  - (b) publish a notice in the *Provincial Gazette* with particulars of the removed traditional leader; and
  - (c) inform the royal family concerned, the removed Kgosi, Morena, Kgosana or Morena wa Motse and the Provincial House of Traditional Leaders of such removal. 50

(3) Tonakgolo e tlameha ho amohela motho eo jwaloka Ramotse ho latela dintlha tsa karolwana ya (2)(b) ka ho -

5 (i) etsa tsebiso *Koranteng ya Mmuso ya Provense* moo ho ananelwang motho ya supilweng ho ba Ramotse; le

(ii) ntsha setifikeiti se pakahatsang ho amohelwa ha motho ya supilweng.

10 (4) Tonakgolo o tlameha ho tsebisa Ntlo ya Marena/Dikgosi ka kamohelo ya Ramotse.

### **Ho tloswa ha Kgosi, Morena, Kgosana kapa Morena wa Motse**

15 22. (1) Kgosi, Morena, Kgosana kapa Morena wa Motse a ka tloswa ofising tlasa boemo bona -

20 (a) kahlolelo ya tlolo ya molao ka kotlo ya ho hlola tihankaneng nako e fetang dikgwedi tse 12 ntle le boikgethelo ba ho lefa kotlo;

(b) ho se itekanele mmeleng kapa kelellong ho thehilweng hodima bopaki bo amohelang ba bongaka, ho sitisang Kgosi, Morena, Kgosana kapa Morena wa Motse ho phetha mosebetsi wa hae;

25 (c) kgetho kapa kamohelo e fosahetseng; kapa

(d) tlolo ya motheo kapa molao wa moetlo e lebisang ho tlosweng.

30 (2) Nakong efe kapa efe eo boemo bo boletsweng karolwaneng ya (1)(a), (b) le (d) bo hlokomelwa ke lelapa la boreneng mme le etsa qeto ya ho tlosa Kgosi, Morena, Kgosana kapa Morena wa Motse, lelapa la boreneng le amehang le tlameha hore ho e so fete nako e telele le ka tshebediso ya popeho ya moetlo e amehang le -

35 (a) tsebise Tonakgolo ka dintlha tsa Kgosi, Morena, Kgosana kapa Morena wa Motse ya tlang ho tloswa ofising; mme le

(b) nehelane ka mabaka a ho tloswa hoo.

40 (3) Moo ho entsweng qeto ya ho tlosa Kgosi, Morena, Kgosana kapa Morena wa Motse ho latela dintlha tsa karolwana ya (2), Tonakgolo e tlameha ho -

45 (a) hula setifikeiti se pakahatsang ho amohelwa ho tloha letsatsing la ho tloswa;

(b) phatlalatsa tsebiso *Koranteng ya Mmuso wa Provense* e nang le dintlha tsa moetapele wa botjhaba ya tlositsweng; mme e

50 (c) tsebise lelapa la boreneng le amehang, Kgosi, Morena, Kgosana kapa Morena wa Motse ya tlositsweng mmoho le Ntlo ya Marena/Dikgosi mabapi le ho tloswa hoo.

- (4) Where a Kgosi, Morena, Kgosana or Morena wa Motse is removed from Office, a successor in line with customs may assume the position, role and responsibilities, subject to section 18, or 19.

### Removal of Ramotse

5

23. (1) A Ramotse may be removed from office on the grounds of –

- (a) conviction of an offence with a sentence of imprisonment for more than 12 months without an option of a fine; 10

- (b) physical incapacity or mental infirmity which, based on acceptable medical evidence, makes it impossible for that Ramotse to function as such; 15

- (c) wrongful recognition; or

- (d) a transgression of a customary rule or principle that warrants removal. 20

- (2) Whenever any of the grounds referred to in subsection (1)(a), (b) and (d) come to the attention of the Kgosi or Morena concerned and that Kgosi or Morena decides to remove a Ramotse, the Kgosi or Morena must, within a reasonable time – 25

- (a) inform the Premier of the particulars of a Ramotse to be removed from office; and

- (b) furnish reasons for such removal. 30

- (3) Where it has been decided to remove a Ramotse in terms of subsection (2), the Premier must –

- (a) withdraw the certificate of recognition with effect from the date of removal; 35

- (b) publish a notice with particulars of the removed Ramotse in the *Provincial Gazette*; and

- (c) inform the Kgosi or Morena concerned, the removed Ramotse and the Provincial House of Traditional Leaders of such removal. 40

- (4) Where a Ramotse is removed from office, the Kgosi or Morena concerned must call a pitso to select and appoint a successor in terms of section 21.



- (4) Moo Kgosi, Morena, Kgosana kapa Morena wa Motse a tlositsweng Ofising, maemo, seabo le boikarabelo ba hae bo ka nkuwa ke mohlahlami ho latela meetlo, ho ipapisitse le karolo ya 18, kapa ya 19.

5 **Ho tloswa ha Ramotse**

23. (1) Ramotse a ka tloswa ofising tlasa boemo bona -

- 10 (a) kahlolelo ya tlolo ya molao ka kotlo ya ho hlola tjhankaneng nako e fetang dikgwedi tse 12 ntle le boikgethelo ba ho lefa kotlo;
- 15 (b) ho se itekanele mmeleng kapa kelellong ho thehilweng hodima bopaki bo amohelang ba bongaka, ho sitisang Ramotse ho phetha mosebetsi wa hae;
- (c) kgetho kapa kamohelo e fosahetseng; kapa
- (d) tlolo ya motheo kapa molao wa moetlo e lebisang ho tlosweng.
- 20 (2) Nakong efe kapa efe moo boemo bo boletsweng karolwaneng ya (1)(a), (b) le (d) bo hlokomelwang ke Kgosi kapa Morena ya amehang mme a etsa qeto ya ho tlosa Ramotse, o tlameha hore ho e so fete nako e telele a -
- 25 (a) tsebise Tonakgolo ka dintlha tsa Ramotse ya tlang ho tloswa ofising; le ho
- (b) nehelana ka mabaka a ho tloswa hoo.
- 30 (3) Moo ho entsweng qeto ya ho tlosa Ramotse ho latela dintlha tsa karolwana ya (2), Tonakgolo e tlameha ho -
- (a) hula setifikeiti se pakahatsang ho amohelwa ho tloha letsatsing la ho tloswa;
- 35 (b) phatlalatsa tsebiso *Koranteng ya Mmuso wa Provense* e nang le dintlha tsa Ramotse ya tlositsweng; mme e
- (c) tsebisa Kgosi kapa Morena ya amehang, Ramotse ya tlositsweng le Ntlo ya Marena/Dikgosi mabapi le ho tloswa hoo.
- (4) Moo Ramotse a tlositsweng ofising, Kgosi kapa Morena ya amehang o tlameha ho epa pitso ho kgetha mohlahlami ho latela dintlha tsa karolo ya 21.

## Recognition of Motshwaredi

24. (1) Where the successor to the position of Morena e moholo, Kgosi, Morena, Kgosaana or Morena wa Motse identified by the royal family is still a minor in terms of applicable customary law or customs, the royal family concerned must identify a Motshwaredi to assume leadership on behalf of the minor and inform the Premier of the particulars of the person identified as regent and the reason why the person has been so identified. 5
- (2) The Premier must, by notice in the *Provincial Gazette*, recognise the person identified as Motshwaredi. 10
- (3) Whenever the position of a Motshwaredi is to be filled, the following process must be followed: 15
- (a) The royal family must, within a reasonable time after the need arises for the position of a Motshwaredi to be filled, and with due regard to applicable customary law –
- (i) identify a person who qualifies in terms of customary law to assume the position of a Motshwaredi, after taking into account whether any of the grounds referred to in section 22(1)(a), (b) or (d) apply to that person; and 20
- (ii) through the relevant customary structure – 25
- (aa) inform the Premier of the particulars of the person so identified to fill the position of a Motshwaredi; and 30
- (bb) provide the Premier with the reasons for the identification of that person as a Motshwaredi; and
- (b) the Premier must, subject to subsection (6), recognise a person so identified in terms of paragraph (a) as a Motshwaredi. 35
- (4) The recognition of a person as a Motshwaredi in terms of subsection (1)(b) must be done by way of –
- (i) a notice in the *Provincial Gazette* recognising the person identified as a Motshwaredi; and 40
- (ii) the issuing of a certificate of recognition to the identified person.
- (5) The recognition of Motshwaredi must be reviewed by the Premier at least every three years. 45

**Ho amohelwa ha Motshwaredi**

24. (1) Moo mohlhlami wa Morena e moholo, Kgosi, Morena, Kgosana kapa Morena wa Motse ya qollotsweng ke lelapa la boreneng a sa ntse a le monnyane ho latela molao wa moetlo kapa meetlo, lelapa la boreneng le amehang le tlameha ho supa motshwaredi ho nka boetapele boemong ba e monnyane mme le tsebise Tonakgolo ka dintlha tsa motho ya supilweng ho ba motshwaredi mmoho le lebaka la hore ke hobaneng ha motho eo a supilwe.
- (2) Tonakgolo e tlameha ho amohela motho ya supilweng ho ba motshwaredi ka tsebiso *Koranteng ya Mmuso ya Provense*.
- (3) Ebang ho lokela ho tlatswa maemo a Motshwaredi, motjha o latelang o tlameha ho latelwa:
- (a) Lelapa la boreneng le tlameha hore ho e so fete nako e telele kamora hore ho hlahelle sekgeo sa motshwaredi, le ka tlhokomelo ya molao wa moetlo -
- (i) le qolle motho eo ho latela molao wa moetlo a tlang ho nka maemo a ho ba Motshwaredi, kamora ho hlokomela hore na dipehelo tse behilweng karolong ya 22(1)(a), (b) kapa (d) ebe di a sebetsa mothong eo na, le
- (ii) ho latela popeho e amehang ya moetlo -
- (aa) le tsebise Tonakgolo ka dintlha tsa motho ya supilweng ho tlatsa sekgeo sa maemo a ho ba Motshwaredi; mme
- (bb) le nehe Tonakgolo mabaka a ho supuwa ha motho eo ho ba Motshwaredi; mme
- (b) Tonakgolo ho ipapisitswe le karolwana ya (6), e tlameha ho amohela motho ya supilweng ho ba Motshwaredi ho latela dintlha tsa temana ya (a).
- (4) Ho amohelwa ha motho ho ba Motshwaredi ho latela dintlha tsa karolwana ya (1)(b) ho tlameha ho etswa ka tsela ya -
- (i) tsebiso *Koranteng ya Mmuso ya Provense* moo ho ananelwang motho ya supilweng ho ba Motshwaredi; le
- (ii) ho ntshuwa ha setifikeiti se pakahatsang ho amohelwa ha motho ya supilweng.
- (5) Tonakgolo o tlamela ho lekola botjha kamohelo ya Motshwaredi dilemong tse tharo.

- (6) The Provincial House of Traditional Leaders must be informed by the Premier of the recognition of a Motshwaredi.
- (7) Where there is evidence or an allegation that the identification of a person to be recognised as a Motshwaredi was not done in accordance with customary law, customs or processes, the Premier – 5
- (a) must refer the matter to the Provincial House of Traditional Leaders for its recommendation; or 10
- (b) may refuse to issue a certificate of recognition; and
- (c) must refer the matter back to the royal family for reconsideration and resolution where the certificate of recognition has been refused. 15
- (8) Where the matter which has been referred back to the royal family for reconsideration and resolution in terms of subsection (6) has been reconsidered and resolved, the Premier must recognise the person identified by the royal family if the Premier is satisfied that the reconsideration and resolution by the royal family has been done in accordance with customary law. 20
- (9) Where a Motshwaredi has been recognised in respect of the position of Morena e moholo, the Premier must inform the President – 25
- (a) of the particulars of Motshwaredi;
- (b) when Motshwaredi is supposed to relinquish his or her position as Motshwaredi; and 30
- (c) of the withdrawal of the recognition of Motshwaredi.
- (10) As soon as the successor to the position of Morena e moholo, Kgosi, Morena, Kgosana or Morena wa Motse ceases to be a minor in terms of customary law or customs, the Motshwaredi recognised in terms of subsection (2) must relinquish his or her position as Motshwaredi and the rightful successor – 35
- (a) in the case of Morena e moholo, be installed by the President in terms of section 9(1)(b) of Act 41 of 2003, and a certificate of recognition contemplated in section 9(2)(b) of Act 41 of 2003, must be issued after his or her name has been published in the *Government Gazette*; or 40
- (b) in the case of Kgosi, Morena, Kgosana or Morena wa Motse be installed by the Premier in terms of sections 18 and 19, and a certificate of recognition contemplated in sections 18 and 19 must be issued after his or her name has been published in the *Provincial Gazette*. 45

- (6) Ntlo ya Marena/Dikgosi e tlameha ho tsebiswa ke Tonakgolo ka ho amohelwa kapa ho kgethwa ha Motshwaredi.
- 5 (7) Moo ho nang le bopaki kapa diqoso tse reng motho ya supilweng ho ba Motshwaredi o kgethilwe ka mokgwa o ka thoko ho molao wa moetlo, moetlo kapa metjha, Tonakgolo -
- (a) e tlameha ho fetisetsa taba ena Ntlong ya Marena/Dikgosi ho fumana kgothaletso ya yona; kapa
- 10 (b) e ka hana ho nehelana ka setifikeiti sa pakahatso; mme
- (c) e tlameha ho fetisetsa taba ena morao ho lelapa la boreneng hore e lekolwe botjha mme ho etswe qeto ebang ho hannwe ka setifikeiti sa pakahatso.
- 15 (8) Moo taba e neng e se e kgutliseditswe lelapeng la borena hore e lekolwe botjha mme ho etswe qeto ho latela dintlha tsa karolwana ya (6) e seng e lekotswe mme e rarollotswe, Tonakgolo e tlameha ho amohela motho ya supilweng ke lelapa la boreneng ebang Tonakgolo e kgotsofetse hore tekolobotjha le qeto ya lelapa la boreneng e entswe ho latela molao wa moetlo.
- 20 (9) Moo Motshwaredi a seng a amohetswe ho ba maamong a Morena e moholo, Tonakgolo e tlameha ho tsebisa Presidente -
- 25 (a) ka dintlha tsa Motshwaredi;
- (b) ka nako eo Motshwaredi a lokelang ho tlohela maamong a hae jwaloka Motshwaredi; le
- 30 (c) ka ho hulwa ha kamohelo ya hae ya ho ba Motshwaredi
- (10) Hang ha mohlahlami wa Morena e moholo, Kgosi, Morena, Kgosana kapa Morena wa Motse a se a hodile ho latela dintlha tsa molao wa moetlo kapa meetlo, Motshwaredi ya amohetsweng ho latela dintlha tsa karolwana ya (2) o tlameha ho tlohela maemo a hae jwaloka Motshwaredi mme mohlahlami ya lokelang o tlameha -
- 35 (a) hore ebang e le Morena e Moholo, a behwe ke Presidente ho latela dintlha tsa 9(1)(b) tsa Molao wa 41 wa 2003, mme setifikeiti sa kamohelo se lohothwang karolong ya 9(2)(b) ya Molao wa 41 wa 2003, se tlameha ho ntshuwa kamora hore lebitso la hae le phatlalatswe Koranteng ya Mmuso kapa
- 40 (b) ebang e le Kgosi, Morena, Kgosana kapa Morena wa Motse, a behwe ke Tonakgolo ho latela dintlha tsa dikarolo tsa 18 le 19, mme setifikeiti sa pakahatso ya ho amohelwa se lohothwang dikarolong tsa 18 le 19 se tlameha ho ntshuwa kamora hore lebitso la hae le phatlalatswe *Koranteng ya Mmuso wa Provense*.
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## Recognition of Moemedi

25. (1) A royal family may identify a suitable person to act as Moemedi for Morena e moholo, Kgosi, Morena, Kgosana or Morena wa Motse, as the case may be, where – 5
- (a) a successor to the position of Morena e moholo, Kgosi, Morena, Kgosana or Morena wa Motse has not been identified by the royal family concerned in terms of section 18(1) or 19(1); 10
  - (b) the identification of a successor to the position of Morena e moholo, Kgosi, Morena, Kgosana or Morena wa Motse is being reconsidered and resolved in terms of section 18(6) or 19(5); or
  - (c) a Morena e moholo, Kgosi, Morena, Kgosana or Morena wa Motse, as the case may be, would be absent from his or her area of jurisdiction under circumstances other than those provided for in section 26 and for a period of more than six months for – 15
    - (i) the treatment of illness; 20
    - (ii) study purposes; or
    - (iii) any other lawful purpose. 25
- (2) The Premier must, by notice in the *Provincial Gazette*, publish particulars of a person appointed as Moemedi. 25
- (3) The Premier must issue a certificate of appointment to a person appointed as Moemedi. 30
- (4) The Premier must inform the Provincial House of Traditional Leaders of the appointment of a Moemedi.
- (5) The Premier must review the acting appointment of Moemedi every six months to establish whether the acting appointment is still necessary. 35
- (6) The provisions of section 22(1), with the necessary changes, apply to a Moemedi. 40
- (7) Where a Moemedi has been appointed in respect of the position of Morena e moholo, the Premier must inform the President –
- (a) of the acting appointment; and 45
  - (b) of the removal of the person who has been appointed as a Moemedi for Morena e moholo.

**Ho amohelwa ha Moemedi**

25. (1) Lelapa la boreneng le ka qolla motho ya lokelang ho ba Moemedi bakeng la  
5 Morena e moholo, Kgosi, Morena, Kgosi, Morena, Kgosaana kapa Morena  
wa Motse, ho ya kamoo boemo bo tla beng bo le kateng, moo -
- (a) mohlahlami setulong sa Morena e moholo, Kgosi, Morena, Kgosaana  
10 kapa Morena wa Motse a so kang a supuwa ke lelapa la boreneng le  
amehang ho latela dintlha tsa karolo ya 18(6) kapa 19(1);
- (b) ho supuwa ha mohlahlami setulong sa Morena e moholo, Kgosi,  
Morena, Kgosaana kapa Morena wa Motse ho lekodiswang le ho  
rarollwa ho latela dintlha tsa karolo ya 18(6) kapa 19(5); kapa
- (c) Morena e moholo, Kgosi, Morena, Kgosaana kapa Morena wa Motse,  
15 ho ya kamoo boemo bo tla beng bo le kateng, a leng siyo sebakeng  
se tlasa taolo ya hae tlasa boemo bo bong ntle le bo boletsweng  
karolong ya 26 le nakong e sa feteng dikgwedi tse tshelletseng ka  
lebaka la -
- (i) kalafo ya bokulo;
- (ii) dithuto; kapa
- (iii) morero ofe kapa ofe o molaong.
- (2) Tonakgolo e tlameha ho etsa tsebiso *Koranteng ya Mmuso wa Provense*, e  
20 phatlalatse dintlha tsa motho ya supilweng ho ba Moemedi.
- (3) Tonakgolo e tlameha ho neha motho ya kgethilweng ho ba Moemedi  
30 setifikeiti sa ho kgethwa ha hae.
- (4) Tonakgolo e tlameha ho tsebisa Ntlo ya Marena/Dikgosi ka ho kgethwa ha  
35 Moemedi.
- (5) Tonakgolo e tlameha ho lekola botjha maemo a ho tshwara mokobobo ha  
Moemedi dikgwedi tse ding le tse ding tse tshelletseng le ho fumana hore na  
ho tshwara mokobobo hona ho ntse ho hlokeha na.
- (6) Dipehelo tsa karolo ya 22(1), ho akareditswe le diphetoho tse hlokehang, di  
40 sebetsa ho Moemedi.
- (7) Moo Moemedi a seng a kgethetswe ho ba maamong a Morena e moholo,  
45 Tonakgolo e tlameha ho tsebisa Presidente -
- (a) ka ho tshwarwa ha mokobobo; le
- (b) ka ho tloswa ha motho ya neng a kgethetswe ho ba Moemedi wa  
Morena e moholo.

- (8) A person appointed in terms of subsection (1), may be removed from position of Moemedi when the Morena e moholo, Kgosi, Morena, Kgosana or Morena wa Motse is able to resume his or her duties.

## Recognition of Motlatsi

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26. (1) A Morena e moholo, Kgosi, Morena, Kgosana or Morena wa Motse may, after consultation with the royal family, appoint a Motlatsi to act in his or her stead whenever a Morena e moholo, Kgosi, Morena, Kgosana or Morena wa Motse – 10
- (a) becomes a full-time member of a municipal council;
- (b) is elected as a member of a provincial legislature; 15
- (c) is elected as a member of the National Assembly;
- (d) is appointed as a permanent delegate in the National Council of Provinces; or 20
- (e) is elected to, or appointed in, a full-time position in any House of Traditional Leaders.
- (2) Kgosi, Morena, Kgosana or Morena wa Motse must inform the Provincial House of Traditional Leaders of the appointment of a Motlatsi. 25
- (3) The Provincial House of Traditional Leaders must within one month of receiving the information contemplated in subsection (2), inform the Premier of the appointment of Motlatsi and the Premier must, by notice in the *Provincial Gazette*, publish particulars of a person appointed as Motlatsi. 30
- (4) The Premier must issue a certificate of appointment to a person appointed as Motlatsi.
- (5) The provisions of section 22(1), with the necessary changes, apply to a Motlatsi. 35
- (6) Where Morena e moholo has appointed a Motlatsi in terms of subsection (1), Morena e moholo must inform the President of such appointment. 40
- (7) A person appointed in terms of subsection (1) must be removed from the position of Motlatsi when the term of office of the Morena e moholo, Kgosi, Morena, Kgosana or Morena wa Motse who was serving as a full-time member or a permanent delegate, as envisaged in subsection (1), expires. 45



- (8) Motho ya kgethilweng ho latela dintlha tsa karolwana ya (1), a ka tloswa setulong sa ho ba Moemedi ha Morena e moholo, Kgosi, Morena, Kgosi, Morena, Kgosi kapa Morena wa Motse a se a kgona ho tswela pele ka mesebetsi ya hae.

5 **Ho amohelwa ha Motlatsi**

26. (1) Morena e moholo, Kgosi, Morena, Kgosi, Morena, Kgosi kapa Morena wa Motse, kamora ho buisana le lelapa la boreneng, a ka kgetha Motlatsi ho mo tshwarela mokobobo ebang Morena e moholo, Kgosi, Morena, Kgosi kapa Morena wa Motse -

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- (a) e ba setho se tletseng sa lekgotla la masepala;
- (b) a kgethelwa ho ba setho sa lekgotla la ketsamolao la provense;
- (c) a kgethelwa ho ba setho sa Seboka sa Setjhaba;
- (d) a kgethelwa ho ba morumuwa wa ho ya ho ile wa Lekgotla la Naha la Diprovense; kapa
- (e) a kgethelwa kapa ho supuwa ho tlatse sekgeo sa ho ya ho ile Ntlong efe kapa efe ya Baetapele ba Botjhaba.

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- (2) Kgosi, Morena, Kgosi, Morena kapa Morena wa Motse o tlameha ho tsebisa Ntlo ya Marena/Dikgosi ya Provense ka ho kgethwa ha Motlatsi.

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- (3) Ntlo ya Marena/Dikgosi ya Provense e tlameha hore pele ho feta kgwedi kamora ho amohelwa tlhahisoleseding e lohothwang karolwaneng ya (2), e tsebise Tonakgolo ka ho kgethwa ha Motlatsi mme tonakgolo e tlameha ho etsa tsebiso *Koranteng ya Mmuso wa Provense*, e phatlatse dintlha tsa motho ya kgethilweng ho ba Motlatsi.

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- (4) Tonakgolo e tlameha ho tsebisa Ntlo ya Marena/Dikgosi ka ho kgethwa ha Motlatsi.

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- (5) Dipehelo tsa karolo ya 22(1), ho akareditswe le diphetoho tse hlokehang, di sebetsa ho Motlatsi.

- (6) Moo Morena e moholo a kgethileng Motlatsi ho latela dintlha tsa karolwana ya (1), Morena e moholo o tlameha ho tsebisa Presidente ka ho kgethwa ho jwalo.

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- (7) Motho ya kgethilweng ho latela dintlha tsa karolwana ya (1) o tlameha ho tloswa setulong sa ho ba Motlatsi ha nako ya ofisi ya Morena e moholo, Kgosi, Morena, Kgosi, Morena kapa Morena wa Motse eo e neng e le setho se tletseng kapa morumuwa wa ho ya ho ile jwalokaha ho lohothwa karolwaneng ya (1), e fela.

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## CHAPTER 4 GENERAL

### *Provincial Gazette*

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27. The Premier must send a copy of a *Provincial Gazette* where a notice which is issued in terms of this Act, is published to all traditional councils.

### **Decisions of Commission on Traditional Leadership Disputes and Claims**

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28. (1) As envisaged in section 25 of Act 41 of 2003, the Commission has authority to investigate –

(i) a case where there is doubt as to whether a Kingship, senior traditional leadership or headmanship was established in accordance with customary law and customs;

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(ii) a traditional leadership position where the title or right of the incumbent is contested;

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(iii) claims by communities to be recognised as traditional communities;

(iv) the legitimacy of the establishment or disestablishment of “tribes”;

(v) disputes resulting from the determination of traditional authority boundaries and the merging or division of “tribes”; and

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(vi) where good grounds exist, any other matters relevant to the matters listed in this paragraph, including the consideration of events that may have arisen before 1 September 1927.

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- (2) The decisions of the Commission on Traditional Leadership Disputes and Claims must be implemented by the Premier in accordance with sections 18 and 19 of this Act, where the position of a Kgosi, Morena, Kgosana or Morena wa Motse is affected by such a decision.

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### **Misconduct**

29. (1) Whenever there is reason to believe that a Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse or a member of a traditional council may be guilty of misconduct in that he or she –

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(a) fails or refuses to comply with the Code of Conduct;

(b) fails or refuses to comply with any provision of this Act or of any other law which it is his or her duty to comply with;

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(c) disobeys, disregards or makes wilful default in carrying out a lawful order given to him or her by a person having authority to give it, or by conduct displays insubordination;

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## KGAOLO YA 4 KAKARETSO

### *Koranta ya mmuso wa Provense*

27. Tonakgolo e tlameha ho romela khopi ya *Koranta ya Mmuso wa Provense* moo tsebiso e ntshitsweng ho latela dintlha tsa Molao ona e phatlaladitsweng, ho makgotla ohle a setjhaba.

### **Diqeto tsa Khomeshene ya Diqabang le Ditseko tsa Boetapele ba Botjhaba**

28. (1) Jwalokaha ho lohothilwe karolong ya 25 ya Molao wa 41 wa 2003, Khomeshene e na le matla a ho fuputsa -

(i) nyewe moo ho nang le qeaqeo mabapi le hore borena, boetapele bo ka sehloohong ba botjhaba kapa boramotse bo ne bo thehilwe ho latela molao wa moetlo le meetlo;

(ii) maemo a boetapele ba botjhaba moo maemo kapa tokelo ya ya setulong e tsekwang;

(iii) ditseko tsa baahi tsa ho amohelwa jwaloka setjhaba;

(iv) ho ba molaong ha ho thehwa kapa ha ho se thehwe ha “merabe”;

(v) diqabang tse bakwang ke ho behwa ha meedi ya bolaodi ba botjhaba le ho kopanngwa kapa ho arolwa ha “merabe”; mme

(vi) moo ho utlwahalang, dintlha dife kapa dife tse amanang le dintlha tse boletsweng serapeng sena, ho akareditswe le tlhokomelo ya diketsahalo tseo ka mohlomong di hlahileng pele ho la 1 Loetse 1927.

(2) Diqeto tsa Khomeshene e mabapi le Diqabang le Ditseko tsa Boetapele ba Botjhaba di tlameha ho kenngwa tshebetsong ke Tonakgolo ho latela dikarolo tsa 18 le 19 tsa Molao ona, ebang maemo a Kgosi, Morena, Morena wa Motse kapa Kgosana, a angwa ke qeto e jwalo.

### **Boitshwaro bo bobele**

29. (1) Ebang ho na le lebaka le kgodisang hore Kgosi, Morena, Kgosana, Morena wa Motse kapa Ramotse a ka ba molato wa boitshwaro bo bobele hobane a -

(a) a hloleha kapa a hana ho ikobela molao wa boitshwaro;

(b) hloleha kapa a hana ho ikobela dipehelo dife kapa dife tsa Molao ona kapa Molao o mong oo a tlamehang ho ikobela ona;

(c) sa mamele, a sa kgathalle kapa a iphapanya ho phetha taelo e molaong eo a e nehilweng ke motho ya bolaoding ba ho nehelana ka yona, kapa a itshwere ka mokgwa o bontshang tello;

- (d) conducts himself or herself in a disgraceful, improper or unbecoming manner;
  - (e) uses intoxicating liquor or dependence-producing drugs excessively; 5
  - (f) abuses his or her powers of extorts, or by the use of compulsion or arbitrary means obtains, any tribute, fee, reward or present;
  - (g) tries or punishes any person without being duly authorised thereto by or under any law; 10
  - (h) is negligent or indolent in the discharge of his or her duties,
- the Premier may charge him or her in writing with such misconduct and appoint any person to enquire into the matter. 15
- (2) At any enquiry by the person appointed under subsection (1), a Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse or a member of a traditional council shall be entitled to be heard: Provided that the proceedings shall not be invalidated by any failure of the Kgosi, Morena, Kgosana, Ramotse or member of a traditional council to attend the enquiry. 20
- (3) The person appointed to do the investigation must –
- (a) at the conclusion of the enquiry, find whether the Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse or a member of a traditional council is guilty of the misconduct and inform him or her of its findings; and 25
  - (b) forward to the Premier, the record of the proceedings, a statement of its finding, the reasons therefore, and any observations which he might wish to make. 30
- (4) If the Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse or a member of a traditional council has been found guilty of the misconduct, the Premier may – 35
- (a) caution or reprimand the Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse or a member of a traditional council; 40
  - (b) compel Kgosi, Morena, Kgosana, Morena wa Motse or Ramotse to go for rehabilitation for alcoholism or drug dependency;
  - (c) impose on him or her a fine not exceeding Two Hundred Rand, payable or recoverable from any remuneration to be paid to him or her in terms of the applicable legislation for the benefit of the Provincial Revenue Fund in such instalments as the Premier may determine; 45

- (d) itshwere ka mokgwa o tlontlolang, o sa lokang kapa o sa tshwanelang;
- 5 (e) sebedisa tahi ho fetelletseng kapa a le tlasa taolo e fetelletseng ya dithethefatsi;
- (f) sebedisa matla a hae hampe ka tjojo, kapa ka ho qobella kapa ka mekgwa e leeme ho fumana thoholetso, tefo, moputso kapa mpho;
- 10 (g) kentse nyewe kapa a neha motho kotlo empa a sa nehwa matla a ho etsa seo ke Molao ofe kapa ofe;
- (h) sa kgathalle kapa a le bohlaswa phethahatsong ya mesebetsi ya hae,
- 15 Tonakgolo e ka mo qosa ka lengolo mabapi le boitshwaro boo bo bobe mme e kgethe motho ofe kapa ofe ho etsa dipatlisiso ka taba ena.
- 20 (2) Dipatlisong dife kapa dife tse etswang ke motho ya kgethilweng tlasa karolwana ya (1), Kgosi, Morena, Kgosana, Morena wa Motse, kapa setho sa lekgotla la setjhaba Ramotse o na le tokelo ya ho mamelwa: Ha feela e le hore morero ona o ke ke wa thunthetswa ke ho hloleha ha Kgosi, Morena, Kgosana, Morena wa Motse Ramotse, kapa setho sa lekgotla la setjhaba ho ba teng dipatlisong.
- 25 (3) Motho ya kgethetsweng ho etsa diphuputso o tlameha hore -
- 30 (a) qetellong ya patlisiso, a fumantshe hore na Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse kapa setho sa lekgotla la setjhaba o molato wa boitshwaro bo bobe na mme a mo tsebise ka diqeto tse fihletsweng ke patlisiso; mme
- (b) a fetisetse ho Tonakgolo rekoto ya morero, tlaleho ya diqeto tse fihletsweng, mabaka a tsona mmoho le tse ileng tsa hlokomelwa tseo a ka ratang ho di hlahisa.
- 35 (4) Ebang Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse setho sa lekgotla la setjhaba a fumanwe a le molato wa boitshwaro bo bobe, Tonakgolo e ka -
- 40 (a) supa ka monwana kapa e kgaleme Kgosi, Morena, Kgosana, Morena wa Motse kapa Ramotse;
- (b) hatella hore Kgosi e fumane tshokollo ya botahwa kapa ya bokgoba ba dithethefatsi;
- 45 (c) e nehe Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse kapa setho sa lekgotla la setjhaba kotlo ya tjelete e sa feteng Diranta tse Makgolo a Mabedi, e lokelang ho lefshwa kapa e nkuwe tefong efe kapa efe eo a tlang ho e fumana ho latela dintlha tsa molao o sebetsang molemong wa Letlole la Kuno la Provense ka mekitlane e tlang ho behwa ke Tonakgolo;

- (d) direct that for such period not exceeding two years as the Premier may determine, he or she must not be paid any remuneration; or
- (e) impose on him or her any two or more of the penalties referred to in paragraph (a), (b) and (c) jointly. 5
- (5) Any Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse or a member of a traditional council who has been convicted by a competent court of law of any offence referred to in Schedule 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), or of any offence which, in the opinion of the Premier, is tantamount to misconduct within the purview of this section, shall be deemed, on account of such conviction, to have been found guilty of misconduct in terms of this section, in which event the provisions of subsection (4) relating to the penalties which may be imposed for misconduct shall *mutatis mutandis* apply in respect of such Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse or a member of a traditional council. 10 15
- (6) Whenever a Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse or a member of a traditional council has been charged with misconduct in terms of subsection (1) or with any offence contemplated by subsection (5), the Premier may suspend such Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse or a member of a traditional council from his or her office until such time – 20
- (a) where such Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse or a member of a traditional council has been found guilty of misconduct or of such an offence, as the Premier has imposed a penalty in terms of subsection (4); or 25
- (b) as such Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse or a member of a traditional council is found to be not guilty of misconduct or of such an offence or the charge of misconduct or the criminal prosecution against him or her is withdrawn or abandoned. 30 35
- (7) Any Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse or a member of a traditional council suspended from his or her office in terms of subsection (6) must not during the period of his or her suspension be entitled or competent to exercise and perform any power, function and duty conferred and imposed on or associated with a Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse or a member of a traditional council by or in terms of any rule of law, nor must he or she in respect of such period of suspension be entitled to receive any remuneration or emolument payable to a Kgosi, Morena, Kgosana, Ramotse or a member of a traditional council in terms of the applicable legislation. 40 45

- (d) laele hore nakong e sa feteng dilemo tse pedi ho latela kamoo Tonakgolo e ka bonang kateng, a se lefshwe hohang; kapa e
- (e) mo nehe kotlo tse pedi kapa tse fetang tse boletsweng serapeng sa (a), (b) le (c) ka kopano.
- (5) Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse kapa setho sa lekgotla la setjhaba ofe kapa ofe ya ahlotsweng ke lekgotla la molao ka lebaka la tlolo efe kapa efe ya molao e boletsweng Sejuleng ya 1 ya Molao o mabapi le Tsamaiso ya Bonokwane, 1977 (Molao wa Nomoro ya 51 wa 1977), kapa tlolo efe kapa efe ya molao eo ho ya ka Tonakgolo, e leng boitshwaro bo bobbe ho latela karolo ena, ka lebaka la kahlolo e jwalo o tla nkuwa a le molato wa boitshwaro bo bobbe ho latela dintlha tsa karolo ena, moo dipehelo tsa karolwana ya (4) tse mabapi le dikotlo tse ka bang teng ka lebaka la boitshwaro bo bobbe ka diphetoho tse hlokahalang di tla sebetsa ho Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse kapa setho sa lekgotla la setjhaba.
- (6) Ebang Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse kapa setho sa lekgotla la setjhaba a ile a qoswa ka boitshwaro bo bobbe ho latela dintlha tsa karolwana ya (1) kapa ka tlolo efe kapa efe ya molao e lohothwang ke karolwana ya (5), Tonakgolo e ka fanyeha Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse kapa setho sa lekgotla la setjhaba ya jwalo ofising ya hae ho fihlela nakong eo -
- (a) Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse kapa setho sa lekgotla la setjhaba ya jwalo a fumanweng a le molato wa boitshwaro bo bobbe kapa tlolo ya molao e jwalo, ho latela kotlo ya Tonakgolo e ntshitsweng tlasa dintlha tsa karolwana ya (4); kapa
- (b) moo Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse kapa setho sa lekgotla la setjhaba a fumanweng a se molato wa boitshwaro bo bobbe kapa tlolo e jwalo ya molao kapa qoso ya boitshwaro bo bobbe kapa qoso ya bonokwane e kgahlano le yena e hulwa kapa e nyahlatswa.
- (7) Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse kapa setho sa lekgotla la setjhaba ofe kapa ofe ya fanyehilweng mosebetsing wa hae ho latela dintlha tsa karolwana ya (6) ha a tlameha hore nakong ya ho fanyehwa ha hae a be le tokelo ya ho sebedisa matla a hae le ho phetha mosebetsi le boikarabelo boo a bo jarisitsweng kapa bo amanngwang le Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse kapa setho sa lekgotla la setjhaba ho latela dintlha tsa molao ofe kapa ofe, ho feta moo, ha a tlameha hore nakong ya ho fanyehwa ha hae a be le tokelo ya ho fumana tefo efe kapa efe e lefshwang Kgosi, Morena, Kgosana, Ramotse kapa setho sa lekgotla la setjhaba ho latela dintlha tsa molao o sebetsang.

## Delegation

30. (1) The Premier may delegate in writing any of his or her powers or functions in terms of this Act, except powers to make Regulations in terms of section 31, to any member of the Executive Council of the Province or any official. 5
- (2) Any member of the Executive Council who have been delegated powers, may further in writing delegate this power or functions to an official in his or her department. 10
- (3) A delegation referred to in subsection (1) or (2) may be withdrawn at any time by the Premier or the Member of the Executive Council and does not prevent him or her from using or performing the power or function himself or herself while the performance of such power or function is delegated. 15

## Regulations

31. The Premier may make regulations relating to –
- (a) any matter which in terms of this Act is required or permitted to be prescribed; 20
- (b) in general, any matter which is considered necessary or expedient to prescribe for achieving the objects of this Act. 25

## Transitional arrangements

32. (1) Any traditional leader who was appointed as such in terms of applicable provincial legislation and was still recognised as a traditional leader immediately before the commencement of this Act, is deemed to have been recognised as such in terms of section 18, 19 or 21, subject to a decision of the Commission in terms of section 28. 30
- (2) A person who, immediately before the commencement of this Act, had been appointed and was still recognised as a regent, or had been appointed in an acting capacity or as a deputy, is deemed to have been recognised or appointed as such in terms of section 24, 25 or 26, as the case may be. 35
- (3) Any “tribe” that, immediately before the commencement of this Act, had been established and was still recognised as such, is deemed to be a traditional community contemplated in section 3, subject to – 40
- (a) the withdrawal of its recognition in accordance with the provisions of section 5; or 45
- (b) a decision of the Commission in terms of section 28.



**Thomeletso**

30. (1) Tonakgolo e ka romeletsa ka ho ngola, matla kapa mesebetsi efe kapa efe ya yona ho latela dintlha tsa Molao ona ho setho sefe kapa sefe sa Lekgotla la Phethahatso la Provense kapa ofisiri efe kapa efe, ntle le matla a ho etsa Melawana ho latela dintlha tsa karolo ya 31.
- (2) Setho sefe kapa sefe sa Lekgotla la Phethahatso se romeletsweng matla, se ka boela sa romeletsa ka ho ngola, ka matla kapa mesebetsi ena ho ofisiri e lefapheng la sona.
- (3) Thomeletso e bolelwang karolwaneng ya (1) kapa (2) e ka hulwa nakong efe kapa efe ke Tonakgolo kapa Setho sa Lekgotla la Phethahatso mme ha e mo thibele ho sebedisa kapa ho phethahatsa matla kapa mesebetsi ka boyena ha phethahatso ya matla a jwalo kapa mesebetsi o ntse o romeletswe.

**Melawana**

31. Tonakgolo e ka etsa melawana e amanang le -
- (a) taba efe kapa efe eo ho ya ka Molao ona e hlokehang kapa eo ho dumellehang hore e ka laelwa;
- (b) ka kakaretso, taba efe kapa efe e nkuwang e hlokeha hore e ka laelwa ka sepheo sa ho fihlella maikemisetso a Molao ona.

**Ditlhophiso nakong ya diphetoho**

32. (1) Moetapele ofe kapa ofe wa botjhaba ya neng a kgethilwe ho latela dintlha tse sebitsang tsa molao wa provense mme ya neng a ntse a amohelwa e le moetapele wa botjhaba hang-hang pele ho qalwa ka Molao ona, o tla nkuwa jwaloka ya amohetsweng jwalo ho latela dintlha tsa karolo ya 18, 19 kapa 21 ho itshetlehilwe qetong ya Khomeshene ho latela dintlha tsa karolo ya 28.
- (2) Motho eo, hang-hang kamora hore ho qalwe ka Molao ona, ya neng a kgethilwe mme a amohetswe e le Motshwaredi, kapa Moemedi kapa Motlatsi, o nkuwa e le ya amohetsweng kapa ya kgethilweng jwalo ho latela dintlha tsa karolo ya 24, 25 kapa 26, ho ya kamoo boemo bo tla beng bo le kateng.
- (3) “Morabe” ofe kapa ofe, hang-hang kamora hore ho qalwe ka Molao ona, o neng o thehilwe mme o amohetswe o le jwalo, o nkuwa e le setjhaba ho ya kamoo ho lohothwang kateng karolong ya 3, ho itshetlehilwe hodima -
- (a) ho hulwa ha ho amohelwa ha ona ho latela diphelelo tsa karolo ya 5; kapa
- (b) qeto ya Khomeshene ho latela dintlha tsa karolo 28.

- (4) A tribal authority or tribal council that, immediately before the commencement of this Act, had been established and was still recognised as such, is deemed to be a traditional council contemplated in section 7 and must perform the functions referred to in section 8: Provided that such a tribal authority must comply with section 7(2) within one year of the commencement of this Act. 5
- (5) (a) The Premier must, by notice in the *Provincial Gazette*, within one year of the commencement of this Act, disestablish any Council of Chiefs or Regional Council functioning under tribal authorities that have been established in terms of applicable legislation before the commencement of this Act. 10
- (b) The notice disestablishing a Council of Chiefs must regulate the legal, practical and other consequences of the disestablishment, including – 15
- (i) the transfer of assets, liabilities and administrative and other records to the provincial department responsible for traditional affairs; 20
- (ii) the vacation of office of any office-bearer of such Council of Chiefs, if applicable; and
- (iii) the transfer of staff of such Council of Chiefs, if applicable. 25
- (6) (a) Employees of a tribal council or traditional authority, who are in the official records of the provincial government, who were at the commencement of this Act, appointed by such a tribal council or traditional authority will be deemed to be employees contemplated in section 12. 30
- (b) The department responsible for traditional affairs in the Province must perform a workstudy to determine the salary levels and other conditions of service, for the employees contemplated in this section. 35

### Repeal of laws and savings

33. (1) Subject to the provisions of subsections (2) and (3), the laws mentioned in the second column of Schedule 1 are hereby repealed to the extent indicated in the third column of Schedule 1 as from a date determined by the Premier by notice in the *Provincial Gazette*. 40
- (2) Different dates may so be determined by the Premier in respect of different laws. 45

- 5 (4) Bolaodi ba botjhaba kapa lekgotla la setjhaba, hang-hang kamora hore ho qalwe ka Molao ona, bo neng bo thehilwe mme bo amohetswe bo le jwalo, bo nkuwa e le lekgotla la setjhaba ho ya kamoo ho lohothwang kateng karolong ya 7 mme le tlameha ho phetha mesebetsi e boletsweng karolong ya 8: Ha feela e le hore bolaodi bo jwalo ba botjhaba bo tlameha ho ikobela karolo ya 7(2) pele ho fela selemo sa pele sa ho qalwa ha Molao ona.
- 10 (5) (a) Tonakgolo e tlameha ho etsa tsebiso *Koranteng ya Mmuso wa Provense*, pele ho fela selemo sa pele sa ho qalwa ha Molao ona, ya ho qhala Lekgotla lefe kapa lefe la Marena kapa Lekgotla la Lebatowa le sebetsang tlasa bolaodi ba botjhaba bo thehilweng ho latela dintlha tsa molao o neng o sebetsa pele ho qalwa ka Molao ona.
- 15 (b) Tsebiso ya ho qhala Lekgotla la Marena e tlameha ho laola diphetho tsa molao, tse sebetsang le tse ding tse bakwang ke ho qhalwa, ho kenyeleditswe -
- 20 (i) ho fetisetswa ha thepa, dikoloto le direkoto tsa tsamaiso le tse ding ho lefapha la provense le ikarabellang mererong ya botjhaba;
- (ii) ho tlohela ofisi ha mohlanka ofe kapa ofe wa Lekgotla la Marena le jwalo, ebang ho hlokeha; le
- 25 (iii) ho fetisetswa ha basebetsi ba Lekgotla la Marena le jwalo, ebang ho hlokeha.
- 30 (6) (a) Basebetsi ba lekgotla la setjhaba kapa ba bolaodi ba botjhaba, ba direkotong tsa semmuso tsa mmuso wa provense, bao nakong eo ho neng ho qalwa ka Molao ona, ba neng ba kgethilwe jwalo ke lekgotla la setjhaba kapa bolaodi ba botjhaba ba tla nkuwa e le basebetsi ba lohothwang karolong ya 12.
- 35 (b) Lefapha le ikarabellang mererong ya botjhaba kahara Provense le tlameha hore le etse ditekolo tsa mosebetsi ho fumana bonnete ba maemo a meputso mmoho le boemo bo bong ba tshebeletso ya basebetsi ba lohothwang karolong ena.

### Ho fediswa ha melao le ho bolokwa ha e meng

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33. (1) Ho itshetlehilwe dipheelong tsa dikarolwana tsa (2) le (3), Melao e boletsweng kholomong ya bobedi ya Sejule ya 1 e a fediswa ho ya ka moo ho bolelwang kholomo ya boraro ya Sejule ya 1 ho tloha ka letsatsi le tlang ho tsebahatswa ke Tonakgolo ka tsebiso *Koranteng ya Mmuso wa Provense*.
- 45 (2) Tonakgolo a ka tsebahatsa matsatsi a fapaneng bakeng la Melao e fapaneng.

- (3) Anything done under a provision of a law repealed by subsection (1) and which is capable of being done under a provision of this Act must be deemed to have been done under that provision of this Act.

**Short title**

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34. This Act is called the Free State Traditional Leadership and Governance Act, 2005 and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*.

- (3) Ntho efe kapa efe e etswang tlasa pehelo ya Molao o fedisitsweng ke karolwana ya (1) mme e kgonang ho ka etswa tlasa pehelo ya Molao ona e tlameha ho nkuwa e le e entsweng tlasa pehelo eo ya Molao ona.

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#### **Sehlooho se se kgutshwane**

34. Molao ona o bitswa Molao wa Freistata wa Boetapele ba Botjhaba le Puso, 2005 mme o qala ho sebetsa letsatsing le tlang ho tsebahatswa ke Tonakgolo ka ho etsa tsebahatso *Koranteng ya Mmuso wa Provense*.

**SCHEDULE 1****Laws repealed****(Section 1)**

| <b>TITLE</b>   | <b>NO. AND YEAR OF LAW</b>   | <b>EXTENT OF REPEAL</b>  |
|--|------------------------------|--|
| Black Administration Act   | Act No. 38 of 1927           | Section 1, and subsections 2(7), 2(7)(bis), 2(7)(ter) and 2(8) |
| Regulations prescribing the Duties, Powers, Privileges and Conditions of Service of Chiefs and Headmen | Proclamation No. 110 of 1957 | The whole  |
| Traditional Authorities Act (Bophuthatswana)   | Act No. 23 of 1978           | The whole  |
| Qwaqwa Administration of Authorities Act   | Act No. 6 of 1983            | The whole  |

**SEJULE YA 1****Melao e fedisitsweng****(Karolo ya 1)**

| <b>SEHLOOHO</b>  | <b>NOMORO LE SELEMO SA MOLAO</b>    | <b>HO FEDISITSWE HAKAE</b>   |
|--|-------------------------------------|--|
| Molao wa Tsamaiso ya ba Batsho   | Molao wa Nomoro ya 38 wa 1927       | Karolo ya 1, le dikarolwana tsa 2(7), 2(7)(bis), 2(7)(ter) le 2(8) |
| Melawana e laelang Mosebetsi, Matla, Menyetla le Boemo ba Tshebeletso ya Marena le Borametse | Tsebahatso ya Nomoro ya 110 wa 1957 | Kaofela  |
| Molao wa Bolaodi ba Botjhaba (Bophuthatswana)  | Molao wa Nomoro ya 23 wa 1978       | Kaofela  |
| Molao wa Tsamaiso ya Bolaodi Qwaqwa  | Molao wa Nomoro ya 6 wa 1983        | Kaofela  |

## SCHEDULE 2

### CODE OF CONDUCT

#### 1. Definitions

In this Schedule “traditional leader” means a Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse.

#### 2. General conduct of traditional leader or members of a traditional council

A traditional leader or a member of a traditional council –

- (a) must perform the functions allocated to him or her in good faith, diligently, honestly and in a transparent manner;
- (b) must fulfil his or her role in an efficient manner;
- (c) may not conduct himself or herself in a disgraceful, improper or unbecoming manner;
- (d) must comply with any applicable legislation;
- (e) must act in the best interest of the traditional community or communities he or she serves;
- (f) must promote unity amongst traditional communities;
- (g) may not embark on actions that would create division within or amongst traditional communities;
- (h) must promote nation building;
- (i) may not refuse to provide any service to a person on political or ideological grounds;
- (j) must foster good relations with the organs of state with whom he or she interacts;
- (k) must promote the principles of a democratic and open society;
- (l) must disclose gifts received; and
- (m) must act in a manner that the credibility and integrity of traditional leadership and governance is not compromised.



**SEJULE YA 2****MOLAO WA BOITSHWARO****1. Ditlhaloso**

Sejuleng ena “moetapele wa botjhaba” ho bolelwa Kgosi, Morena, Kgosana, Morena wa Motse, Ramotse.

**2. Boitshwaro ba kakaretso ba moetapele wa botjhaba kapa ba ditho tsa lekgotla la setjhaba**

Moetapele wa botjhaba kapa setho sa lekgotla la setjhaba -

- (a) o tlameha ho phethahatsa mesebetsi eo a e nehlweng ka boikitlaetso, boitelo, botshepehi le ka mokgwa o bonaletsang;
- (b) o tlameha ho kgatha tema ya hae ka mokgwa o phethahetseng;
- (c) a se itshware ka mokgwa o tlontlolang, o sa lokang kapa o sa tshwanelang;
- (d) o tlameha ho ikobela Molao ofe kapa ofe o teng;
- (e) o tlameha ho etsa dintho molemong wa setjhaba seo a se sebeletsang;
- (f) o tlameha ho phahamisa kopano hara setjhaba;
- (g) a se etse diketso tse tlang ho baka dikarohano kahara setjhaba;
- (h) o tlameha ho kgothaletsa kopano ya setjhaba;
- (i) a se hane ho nehelana ka tshebeletso efe kapa efe mothong ka lebaka la tshusumetso ya sepolotiki;
- (j) o tlameha ho theha dikamano tse ntle le makala a mmuso ao a sebetsang mmoho le ona;
- (k) o tlameha ho kgothaletsa metheo ya setjhaba sa demokrasi le ponaletso;
- (l) o tlameha ho tsebahatsa dimpho tseo a di fumaneng; mme
- (m) o tlameha ho sebetsa ka mokgwa o sa tlontlolleng ho tshepeha le sa boetapele ba botjhaba le puso.

### **3. General conduct of traditional council**

A traditional council must –

- (a) perform the functions allocated to it in good faith, diligently, honestly and in a transparent manner;
- (b) execute its duties in an efficient manner;
- (c) comply with any applicable legislation;
- (d) act in the best interest of the traditional community it serves;
- (e) give effect to the principles governing public administration set out in section 195 of the Constitution; and
- (f) foster good relations with the organs of state with whom it interacts.

### **4. Conflict of interest**

- 4.1 A traditional leader and a member of a traditional council must declare any personal or private financial or business interest that the member may have in a matter –
- (a) that is before the traditional council;
  - (b) that is before a House of Traditional Leaders;
  - (c) that is before a Committee of a House of Traditional Leaders or Traditional Council on which the member serves; or
  - (d) in relation to which the member is required to take a decision as a traditional leader or a member of a traditional council.
- 4.2 A traditional leader or a member of a traditional council must withdraw from the proceedings of any committee of a House of Traditional Leaders or Traditional Council considering a matter in which the traditional leader or a member of a traditional council has any personal or private financial or business interest, unless the chairperson of a House of Traditional Leaders, or Kgosi or Morena under whose authority the traditional council falls, as the case may be, decides that the traditional leader's or a member of a traditional council's interest is trivial or not relevant.
- 4.3 If a traditional leader or a member of a traditional council is required to adjudicate upon or decide a matter in which the traditional leader or a member of a traditional council has a personal or private financial or business interest, the traditional leader or a member of a traditional council must declare that interest to the chairperson of a House of Traditional Leaders or Kgosi or Morena under whose authority the traditional council falls, as the case may be, and seek the permission that the chairperson, Kgosi or Morena to adjudicate upon or decide the matter.

### 3. Boitshwaro ba kakaretso ba lekgotla la setjhaba

Lekgotla la setjhaba le tlameha ho -

- (a) phethahatsa mesebetsi eo le e nehlweng ka boikitlaetso, boitelo, botshepehi le ka mokgwa o bonaletsang;
- (b) phethahatsa mesebetsi ya lona ka mokgwa o phethahetseng;
- (c) ho ikobela molao ofe kapa ofe o teng;
- (d) etsa dintho molemong wa setjhaba seo a le sebeletsang;
- (e) phethahatsa metheo e laolang tsamaiso ya setjhaba ho ya kamoo e hlahellang kateng karolong ya 195 ya Molao wa Motheo; le
- (f) theha dikamano tse ntle le makala a mmuso ao le sebetsang mmoho le ona.

### 4. Ditabatabelo tse ka bakang dikgohlano

4.1 Moetapele wa botjhaba le setho sa lekgotla la setjhaba ba tlameha ho etsa tsebahatso e mabapi le ditabatabelo dife kapa dife tsa bona ka bomong kapa tsa poraefete, tsa ditjhelete kapa tsa kgwebo tseo ba ka bang le tsona tabeng -

- (a) e ka pela lekgotla la setjhaba;
- (b) e ka pela Ntlo ya Baetapele ba botjhaba;
- (c) e ka pela Komiti ya Ntlo ya Baetapele ba botjhaba kapa Lekgotla la setjhaba leo setho se le sebeletsang; kapa
- (d) eo setho se hlokanang ho etsa qeto ho yona jwaloka moetapele wa botjhaba kapa setho sa lekgotla la setjhaba.

4.2 Moetapele wa botjhaba kapa setho sa lekgotla la setjhaba se tlameha ho ikgula diketsahalang tsa komiti efe kapa efe ya Ntlo ya Baetapele ba Botjhaba kapa ya Lekgotla la motse e shebaneng le taba eo moetapele wa botjhaba kapa setho sa lekgotla la setjhaba se nang le ditabatabelo dife kapa dife ka bomong kapa tsa poraefete, tsa ditjhelete kapa tsa kgwebo, ntle le haeba modulasetulo wa Ntlo ya Baetapele ba Botjhaba, Kgosi kapa Morena eo lekgotla la setjhaba le leng tlasa taolo ya hae, ho ya kamoo boemo bo tla beng bo le kateng, a tlang ho etsa qeto ya hore ditabatabelo tsa moetapele wa botjhaba kapa tsa setho sa lekgotla la setjhaba ha di kaalo kapa ha di amehe.

4.3 Ebang moetapele wa botjhaba kapa setho sa lekgotla la setjhaba se hloka ho etsa qeto hodima taba eo yena e leng moetapele wa botjhaba kapa setho sa lekgotla la setjhaba a nang le ditabatabelo dife kapa dife ka bomong kapa tsa poraefete, tsa ditjhelete kapa tsa kgwebo, moetapele enwa wa botjhaba kapa setho sena sa lekgotla la setjhaba se tlameha ho tsebahatsa ditabatabelo tseo ho modulasetulo wa Ntlo ya Baetapele ba Botjhaba, Kgosi kapa Morena eo lekgotla la setjhaba le leng tlasa taolo ya hae, ho ya kamoo boemo bo tla beng bo le kateng, le ho batla tumello ya hore modulasetulo, Kgosi kapa Morena a etse qeto tabeng eo.

## **5. Gifts**

- 5.1 A traditional leader or a member of a traditional council may not solicit or accept a gift or benefit which –
- (a) is in return for any benefit received from the traditional leader or a member of a traditional council, except gifts recognised by custom;
  - (b) constitutes improper influence on the traditional leader; or
  - (c) constitutes an attempt to influence the traditional leader in the performance of his or her duties.
- 5.2 When a traditional leader or a member of a traditional council, in the course of his or her duties, has received or has been offered a gift with a value of more than R350.00, the traditional leader or a member of a traditional council may request permission from the Premier to retain or accept the gift. If the permission is granted the traditional leader or a member of a traditional council may retain or accept the gift, but must disclose particulars thereof in terms of the Act and paragraph 6 of this Code. Where such permission has not been requested or granted, the traditional leader or a member of a traditional council must either –
- (a) return the gift or decline the offer; or
  - (b) donate the gift to the traditional community, a house of the traditional leaders or to the traditional council.
- 5.3 For the purposes of paragraph 5.2 “gift” does not include travel facilities or hospitality arising from attendance at meals, functions, meetings, cocktail parties, conventions, conferences or similar events attended by the traditional leader or a member of a traditional council as part of his or her duties.

## **6. Gifts and benefits to be disclosed**

### **6.1 Gifts**

A traditional leader or a member of a traditional council must disclose gifts and hospitality other than those received from a spouse or permanent companion or family member.

A description, including the value and source of –

- (a) any gift with a value of more than R100.00;
- (b) gifts received from a single source which cumulatively exceed the value of R100.00 in any calendar year;

## 5. Dimpho

- 5.1 Moetapele wa botjhaba kapa setho sa lekgotla la setjhaba se ka se kope kapa ho amohela mpho kapa hona ho kgola molemo -
- (a) ka lebaka la molemo ofe kapa ofe oo a o entseng ntle le dimpho tse amoheleng ho latela moeto;
  - (b) o tlang ho ba le tshusumetso e mpe ho yena; kapa
  - (c) o tlang ho leka ho ba le tshusumetso phethahatsong ya mesebetsi ya hae.
- 5.2 Ha moetapele wa botjhaba kapa setho sa lekgotla la setjhaba se ntse se phethahatsa mesebetsi ya sona, se fumana kapa se nehlwe mpho ya boleng bo fetang R350.00, moetapele enwa wa botjhaba kapa setho sena sa lekgotla la setjhaba se ka kopa tumello ya ho amohela mpho ena ho Tonakgolo. Ebang moetapele enwa wa botjhaba kapa setho sena sa lekgotla la setjhaba se fumana tumello ya ho amohela mpho, o tlameha hore pele a be a tsebisitse dintlha tsa yona ho latela dintlha tsa Molao le serapa sa 6 sa molao ona. Moo tumello e jwalo e sa koptjwang kapa e sa nyehelwang, moetapele wa botjhaba kapa setho sa lekgotla la setjhaba se tlameha -
- (a) ho kgutlisa mpho kapa ho e hana; kapa
  - (b) ho nehelana ka mpho eo ho baahi ba setjhaba, ntleng ya baetapele ba botjhaba kapa lekgotleng la setjhaba.
- 5.3 Molemong wa serapa sa 5.2 “mpho” ha e kenyeletse maeto kapa tlhokomelo eo a e fumanang ha a menngwe dijong, meketeng, dikopanong, meketjaneng e bobebe, dibokeng kapa diketsahalong tse tshwanang tseo moetapele wa botjhaba kapa setho sa lekgotla la setjhaba se bang ho tsona e le karolo ya tshebetso ya sona.

## 6. Dimpho le melemo e lokelang ho tsebahatswa

### 6.1 Dimpho

Moetapele wa botjhaba kapa setho sa lekgotla la setjhaba se tlameha ho tsebahatsa dimpho le melemo e meng ntle le e fumanwang ho molekane kapa motswalle kapa setho sa lelapa.

Tlhaloso, ho kenyeleditswe boleng le mohlodi wa -

- (a) mpho efe kapa efe ya boleng bo fetang R100.00;
- (b) dimpho tse tswang mohloding o le mong tseo ka kopanelo di fetang boleng ba R100.00 ka selemo;

- (c) hospitality intended as a personal gift and with a value of more than R100.00; and
- (d) hospitality intended as a gift and received from a single source, and which cumulatively exceeds the value of R100.00 in any calendar year.

#### 6.2 Benefits

- (a) The nature and source of any other benefit of a material nature; and
- (b) the value of that benefit.

### 7. **Breaches of Code**

- (1) The Premier may -
  - (a) investigate and make a finding on any alleged breach of a provision of this Code; or
  - (b) appoint a person –
    - (i) to investigate and make a finding on any alleged breach of this Code; and
    - (ii) to make appropriate recommendations to the Premier.
- (2) If the Premier or the person appointed by the Premier finds that a traditional leader has breached a provision of this Code, the Premier may mete any sanction as provided in section 29 of the Act.
- (3) Any investigation in terms of this item must be in accordance with the rules of natural justice.

- (c) tlhokomelo ya motho ka bomong ya mpho ya boleng bo fetang R100.00, le
- (d) tlhokomelo eo e leng mpho e tswang mohloding o le mong eo ka kopanelo e fetang boleng ba R100.00 ka selemo;

## 6.2 Melemo

- (a) Mofuta le mohlodi wa molemo ofe kapa ofe wa ntho; le
- (b) boleng ba molemo oo.

## 7. **Ho tloiswa ha molao**

- (1) Tonakgolo e ka -
  - (a) fuputsa mme e tsebahatse sephetho mabapi le tlolo efe kapa efe e belaelwang ya pehelo ya molao ona; kapa
  - (b) e kgethe motho -
    - (i) ho fuputsa le ho tsebahatsa sephetho mabapi le tlolo efe kapa efe e belaelwang ya pehelo ya Molao ona; le
    - (ii) ho etsa dikgothaletso tse lokelang ho Tonakgolo.
- (2) Ebang Tonakgolo kapa motho eo a mo kgethileng a fumana hore moetapele wa botjhaba o tlotse pehelo ya molao ona, Tonakgolo e ka nehelana ka kotlo efe kapa efe e hlahellang karolong ya 29 ya Molaong ona.
- (3) Phuputso efe kapa efe ho latela dintlha tsa sena e tlameha ho latela melao e mabapi le hore motho ka mong a hlalise lehlakore la hae la ditaba.