

Nkangala DM			<p>Clause 5 Members of municipal councils and provincial legislatures and Parliament should not be disqualified to be members of the NHTL.</p>	<p>39. The policy of Government is that members of legislatures should not be members of traditional leadership institutions in order to promote efficient functioning.</p>	No amendment recommended
			<p>Clause 8(1)(b) Quarterly meetings between NHTL and President.</p>	<p>40. Clause 8(1) (b) provides that the President or his designee must address the annual opening of the NHTL. Other engagements may be arranged with the President without providing for that in legislation.</p>	No amendment recommended
WESTERN CAPE	<p>Clause 4B On page 6 in line 32 after "may" to insert "within the province"</p>			<p>The comment will enhance understanding and legal certainty</p>	<p>Amended clause by inserting "within a Province" in line 33 after the word "areas".</p>
			<p>Clause 10(2) On page seven line 20 after "certain" to insert "or all"</p>	<p>See comment 1 under Free State</p>	No need for amendment

KWAZULU – NATAL					
			<p>Clause 4(3) election proceeding must be conducted by an Independent Electoral Commission Indicated that a legal opinion was requested by the Provincial Portfolio Committee on the constitutionality of clause 5(1)(a) [qualification for membership of NHTL]</p>	1. See comment 2 under Free State	No amendment recommended
	Indicated that a legal opinion was requested by the Provincial Portfolio Committee on the constitutionality of clause 3A(14) (f) – (g) [membership of queenship/kingship council]				
LIMPOPO	<p>Clause 2A Recognition of a kingship and queenship must be done with regard to traditions and customs and traditional leaders must be consulted</p>			1. Clause 2A already provides for a clear consultation process and that the identification and recognition must be done having regard to customs and customary law of the community concerned	No amendment recommended

	<p>Clause 13 The Commission must deal with issues on an urgent basis to ensure that matters are put to rest</p>		<p>Chapter 6 of the Act is being replaced with a new chapter in the Bill which provides for a new Commission with a view to speeding up the finalization of disputes and claims. The Commission will also have provincial committees.</p>	<p>No amendment recommended</p>
	<p>Clause 2A (4) (b)-(c) Traditional leadership should encourage gender equity in positions of traditional leadership</p>		<p>The Preamble of the Principal Act already provides for gender equality as one of the key principles that traditional leadership must adhere to.</p>	<p>No amendment recommended</p>
			<p>Clause 2A (4) (b)-(c) of the Bill also provides for this principle.</p>	

	<p>Section 6 and Clause 7 Bill must empower traditional leaders to participate in the issues of governance to speed up service delivery including at municipal level</p>		<p>Section 6 of the principal Act provides for partnerships between traditional councils and municipalities. Clause 7 of the Bill also provides for partnerships with kings' councils and district municipalities. Sections 76 and 81 of the Municipal Structures Act also provide for this. Provincial Houses of traditional leaders already work with provincial governments and the National House works with national government on development issues, etc.</p>	<p>No amendment recommended</p>
		<p>No Clause The word "senior traditional leader" is un-African" and must be amended and replaced with African vernacular terms</p>	<p>Provincial legislation caters for vernacular terminology to be used in this regard. The framework legislation seeks to find terms that may apply to all provinces.</p>	<p>No amendment recommended</p>

			<p>No clause The words "traditional council" must be amended to "royal council"</p>	<p>The word "traditional" was adopted in the White Paper on Traditional Leadership and Governance, 2003 and was used also in the Framework Act. To amend it in this amendment Bill will require a complete overhaul of the Framework Act.</p>	<p>No amendment recommended</p>
			<p>Clause 10(2) The 5 executive committee of the National House must all be full-time</p>	<p>See Comment 1 under Free State</p>	<p>See comment under Free State</p>
			<p>Chapter 3 of the Framework Act Clause 3B(2)(b) Appointment of women in traditional leadership positions terms of custom and customary law</p>	<p>The principal Act is in line with the equality clause in the constitution. The Framework Act (in Chapter 3) already provides for custom and customary law to be applied when identifying and recognizing traditional leaders.</p>	<p>No amendment recommended</p>

			<p>Section 29 of the principal Act. Clause 12 The Bill should provide that all traditional leaders are public office bearers</p>	<p>Kings/queens, senior traditional leaders and headmen are already recognized as public office bearers in terms of section 29 of the principal Act. Clause 12 of the Bill also provides that the principal traditional leader is a public office bearer</p>	<p>No amendment recommended</p>
			<p>Clause 15 The meetings of the National House and provincial houses must be held on a quarterly basis</p>	<p>In addition to meetings between the National House and provincial Houses the Bill in clause 15 provides for a chairpersons' forum to meet regularly. (the rules of the National House also provide for other forums may to be established for interaction between houses)</p>	<p>No amendment recommended</p>

CONSIDERATION OF THE TRADITIONAL LEADERSHIP AND GOVERNANCE FRAMEWORK AMENDMENT BILL (57 OF 2008) AND THE NATIONAL HOUSE OF TRADITIONAL LEADERS BILL, 2008 (Bill 56 of 2008)

Introduction

The Select Committee met on the 2nd September 2009 to receive inputs from both the National House of Traditional Leaders (NHTL) and Provincial Houses of Traditional Leaders on the Traditional Leadership and Governance Framework Amendment Bill, 2008 (Bill 57 of 2008) and the National House of Traditional Leaders Bill, 2008 (Bill 56 of 2008). The Department has been requested to make a submission to the Select Committee on the 15th September 2009 in response to the matters raised during the above meeting.

TRADITIONAL LEADERSHIP AND GOVERNANCE FRAMEWORK AMENDMENT BILL (57 OF 2008)

N0	ISSUE	INSTITUTIONS	COMMENTS	SUGGESTIONS TO AMEND THE BILL
1	Commission			
1.1	The Commission should have the authority to make final decisions on disputes or claims. If the Commission is restricted to make recommendations it opens an opportunity for political interference.	NHTL & Limpopo	The majority of Houses are of the view that the Commission should only make recommendations and that the final decision should vest with the President	No amendment to the Bill.
1.2	The Commission should be restricted	Eastern Cape, Free State,	The Department supports the proposal (see 1.1 above)	No amendment to the Bill

	to make recommendations on disputes and claims for final decision by the President.	Mpumalanga,		
1.3	The reconstituted Commission should be authorized to review the decisions of the current Commission	Mpumalanga	The Framework Act currently provides that the Commission makes final decisions which must be implemented by the President and Premiers. The only competent authority to review the decisions of the Commission is a court of law.	No amendment to the Bill
1.4	The legality of the decisions of the Commission was questioned due to the fact that provinces were not part of the processes of the Commission as well the fact that traditional leadership is a concurrent function.	Eastern Cape	The only legislation providing for the resolution of disputes and claims is the Traditional Leadership and Governance Framework Act, 2003 (Act 41 of 2003). There is no concurrent provincial legislation dealing with the subject matter.	No amendment to the Bill
2	Principal Traditional Leader			
2.1	Opposition to the creation of a forth level of a traditional leadership position – Principal traditional	NHTL, Eastern Cape, Limpopo, Mpumalanga and North West	In the majority of communities, the position never existed in terms of custom and customary law. If government continues with the recognition of this	1. The current paramount chiefs and the paramountcies will continue to exist as kings/queens and kingships/queenships until the current incumbents pass on or vacate their positions, whereafter, the successors

	Leader		position, it may be accused of emulating the colonial and apartheid governments (e.g. Paramount Chiefs).	<p>will be recognized as principal traditional leaders and the kingships/queenships will be deemed to be principal traditional leadership communities.</p> <ol style="list-style-type: none"> 2. A principal traditional leadership council will be established based on the same principles applicable to a kingship/Queenship and traditional council. 3. Where in a province in terms of custom and customary law, a principal traditional leader and a principal traditional leadership community exist, provision is made for the recognition by the Premier of a principal traditional leader and the establishment of a principal traditional leadership community and council. 4. The transition from a king/queen to principal traditional leader and kingship/queenship to a principal traditional leadership community is provided for in the Bill..
2.2	Support for the creation of a forth level of traditional leadership position – Principal traditional Leader	KwaZulu-Natal	KwaZulu-Natal supports the position because it exists in the form of the Traditional Prime Minister. (The Traditional Prime Minister is not a traditional leadership position but merely a functionary position).	See response above (2.1)
2.3	Support the creation of a forth level of traditional leadership position – Principal traditional Leader with an amendment	Free State	The customs and customary law of the Basotho developed over time resulted in the creation of a leadership position between the Senior Traditional Leader and the King (Lesotho). Due to the	See response above(2.1)

of de-linking the position from a Kingship/Queenhip (Independent leadership position)			fat the Free State Basotho dhave a recognized King in SAfrica, consideration can ben to the creation of a Pal Traditional Leadership bon the already existing L _o model/arrangement.	
Kingship/Queenhip Council Membership of the Kingship or Queenhip Council should exclude politicians.	NHTL		C 5 [section 3(A) (14) of tht] specifically provides thmember of a Municipal Cl, Provincial Legislature arliament may not be aged as a member of the Kip or Queenhip Council	No amendment to the Bill
Transitional Arrangements on Paramountcies				
The continued existence of paramountcies which is subject to the lifespan of the current incumbent is problematic. The question posed was; "What happens with the institution as well as the successor when the current incumbent dies?"	Free State		Thl in its current form does nor for the issue raised.	See response in 2.1 above.