



**ESTABLISHMENT AND WORK OF THE INTER-DEPARTMENTAL COMMITTEE ON
IMPLEMENTATION OF SECTIONS 19 AND 20 OF TRADITIONAL LEADERSHIP AND
GOVERNANCE FRAMEWORK ACT NO. 41 OF 2003**

1. BACKGROUND

In June and in September 2003 Cabinet approved of the White Paper on Traditional Leadership and Governance as well as the Traditional Leadership and Governance Framework Bill, respectively. The Bill was enacted into law in December 2003 and put into operation in September 2004.

Sections 19 and 20 (1) of the Traditional Leadership and Governance Framework Act No. 41 of 2003, deal with the allocation of roles and functions for traditional leadership. These sections envisage the assignment by national government or provincial government of roles and functions for traditional leadership structures. Some of these roles/functions have already been assigned to traditional leadership structures although no formal assignment instruments have been entered into between such departments and traditional leadership structures at the moment.

To implement the Act in this regard, the Minister for Provincial and Local Government wrote to all the relevant Departments / Ministries, during November 2006, sensitising them to the provisions of the Act to include traditional leadership issues in the planning and implementation of their respective programmes, where applicable.

2. INTRODUCTION

The Department of Provincial and Local Government is in the process of developing a framework for the implementation of Act 41 of 2003, a national framework for the capacity building of traditional leadership as well as a programme of support for the institution of traditional leadership including assisting provinces with the finalisation and implementation of provincial legislation on traditional leadership. During the course of the discussions on these matters the question arose as to how far individual Ministries /Departments have gone

with the assignment of roles and functions for traditional leadership. It may also be possible that National Departments, other than those envisaged in section 20 (1) of Act 41 of 2003, may have developed programmes relating to, or involving, the institution of traditional leadership.

To take the process forward the Minister for Provincial and Local Government is establishing an Inter-Departmental Committee (the IDC) to prepare for a workshop with affected Ministers.

3. MEMBERSHIP OF THE INTER-DEPARTMENTAL COMMITTEE

The membership of the IDC will comprise the Departments listed in the Framework Act, and in addition to that all other Department who not listed in the Act but who do work with traditional communities through traditional leaders and their structures will be part of this committee.

The National House of Traditional Leaders (the NHTL) will also be part of the IDC.

3.1. Arts and Culture

The White Paper on Traditional Leadership provides for traditional leaders

- to promote indigenous knowledge systems, music, oral history and commemorative events;
- promote the preservation of heritage resources.

Through partnership with the Department of Arts and Culture, the institution of traditional leadership should:

- Assist the traditional communities in the protection, promotion and preserving indigenous knowledge system;
- Establish new commemorative structures and museums by recasting of existing monuments and museums (re-interpretation);
- Proclaim new heritage institution to redress the neglected histories;
- Reclaim human dignity through the transformation of place names by ensuring that rural communities identify with the linguistic, historical, cultural and socio-economic consideration for the name;

- Encourage tourism in rural areas thereby securing future developments of the arts industry in the country;
- Facilitate, encourage and co-ordinate programmes in every sector in traditional communities by restoring the moral fibre of the nation.

3.2. Environmental Affairs and Tourism

The White Paper provides for Traditional Leaders to

- promote environmental management; and
- promote sustainable use of cultural resources within communities.

Through partnership with the Department of Environmental Affairs and Tourism, the institution of traditional leadership should assist in:

- Promoting greening/ eco-friendly practices as a way of life by reinforcing the role of the environmental living within the context of the country's economic and social development programme;
- The management of coastal zone (falling within the jurisdictional area of a traditional council) for optimal use of opportunities and benefits it provides;
- Promotion and conservation of biological diversity, cultural and local natural resources and ensure the sustainable utilization of the land in the interest of health and well being of people in rural areas;
- Provision of indigenous environmental information in support of effective environmental management and public participation in environmental governance;
- Assisting in the greening campaign for 2010 and beyond;
- Assist in creating conditions for responsible tourism growth and development thereby increasing job entrepreneurial opportunities and encouraging meaningful participation of traditional communities.

3.3. Government Communication and Information Service (GCIS)

The White Paper provides for Traditional Leaders to play a role in the dissemination of government information relating to government policies and programmes

3. 4. Health

Traditional Leaders should advise and play a role in traditional health practices and rituals including initiation schools;

- advise and participate in nation-wide health campaigns, e.g. cholera, HIV/AIDS, tuberculosis, etc.;

Through partnership with the Department of Health, the institution of traditional leadership should assist in:

- Delivering Telemedicine System health care services at a distance to South African rural communities which will provide rural communities access to physicians and 'specialists' expertise thereby allowing better utilization of scarce medical personnel and resources;
- Improving the nutritional status of all South Africans through implementing integrated nutrition activities in rural areas;
- Raising public awareness on the impact of HIV/AIDS;
- Assisting in the efficiency, safety and quality of traditional health services with regard to registration, and conduct of practitioners in the traditional health practitioners' profession.

3.5. Home Affairs

Involvement of traditional councils in the registration of births, identity documents, customary marriages, deaths, etc.

Some of the functions were allocated to traditional authorities in the past, but were later withdrawn because of certain reasons. A lasting and legally structured partnership is proposed within the auspices of the work of the committee.

A bilateral meeting was held between the **dplg** and Home Affairs with a purpose of establishment of a structured and sustainable partnership between the two government departments and traditional leadership and an approach on how to implement the sections of the legislation that provide for the said departments to assign roles to traditional leadership structures particularly the Traditional Councils (TCs). The two departments agreed, in a bilateral, to commence mutual engagement on this programme.

3.6. Housing

The Traditional Leadership in South Africa should partner and commit to constructive dialogue for the benefit of rural communities to;

- Assists in dedicating itself to work tirelessly to fast track housing delivery;
- Assist in creating human settlements that give back to traditional communities dignity, house the homeless and ensure that their homes are lifelong assets for them and their generations;
- Ensuring that each person in the rural housing delivery chain understood their obligations and that these obligations were respected;
- Accelerating the delivery of housing as a key strategy for poverty alleviation in rural areas;
- Build capacity within the construction industry and promote development of the emerging and women contractors in rural areas;
- Support the promotion of approved indigenous methods and technologies relevant for the rural context and making sure that they are of minimum approved standards and are suitable to rural context;
- Engage in removing obstacles which impede rapid delivery in rural areas.

3.7. Justice and Constitutional Development (Johan to feed in)

Allocation of judicial functions and conferment of jurisdiction on traditional leaders to try certain cases in customary courts and to act as Commissioner of Oaths.

The dplg is currently part of a task team whose work is to put together a document towards the adoption of a policy and enactment of a law on customary courts and their procedure.

3.8. Land Affairs and Agriculture

The white Paper on Traditional Leadership and Governance outlines the following role to be played by TCs in the following areas:

- land administration;
- advise government on agricultural development and improvement of farming methods;
- promote sustainable use of land; and

- advise government and participate in programmes geared to prevent cruelty to animals.

Traditional leaders can also play a role in agri-tourism activities taking place in traditional communities.

3.9. Minerals and Energy

Involvement of traditional communities and leadership in the mining activities and royalty benefits of minerals extracted from traditional community land

3.10. National Treasury

Involvement of traditional leaders in the economic development initiatives of government and the formation of private-public partnerships (including joint ventures) and public-public partnerships.

The National Treasury is primarily expected to fund government programmes geared towards the building of capacity of traditional leaders to play their role in service delivery and development.

3.11. Safety and Security

Involvement of traditional leaders in the community safety structures and programmes, like the Community Policing Forums (CPFs).

Traditional leaders also need to be involved in developing a national strategy to reduce the number of youth in conflict with the law and promote youth development within the framework of the national Crime Prevention Strategy and partnership with the National Youth Commission.

3.12. Department of Social Development

The White Paper provides for Traditional Leaders to:

- facilitate community access to pensions and social grants;

- promote protection of the vulnerable , including children, the elderly and the disabled;

Through partnership with the Department of Social Development, the institution of traditional leadership should assist in:

- Rebuilding of family, community and social relations by restoring the ethics of care and human development in welfare programmes;
- Making social welfare services accessible and available to people in rural areas and ensure equity in service provision;
- Making a range of services accessible to support rural communities through community –based care system for the people living with HIV/AIDS with attention given particularly to orphans and children infected and affected by HIV/AIDS;

3.13. Provincial and Local Government

The key legislation on local government and traditional leadership is administered by the **dplg**; hence the dplg should take the lead in implementing key critical sections on the Framework Act, The Municipal Structures Act, The Municipal Systems Act, Disaster Management Act, etc. The table attached to this document shows some of the key units to work with traditional leadership in the execution of their mandate.

3.14. Public Works

Involvement of traditional leaders and councils in the Expanded Public Works Programmes taking place in traditional communities.

3.15. Trade and Industry

Involvement of traditional leadership in business activities in their areas through partnership with the Department of Trade and Industry, the institution of traditional leadership should assist in:

- Identifying the economic potential of traditional communities though indigenous knowledge systems to assist in creating a more equitable economy to the benefit of rural communities;
- Assist in identified local products and services that would be exported to markets outside South Africa;

- Creating an enabling environment for co-operative enterprises which reduces the disparities between urban and rural businesses and is conducive to entrepreneurship;
- Raising awareness on consumer rights and responsibilities in rural areas;
- Achieving equity in rural communities by creating mechanisms of supporting women owned enterprises;
- Applying the principle of Black Economic Empowerment in traditional communities.

3.16. The Presidency

The Presidency is expected to play the following roles, *inter alia*:

- To lead and coordinate the work of the whole government impacting on traditional leadership;
- To recognise and support the Kings and Queens in terms of the Framework Act; and
- Involve traditional leaders in programmes like ASGISA and JIPSA.

3.17. Water Affairs and Forestry (DWAF)

Involvement of traditional leaders in water and forestry conservation, farming and use in traditional communities.

3.18. National House of Traditional Leaders (NHTL)

The National House of Traditional Leaders is statutory body established in terms of Act 10 of 1997 as amended to play an advisory role to government on matters pertaining to traditional leadership and communities. The NHTL should play its role to assist the IDC to realize its objectives.

DPLG UNIT	EXAMPLE OF KEY AREAS OF COOPERATION
Integrated Development Plans	<ul style="list-style-type: none"> In terms of the law traditional councils must be involved in the compilation and review of the IDPs as part of creating credible IDPs. Involvement of traditional leaders in the identification of community development needs
Local Economic Development	Traditional leaders to be part of all the economic development activities in their communities, whether coordinated by the municipalities or not. Also to be beneficiaries of all capacity building related to LED.
Integrated Sustainable Rural Development Programme	In all rural development initiatives and programmes traditional leaders must be involved both at the planning as well as at execution stage.
Inter-Governmental Relations	Traditional leaders to be involved in the activities of the intergovernmental structures, especially when matters involving traditional communities and leadership are to be discussed.
LOGOLA (Local Government Training Academy)	There is a need to a dedicated skills development programme for traditional leadership, in addition both municipal councillors as well as traditional councillors need joint capacity building in order for them to understand each other's roles and status in terms of the constitution and the relevant legislation.
Public Participation	<ul style="list-style-type: none"> Traditional leaders need to participate in structures like ward committees, not only for public participation purposes but as partners in service delivery and development. Consultation of traditional leaders as partners in all the programmes of the municipalities
Project Consolidate / 5 year Local Government Agenda	<ul style="list-style-type: none"> To partner with the institution of traditional leadership on the basis as part of the dedicated programme to ensure that all municipalities function in terms of the law in delivering services. Through this programme assurance must be made that traditional leadership structures are involved where they should be involved by the municipalities to eliminate confusion and conflict. Entering into service delivery agreements between traditional councils and municipalities in terms

	of section 76 of the Systems Act and the section 5 of the Framework Act.
Local Government Administration	<ul style="list-style-type: none"> • Implementation of S81 of the Structures Act as to participation of traditional leaders in municipal councils; • Submission of draft-bylaws to traditional councils and local houses by local and district municipalities;
Disaster Management	<ul style="list-style-type: none"> • Involve traditional councils and local houses in the disaster management committees and activities in traditional communities for them to utilise the indigenous knowledge systems as provided for in the Disaster Management Act

4. OUTLINE OF THE PROCESS AND WORK OF THE COMMITTEE

The DPLG will initiate the establishment of the IDC and this committee will report to the Minister via the Director-General: DLPG. The DPLG will oversee and coordinate the functioning of the IDC as outlined in the table below.

ACTION		PURPOSE	SUGGESTED DATE
1.	Establishment of the IDC	<ul style="list-style-type: none"> - DPLG to coordinate the establishment the committee - Write letters to relevant Departments to identify members of the IDC - DPLG to arrange for the first meeting of the IDC 	August 2007

2.	First meeting of the IDC	<ul style="list-style-type: none"> - Clarify and agree on the terms of reference - Start preparing for the workshop with affected Ministers - Finalise the date and programme for the workshop to discuss and decide on: <ul style="list-style-type: none"> - implications of the assignment of functions (budget, resources, assignment instruments, etc) - the processes of the assignment of functions - the implementation of the assignment processes and the consultation with the stakeholders - the legislative implications to individual Department - implementation of the resolutions of the workshop 	August 2007
3.	Workshop with Ministers	<ul style="list-style-type: none"> - Discuss and decide on the implementation of the assignment of functions (see paragraph 2) 	To be determined by the IDC
4.	IDC to implement resolutions of the workshop (the dplg to coordinate the meetings of interdepartmental committee)	<ul style="list-style-type: none"> - To implement the decisions of the committee at administrative level - To report program to the DPLG Minister on a quarterly basis 	ongoing
5.	- Ministries to monitor the implementation of the Act and assignments		ongoing

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5. TERMS OF REFERENCE OF THE IDC

The Inter-Departmental Committee will facilitate the implementation of sections 19 and 20 of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003) and other relevant legislation which is provided for in the Act as follows:

- a) allocation of roles by relevant government departments to traditional councils and traditional leaders;
- b) consultation with the Minister for Provincial and Local Government, the relevant MECs in provinces and traditional leaders and traditional councils;
- c) allocation of financial, human and other resources to traditional councils for the performance of the assigned functions;
- d) determination of appropriate legal instruments for the allocation of roles and functions;
- e) monitoring the performance of the allocated roles to traditional leaders and councils and compliance with the Constitution;
- f) providing capacity building to traditional leaders and councils for the performance of allocated roles; and
- g) ensuring the uniform allocation of roles within areas where there are traditional communities.

MEETINGS

The **dplg** will organize and facilitate the meetings of the IDC and bilateral meetings with various member departments.