

## DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

## NOTICE 3706 OF 2025

**INVITATION FOR PUBLIC COMMENTS ON THE DRAFT TRADITIONAL COURTS REGULATIONS AND THE CODE OF CONDUCT MADE IN TERMS OF THE TRADITIONAL COURTS ACT, 2022 (ACT NO. 9 OF 2022)****1. INVITATION**

- 1.1 The Department of Justice and Constitutional Development (the Department) invites interested parties to submit written comments on the draft code of conduct and regulations made in terms of the Traditional Courts Act, 2022 (Act no. 9 of 2022) (the Act).
- 1.2 The draft traditional courts regulations and code of conduct are made in terms of sections 16 and 17 of the Act respectively and are available on the website of the Department at: <https://www.justice.gov.za/legislation/invitations/invites.htm>

**2. COMMENTS**

- 2.1 The comments must be submitted not later than **Friday, 13 February 2026**, marked for the attention of **Mr D Mangena / Adv Takalani Nndanduleni**, and—
- (a) if they are forwarded by post, be addressed to—  
**The Department of Justice and Constitutional Development,  
Private Bag X81, Pretoria, 0001**
  - (b) if they are delivered by hand, be delivered at—  
**The Department of Justice and Constitutional Development,  
Momentum Centre, 329 Pretorius Street, Pretoria**
  - (c) if they are delivered by email, be emailed to [DiMangena@justice.gov.za](mailto:DiMangena@justice.gov.za) or [TNndanduleni@justice.gov.za](mailto:TNndanduleni@justice.gov.za)
- 2.2 For more information, please contact Mr D Mangena on **012 406 4763** or Adv Takalani Nndanduleni on **012 406 4775**

**DRAFT**

## **TRADITIONAL COURTS ACT, 2022 (ACT NO. 9 OF 2022)**

### **REGULATIONS RELATING TO TRADITIONAL COURTS**

The Minister of Justice and Constitutional Development intends, in terms of section 17 of the Traditional Courts Act, 2022 (Act No. 9 of 2022), after consultation with the Minister of Cooperative Governance and Traditional Affairs, Members of Executive Councils of provinces responsible for traditional affairs and the National House of Traditional Leaders, to make the Regulations in the Schedule.

### **SCHEDULE**

#### **CONTENTS**

1. Definitions
2. Designation of presiding officer by traditional leader
3. Role and responsibilities of clerk of traditional court
4. Qualifications and experience of Provincial Traditional Court Registrar
5. Role, functions and responsibilities of Provincial Traditional Court Registrar
6. Register of traditional courts
7. Pledge
8. Record of proceedings
9. Involvement of paralegals and interns
10. Access to records
11. Disposal of records
12. Review by High Court
13. Referral of matters to Magistrate's Courts
14. Transfer of disputes to Magistrate's Court or small claims court
15. Referral and reporting cases of public interest
16. Reporting of alleged breach of code of conduct
17. Report to Parliament
18. Report to Provincial Traditional Court Registrar
19. Training of traditional leaders

20. Training of paralegals and interns
21. Short title and commencement

## **ANNEXURE**

### **Form No.**

1. Designation of presiding officer
2. Register of traditional courts
3. Record of proceedings in traditional court
4. Referral of matters to High Court for review
5. Referral of matters to Magistrate's for review
6. Transfer of disputes to Magistrate's Court or small claims court
7. Reporting of alleged breach of code of conduct

### **Definitions**

1. In these Regulations any word or expression to which a meaning has been assigned in the Act bears that meaning and, unless the context otherwise indicates—

**“Annexure”** refers to the Annexure to these Regulations;

**“Director-General”** means the Director-General of the Department of Justice and Constitutional Development;

**“paralegals”** means a paralegal referred to in section 17(1)(i) of the Act;

**“the Act”** means the Traditional Courts Act, 2022 (Act No. 9 of 2022); and

**“working day”** means any ordinary day of the week excluding Saturdays, Sundays and public holidays as provided for in section 4 of the Interpretation Act, 1957 (Act No. 33 of 1957), and where these Regulations or the Act refer to a day of sitting of traditional courts, such a day will include Saturdays, Sundays and public holidays.

### **Designation of presiding officer by traditional leader**

2. (a) A traditional leader may designate any person to preside over a session of a traditional court.

(b) The designation contemplated in paragraph (a) must be on a form that corresponds substantially with Form 1 of the Annexure.

### **Role and responsibilities of clerk of traditional court**

**3.** The role, functions and responsibilities of a clerk of a traditional court are, in addition to those referred to in section 5(4)(b) of the Act, as provided for in these Regulations and include—

- (a) managing and supervising the work of paralegals or interns assigned to assist him or her in the performance of his or her duties and functions; and
- (b) ensuring that the traditional leader or delegated person designated to preside over a session of traditional court say a pledge contemplated in regulation 7.

#### **Qualifications and experience of Provincial Traditional Court Registrar**

**4.** (1) To be appointed as a Provincial Traditional Court Registrar, a person must have—

- (a) a National Senior Certificate or equivalent certificate;
- (b) a law degree obtained at any higher education institution referred to in the Higher Education Act, (Act No. 101 of 1997); and
- (c) a minimum of five years' experience and knowledge in traditional affairs, institution of traditional leadership or management of courts.

#### **Role, functions and responsibilities of Provincial Traditional Court Registrar**

**5.** (1) The role and responsibilities of a Provincial Traditional Court Registrar are, in addition to the functions referred to in section 10(2) of the Act, as assigned in these Regulations and include to—

- (a) manage and supervise the work of the clerks of the traditional courts within his or her province;
- (b) take the necessary administrative and remedial steps, as may be required, to deal with the traditional courts that are not functioning in accordance with the Act;
- (c) compile statistics and conduct an analysis of—
  - (i) matters dealt with by the traditional courts;
  - (ii) decisions and orders made by the traditional courts;
  - (iii) matters referred to the Magistrate's Courts or small claims court;
  - (iv) matters taken to the High Court for review;
  - (v) allegations of breach of code of conduct contemplated in section 16 of the Act;
  - (vi) matters referred to another traditional court, any other court or an appropriate institution or organisation; and

- (vii) the impact of training offered to traditional leaders, paralegals and interns;  
and
  - (d) make recommendations regarding the issues referred to in paragraph (c) to the Member of the Executive Council responsible for traditional affairs in the province in question and to the Minister.
- (2) The Provincial Traditional Court Registrar is responsible for overall management and safekeeping of records of traditional courts in the province.

### **Register of traditional courts**

6. (1) A register of traditional courts for a province must contain information that corresponds substantially with Form 2 of the Annexure.
- (2) The information in the register must be updated as and when it is necessary to keep the register up to date.
- (3) The Director-General may establish and maintain a registration information system for traditional courts for use by Provincial Traditional Courts Registrars.

### **Pledge**

7. Before commencing any session of a traditional court, the traditional leader presiding over the traditional court or the person designated by the traditional leader to preside must say the following pledge:

“I, (indicate names in full and surname), solemnly swear \*or affirm that, as a traditional leader \*or a person designated by a traditional leader, I will be faithful to the Republic of South Africa, will promote and protect the values enshrined in the Constitution and the Traditional Courts Act, and will administer justice to all persons alike without fear, favour or prejudice, as I preside over this session of the traditional court of the (indicate name) Traditional Authority.”.

### **Record of proceedings**

8. The traditional court must record or cause to be recorded the proceedings of its sessions on a form that corresponds substantially with Form 3 of the Annexure and, where possible, also record the session electronically.

## **Involvement of paralegals and interns**

**9.** (1) The role, function and responsibilities of paralegals in a traditional court include—

- (a) providing information to the parties to a dispute regarding—
  - (i) the functioning of the traditional courts;
  - (ii) transfer of a dispute to the Magistrate's Court or small claims court;
- (b) providing assistance to the parties to a dispute, where required;
- (c) Providing advice to the parties to a dispute in terms of the Act; and
- (d) performing duties assigned to him or her by the clerk of the traditional court or traditional leader in so far as it is necessary to give effect to the provisions of the Act.

(2) The role and responsibilities of an intern in a traditional court include—

- (a) to interview parties in order to determine the nature of their complaints;
- (b) to assist parties in completing the forms related to court processes;
- (c) to compile written summaries of complaints of parties to the proceedings in a traditional court;
- (d) to serve documents and summons to parties, where possible; and
- (e) to perform duties assigned to him or her by the clerk of the traditional court or traditional leader in so far as it is necessary to give effect to the provisions of the Act.

## **Access to records**

**10.** (1) A party to the proceedings of a traditional court may, in writing and stating reasons, request to be provided with the record of the proceedings in paper or, where available, electronic format.

(2) A person, other than a party to the proceedings of a traditional court, may, in writing and stating reasons, request to be provided with the record of the proceedings in paper or, where available, electronic format.

(3)(a) The request contemplated in subregulations (1) and (2) must be submitted to the clerk of the relevant traditional court.

(b) Upon receipt of the request, the clerk must submit the request to the traditional leader or designated person who presided over that matter for approval.

(4) The traditional leader or designated person may—

- (a) grant the request for the records of proceedings, in which event the person requesting the records of proceedings may view and make a copy of the record of proceedings or any part thereof within three working days—
  - (i) during office hours, when the traditional court is not in session, at the court where the matter was dealt with;
  - (ii) under the supervision of the clerk of the traditional court; and
  - (iii) on any other conditions the traditional leader or designated person may determine, including the payment for making copies; or
- (b) refuse the request for the record of the proceedings contemplated in subregulation (2) if—
  - (i) the disclosure of records will endanger the life or safety of any party or other individual;
  - (ii) the request will infringe the privacy of any party to the proceedings;
  - (ii) the request is frivolous; or
  - (iv) for any other reason which justifies the refusal of the request.
- (c) The traditional leader or designated person must provide reasons for refusal the request for the record of proceedings contemplated in paragraph (b).

### **Disposal of records**

- 11. (1) A record of the proceedings of a traditional court must be kept for a minimum period of seven years from the date of finalisation of the matter in question.
- (2) The disposal of records must be made in accordance with the National Archives and Records Service of South Africa Act, 1996 (Act No. 43 of 1996) or the relevant policy for the disposal of records.

### **Review by High Court**

- 12. (1) A party to the proceedings of a traditional court who is aggrieved by the decision of the traditional court may, within 15 working days of such decision—
  - (a) notify the other party to the proceedings of his or her intention to take the proceedings on review by the High Court;
  - (b) provide the clerk of the traditional court with reasons for the review; and
  - (c) submit to the clerk of the traditional court a review to a division of the High Court having jurisdiction on a form that corresponds substantially with Form 4 of the Annexure.

- (2) The clerk of the traditional court must—
- (a) electronically transmit, within five working days, the form referred to in subregulation (1)(c), together with supporting documents and the relevant record of the proceedings of the traditional court to the Provincial Traditional Court Registrar to assist the aggrieved party to take the proceedings to the High Court for review;
  - (b) deliver the original documentation referred to in paragraph (a) to the Provincial Traditional Court Registrar;
  - (c) provide the parties to a dispute with proof of transmission and delivery of the documentation to the Provincial Traditional Court Registrar; and
  - (d) keep a record of the matters and related documentation taken to the High Court for review.

(3) The Provincial Traditional Court must, within seven days of receipt of the documents referred to in subregulation (2)(a) and (b), transmit the documents to the Registrar of the High Court.

(4) Upon receipt of the documents referred to in subregulation (3), the Registrar of the High Court must, within 10 working days, enrol the matter for review.

### **Referral of matter to Magistrate's Courts**

**13.** (1) After exhausting all traditional court system appeal procedures available in terms of customary law contemplated in section 6(3) of the Act, a party aggrieved by a decision of a traditional court may—

- (a) within 15 working days after the decision was given by a traditional court, inform the other party to the proceedings and the clerk of the traditional court of his or her intention to refer the matter to the Magistrates' Court;
- (b) furnish reasons for the request for referral of the matter; and
- (c) obtain the record of the proceedings of the traditional court in terms of regulation 10.

(2) Upon receipt of a request for referral of a dispute, the clerk of the traditional court must—

- (a) complete a form that corresponds substantially with Form 5 of the Annexure; and
- (b) prepare a record of the relevant proceedings of the traditional court; and
- (c) electronically transmit, within five working days, the form and the record referred to in paragraphs (a) and (b) to the clerk of the Magistrate's Court having jurisdiction.

(3) The clerk of the traditional court must—



- (a) deliver the original documentation referred to in subregulation (2)(a) and (b) to the clerk of the Magistrate's Court having jurisdiction; and
- (b) keep a copy of documentation referred to in paragraph (a) and proof of electronic transmission and delivery of such documentation.

(4) The clerk of the traditional court must provide the parties to a dispute with proof of referral of the matter to the Magistrate's Court.

### **Transfer of disputes to Magistrate's Court or small claims court**

**14.** (1) The transfer of a dispute contemplated in section 14(1) of the Act to the Magistrates' Court or small claims court having jurisdiction must be made, within five working days of registration of such dispute by the traditional court, on a form that corresponds substantially with Form 6 of the Annexure.

(2) The clerk of the traditional court must provide the clerk of the Magistrates' Court or small claims court where the dispute is transferred to with original form contemplated in subregulation (1), together with any supporting documentation.

(3) The clerk of the traditional court must—

- (a) provide the parties to the dispute with the reasons for the transfer and proof of such transfer; and
- (c) record the transfer and keep a copy of the record of the matter and proof of transfer in the file of the traditional court.

### **Referral and reporting on cases of public interest**

**15.** (1) The Provincial Traditional Court Registrar may refer or report cases of public interest to the High Court having jurisdiction, as contemplated in section 10(2)(b) of the Act, where those cases concern the matters listed under item (g) of Schedule 2 of the Act.

(2) The Provincial Traditional Court Registrar must, in writing, inform the traditional court and the parties of his or her decision to refer or report a matter contemplated in subregulation (1) and the reasons for such referral or reporting.

(3) The Provincial Traditional Court Registrar must prepare and submit an affidavit to the High Court in which he or she sets out—

- (a) the name of the parties;
- (b) the name of the traditional court and the custom in question;
- (b) a detailed description of the matter to be referred or reported;

- (c) the grounds for referring or reporting cases; and
- (d) the nature of the matter considered to be of public interest as contemplated in section 10(2)(b) of the Act.

### **Reporting of alleged breach of code of conduct**

**16.** (1) Any alleged breach of the code of conduct contemplated in section 16 of the Act may be reported by any party to the proceedings or an interested party to the relevant Provincial Traditional Court Registrar on a form that corresponds substantially with Form 7 of the Annexure.

(2) A report made in terms of subregulation (1) may be supported by any form of documentary evidence or statements, where available.

(3) The Provincial Traditional Court Registrar must, within 10 working days<sup>10</sup> after receipt of the report on a form referred to in subregulation (1), submit the allegation of misconduct to the Member of the Executive Council responsible for traditional affairs in the province in question.

(4) The Provincial Traditional Court Registrar must inform the relevant senior traditional leader of the allegation of misconduct reported in terms of this regulation.

### **Report to Parliament**

**17.** A report contemplated in section 5(3)(a)(iii) of the Act must contain—

- (a) the measures put in place to—
  - (i) create an environment that promotes and protects the fair representation and participation of women, as parties and members of the traditional courts;
  - (ii) promote and protect vulnerable persons referred to in section 5(3)(a)(ii) of the Act; and
- (b) information relating to—
  - (i) the number of traditional courts which have representation of women;
  - (ii) the number and nature of disputes that were dealt with by the traditional courts which involve the vulnerable persons referred to in section 5(3)(a)(ii) of the Act; and
  - (iii) how the interests of vulnerable persons are protected in disputes that relate to them.

## **Report to Provincial Traditional Court Registrar**

**18.** (1) The reports contemplated in section 5(4)(b)(ix) of the Act must contain—

- (a) the number and nature of disputes that were dealt with by the traditional courts;
- (b) the number of matters that were referred to the Magistrate's Courts or small claims court;
- (c) the number of matters that were referred to the High Court for review;
- (d) the number and nature of disputes that were referred to other traditional courts, institutions or organisations;
- (e) the number and the nature of disputes that were dealt with by the traditional court which involves vulnerable persons referred to in section 5(3)(a)(ii) of the Act;
- (f) the type of decisions or orders made by the traditional court;
- (g) information on how the interests of vulnerable persons are protected in disputes that relate to them;
- (h) the number of traditional courts which have representation of women;
- (i) the number and nature of matters that required to be referred to the justice of the peace;
- (j) advice given in matters which were not heard by the traditional court;
- (k) the number of reports on allegations of breach of code of conduct; and
- (l) the challenges experienced in relation to service of summonses that were issued by the traditional court and how such challenges were resolved.

(2) The Provincial Traditional Court Registrar must, as soon as possible after receipt of the reports referred to in subregulation (1)—

- (a) consolidate the reports, compile statistics and an analysis referred to in regulation 5(1)(c); and
- (b) submit the consolidated report to the Member of Executive Council responsible for traditional affairs and the Minister.

## **Training of traditional leaders and designated persons**

**19.** The training of traditional leaders and persons designated by traditional leaders to preside over sessions of traditional courts must—

- (a) in relation to the promotion of the independence, impartiality, dignity, accessibility and effectiveness of the traditional courts in the administration of justice, be

conducted by the South African Judicial Education Institute or any training institution identified by the Minister; and

- (b) in relation to the general administrative and functioning of traditional courts, be conducted by a training institution identified by the Director-General.

### **Training of paralegals and interns**

**20.** (1) The training of paralegals and interns, to empower them with the knowledge, skills and competencies in order to enhance and promote the proper functioning of traditional courts, must be conducted by a training institution identified by the Director-General.

(2) The training offered must relate to and include—

- (a) principles of customary law, including the related dispute resolution mechanisms;
- (b) aspects relating to the jurisdiction of traditional courts and Magistrate's Courts;
- (c) steps in a litigation process in a traditional court;
- (d) service of court process;
- (e) the process of transfer of disputes to any other traditional court, court or forum;
- (f) equality and gender sensitivity training;
- (g) interpersonal and customer service skills; and
- (h) report writing skills.

### **Short title**

**21.** These Regulations are called Regulations Relating to Traditional Courts, 2025.

## ANNEXURE

### FORM 1

#### DESIGNATION OF PRESIDING OFFICER BY TRADITIONAL LEADER

[Section 5(1)(b), Regulation 2]

Traditional Court of \_\_\_\_\_ Traditional Authority,  
in the \_\_\_\_\_ District, \_\_\_\_\_ Province

File No.: \_\_\_\_\_

#### Part A: Designation)

I, \_\_\_\_\_, as a Traditional Leader, hereby designate \_\_\_\_\_ (*full names and surname*) to preside over session(s) of the traditional court for the period specified hereunder.

(Start) Date: \_\_\_\_\_ to (End) Date \_\_\_\_\_

#### Part B: Acceptance of designation)

I, \_\_\_\_\_, hereby accept the designation to preside over sessions of the traditional court for the specified period and commit myself to adhere to the provisions of the Act in carrying out the responsibilities bestowed on me through this designation.

I understand that the designation does not divest of the traditional leader of his or her authority to preside over the traditional court and further that the designation may be revoked by the traditional leader at anytime.

\_\_\_\_\_  
Signature (*Traditional Leader*)  
Date:

\_\_\_\_\_  
Signature (*Designated person*)  
Date:



Part C: Revocation  
(Reverse side of Form 1)

I, \_\_\_\_\_, as a Traditional Leader, hereby  
revoke the designation of \_\_\_\_\_ (*full names and  
surname*) to preside over session(s) of the traditional court made on  
\_\_\_\_\_ (specify date of designation).

\_\_\_\_\_  
Signature (*Traditional Leader*)

\_\_\_\_\_  
Date

Date:



## FORM 2

### REGISTER OF TRADITIONAL COURTS

[Section 10(2)(a), Regulation 6]

\_\_\_\_\_ (insert name of province)

1. The Province has the following traditional courts, in each District:

2. District 1: \_\_\_\_\_ (name of district):

No.	Name of Traditional Authority	Name of traditional leader	Name of person designated to preside over sessions of the traditional court, where applicable	Day(s) on which traditional court sessions are held	Name of the clerk of the court
1.					
2.					

3. The main language used in the traditional community in the Traditional Authority is \_\_\_\_\_, and the additional applicable language is \_\_\_\_\_.

4. The Magistrate's Court having jurisdiction within the area of the Traditional Authority is \_\_\_\_\_ (name), situated in the \_\_\_\_\_ (name of area), and the High Court with jurisdiction is \_\_\_\_\_ (name), situated in \_\_\_\_\_ (name of area).

5. The Member of Executive Council responsible for traditional affairs in the Province is \_\_\_\_\_ (name), for the period \_\_\_\_\_ to \_\_\_\_\_.

### FORM 3

#### RECORD OF PROCEEDINGS IN TRADITIONAL COURT

[Section 13(1) Regulation 8]

Traditional Court of \_\_\_\_\_ Traditional Authority,  
in the \_\_\_\_\_ District, \_\_\_\_\_ Province

File No.: \_\_\_\_\_

Entry Made by: \_\_\_\_\_ (name of clerk)

Signature: \_\_\_\_\_ (of the clerk) Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

#### IN THE MATTER OF

Name and surname of complainant: \_\_\_\_\_

Identity Number: \_\_\_\_\_ Male \_\_\_\_\_ Female \_\_\_\_\_

Address: \_\_\_\_\_ Cell phone No.: \_\_\_\_\_

\_\_\_\_\_ Alternative contact No.: \_\_\_\_\_

\_\_\_\_\_ Email address: \_\_\_\_\_

*If acting on behalf of a child, please indicate the capacity: Parent \_\_\_\_\_ ; Guardian \_\_\_\_\_ ; Other \_\_\_\_\_.  
and provide details of the child to the clerk of the court to record separately.*

#### AND

Name and surname of respondent: \_\_\_\_\_

Identity Number: \_\_\_\_\_ Male \_\_\_\_\_ Female \_\_\_\_\_

Address: \_\_\_\_\_ Cell phone No.: \_\_\_\_\_

\_\_\_\_\_ Alternative contact No.: \_\_\_\_\_

\_\_\_\_\_ Email address \_\_\_\_\_

*If acting on behalf of a child, please indicate the capacity: Parent \_\_\_\_\_ ; Guardian \_\_\_\_\_ ; Other \_\_\_\_\_.  
and provide details of the child to the clerk of the court to record separately.*

#### DISPUTE

Nature of dispute: \_\_\_\_\_ Date of occurrence \_\_\_\_/\_\_\_\_/\_\_\_\_

Summary of the facts: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*(If the space provided is insufficient, please attach Annexure)*



EXHIBITS:

1. \_\_\_\_\_ 2. \_\_\_\_\_  
3. \_\_\_\_\_ 4. \_\_\_\_\_  
5. \_\_\_\_\_ 6. \_\_\_\_\_

WITNESSES

1. \_\_\_\_\_ 2. \_\_\_\_\_  
3. \_\_\_\_\_ 4. \_\_\_\_\_

Date of referral to traditional court: \_\_\_\_/\_\_\_\_/\_\_\_\_ Date of the hearing: \_\_\_\_/\_\_\_\_/\_\_\_\_

Language used: \_\_\_\_\_ Was interpretation required? Yes\_\_ / No \_\_

*If yes, provide the following details:*

Interpretation from \_\_\_\_\_ language to \_\_\_\_\_ language

Name of Interpreter: \_\_\_\_\_

**DECISION**

Decision of traditional court: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Order of the traditional court: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name and surname: \_\_\_\_\_

*(Person presiding over session of traditional court)*

Designation: \_\_\_\_\_ *(indicate if Traditional Leader or a designated person)*

I hereby confirm that before commencing with the session in the abovementioned matter, I complied with the provisions of section 5(5) by making a pledge as prescribed in regulation 7.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

traditional court  
stamp

**FORM 4**

**REFERRAL OF MATTERS TO HIGH COURT FOR REVIEW**

[Section 11(1), Regulation 12]

To: \_\_\_\_\_ High Court

**A. DETAILS OF TRADITIONAL COURT**

This matter emanates from the decision of the traditional court of the \_\_\_\_\_  
Traditional Authority, in the \_\_\_\_\_ District of the  
\_\_\_\_\_ Province, with File No.: \_\_\_\_\_, which held its  
session on \_\_\_\_/\_\_\_\_/\_\_\_\_.

**B. DETAILS OF PARTIES**

1. Name and surname of complainant in the traditional court: \_\_\_\_\_  
\_\_\_\_\_, with identity number: \_\_\_\_\_  
and the following contact details:  
Address: \_\_\_\_\_ Cell phone No.: \_\_\_\_\_  
\_\_\_\_\_ Alternative contact No.: \_\_\_\_\_  
\_\_\_\_\_ Email address: \_\_\_\_\_

**AND**

2. Name and surname of respondent in the traditional court: \_\_\_\_\_  
\_\_\_\_\_, with identity number: \_\_\_\_\_  
and the following contact details:  
Address: \_\_\_\_\_ Cell phone No.: \_\_\_\_\_  
\_\_\_\_\_ Alternative contact No.: \_\_\_\_\_  
\_\_\_\_\_ Email address: \_\_\_\_\_

**C. DESCRIPTION OF DISPUTE**

Nature of dispute: \_\_\_\_\_ Date of occurrence \_\_\_\_/\_\_\_\_/\_\_\_\_

Summary of the facts: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(If the space provided is insufficient, please attach Annexure)*

#### **D. SUPPORTING DOCUMENTS AND EVIDENCE AT TRADITIONAL COURT**

The following exhibits were presented in support of the allegations by the complainant in the traditional court:

- (a) \_\_\_\_\_ (b) \_\_\_\_\_  
(c) \_\_\_\_\_ (d) \_\_\_\_\_  
(e) \_\_\_\_\_ (f) \_\_\_\_\_

#### **E. DECISION OF TRADITIONAL COURT**

The decision of traditional court was that \_\_\_\_\_

\_\_\_\_\_,

and ordered that \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### **F. GROUNDS FOR REVIEW**

The grounds for review relate to the grounds listed in section 11(1) of the Act, which is or are that— (*\* circle whichever grounds are applicable*)

- (a) the traditional court was not competent to deal with the matter as contemplated in section 4(2);  
(b) the traditional court was not properly constituted as contemplated in section 5;  
(c) the requirements relating to the pledge or affirmation contemplated in section 5 were not complied with;  
(d) the provisions of section 7(3)(a), affording—  
    (i) women, as parties to any proceedings or members of the traditional court, full and equal participation in the proceedings; or  
    (ii) vulnerable persons treatment that takes into account their particular vulnerability, were not complied with;  
(e) the provisions of section 7(3)(b) were not complied with;  
(f) one or both of the parties were not allowed to represent themselves or be represented by a person of their choice as contemplated in section 7(4);  
(g) the proceedings of the traditional court were not open to all members of the public, contrary to the provisions of section 7(6);  
(h) the proceedings of the traditional court were not conducted in the presence of both parties, contrary to the provisions of section 7(7);

- (i) the proceedings of the traditional court were conducted in a language which one or both of the parties did not understand without the intervention of an interpreter, contrary to the provisions of section 7(9) or (10);
- (j) an order was made contrary to the provisions of section 8;
- (k) a member of the traditional court participated in the proceedings of the court contrary to the provisions of section 7(12);
- (l) the provisions of section 3(3) have not been complied with or have been contravened; or
- (m) any procedural shortcoming relating to the conduct of the traditional court in the resolution of the dispute.

I attach hereto an Affidavit which fully substantiates the reasons for the referral for review in support of the listed ground or grounds.

I, \_\_\_\_\_, hereby confirm that I have duly notified the other party and the clerk of the traditional court and provided them with a copy of this referral. Copies of proof of notification are attached hereto as Annexure "A" and "B", respectfully.

\_\_\_\_\_  
Signature  
(Party referring the matter)

\_\_\_\_\_  
Date

## FORM 5

### REFERRAL OF MATTERS TO MAGISTRATE'S COURT

[Section 12(1), Regulation 13]

To: \_\_\_\_\_ Magistrate's Court, in the District of \_\_\_\_\_

#### A. DETAILS OF TRADITIONAL COURT

This matter emanates from the decision of the traditional court of the \_\_\_\_\_  
Traditional Authority, in the \_\_\_\_\_ District of the  
\_\_\_\_\_ Province, with File No.: \_\_\_\_\_, which held its  
session on \_\_\_\_/\_\_\_\_/\_\_\_\_.

#### B. DETAILS OF PARTIES

1. Name and surname of complainant in the traditional court: \_\_\_\_\_  
\_\_\_\_\_, with identity number: \_\_\_\_\_  
and the following contact details:  
Address: \_\_\_\_\_ Cell phone No.: \_\_\_\_\_  
\_\_\_\_\_ Alternative contact No.: \_\_\_\_\_  
\_\_\_\_\_ Email address \_\_\_\_\_

AND

2. Name and surname of respondent in the traditional court: \_\_\_\_\_  
\_\_\_\_\_, with identity number: \_\_\_\_\_  
and the following contact details:  
Address: \_\_\_\_\_ Cell phone No.: \_\_\_\_\_  
\_\_\_\_\_ Alternative contact No.: \_\_\_\_\_  
\_\_\_\_\_ Email address \_\_\_\_\_

#### C. DESCRIPTION OF DISPUTE

Nature of dispute: \_\_\_\_\_ Date of occurrence \_\_\_\_/\_\_\_\_/\_\_\_\_

Summary of the facts: \_\_\_\_\_

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(If the space provided is insufficient, please attach Annexure)

#### **D. SUPPORTING DOCUMENTS AND EVIDENCE AT TRADITIONAL COURT**

The following exhibits were presented in support of the allegations by the complainant in the traditional court:

(a) \_\_\_\_\_ (b) \_\_\_\_\_  
(c) \_\_\_\_\_ (d) \_\_\_\_\_  
(e) \_\_\_\_\_ (f) \_\_\_\_\_

#### **E. DECISION OF TRADITIONAL COURT**

The decision of traditional court was that \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_,  
and ordered that \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### **F. GROUNDS FOR REFERRAL TO MAGISTRATE'S COURT**

The grounds for the referral of the matter to the Magistrate's Court, which are not related to the grounds listed in section 11(1) of the Act, are that \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I attach hereto an Affidavit which fully substantiate the reasons for the referral of the matter in support of the abovementioned ground or grounds.

I, \_\_\_\_\_, hereby confirm that I have exhausted all the appeal procedures available in the traditional court system in terms of customary law as contemplated in section 6(3) of the Act, and therefore I refer the decision of the traditional court to the \_\_\_\_\_ Magistrate's Court for consideration.

I confirm that I have duly notified the other party and the clerk of the traditional court and provided them with a copy of this referral. Copies of proof of notification are attached hereto as Annexure "A" and "B", respectfully.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

*(Party referring the matter)*

## FORM 6

### TRANSFER OF DISPUTES TO MAGISTRATE'S COURT OR SMALL CLAIMS COURT

[Section 14, Regulation 14]

To: \_\_\_\_\_ Magistrate's Court or small claims court, in the District of \_\_\_\_\_

#### A. DETAILS OF TRADITIONAL COURT

Our File No.: \_\_\_\_\_

Name of traditional court: \_\_\_\_\_

District: \_\_\_\_\_ Province: \_\_\_\_\_

Name of clerk: \_\_\_\_\_

Contact No.: \_\_\_\_\_ Email address: \_\_\_\_\_

#### B. DETAILS OF PARTIES

1. Name and surname of complainant in the traditional court: \_\_\_\_\_  
\_\_\_\_\_, with identity number: \_\_\_\_\_  
and the following contact details:  
Address: \_\_\_\_\_ Cell phone No.: \_\_\_\_\_  
\_\_\_\_\_ Alternative contact No.: \_\_\_\_\_  
\_\_\_\_\_ Email address \_\_\_\_\_

**AND**

2. Name and surname of respondent in the traditional court: \_\_\_\_\_  
\_\_\_\_\_, with identity number: \_\_\_\_\_  
and the following contact details:  
Address: \_\_\_\_\_ Cell phone No.: \_\_\_\_\_  
\_\_\_\_\_ Alternative contact No.: \_\_\_\_\_  
\_\_\_\_\_ Email address \_\_\_\_\_

#### C. DESCRIPTION OF DISPUTE

Nature of dispute: \_\_\_\_\_ Date of occurrence \_\_\_\_/\_\_\_\_/\_\_\_\_

Summary of the facts: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(If the space provided is insufficient, please attach Annexure)

#### D. TRANSFER OF DISPUTE

1. The abovementioned dispute was reported to the traditional court on \_\_\_\_/\_\_\_\_/\_\_\_\_ and upon assessment, the court is of the view that the matter— (\* **circle whichever is applicable**)
- (a) is one which the court is not competent to deal with, as contemplated in section 4;
  - (b) involves a difficult or complex questions of law or fact; or
  - (c) is a matter contemplated in section 4(4)(b)(ii) or section 9(4)(b)(ii) of the Act, and therefore, the traditional court hereby transfer the dispute to the Magistrate's Court or small claims court for further attention.
2. Additional information or documents received in relation to the matter are attached hereto as Annexures.

\_\_\_\_\_  
Signature  
(Clerk of the traditional court)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature  
(Traditional Leader)

\_\_\_\_\_  
Date

traditional court  
stamp