



## **traditional affairs**

Department:  
Traditional Affairs  
**REPUBLIC OF SOUTH AFRICA**

### **MEMORANDUM**

#### **THE MINISTER**

#### **1<sup>st</sup> QUARTERLY PERFORMANCE REPORT OF THE COMMISSION ON TRADITIONAL LEADERSHIP DISPUTES AND CLAIMS FOR 2012-2013 FINANCIAL YEAR**

##### **1. PURPOSE**

To present the first quarterly performance report of the Commission on Traditional Leadership Disputes and Claims (CTLDC) for the period 01 April to 30th June 2012.



##### **2. BACKGROUND**

The Commission on Traditional Leadership Disputes and Claims was established in terms of section 22 of the Traditional Leadership and Governance Framework Act, 2003 (Act 41 of 2003). Furthermore, the Commission is required to submit quarterly performance reports to the Minister in terms of legislation covering all aspects of its activities per quarter. The said Commission is appointed to be in place for a period of five years.

##### **3. DISCUSSION**

- 3.1 The Commission is required to report to the Minister on a quarterly basis and as and when the Minister requires a report as contemplated in section 24B(2) of the said Act. This is the first quarterly report of CTLDC for the 2012/2013 financial year. The report covers the period from 01 April to 30 June 2012.
- 3.2 It includes the achievements of the Commission during the quarter under review and progress regarding litigation cases and challenges.
- 3.3 The Commission has planned to finalize 300 disputes and claims during the 2012/2013 financial year. To date, it has processed 10 claims from Northern Cape and five from KwaZulu-Natal which will be before the Minister and the relevant

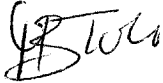
Premiers soon. This output excludes the activities of the different provincial committees.

3.4 The Commission is about to provide the Minister and the President of the Republic of South Africa with the reports that have to be finalized by the respective authorities in terms of section 26 of the Act.

**4. RECOMMENDATIONS**

It is recommended that the Minister-

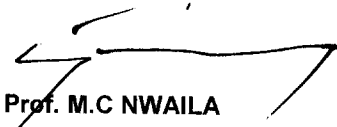
4.1 takes note of the first quarterly performance report of 2012-13 financial year.



MR. B. J. Tolo

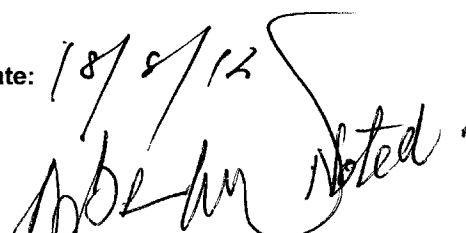
**CHAIRPERSON: COMMISSION ON TRADITIONAL LEADERSHIP DISPUTES AND CLAIMS**

Date: 01/08/2012



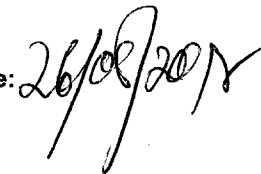
Prof. M.C Nwaila

**DIRECTOR-GENERAL: DEPARTMENT OF TRADITIONAL AFFAIRS**

Date: 18/07/12  
  
Noted.

MR. MR BALOYI, MP

**MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**

Date: 26/08/2012  


As for the quarter of June 2012 issue of lack of research capacity please quantify the shortage and report to me, Jan discussed on Thurs 23/08/2012.



**traditional affairs**

Department:  
Traditional Affairs  
REPUBLIC OF SOUTH AFRICA

## **QUARTERLY (APRIL TO JUNE 2012) REPORT OF THE COMMISSION ON TRADITIONAL LEADERSHIP DISPUTES AND CLAIMS**

### **1. Background**

This report is submitted in terms of section 24B (2) of the Traditional Leadership and Governance Framework Act, 2003 (Act 41 of 2003) (The Framework Act). The report covers the period from 01 April to 30 June 2012.

The Commission on Traditional Leadership Disputes and Claims was established in terms of section 22 of the Act to resolve all disputes and claims of all levels of traditional leadership within the period of five years starting from 01 January 2010 to 31 December 2015. The Commission operates nationally in plenary and provincially in committees. The provincial committees deal with disputes and claims delegated to them by the Commission in terms of section 25(6) of the Act.

### **2. Mandate**

The mandate of the Commission is derived from sections 25 and 28(10) and (11) of the Framework Act read with the relevant sections of the Commissions Act, 1947, (Act No. 8 of 1947).

### **3. Performance of the Commission**

#### **3.1 Meetings of the Commission**

The Commission held three meetings during the quarter under review. The aim of those meetings was amongst others to:

- consider the previous quarterly report;
- discuss progress made on the establishment of the remaining three provincial committees of the Commission;
- re-adopt all the reports processed by the CTLDC;
- prepare for the briefings of all claimants on requirements for a successful claims;
- prepare for the MINEXCO meetings; and
- discuss and prepare for a one day workshop of the Commission, its Committees and the Minister.

### **3.2 Public Hearings Held**

The Commission is required in terms of section 4 of Commissions Act, 1947, (Act No. 8 of 1947) to listen to evidence of claimants and other relevant parties. To this end, the Commission conducted public hearings in respect of five claimants for Kingship in KwaZulu-Natal on 17-18 April 2012 and two Senior Traditional Leadership Disputes in Northern Cape. The aim of the public hearings was to elicit more information from the claimants as per the guidelines provided in the rules and orders of the Commission. Below is a brief summary of what came out of the public hearings, it should not be read as determining direction of the recommendations of the Commission because there are other factors such as review of literature, custom and customary law and the presentation during public hearings.

### **3.3 Consideration of Claims of Kingship in KwaZulu-Natal**

KwaZulu-Natal had ten claims of Kings and Kingships namely:

1. Dlamini M. of Manyakanyaka Community
2. Miya M of amaZizi
3. Dlamini MZ of Nhlanguwini Community
4. Hlongwana MA of emaNgwaneni
5. Mavuso MA of amaNgwane
6. Radebe MJ of AmaHlubi
7. Radebe S of Amahlubi Royal Council
8. Tembe MI of amaThonga
9. Xaba TA of amaNgwe; and

10. Zulu SB of Zulu Community

11. Ndwandwe

The following were invited by the Commission to the public hearings held on 17 and 18 April 2012:

Mr. MZ Dlamini, <sup>2</sup>

Mr. M Dlamini, <sup>3</sup>

Mr. Miya, <sup>4</sup>

Mr. Mavuso, <sup>5</sup>

Mr. Hlongwane; and <sup>6</sup>

Mr. Xaba <sup>7</sup>

- Inkosi Miya attended the public hearing and informed the CTLDC that the claimant had passed on. He further submitted a formal letter of withdrawal of the claim.
- Mr. Dlamini Mbalekelwa withdrew his claim for kingship stating that he did not claim a kingship position but that of a senior traditional leadership position.
- Mr. Hlongwane of EmaNngwaneni did not attend the hearing. He will be re-invited to the next session.



The following claimants also attended and made presentations to the Commission during the public hearing:

- **Nhlangwini- Inkosi Prince Mmelizwe Dlamini**

Some Kingships were lost during the Mfecane when Shaka conquered other communities and subjugated them. He argues that their kingship was not lost during the said period. The claimant in his presentation acknowledges that he is not from the Senior House. He states that a kingship can be established and recognized on the basis of other achievements such as hard work etc.

- **Ngwane- Mr. Mavuso**

According to the claimant, the Mavuso and Dlamini clans are kingships, on the basis of this allegation, Mavuso seeks recognition of kingship.

*What are the facts?*

• **AmaNkanyishane Kingship: Mr Xaba**

Mr. T.A. Xaba of Loskop does not hold any traditional leadership position. He is of the view that the entire African continent must have one king and in terms of his understanding of the customary law of succession, He is of the view that he must be recognized as the next king in line for the position of King of Africa. He alleges that he is the direct descendant of God. His brother Mohamed moved to the East to form Arab Communities and he trek down to South Africa to form African communities. He further alleges that he is the preserver of peace in Africa.

**3.4 Consideration of disputes and claims from Northern Cape Province: 30 May 2012**

**3.4.1 Batlhaping ba Thaganyane (Phuduhutswana): Mr. Aobakwe Thaganyane (Cassel)**

This is a matter of disputed lineage. The claimant believes that his version of genealogy is the correct one; he therefore states that he should be recognized as the correct Senior Traditional Leader of Batlhaping ba Thaganyane.

**3.4.2 Batlhaping ba Phuduhudu: Mr. Lesangkgosi Gaseemelwe (Dithakong)**

This is a matter of disputed lineage. The claimant believes that his version of genealogy is the correct one; he therefore states that he should be recognized as the correct Senior Traditional Leader of Batlhaping ba Phuduhudu.

**3.5 Preliminary sessions with the Kingship Claimants**

As results of challenges encountered by the claimants in filling up the forms and understanding of the different leadership within the institution of traditional leadership, the CTLDC considered it important to hold sessions with claimants for the following:

- Clarification of the CTLDC modus operandi
- Explanation of critical aspects of the Commission questionnaire (annexure A)
- Clarification of the nature of traditional positions that can be claimed;

- Assistance with the correct lodgment claims.

North West	26 June 2012
Mpumalanga	28 June 2012
Limpopo	29 June 2012

### 3.6 Highlights of provincial committee activities

3.6.1 The Committee of North West Provinces arranged meetings with claimants in order to explain the process of the Committee. The meetings yielded good results as claimants started to understand the processes of the Commission. Some meetings are still being planned for the next quarter.

3.6.2 Eastern Cape and Mpumalanga Committees conducted public hearings on claims for Senior Traditional leadership and headmanship. Some claims were finalized and are in the process of being forwarded to the relevant Premier as required by law.

3.6.3 Limpopo and KwaZulu-Natal provincial committees are analyzing files and arranging meetings with claimants per municipality in order to explain the processes of the Commission and to assure them that their claims will be considered and finalized before the end of the term of office of the CTLDC.

#### 3.6.4 Reports of the Commission

The Commission has finished investigating a number of claims and disputes which are hereby conveyed to the Minister for his knowledge. Western Cape Premier accepted the report of the Commission and has communicated with the claimants in this regard. The finalized reports and those that the Commission has refused to consider on the basis that:

- Not enough information was submitted to the Commission to warrant investigation;
- The claims falls outside the mandate of the Commission; and
- That some are elected traditional leaders with no historical background of having existed as traditional leadership and that the community resolved to be disestablished as a traditional community.

### 3.7 Orientation workshop for Provincial Committees

The Commission planned a one day induction workshop with all provincial committees in order to realize the following:

- Enhance compliance with all procedures and processes; and
- Streamlining of the CTLDC operations.

### 3.8 Progress on Kingships referred to court for review

The CTLDC is defending all litigation emanating from the determination by the President of the Republic of South Africa. The following is the progress regarding the three cases heard in High Court:

Name	Progress
AmaMpondo of Qaukeni	Appeal was lodged in the High Court of Appeal and a date is yet to be determined. Answering affidavit has been filed
VhaVenda	The matter is set down for 13 to 17 August 2012
Bapedi Ba Marota	The matter is set down for 12 to 14 September 2012
NXUMALO (AmaShangane)	The legal representatives of the CTLDC have filed the Heads of argument and the applicants will now have to apply for a trial date.
SANDILE (AmaRharhabe Kingship).	The legal representatives of the CTLDC have received the applicant's supplementary affidavit and will arrange consultations with SC and Professor Moleleki to draft the opposing affidavit.



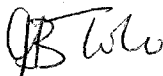
## **4 Challenges**

### **4.1 Incorrect referral of claims**

In some provinces matters are incorrectly referred to the CTLDC for handling. This is due to the absence of requisite capacity in the understanding of the Act and the responsibilities of the Commission.

### **4.2 Inadequate Research Capacity of the CTLDC**

The Commission on Traditional Leadership Disputes and Claims does not have dedicated research capacity. This challenge renders the Commission unable to process all the claims and disputes on time because the current officials must handle research work as well.



**Mr. BJ Tolo**

Chairperson: Commission on Traditional Leadership Disputes and Claims

Date: 01/08/2012



**Annexure A**



**traditional affairs**

Department:  
Traditional Affairs  
REPUBLIC OF SOUTH AFRICA

**QUESTIONNAIRE FOR THE CLAIM OF A KINGSHIP AND KING**

**NAME OF THE CLAIMANT:**.....

**Name of the Province**.....**Local Municipality**.....

*NB: You may use a separate page to write your responses if the space provided is not enough*

**1. Historical Background**

The history of the royal family from the first to the last traditional leader (indicate the year of the leadership of each leader) must be clearly indicated.

- a) Name your Traditional Community?  
.....
- b) Provide a family tree/genealogy of your family and explain the house you are born from? (Separate page)  
.....  
.....

**2. When was your kingship lost? And how was it lost?**

- a. When was your kingship lost?  
.....  
.....
- b. How was it lost?  
.....  
.....
- c. What actions were taken by you or your family to restore it prior to submitting a claim to the Commission? (provide detailed actions and results of each action taken by you or your family to restore the lost kingship)  
.....  
.....

- d. Is your royal family in support of your claim? When was a decision taken by your royal family to lodge a claim for a kingship? *(Attach minutes of such a meeting)*

.....  
.....

**3. Traditional Community**

- a) Does the community recognizes and acknowledges you as their King?

.....

- b) What is the indication or proof of the support by the community to you as their King

.....  
.....

- c) Why don't you join another community (if any) that shares the same cultures and traditions as yours instead of wanting to be recognized as a separate Kingship community?

.....  
.....

- d) What is so different or distinct between you and another traditional community that will compel the commission to recommend that government should recognize you as a Kingship community

.....  
.....



**4. Traditional leadership and leaders under your authority**

- a. Who installed/clad you as a Kgosi if you are a recognized Kgosi? (A person or a leader who dressed you with a leopard skin or leadership regalia) if you are not who is supposed to perform that function.

.....  
.....

- b. How many recognized traditional communities that are grouped together to form your kingship? (name them and give their location)

.....  
.....

- c. Who and how many recognized senior traditional leaders recognize you as their senior? (name them and their communities)

.....  
.....

- d. Provide area of jurisdiction of those recognized senior traditional leaders who recognizes you as their king

.....  
.....

e. How many recognized senior traditional leaders and leadership recognizes you as their King and Kingship? (provide names and proof of their recognition)

.....  
.....  
.....

f. How many recognized headmen/women and in which villages/wards do they exercise authority (Provide names and their villages/wards and indicate when where they appointed into the said positions).

.....  
.....

**5. Explain your customary law of succession from the first king until to date (explain it in details especially at the time when your kingship was lost)**

.....  
.....

**6. Relationship with other Kings**

a) Give a name of any King you are related to (as a friend and or blood relative)



.....  
.....

b) How do you think that your claim may enhance community cohesiveness taking into account your response on the rest of the questionnaire?

.....  
.....

c) Under which king (if any) do you currently pay allegiance to?

.....  
.....

d) Is the said King recognized by Government of South Africa or not?

.....  
.....

e) Does the said King (if any) know that you have lodged a claim for a Kingship and King position with the Commission?

.....  
.....

f) Is the said King in support of your claim? (provide proof)