

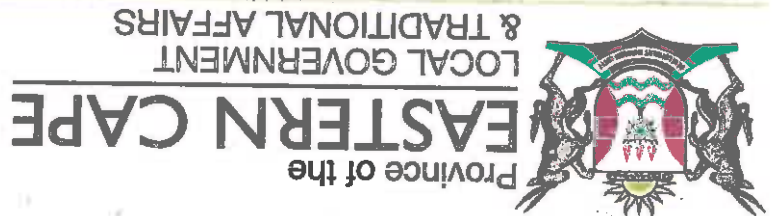


Isimwenzi eliqogambileyo!



Policy Guide on the Identification, Recognition and Appointment of a
Traditional Leader
Department of Local Government and Traditional Affairs
Eastern Cape Province
Bisho

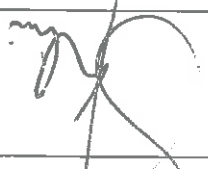
TRADITIONAL AFFAIRS BRANCH



Departmental Contact Details	
Physical Address	Tyamashe Building Phalo Avenue Bisho 5605
Postal Address	Department of Local Government and Traditional Affairs Private Bag X0035 Bisho 5605
Document Number	1
Document Name	Policy Guide and Procedure on Identification and Recognition/Appointment of a Traditional Leader
Contact Person	Zingisa Mkabile
Designation	General Manager
Chief Directorate/Component	Traditional Leadership Governance & Finance
Telephone No.	040 609 5710
Cell Phone No.	0824190135
Fax No.	040 635 0137
E-mail Address	zingisa.mkabile@eclogta.gov.za
Date Completed	11 March 2013
Date of Approval	
Date Last Amended	
Date For Next Review	1 st April 2014
Related Policies	

1. **Head of Department**

This Policy Guidelines on the Identification, Recognition/Appointment of a Traditional Leader is approved by me in my capacity as Superintendent-General of Department of Local Government and Traditional Affairs.
I am satisfied and concur with the contents of this Policy Guidelines.
The development of this policy guide on the identification, recognition/appointment of a traditional leader will ensure the department is able to exercise its powers in compliance with the law and guide decision-making in the organization.

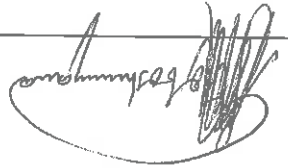
Signed		Designation	Superintendent General (Adv S. Khanyle)
Date	28/03/2013		



1. Executive Authority

The Department of Local Government and Traditional Affairs has unprecedented opportunity to improve the lives of the people by effectively rendering services that it is expected to provide. We have envisaged a department that has the required capacity to respond adequately to challenges of its people.

I therefore trust that the Policy Guidelines on the Identification, Recognition/Appointment of a Traditional Leader will contribute to improvement of proper identification, recognition/appointment of a traditional leader by the department.

Signed	
Designation	MEC: Honourable M Goboshiyane Department of Local Government and Traditional Affairs
Date	28/03/2013.

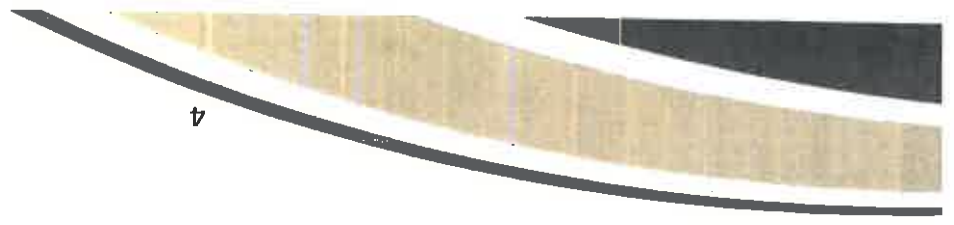


TABLE OF CONTENT

CONTENT	PAGE
1. Preamble	6
2. Definition of terms/Acronyms	6-7
3. Legislative and regulatory framework	7-8
4. Objectives and purpose of these policy guidelines	8
5. Values and guiding principles	8
6. Scope of applicability	8
7. Listing and Gazetting of Royal Families	9-10
8. Qualifications for a Traditional Leader	10
9. Procedures to be followed whilst identifying a traditional leader	9
9.1. Transitional arrangements	10
9.2. Identification of inkosi	10-13
9.3. Identification of inkosana	13
9.4. Deemed Royal Families	14
9.5. Identification of an acting traditional leader	14-15
9.6. Identification of a regent	15-16
10. Official Internal Processes	17
10.1. Procedures to be followed whilst processing recognition/appointment	17-18
10.2. Removal of a traditional leader from the position of inkosi or inkosana	18
10.3. Grounds for the removal of inkosi or inkosana	18
10.4. Procedures to be followed whilst removing a traditional leader from the position of inkosi or inkosana	19
11. Payment of gratuity to a retired traditional leader, acting traditional leader/regent and beneficiary of the estate of the deceased traditional leader	20
12. Procedures for processing payment of gratuity (head office)	20
13. Calculation of Gratuity	21
14. Appendices	22-32
15. Approval of these policy guidelines	33
16. Administrative of these policy guidelines	33
17. Effective of these policy guidelines	33
18. Procedure of these policy guidelines	33
19. Policy guidelines review	33

1. PREAMBLE

WHEREAS;

1.1. *Mindful* of the legislation that provide for the identification, recognition/appointment and removal of Traditional Leaders into/from the position of inkosi or inkosana and the roles and responsibilities of structures involved in the identification and recognition process;

1.2. *Recognizing* that the Institution of Traditional Leadership is faced with challenges in terms of dealing with disputes and claims on Traditional Leadership positions and the impact such challenges has on the part of the Department with regard to fulfilling its legal mandate of providing support to the Institution of Traditional Leadership;

1.3. *Desiring* that all role players in the identification/appointment of a successor to the position of inkosi or inkosana are involved in the whole process as required by the Act, and that disputes and claims regarding the identification/recognition of a successor to the position of a Traditional Leader as inkosi or inkosana are dealt with by and resolved through relevant customary structures of Traditional Leadership before any request for recognition is submitted to the Department;

1.4. *Therefore;* the following Policy Guidelines for the identification/recognition and removal of a Traditional Leader into/from the position of Traditional Leadership and procedures to be followed whilst identifying/recognising and removing a Traditional Leader into/from the position of inkosi or inkosana and the payment of gratuity to Traditional Leaders after consulting with all relevant/affected stakeholders are hereby determined.

2. DEFINITION OF TERMS

In this policy any word or expression to which a meaning has been assigned in the Traditional Leadership and Governance Act, 2005 (Act no: 4 of 2005) shall have that meaning and unless the context indicates otherwise-

TERM	DEFINITION
Department	Department responsible for Traditional Affairs in the Eastern Cape Province
Official	An employee of the Department
Eastern Cape House of Traditional Leaders	House of Traditional Leaders established in terms of House of Traditional Leaders Act, 1995 (Act No. 1 of 1995)
Genealogy Tree	A family tree of a Traditional Leader describing the history of the ruling family and its chieftainship in terms of who each person married and who their children were and are;
Head Office	Department of Local Government and Traditional Affairs Offices based in Bhishe
Member	Means a person who is a member of the Royal Family of an Inkosi and appears on the list of Royal Family members

- 3.1. The Constitution of South Africa Act 108 (Act 108 of 1996)
- 3.2. Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003) as amended;
- 3.3. Eastern Cape Traditional Leadership and Governance Act, 2005 (Act No 5 of 2005);

The legal framework for developing these guidelines and their implementation thereof are informed by the following pieces of legislation;

Chapter 12 of the South African Constitution (1996) specifically acknowledges the institution of Traditional Leadership and its place and role in the system of democratic governance. It provides for the continued authority and functioning of such leaders in accordance with traditional law.

3. LEGISLATIVE AND REGULATORY FRAMEWORK

DDG	Deputy Director-General of Traditional Affairs
ECHO TL	Eastern Cape House of Traditional Leaders
HOD	Head of the Department
MEC	Member of the Executive Council responsible for Local Government and Traditional Affairs
RFL	Royal Family List
SARS	South African Revenue Services

ACRONYMS

Regent	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 to that position who is minor, is recognised as inkosi or inkosana
Regional Head	Means an Assistant Director responsible for Regional Offices of Traditional Affairs
Royal Family	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
The Act	Means Traditional Leadership and Governance Act, 2005 (Act No. 4 of 2005)
Traditional Council	Traditional Council established in terms of Section 3 of the Traditional Leadership and Governance Act, 2005 (Act No. 4 of 2005)
Traditional Leader	Any person, who in terms of customary law of the Traditional Community holds a traditional leadership position as ikumkan, inkosi or inkosana and is recognised in terms of the Act

3.4. Remuneration of Public Office Bearers' Act, 1998 (Act No. 20 of 1998).

4. OBJECTIVES AND PURPOSE OF THESE POLICY GUIDELINES

The purpose of these policy guidelines is to:

4.1. Provide for the identification and recognition/appointment of iNkosi/iNkosana into the position of Traditional Leadership;

4.2. Provide process/steps for the identification of an acting traditional leader and regent and documents to be submitted to Head Office for processing appointment;

4.3. Provide procedure to be followed whilst processing payment of gratuity to the Traditional Leader and beneficiary of the estate of the deceased Traditional Leader;

4.4. Provide legislative grounds which can lead to the removal of a Traditional Leader from the position of Traditional Leadership and the process to be followed thereof;

5. VALUES AND GUIDING PRINCIPLES

5.1. VALUES

The Institution of Traditional Leadership must be transformed to be in harmony with Constitution of the Republic of South Africa and the Bill of Rights so that;

5.1.1. Democratic governance and the values of an open and democratic society may be promoted and;

5.1.2. Gender equality within the Institution of Traditional Leadership to be progressively advanced, striking a balance between evolving customs and the imperatives of the Constitution and the Bill of Rights.

5.2. GUIDING PRINCIPLES

The Institutions of Traditional Leadership must;

5.2.1. Promote freedom, human dignity and the achievement of non sexism;

5.2.2. Derive its mandate and primary authority from applicable customary law and practices;

5.2.3. Strive to enhance tradition and culture;

5.2.4. Promote nation building and harmony and peace amongst people;

5.2.5. Promote the principles of co-operative governance in its interaction with all the spheres of government and organs of the state; and

5.2.6. Promote an efficient, effective and fair dispute resolution system, and a fair system of administration of justice as envisaged in applicable legislations.

6. SCOPE OF APPLICABILITY

6.1. These guidelines apply to Traditional Leaders, Members of the Royal Family of Traditional Leaders and Officials of the Department of Local Government and Traditional Affairs.

7. LISTING AND GAZETTING OF ROYAL FAMILIES

7.1. It is incumbent upon every royal family to create a list of all its royal family members eligible to attend royal family meetings and participate in the identification of an inkosi or inkosana, bearing in mind that a royal family member is not everyone who shares the same clan name, but rather the core in the ruling house, and as such a royal family must compile a list of its members in order for it to be registered with and be recognised by the Department.

7.2. The list of the Royal Family must bear the following-

7.2.1. the full names; ID number and full details of the Chairperson of the Royal Family, together with his/her specimen signature;

7.2.2. the full names; ID number and full details of the Secretary of the Royal Family, together with his/her specimen signature;

7.2.3. the full names; ID number, physical address, contact details and a specimen signature of each of the Royal Family members. The form "Royal Family List" (RFL for short) shall be used in the listing process.

7.2.4. The name and status of the house from which each member come from i.e. ixhiba e.t.c.

7.3. The compiled lists, for each Traditional Council, listing all the administrative areas and headmanships under each Traditional Council, shall be signed, at the end, by both the chairperson of the royal family and the Traditional Council, if it is different people, and the rubber stamps of both the Traditional Council and the Royal Family, if it has its own rubber stamp, shall be affixed at the end of the list.

7.4. The total number of members of the Royal Family should not be less than 10 and not more than 30 depending on the number of houses that constitute the Royal Family. All houses must be fairly represented.

7.5. The lists shall then be hand delivered, by the Secretary of the Royal Family, in person, to the Regional Head of the Department (Regional Offices of Traditional Affairs), who shall, upon receipt of same, append his/her signature and affix the Department's date stamp to both the original copy and the secretary's copy.

7.6. The signed and stamped original list shall then be transmitted to the Department's Head Office for recordal and safekeeping, and shall be recognised as the only acceptable proof of the constitution of the Royal Family concerned.

7.7. The Secretary of the Royal Family must ensure that the registered list of Royal Family members is regularly updated in the event of any changes in the composition of the Royal Family, i.e. by the death of a member, attainment of majority etc.

7.8. When effecting any decision of the Royal Family, for instance a recognition of a Traditional Leader, the Department shall only recognise a Royal Family resolution that is accompanied by an attendance register of members appearing on the registered list, and as such any other resolution not being accompanied by the attendance register with the names of the members appearing on the registered list shall be declared null and void, and shall not be considered.

7.9. Where it finds it necessary and not in keeping with the proper governance of the affairs of traditional leadership, the Department may decide to de-register

7.10. The Department may decide to publish in the government gazette the registered lists of Royal Family members.

8. QUALIFICATIONS OF A TRADITIONAL LEADER

In this policy guide unless the situation dictate otherwise, a person to be eligible to become a Traditional Leader he/she shall be a person who-

- (a) has a royal blood (comes from the Royal/Ruling Family);
- (b) is above the age of 21;
- (c) has not been convicted of an offence and sentenced to more than 12 months imprisonment without the option of a fine;
- (d) is not unrehabilitated insolvent;
- (e) is a South African Citizen; and
- (f) is an ordinary resident within the jurisdiction of the Traditional Council/Administrative Area.

9. PROCEDURE TO BE FOLLOWED WHILST IDENTIFYING A TRADITIONAL LEADER

9.1 TRANSITIONAL ARRANGEMENTS

9.1.1. Whenever there is a vacancy in the position of a Traditional Leader (inkosi or inkosana), either by death; abdication; de-recognition or by any other legal cause, the Royal Family concerned must, within 24 (twenty-four) hours after the position became vacant, temporarily identify a person, amongst themselves, preferably an elder, who, in terms of their culture and practice, qualifies to act in the position of a Traditional Leader whilst consulting and coordinating a meeting of all legitimate members of the royal family to identify a successor.

9.1.2. The temporarily identified person shall not occupy the position for longer than a period of 21 (twenty-one) days, and as such there shall be no pecuniary benefit that accrues as a result of such occupancy nor is there any expectation created that there shall be compensation of any kind, as such it is neither an acting appointment nor a regency.

9.1.3. This identification is only transitional until the identification of the successor is completed, in which event the temporarily identified person shall relinquish the position to the identified successor.

9.2. IDENTIFICATION OF INKOSI

The following procedures must be followed for the identification of Inkosi, Inkosana, Acting Traditional Leader and Regent into the position of Traditional Leader.

9.2.1. The Chairperson of the Royal Family must, through the secretary of the Royal Family, convene a meeting of all qualifying members of the Royal Family at least seven (7) days before the date of the meeting for the purpose of identifying a person who in terms of their culture and customs qualifies for the position;

9.2.2. The Chairperson must ensure that all members of the Royal Family are formally informed (in writing) of the date, venue, time and purpose of the meeting;

- 9.2.3. The secretary of the Royal Family must ensure that copies of all invitations sent to members of the Royal Family are filed for record purposes and are made available whenever required either by the Department or other members of the Royal Family;
- 9.2.4. The Royal Family must, through the secretary of the relevant Traditional Council, formally inform the Regional Offices of the Department of Traditional Affairs (Regional Head) about the notice that calls for a meeting for the identification of a successor in order for the department to send a representative to such meeting;
- 9.2.5. The Royal Family meeting convened for the purpose of identifying a successor or a person to the position of Traditional Leader can only proceed when two-thirds (2/3) of the qualifying members of the Royal Family are in attendance;
- 9.2.6. At the meeting only written apologies would be accepted from a Royal Family member who is unable to attend the meeting and such an apology should be counted for quorum purposes;
- 9.2.7. The secretary of the Royal Family should then circulate an attendance register/roll-call to all members for them to write down their names and put their signature or thumb print next to their names;
- 9.2.8. Under no circumstances shall a member of the Royal Family sign an attendance register or roll-call on behalf of another member whether such a member is in attendance of the meeting or not.
- 9.2.9. Before the meeting starts the secretary must first verify whether all houses which constitute the Royal Family are represented and whether the attendees are the ones that appear on the registered list of royal family members.
- 9.2.10. An official representing the Department (preferably an Regional Head or any person delegated by the Regional Head with the position senior to that of the Traditional Council clerk) must before identification process unfold, explain the role of the Royal Family with regard to identification in terms of the relevant sections within the Eastern Cape Traditional Leadership and Governance Act 2005 (Act No. 4 of 2005) and these policy guidelines and made available if possible copies to all members of the royal family;
- 9.2.11. A gazette containing a family tree (genealogy) and a list with names of all expected members of the Royal Family should be presented by an official representing the department and agreed/adopted by all members before the meeting process unfold;
- 9.2.12. Whilst the Department is still facilitating the process of gazetting genealogies and list of Royal Family members, an originally signed and stamped genealogy and list of Royal Family members must be presented and adopted by all members before the proceedings of the meeting.
- 9.2.13. After explaining the stipulations of the Act with regard to sections dealing with identification and removal of Traditional Leaders into and from the position of inkosi or inkosana and the roles and responsibilities of the Royal Family thereof and these guidelines, an official representing the department can then excuse himself/herself from other proceedings of the meeting to avoid allegations of influencing and having interest on the outcome of the meeting. He/she can only stay for the duration of the meeting if all members of the Royal Family request and agree that he/she can stay;

9.2.14. In the event that the official representing the department is requested to stay for the duration of the meeting, the secretary must record such request in the minutes of the meeting and it must also be recorded that the said official did not take part, whatsoever, in the identification process.

9.2.15. The secretary of the Royal Family must make sure that the proceedings of the meeting (minutes) and the resolution forms are correctly and properly recorded and signed by both Chairperson and secretary of the Royal Family;

9.2.16. The Royal Family must then inform and present the person identified as inkosi or inkosana to members of the Traditional Council and the proceedings of such meeting must be accompanied by resolution forms with the stamp of the Traditional Council and signed by the Chairperson in case of inkosana;

9.2.17. The Royal Family together with members of the Traditional Council must present/introduce the person so duly identified to the members of the community concerned during a community meeting (an imbizo), and the proceedings of such meeting must be minuted and accompanied by an attendance register signed by Head of Traditional Council/tribe.

9.2.18. The Royal Family should then notify/present and submit particulars of the duly identified person to the King (King's Council)/Principal Traditional Leader (Principal Traditional Council) for noting before such particulars are forwarded to the Department for processing;

9.2.19. The fact that there are delays, on the part of the King/Queen/Principal Traditional Leader or the council concerned, on making the notification referred to in subparagraph 9.2.17, of the notification is unreasonable without the Department shall not be barred from recognising the identified inkosi or inkosana provided that there is acceptable proof that the resolutions received by the King/Queen/Principal Traditional Leader or the council concerned and it is in the interests of the proper administration of the institution of traditional leadership that the recognition be proceeded with.

9.2.20. All the above structures (Traditional Council, King's Council/Principal's Council, Regional Executive Committee, members of Community & Department) shall have no powers to overturn/change the resolution/decision of the Royal Family regarding the identified person.

9.2.21. A request for the recognition by the Royal Family of a person to fill the position of inkosi must be forwarded to the Regional Offices of Traditional Affairs;

9.2.22. Regional Officials (Regional Head) on receipt of the request verify whether all the necessary documents have been properly completed with an original certified stamp and date stamp which is not older than three (3) months, the following documents should be attached together with the request-

a. Royal Family resolution forms signed and stamped by the Traditional Council (in the case of inkosana), signed and stamped by the King (Kingdom) in the case of inkosi;

b. Minutes and attendance register of the Royal Family meeting with full names and signatures of all members of the Royal Family;

c. Minutes and attendance registers of the community meeting (imbizo) where the duly identified person was presented and introduced;

- d. Certified copy of the identity document of the person to be recognised/appointed and that of a person vacating the position (in the case of death);
- e. Bank details (on the prescribed form) of the person to be recognised/appointed duly completed, stamped and signed by the bank officials;
- f. Genealogy tree of the Royal Family concerned.

9.2.23. The regional office (Regional Head) must ensure that copies of all relevant documents are forwarded to the King's Council/ Principal Traditional Council, District offices and Traditional Council for record purpose to be available whenever requested for work and administrative purpose;

9.2.24. The royal family must convene at least four (4) meetings of all members of the royal family per year (one meeting per quarter) to discuss matters relating to their roles and functions in terms of Act No. 4 of 2005 and Act No. 41 of 2003 or any other matters relating to their applicable customary law and practice;

9.2.25. The secretary on the instruction of the Chairperson of the royal family may convene a special meeting of all royal family members to discuss urgent issues within their scope of responsibility or summon the sitting inkosi or inkosana to account on the activities of the Traditional Council or Administrative Area;

9.2.26. The Chairperson of the Royal Family shall not necessarily be a Traditional Leader (inkosi) but rather an elderly person of the Royal Family.

9.3. IDENTIFICATION OF INKOSANA

9.3.1. The identification and recognition/appointment of inkosana shall follow the same procedure/process as outlined above in section 9.2 (9.2.1-9.2.18)

9.3.2. However, there are some exceptions with regard to inkosana;

9.3.3. An inkosana is appointed over an Administrative Area of a Traditional Community with not less than **200 households**;

9.3.4. In its prerogative the Royal Family may identify someone from outside the Royal Family.

9.3.5. The Royal Family can only identify a person to the position of inkosana who duly resides within the area of jurisdiction of the administrative area concerned, and under no circumstances can a person who resides outside the area of jurisdiction of the administrative area concerned be identified and recognised as an inkosana of the area concerned;

9.3.6. Inkosi, members of his/her Royal Family together with members of the Traditional Council should convene a meeting (an imbizo) with members of the concerned community to present and introduce a person who has been identified as inkosana;

9.3.7. No creation of new Headmanship/Headwomanship on the same Administrative Area will be considered.

9.4. DEEMED ROYAL FAMILIES

9.4.1. In areas where it is beyond any contestation that ubukhosana have always resided in one family for a period in excess of three generations and were not on an acting or a regency capacity, as at 31 December, 2012, regardless of whether the said family is a recognised Royal Family or not such family shall be deemed to be a Royal Family for the area concerned, and it shall have power to identify its inkosana subject to the recommendations of the inkosi;

9.4.2. The Department shall compile a list of all the areas that qualify to have deemed royal families.

9.5. IDENTIFICATION OF AN ACTING TRADITIONAL LEADER TO THE POSITION OF INKOSI OR INKOSANA

9.5.1. A Royal Family may identify a person to act on the position of Traditional Leader as inkosi or inkosana only where –

- a. The successor to the position of inkosi/inkosana has not been identified and agreed upon by all qualifying members of the Royal Family concerned;
- b. The identification of a successor to the position is still being considered and not yet resolved;
- c. Traditional Leader (inkosi/inkosana) is absent from his or her area of jurisdiction and having notified members of the Royal Family for a period of more than six (6) months due-
 - i. to illness;
 - ii. for study purposes;
 - iii. to any other lawful purpose

9.5.2. Whenever the above circumstances prevail, the Royal Family should follow the procedures as outlined in the above item **section 9.2 (9.2.1. – 9.2.18);**

9.5.3. A request for the recognition by the Royal Family of a person duly identified to act in the position of inkosi or inkosana must be forwarded to the Regional Offices of Traditional Affairs;

9.5.4. Regional Officials (Regional Head) on receipt of the request verify whether all the necessary documents have been properly completed with an original certified stamp and date stamp which is not older than three (3) months, the following documents should be attached together with the request-

- a. Royal Family resolution forms signed and stamped by the Traditional Council (in the case of inkosana), signed and stamped by the King (Kingdom)/Chairperson of the concerned region (in the case of inkosi);
- b. Minutes and attendance register of the Royal Family meeting with full names and signatures of all members of the Royal Family;
- c. A letter written or a form duly completed and signed by a rightful heir (in case where he/she would not be around due to study purpose) and two (2) witness

confirming/consenting the decision for acting and specified reasons and time allowed for acting capacity;

d. A letter written or a duly completed form by the secretary or any member of the royal family and signed by the chairperson (in case where the incumbent is unable to write a letter due to ill health or he or she is not willing nor cooperating with members of the royal family in terms of their decision to suspend or remove him or her from the position) and two (2) witness who are members of the royal family;

e. A letter written or a form duly completed and signed by a person identified to act in the position of inkosi or inkosana and by two (2) witness agreeing that he or she is taking up the position of inkosi or inkosana on an acting capacity and will relinquish such a position whenever the Royal Family has agreed and resolved on the successor or the rightful heir is ready and willing to occupy the position;

f. Minutes and attendance registers of the community meeting (imbizo) wherein the duly identified person was presented and introduced;

g. Certified copy of the identity document of the person to be recognised/appointed as an acting inkosi or inkosana;

h. Bank details (on the prescribed form) of the person to be recognised/appointed as an acting inkosi or inkosana duly completed, stamped and signed by the bank officials;

i. A gazetted family tree of the Royal Family concerned.

9.5.5. The MEC must review the acting appointment every six months, and he or she should request the Royal Family to convene a meeting of all members of the Royal Family to review and give a person acting as inkosi or inkosana new mandate and submit the minutes/records and resolutions of such meeting to the Department;

9.6. IDENTIFICATION OF A REGENT

9.6.1. Where Royal Family in the meeting duly attended by all members, identified the successor to the position of inkosi or inkosana who is a minor (under the age of 21) in terms of applicable law and customs and having followed all procedures in terms of section 9.2. (9.2.1-9.2.18) of these guidelines must-

9.6.1.1. Identify a person who in terms of their culture, customs and practices duly qualifies to be a Regent.

9.6.1.2. The Royal Family must ensure that, the person so duly identified takes full responsibility in respect of the welfare of the children/family of the deceased inkosi or inkosana.

9.6.1.3. The Royal Family together with members of the Traditional Council must present/introduce the person who has been identified as a regent to the members of the community concerned during a community meeting (an imbizo), and the proceedings of such meeting must be minutes and accompanied by an attendance register signed by Head of Traditional Council/tribe.

9.6.1.4. A request for the recognition by the Royal Family of a person to fill the position of inkosi or inkosana as a Regent must be forwarded to the Regional Offices of Traditional Affairs for verification and submission to the Department;

9.6.1.5. Regional Officials (Regional Head) on receipt of the request verify whether all the necessary documents have been properly completed with an original certified stamp and date stamp which is not older than three (3) months, the following documents should be attached together with the request-

- a. Two Royal Family resolution forms signed and stamped by the Traditional Council (in the case of Inkosana), signed and stamped by the King (Kingdom)/Chairperson of the concerned region (in the case of Inkosi), one identifying a successor and the other identifying a Regent for the successor;
- b. Minutes and attendance register of the Royal Family meeting with full names and signatures of all members of the Royal Family;
- c. A letter written or a form completed and signed by the person identified to be a Regent with full names and signatures of two (2) witnesses agreeing that the identified person is taking up the position of Inkosi or Inkosana as a Regent and that he or she will relinquish the position of a Regent as soon as the successor to the position of Inkosi or Inkosana ceases to be a minor in terms of applicable law and customs;
- d. Certified copy of the identity document (ID) of the person to be recognised/appointed as a Regent;
- e. Bank details (on the prescribed form) of the person to be recognised/appointed as a Regent duly completed, stamped and signed by the bank officials;
- f. Particulars of the rightful heir/minor (e.g. certified copy of identity document or birth certificate if the minor does not have a valid identity document due to his or her age)
- g. Genealogy tree of the Royal Family concerned.

9.6.1.6. The Department (MEC) shall cause the Royal Family to review the positions of the Regent at least once in every three (3) years or immediately after the successor has attained the age of maturity (21 years).

9.6.1.7. A Regent automatically relinquishes the reigns of power on the recognised successor's attainment of maturity, unless the recognised royal family issues another resolution directing otherwise.

9.6.1.8. The Regency automatically ceases in the event of the identified successor's death or disqualification, in which event the Royal Family must start the process of identifying a new successor and a new Regent where circumstances require so.

9.6.1.9. The Royal Family must ensure that the rightful heir/successor to the position of Inkosi or Inkosana is being introduced to the activities of the Royal Family and that of a Traditional Council immediately when he or she turns 18 years of age, or after he has successfully undertaken the traditional rite of passage to manhood, if a male.

10. OFFICIAL INTERNAL PROCESSES

10.1. PROCEDURE TO BE FOLLOWED WHILST PROCESSING RECOGNITION /APPOINTMENT

10.1.1. On receipt of the relevant documentation from the Regional Offices (Regional Head), and after verifying and being satisfied with the information submitted by the Royal Family, the Department must-

10.1.2. Within five (5) working days, through the office of the Deputy Director-General (DAG Traditional Affairs), issue an acknowledgement letter of receipt to the concerned Royal Family;

10.1.3. The office of the DG (Traditional Affairs) must then forward the request to the relevant Chief Directorate (Traditional Leadership Institutional Support Services and Capacity Building) for speedy processing;

10.1.4. On receipt of the necessary documents from DG's office and having verified them, the responsible office (Traditional Leadership Institutional Support Services) must within five (5) working days prepare a memorandum to the Chairperson of the Eastern Cape House of Traditional Leaders (ECHO TL) for his or her advice on the request.

10.1.5. On receipt of the advice from ECHO TL, the responsible office (Traditional Leadership Institutional Support Services) must within, five (5) working days, prepare a memorandum to the Member of the Executive Council (MEC) via Office of the Superintendent-General (HOD) for the recognition of the identified person;

10.1.6. After being satisfied that all procedures/processes for the identification of a successor have been followed in terms of the Act and this policy guide and having considered the advice of the Chairperson of the House or any person so delegated by the Chairperson, the MEC shall formally recognise the person so duly identified.

10.1.7. The Department (MEC) through Legal Advisory Services must then publish/make known in the Government Gazette through a notice, the names and particulars of the identified person, setting out the person's area of jurisdiction; district and the effective date of his or her appointment;

10.1.8. The approved memorandum for recognition should then be forwarded to the component dealing with appointment of Traditional Leaders (Traditional Leadership Institutional Support Services) for capturing and appointment thereof;

10.1.9. The Department (MEC) must within a period of thirty (30) days after the date of publication of the notice recognising the identified person as Inkosi or Inkosana issue a recognition certificate and appointment letter to the affected person;

10.1.10. In instances where the Department (MEC) is not satisfied with regard to procedural compliance in the identification process in so far as compliance to the Act and these rules is concerned, he or she may refer the matter back to the Royal Family for reconsideration;

10.1.11. If, within 30 (thirty) days of the matter being referred back to them, the Royal Family fails to resolve the impasse, and notify the Department of such, the matter must be referred to the ECHO TL for investigation;

10.1.12. The assumption of duty by a recognised inkosi or inkosana shall be the date on which the MEC approved the request/application of recognition, and this shall also be the date on which his/her salary will be due to him or her;

10.1.13. Under no circumstances shall the Department pay an inkosi or inkosana for a period prior to his or her appointment date notwithstanding claims that he or she started discharging the responsibilities attached to the position of inkosi or inkosana from a prior date.

10.2. REMOVAL OF A TRADITIONAL LEADER FROM THE POSITION OF INKOSI OR INKOSANA

10.2.1. A traditional leader can only be removed from the position of inkosi or inkosana by the Royal Family or court order issued by the Court Law after being proven beyond reasonable doubt that, he or she has grossly contravened the stipulation of the Act that governs Traditional Leadership Institutions or has deliberately and intentionally transgressed customs, applicable laws and practice of the tribe or Royal Family concerned;

10.2.2. Prima facie proof of a court sentence of more than 12 months without an option of a fine and no proof of appeal shall be enough to warrant the removal of an inkosi or inkosana.

10.3. GROUNDS FOR THE REMOVAL OF A TRADITIONAL LEADER FROM THE POSITION OF INKOSI OR INKOSANA

10.3.1. An inkosi or inkosana may be removed from the position of traditional leader 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;
- b. Physical incapacity or mental infirmity which, based on acceptable medical evidence or on recommendation of the Royal Family, makes it impossible for inkosi or inkosana to effectively discharge his or her legislative responsibilities as a traditional leader;
- c. Wrongful appointment or recognition;
- d. A transgression of a customary rule or principle that warrants removal;

10.4. PROCEDURE TO REMOVE A TRADITIONAL LEADER FROM THE POSITION OF INKOSI OR INKOSANA BY THE ROYAL FAMILY

10.4.1. Whenever the Royal Family decides to remove inkosi or inkosana from the position of traditional leader based on the above stated grounds, the Royal Family must-

10.4.1.1. Convene a meeting of all members of the recognised Royal Family including the affected inkosi or inkosana and inform him or her of the intention to remove him or her from the position stating valid reasons for such intention;

10.4.1.2. Inform members of the traditional council about their intention to remove inkosi or inkosana from the position of traditional leader outlining reasons for such removal;

10.4.1.3. Submit the resolution to remove inkosi or inkosana to the King (Kingdom)/Principal Traditional Leader (Principal Traditional Council) for notification;

10.4.1.4. A medical certificate/certified copy of death certificate (in case where the incumbent relinquishes the position because of ill-health or death);

10.4.1.5. A copy of court order issued by magistrate or judge (in a case where the incumbent has been removed by the court decision);

10.4.1.6. Submit to the department through Regional Office of Traditional Affairs (Regional Head) for consideration, the resolution on removal and the particulars of the affected inkosi or inkosana.

10.4.2. On receipt of the Royal Family's resolution, the Department (MEC) must then in writing, formally inform the affected inkosi or inkosana about the decision/resolution to remove him or her from the position and call upon the affected inkosi or inkosana to make representations to him or her, giving him or her a period of not less than 14 days, as to why the decision to remove him or her should not be given effect to;

10.4.3. The Department (MEC) should then consider the resolution of the Royal Family and representations of the affected inkosi or inkosana and seek advice from the Legal Advisory Services of the Department and take a decision thereof;

10.4.4. If the Department (MEC) has found out that the resolution of the Royal Family to remove inkosi or inkosana is in accordance with the Act (Eastern Cape Traditional Leadership and Governance Act, No. 4 of 2005) and has decided to effect the removal, he or she must formally inform the Royal Family, the affected inkosi or inkosana and the Chairperson of ECHO-TL about the decision;

10.4.5. The Department Legal Advisory Service must for a period of thirty (30) days publish a notice with particulars of the removed inkosi or inkosana in the Provincial Gazette;

10.4.6. However, the removal of the traditional leader from the position of inkosi or inkosana should not affect his or her children to ascent to the position of a Traditional Leader when they reach maturity age (21 years as required by the Act).

11. PAYMENT OF GRATUITY TO A RETIRED TRADITIONAL LEADERS, ACTING AS TRADITIONAL LEADER/REGENT AND BENEFICIARY OF THE ESTATE OF A DECEASED TRADITIONAL LEADER

- 11.1. Gratuity may be payable to the following –
- (i) a Traditional Leader who has resigned for the purpose of handing over the reigns to the rightful heir or has resigned because of ill health;
 - (ii) a person who has been in the position of inkosi or inkosana either on an acting capacity or as a regent and
 - (iii) the estate of the deceased traditional leader or a beneficiary;

- 11.2. The Royal Family must notify regional offices of traditional affairs (Regional Head) about the names and particulars of a Traditional Leader who has resigned or is deceased and submit the necessary documents;
- 11.3. The following documents should be submitted to Head Office for processing payment of gratuity to the resigned traditional leader and beneficiary of the deceased traditional leader;

- 11.3.1. a letter of resignation from the traditional leader who has relinquished his or her position either as inkosi or inkosana due to ill health or any other lawful reasons;
- 11.3.2. a certified copy of identity document of the deceased traditional leader;
- 11.3.3. a certified copy of identity document of the beneficiary of the estate of the deceased traditional leader;
- 11.3.4. a certificate of executorship or letter of appointment as representative of the deceased's estate.

12. PROCEDURE FOR PROCESSING PAYMENT OF GRATUITY (HEAD OFFICE)

- 12.1. The Department (Traditional Leadership Institutional Support Services) must submit a request for a tax directive to the South African Revenue Services (SARS) within five (five) days after receiving all the necessary documentations attaching the following documents;

12.1.1. A certified copy of death certificate;

12.1.2. A certified copy of identity document of the deceased;

12.1.3. A certified copy of the identity document of a traditional leader (in case where a traditional leader has resigned).

- 12.2. The Department (Traditional Leadership Institutional Support Services) must, after receiving the tax directive, prepare a memorandum and expenditure approval report and submit the same to Financial Management Accounting Directorate to effect payment of gratuity to the beneficiary or traditional leader who qualifies for a gratuity. A certificate of clearance of departmental liability will accompany the request for payment.

13. CALCULATION OF GRATUITY

13.1. On the termination date, whether by death or resignation, the gratuity payable shall be the equal of 50% of the traditional leader's monthly salary paid for each completed year of service for the first ten years, and thereafter one-thirds of the monthly salary.

13.2. Traditional Leaders with less than 10 (TEN) years of service shall be entitled to receive one third ($1/3$) of their monthly salary for each year of completed service.



ROYAL FAMILY RESOLUTION FORMS

IDENTIFICATION OF A PERSON TO ASSUME THE POSITION OF INKOSI/ACTING INKOSI/REGENT

THE.....ROYAL FAMILY

HAD AT THE MEETING HELD ON THE.....

IDENTIFIED.....

OF.....

ID NUMBER.....

AS INKOSI/ACTING INKOSI/REGENT

OF.....TRADITIONAL COUNCIL/ADMINISTRATIVE

AREA IN THE DISTRICT OF.....

IN TERMS OF THE TRADITIONAL LEADERSHIP AND GOVERNANCE ACT, 2005 (ACT NO. 4 OF 2005).

REASONS FOR IDENTIFICATION (ATTACH ANNEXURE IF NECESSARY)

.....

MARITAL STATUS.....

DATE OF MARRIAGE.....

NAME OF SPOUSE.....

HOME LANGUAGE.....

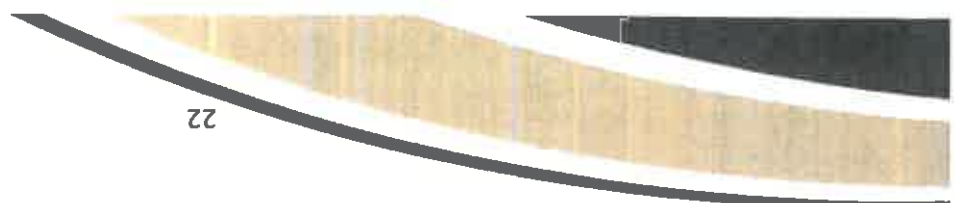
EDUCATIONAL QUALIFICATIONS.....

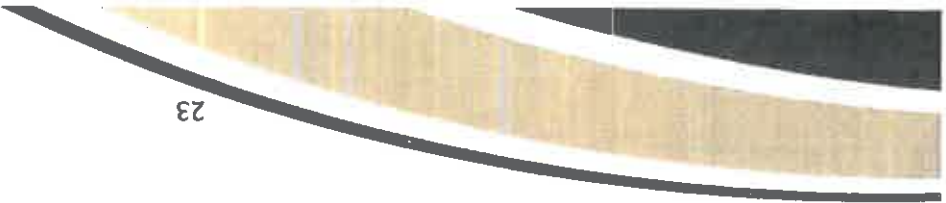
CHAIRPERSON OF THE ROYAL FAMILY.....

SIGNATURE..... DATE

SECRETARY OF THE ROYAL FAMILY.....

SIGNATURE..... DATE





Stamp of the Kingdom

SIGNATURE

DATE

OF

TRIBE

HIS/HER MAJESTY: KING/QUEEN

NOTED BY:

Stamp of the Traditional Council

SIGNATURE

DATE

2. NAMES & SURNAME (Print in Block letters)

2.

SIGNATURE

DATE

1. NAMES & SURNAME (Print in Block letters)

1.

WITNESSES;

ROYAL FAMILY RESOLUTION FORMS

IDENTIFICATION OF A PERSON TO ASSUME THE POSITION OF INKOSANA/ACTING INKOSANA/REGENT

THE.....ROYAL FAMILY

HAD AT THE MEETING HELD ON THE.....

IDENTIFIED.....

OF.....

ID NUMBER.....AS INKOSANA/ACTING INKOSANA/REGENT

OF.....TRADITIONAL COUNCIL/ADMINISTRATIVE

AREA IN THE DISTRICT OF.....

IN TERMS OF THE TRADITIONAL LEADERSHIP AND GOVERNANCE ACT, 2005 (ACT NO. 4 OF 2005).

REASONS FOR IDENTIFICATION (ATTACH ANNEXURE IF NECESSARY)

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

MARITAL STATUS.....

DATE OF MARRIAGE.....

NAME OF SPOUSE.....

HOME LANGUAGE.....

EDUCATIONAL QUALIFICATIONS.....

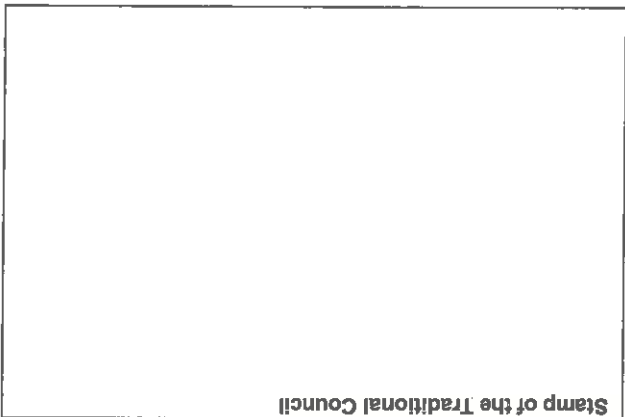
CHAIRPERSON OF THE ROYAL FAMILY.....

SIGNATURE.....

SECRETARY OF THE ROYAL FAMILY.....

DATE.....





Stamp of the Traditional Council

Date

Signature

Name: (Chairperson of Traditional Council)

WITNESSES:

1.

.....
NAMES & SURNAME (Print in Block letters)

.....
SIGNATURE

.....
DATE

2.

.....
NAMES & SURNAME (Print in Block letters)

.....
SIGNATURE

.....
DATE

CONFIRMATION/CONSENTING TO THE IDENTIFICATION OF AN ACTING CAPACITY IN THE POSITION OF
INKOSI/INKOSANA AS PER RESOLUTION OF THE ROYAL FAMILY

I, _____
(Print full names)
_____ (Identify number) _____
being the rightful heir to the position

Of _____
(State the position e.g. Inkosi or Inkosana)

Of _____
(Insert the name of Traditional Council/Administrative Area)
Traditional Council/Administrative Area

Hereby agree/confirm that, _____
(Write full names of the person acting in your position)

As identified and agreed upon by the Royal Family in the meeting held on the _____
(Insert date of the meeting)

_____ will be acting in my position as Inkosi/Inkosana from _____ to _____
(Specify the period which is not longer than 6 months as required by the Act)

_____ whilst I'm _____
(State the reason e.g. studying, working e.t.c)

Signature of the rightful heir

Date

Witnesses:

1. Name: _____

Signature

Date

2. Name: _____

Signature

Date

ACCEPTANCE OF ACTING CAPACITY IN THE POSITION OF INKOSI/INKOSANA AS IDENTIFIED BY THE ROYAL FAMILY

I, _____ (identity number) _____

Herby accept/agree to the acting capacity as _____ of _____

(Note: Insert the position e.g. Inkosi/inkosana)

Traditional Council as identified by _____ Royal Family on behalf

Of _____ who is currently _____

(Insert the name of the person you're acting for) _____ (State the reason e.g. Studying, Working or not in good health)

From _____ to _____

(NB: Please state the period which is not longer than 6 months as required by the Act)

Terms and Conditions for acting capacity are that, the identified person-

1. acknowledges that he/she is in the position on an acting capacity not permanent;
2. agree and confirm that whenever the rightful heir to the position is ready to occupy the position on the permanent basis,
3. agree that the MEC will cause the Royal Family to review his/her acting capacity every six months as required by the Act.

Signature of the acting person

Date

Witnesses;

1. Name: _____

Signature

2. Name: _____

Signature

Date

ACCEPTANCE OF REGENT CAPACITY IN THE POSITION OF INKOSI/NKOSANA AS IDENTIFIED BY THE ROYAL FAMILY

I, _____ (Print full names & surname) ID number _____

Hereby accept/agree to be a Regent on the position of _____ (State the position e.g. Inkosi/Nkosana) on behalf

Of _____ who is still a _____ (Insert the names of a rightful heir to the position) (E.g. minor/under aged)

As identified by: _____ Royal Family

In the meeting held on the _____ (Date of the meeting) at _____ (Place where the meeting was held)

Terms and Conditions for Regent capacity are that, the identified person acknowledges that-

1. he/she is in the position on a temporarily basis;
2. on request of the Royal Family he/she must take full responsibility of the welfare of the family/children of the deceased Traditional Leader;
3. he/she will relinquish the position to the rightful heir immediately when he/she reaches the maturity age (21 years);
4. the MEC shall cause the Royal Family to review the Regent capacity after every three (3) years.

Signature _____ Date _____

WITNESSES:

1. Name: _____

Signature: _____

2. Name: _____

Signature: _____

Date: _____

REGISTRATION AND LISTING OF ROYAL FAMILY MEMBERS

NAME OF THE ROYAL FAMILY	
NAME OF THE TRADITIONAL COUNCIL	
DISTRICT	

Personal details of member

FULL NAMES	
SURNAME	
ID NO.	
House Status (e.g. Indu enkulu, Indu yase 'unene, Oqadi lendu enkulu, Iqadi lendu yase Kunene or Ixhiba)	
PHONE NUMBERS	
ADDRESS	
SIGNATURE	
DATE	

Confirmation:

Full names & Surname		Signature	
Secretary		Chairperson	
Date			

Royal Family/Traditional Council Stamp

