

TRADITIONAL AUTHORITIES ACT 25 OF 2000

[ASSENTED TO 21 DECEMBER 2000] [DATE OF COMMENCEMENT: 17 MAY 2001]

(Signed by the President)

ACT

To provide for the establishment of traditional authorities and the designation, election, appointment and recognition of traditional leaders; to define the powers, duties and functions of traditional authorities and traditional leaders; and to provide for matters incidental thereto.

ARRANGEMENT OF SECTIONS

- 1 Definitions
- 2 Establishment of traditional authorities
- 3 Powers, duties and functions of traditional authorities and members thereof
- 4 Designation of chief or head of traditional community
- 5 Prior notification of designation of chief or head of traditional community
- 6 Recognition of chief or head of traditional community
- 7 Powers, duties and functions of chief or head of traditional community
- 8 Removal and succession of chief or head of traditional community
- 9 Establishment of Chief's Council and Traditional Council, and powers, duties and functions thereof
- 10 Appointment of senior traditional councillors, traditional councillors and secretary, and their powers, duties and functions
- 11 Use of traditional titles
- 12 Settlement of disputes
- 13 Powers of investigation committee
- 14 Limitation of powers of traditional authorities
- 15 Holding of political office by chief or head of traditional community
- 16 Relationship of traditional authorities with government organs
- 17 Payment of allowances to traditional leaders

- 18 Assets and Trust Fund of traditional community
- 19 Regulations
- 20 Repeal of laws and savings
- 21 Construction of a certain expression
- 22 Short title and commencement

[a25y2000s1]1 Definitions

In this Act, unless the context indicates otherwise-

"chief" means the supreme traditional leader of a traditional community designated in accordance with section 4(1)(a) and recognised as such under section 6;

"Chief's Council" means a Chief's Council established by section 9;

"communal area" means the geographic area habitually inhabited by a specific traditional community, excluding any local authority area as defined in section 1 of the Local Authorities Act, 1992 (Act 23 of 1992);

"Community Trust Fund" means a Community Trust Fund contemplated in section 18(3);

"Council of Traditional Leaders" means the Council of Traditional Leaders established by section 2 of the Council of Traditional Leaders Act, 1997 (Act 13 of 1997);

"customary law" means the customary law, norms, rules of procedure, traditions and usages of a traditional community in so far as they do not conflict with the Namibian Constitution or with any other written law applicable in Namibia;

"designation", in relation to the institution of a chief or head of a traditional community, includes the election or hereditary succession to the office of a chief or head of a traditional community, and any other method of instituting a chief or head of a traditional community recognised under customary law;

"head", in relation to a traditional community, means the supreme traditional leader of that traditional community designated in accordance with section 4(1)(a) or (b), as the case may be, and recognised as such under section 6;

"investigation committee" means the investigation committee appointed in terms of section 12(2);

"member", in relation to-

(a) a traditional community, means a person either or both of whose parents belong to that traditional community, and includes any other person who by marriage to or adoption by a member of

that traditional community or by any other circumstance has assimilated the culture and traditions of that traditional community and has been accepted by the traditional community as a member thereof;

(b) a traditional authority, means a chief, a head of a traditional community, a senior traditional councillor, or a traditional councillor;

"Minister" means the Minister responsible for Regional and Local Government;

"prescribed" means prescribed by regulation made under section 19;

"repealed Act" means the Traditional Authorities Act, 1995 (Act 17 of 1995);

"senior traditional councillor" means a senior councillor of a traditional community appointed or elected in accordance with section 10;

"this Act" includes any regulation prescribed thereunder;

"traditional authority" means a traditional authority of a traditional community established in terms of section 2(1);

"traditional community" means an indigenous homogeneous, endogamous social grouping of persons comprising of families deriving from exogamous clans which share a common ancestry, language, cultural heritage, customs and traditions, who recognises a common traditional authority and inhabits a common communal area, and may include the members of that traditional community residing outside the common communal area;

"Traditional Council" means a Traditional Council established by section 9;

"traditional councillor" means a councillor of a traditional community appointed or elected in accordance with section 10; and

"traditional leader" means a chief, a head of a traditional community, a senior traditional councillor, or a traditional councillor designated and recognized or appointed or elected, as the case may be, in accordance with this Act, and by whatever traditional title named.

[a25y2000s2]2 Establishment of traditional authorities

(1) Subject to this Act, every traditional community may establish for such community a traditional authority consisting of-

(a) the chief or head of that traditional community, designated and recognized in accordance with this Act; and

(b) senior traditional councillors and traditional councillors appointed or elected in accordance with this Act.

(2) A traditional authority shall in the exercise of its powers and the execution of its duties and functions have jurisdiction over the members of the traditional community in respect of which it has been established.

[a25y2000s3]3 Powers, duties and functions of traditional authorities and members thereof

(1) Subject to section 16, the functions of a traditional authority, in relation to the traditional community which it leads, shall be to promote peace and welfare amongst the members of that community, supervise and ensure the observance of the customary law of that community by its members, and in particular to-

(a) ascertain the customary law applicable in that traditional community after consultation with the members of that community, and assist in its codification;

(b) administer and execute the customary law of that traditional community;

(c) uphold, promote, protect and preserve the culture, language, tradition and traditional values of that traditional community;

(d) preserve and maintain the cultural sites, works of art and literary works of that traditional community;

(e) perform traditional ceremonies and functions held within that traditional community;

(f) advise the Council of Traditional Leaders in the performance of its functions as provided under Article 102(5) of the Namibian Constitution, the Council of Traditional Leaders Act, 1997 (Act 13 of 1997), or under any other law;

(g) promote affirmative action amongst the members of that traditional community as contemplated in Article 23 of the Namibian Constitution, in particular by promoting gender equality with regard to positions of leadership; and

(h) perform any other function as may be conferred upon it by law or custom.

(2) A member of a traditional authority shall in addition to the functions referred to in subsection (1) have the following duties, namely-

(a) to assist the Namibian police and other law enforcement agencies in the prevention and investigation of crime and, subject to the provisions of the Criminal Procedure Act, 1977 (Act 51 of 1977), the apprehension of offenders within their jurisdiction;

(b) to assist and co-operate with the Government, regional councils and local authority councils in the execution of their policies and keep the members of the traditional community informed of developmental projects in their area;

(c) to ensure that the members of his or her traditional community use the natural resources at their disposal on a sustainable basis and in a manner that conserves the environment and maintains the ecosystems for the benefit of all persons in Namibia;

(d) to be ordinarily resident in the communal area of the traditional community which he or she leads, failing which such traditional leader may be removed from office, if he or she is a chief or a head of a traditional community, under section 8(1) or, if he or she is a senior traditional councillor or traditional councillor, in accordance with the applicable customary law, but a person who is not so resident at his or her designation and recognition or appointment or election as a traditional leader in terms of this Act shall not be disqualified to be so designated and recognized or appointed or elected; and

(e) to respect the culture, customs and language of any person who resides within the communal area of that traditional authority, but who is not a member of the traditional community which such member leads.

(3) In the performance of its duties and functions under this Act, a traditional authority may-

(a) in addition to any contributions contemplated in section 18(3), raise funds on behalf of its traditional community, which funds shall be paid into the Community Trust Fund of that community;

(b) hear and settle disputes between the members of the traditional community in accordance with the customary law of that community;

(c) make customary laws; and

(d) use on all its correspondence an office stamp of its own design.

(4) Where a traditional authority referred to in section 2(1) has been established for a traditional community, and a group of members of that traditional community establishes in conflict with the provisions of this Act another authority purporting to be a traditional authority for such group, and any member of such last-mentioned authority exercises or performs any of the functions contemplated in paragraphs (b) and (h) of subsection (1) and paragraphs (a) and (b) of subsection (3) of this section-

(a) any such act shall be null and void; and

(b) such member shall be guilty of an offence, and upon conviction be liable to a fine of N\$4 000 or to imprisonment for a period of twelve months or to both such fine and imprisonment.

[a25y2000s4]4 Designation of chief or head of traditional community

(1) Subject to sections 5 and 6, members of a traditional community who are authorised thereto by the customary law of that community, may designate in accordance with that law-

(a) one person from the royal family of that traditional community, who shall be instituted as the chief or head, as the case may be, of that traditional community; or

(b) if such community has no royal family, any member of that traditional community, who shall be instituted as head of that traditional community.

(2) The qualifications for designation and the tenure of, removal from and succession to the office of chief or head of a traditional community shall be regulated by the customary law of the traditional community in respect of which such chief or head of a traditional community is designated.

[a25y2000s5]5 Prior notification of designation of chief or head of traditional community

(1) If a traditional community intends to designate a chief or head of a traditional community in terms of this Act-

(a) the Chief's Council or the Traditional Council of that community, as the case may be; or

(b) if no Chief's Council or Traditional Council for that community exists, the members of that community who are authorised thereto by the customary law of that community,

shall apply on the prescribed form to the Minister for approval to make such designation, and the application shall state the following particulars:

(i) The name of the traditional community in question;

(ii) the communal area inhabited by that community;

(iii) the estimated number of members comprising such community;

(iv) the reasons for the proposed designation;

(v) the name, office and traditional title, if any, of the candidate to be designated as chief or head of the traditional community;

(vi) the customary law applicable in that community in respect of such designation; and

(vii) such other information as may be prescribed or the Minister may require.

(2) On receipt of an application complying with subsection (1), the Minister shall, subject to subsection (3), in writing approve the proposed designation set out in such application.

(3) Notwithstanding subsection (2), if in respect of an application referred to in subsection (1) the Minister is of the opinion that-

(a) (i) the person sought to be designated as a chief or head of a traditional community represents a group of persons who are members of a traditional community in respect of which a chief or head of a traditional community has been designated and recognised under this Act; or

(ii) such group of persons do not constitute an independent traditional community inhabiting a common communal area detached from another traditional community; or

(iii) such group of persons do not comprise a sufficient number of members to warrant a traditional authority to be established in respect thereof; and

(b) that there are no reasonable grounds for recognizing such group of persons as a separate traditional community, the Minister shall advise the President accordingly.

(4) The President shall on receipt of the Minister's advice under subsection (3) refer the matter to the Council of Traditional Leaders for its consideration and recommendation.

(5) The Council of Traditional Leaders shall submit to the President any recommendation it may wish to make in respect of any matter referred to it in terms of subsection (4) not later than 12 months after the date of referral of that matter to it.

(6) On-

(a) receipt of a recommendation referred to in subsection (5); or

(b) failure of the Council of Traditional Leaders to make such recommendation within the time frame prescribed by that subsection,

the President shall in his or her discretion and in writing, either reject the proposed designation on any of the grounds mentioned in subsection (3)(a) or (b), or grant approval for such designation to the members of the traditional community in question.

(7) On receipt of any written approval granted under subsection (2) or (6), the Chief's Council or Traditional Council or, in a situation contemplated in subsection (1)(b), the members of the traditional community, as the case may be, shall in writing give the Minister prior notification of the date, time and place of the designation in question, whereupon the Minister or his or her representative shall attend that designation, and shall-

(a) witness the designation of the chief or head of the traditional community in question; and

(b) satisfy himself or herself that such designation is in accordance with the customary law referred to in paragraph (vi) of subsection (1).

(8) The chief or head of the traditional community shall at his or her designation under subsection (7), make or subscribe to such oath or solemn affirmation with regard to his or her office as chief or head as the relevant customary law may require.

(9) If-

(a) the provisions of subsection (1) or (7) have not been complied with; or

(b) the designation of a chief or head of a traditional community has not been conducted in accordance with the customary law referred to in paragraph (vi) of subsection (1),

the designation of the chief or head of the traditional community concerned shall be invalid.

(10) If, in respect of a traditional community-

(a) no customary law regarding the designation of a chief or head of a traditional community exists; or

(b) there is uncertainty or disagreement amongst the members of that community regarding the applicable customary law,

the members of that community may elect, subject to the approval of the Minister, a chief or head of the traditional community by a majority vote in a general meeting of the members of that community who have attained the age of 18 years and who are present at that meeting.

[a25y2000s6]6 Recognition of chief or head of traditional community

(1) If the Minister is satisfied that a chief or head of a traditional community has been designated in accordance with the requirements of this Act, he or she shall notify the President of such designation in writing, specifying the name, office, traditional title, if any, date of designation of such chief or head, and the name of the traditional community in respect of which such chief or head has been designated.

(2) The President shall on receipt of a notice referred to in subsection (1) recognise the designation of the chief or head of the traditional community concerned by proclamation in the Gazette, setting out in such notice the particulars referred to in subsection (1) with regard to such chief or head.

(3) Notwithstanding any other provision to the contrary in this Act contained, a chief or head of a traditional community shall be deemed not to have been designated under this Act, unless such designation has been recognized under this section.

(4) Any application in terms of section 5 of the repealed Act for the designation of a chief or a supreme traditional leader of a traditional community which does not have a chief, which has not been finalized prior to the repeal of that Act by this Act shall be dealt with and finalized in terms of the corresponding provisions of this Act.

[a25y2000s7]7 Powers, duties and functions of chief or head of traditional community

A chief or head of a traditional community-

(a) shall be the custodian of the customary law of the traditional community which he or she leads;

(b) shall exercise his or her powers and perform his or her duties and functions and in accordance with that customary law;

(c) may, subject to sections 8(2) and 15(5), appoint any other member of his or her traditional community to act in his or her place, when he or she is for any reason unable to act as chief or head of that traditional community;

(d) shall perform such other powers and exercise such other duties or functions as may be conferred upon him or her by statutory law or the applicable customary law;

(e) shall assign one or two senior traditional councillors to assist him or her in the administering of the affairs of the Chief's Council or the Traditional Council, as the case may be.

[a25y2000s8]8 Removal and succession of chief or head of traditional community

(1) If there is sufficient reason to warrant the removal of a chief or head of a traditional community from office, such chief or head may be removed from office by the members of his or her traditional community in accordance with the customary law of that community.

(2) If, by reason of removal from office as contemplated in subsection (1) or death, a chief or head of a traditional community ceases to perform the functions of his or her office, the members of that traditional community, who are authorized thereto by customary law, may designate in accordance with this Act a member of that traditional community to replace such chief or head.

(3) If a chief or head of a traditional community has been removed from office as contemplated in subsection (1), the Minister shall notify the President of such removal in writing, specifying the name, office, traditional title, if any, date of removal of the chief or head concerned, and the name of the traditional community in respect of which such chief or head has been removed from office.

(4) The President shall on receipt of a notice referred to in subsection (3) recognize the removal from office of the chief or head of the traditional community concerned by proclamation in the Gazette, setting out in such notice the particulars referred to in that subsection with regard to such chief or head of the traditional community.

[a25y2000s9]9 Establishment of Chief's Council and Traditional Council, and powers, duties and functions thereof

(1) There is hereby established-

(a) for every traditional community which has a chief, a Chief's Council;

(b) for every traditional community which has a head of a traditional community, a Traditional Council.

(2) A Chief's Council or Traditional Council shall comprise-

(a) such number of members of the traditional authority of the traditional community in question as the chief or head of that traditional community, as the case may be, may appoint to serve as members of the Council in question; and

(b) in addition to the members referred to in paragraph (a), such number of members of the traditional community in question as the chief or head of that traditional community, as the case may be, may co-opt to serve as members of the Council in question.

(3) The chief or the head of a traditional community shall be the chairperson of the Chief's Council or Traditional Council which has been established for his or her traditional community, as the case may be, and such chairperson may appoint such other office-bearers of the Council in question as he or she may deem necessary.

(4) The Chief's Council or Traditional Council shall be responsible for the day- to-day administration of the affairs of the traditional authority of the traditional community in respect of which it has been established.

(5) The chairperson of the Chief's Council or Traditional Council, as the case may be, shall cause a written record to be kept of the proceedings of the meetings of that Chief's Council or Traditional Council, as the case may be.

[a25y2000s10]10 Appointment of senior traditional councillors, traditional councillors and secretary, and their powers, duties, and functions

(1) A chief or head of a traditional community shall appoint from amongst the members of his or her traditional community or cause to be elected by such members from amongst their number-

(a) senior traditional councilors, who shall assist such chief or head in the performance of his or her functions, and exercise or perform such other powers, duties or functions as may be delegated or assigned to any of them by such chief or head; and

(b) traditional councilors, who shall advise such chief or head and the senior traditional councilors of that community with regard to the performance of their functions, and exercise or perform such other powers, duties or functions as may be delegated or assigned to any of them by such chief or head.

(2) The qualifications for appointment or election and the tenure of, and removal from, office of a senior traditional councillor or traditional councillor shall be regulated by the customary law of the traditional community in respect of which such councillor is appointed or elected.

(3) A chief or head of a traditional community shall from time to time appoint from amongst the members of his or her traditional community one person as secretary, and such secretary shall perform such duties and functions as may be assigned to him or her by that chief or head.

(4) Any chief or head of a traditional community who has in accordance with this section appointed a senior traditional councillor or traditional councillor or caused any such councillor to be elected shall notify the Minister of such appointment or election in writing, specifying the name, office, traditional title, if any, date of appointment or election of the senior traditional councillor or traditional

councillor concerned, and the name of the traditional community in respect of which such senior traditional councillor or traditional councillor has been appointed or elected.

(5) The Minister shall on receipt of a notice referred to in subsection (4) make the appointment or election of a senior traditional councillor or traditional councillor known by notice in the Gazette, setting out in such notice the particulars referred to in that subsection with regard to such senior traditional councillor or traditional councillor.

[a25y2000s11]11 Use of traditional titles

Nothing in this Act contained shall be construed as precluding the members of a traditional community from addressing a traditional leader by the traditional title accorded to that office, but such traditional title shall not derogate from, or add to, the status, powers, duties and functions associated with the office of a traditional leader as provided for in this Act.

[a25y2000s12]12 Settlement of disputes

(1) If a dispute arises amongst the members of a traditional community as to whether or not a person to be designated as-

(a) chief or head of the traditional community in terms of section 4 is the rightful or a fit and proper person under the customary law of that community to be so designated; or

(b) successor in terms of section 8 is the rightful or a fit and proper successor to the office of chief or head of the traditional community under the customary law of that community,

and the members of that traditional community fail to resolve that dispute in accordance with such customary law, they may submit to the Minister a written petition, signed by the parties to the dispute, stating the nature of the dispute.

(2) On receipt of a petition referred to in subsection (1), the Minister may appoint an investigation committee consisting of such number of persons as he or she may determine, to investigate the dispute in question and to report to the Minister concerning its findings and recommendations.

(3) The Minister shall on receipt of the report referred to in subsection (2) take such decision as he or she may deem expedient for the resolutions of the dispute in question.

(4) In the investigation or resolution of a dispute under this section regard shall be had to the relevant customary law and traditional practices of the traditional community within which the dispute has arisen.

[a25y2000s13]13 Powers of investigation committee

(1) An investigation committee, or any member thereof authorized by such committee for the purpose, may, in the investigation of a dispute contemplated in section 12(2)-

(a) in its or his or her discretion determine the nature and extent of the investigation in question;

(b) have access to all books, minutes of meetings, or other documents which the investigation committee or the member concerned deems necessary to investigate in connection with that investigation;

(c) request particulars and information from any person which the investigation committee or the member concerned deems necessary in connection with the investigation in question;

(d) without payment of any fees, make enquiries into and extracts from, or copies of, any such books, minutes or other documents which the investigation committee or the member concerned deems necessary in connection with that investigation;

(e) by notice in writing request any person to appear before it or him or her in relation to that investigation at a date, time and place specified in such notice and to submit all such books, minutes or other documents or things in the possession or under the control of that person which the investigation committee or the member concerned deems necessary in connection with that investigation.

(2) Any person appearing under subsection (1), before an investigation committee or any member thereof, may be requested-

(a) to co-operate with the investigation committee or the member concerned and to disclose truthfully and frankly any information within his or her knowledge relevant to the investigation in question;

(b) to produce any book, minutes, other documents or thing to the investigation committee or the member concerned which the investigation committee or that member deems necessary in connection with that investigation.

(3) The provisions of subsection (1) and (2), in so far as they provide for a limitation on the fundamental right to privacy contemplated in Article 13 of the Namibian Constitution by authorizing interference with such privacy, are enacted upon the authority conferred by the said Article.

[a25y2000s14]14 Limitation of powers of traditional authorities

In the exercise of the powers or the performance of the duties and functions referred to in section 3 by a traditional authority or a member thereof-

(a) any custom, tradition, practice, or usage which is discriminatory or which detracts from or violates the rights of any person as guaranteed by the Namibian Constitution or any other statutory law, or which prejudices the national interest, shall cease to apply;

(b) the customary law of a traditional community shall only apply to the members of that traditional community and to any person who is not a member of that traditional community, but who

by his or her conduct or consent submits himself or herself to the customary law of that traditional community; and

(c) a traditional leader shall not permit his or her political opinions or allegiance to influence-

(i) the functions of his or her office as traditional leader; or

(ii) the members of the traditional community in respect of which he or she was designated and recognized, or appointed or elected, as the case may be.

[a25y2000s15]15 Holding of political office by chief or head of traditional community

(1) Every chief or head of a traditional community elected or appointed to a political office shall-

(a) upon such election or acceptance of such appointment be considered to have taken leave of absence from the office of chief or head of a traditional community for the duration that he or she holds such political office; and

(b) forthwith notify the Minister in writing of the date with effect from which he or she holds such political office.

(2) The Minister shall cause notice to be given in the Gazette of the election or appointment of any chief or head of a traditional community to a political office and of the date from which such election or appointment is of force.

(3) Any person holding a political office who becomes a chief or head of a traditional community shall with effect from the date that he or she is recognised as such under section 6, be considered to have taken leave of absence from the office of chief or head of the traditional community for the duration of the period that he or she holds such political office.

(4) A chief or head of a traditional community who by virtue of subsection (1)(a) or (3) is considered to have taken leave of absence from the office of chief or head of a traditional community shall, during that period of leave of absence, not be entitled to be accorded the status of chief or head of a traditional community and to receive the allowance payable to a chief or head of a traditional community under this Act.

(5) Where a chief or head of a traditional community is considered to have taken leave of absence under subsection (1)(a) or (3), the members of that traditional community who are authorized thereto by customary law may designate, in accordance with section 4 and subject to sections 5 and 6, a member of that traditional community to act as chief or head of the traditional community for the duration of that period of leave of absence.

(6) A person duly designated and recognized to act as chief or head of a traditional community as contemplated in this section shall during the period that he or she acts as chief or head of the traditional community exercise the powers and perform the duties and functions of chief or head of that

traditional community and receive allowances payable to a chief or head of a traditional community under this Act.

(7) For purposes of this section "political office" means the President of the Republic of Namibia, a member of the National Assembly, National Council or a Regional Council, and includes a leader of a political party registered under section 39 of the Electoral Act, 1992 (Act 24 of 1992).

(8) To the extent that this section authorises a limitation upon the right of a chief or head of a traditional community to hold a political office or the holder of a political office to hold the office of chief or head of a traditional community, such limitation is authorised on grounds of public interest as contemplated in Article 17(3) of the Namibian Constitution.

(9) Nothing in this section contained shall be construed as derogating from section 8.

[a25y2000s16]16 Relationship of traditional authorities with government organs

A traditional authority shall in the exercise of its powers and the performance of its duties and functions under customary law or as specified in this Act give support to the policies of the Government, regional councils and local authority councils and refrain from any act which undermines the authority of those institutions.

[a25y2000s17]17 Payment of allowances to traditional leaders

(1) Subject to subsection (2), there shall be paid from moneys appropriated by Parliament for such purpose allowances-

- (a) to the following traditional leaders of a traditional community, namely:
 - (i) One chief or head of a traditional community, as the case may be;
 - (ii) not more than six senior traditional councillors; and
 - (iii) not more than six traditional councillors,

designated and recognised, or appointed or elected, as the case may be, in accordance with this Act, notwithstanding the fact that more than six senior traditional councillors and more than six traditional councillors may have been appointed or elected in respect of a particular traditional community under this Act; and

- (b) to the secretary of a traditional community appointed under section 10(3).

(2)(a) The Minister, in consultation with the Minister responsible for Finance, may prescribe allowances payable in respect of the traditional leaders, and the secretary, referred to in subsection (1).

(b) Different allowances may be prescribed under paragraph (a), regard being had to the status, duties and responsibilities of each office referred to in that paragraph.

(3) Every traditional community in respect of whom more than six persons have been appointed or elected as senior traditional councillors and more than six persons have been appointed or elected as traditional councillors, shall notify the Minister in writing of the names of those senior traditional councillors and traditional councillors who shall be entitled to receive allowances under this Act.

(4) Subsections (1) and (3) shall not be construed as preventing a traditional community from paying allowances to senior traditional councillors and traditional councillors who are not under those subsections entitled to allowances.

[a25y2000s18]18 Assets and Trust Fund of traditional community

(1) A traditional authority may with the consent of the members of its traditional community acquire, purchase, lease, sell, or otherwise hold or dispose of movable and immovable property in trust for that traditional community, and shall have such rights in respect of the acquisition and disposal of such property as may reasonably be necessary or expedient for the carrying out of its functions under this Act.

(2) Any immovable property acquired as contemplated in subsection (1) shall be registered in the name of the traditional authority concerned in accordance with the provisions of the Deeds Registries Act, 1937 (Act 47 of 1937) or the Registration of Deeds in Rehoboth Act, 1976 (Act 93 of 1976).

(3) A traditional authority may with the consent of the members of its traditional community establish a Community Trust Fund, to be held in trust for the members of that traditional community, and towards which such members may contribute for the purposes of-

- (a) financing projects in that community which promote and uplift the culture, preserve cultural sites, works of art and literary works of that community;
- (b) meeting the administrative costs of running the office of the traditional authority;
- (c) meeting the costs of performing any of the functions and duties of a traditional authority under this Act; and
- (d) meeting any other costs that the traditional community may agree upon.

(4) A traditional authority shall with the consent of the members of its traditional community determine the manner in which and the persons by whom the contribution contemplated in subsection (3) shall be made, as well as the amount of that contribution.

[a25y2000s19]19 Regulations

The Minister may make regulations relating to-

- (a) the establishment and composition of a Board of Trustees to manage and control a Community Trust Fund;

- (b) the duties, functions, and powers of a Board of Trustees;
- (c) the tenure and vacation of office of members of a Board of Trustees;
- (d) the meetings of a Board of Trustees and the election of office-bearers of such a Board;
- (e) the establishment of committees for a Community Trust Fund by a Board of Trustees, and the composition of a committee;
- (f) the duties, functions and powers of a committee referred to in paragraph (e);
- (g) the keeping of accounting records of a Community Trust Fund and the auditing of that records;
- (h) the financial year of a Community Trust Fund;
- (i) the method by which the number of persons comprising a traditional community may be determined; and
- (j) generally all other matters which are by this Act required or permitted to be prescribed, or which are necessary or expedient to be prescribed in order to achieve the purposes of this Act.

[a25y2000s20]20 Repeal of laws and savings

(1) Subject to subsection (2), the Traditional Authorities Act, 1995 (Act 17 of 1995), and the Traditional Authorities Amendment Act, 1997 (Act 8 of 1997), are hereby repealed.

(2) A traditional authority which was established under any law repealed by subsection (1) and which existed immediately before the commencement of this Act shall from such commencement continue to function as such and the provisions of this Act shall apply to such traditional authority as if it were a traditional authority established under this Act, and any person who immediately before such commencement was a member or office-bearer of such traditional authority by virtue of his or her designation and recognition or appointment under any such repealed law-

(a) as a chief or supreme traditional leader shall from such commencement be a chief or, in the case of the supreme traditional leader, be a head of a traditional community as if he or she were designated and recognized under this Act; and

(b) as a senior traditional councillor, traditional councillor or secretary shall from such commencement respectively be a senior traditional councillor, traditional councillor or secretary as if he or she were appointed or elected under this Act.

(3) Anything done under a provision of a law repealed by subsection (1) shall, in so far as it is not inconsistent with any provision of this Act, be deemed to have been done under the corresponding or related provision, if any, of this Act.

[a25y2000s21]21 Construction of a certain expression

Any reference to the chief of a traditional community in any other law shall be construed as to include a reference to the head of a traditional community.

[a25y2000s22]22 Short title and commencement

(1) This Act shall be called the Traditional Authorities Act, 2001, and shall come into operation on a date to be determined by the Minister by notice in the Gazette.

(2) Different dates may be determined under subsection (1) in respect of different provisions of this Act.