

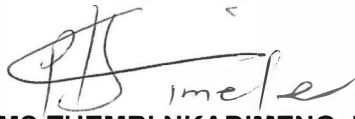
DEPARTMENT OF TRADITIONAL AFFAIRS

NO. 3433

19 May 2023

TRADITIONAL AND KHOI-SAN LEADERSHIP ACT, 2019: FORMULA FOR DETERMINATION OF NUMBER OF MEMBERS OF A KINGSHIP, QUEENSHIP AND PRINCIPAL TRADITIONAL COUNCIL

Under the powers vested in me by section 16(2)(a) of the Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019), I, Thembi Nkadimeng, Minister for Cooperative Governance and Traditional Affairs, hereby, in the Schedule hereto, publish a formula for the determination of the number of members of a kingship, queenship and principal traditional council.



MS THEMBI NKADIMENG, MP
MINISTER FOR COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

DATE: 03/04/2023

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SCHEDULE

FORMULA FOR DETERMINATION OF NUMBER OF MEMBERS OF A KINGSHIP, QUEENSHIP AND PRINCIPAL TRADITIONAL COUNCIL

The formula for determining the number of members of a kingship, queenship and principal traditional council as contemplated in section 16(2)(a) of the Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019)(hereinafter referred to as the Act), is as follows:

INPUTS		OUTPUTS						
Number of legally recognised senior traditional leaders under the kingship or queenship or principal traditional leader	% of community members within the selected component	Category of council (TC)	Total number of council members	Number of selected members of a council (60% component)			Number of elected members of a council (40% elected component)	
				King or queen or principal traditional leader	Selected senior traditional leaders	Selected community members		Total number of members selected
x	20%		y	1	h	c	Z	E

For:

$1 \leq x \leq 10; y = 15$
$11 \leq x \leq 20; y = 20$
$21 \leq x \leq 30; y = 25$
$31 \leq x \leq 40; y = 30$
$41 \leq x \leq 100; y = 35$
$x \geq 101; y = 40$

$e = \text{round}(0.4 * y)$
$z = y - e$
$h = \text{IF}(x \leq 6) \text{ then } h = x \text{ otherwise } h = \text{ROUND}((100\% - a) * z) - 1$
$c = z - 1 - h$

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1. APPLICATION

- 1.1. The sole determining factor for the number of members of a kingship, queenship and principal traditional council is the number of legally recognised senior traditional leaders under a recognised king, queen or principal traditional leader of the kingship, queenship and principal traditional community concerned.
- 1.2. There are six categories of kingship, queenship and principal traditional councils.
- 1.3. The numbers of members of each of the six categories of the councils are as follows:

Number of legally recognised senior traditional leaders under a king, queen or principal traditional leader	Total number of members of a kingship, queenship and principal traditional council
If the number of legally recognised senior traditional leaders under a king, queen or principal traditional leader is from 1 to 10	15
If the number of legally recognised senior traditional leaders under a king, queen or principal traditional leader is from 11 to 20	20
If the number of legally recognised senior traditional leaders under a king, queen or principal traditional leader is from 21 to 30	25
If the number of legally recognised senior traditional leaders under a king, queen or principal traditional leader is from 31 to 40	30
If the number of legally recognised senior traditional leaders under a king, queen or principal traditional leader is from 41 to 100	35
If the number of legally recognised senior traditional leaders under a king, queen or principal traditional leader is more than 100	40

- 1.4. The membership of a kingship, queenship and principal traditional council comprises a 60% component which includes selected members and a 40% component which includes elected members.
- 1.5. At least a third of the members of a kingship, queenship and principal traditional council must be women. If this requirement cannot be met in the case of a kingship or queenship council, the Minister may determine a lower threshold for the council concerned. If this requirement cannot be met in the case of a

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principal traditional council, the relevant Premier may determine a lower threshold for the council concerned.

- 1.6. The following provides a breakdown of the composition of the six categories of kingship, queenship and principal traditional councils in terms of the formula:

CATEGORY A: COMPOSITION OF A KINGSHIP, QUEENSHIP OR PRINCIPAL TRADITIONAL COUNCIL WITH 15 MEMBERS


The formula provides that if the number of legally recognised senior traditional leaders under the king, queen or principal traditional leader is from 1 to 10, the total number of council members will be 15. The following is a breakdown of the members within the 60% selected component and 40% elected component in terms of the formula:

INPUTS		Total number of members of the council	OUTPUTS				Number of elected members of the council (40% elected component)
Number of legally recognised senior traditional leaders under the king, queen or principal traditional leader	% of community members within the selected component		Number of selected members of the council (60% selected component)				
		Number of kings, queens or principal traditional leaders	Number of selected senior traditional leaders	Number of selected community members	Total number of selected members		
1 to 10	20%	15	1	2	6	9	6

CATEGORY B: COMPOSITION OF A KINGSHIP, QUEENSHIP OR PRINCIPAL TRADITIONAL COUNCIL WITH 20 MEMBERS

The formula provides that if the number of legally recognised senior traditional leaders under the king, queen or principal traditional leader is from 11 to 20, the total number of council members will be 20. The following is a breakdown of the members within the 60% selected component and 40% elected component in terms of the formula:

INPUTS		Total number of members of the council	OUTPUTS				Number of elected members of the council (40% elected component)
Number of legally recognised senior traditional leaders under the king, queen or principal traditional leader	% of community members within the selected component		Number of selected members of the council (60% selected component)				
		Number of kings, queens or principal traditional leaders	Number of selected senior traditional leaders	Number of selected community members	Total number of selected members		
11 to 20	20%	20	1	9	2	12	8


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CATEGORY C: COMPOSITION OF A KINGSHIP, QUEENSHIP OR PRINCIPAL TRADITIONAL COUNCIL WITH 25 MEMBERS

The formula provides that if the number of legally recognised senior traditional leaders under the king, queen or principal traditional leader is from 21 to 30, the total number of council members will be 25. The following is a breakdown of the members within the 60% selected component and 40% elected component in terms of the formula:

INPUTS		Total number of members of the council	OUTPUTS				Total number of elected members of the council (40% elected component)
Number of legally recognised senior traditional leaders under the king, queen or principal traditional leader	% of community members within the selected component		Number of selected members of the council (60% selected component)				
			Number of kings, queens or principal traditional leaders	Number of selected senior traditional leaders	Number of selected community members	Total number of selected members	
21 to 30	20%	25	1	11	3	15	10

CATEGORY D: COMPOSITION OF A KINGSHIP, QUEENSHIP OR PRINCIPAL TRADITIONAL COUNCIL WITH 30 MEMBERS

The formula provides that if the number of legally recognised senior traditional leaders under the king, queen or principal traditional leader is from 31 to 40, the total number of council members will be 30. The following is a breakdown of the members within the 60% selected component and 40% elected component in terms of the formula:

INPUTS		Total number of members of the council	OUTPUTS				Total number of elected members of the council (40% elected component)
Number of legally recognised senior traditional leaders under the king, queen or principal traditional leader	% of community members within the selected component		Number of selected members of the council (60% selected component)				
			Number of kings, queens or principal traditional leaders	Number of selected senior traditional leaders	Number of selected community members	Total number of selected members	
31 to 40	20%	30	1	13	4	18	12

CATEGORY E: COMPOSITION OF A KINGSHIP, QUEENSHIP OR PRINCIPAL TRADITIONAL COUNCIL WITH 35 MEMBERS

The formula provides that if the number of legally recognised senior traditional leaders under the king, queen or principal traditional leader is from 41 to 100, the total number of council members will be 35. The following is a breakdown of the members within the 60% selected component and 40% elected component in terms of the formula:

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INPUTS		OUTPUTS					Total number of elected members of the council (40% elected component)
Number of legally recognised senior traditional leaders under the king, queen or principal traditional leader	% of community members within the selected component	Total number of members of the council	Number of selected members of the council (60% selected component)				
			Number of kings, queens or principal traditional leaders	Number of selected senior traditional leaders	Number of selected community members	Total number of selected members	
41 to 100	20%	35	1	16	4	21	14

CATEGORY F: COMPOSITION OF A KINGSHIP, QUEENSHIP OR PRINCIPAL TRADITIONAL COUNCIL WITH 40 MEMBERS

The formula provides that if the number of legally recognised senior traditional leaders under the king, queen or principal traditional leader is more than 100, the total number of council members will be 40. The following is a breakdown of the members within the 60% selected component and 40% elected component in terms of the formula:

INPUTS		OUTPUTS					Total number of elected members of the council (40% elected component)
Number of legally recognised senior traditional leaders under the king, queen or principal traditional leader	% of community members within the selected component	Total number of members of the council	Number of selected members of the council (60% selected component)				
			Number of kings, queens or principal traditional leaders	Number of selected senior traditional leaders	Number of selected community members	Total number of selected members	
101 or more	20%	40	1	18	5	24	16

2. SELECTION

- 2.1. In terms of the Act, the 60% selected component comprises traditional leaders (including the recognised king, queen or principal traditional leader) and members of the community.
- 2.2. Before the selection of the 60% takes place, the relevant royal family must, in compliance with section 16(3)(a) of the Act, read with section 16(2)(a)(i)(bb) thereof, designate a forum of not more than five members of the royal family to assist the king, queen or principal traditional leader with the selection of the 60% component of the relevant council.
- 2.3. The composition of the selected members is as follows:
 - a) The recognised king, queen or principal traditional leader who is an *ex officio* member and chairperson of the kingship, queenship or principal traditional council.

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- b) Community members comprise 20% of the total number of selected members (i.e., 20% of the 60% selected component).
- c) Legally recognised senior traditional leaders comprise 80% of the 60% selected component: Provided that—
- (i) in instances where there are more legally recognised senior traditional leaders than the number required to serve as selected members, the relevant king, queen or principal traditional leader and the forum must select the required number from amongst the legally recognised senior traditional leaders. In this instance a rotation approach must be adopted for the different 5-year terms of the councils to afford each legally recognised senior traditional leader an opportunity to serve as a member of the council. Therefore, in all instances where, based on the total number of legally recognised senior traditional leaders within a particular kingship, queenship or principal traditional community, it is possible to implement a rotation schedule, a selected senior traditional leader may not serve consecutive terms;
 - (ii) in instances where there are less recognised senior traditional leaders than the number required to serve as selected members, all recognised senior traditional leaders will be selected and, notwithstanding paragraph 2.3(b), as many community members as may be required to reach the total number of selected members will be selected.
- 2.4. If the decimal is .5 or higher in any of the calculations referred to under paragraph 2.3, the decimal must be rounded off upwards: Provided that if in any instance this would result in an increase in the total number of selected members, the decimal must be rounded off downwards. If the decimal is lower than .5, the decimal must be rounded off downwards: Provided that if in any instance this would result in a decrease in the total number of selected members, the decimal must be rounded off upwards.
- 2.5. The selection of members by the king, queen or principal traditional leader is subject to the concurrence of the forum referred to above. If there is no concurrence, the provisions of section 16(3)(c) of the Act shall apply.
- 2.6. During the selection process, the king, queen or principal traditional leader and the forum are encouraged to select persons who represent the interests of the youth and persons with disabilities of that community: Provided that for the purposes of this formula “youth” means persons who are at least 18 years old but not older than 35.
- 2.7. During the selection the king, queen or principal traditional leader and the forums must ensure that at least one third of the selected members are women to comply with section 16(2)(b) of the Act.

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3. ELECTION

- 3.1. The process of election of the 40% elected component of the members of a kingship, queenship or principal traditional council must take place within 28 days from the date on which the names of the selected members of the council have been made public.
- 3.2. The election of the 40% elected component of a kingship, queenship or principal traditional council must be done in terms of section 16(2)(f) of the Act.
- 3.3. In compliance with section 16(2)(f) of the Act, each traditional council falling within the area of jurisdiction of the kingship, queenship or principal traditional community concerned must elect one person from the elected members of the traditional council to serve as part of the 40% elected component of the kingship, queenship or principal traditional council: Provided that—
 - a) where the number of persons so elected are less than the number of elected members required, the traditional councils must each elect one additional person from amongst the elected members of that council; and
 - b) where the number of persons so elected exceeds the number of elected members required, the persons elected must elect from amongst themselves the number of persons required for the 40% elected component of the kingship, queenship or principal traditional council.
- 3.4. During the election process, the community is encouraged to elect persons who represent the interests of the youth and persons with disability of that community.
- 3.5. During the election phase, the traditional councils must ensure that at least one third of the elected members are women to comply with section 16(2)(b) of the Act.

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