

## CHAPTER 29:17

# TRADITIONAL LEADERS ACT

*Act 25/1998, 22/2001 (s. 4).*

## ARRANGEMENT OF SECTIONS

### PART I

#### PRELIMINARY

*Section*

1. Short title and date of commencement.
2. Interpretation.

### PART II

#### CHIEFS

3. Appointment of chiefs.
4. Appointment of acting chiefs.
5. Duties of chiefs.
6. Delegation of chief's functions.
7. Disciplinary procedure where chief commits offence or misconduct.

### PART III

#### HEADMEN

8. Appointment of headmen.
9. Duties of headmen.
10. Disciplinary procedure where headman commits offence or misconduct.

### PART IV

#### VILLAGE HEADS

11. Appointment of village heads.
12. Duties of village heads.
13. Disciplinary action where village head commits offence or misconduct.

### PART V

#### VILLAGE ASSEMBLIES, WARD ASSEMBLIES AND DEVELOPMENT COMMITTEES

14. Village assembly.
15. Functions of village assembly.
16. Meetings of village assembly.
17. Village development committees.
18. Establishment and functions of ward assembly.
19. Meetings of ward assembly.
20. Ward development committee.
21. Invitation to experts to attend assemblies or committees.
22. Interest groups.

### PART VI

#### ISSUE OF VILLAGE REGISTRATION CERTIFICATES AND SETTLEMENT PERMITS AND OCCUPATION OF COMMUNAL LAND

23. Village boundaries.
24. Village registration certificates and settlement permits.
25. Villages in irrigation schemes in Communal Land.
26. Allocation of Communal Land.
27. Rights of urban dwellers and other persons to occupy Communal Land.
28. Disposal of rights in Communal Land.

## PART VII

### INHABITANTS OF RESETTLEMENT LAND

29. Placing of communities on resettlement land under authority of chief.
30. Resettlement land not to form part of communal land.

## PART VIII

### MESSENGERS OF CHIEFS AND HEADMEN

31. Appointment of messengers.
32. Uniforms and badges of messengers.
33. Offences by messengers.
34. Limitation of liability for actions of messengers.

## PART IX

### PROVINCIAL ASSEMBLIES AND THE COUNCIL OF CHIEFS

35. Provincial assemblies.
36. Functions of provincial assemblies.
37. Council of chiefs.
38. Meetings of Council.
39. Functions of Council.
40. Representation of interests of Government.
41. Clerks of Council and provincial assemblies and other staff.
42. Meetings of provincial assemblies and Council to be private.
43. Transaction of business notwithstanding vacancies.
44. Offences relating to proceedings of meetings.

## PART X

### GENERAL

45. Election of chief, headman or village head to political office.
46. Manner of discharge of functions by chief, headman or village head.
47. Incapacity of chief, headman or village head.
48. Hindrance of chief, headman or village head an offence.
49. Minister may give directions on matters of policy.
50. Regulations.
51. Repeal of Cap. 29:01 and savings.

**AN ACT to provide for the appointment of village heads, headmen and chiefs; to provide for the establishment of a Council of Chiefs and village, ward and provincial assemblies and to define their functions; to provide for the issue of village registration certificates and settlement permits; to repeal the Chiefs and Headmen Act [Chapter 29:01]; to amend the Criminal Procedure and Evidence Act [Chapter 9:07], the Communal Land Act [Chapter 20:04] and the Rural District Councils Act [Chapter 29:13]; and to provide for matters incidental to or connected with the foregoing.**

[Date of commencement: 1st January, 2000.]

## PART I

### PRELIMINARY

#### **1 Short title and date of commencement**

- (1) This Act may be cited as the Traditional Leaders Act [Chapter 29:17].
- (2) This Act shall come into operation on a date to be fixed by the President by statutory instrument.

#### **2 Interpretation.**

- (1) In this Act—
  - “area”, in relation to a chief, means—
    - (a) the area occupied by his community; and
    - (b) any area declared in terms of section *twenty-nine* to be under the jurisdiction of a chief;
  - “chief” means any person appointed as a chief in terms of subsection (1) of section *three*;
  - “Communal Land” means land described as such under the Communal Land Act [Chapter 20:04];

- “community” means a community of persons who, according to customary law, fall under the jurisdiction of a chief;
- “Council” means the Council of Chiefs referred to in section *thirty-seven*;
- “fixed date” means the date fixed in terms of subsection (2) of section *one* as the date on which this Act shall come into operation;
- “headman” means any headman appointed in terms of section *eight*;
- “inhabitant” in relation to a chief, headman or village head, means a person who is resident in the area under the jurisdiction of the chief, headman or village head, as the case may be, and who is subject to customary law;
- “messenger” means a person appointed as a messenger in terms of section *thirty-one*;
- “Minister” means the Minister of Local Government and National Housing or any other Minister to whom the President may, from time to time, assign the administration of this Act;
- “province” means a province declared in terms of section 3 of the Provincial Councils and Administration Act [*Chapter 29:11*];
- “provincial assembly” means an assembly referred to in section *thirty-five*;
- “resettlement land” means land defined as resettlement land under the Rural District Councils Act [*Chapter 29:13*];
- “resettlement ward” has the meaning assigned to it in the Rural District Councils Act [*Chapter 29:13*];
- “Secretary” means the Secretary of the Ministry for which the Minister is responsible;
- “settle”, in relation to communal or resettlement land, means to use or to occupy the land, and “settler” and “settlement” shall be construed accordingly;
- “settlement permit” means a settlement permit issued in terms of section *twenty-four*;
- “squatter” means an unauthorized settler or user of land;
- “use”, in relation to communal land or resettlement land, includes the erection of any building or enclosure, ploughing, hoeing, the cutting of vegetation, the depasturing of animals or the extraction of sand, stone or other materials therefrom;
- “village” means a village referred to in subsection (1) of section *twenty-three*;
- “village assembly” means an assembly referred to in section *fourteen*;
- “village development committee” means a village development committee appointed or formed under the Rural District Councils Act [*Chapter 29:13*];
- “village head” means any person appointed as a village head in terms of section *eleven*;
- “village registration certificate” means a village registration certificate issued to a village head in terms of section *twenty-four*;
- “ward” means an area defined as a ward under the Rural District Councils Act [*Chapter 29:13*];
- “ward assembly” means an assembly established in terms of section *eighteen*;
- “ward development committee” means a ward development committee appointed or formed under the Rural District Councils Act [*Chapter 29:13*].

(2) Any reference in this Act to a rural district council in relation—

- (a) a chief; or
- (b) a headman; or
- (c) a village head; or
- (d) a village assembly;

shall be construed as a reference to the rural district council within whose area the chief or headman has jurisdiction or the village concerned is situated, as the case may be.

## PART II

### CHIEFS

#### 3 Appointment of chiefs

(1) Subject to subsection (2), the President shall appoint chiefs to preside over communities inhabiting Communal Land and resettlement areas.

(2) In appointing a chief in terms of subsection (1), the President—

- (a) shall give due consideration to—
  - (i) the prevailing customary principles of succession, if any, applicable to the community over which the chief is to preside; and
  - (ii) the administrative needs of the communities in the area concerned in the interests of good governance;

and

- (b) wherever practicable, shall appoint a person nominated by the appropriate persons in the community concerned in accordance with the principles referred to in subparagraph (i) of paragraph (a):

Provided that, if the appropriate persons concerned fail to nominate a candidate for appointment as chief within two years after the office of chief became vacant, the Minister, in consultation with the appropriate persons, shall nominate a person for appointment as chief.

(3) Subject to section *seven*, the President may, where he is of the opinion that good cause exists, remove a chief from office.

(4) Subject to this Act, a chief shall be paid, from moneys appropriated for the purpose by Act of Parliament, such salary, allowances, gratuities and pension as the President may fix from time to time.

#### **4 Appointment of acting chiefs**

(1) Subject to subsection (2), in the event of the office of a chief becoming vacant through the death of the chief, or his removal or suspension from office in terms of this Act, the President may appoint an acting chief to preside in his stead for such period or periods as the President may fix.

(2) An appointment in terms of subsection (1) shall cease to have effect—

- (a) on the date the President, in terms of subsection (1) of section *three*, appoints a chief for the community concerned; or
- (b) on the cancellation of the suspension of the chief of the community concerned in terms of subsection (3) of section *seven*; or
- (c) when the President cancels the appointment.

(3) An acting chief shall be paid such allowances as may from time to time be fixed by the President from moneys appropriated for the purpose by Act of Parliament:

Provided that an acting chief shall not be entitled to a salary, gratuity or pension.

#### **5 Duties of chiefs**

(1) A chief shall be responsible within his area for—

- (a) performing the functions pertaining to the office of a chief as the traditional head of the community under his jurisdiction;
- (b) promoting and upholding cultural values among members of the community under his jurisdiction, particularly the preservation of the extended family and the promotion of traditional family life; and
- (c) carrying out, in accordance with Part IX, the functions of a chief in relation to provincial assemblies, the Council and the overall leadership of his area; and
- (d) supervising headmen and village heads in the performance of their duties; and
- (e) discharging any functions conferred upon him in terms of the Customary Law and Local Courts Act [*Chapter 7:05*]; and
- (f) overseeing the collection by village heads of levies, taxes, rates and charges payable in terms of the Rural District Councils Act [*Chapter 29:13*]; and
- (g) ensuring that Communal Land is allocated in accordance with Part III of the Communal Land Act [*Chapter 20:04*] and ensure that the requirements of any enactment in force for the use and occupation of communal or resettlement land are observed; and
- (h) preventing any unauthorised settlement or use of any land; and
- (i) notifying the rural district council of any intended disposal of a homestead and the permanent departure of any inhabitant from his area, and, acting on the advice of the headman, to approve the settlement of any new settler in his area; and
- (j) nominating headmen for appointment in terms of this Act; and
- (k) approving nominations by headmen of village heads for appointment in terms of this Act; and
- (l) ensuring that the land and its natural resources are used and exploited in terms of the law and, in particular, controlling—
  - (i) over-cultivation; and
  - (ii) over-grazing; and
  - (iii) the indiscriminate destruction of flora and fauna; and
  - (iv) illegal settlements;and generally preventing the degradation, abuse or misuse of land and natural resources in his area; and
- (m) ensuring that no public property, including roads and bridges, telephone and electricity lines, diptanks and animal health centres, clinics, churches, cattle-sale pens, schools and related establishments, is damaged, destroyed or misused by the inhabitants or their livestock; and
- (n) adjudicating in and resolving disputes relating to land in his area; and
- (o) notifying the rural district council for the area concerned, as soon as is reasonably practicable, of the outbreak of any epidemic or prevailing disease, flood or other natural or unnatural disaster affecting the inhabitants, livestock, crops, the land, flora or fauna in his area; and

- (p) publishing such public orders, directions or notices as may be notified to him; and
- (q) liaising with and assisting development committees established in terms of the Rural District Councils Act [*Chapter 29:13*] in all matters relating to the planning and implementation of local development programmes; and
- (r) taking charge of traditional and related administrative matters in resettlement areas, including nominating persons for appointment as headmen by the Minister; and
- (s) maintaining up-to-date registers of names of villages and their inhabitants and of land certificates; and
- (t) under the direction of the district administrator or the rural district council, as the case may be, assisting drought and famine relief agencies in co-ordinating relief and related matters in his area; and
- (u) promoting the maintenance of good standards of health and education in his area; and
- (v) performing such other functions as may be prescribed or as may be assigned to him in terms of any enactment.

(2) In the exercise of his functions, a chief shall have the powers of a justice of the peace in terms of any law.

## **6 Delegation of chief's functions**

(1) A chief may delegate all or any of his functions to a headman within the area of the headman's jurisdiction.

(2) The delegation of any functions by a chief in terms of subsection (1) shall not divest the chief of that function, and he may at any time revoke any order given by a headman in the exercise of that function.

## **7 Disciplinary procedure where chief commits offence or misconduct**

(1) Where—

- (a) a chief has been found guilty of any offence involving dishonesty; or
- (b) after an investigation in terms of subsection (7), a chief has been found guilty of an act of misconduct in relation to the customs and traditions observed in his area; or
- (c) a chief has been charged with any offence involving dishonesty; or
- (d) an investigation in terms of subsection (7) into alleged misconduct on the part of a chief has been or is about to be instituted;

the Minister may suspend the chief from his duties.

(2) During any period of suspension in terms of subsection (1), the person who has been suspended shall not carry out his duties or exercise his powers or be entitled to any salary or allowances.

(3) A suspension in terms of paragraph (a), (b) or (d) of subsection (1) shall be for a period not exceeding six months.

(4) Where any person who has been suspended in terms of subsection (1) is acquitted of every offence or is found not guilty of misconduct or criminal proceedings or an investigation has not been instituted, as the case may be, in respect of which he was suspended, the suspension shall be deemed to have been cancelled with effect from the date of the acquittal or of the finding or of the decision that the criminal proceedings or investigation should not be instituted, as the case may be, and the person who was suspended shall thereupon be entitled to be reinstated and be paid the full amount of his salary and additionally, or alternatively, allowances for the period of suspensions.

(5) Where any person who has been suspended in terms of subsection (1) is convicted of an offence, or is found guilty of misconduct, as the case may be, the Minister may, if in his opinion it is in the public interest to do so, with effect from such date as he may determine—

- (a) recommend to the President that the chief be removed from office with effect from that date irrespective of the penalty imposed upon him; or
- (b) caution and reprimand him; or
- (c) order a reduction of his salary and additionally, or alternatively, allowances; or
- (d) both caution and reprimand him and order a reduction of his salary and additionally, or alternatively, allowances.

(6) The imposition of a penalty in terms of subsection (5) shall not absolve the chief or former chief concerned from liability to compensate persons who suffered loss or injury as a result of the offence or misconduct of which he has been found guilty, or to restore or repair any public property which he may have taken, damaged or destroyed.

(7) For the purpose of misconduct proceedings in terms of this section, the Minister may, where he considers it necessary, appoint such person or persons as he may consider appropriate to investigate and make recommendations to him as to whether an inquiry by such persons as the Minister may appoint should be held against the chief.

## PART III

### HEADMEN

#### 8 Appointment of headmen

(1) Subject to subsection (2), the Minister shall appoint a sufficient number of persons nominated by the chief as headmen for each community to assist the chief to properly carry out his duties:

Provided that—

- (i) except with the concurrence of the chief of the area concerned, the Minister shall not appoint a headman for a community where the customs and traditions of that community do not provide for the appointment of a headman;
- (ii) any headman appointed in terms of this subsection shall be installed in office by the chief of the area concerned.

(2) Before appointing any person as headman in terms of subsection (1), the Minister shall invite the chief concerned to nominate a suitable person for such appointment and, unless in the opinion of the Minister there are good reasons to the contrary, the Minister shall appoint as headman any person so nominated by the chief.

(3) Whenever the office of headman in a particular area is vacated for any reason, the Minister, after considering the views of the chief of the area concerned, may appoint an acting headman for that area to hold office for a period not exceeding two years during which period the chief shall nominate another person for appointment as headman in terms of this section.

(4) Where, after the two years referred to in subsection (3), no acceptable nomination has been made, the Minister may, in consultation with the district administrator of the area concerned, appoint a person from the clan as headman.

(5) A headman shall be paid such salary and allowances as may from time to time be prescribed by the Minister, after consultation with the Minister responsible for finance, from moneys appropriated for the purpose by Act of Parliament.

(6) An acting headman shall be paid an allowance equal to three-fifths of the allowance payable to a headman.

#### 9 Duties of headmen

(1) It shall be the duty of a headman—

- (a) to assist the chief to perform his duties; and
- (b) to report to the police as soon as is reasonably practicable—
  - (i) the commission of any crime or offence in his area; and
  - (ii) the presence of the corpse of any person who has died suddenly or was found dead or is suspected of having died violently or otherwise than in a natural way; and
  - (iii) the suspicious disappearance of any person; and
  - (iv) any actual or threatened public unrest likely to disturb the public peace;and
- (c) to carry out all lawful and reasonable orders given by his chief; and
- (d) to recommend to the chief persons for appointment as village heads and, where appropriate, to recommend their removal from office; and
- (e) to report all criminal acts, acts of misconduct and violations of customs and traditions to the chief and any other appropriate authority; and
- (f) to preside over a ward assembly when elected as chairman for that purpose in terms of this Act; and
- (g) to oversee, through the ward assembly, the disposal of settlement rights in Communal Land and the admission of new settlers in the area under him; and
- (h) to keep an up-to-date register of the villages and village heads under him and to keep the chief and the rural district council informed of any changes to the register; and
- (i) generally, to mediate in local disputes involving customary law on matters such as *lobola*, elopement, burials, domestic disputes, disputes relating to the straying of livestock, the traditional aspects of incest, the performance of customary rites and any other inter-personal disagreements, but only to the extent that such matters are not subject to the general law of Zimbabwe; and
- (j) to discharge any functions conferred upon him in terms of the Customary Law and Local Courts Act [Chapter 7:05]; and
- (k) to enforce all environmental conservation and planning laws, including local field boundaries, on behalf of the chief, the rural district council and the State; and
- (l) to perform such other duties as may be prescribed.

(2) No headman shall purport to exercise power or authority, whether by himself or through a village or ward assembly or any other local institution, except in accordance with this Act.

(3) Any headman who contravenes subsection (2) shall be guilty of misconduct and liable to disciplinary action in terms of section *ten*.

#### **10 Disciplinary procedure where headman commits offence or misconduct**

(1) Where—

- (a) a headman has been found guilty of any offence involving dishonesty; or
- (b) after an investigation in terms of subsection (7), a headman has been found guilty of an act or misconduct in relation to the customs and traditions observed in his area; or
- (c) a headman has been charged with any offence involving dishonesty; or
- (d) an investigation in terms of subsection (7) into alleged misconduct on the part of a headman has been or is about to be instituted;

the Minister may suspend the headman from his duties.

(2) A suspension in terms of paragraph (a), (b) or (d) of subsection (1) shall be for a period not exceeding six months.

(3) During any period of suspension in terms of subsection (1), the person who has been suspended shall not carry out his duties or exercise his powers or be entitled to any salary or allowances.

(4) Where any person who has been suspended in terms of subsection (1) is acquitted of every offence or is found not guilty of misconduct or criminal proceedings or an investigation has not been instituted, as the case may be, in respect of which he was suspended, the suspension shall be deemed to have been cancelled with effect from the date of the acquittal or of the finding or of the decision that the criminal proceedings or investigation should not be instituted, as the case may be, and the person who was suspended shall thereupon be entitled to be reinstated and be paid the full amount of his salary and additionally or alternatively, allowances for the period of suspension.

(5) Where any person who has been suspended in terms of subsection (1) is convicted of an offence, or is found guilty of misconduct, as the case may be, the Minister may, if in his opinion it is in the public interest to do so, with effect from such date as he may determine—

- (a) remove the headman from office with effect from that date irrespective of the penalty imposed upon him; or
- (b) caution and reprimand him; or
- (c) order a reduction of his salary and additionally or alternatively, allowances; or
- (d) both caution and reprimand him and order a reduction of his salary and additionally, or alternatively, allowances.

(6) The imposition of a penalty in terms of subsection (5) shall not absolve the headman or former headman concerned from liability to compensate persons who suffered loss or injury as a result of the offence or misconduct of which he has been found guilty, or to restore or repair any public property which he may have taken, damaged or destroyed.

(7) For the purpose of misconduct proceedings in terms of this section, the Minister may, where he considers it necessary, appoint such person or persons as he may consider appropriate to investigate and make recommendations to him as to whether an inquiry by such persons as the Minister may appoint should be held against the headman.

### **PART IV**

#### **VILLAGE HEADS**

#### **11 Appointment of village heads**

(1) Subject to subsection (2), the Secretary shall appoint a sufficient number of persons nominated by a headman, with the written approval of the chief of the area concerned, as village heads for each village to assist the headman to carry out his duties:

Provided that any village head appointed in terms of this subsection shall be installed in office by the headman who nominated him..

(2) Before appointing any person as village head in terms of subsection (1), the Secretary shall invite the headman concerned to nominate a person for appointment and, unless in the opinion of the Secretary there are good reasons to the contrary, the Secretary shall appoint as village head any person so nominated by the headman.

(3) The Secretary shall, where a village head has been convicted of an offence and sentenced to imprisonment without the option of a fine or where he is sentenced to imprisonment with the option of a fine and fails to pay the fine, remove the village head from office.

(4) Whenever the office of village head is vacated for any reason, the Secretary, after considering the views of the headman of the area concerned, may appoint an acting village head for that village to hold office for a period not exceeding two years during which period the headman shall nominate another person for appointment as village head in terms of this section.

(5) Where, after the two years referred to in subsection (4), no acceptable nomination has been made, the Secretary may, having regard to the customs and traditions of the community concerned and with the approval of the Minister, appoint a suitable person as village head.

(6) A village head shall be paid by the rural district council such allowance as the Minister may prescribe.

## 12 Duties of village heads

(1) It shall be the duty of a village head—

- (a) to assist the chief and headman in the performance of their duties; and
- (b) to carry out all lawful and reasonable orders of the chief or headman; and
- (c) to lead his village in all traditional, customary and cultural matters; and
- (d) subject to the Communal Land Act [*Chapter 20:04*], to consider, in accordance with the customs and traditions of his community, requests for settlement by new settlers into the village and, in consultation with the village assembly, to make recommendations on the matter to the ward assembly; and
- (e) to the extent that such matters are not subject to the general law of Zimbabwe, to settle disputes involving customary law and traditions, including matters relating to residential, grazing and agricultural land boundaries and, where necessary, to refer these matters for settlement by the headman; and
- (f) to preside over the village assembly; and
- (g) to ensure that all land in his area is utilized in accordance with any enactment in force for the use and occupation of communal or resettlement land; and
- (h) to produce, in consultation with the village assembly, village development plans for his area and to submit them to the ward assembly; and
- (i) to preside over the village development committee, to co-ordinate its work and to submit the resolutions and plans of that committee to the village assembly for consideration, and where appropriate, implementation; and
- (j) to collect levies, taxes and other charges payable in terms of the Rural District Councils Act [*Chapter 29:13*]; and
- (k) to ensure the security of schools, clinics, contour ridges, water points, roads, culverts, public fencing and any other public property and, where necessary, to report any damage or potential damage to any such property to the police; and
- (l) to assist, by all means in his power, in apprehending and securing offenders against the law and generally to ensure observance of the law by all inhabitants, and immediately to report any contravention of the law to the police; and
- (m) to promote sound morals and good social conduct among members of his village; and
- (n) to maintain an up-to-date register of names of the inhabitants of his village, and their settlement permits; and
- (o) to maintain an accurate outline plan in respect of which he holds a village registration certificate; and
- (p) to perform such other duties as may be prescribed.

(2) No village head shall purport to exercise power or authority, whether by himself or through a village or ward assembly or any other local institution, except in accordance with this Act.

(3) Any village head who contravenes subsection (2) shall be guilty of misconduct and liable to disciplinary action in terms of section *thirteen*.

## 13 Disciplinary action where village head commits offence or misconduct

(1) Where—

- (a) a village head has been found guilty of any offence involving dishonesty; or
- (b) after an investigation in terms of subsection (7), a village head has been found guilty of an act of misconduct in relation to the customs and traditions observed in his area; or
- (c) a village head has been charged with any offence involving dishonesty; or
- (d) an investigation in terms of subsection (7) into alleged misconduct on the part of a village head has been or is about to be instituted;

the Minister may suspend the village head from his duties.

(2) A suspension in terms of paragraph (a), (b) or (d) of subsection (1) shall be for a period not exceeding six months.

(3) During any period of suspension in terms of subsection (1), the person who has been suspended shall not carry out his duties or exercise his powers or be entitled to any salary or allowances.

(4) Where any person who has been suspended in terms of subsection (1) is acquitted of every offence or is found not guilty of misconduct or criminal proceedings or an investigation has not been instituted, as the case may be, in respect of which he was suspended, the suspension shall be deemed to have been cancelled with effect from the date of the acquittal or of the finding or of the decision that the criminal proceedings or investigation should not be instituted, as the case may be, and the person who was suspended shall thereupon be entitled to be



reinstated and be paid the full amount of his salary and additionally, or alternatively, allowances for the period of suspension.

(5) Where any person who has been suspended in terms of subsection (1) is convicted of an offence, or is found guilty of misconduct, as the case may be, the Secretary may, if in his opinion it is in the public interest to do so, with effect from such date as he may determine and in consultation with the Minister—

- (a) remove the village head from office with effect from that date irrespective of the penalty imposed upon him; or
- (b) caution and reprimand him; or
- (c) order a reduction of his salary and additionally, or alternatively, allowances; or
- (d) both caution and reprimand him and order a reduction of his salary and additionally, or alternatively, allowances.

(6) The imposition of a penalty in terms of subsection (5) shall not absolve the village head or former village head concerned from liability to compensate persons who suffered loss or injury as a result of the offence or misconduct of which he has been found guilty, or to restore or repair any public property which he may have taken, damaged or destroyed.

(7) For the purpose of misconduct proceedings in terms of this section, the Secretary may, where he considers it necessary, appoint such person or persons as he may consider appropriate to investigate and make recommendations to him as to whether an inquiry by such persons as the Secretary may appoint should be held against the village head.

## PART V

### VILLAGE ASSEMBLIES, WARD ASSEMBLIES AND DEVELOPMENT COMMITTEES

#### 14 Village assembly

(1) For each village there shall be an assembly which shall be known as a village assembly or *dare* or *inkundla*.

(2) The village assembly shall be composed of all the inhabitants of the village concerned who are over the age of eighteen years.

(3) The village head shall be the chairman of the village assembly.

#### 15 Functions of village assembly

(1) The functions of the village assembly shall be—

- (a) to consider all matters, including cultural matters, affecting the interests and well-being of all the inhabitants of the village; and
- (b) to ensure the good government of the village in compliance with this Act, the Communal Land Act [Chapter 20:04] and the Rural District Councils Act [Chapter 29:13]; and
- (c) to consider and resolve all issues relating to land, water and other natural resources within the area and to make appropriate recommendations in accordance with any approved layout or development plan of the village or ward; and
- (d) to elect and supervise the village development committee; and
- (e) to review and approve any village development plan before its submission to the ward development committee for incorporation into the ward development plan; and
- (f) to consider and report on any matter that is referred to it by—
  - (i) the district administrator for the district concerned; or
  - (ii) the rural district council; or
  - (iii) the chief or headman for the area concerned; or
  - (iv) the ward assembly within whose area the village assembly falls; or
  - (v) the village development committee established for the village; or
  - (vi) any member of the village assembly;

and

- (g) to bring to the notice of the headman, the ward councillor and the ward assembly any matter of local or national interest which affects the inhabitants of the village; and
- (h) to consider reports from the village development committee established for the village by the rural district council on any matter which affects the interests or well-being of the inhabitants or the village; and
- (i) to make representations to the headman or ward assembly on any matter that affects the interests or well-being of the inhabitants of the village.

#### 16 Meetings of village assembly

(1) A village assembly shall meet at least once in every three months at such time and place as the village head may from time to time determine:

Provided that the village head shall call a meeting of the village assembly whenever requested to do so by not less than one-third of the members of the village assembly or when the ward assembly has instructed him to call such a meeting for a purpose specified by the ward assembly.

(2) A record of the proceedings and decisions of every meeting of a village assembly shall be kept and a copy of the record shall be submitted to the chairman of the ward assembly for his information and the information of the ward assembly.

(3) The village head shall preside over every meeting of the village assembly:

Provided that, in the absence of the village head, a person appointed by him or, if he has not appointed such person, a person elected by the members present shall preside over that meeting.

### **17 Village development committees**

(1) Every village assembly shall elect members of the village development committee in accordance with regulations made in terms of the Rural District Councils Act [*Chapter 29:13*].

(2) The village development committee shall be a committee of, and shall be accountable to, the village assembly.

(3) The village development committee shall be presided over by the village head.

(4) The functions of the village development committee shall be as provided for by or in terms of the Rural District Councils Act [*Chapter 29:13*].

(5) Subject to regulations made in terms of the Rural District Councils Act [*Chapter 29:13*], a village development committee shall meet for the dispatch of business, adjourn and otherwise regulate its meetings and proceedings as directed by the village assembly or as it considers necessary for the proper discharge of its functions:

Provided that every village development committee shall meet at least once in every three months, at such time and place as it may determine.

### **18 Establishment and functions of ward assembly**

(1) For every communal and resettlement ward of a rural district council area there shall be an assembly of all headmen, village heads and the councillor of the ward, which assembly shall be known as a ward assembly:

Provided that the Minister may, where he considers it appropriate in the interests of good administration and in consultation with the rural district council concerned, combine any number of wards for purposes of establishing a ward assembly.

(2) Members of a ward assembly shall elect a headman from among their number annually to be chairman of the ward assembly.

(3) The functions of the ward assembly shall be—

- (a) to supervise the activities of the village assemblies within its jurisdiction; and
- (b) to review and approve development plans or proposals submitted by the village assembly and to submit such plans for incorporation into the rural district development plan; and
- (c) generally to oversee the discharge of functions by village assemblies to ensure good government at that level; and
- (d) to consider and report on any matter that is referred to it by—
  - (i) the district administrator for the district concerned; or
  - (ii) the chief for the area concerned; or
  - (iii) the rural district council; or
  - (iv) a member of the ward assembly;and
- (e) to bring to the notice of the district administrator and the council any matter of local or national interest which affects the interests and well-being of the inhabitants of the area for which the ward assembly has been established or any part of that area; and
- (f) to make representations to any relevant authority on any matter that affects the interests or well-being of the inhabitants of the area for which the ward assembly has been established.

### **19 Meetings of ward assembly**

(1) A ward assembly shall meet at least once in every three months at such times and places as it may determine:

Provided that the chairman of the ward assembly shall call a meeting of the ward assembly whenever requested to do so by not less than one-third of the members of the ward assembly or where in his opinion it is necessary to call such meeting for the purpose of dealing with any urgent business.

(2) A record of the proceedings and decisions of every meeting of a ward assembly shall be kept and a copy of the record shall be submitted to the rural district council of the area and to the district administrator.

## 20 Ward development committee

(1) A ward development committee established in terms of section 59 of the Rural District Councils Act [*Chapter 29:13*] shall be presided over by the councillor of the ward concerned but, where two or more wards have been combined to form a ward assembly in terms of section *eighteen*, the ward assembly shall elect one of the councillors to be chairman of the ward development committee until the next general election of the rural district council.

(2) In addition to the functions conferred upon it in terms of the Rural District Councils Act [*Chapter 29:13*], the ward development committee shall be responsible for reviewing and integrating village development plans in accordance with the directions of the ward assembly.

## 21 Invitation to experts to attend assemblies or committees

(1) Whenever a ward or village assembly considers it necessary to do so, it may invite persons who are not members of that assembly and who possess special expertise on any matter which is of interest to the assembly concerned, to attend meetings of the assembly for the purpose of providing the assembly with the information it requires.

(2) A village development committee or ward development committee may, with the approval of the chairman of the village assembly or the ward assembly concerned, as the case may be, co-opt any person who is not a member of the committee concerned and who possesses special expertise on any matter which is of interest to the committee concerned for the purpose of providing the committee with such information as it may require in order to enable it to discharge its functions properly.

(3) Any services rendered in terms of subsection (1) or (2) shall be on a voluntary basis and shall be provided free of charge.

## 22 Interest groups

Every village or ward assembly shall ensure the adequate representation of women, the youth and any other interest group on the village and ward development committees in such proportions as may be prescribed.

## PART VI

### ISSUE OF VILLAGE REGISTRATION CERTIFICATES AND SETTLEMENT PERMITS AND OCCUPATION OF COMMUNAL LAND

## 23 Village boundaries

(1) The Minister shall cause all Communal Land to be surveyed for the purpose of showing, by way of maps, the boundaries demarcating each village and such maps shall be filed of record at the offices of the Ministry for which the Minister is responsible with copies for the areas for which each rural district council is responsible, to be held at the offices of the rural district council and the district administrator concerned.

(2) The rural district council shall, upon request, make a copy of the maps available to any chief, headman or village head in its area.

## 24 Village registration certificates and settlement permits

(1) Upon the filing of record of any map in terms of subsection (1) of section *twenty-three*, the Minister shall issue a village registration certificate to each village head describing the boundaries of the village area as depicted on the map.

(2) Upon the issue of a village registration certificate, the rural district council concerned shall, in terms of the Rural District Councils Act [*Chapter 29:13*], prepare a land use plan for the village in accordance with such details as may be prescribed and issue a settlement permit to the head of each household in the village concerned.

(3) The rural district council and the district administrator of the district concerned shall keep an accurate record of all settlement permits issued to each household.

(4) A settlement permit shall be in the form prescribed and shall bear the names of all the spouses or, where there are no spouses, the name of the head of the particular household.

## 25 Villages in irrigation schemes in Communal Land

(1) Where the Minister considers it necessary in the interests of the community concerned, he may establish villages in irrigation schemes established in terms of paragraph (b) of subsection (1) of section 10 of the Communal Land Act [*Chapter 20:04*], and the provisions of this Act relating to villages, village heads, village registration certificates and settlement permits shall, subject to this section, apply, *mutatis mutandis*, to such villages.

(2) The manner in which villages shall be established and land shall be held, used or managed in any irrigation scheme shall be as prescribed:

Provided that the State may retain custody of land in, and management of, an irrigation scheme for such period as the Minister may consider necessary.

(3) When establishing a village in terms of this section, the Minister shall specify the headman under whose jurisdiction the village shall fall.

## 26 Allocation of Communal Land

(1) No land shall be allocated in terms of this Act except with the approval of the appropriate rural district council, which shall be the administrative authority with overall control over the use and allocation of all Communal Land.

(2) The allocation of Communal Land in terms of this Act shall be carried out in accordance with the Communal Land Act [*Chapter 20:04*] and in such manner as prescribed.

(3) No Communal Land shall be used in any manner or for any purpose other than that provided for by or in terms of the Communal Land Act [*Chapter 20:04*] or authorised by or in terms of any other enactment.

(4) No inhabitant shall dispose of any Communal Land used by him, or subdivide such land for any purpose, without the approval of the village head granted subject to this Act and the Communal Land Act [*Chapter 20:04*].

## 27 Rights of urban dwellers and other persons to occupy Communal Land

(1) Every person who, in terms of local customs and traditions, is entitled to reside in Communal Land and has maintained a homestead there may continue to do so in accordance with this Act, notwithstanding that he may reside elsewhere.

## 28 Disposal of rights in communal land

(1) No person may in any way dispose of Communal Land or a right to occupy and use such land, except in accordance with this Act and the Communal Land Act [*Chapter 20:04*].

(2) Subsection (1) shall not be construed as preventing an inhabitant from disposing of rights conferred under a settlement permit:

Provided that—

- (i) no such disposal shall be effected unless the other adult members of the inhabitant's household and the rural district council established for the area concerned have consented to it;
- (ii) in disposing of such rights, no person shall purport to sell or lease the land to which the settlement permit relates.

## PART VII

### INHABITANTS OF RESETTLEMENT LAND

## 29 Placing of communities on resettlement land under authority of chief

(1) After consultation with the rural district council and the chief of the area concerned, the Minister may, by notice in the *Gazette*, declare that any area of resettlement land—

- (a) shall fall under the authority of such chief as he may specify in the notice:

Provided that no such declaration shall result in villages in a single resettlement ward falling under the authority of more than one chief; and

- (b) shall constitute a village or such number of villages as the Minister may specify in the notice.

(2) Where the Minister has made a declaration in terms of subsection (1), the resettlement land concerned shall be deemed, for the purposes of this Act, other than Part VI, to be a village or villages, as the case may be, within the area of the chief specified in the notice, and Parts III, IV and V shall apply, *mutatis mutandis*, to villages in resettlement areas.

## 30 Resettlement land not to form part of Communal Land

Notwithstanding section *twenty-nine*, resettlement land that is the subject of a declaration under that section shall not form part of Communal Land.

## PART VIII

### MESSENGERS OF CHIEFS AND HEADMEN

## 31 Appointment of messengers

(1) A chief or headman may, with the approval of the Minister, appoint messengers who shall—

- (a) generally assist the chief or headman, as the case may be, in the discharge of his duties; and
- (b) carry out all lawful and reasonable orders of the chief or headman, as the case may be; and
- (c) perform such other duties as may be prescribed.

(2) A chief or headman may suspend from duty or dismiss his messenger for incapacity, neglect of his duties or improper conduct.

(3) Before dismissing a messenger, the chief or headman shall ensure that he is informed of the charges against him and is given an opportunity to defend himself.

(4) The date of dismissal of a messenger who is dismissed after being suspended in terms of subsection (2) shall be the date upon which such messenger is actually dismissed.

(5) A messenger shall be paid by the chief or headman, from such moneys as may be designated by the Minister for that purpose, such amount as may be prescribed.

### 32 Uniforms and badges of messengers

(1) The Minister shall prescribe and provide a distinctive uniform or badge which shall be worn by every messenger when performing his functions in terms of this Act.

(2) No person who is not a messenger shall wear, and no employer shall supply to his employee, any uniform or badge prescribed in terms of subsection (1), or any dress, badge or other article having the appearance or bearing any of the distinctive marks of any such uniform or badge.

(3) Any person who contravenes subsection (2) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as amended by section 282 of Act 22 of 2001]

### 33 Offences by messengers

Any messenger who—

- (a) takes any bribe or, without the consent of his chief or headman, as the case may be, takes any present from any person in connection with the discharge of his functions; or
- (b) acts contrary to any instruction given to him by the chief or headman; or
- (c) neglects to perform any function or carry out any instruction given to him by the chief or headman, or unnecessarily delays in the performance of such function or the carrying out of such instructions; or
- (d) fails or neglects to assist any person wishing to see the chief or headman for any reasonable cause, or obstructs or hinders any person so wishing to see the chief or headman; or
- (e) abuses or misuses his authority or position to his own advantage or to the advantage of any member of his family or any friend;

shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as amended by section 282 of Act 22 of 2001]

### 34 Limitation of liability for actions of messengers

No liability shall attach to the State for any loss or damage sustained by any person as a result of the negligent or wrongful exercise or performance by a messenger of any power or duty referred to in subsection (1) of section *thirty-one*, for which such messenger shall be personally liable.

## PART IX

### PROVINCIAL ASSEMBLIES AND THE COUNCIL OF CHIEFS

### 35 Provincial assemblies

(1) For each province there shall be an assembly of all the chiefs of that province, which shall be known as a provincial assembly.

(2) A provincial assembly shall meet at least twice a year at such time and place as the Minister may from time to time determine:

Provided that the Minister shall call a meeting of a provincial assembly whenever requested to do so by not less than one-third of the members of that provincial assembly.

(3) At every meeting of a provincial assembly, the chiefs present shall elect one of their number to preside over that meeting.

### 36 Functions of provincial assemblies

The functions of a provincial assembly shall be—

- (a) subject to section *thirty-seven*, to elect persons from among its members to be members of the Council; and
- (b) to consider and report on any matter which is referred to it by the Minister, the Council or a member of such provincial assembly; and
- (c) to bring to the notice of—
  - (i) the Council, any matter of national interest;
  - (ii) the Minister, any matter of local interest;which affects the inhabitants of the province concerned or any part thereof, or which concerns their interests or well-being.

### 37 Council of Chiefs

(1) There shall be a Council of Chiefs for communal land and resettlement land which shall, subject to this section, consist of chiefs elected by the provincial assemblies.

(2) Subject to subsection (3), each provincial assembly shall, on such dates as may be prescribed, elect such number of its members as may be prescribed, to be members of the Council.

(3) The Minister shall, when prescribing—

- (a) the dates of elections to be held in terms of subsection (2), ensure that each provincial assembly holds such elections at intervals of not more than five years;
- (b) the number of members to be elected by each assembly in terms of subsection (2), ensure that—
  - (i) a provincial assembly elects neither fewer than three nor more than five members; and
  - (ii) so far as is possible each province, having regard to the number of inhabitants therein, is equitably represented on the Council.

(4) Subject to subsections (5), (6) and (7), every chief elected to the Council shall hold office for a period of five years, but shall cease to hold office if he ceases to be a chief.

(5) Where any chief ceases for any reason to be a member of the Council before the next elections are due to take place, the provincial assembly that elected such chief to the Council shall elect another chief from among its members to fill the vacancy created:

Provided that, if the period between the date the vacancy occurs and the date of the next election is less than six months, the vacancy shall not be filled.

(6) Whenever a person is elected in terms of subsection (5) to fill a vacancy on the Council, he shall, subject to subsection (4), serve as a member of the Council until the next elections.

(7) A chief whose term of office as a member of the Council expires shall be eligible for re-election.

### **38 Meetings of Council**

(1) The Council shall meet at least twice a year at such times and places as it may determine from time to time in consultation with the Minister.

(2) The Minister shall call a meeting of the Council whenever requested to do so by not less than one-third of the members of the Council.

(3) At the first meeting of the Council following an election, the members of the Council shall elect one of their number as president and another as deputy president of the Council.

(4) The president of the Council shall preside over the meetings of the Council:

Provided that if for any reason—

- (a) the president of the Council is unable to attend a meeting, the deputy president of the Council shall preside over such meeting;
- (b) both the president and the deputy president of the Council are unable to attend a meeting, the members present shall elect one of their number to preside over such meeting.

(5) The president or deputy president of the Council may be removed from office by a majority vote of the members of the Council present at a meeting of the Council and, in such event, the members shall elect one of their number to fill the vacancy.

(6) In the event of a vacancy in the office of president or deputy president occurring before the next elections are due, the Council shall elect one of their number to fill the vacancy.

(7) An election for the purposes of subsection (3) or (6) may be combined with the election of a member or members of Parliament by the Council in its capacity as an electoral college for the purposes of Part XI of the Electoral Act [*Chapter 2:01*].

### **39 Functions of Council**

Subject to the Constitution and to any enactment, the functions of the Council shall be—

- (a) to make representations to the Minister concerning the needs and wishes of the inhabitants of communal and resettlement land; and
- (b) to consider any representations made to it by a provincial assembly and, in its discretion, to report thereon to the Minister; and
- (c) to consider and report on any matter referred to it by the Minister for consideration; and
- (d) to superintend the activities of the ward assemblies and village assemblies and to give them such directions as it considers necessary.

### **40 Representation of interests of Government**

The Minister may designate a member of the Public Service to present the views of the Minister on any matter to a provincial assembly or the Council or to represent him at any meetings of a provincial assembly or the Council.

### **41 Clerks of Council and provincial assemblies and other staff**

(1) There shall be a clerk of the Council and of each provincial assembly appointed by the Minister from among members of the Public Service employed in his Ministry.

(2) A clerk referred to in subsection (1) shall—

- (a) keep a record of the proceedings of the provincial assembly or Council to which he is appointed;
- (b) advise members of the provincial assembly or the Council on the procedures to be followed at meetings;
- (c) perform such other functions as he may be directed to perform by the Minister.

(3) If the Minister considers it necessary to do so, he may designate from among members of the Public Service employed in his Ministry persons to perform the administrative and clerical work of a provincial assembly or the Council.

(4) Any duties which a member of the Public Service may be required to perform in terms of this section shall, for the purposes of the law relating to the Public Service, be deemed to be duties of his office as a member of the Public Service.

#### **42 Meetings of provincial assemblies and Council to be private**

(1) Subject to this section, all meetings of a provincial assembly or the Council shall be conducted in private.

(2) The Minister or any person authorized by the Minister may attend any meeting of a provincial assembly or the Council and may take part in the proceedings thereat but shall not be entitled to vote.

(3) A person designated in terms of section *forty-one* may attend a meeting of a provincial assembly or the Council, as the case may be, if so requested by the provincial assembly or the Council and may take part in the proceedings thereat but shall not be entitled to vote.

(4) Nothing in this section shall be construed as preventing the holding of a meeting by a provincial assembly or the Council without the Minister or any person designated in terms of section *forty-one* being present.

#### **43 Transaction of business notwithstanding vacancies**

Subject to this Act and any regulations relating to the quorum at a meeting of a provincial assembly or the Council or any committee of a provincial assembly or the Council, a provincial assembly or the Council shall not be disqualified from transacting business by reason of any vacancy in the membership of the provincial assembly, the Council or the committee, as the case may be, and no proceedings thereof shall be invalid solely on the ground that a person who was not entitled to do so sat and voted at, or otherwise took part in the proceedings of, a meeting of the provincial assembly, the Council or the committee.

#### **44 Offences relating to proceedings of meetings**

(1) Any person who, being present without lawful authority at a meeting of a provincial assembly, the Council or a committee thereof, fails or refuses to leave the meeting after being ordered to do so by the person presiding at the meeting shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection as amended by section 282 of Act 22 of 2001]

(2) Any person who, at a meeting of a provincial assembly, the Council or a committee thereof, interrupts the proceedings of the meeting or otherwise disturbs the peace or order of the proceedings shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection as amended by section 282 of Act 22 of 2001]

(3) Any person who sits or votes in a meeting of a provincial assembly, the Council or a committee thereof or otherwise takes part in their proceedings, knowing that he is not entitled to do so, shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as amended by section 282 of Act 22 of 2001]

### **PART X**

#### **GENERAL**

#### **45 Election of chief, headman or village head to political office**

(1) No chief, headman or village head shall be eligible for election as—

- (a) President; or
- (b) a member of Parliament in terms of paragraph (a) of subsection (1) of section 38 of the Constitution; or
- (c) a councillor in any local government elections;

whilst still holding office as chief, headman or village head.

(2) No chief, headman or village head shall canvass or serve as an election agent or manager for any candidate, or nominate any candidate, for election as state President, member of Parliament or councillor in any local authority:

Provided that the chief, headman or village head may exercise his right to vote in any national or local government election or referendum.

#### **46 Manner of discharge of functions by chief, headman or village head**

(1) Subject to this Act and the Communal Land Act [*Chapter 20:04*], in the discharge of his functions, a chief, headman or village head shall not be influenced by any considerations of race, tribe, place of origin, creed, gender or political affiliation.

(2) A chief, headman or village head shall at all times uphold all the laws of Zimbabwe in the course of discharging any of his functions.

#### **47 Incapacity of chief, headman or village head**

In the event of the incapacity of a chief, headman or village head, the functions of the chief, headman or village head, as the case may be, shall be discharged by such person as may be determined according to customary law.

#### **48 Hindrance of chief, headman or village head an offence**

Any person who obstructs, hinders or interferes with a chief, headman or village head in the discharge of his functions shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as amended by section 282 of Act 22 of 2001]

#### **49 Minister may give directions on matters of policy**

(1) The Minister may, by written notice, give to the chiefs, headmen and village heads such directions of a general character as to the policy they must observe in the exercise of their functions as appear to the Minister necessary in the national interest.

(2) Chiefs, headmen and village heads shall comply with any direction given in terms of subsection (1).

#### **50 Regulations**

(1) The Minister may make regulations providing for all matters which in terms of this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be prescribed in order to give effect to this Act.

(2) Regulations made in terms of subsection (1) may provide for—

- (a) the appointment of one or more committees of the Council or of any assembly;
- (b) the procedure to be followed at meetings of the Council or an assembly or of any committee of the Council or an assembly;
- (c) the qualifications and procedure for the election of members of the Council and the circumstances in which members of a provincial assembly or the Council may be suspended or shall vacate their seats, and the filling of vacancies;
- (d) the salaries or allowances which may be paid to headmen, village heads, members of the Council, members of a provincial assembly and messengers, and the terms and conditions on which payment of the salaries or allowances may be suspended or withdrawn;
- (e) penalties for contravention of such regulations.

Provided that no such penalty shall exceed a fine of two thousand five hundred dollars or imprisonment for a period of six months or both such fine and such imprisonment.

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