

**MEMORANDUM**

**MINISTER**

**REGULATIONS FOR THE COMMISSION FOR THE PROMOTION AND PROTECTION OF THE RIGHTS OF CULTURAL, RELIGIOUS AND LINGUISTIC COMMUNITIES**

**1. PURPOSE**

To submit to the Minister proposed draft regulations regarding the recognition of community councils for your consideration and approval.

**2. BACKGROUND**

a) The legal component of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities (hereafter "the Commission") has approached the Chief Directorate: Compliance & Legal Services regarding the drafting and promulgation of regulations in terms of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities Act, 2002 (Act No. 19 of 2002) (hereafter "the Act"). This engagement was the result of the said legal component being told on enquiry by the Chief Directorate: Traditional Leadership and Institutions to approach the dpig legal section if the Commission wishes to have regulations enacted.

b) The legal component of the Commission submitted two sets of regulations to the Chief Directorate: Compliance & Legal Services for consideration. One set dealt with the "procedures for registration of community councils" and the other set dealt with "conflict resolution and complaint and request handling procedures". In so far as these regulations provide for internal procedures of

The Commission, the said legal component was advised that such provisions would be *ultra vires* the Act, and that the Commission should rather consider drafting an Operations Manual. An understanding was reached that the Chief Directorate: Compliance & Legal Services would redraft the proposed regulations and submit such redrafted regulations to the Chief Directorate: Traditional Leadership and Institutions for consideration and processing.

### 3. DISCUSSION


a) In terms of section 40 of the Act, the Minister may make regulations regarding any matter that may or must be prescribed, in terms of the Act. One such matter that must be prescribed, is the manner in which a community council may apply to the Commission for recognition as a (formal) community council (cf. section 37 (1) of the Act). No such regulations have so far been issued by the Minister.

b) Having considered the Commission's proposed regulations on conflict resolution, it would appear that the Act provides little scope for matters of this nature to be regulated. Consequently it was proposed to the legal component of the Commission that only matters mentioned in sections 5(1) (h) and 37(3) of the Act be provided for in regulations. In so far as these matters are to some extent linked to the notion of community council, it was also proposed that regulations dealing with the said matters be included in the regulations for the recognition of community councils.

c) The attached regulations have been discussed with officials of the Commission, who have indicated their acceptance and approval.

### 4. RECOMMENDATION

It is recommended that the Minister approve the draft regulations attached to this Memo should he concur with the contents.

  
PROF W M SOBABLE  
EXECUTIVE MANAGER: TRADITIONAL LEADERSHIP AND INSTITUTIONS  
DATE: 03/11/08

It is recommended that the Minister approve the draft regulations attached to this Memo should he concur with the contents.

**4. RECOMMENDATION**

**TFOSI**  


**ACTING DDG: GPR**

**DATE: 04/11/08**

~~RECOMMENDED / NOT RECOMMENDED~~

  
E. Africa

**E AFRICA**

**ACTING DIRECTOR - GENERAL**

**DATE: 27/11/2008**

~~APPROVED / NOT APPROVED~~



**S/SHICEKA MP**

**MINISTER OF PROVINCIAL AND LOCAL GOVERNMENT**

**DATE: 04-12-08**

**GOVERNMENT NOTICE**

**DEPARTMENT OF PROVINCIAL AND LOCAL GOVERNMENT**

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...2008

**COMMISSION FOR THE PROMOTION AND PROTECTION OF THE RIGHTS OF CULTURAL,  
RELIGIOUS AND LINGUISTIC COMMUNITIES ACT, 2002: RECOGNITION OF COMMUNITY  
COUNCILS AND RELATED MATTERS REGULATIONS**

The Minister for Provincial and Local Government has in terms of section 40, read together with section 2 and 37, of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities Act, 2002 (Act No. 19 of 2002), and after consultation with the Commission, made regulations in the Schedule.



**S SHICEKA  
MINISTER FOR PROVINCIAL AND LOCAL GOVERNMENT**

SCHEDULE

1. In this schedule, unless the context otherwise indicates, or unless redefined herein, a word or expression to which a meaning has been assigned in the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities Act, 2002 (Act No. 19 of 2002) has the same meaning and-

"CEO" means the chief executive officer of the Commission appointed in terms of section 30 (1) of the Act; and

"the Act" means the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities Act, 2002 (Act No. 19 of 2002).

\*Application for recognition as community council

2. (1) A community council envisaged in section 36(1) or (2) of the Act may apply to the Commission for recognition by submitting -

- (a) the application form set out in the Annexure;
- (b) a written indication of the manner in which the community intends achieving any of the aims listed in section 38 of the Act; and
- (c) proof that the community council has taken a decision to apply for recognition as provided for in section 38 of the Act.

(2) The CEO, or any officer of the Commission designated by the CEO, must render reasonable assistance to a community council or a representative of a community council to comply with subregulation

(a) where the majority of people belonging to the community council are people who cannot read or write, or are people with disabilities.

(3) The Commission must within 60 days of having received an application for the recognition of a community council in terms of subregulation (1), inform the community council in writing of the Commission's decision regarding the recognition of the community council.

**Withdrawal of recognition of community council**

(1) The Commission may in writing withdraw the recognition of a community council that has been recognized in terms of section 37(2) of the Act if the community council is found to serve no aim listed in section 38 of the Act.

(2) Before Commission takes a final decision to withdraw the recognition of a community council under subregulation (1), the Commission must comply with the applicable principles of fair administrative action as set out in section 3 of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

**Application for financial assistance**

4. A community council that wishes to apply for financial assistance in terms of section 37(3) of the Act must do so in writing and provides at least the following information in addition to any other information that may be required by the Commission or organ of state in question, as the case may be:

- (a) A copy of the document recognizing the community council under section 37(2) of the Act;
- (b) Proof that the community council has taken a decision to apply for financial assistance;
- (c) Particulars of the bank account of the community council;

- (d) An indication of the financial controls put in place to ensure proper use of any money allocated to the community council;
- (e) A project plan if the requested monies are to be used for a specific project;
- (f) Any available financial report or activity report of the community council; and
- (g) A motivation for requesting financial assistance.

**Requests related to rights of cultural, religious and linguistic communities**

5 (1) Any request related to the rights of cultural, religious and linguistic communities must be submitted in writing to the Commission.

(2) The CEO must acknowledge receipt of any request referred to in subregulation (1) and must ensure that the request is brought to the attention of the Commission.

**Short title**

6. These regulations are called the Recognition of Community Councils and Related Matters Regulations.

**Application form for Recognition as Community Council**  
(Section 37 of Act 19 of 2002)

1.	Name of Association/cultural council:-----	Signed on behalf of association/ Cultural council	Date and place
2.	Date as of when the association/cultural council was formed and the nature of its legal status:-----		
3.	Indicate the nature and size of member-ship of the association/cultural council:-----		
4.	Aims or area of focus of the association/ Cultural council in terms of culture, religion or language:-----		
5.	Key activities of the association/cultural council:-----		
6.	Does the association/cultural council Have a constitution? YES <input type="checkbox"/> NO <input type="checkbox"/>		
7.	Contact details of the association/cultural Council: (e.g address, telephone and fax numbers, e-mail address) -----		
8.	Motivation for application for recognition:----- (If necessary, attach a separate motivation)		