

# **CUSTOMARY LAW**

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## **Council of Traditional Leaders Act 13 of 1997 .**

**Summary:** This Act establishes the Council of Traditional Leaders referred to in Article 102(5) of the Namibian Constitution. It requires that any draft legislation pertaining to communal land must be laid before the Council before it is introduced in the National Assembly. It came into force on 31 March 1998 (GN 64/1998, GG 1828).

**Amendments:** Act 31/2000 amends sections 1, 3, 12 and 14.

## **Traditional Authorities Act 25 of 2000.**

**Summary:** This Act provides for the election or recognition of traditional authorities and sets forth their functions, duties and powers. It replaces the Traditional Authorities Act 17 of 1995. It came into force on 17 May 2001 (GG 2532).

**Regulations:** Anything done under the previous law which is not inconsistent with the new law survives, in terms of section 20(3). Regulations concerning remuneration (made under the previous law) are contained in GN 246/1997 (GG 1741). Regulations made under the new law are contained in GN 94/2001 (GG 2532).

**Designations of traditional leaders:** Designations of traditional authorities made under the previous law continue to be valid. Designations of traditional leaders recognised in terms of section 6(2) of the previous Act are contained in GN 65/1998 (GG 1828), as corrected by GN 98/1998 (GG 1855) and as amended by GN 99/1998 (GG 1855), GN 307/1998 (GG 2020), GN 113/1999 (GG 2130), GN 61/2001 (GG 2513), GN 63/2002 (GG 2733) and GN 64/2002 (GG 2733). Additional designations are contained in Proc. 2/2002, Proc 3/2002 (GG 2733) and Proc. 61/2004 (GG 3344). (Note that the original GG 3344 was replaced by a subsequent corrected version.) Senior traditional councillors and traditional councillors recognised in terms of section 10(5) are announced in GN 63/2002, GN 64/2002 (GG 2733), GN 130/2004 (GG 3218), and GN 267/2004 (GG 3344). The removal from office of a chief of a traditional community is recognized in Proc. 60/2004 (GG 3344).

Note that the original GG 3344 was replaced by a subsequent corrected version.

## **COMMISSIONS**

Commission of Inquiry into Matters relating to Chiefs, Headmen and other Traditional and Tribal Leaders and Authorities (Proc. 3/1991, GG 176).

See also GN 32/1991 (GG 175).

## **SELECTED CASES**

*Kaputuaza & Another v Executive Committee of the Administration for the Hereros & Others* 1984 (4) SA 295 (SWA)

*Moraliswani v Mamili*, Supreme Court of SWA, 12 June 1985 (unreported judgement).

*Ndisiro v Mbanderu Community Authority & Others*, 1986 (2) SA 532 (SWA).

*Pack v Muundjua & Others/Tjipetekera v Muundjua & Others*, 1989 (3) SA 556 (SWA).  
*Kakujaha v Tribal Court of Okahitua, Supreme Court of South West Africa*, 20 March 1989  
(unreported judgement).  
*Ex Parte Attorney-General, Namibia: In Re Corporal Punishment by Organs of State*, 1991  
NR 178 (SC)  
*S v Sipula* 1994 NR 41 (HC).  
*S v Haulondjamba* 1993 NR 103 (HC).

See also Community Courts Act 10 of 2003 (**COURTS**)

See also Native Administration Proclamation 15 of 1928 (**'BLACKS'**).

See also Communal Land Reform Act 5 of 2002 (**LAND**).