



INKATHA FREEDOM PARTY

DRAFT

**CONSTITUTION OF THE
PROVINCE OF KWAZULU NATAL**

To provide the province of KwaZulu Natal with a Constitution; to provide for fundamental principles; to provide for human rights; to provide for the province's executive structures; to provide for the province's executive procedures; to provide for the province's legislative structures; to provide for the province's legislative procedures; and to provide for matters connected or incidental thereto.

CONTENTS

Preamble

Chapter 1 Founding Provisions

Chapter 2 Bill of Rights

Chapter 3 Legislative Structures

Chapter 4 Legislative Procedures

Chapter 5 Executive Structures and Procedures

Chapter 6 General Provisions

Schedule 1 Symbols of the Province

Schedule 2 Oaths and Solemn Affirmations

Schedule 3 Elections

PREAMBLE

In humble submission to God Almighty, *We*, the people of KwaZulu Natal,

- inspired by a desire to progress away from a history of conflict and violence toward a free, peaceful, safe and prosperous society for the present generation and posterity;
- recognising the unique character, history and vocation of KwaZulu Natal and its people;
- mindful of our unique and diverse heritage and culture;
- recognising and striving to heal the injustices of the past;
- recognising the need for peace, reconciliation and justice;
- acknowledging and paying respect to those have worked and sacrificed to build and develop our Province;
- recognising the sanctity of human life and dignity;
- recognising that individual freedom shall be accompanied by obligations of social responsibility and duties to our fellow citizens and society;
- endeavouring to promote the integrated and sustainable development of KwaZulu Natal and a better quality of life for all its people through just and effective government;
- affirming that KwaZulu Natal, a province of the Republic of South Africa, is founded on -
 - democratic values;
 - the recognition of human rights;
 - the recognition of the need for moral regeneration;
 - the recognition of the family as the basic building block of society;
 - the recognition of freedom of religion and worship;
 - the principles of mutual trust and cooperation;
 - cooperative, responsible and accountable government and good governance;
 - the rule of law, separation of powers and strong checks and balances; and
 - the recognition of, respect for, and loyalty to, the Constitution of the Republic of South Africa as the supreme law of our Republic:

do now hereby, through our elected representatives, with the assent of traditional leaders, adopt this Constitution for KwaZulu Natal and pray that God will

- give our leaders wisdom, knowledge and understanding to govern and serve our people; and
- heal our land and protect our people.

Nkosi sikelel' iAfrika. God bless South Africa. God seën Suid-Afrika.

CHAPTER 1 - FOUNDING PROVISIONS

Fundamental principles

1.

- (1) The provisions of this section shall be the fundamental principles of this Constitution.
- (2) KwaZulu Natal is an autonomous Province of the Republic of South Africa established by the Constitution of the Republic of South Africa. Its boundaries are determined by the Constitution of the Republic of South Africa and change brought about in terms thereof.
- (3) The Government of the Province shall be based on democratic norms and principles, including
 - (a) the rule of law;
 - (b) the separation of powers between the legislative, executive and judicial branches of Government, and the centrality and primacy of the legislature;
 - (c) the respect for the rights, freedoms and autonomies of both individuals and social, economic and cultural formations; and
 - (d) the acknowledgment of the cultural diversity of the people of the Province, and the protection of minority rights and of the institutions established for the conservation and enhancement of such rights and interests.
- (4) The Government of the Province shall
 - (a) serve the social, spiritual and physical well-being of all the residents of the Province; and
 - (b) provide a basis for cooperation, partnership and interaction with the national government, other provinces, local governments, communities and other states.
- (5) Subject to the Constitution of the Republic of South Africa, power is vested in the people of the Province, who shall exercise and organise it, in terms of this Constitution by virtue of which they
 - (a) ordain the government of their choice, and elect representatives for provincial and local government

by direct, free, regular and secret voting; and

(b) exercise their right to participate in referenda, and, freely, in all political, social, economic and cultural activities, both as individuals and as members of formations.

(6) Subject to the Constitution of the Republic of South Africa, the relationship between the Province and the national government shall be based on the principles of cooperation, partnership, parity and mutual respect.

(7) This Constitution acknowledges the need to recognise and protect the special status and unique character of KwaZulu Natal.

(8) Through its actions, legislation and policies the Province shall recognise and promote the autonomy of local government as the basis of democratic governance. The Province shall encourage and promote the decentralisation, devolution and delegation of its powers to municipalities.

(9) The status, institution and role of traditional leadership, as a guarantee of the autonomy of traditional communities, and the cultural, religious and linguistic rights of communities and other forms of social pluralism shall be recognised and protected.

(10) The Monarchy of KwaZulu Natal shall be recognised and protected.

(11) Subject to the Constitution of the Republic of South Africa, this Constitution shall be the supreme law of the Province and shall:

(i) bind all the organs, authorities and levels of Government;

(ii) be applied and enforced to the fullest possible extent in all judicial and administrative procedures; and

(iii) bind and be enforced to the full reasonable extent with respect to all significant legal relations, under the control of the Province.

(12) This Constitution recognises that all political power inheres in the people, that all government originates from them, is founded upon their will only, and is instituted only for the good of them as a whole.

(13) Government shall respect and encourage the exercise of the power of the people to organise and regulate their interests autonomously.

(14) All conduct and activities which are not prohibited shall be permitted. The Province may only prohibit and regulate conduct and activities when it is in the public interest and for justifiable reasons.

(15) The organs of the Province shall take the measures necessary for the promotion of prosperity, order and good provincial governance, subject to this Constitution.

(16) The Province shall have the social responsibility to endeavour to, *inter alia*,

- (a) ensure internal security and safety;
- (b) promote a balanced economic development;
- (c) foster social development;
- (d) guarantee environmental and consumer protection;
- (e) ensure health services, education and welfare;
- (f) strive to improve the quality of life;
- (g) preserve and protect the Province's religious, linguistic and ethnic heritage, and its cultural diversity;
- (h) nourish the right of the people to the pursuance of their happiness, both as individuals and as members of their social formations;
- (i) protect the family and children;
- (j) extend protection to maternity and paternity for children;
- (k) enhance protection for women, the youth, the elders, the disadvantaged and less privileged sections of the population; and
- (l) strive to achieve social justice in accordance with the principles of this Constitution. These endeavours, when practicable, shall be carried out in partnership and cooperation with the organs of civil society and affected interests.

Adoption and status of this Constitution

2.

- (1) This Constitution is adopted in terms of the Constitution of the Republic of South Africa.
- (2) The legislative and executive powers and functions of KwaZulu Natal recorded in this Constitution emanate from the Constitution of the Republic of South Africa.
- (3) The provisions of this Constitution shall not be interpreted as conferring any legislative or executive authority on KwaZulu Natal which is inconsistent with the Constitution of the Republic of South Africa.
- (4) In the event of an inconsistency between different texts of this Constitution, the English text prevails.

Application of this Constitution

3.

- (1) This Constitution applies to KwaZulu Natal.
- (2) Subject to the Constitution of the Republic of South Africa, this Constitution is the highest law in KwaZulu Natal, and

the obligations imposed by it shall be performed diligently and without delay.

Role of Province of KwaZulu Natal

4. The Province of KwaZulu Natal shall endeavour to exercise and perform the full measure of powers, function and autonomy permitted under the Constitution of the Republic of South Africa in order to promote a vibrant pluralist democracy based on devolution of powers and local decision making and policy formulation.

KwaZulu Natal Coat of Arms, provincial symbols and honours

5.

(1) The coat of arms depicted in Schedule 1, Part A shall be the coat of arms of the Province of KwaZulu Natal. The flag depicted in Schedule 1, Part B shall be the flag of the Province of KwaZulu Natal.

(2) The flag of the Province shall be used in all main government buildings and in respect of all main government functions in the Province.

(3) A provincial law may make provision for provincial symbols other than a coat of arms and the flag and may regulate their utilisation.

(4) Provincial honours

(a) shall be determined by a law of the Province and shall, *inter alia*, acknowledge and reward

- (i) excellence and dedication in the public service of the Province;
- (ii) excellence and dedication in law enforcement;
- (iii) bravery;
- (iv) excellence and dedication in trade, industry or agriculture;
- (v) excellence and dedication in charitable, philanthropic or humanitarian activities;
- (vi) excellence and dedication in the arts and culture;
- (vii) achievements in sports; and
- (viii) liberation heroes and nation builders.

(b) and shall be conferred annually by the Monarch acting on a resolution of the Cabinet.

CHAPTER 2 - BILL OF RIGHTS

Rights

6.

(1) This Bill of Rights enshrines rights within the functional areas of legislative and administrative competence of the Province of KwaZulu Natal, which rights are in addition to, and do not detract from, those set out in the Constitution of the Republic of South Africa.

(2) All legislation, and executive and administrative actions of the Province of KwaZulu Natal shall respect, protect, promote and fulfill the rights set forth in this Bill of Rights.

Application

7.

(1) Subject to the Constitution of the Republic of South Africa, provisions of this Bill of Rights

(a) apply to all law, and binds the legislature, the executive, the judiciary and all organs of state, and

(b) binds a natural or a juristic person if, and to the extent that, it is applicable, taking into account the nature of the right and the nature of any duty imposed by the right.

(2) When applying a provision of this Bill of Rights to a natural or juristic person in terms of subsection (1)(b), a court in order to give effect to a right in this Bill, shall apply, or if necessary develop, the common law to the extent that legislation does not give effect to that right.

(3) A juristic person is entitled to the rights set forth in this Bill of Rights to the extent required by the nature of the rights and allowed by the nature of that juristic person.

Consumer Protection

8.

(1) Every consumer has the right to fairness of transactions where he or she does not have the power or opportunity of negotiating the terms and conditions of such transaction on an arm-length basis.

(2) The right set out in subsection (1) is effected by means of the Consumer Protection Commission set out in section 69.

(3) Every consumer has the right to operate in a market place where the prices of product, and terms and conditions of services or contractual arrangements, are not altered or worsened by lack of competition, practices in restraint of trade, monopolies or cartels.

(4) The right set out in subsection (3) shall be effected

(a) by means of provincial legislation;

(b) through actions and powers of the Consumer Protection Commission;

(c) by all unreasonable practices in restraint of trade, including but not limited to monopolies, cartels, price fixing of any type, and vertical and horizontal restraints of trade, be hereby declared illegal and null and void;

(d) by anyone engaging in any of the practices or conduct contemplated in paragraph (c) being guilty of an offence punishable by imprisonment from six months to six years; and

(e) by anyone being directly adversely affected by any of the practices or conduct contemplated in paragraph (c) being entitled to recover any damage suffered, by means of an individual or a class action.

Separation between party and State

9.

(1) Everyone has the right to expect that any resources available to the Government of the Province, any

municipality or other organ of State in the Province be used exclusively to serve the people of the Province and not to further the interest, image or agenda of any political party, politicians or political representatives.

(2) The right set out in subsection (1) shall be effected by means of

(a) any illegitimate utilization of government resources by a civil servant, a contractor of an organ of State or a political representative being hereby deemed to be as an act of corruption, *inter alia*, for the purposes of section 10(2); and

(b) the Public Protector contemplated in section 75(3) being mandated and having jurisdiction to deter, detect and prosecute the violation of this right.

Freedom from corruption and government waste

10.

(1) Everyone has the right to expect that any resources available to the Government of the Province and any municipality or other organ of State in the Province be

(a) used in the most cost effective and efficient manner

(b) not adversely affected by government waste, incompetence or inefficiency

(c) not adversely affected by corruption.

(2) The right set out in subsection (1) shall be effected by

(a) any civil servant or person contracted by any organ of State in the Province engaging in corruption, gross government waste, gross inefficiency or blatant incompetence in the Province being guilty of an offence punishable by imprisonment from six months to two years;

(b) by a resident of the Province being entitled to bring on behalf of the State an individual or class civil action against any civil servant or person contracted by any organ of State in the Province engaging in corruption, government waste, inefficiency or incompetence in the Province to recover

(i) on behalf of the State any damage suffered by the State, and

(ii) any punitive damage the court may deem appropriate to award to reward such resident's effort.

(c) by any resident of the Province being entitled to bring a criminal action on behalf of the State against any civil servant or person contracted by any organ of State in the Province who engaged in corruption, gross government waste, gross inefficiency or blatant incompetence in the Province.

Privacy

11.

(1) Everyone in the Province has the right to privacy, which includes the right not to have the privacy of one's own communications or personal information infringed upon, including but not limited to

(a) e-mail,

(b) electronic transactions,

(c) bank transactions,

(d) Internet web sites,

(e) telephone communications; and

(f) financial records.

(2) No bank or other financial institution shall disclose any financial information of any person in the Province unless explicitly so authorised by that person or compelled by a law or a court order.

Residence

12.

(1) A citizen of the Republic of South Africa who has been domiciled in the Province for a period determined by

the law of the Province shall be a resident of KwaZulu Natal.

(2) No citizen may be deprived of his or her residence of the Province if he or she is bona fide domiciled in the Province.

(3) Every resident shall have the right to enter, remain in and leave the Province, and no resident shall without due process of law be deprived of his or her right of residence.

Freedom of trade

13.

(1) Every resident of the Province has the right to choose his or her trade, occupation or profession freely and to practice his or her trade, occupation or profession without any hindrance, except for reasonable regulations under the law justified by public interests.

(2) Any unnecessary or unjustifiable restraint, regulation or hindrance on a trade, occupation or profession in the Province may be declared null and void by a court of law.

(3) The right to free economic enterprise and initiative shall be recognised, protected and encouraged, including every person's right to freely engage in economic activity and to pursue a livelihood anywhere in the Province.

(4) The Province shall encourage and broaden access to economic opportunities, including an endeavour to assist small and medium size businesses.

(5) Every economic enterprise shall be free to choose and organize the means and ways of production in accordance with economic considerations.

(6) Administrative restrictions on economic activities shall only be justifiable on the grounds of compelling reasons of public interest.

(7) All monopolies, unreasonable practices and agreements in restraint of trade and free market competition, shall be prohibited.

(8) No enterprise shall be acquired or conducted by the Province or organ of State in the Province either as a

monopoly or as a free competition enterprise and no service shall be provided to the public unless so authorised by a provincial law justified by a public need and the inadequacy of the private sector to satisfy such need with comparable efficiency and reliability, provided that when these requirements no longer exist, the enterprise or the service shall be privatised.

(9) The Province shall not subject human conduct to unreasonable or unnecessary licensing and permitting requirements. Permits and licenses shall be issued on the basis of objective and reasonable standards and criteria.

(10) Within the limits set out by the law to protect the public interest, the Province shall protect the right of individuals to self regulate and organise their interests in economic and other matters by means of legally enforceable contracts and by establishing legal entities to carry out their purposes and objectives.

Language Policy

14.

(1) The official languages of the Province shall be isiZulu, English and Afrikaans.

(2) The Province, where practicable, shall protect the use of languages other than the official languages, including Sepedi, Sesotho, Setswana, siSwati, Tshivenda, Xitsonga, Afrikaans, English, isiNdebele, isiXhosa, isiZulu, as well as German, Greek, Gujarati, Hindi, Portuguese, Tamil, Telegu, Urdu and other languages used by communities in the Province, such as Arabic, Hebrew, Latin and Sanskrit.

(3) All official proceedings, records, and publications shall be available in the three official languages, provided that the law of the Province may take into account questions of usage, practicality and expense.

(4) All individuals shall have the right to use any official language in matters pertaining to government, and especially with regard to the protection of their rights in a court of law, provided that where practicable other languages may also be used.

(5) The right of communities to promote their language and its religious use shall be recognised. The Province shall endeavour to assist communities in this respect.

(6) Nothing in this Constitution shall prohibit the use of languages, other than the official languages, as mediums

of instruction in private schools, or in schools subsidised or financed by government, subject to compliance with such requirements as may be imposed by provincial law, intended to ensure proficiency in official languages or for pedagogic reasons. Where practicable and justified by a sufficient number of pupils, the teaching of the various languages of the Province shall take place in public schools.

(7) In municipalities where considerable portions of the population speak a language other than isiZulu, English and Afrikaans, additional languages may be used for official purposes under conditions and in a manner to be determined by the law of the Province.

Education and culture

15.

(1) Parents shall be entitled to participate in the administration and operation of their children's school, as determined by the law of the Province.

(2) The right to establish private schools shall be protected. Such schools shall have the right to determine their own curricula and syllabi, within the general parameters provided for by law in the Province, for the purposes of recognition and equivalence of degrees, diplomas or certificates.

(3) The freedom of scientific research, artistic expression in all its forms, and teaching is recognised and shall be guaranteed.

Cultural, religious and linguistic communities

16.

(1) The Province shall recognise and protect the application of traditional and customary law not inconsistent with the principles and provisions of this Constitution in the territory of traditional communities or, outside such communities, with respect to all matters left to the autonomy of individuals and that of social and traditional formations to which individuals belong on a voluntary basis or from which they have not dissociated themselves in a manner prescribed by the law of the Province.

(2) The Province shall ensure that the integrity of the legal system of traditional and customary law is safeguarded so that such laws are produced in accordance with the canons and the sources governing their

production and application, and are not modifiable or repealed by national or provincial law unless a compelling justification of public interest exists.

(3) A law may require that all traditional and customary law be collected, codified, and published by a committee of the Assembly, working in conjunction with the House of Traditional Leaders.

(4) The law of the Province shall provide for the recognition of the customs and traditional normative practices of all communities of the Province.

Just administrative action

17.

(1) Public officials shall be held personally accountable for all the actions of the officials under their control.

(2) Each Ministry or agency shall be held liable for damages caused by the gross negligence or malice of its officials.

(3) The public service of the Province shall be efficient, non-partisan, career-oriented and broadly representative of the communities of the Province.

Social Obligations and Individual Responsibilities

18.

(1) All residents have the duty to provide moral and financial support to their spouses, to educate their children and to assist their parents when in need of care.

(2) Everyone has the duty to contribute to collective social growth and progress by working or otherwise rendering a social contribution.

(3) Everyone has the duty to uphold this Constitution.

(4) All residents have the duty to contribute to the common needs and to pay revenues for public expenditures as determined by law

(5) The Government of the Province shall encourage voluntary charitable activities and other forms of expression of social responsibility.

(6) All capable residents have the duty to contribute by their industry and skills to the common development and growth of the Province and the Republic of South Africa.

(7) In the exercise of its power of taxation, the Province shall follow principles of reasonable progressive taxation, but shall not create a disincentive for the production of wealth and personal saving.

Limitation of rights

19. Any of the rights set out in this Bill of Rights is limited only intrinsically, by the application of a concurrent or conflicting right or a right set out in the Constitution of the Republic of South Africa or flowing from the application thereof.

Enforcement of rights

20. Anyone listed in this section has the right to approach a competent court, alleging that a right in this Bill of Rights has been infringed or threatened, and the court may grant appropriate relief, including a declaration of rights. The persons who may approach a court are -

- (a) anyone acting in their own interest;
- (b) anyone acting on behalf of another person who cannot act in their own name;
- (c) anyone acting as a member, or in the interest of a group or class of persons;
- (d) anyone acting in the public interest; and
- (e) an association acting in the interest of its members.

Interpretation of Bill of Rights

21.

- (1) When interpreting this Bill of Rights, a court, tribunal or forum
 - (a) shall promote the values that underlie an open and democratic society based on human dignity, equality and freedom;
 - (b) shall consider international law; and
 - (c) may consider foreign law.
- (2) When interpreting any legislation, and when developing the common law or customary law, every court, tribunal or forum shall promote the spirit, purport and objects of this Bill of Rights.
- (3) This Bill of Rights does not deny the existence of any other rights or freedoms that are recognised or conferred by the Constitution of the Republic of South Africa, common law, customary law or national legislation.

CHAPTER 3 - LEGISLATIVE STRUCTURES

Legislative authority

22.

- (1) The legislative authority of KwaZulu Natal is vested in the Legislature of KwaZulu Natal.
- (2) The Legislature of KwaZulu Natal consists of two Houses:
 - (a) the Assembly
 - (b) the House of Representatives
- (3) The Legislature may
 - (a) replace, amend or repeal this Constitution;

(b) pass legislation for KwaZulu Natal in terms of the Constitution of the Republic of South Africa and in accordance with this Constitution;

(c) pass legislation for KwaZulu Natal with regard to any matter assigned to KwaZulu Natal by national legislation; and

(d) assign to a municipal or traditional council any of its legislative powers referred to in paragraph (b) and, where it is permitted to do so, any of its legislative powers referred to in paragraph (c).

(4) The Legislature may

(a) by a resolution recommend to the National Assembly that it passes legislation concerning any matter outside its authority, or in respect of which an Act of Parliament prevails over provincial legislation;

(b) by a resolution recommend to the National Council of Provinces that it passes legislation concerning any other matter; and

(c) by a resolution adopted with a supporting vote of at least two thirds of its members request Parliament to change the name of the Province.

Composition of Assembly

23.

(1) The Assembly shall consist of 80 elected members, elected as members in terms of an electoral system that

(a) is prescribed by national legislation;

(b) is based on the Province's segment of the national common voter's roll;

(c) provides for a minimum voting age of eighteen years; and

(d) results, in general, in proportional representation.

(2) Members of the Assembly are elected by means of proportional representation based party lists and may not join, form or represent another political party in the Assembly.

Membership of Assembly

24.

(1) Every resident of the Province who is qualified to vote for the National Assembly is eligible to be a member of the Assembly, except

(a) anyone who is appointed by, or is in the service of, the State and receives remuneration for that appointment or service, other than

(i) the Premier and other members of the Cabinet of KwaZulu Natal; and

(ii) other office-bearers whose functions are compatible with the functions of a member of the Legislature, and have been declared compatible with those functions by national or provincial legislation;

(b) members of the National Assembly, permanent delegates to the National Council of Provinces and members of a municipal council;

(c) un-rehabilitated insolvents;

(d) anyone declared to be of unsound mind by a court of the Republic; or

(e) anyone who has been or is convicted of an offence and sentenced to more than twelve months' imprisonment without the option of a fine, either in the Republic, or outside the Republic if the conduct constituting the offence would have been an offence in the Republic, but no one may be regarded as having been sentenced until an appeal against the conviction or sentence has been determined, or until the time for an appeal has expired. A disqualification under this paragraph ends five years after the sentence has been completed.

(2) A person who is not eligible to be a member of the Assembly in terms of subsection (1)(a) or (b) may be a candidate for the Assembly, subject to any limits or conditions determined by national legislation.

(3) A person loses membership of the Assembly if that person

- (a) ceases to be eligible;
- (b) resigns as a member;
- (c) ceases to be a member of the political party in which he or she was elected, unless such party is dissolved, or
- (d) is absent from the Assembly without permission in circumstances for which the rules and orders of the Assembly prescribe loss of membership.

(4) Vacancies in the Assembly shall be filled in terms of national legislation.

Composition of House of Representatives

25.

(1) The House of Representatives shall consist of 80 appointed members, chosen as follows

- (a) 20 members among serving members of municipal councils appointed by the Premier on nomination by bodies representing organised local government in the Province convened for this purposes by the Premier or his designated official;
- (b) 20 members appointed by the House of Traditional Leaders among traditional leaders in the Province;
- (c) 5 members appointed by the Premier on nomination by the Chamber of Commerce and Industry of KwaZulu Natal;
- (d) 5 members appointed by Consumer Protection Commission;
- (f) 5 members appointed by Regulatory Relief Commission;
- (g) 5 members appointed

(i) by the Premier to represent cultural and ethnic interest, if no Cultural Council is established; or

(ii) jointly by the representatives of Cultural Councils, if one or more Cultural Councils is established, convened for this purpose by the Premier or his designated official;

(h) 5 members chosen jointly by the representatives of trade unions in the Province convened for this purpose by the Premier or his designated official;

(i) 5 members chosen jointly by the representatives of universities and academic technical institutions in the Province convened for this purpose by the Premier or his designated official;

(j) 5 members chosen jointly by the representatives of arts or cultural organisations convened for this purposes by the Premier or his designated official; and

(k) 5 members chosen jointly by the representatives of youth organisations in the Province convened for this purpose by the Premier or his designated official.

(2) The House of Representatives shall be established and convened within thirty days of the appointment of a Premier following the election of the Assembly.

(3) If for any reason any of the entities required to appoint members of the House of Representative fails to do so at any given time, the House shall operate, until they are appointed, as if its composition consisted of a number of members not including those who have not been appointed.

Membership of House of Representatives

26.

(1) Every resident of the Province who is qualified to be elected as a member of the Assembly may be appointed as a member of the House of Representatives.

(2) A person loses membership of the House of Representatives if that person

- (a) ceases to be eligible;
- (b) resigns as a member;
- (c) is absent from the House of Representatives without permission in circumstances for which the rules and orders of the House of Representatives prescribe loss of membership;
- (d) ceases to hold the qualifications contemplated in section 25(1)(a), (b) and (g)(ii); or
- (e) is for any reason recalled and replaced by the body which appointed him or her and the Chairperson of the House of Representatives is so notified in writing by such body through its duly authorised representative.

(3) Vacancies in the House of Representatives shall be filled in terms of section 25.

Oath or affirmation of members of Legislature

27. Members of the Legislature shall swear or affirm faithfulness to the Republic and the Province of KwaZulu Natal and obedience to the Constitution of the Republic of South Africa and this Constitution, in accordance with item 1 of Schedule 2, before they begin performing their functions as members.

Duration of Legislature

28.

(1) The Assembly is elected for a term of five years.

(2) (a) When the Assembly is dissolved in terms of section 29 or when its term expires, the Premier shall, by proclamation, call and set dates for an election, which shall be held within ninety days of the date when the Assembly was dissolved or when its term expired.

(b) A proclamation calling and setting dates for an election may be issued before or after the expiry of the term of the Assembly.

(3) If the result of an election of the Assembly is not declared within the period referred to in section 190 of the

Constitution of the Republic of South Africa or if an election is set aside by a court, another election shall be held in terms of section 108(3) of the Constitution of the Republic of South Africa.

(4) The House of Representatives is dissolved when the Assembly is dissolved or its term expires.

(5) The Legislature remains competent to function from the time it is dissolved or its term expires, until the day before the first day of polling for the next Legislature.

Dissolution of Assembly before its term expires

29.

(1) The Premier shall dissolve the Assembly if

(a) the Assembly has adopted a resolution to dissolve with a supporting vote of a majority of all its members, or

(b) the House of Representatives has adopted a resolution to dissolve the Assembly with a supporting vote of a majority of all its members.

(2) An Acting Premier shall dissolve the Assembly if there is a vacancy in the office of Premier and the Assembly fails to elect a new Premier within thirty days after the vacancy has occurred.

CHAPTER 4 - LEGISLATIVE PROCEDURES

Bills to replace, amend or repeal this Constitution

30. A Bill to replace, amend or repeal this Constitution shall be passed by the Legislature with a supporting vote of at least two thirds of the members of both the Assembly and the House of Representatives, provided that the second House shall not pass such a Bill before six months have lapsed from the passing by the first House.

Sittings and recess periods of Legislature

31.

(1) After an election, the first sitting of the Assembly takes place at a time and on a date determined by a Judge designated by the Chief Justice, but not more than fourteen days after the election result has been declared.

(2) Both the Assembly and the House of Representatives may determine the times and duration of their respective other sittings and their respective recess periods.

(3) The Premier may summon the Assembly or the House of Representatives, or both, to an extraordinary sitting at any time to conduct special or urgent business.

(4) The Assembly and any of its committees shall ordinarily sit in Pietermaritzburg and the House of Representatives in Ulundi. Both the Assembly and the House of Representatives may determine other venues for their respective extraordinary meeting and for those of their respective committees.

Speaker of Assembly and Chairperson of House of Representatives**32.**

(1) The Assembly shall elect a Speaker from amongst its members at the first sitting after its election, or when necessary to fill a vacancy.

(2) (a) A judge designated by the Chief Justice shall preside over the election of the Speaker.

(b) The procedure set out in Schedule 3 of this Constitution applies to the election of the Speaker.

(3) The Assembly may

(a) elect a Deputy Speaker from among its members; and

(b) elect other presiding officers from among its members to assist the Speaker and the Deputy Speaker.

(4)

(a) The Assembly may remove the Speaker, Deputy Speaker and any other presiding officer by

resolution.

(b) A majority of the members of the Assembly shall be present when the resolution is adopted.

(5) The provisions of this section shall apply *mutatis mutandis* to the Chairperson of the House of Representatives.

Quorum and decisions of Legislature

33.

(1) Except where this Constitution provides otherwise

(a) a majority of the members of either House of the Legislature shall be present before a vote may be taken on a Bill or an amendment to a Bill in such House;

(b) at least one third of the members shall be present before a vote may be taken on any other question before either House of the Legislature; and

(c) any questions before either House of the Legislature are decided by a majority of the votes cast.

(2) The member presiding at a meeting of either House of the Legislature has no deliberative vote, but

(a) shall cast a deciding vote when there is an equal number of votes on each side of a question; and

(b) may cast a deliberative vote when a question shall be decided with a supporting vote of at least two thirds of the members of either House of the Legislature.

Powers of Legislature

34.

(1) In exercising its legislative authority, either House of the Legislature may

- (a) consider, pass, amend or reject any Bill before it; and .
 - (b) initiate or prepare legislation.
- (2) Subject to subsection (4), either House of the Legislature shall provide for mechanisms
- (a) to ensure that all provincial organs of state are accountable to it; and
 - (b) to oversee
 - (i) the exercise of provincial executive authority, including the implementation of legislation; and
 - (ii) any provincial organ of state.
- (3) Both Houses of the Legislature may
- (a) determine and control their respective own internal arrangements, proceedings and procedures; and
 - (b) make rules and orders concerning their respective business with due regard to representative and participatory democracy, accountability, transparency and public participation.
- (4) Both Houses of the Legislature shall in their respective rules and orders provide for
- (a) the establishment, composition, powers, functions, procedures and duration of their respective committees;
 - (b) the conferral on its committees of such powers as are necessary for them to execute their mandate; and
 - (c) the receipt of petitions, representations or submissions from any interested person or institution;
- (5) The Assembly shall in its rules and orders provide for

- (a) the participation in the proceedings of the Assembly and its committees of minority parties represented in the Assembly in a manner consistent with democracy;
- (b) coordination between the Assembly and its committees, and the National Council of Provinces;
- (c) financial and administrative assistance to each party represented in the Assembly, in proportion to its representation to enable the party and its leader to perform their functions in the Assembly effectively.

Leader of Opposition in Assembly

35. The rules and orders of the Assembly shall provide for the recognition of the largest opposition party in the Assembly as the Leader of the Opposition in the Legislature.

Evidence or information before Legislature

36. Either House of the Legislature or any of its committees may

- (a) summon any person to appear before it to give evidence on oath or affirmation, or to produce documents;
- (b) require any natural or juristic person or provincial organ of state to report to it;
- (c) compel, in terms of provincial legislation or the rules and orders of the House concerned, any person or provincial organ of state to comply with a summons or requirement in terms of paragraph (a) or (b);
- (d) receive petitions, representations or submissions from any interested person or institution;
- (e) appoint commissions on enquiry; and
- (f) retain special counsel or other investigating authority or person to exercise on the basis of delegation any of the investigative or supervisory powers of such House or committee, including the power to subpoena, and to report to such House or committee.

Privilege of members of Legislature and permanent delegates to National Council of Provinces

37. Members of the Legislature and the permanent delegates of KwaZulu Natal to the National Council of Provinces

- (a) have freedom of speech in the House of the Legislature to which they belong and in its committees, subject to its rules and orders; and
- (b) are not liable to civil or criminal proceedings, arrest, imprisonment or damages for
 - (i) anything that they have said in, produced before or submitted to the House of the Legislature to which they belong or any of its committees, or
 - (ii) anything revealed as a result of anything that they have said in, produced before or submitted to the House of the Legislature to which they belong or any of its committees.

Public access to proceedings of Legislature

38.

(1) The proceedings of the Legislature and its committees take place in public, but reasonable steps may be taken

- (a) to regulate public access, including access of the media, to either House of the Legislature and its committees; and
- (b) to provide for the searching of any person and, where appropriate, the refusal of entry to, or the removal of any person.

(2) The public, including the media, may not be excluded from a sitting of a committee of either House of the Legislature unless it is reasonable and justifiable to do so in an open and democratic society.

(3) Both Houses of the Legislature shall facilitate public participation in their respective activities and those of

their respective committees.

Powers of the Assembly and House of Representatives

39.

(1) The Assembly shall exclusively perform the functions and exercise the powers of the Legislature as they relate to the application of section 75 and 76 and any other provisions of the Constitution of the Republic of South Africa except Chapter 6 thereof.

(2) Subject to subsection (1), the Assembly and the House of Representatives have equal role, power and position in

- (a) performing the legislative function of the Province,
- (b) holding the Government accountable,
- (c) conducting investigations, and
- (d) appointing commissions of inquiry.

(3) A Bill, draft resolution or other question may be introduced

- (a) in either House of the Legislature, and
- (b) only by a member of that House in his or her own name.

(4) All Bills, a draft resolution or other questions before a House shall have equal status and shall be treated accordingly by the presiding officer of such House or of the committee to which a Bill, a draft resolution or other question may be referred for deliberation.

(5) In the conduct of their businesses both Houses shall subscribe, and adhere, to the doctrine of the separation between the Legislature and the Executive.

(6) In order to become a law of the Province, a Bill shall be adopted in identical form by both Houses.

(7) Upon passing of a Bill by a House, such Bill shall be transmitted by the presiding officer of that House to the presiding officer of the other House to be dealt with as a Bill introduced by a member of such House. If the second House

(a) passes a Bill in identical form as the first House, the Bill is transmitted by the presiding officer of the second House to the Premier;

(b) passes a Bill in an amended form, the Bill is transmitted by the presiding officer of the second House to the presiding officer of the first House which may

(i) ratify the amendments and, through its presiding officer, transmit the Bill to the Premier

(ii) reject the Bill, in which case the Bill shall lapse and may not be reintroduced in either House unless a year has lapsed, or

(iii) amend the Bill in any respect it wishes and, through its presiding officer, transmit it to the presiding officer of the other House to be dealt with by it in terms of this paragraph, or

(c) reject the Bill, in which case the Bill shall lapse and may not be reintroduced in either House unless a year has lapsed.

(8) All commissions of inquiry, investigations and activities or special counsels shall

(a) be funded from the budget of the House concerned

(b) be launched and maintained when requested by a resolution of the House concerned supported by at least forty percent of its members.

Assent to Bills by Premier

40.

- (1) The Premier shall, within forty-five days of a Bill having been passed by the Legislature,
 - (a) assent to and sign the Bill, or
 - (b) if has reservations about its constitutionality, refer it back to the House from which it received it for reconsideration.
- (2) If, after reconsideration, the House to which the Bill was referred confirms the Bill by a resolution supported by a majority of its members, the Premier shall, within forty-five days of the date of such resolution, assent to and sign the Bill.
- (3) One third of the members of any House may refer a Bill passed by both Houses or an Act of the Province to the Constitutional Court for a decision on its constitutionality, which referral
 - (a) shall not affect the finalisation and assent of the Bill or the force and effect of the Act;
 - (b) shall be financed from the budget of the House concerned.

Publication and commencement of provincial Acts

41.

- (1) A Bill assented to and signed by the Premier becomes an Act of KwaZulu Natal.
- (2) It shall be published promptly in the *Official Gazette* of the Province and takes effect when it is published or on a date determined in terms of the Act.
- (3) Provincial legislation may provide for the dissemination and further publication of particulars of provincial Acts.

Safekeeping of provincial Acts

42.

- (1) The signed copy of an Act is conclusive evidence of its provisions.

(2) After publication, the Act shall be entrusted to the Constitutional Court for safekeeping.

Referendum

43.

(1) The law of the Province shall enable no less than one hundred thousand voters, or the Premier acting with the approval of the relevant committee of the Assembly, to call a referendum which shall have the effect of repealing an existing law of the Province, or portion thereof, or to recommend to the Legislature the need to legislate, provided that a referendum may not be held in relation to any tax or financial matters.

(2) The law shall *inter alia* determine:

- (a) conditions to promote the holding of more than one referendum at the same time;
- (b) the frequency with which a referendum may be held on substantially the same issue;
- (c) the requirements of the voters' petition and for their identification; and
- (d) the process for the formulation of the referendum question, ensuring such question's clarity and adequacy.

Appropriation and financial legislation

44.

(1) All appropriations shall be made by the Legislature in accordance with this Constitution from a Provincial Revenue Fund, into which shall be paid all revenues raised or received by the Province.

(2) No money shall be withdrawn from the Provincial Revenue Fund, except under appropriation made by a law of the Province, in accordance with this Constitution.

(3) The Minister responsible for provincial financial affairs shall lay before the Assembly a balanced budget for every financial year, reflecting *inter alia* the estimates of revenue, expenditure and the capital and current

expenditure for the provincial government in that year.

(4) The Assembly shall approve the budget and the year-end financial statements of the Province, subject to the ratification of the House of Representatives. The House of Representatives may only approve or reject a budget passed by the Assembly, provided that in case of rejection by the House of Representatives may indicate the reasons for its rejection and the amendments which would enable it approve it. When a budget is returned by the House of Representatives to the Assembly, the Assembly may either amend it and return it to the House of Representatives for further deliberation or pass it by a decision supported by sixty percent majority of its members. Pending the approval of the budget, the Assembly shall have the power to authorise government to operate for no more than four months on a provisional budget.

(5) The law approving the budget shall not introduce additional taxes or expenses. The approved budget shall identify the sources of revenue to cover all expenditure of the Province. Any law involving new or additional expenses shall indicate the source of revenue to cover them.

(6) The Assembly may authorise Cabinet, by a vote of two-thirds of its members, to finance the budget by resorting to public debt. When seeking such authorisation the Cabinet shall provide a report indicating the identifiable sources of repayment of the public debt and the underlying economic assumptions. Any increase of the public debt shall also be so authorised.

(7) The budget shall be divided into chapters and sections and be under titles. At the end of the fiscal year, any unspent appropriated funds, may be automatically carried over to the next year within the same budget chapter, if it exists, or if it does not, it may be transferred to the most closely related budget chapter.

(8) As soon as feasible, the Province shall consider adopting a fiscal period of at least two years.

(9) The procurement of goods and services for the Province and municipalities shall be determined by a law of the Province. Such a law shall also provide for the appointment of independent and impartial tender boards.

CHAPTER 5 - EXECUTIVE STRUCTURES AND PROCEDURES

Executive authority

45.

- (1) The executive authority of KwaZulu Natal vests in the Premier and shall be exercised through the Executive.
- (2) The Premier exercises the executive authority, together with the other members of the Cabinet, by
 - (a) implementing provincial legislation;
 - (b) implementing, to the extent that KwaZulu Natal has the administrative capacity to assume effective responsibility, all national legislation within the functional areas listed in Schedule 4 or 5 of the Constitution of the Republic of South Africa except where the Constitution of the Republic of South Africa or an Act of Parliament provides otherwise;
 - (c) implementing national legislation outside the functional areas listed In Schedules 4 and 5 of the Constitution of the Republic of South Africa; the administration of which has been assigned to the Cabinet in terms of an Act of Parliament;
 - (d) developing and implementing provincial policy;
 - (e) coordinating the functions of the provincial administration and its departments;
 - (f) preparing and initiating provincial legislation; and
 - (g) performing any other function assigned to the Cabinet in terms of the Constitution of the Republic of South Africa or an Act of Parliament.
- (3) The Executive shall act in accordance with the Constitution of the Republic of South Africa and this Constitution.

Administrative Seat of Government**46.**

- (1) The Cabinet ordinarily sits in Durban and may determine any venue in the Province for its extraordinary

meetings and those of any of its committees.

(2) For the purpose of effective and efficient administration in consultation with the responsible member of the Cabinet, the Premier may determine or direct that the head of a provincial department establishes and maintains one or more satellite or regional offices at any appropriate location within the Province.

Assignment of functions to municipal or traditional council

47.

(1) A Member of the Cabinet may assign any power, or function that is to be exercised or performed in terms of an Act of Parliament, or a provincial Act, to a municipal or traditional council.

(2) An assignment

(a) shall be in terms of an agreement between the relevant Member of the Cabinet and the Municipal Council;

(b) shall be consistent with the Act in terms of which the relevant power or function is exercised or performed; and

(c) takes effect upon proclamation by the Premier in the *Official Gazette* of the Province.

Powers and functions of Premier

48. The Premier has the powers and functions entrusted to that office by the Constitution of the Republic of South Africa, this Constitution and any legislation. Unless otherwise set forth in this Constitution or by practices thereunder, the Premier shall exercise his powers and perform his functions within the collegiality of the Cabinet.

Election of Premier

49.

(1) The Assembly shall elect a Premier from among its members at its first sitting after its election, or when necessary to fill a vacancy.

(2) A judge designated by the Chief Justice shall preside over the election of the Premier.

(3) The procedure set out in Schedule 3 of this Constitution applies to the election of the Premier.

(4) An election to fill a vacancy in the office of the Premier shall be held at a time and on a date determined by the Chief Justice, but not later than thirty days after the vacancy occurs.

Assumption of office by Premier

50. The Premier-elect shall assume office within five days of being elected, by swearing or affirming faithfulness to the Republic and KwaZulu Natal and obedience to the Constitution of the Republic of South Africa and this Constitution, in accordance with Item 2 of Schedule 1.

Term of office of Premier

51.

(1) The Premier's term of office begins when the Premier assumes office, and ends when a vacancy occurs or when the person next elected Premier assumes office.

(2) No person may hold office as Premier for more than two terms, but when a person is elected to fill a vacancy in the office of Premier, the period between that election and the next election of a Premier is not regarded as a term.

Acting Premier

52.

(1) When the Premier is absent or otherwise unable to fulfil the duties of the office of Premier, or during a vacancy in the office of Premier, an office bearer in the order below acts as the Premier

(a) a Member of the Cabinet designated by the Premier;

(b) a Member of the Cabinet designated by the other members of the Cabinet;

(c) the Speaker of the Assembly, or

(d) The Chairperson of the House of Representatives.

(2) An Acting Premier has the responsibilities, powers and functions of the Premier.

(3) Before assuming the responsibilities, powers and functions of the Premier, the Acting Premier shall swear or affirm faithfulness to the Republic and KwaZulu Natal and obedience to the Constitution of the Republic of South Africa and this Constitution, in accordance with item 2 of Schedule 2.

Composition and appointment of Cabinet

53.

(1) The Cabinet consists of the Premier, as head of Cabinet, and no fewer than eight and no more than fifteen members of the Cabinet appointed by the Premier, one of which needs not be a member of the Legislature if he or she is eligible to be such.

(2) The Premier may appoint deputy Ministers who shall have the powers and perform the functions delegated to them by the Minister they deputise for, for as long such delegation subsists and at the terms and under the conditions thereof.

(3) The Premier appoints the members of the Cabinet, assigns their powers and functions as required by law, and may dismiss them.

Accountability and responsibilities of members of Cabinet

54.

(1) The members of the Cabinet are responsible for the functions of the executive assigned to them by the Premier or in terms of law.

(2) Members of the Cabinet are accountable collectively and individually to the Legislature for how they exercise their powers and carry out their functions.

(3) Members of the Cabinet shall

(a) act in accordance with the Constitution of the Republic of South Africa and this Constitution and

(b) provide the Legislature with full and regular reports concerning matters under their control.

(4) A Member of the Cabinet who is not a member of the Legislature:

(a) may attend, and may speak in, either House of the Legislature, and is entitled to the privilege set out in section 37 of this Constitution

(b) may not vote in the Legislature.

Continuation of Cabinet after elections

55. When an election of the Assembly is held, the Cabinet and its members remain competent to function until the person elected Premier by the next Assembly assumes office.

Oath or affirmation of members of Cabinet

56. Before members of the Cabinet begin to perform their functions, they shall swear or affirm faithfulness to the Republic and KwaZulu Natal and obedience to the Constitution of the Republic of South Africa and this Constitution, in accordance with item 2 of Schedule 2.

Conduct of members of Cabinet

57.

(1) Members of the Cabinet shall act in accordance with the code of ethics prescribed by provincial legislation.

(2) Members of the Cabinet may not

(a) undertake any other remunerated work;

(b) act in any way that is inconsistent with their office, or expose themselves to any conflict between their official responsibilities and private interests; or

(c) use their position or any information entrusted to them to enrich themselves or improperly benefit any other person.

Temporary assignment of functions to member of Cabinet

58. The Premier may temporarily assign to a member of the Cabinet any power or function of another member who is absent from office or is unable to exercise that power or perform that function.

Motions of no confidence in Cabinet or Premier

59.

(1) If either House of the Legislature, by a vote supported by a majority of its members, passes a motion of no confidence in the Cabinet, excluding the Premier, the Premier shall reconstitute the Cabinet.

(2) If either House of the Legislature, by a vote supported by a majority of its members, passes a motion of no confidence in the Premier, the Premier and the other members of the Cabinet shall resign.

Monarch

60.(1) There shall be a Monarch for the Province of KwaZulu Natal. In addition to any other title to which he may be entitled in terms of law or customary or law, such as iNgonyama, iSilo and iMbube, the Monarch shall carry the title of His Majesty the King of KwaZulu Natal.

(2) The person holding office as the King of the Zulu nation, at the commencement of this Constitution shall be the Monarch of the Province.

(3) Before assuming office under this Constitution, the Monarch shall, in a dedicated ceremony, swear or affirm faithfulness to the Republic of South Africa and the Province of KwaZulu Natal and obedience to the Constitution of the Republic of South Africa and this Constitution, in accordance with item 3 of Schedule 2.

(4) (a) Provincial legislation and customary law shall determine the relationship between the Monarch and

(i) the House of Traditional Leaders, and

(ii) *uBukhosi* in the Province.

(b) The Monarch shall act in accordance with the Constitution of the Republic of South Africa, this Constitution, provincial legislation and customary law.

(5) The Monarch may be consulted by the Cabinet on any matter relating to the government of the Province.

Succession of Monarch

61.

(1) The monarchy is hereditary in succession to the throne of the Monarch and is determined, after consultation with the House of Traditional Leaders, by

(a) the customary law applicable to the monarchy of *AmaZulu*; and

(b) provincial legislation.

(2) (a) A vacancy in the office of the Monarch caused by death or abdication shall be filled as soon as practicable in accordance with;

(i) the customary law; or

(ii) provincial legislation.

(b) In case of a vacancy in the office of the Monarch,

(i) the Traditional Prime Minister shall inform the Premier of the identity of the person identified by the Royal Family as the successor to the throne, and

(ii) the Premier shall, in the *Official Gazette* of the Province, publish a notice for general information declaring who has been so identified as the successor to the office of the Monarch.

Identification or designation of Regent

62.

(1) Should the Monarch

(a) be younger than twenty-one years of age, or in the event of the death or incapacity of the Monarch, or

(b) be absent from KwaZulu Natal for a significant period, the role, responsibilities and functions of the Monarch may be exercised by a Regent.

(2) Unless, in case of absence, the Monarch designates a Regent, the Regent shall be identified in accordance with customary law by the Royal Family which shall, as soon as practicable, through the Traditional Prime Minister, inform the Premier of the identity of the person so identified.

(3) The Premier shall, in the *Official Gazette* of the Province, publish a notice for general information declaring who has been identified or designated as Regent.

(4) Before assuming office, a Regent shall swear or affirm faithfulness to the Republic of South Africa and the Province of KwaZulu Natal and obedience to the Constitution of the Republic of South Africa and this Constitution, in accordance with item 3 of Schedule 2.

(5) (a) The Regency shall be exercised in terms of this Constitution and in the name of the Monarch.

(b) The Regency terminates on the day before the date

(i) of publication of a notice published by the Premier in the *Official Gazette* of the Province,

- (ii) on which the Monarch turns 21,
- (iii) on which the Monarch is no longer incapacitated, or
- (iv) of the return of the Monarch to KwaZulu Natal.

(6) The Regent shall receive the remuneration and benefits as set out in provincial law.

Role, responsibilities, powers and functions of Monarch

63.

(1) The Monarch shall

- (a) uphold the Constitution of the Republic of South Africa, this Constitution and the laws of KwaZulu Natal;
- (b) recognize the unique and diverse heritage and culture of the people of KwaZulu Natal;
- (c) strive to represent a symbol of unity to the people of KwaZulu Natal; and
- (d) promote peace, stability and nation building.

(2) The Monarch performs those powers, responsibilities and functions as may be conferred upon, or assigned to, him or her by

- (a) this Constitution;
- (b) customary law;
- (c) national legislation, including the responsibilities and functions generally or specially conferred upon, or assigned to, a king or queen; and
- (d) provincial legislation.

(3) The Monarch may, in addition to any traditional or ceremonial role, responsibilities or functions conferred on, or assigned to, him or her by law

(a) subject to the rules and orders of either House of the Legislature, open or address sessions or meetings of either House of the Legislature;

(b) subject to a resolution of the House of Traditional Leaders, open or address sessions or meetings of the House of Traditional Leaders;

(c) subject to a resolution of the Cabinet and any directive or condition set out by the Cabinet

(i) confer honours and distinctions;

(ii) meet foreign dignitaries; or

(iii) represent KwaZulu Natal culturally and socially both within the Republic of South Africa and abroad;

(d) subject to a resolution of the Cabinet, open or address sessions or meetings of a provincial intergovernmental body or structure; and

(e) subject to a resolution of a municipal council, open or address a session of meeting of that municipal council.

(4) As a symbol of unity of the people of KwaZulu Natal, the Monarch may not participate in political activities or express alignment with or sympathy for, or opposition to, any political party.

(5) The Assembly may appoint one or more councillors among their members to act as liaisons with the Monarch. The conditions of service, remuneration and other benefits of such councillors shall be determined by provincial law.

(6) The actions of the Monarch in terms of this Constitution and the law of the Province shall be countersigned by the Premier and, when appropriate, by the competent Minister. Such actions of the Monarch shall lack validity if they are not countersigned, and the person who countersigned them shall be responsible and

accountable for them. No countersignature shall be required for those actions of the Monarch performed in terms of traditional and customary law.

(7) Subject to this Constitution, the person of the Monarch is inviolable and is not subject to civil, administrative or political responsibility and accountability.

(8) The law of the Province shall establish a Royal Guard for the personal protection of the Monarch and his Household to be administered by the government of the Province.

(9) The Premier and the Cabinet shall regularly inform the Monarch of the affairs of government and brief him when he so requests.

Civil list of Monarch

64.

(1) There shall be a Civil List of the Monarch which

(a) represents an allowance paid by the Provincial Government to provide for the maintenance and expenses of the Royal Household; and

(b) shall be approved annually in terms of an appropriation by an Act of the Legislature.

(2) The Premier, or a member of the Cabinet designated by the Premier, is responsible as executing authority for the administration of the Civil List of the Monarch and shall appoint an accounting officer in a provincial department to oversee to and manage the administration of the Civil List of the Monarch in accordance with the applicable law.

House of Traditional Leaders and traditional leadership

65.

(1) There shall be a House of Traditional Leaders consisting of eighty members as determined by a law of the Province.

- (2) The House of Traditional Leaders ordinarily sits in Ulundi and may determine other venues for its extraordinary meeting or for those of its committees.
- (3) The Traditional Prime Minister shall be an ex-officio member of the House of Traditional Leaders and shall enjoy all the rights and privileges of such membership.
- (4) The House of Traditional Leaders shall advise both Houses of the Legislature on any legislative action which may adversely affect traditional and customary law and its autonomy, and exercise other powers and functions, as may be provided for by the law of the Province.
- (5) The House of Traditional Leaders may, for just and good cause, suspend, withdraw or modify the powers of any traditional leader, by a resolution of two-thirds of its members or cause the abdication of the Monarch.
- (6) Traditional leaders shall be recognised and protected as
- (a) the symbol of unity of their respective communities;
 - (b) the executive head of a traditional council, and
 - (c) the primary point of reference for the governance of a traditional community.
- (7) The law of the Province shall respect, protect and guarantee the territorial, functional and cultural integrity of a traditional community and its primary governance by means of its traditional council.
- (8) Primarily, the law of the Province and actions of its government may determine matters related to traditional leaders in the Province.
- (9) The successor of a traditional leader shall be identified in terms of customary law by the family of the deceased, retired or deposed traditional leader who is to be succeed, and shall be sanctioned by the House of Traditional Leaders.

Traditional Prime Minister**66.**

- (1) There shall be a Traditional Prime Minister of the Monarchy who shall
- (a) advise the Monarch;
 - (b) be consulted by Cabinet in respect of any matters affecting the Monarch or the Monarchy;
 - (c) be informed by Cabinet on the general policies of the Province; and
 - (d) receive such remuneration, allowance and other benefits as determined by the House of Traditional Leaders.
- (2) The Traditional Prime Minister shall be the liaison between the Monarch and the nation, *inter alia*, by
- (a) making such announcements to the nation on behalf of the Monarch as tradition or custom may require;
 - (b) acting as the Monarch's spokesperson;
 - (c) convening meeting on behalf of the Monarch, including meeting of communities or of the nation, and, when so requested by the Monarch, chair them; and
 - (d) presiding over protocol functions and protecting and upholding the dignity and integrity of the Monarchy.
- (3) The Traditional Prime Minister shall be appointed by the Monarch in consultation with the House of Traditional Leaders in accordance with customary law.

Intergovernmental Relations

67. Provincial organs of State and municipalities shall promote harmonious intergovernmental relations which respect each entity's functional and institutional integrity and enhance the quality of governance, which, *inter alia*, shall include that

- (a) in order to avoid disputes, municipalities shall recognise and respect traditional councils as the

primary administrators of their respective traditional communities and liaise with them when exercising any power or performing any function in the territory of a traditional council or which affects such council or its traditional leader;

(b) a dispute between the Legislature and Cabinet be the object of joint mediation by the Speaker of the Assembly and the Premier, not to exceed three days from the time either party declares the existence of such dispute;

and

(c) before the Cabinet declares a dispute with the national sphere of government it shall give at least three days written notice to the relevant organ of state in such sphere.

Cultural Councils

68.

(1) Cultural Councils shall be established in the Province to deal with the cultural, educational and linguistic identity, interests and aspirations of their members.

(2) A linguistic or cultural formation may petition the Assembly or the House or Representatives to establish a Cultural Council, provided that

(a) the petition is signed by at least three thousand residents of the Province;

(b) such Council is intended to serve a population of at least thirty thousand persons;

(c) more than one cultural or linguistic formation may join another in order to apply for a Council;
and

(d) the Assembly shall respect the principle that a cultural or linguistic formation is what identifies itself as such.

(4) If established, a Cultural Council may consist of no more than ten members to be identified in the petition

and who shall be eligible to the Assembly.

(5) The activities of Councils may be funded by the Province on a fair and equitable basis as determined by a law of the Province.

(6) Councils shall have the power to advise Cabinet on cultural and other matters affecting them.

(7) A Cabinet resolution or a law of the Province may

(a) delegate to one or more Councils executive powers under any law of the Province and/or management functions *inter alia* in respect of mother tongue education, schools within the relevant cultural milieu, the promotion of the arts and literature, old age and children's homes, cultural museums and historical sites, mother tongue media and specific aspects of social welfare services, and

(b) provide grant-in-aid to fund such exercise of powers or performance of function when

(i) such powers or such functions fall within services which would otherwise broadly be provided by other organs of State to the targeted segment of the population, and

(ii) the Cultural Council concerned complies with the laws regulating the accountability and management of public funds.

(8) Councils may take suitable actions to aid ethnic, religious and linguistic formations to exercise their rights to enjoy and promote culture, profess and practice their chosen religion, use and promote their language and establish associations instrumental for the maintenance and promotion of such rights and interests.

Consumer Protection Commission

69.

(1) A Consumer Protection Commission shall be established by a law of the Province.

(2) This Commission shall consist of not more than three professionally qualified members appointed by the

House of Representatives together with such temporary members as the House of Representatives may deem necessary.

(3) The Commission shall

- (a) investigate any matters related to the protection of consumers;
- (b) have the power to advise on the requirements for product labeling, including product information and warnings; and
- (c) prepare an annual report on the status of consumer protection expressing any appropriate recommendations;
- (d) give effect to, and promote the implementation of, section 8 of this Constitution; and
- (e) upon a petition of an adversely affected party, declare that one or more provisions of a contract between consumers and a private or public product or service provider is null and void when
 - (a) such provision is unfair, overreaching or unnecessarily burdensome,
 - (b) a consumer is expected to adhere to such a contract without an armlength opportunity of negotiating its terms, and
 - (c) on request of the product or service provider concerned or of its own accord the Commission has not reviewed and approved the contract concern in its specimen, provided that this paragraph shall apply also in respect of provisions which the Commission deems ought to be contained in such contract to ensure its consumer fairness but are missing.

(4) The Commission may:

- (a) propose legislation designed to protect consumers; and
- (b) provide testimony to either House of the Legislature and municipalities.

Auditor-General**70.**

(1) A law of the Province shall establish the office of the provincial Auditor-General.

(2) The Auditor-General shall, *inter alia*, audit the accounts of the Province and monitor other relevant financial activities of municipalities and other bodies created by this Constitution or by any law of the Province and report to the Legislature.

(3) All administrative actions involving financial expenditure shall be subject to preliminary financial control by the Auditor-General or his lawful agents.

(4) The provincial Auditor-General shall assist, cooperate with, and provide audited accounts for the national Auditor General, with regard to the allocation of funds derived from the national treasury.

(5) The law of the Province shall ensure the independence and impartiality of the provincial Auditor-General.

Privatisation commission and Black Economic Empowerment**71.**

(1) A law of the Province shall establish an independent Privatisation Commission. The Commission, acting in the public interest, and on a regular basis, shall investigate all functions and services provided by the Province or municipalities in the Province with a view to recommending, when it is in the public interest, the transfer to the private sector of enterprises, which are under the control of the Province or municipalities.

(2) The Commission shall include in its recommendation ways and means to ensure that the privatisation process promotes genuine broad-based Black economic empowerment in a manner which broadens the economic basis, stimulates economic growth and does not burden economic efficiency and viability.

Land Commission**72 .**

(1) A Land Commission shall be established by a provincial law while the need exists to deal with any conflict and policy arising out of the ownership, usage and occupation of land.

(2) The Land Commission may, in order to address land claims arising out of past wrongful expropriation and racial discrimination, order the expropriation of private land, with the exception of land on which there are substantial utilised structural improvements.

(3) A law of the Province shall determine the grounds, the procedure, the prescription, and the cut-off date which applies to any land claim in the Province and other matters related to land affairs in the Province.

Regulatory Relief Commission

73.

(1) A Regulatory Relief Commission shall be created by a law of the Province.

(2) The Commission shall consist of not more than three professionally qualified members, appointed by the House of Representatives together with such temporary members as the House of Representatives may deem necessary.

(3) The Commission shall have the power to request the repeal or amendment of burdensome, unnecessary or inadequate regulations or requirements of any type, adopted by any organ of State or other entities under the control of the Province.

(4) The Commission may prepare reports on regulatory matters, expressing recommendations, and provide testimony to either House of the Legislature and municipalities.

Race Relations Board

74.

(1) The Race Relations Board shall be appointed by the Cabinet, subject to confirmation by two thirds of the members of Assembly.

(2) The Board shall consist of no more than fifteen members drawn from a broad cross section of the communities of the Province.

(3) The board shall

(a) propose legislation to the Legislature to foster sound race relations in the Province to prevent and redress wrongful discrimination and lack of racial harmony and mutual respect and understanding;

(b) adopt regulations implementing existing legislation so as to foster sound race relations in the Province and to prevent and redress wrongful discrimination and a lack of racial harmony and mutual respect and understanding;

(c) investigate complaints of wrongful discrimination on any grounds referred to in section 9 of Chapter 2 of the Constitution of the Republic of South Africa;

(d) administer those sanctions and remedies determined by the law of the Province, including, *inter alia*, specific performance and preliminary remedies against the public administration and relevant private persons;

(e) monitor administrative activities and policies of the Province in order to foster sound race relations in the Province and prevent and redress wrongful discrimination and a lack of racial harmony and mutual respect and understanding; and

(f) exercise other powers and functions conferred on it by the law of the Province.

Public Protectors

75.

(1) There shall be two Public Protectors, one with general jurisdiction and one with specific jurisdiction relating to traditional communities.

(2) The Public Protectors shall be appointed for a non-renewable six-year term by both Houses of the

Legislature. The Public Protectors with jurisdiction over traditional communities shall be appointed on the recommendation of the House of Traditional Leaders.

(3) The Public Protector with general jurisdiction shall be a judge, an attorney or an advocate with at least ten years legal experience.

(4) The Public Protector for traditional communities shall be an expert in traditional and customary law.

(5) The Public Protectors shall be independent and subject only to this Constitution and to the law of the Province.

(6) The office of the Public Protector shall draft and propose its own budget to the Assembly.

(7) The Public Protectors shall:

(a) investigate complaints concerning *inter alia*

(i) violations of rights and freedoms,

(ii) abuse of power or its misuse for political purposes,

(iii) corruption and misappropriation of public monies, and

(iv) unfair, harsh, insensitive or discourteous treatment of anyone in the Province by a public official, including members of the police, defense force and prison personnel; and manifest injustice, or conduct of a public official which appears to be unlawful, oppressive or unfair;

(b) have the power to take appropriate action to call for the remedying, correction and reversal of injustices and violations of laws and regulations through fair, proper and effective means;

(c) have the power to compel the appearance of witnesses and the production of documents and records relevant to any investigation; and

(d) submit annual reports to Parliament on the exercise of their respective powers and functions.

(6) The Public Protector for traditional communities shall

(a) accord special regard to the observance of traditional and customary law;

(b) have the power, when required, to recommend that action against traditional leaders be adopted by the House of Traditional leaders; and

(c) have power to convene a traditional council in a traditional community.

(7) A Public Protector may be removed from office before the end of his or her term in the following circumstances:

(a) by the Premier acting on the recommendation of the House of Representatives, or

(b) at the request of the House of Traditional Leaders in the case of the Public Protector for traditional communities; and

(c) only on the grounds of mental incapacity or for gross misconduct after the House of Representatives has conducted an investigation and has reported to the Premier.

Office of Commissioner for Children

76. A Commissioner for Children shall be established to coordinate and promote the policies of the Province aimed at ensuring that the children are protected against all forms of unfair discrimination, abuse and exploitation, including policies for

(a) the development and education of children;

(b) the protection of family life;

(c) the safety, shelter and health care of children;

(d) the preservation of the identity of children;

(e) combating child abuse and the illicit transfer of and trade in children; and

(f) any other measures designed to ensure that the best interests of the child are of primary concern in all matters relating to the neglect or other forms of injustice involving children.

Office of Commissioner for Disabled

77. A Commissioner for the Disabled shall be established to coordinate and promote the policies of the Province aimed at ensuring that residents who are physically or mentally disabled or challenged may be protected against all forms of unfair discrimination, abuse, exploitation and exclusion and may find a fair and suitable placement, accommodation and need-responsiveness in workplaces and communities.

Other executive structures

78. Independent regulatory bodies, accountable to the Legislature, may be established by the law of the Province.

Women

79. The Province shall adopt appropriate measures to ensure the equality of women and men, provided that until such time when the social and economic status of women in the Province has significantly improved, the law of the Province shall recognise special facilitation for women in all measures aimed at promoting equal access to political, social and economic affairs.

Public Property

80.

(1) Public property shall be held by the Province and municipalities only in the public interest and for the exercise of governmental functions.

(2) In case and circumstances to be determined by the law of the Province, immovable property acquired by the Province or municipalities also through expropriation shall be privatised and when applicable returned to its original owner or successor in interest if it is not timeously used for the public purpose for which it was acquired.

CHAPTER 6 - GENERAL PROVISIONS

Miscellaneous, transitional and final provisions

81.

(1) This section applies to the transition to the new constitutional order in KwaZulu Natal established by this Constitution, and to matters incidental thereto.

(2) The ownership of public property or assets shall follow the allocation of the powers and competencies to which they pertain or relate to. The Province shall secure the transfer of such property as and when it is entitled thereto.

(3) The provincial legislature, as the duly constituted legislature at the time of the commencement of this Constitution, shall continue to operate until 30 April 2009 as the Assembly, or until dissolved in terms of this Constitution, whichever occurs first.

(4) The first meeting of the Assembly, after commencement of this Constitution, shall be convened within thirty days from such commencement by the Speaker who was serving prior to such commencement.

(5) All those serving in any official capacity at the time of the commencement of this Constitution shall in terms of it, continue to hold their offices and be deemed to have been appointed, selected, elected, or nominated, as the case may be, to the corresponding offices of this Constitution.

(6) The rules and orders of the provincial legislature that were in force immediately before the commencement of this Constitution, shall so continue as the rules and orders of the Assembly until amended or replaced in terms of this Constitution, to the extent that they can *mutatis mutandis* be applied in respect of the business and proceedings of the Legislature under this Constitution.

(7) All laws of the Province in force and effect prior to the commencement of this Constitution shall remain in force and effect, subject to this Constitution.

(8) Until such time as the House of Representatives is constituted, its functions shall be exercised by the Assembly. The House of Representatives shall be constituted within four months of the coming into force of this Constitution.

(9) A person who continues in office in terms of this section and who has taken the oath of office or has made a solemn affirmation under the Constitution of the Republic of South Africa, is not obliged to repeat the oath of office or solemn affirmation under this Constitution.

(10) The Assembly may, until an Act of Parliament is enacted in terms of section 65(2) of the Constitution of the Republic of South Africa, provide in its rules and orders for the conferral of authority on its delegation to the National Council of Provinces to deliberate, act and cast vote on its behalf in the National Council of Provinces.

(11) Anyone who is the Premier at the commencement of this Constitution, continues in and holds office in terms of this Constitution as the Premier.

(12) Anyone who is a member of the Cabinet when this Constitution becomes law, continues and holds office in terms of this Constitution as a member of the Cabinet.

(13) Unless otherwise provided in this Constitution, where this Constitution requires the enactment of legislation or rules and orders of the Legislature, that legislation and those rules and orders shall be enacted or adopted, as the case may be, by the relevant authority within two years of this Constitution coming into force and effect.

Short title and commencement

82.

(1) This Act is called the Constitution of KwaZulu Natal, 2005, and shall come into force and effect on a date determined by the Premier serving prior to the commencement of this Constitution by proclamation in the *Official Gazette* of the Province. This date shall be determined once the applicable requirements for the coming into force and effect of this Constitution or portions thereof have been satisfied.

(2) The Premier serving prior to the commencement of this Constitution may determine different dates in respect of the taking effect of different provisions of this Constitution.

SCHEDULE 1

SYMBOLS OF THE PROVINCE

Part A

Coat of Arms

The Coat of Arms of the Province shall be the one approved by the Assembly on September 2, 2004.

Part B

Flag

The flag of KwaZulu Natal shall have be a rectangle with its right field covering of two of thirds its space, and consisting of five horizontal bands of equal size with the following colours from the top to the bottom: white, black, green, yellow and white, and with the intrusion of the point of a triangle connecting the two left sides of the flag's rectangle to the flag's median point placed two-thirds of the length from its left side, such triangle covering also the flag's left field covering one third of its space and intruding into the other field as said above, and consisting of a triangle with three additional triangles inside it, with a white border, with the three said triangle being red, black and yellow ranging from the left side. In the said red triangle the following is accommodated: a half traditional Zulu shield connecting to a half mechanical yellow gear thought which green sugar is placed. The space of the left field not occupied by said triangle is white.

SCHEDULE 2

OATHS AND SOLEMN AFFIRMATIONS

(Sections 27, 50, 52, 56, 60, and 6

Oath or solemn affirmation of members of Legislature

1.(1) Members of the Legislature, before the Chief Justice or a judge designated by the Chief Justice, shall swear or affirm as follows:

I, A.B., swear/ solemnly affirm that I will be faithful to the Republic of South Africa and the Province of KwaZulu Natal and will obey, respect and uphold the national Constitution, the provincial Constitution and all other laws of the Republic, and I solemnly promise to perform my function as a member of the Provincial Legislature to the best of my ability.

(In the case of an oath: So help me God.)

(2) Persons filling a vacancy in the Legislature may swear or affirm in terms of sub-item (1) before the presiding officer of the Legislature.

Oath or solemn affirmation of Premier, Acting Premier and members of the Cabinet

2. The Premier or Acting Premier of the Province and each Member of the Cabinet, before the Chief Justice or a judge designated by the Chief Justice, shall swear or affirm as follows:

I, A.B., swear/ solemnly affirm that I will be faithful to the Republic of South Africa and the Province of KwaZulu Natal and will obey, respect and uphold the national Constitution, the provincial Constitution and all other laws of the Republic, and I undertake to hold my office as Premier/ Acting Premier/ Member of the Cabinet of KwaZulu Natal with honour and dignity, to be a true and faithful counselor; not to divulge directly or indirectly any secret matter entrusted to me; and to perform the function of my office conscientiously and to the best of my ability.

(In the case of an oath: So help me God.)

Oath or solemn affirmation of Monarch or Regent

3. The Monarch or a Regent, before the Chief Justice or a judge designated by the Chief Justice, shall swear or affirm as follows:

I, A.B., swear/ solemnly affirm that I will be faithful to the Republic of South Africa and the Province of KwaZulu Natal and will obey, respect and uphold the national Constitution, the provincial Constitution and all other laws of the Republic, and I undertake and solemnly promise to hold my office as the Monarch/ Regent of the Monarch

of KwaZulu Natal with honour and dignity, to recognise the unique and diverse heritage and culture of the people of KwaZulu Natal, to strive to represent a symbol of unity to the people of KwaZulu Natal, to promote peace, stability and nation-building; not to participate in any way in party political activities; not to divulge directly or indirectly any secret matter entrusted to me; and to perform the role and function of my office conscientiously and to the best of my ability.

(In the case of an oath: So *help* me God.)

SCHEDULE 3

ELECTION PROCEDURES

(Section 32 and 49)

Application

1. The procedures set out in this Schedule apply whenever the Assembly meets to elect the Premier of KwaZulu Natal, the Speaker (or Deputy Speaker) of the Provincial Legislature.

Nomination

2. The person presiding at a meeting to which this Schedule applies shall call for the nomination of candidates at the meeting.

Formal requirements

3.

(1) A nomination shall be made on the form prescribed by the rules contemplated in item 9.

(2) The form on which a nomination is made shall be signed by two members of the Assembly, if the Premier of the Province or the Speaker (or Deputy Speaker) of the Provincial Legislature is to be elected.

(3) A person who is nominated shall indicate acceptance of the nomination by signing the nomination form or any other form of written confirmation.

Announcement of names of candidates

4. At a meeting to which this Schedule applies, the person presiding shall announce the names of the persons who have been nominated as candidates, but may not permit any debate.

Single candidate

5. If only one candidate is nominated, the person presiding shall declare the candidate elected.

Election procedure

6. If more than one candidate is nominated

- (a) a vote shall be taken at the meeting by secret ballot;
- (b) each member present at the meeting may cast one vote; and
- (c) the person presiding shall declare elected the candidate who receives a majority of the votes.

Elimination procedure

7.

(1) If no candidate received a majority of the votes, the candidate who receives the lowest number of votes shall be eliminated and a further vote taken on the remaining candidates in accordance with item 6. This procedure shall be repeated until a candidate receives a majority of the votes.

(2) When applying sub-item (i), if two or more candidates each have the lowest number of votes, a separate vote shall be taken on those candidates, and repeated as often as may be necessary to determine which candidates are to be eliminated.

Further meetings

8.

(1) If only two candidates are nominated, or if only two candidates remain after an elimination has been applied, and those two candidates receive the same number of votes, a further meeting shall be held within seven days, at a time determined by the person presiding.

(2) If a further meeting is held in terms of sub-item (1), the procedure prescribed in this Schedule shall be applied at that meeting as if it were the first meeting for the election in question.

Rules

9.

(1) The Chief Justice shall make rules prescribing

(a) the procedure for meetings to which this Schedule applies;

(b) the duties of any person presiding at a meeting, and of any person assisting the person presiding;

(c) the form on which nominations shall be submitted; and

(d) the manner in which voting is to be conducted.

(2) These rules shall be made known in the way that the Chief Justice determines.

MEMORANDUM

This draft Constitution is introduced in terms of the resolution adopted by the House in respect of constitution making on December 3, 2004.

Inter alia, the draft Constitution has the following features:

1. It incorporates the provisions of the KwaZulu Natal Constitution unanimously adopted by the Parliament of KwaZulu Natal on March 15, 1996 which were not affected by the Constitutional Court judgment relating to the certification of such provincial Constitution, including, but not limited to:

- Fundamental principles,
- House of Traditional Leaders,
- Land Commission,
- Consumer Protection Commission,
- Cultural Councils,
- Regulatory Relief Commission,
- Bill of Rights provisions expanding on the Bill of Rights of the national Constitution in respect of matters falling within the functional areas of a province,
- Office of the Commissioner for Children,
- Privatisation Commission,
- Race Relation Board,
- Provision for women,
- Referendum, and
- Social duties and obligations

2. It incorporates the entire draft Constitution introduced by the Premier where its provisions are not inconsistent with the features and policy choices set out herein.

3. It contains additional provision of the Bill of Rights in respect of matters falling within the functional areas of a

province, thereby creating a special entitlement to provincial services, promoting economic growth and the protection of people as consumers, subjects of government and members of cultural formations.

4. It is drafted with a structure based on the four areas in which a provincial constitution may make provisions which differ from those set out in the national constitution, namely: legislative structures, legislative procedures, executive structures and executive procedures.

5 Except as per the four areas referred to under 4 above, it deals only with matters in respect of which the Province is competent to legislate through ordinary legislation.

6. It establishes a legislature consisting of two chambers, one of which appointed *inter alia* by municipal councils, traditional leaders, universities, art and cultural groups trade unions, and other and interests groups.

7. It places the ordinary seat of one House of Parliament in Ulundi, the second in Pietermaritzburg and of Cabinet in Durban.

8. It increases and fully implements the notion of separation of powers between the executive and the legislature.

9. It establishes the centrality of the legislature, *inter alia* by:

- providing for the unfettered and equal power to present private members bills for each member of the Legislature without exclusion in respect of money bills,
- the prohibition for government to introduce legislation through a Minister requiring it to do it though a member of the Legislature who could be the Minister,
- the elimination of the notion of money Bills, and
- eliminating the three year moratorium for the exercise of a vote of no confidence.

10. It prohibits elected members of the Legislature to cross the floor.

11. Because of the composition of the House of Representatives, the power of initiating legislation (Bills) or

other parliamentary activities (resolutions, investigations, et cetera) is effectively given to entities other than the government, for instance the House of Traditional Leaders, municipalities, universities, trade unions and newly created entities such as the Consumer Protection Commission, Cultural Councils and the Regulatory Relief Commission.

12. It makes provision for parliamentary investigation, possibly requested by a qualified minority and supported by a special counsel and funded by the Province, and parliamentary commissions of enquiry.

13. It reshapes Cabinet, by:

- increasing its minimum and maximum number of Members,
- moving the vesting of the executive power from the Premier to the Cabinet as a collegial body,
- allowing one member who is not a member of the Legislature, and
- making provision for Deputy Ministers.

14. It provides for cooperative governance within the province as one of the "specific measures" referred to in section 41 of the Constitution, thereby promoting the cooperation between traditional leaders and municipalities on an equitable footing.

15. Through its Bill of Rights and the Privatisation Commission, it deals with and promotes Black Economic Empowerment while requiring it to be the true empowerment of many rather than the mere enrichment of a few.

16. It provides for the Coat of Arms, a flag and other symbols of the Province.

17. It provides for provincial honours to be decided by Cabinet and delivered by the King.

18. It calls for a provincial rather than a nationally imposed Code of Conduct.

19. It expands and improves upon the Constitutional Bill introduced by the Premier in respect of the section on the Monarchy drawing provisions and notions from the 1996 KwaZulu Natal Constitution.

20. It makes provision for the Traditional Prime Minister of the Zulu Nation.

21 It makes provision for a commissioner for the disabled.