

COMMENTS BY THE LAW SOCIETY OF SOUTH AFRICA (LSSA)
ON THE TRADITIONAL COURTS BILL (B1-2012)

The following comments flow from a review of the Traditional Courts Bill (B1-2012) and the Explanatory Summary of the Bill published in Government Gazette 34850 on 13 December 2011 for public comment.

The comments are intended as preliminary comments on the Bill, rather than a substantive discussion.

1. Section 4(5) as read with Section 21(1)(b): Training of traditional leaders

Careful consideration should be given to the training model, as experience has shown that teaching by way of manual, delivering a lecture and evaluation by way of question and answer is not always appropriate. It is suggested that case studies of real life situations which traditional leaders will have to deal with be incorporated.

2. Section 23(1)(b)(i): Transitional provisions and repeal of laws

We suggest that the number of the Act (Act No 13 of 1982) be inserted.

3. Section 23(2): Transitional provisions and repeal of laws

The provisions of this Section are vague and require concise definition.

4. Provision for respondent / accused to be brought to Court

No provision is made for a procedure to bring a respondent or accused to Court and we suggest that consideration should be given to this aspect.

5. Keeping of records

We note that no provision is made for the keeping of mechanical record of proceedings. We believe that this will make appeal and review proceedings before the Magistrate's Court difficult. An appropriate amendment should therefore be made.