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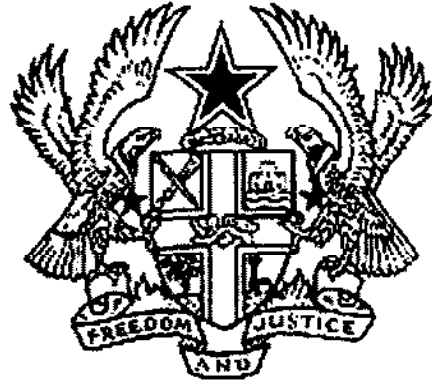
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Act 759



THE SEVEN HUNDRED AND FIFTY-NINTH

ACT

**OF THE PARLIAMENT OF THE REPUBLIC
OF GHANA
ENTITLED**

CHIEFTAINCY ACT, 2008

AN ACT to revise and consolidate the Chieftaincy Act, 1971 (Act 370) to bring its provisions in conformity with the Constitution and to provide for related matters.

DATE OF ASSENT: *16th June, 2008.*

ENACTED by the President and Parliament:

National House of Chiefs

National House of Chiefs

1. (1) In accordance with article 271 of the Constitution, the National House of Chiefs consists of five paramount chiefs from each region elected by the Regional House of each region.

(2) Where there are fewer than five paramount chiefs in a region, the House of Chiefs of the region shall elect the number of divisional chiefs as shall make up the required representation of chiefs for the region.

(3) The National House shall have a President who shall be the head of the National House.

(4) The President of the National House shall be elected by the members of the National House from among their number.

- (5) The National House shall have a Vice-President who shall
- (a) be elected by the members of the National House from among their number;
 - (b) act as the head of the House in the absence of the President; and
 - (c) perform the functions of the President in the absence of the President.

Election of members of National House of Chiefs

2. (1) The Electoral Commission shall supervise the election of the President, Vice-President and other members of the National House and the Chairman of the Electoral Commission or a public officer nominated by the Chairman in writing shall be the returning officer for the election.

(2) A person elected President, Vice-President or a member of the National House shall hold office for four years and is on the expiration of the term of office eligible for re-election except that a person shall not hold office as President or Vice-President for more than two terms in succession.

(3) A person is not qualify to be President or Vice-President of the National House of Chiefs if that person

- (a) has been convicted for high treason, treason, high crime or for an offence involving the security of the State, fraud, dishonesty or moral turpitude, or;
- (b) is adjudged to be a person of unsound mind, or;
- (c) having been declared insolvent or bankrupt under a law in force in the Republic or in any other country, is an undischarged insolvent or bankrupt, or
- (d) having professional qualification, is disqualified from practising the profession by the order of a competent authority of that profession not made at the request of that person.

(4) Where a vacancy occurs in the office of the President, Vice-President or a member of the National House, the Registrar of the National House shall notify the Electoral Commission in writing of the occurrence of the vacancy within fourteen days of the occurrence.

(5) The Registrar of the National House shall by notice published in the Chieftaincy Bulletin

- (a) convene a meeting of the National House, where the vacancy is in respect of the President or Vice-President within thirty days after the publication for the election of a President or

Vice-President and shall invite the Electoral Commission to supervise the election; or

- (b) notify the Registrar of the relevant Regional House to convene a meeting of the Regional House to elect a representative to fill the vacancy under the supervision of the Electoral Commission, where the vacancy is in respect of any other member of the National House within thirty days after the publication.

Functions of the National House of Chiefs

3. (1) The National House shall

- (a) advise a person or an authority charged with a responsibility under the Constitution or any other law for any matter related to or affecting chieftaincy,
- (b) undertake the progressive study, interpretation and codification of the customary law with a view to evolving, in appropriate cases, a unified system of rules of customary law, and compiling the customary laws and lines of succession applicable to each stool or skin,
- (c) undertake an evaluation of traditional custom and usage with a view to eliminating custom and usage that is outmoded and socially harmful, and
- (d) perform the functions conferred on it under this Act and other functions, not inconsistent with a function assigned to the House of Chiefs of a region, that Parliament may refer to it.

(2) Subject to this Act, the National House may establish committees, comprising persons that it may determine to assist in the performance of its functions and may delegate to the committee any of its functions determined by it.

(3) Standing Orders made under section 4 may regulate the composition, tenure of office and procedure of the committees and may also make other provision in relation to the committees.

Standing Orders of the National House of Chiefs

4. The National House may make Standing Orders for the regulation and orderly conduct of its business.

Meetings of the National House of Chiefs

5. (1) The National House shall meet at least twice in a year for the despatch of its business at the times and in the places determined by the National House.

(2) The Registrar of the National House shall convene an extraordinary meeting of the National House at the request in writing by the President of the House or by not less than one-half of the total number of members of the National House.

(3) Business except an adjournment shall not be transacted at a meeting if there are less than one-half of the total number of members of the House present at the meeting.

(4) The President of the National House shall preside at meetings of the House and in the absence of the President, the Vice-President, shall preside and in the absence of both the President and the Vice-President, a member of the National House elected by the members from among their number shall preside.

(5) A question arising for decision by the National House shall be determined by the votes of the majority of the members present and voting, and in the event of equality of votes the President or other person presiding at that meeting shall have a casting vote, except that Standing Orders of the National House may provide for the participation in the proceedings of the House by a member through a representative including the casting of votes by proxy or by any other means of representation permitted by customary law.

(6) The proceedings at a meeting of the National House shall not be invalidated by reason of a vacancy in the office of the President or Vice-President or in the membership of the National House or by a defect in the appointment, election, or qualification of a person holding office.

Regional Houses of Chiefs

Regional Houses of Chiefs

6. (1) In accordance with article 274 of the Constitution, the Regional House of Chiefs consists of members specified by legislative instrument made by the National House of Chiefs and issued under the signature of the President of the National House of Chiefs.

(2) Where the seat of a member of a Regional House becomes vacant and a successor is required by an instrument made under subsection (1)

to be drawn from a specified group of chiefs,

- (a) the Registrar of the Regional House shall notify the Electoral Commission in writing of the occurrence of the vacancy within fourteen days of the occurrence,
- (b) a meeting of the group shall be convened by the Electoral Commission by a notice published in the *Chieftaincy Bulletin* and the mass media,
- (c) subject to subsection (3), the meeting shall proceed to elect a new member, who shall be taken to be elected if the person obtains a simple majority of the votes cast, and
- (d) the Electoral Commission shall publish in the *Chieftaincy Bulletin* notice of the result of the election signed by the Chairman of the Electoral Commission or any other public officer authorised by the Chairman of the Electoral Commission in writing.

(3) An election shall not be held under subsection (2) if less than one-half of the chiefs in the group are present, and where

- (a) an insufficient number of chiefs is present, or
- (b) no chief obtains a majority of votes cast,

the new member shall be nominated by the Regional House of Chiefs from among the chiefs in the group to which the election relates.

(4) A new member elected or nominated under subsection (2) or (3) shall hold office for the unexpired term of the vacating member and is eligible for re-election or re-nomination.

President and Vice-President of Regional House of Chiefs

7. (1) Each Regional House shall have a President who shall

- (a) be the head of that House,
- (b) in the case of the Ashanti Regional House, be the Asantehene, and
- (c) in case of other houses, be a chief elected by the members of the Regional House of Chiefs from among their number.

(2) Each Regional House shall have a Vice-President who shall,

- (a) in the case of the Ashanti Regional House, be the Mamponghene, and
- (b) in case of other houses, be a chief elected by the members of the Regional House from among their number.

(3) Eligibility for office of President or Vice-President of a Regional House under subsection (1)(c) and (2)(b) shall be regulated by the Standing

Orders of the relevant Regional House, having regard to the principles of the traditional hierarchy of the region.

(4) The Vice-President shall act as President in the absence of the President of the relevant Regional House.

(5) A President or Vice-President of a Regional House other than the President and Vice-President of the Ashanti Regional House shall hold office for four years and is on the expiry of that period eligible for re-election except that a person shall not hold office as a President or Vice-President of a Regional House of Chiefs other than the Ashanti Regional House for more than two terms in succession.

Election of President and Vice-President of Regional Houses of Chiefs

8. (1) Except in the case of the Ashanti Regional House, where the office of the President or Vice-President of a Regional House becomes vacant,

- (a) the Registrar of the Regional House shall notify the Electoral Commission in writing of the occurrence of the vacancy within fourteen days of the occurrence,
- (b) a meeting of the Regional House shall be convened by the Registrar of the Regional House by notice published in the *Chieftaincy Bulletin*,
- (c) subject to subsection (3) of section 11 of this Act, the meeting shall proceed to elect, under the supervision of the Electoral Commission by secret ballot, the President and Vice-President, who shall be taken as elected on obtaining a simple majority of the votes cast.

(2) The Electoral Commission shall publish the result of the election in the *Chieftaincy Bulletin* giving the total number of votes cast and the number cast in favour of the successful candidates.

(3) The failure to publish the results of the elections as specified under subsection (2) shall not invalidate the elections.

Functions and committees of Regional Houses of Chiefs

9. (1) The authority of a Regional House applies within its region.

(2) Each Regional House shall,

- (a) advise a person or an authority charged under the Constitution or any other law with responsibility for a matter relating to or affecting chieftaincy in the region,

- (b) undertake a study and make general recommendations that are appropriate for the resolution or expeditious disposition of chieftaincy disputes in the region,
- (c) undertake the compilation of the customary laws and lines of succession applicable to each stool or skin in the region, and
- (d) perform other functions conferred on it by this Act or by any other enactment.

(3) Where a matter is referred to a Regional House by the President, Parliament, or an authority in respect of a matter relating to chieftaincy, the Regional House shall give consideration to the matter and report on it as required.

(4) Subject to this Act, a Regional House may appoint committees comprising the persons determined by it to assist in the performance of its functions, and may delegate to any of the committees the functions it thinks fit.

Regional House of Chiefs to make Standing Orders

10. Each Regional House may make Standing Orders for

- (a) the composition, tenure of office and procedures of committees appointed under subsection (4),
- (b) other provisions in respect of the committees, and
- (c) the regulation and orderly conduct of its business.

Meetings of Regional Houses of Chiefs

11. (1) A Regional House shall meet at least twice in a year for the despatch of business at times and in the places determined by the House.

(2) The Registrar of a Regional House shall at the request in writing of the President of that Regional House signed by the President or at the request of not less than one-half of the total number of members of that Regional House convene an extraordinary meeting of the House.

(3) Business except an adjournment shall not be transacted at a meeting if there are less than one-half of the total number of members of that House present at the meeting.

(4) The President of a Regional House shall, preside at meetings of the Regional House and in the absence of the President, the Vice-President shall preside and in the absence of both the President and the Vice-President, a member of the Regional House elected by the members from among their number shall preside.

(5) A question for decision by a Regional House shall be determined by the votes of the majority of members present and voting and in the event of equality of votes, the President or person presiding at that meeting shall have a second vote except that Standing Orders of a Regional House may provide for participation in the proceedings of the House by a member through a representative including the casting of votes by proxy or any other means of representation permitted by customary law.

(6) The validity of the proceedings at a meeting of a Regional House shall not be invalidated by reason of a vacancy in the office of the President or Vice-President or in the membership of the House or by a defect in the appointment, election or qualification of a person holding office.

Traditional and Divisional Councils

Traditional Councils

12. (1) There shall be a Traditional Council in each traditional area.

(2) The name and members of each Traditional Council shall be stated in the National Register of Chiefs maintained under section 59 of this Act.

President of Traditional Councils

13. (1) The paramount chief of a traditional area or in the case of the Kumasi traditional area, the Asantehene, shall be the President of the Traditional Council.

(2) In any other case, the presidency shall be held by the paramount chiefs in the traditional area on a two yearly rotational basis in alphabetical order of stool or skin name.

Membership of Traditional Councils

14. (1) Subject to this section, a Traditional Council shall consist, in addition to the President, of the persons shown in the National Register of Chiefs as the members of the Traditional Council.

(2) As soon as practicable after a change occurs in the membership of a Traditional Council, the Council shall notify the Regional House which shall in turn notify the National House and, subject to subsection (3), the National House shall cause the Register to be altered accordingly.

(3) Where the National House is satisfied after consultation with the appropriate Regional House that a chief shall, or shall not, be a member of a Traditional Council, the National House shall amend the Register accordingly.

Meetings of Traditional Councils

15. (1) Meetings of a Traditional Council shall be held at the times and in the places determined by the President of the Council but shall meet of least twice in a year.

(2) The President of a Traditional Council shall convene an extraordinary meeting of the Council at the request of not less than one-half of the members of the Council.

(3) The President of a Traditional Council shall preside at meetings of the Council and where the President is unable to attend a meeting, the chief next to the President in seniority on the Council shall preside at the meeting.

(4) Business except an adjournment shall not be transacted if less than one-half of the total number of members is present.

(5) A Judicial Committee of a Tradition Council may be assisted by a lawyer appointed by the Committee.

Division

16. A Division is an area which is specified in the National Register of Chiefs as a Division.

Divisional Councils

17. (1) There may be established in each traditional area the Divisional Councils that the relevant Regional House may determine.

(2) The name and members of a Divisional Council shall be recorded in the Register of Chiefs on the advice of the relevant Regional House of Chiefs.

Membership of Divisional Councils

18. (1) A Divisional Council shall consist of the persons whose names appear in the National Register of Chiefs as the members of the Divisional Council.

(2) As soon as practicable after a change occurs in the membership of a Divisional Council, the Council shall notify the Traditional Council of the Divisional Council and the Traditional Council shall inform the National House of Chiefs.

(3) Where the National House of Chiefs is satisfied after consultation with the appropriate Traditional Council that a chief shall or shall not be a member of the Divisional Council, the National House of Chiefs shall amend the Register accordingly.

Presidency of Divisional Councils

19. The presidency of a Divisional Council shall be held by the most senior chief and in that person's absence by the next most senior chief.

Meetings of Divisional Councils

20. (1) Meetings of a Divisional Council shall be held at the times and places determined by the President of the Divisional Council or as demanded by not less than one-half of the members of the Council.

(2) The President of a Divisional Council shall preside at meetings of the Council and where the President is unable to attend a meeting, a member of the Council elected by the members from among their number shall preside.

(3) Business except an adjournment shall not be transacted at a meeting if less than one-half of the total number of members are present.

Functions of Divisional Councils

21. (1) The National House may, acting in consultation with the Traditional Council concerned or where there is no Traditional Council for the area, acting in consultation with the Regional House, assign functions to a Divisional Council with respect to a cause or matter affecting chieftaincy.

(2) Where the function of hearing and determining a cause or matter affecting chieftaincy has been conferred on a Divisional Council under subsection (1) the provisions of this Act relating to the exercise by a Traditional Council of that function shall, with the necessary modifications, apply to the Divisional Council as they apply to a Traditional Council.

*Chieftaincy matters, jurisdiction and
Judicial Committees*

Original jurisdiction of the National House of Chiefs

22. The National House of Chiefs has original jurisdiction in a cause or matter affecting chieftaincy,

- (a) which lies within the competence of two or more Regional Houses,
- (b) which is not properly within the jurisdiction of a Regional House, or
- (c) which cannot be dealt with by a Regional House.

Appellate jurisdiction of the National House of Chiefs

23. (1) The National House has appellate jurisdiction in a cause or matter affecting chieftaincy which has been determined by a Regional House.

(2) Upon an appeal, the National House may confirm, reverse or vary the decision appealed against or remit the matter or a part of that matter for reconsideration by the Regional House from whose decision the appeal is brought, subject to the conditions or directions that the National House may consider necessary.

Appeals to the Supreme Court

24. An appeal against a decision of the National House in the exercise of its

- (a) original jurisdiction lies to the Supreme Court, and
- (b) appellate jurisdiction, lies to the Supreme Court with leave of the National House or of the Supreme Court.

Judicial Committee of the National House of Chiefs

25. (1) There shall be a Judicial Committee of the National House which shall exercise the original and appellate jurisdiction conferred on the National House under this Act.

- (2) The Judicial Committee shall in the exercise of
 - (a) the original jurisdiction of the National House comprise three members, and
 - (b) the appellate jurisdiction of the National House comprise five members

of the National House appointed by the members of the National House.

(3) A member of the Judicial Committee of the National House shall be removed from office by the votes of not less than two-thirds of the members of the National House on grounds of

- (a) proven misbehaviour; or
- (b) infirmity of mind or body where the infirmity of mind or body is proven by a government medical officer.

(4) A Judicial Committee of the National House shall be assisted by a lawyer of not less than ten years' standing appointed by the National House on the recommendation of the Attorney-General.

Original jurisdiction of Regional House of Chiefs

26. Subject to section 22 a Regional House has original jurisdiction in matters relating to a paramount stool or skin or the occupant of a paramount stool or skin including queenmothers to a paramount stool or skin.

Appellate jurisdiction of a Regional House of Chiefs

27. (1) A Regional House of Chiefs has jurisdiction to hear and determine

- (a) appeals from the Traditional Councils within the region in respect of the nomination, election, selection, installation and deposition of a person as a chief,
- (b) appeals against a judgement or an order given or made by a Traditional Council within its region on a cause or matter affecting chieftaincy.

(2) Upon an appeal, a Regional House may reverse or vary the decision appealed against or remit the matter or a part of that matter for reconsideration to the Traditional Council from which the appeal is brought subject to the conditions or directions that the Regional House may consider necessary.

Judicial Committee of a Regional Houses of Chiefs

28. (1) There shall be a Judicial Committee of each Regional House which shall exercise the original and appellate jurisdiction conferred on the Regional House under sections 26 and 27.

(2) The original and appellate jurisdiction of a Regional House shall be exercised by the Judicial Committee of the Regional House comprising three chiefs appointed by the Regional House from among its members.

(3) A member of a Judicial Committee of a Regional House may be removed from office on the ground of proven misbehaviour or infirmity of mind or body by the votes of not less than two-thirds of all the members of the Regional House.

(4) A Judicial Committee appointed under this section shall be assisted by a lawyer of not less than five years standing appointed by the Regional House on the recommendation of the Attorney-General.

Jurisdiction of Traditional Councils

29. (1) Subject to this Act, a Traditional Council has exclusive jurisdiction to hear and determine a cause or matter affecting chieftaincy which arises within its area, not being one to which the Asantehene or a paramount chief is a party.

(2) The jurisdiction of a Traditional Council shall be exercised by a Judicial Committee comprising three or five members appointed by the Council from their members.

(3) A person aggrieved by a judgment or an order given or made by a Traditional Council in a cause or matter affecting chieftaincy may appeal to the relevant Regional House as of right against the judgment or order.

(4) *An appeal to a Regional House against a judgment, decision or order of a Traditional Council shall be lodged within thirty days after the date of delivery of the judgment, decision or order appealed against, unless the Regional House extends the period for a further period not exceeding thirty days from the date of expiry of the period of appeal.*

Customary arbitration

30. The power of a chief to act as an arbitrator in customary arbitration in any dispute where the parties consent to the arbitration is *guaranteed*

*Proceedings in chieftaincy matters***Evidence before Judicial Committee**

31. (1) A Judicial Committee may receive in evidence any matter including hearsay which tends to prove or disprove a fact relevant to the subject matter before the Committee.

(2) A Judicial Committee shall not make a finding of fact or draw an inference solely on hearsay evidence.

(3) A Judicial Committee may do all or any of the following as may be done by a High Court in proceedings before the High Court

(a) make presumptions of law or fact,

(b) take cognisance of matters which are so notorious or so clearly established that evidence of their existence is not necessary, and

(c) draw inferences from facts already in evidence.

(4) A party to proceedings before a Judicial Committee may appear in person or by a lawyer and any other person required to appear may appear either in person or with leave of the Committee by a lawyer.

(5) A question as to the existence or content of a rule of customary law is a question of law for the Judicial Committee and not a question of fact.

(6) Where a Judicial Committee entertains a doubt as to the existence or content of a rule of customary law relevant in proceedings after considering the submissions that have been made by or on behalf of the

parties and after consulting the reported cases, textbooks and other sources that may be appropriate, the Judicial Committee shall adjourn the proceedings to enable an inquiry to take place.

(7) The inquiry shall be held as part of the proceedings in the manner that the Judicial Committee considers appropriate and the provisions of this Act relating to the attendance and testimony of witnesses shall apply for the purpose of tendering of opinions to the Judicial Committee at the inquiry, subject to the modifications that may appear to the Judicial Committee to be necessary except that

- (a) the decision as to the persons who are to be heard at the inquiry shall be the decision of the Judicial Committee, after hearing the submissions that may be made by or on behalf of the parties, and
- (b) the Judicial Committee may request any authority or body with knowledge of the customary law in question to state its opinion which may be laid before the inquiry in a written form.

Security for cost in proceedings before Judicial Committee

32. (1) A Judicial Committee may require the applicant in proceedings before it to give security for costs of the application.

(2) In each case determined by a Judicial Committee the costs awarded shall be at the discretion of the Committee.

(3) For the purpose of the recovery of costs, a certificate of the Committee setting out the particulars may be filed without payment of a fee in the High Court and when filed, the costs shall be accepted by the High Court as sufficient evidence of the facts certified and costs imposed under this section may be taxed as if imposed by the High Court.

General provisions relating to judicial proceedings before Houses of Chiefs

33. (1) An appeal to the National House against a judgment, decision or an order of a Regional House shall be lodged within thirty days after the date of delivery of the judgment, decision or order appealed against, unless the Regional House or National House extends the period for a further period not exceeding thirty days from the date of expiry of the period of appeal.

(2) The National House or a Regional House shall have, in relation to an appeal that comes before it, the powers of the Traditional Council from which the appeal is brought.

(3) In the exercise of its judicial power, the National House or a Regional House, shall have the powers, rights and privileges that are vested in the High Court Judge at a trial in respect of

(a) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise, and

(b) compelling the production of documents and the issue of a commission or request to examine witnesses abroad.

(4) Subject to this Act, the practice and procedure of the National House or a Regional House in the exercise of judicial functions shall be regulated by rules made in consultation with the respective House by the Rules of Court Committee.

(5) A member of a Judicial Committee appointed under this Act or the lawyer of a Judicial Committee is not liable to an action or suit in respect of a matter or thing done by the member or the lawyer in the performance of functions under this Act.

(6) A member of a Judicial Committee or a lawyer of the Committee is in relation to the exercise of a function under this Act a public officer for the purpose of the Criminal Offences Act, 1960 (Act 29).

(7) A person who does anything in relation to the exercise of the judicial functions of the National House or a Regional House which if done in relation to the High Court will constitute a contempt of that Court commits contempt of that House.

(8) Where it appears to a Judicial Committee that a person has committed contempt of the House of Chiefs, it shall certify that fact to the High Court which, if it is satisfied that the person has committed contempt, shall take steps for the punishment of the person in contempt or shall otherwise acquit that person.

(9) The functions of a lawyer appointed to assist a Judicial Committee is to advise the Committee on matters of law, including in particular, evidence, procedure and interpretation of documents and statutes.

Certain appeals to operate as stay of execution

34. (1) Subject to subsection (2), an appeal to the National House or to a Regional House against a final judgment or order operates as a stay of execution of the judgment or order appealed against and any other order made on it consequentially unless the appellate tribunal otherwise directs.

(2) Subject to section 62, an appeal does not operate as stay of execution.

Proceedings before a Traditional Council

35. (1) A Traditional Council shall, conduct its proceedings according to customary law, but for the purpose of compelling the attendance of parties and witnesses and the production of documents, a Traditional Council shall have the same powers as a District Court in civil matters.

(2) The provisions of this Act relating to proceedings and functions of a Judicial Committee of a Regional House of Chiefs shall, apply to proceedings and functions of a Judicial Committee of a Traditional Council with the modifications that are necessary.

(3) A Traditional Council may in respect of a chieftaincy cause or matter determined by it, make an award of a civil nature including an award of compensation to an injured person.

(4) A provision in this section does not authorise a Traditional Council to punish a person by imposing a fine or a term of imprisonment, and, in the case of stool property, an award shall not be made which would involve the delivery or disposal of property or the payment of money exceeding the equivalent of five thousand penalty units.

(5) A Traditional Council shall, within thirty days after deciding a cause or matter affecting chieftaincy, report its decision to the Regional House of Chiefs of the region.

Vacancies in Judicial Committees

36. (1) Except as provided in subsection (3), where a vacancy occurs in the membership of a Judicial Committee of the National House, a Regional House or a Traditional Council otherwise than as a result of the expiration of the term of office of its members, the appropriate House or Council may fill the vacancy.

(2) Where the proceedings of a Judicial Committee have not been completed before the filling of a vacancy, the Judicial Committee as re-constituted after the filling of the vacancy shall adopt the proceedings of the Judicial Committee as previously constituted in the cause or matter in question.

(3) Where at the time of the expiry of the term of office of members of the National House, a Regional House or a Traditional Council, there is pending before the Judicial Committee of the relevant House or Council of which they are members a part-heard appeal or a cause or

matter relating to chieftaincy, the members shall for the purpose of completing the hearing and determination of the appeal, cause or matter,

- (a) continue to hold office for a further period of not more than three months after their term of office has expired, and
- (b) where a matter still stands undetermined, the succeeding Judicial Committee may adopt the proceedings of the previous Judicial Committee and proceed with the matter.

Enforcement of judgment of Houses of Chiefs or Traditional Councils

37. (1) On an application made by a party to proceedings before a Judicial Committee of a House of Chiefs in whose favour a judgment or order was made by that Committee, that Committee shall forward a copy of the judgment or order to the High Court with a request for execution of the judgment or order.

(2) On the payment by the applicant of the prescribed fees, the High Court shall take steps and issue the process necessary for the execution of the judgment or order as it would take or issue if it were a judgment or order of the High Court.

(3) On an application made by a party to the proceedings before a Judicial Committee of a Traditional Council in whose favour a judgment or order was made by the Council, that Council shall forward a copy of the judgement or order of the Council in the proceedings to the District Court that has jurisdiction in the traditional area in question with a request for execution.

(4) On the payment by the applicant of the prescribed fees, the District Court shall take steps and issue process necessary for the purpose of the execution of the judgment or order as it would take or issue if it were a judgment or order of the District Court.

Protection of parties, counsel and witnesses

38. (1) A party, a lawyer or witness appearing before a Judicial Committee shall have the same protection in respect of statements made in the course of and for the purpose of the proceedings of the Committee that the party would have in the High Court.

(2) A witness before a Judicial Committee shall have the same privileges that the witness would have before the High Court.

Obstruction of proceedings

39. Subject to section 38, a person who, in proceedings before a Judicial Committee, without lawful excuse, proof of which lies on that person,

- (a) fails when required by the Committee to produce or deliver a document, answer a question or sign any document, or

(b) wilfully obstructs the proceedings of the Committee at any stage

commits an offence and is liable on summary conviction to a fine of not more than two hundred and fifty penalty units or a term of imprisonment of not more than twelve months or to both.

Right to bring proceedings for deposition

40. (1) A person is not entitled under this Act to institute proceedings for the deposition of a chief unless that person is entitled to do so under the custom of the area concerned.

(2) A Traditional Council shall not declare a chief liable to be deposed unless in accordance with subsection (3), the Judicial Committee of the Traditional Council has considered the charges against the chief and found the chief liable to be deposed.

(3) Except where deposition is accepted without challenge, and subject to an appeal, a chief is not deposed, unless

(a) *deposition charges have been instituted against the chief;*
and

(b) the appropriate customary practice for deposition in the area concerned have been complied with.

(4) Subsection (3) does not preclude a Traditional Council from imposing appropriate customary sanction on a divisional or subordinate chief of a Traditional area, or a member of the Traditional Council of the area.

Proceedings in chieftaincy matters to be recorded in writing

41. The proceedings of the National House, a Regional House and a Traditional Council in a cause or matter affecting chieftaincy shall be recorded in writing or in an accessible form.

Applications to two bodies

42. Where this Act requires an application to be made to one body or another, the application shall first be made to the lower body and if that body refuses the application the applicant may have the application determined by the higher body.

Supervisory jurisdiction of the High Court

43. Despite a provision of this Act, the High Court has supervisory jurisdiction over an adjudicating chieftaincy body established by or under this Act.

Stool Property

Stool property

44. Stool property consists of the following

- (a) the stool itself and all the insignia of that stool,
- (b) any other movable and immovable property handed over or declared as stool property to the chief on installation; and
- (c) any property movable or immovable acquired as stool property or with stool resources after the installation of the chief.

Alienation of stool property requires consent of Traditional Council

45. In addition to the consent and concurrence of the Lands Commission required by clauses (3) and (4) of article 267 of the Constitution, a transaction purporting to alienate or pledge stool property whether movable or immovable is voidable unless made or entered into with the consent of the Traditional Council concerned.

Prohibition upon execution

46. Stool property whether movable or immovable shall not be seized in execution at the suit of a person except with the written consent of the National House.

Recovery of stool property

47. Where a Judicial Committee makes an order for the delivery of stool property, a person who fails to comply with that order commits an offence and is liable on summary conviction to a fine of not more than two hundred and fifty penalty units or to a term of imprisonment of not more than twelve months or to both and also to a further fine of not more than ten penalty units for each day on which the offence continues.

Preservation of stool property affected by chieftaincy disputes

48. (1) A Regional House acting in accordance with the order of the Judicial Committee of that House may order the Registrar of the Regional House to take possession of stool property

- (a) where the stool property is affected by pending proceedings in respect of a cause or matter affecting chieftaincy,
- (b) where the Judicial Committee is satisfied on reasonable grounds that there is a pending dispute affecting the stool property and it is in the interest of public order or it is in the interest for the preservation of the stool property to take possession of the property, or

(c) where

- (i) a chief has abdicated or has been destooled in accordance with this Act,
- (ii) a chief has, following proceedings in respect of a cause or matter affecting chieftaincy, been destooled, or
- (iii) a person has under any other circumstances ceased to be a chief,

and the chief has failed to hand over the stool property to the person who under customary law and usage is entitled to receive the stool property.

(2) The Registrar of the Regional House shall seek the assistance of the Registrar of the High Court for the enforcement of the order.

(3) A Registrar who takes possession of stool property shall within seven days of taking possession of the property prepare an inventory of the stool property and file a copy of the inventory with the Judicial Committee of the relevant Regional House.

(4) Where the need for the retention of property under this section has ceased to exist, the President of the relevant Regional House on the direction of the Judicial Committee, shall order the restoration of the property to the stool concerned.

(5) For the purposes of this section, a Judicial Committee of a Regional House or the National House may issue an interim order including an injunction that the Judicial Committee of a Regional House considers necessary.

(6) A person who wilfully obstructs another person ordered under this section to take possession of any stool property or who wilfully obstructs the restoration of stool property commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or to a term of imprisonment of not more than two years or to both.

Customary law

National House of Chiefs to promote the development of customary law

49. The National House shall, subject to clause (2) of article 11 of the Constitution, undertake the progressive study, interpretation and codification of customary law with a view to evolving, in appropriate cases, a unified system of rules of customary law.

Functions of Traditional Councils relating to customary law

50. Where a Traditional Council determines that the customary law which is in force within its area is uncertain or considers it desirable that it should be modified or assimilated by the common law, the Council shall make representation on the matter to the House of Chiefs in the region.

Declaration of customary law

51. (1) A Regional House may, draft a declaration of what in its opinion is the customary law rule in force in the region or any part of that region after receiving representations from a Traditional Council or on its own initiative or if so requested in writing by the National House.

(2) A draft shall be submitted to the National House which shall consider it and consult with the Regional House concerned.

(3) Where the National House is satisfied that the draft as submitted or with the modifications that it considers necessary, is a correct statement of the customary rule in question, it shall submit a request in writing to the Minister that the statement of the customary law rule be given effect in the area concerned.

(4) The Minister may, on receipt of a request made by the National House, by legislative instrument give effect to the recommendations of the National House which shall provide that the rule in question has effect within the area concerned in the form set out in the instrument after consultation with the Attorney-General.

Alteration of customary law

52. (1) A Regional House

(a) may either after receipt of representations from a Traditional Council or on its own initiative, and

(b) shall if so requested in writing by the National House of Chiefs,

draft a statement of alterations it thinks desirable in any customary law rule in force in its region or any part of that region.

(2) The draft statement shall be submitted to the National House and if the National House is satisfied after consultation with the Regional House concerned, that effect should be given to it as submitted or with the modifications that it considers necessary, the National House shall submit a request in writing to the Minister that the statement of the rule as modified by the draft should be given effect in the area concerned.

(3) The Minister on receipt of a request made by the National House and after consultation with the Attorney-General, may by a leg-

islative instrument give effect to the recommendations and provide that the rule shall have effect within the area in question in the form set out in the instrument.

Regional House of Chiefs affected by same rule of customary law

53. (1) Where a question that affects customary law is common to more than one Regional House there shall be a Joint Committee of the Houses affected to consider that question.

(2) A Joint Committee shall be made up of a committee of each Regional House set up for the purpose.

(3) A Joint Committee shall have the same authority as if the question before it were before a Regional House, and the provisions under sections 48 to 55 shall apply accordingly

Assimilation of customary law

54. (1) The National House

(a) may on its own initiative, and

(b) shall at the request made to it in writing by the Minister or by a Joint Committee comprising representatives of all the Regional Houses

consider whether a rule of customary law should be assimilated by the common law.

(2) Where the National House is of the opinion that the rule should be assimilated by the common law, it shall draft a declaration describing the rule, with the modifications that it considers necessary, after considering the evidence and representations that have been submitted to it and after carrying out the appropriate investigations.

(3) The draft shall be submitted to the Minister who may by legislative instrument give effect to the recommendations of the National House and declare the rule to be assimilated in the form specified in the instrument after consultation with the Attorney-General.

Effect of assimilation

55. (1) Where a rule is declared to be assimilated under subsection (3) of section 54, it may be referred to as a common law rule of customary origin.

(2) A common law rule of customary origin shall apply to each issue within its scope, whether or not that issue would have been determined according to the common law or a system of customary law, if assimilation had not taken place.

Act 759

Chieftaincy Act, 2008

(3) Where an issue falls to be determined by a combination of two or more rules, nothing in sections 48 to 55 shall prevent a rule of common law or customary law which is not within the scope of a relevant common law rule of customary origin, from being applied in accordance with section 54 of the Courts Act 1993 (Act 459) in combination with the common law rule of customary origin.

(4) A court may have regard to textbooks and other sources indicating the content of a common law rule of customary origin as would be available if the rule had not been assimilated, and shall treat the rule in the same way as any other common law rule.

(5) Nothing in this section shall be taken to modify the provisions of section 17 subsections (1), (2), (4) and (5) and section 18 subsections (1) and (2) of the Interpretation Act, 1960 (C.A. 4) which explain the meaning of the expression "common law" and "customary law".

Power to include transitional provisions

56. A legislative instrument made under sections 51, 52 or 54 may contain transitional provisions which the Minister, on the advice of the National House of Chiefs and in consultation with the Attorney-General, considers necessary in relation to cases pending at the date when the Instrument is made.

Chiefs

Definition of a chief

57. (1) A chief is a person who, hailing from the appropriate family and lineage, has been validly nominated, elected or selected and enstooled, enskinned or installed as a chief or queenmother in accordance with the relevant customary law and usage.

(2) A person does not qualify as a chief if that person has been convicted of high treason, treason, high crime or for an offence involving the security of the State, fraud, dishonesty or moral turpitude.

(3) A chief shall not take part in active party politics and a chief wishing to do so or seeking election to Parliament shall abdicate the stool or skin.

(4) Despite subsection (3) and subject to the Constitution, a chief may be appointed to any public office for which the chief is otherwise qualified.

(5) A person shall not be considered to be a chief for the performance of a function under this Act or any other enactment, unless that person has been registered for the performance of that function in

the National Register of Chiefs and that person's name has been published in the *Chieftaincy Bulletin*.

Categories of chiefs

58. The following are the categories of chiefs
- (a) the Asantehene and Paramount Chiefs,
 - (b) Divisional Chiefs,
 - (c) Sub-divisional Chiefs,
 - (d) Adikrofo, and
 - (e) other chiefs recognised by the National House.

National Register of chiefs

59. (1) The National House shall maintain a register to be known as the "National Register of Chiefs".

(2) The National House shall cause to be recorded in the National Register of Chiefs the particulars relating to chieftaincy that it may think fit or as required by this Act or any other enactment to be recorded in it.

(3) The Minister may request in writing to be supplied with a copy of the Register or an extract of the Register and the National House shall cause to be supplied a copy of the Register or an extract duly certified to be true by the Registrar of the National House.

(4) The Minister may also request for other information in connection with the maintenance of the Register that are necessary for the due administration of this Act and the National House shall comply with the request.

(5) The Minister or a public officer authorised by the Minister may at a reasonable time, enter the premises where the Register is kept and take an extract of it.

(6) Any other person is entitled on the payment of a fee prescribed by Regulations made under section 71,

- (a) to enter the premises where the Register is kept and inspect the Register at a reasonable time; and
- (b) to have supplied to that person an extract of the contents of the Register or part of that Register duly certified by the Registrar of the National House or a public officer authorised by the Registrar in writing to be true.

(7) A person aggrieved by the refusal of the National House to register that person as a chief may within thirty days after the decision appeal against the decision to the Supreme Court.

Act 759

Chieftaincy Act, 2008

(8) The contents of the Register is prima facie evidence of the existence of facts or particulars stated in the Register.

(9) In legal proceedings, the contents of the Register or a part of it may be proved by a copy duly certified personally by the Registrar of the National House or a public officer authorised by the Registrar in writing, to be a true copy of the contents or of that part.

Chieftaincy Bulletin

60. (1) The National House of Chiefs shall issue a publication to be known as the "*Chieftaincy Bulletin*".

(2) The *Chieftaincy Bulletin* is the official publication of the National House of Chiefs on matters of and affecting chieftaincy.

(3) The National House shall determine the periods for the publication of the Bulletin.

(4) Matters of the editorial board and contents of the *Chieftaincy Bulletin* shall, subject to publications indicated in this Act, be determined by the National House of Chiefs.

(5) Where a matter is required under this Act or any other enactment to be published in the *Chieftaincy Bulletin*, the matter may also be published in the news print or electronic media.

Contempt charges

61. A chief is not liable to a charge of contempt of court in court proceedings because of an act done or a statement made in good faith in respect of or during legitimate customary proceedings or practices which are not in willful violation of a specific order of a court.

Enstoolment, deposition of a chief to be reported to the National House of Chiefs

62. (1) The installation, deposition, abdication and death of a chief in a region as well as other changes in the status of a chief that may be prescribed by Regulations under section 71 shall as soon as practicable after their occurrence, be reported in writing to the National House by the Regional House.

(2) Despite any provision of this Act, an installation of a chief or queen mother is not valid unless, at least fourteen days before the date of the installation, public notice of it, in accordance with the custom of the area, has been given.

(3) For the purpose of this section,

(a) an interim injunction shall not be granted on application within the last seven days of the fourteen days, and

(b) an appeal does not operate as stay of execution if it is filed within the last seven days of the fourteen days.

(4) Subject to section 57 the National House shall on receipt of a report cause its contents to be published in the *Chieftaincy Bulletin* or any appropriate means for the information of the general public.

Certain offences in connection with chiefs

63. A person who

- (a) acts or performs the functions of a chief when that person is not qualified to act,
- (b) being a chief assumes a position that the person is not entitled to by custom,
- (c) knowingly uses disrespectful or insulting language or insults a chief by word or conduct,
- (d) deliberately refuses to honour a call from a chief to attend to an issue,
- (e) refuses to undertake communal labour announced by a chief without reasonable cause, or
- (f) deliberately fails to follow the right procedures to destool a chief,

commits an offence and is liable on summary conviction to a fine of not more than two hundred penalty units or to a term of imprisonment of not more than three months or to both and in the case of a continuing offence to a further fine of not more than twenty-five penalty units for each day on which the offence continues.

Miscellaneous and general provisions

Staff of Houses of Chiefs

64. (1) The President shall in accordance with article 195 of the Constitution appoint the Registrar and staff for the National House and each Regional House.

(2) The members of staff of the National House and each Regional House shall hold office on the terms and conditions determined by the President after consultation with the Public Services Commission.

Functions of Registrar to a House of Chiefs

65. (1) The Registrar of the National House or of each Regional House is the chief administrative officer of the House of Chiefs concerned.

(2) The Registrar shall perform the functions of the House of Chiefs as directed by that House.

(3) The Registrar shall keep the minutes of the proceedings of the Houses of Chiefs and shall have custody of records and any other documents of the House.

Traditional and Divisional Councils

66. The President shall in accordance with article 195 of the Constitution appoint the staff for a Traditional Council or Divisional Council.

Funds of Houses of Chiefs and Traditional Councils

67. The National House, a Regional House, a Traditional Council and a Divisional Council shall each have the funds for the performance of their functions as Parliament may from time to time allocate.

Estimates of Houses of Chiefs

68. (1) The National House and each Regional House shall in each year and by the date that the Minister responsible for Finance may direct, submit to the Minister for the approval of the Government estimates of revenue and expenditure in respect of the following year.

(2) The estimates when approved by the Government shall be submitted to Parliament.

(3) The expenses incurred by the National House, a Regional House, a Traditional Council or a Divisional Council in the performance of functions under this Act shall be paid out of the Consolidated Fund.

Accounts and audit

69. (1) The National House, a Regional House or a Traditional Council and a Divisional Council shall keep books of account and proper records in relation to the National House, a Regional House or Traditional Council in the form approved by the Auditor-General.

(2) The National House, a Regional House or a Traditional Council and a Divisional Council shall submit their accounts to the Auditor-General for audit within three months after the end of each financial year.

(3) The Auditor-General shall, not later than three months, after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Minister.

(4) The Internal Audit Agency Act, 2003 (Act 658) applies to this Act.

(5) The financial year of the National House, a Regional House, a Traditional Council and a Divisional Council is the same as the financial year of the Government.

Actions by or against Houses of Chiefs and Traditional Councils

70. The President of the National House, a Regional House, a Traditional or a Divisional Council may represent that House or Council in an action brought by or against that House or Council and an action may be brought by or against that House or Council as if it were a person.

Regulations

71. The Minister, in consultation with the National House, may by legislative instrument make Regulations as may appear to the Minister to be necessary or expedient to give full effect to this Act, including Regulations prescribing fees in respect of anything done under this Act or under Regulations made under this Act.

Saving of rights of allegiance and rights over land

72. A provision of this Act does not prejudice a right of allegiance to which a chief in one region is entitled to from a chief in another region or a right of a stool in one region to property movable or immovable in another region.

Stool lands account for each region

73. There shall be established by the Administrator of Stool Lands, a Stool Lands Account for each region known as a "Regional Stool Lands Account" which shall represent the total of the Stool Lands Accounts of the stools in that region.

Annual statement of accounts to be submitted to stools

74. The Office of Administrator of Stool Lands shall, once in each year, submit to each stool or skin which has accounts kept by the Administrator, a statement of revenue and expenditure in respect of that account in the form determined by the Minister.

Election regulations

75. The Electoral Commission shall for elections under this Act apply with necessary modification any existing Regulations for public elections or may by Constitutional Instrument make Electoral Commission Regulations that it considers necessary for elections under this Act.

Interpretation

76. In this Act unless the context otherwise requires,
"Asantehene" means the occupant of the Golden Stool of Ashanti;

“cause or matter affecting chieftaincy” means a cause, matter, question or dispute relating to any of the following

- (a) the nomination, election, selection or installation of a person as a chief or the claim of a person to be nominated, elected, selected or installed as a chief,
- (b) the deposition or abdication of a chief,
- (c) the right of a person to take part in the nomination, election, selection or installation of a person as a chief or in the deposition of a chief,
- (d) the recovery or delivery of stool property in connection with the nomination, election, selection, installation, deposition or abdication of a chief, and
- (e) the constitutional relations under customary law between chiefs;

“deposition” means destoolment or deskinment;

“Divisional chief” means a chief whose name for the time being appears as a Divisional Chief in the National Register of Chiefs,

“Judicial Committee” means a committee appointed under sections 25, 28 or 29 of this Act,

“Minister” means the Minister responsible for Chieftaincy and Culture;

“National House” means the National House of Chiefs,

“paramount chief” means a person who has been nominated, elected or selected and installed as a paramount chief in accordance with customary law and usage,

“Regional House” means the Regional House of Chiefs of the relevant region,

“Register” means the register of chiefs maintained by the National House under section 59; and

“stool” includes a skin.

Repeals, saving and transitional provisions

77. (1) The Chieftaincy Act, 1971 (Act 370) as amended is repealed by this Act.

(2) Despite the repeal of Act 370,

- (a) an appeal pending before the Supreme Court from a decision of the National House immediately before the commencement of this Act shall remain pending before that Court,

- (b) an action or application pending before a Judicial Committee appointed under the Chieftaincy Act, 1971 (Act 370) and in existence immediately before the commencement of this Act shall be deemed to be pending before the relevant *Judicial Committee provided for under this Act*,
- (c) a matter pending immediately before the commencement of this Act before the National House or a Regional House shall remain pending before the National House or the relevant Regional House under this Act and shall be proceeded with and determined by that House in accordance with this Act,
- (d) a matter pending before a Traditional Council immediately before the commencement of this Act shall after the commencement of this Act remain pending before that Traditional Council and shall be proceeded with and determined by that Traditional Council in accordance with this Act,
- (e) a judgment or order given or made by a Traditional Council before the commencement of this Act is enforceable in the same manner as a judgment or order given or made by a Traditional Council after the commencement of this Act,
- (f) a statutory instrument, standing order and an appointment made under the repealed enactment and in force immediately before the commencement of this Act shall continue in force until otherwise dealt with under this Act.

(3) A Divisional Council in existence immediately before the commencement of this Act is hereby continued in existence subject to the provisions of this Act.

(4) A chief who legally holds office as the President, Vice-President or a member of the National or a Regional House of Chiefs, before the commencement of this Act shall on the commencement of this Act continue in office as if appointed under the corresponding provision of this Act until the person's term expires or the person ceases to be a President, Vice-President or a member in accordance with this Act.