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KWAZULU-NATAL PROVINSIE
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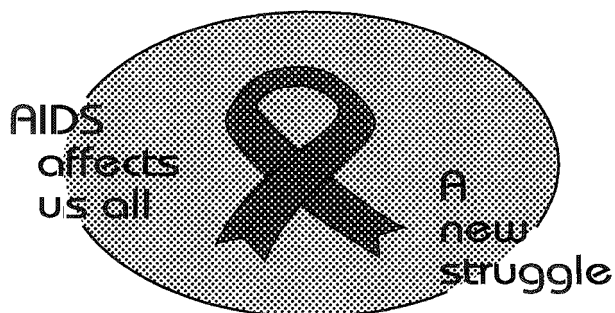
Vol. 4

PIETERMARITZBURG,

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No. 4

21 October 2010

[English text signed by the Premier]

**KWAZULU-NATAL DUBE TRADEPORT
CORPORATION ACT, 2010**
(Act No. 02 of 2010)

Assented to on 18-08-2010

ACT

To provide for the establishment of the Dube TradePort Corporation; to determine the objects, powers, duties and functions of the Dube TradePort Corporation; to determine the manner in which the Dube TradePort Corporation is to be managed, governed, staffed and financed; to provide for the winding up of the Dube TradePort Company; to provide for the Dube TradePort Corporation to be the successor in law of the Dube TradePort Company; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the Province of KwaZulu-Natal, as follows:-

ARRANGEMENT OF SECTIONS

Section

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1. Definitions

CHAPTER 2 DUBE TRADEPORT CORPORATION

2. Establishment of the Dube TradePort Corporation
3. Objects of the Dube TradePort Corporation
4. Powers, duties and functions of the Dube TradePort Corporation

CHAPTER 3 BOARD OF DUBE TRADEPORT CORPORATION

5. Composition of the Board
6. Disqualification from being appointed to the Board
7. Declaration of financial or other interests of members of the Board
8. Term of office and reappointment of member of the Board
9. Vacancies, removal and resignation from office of members of the Board
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11. Meetings and procedures at meetings of the Board
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13. Remuneration of members of the Board
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17. Functions of the Chief Executive Officer
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CHAPTER 1 DEFINITIONS

Definitions

1. In this Act, unless the context otherwise indicates –

"Board" means the board of the Dube TradePort Corporation contemplated in section 5;

"Chief Executive Officer" means the Chief Executive Officer of the Dube TradePort Corporation, contemplated in section 16;

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"Department" means the Department of Economic Development and Tourism or any successor provincial department whose functions include that of economic development in KwaZulu-Natal;

"Dube TradePort" means the multi-modal development comprising of an international airport, trade zone, agri-zone, associated support services and associated activities, situated 30 kilometers north of the Durban city centre;

"Dube TradePort Region" means the region falling within a 30 kilometer radius of the centre of the international airport situated within the Dube TradePort;

"Dube TradePort Company" means Dube TradePort Company, Registration Number 2002/002810/07, established in terms of the Companies Act, 1973 (Act No. 61 of 1973);

"Dube TradePort Corporation" means the provincial public entity established in terms of section 2;

"Executive Council" means the Executive Council of the Province contemplated in section 132 of the Constitution;

"Gazette" means the official *Provincial Gazette* of KwaZulu-Natal;

"Head of Department" means the person appointed as Head of the Department in terms of the Public Service Act, as amended;

"Master Plan" means the Master Plan for the development, design and construction of a multi-modal transportation hub in the Dube TradePort Region as contemplated in section 21;

"Member of the Executive Council responsible for finance" means the member

of the Executive Council of the Province of KwaZulu-Natal responsible for finance;

"Portfolio Committee" means the Portfolio Committee of the Provincial Legislature responsible for economic development and tourism;

"Province" means the Province of KwaZulu-Natal contemplated in section 103 of the Constitution and **"provincial"** has a corresponding meaning;

"provincial public entity" means a provincial public entity as defined in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

"Public Finance Management Act" means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

"regulations" means regulations made in terms of section 33;

"responsible Member of the Executive Council" means the Member of the Executive Council of the Province of KwaZulu-Natal responsible for economic development and tourism or that member of the Executive Council of the Province of KwaZulu-Natal to whom the Premier has assigned the administration of this Act;

"this Act" includes the regulations.

CHAPTER 2 DUBE TRADEPORT CORPORATION

Establishment of the Dube TradePort Corporation

2. (1) There is hereby established a provincial public entity to be known as the Dube TradePort Corporation.

(2) The Dube TradePort Corporation is a juristic person which acts through the Board.

(3) The Dube TradePort Corporation is subject to the Public Finance Management Act.

(4) The Board is the accounting authority of the Dube TradePort Corporation as contemplated in section 49(2) (a) of the Public Finance Management Act.

Objects of the Dube TradePort Corporation

3. The objects of the Dube TradePort Corporation are –

- (a) to develop the Dube TradePort;
- (b) to undertake or invest in projects associated with the Dube TradePort;
- (c) to facilitate economic growth in the Province through the Dube TradePort;
- (d) to attract long term investment to the Province;
- (e) to facilitate export and import through the Dube Tradeport; and
- (f) to perform the powers, duties and functions specified in section 4.

Powers, duties and functions of the Dube TradePort Corporation and Board

4. (1) The Dube TradePort Corporation must, through the Board –

- (a) ensure the strategic planning, establishment, design, construction, operation, management and control of the Dube TradePort;
- (b) implement and give effect to the Master Plan for the economic growth of the Dube TradePort Region and the Province;
- (c) manage and utilize its resources in accordance with its objects and the requirements of the Master Plan;
- (d) identify, develop, market and promote investment opportunities in the Dube TradePort; and
- (e) develop an investment plan for the Dube TradePort.

(2) The Dube TradePort Corporation may –

- (a) for the purposes of developing, promoting, marketing or investing in the Province, and subject to the prior written approval of the responsible Member of the Executive Council –
 - (i) establish and operate one or more companies, close corporations or other similar bodies;
 - (ii) enter into joint ventures with other institutions, organisations, municipalities, bodies or persons; and

- (iii) raise funds through donations and sponsorships;
- (b) with the prior written approval of the responsible Member of the Executive Council, acquire and dispose of shares and interests in companies, close corporations or other similar bodies;
- (c) liaise with any other entity, organ of state, organisation or institution whose activities or aims have an impact on, and relate to, the development, promotion, marketing or investment in the Province;
- (d) investigate and make recommendations to the Executive Council, through the responsible Member of the Executive Council on any matter relating directly or indirectly to the promotion, development, marketing or investment in the Province;
- (e) enter into agreements for the attainment of its objects, the exercise of its powers, duties and functions or the management and administration of its affairs, whether or not expressly provided for in this section;
- (f) participate in the management, supervision and control of the business or operations of an institution having the same or similar objects as the Corporation;
- (g) undertake or invest in projects associated with its objects;
- (h) establish a fund to enhance air transport connectivity to the Province;
- (i) do any other thing or attend to any other matter necessary for the purposes of achieving its objects and the requirements of the Master Plan; and
- (j) do any other thing or attend to any other matter that the responsible Member of the Executive Council considers necessary for the proper implementation of this Act.

(3) In addition to the powers referred to in subsections (1) and (2), the Dube TradePort Corporation has the powers referred to in section 54(2) of the Public Finance Management Act.

CHAPTER 3 BOARD OF THE DUBE TRADEPORT CORPORATION

Composition of the Board

5. (1) The Board consists of –

- (a) at least three, but not more than eight, members appointed by the responsible Member of the Executive Council; and

(b) the Chief Executive Officer, *ex officio*, as contemplated in section 16(5).

(2) Members of the Board must be fit and proper persons to serve the best interests of the Province, collectively possessing the following skills and expertise –

- (a) knowledge and expertise in financial management;
- (b) knowledge and expertise in the tourism industry;
- (c) knowledge and expertise in the transport sector;
- (d) knowledge and expertise in the economic development sector;
- (e) knowledge and expertise in the property development industry; and
- (f) any other skill, experience or qualification that, in the opinion of the responsible Member of the Executive Council, might be of benefit to the Dube TradePort Corporation.

(3) In appointing members to the Board, the responsible Member of the Executive Council must ensure that –

- (a) historic imbalances are addressed;
- (b) the Board, collectively, possesses the necessary and appropriate skills and expertise; and
- (c) the Board is representative of persons employed or involved in economic and development enterprises in the Province.

(4) The responsible Member of the Executive Council must designate –

- (a) one of the members of the Board as the Chairperson of the Board; and
- (b) one of the members of the Board as the Deputy Chairperson of the Board.

(5) The responsible Member of the Executive Council may appoint a person as his or her representative who –

- (a) must facilitate liaison between the responsible Member of the Executive Council and the Board;
- (b) must report to the responsible Member of the Executive Council from time to time regarding matters which are considered relevant; and
- (c) may attend meetings of the Board and participate in discussions, but does not have the right to vote when a decision of the Board is being taken.

(6) The responsible Member of the Executive Council must, by notice in the *Gazette* invite any interested parties within the Province to nominate candidates for appointment to the Board.

(7) The invitation for nomination must specify –

- (a) the nomination procedure;
- (b) the requirements for nomination; and
- (c) the closing date for the nomination.

(8) The responsible Member of the Executive Council must consider all nominations submitted in response to the notice, and may appoint a selection panel to review all the nominations and make recommendations to the responsible Member of the Executive Council on the nominees.

(9) The responsible Member of the Executive Council must cause the names of the persons appointed to the Board to be published in the *Gazette* and in at least two newspapers circulating in the Province, immediately after such persons have been notified, in writing, of their appointment to the Board.

(10) The responsible Member of the Executive Council must, within two months after the appointment of members of the Board in terms of subsection (1), inform the Executive Council and the Portfolio Committee of the names of the appointed members including the term of their appointment.

(11) This section applies, with the necessary changes, to the filling of a vacancy on the Board.

Disqualification from being appointed to the Board

6. A person is disqualified from being appointed to the Board or from remaining on the Board, by reason that he or she –

- (a) is or becomes an unrehabilitated insolvent;
- (b) is or has been declared by a competent court to be of unsound mind;
- (c) is directly or indirectly interested in any contract with the Board and fails to

declare his or her interest and the nature thereof in the manner required by this Act;

(d) is a person under curatorship;

(e) has at any time been removed from an office of trust on account of misconduct involving theft or fraud;

(f) has been convicted and sentenced to a term of imprisonment without the option of a fine, except that the responsible Member of the Executive Council may, upon receipt of an affidavit disclosing full details of an offence by a person who is nominated for appointment, condone a conviction in a manner that is consistent with section 106(1)(e) of the Constitution: Provided that a disqualification in terms of this subsection ends five years after the sentence has been completed; and

(g) fails to disclose an interest in accordance with section 7 or attended or participated in the proceedings of the Board while having an interest contemplated in the said section;

Declaration of financial or other interests of members of the Board

7.(1) A person who has been nominated to serve on the Board in terms of subsection 5(8) must, within 10 days of being nominated, submit a written declaration to the responsible Member of the Executive Council of all direct or indirect interests in any company or other business interests.

(2) Any failure by the nominee to disclose financial and other interests in terms of subsection (1) disqualifies such nominee in terms of section 6 to be considered for the position of the member of the Board.

(3) Every member of the Board must, upon assuming office and at the beginning of every financial year of the Board, submit a written declaration of his or her direct or indirect interest in any company or other business interest in the manner provided for in section 234(3)(a) of the Companies Act, 1973 (Act No. 61 of 1973).

(4) Where a member of the Board acquires an interest in any company or other business interests, at anytime during his or her tenure as a member of the Board, he or she must, within 10 days of the date of the acquisition of such an interest, submit a written

declaration to the responsible Member of the Executive Council of such an interest.

(5) Any failure on the part of the member to disclose his or her interest as contemplated in subsections (3) and (4), constitutes justifiable and cogent reason for the termination of appointment of such member in terms of section 9(2).

(6) The responsible Member of the Executive Council must keep an updated register of the interests of members of the Board disclosed in terms of this section.

Term of office and re-appointment of a member of the Board

8. The person appointed to the Board holds office for a period of 5 years or such lesser period as the responsible Member of the Executive Council may determine and is, subject to section 5, eligible for re-appointment at the expiry of such period: Provided that no person may be re-appointed after having served on the Board for a continuous period of 10 years.

Vacancies, removal and resignation from office of a member of the Board

9. (1) A member of the Board must vacate office if he or she becomes subject to a disqualification contemplated in section 6.

(2) The responsible Member of the Executive Council may, after having afforded a member the opportunity to state his or her case, at any time terminate the term of office of such member if, in his or her discretion, there are justifiable and cogent reasons for doing so.

(3) A member must vacate office if he or she is absent, without a leave of absence having first been granted by the Board, from two consecutive meetings of the Board for which reasonable notice was given to that member personally or by post.

(4) A member may resign from office in writing by giving not less than 30 days notice to the responsible Member of the Executive Council: Provided that the responsible Member of the Executive Council waives the notice period.

(5) Whenever a vacancy occurs on the Board, the responsible Member of the Executive Council must, subject to section 5, appoint a person to fill such vacancy for the unexpired portion of the period of office of the member in whose place such person is appointed.

(6) In the event that the responsible Member of the Executive Council exercises his or her powers in terms of subsection (2), he or she may, notwithstanding the procedure for the appointment of the members of the Board set out in section 5, subject to subsections 5(2) and 5(3), appoint persons to serve as members of the Board on an interim basis: Provided that-

- (a) the persons appointed in terms of this subsection may not remain on the Board for a period of more than 90 days from the date of their appointment; and
- (b) the responsible Member of the Executive Council must, subject to section 5, appoint the members of the Board within 90 days of the appointment contemplated in this subsection.

Temporary suspension of a member of the Board

10. The responsible Member of the Executive Council may suspend a member of the Board whilst the responsible Member of the Executive Council is investigating allegations which, if found to be correct, could result in the member's appointment being terminated in terms of section 9(2).

Meetings and procedures at meetings of the Board

11. (1) The first meeting of the Board must be held on a date and at a time and venue determined by the responsible Member of the Executive Council whereafter all future meetings must be as determined by the Chairperson.

(2) The *quorum* for a meeting of the Board is the majority of the members of the Board.

(3) The proceedings at a meeting of the Board must, subject to the provisions of this section, be determined by the Chairperson including the right to decide that any matter

under discussion may be withdrawn before it is put to the vote.

(4) The Chairperson must preside at all meetings of the Board. If the Chairperson is absent, the Deputy Chairperson must preside and in the event that neither the chairperson nor the Deputy Chairperson are present at a meeting of the Board, the members then present may elect, from their own number, a person to act as Chairperson for the duration of that particular meeting.

(5) A decision of the Board must be taken by a majority of the votes of the members present at a meeting and, in the event of an equality of votes on any matter, the Chairperson has a casting vote in addition to his or her deliberative vote.

(6) The Board must arrange for minutes of its meetings to be kept.

(7) No decision of the Board is invalid merely by reason of a vacancy in the Board: Provided that the decision is taken by the required majority of the members of the Board then present and entitled to sit as members of the Board.

(8) The Chairperson, or a majority of the members of the Board, may call an extraordinary meeting of the Board in which event the provisions of this section apply with the necessary changes.

(9) The Board may, in its discretion, allow members of the public to attend any meeting of the Board.

Recusal of a member from meetings and proceedings of the Board

12.(1) A member of the Board must recuse himself or herself from a matter being investigated, considered or voted upon by the Board if one or more of the following prevail –

- (a) if he or she has a direct or indirect interest; or
- (b) if there is a possibility that a direct or indirect interest might arise.

(2) If at any stage during the course of any proceedings before the Board it appears that

a member who is present at that meeting has or may have an interest contemplated in subsection (1), such a member must forthwith disclose the nature of his or her interest and leave the meeting.

(3) Any disclosure made in terms of subsection (1) must be recorded in the minutes of the meeting in question.

(4) If it subsequently emerges that the Board took a decision on a matter in respect of which a member has failed to disclose an interest contemplated in subsection (1), such decision by the Board is invalid.

(5) For the purposes of this section “**indirect interest**” includes, but is not limited to, an interest held by any member’s –

- (a) business partner, associate or employer, other than the State;
- (b) spouse, partner in a customary marriage, or person with whom such member cohabits or lives as though they were married; or
- (c) child, parent or sibling.

Remuneration of members of the Board

13.(1)(a) Subject to subsection 2(a), a member of the Board may be paid from the funds of the Commission such remuneration and allowances as may be determined by the responsible Member of the Executive Council in consultation with the Member of the Executive Council responsible for finance; and

(b) a member of the Board who receives remuneration, allowances or other benefits by virtue of his or her post or employment in –

- (i) the national government;
- (ii) a provincial government;
- (iii) a municipality; or
- (iv) a corporation, body or institution in which the national or a provincial government has a controlling interest, and

who continues to receive such remuneration, allowances or other benefits while serving as a member of the Board, may only receive remuneration and allowances referred to in paragraph (a) to the extent required to place such member in the financial position he or

she would have been were it not for such post or employment.

- (2)(a) A member of the Board and a person who has been co-opted to the Board may, in respect of his or her functions as a member or co-opted member, receive reimbursement from the funds of the Corporation for reasonable actual subsistence and travelling expenses necessitated by the actual attendance of a meeting of the Board; and
- (b) The Member of the Executive Council responsible for finance must determine procedures, including control measures, for the management, handling and processing of claims for subsistence and traveling expenses contemplated in paragraph (a).

Establishment of committees to assist the Board

14. (1) The Board may establish committees consisting of one or more of its members to

–

- (a) assist the Board in the performance of any of the powers, duties or functions of the Board contemplated in section 4; or
- (b) enquire or conduct research into any matter falling within the mandate of the Board in terms of this Act.

(2) When establishing a committee contemplated in subsection (1), the Board must –

- (a) determine the terms of reference of such committee including, but not limited to, whether or not such committee ceases to exist once it has completed the task or tasks allocated to it by the Board;
- (b) appoint a chairperson of such committee who must be a member of the Board; and
- (c) determine whether or not such committee may co-opt persons who are not members of the Board, and if so, on what terms and conditions.

(3) The Board may, at any time, terminate the existence of a committee or any mandate given to a committee, irrespective of whether or not such committee has completed the task or tasks allocated to it by the Board.

(4)(a) The Chief Executive Officer may attend and take part in, but may not vote at, a meeting of a committee; and

(b) a member of staff of the Board may, on invitation by the relevant committee, attend a meeting of that committee.

Co-opting of persons to the Board or committees of the Board

15. (1) The Board may, if it is of the opinion that a particular person is able to assist it in regard to any of its functions and powers, co-opt such person for that purpose.

(2) A person co-opted in terms of subsection (1) is not entitled to vote at any meeting of the Board or a committee.

(3) A person co-opted in terms of subsection (1) may be paid such remuneration and allowances out of the funds of the Corporation as may be determined in terms of section 13(2)(a) by the Board in consultation with the Member of the Executive Council responsible for finance.

**CHAPTER 4
CHIEF EXECUTIVE OFFICER AND STAFF OF THE DUBE TRADEPORT
CORPORATION**

Chief Executive Officer of the Dube TradePort Corporation

16. (1) The Board must, in consultation with the responsible Member of the Executive Council, appoint the Chief Executive Officer of the Dube TradePort Corporation.

(2)(a) The Chief Executive Officer is appointed for a period not exceeding five years on terms and conditions of employment determined by the Board, in consultation with the responsible Member of the Executive Council; and

(b) the Chief Executive Officer, may, with the approval of the responsible Member of the Executive Council be re-appointed, for such period as the responsible Member of the Executive Council, may determine.

(3)(a) The appointment of the Chief Executive Officer is subject to the conclusion of a

written performance agreement entered into with the Dube TradePort Corporation; and
(b) the Board and the Chief Executive Officer may, in writing and by agreement, amend the performance agreement.

(4) For purposes of the declaration of financial or other interests, the provisions of section 7 apply with the necessary changes to the Chief Executive Officer except that the Chief Executive Officer must declare his or her interests to the Board.

(5) The Chief Executive Officer is an *ex officio* member of the Board but does not have the right to vote at its meetings.

Functions of the Chief Executive Officer

17. (1) The Chief Executive Officer is responsible for –

- (a) the administrative and financial management of the Dube TradePort Corporation in accordance with the Public Finance Management Act, subject to the direction of the Board;
- (b) the appointment of members of staff of the Dube TradePort Corporation contemplated in section 19(1), in consultation with the Board;
- (c) the determination, in consultation with the Board, of a code of conduct, applicable to the Chief Executive Officer, all staff of the Dube TradePort Corporation and justiciable for purposes of disciplinary proceedings, to ensure –
 - (i) compliance with applicable law, including this Act;
 - (ii) the effective, efficient and economical use of the Dube TradePort Corporation's funds and resources;
 - (iii) the promotion and maintenance of a high standard of professional ethics;
 - (iv) the prevention of conflicts of interest;
 - (v) the protection of confidential information held by the Board; and
 - (vi) professional, honest, impartial, fair, ethical and equitable service;
- (d) the maintenance of discipline over the staff appointed in terms of paragraph (b) and must, for those purposes, be accountable to the Board;
- (e) the keeping and maintenance of the register of interests declared by member of staff of the Dube TradePort Corporation; and

(f) ensuring compliance by the Dube TradePort Corporation with the provisions of the Public Finance Management Act, and any other applicable legislation.

(2) The Chief Executive Officer is accountable to the Board and must report to the Board on the activities of the Dube TradePort Corporation.

(3) If the Chief Executive Officer is for any reason unable to perform any of his or her functions, the Board must, in consultation with the responsible Member of the Executive Council, appoint another person as Acting Chief Executive Officer until the Chief Executive Officer is able to resume those functions.

Resignation and removal from office of the Chief Executive Officer

18. (1) The Chief Executive Officer vacates office –

- (a) in the case of resignation, when the resignation takes effect;
- (b) when, in terms of the Companies Act, 1973 (Act No. 61 of 1973), the person holding that office has become disqualified to serve as director of a company; and
- (c) upon having been removed from office in terms of subsection (2).

(2) The Board may, in consultation with the responsible Member of the Executive Council, terminate the Chief Executive Officer's employment in accordance with applicable employment and labour law.

Staff of the Dube TradePort Corporation

19.(1) The Chief Executive Officer must, subject to subsection (2), employ members of staff of the Dube TradePort Corporation as may be reasonably necessary –

- (a) to assist him or her in fulfilling his or her functions in terms of this Act; and
- (b) to assist the Board with the work incidental to the performance by the Board of its functions.

(2) The Board must determine a human resources policy for staff members of the Dube TradePort Corporation, including the Chief Executive Officer.

(3) For purposes of the declaration of financial or other interests, and subject to section 17(1)(e), the provisions of section 7(3), (4) and (5) apply with the necessary changes to staff members of the Dube TradePort Corporation.

(4) The Chief Executive Officer must keep an updated register of the interests of staff members of the Dube TradePort Corporation disclosed in terms of subsection (3).

(5) The Board, in consultation with the responsible Member of the Executive Council, must determine –

- (a) the remuneration and conditions of service; and
- (b) the pension and retirement benefits,

of the Chief Executive Officer and the other members of staff of the Dube TradePort Corporation.

Secondment or transfer of staff to the Dube TradePort Corporation

20. The Dube TradePort Corporation may utilise the services of persons seconded or transferred from the public service in accordance with the provisions of the Public Service Act, 1994 (Proclamation No. 103 of 1994).

CHAPTER 5 MASTER PLAN, POLICY DIRECTIVES AND STRATEGIC GUIDELINES

Master Plan

21.(1) The Board must, within 6 months of the coming into operation of this Act, after consultation with the Chief Executive Officer, establish a Master Plan.

(2) The Master plan contemplated in subsection (1), must comprise of, amongst other things, the cargo terminal, property zone, trade-zone, agri-zone, public transport nodes, road networks, rail, freight and passenger transport networks within the Dube TradePort Region.

(3) The Master Plan must be updated when the need arises to meet the objectives of the Dube TradePort Corporation.

(4) The Master Plan must be approved by the responsible Member of the Executive Council.

(5) The Master Plan must, for the years 2010, 2035 and 2060, provide –

- (a) an overview of the development structure of the Dube TradePort;
- (b) development objectives and master planning for the Dube TradePort; and
- (c) for the development, zoning, transport and bulk infrastructural needs of the Dube TradePort Corporation.

(6) When performing its functions in terms of this Act, the Board must give effect to the Master Plan.

Policy directives and strategic guidelines

22. The responsible Member of the Executive Council may –

- (a) set strategic guidelines for the pursuit of the Dube TradePort Corporation's objectives;
- (b) issue policy directives to the Board; and
- (c) withdraw or amend any policy directive issued in terms of paragraph (a).

CHAPTER 6 FUNDING AND FINANCIAL MANAGEMENT OF THE DUBE TRADEPORT CORPORATION

Funds of the Dube TradePort Corporation

23. (1) The funds of the Dube TradePort Corporation consist of –

- (a) money appropriated by the Provincial Legislature;
- (b) interest on investments of the Dube TradePort Corporation; and
- (c) income lawfully derived from any other source.

(2) The Dube TradePort Corporation must utilise its funds –

- (a) for the payment of remuneration, allowances and subsistence and travelling expenses of –

- (i) the members of the Board;
 - (ii) the Chief Executive Officer; and
 - (iii) the members of staff of the Dube TradePort Corporation; and
 - (b) to cover costs in connection with –
 - (i) the day to day operation and administration of the Dube TradePort Corporation and the Board;
 - (ii) the operation and management of the Dube TradePort Corporation; and
 - (iii) the performance of the duties and functions of the Board and the exercise of its powers in terms of this Act.
- (3) The Chief Executive Officer must, with the concurrence of the Board –
- (a) open an account in the name of the Dube TradePort Corporation with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990); and
 - (b) deposit therein all money received in terms of subsection (1).
- (4) The Board may invest monies deposited into the account which are not required for immediate use: Provided that the Board must take reasonable steps to ensure that the investment is not of a speculative nature.
- (5) Neither the Dube TradePort Corporation nor the Board may borrow money or issue guarantees, indemnities or securities or enter into any other transactions that bind it unless such borrowing, guarantee, indemnity, security or other transaction is authorised in terms of this Act and not in conflict with the Public Finance Management Act.

Financial management

24.(1) The Chief Executive Officer must cause full and proper books of account and all the necessary records in relation thereto to be kept.

(2) The Chief Executive Officer must ensure that the Dube TradePort Corporations's annual budgets, strategic plans, annual performance plans, annual reports and audited

financial statements are prepared and submitted in accordance with the Public Finance Management Act.

(3) The Chief Executive Officer must, within three months before the end of each financial year, submit to the Board for approval –

(a) a business plan for the Board, containing measurable objectives and the other information contemplated in section 25(3)(b) and (c); and

(b) a statement of the estimated income and expenditure of the Board, in respect of the following three financial years.

(4) In any financial year the Chief Executive Officer may submit to the Board for approval adjusted or supplementary statements of the estimated income and expenditure of the the Dube TradePort Corporation for that financial year.

(5) The Dube TradePort Corporation may not enter into any financial commitment beyond its approved budget and its accumulated reserves.

(6) The Chief Executive Officer may with the approval of the Board –

(a) invest any unexpended portion of its funds with the Corporation for Public Deposits or any other institution categorised or listed from time to time by the National Treasury as a Category “A1” financial institution; or

(b) dispose of that portion in any other manner.

(7) The Chief Executive Officer may, with the approval of the Board, establish reserve funds and deposit therein such amounts as the Board approves.

Audit and annual report

25. (1) The Auditor-General must audit the financial statements of the Dube TradePort Corporation.

(2)(a) The Board must table a report on the activities of the Dube TradePort Corporation during a financial year in the Provincial Legislature within five months after the end of that financial year; and

(b) within five months after the report has been tabled, a delegation consisting of the chairperson of the Board and at least two other members of the Board must brief the relevant Portfolio Committee on the annual report.

(3) The report must –

(a) include a balance sheet and a statement of income and expenditure certified by the Auditor-General;

(b) state the extent to which the Dube TradePort Corporation has achieved or advanced its objects referred to in section 3 and the measurable objectives as set out in its business plan as contemplated in section 24(3)(a) during the financial year concerned; and

(c) contain relevant performance information regarding the economic, efficient and effective application of resources and specifically a comparison between planned and actual performance indicators as set out in that annual performance plan.

Financial year of the Dube TradePort Corporation

26. The financial year of the Dube TradePort Corporation commences on 1 April of a particular year and ends on 31 March of the following year.

Immovable property

27. The Dube TradePort Corporation may, in terms of a policy and procedures determined by the Board and with the approval of the responsible Member of the Executive Council, acquire, hold or dispose of immovable property in the course of its business.

Legal proceedings against the Dube TradePort Corporation

28.(1) Any legal proceedings against the Dube TradePort Corporation must be instituted in accordance with the Institution of Legal Proceedings against certain Organs of State Act, 2002 (Act No. 40 of 2002).

(2) The Dube TradePort Corporation is, for purposes of subsection (1), regarded as an organ of state contemplated in paragraph (c) of the definition thereof in section 1 of the said Act.

CHAPTER 7 GENERAL PROVISIONS

Security of confidential information held by the Dube TradePort Corporation

29.(1) Subject to the Constitution, the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), no person may disclose any information submitted to the Dube TradePort Corporation in connection with any legal brief or instruction, unless –

- (a) he or she is ordered to do so by a court of law; or
- (b) the person who gave such brief or instruction consents thereto in writing.

(2) No person may disclose any information kept in the register contemplated in sections 7(6), 16(4) and 19(4) unless such disclosure is –

- (a) in terms of any law that compels or authorises such disclosure;
- (b) materially necessary for the proper functioning of the Dube TradePort Corporation; or
- (c) made for purposes of monitoring, evaluating, investigating or considering any activity relating to the Dube TradePort Corporation, or any member of staff of the Dube TradePort Corporation.

(3) Any person who contravenes subsection (1) or (2) is guilty of an offence.

Dissolution of the Dube TradePort Corporation

30. The Dube TradePort Corporation may only be dissolved in terms of an Act of the Provincial Legislature.

Use of name of the Dube TradePort or Dube TradePort Corporation

31.(1) No person may, without the prior written authorisation of the Dube TradePort Corporation, in any way represent or make use of the name Dube TradePort, or the name, acronym, logos, designs or material used or owned by Dube TradePort Corporation.

(2) No person may falsely claim to be acting on behalf of the Dube TradePort Corporation.

(3) Any person who contravenes subsection (1) or (2) is guilty of an offence.

Delegations

32. (1) The responsible Member of the Executive Council may delegate to the Board –

(a) any power conferred on the responsible Member of the Executive Council by this Act, except the power to make regulations referred to in section 33; or

(b) any duty imposed on the responsible Member of the Executive Council by this Act, except any duty regarding the appointment, and termination of office, of the members of the Board contemplated in sections 5(1)(a) and 9(2).

(2) The Board may, by a special resolution, delegate to the Chief Executive Officer or staff member of the Dube TradePort Corporation, any power or duty conferred or imposed on the Dube TradePort Corporation by this Act.

(3) The Chief Executive Officer may delegate to any member of staff of the Dube TradePort Corporation any power or duty conferred or imposed on the Chief Executive Officer by this Act, except any duty as accounting officer of the Dube TradePort Corporation.

(4) Any power or duty delegated in terms of subsection (1), (2) or (3) must be exercised or performed subject to such conditions as the person or body that made the delegation considers necessary.

(5) Any delegation referred to in subsection (1), (2) or (3) –

- (a) must be in writing;
- (b) does not prohibit the person or body that made the delegation from exercising that power or performing that duty; and
- (c) may at any time be withdrawn or amended in writing by that person or body.

Regulations

33. The responsible Member of the Executive Council may, in consultation with the Board and by notice in the *Gazette*, make regulations regarding –

- (a) any matter that may be prescribed in terms of this Act; or
- (b) any administrative or procedural matter necessary to give effect to the provisions of this Act.

Winding-up of Dube TradePort Company and transitional provisions

34.(1)(a) The Company, Dube TradePort, bearing Company Registration Number 2002/002810/08, established in terms of the Companies Act, 1973 (Act No. 61 of 1973), must be voluntarily wound up and deregistered; and

(b) the members of the Company must, in winding-up the Company referred to in paragraph (a), act with due speed and diligence and must, amongst other things, comply with sections 349 and 350 of the Companies Act, 1973 (Act No. 61 of 1973).

(2) On the date of the winding-up of the Dube TradePort Company, all assets, liabilities, rights, duties and obligations, including any unspent portion of any funds accrued or received by the Dube TradePort Company are transferred to, and vest in, the Dube TradePort Corporation established in terms of section 2.

(3) The Dube TradePort Corporation is, in respect of the assets, liabilities, rights, duties and obligations and funds referred to in subsection (2), for all purposes the successor in law of, and the successor in title to, the Dube TradePort Company.

(4) The members of the Board of the Dube TradePort Company must act as duly authorized and empowered members of the Board until such time as the responsible

Member of the Executive Council has in terms of section 5(1)(a) appointed the Board in terms of this Act.

(5) All members of staff of the Dube TradePort Company must, within six months of the commencement of this Act, be made an employment offer by the responsible Member of the Executive Council for transfer to the Dube TradePort Corporation on a date determined by the responsible Member of the Executive Council.

(6) The remuneration, benefits and privileges offered by the responsible Member of the Executive Council, in accordance with subsection (5), may not be substantially different to or less than those payable to the staff member by the Dube TradePort Company, immediately prior to his or her transfer.

(7) For the purposes of the Income Tax Act, 1962 (Act No. 58 of 1962), no change of employer is deemed to have taken place in respect of a staff member who accepts an employment offer contemplated in subsection (5).

(8) When a person becomes a staff member of the Dube TradePort Corporation in terms of subsection (5) –

(a) he or she retains all vacation leave which accrued to his or her credit up to the date immediately before the date of transfer, adjusted in accordance with the conditions of employment of the Dube TradePort Corporation; and

(b) any inquiry instituted or intended to be instituted in respect of alleged misconduct committed by such person before the date of transfer must be disposed of or instituted by the Dube TradePort Corporation, and the Board must take appropriate steps against the person concerned in accordance with the laws, policy and conditions of employment or service applicable to him or her immediately prior to the date of transfer.

General offences

35. (1) A member of the Board, a member of staff, adviser, agent or any other person employed or acting on behalf of the Dube TradePort Corporation is guilty of an offence if he or she directly or indirectly accepts any bribe and or receives any unauthorized fee or

reward from any person in connection with anything done or offered by the Dube TradePort Corporation.

(2) Any person is guilty of an offence if he or she, in respect of or in connection with anything done or offered by the Dube TradePort Corporation induces or attempts to influence a member of the Board, a member of staff, adviser, agent or any other person employed or acting on behalf of the Dube TradePort Corporation to commit a criminal offence.

(3) Any person who falsely claims that he or she is authorized to charge or collect fees, donations or contributions on behalf of, or by direction of the Dube TradePort Corporation is guilty of an offence.

(4) Any person who contravenes or fails to comply with the provisions of this Act or any regulation thereunder is guilty of an offence.

Penalties

36. Any person convicted of an offence in terms of this Act is liable to a fine or to imprisonment for a period not exceeding 5 years or to both such fine and imprisonment.

Short title

37. This Act is called the KwaZulu-Natal Dube TradePort Corporation Act, 2010.

No. 4

21 Oktober 2010

[Engelse teks deur die Premier geteken]

**KWAZULU-NATAL WET OP DUBE
HANDELSHAWE KORPORASIE, 2010
(No. 02 van 2010)**

Goedgekeur op 18-08-2010

WET

Om voorsiening te maak vir die instelling van die Dube Handelshawe korporasie; om die oogmerke, bevoegdhede, pligte en funksies van die Dube Handelshawe korporasie te bepaal; om die wyse waarop die Dube Handelshawe korporasie bestuur, beheer, van personeel voorsien en gefinansier moet word; om voorsiening te maak vir likwidasië van die Dube Handelshawe maatskappy; om voorsiening te maak daarvoor dat die Dube Handelshawe korporasie die regsopvolger van die Dube Handelshawe maatskappy sal wees; en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

DAAR WORD soos volg deur die Wetgewer van die provinsie KwaZulu-Natal bepaal:—

INDELING VAN ARTIKELS

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1. Omskrywings

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3. Oogmerke van die Dube Handelshawe korporasie
4. Bevoegdheid, pligte en funksies van die Dube Handelshawe korporasie

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- 23. Fondse van die Dube Handelshawe korporasie
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- 29. Sekuriteit van vertroulike inligting wat deur die Dube Handelshawe korporasie gehou word
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HOOFSTUK 1

OMSKRYWINGS

Omskrywings

1. In hierdie Wet, tensy uit die konteks anders blyk, beteken –

"**departement**" die Departement van Ekonomiese Ontwikkeling en Toerisme of enige opvolger provinsiale departement waarvan die funksies dié van ekonomiese ontwikkeling in KwaZulu-Natal insluit;

"Dube Handelshawe" die multi-modale ontwikkeling wat uit 'n internasionale lughawe, bedryfsone, landbousone, verwante ondersteuningsdienste en verwante aktiwiteite bestaan en 30 kilometer noord van die Durbanse middestad geleë is;

"Dube Handelshawe korporasie" die provinsiale openbare entiteit ingestel ingevolge artikel 2;

"Dube Handelshawe maatskappy" Dube Handelshawe maatskappy, registrasienommer 2002/002810/07, ingestel ingevolge die Maatskappywet, 1973 (Wet No. 61 van 1973);

"Dube Handelshawe streek" die streek wat binne 'n 30 kilometer radius van die middel van die internasionale lughawe wat binne die Dube Handelshawe geleë is, val;

"Grondwet" die Grondwet van die Republiek van Suid-Afrika, 1996;

"hierdie Wet" insluitend die regulasies;

"hoof- uitvoerende beampte" die hoof- uitvoerende beampte van die Dube Handelshawe korporasie, bedoel in artikel 16;

"hoof van departement" die persoon wat aangestel is as hoof van die departement ingevolge die Staatsdienswet, soos gewysig;

"Koerant" die amptelike *Provinsiale Koerant* van KwaZulu-Natal;

"lid van die Uitvoerende Raad verantwoordelik vir finansies" die lid van die Uitvoerende Raad van die provinsie KwaZulu-Natal verantwoordelik vir finansies;

"portefeuljekomitee" die portefeuljekomitee van die Provinsiale Wetgewer verantwoordelik vir ekonomiese ontwikkeling en toerisme;

"provinsiale openbare entiteit" 'n provinsiale openbare entiteit soos omskryf in artikel 1 van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999);

"provinsie" die provinsie KwaZulu-Natal bedoel in artikel 103 van die Grondwet en **"provinsiale"** het 'n ooreenstemmende betekenis;

"Raad" die Raad van die Dube Handelshawe korporasie bedoel in artikel 5;

"regulasies" regulasies uitgevaardig ingevolge artikel 33;

"sleutelplan" die sleutelplan vir die ontwikkeling, ontwerp en konstruksie van 'n multi-modale vervoermiddelpunt in die Dube Handelshawe streek soos bedoel in artikel 21;

"Uitvoerende Raad" die Uitvoerende Raad van die provinsie bedoel in artikel 132 van die Grondwet;

"verantwoordelike lid van die Uitvoerende Raad" die lid van die Uitvoerende Raad van die provinsie KwaZulu-Natal verantwoordelik vir ekonomiese ontwikkeling en toerisme of enige lid van die Uitvoerende Raad van die provinsie KwaZulu-Natal aan wie die Premier die administrasie van hierdie Wet toegewys het;

"Wet op Openbare Finansiële Bestuur " die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

HOOFSTUK 2

DUBE HANDELSHAWE KORPORASIE

Instelling van die Dube Handelshawe korporasie

2.(1) Hiermee word 'n provinsiale openbare entiteit ingestel wat as die Dube Handelshawe korporasie bekend sal staan.

- (2) Die Dube Handelshawe korporasie is 'n regs persoon wat deur die Raad werk.
- (3) Die Dube Handelshawe korporasie is onderworpe aan die Wet op Openbare Finansiële Bestuur.
- (4) Die Raad is die rekenpligtige gesag van die Dube Handelshawe korporasie soos bedoel in artikel 49(2)(a) van die Wet op Openbare Finansiële Bestuur.

Oogmerke van die Dube Handelshawe korporasie

3. Die oogmerke van die Dube Handelshawe korporasie is –

- (a) om die Dube Handelshawe te ontwikkel;
- (b) om projekte wat met die Dube Handelshawe verband hou, te onderneem of daarin te belê;
- (c) om ekonomiese groei in die provinsie te fasiliteer deur die Dube Handelshawe;
- (d) om langtermyn belegging na die provinsie te lok;
- (e) om in- en uitvoer deur die Dube Handelshawe te fasiliteer; en
- (f) om die bevoegdhede, pligte en funksies soos in artikel 4 gespesifiseer, uit te voer.

Bevoegdhede, pligte en funksies van die Dube Handelshawe korporasie en die Raad

4.(1) Die Dube Handelshawe korporasie moet, deur die Raad –

- (a) die strategiese beplanning, instelling, ontwerp, konstruksie, bedryf, bestuur en beheer van die Dube Handelshawe verseker;
- (b) die sleutelplan implementeer en uitvoering daaraan gee vir die ekonomiese groei van die Dube Handelshawe streek en die provinsie;
- (c) sy hulpbronne bestuur en benut ooreenkomstig sy oogmerke en die vereistes van die sleutelplan;

- (d) beleggingsgeleenthede in die Dube Handelshawe identifiseer, ontwikkel, bemark en bevorder; en
- (e) 'n beleggingsplan vir die Dube Handelshawe ontwikkel.

(2) Die Dube Handelshawe korporasie kan –

- (a) vir die doel om die provinsie te ontwikkel, bevorder, bemark of daarin te belê, en onderhewig aan die vooraf skriftelike goedkeuring van die verantwoordelike lid van die Uitvoerende Raad –
 - (i) een of meer maatskappye, beslote korporasies of ander soortgelyke liggame instel en bedryf;
 - (ii) gesamentlike ondernemings met ander instellings, organisasies, munisipaliteite, liggame of persone aangaan; en
 - (iii) fondse insamel deur donasies en borgskappe;
- (b) met die vooraf skriftelike goedkeuring van die verantwoordelike lid van die Uitvoerende Raad, aandele en belange in maatskappye, beslote korporasies of ander soortgelyke liggame verkry of oor beskik;
- (c) met enige ender entiteit, staatsorgaan, organisasie of instelling skakel wie se werksaamhede of mikpunte 'n impak het op en verband hou met die ontwikkeling, bevordering, bemarking of belegging in die provinsie;
- (d) deur die verantwoordelike lid van die Uitvoerende Raad enige aangeleentheid wat direk of indirek verband hou met die bevordering, ontwikkeling, bemarking of belegging in die provinsie, ondersoek en aanbevelings aan die Uitvoerende Raad maak;
- (e) ooreenkomste aangaan vir die bereiking van sy oogmerke, die uitvoering van sy bevoegdhede, pligte en funksies of die bestuur en administrasie van sy sake, hetsy spesifiek daarvoor voorsiening gemaak is in hierdie artikel of nie;
- (f) deelneem aan die bestuur, toesighouding en beheer van die besigheid of werksaamhede van 'n instelling wat dieselfde of soortgelyke oogmerke as die korporasie het;
- (g) projekte wat met sy oogmerke verband hou, onderneem of daarin belê;
- (h) 'n fonds stig om lugvervoerverbintenis met die provinsie te versterk;
- (i) enige ander ding doen of aandag skenk aan enige ander saak wat nodig is ten einde sy oogmerke te bereik en aan die vereistes van die sleutelplan te voldoen; en

(j) enige ander ding doen of aandag skenk aan enige ander saak wat die verantwoordelike lid van die Uitvoerende Raad nodig ag vir die behoorlike implementering van hierdie Wet.

(3) Buiten die bevoegdhede waarna in subartikel (1) en (2) verwys word, het die Dube Handelshawe korporasie die bevoegdhede vermeld in artikel 54(2) van die Wet op Openbare Finansiële Bestuur.

HOOFSTUK 3

RAAD VAN DIE DUBE HANDELSHAWE KORPORASIE

Samestelling van die Raad

5.(1) Die Raad bestaan uit –

- (a) ten minste drie, maar nie meer as agt lede wat deur die verantwoordelike lid van die Uitvoerende Raad aangestel is; en
- (b) die hoof- uitvoerende beampte, *ex officio*, soos bedoel in artikel 16(5).

(2) Lede van die Raad moet bekwame en geskikte persone wees om in die belang van die provinsie op te tree, en gesamentlik oor die volgende vaardighede en kundigheid beskik –

- (a) kennis en kundigheid in finansiële bestuur;
- (b) kennis en kundigheid in die toerismebedryf;
- (c) kennis en kundigheid in die vervoersektor;
- (d) kennis en kundigheid in die ekonomiese ontwikkelingsektor;
- (e) kennis en kundigheid in die eiendomontwikkelingsbedryf; en
- (f) enige ander vaardigheid, ondervinding of kwalifikasie wat, na die mening van die verantwoordelike lid van die Uitvoerende Raad, tot voordeel van die Dube Handelshawe korporasie kan wees.

(3) By aanstelling van lede op die Raad, moet die verantwoordelike lid van die Uitvoerende Raad verseker dat –

- (a) historiese ongelykhede aangespreek word;

- (b) die Raad, gesamentlik, oor die nodige en toepaslike vaardighede en kundigheid beskik; en
 - (c) die Raad verteenwoordigend is van persone wat in diens of betrokke is by ekonomiese en ontwikkelingsondernemings in die provinsie.
- (4) Die verantwoordelike lid van die Uitvoerende Raad moet –
- (a) een van die lede van die Raad as die voorsitter van die Raad; en
 - (b) een van die lede van die Raad as die adjunkvoorsitter van die Raad, aanwys.
- (5) Die verantwoordelike lid van die Uitvoerende Raad kan 'n persoon as sy of haar verteenwoordiger aanstel wat –
- (a) skakeling tussen die verantwoordelike lid van die Uitvoerende Raad en die Raad moet fasiliteer;
 - (b) van tyd tot tyd aan die verantwoordelike lid van die Uitvoerende Raad moet rapporteer aangaande sake wat tersaaklik geag word; en
 - (c) vergaderings van die Raad kan bywoon en deelneem aan besprekings, maar nie die reg het om te stem wanneer 'n besluit van die Raad geneem word nie.
- (6) Die verantwoordelike lid van die Uitvoerende Raad moet, deur middel van kennisgewing in die *Koerant*, enige belanghebbende partye binne die provinsie uitnooi om kandidate vir aanstelling op die Raad te benoem.
- (7) Die uitnodiging vir benoeming moet –
- (a) die benoemingsprosedure;
 - (b) die vereistes vir benoeming; en
 - (c) die sluitingsdatum vir die benoeming, spesifiseer.
- (8) Die verantwoordelike lid van die Uitvoerende Raad moet alle benoemings wat voorgelê is in reaksie op die kennisgewing oorweeg, en kan 'n keuringspaneel aanstel om al die benoemings te hersien en aanbevelings te maak aan die verantwoordelike lid van die Uitvoerende Raad aangaande die benoemdes.

(9) Die verantwoordelike lid van die Uitvoerende Raad moet die name van die persone wat op die Raad aangestel word in die *Koerant* laat publiseer en in ten minste twee koerante wat in die provinsie sirkuleer, onmiddellik nadat sodanige persone skriftelik van hul aanstelling op die Raad in kennis gestel is.

(10) Die verantwoordelike lid van die Uitvoerende Raad moet, binne twee maande na die aanstelling van lede van die Raad ingevolge subartikel (1), die Uitvoerende Raad en die Portefeuljekomitee inlig aangaande die name van die aangestelde lede insluitend die termyn van hul aanstelling.

(11) Hierdie artikel is met die nodige veranderinge van toepassing op die vul van 'n vakature op die Raad.

Onbevoegdheid vir aanstelling op die Raad

6. 'n Persoon is onbevoeg vir aanstelling op die Raad, of om op die Raad aan te bly, indien hy of sy –

- (a) 'n ongerehabiliteerde insolvent is of word;
- (b) deur 'n bevoegde hof as ontoerekeningsvatbaar verklaar is;
- (c) direk of indirek belang het by enige kontrak met die Raad en versuim om sy of haar belang en die aard daarvan te verklaar op die wyse soos deur hierdie Wet vereis;
- (d) 'n persoon onder kuratorskap is;
- (e) ter enige tyd uit 'n vertrouensamp ontslaan is as gevolg van wangedrag wat diefstal of bedrog behels;
- (f) skuldig bevind is en gevonnissen word tot 'n tydperk van gevangenisstraf sonder die keuse van 'n boete, buiten dat die verantwoordelike lid van die Uitvoerende Raad by ontvangs van 'n beëdigde verklaring wat volle besonderhede bevat van 'n misdryf deur 'n persoon wat benoem is vir aanstelling, 'n misdryf kan verskoon op 'n wyse wat konsekwent is met artikel 106(1)(e) van die Grondwet: Met dien verstande dat onbevoegdheid kragtens hierdie subartikel eindig vyf jaar nadat die vonnis uitgedien is; en

(f) versuim om 'n belang ooreenkomstig artikel 7 te verklaar of die verrigtinge van die Raad bygewoon het of daaraan deelgeneem het terwyl hy of sy 'n belang het soos in die vermeldde artikel vermeld.

Verklaring van finansiële of ander belange van lede van die Raad

7.(1) 'n Persoon wat benoem is om op die Raad te dien ingevolge subartikel 5(8) moet, binne 10 dae na benoeming, 'n skriftelike verklaring aan die verantwoordelike lid van die Uitvoerende Raad voorlê van alle direkte of indirekte belange in enige maatskappy of ander sakebelange.

(2) Versuim deur die benoemde om finansiële en ander belange openbaar te maak ingevolge subartikel (1) maak sodanige benoemde ingevolge artikel 6 onbevoeg om oorweeg te word as lid van die Raad.

(3) Elke lid van die Raad moet, wanneer hy of sy die amp aanvaar en aan die begin van elke finansiële jaar van die Raad, 'n skriftelike verklaring voorlê van sy of haar direkte of indirekte belang in enige maatskappy of ander sakebelang op die wyse soos in artikel 234(3)(a) van die Maatskappywet, 1973 (Wet No. 61 van 1973) bepaal.

(4) Waar 'n lid van die Raad 'n belang in enige maatskappy of ander sakebelang verkry op enige tydstip gedurende sy of haar ampstermyn as 'n lid van die Raad, moet hy of sy binne 10 dae na die datum van die verkryging van sodanige belang, 'n skriftelike verklaring aan die verantwoordelike lid van die Uitvoerende Raad van sodanige belang voorlê.

(5) Enige versuim deur die lid om sy of haar belang te verklaar soos bedoel in subartikels (3) en (4) moet lei tot beëindiging van aanstelling van sodanige lid ingevolge artikel 9(2).

(6) Die verantwoordelike lid van die Uitvoerende Raad moet 'n opgedateerde register hou van die belange van lede van die Raad wat ingevolge hierdie artikel verklaar is.

Ampstermyn en heraanstelling van 'n lid van die Raad

8. Die ampstermyn van 'n persoon wat op die Raad aangestel is, duur 'n tydperk van 5 jaar of sodanige korter tydperk soos die verantwoordelike lid van die Uitvoerende Raad mag bepaal en is, onderhewig aan artikel 5, verkiesbaar vir heraanstelling by die verstryking van sodanige tydperk: Met dien verstande dat geen persoon heraangestel mag word nadat hy of sy op die Raad gedien het vir 'n aaneenlopende tydperk van tien jaar nie.

Vakatures, ontslag en bedanking uit amp van 'n lid van die Raad

9.(1) 'n Lid van die Raad moet die amp verlaat indien hy of sy onbevoeg raak soos bedoel in artikel 6.

(2) Die verantwoordelike lid van die Uitvoerende Raad kan, nadat die lid 'n geleentheid gebied is om sy of haar saak te stel, te eniger tyd die ampstermyn van sodanige lid beëindig, indien volgens sy of haar diskresie, daar goeie redes daarvoor is.

(3) 'n Lid moet sy of haar amp verlaat indien hy of sy afwesig is, sonder dat verlof vir sodanige afwesigheid deur die Raad toegestaan is, van twee opeenvolgende vergaderings van die Raad waarvoor redelike kennis persoonlik of per pos aan daardie lid gegee is.

(4) 'n Lid kan skriftelik uit die amp bedank deur nie minder nie as 30 dae kennis aan die verantwoordelike lid van die Uitvoerende Raad te gee: Met dien verstande dat die verantwoordelike lid van die Uitvoerende Raad die kennisgewingtydperk laat vaar.

(5) Wanneer 'n vakature op die Raad ontstaan, moet die verantwoordelike lid van die Uitvoerende Raad, onderhewig aan artikel 5, 'n persoon aanstel om sodanige vakature te vul vir die onverstreke deel van die ampstydperk van die lid in wie se plek sodanige persoon aangestel is.

(6) In die geval dat die verantwoordelike lid van die Uitvoerende Raad sy of haar bevoegdhede ingevolge subartikel (2) uitoefen, kan hy of sy, nieteenstaande die prosedure vir die aanstelling van die lede van die Raad soos in artikel 5 uiteengesit, onderhewig aan subartikels 5(2) en 5(3) persone aanstel om op 'n voorlopige grondslag te dien as lede van die Raad: Met dien verstande dat –

- (a) die persone aangestel ingevolge hierdie subartikel nie op die Raad mag aanbly vir 'n tydperk van meer as 90 dae na die datum van hul aanstelling nie; en
- (b) die verantwoordelike lid van die Uitvoerende Raad, onderhewig aan artikel 5, die lede van die Raad aanstel binne 90 dae na die aanstelling bedoel in hierdie subartikel.

Tydelik skorsing van 'n lid van die Raad

10. Die verantwoordelike lid van die Uitvoerende Raad kan 'n lid van die Raad skors terwyl die verantwoordelike lid van die Uitvoerende Raad bewerings ondersoek wat, indien daar gevind word dat dit korrek is, kan lei tot beëindiging van die lid se aanstelling ingevolge artikel 9(2).

Vergaderings en vergaderingsprosedures van die Raad

11.(1) Die eerste vergadering van die Raad moet gehou word op 'n datum, tyd en plek soos deur die verantwoordelike lid van die Uitvoerende Raad bepaal waarna alle toekomstige vergaderings moet plaasvind soos deur die voorsitter bepaal.

(2) Die kworum vir 'n vergadering van die Raad is die meerderheid van die lede van die Raad.

(3) Die verrigtinge by 'n vergadering van die Raad moet, onderhewig aan die bepalings van hierdie artikel, deur die voorsitter bepaal word insluitend die reg om te besluit dat enige aangeleentheid onder bespreking onttrek kan word voordat daaroor gestem word.

(4) Die voorsitter moet by alle vergaderings van die Raad voorsit. Indien die voorsitter afwesig is, moet die adjunkvoorsitter as voorsitter optree en indien beide die voorsitter en die adjunkvoorsitter by 'n vergadering van die Raad afwesig is, kan die lede teenwoordig, uit hul eie geledere, 'n persoon verkies om as voorsitter op te tree vir die duur van daardie spesifieke vergadering.

(5) 'n Besluit van die Raad moet geneem word deur 'n meerderheid van die stemme van die lede wat by 'n vergadering teenwoordig is en, in die geval van 'n staking van stemme oor enige aangeleentheid, het die voorsitter 'n beslissende stem buiten sy of haar gewone stem.

(6) Die Raad moet notules van sy vergaderings hou.

(7) Geen besluit van die Raad is ongeldig slegs op grond van 'n vakature in die Raad nie: Met dien verstande dat die besluit geneem word deur die vereiste meerderheid van die lede van die Raad daar teenwoordig en geregtig daarop om as lede van die Raad te sit.

(8) Die voorsitter, of 'n meerderheid van die lede van die Raad, kan 'n buitengewone vergadering van die Raad roep in welke geval die bepalinge van hierdie artikel, met die nodige veranderinge, van toepassing is.

(9) Die Raad kan, volgens sy diskresie, lede van die publiek toelaat om enige vergadering van die Raad by te woon.

Onttrekking van 'n lid van vergaderings en verrigtinge van die Raad

12.(1) 'n Lid van die Raad moet hom- of haarself van 'n saak onttrek wat deur die Raad ondersoek, oorweeg of oor gestem word indien een of meer van die volgende geld –

- (a) indien hy of sy 'n direkte of indirekte belang het; of
- (b) indien daar 'n moontlikheid bestaan dat 'n direkte of indirekte belang mag ontstaan.

(2) Indien dit in enige stadium gedurende die loop van enige verrigtinge voor die Raad blyk dat 'n lid wat by daardie vergadering teenwoordig is, of 'n belang kan hê bedoel in subartikel (1), moet sodanige lid onverwyld die aard van sy of haar belang verklaar en die vergadering verlaat.

(3) Enige verklaring van belang wat ingevolge subartikel (1) gemaak is, moet opgeteken word in die notule van die betrokke vergadering.

(4) Indien dit daarna blyk dat die Raad 'n besluit geneem het oor 'n saak ten opsigte waarvan 'n lid versuim het om 'n belang bedoel in subartikel (1) te verklaar, is sodanige besluit deur die Raad ongeldig.

(5) Vir die doeleindes van hierdie artikel sluit "**indirekte belang**" in, maar is nie beperk nie tot, 'n belang wat gehou word deur enige lid se –

- (a) besigheidsvennoot, kollega of werkgewer, buiten die Staat;
- (b) eggenoot, deelgenoot in 'n gewoontehuwelik, of persoon saam met wie sodanige lid bly of leef asof hul getroud is; of
- (c) kind, ouer, of broer of suster.

Vergoeding van lede van die Raad

13.(1)(a) Onderhewig aan subartikel 2(a) kan 'n lid van die Raad uit die fondse van die Kommissie sodanige vergoeding en toelae betaal word soos bepaal deur die verantwoordelike lid van die Uitvoerende Raad in oorleg met die lid van die Uitvoerende Raad verantwoordelik vir finansies; en

(b) 'n Lid van die Raad wat vergoeding, toelae of ander voordele ontvang uit hoofde van sy of haar pos of diens in –

- (i) die nasionale regering;
- (ii) 'n provinsiale regering;
- (iii) 'n munisipaliteit; of
- (iv) 'n korporasie, liggaam of instelling waarin die nasionale of 'n provinsiale regering 'n beherende belang het, en

wat voortgaan om sodanige vergoeding, toelaes of ander voordele te ontvang terwyl hy of sy as 'n lid van die Raad dien, mag slegs vergoeding en toelae ontvang soos vermeld in paragraaf (a) tot die omvang wat vereis word om sodanige lid in die finansiële posisie te plaas waarin hy of sy sou gewees het indien dit nie vir sodanige pos of diens was nie.

- (2)(a) 'n Lid van die Raad en 'n persoon wat aan die Raad gekoöpteer is, kan met betrekking tot sy of haar funksies as 'n lid of gekoöpteerde lid, vergoeding ontvang uit die fondse van die Korporasie vir redelike werklike reis- en verblyfkoste genoodsaak deur die werklike bywoning van 'n vergadering van die Raad; en
- (b) Die lid van die Uitvoerende Raad verantwoordelik vir finansies moet prosedures, insluitende beheermaatreëls, bepaal vir die bestuur, hantering en verwerking van eise vir reis- en verblyfkoste bedoel in paragraaf (a).

Instelling van komitees om die Raad by te staan

14.(1) Die Raad kan komitees instel wat uit een of meer van sy lede bestaan om –

- (a) die Raad by te staan in die uitvoering van enige van die bevoegdhede, pligte of funksies van die Raad bedoel in artikel 4; of
- (b) ondersoek in te stel of navorsing te doen oor enige saak wat binne die mandaat van die Raad ingevolge hierdie Wet val.

(2) Wanneer 'n komitee bedoel in subartikel (1) ingestel word, moet die Raad –

- (a) die opdrag van sodanige komitee bepaal, insluitend maar nie beperk nie tot, of sodanige komitee ophou voortbestaan of nie wanneer dit die taak of take voltooi het wat deur die Raad daaraan toegewys is;
- (b) 'n voorsitter van sodanige komitee aanstel wat 'n lid van die Raad moet wees; en
- (c) bepaal of sodanige komitee persone mag koöpteer wat nie lede van die Raad is nie, en indien wel, op watter terme en voorwaardes.

(3) Die Raad kan, te eniger tyd, die bestaan van 'n komitee of enige mandaat wat aan 'n komitee gegee is, beëindig, ongeag of sodanige komitee die taak of take voltooi het wat daaraan deur die Raad toegewys is.

(4)(a) Die hoof- uitvoerende beampte mag vergaderings van 'n komitee bywoon en daaraan deelneem, maar het nie die reg om te stem nie; en

(b) 'n Personeellid van die Raad mag, op uitnodiging deur die tersaaklike komitee, 'n vergadering van daardie komitee bywoon.

Koöptering van persone aan die Raad of komitees van die Raad

15.(1) Die Raad mag, indien hy van mening is dat 'n spesifieke persoon in staat is om hom by te staan met betrekking tot enige van sy funksies en bevoegdhede, sodanige persoon vir daardie doel koöpteer.

(2) 'n Persoon wat gekoöpteer is ingevolge subartikel (1) is nie geregtig daarop om te stem by enige vergadering van die Raad of 'n komitee nie.

(3) 'n Persoon wat gekoöpteer is ingevolge subartikel (1) moet sodanige vergoeding en toelae uit die fondse van die Korporasie ontvang soos bepaal deur die Raad ooreenkomstig artikel 13(2)(a), in oorleg met die lid van die Uitvoerende Raad verantwoordelik vir finansies.

HOOFSUK 4**HOOF- UITVOERENDE BEAMPTTE EN PERSONEEL VAN DIE DUBE HANDELSHAWE
KORPORASIE****Hoof- uitvoerende beampte van die Dube Handelshawe korporasie**

16.(1) Die Raad moet, in oorleg met die verantwoordelike lid van die Uitvoerende Raad, die hoof- uitvoerende beampte van die Dube Handelshawe korporasie aanstel.

(2)(a) Die hoof- uitvoerende beampte word aangestel vir 'n tydperk wat nie vyf jaar oorskry nie op terme en diensvoorwaardes soos deur die Raad bepaal, in oorleg met die verantwoordelike lid van die Uitvoerende Raad; en

(b) Die hoof- uitvoerende beampte, mag, met die goedkeuring van die verantwoordelike lid van die Uitvoerende Raad, heraangestel word vir sodanige tydperk as deur die verantwoordelike lid van die Uitvoerende Raad bepaal.

(3)(a) Die aanstelling van die hoof- uitvoerende beampte is onderhewig aan die sluiting van 'n skriftelike prestasie-ooreenkoms wat aangegaan word met die Dube Handelshawe korporasie; en

(b) Die Raad en die hoof- uitvoerende beampte mag, skriftelik en volgens ooreenkoms, die prestasie-ooreenkoms wysig.

(4) Vir doeleindes van die verklaring van finansiële of ander belange, is die bepalings van artikel 7 met die nodige veranderings van toepassing op die hoof- uitvoerende beampte behalwe dat die hoof- uitvoerende beampte sy of haar belange aan die Raad moet verklaar.

(5) Die hoof- uitvoerende beampte is 'n *ex officio*-lid van die Raad maar het nie die reg om by sy vergaderings te stem nie.

Funksies van die hoof- uitvoerende beampte

17.(1) Die hoof- uitvoerende beampte is verantwoordelik vir –

(a) die administratiewe en finansiële bestuur van die Dube Handelshawe korporasie in ooreenstemming met die Wet op Openbare Finansiële Bestuur, onderhewig aan die opdrag van die Raad;

(b) die aanstelling van personeellede van die Dube Handelshawe korporasie bedoel in artikel 19(1) in oorleg met die Raad;

(c) die bepaling van 'n gedragskode, in oorleg met die Raad, van toepassing op die hoof- uitvoerende beampte, alle personeel van die Dube Handelshawe korporasie en beregbaar vir doeleindes van dissiplinêre stappe, om –

(i) nakoming van toepaslike reg, insluitend hierdie Wet;

(ii) die doeltreffende, doelmatige en ekonomiese gebruik van die Dube Handelshawe korporasie se fondse en hulpbronne;

(iii) die bevordering en handhawing van 'n hoë standaard van professionele etiek;

(iv) die voorkoming van botsende belange;

(v) die beskerming van vertroulike inligting gehou deur die Raad; en

(vi) professionele, eerlike, onpartydige, regverdige, etiese en billike diens,

te verseker;

(d) die handhawing van dissipline oor die personeel aangestel ingevolge paragraaf (b) en moet, vir daardie doeleindes, aan die Raad verantwoordbaar wees;

(e) die byhou en instandhouding van die register van belange verklaar deur 'n personeellid van die Dube Handelshawe korporasie; en

(f) versekering van nakoming deur die Dube Handelshawe korporasie van die bepalinge van die Wet op Openbare Finansiële Bestuur en enige ander toepaslike wetgewing.

(2) Die hoof- uitvoerende beampte is aan die Raad verantwoordbaar en moet aan die Raad rapporteer oor die aktiwiteite van die Dube Handelshawe korporasie.

(3) Indien die hoof- uitvoerende beampte om enige rede nie in staat is om enige van sy of haar funksies uit te voer nie, moet die Raad, in oorleg met die verantwoordelike lid van die Uitvoerende Raad, 'n ander persoon aanstel as waarnemende hoof- uitvoerende beampte tot die hoof- uitvoerende beampte in staat is om daardie funksies te hervat.

Bedanking en ontslag uit amp van die hoof- uitvoerende beampte

18.(1) Die hoof- uitvoerende beampte ontruim sy of haar amp –

(a) in die geval van bedanking, wanneer die bedanking van krag word;

(b) wanneer, ingevolge die Maatskappywet, 1973 (Wet No. 61 van 1973), die persoon wat daardie amp beklee, onbevoeg raak om as direkteur van 'n maatskappy te dien; en

(c) by ontslag uit amp ingevolge subartikel (2).

(2) Die Raad kan, in oorleg met die lid van die Uitvoerende Raad, die hoof- uitvoerende beampte se diens beëindig in ooreenstemming met toepaslike indiensnemings- en arbeidsreg.

Personeel van die Dube Handelshawe korporasie

19.(1) Die hoof- uitvoerende beampte moet, onderhewig aan subartikel (2), personeellede van die Dube Handelshawe korporasie in diens neem soos wat redelikerwys nodig blyk te wees –

- (a) om hom of haar by te staan in die verrigting van sy of haar funksies ingevolge hierdie Wet; en
- (b) om die Raad by te staan met die werk eie aan die verrigting van sy funksies deur die Raad.

(2) Die Raad moet 'n menslike hulpbronbeleid vir personeellede van die Dube Handelshawe korporasie bepaal, insluitend die hoof- uitvoerende beampte.

(3) Vir doeleindes van die verklaring van finansiële of ander belange, en onderhewig aan artikel 17(1)(e), is die bepalings van artikels 7(3), 7(4) en 7(5), met die nodige veranderings, van toepassing op personeellede van die Dube Handelshawe korporasie.

(4) Die hoof- uitvoerende beampte moet 'n opgedateerde register byhou van die belange van personeellede van die Dube Handelshawe korporasie wat ingevolge subartikel (3) verklaar is.

(5) Die Raad, in oorleg met die verantwoordelike lid van die Uitvoerende Raad, moet–

- (a) die vergoeding en diensvoorwaardes; en
- (b) die pensioen- en aftreevoordele,

van die hoof- uitvoerende beampte en die ander personeellede van die Dube Handelshawe korporasie bepaal.

Sekondering of verplasing van personeel na die Dube Handelshawe korporasie

20. Die Dube Handelshawe korporasie kan die dienste benut van persone wat vanaf die staatsdiens gesekondeer of oorgeplaas word in ooreenstemming met die bepalings van die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994).

HOOFSTUK 5

SLEUTELPLAN, BELEIDSVOORSKRIFTE EN STRATEGIESE RIGLYNE

Sleutelplan

21.(1) Die Raad moet, binne 6 maande na die inwerkingtreding van hierdie Wet, na oorlegpleging met die hoof- uitvoerende beamppte, 'n sleutelplan instel.

(2) Die sleutelplan bedoel in subartikel (1), moet onder andere insluit die vragterminaal, eiendomsone, handelsone, landbousone, openbare vervoer nodusse, padnetwerke, spoor, vrag- en passasiersvervoernetwerke binne die Dube Handelshawe streek.

(3) Die sleutelplan moet opgedateer word wanneer die behoefte ontstaan om aan die doelwitte van die Dube Handelshawe korporasie te voldoen.

(4) Die sleutelplan moet deur die verantwoordelike lid van die Uitvoerende Raad goedgekeur word.

(5) Die sleutelplan moet, vir die jaar 2010, 2035 en 2060 –

- (a) 'n oorsig van die ontwikkelingstruktuur van die Dube Handelshawe;
- (b) ontwikkelingsdoelwitte en sleutelbeplanning vir die Dube Handelshawe; en
- (c) vir die ontwikkeling, sonering, vervoer en grootmaat-infrastrukturele behoeftes van die Dube Handelshawe korporasie,

bepaal.

(6) Wanneer die Raad sy funksies ingevolge hierdie Wet uitvoer, moet die Raad uitvoering gee aan die sleutelplan.

Beleidsvoorskrifte en strategiese riglyne

22. Die verantwoordelike lid van die Uitvoerende Raad kan –

- (a) Strategiese riglyne stel vir die nastrewing van die Dube Handelshawe korporasie se oogmerke;
- (b) beleidsvoorskrifte aan die Raad uitreik; en
- (c) enige beleidsopdragte uitgereik ingevolge paragraaf (a) onttrek of wysig.

HOOFSTUK 6

BEFONDSING EN FINANSIËLE BESTUUR VAN DIE DUBE HANDELSHAWE KORPORASIE

Fondse van die Dube Handelshawe korporasie

23.(1) Die fondse van die Dube Handelshawe korporasie bestaan uit –

- (a) geld bewillig deur die Provinsiale Wetgewer;
- (b) rente op beleggings van die Dube Handelshawe korporasie; en
- (c) inkomste wat wettig van enige ander bron afkomstig is.

(2) Die Dube Handelshawe korporasie moet sy fondse benut –

- (a) vir die betaling van vergoeding, toelaes en reis- en verblyfkoste van –
 - (i) die lede van die Raad;
 - (ii) die hoof- uitvoerende beampte; en
 - (iii) die personeellede van die Dube Handelshawe korporasie; en
- (b) om kostes te dek met betrekking tot –
 - (i) die dag-tot-dag bedryf en administrasie van die Dube Handelshawe korporasie en die Raad;
 - (ii) die bedryf en bestuur van die Dube Handelshawe korporasie; en
 - (iii) die verrigting van die pligte en funksies van die Dube Handelshawe korporasie en die uitoefening van sy bevoegdhede ingevolge hierdie Wet.

(3) Die hoof- uitvoerende beampte moet, met die instemming van die Raad –

- (a) 'n rekening in die naam van Dube Handelshawe korporasie oopmaak by 'n instelling geregistreer as 'n bank ingevolge die Bankwet, 1990 (Wet No. 94 van 1990); en
- (b) alle geld wat ingevolge subartikel (1) ontvang is, daarin deponeer.

(4) Die Raad kan gelde belê wat in sy rekening gedeponeer is en wat nie vir onmiddellike gebruik vereis word nie: Met dien verstande dat die Raad redelike stappe moet doen om te verseker dat die belegging nie spekulatief van aard is nie.

(6) Die Dube Handelshawe korporasie, asook die Raad, mag nie geld leen of waarborge, kwytskeldings of sekuriteite uitreik of enige ander transaksies wat die

Agentskap bind, aangaan nie, tensy sodanige lening, waarborg, kwytskelding, sekuriteit of ander transaksie ingevolge hierdie Wet gemagtig word en nie teenstrydig is met die Wet op Openbare Finansiële Bestuur nie.

Finansiële bestuur

24.(1) Die hoof- uitvoerende beampte moet volledige en behoorlike rekeningboeke en al die nodige rekords wat daarop betrekking het, byhou.

(2) Die hoof- uitvoerende beampte moet verseker dat die Dube Handelshawe korporasie se jaarlikse begrotings, korporatiewe planne, jaarverslae en geouditeerde finansiële state voorberei en voorgelê word in ooreenstemming met die Wet op Openbare Finansiële Bestuur.

(3) Die hoof- uitvoerende beampte moet binne drie maande voor die einde van elke finansiële jaar –

(a) 'n besigheidsplan vir die Raad, wat meetbare doelwitte bevat en die ander inligting bedoel in artikel 25(3)(b) en (c); en

(b) 'n staat van die beraamde inkomste en uitgawes van die Raad, aan die Raad voorlê vir goedkeuring met betrekking tot die volgende drie finansiële jaar.

(4) In enige finansiële jaar kan die hoof- uitvoerende beampte aangepaste of bykomende state van die beraamde inkomste en uitgawes van die Dube Handelshawe korporasie vir daardie finansiële jaar aan die Raad voorlê vir goedkeuring.

(5) Die Dube Handelshawe korporasie mag geen finansiële verbintenis aangaan buiten sy goedgekeurde begroting en opgegaarde reserwes nie.

(6) Die hoof- uitvoerende beampte kan met die goedkeuring van die Raad –

(a) enige onbestede gedeelte van sy fondse by die Korporasie vir Openbare Deposito's of enige ander instelling belê soos van tyd tot tyd deur die Nasionale Tesourie gekategoriseer of ge lys as 'n Kategorie "A1"-finansiële instelling; of

(b) op enige ander manier van daardie gedeelte afstand doen.

(7) Die hoof- uitvoerende beampte kan, met die goedkeuring van die Raad, reserwefondse stig en bedrae soos deur die Raad goedgekeur, daarin deponeer.

Oudit en jaarverslag

25.(1) Die Ouditeur-generaal moet die finansiële state van die Dube Handelshawe korporasie audit.

(2)(a) Die Raad moet 'n verslag oor die aktiwiteite van die Dube Handelshawe korporasie gedurende 'n finansiële jaar in die Provinsiale Wetgewer ter tafel lê binne vyf maande na die einde van daardie finansiële jaar; en

(b) Binne vyf maande nadat die verslag ter tafel gelê is, moet 'n delegasie bestaande uit die voorsitter van die Raad en ten minste twee ander lede van die Raad die betrokke Portefeuljekomitee oor die jaarverslag inlig.

(3) Die verslag moet –

(a) 'n balansstaat en 'n inkomste-en-uitgawestaat gesertifiseer deur die Ouditeur-generaal insluit;

(b) die omvang verklaar waartoe die Dube Handelshawe korporasie sy oogmerke vermeld in artikel 3 bereik of bevorder het en die meetbare doelwitte soos uiteengesit in sy besigheidsplan soos bedoel in artikel 24(3)(a) gedurende die betrokke finansiële jaar; en

(c) tersaaklike prestasie-inligting bevat aangaande die ekonomiese, doelmatige en doeltreffende toepassing van hulpbronne en in besonder 'n vergelyking tussen beplande en werklike prestasie-aanduiders soos in daardie besigheidsplan uiteengesit.

Finansiële jaar van die Dube Handelshawe korporasie

26. Die finansiële jaar van die Dube Handelshawe korporasie begin op 1 April van 'n spesifieke jaar en eindig op 31 Maart van die volgende jaar.

Vaste eiendom

27. Die Dube Handelshawe korporasie kan, ingevolge 'n beleid en prosedures soos deur die Raad bepaal en met die goedkeuring van die verantwoordelike lid van die Uitvoerende Raad, vaste eiendom verkry, hou of oor beskik in sy besigheidsverloop.

Regstappe teen die Dube Handelshawe korporasie

28.(1) Enige regstappe teen die Dube Handelshawe korporasie moet ingestel word in ooreenstemming met die Wet op die Instel van Geregte Verrigtinge teen Sekere Staatsorgane, 2002 (Wet No. 40 van 2002).

(2) Die Dube Handelshawe korporasie word, vir doeleindes van subartikel (1), beskou as staatsorgaan bedoel in paragraaf (c) van die omskrywing daarvan in artikel 1 van die vermelde Wet.

HOOFSTUK 7**ALGEMENE BEPALINGS****Sekuriteit van vertroulike inligting gehou deur die Dube Handelshawe korporasie**

29.(1) Onderhewig aan die Grondwet en die Wet op die Bevordering van Toegang tot Inligting, 2000 (Wet No. 2 van 2000), mag geen persoon enige inligting wat aan die Dube Handelshawe korporasie voorgelê word met betrekking tot enige regsopdrag of -instruksie openbaar maak nie, tensy –

(a) hy of sy deur 'n geregshof daartoe gelas word; of

(b) die persoon wat sodanige opdrag of instruksie gegee het, skriftelik daartoe instem.

(2) Geen persoon mag enige inligting wat in die register bedoel in artikels 7(6), 16(4) en 19(4) gehou word, openbaar maak nie tensy sodanige openbaarmaking –

- (a) ingevolge enige wet is wat sodanige openbaarmaking verplig of magtig;
- (b) wesenlik nodig is vir die behoorlike funksionering van die Dube Handelshawe korporasie; of
- (c) gemaak is vir doeleindes van monitering, evaluering, ondersoek of oorweging van enige aktiwiteit wat op die Dube Handelshawe korporasie, of enige personeellid van die Dube Handelshawe korporasie, betrekking het.

(3) Enige persoon wat subartikel (1) of (2) oortree, is skuldig aan 'n misdryf.

Ontbinding van die Dube Handelshawe korporasie

30. Die Dube Handelshawe korporasie mag slegs ontbind word ingevolge 'n wet van die Provinsiale Wetgewer.

Gebruik van naam van die Dube Handelshawe of Dube Handelshawe korporasie

31.(1) Geen persoon mag, sonder vooraf skriftelike magtiging van die Dube Handelshawe korporasie, op enige wyse die Dube Handelshawe korporasie verteenwoordig of gebruik maak van die naam, akroniem, logo, ontwerpe of materiaal gebruik of besit deur die Dube Handelshawe korporasie nie.

(2) Geen persoon mag valslik beweer dat hy of sy namens die Dube Handelshawe korporasie optree nie.

(3) Enige persoon wat subartikel (1) of (2) oortree, is skuldig aan 'n misdryf.

Delegering

32.(1) Die verantwoordelike lid van die Uitvoerende Raad mag aan die Raad –

- (a) enige bevoegdheid delegeer wat aan die verantwoordelike lid van die Uitvoerende Raad deur hierdie Wet verleen is, buiten die bevoegdheid om regulasies vermeld in artikel 33 uit te vaardig; of

(b) enige plig deleger wat aan die verantwoordelike lid van die Uitvoerende Raad deur hierdie Wet opgelê is, buiten enige plig aangaande die aanstelling en beëindiging van die amp van die lede van die Raad bedoel in artikels 5(1)(a) en 9(2).

(2) Die Raad kan, deur 'n spesiale beslissing, enige bevoegdheid of plig wat deur hierdie Wet aan die Dube Handelshawe korporasie verleen of opgelê is, aan die hoof-uitvoerende beampte of personeellid van die Dube Handelshawe korporasie deleger.

(3) Die hoof- uitvoerende beampte kan aan enige personeellid van die Dube Handelshawe korporasie enige bevoegdheid of plig wat deur hierdie Wet aan die hoof-uitvoerende beampte verleen of opgelê is, deleger behalwe enige plig as rekenplegtige beampte van die Dube Handelshawe korporasie.

(4) Enige bevoegdheid of plig gedeleger ingevolge subartikel (1), (2) of (3) moet uitgeoefen of verrig word onderhewig aan sodanige voorwaardes soos wat die persoon of liggaam wat die delegering gedoen het, nodig ag.

(5) Enige delegasie vermeld in subartikel (1), (2) of (3) –

(a) moet skriftelik wees;

(b) verbied nie die persoon of liggaam wat die delegering gedoen het om daardie bevoegdheid uit te oefen of daardie plig te verrig nie; en

(c) mag ter enige tyd skriftelik deur daardie persoon of liggaam onttrek of gewysig word.

Regulasies

33. Die verantwoordelike lid van die Uitvoerende Raad kan, in oorleg met die Raad en deur middel van kennis in die *Koerant*, regulasies uitvaardig met betrekking tot –

(a) enige aangeleentheid wat voorgeskryf mag word ingevolge hierdie Wet; of

(b) enige administratiewe of prosedurele aangeleentheid wat nodig is om uitvoering te gee aan die bepalinge van hierdie Wet.

Likwidasie van die Dube Handelshawe maatskappy en oorgangsbepalings

34.(1)(a) Die Maatskappy, Dube Handelshawe, met maatskappyregistrasienuommer 2002/002801/08, ingestel ingevolge die Maatskappywet, 1973 (Wet No. 61 van 1973), moet vrywillig gelikwideer en geskrap word; en

(b) Die lede van die maatskappy moet, by likwidasie van die maatskappy vermeld in paragraaf (a), met behoorlike spoed en ywer optree en moet, onder andere voldoen aan artikel 349 en 350 van die Maatskappywet, 1973 (Wet No. 61 van 1973).

(2) Op die datum van likwidasie van die Dube Handelshawe maatskappy word alle bates, laste, regte, pligte en verpligtinge, insluitend enige onbestede gedeelte van enige opgelope fondse of fondse ontvang deur die Dube Handelshawe maatskappy, oorgeplaas na, en berus by, Dube Handelshawe korporasie, ingestel ingevolge artikel 2.

(3) Dube Handelshawe korporasie is, met betrekking tot die bates, laste, regte, pligte en verpligtinge en fondse vermeld in subartikel (2), vir alle doeleindes regtens die opvolger van, en die regsopvolger tot, die Dube Handelshawe maatskappy.

(4) Die lede van die Raad van die Dube Handelshawe maatskappy moet as behoorlik gemagtigde en bemaagtigde lede van die Raad optree tot sodanige tyd as wanneer die verantwoordelike lid van die Uitvoerende Raad, ingevolge artikel 5(1)(a), die Raad ingevolge hierdie Wet aangestel het.

(5) 'n Werksaanbod moet binne ses maande na die inwerkingtreding van hierdie Wet deur die verantwoordelike lid van die Uitvoerende Raad aan alle personeellede van die Dube Handelshawe maatskappy gemaak word vir oorplasing na die Dube Handelshawe korporasie op 'n datum soos bepaal deur die verantwoordelike lid van die Uitvoerende Raad.

(6) Die vergoeding, voordele en voorregte wat deur die verantwoordelike lid van die Uitvoerende Raad in ooreenstemming met subartikel (5) gebied word, mag nie wesenlik verskillend of minder wees nie as dit betaalbaar aan die personeellid deur die Dube Handelshawe maatskappy, onmiddellik voor sy of haar oorplasing.

(7) Vir die doeleindes van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), word geag dat geen verandering van werkgewer plaasgevind het nie met betrekking tot 'n personeellid wat 'n werksaanbod bedoel in subartikel (5) aanvaar.

(8) Wanneer 'n persoon ingevolge subartikel (5) 'n personeellid van die Dube Handelshawe korporasie word –

(a) behou hy of sy alle opgelope vakansieverlof tot sy of haar krediet tot die datum onmiddellik voor die datum van oorplasing, aangepas in ooreenstemming met die diensvoorwaardes van die Dube Handelshawe korporasie; en

(b) moet enige navraag wat ingestel of beoog word ten opsigte van beweerde wangedrag gepleeg deur sodanige persoon voor die datum van oorplasing, beskik word oor of ingestel word deur die Dube Handelshawe korporasie en die Raad moet toepaslike stappe doen teen die betrokke persoon in ooreenstemming met die wette, beleid en diensvoorwaardes wat op hom of haar van toepassing is onmiddellik voor die datum van oorplasing.

Algemene oortredings

35.(1) 'n Lid van die Raad, 'n personeellid, adviseur, agent of enige ander persoon in diens van of waarnemend namens die Dube Handelshawe korporasie is skuldig aan 'n misdryf indien hy of sy direk of indirek enige omkoopgeld aanvaar en of enige ongemagtigde fooi of beloning ontvang vanaf enige persoon in verband met enigiets gedoen of gebied deur die Dube Handelshawe korporasie.

(2) Enige persoon is skuldig aan 'n misdryf indien hy of sy, met betrekking tot of in verband met enigiets wat deur die Dube Handelshawe korporasie gedoen of gebied word, 'n lid van die Raad, 'n personeellid, adviseur, agent of enige ander persoon in diens van of waarnemend namens die Dube Handelshawe korporasie, oorreed of probeer beïnvloed om 'n kriminele oortreding te begin.

(3) Enige persoon wat valslik beweer dat hy of sy gemagtig is om fooie, donasies of bydraes te hef of in te vorder, namens of in opdrag van die Dube Handelshawe korporasie is skuldig aan 'n misdryf.

Strawwe

36. Enige persoon wat skuldig bevind is aan 'n misdryf ingevolge hierdie Wet is aanspreeklik vir 'n boete of gevangenisstraf vir 'n tydperk wat nie 5 jaar oorskry nie of beide.

Kort titel

37. Hierdie Wet word die KwaZulu-Natal Wet op Dube Handelshawe Korporasie, 2010 genoem.

No. 4

21 kuMfumfu 2010

[Umbhalo wesiNgisi unyathelwe nguNdunankulu]

UMTHETHO WAKWAZULU-NATALI
WE-DUBE TRADEPORT CORPORATION, 2010
(Umthetho Na. 02 ka 2010)

Uvunywe ngomhlaka 18-08-2010

UMTHETHO

Wokuhlinzekela ukusungulwa kwe-Dube TradePort Corporation; wokunquma ngezinjongo, ngamandla, ngezibopho nangemisebenzi ye-Dube TradePort Corporation; wokunquma indlela okuzophathwa ngayo, okuzobuswa, okuzoqashwa ngayo abasebenzi nokuzokwesekwa ngayo ngezimali i-Dube TradePort Corporation; wokuhlinzekela ukuhlakazwa kwe-Dube TradePort Corporation; wokuhlinzekela ukuthi i-Dube TradePort Corporation kube iyona engena ezicathulweni ze-Dube TradePort Company ngokusemthethweni; nokuhlinzekela okunye okuphathelene nalokho.

MAKUMISWE UMTHETHO yisiShayamthetho sesiFundazwe saKwaZulu-Natali, kanje:-

UKUHLELEKA KWEZIGABA

Isigaba

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IZINCAZELO

1. Izincazelo

ISAHLUKO 2

I-DUBE TRADEPORT CORPORATION

2. Ukusungulwa kwe-Dube TradePort Corporation
3. Izinhloso ze-Dube TradePort Corporation
4. Amandla, izibopho nemisebenzi ye-Dube TradePort Corporation

ISAHLUKO 3

IBHODI YE-DUBE TRADEPORT CORPORATION

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6. Ukuhoxiswa ekuqokelweni eBhodini
7. Ukudalula ukuhlomula ngokwezezimali nokunye ukuhlomula kwamalungu eBhodi
8. Isikhathi sokuba sesikhundleni nokuqokwa kabusha kwelungu leBhodi
9. Izikhala zomsebenzi, ukususwa nokwesula esikhundleni kwamalungu eBhodi
10. Ukumiswa okwesikhashana kwelungu leBhodi
11. Imihlangano kanye nezinqubo zemihlangano yeBhodi
12. Ukuhoxa kwelungu emihlanganweni kanye nenqubo yeBhodi
13. Ukuholelwa kwamalungu eBhodi
14. Ukusungulwa kwamakomidi asiza iBhodi
15. Ukwengezwa kwabantu eBhodini noma emakomidini eBhodi

ISAHLUKO 4

ISIKHULU ESIPHEZULU KANYE NABASEBENZI BE-DUBE TRADEPORT CORPORATION

16. Isikhulu esiPhezulu se-Dube TradePort Corporation
17. Imisebenzi yesiKhulu esiPhezulu
18. Ukwesula kanye nokususwa esikhundleni kwesiKhulu esiPhezulu

19. Abasebenzi be-Dube TradePort Corporation
20. Ukusiswa noma ukudluliselwa kwabasebenzi kwi-Dube TradePort

ISAPHLUKO 5

ISU LOKUSEBENZA, IMIKHOMBANDLELA YENQUBOMGOMO KANYE NEMIGUDU EFANELE

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22. ImiKhombandlela yeNqubomgomo nemiGudu eFanele

ISAPHLUKO 6

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23. Uxhasomali lwe-Dube TradePort Corporation
24. Ukuphathwa kwezimali
25. Ukucwaningwa kwamabhuku nombiko wonyaka
26. Unyaka wezimali we-Dube TradePort Corporation
27. Impahla engenakususwa
28. Ukuthathelwa izinyathelo zomthetho kwe-Dube TradePort Corporation

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IZINHLINZEKO EZEJWAYELEKILE

29. Ukuphepha kolwazi oluyimfihlo olugcinwe yi-Dube TradePort Corporation
30. Ukuhlakazwa kwe-Dube TradePort Corporation
31. Ukusetshenziswa kwegama le-Dube TradePort Corporation
32. Ukudluliselwa kwamandla
33. IMithethonqubo
34. Ukuvalwa kweNkampani i-Dube TradePort kanye nezinhlinzeko zesikhashana zalezo zinguquko
35. Amacala ajwayelekile
36. Izinhlawulo
37. Isihloko esifingqiwe

ISAHLUKO 1

IZINCAZELO

Izincazelo**1. Kulo Mthetho, ngaphandle uma ingqikithi isho okwehlukile -**

“iBhodi” kusho ibhodi ye-Dube TradePort Corporation ehlongozwe kwisigaba 5;

“isiKhulu esiPhezulu” kusho isiKhulu esiPhezulu se-Dube TradePort Corporation, esihlongozwe kwisigaba 16;

“uMthethosisekelo” kusho uMthethosisekelo weRiphabhuliki yaseNingizimu Afrika, 1996”

“uMnyango” kusho uMnyango Wezokuthuthukiswa Komnotho Nezokuvakasha nanoma yimuphi omunye umnyango wesifundazwe oyothatha izintambo omisebenzi yawo ibandakanya ukuthuthukiswa komnotho KwaZulu-Natali;

“i-Dube TradePort” kusho uhlelo lwentuthuko olumikhakha miningi oluhlanganise isikhumulo sezindiza sezinga lomhlaba, isikhungo sezohwebo, isikhungo sezolimo, okunye ukwesekwa okuhambisana nalokho kanye neminye imisebenzi ehambisana nalokho, olusendaweni esebangeni elingamakhilomitha angama-30 enyakatho yenkaba yedolobha laseThekwini;

“isiFunda se-Dube TradePort” kusho isifunda esisendaweni esebangeni elingaphansi kwamakhilomitha angama-30 ezungeze isikhumulo samabhanoyi esisenkabeneni ye-Dube TradePort;

“iNkampani ye-Dube TradePort” kusho iNkampani ye-Dube TradePort, eBhaliswe ngoNombolo 2002/002810/07, esingulwe ngokoMthetho weziNkampani, 1973 (uMthetho No. 61 ka 1973);

“i-Dube TradePort Corporation” kusho ibhizinisi likahulumeni elisungulwe ngokwesigaba 2;

“uMkhandlu oPhethe” kusho uMkhandlu oPhethe esiFundazweni ohlongozwe kwisigaba 132 soMthethosisekelo;

“iGazethi” kusho iGazethi eseMthethweni yesiFundazwe saKwaZulu-Natali;

“iNhloko yoMnyango” kusho umuntu oqokwe njengeNhloko yoMnyango ngokwesigaba 12 soMthetho wemiSebenzi kaHulumeni nezichibiyelo;

“iSu lokuSebenza” kusho iSu lokuSebenza ukuze kusungulwe, kuhlelwe futhi kwakhiwe isikhungo esiyinkaba sezokuthutha esimikhakha miningi esiFundeni se-Dube TradePort njengoba kuhlongozwe kwisigaba 21;

“iLungu loMkhandlu oPhethe elibhekele ezeziMali” kusho ilungu lomkhandlu ophethe esifundazweni saKwaZulu-Natali elibhekele ezezimali;

“iKomidi lemiSebenzi yasePhalamende” kusho iKomidi lemiSebenzi yasePhalamende kwisiShayamthetho saKwaZulu-Natali elibhekele ukuthuthukiswa komnotho nezokuvakasha;

“isiFundazwe” kusho isiFundazwe saKwaZulu-Natali esihlongozwe kwisigaba 103 soMthethosisekelo kanti igama **“okwesifundazwe”** linencazelo efanayo;

“ibhizinisi likahulumeni wesifundazwe” kusho ibhizinisi likahulumeni wesifundazwe njengoba kuchazwe kwisigaba 1 soMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999);

“uMthetho wokuPhathwa kweziMali zikaHulumeni” kusho uMthetho wokuphathwa kwezimali zikaHulumeni, 1999 (uMthetho No. 1 ka-1999);

“imithethonqubo” kusho imithethonqubo eyakhiwe ngokwesigaba 33;

“iLungu eliqondene loMkhandlu Ophethe” kusho iLungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali elibhekele ukuthuthukiswa komnotho nezokuvasha noma lelo Lungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali uNdunankulu aliqoke ukuthi liphathe ngokwalo Mthetho;

“lo Mthetho” ubandakanya nemithethonqubo.

ISAHLUKO 2

I-DUBE TRADEPORT CORPORATION

Ukusungulwa kwe-Dube TradePort Corporation

2.(1) Ngalokhu kusungulwa inkampani kahulumeni wesifundazwe ezokwaziwa nge-Dube TradePort Corporation.

(2) I-Dube TradePort Corporation ingumuntu ngokomthetho eyenza imisebenzi yayo ngokusebenzisa iBhodi.

(3) I-Dube TradePort Corporation iyosebenza ngokoMthetho wokuPhathwa kweziMali zikaHulumeni.

(4) IBhodi iyona enesibopho sokubika mayelana ne-Dube TradePort Corporation njengoba kuhlangezwe kwisigaba 49(2) soMthetho wokuPhathwa kweziMali zikaHulumeni.

Izinhloso ze-Dube TradePort Corporation

3. Izinhloso ze-Dube TradePort Corporation -

- (a) ukusungula i-Dube TradePort;
- (b) ukuphatha noma ukutshala izimali emiklamweni ehlobene ne-Dube TradePort;
- (c) ukulungiselela ukuthuthukiswa komnotho esiFundazweni ngokusebenzisa i-Dube TradePort;
- (d) ukuheha utshalomali lwesikhathi eside esiFundazweni;
- (e) ukuhlinzekela ukuhanjiswa kwempahla emazweni angaphandle nempahla engenayo kusetshenziswa i-Dube TradePort; kanye
- (f) nokusebenzisa amandla, ukugcina izibopho nokwenza imisebenzi okubalulwe esigabeni 4.

Amandla, izibopho nemisebenzi ye-Dube TradePort Corporation kanye neBhodi

4.(1) I-Dube TradePort Corporation kumele, ngokusebenzisa iBhodi -

- (a) iqinisekise ukuhlelwa okufanele, ukusungulwa, uhlelo lokwakha, ukwakhiwa, ukuqhutshwa, ukuphatha kanye nokulawulwa kwe-Dube TradePort;
- (b) yakhe fithi iqalise iSu lokuSebenza lokukhulisa umnotho wesiFunda se-Dube TradePort nowesifundazwe;
- (c) iyophatha futhi isebenzise izinsiza enazo ngokuhambisana nezinhloso kanye nezidingo zeSu lokuSebenza;
- (d) iyohlolona, isungule, iqhakambise futhi igqugquzele amathuba okutshalwa kwezimali e-Dube TradePort; futhi

(e) iyoqala isu lokutshalwa kwezimali le-Dube TradePort.

(2) I-Dube TradePort Corporation -

(a) ngenhloso yokusungula, yokugqugquzela, yokuqhakambisa noma yokutshala izimali esiFundazweni, nangemuva kokugunyazwa ngokubhalwe phansi yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho -

noma (i) ingasungula futhi siqhube inkampani eyodwa noma ngaphezulu, ibhizinisi elizimele eminye imigwamanda efanayo;

(ii) singahlanganyela ebhizinisini nezinye izikhungo, izinhlangano, omasipala, imigwamanda noma abantu; futhi

(iii) singaqoqa izimali ngokuthola usizo lweminikelo kanye noxhasomali;

(b) ngokugunyazwa okubhaliwe phansi yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, ingathenga noma idayise amasheya noma okunye esinakho ezinkampanini, emabhizinisini azimele nakweminye imigwamanda efanayo;

(c) ingaxhumana nanoma yiliphi elinye ibhizinisi, uhlaka lombuso inhlangano noma isikhungo esimisebenzi yaso noma esizinhloso zaso zinomthelela futhi zihambisana, nokuthuthukiswa, ukugqugquzelwa, ukuqhakanjiswa noma ukutshalwa kwezimali esiFundazweni;

(d) ingaphenya futhi yenze izincomo eMkhandlwini oPhethe, ngeLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, nganoma yiluphi udaba oluphathelele ngqo noma oluphathelele ngandlela thile nokugqugquzelwa, nokuthuthukiswa noma nokuqhakanjiswa kokutshalwa kwezimali esiFundazweni;

(e) ingangena ezivumelwaneni ukuze iphumelelise izinhloso zayo, isebenzise amandla ayo, igcine izibopho futhi yenze imisebenzi yayo noma iphathe futhi ilawule izindaba zayo, okungaba ezingahlinzekelwe noma ezihlinzekelwe kulesi sigaba;

(f) ingabamba iqhaza ekuphathweni, ekuhlolweni kanye nasekulawulweni kwebhizinisi noma kokuqhutshwa kwemisebenzi yesikhungo esinezinhloso ezifanayo noma esithi mazifane nezoMfelandawonye;

(g) ingaqala noma itshale izimali kwimiklamo ehlobene nezinhloso zayo;

(h) ingasungula isikhwama sezimali ukusimamisa ukuxhunyaniswa kwezokuthutha zasemoyeni esiFundazweni;

(i) ingenza noma yikuphi okunye noma ingenelele noma yiluphi udaba okunesidingo salo ukuze kufezekiswe izinhloso kanye nezidingo zeSu lokuSebenza; futhi

(j) ingenza noma iyiphi enye into noma ingenelele kunoma yiluphi udaba iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho elibona lunesidingo ukuze kuqaliswe ngandlela efanele lo Mthetho.

(3) Ngaphezu kwamandla okukhulunywe ngawo kwizigatshana (1) no (2), i-Dube TradePort Corporation inamandla okukhulunywe ngawo kwisigaba 54(2) soMthetho wokuPhathwa kweziMali zikaHulumeni.

ISAHLUKO 3

IBHODI YE-DUBE TRADEPORT CORPORATION

Ukwakheka kweBhodi

5.(1) Ikhodi iqukethe -

- (a) okungenani amalungu amathathu, kodwa engeqile kwayisishiyagalombili, aqokwe yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho; kanye
- (b) nesiKhulu esiPhezulu, ngokwesikhundla saso, njengoba kuhlangezwe esigabeni 16(5).

(2) AmaLungu eBhodi kumele abe ngabantu abafanelekile futhi abakulungele ukusebenzela isiFundazwe ngentshisekelo, ewonke abe nalolu lwazi noma ubungoti -

- (a) ulwazi nobungoti ekuphathweni kwezimali;
- (b) ulwazi nobungoti emkhakheni wezokuvakasha;
- (c) ulwazi nobungoti emkhakheni wezokuthutha;
- (d) ulwazi nobungoti emkhakheni wokuthuthukiswa komnotho;
- (e) ulwazi nobungoti emkhakheni wokuthuthukiswa komhlaba; kanye
- (f) nanoma yiliphi elinye ikhono, isipiliyoni noma ukuqeqeshwa, ngokubona kwelungu loMkhandlu oPhethe, okungahlomulisa i-Dube TradePort Corporation.

(3) Ekuqokweni kwamalungu eBhodi, iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele liqinisekise ukuthi -

- (a) kubhekelelwa ukungalingani kwaphambilini;
- (b) iBhodi, iyonke, inamakhono nobungoti obufanele nobudingekayo; futhi
- (c) iBhodi imele abantu abaqashwe noma ababandakanyeka emabhizinisini ezomnotho nentuthuko esiFundazweni.

(4) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele liqoke -

- (a) oyedwa emalungwini eBhodi njengoSihlalo weBhodi; kanye
- (b) noyedwa emalungwini eBhodi njengeSekela likaSihlalo weBhodi.

(5) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho lingaqoka omunye umuntu njengozolimela –

(a) okumele asize ngokuxhumanisa iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho neBhodi;

(b) okumele abike kwiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngaso sonke isikhathi mayelana nezindaba ezibonakala zifanele; futhi

(c) ongethamela imihlangano yeBhodi futhi azibandakanye ezingxoxweni, kepha ongenalo ilungelo lokuvota uma iBhodi ithatha isinqumo.

(6) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele, ngesaziso kwiGazethi, limeme noma yiziphi izinhlangothi ezinentshisekelo esiFundazweni ukuba ziphakamise abangaqokelwa eBhodini.

(7) Isimemo seziphakamiso kume sicacise –

(a) inqubo yeziphakamiso;

(b) okudingekayo kwiziphakamiso; kanye

(c) nosuku lokuvalwa kweziphakamiso.

(8) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele licubungule zonke iziphakamiso ezilethiwe eziphendula isaziso, futhi lingaqoka ithimba ukuba lihlaziye zonke iziphakamiso futhi lenze izincomo ngeziphakamiso kwiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho.

(9) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele liqinisekise ukuthi wonke amagama abantu abaqokelwe eBhodini ashicilelwe *kwiGazethi* kanye nasemaphephandabeni okungenani amabili aphuma esiFundazweni, ngokushesha ngemuva kokuba labo bantu sebazisiwe, ngokuthi babhalelwe, ngokuqokelwa kwabo eBhodini.

(10) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele, ezinyangeni ezimbili ngemuva kokuqokwa kwamalungu eBhodi ngokwesigatshana (1), lazise uMkhandlu oPhethe kanye neKomidi lemisebenzi yasePhalamende ngamagama amalungu aqokiwe kubandakanya isikhathi abasiqokelwe.

(11) Lesi sigaba sisebenza, nezinguquko ezidingekayo, ekuvalweni kwesikhala somsebenzi kwiBhodi.

Ukuhoxiswa ekuqokelweni eBhodini

6. Umuntu uyahoxiswa ekuqokelweni eBhodini noma ekutheni aqhubeke nokusebenza eBhodini, ngesizathu sokuthi –

- (a) ucwile noma ucwila ezikweletini ngendlela engenakuhlelwa;
- (b) akaphilile noma uke wangaphila ekhanda noma umenyazelwe inkantolo njengogula ngengqondo;
- (c) uhlomula ngqo noma ngandlela thile kunoma yisiphi isivumelwano somsebenzi neBhodi futhi uyehluleka ukudalula lokho kuhlomula kanye nendlela ahlomula ngayo ngokwalo Mthetho;
- (d) ungumuntu ozinto zakhe zilawulwa umthetho;
- (e) noma ngasiphi isikhathi uke wamiswa esikhundleni ngenxa yokungaziphathi kahle okuhlanganisa ukweba kanye nokukhwabanisa;
- (f) useke waboshwa futhi wagwetshwa isikhathi eside ngaphandle kokubonelelwa ngokuthi akhokhe inhlawulo, ngaphandle uma iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, uma lithola incwadi efungelwe edalula imininingwane ephelile yecala elenziwe yilowo muntu ophakanyisiwe ukuze aqokwe, lingahoxisa leso sigwebo ngendlela ehambisana nesigaba 106(1)(e) soMthethosisekelo: Kuncike ekutheni ukuhoxiswa ngokwalesi sigatshana kuphela eminyakeni emihlanu ngemuva kokuphela kwalesi sigwebo; futhi
- (g) uyehluleka ukudalula ukuhlomula ngokuhambisana nesigaba 7 noma ubambe iqhaza kwizinqubo zeBhodi ngesikhathi enokuhlomula okuhlongozwe esigabeni esishiwoyo.

Ukudalula ukuhlomula ngokwezezimali nokunye ukuhlomula kwamalungu eBhodi

7.(1) Umuntu ophakanyiselwe ukuba asebenze eBhodini ngokwesigatshana 5(8) kumele, ezinsukwini eziyi-10 ephakanyisiwe, adalule ngokubhalwe phansi kwiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho konke ukuhlomula ngqo noma ngandlela thile anakho kunoma iyiphi inkampani noma kwamanye amabhizinisi.

(2) Noma yikuphi ukwehluleka kophakanyisiwe ukudalula ukuhlomula ngokwezezimali kanye nokunye ukuhlomula ngokwesigatshana (1) kuyamhoxisa lowo ophakanyisiwe ngokwesigaba 6 ukuba acatshangelwe esikhundleni sokuba yilungu leBhodi.

(3) Noma yiliphi ilungu leBhodi kumele, ngaphambi kokungena esikhundleni futhi ekuqaleni kwayo yonke iminyaka yezimali yesiKhungo, lidalule ngokubhalwe phansi ukuhlomula ngqo noma ngandlela thile kwalo kunoma iyiphi inkampani noma ibhizinisi ngendlela ehlinzekelwe esigabeni 234(3)(a) soMthetho weziNkampani, 1973 (uMthetho No. 61 ka 1973).

(4) Uma ilungu leBhodi liqala ukuhlomula kunoma iyiphi inkampani noma ukuhlomula kwelinye ibhizinisi nganoma yisiphi isikhathi lisasebenza njengelungu leBhodi kumele, ngaphambi kwezinsuku eziyi-10 kusukela osukwini eliqale ngalo lokho kuhlomula, lidalule ngokubhalwe phansi kwiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho lokho kuhlomula.

(5) Noma yikuphi ukwehluleka ohlangothini lwelungu ukudalula ukuhlomula kwalo njengoba kuhlongozwe ezigatshaneni (3) no (4) kungaholela ekutheni kube nezizathu ezizwakalayo nezicacile zokuhoxiswa kokuqokwa kwalelo lungu ngokwesigaba 9(2).

(6) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele ligcine irejista evuselelwe njalo yokuhlomula kwamalungu eBhodi azidalulile ngokwalesi sigaba.

Isikhathi sokuba sesikhundleni nokuqokwa kabusha kwelungu leBhodi

8. Umuntu abaqokelwe eBhodini baba sesikhundleni isikhathi esiyiminyaka eyi-5 noma esingaphansi njengoba iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho linganquma futhi, ngokuncike esigabeni 5, bangakwazi ukuphinde baqokwe ekupheleni kwaleso sikhathi: Kuncike ekutheni akekho umuntu ongaphinde akhethwe ngemuva kokusebenza eBhodini isikhathi esiyiminyaka eyi-10 elandelanayo.

Izikhala zomsebenzi, ukususwa nokwesula esikhundleni kwelungu leBhodi

9.(1) ILungu leBhodi kumele lishiye isikhundla uma lihoxiswa ngokuhlongozwe esigabeni 6.

(2) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, ngemuva kokunikeza ilungu ithuba lokubeka udaba lwalo, noma ngasiphi isikhathi lingamisa esikhundleni lelo lungu uma, ngokubona kwalo, kunezizathu ezizwakalayo neziphoyoqayo zokwenza lokho.

(3) ILungu kumele lishiye isikhundla uma liphutha emsebenzini, ngaphandle kokunikezwa imvume yokuphutha kuqala yiBhodi, emihlanganweni emibili elandelanayo yeBhodi lapho kwanikezwa isaziso ngendlela efanele kulelo lungu ngqo noma ngeposi.

(4) ILungu lingesula esikhundleni ngokuthi libhale isaziso sezinsuku ezingekho ngaphansi kwama-30 lisibhekise eLungwini eliqondene loMkhandlu Ophethe: Inqobo nje uma iLungu eliqondene loMkhandlu Ophethe lingasilandeli isikhathi sesaziso.

(5) Noma nini lapho kuvela isikhala somsebenzi eBhodini, iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, kuncike esigabeni 5, kumele liqoke umuntu ozovala leso sikhala somsebenzi kuleso sikhathi esisasele sokuba sesikhundleni kwelungu okuzoqokelwa kuso lowo muntu.

(6) Lapho iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho lisebenzisa amandla alo ngokwesigatshana (2), uma lingahambisani nokulandela inqubo yokukhethwa kwamalungu eBhodi ebekwe kwisigaba 5, kodwa kuncike kwizigaba 5(2) no 5(3), lingaqoka abantu ukusebenza njengamalungu eBhodi okwesikh ashana: Kuncike ekutheni -

(a) abantu abaqokwe ngokwalesi sigatshana angeke baqhubeke nokuba seBhodini isikhathi esingaphezu kwezinsuku ezingama-90 kusuka osukwini abaqokwe ngalo; futhi

(b) iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, kuncike kwisigaba 5, kumele liqoke amalungu eBhodi ezinsukwini ezingama-90 kwenziwe ukuqokwa okuhlongozwe kulesi sigatshana.

Ukumiswa okwesikhashana kwelungu leBhodi

10. ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho lingamisa ilungu leBhodi ngesikhathi iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho lisaphenya izinsolo, uma kutholakala ukuthi ziyiqiniso, okungaholela ekutheni ukuqokwa kwelungu kumiswe ngokwesigaba 9(2).

Imihlangano kanye nezinqubo zemihlangano yeBhodi

11.(1) Umhlangano wokuqala weBhodi kumele ubanjwe ngosuku nangesikhathi kanye nasendaweni enqunywe yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngemuva kwalokho yonke imihlangano elandelayo kumele ukuba inqunywe nguSihlalo.

(2) Isibalo esivumelekile ukuba sibambe umhlangano weBhodi yiningi lamalungu eBhodi.

(3) Inqubo emhlanganweni weBhodi kumele, kuncike ezinhlinzekweni zalesi sigaba, inqunywe ngusihlalo kubandakanya ilungelo lokunquma ukuthi noma yiluphi udaba okuxoxwa ngalo lungamiswa ngaphambi kokuthi luvotelwe.

(4) Usihlalo kumele engamele yonke imihlangano yeBhodi. Uma engekho uSihlalo, iSekela likaSihlalo kumele lengamele futhi esimweni uma usihlalo noma isekela likasihlalo engekho emhlanganweni weBhodi, amalungu akhona angakhetha, kuwona, umuntu ozobamba njengosihlalo ngesikhathi salowo mhlango.

(5) Isinqumo sebhodi kumele sithathwe yiningi lamavoti amalungu akhona emhlanganweni futhi, esimweni lapho kunokulingana kwamavoti kunoma yiluphi udaba, usihlalo unevoti elingujuqu ngaphezu kwevoti lakhe elejwayelekile.

(6) IBhodi kumele ihlele ukuba kugcinwe amaminithi emihlangano yayo.

(7) Asikho isinqumo seBhodi esingekwe semukelwe ngesizathu sokuba khona kwesikhala somsebenzi eBhodini: Kuncike ekutheni isinqumo sithathwa yiningi elidingekayo lamalungu eBhodi akhona futhi avumelekile ukuhlala njengamalungu eBhodi.

(8) Usihlalo, noma iningi lamalungu eBhodi, lingabiza umhlangano oyisipesheli weBhodi esimweni lapho izinhlinzeko zalesi sigaba zihambisana nezinguquko ezidingekayo.

(9) IBhodi, ngokubona kwayo, ingavumela amalungu omphakathi ukuba ethamele umhlangano weBhodi.

Ukuhoxa kwelungu emihlanganweni kanye nenqubo yeBhodi

12.(1) Ilungu leBhodi kumele lizihoxise odabeni oluphenywayo, olucutshungulwayo noma oluvotelwayo yiBhodi uma kuvela okukodwa noma ngaphezulu kokulandelayo –

(a) uma lona linokuthinteka ngqo noma ngandlela thile; noma

(b) uma kunamathuba okuthi kungenzeka lithinteka ngqo noma ngandlela thile.

(2) Noma yingasiphi isikhathi lapho kuqhubeka umhlangano weBhodi kuvela ukuthi ilungu elikhona kulowo mhlango liyathinteka noma ngase kube liyathinteka ngokuhlongozwe esigatshaneni (1), lelo lungu kumele ngokushesha lidalule indlela elithinteka ngayo bese liwushiya umhlangano.

(3) Noma yikuphi ukudalulwa okwenziwe ngokwesigatshana (1) kumele ukuba kuqoshwe emaminithini alowo omhlangano.

(4) Uma kuvela emva kwalokho ukuthi iBhodi yathatha isinqumo odabeni lapho kwaba nokwehluleka ngasohlangothini lelungu ukudalula ukuthinteka okuhlongozwe esigatshaneni (1), lesi sinqumo seBhodi asamukelekile.

(5) Ngokwezinhloso zalesi sigaba **“ukuthinteka ngandlela thile ”** kuhlenganisa, phakathi kokunye, ukuthinteka –

(a) kukazakwabo welungu ebhizinisini, umhlobo noma umqashi, ngaphandle koMbuso;

(b) komlingani welungu, kowakwalo ngokomshado wesintu, noma kongumasihlalisane noma kwelihlalisana naye sabantu abashadile; noma

(c) kwengane, komzali noma kozalana nalo.

Ukuholelwa kwamalungu eBhodi

13. (1)(a) Kuye ngokuhambisana nesigatshana 2(a), ilungu leBhodi lingakhokhelwa ezimalini zeKhomishana iholo kanye nezibonelelo njengalokhu kunganquma iLungu eliqondene loMkhandlu Ophethe ngokubonisana neLungu loMkhandlu oPhethe elibhekele ezezimali; futhi

(b) iLungu leBhodi eliholelwayo, elithola izibonelelo noma elithola eminye imihlomulo ngokwesikhundla salo noma ngokomsebenzi walo –

(i) kuhulumeni kazwelonke;

(ii) kuhulumeni wesifundazwe;

(iii) kumasipala; noma

(iv) ebhizinisini, kumgwamanda noma esikhungweni lapho uhulumeni kazwelonke noma wesifundazwe ebandakanyeka ekulawuleni; futhi

eliqhubeka nokuthola lelo holo, lezo zibonelelo noma eminye imihlomulo ngesikhathi lisasebenza njengelungu leBhodi, lingathola iholo kanye nezibonelelo kuphela okukhulunywe ngakho endimeni (a) ngendlela edingekayo ukulibeka esimweni sezimali ebelivele lizoba kusona ukube belingaqashiwe kuleso sikhundla noma kulowo msebenzi.

(2)(a) Ilungu leBhodi kanye nomuntu owengeziwe eBhodini, maqondana nemisebenzi yakhe njengelungu noma njengelungu elengeziwe eBhodini, angathola isibonelelo ezimalini zesiKhungo njengezindleko zokuhamba ngokomsebenzi ezidalwe ukwethamela kwakhe umhlangano weBhodi; futhi

(b) iLungu loMkhandlu oPhethe elibhekele ezezimali kumele linqume ngezinqubo, kubandakanya izindlela zokulawula, ukuze kuphathwe, kuhanjiswa futhi kuqhutshwe izimangalo zezindleko zokuhamba ngokomsebenzi ezihlongozwe endimeni (a).

Ukusungulwa kwamakomidi azosiza iBhodi

14.(1) IBhodi ingasungula amakomidi aqukethe ilungu elilodwa noma ngaphezulu kumalungu ayo ukuze –

- (a) asize iBhodi ekusetshenzisweni kwanoma yimaphi amandla, ekwenziweni kwemisebenzi noma ekugcinweni kwezibopho zesiKhungo okuhlongozwe esigabeni 4; noma
- (b) aphenye noma aqhube ucwaningo kunoma yiluphi udaba olungena ngaphansi kwezinjongo zeBhodi ngokwalo Mthetho.

(2) Uma kusungulwa ikomidi elihlongozwe esigatshaneni (1), iBhodi kumele –

- (a) inqume indlela yokusebenza kwalelo komidi kubandakanya, phakathi kokunye, ukuthi kumele yini noma cha ukuthi lelo komidi liqedwe uma seliphothule umsebenzi noma imisebenzi eliyinqunyelwe yiBhodi;
- (b) iqoke uSihlalo walelo komidi okumele abe yilungu leBhodi; futhi
- (c) inqume ukuthi ingabe kufanele noma cha ukuthi lelo komidi lifake abantu abangesiwo amalungu eBhodi, futhi uma kunjalo, ngaphansi kwayiphi imibandela nemigomo.

(3) IBhodi, noma ngasiphi isikhathi, ingamisa ikomidi nanoma yikuphi ukujutshwa kwekomidi, kungakhathaleki ukuthi lelo komidi seliwuqedile noma cha umsebenzi noma imisebenzi eliyinikezwe yiBhodi.

(4)(a) Isikhulu esiPhezulu singethamela futhi sibambe iqhaza, kodwa singavoti, emihlanganweni yalelo komidi.

(b) Ilungu labasebenzi beBhodi, uma limenywe yilelo komidi, lingawuhambela umhlangano walelo komidi.

Ukwengezwa kwabantu eBhodini noma emakomidini eBhodi

15.(1) IBhodi, uma inombono wokuthi umuntu othize angalisiza maqondana nanoma yimiphi imisebenzi yalo nasekusebenzisweni amandla alo, lingamengeza lowo muntu ngaleyo nhloso.

(2) Umuntu owengezwe ngokwesigatshana (1) akavumelekile ukuvota emhlanganweni webhodi noma wamakomidi.

(3) Umuntu owengezwe ngokwesigatshana (1) angaholelwa iholo lalokho noma isibonelelo ezimalini zesiKhungo ngendlela enganqunywa yiBhodi ngokuhambisana nesigaba 13(2)(a), ngemuva kokubonisana neLungu loMkhandlu elibhekele ezezimali.

ISAHLUKO 4**ISIKHULU ESIPHEZULU KANYE NABASEBENZI BE-DUBE TRADEPORT CORPORATION****IsiKhulu esiPhezulu se-Dube TradePort Corporation**

16.(1) IBhodi, ngokubonisana neLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, kumele iqoke isiKhulu esiPhezulu se-Dube TradePort Corporation.

(2)(a) IsiKhulu esiPhezulu siqokelwa esikhundleni isikhathi esingeqile eminyakeni emihlanu ngemigomo nemibandela enqunywe yiBhodi, ngokubonisana neLungu eliqondene loMkhandlu Ophethe; futhi

(b) IsiKhulu esiPhezulu, ngokugunyaza kwelungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho singaphinde siqokwe, isikhathi esinganqunywa yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho.

(3)(a) Ukuqokwa kwesiKhulu esiPhezulu kuncike ekuphuthulweni kwesivumelwano sokusebenza esibhaliwe esingena kuso ne-Dube TradePort Corporation; futhi

(b) IBhodi kanye nesiKhulu esiPhezulu, ngokubhaliwe nangesivumelwano, bangachibiyela isivumelwano sokusebenza.

(4) Ngezinhlalo zokudalula ukuhlomula ngokwezezimali nokunye ukuhlomula, izinhlinzeko zesigaba 7 zisebenza nezinguquko ezidingekile esiKhulwini esiPhezulu ngaphandle kokuthi isiKhulu esiPhezulu kumele sidalule ukuhlomula kwaso eBhodini.

(5) IsiKhulu esiPhezulu siyilungu elihola iBhodi kodwa asinalo ilungelo lokuvota emhlanganweni yayo.

Imisebenzi yesiKhulu esiPhezulu

17.(1) IsiKhulu esiPhezulu sibhekele –

(a) ukulawulwa kanye nokuphathwa kwezimali ze-Dube TradePort Corporation ngokuhambisana noMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999), kuncike ekulawuleni kweBhodi;

(b) ukuqokwa kwamalungu abasebenzi be-Dube TradePort Corporation okuhlongozwe esigabeni 19(1) ngokubonisana neBhodi;

(c), ukunquma, ngokubonisana neBhodi, ngenqubo yokuziphatha, esetshenziswa yisiKhulu esiPhezulu, kubo bonke abasebenzi be-Dube TradePort Corporation kanye nengokomthetho ngezinhloso zokuqondiswa kwezigwegwe, ukuqinisekisa –

(i) ukuhambisana nomthetho osebenzayo, kubandakanya lo Mthetho;

(ii) ukusetshenziswa ngokufanele, ngokunesidingo nangokunenzuzo kwezimali nezinsiza ze-Dube TradePort Corporation;

(iii) ukugqugquzelwa kanye nokugcinwa kwezinga eliphezulu lenqubomgomo mayelana nemigomo yokusebenza ngendlela;

(iv) ukunqanda ukushayisana kwemibono;

(v) ukuvikelwa kolwazi oluyimfihlo olugcinwe yisiKhungo; kanye

(vi) nezinga, nokwethembeka, nokuzimela, nobuqotho, nenqubomgomo kanye nokusebenza ngokulingene;

(d) ukulawulwa kokuziphatha kwabasebenzi abaqokwe ngokwendima (b) futhi kumele, ngalezo zinhloso, kwenziwe yiBhodi;

(e) ukulondolozwa kanye nokugcinwa kwerejista yokuhlomula okumenyezwe yilungu labasebenzi be-Dube TradePort; kanye

(f) nokuqinisekiswa kokuhlangabezana kwe-Dube TradePort Corporation nezihlinzeko zoMthetho wezokuPhathwa kweziMali zikaHulumeni, kanye nanoma yimiphi eminye imithetho esebenzayo.

(2) Isikhulu esiPhezulu sinesibopho sokubika kwiBhodi futhi kumele sibukele iBhodi ngemisebenzi ye-Dube TradePort Corporation.

(3) Uma isikhulu esiPhezulu nganoma yisiphi isizathu singakwazi ukwenza imisebenzi yaso, iBhodi kumele, ngokubonisana neLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, liqoke omunye umuntu ozoba yiBamba lesikhulu esiPhezulu kuze kube isikhulu esiPhezulu siyakwazi ukuba siqale ukwenza leyo misebenzi.

Ukwesula kanye nokususwa esikhundleni kwesiKhulu esiPhezulu

18.(1) Isikhulu esiPhezulu sishiya isikhundla –

(a) lapho sesula, noma kuba nokwesula;

(b) ngenkathi, ngokoMthetho weziNkampani, 1973 (uMthetho No. 61 ka 1973), umuntu ophethe leso sikhundla eba ngohoxiswayo ukuba asebenze njengomqondisi wenkampani; noma

(c) lapho sixoshwa esikhundleni ngokwesigatshana (2).

(2) IBhodi ngokubonisana neLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ingamisa umsebenzi wesikhulu esiPhezulu ngokuhambisana nomthetho wokuqasha nowabasebenzi osebenzayo.

Abasebenzi be-Dube TradePort Corporation

19.(1) Isikhulu esiPhezulu kumele, kuncike esigatshaneni (2), siqashe amalungu abasebenzi be-Dube TradePort Corporation uma kuba nesidingo esifanele –

- (a) sokusiza ekufezeni imisebenzi yayo ngokwalo Mthetho; kanye
- (b) nokusiza iBhodi ngomsebenzi othintana nokwenziwa yiBhodi emisebenzini yayo.

(2) IBhodi kumele inqume inqubomgomo yezindaba eziphathelele nabasebenzi kumalungu abasebenzi be-Dube TradePort Corporation, kubandakanya isikhulu esiPhezulu.

(3) Ngokwezinhloso zokudalulwa kokuhlomula ngakwezezimali noma okunye ukuhlomula, nangokuncike esigabeni 17(1)(e), izihlinzeko zesigaba 7(3), (4) kanye no (5) zisebenza noshintsho oludingekile kumalungu abasebenzi be-Dube TradePort Corporation.

(4) Isikhulu esiPhezulu kumele sigcine irejista evuselelwe yokuhlomula kwamalungu abasebenzi be-Dube TradePort Corporation okudalulwe ngokwesigatshana (3).

(5) IBhodi, ngokubonisana neLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, kumele linqume –

- (a) amaholo nezimo zokusebenza; kanye
- (b) nempesheni nemihlomulo yomhlalaphansi,

kwesikhulu esiPhezulu namanye amalungu abasebenzi be-Dube TradePort Corporation.

Ukusiswa noma ukudluliselwa kwabasebenzi be-Dube TradePort Corporation

20. I-Dube TradePort Corporation ingasebenzisa usizo lwabantu abasisiwe noma abadluliselwe besuka kuhulumeni ngokuhambisana nezinhlinzeko zoMthetho wemiSebenzi kaHulumeni, 1994 (Isimemezelo No. 103 sika 1994).

ISAHLUKO 5**ISU LOKUSEBENZA, IMIKHOMBANDLELA YENQUBOMGOMO KANYE NEMIGUDU EFALENE****ISu lokuSebenza**

21.(1) IBhodi kumele ezinyangeni eziyisithupha iqalile ukusebenza ngokwalo Mthetho, ngemuva kokubonisana nesiKhulu esiPhethe, isungule iSu lokuSebenza.

(2) Isu lokuSebenza elihlongozwe kwisigatshana (1), kumele lubandakanye, phakathi kokunye, indawo yokugcina impahla enkulu, indawo yezakhiwo, indawo yokuhweba, indawo yezolimo, indawo yezithuthi zomphakathi, inxanxathela yemigwaqo, ujangtshi wesitimela, imizila yezithuthi zempahla nezabantu ngaphakathi esiFundeni se-Dube TradePort.

(3) ISu lokuSebenza kumele livuselelwe uma kuba nesidingo ukuze kuhlangukantshezwane nezinhloso ze-Dube TradePort Corporation.

(4) ISu lokuSebenza kumele ligunyazwe yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho.

(5) ISu lokuSebenza kumele, okungenani ngonyaka ka 2010, 2035 noka 2060, lihlinzeke -

- (a) ngesithombe esicacile sohlaka lokuthuthukiswa kwe-Dube TradePort;
- (b) izinhloso zentuthuko kanye nokuhlelwa kwamasu okusebenza kwe-Dube TradePort; kanye
- (c) nokuthuthukiswa, ukuklanywa, ezokuthutha kanye nezidingo zengqalasizinda eziningi ze-Dube TradePort Corporation.

(6) Lapho yenza imisebenzi yayo ngokwalo Mthetho, iBhodi kumele isebenzise iSu lokuSebenza.

Iziqondiso zenqubomgomo nemikhombandlela yamasu okusebenza

22.(a) ILungu eliqondene loMkhandlu Ophethe

- (a) lingabeka imikhombandlela yamasu okusebenza ukuze kufezekiswe izinhloso ze-Dube TradePort Corporation;
- (b) lingakhipha iziqondiso zenqubomgomo ezibhekiswe eBhodini; futhi
- (c) lingahoxisa noma lichibiyele noma yiziphi iziqondiso zenqubomgomo ezibekwe ngokwendima (a).

ISIAHLUKO 6

UXHASOMALI NOKUPHATHWA KWEZIMALI ZE-DUBE TRADEPORT CORPORATION

Uxhasomali lwe-Dube TradePort Corporation

23.(1) Izimali zesiKhungo ziqukethe –

- (a) imali esiyabelwe yisiShayamthetho sesiFundazwe;
- (b) inzalo yezimali ezitshalwe yi-Dube TradePort Corporation; kanye
- (c) nengeniso etholakale ngokusemthethweni kunoma yimuphi umthombo.

(2) I-Dube TradePort Corporation kumele sizisebenzise izimali zaso –

- (a) ngokukhokhela amaholo, izibonelelo zokuphila kanye nezindleko zokuhamba –
 - (i) zamalungu eBhodi;
 - (ii) zesiKhulu esiPhezulu; kanye
 - (iii) nezamalungu abasebenzi be-Dube TradePort Corporation; kanye
- (b) nokukhokhela izindleko eziphathelele –
 - (i) nokukhutshwa kwansuku zonke kanye nokuphathwa kwe-Dube TradePort Corporation kanye neBhodi;
 - (ii) ukusebenza kanye nokuphathwa kwe-Dube TradePort Corporation; kanye
 - (iii) nokwenziwa kwemisebenzi namajoka eBhodi nokuthi isiKhungo sisebenzise amandla aso ngokwalo Mthetho.

(3) IsiKhulu esiPhezulu, ngokuvumelana neBhodi kumele –

- (a) sivule i-akhawunti egameni le-Dube TradePort Corporation esikhungweni esibhaliswe njengebhange ngokoMthetho wamaBhange, 1990 (uMthetho No. 94 ka 1990); futhi
- (b) sifake lapho yonke imali etholwe ngokwesigatshana (1).

(4) IBhodi ingatshalwa izimali ezifakwe kwi-akhawunti yayo ezingadingi ukusetshenziswa ngokushesha: Kuncike ekutheni iBhodi kumle ithathe izinyathelo ezifanele ukuqinisekisa ukuthi utshalomali akulona oloholo olungaqindakali.

(5) I-Dube TradePort noma iBhodi benqatshelwe ukuboleka imali noma ukukhipha iziqinisekiso, izinxephezelo noma izibambiso noma ukungena kunoma yinhloboni yokusetshenziswa kwemali okwenqatshelwe ngaphandle uma lokho kuboleka, isiqinisekiso, isinxephezelo, isibambiso noma okunye ukusetshenziswa kwemali kugunyazwe ngokwalo Mthetho futhi kungashayisani noMthetho wokuPhathwa kweziMali zikaHulumeni.

Ukuphathwa kwezimali

24.(1) IsiKhulu esiPhezulu kumele senze ukuba kugcinwe amabhuku agcwele futhi afanele e-akhawunti kanye nayo yonke imininingwane edingekile ephathelene nayo.

(2) Isikhulu esiPhezulu kumele siqinisekise ukuthi isabelomali sonyaka se-Dube TradePort Corporation, izinhlelo zenhlango, imibiko yonyaka kanye nezitatimende zezimali ezicwaningiwe ziyalungiswa futhi zilethwa ngokuhambisana noMthetho wokuPhathwa kweziMali zikaHulumeni.

(3) Isikhulu esiPhezulu kumele, ezinyangeni ezintathu ngaphambi kokuba kuphele unyaka wezimali, silethe ukuze kuvunywe yiBhodi –

(a) uhlelo lwebhizinisi lweBhodi, oluqukethe izinjongo ezilinganisiwe kanye neminye imininingwane ehlongozwe esigabeni 25(3)(b) kanye no (c); kanye

(b) nesitatimende sesilinganiso senzuzo kanye nezindleko zeBhodi, maqondana neminyaka emithathu elandelayo yezimali.

(4) Kunoma yimuphi unyaka wezimali isikhulu esiPhezulu singaletha eBhodini ukuze kugunyazwe izitatimende zemali eyengeziwe noma esetshenzisiwe engenisweni noma ezindlekweni ze-Dube TradePort Corporation zangalowo nyaka wezimali.

(5) I-Dube TradePort Corporation angeke sizibandakanye kunoma yisiphi isivumelwano sezimali esingaphezu kwesabelomali esisinikeziwe kanye nesikuzuzile eceleni.

(6) Isikhulu esiPhezulu, ngokuvuma kweBhodi –

(a) singatshala noma iyiphi ingxenye engasetshenziswanga yezimali zayo eNhlanganweni yokuTshalwa kweziMali zikaHulumeni noma kwesinye isikhungo esihlukanisiwe noma esibhalisiwe izikhathi ngezikhathi nguMnyango kaMgcinimafa wesiFundazwe njengesisoSohlwini olungu “A1” lwezikhungo zezimali; noma

(b) singayisebenzisa leyo ngxenye nganoma iyiphi enye indlela.

(7) Isikhulu esiPhezulu ngokugunyaza kweBhodi, singasungula izikhwama eziseceleni futhi sifake kuzo lezo zimali njengalokhu iBhodi ingavuma.

Ukucwaningwa kwamabhuku kanye nombiko wonyaka

25.(1) UMcwaningimabhuku-Jikelele kumele acwaninge izitatimende zemali ze-Dube TradePort Corporation.

(2)(a) IBhodi kumele yethule umbiko ngezinto ezenziwa yi-Dube TradePort Corporation ngesikhathi sonyaka wezimali kwiSishayamthetho sesiFundazwe ezinyangeni ezinhlanu ngemuva kokuphela konyaka wezimali; futhi

(b) Ezinyangeni ezinhlanu ngemuva kokwethulwa kombiko, izithunywa ezibandakanya osihlalo bobabili beBhodi namalungu okungenani amabili eBhodi kumele zichazele iKomidi lesiShayamthetho elibhekele ezezimali ngombiko wonyaka.

(3) Umbiko kumele –

(a) ubandakanye isitatimende esikhombisa imali esisele emalini engenile nesesetshenzisiwe esigxivizwe nguMcowaningimabhuku-Jikelele;

(b) uveze indima i-Dube TradePort Corporation eyikhathulile noma efinyelele kuyo ngezinhloso zayo ngokususela esigabeni 3 kanye nesilinganiso sezinjongo njengoba kubekiwe kuhlelo lwebhizinisi kanjengoba kuhlangozwe esigabeni 24(3)(a) ngesikhathi salowo nyaka wezimali othintekayo; futhi

(c) uqukathe imininingwane efanele yokusebenza maqondana nezomnotho, ukunikezelwa kwezinsiza okube wusizo nempumelelo kanye nokuqhathanisa phakathi kokuhleliwe kanye nokwenziwe okukhombisayo njengoba kubekiwe kulolo hlelo lwebhizinisi.

Unyaka wezimali we-Dube TradePort Corporation

26. Unyaka wezimali we-Dube TradePort Corporation uqala mhla lu-1 kuMbasa ngalowo nyaka futhi uphela mhla zinga-31 kuNdasa ngonyaka olandelayo.

Impahla engenakususwa

27. I-Dube TradePort Corporation ngokwenqubomgomo kanye nangezinqubo ezinqunywe yiBhodi futhi nangokuvuma kweLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, ingathola, ingagcina noma ingalahla impahla engenakususwa ekusebenzeni kwayo.

Ukuthathelwa izinyathelo zomthetho kwe-Dube TradePort Corporation

28.(1) Noma yikuphi ukuthathelwa izinyathelo zomthetho okubhekiswe kwi-Dube TradePort Corporation kumele kwenziwe ngokuhambisana noMthetho wesiKhungo sokuThathelwa iziNyathelo zoMthetho kweziNhlaka ezithile zikaHulumeni, 2002 (uMthetho No. 40 ka 2002).

(2) I-Dube TradePort Corporation, ngokwezihloso zesigatshana (1), ithathwa njengohlaka lukahulumeni oluhlongozwe endimeni (c) yencazelo yalokho okusesigabeni 1 salowo Mthetho.

ISAHLUKO 7 IZINHLINZEKO EZIJWAYELEKILE

Ukuphepha kolwazi oluyimfihlo olugcinwe i-Dube TradePort Corporation

29.(1) Kuncike kuMthethosisekelo, uMthetho wokuGqugquzelwa kokuTholakala koLwazi, 2000 (uMthetho No. 2 ka 2000), akekho umuntu ongadalula noma yiluphi ulwazi olulethwe kwi-Dube TradePort Corporation oluphathelene nanoma yikuphi okuthinta umthetho noma umyalelo, ngaphandle –

- (a) uma eyalelwe ukuba enze lokho yinkantolo yezomthetho;
- (b) noma ngaphandle uma umuntu okhipha lowo myalelo enikeze imvume ngokubhalwe phansi.

(2) Akekho umuntu ongadalula noma yiluphi ulwazi olugcinwe kwirejista ehlongozwe esigabeni 7, 16(4) kanye no 19(4) ngaphandle uma lokho kudalulwa –

- (a) kungokwanoma yimuphi umthetho ophoqeleyayo noma ogunyaza lokho kudalulwa;
- (b) kunesidingo esibalulekile sokusebenza kwe-Dube TradePort Corporation; noma
- (c) kwenziwe ngezinhloso zokubheka, zokuhlola, zokuphenya noma zokucubungula noma yikuphi okwenziwayo okuphathelene ne-Dube TradePort Corporation, nanoma yiliphi ilungu labasebenzi be-Dube TradePort Corporation.

(3) Noma yimuphi umuntu owephula isigatshana (1) noma (2) unecala.

Ukuhlakazwa kwe-Dube TradePort Corporation

30. I-Dube TradePort Corporation liyohlakazwa kuphela ngokoMthetho wesiShayamthetho sesiFundazwe

Ukusetshenziswa kwagama le-Dube TradePort Corporation

31.(1) Akekho umuntu, ngaphandle kokugunyazwa okubhalwe phansi yi-Dube TradePort Corporation, noma ngayiphi indlela ongamela noma asebenzise igama le-Dube TradePort, isifinyezo, uphawu, umdwebho noma impahla esetshenziswa noma engeye-Dube TradePort Corporation.

(2) Akekho umuntu ngokuphambene ongathi usebenza egameni le-Dube TradePort Corporation.

(3) Wonke umuntu owephula isigatshana (1) noma (2) unecala.

Ukudluliselwa kwamandla

32.(1) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho lingadlulisela eBhodini –

(a) noma yimaphi amandla anikezwe iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngokwalo Mthetho, ngaphandle kwamandla okwenza imithethonqubo okukhulunywa ngawo esigabeni 33; noma

(b) noma yimuphi umsebenzi odingeka kwiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngokwalo Mthetho, ngaphandle kwanoma yimiphi imisebenzi ephathelene nokuqokwa, kanye nokumiswa kokusebenza, kwamalungu eBhodi okuhlongozwe esigabeni 5(2) kanye no 9(2).

(2) IBhodi, ngesisombululo esikhethekile, lingadlulisela esiKhulwini esiPhezulu noma kwilungu labasebenzi be-Dube TradePort Corporation, noma yimaphi amandla noma imisebenzi edingeka noma ebekelwe i-Dube TradePort Corporation ngokwalo Mthetho.

(3) IsiKhulu esiPhezulu singadlulisela kunoma yiliphi ilungu labasebenzi be-Dube TradePort Corporation noma yimaphi amandla noma umsebenzi odingeka noma ophathelene nesiKhulu esiPhezulu ngokwalo Mthetho, ngaphandle kwanoma yimuphi umsebenzi wesikhulu esinesibopho sokubika se-Dube TradePort Corporation.

(4) Noma yimaphi amandla noma umsebenzi odluliselwe ngokwesigatshana (1), (2) noma (3) kumele ukuba usetshenzwe noma wenziwe ngokweyame kuleyo mibandela njengalokhu umuntu noma umgwamanda owenze ukudluliselwa ekubone kunesidingo.

(5) Noma yikuphi ukudluliselwa kwamandla okushiwoyo esigatshaneni (1), (2) noma (3) –

(a) kumele kubhalwe phansi;

(b) kungavimbeli umuntu noma umgwamanda owenze ukudluliselwa kwamandla ekutheni basebenzise amandla noma benze lowo msebenzi; futhi

(c) noma ngasiphi isikhathi kungahoxiswa noma kuchitshiyelwe ngokubhaliwe yilowo muntu noma umgwamanda.

Imithethonqubo

33. ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, ngokuthintana neBhodi futhi ngokwenza isaziso kwiGazethi, lingenza imithethonqubo ephathelene –

(a) nanoma yiluphi udaba olungabekwa ngokwalo Mthetho; noma

(b) nanoma yikuphi ukuphathwa noma izindaba eziphathelene nenqubo edingekile ukuba iqalise kwizinhlinzeko zalo Mthetho.

Ukuhlakazwa kwe-Dube TradePort Corporation kanye nezinhlinzeko zezikhashana eziphathelene nalokho

34.(1)(a) iNkampani, i-Dube TradePort, eneNombolo yokuBhaliswa kweziNkampani 2002/002810/08, esungulwe ngokoMthetho weziNkampani, 1973 (uMthetho No. 61 ka 1973), kumele ihlakazwe ngokuzikhethela futhi isulwe; futhi

(b) Amalungu eNkampani kumele, ekuhlakazweni kweNkampani okukhulunywa ngakho kwindima (a), enze ngokushesha nangokucophelela futhi kumele, phakathi kokunye, ahambisane nezigaba 349 kanye no 350 soMthetho weziNkampani, 1973 (uMthetho No. 61 ka 1973).

(2) Ngelanga lokuhlakazwa kweNkampani i-Dube TradePort okuhlongozwe esigatshaneni (1), zonke izimpahla, izikweletu, amalungelo, imisebenzi kanye nezibopho, kubandakanya noma iyiphi ingxenye engasetshenzisiwe yezimali eziyinzuzo noma ezitholwe yiNkampani i-Dube TradePort zidluliselwa, futhi zitshalwa, kwi-Dube TradePort Corporation esungulwe ngokwesigaba 2.

(3) I-Dube TradePort Corporation, maqondana nezimpahla, izikweletu, amalungelo, imisebenzi kanye nezibopho nezimali okukhulunywe ngakho esigatshaneni (2), ngazo zonke izinhloso ingundlalifa kwezomthetho, kanye nondlalifa egameni, leNkampani i-Dube TradePort.

(4) Amalungu eBhodi yeNkampani i-Dube TradePort kumele asebenze njengamalungu eBhodi yesiKhungo agunyaziwe kuze kube yisikhathi lapho iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngokwesigaba 5(1)(a) liyoqoka khona iBhodi ngokwalo Mthetho.

(5) Onke amalungu abasebenzi beNkampani i-Dube TradePort kumele, ezinyangeni eziyisithupha kuqale ukusebenza kwalo Mthetho, baqashwe yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ukuze badluliselwe kwi-Dube TradePort Corporation ngosuku olunqunywe yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho.

(6) Amaholo, imihlomulo kanye nezibonelelo ezinikezelwa yiLungu lomkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, ngokuhambisana nesigatshana (5), akungabi ngaphansi kwalokhu obekukhokhelwa ilungu labasebenzi beNkampani i-Dube TradePort, ngemuva kokudluliselwa kwalo.

(7) Ngokwenhloso yoMthetho weNtela, 1962 (uMthetho No. 58 ka 1962), akukho ukushintshwa komqashi okuyothathwa njengokwenzekile maqondana namalungu abasebenzi abavuma umsebenzi ohlongozwe esigatshaneni (5).

(8) Ngenkathi umuntu eba yilungu labasebenzi be-Dube TradePort Corporation ngokwesigatshana (5) –

(a) ugcina izinsuku zakhe zekhefu abevele enazo kuze kube yilesi sikhathi ashintshwe ngaso, okuhlelwe ngokuhambisana nezimo zokuqasha ze-Dube TradePort Corporation; futhi

(b) noma yiluphi uphenyo obeluvele lukhona noma obeluhlosiwe ukuba lube khona maqondana nokungaziphathi kahle okwenziwe yilowo muntu ngaphambi kosuku lokudluliselwa kwakhe kumele kwazeke noma kuvezwe yi-Dube TradePort Corporation futhi iBhodi kumele imthathele izinyathelo ezifanele lowo muntu othintekayo ngokuhambisana nomthetho, nenqubomgomo kanye nemibandela yomsebenzi noma yokusebenza abelwe yona ngokushesha ngemuva kokushaya kosuku lokudluliselwa kwakhe.

Amacala ajwayelekile

35.(1) Ilungu leBhodi, ilungu labasebenzi, umeluleki, i-ejenti nanoma yimuphi omunye umuntu oqashiwe noma omele i-Dube TradePort Corporation unecala uma emukela ngqo noma ngandlela thile noma yikuphi ukugwazelwa nanoma emukela noma iyiphi imali noma umklomelo okungagunyaziwe kunoma yimuphi umuntu onokuxhumana okuthile nanoma yikuphi okwenziwa noma okunikezelwa yi-Dube TradePort Corporation.

(2) Noma yimuphi umuntu unecala uma, maqondana noma ngokuphathelene nanoma yikuphi okwenziwa noma okunikezelwa yi-Dube TradePort Corporation, ofaka umoya othile noma ozama ukufaka umoya ilungu leBhodi, umsebenzi, umeluleki, i-ejenti nanoma yimuphi umuntu oqashiwe noma oyibamba egameni le-Dube TradePort Corporation wokwenza ubugebengu.

(3) Noma yimuphi umuntu ngokungemthetho othi ugunyaziwe ukuba abize noma athathe izimali, iminikelo noma okunikelwayo egameni, noma ngokuyalelwa yi-Dube TradePort Corporation unecala.

(4) Noma yimuphi umuntu owephula noma ohlukela ukuhambisana nezinhlinzeko zalo Mthetho nanoma yimuphi umthethonqubo ongaphansi kwawo, unecala.

Izinhlawulo

36. Noma yimuphi umuntu otholakala enecala ngokwalo Mthetho uyohlawuliswa noma abhadle ejele isikhathi esingeqile eminyakeni eyi-5 noma kokubili inhlawulo nesigwebo.

Isihloko esifushane

37. Lo Mthetho ubizwa ngokuthi uMthetho WaKwaZulu-Natali We-Dube TradePort Corporation, 2010.

No. 5

21 October 2010

[English text signed by the Premier]

KWAZULU-NATAL FILM COMMISSION ACT, 2010
(Act No. 03 of 2010)

Assented to on 09-09-2010

ACT

To provide for the establishment of the KwaZulu-Natal Film Commission; to determine the objects, powers, duties and functions of the KwaZulu-Natal Film Commission; to determine the manner in which the KwaZulu-Natal Film Commission is to be managed, governed, staffed and financed; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the Province of KwaZulu-Natal, as follows:-

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CHAPTER 2 KWAZULU-NATAL FILM COMMISSION

2. Establishment of the KwaZulu-Natal Film Commission

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CHAPTER 1

DEFINITIONS

Definitions

1. In this Act, unless the context otherwise indicates –

"Board" means the Board of the Commission appointed in terms of section 5;

"Chief Executive Officer" means the Chief Executive Officer of the Commission, appointed in terms of section 16;

"Commission" means the KwaZulu-Natal Film Commission established in terms of section 2;

"Company" means the association incorporated under section 21 of the Companies Act, 1973 (Act No. 61 of 1973), bearing registration number 2003/028677/08, and known as the KwaZulu-Natal Film Commission;

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"Department" means the Department in the Provincial Government of KwaZulu-Natal responsible for economic development and tourism;

"Executive Council" means the Executive Council of the Province of KwaZulu-Natal contemplated in section 132 of the Constitution;

"film" means any sequence of visual images recorded in such a manner that by using such recording such images will be capable of being seen as a moving picture, and includes any picture intended for exhibition through any medium or device;

"film production" means the act or instance of producing a film;

"film producer" means a natural or juristic person engaged in film production;

"film products" mean the outcome of film production;

"Gazette" means the official *Provincial Gazette* of KwaZulu-Natal;

"Head of Department" means the person appointed as Head of the Department in terms of the Public Service Act, as amended;

"Industrial Development Corporation" means the public corporation established under section 2 of the Industrial Development Corporation Act, 1940 (Act No. 22 of 1940);

"member" means a member of the Board of the Commission appointed in terms of section 5;

"Member of the Executive Council responsible for finance" means the member of the Executive Council of the Province of KwaZulu-Natal responsible for finance;

"organised local government" means the KwaZulu-Natal Local Government Association being that organization in the Province of KwaZulu-Natal recognised in terms of section 2 of the Organised Local Government Act, 1997 (Act No. 52 of 1997), as representing the majority of municipalities in the Province;

"Portfolio Committee" means the Portfolio Committee of the Provincial Legislature responsible for economic development and tourism;

"prescribed" means prescribed by regulation under section 33 and **"prescribe"** has a corresponding meaning;

"Province" means the Province of KwaZulu-Natal contemplated in section 103 of the Constitution and **"provincial"** has a corresponding meaning;

"Provincial Government" means the government of the Province of KwaZulu-Natal;

"Provincial Legislature" means the Legislature of the Province of KwaZulu-Natal as contemplated in section 105 of the Constitution, and having the legislative authority for the Province as contemplated in section 104(1) of the Constitution;

"regulations" means regulations made in terms of section 33;

"responsible Member of the Executive Council" means the Member of the Executive Council of the Province of KwaZulu-Natal responsible for economic development and tourism or that member of the Executive Council of the Province of KwaZulu-Natal to whom the Premier has assigned the administration of this Act;

"the film industry" means the film, television, video and related multimedia industry;

"this Act" includes the regulations;

"Trade and Investment KwaZulu-Natal" means –

- (a) the association incorporated under section 21 of the Companies Act, 1973 (Act No. 61 of 1973), bearing Company Registration Number 98/11946/08; or
- (b) the successor in law of, and the successor in title to, such association.

CHAPTER 2

KWAZULU-NATAL FILM COMMISSION

Establishment of the KwaZulu-Natal Film Commission

2. (1) There is hereby established a Commission for the promotion of the film industry in the Province, to be known as the KwaZulu-Natal Film Commission.

(2) The Commission is a juristic person which acts through the Board.

(3) The Commission is a provincial public entity subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(4) The Board is the accounting authority of the Commission as contemplated in section 49(2)(a) of the Public Finance Management Act.

Objects of the Commission

3. The objects of the Commission are –

- (a) to promote and market the Province as a global destination for film production;
- (b) to develop, promote and market, locally, nationally and internationally, the film industry in the Province;
- (c) to facilitate investment in the film industry in the Province;
- (d) to provide and encourage the provision of opportunities for persons, especially from disadvantaged communities, to enter and participate in the film

industry in the Province;

(e) to address historical imbalances in the infrastructure and in the distribution of skills and resources in the film industry in the Province; and

(f) to contribute to an enabling environment for job creation in the film industry in the Province.

Powers, duties and functions of the Commission

4. (1) The Commission must –

(a) administer funds appropriated by the Provincial Legislature;

(b) initiate and administer the funding from sources other than appropriations from the Provincial Legislature;

(c) attract international film productions to the Province;

(d) facilitate the establishment, development and growth of infrastructure and facilities for the film industry in the Province;

(e) attract foreign and local investment and funding for the establishment, development and growth of infrastructure and facilities for the manufacturing of film products in the Province;

(f) co-ordinate and facilitate human resource and human intellectual development in the film industry in the Province;

(g) provide advice, support and access to provincial funding for film producers in the Province;

(h) promote film productions reflecting the cultural diversity of the Province;

(i) conduct research and development into all areas of film production in the Province;

(j) promote the Province as a location for film productions, locally, nationally and internationally;

(k) attract film producers and facilitate their initiatives to carry out film productions in the Province;

(l) encourage film producers to employ provincial personnel and facilities for film productions;

(m) establish relationships with local and international persons, organisations and film commissions, to encourage and facilitate the transfer of knowledge and skills to the film industry in the Province;

- (n) compile a database of, and provide information with regard to –
 - (i) provincial film producers, audio-visual technicians, actors, performers and musicians; and
 - (ii) accommodation, catering, transportation and other related facilities in the Province;
- (o) advise film-makers on any aspect of film production including, but not limited to, municipal by-laws, traffic ordinances, environmental legislation and employment legislation and practices; and
- (p) advise the Provincial Government on policy and legislation including regulations required or appropriate for the promotion of the film industry in the Province.

(2) In order to promote uniformity and co-operation by all organs of state in the provincial and local spheres of government on matters related to the film industry, the Commission must –

- (a) at least once a year, convene meetings between organs of state in the provincial and local spheres that have an interest in any matter related to the film industry;
- (b) act as a link between organs of state in both the provincial and local spheres and stakeholders in the film industry in the Province; and
- (c) liaise and interact with any organisation, structure or body that has an interest in any matter related to the film industry.

(3) The Commission may –

- (a) enter into agreements with any person with expert knowledge in a particular field, so as to assist or advise the Commission in connection with any matter relating to its objects, powers, duties and functions; and
- (b) generally, do everything that is necessary to achieve its objectives.

(4) In order to contribute to the development of human capacity in the film industry in the Province, the Commission may provide bursaries and scholarships to students studying or intending to study in the field of film production.

CHAPTER 3 BOARD OF THE COMMISSION

Composition of the Board

5. (1) The Board consists of –

- (a) at least five, but not more than 20, members appointed by the responsible Member of the Executive Council; and
- (b) the Chief Executive Officer, *ex officio*, as contemplated in section 16(5).

(2) Members of the Board must be fit and proper persons to serve the best interests of the Province, collectively possessing –

- (a) appropriate knowledge, experience and skills in the film industry, and
- (b) the following skills and expertise –
 - (i) legal skills, experience and qualifications;
 - (ii) financial skills, experience and qualifications;
 - (iii) print or electronic media skills;
 - (iv) community development skills and experience; and
 - (v) entertainment industry experience.

(3) In appointing members to the Board, the responsible Member of the Executive Council must ensure –

- (a) that historic imbalances are addressed; and
- (b) that a balance of interest between persons representing –
 - (i) the Department;
 - (ii) the Department of Arts[,]and Culture;
 - (iii) the KwaZulu-Natal Tourism Authority;
 - (iv) stakeholders in the film industry;
 - (v) Trade and Investment, KwaZulu-Natal;
 - (vi) organised local government;
 - (vii) tertiary [I]institutions;
 - (viii) local film offices; and
 - (ix) the Industrial Development Corporation,is maintained.

(4) The responsible Member of the Executive Council must designate –

- (a) one of the members of the Board as the Chairperson of the Board; and
 - (b) one of the members of the Board as the Deputy Chairperson of the Board.
- (5) The member of the Board referred to in subsection 3(b)(i) –
 - (a) must facilitate liaison between the responsible Member of the Executive Council and the Board;
 - (b) must report to the responsible Member of the Executive Council from time to time regarding matters which are considered relevant; and
 - (c) may attend meetings of the Board and participate in discussions, but does not have the right to vote when a decision of the Board is being taken.
- (6) The responsible Member of the Executive Council must, by notice in the *Gazette* invite any interested parties within the Province to nominate candidates for appointment to the Board.
- (7) The invitation for nominations must specify –
 - (a) the nomination procedure;
 - (b) the requirements for nominations; and
 - (c) the closing date for the nominations.
- (8) The responsible Member of the Executive Council must consider all nominations submitted in response to the notice, and may appoint a selection panel consisting of senior departmental officials to review all the nominations and make recommendations to the responsible Member of the Executive Council on the nominees.
- (9) The responsible Member of the Executive Council must cause the names of the persons appointed to the Board to be published in the *Gazette* and in at least two newspapers circulating in the Province, immediately after such persons have been notified, in writing, of their appointment to the Board.
- (10) The responsible Member of the Executive Council must, within two months after the appointment of members of the Board in terms of subsection (1), inform the Executive Council and the Portfolio Committee of the names of the appointed members including the term of their appointment.

(11) This section applies, with the necessary changes, to the filling of a vacancy on the Board.

Disqualification from being appointed to Board

6. A person is disqualified from being appointed to the Board or from remaining on the Board, by reason that he or she –

- (a) is or becomes an unrehabilitated insolvent;
- (b) is or has been declared by a competent court to be of unsound mind;
- (c) is directly or indirectly interested in any contract with the Commission and fails to declare his or her interest and the nature thereof in the manner required by this Act;
- (d) is a person under curatorship;
- (e) has at any time been removed from an office of trust on account of misconduct involving theft or fraud;
- (f) has been convicted and sentenced to a term of imprisonment without the option of a fine, except that the responsible Member of the Executive Council may, upon receipt of an affidavit disclosing full details of an offence by a person nominated for appointment, condone a conviction in a manner that is consistent with section 106(1)(e) of the Constitution: Provided that a disqualification in terms of this subsection ends five years after the sentence has been completed; or
- (g) fails to disclose an interest in accordance with section 7 or attended or participated in the proceedings of the Board while having an interest contemplated in the said section.

Declaration of financial or other interests of a member of the Board

7.(1) A person who has been nominated to serve on the Board in terms of section 5(6) must, within 10 days of being nominated, submit a written declaration to the responsible Member of the Executive Council of all direct or indirect interests in any company and of any other business interests.

(2) Any failure by the nominee to disclose financial and other interests in terms of subsection (1) disqualifies such nominee in terms of section 6 from being appointed to the Board.

(3) Every member of the Board must, upon assuming office and at the beginning of every financial year of the Commission, submit a written declaration of his or her direct or indirect interest in any company or other business interest in the manner provided for in section 234(3)(a) of the Companies Act, 1973 (Act No. 61 of 1973).

(4) Where a member of the Board acquires an interest in any company, or any other business interest, at any time during his or her tenure as a member of the Board, he or she must, within 10 days of the date of the acquisition of such an interest, submit a written declaration to the responsible Member of the Executive Council of such an interest.

(5) Any failure on the part of the member to disclose his or her interest as contemplated in subsections (3) and (4), constitutes justifiable reason for the termination of appointment of such member in terms of section 9(2).

(6) The responsible Member of the Executive Council must keep an updated register of the interests of members of the Board disclosed in terms of this section.

Term of office and reappointment of a member of the Board

8. The person[s] appointed to the Board holds office for a period of five years or such lesser period as the responsible Member of the Executive Council may determine and is, subject to section 5, eligible for re-appointment at the expiry of such period: Provided that no person may be re-appointed after having served on the Board for a continuous period of 10 years.

Vacancies, removal and resignation from office of a member of the Board

9. (1) A member of the Board must vacate office if he or she becomes subject to a disqualification contemplated in section 6.

(2) The responsible Member of the Executive Council may, after having afforded a member the opportunity to state his or her case, at any time terminate the term of office of such member if, in his or her opinion, there are justifiable and cogent reasons for doing so.

(3) A member must vacate office if he or she is absent, without a leave of absence having first been granted by the Board, from two consecutive meetings of the Board for which reasonable notice was given to that member personally or by post.

(4) A member may resign from office by giving not less than 30 days written notice to the responsible Member of the Executive Council: Provided that the responsible Member of the Executive Council waives the notice period.

(5) Whenever a vacancy occurs on the Board, the responsible Member of the Executive Council must, subject to section 5, appoint a person to fill such vacancy for the unexpired portion of the period of office of the member in whose place such person is appointed.

(6) In the event that the responsible Member of the Executive Council exercises his or her powers in terms of subsection (2), he or she may, notwithstanding the procedure for the appointment of the members of the Board set out in section 5, subject to sections 5(2) and 5(3), appoint persons to serve as members of the Board on an interim basis: Provided that –

- (a) the persons appointed in terms of this subsection may not remain on the Board for a period of more than 90 days from the date of their appointment; and
- (b) the responsible Member of the Executive Council must, subject to section 5, appoint the permanent members of the Board within 90 days of the appointment contemplated in this subsection.

Temporary suspension of a member of the Board

10. The responsible Member of the Executive Council may suspend a member of the Board whilst the responsible Member of the Executive Council is investigating

allegations which, if found to be correct, may result in the member's appointment being terminated in terms of section 9(2).

Meetings and procedures at meetings of the Board

11. (1) The first meeting of the Board must be held on a date and at a time and venue determined by the responsible Member of the Executive Council, whereafter all future meetings must be as determined by the Chairperson.

(2) The *quorum* for a meeting of the Board is a majority of the members of the Board.

(3) The proceedings at a meeting of the Board must, subject to the provisions of this section, be determined by the chairperson including the right to decide that any matter under discussion may be withdrawn before it is put to the vote.

(4) The Chairperson must preside at all meetings of the Board. If the Chairperson is absent, the deputy chairperson must preside and in the event that neither the chairperson nor the deputy chairperson are present at a meeting of the Board, the members then present may elect, from their own number, a person to act as chairperson for the duration of that particular meeting.

(5) A decision of the Board must be taken by a majority of the votes of the members present at a meeting and, in the event of an equality of votes on any matter; the Chairperson has a casting vote in addition to his or her deliberative vote.

(6) The Board must keep minutes of its meetings.

(7) No decision of the Board is invalid merely by reason of a vacancy in the Board: Provided that the decision is taken by the required majority of the members of the Board then present and entitled to sit as members of the Board.

(8) The chairperson, or a majority of the members of the Board, may call an extraordinary meeting of the Board in which event the provisions of this section apply with the necessary changes.

(9) The Board may, in its discretion, allow members of the public to attend any meeting of the Board.

Recusal of a member from meetings and proceedings of the Board

12.(1) A member of the Board must recuse himself or herself from a matter being investigated, considered or voted upon by the Board if one or more of the following occur –

- (a) if he or she has a direct or indirect interest in the matter; or
- (b) if there is a possibility that a direct or indirect interest in the matter might arise.

(2) If at any stage during the course of any proceedings before the Board it appears that a member who is present at that meeting has or may have an interest contemplated in subsection (1), such member must forthwith disclose the nature of his or her interest and leave the meeting.

(3) Any disclosure made in terms of subsection (1) must be recorded in the minutes of the meeting in question.

(4) If it subsequently emerges that the Board took a decision on a matter in respect of which a member has failed to disclose an interest contemplated in subsection (1), such decision by the Board is invalid.

(5) For the purposes of this section "**indirect interest**" includes, but is not limited to, an interest held by any member's –

- (a) business partner, associate or employer, other than the State;
- (b) spouse, partner in a customary marriage, or person with whom such member cohabits or lives as though they are married; or
- (c) child, parent or sibling.

Remuneration of members of the Board

13.(1)(a) Subject to subsection 2(a), a member of the Board may be paid from the funds of the Commission such remuneration and allowances as may be determined by the responsible Member of the Executive Council in consultation with the Member of the Executive Council responsible for finance ; and

(b) a member of the Board who receives remuneration, allowances or other benefits by virtue of his or her post or employment in –

- (i) the national government;
- (ii) a provincial government;
- (iii) a municipality; or
- (iv) a corporation, body or institution in which the national or a provincial government has a controlling interest, and

who continues to receive such remuneration, allowances or other benefits while serving as a member of the Board, may only receive remuneration and allowances referred to in paragraph (a) to the extent required to place such member in the financial position he or she would have been were it not for such post or employment.

(2)(a) A member of the Board and a person who has been co-opted to the Board may, in respect of his or her functions as a member or co-opted member, receive reimbursement from the funds of the Commission for reasonable actual subsistence and travelling expenses necessitated by the actual attendance of a meeting of the Board ; and

(b) the Member of the Executive Council responsible for finance must determine procedures, including control measures, for the management, handling and processing of claims for subsistence and traveling expenses contemplated in paragraph (a).

Establishment of Committees to assist the Board

14. (1) The Board may establish committees consisting of one or more of its members to –

- (a) assist the Board in the performance of any of the powers, duties or functions of the Commission contemplated in section 4; or
- (b) enquire or conduct research into any matter falling within the mandate of the Board in terms of this Act.

- (2) When establishing a committee contemplated in subsection (1), the Board must –
- (a) determine the terms of reference of such committee including, but not limited to, whether or not such committee ceases to exist once it has completed the task or tasks allocated to it by the Board;
 - (b) appoint a Chairperson of such committee who must be a member of the Board; and
 - (c) determine whether or not such committee may co-opt persons who are not members of the Board and, if so, on what terms and conditions.
- (3) The Board may, at any time, terminate the existence of a committee or any mandate given to a committee, irrespective of whether or not such committee has completed the task or tasks allocated to it by the Board.
- (4)(a) The Chief Executive Officer may attend and take part in, but may not vote at, a meeting of a committee; and
- (b) a member of staff of the Board may, on invitation by the relevant committee, attend a meeting of that committee.

Co-opting of persons to the Board or committees of the Board

15. (1) The Board may, if it is of the opinion that a particular person is able to assist it in regard to any of its functions and powers, co-opt such person for that purpose.

(2) A person co-opted in terms of subsection (1) is not entitled to vote at any meeting of the Board or a committee.

(3) A person co-opted in terms of subsection (1) may be paid such remuneration and allowances out of the funds of the Commission as may be determined in terms of section 13(2)(a) by the Board in consultation with the Member of the Executive Council responsible for finance.

CHAPTER 4 CHIEF EXECUTIVE OFFICER AND STAFF OF THE COMMISSION

Chief Executive Officer of the Commission

16. (1) The Board must, in consultation with the responsible Member of the Executive Council, appoint a suitably qualified, skilled and experienced person as Chief Executive Officer of the Commission.

(2)(a) The Chief Executive Officer is appointed for a period not exceeding five years; and
(b) the Chief Executive Officer may be re-appointed for one additional term of office not exceeding five years.

(3)(a) The appointment of the Chief Executive Officer is subject to the conclusion of a written performance agreement entered into between that person and the Board; and
(b) the Board and the Chief Executive Officer may, in writing and by agreement, amend the performance agreement.

(4) For purposes of the declaration of financial or other interests, the provisions of section 7 apply with the necessary changes to the Chief Executive Officer except that the Chief Executive Officer must declare his or her interests to the Board.

(5) The Chief Executive Officer is an *ex officio* member of the Board but does not have the right to vote at its meetings.

Functions of the Chief Executive Officer

17. (1) The Chief Executive Officer is responsible for –

- (a) the administrative and financial management of the Board in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999), and the direction of the Board;
- (b) the appointment of members of staff of the Commission contemplated in section 19(1), in consultation with the Board;
- (c) the determination in consultation with the Board of a code of conduct, applicable to the Chief Executive Officer, all staff of the Commission and justiciable for purposes of disciplinary proceedings, to ensure –
 - (i) compliance with applicable law, including this Act;

- (ii) the effective, efficient and economical use of the Commission's funds and resources;
 - (iii) the promotion and maintenance of a high standard of professional ethics;
 - (iv) the prevention of conflicts of interest;
 - (v) the protection of confidential information held by the Commission; and
 - (vi) professional, honest, impartial, fair, ethical and equitable service;
- (d) the maintenance of discipline over the staff appointed in terms of paragraph (b) and must, for those purposes, be accountable to the Board;
- (e) the keeping and maintenance of the register of interests declared by members of staff of the Commission; and
- (f) ensuring compliance by the Board with the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999), and any other applicable legislation.

(2) If the Chief Executive Officer is for any reason unable to perform any of his or her functions, the Board must, in writing, and in consultation with the responsible Member of the Executive Council, appoint another person as Acting Chief Executive Officer until the Chief Executive Officer is able to resume those functions.

Resignation and removal from office of the Chief Executive Officer

18. (1) The Chief Executive Officer vacates office –

- (a) in the case of resignation, when the resignation takes effect;
- (b) when, in terms of the Companies Act, 1973 (Act No. 61 of 1973), the person holding that office has become disqualified to serve as director of a company; and
- (c) upon having been removed from office in terms of subsection (2).

(2) The Board may, in consultation with the Member of the Executive Council, terminate the Chief Executive Officer's employment in accordance with applicable employment and labour law.

Staff of the Commission

19.(1) The Chief Executive Officer must, subject to subsection (2), employ members of staff of the Commission as may be reasonably necessary –

- (a) to assist him or her in fulfilling his or her functions in terms of this Act; and
- (b) to assist the Board with the work incidental to the performance by the Board of its functions.

(2) The Board must, subject to section 23(4), determine a human resources policy for staff members of the Commission, including the Chief Executive Officer.

(3) For purposes of the declaration of financial or other interests, and subject to section 17(1)(e), the provisions of section 7(3), (4) and (5) apply with the necessary changes to staff members of the Commission.

(4) The Chief Executive Officer must keep an updated register of the interests of staff members of the Commission disclosed in terms of this subsection (3).

Secondment or transfer of staff to the Commission

20. The Commission may utilise the services of persons seconded or transferred from the public service in accordance with the provisions of the Public Service Act, 1994 (Proclamation No. 103 of 1994).

CHAPTER 5**DETERMINATION OF PROVINCIAL CODE OF CONDUCT FOR FILM PRODUCERS****Provincial Code of Conduct for Film Producers**

21. (1) The responsible Member of the Executive Council after consultation with the Board, must determine a Provincial Code of Conduct for Film Producers.

(2) The Provincial Code of Conduct for Film Producers takes effect upon the publication of the notice in the Gazette.

(3) The responsible Member of the Executive Council may, by notice in the *Gazette* and after consultation with the Board –

- (a) amend;
- (b) substitute; or
- (c) withdraw,

the Provincial Code of Conduct for Film Producers.

Policy directives

22. The responsible Member of the Executive Council may –

- (a) set strategic guidelines for the pursuit of the Commission's objectives;
- (b) issue policy directives to the Board; and
- (c) withdraw or amend any strategic guideline or policy directive issued in terms of paragraph (a).

CHAPTER 6 FUNDING AND FINANCIAL MANAGEMENT OF THE COMMISSION

Funds of the Commission

23. (1) The funds of the Commission consist of –

- (a) money appropriated by the Provincial Legislature;
- (b) interest on investments of the Commission; and
- (c) income lawfully derived from any other source.

(2) The Commission must utilise its funds –

- (a) for the payment of remuneration, allowances and subsistence and travelling expenses of –
 - (i) the members of the Board;
 - (ii) the Chief Executive Officer; and
 - (iii) the members of staff of the Commission; and
- (b) to cover costs in connection with –
 - (i) the day to day operation and administration of the Commission; and
 - (ii) the performance of the duties and functions of the Commission and the exercise of its powers in terms of this Act.

- (3) The Chief Executive Officer must with the concurrence of the Board –
- (a) open an account in the name of the Commission with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990); and
 - (b) deposit therein all money received in terms of subsection (1).
- (4) The Board, in consultation with the responsible Member of the Executive Council, must determine –
- (a) the remuneration and conditions of service; and
 - (b) the pension and retirement benefits,
- of the Chief Executive Officer and the other members of staff of the Commission.
- (5) The Commission may invest monies deposited into its account which are not required for immediate use: Provided that the Board takes reasonable steps to ensure that the investment is not of a speculative nature.
- (6) The Commission may not borrow money or issue guarantees, indemnities or securities or enter into any other transactions that bind it, unless such borrowing, guarantee, indemnity, security or other transaction is authorised in terms of this Act and not in conflict with the Public Finance Management Act, 1999 (Act No. 1 of 1999).

Financial management

- 24.**(1) The Chief Executive Officer must cause full and proper books of account and all the necessary records in relation thereto to be kept.
- (2) The Chief Executive Officer must ensure that the Commission's annual budgets, corporate plans, annual reports and audited financial statements are prepared and submitted in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999).
- (3) The Chief Executive Officer must, within three months before the end of each financial year, submit to the Board for approval –

- (a) a business plan for the Commission, containing measurable objectives and the other information contemplated in section 25(3)(b) and (c); and
- (b) a statement of the estimated income and expenditure of the Commission, in respect of the following three financial years.

(4) In any financial year the Chief Executive Officer may submit to the Board for approval adjusted or supplementary statements of the estimated income and expenditure of the Commission for that financial year.

(5) The Commission may not enter into any financial commitment beyond its approved budget and accumulated reserves.

(6) The Chief Executive Officer may with the approval of the Board –

- (a) invest any unexpended portion of its funds with the Corporation for Public Deposits or any other institution categorised or listed from time to time by the National Treasury as a Category “A1” financial institution; or
- (b) dispose of that portion in any other manner.

(7) The Chief Executive Officer may, with the approval of the Board, establish reserve funds and deposit therein such amounts as the Board approves.

Audit and annual report

25. (1) The Auditor-General must audit the financial statements of the Commission.

(2)(a) The Board must table a report on the activities of the Commission during a financial year, in the Provincial Legislature, within five months after the end of that financial year; and

(b) within five months after the report has been tabled, a delegation consisting of the Chairperson of the Board and at least two other members of the Board must brief the relevant Portfolio Committee on the annual report.

(3) The report must –

- (a) include a balance sheet and a statement of income and expenditure certified by the Auditor-General;
- (b) state the extent to which the Commission has achieved or advanced its objects referred to in section 3 and the measurable objectives as set out in its business plan as contemplated in section 24(3)(a) during the financial year concerned; and
- (c) contain relevant performance information regarding the economic, efficient and effective application of resources and specifically a comparison between planned and actual performance indicators as set out in that business plan.

Financial year of the Commission

26. The financial year of the Commission commences on 1 April of a particular year and ends on 31 March of the following year.

Immovable property

27. The Commission may, in terms of a policy and procedures determined by the Board and with the approval of the responsible Member of the Executive Council, acquire, hold or dispose of immovable property in the course of its business.

Legal proceedings against the Commission

28.(1) Any legal proceedings against the Commission must be instituted in accordance with the Institution of Legal Proceedings against certain Organs of State Act, 2002 (Act No. 40 of 2002).

(2) The Commission is, for purposes of subsection (1), regarded as an organ of state contemplated in paragraph (c) of the definition thereof in section 1 of the said Act.

CHAPTER 7 GENERAL PROVISIONS

Security of confidential information held by the Commission

29.(1) Subject to the Constitution and the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), no person may disclose any information submitted to the Commission in connection with any legal brief or instruction, unless –

- (a) he or she is ordered to do so by a court of law; or
- (b) the person who gave such brief or instruction consents thereto in writing.

(2) No person may disclose any information kept in the register contemplated in sections 7, 16(4) and 19(4) unless such disclosure is –

- (a) in terms of any law that compels or authorises such disclosure;
- (b) materially necessary for the proper functioning of the Commission; or
- (c) made for purposes of monitoring, evaluating, investigating or considering any activity relating to the Commission, or any member of staff of the Commission.

(3) Any person who contravenes subsection (1) or (2) is guilty of an offence.

Dissolution of the Commission

30. The Commission may only be dissolved in terms of an Act of the Provincial Legislature.

Use of name of the Commission

31.(1) No person may, without the prior written authorisation of the Commission, in any way represent or make use of the name, acronym, logos, designs or material used or owned by the Commission.

(2) No person may falsely claim to be acting on behalf of the Commission.

(3) Any person who contravenes subsection (1) or (2) is guilty of an offence.

Delegations

- 32.** (1) The responsible Member of the Executive Council may delegate to the Board –
- (a) any power conferred on the responsible Member of the Executive Council by this Act, except the power to make regulations referred to in section 33; or
 - (b) any duty imposed on the responsible Member of the Executive Council by this Act, except any duty regarding the appointment, and termination of office, of the members of the Board contemplated in sections 5(1)(a), 6 and 9(2).
- (2) The Board may, by a special resolution, delegate to the Chief Executive Officer or staff member of the Commission, any power or duty conferred or imposed on the Board by this Act.
- (3) The Chief Executive Officer may delegate to any member of staff of the Commission any power or duty conferred or imposed on the Chief Executive Officer by this Act, except any power or duty as accounting officer of the Commission.
- (4) Any power or duty delegated in terms of subsection (1), (2) or (3) must be exercised or performed subject to such conditions as the person or body that made the delegation considers necessary.
- (5) A delegation referred to in subsection (1), (2) or (3) –
- (a) must be in writing;
 - (b) does not prohibit the person or body that made the delegation from exercising that power or performing that duty; and
 - (c) may at any time be withdrawn or amended in writing by that person or body.

Regulations

- 33.** The responsible Member of the Executive Council may, in consultation with the Board and by notice in the *Gazette*, make regulations regarding –
- (a) any matter that may be prescribed in terms of this Act; or
 - (b) any administrative or procedural matter necessary to give effect to the provisions of this Act.

Winding-up of Company and transitional provisions incidental thereto

34.(1)(a) The Company, KwaZulu-Natal Film Commission, bearing Company Registration Number 2003/028677/08, established in terms of the Companies Act, 1973 (Act No. 61 of 1973), must be voluntarily wound up and deregistered; and

(b) the members of the Company must, in winding-up the Company referred to in paragraph (a), act with due speed and diligence and must, amongst other things, comply with sections 349 and 350 of the Companies Act, 1973 (Act No. 61 of 1973).

(2) On the date of the winding-up of the Company contemplated in subsection (1), all assets, liabilities, rights, duties and obligations, including any unspent portion of any funds accrued or received by the Company are transferred to, and vest in, the KwaZulu-Natal Film Commission established in terms of section 2.

(3) The Commission is, in respect of the assets, liabilities, rights, duties and obligations and funds referred to in subsection (2), for all purposes the successor-in-law of, and the successor-in-title to, the Company.

(4) The members of the Board of the Company must act as duly authorised and empowered members of the Board of the Commission until such time as the responsible Member of the Executive Council has in terms of section 5(1)(a) appointed the Board in terms of this Act.

(5) All members of staff of the Company must, within six months of the commencement of this Act, be made an employment offer by the responsible Member of the Executive Council for transfer to the Commission on a date determined by the responsible Member of the Executive Council.

(6) The remuneration, benefits and privileges offered by the responsible Member of the Executive Council, in accordance with subsection (5), may not be less favourable than those payable to the staff member by the Company, immediately prior to his or her transfer.

(7) For the purposes of the Income Tax Act, 1962 (Act No. 58 of 1962), no change of employer is deemed to have taken place in respect of a staff member who accepts an employment offer contemplated in subsection (5).

(8) When a person becomes a staff member of the Commission in terms of subsection (5) –

(a) he or she retains all vacation leave which accrued to his or her credit up to the date immediately before the date of transfer, adjusted in accordance with the conditions of employment of the Commission; and

(b) any inquiry instituted or intended to be instituted in respect of alleged misconduct committed by such person before the date of transfer must be disposed of or instituted by the Commission and the Commission must take appropriate steps against the person concerned in accordance with the laws, policy and conditions of employment or service applicable to him or her immediately prior to the date of transfer.

General offences

35. (1) A member of the Board, a member of staff, an adviser, agent or any other person employed or acting on behalf of the Commission is guilty of an offence if he or she directly or indirectly accepts any bribe and or receives any unauthorised fee or reward from any person in connection with anything done or offered by the Commission.

(2) Any person is guilty of an offence if he or she, in respect of or in connection with anything done or offered by the Commission induces or attempts to influence a member of the Board, a member of staff, an adviser, agent or any other person employed by, or acting on behalf of the Commission to commit a criminal offence.

(3) Any person who falsely claims that he or she is authorised to charge or collect fees, donations or contributions on behalf of, or by direction of the Commission, is guilty of an offence.

Penalties

36. Any person convicted of an offence in terms of this Act is liable to a fine or to imprisonment for a period not exceeding 5 years or to both such fine and imprisonment.

Short title

37. This Act is called the KwaZulu-Natal Film Commission Act, 2010.

No. 5

21 Oktober 2010

[Engelse teks deur die Premier geteken]

KWAZULU-NATAL
WET OP DIE ROLPRENTKOMMISSIE, 2010
(No. 03 van 2010)

Goedgekeur op 09-09-2010

WET

Om voorsiening te maak vir die instelling van die KwaZulu-Natal Rolprentkommissie; om die oogmerke, bevoegdhede, pligte en funksies van die KwaZulu-Natal Rolprentkommissie te bepaal; om die wyse waarop die KwaZulu-Natal Rolprentkommissie bestuur, gereël, van personeel voorsien en gefinansier moet word, te bepaal en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

WORD DAAR DERHALWE deur die Provinsiale Wetgewer van die provinsie KwaZulu-Natal soos volg bepaal:—

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HOOFSTUK 1 OMSKRYWINGS

Omskrywings

1. In hierdie Wet, tensy uit die konteks anders blyk, beteken –

"Departement" die Departement in die provinsiale regering van KwaZulu-Natal verantwoordelik vir ekonomiese ontwikkeling en toerisme;

"die rolprentbedryf" die rolprent-, TV-, video- en verwante multimediatebedryf;

"georganiseerde plaaslike regering" die KwaZulu-Natal Vereniging vir Plaaslike Regerings daardie organisasie in die provinsie van KwaZulu-Natal wat ingevolge artikel 2 van die Wet op Georganiseerde Plaaslike Regering, 1997 (Wet No. 52 van 1997) erken word as verteenwoordigend van die meerderheid munisipaliteite in die provinsie;

"Grondwet" die Grondwet van die Republiek van Suid-Afrika, 1996;

"Handel en Belegging KwaZulu-Natal" –

(a) die vereniging ingelyf kragtens artikel 21 van die Maatskappywet, 1973 (Wet No. 61 van 1973), met Maatskappyregistrasienuommer 98/11946/08; of

(b) die regsopvolger en opvolger in titel van sodanige vereniging.

"hierdie Wet" insluitend die regulasies;

"Hoof- Uitvoerende Beampte" die Hoof- Uitvoerende Beampte van die Kommissie, aangestel ingevolge artikel 16;

"Hoof van Departement" die persoon wat aangestel is as Hoof van die Departement ingevolge die Staatsdienswet, soos gewysig;

"Koerant" die amptelike Provinsiale Koerant van KwaZulu-Natal;

"Kommissie" die KwaZulu-Natal Rolprentkommissie ingestel ingevolge artikel 2;

"lid" 'n lid van die Raad van die Kommissie aangestel ingevolge artikel 5;

"lid van die Uitvoerende Raad verantwoordelik vir finansies" die lid van die Uitvoerende Raad van die provinsie KwaZulu-Natal verantwoordelik vir finansies;

"Maatskappy" die vereniging ingelyf kragtens artikel 21 van die Maatskappywet, 1973 (Wet No. 61 van 1973), met registrasienommer 2003/028677/08 en bekend as die KwaZulu-Natal Rolprentkommissie;

"Nywerheid-ontwikkelingskorporasie" die openbare korporasie ingestel kragtens artikel 2 van die Wet op die Nywerheid-ontwikkelingskorporasie, 1940 (Wet No. 22 van 1940);

"Portefeuljekomitee" die Portefeuljekomitee van die Provinsiale Wetgewer verantwoordelik vir ekonomiese ontwikkeling en toerisme;

"Provinsiale regering" die regering van die provinsie van KwaZulu-Natal;

"Provinsiale Wetgewer" die Wetgewer van die provinsie van KwaZulu-Natal soos bedoel in artikel 105 van die Grondwet, met die wetgewende gesag vir die provinsie soos bedoel in artikel 104(1) van die Grondwet;

"provinsie" die provinsie van KwaZulu-Natal bedoel in artikel 103 van die Grondwet en **"provinsiale"** het 'n ooreenstemmende betekenis;

"Raad" die Raad van die Kommissie aangestel ingevolge artikel 5;

"regulasies" regulasies uitgevaardig ingevolge artikel 33;

"rolprent" enige reeks visuele beelde wat op so 'n wyse opgeneem word dat met die gebruik van sodanige opname, sodanige beelde beskou sal word as 'n bewegende prent, insluitend enige prent wat vir vertoning bestem is deur enige medium of toestel;

"rolprentproduksie" die aksie of geval van die produksie van 'n rolprent;

"produksieleier" 'n natuurlike of regspersoon gemoeid met rolprentproduksie ;

"rolprentprodukte" die resultaat van rolprentproduksie;

"Uitvoerende Raad" die Uitvoerende Raad van die provinsie van KwaZulu-Natal bedoel in artikel 132 van die Grondwet;

"verantwoordelike lid van die Uitvoerende Raad" die lid van die Uitvoerende Raad van die provinsie van KwaZulu-Natal verantwoordelik vir ekonomiese ontwikkeling en toerisme of enige ander lid van die Uitvoerende Raad wat deur die Premier toegewys is;

"voorgeskryf" voorgeskryf deur regulasie kragtens artikel 33, en "voorskryf" het 'n ooreenstemmende betekenis.

HOOFSTUK 2

KWAZULU-NATAL ROLPRENTKOMMISSIE

Instelling van die KwaZulu-Natal Rolprentkommissie

2.(1) 'n Kommissie word hierby ingestel vir die bevordering van die rolprentbedryf in die provisie en sal bekend staan as die KwaZulu-Natal Rolprentkommissie.

(2) Die Kommissie is 'n regspersoon wat deur die Raad werk.

(3) Die Kommissie is 'n 'n provinsiale openbare entiteit onderhewig aan die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

(4) Die Raad is die rekenpligtige gesag van die Kommissie, soos bedoel in artikel 49(2)(a) van die Wet op Openbare Finansiële Bestuur.

Oogmerke van Kommissie

3. Die oogmerke van die Kommissie is om –

- (a) die provinsie as 'n globale bestemming vir rolprentproduksie te bevorder en te bemark;
- (b) die rolprentbedryf in die provinsie plaaslik, nasionaal en internasionaal te ontwikkel, bevorder en bemark;
- (c) belegging in die rolprentbedryf in die provinsie moontlik te maak;
- (d) geleenthede aan persone, veral uit voorheen benadeelde gemeenskappe, te verskaf en om hulle aan te moedig om by die rolprentbedryf in die provinsie in te skakel en daaraan deel te neem;
- (e) historiese ongelykhede in die infrastruktuur en in die verspreiding van vaardighede en hulpbronne in die rolprentbedryf in die provinsie aan te spreek; en
- (f) by te dra tot 'n magtigingsomgewing vir werkskepping in die rolprentbedryf in die provinsie.

Bevoegdhede, pligte en funksies van die Kommissie

4.(1) Die Kommissie moet –

- (a) fondse wat deur die Provinsiale Wetgewer bewillig is, administreer;
- (b) befondsing uit ander bronne as bewilligings van die Provinsiale Wetgewer inisieer en administreer;
- (c) internasionale rolprentproduksies na die provinsie lok;
- (d) die instelling, ontwikkeling en groei van infrastruktuur en fasiliteite vir die rolprentbedryf in die provinsie moontlik maak;
- (e) buitelandse en plaaslike belegging en befondsing lok vir die instelling, ontwikkeling en groei van infrastruktuur en fasiliteite vir die vervaardiging van rolprentprodukte in die provinsie;

- (f) menslike hulpbron- en menslike intellektuele ontwikkeling in die rolprentbedryf in die provinsie koördineer en moontlik maak;
- (g) raad, bystand en toegang tot provinsiale befondsing vir rolprentprodusente in die provinsie verskaf;
- (h) rolprentproduksies wat die kulturele diversiteit van die provinsie weerspieël, bevorder;
- (i) navorsing doen en ontwikkeling op alle terreine van rolprentproduksie in die provinsie bewerkstellig;
- (j) die provinsie bevorder as 'n ligging vir rolprentproduksies, plaaslik, nasionaal en internasionaal;
- (k) produksieleiers lok en hul inisiatiewe moontlik maak om rolprentproduksies in die provinsie uit te voer;
- (l) produksieleiers aanmoedig om provinsiale personeel en fasiliteite vir rolprentproduksies aan te wend;
- (m) verhoudings met plaaslike en internasionale persone, organisasies en rolprentkommissies vestig, om die oordrag van kennis en vaardighede aan die rolprentbedryf in die provinsie aan te moedig en moontlik te maak;
- (n) 'n databasis saamstel van, en inligting verskaf met betrekking tot –
 - (i) provinsiale produksieleiers, oudio-visuele tegnisi, akteurs, uitvoerende kunstenaars en musikante; en
 - (ii) akkommodasie, spyseniering, vervoer en ander verwante fasiliteite in die provinsie;
- (o) rolprentmakers adviseer oor enige aspek van rolprentproduksie insluitend, maar nie beperk nie tot, munisipale verordeninge, verkeersordonnansies, omgewingswetgewing en indiensnemingswetgewing en -praktyke; en
- (p) die provinsiale regering adviseer aangaande beleid en wetgewing, insluitend regulasies wat vereis word of toepaslik is vir die bevordering van die rolprentbedryf in die provinsie.

(2) Ten einde eenvormigheid en samewerking by alle staatsorgane in die provinsiale en plaaslike regeringsfeer te bevorder aangaande aangeleenthede met betrekking tot die rolprentbedryf, moet die Kommissie –

- (a) ten minste een maal per jaar, vergaderings tussen staatsorgane in die provinsiale en plaaslike sfere byeenroep wat 'n belang het in enige aangeleentheid met betrekking tot die rolprentbedryf;
 - (b) optree as 'n skakel tussen staatsorgane in beide provinsiale en plaaslike sfere en belanghebbendes in die rolprentbedryf in die provinsie; en
 - (c) met enige organisasie of struktuur of liggaam wat 'n belang in enige aangeleentheid met betrekking tot die rolprentbedryf het, skakel en in wisselwerking tree.
- (3) Ten einde sy verpligtinge uit te voer, kan die Kommissie –
- (a) 'n ooreenkoms met enige persoon met spesialis kennis op 'n spesifieke terrein aangaan, om sodoende die Kommissie by te staan of te adviseer aangaande enige aangeleentheid met betrekking tot sy oogmerke en funksies; en
 - (b) oor die algemeen alles doen wat nodig is om sy doelwitte te bereik.
- (4) Ten einde by te dra tot die ontwikkeling van menslike kapasiteit in die rolprentbedryf in die provinsie, kan die Kommissie beurse en studiebeurse gee aan studente wat in rolprentproduksie studeer of van voorneme is om daarin te studeer.

HOOFSTUK 3

RAAD VAN DIE KOMMISSIE

Samestelling van die Raad

5.(1) Die Raad bestaan uit –

- (a) ten minste vyf, maar nie meer as 20, lede aangestel deur die verantwoordelike lid van die Uitvoerende Raad; en
- (b) die Hoof- Uitvoerende Beampte, *ex officio*, soos bedoel in artikel 16(5).

(2) Lede van die Raad moet bekwame en geskikte persone wees en gesamentlik beskik oor –

- (a) toepaslike kennis, ondervinding en vaardighede in die rolprentbedryf, en
- (b) die volgende vaardighede en kundigheid –
 - (i) regsvaardighede, -ondervinding en -kwalifikasies;
 - (ii) finansiële vaardighede, ondervinding en kwalifikasies;
 - (iii) vaardighede in die gedrukte of elektroniese media;
 - (iv) vaardighede en ondervinding in gemeenskapsontwikkeling; en
 - (v) ondervinding in die vermaakbedryf.

(3) By aanstelling van lede op die Raad, moet die verantwoordelike lid van die Uitvoerende Raad verseker dat –

- (a) historiese ongelykhede aangespreek word; en
- (b) daar 'n balans van belange gehandhaaf word tussen persone wat –
 - (i) die Departement;
 - (ii) die Departement van Kuns en Kultuur;
 - (iii) die KwaZulu-Natal Toerisme-owerheid;
 - (iv) belanghebbendes in die rolprentbedryf;
 - (v) Handel en Belegging, KwaZulu-Natal;
 - (vi) georganiseerde plaaslike regering;
 - (vii) tersiêre instellings;
 - (viii) plaaslike rolprentkantore; en
 - (ix) die Nywerheid-ontwikkelingskorporasie,

verteenwoordig.

(4) Die verantwoordelike lid van die Uitvoerende Raad moet –

- (a) een van die lede van die Raad as die voorsitter van die Raad; en
- (b) een van die lede van die Raad as die adjunkvoorsitter van die Raad,

aanwys.

(5) Die lid van die Raad vermeld in subartikel 3(b)(i) –

- (a) moet skakeling tussen die verantwoordelike lid van die Uitvoerende Raad en die Raad moontlik maak;

- (b) moet van tyd tot tyd aan die verantwoordelike lid van die Uitvoerende Raad verslag doen met betrekking tot aangeleenthede wat tersaaklik geag word; en
- (c) kan vergaderings van die Raad bywoon en deelneem aan besprekings, maar het nie die reg om te stem wanneer 'n besluit van die Raad geneem word nie.

(6) Die verantwoordelike lid van die Uitvoerende Raad moet, deur middel van kennisgewing in die *Koerant* enige belanghebbende partye binne die provinsie uitnoodig om kandidate vir aanstelling op die Raad te benoem.

(7) Die uitnodiging vir benoemings moet –

- (a) die benoemingsprosedure;
 - (b) die vereistes vir benoemings; en
 - (c) die sluitingsdatum vir die benoemings,
- spesifiseer.

(8) Die verantwoordelike lid van die Uitvoerende Raad moet alle benoemings voorgelê in reaksie op die kennisgewing oorweeg, en kan 'n keuringspaneel aanstel bestaande uit senior departementele beamptes om al die benoemings te hersien en aanbevelings by die verantwoordelike lid van die Uitvoerende Raad te maak aangaande die kandidate.

(9) Die verantwoordelike lid van die Uitvoerende Raad moet die name van die persone aangestel op die Raad in die *Koerant* laat publiseer en in ten minste twee koerante met wye sirkulasie in die provinsie, onmiddellik nadat sodanige persone skriftelik in kennis gestel is van hul aanstelling op die Raad.

(10) Die verantwoordelike lid van die Uitvoerende Raad moet, binne twee maande na die aanstelling van lede van die Raad ingevolge subartikel (1), die Uitvoerende Raad en die Portefeuljekomitee inlig oor die name van die aangestelde lede asook die termyn van hul aanstelling.

(11) Hierdie artikel is, met die nodige veranderings, van toepassing op die vul van 'n vakature op die Raad.

Onbevoegdheid vir aanstelling op die Raad

6. 'n Persoon is onbevoeg om op die Raad aangestel te word of om op die Raad te bly, indien hy of sy –

- (a) 'n ongerehabiliteerde insolvent is of word;
- (b) deur 'n bevoegde hof as ontoerekeningsvatbaar verklaar is;
- (c) direk of indirek belang het by enige kontrak met die Kommissie en versuim om sy of haar belang en die aard daarvan te verklaar op die wyse wat deur hierdie Wet vereis word;
- (d) onder kuratorskap is;
- (e) te eniger tyd uit sy of haar vertrouensamp ontslaan is op grond van wangedrag wat diefstal of bedrog insluit;
- (f) skuldig bevind en gevonnissen is tot 'n termyn van gevangenisstraf sonder die keuse van 'n boete, buiten dat die verantwoordelike lid van die Uitvoerende Raad by die volle openbaarmaking van die misdryf in 'n plegtige verklaring deur sodanige benoemde 'n skuldigbevinding kan kondoneer op 'n wyse wat ooreenstem met artikel 106(1)(e) van die Grondwet: Met dien verstande dat onbevoegdheid ingevolge hierdie subartikel vyf jaar nadat die vonnis voltooi is, tot 'n einde kom; of
- (g) versuim om 'n belang te verklaar in ooreenstemming met artikel 7 of die verrigtinge van die Raad bygewoon of daaraan deelgeneem het terwyl hy of sy 'n belang het soos bedoel in die vermelde artikel.

Verklaring van finansiële of ander belange van lid van die Raad

7.(1) 'n Persoon wat benoem is om op die Raad te dien ingevolge subartikel 5(6) moet, binne 10 dae nadat hy of sy benoem is, 'n skriftelike verklaring voorlê aan die verantwoordelike lid van die Uitvoerende Raad van alle direkte of indirekte belange in enige maatskappy en van enige ander sakebelange.

(2) Enige versuim deur 'n benoemde om finansiële en ander belange te verklaar ingevolge subartikel (1) maak sodanige benoemde ingevolge artikel 6 onbevoeg vir aanstelling op die Raad.

(3) Elke lid van die Raad moet, by aanvaarding van 'n amp en aan die begin van elke finansiële jaar van die Kommissie, 'n skriftelike verklaring voorlê van sy of haar direkte of indirekte belang in enige maatskappy of ander sakebelange op die wyse soos bepaal in artikel 234(3)(a) van die Maatskappywet, 1973 (Wet No. 61 van 1973).

(4) Waar 'n lid van die Raad, te eniger tyd gedurende sy of haar ampsbekleding as 'n lid van die Raad, 'n belang in enige maatskappy of ander sakebelange verkry, moet hy of sy, binne 10 dae vanaf die datum van die verkryging van sodanige belang, 'n skriftelike verklaring aan die verantwoordelike lid van die Uitvoerende Raad van sodanige belang voorlê.

(5) Enige versuim deur die lid om sy of haar belange te verklaar soos bedoel in subartikel (3) en (4) sal die beëindiging van die aanstelling van sodanige lid tot gevolg hê ingevolge artikel 9(2).

(6) Die verantwoordelike lid van die Uitvoerende Raad moet 'n opgedateerde register byhou van die belange van lede van die Raad soos verklaar ingevolge hierdie artikel.

Ampstermyn en heraanstelling van lid van die Raad

8. Die persoon wat op die Raad aangestel word, behou die amp vir 'n tydperk van vyf jaar of sodanige korter tydperk soos die verantwoordelike lid van die Uitvoerende Raad mag bepaal en is, onderhewig aan artikel 5, benoembaar vir heraanstelling by die verstryking van sodanige tydperk: Met dien verstande dat geen persoon her aangestel mag word nadat hy of sy vir 'n aaneenlopende tydperk van 10 jaar op die Raad gedien het nie.

Vakatures, ontslag en bedanking uit amp van lid van die Raad

9.(1) 'n Lid van die Raad moet sy of haar amp ontruim indien hy of sy onbevoeg raak soos bedoel in artikel 6.

(2) Die verantwoordelike lid van die Uitvoerende Raad kan, nadat hy of sy aan 'n lid die geleentheid gebied het om sy of haar saak te stel, te eniger tyd die ampstermyn van sodanige lid beëindig indien daar, na sy of haar mening, goeie, afdoende en regverdigbare redes daarvoor is.

(3) 'n Lid moet sy of haar amp ontruim indien hy of sy afwesig is, sonder dat verlof tot afwesigheid deur die Raad vooraf toegestaan is, van twee opeenvolgende vergaderings van die Raad waarvoor redelike kennis persoonlik of per pos aan daardie lid gegee is.

(4) 'n Lid mag uit sy of haar amp bedank deur nie minder nie as 30 dae skriftelike kennis te gee aan die verantwoordelike lid van die Uitvoerende Raad: Met dien verstande dat die verantwoordelike lid van die Uitvoerende Raad afsien van die kennisgewingtydperk.

(5) Wanneer 'n vakature op die Raad ontstaan, moet die verantwoordelike lid van die Uitvoerende Raad, onderhewig aan artikel 5, 'n persoon aanstel om sodanige vakature te vul vir die onverstrykte gedeelte van die ampstydperk van die lid in wie se plek sodanige persoon aangestel is.

(6) In die geval dat die verantwoordelike lid van die Uitvoerende Raad sy of haar bevoegdhede ingevolge subartikel (6) uitvoer, kan hy of sy, nieteenstaande die prosedure vir die aanstelling van lede van die Raad soos uiteengesit in artikel 5, onderhewig aan subartikel 5(2) en 5(3) persone aanstel om op tussentydse grondslag as lede van die Raad te dien: Met dien verstande dat –

- (a) die persone aangestel ingevolge hierdie subartikel nie op die Raad mag aanbly vir 'n tydperk van meer as 90 dae na die datum van hul aanstelling nie; en
- (b) die verantwoordelike lid van die Uitvoerende Raad, onderhewig aan artikel 5, die permanente lede van die Raad binne 90 dae na die aanstelling bedoel in hierdie subartikel moet aanstel.

Tydlike skorsing van lid van die Raad

10. Die verantwoordelike lid van die Uitvoerende Raad mag 'n lid van die Raad skors terwyl die verantwoordelike lid van die Uitvoerende Raad bewerings ondersoek wat,

indien daar gevind word dat dit korrek is, kan lei tot beëindiging van die lid se aanstelling ingevolge artikel 9(2).

Vergaderings en prosedures by vergaderings van die Raad

11.(1) Die eerste vergadering van die Raad moet gehou word op 'n datum, tyd en plek bepaal deur die verantwoordelike lid van die Uitvoerende Raad, waarna alle toekomstige vergaderings moet plaasvind soos deur die voorsitter bepaal.

(2) Die kworum vir 'n vergadering van die Raad is 'n meerderheid van die lede van die Raad.

(3) Die verrigtinge by 'n vergadering van die Raad moet, onderhewig aan die bepalings van hierdie artikel, bepaal word deur die voorsitter insluitend die reg om te besluit dat enige aangeleentheid onder bespreking onttrek mag word voordat daaroor gestem word.

(4) Die voorsitter moet voorsit op alle vergaderings van die Raad. Indien die voorsitter afwesig is, moet die adjunkvoorsitter voorsit en in die geval dat beide die voorsitter en die adjunkvoorsitter afwesig is van 'n vergadering van die Raad, kan die lede wat dan teenwoordig is, uit hul eie geledere 'n persoon kies om op te tree as voorsitter vir die duur van daardie spesifieke vergadering.

(5) 'n Besluit van die Raad moet geneem word deur 'n meerderheid van die stemme van die lede teenwoordig by 'n vergadering en, in die geval van 'n staking van stemme aangaande enige aangeleentheid, het die voorsitter 'n beslissende stem buiten sy of haar gewone stem.

(6) Die Raad moet notule hou van sy vergaderings.

(7) Geen besluit van die Raad is ongeldig bloot op gronde van 'n vakature in die Raad nie: Met dien verstande dat die besluit geneem word deur die vereiste meerderheid van die lede van die Raad dan teenwoordig en geregtig daarop om as lede van die Raad te sit.

(8) Die voorsitter, of 'n meerderheid van lede van die Raad, kan 'n buitengewone vergadering van die Raad byeenroep in welke geval die bepalings van hierdie artikel van toepassing is met die nodige veranderings.

(9) Die Raad mag, volgens sy diskresie, lede van die publiek toelaat om enige vergadering van die Raad by te woon.

Onttrekking van 'n lid van vergaderings en verrigtinge van die Raad

12.(1) 'n Lid van die Raad moet hom- of haarself onttrek van 'n aangeleentheid wat deur die Raad ondersoek of oorweeg of waaroor gestem word indien een of meer van die volgende plaasvind –

- (a) indien hy of sy 'n direkte of indirekte belang in die aangeleentheid het; of
- (b) indien daar 'n moontlikheid is dat 'n direkte of indirekte belang in die aangeleentheid mag opduik.

(2) Indien dit, te eniger tyd gedurende die loop van enige verrigtinge voor die Raad, blyk dat 'n lid wat by daardie vergadering teenwoordig is, 'n belang bedoel in subartikel (1) het of mag hê, moet sodanige lid onverwyld die aard van sy of haar belang verklaar en die vergadering verlaat.

(3) Enige verklaring gemaak ingevolge subartikel (1) moet in die notule van die betrokke vergadering opgeneem word.

(4) Indien dit blyk dat die Raad 'n besluit geneem het aangaande 'n aangeleentheid met betrekking waartoe 'n lid versuim het om 'n belang bedoel in subartikel (1) te verklaar, is sodanige besluit deur die Raad ongeldig.

(5) Vir die doeleindes van hierdie artikel sluit "indirekte belang" in, maar is nie beperk nie tot, 'n belang gehou deur enige lid se –

- (a) sakevennoot, medewerker of werkgewer, buiten die staat;
- (b) eggenoot, gade in 'n gewoontehuwelik, of persoon saam met wie sodanige lid woon of leef asof hul getroud is; of
- (c) kind, ouer, broer of suster.

Besoldiging van lede van die Raad

13.(1)(a) Onderhewig aan subartikel 2(a), kan 'n lid van die Raad betaal word uit die fondse van die Kommissie sodanige besoldiging en toelaes soos bepaal deur die verantwoordelike lid van die Uitvoerende Raad in oorleg met die Lid van die Uitvoerende Raad verantwoordelik vir finansies; en

(b) 'n Lid van die Raad wat besoldiging, toelaes of ander voordele ontvang uit hoofde van sy of haar pos of aanstelling in –

(i) die nasionale regering;

(ii) 'n provinsiale regering;

(iii) 'n munisipaliteit; of

(iv) 'n korporasie, liggaam of instelling waarin die nasionale of 'n provinsiale regering 'n beherende belang het, en

wat voortgaan om sodanige besoldiging, toelaes of ander voordele te ontvang terwyl hy of sy as 'n lid van die Raad dien, mag slegs besoldiging en toelaes vermeld in paragraaf

(a) ontvang tot die omvang vereis om sodanige lid in die finansiële posisie te plaas waarin hy of sy sou wees as dit nie vir sodanige pos of aanstelling was nie.

(2)(a) 'n Lid van die Raad en 'n persoon wat tot die Raad gekoöpteer is mag, met betrekking tot sy of haar funksies as 'n lid of gekoöpteerde lid, terugbetaling ontvang uit die fondse van die Kommissie vir redelike werklike reis- en verblyfuitgawes wat genoodsaak is deur die werklike bywoning van 'n vergadering van die Raad; en

(b) Die lid van die Uitvoerende Raad verantwoordelik vir finansies moet prosedures, insluitend beheermaatreëls, vir die bestuur bepaal, asook hantering en verwerking van eise vir reis- en verblyfuitgawes bedoel in paragraaf (a).

Instelling van komitees om die Raad by te staan

14.(1) Die Raad kan komitees instel wat uit een of meer van sy lede bestaan om –

(a) die Raad by te staan in die uitoefening van enige van die bevoegdhede, pligte of funksies van die Kommissie bedoel in artikel 4; of

(b) navraag of navorsing doen aangaande enige aangeleentheid wat binne die mandaat van die Raad ingevolge hierdie Wet val.

(2) Wanneer 'n komitee bedoel in subartikel (1) ingestel moet word, moet die Raad –

(a) die opdrag van sodanige komitee bepaal of insluitend, maar nie beperk nie tot, sodanige Komitee ophou voortbestaan wanneer hy die taak of take voltooi het wat deur die Raad daaraan toegewys is of nie;

(b) 'n voorsitter of sodanige komitee aanstel wat 'n lid van die Raad moet wees; en

(c) bepaal of sodanige komitee persone kan koöpteer wat nie lede van die Raad is nie en, indien wel, op watter terme en voorwaardes.

(3) Die Raad kan, te eniger tyd, die bestaan van 'n komitee of enige mandaat wat aan 'n komitee gegee word, beëindig, ongeag of sodanige komitee die taak of take wat deur die Raad daaraan toegewys is, voltooi het.

4(a) Die Hoof- Uitvoerende Beampte kan vergaderings van die Raad bywoon en daaraan deelneem, maar het nie die reg om te stem nie.

(b) 'n Personeellid van die Raad kan, op uitnodiging van die tersaaklike komitee, 'n vergadering van daardie komitee bywoon.

Koöptering van persone op die Raad of komitees van die Raad

15.(1) Die Raad kan, indien hy van mening is dat 'n spesifieke persoon in staat is om bystand te verleen ten opsigte van enige van die Raad se funksies en bevoegdhede, sodanige persoon vir daardie doel koöpteer.

(2) 'n Persoon wat gekoöpteer is ingevolge subartikel (1) is nie daarop geregtig om by enige vergadering van die Raad of 'n komitee te stem nie.

(3) 'n Persoon wat gekoöpteer is ingevolge subartikel (1) kan sodanige besoldiging en toelaes uit die fondse van die Kommissie ontvang soos deur die Raad bepaal ooreenkomstig artikel 13(2)(a) in oorleg met die lid van die Uitvoerende Raad verantwoordelik vir finansies.

HOOFSTUK 4

HOOF- UITVOERENDE BEAMPTTE EN PERSONEEL VAN DIE KOMMISSIE

Hoof- Uitvoerende Beampte van die Kommissie

16.(1) Die Raad moet, in oorleg met die verantwoordelike lid van die Uitvoerende Raad, 'n toepaslik gekwalifiseerde, vaardige en ervare persoon aanstel as Hoof- Uitvoerende Beampte van die Kommissie; en

(2)(a) Die Hoof- Uitvoerende Beampte is aangestel vir 'n tydperk wat nie vyf jaar oorskry nie.

(b) Die Hoof- Uitvoerende Beampte kan heraangestel word vir een verdere tydperk wat nie vyf jaar oorskry nie.

(3)(a) Die aanstelling van die Hoof- Uitvoerende Beampte is onderhewig aan die sluiting van 'n skriftelike prestasie-ooreenkoms aangegaan tussen daardie persoon en die Raad; en

(b) Die Raad en die Hoof- Uitvoerende Beampte kan, skriftelik en by ooreenkoms, die prestasie-ooreenkoms wysig.

(4) Vir doeleindes van die verklaring van finansiële of ander belange, is die bepaling van artikel 7 met die nodige veranderings van toepassing op die Hoof- Uitvoerende Beampte buiten dat die Hoof- Uitvoerende Beampte sy of haar belange aan die Raad moet verklaar.

(5) Die Hoof- Uitvoerende Beampte is 'n *ex officio*-lid van die Raad maar het nie die reg om te stem by vergaderings van die Raad nie.

Funksies van die Hoof- Uitvoerende Beampte

17.(1) Die Hoof- Uitvoerende Beampte is verantwoordelik vir –

- (a) die administratiewe en finansiële bestuur van die Raad in ooreenstemming met die Wet op die Bestuur van Openbare Finansies, 1999 (Wet No. 1 van 1999), en die opdrag van die Raad;
- (b) in oorleg met die Raad, die aanstelling van personeellede van die Kommissie bedoel in artikel 19(1) in oorleg met die Raad;
- (c) in oorleg met die Raad, die bepaling van 'n gedragskode in oorleg met die Raad, van toepassing op die Hoof- Uitvoerende Beampte, alle personeel van die Kommissie en beregbaar vir doeleindes van dissiplinêre verrigtinge, om –
 - (i) voldoening aan toepaslike reg, insluitend hierdie Wet;
 - (ii) die effektiewe, doeltreffende en ekonomiese gebruik van die Kommissie se fondse en hulpbronne;
 - (iii) die bevordering en handhawing van 'n hoë standaard van professionele etiek;
 - (iv) die voorkoming van konflik van belang;
 - (v) die beskerming van vertroulike inligting gehou deur die Kommissie; en
 - (vi) professionele, eerlike, onpartydige, regverdige, etiese en billike diens, te verseker;
- (d) die handhawing van dissipline oor die personeel aangestel ingevolge paragraaf (b) en moet, vir daardie doeleindes, teenoor die Raad aanspreeklik wees;
- (e) die hou en byhou van die register van belange wat deur personeellede van die Kommissie verklaar is; en
- (f) versekering van nakoming deur die Raad van die bepalings van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), en enige ander toepaslike wetgewing.

(2) Indien die Hoof- Uitvoerende Beampte om enige rede nie in staat is om enige van sy of haar funksies uit te voer nie, moet die Raad, skriftelik, en in oorleg met die verantwoordelike lid van die Uitvoerende Raad, 'n ander persoon aanstel as Waarnemende Hoof- Uitvoerende Beampte totdat die Hoof- Uitvoerende Beampte in staat is om daardie funksies te hervat.

Bedanking en ontslag uit amp van die Hoof- Uitvoerende Beampte

18.(1) Die Hoof- Uitvoerende Beampte ontruim sy of haar amp –

- (a) in die geval van bedanking, wanneer die bedanking van krag word;
- (b) wanneer, ingevolge die Maatskappywet, 1973 (Wet No. 61 van 1973), die persoon wat daardie amp beklee, onbevoeg raak om te dien as direkteur van 'n maatskappy; en
- (c) by ontslag uit sy of haar amp ingevolge subartikel (2).

(2) Die Raad kan, in oorleg met die lid van die Uitvoerende Raad, die Hoof- Uitvoerende Beampte se diens beëindig in ooreenstemming met toepaslike diens- en arbeidswetgewing.

Personeel van die Kommissie

19.(1) Die Hoof- Uitvoerende Beampte moet, onderhewig aan subartikel (2), personeellede van die Kommissie aanwend soos redelikerwys nodig mag wees om –

- (a) hom of haar by te staan in die verrigting van sy of haar funksies ingevolge hierdie Wet; en
- (b) die Raad by te staan met die werk verbonde aan die Raad se verrigting van sy funksies.

(2) Die Raad moet, onderhewig aan artikel 23(4), 'n menslike hulpbronne-beleid vir personeellede van die Kommissie, insluitend die Hoof- Uitvoerende Beampte, bepaal.

(3) Vir doeleindes van die verklaring van finansiële of ander belange, en onderhewig aan artikel 17(1)(e), is die bepalings van artikel 7(3), (4) en (5) met die nodige veranderings van toepassing op personeellede van die Kommissie.

(4) Die Hoof- Uitvoerende Beampte moet 'n opgedateerde register byhou van die belange van personeellede van die Kommissie soos verklaar ingevolge hierdie subartikel (3).

Sekondering of oorplasing van personeel na die Kommissie

20. Die Kommissie kan die dienste aanwend van persone wat vanaf die staatsdiens gesekondeer of oorgeplaas is in ooreenstemming met die bepalings van die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994).

HOOFSTUK 5

BEPALING VAN PROVINSIALE GEDRAGSKODE VIR ROLPRENTPRODUSENTE

Provinsiale gedragskode vir rolprentprodusente

21.(1) Die verantwoordelike lid van die Uitvoerende Raad moet na oorleg met die Raad 'n provinsiale gedragskode vir rolprentprodusente bepaal.

(2) Die provinsiale gedragskode vir rolprentprodusente tree in werking by die publikasie van die kennisgewing in die *Koerant*.

(3) Die verantwoordelike lid van die Uitvoerende Raad kan, deur middel van kennisgewing in die *Koerant* en na oorleg met die Raad, die provinsiale gedragskode vir rolprentprodusente –

- (a) wysig;
- (b) vervang; of
- (c) onttrek.

Beleidsvoorskrifte

22.(a) Die verantwoordelike lid van die Uitvoerende Raad kan –

- (a) Strategiese riglyne vir die strewe na die Kommissie se doelwitte stel en kan beleidsvoorskrifte aan die Raad uitreik; en
- (b) Enige strategiese riglyn of beleidsopdrag wat ingevolge paragraaf (a) uitgereik is, onttrek of wysig.

HOOFSTUK 6

BEFONDSING EN FINANSIËLE BESTUUR VAN DIE KOMMISSIE

Fondse van die Kommissie

23.(1) Die fondse van die Kommissie bestaan uit –

- (a) geld bewillig deur die Provinsiale Wetgewer;
- (b) rente op beleggings van die Kommissie; en
- (c) inkomste wettig bekom uit enige ander bron.

(2) Die Kommissie moet sy fondse benut –

- (a) vir die betaling van besoldiging, toelaes en reis- en verblyfuitgawes van –
 - (i) die lede van die Raad;
 - (ii) die Hoof- Uitvoerende Beampte;
 - (iii) die personeellede van die Kommissie; en
- (b) om kostes te dek met betrekking tot –
 - (i) die dag-tot-dag werking en administrasie van die Kommissie; en
 - (ii) die verrigting van die pligte en funksies van die Kommissie en die uitoefening van sy bevoegdhede ingevolge hierdie Wet.

(3) Die Hoof- Uitvoerende Beampte moet, met die meewerking van die Raad –

- (a) 'n rekening oopmaak in die naam van die Kommissie by 'n instelling wat as 'n bank geregistreer is ingevolge die Bankwet, 1990 (Wet No. 94 van 1990); en
- (b) alle geld ontvang ingevolge subartikel (1) daarin deponeer.

(4) Die Raad, in oorleg met die verantwoordelike lid van die Uitvoerende Raad, moet –

- (a) die besoldiging en diensvoorwaardes; en
- (b) die pensioen- en aftreevoordele,

van die Hoof- Uitvoerende Beampte en die ander personeellede van die Kommissie bepaal.

(5) Die Kommissie kan gelde wat in sy rekening gedeponeer is, wat nie vir onmiddellike gebruik vereis word nie, belê: Met dien verstande dat die Raad redelike stappe doen om te verseker dat die belegging nie spekulatief van aard is nie.

(6) Die Kommissie word beperk van die leen van geld of uitreiking van waarborge, kwytskeldings of sekuriteite of die aangaan van enige ander transaksies wat die Kommissie bind, tensy sodanige leen, waarborg, kwytskelding, sekuriteit of ander transaksie gemagtig word ingevolge hierdie Wet en nie teenstrydig is nie met die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

Finansiële bestuur

24.(1) Die Hoof- Uitvoerende Beampte moet volledige en behoorlike boeke van die rekening en al die nodige verbandhoudende rekords laat hou.

(2) Die Hoof- Uitvoerende Beampte moet verseker dat die Kommissie se jaarlikse begrotings, korporatiewe planne, jaarverslae en geouditeerde finansiële state voorberei en voorgelê word ooreenkomstig die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

(3) Die Hoof- Uitvoerende Beampte moet, binne drie maande voor die einde van elke finansiële jaar –

(a) 'n besigheidsplan vir die Kommissie, wat meetbare doelwitte en die ander inligting bedoel in artikel 25(3)(b) en (c) bevat; en

(b) 'n staat van die berekende inkomste en uitgawes van die Kommissie, aan die Raad voorlê vir goedkeuring met betrekking tot die volgende drie finansiële jaar.

(4) In enige finansiële jaar kan die Hoof- Uitvoerende Beampte aangepaste of aanvullende state van die beraamde inkomste en uitgawe van die Kommissie vir daardie finansiële jaar aan die Raad voorlê vir goedkeuring.

(5) Die Kommissie mag geen finansiële verbintenis buiten sy goedgekeurde begroting en opgelope reserwes aangaan nie.

(6) Die Hoof- Uitvoerende Beampte kan met die Raad se goedkeuring –

(a) enige onbestede gedeelte van sy fondse belê by die Korporasie vir Openbare Deposito's of enige ander instelling van tyd tot tyd deur die Nasionale Tesourie gekategoriseer of gelys as 'n Kategorie "A1"- finansiële instelling; of

(b) op enige ander wyse oor daardie gedeelte beskik.

(7) Die Hoof- Uitvoerende Beamppte kan, met die Raad se goedkeuring, reserwefondse stig en sodanige bedrae as wat die Raad goedkeur, daarin deponeer.

Oudit en jaarverslag

25.(1) Die Ouditeur-generaal moet die finansiële state van die Kommissie audit.

(2)(a) Die Raad moet 'n verslag by die Provinsiale Wetgewer ter tafel lê oor die werksaamhede van die Kommissie gedurende 'n finansiële jaar, binne vyf maande na die einde van daardie finansiële jaar; en

(b) Binne vyf maande nadat die verslag ter tafel gelê is, moet 'n afvaardiging bestaande uit die voorsitter van die Raad en ten minste twee ander lede van die Raad die tersaaklike Portefeuljekomitee oor die jaarverslag inlig.

(3) Die verslag moet –

(a) 'n balansstaat en 'n staat van inkomste en uitgawes gesertifiseer deur die Ouditeur-generaal insluit;

(b) die omvang meld waartoe die Kommissie sy oogmerke vermeld in artikel 3 en die meetbare doelwitte soos in sy besigheidsplan uiteengesit soos bedoel in artikel 24(3)(a) gedurende die betrokke finansiële jaar bereik of bevorder het; en

(c) tersaaklike prestasie-inligting bevat aangaande die ekonomiese, effektiewe en doeltreffende toepassing van hulpbronne en in besonder 'n vergelyking tussen beplande en werklike prestasie-aanduiders soos uiteengesit in daardie besigheidsplan.

Finansiële jaar van die Kommissie

26. Die finansiële jaar van die Kommissie begin op 1 April van 'n spesifieke jaar en eindig op 31 Maart van die volgende jaar.

Vaste eiendom

27. Die Kommissie kan in die loop van sy besigheid, ingevolge 'n beleid en prosedures bepaal deur die Raad en met die goedkeuring van die verantwoordelike Lid van die Uitvoerende Raad, vaste eiendom verkry, hou of daaroor beskik.

Regstappe teen die Kommissie

28.(1) Enige regstappe teen die Kommissie moet ingestel word in ooreenstemming met die Wet op die Instel van Regsgedinge teen sekere Staatsorgane, 2002 (Wet No. 40 van 2002).

(2) Die Kommissie word, vir doeleindes van subartikel (1), beskou as 'n staatsorgaan bedoel in paragraaf (c) van die omskrywing daarvan in artikel 1 van die vermelde Wet.

HOOFSTUK 7
ALGEMENE BEPALINGS

Sekerheid van vertroulike inligting wat deur die Kommissie gehou word

29.(1) Onderhewig aan die Grondwet en die Wet op die Bevordering van Toegang tot Inligting, 2000 (Wet No. 2 van 2000), mag geen persoon enige inligting wat aan die Kommissie voorgelê word in ooreenstemming met enige regsopdrag of -instruksie, verklaar nie tensy –

- (a) hy of sy deur 'n geregshof daartoe gelas word; of
- (b) die persoon wat sodanige regsopdrag of -instruksie gegee het, skriftelik daartoe instem.

(2) Geen persoon mag enige inligting gehou in die register bedoel in artikel 7, 16(4) en 19(4) verklaar nie tensy sodanige verklaring –

- (a) gemaak is ingevolge enige wet wat sodanige verklaring afdwing of magtig;
- (b) wesenlik nodig is vir die behoorlike funksionering van die Kommissie; of
- (c) gemaak is vir doeleindes van monitering, evaluering, ondersoek of oorweging van enige werksaamheid wat met die Kommissie of enige personeellid van die Kommissie verband hou.

(3) Enige persoon wat subartikel (1) of (2) oortree, is skuldig aan 'n misdryf.

Ontbinding van die Kommissie

30. Die Kommissie kan slegs ontbind word ingevolge 'n Wet van die Provinsiale Wetgewer.

Gebruik van naam van die Kommissie

31.(1) Geen persoon mag, sonder vooraf skriftelike magtiging van die Kommissie, op enige wyse die naam, akroniem, logo's, ontwerpe of materiaal wat deur die Kommissie gebruik of besit word, verteenwoordig of gebruik nie.

(2) Geen persoon mag valslik beweer dat hy of sy namens die Kommissie optree nie.

(3) Enige persoon wat subartikels (1) of (2) oortree, is skuldig aan 'n misdryf.

Delegering

32.(1) Die verantwoordelike lid van die Uitvoerende Raad kan aan die Raad –

(a) enige bevoegdheid verleen aan die verantwoordelike lid van die Uitvoerende Raad deur hierdie Wet deleger, buiten die bevoegdheid om regulasies vermeld in artikel 33 uit te vaardig; of

(b) enige plig wat aan die verantwoordelike lid van die Uitvoerende Raad opgelê is deur hierdie Wet deleger, behalwe enige plig aangaande die aanstelling en beëindiging van amp van die lede van die Raad bedoel in artikel 5(1)(a) en 9(2).

(2) Die Raad kan, deur 'n spesiale beslissing, enige bevoegdheid of plig wat deur die Raad verleen of opgelê word deur hierdie Wet aan die Hoof- Uitvoerende Beampte of personeellid van die Kommissie deleger.

(3) Die Hoof- Uitvoerende Beampte kan aan enige personeellid van die Kommissie enige bevoegdheid of plig deleger wat aan die Hoof- Uitvoerende Beampte deur hierdie

Wet gedelegeer of opgelê is, buiten enige bevoegdheid of plig as rekenpligtige beampte van die Kommissie.

(4) Enige bevoegdheid of plig gedelegeer ingevolge subartikel (1), (2) of (3) moet uitgeoefen of uitgevoer word onderhewig aan sodanige voorwaardes as wat die persoon of liggaam wat die delegasie gemaak het, nodig ag.

(5) 'n Delegasie vermeld in subartikel (1), (2) of (3) –

- (a) moet skriftelik wees;
- (b) verbied nie die persoon of liggaam wat die delegasie gemaak het om daardie bevoegdheid uit te oefen of daardie plig uit te voer nie; en
- (c) kan te eniger tyd skriftelik deur daardie persoon of liggaam onttrek of gewysig word.

Regulasies

33. Die verantwoordelike lid van die Uitvoerende Raad kan, in oorleg met die Raad en deur middel van kennisgewing in die *Koerant*, regulasies uitvaardig aangaande –

- (a) enige aangeleentheid wat voorgeskryf mag word ingevolge hierdie Wet; of
- (b) enige administratiewe of prosedurele aangeleentheid nodig om uitvoering te gee aan die bepalings van hierdie Wet.

Likwidering van Maatskappy en oorgangsbepalings wat daarmee verband hou

34.(1)(a) Die Maatskappy, KwaZulu-Natal Rolprentkommissie, met Maatskappyregistrasienuommer 2003/028677/08, ingestel ingevolge die Maatskappywet, 1973 (Wet No. 61 van 1973), moet vrywillig gelikwideer en geskrap word; en

(b) Die lede van die Maatskappy moet, by likwidasie van die Maatskappy vermeld in paragraaf (a), onder andere voldoen aan artikel 349 en 350 van die Maatskappywet, 1973 (Wet No. 61 van 1973).

(2) Op die datum van die likwidasie van die Maatskappy bedoel in subartikel (1), word alle bates, aanspreeklikhede, regte, pligte en verpligtinge, insluitend enige onbestede gedeelte van enige opgelope fondse of fondse ontvang deur die Maatskappy,

oorgeplaas na, en is onder berusting van, die KwaZulu-Natal Rolprentkommissie ingestel ingevolge artikel 2.

(3) Die Kommissie is, met betrekking tot die bates, aanspreeklikhede, regte, pligte en verpligtinge en fondse vermeld in subartikel (2), vir alle doeleindes die regsopvolger en opvolger in titel van die Maatskappy.

(4) Die lede van die Raad van die Maatskappy moet optree as behoorlik gemagtigde en bemaagtigde lede van die Raad van die Kommissie tot sodanige tyd as wanneer die verantwoordelike lid van die Uitvoerende Raad ingevolge artikel 5(1) die Raad ingevolge hierdie Wet aangestel het.

(5) Alle personeellede van die Maatskappy moet, binne ses maande na die inwerkingtreding van hierdie Wet, 'n werksaanbod ontvang van die verantwoordelike lid van die Uitvoerende Raad vir oorplasing na die Kommissie op 'n datum bepaal deur die verantwoordelike lid van die Uitvoerende Raad.

(6) Die besoldiging, voordele en voorregte wat deur die verantwoordelike lid van die Uitvoerende Raad gebied word, in ooreenstemming met subartikel (5), mag nie minder wees as daardie betaalbaar aan die personeellid deur die Maatskappy, onmiddellik voor sy of haar oorplasing nie.

(7) Vir die doeleindes van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), word dit beskou as geen verandering van werkgewer met betrekking tot 'n personeellid wat 'n werksaanbod bedoel in subartikel (5) aanvaar nie.

(8) Wanneer 'n persoon 'n personeellid van die Kommissie word ingevolge subartikel

(5) –

(a) behou hy of sy alle vakansieverlof wat tot sy of haar krediet opgeloop het tot die datum onmiddellik voor die oorplasingsdatum, aangepas in ooreenstemming met die diensvoorwaardes van die Kommissie; en

(b) moet die Kommissie beskik oor of enige ondersoek instel wat ingestel is of beoog was om ingestel te word met betrekking tot beweerde wangedrag wat deur sodanige persoon gepleeg is voor die datum van oorplasing en die

Kommissie moet toepaslike stappe teen die betrokke persoon doen in ooreenstemming met die wette, beleid en diensvoorwaardes of diens van toepassing op hom of haar onmiddellik voor die oorplasingsdatum.

Algemene misdrywe

35.(1) 'n Lid van die Raad, 'n personeellid, adviseur, agent of enige ander persoon in diens by of wat namens die Kommissie optree, is skuldig aan 'n misdryf indien hy of sy direk of indirek enige omkoperij aanvaar en of enige ongemagtigde geld of beloning ontvang van enige persoon in ooreenstemming met enigiets wat deur die Kommissie gedoen of aangebied word.

(2) Enige persoon is skuldig aan 'n misdryf indien hy of sy ten opsigte van of met betrekking tot enigiets wat deur die Kommissie gedoen of aangebied word, enige personeellid of enige adviseur, agent of ander persoon in diens van of wat namens die Kommissie optree, oorrede of probeer beïnvloed om 'n krimenele oortreding te began.

(3) Enige persoon wat valslik beweer dat hy of sy gemagtig is om geld te eis of in te samel namens of in opdrag van die Kommissie, is skuldig aan 'n misdryf.

Strawwe

36. Enige persoon wat skuldig bevind is aan 'n misdryf ingevolge hierdie Wet stel hom- of haarself bloot aan 'n boete of gevangenisstraf vir 'n tydperk wat nie vyf jaar oorskry nie of beide.

Kort titel

37. Hierdie Wet heet die KwaZulu-Natal Wet op die Rolprentkommissie, 2010.

No. 5

21 kuMfumu 2010

[Umbhalo wesiNgisi unyathelwe ngNdunankulu]

**UMTHETHO WEKHOMISHANA YEZAMAFILIMU
WAKWAZULU-NATALI, 2010**
(Umthetho Na. 03 ka 2010)

Uvunywe ngomhlaka 09-09-2010

UMTHETHO

Wokuhlinzekela ukusungulwa kweKhomishana Yezamafilimu YaKwaZulu-Natali; wokunquma izinhloso, amandla, izibopho kanye nemisebenzi yeKhomishana Yezamafilimu YaKwaZulu-Natali; wokunquma indlela iKhomishana yezamaFilimu yaKwaZulu-Natali ezophathwa ngayo, ezohlinzekwa ngayo ngabasebenzi kanye nangezimali; nokuhlinzekela okunye okuphathelene nalokho.

MAKUMISWE UMTHETHO yisiShayamthetho sesiFundazwe saKwaZulu-Natali, kanje:-

UKUHLELWA KWEZIGABA

Isigaba

ISAHLUKO 1

IZINCAZELO

1. Izincazelo

ISAHLUKO 2

IKHOMISHANA YEZAMAFILIMU YAKWAZULU-NATALI

2. Ukusungulwa kweKhomishana Yezamafilimu YaKwaZulu-Natali
3. Izinhloso zeKhomishana
4. Amandla, izibopho kanye nemisebenzi yeKhomishana

ISAHLUKO 3

IBHODI YEKHOMISHANA

5. Ukubunjwa kweBhodi
6. Ukungafaneleki ukuqokelwa eBhodini
7. Ukudalulwa kokuhlomula ngokwezezimali noma ngokunye kwamalungu eBhodi
8. Isikhathi sokuba sesikhundleni kanye nokuqokwa kabusha kwelungu leBhodi
9. Izikhala, ukususwa kanye nokusula esikhundleni kwamalungu eBhodi
10. Ukumiswa okwesikhashana kwelungu leBhodi
11. Imihlangano kanye nezinqubo emihlanganweni yeBhodi
12. Ukuhoxa kwelungu emihlanganweni kanye nasezinqutsheni zeBhodi
13. Amaholo amalungu eBhodi
14. Ukusungulwa kwamakomidi azosiza iBhodi
15. Ukukhethwa kwabantu kwiBhodi noma emaKomidini eBhodi

ISAHLUKO 4

ISIKHULU ESIPHEZULU KANYE NABASEBENZI BEKHOMISHANA

16. IsiKhulu esiPhezulu seKhomishana

17. Imisebenzi yesiKhulu esiPhezulu
18. Ukwesula nokususwa esikhundleni kwesiKhulu esiPhezulu
19. Abasebenzi beKhomishana
20. Ukusiswa noma ukudluliselwa kwabasebenzi kwiKhomishana

ISAHLUKO 5

UKUNQUNYWA KOMGOMO WOKUZIPHATHA WABAQAMBI BAMAFILIMU WESIFUNDAZWE

21. Umgomo wokuziPhatha wabaQambi bamaFilimu wesiFundazwe
22. Imiyalelo yenqubomgomo

ISAHLUKO 6

UKUHLINZEKWA NGEZIMALI KANYE NOKUPHATHWA KWEZIMALI ZEKHOMISHANA

23. Izimali zeKhomishana
24. Ukuphathwa kwezimali
25. Ucwangingo kanye nombiko wonyaka
26. Unyaka wezimali weKhomishana
27. Impahla engenakususwa
28. Ukuthathelwa izinyathelo zomthetho kweKhomishana

ISAHLUKO 7

IZINHLINZEKO EZIJWAYELEKILE

29. Ukuvikelwa kolwazi oluyimfihlo olugodlwe yiKhomishana
30. Ukuhlakazwa kweKhomishana
31. Ukusetshenziswa kwegama leKhomishana
32. Ukudluliselwa kwamandla
33. Imithethonqubo
34. Ukuvalwa kweNkampani kanye nezinhlelo zesikhashana eziphathelene nalokho
35. Amacala ajwayelekile
36. Izinhlawulo
37. Isihloko esifingqiwe

ISAPHLUKO 1
IZINCAZELO

Izincazelo

1. Kulo Mthetho, ngaphandle uma ingqikithi isho okwehlukile -

“iBhodi” kusho iBhodi yeKhomishana eqokwe ngaphansi kwesigaba 5;

“isiKhulu esiPhezulu” kusho isiKhulu esiPhezulu seKhomishana, esiqokwe ngokwesigaba 16;

“iKhomishana” kusho iKhomishana yezamaFilimu yaKwaZulu-Natali, eqokwe ngokwesigaba 2;

“iNkampani” kusho inhlangothi esungulwe ngokusemthethweni ngaphansi kwesigaba 21 soMthetho weziNkampani, 1973 (uMthetho No. 61 ka 1973), enombolo yokubhalisa engu-2003/028677/08 futhi eyaziwa njengeKhomishana yezamaFilimu yaKwaZulu-Natali;

“uMthethosisekelo” kusho uMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996;

“uMnyango” kusho uMnyango okuHulumeni wesiFundazwe saKwaZulu-Natali obhekele ukuthuthukiswa komnotho nezokuvakasha;

“uMkhandlu Ophethe” kusho uMkhandlu oPhethe wesiFundazwe saKwaZulu-Natali ohlongozwe esigabeni 132 soMthethosisekelo;

“ifilimu” kusho noma iluphi uchungechunge lwemifanekiso oluqoshwe ngale ndlela yokuthi izokwazi ukubukwa njengesithombe esihambayo, futhi kubandakanya noma yisiphi isithombe okuhloswe ukuba siboniswe ngonoma iyiphi indlela noma umshini;

“ukukhiqiza ifilimu” kusho ukwenza ifilimu, kanti **“umqambi wamaFilimu”** kusho umuntu phaka noma isakhiwo esimiswe ngokomthetho esikhiqiza amaFilimu futhi **“imikhiqizo yamaFilimu”** kusho okungumphumela wokukhiqiza ifilimu;

“iGazethi” kusho iGazethi esemthethweni yesiFundazwe saKwaZulu-Natali;

“iNhloko yoMnyango” kusho umuntu oqokwe njengeNhloko yoMnyango ngokwesigaba 12 soMthetho Wemisebenzi Kahulumeni, 1994 nezichibiyelo zawo;

“iNhlango yokuThuthukiswa kweziMboni” kusho inhlango kahulumeni esungulwe ngaphansi kwesigaba 12 soMthetho weziNhlango zokuThuthukiswa kweziMboni, 1940 (uMthetho No. 22 ka 1940);

“ilungu” kusho ilungu leBhodi yeKhomishana eliqokwe ngokwesigaba 5;

“iLungu loMkhandlu oPhethe elibhekele ezezimali” kusho ilungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali elibhekele ezezimali;

“ohulumeni basekhaya abahlelekile” kusho iNhlango youHulumeni baseKhaya yaKwaZulu-Natali okuyileyo nhlangano esiFundazweni saKwaZulu-Natali ethathwa ngokwesigaba 2 soMthetho woHulumeni baseKhaya abahlelekile, 1997 (uMthetho No. 52 ka 1997), njengemele iningi lomasipala esiFundazweni;

“iKomidi lemiSebenzi kaHulumeni l esiShayamthetho” kusho iKomidi lemiSebenzi kaHulumeni lesiShayamthetho sesiFundazwe elibhekele ukuthuthukiswa komnotho nezokuvakasha;

“okunqunyiwe” kusho okunqunywe ngumthethonqubo ngaphansi kwesigaba 33, kanti **“ukunquma”** kunencazelo efanayo;

“isiFundazwe” kusho isiFundazwe saKwaZulu-Natali esihlongozwe esigabeni 103 soMthethosisekelo kanti **“okwesifundazwe”** kunencazelo efanayo;

“uHulumeni wesiFundazwe” kusho uhulumeni wesiFundazwe saKwaZulu-Natali;

“isiShayamthetho sesiFundazwe” kusho isiShayamthetho sesiFundazwe saKwaZulu-Natali njengoba kubekwe esigabeni 105 soMthethosisekelo, futhi esinegunya lokushaya imithetho esiFundazweni njengoba kubekwe esigabeni 104(1) soMthethosisekelo;

“imithethonqubo” kusho imithethonqubo eyenziwe ngokwesigaba 33;

“iLungu eliqondene loMkhandlu Ophethe” kusho iLungu loMkhandlu Ophethe wesiFundazwe saKwaZulu-Natali elibhekele ukuthuthukiswa komnotho nezokuvakasha noma lelo Lungu loMkhandlu oPhethe eliphathiswe ukubhekela ukusebenza kwalo Mthetho nguNdunankulu;

“imboni yezamafilimu” kusho imboni yezamafilimu, kamabonakude, yevidiyo kanye neyeminye imithombo yokusakaza;

“lo Mthetho” kubandakanya imithethonqubo;

“Trade and Investment KwaZulu-Natal” kusho –

(a) inkampani e bunjwe ngaphansi kwesigaba 21 soMthetho weziNkampani, 1973 (uMthetho No. 61 ka 1973), eneNombolo yokuBhaliswa kweNkampani engu-98/11946/08; noma

(b) abayilandela ngokomthetho, kanye nabayilandela ngokwesikhundla, leyo nkampani.

ISAHLUKO 2

IKHOMISHANA YEZAMAFILIMU YAKWAZULU-NATALI

Ukusungulwa kweKhomishana Yezamafilimu YaKwaZulu-Natali

2.(1) Ngelokhu kusungulwa iKhomishana ezoqhakambisa imboni yezamafilimu esifundazweni, ezokwaziwa njengeKhomishana Yezamafilimu YaKwaZulu-Natali.

(2) IKhomishana iyisakhiwo esimiswe ngokomthetho esisebenza ngeBhodi..

(3) IKhomishana iwuhlaka lukahulumeni wesifundazwe olulawulwa uMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999).

- (4) IBhodi yilona elingumgwamanda onesibopho sokubika ngeKhomishana njengoba kuhlangezwa esigabeni 49(2)(a) soMthetho Wokuphathwa Kwezimali Zikahulumeni

Izinhloso zeKhomishana

3. Izinhloso seKhomishana –

- (a) ukugqugquzela kanye nokuqhakambisa isiFundazwe njengendawo engathakaselwa umhlaba wonke yokuqamba amafilimu;
- (b) ukuthuthukisa, ukugqugquzela kanye nokuqhakambisa, ekhaya nasemazweni aphesheya imboni yezamafilimu esesiFundazweni;
- (c) ukugqugquzela ukutshalwa kwezimali embonini yezamafilimu esesiFundazweni;
- (d) ukuhlinzeka kanye nokukhuthaza ukuhlinzekwa kwabantu ngamathuba, ikakhulu labo ababencishwe amathuba phambilini, ukuthi bangene futhi babambe iqhaza embonini yezamafilimu esesiFundazweni;
- (e) ukulungisa ukungalingani maqondana nengqalasizinda nokusatshalaliswa kwamakhono nezinsiza embonini yezamafilimu esesiFundazweni; kanye
- (f) nokuba negalelo ekuvuleni amathuba emisebenzi embonini yezamafilimu esiFundazweni.

Amandla kanye nemisebenzi yeKhomishana

4.(1) IKhomishana kumele –

- (a) iphathe izimali ezabiwe yisiShayamthetho sesiFundazwe;
- (b) ihlongoze futhi iphathe izimali ezithokale kweminye imithombo ngaphandle kwezimali ezabiwe yisiShayamthetho sesiFundazwe;
- (c) ihehe ukuqanjwa kwamafilimu aphesheya esiFundazweni;
- (d) igqugquzele ukusungulwa, ukuthuthukiswa kanye nokukhuliswa kwengqalasizinda kanye nezindawo zembali yezamafilimu esiFundazweni;
- (e) ihehe ukutshalwa kwezimali ngamazwe angaphandle nawasekhaya kanye nezimali zokusungula, zokuthuthukisa kanye nezokukhulisa ingqalasizinda kanye nezindawo ezikhiqiza imikhiqizo yezamafilimu esiFundazweni;

- (f) isize futhi yenze kube lula ukuthuthukiswa kwabasebenzi kanye nobuchule babo embonini yezamafilimu esiFundazweni;
- (g) ihlinzeke izeluleko, uxhaso kanye nokuthola izimali zokuqamba amafilimu esiFundazweni;
- (h) igqugquzele ukuqanjwa kwamafilimu akhombisa amasiko ahlukene esiFundazweni;
- (i) yenze ucwaningo kanye nezinhlelo zentuthuko kuyo yonke imikhakha yokuqanjwa kwamafilimu esiFundazweni;
- (j) ikhangise isiFundazwe njengendawo yokuqamba amafilimu, ekhaya, kuzwelonke nasemhlabeni wonke jikelele;
- (k) ihehe abaqambi bamafilimu futhi iqalise amasu okuqamba amafilimu esiFundazweni;
- (l) ikhuthaze abaqambi bamafilimu ukuthi basebenzise izakhamizi zasesiFundazweni kanye nezindawo zokuqamba amafilimu;
- (m) yakhe amaxhama nabantu, nezinhlangano kanye namakhomishana amafilimu asekhaya nawasemazweni omhlaba, ukugqugquzela ukucobelelana ngolwazi kanye namakhono embonini yezamafilimu esiFundazweni;
- (n) yenze uhlu lwekhompuyutha, futhi ihlinzeke ulwazi mayelana –
 - (i) nabaqambi bamafilimu besifundazwe, nochwepheshe bezithombe, abalingisi kanye nabaculi; kanye
 - (ii) nendawo yokuhlala, nokudla, nezithuthi kanye nokunye okuhambisana nakho esiFundazweni;
- (o) iluleke abaqambi bamafilimu nganoma iluphi udaba lokuqanjwa kwamafilimu kubandakanya, kodwa kungagcini nje, ngemithetho kamasipala, ngama-odinensi ezokuthutha, ngomthetho wezemvelo nangomthetho wokuqasha kanye nezinqubo; futhi
- (p) iluleke uHulumeni wesiFundazwe ngenqubomgomo nomthetho kubandakanya nemithethonqubo edingekayo ukukhangisa ngemboni yezamafilimu esiFundazweni.

(2) Ukuze kugqugquzelwe ukusebenza ngendlela efanayo kanye nobambiswano kuzona zonke izinhlaka zikahulumeni ezingeni likahulumeni wesifundazwe nabasekhaya ngezindaba eziphathelene nemboni yezamafilimu, iKhomishana kumele –

- (a) okungenani kanye ngonyaka, ibize imihlangano phakathi kwezinhlaka zikahulumeni wesifundazwe nabasekhaya ezinentshisekelo kunoma iluphi udaba oluphathele nemboni yezamafilimu;
- (b) ibe ngumxhumanisi phakathi kwezinhlaka zikahulumeni wesifundazwe nabasekhaya kanye nababambiqhaza embonini yezamafilimu esiFundazweni; futhi

(c) ixhumanise futhi ixoxisane nanoma iyiphi inhlangotho noma uhlaka noma umgwamanda onentshisekelo kunoma iluphi udaba oluphathelele nembali yezamafilimu.

(3) Ukuze iqalise izibopho zayo, iKhomishana –

(a) ingangena esivumelwaneni nanoma imuphi umuntu onolwazi lobuchwepheshe emkhakheni othile, ukuze kusizwe noma kululekwe iKhomishana maqondana nanoma iluphi udaba oluphathelele nezinhloso zayo kanye nemisebenzi yayo; futhi

(b) ngokujwayelekile, yenze konke okudingekayo ukufeza izinhloso zayo.

(4) Ukuze ifake isandla ekuthuthukiseni abantu abasembonini yezamafilimu esiFundazweni, iKhomishana ingahlinzeka imifundaze kubafundi noma kwabahlose ukwenza izifundo zokuqamba amafilimu.

ISIAHLUKO 3

IBHODI YEKHOMISHANA

Ukubunjwa kweBhodi

5.(1) IBhodi iba –

(a) okungenani namalungu amahlanu, kodwa angeqile kwangamashumi amabili, aqokwe yiLungu eliqondene loMkhandlu Ophethe; kanye

(b) nesiKhulu esiPhezulu, ngokwesikhundla saso, njengoba kubekiwe esigabeni 16(5).

(2) Amalungu eBhodi kumele abe ngabantu abafanelekile abanolwazi, isipiliyoni kanye namakhono okufanele embonini yezamafilimu, bebonke babe –

(a) nolwazi, isipiliyoni kanye namakhono adingekayo embonini yezamafilimu; kanye

(b) nala makhono nobungcweti okulandelayo -

(i) amakhono kw ezomthetho, isipiliyoni kanye noqeqesho;

(ii) amakhono okuphathwa kwezimali, isipiliyoni kanye noqeqesho;

(iii) amakhono okusebenza ngemithombo yezindaba, umabonakude kanye namaphephandaba;

(iv) amakhono okuthuthukisa umphakathi kanye nesipiliyoni; kanye

(v) nesipiliyoni sokusebenza embonini yezikaqedizisizungu.

(3) Ekuqokeleni amalungu kwiBhodi, iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele liqinisekise –

(a) ukuthi kulungiswa ukungalingani kwaphambilini; kanye

(b) nokuba nentshisekelo efanayo phakathi kwabantu abamele –

(i) uMnyango;

(ii) uMnyango Wezobuciko Namasiko ;

(iii) i-KwaZulu-Natal Tourism Authority;

(iv) ababambiqhaza embonini yezamafilimu;

(v) i-Trade and Investment KwaZulu-Natal;

(vi) ohulumeni basekhaya abahlelekile;

(vii) izikhungo zemfundo ephakeme;

(viii) amahhovisi asekhaya amafilimu; kanye

(ix) neNhlango yokuThuthukiswa kweziMboni.

(4) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele liqoke –

(a) ilungu elilodwa leBhodi njengoSihlalo weBhodi; kanye

(b) nelungu elilodwa leBhodi njengeSekela likaSihlalo weBhodi.

(5) ILungu leBhodi okukhulunywe ngalo kwisigatshana 3(b)(i) –

(a) kumele lixhumanise iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kanye neBhodi;

(b) kumele libike kwiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngezikhathi ezithile mayelana nezindaba elizibona zifanele; futhi

(c) lingethamela imihlangano yeBhodi futhi libambe iqhaza ezingxoxweni, kodwa lingabi nalo ilungelo lokuvota uma kuthathwa isinqumo seBhodi.

(6) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele, ngesaziso kwiGazethi limeme noma yimaphi amaqembu anentshisekelo asesifundazweni ukuba aphakamise abantu abangaqokelwa kwiBhodi.

(7) Isimemo seziphakamiso kumele sibalule –

(a) indlela yokwenza isiphakamiso;

(b) okudingekayo uma kwenziwa iziphakamiso; kanye

(c) nosuku lokuvalwa kweziphakamiso.

(8) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele licubungule zonke iziphakamsio ezilethwe njengezimpendulo zesaziso, futhi lingaqoka ithimba elizohlunga elibunjwe yiziphathimandla zomnyango ezisezikhundleni eziphezulu ukuthi zibukeze iziphakamiso bese zenza izincomo kwiLungu loMkhandlu oPhethe may elana nabantu abaqokwe kwiBhodi.

(9) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele lishicilele amagama abantu abaqokwe kwiBhodi kwiGazethi kanye nasemaphephandebeni amabili afundwa kakhulu esiFundazweni, ngokushesha emva kokuthi labo bantu sebazisiwe, ngokubhalwe phansi, ngokuqokelwa kwabo kwiBhodi.

(10) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele ezinyangeni ezimbili emva kokuqokwa kwamalungu eBhodi ngokwesigatshana (2), lazise uMkhandlu oPhethe kanye neKomidi leziKhundla am agama amalungu aqokiwe kubandakanya nesikhathi aqokelwe sona.

(11) Lesi sigaba sisebenza, ngezinguquko ezidingekayo, ekugcwaliseni isikhala kwiBhodi.

Ukungafaneleki ukuqokelwa eBhodini

6. Umuntu akafaneleki ukuqokelwa eBhodini noma ukuqhubeka asebenze kwiBhodi, ngenxa yokuthi –

(a) ucwile ezikweletini ngokunakuhlengeka;

(b) ngokwenkantolo yomthetho uthathwa njengomuntu ongaphilile ngokomqondo;

(c) ehlomula ngandlela thile kunoma iyiphi inkontileka neKhomishana kodwa ehluleke ukukudalula lokho ngendlela edingwa yilo Mthetho;

(d) ewumuntu ongaphansi kwesandla somnakekeli;

(e) noma yingasiphi isikhathi eke wasuswa esikhundleni sokuphatha ngenxa yokungaziphathi kahle okubandakanya ukweba noma ukukhwabanisa;

- (f) eke walahlwa yicala futhi wagwetshwa ngaphandle kokunikezwa ithuba lokukhetha phakathi kokuboshwa nokukhokha inhlawulo, ngaphandle uma iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, uma lowo ophakanyisiwe edalula yonke imininingwane yecala esitatimendeni esifungelwe, limvuna ngokuhambisana nesigaba 106(1)(e) soMthethosisekelo: Kuncike ekutheni ukungafaneleki ngokwalesi sigatshana kuphela eminyakeni emihlanu emva kokuphela kwesigwebo; noma
- (g) ehluleka ukudalula ukuhlomula ngokuhambisana nesigaba 7 noma ebe yingxenye noma ebambe iqhaza ezinqutsheni zeBhodi ngesikhathi ehlomla njengoba kuhlangozwe esigabeni okukhulunywe ngaso.

Ukudalulwa kokuhlomula ngokwezezimali noma ngenye indlela kwelungu eBhodi

7.(1) Umuntu ophakanyiselwe ukuba asebenze kwiBhodi ngokwesigatshana 5(6) kumele, ezinsukwini eziyishumi emva kokuphakanyiswa, alethe incwadi adalule kwiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngakho konke ukuhlomula ngqo noma ngandlela thile kunoma iyiphi inkampani noma kwelinye ibhizinisi.

(2) Noma yikuphi ukwehluleka kophakanyisiwe ukudalula ukuhlomula ngokwezezimali noma ngandlela thile ngokwesigatshana (1) kuvimbela lowo ophakanyisiwe ngokwesigaba 6 ukuba aqokelwe eBhodini.

(3) Ilungu leBhodi ngalinye kumele, uma liqala ukusebenza kanye nasekuqaleni konyaka wezimali weKhomishana, lidalule ngokubhalwe phansi ngokuhlomula kwalo ngqo noma ngandlela thile kunoma iyiphi inkampani noma kwelinye ibhizinisi ngandlela ehlinzekelwe esigabeni 234(3)(a) soMthetho weziNkampani, 1973 (uMthetho No. 61 ka 1973).

(4) Uma ilungu leBhodi liqala ukuhlomula kunoma iyiphi inkampani noma kwelinye ibhizinisi, noma yinini ngesikhathi lisesesikhundleni njengelungu leBhodi kumele, ezinsukwini eziyishumi kusukela ngosuku eliqale ngalo ukuhlomula, lidalule ngokubhalwe phansi kwiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho mayelana nalokho kuhlomula.

(5) Noma yikuphi ukwehluleka ngasohlangothini lelungu ukudalula ukuhlomula kwalo njengoba kuhlangozwe ezigatshaneni (3) no (4) kuyoholela ekutheni lelo lungu lingaqokwa ngokwesigaba 9(2).

(6) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele ligcine irejista eneminingwane yakamuva yokuhlomula kwamalungu eBhodi edalulwe ngokwalesi sigaba.

Isikhathi sokuba sesikhundleni kanye nokuqokwa kabusha kwelungu leBhodi

8.(1) Umuntu oqokelwe eBhodini uba sesikhundleni isikhathi esiyiminyaka emihlanu noma isikhathi esingaphansi kunalokho njengoba iLungu eliqondene loMkhandlu Ophethe linganquma futhi, kuye ngokuhambisana nesigaba 5, lingaphindwe liqokwe uma kuphela leso sikhathi: Inqobo nje uma engeke abe khona umuntu ongaphinde aqokwe emva kokusebenza eBhodini iminyaka eyishumi elandelayo.

Izikhala, ukuxoshwa kanye nokusula esikhundleni kwelungu leBhodi

9.(1) ILungu leBhodi kumele lishiye esikhundleni uma lingasafaneleki njengoba kuhlangozwe esigabeni 6.

(2) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, emva kokunikeza ilungu ithuba lokubeka uhlangothi lwalo, noma yingasiphi isikhathi lingaxosha lelo lungu uma, ngokubona kwalo, kunezizathu ezizwakalayo zokwenze njalo.

(3) ILungu kumele lishiye isikhundla uma liphuthe, ngaphandle kokunikezwa imvume yokuthatha ilivu yiBhodi, emihlanganweni emibili elandelayo yeBhodi libe lalinikezwe esandleni noma lithunyelwe ngeposi isaziso kusenesikhathi.

(4) ILungu lingasula esikhundleni ngokunikeza iLungu eliqondene loMkhandlu Ophethe isaziso esibhaliwe sezinsuku ezingamashumi amathathu: Inqobo nje uma iLungu eliqondene loMkhandlu Ophethe lingasilandeli isikhathi sesaziso..

(5) Noma yinini uma kuvela isikhala kwiBhodi, iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele, kuncike esigabeni 5, liqoke umuntu ozogcwalisa leso

sikhala leyo ngxenye yesikhathi esisele salelo lungu lowo muntu angena esikhundleni salo.

(6) Uma iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho lisebenzisa amandla alo ngokwesigatshana (2), lingahoxisa inqubo yokuqokwa kwamalungu eBhodi ebekwe esigabeni 5, kuncike ezigabeni 5(2) no 5(3), liqoka abantu ukuthi basebenze njengamalungu eBhodi okwesikhashana: Kuncike ekutheni –

(a) abantu abaqokwe ngokwalesi sigatshana angeke baqhubeke nokusebenza kwiBhodi isikhathi esingaphezu kwezinsuku ezingama-90 kusukela ngosuku abaqashwe ngalo; futhi

(b) iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele, kuncike esigabeni 5, liqoke amalungu eBhodi asebenza ngokugcwele ezinsukwini ezingama-90 emva kokuqokwa okuhlongozwe kulesi sigatshana.

Ukumiswa okwesikhashana kwelungu leBhodi

10. ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho lingamisa ilungu leBhodi ngesikhathi lisaphenya izinsolo okuyothi, uma kutholakala ukuthi ziyiqiniso ziholele ekuxoshweni kwelungu ngokwesigaba 9(2).

Imihlangano kanye nezinqubo zemihlangano yeBhodi

11.(1) Umhlangano wokuqala weBhodi kumele ubanjwe ngosuku, ngesikhathi kanye nasendaweni enqunywe yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, emva kwalokho yonke imihlangano kumele inqunywe uSihlalo.

(2) Ikhloramu yomhlangano weBhodi yiningi lamalungu eBhodi.

(3) Izinqubo zomhlangano kumele, kuncike ezinhlinzekweni zalesi sigaba, zinqunywe usihlalo kubandakanya nelungelo lokunquma ukuthi noma iluphi udaba oludingidwayo lungahoxiswa ngaphambi kokuba kuvotwe.

(4) USihlalo kufanele ahole yonke imihlangano yeBhodi. Uma uSihlalo engekho iSekela likaSihlalo kumele lihole umhlangano kanti uma uSihlalo neSekela likaSihlalo bengekho

bobabili emhlanganweni weBhodi, amalungu akhona angaqoka, phakathi kwawo umuntu ozobamba njengosihlalo kuze kuphele lowo mhlango.

(5) Isinqumo seBhodi kumele sithathwe yiningi lamavoti amalungu akhona emhlanganweni, uma kwenzeka amavoti elingana kunoma iluphi udaba, uSihlalo unevoti eliwujuqu ngaphezu kwevoti lakhe elijwayelekile.

(6) IBhodi kumele iqinisekise ukuthi amaminithi emihlangano yayo ayagcinwa.

(7) Akukho sinqumo seBhodi esingasebenzi ngenxa yokuba khona kwesikhala kwiBhodi: Kuncike ekutheni isinqumo sithathwa yiningi lamalungu eBhodi akhona futhi anegunya lokuhlala njengamalungu eBhodi.

(8) USihlalo, noma iningi lamalungu eBhodi, lingabiza umhlangano weBhodi oyisipesheli lapho izinhlinzeko zalesi sigaba zisebenza ngezinguqoko ezidingekayo.

(9) IBhodi, ngokubona kwayo, ingavumela wonke amalungu omphakathi ukuba ethamele umhlangano weBhodi.

Ukuhoxa kwelungu emihlanganweni nasezinqubeni zeBhodi

12.(1) Ilungu leBhodi kumele lihoxe odabeni oluphenywa, olucutshungulwa noma oluvotelwa yiBhodi uma kunesinye sale zimo ezilandelayo –

- (a) uma lihlomula ngandlela thile kulolo daba; noma
- (b) uma kunokwenzeka ukuthi liyabandakanyeka ngandlela thile kulolo daba.

(2) Uma noma yingasiphi isikhathi uma kunodaba olusezithebeni zeBhodi kubonakala ukuthi ilungu elisemhlanganweni liyahlomula ngendlela ehlongozwe kwisigatshana (1), lelo lungu kumele lidalule ukuthi lihlomula ngayiphi indlela bese lishiya umhlangano.

(3) Noma yikuphi ukudalula okwenziwe ngokwesigatshana (1) kumele kuqoshwe emaminithini omhlangano othintekayo.

(4) Uma emva kwesikhathi kuvela ukuthi iBhodi ithathe isinqumo ngodaba oluphathelele nelungu elihlulekile ukudalula ukuhlomula okukhulunywe ngayo kwisigatshana (1), leso sinqumo seBhodi angeke sisebenze.

(5) Ngokwenhloso yalesi sigaba **“ukuhlomula ngandlela thile”** kubandakanya kodwa akugcini nje, ngokuhlomula kwanoma –

(a) imuphi umlingani welungu kwezamabhizinisi, umuntu elisebenza naye noma umqashi, ngaphandle kukaHulumeni;

(b) imuphi umuntu oshade nelungu, umlingani ilungu elishade naye ngokomthetho wesintu, noma umasihlalisane welungu; noma

(c) iyiphi ngane yalo, imuphi umzali noma umfowabo noma udadewabo.

Amaholo amalungu eBhodi

13.(1)(a) Kuncike kwisigatshana 2(a), ilungu leBhodi lingakhokhelwa ezimalini zeKhomishana lelo holo kanye nalezo zibonelelo ezinganqunywa yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngokubonisana neLungu loMkhandlu oPhethe elibhekele ezezimali; futhi

(b) ilungu leBhodi elithola iholo, izibonelelo noma eminye imivuzo ngokwesikhundla salo noma ngenxa yokuqashwa –

(i) kuhulumeni kazwelonke;

(ii) kuhulumeni wesifundazwe;

(iii) kumasipala; noma

(iv) enhlanganweni, emgwamandeni noma esikhungweni esilawulwa uhulumeni wesifundazwe noma kazwelonke; futhi

liqhubeka nokuthola lelo holo, lezo zibonelelo noma eminye imivuzo ngesikhathi lisebenza njengelungu leBhodi, lingathola kuphela iholo kanye nezibonelelo okukhulunywe ngakho endimeni (a) ngendlela edingekayo ukuze lelo lungu lihole ngendlela ebelizohola ngayo ukuba belingekho kuleso kuleso sikhundla.

(2)(a) Ilungu leBhodi kanye nomuntu oqokelwe kwiBhodi, maqondana nemisebenzi yakhe njengelungu noma njengomuntu oqokiwe, lingakhokhelwa ezimalini zeKhomishana izindleko elingene kuzona ngenxa yokwethamela imihlangano yeBhodi; kanye

(b) neLungu loMkhandlu Ophethe elibhekele ezezimali kumele linqume izindlela, kubandakanya nezindlela zokulawula, zokuphatha kanye nezokulungiselela ukukhokhwa kwezimali zokuhamba ngomsebenzi okukhulunywe ngakho endimeni (a).

Ukusungulwa kwamakomidi azosiza iBhodi

14.(1) IBhodi ingasungula amakomidi anelungu elilodwa noma ngaphezulu –

(a) ukuyisiza ekusebenziseni nanoma yimaphi amandla noma ekwenzeni imisebenzi yeKhomishana okukhulunywe ngayo esigabeni 4; noma

(b) ukwenza ucwaningo mayelana nanoma iluphi udaba oluyingxenye yemisebenzi yeBhodi ngokwalo Mthetho.

(2) Uma kusungulwa ikomidi elihlongozwe kwisigatshana (1), iBhodi kumele –

(a) inqume amaphuzu okuzosetshenzelwa phezu kwawo kulelo komidi kubandakanya, kodwa kungagcini nje, ngokuthi ngabe lelo komidi lizoshatshalaliswa noma cha uma seliqede umsebenzi noma imisebenzi iBhodi ebeliyijubele yona;

(b) iqoke uSihlalo walelo komidi okumele abe yilungu leBhodi; futhi

(c) inqume ukuthi ngabe lelo komidi lingaqoka abantu abangewona amalungu eBhodi, uma kunjalo, ngaphansi kwamiphi imigomo nemibandela.

(3) IBhodi, noma yingasiphi isikhathi, ingamisa ikomidi nanoma imuphi umyalelo onikezwe ikomidi, noma ngabe lelo komidi seliwuqedile noma lingakawuqedi umsebenzi.

(4)(a) IsiKhulu esiPhezulu singethamela noma sibe yingxenye yomhlangano wekomidi, kodwa singavoti; kanye

(b) nomsebenzi weBhodi, uma emenywe yikomidi elithintekayo, angethamela lowo mhlangothi wekomidi.

Ukuqokwa kwabantu eBhodini noma emakomidini eBhodi

15.(1) IBhodi, uma ibona ukuthi umuntu othile angakwazi ukusiza maqondana nanoma imuphi umsebenzi nanoma ikuphi ukusetshenziswa kwamandla, ingamqoka lowo muntu.

(2) Noma imuphi umuntu oqokwe ngokwesigatshana (1) akanalo ilungelo lokuvota emihlanganweni yeBhodi noma yekomidi.

(3) Umuntu oqokwe ngokwesigatshana (1) angakhokhelwa iholo kanye nezibonelelo ezimalini zeKhomishana njengoba kunganquma iBhodi ngokuhambisana nesigaba 13(2)(a) emva kokubonisana neLungu loMkhandlu oPhethe elibhekele ezezimali.

ISAHLUKO 4

ISIKHULU ESIPHEZULU KANYE NABASEBENZI BEKHOMISHANA

IsiKhulu esiPhezulu seKhomishana

16.(1) IBhodi kumele, ngokubonisana neLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, iqoke umuntu oqeqeshwe ngokufanele, onekhono kanye nonesipiliyoni njengesikhulu esiPhezulu seKhomishana.

(2)(a) Isikhulu esiPhezulu singaqokelwa isikhathi esingeqile eminyakeni emihlanu; futhi

(b) Isikhulu esiPhezulu singaphinde siqokelwe elinye ihlandla elingeqile eminyakeni emihlanu.

(3)(a) Ukuqokwa kwesikhulu esiPhezulu kuncike ekusayinweni kwesivumelwano somsebenzi esibhalwe phansi phakathi kwalowo muntu kanye neBhodi; futhi

(b) IBhodi kanye nesikhulu esiPhezulu, ngokubhalwe phansi kanye nangesivumelwano, ingachibiyela isivumelwano sokusebenza.

(4) Ngokwezinhloso zokudalula ukuhlomula ngokwezezimali nokunye, izinhlinzeko sezigaba 7 zisebenza ngezinguquko ezidingekayo kwisikhulu esiPhezulu ngaphandle kokuthi isikhulu esiPhezulu kumele sidalule ukuhlomula kwaso kwiBhodi.

(5) Isikhulu esiPhezulu siyilungu leBhodi ngokwesikhundla salo kodwa asinalo ilungelo lokuvota emihlanganweni yayo.

Imisebenzi yesiKhulu esiPhezulu**17.(1) IsiKhulu esiPhezulu sinomthwalo –**

(a) wokwengamela konke okuphathelene nokwenziwa komsebenzi kanye nezimali zeBhodi ngokuhambisana noMthetho wokuPhathwa kweziMali, 1999 (uMthetho No. 1 ka 1999), kanye nokulawulwa kweBhodi;

(b) emva kokubonisana neBhodi, wokuqokwa kwabasebenzi beKhomishana okukhulunywe ngabo esigabeni 19 (1);

(c) emva kokubonisana neBhodi, wokunquma umgomo wokuziphatha, osebenza kwisiKhulu esiPhezulu, kubo bonke abasebenzi beKhomishana kanye nalapho kuqondiswa izigwegwe, ukuqinisekisa –

(i) ukuhambisana nomthetho osebenzayo, kubandakanya lo Mthetho;

(ii) ukusetshenziswa ngendlela efanele neyongayo kwezimali kanye nezimpahla zeKhomishana;

(iii) ukugqugquzelwa kanye nokugcinwa kwezinga eliphezulu lokuziphatha emsebenzini;

(iv) ukuvimbela ukushayisana kwezintshisekelo;

(v) ukuvikela ulwazi oluyimfihlo olugodlwe yiKhomishana; kanye

(vi) nokusebenza ngendlela, ngokuthembeka, ngokungachemi nangendlela enobulungiswa;

(d) ukuziphatha kahle kwabasebenzi abaqokwe ngokwendima (b) futhi kumele, ngalezo zinhloso, sibe nesibopho sokubika kwiBhodi;

(e) ukugcinwa kwerejista lokudalulwa kwemihlomulo ngabasebenzi beKhomishana; kanye

(f) nokuthi iBhodi iqinisekise ukuhambisana nezinhlinzeko zoMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999), kanye nanoma imuphi omunye umthetho.

(2) Uma isiKhulu esiPhezulu noma yingasiphi isikhathi singakwazi ukwenza imisebenzi yaso, iBhodi kumele, ngokubhalwe phansi, nangokubonisana neLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, liqoke omunye umuntu njengeBamba lesiKhulu esiPhezulu kuze kube isiKhulu esiPhezulu sibuyela emsebenzini.

Ukusula kanye nokuxoshwa kwesiKhulu esiPhezulu**18.(1) IsiKhulu esiPhezulu sishiya esikhundleni –**

(a) uma sisula, noma uma sesisulile;

- (b) uma, ngokoMthetho weziNkampani, 1973 (uMthetho No. 61 ka 1973), umuntu okuleso sikhundla engasafanelekile ukusebenza njengomqondisi wenkampani;
- (c) noma exoshiwe ngokwesigatshana (2).

(2) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho lingaxosha isiKhulu esiPhezulu ngokuhambisana nanoma imuphi umthetho wokuqasha nowezabasebenzi.

Abasebenzi beKhomishana

19.(1) IsiKhulu esiPhezulu kumele, kuncike kwisigatshana (2), siqashe abasebenzi beKhomishana njengoba singabona kufanele –

- (a) ukusisiza ekwenzeni imisebenzi yaso ngokwalo Mthetho; kanye
- (b) nokusiza iBhodi ngomsebenzi ohambisana nemisebenzi yeBhodi.

(2) IBhodi kumele, kuncike ezinhlinzekweni zesigaba 23(4), inqume inqubomgomo yezabasebenzi yabasebenzi beKhomishana, kubandakanya nesiKhulu esiPhezulu.

(3) Ngokwezinhloso zokudalula ukuhlomula ngokwezezimali noma ngokunye, futhi kuncike esigabeni 17(1)(e), izinhlinzeko zesigaba 7(3), (4) no (5) ziyosebenza ngezinguquko ezidingekayo kubasebenzi beKhomishana.

(4) IsiKhulu esiPhezulu kumele sigcine irejista elinolwazi olusha lokuhlomula kwamalungu eKhomishana okudalulwe ngokwesigatshana (3).

Ukusiswa noma ukudluliselwa kwabasebenzi kwiKhomishana

20. IKhomishana ingasebenzisa abantu abasiswe noma abadluliselwe kuhulumeni ngokuhambisana nezihlinzeko zoMthetho wemiSebenzi kaHulumeni, 1994 (iSimemezelo No. 103 sika 1994).

ISAHLUKO 5**UKUNQUNYWA KOMGOMO WOKUZIPHATHA WABAQAMBI BAMAFILIMU
WESIFUNDAZWE****Umgomo wokuziPhatha wabaQambi bamaFilimu wesiFundazwe**

21.(1) ILungu eliqondene loMkhandlu Ophethe kumele ngemva kokubonisana neBhodi linqume uMgomo Wesifundazwe Wokuziphatha Wabaqambi BamaFilimu.

(2) UMgomo wokuziPhatha wabaQambi bamaFilimu wesiFundazwe uqala ukusebenza ngosuku okushicilelwe ngalo isaziso kwiGazethi

(3) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, ngesaziso kwiGazethi nangemva kokubonisana neBhodi –

- (a) lingachibiyela;
- (b) lingashintsha; noma
- (c) lingahoxisa,

uMgomo wokuziPhatha wabaQambi bamaFilimu wesiFundazwe.

Inqubomgomo

22.(a) ILungu eliqondene loMkhandlu Ophethe

- (a) lingabeka imihlahlandlela ethile yokufeza izinhloso zeKhomishana;
- (b) linganikeza iBhodi iziqondiso zenqubomgomo; futhi
- (c) lingahoxisa noma lichibiyele noma imuphi umhlahlandlela wamasu okusebenza noma isiqondiso senqubomgomo ngokwendima (a).

ISAHLUKO 6**UKUXHASWA NGEZIMALI KANYE NOKUPHATHWA KWEZIMALI ZEKHOMISHANA****Izimali zeKhomishana**

23.(1) Izimali zeKhomishana ziqukethe –

- (a) imali eyabiwe yisiShayamthetho sesiFundazwe;

- (b) inzalo yezimali ezitshaliwe zeKhomishana; kanye
- (c) nemali engenayo evela kunoma imuphi umthombo owamukelekile.

(2) IKhomishana kumele isebenzise izimali zayo –

(a) ukukhokha amaholo, izibonelelo kanye nezindleko zokuhamba ngomsebenzi –

(i) kwamalungu eBhodi;

(ii) kwesiKhulu esiPhezulu;

(iii) nabasebenzi beKhomishana; kanye

(b) nokukhokhela izindleko eziphathelele –

(i) nemisebenzi yansukuzonke yeKhomishana; kanye

(ii) nokwenziwa kwemisebenzi yeKhomishana kanye nokusebenzisa kwayo amandla ngokwalo Mthetho.

(3) IsiKhulu esiPhezulu kumele, ngokuvumelana neBhodi –

(a) sivule i-akhawunti egameni leKhomishana nesikhungo esibhaliswe njengebhange ngokoMthetho wamaBhange, 1990 (uMthetho No. 94 ka 1990); futhi

(b) sifake kuyona yonke imali etholakale ngokwesigatshana (1).

(4) IBhodi, emva kokubonisana neLungu loMkhandlu oPhethe libhekele ukuthuthukiswa komnotho, kumele inqume –

(a) amaholo kanye nemigomo yokusebenza; kanye

(b) nemali yempesheni kanye nemivuzo yomhlalaphansi, yesiKhulu esiPhezulu kanye nabanye abasebenzi beKhomishana.

(5) IKhomishana ingatshala izimali ezifakwe kuma-akhawunti ayo ezingeke zidinge ukusetshenziswa ngo kushesha: Kuncike ekutheni iBhodi lithatha izinyathelo ezifanele ukuqinisekisa ukuthi ukutshalwa kwalezo zimali akuqagelwa.

(6) IKhomishana ayivumelekile ukuboleka imali noma ukukhipha iziqinisekiso noma izibambiso noma ukungena ezivumelwaneni ezibophezela iKhomishana ngaphandle uma lokho kuboleka, leso siqinisekiso noma leso sibambiso nanoma yisiphi isivumelwano kugunyaziwe ngokwalo Mthetho futhi kungaphikisani noMthetho wokuPhathwa kweziMali zikaHulumeni.

Ukuphathwa kwezimali

24.(1) Isikhulu esiPhezulu kumele siqinisekise ukuthi amabhuku ama-akhawunti kanye nawo wonke amanye amarekhodi aphaathelene nawo ayagcinwa.

(2) Isikhulu esiPhezulu kumele siqinisekise ukuthi izabelozimali zonyaka zeKhomishana, izinhloko zokusebenza, imibiko yonyaka kanye nezitatimende zezimali ezicutshunguliwe kuyalungiswa nokuthi kulethwa ngokuhambisana noMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999).

(3) Isikhulu esiPhezulu kumele, ezinyangeni ezintathu ngaphambi kokuphela konyaka wezimali, silethe kwiBhodi –

(a) uhlaka lokusebenza lweKhomishana, oluqukethe izinhloso ezikalekayo; kanye nolunye ulwazi oluhlongozwa ezigabeni 25(3)(b) no (c) kanye

(b) nezitatimende zemali ekanekisiwe ezongena kanye nemali ezizosetshenziswa yiKhomishana, maqondana neminyaka emithathu yezimali ezayo.

(4) Kunoma imuphi unyaka wezimali isikhulu esiPhezulu singaletha kwiBhodi izitatimende ezilungisiwe zemali ezongena noma zemali ezochithwa yiKhomishana zalowo nyaka wezimali.

(5) IKhomishana angeke isebenzise imali engaphezu kwaleyo eyabelwe yona naleyo ebekwe eceleni.

(6) Isikhulu esiPhezulu, ngemvume yeBhodi –

(a) singathatha noma iyiphi ingxenye yezimali engasetshenziswanga siyitshale esiKhungweni Sokugcinwa Kwezimali Zomphakathi okanye kunoma isiphi isikhungo esibekwe noma sakleliswa nguMnyango Kamgcinimafa Kazwelonke njengesikhungo sezimali esisoHlwini "A1"; noma

(b) singasebenzisa leyo ngxenye nganoma iyiphi enye indlela.

- (7) Isikhulu Esiphezulu, ngemvume yeBhodi, singasungula isikhwama sokulondoloza esiseceleni bese sibeka kusona lezo zamba zemali ezivunywa yiBhodi.

Ucwaningo kanye nombiko wonyaka

25.(1) UMcwaningimabhuku-Jikelele kumele acwaninge izitatimende zeKhomishana.

(2)(a) IBhodi kumele ilethe umbiko ngemisebenzi yeKhomishana ngonyaka wezimali, kusiShayamthetho, ezinyangeni ezinhlanu emva kokuphela kwalowo nyaka wezimali; futhi

(b) Ezinyangeni ezinhlanu emva kokwethulwa kombiko wonyaka, ithimba elinosihlalo weBhodi kanye namanye amalungu amabili eBhodi kumele ethule umbiko wonyaka kwiKomidi leMisebenzi.

(3) Umbiko kumele –

(a) kubandakanya isitatimende semali engenayo kanye nesemali echithwayo esiqinisekisiwe nguMcwaningimabhuku-Jikelele;

(b) uchaze ngendlela iKhomishana efeze ngayo izinhloso zayo okukhulunywe ngazo esigabeni 3 kanye nezinhloso ezikalekayo njengoba kubekiwe ohlakeni lokusebenza njengoba kuhlangezwe esigabeni 24(3)(a) ngonyaka wezimali othintekayo; futhi

(c) uqukathe imininingwane yokusebenza efanele ephathelene nokusetshenziswa kwezinsiza ngendlela enokonga, esheshayo nenemiphumela ebonakalayo kanye nokuqhathaniswa phakathi kokuhleliwe nokwenziwe njengoba kubekiwe kulolo hlaka lokusebenza.

Unyaka wezimali weKhomishana

26. Unyaka wezimali weKhomishana uqala mhla lu-1 kuMbasa wonyaka othile uphele mhla zingama-31 kuNdasa wonyaka olandelayo.

Impahla engenakususwa

27. IKhomishana, ngokwenqubomgomo kanye nezinqubo okunqunywe yiBhodi nangemvume yeLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, ingathola, igcine noma ichithe impahla engenakususwa ngesikhathi isasebenza.

Ukuthathelwa izinyathelo zomthetho kweKhomishana

28.(1) Noma iziphi izinyathelo zomthetho ezithathelwe iKhomishana kumele zithathwe ngokuhambisana noMthetho wokuThathela iziNyathelo zoMthetho iziNhlaka ezithile zikaHulumeni, 2002 (uMthetho No. 40 ka 2002).

(2) IKhomishana, ngokwezinhloso zesigatshana (1), ithathwa njengohlaka lukahulumeni okukhulunywe ngalo endimeni (c) ngokwenzazelo enikezwe yona esigabeni 1 soMthetho okukhulunywe ngawo.

ISAPHELA 7**IZINHLINZEKO EZIJWAYELEKILE****Ukuvikelwa kolwazi oluyimfihlo olugodlwe yiKhomishana**

29.(1) Kuncike kuMthethosisekelo kanye noMthetho wokuGqugquzela ukuThola uLwazi, 2000 (uMthetho No. 2 ka 2000), akukho muntu ongalalula noma iluphi ulwazi olulethwe kwiKhomishana maqondana nanoma imuphi umyalelo womthetho, ngaphandle uma –

(a) eyalelwe ukuthi enze njalo yinkantolo yomthetho; noma

(b) umuntu okhiphe lowo myalelo evuma ngokubhalwe phansi.

(2) Akukho muntu ongalalula ulwazi olugcinwe kwirejista okukhulunywe ngalo ezigabeni 7, 16(4) no 19(4) ngaphandle uma lokho kudalula –

(a) kuhambisana nanoma imuphi umthetho ophoqa noma ogunyaza lokho kudalula;

(b) kudingeka ukuze iKhomishana isebenze kahle; noma

(c) kungenziwa ngenhloso yokuqapha, yokuhlola, yokuphenya noma yokucubungula noma imuphi okuphathelene neKhomishana, nanoma yiliphi ilungu labasebenzi beKhomishana.

(3) Noma imuphi umuntu ophula esigatshana (1) noma (2) uyothweswa icala.

Ukuhlakazwa yeKhomishana

30. IKhomishana ingahlakazwa kuphela ngokoMthetho wesiShayamthetho sesiFundazwe.

Ukusetshenziswa kwegama leKhomishana

31.(1) Akukho muntu, ngaphandle kwemvume ebhalwe phansi yeKhomishana, nganoma iyiphi indlela oyosebenzisa igama, isifinyezo, ilogo, izimpawu noma impahla esetshenziswa yiKhomishana noma okungeyeKhomishana.

(2) Akukho muntu ongaqamba amanga athi wenza okuthile egameni leKhomishana.

(3) Noma imuphi umuntu ophula izigatshana (1) no (2) uyothweswa icala.

Ukudluliselwa kwamandla

32.(1) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho lingadlulisela eBhodini –

(a) noma yimaphi amandla anikezwe iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho yilo Mthetho, ngaphandle kwamandla okwenza imithethonqubo okukhulunywe ngayo esigabeni 33 ; noma

(b) noma imuphi umsebenzi onikezwe iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho yilo Mthetho, ngaphandle kwanoma imuphi umthetho ophathelene nokuqokwa, kanye nokuxoshwa, kwamalungu eBhodi okukhulunywe ngakho ezigabeni 5 no 9(2).

(2) IBhodi, ngesixazululo esikhethekile, ingadlulisela amandla kwisiKhulu esiPhezulu noma kumsebenzi weKhomishana, noma yimaphi amandla noma umsebenzi onikezwe iBhodi yilo Mthetho.

(3) Isikhulu esiPhezulu singadlulisela kunoma imuphi umsebenzi weKhomishana amandla noma umsebenzi onikezwe isikhulu esiPhezulu yilo Mthetho, ngaphandle

kwanoma yimaphi amandla noma umsebenzi wesiphathimandla sezimali seKhomishana.

(4) Noma imaphi amandla noma umsebenzi okudluliselwe ngokwesigatshana (1), (2) noma (3) kumele asetshenziswe noma wenziwe ngaphansi kwaleyo migomo njengoba umuntu noma umgwamanda odluliselile njengoba ungabona kufanele.

(5) Ukudluliselwa kwamandla okukhulunywe ngakho kwisigatshana (1), (2) noma (3) –

(a) kumele kubhalwe phansi;

(b) akuvimbeli umuntu noma umgwamanda odlulisele amandla noma umsebenzi ukuthi asebenzise lawo mandla noma enze lowo msebenzi; futhi

(c) noma yingasiphi isikhathi kungahoxiswa noma kuchitshiyelwe ngokubhalwe phansi yilowo muntu noma yilowo mgwamanda.

Imithethonqubo

33. ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, ngokubonisana neBhodi nangesaziso kwiGazethi, lingenza imithethonqubo ephathelene –

(a) nanoma iluphi udaba olunganqunywa noma okumele lunqunywe ngokwalo Mthetho; noma

(b) nanoma iluphi udaba lokuphatha oludingekayo ukuqalisa izinhlinzeko zalo Mthetho.

Ukuvalwa kweNkampani kanye nezinhlelo zesikhashana eziphathelene nalokho

34.(1)(a) INkampani, iKhomishana yezamaFilimu yaKwaZulu-Natali, enenombolo yokuBhaliswa kweNkampani engu-2003/028677/08, esungulwe ngokoMthetho weziNkampani, 1973 (uMthetho No. 61 ka 1973), kumele ivalwe ngokuzikhethela futhi icishwe lapho ibhaliswe khona; futhi

(b) Amalungu eNkampani kumele, uma kuvalwa iNkampani okukhulunywe ngayo endimeni (a), phakathi kokunye, ahambisane nezigaba 349 no 350 woMthetho weziNkampani, 1973 (uMthetho No. 61 ka-1973).

(2) Ngosuku lokuvalwa kweNkampani okuhlongozwe kwisigatshana (1), zonke izimpahla, izikweletu, wonke amalungelo, yonke imisebenzi kanye nezibopho,

kubandakanya noma iyiphi ingxenye yezimali engasetshenziswa eqongelelwe noma etholwe yiNkampani kudluliselwa, futhi, kuba ngokweKhomishana yezamaFilimu yaKwaZulu-Natali eyasungulwa ngokwesigaba 2.

(3) IKhomishana, maqondana nezimpahla, nezikweletu, namalungelo, nayo yonke imisebenzi kanye nezibopho kubandakanya noma iyiphi ingxenye engasetshenziswa yezimali eziqongelelwe okukhulunywe ngakho kwisigatshana (2), ngazo zonke izinhloso zabazoyilandela ngokusemthethweni, kanye nabazoyilandela ngokwesikhundla, iNkampani.

(4) Amalungu eBhodi yeNkampani kumele asebenze njengamalungu eBhodi yeKhomishana agunyaziwe noma anikwe amandla kuze kube iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngokwesigaba 5(1)(a) seliqoke iBhodi ngokwalo Mthetho.

(5) Bonke abasebenzi beNkampani kumele, ezinyangeni eziyisithupha kuqaliswe lo Mthetho, badluliselwe kwiKhomishana yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngosuku oluyonqunywa yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho.

(6) Amaholo, imivuzo kanye namalungelo okuhlinzekwa yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, ngokuhambisana nesigatshana (5), angeke kwaba ngaphansi kwalokho okuholelwa umsebenzi weNkampani ngaphambi kokuthi adluliselwe.

(7) Ngokwezinhloso zoMthetho weNtela, 1962 (uMthetho No. 58 ka 1962), akukho kushintshwa komqashi okuyothathwa ngokuthi kwenzekile maqondana nomsebenzi ovuma ukuqashwa njengoba kuhlangoziwe kwisigatshana (5).

(8) Uma umuntu eba umsebenzi weKhomishana ngokwesigatshana (5) –

(a) ugcina izinsuku zakhe zelivu aziqongelele kuze kube usuku noma ngaphambi kosuku lokudluliselwa, uzihlela ngokuhambisana nemigomo yokuqashwa kwiKhomishana; futhi

(b) noma iluphi uphenyo olwenziwe noma okuhloswe ukuthi lwenziwe maqondana nezinsolo zokungaziphathi kahle okwenziwe yilowo muntu ngaphambi kosuku

lokudluliselwa kumele luchithwe noma lwenziwe yiKhomishana futhi iKhomishana kumele imthathele izinyathelo ezifanele lowo muntu othintekayo ngokuhambisana nemithetho, inqubomgomo kanye nemigomo yokuqashwa noma yokusebenza anayo ngokushesha ngaphambi kosuku lokudluliselwa.

Amacala ajwayelekile

35.(1) Ilungu leBhodi, umsebenzi, umeluleki, i-ejenti nanoma imuphi omunye umuntu oqashwe noma osebenza egameni leKhomishana unecala uma egwazelwa ngandlela thile noma ethola imali engagunyaziwe noma umvuzo kunoma imuphi umuntu maqondana nanoma yini eyenziwa noma ehlinzekwa yiKhomishana.

(2) Noma imuphi umuntu unecala uma, maqondana nanoma yini eyenziwe noma ehlinzekwa yiKhomishana, efaka umoya othile noma ezama ukufaka umoya ilungu leBhodi, umsebenzi, umeluleki, i-ejenti nanoma imuphi umuntu oqashwe yiKhomishana noma osebenza egameni leKhomishana wokuba enze ubugebengu.

(3) Noma imuphi umuntu oqamba amanga athi ugunyaziwe ukukhokhisa noma ukuqoqa izimali noma iminikelo egameni leKhomishana, noma ngomyalelo weKhomishana unecala.

Izinhlawulo

36. Noma imuphi umuntu olahlwe yicala ngokwalo Mthetho uyokhokha inhlawulo noma aboshwe isikhathi esingeqile eminyakeni emihlanu noma aboshwe phezu kwalokho akhokhe nenhlawulo.

Isihloko esifushane

37. Lo Mthetho ubizwa ngoMthetho WeKhomishana Yezamafilimu WaKwaZulu-Natali, 2010.

No. 6

21 October 2010

[English text signed by the Premier]

**KWAZULU-NATAL
UNAUTHORISED EXPENDITURE AUTHORISATION ACT, 2010
(Act No. 04 of 2010)**

Assented to on 09-09-2010

ACT

To provide for the approval and authorisation of unauthorised expenditure referred to in the Schedule as a direct charge against the Provincial Revenue Fund; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the Province of KwaZulu-Natal, as follows:-

Interpretation of Act

1. In this Act, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Public Finance Management Act, 1999 (Act No.1 of 1999), has the meaning assigned to it in that Act.

Approval of unauthorised expenditure

2. The unauthorised expenditure referred to in the Schedule in the amount of R2 748 912 391.66 and described in the selected Resolutions of the Provincial Standing Committee on Public Accounts identified in Column 2 of the Schedule, is approved and authorised as a direct charge against the Provincial Revenue Fund.

Effect of recovery of unauthorised expenditure

3. This Act does not detract from or limit any right or obligation to take appropriate steps to recover unauthorised expenditure from the responsible official or former official.

Short title

4. This Act is called the KwaZulu-Natal Unauthorised Expenditure Authorisation Act, 2010.

SCHEDULE

Amount Unauthorised (R)	Standing Committee on Public Accounts Resolution Reference	Financial Year	Vote Title
Column 1	Column 2	Column 3	Column 4
4 329 905.87	6/2010	2007/2008	Office of the Premier
11 917 545.00	17/2010	2007/2008	Education
1 226 743 000.00	13/2010	2007/2008	Health
5 159 497.00	18/2010	2007/2008	Human Settlements
1 797 579.78	15/2010	2007/2008	Transport
576 000.00	37/2009	2007/2008	Public Works
3 712 000.00	7/2010	2008/2009	Office of the Premier
437 493 000.00	12/2010	2008/2009	Education
138 382 864.01	42/2009	2008/2009	Provincial Treasury
644 153 000.00	14/2010	2008/2009	Health
11 380 000.00	19/2010	2008/2009	Human Settlements
3 704 000.00	21/2010	2008/2009	Royal Household
255 642 000.00	16/2010	2008/2009	Transport
3 922 000.00	38/2009	2008/2009	Public Works
2 748 912 391.66			

No. 6

21 Oktober 2010

[Engelse teks deur die Premier geteken]

KWAZULU-NATAL
WET OP DIE MAGTIGING VAN ONGEMAGTIGDE
UITGAWES, 2010
(No. 04 van 2010)

Goedgekeur op 09-09-2010

WET

Om die goedkeuring en magtiging van ongemagtigde uitgawes te verskaf soos vervat in die Bylae, as 'n direkte eis teen die Provinsiale Inkomstefonds en om voorsiening te maak vir sake wat daarmee verband hou.

DAAR WORD deur die Provinsiale Wetgewer van die Provinsie van KwaZulu-Natal soos volg bepaal: -

Interpretasie van Wet

1. In hierdie Wet, tensy uit die konteks anders blyk, dra enige woord of uitdrukking waaraan 'n betekenis geheg is in die Wet op die Bestuur van Openbare Finansies, 1999 (Wet No. 1 van 1999) die betekenis wat in daardie Wet daaraan geheg is.

Goedkeuring van ongemagtigde uitgawe

2. Die ongemagtigde uitgawe waarna in die bylae verwys word tot die bedrag van R2 748 912 391.66, en beskryf in die gekose Besluite van die Provinsiale Staande Komitee oor Openbare Rekeninge geïdentifiseer in Kolom 2 van die Bylae, word goedgekeur en gemagtig as 'n direkte eis teen die Provinsiale Inkomstefonds.

Effek van terugvordering van ongemagtigde uitgawe

3. Hierdie Wet doen nie afbreuk aan of beperk enige reg of verpligting om toepaslike stappe te doen om ongemagtigde uitgawe terug te vorder van 'n verantwoordelike beampte of vorige beampte nie.

Kort titel

4. Hierdie Wet heet die KwaZulu-Natal Wet op die Magtiging van Ongemagtigde Uitgawes, 2010.

BYLAE

Bedrag Ongemagtig (R)	Staaude Komitee oor Openbare Rekeninge Besluit Verwysing	Finansiële jaar	Begrotingspos Titel
Kolom 1	Kolom 2	Kolom 3	Kolom 4
4 329 905.87	6/2010	2007/2008	Kantoor van die Premier
11 917 545.00	17/2010	2007/2008	Onderwys
1 226 743 000.00	13/2010	2007/2008	Gesondheid
5 159 497.00	18/2010	2007/2008	Menslike Nedersettings
1 797 579.78	15/2010	2007/2008	Vervoer
576 000.00	37/2009	2007/2008	Openbare Werke
3 712 000.00	7/2010	2008/2009	Kantoor van die Premier
437 493 000.00	12/2010	2008/2009	Onderwys
138 382 864.01	42/2009	2008/2009	Provinsiale Tesourie
644 153 000.00	14/2010	2008/2009	Gesondheid
11 380 000.00	19/2010	2008/2009	Menslike Nedersettings
3 704 000.00	21/2010	2008/2009	Die Koninklike Huishouding
255 642 000.00	16/2010	2008/2009	Vervoer
3 922 000.00	38/2009	2008/2009	Openbare Werke
2 748 912 391.66			

No. 6

21 kuMfumfu 2010

[Umbhalo wesingisi unyathelwe nguNdunankulu]

**UMTHETHO WAKWAZULU-NATALI WOKUNIKA IMVUME
YEZINDLEKO EZINGAGUNYAZIWE, WEZI-2010**
(Umthetho na. 04 ka 2010)

Uvunywe mhlaka 09-09-2010

UMTHETHO

UMTHETHOSIVIVINYWA

Ukuhlinzekela ukunika imvume negunya lokuba izindleko ezingagunyaziwe ezibalulwe kwiSheduli zikhokhelwe ngqo Esikhwameni Sezimali zeSifundazwe, kanye nokuhlinzekela izindaba ezihambisana nalokhu.

MAKUSHAYWE UMTHETHO yiSishayamthetho sesiFundazwe saKwaZulu-Natali, kanje:-

Ukukhunyushwa komthetho

1. Ngaphandle uma indikimba ikhomba okunye, kulo Mthetho lelo nalelo gama noma ibinzana lamagama elivele selinikezelwe incazelo Emthethweni Wokuphathwa Kwezimali Zomphakathi, we-1999 (uMthetho No. 1 we-1999), linikezelwa yona leyo ncazelo.

Ukunikezelwa kwemvume yezindleko ezingagunyaziwe

2. Izindleko ezingagunyaziwe okukhulunywa ngazo kule Sheduli zesamba sezi-R2 748 912 391.66, futhi ezichazwe eZinqumweni Zekomidi Elisebenzayo Lesifundazwe Lamakhawunti Kahulumeni, ezihlonzwe Ohlwini lwesi-2 lweSheduli, zinikwe imvume futhi zagunyazwa ukuba zikhokhelwe ngqo Esikhwameni Sezimali Zesifundazwe.

Ukukhokhiswa izindleko ezingagunyaziwe

3. Lo Mthetho awuhoxisi kumbe awuvimbeli nanoma yiliphi ilungelo noma isibopho sokuthatha izinyathelo ezifanele zokukhokhisa umsebenzi ofanele noma wangaphambilini lezo zindleko azenza singagunyaziwe.

Isihloko esifingqiwe

4. Lo Mthetho ubizwa ngokuthi uMthetho WaKwaZulu-Natali Wokunika Imvume Yezindleko Ezingagunyaziwe, wezi-2010.

UHLU

Isamba Esingagunyaziwe (R)	I Refarensi Yezinqumo ZeKomidi Elimileyo LeSifundazwe Lama- Akhawunti Kahulumeni	Unyaka Wezimali	Isihloko Ivoti
i-Kholamu 1	i-kholamu 2	i-Kholamu 3	i-Kholamu 4
4 329 905.87	6/2010	2007/2008	Ihhovisi lika Ndunankulu wesifunda
11 917 545.00	17/2010	2007/2008	Ezempilo
1 226 743 000.00	13/2010	2007/2008	Ezempilo
5 159 497.00	18/2010	2007/2008	Ezokuhlaliswa kwabantu
1 797 579.78	15/2010	2007/2008	Ezokuthutha
576 000.00	37/2009	2007/2008	Ezemibenzi kaHulumeni
3 712 000.00	7/2010	2008/2009	Ihhovisi lika Ndunankulu wesifunda
437 493 000.00	12/2010	2008/2009	Ezempilo
138 382 864.01	42/2009	2008/2009	Umgcinimafa Wesifundazwe
644 153 000.00	14/2010	2008/2009	Ezempilo
11 380 000.00	19/2010	2008/2009	Ezokuhlaliswa kwabantu
3 704 000.00	21/2010	2008/2009	Umnango wezindaba zasendlunkulu
255 642 000.00	16/2010	2008/2009	Ezokuthutha
3 922 000.00	38/2009	2008/2009	Ezemibenzi kaHulumeni
2 748 912 391.66			

No. 7

21 Oktober 2010

[English text signed by the Premier]

**KWAZULU-NATAL
TRADE AND INVESTMENT AGENCY ACT, 2010
(Act No. 05 of 2010)**

Assented to on 09-09-2010

ACT

To provide for the establishment of an economic development agency to be known as Trade and Investment KwaZulu-Natal in order to attract foreign and domestic investment and to generate exports and export capacity in the Province; to determine the objects, powers, duties and functions of the Agency; to determine the manner in which the Agency is to be managed, governed, staffed and financed; to provide for the formulation of a Provincial Investment and Export Policy; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the Province of KwaZulu-Natal, as follows:-

ARRANGEMENT OF SECTIONS

Section

CHAPTER 1 DEFINITIONS

1. Definitions

CHAPTER 2 TRADE AND INVESTMENT KWAZULU-NATAL

2. Establishment of the Trade and Investment KwaZulu-Natal

3. Objects of the Agency

4. Powers, duties and functions of the Agency

CHAPTER 3 BOARD OF THE AGENCY

5. Composition of the Board

6. Disqualification from being appointed to the Board

7. Declaration of financial or other interests of members of the Board

8. Term of office and reappointment of member of the Board

9. Vacancies, removal and resignation from office of members of the Board

10. Temporary suspension of member of the Board

11. Meetings and procedures at meetings of the Board

12. Recusal of member from meetings and proceedings of the Board

13. Remuneration of members of the Board

14. Establishment of committees to assist the Board

15. Co-opting of persons to the Board or committees of the Board

CHAPTER 4 CHIEF EXECUTIVE OFFICER AND STAFF OF THE AGENCY

16. Chief Executive Officer of the Agency

17. Functions of the Chief Executive Officer

18. Resignation and removal from office of the Chief Executive Officer

19. Staff of the Agency

20. Secondment or transfer of staff to the Agency

CHAPTER 5 DETERMINATION OF PROVINCIAL INVESTMENT AND EXPORT POLICY

21. Provincial Investment and Export Policy

22. Provincial Investment and Export Plan

23. Policy directives

CHAPTER 6

FUNDING AND FINANCIAL MANAGEMENT OF THE AGENCY

24. Funds of the Agency

25. Financial management

26. Audit and annual report

27. Establishment and administration of special funds

28. Financial year of the Agency

29. Immovable property

30. Legal proceedings against the Agency

CHAPTER 7

GENERAL PROVISIONS

31. Security of confidential information held by the Agency

32. Dissolution of the Agency

33. Use of name of the Agency

34. Delegations

35. Regulations

36. Winding-up of Company and transitional provisions incidental thereto

37. General offences

38. Penalties

39. Short title

CHAPTER 1
DEFINITIONS

Definitions

1. In this Act, unless the context otherwise indicates –

"Agency" means Trade and Investment KwaZulu-Natal established in terms of section 2;

"Board" means the Board of the Agency appointed in terms of section 5;

"Chief Executive Officer" means the Chief Executive Officer of the Agency, appointed in terms of section 16;

"close corporation" means a corporation as defined in section 1(1) of the Close Corporations Act, 1984 (Act No. 69 of 1984);

"Company" means the association incorporated in terms of section 21 of the Companies Act, 1973 (Act No. 61 of 1973), bearing Company Registration Number 98/11946/08, and known as Trade and Investment KwaZulu-Natal;

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"Department" means the Department of Economic Development and Tourism in the Province of KwaZulu-Natal;

"Executive Council" means the Executive Council of the Province of KwaZulu-Natal contemplated in section 132 of the Constitution;

"Gazette" means the official *Provincial Gazette* of KwaZulu-Natal;

"Head of Department" means the person appointed as Head of the Department in terms of the Public Service Act, as amended;

"member" means a member of the Board of the Agency appointed in terms of section 5;

"Member of the Executive Council responsible for finance" means the member of the Executive Council of the Province of KwaZulu-Natal responsible for finance;

"National Treasury" means the National Treasury established by section 5 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

"organised local government" means the provincial organisation representing municipalities in KwaZulu-Natal, recognised in terms of section 163 of the Constitution and section 2 of the Organised Local Government Act, 1997 (Act No. 52 of 1997);

"Portfolio Committee" means the Portfolio Committee of the Provincial Legislature responsible for economic development and tourism;

"Province" means the Province of KwaZulu-Natal contemplated in section 103 of the Constitution and **"provincial"** has a corresponding meaning;

"regulations" means regulations made in terms of section 35;

"responsible Member of the Executive Council" means the Member of the Executive Council of the Province of KwaZulu-Natal responsible for Economic Development and Tourism or that member of the Executive Council of the Province of KwaZulu-Natal to whom the Premier has assigned the administration of this Act;

"this Act" includes the regulations.

CHAPTER 2 TRADE AND INVESTMENT KWAZULU-NATAL

Establishment of the Trade and Investment KwaZulu-Natal

2. (1) There is hereby established an Agency for the promotion of trade and investment in the Province to be known as Trade and Investment KwaZulu-Natal.

(2) The Agency is a juristic person which acts through the Board.

(3) The Agency is a provincial public entity subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(4) The Board is the accounting authority of the Agency as contemplated in section 49(2) (a) of the Public Finance Management Act.

Objects of the Agency

3. The objects of the Agency are –

- (a) to attract foreign and domestic investment;
- (b) to generate exports and export capacity; and
- (c) to perform the powers, duties and functions specified in section 4.

Powers, duties and functions of the Agency

4. (1) The Agency must –

- (a) identify, develop, market and promote investment opportunities in the Province to international and domestic investors;
- (b) develop the export capacity of the Province;
- (c) develop the export market of the Province;
- (d) foster trade and investment within the Province;
- (e) develop a provincial investment and export plan for the development, promotion and marketing of investment in and exports from the Province; and
- (f) keep and maintain a database of investment opportunities within the Province in such a manner as to benefit all sectors of the economy.

(2) The Agency may –

- (a) for the purposes of developing, promoting, and marketing investment in and the export capacity of the Province, and subject to the prior written approval of the responsible Member of the Executive Council and section 54(2) of the Public Finance Management Act, 1999 (Act No. 1 of 1999) –
 - (i) establish and operate one or more companies, close corporations or other similar bodies, and may acquire or dispose of any interest or share in any such company, close corporation or other similar body;
 - (ii) enter into joint ventures with other institutions, organisations, municipalities, bodies or persons;
 - (iii) partner with, or acquire or dispose of any interest or share in any company, close corporation or other similar body; and
 - (iv) raise funds through donations and sponsorships;
- (b) liaise with any other entity, organ of state, organisation or institution whose activities or aims impact on, or relate to, the development, promotion or marketing of investment in the Province;
- (c) investigate and make recommendations to the Executive Council, through the

responsible Member of the Executive Council, on any matter relating directly or indirectly to the promotion, development or marketing of investment in the Province;

(d) enter into agreements for the attainment of its objects, the exercise of its powers, duties and functions or the management and administration of its affairs, whether or not expressly provided for in this section; and

(e) do any other thing or attend to any other matter that the responsible Member of the Executive Council considers necessary for the proper implementation of this Act.

(3) In addition to the powers referred to in subsection (2), the Agency has the powers referred to in section 34 of, and Schedule 2 to, the Companies Act, 1973 (Act No. 61 of 1973).

CHAPTER 3 BOARD OF THE AGENCY

Composition of the Board

5.(1) The Board consists of –

(a) at least five, but not more than 20, members appointed by the responsible Member of the Executive Council; and

(b) the Chief Executive Officer, *ex officio*, as contemplated in section 16(5).

(2) Members of the Board must be fit and proper persons to serve the best interests of the Province, collectively possessing –

(a) appropriate knowledge or experience in organised constituencies within the business industry; and

(b) the following skills and expertise –

(i) legal skills, experience and qualifications;

(ii) financial skills, experience and qualifications;

(iii) investment and export experience or qualifications;

(iv) labour market experience or qualifications;

(v) human resource or educational experience or qualifications;

- (vi) community development skills and experience; and
- (vii) planning or development skills and experience.

(3) In appointing members to the Board, the responsible Member of the Executive Council must ensure that –

- (a) historic imbalances are addressed;
- (b) the Board, collectively, possess the necessary and appropriate skills and expertise;
- (c) the Board is representative of persons employed or involved in the import, export, trade and investment business enterprises in the Province;
- (d) municipal interests are represented on the Board in such a manner that equitable spatial representation of municipalities is achieved: Provided that no more than four persons may be appointed to the Board to give effect to the provisions of this paragraph; and
- (e) organised local government is represented on the Board.

(4) The responsible Member of the Executive Council must designate –

- (a) one of the members of the Board as the Chairperson of the Board; and
- (b) one of the members of the Board as the Deputy Chairperson of the Board.

(5) The responsible Member of the Executive Council may appoint an employee of the Department as his or her representative who –

- (a) must facilitate liaison between the responsible Member of the Executive Council and the Board;
- (b) must report to the responsible Member of the Executive Council from time to time regarding matters which are considered relevant; and
- (c) may attend meetings of the Board and participate in discussions, but does not have the right to vote when a decision of the Board is being taken.

(6) The responsible Member of the Executive Council must, by notice in the *Gazette*, invite any interested parties within the Province to nominate candidates for appointment to the Board.

(7) The invitation for nomination must specify –

- (a) the nomination procedure;
- (b) the requirements for nomination; and
- (c) the closing date for the nomination.

(8) The responsible Member of the Executive Council must consider all nominations submitted in response to the notice, and may appoint a selection panel comprising of the senior departmental officials to review all the nominations and make recommendations to the responsible Member of the Executive Council on the nominees.

(9) The responsible Member of the Executive Council must cause the names of the persons appointed to the Board to be published in the *Gazette* and in at least two newspapers circulating in the Province, immediately after such persons have been notified, in writing, of their appointment to the Board.

(10) The responsible Member of the Executive Council must, within two months after the appointment of members of the Board in terms of subsection (1), inform the Executive Council and the Portfolio Committee of the names of the appointed members including the term of their appointment.

(11) This section applies, with the necessary changes, to the filling of a vacancy on the Board.

Disqualification from being appointed to the Board

6. A person is disqualified from being appointed to the Board or from remaining on the Board, by reason that he or she –

- (a) is or becomes an unrehabilitated insolvent;
- (b) is or has been declared by a competent court to be of unsound mind;
- (c) is directly or indirectly interested in any contract with the Agency and fails to declare his or her interest and the nature thereof in the manner required by this Act;
- (d) is a person under curatorship;
- (e) has at any time been removed from an office of trust on account of misconduct involving theft or fraud;

(f) has been convicted and sentenced to a term of imprisonment without the option of a fine, except that the responsible Member of the Executive Council may, upon receipt of an affidavit disclosing full details of an offence by a person nominated for appointment, condone a conviction in a manner that is consistent with section 106(1)(e) of the Constitution: Provided that a disqualification in terms of this subsection ends five years after the sentence has been completed; and

(g) fails to disclose an interest in accordance with section 7 or attended or participated in the proceedings of the Board while having an interest contemplated in the said section.

Declaration of financial or other interests of a member of the Board

7.(1) A person who has been nominated to serve on the Board in terms of subsection 5(6) must, within 10 days of being nominated, submit a written declaration to the responsible Member of the Executive Council of all direct or indirect interests in any company or other business interests.

(2) Any failure by the nominee to disclose financial and other interests in terms of subsection (1) disqualifies such nominee in terms of section 6 to be considered for the position of the member of the Board.

(3) Every member of the Board must, upon assuming office and at the beginning of every financial year of the Agency, submit a written declaration of his or her direct or indirect interest in any company or other business interest in the manner provided for in section 234(3)(a) of the Companies Act, 1973 (Act No. 61 of 1973).

(4) Where a member of the Board acquires an interest in any company or any other business interest, at any time during his or her tenure as a member of the Board, he or she must, within 10 days of the date of the acquisition of such an interest, submit a written declaration to the responsible Member of the Executive Council of such an interest.

(5) Any failure on the part of the member to disclose his or her interest as contemplated in subsections (3) and (4) constitutes justifiable reason for the termination of appointment of such member in terms of section 9(2).

(6) The responsible Member of the Executive Council must keep an updated register of the interests of members of the Board disclosed in terms of this section.

Term of office and re-appointment of a member of the Board

8. The person appointed to the Board holds office for a period of five years or such shorter period as the responsible Member of the Executive Council may determine and is, subject to section 5, eligible for re-appointment at the expiry of such period: Provided that no person may be re-appointed after having served on the Board for a continuous period of ten years.

Vacancies, removal and resignation from office of a member of the Board

9. (1) A member of the Board must vacate office on becoming subject to a disqualification contemplated in section 6.

(2) The responsible Member of the Executive Council may, after having afforded a member the opportunity to state his or her case, at any time terminate the term of office of such member if, in his or her discretion, there are justifiable and cogent reasons for doing so.

(3) A member must vacate office if he or she is absent, without a leave of absence having first been granted by the Board, from two consecutive meetings of the Board for which reasonable notice was given to that member personally or by post.

(4) A member may resign from office in writing by giving not less than 30 days notice to the responsible Member of the Executive Council: Provided that the responsible Member of the Executive Council waives the notice period.

(5) Whenever a vacancy occurs on the Board, the responsible Member of the Executive Council must, subject to section 5, appoint a person to fill such vacancy for the unexpired portion of the period of office of the member in whose place such person is appointed.

(6) In the event that the responsible Member of the Executive Council exercises his or her powers in terms of subsection (2), he or she may, notwithstanding the procedure for the appointment of the members of the Board set out in section 5, but subject to sections 5(2) and 5(3), appoint persons to serve as members of the Board on an interim basis: Provided that –

- (a) the persons appointed in terms of this subsection may not remain on the Board for a period of more than 90 days from the date of their appointment; and
- (b) the responsible Member of the Executive Council must, subject to section 5, appoint the members of the Board within 90 days of the appointment contemplated in this subsection.

Temporary suspension of a member of the Board

10. The responsible Member of the Executive Council may suspend a member of the Board whilst the responsible Member of the Executive Council is investigating allegations which, if found to be correct, could result in the member's appointment being terminated in terms of section 9(2).

Meetings and procedures at meetings of the Board

11. (1) The first meeting of the Board must be held on a date and at a time and venue determined by the responsible Member of the Executive Council whereafter all future meetings must be as determined by the chairperson.

(2) The *quorum* for a meeting of the Board is the majority of the members of the Board.

(3) The proceedings at a meeting of the Board must, subject to the provisions of this section, be determined by the chairperson including the right to decide that any matter under discussion may be withdrawn before it is put to the vote.

(4) The chairperson must preside at all meetings of the Board. If the Chairperson is absent, the deputy chairperson must preside and in the event that neither the chairperson nor the deputy chairperson are present at a meeting of the Board, the

members then present may elect, from their own number, a person to act as chairperson for the duration of that particular meeting.

(5) A decision of the Board must be taken by a majority of the votes of the members present at a meeting and, in the event of an equality of votes on any matter; the chairperson has a casting vote in addition to his or her deliberative vote.

(6) The Board must keep minutes of its meetings.

(7) No decision of the Board is invalid merely by reason of a vacancy on the Board: Provided that the decision is taken by the required majority of the members of the Board then present and entitled to sit as members of the Board.

(8) The chairperson, or a majority of the members of the Board, may call an extraordinary meeting of the Board in which event the provisions of this section apply with the necessary changes.

(9) The Board may, in its discretion, allow members of the public to attend any meeting of the Board.

Recusal of a member from meetings and proceedings of the Board

12.(1) A member of the Board must recuse himself or herself from a matter being investigated, considered or voted upon by the Board if one or more of the following prevail –

- (a) if he or she has a direct or indirect interest; or
- (b) if there is a possibility that a direct or indirect interest might arise.

(2) If at any stage during the course of any proceedings before the Board it appears that a member who is present at that meeting has or may have an interest contemplated in subsection (1), such a member must forthwith disclose the nature of his or her interest and leave the meeting.

(3) Any disclosure made in terms of subsection (1) must be recorded in the minutes of the meeting in question.

(4) If it subsequently emerges that the Board took a decision on a matter in respect of which a member has failed to disclose an interest contemplated in subsection (1), such decision by the Board is invalid.

(5) For the purposes of this section “**indirect interest**” includes, but is not limited to, an interest held by any member’s –

- (a) business partner, associate or employer, other than the State;
- (b) spouse, partner in a customary marriage, or person with whom such member cohabits or lives as though they are married; or
- (c) child, parent or sibling.

Remuneration of members of the Board

13.(1)(a) A member of the Board may be paid from the funds of the Agency such remuneration and allowances as may be determined by the responsible Member of the Executive Council in consultation with the Member of the Executive Council responsible for finance; and

(b) a member of the Board who receives remuneration, allowances or other benefits by virtue of his or her post or employment in –

- (i) the national government;
- (ii) a provincial government;
- (iii) a municipality; or
- (iv) a corporation, body or institution in which the national or a provincial government has a controlling interest, and

who continues to receive such remuneration, allowances or other benefits while serving as a member of the Board, may only receive remuneration and allowances referred to in paragraph (a) to the extent required to place such member in the financial position in which he or she would have been were it not for such post or employment.

(2)(a) A member of the Board and a person who has been co-opted to the Board may, in respect of his or her functions as a member or co-opted member, receive reimbursement

from the funds of the Agency for reasonable actual subsistence and travelling expenses necessitated by the actual attendance of a meeting of the Board; and

(b) the Member of the Executive Council responsible for finance must determine procedures, including control measures, for the management, handling and processing of claims for subsistence and traveling expenses contemplated in paragraph (a).

Establishment of committees to assist the Board

14. (1) The Board may establish committees consisting of one or more of its members to

—

(a) assist the Board in the performance of any of the powers, duties or functions of the Agency contemplated in section 4; or

(b) enquire or conduct research into any matter falling within the mandate of the Board in terms of this Act.

(2) When establishing a committee contemplated in subsection (1), the Board must —

(a) determine the terms of reference of such committee including, but not limited to, whether or not such committee ceases to exist once it has completed the task or tasks allocated to it by the Board;

(b) appoint a chairperson of such committee who must be a member of the Board; and

(c) determine whether or not such committee may co-opt persons who are not members of the Board and, if so, on what terms and conditions.

(3) The Board may, at any time, terminate the existence of a committee or any mandate given to a committee, irrespective of whether or not such committee has completed the task or tasks allocated to it by the Board.

(4)(a) The Chief Executive Officer may attend and take part in, but may not vote, at a meeting of a committee; and

(b) a member of staff of the Board may, on invitation by the relevant committee, attend a meeting of that committee.

Co-opting of persons to the Board or committees of the Board

15. (1) The Board may, if it is of the opinion that a particular person is able to assist it in regard to any of its functions and powers, co-opt such person for that purpose.

(2) A person co-opted in terms of subsection (1) is not entitled to vote at any meeting of the Board or a committee.

(3) A person co-opted in terms of subsection (1) may be paid such remuneration and allowances out of the funds of the Agency as may be determined in terms of section 13(2)(a) by the Board in consultation with the Member of the Executive Council responsible for finance.

CHAPTER 4
CHIEF EXECUTIVE OFFICER AND STAFF OF THE AGENCY

Chief Executive Officer of the Agency

16. (1) The Board must, in consultation with the responsible Member of the Executive Council, appoint the Chief Executive Officer of the Agency.

(2)(a) The Chief Executive Officer is appointed for a period not exceeding five years; and
(b) the Chief Executive Officer may be re-appointed for one additional term of office not exceeding five years.

(3)(a) The appointment of the Chief Executive Officer is subject to the conclusion of a written performance agreement entered into between that person and the Board; and
(b) the Board and the Chief Executive Officer may, in writing and by agreement, amend the performance agreement.

(4) For purposes of the declaration of financial or other interests, the provisions of section 7 apply with the necessary changes to the Chief Executive Officer except that the Chief Executive Officer must declare his or her interests to the Board.

(5) The Chief Executive Officer is an *ex officio* member of the Board but does not have the right to vote at its meetings.

Functions of the Chief Executive Officer

17. (1) The Chief Executive Officer is responsible for –

- (a) the administrative and financial management of the Board in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999), and the direction of the Board;
- (b) the appointment of members of staff of the Agency contemplated in section 19(1) in consultation with the Board;
- (c) the determination in consultation with the Board of a code of conduct, applicable to the Chief Executive Officer, all staff of the Agency and justiciable for purposes of disciplinary proceedings, to ensure –
 - (i) compliance with applicable law, including this Act;
 - (ii) the effective, efficient and economical use of the Agency's funds and resources;
 - (iii) the promotion and maintenance of a high standard of professional ethics;
 - (iv) the prevention of conflicts of interest;
 - (v) the protection of confidential information held by the Agency; and
 - (vi) professional, honest, impartial, fair, ethical and equitable service;
- (d) the maintenance of discipline over the staff appointed in terms of paragraph (b) and must, for those purposes, be accountable to the Board;
- (e) the keeping and maintenance of the register of interests declared by member of staff of the Agency; and
- (f) ensuring compliance by the Board with the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999), and any other applicable legislation.

(2) If the Chief Executive Officer is for any reason unable to perform any of his or her functions, the Board must, in consultation with the responsible Member of the Executive Council, appoint another person as Acting Chief Executive Officer until the Chief Executive Officer is able to resume those functions.

Resignation and removal from office of the Chief Executive Officer

18. (1) The Chief Executive Officer vacates office –

- (a) in the case of resignation, when the resignation takes effect;
- (b) when, in terms of the Companies Act, 1973 (Act No. 61 of 1973), the person holding that office has become disqualified to serve as director of a company; and
- (c) upon having been removed from office in terms of subsection (2).

(2) The Board may, in consultation with the responsible Member of the Executive Council, terminate the Chief Executive Officer's employment in accordance with applicable employment and labour law.

Staff of the Agency

19.(1) The Chief Executive Officer must, subject to subsection (2), employ members of staff of the Agency as may be reasonably necessary –

- (a) to assist him or her in fulfilling his or her functions in terms of this Act; and
- (b) to assist the Board with the work incidental to the performance by the Board of its functions.

(2) The Board must, subject to section 24(4), determine a human resources policy for members of staff of the Agency, including the Chief Executive Officer.

(3) For purposes of the declaration of financial or other interests, and subject to section 17(1)(e), the provisions of section 7(3), 7(4) and 7(5) apply with the necessary changes to members of staff of the Agency.

(4) The Chief Executive Officer must keep an updated register of the interests of members of staff of the Agency disclosed in terms of subsection (3).

Secondment or transfer of staff to the Agency

20. The Agency may utilise the services of persons seconded or transferred from the public service in accordance with the provisions of the Public Service Act, 1994 (Proclamation No. 103 of 1994).

CHAPTER 5
DETERMINATION OF PROVINCIAL INVESTMENT AND EXPORT POLICY

Provincial Investment and Export Policy

21. The responsible Member of the Executive Council must, after consultation with the Board, develop a Provincial Investment and Export Policy.

Provincial Investment and Export Plan

22.(1) The Board must, within six months of the development of the Provincial Investment and Export Policy in terms of section 21, develop a Provincial Investment and Export Plan in order to achieve and give effect to the policies and objectives developed by the responsible Member of the Executive Council in terms of this Act.

(2) When performing its functions in terms of this Act, the Agency must give effect to the Provincial Investment and Export Plan.

Policy directives

23. The responsible Member of the Executive Council may –

- (a) set strategic guidelines for the pursuit of the Agency's objectives;
- (b) issue policy directives to the Board; and
- (c) withdraw or amend any policy directive issued in terms of paragraph (a).

CHAPTER 6 FUNDING AND FINANCIAL MANAGEMENT OF THE AGENCY

Funds of the Agency

24. (1) The funds of the Agency consist of –

- (a) money appropriated by the Provincial Legislature;
- (b) interest on investments of the Agency; and
- (c) income lawfully derived from any other source.

(2) The Agency must utilise its funds –

- (a) for the payment of remuneration, allowances and subsistence and travelling expenses of –
 - (i) the members of the Board;
 - (ii) the Chief Executive Officer; and
 - (iii) the members of staff of the Agency; and
- (b) to cover costs in connection with –
 - (i) the day to day operation and administration of the Agency; and
 - (ii) the performance of the duties and functions of the Agency and the exercise of its powers in terms of this Act.

(3) The Chief Executive Officer must, with the concurrence of the Board –

- (a) open an account in the name of the Agency with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990); and
- (b) deposit therein all money received in terms of subsection (1).

(4) The Board, in consultation with the responsible Member of the Executive Council, must determine –

- (a) the remuneration and conditions of service; and
- (b) the pension and retirement benefits,

of the Chief Executive Officer and the other members of staff of the Agency.

(5) The Agency may invest monies deposited into its account which are not required for immediate use: Provided that the Board takes reasonable steps to ensure that the investment is not of a speculative nature.

(6) The Agency may not borrow money or issue guarantees, indemnities or securities or enter into any other transactions that bind it unless such borrowing, guarantee, indemnity, security or other transaction is authorised in terms of this Act and not in conflict with the Public Finance Management Act, 1999 (Act No. 1 of 1999).

Financial management

25.(1) The Chief Executive Officer must cause full and proper books of account and all the necessary records in relation thereto to be kept.

(2) The Chief Executive Officer must ensure that the Agency's annual budgets, corporate plans, annual reports and audited financial statements are prepared and submitted in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(3) The Chief Executive Officer must, within three months before the end of each financial year, submit to the Board for approval –

(a) a business plan for the Agency, containing measurable objectives and the other information contemplated in section 26(3)(b) and (c); and

(b) a statement of the estimated income and expenditure of the Agency,

in respect of the following three financial years.

(4) In any financial year the Chief Executive Officer may submit to the Board for approval adjusted or supplementary statements of the estimated income and expenditure of the Agency for that financial year.

(5) The Agency may not enter into any financial commitment beyond its approved budget and its accumulated reserves.

(6) The Chief Executive Officer may with the approval of the Board –

(a) invest any unexpended portion of its funds with the Corporation for Public Deposits or any other institution categorised or listed from time to time by the National Treasury as a Category "A1" financial institution; or

(b) dispose of that portion in any other manner.

(7) The Chief Executive Officer may, with the approval of the Board, establish reserve funds and deposit therein such amounts as the Board approves.

Audit and annual report

26. (1) The Auditor-General must audit the financial statements of the Agency.

(2)(a) The Board must table a report on the activities of the Agency during a financial year in the Provincial Legislature within five months after the end of that financial year; and

(b) within five months after the report has been tabled, a delegation consisting of the chairperson of the Board and at least two other members of the Board must brief the relevant Portfolio Committee on the annual report.

(3) The report must –

(a) include a balance sheet and a statement of income and expenditure certified by the Auditor-General;

(b) state the extent to which the Agency has achieved or advanced its objects referred to in section 3 and the measurable objectives as set out in its business plan as contemplated in section 25(3)(a) during the financial year concerned; and

(c) contain relevant performance information regarding the economic, efficient and effective application of resources and specifically a comparison between planned and actual performance indicators as set out in that business plan.

Establishment and administration of special funds

27.(a) The Agency may, in consultation with the responsible Member of the Executive Council, establish and maintain special funds, including a fund for the bringing into the mainstream of import and export the previously disadvantaged groups; and

(b) the Agency must administer such funds in the manner determined by the responsible Member of the Executive Council.

Financial year of the Agency

28. The financial year of the Agency commences on 1 April of a particular year and ends on 31 March of the following year.

Immovable property

29. The Agency may, in terms of a policy and procedures determined by the Board and with the approval of the responsible Member of the Executive Council, acquire, hold or dispose of immovable property in the course of its business.

Legal proceedings against the Agency

30.(1) Any legal proceedings against the Agency must be instituted in accordance with the Institution of Legal Proceedings against certain Organs of State Act, 2002 (Act No. 40 of 2002).

(2) The Agency is, for purposes of subsection (1), regarded as an organ of state contemplated in paragraph (c) of the definition thereof in section 1 of the said Act.

CHAPTER 7 GENERAL PROVISIONS

Security of confidential information held by the Agency

31.(1) Subject to the Constitution, the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), no person may disclose any information submitted to the Agency in connection with any legal brief or instruction, unless –

- (a) he or she is ordered to do so by a court of law; or
- (b) the person who gave such brief or instruction consents thereto in writing.

(2) No person may disclose any information kept in the registers contemplated in sections 7, 16(4) and 19(4) unless such disclosure is –

- (a) in terms of any law that compels or authorises such disclosure;

- (b) materially necessary for the proper functioning of the Agency; or
- (c) made for purposes of monitoring, evaluating, investigating or considering any activity relating to the Agency, or any member of staff of the Agency.

(3) Any person who contravenes subsection (1) or (2) is guilty of an offence.

Dissolution of the Agency

32. The Agency may only be dissolved in terms of an Act of the Provincial Legislature.

Use of name of the Agency

33.(1) No person may, without the prior written authorisation of the Agency, in any way represent or make use of the name, acronym, logos, designs or material used or owned by the Agency.

(2) No person may falsely claim to be acting on behalf of the Agency.

(3) Any person who contravenes subsection (1) or (2) is guilty of an offence.

Delegations

34. (1) The responsible Member of the Executive Council may delegate to the Board –

- (a) any power conferred on the responsible Member of the Executive Council by this Act, except the power to make regulations referred to in section 35; or
- (b) any duty imposed on the responsible Member of the Executive Council by this Act, except any duty regarding the appointment, and termination of office, of the members of the Board contemplated in sections 5(2) and 9(2).

(2) The Board may, by a special resolution, delegate to the Chief Executive Officer or member of staff of the Agency, any power or duty conferred or imposed on the Board by this Act.

(3) The Chief Executive Officer may delegate to any member of staff of the Agency any power or duty conferred or imposed on the Chief Executive Officer by this Act, except any duty as accounting officer of the Agency.

(4) Any power or duty delegated in terms of subsection (1), (2) or (3) must be exercised or performed subject to such conditions as the person or body that made the delegation considers necessary.

(5) Any delegation referred to in subsection (1), (2) or (3) –

- (a) must be in writing;
- (b) does not prohibit the person or body that made the delegation from exercising that power or performing that duty; and
- (c) may at any time be withdrawn or amended in writing by that person or body.

Regulations

35. The responsible Member of the Executive Council may, in consultation with the Board and by notice in the *Gazette*, make regulations regarding –

- (a) any matter that may be prescribed in terms of this Act; or
- (b) any administrative or procedural matter necessary to give effect to the provisions of this Act.

Winding-up of Company and transitional provisions incidental thereto

36.(1)(a) The Company, Trade and Investment KwaZulu-Natal, bearing Company Registration Number 98/11946/08, established in terms of the Companies Act, 1973 (Act No. 61 of 1973), must be voluntarily wound up and deregistered; and

(b) the members of the Company must, in winding-up the Company referred to in subsection (1), act with due speed and diligence and must, amongst other things, comply with sections 349 and 350 of the Companies Act, 1973 (Act No. 61 of 1973).

(2) On the date of the winding-up of the Company contemplated in subsection (1), all assets, liabilities, rights, duties and obligations, including any unspent portion of any funds accrued or received by the Company are transferred to, and vest in, Trade and Investment KwaZulu-Natal established in terms of section 2.

(3) Trade and Investment KwaZulu-Natal is, in respect of the assets, liabilities, rights, duties and obligations and funds referred to in subsection (2), for all purposes the successor in law of, and the successor in title to, the Company.

(4) The members of the Board of the Company must act as duly authorised and empowered members of the Board of the Agency until such time as the responsible Member of the Executive Council has in terms of section 5(2) appointed the Board in terms of this Act.

(5) All members of staff of the Company must, within six months of the commencement of this Act, be made an employment offer by the responsible Member of the Executive Council for transfer to the Agency on a date determined by the responsible Member of the Executive Council.

(6) The remuneration, benefits and privileges offered by the responsible Member of the Executive Council, in accordance with subsection (5), may not be less than those payable to the member of staff by the Company, immediately prior to his or her transfer.

(7) For the purposes of the Income Tax Act, 1962 (Act No. 58 of 1962), no change of employer is deemed to have taken place in respect of a member of staff who accepts an employment offer contemplated in subsection (5).

(8) When a person becomes a member of staff of the Agency in terms of subsection (5)

—

(a) he or she retains all vacation leave which accrued to his or her credit up to the date immediately before the date of transfer, adjusted in accordance with the conditions of employment of the Agency; and

(b) any inquiry instituted or intended to be instituted in respect of alleged misconduct committed by such person before the date of transfer must be disposed of or instituted by the Agency and the Agency must take appropriate steps against the person concerned in accordance with the laws, policy and conditions of employment or service applicable to him or her immediately prior to the date of transfer.

General offences

37. (1) A member of the Board, a member of staff, an advisor, agent or any other person employed or acting on behalf of the Agency is guilty of an offence if he or she directly or indirectly accepts any bribe and or receives any unauthorised fee or reward from any person in connection with anything done or offered by the Agency.

(2) Any person is guilty of an offence if he or she, in respect of or in connection with anything done or offered by the Agency, induces or attempts to influence a member of the Board, a member of staff, an advisor, agent or any other person employed by, or acting on behalf of the Agency to commit a criminal offence.

(3) Any person who falsely claims that he or she is authorised to charge or collect fees, donations or contributions on behalf of, or by direction of the Agency is guilty of an offence.

Penalties

38. Any person convicted of an offence in terms of this Act is liable to a fine or to imprisonment for a period not exceeding 5 years or to both such fine and imprisonment.

Short title

39. This Act is called the KwaZulu-Natal Trade and Investment Agency Act, 2010.

No. 7

21 Oktober 2010

[Engelse teks deur die Premier geteken]

**KWAZULU-NATAL WET OP ~~OM~~ HANDELS- EN
BELEGGINGSAGENTSAP, ~~2010~~ 2010
(No. 05 van 2010)**

Goedgekeur op 09-09-2010

WET

Om voorsiening te maak vir die instelling van 'n ekonomiese ontwikkelingsagentskap wat bekend staan as Handel en Belegging KwaZulu-Natal ten einde buitelandse en binnelandse beleggings te lok en om uitvoere en uitvoerkapasiteit in die provinsie te genereer; om die oogmerke, bevoegdhede, pligte en funksies van die Agentskap te bepaal; om die wyse waarop die Agentskap bestuur, beheer, beman en gefinansier word, te bepaal; om voorsiening te maak vir die formulering van 'n Provinsiale Beleggings- en Uitvoerbeleid; en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

DAAR WORD soos volg deur die Provinsiale Wetgewer van die provinsie KwaZulu-Natal bepaal:-

INDELING VAN ARTIKELS

Artikel

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1. Omskrywings

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2. Instelling van die Handel en Belegging KwaZulu-Natal
3. Oogmerke van die Agentskap
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HOOFSUK 3 DIE AGENTSKAPSRAAD

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6. Onbevoegdheid vir aanstelling op die Raad
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8. Ampstermyn en heraanstelling van lid van die Raad
9. Vakatures, ontslag en bedanking uit amp van lede van die Raad
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13. Vergoeding van lede van die Raad
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- #### HOOFSUK 4 HOOF- UITVOERENDE BEAMPTTE EN PERSONEEL VAN DIE AGENTSKAP
16. Hoof- Uitvoerende Beampte van die Agentskap
 17. Funksies van die Hoof- Uitvoerende Beampte
 18. Bedanking en ontslag uit amp van die Hoof- Uitvoerende Beampte
 19. Personeel van die Agentskap

20. Sekondering of oorplasing van personeel na die Agentskap

HOOFSTUK 5

BEPALING VAN PROVINSIALE BELEGGINGS- EN UITVOERBELEID

21. Provinsiale Beleggings- en Uitvoerbeleid

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37. Algemene oortredings

38. Strawwe

39. Kort titel

HOOFSUK 1

OMSKRYWINGS

Omskrywings

1. In hierdie Wet, tensy uit die konteks anders blyk, beteken –

"Agentskap" Handel en Belegging KwaZulu-Natal ingestel ingevolge artikel 2;

"beslote korporasie" 'n korporasie soos omskryf in artikel 1(1) van die Wet op Beslote Korporasies, 1984 (Wet No. 69 van 1984);

"Departement" die Departement van Ekonomiese Ontwikkeling en Toerisme in die provinsie KwaZulu-Natal;

"georganiseerde plaaslike regering" die provinsiale organisasie wat munisipaliteite in KwaZulu-Natal verteenwoordig, erken ingevolge artikel 163 van die Grondwet en artikel 2 van die Wet op Georganiseerde Plaaslike Regering, 1997 (Wet No. 52 van 1997);

"Grondwet" die Grondwet van die Republiek van Suid-Afrika, 1996;

"hierdie Wet" insluitende die regulasies;

"Hoof- Uitvoerende Beampte" die Hoof- Uitvoerende Beampte van die Agentskap, aangestel ingevolge artikel 16;

"Hoof van Departement" die persoon aangestel as hoof van die departement ingevolge die Staatsdienswet, soos gewysig;

"Koerant" die amptelike *Provinsiale Koerant* van KwaZulu-Natal;

"lid" 'n lid van die Agentskapsraad aangestel ingevolge artikel 5;

"lid van die Uitvoerende Raad verantwoordelik vir finansies" die lid van die Uitvoerende Raad van die provinsie KwaZulu-Natal verantwoordelik vir finansies;

"Maatskappy" die assosiasie wat ingelyf is ingevolge artikel 21 van die Maatskappywet, 1973 (Wet No. 61 van 1973), met Maatskappyregistrasienommer 98/11946/08, en bekend as Handel en Belegging KwaZulu-Natal;

"Nasionale Tesourie" die Nasionale Tesourie ingestel deur artikel 5 van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999);

"Portefeuljekomitee" die Portefeuljekomitee van die Provinsiale Wetgewer verantwoordelik vir ekonomiese ontwikkeling en toerisme;

"provinsie" die provinsie KwaZulu-Natal bedoel in artikel 103 van die Grondwet en **"provinsiale"** het 'n ooreenstemmende betekenis;

"Raad" die Agentskapsraad aangestel ingevolge artikel 5;

"regulasies" regulasies wat uitgevaardig is ingevolge artikel 35;

"Uitvoerende Raad" die Uitvoerende Raad van die provinsie KwaZulu-Natal bedoel in artikel 132 van die Grondwet; en

"verantwoordelike lid van die Uitvoerende Raad" die lid van die Uitvoerende Raad van die provinsie KwaZulu-Natal verantwoordelik vir ekonomiese ontwikkeling en toerisme of enige ander lid van die Uitvoerende Raad wat deur die Premier toegewys is.

HOOFSUK 2

HANDEL EN BELEGGING KWAZULU-NATAL

Instelling van die Handel en Belegging KwaZulu-Natal

2.(1) Daar word hiermee 'n agentskap ingestel vir die bevordering van handel en belegging in die provinsie wat bekend staan as Handel en Belegging KwaZulu-Natal.

- (2) Die Agentskap is 'n regspersoon wat deur die Raad werk.
- (3) Die Agentskap is 'n provinsiale openbare entiteit onderhewig aan die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).
- (4) Die Raad is die rekeningpligtige gesag van die Agentskap, soos bedoel in artikel 49(2)(a) van die Wet op Openbare Finansiële Bestuur.

Oogmerke van die Agentskap

3. Die oogmerke van die Agentskap is –

- (a) om buitelandse en binnelandse beleggings te lok;
- (b) om uitvoere en uitvoerkapasiteit te genereer; en
- (c) om die bevoegdhede, pligte en funksies gespesifiseer in artikel 4 te verrig.

Bevoegdhede, pligte en funksies van die Agentskap

4.(1) Die Agentskap moet –

- (a) beleggingsgeleenthede in die provinsie vir internasionale en binnelandse beleggers identifiseer, ontwikkel, bemark en bevorder;
- (b) die uitvoerkapasiteit van die provinsie ontwikkel;
- (c) die uitvoermark van die provinsie ontwikkel;
- (d) handel en belegging binne die provinsie bevorder;
- (e) 'n provinsiale beleggings- en uitvoerplan vir die ontwikkeling, bevordering en bemarking van belegging in en uitvoere van die provinsie ontwikkel; en
- (f) 'n databasis van beleggingsgeleenthede binne die provinsie op so 'n wyse hou en byhou dat alle sektore van die ekonomie daarby baat vind.

(2) Die Agentskap kan –

- (a) vir die doeleindes van ontwikkeling, bevordering, en bemarking van belegging in en die uitvoerkapasiteit van die provinsie, en onderhewig aan die vooraf skriftelike goedkeuring van die verantwoordelike lid van die Uitvoerende Raad en artikel 54(2) van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999) –

- (i) een of meer maatskappye, beslote korporasies of ander soortgelyke liggame stig en bedryf, en enige belang of aandele in sodanige maatskappy, beslote korporasie of ander sodanige soortgelyke liggaam koop of verkoop;
 - (ii) gesamentlike ondernemings met ander instellings, organisasies, munisipaliteite, liggame of persone aangaan;
 - (iii) vennote of aandeelhouders in maatskappye, beslote korporasies of ander liggame word en om alles of deel van sodanige aandele of belange te verkoop; en
 - (iv) genoeg fondse insamel deur middel van donasies en borgskappe;
- (b) met enige ander entiteit, staatsorgaan, organisasie of instelling skakel wie se aktiwiteite of doelstellings 'n impak het op of verband hou met die ontwikkeling, bevordering of bemaking van belegging in die provinsie;
- (c) deur die verantwoordelike lid van die Uitvoerende Raad ondersoek instel en aanbevelings maak aan die Uitvoerende Raad, aangaande enige saak wat direk of indirek verband hou met die bevordering, ontwikkeling of bemaking van belegging in die provinsie;
- (d) ooreenkomste sluit vir die bereiking van sy oogmerke, die uitoefening van sy bevoegdhede, pligte en funksies of die bestuur en administrasie van sy sake of spesifiek in hierdie artikel daarvoor voorsiening gemaak is of nie; en
- (e) enige ander ding doen of aan enige ander saak aandag skenk wat die verantwoordelike lid van die Uitvoerende Raad nodig ag vir die behoorlike implementering van hierdie Wet.

(3) Buiten die bevoegdhede vermeld in subartikel (2), het die Agentskap die bevoegdhede vermeld in artikel 34 van, en bylae 2 tot, die Maatskappywet, 1973 (Wet No. 61 van 1973).

HOOFSTUK 3

DIE AGENTSKAPSRAAD

Samestelling van die Raad

5.(1) Die Raad bestaan uit –

- (a) ten minste vyf, maar nie meer as 20, lede aangestel deur die verantwoordelike lid van die Uitvoerende Raad; en
- (b) die Hoof- Uitvoerende Beampte, *ex officio*, soos bedoel in artikel 16(5).

(2) Lede van die Raad moet gepaste en geskikte persone wees om die beste belange van die provinsie te dien, en gesamentlik oor die volgende beskik –

- (a) toepaslike kennis of ondervinding in georganiseerde kiesafdelings binne die besigheidsbedryf; en
- (b) die volgende vaardighede en kundigheid:
 - (i) regsvaardighede, -ondervinding en -kwalifikasies;
 - (ii) finansiële vaardighede, ondervinding en kwalifikasies;
 - (iii) ondervinding of kwalifikasies in belegging en uitvoere;
 - (iv) ondervinding of kwalifikasies in die arbeidsmark;
 - (v) ondervinding of kwalifikasies in menslike hulpbronne of opvoedkunde;
 - (vi) gemeenskapsontwikkelingsvaardighede en -ondervinding; en
 - (vii) vaardighede en ondervinding in beplanning of ontwikkeling.

(3) By aanstelling van lede op die Raad, moet die verantwoordelike lid van die Uitvoerende Raad verseker dat –

- (a) historiese ongelykhede aangespreek word;
- (b) die Raad gesamentlik oor die nodige en toepaslike vaardighede en kundigheid beskik;
- (c) die Raad verteenwoordigend is van persone wat in diens of betrokke is by die invoer-, uitvoer-, handel- en beleggingsbesigheidsondernemings in die provinsie;
- (d) munisipale belange op die Raad verteenwoordig is op sodanige wyse dat billike ruimtelike verteenwoordiging van munisipaliteite bereik word: Met dien verstande dat nie meer as vier persone op die Raad aangestel mag word om uitvoering te gee aan die bepalings van hierdie paragraaf nie; en
- (e) georganiseerde plaaslike regering op die Raad verteenwoordig word.

(4) Die verantwoordelike lid van die Uitvoerende Raad moet –

- (a) een van die lede van die Raad as die voorsitter van die Raad aanwys; en
- (b) een van die lede van die Raad as die adjunkvoorsitter van die Raad aanwys.

(5) Die verantwoordelike lid van die Uitvoerende Raad kan 'n werknemer van die Departement as sy of haar verteenwoordiger aanstel wat –

(a) skakeling tussen die verantwoordelike lid van die Uitvoerende Raad en die Raad moet vergemaklik;

(b) van tyd tot tyd aan die verantwoordelike lid van die Uitvoerende Raad verslag moet doen aangaande aangeleenthede wat as tersaaklik beskou word; en

(c) vergaderings van die Raad mag bywoon en aan besprekings deelneem, maar nie die reg het om te stem wanneer 'n raadsbesluit geneem word nie.

(6) Die verantwoordelike lid van die Uitvoerende Raad moet, deur kennisgewing in die *Koerant*, enige belanghebbendes binne die provinsie uitnooi om kandidate te benoem vir aanstelling op die Raad.

(7) Die uitnodiging om benoemings moet die –

(i) benoemingsprosedure;

(ii) vereistes vir benoeming; en

(iii) sluitingsdatum vir benoeming,

spesifiseer.

(8) Die verantwoordelike lid van die Uitvoerende Raad moet alle benoemings wat ingedien word in reaksie op die kennisgewing oorweeg, en 'n keurpaneel aanstel bestaande uit die senior departementele beamptes om al die benoemings te oorweeg en aanbevelings aangaande die benoemdes aan die verantwoordelike lid van die Uitvoerende Raad te maak.

(9) Die verantwoordelike lid van die Uitvoerende Raad moet die name van die persone wat op die Raad aangestel word, in die *Koerant* laat publiseer en in ten minste twee koerante met wye sirkulasie in die Provinsie, onmiddellik nadat sodanige persone skriftelik in kennis gestel is van hul aanstelling op die Raad.

(10) Die verantwoordelike lid van die Uitvoerende Raad moet, binne twee maande na die aanstelling van lede van die Raad ingevolge subartikel (1), die Uitvoerende Raad en die Portefeuljekomitee inlig oor die name van die aangestelde lede insluitend hul aanstellingstermyn.

(11) Hierdie artikel is, met die nodige veranderings, van toepassing op die vul van 'n vakature op die Raad.

Onbevoegdheid vir aanstelling op die Raad

6. 'n Persoon is onbevoeg vir aanstelling op die Raad of om op die Raad te bly dien, op grond van die feit dat hy of sy –

- (a) 'n ongerehabiliteerde insolvent is of word;
- (b) deur 'n bevoegde hof as ontoerekeningsvatbaar verklaar is of word;
- (c) direk of indirek belang het in enige kontrak met die Agentskap en versuim om sy of haar belang en die aard daarvan te verklaar op die wyse wat deur hierdie Wet vereis word;
- (d) onder kuratorskap is;
- (e) te eniger tyd uit 'n vertrouensamp ontslaan is as gevolg van wangedrag wat diefstal of bedrog insluit;
- (f) skuldig bevind is en gevonnissen is tot 'n termyn van gevangenisstraf sonder keuse van 'n boete, behalwe dat die verantwoordelike lid van die Uitvoerende Raad, by die openbaarmaking van volle besonderhede van 'n misdryf in 'n beëdigde verklaring van 'n persoon wat vir aanstelling benoem is, 'n skuldigbevinding kan oorsien op 'n wyse wat konsekwent is met artikel 106(1)(e) van die Grondwet: Met dien verstande dat onbevoegdheid ingevolge hierdie subartikel eindig vyf jaar nadat die vonnis uitgedien is; en
- (g) versuim om 'n belang in ooreenstemming met artikel 7 te verklaar of die verrigtinge van die Raad bygewoon het of daaraan deelgeneem het terwyl hy of sy 'n belang het soos bedoel in die vermelde artikel.

Verklaring van finansiële of ander belange van lede van die Raad

7.(1) 'n Persoon wat benoem is om op die Raad te dien ingevolge subartikel 5(6) moet, binne 10 dae na benoeming, 'n skriftelike verklaring aan die verantwoordelike lid van die Uitvoerende Raad voorlê van alle direkte of indirekte belange in enige maatskappy of ander besigheidsbelange.

(2) Enige versuim deur die benoemde om finansiële en ander belange ingevolge subartikel (1) te verklaar, diskwalifiseer sodanige benoemde ingevolge artikel 6 om oorweeg te word vir die posisie as lid van die Raad.

(3) Elke lid van die Raad moet, by aanvaarding van die amp en aan die begin van elke finansiële jaar van die Agentskap, 'n skriftelike verklaring van sy of haar direkte of indirekte belang in enige maatskappy of ander besigheidsbelang voorlê op die wyse waarvoor in artikel 234(3)(a) van die Maatskappywet, 1973 (Wet No. 61 van 1973) voorsiening gemaak word.

(4) Waar 'n lid van die Raad 'n belang in enige maatskappy of ander besigheidsbelange verkry te eniger tyd gedurende sy of haar dienstyl as 'n lid van die Raad moet hy of sy binne 10 dae na die datum van die verkryging van sodanige belang, 'n skriftelike verklaring van sodanige belang aan die verantwoordelike lid van die Uitvoerende Raad voorlê.

(5) Enige versuim deur die lid om sy of haar belang te verklaar soos bedoel in subartikels (3) en (4) moet lei tot beëindiging van aanstelling van sodanige lid ingevolge artikel 10(2).

(6) Die verantwoordelike lid van die Uitvoerende Raad moet 'n opgedateerde register hou van die belange van lede van die Raad wat ingevolge hierdie artikel verklaar is.

Ampstermyn en heraanstelling van 'n lid van die Raad

8. Die ampstermyn van 'n persoon wat op die Raad aangestel is, duur 'n tydperk van vyf jaar of sodanige korter tydperk soos die verantwoordelike lid van die Uitvoerende Raad mag bepaal en is, onderhewig aan artikel 5, verkiesbaar vir heraanstelling by die verstryking van sodanige tydperk: Met dien verstande dat geen persoon heraanstelling mag word nadat hy of sy op die Raad gedien het vir 'n aaneenlopende tydperk van tien jaar nie.

Vakatures, ontslag en bedanking uit amp van 'n lid van die Raad

9.(1) 'n Lid van die Raad moet die amp verlaat indien hy of sy onbevoeg raak soos bedoel in artikel 6.

(2) Die verantwoordelike lid van die Uitvoerende Raad kan, nadat die lid 'n geleentheid gebied is om sy of haar saak te stel, te eniger tyd die ampstermyn van sodanige lid beëindig, indien volgens sy of haar diskresie, daar goeie redes daarvoor is.

(3) 'n Lid moet sy of haar amp verlaat indien hy of sy afwesig is, sonder dat verlof vir sodanige afwesigheid deur die Raad toegestaan is, van twee opeenvolgende vergaderings van die Raad waarvoor redelike kennis persoonlik of per pos aan daardie lid gegee is.

(4) 'n Lid kan skriftelik uit die amp bedank deur nie minder nie as 30 dae kennis aan die verantwoordelike lid van die Uitvoerende Raad te gee: Met dien verstande dat die verantwoordelike lid van die Uitvoerende Raad die kennisgewingtydperk laat vaar.

(5) Wanneer 'n vakature op die Raad ontstaan, moet die verantwoordelike lid van die Uitvoerende Raad, onderhewig aan artikel 5, 'n persoon aanstel om sodanige vakature te vul vir die onverstreke deel van die ampstydperk van die lid in wie se plek sodanige persoon aangestel is.

(6) In die geval dat die verantwoordelike lid van die Uitvoerende Raad sy of haar bevoegdhede ingevolge subartikel (2) uitoefen, kan hy of sy, niesteenstaande die prosedure vir die aanstelling van die lede van die Raad soos in artikel 5 uiteengesit, onderhewig aan subartikels 5(2) en 5(3) persone aanstel om op 'n voorlopige grondslag te dien as lede van die Raad: Met dien verstande dat –

- (a) die persone aangestel ingevolge hierdie subartikel nie op die Raad mag aanbly vir 'n tydperk van meer as 00 dae na die datum van hul aanstelling nie; en
- (b) die verantwoordelike lid van die Uitvoerende Raad, onderhewig aan artikel 5, die lede van die Raad aanstel binne 00 dae na die aanstelling bedoel in hierdie subartikel.

Tydelik skorsing van 'n lid van die Raad

10. Die verantwoordelike lid van die Uitvoerende Raad kan 'n lid van die Raad skors terwyl die verantwoordelike lid van die Uitvoerende Raad bewerings ondersoek wat, indien daar gevind word dat dit korrek is, kan lei tot beëindiging van die lid se aanstelling ingevolge artikel 9(2).

Vergaderings en vergaderingsprosedures van die Raad

11.(1) Die eerste vergadering van die Raad moet gehou word op 'n datum, tyd en plek soos deur die verantwoordelike lid van die Uitvoerende Raad bepaal waarna alle toekomstige vergaderings moet plaasvind soos deur die voorsitter bepaal.

(2) Die kworum vir 'n vergadering van die Raad is die meerderheid van die lede van die Raad.

(3) Die verrigtinge by 'n vergadering van die Raad moet, onderhewig aan die bepalings van hierdie artikel, deur die voorsitter bepaal word insluitend die reg om te besluit dat enige aangeleentheid onder bespreking onttrek kan word voordat daaroor gestem word.

(4) Die voorsitter moet by alle vergaderings van die Raad voorsit. Indien die voorsitter afwesig is, moet die adjunkvoorsitter as voorsitter optree en indien beide die voorsitter en die adjunkvoorsitter by 'n vergadering van die Raad afwesig is, kan die lede teenwoordig, uit hul eie geledere, 'n persoon verkies om as voorsitter op te tree vir die duur van daardie spesifieke vergadering.

(5) 'n Besluit van die Raad moet geneem word deur 'n meerderheid van die stemme van die lede wat by 'n vergadering teenwoordig is en, in die geval van 'n staking van stemme oor enige aangeleentheid, het die voorsitter 'n beslissende stem buiten sy of haar gewone stem.

(6) Die Raad moet notules van sy vergaderings hou.

(7) Geen besluit van die Raad is ongeldig slegs op grond van 'n vakature in die Raad nie: Met dien verstande dat die besluit geneem word deur die vereiste meerderheid van die lede van die Raad daar teenwoordig en geregtig daarop om as lede van die Raad te sit.

(8) Die voorsitter, of 'n meerderheid van die lede van die Raad, kan 'n buitengewone vergadering van die Raad roep in welke geval die bepalings van hierdie artikel, met die nodige veranderings, van toepassing is.

(9) Die Raad kan, volgens sy diskresie, lede van die publiek toelaat om enige vergadering van die Raad by te woon.

Onttrekking van 'n lid van vergaderings en verrigtinge van die Raad

12.(1) 'n Lid van die Raad moet hom- of haarself van 'n saak onttrek wat deur die Raad ondersoek, oorweeg of oor gestem word indien een of meer van die volgende geld –

- (a) indien hy of sy 'n direkte of indirekte belang het; of
- (b) indien daar 'n moontlikheid bestaan dat 'n direkte of indirekte belang mag ontstaan.

(2) Indien dit in enige stadium gedurende die loop van enige verrigtinge voor die Raad blyk dat 'n lid wat by daardie vergadering teenwoordig is, of 'n belang kan hê bedoel in subartikel (1), moet sodanige lid onverwyld die aard van sy of haar belang verklaar en die vergadering verlaat.

(3) Enige verklaring van belang wat ingevolge subartikel (1) gemaak is, moet opgeteken word in die notule van die betrokke vergadering.

(4) Indien dit daarna blyk dat die Raad 'n besluit geneem het oor 'n saak ten opsigte waarvan 'n lid versuim het om 'n belang bedoel in subartikel (1) te verklaar, is sodanige besluit deur die Raad ongeldig.

(5) Vir die doeleindes van hierdie artikel sluit "**indirekte belang**" in, maar is nie beperk nie tot, 'n belang wat gehou word deur enige lid se –

- (a) besigheidsvennoot, kollega of werkgewer, buiten die Staat;
- (b) eggenoot, deelgenoot in 'n gewoontehuwelik, of persoon saam met wie sodanige lid bly of leef asof hul getroud is; of
- (c) kind, ouer, of broer of suster.

Vergoeding van lede van die Raad

13.(1)(a) 'n Lid van die Raad kan uit die fondse van die Agentskap sodanige vergoeding en toelae betaal word soos bepaal deur die verantwoordelike lid van die Uitvoerende Raad in oorleg met die lid van die Uitvoerende Raad verantwoordelik vir finansies; en
(b) 'n Lid van die Raad wat vergoeding, toelae of ander voordele ontvang uit hoofde van sy of haar pos of diens in –

- (i) die nasionale regering;
- (ii) 'n provinsiale regering;
- (iii) 'n munisipaliteit; of
- (iv) 'n korporasie, liggaam of instelling waarin die nasionale of 'n provinsiale regering 'n beherende belang het, en

wat voortgaan om sodanige vergoeding, toelaes of ander voordele te ontvang terwyl hy of sy as 'n lid van die Raad dien, mag slegs vergoeding en toelae ontvang soos vermeld in paragraaf (a) tot die omvang wat vereis word om sodanige lid in die finansiële posisie te plaas waarin hy of sy sou gewees het indien dit nie vir sodanige pos of diens was nie.

(2)(a) 'n Lid van die Raad en 'n persoon wat aan die Raad gekoöpteer is, kan met betrekking tot sy of haar funksies as 'n lid of gekoöpteerde lid, vergoeding ontvang uit die fondse van die Agentskap vir redelike werklike reis- en verblyfkoste genoodsaak deur die werklike bywoning van 'n vergadering van die Raad; en

(b) Die lid van die Uitvoerende Raad verantwoordelik vir finansies moet prosedures, insluitende beheermaatreëls, bepaal vir die bestuur, hantering en verwerking van eise vir reis- en verblyfkoste bedoel in paragraaf (a).

Instelling van komitees om die Raad by te staan

14.(1) Die Raad kan komitees instel wat uit een of meer van sy lede bestaan om –

- (a) die Raad by te staan in die uitvoering van enige van die bevoegdhede, pligte of funksies van die Agentskap bedoel in artikel 4; of
- (b) ondersoek in te stel of navorsing te doen oor enige saak wat binne die mandaat van die Raad ingevolge hierdie Wet val.

(2) Wanneer 'n komitee bedoel in subartikel (1) ingestel word, moet die Raad –

- (a) die opdrag van sodanige komitee bepaal, insluitend maar nie beperk nie tot, of sodanige komitee ophou voortbestaan of nie wanneer dit die taak of take voltooi het wat deur die Raad daaraan toegewys is;
- (b) 'n voorsitter van sodanige komitee aanstel wat 'n lid van die Raad moet wees; en
- (c) bepaal of sodanige komitee persone mag koöpteer wat nie lede van die Raad is nie, en indien wel, op watter terme en voorwaardes.

(3) Die Raad kan, te eniger tyd, die bestaan van 'n komitee of enige mandaat wat aan 'n komitee gegee is, beëindig, ongeag of sodanige komitee die taak of take voltooi het wat daaraan deur die Raad toegewys is.

(4)(a) Die Hoof- Uitvoerende Beampte mag vergaderings van die Raad bywoon en daaraan deelneem, maar het nie die reg om te stem nie; en

(b) 'n Personeellid van die Raad mag, op uitnodiging deur die tersaaklike komitee, 'n vergadering van daardie komitee bywoon.

Koöptering van persone aan die Raad of komitees van die Raad

15.(1) Die Raad mag, indien hy van mening is dat 'n spesifieke persoon in staat is om hom by te staan met betrekking tot enige van sy funksies en bevoegdhede, sodanige persoon vir daardie doel koöpteer.

(2) 'n Persoon wat gekoöpteer is ingevolge subartikel (1) is nie geregtig daarop om te stem by enige vergadering van die Raad of 'n komitee nie.

(3) 'n Persoon wat gekoöpteer is ingevolge subartikel (1) moet sodanige vergoeding en toelae uit die fondse van die Agentskap ontvang soos deur die Raad bepaal

ooreenkomstig artikel 13(2)(a), in oorleg met die lid van die Uitvoerende Raad verantwoordelik vir finansies.

HOOFSTUK 4

HOOF- UITVOERENDE BEAMPTTE EN PERSONEEL VAN DIE AGENTSKAP

Hoof- Uitvoerende Beampte van die Agentskap

16.(1) Die Raad moet, in oorleg met die verantwoordelike Lid van die Uitvoerende Raad, die Hoof- Uitvoerende Beampte van die Agentskap aanstel.

(2)(a) Die Hoof- Uitvoerende Beampte word aangestel vir 'n tydperk wat nie vyf jaar oorskry nie; en

(b) Die Hoof- Uitvoerende Beampte mag heraangestel word vir een bykomende ampstermyn wat nie vyf jaar oorskry nie.

(3)(a) Die aanstelling van die Hoof- Uitvoerende Beampte is onderhewig aan die sluiting van 'n skriftelike prestasie-ooreenkoms wat aangegaan word tussen daardie persoon en die Raad; en

(b) Die Raad en die Hoof- Uitvoerende Beampte mag, skriftelik en volgens ooreenkoms, die prestasie-ooreenkoms wysig.

(4) Vir doeleindes van die verklaring van finansiële of ander belange, is die bepaling van artikel 7 met die nodige veranderinge van toepassing op die Hoof- Uitvoerende Beampte behalwe dat die Hoof- Uitvoerende Beampte sy of haar belange aan die Raad moet verklaar.

(5) Die Hoof- Uitvoerende Beampte is 'n *ex officio*-lid van die Raad maar het nie die reg om by sy vergaderings te stem nie.

Funksies van die Hoof- uitvoerende beampte

17.(1) Die Hoof- Uitvoerende Beampte is verantwoordelik vir –

- (a) die administratiewe en finansiële bestuur van die Raad in ooreenstemming met die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), en die opdrag van die Raad;
- (b) die aanstelling van personeellede van die Agentskap bedoel in artikel 19(1) in oorleg met die Raad;
- (c) die bepaling van 'n gedragskode, in oorleg met die Raad, van toepassing op die Hoof- Uitvoerende Beampte, alle personeel van die Agentskap en bereikbaar vir doeleindes van dissiplinêre stappe, om –
 - (i) nakoming van toepaslike reg, insluitend hierdie Wet;
 - (ii) die doeltreffende, doelmatige en ekonomiese gebruik van die Agentskap se fondse en hulpbronne;
 - (iii) die bevordering en handhawing van 'n hoë standaard van professionele etiek;
 - (iv) die voorkoming van botsende belange;
 - (v) die beskerming van vertroulike inligting gehou deur die Agentskap; en
 - (vi) professionele, eerlike, onpartydige, regverdige, etiese en billike diens, te verseker;
- (d) die handhawing van dissipline oor die personeel aangestel ingevolge paragraaf (b) en moet, vir daardie doeleindes, aan die Raad verantwoordbaar wees;
- (e) die byhou en instandhouding van die register van belange verklaar deur 'n personeellid van die Agentskap; en
- (f) versekering van nakoming deur die Raad van die bepalings van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), en enige ander toepaslike wetgewing.

(2) Indien die Hoof- Uitvoerende Beampte om enige rede nie in staat is om enige van sy of haar funksies uit te voer nie, moet die Raad, in oorleg met die verantwoordelike Lid van die Uitvoerende Raad, 'n ander persoon aanstel as Waarnemende Hoof- Uitvoerende Beampte tot die Hoof- Uitvoerende Beampte in staat is om daardie funksies te hervat.

Bedanking en ontslag uit amp van die Hoof- Uitvoerende Beampte

18.(1) Die Hoof- Uitvoerende Beampte ontruim sy of haar amp –

- (a) in die geval van bedanking, wanneer die bedanking van krag word;
- (b) wanneer, ingevolge die Maatskappywet, 1973 (Wet No. 61 van 1973), die persoon wat daardie amp beklee, onbevoeg raak om as direkteur van 'n maatskappy te dien; en
- (c) by ontslag uit amp ingevolge subartikel (2).

(2) Die Raad kan, in oorleg met die lid van die Uitvoerende Raad, die Hoof- Uitvoerende Beampte se diens beëindig in ooreenstemming met toepaslike indiensnemings- en arbeidsreg.

Personeel van die Agentskap

19.(1) Die Hoof- Uitvoerende Beampte moet, onderhewig aan subartikel (2), personeellede van die Agentskap in diens neem soos wat redelikerwys nodig blyk te wees –

- (a) om hom of haar by te staan in die verrigting van sy of haar funksies ingevolge hierdie Wet; en
- (b) om die Raad by te staan met die werk eie aan die verrigting van sy funksies deur die Raad.

(2) Die Raad moet, onderhewig aan artikel 24(4), 'n menslike hulpbronbeleid vir personeellede van die Agentskap bepaal, insluitend die Hoof- Uitvoerende Beampte.

(3) Vir doeleindes van die verklaring van finansiële of ander belange, en onderhewig aan artikel 17(1)(e), is die bepalings van artikels 7(3), 7(4) en 7(5), met die nodige veranderings, van toepassing op personeellede van die Agentskap.

(4) Die Hoof- Uitvoerende Beampte moet 'n opgedateerde register byhou van die belange van personeellede van die Agentskap wat ingevolge subartikel (3) verklaar is.

Sekondering of oorplasing van personeel na die Agentskap

20. Die Agentskap kan die dienste benut van persone wat vanaf die staatsdiens gesekondeer of oorgeplaas word in ooreenstemming met die bepalings van die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994).

HOOFSUK 5**BEPALING VAN PROVINSIALE BELEGGINGS- EN UITVOERBELEID****Provinsiale Beleggings- en Uitvoerbeleid**

21. Die verantwoordelike lid van die Uitvoerende Raad moet, na oorlegpleging met die Raad, 'n Provinsiale Beleggings- en Uitvoerbeleid ontwikkel.

Provinsiale Beleggings- en Uitvoerplan

22.(1) Die Raad moet, binne ses maande na die ontwikkeling van die Provinsiale Beleggings- en Uitvoerbeleid ingevolge artikel 21, 'n Provinsiale Beleggings- en Uitvoerplan ontwikkel om die beleid en oogmerke wat deur die verantwoordelike lid van die Uitvoerende Raad ingevolge hierdie Wet ontwikkel is, te bereik en uitvoering daaraan te gee.

(2) Wanneer die Agentskap sy funksies ingevolge hierdie Wet verrig, moet hy uitvoering gee aan die Provinsiale Beleggings- en Uitvoerplan.

Beleidsvoorskrifte

23.(1) Die verantwoordelike lid van die Uitvoerende Raad kan –

- (a) strategiese riglyne stel vir die nastrewing van die Agentskap se oogmerke;
- (b) beleidsvoorskrifte aan die Raad uitreik; en
- (c) enige beleidsopdragte uitgereik ingevolge paragraaf (a) onttrek of wysig.

HOOFSTUK 6

BEFONDSING EN FINANSIËLE BESTUUR VAN DIE AGENTSKAP

Fondse van die Agentskap

24.(1) Die fondse van die Agentskap bestaan uit –

- (a) geld bewillig deur die Provinsiale Wetgewer;
- (b) rente op beleggings van die Agentskap; en
- (c) inkomste wat wettig van enige ander bron afkomstig is.

(2) Die Agentskap moet sy fondse benut –

- (a) vir die betaling van vergoeding, toelaes en reis- en verblyfkoste van –
 - (i) die lede van die Raad;
 - (ii) die Hoof- Uitvoerende Beampte; en
 - (iii) die personeellede van die Agentskap; en
- (b) om kostes te dek met betrekking tot –
 - (i) die dag-tot-dag bedryf en administrasie van die Agentskap; en
 - (ii) die verrigting van die pligte en funksies van die Agentskap en die uitoefening van sy bevoegdhede ingevolge hierdie Wet.

(3) Die Hoof- Uitvoerende Beampte moet, met die instemming van die Raad –

- (a) 'n rekening in die Agentskap se naam oopmaak by 'n instelling geregistreer as 'n bank ingevolge die Bankwet, 1990 (Wet No. 94 van 1990); en
- (b) alle geld wat ingevolge subartikel (1) ontvang is, daarin deponeer.

(4) Die Raad, in oorleg met die verantwoordelike lid van die Uitvoerende Raad, moet –

- (a) die vergoeding en diensvoorwaardes; en
- (b) die pensioen- en aftreevoordele,

van die Hoof- Uitvoerende Beampte en die ander personeellede van die Agentskap bepaal.

(5) Die Agentskap kan gelde belê wat in sy rekening gedeponeer is en wat nie vir onmiddellike gebruik vereis word nie: Met dien verstande dat die Raad redelike stappe doen om te verseker dat die belegging nie spekulatief van aard is nie.

(6) Die Agentskap mag nie geld leen of waarborge, kwytskeldings of sekuriteite uitreik of enige ander transaksies wat die Agentskap bind, aangaan nie, tensy sodanige lening, waarborg, kwytskelding, sekuriteit of ander transaksie ingevolge hierdie Wet gemagtig word en nie teenstrydig is met die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999) nie.

Finansiële bestuur

25.(1) Die Hoof- Uitvoerende Beamppte moet volledige en behoorlike rekeningboeke en al die nodige rekords wat daarop betrekking het, byhou.

(2) Die Hoof- Uitvoerende Beamppte moet verseker dat die Agentskap se jaarlikse begrotings, korporatiewe planne, jaarverslae en geouditeerde finansiële state voorberei en voorgelê word in ooreenstemming met die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

(3) Die Hoof- Uitvoerende Beamppte moet binne drie maande voor die einde van elke finansiële jaar –

(a) 'n besigheidsplan vir die Agentskap, wat meetbare doelwitte bevat en die ander inligting bedoel in artikel 26(3)(b) en (c); en

(b) 'n staat van die beraamde inkomste en uitgawes van die Agentskap, aan die Raad voorlê vir goedkeuring met betrekking tot die volgende drie finansiële jaar.

(4) In enige finansiële jaar kan die Hoof- Uitvoerende Beamppte aangepaste of bykomende state van die beraamde inkomste en uitgawes van die Agentskap vir daardie finansiële jaar aan die Raad voorlê vir goedkeuring.

(5) Die Agentskap mag geen finansiële verbintenis aangaan buiten sy goedgekeurde begroting en opgegaarde reserwes nie.

(6) Die Hoof- Uitvoerende Beamppte kan met die goedkeuring van die Raad –

(a) enige onbestede gedeelte van sy fondse by die Korporasie vir Openbare Deposito's of enige ander instelling belê soos van tyd tot tyd deur die Nasionale Tesourie gekategoriseer of gelys as 'n Kategorie "A1"-finansiële instelling; of

(b) op enige ander manier van daardie gedeelte afstand doen.

(7) Die Hoof- Uitvoerende Beamppte kan, met die goedkeuring van die Raad, reserwefondse stig en bedrae soos deur die Raad goedgekeur, daarin deponeer.

Oudit en jaarverslag

26.(1) Die Ouditeur-Generaal moet die finansiële state van die Agentskap audit.

(2)(a) Die Raad moet 'n verslag oor die aktiwiteite van die Agentskap gedurende 'n finansiële jaar in die Provinsiale Wetgewer ter tafel lê binne vyf maande na die einde van daardie finansiële jaar; en

(b) Binne vyf maande nadat die verslag ter tafel gelê is, moet 'n delegasie bestaande uit die voorsitter van die Raad en ten minste twee ander lede van die Raad die betrokke Portefeuljekomitee oor die jaarverslag inlig.

(3) Die verslag moet –

(a) 'n balansstaat en 'n inkomste-en-uitgawestaat gesertifiseer deur die Ouditeur-generaal insluit;

(b) die omvang verklaar waartoe die Agentskap sy oogmerke vermeld in artikel 3 bereik of bevorder het en die meetbare doelwitte soos uiteengesit in sy besigheidsplan soos bedoel in artikel 25(3)(a) gedurende die betrokke finansiële jaar; en

(c) tersaaklike prestasie-inligting bevat aangaande die ekonomiese, doelmatige en doeltreffende toepassing van hulpbronne en in besonder 'n vergelyking tussen beplande en werklike prestasie-aanduiders soos in daardie besigheidsplan uiteengesit.

Stigting en administrasie van spesiale fondse

27.(a) Die Agentskap kan, in oorleg met die verantwoordelike lid van die Uitvoerende Raad, spesiale fondse stig en onderhou, insluitend 'n fonds om die voorheen benadeelde groepe in die hoofstroom van invoer en uitvoer te bring; en

(b) Die Agentskap moet sodanige fondse administreer op die wyse soos bepaal deur die verantwoordelike lid van die Uitvoerende Raad.

Finansiële jaar van die Agentskap

28. Die finansiële jaar van die Agentskap begin op 1 April van 'n spesifieke jaar en eindig op 31 Maart van die volgende jaar.

Vaste eiendom

29. Die Agentskap kan, ingevolge 'n beleid en prosedures soos deur die Raad bepaal en met die goedkeuring van die verantwoordelike lid van die Uitvoerende Raad, vaste eiendom verkry, hou of oor beskik in sy besigheidsverloop.

Regstappe teen die Agentskap

30.(1) Enige regstappe teen die Agentskap moet ingestel word in ooreenstemming met die Wet op die Instel van Geregtelike Verrigtinge teen Sekere Staatsorgane, 2002 (Wet No. 40 van 2002).

(2) Die Agentskap word, vir doeleindes van subartikel (1), beskou as staatsorgaan bedoel in paragraaf (c) van die omskrywing daarvan in artikel 1 van die vermelde Wet.

HOOFSTUK 7

ALGEMENE BEPALINGS

Sekuriteit van vertroulike inligting gehou deur die Agentskap

31.(1) Onderhewig aan die Grondwet en die Wet op die Bevordering van Toegang tot Inligting, 2000 (Wet No. 2 van 2000), mag geen persoon enige inligting wat aan die Agentskap voorgelê word met betrekking tot enige regsopdrag of -instruksie openbaar maak nie, tensy –

(a) hy of sy deur 'n geregshof daartoe gelas word; of

(b) die persoon wat sodanige opdrag of instruksie gegee het, skriftelik daartoe instem.

(2) Geen persoon mag enige inligting wat in die register bedoel in artikels 7, 16(4) en 19(4) gehou word, openbaar maak nie tensy sodanige openbaarmaking –

- (a) ingevolge enige wet is wat sodanige openbaarmaking verplig of magtig;
- (b) wesenlik nodig is vir die behoorlike funksionering van die Agentskap; of
- (c) gemaak is vir doeleindes van monitering, evaluering, ondersoek of oorweging van enige aktiwiteit wat op die Agentskap, of enige personeellid van die Agentskap, betrekking het.

(3) Enige persoon wat subartikel (1) of (2) oortree, is skuldig aan 'n misdryf.

Ontbinding van die Agentskap

32. Die Agentskap mag slegs ontbind word ingevolge 'n wet van die Provinsiale Wetgewer.

Gebruik van naam van die Agentskap

33.(1) Geen persoon mag, sonder vooraf skriftelike magtiging van die Agentskap, op enige wyse die Agentskap verteenwoordig of gebruik maak van die naam, akroniem, logo, ontwerp of materiaal gebruik of besit deur die Agentskap nie.

(2) Geen persoon mag valslik beweer dat hy of sy namens die Agentskap optree nie.

(3) Enige persoon wat subartikel (1) of (2) oortree, is skuldig aan 'n misdryf.

Delegering

34.(1) Die verantwoordelike lid van die Uitvoerende Raad mag aan die Raad –

- (a) enige bevoegdheid deleger wat aan die verantwoordelike lid van die Uitvoerende Raad deur hierdie Wet verleen is, buiten die bevoegdheid om regulasies vermeld in artikel 36 uit te vaardig; of

(b) enige plig deleger wat aan die verantwoordelike lid van die Uitvoerende Raad deur hierdie Wet opgelê is, buiten enige plig aangaande die aanstelling en beëindiging van die amp van die lede van die Raad bedoel in artikels 5(2) en 9(2).

(2) Die Raad kan, deur 'n spesiale beslissing, enige bevoegdheid of plig wat deur hierdie Wet aan die Raad verleen of opgelê is, aan die Hoof- Uitvoerende Beampte of personeellid van die Agentskap deleger.

(3) Die Hoof- Uitvoerende Beampte kan aan enige personeellid van die Agentskap enige bevoegdheid of plig wat deur hierdie Wet aan die Hoof- Uitvoerende Beampte verleen of opgelê is, deleger behalwe enige plig as rekenpligtige beampte van die Agentskap.

(4) Enige bevoegdheid of plig gedeleger ingevolge subartikel (1), (2) of (3) moet uitgeoefen of verrig word onderhewig aan sodanige voorwaardes soos wat die persoon of liggaam wat die delegering gedoen het, nodig ag.

(5) Enige delegasie vermeld in subartikel (1), (2) of (3) –

(a) moet skriftelik wees;

(b) verbied nie die persoon of liggaam wat die delegering gedoen het om daardie bevoegdheid uit te oefen of daardie plig te verrig nie; en

(c) mag ter enige tyd skriftelik deur daardie persoon of liggaam onttrek of gewysig word.

Regulasies

35. Die verantwoordelike lid van die Uitvoerende Raad kan, in oorleg met die Raad en deur middel van kennis in die *Koerant*, regulasies uitvaardig met betrekking tot –

(a) enige aangeleentheid wat voorgeskryf mag word ingevolge hierdie Wet; of

(b) enige administratiewe of prosedurele aangeleentheid wat nodig is om uitvoering te gee aan die bepalings van hierdie Wet.

Likwidasie van maatskappy en oorgangsbepalings wat daarmee verband hou

36.(1)(a) Die Maatskappy, Handel en Belegging KwaZulu-Natal, met Maatskappyregistrasienommer 98/11946/08, ingestel ingevolge die Maatskappywet, 1973 (Wet No. 61 van 1973), moet vrywillig gelikwideer en geskrap word; en

(b) Die lede van die Maatskappy moet, by likwidasie van die Maatskappy vermeld in subartikel (1), onder andere voldoen aan artikels 349 en 350 van die Maatskappywet, 1973 (Wet No. 61 van 1973).

(2) Op die datum van likwidasie van die Maatskappy bedoel in subartikel (1), word alle bates, laste, regte, pligte en verpligtinge, insluitend enige onbestede gedeelte van enige opgelope fondse of fondse ontvang deur die Maatskappy, oorgeplaas na, en berus by, Handel en Belegging KwaZulu-Natal, ingestel ingevolge artikel 2.

(3) Handel en Belegging KwaZulu-Natal is, met betrekking tot die bates, laste, regte, pligte en verpligtinge en fondse vermeld in subartikel (2), vir alle doeleindes regtens die opvolger van, en die regsopvolger tot, die Maatskappy.

(4) Die lede van die Raad van die Maatskappy moet as behoorlik gemagtigde en bemaagtigde lede van die Agentskapsraad optree tot sodanige tyd as wanneer die verantwoordelike lid van die Uitvoerende Raad, ingevolge artikel 5(2), die Raad ingevolge hierdie Wet aangestel het.

(5) 'n Werksaanbod moet binne ses maande na die inwerkingtreding van hierdie Wet deur die verantwoordelike lid van die Uitvoerende Raad aan alle personeellede van die Maatskappy gemaak word vir oorplasing na die Agentskap op 'n datum soos bepaal deur die verantwoordelike lid van die Uitvoerende Raad.

(6) Die vergoeding, voordele en voorregte wat deur die verantwoordelike lid van die Uitvoerende Raad in ooreenstemming met subartikel (1) gebied word, mag nie minder wees nie as dit betaalbaar aan die personeellid deur die Maatskappy, onmiddellik voor sy of haar oorplasing.

(7) Vir die doeleindes van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), word geag dat geen verandering van werkgewer plaasgevind het nie met betrekking tot 'n personeellid wat 'n werksaanbod bedoel in subartikel (5) aanvaar.

(8) Wanneer 'n persoon ingevolge subartikel (5) 'n personeellid van die Agentskap word –

(a) behou hy of sy alle opgelope vakansieverlof tot sy of haar krediet tot die datum onmiddellik voor die datum van oorplasing, aangepas in ooreenstemming met die diensvoorwaardes van die Agentskap; en

(b) moet enige navraag wat ingestel of beoog word ten opsigte van beweerde wangedrag gepleeg deur sodanige persoon voor die datum van oorplasing, beskik word oor of ingestel word deur die Agentskap en die Agentskap moet toepaslike stappe doen teen die betrokke persoon in ooreenstemming met die wette, beleid en diensvoorwaardes wat op hom of haar van toepassing is onmiddellik voor die datum van oorplasing.

Algemene oortredings

37.(1) 'n Lid van die Raad, 'n personeellid, adviseur, agent of enige ander persoon in diens van of waarnemend namens die Agentskap is skuldig aan 'n misdryf indien hy of sy direk of indirek enige omkoopgeld aanvaar en of enige ongemagtigde fooi of beloning ontvang vanaf enige persoon in verband met enigiets gedoen of gebied deur die Agentskap.

(2) Enige persoon is skuldig aan 'n misdryf indien hy of sy, met betrekking tot of in verband met enigiets wat deur die Agentskap gedoen of gebied word, 'n lid van die Raad, 'n personeellid, adviseur, agent of enige ander persoon in diens van of waarnemend namens die Agentskap, oorreed of probeer beïnvloed om 'n kriminele oortreding te began.

(3) Enige persoon wat valslik beweer dat hy of sy gemagtig is om fooie, donasies of bydraes te hef of in te vorder, namens of in opdrag van die Agentskap is skuldig aan 'n misdryf.

Strawwe

38. Enige persoon wat skuldig bevind is aan 'n misdryf ingevolge hierdie Wet is aanspreeklik vir 'n boete of gevangenisstraf vir 'n tydperk wat nie 5 jaar oorskry nie of beide.

Kort titel

39. Hierdie Wet word genoem die KwaZulu-Natal Wet op Handels- en Beleggingsagentskap, 2010.

No. 7

21 kuMfumfu 2010

[Umbhalo wesiNgisi unyathelwe nguNdunankulu]

UMTHETHO WESIKHUNGO SEZOHWEBO NOKUTSHALWA KWEZIMALI WAKWAZULU-NATALI, 2010

(Umthetho Na. 05 ka 2010)

Uvunywe ngomhlaka 09-09-2010

UMTHETHO

Wokuhlinzekela ukusungulwa kwesikhungo sokuthuthukiswa komnotho esizokwaziwa nge-Trade and Investment KwaZulu-Natal ukuze kuhehwe utshalomali lwasemazweni angaphandle nolwalapha ekhaya futhi kwandiswe impahla engenayo nephumayo esiFundazweni; wokunquma ngezinhloso, amandla, amaqhaza kanye nemisebenzi yesiKhungo; wokunquma indlela okuzophathwa, kubuswe, kuqashwe futhi kusekwe ngayo isiKhungo ngezimali; wo kuhlinzekela ukwakhiwa kweNqubomgomo yokuTshalwa kweziMali neMpahla ePhumayo yesiFundazwe; nokuhlinzeke la okunye okuphathelele nalokho.

MAKUMISWE UMTHETHO yisiShayamthetho sesiFundazwe saKwaZulu-Natali, kanje:-

UKUHLELEKA KWEZIGABA*Isigaba***ISAHLUKO 1****IZINCAZELO**

1. Izincazelo

ISAHLUKO 2**I-TRADE AND INVESTMENT KWAZULU-NATAL**

2. Ukusungulwa kwe-Trade and Investment KwaZulu-Natal
3. Izinhloso zesiKhungo
4. Amandla, izibopho nemisebenzi yesiKhungo

ISAHLUKO 3**IBHODI YESIKHUNGO**

5. Ukwakheka kweBhodi
6. Ukuhoxiswa ekuqokelweni eBhodini
7. Ukudalula ukuhlomula ngokwezezimali nokunye ukuhlomula kwamalungu eBhodi
8. Isikhathi sokuba sesikhundleni nokuqokwa kabusha kwelungu leBhodi
9. Izikhala zomsebenzi, ukususwa nokwesula esikhundleni kwamalungu eBhodi
10. Ukumiswa okwesikhashana kwelungu leBhodi
11. Imihlangano kanye nezinqubo zemihlangano yeBhodi
12. Ukuhoxa kwelungu emihlanganweni kanye nenqubo yeBhodi
13. Ukuholelwa kwamalungu eBhodi
14. Ukusungulwa kwamakomidi asiza iBhodi
15. Ukwengezwa kwabantu eBhodini noma emakomidini eBhodi

ISAHLUKO 4**ISIKHULU ESIPHEZULU KANYE NABASEBENZI BESIKHUNGO**

16. Isikhulu esiPhezulu sesiKhungo
17. Imisebenzi yesiKhulu esiPhezulu

18. Ukwesula kanye nokususwa esikhundleni kwesiKhulu esiPhezulu
19. Abasebenzi besiKhungo
20. Ukusiswa noma ukudluliselwa esiKhungweni kwabasebenzi

ISAPHLUKO 5

UKUNQUNYWA KWENQUBOMGOMO YOKUTSHALWA KWEZIMALI NEMPAHLA EPHUMAYO YESIFUNDAZWE

21. INqubomgomo yokuTshalwa kweziMali neMpahla ePhumayo yesiFundazwe
22. UHlelo lokuTshalwa kweziMali neMpahla ePhumayo lwesiFundazwe
23. Iziqondiso zeNqubomgomo

ISAPHLUKO 6

UXHASOMALI NOKUPHATHWA KWEZIMALI ZESIKHUNGO

24. Uxhasomali lwesiKhungo
25. Ukuphathwa kwezimali
26. Ukucwaningwa kwamabhuku kanye nombiko wonyaka
27. Ukusungulwa kanye nokuphathwa kwezimali ezi khethekile
28. Unyaka wezimali wesikhungo
29. Impahla engenakususwa
30. Ukuthathelwa izinyathelo zomthetho kwesiKhungo

ISAPHLUKO 7

IZINHLINZEKO EZEJWAYELEKILE

31. Ukuphepha kolwazi oluyimfihlo olugcinwe yisiKhungo
32. Ukuhlakazwa kwesiKhungo
33. Ukusetshenziswa kwagama lesiKhungo
34. Ukudluliselwa kwamandla
35. IMithethonqubo
36. Ukuvalwa kweNkampani kanye nezinhlinzeko zesikhashana zalezo zinguquko
37. Amacala ajwayelekile
38. Izinhlawulo
39. Isihloko esifingqiwe

ISAPHLUKO 1

IZINCAZELO

Izincazelo

1. Kulo Mthetho, ngaphandle uma ingqikithi isho okwehlukile –

"isiKhungo" kusho i-Trade and Investment KwaZulu-Natal esungulwe ngokwesigaba 2;

"iBhodi" kusho iBhodi yesiKhungo eqokwe ngokwesigaba 5;

"isiKhulu esiPhezulu" kusho isiKhulu esiPhezulu sesiKhungo, esiqokwe ngokwesigaba 16;

"iBhizinisi elizimele" kusho ibhizinisi elizimele njengoba kuchazwe esigabeni 1(1) soMthetho wamaBhizinisi aziMele, 1984 (uMthetho No. 69 ka 1984);

"inkampani" kusho inkampani njengoba kuchazwe kuMthetho weziNkampani, 1973 (uMthetho No. 61 ka 1973);

"iNkampani" kusho inhlango edidiyelwe ngokwesigaba 21 soMthetho weziNkampani, 1973 (uMthetho No. 61 ka 1973), eneNombolo yokuBhalisa kweziNkampani engu-98/11946/08, futhi yaziwa ngokuthi i-Trade and Investment KwaZulu-Natal;

"uMthethosisekelo" kusho uMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996;

"uMnyango" kusho uMnyango Wezokuthuthukiswa Komnotho Nezokuvakasha esiFundazweni saKwaZulu-Natali;

"uMkhandlu oPhethe" kusho uMkhandlu oPhethe esiFundazweni saKwaZulu-Natali ohlongozwe esigabeni 132 soMthethosisekelo;

"iGazethi" kusho iGazethi esemthethweni yesiFundazwe saKwaZulu-Natali;

"iNhloko yoMnyango" kusho umuntu oqokwe njengeNhloko yoMnyango ngokwesigaba 12 soMthetho Wemisebenzi Kahulumeni nezichibiyelo zawo ;

"ilungu" kusho ilungu leBhodi sesiKhungo eliqokwe ngokwesigaba 5;

"iLungu loMkhandlu oPhethe elibhekele ezezimali" kusho ilungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali elibhekele ezezimali;

"uMgcinimafa kaZwelonke" kusho uMgcinimafa kaZwelonke osungulwe yisigaba 5 soMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka-1999);

"ohulumeni basekhaya abahlelekile" kusho inhlango yesifundazwe emele omasipala KwaZulu-Natali, eyamukelwe ngokwesigaba 163 soMthethosisekelo kanye nesigaba 2 soMthetho woHulumeni baseKhaya abahlelekile, 1997 (uMthetho No. 52 ka 1997);

"iKomidi lemiSebenzi yasePhalamende" kusho iKomidi lemiSebenzi yasePhalamende lesiShayamthetho sesiFundazwe elibhekele ukuthuthukiswa kwezomnotho nezokuvakasha;

"isiFundazwe" kusho isiFundazwe saKwaZulu-Natali esihlongozwe esigabeni 103 soMthethosisekelo futhi igama "isifundazwe" linencazelo efanayo;

"imithethonqubo" kusho imithethonqubo eyenziwe ngokwesigaba 35;

"iLungu eliqondene loMkhandlu Ophethe" kusho iLungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali elibhekele ukuthuthukiswa komnotho nezokuvakasha noma lelo lungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali uNdunankulu angalijuba ukuba liphathe ngokwalo Mthetho;

"lo Mthetho" ubandakanya imithethonqubo.

ISAHLUKO 2

I-TRADE AND INVESTMENT KWAZULU-NATAL

Ukusungulwa kwe-Trade and Investment KwaZulu-Natal

2.(1) Ngelokhu kusungulwa isikhungo esizogqugquzela ezohwebo kanye nokutshalwa kwezimali esiFundazweni esizokwaziwa ngokuthi yi-Trade and Investment KwaZulu-Natal.

(2) IsiKhungo siyisakhiwo esimiswe ngokomthetho nesisebenza ngeBhodi.

(3) IsiKhungo siyisakhiwo sikhulumeni wesifundazwe ngokoMthetho Wokuphathwa Kwezimali Zikhulumeni, 1999 (uMthetho No. 1 ka-1999)

(4) IBhodi yilona elingumgwamanda onesibopho sokubika ngesiKhungo njengoba kuhlongozwa esigabeni 49(2)(a) soMthetho Wokuphathwa Kwezimali Zikhulumeni..

Izinhloso zesiKhungo

3. Izinhloso zesiKhungo –

- (a) ukuheha abatshalizimali basemazweni angaphandle nabalapha ekhaya;
- (b) ukwandisa amathuba okuhandjiswa kwempahla emazweni angaphandle nezindawo zokuhambisa impahla; kanye
- (c) nokwenza imisebenzi, ukugcina izibopho kanye nokusebenzisa amandla okubalulwe esigabeni 4.

Amandla, izibopho nemisebenzi yesiKhungo

4.(1) IsiKhungo kumele –

- (a) sihlonze, sithuthukise, siqhakambise futhi sigqugquzele amathuba okutshalwa kwezimali akhona esiFundazweni kubatshalizimali bamazwe angaphandle nabakuleli;
- (b) sisungule izindlela zokuhandjiswa kwempahla emazweni angaphandle esiFundazweni;
- (c) sisungule izindlela zokuqhakanjiswa kwempahla ephumayo yesiFundazwe;
- (d) sikhulise ezohwebo nokutshalwa kwezimali esiFundazweni;

(e) sisungule uhlelo lokutshalwa kwezimali esifundazweni nempahla ephumayo ukuze kuthuthukiswe, kugqugquzelwe kuphinde kuqhakanjiswa u kutshalwa kwezimali nempahla ephumayo yesiFundazwe; futhi

(f) silondoloze siphinde sigcine imininingwane kwikhompyutha yamathuba ezokutshalwa kwezimali esiFundazweni ukuze ngaleyo ndlela kuhlomule yonke imikhakha yezomnotho.

(2) IsiKhungo –

(a) ngenhloso yokuthuthukisa, yokugqugquzela, kanye neyokuqhakambisa ukutshalwa kwezimali nempahla ephumayo esiFundazweni, futhi kuncike kwimvume ebhalwe phansi yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho nasesigabeni 54(2) soMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999) –

(i) singasungula futhi siqhube inkampani eyodwa noma ngaphezulu, ibhizinisi elizimele noma imigwamanda efanayo futhi singathenga noma sidayisele lezo zinkampani, lelo bhizinisi elizimele noma leyo migwamanda amasheya;

(ii) singahlanganyela ebhizinisini nezinye izikhungo, izinhlangano, omasipala, imigwamanda noma abantu;

(iii) singasebenzisana, noma sithenge noma sidayise noma yimaphi amasheya kunoma yiziphi izinkampani, amabhizinisi azimele noma kweminye imigwamanda efanayo; futhi

(iv) singaqoqa izimali ngokuthola usizo lweminikelo kanye noxhasomali;

(b) singaxhumana nanoma yiliphi elinye ibhizinisi, uhlaka lombuso inhlangano noma i sikhungo esimisebenzi yaso noma esizinhloso zaso zinomthelela futhi zihambisana nokuqhakanjiswa kwezentuthuko, nokugqugquzela ukutshalwa kwezimali esiFundazweni;

(c) singaphenya futhi senze izincomo eMkhandlwini oPhethe, ngeLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, nga noma yiluphi udaba oluphathelene ngqo noma oluphathelene ngandlela thile nokugqugquzelwa, nokuthuthukiswa noma nokuqhakanjiswa kokutshalwa kwezimali esiFundazweni;

(d) singangena ezivumelwaneni ukuze siphumelelise izinhloso zaso, sisebenzise amandla aso, sigcine izibopho futhi senze imisebenzi yaso noma siphathe futhi silawule izindaba zaso, okungaba ezingahlinzekelwe noma ezihlinzekelwe kulesi sigaba; futhi

(e) singenza noma i yiphi enye into noma singenelele kunoma yiluphi udaba iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho elibona lunesidingo ukuze kuqaliswe ngandlela efanele lo Mthetho.

(3) Ukwengeza emandleni okukhulunywa ngawo esigatshaneni (2), isiKhungo, sinamandla okukhulunywe ngawo esigabeni 34, nakuSheduli 2, eMthethweni weziNkampani, 1973 (uMthetho No. 61 ka 1973).

ISAHLUKO 3 IBHODI YESIKHUNGO

Ukwakheka kweBhodi

5.(1) IBhodi iqukethe –

(a) okungenani amalungu amahlanu, kepha angekho ngaphezulu kwama-20, aqokwe yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho; kanye

(b) nesiKhulu esiPhezulu, ngokwesikhundla saso, njengoba kuhlangozwe esigabeni 16(5).

(2) AmaLungu eBhodi kumele abe ngabantu abafanelekile futhi abakulungele ukusebenzela isiFundazwe ngentshisekelo, ewonke –

(a) abe nolwazi noma nesipiliyoni esifanele emikhandlwini ehleliwe emkhakheni wezamazwini; futhi

(b) abe nala makhono nobuhlakani okulandelayo:

(i) amakhono, isipiliyoni kanye nokuqeqeshwa kwezomthetho;

(ii) amakhono, isipiliyoni kanye nokuqeqeshwa kwezezimali;

(iii) isipiliyoni noma ukuqeqeshwa ekutshalweni kwezimali kanye nakwezokuhanjiswa kwempahla emazweni angaphandle;

(iv) isipiliyoni noma ukuqeqeshwa kwezokuqhakambisa abasebenzi;

(v) isipiliyoni noma ukuqeqeshwa emkhakheni wezemfundo noma wokuphathwa kwezindaba zabasebenzi;

(vi) isipiliyoni namakhono okuthuthukiswa komphakathi; kanye

(vii) nesipiliyoni namakhono okuhlela noma kwezentuthuko.

(3) Ekuqokeleni amalungu eBhodini, iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele liqinisekise ukuthi –

- (a) kubhekelelwa ukungalingani kwaphambilini;
 - (b) amalungu, ewonke, anamakhono nobuhlakani obufanele nobudingekayo;
 - (c) iBhodi imele abantu abaqashwe noma ababandakanyeka ekungeneni nasekuphumeni kwempahla, kwezohwebo noma ebhizinisini lezokutshalwa kwezimali esiFundazweni;
 - (d) izintshisekelo zo masipala zimelwe eBhodini ngendlela elinganayo neqinisekisa ukuthi omasipala bamelelekile: Kuncike ekutheni angeke babe ngaphezu kwabane abantu abayogokelwa eBhodini ukuze kusebenze izinhlinzeko zale ndima; futhi
 - (e) ohulumeni basekhaya abahlelekile bamelelekile eBhodini.
- (4) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele likhethe –
- (a) ilungu elilodwa leBhodi njengoSihlalo weBhodi; kanye
 - (b) noyedwa emalungwini eBhodi njengeSekela likaSihlalo weBhodi.
- (5) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho lingaqoka umsebenzi woMyango njengozolimela –
- (a) okumele asize ngokuxhumanisa iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho neBhodi;
 - (b) okumele abike kwiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngaso sonke isikhathi mayelana nezindaba ezibonakala zifanele; futhi
 - (c) ongethamela imihlangano yeBhodi futhi azibandakanye ezingxoxweni, kepha ongenalo ilungelo lokuvota uma iBhodi ithatha isinqumo.
- (6) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele, ngesaziso kwiGazethi, limeme noma yiziphi izinhlangothi ezinentshisekelo esiFundazweni ukuba ziphakamise abangaqokelwa eBhodini.
- (7) Isimemo seziphakamiso kume sicacise –
- (a) inqubo yeziphakamiso;
 - (b) okudingekayo kwiziphakamiso; kanye
 - (c) nosuku lokuvalwa kweziphakamiso.

(8) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele licubungule zonke iziphakamiso ezilethiwe eziphendula isaziso, futhi lingaqoka ithimba elihlanganisa izikhulu zomnyango esezimnkantsh'ubomvu ukuba lihlaziye zonke iziphakamiso futhi lenze izincomo ngeziphakamiso kwiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho.

(9) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele liqinisekise ukuthi wonke amagama abantu abaqokelwe eBhodini ashicilelwe *kwiGazethi* kanye nasemaphephandabeni okungenani amabili aphuma esiFundazweni, ngokushesha ngemuva kokuba labo bantu sebazisiwe, ngokuthi babhalelwe, ngokuqokelwa kwabo eBhodini.

(10) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele, ezinyangeni ezimbili ngemuva kokuqokwa kwamalungu eBhodi ngokwesigatshana (2), lazise uMkhandlu oPhethe kanye neKomidi lemisebenzi yasePhalamende lesiShayamthetho ngamagama amalungu aqokiwe kubandakanya isikhathi abasiqokelwe.

(11) Lesi sigaba sisebenza, nezinguquko ezidingekayo, ekuvalweni kwesikhala somsebenzi kwiBhodi.

Ukuhoxiswa ekuqokelweni eBhodini

6. Umuntu uyahoxiswa ekuqokelweni eBhodini noma ekutheni aqhubeke nokusebenza eBhodini, ngesizathu sokuthi –

- (a) ucwile ezikweletini ngendlela engenakuhlengeka;
- (b) akaphilile ekhanda noma umenyezwe inkantolo njengogula ngengqondo;
- (c) uhlomula ngqo noma ngandlela thile kunoma yisiphi isivumelwano somsebenzi nesikhungo futhi uyehluleka ukudalula lokho kuhlomula kanye nendlela ahlomula ngayo ngokwalo Mthetho;
- (d) ungumuntu ozinto zakhe zilawulwa umthetho;
- (e) noma ngasiphi isikhathi uke wamiswa esikhundleni ngenxa yokungaziphathi kahle okuhlanganisa ukweba kanye nokukhwabanisa;
- (f) useke waboshwa futhi wagwetshwa isikhathi eside ngaphandle kokunikezwa ilungelo lokukhetha phakathi kokukhokha inhlawulo noma ukuboshwa, ngaphandle kokuthi iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, lapho umuntu ophakanyiselwe

ukuqokwa eveza obala yonke imininingwane y okwephula umthetho ngokwenza isitatimende esifungelwe, lingahoxisa leso sigwebo ngendlela ehambisana nesigaba 106(1)(e) soMthethosisekelo: Kuncike ekutheni ukuhoxiswa ngokwalesi sigatshana kuphela eminyakeni emihlanu ngemuva kokuphela kwalesi sigwebo; futhi

(g) uyehluleka ukudalula a ukuhlomula ngokuhambisana nesigaba 7 noma ubambe iqhaza kwizinqubo zeBhodi ngesikhathi enokuhlomula okuhlongozwe esigabeni esishiwoyo;

Ukudalula ukuhlomula ngokwezezimali nokunye ukuhlomula kwelungu leBhodi

7.(1) Umuntu ophakanyiselwe ukuba asebenze eBhodini ngokwesigatshana 5(6) kumele, ezinsukwini eziyi-10 ephakanyisiwe, adalule ngokubhalwe phansi kwiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho konke ukuhlomula ngqo noma ngandlela thile anakho kunoma iyiphi inkampani noma kwamanye amabhizinisi.

(2) Noma yikuphi ukwehluleka kophakanyisiwe ukudalula ukuhlomula ngokwezezimali kanye nokunye ukuhlomula ngokwesigatshana (1) kuyamhoxisa lowo ophakanyisiwe ngokwesigaba 6 ukuba acatshangelwe esikhundleni sokuba yilungu leBhodi.

(3) Noma yiliphi ilungu leBhodi kumele, ngaphambi kokungena esikhundleni futhi ekuqaleni kwayo yonke iminyaka yezimali yesiKhungo, lidalule ngokubhalwe phansi ukuhlomula ngqo noma ngandlela thile kwalo kunoma iyiphi inkampani noma ibhizinisi ngendlela ehlinzekelwe esigabeni 234(3)(a) soMthetho weziNkampani, 1973 (uMthetho No. 61 ka 1973).

(4) Uma ilungu leBhodi liqala ukuhlomula kunoma iyiphi inkampani noma ukuhlomula kwelinye ibhizinisi nganoma yisiphi isikhathi lisasebenza njengelungu leBhodi kumele, ngaphambi kwezinsuku eziyi-10 kusukela osukwini eliqale ngalo lokho kuhlomula, lidalule ngokubhalwe phansi kwiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho lokho kuhlomula.

(5) Noma yikuphi ukwehluleka ohlangothini lwelungu ukudalula ukuhlomula kwalo njengoba kuhlongoz we sigatshaneni (3) kanye no (4) kungaholela ekutheni lelo lungu lihoxiswe ekuqokelweni esikhundleni ngokwesigaba 9(2).

(6) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele ligcine irejista evuselelwe njalo yokuhlomula kwamalungu eBhodi azidalulile ngokwalesi sigaba.

Isikhathi sokuba sesikhundleni nokuqokwa kabusha kwelungu leBhodi

8. Umuntu oqokelwe eBhodini uba sesikhundleni isikhathi esiyiminyaka emihlanu noma esingaphansi njengoba kunganquma iLungu eliqondene loMkhandlu Ophethe futhi, kuye ngokuhambisana nesigaba 5, angakwazi ukuphinde akhethwe ekupheleni kwaleso sikhathi: Inqobo nje uma engekho umuntu ongaphinde akhethwe ngemuva kokusebenza eBhodini isikhathi esiyiminyaka eyishumi elandelayo.

Izikhala zomsebenzi, ukususwa nokwesula esikhundleni kwelungu leBhodi

9.(1) ILungu leBhodi kumele lishiye isikhundla uma lihoxiswa ngokuhlongozwe esigabeni 6.

(2) ILungu eliqondene loMkhandlu Ophethe, ngemuva kokunikeza ilungu ithuba lokubeka udaba lwalo, noma ngasiphi isikhathi lingamisa esikhundleni lelo lungu uma, ngokubona kwalo, kunezizathu ezizwakalayo neziphoqayo zokwenza lokho.

(3) ILungu kumele lishiye isikhundla uma liphutha emsebenzini, ngaphandle kokunikezwa imvume yokuphutha kuqala yiBhodi, emihlanganweni emibili elandelayo yeBhodi lapho kwanikezwa isaziso ngendlela efanele kulelo lungu ngqo noma ngeposi.

(4) ILungu lingesula esikhundleni ngokuthi libhale isaziso sezinsuku ezingekho ngaphansi kwama-30 lisibhekise eLungwini eliqondene loMkhandlu Ophethe: Inqobo nje uma iLungu eliqondene loMkhandlu Ophethe lingasilandeli isikhathi sesaziso. .

(5) Noma nini lapho kuvela isikhala somsebenzi eBhodini, iLungu eliqondene loMkhandlu Ophethe, ngokuncike esigabeni 5, kumele liqoke umuntu ozovala leso sikhala somsebenzi kuleso sikhathi esisasele sokuba sesikhundleni kwelungu okuzoqokelwa kuso lowo muntu.

(6) Lapho iLungu eliqondene loMkhandlu Ophethe lisebenzisa amandla alo ngokwesigatshana (2), uma lingahambisani nokulandela inqubo yokukhethwa kwamalungu eBhodi ebekwe kwisigaba 5, kodwa kuncike kwizigaba 5(2) no 5(3), lingaqoka abantu ukusebenza njengamalungu eBhodi okwesikhashana: Kuncike ekutheni -

(a) abantu abaqokwe ngokwalesi sigatshana angeke baqhubeke nokuba seBhodini isikhathi esingaphezu kwezinsuku ezingama-90 kusuka osukwini abaqokwe ngalo; futhi

(b) iLungu eliqondene loMkhandlu Ophethe, kuncike kwisigaba 5, kumele liqoke amalungu eBhodi ezinsukwini ezingama-90 kwenziwe ukuqokwa okuhlongozwe kulesi sigatshana.

Ukumiswa okwesikhashana kwelungu leBhodi

10. ILungu eliqondene loMkhandlu Ophethe lingamisa ilungu leBhodi ngesikhathi iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho lisa phenya izinsolo, uma kutholakala ukuthi ziyiqiniso, okungaholela ekutheni ukuqokwa kwelungu kumiswe ngokwesigaba 9(2).

Imihlangano kanye nezinqubo zemihlangano yeBhodi

11.(1) Umhlangano wokuqala weBhodi kumele ubanjwe ngosuku nangesikhathi kanye nasendaweni enqunywe yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngemuva kwalokho yonke imihlangano elandelayo kumele ukuba inqunywe ngusihlalo.

(2) Isibalo esivumelekile ukuba sibambe umhlangano weBhodi yiningi lamalungu eBhodi.

(3) Inqubo emhlanganweni weBhodi kumele, kuncike ezinhlinzekweni zalesi sigaba, inqunywe ngusihlalo kubandakanya ilungelo lokunquma ukuthi noma yiluphi udaba okuxoxwa ngalo lungamiswa ngaphambi kokuthi luvotelwe.

(4) Usihlalo kumele engamele yonke imihlangano yeBhodi, Uma uSihlalo engekho usekela sihlalo kumele engamele futhi esimweni uma usihlalo noma usekela kasihlalo engekho emhlanganweni weBhodi, amalungu akhona angakhetha, kuwona, umuntu ozobamba njengo sihlalo ngesikhathi salowo mihlangano.

(5) Isinqumo sebhodi kumele ukuba sithathwe yiningi lamavoti amalungu akhona emhlanganweni futhi, esimweni lapho kunokulingana kwamavoti kunoma yiluphi udaba, usihlalo unevoti elingujuqu ngaphezu kwevoti lakhe elejwayelekile.

(6) IBhodi kumele igcine amaminithi emihlangano yalo.

(7) Asikho isinqumo seBhodi esingekelwe semukelwe ngesizathu sokuba khona kwesikhala somsebenzi eBhodini: Kuncike ekutheni isinqumo sithathwa yiningi elidingekayo lamalungu eBhodi akhona futhi avumelekile ukuhlala njengamalungu eBhodi.

(8) Usihlalo, noma iningi lamalungu eBhodi, lingabiza umhlangano oyisipesheli weBhodi esimweni lapho izinhlinzeko zalesi sigaba zihambisana nezinguquko ezidingekayo.

(9) IBhodi, ngokubona kwalo, lingavumela amalungu omphakathi ukuba ethamele umhlangano weBhodi.

Ukuhoxa kwelungu emihlanganweni kanye nenqubo yeBhodi

12.(1) Ilungu leBhodi kumele lizihoxise odabeni oluphenywayo, olucutshungulwayo noma oluvotelwayo yiBhodi uma kuvela okukodwa noma ngaphezulu kokulandelayo –

(a) uma lona linokuthinteka ngqo noma ngandlela thile; noma

(b) uma kunamathuba okuthi kungenzeka lithinteka ngqo noma ngandlela thile.

(2) Noma yingasiphi isikhathi uma kunomhlangano weBhodi kuvela ukuthi ilungu elikhona kulowo mhlangano liyathinteka noma ngase kube liyathinteka ngokuhlongozwe esigatshaneni (1), lelo lungu kumele lidalule indlela elithinteka ngayo bese liwushiya umhlangano.

(3) Noma yikuphi ukudalulwa okwenziwe ngokwesigatshana (1) kumele ukuba kuqoshwe emaminithini alowo omhlangano.

(4) Uma kuvela emva kwalokho ukuthi iBhodi yathatha isinqumo odabeni lapho kwaba nokwehluleka ngasohlangothini lelungu ukudalula ukuthinteka okuhlongozwe esigatshaneni (1), leso sinqumo seBhodi asamukelekile.

(5) Ngokwezinhloso zalesi sigaba **“ukuthinteka ngandlela thile”** kuhlenganisa, phakathi kokunye, ukuthinteka –

- (a) kukazakwabo welungu ebhizinisini, umhlobo noma umqashi, ngaphandle koMbuso;
- (b) komlingani welungu, kowakwalo ngokomshado wesintu, noma kongumasihlalisane noma kwelihlalisana naye sabantu abashadile; noma
- (c) kwengane, komzali noma kozalana nalo.

Ukuholelwa kwamalungu eBhodi

13.(1)(a) ILungu leBhodi lingakhokhelwa ezimalini zesiKhungo iholo kanye nezibonelelo njengalokhu kunganquma iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngokubonisana neLungu loMkhandlu oPhethe elibhekele ezezimali; futhi

(b) ILungu leBhodi eliholelwayo, elithola izibonelelo noma elithola eminye imihlomulo ngokwesikhundla salo noma ngokomsebenzi walo –

- (i) kuhulumeni kazwelonke;
 - (ii) kuhulumeni wesifundazwe;
 - (iii) kumasipala; noma
 - (iv) ebhizinisini, kumgwamanda noma esikhungweni lapho uhulumeni kazwelonke kanye nowesifundazwe ebandakanyeka ekulawuleni,
- futhi eliqhubeka nokuthola lelo holo, lezo zibonelelo noma eminye imihlomulo ngesikhathi lisasebenza njengelungu leBhodi, lingathola iholo kanye nezibonelelo kuphela okukhulunywe ngakho endimeni (a) ngendlela edingekayo ukulibeka esimweni sezimali ebelivele lizoba kusona ukube belingaqashiwe kulowo msebenzi.

(2)(a) ILungu leBhodi kanye nomuntu owengeziwe eBhodini, maqondana nemisebenzi yakhe njengelungu noma njengelungu elengeziwe eBhodini, angathola isibonelelo ezimalini zesiKhungo njengezindleko zokuhamba ngokomsebenzi ezidalwe ukwethamela kwakhe umhlangano weBhodi; futhi

(b) ILungu loMkhandlu Ophethe elibhekele ezezimali kumele linqume ngezinqubo, kubandakanya izindlela zokulawula, ukuze kuphathwe, kuhanjiswa futhi kuqhutshwe izimangalo zezindleko zokuhamba ngokomsebenzi ezihlongozwe endimeni (a).

Ukusungulwa kwamakomidi azosiza iBhodi

14.(1) IBhodi ingasungula amakomidi aqukethe ilungu elilodwa noma ngaphezulu kumalungu ayo ukuze –

(a) asize iBhodi ekusetshenzisweni kwanoma yimaphi amandla, ekwenziweni kwemisebenzi noma ekugcinweni kwezibopho zesiKhungo okuhlongozwe esigabeni 4; noma

(b) aphe nye noma aqhube ucwaningo kunoma yiluphi udaba olungena ngaphansi kwezinjongo zeBhodi ngokwalo Mthetho.

(2) Uma kusungulwa ikomidi elihlongozwe esigatshaneni (1), iBhodi kumele –

(a) inqume indlela yokusebenza kwalelo komidi kubandakanya, phakathi kokunye, ukuthi kumele yini noma cha ukuthi lelo komidi liqedwe uma seliphothule umsebenzi noma imisebenzi eliyinqunyelwe yiBhodi;

(b) iqoke uSihlalo walelo komidi okumele abe yilungu leBhodi; futhi

(c) inqume ukuthi ingabe kufanele noma cha ukuthi lelo komidi lifake abantu abangesiwo amalungu eBhodi, futhi uma kunjalo, ngaphansi kwayiphi imibandela nemigomo.

(3) IBhodi, noma ngasiphi isikhathi, ingamisa ikomidi nanoma yikuphi ukujutshwa kwekomidi, kungakhathaleki ukuthi lelo komidi seliwuqedile noma cha umsebenzi noma imisebenzi eliyinikezwe yiBhodi.

(4)(a) IsiKhulu esiPhezulu singethamela futhi sibambe iqhaza, kodwa singavoti, emihlanganweni yalelo komidi; futhi

(b) umsebenzi weBhodi, uma emenywe yilelo komidi, angawuhambela umhlangano walelo komidi.

Ukwengezwa kwabantu eBhodini noma emakomidini eBhodi

15.(1) IBhodi uma inombono wokuthi umuntu othize angalisiza maqondana nanoma yimiphi imisebenzi yalo nasekusebenziseni amandla alo, lingamengeza lowo muntu ngaleyo nhloso.

(2) Umuntu owengezwe ngokwesigatshana (1) akavumelekile ukuvota emhlanganweni webhodi noma wamakomidi.

(3) Umuntu owengezwe ngokwesigatshana (1) angaholelwa iholo lalokho noma isibonelelo ezimalini zesiKhungo ngendlela enganqunywa yiBhodi ngokuhambisana nesigaba 13(2)(a) ngemuva kokubonisana neLungu loMkhandlu Ophethe elibhekele ezezimali.

ISAPHLUKO 4**ISIKHULU ESIPHEZULU KANYE NABASEBENZI BESIKHUNGO****IsiKhulu Esiphezulu sesiKhungo**

16.(1) IBhodi, ngokubonisana neLungu eliqondene loMkhandlu Ophethe, kumele iqoke isiKhulu esiPhezulu sesiKhungo.

(2)(a) IsiKhulu esiPhezulu siqokelwa esikhundleni isikhathi esingeqile eminyakeni emihlanu; futhi

(b) IsiKhulu esiPhezulu singaphinde siqokwe elinye ihlandla elingeqile eminyakeni emihlanu.

(3)(a) Ukuqokwa kwesiKhulu esiPhezulu kuncike ekuphuthulweni kwesivumelwano sokusebenza esibhaliwe okungena kuso lowo muntu kanye neBhodi; futhi

(b) IBhodi kanye nesiKhulu esiPhezulu, ngokubhaliwe nangesivumelwano, bangachibiyela isivumelwano sokusebenza.

(4) Ngezinhlalo zokudalula ukuhlomula ngokwezezimali nokanye ukuhlomula, izinhlinzeko zesigaba 7 zisebenza nezinguquko ezidingekile esiKhulwini esiPhezulu ngaphandle kokuthi isiKhulu esiPhezulu kumele sidalule ukuhlomula kwaso eBhodini.

(5) IsiKhulu esiPhezulu siyilungu elihola iBhodi kodwa asinalo ilungelo lokuvota emhlanganweni yayo.

Imisebenzi yesiKhulu esiPhezulu

17.(1) IsiKhulu esiPhezulu sibhekele –

(a) ukulawulwa kanye nokuphathwa kwezimali zeBhodi ngokuhambisana noMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999), kanye nokulawulwa kweBhodi;

(b) ukuqokwa kwabasebenzi besiKhungo okuhlongozwe esigabeni 19(1) ngokubonisana neBhodi.

(c) ngokubonisana neBhodi, ukunqunywa kwenqubo yokuziphatha, eqondene nesikhulu esiPhezulu, abasebenzi bonke besiKhungo kanye nezosebenza ngezinhloso zokuqondiswa kwezigwegwe, ukuqinisekisa –

(i) ukuhambisana nomthetho osebenzayo, kubandakanya lo Mthetho;

(ii) ukusetshenziswa ngokufanele, ngokunesidingo nangokunenzuzo kwezimali nezinsiza zesiKhungo;

(iii) ukugqugquzelwa kanye nokugcinwa kwezinga eliphezulu lenqubomgomo mayelana nemigomo yokusebenza ngendlela;

(iv) ukunqanda ukushayisana kwemibono;

(v) ukuvikelwa kolwazi oluyimfihlo olugcinwe yisiKhungo; kanye

(vi) nezinga, nokwethembeka, nokuzimela, nokwenzelana ngobuqotho, nenqubomgomo kanye nokusebenza ngokulingene;

(d) ukulawulwa kokuziphatha kwabasebenzi abaqokwe ngokwendima (b) futhi kumele, ngalezo zinhloso, kwenziwe yiBhodi;

(e) ukulondolozwa kanye nokugcinwa kwerejista yokuhlomula okumenyezwe yilungu labasebenzi besiKhungo; kanye

(f) nokuqinisekiswa kokuhlangabezana kweBhodi nezihlinzeko zoMthetho wezokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999), kanye nanoma yimiphi eminye imithetho esebenzayo.

(2) Uma isikhulu esiPhezulu nganoma yisiphi isizathu singakwazi ukwenza imisebenzi yaso, iBhodi kumele, ngokubonisana neLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, liqoke omunye umuntu ozoba yiBamba lesikhulu esiPhezulu kuze kube isikhulu esiPhezulu siyakwazi ukuba siqale ukwenza leyo misebenzi.

Ukwesula kanye nokususwa esikhundleni kwesikhulu esiPhezulu

18.(1) Isikhulu esiPhezulu sishiya isikhundla –

- (a) lapho s esula, noma kuba nokwesula;
- (b) ngenkathi, ngokoMthetho weziNkampani, 1973 (uMthetho No. 61 ka 1973), umuntu ophethe leso sikhundla eba ngohoxiswayo ukuba asebenze njengomqondisi wenkampani; noma
- (c) lapho sixoshwa esikhundleni ngokwesigatshana (2).

(2) IBhodi ngokubonisana neLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ingamisa umsebenzi wesikhulu esiPhezulu ngokuhambisana nomthetho wokuqasha nowabasebenzi osebenzayo.

Abasebenzi besiKhungo

19.(1) Isikhulu esiPhezulu kumele, kuncike esigatshaneni (2), siqashe amalungu abasebenzi besiKhungo uma kuba nesidingo esifanele –

- (a) sokusiza ekufezeni imisebenzi yaso ngokwalo Mthetho; kanye
- (b) nokusiza iBhodi ngomsebenzi othintana nokwenziwa yiBhodi emisebenzini yayo.

(2) IBhodi kumele, kuncike esigabeni 24(4), inqume inqubomgomo yezindaba eziphathelene nabasebenzi kumalungu abasebenzi besiKhungo, kubandakanya isikhulu esiPhezulu.

(3) Ngokwezinhloso zokudalulwa kokuhlomula ngakwezezimali okanye ukuhlomula, nangokuncike esigabeni 17(1)(e), izihlinzeko zesigaba 7(3), (4) kanye no 7(5) zisebenza noshintsho oludingekile kumalungu abasebenzi besiKhungo.

(4) IsiKhulu esiPhezulu kumele sigcine irejista evuselelwe yokuhlomula kwamalungu abasebenzi besiKhungo okudalulwe ngokwesigatshana (3).

Ukusiswa noma ukudluliselwa esiKhungweni kwabasebenzi

20. IsiKhungo singasebenzisa usizo lwabantu abasisiwe noma abadluliselwe besuka kuhulumeni ngokuhambisana nezinhlinzeko zoMthetho wemiSebenzi kaHulumeni, 1994 (Isimemezelo No. 103 sika 1994).

ISAHLUKO 5

UKUNQUNYWA KWENQUBOMGOMO YESIFUNDAZWE YOKUTSHALWA KWEZIMALI NEMPAHLA EPHUMAYO

iNqubomgomo yesiFundazwe yokuTshalwa kweziMali neMpahla ePhumayo

21. ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele, ngemuva kokubonisana neBhodi, lisungule iNqubomgomo yesiFundazwe yokuTshalwa kweziMali neMpahla ePhumayo.

UHlelo LwesiFundazwe lokuTshalwa kweziMali neMpahla ePhumayo

22.(1) IBhodi kumele, ezinyangeni eziyisithupha kusungulwe iNqubomgomo yesiFundazwe yokuTshalwa kweziMali neMpahla ePhumayo ngokwesigatshana (1), isungule uHlelo lokuTshalwa kweziMali neMpahla ePhumayo lwesiFundazwe ukuze iphumelelise futhi iqalise ukusebenza kwezinqubomgomo kanye nezinjongo ezisungulwe yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngokwalo Mthetho.

(2) Uma sesenza imisebenzi yaso ngokwesigaba salo Mthetho, isiKhungo kumele siqalise ukusebenza koHlelo lokuTshalwa kweziMali neMpahla ePhumayo lwesiFundazwe.

Iziqondiso zeNqubomgomo**23. ILungu eliqondene loMkhandlu Ophethe -**

- (a) linganquma imikhombandlela yamasu okufezekisa izinhloso zesiKhungo;
- (b) linganikezela imiyalelo yenqubomgomo eBhodini; futhi
- (c) lingahoxisa noma lichibiyele noma yimuphi umyalelo wenqubomgomo okhishwe ngokwendima (a).

ISAPHELA 6**UXHASOMALI NOKUPHATHWA KWEZIMALI ZESIKHUNGO****Izimali zesiKhungo****24.(1) Izimali zesiKhungo ziqukethe –**

- (a) imali esiyabelwe yisiShayamthetho sesiFundazwe;
- (b) inzalo yezimali ezitshalwe yisiKhungo; kanye
- (c) nengeniso etholakale ngokusemthethweni kunoma yimuphi umthombo.

(2) Isikhungo kumele sizisebenzise izimali zaso –

- (a) ngokukhokhel a amaholo, izibonelelo zokuphila kanye nezindleko zokuhamba –
 - (i) zamalungu eBhodi;
 - (ii) zesiKhulu esiPhezulu; kanye
 - (iii) nezamalungu abasebenzi besiKhungo; kanye
- (b) nokukhokhela izindleko eziphathelele –
 - (i) nokuqhutshwa kwansuku zonke kanye nokuphathwa kwesiKhungo; kanye
 - (ii) nokuqhutshwa kwemisebenzi kanye nokusebenza kwesiKhungo nokuthi isikhungo sisebenzise amandla aso ngokwalo Mthetho.

(3) Isikhulu esiPhezulu, ngokuvumelana neBhodi kumele –

- (a) sivule i-akhawunti egameni lesikhungo esikhungweni esibhaliswe njengebhange ngokoMthetho wamaBhange, 1990 (uMthetho No. 94 ka 1990); futhi
- (b) sifake lapho yonke imali etholwe ngokwesigatshana (1).

(4) IBhodi, ngokuthintana neLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, kumele inqume –

(a) umholo nezimo zokusebenza; kanye

(b) nempesheni nemihlomulo yomhlalaphansi,

yesikhulu esiphezulu kanye namanye amalungu abasebenzi besikhungo.

(5) Isikhungo singatshala izimali ezifakwe kwi-akhawunti yaso ezingadingi ukusetshenziswa ngokushesha: Kuncike ekutheni iBhodi kumele ithathe izinyathelo ezifanele ukuqinisekisa ukuthi ukutshalwa kwezimali akukona okohlobo olungaqondakali lokuzalanisa imali.

(6) Isikhungo senqatshelwe ukuboleka imali noma ukukhipha iziqinisekiso, izinxephezelo noma izibambiso noma ukungena kunoma yinhlobo yokusetshenziswa kwemali okwenqatshelwe isikhungo ngaphandle uma lokh o kuboleka, isiqinisekiso, isinxephezelo, isibambiso noma okunye ukusetshenziswa kwemali kugunyazwe kulo Mthetho futhi kungashayisani noMthetho wokuPhathwa kwezimali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999).

Ukuphathwa kwezimali

25.(1) Isikhulu esiphezulu kumele senze ukuba kugcinwe amabhuku agcwele futhi afanele e-akhawunti kanye nayo yonke imininingwane edingekile ephathelene nayo.

(2) Isikhulu esiphezulu kumele siqinisekise ukuthi isabelomali sonyaka sesikhungo, izinhlelo zenhlangano, imibiko yonyaka kanye nezitatimende zezimali ezicwaningiwe ziyalungiswa futhi zilethwa ngokuhambisana noMthetho wokuPhathwa kwezimali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999).

(3) Isikhulu esiphezulu kumele, ezinyangeni ezintathu ngaphambi kokuba kuphele unyaka wezimali, silethe ukuze kuvunywe yiBhodi –

(a) uhlelo lwamabhizinisi esikhungo, oluqukethe izinjongo ezilinganisiwe kanye neminye imininingwane ehlongozwe esigabeni 26(3)(b) kanye no (c); kanye

(b) nesitatimende sesilinganiso senzuzo kanye nezindleko zesikhungo,

maqondana neminyaka emithathu elandelayo yezimali.

(4) Kunoma yimuphi unyaka wezimali isiKhulu esiPhezulu singaletha eBhodini ukuze kugunyazwe izitatimende zemali eyengeziwe noma esetshenzisiwe engenisweni noma ezindlekweni zesikhungo zangalowo nyaka wezimali.

(5) IsiKhungo angeke sizibandakanye kunoma yisiphi isivumelwano sezimali esingaphezu kwesabelomali esisinikeziwe kanye nesikuzuzile eceleni.

(6) IsiKhulu esiPhezulu ngokuvunyelwa yiBhodi –

(a) singatshala noma iyiphi ingxenywe engasetshenziswanga yezimali zayo eNhlanganweni yokuTshalwa kweziMali zikaHulumeni noma kwesinye isikhungo esihlukanisiwe noma esibhalisiwe izikhathi ngezikhathi nguMnyango kaMgcinimafa wesiFundazwe njengesisoSohlwini olungu “A1” lwezikhungo zezimali; noma

(b) singahlela leyo ngxenywe ngenye indlela.

(7) IsiKhulu esiPhezulu ngokugunyaza kweBhodi, singasungula izikhwama eziseceleni futhi sifake kuzo lezo zimali njengalokhu iBhodi ingavuma.

Ukucwaningwa kwamabhuku kanye nombiko wonyaka

26.(1) UMcwaningimabhuku-Jikelele kumele acwaninge izitatimende zemali yesiKhungo.

(2)(a) IBhodi kumele yethule umbiko ngezinto ezenziwa yisiKhungo ngesikhathi sonyaka wezimali kwiSishayamthetho sesiFundazwe ezinyangeni ezinhlanu ngemuva kokuphela konyaka wezimali; futhi

(b) ezinyangeni ezinhlanu ngemuva kokwethulwa kombiko, izithunywa ezibandakanya amalungu okungenani amabili eBhodi kumele zichazele iKomidi lesiShayamthetho elibhekele ezezimali ngombiko wonyaka.

(3) Umbiko kumele –

- (a) ubandakanye isitatimende esikhombisa imali esisele emalini engenile nesetshenzisiwe esi gxivizwe nguMcwaningimabhuku-Jikelele;
- (b) uveze indima isiKhungo esiyikhathulile noma esifinyelele kuyo ngezinhloso zaso ngokususela esigabeni 3 kanye nesilinganiso sezinjongo njengoba kubekiwe kuhlelo lwebhizinisi kanjengoba kuhlongozwe esigabeni 26(3)(a) ngesikhathi salowo nyaka wezimali othintekayo; futhi
- (c) uqukathe imininingwane efanele yokusebenza maqondana nezomnotho, ukunikezelwa kwezinsiza okube wusizo nempumelelo kanye nokuqhathanisa phakathi kokuhleliwe kanye nokwenziwe okukhombisayo njengoba kubekiwe kulolo hlelo lwebhizinisi.

Ukusungulwa kanye nokuphathwa kwezimali ezikhethekile

- 27.(a) IsiKhungo ngokuthintana neLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, singasungula futhi sigcine izimali ezikhethekile, kubandakanya izimali ezejwayelekile ezisetshenziselwa ukufaka abantu ababencishwe amathuba emkhakheni wokungeniswa kwempahla kuleli nempahla ethunyelwa kwamanye amazwe.
- (b) IsiKhungo kumele silawule lezo zimali ngendlela enqunywe yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho.

Unyaka wezimali wesiKhungo

- 28. Unyaka wezimali wesiKhungo uqala mhla lu-1 kuMbasa ngalowo nyaka futhi uphela mhla zinga-31 kuNdasa ngonyaka olandelayo.

Impahla engenakususwa

- 29. IsiKhungo ngokwenqubomgomo kanye nangezinqubo ezinqunywe yiBhodi futhi nangokuvuma kweLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, singathola, singacina noma singalahla impahla engenakususwa ekusebenzeni kwaso.

Ukuthathelwa izinyathelo zomthetho kwesiKhungo

30.(1) Noma yikuphi ukuthathelwa izinyathelo zomthetho okubhekiswe esiKhungweni kumele kwenziwe ngokuhambisana noMthetho wesikhungo sokuThathelwa izinyathelo zoMthetho kweziNhlaka ezithile zikaHulumeni, 2002 (uMthetho No. 40 ka 2002).

(2) Isikhungo, ngokwezihloso zesigatshana (1), sithathwa njengohlaka lukahulumeni oluhlongozwe endimeni (c) yencazelo yalokho okusesigabeni 1 salowo Mthetho.

ISAHLUKO 7**IZINHLINZEKO EZIJWAYELEKILE****Ukuphepha kolwazi oluyimfihlo olugcinwe yisiKhungo**

31.(1) Ngokweyame kuMthethosisekelo, uMthetho wokuGqugquzelwa kokuTholakala koLwazi, 2000 (uMthetho No. 2 ka 2000), akekho umuntu ongalalula noma yiluphi ulwazi olulethwe esiKhungweni oluphathelele nanoma yikuphi okuthinta umthetho noma umyalelo, ngaphandle –

(a) uma eyalelwe ukuba enze lokho yinkantolo yezomthetho;

(b) noma ngaphandle uma umuntu okhipha lowo myalelo enikeze imvume ngokubhalwe phansi.

(2) Akekho umuntu ongalalula noma yiluphi ulwazi olugcinwe kwirejista ehlongozwe esigabeni 7, 16(4) kanye no 19(4) ngaphandle uma lokho kudalulwa –

(a) kungokwanoma yimuphi umthetho ophoqeleyayo noma ogunyaza lokho kudalulwa;

(b) kunesidingo esibalulekile sokusebenza kwesiKhungo; noma

(c) kwenziwa ngezihloso zokubheka, zokuhlola, zokuphenya noma zokucubungula noma yikuphi okwenziwayo okuphathelele nesiKhungo, nanoma yiluphi ilungu labasebenzi besiKhungo.

(3) Noma yimuphi umuntu owephula isigatshana (1) noma (2) unecala.

Ukuhlakazwa kwesiKhungo

32. Isikhungo singahlakazwa kuphela ngokoMthetho weSishayamthetho s esiFundazwe.

Ukusetshenziswa kwegama lesiKhungo

33.(1) Akekho umuntu, ngaphandle kokugunyazwa okubhalwe phansi yisiKhungo, noma ngayiphi indlela ongamela noma asebenzise igama lesiKhungo, isifinyezo, uphawu, umdwebo noma impahla esetshenziswa noma engeyesikhungo.

(2) Akekho umuntu ngokuphambene ongathi usebenza egameni lesiKhungo.

(3) Wonke umuntu owephula isigatshana (1) noma (2) unecala.

Ukudluliselwa kwamandla

34.(1) ILungu eliqondene loMkhandlu Ophethe lingadlulisela eBhodini –

(a) noma yimaphi amandla anikezwe iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngokwalo Mthetho, ngaphandle kwamandla okwenza imithethonqubo okukhulunywa ngawo esigabeni 37; noma

(b) noma yimuphi umsebenzi odingeka kwiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngokwalo Mthetho, ngaphandle kwanoma yimiphi imisebenzi ephathelene nokuqokwa, kanye nokumiswa kokusebenza, kwamalungu eBhodi okuhlongozwe esigabeni 5(2) kanye no 10(2).

(2) IBhodi, ngesisombululo esikhethekile, lingadlulisela esiKhulwini esiPhezulu noma kwilungu labasebenzi besiKhungo, noma yimaphi amandla noma imisebenzi edingeka noma ephathelene neBhodi ngokwalo Mthetho.

(3) Isikhulu esiPhezulu singadlulisela kunoma yiliphi ilungu labasebenzi besiKhungo noma yimaphi amandla noma umsebenzi odingeka noma ephathelene nesikhulu esiPhezulu ngokwalo Mthetho, ngaphandle kwanoma yimuphi umsebenzi wesikhulu esinesibopho sokubika sesiKhungo.

(4) Noma yimaphi amandla noma umsebenzi odluliselwe ngokwesigatshana (1), (2) noma (3) kumele ukuba usetshenzwe noma wenziwe ngokweyame kuleyo migomo njengalokhu umuntu noma umgwamanda owenze ukudluliselwa ekubone kunesidingo.

(5) Noma yikuphi ukudluliselwa kwamandla okushiwoyo esigatshaneni (1), (2) noma (3) –

(a) kumele kubhalwe phansi;

(b) kungavimbeli umuntu noma umgwamanda owenze ukudluliselwa kwamandla ekutheni basebenzise amandla noma benze lowo msebenzi; futhi

(c) noma ngasiphi isikhathi kungahoxiswa noma kuchitshiyelwe ngokubhaliwe yilowo muntu noma umgwamanda.

Imithethonqubo

35. ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, ngokuthintana neBhodi futhi ngokwenza isaziso kwi*Gazethi*, lingenza imithethonqubo ephathelene –

(a) nanoma yiluphi udaba olungabhalwa noma okumele lubhalwe ngokwalo Mthetho; noma

(b) nanoma yikuphi ukuphathwa noma izindaba eziphathelene nenqubo edingekile ukuba iqalise kwizi nhlinzeko zalo Mthetho.

Ukuhlakazwa kweNkampani kanye nezinhlinzeko zezikhashana eziphathelene nalokho

36.(1)(a) iNkampani, i-Trade and Investment KwaZulu-Natal eneNombolo yokuBhaliswa kweziNkampani 98/11946/08, esungulwe ngokoMthetho weziNkampani, 1973 (uMthetho No. 61 ka 1973), ingahlakazwa ngokuzikhetshela futhi ibhaliswe kabusha; futhi

(b) Amalungu eNkampani kumele, ekuhlakazweni kweNkampani okukhulunywa ngakho esigatshaneni (1), phakathi kokunye, ahambisane nezigaba 349 kanye no 350 soMthetho weziNkampani, 1973 (uMthetho No. 61 ka 1973).

(2) Ngelanga lokuhlakazwa kweNkampani okuhlongozwe esigatshaneni (1), zonke izimpahla, izikweletu, amalungelo, imisebenzi kanye nezibopho, kubandakanya noma iyiphi ingxenye engasetshenzisiwe yezimali eziyinzuzo noma ezitholwe yiNkampani zidluliselwa, futhi zitshalwa, kwi-Trade and Investment KwaZulu-Natal esungulwe ngokwesigaba 2.

(3) I-Trade and Investment KwaZulu-Natal, maqondana nezimpahla, izikweletu, amalungelo, imisebenzi kanye nezibopho nezimali okukhulunywe ngakho esigatshaneni (2), ngazo zonke izinhloso ingundlalifa kwezomthetho, kanye nondlalifa egameni, leNkampani.

(4) Amalungu eBhodi yeNkampani kumele asebenze njengamalungu eBhodi yesiKhungo agunyaziwe kuze kube yisikhathi lapho iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngokwesigaba 5(2) liyoqoka khona iBhodi ngokwalo Mthetho.

(5) Onke amalungu abasebenzi beNkampani kumele, ezinyangeni eziyisithupha kuqale ukusebenza kwalo Mthetho, baqashwe yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ukuze badluliselwe esiKhungweni ngosuku olunqunywe yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho.

(6) Amaholo, imihlomulo kanye nezibonelelo ezinikezelwa yiLungu lomkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, ngokuhambisana nesigatshana (5), akungabi ngaphansi kwalokhu obekukhokhelwa ilungu labasebenzi beNkampani, ngemuva kokudluliselwa kwalo.

(7) Ngokwenhloso yoMthetho weNtela, 1962 (uMthetho No. 58 ka 1962), akukho ukushintshwa komqashi okuyothathwa njengokwenzekile maqondana namalungu abasebenzi abavuma umsebenzi ohlongozwe esigatshaneni (5).

(8) Ngenkathi umuntu eba yilungu labasebenzi besiKhungo ngokwesigatshana (5) –

(a) ugcina izinsuku zakhe zekhefu abevele enazo kuze kube yilesi sikhathi ashintshwe ngaso, okuhlelwe ngokuhambisana nezimo zokuqasha zesiKhungo ; futhi

(b) noma yiluphi uphenyo obeluvele lukhona noma obeluhlosiwe ukuba lube khona maqondana nokungaziphathi kahle okwenziwe yilowo muntu ngaphambi kosuku lokudluliselwa kwakhe kwenye indawo kumele kwazeke noma kuvezwe yisiKhungo futhi isiKhungo kumele simthathele izinyathelo ezifanele lowo muntu othintekayo ngokuhambisana nomthetho, nenqubomgomo kanye nemibandela yomsebenzi noma yokusebenza Abelwe yona ngokushesha ngemuva kokushaya kosuku lokudluliselwa kwakhe.

Amacala ajwayelekile

37.(1) Ilungu leBhodi, ilungu labasebenzi, umeluleki, i-ejenti nanoma yimuphi omunye umuntu oqashiwe noma omele isiKhungo unecala uma emukela ngqo noma ngandlela thile noma yikuphi ukugwazelwa nanoma emukela noma iyiphi imali noma umklomelo okungagunyaziwe kunoma yimuphi umuntu ngokuphathelene nanoma yikuphi okwenziwa noma okunikezelwa yisiKhungo.

(2) Noma yimuphi umuntu unecala uma, maqondana noma ngokuphathelene nanoma yikuphi okwenziwa noma okunikezelwa yisiKhungo, efaka umoya othile noma ezama ukufaka umoya ilungu leBhodi, umsebenzi, umeluleki, i-ejenti nanoma yimuphi umuntu oqashiwe noma oyibamba egameni lesiKhungo wokuthi enze ubugebengu.

(3) Noma yimuphi umuntu ngokungemthetho othi ugunyaziwe ukuba abize noma athathe izimali, iminikelo noma okunikelwayo egameni, noma ngokuyalelwa yisiKhungo unecala.

Izinhlawulo

38. Noma yimuphi umuntu otholakala enecala ngokwalo Mthetho uyohlawuliswa noma abhadle ejele isikhathi esingeqile eminyakeni eyi-5 noma kokubili isigwebo nenhlawulo.

Isihloko esifushane

39. Lo Mthetho ubizwa ngokuthi uMthetho wesiKhungo sezoHwebo nokuTshalwa kweziMali waKwaZulu-Natali, 2010.

No. 8

21 October 2010

[English text signed by the Premier]

**KWAZULU-NATAL
BUSINESS REHABILITATION TRUST FUND ACT
REPEAL ACT, 2010
(Act No. 06 of 2010)**

Assented to on 09-09-2010

ACT

To provide for the repeal of the KwaZulu-Natal Business Rehabilitation Trust Fund Act, 1998; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the Province of KwaZulu-Natal, as follows:-

Repeal of laws

1. The KwaZulu-Natal Business Rehabilitation Trust Fund Act, 1998 (Act No. 13 of 1998), and the KwaZulu-Natal Business Rehabilitation Trust Fund Amendment Act, 2003 (Act No. 2 of 2003), are hereby repealed.

Disestablishment of KwaZulu-Natal Business Rehabilitation Trust Fund established in terms of repealed KwaZulu-Natal Business Rehabilitation Trust Fund Act, 1998, and transitional provisions incidental thereto

2.(1) The KwaZulu-Natal Business Rehabilitation Trust Fund established in terms of section 3(1) of the repealed KwaZulu-Natal Business Rehabilitation Trust Fund Act, 1998 (Act No. 13 of 1998), is hereby disestablished and dissolved.

(2) All assets, liabilities, rights, duties and obligations, including any unspent portion of any funds accrued to, or received by, the disestablished KwaZulu-Natal Business Rehabilitation Trust Fund are transferred to, and vest in, the KwaZulu-Natal Department of Economic Development and Tourism.

(3) The KwaZulu-Natal Department of Economic Development and Tourism is, in respect of the assets, liabilities, rights, duties and obligations and funds referred to in subsection (2), for all purposes the successor-in-law of the disestablished KwaZulu-Natal Business Rehabilitation Trust Fund.

(4) The Board of the KwaZulu-Natal Business Rehabilitation Trust Fund referred to in sections 5 and 6 of the repealed KwaZulu-Natal Business Rehabilitation Trust Fund Act, 1998, is hereby disestablished and dissolved and the KwaZulu-Natal Department of Economic Development and Tourism is, for all purposes the successor-in-law of the disestablished and dissolved Board of the KwaZulu-Natal Business Rehabilitation Trust Fund.

Short title

3. This Act is called the KwaZulu-Natal Business Rehabilitation Trust Fund Act Repeal Act, 2010.

No. 8

21 Oktober 2010

[Engelse teks deur die Premier geteken]

**KWAZULU-NATAL HERROEPINGSWET OP DIE WET OP
BESIGHEIDSREHABILITASIE TRUSTFONDS, 2010
(No. 06 van 2010)**

Goedgekeur op 09-09-2010

WET

Om voorsiening te maak vir die herroeping van die KwaZulu-Natal Wet op Besigheidsrehabilitasietrustfonds, 1998; en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

DAAR WORD soos volg deur die Wetgewer van die provinsie KwaZulu-Natal bepaal:–

Herroeping van wette

1. Die KwaZulu-Natal Wet op die Besigheidsrehabilitasietrustfonds, 1998 (Wet No. 13 van 1998), en die KwaZulu-Natal Wysigingswet op die Besigheidsrehabilitasietrustfonds, 2003 (Wet No. 2 van 2003), word hiermee herroep.

Opheffing van KwaZulu-Natal Besigheidsrehabilitasietrustfonds ingestel ingevolge herroepe KwaZulu-Natal Wet op die Besigheidsrehabilitasietrustfonds, 1998, en oorgangsbepalings wat daarmee verband hou

2.(1) Die KwaZulu-Natal Besigheidsrehabilitasietrustfonds ingestel deur artikel 3(1) van die herroepe KwaZulu-Natal Wet op die Besigheidsrehabilitasietrustfonds, 1998 (Wet No. 13 van 1998), word hiermee opgehef en ontbind.

(2) Alle bates, laste, regte, pligte en verpligtinge, met inbegrip van enige onbestede gedeelte van enige opgelope fondse, of fondse ontvang deur die ontbinde KwaZulu-Natal Besigheidsrehabilitasietrustfonds word oorgedra na en berus by die KwaZulu-Natal Departement van Ekonomiese Ontwikkeling en Toerisme.

(3) Die KwaZulu-Natal Departement van Ekonomiese Ontwikkeling en Toerisme is, met betrekking tot die bates, laste, regte, pligte en verpligtinge en fondse vermeld in subartikel (2) vir alle doeleindes die regsopvolger van die ontbinde KwaZulu-Natal Besigheidsrehabilitasietrustfonds.

(4) Die Raad van die KwaZulu-Natal Besigheidsrehabilitasietrustfonds vermeld in artikel 5 en 6 van die herroepe KwaZulu-Natal Wet op die Besigheidsrehabilitasietrustfonds, 1998, word hiermee opgehef en ontbind en die KwaZulu-Natal Departement van Ekonomiese Ontwikkeling en Toerisme is, vir alle doeleindes die regsopvolger van die opgehefte en ontbinde Raad van die KwaZulu-Natal Besigheidsrehabilitasietrustfonds.

Kort titel

3. Hierdie Wet heet die KwaZulu-Natal Herroepingswet op die Wet op Besigheidsrehabilitasietrustfonds, 2010.

No. 8

21 kuMfumu 2010

[Umbhalo wesiNgisi unyathelwe nguNdunankulu]

**UMTHETHO WOKUCHITHA UMTHETHO WESIKHWAMA
SOKUVUSELELWA KWAMABHIZINISI WAKWAZULU-NATALI, 2010
(Umthetho Na. 06 ka 2010)**

Uvunywe ngomhlaka 09-09-2010

UMTHETHO

Wokuhlinzekela ukuchithwa koMthetho Wesikhwama Sokuvuselelwa Kwamabhizinisi WaKwaZulu-Natali, 1998; kanye nokuhlinzekela okunye okuphathelele nalokho.

MAWUMISWE yisiShayamthetho sesiFundazwe saKwaZulu-Natali, kanje:-

Ukuchithwa kwemithetho

1. UMthetho wesiKhwama sokuVuselelwa kwamaBhizinisi waKwaZulu-Natali, 1998 (uMthetho No. 13 ka 1998), kanye noMthethosichibiyelo Wesikhwama Sokuvuselelwa Kwamabhizinisi WaKwaZulu-Natali, 2003 (uMthetho No. 2 ka-2003), ngalokhu iyachithwa.

Ukuhlakazwa kwesiKhwama Sokuvuselelwa Kwamabhizinisi SaKwaZulu-Natali esasungulwa ngokoMthetho Wesikhwama Sokuvuselelwa Kwamabhizinisi WaKwaZulu-Natali, 1998 osuchithiwe, nezinhlinzeko zesikhashana ezihambisana nalokho

2.(1) Isikhwama Sokuvuselelwa Kwamabhizinisi SaKwaZulu-Natali esasungulwa ngokwesigaba 3(1) soMthetho Wesikhwama Sokuvuselelwa Kwamabhizinisi WaKwaZulu-Natali, 1998 (uMthetho No. 13 ka-1998) osuchithiwe, ngalokhu siyahlakazwa futhi siyashatshalaliswa.

(2) Yonke impahla, izikweletu, amalungelo, imisebenzi kanye nezibopho, kubandakanya nanoma iyiphi ingxenye engasetshenzisiwe yanoma iziphi izimali eziqoqwe, noma ezamukelwe, yisiKhwama Sokuvuselelwa Kwamabhizinisi SaKwaZulu-Natali esihlakaziwe kudluliselwa, futhi kunikezelwa, eMnyangweni Wezokuthuthukiswa Komnotho Nezokuvakasha KwaZulu-Natali.

(3) UMnyango Wezokuthuthukiswa Komnotho Nezokuvakasha KwaZulu-Natali, maqondana nayo yonke impahla, izikweletu, amalungelo, imisebenzi nezibopho kanye nezimali okukhulunywe ngazo kwisigatshana (2) ngokomthetho uyindlalifa yesiKhwama Sokuvuselelwa Kwamabhizinisi SaKwaZulu-Natali esesihlakaziwe.

(4) IBhodi Lesikhwama Sokuvuselelwa Kwamabhizinisi SaKwaZulu-Natali okukhulunywe ngalo ezigabeni 5 no 6 zoMthetho Wesikhwama Sokuvuselelwa Kwamabhizinisi waKwaZulu-Natali, 1998 osuchithiwe, ngalokhu liyahlakazwa, futhi uMnyango Wezokuthuthukiswa Komnotho Nezokuvakasha KwaZulu-Natali, ngokomthetho uyindlalifa yeBhodi eselihlakaziwe lesiKhwama Sokuvuselelwa Kwamabhizinisi SaKwaZulu-Natali.

Isihloko esifushane

3. Lo Mthetho ubizwa ngokuthi uMthetho Wokuchitha Umthetho Wesikhwama Sokuvuselelwa Kwamabhizinisi WaKwaZulu-Natali, 2010.
