



KWAZULU-NATAL PROVINCE  
KWAZULU-NATAL PROVINSIE  
ISIFUNDAZWE SA KWAZULU-NATALI

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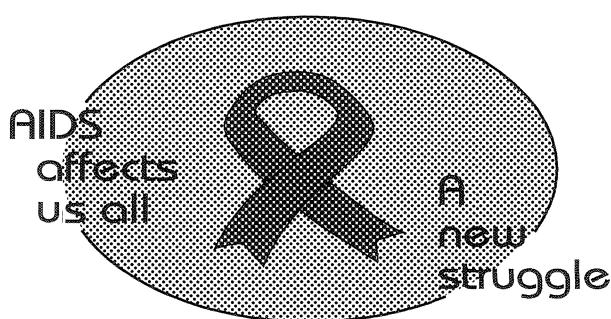
Vol. 7

PIETERMARITZBURG,

6 DECEMBER 2013  
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No. 1064

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**GENERAL NOTICE—ALGEMENE KENNISGEWING—ISAZISO SIKAWONKE-WONKE**

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**No. 61****6 December 2013****KWAZULU-NATAL ITHALA DEVELOPMENT FINANCE CORPORATION BILL, 2013****Notice in terms of Rule 194 of the Standing Rules of the KwaZulu-Natal Legislature**

Notice is hereby given in terms of Rule 194 of the Standing Rules of the Provincial Legislature that the KwaZulu-Natal iThala Development Finance Corporation Bill, 2013 as set out hereunder, has been introduced into the aforesaid Legislature and will be considered by the Economic Development and Tourism Portfolio Committee. The public and other interested groups are invited to submit representations on the said Bill, which representations must be addressed to:

Attention: Mr DN Dimba  
The Secretary  
KwaZulu-Natal Legislature  
Private Bag X 9112  
PIETERMARITZBURG  
3200

E-mail: [dimbad@kznlegislature.gov.za](mailto:dimbad@kznlegislature.gov.za)

so as to reach her not later than 15 days from the date of publication.

N NAIDOO  
Secretary to the KwaZulu-Natal Legislature

**KWAZULU-NATAL  
ITHALA DEVELOPMENT FINANCE CORPORATION BILL, 2013**

**BILL**

**To provide for the continued existence of the KwaZulu-Natal Ithala Development Finance Corporation Limited, formerly known as KwaZulu Finance and Investment Corporation Limited, with the primary purpose of promoting, supporting and facilitating sustainable socio-economic development in the Province of KwaZulu-Natal, in accordance with the growth and development strategy of the Province; to determine the objectives, powers, duties and functions of the KwaZulu-Natal Ithala Development Finance Corporation Limited; to determine the manner in which the KwaZulu-Natal Ithala Development Finance Corporation Limited is to be managed, staffed and financed; and to provide for matters incidental thereto.**

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

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## CHAPTER 1 DEFINITIONS

### **Definitions**

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

“**Banks Act**” means the Banks Act, 1990 (Act No. 94 of 1990), and any word or expression to which a meaning has been assigned in the Banks Act or the Regulations relating to Banks, bears the meaning so assigned thereto;

“**Board**” means the Board of the Corporation appointed in terms of section 6;

“**Chief Executive Officer**” means the Chief Executive Officer of the Corporation, appointed in terms of section 17;

“**Companies Act**” means the Companies Act, 2008 (Act No. 71 of 2008);

“**Company**” means the Ithala State-owned Company Limited, a subsidiary of the Ithala Development Finance Corporation Limited, being a state-owned company incorporated in terms of the Companies Act, 2008 (Act No. 71 of 2008);

“**Constitution**” means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

**“Corporation”** means the Ithala Development Finance Corporation Limited referred to in section 2;

**“Department”** means the department in the Provincial Government of KwaZulu-Natal responsible for Economic Development;

**“deposit”** means a deposit as defined in section 1 of the Banks Act;

**“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 section 12 of the Public Service Act, 1994 (Proclamation No. 103 of 1994);

**“indirect interest”** includes, but is not limited to, a personal financial interest as defined in section 1 of the Companies Act, of a related or interrelated person as contemplated in section 2 of the Companies Act;

**“interest”** includes, but is not limited to, a personal financial interest as defined in section 1 of the Companies Act;

**“liquid asset”** means a liquid asset as defined in section 1 of the Banks Act;

**“member”** means a member of the Board of the Corporation appointed in terms of section 6;

**“Member of the Executive Council for Finance”** means the Member of the Executive Council of the Province of KwaZulu-Natal responsible for Finance;

**“member of the public”** includes a juristic person;

**“National Treasury”** means the National Treasury established by section 5 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

**“Portfolio Committee”** means the Portfolio Committee of the Provincial Legislature responsible for Economic Development;

**“Premier”** means the Premier of the Province of KwaZulu-Natal referred to in section 125(1) of the Constitution;

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

**“Provincial Government”** means the Provincial Government of the Province of KwaZulu-Natal and, unless the context indicates otherwise, includes every Department in the Provincial Government;

**“Provincial Legislature”** means the Legislature of the Province of KwaZulu-Natal referred to in section 105 of the Constitution and having the legislative authority for the Province as contemplated in section 104(1) of the Constitution;

**“Public Finance Management Act”** means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

**“Registrar of Banks”** means the Registrar of Banks designated under section 4 of the Banks Act;

**“regulations”** means regulations made in terms of section 33;

**“regulations relating to Banks”** means the regulations in terms of section 90 of the Banks Act;

**“responsible Member of the Executive Council”** means the Member of the Executive Council of the Province of KwaZulu-Natal responsible for Economic Development;

“**shares**” means shares in the company contemplated in chapter 7;

“**share capital**” means funds raised by issuing shares in return for cash or other considerations; and

“**this Act**” includes the regulations.

## CHAPTER 2 ITHALA DEVELOPMENT FINANCE CORPORATION

### **Ithala Development Finance Corporation**

2.(1) The KwaZulu Finance and Investment Corporation Limited, established by Proclamation R. 73 of 1978, and subsequently renamed by the KwaZulu-Natal Ithala Development Corporation Act, 1999 (Act No. 2 of 1999), as Ithala Development Finance Corporation Limited, continues to exist and is to be known as the Ithala Development Finance Corporation Limited.

(2) The Corporation, referred to in subsection (1), continues to be a juristic person.

(3) The Corporation is a provincial public entity subject to the Public Finance Management Act.

(4) Any reference in any other law or document to –

- (a) the Black Investment Corporation of South Africa Limited;
- (b) the Corporation for Economic Development and Tourism Limited;
- (c) the KwaZulu Development Corporation Limited; or
- (d) the KwaZulu Finance and Investment Corporation Limited,

must be construed as a reference to the Ithala Development Finance Corporation Limited.

### **Objects and area of operation of Corporation**

3. The objects of the Corporation are to promote, support and facilitate social and economic development in the Province by –

- (a) mobilising financial resources and providing financial and related support services to persons domiciled, ordinarily resident or carrying on business, within the Province;

- (b) planning, executing, financing and monitoring the implementation of development projects and programmes in the Province;
- (c) promoting, assisting and encouraging the development of the human resources and social, economic, financial and physical infrastructure of the Province;
- (d) promoting, encouraging and facilitating private sector investment in the Province and the participation of the private sector and community organisations in development projects and programmes and in contributing to economic growth and development generally; and
- (e) acting as the agent of the Provincial Government for performing any development-related functions and responsibilities which, in the opinion of the Provincial Government, may be more efficiently or effectively performed by a corporate entity.

### **Powers, duties and functions of Corporation**

4. In attaining the objects contemplated in section 3 and subject to sections 54(2), 66 and 68 of the Public Finance Management Act, 1999, the Corporation may –

- (a) raise funds and other resources from the public and private sectors by securing loans, soliciting and receiving grants and donations on such conditions as may be agreed upon and subject to any conditions that may be determined or prescribed by the responsible Member of the Executive Council;
- (b) plan, facilitate, promote, carry out, finance, invest in, or underwrite any project, programme or enterprise aimed at furthering the social or economic development and tourism of the Province;
- (c) furnish technical and other advice, training, information, guidance and generally offer such support and assistance as may be required for any project, programme, or enterprise contemplated in paragraph (b);
- (d) through the Company, lend or advance money, with or without security, on such conditions as it deems fit, take such security as it deems fit in connection therewith, including –
  - (i) mortgage bonds;
  - (ii) notarial bonds;
  - (iii) pledges;
  - (iv) cessions;
  - (v) liens;

- (vi) hypothecs;
- (vii) guarantees;
- (viii) deeds of suretyship; or
- (ix) any other form of cover or security,

and take such steps as it deems necessary for the recovery of any debt and the protection and enforcement of any right in connection therewith;

(e) guarantee, underwrite, or stand surety for the debts or contractual obligations of any person, indemnify any person against any loss, damage and costs arising from the debts or other obligations of any other person and, for that purpose, enter into security bonds or furnish any other required form of security;

(f) acquire, hold, develop, improve, manage, deal with, hire, let, sell, transfer, donate, cede, hypothecate, or otherwise encumber or alienate movable or immovable property, whether corporeal or incorporeal;

(g) establish juristic persons or associations of persons capable of carrying out any object, power, function, or duty that the Corporation may carry out in terms of this Act, acquire an interest in any such juristic person and alienate any such interest, or subscribe to membership of any such association and terminate such membership;

(h) hold shares in the Company contemplated in Chapter 7;

(i) act as director, trustee, administrator, manager, executor, judicial manager, liquidator, agent or representative of any person, public body, estate or business and designate any representative to act for such purpose;

(j) charge and accept remuneration for any service rendered to, or on behalf of, any person, including the Provincial Government;

(k) pay all expenses in connection with its administration, open, operate and close banking accounts, overdraw such accounts, make, draw, accept, or endorse negotiable instruments, invest funds not immediately required for its affairs;

(l) create reserve funds, take all such steps as it considers necessary for the protection and preservation of its –

- (i) investments; or
- (ii) financial interests,

and generally do all things necessary for the management and administration of its financial affairs; and

(m) pay all expenses in connection with the protection, preservation and maintenance of its rights and assets;

(n) take all steps it considers necessary for –

(i) the recovery of any liability; or

(ii) the enforcement of any obligation owing to it by any person,

including the institution of such legal proceedings as it considers necessary; and

(o) employ, suspend, discharge, remunerate, train and house the staff members of the Corporation;

(p) provide the staff members of the Corporation with pension benefits, sick leave benefits, or other benefits of employment and generally do all things necessary to develop and maintain an adequate staff complement within the Corporation;

(q) have an official seal and use such seal for any purpose in the Province;

(r) generally, do all things necessary for –

(i) the attainment of its objects;

(ii) the exercise of its powers; or

(iii) the management and administration of its affairs; and

(s) 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; and

(t) authorise the Company to accept, hold and invest deposits offered by any person, on such conditions as the Minister of Finance or the Registrar of Banks may determine.

### **Shares, share capital and shareholding**

5.(1) At the date of commencement of this Act, the authorised share capital of the Corporation is its issued share capital as held by the Corporation in the Company.

(2) Subject to such conditions as the responsible Member of the Executive Council may prescribe, the Corporation may transfer all or part of the issued shares to any –

(a) juristic person;

(b) association of persons; or

(c) public or private sector body,

whose objects are not inconsistent with those of the Corporation: Provided that individual natural persons may not become shareholders of the Corporation.

(3) The Board, with the approval of –

(a) the responsible Member of the Executive Council; and

(b) where shares have been transferred to shareholders as contemplated in subsection (2), the shareholders voting in general meeting,  
may, from time to time –

(a) increase the share capital of the Corporation, to the extent the Board considers expedient, by the creation of –

- (i) ordinary or preference shares; or
- (ii) shares of any other type or class it may decide upon,

and issue such shares on agreed terms; and

(b) change –

- (i) the authorisation and classification of shares;
- (ii) the numbers of authorised shares of each class; and
- (iii) the preferences, rights, limitations and other terms associated with each class of shares.

(4) Any share in the Company may be issued with such preferred, deferred or other special rights, or subject to such restrictions as the Board may decide, whether in regard to dividends, voting, return of share capital, or otherwise.

(5) In the case of preference shares, the Board may decide –

- (a) that the shareholders are not entitled to vote; or
- (b) that such shares may be redeemed.

(6) Each issued share, regardless of its class, has associated with it one general voting right.

(7) Despite anything to the contrary in this Act, every share issued has associated with it an irrevocable right of the shareholder to vote on any proposal to amend the preferences, rights, limitations and other terms associated with that share.

### CHAPTER 3 BOARD OF CORPORATION

#### **Composition of Board**

6.(1) The Board consists of –

- (a) at least seven, but not more than thirteen, members appointed by the responsible Member of the Executive Council; and
- (b) the Chief Executive Officer, *ex officio*, as contemplated in section 17(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, expertise and qualifications –
  - (i) legal skills, experience and qualifications;
  - (ii) financial skills, experience and qualifications;
  - (iii) investment experience or qualifications;
  - (iv) marketing experience or qualifications;
  - (v) human resource or labour experience or qualifications; and
  - (vi) 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, possesses the necessary and appropriate skills and expertise;
- (c) the Board is representative of persons employed or involved in the import, trade and investment business enterprises in the Province; and
- (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 subsection.

(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 must, by notice in the *Gazette*, invite any interested parties within the Province to nominate candidates for appointment to the Board.

(6) The invitation for nomination must specify –

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

(7) The responsible Member of the Executive Council must appoint a nomination committee to make recommendations to the Responsible Member of the Executive Council for the members of the Board.

(8) 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, immediately after such persons have been notified, in writing, of their appointment to the Board.

(9) 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.

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

#### **Disqualification from being appointed to Board**

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

- (a) is a member of Parliament, any provincial legislature or any municipal council;
- (b) is or becomes an un-rehabilitated insolvent;
- (c) is or has been declared by a competent court to be of unsound mind;
- (d) is directly or indirectly involved in any contract with the Corporation and fails to declare his or her involvement in such a contract and the nature thereof in the manner required by this Act;
- (e) is a person under curatorship;
- (f) has, at any time, been removed from an office of trust on account of misconduct involving theft or fraud;

- (g) 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
- (h) fails to disclose an interest contemplated in paragraph (d), or attended or participated in the proceedings of the Board while having an interest contemplated in the said paragraph.

(2) A person who is subjected to a disqualification contemplated in subsection (1)(a), (1)(b) or (1)(g) may be nominated for appointment as a member but may only be appointed, if at the time of such appointment, he or she is no longer subjected to that disqualification.

#### **Declaration of financial or other interests of members of Board**

**8.(1)** A person who has been nominated to serve on the Board in terms of section 6(5) must, within ten 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 7(1)(h) 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 Corporation, submit a written declaration to the responsible Member of the Executive Council of his or her direct or indirect interest in any company or other business.

(4) Where a member 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 ten 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 a justifiable reason for the termination of appointment of such member in terms of section 10(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 member of Board**

9. The persons appointed to the Board hold office for a term of three years, or such shorter period as the responsible Member of the Executive Council may determine, and are, subject to section 6, eligible for re-appointment at the expiry of such term: Provided that no person may be re-appointed after having served on the Board for three consecutive terms.

#### **Vacancies, removal and resignation from office of members of Board**

10.(1) A member ceases to be a member immediately upon becoming disqualified in terms of section 7.

(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 in person 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 may waive the resignation notice.

(5) Whenever a vacancy occurs on the Board and, other than a vacancy arising by virtue of the responsible Member of the Executive Council exercising his or her powers in terms of subsection (2), the responsible Member of the Executive Council must, subject to section 6,

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 6, but subject to sections 6(2) and 6(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 60 days from the date of their appointment; and
- (b) the responsible Member of the Executive Council must, within 60 days of the appointment contemplated in this subsection and subject to section 6, appoint the members of the Board for a term as contemplated in section 9.

#### **Temporary suspension of member of Board**

11. 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 appointment of the member being terminated in terms of section 10(2).

#### **Meetings and procedures at meetings of Board**

12.(1) Any meeting of the Board must be held at a venue, on a date and at a time determined by the chairperson of the Board.

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

(3) The proceedings at a meeting of the Board must, subject to the provisions of this section, be determined by the chairperson of the Board.

(4) The chairperson of the Board must preside at all meetings of the Board: Provided that in his or her absence the deputy chairperson of the Board must preside and, in the event that neither the chairperson nor the deputy chairperson is present at a meeting of the Board, the members then present may elect, from their own number, a person to act as the chairperson of the Board

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 of the Board 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.

(8) A majority of the Board may call an extraordinary meeting of the Board.

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

#### **Recusal of member from meetings and proceedings of Board**

13.(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)(a) 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.

(b) The member contemplated in subsection (2)(a) may not participate in any voting connected with a matter in which he or she has or may have an interest contemplated in subsection (1).

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

(4) Where it emerges that the Board took a decision on a matter in respect of which a member has an undisclosed interest and voted, such decision is voidable.

(5) The decision contemplated in subsection (4) may –

- (a) subject to approval by the responsible Member of the Executive Council, be ratified by a resolution of the Board following disclosure of such interest; or
- (b) be declared to be valid by a court of law.

### **Remuneration of members of Board**

14.(1)(a) A member of the Board may be paid from the funds of the Corporation 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 for Finance.

(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 subsection (1)(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 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.

(b) The Member of the Executive Council for Finance must determine procedures, including control measures, for the management, handling and processing of claims for subsistence and travelling expenses contemplated in subsection (2)(a).

**Establishment of committees to assist Board**

15.(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 Corporation 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) The Board must establish –

- (a) an audit committee, in accordance with the provisions of the Public Finance Management Act; and
- (b) a remuneration committee, which is responsible for –
  - (i) making recommendations regarding remuneration allowances and other benefits of the persons contemplated in section 25(2)(a); and
  - (ii) determining procedures, including control measures for the management, handling and processing of claims for subsistence and travelling expenses.

(3) 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.

(4) 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.

(5)(a) The Chief Executive Officer may attend and take part in, but may not vote, at a meeting of a committee contemplated in subsections (1) and (2).

(b) A staff member of the Corporation may, by invitation from the relevant committee, attend a meeting of that committee, but may not vote.

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

**16.(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 of the Board.

(3) A person co-opted in terms of subsection (1) may be paid such remuneration and allowances from the funds of the Corporation as may be determined by the Board, in consultation with the Member of the Executive Council for Finance.

## CHAPTER 4 CHIEF EXECUTIVE OFFICER AND STAFF OF CORPORATION

**Chief Executive Officer of Corporation**

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

(2)(a) The Chief Executive Officer is appointed for a period not exceeding five years.

(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 Corporation.

(b) The Corporation and the Chief Executive Officer may, in writing and by agreement, amend the performance agreement contemplated in subsection (3)(a).

(4) For purposes of the declaration of financial or other interests, the provisions of section 8 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 Chief Executive Officer

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

- (a) the administrative and financial management of the Corporation in accordance with the Public Finance Management Act, under the direction of the Board;
- (b) the appointment of members of staff of the Corporation contemplated in section 20(1), after consultation with the Board;
- (c) the determination of a code of conduct applicable to the Chief Executive Officer and all members of staff of the Corporation, with the approval of the Board, to ensure –
  - (i) compliance with applicable law, including this Act;
  - (ii) the effective, efficient and economical use of the funds of the Corporation 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 Corporation; and
  - (vi) professional, honest, impartial, fair, ethical and equitable service; and
- (d) the maintenance of discipline of the members of staff of the Corporation appointed in terms of subsection (1)(b);
- (e) the keeping and maintenance of the register of interests declared by members of staff of the Corporation; and
- (f) ensuring compliance with the provisions of the Public Finance Management Act, and any other applicable legislation by the Board.

(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 any suitable candidate from the staff members of the Corporation as Acting Chief Executive Officer until the Chief Executive Officer is able to resume his or her functions.

## Resignation and removal from office of Chief Executive Officer

**19.(1)** The Chief Executive Officer vacates office –

- (a) in the case of resignation, when the resignation takes effect;
- (b) when he or she becomes disqualified in terms of section 7; 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 employment of the Chief Executive Officer in accordance with applicable employment and labour law.

### **Staff of Corporation**

**20.**(1) The Chief Executive Officer must, subject to section 18(1)(b) and subsection (2), employ members of staff of the 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 work incidental to the performance of its functions.

(2) The Board must, subject to section 25(4), determine a human resources policy for members of staff of the Corporation, including the Chief Executive Officer.

(3) For purposes of the declaration of financial or other interests, and subject to section 18(1)(e), the provisions of section 8(3), (4) and (5) apply, with the necessary changes, to members of staff of the Corporation.

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

### **Secondment or transfer of staff to Corporation**

**21.** The 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 POLICY DIRECTIVES AND CORPORATE PLAN

### **Policy directives to Board**

**22.**(1) The Responsible Member of the Executive Council, after consultation with the Board and

the Portfolio Committee, and in consultation with the Premier in Executive Council, may set strategic guidelines for the pursuit of the Corporation's objects by issuing policy directives to the Board.

(2) The responsible Member of the Executive Council may, similarly, withdraw or amend any policy directive contemplated in subsection (1).

(3) The responsible Member of the Executive Council may not issue any policy directive inconsistent with the provisions of this Act or any other law binding on the Corporation.

(4) A policy directive contemplated in subsection (1) must be –

- (a) in writing;
- (b) signed by the Member of the Executive Council; and
- (c) addressed to the Chairperson of the Board.

(5) The Board must ensure –

- (a) that a record is kept of all current policy directives; and
- (b) that members of the public have the right of access to this record.

(6) The Board must report to the responsible Member of the Executive Council on the extent of its compliance or non-compliance with all existing policy directives in its annual report.

### **Corporate Plan of Corporation**

**23.** The Board must ensure that a corporate plan is developed and implemented in accordance with the provisions of the Public Finance Management Act.

### **Prohibitions and restrictions on distribution of Corporation's profits**

**24.** The Member of the Executive Council may, by notice in the *Gazette*, impose such prohibitions and restrictions on –

- (a) the distribution of the profits of the Corporation; and
- (b) the disposal of the major assets of the Corporation,

as he or she considers necessary for the good governance of the Corporation.

**CHAPTER 6**  
**FUNDING AND FINANCIAL MANAGEMENT OF CORPORATION**

**Funds of Corporation**

**25.(1)** The funds of the Corporation consist of –

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

**(2)** The Corporation must utilise its funds –

- (a) for the payment of remuneration, allowances and subsistence and travelling expenses of –
  - (i) the members;
  - (ii) the co-opted members of the Board or the members of the committees of the Board;
  - (iii) the Chief Executive Officer; and
  - (iv) the members of staff of the Corporation; and
- (b) to cover costs in connection with –
  - (i) the day to day operation and administration of the Corporation; and
  - (ii) the performance of the duties and functions of the Corporation 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 Corporation with a company or an institution registered as a bank in terms of the Banks Act; and
- (b) deposit therein all moneys received in terms of subsection (1).

**(4)** The Board, after 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 all members of staff of the Corporation.

**(5)** The Corporation may invest moneys deposited into its 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.

### **Financial management**

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

(2) The Chief Executive Officer must ensure that the annual budgets, corporate plans, annual reports and audited financial statements of the Corporation 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 Corporation: containing measurable objectives and the other information contemplated in section 27(3)(b) and (c); and

(b) a statement of the estimated income and expenditure of the Corporation, 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 Corporation for that financial year.

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

(6) The Chief Executive Officer may –

(a) with the approval of the Board, invest any unexpended portion of the Corporation 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) with the approval of the Board, 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**

**27.(1)** The Auditor-General must audit the financial statements of the Corporation.

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

**(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 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 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 26(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**

**28.(1)** The Corporation 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 investment the previously disadvantaged groups.

**(2)** The Corporation must administer such funds in the manner determined by the responsible Member of the Executive Council.

**CHAPTER 7**  
**ITHALA STATE-OWNED COMPANY LIMITED**

**Ithala State-owned Company Limited**

**29.** At the commencement of this Act, the Corporation is the sole shareholder of the Company.

### **Powers of Company**

**30.(1)** The Company has all the powers and capacity of a juristic person, except to the extent that the Banks Act, the Companies Act, or its Memorandum of Incorporation provides otherwise.

(2) Notwithstanding anything to the contrary contained in this Act, the Company has the power to accept, hold and invest deposits offered by any person on such conditions as the Minister of Finance or the Registrar of Banks may determine in terms of the Banks Act.

### **Compliance with requirements of Banks Act**

**31.** For as long as the Company accepts deposits from the public, it must comply with any requirement or condition imposed by the Minister of Finance or the Registrar of Banks in terms of the Banks Act.

### **Winding-up of Company**

**32.(1)** Where the Company operates as contemplated in section 31, the relevant provisions of the Banks Act apply in respect of the winding-up or deregistration of the Company.

(2) Subject to subsection (1), the Company may be wound up or deregistered in terms the Companies Act.

(3) On the date of the winding-up of the Company contemplated in subsection (2), 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 Corporation established in terms of section 3.

(4) Notwithstanding the disestablishment of the Corporation, the Company continues to exist as a separate legal entity registered in terms of the Companies Act.

(5) The winding up of any juristic person that is a shareholder in the Company does not affect the status of the Company.

## CHAPTER 8 GENERAL PROVISIONS

### **Security of confidential information held by Corporation**

33.(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 Corporation, unless –  
(a) he or she is ordered to do so by a court of law; or  
(b) the person who submitted such information consents thereto in writing.

(2) No person may disclose any information kept in the registers contemplated in sections 8(6) and 20(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 Corporation; or  
(c) made for purposes of monitoring, evaluating, investigating or considering any activity relating to the Corporation, or any member of staff of the Corporation.

(3) No person may disclose or use, for personal gain or otherwise, any information of a confidential nature relating to the business of the Corporation, without the prior consent of the Corporation.

### **Dissolution of Corporation**

34. The Corporation may not be wound-up except in terms of an Act of the Provincial Legislature.

### **Use of name of Corporation**

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

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

## **Delegations**

**36.(1)** The responsible Member of the Executive Council may delegate to the Head of Department –

- (a) any power conferred on the responsible Member of the Executive by this Act, except the power to make regulations in terms section 37; 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 contemplated in sections 6(3) and 10(2).

(2) The Chief Executive Officer may delegate to any member of staff of the Corporation any power or duty conferred or imposed on the Chief Executive Officer by this Act, except any duty as an *ex officio* member of the Board or accounting officer of the Corporation.

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

(4) Any delegation referred to in subsection (1) or (2) –

- (a) must be in writing;
- (b) does not prohibit the person 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.

## **Regulations**

**37.(1)** The responsible Member of the Executive Council may, after consultation with the Board, the Portfolio Committee and any shareholders, who either solely or jointly hold twenty-five percent or more of the shares in the Company, make regulations regarding –

- (a) the circumstances under which and conditions upon which the Corporation may borrow funds;
- (b) the circumstances under which and conditions upon which the Corporation may

- dispose of any major assets;
- (c) the circumstances under which and conditions upon which the Corporation may distribute any surplus funds;
  - (d) the voting rights of shareholders in the Company; or
  - (e) the holding of, and procedure at, meetings of shareholders and the taking of decisions by shareholders without holding a meeting.

(2) In addition to matters contemplated in subregulation (1), the responsible Member of the Executive Council may regulate on –

- (a) the keeping of registers and records by the Board and right of the public to access any such register or record;
- (b) the form and contents of the annual report of the Corporation;
- (c) the location of the public office of the Corporation;
- (d) the giving and receiving of notices by the Corporation;
- (e) any other matter that the responsible Member of the Executive Council considers necessary for the proper implementation or the administration of this Act; or
- (f) any administrative or procedural matter necessary to give effect to the provisions of this Act.

(3) Any regulation with financial implications must be made in consultation with the Member of the Executive Council responsible for Finance.

### **General offences**

**38.(1)** Any member who wilfully or in a grossly negligent manner fails to comply with section 8(3), (4) or 13(2), or any former member who failed to comply with, or contravened, any of the sections contemplated in this subsection, while being a member, is guilty of an offence.

(2) Any person who wilfully or in a grossly negligent manner fails to comply with section 20(3) is guilty of an offence.

(3) Any person who wilfully or in a grossly negligent manner contravenes section 35 is guilty of an offence.

(4) Any person who wilfully or in a grossly negligent manner contravenes section 26(1), (2) and (3), is guilty of an offence.

(5) A person is guilty of an offence if he or she directly or indirectly accepts any bribe or corruptly receives any fee or reward from any person in connection with anything done or offered by the Corporation.

(6) A person is guilty of an offence if he or she, in respect of, or in connection with, anything done or offered by the Corporation, bribes or attempts to bribe or corruptly influence or attempts to corruptly influence any person employed by, or acting on behalf of, the Corporation.

(7) Any person who wilfully or in a grossly negligent way falsely claims that he or she is authorised to charge or collect fees, donations or contributions on behalf of, or by direction of, the Corporation, is guilty of an offence.

### **Penalties**

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

### **Repeal of law**

**40.** The KwaZulu-Natal Ithala Development Corporation Act, 1999 (Act No. 2 of 1999), is hereby repealed.

### **Transitional arrangements and savings**

**41.** Any act purported to have been done or performed in terms of a law repealed by this Act by the responsible Member of the Executive Council, the Corporation, a member or any employee of the Corporation before the commencement of this Act, and which may be done or performed in terms of this Act, must be regarded as having been done or performed in accordance with this Act.

**Short title**

**42.** This Act is called the KwaZulu-Natal Ithala Development Finance Corporation Act, 2013, and comes into operation on a date to be determined by the responsible Member of the Executive Council by notice in the *Gazette*.

**MEMORANDUM  
ON THE OBJECTS  
OF THE**

**KWAZULU-NATAL ITHALA DEVELOPMENT FINANCE CORPORATION BILL, 2013**

**1. GENERAL BACKGROUND**

The former National Minister of Finance, Mr Trevor A Manuel, had had serious concerns about the Act and requested that section 30 of the Ithala Development Finance Corporation Act, 1999 (Act No. 2 of 1999) (current Act), be repealed, as it gave the KwaZulu-Natal Provincial Legislature an exclusive power to wind up the Ithala Limited Corporation, to the exclusion of the courts.

The most crucial concern in terms of section 30 of the Ithala Development Finance Corporation Act was the fact that, should the Ithala Development Finance Corporation face financial difficulties, the depositors could be at risk and prejudiced due to the fact that the Registrar of Banks may not be able to employ an expedient process since winding up in terms of section 30 could only be done by an Act of Parliament.

When the amendment to address the issue of section 30 was made, the current National Minister of Finance, Mr Pravin J Gordhan, contended that the amendment to section 30 did not adequately address the concerns raised by the former Minister and requested that the said section 30 be reworded so that the Ithala State Owned Company Limited, a subsidiary of the Ithala Development Corporation, is excluded from being wound up in terms of the Ithala Development Finance Corporation Act and thus continues to exist notwithstanding the winding-up or dissolution of the Corporation and furthermore, to reflect that the State Owned Company Limited is the deposit taking institution and not the Ithala Development Finance Corporation.

Furthermore, upon scrutiny of the current Act, many clauses were found to be obsolete and did not distinguish the role of the Ithala Development Finance Corporation from that of the Ithala State Owned Company Limited. It is against this background that the repeal of the current Act and the development of a new Act were solicited.

In light of the above, this Bill purports to –

- (a) provide for the continued existence of the KwaZulu-Natal Ithala Development Finance Corporation Limited (formerly known as KwaZulu Finance and Investment Corporation Limited);
- (b) promote, support and facilitate socio-economic development in the Province of KwaZulu-Natal;
- (c) determine the objectives, powers, duties and functions of the KwaZulu-Natal Ithala Development Finance Corporation Limited, in accordance with the growth and development strategy of the Province, in a sustainable manner;
- (d) determine the manner in which the KwaZulu-Natal Ithala Development Finance Corporation Limited is to be managed, governed, staffed and financed; and
- (e) provide for matters incidental thereto.

## **2. CLAUSE BY CLAUSE EXPLANATION**

In summary, the Bill provides as follows –

### **CHAPTER 1 (DEFINITIONS)**

#### **Clause 1:**

Clause 1 provides for the definitions of words used in the Bill.

### **CHAPTER 2: (KWAZULU-NATAL ITHALA DEVELOPMENT FINANCE CORPORATION LIMITED, OBJECTS AND AREA OF OPERATION OF CORPORATION, POWERS, DUTIES AND FUNCTIONS OF CORPORATION, SHARES, SHARE CAPITAL AND SHAREHOLDING)**

#### **Clause 2:**

Clause 2 provides for the continued existence of the KwaZulu-Natal Ithala Development Finance Corporation Limited and its continued recognition as a juristic person.

Provision is also made that the Corporation is a public entity subject to the Public Finance Management Act, 1999.

Furthermore, clause 2 provides that any reference in any other law to the Black Investment Corporation of South Africa, the KwaZulu Development Corporation Limited, or

the KwaZulu Finance and Investment Corporation Limited must be construed as reference to the KwaZulu-Natal Ithala Development Finance Corporation Limited.

**Clause 3:**

Clause 3 provides for the objects and area of operation of the Corporation which are to promote, support and facilitate social and economic development in the Province by –

- (a) mobilising financial resources and providing financial and supportive services to persons domiciled, ordinarily resident, or carrying on business within the Province;
- (b) planning, executing, financing and monitoring the implementation of development projects and programmes in the Province;
- (c) promoting, assisting and encouraging the development of the Province's human resources and its social, economic, financial and physical infrastructure;
- (d) promoting, encouraging and facilitating private sector investment in the Province and the participation of the private sector and community organisations in development projects and programmes and in contributing to economic growth and development generally; and
- (e) acting as the Provincial Government's agent for performing any development-related tasks and responsibilities that the Provincial Government considers may be more efficiently or effectively performed by a corporate entity.

**Clause 4:**

Clause 4 deals in detail with the powers, duties and functions of the Corporation.

**Clause 5:**

Clause 5 provides for the manner in which the Board and the responsible Member of the Executive Council must deal with shares, share capital and shareholding in terms of the Bill.

**CHAPTER 3 (BOARD OF CORPORATION)**

**Clause 6:**

Clause 6 determines the composition of the Board.

**Clause 7:**

Clause 7 provides for disqualification from being appointed to the Board.

**Clause 8:**

Clause 8 provides for declaration of financial or other interests by members of the Board.

**Clause 9:**

Clause 9 provides for term of office and reappointment of a member of the Board.

**Clause 10:**

Clause 10 provides for the filling of vacancies, removal and resignation from office of members of the Board.

**Clause 11:**

Clause 11 provides for the temporary suspension of a member of the Board.

**Clause 12:**

Clause 12 provides for meetings and procedures at meetings of the Board.

**Clause 13:**

Clause 13 provides for recusal of a member from meetings and proceedings of the Board.

**Clause 14:**

Clause 14 provides for the remuneration of members of the Board.

**Clause 15:**

Clause 15 provides for the establishment of committees to assist the Board.

**Clause 16:**

Clause 16 provides for co-opting of persons to the Board or committees of the Board.

**CHAPTER 4 (CHIEF EXECUTIVE OFFICER AND STAFF OF CORPORATION)****Clause 17:**

Clause 17 provides for the appointment of the Chief Executive Officer.

**Clause 18:**

Clause 18 provides for and sets out the functions of the Chief Executive Officer.

**Clause 19:**

Clause 19 provides for the resignation of the Chief Executive Officer.

**Clause 20:**

Clause 20 provides for the appointment of staff for the Corporation.

**Clause 21:**

Clause 21 provides for the secondment and transfer of staff to the Corporation.

**CHAPTER 5 (POLICY DIRECTIVES, CORPORATE PLAN AND PROHIBITIONS AND RESTRICTIONS ON DISTRIBUTION OF CORPORATE'S PROFITS)****Clause 22:**

Clause 22 provides for the policy directives to the Board.

**Clause 23:**

Clause 23 provides that the corporate plan must be developed in accordance with the provisions of the Public Finance Management Act.

**Clause 24:**

Clause 24 provides for the prohibitions and restrictions on distribution of the Corporation's profits and the disposal of its major assets.

**CHAPTER 6 (FUNDING AND FINANCIAL MANAGEMENT OF CORPORATION)****Clause 25:**

Clause 25 provides for the funds of the Corporation, how they are obtained, utilised and invested, whenever it is necessary to do so in terms of this Bill.

**Clause 26:**

Clause 26 provides for the manner in which the Chief Executive Officer should manage the finances of the Corporation.

**Clause 27:**

Clause 27 provides for the audit and report on financial statements of the Corporation.

**Clause 28:**

Clause 28 provides for the establishment and administration of the special funds in terms of this Bill.

**CHAPTER 7 (ITHALA STATE OWNED COMPANY LIMITED)****Clause 29:**

Clause 29 provides for the ownership of shares in the KwaZulu-Natal Ithala State Owned Company Limited. It states that at the commencement of the Act, the Corporation is the sole shareholder in the KwaZulu-Natal Ithala State Owned Company Limited.

**Clause 30:**

Clause 30 provides for the powers of the KwaZulu-Natal Ithala State Owned Company Limited in terms of this Bill.

**Clause 31:**

Clause 31 seeks to compel the KwaZulu-Natal Ithala State Owned Company Limited to comply with the requirements of the Banks Act for as long as it accepts deposits from the public.

**Clause 32:**

Clause 32 provides for the winding up of the Company in terms of this Bill.

**CHAPTER 8 (GENERAL PROVISIONS)****Clause 33:**

Clause 33 provides for the security of confidential information held by the Corporation.

**Clause 34:**

Clause 34 provides for the dissolution of the Corporation.

**Clause 35:**

Clause 35 provides for the use of the name of the Corporation.

**Clause 36:**

Clause 36 provides for delegations of powers by the responsible Member of the Executive Council and the Chief Executive Officer.

**Clause 37:**

Clause 37 empowers the responsible Member of the Executive Council to make regulations. This clause also provides guidelines in terms of which the responsible Member of the Executive Council may make such regulations.

**Clause 38:**

Clause 38 provides for general offences.

**Clause 39:**

Clause 39 provides for penalties with regard to offences provided for in clause 38 of this Bill.

**Clause 40:**

Clause 40 provides for the repeal of the KwaZulu-Natal Ithala Development Corporation Act, 1999.

**Clause 41:**

Clause 41 provides for the transitional arrangements.

**Clause 42:**

Clause 42 contains the short title of the Act.

### **3. FINANCIAL IMPLICATIONS FOR PROVINCIAL GOVERNMENT**

The financial implications are based on the continued existence of the Corporation and will be covered by the current 2013/14.

**4. DEPARTMENTS / BODIES CONSULTED**

- 4.1 National Treasury;**
- 4.2 Cabinet Clusters;**
- 4.3 Cabinet;**
- 4.4 Public Sector Lawyers' Forum;**
- 4.5 Ithala Development Finance Corporation; and**
- 4.6 Members of the public through public consultations.**

**5. CONSTITUTIONAL IMPLICATIONS**

None.

**No. 61****6 Desember 2013**

## KWAZULU-NATAL WETSONTWERP OP ITHALA ONTWIKKELINGSFINANSIERINGSKORPORASIE, 2013

**Kennisgewing ooreenkomstig Reël 194 van die Staande Reëls van die KwaZulu-Natal Wetgewer**

Kennisgewing geskied hiermee ooreenkomstig Reël 194 van die Staande Reëls van die KwaZulu-Natal Wetgewer dat die KwaZulu-Natal Wetsontwerp op iThala Ontwikkelingsfinansieringskorporasie, 2013 soos hieronder uiteengesit, by die voorgemelde Wetgewer ingedien is en deur die Portfoliokomitee oor Ekonomiese Ontwikkeling en Toerisme orweeg sal word. Die publiek en ander belanghebbende groepe word uitgenooi om vertoë oor die vermelde wetsontwerp in te dien, welke vertoë gerig moet word aan:

**Aandag:**      MnR DN Dimba  
                        Die Sekretaris  
                        KwaZulu-Natal Legislature  
                        Privaatsak X 9112  
                        PIETERMARITZBURG  
                        3200

E-mail: [dimbad@kznlegislature.gov.za](mailto:dimbad@kznlegislature.gov.za)

Vertoë moet haar nie later as 15 dae vanaf die datum van hierdie publikasie bereik nie.

N NAIDOO  
Sekretaris van die KwaZulu-Natal Wetgewer

**KWAZULU-NATAL**

**WETSONTWERP OP ITHALA ONTWIKKELINGSFINANSIERINGSKORPORASIE, 2013**

## WETSONTWERP

**Om voorsiening te maak vir die voorgesette bestaan van die KwaZulu-Natal Ithala Ontwikkelingsfinansieringskorporasie Beperk, voorheen bekend as KwaZulu Finansierings- en Beleggingskorporasie Beperk, met die hoofdoel om volhoubare sosio-ekonomiese ontwikkeling in die Provincie van KwaZulu-Natal te bevorder, ondersteun en faciliteer in ooreenstemming met die groei- en ontwikkelingstrategie van die Provincie; om die oogmerke, bevoegdhede, pligte en werksaamhede van die KwaZulu-Natal Ithala Ontwikkelingsfinansieringskorporasie Beperk te bepaal; om die wyse te bepaal waarop die KwaZulu-Natal Ontwikkelingsfinansieringskorporasie Beperk bestuur, beman en gefinansier sal word; en om vir aangeleenthede wat daarmee verband hou voorsiening te maak.**

DAAR WORD soos volg deur die Provinciale Wetgewer van die Provincie van KwaZulu-Natal bepaal:-

### RANGSKIKKING VAN ARTIKELS

#### *Artikel*

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## HOOFSTUK 1

### OMSKRYWINGS

#### Omskrywings

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

“**aandele**” aandele in die maatskappy bedoel in artikel 7;

“**aandelekapitaal**” fondse ingesamel deur die uitreiking van aandele in ruil vir kontant of ander oorwegings;

“**Bankewet**” die Bankewet, 1990 (Wet No. 94 van 1990), en enige woord of uitdrukking waaraan ‘n betekenis toegewys is in die Bankewet of die Regulasies betreffende Banke, dra die betekenis daaraan toegewys;

“**belang**” sluit in, maar is nie beperk nie tot, ‘n persoonlike finansiële belang soos omskryf in artikel 1 van die Maatskappywet;

“**Departement**” die departement in die Provinciale Regering van KwaZulu-Natal verantwoordelik vir Ekonomiese Ontwikkeling;

“**Departementshoof**” die persoon aangestel as Departementshoof ingevolge artikel 12 van die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994);

“**deposito**” ‘n deposito soos omskryf in artikel 1 van die Bankewet;

“**Grondwet**” die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet 108 van 1996);

“**hierdie Wet**” sluit die regulasies in;

“**Hoof- Uitvoerende Beampte**” die Hoof- Uitvoerende Beampte van die Korporasie aangestel ingevolge artikel 17;

“**Koerant**” die amptelike *Provinsiale Koerant* van KwaZulu-Natal;

“**Korporasie**” die Ithala Ontwikkelingsfinansieringskorporasie Beperk verwys na in artikel 2;

“**lid**” ‘n Raadslid van die Korporasie aangestel ingevolge artikel 6;

“**lid van die publiek**” sluit in ‘n regspersoon;

“**Lid van die Uitvoerende Raad vir Finansies**” die Lid van die Uitvoerende Raad van die Provincie van KwaZulu-Natal verantwoordelik vir Finansies;

“**Maatskappy**” Ithala Beperk, ‘n Maatskappy in Staatsbesit, ‘n filiaal van die Ithala Ontwikkelingsfinansieringskorporasie Beperk, synde ‘n Maatskappy in Staatsbesit geïnkorporeer ingevolge die Maatskappywet, 2008 (Wet No. 71 van 2008);

“**Maatskappywet**” die Maatskappywet, 2008 (Wet No. 71 van 2008);

“**Nasionale Tesourie**” die Nasionale Tesourie ingestel deur artikel 5 van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999);

“**onregstreekse belang**” sluit in, maar is nie beperk nie tot, ‘n persoonlike finansiële belang soos omskryf in artikel 1 van die Maatskappywet, van ‘n verwante of onderling verwante persoon soos bedoel in artikel 2 van die Maatskappywet;

**“Portefeuiljekomitee”** die Portefeuiljekomitee van die Proviniale Wetgewer verantwoordelik vir Ekonomiese Ontwikkeling;

**“Premier”** die Premier van die Provinie van KwaZulu-Natal verwys na in artikel 125(1) van die Grondwet;

**“Proviniale Regering”** die Proviniale Regering van die Provinie van KwaZulu-Natal en, tensy die samehang anders aandui, sluit elke Departement in die Proviniale Regering in;

**“Proviniale Wetgewer”** die Wetgewer van die Provinie van KwaZulu-Natal verwys na in artikel 105 van die Grondwet en wat beskik oor die wetgewende gesag vir die Provinie soos bedoel in artikel 104(1) van die Grondwet;

**“Provinie”** die Provinie van KwaZulu-Natal bedoel in artikel 103 van die Grondwet en **“provinsiaal”** het ‘n ooreenstemmende betekenis;

**“Raad”** die Raad van die Korporasie aangestel ingevolge artikel 6;

**“Registrateur van Banke”** die Registrateur van Banke toegewys kragtens artikel 4 van die Bankewet;

**“regulasies”** regulasies gemaak ingevolge artikel 33;

**“regulasies betreffende Banke”** die regulasies ingevolge artikel 90 van die Bankewet;

**“roerende bate”** ‘n roerende bate soos omskryf in artikel 1 van die Bankewet;

**“Uitvoerende Raad”** die Uitvoerende Raad van die Provinie van KwaZulu-Natal bedoel in artikel 132 van die Grondwet;

**“verantwoordelike Lid van die Uitvoerende Raad”** die Lid van die Uitvoerende Raad van die Provinie van KwaZulu-Natal verantwoordelik vir Ekonomiese Ontwikkeling; en

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

## HOOFSTUK 2 ITHALA ONTWIKKELINGSFINANSIERINGSKORPORASIE

### **Ithala Ontwikkelingsfinansieringskorporasie**

- 2.(1) Die KwaZulu Finansierings- en Beleggingskorporasie Beperk, ingestel deur Proklamasie R. 73 van 1978, en vervolgens hernoem deur die KwaZulu-Natal Wet op Ithala Ontwikkelingsfinansieringskorporasie, 1999 (Wet No. 2 van 1999), as Ithala Ontwikkelingsfinansieringskorporasie Beperk, gaan voort om te bestaan en sal bekend staan as die Ithala Ontwikkelingsfinansieringskorporasie Beperk.
- (2) Die Korporasie, verwys na in subartikel (1), bly 'n regspersoon.
- (3) Die Korporasie is 'n provinsiale openbare entiteit behoudens die Wet op Openbare Finansiële Bestuur.
- (4) Enige verwysing in enige ander wet of dokument na –
- (a) die Bantoebeleggingskorporasie van Suid-Afrika Beperk;
  - (b) Ekonomiese Ontwikkelingskorporasie en Toerisme Beperk;
  - (c) die KwaZulu Ontwikkelingskorporasie Beperk; of
  - (d) die KwaZulu Finansies- en Beleggingskorporasie Beperk,
- moet geag word as 'n verwysing na die Ithala Ontwikkelingsfinansieringskorporasie Beperk.

### **Oogmerke en bedryfsgebied van Korporasie**

3. Die oogmerke van die Korporasie is om sosiale en ekonomiese ontwikkeling in die Provinsie te bevorder, ondersteun en faciliteer deur –
- (a) finansiële hulpbronne te mobiliseer en finansiële en verwante ondersteuningsdienste te voorsien aan persone wat in die Provinsie domisilieer, gewoonlik woonagtig is of wat voortgaan om sake te bedryf binne die Provinsie;

- (b) beplanning, uitvoering, finansiering en monitering van die inwerkingstelling van ontwikkelingsprojekte en -programme in die Provinse;
- (c) bevordering van, hulpverlening aan en aanmoediging van die ontwikkeling van die Provinse se menslike hulpbronne en sosiale, ekonomiese, finansiële en fisiese infrastruktuur;
- (d) bevordering, aanmoediging en fasilitering van privaatsektorbelegging in die Provinse en die deelname van die privaatsektor- en gemeenskapsorganisasies aan ontwikkelingsprojekte en -programme en bydrae tot ekonomiese groei en ontwikkeling in die algemeen te bevorder; en
- (e) op te tree as die Provinciale Regeringsagent vir die verrigting van enige take en verantwoordelikhede wat met ontwikkeling verband hou wat, na die mening van die Provinciale Regering, meer doeltreffend en doelmatig verrig kan word deur 'n korporatiewe entiteit.

#### **Bevoegdhede, pligte en werksaamhede van Korporasie**

4. Met die verwesenliking van die oogmerke bedoel in artikel 3 en behoudens artikels 54(2), 66 en 68 van die Wet op Openbare Finansiële Bestuur, kan die Korporasie –

- (a) fondse en ander hulpbronne vanaf die openbare en privaatsektore insamel deur lenings te waarborg, toekennings en skenkings aan te vra en te ontvang op sodanige voorwaardes waарoor ooreengekom mag word en behoudens enige voorwaardes wat deur die verantwoordelike Lid van die Uitvoerende Raad bepaal of voorgeskryf kan word;
- (b) enige projek, program of onderneming beplan, fasiliteer, bevorder, uitvoer, finansier, belê in, of onderskryf, gemik op die bevordering van sosiale en ekonomiese ontwikkeling en toerisme in die Provinse;
- (c) tegniese en ander advies, opleiding, inligting en leiding voorsien en in die algemeen sodanige ondersteuning en bystand aanbied wat vir enige projek, program of onderneming benodig word, soos bedoel in paragraaf (b);
- (d) deur die Maatskappy, geld leen of voorskiet, met of sonder sekuriteit, op sodanige voorwaardes soos hy mag goeddink, sodanige sekuriteit in verband daarmee neem soos hy mag goeddink, met inbegrip van –
  - (i) verbande;
  - (ii) notariële verbande;
  - (iii) pande;

- (iv) sessies;
- (v) retensieregte;
- (vi) hipoteke;
- (vii) waarborgs;
- (viii) sekuriteitsaktes; of
- (ix) enige ander vorm van dekking of sekuriteit,

en sodanige stappe neem soos hy mag goeddink vir die verhaling van enige skuld en die beskerming en afdwinging van enige reg in verband daarmee; en

(e) waarborg, onderskryf of borg staan vir die skulde of kontrakuele verpligte van enige persoon, enige persoon vrywaar van enige verlies, skade en kostes voortspruitend uit die skulde of ander verpligte van enige ander persoon en, vir daardie doel, sekuriteitsaktes aangaan of enige ander vereiste vorm van sekuriteit voorsien;

(f) roerende of vaste eiendom, hetsy liggaamlik of onliggaamlik, verkry, hou, ontwikkel, verbeter, bestuur, daarmee handel, huur, verhuur, verkoop, oordra, skenk, sedeer, verhipotekeer, of andersins beswaar of vervreem;

(g) regspersone of verenigings van persone instel wat in staat is om uitvoering te gee aan enige oogmerk, bevoegdheid, werksaamheid of plig wat die Korporasie kan uitvoer ingevolge hierdie Wet, 'n belang by enige sodanige regspersoon verkry en enige sodanige belang vervreem, of om 'n lid van enige sodanige vereniging te word en sodanige lidmaatskap te beëindig;

(h) aandele behou in die Maatskappy bedoel in Hoofstuk 7;

(i) optree as direkteur, trustee, administrateur, bestuurder, eksekuteur, geregtelike bestuurder, likwidateur, agent of verteenwoordiger van enige persoon, openbare liggaam, boedel of besigheid en enige verteenwoordiger aan te wys om op te tree vir sodanige doel;

(j) besoldiging vir enige diens wat vir, of namens, enige persoon, met inbegrip van die Provinciale Regering, te eis en te aanvaar;

(k) alle uitgawes in verband met sy administrasie betaal, bankrekeninge open, bedryf en sluit, sodanige rekeninge oortrek, om verhandelbare dokumente op te stel, aanvaar of endosseer en fondse wat nie onmiddellik vir sy sake benodig word nie, belê;

(l) reserwefondse skep, alle sodanige stappe neem soos wat hy nodig ag vir die beskerming en bewaring van sy –

- (i) beleggings; of
- (ii) finansiële belang,

en in die algemeen alle dinge doen wat nodig is vir die bestuur en administrasie van sy finansiële sake; en

(m) alle uitgawes in verband met die beskerming, bewaring en instandhouding van sy regte en bates betaal;

(n) alle stappe neem wat hy nodig ag vir –

(i) die verhaling van enige skuld; of

(ii) die afdwinging van enige verpligting wat aan hom verskuldig is deur enige persoon,

ingesluit die instelling van sodanige regstappe wat hy as dienstig ag; en

(o) personeeldele van die Korporasie aanstel, skors, ontslaan, besoldig, oplei en huisves;

(p) personeeldele van die Korporasie voorsien van pensioenvoordele, siekteverlofvoordele of ander diensvoordele en in die algemeen alles doen wat nodig is om 'n toereikende personeelsterkte te ontwikkel en in stand te hou binne die Korporasie;

(q) 'n amptelike seël hê en sodanige seël vir enige doel in die Provinsie gebruik;

(r) in die algemeen, alle dinge doen wat nodig is vir –

(i) die verwesenliking van sy oogmerke;

(ii) die uitoefening van sy bevoegdhede; of

(iii) die bestuur en administrasie van sy sake; en

(s) enige ander ding doen of aandag skenk aan enige ander aangeleentheid wat die verantwoordelike Lid van die Uitvoerende Raad nodig ag vir die behoorlike inwerkingstelling van hierdie Wet; en

(t) die Maatskappy bemagtig om deposito's wat aangebied word deur enige persoon te aanvaar, hou en belê, op sodanige voorwaardes soos die Minister van Finansies of Registrateur van Banke kan bepaal.

### **Aandele, aandelekapitaal en aandeelhouding**

**5.(1)** Die gemagtigde aandelekapitaal van die Korporasie is sy uitgereikte aandelekapitaal op die inwerkingsdag van hierdie Wet, soos gehou deur die Korporasie in die Maatskappy.

**(2)** Behoudens sodanige voorwaardes wat die verantwoordelike Lid van die Uitvoerende Raad kan voorskryf, kan die Korporasie alle uitgereikte aandele of 'n gedeelte daarvan oordra aan enige –

- (a) regspersoon;
- (b) vereniging van persone; of
- (c) openbare of privaatsektorliggaam,

wie se oogmerke nie met dié van die Korporasie strydig is nie: Met dien verstande dat individuele natuurlike persone nie aandeelhouers van die Korporasie kan word nie.

(3) Die Raad, met die goedkeuring van –

- (a) die verantwoordelike Lid van die Uitvoerende Raad; en
- (b) die aandeelhouers wat stem op 'n algemene vergadering, waar aandele oorgedra is aan aandeelhouers soos bedoel in subartikel (2),

kan, van tyd tot tyd –

- (a) die aandelekapitaal van die Korporasie verhoog in die mate wat die Raad dienstig ag, deur die skep van –
  - (i) gewone of voorkeuraandele; of
  - (ii) aandele van enige ander tipe of klas waarop hy kan besluit, en sodanige aandele op ooreengekome voorwaardes uitreik; en
- (b) die volgende verander –
  - (i) die bemagtiging en klassifikasie van aandele;
  - (ii) die getal gematigde aandele van elke klas; en
  - (iii) die voorkeure, regte, beperkings en ander voorwaardes gekoppel aan elke klas aandele.

(4) Enige aandeel in die Maatskappy kan uitgereik word met sodanige preferente, uitgestelde of ander spesiale regte, of behoudens sodanige beperkings waarop die Raad kan besluit, hetsy met betrekking tot dividende, stemming, teruggawe van aandelekapitaal, of andersins.

(5) In die geval van voorkeuraandele, kan die Raad besluit –

- (a) dat die aandeelhouers nie daarop geregtig is om te stem nie; of
- (b) dat sodanige aandele afgelos kan word.

(6) Elke uitgereikte aandeel, ongeag sy klas, het een algemene stemreg daaraan gekoppel.

(7) Ten spyte van enigets strydig met hierdie Wet, is elke uitgereikte aandeel gekoppel aan 'n onherroeplike reg van die aandeelhouer om te stem oor enige voorstel ten einde die voorkeure,

regte, beperkings en ander voorwaardes gekoppel aan daardie aandeel te wysig.

## HOOFSTUK 3 RAAD VAN KORPORASIE

### **Samestelling van Raad**

**6.(1) Die Raad bestaan uit –**

- (a) minstens sewe en hoogstens dertien lede aangestel deur die verantwoordelike Lid van die Uitvoerende Raad; en
- (b) die Hoof- Uitvoerende Beampte, *ex officio*, soos bedoel in artikel 17(5).

**(2) Lede van die Raad moet gesikte en gepaste persone wees om te dien in die belang van die Provincie, en moet gesamentlik die volgende besit –**

- (a) toepaslike kennis of ondervinding in georganiseerde konstituerende dele binne die sakebedryf; en
- (b) die volgende vaardighede, kundigheid en kwalifikasies –
  - (i) regsvaardighede, ondervinding en kwalifikasies;
  - (ii) finansiële vaardighede, ondervinding en kwalifikasies;
  - (iii) beleggingsondervinding of kwalifikasies;
  - (iv) bemarkingsondervinding of kwalifikasies;
  - (v) menslike hulpbron- of arbeidsondervinding of kwalifikasies; en
  - (vi) beplanning- of ontwikkelingsvaardighede en ondervinding.

**(3) By die aanstelling van lede in die Raad, moet die verantwoordelike Lid van die Uitvoerende Raad verseker dat –**

- (a) historiese wanbalanse aangespreek word;
- (b) die Raad gesamentlik die nodige en toepaslike vaardighede en kundigheid besit;
- (c) die Raad verteenwoordigend is van persone in diens van of betrokke by die invoer, handel- en beleggingsakeondernemings in die Provincie; en
- (d) munisipale belang verteenwoordig word in die Raad op sodanige wyse dat billike ruimtelike verteenwoordiging van munisipaliteite behaal word: Met dien verstande dat hoogstens vier persone aangestel kan word op die Raad ten einde uitwerking te gee aan die bepalings van hierdie subartikel.

(4) Die verantwoordelike Lid van die Uitvoerende Raad moet –

- (a) een van die lede van die Raad as Voorsitter van die Raad; en
  - (b) een van die lede van die Raad as Ondervoorsitter van die Raad,
- aanwys.

(5) Die verantwoordelike Lid van die Uitvoerende Raad moet, by kennisgewing in die *Koerant*, enige belanghebbende partye binne die Provinsie uitnooi om kandidate te benoem vir aanstelling in die Raad.

(6) Die uitnodiging vir benoeming moet die volgende spesifiseer –

- (a) die benoemingsprosedure;
- (b) die benoemingsvereistes; en
- (c) die sluitingsdatum vir die benoeming.

(7) Die verantwoordelike Lid van die Uitvoerende Raad moet 'n benoemingskomitee aanstel om aanbevelings te maak aan die verantwoordelike Lid van die Uitvoerende Raad vir lede van die Raad.

(8) Die verantwoordelike Lid van die Uitvoerende Raad moet teweegbring dat die name van die persone aangestel in die Raad gepubliseer word in die *Koerant* en in minstens twee koerante, onmiddelik nadat sodanige persone skriftelik in kennis gestel is van hul aanstelling in die Raad.

(9) Die verantwoordelike Lid van die Uitvoerende Raad moet, binne twee maande na die aanstelling van lede in die Raad ingevolge subartikel (1), die Uitvoerende Raad en die Portefeuiljekomitee inlig van die name van die aangestelde lede, insluitend die ampstermy van hul aanstelling.

(10) Die artikel is van toepassing, met die nodige veranderings, op die vul van 'n vakature in die Raad.

#### **Onbevoegdheid om in Raad aangestel te word**

7.(1) 'n Persoon is onbevoeg om aangestel te word in die Raad of om in die Raad aan te bly, uit hoofde van die feit dat hy of sy –

- (a) 'n Parlementslid, lid van enige provinsiale wetgewer of enige munisipale raad is;
  - (b) 'n ongerehabiliteerde insolvent is of word;
  - (c) deur 'n bevoegde hof as geestelik siek verklaar is of word;
  - (d) regstreeks of onregstreeks betrokke is by enige kontrak met die Korporasie en versuim om sy of haar betrokkenheid by so 'n kontrak en die aard daarvan te verklaar op die wyse vereis deur hierdie Wet;
  - (e) 'n persoon onder kuratorskap is;
  - (f) te eniger tyd uit 'n posisie van vertroue verwyder is as gevolg van wangedrag wat diefstal of bedrog insluit;
  - (g) skuldig bevind en gevangenisstraf opgelê is sonder die keuse van 'n boete, buiten dat die verantwoordelike lid van die Uitvoerende Raad 'n vonnis kan kondoneer by ontvangs van 'n beëdigde verklaring waarin volle besonderhede van 'n misdryf, deur 'n persoon benoem vir aanstelling, verklaar word 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, eindig; en
  - (h) versuim om 'n belang bedoel in paragraaf (d) openbaar te maak, of aan die verrigtinge van die Raad deelgeneem het of dit bygewoon het, terwyl 'n belang besit is soos bedoel in vermelde paragraaf.
- (2) 'n Persoon wat onderhewig is aan 'n onbevoegdheid bedoel in subartikel (1)(a), (1)(b) of (1)(g) kan benoem word vir aanstelling as 'n lid maar kan slegs aangestel word indien hy of sy, ten tye van sodanige aanstelling, nie meer onderhewig is aan daardie onbevoegdheid nie.

#### **Verklaring van finansiële of ander belang van Raadslede**

8.(1) 'n Persoon wat benoem is om in die Raad te dien ingevolge artikel 6(5) moet, binne tien dae na die benoeming, 'n skriftelike verklaring van alle regstreekse of onregstreekse belang in enige maatskappy of ander sakebelange by die verantwoordelike Lid van die Uitvoerende Raad indien.

(2) Enige versuim deur die benoemde om finansiële of ander belang bekend te maak ingevolge subartikel (1) diskwalifiseer sodanige benoemde, ingevolge artikel 7(1)(h), van oorweging vir die posisie as Raadslid.

(3) Elke Raadslid moet, by aanvaarding van die ampstermyn en aan die begin van elke boekjaar van die Korporasie, 'n skriftelike verklaring indien by die verantwoordelike Lid van die Uitvoerende Raad van sy of haar regstreekse of onregstreekse belang in enige maatskappy of ander sakebelang.

(4) Waar 'n lid 'n belang in enige maatskappy of enige ander sakebelang verkry te eniger tyd tydens sy of haar ampstermyn as 'n Raadslid, moet hy of sy, binne tien dae vanaf die datum van die verkryging van sodanige belang, 'n skriftelike verklaring van sodanige belang by die verantwoordelike Lid van die Uitvoerende Raad indien.

(5) Enige versuim aan die kant van die lid om sy of haar belang bekend te maak, soos bedoel in subartikels (3) en (4), maak 'n grondige rede uit vir die beëindiging van die aanstelling van sodanige lid ingevolge artikel 10(2).

(6) Die verantwoordelike Lid van die Uitvoerende Raad moet 'n opgedateerde register van die belangte van Raadslede, wat bekend gemaak is ingevolge hierdie artikel, byhou.

#### **Ampstermyn en heraanstelling van Raadslede**

**9.** Die persone aangestel in die Raad beklee die amp vir 'n tydperk van drie jaar, of sodanige korter tydperk soos deur die verantwoordelike Lid van die Uitvoerende Raad bepaal en is, behoudens artikel 6, verkiesbaar vir heraanstelling by die verstryking van sodanige tydperk: Met dien verstande dat geen persoon heraangestel kan word nadat hy of sy vir meer as drie opeenvolgende termyne op die Raad gedien het nie.

#### **Vakatures, ontslag en bedanking uit amp van Raadslede**

**10.(1)** 'n Lid wat onbevoeg raak ingevolge artikel 7, hou onmiddellik op om 'n lid te wees.

(2) Die verantwoordelike Lid van die Uitvoerende Raad kan, nadat die lid 'n geleentheid gebied is om sy of haar saak te stel, die ampstermyn van sodanige lid te eniger tyd beëindig indien, na sy of haar mening, daar grondige en afdoende redes is om dit te doen.

(3) 'n Lid moet sy of haar amp ontruim indien hy of sy sonder vooraf toestemming van die Raad afwesig is van twee opeenvolgende vergaderings van die Raad waarvoor redelike kennis persoonlik of per pos aan daardie lid gegee is.

(4) 'n Lid kan uit sy of haar amp bedank deur nie minder nie as 30 dae skriftelike kennis aan die verantwoordelike Lid van die Uitvoerende Raad te gee: Met dien verstande dat die verantwoordelike Lid van die Uitvoerende Raad van die bedankingskennisgewing kan afsien.

(5) Wanneer 'n vakature op die Raad ontstaan, en buiten 'n vakature wat ontstaan uit hoofde van die verantwoordelike Lid van die Uitvoerende Raad wat sy of haar bevoegdhede uitoefen ingevolge subartikel (2), moet die verantwoordelike Lid van die Uitvoerende Raad, behoudens artikel 6, 'n persoon aanstel om sodanige vakature te vul vir die onverstreke gedeelte van die ampstermyn van die lid in wie se plek sodanige persoon aangestel is.

(6) Sou dit gebeur dat die verantwoordelike Lid van die Uitvoerende Raad sy of haar bevoegdhede uitoefen ingevolge subartikel (2), kan hy of sy, nieteenstaande die prosedure vir die aanstelling van die Raadslede uiteengesit in artikel 6, maar behoudens artikels 6(2) en 6(3), persone aanstel om te dien as Raadslede op 'n tussentydse basis: Met dien verstande dat –

- (a) die persone aangestel ingevolge hierdie subartikel nie op die Raad kan aanbly vir 'n tydperk van meer as 60 dae vanaf hul aanstellingsdatum nie; en
- (b) die verantwoordelike Lid van die Uitvoerende Raad, onderhewig aan artikel 6, binne 60 dae vanaf die aanstelling bedoel in hierdie subartikel, die Raadslede moet aanstel vir 'n termyn soos bedoel in artikel 9.

### **Tydelike skorsing van Raadslid**

11. Die verantwoordelike Lid van die Uitvoerende Raad kan 'n Raadslid skors terwyl die verantwoordelike Lid van die Uitvoerende Raad bewerings ondersoek wat, indien gevind word om juis te wees, kan lei tot die beëindiging van die lid se aanstelling ingevolge artikel 10(2).

### **Vergaderings en vergaderingsprosedures van Raad**

12.(1) Enige vergadering van die Raad moet gehou word op 'n tyd, datum en 'n plek bepaal deur die voorsitter van die Raad.

- (2) Die kworum vir 'n vergadering van die Raad is die meerderheid van die lede.
- (3) Die verrigtinge by 'n vergadering van die Raad moet behoudens die bepalings van hierdie artikel deur die voorsitter van die Raad bepaal word.
- (4) Die voorsitter van die Raad moet voorsit by alle vergaderings van die Raad: Met dien verstande dat in sy of haar afwesigheid die ondervoorsitter van die Raad moet voorsit en, in die geval dat beide die voorsitter en ondervoorsitter nie teenwoordig is by 'n vergadering van die Raad nie, die aanwesige lede uit hul eie geledere 'n persoon kan verkies om as voorsitter van die Raad waar te neem vir die duur van daardie bepaalde 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, besit die voorsitter van die Raad '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 Raadslede dan teenwoordig en wat geregtig is daarop om as Raadslede te sit.
- (8) 'n Meerderheid van die Raad kan 'n buitengewone vergadering van die Raad roep.
- (9) Die Raad kan, volgens sy diskresie, lede van die publiek toelaat om enige vergadering van die Raad by te woon.

#### **Onttrekking van lid van vergaderings en verrigtinge van Raad**

- 13.(1) 'n Raadslid 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 –
- indien hy of sy 'n regstreekse of onregstreekse belang het; of
  - indien daar 'n moontlikheid bestaan dat 'n regstreekse of onregstreekse belang mag ontstaan.

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

(b) Die lid bedoel in subartikel (2)(a) kan nie deelneem aan enige stemming verbonde aan 'n aangeleentheid waarin hy of sy 'n belang, bedoel in subartikel (1), kan hê nie.

(3) Enige bekendmaking ingevolge subartikel (1) moet aangeteken word in die notules 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) Die besluit bedoel in subartikel (4) kan –

- (a) behoudens die goedkeuring van die verantwoordelike Lid van die Uitvoerende Raad, bekragtig word deur 'n resolusie van die Raad na die bekendmaking van sodanige belang; of
- (b) deur 'n gehof as geldig verklaar word.

### **Besoldiging van Raadslede**

**14.(1)(a)** 'n Raadslid kan sodanige besoldiging en toelaes betaal word uit die fondse van die Korporasie, soos bepaal kan word deur die verantwoordelike Lid van die Uitvoerende Raad in ooregpleging met die Lid van die Uitvoerende Raad vir Finansies.

(b) 'n Raadslid, wat besoldiging, toelaes en ander voordele ontvang uit hoofde van sy of haar pos of indiensneming 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 Raadslid dien, kan slegs vergoeding en toelaes ontvang soos vermeld in subartikel (1)(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 Raadslid kan, ten opsigte van sy of haar werkzaamhede as 'n lid of gekoöpteerde lid, vergoeding ontvang uit die fondse van die Korporasie vir redelike werklike reis-en-verblyfuitgawes genoodsaak deur die werklike bywoning van 'n vergadering van die Raad.

(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-verblyfuitgawes bedoel in subartikel (2)(a).

### **Instelling van komitees om Raad by te staan**

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

- (a) die Raad by te staan in die verrigting van enige van die bevoegdhede, pligte of werkzaamhede van die Korporasie bedoel in artikel 4; of
- (b) navraag of navorsing te doen oor enige aangeleentheid wat binne die mandaat van die Raad ingevolge hierdie Wet val.

**(2)** Die Raad moet die volgende instel –

- (a) 'n ouditkomitee, in ooreenstemming met die bepalings van die Wet op Openbare Finansiële Bestuur; en
- (b) 'n besoldigingskomitee wat verantwoordelik is vir –
  - (i) die maak van aanbevelings betreffende besoldigingstoelaes en ander voordele van die persone bedoel in artikel 25(2)(a); en
  - (ii) die bepaling van prosedures, insluitend beheermaatreëls vir die bestuur, hantering en verwerking van eise vir reis-en-verblyfuitgawes.

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

- (a) die verwysingsterme van sodanige komitee bepaal, insluitend, maar nie beperk nie tot, hetsy of nie sodanige komitee ophou om te bestaan wanneer die taak of take toegeken daarvan deur die Raad voltooi is;
- (b) 'n voorsitter van sodanige komitee aanstel, wat 'n Raadslid moet wees; en

(c) bepaal hetsy of nie sodanige komitee persone wat nie Raadslede is nie kan koöpteer en, indien wel, op watter terme en voorwaardes.

(4) Die Raad kan, te eniger tyd, die bestaan van 'n komitee, of enige mandaat aan 'n komitee gegee, beëindig, hetsy sodanige komitee die taak of take toegeken daaraan deur die Raad voltooi het aldan nie.

(5)(a) Die Hoof- Uitvoerende Beampte kan 'n vergadering van 'n komitee bedoel in subartikels (1) en (2) bywoon en deelneem daaraan, maar kan nie stem nie.

(b) 'n Personeellid van die Korporasie kan, by uitnodiging van die betrokke komitee, 'n vergadering van daardie komitee bywoon, maar kan nie stem nie.

#### **Koöptering van personele tot Raad of komitees van Raad**

16.(1) Die Raad kan, indien hy van mening is dat 'n bepaalde persoon in staat is om die Raad by te staan met betrekking tot enige van sy werksaamhede en bevoegdhede, sodanige persoon koöpteer vir daardie doel.

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

(3) 'n Persoon gekoöpteer ingevolge subartikel (1) kan sodanige besoldiging en toelaes betaal word uit die fondse van die Korporasie soos deur die Raad bepaal kan word, in oorleg met die Lid van die Uitvoerende Raad vir Finansies.

### **HOOFSTUK 4** **HOOF- UITVOERENDE BEAMPTE EN PERSONEEL VAN KORPORASIE**

#### **Hoof- Uitvoerende Beampte van Korporasie**

17.(1) Die Raad moet, in oorleg met die verantwoordelike Lid van die Uitvoerende Raad, die Hoof- Uitvoerende Beampte van die Korporasie aanstel.

(2)(a) Die Hoof- Uitvoerende Beampte word aangestel vir 'n tydperk van hoogstens vyf jaar.

(b) Die Hoof- Uitvoerende Beampte kan heraangestel word vir een bykomende ampstermy van hoogstens vyf jaar.

(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 Korporasie.

(b) Die Korporasie en die Hoof- Uitvoerende Beampte kan, skriftelik en volgens ooreenkoms, die prestasie-ooreenkoms bedoel in subartikel (3)(a) wysig.

(4) Vir die doeleindes van die verklaring van finansiële of ander belangte, is die bepalings van artikel 8 van toepassing, met die nodige veranderings, op die Hoof- Uitvoerende Beampte buiten dat die Hoof- Uitvoerende Beampte sy of haar belang aan die Raad moet verklaar.

(5) Die Hoof- Uitvoerende Beampte is 'n *ex-officio* Raadslid maar het nie die reg om by die Raad se vergaderings te stem nie.

### **Werksaamhede van Hoof- Uitvoerende Beampte**

**18.(1)** Die Hoof- Uitvoerende Beampte is verantwoordelik vir –

- (a) die administratiewe en finansiële bestuur van die Korporasie in ooreenstemming met die Wet op Openbare Finansiële Bestuur, kragtens die opdrag van die Raad;
- (b) die aanstelling van personeellede van die Korporasie, na oorlegpleging met die Raad, bedoel in artikel 20(1);
- (c) met die goedkeuring van die Raad, die bepaling van 'n gedragskode van toepassing op die Hoof- Uitvoerende Beampte en alle personeellede van die Korporasie ten einde –
  - (i) nakoming van toepaslike wetgewing, met inbegrip van hierdie Wet;
  - (ii) die doeltreffende, doelmatige en ekonomiese gebruik van die Korporasie se fondse en hulpbronne;
  - (iii) die bevordering en handhawing van 'n hoë standaard van professionele etiek;
  - (iv) die voorkoming van botsende belangte;
  - (v) die beskerming van vertroulike inligting gehou deur die Korporasie; en
  - (vi) professionele, eerlike, onpartydige, regverdige, etiese en billike diens, te verseker; en
- (d) die handhawing van dissipline van die personeellede van die Korporasie aangestel ingevolge subartikel (1)(b);

- (e) die byhou en instandhouding van die register van belang verklaar deur personeellede van die Korporasie; en
- (f) die versekering van nakoming van die bepalings van die Wet op Openbare Finansiële Bestuur deur die Raad, en enige ander toepaslike wetgewing.

(2) Indien die Hoof- Uitvoerende Beamppte, om enige rede, nie in staat is om enige van sy of haar werksaamhede te verrig nie, moet die Raad, in oorleg met die verantwoordelike Lid van die Uitvoerende Raad, enige gesikte kandidaat uit die personeellede van die Korporasie aanstel as Waarnemende Hoof- Uitvoerende Beamppte totdat die Hoof- Uitvoerende Beamppte in staat is om sy of haar werksaamhede te hervat.

#### **Bedanking en ontslag uit amp van Hoof- Uitvoerende Beamppte**

**19.(1)** Die Hoof- Uitvoerende Beamppte ontruim amp –

- (a) in die geval van bedanking, wanneer die bedanking van krag word;
- (b) wanneer hy of sy onbevoeg raak ingevolge artikel 7; 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 beamppte se diens beëindig in ooreenstemming met toepaslike indiensnemings- en arbeidsreg.

#### **Personnel van Korporasie**

**20.(1)** Die Hoof- Uitvoerende Beamppte moet, behoudens artikel 18(1)(b) en subartikel (2), personeellede van die 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 werksaamhede ingevolge hierdie Wet; en
- (b) om die Raad by te staan met werk bykomstig tot die verrigting van sy werksaamhede.

(2) Die Raad moet, behoudens artikel 25(4), 'n menslike hulpbronbeleid bepaal vir personeellede, insluitend die Hoof- Uitvoerende Beamppte, van die Korporasie.

(3) Vir doeleindes van die verklaring van finansiële of ander belang, en behoudens artikel 18(1)(e), is die bepalings van artikel 8(3), (4) en (5) van toepassing, met die nodige veranderings, op personeeldele van die Korporasie.

(4) Die Hoof- Uitvoerende Beampte moet 'n opgedateerde register, van die belang van personeeldele van die Korporasie wat ingevolge subartikel (3) verklaar is, byhou.

#### **Afstaan aan of oorplasing van personeel na Korporasie**

**21.** Die Korporasie kan die dienste aanwend van persone wat afgestaan is of oorgeplaas is vanaf die staatsdiens, in ooreenstemming met die bepalings van die Staatsdienswet, 1994 (Proklamasie No. 103 van 1993).

### **HOOFSTUK 5 BELEIDSRIGLYNE EN KORPORATIEWE PLAN**

#### **Beleidsriglyne aan Raad**

**22.(1)** Die verantwoordelike Lid van die Uitvoerende Raad, na oorlegpleging met die Raad en die Portefeuiljekomitee, en in oorleg met die Premier in Uitvoerende Raad, kan strategiese riglyne stel vir die nastrewing van die Korporasie se oogmerke deur beleidsriglyne aan die Raad uit te reik.

(2) Die verantwoordelike Lid van die Uitvoerende Raad kan, eweneens, enige beleidsriglyn bedoel in subartikel (1) onttrek of wysig.

(3) Die verantwoordelike Lid van die Uitvoerende Raad kan nie enige beleidsriglyn uitreik wat teenstrydig met die bepalings van hierdie Wet of enige ander wet wat bindend op die Korporasie is nie.

(4) 'n Beleidsriglyn bedoel in subartikel (1) moet –

- (a) skriftelik wees;
- (b) deur die Lid van die Uitvoerende Raad onderteken wees; en
- (c) geadresseer word aan die Voorsitter van die Raad.

(5) Die Raad moet verseker –

- (a) dat 'n rekord gehou word van alle huidige beleidsriglyne; en
- (b) dat lede van die publiek toegangsreg tot hierdie rekord het.

(6) Die Raad moet aan die verantwoordelike Lid van die Uitvoerende Raad, in sy jaarverslag, verslag lewer oor die mate waarin hy alle geldende beleidsriglyne nagekom of nie nagekom het nie.

### **Korporatiewe Plan van Korporasie**

23. Die Raad moet die ontwikkeling en inwerkingstelling van 'n korporatiewe plan in ooreenstemming met die bepalings van die Wet op Openbare Finansiële Bestuur verseker.

### **Verbiedinge en beperkings op verspreiding van Korporasiewinste**

24. Die Lid van die Uitvoerende Raad kan, by kennisgewing in die *Koerant*, sodanige verbiedinge en beperkings op –

- (a) die verdeling van die Korporasiewinste; en
- (b) die vervreemding van die Korporasie se groot bates,  
oplê wat hy of sy vir goeie bestuur van die Korporasie nodig mag ag.

## HOOFSTUK 6 BEFONDSING EN FINANSIEËLE BESTUUR VAN KORPORASIE

### **Fondse van Korporasie**

25.(1) Die fondse van die Korporasie bestaan uit –

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

(2) Die Korporasie moet sy fondse aanwend –

- (a) vir die betaling van besoldiging, toelaes en reis-en-verblyfuitgawes van –
  - (i) die lede;
  - (ii) die gekoöpteerde lede van die Raad of lede van die komitees van die Raad;

- (iii) die Hoof- Uitvoerende Beampte; en
  - (iv) die personeellede van die Korporasie; en
- (b) om kostes te dek met betrekking tot –
- (i) die dag-tot-dag bedryf en administrasie van die Korporasie; en
  - (ii) die uitvoering van die pligte en funksies van die 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 open in die naam van die Korporasie by 'n maatskappy of 'n instelling geregistreer as 'n bank ingevolge die Bankewet; en
  - (b) alle geld wat ingevolge subartikel (1) ontvang is, daarin deponeer.
- (4) Die Raad moet, na oorlegpleging met die verantwoordelike Lid van die Uitvoerende Raad –
- (a) die besoldiging en diensvoorraarde; en
  - (b) die pensioen- en aftreevoordele,
- van die Hoof- Uitvoerende Beampte en alle personeellede van die Korporasie bepaal.
- (5) 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 neem om te verseker dat die belegging nie spekulatief van aard is nie.

### **Finansiële bestuur**

- 26.(1) Die Hoof- Uitvoerende Beampte moet volledige en behoorlike rekeningboeke van die Korporasie en al die nodige rekords van die Korporasie wat daarop betrekking het, byhou.
- (2) Die Hoof- Uitvoerende Beampte moet verseker dat die jaarlikse begrotings, korporatiewe planne, jaarverslae en geouditeerde finansiële state van die Korporasie 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 Korporasie, wat meetbare doelwitte bevat, en die ander inligting bedoel in artikel 27(3)(b) en (c); en

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

(4) In enige finansiële jaar kan die Hoof- Uitvoerende Beamppte aangepaste of bykomende state van die beraamde inkomste en uitgawes van die Korporasie vir daardie finansiële jaar aan die Raad voorlê vir goedkeuring.

(5) Die Korporasie kan nie enige finansiële verbintenis aangaan nie, bo en behalwe sy goedgekeurde begroting en sy opgegaarde reserwes.

(6) Die Hoof- Uitvoerende Beamppte kan –

- (a) met die goedkeuring van die Raad, 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) met die goedkeuring van die Raad, 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 goedgekeur deur die Raad, daarin deponeer.

### **Oudit en jaarverslag**

27.(1) Die Ouditeur-generaal moet die finansiële verslae van die Korporasie oudit.

(2)(a) Die Raad moet 'n verslag oor die aktiwiteite van die Korporasie tydens 'n finansiële jaar in die Provinciale Wetgewer ter tafel lê binne vyf maande na die einde van daardie finansiële jaar.  
(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 Raadslede die betrokke Portefeuiljekomitee 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 Korporasie sy oogmerke vermeld in artikel 3 bereik of bevorder het en die meetbare doelwitte soos uiteengesit in sy besigheidsplan, soos bedoel in artikel 26(3)(a), tydens die betrokke finansiële jaar; en
- (c) tersaaklike prestasie-inligting bevat aangaande die ekonomiese, doelmatige en doeltreffende toepassing van hulpbronne en, in die besonder, 'n vergelyking tussen beplande en werklike prestasie-aanduiders soos in daardie besigheidsplan uiteengesit.

### **Instelling en administrasie van spesiale fondse**

**28.(1)** Die Korporasie kan, in oorleg met die verantwoordelike Lid van die Uitvoerende Raad, spesiale fondse instel en byhou, insluitend 'n fonds om voorheen benadeelde groepe in die beleggingshoofstroom in te bring.

**(2)** Die Korporasie moet sodanige fondse administreer op die wyse bepaal deur die verantwoordelike Lid van die Uitvoerende Raad.

## HOOFSTUK 7 ITHALA BEPERK MAATSKAPPY IN STAATSBESIT

### **Ithala Beperk Maatskappy in Staatsbesit**

**29.** By die inwerkingtreding van hierdie Wet is die Korporasie die alleenaandeelhouer van die Maatskappy.

### **Bevoegdhede van Maatskappy**

**30.(1)** Die Maatskappy besit al die bevoegdhede en kapasiteit van 'n regspersoon, met uitsondering van die omvang wat die Bankewet, die Maatskappywet, of sy Akte van Oprigting, andersins voorsien.

**(2)** Ondanks enigets strydig wat vervat is in hierdie Wet, het die Maatskappy die bevoegdheid om deposito's wat enige persoon aanbied op sodanige voorwaardes soos deur die Minister van Finansies of die Registrateur van Banke bepaal ingevolge die Bankewet, te ontvang, hou en belê.

**Nakoming van vereistes van Bankewet**

31. Vir solank as wat die Maatskappy deposito's van die publiek ontvang, moet hy aan enige vereiste of voorwaarde wat deur die Minister van Finansies of die Registrateur van Banke, ingevolge die Bankewet, opgelê word, voldoen.

**Ontbinding van Maatskappy**

32.(1) Waar die Maatskappy in bedryf is soos bedoel in artikel 31, is die tersaaklike bepalings van die Bankewet van toepassing ten opsigte van die ontbinding of deregistrasie van die Maatskappy.

(2) Behoudens subartikel (1), kan die Maatskappy ontbind of deregistreer word ingevolge die Maatskappywet.

(3) Op die datum van die ontbinding van die Maatskappy bedoel in subartikel (2) 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, die Korporasie ingestel ingevolge artikel 3.

(4) Nieteenstaande die ontbinding van die Korporasie, gaan die Maatskappy voort om te bestaan as 'n aparte regsentiteit geregistreer ingevolge die Maatskappywet.

(5) Die ontbinding van enige regspersoon wat 'n aandeelhouer in die Maatskappy is beïnvloed nie die status van die Maatskappy nie.

## HOOFSTUK 8 ALGEMENE BEPALINGS

**Sekuriteit van vertroulike inligting gehou deur Korporasie**

33.(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 Korporasie voorgelê word openbaar maak nie, tensy –

(a) hy of sy deur 'n gereghof 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 registers bedoel in artikels 8(6) en 20(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 Korporasie; of
- (c) gemaak is vir die doeleindes van monitering, evaluering, ondersoek of oorweging van enige aktiwiteit wat op die Korporasie, of enige personeellid van die Korporasie, betrekking het.

(3) Geen persoon kan, vir persoonlike gewin of andersins, enige inligting van 'n vertroulike aard betreffende die sake van die Korporasie bekend maak of gebruik sonder die vooraf goedkeuring van die Korporasie nie.

### **Ontbinding van Korporasie**

**34.** Die Korporasie kan slegs ontbind word ingevolge 'n Wet van die Provinciale Wetgewer.

### **Gebruik van Korporasiennaam**

**35.(1)** Geen persoon kan, sonder vooraf skriftelike magtiging van die Korporasie, op enige wyse die Korporasie verteenwoordig of gebruik maak van die naam, akroiem, logo, ontwerpe of materiaal gebruik of besit deur die Korporasie nie.

(2) Geen persoon kan valslik beweer om namens die Korporasie op te tree nie.

### **Delegerings**

**36.(1)** Die verantwoordelike Lid van die Uitvoerende Raad kan aan die Departementshoof –

- (a) enige bevoegdheid deleger wat aan die verantwoordelike Lid van die Uitvoerende Raad deur hierdie Wet verleen is, buiten die bevoegdheid om regulasies ingevolge artikel 37 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 bedoel in artikels 6(3) en 10(2).

(2) Die Hoof- Uitvoerende Beampte kan aan enige personeellid van die Korporasie enige bevoegdheid of plig deleger wat deur hierdie Wet aan die Hoof- Uitvoerende Beampte verleen of opgelê is, behalwe enige plig as 'n *ex officio* Raadslid of rekenpligtige beampte van die Korporasie.

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

(4) Enige delegering verwys na in subartikel (1) of (2) –

- (a) moet skriftelik wees;
- (b) verbied nie die persoon wat die delegering gedoen het om daardie bevoegdheid uit te oefen of daardie plig te verrig nie; en
- (c) mag te eniger tyd skriftelik deur daardie persoon onttrek of gewysig word.

## **Regulasies**

37.(1) Die verantwoordelike Lid van die Uitvoerende Raad kan, na oorlegpleging met die Raad, die Portefeuiljekomitee en enige aandeelhouers, wat hetsy alleenlik of gesamentlik vyf en twintig persent of meer van die aandele in die maatskappy besit, regulasies uitvaardig met betrekking tot –

- (a) die omstandighede waaronder en voorwaardes waarop die Korporasie fondse kan leen;
- (b) die omstandighede waaronder en voorwaardes waarop die Korporasie oor enige groot bates kan beskik;
- (c) die omstandighede waaronder en voorwaardes waarop die Korporasie enige oorskotfondse kan verdeel;
- (d) die stemreg van aandeelhouers in die Maatskappy; of
- (e) die hou van en prosedure by aandeelhouersvergaderings en die neem van besluite deur aandeelhouers sonder om 'n vergadering te hou.

- (2) Die verantwoordelike Lid van die Uitvoerende Raad kan, bykomend tot aangeleenthede bedoel in subregulasie (1), regulasies maak betreffende –
- (a) die byhou van registers en rekords deur die Raad en die publiek se toegangsreg tot enige sodanige register of rekord;
  - (b) die vorm en inhoud van die Korporasie se jaarverslag;
  - (c) die ligging van die Korporasie se openbare kantoor;
  - (d) die gee en ontvangs van kennisgewings deur die Korporasie;
  - (e) enige ander aangeleenthed wat die verantwoordelike Lid van die Uitvoerende Raad nodig ag vir die behoorlike inwerkingstelling of administrasie van hierdie Wet; of
  - (f) enige administratiewe of prosedure-aangeleenthed benodig om uitwerking te gee aan die bepalings van hierdie Wet.

- (3) Enige regulasie met finansiële implikasies moet gemaak word in oorelog met die Lid van die Uitvoerende Raad verantwoordelik vir Finansies.

### **Algemene misdrywe**

**38.(1)** Enige lid wat opsetlik of op 'n growwe nalatige wyse versuim om aan artikel 8(3), (4) of 13(2) te voldoen, of enige voormalige lid wat versuim het om te voldoen aan, of enige van die artikels bedoel in hierdie subartikel oortree het terwyl hy of sy 'n lid was, is skuldig aan 'n misdryf.

(2) Enige persoon wat opsetlik of op 'n growwe nalatige wyse versuim om te voldoen aan artikel 20(3), is skuldig aan 'n misdryf.

(3) Enige persoon wat opsetlik of op 'n growwe nalatige wyse artikel 35 oortree, is skuldig aan 'n misdryf.

(4) Enige persoon wat opsetlik of op 'n growwe nalatige wyse artikel 26(1), (2) en (3) oortree, is skuldig aan 'n misdryf.

(5) 'n Persoon is skuldig aan 'n misdryf indien hy of sy regstreeks of onregstreeks enige omkoopgeld aanvaar of enige ongemagtigde fooi of beloning ontvang vanaf enige persoon in verband met enigiets gedoen of gebied deur die Korporasie.

(6) Enige persoon is skuldig aan 'n misdryf indien hy of sy, met betrekking tot of in verband met enigiets wat deur die Korporasie gedoen of gebied word, enige persoon in diens van of waarnemend namens die Korporasie, omkoop of poog om om te koop of omkoopbaar beïnvloed of poog om omkoopbaar te beïnvloed.

(7) Enige persoon wat opsetlik of op 'n growwe nalatige wyse 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 Korporasie, is skuldig aan 'n misdryf.

### **Boetes**

**39.** Enige persoon wat skuldig bevind is aan 'n misdryf ingevolge hierdie Wet is strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens vyf jaar, of beide sodanige boete en gevangenisstraf.

### **Herroeping van wet**

**40.** Die KwaZulu-Natal Wet op Ithala Ontwikkelingsfinansieringskorporasie, 1999 (Wet No. 2 van 1999) word hiermee herroep.

### **Oorgangsbeplings en besparings**

**41.** Enigiets wat gedoen is of as gedoen beskou word ingevolge 'n wet herroep deur hierdie Wet deur die verantwoordelike Lid van die Uitvoerende Raad, die Korporasie, 'n lid of enige werknemer van die Korporasie voor die inwerkingtreding van hierdie Wet, en wat gedoen of uitgevoer kan word ingevolge hierdie Wet, moet beskou word as gedoen of uitgevoer in ooreenstemming met hierdie Wet.

### **Kort titel**

**42.** Die Wet word die KwaZulu-Natal Wet op Ithala Ontwikkelingsfinansieringkorporasie, 2013, genoem en tree in werking op 'n datum wat bepaal sal word deur die verantwoordelike Lid van die Uitvoerende Raad by kennisgewing in die *Koerant*.

**MEMORANDUM**  
**OOR DIE OOGMERKE**  
**VAN DIE**  
**KWAZULU-NATAL WETSONTWERP OP**  
**ITHALA ONTWIKKELINGSFINANSIERINGSKORPORASIE, 2013**

**1. ALGEMENE AGTERGROND**

Die voormalige Nasionale Minister van Finansies, MnR Trevor A Manuel, het ernstige bedenkinge gehad oor die Wet en het versoek dat artikel 30 van die Wet op Ithala Ontwikkelingsfinansieringskorporasie, 1999 (Wet No. 2 of 1999) (huidige Wet), herroep word omrede dit die KwaZulu-Natal Proviniale Wetgewer alleenreg gegee het om die Ithala Beperk Korporasie te ontbind, ter uitsluiting van die howe.

Die mees deurslaggewende bekommernis ingevolge artikel 30 van die Wet op Ithala Ontwikkelingsfinansieringskorporasie was die feit dat, sou die Ithala Ontwikkelingsfinansieringskorporasie finansiële probleme in die gesig staar, die deponeerders in gevaar kon wees en benadeel kon word as gevolg van die feit dat die Registrateur van Banke nie 'n wenslike proses kan aanwend nie, aangesien ontbinding ingevolge artikel 30 slegs gedoen kon word deur 'n Wet van die Parlement.

Met die wysiging ten einde die strydpunt van artikel 30 aan te spreek, het die huidige Nasionale Minister van Finansies, MnR Pravin J Gordhan, aangevoer dat die wysiging aan artikel 30 nie die bedenkinge geopper deur die voormalige Minister voldoende aangespreek het nie, en het versoek dat die bewoording van die vermelde artikel 30 herformuleer word met die doel dat Ithala Beperk, 'n Maatskappy in Staatsbesit, en 'n filial van die Ithala Ontwikkelingskorporasie, uitgesluit word van ontbinding ingevolge die Wet op Ithala Ontwikkelingsfinansieringskorporasie en aldus voortgaan om te bestaan, niteenstaande die ontbinding van die Korporasie en om vervolgens te weerspieël dat die Maatskappy in Staatsbesit, Beperk, die instelling is wat deposito's aanvaar en nie die Ithala Ontwikkelingsfinansieringskorporasie nie.

Vervolgens is daar by noukeurige bestudering van die huidige Wet gevind dat vele klousules uitgedien geraak het en nie onderskeid getref het tussen die rol van die Ithala Ontwikkelingsfinansieringskorporasie en dié van Ithala Beperk, 'n Maatskappy in Staatsbesit,

nie. Dit is teen hierdie agtergrond dat die herroeping van die huidige Wet en die ontwikkeling van 'n nuwe Wet versoek is.

Gesien in die lig van die voormalde, beoog hierdie Wetsontwerp om –

- (a) voorsiening te maak vir die voortgesette bestaan van die KwaZulu-Natal Ithala Ontwikkelingsfinansieringskorporasie Beperk (voorheen bekend as die KwaZulu Finansies- en Beleggingskorporasie Beperk);
- (b) bevordering van, hulpverlening aan, en fasilitering van sosio-ekonomiese ontwikkeling in die Provinsie van KwaZulu-Natal;
- (c) die oogmerke, bevoegdhede, pligte en werksaamhede van die KwaZulu-Natal Ithala Ontwikkelingsfinansieringskorporasie Beperk te bepaal, in ooreenstemming met die groei- en ontwikkelingstrategie van die Provinsie op 'n volhoubare wyse;
- (d) die wyse te bepaal waarop die KwaZulu-Natal Ithala Ontwikkelingsfinansieringskorporasie Beperk bestuur, beheer, beman en gefinansier sal word; en
- (e) voorsiening te maak vir aangeleenthede bykomend daartoe.

## **2. KLOUSULE VIR KLOUSULE VERDUIDELIKING**

Ter opsomming maak die Wetsontwerp soos volg voorsiening –

### **HOOFSTUK 1 (OMSKRYWINGS)**

#### **Klousule 1:**

Klousule 1 maak voorsiening vir die omskrywings van woorde wat in die Wetsontwerp gebruik word.

### **HOOFSTUK 2: (KWAZULU-NATAL ITHALA ONTWIKKELINGS-FINANSIERINGSKORPORASIE BEPERK, OOGMERKE EN BEDRYFSGEBIED VAN KORPORASIE, BEVOEGDHED, PLIGTE EN WERKSAAMHEDE VAN KORPORASIE, AANDELE, AANDELEKAPITAAL EN AANDEELHOUDING)**

#### **Klousule 2:**

Klousule 2 maak voorsiening vir die voortgesette bestaan van die KwaZulu-Natal Ithala Ontwikkelingsfinansieringskorporasie en sy voortgesette erkenning as 'n regspersoon.

Voorsiening word ook gemaak dat die Korporasie 'n openbare entiteit is behoudens die Wet op Openbare Finansiële Bestuur.

Klousule 2 maak verder voorsiening dat enige verwysing in enige ander wet na die Bantoebeleggingskorporasie van Suid-Afrika, of die KwaZulu Ontwikkelingskorporasie Beperk, of die KwaZulu Finansies- en Beleggingskorporasie Beperk, beskou moet word as 'n verwysing na die KwaZulu-Natal Ithala Ontwikkelingsfinansieringskorporasie Beperk.

**Klousule 3:**

Klousule 3 maak voorsiening vir die oogmerke en bedryfsgebied van die Korporasie wat sosiale en ekonomiese ontwikkeling in die Provincie sal bevorder, ondersteun en faciliteer deur –

- (a) finansiële hulpbronne te mobiliseer en finansiële en ondersteuningsdienste te voorsien aan persone wat in die Provincie domisilieer, gewoonlik woonagtig is of wat voortgaan om sake te bedryf binne die Provincie;
- (b) beplanning, uitvoering, finansiering en monitering van die inwerkingstelling van ontwikkelingsprojekte en -programme in die Provincie;
- (c) bevordering van, hulpverlening aan en aanmoediging vir die ontwikkeling van die Provincie se menslike hulpbronne en sy sosiale, ekonomiese, finansiële en fisiese infrastruktuur;
- (d) privaatsektorbelegging in die Provincie, die deelname van die privaatsektor en gemeenskapsorganisasies aan ontwikkelingsprojekte en -programme en bydraes tot ekonomiese groei en ontwikkeling in die algemeen te bevorder, aanmoedig en faciliteer; en
- (e) op te tree as die Provinciale Regeringsagent vir verrigting van enige take en verantwoordelikhede wat verband hou met ontwikkeling en wat, na die mening van die Regering, meer doeltreffend en doelmatig verrig kan word deur 'n korporatiewe entiteit.

**Klousule 4:**

Klousule 4 handel breedvoerig oor die bevoegdhede, pligte en werkzaamhede van die Korporasie.

**Klousule 5:**

Klousule 5 maak voorsiening vir die wyse waarop die Raad en die verantwoordelike Lid van die Uitvoerende Raad moet handel met aandele, aandelekapitaal en aandeelhouding ingevolge die Wetsontwerp.

**HOOFSTUK 3 (RAAD VAN KORPORASIE)****Klousule 6:**

Klousule 6 bepaal die samestelling van die Raad.

**Klousule 7:**

Klousule 7 maak voorsiening vir onbevoegdheid vir aanstelling in die Raad.

**Klousule 8:**

Klousule 8 maak voorsiening vir die verklaring van finansiële of ander belangte deur Raadslede.

**Klousule 9:**

Klousule 9 maak voorsiening vir die ampstermyn en heraanstelling van 'n Raadslid.

**Klousule 10:**

Klousule 10 maak voorsiening vir die vul van vakatures, ontslag en bedanking uit amp deur Raadslede.

**Klousule 11:**

Klousule 11 maak voorsiening vir die tydelike skorsing van 'n Raadslid.

**Klousule 12:**

Klousule 12 maak voorsiening vir vergaderings en vergaderingsprosedures by vergadering van die Raad.

**Klousule 13:**

Klousule 13 maak voorsiening vir die onttrekking van 'n lid van vergaderings en verrigtinge van die Raad.

**Klousule 14:**

Klousule 14 maak voorsiening vir die besoldiging van Raadslede.

**Klousule 15:**

Klousule 15 maak voorsiening vir die instelling van komitees om die Raad by te staan.

**Klousule 16:**

Klousule 16 maak voorsiening vir koöptering van persone tot die Raad of komitees van die Raad.

**HOOFSTUK 4 (HOOF- UITVOERENDE BEAMPTE EN PERSONEEL VAN KORPORASIE)**

**Klousule 17:**

Klousule 17 maak voorsiening vir die aanstelling van die Hoof- Uitvoerende Beampte.

**Klousule 18:**

Klousule 18 maak voorsiening vir die werkzaamhede, en die uiteensetting daarvan, van die Hoof- Uitvoerende Beampte.

**Klousule 19:**

Klousule 19 maak voorsiening vir die bedanking van die Hoof- Uitvoerende Beampte.

**Klousule 20:**

Klousule 20 maak voorsiening vir die aanstelling van personeel van die Korporasie.

**Klousule 21:**

Klousule 21 maak voorsiening vir die afstaan aan of oorplasing van personeel na die Korporasie.

**HOOFSTUK 5 (BELEIDS RIGLYNE, KORPORATIEWE PLAN EN VERBIEDINGE EN BEPERKINGS OP VERSPREIDING VAN KORPORASIEWINSTE)**

**Klousule 22:**

Klousule 22 maak voorsiening vir beleidsriglyne aan die Raad.

**Klousule 23:**

Klousule 23 maak voorsiening dat die korporatiewe plan ontwikkel moet word in ooreenstemming met die bepalings van die Wet op Openbare Finansiële Bestuur.

**Klousule 24:**

Klousule 24 maak voorsiening vir die verbiedinge en beperkings op verspreiding van die Korporasie se winste en die vervoerding van sy groot bates.

**HOOFSTUK 6 (BEFONDSING EN FINANSIELLE BESTUUR VAN KORPORASIE)****Klousule 25:**

Klousule 25 maak voorsiening vir die fondse van die Korporasie, die wyse waarop dit bekom, aangewend en belê word wanneer dit nodig is om so te doen, ingevolge hierdie Wetsontwerp.

**Klousule 26:**

Klousule 26 maak voorsiening vir die wyse waarop die Hoof- Uitvoerende Beampte die finansies van die Korporasie behoort te bestuur.

**Klousule 27:**

Klousule 27 maak voorsiening vir die oudit en tertafellegging van die Korporasie se finansiële state.

**Klousule 28:**

Klousule 28 maak voorsiening vir die instelling en administrasie van spesiale fondse ingevolge hierdie Wetsontwerp.

**HOOFSTUK 7 (ITHALA BEPERK MAATSKAPPY IN STAATSBESIT)****Klousule 29:**

Klousule 29 maak voorsiening vir die besit van aandele in KwaZulu-Natal Ithala Beperk, 'n Maatskappy in Staatsbesit. Dit verklaar dat, by die aanvang van die Wet, die Korporasie die alleenaandeelhouer van KwaZulu-Natal Ithala Beperk, 'n Maatskappy in Staatsbesit, is.

**Klousule 30:**

Klousule 30 maak voorsiening vir die bevoegdhede van KwaZulu-Natal Ithala Beperk, 'n Maatskappy in Staatsbesit, ingevolge hierdie Wetsontwerp.

**Klousule 31:**

Klousule 31 beoog om the KwaZulu-Natal Ithala Beperk, 'n Maatskappy in Staatsbesit, te verplig om te voldoen aan die vereistes van die Bankewet vir solank as wat die Maatskappy deposito's van die publiek ontvang.

**Klousule 32:**

Klousule 32 maak voorsiening vir die ontbinding van die Maatskappy ingevolge hierdie Wetsontwerp.

**HOOFSTUK 8 (ALGEMENE BEPALINGS)****Klousule 33:**

Klousule 33 maak voorsiening vir die sekuriteit van vertroulike inligting wat deur die Korporasie gehou word.

**Klousule 34:**

Klousule 34 maak voorsiening vir die ontbinding van die Korporasie.

**Klousule 35:**

Klousule 35 maak voorsiening vir die gebruik van die naam van die Korporasie.

**Klousule 36:**

Klousule 36 maak voorsiening vir die delegerings van bevoegdhede deur die verantwoordelike Lid van die Uitvoerende Raad en die Hoof- Uitvoerende Beampete.

**Klousule 37:**

Klousule 37 bemagtig die verantwoordelike Lid van die Uitvoerende Raad om regulasies te maak. Hierdie klousule voorsien ook riglyne ingevolge waarvan die verantwoordelike Lid van die Uitvoerende Raad sodanige regulasies kan maak.

**Klousule 38:**

Klousule 38 maak voorsiening vir algemene misdrywe.

**Klousule 39:**

Klousule 39 maak voorsiening vir strawwe met betrekking tot misdrywe waarvoor voorsiening gemaak word in klousule 38 van hierdie Wetsontwerp.

**Klousule 40:**

Klousule 40 maak voorsiening vir die herroeping van die KwaZulu-Natal Wet op Ithala Ontwikkelingskorporasie, 1999.

**Klousule 41:**

Klousule 41 maak voorsiening vir oorgangsbeplittings.

**Klousule 42:**

Klousule 42 bevat die kort titel van die Wet.

**3. FINANSIEËLE IMPLIKASIES VIR PROVINSIALE REGERING**

The finansiële implikasies is gegrond op die voortgesette bestaan van die Korporasie en sal voorsien word vir in die huidige 2013/2014.

**4. DEPARTMENTE / LIGGAMME GERAADPLEEG**

- 4.1 Nasionale Tesourie;**
- 4.2 Kabinetklusters;**
- 4.3 Kabinet;**
- 4.4 Openbare Sektor Prokureursforum;**
- 4.5 Ithala Ontwikkelingsfinansieringskorporasie; en**
- 4.6 Lede van die publiek by wyse van openbare oorlegpleging.**

**5. GRONDWETLIKE IMPLIKASIES**

Geen.

**No. 61****6 kuZibandlela 2013**

## **UMTHETHOSIVIVINYO WAKWAZULUNATALI WE-ITHALA DEVELOPMENT FINANCE CORPORATION, 2013**

**Isaziso ngokuhambisana noMthetho 194 weMithetho Emileyo yeSishayamthetho saKwaZulu-Natali**

Ngalokhu kunikezwa isaziso ngokuhambisana noMthetho 194 weMithetho Emileyo yeSishayamthetho sesiFundazwe maqondana nokuthi Umthethosivivinyo waKwaZulu-Natali we-iThala Development Finance Corporation, 2013, njengoba uchazwe ngezansi, sewethuliwe eSishayamthethweni esibalulwe ngenhla futhi uzocutshungulwa yiKomidi Lezokuthuthukiswa Komnotho Nezokuvakasha. Umphakathi kanye nabanye abanentshisekelo bayamenywa ukuba balethe izethulo ezimayelana nalo Mthethosivivinyo, okumele ziqondiswe ku :-:

Mnu. DN Dimba  
UNobhala  
ISishayamthetho saKwaZulu-Natali  
Isikhwama Seposi X 9112  
Pietermaritzburg  
3200

E-mail: [dimbad@kznlegislature.gov.za](mailto:dimbad@kznlegislature.gov.za)

ukuze zifinyelele kuye zingakapheli izinsuku eziyi-15 kusukela ngosuku okushicilelwe ngalo lesi saziso

N. NAIDOO  
UNobhala weSishayamthetho saKwaZulu-Natali

**UMTHETHOSIVIVINYO WAKWAZULUNATALI WE-ITHALA DEVELOPMENT FINANCE  
CORPORATION, 2013**

**UMTHETHOSIVINYO**

**Wokuhlinzekela ukuqhube ka kokubakhona kweKwaZulu-Natali Ithala Development Finance Corporation Limited, eyayaziwa ngokuthi iKwaZulu-Natali Finance and Investment Corporation Limited, ngenjongo enkulu yokugqugquzela, yokweseka kanye nokwelekelela entuthukweni yomphakathi nokusimamisa ezomnotho esifundazweni saKwaZulu-Natali, ngokuhambisana nesu lesifundazwe lokukhula kanye nokuthuthuka; nokunquma indlela iKwaZulu-Natali Ithala Development Finance Corporation Limited ezophathwa ngayo, ezoqasha ngayo izisebenzi nezohlinzekwa ngayo ngezimali; nokuhlinzekela ezinye izindaba eziphathelene nalokho.**

NGAKHO-KE MAWUMISWE yisiShayamthetho sesifundazwe saKwaZulu-Natali, kanje:-

**UKUHLELEKA KWEZIGABA**

*/sigaba*

ISAHLUKO 1  
IZINCAZELO

1. Izincazelo

ISAHLUKO 2  
ITHALA DEVELOPMENT FINANCE CORPORATION LIMITED

2. Ithala Development Finance Corporation Limited
3. Izinjongo kanye nendawo Ithala elisebenzela kuyo
4. Amajoka, amandla nemisebenzi yeThala
5. Amasheya, amasheya ayisisekelo nobunikazimasheya

**ISAHLUKO 3  
IBHODI YETHALA**

6. Ukubunjwa kweBhodi
7. Ukungafaneleki ukuqokelwa kwiBhodi
8. Ukudalulwa kokuhlomula ngokwezezimali noma ngokunye kwamalungu eBhodi
9. Isikhathi sokuba sesikhundleni kanye nokuqokwa kabusha kwelungu leBhodi
10. Izikhala zomsebenzi, ukuxoshwa kanye nokusula esikhundleni kwelungu leBhodi
11. Ukumiswa kwesikhashana kwelungu leBhodi
12. Imihlangano kanye nezinqubo emihlangenweni yeBhodi
13. Ukuhoxa kwelungu emihlanganweni nasezinqubeni zeBhodi
14. Amaholo amalungu eBhodi
15. Ukusungulwa kwamakomidi azosiza iBhodi
16. Ukuqokelwa kwabantu kwiBhodi noma emaKomidini eBhodi

**ISAHLUKO 4  
ISIKHULU ESIPHEZULU KANYE NABASEBENZI BETHALA**

17. IsiKhulu esiPhezulu seThala
18. Imisebenzi yesiKhulu esiPhezulu
19. UkuSula nokugudluzwa esikhundleni kwesiKhulu esiPhezulu
20. Abasebenzi beThala
21. UkuSiswa noma ukudluliselwa kwabasebenzi

**ISAHLUKO 5  
IMIKHOMBANDLELA YOMGOMO NOHLELO LWEBHIZINISI LETHALA**

22. Imikhombandlela yomgomo wokusebenza kweBhodi
23. Uhlelo lwebhizinisi leThala
24. Okwenqatshelwe kanye nemibandela yokwehlukaniswa kwenzozo yeThala

## ISAHLUKO 6

## UKUHLINZEKWA NGEZIMALI

## KANYE NOKUPHATHWA KWEZIMALI ZETHALA

25. Izimali zeThala
26. Ukuphathwa kwezimali
27. Umbiko wocwaningo lwezimali kanye nombiko wonyaka
28. Ukusungulwa nokuphathwa kwezimali ezikhethekile

## ISAHLUKO 7

## I-STATE OWNED COMPANY LIMITED

29. I-State Owned Company Limited
30. Amandla eNkampani
31. Ukuhambisana nomyalelo woMthetho wamaBhangi
32. Ukuvalwa kweNkampani

## ISAHLUKO 8

## IZINHLINZEKO EZEJWAYELKILE

33. Ukuvikelwa kolwazi oluyimfihlo olugodlwile lthalwa
34. Ukuhlakazwa kweThala
35. Ukuisetshenziswa kwegama leThala
36. Ukundluliselwa kwamandla
37. Imithethonqubo
38. Amacala ajwayelekile
39. Izinhlawulo
40. Ukuchithwa komthetho
41. Amalungiselelo oguquko kanye nokusalayo
42. Isihloko esifingqiwe

## ISAHLUKO 1

## IZINCAZELO

**Izincazelolo**

1. Kulo Mthetho, ngaphandle uma ingqikithi isho okwehlukile –

“**uMthetho wamaBhangi**” kushiwo uMthetho wamaBhangi, 1990 (uMthetho No. 94 ka 1990), nanoma iliphi igama elinikezwe incazelolo eMthethweni wamaBhangi noma kwiMithethonqubo ephathelene namaBhangi, linaleyo ncazelolo elinikezwe yona;

“**iBhodi**” kushiwo iBhodi leThala eliqokwe ngokwesigaba 6;

“**isiKhulu esiphezulu**” kushiwo isiKhulu esiphezulu seThala, esiqokwe ngokwesigaba 17;

“**uMthetho weziNkampani**” kushiwo uMthetho weziNkampani, 2008 (uMthetho No. 71 ka 2008);

“**iNkampani**” kushiwo Ithala State-owned Company Limited, engaphansi kwe-Ithala Development Finance Corporation Limited, okuyinkampani eyenganyelwe umbuso ngokoMthetho weziNkampani, 2008 (uMthetho No. 71 ka 2008);

“**uMthethosisekelo**” kushiwo uMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996;

“**i-Corporation**” kushiwo Ithala Development Finance Corporation Limited echazwe esigabeni 2;

“**uMnyango**” kushiwo umnyango kaHulumeni wesiFundazwe saKwaZulu-Natali obhekele ukuthuthukiswa komnotho;

“**idiphozithi**” kushiwo imali efakwayo njengoba kuchazwe esigabeni 1 soMthetho wamaBhange;

“**iGazethi**” kushiwo *iGazethi* esemthethweni yesiFundazwe saKwaZulu-Natali;

“**iNhloko yoMnyango**” kushiwo umuntu oqokwe njengeNhloko yoMnyango ngokwesigaba 12 soMthetho weMisebenzi kaHulumeni, (iSimemezel 103 sika 1994);

“**ukuhlomula okuseceleni**” kubandakanya, kepha kungagcini lapho, ukuhlomula komuntu siqu sakhe ngezimali njengoba kuchazwe esigabeni 1 soMthetho weziNkampani, ukuhlomula komuntu ohlobene naye njengoba kuhlongozwe esigabeni 2 soMthetho weziNkampani;

“**ukuzihlomulisa**” kubandakanya, kepha kungagcini lapho, ukuzihlomulisa komuntu qobo ngezimali njengoba kuchazwe esigabeni 1 soMthetho weziNkampani;

“**impahla engukhesi**” kushiwo impahla engukhesi njengoba kuchazwe esigabeni 1 soMthetho wamaBhange;

“**ilungu**” kushiwo ilungu leBhodi yeThala eliqokwe ngokwesigaba 6;

“**iLungu loMkhandlu oPhethe elibhekele ezezimali**” kushiwo iLungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali elibhekele ezezimali;

“**ilungu lomphakathi**” kubandakanya umuntu ngokomthetho;

“**uMgcinimafa kaZwelonke**” kushiwo uMgcinimafa kaZwelonke osungulwe yisigaba 5 soMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999);

“**uNduankulu**” kushiwo uNduankulu wesiFundazwe saKwaZulu-Natali ochazwe esigabeni 125(1) soMthethosisekelo;

“**iKomidi leMisebenzi yasePhalamende**” kushiwo iKomidi lemiSebenzi yasePhalamende kwisiShayamthetho saKwaZulu-Natali elibhekele ukuthuthukiswa komnotho;

“**isiFundazwe**” kushiwo isiFundazwe saKwaZulu-Natali esihlongozwe esigabeni 103 soMthethosisekelo kanti futhi igama “**okwesifundazwe**” linencazeloe fanayo;

“**uHulumeni wesiFundazwe**” kushiwo uHulumeni wesiFundazwe esiFundazweni saKwaZulu-Natali futhi, ngaphandle uma ingqikithi isho okwehlukile, ubandakanya yonke iMinyango kaHulumeni wesiFundazwse;

“**isiShayamthetho sesiFundazwe**” kushiwo isiShayamthetho sesiFundazwe saKwaZulu-Natali okukhulunye ngaso esigabeni 105 soMthethosisekelo nesigunyaza umthetho wesiFundazwe njengoba kuhlongozwe esigabeni 104(1) soMthethosisekelo;

“**uMthetho wokuPhathwa kweziMali zikaHulumeni**” kushiwo uMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999);

**“uMbhaliSi wamaBhange”** kushiwo uMbhaliSi wamaBhange okhethwe ngaphansi kwesigaba 4 soMthetho wamaBhange;

**“imithethonqubo”** kushiwo imithethonqubo eyenziwe ngokwesigaba 33;

**“iLungu IoMkhandlu oPhethe elibhekelle”** kushiwo iLungu IoMkhandlu oPhethe esifundazweni saKwaZulu-Natali elibhekelle ukuthuthukiswa komnotho;

**“amasheya”** kushiwo amasheya enkampanini ehlongozwe kwiSahluko 7;

**“amasheya ayisisekelo seThala”** kushiwo imali etholakale ngokudayisa amasheya noma ngokuphathelene nalokho; futhi

**“Io Mthetho”** ubandakanya nemithethonqubo.

## ISAHLUKO 2

### ITHALA DEVELOPMENT FINANCE CORPORATION

#### Ithala Development Finance Corporation

2.(1) IKwaZulu-Natali Finance kanye ne-Investment Corporation Limited, eyasungulwa yiSimemezelo R. 73 sika 1978, ngemuva kwalokho eyaqanjwe kabusha ngoMthetho waKwaZulu-Natali we-Ithala Development Corporation, 1999 (uMthetho No. 2 ka 1999), yabizwa nge-Ithala Development Finance Corporation Limited, iyaqhubeKA nokuba khona futhi izobizwa nge-Ithala Development Finance Corporation Limited.

(2) Ithala, okukhulunye ngayo esigatshaneni (1), iyaqhubeKA nokuba wumuntu ngokomthetho;

(3) Ithala isikhungo sikahulumeni wesifundazwe esenganyelwe ngokoMthetho wokuPhathwa kweziMali zikaHulumeni.

(4) Nanoma ikuphi okushiwo kunoma yimuphi umthetho noma umqulu maqondana —

- (a) ne-Black Investment Corporation of South Africa Limited;
- (b) ne-Corporation for Economic Development and Tourism Limited;
- (c) neKwaZulu Development Corporation Limited; noma

(d) neKwaZulu Finance and Investment Corporation Limited,  
kumele kuthathwe ngokuthi ukhuluma nge-Ithala Development Finance Corporation Limited.

### **Izinjongo nendawo Ithala elisebenzela kuyo**

3. Izinjongo zeThala ukugqugquzela, ukweseka nokwelekelela entuthukweni yomphakathi ukusimamisa ezomnotho esifundazweni –

- (a) ngokuqokelela iznsiza zezimali kanye nokuhlinzeka ngosizo lwezezimali nemisebenzi yokweseka okupathelene nazo kubantu abayizakhamuzi, ngokujwayelekile abahlala noma abaqhabela imisebenzi yamabhizinisi abo kulesi siFundazweni;
- (b) ngokuhlela, ngokuqalisa, ngokusiza ngezimali nokuqapha ukuqalisa kwemiklamo nezinhlelo zesiFundazwe;
- (d) ngokugqugquzela, ngokukhuthaza nokusiza umkhakha ozimele ekutheni utshale izimali esifundazweni nokuthi imikhakha ezimele kanye nezinhlangano zomphakathi zibambe iqhaza ekuthuthukisweni kwemiklamo nezinhlelo ukufaka isandla ekukhuliseni ezomnotho nakwintuthuko jikelele;
- (e) ngokusebenza njenge-ejenti kaHulumeni wesiFundazwe ukwenza nanoma yimuphi umsebenzi ophathelene nentuthuko namajoka ngokubona kaHulumeni wesiFundazwe, angenzeka kahle nangempumelelo uma enziwa umgwamanda wethala.

### **Amajoka, amandla nemisebenzi yeThala**

4. Ukufeza izinhloso ezhlongozwe esigabeni 3 ngokuncike ezigabeni 54(2), 66 no 68 zoMthetho wokuPhathwa kweziMali zikaHulumeni, iThala –

- (a) lingaqokelela izimali kanye nezinye izinsiza ezinhlakeni zomphakathi nasemkhakheni ozimele ngokuthola izimali ezibolekisayo, ukunxenxa nokwemukela uxhaso lwezimali kanye neminikelo ngaphansi kwemibandela okuvunyelwene ngayo futhi nangokweyame kunoma yimuphi umbandela onganqunywa iLungu loMkhandlu oPhethe;
- (b) lingahlela, lisize, ligqugquzele, liqhube, lixhase ngezimali, litshale izimali noma linikeze isiqinisekiso nganoma yimuphi umklamo, uhlelo noma ibhizinisi eliphathelene nokuthuthukiswa komphakathi kwezomnotho nakwezokuvakasha esifundazweni;

- (c) linganikeza izeluleko mayelana nemisebenzi yezobuchwephesheshe nezinye nje izeleluleko ezingadingelwa nanoma yimuphi umklamo, uhlelo noma ibhizinisi elihlongozwe kwindima (b);
- (d) ngokusebenzisa iNkampani engaphansi kwalo, lingabolekisa noma likhokhe imali ungakenziwa umsebenzi, ngesibambiso noma ngale kwaso, ngemibandela elingayibona ifanele mayelana nalokho, kubandakanya –
- (i) amabhondi ezindlu;
  - (ii) amabhondi empahla egudluzekayo;
  - (iii) izibambiso;
  - (iv) impahla ethathekayo;
  - (v) impahla eyisibambiso ebuyiselwa emuva uma sekuphele izikweletu;
  - (vi) izinikezelo;
  - (vii) izibambiso;
  - (viii) izivumelwano zokukhkhela obolekayo uma esehlulekile ukukhokha; noma
  - (ix) naluphi olunye uhlobo lomshalensi noma lesibambiso,
- futhi lingathatha izinyathelo elizibona zifanele ukuze kubuyiselwe noma isiphi isikweletu futhi kuvikelwe kuphinde kusetshenziswe nanoma iliphi ilungelo eliphathelene nalokho;
- (e) lingaqinisekisa, limela noma lingenele isivumelwano sokuvikela namuphi umuntu ngezikweletu zakhe noma ngezivumelwano zezibopho, livikele nanoma yimuphi umuntu ekulahlekelweni, ekonakalweni, nasekungeneni ezindlekwani ezidalwa yizikweletu noma izivumelwano zezibopho mayelana eziphathelene nanoma yimuphi omunye umuntu futhi, ngaleylo nhoso, lingathatha ibhondi njengesibambiso noma lihlinzeke noma iluphi uhlobo lwsibambiso olungadingeka;
- (f) lingathola, ligcine, ithuthukisa, lenza ngcono, liphathe, ibhekele, liqashe, liqashise, lidayise, lidlulisele, linikele, lidedele, libambise noma livimbe impahla egudluzekayo noma engenakugudluzwa kungakhathaleki ukuthi iwuhlobo oluphilayo noma olungaphili;
- (g) lingasungula izikhungo ezingabantu ngokomthetho noma izinhlangano zabantu ezingakwazi ukwenza nanoma yini, ukusebenzisa amandla, ukwenza umsebenzi, noma umsebenzi Ithala elingawenza ngokwalo Mthetho, lithole ingxenye yenzozo kunoma yimuphi umuntu ongokomthetho futhi bahlukaniselane leyo nzuzo, noma ibhalisele ubulungu kunoma iyiphi inhlangano eyenza okufanayo noma liqedebulungu;
- (h) lingaba namasheya eNkampanini ehlongozwe kwiSahluko 7;

- (i) lingasebenza njengomqondisi, i-trusti, umsingathi, umphathi, umdidiyeli, umphathiswa kwezobulungiswa, umabi wamafa, i-ejenti noma umkhulumeli wanoma yimuphi umuntu, wesikhungo somphakathi, wamafa noma webhizinisi futhi ingabeka nanoma ngubani ozolimela ekufezeni leyo nhloso;
- (j) lingakhokhisa futhi lemukela inkokhela yanoma imuphi umsebenzi owenziwe noma egameni lanoma ngubani, kubandakanya uHulumeni wesiFundazwe;
- (k) lingakhokha zonke izindleko eziphathelene nokuphathwa kwalo, lingavula, liqhube futhi livale ama-akhawonti asebhange, likhiphe ngokweqile imali ekhona kulawo ma-akhawonti, lingenza, likhiphe, lemukele noma ligunyaze naziphi izethembiso ezingenamibandela, litshale izimali elinazo ezingadingeki ngokushesha ukubhekana nezindaba eziphathelene nalo;
- (l) lingasungula izikhwama zemali elondoloziwe, lingathatha zonke izinyathelo ezidingekayo ukuze livikele futhi ligade;
  - (i) izimali zalo ezitshaliwe; noma
  - (ii) imihlomulo yalo yezindaba eziphathelene nezezimali, futhi ngokujwayelekile lingenza zonke izinto ezinesidingo sokuphathwa nokusingathwa kwezindaba eziphathelene nezimali zalo;
- (m) lingakhokha zonke izindleko eziphathelene nokuvikelwa, ukulondolozwa nokugcinwa kwamalungelo alo nezimpahla zalo;
- (n) lingathatha zonke izinyathelo elizibona zidingekile ukuze –
  - (i) kukhkhwe naziphi izikweletu; noma
  - (ii) kulandelwelwe nasiphi isibopho sokukweleta Ithala nanoma imuphi umuntu, kubandakanya ukuthathwa kwezinyathelo zomthetho ezilibona zifanelekile;
- (o) lingaqasha, limise, lixoshe, likhokhele, liqequeshe futhi lihlalise abasebenzi beThala;
- (p) lingahlinzeka abasebenzi beThala ngemihlomulo yezempesheni, imihlomulo yelivu yokugula noma eminye imihlomulo ephathelene nokusebenza futhi ngokujwayelekile lingenza zonke izinto ezidingekayo ukuze lithuthukise futhi ligcine abasebenzi abasebenza kwiThala;
- (q) lingaba nesitembu esisemthethweni futhi lisisebzise nganoma iyiphi inhloso esiFundazweni;
- (r) ngokwejwayelekile, lingenza konke okudingekayo ukuze –
  - (i) lifeze izinjongo zalo;
  - (ii) lisebzise amandla alo; noma
  - (iii) kuphathwe futhi kusingathwe izindaba zalo;
- (s) lingenza nayiphi enyr into lilandeletele nanoma iluphi udaba iLungu IoMkhandlu elibhekele elibona njengolunesidingo ekuqalisweni ngendlela kwalo Mthetho; futhi

(t) lingagunyaza iNkampani ukuba yemukele, igcine futhi itshale izimali ezifakwa yinoma imuphi umuntu ngemibandela enganqunywa uNgqongqoshe wezeziMali kanye noMbhalisi wamaBhange.

**Amasheya, amasheya ayisisekelo senkampani nobunikazi bamasheya**

5.(1) Ekuqalisweni kwalo Mthetho, amasheya ayisisekelo seThala agunyazwe yilawo masheya abiwe njengamasheya agcinwe Ithala eNkampanini.

(2) Kweyame kwimibandela enganqunywa iLungu loMkhandlu oPhethe, Ithala lingadlulisela wonke noma ingxene yamasheya abiwe kunoma –

- (i) yimuphi umuntu ngokomthetho;
- (ii) iyiphi inhlango yabantu; noma
- (iii) isikhungo somphakathi noma esizimele,

Okuzinhoso zaso zingashayansi nezeThala: Kuncike ekutheni umuntu ngamunye ozimele yedwa angeke aba ngumnikazimasheya eThala.

(3) IBhodi ngokugunyazwa –

- (a) yiLungu loMkhandlu oPhethe elibhekile; futhi
- (b) lapho amasheya esedluliselwe kubanikazimasheya njengoba kuhlongozwe esigatshaneni (2), abanikazimasheya abavotayo emhlanganweni omkhulu wokuqala onyakeni;  
izikhathi ngezikhathi –
  - (a) lingenyusa amasheya ayisisekelo seThala, ngendlela iBhodi eliyibona ifanelekile, ngokudaleka –
    - (i) kwamasheya ajwayelekile; noma
    - (ii) amasheya ayinoma uluphi uhlobo noma isigaba esinganqunywa, ngokwaba lawo masheya ngemibandela okuvunyelwene ngayo; futhi
  - (b) bangaqagula–
    - (i) ukugunyazwa nokuhlelwia ngezigatshana kwamasheya;
    - (ii) isibalo samasheya agunyaziwe kuleso naleso sigaba samasheya; kanye
    - (iii) nokukhetheka, amalungele, imikhawulo naminye imibandela ephathelene nesigaba ngasinye samasheya.

(4) Nanoma yiluphi uhlobo lwamasheya eNkampanini angakhishwa ngokwamalungelo ahlukile noma akhethekile, noma kuncike kuleyo mibandela njengoba kunganquma iBhodi, maqondana nezinzuza, ukuvota, ukubuyelwa isamba samasheya noma okwehlukile.

(5) Lapho kunamasheya akhethekile, iBhodi linganquma ukuthi –

- (a) abanikazimasheya abanalo ilungelo lokuvota; noma
- (b) lokuthi lawo masheya angabuyiselwa abanikazi.

(6) Lelo nalelo sheya, kungakhathaleki ukuthi likusiphi isigaba, lihambisana nelungelo elilodwa lokuvota okujwayelekile.

(7) Ngaphezu kwanoma yini eyehlukile kulo Mthetho, lelo nalelo sheya elikhishiwe lihambisana nelungelo elinenakuguqulwa lomnikazimasheya lokuvota kunoma isiphi isiphakamiso sokuchitshiyelwa kwamasheya akhethekile, amalungelo, imikhawulo neminye imibandela ehambisana nalelo sheya.

ISAHLUKO 3  
IBHODI YETHALA

**Ukubunjwa kweBhodi**

6.(1) iBhodi liqukethe –

- (a) okungenani amalungu ayisikhombisa, kodwa engeqile kwayishumi nantathu, aqokwe yiLungu loMkhandlu oPhethe; kanye
- (b) nesiKhulu esiPhezulu, *ngokwesikhundla* saso, njengoba kuhlongozwe esigabeni 17(5).

(2) AmaLungu eBhodi kumele abe ngabantu abafanelekile futhi abakulungele ukusebenzela isiFundazwe ngentshisekelo, onke

- (a) abe nolwazi noma isipiliyon i solokusebenza ngokuhleleka nabantu abasemonini; kanye
- (b) nala makhono, ubungoti kanye neziq –
  - (i) amakhono, isipiliyon neziq kwezomthetho;
  - (ii) amakhono, isipiliyon neziq kwezokuphathwa kwezimali;
  - (iii) isipiliyon kwezokutshalwa kwezimali noma iziqu;
  - (iv) isipiliyon sokudayisa noma iziqu;
  - (v) isipiliyon okanye neziq ezindabeni zokuphathwa komnyango wabasebenzi noma wezindaba zomsbenzi; kanye
  - (vi) namakhono kanye nesipiliyon kwezokuhlela noma kwezentuthuko.

(3) Ekuqokweni kwamalungu eBhodi, iLungu loMkhandlu oPhethe elibhekelle kumele liqinisekise ukuthi –

- (a) kubhekelelwu ukungalingani kwaphambilini;
- (b) iBhodi, iyonke, inamakhono nobungoti obufanele nobudingekayo; futhi
- (c) iBhodi imele abantu abaqashwe noma ababandakanyeka emabhizinisini ezomnotho ongena ezweni, kwezohwebo nezokutshalwa kwezimali esiFundazweni; futhi
- (d) omasipala balekelel iBhodi ngendlela yokuthi bonke bayameleka ngokwezindawo: Kuncike ekutheni kuyoqokelwa eBhodini abantu abangeqile kwabane abayokwenza ukuthi kusetshenziswe izinhlinzezo zalesi sigatshana.

(4) iLungu loMkhandlu oPhethe elibhekelle kumele liqoke –

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

(5) iLungu loMkhandlu oPhethe elibhekelle kumele, ngesaziso kwiGazethi, limeme noma yiziphi izinhlangothi ezinentshisekelo esiFundazweni ukuba ziphakamise abangaqokelwa kwiBhodi.

(6) Isimemo seziphakamiso kumele sicacise –

- (a) inqubo yeziphakamiso;
- (b) okudingekayo kwiziphakamiso; kanye
- (c) nosuku lokuvalwa kweziphakamiso.

(7) iLungu loMkhandlu oPhethe elibhekelle kumele liqoke ikomidi elizokwenzela amalungu eBhodi izincomo ngeziphakamiso kwiLungu loMkhandlu oPhethe elibhekelle.

(8) iLungu loMkhandlu oPhethe elibhekelle kumele liqinisekise ukuthi wonke amagama abantu abaqokelwe eBhodini ashicilelwu kwiGazethi kanye nasemaphephabeni okungenani amabili afundwa kakhulu esiFundazweni, ngokushesha ngemuva kokuba labo bantu sebazisiwe, ngokuthi babhalelwu, ngokuqokelwa kwabo kwiBhodi.

(9) iLungu loMkhandlu oPhethe elibhekelle kumele, ezinyangeni ezimbili ngemuva kokuqokwa kwamalungu eBhodi ngokwesigatshana (1), lazise uMkhandlu oPhethe kanye neKomidi lemiSebenzi yesiShayamthetho ngamagama amalungu aqokiwe kubandakanya isikhathi abasiqokelwe.

(10) Lesi sigaba sisebenza, nezinguuko ezidingekayo, ekuvalweni kwesikhala somsebenzi kwiBhodi.

#### **Ukungafaneleki ukuqokelwa kwiBhodi**

7. Umuntu akafanelekile ukuqokelwa kwiBhodi noma ekutheni aqhubeke nokusebenza kwiBhodi, ngesizathu sokuthi –

- (a) uyilungu lePhalamende, lanoma yisiphi isiShayamtheho sesiFundazwe noma uMkhandlu kaMasipala;
- (b) ucwile noma ucwila ezikweletini ngendlela engenakuhlengeka;
- (c) uthathwe noma uthathwa inkantolo njengogula ngengqondo;
- (d) uhlomula ngqo noma ngandlela thile kunoma kwiNhlango futhi ehluleka ukudalula lokho kuhlomula kanye nendlela ahlomula ngayo ngokwalo Mthetho;
- (e) engumuntu ozinto zakhe zilawulwa umthetho;
- (f) noma ngasiphi isikhathi eke wamiswa esikhundleni ngenxa yokungaziphathi kahle okuhlanganisa ukweba kanye nokukhwabanisa;
- (g) eseke waboshwa futhi wagwetshwa isikhathi eside ngaphandle kokubonelelwa ngokuthi akhokhe inhlawulo, ngaphandle uma iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, uma lithola incwadi efungelwe edalula imininingwane ephelele yecala elenziwe yilowo muntu ophakanyisiwe ukuze aqokwe, lingahoxisa leso sigwebo ngendlela ehambisana nesigaba 106(1)(e) soMthethosisekelo: Kuncike ekutheni ukungafaneleki ngokwalesi sigatshana kuphela eminyakeni emihlanu ngemuva kokuphela kwalesi sigwebo; futhi
- (h) uyehluleka ukudalula ukuhlomula okuhlongozwe kwindima (d), noma wethamele okanye ubambe iqhaza kwizinqubo zeBhodi ngesikhathi enokuhlomula okuhlongozwe endimeni esishiwoyo.

(2) Umuntu ongafanelekile ohlongozwe esigatshaneni (1)(a), (1)(b) noma (1)(g) angeke aphakanyiselwa ukuqokwa njengelungu, kepha angaqokwa kuphela uma ngesikhathi salokho kuqokwa engasabhekene nokungafaneleki ukuba abe ngoqokwayo.

#### **Ukudalula ukuhlomula ngokwezezimali nokunye ukuhlomula kwamalungu eBhodi**

8.(1) Umuntu ophakanyiselwe ukuba asebenze kwiBhodi ngokwesigatshana 6(5) kumele, ezinsukwini eziyi-10 ephakanyisiwe, adalule ngokubhalwe phansi kwiLungu loMkhandlu oPhethe elibhekele konke ukuhlomula ngqo noma ngandlela thile anakho kunoma iyiphi inkampani noma kwamanye amabhizinisi.

(2) Noma yikuphi ukwehluleka kophakanyisiwe ukudalula ukuhlomula ngokwezezimali kanye nokunye ukuhlomula ngokwesigaba (1) kumenza angafaneleki lowo ophakanyisiwe ngokwesigaba 7(1)(h) ukuba acatshangelwe esikhundleni sokuba yilungu leBhodi.

(3) Onke amalungu eBhodi kumele, ngaphambi kokungena esikhundleni futhi ekuqaleni kwayo yonke iminyaka yezimali zeThala, lidalule ngokubhalwe phansi ukuhlomula elinakho ngqo noma ngandlela thile kwiLungu loMkhandlu oPhethe kunoma iyiphi inkampani noma elinye ibhizinisi.

(4) Lapho ilungu liba nentshisekelo yokuhlomula 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 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 10(2).

(6) ILungu loMkhandlu oPhethe elibhekele kumele ligcine irejista evuselelwwe njalo yokuhlomula kwamalungu eBhodi akudalulile ngokwalesi sigaba.

#### **Isikhathi sokuba sesikhundleni nokuqokwa kabusha kwelungu leBhodi**

9. Abantu abaqokelwe kwiBhodi baba sesikhundleni isikhathi esiyiminyaka emithathu noma esingaphansi njengoba iLungu loMkhandlu oPhethe elibhekele linganquma futhi, ngokuncike esigabeni 6, bangakwazi ukuphinde baqokwe ekupheleni kwaleso sikhathi: Kuncike ekutheni akekho umuntu ongaphinde akhethwe ngemuva kokusebenza kwiBhodi isikhathi esiyiminyaka emi-3 ilandelanayo.

#### **Izikhala zomsebenzi, ukususwa nokwesula esikhundleni kwamalungu eBhodi**

10.(1) Ilungu leBhodi kumele lishiye isikhundla uma lihoxiswa njengoba kuhlongozwe esigabeni 7.

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

(3) Ilungu kumele lishiye isikhundla uma liphuthe emsebenzini, ngaphandle kokunikezwa imvume yokuphutha yiBhodi, emihlanganweni emibili elandelanayo yeBhodi uma lalinikezwe isaziso kusenesikhathi ngomlomo noma ngeposi.

(4) Ilungu lingesula esikhundleni ngokuthi libhale isaziso ezinsukwini ezingekho ngaphansi kwama-30 lisibhekise kwiLungu loMkhandlu oPhethe elibhekeli: Kuncike ekutheni iLungu loMkhandlu oPhethe elibhekeli lingashaya indiva leso saziso sokwesula.

(5) Noma nini lapho kuvela isikhala somsebenzi kwiBhodi, futhi, kungumsebenzi ovela ngokwesikhundla seLungu loMkhandlu oPhethe elibhekeli lisebenzisa amandla alo ngokwesigatshana (2), iLungu loMkhandlu oPhethe kumele, kuncike esigabeni 6, kumele liqoke umuntu ozogcwalisa leso sikhala somsebenzi kuleso sikhathi esisasele sokuba sesikhundleni kwelungu okuzoqokelwa kuso lowo muntu.

(6) Uma iLungu loMkhandlu oPhethe elibhekeli lisebenzisa amandla alo ngokwesigatshana (2), uma lingahambisanu nokulandela inqubo yokukhethwa kwamalungu eBhodi ebekwe kwisigaba 6, kodwa kuncike kwizigaba 6(2) no 6(3), lingaqoka abantu ukusebenza njengamalungu eBhodi okwesikhashana: Kuncike ekutheni -

(a) abantu abaqokwe ngokwalesi sigatshana angeke baqhubeke nokuba kwiBhodi isikhathi esingaphezu kwezinsuku ezingama-60 kusuka osukwini abaqokwe ngalo; futhi

(b) iLungu loMkhandlu oPhethe elibhekeli ngaphambi kwezinsuku ezingama-60 kwensiwe ukuqokwa okuhlongozwe kulesi sigatshana futhi, kuncike kwisigaba 6, kumele liqoke amalungu eBhodi azosebenga kuleyo sikhathi esibekiwe njengoba kuhlongozwe esigabeni 9.

### **Ukumiswa okwesikhashana kwelungu leBhodi**

**11. ILungu loMkhandlu oPhethe elibhekeli lingamisa ilungu leBhodi ngesikhathi iLungu loMkhandlu oPhethe elibhekeli lisaphenya izinsolo, uma kutholakala ukuthi ziyaniso, okungaholela ekutheni ukuqokwa kwelungu kumiswe ngokwesigaba 10(2).**

### **Imihlangano kanye nezinqubo emihlanganweni yeBhodi**

**12.(1) Nanoma yimuphi umhlangano weBhodi kumele ubanjwe endaweni, ngosuku nangesikhathi esinqunywe usihlalo weBhodi.**

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

(3) Inqubo emhlanganweni weBhodi kumele, kuncike ezinhlinzekweni zalesi sigaba, inqunywe ngusihlalo weBhodi.

(4) USihlalo weBhodi kumele engamele yonke imihlangano yeBhodi: Kuncike ekutheni uma engekho uSihlalo iSekela likaSihlalo kumele lengamele futhi uma uSihlalo noma iSekela likaSihlalo lingekho emhlanganweni weBhodi, amalungu akhona angakhetha, phakathi kwawo, umuntu ozobamba njengosihlalo walowo mhlangu.

(5) Isinqumo seBhodi kumele sithathwe yiningi lamavoti amalungu akhona emhlanganweni futhi, uma 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 esingeke semukelwe ngesizathu sokuba khona kwesikhala somsebenzi kwiBhodi: Kuncike ekutheni isinqumo sithathwa yiningi elidingekayo lamalungu eBhodi akhona futhi avumelekile ukuhlala njengamalungu eBhodi.

(8) Iningi lamalungu eBhodi, lingabiza umhlangano oyisipesheli weBhod.

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

#### **Ukuhoxa kwelungu emihlanganweni kanye nenqubo yeBhodi**

13.(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 kunamatuba okuthi kungenzeka lithinteka ngqo noma ngandlela thile.

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

(b) Ilungu elihlongozwe esigatshaneni (2)(a), livumeleke ukuba livote uma kuvotwa maqondana nodaba elinokuthinteka okuhlongozwe esigatshaneni (1).

(3) Noma yikuphi ukudalulwa okwensiwe 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 liphinde lavota, leso sinqumo seBhodi angeke samukeleke.

(5) Isinqumo esihlongozwe esigatshaneni (4) –

- (a) kuncike ekuvumeni kweLungu loMkhandlu oPhethe elibhekele ukuthi lungalungiswa ngokunquma kweBhodi enva kokudalula lokho kuthinteka; noma
- (b) ngokuthi kuqinisekiswe inkantolo ukuthi kusemthethweni.

#### **Ukuholelwa kwamalungu eBhodi**

14.(1)(a) Ilungu leBhodi lingakhokhelwa ezimalini zeThala iholo kanye nezibonelelo njengalokhu kunganquma iLungu loMkhandlu oPhethe elibhekele ngokubonisana neLungu loMkhandlu oPhethe elibhekele ezezimali.

(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) kwiThala, esikhungweni somphkathi noma esikhungweni esilawulwa uHulumeni kaZwelonke noma wesiFundazwe,

futhi eliqhubeka nokuthola lelo holo, lezo zibonelelo noma eminye imihlomulo ngesikhathi lisasebenza njengelungu leBhodi, lingathola iholo kanye nezibonelelo kuphela okukhulunye ngakho esigatshaneni (1)(a) ngendlela edingekayo ukulibeka esimweni sezimali ebelivele lizoba kusona ukube belingaqashiwe kuleso sikhundla noma kulowo msebenzi.

(2)(a) Ilungu leBhodi maqondana nemisebenzi yalo njengelungu noma njengelungu elengeziwe kwiBhodi, lingathola isibonelelo ezimalini zeThala njengezindleko zokuhamba ngokomsebenzi ezidalwe ukwethamela kwakhe umhlangano weBhodi.

(b) ILungu loMkhandlu oPhethe elibhekele ezezimali kumele linqume ngezinquo, kubandakanya izindlela zokulawula, ukuze kupathwe, kuhanjiswe futhi kuqhutshwe izimangalo zezindleko zokuhamba ngokomsebenzi ezhlongozwe esigatshaneni (2)(a).

**Ukusungulwa kwamakomidi azosiza iBhodi**

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

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

(2) IBhodi kumele lisungule –

- (a) iKomidi, ngokuhambiosana nezinhlinzeko zoMthetho wokuPhathwa kweziMali zikaHulumeni;
- (b) ikomidi elibhekele ukuholela –
  - (i) elenza izincomo eziphathelene nezibonelelo kanye nemihlomulo yabantu ehlongozwe esigabeni 25(2)(a); futhi
  - (ii) elinquma izinqubo, kubandakanya izindlela zokulawula ezisetshenziswa abaphathi uma kuqhutshwa izimangalo zezindleko zokuhamba ngokomsebenzi.

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

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

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

- (5)(a) IsiKhulu esiPhezulu singethamela futhi sibambe iqhaza, kodwa singavoti, emihlanganweni yalelo komidi okuhlongozwe esigatshaneni (1) no (2).
- (b) Ilungu labasebenzi beThala, uma limenywe yilelo komidi, lingawethamela umhlangano walelo komidi kepha akavumelekile ukuvota.

**Ukwengezwa kwabantu kwiBhodi noma emakomidini eBhodi**

**16.(1)** IBhodi, uma inombono wokuthi umuntu othize angalisiza maqondana nanoma yimiphi imisebenzi yalo nasekusebenziseni amandla alo, lingamengeza lowo muntu ngaleyo nhoso.

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

(3) Umuntu owengezwe ngokwesigatshana (1) angaholelwa iholo lalokho noma isibonelelo ezimalini zeThala ngendlela enganqunywa yiBhodi ngemuva kokubonisana neLungu loMkhandlu elibhekele ezeZimali.

**ISAHLUKO 4**

**ISIKHULU ESIPHEZULU KANYE NABASEBENZI BETHALA**

**IsiKhulu esiPhezulu seThala**

**17.(1)** IBhodi, ngokubonisana neLungu loMkhandlu oPhethe elibhekele, kumele liqoke isiKhulu esiPhezulu seThala.

(2)(a) IsiKhulu esiPhezulu siqokelwa esikhundleni isikhathi esingeqile eminyakeni emihlanu.

(b) IsiKhulu esiPhezulu singaphinde siqokelwe elinye ihlandla elongeziwe esikhathini esingeqile eminyakeni emihlanu.

(3)(a) Ukuqokwa kwesiKhulu esiPhezulu kuncike ekuphothulweni kwesivumelwano sokusebenza esibhaliwe esingena kusona neThala.

(b) Ithala kanye nesiKhulu esiPhezulu, ngokubhaliwe nangesivumelwano, bangachibiyela isivumelwano sokusebenza okuhlongozwe esigatshaneni (3)(a).

(4) Ngezhinluso zokudalula ukuhlomula ngokwezezimali nokunye ukuhlomula, izinhlinzeko zesigaba 8 zisebenza nezinguuko ezidingekile esiKhulwini esiPhezulu ngaphandle kokuthi isiKhulu esiPhezulu kumele sidalule ukuhlomula kwaso kwiBhodi.

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

**Imisebenzi yesiKhulu esiPhezulu**

**18.(1)** IsiKhulu esiPhezulu sibhekeli –

- (a) ukulawulwa kanye nokuphathwa kwezimali zeThala ngokuhambisana noMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 ngaphansi kokulawula kweBhodi;
- (b) uqokwa kwamalungu abasebenzi beThala okuhllongozwe esigabeni 20(1) ngokubonisana neBhodi;
- (c), ukunquma, ngokubonisana neBhodi, ngomgomo wokuziphatha, osetshenziswa yisiKhulu esiPhezulu, kubo bonke abasebenzi beThala ukuqinisekisa –
- (i) ukuhambisana nemithetho ekhona, kubandakanya nalo Mthetho;
  - (ii) ukusetshenziswa ngokufanele, kwezimali nezinsiza zeThala ngendlela efanele;
  - (iii) ukugqugquzelwa kanye nokugcinwa kwezinga eliphezulu nemigomo yokusebenza ngendlela;
  - (iv) ukunqanda ukushayisana kwezintshisekelo;
  - (v) ukuvikeleka kolwazi oluyimfihlo olugcinwe Ithala; kanye
  - (vi) nezinga, nokwethembeka, nokuzimela, nobuqotho, nokuhlinzekwa izidingo ngokulingana;
- (d) ukulawulwa kokuziphatha kwabasebenzi abaqokwe ngokwesigatshana (1)(b);
- (e) ukulondolozwa kanye nokugcinwa kwerejista yokuhlomula okumenyezelwe yilungu labasebenzi beNhlangano; kanye
- (f) nokuqinisekisa ukuhlangabezana kweThala nezhlinzeko zoMthetho wezokuPhathwa kweziMali zikaHulumeni, kanye nanoma yimiphi eminye imithetho esebezayo.

(2) Uma isiKhulu esiPhezulu nganoma yisiphi isizathu singakwazi ukwenza imisebenzi yaso, iBhodi kumele, ngokubonisana neLungu loMkhandlu oPhethe elibhekele, liqoke omunye umuntu ozoba yiBamba lesiKhulu esiPhezulu kuze kube isiKhulu esiPhezulu siyakwazi ukwenza leyo misebenzi.

#### **Ukwesula kanye nokususwa esikhundleni kwesiKhulu esiPhezulu**

19.(1) Isikhulu esiPhezulu sishiya isikhundla –

- (a) uma sesula, noma kuba nokwesula;
- (b) uma, sihoxiswa esikhundleni ngokwesigaba 7; futhi
- (c) uma sixoshwa esikhundleni ngokwesigatshana (2).

(2) IBhodi ngokubonisana neLungu loMkhandlu oPhethe ingamisa isiKhulu esiPhezulu emsebenzini ngokuhambisana nomthetho wokuqasha nowezabasebenzi osebezayo.

### **Abasebenzi beThala**

20.(1) IsiKhulu esiPhezulu kumele, kuncike esigabeni 18(1)(b) kanye nesigatshana (2), siqashe abasebenzi beThala uma kuba nesidingo –

- (a) abazosiza ekwenzeni imisebenzi yaso ngokwalo Mthetho; futhi
- (b) abazosiza iBhodi ngomsebenzi othinta ukusebenza kweBhodi.

(2) IBhodi kumele, kuncike esigabeni 25(4), ibeke inqubomgomu yezabasebenzi yabasebenzi beThala, kubandakanya nesiKhulu esiPhezulu.

(3) Ngokwezinhloso zokudalulwa kokuhlomula ngakwezezimali noma okunye ukuhlomula, futhi kuncike esigabeni 8(3), 4 no 5 ezisebenza nezinguquko ezidingekayo kubasebenzi beThala.

(4) IsiKhulu esiPhezulu kumele sgcine irejista evuselelwu yokuhlomula kwabasebenzi beThala okudalulwe ngokwesigatshana (3).

### **Ukusiswa noma ukudluliselwa kwabasebenzi beThala**

21. Ithala lingasebenzisa usizo lwabantu abasisiwe noma abadluliselwe kulo besuka kuhulumeni ngokuhambisana nezinhlinzeko zoMthetho weMisebenzi kaHulumeni, 1994 (Isimemezelo No. 103 sika 1994).

### **ISAHLUKO 5**

#### **IMIKHOMBANDLELA YOMGOMO KANYE NOHLELO LWEBHIZINISI LETHALA**

##### **Imikhombandlela yomgomo wokusebenza kweBhodi**

22.(1) ILungu loMkhandlu oPhethe, ngemuva kokubonisana neBhodi kanye neKomidi lasePhalamende, futhi nangemuva kokubonisana noNdunankulu eMkhandlwini oPhethe, angabeka amasu okusebenza azofeza izinjongo zeThala ngokukhiphela iBhodi imikhombandlela yomgomo

(2) ILungu loMkhandlu oPhethe ngokufanayo lingahoxisa noma lichibiyele nanoma yimiphi imikhombandlela yomgomo ehlongozwe esigatshaneni (1).

(3) ILungu loMkhandlu oPhethe angeke lakkhipha nanoma imiphi imikhombandlela yomgomo engahambisani nezinhlinzeko zalo Mthetho nanoma yimuphi umthetho obophezelu Ithala.

(4) Imikhombandlela yomgomo ehlongozwe esigatshaneni (1) kumele –

- (a) ibhalwe phansi;
- (b) isayinwe iLungu loMkhandu oPhethe; futhi
- (c) ikhulume ngqo nosihlalo weBhodi.

(5) Ibhodi kumele liqinisekise ukuthi –

- (a) kugcinwa onke amarekhodi emikhombandlela yomgomo; futhi
- (b) amalungu omphakathi ayakwazi ukuthola amarekhodi.

(6) Ibhodi kumele lethule umbiko kwiLungu loMkhandlu oPhethe maqondana nayo yonke imikhombandlela yomgomo kumbiko wonyaka.

#### **Izinhlelo zebhizinisi leThala**

23. IBhodi kumele liqinisekise ukuthi kwakhiwa futhi kuqaliswa izinhlelo zebhizinisi leThala ezihambisana nezinhlinzezo zoMthetho wokuPhathwa kweziMali zikaHulumeni.

#### **Okwenqatshelwe kanye nemibandela yokwehlukaniswa kwenzozo yeThala**

24. iLungu loMkhandlu oPhethe lingabeka okwenqatshelwe kanye nemibandela ngokukhpha isaziso kwiGazethi –

- (a) ngokwehlukaniswa kwenzozo yeThala; futhi
- (b) nangokuchithwa kwezimpahla ezinkulu zeThala,  
njengoba lingabona kudingekile ukuthi lThala liphathwe ngokuhle.

#### **ISAHLUKO 6**

**UKUHLINZEKWA NGEZIMALI  
KANYE NOKUPHATHWA KWEZIMALI ZETHALA**

#### **Izimali zeThala**

25.(1) Izimali zeThala ziQukethe –

- (a) imali ehlukaniswe yiSishayamthetho sesiFundazwe;
- (b) inzuko kutshalomali leThala; kanye
- (c) nenzuko ngokusemthethweni eqhamuka kunoma imuphi umthombo.

(2) Ithala kumele lisebenzise izimali zalo –

- (a) ukukhokha amaholo, izimali ezongeziwe kanye nokuqhuba umsebenzi nezindleko zokuhamba –
  - (i) kumalungu eThala;
  - (ii) nakumalungu asisiwe eBhodi noma amalungu amakomidi eBhodi;
  - (iii) iLungu loMkhandlu oPhethe;
  - (iv) nakubasebenzi beThala; kanye
- (b) nokukhokhela izindleko eziphathelene –
  - (i) nokusebenza kwansuku zonke kanye nokuphathwa kweThala; kanye
  - (ii) nokwenziwa komsebenzi kanye nemisebenzi yeThala nokuqhutshwa kwamandla alo ngokwalo Mthetho.

(3) IsiKhulu esiPhezulu esiPhethe kumele, ngokuvumelana neBhodi –

- (a) sivule i-akhawonti egameni leThala neNkampani noma lesikhungo esibhaliswe njengebhange ngokoMthetho wezamaBhange; futhi
- (b) sifake yonke imali etholakalayo ngokwesigatshana (1).

(4) IBhodi, ngemva kokuthintana neLungu loMkhandlu oPhethe elibhekelle, kumele linqume –

- (a) inkokhelo kanye nemibandela yomsebenzi ; kanye
  - (b) nempesheni nenzozo yomhlalaphansi,
- yesiKhulu esiPhezulu esiPhethe kanye nawo onke amalungu abasebenzi beThala.

(5) Inhlango ingatshala izimali ezifakwe kwi-akhawonti ezingeke zidinge ukusetshenziswa masinya: Kuncike ekutheni iBhodi kumele lithathe izinyathelo ezinqala ukuqinisekisa ukuthi utshalomali alusilo oluuhlobo lokuzalanisa.

#### **Ukuphathwa kwezimali**

26.(1) IsiKhulu esiPhezulu esiPhethe kumele ligcwalise futhi ibhuku elifanele lezikweletu zeThalao kanye nayo yonke imininingwane efanele yeThala okumele ukuba igcinwe.

(2) IsiKhulu esiPhezulu esiPhethe kumele siqinisekise ukuthi isabelomali ngonyaka seThala, izinhlelo zebhizinisi, imibiko yonyaka kanye nokucutshungulwa kwezitativende zemali yeThala ziyalungiswa futhi zilethwe ngokuhambisana noMthetho wokuPhathwa kweziMali zoMphakathi.

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

(a) uhlelo lokusebenza IweThala, oluqukethe izinjongo eziphathekayo kanye neminye imininingwane ehlongozwe esigabeni 27(3)(b) kanye no (c); kanye

(b) nesitatimende sesilinganiso senzuso kanye nezindleko zeThala, maqondana neminyaka emithathu elandelayo yezimali.

(4) Kunoma yimuphi unyaka wezimali isiKhulu esiPhezulu singaletha kwiBhodi ukuze kugunyazwe izitativende zemali eyengeziwe noma esetshenzisiwe engenisweni noma ezindlekwani zeThala zalowo nyaka wezimali.

(5) Ithala angeke lizibandakanye kunoma yisiphi isivumelwano sezimali esingaphezu kwesabelomali esinikeziwe kanye nekuzuzile eceleni.

(6) IsiKhulu esiPhezulu –

(a) ngokuvuma kweBhodi, singatshala noma iyiphi ingxenye engasetshenziswanga yezimali zalo Ithala neNhlangano yokuTshalwa kweziMali zikaHulumeni noma kwesinye isikhungo esihlukanisiwe noma esibhalisiwe izikhathi ngezikhathi nguMnyango kaMgcinimafa kaZwelonke njengesisoSohlwini olungu “A1” Iwezikhungo zezimali; noma

(b) ngokugunyaza kweBhodi, singahlela leyo ngxenye ngenye indlela.

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

#### **Ukucwaningwa kwamabhuku kanye nombiko wonyaka**

27.(1) UMcwaningimabhuku-Jikelele kumele acwaninge izitativende zemali yeThala.

(2)(a) IBhodi kumele yethule umbiko ngezinto ezenziwa Ithala ngesikhathi sonyaka wezimali kwiSishayamthetho sesiFundazwe ezinyangeni ezinhlanu ngemuva kokuphela konyaka wezimali.

(b) Ezinyangeni ezinhlanu ngemuva kokwethulwa kombiko, izithunywa ezibandakanya usihlalo weBhodi namalungu okungenani amabili eBhodi kumele bachazele iKomidi lesiShayamthetho elibhekele ezezimali ngombiko wonyaka.

(3) Umbiko kumele –

(a) ubandakanye isitativende esikhombisa imali esisele emalini engenile nesetshenzisiwe esigxivizwe nguMcwaningimabhuku-Jikelele

- (b) uveze indima Ithala eliyikhathulile noma elifinyelele kuyo ngezinhoso zayo okukhulunywe ngazo esigabeni 3 kanye nesilinganiso sezinjongo njengoba kubekiwe ohlelweni lokusebenza njengoba kuhlongozwe esigabeni 26(3)(a) ngalowo nyaka wezimali othintekayo; futhi
- (c) uqukathe imininingwane efanele mayelana nezomnotho, okusetshenziswa ngendlela efanele nenemiphumela ebonakalayo, kanye nokuqhathanisa phakathi kokuhleliwe kanye nokwenziwe njengoba kubekiwe kulolo hlelo lwebhizinisi.

#### **Ukusungulwa nokuphathwa kwezikhwama ezikhethekile**

**28.(1)** Ithala ngokubonisana neLungu loMkhandlu oPhethe elibhekeli, lingasungula futhi ligcine izikhwama ezikhethekile, kubandakanya isikhwama sokufaka ababencishwe amathuba phambilini kuchungechunge lokutshalwa kwezimali.

(2) Ithala kumele liphathe leso sikhwama ngendlela ezonqunywa yiLungu loMkhandlu oPhethe elibhekeli.

ISAHLUKO 7  
ITHALA STATE-OWNED COMPANY LIMITED

#### **Ithala State-owned Company Limited**

**29.** Ekuqalisweni kwalo Mthetho, Ithala ilona elizoba ngumnikazi wawo wonke amasheya eThala.

#### **Amandla eThala**

**30.(1)** Ithala linawo wonke amandla negunya lomuntu ngokomthetho, ngaphandle lapho uMthetho wamaBhange, weziNkampani noma iMemorandamu yeThala isho okwehlukile.

(2) Ngaphandle kokwehlukile kulo Mthetho, Ithala linamandla okugunyaza, okubamba nowokwemukela izimali ezifakwa yinoma yimuphi umuntu ngaleyo mibandela enganqunywa uNgqongqoshe wezeziMali noma uMbhalisi wamaBhange ngokoMthetho wamaBhange.

#### **Ukuhambisana nokudingwa uMthetho wamaBhange**

**31.** Uma nje Ithala lisemukela izimali ezivela emphakathini, kumele lihambisane nanoma yini edingekayo noma imibandela ebekwe uNgqongqoshe wezeziMali noma uMbhalisi wamaBhange ngokoMthetho wezamaBhange.

### **Ukuvalwa kweThala**

**32.(1)** Lapho Ithala lisebenza njengoba kuhlongozwe esigabeni 31, ngokusebenzisa izinhlinzeko ezihambisana noMthetho wamaBhange maqondana nokuvalwa noma nokwesulwa kweThala.

(2) Kuncike esigabeni (1), Ithala lingavalwa noma lesulwe ngokoMthetho weziNkampani.

(3) Ngelanga lokuvalwa kweThala okuhlongozwe esigatshaneni (2), zonke izimpahla, izikweletu, amalungelo, imisebenzi kanye nezibopho, kubandakanya nanoma iyiphi ingxenye engasetshenzisiwe yezimali eziyinzuso noma ezitholwe yiThala zidluliselwa, futhi zinikezelwa, kwiThala esungulwe ngokwesigaba 3.

(4) Ngaphandle kokuvalwa kweThala, iNkampani iyoqhube ka nokuba ngumuntu ozimela ngokomthetho obhaliswe ngaphansi koMthetho weziNkampani.

### **ISAHLUKO 8 IZINHLINZEKO EZEJWAYELKILE**

### **Ukuvikelwa kolwazi oluyimfihlo olugodiwe yiThala**

**33.** (1) Kuncike kuMthethosisekelo nakuMthetho wokuGquqquzelwa kokuTholakala koLwazi, 2000 (uMthetho No. 2 ka 2000), akekho umuntu ongadalula noma yiluphi ulwazi olulethwe kwiNhlangano 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 ezigabeni 8(6) no 20(4) ngaphandle uma lokho kudalulwa –
- (a) kungokwanoma yimuphi umthetho ophoqeelayo noma ogunyaza lokho kudalulwa;
  - (b) kunesidingo esibalulekile sokusebenza kweThala; noma
  - (c) kwensiwe ngezinhliso zokubheka, zokuhlol, zokuphenya noma zokucubungula noma yikuphi okwenziwayo okuphathelene neThala, nanoma yiluphi ilungu labasebenzi beThala.

(3) Akekho umuntu ongadalula noma asebenzise, ngenhloso yokuzihlomulisa yena uqobo noma ngenhloso eseceleni nanoma yiluphi ulwazi oluyimfihlo oluphathelene nebhizinisi leThala, ngaphandle kokuthola imvume eThala.

#### **Ukuhlakazwa kweThala**

**34.** Ithala liyohlakazwa kuphela ngokoMthetho wesiShayamthetho sesiFundazwe.

#### **Ukusetshenziswa kwegama leThala**

**35.(1)** Akekho umuntu, ngaphandle kokugunyazwa okubhalwe phansi Ithala, noma ngayiphi indlela ongamelia noma asebenzise igama leThala, isifinyezo, uphawu, umdwabo noma impahlia esetshenziswa noma okungeyeThala.

(2) Akekho umuntu ongaqamba amanga athi wenza okuthile egameni leThala.

#### **Ukudlulisewa kwamandla**

**36.(1)** ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho lingadlulisela kwiNhloko yoMnyango –

- (a) noma yimaphi amandla anikezwe iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngokwalo Mthetho, ngaphandle kwamandla okwenza imithethonqubo okukhulunywe ngawo esigabeni 37;
- (b) nanoma yimuphi umsebenzi okumele wenza yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngokwalo Mthetho, ngaphandle kwanoma yimiphi imisebenzi ephathelene nokuqokwa, kanye nokumiswa emsebenzini, kwamalungu eBhodi okuhlongozwe ezigabeni 6(3) kanye no 10(2).

(2) IsiKhulu esiPhezulu singadlulisela kunoma yiliphi ilungu labasebenzi beThala noma yimaphi amandla noma umsebenzi owabelwe isiKhulu esiPhezulu ngokwalo Mthetho, ngaphandle komsebenzi wokuba yisikhulu esinesibopho sokubika seThala.

(3) Noma yimaphi amandla noma umsebenzi odlulisewa ngokwesigatshana (1), (2) noma (3) kumele ukuba kutshenziswe noma kwenziwe ngokuhambisana naleyo mibandela njengalokhu umuntu noma umgwamanda owenze ukudlulisewa ubone kunesidingo.

(4) Noma yikuphi ukudlulisewa kwamandla okukhulunywe ngakho esigatshaneni (1), (2) noma (3) –

- (a) kumele kubhalwe phansi;

- (b) kungavimbeli umuntu noma umgwamanda odlulisele ekutheni basebenzise amandla ekutheni basebenzise amandla noma benze lowo msebenzi; futhi
- (c) noma yingasiphi isikhathi kungahoxiswa noma kuchitshiyelwe ngokubhaliwe yilowo muntu noma umgwamanda.

#### **Imithethonqubo**

37.(1) ILungu loMkhandlu oPhethe elibhekele, ngemva kokubonisana neBhodi, iKomidi lemiSebenzi yasePhalamende kanye nanoma yibaphi abanikazimasheya, abanamasheya angamashumi amabili nanhlanu amaphesenti noma ngaphezulu ngayedwana noma ngokuhlanganyela eNkamanini, kumele lenze imithethonqubo ephathelene –

- (a) nezimo kanye nemibandela Ithala elingaboleka izimali ngaphansi kwazo;
- (b) nezimo kanye nemibandela Ithala elingachitha ngaphansi kwazo naziphi izimpahla ezinkulu;
- (c) nezimo kanye nemibandela Ithala elingaba ngaphansi kwazo naziphi izimali eziyizinsalela;
- (d) amalungelo okuvota kubanikazimasheya eThala; noma
- (e) ukubanjwa kanye nenqubo yomhlangano wabanikazimasheya kanye nokuthathwa kwezingumo ngabanikazimasheya ngale kokubamba umhlangano.

(2) Ukwengeza ezintweni ezhlongozwa kumthethonqutshana (1), iLungu loMkhandlu oPhethe elibhekele lingalawula mayelana –

- (a) nokugcinwa kwamarejista kanye namarekhodi kweBhodi kanye nelungelo lomphakathi lofinyelela kuleyo rejista noma kulelo rekhodi;
- (b) nokuhleleka kanye nokuqukethwe wumbiko wonyaka weThala;
- (c) indawo okuzozinza kuyo ihovisi lomphakathi leThala;
- (d) ukunikezwa nokwemukelwa kwezaziso yiThala;
- (e) nanoma yiluphi udaba iLungu loMkhandlu oPhethe eliluthatha njengolunesidingo ukuze kuqaliswe ngendlela ukusebenza kwalo Mthetho; noma
- (f) naluphi udaba lwezokuphatha nenqubo oludingekayo ukuze kufezekiswe izihlinzeko zalo Mthetho.

(3) Namuphi umthethonqubo onomthelela wezimali kumele wenziwe ngokubonisana neLungu loMkhandlu oPhethe elibhekele ezezimali.

#### **Amacala ajwayelekile**

38.(1) Nanoma iliphi ilungu, ngabomu noma ngobudedengu obukhulu, elehluleka ukuhambisa ngokwezigaba 8(3), (4) noma 13(2), noma yiliphi ilungu elehluleka ukulandela

noma eliphula nanoma iziphi izigaba ezhlongozwe kulesi sigatshana, ngenkathi esayilungu, uyobekwa icala.

(2) Nanoma imuphi umuntu ngabomu noma ngobudedengu obukhulu, owehluleka ukuhambisa ngokwesigaba 20(3) uyobekwa icala.

(3) Nanoma imuphi umuntu ngabomu noma ngobudedengu obukhulu, owephula isigaba 35 uyobekwa icala.

(4) Nanoma imuphi umuntu ngabomu noma ngobudedengu obukhulu, owephula isigaba 26(1), (2) no (3) uyobekwa icala.

(5) Umuntu uyobekwa icala uma emukela ngqo noma ngenye indlela naliphi intshontsho noma emukela imali ngendlela enenkohlakalo noma emukela umvuzo kunanoma yimuphi umuntu mayelana nanoma yini eyenziwa noma eyenziswa Ithala.

(6) Umuntu ubekwa icala uma, mayelana, noma ngokuxhumene nanoma yini eyenziwa noma eyenziswa yiThala, egwazela noma ezama ukugwazela noma ethonya ngokunenkohlakalo noma ezama ukuthonya ngokunenkohlakalo nanoma imuphi umuntu oqashwe, noma osebenza egameni leThala.

(7) Nanoma imuphi umuntu, ngabomu noma ngobudedengu obukhulu, owaqamba amanga okuthi ugunyazwe ukuba akhokhise noma aqoqe izimali, iminikelo egameni, noma ngomyalelo weThala uyobekwa icala.

#### Izinhlawulo

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

#### Ukuchithwa komthetho

**40.** UMthetho waKwaZulu-Natali we-Ithala Development Corporation, 1999 (uMthetho No. 2 1999), ngalokhu uyachithwa.

#### Amalungiselelo ezinguquko kanye nokusalayo

**41.** Noma yisiphi isenzo okwakuhloswe ukuthi senziwe, sakhiwe ngokomthetho ochithwe yilo Mthetho yiLungu loMkhandlu oPhethe elibhekelle, Ithala, ilungu noma umsebenzi waseThala

ngaphamphi kokuqalisa kwalo Mthetho, futhi okungenziwa noma kwakhiwe ngokwalo Mthetho, kumele kuthathwe ngokuthi kwenziwe noma kwakhiwe ngokuhambisana nalo Mthetho.

**Isihloko esifingqiwe**

**42.** Lo Mthetho uzobizwa ngoMthetho waKwaZulu-Natali we-Ithala Development Finance Corporation Act, 2013, futhi uzoqala ukusebenza kusukela ngosuku olunqunywe yiLungu loMkhandlu oPhethe ngesaziso *kwiGazethi*.

**IMEMORANDAMU NGEZINHLOSO**  
**ZOMTHETHOSIVIVINYO WETHALA DEVELOPMENT FINANCE CORPORATION, 2013**

**1. INHLOSO NGOMTHETHOSIVIVINYO**

UNgqongqoshe wezeZimali kaZwelonke waphambilini uMnu. Trevor A Manual wabhala incwadi eyayicela ukuthi isigaba 30 soMthetho weThala Development Finance Corporation, 1999 (uMthetho No. 2 ka 1999) (njengamanje osebenzayo) uchithwe ngesizathu sokuthi wabe unikeza isiShayamthetho sesiFundazwe saKwaZulu-Natali igunya lokuhlakaza IThala Limited ngaphandle kwenkantolo.

Okubaluleke kakhulu okukhathalelw isigaba 30 soMthetho weThala Development Finance Corporation iqiniso lokuthi uma kwenzeka IThala Development Finance Corporation ibhekana nezinkinga zezimali, ofaka imali kungambeka engcupheni futhi kubadalele umonakalo ngenxa yesizathu sokuthi uMbhaliwi wamaBhange angeke akwazi ukuqasha abazobasiza njengoba ukuhlakazwa kwalo ngokwesigaba 30 kwenziwa kuphela ngokoMthetho wePhalamende.

Kungalesi sizathu okuholele ekutheni kunxuswe ukuba kuchithwe isigaba 30. UNgqongqoshe wezeZimali kaZwelonke okhona njengamanje, uMnu. Pravin J Gordan, ukwenqabile ukuchitshiyelwa kwesigaba 30 ngesizathu sokuthi akulungisi izinto ezaphakanyiswa ngowayenguNgqongqoshe waphambilini wabhala incwadi ecela ukuthi isigaba 30, sibhalwe kabusha ukuze IThala State Owned Company Limited, eyingxene yeThala Development Corporation, igunyazwe ukuthi ingahlakazwa ngokoMthetho weThala Development Corporation kepha iqhubeke nokusebenza nakuba iNhlangano ihlakaziwe noma ivaliwe ngaphezu kwalokho, ukukhombisa ukuthi i-State Owned Company Limited iyisikhungo sokufaka imali hhayi IThala Development Finance Corporation.

Ngaphezu kwalokhu, ekucutshungulweni koMthetho osebenzayo njengamanje, izigaba zomthetho eziningi kutholakale ukuthi zisalele emuva azilungisiwe futhi azilibeki ngendlela ecacile iqhaza leThala Development Finance Corporation njengeqhaza le-State Owned Company Limited, yilesi sizathu-ke esiholele ekutheni kudingke ukuthi kuchithwe futhi kuphindwe kwakhiwe uMthetho omusha.

Ukucacisa okungenhla, lo Mthethosivivinyo uqonde –

- (a) ukuhlinzekela ukuthubeka kokuba khona koMthetho weKwaZulu-Natali IThala Development Finance Corporation Limited (owawaziwa ngokuthi iKwaZulu Finance and Investment Corporation Limited);

- (b) ukugqugquzelala, ukweseka nokulungiselela ukuthuthukiswa komphakathi kwezomnotho esiFundazweni saKwaZulu-Natali;
- (c) Ukunquma izinjongo, amandla, imisebenzi yeKwaZulu-Natali Ithala Development Finance Corporation Limited; ngokuhambisana namasu okukhulisa nokuthuthukisa ezomnotho esiFundazweni, ngendlela esebezayo;
- (d) Ukunquma indlela okuzophathwa, kwenganyelwe, kuqashe ngayo izisebenzi futhi nokuzohlinzekwa ngayo izimali zeKwaZulu-Natali Ithala Development Finance Corporation Limited; kanye
- (e) nokuhlinzekela okunye okupathelene nalokho.

## 2. UKUCHAZWA KWESIGABA NGASINYE

Kafishane, uMthethosivivinyo uhlinzeka kanje –

### **Isigaba somthetho 1**

Sihlinzekela ngokuchazwa kwamagama assetshenziswe kuMthethosivivinyo.

ISAHLUKO 2 (IZINJONGO, INDAWO ITHALA ELISEBENZELA KUYO, AMANDLA, IMISEBENZI NAMAJOKA ETHALA, AMASHEYAA, AMASHEYAA AYISISEKELO SETHALA NOBUNIKAZIMASHEYAA BEKWAZULU-NATALI ITHALA DEVELOPMENT FINANCE CORPORATION LIMITED)

### **Isigaba somthetho 2**

Isigaba somthetho 2 sihlinzeka ngokuqhube ka kokubakhona kwe-Ithala Development Finance Corporation Limited kanye nokuqhube ka kokuthathwa njengomuntu ngokomthetho.

Futhi kwensiwe isihlinzeko sokuthi Ithala lingumgwamanda onci ke kuMthetho wokuPhathwa kweziMali zikaHulumeni.

Ngaphezu kwalokho sihlinzeka ngokuthi nanoma ikuphi okushiwo kunoma imuphi umthetho maqondana ne-Black Investment Corporation of South Africa, iKwaZulu Development Corporation Limited, noma iKwaZulu Finance and investment Corporation Limited kumele kuthathwe ngokuthi ukhuluma nge-Ithala Development Finance Corporation Limited..

**Isigaba somthetho 3**

- (e) Isigaba somthetho 3 sihlinzekela ngezinjongo nendawo iThala elisebenzela kuyo ukugqugquzelu, ukweseka nokwelekelela entuthukweni yomphakathi ukusimamisa ezomnotho esiFundazweni;
- (a) ngokwakha izindlela zokuthola imali nokuhlinzeka ngosizo lwezezimali nemisebenzi yokweseka kubantu abakhe, abavame ukuhlala, noma ukuqhuba umsebenzi wabo wamabhzinisi esiFundazweni;
- (b) ngokuhlela, ukwenza nokuxhasa ngezimali kanye nokuqapha ukwenziwa kwezinhlelo zentuthuko esiFundazweni;
- (c) ngokuphakamisa, ukweseka nokugqugquzelu ukuthuthukiswa kwezindaba zamakhono omsebenzi kanye eziphathelene nomphakathi, ezomnotho, ezezimali kanye nezakhiwo zezingqalazinda;
- (d) ngokuphakamisa, ukugqugquzelu kanye nokwelekelela umkhakha ozimele ekutheni utshale izimali esiFundazweni nokubambiqhaza emkhakheni ozimele nasezinhlanganweni zomphakathi nakwimiklamo nezinhlelo zentuthuko nasekufakeni isandla ekukhuliseni ezomnotho nakwintuthuko jikelele;
- (e) ngokusebenza njenge-ejenti kaHulumeni wesiFundazwe ekwenzeni nanoma yimuphi umsebenzi ophathelene nentuthuko kanye nezibopho ezithinta intuthuko uhulumeni wesiFundazwe acabanga ukuthi zingenzeka kangcono nangempumelelo umgwamanda wenhlangano ezimele.

**Isigaba somthetho 4**

Isigaba somthetho 4 sicacisa ngamandla, imisebenzi kanye namajoka eThala.

**Isigaba somthetho 5**

Isigaba somthetho 5 sihlinzekela ngendlela iBhodi kanye neLungu loMkhandlu oPhethe okumele iphathe ngayo amasheya, amasheya ayisisekelo senkampani nobunikazi bamasheya ngokoMthethosivivinyo.

ISAHLUKO 3 (IBHODI YETHALA)

**Isigaba somthetho 6**

Isigaba somthetho 6 sinquma ngokubunjwa kwebhodi.

**Isigaba somthetho 7**

Isigaba somthetho 7 sihlinzekela ngokungafaneleki ukuqokelwa kwiBhodi.

**Isigaba somthetho 8**

Isigaba somthetho 8 sihlinzekela ngokudalula ukuhlomula ngokwezezimali nokunye ukuhlomula kwamalungu eBhodi.

**Isigaba somthetho 9**

Isigaba somthetho 9 sihlinzekela ngesikhathi sokuba sesikhundleni nokuqokwa kabusha kwelungu leBhodi.

**Isigaba somthetho 10**

Isigaba somthetho 10 sihlinzekela ngokugcwaliswa kwezikhala zomsebenzi, ukususwa nokwesulwa esikhundleni kwamalungu eBhodi.

**Isigaba somthetho 11**

Isigaba somthetho 11 sihlinzeka ngokumiswa okwesikhashana kwelungu lebhodi.

**Isigaba somthetho 12**

Isigaba somthetho 12 sihlinzekela ngemihlangano kanye nezinqubo emihlanganweni yeBhodi.

**Isigaba somthetho 13**

Isigaba somthetho 13 sihlinzekela ngokuhoxiswa kwelungu emihlanganweni kanye nenqubo yeBhodi.

**Isigaba somthetho 14**

Isigaba somthetho 14 sihlinzekela ngokuholelwa kwamalungu eBhodi.

**Isigaba somthetho 15**

Isigaba somthetho 15 sihlinzekela ngokusungulwa kwamakomidi azosiza iBhodi.

**Isigaba somthetho 16**

Isigaba somthetho 16 sihlinzekela ngokwengezwa kwabantu kwiBhodi noma emakomidini eBhodi.

**ISAHLUKO 4 (ISIKHULU ESIPHEZULU KANYE NABASEBENZI BETHALA)****Isigaba somthetho 17**

Isigaba somthetho 17 sihlinzekela ngokuqokwa kwesiKhulu esiPhezulu.

**Isigaba somthetho 18**

Isigaba somthetho 18 sihlinzeka futhi sibeka imisebenzi eyenziwa isiKhulu esiPhezulu.

**Isigaba somthetho 19**

Isigaba somthetho 19 sihlinzekela ngokwesula nokususwa esikhundleni kwesiKhulu esiPhezulu.

**Isigaba somthetho 20**

Isigaba somthetho 20 sihlinzeka ngokuqashwa kwabasebenzi beThala.

**Isigaba somthetho 21**

Isigaba somthetho 21 sihlinzekela ngokusisa nokudluliselwa kwabasebenzi beThala.

**ISAHLUKO 5 (IMIKHOMBANDLELA YOMGOMO KANYE NOHLELO LWEBHIZINISI LETHALA)****Isigaba somthetho 22**

Isigaba somthetho 22 sihlinzekela ngemikhombandlela yomgomo wokusebenza kweBhodi.

**Isigaba somthetho 23**

Isigaba somthetho 23 sihlinzekela ngokuthi uhlalo lwebhizinisi leThala okumele ukuthi lwakhiwe ngokuhambisana nezinhlinzuko zoMthetho weziMali zikaHulumeni.

**Isigaba somthetho 24**

Isigaba somthetho 24 sihlinzekela ngokwenqatshelwe kanye nemibandela yokwehlukaniswa kwenzozo yeThala kanye nokuchithwa kwezimpahla ezinkulu zalo.

**ISAHLUKO 6 (UKUHLINZEKWA NGEZIMALI KANYE NOKUPHATHWA  
KWEZIMALI ZETHALA)**

**Isigaba somthetho 25**

Isigaba somthetho 25 sihlinzekela ngezimali zeThala, nokuthi zitholakala kanjani, zisetshenziswa kanjani futhi zitshalwa kanjani uma kunesidingo salokho ngokwalo Mthethosivivinyo.

**Isigaba somthetho 26**

Isigaba somthetho 26 sihlinzekela ngendlela isiKhulu esiPhezulu okumele siPhathe ngayo izimali zeThala.

**Isigaba somthetho 27**

Isigaba somthetho 27 sihlinzekela ngokucwaningwa kwamabhuku kanye nombiko wonyaka weThala.

**Isigaba somthetho 28**

Isigaba somthetho 28 sihlinzekela ngokusungulwa nokuphathwa kwezikhwama ezikhethekile ngokwalo Mthethosivivinyo.

**ISAHLUKO 7 (ITHALA STATE OWNED COMPANY LIMITED)**

**Isigaba somthetho 29**

Isigaba somthetho 29 sihlinzekela ngobunikazi bamashaya kwi-Ithala State Owned Company Limited. Sibeka ukuthi ngokuqalisa kwalo Mthetho, iThala iyona ezoba ngumnikazi wawo onke amashaya kwi-Ithala State Owned Company Limited.

**Isigaba somthetho 30**

Isigaba somthetho 30 sihlinzekela ngamandla e-Ithala State Owned Company Limited ngokwalo Mthethosivivinyo.

**Isigaba somthetho 31**

Isigaba somthetho 31 siphqevela Ithala State Owned Company Limited ukuba ihambisane nokudingwa uMthetho wamaBhange uma nje lisemukela izimali ezifakwa umphakathi.

**Isigaba somthetho 32**

Isigaba somthetho 32 sihlinzekela ngokuvalwa kweThala ngokwalo Mthethosivivinyo.

**ISAHLUKO 8 (IZINHLINZEKO EZEJWAYELEKILE)****Isigaba somthetho 33**

Isigaba somthetho 33 sihlinzekela ngokuvikelwa kolwazi oluyimfihlo olugodiwe Ithala.

**Isigaba somthetho 34**

Isigaba somthetho 34 sihlinzekela ngokuhlakazwa kweThala.

**Isigaba somthetho 35**

Isigaba somthetho 35 sihlinzekela ngokusetshenziswa kwegama leThala.

**Isigaba somthetho 36**

Isigaba somthetho 36 sihlinzekela ngokudlulisela kwamandla yiLungu loMkhandlu kanye nesiKhulu esiPhezulu.

**Isigaba somthetho 37**

Isigaba somthetho 37 sinika amandla iLungu loMkhandlu oPhethe elibhekelle ukwakha imithethonqubo. Lesi sigaba somthetho sihlinzeka futhi ngemihlahlandlela iLungu loMkhandlu oPhethe elingayisebenzisa uma lakha leyo mithethonqubo.

**Isigaba somthetho 38**

Isigaba somthetho 38 sihlinzekela ngamacala ajwayelekile.

**Isigaba somthetho 39**

Isigaba somthetho 39 sihlinzekela ngezinhlawulo maqondana nokutholakala unecala ngokunhlinzekwe esigabeni somthetho 38 salo Mthethosivivinyo.

**Isigaba somthetho 40**

Isigaba somthetho 40 sihlinzekela ngokuchithwa komthetho we-Ithala Development Corporation yaKwaZulu-Natali, 1999.

**Isigaba somthetho 41**

Isigaba somthetho 41 sihlinzekela ngamatungiselelo oguquko.

**Isigaba somthetho 42**

Isigaba somthetho 42 siqukethe isihloko esifingqiwe soMthetho.

**3. IZIMALI EZIZODINGWA UHULUMENI WESIFUNDAZWE**

Izimali ezizodingeka zincike ekuqhubekeni komthetho osebenzayo weNhlangano futhi zizothathwa kwisabelo mali sika 2013/14

**4. IMINYANGO/IMIGWAMANDA OKUXHUNYANWE NAYO**

- (a) IHovisi lezeZimali likaZwelonke;
- (b) Amakomidi amancane eKhabhinethi;
- (c) Ikhabhinethi;
- (d) IsiGungu sabaMeli bakaHulumeni;
- (e) Ithala Development Finance Corporation;
- (f) Amalungu omPhakathi nokuThintwana nabo eMphakathini.

**5. IZINGQINAMBA ZOMTHETHO**

Azikho.

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