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CONTENTS

PROVINCIAL NOTICE

Bill: Cape Nature Conservation Board Bill, 1997

P.N. 406/1997

14 November 1997

The following Bill is hereby published for general information:—

Cape Nature Conservation Board Bill, 1997

Any person or organisation wishing to comment on the said Bill is requested to lodge such comment in writing before or on 5 December 1997:

(a) by posting it to:

The Secretary
P.O. Box 648
Cape Town
8000

(b) by handing it in at:

Room 4-96
Provincial Building
Wale Street
Cape Town

P. J. C. Pretorius
Secretary

INHOUD

PROVINSIALE KENNISGEWING

Wetsontwerp: Wetsontwerp op die Kaapse Natuurbewaringsraad, 1997

P.K. 406/1997

14 November 1997

Die volgende Wetsontwerp word hierby vir algemene inligting gepubliseer:—

Wetsontwerp op die Kaapse Natuurbewaringsraad, 1997

Enige persoon of organisasie wat kommentaar oor die genoemde Wetsontwerp wens te lewer, word versoek om sodanige kommentaar skriftelik te lewer voor of op 5 Desember 1997:

(a) deur dit te pos aan:

Die Sekretaris
Posbus 648
Kaapstad
8000

(b) deur dit in te handig by:

Kamer 4-96
Provinsiale-gebou
Waalstraat
Kaapstad

P. J. C. Pretorius
Sekretaris

BILL

To provide for the establishment, powers, functions and funding of a Cape Nature Conservation Board and the establishment, funding and control of a Cape Nature Conservation Fund, and to provide for matters incidental thereto.

BE IT ENACTED by the Provincial Legislature of the Province of the Western Cape, as follows:—

CHAPTER 1:

DEFINITIONS

Definitions

5

1. (1) In this Act, unless the context otherwise indicates—

- (i) **“Board”** means the Cape Nature Conservation Board referred to in section 2;
- (ii) **“budget”** means an estimate of expected revenue and expenditure which contains particulars of the purposes for which money is to be used;
- (iii) **“chairperson”** means the chairperson of the Board appointed in terms of section 7(1); 10
- (iv) **“chief executive officer”** means the chief executive officer of the Board appointed in terms of section 10;
- (v) **“Constitution”** means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996); 15
- (vi) **“Executive Council”** means the Executive Council of the Province as contemplated in section 132 of the Constitution;
- (vii) **“financial year”** means the period from 1 April in any year to 31 March in the next succeeding year;
- (viii) **“Fund”** means the Cape Nature Conservation Fund established by section 17; 20
- (ix) **“Member responsible for Finance”** means the member of the Executive Council of the Province responsible for financial matters or, if that person is the same person as the responsible Member, the Premier of the Province;
- (x) **“nature conservation area”** means an area proclaimed as such by the Board in terms of section 9(1)(b) for the purposes of conserving wild animal and plant life in the Province; 25
- (xi) **“prescribe”** means prescribe by regulation in terms of section 21;
- (xii) **“provincial administration”** means the Provincial Administration: Western Cape referred to in the first column of Schedule 1 to the Public Service Act, 1994 (Proclamation 103 of 1994); 30
- (xiii) **“Provincial Legislature”** means the Provincial Legislature of the Province as contemplated in section 105 of the Constitution;
- (xiv) **“Province”** means the Province of the Western Cape;
- (xv) **“Republic”** means the Republic of South Africa; 35
- (xvi) **“responsible Member”** means the member of the Executive Council of the Province responsible for nature conservation;
- (xvii) **“this Act”** includes any regulation made under section 21;

WETSONTWERP

Om voorsiening te maak vir die instelling, bevoegdheide, funksies en befondsing van 'n Kaapse Natuurbewaringsraad en die oprigting en befondsing van en beheer oor 'n Kaapse Natuurbewaringsfonds en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Provinsiale Wetgewer van die Provinsie Wes-Kaap, soos volg:—

HOOFSTUK 1:

WOORDOMSKRYWINGS

5 Woordomsrywings

1. (1) In hierdie Wet, tensy uit die sinsverband anders blyk, beteken:—

- (i) “**begroting**” ’n raming van verwagte inkomste en uitgawes wat besonderhede bevat van die doeleindes waarvoor geld aangewend gaan word;
- 10 (ii) “**boekjaar**” die tydperk vanaf 1 April in ’n jaar tot 31 Maart in die daaropvolgende jaar;
- (iii) “**Fonds**” die Kaapse Natuurbewaringsfonds, deur artikel 17 opgerig;
- (iv) “**Grondwet**” die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet 108 van 1996);
- 15 (v) “**hierdie Wet**” ook enige regulasie kragtens artikel 21 uitgevaardig;
- (vi) “**hoof uitvoerende amptenaar**” die hoof uitvoerende amptenaar van die Raad, ingevolge artikel 10 aangestel;
- (vii) “**Lid verantwoordelik vir Finansies**” die lid van die Uitvoerende Raad van die Provinsie wat vir finansiële aangeleenthede verantwoordelik is of, indien daardie persoon dieselfde persoon as die verantwoordelike Lid is, die Premier van die Provinsie;
- 20 (viii) “**natuurbewaringsgebied**” ’n gebied wat deur die Raad ingevolge artikel 9(1)(b) as sodanig geproklameer is, met die doel om wilde diere en plantlewes in die Provinsie te bewaar;
- 25 (ix) “**ondervoorsitter**” die ondervoorsitter van die Raad ingevolge artikel 7(1) aangestel;
- (x) “**provinsiale administrasie**” die Provinsiale Administrasie: Wes-Kaap, soos in die eerste kolom van Bylae 1 tot die Staatsdienswet, 1994 (Proklamasie 103 van 1994) bedoel;
- 30 (xi) “**Provinsiale Wetgewer**” die Provinsiale Wetgewer van die Provinsie, soos in artikel 105 van die Grondwet bedoel;
- (xii) “**Provinsie**” die Provinsie Wes-Kaap;
- (xiii) “**Raad**” die Kaapse Natuurbewaringsraad, in artikel 2 bedoel;
- (xiv) “**Republiek**” die Republiek van Suid-Afrika;
- 35 (xv) “**Uitvoerende Raad**” die Uitvoerende Raad van die Provinsie soos in artikel 132 van die Grondwet bedoel;
- (xvi) “**verantwoordelike Lid**” die lid van die Uitvoerende Raad van die Provinsie wat vir natuurbewaring verantwoordelik is;
- 40 (xvii) “**voorsitter**” die voorsitter van die Raad, ingevolge artikel 7(1) aangestel;

- (xviii) "vice-chairperson" means the vice-chairperson of the Board appointed in terms of section 7(1), and
- (xix) references to any statutory provision shall include a reference to that provision as amended or re-enacted from time to time.
- (2) Where in this Act any functionary is required to take a decision in consultation with another functionary, such decision shall require the concurrence of such other functionary: Provided if such other functionary is a body of persons it shall express its concurrence in accordance with its own decision-making procedures. 5
- (3) Where in this Act any functionary is required to take a decision after consultation with another functionary, such decision shall be taken in good faith after consulting and giving serious consideration to the views of such other functionary. 10

CHAPTER 2:

CAPE NATURE CONSERVATION BOARD

Establishment and composition of Cape Nature Conservation Board

2. There is hereby established a board to be known as the Cape Nature Conservation Board, which shall consist of 15 members and shall be a body corporate capable of suing and being sued and, subject to the provisions of this Act and in so far as may be necessary for the better performance of its functions and duties, of performing all such acts as a body corporate may by law perform. 15

Objects of Board 20

3. The objects of the Board shall be—
- (a) to promote and ensure nature conservation in the Province, and
 - (b) to render services and provide facilities for research and training in connection with nature conservation in the Province.

Appointment of members of Board 25

4. (1) The responsible Member shall appoint as members of the Board—
- (a) six persons with expertise in nature conservation, and
 - (b) nine persons from nominations received in terms of subsection (2), after consultation with a Standing Committee of the Provincial Legislature:
- Provided that no employee of the Board, member of Parliament or member of a Provincial Legislature, and no person who has been declared insolvent or of unsound mind by a competent court, or who has been convicted of an offence and sentenced to imprisonment without the option of a fine, shall be eligible for appointment to the Board. 30
- (2) The responsible Member shall, before he or she appoints a member of the Board in terms of subsection (1)(b), by notice in the *Provincial Gazette*, and in such other media as he or she may consider appropriate, invite all interested parties to submit to him or her, within the period mentioned and in the manner prescribed in the notice, the names of persons who in the opinion of such interested parties are fit and proper persons to be so appointed, stating the grounds upon which such opinion is based. 35 40
- (3) The name of every person appointed as a member of the Board shall be tabled in the Provincial Legislature within fourteen days after the appointment or, if the Provincial Legislature is not then in session, within fourteen days after the commencement of its next ensuing session.
- (4) If, within thirty days after the name of any person has been tabled in terms of subsection (3), the Provincial Legislature adopts a resolution disapproving of the appointment of that person as a member of the Board, his or her appointment shall be cancelled. 45
- (5) The cancellation of any appointment in terms of subsection (4) shall not affect the validity of anything done by the Board while the person whose appointment is so cancelled was a member of the Board. 50

(xviii) "voorskryf" om by regulasie ingevolge artikel 21 voor te skryf.

(xix) 'n Verwysing na enige wetsbepaling sluit 'n verwysing in na daardie bepaling, soos van tyd tot tyd gewysig of herverorden.

(2) Waar enige funksionaris kragtens hierdie Wet verplig word om 'n besluit in oorleg met 'n ander funksionaris te neem, vereis so 'n besluit die instemming van die ander funksionaris; maar indien die ander funksionaris 'n liggaam van persone is, moet hy sy instemming ooreenkomstig sy eie besluitnemingsprosedures te kenne gee.

(3) Waar enige funksionaris kragtens hierdie Wet verplig word om 'n besluit ná oorlegpleging met 'n ander funksionaris te neem, moet dié besluit ná oorlegpleging en ná ernstige oorweging van die standpunte van die ander funksionaris te goeder trou geneem word.

HOOFTUK 2:

KAAPSE NATUURBEWARINGSRAAD

Instelling en samestelling van die Kaapse Natuurbewaringsraad

15 2. Hierby word 'n raad, bekend as die Kaapse Natuurbewaringsraad, ingestel, wat uit 15 lede bestaan. Dit is 'n regspersoon, wat bevoeg is om as eiser en verweerder op te tree en om behoudens die bepalings van hierdie Wet en vir sover dit nodig mag wees ten einde sy funksies en pligte beter te kan uitvoer, alle handelings te verrig wat regspersone regtens kan verrig.

20 Oogmerke van die Raad

3. Die oogmerke van die Raad is—

- (a) om natuurbewaring in die Provinsie te bevorder en te verseker, en
- (b) om dienste te lewer en fasiliteite vir navorsing en opleiding te voorsien, wat met natuurbewaring in die Provinsie verband hou.

25 Aanstelling van lede van die Raad

4. (1) Die verantwoordelike Lid moet die volgende as lede van die Raad aanstel:

- (a) ses persone wat deskundiges op die gebied van natuurbewaring is, en
- (b) nege persone wat ná oorlegpleging met 'n Staande Komitee van die Provinsiale Wetgewer gekies is uit nominasies wat ingevolge subartikel (2)

30 ontvang is;

maar geen werknemer van die Raad, Parlements lid of lid van 'n Provinsiale Wetgewer mag vir aanstelling in die Raad in aanmerking kom nie, asook geen persoon wat deur 'n bevoegde hof insolvent of geestelik versteurd verklaar is of wat aan 'n misdryf skuldig bevind en tot gevangenisstraf sonder die keuse van 'n

35 boete gevonnissen is nie.

(2) Die verantwoordelike Lid moet, voordat hy of sy 'n lid van die Raad ingevolge subartikel (1)(b) aanstel, by kennisgewing in die *Provinsiale Koerant* en in enige ander media wat hy of sy geskik ag, alle belanghebbende partye uitnoodig om binne die vermelde tydperk en op die wyse in die kennisgewing voorgeskryf die name van

40 persone wat na die mening van daardie belanghebbende partye geskikte en gepaste persone is om só aangestel te word, aan hom of haar voor te lê, met vermelding van die gronde waarop hulle mening gebaseer is.

(3) Die naam van elke persoon wat as 'n lid van die Raad aangestel word, moet binne veertien dae ná sy of haar aanstelling in die Provinsiale Wetgewer ter tafel gelê word of, indien die Provinsiale Wetgewer nie dan in sitting is nie, binne veertien dae ná die

45 aanvang van sy daaropvolgende sitting.

(4) Indien die Provinsiale Wetgewer binne dertig dae nadat die naam van enige persoon ingevolge subartikel (3) ter tafel gelê is, 'n besluit aanneem wat die aanstelling van daardie persoon as 'n lid van die Raad afkeur, sal sy of haar aanstelling

50 gekanselleer word.

(5) Die kansellering van enige aanstelling ingevolge subartikel (4) sal geen uitwerking hê op die geldigheid van enige optrede deur die Raad terwyl die persoon wie se aanstelling sò gekanselleer is, 'n lid van die Raad was nie.

Period of office of members of Board

5. (1) A member of the Board shall hold office for such period, not exceeding five years, as the responsible Member may determine at the time of his or her appointment.

(2) A member of the Board shall be eligible for reappointment for one other period, not exceeding five years, as the responsible Member may determine at the time of his or her reappointment: Provided that a person may be appointed to the Board in terms of subsection (1) if a period of at least 12 months has passed since he or she last served as a member of the Board. 5

Vacation of office of members of Board

6. (1) The office of a member of the Board becomes vacant if— 10

- (a) he or she is declared insolvent or of unsound mind by a competent court;
- (b) his or her appointment is cancelled in terms of section 4(4);
- (c) he or she is removed from office in terms of subsection (2);
- (d) he or she is convicted of an offence and sentenced to imprisonment without the option of a fine, but no one may be regarded as having been sentenced until an appeal against the conviction or sentence has been determined; 15
- (e) he or she is absent from four consecutive meetings of the Board without the consent of the chairperson;
- (f) he or she submits his or her resignation in writing to the chairperson;
- (g) he or she becomes a member of Parliament or a Provincial Legislature, or 20
- (h) he or she dies.

(2) The responsible Member may remove a member of the Board from his or her office on the ground of misconduct, incapacity or incompetence: Provided that—

- (a) the responsible Member shall table in the Provincial Legislature forthwith or, if the Provincial Legislature is not then in session, within seven days after the commencement of its next ensuing session, a notice of his or her intention to remove a member of the Board from office, including a full statement of reasons, and 25
- (b) if, within thirty days after a notice has been tabled in terms of subsection (3), the Provincial Legislature adopts a resolution calling for that person's retention in office, the responsible Member shall not remove that person from office. 30

(3) The responsible Member may suspend a member of the Board from his or her office pending the expiry of the thirty day period described in paragraph (b) of the proviso to subsection (2). 35

(4) Subject to section 4, the responsible Member shall forthwith fill any vacancies in the Board.

Chairperson and vice-chairperson of Board

7. (1) The responsible Member shall, after consultation with the Board, appoint one member of the Board as chairperson and one as vice-chairperson for such period, not exceeding three years, as the responsible Member may determine at the time of their appointment. 40

(2) The responsible Member shall fill any vacancies in the office of chairperson or vice-chairperson forthwith, in accordance with subsection (1).

(3) If the chairperson is for any reason unable to act as chairperson, the vice-chairperson shall perform the functions of the chairperson. 45

(4) Subject to section 8, the Board shall meet for the dispatch of business, adjourn and otherwise regulate its meetings as the chairperson deems fit.

Meetings and decisions of Board

8. (1) The first meeting of the Board shall be held at a time and place determined by the responsible Member, and thereafter the Board shall meet at such times and places as may be determined by the chairperson from time to time, but the Board shall meet at least twice in each financial year. 50

(2) The chairperson or responsible Member may at any time, either of his or her own

Ampstermyn van lede van die Raad

5. (1) 'n Lid van die Raad beklee dié amp vir 'n tydperk wat die verantwoordelike Lid ten tyde van sy of haar aanstelling mag bepaal, maar hoogstens vir vyf jaar.

(2) 'n Lid van die Raad kan heraangestel word vir nog een tydperk van hoogstens vyf jaar, soos die verantwoordelike Lid ten tyde van sy of haar heraanstelling mag bepaal; maar 'n persoon mag ingevolge subartikel (1) in die Raad aangestel word, indien 'n tydperk van ten minste 12 maande verstryk het sedert hy of sy voorheen as 'n lid van die Raad gedien het.

Ampsontruiming van lede van die Raad

10 6. (1) Die amp van 'n lid van die Raad raak vakant indien—

(a) hy of sy deur 'n bevoegde hof insolvent of geestelik versteurd verklaar word;

(b) sy of haar aanstelling ingevolge artikel 4(4) gekanselleer word;

(c) hy of sy ingevolge subartikel (2) van die amp onthef word;

15 (d) hy of sy aan 'n misdryf skuldig bevind word en gevonnissen word tot gevangenisstraf sonder die keuse van 'n boete; maar niemand mag as gevonnissen beskou word alvorens 'n appèl teen die skuldigbevinding of vonnis beslis is nie;

(e) hy of sy sonder verlof van die voorsitter van vier agtereenvolgende vergaderings van die Raad afwesig is;

20 (f) hy of sy 'n skriftelike bedanking by die voorsitter indien;

(g) hy of sy 'n lid van die Parlement of 'n Provinsiale Wetgewer word; of

(h) hy of sy sterf.

(2) Die verantwoordelike Lid kan 'n lid van die Raad van die amp onthef op grond van wangedrag, onvermoë of onbevoegdheid; met dien verstande dat—

25 (a) die verantwoordelike Lid 'n kennisgewing van sy of haar voorneme om 'n lid van die Raad van die amp te onthef, insluitende 'n volledige uiteensetting van redes, onmiddellik in die Provinsiale Wetgewer ter tafel moet lê of, indien die Provinsiale Wetgewer nie dan in sitting is nie, binne sewe dae ná die aanvang van sy daaropvolgende sitting, en

30 (b) indien die Provinsiale Wetgewer binne dertig dae nadat 'n kennisgewing ingevolge subartikel (3) ter tafel gelê is, 'n besluit aanneem waarin versoek word dat daardie persoon in die amp moet aanbly, die verantwoordelike Lid nie daardie persoon van die amp mag onthef nie.

(3) Die verantwoordelike Lid mag 'n lid van die Raad in sy of haar amp skors
35 hangende die verstryking van die tydperk van dertig dae soos in paragraaf (b) van die voorbehoudsbepaling tot subartikel (2) vermeld.

(4) Behoudens die bepalings van artikel 4, moet die verantwoordelike Lid enige vakatures in die Raad onmiddellik vul.

Voorsitter en ondervoorsitter van die Raad

40 7. (1) Die verantwoordelike Lid moet ná oorlegpleging met die Raad een lid van die Raad as voorsitter en een as ondervoorsitter aanstel vir enige tydperk wat die verantwoordelike Lid ten tyde van hul aanstelling mag bepaal, maar hoogstens vir drie jaar.

(2) Die verantwoordelike Lid moet enige vakatures in die amp van voorsitter of
45 ondervoorsitter onmiddellik ooreenkomstig subartikel (1) vul.

(3) Indien die voorsitter om enige rede nie in staat is om as voorsitter op te tree nie, moet die ondervoorsitter die funksies van die voorsitter verrig.

(4) Behoudens die bepalings van artikel 8 moet die Raad byeenkom vir die
50 afhandeling van sy werksaamhede, verdaag en andersins sy vergaderings reël soos die voorsitter goeddink.

Vergaderings en besluite van die Raad

8. (1) Die eerste vergadering van die Raad moet gehou word op 'n tyd en plek wat die verantwoordelike Lid bepaal en daarna vergader die Raad op die tye en plekke wat die voorsitter van tyd tot tyd bepaal, maar die Raad moet ten minste twee keer in elke
55 boekjaar vergader.

(2) Die voorsitter of verantwoordelike Lid kan te eniger tyd of uit eie beweging of

volition or at the written request of not fewer than five members of the Board, by notice convene an extraordinary meeting of the Board, which shall be held at the time and place determined by the chairperson or responsible Member, as the case may be.

(3) A notice whereby an extraordinary meeting of the Board is convened shall state the purpose of that meeting.

(4) The quorum for a meeting of the Board shall be nine members.

(5) If both the chairperson and the vice-chairperson are absent from a meeting of the Board, the members present shall elect one of their number to preside at that meeting.

(6) The decision of a majority of the members present at a meeting of the Board shall constitute a decision of the Board, and in the event of an equality of votes on any matter the person presiding at the meeting shall, in addition to his or her deliberative vote, have a casting vote.

(7) A decision taken by the Board at a time when there was a vacancy on the Board, when any person who was not entitled to sit as a member of the Board sat as such a member, or when any member of the Board contravened the provisions of subsection (9), shall not be invalid if—

- (a) the decision was taken by a majority of the members of the Board, and
- (b) at least 8 of the members comprising that majority were entitled to sit as members and complied with the provisions of subsection (9).

(8) The Board may allow a person who is not a member of the Board to attend any meeting of the Board and may allow such person to take part in the proceedings at such meeting, without having the right to vote.

(9) When the Board is in session, a member thereof may not take part in the discussion of, or may not participate in the making of a decision on, any matter in which he or she or his or her spouse, partner or employer, other than the State, has any personal and direct or indirect pecuniary interest, unless he or she first declares the nature, extent and particulars of that interest.

(10) Any member of the Board who contravenes the provisions of subsection (9) shall be guilty of an offence and on conviction liable to a fine or imprisonment for a period not exceeding six months.

(11) The minutes of meetings of the Board and any sub-committees and working groups appointed in terms of section 9(1)(v) shall be signed by the person who chairs the next meeting, and shall be available at all reasonable times for inspection and copying by any member of the public at his or her own expense.

Powers and duties of Board

9. (1) In order to achieve its objects referred to in section 3 the Board may—

- (a) exercise any power or perform any function conferred upon the Board by or in terms of any legislation or delegated to the Board by an executive organ of state in terms of section 238 of the Constitution, in a manner consistent with that legislation or delegation;
- (b) proclaim nature conservation areas in accordance with subsection (2) and:
 - (i) in consultation with the owners of the land concerned:
 - (aa) construct and erect in such areas or any part thereof such roads, bridges, buildings, dams, fences and other structures or works which are necessary or desirable for the control, management and maintenance of such areas;
 - (bb) take such steps as will ensure the safety of visitors and the preservation in a natural state of the animal and plant life in such areas;
 - (ii) in consultation with the owners of the land concerned and the responsible Member:
 - (aa) regulate and control or prohibit access by the public to such areas or any part thereof;
 - (bb) determine the fees which are to be paid in respect of permission to enter or reside in such areas or any part thereof;
 - (iii) in consultation with the responsible Member, enter into an agreement with any person to undertake, on any immovable property in such

op skriftelike versoek van minstens vyf lede van die Raad 'n buitengewone vergadering van die Raad by wyse van kennisgewing belê, wat gehou moet word op 'n tyd en plek wat die voorsitter of verantwoordelike Lid, na gelang van die geval, bepaal.

(3) 'n Kennisgewing waardeur 'n buitengewone vergadering van die Raad belê word, moet die doel van daardie vergadering meld.

(4) Die kworum vir 'n vergadering van die Raad is nege lede.

(5) Indien sowel die voorsitter as die ondervoorsitter van 'n vergadering van die Raad afwesig is, moet die aanwesige lede 'n persoon uit hul geledere kies om op daardie vergadering voor te sit.

(6) Die beslissing van 'n meerderheid van die lede wat op 'n vergadering van die Raad aanwesig is, stel 'n besluit van die Raad daar en by 'n staking van stemme oor 'n aangeleentheid het die persoon wat op die vergadering voorsit, benewens sy of haar beraadslagende stem, ook 'n beslissende stem.

(7) 'n Besluit deur die Raad geneem terwyl daar 'n vakature in die Raad bestaan het, terwyl 'n persoon wat nie daarop geregtig was om as 'n lid van die Raad sitting te neem nie, wel as sodanige lid sitting geneem het of terwyl 'n lid van die Raad die bepalings van subartikel (9) oortree het, is geldig indien—

(a) die besluit deur 'n meerderheid van die lede van die Raad geneem is, en

(b) ten minste 8 van die lede waaruit daardie meerderheid bestaan het, daarop geregtig was om as lede sitting te neem en aan die bepalings van subartikel (9) voldoen het.

(8) Die Raad kan 'n persoon wat nie 'n lid van die Raad is nie, toelaat om 'n vergadering van die Raad by te woon en kan so 'n persoon toelaat om aan die verrigtinge op daardie vergadering deel te neem, maar daardie persoon het nie die reg om te stem nie.

(9) Wanneer die Raad in sitting is, mag 'n lid daarvan geensins deelneem aan 'n bespreking oor of betrokke wees by die neem van 'n besluit omtrent enige aangeleentheid waarby hy of sy of sy of haar eggenoot, vennoot of werkgewer, behalwe die Staat, enige persoonlike en regstreekse of onregstreekse geldelike belang het nie, tensy hy of sy eers die aard, omvang en besonderhede van daardie belang verklaar.

(10) Enige lid van die Raad wat die bepalings van subartikel (9) oortree, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens ses maande.

(11) Die notules van vergaderings van die Raad en enige subkomitees en werkgroepe wat ingevolge artikel 9(1)(v) aangestel is, moet onderteken word deur die persoon wat by die volgende vergadering as voorsitter optree en moet te alle redelike tye beskikbaar wees sodat 'n lid van die publiek dit kan besigtig en op sy of haar onkoste 'n kopie daarvan kan maak.

Bevoegdheid en verpligtinge van die Raad

9. (1) Die Raad kan ten einde sy oogmerke in artikel 3 bedoel, te bereik—

(a) enige bevoegdheid uitoefen of enige funksie verrig wat deur of kragtens enige wetgewing aan die Raad opgedra of deur 'n uitvoerende staatsorgaan ingevolge artikel 238 van die Grondwet aan die Raad gedelegeer word, op 'n wyse wat met daardie wetgewing of delegering ooreenstem;

(b) natuurbewaringsgebiede ooreenkomstig subartikel (2) proklameer en:

(i) in oorleg met die eienaars van die betrokke grond:

(aa) in sulke gebiede of enige deel daarvan enige paaie, brûe, geboue, damme, heinings en ander strukture of werke bou en oprig as wat vir die beheer, bestuur en instandhouding van daardie gebiede nodig of wenslik mag wees;

(bb) stappe doen wat die veiligheid van besoekers en die behoud van die diere- en plantlewe in hul natuurlike toestand in daardie gebiede sal verseker;

(ii) in oorleg met die eienaars van die betrokke grond en die verantwoordelike Lid:

(aa) toegang deur die publiek tot daardie gebiede of enige deel daarvan reguleer en beheer of verbied;

(bb) die bedrae vasstel wat betaal moet word vir toestemming om in sulke gebiede of enige deel daarvan in te gaan of te woon;

(iii) in oorleg met die verantwoordelike Lid 'n ooreenkoms met 'n persoon sluit om op enige onroerende eiendom binne daardie gebiede,

- areas, leased, purchased or otherwise acquired by the Board in terms of sub-paragraph (d) (i), a business or trade for the convenience of visitors;
- (c) on any immovable property leased, purchased or otherwise acquired by the Board in terms of sub-paragraph (d) (i): 5
- (i) reserve sites as breeding places for animals or as nurseries for trees, shrubs, plants and flowers;
 - (ii) carry on any business or trade for the convenience of the public and visitors;
- (d) with the approval of the responsible Member and the Member responsible for Finance: 10
- (i) lease, purchase or otherwise acquire immovable property or any real right or mineral right in immovable property;
 - (ii) let, sell, exchange or otherwise alienate immovable property;
 - (iii) mortgage, burden with a servitude, or confer any other real right in, 15
immovable property;
- (e) hire, purchase or acquire, hire out, sell, exchange or alienate, pledge or confer any other real right in, movable property;
- (f) negotiate or co-operate with any national, provincial or local government, or any board, body or person, in the Republic or elsewhere, with regard to any matter which is directly or indirectly aimed at the achievement of the objects of the Board; 20
- (g) enter into agreements with any similar body, within the Republic or elsewhere, which are necessary or advisable for the effective and proper exercise of its powers, the performance of its functions and the carrying out of its duties; 25
- (h) open and administer offices, in the Province or elsewhere;
- (i) acquire insurance cover:
- (i) for itself against any loss, damage, risk or liability which it may suffer or incur, and 30
 - (ii) for its members, chief executive officer and employees against death, bodily injury or disablement resulting from an accident occurring in the course of the performance of their duties as such;
- (j) subject to section 230 of the Constitution, with the approval of the responsible Member and the Member responsible for Finance, borrow money in the Republic or elsewhere; 35
- (k) subject to section 13(6), open and conduct banking accounts at a bank as defined in the Banks Act, 1990 (Act 94 of 1990);
- (l) make investments:
- (i) with financial institutions as defined in section 1 of the Financial Institutions (Investment of Funds) Act, 1984 (Act 39 of 1984); 40
 - (ii) in listed securities as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act 1 of 1985);
- (m) subject to the proviso to section 13(1) (b), take over investments forming the subject-matter of donations or bequests to the Board, and retain them in the form in which they are received, or realise them and re-invest the proceeds in accordance with paragraphs (k) and (l); 45
- (n) in consultation with the responsible Member and the Member responsible for Finance, donate or lend money to the Fund, or any board, body or person, on condition that the donation or loan is used to further the objects of the Board and in the manner prescribed by the Board; 50
- (o) otherwise expend the funds of the Board;
- (p) administer the Fund created by section 17;
- (q) gather, evaluate, process and disseminate information relating to nature conservation in the Province; 55
- (r) with a view to the effective marketing of, and the provision of information relating to, any service, facility or product offered in connection with nature conservation in the Province, draw up, make, publish and sell or make available free of charge, in the Republic or elsewhere, books, guides, maps, photographs, films, videos and similar matter; 60

- wat die Raad ingevolge subparagraaf (d)(i) huur, koop of andersins bekom, 'n besigheid of handelonderneming vir die gerief van besoekers te bedryf;
- 5 (c) op enige onroerende eiendom wat die Raad ingevolge subparagraaf (d)(i) huur, koop of andersins bekom:
- (i) persele reserveer as aantelgebiede vir diere of as kweekgebiede vir bome, struie, plante en blomme;
 - (ii) vir die gerief van die publiek en besoekers enige besigheid of handelonderneming bedryf;
- 10 (d) met die goedkeuring van die verantwoordelike Lid en die Lid verantwoordelik vir Finansies:
- (i) onroerende eiendom of enige saaklike reg of mineraalreg ten opsigte van onroerende eiendom huur, koop of andersins bekom;
 - (ii) onroerende eiendom verhuur, verkoop, verruil of andersins vervreem;
 - 15 (iii) onroerende eiendom met 'n verband of serwituut beswaar of enige ander saaklike reg ten opsigte daarvan verleen;
- (e) roerende eiendom huur, koop of bekom, verhuur, verkoop, verruil of vervreem, verpand of enige ander saaklike reg ten opsigte daarvan verleen;
- 20 (f) met enige nasionale, provinsiale of plaaslike regering of enige raad, liggaam of persoon in die Republiek of elders onderhandel of saamwerk met betrekking tot enige aangeleentheid wat regstreeks of onregstreeks op die bereiking van die Raad se oogmerke gemik is;
- (g) in die Republiek of elders met 'n soortgelyke liggaam ooreenkomste aangaan wat nodig of raadsaam mag wees vir die doeltreffende en behoorlike
- 25 uitoefening van sy bevoegdhede, die verrigting van sy funksies en die nakoming van sy verpligtinge;
- (h) in die Provinsie of elders kantore open en administreer;
- (i) versekeringsdekking verkry:
- 30 (i) vir homself ten opsigte van verlies, skade, risiko of aanspreeklikheid wat hy mag ly of opdoen, en
 - (ii) vir sy lede, hoof uitvoerende amptenaar en werknemers ten opsigte van dood, liggaamlike besering of ongeskiktheid wat voortspruit uit 'n ongeluk wat in die loop van die uitvoering van hul pligte as sodanig plaasvind;
- 35 (j) behoudens die bepalinge van artikel 230 van die Grondwet, met die goedkeuring van die verantwoordelike Lid en die Lid verantwoordelik vir Finansies geld in die Republiek of elders leen;
- (k) behoudens die bepalinge van artikel 13(6) bankrekenings open en bedryf by 'n bank, soos in die Bankwet, 1990 (Wet 94 van 1990) omskryf;
- 40 (l) beleggings maak:
- (i) by finansiële instellings soos in artikel 1 van die Wet op Finansiële Instellings (Belegging van Fondse), 1984 (Wet 39 van 1984) omskryf;
 - (ii) in gelyste sekuriteite, soos in artikel 1 van die Wet op die Beheer van Aandelebeurse, 1985 (Wet 1 van 1985) omskryf;
- 45 (m) behoudens die voorbehoudsbepaling tot artikel 13(1)(b) beleggings oorneem wat aan die Raad geskenk of nagelaat word en hulle behou in die vorm waarin hulle ontvang word of hulle realiseer en die opbrengs ooreenkomstig paragrafe (k) en (l) herbelê;
- 50 (n) in oorleg met die verantwoordelike Lid en die Lid verantwoordelik vir Finansies geld aan die Fonds of aan enige raad, liggaam of persoon skenk of leen op voorwaarde dat die skenking of lening gebruik word om die oogmerke van die Raad te bevorder en op die wyse soos deur die Raad voorgeskryf;
- 55 (o) die Raad se fondse andersins bestee;
- (p) die Fonds administreer wat deur artikel 17 opgerig word;
- (q) inligting betreffende natuurbewaring in die Provinsie insamel, evalueer, verwerk en versprei;
- 60 (r) met die oog op die doeltreffende bemerking van en die verstrekking van inligting betreffende enige diens, fasiliteit of produk wat in verband met natuurbewaring in die Provinsie aangebied word, boeke, gidse, kaarte, foto's, rolprente, video's en dergelike materiaal in die Republiek of elders opstel, produseer, uitgee en verkoop of gratis beskikbaar stel;

- (s) give advice and guidance to persons who are engaged in nature conservation in the Province or elsewhere;
- (t) negotiate and co-operate with any educational institution regarding the institution, continuation or expansion of courses for the training of persons for careers in nature conservation; 5
- (u) employ persons;
- (v) establish and appoint persons to the sub-committees and working groups it deems necessary for the exercise of its powers, the performance of its functions and the carrying out of its duties: Provided that—
 - (i) sub-committees shall consist solely of members of the Board; 10
 - (ii) sub-committees and working groups shall function in accordance with terms of reference determined by the Board;
- (w) procure the registration of a coat of arms, badges, other emblems and names in terms of the Heraldry Act, 1962 (Act 18 of 1962), and the registration of trade marks in terms of the Trade Marks Act, 1993 (Act 194 of 1993), and 15
- (x) perform any other acts required by this Act or which may contribute towards the achievement of the objects of the Board.

(2) Whenever the Board is satisfied that it is desirable to do so in the interest of nature conservation in the Province, it may, subject to the provisions of subsection (3), by notice in the *Provincial Gazette* proclaim land to be a nature conservation area or to form 20 part of a nature conservation area.

(3) Before the Board issues any notice under subsection (2) in any case in which in its opinion the rights of any person may be adversely affected without his or her consent, the Board shall—

- (a) serve a notice by registered post on the municipality in which the land is situated giving particulars of the land, the proposed proclamation and the reasons for the proposed proclamation and calling for its comments and recommendation to be lodged with the Board within a period of twenty-one days after the date of the notice; 25
- (b) publish a notice in Afrikaans, English and isiXhosa once in the *Provincial Gazette* and twice with an interval of one week in a newspaper circulating in the area in which the land is situated, giving particulars of the land, the proposed proclamation and the reasons for the proposed proclamation and calling for written objections against the proposed proclamation to be lodged with the Board within a period of twenty-one days after the date of the last publication of the notice; 30 35
- (c) where reasonably practicable, serve a copy of the notice described in paragraph (b) on every owner of land who in the Board's opinion may be adversely affected by the proposed proclamation, by registered post addressed to the owner at his or her last known address, and 40
- (d) on the expiry of the period within which objections may be lodged in terms of the notice referred to in paragraph (a) or (b), whichever is the later, consider the objections and decide whether or not to issue a notice in terms of subsection (2) in relation to the land or any part of the land. 45

Chief executive officer of Board

10. (1) The Board shall appoint a person as chief executive officer in consultation with the responsible Member: Provided that no member of Parliament or member of a Provincial Legislature, and no person who has been declared insolvent or of unsound mind by a competent court, or who has been convicted of an offence and sentenced to imprisonment without the option of a fine, shall be eligible for appointment as chief 50 executive officer.

(2) The chief executive officer shall be appointed for such period, not exceeding five years, as the Board shall determine, in consultation with the responsible Member.

(3) The chief executive officer shall be eligible for reappointment.

- (s) advies en leiding gee aan persone wat met natuurbewaring in die Provinsie of elders gemoeid is;
- (t) met enige opvoedkundige inrigting onderhandel en saamwerk in verband met die instelling, voortsetting of uitbreiding van kursusse vir die opleiding van persone vir loopbane in natuurbewaring;
- (u) persone in diens neem;
- (v) subkomitees en werkgroepe daarstel en persone daarin aanstel indien die Raad dit vir die uitoefening van sy bevoegdhede, die verrigting van sy funksies en die nakoming van sy verpligtinge nodig ag; met dien verstande dat—
- (i) subkomitees alleenlik uit lede van die Raad bestaan;
- (ii) subkomitees en werkgroepe optree in ooreenstemming met opdragte deur die Raad vasgestel;
- (w) die registrasie van 'n wapen, kentekens, ander embleme en name ingevolge die Wet op Heraldiek, 1962 (Wet 18 van 1962) bewerkstellig, asook die registrasie van handelsmerke ingevolge die Wet op Handelsmerke, 1993 (Wet 194 van 1993), en
- (x) enige ander handeling verrig wat ingevolge hierdie Wet vereis word of wat tot die bereiking van die oogmerke van die Raad kan bydra.
- (2) Wanneer die Raad oortuig is dat sodanige optrede in die belang van natuurbewaring in die Provinsie wenslik is, mag dit, behoudens die bepalings van subartikel (3) by kennisgewing in die *Provinsiale Koerant* grond tot 'n natuurbewaringsgebied of deel van 'n natuurbewaringsgebied proklameer.
- (3) Voordat die Raad 'n kennisgewing ingevolge subartikel (2) uitvaardig, moet dit in enige geval waar die Raad van mening is dat enige persoon se reg sonder sy of haar toestemming nadelig geraak mag word—
- (a) 'n kennisgewing per geregistreerde pos beteken op die munisipaliteit waarbinne die grond geleë is, waarin besonderhede omtrent die grond, die voorgenome proklamasie en die redes vir die voorgenome proklamasie uiteengesit word en waarin die Munisipaliteit versoek word om sy kommentaar en aanbeveling binne 'n tydperk van een-en-twintig dae na die datum van die kennisgewing aan die Raad voor te lê;
- (b) 'n kennisgewing in Afrikaans, Engels en isiXhosa een maal in die *Provinsiale Koerant* laat plaas, asook twee maal met 'n tussenpose van een week in 'n koerant wat versprei word in die gebied waarbinne die grond geleë is; dit moet besonderhede verstrek omtrent die grond, die voorgenome proklamasie en die redes vir die voorgenome proklamasie en moet versoek dat skriftelik besware teen die voorgenome proklamasie binne 'n tydperk van een-en-twintig dae na die datum van die laaste plasing van die kennisgewing by die Raad aangeteken moet word;
- (c) waar redelik moontlik, 'n afskrif van die kennisgewing in paragraaf (b) bedoel per geregistreerde pos beteken op elke eienaar van grond, wat na die Raad se mening nadelig deur die voorgenome proklamasie geraak mag word, geadresseer aan die eienaar by sy of haar laaste bekende adres; en
- (d) na die verstryking van die tydperk waarbinne besware aangeteken mag word ingevolge die kennisgewing in paragraaf (a) of (b) bedoel, welke datum ook al die laaste mag wees, die besware oorweeg en besluit of dit 'n kennisgewing ingevolge subartikel (2) ten opsigte van die grond of enige deel van die grond gaan uitreik.

50 Hoof uitvoerende amptenaar van die Raad

10. (1) Die Raad stel in oorleg met die verantwoordelike Lid 'n persoon as hoof uitvoerende amptenaar aan; maar geen Parlements lid of lid van 'n Provinsiale Wetgewer mag vir aanstelling as hoof uitvoerende amptenaar in aanmerking kom nie, asook geen persoon wat deur 'n bevoegde hof insolvent of geestelik versteurd verklaar is of wat aan 'n misdryf skuldig bevind is en tot gevangenisstraf sonder die keuse van 'n boete gevonnis is nie.

(2) Die hoof uitvoerende amptenaar se aanstelling geld vir 'n tydperk van hoogstens vyf jaar, soos deur die Raad in oorleg met die verantwoordelike Lid bepaal.

(3) Die hoof uitvoerende amptenaar mag heraangestel word.

(4) In addition to the powers, functions and duties conferred upon him or her by the other provisions of this Act, the chief executive officer shall—

- (a) be in charge of the other employees of the Board and of such officers and employees as may be seconded to the Board from the provincial administration; 5
- (b) be accountable to the Board;
- (c) ensure that proper minutes are kept of meetings of the Board and any sub-committees and working groups appointed in terms of section 9(1) (v), and
- (d) submit to the responsible Member, as soon as practicable after the conclusion of any meeting of the Board, a copy of the minutes thereof. 10

(5) If the chief executive officer is absent or for any reason unable to perform his or her functions, or whenever there is a vacancy in the office of chief executive officer, the Board shall appoint another person to act as chief executive officer during such absence or inability or until a chief executive officer has been appointed in terms of subsection (1). 15

(6) An acting chief executive officer shall, for the duration of his or her appointment, perform the functions of the chief executive officer.

Financial control

11. (1) The chief executive officer shall be the accounting officer of the Board and he or she shall account for all money received, and all payments made, by the Board. 20

(2) The accounting officer shall—

- (a) keep full and correct record of all money received or spent by the Board, and of the assets, liabilities and financial transactions of the Board, and
- (b) as soon as possible, but not more than three months after the end of the financial year, draw up annual financial statements which shall consist of: 25
 - (i) a balance sheet;
 - (ii) an income statement;
 - (iii) a cash-flow statement, and
 - (iv) notes to the annual financial statements. 30

(3) The records and annual financial statements referred to in subsection (2) shall be audited by the Auditor-General.

(4) All cheques, promissory notes and other documents requiring signature on behalf of the Board shall be signed by the chief executive officer or in such manner as the Board may decide. 35

(5) Subject to sections 14 and 15, the chief executive officer and every member and employee of the Board shall be indemnified out of the funds of the Board against all costs, losses and expenses which he or she may incur by reason of any contract entered into or any act or deed done in good faith in his or her capacity as such.

Submission of reports and financial statements by Board 40

12. (1) The Board shall annually, after completion of the annual audit, but not more than six months after the end of the financial year, submit to the responsible Member—

- (a) a report on its affairs and activities during that financial year, and
- (b) the annual financial statements referred to in section 11(2) (b).

(2) The responsible Member shall table copies of the report and annual financial statements submitted to him or her in terms of subsection (1) in the Provincial Legislature within fourteen days after he or she has received them or, if the Provincial Legislature is not then in session, within fourteen days after the commencement of its next ensuing session. 45

(3) The responsible Member may require the Board to submit to him or her an interim report on any matter, or interim financial statements, and the provisions of subsection (2) are *mutatis mutandis* applicable to any such interim report or interim financial statements. 50

(4) Benewens die bevoegdhede, funksies en verpligtinge wat deur die ander bepalings van hierdie Wet aan hom of haar opgelê word, sal die hoof uitvoerende amptenaar—

- 5 (a) in beheer van die ander werknemers van die Raad wees, asook van enige amptenare en werknemers wat deur die provinsiale administrasie aan die Raad gesekondeer word;
- (b) verantwoordelik teenoor die Raad wees;
- 10 (c) moet verseker dat behoorlike notules gehou word van vergaderings van die Raad en enige subkomitees en werkgroepe wat ingevolge artikel 9(1)(v) aangestel word; en
- (d) so gou as prakties moontlik na afloop van 'n vergadering van die Raad 'n afskrif van die notule daarvan aan die verantwoordelike Lid moet voorlê.

(5) Indien die hoof uitvoerende amptenaar afwesig is of om enige rede nie in staat is om sy of haar funksies te verrig nie, of wanneer daar 'n vakature in die amp van hoof uitvoerende amptenaar bestaan, moet die Raad 'n ander persoon aanstel om as hoof uitvoerende amptenaar waar te neem tydens daardie afwesigheid of onvermoë of totdat 'n hoof uitvoerende amptenaar ingevolge subartikel (1) aangestel is.

(6) 'n Waarnemende hoof uitvoerende amptenaar moet vir die duur van sy of haar aanstelling die funksies van die hoof uitvoerende amptenaar verrig.

20 Finansiële beheer

11. (1) Die hoof uitvoerende amptenaar is die rekenpligtige amptenaar van die Raad en hy of sy moet rekenskap gee van alle gelde deur die Raad ontvang en alle betalings daardeur doen.

(2) Die rekenpligtige amptenaar moet—

- 25 (a) 'n volledige en juiste rekord hou van alle gelde wat deur die Raad ontvang of bestee word en van die bates, laste en finansiële transaksies van die Raad; en
- (b) so gou doenlik, maar hoogstens drie maande ná die einde van die boekjaar, finansiële jaarstate opstel, bestaande uit:
- 30 (i) 'n balansstaat;
- (ii) 'n inkomstestaat;
- (iii) 'n kontantvloeiastaat; en
- (iv) aantekeninge by die finansiële jaarstate.

(3) Die rekords en finansiële jaarstate in subartikel (2) bedoel, moet deur die Ouditeur-Generaal geouditeer word.

(4) Alle tjeks, promesses en ander dokumente wat namens die Raad onderteken moet word, moet deur die hoof uitvoerende amptenaar onderteken word of op sodanige wyse as wat die Raad mag besluit.

(5) Behoudens die bepalings van artikels 14 en 15 word die hoof uitvoerende beamppte en elke lid en werknemer van die Raad uit die fondse van die Raad skadeloos gestel teen alle onkoste, verliese en uitgawes wat hy of sy mag ly of aangaan as gevolg van enige kontrak, handeling of optrede wat hy of sy te goeder trou in daardie hoedanigheid aangaan of pleeg.

Voorlegging van verslae en finansiële state deur die Raad

45 12. (1) Die Raad moet jaarliks, ná voltooiing van die jaarlikse audit, maar nie later as ses maande ná die einde van die boekjaar nie, die volgende aan die verantwoordelike Lid voorlê:

- (a) 'n verslag oor sy sake en bedrywighede gedurende daardie boekjaar, en
- (b) die finansiële jaarstate in artikel 11(2)(b) bedoel.
- 50 (2) Die verantwoordelike Lid moet afskrifte van die verslag en finansiële jaarstate wat ingevolge subartikel (1) aan hom of haar voorgelê is, binne veertien dae ná ontvangs daarvan in die Provinsiale Wetgewer ter tafel lê of, indien die Provinsiale Wetgewer nie dan in sitting is nie, binne veertien dae ná die aanvang van sy daaropvolgende sitting.
- 55 (3) Die verantwoordelike Lid kan vereis dat die Raad 'n tussentydse verslag oor enige aangeleentheid of tussentydse finansiële state aan hom of haar voorlê en die bepalings van subartikel (2) is *mutatis mutandis* op daardie tussentydse verslag of tussentydse finansiële state van toepassing.

Funds and assets of Board

13. (1) The funds of the Board shall consist of—

- (a) appropriations from the Provincial Legislature pursuant to an annual budget submitted by the Board in terms of subsection (2) or a supplementary budget submitted by the Board in terms of subsection (3); 5
- (b) donations or bequests received by the Board: Provided that no donation or bequest shall, if the donation or bequest is subject to any condition, be accepted for the benefit of the Board except in consultation with the responsible Member and the Member responsible for Finance, and
- (c) income generated by the Board in accordance with the provisions of this Act. 10

(2) The Board shall annually, before or on the date determined by the responsible Member, submit a budget for the ensuing financial year to the responsible Member, who shall table a copy of the budget in the Provincial Legislature within fourteen days after he or she has received it or, if the Provincial Legislature is not then in session, within fourteen days after the commencement of its next ensuing session. 15

(3) The Board may, in the course of a financial year, submit a supplementary budget for that financial year to the responsible Member, who shall table a copy of the budget in the Provincial Legislature within fourteen days after he or she has received it or, if the Provincial Legislature is not then in session, within fourteen days after the commencement of its next ensuing session. 20

(4) The Board shall not incur any expenditure which may cause an appropriation in terms of subsection (1) to be exceeded.

(5) Any unexpended portion of an appropriation in terms of subsection (1) at the end of a financial year shall be transferred to the Fund.

(6) The Board shall open a banking account at a bank as defined in the Banks Act, 1990 (Act 94 of 1990), and shall deposit all money received by it into that account. 25

(7) All money standing to the credit of the Fund which accrued thereto by virtue of any donation or bequest, shall be used in accordance with the conditions, if any, of the donation or bequest.

(8) Any condition of a donation referred to in subsection (7), may be altered by agreement between the donor, the Board, the responsible Member and the Member responsible for Finance. 30

(9) The responsible Member may, in consultation with the Member responsible for Finance, transfer to the Board, conditionally or otherwise, movable and immovable property belonging to the State to enable the Board to perform its functions and to achieve its objects. 35

(10) The registrar of deeds shall, at the request of the Board and on submission of the relevant title deeds and other documents, give effect to a transfer in terms of subsection (9) by making the necessary endorsements in his or her registers and on the title deeds and other documents concerned. 40

(11) No transfer duties, stamp duty, office fees or other fees shall be payable in respect of a registration contemplated in subsection (10).

Remuneration and allowances of members of Board

14. The members of the Board who are not in the full-time employment of the State shall be paid out of the funds of the Board the prescribed remuneration and allowances. 45

Remuneration and other service benefits of employees of Board

15. Subject to the Labour Relations Act, 1995 (Act 66 of 1995), and any other applicable laws, the Board may, in consultation with the responsible Member and the Member responsible for Finance—

- (a) determine and pay to, or in respect of, its employees, remuneration, allowances, bonuses, subsidies and pensions and other service benefits, and 50
- (b) determine and pay gratuities to its employees and former employees, and to the dependants of its employees and former employees, in the case of the death or injury of such employees which occurred in the course of their employment. 55

Fondse en bates van die Raad

13. (1) Die fondse en bates van die Raad bestaan uit—
- 5 (a) bewilligings deur die Provinsiale Wetgewer ooreenkomstig 'n jaarlikse begroting ingevolge subartikel (2) deur die Raad voorgelê of 'n aanvullende begroting ingevolge subartikel (3) deur die Raad voorgelê;
- (b) skenkings of bemakings deur die Raad ontvang; maar geen skenking of bemaking wat onderworpe aan enige voorwaarde is, mag ten bate van die Raad aanvaar word nie, behalwe in oorleg met die verantwoordelike Lid en die Lid verantwoordelik vir Finansies; en
- 10 (c) inkomste deur die Raad gegenereer, ooreenkomstig die bepalings van hierdie Wet.
- (2) Die Raad moet jaarliks voor of op die datum wat die verantwoordelike Lid bepaal, 'n begroting vir die daaropvolgende boekjaar aan die verantwoordelike Lid voorlê, wat 'n afskrif van die begroting binne veertien dae ná ontvangs daarvan in die
- 15 Provinsiale Wetgewer ter tafel moet lê of, indien die Provinsiale Wetgewer nie dan in sitting is nie, binne veertien dae ná die aanvang van sy daaropvolgende sitting.
- (3) Die Raad mag in die loop van 'n boekjaar 'n aanvullende begroting vir daardie boekjaar aan die verantwoordelike Lid voorlê, wat 'n afskrif van die begroting binne veertien dae ná ontvangs daarvan in die Provinsiale Wetgewer ter tafel moet lê of,
- 20 indien die Provinsiale Wetgewer nie dan in sitting is nie, binne veertien dae ná die aanvang van sy daaropvolgende sitting.
- (4) Die Raad mag geen uitgawes aangaan wat kan meebring dat 'n bewilliging ingevolge subartikel (1) oorskry word nie.
- (5) Enige gedeelte van 'n bewilliging ingevolge subartikel (1) wat aan die einde van
- 25 'n boekjaar nie bestee is nie, word na die Fonds oorgedra.
- (6) Die Raad moet 'n bankrekening open by 'n bank, soos in die Bankwet, 1990 (Wet 94 van 1990) omskryf en moet alle gelde wat dit ontvang, in daardie rekening deponeer.
- (7) Alle gelde wat tot die Fonds se krediet staan, wat die Fonds danksy enige skenking of bemaking toegeval het, moet ooreenkomstig die voorwaardes, indien
- 30 enige, van die skenking of bemaking gebruik word.
- (8) Enige voorwaarde van 'n skenking in subartikel (7) bedoel, mag gewysig word by ooreenkoms tussen die skenker, die Raad, die verantwoordelike Lid en die Lid verantwoordelik vir Finansies.
- (9) Die verantwoordelike Lid mag in oorleg met die Lid verantwoordelik vir
- 35 Finansies roerende en onroerende eiendom, wat aan die Staat behoort, voorwaardelik of andersins aan die Raad oordra, ten einde die Raad in staat te stel om sy funksies te verrig en sy doelwitte te bereik.
- (10) Die registrateur van aktes moet op versoek van die Raad en ná voorlegging van die toepaslike titelaktes en ander dokumente, uitvoering gee aan 'n oordrag ingevolge
- 40 subartikel (9) deur die nodige endossemente op sy of haar registers, asook op die betrokke titelaktes en ander dokumente aan te bring.
- (11) Geen hereregte, seëlregte, kantoorgelde of ander gelde is betaalbaar ten opsigte van 'n registrasie in subartikel (10) bedoel nie.

Vergoeding en toelaes van lede van die Raad

- 45 14. Die voorgeskrewe vergoeding en toelaes moet uit die Raad se fondse betaal word aan die lede van die Raad wat nie voltyds in diens van die Staat is nie.

Vergoeding en ander diensvoordele van werknemers van die Raad

15. Behoudens die bepalings van die Wet op Arbeidsverhoudinge, 1995 (Wet 66 van 1995) en enige ander relevante wette, mag die Raad in oorleg met die verantwoordelike
- 50 Lid en die Lid verantwoordelik vir Finansies—
- (a) vergoeding, toelaes, bonusse, subsidies en pensioene en ander diensvoordele aan of ten opsigte van sy werknemers vasstel en betaal, en
- (b) gratifikasies vasstel en betaal aan sy werknemers en voormalige werknemers en aan die afhanklikes van sy werknemers en voormalige werknemers, in die
- 55 geval van dood of besering van daardie werknemers, wat in die loop van hul diens plaasgevind het.

Delegation of powers, functions and duties

16. (1) The Board may delegate to the chief executive officer or any of its employees, any power, function or duty assigned or delegated to the Board, or conferred or imposed upon the Board, by or in terms of this Act.

(2) The delegation of a power, function or duty under subsection (1) shall not preclude the exercise of that power, the performance of that function or the carrying out of that duty by the Board. 5

(3) Any delegation under subsection (1) may at any time be amended or revoked by the Board.

CHAPTER 3:

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CAPE NATURE CONSERVATION FUND

Cape Nature Conservation Fund

17. There is hereby established a fund called the Cape Nature Conservation Fund which shall be separate from the funds of the Board and shall be credited with—

- (a) money appropriated by the Provincial Legislature for the Fund; 15
- (b) loans from money appropriated by the Provincial Legislature for the purposes of loans to the Fund;
- (c) loans from the Board;
- (d) money transferred to the Fund in terms of section 13(5);
- (e) money and investments accruing to the Fund from any other source, including money and investments donated or bequeathed by any person for the benefit of the Fund: Provided that: 20
 - (i) no money so donated or bequeathed shall, if the donation or bequest is subject to any condition, be accepted for the benefit of the Fund except under the authority of the Board acting in consultation with the responsible Member and the Member responsible for Finance; 25
 - (ii) the Fund may take over investments forming the subject-matter of donations or bequests to the Board, and retain them in the form in which they are received, or, in consultation with the responsible Member and the Member responsible for Finance, realise them and re-invest the proceeds in accordance with section 18(2) and (4), and 30
- (f) interest or dividends derived from money and investments standing to the credit of the Fund.

Money in Fund

18. (1) The Board shall open a banking account at a bank as defined in the Banks Act, 1990 (Act 94 of 1990), in the name of the Fund, and shall deposit all money received by the Fund into that account. 35

(2) The Board shall invest any money standing to the credit of the Fund which is not required for immediate use or as a reasonable working balance—

- (a) with financial institutions as defined in section 1 of the Financial Institutions (Investment of Funds) Act, 1984 (Act 39 of 1984), and 40
- (b) in listed securities as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act 1 of 1985).

(3) Any money standing to the credit of the Fund at the end of any financial year shall be carried forward to the next succeeding financial year as a credit in the Fund. 45

Utilisation of money in Fund

19. The money in the Fund shall be administered by the Board, in consultation with the responsible Member and the Member responsible for Finance, and used—

- (a) to undertake or promote any research on nature conservation in the Province or on any related matter which, in the opinion of the Board, is of material importance to nature conservation in the Province; 50
- (b) to make grants to any person or body engaged, in the Province or elsewhere, in any such research;

Delegasie van bevoegdheid, funksies en verpligtinge

16. (1) Die Raad mag enige bevoegdheid, funksie of verpligting wat deur of ingevolge hierdie Wet aan die Raad verleen, opgedra, opgelê of gedelegeer word, aan die hoof uitvoerende amptenaar of enige van die Raad se werknemers deleger.
- 5 (2) Die delegasie van 'n bevoegdheid, funksie of verpligting ingevolge subartikel (1) belet nie die Raad om daardie bevoegdheid uit te oefen of daardie funksie of verpligting uit te voer of na te kom nie.
- (3) Die Raad mag te eniger tyd enige delegasie ingevolge subartikel (1) wysig of terugtrek.

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HOOFSTUK 3:

KAAPSE NATUURBEWARINGSFONDS

Kaapse Natuurbewaringsfonds

17. 'n Fonds wat die Kaapse Natuurbewaringsfonds heet, word hierkragtens opgerig, wat afsonderlik van die Raad se fondse sal bestaan en gekrediteer sal word met—
- 15 (a) gelde wat deur die Provinsiale Wetgewer vir die Fonds bewillig is;
- (b) lenings van gelde wat deur die Provinsiale Wetgewer vir die doeleindes van lenings aan die Fonds bewillig is;
- (c) lenings by die Raad aangegaan;
- 20 (d) gelde ingevolge artikel 13(5) aan die Fonds oorgedra;
- (e) gelde en beleggings wat die Fonds uit enige ander bron toeval, insluitende gelde en beleggings deur enige persoon ten bate van die Fonds geskenk of bemaak; met dien verstande dat—
- (i) geen gelde wat sò geskenk of bemaak word, ten bate van die Fonds aanvaar mag word, indien die skenking of bemaking aan enige
- 25 voorwaarde onderworpe is nie, tensy die Raad, wat in oorleg met die verantwoordelike Lid en die Lid verantwoordelik vir Finansies optree, dit magtig;
- (ii) die Fonds beleggings wat aan die Raad geskenk of bemaak is, mag oorneem en behou in die vorm waarin hulle ontvang is, of hulle in
- 30 oorleg met die verantwoordelike Lid en die Lid verantwoordelik vir Finansies mag realiseer en die opbrengs ooreenkomstig artikel 18(2) en (4) herbelê; en
- (f) rente of dividende afkomstig van gelde en beleggings wat tot die Fonds se krediet staan.

35 Gelde in die Fonds

18. (1) Die Raad moet 'n bankrekening in die Fonds se naam open by 'n bank, soos in die Bankwet, 1990 (Wet 94 van 1990) omskryf en moet alle gelde wat die Fonds ontvang, in daardie rekening deponeer.
- (2) Die Raad moet enige gelde wat tot die Fonds se krediet staan, wat nie vir
- 40 onmiddellike gebruik of as 'n redelike bedryfsbalans nodig is nie, belê—
- (a) by finansiële instellings, soos omskryf in artikel 1 van die Wet op Finansiële Instellings (Belegging van Fondse), 1984 (Wet 39 van 1984), en
- (b) in gelyste sekuriteite, soos omskryf in artikel 1 van die Wet op die Beheer van Aandelebeurse, 1985 (Wet 1 van 1985).
- 45 (3) Gelde wat aan die einde van 'n boekjaar in die Fonds se krediet staan, moet as 'n krediet ten opsigte van die Fonds na die daaropvolgende boekjaar oorgedra word.

Aanwending van gelde in die Fonds

19. Die gelde in die Fonds moet deur die Raad in oorleg met die verantwoordelike Lid en die Lid verantwoordelik vir Finansies geadministreer word en gebruik word—
- 50 (a) om enige navorsing omtrent natuurbewaring in die Provinsie of enige aanverwante aangeleentheid te onderneem of te bevorder, wat na die Raad se mening van wesenlike belang vir natuurbewaring in die Provinsie is;
- (b) om skenkings te doen aan enige persoon of liggaam wat in die Provinsie of elders sulke navorsing doen;

- (c) to foster the training of persons required to undertake any such research or of persons receiving education in connection with any matter of the sort referred to in paragraph (a), whether by the granting of study loans or bursaries or otherwise;
 - (d) to establish and control facilities for the collection and dissemination of information of a technical nature in connection with any matter relating to nature conservation; 5
 - (e) generally, to provide any service which the Board considers it necessary to provide in connection with any such research or training as is referred to in paragraph (a) or (c) or to further the objects of the Board, and 10
 - (f) to defray the expenses incurred by the Board in the administration of the Fund.
- (2) All money standing to the credit of the Fund which accrued thereto by virtue of any donation or bequest, shall be used in accordance with the conditions, if any, of the donation or bequest.
- (3) Any condition of a donation referred to in subsection (2), may be altered by agreement between the donor and the responsible Member, acting in consultation with the Member responsible for Finance. 15

Financial matters and reports

20. The provisions of sections 11, 12 and 13(2) and (3) shall apply *mutatis mutandis* to the Fund. 20

CHAPTER 4:

GENERAL PROVISIONS

Regulations

21. The responsible Member may, after consultation with the Board, make regulations in respect of any matter which may be dealt with by the responsible Member in terms of this Act, and in respect of any matter which he or she may deem necessary for the better achievement of the objects of this Act: Provided that regulations with financial implications shall be made in consultation with the Member responsible for Finance. 25

Diligent performance of obligations

22. All obligations imposed by or pursuant to this Act shall be performed diligently and without delay. 30

Short title and commencement

23. This Act shall be called the Cape Nature Conservation Board Act, 1997, and shall come into operation on a date fixed by the Premier by proclamation in the *Provincial Gazette*. 35

- (c) om die opleiding te bevorder van persone wat nodig is om sulke navorsing te doen of persone wat onderrig ontvang omtrent enige tipe aangeleentheid in paragraaf (a) bedoel, hetsy deur die toestaan van studieleenings of beurse of andersins.
- 5 (d) om fasiliteite vir die insameling en verspreiding van inligting van 'n tegniese aard in verband met enige aangeleentheid met betrekking tot natuurbewaring daar te stel en te beheer;
- (e) om in die algemeen enige diens te lewer wat na die Raad se mening nodig is in verband met enige navorsing of opleiding, soos in paragraaf (a) of (c)
- 10 bedoel of om die oogmerke van die Raad te bevorder; en
- (f) om die Raad se onkoste ten opsigte van die administrasie van die Fonds te betaal.
- (2) Alle gelde wat tot die Fonds se krediet staan, wat die Fonds danksy enige skenking of bemaking toegeval het, moet ooreenkomstig die voorwaardes, indien
- 15 enige, van die skenking of bemaking gebruik word.
- (3) Enige voorwaarde van toepassing op 'n skenking in subartikel (2) bedoel, mag by ooreenkoms tussen die skenker en die verantwoordelike Lid, in oorleg met die Lid verantwoordelik vir Finansies gewysig word.

Finansiële aangeleenthede en verslae

- 20 20. Die bepalings van artikels 11, 12 en 13(2) en (3) is *mutatis mutandis* op die Fonds van toepassing.

HOOFSTUK 4:

ALGEMENE BEPALINGS

Regulasies

- 25 21. Die verantwoordelike Lid kan, ná oorlegpleging met die Raad, regulasies uitvaardig met betrekking tot enige aangeleentheid waarmee die verantwoordelike Lid ingevolge hierdie Wet mag handel en ten opsigte van enige aangeleentheid wat hy of sy nodig ag ten einde die oogmerke van hierdie Wet beter te bereik; maar regulasies met
- 30 finansiële implikasies moet in oorleg met die Lid verantwoordelik vir Finansies uitgevaardig word.

Sorgvuldige nakoming van verpligtinge

22. Alle verpligtinge wat deur of ingevolge hierdie Wet opgedra word, moet sorgvuldig en sonder versuim uitgevoer word.

Kort titel en inwerkingtreding

- 35 23. Hierdie Wet heet die Wet op die Kaapse Natuurbewaringsraad, 1997, en tree in werking op 'n datum wat deur die Premier by proklamasie in die *Provinsiale Koerant* vasgestel sal word.

