



Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

IPHONDO LENTSHONA KOLONI

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(*Reprints are obtainable at Room M21, Provincial Legislature Building, 7 Wale Street, Cape Town 8001.)

Provincial Notice

The following Draft Bill is published for comment:

- 16 Draft Western Cape Museums Ordinance Amendment Bill, 2020 2

Any person or organisation wishing to comment on the draft Bill is requested to submit the comment in writing before or on 30 March 2020—

- (a) by posting it to:
Chief Director: Cultural Affairs
Department of Cultural Affairs and Sport
Private Bag X9067
Cape Town 8000;
- (b) by hand delivery to:
Chief Director: Cultural Affairs
Department of Cultural Affairs and Sport
7th Floor
Protea Assurance Building
Green Market Square
Cape Town 8001;
- (c) by e-mailing it to:
Guy.Redman@westerncape.gov.za; or
- (d) by faxing it to:
021 483 9845.

All correspondence is for the attention of: Mr Guy Redman.

For enquiries, phone 021 483 9507.

INHOUD

(*Afskrifte is verkrygbaar by Kamer M21, Provinsiale Wetgewer-gebou, Waalstraat 7, Kaapstad 8001.)

Provinsiale Kennisgewing

Die volgende Konsepwetsontwerp word vir kommentaar gepubliseer:

- 16 Wes-Kaapse Konsepwysigingswetsontwerp op die Museumordonnansie, 202044

Enige persoon of organisasie wat kommentaar op die Konsepwetsontwerp wil lewer, word versoek om die kommentaar skriftelik in te dien voor of op 30 Maart 2020—

- (a) deur dit te pos aan:
Hoofdirekteur: Kultuursake
Departement van Kultuursake en Sport
Privaat Sak X9067
Kaapstad 8000;
- (b) deur dit per hand af te lewer aan:
Hoofdirekteur: Kultuursake
Departement van Kultuursake en Sport
7de Verdieping
Protea Assuransie-gebou
Groentemarkplein
Kaapstad 8001;
- (c) deur dit te e-pos na:
Guy.Redman@westerncape.gov.za; of
- (d) deur dit te faks na:
021 483 9845.

Alle korrespondensie is vir die aandag van: mnr Guy Redman.

Vir navrae, skakel 021 483 9507.

IZIQUATHO

(*Ushicilelo olutsha lufumaneka kwiGumbi M21, kwiSakhiwo sePhondo seNdlu yoWiso Mthetho, 7 Wale Street, eKapa 8001.)

ISaziso sePhondo

Olu qulunqo lulandelayo loMthetho oSayilwayo lupapapshelwa ukufumana izimvo:

- 16 UMthetho oSayilwayo woLungiso loMmiselo weeMyuziyam weNtshona Koloni, 202088

Nabani na okanye nawuphi na umbutho onqwenela ukuvakalisa izimvo ngolu Qulunqo loMthetho oSayilwayo uyacelwa ukuba afake izimvo zakhe ezibhaliweyo phambi okanye ngomhla wesi-6 kwekaTshazimpuzi 2020—

- (a) ngokuposela izimvo zakhe ku:-
UMlawuli oyiNtloko: Cultural Affairs
Department of Cultural Affairs and Sport
Private Bag X9067
Cape Town 8000;
- (b) ngokuzisa ngesandla ku:-
UMlawuli oyiNtloko: Cultural Affairs
Department of Cultural Affairs and Sport
7th Floor
Protea Assurance Building
Green Market Square
Cape Town 8001;
- (c) ngokuzi imeyilela ku:-
Guy.Redman@westerncape.gov.za; okanye
- (d) ngokuzifeksela ku:-
021 483 9845.

Zonke iimbalelwano mazingqaliswe ku:- Mnu.Guy Redman.

Malunga nemibuzo, tsalela ku-021 483 9507.

PROVINCIAL NOTICE

The following Provincial Notice is published for comment.

MR H.C. MALILA,
DIRECTOR-GENERAL

Provincial Legislature Building,
Wale Street,
Cape Town.

PROVINSIALE KENNISGEWING

Die volgende Provinsiale Kennisgewing word vir kommentaar gepubliseer.

MNR H.C. MALILA,
DIREKTEUR-GENERAAL

Provinsiale Wetgewer-gebou,
Waalstraat,
Kaapstad.

ISAZISO SEPHONDO

Esi saziso silandelayo sipapashelwe ukunika izimvo.

MNU H.C. MALILA,
MLAWULI-JIKELELE

ISakhiwo sePhondo,
Wale Street,
eKapa.

PROVINCIAL NOTICE

P.N. 16/2020

28 February 2020

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

DRAFT WESTERN CAPE MUSEUMS ORDINANCE AMENDMENT BILL, 2020

To amend the Museums Ordinance, 1975 (Ordinance 8 of 1975), so as to substitute, delete and insert certain definitions; to make further provision for the establishment of a provincial museum; to make different provision for the constitution of management committees; to make different provision for the tenure of office of members of a management committee; to provide for the disqualification for membership of a management committee; to make provision for the designation of a chairperson of a management committee; to make different provision for the quorum for meetings of a management committee; to make provision for decision-making by a management committee; to make different provision for a management committee to determine and charge admission fees for entry to a provincial museum; to make different provision for the appointment of staff of a provincial museum; to make different provision for the acceptance of donations and bequests in connection with provincial museums; to regulate moneys collected by a provincial museum; to make further provision for the abolition of a provincial museum; to make further provision for the declaration of a museum to be a province-aided museum; to make different provision for the constitution of a board; to make different provision for the tenure of office of members of a board; to make different provision for vacancies on a board and the filling thereof; to provide for the designation of a chairperson of a board; to make different provision for the quorum for meetings of a board; to make provision for decision-making by a board; to make different provision for the submission of an annual report by a board; to make different provision for the determination of the staff establishment of a province-aided museum; to make different provision for the appointment of staff of a province-aided museum; to empower a board to retain staff beyond their retirement age; to repeal certain sections; to make further provision for the payment of subsidies to boards; to make provision for the payment of additional funds to a board; to make further provision for the raising of loans by a board; to make different provision for the investment of money by a board; to make different

provision for the auditing of the accounts of a province-aided museum; to regulate financial misconduct by a board; to make further provision for the declaration of a museum to be a local museum; to make different provision for the constitution of a control board; to make different provision for the tenure of office of members of a control board; to provide for the designation of a chairperson of a control board; to provide for the quorum for meetings of a control board; to provide for decision-making by a control board; to make further provision for the payment of grants to control boards; to make different provision for the making of regulations under the ordinance; to make further provision for a province-aided or local museum to be established as a provincial museum; to make further provision for the abolition of a province-aided or local museum; to make different provision for the delegation of powers; to substitute certain expressions; to amend the long title of the ordinance; to provide for savings and transitional provisions; to effect certain textual improvements; and to provide for matters incidental thereto.

BE IT ENACTED by the Western Cape Provincial Parliament, as follows:—

Amendment of section 1 of Ordinance 8 of 1975, as amended by Proclamation 87 of 1978 and section 1 of Ordinance 13 of 1982

1. Section 1 of the Museums Ordinance, 1975 (Ordinance 8 of 1975)(the principal Ordinance), is amended—

- (a) by the deletion in subsection (1) of the definition of “Administration”;
- (b) by the substitution in subsection (1) for the definition of “appointed member” of the following definition:

“ ‘appointed member’ means a person appointed in terms of section 3 (1) (a), (2) or (3) to be a member of a management committee [**or deemed to be such a member in terms of section 9 (2)]**;”;
- (c) by the insertion in subsection (1) after the definition of “appointed member” of the following definition:

“ ‘auditor’ means a person registered as an auditor in terms of the Auditing Profession Act, 2005 (Act 26 of 2005);”;
- (d) by the deletion in subsection (1) of the definition of “classified post”;
- (e) by the substitution in subsection (1) for the definition of “council” of the following definition:

“ ‘council’ means a municipal council referred to in section 157 of the Constitution of the Republic of South Africa, 1996;”;

- (f) by the substitution in subsection (1) for the definition of “Department” of the following definition:

“ ‘Department’ means the **[Department of Nature and Environmental Conservation]** provincial department responsible for museums, other than national museums, in the Province;”;
- (g) by the deletion in subsection (1) of the definition of “director”;
- (h) by the deletion in subsection (1) of the definition of “employee”;
- (i) by the insertion in subsection (1) before the definition of “life subscriber” of the following definition:

“ ‘financial year’ means a year ending on 31 March;”;
- (j) by the substitution in subsection (1) for the definition of “municipal area” of the following definition:

“ ‘municipal area’ means the area **[under the jurisdiction and control]** of a **[council]** municipality determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act 27 of 1998);”;
- (k) by the insertion in subsection (1) after the definition of “municipal area” of the following definition:

“ ‘municipality’ means a municipality as described in section 2 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);”;
- (l) by the substitution in subsection (1) for the definition of “museum” of the following definition:

“ ‘museum’ means a permanent institution not operating for profit that is open to the public and acquires, conserves, researches, communicates and exhibits for purposes of study, education and enjoyment, tangible and intangible material evidence of the heritage of people and their environment, but excludes any institution that is subject to the Cultural Institutions Act, 1998 (Act 119 of 1998);”;
- (m) by the deletion in subsection (1) of the definition of “non-classified post”;
- (n) by the deletion in subsection (1) of the definition of “official”; and
- (o) by the insertion in subsection (1) after the definition of “prescribed” of the following definitions:

“ ‘Province’ means the Province of the Western Cape;
‘Provincial Government’ means the Western Cape Government;
‘Provincial Minister’ means the member of the Provincial Cabinet responsible for museums, other than national museums, in the Province;”.

Substitution of section 2 of Ordinance 8 of 1975

2. The following section is substituted for section 2 of the principal Ordinance:

“Establishment of provincial museums.

2. (1) The Provincial Minister may, to protect and promote the heritage of the Province, and having considered the operational needs of the Department, by proclamation in the *Provincial Gazette*, establish a provincial museum —

- (a) on land or in buildings under the control or management of the Provincial Government, or
- (b) on land or in buildings acquired by the Provincial Government.

(2) The Provincial Government may, from moneys appropriated by the Provincial Parliament for the purpose, acquire land or buildings that the Provincial Government considers necessary or suitable for the purpose of establishing a provincial museum thereon or therein.

(3) The Provincial Minister may, from moneys appropriated by the Provincial Parliament for the purpose, acquire any specimen or other object or any collection for the purpose of conservation, research, communication or exhibition in a provincial museum established or to be established under this section.

(4) The Provincial Minister may —

- (a) when establishing a provincial museum under this section, assign a name to such museum, or
- (b) alter the name assigned to any provincial museum.”.

Amendment of section 3 of Ordinance 8 of 1975, as amended by section 2 of Ordinance 13 of 1982

3. Section 3 of the principal Ordinance is amended by the substitution for subsection (1) of the following subsection:

“3. (1) Every provincial museum shall be subject to the directions of the Department and shall be under the control and management of a management committee consisting of at least six members, of whom —

- (a) four shall be persons appointed by the **[Administrator]** Provincial Minister by reason of their experience in corporate governance or special knowledge of matters concerning museums, and
- (b) two shall be **[officers, officials or]** employees in the Department, designated for the purpose by the **[Director of Nature and Environmental Conservation]** Head of the Department.”.

Substitution of section 4 of Ordinance 8 of 1975

4. The following section is substituted for section 4 of the principal Ordinance:

“Tenure of office of and payment of allowances to members of a management committee.

4. (1) Every appointed member shall hold office for a period of **[two]** ~~three~~ years and shall at the expiration of such period be eligible for re-appointment.

(2) The members of a management committee other than appointed members shall hold office **[during the Director’s pleasure]** ~~for such period as the Provincial Minister may determine.~~

(3) A vacancy occurs in a management committee if an appointed member —

- (a) resigns from office by submitting his or her resignation in writing to the Provincial Minister;
- (b) has been absent without the leave of the chairperson or, where applicable, acting chairperson from two consecutive meetings of the management committee;
- (c) becomes incapable of exercising or performing his or her powers, duties or functions as a member of the management committee due to mental illness as defined in the Mental Health Care Act, 2002 (Act 17 of 2002);
- (d) becomes an unrehabilitated insolvent;
- (e) is convicted of an offence and sentenced to 12 months’ imprisonment or more without the option of a fine, or
- (f) is removed from office after the termination of his or her period of office by the Provincial Minister.

(3A) The Provincial Minister may terminate an appointed member’s period of office only on the grounds of misconduct, incapacity or incompetence.

(4) **[Any]** A vacancy in the office of an appointed member shall be filled by the appointment of a successor by the [Administrator] Provincial Minister in accordance with section 3, and such successor shall hold office for the unexpired period of office of his or her predecessor; provided that the Provincial Minister may refuse to fill a vacancy in the office of a member appointed in terms of section 3(2) or 3(3).

(5) Every appointed member may, from moneys appropriated by the Provincial **[Council]** Parliament for the purpose, be paid such allowance in respect of his or her services as **[may be prescribed]** the Provincial Minister

may determine in consultation with the provincial minister responsible for finance in the Province.”.

Insertion of section 4A in Ordinance 8 of 1975

5. The principal Ordinance is amended by the insertion after section 4 of the following section:

“Disqualification for membership of a management committee.

4A. No person shall be eligible for appointment as a member of a management committee if —

- (a) he or she is not a South African citizen, unless the Provincial Minister has authorised such appointment, or
- (b) he or she has been convicted of an offence and sentenced to 12 months’ imprisonment or more without the option of a fine.

Amendment of section 5 of Ordinance 8 of 1975

6. Section 5 of the principal Ordinance is amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) The **[members of every newly constituted management committee]** Provincial Minister shall **[at the first meeting of such committee]**, when he or she appoints the members contemplated by section 3 (1) (a), **[elect]** designate one of **[the appointed]** those members to be **[chairman]** chairperson of the management committee concerned, and such **[chairman]** chairperson shall hold office as such **[during]** for the duration of his or her term of office as a member of the committee.”;

(b) by the substitution for subsection (2) of the following subsection:

“(2) If the **[chairman]** chairperson of a committee vacates his or her office before the expiration of the period for which he or she was appointed **[a member of the committee]**, the Provincial Minister shall, at the first meeting of the committee after the date on which the chairperson vacated his or her office, designate another **[appointed]** member **[shall, in accordance with the provisions of subsection (1), be elected]** contemplated by section 3 (1) (a) to be **[chairman]** chairperson of the committee.”;

(c) by the substitution for paragraph (b) of subsection (3) of the following paragraph:

- “(b) unable or **[unwilling]** unavailable to perform his or her functions as **[chairman]** chairperson.”;
- (d) by the substitution for the word “or” at the end of item (aa) of subsection (3) with the word “and”; and
- (e) by the substitution for item (bb) of subsection (3) of the following item:
- “(bb) exercise and perform all the powers, duties and functions of the **[chairman]** chairperson until the **[chairman]** chairperson is able or **[willing]** available to exercise and perform his or her powers, duties and functions
- [, as the case may be].”.**

Substitution of section 6 of Ordinance 8 of 1975, as substituted by section 3 of Ordinance 13 of 1982

7. The following section is substituted for section 6 of the principal Ordinance:

“Quorum and decisions of a management committee.

6. (1) The quorum for a meeting of a management committee shall be **[one half]** fifty percent plus one of the total number of members of such committee (fractions to be disregarded).

(2) A management committee must attempt to reach its decisions by consensus.

(3) If a management committee fails to reach consensus, it may decide a matter by voting.

(4) A decision of a management committee by voting is taken by fifty percent plus one of the members present at the meeting (fractions to be disregarded).”.

Amendment of section 7 of Ordinance 8 of 1975

8. Section 7 of the principal Ordinance is amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“A management committee has **[The]** the following powers, duties and functions **[of a management committee shall be —]**”;

- (b) by the substitution for paragraph (e) of subsection (1) of the following paragraph:

“(e) to determine, subject to the approval of the **[Administrator]** Head of the Department, the hours during which and the conditions **[and**

restrictions] subject to which members of the public **[or any group of persons or persons belonging to a particular race or class]** may visit the museum or any part thereof **[and, subject to the provisions of subsection (2), the charges for admission payable by visitors to such museum, and]**”;

(c) by the insertion after paragraph (e) of subsection (1) of the following paragraph:

“(eA) to determine, subject to the provisions of subsection (2), the admission fees payable by visitors to the museum, and”;

(d) by the substitution for subsection (2) of the following subsection:

“(2)(a) A management committee may determine and charge admission fees for entry to its museum, subject to the approval of the Provincial Minister.

(b) The approval of the Provincial Minister contemplated by paragraph (a) must be given in consultation with the provincial minister responsible for finance in the Province.”; and

(e) by the addition of the following subsection:

“(3) A management committee may in the determination contemplated by subsection (2) (a) make provision that entry to the museum concerned is free of charge —

(a) on specific days, or

(b) for specific groups of persons.”.

Amendment of section 8 of Ordinance 8 of 1975

9. Section 8 of the principal Ordinance is amended—

(a) by the substitution for subsection (1) of the following subsection:

“8. [(1)] The [Administrator] Head of the Department may, subject to the law governing the [Provincial] Public Service, appoint such [officials or] employees as may be necessary for the exercise and performance by a management committee of its powers, duties and functions and for the maintenance, management, control and development of a provincial museum.”; and

(b) by the deletion of subsections (2), (3) and (4).

Substitution of section 9 of Ordinance 8 of 1975, as amended by section 4 of Ordinance 13 of 1982

10. The following section is substituted for section 9 of the principal Ordinance:

“Donations and bequests.

9. A donation or bequest by any person, whether subject to conditions, reservations or restrictions or not, of any movable or immovable property to the Province, the Provincial Government, a management committee or a provincial museum for the purpose of being used as, by, in connection with or for the purpose of a provincial museum may be accepted subject to and in accordance with the Public Finance Management Act, 1999 (Act 1 of 1999).

Substitution of section 10 of Ordinance 8 of 1975

11. The following section is substituted for section 10 of the principal Ordinance:

“Moneys **[donated or bequeathed to]** collected by a provincial museum **[to be paid into Provincial Revenue Fund and thereafter made available to museum]**.”

10. All moneys **[donated or bequeathed to]** collected by a provincial museum or **[to]** by the management committee of a provincial museum shall be paid into the Provincial Revenue Fund and shall thereafter in such manner as may be determined by the **[Administrator]** Head of the Department and on the request of the management committee concerned be made available to such management committee for use in connection with the museum concerned.”.

Repeal of section 10A of Ordinance 8 of 1975, as inserted by section 5 of Ordinance 13 of 1982

12. Section 10A of the principal Ordinance is repealed.

Substitution of section 11 of Ordinance 8 of 1975

13. The following section is substituted for section 11 of the principal Ordinance:

“Abolition of provincial museum.

11. (1) The Provincial Minister may, if he or she deems it necessary, by proclamation in the *Provincial Gazette*, abolish a provincial museum with effect from a date specified in the proclamation, after considering the following:

- (a) the sustainability of the museum concerned;
- (b) the operational needs of the Department, and
- (c) the comments contemplated by subsection (2) (b).

(2) Before the Provincial Minister publishes the proclamation, the Provincial Minister shall —

- (a) consult the management committee of the provincial museum concerned, and
- (b) by notice in the *Provincial Gazette*, invite comments from the public on the proposed abolition of the provincial museum concerned.

(3) When the Provincial Minister abolishes a provincial museum, the provincial museum is disestablished, and the management committee of such museum is dissolved.”.

Amendment of section 12 of Ordinance 8 of 1975

14. Section 12 of the principal Ordinance is amended by the substitution for subsection (3) of the following subsection:

“(3) If the **[Administrator]** Provincial Minister is of the opinion that —

- (a) a building suitable to be used as a museum is available to the applicant;
- (b) the museum has at least a nucleus of a collection;
- (c) the museum will be able to develop a theme to be decided upon by a board constituted for such museum in terms of section 15 **[, and]**;
- (d) the moneys available together with any subsidy in terms of section 29 will be adequate for the proper conduct and management of the museum~~[,]~~;
- (e) the operational needs of the Department require the declaration of the museum to be a province-aided museum, and
- (f) if declared to be a province-aided museum, the museum will protect and promote the heritage of the Province.

he or she may, by proclamation in the *Provincial Gazette*, declare such museum to be a province-aided museum and, in consultation with the applicant, assign a name to such museum.”.

Substitution of section 15 of Ordinance 8 of 1975, as amended by Proclamation 87 of 1978 and section 4 of Ordinance 11 of 1979

15. The following section is substituted for section 15 of the principal Ordinance:

“Constitution of a board.

15. (1) Subject to the other subsections of this section, a board shall consist of —

- (a) three members appointed by the Provincial Minister by reason of their experience in corporate governance or special knowledge of matters concerning museums;
- (b) where the museum concerned is situated —
 - (i) in the municipal area of a metropolitan municipality, one member nominated by the council of the metropolitan municipality concerned, appointed by the Provincial Minister, or
 - (ii) in the municipal area of a local municipality, one member nominated by the council of the local municipality concerned and one member nominated by the council of the district municipality in whose municipal area such local municipality is situated, both appointed by the Provincial Minister;
- (c) one member nominated by subscribers to the museum concerned, appointed by the Provincial Minister, and
- (d) one employee in the Department designated for the purpose by the Head of the Department, appointed by the Provincial Minister.

(2) The board of the Huguenot Memorial Museum at Franschhoek shall consist of —

- (a) four members appointed by the Provincial Minister by reason of their experience in corporate governance or special knowledge of matters concerning museums;
- (b) one member nominated by the council of the local municipality in whose municipal area the museum is situated and one member nominated by the council of the district municipality in whose municipal area the local municipality is situated, both appointed by the Provincial Minister;
- (c) one member nominated by subscribers to the museum, appointed by the Provincial Minister, and
- (d) one employee in the Department designated for the purpose by the Head of the Department, appointed by the Provincial Minister.

(3) The board of the Congo Caves Museum at Oudtshoorn shall consist of —

- (a) four members appointed by the Provincial Minister by reason of their experience in corporate governance or special knowledge of matters concerning museums;
 - (b) three members nominated by the council of the local municipality in whose municipal area the museum is situated and one member nominated by the council of the district municipality in whose municipal area the local municipality is situated, all appointed by the Provincial Minister, and
 - (c) one employee in the Department designated for the purpose by the Head of the Department, appointed by the Provincial Minister.
- (4) The board of the Oude Kerk Volksmuseum van 'T Land van Waveren (Tulbagh) at Tulbagh shall consist of —
- (a) three members appointed by the Provincial Minister by reason of their experience in corporate governance or special knowledge of matters concerning museums;
 - (b) one member nominated by the council of the local municipality in whose municipal area the museum is situated and one member nominated by the council of the district municipality in whose municipal area the local municipality is situated, both appointed by the Provincial Minister;
 - (c) one member nominated by the church council of the Dutch Reformed Congregation at Tulbagh, appointed by the Provincial Minister;
 - (d) one member nominated by subscribers to the museum, appointed by the Provincial Minister, and
 - (e) one employee in the Department designated for the purpose by the Head of the Department, appointed by the Provincial Minister.
- (5) The Provincial Minister may, in addition to the members of a board referred to in subsection (1), (2), (3) or (4), as the case may be, appoint any person a member of any such board by reason of any special services rendered to the museum concerned by such person or by any organisation represented by such person or for any other reason he or she considers adequate."

Substitution of section 16 of Ordinance 8 of 1975, as amended by section 5 of Ordinance 11 of 1979

16. The following section is substituted for section 16 of the principal Ordinance:

"Tenure of office of members of a board.

16. (1) A member of a board —

- (a) appointed in terms of section 15 (1) (a), (2) (a), (3) (a) or (4) (a) shall hold office for a period of three years;
- (b) appointed in terms of section 15 (1) (c), (2) (c) or (4) (d) shall hold office until the next nomination of such a member for appointment by the Provincial Minister at a meeting held in terms of section 21 (2);
- (c) appointed in terms of section 15 (4) (c) shall hold office for such period as the church council of the Dutch Reformed Congregation at Tulbagh may determine, and
- (d) other than a member contemplated by paragraphs (a), (b) and (c) shall hold office for such period as the Provincial Minister may determine.

(2) **[Any]** A member of a board appointed in terms of section 15 (1) (a), (2) (a), (3) (a) or (4) (a) whose period of office has expired shall be eligible for re-appointment **[or re-election, as the case may be]**.

Substitution of section 17 of Ordinance 8 of 1975

17. The following section is substituted for section 17 of the principal Ordinance:

“Vacancies on board and filling thereof.

17. (1) The provisions of section 4 (3) and (3A) shall apply **[mutatis mutandis]**, with the necessary changes required by the context, in respect of a member of a board.

(2) A vacancy in the office of a member of a board shall be filled by the appointment **[or election]** of a successor by the **[person or body who or which appointed or elected the predecessor of the person to be so appointed or elected]** Provincial Minister in accordance with section 15; provided that the **[Administrator]** Provincial Minister may refuse to fill a vacancy in the office of a member appointed in terms of section 15 (5).

(3) Any member of a board who has been appointed **[or elected]** in terms of subsection (2) shall hold office for the unexpired period of office of his or her predecessor.”.

Substitution of section 18 of Ordinance 8 of 1975

18. The following section is substituted for section 18 of the principal Ordinance:

“Disqualification for membership of a board.

18. No person shall be eligible for appointment **[or election]** as a member of a board if —

- (a) he or she is not a South African citizen, unless the **[Administrator Provincial Minister]** has **[authorized]** authorised such appointment **[or election];** or
- (b) **[within the preceding five years]** he or she has been convicted of an offence and sentenced to 12 months’ imprisonment or more without the option of a fine.”.

Insertion of section 18A in Ordinance 8 of 1975

19. The principal Ordinance is amended by the insertion of the following section after section 18:

“Chairperson of a board.

18A. (1) The Provincial Minister shall, when he or she appoints the members contemplated by section 15 (1) (a), (2) (a), (3) (a) or (4) (a), designate —

- (a) one of those members to be chairperson, and
- (b) another of those members to be deputy chairperson,

of the board, and such chairperson and deputy chairperson shall hold office as such for the duration of their term of office as members of the board.

(2) If the chairperson or deputy chairperson of a board vacates his or her office before the expiration of the period for which he or she was appointed, the Provincial Minister shall, at the first meeting of the board after the date on which the chairperson or deputy chairperson vacated his or her office, designate another member contemplated by section 15 (1) (a), (2) (a), (3) (a) or (4) (a), as the case may be, to be chairperson or deputy chairperson of the board, as the case may be.

(3) Whenever the chairperson is —

- (a) absent from a meeting of the board, or
- (b) unable or unavailable to perform his or her functions as chairperson,

the deputy chairperson shall —

- (i) preside at such meeting, and
- (ii) exercise and perform all the powers, duties and functions of the chairperson until the chairperson is able or available to exercise and perform his or her powers, duties and functions.

Substitution of section 19 of Ordinance 8 of 1975

20. The following section is substituted for section 19 of the principal Ordinance:

“Quorum and decisions of a board.

19. The provisions of section 6 shall apply, with the necessary changes required by the context, in respect of a meeting of a board.”.

Amendment of section 20 of Ordinance 8 of 1975, as amended by section 1 of Ordinance 9 of 1983 and Proclamation 149 of 1993

21. Section 20 of the principal Ordinance is amended by the substitution for subsection (2) of the following subsection:

“(2) A board may appoint such committees and sub-committees as it may deem necessary **[or desirable]**, and any such committee or sub-committee shall exercise such powers and perform such duties and functions as the board may delegate to it or as may be prescribed.”.

Amendment of section 21 of Ordinance 8 of 1975, as amended by section 2 of Ordinance 9 of 1983

22. Section 21 of the principal Ordinance is amended—

(a) by the substitution for subsection (1) of the following subsection:

“21. (1) Every board shall **[as soon as possible after the thirty-first day of March of each year]** annually within two months after the end of the financial year prepare and submit to the **[Administrator]** Head of the Department a report on its activities and the conduct and management of the museum together with **[a statement]** financial statements of its income and expenditure during the previous financial year.”;

(b) by the substitution in paragraph (a) of subsection (2) for the expression “statement” of the expression “financial statements”;

(c) by the substitution for paragraph (b) of subsection (2) of the following paragraph:

“(b) the member **[or members]** of the board contemplated by section 15 (1) (c) **[or]**, (2) (c) or (4) (d), as the case may be, shall be **[elected]** nominated for appointment by the Provincial Minister.”;
and

(d) by the substitution for subsection (3) of the following subsection:

“(3) Every subscriber shall be given notice of a general meeting referred to in subsection (2) by letter sent to him or her by ordinary post or electronic mail at least seven days before the date of such meeting.”.

Substitution of section 24 of Ordinance 8 of 1975

23. The following section is substituted for section 24 of the principal Ordinance:

“Staff establishment.

24. (1) The **[Administrator]** Head of the Department shall determine the staff establishment of a province-aided museum and the grading of posts on such establishment **[and shall make provision on such establishment for a post of director of the museum concerned]**.

(2) Subject to the provisions of section 25 **[(c)]** (2), no board shall appoint **[or engage]** any staff in **[excess of]** addition to the staff establishment determined for the museum, without the prior written consent of the Head of the Department.”.

Substitution of section 25 of Ordinance 8 of 1975, as amended by Proclamation 149 of 1993

24. The following section is substituted for section 25 of the principal Ordinance:

“Appointment and termination of service of staff.

25. (1) A board may, subject to applicable laws governing the appointment and termination of service of staff —

- (a) appoint staff in accordance with the staff establishment referred to in section 24 (1), or
- (b) terminate the service of staff so appointed.

(2) A board that wishes to appoint staff in addition to the staff establishment determined for the museum concerned shall apply to the Head of

the Department for consent to do so by submitting a written application to the Department.

(3) The Head of the Department may grant the consent if he or she is of the opinion that, having considered the following, the additional staff is necessary for the board to exercise and perform its powers, duties and functions:

- (a) the financial implications of the proposed appointment of the additional staff;
- (b) the need for specific skills or expertise in the museum concerned, and
- (c) whether the appointment of additional staff will meet the need for the specific skills or expertise.

Amendment of section 26 of Ordinance 8 of 1975

25. Section 26 of the principal Ordinance is amended by the addition of the following subsection, the existing section becoming subsection (1):

“(2) A board may, if it is in the interest of the museum concerned, subject to applicable legislation governing the retirement of staff and in accordance with the regulations contemplated by subsection (1), retain a staff member in his or her position beyond the age at which he or she is required to retire, with his or her consent and with the approval of the Head of the Department, from time to time for further periods, which shall not exceed an aggregate period as may be prescribed.”.

Repeal of sections 27 and 28 of Ordinance 8 of 1975

26. Sections 27 and 28 of the principal Ordinance are repealed.

Substitution of section 29 of Ordinance 8 of 1975

27. The following section is substituted for section 29 of the principal Ordinance:

“Subsidies.

29. (1) The Head of the Department shall, from moneys appropriated by the Provincial Parliament for the purpose, pay to every board, except the board of the Cango Caves Museum referred to in section 15 (3), an annual subsidy,

subject to such conditions as the Head of the Department may impose, to be used for the purposes of the museum concerned.

(2) Notwithstanding subsection (1), the Head of the Department may, on good grounds and the availability of sufficient funds to the Department for the purpose, grant a subsidy to the board of the Cango Caves Museum to be used for the purposes of the museum.

(3) The amount of any subsidy paid to a board under subsection (1) or (2), as the case may be, shall be used by the board only for the payment of —

- (a) salaries, wages and allowances, and
- (b) the maintenance costs of the museum concerned.

(4) In order to obtain a subsidy payable in terms of this section, a board shall —

- (a) by such date and in such manner as the Head of the Department may direct, submit to the Department an estimate of the expenses of the board contemplated by subsection (3) for the following financial year, together with its plan on how it intends to exercise and perform its powers, duties and functions in the following financial year, and
- (b) in respect of the board of the Cango Caves Museum, also submit a written statement setting out the reasons why a subsidy is requested.

(5) If the information in the estimate, plan or, where applicable, the statement is insufficient to such an extent that the Head of the Department is unable to make a determination or consideration as contemplated by subsection (6) or (7) (a), respectively, the Head of the Department may —

- (a) where the insufficiency may be remedied by the submission of additional information, request the board concerned to submit additional information to the Department, or
- (b) where the insufficiency is so substantial that it is not capable of being remedied by the submission of additional information, request the board concerned to submit a new estimate, new plan or, where applicable, new statement to the Department,

by such date and in such manner as the Head of the Department may direct.

(6) On receipt of the estimate and plan and, where applicable, the additional information, new estimate or new plan, as the case may be, the Head of the Department shall, subject to subsection (7), determine and approve the amount of the subsidy payable to a board based on the estimate or, where applicable, the new estimate submitted, and a subsidy in terms of subsection (1) shall only be paid for such approved amount.

(7)(a) The Head of the Department shall, on receipt of the estimate, plan and statement or, where applicable, the additional information, new estimate, new plan or new statement, as the case may be, consider the request for a subsidy by the board of the Cango Caves Museum and, if satisfied that good grounds exist for the request and that sufficient funds are available to the Department, determine and approve the amount of the subsidy payable to the board in accordance with subsection (6), and a subsidy in terms of subsection (2) shall only be paid on such approved amount.

(b) If the Head of the Department, on receipt of all the relevant documents and after consideration of the request, is not satisfied that good grounds exist for the request or that sufficient funds are available to the Department, the Head of the Department shall reject the request and notify the board of the Cango Caves Museum of his or her decision and the reasons for the decision.

(8) The provisions of this section do not preclude a board from spending more than the amount of the subsidy approved to be payable to such board in connection with the museum concerned, but any expenditure in excess of such approved amount shall not qualify for a subsidy in terms of this section.”.

Insertion of section 29A in Ordinance 8 of 1975

28. The following section is inserted in the principal Ordinance after section 29:

“Additional funds.

29A. (1) The Head of the Department may, of his or her own accord or on application by a board, from moneys appropriated by the Provincial Parliament for the purpose, pay to a board that has been paid a subsidy contemplated by section 29 for the current financial year, in the same financial year, funds additional to such subsidy, subject to such conditions as the Head of the Department may impose.

(2) When the Head of the Department acts of his or her own accord in terms of subsection (1), the Head of the Department shall request the board concerned to submit the documents referred to in subsection (4) in accordance with that subsection.

(3) The Head of the Department may not pay additional funds to a board in terms of this section, unless he or she is of the opinion that, having considered the following, additional funds are necessary for the board to exercise and perform its powers, duties and functions and that sufficient funds are available to the Department for the purpose:

- (a) whether sufficient funds are available to the Department for the purpose;
- (b) the needs of the board, and
- (c) the reasons the needs exist.

(4) In order to obtain additional funds in terms of this section, a board shall, by such date and in such manner as the Head of the Department may direct, submit to the Department the following:

- (a) the needs of the board for the current financial year and the reasons additional funds are required;
- (b) an estimate of the amount of additional funds that are required for the current financial year, and
- (c) a plan on how the board intends to spend the additional funds to meet its needs.

(5) On receipt of all the documents referred to in subsection (4), the Head of the Department shall consider the application for additional funds or, where the Head of the Department acted of his or her own accord, the requested documents, as the case may be, and, if satisfied that additional funds are necessary for the board to exercise and perform its powers, duties and functions and that sufficient funds are available to the Department, the Head of the Department shall determine and approve the amount of additional funds payable to the board based on the documents submitted, and additional funds in terms of subsection (1) shall only be paid for such approved amount.

(6) If the Head of the Department, after consideration of the application or the requested documents, as the case may be, is not satisfied that any additional funds are necessary for the board to exercise and perform its powers, duties and functions or that sufficient funds are available to the Department, the Head of the Department shall reject the application or determine that the board does not require additional funds, as the case may be, and notify the board concerned in writing of his or her decision and the reasons for the decision.

(7) The amount of any additional funds paid to a board in terms of this section shall be used by a board —

- (a) only for such purposes as may be directed by the Head of the Department, and
- (b) in the financial year in which it is paid or within such other period as may be directed by the Head of the Department.”.

Amendment of section 30 of Ordinance 8 of 1975

29. Section 30 of the principal Ordinance is amended—

(a) by the substitution for subsection (1) of the following subsection:

“30. (1) A board may, with the approval of the **[Administrator]** Head of the Department —

(a) raise loans for any purpose it deems necessary **[or desirable]** in connection with the exercise or performance of its powers, duties and functions **[, and];**

(aA) only if necessary, raise short-term loans to provide for financial shortfalls that arise in the financial year during which the loan is raised, and if sufficient income to repay such loan will be received by the board during that financial year, and

(b) as security for the repayment of any loan, mortgage or otherwise encumber any immovable property vested in it.”;

(b) by the deletion of subsections (2) and (3);

(c) by the substitution for subsection (4) of the following subsection:

“(4) No immovable property registered in the name of a board **[as contemplated by subsection (3)]** shall be alienated unless [—

(a)] any loan raised for the purpose of acquiring such property or the erection of **[the] a building [concerned]**, together with any interest thereon, has been repaid in full **[and all payments made and expenses incurred by the Administrator in pursuance of a guarantee in terms of subsection (2) in respect of such loan have been refunded, or**

(b) such guarantee has been cancelled, whichever occurs the earlier].”; and

(d) by the substitution for subsection (5) of the following subsection:

“(5) For the purposes of this section, “short-term loan” means a loan where the period within which to repay it is less than six months.”.

Substitution of section 31 of Ordinance 8 of 1975

30. The following section is substituted for section 31 of the principal Ordinance:

“Receipt and investment of money by a board.

31. (1) All moneys received by a board shall be accounted for in the **[prescribed]** manner contemplated by sections 21 and 32.

(2) **[All moneys held]** Moneys received by a board in terms of section 29 or 29A and not immediately required by it in connection with the exercise and

performance of its powers, duties and functions shall be invested at interest by such board —

- (a) with any banking institution finally registered in terms of the Banks Act, **[1965 (Act 23 of 1965)] 1990 (Act 94 of 1990), [or with any building society registered in terms of the Building Societies Act, 1965 (Act 24 of 1965);] or**
- (b) in Government stock [, or
- (c) **with the approval of the Administrator, given generally or specially, on loan to the council of any municipality or to any divisional council or any body created by statute within the Republic].”.**

Substitution of section 32 of Ordinance 8 of 1975, as substituted by section 3 of Ordinance 9 of 1983

31. The following section is substituted for section 32 of the principal Ordinance:

“Audit of accounts.

32. (1) A board shall appoint an auditor to audit the financial statements contemplated by section 21.

(2) The board shall, within two months after submitting the financial statements to the Head of the Department in terms of section 21, submit to the Head of the Department —

- (a) the audited financial statements, and
- (b) the report of the auditor on those statements.”.

Insertion of section 32A in Ordinance 8 of 1975

32. The following section is inserted in the principal Ordinance after section 32:

“Financial misconduct.

32A. (1) A board commits an act of financial misconduct if it wilfully or negligently —

- (a) fails to comply with section 21 (1), 31 or 32, or
- (b) uses or permits the use of moneys paid to such board in terms of section 29 or 29A for a purpose other than a purpose contemplated by those sections.

(2) If a board commits an act of financial misconduct, the Provincial Minister may take reasonable remedial steps which he or she considers necessary, including —

- (a) the appointment of an administrator to administer the financial affairs of the board and to exercise and perform the powers, duties and functions of the board that relate to the financial affairs of the board, and
- (b) the suspension of a member of the board or the termination of the period of office of a member of the board.

(3) Before the Provincial Minister takes any remedial steps contemplated by subsection (2), the Head of the Department shall issue to the chairperson of the board concerned a compliance notice and copies thereof to the members of the board, which shall include —

- (a) a description of the financial misconduct constituting the non-compliance by the board with the provisions of this ordinance;
- (b) the steps which the board is required to take and the period within which those steps shall be taken to remedy the non-compliance, and
- (c) a notification to the board that, if it fails to take any steps contemplated by paragraph (b), the Head of the Department shall refer the matter to the Provincial Minister to take remedial steps in terms of subsection (2).

(4) If the board has complied with all the steps contemplated by subsection (3) (b) within the period stipulated in the compliance notice, the Head of the Department shall notify in writing the Provincial Minister and the board of its compliance with the terms of the compliance notice.

(5) If a board fails to comply with any or all of the steps contemplated by subsection (3) (b) within the period stipulated in the compliance notice —

- (a) the Head of the Department shall, after the expiry of the period, notify the Provincial Minister in writing of the non-compliance or partial non-compliance, as the case may be, of the board with the terms of the compliance notice, and
- (b) the Provincial Minister shall immediately after receipt of the notice contemplated by paragraph (a) notify the board in writing of the proposed remedial steps to be taken.

(6) The notice to the board contemplated by subsection (5) (b) shall, subject to subsection (7), specify —

- (a) the non-compliance or partial non-compliance, as the case may be, of the board with the terms of the compliance notice;

- (b) the nature and purpose of the remedial steps to be taken in terms of subsection (2);
- (c) that the board is entitled to submit written representations to the Provincial Minister within 30 days of receipt of the notice, and
- (d) where the remedial steps provide for the appointment of an administrator, that the period of such appointment may be extended in terms of subsection (14).

(7) If the non-compliance is because of an act of financial misconduct as contemplated by subsection (1) (b), the Provincial Minister may dispense with the period referred to in subsection (6) (c) and may specify a shorter period in the notice; provided that such shorter period affords the board concerned a reasonable opportunity to submit written representations to the Provincial Minister.

(8) The Provincial Minister may, on expiry of the period referred to in subsection (6) (c) or, where applicable, the shorter period contemplated by subsection (7), whether or not the Provincial Minister has received any written representations from the board concerned, and after due consideration of all the relevant facts, including any partial compliance by the board with the compliance notice and any written representations submitted by the board, take the remedial steps.

(9) The Provincial Minister shall, after he or she takes the remedial steps in accordance with subsection (8), notify the board concerned in writing of his or her reasons for doing so.

(10) If an administrator is appointed in terms of subsection (2) (a), the administrator shall administer the financial affairs of the board concerned and exercise and perform the powers, duties and functions of that board that relate to its financial affairs and, in the following order:

- (a) within a period determined by the Provincial Minister, submit to the Head of the Department a report on the affairs of the board concerned;
- (b) where applicable, in consultation with the Head of the Department, propose a recovery plan for the board;
- (c) where applicable, ensure that the recovery plan is implemented within a period determined by the Provincial Minister, and
- (d) where applicable, upon completion of the implementation of the recovery plan, submit to the Head of the Department a final report on the affairs of the board.

(11) The Provincial Minister may, upon request by the administrator and after consultation with the Head of the Department, extend the period contemplated by subsection (10) (c).

(12) The Provincial Minister may, after consultation with the Head of the Department and consideration of the report referred to in subsection (10) (a) or the final report referred to in subsection (10) (d), as the case may be, determine that —

- (a) the board is capable of administering its financial affairs and exercising and performing its powers, duties and functions that relate to its financial affairs;
- (b) the board is capable of administering its financial affairs and exercising and performing its powers, duties and functions that relate to its financial affairs with the further assistance of the administrator, or
- (c) the board is not capable of administering its financial affairs and exercising and performing its powers, duties and functions that relate to its financial affairs and requires the Department to assist and support it to do so.

(13) The Provincial Minister shall notify the board in writing of his or her determination.

(14) If the Provincial Minister makes a determination contemplated by subsection (12) (b), the Provincial Minister may extend the period of appointment of the administrator on such terms and conditions as the Provincial Minister may determine.”.

Amendment of section 34 of Ordinance 8 of 1975

33. Section 34 of the principal Ordinance is amended—

(a) by the substitution for subsection (2) of the following subsection:

“(2) Upon receipt of any application in terms of subsection (1) the **[Administrator] Provincial Minister** may cause an inspection of such museum to be made and require the applicant to furnish him or her with such information in respect of such museum as he or she may deem necessary **[or desirable]**.”; and

(b) by the substitution for subsection (3) of the following subsection:

“(3) If the **[Administrator] Provincial Minister** is of the opinion that —

- (a) the operational needs of the Department require the declaration of the museum to be a local museum, and
- (b) such museum will, if it is declared to be a local museum, **[serve the cultural or educational needs of the public or a section of the public]** protect and promote the heritage of the community of the local municipality in whose municipal area the museum is situated,

he or she may by proclamation in the *Provincial Gazette* declare such museum to be a local museum and, in consultation with the applicant, assign a name to such museum.”.

Substitution of section 35 of Ordinance 8 of 1975

34. The following section is substituted for section 35 of the principal Ordinance:

“Local museum to be under management, control and direction of a control board.

35. A local museum shall be under the management, control and direction of a control board consisting of —

- (a) two members appointed by the **[Administrator]** Provincial Minister;
- (b) **[two members appointed]** one member nominated by the council **[having jurisdiction and control in the area in which]** of the local municipality in whose municipal area the museum is [situate] situated, appointed by the Provincial Minister, and
- (c) two members **[elected]** nominated by subscribers to the museum concerned, appointed by the Provincial Minister; provided that where a museum has less than ten subscribers no members shall be **[elected]** appointed in terms of this paragraph, and, in lieu of such members, two additional members shall be appointed in terms of paragraph (b).”.

Substitution of section 37 of Ordinance 8 of 1975

35. The following section is substituted for section 37 of the principal Ordinance:

“Tenure of office of members of control board.

37. (1) A member of a control board appointed in terms of —

- (a) section 35 (a) shall hold office for a period of three years;
- (b) section 35 (b) shall hold office for such period as the Provincial Minister may determine, and
- (c) section 35 (c) shall hold office until the next nomination of such a member for appointment by the Provincial Minister at a general meeting of subscribers.

(2) ~~[Any]~~ A member of a control board appointed in terms of section 35 (a) whose period of office has expired shall be eligible for re-appointment ~~[or re-election, as the case may be]~~.

Substitution of section 38 of Ordinance 8 of 1975

36. The following section is substituted for section 38 of the principal Ordinance:

“Vacancies on a control board and filling thereof and disqualification for membership of such board.

38. The provisions of sections 4 (3) and (3A), 17 (2) and (3) and 18 shall apply ~~[mutatis mutandis]~~, with the necessary changes required by the context, in respect of any vacancy in the office of a member of a control board and the appointment ~~[or election]~~ of a member of such board.”.

Insertion of sections 38A and 38B in Ordinance 8 of 1975

37. The principal Ordinance is amended by the insertion of the following sections after section 38:

“Chairperson of a control board.

38A. (1) The Provincial Minister shall, when he or she appoints the members contemplated by section 35 (a), designate —

- (a) one member to be chairperson, and
- (b) the other member to be deputy chairperson,

of the control board concerned, and such chairperson and deputy chairperson shall hold office as such for the duration of their term of office as members of the control board.

(2) If a chairperson or deputy chairperson of a control board vacates his or her office before the expiration of the period for which he or she was appointed, the Provincial Minister shall, before the first meeting of the control board after the date on which the chairperson or deputy chairperson vacated his or her office, appoint a member in accordance with section 35 (a) and designate such member in accordance with the provisions of subsection (1) to be chairperson or deputy chairperson, as the case may be, of the control board.

(3) Whenever the chairperson is —

- (a) absent from a meeting of the control board, or

- (b) unable or unavailable to perform his or her functions as chairperson,
- the deputy chairperson shall —
- (i) preside at such meeting, and
 - (ii) exercise and perform all the powers, duties and functions of the chairperson until the chairperson is able or available to exercise and perform his or her powers, duties and functions.

Quorum and decisions of a control board.

38B. The provisions of section 6 shall apply, with the necessary changes required by the context, in respect of a meeting of a control board.”.

Substitution of section 39 of Ordinance 8 of 1975

38. The following section is substituted for section 39 of the principal Ordinance:

“Payment of grants to control boards.

39. (1) The Head of the Department may, from moneys appropriated by the Provincial Parliament for the purpose and on application by a control board, pay to such control board, for use by such control board to conduct and manage the museum in the following financial year, a grant in such amount as the Head of the Department may determine, subject to such conditions as the Head of the Department may impose.

(2) The Head of the Department may not pay a grant to a control board in terms of this section, unless he or she is of the opinion that, having considered the following, the grant is necessary for the control board to conduct and manage the museum and that sufficient funds are available to the Department for the purpose:

- (a) whether sufficient funds are available to the Department for the purpose;
- (b) the needs of the control board, and
- (c) the reasons why the needs exist.

(3) In order to obtain a grant in terms of this section a control board shall by such date and in such manner as the Head of the Department may direct submit to the Head of the Department the following:

- (a) the needs of the control board for the conduct and management of the museum;

- (b) an estimate of the expenditure of the control board for the following financial year, and
- (c) a plan on how the control board intends to spend the grant to meet its needs and exercise and perform its powers, duties and functions in the following financial year.

(4) On receipt of all the documents referred to in subsection (3), the Head of the Department shall consider the application for a grant and, if satisfied that the grant is necessary for the control board to conduct and manage the museum and that sufficient funds are available to the Department, the Head of the Department shall determine and approve the amount of the grant payable to the control board based on the documents submitted, and a grant in terms of subsection (1) shall only be paid for such approved amount.

(5) If the Head of the Department, after consideration of the application, is not satisfied that a grant is necessary for use by the control board to conduct and manage the museum or that sufficient funds are available to the Department, the Head of the Department shall reject the application and notify the control board in writing of his or her decision and the reasons for the decision.”.

Amendment of section 40 of Ordinance 8 of 1975

39. Section 40 of the principal Ordinance is amended—

- (a) by the substitution for subsection (2) of the following subsection:

“(2) The functions of the committee shall be to advise the Department or the **[Administrator] Provincial Minister**, as the case may be, on such matters relating to museums or the application of this ordinance as it considers necessary **[or desirable]** or as may be referred to it by the Department or the **[Administrator] Provincial Minister**.”;

- (b) by the substitution for subsection (4) of the following subsection:

“(4) Every member of the committee who is not an **[officer, official or] employee in the public service [or in the service of a provincial administration]** may, from moneys appropriated by the Provincial **[Council] Parliament** for the purpose and if the **[Administrator] Provincial Minister** so decides, be paid such remuneration or allowances as the **[Administrator] Provincial Minister** may determine in consultation with the provincial minister responsible for finance in the Province.”; and

- (c) by the substitution for subsection (5) of the following subsection:

“(5) The members of the committee shall hold office **[during the Administrator’s pleasure]** for such period as the Provincial Minister may determine.”.

Amendment of section 41 of Ordinance 8 of 1975

40. Section 41 of the principal Ordinance is amended—

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) **[the election of a chairman or deputy-chairman of a board and]** the appointment of a secretary and a treasurer to a board;”;
- (b) by the deletion of paragraphs (d), (f), (g), (h), (i), (j), (k), (l), (m), (n), (p) and (q) of subsection (1); and
- (c) by the substitution for paragraph (s) of subsection (1) of the following paragraph:

“(s) generally all matters which **[he]** the Provincial Minister considers **[it]** necessary or expedient to prescribe in order to further or achieve the objects of this ordinance **[, the generality of this provision not being limited by the preceding paragraphs of this subsection].**”.

Substitution of section 42 of Ordinance 8 of 1975

41. The following section is substituted for section 42 of the principal Ordinance:

“Province-aided or local museum may be established as a provincial museum.

42. (1) A board of a province-aided museum or a control board of a local museum may apply in writing to the Provincial Minister to have such museum established as a provincial museum.

(1A) The application shall —

- (a) specify the reasons for the application, and
- (b) shall be accompanied by the full details of the assets and liabilities of the museum concerned, including details of the land and buildings on or in which the museum is situated.

(2) Upon receipt of an application in terms of subsection (1) and the information referred to in subsection (1A), the [Administrator] Provincial Minister may cause an inspection of the museum to be made and may require the applicant to furnish him or her with such information as [he] the Provincial Minister may deem necessary.

(3) If the Provincial Minister is of the opinion that, having considered the following, the granting of the application is necessary to protect and promote the heritage of the Province, the Provincial Minister may by proclamation in the *Provincial Gazette* establish the museum concerned as a provincial

museum with effect from a date specified in the proclamation, and the provisions of Chapter II shall apply in respect of such museum:

- (a) the reasons for the application, and
- (b) the operational needs of the Department.

(4) With effect from the date contemplated by subsection (3) the **[Administration]** Provincial Government shall be deemed to be the successor in title to the board or control board concerned, and the provisions of section 14 (a), (b) and (c) shall apply **[mutatis mutandis]**, with the necessary changes required by the context, in respect of the museum concerned, any reference in that section to a managing body being construed as a reference to such board or control board, as the case may be.”.

Amendment of section 43 of Ordinance 8 of 1975, as amended by section 4 of Ordinance 9 of 1983

42. Section 43 of the principal Ordinance is amended by the substitution for subsection (2) of the following subsection:

“(2) Where any such donation or bequest has been made subject to a condition, reservation or restriction that a person or persons or a specified person or persons or **[his]** a representative of such person or persons shall be allowed to serve on such board or control board, the **[Administrator]** Provincial Minister may, notwithstanding the provisions of this ordinance relating to the constitution of such board or control board, appoint such person or persons as may be required to give effect to such condition, reservation or restriction to such board or control board in addition to the persons appointed by him or her in terms of such provisions.”.

Substitution of section 44 of Ordinance 8 of 1975

43. The following section is substituted for section 44 of the principal Ordinance:

“Abolition of province-aided or local museums.

44. (1) The Provincial Minister may, if he or she considers it necessary, of his or her own accord or on the application of a board or control board, by proclamation in the *Provincial Gazette*, abolish a province-aided or local museum with effect from a date specified in the proclamation, after considering the following:

- (a) the sustainability of the museum concerned;

- (b) the operational needs of the Department, and
- (c) the comments contemplated by subsection (1A) (b).

(1A) Before the Provincial Minister issues the proclamation, the Provincial Minister shall —

- (a) consult the board or control board of the museum concerned, as the case may be, and
- (b) by notice in the *Provincial Gazette*, invite comments from the public on the proposed abolition of the museum concerned.

(2) All assets, rights, liabilities and obligations of the board or control board of a museum which has been abolished in terms of subsection (1) shall be disposed of **[and met]**, exercised, satisfied and complied with in such manner as the **[Administrator]** Provincial Minister may, in consultation with such board or control board, direct **[and the services of the members of the staff of any such board shall with effect from the date contemplated by subsection (1) be deemed to have been terminated in accordance with the provisions of this ordinance regulating the termination of the services of officials or employees]**.

(3) When the Provincial Minister abolishes a province-aided or local museum, the museum is disestablished.”.

Substitution of section 45 of Ordinance 8 of 1975, as amended by Proclamation 149 of 1993

44. The following section is substituted for section 45 of the principal Ordinance:

“Delegation of powers, duties and functions.

45. (1) The Provincial Minister may delegate any of his or her powers or assign any of his or her duties or functions in terms of this ordinance, other than the power to make regulations or to issue a proclamation or notice, to the Head of the Department.

(2) The Head of the Department may delegate any of his or her powers or assign any of his or her duties or functions in terms of this ordinance to an employee in the Department or to the holder of a specific office or position in the Department.

(3) A delegation or assignment referred to in subsection (1) or (2) —

- (a) shall be in writing;
- (b) may be made subject to conditions;

- (c) may be withdrawn or amended in writing by the Provincial Minister or the Head of the Department, as the case may be;
- (d) may permit the further delegation of that power or further assignment of that duty or function;
- (e) does not prevent the Provincial Minister or the Head of the Department, as the case may be, from exercising that power or performing that duty or function, and
- (f) does not divest the Provincial Minister or the Head of the Department, as the case may be, of the responsibility regarding the exercise of the delegated power or the performance of the assigned duty or function.”.

Substitution of expressions in Ordinance 8 of 1975

45. The principal Ordinance is amended by the substitution for the expressions in the first column of the Schedule, wherever they occur and wherever they have not been amended elsewhere by this Act, of the expressions in the second column.

Amendment of long title of Ordinance 8 of 1975

46. The long title is amended by the substitution for the expression “Administration” of the expression “Western Cape Government”.

Savings and transitional provisions

47. (1) In this section—

“**board**” means a board referred to in section 1(1) of the principal Ordinance;

“**control board**” means a control board referred to in section 1(1) of the principal Ordinance;

“**financial year**” means a year ending on 31 March;

“**Head of the Department**” means the head of the provincial department responsible for museums, other than national museums, in the Province;

“**management committee**” means a management committee referred to in section 1(1) of the principal Ordinance;

“**Province**” means the Province of the Western Cape;

“**Provincial Government**” means the Western Cape Government;

“Provincial Minister” means the member of the Provincial Cabinet responsible for museums, other than national museums, in the Province.

(2) Any matter for decision pending before a management committee, board or control board that has not been decided before the commencement of this Act must be decided by that management committee, board or control board, as the case may be, as if this Act has not commenced.

(3) A board must prepare and submit to the Head of the Department the report and statement of income and expenditure contemplated in section 21 of the principal Ordinance as it read before the commencement of this Act within the period referred to in that section for the financial year in which this Act commences.

(4) Any estimate submitted and received in terms of section 29 of the principal Ordinance in respect of which the approved subsidisable expenditure of a board has not been finally determined before the commencement of this Act must be administered as if this Act has not commenced, except that the expression “Administrator” and “Provincial Council” in that section of the principal Ordinance must be construed as “Head of the Department” and “Provincial Parliament”, respectively.

(5) Despite the substitution of section 29 of the principal Ordinance by section 27 of this Act, any loan contemplated in section 29(1)(d)(ii) of the principal Ordinance as it read before the commencement of this Act must be reduced and repaid in accordance with section 29 of the principal Ordinance as it read before the commencement of this Act, except that the loan must be repaid at the applicable interest rate determined in terms of section 80 of the Public Finance Management Act, 1999 (Act 1 of 1999).

(6)(a) A board that, before the commencement of this Act, had invested moneys paid to it in terms of section 29 of the principal Ordinance with a building society contemplated in section 31 of the principal Ordinance as it read before the commencement of this Act must, within six months after the commencement of this Act, disinvest such moneys and, if the moneys are not immediately required by that board in connection with the exercise and performance of its powers, duties and functions, the board must invest those moneys at interest with a banking institution finally registered in terms of the Banks Act, 1990.

(b) If the moneys invested in the building society are subject to conditions that do not permit a board to disinvest the moneys within the period referred to in subsection (6)(a), the board must, within 12 months after the commencement of this Act, do all that may be required of it by the building society concerned to disinvest the moneys and, upon the disinvestment of the moneys, immediately comply with subsection (6)(a).

(7) Despite the substitution of section 30(5) of the principal Ordinance by section 29(d) of this Act, the Administrator, construed as the Head of the Department for the purpose of this subsection, may exercise the powers and perform the duties contemplated in that section of the principal Ordinance as it read before the commencement of this Act to recover any payments made and expenses incurred in consequence of a guarantee issued

in terms of section 30(2) of the principal Ordinance as it read before the commencement of this Act, until all payments and expenses have been recovered.

(8) Despite the substitution of section 32 of the principal Ordinance by section 31 of this Act, the Provincial Auditor, construed as the Auditor-General for the purpose of this subsection, must audit the accounts of a province-aided museum for the financial year in which this Act commences.

(9) Any application made in terms of section 39 of the principal Ordinance that has not been finally determined before the commencement of this Act must be administered as if this Act has not commenced, except that the expression “Administrator” and “Provincial Council” in that section of the principal Ordinance must be construed as “Head of the Department” and “Provincial Parliament”, respectively.

(10) Any application made in terms of section 42 of the principal Ordinance that has not been finally determined before the commencement of this Act must be administered as if this Act has not commenced, except that the expression “Administrator” and “Administration” in that section of the principal Ordinance must be construed as “Provincial Minister” and “Provincial Government”, respectively.

(11) Any application made in terms of sections 12, 34 or 44 of the principal Ordinance that has not been finally determined before the commencement of this Act must be administered as if this Act has not commenced, except that the expression “Administrator” in those sections of the principal Ordinance must be construed as “Provincial Minister”.

(12) The reference to section 15(2) and section 15(2)(c) in section 46 of the principal Ordinance must be construed as a reference to those sections of the principal Ordinance as they read before the assignment of the principal Ordinance in terms of Proclamation 115 of 1994.

(13) The reference to section 21(2) in section 46 of the principal Ordinance must be construed as a reference to that section of the principal Ordinance as it read before the commencement of this Act.

Short title and commencement

48. This Act is called the Western Cape Museums Ordinance Amendment Act, 2020, and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*.

SCHEDULE
(Section 45 of this Act)

Administrator	Provincial Minister
chairman	chairperson
Director of Nature and Environmental Conservation	Head of the Department
Director-General: Provincial Administration of the Cape of Good Hope	Head of the Department
he	he or she
him	him or her
his	his or her
<i>mutatis mutandis</i>	, with the necessary changes required by the context,

**MEMORANDUM ON THE OBJECTS OF THE DRAFT WESTERN CAPE MUSEUMS
ORDINANCE AMENDMENT BILL, 2020**

1. BACKGROUND

- 1.1 The whole of the Museums Ordinance, 1975 (Ordinance 8 of 1975)(the principal Ordinance), was assigned to the Western Cape Province (the Province) in 1994 under Proclamation 115 of 1994, to the extent that the principal Ordinance applied in the Province. It governs, among other things, the establishment of museums, the governance of museums, the granting of subsidies to province-aided museums and the appointment of staff at museums. The principal Ordinance predates the Constitution of the Republic of South Africa, 1996 (the Constitution), and so contains language that is not aligned with the Constitution. It also predates the Public Finance Management Act, 1999 (Act 1 of 1999), and so is not aligned with that Act. The Draft Western Cape Museums Ordinance Amendment Bill, 2020, seeks to align the principal Ordinance with the Constitution and the Public Finance Management Act, 1999.
- 1.2 Province-aided museums are funded by and large by subsidies that are paid to them in terms of section 29 of the principal Ordinance. These museums face a huge challenge because the current section 32 of the principal Ordinance requires them to be audited by the Auditor-General. The collective Auditor-General fees for the 19 province-aided museums in the Province was R1,7 million for 2016/17 and R2,3 million for 2017/18.
- 1.3 With 19 province-aided museums, the cost per audit per museum averaged at R89 473 (2016/17) and R121 052 (2017/18). These exorbitant fees are unsustainable and have a huge impact on the already scarce resources of these museums. The collective result is that province-aided museums are unable to allocate sufficient resources towards their core functions to conserve, exhibit and educate communities about the Province's collective heritage. This has an impact on the museums' potential to provide services and attract tourists, thereby greatly reducing their capacity to contribute to tourism and economic development in the Province.
- 1.4 The provincial Department of Cultural Affairs and Sport (the Department) resolved to amend the principal Ordinance to align it with the Constitution and other relevant legislation. The main purpose of the Draft Bill is to provide an avenue for province-aided museums to be audited annually by an auditor registered in terms of the Auditing Profession Act, 2005 (Act 26 of 2005), instead of the Auditor-General.

2. OBJECTS OF THE BILL

- 2.1 The Draft Bill seeks to amend certain provisions to align the principal Ordinance with the Constitution, other relevant legislation such as the Public Finance Management Act, 1999, and good practice within the museum governance environment.
- 2.2 Furthermore, the Draft Bill seeks to align the principal Ordinance with current terminology and government structures, and to alleviate the financial burden of annual financial audits by the Auditor-General on province-aided museums.

3. CONTENTS OF THE BILL

The aims and objectives of the various clauses are set out below.

- 3.1 **Clause 1** amends section 1 of the principal Ordinance by substituting, deleting and inserting certain definitions for standardisation purposes and alignment with current provincial government structures.
- 3.2 **Clause 2** amends section 2 of the principal Ordinance to provide guidance for the exercise of the discretion of the Provincial Minister to establish a provincial museum.
- 3.3 **Clause 3** amends section 3 of the principal Ordinance and is a consequential amendment to the substitution of the expressions “Administrator” and “officer” and the deletion of the definition of “official” in clause 1.
- 3.4 **Clause 4** amends section 4 of the principal Ordinance to extend the term of office of an appointed member from two to three years. The clause sets out the circumstances that give rise to a vacancy in a management committee. It provides that the allowances that are paid to members are as determined by the Provincial Minister in consultation with the provincial minister responsible for finance in the Province.
- 3.5 **Clause 5** inserts section 4A in the principal Ordinance to provide for the disqualification for membership of a management committee.
- 3.6 **Clause 6** amends section 5 of the principal Ordinance to provide that the Provincial Minister must designate a chairperson of a management committee when he or she appoints the appointed members or if the chairperson vacates his or her office. This is to strengthen the governance of provincial museums.
- 3.7 **Clause 7** substitutes section 6 of the principal Ordinance to make different provision for the quorum and decision-making at meetings of a management committee. The clause provides that a quorum for a meeting is fifty per cent plus one of the total number of members of such a committee and further provides for decisions, under certain circumstances, to be taken by vote. This is to ensure good governance at provincial museums.
- 3.8 **Clause 8** amends section 7 of the principal Ordinance to provide for a different manner by which a committee may determine and charge admission fees to increase potential revenue. The clause deletes discriminatory language in the principal Ordinance.
- 3.9 **Clause 9** amends section 8 of the principal Ordinance. The clause substitutes the expression “Administrator” for the expression “Head of the Department” and the expression “Provincial Service” for the expression “Public Service”.
- 3.10 **Clause 10** substitutes section 9 of the principal Ordinance to align the acceptance of donations and bequests with the Public Finance Management Act, 1999.
- 3.11 **Clause 11** substitutes section 10 of the principal Ordinance to provide that moneys collected by a provincial museum or management committee of a provincial museum must be paid into

the Provincial Revenue Fund for use by the management committee of the provincial museum concerned subject to the Head of the Department's approval.

- 3.12 **Clause 12** repeals section 10A of the principal Ordinance.
- 3.13 **Clause 13** substitutes section 11 of the principal Ordinance to provide guidance for the exercise of the discretion of the Provincial Minister to abolish a provincial museum and provides for a public participation process.
- 3.14 **Clause 14** amends section 12 of the principal Ordinance to further guide the discretion of the Provincial Minister to declare a museum to be a province-aided museum.
- 3.15 **Clause 15** substitutes section 15 of the principal Ordinance to reconfigure the constitution of a board to ensure good governance at province-aided museums. The whole of the principal Ordinance was assigned to the Province to the extent that it applied in the Province. The museums listed in section 15(2) of the principal Ordinance do not fall within the geographical area of the Province. For this reason, section 15(2) of the principal Ordinance is not applicable in the Province and hence was not assigned to the Province.
- 3.16 **Clause 16** substitutes section 16 of the principal Ordinance and comprehensively sets out the tenure of office of the various categories of members that constitute a board.
- 3.17 **Clause 17** substitutes section 17 of the principal Ordinance and is a consequential amendment to amendments in clause 4 and 15.
- 3.18 **Clause 18** substitutes section 18 of the principal Ordinance and provides for a change in the criteria for disqualification for membership of a board.
- 3.19 **Clause 19** inserts section 18A in the principal Ordinance to provide for the designation of a chairperson of a board by the Provincial Minister.
- 3.20 **Clause 20** substitutes section 19 of the principal Ordinance to make different provision for the quorum and decision-making at meetings of a board. By the inclusion of a reference to section 6 the clause provides that a quorum for a meeting of a board is fifty per cent plus one and makes further provision for decisions, under certain circumstances, to be taken by vote. This is to ensure good governance at province-aided museums.
- 3.21 **Clause 21** amends section 20 of the principal Ordinance and is a textual improvement of the principal Ordinance.
- 3.22 **Clause 22** amends section 21 of the principal Ordinance to make different provision for when an annual report by a board must be submitted. The revised timeline is to ensure sufficient accountability to the Department.
- 3.23 **Clause 23** substitutes section 24 of the principal Ordinance to provide that the Head of the Department must determine the staff establishment of a province-aided museum. The clause further prohibits a board from appointing staff in addition to the staff establishment so determined without the prior written consent of the Head of the Department. This is to ensure

that the Department retains sufficient oversight of staff that are appointed in addition to the staff establishment.

- 3.24 **Clause 24** substitutes section 25 of the principal Ordinance to delete the approvals that a board required under the principal Ordinance to appoint staff to the staff establishment. It provides further for the manner in which a board must apply for consent to appoint staff in addition to the staff establishment determined by the Head of the Department and the criteria that the Head of the Department must consider in such applications.
- 3.25 **Clause 25** inserts section 26(2) in the principal Ordinance and provides a board with the power to retain staff beyond their retirement age with the approval of the Head of the Department.
- 3.26 **Clause 26** repeals section 27 of the principal Ordinance so that boards have sufficient decision-making power to determine the salaries of the staff it appoints. This is because the context and financial means of different province-aided museums differ widely. The clause further repeals section 28 of the principal Ordinance. This is a consequential amendment to the amendment in clause 25.
- 3.27 **Clause 27** substitutes section 29 of the principal Ordinance to clarify the procedure to be followed when subsidies are paid to boards and, in the event that the board of the Cango Cave Museum intends to request payment of a subsidy, to provide for a process setting out the circumstances in which a request can be made and the process to be followed to make the request.
- 3.28 **Clause 28** inserts section 29A in the principal Ordinance to make provision for the payment of additional funds to a board. The clause sets out the procedure to be followed when a board applies for additional funds or when the Head of the Department, on his or her own accord, considers that a board may require additional funds.
- 3.29 **Clause 29** substitutes section 30 of the principal Ordinance to provide that a board may raise short-term loans.
- 3.30 **Clause 30** substitutes section 31 of the principal Ordinance to provide that funds received by a board through the payment of a subsidy or additional funds and that are not immediately required by the board in the exercise and performance of its powers, duties and functions must be invested in a bank finally registered in terms of the Banks Act, 1990 (Act 94 of 1990), or in government stock.
- 3.31 **Clause 31** substitutes section 32 of the principal Ordinance to provide that a board must appoint an auditor to audit the financial statements of the board. This is to ensure that the financial burden of annual audits, currently conducted by the Auditor-General, on province-aided museums are reduced, while still ensuring effective financial accountability.
- 3.32 **Clause 32** inserts section 32A in the principal Ordinance to regulate financial misconduct by a board. This is to ensure proper financial accountability of boards.
- 3.33 **Clause 33** amends section 34 of the principal Ordinance to provide guidance for the exercise of the discretion of the Provincial Minister to declare a museum to be a local museum.

- 3.34 **Clause 34** substitutes section 35 of the principal Ordinance to reconfigure the constitution of a control board. This is to ensure good governance at local museums.
- 3.35 **Clause 35** substitutes section 37 of the principal Ordinance and comprehensively sets out the tenure of office of the various categories of members that constitute a control board.
- 3.36 **Clause 36** substitutes section 38 of the principal Ordinance and is a consequential amendment to amendments in clause 4.
- 3.37 **Clause 37** inserts clause 38A in the principal Ordinance to provide for the designation of a chairperson of a control board. The clause inserts clause 38B in the principal Ordinance to provide for the quorum and decision-making at a meeting of a control board. Clause 38B, by the inclusion of a reference to section 6, provides that a quorum for a meeting of a control board is fifty per cent plus one of the total number of members of a control board and further provides for decisions, in certain circumstances, to be taken by vote. This is to ensure good governance at local museums.
- 3.38 **Clause 38** substitutes section 39 of the principal Ordinance to provide guidance for the exercise of the discretion of the Head of the Department to pay grants to control boards. The clause sets out the procedure to be followed when a control board applies for a grant.
- 3.39 **Clause 39** amends section 40 of the principal Ordinance to substitute the expression “Administrator” with the expression “Provincial Minister”. The clause improves the text of the principal Ordinance and makes a consequential amendment following the deletion of the definition of “official” in clause 1.
- 3.40 **Clause 40** amends section 41 of the principal Ordinance to improve the text of the principal Ordinance and makes consequential amendments following the amendments in clause 37.
- 3.41 **Clause 41** substitutes section 42 of the principal Ordinance to provide guidance for the exercise of the discretion of the Provincial Minister to establish a province-aided or local museum as a provincial museum.
- 3.42 **Clause 42** amends section 43 of the principal Ordinance and is a consequential amendment to the substitution of the expression “Administrator” with the expression “Provincial Minister”.
- 3.43 **Clause 43** substitutes section 44 of the principal Ordinance to provide guidance for the exercise of the discretion of the Provincial Minister to abolish a province-aided or local museum and to provide for a public participation process.
- 3.44 **Clause 44** substitutes section 45 of the principal Ordinance. The clause is a consequential amendment following the deletion of the definition of “official” and “employee” in clause 1.
- 3.45 **Clause 45** substitutes certain expressions in the principal Ordinance.
- 3.46 **Clause 46** amends the long title of the principal Ordinance.

3.47 **Clause 47** provides for savings and transitional arrangements. The purpose of clause 47(12) is to avoid confusion with regard to references relating to section 15(2) in this Draft Bill and the principal Ordinance.

3.48 **Clause 48** makes provision for the short title of the Act and its commencement.

4. LEGISLATIVE COMPETENCE

The Provincial Minister responsible for museums, other than national museums, is satisfied that the provisions of the Draft Bill fall within the legislative competence of the Province.

5. CONSULTATION

Department of Cultural Affairs and Sport
Department of the Premier: Legal Services
Provincial museums
Province-aided museums
Local museums

6. FINANCIAL IMPLICATIONS

There are no financial implications because current budget resources will be used.

7. PERSONNEL IMPLICATIONS

There are no direct personnel implications.

PROVINSIALE KENNISGEWING

P.K. 16/2020

28 Februarie 2020

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vetdruk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder dui invoegings in bestaande verordenings aan.

**WES-KAAPSE KONSEPWYSIGINGSWETSONTWERP OP DIE
MUSEUMORDONNANSIE, 2020**

Tot wysiging van die Museumordonnansie, 1975 (Ordonnansie 8 van 1975), ten einde sekere omskrywings te vervang, te skrap en in te voeg; om verder voorsiening te maak vir die stigting van 'n provinsiale museum; om anders voorsiening te maak vir die samestelling van bestuurskomitees; om anders voorsiening te maak vir die ampstermyn van lede van 'n bestuurskomitee; om voorsiening te maak vir die onbevoegdheid vir lidmaatskap van 'n bestuurskomitee; om voorsiening te maak vir die aanwysing van 'n voorsitter van 'n bestuurskomitee; om anders voorsiening te maak vir die kworum vir vergaderings van 'n bestuurskomitee; om voorsiening te maak vir besluitneming deur 'n bestuurskomitee; om anders voorsiening te maak vir 'n bestuurskomitee om toegangsgelde vir toegang tot 'n provinsiale museum te bepaal en te vra; om anders voorsiening te maak vir die aanstelling van personeel van 'n provinsiale museum; om anders voorsiening te maak vir die aanvaarding van skenkings en bemakings in verband met provinsiale museums; om geld wat deur 'n provinsiale museum ingesamel word, te reël; om verder voorsiening te maak vir die afskaffing van 'n provinsiale museum; om verder voorsiening te maak vir die verklaring van 'n museum tot 'n provinsie-ondersteunde museum; om anders voorsiening te maak vir die samestelling van 'n trusteeeraad; om anders voorsiening te maak vir die ampstermyn van lede van 'n trusteeeraad; om anders voorsiening te maak vir vakatures in 'n trusteeeraad en die aanvulling daarvan; om voorsiening te maak vir die aanwysing van 'n voorsitter van 'n trusteeeraad; om anders voorsiening te maak vir die kworum vir vergaderings van 'n trusteeeraad; om voorsiening te maak vir besluitneming deur 'n trusteeeraad; om anders voorsiening te maak vir die voorlegging van 'n jaarverslag deur 'n trusteeeraad; om anders voorsiening te maak vir die bepaling van die personeeldiensstaat van 'n provinsie-ondersteunde museum; om anders voorsiening te maak vir die aanstelling van personeel van 'n provinsie-ondersteunde museum; om 'n trusteeeraad te magtig om personeel verby hul aftree-

ouderdom te behou; om sekere artikels te herroep; om verder voorsiening te maak vir die betaling van subsidies aan trusteeeraad; om voorsiening te maak vir die betaling van bykomende fondse aan 'n trusteeeraad; om verder voorsiening te maak vir die aangaan van lenings deur 'n trusteeeraad; om anders voorsiening te maak vir die belegging van geld deur 'n trusteeeraad; om anders voorsiening te maak vir die oudit van die rekeninge van 'n provinsie-ondersteunde museum; om finansiële wangedrag deur 'n trusteeeraad te reël; om verder voorsiening te maak vir die verklaring van 'n museum tot 'n plaaslike museum; om anders voorsiening te maak vir die samestelling van 'n beheerraad; om anders voorsiening te maak vir die ampstermyn van lede van 'n beheerraad; om voorsiening te maak vir die aanwysing van 'n voorsitter van 'n beheerraad; om voorsiening te maak vir die kworum vir vergaderings van 'n beheerraad; om voorsiening te maak vir besluitneming deur 'n beheerraad; om verder voorsiening te maak vir die betaling van toelaes aan beheerrade; om anders voorsiening te maak vir die maak van regulasies kragtens die ordonnansie; om verder voorsiening te maak vir 'n provinsie-ondersteunde of plaaslike museum om as 'n provinsiale museum gestig te word; om verder voorsiening te maak vir die afskaffing van 'n provinsie-ondersteunde of plaaslike museum; om anders voorsiening te maak vir die delegasie van bevoegdhede; om sekere uitdrukkings te vervang; om die lang titel van die ordonnansie te wysig; om voorsiening te maak vir voorbehoude en oorgangsbepalings; om sekere tekstuele verbeteringe aan te bring; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Wes-Kaapse Provinsiale Parlement, soos volg:—

Wysiging van artikel 1 van Ordonnansie 8 van 1975, soos gewysig by Proklamasie 87 van 1978 en artikel 1 van Ordonnansie 13 van 1982

1. Artikel 1 van die Museumordonnansie, 1975 (Ordonnansie 8 van 1975)(die Hoofordonnansie), word gewysig—

(a) deur in subartikel (1) die omskrywing van “aangestelde lid” deur die volgende omskrywing te vervang:

“beteken ‘aangestelde lid’ ’n persoon wat aangestel is ingevolge artikel 3 (1) (a), (2) of (3) as ’n lid van ’n bestuurskomitee **[of wat geag word sodanige lid te wees ingevolge artikel 9(2)]**”;

(b) deur in subartikel (1) die omskrywing van “Administrasie” te skrap;

(d) deur in subartikel (1) die omskrywing van “beampte” te skrap;

(c) deur in subartikel (1) die omskrywing van “Departement” deur die volgende omskrywing te vervang:

- “beteken ‘Departement’ die **[Departement van Natuur- en Omgewingsbewing]** provinsiale departement wat verantwoordelik is vir museums, uitgesonderd nasionale museums, in die Provinsie;”;
- (d) deur in subartikel (1) die omskrywing van “direkteur” te skrap;
- (e) deur in subartikel (1) voor die omskrywing van “hierdie ordonnansie” die volgende omskrywing in te voeg:
“beteken ‘finansiële jaar’ ’n jaar wat op 31 Maart eindig;”;
- (f) deur in subartikel (1) die omskrywing van “geklassifiseerde pos” te skrap;
- (g) deur in subartikel (1) die omskrywing van “munisipale gebied” deur die volgende omskrywing te vervang:
“beteken ‘munisipale gebied’ die gebied [onder die jurisdiksie en beheer] van ’n [raad] munisipaliteit wat ingevolge die Wet op Plaaslike Regering: Munisipale Afbakening, 1998 (Wet 27 van 1998), bepaal is;”;
- (h) deur in subartikel (1) ná die omskrywing van “munisipale gebied” die volgende omskrywing in te voeg:
“beteken ‘munisipaliteit’ ’n munisipaliteit soos omskryf in artikel 2 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000);”;
- (i) deur in subartikel (1) die omskrywing van “museum” deur die volgende omskrywing te vervang:
“beteken ‘museum’ ’n permanente instelling sonder winsoogmerk wat oop is vir die publiek en tasbare en ontasbare materiële bewys van die erfenis van mense en hul omgewing verkry, bewaar, navors, kommunikeer en uitstal vir die doeleindes van studie, onderwys en genot, maar nie ook enige instelling wat aan die Wet op Kulturele Instellings, 1998 (Wet 119 van 1998), onderworpe is nie;”;
- (j) deur in subartikel (1) die omskrywing van “nie-geklassifiseerde pos” te skrap;
- (k) deur in subartikel (1) ná die omskrywing van “ondersteuner” die volgende omskrywing in te voeg:
“beteken ‘ouditeur’ ’n persoon wat ingevolge die “Auditing Profession Act, 2005” (Wet 26 van 2005), as ’n ouditeur geregistreer is;”;
- (l) deur in subartikel (1) ná die omskrywing van “provinsie-ondersteunde museum” die volgende omskrywing in te voeg:
“beteken ‘Provinsiale Minister’ die lid van die Provinsiale Kabinet wat verantwoordelik is vir museums, uitgesonderd nasionale museums, in die Provinsie;
- (m) deur in subartikel (1) ná die omskrywing van “provinsiale museum” die volgende omskrywings in te voeg:
“beteken ‘Provinsiale Regering’ die Wes-Kaapse Regering;
beteken ‘Provinsie’ die Provinsie Wes-Kaap;”;

- (n) deur in subartikel (1) die omskrywing van “raad” met die volgende omskrywing te vervang:

“beteken ‘raad’ ’n munisipale raad genoem in artikel 157 van die Grondwet van die Republiek van Suid-Afrika, 1996.”; en

- (o) deur in subartikel (1) die omskrywing van “werknemer” te skrap.

Vervanging van artikel 2 van Ordonnansie 8 van 1975

2. Artikel 2 van die Hoofordonnansie word deur die volgende artikel vervang:

“Stigting van provinsiale museums.

2. (1) Die Provinsiale Minister kan, ter beskerming en bevordering van die erfenis van die Provinsie, en met inagneming van die bedryfsbehoefes van die Departement, ’n provinsiale museum by proklamasie in die *Provinsiale Koerant* stig —

- (a) op grond of in geboue onder die beheer of bestuur van die Provinsiale Regering, of
- (b) op grond of in geboue deur die Provinsiale Regering aangeskaf.

(2) Die Provinsiale Regering kan, uit geld deur die Provinsiale Parlement vir die doel bewillig, grond of geboue wat die Provinsiale Regering nodig of gepas ag vir die stigting van ’n provinsiale museum daarop of daarin, aanskaf.

(3) Die Provinsiale Minister kan, uit geld deur die Provinsiale Parlement vir die doel bewillig, enige eksemplaar of ander voorwerp of enige versameling vir die doel van bewaring, navorsing, kommunikasie of uitstalling in ’n provinsiale museum wat kragtens hierdie artikel gestig is of gestig sal word, aanskaf.

(4) Die Provinsiale Minister kan —

- (a) wanneer hy of sy ’n provinsiale museum kragtens hierdie artikel stig, ’n naam aan sodanige museum toewys, of
- (b) die naam wat aan enige provinsiale museum toewys is, verander.”.

Wysiging van artikel 3 van Ordonnansie 8 van 1975, soos gewysig by artikel 2 van Ordonnansie 13 van 1982

3. Artikel 3 van die Hoofordonnansie word gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“3. (1) Elke provinsiale museum is onderworpe aan die voorskrifte van die Departement en is onder die beheer en bestuur van ’n bestuurskomitee bestaande uit ses lede, van wie —

- (a) vier lede persone is wat deur die **[Administrateur] Provinsiale Minister** aangestel word omrede van hul ondervinding in korporatiewe bestuur of spesiale kennis van sake betreffende museums, en
- (b) twee lede **[amptenare, beamptes of]** werknemers in die Departement is, wat vir die doel aangewys word deur die **[Direkteur van Natuur- en Omgewingsbewing]** Departementshoof.”.

Vervanging van artikel 4 van Ordonnansie 8 van 1975

4. Artikel 4 van die Hoofordonnansie word deur die volgende artikel vervang:

“Ampstermyn van en betaling van toelaes aan lede van ’n bestuurskomitee.

4. (1) Elke aangestelde lid beklee sy of haar amp vir ’n tydperk van **[twee]** drie jaar en kan by verstryking van sodanige tydperk heraangestel word.

(2) Die lede van ’n bestuurskomitee, uitgesonderd aangestelde lede, beklee hul amp **[solank dit die Direkteur behaag]** vir die tydperk wat die Provinsiale Minister kan bepaal.

(3) ’n Vakature in ’n bestuurskomitee ontstaan as ’n aangestelde lid —

- (a) uit sy of haar amp bedank deur sy of haar bedanking skriftelik aan die Provinsiale Minister voor te lê;
- (b) van twee agtereenvolgende vergaderings van die bestuurskomitee afwesig was sonder die verlof van die voorsitter of, waar van toepassing, waarnemende voorsitter;
- (c) onbevoeg word om sy of haar bevoegdhede, pligte of funksies as ’n lid van die bestuurskomitee uit te voer of te vervul weens geestesongesteldheid, wat dieselfde beteken as “mental illness” soos omskryf in die “Mental Health Care Act, 2002” (Wet 17 van 2002);
- (d) ’n ongerehabiliteerde insolvent word;
- (e) skuldig bevind word aan ’n misdryf en gevonnissen word tot 12 of meer maande gevangenisstraf sonder die keuse van ’n boete, of
- (f) ná die einde van sy of haar ampstermyn deur die Provinsiale Minister uit die amp verwyder word.

(3A) Die Provinsiale Minister kan 'n aangestelde lid se ampstermyn slegs | op grond van wangedrag, onbevoegdheid of onbekwaamheid beëindig.

(4) **[Enige]** 'n Vakature in die amp van 'n aangestelde lid word aangevul deur die aanstelling van 'n opvolger deur die **[Administrateur]** Provinsiale Minister ooreenkomstig artikel 3, en sodanige opvolger beklee sy of haar amp vir die onverstreke ampstermyn van sy of haar voorganger; met dien verstande dat die Provinsiale Minister kan weier om 'n vakature in die amp van 'n lid wat ingevolge artikel 3(2) of 3(3) aangestel is, te vul.

(5) Aan elke aangestelde lid kan₂ uit geld deur die Provinsiale **[Raad]** Parlement vir die doel bewillig, ten opsigte van sy of haar dienste die toelaes betaal word wat **[voorgeskryf word]** die Provinsiale Minister in oorleg met die provinsiale minister verantwoordelik vir finansies in die Provinsie bepaal.”.

Invoeging van artikel 4A in Ordonnansie 8 van 1975

5. Die Hoofordonnansie word gewysig deur ná artikel 4 die volgende artikel in te voeg:

“Onbevoegdheid vir lidmaatskap van 'n bestuurskomitee.

4A. 'n Persoon is nie bevoeg om as 'n lid van 'n bestuurskomitee aangestel te word nie as —

- (a) hy of sy nie 'n Suid-Afrikaanse burger is nie, tensy die Provinsiale Minister sodanige aanstelling goedgekeur het, of
- (b) hy of sy skuldig bevind is aan 'n misdryf en gevonnissen is tot 12 of meer maande gevangenisstraf sonder die keuse van 'n boete.

Wysiging van artikel 5 van Ordonnansie 8 van 1975

6. Artikel 5 van die Hoofordonnansie word gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die **[lede van elke nuutsaamgestelde bestuurskomitee]** Provinsiale Minister moet [kies op die eerste vergadering van sodanige komitee], wanneer hy of sy die lede beoog by artikel 3 (1) (a) aanstel, een van **[die aangestelde]** daardie lede aanwys om voorsitter van die [komitee] betrokke bestuurskomitee te wees, en sodanige voorsitter beklee die amp as sodanig **[tydens]** vir die duur van sy of haar ampstermyn as lid van die komitee.”;

(b) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) As die voorsitter van 'n komitee sy of haar amp ontruim voor die verstryking van die tydperk waarvoor hy of sy **[as lid van die komitee]**

aangestel is, **[word]** moet die Provinsiale Minister, by die eerste vergadering van die komitee na die datum waarop die voorsitter sy of haar amp ontruim het, 'n ander **[aangestelde]** lid **[ooreenkomstig die bepalinge van subartikel (1) tot]** beoog by artikel 3 (1) (a) as voorsitter van die komitee **[gekie]** aanwys.”;

- (c) deur paragraaf (b) van subartikel (3) deur die volgende paragraaf te vervang:

“(b) nie in staat of nie **[bereid]** beskikbaar is om sy of haar funksies as voorsitter te vervul nie,”;
- (d) deur die woord “of” aan die einde van item (aa) van subartikel (3) deur die woord “en” te vervang; en
- (e) deur item (bb) van subartikel (3) deur die volgende item te vervang:

“(bb) al die bevoegdhede, pligte en funksies van die voorsitter uitoefen en vervul totdat die voorsitter in staat of **[bereid]** beskikbaar is om sy of haar bevoegdhede, pligte en funksies uit te oefen en te vervul **[, na gelang van die geval]**.”.

Vervanging van artikel 6 van Ordonnansie 8 van 1975, soos vervang by artikel 3 van Ordonnansie 13 van 1982

7. Artikel 6 van die Hoofordonnansie word deur die volgende artikel vervang:

“Kworum en besluite van 'n bestuurskomitee.

6. (1) Die kworum vir 'n vergadering van 'n bestuurskomitee is **[een helfte]** vyftig persent plus een van die totale getal lede van sodanige komitee (breukgetalle word nie ingereken nie).

(2) 'n Bestuurskomitee moet poog om sy besluite deur eenparigheid te bereik.

(3) As 'n bestuurskomitee nie daarin slaag om eenparigheid te bereik nie, kan die aangeleentheid deur 'n stemmery beslis word.

(4) 'n Besluit van 'n bestuurskomitee word geneem deur vyftig persent plus een van die lede wat by die vergadering teenwoordig is (breukgetalle word nie ingereken nie).”.

Wysiging van artikel 7 van Ordonnansie 8 van 1975

8. Artikel 7 van die Hoofordonnansie word gewysig—

- (a) deur die woorde in subartikel (1) wat paragraaf (a) voorafgaan, deur die volgende woorde te vervang:

“’n Bestuurskomitee het **[Die] die volgende** bevoegdhede, pligte en funksies **[van ’n bestuurskomitee is —]**”;

(b) deur paragraaf (e) van subartikel (1) deur die volgende paragraaf te vervang:

“(e) om, onderworpe aan die goedkeuring van die **[Administrateur] Departementshoof**, die tye wanneer en die voorwaardes **[en beperkings]** waarop **[en waaronder]** lede van die publiek **[of enige groep persone of persone behorende tot ’n bepaalde ras of klas]** die museum of enige deel daarvan kan besoek **[en, behoudens die bepalinge van subartikel (2), die toegangsgelde betaalbaar deur besoekers aan sodanige museum]**, te bepaal, **[en]**”;

(c) deur ná paragraaf (e) van subartikel (1) die volgende paragraaf in te voeg:

“(eA) om, behoudens die bepalinge van subartikel (2), die toegangsgelde betaalbaar deur besoekers aan die museum te bepaal, **[en]**”;

(d) deur subartikel (2) deur die volgende subartikel te vervang:

“(2)(a) ’n Bestuurskomitee kan vir toegang tot sy museum toegangsgelde bepaal en vra, behoudens die goedkeuring van die Provinsiale Minister.

(b) Die goedkeuring van die Provinsiale Minister beoog by paragraaf (a) moet in oorleg met die provinsiale minister verantwoordelik vir finansies in die Provinsie verleen word.”; en

(e) deur die volgende subartikel by te voeg:

“(3) ’n Bestuurskomitee kan by die bepaling beoog by subartikel (2) (a) voorsiening maak dat ingang tot die betrokke museum gratis is —

(a) op sekere dae, of

(b) vir sekere groepe persone.”.

Wysiging van artikel 8 van Ordonnansie 8 van 1975

9. Artikel 8 van die Hoofordonnansie word gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“8. **[(1)]** Die **[Administrateur] Departementshoof** kan, behoudens die wetsbepalinge met betrekking tot die **[Provinsiale Diens] Staatsdiens**, die **[beamptes of]** werknemers aanstel wat nodig is vir die uitoefening en vervulling deur ’n bestuurskomitee van sy bevoegdhede, pligte en funksies en vir die onderhoud, bestuur, beheer en ontwikkeling van ’n provinsiale museum.”; en

(b) deur subartikels (2), (3) en (4) te skrap.

Vervanging van artikel 9 van Ordonnansie 8 van 1975, soos gewysig by artikel 4 van Ordonnansie 13 van 1982

10. Artikel 9 van die Hoofordonnansie word deur die volgende artikel vervang:

“Skenkings en bemakings.

9. ’n Skenking of bemaking deur enige persoon, hetsy behoudens voorwaardes, voorbehoude of beperkings al dan nie, van enige roerende of onroerende goed aan die Provinsie, die Provinsiale Regering, ’n bestuurskomitee of ’n provinsiale museum vir die doel om gebruik te word as, deur, in verband met of vir die doel van ’n provinsiale museum, kan behoudens en ooreenkomstig die Wet op Openbare Finansiële Bestuur, 1999 (Wet 1 van 1999), aanvaar word.

Vervanging van artikel 10 van Ordonnansie 8 van 1975

11. Artikel 10 van die Hoofordonnansie word deur die volgende artikel vervang:

“Geld [geskenk of bemaak aan] ingesamel deur ’n provinsiale museum [moet in Provinsiale Inkomstefonds inbetaal en daarna aan museum beskikbaar gestel word].

10. Alle geld **[geskenk of bemaak aan] ingesamel deur** ’n provinsiale museum of **[aan] deur** die bestuurskomitee van ’n provinsiale museum word in die Provinsiale Inkomstefonds inbetaal en word vervolgens op die wyse soos deur die **[Administrateur] Departementshoof** bepaal en op versoek van die betrokke bestuurskomitee beskikbaar gestel aan sodanige bestuurskomitee vir gebruik in verband met die betrokke museum.”.

Herroeping van artikel 10A van Ordonnansie 8 van 1975, soos ingevoeg by artikel 5 van Ordonnansie 13 van 1982

12. Artikel 10A van die Hoofordonnansie word herroep.

Vervanging van artikel 11 van Ordonnansie 8 van 1975

13. Artikel 11 van die Hoofordonnansie word deur die volgende artikel vervang:

“Afskaffing van provinsiale museum.

11. (1) Die Provinsiale Minister kan, as hy of sy dit nodig ag, ’n provinsiale museum afskaf, by proklamasie in die *Provinsiale Koerant*, met ingang van ’n datum vermeld in die proklamasie, na oorweging van die volgende:

- (a) die volhoubaarheid van die betrokke museum;
- (b) die bedryfsbehoefte van die Departement, en
- (c) die kommentaar beoog by subartikel (2) (b).

(2) Voordat die Provinsiale Minister die proklamasie publiseer, moet die Provinsiale Minister —

- (a) met die bestuurskomitee van die betrokke provinsiale museum oorleg pleeg, en
- (b) by kennisgewing in die *Provinsiale Koerant*, kommentaar van die publiek aanvra oor die voorgestelde afskaffing van die betrokke provinsiale museum.

(3) Wanneer die Provinsiale Minister ’n provinsiale museum afskaf, is die provinsiale museum opgehef en die bestuurskomitee van sodanige museum ontbind.”.

Wysiging van artikel 12 van Ordonnansie 8 of 1975

14. Artikel 12 van die Hoofordonnansie word gewysig deur subartikel (3) deur die volgende subartikel te vervang:

“(3) As die [**Administrateur**] Provinsiale Minister van mening is dat —

- (a) ’n gebou wat geskik is om as ’n museum gebruik te word, ter beskikking van die aansoeker is;
- (b) die museum minstens ’n [**kern van ’n versameling**] kernversameling het;
- (c) die museum ’n tema sal kan ontwikkel soos bepaal deur ’n trusteraad wat ingevolge artikel 15 vir sodanige museum saamgestel word [, **en**];
- (d) die beskikbare geld tesame met enige subsidie ingevolge artikel 29 toereikend sal wees vir die behoorlike dryf en bestuur van die museum[.];
- (e) die bedryfsbehoefte van die Departement die verklaring van die museum tot ’n provinsie-ondersteunde museum nodig maak, en
- (f) as dit tot ’n provinsie-ondersteunde museum verklaar word, die museum die erfenis van die Provinsie sal beskerm en bevorder,

kan hy of sy, by proklamasie in die *Provinsiale Koerant*, sodanige museum tot 'n provinsie-ondersteunde museum verklaar en, in oorleg met die aansoeker, 'n naam aan sodanige museum toewys.”.

Vervanging van artikel 15 van Ordonnansie 8 van 1975, soos gewysig by Proklamasie 87 van 1978 en artikel 4 van Ordonnansie 11 van 1979

15. Artikel 17 van die Hoofordonnansie word deur die volgende artikel vervang:

“Samestelling van 'n trusteeeraad.

15. (1) Behoudens die ander subartikels van hierdie artikel, bestaan 'n trusteeeraad uit —

- (a) drie lede aangestel deur die Provinsiale Minister omrede van hul ondervinding in korporatiewe bestuur of spesiale kennis van sake betreffende museums;
- (b) waar die betrokke museum geleë is —
 - (i) in die munisipale gebied van 'n metropolitaanse munisipaliteit, een lid benoem deur die raad van die betrokke metropolitaanse munisipaliteit, aangestel deur die Provinsiale Minister, of
 - (ii) in die munisipale gebied van 'n plaaslike munisipaliteit, een lid benoem deur die raad van die betrokke plaaslike munisipaliteit en een lid benoem deur die raad van die distriksmunisipaliteit in wie se munisipale gebied sodanige plaaslike munisipaliteit geleë is, albei aangestel deur die Provinsiale Minister;
- (c) een lid benoem deur ondersteuners van die betrokke museum, aangestel deur die Provinsiale Minister, en
- (d) een werknemer van die Departement aangewys vir die doel deur die Departementshoof, aangestel deur die Provinsiale Minister.

(2) Die trusteeeraad van die Hugenote-Gedenkmuseum te Franschhoek bestaan uit —

- (a) vier lede aangestel deur die Provinsiale Minister omrede van hul ondervinding in korporatiewe bestuur of spesiale kennis van sake betreffende museums;
- (b) een lid benoem deur die raad van die plaaslike munisipaliteit in wie se munisipale gebied die museum geleë is en een lid benoem deur die raad van die distriksmunisipaliteit in wie se munisipale gebied

die plaaslike munisipaliteit geleë is, albei aangestel deur die Provinsiale Minister;

- (c) een lid benoem deur ondersteuners van die museum, aangestel deur die Provinsiale Minister, en
- (d) een werknemer in die Departement aangewys vir die doel deur die Departementshoof, aangestel deur die Provinsiale Minister.

(3) Die trusteeeraad van die Kangogrotte-Museum te Oudtshoorn bestaan uit —

- (a) vier lede aangestel deur die Provinsiale Minister omrede van hul ondervinding in korporatiewe bestuur of spesiale kennis van sake betreffende museums;
- (b) drie lede benoem deur die raad van die plaaslike munisipaliteit in wie se munisipale gebied die museum geleë is en een lid benoem deur die raad van die distriksmunisipaliteit in wie se munisipale gebied die plaaslike munisipaliteit geleë is, almal aangestel deur die Provinsiale Minister, en
- (c) een werknemer in die Departement aangewys vir die doel deur die Departementshoof, aangestel deur die Provinsiale Minister.

(4) Die trusteeeraad van die Oude Kerk Volksmuseum van 'T Land van Waveren (Tulbagh) te Tulbagh bestaan uit —

- (a) drie lede aangestel deur die Provinsiale Minister omrede van hul ondervinding in korporatiewe bestuur of spesiale kennis van sake betreffende museums;
- (b) een lid benoem deur die raad van die plaaslike munisipaliteit in wie se munisipale gebied die museum geleë is en een lid benoem deur die raad van die distriksmunisipaliteit in wie se munisipale gebied die plaaslike munisipaliteit geleë is, albei aangestel deur die Provinsiale Minister;
- (c) een lid benoem deur die kerkraad van die Nederduits Gereformeerde Gemeente te Tulbagh, aangestel deur die Provinsiale Minister;
- (d) een lid benoem deur ondersteuners van die museum, aangestel deur die Provinsiale Minister, en
- (e) een werknemer in die Departement aangewys vir die doel deur die Departementshoof, aangestel deur die Provinsiale Minister.

(5) Die Provinsiale Minister kan, benewens die lede van 'n trusteeeraad genoem in subartikel (1), (2), (3) of (4), na gelang van die geval, enigiemand as 'n lid van enige sodanige trusteeeraad aanstel omrede van spesiale dienste gelewer aan die betrokke museum deur sodanige persoon of deur enige

organisasie wat sodanige persoon verteenwoordig of om enige ander rede wat |
hy of sy voldoende ag.”.

Vervanging van artikel 16 van Ordonnansie 8 van 1975, soos gewysig by artikel 5 van Ordonnansie 11 van 1979

16. Artikel 16 van die Hoofordonnansie word deur die volgende artikel vervang:

“Ampstermyn van lede van ’n trusteeeraad.

16. (1) ’n Lid van ’n trusteeeraad —

- (a) aangestel ingevolge artikel 15 (1) (a), (2) (a), (3) (a) of (4) (a) beklee sy of haar amp vir ’n tydperk van drie jaar;
- (b) aangestel ingevolge artikel 15 (1) (c), (2) (c) of (4) (d) beklee sy of haar amp tot die volgende benoeming van so ’n lid vir aanstelling deur die Provinsiale Minister by ’n vergadering gehou ingevolge artikel 21 (2);
- (c) aangestel ingevolge artikel 15 (4) (c) beklee sy of haar amp vir die tydperk wat die kerkraad van die Nederduits Gereformeerde Gemeente te Tulbagh bepaal, en
- (d) uitgesonderd ’n lid beoog by paragrawe (a), (b) en (c), beklee sy of haar amp vir die tydperk bepaal deur die Provinsiale Minister.

(2) **[Enige lid]** ’n Lid van ’n trusteeeraad wat ingevolge artikel 15 (1) (a), (2) (a), (3) (a) of (4) (a) aangestel is wie se ampstermyn verstryk het, kan heraangestel [of herkies] word [, na gelang van die geval].

Vervanging van artikel 17 van Ordonnansie 8 van 1975

17. Artikel 17 van die Hoofordonnansie word deur die volgende artikel vervang:

“Vakatures in trusteeeraad en aanvulling daarvan.

17. (1) Die bepalings van artikel 4 (3) en (3A) is **[mutatis mutandis]**, met die nodige veranderinge wat die samehang vereis, van toepassing ten opsigte van ’n lid van ’n trusteeeraad.

(2) ’n Vakature in die amp van ’n lid van ’n trusteeeraad word aangevul deur die aanstelling **[of verkiesing]** van ’n opvolger deur die **[persoon of liggaam wat die voorganger van die persoon wat aldus aangestel of gekies moet word, aangestel of gekies het]** Provinsiale Minister ooreenkomstig

artikel 15; met dien verstande dat die **[Administrateur] Provinsiale Minister** kan weier om 'n vakature in die amp van 'n lid wat ingevolge artikel 15 (5) aangestel is, aan te vul.

(3) Enige lid van 'n trusteeraad wat ingevolge subartikel (2) aangestel **[of gekies]** is, beklee sy of haar amp vir die onverstreke ampstermyn van sy of haar voorganger.”.

Vervanging van artikel 18 van Ordonnansie 8 van 1975

18. Artikel 18 van die Hoofordonnansie word deur die volgende artikel vervang:

“Onbevoegdheid vir lidmaatskap van 'n trusteeraad.

18. **[Niemand kan]** 'n Persoon mag nie as 'n lid van 'n trusteeraad aangestel **[of gekies]** word nie as —

- (a) hy of sy nie 'n Suid-Afrikaanse burger is nie, tensy die **[Administrateur] Provinsiale Minister** sodanige aanstelling **[of verkiesing]** goedgekeur het[;], of
- (b) hy of sy **[binne die voorafgaande vyf jaar]** skuldig bevind is aan 'n misdryf en gevonnissen is tot 12 of meer maande gevangenisstraf sonder die keuse van 'n boete.”.

Invoeging van artikel 18A in Ordonnansie 8 van 1975

19. Die volgende artikel word ná artikel 18 in die Hoofordonnansie ingevoeg:

“Voorsitter van 'n trusteeraad.

18A. (1) Die Provinsiale Minister moet, wanneer hy of sy die lede beoog by artikel 15 (1) (a), (2) (a), (3) (a) of (4) (a) aanstel—

- (a) een van daardie lede aanwys as voorsitter, en
- (b) nog een van daardie lede aanwys as ondervoorsitter,

van die trusteeraad, en sodanige voorsitter en ondervoorsitter beklee sodanige amp vir die duur van hul ampstermyn as lede van die trusteeraad.

(2) As die voorsitter of ondervoorsitter van 'n trusteeraad voor die verstryking van die tydperk waarvoor hy of sy aangestel is, sy of haar amp ontruim, moet die Provinsiale Minister, by die eerste vergadering van die trusteeraad na die datum waarop die voorsitter of ondervoorsitter sy of haar amp ontruim het, 'n ander lid beoog by artikel 15 (1) (a), (2) (a), (3) (a) of

(4) (a), na gelang van die geval, as voorsitter of ondervoorsitter, na gelang van die geval, van die trusteeeraad aanwys.

(3) Wanneer ook al die voorsitter —

- (a) afwesig is van 'n vergadering van die trusteeeraad, of
- (b) nie in staat of nie beskikbaar is om sy of haar funksies as voorsitter te vervul nie,

moet die ondervoorsitter —

- (i) by sodanige vergadering die voorsitterstoel inneem, en
- (ii) al die bevoegdhede, pligte en funksies van die voorsitter uitoefen en vervul totdat die voorsitter in staat of beskikbaar is om sy of haar bevoegdhede, pligte en funksies uit te oefen en te vervul.”.

Vervanging van artikel 19 van Ordonnansie 8 van 1975

20. Artikel 19 van die Hoofordonnansie word deur die volgende artikel vervang:

“Kworum en besluite van ’n trusteeeraad.

19. Die bepalings van artikel 6 is van toepassing, met die nodige veranderinge wat die samehang vereis, ten opsigte van ’n vergadering van ’n trusteeeraad.”.

Wysiging van artikel 20 van Ordonnansie 8 van 1975, soos gewysig by artikel 1 van Ordonnansie 9 van 1983 en Proklamasie 149 van 1993

21. Artikel 20 van die Hoofordonnansie word gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) ’n Trusteeraad kan die komitees en subkomitees aanstel wat hy nodig [of wenslik] ag, en enige sodanige komitee of subkomitee oefen die bevoegdhede uit en vervul die pligte en funksies wat die trusteeeraad aan hom delegeer of wat voorgeskryf is.”.

Wysiging van artikel 21 van Ordonnansie 8 van 1975, soos gewysig by artikel 2 van Ordonnansie 9 van 1983

22. Artikel 21 van die Hoofordonnansie word gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“21. (1) Elke trusteeeraad stel [so spoedig moontlik na die een-en-dertigste dag van Maart van elke jaar] jaarliks binne twee maande na die

einde van die finansiële jaar 'n verslag op oor sy werksaamhede en die dryf en bestuur van die museum tesame met [**'n staat**] finansiële state van sy inkomste en uitgawe gedurende die vorige finansiële jaar en lê dit aan die [**Administrateur**] Departementshoof voor.”;

(b) deur in paragraaf (a) van subartikel (2) die uitdrukking “staat” deur die uitdrukking “finansiële state” te vervang;

(c) deur paragraaf (b) van subartikel (2) deur die volgende paragraaf te vervang:

“(b) die lid [**of lede**] van die trusteeraad beoog by artikel 15 (1) (c) [**of**], (2) (c) of (4) (d), na gelang van die geval, [**gekies**] word deur die Provinsiale Minister vir aanstelling benoem.”; en

(d) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Elke ondersteuner word van 'n algemene vergadering in subartikel (2) genoem, in kennis gestel per brief wat minstens sewe dae voor die datum van sodanige vergadering per gewone of elektroniese pos aan hom of haar gestuur word.”.

Vervanging van artikel 24 van Ordonnansie 8 van 1975

23. Artikel 24 van die Hoofordonnansie word deur die volgende artikel vervang:

“Personeeldiensstaat.

24. (1) Die [**Administrateur**] Departementshoof bepaal die personeeldiensstaat van 'n provinsie-ondersteunde museum en die gradering van poste op sodanige diensstaat [**en maak voorsiening op sodanige diensstaat vir 'n pos van direkteur van die betrokke museum**].

(2) Behoudens die bepalings van artikel 25 [(c)] (2) mag geen trusteeraad [**meer**] enige personeel [**as**] bykomend by die personeeldiensstaat bepaal vir die museum aanstel [**of in diens neem**], sonder die skriftelike toestemming van die Departementshoof nie.”.

Vervanging van artikel 25 van Ordonnansie 8 van 1975, soos gewysig by Proklamasie 149 van 1993

24. Artikel 25 van die Hoofordonnansie word deur die volgende artikel vervang:

“Aanstelling en beëindiging van diens van personeel.

25. (1) 'n Trusteeraad kan, behoudens die toepaslike wetgewing wat die aanstelling en beëindiging van diens van personeel reël —

- (a) personeel ooreenkomstig die personeeldiensstaat genoem in artikel 24(1) aanstel, of
- (b) die diens van personeel wat aldus aangestel is, beëindig.

(2) 'n Trusteeraad wat personeel bykomend by die personeeldiensstaat vir die betrokke museum wil aanstel, moet by die Departementshoof om toestemming daarvoor aansoek doen deur 'n skriftelike aansoek by die Departement in te dien.

(3) Die Departementshoof kan die toestemming verleen as hy of sy van mening is dat, na oorweging van die volgende, die bykomende personeel nodig is vir die trusteeraad om sy bevoegdhede, pligte en funksies uit te voer en te vervul:

- (a) die finansiële implikasies van die voorgestelde aanstelling van die bykomende personeel;
- (b) die behoefte aan spesifieke vaardighede of kundigheid in die betrokke museum, en
- (c) of die aanstelling van die bykomende personeel in die behoefte vir die spesifieke vaardighede of kundigheid sal voorsien.”.

Wysiging van artikel 26 van Ordonnansie 8 van 1975

25. Artikel 26 van die Hoofordonnansie word gewysig deur die volgende subartikel by te voeg, terwyl die bestaande subartikel subartikel (1) word:

“(2) 'n Trusteeraad kan, as dit in die belang van die betrokke museum is, behoudens toepaslike wetgewing wat die aftrede van personeel reël en ooreenkomstig die regulasies beoog by subartikel (1), 'n personeellid in sy of haar pos behou verby die ouderdom waarop dit van hom of haar vereis word om af te tree, met sy of haar toestemming en met die goedkeuring van die Departementshoof, van tyd tot tyd vir verdere tydperke, wat nie die gemiddelde voorgeskrewe tydperk mag oorskry nie.”.

Herroeping van artikels 27 en 28 van Ordonnansie 8 van 1975

26. Artikels 27 en 28 van die Hoofordonnansie word herroep.

Vervanging van artikel 29 van Ordonnansie 8 van 1975

27. Artikel 29 van die Hoofordonnansie word deur die volgende artikel vervang:

“Subsidies.

29. (1) Die Departementshoof moet, uit geld deur die Provinsiale Parlement vir die doel bewillig, aan elke trusteeeraad, uitgesonderd die trusteeeraad van die Kangogrotte-Museum genoem in artikel 15 (3), ’n jaarlikse subsidie betaal behoudens die voorwaardes wat die Departementshoof oplê, om vir die doeleindes van die betrokke museum gebruik te word.

(2) Ondanks subartikel (1) kan die Departementshoof, om grondige redes en by die beskikbaarheid van voldoende fondse aan die Departement vir daardie doel, ’n subsidie aan die trusteeeraad van die Kangogrotte-Museum toeken om vir die doeleindes van die museum gebruik te word.

(3) Die bedrag van enige subsidie betaal aan ’n trusteeeraad kragtens subartikel (1) of (2), na gelang van die geval, mag deur die trusteeeraad gebruik word slegs vir die betaling van —

- (a) salarisse, lone en toelaes, en
- (b) die instandhoudingskoste van die betrokke museum.

(4) Om ’n subsidie betaalbaar ingevolge hierdie artikel te verkry, moet ’n trusteeeraad —

- (a) teen die datum en op die wyse wat die Departementshoof gelas, ’n begroting van die trusteeeraad se uitgawes beoog by subartikel (3) vir die volgende finansiële jaar aan die Departement voorlê, tesame met sy plan van hoe die trusteeeraad beoog om sy bevoegdhede, pligte en funksies in die volgende finansiële jaar uit te oefen en te vervul, en
- (b) ten opsigte van die trusteeeraad van die Kangogrotte-Museum, ook ’n skriftelike verklaring voorlê wat die redes waarom ’n subsidie aangevra word, uiteensit.

(5) As die inligting in die begroting, plan of, waar van toepassing, die verklaring in so ’n mate onvoldoende is dat die Departementshoof nie ’n bepaling of oorweging soos beoog by subartikel (6) of (7) (a) onderskeidelik kan maak nie, kan die Departementshoof—

- (a) waar die tekortkoming reggestel kan word deur die voorlegging van bykomende inligting, die betrokke trusteeeraad versoek om bykomende inligting aan die Departement voor te lê, of
- (b) waar die tekortkoming so wesenlik is dat dit nie reggestel kan word deur die voorlegging van bykomende inligting nie, die betrokke trusteeeraad versoek om ’n nuwe begroting, nuwe plan of, waar van toepassing, nuwe verklaring aan die Departement voor te lê,

teen die datum en op die wyse wat die Departementshoof gelas.

(6) By ontvangs van die begroting en plan en, waar van toepassing, die bykomende inligting, nuwe begroting of nuwe plan, na gelang van die geval, moet die Departementshoof, behoudens subartikel (7), die bedrag van die subsidie betaalbaar aan 'n trusteeeraad gebaseer op die begroting of, waar van toepassing, die nuwe begroting wat voorgelê is, bepaal en goedkeur, en 'n subsidie ingevolge subartikel (1) mag slegs vir sodanige goedgekeurde bedrag betaal word.

(7)(a) Die Departementshoof moet, by ontvangs van die begroting, plan en verklaring of, waar van toepassing, die bykomende inligting, nuwe begroting, nuwe plan of nuwe verklaring, na gelang van die geval, die versoek om 'n subsidie deur die trusteeeraad van die Kangogrotte-Museum oorweeg en, as hy of sy tevrede is dat grondige redes vir die versoek bestaan en dat voldoende fondse aan die Departement beskikbaar is, die bedrag van die subsidie betaalbaar aan die trusteeeraad ooreenkomstig subartikel (6) bepaal en goedkeur, en 'n subsidie ingevolge subartikel (2) mag slegs vir sodanige goedgekeurde bedrag betaal word.

(b) As die Departementshoof, by ontvangs van die tersaaklike dokumente en na oorweging van die versoek nie tevrede is dat goeie gronde vir die versoek bestaan en dat voldoende fondse aan die Departement beskikbaar is nie, moet die Departementshoof die versoek verwerp en die trusteeeraad van die Kangogrotte-Museum van sy of haar besluit en die redes vir die besluit in kennis stel.

(8) Die bepalinge van hierdie artikel belet nie 'n trusteeeraad om meer as die bedrag van die goedgekeurde subsidie wat in verband met die betrokke museum aan sodanige trusteeeraad betaalbaar is, te bestee nie, maar enige uitgawes wat sodanige goedgekeurde bedrag oorskry, kwalifiseer nie vir 'n subsidie ingevolge hierdie artikel nie."

Invoeging van artikel 29A in Ordonnansie 8 van 1975

28. Die volgende artikel word ná artikel 29 in die Hoofordonnansie ingevoeg:

"Bykomende fondse.

29A. (1) Die Departementshoof kan, uit sy of haar eie beweging of op aansoek deur 'n trusteeeraad, uit geld deur die Provinsiale Parlement vir die doel bewillig, aan 'n trusteeeraad aan wie 'n subsidie beoog by artikel 29 vir die lopende finansiële jaar betaal is, in dieselfde finansiële jaar fondse bykomend

by sodanige subsidie betaal, behoudens die voorwaardes opgelê deur die Departementshoof.

(2) Waar die Departementshoof uit eie beweging ingevolge subartikel (1) handel, moet die Departementshoof die betrokke trusteeeraad versoek om die dokumente genoem in subartikel (4) ooreenkomstig daardie subartikel voor te lê.

(3) Die Departementshoof mag nie ingevolge hierdie artikel bykomende fondse aan 'n trusteeeraad betaal nie, tensy hy of sy van mening is dat, na oorweging van die volgende, bykomende fondse nodig is vir die trusteeeraad om sy bevoegdhede, pligte en funksies uit te oefen en te vervul en dat voldoende fondse vir die doel aan die Departement beskikbaar is:

- (a) of voldoende fondse vir die doel aan die Departement beskikbaar is;
- (b) die behoeftes van die trusteeeraad, en
- (c) die redes waarom die behoeftes bestaan.

(4) Om bykomende fondse ingevolge hierdie artikel te verkry, moet 'n trusteeeraad, teen die datum en op die wyse wat die Departementshoof gelas, die volgende aan die Departement voorlê:

- (a) die behoeftes van die trusteeeraad vir die lopende finansiële jaar en die redes waarom bykomende fondse benodig word;
- (b) 'n begroting van die bedrag bykomende fondse wat vir die lopende finansiële jaar benodig word, en
- (c) 'n plan van hoe die trusteeeraad beoog om die bykomende fondse te bestee om in sy behoeftes te voorsien.

(5) By ontvangs van al die dokumente genoem in subartikel (4), moet die Departementshoof die aansoek om bykomende fondse oorweeg of, waar die Departementshoof uit eie beweging gehandel het, die versoekte dokumente oorweeg, na gelang van die geval, en, as die Departementshoof tevrede is dat bykomende fondse nodig is vir die trusteeeraad om sy bevoegdhede, pligte en funksies uit te voer en te vervul en dat voldoende fondse aan die Departement beskikbaar is, moet die Departementshoof die bedrag van bykomende fondse betaalbaar aan die trusteeeraad bepaal en goedkeur gebaseer op die dokumente wat voorgelê is, en bykomende fondse ingevolge subartikel (1) sal slegs betaal word vir sodanige goedgekeurde bedrag.

(6) As die Departementshoof, na oorweging van die aansoek of die versoekte dokumente, na gelang van die geval, nie tevrede is dat bykomende fondse nodig is vir die trusteeeraad om sy bevoegdhede, pligte en funksies uit te oefen en te vervul nie of dat voldoende fondse aan die Departement beskikbaar is nie, moet die Departementshoof die aansoek verwerp of bepaal dat die trusteeeraad nie bykomende fondse benodig nie, na gelang van die geval, en die

betrokke trusteeeraad skriftelik van sy of haar besluit en die redes vir die besluit in kennis stel.

(7) Die bedrag van enige bykomende fondse wat ingevolge hierdie artikel aan 'n trusteeeraad betaal is, moet deur 'n trusteeeraad gebruik word —

- (a) slegs vir die doeleindes wat die Departementshoof gelas, en
- (b) in die finansiële jaar waarin dit betaal is of binne 'n ander tydperk wat die Departementshoof gelas.".

Wysiging van artikel 30 van Ordonnansie 8 van 1975

29. Artikel 30 van die Hoofordonnansie word gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

"30. (1) 'n Trusteeraad kan met die goedkeuring van die **[Administrateur]** Departementshoof—

- (a) lenings aangaan vir enige doel wat hy nodig **[of wenslik]** ag in verband met die uitoefening of vervulling van sy bevoegdhede, pligte en funksies **[, en]**;
- (aA) slegs as nodig, korttermynlenings aangaan vir finansiële tekorte wat in die finansiële jaar waarin die lening aangegaan word, ontstaan, en as voldoende inkomste gedurende daardie finansiële jaar deur die trusteeeraad ontvang sal word om sodanige lening terug te betaal, en
- (b) as sekuriteit vir die terugbetaling van enige lening, enige onroerende goed wat onder sy berusting is, verpand of andersins beswaar.";

(b) deur subartikels (2) en (3) te skrap;

(c) deur subartikel (4) deur die volgende subartikel te vervang:

"(4) Geen onroerende goed wat op naam van 'n trusteeeraad geregistreer is **[soos by subartikel (3) beoog]**, mag vervreem word nie tensy [—

- (a) enige lening aangegaan met die doel om sodanige onroerende goed aan te skaf of **[die betrokke]** 'n gebou op te rig, tesame met enige rente daarop, ten volle terugbetaal is **[en alle betalings gedoen en uitgawes aangegaan deur die Administrateur ooreenkomstig 'n waarborg ingevolge subartikel (2) ten opsigte van sodanige lening terugbetaal is, of**
- (b) **sodanige waarborg ingetrek is, watter ook al die vroegste plaasvind]**."; en

(d) deur subartikel (5) deur die volgende subartikel te vervang:

“(5) Vir die doeleindes van hierdie artikel beteken “korttermynlening” ’n lening waar die tydperk waarbinne dit terugbetaal moet word, minder as ses maande is.”.

Vervanging van artikel 31 van Ordonnansie 8 van 1975

30. Artikel 31 van die Hoofordonnansie word deur die volgende artikel vervang:

“Ontvangs en belegging van geld deur ’n trusteeeraad.

31. (1) Alle geld deur ’n trusteeeraad ontvang, word op die **[voorgeskrewe]** wyse beoog by artikels 21 en 32 verantwoord.

(2) **[Alle geld]** Geld wat ingevolge artikel 29 of 29A deur ’n trusteeeraad **[gehou word]** ontvang is en wat nie onmiddellik deur hom benodig **[is]** word in verband met die uitoefening en vervulling van sy bevoegdhede, pligte en funksies nie, word deur sodanige trusteeeraad op rente belê —

- (a) by enige bankinstelling wat ingevolge die Bankwet, **[1965 (Wet 23 van 1965)]** 1990 (Wet 94 van 1990), **[finaal geregistreer is of by enige bouvereniging wat ingevolge die Bouverenigingswet, 1965 (Wet 24 van 1965) geregistreer is;]** of
- (b) in staatseffekte [, of
- (c) **met die goedkeuring van die Administrateur, in die algemeen of spesiaal verleen, as ’n lening aan die raad van enige munisipaliteit of aan enige afdelingsraad of enige liggaam by wet binne die Republiek in die lewe geroep].”.**

Vervanging van artikel 32 van Ordonnansie 8 van 1975, soos vervang by artikel 3 van Ordonnansie 9 van 1983

31. Artikel 32 van die Hoofordonnansie word deur die volgende artikel vervang:

“Oudit van rekeninge.

32. (1) ’n Trusteeraad moet ’n ouditeur aanstel om die finansiële state beoog by artikel 21 te oudit.

(2) Die trusteeeraad moet, binne twee maande na die voorlegging van die finansiële state aan die Departementshoof ingevolge artikel 21, die volgende aan die Departementshoof voorlê:

- (a) die geouditeerde finansiële state, en

(b) die ouditeur se verslag van daardie state.”.

Invoeging van artikel 32A in Ordonnansie 8 van 1975

32. Die volgende artikel word ná artikel 32 in die Hoofordonnansie ingevoeg:

“Finansiële wangedrag.

32A. (1) ’n Trusteeraad pleeg ’n daad van finansiële wangedrag as hy opsetlik of weens nalatigheid —

- (a) versuim om aan artikel 21 (1), 31 of 32 te voldoen, of
- (b) geld wat ingevolge artikel 29 of 29A aan sodanige trusteeraad betaal is, vir ’n ander doel gebruik as wat deur daardie artikels beoog word.

(2) As ’n trusteeraad ’n daad van finansiële wangedrag pleeg kan die Provinsiale Minister redelike stappe doen wat hy of sy nodig ag, met inbegrip van —

- (a) die aanstelling van ’n administrateur om die finansiële sake van die trusteeraad te administreer en die bevoegdhede, pligte en funksies van die trusteeraad wat met die finansiële sake van die trusteeraad verband hou, uit te voer en te vervul, en
- (b) die skorsing van ’n lid van die trusteeraad of die beëindiging van die ampstermyn van ’n lid van die trusteeraad.

(3) Voordat die Provinsiale Minister enige regstellende stappe beoog by subartikel (2) doen, moet die Departementshoof aan die voorsitter van die betrokke trusteeraad ’n voldoeningskennisgewing en afskrifte daarvan aan die lede van die trusteeraad uitreik wat die volgende moet bevat:

- (a) ’n beskrywing van die finansiële wangedrag wat die nievoldoening deur die trusteeraad aan die bepalings van hierdie ordonnansie uitmaak;
- (b) die stappe wat die trusteeraad moet doen en die tydperk waarbinne daardie stappe gedoen moet word om die nievoldoening reg te stel, en
- (c) ’n mededeling aan die trusteeraad dat, as dit versuim om enige stappe beoog by paragraaf (b) te doen, die Departementshoof die saak na die Provinsiale Minister sal verwys om regstellende stappe ingevolge subartikel (2) te doen.

(4) As die trusteeraad binne die tydperk vermeld in die voldoeningskennisgewing aan al die stappe beoog by subartikel (3) (b) voldoen

het, moet die Departementshoof die Provinsiale Minister en die trusteeeraad skriftelik in kennis stel van die voldoening aan die bepalings van die voldoeningskennisgewing.

(5) As 'n trusteeeraad versuim om binne die tydperk vermeld in die voldoeningskennisgewing aan enige of al die stappe beoog by subartikel (3) (b) te voldoen—

- (a) moet die Departementshoof, na die verstryking van die tydperk, die Provinsiale Minister skriftelik in kennis stel van die nievoldoening of gedeeltelike nievoldoening, na gelang van die geval, van die trusteeeraad aan die bepalings van die voldoeningskennisgewing, en
- (b) die Provinsiale Minister moet na ontvangs van die kennisgewing beoog by paragraaf (a) die trusteeeraad skriftelik in kennis stel van die voorgestelde regstellende stappe wat gedoen staan te word.

(6) Die kennisgewing aan die trusteeeraad beoog by subartikel (5) (b) moet, behoudens subartikel (7), die volgende vermeld:

- (a) die nievoldoening of gedeeltelike nievoldoening, na gelang van die geval, van die trusteeeraad aan die bepalings van die voldoeningskennisgewing;
- (b) die aard en doel van die regstellende stappe wat ingevolge subartikel (2) gedoen staan te word;
- (c) dat die trusteeeraad geregtig is om binne 30 dae van ontvangs van die kennisgewing skriftelike vertoë aan die Provinsiale Minister te rig, en
- (d) waar die regstellende stappe vir die aanstelling van 'n administrateur voorsiening maak, dat die tydperk van sodanige aanstelling ingevolge subartikel (14) verleng kan word.

(7) As die nievoldoening deur 'n daad van finansiële wangedrag soos beoog by subartikel (1) (b) veroorsaak is, kan die Provinsiale Minister afsien van die tydperk genoem in subartikel (6) (c) en 'n korter tydperk in die kennisgewing vermeld, met dien verstande dat sodanige korter tydperk die betrokke trusteeeraad 'n redelike geleentheid bied om skriftelike vertoë aan die Provinsiale Minister te rig.

(8) Die Provinsiale Minister kan, by verstryking van die tydperk genoem in subartikel (6) (c) of, waar van toepassing, die korter tydperk beoog by subartikel (7), ongeag of die Provinsiale Minister enige skriftelike vertoë van die betrokke trusteeeraad ontvang het, en na behoorlike oorweging van al die relevante feite, met inbegrip van enige gedeeltelike voldoening deur die trusteeeraad aan die voldoeningskennisgewing en enige skriftelike vertoë wat die trusteeeraad gerig het, die regstellende stappe doen.

(9) Die Provinsiale Minister moet, nadat hy of sy die regstellende stappe ooreenkomstig subartikel (8) gedoen het, die betrokke trusteeeraad skriftelik van die redes waarom hy of sy dit gedoen het, in kennis stel.

(10) As 'n administrateur ingevolge subartikel (2) (a) aangestel word, moet die administrateur die betrokke trusteeeraad se finansiële sake administreer, en die bevoegdhede, pligte en funksies van daardie trusteeeraad wat met sy finansiële sake verband hou, uitoefen en vervul en, in die volgende volgorde:

- (a) binne 'n tydperk bepaal deur die Provinsiale Minister 'n verslag van die sake van die betrokke trusteeeraad aan die Departementshoof voorlê;
- (b) waar van toepassing, in oorleg met die Departementshoof, 'n herstelplan vir die trusteeeraad voorstel;
- (c) waar van toepassing, toesien dat die herstelplan binne 'n tydperk bepaal deur die Provinsiale Minister geïmplementeer word, en
- (d) waar van toepassing, by voltooiing van die implementering van die herstelplan, aan die Departementshoof 'n finale verslag van die sake van die trusteeeraad voorlê.

(11) Die Provinsiale Minister kan, op versoek van die administrateur en na oorleg met die Departementshoof, die tydperk beoog by subartikel (10) (c) verleng.

(12) Die Provinsiale Minister kan, in oorleg met die Departementshoof en oorweging van die verslag genoem in subartikel (10) (a) of die finale verslag genoem in subartikel (10) (d), na gelang van die geval, bepaal dat —

- (a) die trusteeeraad in staat is om sy finansiële sake te administreer en sy bevoegdhede, pligte en funksies wat met finansiële sake verband hou, uit te oefen en te vervul,
- (b) die trusteeeraad met die verdere bystand van die administrateur in staat is om sy finansiële sake te administreer en sy bevoegdhede, pligte en funksies wat met finansiële aangeleenthede verband hou, uit te oefen en te vervul, of
- (c) die trusteeeraad nie in staat is om sy finansiële sake te administreer en sy bevoegdhede, pligte en funksies wat met finansiële sake verband hou, uit te oefen en te vervul nie en die bystand en ondersteuning van die Departement benodig om dit te doen.

(13) Die Provinsiale Minister moet die trusteeeraad skriftelik van sy bepaling in kennis stel.

(14) As die Provinsiale Minister 'n bepaling beoog by subartikel (12) (b) maak, kan die Provinsiale Minister die tydperk van aanstelling van die administrateur verleng op die bepalings en voorwaardes bepaal deur die Provinsiale Minister."

Wysiging van artikel 34 van Ordonnansie 8 van 1975

33. Artikel 34 van die Hoofordonnansie word gewysig—

(a) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) By ontvangs van enige aansoek ingevolge subartikel (1) kan die **[Administrateur] Provinsiale Minister** ’n inspeksie van sodanige museum laat uitvoer en van die aansoeker verlang om aan hom of haar dié inligting ten opsigte van sodanige museum te verstrek wat hy of sy nodig **[of wenslik]** ag.”; en

(b) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) As die **[Administrateur] Provinsiale Minister** van mening is dat —

(a) die bedryfsbehoefte van die Departement die verklaring van die museum tot ’n plaaslike museum nodig maak, en

(b) sodanige museum, indien dit tot ’n plaaslike museum verklaar word, **[in die kulturele of opvoedkundige behoeftes van die publiek of ’n gedeelte van die publiek sal voorsien,] die erfenis van die gemeenskap van die plaaslike munisipaliteit in wie se munisipale gebied die museum geleë is, sal beskerm en bevorder,**

kan hy of sy by proklamasie in die Provinsiale Koerant sodanige museum tot ’n plaaslike museum verklaar en, in oorleg met die aansoeker, ’n naam aan sodanige museum toewys.”.

Vervanging van artikel 35 van Ordonnansie 8 van 1975

34. Artikel 35 van die Hoofordonnansie word deur die volgende artikel vervang:

“Plaaslike museum moet onder bestuur, beheer en leiding van ’n beheerraad wees.

35. ’n Plaaslike museum is onder die bestuur, beheer en leiding van ’n beheerraad bestaande uit —

(a) twee lede deur die **[Administrateur] Provinsiale Minister** aangestel;

(b) **[twee lede aangestel] een lid benoem** deur die raad **[wat jurisdiksie en beheer het in die gebied waarin] van die plaaslike munisipaliteit in wie se munisipale gebied die museum geleë is, aangestel** deur die Provinsiale Minister, en

- (c) twee lede deur ondersteuners van die betrokke museum [gekies] benoem, aangestel deur die Provinsiale Minister; met dien verstande dat waar 'n museum minder as tien ondersteuners het, geen lede ingevolge hierdie paragraaf [gekies] aangestel word nie en, in plaas van sodanige lede, twee bykomende lede ingevolge paragraaf (b) aangestel word.

Vervanging van artikel 37 van Ordonnansie 8 van 1975

35. Artikel 37 van die Hoofordonnansie word deur die volgende artikel vervang:

“Ampstermyn van lede van beheerraad.

37. (1) 'n Lid van 'n beheerraad aangestel ingevolge —

- (a) artikel 35 (a) beklee die amp vir 'n tydperk van drie jaar;
- (b) artikel 35 (b) beklee die amp vir die tydperk bepaal deur die Provinsiale Minister, en
- (c) artikel 35 (c) beklee die amp tot en met die volgende benoeming van so 'n lid vir aanstelling deur die Provinsiale Minister op 'n algemene vergadering van ondersteuners.

(2) **[Enige]** 'n Lid van 'n beheerraad wat ingevolge artikel 35 (a) aangestel is wie se ampstermyn verstryk het, kan heraangestel **[of herkies]** word **[, na gelang van die geval].”**

Vervanging van artikel 38 van Ordonnansie 8 van 1975

36. Artikel 38 van die Hoofordonnansie word deur die volgende artikel vervang:

“Vakatures in 'n beheerraad en aanvulling daarvan en onbevoegdheid vir lidmaatskap van sodanige raad.

38. Die bepalings van artikels 4 (3) en (3A), 17 (2) en (3) en 18 is **[mutatis mutandis]**, met die nodige veranderinge wat die samehang vereis, van toepassing ten opsigte van enige vakature in die amp van 'n lid van 'n beheerraad en die aanstelling **[of verkiesing]** van 'n lid van sodanige raad.”.

Invoeging van artikels 38A en 38B in Ordonnansie 8 van 1975

37. Die Hoofordonnansie word gewysig deur die volgende artikels ná artikel 38 in te voeg:

“Voorsitter van ’n beheerraad.

38A. (1) Die Provinsiale Minister moet, wanneer hy of sy die lede beoog by artikel 35 (a) aanstel —

- (a) een lid as voorsitter, en
- (b) die ander lid as ondervoorsitter,

van die betrokke beheerraad aanwys, en sodanige voorsitter en ondervoorsitter beklee hul amp vir die duur van hul ampstermyn as lede van die beheerraad.

(2) As ’n voorsitter of ondervoorsitter van ’n beheerraad sy of haar amp ontruim voor die verstryking van die tydperk waarvoor hy of sy aangestel is, moet die Provinsiale Minister, voor die eerste vergadering van die beheerraad na die datum waarop die voorsitter of ondervoorsitter sy of haar amp ontruim het, ’n lid ooreenkomstig artikel 35 (a) aanstel en sodanige lid ooreenkomstig die bepalings van subartikel (1) as voorsitter of ondervoorsitter, na gelang van die geval, van die beheerraad aanwys.

(3) Wanneer ook al die voorsitter —

- (a) afwesig is van ’n vergadering van die beheerraad, of
- (b) nie in staat of beskikbaar is om sy of haar funksies as voorsitter te vervul nie,

moet die ondervoorsitter —

- (i) by sodanige vergadering die voorsitterstoel inneem, en
- (ii) alle bevoegdhede, pligte en funksies van die voorsitter uitoefen en vervul totdat die voorsitter in staat en beskikbaar is om sy of haar bevoegdhede, pligte en funksies uit te oefen en te vervul.

Kworum van besluite van ’n beheerraad.

38B. Die bepalings van artikel 6 is van toepassing, met die nodige veranderinge wat die samehang vereis, ten opsigte van ’n vergadering van ’n beheerraad.”.

Vervanging van artikel 39 van Ordonnansie 4 van 1975

38. Artikel 39 van die Hoofordonnansie word deur die volgende artikel vervang:

“Betaling van toelaes aan beheerrade.

39. (1) Die Departementshoof kan, uit geld deur die Provinsiale Parlement vir die doel bewillig en op aansoek deur ’n beheerraad, aan sodanige beheerraad ’n toelae betaal waarvan die Departementshoof die bedrag bepaal en wat onderworpe is aan die voorwaardes wat die Departementshoof bepaal, vir gebruik deur sodanige beheerraad in die volgende finansiële jaar om die museum te dryf en te bestuur.

(2) Die Departementshoof mag nie ’n toelae aan ’n beheerraad betaal nie, tensy hy of sy van mening is dat, na oorweging van die volgende, die toelae nodig is vir die beheerraad om die museum te dryf en te bestuur en dat voldoende fondse vir die doel aan die Departement beskikbaar is:

- (a) of voldoende fondse vir die doel aan die Departement beskikbaar is;
- (b) die behoeftes van die beheerraad, en
- (c) die redes waarom die behoefte bestaan.

(3) Om ’n toelae ingevolge hierdie artikel te verkry, moet ’n trusteeeraad, teen die datum en op die wyse wat die Departementshoof gelas, die volgende aan die Departementshoof voorlê:

- (a) die behoeftes van die beheerraad vir die dryf en bestuur van die museum;
- (b) ’n begroting van die uitgawes van die beheerraad vir die volgende finansiële jaar, en
- (c) ’n plan van hoe die beheerraad beoog om die toelae te bestee om in sy behoeftes te voorsien en sy bevoegdhede, pligte en funksies in die volgende finansiële jaar uit te oefen en te vervul.

(4) By ontvangs van al die dokumente genoem in subartikel (3), moet die Departementshoof die aansoek om ’n toelae oorweeg en, as hy of sy tevrede is dat die toelae nodig is vir die beheerraad om die museum te dryf en te bestuur en dat voldoende fondse aan die Departement beskikbaar is, moet die Departementshoof die bedrag van die toelae betaalbaar aan die beheerraad bepaal en goedkeur gebaseer op die dokumente wat voorgelê is, en ’n toelae ingevolge subartikel (1) mag slegs vir sodanige goedgekeurde bedrag betaal word.

(5) As die Departementshoof, na oorweging van die aansoek, nie tevrede is dat 'n toelae nodig is vir gebruik deur die beheerraad om die museum te dryf en te bestuur nie of dat voldoende fondse aan die Departement beskikbaar is nie, moet die Departementshoof die aansoek verwerp en die beheerraad skriftelik van sy of haar besluit en die redes vir die besluit in kennis stel.".

Wysiging van artikel 40 van Ordonnansie 8 van 1975

39. Artikel 40 van die Hoofordonnansie word gewysig—

(a) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Die funksies van die komitee is om die Departement of die **[Administrateur] Provinsiale Minister**, na gelang van die geval, van raad te dien oor die aangeleenthede insake museums of die toepassing van hierdie ordonnansie wat hy nodig **[of wenslik]** ag of wat deur die Departement of die **[Administrateur] Provinsiale Minister** na hom verwys word.";

(b) deur subartikel (4) deur die volgende subartikel te vervang:

"(4) Aan elke lid van die komitee wat nie 'n **[amptenaar, beampte of]** werknemer in die staatsdiens **[of in die diens van 'n provinsiale administrasie]** is nie, kan uit geld deur die Provinsiale **[Raad] Parlement** vir die doel bewillig en as die **[Administrateur] Provinsiale Minister** aldus besluit, die besoldiging of toelaes betaal word wat die **[Administrateur] Provinsiale Minister in oorleg met die provinsiale minister verantwoordelik vir finansies in die Provinsie** bepaal."; en

(c) deur subartikel (5) deur die volgende subartikel te vervang:

"(5) Die lede van die komitee beklee hul amp **[solank dit die Administrateur behaag]** vir die tydperk wat die Provinsiale Minister bepaal.".

Wysiging van artikel 41 van Ordonnansie 8 van 1975

40. Artikel 41 van die Hoofordonnansie word gewysig—

(a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

"(a) **[die verkiesing van 'n voorsitter of ondervoorsitter van 'n trusteeeraad en]** die aanstelling van 'n sekretaris en 'n tesourier in 'n trusteeeraad;"

(b) deur paragrawe (d), (f), (g), (h), (i), (j), (k), (l), (m), (n), (p) en (q) van subartikel (1) te skrap; en

(c) deur paragraaf (s) van subartikel (1) deur die volgende paragraaf te vervang:

“(s) in die algemeen alle sake wat [hy] die Provinsiale Minister nodig of dienstig ag om voor te skryf ten einde die oogmerke van hierdie ordonnansie te bevorder of te bereik [, en die algemeenheid van hierdie bepaling word nie deur die voorafgaande paragrawe van hierdie subartikel beperk nie].”.

Vervanging van artikel 42 van Ordonnansie 8 van 1975

41. Artikel 42 van die Hoofordonnansie word deur die volgende artikel vervang:

“Provinsie-ondersteunde of plaaslike museum kan as ’n provinsiale museum gestig word.

42. (1) ’n Trusteeraad van ’n provinsie-ondersteunde museum of ’n beheerraad van ’n plaaslike museum kan skriftelik by die Provinsiale Minister aansoek doen om sodanige museum as ’n provinsiale museum te stig.

(1A) Die aansoek moet —

- (a) die redes vir die aansoek vermeld, en
- (b) vergesel wees van die volledige besonderhede van die bates en laste van die betrokke museum, met inbegrip van die besonderhede van die grond en geboue waarop of waarin die museum geleë is.

(2) By ontvangs van ’n aansoek ingevolge subartikel (1) en die inligting genoem in subartikel (1A), kan die [Administrateur] Provinsiale Minister ’n ondersoek van die museum laat uitvoer en kan hy of sy van die aansoeker verlang om hom of haar te voorsien van die inligting wat [hy] die Provinsiale Minister nodig ag.

(3) As die Provinsiale Minister van mening is dat, na oorweging van die volgende, die toestaan van die aansoek nodig is om die erfenis van die Provinsie te beskerm en te bevorder, kan die Provinsiale Minister by proklamasie in die *Provinsiale Koerant* die betrokke museum as ’n provinsiale museum stig met ingang van ’n datum vermeld in die proklamasie, en die bepalings van Hoofstuk II is ten opsigte van sodanige museum van toepassing:

- (a) die redes vir die aansoek, en
- (b) die bedryfsbehoefte van die Departement.

(4) Met ingang van die datum by subartikel (3) beoog, word die [Administrasie] Provinsiale Regering geag die regsopvolger van die betrokke trusteeraad of beheerraad te wees en die bepalings van artikel 14 (a), (b) en (c) is [mutatis mutandis] van toepassing, met die nodige veranderinge wat die samehang vereis, ten opsigte van die betrokke museum, en enige verwysing in

dié artikel na 'n bestuursliggaam word uitgelê as 'n verwysing na sodanige trusteeraad of beheerraad, na gelang van die geval.”.

Wysiging van artikel 43 van Ordonnansie 8 van 1975, soos gewysig by artikel 4 van Ordonnansie 9 van 1983

42. Artikel 43 van die Hoofordonnansie word deur die volgende subartikel vervang:

“(2) Waar enige sodanige skenking of bemaking gedoen is onderworpe aan 'n voorwaarde, voorbehoud of beperking dat 'n persoon of persone of 'n aangewese persoon of persone of [sy] 'n verteenwoordiger van sodanige persoon of persone toegelaat word om in sodanige trusteeraad of beheerraad te dien, kan die [Administrateur] Provinsiale Minister, ondanks die bepalings van hierdie ordonnansie insake die samestelling van sodanige trusteeraad of beheerraad, dié persoon of persone wat nodig is om uitvoering te gee aan sodanige voorwaarde, voorbehoud of beperking, aanstel in sodanige trusteeraad of beheerraad benewens die persone ingevolge sodanige bepalings deur hom of haar aangestel.”.

Wysiging van artikel 44 van Ordonnansie 8 van 1975

43. Artikel 44 van die Hoofordonnansie word deur die volgende artikel vervang:

“Afskaffing van provinsie-ondersteunde of plaaslike museums.

44. (1) Die Provinsiale Minister kan, as hy of sy dit nodig ag, uit eie beweging of op aansoek van 'n trusteeraad of beheerraad, by proklamasie in die *Provinsiale Koerant* 'n provinsie-ondersteunde of plaaslike museum afskaf, met ingang van 'n datum vermeld in die proklamasie, na oorweging van die volgende:

- (a) die volhoubaarheid van die betrokke museum;
- (b) die bedryfsbehoeftes van die Departement, en
- (c) die kommentaar beoog by subartikel (1A) (b).

(1A) Voordat die Provinsiale Minister die proklamasie uitreik, moet die Provinsiale Minister —

- (a) oorleg pleeg met die trusteeraad of beheerraad, na gelang van die geval, van die betrokke museum, en
- (b) by kennisgewing in die *Provinsiale Koerant*, kommentaar van die publiek oor die voorgestelde afskaffing van die betrokke museum aanvra.

(2) Alle bates, regte, laste en verpligtinge van die trusteraad of beheerraad van 'n museum wat ingevolge subartikel (1) afgeskaf is, moet oor beskik word **[en nagekom word], uitgeoefen, vereffen en aan voldoen word** op die wyse wat die **[Administrateur] Provinsiale Minister** in oorleg met sodanige trusteraad of beheerraad gelas **[en die dienste van die lede van die personeel van enige sodanige trusteraad word met ingang van die datum by subartikel (1) beoog, geag beëindig te gewees het ooreenkomstig die bepalings van hierdie ordonnansie wat die beëindiging van die dienste van beamptes of werknemers reël]**.

(3) Wanneer die Provinsiale Minister 'n provinsie-ondersteunde of plaaslike museum afskaf, is die museum opgehef."

Vervanging van artikel 45 van Ordonnansie 8 van 1975, soos gewysig by Proklamasie 149 van 1993

44. Artikel 45 van die Hoofordonnansie word deur die volgende artikel vervang:

"Delegasie van bevoegdhede, pligte en funksies.

45. (1) Die Provinsiale Minister kan aan die Departementshoof enige van sy of haar bevoegdhede deleger of enige van sy of haar pligte of funksies ingevolge hierdie ordonnansie opdra, uitgesonderd die bevoegdheid om regulasies te maak of 'n proklamasie of kennisgewing uit te reik.

(2) Die Departementshoof kan aan 'n werknemer in die Departement of aan die bekleër van 'n bepaalde amp of posisie in die Departement enige van sy of haar bevoegdhede of sy of haar pligte of funksies ingevolge hierdie ordonnansie deleger of opdra.

(3) 'n Delegasie of opdrag genoem in subartikel (1) of (2) —

- (a) moet op skrif wees;
- (b) kan onderworpe aan voorwaardes gemaak word;
- (c) kan skriftelik ingetrek of gewysig word deur die Provinsiale Minister of die Departementshoof, na gelang van die geval
- (d) kan die verdere delegasie van daardie bevoegdheid of die verdere opdrag van daardie plig of funksie toelaat;
- (e) verhoed nie die Provinsiale Minister of die Departementshoof, na gelang van die geval, om daardie bevoegdheid uit te oefen of daardie plig of funksie te vervul nie, en

- (f) ontdoen nie die Provinsiale Minister of die Departementshoof, na gelang van die geval, van die verantwoordelikheid betreffende die uitoefening van die gedelegeerde bevoegdheid of die vervulling van die opgedraagde plig of funksie nie.".

Vervanging van uitdrukkings in Ordonnansie 8 van 1975

45. Die Hoofordonnansie word gewysig deur die uitdrukkings in die eerste kolom van die Bylae, waar dit ook al voorkom en waar ook al dit nie elders by hierdie Wet gewysig is nie, te vervang deur die uitdrukkings in die tweede kolom.

Wysiging van lang titel van Ordonnansie 8 van 1975

46. Die lang titel word gewysig deur die uitdrukking "Administrasie" deur die uitdrukking "Wes-Kaapse Regering" te vervang.

Voorbehoude en oorgangsbepalings

47. (1) In hierdie artikel beteken—

"beheerraad" 'n beheerraad genoem in artikel 1(1) van die Hoofordonnansie;

"finansiële jaar" 'n jaar wat op 31 Maart eindig;

"bestuurskomitee" 'n bestuurskomitee genoem in artikel 1(1) van die Hoofordonnansie;

"Departementshoof" die hoof van die provinsiale departement verantwoordelik vir museums, uitgesonderd nasionale museums, in die Provinsie;

"Provinsiale Minister" die lid van die Provinsiale Kabinet verantwoordelik vir museums, uitgesonderd nasionale museums, in die Provinsie;

"Provinsiale Regering" die Wes-Kaapse Regering;

"Provinsie" die Provinsie Wes-Kaap;

"trusteeraad" 'n trusteeeraad genoem in artikel 1(1) van die Hoofordonnansie.

(2) Enige saak wat beslis moet word wat hangend is voor 'n bestuurskomitee, trusteeeraad of beheerraad wat voor die inwerkingtreding van hierdie Wet nog nie beslis is nie, moet deur daardie bestuurskomitee, trusteeeraad of beheerraad, na gelang van die geval, beslis word asof hierdie Wet nie in werking getree het nie.

(3) 'n Trusteeraad moet vir die finansiële jaar waarin hierdie Wet in werking tree die verslag en staat van inkomste en uitgawe beoog in artikel 21 van die Hoofordonnansie soos

dit gelees het voor die inwerkingtreding van hierdie Wet, binne die tydperk genoem in daardie artikel opstel en aan die Departementshoof voorlê.

(4) Enige begroting wat ingevolge artikel 29 van die Hoofordonnansie voorgelê en ontvang is ten opsigte waarvan die goedgekeurde subsidiegewende uitgawe van 'n trusteraad voor die inwerkingtreding van hierdie Wet nog nie finaal bepaal is nie, moet geadministreer word asof hierdie Wet nie in werking getree het nie, behalwe dat die uitdrukking "Administrateur" en "Provinsiale Raad" in daardie artikel van die Hoofordonnansie uitgelê word as onderskeidelik "Departementshoof" en "Provinsiale Parlement".

(5) Ondanks die vervanging van artikel 29 van die Hoofordonnansie deur artikel 27 van hierdie Wet, moet enige lening beoog in artikel 29(1)(d)(ii) van die Hoofordonnansie soos dit gelees het voor die inwerkingtreding van hierdie Wet, ooreenkomstig artikel 29 van die Hoofordonnansie soos dit gelees het voor die inwerkingtreding van hierdie Wet verminder en terugbetaal word, behalwe dat die lening teen die toepaslike rentekoers bepaal ingevolge artikel 80 van die Wet op Openbare Finansiële Bestuur, 1999 (Wet 1 van 1999), terugbetaal moet word.

(6)(a) 'n Trusteraad wat voor die inwerkingtreding van hierdie Wet geld wat ingevolge artikel 29 van die Hoofordonnansie aan hom betaal is, belê het in 'n bouvereniging beoog in artikel 31 van die Hoofordonnansie soos dit gelees het voor die inwerkingtreding van hierdie Wet, moet binne ses maande na die inwerkingtreding van hierdie Wet sodanige geld disinvesteer en, indien die geld nie onmiddellik deur daardie trusteraad in verband met die uitoefening en vervulling van sy bevoegdhede, pligte en funksies benodig word nie, moet die trusteraad daardie geld op rente by 'n bankinstelling finaal registreer ingevolge die Bankwet, 1990 (Wet 94 van 1990), belê.

(b) As die geld wat in die bouvereniging belê is, onderworpe is aan voorwaardes wat nie 'n trusteraad toelaat om die geld binne die tydperk genoem in subartikel (6)(a) te disinvesteer nie, moet die trusteraad, binne twaalf maande ná die inwerkingtreding van hierdie Wet, alles doen wat die betrokke bouvereniging van hom verlang om die geld te disinvesteer en, by die disinvestering van die geld, onmiddellik aan subartikel (6)(a) voldoen.

(7) Ondanks die vervanging van artikel 30(5) van die Hoofordonnansie by artikel 29(d) van hierdie Wet kan die Administrateur, uitgelê as die Departementshoof vir die doel van hierdie subartikel, die bevoegdhede uitoefen en die pligte vervul wat in daardie artikel van die Hoofordonnansie beoog word soos dit gelees het voor die inwerkingtreding van hierdie Wet om enige betalings en uitgawes te verhaal wat gedoen en aangegaan is as gevolg van 'n waarborg uitgereik ingevolge artikel 30(2) van die Hoofordonnansie soos dit gelees het voor die inwerkingtreding van hierdie Wet, totdat alle betalings en uitgawes verhaal is.

(8) Ondanks die vervanging van artikel 32 van die Hoofordonnansie by artikel 31 van hierdie Wet moet die Provinsiale Ouditeur, uitgelê as die Ouditeur-generaal vir die doel

van hierdie subartikel, die rekeninge van 'n provinsie-ondersteunde museum ouditeer vir die finansiële jaar waarin hierdie Wet in werking tree.

(9) Enige aansoek wat ingevolge artikel 39 van die Hoofordonnansie gedoen is wat voor die inwerkingtreding van hierdie Wet nog nie finaal bepaal is nie, moet geadministreer word asof hierdie Wet nie in werking getree het nie, behalwe dat die uitdrukking “Administrateur” en “Provinsiale Raad” in daardie artikel van die Hoofordonnansie uitgelê moet word as onderskeidelik “Departementshoof” en “Provinsiale Parlement”.

(10) Enige aansoek wat ingevolge artikel 42 van die Hoofordonnansie gedoen is wat voor die inwerkingtreding van hierdie Wet nog nie finaal bepaal is nie, moet geadministreer word asof hierdie Wet nie in werking getree het nie, behalwe dat die uitdrukking “Administrateur” en “Administrasie” in daardie artikel van die Hoofordonnansie as onderskeidelik “Provinsiale Minister” en “Provinsiale Regering” uitgelê word.

(11) Enige aansoek wat ingevolge artikel 12, 34 of 44 van die Hoofordonnansie gedoen is wat voor die inwerkingtreding van hierdie Wet nog nie finaal bepaal is nie, moet geadministreer word asof hierdie Wet nie in werking getree het nie, behalwe dat die uitdrukking “Administrateur” in daardie artikels van die Hoofordonnansie as “Provinsiale Minister” uitgelê word.

(12) Die verwysing na artikel 15(2) en artikel 15(2)(c) in artikel 46 van die Hoofordonnansie moet uitgelê word as 'n verwysing na daardie artikels van die Hoofordonnansie soos dit voor die opdrag van die Hoofordonnansie ingevolge Proklamasie 115 van 1994 gelees het.

(13) Die verwysing na artikel 21(2) in artikel 46 van die Hoofordonnansie moet uitgelê word as 'n verwysing na daardie artikel van die Hoofordonnansie soos dit voor die inwerkingtreding van hierdie Wet gelees het.

Kort titel en inwerkingtreding

48. Hierdie Wet heet die Wes-Kaapse Wysigingswet op die Museumordonnansie, 2020, en tree in werking op 'n datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal.

BYLAE

(Artikel 45 van hierdie Wet)

Administrateur	Provinsiale Minister
chairman (in die Engelse teks)	chairperson (in die Engelse teks)
Direkteur van Natuur- en Omgewingsbewing	Departementshoof
Direkteur-generaal van die Kaap die Goeie Hoop	Departementshoof
hy	hy of sy
hom	hom of haar
sy (besitlike voornaamwoord)	sy of haar
<i>mutatis mutandis</i>	, met die nodige veranderinge wat die samehang vereis,

**MEMORANDUM OOR DIE DOELWITTE VAN DIE WES-KAAPSE
KONSEPWYSIGINGSWETSONTWERP OP DIE MUSEUMORDONNANSIE, 2020**

1. AGTERGROND

- 1.1 Die hele Museumordonnansie, 1975 (Ordonnansie 8 van 1975)(die Hoofordonnansie), is in 1994 kragtens Proklamasie 115 van 1994 aan die Provinsie Wes-Kaap (die Provinsie) opgedra, in die mate dat die Hoofordonnansie in die Provinsie gegeld het. Dit reguleer onder meer die stigting van museums, die bestuurstoesig van museums, die toekenning van subsidies aan provinsie-ondersteunde museums en die aanstelling van personeel by museums. Die Hoofordonnansie gaan die Grondwet van die Republiek van Suid-Afrika, 1996 (die Grondwet), vooraf en bevat dus taal wat strydig met die Grondwet is. Dit gaan ook die Wet op Openbare Finansiële Bestuur, 1999 (Wet 1 van 1999), vooraf en is dus nie in ooreenstemming met daardie Wet nie. Die Wes-Kaapse Wysigingswetsontwerp op die Museumordonnansie, 2020, beoog om die Hoofordonnansie in lyn met die Grondwet en die Wet op Openbare Finansiële Bestuur, 1999, te bring.
- 1.2 Provinsie-ondersteunde museums word hoofsaaklik gefinansier deur subsidies wat ingevolge artikel 29 van die Hoofordonnansie aan hulle betaal word. Hierdie museums staan 'n hewige uitdaging in die gesig omdat die huidige artikel 32 van die Hoofordonnansie van hierdie museums vereis om deur die Ouditeur-generaal geoudit te word. Die totale bedrae wat die 19 provinsie-ondersteunde museums in die Provinsie aan Ouditeur-generaalgelde bestee het, was R1,7 miljoen vir 2016/17 en R2,3 miljoen vir 2017/18.
- 1.3 Vir die 19 provinsie-ondersteunde museums was die gemiddelde koste per oudit per museum R89 473 (2016/17) en R121 052 (2017/18). Hierdie buitensporige gelde is onvolhoubaar en het 'n geweldige impak op die reeds skaarse hulpbronne van hierdie museums. Die kollektiewe gevolg hiervan is dat provinsie-ondersteunde museums nie in staat is om voldoende hulpbronne toe te ken vir die uitvoering van hul kernfunksies nie, naamlik om te bewaar, ten toon te stel en gemeenskappe op te voed oor die kollektiewe erfenis van die Provinsie. Dit benadeel die museums se potensiaal om dienste te lewer en toeriste te lok. Hul vermoë om 'n bydrae tot toerisme en ekonomiese ontwikkeling in die Provinsie te lewer word gevolglik 'n geweldige knou toegedien.
- 1.4 Die provinsiale Departement van Kultuursake en Sport (die Departement) het hom beywer om die Hoofordonnansie te wysig om dit in ooreenstemming met die Grondwet en ander tersaaklike wetgewing te bring. Die hoofdoel van die Konsepwetsontwerp is om 'n uitweg te bied deurdat provinsie-ondersteunde museums jaarliks deur 'n ouditeur geoudit moet word wat ingevolge die "Auditing Profession Act, 2005" (Wet 26 van 2005), geregistreer is, in plaas van deur die Ouditeur-generaal.

2. OOGMERKE VAN DIE WETSONTWERP

- 2.1 Die Konsepwetsontwerp het ten doel om sekere bepalings van die Hoofordonnansie te wysig om dit met die Grondwet, ander tersaaklike wetgewing soos die Wet op Openbare Finansiële Bestuur, 1999, en goeie praktyke in die gebied van museumbestuurstoesig in ooreenstemming te bring.

- 2.2 Die Konsepwetsontwerp het ook ten doel om die Hoofordonnansie met huidige terminologie en regeringstrukture in ooreenstemming te bring en om die finansiële las van jaarlikse finansiële oudits deur die Ouditeur-generaal op provinsie-ondersteunde museums te verlig.

3. INHOUD VAN WETSONTWERP

Die oogmerke en doelwitte van die verskeie klousules word vervolgens uiteengesit.

- 3.1 **Klousule 1** wysig artikel 1 van die Hoofordonnansie deur sekere definisies te vervang, te skrap en in te voeg vir standaardisering en ooreenstemming met huidige provinsiale regeringstrukture.
- 3.2 **Klousule 2** wysig artikel 2 van die Hoofordonnansie om leiding te gee vir die uitoefening van die diskresie van die Provinsiale Minister om 'n provinsiale museum te vestig.
- 3.3 **Klousule 3** wysig artikel 3 van die Hoofordonnansie en is 'n gevolglike wysiging van die vervanging van die uitdrukkings “Administrateur” en “beampte” en die skapping van die definisie van “beampte” in klousule 1.
- 3.4 **Klousule 4** wysig artikel 4 van die Hoofordonnansie om die ampstermyn van 'n aangestelde lid van twee na drie jaar te verleng. Die klousule gee 'n uiteensetting van die omstandighede wat aanleiding gee tot die ontstaan van 'n vakature in 'n bestuurskomitee. Dit bepaal dat die Provinsiale Minister in oorleg met die provinsiale minister verantwoordelik vir finansies in die Provinsie die toelaes wat aan lede betaal word, vasstel.
- 3.5 **Klousule 5** voeg artikel 4A in die Hoofordonnansie in om voorsiening te maak vir die onbevoegdheid vir lidmaatskap van 'n bestuurskomitee.
- 3.6 **Klousule 6** wysig artikel 5 van die Hoofordonnansie deur te bepaal dat die Provinsiale Minister 'n voorsitter van 'n bestuurskomitee moet aanwys wanneer hy of sy die aangestelde lede aanstel of indien die voorsitter sy of haar amp ontruim. Die rede hiervoor is om die bestuurtoesig van provinsiale museums te versterk.
- 3.7 **Klousule 7** vervang artikel 6 van die Hoofordonnansie om anders voorsiening te maak vir die kworum en besluitneming by vergaderings van 'n bestuurskomitee. Die klousule bepaal dat 'n kworum vir 'n vergadering vyftig persent plus een van die totale getal lede van so 'n komitee is en bepaal verder dat besluite onder sekere omstandighede deur stemming geneem kan word. Die rede hiervoor is om goeie bestuurtoesig by provinsiale museums te verseker.
- 3.8 **Klousule 8** wysig artikel 7 van die Hoofordonnansie om voorsiening te maak vir 'n ander manier waarop 'n komitee toegangsgelde mag bepaal en hef om potensiële inkomste te verhoog. Die klousule skrap diskriminerende taalgebruik in die Hoofordonnansie.

- 3.9 **Klousule 9** wysig artikel 8 van die Hoofordonnansie. Die klousule vervang die uitdrukking “Administrateur” deur die uitdrukking “Departementshoof” en die uitdrukking “Provinsiale Diens” deur die uitdrukking “Staatsdiens”.
- 3.10 **Klousule 10** vervang artikel 9 van die Hoofordonnansie om die aanvaarding van skenkings en bemakings in ooreenstemming met die Wet op Openbare Finansiële Bestuur, 1999, te bring.
- 3.11 **Klousule 11** vervang artikel 10 van die Hoofordonnansie om te bepaal dat geld wat deur ’n provinsiale museum of bestuurskomitee van ’n provinsiale museum ingesamel is, in die Provinsiale Inkomstefonds gestort moet word vir gebruik deur die bestuurskomitee van die betrokke provinsiale museum, onderhewig aan die Departementshoof se goedkeuring.
- 3.12 **Klousule 12** herroep artikel 10A van die Hoofordonnansie.
- 3.13 **Klousule 13** vervang artikel 11 van die Hoofordonnansie om leiding te gee vir die uitoefening van die diskresie van die Provinsiale Minister om ’n provinsiale museum af te skaf en maak voorsiening vir ’n openbaredeelnamesproses.
- 3.14 **Klousule 14** wysig artikel 12 van die Hoofordonnansie om die diskresie van die Provinsiale Minister verder te lei om ’n museum as ’n provinsie-ondersteunde museum te verklaar.
- 3.15 **Klousule 15** vervang artikel 15 van die Hoofordonnansie om die samestelling van ’n trusteraad te verander om goeie bestuurtoesig by provinsie-ondersteunde museums te verseker. Die hele Hoofordonnansie is aan die Provinsie opgedra in die mate dat dit in die Provinsie gegeld het. Die museums wat in artikel 15(2) van die Hoofordonnansie vermeld word, val nie binne die geografiese gebied van die Provinsie nie. Om hierdie rede geld artikel 15(2) van die Hoofordonnansie nie in die Provinsie nie en is dit nie aan die Provinsie opgedra nie.
- 3.16 **Klousule 16** vervang artikel 16 van die Hoofordonnansie en verskaf ’n volledige uiteensetting van die ampstermyn van die verskillende kategorieë van lede wat ’n trusteraad uitmaak.
- 3.17 **Klousule 17** vervang artikel 17 van die Hoofordonnansie en is ’n gevolglike wysiging van wysigings in klousule 4 en 15.
- 3.18 **Klousule 18** vervang artikel 18 van die Hoofordonnansie en maak voorsiening vir ’n verandering aan die maatstawwe vir onbevoegdheid vir lidmaatskap van ’n trusteraad.
- 3.19 **Klousule 19** voeg artikel 18A in die Hoofordonnansie in om voorsiening te maak vir die aanwysing deur die Provinsiale Minister van ’n voorsitter van ’n trusteraad.
- 3.20 **Klousule 20** vervang artikel 19 van die Hoofordonnansie om anders voorsiening te maak vir die kworum en besluitneming by vergaderings van ’n trusteraad. Deur die insluiting van die verwysing na artikel 6 bepaal die klousule dat ’n kworum vir ’n trusteraadvergadering vyftig persent plus een is en maak verdere voorsiening dat besluite onder sekere omstandighede deur

stemming geneem kan word. Dit is om goeie bestuurstoesig by provinsie-ondersteunde museums te verseker.

- 3.21 **Klousule 21** wysig artikel 20 van die Hoofordonnansie en is 'n tekstuele verbetering van die Hoofordonnansie.
- 3.22 **Klousule 22** wysig artikel 21 van die Hoofordonnansie om anders voorsiening te maak vir wanneer 'n jaarverslag deur 'n trusteeeraad voorgelê moet word. Die hersiene tydlyn is om voldoende rekenpligtigheid aan die Departement te verseker.
- 3.23 **Klousule 23** vervang artikel 24 van die Hoofordonnansie om te bepaal dat die Departementshoof die personeeldiensstaat van 'n provinsie-ondersteunde museum moet bepaal. Die klousule verbied verder 'n trusteeeraad om personeel aan te stel wat bykomend is by die personeeldiensstaat wat aldus bepaal is, sonder die vooraf verkreeë skriftelike toestemming van die Departementshoof. Dit is om te verseker dat die Departement voldoende toesig hou ten opsigte van personeel wat benewens die bestaande personeelkorps aangestel word.
- 3.24 **Klousule 24** vervang artikel 25 van die Hoofordonnansie om die goedkeurings te skrap wat 'n trusteeeraad kragtens die Hoofordonnansie benodig om personeel op die personeeldiensstaat aan te stel. Dit maak verder voorsiening vir die manier waarop 'n trusteeeraad om toestemming moet aansoek doen om personeel bykomend by die bestaande personeeldiensstaat soos bepaal deur die Departementshoof aan te stel en die maatstawwe wat die Departementshoof moet oorweeg wanneer sulke aansoeke oorweeg word.
- 3.25 **Klousule 25** voeg artikel 26(2) in die Hoofordonnansie in en verleen aan 'n trusteeeraad die bevoegdheid om, met die goedkeuring van die Departementshoof, personeel te behou nadat hulle aftree-ouderdom bereik het.
- 3.26 **Klousule 26** herroep artikel 27 van die Hoofordonnansie sodat trusteeerade voldoende besluitnemingsbevoegdhede het om die salarisse te bepaal van die personeel wat hulle aanstel. Die rede hiervoor is dat die konteks en finansiële vermoëns van verskillende provinsie-ondersteunde museums geweldig verskil. Die klousule herroep ook artikel 28 van die Hoofordonnansie. Dit is 'n gevolglike wysiging van die wysiging in klousule 25.
- 3.27 **Klousule 27** vervang artikel 29 van die Hoofordonnansie om die prosedure wat gevolg moet word wanneer subsidies aan trusteeerade betaal word, uit te klaar en, in die geval waar die trusteeeraad van die Kangogrotte-Museum beoog om betaling van 'n subsidie aan te vra, om voorsiening te maak vir 'n proses waarin die omstandighede waaronder 'n versoek gemaak kan word en die proses wat gevolg moet word om die versoek te maak, uiteengesit word.
- 3.28 **Klousule 28** voeg artikel 29A in die Hoofordonnansie in om voorsiening te maak vir die betaling van bykomende fondse aan 'n trusteeeraad. Die klousule gee 'n uiteensetting van die prosedure wat gevolg moet word wanneer 'n trusteeeraad om bykomende fondse aansoek doen, of wanneer die Departementshoof uit eie beweging besluit dat 'n trusteeeraad moontlik bykomende fondse benodig.

- 3.29 **Klousule 29** vervang artikel 30 van die Hoofordonnansie om te bepaal dat 'n trusteeeraad korttermynlenings kan aangaan.
- 3.30 **Klousule 30** vervang artikel 31 van die Hoofordonnansie om te bepaal dat fondse wat 'n trusteeeraad ontvang deur die betaling van 'n subsidie of bykomende fondse en wat nie onmiddellik deur die trusteeeraad benodig word vir die uitoefening en verrigting van sy bevoegdhede, pligte en funksies nie, in 'n bank wat finaal ingevolge die Bankwet, 1990, geregistreer is, of in staatseffekte, belê moet word.
- 3.31 **Klousule 31** vervang artikel 32 van die Hoofordonnansie om te bepaal dat 'n trusteeeraad 'n ouditeur moet aanstel om die finansiële state van die trusteeeraad te audit. Dit is om te verseker dat die finansiële las van jaarlikse audits, tans uitgevoer deur die Ouditeur-generaal, op provinsie-ondersteunde museums verminder word en doeltreffende finansiële rekenpligtigheid terselfdertyd steeds verseker word.
- 3.32 **Klousule 32** voeg artikel 32A in die Hoofordonnansie in om finansiële wangedrag deur 'n trusteeeraad te reguleer. Dit is om behoorlike finansiële rekenpligtigheid van trusteeeraad te verseker.
- 3.33 **Klousule 33** wysig artikel 34 van die Hoofordonnansie om leiding te gee vir die uitoefening van die diskresie van die Provinsiale Minister om 'n museum tot 'n plaaslike museum te verklaar.
- 3.34 **Klousule 34** vervang artikel 35 van die Hoofordonnansie om die samestelling van 'n beheerraad te verander. Dit is om goeie bestuurtoesig by plaaslike museums te verseker.
- 3.35 **Klousule 35** vervang artikel 37 van die Hoofordonnansie en gee 'n volledige uiteensetting van die ampstermyn van die verskillende kategorieë lede waaruit 'n beheerraad bestaan.
- 3.36 **Klousule 36** vervang artikel 38 van die Hoofordonnansie en is 'n gevolglike wysiging van wysigings in klousule 4.
- 3.37 **Klousule 37** voeg klousule 38A in die Hoofordonnansie in om voorsiening te maak vir die aanwysing van 'n voorsitter van 'n beheerraad. Die klousule voeg klousule 38B in die Hoofordonnansie in om voorsiening te maak vir die kworum en besluitneming by 'n vergadering van 'n beheerraad. Die insluiting in klousule 38B van die verwysing na artikel 6 bepaal dat 'n kworum vir 'n vergadering van 'n beheerraad vyftig persent plus een van die totale getal lede van 'n beheerraad is en bepaal verder dat besluite onder sekere omstandighede deur stemming geneem kan word. Dit is om goeie bestuurtoesig by plaaslike museums te verseker.
- 3.38 **Klousule 38** vervang artikel 39 van die Hoofordonnansie om leiding te gee vir die uitoefening van die diskresie van die Departementshoof om toelaes aan beheerrade te betaal. Die klousule gee 'n uiteensetting van die prosedure wat gevolg moet word wanneer 'n beheerraad om 'n toelae aansoek doen.
- 3.39 **Klousule 39** wysig artikel 40 van die Hoofordonnansie om die uitdrukking "Administrateur" deur die uitdrukking "Provinsiale Minister" te vervang. Die klousule verbeter die teks van die

Hoofdonnansie en maak 'n gevolglike wysiging na aanleiding van die skapping van die definisie van “beampte” in klousule 1.

- 3.40 **Klousule 40** wysig artikel 41 van die Hoofdonnansie om die teks van die Hoofdonnansie te verbeter en maak gevolglike wysigings na aanleiding van die wysigings in klousule 37.
- 3.41 **Klousule 41** vervang artikel 42 van die Hoofdonnansie om leiding te gee vir die uitoefening van die diskresie van die Provinsiale Minister om 'n provinsie-ondersteunde of plaaslike museum as 'n provinsiale museum te stig.
- 3.42 **Klousule 42** wysig artikel 43 van die Hoofdonnansie en is 'n gevolglike wysiging van die vervanging van die uitdrukking “Administrateur” deur die uitdrukking “Provinsiale Minister”.
- 3.43 **Klousule 43** vervang artikel 44 van die Hoofdonnansie om leiding te gee vir die uitoefening van die diskresie van die Provinsiale Minister om 'n provinsie-ondersteunde of plaaslike museum te sluit en maak voorsiening vir 'n openbaredeelnamesproses.
- 3.44 **Klousule 44** vervang artikel 45 van die Hoofdonnansie. Die klousule is 'n gevolglike wysiging na aanleiding van die skapping van die definisie van “beampte” en “werknemer” in klousule 1.
- 3.45 **Klousule 45** vervang sekere uitdrukkinge in die Hoofdonnansie.
- 3.46 **Klousule 46** wysig die lang titel van die Hoofdonnansie.
- 3.47 **Klousule 47** maak voorsiening vir voorbehoude en oorgangsbepalings. Die doel van klousule 47(12) is om sekerheid te gee om verwarring ten opsigte van verwysings na artikel 15(2) in hierdie Konsepwetsontwerp en die Hoofdonnansie te vermy.
- 3.48 **Klousule 48** maak voorsiening vir die kort titel en inwerkingtreding van die Wet.

4. WETGEWENDE BEVOEGDHEID

Die Provinsiale Minister verantwoordelik vir museums, nasionale museums uitgesluit, is tevrede dat die bepalings van die Konsepwetsontwerp onder die wetgewende bevoegdheid van die Provinsie ressorteer.

5. OORLEGPLEGING

Departement van Kultuursake en Sport
Departement van die Premier: Regsdienste
Provinsiale museums
Provinsie-ondersteunde museums
Plaaslike museums

6. FINANSIËLE IMPLIKASIES

Daar is geen finansiële implikasies nie omdat huidige begrotingsbronne gebruik gaan word.

7. PERSONEELIMPLIKASIES

Daar is geen direkte personeelimplikasies nie.

ISAZISO SEPHONDO

I.S. 16/2020

28 kweyoMdumba 2020

INQAKU LENGCACISO NGOKUBANZI:

[] Amagama anombhalo ongqindilili akwisibiyeli sesikwere abonisa ushiyo kuwisomthetho okhoyo.

_____ Amagama akrwelwe ngomgca ongqindilili abonisa ufakelo kuwisomthetho okhoyo.

**UQULUNQO LOMTHETHO OSAYILWAYO WOKULUNGISA UMMISELO
WEEMYUZIYAM WENTSHONA KOLONI, 2020**

Ukulungisa uMmiselo weeMyuziyam, 1975 (uMmiselo 8 ka-1975), ukuze kubekwe endaweni, kususwe kuze kufakwe iinkcazelo ezithile; ukwenza amalungiselelo awongezelelweyo okusekwa kwemyuziyam yephondo; ukwenza amalungiselelo ahlukeneyo kumgaqosiseko weekomiti zolawulo; ukwenza amalungiselelo awongezelelweyo okuqeshwa kwamalungu ekomiti yolawulo; ukubonelela ngokungafanelanga kobulungu bekomiti yolawulo; ukulungiselela ukutyunjwa kukasihlalo wekomiti yolawulo; ukwenza amalungiselelo ahlukeneyo ekhoram kwiintlanganiso zekomiti yolawulo; ukwenza amalungiselelo okuthathwa kwezigqibo yikomiti yolawulo; ukuxhobisa ikomiti yolawulo ekumiseleni nasekuhlawuleni umrhumo wokwamkelo lokungena kwimyuziyam yephondo; ukwenza amalungiselelo ahlukeneyo malunga nokuqeshwa kwabasebenzi bemyuziyam yephondo; ukwenza amalungiselelo ahlukeneyo okwamkelwa kweminikelo kwanemiyolelo ngokumalunga nemyuziyam yephondo; ukulawula imali eqokelelwe kwimyuziyam yephondo; ukwenza amalungiselelo awongezelelweyo okupheliswa kweemyuziyam zephondo; ukwenza amalungiselelo awongezelelweyo okubhengezwa kwemyuziyam ukuba ibe yimyuziyam encedisayo kwiphondo; ukwenza amalungiselelo ahlukeneyo kumgaqosiseko webhodi; ukwenza ilungiselelo elongezelelweyo lokuqeshwa kwamalungu ebhodi; ukwenza ukubonelela ngeendlela ezahlukeneyo kwibhodi kunye nokuzaliswa kwayo; ukubonelela ngokutyunjwa kosihlalo webhodi; ukwenza amalungiselelo ahlukeneyo kwikhoram yeentlanganiso zebhodi; ukwenza ulungiselelo lokwenza isigqibo ngebhodi; ukwenza amalungiselelo ahlukeneyo wokungeniswa kwengxelo yonyaka yibhodi; ukwenza amalungiselelo ahlukeneyo malunga nokumiselwa kwabasebenzi baseMyuziyam abancedisayo; ukwenza amalungiselelo ahlukeneyo okuqeshwa kwabasebenzi bebhodi; ukuxhobisa

ibhodi ukugcina abasebenzi ngaphaya kweminyaka yobudala; ukuphinda amacandeloathile; ukwenza ulungiselelo olongezelelweyo lokuhlawulwa kweenkxaso kwibhodi; ukwenza ulungiselelo lokuhlawula imali eyongezelelweyo kwibhodi; ukwenza ulungiselelo olongezelelweyo lokuphakanyiswa kwemboleko ngebhodi; ukwenza amalungiselelo ahlukeneyo ekutsalweni kwemali kwibhodi; ukwenza amalungiselelo ahlukeneyo ekuphicothweni kwe-akhawunti zeemyuziyam zesebe; ukulawula ukungaziphathi kakuhle kwemali kwibhodi; ukwenza ulungiselelo olongezelelweyo lokubhengezwa kwembali yemyuziyam ukuba ibeyimbulunga yeemyuziyam; ukwenza amalungiselelo ahlukeneyo kumgaqo-siseko webhodi yolawulo; ukwenza amalungiselelo ahlukeneyo malunga nokuqeshwa kwamalungu ebhodi okulawula; ukubonelela ngokutyunjwa kukasihlalo webhodi yokulawula; ukubonelela ngekota kwiintlanganiso zebhodi yokulawula; ukubonelela ngesigqibo ngokwenza ibhodi yokulawula; ukwenza ulungiselelo olongezelelweyo lokuhlawula iirhafu okulawula iibhodi; ukwenza amalungiselelo ahlukeneyo ekwenzeni imimiselo phantsi komgaqo; ukwenza ulungiselelo olongezelelweyo kwimyuziyam okuxhasa okanye wezithili ukusekwa njengemyuziyam yephondo; ukwenza ulungiselelo olongezelelweyo lokupheliswa kweemyuziyamu zesebe okanye zengingqi; ukwenza amalungiselelo ahlukeneyo okuthunyelwa kwamagunya; ukufaka endaweni ethile amagama; ukulungisa isihloko eside sommiselo; ukubonelela ngokulondolozwa kunye nemimiselo yexeshana; ukuvelisa uphuculo oluthile lombhalo; kunye nokubonelela ngemicimbi enxulumenenayo.

UMISELWA yiPalamente yePhondo laseNtshona Koloni, njengoku kulandelayo:—

Ukulungiswa kwecandelo 1 loMmiselo 8 ka-1975, njengoko utshintshiwe sisiBhengezo 87 sika-1978 kunye necandelo 1 loMmiselo 13 ka-1982

1. Icandelo 1 loMmiselo weMyuziyam, ka-1975 (uMmiselo 8 ka-1975)(owona Mmiselo uphambili), ulungiswe—

- (a) ngocinyo kwicandelwana (1) lengcaciso “yoLawulo”;
- (b) ngosetyenziso lwenye into endaweni yenye kwicandelwana (1) lengcaciso “yelungu elonyuliweyo” lale ngcaciso ilandelayo:

“ ‘ilungu elonyuliweyo’ kuthetha ukuba umntu owonyulwe ngokumalunga necandelo 3 (1) (a), (2) okanye (3) ukuba lilungu lekomiti yolawulo [okanye ekukholelwa ukuba lililungu elinje ngelo limalunga nelwecandelo 9 (2)];”;
- (c) ngofakelo kwicandelwana (1) emva kwengcaciso “yelungu elonyuliweyo” lenkcazelo elandelayo:

- “‘umphicothi zincwadi’ uthetha umntu obhalise njengomphicothi zincwadi malunga noMthetho weeNgcali zoPhicotho zincwadi, 2005 (uMthetho 26 ka-2005);”;
- (d) ngocinyo kwicandelwana (1) lwengcaciso “yesikhundla esihleliweyo”;
- (e) ngosetyenziso lwenye into endaweni yenye kwicandelwana (1) ngokwenkcazelo ye“bhunga” lenkcazelo elandelayo:
 “‘ibhunga’ lithetha ukuba ibhunga likamasipala obhekiselele kwicandelo 157 loMgaqosiseko weRiphabliki yomMzantsi Afrika, ka-1996;”;
- (f) ngosetyenziso lwenye into endaweni yenye kwicandelwana (1) ngokwenkcazelo “yeSebe” lenkcazelo elandelayo:
 “‘iSebe’ lithetha [iSebe leNdalo noLondolozo loBume beNdalo] isebe lephondo elinoxanduva leemyuziyam, ngaphandle kweemyuziyam zikazwelonke, kwiPhondo;”;
- (g) ngocinyo kwicandelwana (1) lenkcazelo “yolawulo”;
- (h) ngocinyo kwicandelwana (1) lenkcazelo “yomsebenzi”;
- (i) ngofakelo kwicandelwana (1) phambi kwenkcazelo “yombhalo wobomi” wenkcazelo elandelayo:
 “‘unyakamali uthetha unyaka ophela ngowama-31 kweyoKwindla;”;
- (j) ngosetyenziso lwenye into endaweni yenye kwicandelwana (1) ngokwenkcazelo kwi“ndawo kamasipala” yenkcazelo elandelayo:
 “‘indawo kamasipala’ ithetha indawo [phantsi kwegunya lezobulungisa kunye nokulawula] kwe[bhunga] likamasipala elimiselwe malunga noRhulumente wezeKhaya: uMthetho wokuMiswa kweMida, ka-1998 (uMthetho 27 ka-1998);”;
- (k) ngofakelo kwicandelwana (1) emva kwenkcazelo “yendawo kamasipala” wenkcazelo elilandelayo:
 “‘umasipala’ uthetha umasipala njengoko kuchaziwe kwicandelo 2 loMthetho weeNkqubo zikaMasipala kaRhulumente wezeKhanya, 2000 (uMthetho 32 ka-2000);”;
- (l) ngosetyenziso lwenye into endaweni yenye kwicandelwana (1) lenkcazelo “yemyuziyam” yenkcazelo elilandelayo:
 “‘imyuziyam’ ithetha iziko elisisigxina elingasebenzeli inzuzo, elivulelekileyo kuluntu nelizuzo, liphanda, linxibelelana nelenza imiboniso, ngenjongo yokufunda, uqeqesho nokuzonwabisa, ubungqina obuphathekayo nobungaphathekiyo belifa lemveli yabantu nendalo yabo, kodwa kungaquki nalo naliphi na iziko eloyamene noMthetho wamaZiko eNkcubeko, ka-1998 (uMthetho 119 ka-1998);”;
- (m) ngocinyo kwicandelwana (1) lenkcazelo “yesikhundla esingachazwanga”;

- (n) ngocinyo kwicandelwana (1) lenkcazelo “yegosa”; kunye
 (o) nofakelo kwicandelwana (1) emva kwenkcazelo “yomiselo” lweenkcazelo ezilandelayo:

“‘iPhondo’ lithetha iPhondo leNtshona Koloni;

‘uRhulumente wePhondo’ uthetha uRhulumente waseNtshona Koloni;

‘uMphathiswa wePhondo’ uthetha ilungu leKhabinethi yePhondo elinoxanduva lweemyuziyam, ngaphande kwezo myuziyam zikazwelonke, kwiPhondo.’”

Usetyenziso lwenye into endaweni yenye kwicandelo 2 loMmiselo 8 ka- 1975

2. Icandelo elilandelayo lisetyenziswe endaweni yecandelo 2 lowona Mmiselo uphambili:

“Ukumiselwa kwemyuziyam yephondo.

2. (1) uMphathi wePhondo uza, kukhusela kwaye akhuthaze ilifa lemveli lePhondo, kunye nokubanako ukucingela iimfuno esebenzayo zeSebe, ngokupapasha kwi*Phephandaba lombuso*, ukumiselwa kwemyuziyam yephondo —

- (a) emhlabeni okanye kwisakhiwo phantsi kolawulo okanye kokuphatha koRhulumente wePhondo, okanye —
- (b) emhlabeni okanye kwisakhiwo esifunyenwe nguRhulumente wePhondo.

(2) uRhulumente wePhondo kufuneka, kwimali eyabiweyo yiPalamente yePhondo ngokwenjongo, afumane umhlaba okanye izakhiwo uRhulumente wePhondo ucingela ukulungela okanye ukufaneleka ngokwenjongo yokumisela imyuziyam yephondo apho okanye kuyo.

(3) uMphathiswa wePhondo kufuneka, kwimali eyabiweyo yiPalamente yePhondo ngokwenjongo, afumane nawuphi na umzekelo okanye nayiphi na into okanye nayiphi na ingqokelela ngokwenjongo yolondolozo, uphando, unxibelelwano okanye umboniso kwimyuziyam yephondo emiselweyo okanye imiselwe phantsi kweli candelo.

(4) uMphathiswa wePhondo kufuneka —

- (a) xa kumiselwa imyuziyam yephondo phantsi kweli candela, athiye igama kulo myuziyam, okanye
- (b) aguqule igama elinikwe nayiphi na imyuziyam yephondo.”

Ulungiso lwecandelo 3 loMmiselo 8 ka-1975, njengoko ulungisiwe kwicandelo 2 loMmiselo 13 ka-1982

3. Icandelo 3 lowona Mmiselo uphambili ulungisiwe lusetyenziso lwenye into endaweni yenye kwicandelwena (1) lwecandelwana elilandelayo:

“3. (1) Imyuziyam yephondo ngalinye iyakubaphantsi kwezalathiso zeSebe kwaye iyakubaphantsi kolawulo nokuphathwa kwekomiti yolawulo oluquka ubuncinane amalungu amathangathu, amanye wawo —

- (a) amane iya kuba ngabantu abonyulwe ngu **[Mlawuli]** uMphathiswa wePhondo ngesizathu samava abo kurhulumento lwentsebenziswano okanye ulwazi olukhethekileyo lwemicimbi echaphazela iimyuziyam, kunye
- (b) namabini aya kuba nga **[baphathi, amagosa okanye]** abasebenzi kwiSebe, abonyulelwe injongo ngu **[Mlawuli woLondolozo lweNdalo noBume beNdalo]** iNtloko yeSebe.”.

Ulungiso lwecandelo 4 loMmiselo 8 ka-1975

4. Icandelo elilandelayo lisetyenziswe endaweni yecandelo 4 sowona Mmiselo uphambili:

“Ixesha lokuba seofisini kunye nentlawulo yezibonelelo zamalungu ekomiti elawulayo.

4. (1) Ilungu ngalinye elonyuliweyo lizakuchitha ixesha elingange minyaka **[emibini]** emithathu kwaye ekupheleni kwelo xesha lizakululungela ukonyulwa kwakhona.

(2) Amalungu ekomiti yolawulo ngaphandle kwamanye amalungu onyuliweyo aza kuba kwiofisi **[ngokwentando yoMphathi]** ngexesha apho njengoMphathiswa wePhondo kungaqinisekiswa.

(3) Isithuba esivulelekileyo senzeka kwikomiti yolawulo xa ilungu elonyuliweyo —

- (a) lirhoxa kwiofisi ngokufaka urhoxo lwayo olubhaliweyo kuMphathiswa wePhondo;
- (b) lithe alabikho eofisini ngaphandle kokufaka isicelo sekhefu lobuhlali-ngaphambili okanye, apho kufunekayo, asebenze njengomhlali ngaphambili kuzo zombini iintlanganiso zilandelelana zekomiti yolawulo;

- (c) liye lingabinako ukwenza umsebenzi ngokufanelekileyo okanye lingabinawo ukusebenzisa amandla alo ngokupheleleyo, imisebenzi okanye iimfanelo njengelungu lekomiti elawulayo ngenxa yempilo ngokwasengqondweni njengoko kuchaziwe kuMthetho woKhathalelo lweMpilo ngokwaseNgqondweni, 2002 (uMthetho 17 ka-2002);
- (d) lingabinakho ukubuyela esimeni esidalwe kukutshona ematyaleni;
- (e) libanjelwe ityala laza lagwetywa ukuya kwiinyanga ezingaphezu kwezili-12 okanye ngaphezulu lisentolongweni ngaphandle kokukhetha isohlwayo, okanye
- (f) lisusiwe eofisini emva kokuphela kwexesha leofisi nguMphathiswa wePhondo.

(3A) uMphathiswa wePhondo angaliphelisa ixesha lolonyulo lwelungu kwiofisi kuphela kwiimeko zokungaziphathi kakuhle, ukungabinamandla okanye ukungabinabuchule.

(4) **[Nasiphi na] Isithuba** esikwiofisi selungu elonyuliweyo siza kuzaliswa ngokuthi kuqeshwe ozakuthatha indawo ngu **[Mlawuli]** Mphathiswa wePhondo ngokumalunga necandelo 3, kwaye lowo uzakuthatha indawo uzakuba seofisini ixesha elingaphelelwayo kwiofisi yalowo ebengaphambili; ngaphandle kokuba uMphathiswa wePhondo angala ukuzalisa isithuba kwiofisi yelungu elonyuliweyo ngokubhekiselele kwicandelo 3 (2) okanye 3 (3).

(5) Ilungu ngalinye elonyuliweyo kufuneka, kwimali eyabiweyo yiPalamente **[iBhunga]** yePhondo ngenjongo, sihlawulwe eso sibonelelo ngokumalunga neenkonzo zakhe [njengezinokumiselwa] nguMphathiswa wePhondo kungamiselwa kwingcebiso nomphathiswa wephondo onoxanduva lwezemali kwiPhondo.”.

Ufakelo lwecandelo 4A kuMmiselo 8 ka-1975

5. Owona Mmiselo uphambili ulungiswe lufakelo emva kwecandelo 4 lwecandelo elilandelayo:

“Isithintelo sobulungu bekomiti yolawulo.

4A. Akakho umntu oyakukonyulwa njengelungu lekomiti yolawulo ukuba —

- (a) akangommi waseMzantsi Afrika, ngaphandle kokuba uMphathiswa wePhondo unamagunya olo lonyulo, okanye
- (b) ubanjelwe ityala waze wagwetywa ngaphezu kweenyanga ezili-12 okanye ngaphezulu esentolongweni ngaphandle kolonyulo lwesohlwayo.

Ulungiso lwecandelo 5 loMmiselo 8 ka-1975

6. Icandelo 5 lowona Mmiselo uPhambili ulungiswe—

- (a) ngosetyenziso lwenye into endaweni yenye kwicandelwana (1) lwecandelwana elilandelayo:

“(1) **[Amalungu amatsha asekelwe ikomiti nganye]** uMphathiswa wePhondo iza **[ekuqaleni kwentlanganiso yalo komiti]**, xa enyula amalungu achazwe kwicandelo 3 (1) (a), **[ukonyulwa]** ukutyumba omnye **[abonyuliweyo]** walo malungu ukuba abe **[umhlali ngaphambili]** ngumhlali ngaphambili wekomiti yolawulo echaphazelekayo, kwaye loo **[mhlali ngaphambili]** cmhlali ngaphambili uzakuba seofisini njenge **[ngexesha]** xesha lekota yakhe njengelungu lekomiti.”;

- (b) ngosetyenziso lwenye into endaweni yenye wecandelwana (2) lwecandelwana elilandelayo:

“(2) Ukuba u**[mhlali ngaphambili]** mhlali ngaphambili wekomiti ushiya isikhundla sakhe kwiofisi phambi kokuba kuphele ixesha ebelonyulelwe lona **[ilungu lekomiti]**, uMphathiswa wePhondo uza, kwintlanganiso yokuqala emva komhla apho umhlali ngaphambili kushiya isikhundla sakhe kwiofisi, onyule elinye **[ukonyulwa]** ilungu **[uza, ngokumalunga nezibonelelo zecandelwana (1), konyulwa]** ngokumalunga necandelo 3 (1) (a) aze kuba **[umhlali ngaphambili]** ngumhlali ngaphambili wekomiti.”;

- (c) ngosetyenziso lwenye into endaweni yenye kumhlathi (b) wecandelwana (3) lomhlathi olandelayo:

“(b) angabinako okanye **[ukungabinantumekelelo]** ukungafumaneki ukwenza imisebenzi yakhe njengo **[umhlali ngaphambili]** mhlali ngaphambili.”;

- (d) ngosetyenziso lwegama “okanye” ekupheleni kwesiqalo (aa) wecandelwana (3) ngegama “kanye”; kunye

- (e) bnosetyenziso lwesiqalo (bb) wecandelwana (3) sesiqalo esilandelayo:

“(bb) ukwenza nokusebenzisa onke amagunya, imisebenzi neemfanelo **[zomhlali ngaphambili]** mhlali ngaphambili ade **[umhlali ngaphambili]** umhlali ngaphambili unako okanye **[ukubanentumekelelo]** uyafumaneka, ukwenza nokusebenzisa amagunya akhe, imisebenzi neemfanelo **[njengoko kunjalo]**”.

Ngosetyenziso lwecandelo 6 loMmiselo 8 ka-1975, njengosetyenziswe endaweni yecandelo 3 loMmiselo 13 ka-1982

7. Icandelo elilandelayo lisetyenziselwe icandelo 6 lowona Mmiselo uphambili:

“Inani elifanelekileyo lokubamba intlanganiso kunye nezigqibo zekomiti yolawulo.

6. (1) Inani elifanelekileyo lokubamba intlanganiso kunye nezigqibo zekomiti yolawulo lizakuba **[sisiqingatha esinye]** ziipesenti ezingamashumi amahlanu kudibanisa nelinye inani lamalungu alo komiti (negcuntswana emalityeshelwe).

(2) Ikomiti yolawulo kufuneka izame ukufikelela kwizigqibo zayo ngokwesivumelwano.

(3) Xa ikomiti yolawulo ingaphumelelanga ukufikelela kwisivumelwano, ingagqiba ekubeni ivote.

(4) Isigqibo sekomiti yolawulo sokuvota senziwa ziipesenti ezingamashumi amahlanu kudibanisa nelinye lamalungu elikhoyo kwintlanganiso (negcuntswana emalityeshelwe).”.

Ulungiso kwicandelo 7 loMmiselo wesi-8 ka-1975

8. Icandelo 7 lowona Mmiselo uphambili ulungisiwe—

(a) ngosetyenziso lwenye into endaweni yenye kwicandelwana (1) lamagama andulela umhlathi (a) wamagama alandelayo:

“Ikomiti yolawulo inala [A] mandla alandelayo, imisebenzi neemfanelo **[zekomiti elawulayo ziza —]**”;

(b) ngosetyenziso lwenye into endaweni yenye yomhlathi (e) wecandelwana (1) lomhlathi olandelayo:

“(e) ukumisela, kuxhomekeka ekuvunyweni kwe **[Umlawuli]** Ntloko yeSebe, iiyure ngexesha apho nakwiimeko [kunye nezithintelo] eziphantsi apho amalungelo oluntu **[okanye naliphi na iqela labantu okanye abantu abakulo naluphi uhlanga oluthile okanye udidi]** angatyelela imyuziyam okanye nayiphi na inxalenye yalo **[kwaye, kuxhomekeka kwizibonelelo zecandelwana (2), iintlawulo zolwamkelo ezihlawulwayo ngabatyeleli kulo myuziyam, kunye]**”;

(c) nosetyenziso lwento endaweni yenye emva komhlathi (e) kwicandelwana (1) kumhlathi olandelayo:

“(uA)ukumisela, phantsi kwezibonelelo zecandelwana (2), imirhumo yolwamkelo ehlawulwa ngabatyebile kwimyuziyam, kunye”;

- (d) nosetyenziso lwento endaweni yenye ngecandelwana (2) lwecandelwana elilandelayo:

“(2)(a) Ikomiti yolawulo ingamisela kwaye ihlawulise imirhumo yolwamkelo yokungena kwimyuziyam yayo, ngokwesivumelwayo soMphathiswa wePhondo.

(b) Ukuvunywa nguMphathiswa wePhondo kuhambisana nomhlathana (a) kufuneka kwenziwe ngokucebisana nomphathiswa wephondo onoxanduva lwezemali ePhondweni.”; kunye

- (e) nokongezwa kwecandelwana elilandelayo:

“(3) Ikomiti yolawulo ingamiselwa ngokwakwicandelo lwecandelwana (2) (a) ibonelele ngokuba ukungena kwimyuziyam echaphazelekayo kungangahlawulelwa —

(a) ngeentsuku ezikhethekileyo, okanye

(b) ngamaqela athile abantu.”.

Ulungiso lwecandelo 8 loMmiselo 8 ka-1975

9. Icandelo 8 lowona Mmiselo uphambili ulungisiwe—

- (a) ngosetyenziso lwenye into endaweni yenye kwicandelwana (1) lwecandelwana elilandelayo:

“8. [(1)] I [Umlawuli] Ntloko yeSebe inga, kuxhomekeka kumthetho olawula [ngokwePhondo] iNkonzo yoLuntu, onyule abo [amagosa okanye] basebenzi njengokulungela ukusebenza nokufaneleka kwekomiti yolawulo lwamandla alo, imisebenzi neemfanelo kunye nokugcinwa, ukulawulwa, ukuphathwa nokuphuhlisa kwemyuziyam yephondo.”;
kunye

- (b) ngocinyo lwamacandelwana (2), (3) (4).

Usetyenziso lwecandelo 9 loMmiselo 8 ka-1975, njengoko ulungisiwe licandelo 4 loMmiselo 13 ka-1982

10. Icandelo elilandelayo lisetyenziselwe endaweni yecandelo 9 lowona Mmiselo uphambili:

“Iminikelo kunye nemiyolelo.

9. Umnikelo okanye umyolelo wakhe nawuphi na umntu, nokokuba kuphantsi kweziphi na iimeko, ukulahlekelwa nobukho okanye ukungabikho kwezithintelo, kwayo nayiphi na impahla eshenxiswayo nengashenxiswayo kwiPhondo, uRhulumente wePhondo, ikomiti yolawulo okanye imyuziyam yephondo ngenjongo yokusetyenziswa njengo, nangokunxulumene ne okanye ngokwenjongo yemyuziyam yephondo enokwamkelwa ngokoxhomekeko ku okanye malunga noMthetho woLawulo lweMali yoLuntu, ka-1999 (uMthetho 1 ka-1999).

Usetyenziso endaweni yecandelo 10 loMmiselo 8 ka-1975

11. Icandelo elilandelayo lisetyenziselwe icandelo 10 lowona Mmiselo uphambili:

“Imali [yomnikelo okanye yomyolelo] eqokelelwe yimyuziyam yephondo [emayihlawulwe kwiNgxowa-mali yeRhafu yePhondo nezakuthi emva koko ifumaneke kwimyuziyam].

10. Yonke imali [yomnikelo okanye yomyolelo] eqokelelwe yimyuziyam yephondo okanye [ku] yikomiti yolawulo lwemyuziyam yephondo iza kuhlawulwa kwiNgxowa-mali yeRhafu yePhondo ize emva koko ngolo hlobo njengokumiselwa yi [Ulawulo] Ntloko yeSebe kwaye ngokwesicelo sekomiti yolawulo echaphazelekayo ifumaneke kwikomiti yolawulo enjalo ukuze isetyenziswe ngokunxulumene nemyuziyam echaphazelekayo.”.

Ukurhoxiswa kwecandelo 10A loMmiselo 8 ka-1975, njengoko kufakelwe licandelo 5 loMmiselo 13 ka-1982

12. Icandelo 10A lowona Mmiselo uphambili urhoxisiwe.

Usetyenziso endaweni yecandelo 11 loMmiselo 8 ka-1975

13. Icandelo elilandelayo lisetyenziswe endaweni yecandelo 11 lowona Mmiselo uphambili:

“Ubhangiso lwemyuziyam yephondo.

11. (1) UMphathiswa wePhondo ukuba ubona kuyimfuneko, angakupapasha kwi*Phephandaba lombuso lePhondo* ukubhangiswa kwemyuziyam yephondo, ukususela kumhla ochazwe kwisipapasho, emva kokuqwalasela oku kulandelayo:

- (a) uzinzo lwemyuziyam echaphazelekayo;
- (b) iimfuno zokusebenza kweSebe, kunye
- (c) nezimvo ezichazwe kwicandelwana (2) (b).

(2) Phambi kokuba uMphathiswa wePhondo enze isipapasho, uMphathiswa wePhondo uza —

- (a) kucebisana nekomiti yolawulo lwemyuziyam yephondo echaphazelekayo, aze
- (b) ngesaziso kwi*Phephandaba lombuso lePhondo*, ameme izimvo zoluntu ngokubhangiswa okucetywayo kwemyuziyam echaphazelekayo yephondo.

(3) Xa uMphathiswa wePhondo ebhangisa imyuziyam yephondo, imyuziyam yephondo iyatshatyalaliswa, ize ikomiti yolawulo lwalo myuziyam ipheliswe.”.

Ulungiso lwecandelo 12 loMmiselo 8 ka-1975

14. Icandelo 12 lowona Mmiselo uphambili ulungisiwe lusetyenziso endaweni yecandelwana (3) lwecandelwana elilandelayo:

“(3) Ukuba [**Ulawulo**] uMphathiswa wePhondo unoluvo lokuba —

- (a) isakhiwo sikulungele ukusetyenziswa njengemyuziyam siyafumaneka kumfaki sicelo;
- (b) imyuziyam ubuncinane inaso isazulu sengqokelela;
- (c) imyuziyam iza kubanako ukuphuhlisa umxholo emakuthathwe izigqibo phezu kwawo yibhodi egunyaziselwe lo myuziyam ngokumalunga necandelo 15 [**, kunye**];
- (d) nemali ekhoyo ikunye naso nasiphi na isibonelelo ngokumalunga necandelo 29 izakwenela ukuqhuba nokulawula imyuziyam ngokupheleleyo [,];
- (e) iimfuno eziqhubekayo zeSebe zifuna ubhengezo lwemyuziyam ukuze ifumane uncdo lwemyuziyam lwephondo, kwaye
- (f) ukuba ibhengezelwe ukuba ifumane uncdo lwemyuziyam lwephondo, imyuziyam izakukhusela ize ikhuthaze ilifa lemveli lePhondo.

uzakwazisa, ngokwenza isibhengezo kwi*Gazethi yePhondo*, ngemyuziyam enjalo ukuba incede imyuziyam yephondo kwaye, ngokwengcebiso zomfaki sicelo, inike igama lalo myuziyam.”.

Usetyenziso endaweni yecandelo 15 loMmiselo 8 ka-1975, njengoko kulungiswe sisiBhengezo 87 sika-1978 kunye necandelo 4 soMmiselo 11 ka-1979

15. Icandelo elilandelayo lisetyenziselwe icandelo 15 lowona Mmiselo uphambili:

“Umgaqo-siseko webhodi.

15. (1) Phantsi kwamanye amacandelwana eli candelo, ibhodi iza kuquka oku—

- (a) amalungu amathathu onyulwe nguMphathiswa wePhondo ngesizathu samava awo ngokwentsebenziswano yorhulumento okanye ngokolwazi lwawo olukhethekileyo lwemicimbi echaphazela iimyuziyam;
 - (b) apho imyuziyam echaphazelekayo imi —
 - (i) kwindawo kamasipala womasipala ombaxa, ilungu elinye lityunjwe libhunga likamasipala ombaxa ochaphazelekayo, lonyulwe nguMphathiswa wePhondo, okanye
 - (ii) kwindawo kamasipala wezekhaya, ilungu elinye lonyulwe libhunga lomasipala wezekhaya ochaphazelekayo kunye nelungu elinye elonyulwe libhunga likamasipala wengingqi ondawo apho umasipala walo onje ngomasipala wezekhaya ome khona, bobabini bonyulwe nguMphathiswa wePhondo;
 - (c) ilungu elinye lonyulwe ngababhali bemyuziyam echaphazelekayo, lonyulwe nguMphathiswa wePhondo, kunye
 - (d) nomsebenzi omnye kwiSebe elichongwe ngenjongo yiNtloko yeSebe, eyonyulwe nguMphathiswa wePhondo.
- (2) Ibhodi yeMyuziyam iHuguenot Memorial eFranschhoek izakuquka —
- (a) amalungu amane onyulwe nguMphathiswa wePhondo ngesizathu samava awo ngentsebenziswano yorhulumento okanye ulwazi lwawo olukhethekileyo lwemicimbi enxulumene neemyuziyam;
 - (b) ilungu elonyulwe yibhodi kamasipala wezekhaya ondawo apho umasipala onemyuziyam ame khona kunye nelungu elinye elonyulwe libhunga likamasipala wengingqi ondawo apho

- umasipala ongumasimapa wezekhaya ame khona, bobabini bonyulwe nguMphathiswa wePhondo;
- (c) ilungu elinye elonyulwe ngababhali kwimyuziyam, lonyulwe nguMphathiswa wePhondo, kunye
 - (d) nomsebenzi omnye kwiSebe ochongwe ngenjongo yiNtloko yeSebe, owonyulwe nguMphathiswa wePhondo.
- (3) Ibhodi yeMyuziyam ye-Cango Caves eOudtshoorn izakuquka oku —
- (a) amalungu amane onyulwe nguMphathiswa wePhondo ngesizathu samava awo kwintsebenziswano yorhulumento okanye lulwazi olukhethekileyo lwemicimbi enxulumene neemyuziyam;
 - (b) amalungu amathathu onyulwe libhunga likamasipala wezekhaya ondawo apho imyuziyam kamasipala ime khona kwanelungu elinye elonyulwe libhunga likamasipala wengingqi ome khona kwaye onke onyulwe nguMphathiswa wePhondo, kunye
 - (c) nomsebenzi omnye kwiSebe ochongwe ngenjongo yiNtloko yeSebe, onyulwe nguMphathiswa wePhondo.
- (4) Ibhodi yeOude Kerk Volksmuseum van 'T Land van Waveren (Tulbagh) eTulbagh izakuquka oku —
- (a) amalungu amathathu onyulwe nguMphathiswa wePhondo ngesizathu samava abo kwintsebenziswano yorhulumento okanye ulwazi olukhethekileyo lemicimbii enxulumene neemyuziyam;
 - (b) ilungu elinye elonyulwe libhunga likamasipala wezekhaya ondawo kamasipala apho imyuziyam ime khona kunye nelungu elinye elonyulwe libhunga likamasipala wengingqi ondawo kamasipala apho imyuziyam ime khona, omabini onyulwe nguMphathiswa wePhondo;
 - (c) ilungu elinye elonyulwe libhunga lecafe ye-Dutch Reformed Congregation eTulbagh, eyonyulwe nguMphathiswa wePhondo;
 - (d) ilungu elinye elonyulwe ngababhali kwimyuziyam, elonyulwe nguMphathiswa wePhondo, kunye
 - (e) nomqashwa omnye kwiSebe ochongwe ngenjongo yiNtloko yeSebe, owonyulwe nguMphathiswa wePhondo.
- (5) UMphathiswa wePhondo uza, ukongeza kumalungu ebhodi okubhekiselelwe kwicandelo (1), (2), (3) okanye (4), njengoko kunjalo, kwanyula nawuphina umntu abe lilungu layo nayiphina ibhodi enjalo ngesizathu sazo naziphina iinkonzo ezikhethekileyo ezinikezelwa kwimyuziyam echaphazelekayo ngulo mntu okanye nguwo nawuphina umbutho omelwe ngumntu onjalo okanye naziphi na izizathu azibona zifanelekile.”.

Usetyenziso endaweni yecandelo 16 loMmiselo 8 ka-1975, njengoko ulungiswe licandelo 5 loMmiselo 11 ka-1979

16. Icandelo elilandelayo lisetyenziswe endaweni yecandelo 16 lowona Mmiselo uphambili:

“Ixesha elichithwa eofisini ngamalungu ebhodi.

16. (1) Ilungu lebhodi —

- (a) lonyulwe ngokuhambisana necandelo 15 (1) (a), (2) (a), (3) (a) okanye (4) (a) liza kuba sesikhundleni seofisini isithuba seminyaka emithathu;
- (b) lonyulwe ngokuhambisana necandelo 15 (1) (c), (2) (c) okanye (4) (d) liza kuba sesikhundleni seofisi kude kufike ixesha elilandelayo lolonyulo lweloo lungu emalonyulwe nguMphathiswa wePhondo kwintlanganiso ebanjelwe ngokumalunga necandelo 21 (2);
- (c) lonyulwe ngokumalunga necandelo 15 (4) (c) liza kuba sesikhundleni ngelo thuba njengokumiselwa libhunga lecade ye-Dutch Reformed Congregation eTulbagh, kwaye
- (d) ngaphandle kokuba lilungu elichaziweyo yimihlathi (a), (b) kwaye (c) angakwisikhundla seofisi eso isithuba njengokumiselwa nguMphathiswa wePhondo.

(2) [Naliphi na] Ilungu lebhodi elonyulwe ngokumalunga necandelo 15 (1) (a), (2) (a), (3) (a) okanye (4) (a) oxesha lakhe esikhundleni seofisi liphelelweyo liza kufaneleka ukuba lingonyulwa kwakhona [okanye onyulwe kwakhona, njengoko kunjalo].

Usetyenziso endaweni yecandelo 17 loMmiselo 8 ka-1975

17. Icandelo elilandelayo lisetyenziswe endaweni yecandelo 17 lowona Mmiselo uphambili:

“Izithuba ezivulelekileyo ezikhoyo nekufuneka zivaliwe ngoko.

17. (1) Izibonelelo zecandelo 4 (3) kunye (3A) ziza kusebenza [i-*mutatis mutandis*], ngemfuneko yotshintsho olufunwa yimeko, ngokuphathelele nelungu lebhodi.

(2) A Isithuba esivulelekileyo kwiofisi yelungu lebhodi siyakuzaliswa kukuqeshwa **[okanye ulonyulo]** lwalowo uzothatha isikhundla **[umntu okanye iqumrhu eli okanye lokuqesha okanye ukonyula umonduleli womntu omakaqeshwe okanye onyulwe]** nguMphathiswa wePhondo ngokubhekiselele kwicandelo 15; kuxhomekeka ekubeni **[uMlawuli]** uMphathiswa wePhondo angangavumi ukuzalisa isikhundla esivulelekileyo kwiofisi yelungu eliqeshwe ngokumalunga necandelo 15 (5).

(3) Naliphi na ilungu lebhodi eliqeshwe **[okanye elonyulwe]** ngokumalunga necandelwana (2) liyakuba kwisikhundla seofisi ngethuba eseofisini lowo ungumanduleli wakhe.”.

Usetyenziso endaweni yecandelo 18 loMmiselo 8 ka-1975

18. Icandelo elilandelayo lisetyenziselwe endaweni yecandelo 18 lowona Mmiselo uphambili:

“Unqunyanyiso lobulungu bebhodi.

18. Akukho mntu uyakulungela ingqesho **[okanye ulonyulo]** njengelungu lebhodi ukuba —

- (a) alingommi waseMzantsi Afrika, ngaphandle kokuba **[Umlawuli]** uMphathiswa wePhondo **[ukugunyazisa]** ugunyazise lo ngqesho **[okanye ulonyulo];** okanye
- (b) **[kule minyaka mihlanu idlulileyo]** libanjelwe ityala laza lagwetywa kangangee nyanga ezingaphaya kwezili-12 okanye ngaphezulu entolongweni ngaphandle kokuzikhethela isohlwayo.”.

Ufakelo lwecandelo 18A kuMmiselo 8 ka-1975

19. Owona Mmiselo uphambili ulungisiwe lufakelo lwecandelo elilandelayo emva kwecandelo le-:

“Umhlali ngaphambili webhodi.

18A. (1) Umphathiswa wePhondo uza, xa eqesha amalungu achazwe licandelo 15 (1) (a), (2) (a), (3) (a) okanye (4) (a), achonge —

- (a) elinye lalo malungu ukuba libe ngumhlali ngaphambili, kunye
- (b) nelinye lalo malungu ukuba libelisekela lomhlali ngaphambili, webhodi kwaye lo mhlali ngaphambili kunye nesekela lomhlali

ngaphambili babambe isikhundla esinjalo seofisi ngokwexesha elimisiweyo leofisi njengamalungu ebhodi.

(2) Ukuba umhlali ngaphambili okanye isekela lomhlali ngaphambili webhodi ushiya isikhundla kwiofisi yakhe phambi kokuphela kwexesha ebe eqeshelwe lona, uMphathiswa wePhondo uza, ekuqaleni kwentlanganiso yebhodi emva komhla apho umhlali ngaphambili okanye isekela lomhlali ngaphambili oshiye iofisi, achonge elinye ilungu elichazwe licandelo 15 (1) (a), (2) (a), (3) (a) okanye (4) (a), njengoko kunjalo, ukuba abengumhlali ngaphambili okanye isekela lomhlali ngaphambili lebhodi, njengoko kunjalo.

(3) Nanini na usihlalo e —

(a) ngekho kwintlanganiso yebhodi, okanye

(b) engenakho okanye engafumaneki ukuba angenza imisebenzi yakhe njengomhlali ngaphambili,

isekela lomhlali ngaphambili lizaku —

(i) chophela intlanganiso enjalo, kwaye

(ii) lisebenzise onke amagunya, imisebenzi kunye neemfanelo zomhlali ngaphambili ade umhlali ngaphambili abenako okanye afumaneke ukwenza kwanokusebenzisa amagunya akhe, imisebenzi kunye neemfanelo zakhe.”.

Usetyenziso endaweni yecandelo 19 loMmiselo 8 ka-1975

20. Icandelo elilandelayo lisetyenziswe endaweni yecandelo 19 lowona Mthetho uphambili:

“Inani elifanelekileyo lokubamba intlanganiso (ikhoram) kunye nezigqibo zebhodi.

19. Izibonelelo zecandelo 6 zizakusebenza, ngemfuneko yotshintsho olufunwa yimeko, ngokuphathelele nentlanganiso yebhodi.”.

Ulungiso lwecandelo 20 loMmiselo 8 ka-1975, njengoko kulungiswe licandelo 1 loMmiselo 9 ka-1983 kunye nesiBhengezo se-149 se-1993

21. Icandelo 20 lowona Mmiselo uphambili utshintshwe ngokusetyenziselwa endaweni yecandelwana (2) lwecandelwana elilandelayo:

“(2) Ibhodi ingaziqesha iikomiti ezinjalo kunye neekomitana njengoko kungabayimfuneko [**okanye kunqweneleka**], kwaye nayiphi na ikomiti enjalo

okanye ikomitana iza kusebenzisa amandla anjalo kunye nokwenza loo misebenzi kwaneemfanelo njengokuba ibhodi inokuba negunya kuyo okanye njengoko inokumiselwa.”.

Ulungiso lwecandelo 21 loMmiselo 8 ka-1975, njengoko ulungisiwe licandelo les-2 loMmiselo 9 ka-1983

22. Icandelo 21 lowona Mmiselo uphambili ulungisiwe—

(a) ngosetyenziso endaweni yecandelwana (1) lwecandelwana elilandelayo:

“21. (1) Ibhodi nganye iza **[ngokukhawuleza emva kosuku lwamashumi-amathathu ananye kweyoKwindla]** ngonyaka kwinyanga ezimbini emva kokuphela konyaka-mali kulungiselela kwaye ifake kwi **[Umlawuli]** Ntloko yeSebe ingxelo kwimisebenzi kunye nenkqubo nolawulo lwemyuziyam kunye nee **[ingxelo]** ngxelo zemali zengeniso yayo kunye nenkcitho ngexesha lonyaka-mali langaphambili.”;

(b) ngosetyenziso endaweni yomhlathi (a) lwecandelwana (2) lengcaciso “yengxelo” yengcaciso “yengxelo zemali”;

(c) ngosetyenziso endaweni yomhlathi (b) wecandelwana (2) lomhlathi olandelayo:

“(b) ilungu **[okanye amalungu]** lebhodi echazwe licandelo 15 (1) (c) **[okanye]**, (2) (c) okanye (4) (d), njengoko kunjalo, liza **[ukonyulwa]** kumiselwa ukuqesha nguMphathiswa wePhondo.”;

kunye

(d) nosetyenziso endaweni yecandelwana (3) lwecandelwana elilandelayo:

“(3) Umbhali ngamnye uza kunikw isaziso sentlanganiso eqhelekileyo ngokubhekisele kwicandelwana (2) ngeleta ethunyelwe kuye ngeposi eqhelekileyo okanye ngokuthunyelwa nge-intanethi ubuncinane iintsuku ezisixhenxe phambi kwalo ntlanganiso.”.

Usetyenziso endaweni yecandelo 24 loMmiselo 8 ka-1975

23. Icandelo elilandelayo lisetyenziswe endaweni yecandelo 24 lowona Mmiselo uphambili:

“Uzinziso lwabasebenzi.

24. (1) **[Ulawulo]** INtloko yeSebe iza kuqinisekisa ngozinziso lwabasebenzi bemyuziyam ukufumana uncedo kwiphondo kunye nokuhlela izithuba zolo zinziso **[kwaye uza kwenza ubonelelo kolomiselo lwesithuba somphathi wemyuziyam echaphazelekayo]**.

(2) Kuxhomekeko kwizibonelelo zecandelo 25 [(c)] (2), akukho bhodi iza kuqeshwe [okanye iqeshe] nawuphi na umsebenzi [ugqithiso lo] ukongeza kumiselo lwabasebenzi oluqinisekisiweyo lwemyuziyam ngaphandle kwesivumelwano esibhaliweyo seNtloko yeSebe.”.

Usetyenziso endaweni yecandelo 25 loMmiselo 8 ka-1975, njengoko ulungiswe sisiBhengezo se-149 se-1993

24. Icandelo elilandelayo lisetyenziswe endaweni yecandelo 25 lowona Mmiselo uphambili:

“Ukumiselwa nokupheliswa kwenkonzo yabasebenzi.

25. (1) Ibhodi inga, phantsi kosetyenziso lomthetho olawula ukumiselwa nokupheliswa kwenkonzo yabasebenzi —

- (a) qesha abasebenzi ngokuphathelele ekuzinzisweni kwabasebenzi ngokubhekiselele kwicandelo 24 (1), okanye
- (b) phelisa inkonzo yabasebenzi abaqeshiweyo.

(2) Ibhodi enqwenela ukuqesha abasebenzi ukongeza kuzinziso lwabasebenzi olumiselweyo lwemyuziyam echaphazelekayo iza kufaka isicelo kwiNtloko yeSebe ngemvumelwano yokukwenza oko ngokuthumela isicelo esibhaliweyo kwiSebe.

(3) INtloko yeSebe inganika imvume ngoluvo lokuba, yakuba iqwalasele okulandelayo, abasebenzi abongezelelekileyo bayafuneka kwibhodi ukwenza umsebenzi ngokwamandla abo, uxanduva neemfanelo:

- (a) imiphumela yezemali yengqesho ecetyiweyo yabasebenzi abongezelelekileyo;
- (b) imfuneko yezakhono ezithile okanye ingcali kwimyuziyam echaphazelekayo, kwaye
- (c) nokuba ukuqeshwa kwabasebenzi abongezelelekileyo, kuza kuhlangabezana nemfuno yezakhono ezithile okanye ubungcali.”.

Ulungiso lwecandelo 26 loMmiselo 8 ka-1975

25. Icandelo 26 lowona Mmiselo uphambili ulungisiwe lulongezelelo lwecandelwana elilandelayo, icandelo elikhoyo eliya libalicandelwana (1):

“(2) Ibhodi ingaxhomekeka, ukuba inomdla kwimyuziyam echaphazelekayo, kumthetho ofanelekileyo olawula umhlala-phantsi wabasebenzi nokuhambelana nemithetho echazwe licandelwana (1), lokugcina

umsebenzi esikhundleni sakhe ngaphaya kobudala apho ebemelwe ukuba uyayeka emsebenzini ngemvume yakhe kwanesivumelwano seNtloko yeSebe, ngamaxesha ngamaxesha ezihlandlo ezithile, ekungenakugqithwa kwixesha elithile njengoko kumiswa.”.

Ukurhoxiswa kwecandelo 27 nelama-28 loMmiselo 8 ka-1975

26. Icandelo 27 nelama-28 lowona Mmiselo uphambili arhoxisiwe.

Usetyenziso endaweni yecandelo 29 loMmiselo 8 ka-1975

27. Icandelo elilandelayo lisetyenziswe endaweni yecandelo 29 lowona Mmiselo uphambili:

“Izibonelelo.

29. (1) Intloko yeSebe iza, kwimali eyabiwe yiPalamente yePhondo ngenjongo, sihlawulwa kwibhodi nganye, ngaphandle kwebhodi yeMyuziyam yeCango Caves ngokubhekiselele kwicandelo 15 (3), isibonelelo sonyaka, kuxhomekeka kwiimeko ngokwesinyanzelo seNtloko yeSebe, ukuba sisetyenziswe ngeenjongo zemyuziyam echaphazelekayo.

(2) Nangona kunjalo kwicandelwana (1), iNtloko yeSebe inga, ngezizathu ezifanelekileyo kunye nokwanela kwenkxaso-mali ekhoyo kwiSebe ngenjongo, inika isibonelelo kwibhodi yeMyuziyam yeCango Caves ukuze isetyenziswe ngenjongo yemyuziyam.

(3) Ubungakanani baso nasiphi na isibonelelo esihlawulwa kwibhodi phantsi kwecandelwana (1) okanye (2), njengoko kunokuba njalo, iza kusetyenziswa yibhodi kuphela ukuhlawulwa kwe —

- (a) mivuzo, imivuzo yexeshana kunye nemali yesibonelelo, kunye
- (b) neendleko zokugcina imyuziyam echaphazelekayo.

(4) Ukuze kufumaneke isibonelelo emasihlawulwe ngokumalunga neli candelo, ibhodi iza —

- (a) ngalo mhla kunye nangendlela ezinokuthi zijoliswe ngayo yiNtloko yeSebe, ingenisa kwiSebe uqikelelo lwenkcitho yebhodi echazwe licandelwana (3) lonyaka-mali olandelayo, kuquka nesicwangciso sayo sokuba sijonge ukuwasebenzisa nokuwenza njani na amandla ayo, uxanduva kunye neemfanelo kunyaka-mali olandelayo, kunye

- (b) nokubhekiselele kwibhodi yeMyuziyam ye Congo Caves, kwakhona ingenise ingxelo ebhaliweyo idandalazisa izizathu zokuba kutheni isibonelelo sifuneka.

(5) Ukuba ulwazi kuqikelelo, kwisicwangciso okanye, apho kufanelekileyo, ingxelo ayonelanga kangangokuba iNtloko yeSebe ayinako ukwenza umiselo okanye ingcamango njengoko kuchazwe kwicandelwana (6) okanye (7) (a), ngokulandelelana kwawo iNtloko yeSebe inga —

- (a) apho kungonelanga khona kungalungiswa ngokungenisa ulwazi olongezelelekileyo, licela ibhodi echaphazelekayo ifake ulwazi olongezelelekileyo kwiSebe, okanye
- (b) apho ukungoneli kukhulu kangangokuba kunzima ukulungiseka kukungeniswa kolwazi olongezelelekileyo, kucelwa ibhodi echaphazelekayo ukuba ingenise uqikelelo olutsha, isicwangciso esitsha okanye, apho kufanelekileyo, ingxelo entsha kwiSebe,

ngalo mhla kunye nangalo ndlela ejolisa ngayo iNtloko yeSebe.

(6) Ekufumaneni uqikelelo nesicwangciso kwaye, apho kufanelekileyo, ulwazi olongezelelekileyo, uqikelelo olutsha okanye isicwangciso esitsha, njengoko kunokuba njalo, iNtloko yeSebe iza, kuxhomekeka kwicandelwana (7), kumisela kwaye ivumele ubungakanani besibonelelo esihlawulwa kwibhodi ngokusekelwe kuqikelelo olufakiweyo, kunye nesibonelelo ngokumalunga necandelwana (1) izakuhlawulelwa kuphela ngalo mali ivunyiweyo.

(7)(a) Intloko yeSebe iza, ekufumaneni kwayo uqikelelo, isicwangciso kunye nengxelo okanye, apho kufanelekileyo, ulwazi olongezelelweyo, uqikelelo olutsha, isicwangciso esitsha okanye ingxelo entsha, njengoko kunokuba njalo, iqwalasele isicelo sesibonelelo esenziwe yibhodi yeMyuziyam yeCongo Caves kwaye, ukuba wanelisekile ukuba izizathu ezihle zikhona isicelo kwaye inkxalo yemali ikhona kwiSebe, ukumisela nokuvumela imali yesibonelelo ihlawulwe kwibhodi ngokumalunga necandelwana (2) iza kuhlawulwa kuphela kuloo mali ivunyiweyo.

(b) Ukuba intloko yeSebe, ekufunyanweni kwamaxwebhu onke afanelekileyo, kwaye emva kwengqwalasela yesicelo esingonelisiyo sokuba zikhona izizathu ezizizo kwisicelo okanye nokuba ikhona inkxaso yemali eyoneleyo kwiSebe, iNtloko yeSebe izakusikhaba isicelo ize yazise ibhodi yeMyuziyam yeCongo Caves ngezizigqibo zakhe kwanezizathu zezizigqibo.

(8) Izibonelelo zelicandelo aziyithinteli ibhodi ekuchitheni ngaphezu kwemali yenkxaso evunyiweyo emayihlawulwe kulo bhodi malunga nemyuziyam echaphazelekayo, kodwa nayiphina inkcitho engaphezulu kulo mali ivunyiweyo ayizi kubanakho ukulungela ukufumana inkxaso ngokumalunga neli candelo.”.

Ufakelo lwecandelo 29A kuMmiselo 8 ka-1975

28. Icandelo elilandelayo lifakelwe kowona Mmiselo uphambili emva kwecandelo 29:

“Ulongezelelo lwemali yenkxaso.

29A. (1) Intloko yeSebe inga, ngokuvumelana kwakhe okanye ngesicelo sebhodi, kwimali eyabiwe yiPalamente yePhondo ngenjongo, ihlawule kwibhodi ukuba ibihlawula isibonelelo esichazwe kwicandelo 29 salonyaka-mali, kunyaka-mali ofanayo, inkxaso mali eyongezelelekileyo yeso sibonelelo, kuxhomekeka kwezo meko njengoko iNtloko yeSebe inokucela.

(2) Xa iNtloko yeSebe isenza ngokwesivumelwano sayo ngokumalunga necandelwana (1), iNtloko yeSebe ingacela ibhodi echaphazelekayo ukuba ifake amaxwebhu abhekisele kwicandelo kwicandelwana (4) ngokumalunga nelo candelwana.

(3) Intloko yeSebe ingangayihlawuli imali yenkxaso eyongezelelekileyo kwibhodi ngokumalunga nelicandelo ngaphandle kokuba unoluvo lokuba, akuba ethathele ingqalelo oku kulandelayo, inkxaso-mali eyongezelelekileyo iyafuneka kwibhodi ukuze isebenzise kwaye yenze ngokwamandla, uxanduva kunye neemfanelo zayo kwaye nokuba inkxaso-mali eyoneleyo ikhona kwiSebe ngokwenjongo:

- (a) nokuba inkxaso-mali eyoneleyo iyafumaneka kwiSebe ngokwenjongo;
- (b) iimfuno zebhodi, kunye
- (c) nezizathu zobukho beemfuno.

(4) Ukuze kufumaneka inkxaso-mali eyongezelelekileyo ngokumalunga neli candelo, ibhodi iza, ngalo mhla kwaye kwimeko enje ngokuba iNtloko yeSebe yalathile, kufakwe kwiSebe oku kulandelayo:

- (a) iimfuno zebhodi zalo nyaka-mali kunye nezizathu zemfuneko yenkxaso yemali eyongezelelekileyo;
- (b) uqikelelo lwemali yenkxaso yemali eyongezelelekileyo efunekayo kulo nyaka-mali, kunye
- (c) nesicwangciso sokuba ibhodi iceba ukuyichitha njani inkxaso yemali eyongezelelekileyo ukuhlangabezana nezidingo zayo.

(5) Ekufumaneni onke amaxwebhu abhekiselele kwicandelwana (4), iNtloko yeSebe izakunika ingqwalasela kwisicelo senkxaso-mali eyongezelelekileyo okanye, apho iNtloko yeSebe izakwenza ngokokuthanda kwayo, amaxwebhu ayimfuneko, njengoko kunokuba njalo, kwaye ukuba kusonelisa ukuba ukongezelelwa kwenkxaso-mali kuyimfuneko ukuba ibhodi

isebenzise kwaye yenze ngokwamandla, uxanduva neemfanelo zayo nokuba inkxaso-mali eyongezelelekileyo iyafumaneka kwiSebe, iNtloko yeSebe ingamiselwa ize isivume isixa semali yenkxaso eyongezelelekileyo ehlawulwa ibhodi ngokumalunga necandelwana (1) iza kuhlulwa kuphela lo mali yesivumelwano.

(6) Ukuba iNtloko yeSebe, emva kokuqwalasela isicelo okanye amaxwebhu afunekayo, njengoko kunoba njalo, akoniselikanga ukuba nayiphi na inkxaso yemali eyongezelelekileyo iyimfuneko kwibhodi ukuze isebenzise kwaye yenze ngokwamandla, uxanduva kunye neemfanelo zayo, okanye ukuba inkxaso-mali eyongezelelekileyo iyafumaneka kwiSebe, iNtloko yeSebe iza kusikhaba isicelo okanye imisele ukuba ibhodi ingayidingi inkxaso-mali eyongezelelekileyo, njengoko kunganjalo, ize yazise ibhodi echaphazelekayo ngembalelwano yesigqibo sayo kunye nezizathu zesizigqibo.

(7) Isixa-mali sayo nayiphi na inkxaso-mali eyongezelelekileyo ihlawulwe kwibhodi ngokumalunga neli candelo iza kusetyenziswa yibhodi—

- (a) zezonjongo kuphela ezichazwe yiNtloko yeSebe, kwaye
- (b) kunyaka-mali apho ihlawulwe khona okanye kwisithuba esisesinye njengoko kuchaziwe yiNtloko yeSebe.”.

Ulungiso lwecandelo 30 loMmiselo 8 ka-1975

29. Icandelo 30 lowona Mmiselo uphambili ulungisiwe—

(a) ngosetyenziso endaweni yecandelwana (1) lwecandelwana elilandelayo:

“30. (1) Ibhodi inga, ngemvume [**Umlawuli**] yeNtloko yeSebe—

- (a) inyuse imali-mboleko kuyo nayiphi na injongo ebona kuyimfuneko [**okanye enqwenelekayo**] ngokunxulumene nemisebenzi okanye izenzo zamandla ayo, imisebenzi kunye neemfanelo [, kunye];
- (aA) xa kuyimfuneko kuphela, inyuse imali-mboleko yexesha elifutshane ukubonelela ngokunqongophala kwemali okunyukayo kunyaka-mali ngexesha apho imali-mboleko inyuswa, kwaye ukuba ungeniso alonelanga ukuhlawula kwakhona lo mali-mboleko izakufunyanwa yibhodi ngexesha lalo nyaka-mali, kwaye
- (b) njengokukhuselwa kokubuyisela kwayo nayiphi na imali-mboleko, ukubambisa ngendlu okanye kungenjalo ukuthintela nayiphi na ipropati engaxhenxiswayo inikezelwe kuyo.”;

(b) ngocinyo lwecandelwana (2) kunye (3);

(c) ngosetyenziso endaweni yecandelwana (4) lwecandelwana elilandelayo:

“(4) Akukho propati engashenxiswayo ebhaliswe ngegama lebhodi [**njengoko kuchazwe licandelwana (3)**] eza kupheliswa ngaphandle [—

- (a) kwayo nayiphina imali-mboleko enyuselwe injongo yokufumana lopropati okanye ukwakhiwa kwe [i] i sakhiwo [esichaphazelekayo], kudibene nayo nayiphina inzala yaso, ibuyiselwe ngokupheleleyo [kanye nayo yonke intlawulo eyenziweyo nenkcitho eyenziweyo nguMlawuli ekwenziweni kwesiqinisekiso ngokumalunga necandelwana (2) ngokubhekiselele kulo mali-mboleko ibuyiselweyo, okanye
- (b) kwesiqiniseko esithe sarhoxiswa, nokuba yeyiphi eqale yenzeka].”; kunye
- (d) nosetyenziso endaweni yecandelwana (5) lwecandelwana elilandelayo:
 “(5) Ngokweenjongo zeli candelo, “imalimboleko yexeshana” kuthetha imali-mboleko apho ixesha lokuyibuyisa lingaphantsi kuneenyanga ezintandathu.”.

Usetyenziso endaweni yecandelo 31 loMmiselo 8 ka-1975

30. Icandelo elilandelayo lisetyenziswe endaweni yecandelwano 31 lowona Mmiselo uphambili:

“Ukufunyanwa nokutyalwa kwemali yebhodi.

31. (1) Yonke imali efunyenweyo yibhodi izakubalelwa kwi [emiselwe] ndlela echazwe licandelo 21 nelama-32.

(2) [Yonke imali ebanjiweyo] Imali efunyenwe yibhodi ngokumalunga necandelo 29 okanye 29A nengafuneki ngokukhawuleza yiyo ngokunxulumene nokusebenza kunye nokusebenzisa amandla ayo, imisebenzi kunye neemfanelo iza kutyalwa ngokwenzala yalo bhodi —

- (a) ngalo naliphi na iziko lokubhanka ekugqibeleni libhaliswe ngokuphathelele noMthetho weBhanki, [1965 (uMthetho 23 ka-1965)] 1990 (uMthetho 94 ka-1990), [okanye nawo nawuphina umbutho woluntu obhaliswe ngokuphathelele noMthetho weMibutho yoLuntu, 1965 (uMthetho 24 ka-1965);] okanye
- (b) kwintlawulo kaRhulumente [, okanye
- (c) ngokuvuma koMlawuli, kunikwa ngokubanzi okanye ngokukodwa, kwimali-mboleko kwibhunga lakhe nawuphi na umasipala okanye nakweliphi na icandelo lebhunga okanye naliphi na iqhumrhu elidalwe ngummiselo phakathi kwiRiphabliki].”.

Usetyenziso endaweni yecandelo 32 loMmiselo 8 ka-1975, njengokusetyenziswa endaweni yecandelo 3 koMmiselo 9 ka-1983

31. Icandelo elilandelayo lisetyenziswe endaweni yecandelo 32 lowona amthetho uphambili:

“Uphicotho-zincwadi lwee-akhawunti.

32. (1) Ibhodi iza kuqesha umphicothi-zincwadi ukuze aphicotho iingxelo zemali ezichazwe kwicandelo 21.

(2) Ibhodi iza, kwiinyanga ezimbini emva kokungenisa iingxelo zemali kwiNtloko yeSebe ngokumalunga necandelo 21, angenise kwiNtloko yeSebe —

(a) iingxelo zemali eziphicothiweyo, kunye

(b) neengxelo zomphicothi zincwadi kwezo ngxelo.”.

Ufakelo lwecandelo 32A kuMmiselo 8 ka-1975

32. Icandelo elilandelayo lifakelwe kowona Mmiselo uphambili emva kwecandelo 32:

“Ukuphathwa kakubi kwezemali.

32A. (1) Ibhodi yenza isenzo sokungaziphathi kakuhle kwezemali ukuba ibhodi yenze ngabom okanye ngokungakhathali —

(a) iyasilela ukuhambelana necandelo 21 (1), 31 okanye 32, okanye

(b) isebenzisa okanye ivumela ukusetyenziswa kwemali ehlawulwe kwibhodi leyo ngokumalunga necandelo 29 okanye 29A ngenjongo engeyiyo lonjongo ichazwe ngalo macandelo.

(2) Ukuba ibhodi yenza isenzo sokuziphatha kakubi kwezemali, uMphathiswa wePhondo angathatha amanyathelo okulungisa acinga ukuba afanelekile, kuquka —

(a) ukuqeshwa komlawuli ukulawula imicimbi yemali yebhodi kunye nemisebenzi nokusebenzisa amandla, uxanduva kunye neemfanelo zebhodi okunxulumene nemicimbi yezemali yebhodi, kunye

(b) nokurhoxiswa okwethutyana kwelungu lebhodi okanye ukupheliswa kwexesha lesikhundle kwiofisi yelungu lebhodi.

(3) Phambi kokuba uMphathiswa wePhondo athathe nawo nawaphi na amanyathelo olungiso oluchazwe licandelwana (2), iNtloko yeSebe iza

kukhupha kumhlali ngaphambili webhodi echaphazelekayo isaziso sothotyelo kunye neekopi zayo kumalungu ebhodi, ezakuquka —

- (a) inkcazelo yokungaziphathi kakuhle kwezemali emisa umthetho wokungathotyelwa yibhodi ngezibonelelo zalo mmiselo;
- (b) amanyathelo ekufuneka athathwe yibhodi kunye nexesha apho lo manyathelo kufuneka athathwe ukulungisa ukungathotyelwa, kunye
- (c) nesaziso kwibhodi ukuba, ukuba iyasilela ukuthatha nawaphi na amanyathelo achazwe ngumhlathi (b), iNtloko yeSebe iza kujolisa umba kuMphathiswa wePhondo ukuthatha amanyathelo okulungisa ngokumalunga necandelwana (2).

(4) Ukuba ibhodi iwathobele onke amanyathelo achazwe kwicandelwana (3) (b) kwixesha elimiselweyo kwisaziso sothotyelo, iNtloko yeSebe iza kwazisa uMphathiswa wePhondo kunye nebhodi ngokubhala phantsi kwayo uthotyelo ngokwemiqathango yesaziso sothotyelo.

(5) Ukuba ibhodi iyasilela ukuthobela nawaphi na amanyathelo achazwe kwicandelwana (3) (b) kwixesha elimisiweyo kwisaziso sothotyelo —

- (a) iNtloko yeSebe iza, emva kokuphela kwexesha, ngembalelwano yazise uMphathiswa wePhondo ngokuthobela kwayo ngokumalunga nesaziso sothotyelo okanye inxalenye yokuthobela, njengoko kunokuba njalo, kwebhodi ngokwemiqathango yesaziso sothotyelo, kwaye
- (b) uMphathiswa wePhondo ngokukhawuleza emva kokufumana isaziso esichazwe ngumhlathi (a) ukwazisa ibhodi ngembalelwano ngamanyathelo olungiso acetywayo amakathatyathwe.

(6) Isaziso kwibhodi echaziweyo licandelwana (5) (b) iza, kuxhomekeka kwicandelwana (7), balula —

- (a) ukungathobeli okanye inxalenye yokuthobela, njengoko kunokuba njalo, kwebhodi ngokuphathelele nesaziso sothotyelo;
- (b) uhlobo kunye nenjongo yamanyathelo olungiso amakathathwe ngokumalunga necandelwana (2);
- (c) ukuba ibhodi inelungelo lokungenisa imiboniso ebhaliweyo kuMphathiswa wePhondo kwiintsuku ezingama-30 zokufumana isaziso, kwaye
- (d) apho amanyathelo olungiso abonelela ngengqesho yomlawuli, ukuba ingqesho leyo ingongezwa ngokumalunga necandelwana (14).

(7) Ukuba ukungathotyelwa kungenxa yesenzo sokungaziphathi kakuhle kwezemali njengoko kuchaziwe licandelwana (1) (b), uMphathiswa wePhondo

unokunikezwa ngexesha elibhekiselele kwicandelwana (6) (c) kwaye angabalula ixesha elifutshane kwisaziso; kuxhomekela kwixesha elo lifutshane livumela ibhodi echaphazela ithuba elifanelekileyo ukungenisa imiboniso ebhaliweyo kuMphathiswa wePhondo.

(8) Umphathiswa wePhondo uza, ekupheleni kwexesha ekubhekiswe kulo kwicandelwana (6) (c) okanye, apho kufanelekile, ixesha elifutshane elichazwe licandelwana (7), nokokuba uMphathiswa wePhondo uyifumene okanye akayifumananga imiboniso ebhaliweyo kwibhodi echaphazelekayo, kwaye emva kwengqwalasela efanelekileyo yazo zonke izinto ezilungeleyo, kuquka nayo nayiphina inxalenye yothotyelo yibhodi nesaziso sothotyelo kunye nayiphina imiboniso ebhaliweyo engenisiweyo yibhodi, kuthatha amanyathelo olungiso.

(9) Umphathiswa wePhondo uza, emva kokuthatha amanyathelo olungiso ngokumalunga necandelwana (8), kwazisa ibhodi echaphazelekayo ngembalelwano ngezizathu zokwenza oko.

(10) Ukuba umlawuli uqeshwe ngokumalunga necandelwana (2) (a), umlawuli angalawula imicimbi yezemali yebhodi echaphazelekayo nokusebenzisa amandla, imisebenzi kunye neemfanelo zalo bhodi enxulumene nemicimbi yezemali kwaye, ngale ndlela ilandelayo:

- (a) kwixesha elimisiweyo nguMphathiswa wePhondo, ngenisa kwiNtloko yeSebe ingxelo kwimicimbi yebhodi echaphazelekayo;
- (b) apho kufanelekileyo, nangengebiswano neNtloko yeSebe, icebe isicwangciso sokubuyisela ibhodi;
- (c) apho kufanelekileyo, qinisekisa ukuba isicwangciso sokubuyisela siyaphunyezwa kwixesha elimiselweyo nguMphathiswa wePhondo, kwaye
- (d) apho kufanelekileyo kwakugqitywa ukuphunyezwa kobuyiselo lwesicwangciso, ngenisa kwiNtloko yeSebe ingxelo yokugqibela kwimicimbi yebhodi.

(11) Umphathiswa wePhondo uza, ngokucelwa ngumlawuli kwaye emva kwengcebiso wano neNtloko yeSebe, kwandisa ixesha elichazwe kwicandelwana (10) (c).

(12) Umphathiswa wePhondo uza, emva kwengcebiso wano neNtloko yePhondo kuqwalasela ingxelo ekubhekiselwe kuyo kwicandelwana (10) (a) okanye ingxelo yokugqibela ekubhekiselwe kuyo licandelwana (10) (d), njengoko kunokuba njalo, kumiswelwe ukuba —

- (a) ibhodi inako ukulawula imicimbi yayo yezemali kwaye yenze ize isebenzise amandla ayo, imisebenzi kunye neemfanelo ezinxulumene nemicimbi yalo yezemali;

- (b) ibhodi inako ukulawula imicimbi yayo yezemali kwaye yenze ize isebenzise amandla ayo, imisebenzi kunye neemfanelo ezinxulumene nemicimbi yalo yezemali ngoncedo olongezelelekiyo zomlawuli, okanye
- (c) ibhodi inako ukulawula imicimbi yayo yezemali kwaye yenze ize isebenzise amandla ayo, imisebenzi kunye neemfanelo ezinxulumene nemicimbi yalo yezemali elidinga uncedo nenkxaso yeSebe ukwenza oko.

(13) Umphathiswa wePhondo uza kwazisa ibhodi ngembalelwano yommiselo.

(14) Umphathiswa wePhondo yenza ummiselo ochazwe kwicandelwana (12) (b), Umphathiswa wePhondo angandisa ixesha lengqesho yomlawuli kwimimiselo nemigaqo njengoko uMphathiswa wePhondo enokumisela.”.

Ulungiso lwecandelo 34 loMmiselo 8 ka-1975

33. Icandelo 34 lowona Mmiselo uphambili ulungisiwe—

(a) ngosetyenziso endaweni yecandelwana (2) lwecandelwana elilandelayo:

“(2) Ngokufumana naso nasiphi na isicelo ngokumalunga necandelwana (1) u **[Umlawuli]** Mphathiswa wePhondo angenza uhlobo lwalo myuziyam izakwenziwa nefuna umfaki sicelo anikezelwe ulwazi lwemyuziyam xa ebona kubalulekilehe **[okanye okunqwenelekayo]**.”; kwaye

(b) ngosetyenziso endaweni yecandelwana (3) lwecandelwana elilandelayo:

“(3) Ukuba u **[uMlawuli]** Mphathiswa wePhondo unoluvo lokuba —

- (a) iimfuno eziqhubekayo zeSebe zidinga isibhengezo semyuziyam ukuba ibeyeyasekuhlaleni, kwaye
- (b) simyuziyam enjalo iya, ukuba ibhengezwe njengeyeyasekuhlaleni, [ukukhonza inkcubeko okanye iimfuno zemfundo yoluntu okanye zecandelo loluntu] pukukhusela nokukhuthaza ilifa lemveli loluntu lomasipala wezekhaya ondawo kamasipala apho imyuziyam ikhoyo,

anga ngokubhengeza kwiPhepha-ndaba lombuso lePhondo abhengeze lo myuziyam ukuba ibeyeyasekuhlaleni kwaye, ngengcebiso nomfaki sicelo, anike igama kulo myuziyam.”.

Usetyenziso endaweni yecandelo 35 loMmiselo 8 ka-1975

34. Icandelo elilandelayo lisetyenziswe endaweni yecandelo 35 lowona Mmiselo uphambili:

“Imyuziyam yasekuhlaleni izakuba phantsi kolawulo, kokuphathwa kunye nokukhokelwa lulawulo lwebhodi.

35. Imyuziyam yasekuhlaleni izakuba phantsi kolawulo, kokuphathwa kunye nokukhokelwa lulawulo lwebhodi ebandakanya ama —

- (a) lungu amabini aqeshwe ngu **[Umlawuli]** Mphathiswa wePhondo;
- (b) **[lungu amabini aqeshiweyo]** ilungu elinye elonyulwe libhunga [ngokuba negunya kunye nolawulo kwindawo apho] likamasipala wezekhaya ondawo kamasipala apho imyuziyam [hlaliswe] ikhoyo, liqeshwe nguMphathiswa wePhondo, kunye
- (c) namalungu amabini [ukonyulwa] atyunjwe ngababhali kwimyuziyam echaphazelekayo, aqeshwe nguMphathiswa wePhondo; kuxhomekeka ukuba apho imyuziyam inababhali abangaphantsi kweshumi akukho malungu aza [ukonyulwa] akuqeshwa ngokuphathelele nalo mhlathi, kunye, nelo lungu, amalungu amabini awongezelelekileyo aza kuqeshwa malunga nomhlathi (b).”.

Usetyenziso endaweni yecandelo 37 loMmiselo 8 ka-1975

35. Icandelo elilandelayo lisetyenziswe endaweni yecandelo 37 lowona Mmiselo uphambili:

“Ixesha lokuba seofisini lamalungu lilawulwa yibhodi.

37. (1) Ilungu lebhodi elawulayo eliqeshwe ngokumalunga ne —

- (a) candelo 35 (a) lizakuba kwisikhundla seofisi ithuba leminyaka emithathu;
- (b) candelo 35 (b) lizakuba seofisini elo xesha njengoko kumiselwe nguMphathiswa wePhondo, kunye
- (c) candelo 35 (c) lizakuba seofisini kude kube lulonyulo oluzayo lwelo lungu emaliqeshwe nguMphathiswa wePhondo kwintlanganiso yesiqhelo yababhali.

(2) [Naliphi na] Ilungu lebhodi elawulayo eliqeshwe ngokumalunga necandelo 35 (a) exesha lalo eofisini liphelelweyo liza kulungela ukuqeshwa kwakhona [okanye ukonyulwa kwakhona, njengokuba kunokuba njalo].”.

Usetyenziso endaweni yecandelo 38 loMmiselo 8 ka-1975

36. Icandelo elilandelayo lisetyenziswe endaweni yecandelo 38 lowona Mmiselo uphambili:

“Izithuba ezikwibhodi yolawulo kunye nokugcwaliswa kwazo ngokunjalo nokupheliswa kobulungu balo bhodi.

38. Izibonelelo zecandelo 4 (3) kunye (3A), 17 (2) ne (3) kunye nele-18 kukufaka isicelo [i-*mutatis mutandis*], ngotshintsho lwemfuneko edingwayo yimeko, ngokuphathelele naso nasiphina isithuba kwiofisi yebhodi elawulayo kunye nokonyulwa [okanye ulonyulo] okwelungu lwalo bhodi.”.

Ufakelo lwecandelo 38A kunye nelama-38B kuMmiselo 8 ka-1975

37. Owona Mmiselo uphambili ulungisiwe lufakelo lwecandelo elilandelayo emva kwecandelo 38:

“Umhlali ngaphambili webhodi elawulayo.

38A. (1) Umphathiswa wePhondo uza, xa eqesha amalungu echazwe kwicandelo 35 (a), achonge—

(a) ilungu elinye libe ngumhlali ngaphambili, kunye

(b) nelinye ilungu libe lisekela lomhlali ngaphambili,

yebhodi yolawulo echaphazelekayo, kunye nomhlali ngaphambili kunye nesekela lomhlali ngaphambili bazakuba sesikhundleni seofisi ngexesha lokusebenza kwabo njengamalungu ebhodi elawulayo.

(2) Ukuba umhlali ngaphambili okanye isekela lomhlali ngaphambili webhodi elawulayo esuka esikhundleni seofisi phambi kwexesha lokuphelelwa kwalowo uqeshiweyo, uMphathiswa wePhondo uza, phambi kwentlanganiso yokuqala yebhodi yolawulo emva komhla apho umhlali ngaphambili okanye isekela lomhlali ngaphambili bashiye izikhundla eofisini, aqeshe ilungu ngokuphathelele nezibonelelo zecandelo 35 (a) kwaye ukuchongwa kwelo lungu luhambelana nezibonelelo zecandelwana (1) ukuba libe ngumhlali ngaphambili okanye isekela lomhlali ngaphambili, njengoko kunokuba njalo, kwibhodi elawulayo.

(3) Nanini na umhlali ngaphambili e —

- (a) ngekho kwintlanganiso yebhodi yolawulo, okanye
- (b) ukungabinako okanye ukungafumaneki ukwenza imisebenzi yakhe njengomhlali ngaphambili,

isekela lomhlali ngaphambili liza —

- (i) kuchophela intlanganiso leyo, kunye
- (ii) nokusebenza kwanokusebenzisa onke amandla, imisebenzi kunye neemfanelo zomhlali ngaphambili ade umhlali ngaphambili abenakho okanye afumaneke ukwenza nokusebenzisa amandla akhe, imisebenzi kunye neemfanelo.

Inani elifunekayo ukuchophela intlanganiso kunye nezigqibo zebhodi elawulayo.

38B. Izibonelelo zecandelo 6 liza kusebenza, ngotshintsho lwemfuneko edingwayo yimeko, ngokuphathelele nentlanganiso yebhodi yolawulo.”.

Usetyenziso endaweni yecandelo 39 loMmiselo 8 ka-1975

38. Icandelo elilandelayo lisebenza endaweni yecandelo 39 lowona Mmiselo uphambili:

“Intlawulo yezibonelelo kwibhodi yolawulo.

39. (1) Intloko yeSebe inga, kwimali eyabelwe yona yiPalamente yePhondo ngenjongo kunye nangokusetyenziswa yibhodi yolawulo, ukuhlawula kwibhodi elawulayo, ngokusetyenziswa yibhodi yolawulo ukuqhuba kunye nokulawula imyuziyam kunyaka-mali olandelayo, isibonelelo salo mali njengeNtloko yeSebe engamisela ngokukweemeko ezinjalo ezinokunyanzeliswa yiNtloko yeSebe.

(2) iNtloko yeSebe ingangasihlawuli isibonelelo kwibhodi yolawulo ngokumalunga neli candelo ngaphandle kokuba unoluvo lokuba, ngokwengqalelo elandelayo, isibonelelo siyimfuneko kwibhodi elawulayo ukuqhuba nokulawula imyuziyam kwaye imali yenkxaso-mali eyaneleyo iyafumaneka kwiSebe ngokwenjongo:

- (a) nokuba inkxaso-mali eyaneleyo ifunyanwa liSebe ngokwenjongo;
- (b) iimfuno zebhodi yolawulo, kunye
- (c) nezizathu zokuba kutheni iimfuno zikhona.

(3) Ukuze kufumaneke isibonelelo ngokumalunga neli candelo ibhodi yolawulo ngolo mhlalaza kwangalo ndlela njengeNtloko yeSebe ingakhokela ukungeniswa kokulandelayo kwiNtloko yeSebe:

- (a) iimfuno zebhodi yolawulo ngokuphathelele nokuqhutywa kunye nokuphathwa kwemyuziyam;
- (b) uqikelelo lwenkeitho yebhodi yolawulo ngonyaka-mali okulandelayo, kwaye
- (c) isicwangciso sokuba ibhodi yolawulo ijonge ukuba iza kusichitha njani isibonelelo ukuze ihlangabezane neemfuno zayo kunye nokusebenzisa amandla ayo, imisebenzi kunye neemfanelo kunyaka-mali olandelayo.

(4) Ekufunyanweni kwamaxwebhu abhekiselele kwicandelwana (3), iNtloko yeSebe iza kunika ingqwalasela sokuba isibonelelo siyimfuneko kwibhodi yolawulo ukuqhuba nokuphatha imyuziyam kwaye, ukuba iyonelisa, iNtloko yeSebe iza kumisela ize ivume imali yesibonelelo esihlawuliweyo kwibhodi yolawulo ngokusekelwe kumaxwebhu angenisiwe, kunye nesibonelelo ngokumalunga necandelwana (1) iza kuhlawulwa kuphela ngalo mali ivunyiweyo.

(5) Ukuba iNtloko yeSebe, emva kokuba ingqwalasela yesicelo ingakhokeli ukuba isibonelelo siyafuneka sokusetyenziswa yibhodi yolawulo ukuqhuba nokuphatha imyuziyam, iNtloko yeSebe iza kusikhaba isicelo ize yaziswe ibhodi yolawulo ngembalelwano yesigqibo sakhe kunye nezizathu zesigqibo.”.

Ulungiso lwecandelo 40 loMmiselo 8 ka-1975

39. Icandelo 40 lowona Mmiselo uphambili ulungisiwe —

(a) ngosetyenziso endaweni yecandelo (2) lwecandelwana elilandelayo:

“(2) Imisebenzi yekomiti izakuba kukucebisa iSebe okanye u **[Umlawuli] Mphathiswa wePhondo**, njengoko kunokuba njalo, kwimicimbi enjalo enxulumene neemyuziyam okanye ukusebenza kwalo mmiselo njengoko ucingelwa ukuba uyimfuneko **[okanye okunqwenelekayo]** okanye njengoko kubhekiselwe kuko liSebe okanye u **[Umlawuli] Mphathiswa wePhondo**.”;

(b) ngosetyenziso endaweni yecandelwana (4) lwecandelwana elilandelayo:

“(4) Ilungu ngalinye elingengo **[igosa, amagosa okanye]** msebenzi kwinkonzo yoluntu **[okanye kwinkonzo yolawulo lwephondo]** linga, kwimali eyabiwe liPhondo **[Ibhunga] iPalamente** ngenjongo kwaye ukuba u **[Umlawuli] Mphathiswa wePhondo** ngoko ugqiba, ekuhlawuleni umvuzo lowo okanye izibonelelo nje ngo **[Umlawuli] uMphathiswa wePhondo**

angamisela ngokucebisana nomphathiswa wephondo onoxanduva lezemali kwiPhondo.”; kunye

(c) nosetyenziso endaweni yecandelwana (5) lwecandelwana elilandelayo:

“(5) Amalungu ekomiti azaku basesikhundleni seofisi **[ngexesha lolawulo loMlawuli]** ngelo thuba limiselwe nguMphathiswa wePhondo.”.

Ulungiso lwecandelo 41 loMmiselo 8 ka-1975

40. Icandelo 41 lowona Mmiselo uphambili ulungisiwe—

(a) ngosetyenziso endaweni yomhlathi (a) wecandelwana (1) lomhlathi olandelayo:

“(a) **[ulonyulo lomhlali ngaphambili okanye isekela lomhlali ngaphambili webhodi kunye]** ukuqeshwa kukanobhala kunye nonongxowa kwibhodi;”;

(b) ngocinyo lwemihlathi (d), (f), (g), (h), (i), (j), (k), (l), (m), (n), (p) and (q) yecandelwana (1); kunye

(c) ngosetyenziso endaweni yomhlathi (yemihlathi) yecandelwana (1) lomhlathi olandelayo:

“(s) ngokwesiqhelo yonke imicimbi apho **[yena]** uMphathiswa wePhondo ebona **[yona]** kuyimfuneko okanye kuluncedo ukumisela ukuze kuqhubekeke okanye kuphunyezwe izinto zalo mmiselo **[umthethojikelele wesi sibonelelo sokungabinasithintelo ngomhlathi owandulela eli candelwana]**.”

Usetyenziso endaweni yecandelo 42 loMmiselo 8 ka-1975

41. Icandelo elilandelayo lisetyenziswe endaweni yecandelo 42 lowona Mmiselo uphambili:

“Uncedo lwephondo okanye imyuziyam yasekuhlaleni isenokusungulwa njengemyuziyam yephondookanye.

42. (1) Ibhodi efumana uncendo kwimyuziyam yephondo okanye ibhodi yolawulo lwemyuziyam yasekuhlaleni ingacela ngembalelwano kuMphathiswa wePhondo ukuba ibe nemyuziyam enjalo emayimiselwe njengemyuziyam yephondo.

(1A) Isicelo siza —

(a) kubalula izizathu zesicelo, kunye

- (b) kukhatshwa ziinkcukacha ezipheleleyo zee-asethi namatyala emyuziyam echaphazelekayo, kuquka iinkcukacha zomhlaba kunye nezakhiwo ku okanye apho imyuziyam ikhoyo.

(2) Ekufunyanweni kwesicelo ngokumalunga necandelwana (1) kunye nolwazi olubhekiselele kwicandelwana (1A), u [Umlawuli] Mphathiswa wePhondo angabangela kwenziwe uphando lwemyuziyam kwaye lufune umfaki-sicelo anikezele ngezo nkcukacha xa [zakhe] uMphathiswa wePhondo azibona ziyimfuneko.

(3) Umphathiswa wePhondo unoluvo lokuba, akuba eqwalasele oku kulandelayo, ukunikezelwa kwesicelo kuyimfuneko ukukhusela kunye nokukhuthaza ilifa lemveli lePhondo, uMphathiswa wePhondo ngesibhengezo kwiPhepha-ndaba lombuso lePhondo angamisela imyuziyam echaphazelekayo njengemyuziyam yephondo ukusukela kumhla ochaziweyo kwisibhengezo, kunye nezibonelelo zesaHluko sesi-II ziyakusebenza ngokuphathelele nemyuziyam leyo:

- (a) izizathu zesicelo, kunye
(b) iimfuno zokusebenza zeSebe.

(4) Ukusukela kumhla ochaziweyo licandelwana (3) u [Umlawuli] Mphathiswa wePhondo uza kuthathwa njengolandelayo kwilungelo kwibhodi okanye ibhodi yolawulo oluchaphazelekayo, kwaye izibonelelo zecandelo 14 (a), (b) nele (c) ziya kusebenza [mutatis mutandis], ngotshintsho lwemfuneko edingwayo yimeko, ngokuphathelele nemyuziyam echaphazelekayo, nayiphina inkcazelo kwela candelo kulawulo lombutho ochazwe njengesingqinisiso kwibhodi okanye ibhodi yolawulo, njengoko kunokuba njalo.”.

Ulungiso lwecandelo 43 loMmiselo 8 ka-1975, njengoko kulungisiwe licandelo 4 loMmiselo 9 ka-1983

42. Icandelo 43 lowona Mmiselo uphambili ulungisiwe lusetyenziso endaweni yecandelwana (2) lwecandelwana olulandelayo:

“(2) Apho nawuphi na umnikelo okanye umyolelo owenziwe ngokuxhomekeka kwimeko, ukugcina okanye ukuthintela ukuba umntu okanye abantu okanye umntu okhethekileyo okanye abantu okanye [yakhe] u mmeli womntu okanye wabantu uza kuvunyelwa ukukhonzisa ibhodi okanye ibhodi yolawulo olo, u [Umlawuli] Mphathiswa wePhondo, nangona izibonelelo zalo mmiselo onxulumene nomgaqo-siseko webhodi okanye ibhodi yolawulo enjalo, aqeshe umntu okanye abantu njengoko kufuneka ukunika isiphumo kwimeko enjalo, ukugcina okanye ukuthintela kwibhodi okanye

kwibhodi yolawulo ukongezelela kubantu abaqeshwe nguye ngokuphathelele nezibonelelo ezinjalo.”.

Usetyenziso endaweni lwecandelo 44 loMmiselo 8 ka-1975

43. Icandelo elilandelayo lisetyenziswe endaweni yecandelo 44 lowona Mmiselo uphambili:

“Ubhangiso loncedo lwephondo okanye iimyuziyam zasekuhlaleni.

44. (1) Umphathiswa wePhondo anga, ukuba ubona kuyimfuneko, yemvumelwano yakhe okanye kwisicelo sakhe sebhodi okanye ibhodi yolawulo, ngokubhengeza kwiPhepha-ndaba lombuso, abhangise uncdo lwephondo okanye lwemyuziyam yasekuhlaleni, ukusukela kumhla ochazwe kwisibhengezo, emva kwengqwalasela elandelayo:

- (a) uzinziso lwemyuziyam echaphazelekayo;
- (b) izidingo zokusebenza kweSebe, kunye
- (c) nezimvo ezichazwe kwicandelwana (1A) (b).

(1A) Phambi kokuba uMphathiswa wePhondo akhuphe isibhengezo, uMphathiswa wePhondo uza —

- (a) kucebisa ibhodi okanye ibhodi yolawulo lwebhodi yemyuziyam echaphazelekayo, njengoko kunokuba njalo, kunye
- (b) nesaziso kwiPhepha-ndaba lombuso lePhondo, ukucela izimvo zoluntu kwisicelo sokubhangiswa kwemyuziyam echaphazelekayo.

(2) Zonke ii-asethi, amalungelo, amatyala kunye nezibophelelo zebhodi okanye ibhodi yolawulo lwemyuziyam ebhangisiweyo ngokumalunga necandelwana (1) iza kulahlwa uku **[kwaye wadibana]**, setyenziswa, ukoneziswa kunye nokuthotyelwa kwemeko leyo njengo [Umlawuli] Mphathi wePhondo anga, ngengcebiso yebhodi okanye nebhodi yolawulo leyo, ngokuthe ngqo **[kwaye neenkonzo zamalungu abasebenzi bayo nayiphi na ibhodi izakuqala ukusukela ngomhla ochazwe licandelwana (1) ekucingelwa ukuba belipheliswe ngokuphathelele nezibonelelo zalo mmiselo olawula ukupheliswa kweenkonzo zamagosa okanye zabasebenzi]**.

(3) Xa uMphathiswa wePhondo ebhangisa uncdo lwephondo okanye lwemyuziyam yasekuhlaleni, imyuziyam ayimiselwa.”.

Usetyenziso endaweni yecandelo 45 loMmiselo 8 ka-1975, njengoko kulungisiwe sisiBengezo 149 sika-1993

44. Icandelo elilandelayo lisetyenziswa endaweni yecandelo 45 lowona Mmiselo uphambili:

“Udluliso lwamagunya, imisebenzi neemfanelo.

45. (1) UMphathiswa wePhondo angagunyazisa onke amandla akhe okanye anike umsebenzi okanye uxanduva ngokumalunga nalo mmiselo, ngaphandle kwamandla okwenza imimiselo okanye ukukhupha isibhengezo okanye isaziso, kwiNtloko yeSebe.

(2) (2) INtloko yeSebe ingagunyazisa nawaphi na amandla ache okanye anike nayiphina imisebenzi okanye uxanduva ngokumalunga nalo mmiselo kumsebenzi eSebeni okanye kobambe iofisi ethile okanye isikhundla eSebeni.

(3) Udluliso okanye ulwabiwo lubhekiselele kwicandelwana (1) or (2) —

- (a) iza kuba yebhaliweyo;
- (b) ingenziwa ngokuxhomekeka kwiimeko;
- (c) ingarhoxiswa okanye ilungiswe ngembalelwano nguMphathiswa wePhondo okanye iNtloko yeSebe, njengoko kunokuba njalo;
- (d) inganika imvume kudluliso olongezelelekileyo lwalo mandla okanye ulwabiso olongezelelekileyo lwalo msebenzi okanye iimfanelo;
- (e) akamqandi uMphathiswa wePhondo okanye iNtloko yeSebe, njengoko kunokuba njalo, ekusebenzisweni loo mandla okanye ukwenza loo msebenzi okanye iimfanelo, kwaye
- (f) ayimohluthi uMphathiswa wePhondo okanye iNtloko yeSebe, njengoko kunokuba njalo, uxanduva malunga nomsebenzi wokudluliselwa kwamandla okanye ukusebenza kolwabiwo lomsebenzi okanye iimfanelo.”.

Usetyenziso lweengcaciso kuMmiselo 8 ka-1975

45. Owona Mmiselo uphambili ulungisiwe lusetyenziso endaweni yeengcaciso kwikholam yokuqala yeShedyuli, naphi na apho kwenzakalayo kunye nalapho kungabangakho lulungiso kwenye indawo ngulo Mthetho, kwiingcaciso kwikholam yesibini.

Ulungiso lwesihloko eside soMmiselo 8 ka-1975

46. Isihloko eside silungisiweyo lusetyenziso endaweni yengcaciso “Umlawuli” yengcaciso “uRhulumente weNtshona Koloni”.

Ukonga kunye nezibonelelo zenguqulelo

47. (1) Kweli candelo—

“**ibhodi**” ithetha ibhodi ngokubhekiselele kwicandelo 1(1) lowona Mmiselo uphambili;

“**ibhodi yolawulo**” ithetha ibhodi yolawulo ngokubhekiselele kwicandelo 1(1) lowona Mthetho uphambili;

“**unyaka-mali**” uthetha unyaka ophela ngomhla wama-31 kweyoKwindla;

“**Intloko yeSebe**” ithetha intloko yesebe lephondo elinoxanduva lweemyuziyam, ngaphandle kweemyuziyam zikazwelonke, kwiPhondo;

“**ikomiti yolawulo**” ithetha ikomiti yolawulo ngokubhekiselele kwicandelo 1(1) lowona Mmiselo uphambili;

“**iPhondo**” lithetha iPhondo laseNtshona Koloni;

“**uRhulumente wePhondo**” uthetha uRhulumente waseNtshona Koloni;

“**uMphathiswa wePhondo**” uthetha ilungu leKhabinethi yePhondo elinoxanduva lweemyuziyam, ngaphandle kweemyuziyam zikazwelonke, kwiPhondo.

(2) Nawuphi na umcimbi wesigqibo esisaxhonyiweyo phambi kwekomiti yolawulo, ibhodi okanye ibhodi yolawulo ongekagqitywa phambi kokuqalwa kwalo Mthetho kufuneka ugqitywe yikomiti yolawulo, ibhodi okanye ibhodi yolawulo, njengoko kunokuba njalo, ngokungathi lo Mthetho uqaliwe.

(3) Ibhodi kufuneka ilungiselele ize ingenise kwiNtloko yeSebe ingxelo kunye nengcaciso yengeniso kunye nenkcitho echazwe kwicandelo 21 lowona Mmiselo uphambili njengoko ufundiwe phambi kokuqalwa kwalo Mthetho kwisithuba esibhekiselele kwelo candelo lonyaka-mali apho loMthetho uqaliweyo.

(4) Naluphi na uqikelelo olungeniswe lwaza lwafunyanwa ngokumalunga necandelo 29 lowona Mmiselo uphambili ngokubhekiselele nalapho inkcitho yesibonelelo esivunyiweyo sebhodi engekagqitywa ngokupheleleyo phambi kokuqalwa kwalo Mthetho kufuneka ulawuliwe njengokuba lo Mthetho ungekaqalwa, ngaphandle kokuba ingcaciso “yoMlawuli” kunye ne “Bhunga lePhondo” kwelo candelo lowona Mthetho uphambili kufuneka uchazwe nje “ngeNtloko yeSebe” kunye ne “Palamente yePhondo”, ngokulandelelanayo.

(5) Nangona usetyenziso endaweni yecandelo 29 lowona Mmiselo uphambili licandelo 27 lalo Mthetho, nayiphi na imali-mboleko echazwe kwicandelo 29(1)(d)(ii) lowona Mmiselo uphambili njengoko ufundiwe phambi kokuqalwa kwalo Mthetho kufuneka incitshiswe kwaye ibuyiselwe ngokumalunga necandelo 29 lowona Mmiselo uphambili njengoko ufundiwe phambi kokuqalwa kwalo Mthetho, ngaphandle kokuba imali-mboleko kufuneka ibuyiselwe ngokwenqanaba lengenisiso echaphazelekayo emiselwe ngokumalunga necandelo 80 loMthetho woLawulo lwezeMali yoLuntu, 1999 (uMthetho woku-1 ka-1999).

(6)(a) Ibhodi ethe, phambi kokuqala kwalo Mthetho yatyala imali ehlawulwe kuyo ngokumalunga necandelo 29 lowona Mmiselo uphambili nombutho woluntu ochazwe kwicandelo 31 lowona Mmiselo uphambili njengoko ufundiwe phambi kokuqala kwalo Mthetho, kufuneka, kwiinyanga ezintandathu emva kokuqalwa kwalo Mthetho ukuyisusa kutyalo loo mali, kwaye, ukuba imali ayifuneki ngokukhawuleza yiloo bhodi ngokunxulumene nemisebenzi kunye nokusebenzisa amandla alo, imisebenzi kunye neemfuno, ibhodi kufuneka ityale loo mali kwingenisiso neziko lebhanki ebhalisiwey ngokuphathelele noMthetho weeBhanki, 1990 (uMthetho 94 ka-1990).

(b) Ukuba imali etyaliweyo kumbutho woluntu iphantsi kweemeko ezingayivumelaniyo ibhodi ukuba iyisuse imali etyaliweyo kwisithuba esibhekisile kwicandelwana (6)(a), ibhodi kufuneka, kwiinyanga ezili-12 emva kokuqala kwalo Mthetho, yenza konke okufunekayo yiyo ngumbutho woluntu ochaphazelekayo ukususa imali etyaliweyo kwayo, ekususeni imali etyaliweyo, ngokukhawuleza ithobelana necandelwana (6)(a).

(7) Nangona usetyenziso endaweni yecandelo 30(5) lowona Mmiselo uphambili licandelo 29(d) lalo Mthetho, uMlawuli, ochazwe njengeNtloko yeSebe ngenjongo yeli candelwana, ingasebenzisa amandla kunye kwaye yenze imisebenzi echazwe kwela candelo lowona Mmiselo uphambili njengoko ufundiwe phambi kokuqala kwalo Mthetho ngokufumana kwakhona nayiphi na intlawulo eyenziweyo kunye nenkcitho eyenziweyo ngokwesiphumo sesiqinisekiso esikhutshiweyo ngokumalunga necandelo 30(2) lowona Mmiselo uphambili njengoko ufundiwe phambi kokuqala kwalo Mthetho zide zonke iintlawulo nenkcitho zifunyanwe kwakhona.

(8) Nangona usetyenziso endaweni yecandelo 32 lowona Mmiselo uphambili licandelo 31 lalo Mthetho, uMphicothi zincwadi wePhondo, ochazwe njengoMphicothi zincwadi-Jikelele ngenjongo yeli candelwana, kufuneka aphicothe ii-akhawunti zoncedo lwemyuziyam yephondo lonyaka-mali apho loMthetho uqalala khona.

(9) Nasiphi na isicelo esenziwe ngokumalunga necandelo 39 lowona Mmiselo uphambili ungagqitywanga ukumiselwa phambi kokuqala kwalo Mthetho kufuneka ulawulwe njengoMthetho ongekaqali, ngaphandle kokuba lo ngcaciso “uMlawuli” kunye “neBhunga lePhondo” kwelo candelo lowona Mmiselo uphambili kufuneka uchazwe nje “ngeNtloko yeSebe” kunye ‘nePalamente yePhondo”, ngokulandelelana.

(10) Nasiphi na isicelo esenziweyo ngokumalunga necandelo 42 lowona Mmiselo uphambili ungagqitywanga ukumiselwa phambi kokuqala kwalo Mthetho kufuneka ulawulwe njengokuba lo Mthetho awukaqali, ngaphandle kokuba ingcaciso “uMlawuli” kunye “Nolawulo” kwela candelo lowona Mmiselo uphambili kufuneka uchazwe njengo “Mphathiswa wePhondo” kunye “noRhulumente wePhondo”, ngokulandelelana.

(11) Nasiphi na isicelo esenziwe ngokumalunga necandelo 12, 34 nelama-44 lowona Mmiselo uphambili ungagqitywanga ukumiselwa phambi kokuqala kwalo Mthetho kufuneka ulawulwe njengokuba lo Mthetho ungagqitywanga ukumiselwa, ngaphandle kokuba ingcaciso “Mlawuli” kulo macandelo lowona Mmiselo uphambili kufuneka uchazwe njengo “Mphathiswa wePhondo”.

(12) Ngokubhekiselele kwicandelo 15(2), icandelo 15(2)(c) kwicandelo 46 lowona Mmiselo uphambili kufuneka uchazwe nje ngokubhekiselele kuloo macandelo lowona Mmiselo uphambili njengoko bewufunda phambi kokusetyenziswa koMmiselo oyintloko ngokoMpoposho 115 ka-1994.

(13) Ubhekiselelo kwicandelo 21(2) kwicandelo 46 loMmiselo oyintloko lumele lucaciswe njengobhekiselelo kwicandelo loMmiselo oyintloko njongoko ufundeka phambi kokuqala kwalo Mthetho.

Isihloko esifutshane kunye nokuqalisa

48. Lo Mthetho ubizwa ngokuba nguMthetho wokuLungisa uMmiselo weMyuziyam weNtshona Koloni, 2020, kwaye iza kusebenza ngomhla omisiweyo yiNkulumbuso ngesibhengezo kwiGazethi yePhondo.

ISHEDYULI

(Icandelo 45 lalo Mthetho)

uMlawuli	uMphathiswa wePhondo
umhlali ngaphambili	usihlalo
uMongameli woLondolozo lweNdalo noBume	iNtloko yeSebe
uMongameli-Jikelele: uLawulo lwePhondo leCape of Good Hope	iNtloko yeSebe
Yena	yena
Yena	yena
yakhe	yakhe
<i>i-mutatis mutandis</i>	, <u>ngotshintsho lwemfuneko edingwa yimeko,</u>

IMEMORANDAM YEENJONGO ZOMTHETHO OSAYILWAYO WEZILUNGISO WOKUMISELWA KWEEMUZIYAM ENTSHONA KOLONI, 2020

1. IMVELAPHI

- 1.1 UMmiselo weeMuziyam uwonke, ka-1975 (Ummiselo wesi-8 ka-1975)(uMmiselo oyintloko) wabelwa iPhondo leNtshona Koloni (iPhondo) ngonyaka ka-1994, phantsi koMpoposho we-115 ka-1994, kangangokuba uMmiselo weeMuziyam oyintloko wasebenza kwiPhondo. Ilawula, phakathi kwezinye izinto, umpoposho we-115 ngowe-1994. Ilawula, phakathi kwezinye, ukumiswa kumaziko olondolozo embali, ukulawulwa kwamaziko olondolozo embali, ukunikezelwa kwenkxasomali kumaziko olondolozo embali axhaswa liphondo. Ummiselo oyintloko ngowomhla ophambi koMgaqo-siseko waseMzantsi Afrika, 1996 (Umgagqosiseko), kunjalonje, ubhalwe ngolwimi olungahambelani noMgaqosiseko. Ummiselo ukwangowomhla ophambi komthetho *iPublic Financial Management, 1999* (uMthetho 1 ka-1999), kwaye awuhambelani nalo Mthetho woMmiselo lweMuziyam waseNtshona Koloni, 2020, unenjongo yokumanyanisa uMmiselo oyintloko noMgaqosiseko kunye nomthetho *iPublic Financial Management, 1999*.

Iimuziyam zixhaswa liphondo ngeenkxasomali ezibhatalwa kuwo malunga necandelo 29 kuMmiselo oyintloko. Ezi muziyam zijongene nomngeni omkhulu ngenxa yokuba eli candelo 32 elikuMmiselo oyintloko ngoku, liifuna ukuba ezi muziyam maziphicothwe nguMphicothizincwadi Jikelele.

- 1.2 Imirhumo ephelileyo yoMphicothizincwadi Jikelele yeemuziyam ezixhaswa liphondo ayeli-19 ngo-2016/17 yayisisigidi seerandi esiyi-R1,7 kwaye ngo-2017/18 yayizizigidi ezi-R2,3m.
- 1.3 Kwiimuziyam ezixhaswa liphondo ali-19, ixabiso lweziko lolondolozo lwembali ngalinye luxabise amawaka angama-R89 473 (2016/17) kunye namawaka ali-R121,052 (2017/18) kuphicotho lwamaziko olondolozo embali ngalinye. La maxabiso axhomileyo awathwaleki kwaye achaphazela izixhobo zalamaziko olondolozo embali ebezihleli zinqabile kakade. Isiphumo sithi ukuba iimuziyam azikwazi ukwabela imali eyaneleyo eza kusetyenziselwa imisebenzi yazo engundoqo yokucina, yokubonisa neyokufundisa uluntu ngenkcubeko yePhondo ngokupheleleyo. Oku kuchaphazela amaziko olondolozo embali ngokuthi angakwazi ukunikeza iinkonzo ezinomtsalane kubakhenkethi. Kunjalonje, oku kunciphisa umbilini wokuncedisa kuphuhliso lobukhenkethi neloqoqosho kweli Phondo.
- 1.4 ISebe leMicimbi yeNkcubeko neMidlalo lephondo (iSebe) lenze imizamo yokulungisa uMmiselo oyintloko ukuze uhambelane noMgaqo-siseko kunye neminye imithetho ebalulekileyo. Injongo yoQulunqo loMthetho oSayilwayo wezilungiso kukubonelela ngethuba lokuba iimuziyam ezixhaswa liphondo ziphicothwe nyaka ngamnye ngumphicothizincwadi obhalisiweyo ngokomthetho *iAuditing Profession Act, 2005* (uMthetho 26 ka-2005), endaweni yoMphicothizincwadi Jikelele.

2. INJONGO YOMTHETHO OSAYILWAYO

- 2.1 Injongo yoMthetho oSayilwayo kukulungisa amalungiselelo athile ukuze uMmiselo oyintloko ahambelane noMgaqosiseko, eminye imithetho ebalulekileyo efana nothetho *iPublic Finance Management Act, 1999* kunye nokusebenza kakuhle kummandla wolawulo lwamaziko olondolozo embali.
- 2.2 Ngaphezulu, uqulunqo loMthetho oSayilwayo unenjongo yokuba uMmiselo oyintloko ahambelane nesigama kunye nolwakhiwo lukaRhulumente. Ikwayinjongo yolu yilo nento yokuba kuncitshiswe umthwalo wentlawulo yobuphicothi nguMphicothizincwadi Jikelele kwimuziyam ezixhaswa liphondo.

3. IZIQULATHO ZOMTHETHO OSAYILWAYO

Iinjongo zamasolotya ahlukeneyo zibekwe ngezantsi:

- 3.1 **Isolotya 1** lilungisa icandelo 1 loMmiselo oyintloko ngokususa, ngokucima, nokufaka iintsingiselo ezithile ngeenjongo zokwenza izinto ngokwasesikweni nokuhambiselana kolwakhiwo lukarhulumente wephondo lwangoku.
- 3.2 **Isolotya 2** lilungisa icandelo 2 loMmiselo oyintloko ngenjongo yokukhokela ukusetyenziswa kobulumko boMphathiswa wePhondo ukuze amise imuziyam yephondo.
- 3.3 **Isolotya 3** lilungisa icandelo 3 kuMmiselo oyintloko kwaye ngumlungiso osisiphumo ngenxa yokubeka amazwi athi “uMlawuli” no “Igosa” endaweni yentsingiselo yegama elithi “-igosa” kwisolotya 1.
- 3.4 **Isolotya 4** lilungisa icandelo 4 kuMmiselo oyintloko ukuze kwandiswe ixesha kwisithuba sokulawula selungu elinyulwe ukuqala kwiminyaka emibini uyokutsho kwiminyaka emithathu. Isolotya liyila iimeko ezinokuthi zibangele ithuba kwikomiti ephetheyo. Eli solotya lenza amalungiselelo ukuze imali ehlawulwa amalungu ithathelwe isigqibo nguMphathiswa wePhondo ekubeni egqibe nomphathiswa wePhondo onoxanduva lwezemali.
- 3.5 **Isolotya 5** lilungisa icandelo 4A kuMmiselo oyintloko ukuze kukwazi ukupheliswa kobulungu kwikomiti yolawulo.
- 3.6 **Isolotya 6** lilungisa icandelo 5 kuMmiselo oyintloko. Liza kuchaza ukuba uMphathiswa wePhondo kufuneka achonge usihlalo wekomiti ephetheyo xa echonga amalungu okanye xa usihlalo okhoyo esehla esihlaweni. Oku kuqinisa ulawulo lwaMaziko olondolozo embali kwiphondo.
- 3.7 **Isolotya 7** lifakwa endaweni yecandelo 6 kuMmiselo oyintloko ukuze kwenziwe amalungiselelo angamanye malunga nekhoram kunye nokuthathwa kwezigqibo ezintlanganisweni zeekomiti eziphetheyo. Isolotya sithi ukuba ikhoram yentlanganiso kufuneka ibengamalungu angama-50 epesenti kunye nelungu elinye kumalungu xa ephelele. Esi solotya siphinda sichaze ukuba

ngaphantsi kweemeko ezithile, izigqibo kufuneka zivotelwe. Oku kuqinisekisa ulawulo olulungileyo kuMaziko olondolozo embali kuphondo.

- 3.8 **Isolotya 8** lilungisa icandelo 7 kuMmiselo oyintloko ngenjongo yokuchaza indlela eyahlukileyo yokuqokelela imirhumo yokungena kwikomiti ukuze kubekho ithuba lokunyuka kwengeniso kwinkongozelo. Isolotya sisusa ulwimi olucalucalulayo kuMmiselo oyintloko.
- 3.9 **Isolotya 9** lilungisa icandelo 8 kuMmiselo oyintloko. Isolotya sifaka “uMlawuli” endaweni yentetho ethi, “iNtloko yeSebe”. Siphinda sifake intetho ethi “Inkonzo yePhondo” endaweni yentetho ethi “Inkonzo kaRhulumente”.
- 3.10 **Isolotya 10** lifaka icandelo 9 kuMmiselo oyintloko ukuze kuhambelane ukwamkelwa kweminikelo nemiyolelo kunye noMthetho wokuPhathwa kweZemali zikaRhulumente, we-1999.
- 3.11 **Isolotya 11** lilungisa icandelo 11 kuMmiselo oyintloko ngenjongo yokuchaza ukuba iimali eziqokelelwe ngamaziko olondolozo mbali okanye ikomiti yolawulo lweziko lolondolozo mbali kufuneka zibhatalelwe kwiNgxowamali yoNgeniso lePhondo eza kusetyenziswa yikomiti yolawulo lweziko lolondolozo mbali ekujoliswe kulo ukuba iNtloko yeSebe iyinikile imvume yokwenza oko.
- 3.12 **Isolotya 12** lirhoxisa icandelo 10A kuMmiselo oyintloko.
- 3.13 **Isolotya 13** lisebenza endaweni yecandelo 11 kuMmiselo oyintloko ngenjongo yokukhokela ukusetyenziswa kobulumko boMphathiswa wePhondo ekupheliseni iziko lolondolozo lwembali; nangenjongo yokuchaza ukuba kufuneka uluntu luthathe inxaxheba phambi kokuba uMphathiswa wePhondo asebenzise amandla akhe.
- 3.14 **Isolotya 14** lilungisa icandelo 12 kuMmiselo oyintloko ngenjongo yokukhokela ubulumko boMphathiswa wePhondo ekuchazeni iziko njengeziko lolondolozo lwembali oluxhaswa liphondo.
- 3.15 **Isolotya 15** lisebenza endaweni yecandelo 15 kuMmiselo oyintloko ngenjongo yokwakha umgaqo-siseko webhodi ngokwahlukileyo ukuze kuqinisekise ulawulo olulungileyo kumaziko olondolozo embaliancedwa liphondo. Ummiselo oyintloko uwonke wasetyenziswa kwiPhondo kangokuba uMmiselo weeMuziyam oyintloko wasebenza kwiPhondo. IiMuziyam ezideliswe kwicandelo 15(2) loMmiselo oyintloko azikho phantsi kommandla wezejiyografi wePhondo. Ngenxa yesi sizathu, icandelo 15(2) loMmiselo oyintloko alisebenzi kwiPhondo kungoko ke lingazange lisetyenziswe kwiPhondo.
- 3.16 **Isolotya 16** lisebenza endaweni yecandelo 16 kuMmiselo oyintloko kwaye sibeka ngokucacileyo ixesha lengqesho lamahlelo ahlukileyo lamalungu ebhodi.
- 3.17 **Isolotya 17** lisebenza endaweni yecandelo 17 kuMmiselo oyintloko kwaye singumlungiso oneziphumo kwizilungiso ezikwisolotya 4 kunye nese-15.

- 3.18 **Isolotya 18** lisebenza endaweni yecandelo 18 kuMmiselo oyintloko kwaye sibonelela kutshintsho kwiinkqubo zokulinganisa ezimalunga nokurhoxiswa kobulungu kwibhodi.
- 3.19 **Isolotya 19** lifaka icandelo 18A kuMmiselo oyintloko ngenjongo zokubonelela ukuchongwa kukasihlalo webhodi nguMphathiswa wePhondo.
- 3.20 **Isolotya 20** lisebenza endaweni yecandelo 19 kuMmiselo oyintloko ngenjongo yokwenza amalungiselelo angamanye malunga nekoram nokuthathwa kwezigqibo kwiintlanganiso zebhodi. Esi solotya, ngokubandakanyeka, silungiselela ukuba ikoram yentlanganiso ibengamalungu anga-50 ipersenti kunye nelungu elinye kumalungu xa ephelele. Esi solotya siphinda sichaze ukuba ngaphantsi kweemeko ezithile, izigqibo kufuneka zivotelwe. Oku kuqinisekisa ulawulo olulungileyo kuMaziko olondolozo embali kwiphondo
- 3.21 **Isolotya 21** lilungisa icandelo 20 kuMmiselo oyintloko kwaye siphucula umbhalo kuMmiselo oyintloko.
- 3.22 **Isolotya 22** lilungisa icandelo 21 kuMmiselo oyintloko ngenjongo yokwenza amalungiselelo angamanye xa kungeniswa ingxelo yonyaka lilungu lebhodi. Uyilo lwexesha oluphinde lwaqwalaselwa kwakhona lelokuqinisekisa ukuba iSebe linokuthembeka ngokwaneleyo.
- 3.23 **Isolotya 23** lilungisa icandelo 24 kuMmiselo oyintloko ngenjongo yokwenza amalungiselelo malunga nokuthathwa kwesigqibo yiNtloko yeSebe ngabaqeshwa abaza kusebenza kuziko lolondolozo lwembali oluxhaswa liphondo. Esi solotya siqanda amalungu ebhodi ekuqesheni abaqeshwa ngaphandle kwemvume ebhalwe ngaphambili yiNtloko yeSebe. Oku kwenzelwa ukuqinisekisa ukuba iSebe lihlala liphose iliso kubasebenzi abaqashwe ukongenza kwaba sebekhona.
- 3.24 **Isolotya 24** lisebenza endaweni yecandelo 25 kuMmiselo oyintloko ngenjongo yokucima iimvume ezazidingwa yibhodi phantsi koMmiselo oyintloko malunga nokuqasha abaqeshwa kummiselo wabaqeshi. Esi solotya senza amalungiselelo malunga nendlela ibhodi efaka ngayo isicelo sokuqasha abaqeshwa ngenjongo yokongeza abaqeshwa kummiselo wabaqeshwa ogqitywe yiNtloko yeSebe. Imilinganiselo yezicelo ezifana nezi kufuneka zicingwe yiNtloko yeSebe.
- 3.25 **Isolotya 25** lifaka icandelo lama-26(2) kuMmiselo oyintloko kwaye lilungiselela ibhodi ngamandla okugcina abaqeshwa naxa sebedlulile kwiminyaka yokudla umhlalaphantsi. Konke oku kudinga imvume yeNtloko yeSebe.
- 3.26 **Isolotya 26** lirhoxisa icandelo 27 kuMmiselo oyintloko ukuze amalungu ebhodi abenamandla aneleyo okwenza izigqibo malunga nemivuzo efunyanwa ngabaqeshwa abaqeshiweyo. Oku kungokuba iimeko nemicimbi yemali malunga namaziko olondolozo embali axhaswa liphondo zahluke kakhulu. Esi solotya sikwarhoxisa icandelo 28 kuMmiselo oyintloko. Esi silungiso sineziphumo ezichaphazela isilungiso esikwisolotya 25.
- 3.27 **Isolotya 27** lisebenza endaweni yecandelo 29 kuMmiselo oyintloko, ngenjongo yokucacisa inkqubo emayilandelwe xa ibhodi ifumana inkxaso-mali. Esi solotya sikwalungisa umngcelele

omawulandelwe phantsi kweemeko ezifana naxa ibhodi yeZiko loLondolozo lwembali i-Cango Caves icela ukubhatalwa inkxaso-mali.

- 3.28 **Isolotya 28** lifaka icandelo 29A kuMmiselo oyintloko ngenjongo yokulungiselela ukubhatalwa kwembali eyongezelelweyo kwibhodi. Esi solotya sandlala inkqubo emayilandelwe xa ibhodi ifaka isicelo ifuna imali eyongezelelweyo okanye xa iNtloko yeSebe, ngokubona kwakhe, icinga ukuba ibhodi idinga imali eyongezelelweyo.
- 3.29 **Isolotya 29** lisebenza endaweni yecandelo 30 kuMmiselo oyintloko ngenjongo yokulungiselela ibhodi ikwazi ukufumana iimboleko-mali zexesha elifutshane.
- 3.30 **Isolotya 30** lisebenza endaweni yecandelo 31 kuMmiselo oyintloko ngenjongo yokulungiselela imeko mhla ibhodi ifumene imali yenkxaso-mali okanye imali eyongezelelweyo engekadingi kusetyenziswa yibhodi nokwenza okusemandleni ayo kwimisebenzi yayo. Esi solotya sichaza ukuba kuloo meko, kunyanzelekile ukuba loo mali yongezelelweyo igcinwe kuzaliso-mali ebhankeni ebhaliswe malunga noMthetho weeBhanka, we-1990 okanye kumgalelo karhulumente.
- 3.31 **Isolotya 31** lisebenza endaweni yecandelo 32 kuMmiselo oyintloko ngenjongo yokulungiselela ibhodi malunga nokuqasha umphicothi-zincwadi oza kuphicotha iincwadi zemali yebhodi. Oku kuqinisekisa ukuba uxanduva lwembali yomphicotho wonyaka ngamnye owenziwe nguMphicothi-zincwadi Jikelele kumaziko olondolozo embali axhaswa luphondo luncitshisiwe, kuba kusaqinisekiswa uthembeko lwembali oluchulileyo.
- 3.32 **Isolotya 32** lifaka icandelo 32A kuMmiselo oyintloko ngenjongo yokulawula uphatho-mali olungalunganga kwibhodi. Oku kuqinisekisa uthembeko lwembali olulungileyo kwiibhodi.
- 3.33 **Isolotya 33** lilungisa icandelo 34 kuMmiselo oyintloko ngenjongo yokukhokela ukusetyenziswa kubulumko boMphathiswa wePhondo xa esithi iziko lolondolozo lwembali kufuneka ibeliziko lolondolozo lwembali lasekuhlaleni.
- 3.34 **Isolotya 34** lisebenza endaweni yecandelo 35 kuMmiselo oyintloko ngenjongo yokwakha umgaqo-siseko webhodi elawulayo ngendlela eyahlukileyo. Oku kuqinisekisa ulawulo olulungileyo kumaziko olondolozo embali asekuhlaleni.
- 3.35 **Isolotya 35** lisebenza endaweni yecandelo 37 kuMmiselo oyintloko kwaye sandlala ngokucacileyo ixesha lengqesho lamahlelo ahlukileyo amalungu ebhodi.
- 3.36 **Isolotya 36** lisebenza endaweni yecandelo 38 kuMmiselo oyintloko kwaye ngumlungiso onesephumo esichaphazela solotya 4.
- 3.37 **Isolotya 37** lifaka solotya 38A kuMmiselo oyintloko ngenjongo yokulungiselela ukubekwa kosihlalo oza kuphatha ibhodi. Eli solotya liphinda lifake solotya 38B kuMmiselo oyintloko ngenjongo yokulungiselela ikoram xa kuthathwa izigqibo kwintlanganiso yebhodi elawulayo. Isolotya 38B, ngokufakwa kobhekiselelo kwicandelo 6, lilungiselela ukuba ikoram yentlanganiso kufuneka ibengamalungu angamashumi amahlanu ipesenti kunye nelungu elinye kumalungu xa

ephelele. Eli solotya liphinda sichaze ukuba ngaphantsi kweemeko ezithile, izigqibo kufuneka zivotelwe. Oku kuqinisekisa ulawulo olulungileyo kuMaziko olondolozo embali kwiphondo.

- 3.38 **Isolotya 38** lisebenza endaweni yecandelo 39 kuMmiselo oyintloko ngenjongo yokukhokela ukusetyenziswa kubulumko beNtloko yeSebe malunga nokubhatala iminikelo kwiibhodi ezilawulayo. Esi solotya sandlala inkqubo emayilandelwe xa ibhodi elawulayo ifake isicelo somnikelo.
- 3.39 **Isolotya 39** lilungisa icandelo 40 kuMmiselo oyintloko ngenjongo yokusebenzisa intetho ethi “uMphathiswa wePhondo” endaweni yentetho ethi “uMlawuli”. Eli solotya liphucula umbhalo kuMmiselo oyintloko kwaye libangela iziphumo zezilungiso emva kokuba kucinywe u“-iGosa” kwisolotya 1.
- 3.40 **Isolotya 40** lilungisa icandelo 41 kuMmiselo oyintloko ngenjongo yokuphucula umbhalo kuMmiselo oyintloko kwaye ibangela iziphumo zezilungiso emva kokuba kwenziwe izilungiso kwisolotya 37.
- 3.41 **Isolotya 41** lingena endaweni yecandelo 42 kuMmiselo oyintloko ngenjongo yokukhokela ukusetyenziswa kubulumko boMphathiswa wePhondo ekumiseni iziko lolondolozo lembali oluxhaswa liphondo okanye iziko lolondolozo lembali lasekuhlaleni ibelelephondo.
- 3.42 **Isolotya 42** lilungisa icandelo 43 kuMmiselo oyintloko kwaye sisimiselo esineziphumo malunga nokusetyenziswa kwentetho ethi “uMphathiswa wePhondo” endaweni yentetho ethi “uMlawuli”.
- 3.43 **Isolotya 43** lisebenza endaweni yecandelo 44 kuMmiselo oyintloko ngenjongo yokukhokela ukusetyenziswa kubulumko boMphathiswa wePhondo ekupheliseni imuziyam exhaswa liphondo okanye imuziyam yengingqi ukuze kulungiselelwe uluntu malunga nenkqubo yokuthatha inxaxheba.
- 3.44 **Isolotya 44** lisebenza endaweni yecandelo 45 kuMmiselo oyintloko. Esi solotya sisilungiso esibangela isiphumo emva kokuba kucinywe intsingiselo yegama elithi “-iGosa” nelithi “umsebenzi” kwisolotya 1.
- 3.45 **Isolotya 45** lisebenza endaweni yeentetho ezithile kuMmiselo oyintloko.
- 3.46 **Isolotya 46** lilungisa isihloko eside soMmiselo oyintloko.
- 3.47 **Isolotya 47** libonelela ngamalungiselelo ukongiwa kunye nezilungiso zotshintsho. Injongo yesolotya 47(12) kukubonelela ngengqinisekiso ukuphepha ukudideka ngokubhekiselele kwireferensi yecandelo 15(2) kuQulunqo loMthetho oSayilwayo kunye noMmiselo oyintloko.
- 3.48 **Isolotya 48** libonelela ngesihloko esifutshane soMthetho nangexesha lokuqalisa kwawo ukusebenza.

4. UBUCHULE BOWISOMTHETHO

Umpathiswa wePhondo onoxanduva lweemuziyam, ngaphandle kweemuziyam zikazwelonke, wanelisekile malunga nokuba okubonelelwa nguMthetho oSayilwayo wezilungiso uphantsi kobuchule bezommthetho bePhondo.

5. UKUCEBISANA

ISebe leMicimbi yeNkcubeko neMidlalo
ISebe leNkulumbuso; IiNkonzo zoMthetho
IiMuziyam zePhonso
IiMuziyam eziXhaswa liPhondo
IiMuziyam zeNgingqi

6. UCHAPHAZELEKO LWEZEMALI

Akukho luchaphazela lwezemali kuba kuza kusetyenziswa izixhobo zoqingqomali lwangoku.

7. UCHAPHAZELEKO LWABASEBENZI

Akukho luchaphazeleko lungqalileyo lwabasebenzi.

