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PROVINCIAL NOTICE • PROVINSIALE KENNISGEWING

No. 4**10 February 2010****PROVINCE OF THE EASTERN CAPE****DEPARTMENT OF ECONOMIC DEVELOPMENT AND ENVIRONMENTAL AFFAIRS****EASTERN CAPE PARKS AND TOURISM AGENCY BILL, 2010**

The above mentioned Bill is hereby published for public comment in terms of rule 147 of the Standing Rules of the Legislature.

Members of the public are hereby invited to comment on the Bill. Comments must be addressed to the General Manager, Merger, Department of Economic Development and Environmental Affairs,

Members of the public are requested to submit their comments in writing either by registered post, hand delivery, e-mail or fax to:

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PROVINCE OF THE EASTERN CAPE

DEPARTMENT OF ECONOMIC DEVELOPMENT AND ENVIRONMENTAL AFFAIRS

EASTERN CAPE PARKS AND TOURISM AGENCY BILL, 2010

(As introduced)

**(BY THE MEC OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND
ENVIRONMENTAL AFFAIRS)**

ACT

To provide for the establishment of the Eastern Cape Tourism and Parks Agency in order to develop and manage protected areas and to promote and facilitate the development of tourism in the Province and to confer powers, functions and duties upon that Agency; to provide for the management thereof by a Board and the appointment of members thereof; to establish the Eastern Cape Tourism Development Fund and the Eastern Cape Natural Resource Protection Fund; to provide for the registration of certain persons and amenities involved in tourism; to provide for the collection of levies in respect of registered persons and amenities; to provide for the inspection of premises; to provide for transitional arrangements; and to provide for matters incidental thereto.

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CHAPTER 1

DEFINITIONS

1 Definitions

In this Act, unless the context otherwise indicates-

"Agency" means the Eastern Cape Parks and Tourism Agency established under section 10;

"biodiversity" has the same meaning assigned to it in section 1 of the National Environmental Management: Biodiversity Act, 2004 (Act No.10 of 2004);

"Board" means the Eastern Cape Parks and Tourism Board established under section 15;

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

"Department" means the Department responsible for tourism and environmental affairs in the Province;

"Eastern Cape Parks Board" means the Eastern Cape Parks Board established under section 6 of the Provincial Parks Board Act (Eastern Cape), 2003 (Act No.12 of 2003);

"Eastern Cape Tourism Board" means the Eastern Cape Tourism Board established under section 3 of the Eastern Cape Tourism Act, 2003 (Act No. 8 of 2003);

"Gazette" means the Provincial Gazette of the Province;

"HOD" means the Head of the Department;

"management" in relation to a protected area, includes the control, protection, conservation, maintenance and rehabilitation of the area;

"management authority" in relation to a protected area, is the management authority contemplated in the Protected Areas Act;

"MEC" means the Member of the Executive Council responsible for tourism and environmental matters in the Province;

"municipality" means a municipality established under the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"prescribe" means prescribe by the MEC by regulation in *Gazette*;

"protected area" means –

- (a) any nature reserve established under section 6 of the Nature and Environmental Conservation Ordinance, 1974 (Ordinance No. 19 of 1974) which is, at the time of commencement of this Act, listed as a Provincial park in the register of provincial parks or managed by the Eastern Cape Parks Board in section 33 or section 8(1)(a) read with section 60(1)(d)(iii) of the Provincial Parks Board Act (Eastern Cape), 2003, irrespective of whether the MEC declared such a Provincial park or assigned the management thereof as required in terms of section 33 or 41 of that Act;
- (b) a National protected area, a Provincial protected area or a Local protected area as contemplated in the Protected Areas Act which is, at the time of commencement of this Act, managed by the Eastern Cape Parks Board as management authority under an assignment made by the Cabinet member responsible for national environmental management or the MEC under section 38(1) or (2) of that Act or managed in terms of an agreement with the national department responsible for environmental affairs;
- (c) any nature reserve established after the commencement of this Act under any applicable provincial legislation and assigned to the Agency by the MEC under the Protected Areas Act;
- (d) any protected area contemplated in the Protected Areas Act and for which the Agency is the management authority under an assignment made by the Cabinet member responsible for national environmental management or the MEC in terms of section 38(1) or (2) of that Act;

"Protected Areas Act" means the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);

"Province" means the Province of the Eastern Cape established by section 103 of the Constitution;

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

"regulation" means a regulation made by the MEC hereunder;

"SMME" means a small enterprise defined in section 1 of the National Small Enterprise Act, 1996 (Act No. 102 of 1996);

"this Act" includes any regulations made hereunder; and

"vessel" means any waterborne craft of any kind, whether self-propelled or not, but does not include any moored floating structure that is not used as a means of transporting anything by water.

CHAPTER 2

DEPARTMENTAL OVERSIGHT AND EXECUTIVE AUTHORITY

2 Executive authority

(1) The MEC is the executive authority for the Agency as contemplated in the Public Finance Management Act.

(2) The MEC -

- (a) must determine the remuneration of the members of the Board in consultation with the Member of the Executive Council responsible for Finance;
- (b) must second the Provincial Registrar for Tourist Guides appointed by him or her as contemplated in section 21 of the Tourism Act, 1993 (Act No. 72 of 1993) to the Agency;
- (c) must establish and maintain clear channels of communication between him or her and the Agency;
- (d) must monitor and annually review the performance of the Agency;

- (e) must every third year, facilitate the review of the Agency's performance in relation to its objectives, by an external evaluation panel, appointed in a manner ensuring transparency and openness and drawn from the public and the private sector and comprising at least -
 - (i) of persons with sound knowledge of and experience in tourism, marketing, conservation management and commercialisation; and
 - (ii) a person with sound knowledge and experience in public entity management;
- (f) may issue directives to the Agency to ensure that it operates efficiently and economically; and
- (g) if the performance of the Agency is found lacking after a review contemplated in paragraph (c) or (d), may, notwithstanding the provisions of this Act, intervene by instructing the Agency to relinquish the function to the Department and must exercise and perform that function on behalf of the Agency.

3 Provincial guidelines

(1) The MEC may issue guidelines on matters applicable to the tourism and conservation management sectors, which are consistent with the objects of this Act and related legislation in relation to-

- (a) mechanisms to promote the participation of previously disadvantaged individuals, communities or SMME's in the tourism and environmental management sectors;
- (b) the promotion of service provision by the Agency;
- (c) guidelines for the determination by the Board of fees and levies;
- (d) the application of new technologies; and
- (e) any other policy which may be necessary for the application of this Act or related legislation.

(2) The Agency, in exercising its powers and performing its duties in terms of this Act and the related legislation must consider guidelines issued by the MEC in terms of subsection (1).

4 Investigation and exercise and performance of Departmental power and duty by Agency

(1) The MEC may, at any time,—

- (a) in consultation with the Agency, request the Agency to investigate any matter pertaining to conservation or tourism as he or she considers necessary;
- (b) in consultation with the Agency, request the Agency to exercise or perform a power or duty of the Department or other organs of state pertaining to tourism or biodiversity management on behalf of the Department or organ of state; or
- (c) investigate the affairs or financial position of the Agency.

(2) Any reasonable cost incurred by the —

- (a) Agency as a result of an investigation or the exercise or performance of a power or a duty contemplated in subsection (1)(a) or (b) may be recovered from the Department;
- (b) Department as a result of an investigation contemplated in subsection (1)(c) may be recovered from the Agency.

5 Regulations

(1) The MEC may, by notice in the *Gazette*, make regulations not inconsistent with this Act regarding—

- (a) any matter that is required or permitted to be prescribed in terms of this Act;
- (b) a code of conduct for members of the Board;
- (c) any matter relating to the functioning of the Agency or the Board that is necessary to ensure the Agency's efficiency or to promote good order; and

- (d) any ancillary or incidental administrative or procedural matter that is necessary to prescribe for the proper implementation or administration of this Act.

(2) Before the MEC makes any regulation under this section, he or she must publish a draft of the proposed regulation in the Gazette together with a notice calling on interested persons to comment, in writing, within a period stated in the notice, which period may not be less than 14 days from the date of publication of the notice.

(3) If the MEC alters the draft regulations, as a result of any comment received, he or she need not publish those alterations before making the regulations.

(4) The MEC may, if circumstances necessitate the immediate publication of a regulation, publish that regulation without consultation as contemplated in subsection (2).

6 Delegation by MEC

The MEC may delegate any of his or her powers in terms of this Act, excluding the power to make regulations and the power to appoint the members of the Board, to any official of the Department.

7 Declaration of provincial protected area

The MEC may declare any kind of provincial protected area in accordance with the provisions of the Protected Areas Act and any other applicable provincial legislation and may assign the management of that area to the Agency, if appropriate.

8 Acquisition of land by MEC

(1) The MEC may, acting with the concurrence of the Premier, acquire private land, or any right in or to private land, which has been or is proposed to be declared as a protected area or has been or is proposed to be included in a Provincial park, by-

- (a) purchasing the land or right;
- (b) exchanging the land for other land; or

(c) expropriating the land or right, if no agreement is reached with the owner or holder of the right.

(2) The Expropriation Act, 1975 (Act No. 63 of 1975), applies with respect to any acquisition of land or right in or to land in terms of subsection (1)(c).

9 Exemption and extension

(1) The MEC may, if reasonable grounds exist, exempt the Agency, other organ of state or any person from any provision of this Act.

(2) The MEC may, if reasonable grounds exist, extend any period of time prescribed in relation to anything provided for in this Act.

CHAPTER 3

ESTABLISHMENT, OBJECTIVES AND POWERS AND DUTIES OF AGENCY

10 Establishment of Eastern Cape Parks and Tourism Agency

The Eastern Cape Parks and Tourism Agency is hereby established as a juristic person.

11 Objects of Agency

(1) The objects of the Agency are to -

- (a) manage biodiversity in protected areas located in the Province;
- (b) manage tourism in the Province;
- (c) ensure the effective implementation of its conservation tourism and powers and duties granted in terms of this Act and any other law; and
- (d) ensure excellence in the business and resource management of the Agency.

(2) In pursuing its objects the Agency must, amongst others –

- (a) facilitate strategic leadership in biodiversity management and tourism through the development of the necessary strategic perspectives;

- (b) contribute to other strategic frameworks of government to ensure intergovernmental coordination and focused financial and natural resource utilisation;
- (c) promote innovation and best practice in relation to biodiversity management and tourism;
- (d) provide for effective biodiversity management in the protected areas, in accordance with, amongst others, applicable national legislation;
- (e) optimise the linkages between biodiversity management and the socio-economic benefits to be derived therefrom;
- (f) undertake infrastructure management in the protected areas;
- (g) market, promote and develop tourism in the Province;
- (h) promote socio-economic growth and transformation within the conservation and tourism industry, thereby creating economic and employment opportunities for previously disadvantaged individuals and local communities in the Province;
- (i) facilitate the promotion of investment in the conservation and tourism industry; and
- (j) adhere to the good corporate governance principles and resource management requirements contemplated in this Act, the Public Finance Management Act and other applicable laws.

(3) In achieving its objects, the Agency must endeavour to –

- (a) progressively increase its own revenue generation and collection; and
- (b) maintain an integrated developmental model for biodiversity management and tourism.

12 Powers and duties of Agency relating to biodiversity management

(1) The Agency is responsible for biodiversity conservation through the effective management of the protected areas in accordance with applicable national and provincial environmental legislation.

(2) The Agency, in addition to any other power or duty provided for in this Act or applicable national legislation, must, amongst others -

- (a) control, manage and maintain the protected areas so as to exercise supervision and control of the protected areas and to study wild animals and plant life and may, subject to the applicable environmental authorisations, construct or erect any infrastructure and other works as it may consider necessary to control, manage and maintain the protected areas;
- (b) make inventories, assess, monitor and protect natural resources in the protected areas including natural systems, biodiversity and ecological functions and processes and carrying out of such research and other scientific activities as may be necessary for purposes of this section;
- (c) take the necessary steps to ensure the security of animal and plant life in the protected area;
- (d) take the necessary steps to ensure appropriate ecological management of the protected area;
- (e) perform the functions required of the management authority of a protected area in terms of the relevant national legislation;
- (f) lead and facilitate the development of public private partnerships and community public private partnerships as part of the co-management processes in the protected areas where viability for tourism opportunities have been established by the Agency;
- (g) undertake investigative and law enforcement activities in the protected areas;
- (h) manage and control the numbers and spread of alien and invasive species and of problem animals in the protected areas; and
- (i) participate in relevant public participation programmes to increase the protected area system.

(3) The Agency may make recommendations to the MEC regarding any matter relating to a protected area, including land use and the expansion of a protected area.

(4) Notwithstanding the provisions of subsections (1) and (2), the Agency may, outside the protected areas -

- (a) carry out research and other scientific activities in protected areas or other areas to support the inventorying, assessment, monitoring and research of natural resources within the protected areas as contemplated in subsection (2)(b);
- (b) with the approval of the MEC, develop stewardship programmes and enter into agreements with land owners and the MEC;
- (c) participate in relevant public participation programmes to increase the protected area system throughout the province and facilitate the co-management in the areas adjacent to, and beyond the boundaries of the protected areas;
- (d) undertake investigative and law enforcement activities, if the activities relate to offences or infringements committed within the protected areas;
- (e) take any action it considers necessary in order to manage and control the numbers and spread of alien and invasive species and problem animals that could impact on the protected areas.

(5) The Agency must, subject to subsection (6), prior to the exercise or performance of any power or function referred to in subsection (4)(a), (b), (c), (d) or (e) inform the Department of its intention to do so and the Department may, in agreement with the Agency, participate in any of the activities referred to therein.

(6) Notwithstanding the provisions of subsection (5), the Agency may, in an emergency, undertake the activities referred to in subsection (4)(d) without informing the Department of its intention to do so, but must as soon as practicable inform the Department thereof.

(7) In order to effectively exercise and perform its power and duties as contemplated in this section, the Agency must, amongst others –

- (a) develop and maintain appropriate research and information management systems;
- (b) develop and maintain a database of all protected areas and their locations in the Province;
- (c) allocate funds from the natural resource protection fund contemplated in section 39 in accordance with the objectives of that fund.

13 Powers and duties of Agency relating to tourism

(1) The Agency is responsible for the marketing, promotion and development of tourism in the Province and the transformation of the tourism industry.

(2) The Agency, in addition to any other power or function provided for in this Act, must -

- (a) market the Province as a preferred destination for international, regional and domestic tourists by, amongst others -
 - (i) developing and implementing marketing strategies that target international, regional and domestic tourists; and
 - (ii) participating in tourism marketing initiatives and strategies of the Department or other organs of state;
- (b) promote tourism in the Province by, amongst others –
 - (i) advertising or making known the tourist attractions of the Province, including the tourism products in its protected areas, in any manner it deems fit;
 - (ii) producing, publishing, printing and selling, and by circulating and distributing, with or without charge, travel or tourist books or guides, maps, posters, placards, brochures and bills and publications of any nature calculated to be useful to tourists within the Province, or

otherwise calculated to promote the achievement of its objects, whether directly or indirectly;

- (iii) producing and distributing, with or without charge, motion pictures, photographs or other pictorial material (including video and digital material), and by sponsoring, arranging or organising displays, broadcasts, telecasts, talks and public lectures, relating to the tourist industry within the Province;

(c) develop tourism in the Province by, amongst others –

- (i) identifying tourism development opportunities and implementing appropriate initiatives and programmes to exploit it;
- (ii) implementing effective measures to facilitate the enhancement of the level of standards of tourism products and services being offered in the Province;
- (iii) identifying tourism training needs and facilitating tourism training initiatives;
- (iv) assisting with and participating in the development and implementation of a national system of standards, classification and grading for tourist accommodation, establishments, products and services;
- (v) facilitating tourism investment and potential tourism investment opportunities in the Eastern Cape, in cooperation with organs of state or entities responsible for investment promotion or promoting investment in the Province; and

(d) facilitate the transformation of the tourism industry by encouraging the alignment of current supply chain processes of the government departments of the Province when procuring accommodation, establishments, products and services in the Province.

(3) In order to effectively exercise and perform its power and duties as contemplated in this section, the Agency must, amongst others –

- (a) for the purposes of tracking tourism activity and its economic contribution in the Province, develop and maintain appropriate research and information management systems;
- (b) develop and maintain a database of all tourism attractions, facilities, infrastructure, services, natural and cultural attractions and where these exist in the Province;
- (c) provide the secretariat for the Provincial Registrar of Tourist Guides who is appointed by the MEC in terms of section 21 of the Tourism Act, 1993 and seconded to the Agency in terms of this Act;
- (d) register any tourist amenity and person conducting or operating a tourist service as contemplated in Chapter 6; and
- (e) allocate funds from the provincial tourism development fund contemplated in section 38 in accordance with the objectives of that fund.

14 Powers and duties of Agency relating to administration of Agency

The Board may-

- (a) after consultation with the MEC, determine the staff establishment of the Agency, including the secretariat to the Provincial Registrar for Tourist Guides contemplated in section 21 of the Tourism Act, 1993 and appoint the executive management and other employees as contemplated in section 28;
- (b) obtain, by agreement, the services of any person, including any organ of state, for the performance of any specific act, task or assignment;
- (c) acquire or dispose of any right in or to movable or immovable property, or hire or let any property;
- (d) open and operate a bank account;
- (e) invest any funds of the Agency;
- (f) borrow money, subject to the Public Finance Management Act;

- (g) charge fees for any work performed or services rendered by it or collect royalties resulting from any discoveries, inventions or computer programmes;
- (h) insure itself against-
 - (i) any loss, damage or risk; or
 - (ii) any liability it may incur in the application of this Act;
- (i) insure members of the Board and staff members in respect of bodily injury, disablement or death resulting solely and directly from an accident occurring in the course of the performance of their duties; and
- (j) perform legal acts, including acts in association with or on behalf of any other person or organ of state.

CHAPTER 4

GENERAL GOVERNANCE OF AGENCY

15 Role of Board

- (1) The Agency is managed by a Board that -
 - (a) gives strategic direction to the Agency;
 - (b) is responsible for the performance of the Agency;
 - (c) is accountable to the MEC for the performance of the Agency; and
 - (d) is supported by a chief executive officer, chief financial officer, chief operations officer and other employees.
- (2) The Agency communicates with the MEC through the chairperson of the Board.

16 Constitution of Board

- (1) The Board consists of not less than seven and not more than nine members appointed by the MEC from nominations received as contemplated in section 17.
- (2) The following constituencies must be represented on the Board:

- (a) The Department;
- (b) the tourism industry;
- (c) conservation management of natural resources;
- (d) the business community;
- (e) financial management;
- (f) marketing management; and
- (g) the public.

(3) The Board must be broadly representative of the population of the Province.

17 Nomination procedure

(1) The Department must, at least 90 days before the expiry of every term of office of the members of the Board, invite applications or nominations for persons to be appointed to the ensuing term of office of the Board by notice in the *Gazette* and an advertisement in a leading newspaper in the Province, to represent the constituencies contemplated in section 16(2).

(2) The invitation for applications or nominations referred to in subsection (1) must provide for the applications or nominations to be submitted within 30 days from the date of the invitation or the date of publication of the notice.

(3) Any application or nomination made pursuant to a notice or an advertisement in terms of subsection (1) must be accompanied by-

- (a) the personal details of the applicant or nominee;
- (b) particulars of the applicant's or nominee's qualifications or experience in the matters listed in section 16(2);
- (c) in the case of a nomination, a letter of acceptance of nomination by the nominee;
- (d) a sworn declaration by the applicant or nominee that he or she is not disqualified in terms of section 10; and

(e) permission by the applicant or nominee to verify the information provided by him or her.

(4) The Department must, within 30 days from the expiry date specified in the invitations or the notice, evaluate the nominations received by it and submit a report to the MEC containing a summary of the process followed by the Department in calling and evaluating the nominations received by it, a list of all nominations received and its recommendations on suitable candidates for appointment to the Board.

(5) When evaluating the nominations the Department must take into consideration—

(a) the nominee's knowledge and experience of the constituency that he or she will represent if appointed; and

(b) the Agency's objectives.

(6) The MEC must, as soon as is practicable after the receipt of the report contemplated in subsection (3), evaluate the recommendations made and appoint the members of the Board for the ensuing term of office of the Board.

(7) When selecting persons for appointment, the MEC must—

(a) have regard to the need for appointing persons disadvantaged by unfair discrimination; and

(b) have regard to the geographic spread in the Province; and

(c) ensure that the board is composed of persons covering a broad range of appropriate experience and expertise.

(8) If no, insufficient or unsuitable nominations are received within the period specified in the invitations or the notice, the Department must inform the MEC thereof in its submission referred to in subsection (3), and the MEC may, after consultation with the Board, appoint to the Board the required number of persons who, but for the fact that they did not apply or were not nominated in terms of the procedure contemplated in this section, qualify to be appointed in terms of this Act.

(9) The MEC must, as soon as practicable after the appointment of the members of the Board, publish by notice in the *Gazette*-

- (a) the name of every person appointed;
- (b) the date from which the appointment takes effect; and
- (c) the term of office referred to in section 23.

18 Disqualification from appointment as member of Board

A person is disqualified from being appointed or remaining a member of the Board if that person-

- (a) is or becomes a Member of the National Assembly or National Council of Provinces, any provincial legislature, municipality or is in the full-time employ of an organ of state with the exception of the representative of the Department contemplated in section 16(2)(a);
- (b) is not a South African citizen or a permanent resident who is ordinarily resident in the Republic;
- (c) is or becomes subject to a final order of court whereby his or her estate is sequestrated under the Insolvency Act, 1936 (Act No.24 of 1936), or if his or her estate is sequestrated in terms of the laws of any other country or territory by a competent court or agency of such country or territory, or if he or she has assigned his or her estate for the benefit of his or her creditors;
- (d) is declared by the High Court to be of unsound mind or mentally disordered or is detained under the Mental Health Act, 1973 (Act No. 18 of 1973);
- (e) has been convicted, whether in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, or any offence involving dishonesty or of any offence in terms of the Prevention of Corruption Act, 1958 (Act No. 6 of 1958), the Corruption Act, 1992 (Act No. 94 of 1992), Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating

of Corrupt Activities Act, 2004, or the Companies Act, 1973 (Act No. 61 of 1973), or of contravening this Act, irrespective of whether such imprisonment was wholly or partly suspended or not;

(f) has been convicted of an offence, other than an offence contemplated in paragraph (e) and sentenced to imprisonment without the option of a fine for a period of not less than three months, irrespective of whether such imprisonment was wholly or partly suspended or not;

(g) without authorisation discloses or improperly acts on information gained as a result of his or her membership of the Board; or

(h) fails to disclose an interest as contemplated in section 22(1).

19 Resignation of member and vacation of office

(1) A Member of the Board may at any time resign from the Board upon one month's written notice tendered to the chairperson who must immediately inform the MEC, the Board and the chief executive officer accordingly.

(2) A member of the Board who resigns as contemplated in subsection (1) must vacate his or her office at the end of the notice period contemplated therein.

(3) A member of the Board ceases to be a member and must vacate his or her office with immediate effect if he or she-

(a) is no longer eligible in terms of section 18 to be a member; or

(b) is removed from office by the MEC in terms of section 20.

20 Removal of member of Board, dissolution of Board and appointment of interim Board

(1) The MEC may, after due inquiry, or on recommendation of the Board after due enquiry, remove, with immediate effect, a member of the Board from office on account of any or all of the following:

(a) Misconduct;

(b) inability to perform the duties of his or her office efficiently; and

(c) absence from three consecutive meetings of the Board without the permission of the Board, except on good cause shown; and

(d) failure to disclose an interest in terms of section 22 or voting or attendance at, or participation in, proceedings of the Board while having an interest contemplated in section 22.

(2) The MEC may, after due inquiry, dissolve the Board with immediate effect, if it fails in any or all of the following:

(a) Discharging its fiduciary duties;

(b) achieving its objectives in terms of this Act; and

(c) carrying out its duties as contemplated in Chapter 3.

(3) Upon the dissolution of the Board contemplated in subsection (2), the MEC must appoint an interim Board consisting of between five and seven members and he or she does not have to follow the nomination and appointment procedure contemplated in section 17.

(4) The MEC must appoint the interim Board within 30 days after the dissolution of the Board and the term of office of the interim Board is a period not exceeding six months.

(5) The MEC must appoint the chairperson and deputy chairperson of the interim Board.

(6) The provisions of this Act regarding the Board apply to the interim Board.

21 Appointment of member to vacant seat

(1) When a seat on the Board becomes vacant as a result of any action referred to in section 19, or if a Board member dies before the expiration of his or her term of office the Board must, as soon as is practicable after the seat becomes vacant notify the MEC that the seat has become vacant.

(2) The MEC must, as soon as is practicable after the receipt of the notification from the Board,

- (a) in an open and transparent manner, request the constituency that was represented by that member, to provide nominations for a representative or request applications for a person to be appointed to the vacant seat;
- (b) evaluate the nominations and applications received; and
- (c) appoint a nominee or candidate to the vacant seat.

(3) If no, insufficient or unsuitable nominations are received as contemplated in subsection (2)(b), the MEC may, after consultation with the Board, appoint to the vacant seat on the Board any person who, but for the fact that he or she was not nominated or did not apply in terms of the procedure contemplated in subsection (2), qualify to be appointed in terms of this Act.

(4) The MEC must, as soon as practicable after the appointment of the member to the vacant seat on the Board, publish by notice in the *Gazette* -

- (a) the name of the person appointed;
- (b) the date from which the appointment takes effect; and
- (c) the period for which the appointment is made as contemplated in subsection (5).

(5) The person who is appointed to the vacant seat on the Board fills the vacancy for the unexpired portion of the period for which the member whose seat became vacant was appointed.

22 Disclosure of interest

(1) A person may not be appointed on the Board, unless the necessary disclosure has been made that such person -

- (a) directly or indirectly, whether personally or through his or her spouse, partner or associate, has a direct or indirect financial interest in the tourism or biodiversity conservation industry; or
- (b) his or her spouse, partner or associate, holds an office in or is employed by any company, organisation or other body, whether corporate or

incorporate, which has a direct or indirect financial interest of the nature contemplated in paragraph (a).

(2) If, at any stage during the course of any proceedings before the Board, it appears that any Board member has or may have an interest which may cause a conflict of interest to arise between him or her of his or her interests and the Agency and its interests-

(a) that Board member must forthwith fully disclose the nature of his or her interest and leave the meeting so as to enable the remaining Board members to discuss the matter and determine whether that Board member is precluded from participating in that meeting by reason of a conflict of interest; and

(b) the disclosure of interest by that member and the decision taken by the remaining Board members regarding the matter, must be recorded in the minutes of the meeting in question.

(3) If any Board member fails to disclose any interest as required by subsection (2) or, subject to the provisions of that subsection, if he or she is present at the venue where a meeting of the Board is held or in any manner whatsoever participates in the proceedings of the Board, the relevant proceedings of the Board will be null and void.

23 Chairperson and deputy chairperson

(1) The MEC must appoint a chairperson and a deputy chairperson for every newly constituted Board.

(2) The deputy chairperson must, if the chairperson is for any reason unable to act as chairperson, perform all the functions of the chairperson and may exercise all the powers of the chairperson.

(3) If both the chairperson and the deputy chairperson are for any reason unable to preside at a Board meeting, the members present must elect one of the members to preside at that meeting and the person elected may perform all the functions and exercise all the powers of the chairperson.

(4) A chairperson or deputy chairperson may vacate office as such, and such vacation does not terminate his or her membership of the Board and if the chairperson or deputy chairperson has vacated office, the MEC must appoint a chairperson or deputy chairperson from the Board members for the remaining term of office of the Board.

24 Term of office

(1) A Board member holds office for a period of three years calculated from the date that his or her appointment takes effect and may be eligible for re-appointment for one additional term not exceeding three years.

(2) Despite subsection (1), the MEC may, by notice in the *Gazette*, after consultation with the Board, extend the term of office of all the Board members for a period of six months, but he or she may only extend the term of office of the Board twice.

(3) Despite the duration of office referred to in subsection (1), Board members continue in office until the succeeding Board is duly constituted by the MEC.

25 Meetings of Board

(1) The MEC must, as soon as is practicable after the appointment of the Board for the first term of office, determine the time and place of its first meeting.

(2) The Board must determine the time and place of any future meetings for the first and subsequent terms of office of the Board.

(3) The Board meets as often as circumstances require, but at least four times in every financial year.

(4) A majority of Board members constitutes a quorum at a meeting.

(5) Every Board member, including the chairperson, has one vote and in the event of an equality of votes, the chairperson of the meeting has a casting vote in addition to his or her deliberative vote.

(6) Subject to the approval of the Board, any person who is not a Board member may attend or take part, but may not vote, in a meeting of the Board.

(7) The Board must adopt governance rules which provides for the conduct of proceedings at meetings and recording of the proceedings and including the governance rules for special meetings.

26 Decisions of Board

(1) A decision of the majority of Board members present at any duly constituted meeting constitutes a decision of the Board.

(2) No decision taken by or act performed under the authority of the Board is invalid only by reason of -

- (a) a vacancy on the Board at the time the decision was taken or the act was authorised; or
- (b) the fact that any person who was not entitled to sit as a Board member, participated in the meeting at the time the decision was taken or the act was authorised, if the members who were present at the time followed the required procedure for decisions.

27 Duties of Board

(1) In addition to the duties and responsibilities as accounting authority of the Agency provided for in the Public Finance Management Act, the Board must -

- (a) provide effective, transparent and accountable corporate governance and conduct effective oversight of the affairs of the Agency, by adopting governance rules in accordance with subsection (2);
- (b) comply with all applicable legislation and agreements; and
- (c) at all times act in accordance with the code of conduct for members of the Board as may be prescribed by the MEC.

(2) The Board must adopt governance rules that substantially comply with the principles of good governance for a public entity and which provides for at least the following:

- (a) The role and meetings of the Board;
- (b) the role of the chairperson of the Board;

- (c) performance assessment of Board members ;
- (d) the role of the chief executive officer, chief financial officer and chief operations officer of the Agency;
- (e) performance assessment of the chief executive officer, chief financial officer and chief operations officer of the Agency;
- (f) the composition and procedures for and conduct of meetings of committees of the Board;
- (g) the financial management of the Agency as contemplated in the Public Finance Management Act;
- (h) a procurement policy; and
- (i) a remuneration policy for employees of the Agency, developed in consultation with the MEC and the MEC responsible for Finance in the Province.

28 Executive management and employees

- (1) The Board must –
 - (a) appoint a chief executive officer;
 - (b) determine the period of office of the chief executive officer; and
 - (c) determine the conditions of appointment of the chief executive officer.
- (2) The chief executive officer must enter into a performance agreement with the Board on acceptance of his or her appointment and he or she is accountable to the Board.
- (3) The chief executive officer is responsible for the operations of the Agency to ensure that the Agency is run efficiently and effectively and in accordance with any strategic decision of the Board and the implementation thereof by the executive committee.

(4) The Agency must determine the conditions of service for its employees, including remuneration which must be determined in accordance with the remuneration policy referred to in section 27(2)(i) .

(5) The chief executive officer may, subject to the general or special directions of the Board (if any), appoint employees for the Agency to perform the work necessary to achieve the objects of the Agency.

(6) The chief executive officer may delegate any original or delegated duty or power to any employee appointed in terms of subsection (5) in accordance with section 31(1)(c).

29 Committees

(1) The Board may, subject to subsection (2), establish any committee to assist it in the performance of its functions and appoint members to that committee, and it may at any time dissolve or reconstitute any such committee.

(2) The Board must, at least, establish the following permanent committees:

- (a) An executive committee;
- (b) an audit committee;
- (c) a remuneration committee;
- (d) a disciplinary committee.

(3) The Board must determine, subject to any applicable legislation, the number of members and the terms of reference of each committee.

(4) The Board may summarily terminate the membership of a member of a committee if -

- (a) the performance by the member of the powers and functions of that committee is unsatisfactory;
- (b) the member, either through illness or for any other reason, is unable to perform the functions of the committee effectively; or

(c) the member has failed to comply with or breached any legislation regulating the conduct of members.

(5) If this Act or the Board does not designate a chairperson for a committee, the committee may elect a chairperson from among its members.

30 Executive committee

(1) The executive committee established under section 29 consists of the chairperson of the Board who must act as chairperson of the executive committee, one other member of the Board elected by the Board, the chief executive officer and any other appropriate executive manager of the Agency.

(2) The purpose of the executive committee is to manage the day-to-day activities of the Agency in order to ensure that the strategic decisions of the Board are implemented effectively and timeously and that the Agency complies with the provisions of this Act, the Public Finance Management Act and any other applicable law.

31 Delegations by Board

(1) The Board must develop a system of delegation to maximise administrative and operational efficiency and provide for adequate checks and balances, and, in accordance with that system may -

- (a) in writing delegate appropriate powers, excluding the power to establish a committee, prescribe governance rules for a committee and appropriating funds, to a committee, the chief executive officer, a member of the Board or an employee of the Agency;
- (b) assign the performance of any of its functions to a committee, the chief executive officer a member of the Board, executive manager or an employee of the Agency; and
- (c) approve the delegation and assignment of any of the powers or functions delegated or assigned to the chief executive officer by the Board or granted to him or her under this Act, to any employee of the Agency.

(2) A delegation or assignment in terms of subsection (1)-

- (a) is subject to such limitations and conditions as the Board may impose;
- (b) may authorise subdelegation; and
- (c) does not divest the Board or the chief executive officer in the event of a delegation or assignment in terms of subsection (1)(c) of the delegated power or the performance of the assigned duty.

(3) The Board may confirm, vary or revoke any decision taken by a committee, the chief executive officer, a member of the Board or an employee of the Agency as a result of a delegation or assignment in terms of subsection (1).

CHAPTER 5

FINANCIAL MATTERS AND REPORTING

32 Financial year

The financial year of the Agency is from 1 April to 31 March.

33 Revenue of Agency

The revenue of the Agency consist of-

- (a) fees, levies and other moneys received or raised by it under the provisions of this Act or any other law;
- (b) income derived by it from the performance of its functions;
- (c) money appropriated by the Legislature;
- (d) grants received from organs of state;
- (e) voluntary contributions, donations and bequests received by it;
- (f) money borrowed by it in terms of this Act;
- (g) income derived by it from investments;
- (h) penalties, fines and proceeds from sales of forfeited items received or recovered and allocated to the Agency under the provisions of this Act or any other law; and
- (i) money accrued to the Agency from any other source.

34 Annual budget of Agency

(1) The Agency must, no later than 30 September in each financial year or any other period agreed to between the MEC and the Agency, submit, through the HOD, to the MEC, a budget of its estimated revenue and expenditure for the ensuing financial year for approval by him or her as contemplated in the Public Finance Management Act.

(2) The Agency may not budget for a deficit and may not accumulate surpluses unless the prior written approval of the National Treasury has been obtained.

(3) The Board is responsible for ensuring that the expenditure of the Agency is in accordance with the approved budget.

35 Contents of strategic plan

(1) The Agency must, no later than 30 September in each financial year or any other period agreed to between the MEC and the Agency, submit, through the HOD, to the MEC a strategic plan to the MEC for approval by him or her as contemplated in the Public Finance Management Act.

(2) The strategic plan must –

- (a) cover a period of three years;
- (b) be updated annually on a rolling basis; and
- (c) form the basis for the annual reports of the Agency.

(3) In addition to the requirements of the Public Finance Management Act and any objectives and outcomes that the MEC may determine, the strategic plan of the Agency must provide for the manner in which the Agency intends to give effect to its objects as stated in section 11, inclusive of strategies, including an intergovernmental coordination strategy and an own revenue generation strategy and preliminary action plans.

(4) The MEC and the Agency must develop and agree on a framework of acceptable levels of materiality and significance of the matters that must be contained in its annual report and financial statements as contemplated in sections 54(2) and 55(2) of the Public Finance Management Act.

36 Preparation and submission of annual report and financial statements of Agency

(1) The Board is the accounting authority for the Agency and must prepare in terms of section 55 of the Public Finance Management Act and, together with the report of the auditor on the financial statements, submit it to the Eastern Cape Treasury, the MEC and the Auditor-General, if the Auditor-General did not audit the financial statements.

(2) For purposes of Section 55(3) of the Public Finance Management Act, the Board must submit the annual report and the financial statements through the HOD, to the MEC, for tabling in the Legislature,

(3) The MEC must, within 20 days of receipt of the annual report and financial statements of the Agency, table it in the Provincial Legislature if the Provincial Legislature is in session, or if the Provincial Legislature is not in session, within 14 days after commencement of its ensuing session.

37 Quarterly reporting

(1) The Board must submit to the MEC quarterly reports, in strict compliance with the applicable provisions of the Public Finance Management Act and the Treasury Regulations issued in terms thereof.

(2) Each quarterly report of the Agency must deal with the state of affairs, the activities, the operations, and the financial position of the Agency, including-

- (a) the extent to which the Agency has achieved or advanced its objects during the financial quarter concerned;
- (b) the relevant performance information regarding the economic, efficient and effective utilisation of resources;
- (c) the amount of money, if any, received from the state or any other source and any other financial commitment furnished to the Agency; and
- (d) the detailed staff establishment and composition of the Agency.

(3) Notwithstanding the provisions of subsection (1), the MEC may, at any time, request the Board to submit to him or her, within a period determined by the MEC,

an interim report pertaining to the state of affairs, the activities, the operations, and the financial position of the Agency or pertaining to any specific matter identified by the MEC.

(4) The Board must establish procedures for quarterly reporting to the MEC in terms of the Public Finance Management Act and this Chapter, in order to facilitate effective performance monitoring, evaluation and corrective action.

38 Establishment of Eastern Cape Tourism Development Fund

(1) The Eastern Cape Tourism Development Fund is hereby established as an account in the provincial Treasury.

(2) The purpose of the Eastern Cape Tourism Development Fund is to empower and develop previously disadvantaged individuals, youth and women in the tourism sector.

(3) The Agency must, in consultation with the MEC, develop an implementation plan for the operationalisation of the Eastern Cape Tourism Development Fund.

(4) The Eastern Cape Tourism Development Fund may consist of –

- (a) a percentage of appropriated Agency funds from the Legislature;
- (b) any donation or bequest given for a specific tourism development activity;
- (c) a provincial tourism development levy contemplated in section 41; and
- (d) any other funding mechanism that is identified by the Agency and approved by the MEC prior to the utilisation of that funding mechanism by the Agency.

(5) Any money, assets or investment in the Eastern Cape Tourism Development Fund at the end of a financial year must be carried forward in the Eastern Cape Tourism Development Fund to the ensuing financial year.

39 Establishment of Eastern Cape Biodiversity Conservation and Development Fund

(1) The Agency must establish a fund for the protection of natural resources to be called the Eastern Cape Natural Resource Protection Fund.

(2) The purpose of the Eastern Cape Biodiversity Conservation and Development Fund is to fund the promotion of natural resource protection activities within the protected areas.

(3) The Agency must, in consultation with the MEC, develop an implementation plan for the operationalisation of the Eastern Cape Natural Resource Protection Fund.

(4) The Eastern Cape Biodiversity Conservation and Development Fund may consist of –

- (a) a percentage of appropriated Agency funds from the Legislature;
- (b) any donation or bequest given for a specific natural resource conservation activity; and
- (c) any other funding mechanism that is identified by the Agency and approved by the MEC prior to the utilisation of that funding mechanism by the Agency, including the levying of prescribed entrance fees, fines and assets seized by an environmental management inspector in a protected area and forfeited as a result of an offence committed in that protected area.

(5) Any money, assets or investment in the Eastern Cape Biodiversity Conservation and Development Fund at the end of a financial year must be carried forward in the Eastern Cape Biodiversity Conservation and Development Fund to the ensuing financial year.

40 Utilisation of the Eastern Cape Tourism Development Fund and the Eastern Cape Biodiversity Conservation and Development Fund

(1) The provincial Treasury administers the money, assets and investments in both the Eastern Cape Tourism Development Fund and the Eastern Cape Biodiversity Conservation and Development Fund and must allocate funds in accordance with the implementation plans referred to in section 38(2) and 39(2) and the developmental objectives of the Agency.

(2) The Eastern Cape Tourism Development Fund and the Eastern Cape Biodiversity Conservation and Development Fund may be used -

- (a) for the development and training of SMME's and historically disadvantaged individuals and communities, youth and women in tourism and biodiversity conservation;
- (b) to undertake or promote any research on tourism in the Province;
- (c) to undertake or promote any research on biodiversity conservation or any matter which is of material importance to biodiversity conservation in a protected area in the Province;
- (d) to make grants of money to any person or body conducting the research referred to in paragraph (b) or (c), in the Province or elsewhere;
- (e) to foster the education and training of -
 - (i) any person; and
 - (ii) employees of the Agency, whether by grants, study loans and bursaries;
- (f) to foster an awareness of the importance of biodiversity conservation in the Province; and

(3) All money, assets or investments in the Eastern Cape Tourism Development Fund and the Eastern Cape Natural Resource Protection Fund, which accrued by way of any donation or bequests, must be used in accordance with the conditions, if any, of such donation or bequest.

41 Provincial tourism development levy

- (1) The Agency may, in consultation with the MEC and by notice in the *Gazette*, -
 - (a) institute a provincial tourism development levy payable by a person conducting or operating a tourist amenity or tourist service; and

(b) from time to time prescribe a surcharge, which must be added to the price of services rendered by the person conducting or operating a tourist amenity or service; or

(c) fix a levy calculated at the rate determined in the notice.

(2) If the Agency institutes a provincial tourism development levy in accordance with this section, it may, by civil action in a competent court, recover the amount of levy which is due in terms of this section, from a person liable for payment.

CHAPTER 6

REGISTRATION OF TOURIST AMENITIES OR PERSONS CONDUCTING OR OPERATING TOURIST SERVICE

42 Register of tourist amenities and tourist services in Province

(1) In addition to the register of tourist guides contemplated in section 21 of the Tourism Act, 1993, the Agency must develop and maintain a register of all tourist amenities and persons conducting or operating a tourist service in the Province.

(2) For purposes of this Chapter, a person is conducting or operating a tourist service if that person is a tour operator, courier, travel agent, vehicle rental operator, activity operator, hunting operator or a tourism or biodiversity management training provider and an amenity is a tourist amenity if that amenity is a hotel, lodge, guesthouse, bed and breakfast establishment, conference centre or restaurant.

(3) The Agency may, in consultation with the MEC, by notice in the *Gazette* designate any other type of amenity as a tourist amenity or tourist service for purposes of this Act.

43 Registration of tourist amenity and tourist service in Province

(1) Any tourist guide must register with the Provincial Registrar of Tourist Guides in accordance with the provisions of the Tourism Act, 1993 and the provisions of that Act apply to tourist guides.

(2) Any tourist amenity or person who conducts or operates a tourist service in the Province must register as such with the Agency, with effect from a date fixed by the Agency in consultation with the MEC by notice in the *Gazette*, and no person

may conduct or operate a tourist amenity or tourist service after that date unless so registered.

(3) The Agency must, in consultation with the MEC and by notice in the *Gazette*, determine the requirements which are to be complied with before any tourist amenity or tourist service may be registered.

44 Application for registration as tourist amenity or tourist service

(1) Any tourist amenity, person who conducts or operates a tourist service or person who intends to conduct or operate a tourist amenity or tourist service, must apply to the Agency for the registration of the tourist amenity or tourist service.

(2) An application referred to in subsection (1) must be -

- (a) made in the manner determined by the Agency;
- (b) accompanied by the fee determined by the Agency in consultation with the MEC, by notice in the *Gazette*;
- (c) accompanied by any plans, documents and other information or particulars relating to the tourist amenity or tourist service; And
- (d) any additional documentation or information that may be required by the Agency.

45 Powers of Agency in relation to registration

(1) The Agency may, if in its opinion, the requirements for the registration of a tourist amenity or tourist service -

- (a) have been or will be complied with, register the tourist amenity or tourist service or intended tourist amenity or tourist service; or
- (b) have not been complied with or will not be complied with, refuse to register the tourist amenity or tourist service or intended tourist amenity or tourist service.

(2) Before registering a tourist amenity or tourist service, the Agency -

- (a) must inspect the tourist amenity or tourist service or cause it to be inspected; or
- (b) may conduct further investigation in regard to the tourist amenity or tourist service.

46 Certificate of registration

(1) The Agency must issue to the tourist amenity or person conducting or operating the tourist service, a certificate of registration in the prescribed form.

(2) If any tourist amenity or person conducting or operating the tourist service ceases to be registered or if any person ceases to conduct or operate a tourist amenity or tourist service, that tourist amenity or person must forthwith, return the certificate of registration to the Agency.

47 Publication of list of registered tourist amenities and tourist services

The Agency must publish periodically, in such manner as it may determine, a list and particulars of registered tourist amenities and tourist services together with particulars of such tourist amenities and tourist services.

48 Cancellation of registration of tourist amenity and tourist service

(1) The Agency may, if a registration requirement of a tourist amenity or a person conducting or operating a tourist service has not been complied with, give notice to that tourist amenity or person to satisfy that requirement within three months from the date of notice, failing which the Agency may withdraw the registration.

(2) The Agency may if it considers it necessary, extend the period referred to in subsection (1).

(3) The tourist amenity or the person conducting or operating the tourist service in respect of which or to who a notice has been given, may before the lapse of the period of three months or any period so extended, make representations in writing to the Agency in regard to the proposed withdrawal of the registration of the tourist amenity or tourist service.

(4) If, upon the lapse of the period of three months or extended period, the Agency considers that the requirement concerned has not been complied with, the

Agency may withdraw the registration and must give notice thereof to the tourist amenity or the person conducting or operating the tourist service.

49 Period of validity of registration and renewal

(1) Any registration in terms of this Act is valid for a period of one year calculated from the date of issue of the registration certificate.

(2) The tourist amenity or person conducting or operating the tourist service must, at least 60 days before the expiry of the registration, apply to the Agency for the renewal of the registration.

(3) An application referred to in subsection (1) must be -

(a) made in the manner determined by the Agency; and

(b) accompanied by the renewal fee determined by the Agency in consultation with the MEC and by notice in the *Gazette*.

(4) The Agency may, before renewing the registration of a tourist amenity or tourist service, -

(a) inspect the tourist amenity or tourist service or cause it to be inspected; or

(b) conduct further investigation in regard to the tourist amenity or tourist service.

50 Appeal against decision of Agency

(1) Any person who is aggrieved by any decision of the Agency with regard to-

(a) refusal of an application for registration;

(b) withdrawal of any registration; or

(c) cancellation of any registration,

may, in the prescribed manner, appeal to the MEC.

(2) The MEC may require the Agency to furnish him or her with the written reasons for its decision and a record of the proceedings.

(3) When an appeal is noted-

(a) the decision of the Agency must be suspended, until the appeal is finalised; or

(b) against the refusal to renew any registration, the MEC may extend the validity of such registration, until the appeal is finalised.

(4) The MEC must, after considering the representation and reasons furnished by the Agency for its decision-

(a) uphold the decision of the Agency; or

(b) set aside such decision,

and if he or she decides to set the decision aside, substitute it with a proper decision.

(5) The decision of the MEC is final.

CHAPTER 7

INSPECTORS

51 Designation of inspector

(1) The Agency may appoint or designate any employee of the Agency as an inspector for purposes of enforcing chapter 6 and any reference to an inspector in this Chapter excludes an environmental management inspector.

(2) The MEC may designate any staff member of the Agency as an environmental management inspector in terms of section 31C of the National Environment Management Act, 1998.

(3) An inspector is, in the exercise of his or her powers in terms of this Act, deemed to be a peace officer as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

(4) A certificate of appointment or designation, in the prescribed form, issued by the Agency certifying that a person has been appointed or designated as an inspector is prima facie proof of the appointment or designation.

52 Powers and duties of inspector

(1) An environmental management inspector has all the powers and duties and may exercise all the functions granted to an environmental management inspector in terms of the National Environmental Management Act, 1998.

(2) An inspector may conduct an inspection and monitor and enforce compliance with this Act and any other law which authorises him or her to conduct an inspection or monitor or enforce compliance of any tourism related matter.

(3) Subject to any other law, an inspector who conducts an inspection may-

- (a) question any person present on any land or premises in respect of any matter which may be relevant to the inspection;
- (b) question any person whom the inspector believes may have information relevant to the inspection;
- (c) inspect any document that a person is required to maintain in terms of this Act or any other law or that may be relevant to any tourism related inspection;
- (d) copy any document referred to in paragraph (c), or if necessary, remove the document in order to copy it;
- (e) take photographs or make audio-visual recordings of anything or any person, process, action or condition on or regarding any land or premises;
- (f) issue compliance notices in terms of section 59 or close down premises in terms of section 60; and
- (g) do all things necessary for conducting the inspection.

(4) An inspector who removes anything from land or premises being inspected, must-

- (a) issue a receipt for it to the owner of or person in control of the land or premises; and
- (b) return it as soon as practicable after achieving the purpose for which it was removed.

53 Entry with warrant

(1) An inspector may enter any land or premises if a judicial officer has issued a warrant in accordance with subsection (2) to enter or inspect the land or premises, and the warrant is still valid.

(2) A judicial officer may issue a warrant to enter and inspect any land or premises, if, from information in writing on oath, the judicial officer has reason to believe that-

- (a) it is necessary to obtain information, in the interest of the public, that cannot be obtained without entering the land or those premises; or
- (b) there is non-compliance with this Act.

(3) A warrant in terms of subsection (2) may be issued at any time and must specifically-

- (a) identify the land or premises that may be entered and inspected; and
- (b) authorise the inspector to enter and inspect the land or premises and to do anything contemplated in section 52.

(4) A warrant in terms of subsection (2) is valid until-

- (a) it is executed;
- (b) it is cancelled by the judicial officer who issued it or, in his or her absence, by another judicial officer;
- (c) the purpose for which it was issued has lapsed; or
- (d) 90 days have passed since the date it was issued.

(5) Before commencing any inspection, an inspector who carries out a warrant must-

- (a) if the owner of or a person apparently in control of the land or premises is present-
 - (i) identify himself or herself and explain his or her authority to that person or furnish proof of his or her appointment or designation; and

- (ii) hand a copy of the warrant to that person or a person named in it; or
- (b) if the owner or person apparently in control of the land or premises is absent or refuses to accept a copy, attach a copy of the warrant to the land or premises in a prominent and visible place.

54 Entry with permission

(1) An inspector who does not have a warrant in his or her possession may enter and inspect any land or premises with the consent of the owner or person apparently in control of the land or those premises if that person appears to be above the age of 18 years.

(2) In addition to the entry permitted in terms of subsection (1), an inspector may enter any land or premises without a warrant-

- (a) if authorised to do so by any other law; or
- (b) in respect of which there is an outstanding compliance notice issued in terms of section 59, for purposes of determining whether that notice has been complied with.

(3) Before commencing an inspection on any land or premises in terms of this section, an inspector must identify himself or herself and explain his or her authority or furnish proof of his or her appointment or designation to the person apparently in control of the land or premises or the person who gave permission to enter.

(4) Any entry and inspection of any land or premises without a warrant must be carried out between sunrise and sunset.

55 Reasonable use of force

(1) An inspector carrying out a warrant in terms of section 53 may overcome any resistance to entry or inspection by using force that is reasonably required, including breaking a lock, door or window of the land or premises to be entered.

(2) Before using force, the person carrying out the warrant must audibly demand admission and must announce his or her purpose, unless he or she reasonably believes that doing so may induce someone to destroy, dispose of, or tamper with, any object or document that is the object of the inspection.

(3) Force may not be used to effect an entry or to conduct an inspection in terms of section 54, unless permitted in terms of any other law or in the case of an emergency..

56 Inspector may be accompanied

An inspector may be accompanied during an inspection by a member of the South African Police Services, or any other person reasonably required to assist in conducting the inspection.

57 Duty to produce document

Any person who is in possession of any document relevant to an inspection, must produce it at the request of an inspector.

58 Duty to answer questions and assist inspector

(1) Any person who is questioned by an inspector in terms of this Chapter must first be informed of his or her constitutional rights before any questioning commences and any voluntary answer thereafter by that person must be truthful and to the best of his or her ability.

(2) An answer or explanation given to an inspector may not be used or admitted in criminal proceedings against the person who provides it, except in proceedings against that person on a charge relating to-

- (a) the administration or taking of an oath;
- (b) the making of false statements; or
- (c) the failure to answer a lawful question fully and satisfactorily.

(3) An owner or occupier of any land or premises must provide any facility and assistance that is reasonably required by an inspector to perform his or her functions effectively.

59 Compliance notice

(1) An inspector who is of the opinion that any provision of this Act has not been complied with, may, subject to subsection (2), issue a compliance notice in the

prescribed form to the owner or person apparently in control of the relevant land or premises.

(2) A compliance notice contemplated in subsection (1) must set out-

- (a) the provision that has allegedly not been complied with;
- (b) details of the nature and extent of the alleged non-compliance;
- (c) any steps that are required to be taken and the period within which those steps must be taken; and
- (d) any penalty that may be imposed in terms of chapter 8 in the event of non-compliance with those steps.

(3) A compliance notice must remain in force until an inspector issues a prescribed compliance certificate in respect of that notice.

(4) An inspector who is satisfied that the owner or person apparently in control of any land or premises has satisfied the terms of a compliance notice may issue a prescribed compliance certificate to indicate that compliance.

60 Closing of registered and other premises

An inspector may close down any registered tourist amenity or other premises where-

- (a) the registered owner or person concerned, or his or her manager or agent fails to comply with a compliance notice issued in respect of such tourist amenity or premises in terms of section 59; and
- (b) the owner of an unregistered tourist amenity fails to register such tourist amenity in terms of Chapter 6.

CHAPTER 8

OFFENCES AND PENALTIES

61 General offences

(1) A person is guilty of an offence if that person contravenes or fails to comply with any rules of the Agency relating to the access to protected areas or undertakes

any prohibited activity by national or provincial environmental management legislation.

(2) A person is guilty of an offence if that person wilfully publishes or causes or allows to be published in any manner false or misleading information relating to any tourist amenity or tourist service.

(3) A person is guilty of an offence if that person is responsible to pay, collect or remit any levy in terms of this Act and that person fails or refuses to pay, collect or remit that levy.

(4) A person is guilty of an offence if that person is required to register in terms of this Act and that person carries on a business as a tourist amenity or a tourist service without such registration.

(5) A person is guilty of an offence if that person contravenes any provision of this Act which is not elsewhere specifically declared to be an offence.

62 Offences relating to Board and Agency

A person is guilty of an offence if that person-

- (a) hinders or interferes with the Board, or a member of the Board or an employee of the Agency, in the execution of official duties;
- (b) wilfully furnishes to the Agency, member of the Board or an employee of the Agency, false or misleading information; or
- (c) falsely professes to be a member of the Board or an employee of the Agency, or the interpreter or assistant of that employee.

63 Offences regarding inspections

A person is guilty of an offence if that person-

- (a) refuses to grant an inspector access to premises to which the inspector is duly authorised to have accessed;
- (b) obstructs, interferes, or hinders an inspector who is exercising a power or performing a duty in terms of this Act;

- (c) refuses to provide an inspector with a document or information that the person is lawfully required to provide in terms of this Act;
- (d) furnishes false or misleading information to an inspector;
- (e) unlawfully prevents the owner of any land or premises, or a person working for that owner, from entering the land or premises in order to comply with a requirement of this Act;
- (f) pretends to be an inspector;
- (g) falsifies an authorisation or a warrant, compliance notice or compliance certificate contemplated in Chapter 7;
- (h) fails to comply with a compliance notice issued in terms of section 59;
- (i) enters any land or premises without a warrant in circumstances requiring a warrant;
- (j) acts contrary to a warrant issued in terms of Chapter 7;
- (k) without authority enters or inspects land or premises;
- (l) discloses any information relating to the financial or business affairs of any person which was acquired in the exercise of any power or performance of any duty in terms of this Act except-
 - (i) to a person who requires that information in order to exercise a power or perform a duty in terms of this Act;
 - (ii) where the disclosure is ordered by a competent court; or
 - (iii) where the disclosure is in compliance with the provisions of any law.

64 Penalties

Any person who is convicted of an offence under this Act is liable-

- (a) in case of a contravention of the rules referred to in section 61(1) -

- (i) on a first conviction, to a fine not exceeding R250 000 or imprisonment for a period not exceeding 15 years, or to both such a fine and such imprisonment; and
- (ii) in the case of a second or subsequent conviction for the same, to a fine not exceeding R500 000 or imprisonment for a period not exceeding 30 years, or to both such a fine and such imprisonment-;
- (b) in the case of an offence or prohibited activity referred to in section 61(1), other than a contravention of the rules, to the penalty provided for in the national or provincial environmental management legislation concerned;
- (c) in case of an offence referred to in section 62 to a fine not exceeding R5 000,00 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment; and
- (d) in the case of a general offence referred to in 61(2) to (5) to a fine or imprisonment for a period not exceeding two years or to both such fine and imprisonment.

65 Presumptions

(1) When any firearm, live wild animal, carcass of a wild animal, including a fish, or flora is found or is proved to have been in or on any vehicle, vessel, boat, craft, float, aircraft or other conveyance, it is presumed, until the contrary is proved, to have been in the possession of the person in charge of such vehicle, vessel, boat, craft, float, aircraft or other conveyance.

(2) When any person is found, or is proved to have been, in possession of any endangered flora, protected flora or unprotected indigenous flora he or she is, until the contrary is proved, presumed to have picked such flora.

(3) When any person is found or is proved to have been in possession of any live wild animal he or she is, until the contrary is proved, presumed to have been keeping such animal in captivity at the relevant time.

(4) When any person is found removing or is proved to have removed any wild animal or the carcass of a wild animal from a trap, snare, pitfall, net, birdlime or any

other like device or substance he or she is presumed, until the contrary is proved, to have laid or prepared such trap, snare, pitfall, net, birdlime or other like device or substance and to have captured the animal concerned.

(5) Whenever-

- (a) a vehicle, vessel, boat, craft, float, aircraft or other conveyance is being or has been used for the purpose of or in connection with the commission of an offence under this Act;
- (b) (i) any wild animal or the carcass of a wild animal including a fish in respect of which an offence has been committed under this Act; or
- (ii) any weapon, implement, line, poison or any other object that could be used for the hunting or catching of any wild animal including a fish and that is being or was used or formed an element in the commission of an offence under this Act, is found or has been in or on any vehicle, vessel, boat, craft, float, aircraft or other conveyance,

the owner of such a vehicle, vessel, boat, craft, float, aircraft or other conveyance as well as every person thereon or therein at the time of the commission of the offence or at the time when the wild animal, carcass or other object contemplated in paragraphs (a) and (b) is found or was in such vehicle, vessel, boat, craft, float, aircraft or other conveyance, is presumed to have committed the offence concerned and be liable to conviction and sentence in respect thereof unless he or she proves that he or she did not commit such offence and did not take part in and could not prevent the commission of the offence.

(6) Whenever any person is found to have in his or her possession on any public road any fire-arm (other than a pistol or revolver) that is loaded or is not enclosed in such a way that the barrel and the trigger are completely covered, he or she is presumed to be hunting a wild animal on or from such road, until the contrary is proved.

(7) Whenever in any prosecution under this Act it is alleged that an offence has been committed in connection with or in respect of any fauna or flora of the species

stated in the charge, it is presumed, in the absence of evidence to the contrary, that such fauna or flora is of the species stated in the charge.

(8) Whenever in any prosecution under this Act it is alleged in the charge that an act that constitutes an offence under this Act was committed within the boundaries of a protected area that falls within the jurisdiction of the Agency it is presumed, in the absence of evidence to the contrary, that it was committed within the boundaries of that protected area.

(9) Whenever in any prosecution under this Act it is alleged that any fauna or flora that forms an element in the commission of an offence is of a specific dimension or mass, it is presumed, in the absence of evidence to the contrary, that such fauna or flora is of that dimension or mass.

(10) Whenever a person is found shining a spotlight and carrying a firearm he or she is presumed to be hunting with the aid of artificial light.

(11) A wild animal or indigenous plant in or on which an electronic transponder has been fixed is presumed to have originated from the locality in which it was so fixed as recorded in the register kept for the purpose by the Department.

66 Jurisdiction of magistrate's court

A magistrate's court has jurisdiction to impose any punishment provided for in this Act.

CHAPTER 9

TRANSITIONAL PROVISIONS

67 Dissolution of Eastern Cape Parks Board and the Eastern Cape Tourism Board

From the date of commencement of this Act, the Eastern Cape Parks Board and the Eastern Cape Tourism Board are hereby abolished and the boards appointed in terms of the Provincial Parks Board Act (Eastern Cape), 2003, and the Eastern Cape Tourism Board Act, 2003 are hereby dissolved.

68 Legal successor

(1) From the date of commencement of this Act, the Agency is, for all purposes in law, the legal successor to the Eastern Cape Parks Board and the Eastern Cape Tourism Board and

- (a) becomes the owner of all movable and immovable property of the Eastern Cape Parks Board and the Eastern Cape Tourism Board;
- (b) is substituted as contracting party for the Eastern Cape Parks Board and the Eastern Cape Tourism Board, in all contracts as if the Agency had been the contracting party at the time of contracting and the contractual rights, obligations and liabilities of the Eastern Cape Parks Board and the Eastern Cape Tourism Board in terms thereof are transferred to the Agency; and
- (c) is deemed to have issued all financial instruments of the Eastern Cape Parks Board and the Eastern Cape Tourism Board.

(2) Any money standing to the credit of the Eastern Cape Parks Board and the Eastern Cape Tourism Board in their bank accounts immediately before the commencement of this Act vests in the Agency and must be transferred to the bank account of the Agency when it is established.

(3) Any reference in any law or document to the Eastern Cape Parks Board and the Eastern Cape Tourism Board must be construed as a reference to the Agency, unless such construction is clearly inappropriate.

69 Interim Board

(1) The MEC must, within seven days from the date of commencement of this Act, appoint such persons as he or she deems fit, to serve as members of the interim Board and must appoint a chairperson and a deputy chairperson.

(2) The term of office of members of the interim Board is six months or until the MEC appoints the members for the first term of office of the Board as contemplated in section 17.

(3) The interim Board may exercise and perform the same powers and duties granted to the Board in terms of this Act.

70 Acting chief executive officer

(1) The MEC must, within seven days from the date of commencement of this Act, appoint such person as he or she deems fit, as acting chief executive officer of the Agency.

(2) The MEC must appoint the acting chief executive officer for a period of six months or until such time as the chief executive officer is appointed by the Board.

(3) The acting chief executive officer may exercise and perform the same powers and duties granted or delegated to the chief executive officer in terms of this Act.

(4) The MEC may pay the acting chief executive officer such remuneration which is not in excess of the range applicable to the chief executive officers of the Eastern Cape Parks Board and the Eastern Cape Tourism Board.

71 Legal proceedings and internal proceedings and investigations

(1) All criminal proceedings which immediately prior to the commencement of this Act were instituted in terms of the provisions of the Provincial Parks Board Act (Eastern Cape), 2003, and the Eastern Cape Tourism Board Act, 2003, and which proceedings have not been concluded before the commencement of this Act, must be continued and concluded, in all respects as if this Act had not been passed.

(2) No provision of this Act affects any civil matter pending at the commencement of this Act, and such matter must be continued and concluded in every respect as if this Act had not been passed.

(3) A civil matter is, for the purposes of this section, deemed to be pending if, at the commencement of this Act, summons had been issued but judgment had not been given, and to be concluded when judgment is given.

(4) Any internal hearing, investigation or disciplinary proceedings or process instituted by the Eastern Cape Parks Board or the Eastern Cape Tourism Board which is pending at the date of commencement of this Act, may be continued or instituted as if this Act had not been passed.

72 Management of protected areas

The management of the protected areas that the Eastern Cape Parks Board has identified as Provincial parks in its jurisdiction and which the Eastern Cape Parks Board manages in terms of the Provincial Parks Board Act (Eastern Cape), 2003, is hereby assigned to the Agency irrespective of the fact that the MEC did not assign those provincial parks to the Eastern Cape Parks Board in terms of that Act and the Agency is the management authority of those protected areas for purposes of section 38(2) of the Protected Areas Act.

73 Financial, administrative and other records of Eastern Cape Parks Board and Eastern Cape Tourism Board

All financial, administrative and other records of the Eastern Cape Parks Board and the Eastern Cape Tourism Board must be transferred to the Agency.

74 Employees of Eastern Cape Parks Board and Eastern Cape Tourism Board

(1) A person who, immediately before the commencement of this Act, was in the employ of the Eastern Cape Parks Board or the Eastern Cape Tourism Board is transferred to the employ of the Agency with the retention of the salary, allowances and other conditions of service which applied in respect of that person before the commencement of the Act and is deemed to be appointed under this Act.

(2) The salary, allowances and other conditions of service of such person is regarded as having been determined under this Act, and any leave, pension or other benefits which have accrued in the person's favour by virtue of the person's service with the Eastern Cape Parks Board or the Eastern Cape Tourism Board is regarded as having been accrued in the person's favour by virtue of service with the Agency.

(3) Subject to the provisions of this Act, any-

- (a) law regarding any condition of service;
- (b) measure regarding the duties, functions and powers; or
- (c) arrangement regarding any administrative function,

which applied to a person in the employ of the Eastern Cape Parks Board or the Eastern Cape Tourism Board immediately before the date of commencement of this Act, remain in force until amended by the Agency and the employee concerned.

75 Continued registration of tour guides, tour operators, couriers, training providers, hotels, other accommodation establishments, conference centres, restaurants and designated tourist amenities

(1) A person who immediately prior to the commencement of this Act was registered in terms of the Eastern Cape Tourism Board Act, 2003, and was, by virtue of that registration, authorised to carry on a business as defined in that Act, is deemed to be registered in terms of this Act and is, subject to this Act, authorised to carry on that business subject to the conditions which had been determined in respect of such person in relation to such person's registration to carry on that business in terms of the Eastern Cape Tourism Board Act, 2003.

(2) A person referred to in subsection (1) must, before the date that the registration would have expired if the Eastern Cape Tourism Board Act, 2003 had not been repealed, apply to the Agency in accordance with section 46 for a certificate of registration issued in terms of this Act in exchange for the certificate of registration issued to such person under the Eastern Cape Tourism Board Act, 2003.

(3) Upon receipt of an application in terms of subsection (2), the Agency must issue the new certificate of registration specifying the requirements referred to in section 43.

76 Management plans

Any management plan submitted by the Eastern Cape Parks Board to the MEC for approval and which has -

- (a) been approved by the MEC, is deemed to have been approved in terms of this Act; and
- (b) not yet been approved by the MEC, must be approved by him or her in terms of this Act.

77 Investigative and law enforcement activities

Any investigative and law enforcement activity undertaken in terms of Provincial Parks Board Act (Eastern Cape), 2003, and the Eastern Cape Tourism Board Act, 2003 is deemed to be undertaken in terms of the provisions of this Act for the purposes of prosecution and findings of the court.

78 General

(1) From the date of commencement of the Act, all assets, rights, obligations and liabilities of the Eastern Cape Parks Board and the Eastern Cape Tourism Board not referred to in this Chapter, vest in the Agency;

(2) Anything done or any decision made or steps taken by the Eastern Cape Parks Board and the Eastern Cape Tourism Board in terms of any provision of the Provincial Parks Board Act (Eastern Cape), 2003, and the Eastern Cape Tourism Board Act, 2003, is deemed to have been done, made or taken, by the Agency.

(3) Any levies or fees determined by the Eastern Cape Parks Board and the Eastern Cape Tourism Board in terms of the Provincial Parks Board Act (Eastern Cape), 2003, and the Eastern Cape Tourism Board Act, 2003 before the commencement of this Act is deemed to have been determined under this Act.

(4) No action taken by the Eastern Cape Parks Board inside the Provincial parks in terms of the Provincial Parks Board Act (Eastern Cape), 2003 is invalid by reason only that the MEC did not assign the Provincial parks to the Eastern Cape Parks Board in terms of that Act.

CHAPTER 9

GENERAL PROVISIONS

79 Procedural fairness

Subject to the provisions of this Act, where the Agency takes a decision or any other step of an administrative nature under this Act that affects the rights and duties of another person, the Agency must -

- (a) make known the nature and effect thereof in a written, printed or electronic manner to any affected person and body in a manner designed to ensure that they acquire full knowledge thereof; and
- (b) comply with any applicable requirement of just administrative action, including the furnishing of reasons for discretionary decisions imposed by, under or by virtue of any law.

80 Repeal of laws

The Eastern Cape Tourism Act, 2003, and the Provincial Parks Board Act (Eastern Cape), 2003, are hereby repealed.

CHAPTER 11

SHORT TITLE AND COMMENCEMENT

81 Short title and commencement

(1) This Act is called the Eastern Cape Parks and Tourism Agency Act, 2010 and will come into operation on a date determined by the Premier by proclamation in the *Gazette*.

(2) The MEC may determine different dates for commencement of different sections or chapters of this Act.

No. 4

10 Februarie 2010

PROVINSIE VAN DIE OOS KAAP

DEPARTEMENT VAN EKONOMIESE ONTWIKKELING EN OMGEWINGSACE

OOS KAAP PARKE EN TOERISME AGENTSAP WETSONTWERP, 2010

Die bogenoemde Wetsontwerp word hiermee ingevolge reël 147 van die Prosedurele Reëls van die Wetgewer vir openbare kommentaar gepubliseer.

Lede van die publiek word hiermee uitgenooi om op die Wetsontwerp kommentaar te lewer. Kommentaar moet gerig word aan die Algemene Bestuurder: Samesmelting, Departement Ekonomiese Ontwikkeling en Omgewingsake.

Lede van die publiek word versoek om hulle kommentaar skriftelik in te dien by wyse van geregistreerde pos, per hand, e-pos of per faksimile aan:

Privaat Sak X0054

Indwe Huis

Bhisho

Independence Laan

5604

Bhisho

lutho.nduvane@deaet.ecape.gov.za

Faks Nr: 040 609 3219

Vir verdere inligting kontak asseblief Mnr L Nduvane by 040 609 3005 of Me M Radebe by 040 609 3061.

PROVINSIE VAN DIE OOS KAAP

OOS KAAP PARKE EN TOERISME AGENTSAP WETSONTWERP, 2010

(Soos voorgelê)

**(DEUR DIE LUK VAN DIE DEPARTEMENT VAN
EKONOMIESE ONTWIKKELING EN
OMGEWINGSAKE)**

WET

Om voorsiening te maak vir die instelling van die Oos Kaap Parke en Toerisme Agentskap ten einde beskermde gebiede te ontwikkel en bestuur en om die ontwikkeling van toerisme in die Provinsie te bevorder en fasiliteer en om bevoegdhede, funksies en verpligtinge aan daardie Agentskap op te dra; om voorsiening te maak vir die bestuur daarvan deur 'n Raad en die aanstelling van lede daarvan; om die Oos Kaap Toerisme Ontwikkelingsfonds en die Oos Kaap Natuurlike Reserwes Beskermingsfonds in te stel; om voorsiening te maak vir die registrasie van sekere persone en geriewe betrokke in toerisme; om voorsiening te maak vir die invordering van heffings met betrekking tot geregistreerde persone en geriewe; om voorsiening te maak vir die inspeksie van persele; om voorsiening te maak vir oorgangsbepalings; en om voorsiening te maak vir verbandhoudende aangeleenthede.

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Hoofstuk 1

Definisies

1 Definisies

In hierdie Wet, tensy die konteks anders aandui, beteken -

"Agentskap" die Oos Kaap Parke en Toerisme Agentskap ingestel kragtens artikel 10;

"beskermde gebied" –

- (a) enige natuurreservaat kragtens artikel 6 van die Natuur en Omgewingsbewaring Ordinasie, 1974 (Ordinasie No. 19 van 1974) wat ten tye van inwerkingtreding van hierdie Wet as 'n Provinsiale park in die register van Provinsiale parke gelys is of bestuur word deur die "Eastern Cape Parks Board" soos beoog word in artikel 33 of artikel 8(1)(a) gelees met artikel 60(1)(d)(iii) van die "Provincial Parks Boards Act (Eastern Cape), 2003", ongeag of die LUK sodanige natuurreservaat as 'n Provinsiale park verklaar het of die bestuur daarvan toegeken het soos vereis word ingevolge artikel 33 of 41 van daardie Wet;
- (b) 'n Nasionale beskermde gebied, 'n Provinsiale beskermde gebied of 'n plaaslik beskermde gebied soos oorweeg word in die "National Environmental Management: Protected Areas Act, 2003" wat ten tye van die inwerkingtreding van hierdie Wet, deur die "Eastern Cape Parks Board" bestuur word as bestuursbevoegheid ingevolge 'n toekenning wat deur die Kabinet lid verantwoordelik vir nasionale omgewingsbestuur of die LUK ingevolge artikel 38(1) of (2) van daardie Wet gedoen is of bestuur word ingevolge 'n ooreenkoms met die Nasionale departement verantwoordelik vir omgewingbestuur;
- (c) enige natuur reservaat wat na inwerkingtreding van hierdie Wet kragtens enige toepaslike provinsiale wetgewing verklaar word en deur die LUK aan die Agentskap toegeken word kragtens die "National Environmental Management Act, 2003";

(d) enige beskermde gebied wat oorweeg word in die "National Environmental Management: Protected Areas Act, 2003" en waarvan die Agentskap as die bestuursbevoegheid aangewys is kragtens 'n toekenning wat deur die Kabinetslid verantwoordelik vir Nasionale omgewingsbestuur of die LUK ingevolge artikel 38(1) of (2) van daardie Wet gemaak is;

"bestuur" met betrekking tot 'n beskermde gebied, sluit in die beheer, beskerming, bewaring, onderhoud en rehabilitasie van die gebied;

"bestuursgesag" met betrekking tot 'n beskermde gebied, is die bestuursgesag wat oorweeg word in die "Nasionale Environmental Management: Protected Areas Act, 2003", (Wet No. 57 van 2003) ;

"biodiversiteit" dieselfde wat artikel 1 van die "Nasionale Environmental Management: Biodiversity Act, 2004", (Wet No. 10 van 2004) daaraan toeken;

"Departement" die Departement verantwoordelik vir toerisme en omgewingsake in die Provinsie;

"Eastern Cape Parks Board" die "Eastern Cape Parks Board" ingestel kragtens artikel 6 van die "Provincial Parks Boards Act (Eastern Cape), 2003", (Wet No. 12 van 2003);

"Eastern Cape Tourism Board" die "Eastern Cape Tourism Board" ingestel kragtens artikel 3 van die "Eastern Cape Tourism Board Act, 2003", (Wet No. 8 van 2003);

"Gazette", die Oos Kaapse Provinsiale Koerant;

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

"hierdie Wet" sluit enige regulasies kragtens hierdie Wet gemaak in; en

"HVD" die Hoof van die Departement;

"kleinonderneming" 'n kleinonderneming in artikel 1 van die Nasionale Nasionale Kleinondernemingswet Wet, 102 van 1996 omskryf;

"LUK" die Lid van die Uitvoerende Raad verantwoordelik vir toerisme en omgewingsake in die Provinsie;

"munisipaliteit" 'n munisipaliteit ingestel kragtens die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998);

"Provinsie" die Provinsie van die Oos Kaap ingestel kragtens artikel 103 van die Grondwet;

"Raad" die Oos Kaap Parke en Toerisme Raad ingestel kragtens artikel 15;

"regulasie" 'n regulasie deur die LUK gemaak ingevolge hierdie Wet;

"vaartuig" enige tipe watervarende tuig, hetsy selfaangedrewe of nie, maar sluit nie enige drywende struktuur in wat nie vir die vervoer van enige iets op water gebruik word nie;

"voorskryf" by regulasie in die Gazette voorgeskryf deur die LUK.

Hoofstuk 2

Departementele Oorsig en Uitvoerende Bevoegdheid

2 Uitvoerende bevoegdheid

(1) Die LUK is die uitvoeringsgesag van die Agentskap soos bedoel in die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

(2) Die LUK -

- (a) moet die vergoeding van die lede van die Raad in oorleg met die Lid van die Uitvoerende Raad verantwoordelik vir finansies bepaal;
- (b) moet die Provinsiale Registrateur van Toeriste Gidse wat deur hom of haar ingevolge artikel 21 van die Wet op Toerisme, 1993 (Wet No. 72 van 1993) aangestel is aan die Agentskap sekondeer;
- (c) moet duidelike kommunikasie-kanale tussen hom of haar en die Agentskap daarstel en behou;
- (d) moet die prestasie van die Agentskap monitor en jaarliks hersien;
- (e) moet elke derde jaar, die hersiening van die Agentskap se prestasie met betrekking tot sy doelwitte fasiliteer, deur 'n eksterne evalueringspaneel

wat uit die publieke- en privaatsektor kom op 'n deursigtige en openlike manier aan te stel en wat ten minste bestaan uit -

- (i) persone met goeie kennis van en ondervinding in toerisme, bemarking, biodiversiteitsbestuur en kommersialisering; en
 - (ii) 'n persoon met goeie kennis en ondervinding in die bestuur van openbare entiteite;
- (f) mag direkteur aan die Agentskap uitvaardig om te verseker dat dit effektief en ekonomies funksioneer; en
- (g) mag, indien die prestasie van die Agentskap na 'n hersiening soos oorweeg word in paragraaf (c) of (d) onvoldoende bevind word, niteenstaande die bepalings van hierdie Wet, ingryp deur die Agentskap opdrag te gee om die funksie te oorhandig en die Departement moet daardie funksie ten behoeve van die Agentskap uitoefen en nakom.

3 Provinsiale riglyne.

(1) Die LUK mag riglyne uitvaardig met betrekking tot aangeleenthede wat van toepassing is op die toerisme en biodiversiteitsbestuur sektore, wat in ooreenstemming is met die oogmerke van hierdie Wet en verbandhoudende wetgewing met betrekking tot -

- (a) meganismes om die deelname van voorheen benadeelde individue, gemeenskappe en kleinondernemings in die toerisme en biodiversiteitsbestuur sektore te bevorder;
- (b) die diensverskaffing wat deur die Agentskap gelewer word;
- (c) riglyne vir die vasstelling van fooie en heffings deur die Raad;
- (d) die aanwending van nuwe tegnologie; en
- (e) enige ander beleid wat nodig mag wees vir die toepassing van hierdie Wet of verbandhoudende wetgewing.

(2) Die Agentskap, in die uitvoering van sy bevoegdhede en nakoming van sy verpligtinge ingevolge hierdie Wet en die verbandhoudende wetgewing, moet die riglyne wat deur die LUK ingevolge subartikel (1) uitgevaardig word, nakom.

4 Onderzoek en uitoefening en verrigting van Departementele bevoegdheid en verpligting van Agentskap

(1) Die LUK mag, ter enige tyd,–

(a) in oorleg met die Agentskap, versoek dat die Agentskap enige aangeleentheid ondersoek wat betrekking het op bewaring of toerisme wat hy of sy nodig ag;

(b) in oorleg met die Agentskap, versoek dat die Agentskap 'n bevoegdheid of verpligting van die Departement of 'n ander staatsorgaan wat betrekking het op toerisme of biodiversiteit, bestuur ten behoeve van die Departement of staatsorgaan; of

(c) die sake of finansiële posisie van die Agentskap ondersoek.

(2) Enige redelike koste wat aangegaan word deur die –

(a) Agentskap as gevolg van 'n ondersoek of die uitoefening of verrigting van 'n bevoegdheid of 'n verpligting soos oorweeg word in subartikel (1)(a) of (b) mag verhaal word van die Departement;

(b) Departement as gevolg van 'n ondersoek soos oorweeg word in subartikel (1)(c) mag verhaal word van die Agentskap.

5 Regulasies

(1) Die LUK mag, by wyse van kennisgewing in die *Gazette*, regulasies maak wat nie teenstrydig is met hierdie Wet is nie met betrekking tot–

(a) enige aangeleentheid wat vereis of toegelaat word om voorgeskryf te word in terme van hierdie Wet;

(b) 'n gedragskode vir lede van die Raad;

(c) enige aangeleentheid met betrekking tot die funksionering van die Agentskap of die Raad wat nodig is om die Agentskap se effektiwiteit te verseker of om goeie orde te bevorder; en

(d) enige verbandhoudende administratiewe of prosedurele aangeleentheid wat nodig is vir die behoorlike implementering of administrasie van hierdie Wet.

(2) Alvorens die LUK enige regulasie kragtens hierdie artikel uitvaardig, moet hy of sy in die *Gazette* 'n konsep publiseer van die voorgestelde regulasie saam met 'n kennisgewing wat belangstellende persone uitnoui om kommentaar te lewer, op skrif, binne die tydperk wat in die kennisgewing genoem word, welke tydperk nie minder as 30 dae vanaf datum van publikasie van die kennisgewing mag wees nie.

(3) Indien die LUK die konsep regulasies wysig as gevolg van enige kommentaar ontvang, hoef hy of sy nie die wysigings te publiseer voordat die regulasies uitgevaardig word nie.

6 Delegasie deur LUK

Die LUK mag enige van sy of haar bevoegdhede in terme van hierdie Wet, met uitsluiting van die bevoegdheid om regulasies uit te vaardig en die bevoegdheid om die lede van die Raad aan te stel, aan enige beampte van die Departement deleger.

7 Verklaring van provinsiale beskermde gebied

Die LUK mag enige tipe van provinsiale beskermde gebied in ooreenstemming met die bepalings van die "National Environmental Management: Protected Areas Act, 2003" en enige toepaslike provinsiale wetgewing verklaar en mag die bestuur van daardie gebied aan die Agentskap toeken, indien toepaslik.

8 Verkryging van grond deur LUK

(1) Die LUK mag, handelend met die instemming van die Premier, privaat grond, of enige reg in of op privaat grond verkry, wat, of beoog word om, as 'n beskermde gebied verklaar te word of wat, of beoog word om, in 'n Provinsiale park ingesluit te word, deur-

(a) koop van die grond of reg;

(b) uitruil van die grond vir ander grond; of

(c) onteiening van die grond of reg, indien geen ooreenkomst met die eienaar of houer van die reg bereik kan word nie.

(2) Die Onteieningswet, 1975 (Wet No. 63 van 1975), is van toepassing op enige verkryging van grond of reg in of op grond in terme van subartikel (1)(c).

9 Vrystelling en verlenging

(1) Die LUK mag, indien redelike gronde bestaan, die Agentskap, ander staatsorgaan of enige persoon van enige bepaling van hierdie Wet vrystel.

(2) Die LUK mag, indien redelike gronde bestaan, enige tydperk wat voorgeskryf met betrekking tot enige iets in hierdie Wet bepaal, verleng.

Hoofstuk 3

Instelling, Doelwitte en Bevoegdhede en pligte van Agentskap

10 Instelling van Oos Kaap Parke en Toerisme Agentskap

Die Oos Kaap Parke en Toerisme Agentskap word hierby ingestel as 'n regspersoon.

11 Oogmerke van Agentskap

(1) Die oogmerke van die Agentskap is om -

(a) biodiversiteit in beskermde gebiede wat in die Provinsie geleë is te bestuur;

(b) toerisme in die Provinsie te bestuur;

(c) die effektiewe implementering van sy bewarings en toerisme bevoegdhede en pligte wat in terme van hierdie Wet en enige ander wet opgedra word, te verseker;

(d) uitnemendheid in die bestuur van die besigheid en hulpbronne van die Agentskap te verseker.

(2) In nastrewing van sy oogmerke moet die Agentskap, onder andere –

- (a) strategiese leierskap in biodiversiteitsbestuur en toerisme fasiliteer deur die ontwikkeling van die nodige strategiese doelstellings;
 - (b) tot ander strategies raamwerke van die regering bydra om interregeringskoördinasie en gekonsentreerde finansiële en natuurlike hulpbron benutting te verseker;
 - (c) innovasie en beste praktyk met betrekking tot biodiversiteitsbestuur en toerisme bevorder;
 - (d) vir effektiewe biodiversiteitsbestuur in die beskermde gebiede voorsiening maak, in ooreenstemming met, onder andere, toepaslike nasionale wetgewing;
 - (e) die aaneenskakeling tussen biodiversiteitsbestuur en die sosio-ekonomiese voordele wat daaruit verkry kan word, optimiseer;
 - (f) infrastruktuurbestuur in die beskermde gebiede onderneem;
 - (g) toerisme in die Provinsie bemark, bevorder en ontwikkel;
 - (h) sosio-ekonomiese groei en transformasie in die bewarings- en toerisme-industrie bevorder, om sodoende ekonomiese- en werks- geleenthede te skep vir voorheen benadeelde individue en plaaslike gemeenskappe in die Provinsie;
 - (i) die bevordering van belegging in die bewarings- en toerisme- industrie fasiliteer;
 - (j) die goeie korporatiewe bestuursbeginsels en hulpbron bestuur vereistes wat in hierdie Wet, die Wet op Openbare Finansiële Bestuur, 1999 en ander toepaslike wette neergelê word, na te kom.
- (3) Ter bereiking van sy oogmerke, moet die Agentskap strewen om –
- (a) toenemend sy eie inkomste generering en invordering te verhoog; en
 - (b) 'n geïntegreerde ontwikkelingsmodel vir biodiversiteitsbestuur en toerisme handhaaf.

12 Bevoegdheide en pligte van Agentskap met betrekking tot biodiversiteitsbestuur

(1) Die Agentskap is verantwoordelik vir biodiversiteitsbewaring deur die effektiewe bestuur van die beskermde gebiede in ooreenstemming met die toepaslike nasionale en provinsiale omgewingswetgewing.

(2) Die Agentskap, bykomend tot enige ander bevoegdheid of verpligting waarvoor in hierdie Wet of toepaslike nasionale wetgewing voorsiening gemaak is, moet, onder andere -

- (a) die beskermde gebiede beheer, bestuur en onderhou ten einde toesig en beheer van die beskermde gebiede te onderneem en om wilde diere en plantlewe te bestudeer en mag, onderhewig aan die toepaslike omgewingstoestemmings, enige infrastruktuur en ander werke as wat dit nodig ag, bou of oprig ten einde die beskermde gebiede te beheer, bestuur en onderhou;
- (b) inventarisse opstel van natuurlike hulpbronne in die beskermde gebiede en dit evalueer, monitor en beskerm, insluitend natuurlike sisteme, biodiversiteit en ekologiese funksies en prosesse en sodanige navorsing en ander wetenskaplike aktiwiteite onderneem as wat nodig mag wees vir doeleindes van hierdie artikel;
- (c) die nodige stappe neem om die sekuriteit van dier- en plantlewe in die beskermde gebied te verseker;
- (d) die nodige stappe neem om toepaslike ekologiese bestuur van die beskermde gebied te verseker;
- (e) die funksies wat van die bestuursbevoegdheid van 'n beskermde gebied in terme van die toepaslike nasionale wetgewing vereis word, verrig;
- (f) die ontwikkeling van publieke-private-vennootskappe en gemeenskap-publieke-private-vennootskappe as deel van die gesamentlike bestuursprosesse in die beskermde gebiede waar die lewensvatbaarheid van toerisme geleenthede deur die Agentskap vasgestel is, lei en fasiliteer;

- (g) in die beskermde gebiede ondersoek instel en wetstoepassingsaktiwiteite onderneem;
- (h) die getalle en verspreiding van vreemde en indringer spesies en probleem diere in 'n beskermde gebied, bestuur en beheer; en
- (i) aan toepaslike openbare deelnemingsprogramme deelneem om die netwerk van beskermde gebiede uit te brei.

(3) Die Agentskap mag aanbevelings maak aan die LUK met betrekking tot enige aangeleentheid wat betrekking het op 'n beskermde gebied, insluitend grondgebruik en die uitbreiding van 'n beskermde gebied.

(4) Nieteenstaande die bepalings van subartikels (1) en (2), mag die Agentskap, buite 'n beskermde gebied -

- (a) navorsing en ander wetenskaplike aktiwiteite in beskermde gebiede of ander gebiede onderneem om die inventering, evaluering, monitering en navorsing van natuurlike hulpbronne binne die beskermde gebiede soos oorweeg word in subartikel (2)(b), ondersteun;
- (b) met die LUK se toestemming, rentmeester programme ontwikkel en ooreenkomste met grondeienaars en die LUK aangaan
- (c) in toepaslike openbare deelnemingsprogramme deelneem om die stelsel van beskermde gebiede uit te brei in die Provinsie en die gesamentlike bestuur in die gebied aangrensend aan en buite die grense van die beskermde gebiede fasiliteer;
- (d) ondersoek instel en wetstoepassingsaktiwiteite onderneem, indien die aktiwiteite betrekking het op oortredings begaan binne 'n beskermde gebied;
- (e) enige aksie neem wat dit nodig ag ten einde die getalle en verspreiding van vreemde en indringer spesies en probleem-diere wat op 'n beskermde gebied kan impakteer, bestuur en beheer.

(5) Die Agentskap moet, onderhewing aan subartikel (6), voor die uitoefening of verrigting van enige bevoegdheid of funksie waarna in subartikel (4)(a), (b), (c) (d) of

(e) verwys word, die Departement inlig van sy bedoeling om dit te doen en die Departement mag, in oorleg met die Agentskap, deelneem in enige van die aktiwiteite waarna verwys word.

(6) Nieteenstaande die bepalings van subartikel (5), mag die Agentskap, in 'n noodgeval, die aktiwiteite waarna verwys word in subartikel (4)(d) uitoefen sonder om die Departement van sy bedoeling om dit te doen in te lig, maar moet so gou doenlik die Departement daarvan in kennis stel.

(7) Ten einde die effektiewe uitoefening en nakoming van sy bevoegdhede en verpligtinge soos oorweeg word in hierdie artikel te bewerkstellig, moet die Agentskap, onder andere –

- (a) toepaslike navorsings- en inligtingsbestuur stelsels ontwikkel en onderhou;
- (b) 'n databasis van alle beskermde gebiede en die ligging daarvan in die Provinsie ontwikkel en onderhou;
- (c) fondse van die Oos Kaap Biodiversiteitsbewaring en Ontwikkelingsfonds wat in artikel 39 oorweeg word, in ooreenstemming met die doelwitte van daardie Fonds toeken.

13 Bevoegdhede en pligte van Agentskap met betrekking tot toerisme

(1) Die Agentskap is verantwoordelik vir die bemarking, bevordering en ontwikkeling van toerisme in die Provinsie en die transformasie van die toerisme industrie.

(2) Die Agentskap, bykomend tot enige ander bevoegdheid of funksie waarvoor in hierdie Wet voorsiening gemaak word, moet –

- (a) die Provinsie as 'n voorkeur bestemming vir internasionale, streeks- en plaaslike toeriste bemark deur, onder andere –
 - (i) bemarkingsstrategieë wat gemik is daarop om internasionale, streek en plaaslike toerisme te ontwikkel en te implementeer; en
 - (ii) in toerisme-bemarkingsinisiatiewe en strategieë van die Departement of ander staatsorgane deel te neem;

(b) toerisme in die Provinsie bevorder deur, onder andere –

- (i) die toeriste aantreklikhede van die Provinsie, insluitend die toerisme produkte in die beskermde gebiede, op enige wyse wat dit mag goeddunk adverteer of bekend maak;
- (ii) reis of toeriste boeke of gidse, kaarte, plakkate, brosjures en biljette en publikasies van enige aard wat daarop gemik is om bruikbaar te wees vir toeriste in die Provinsie, of andersins gemik op die bereiking van sy oogmerke, hetsy direk of indirek, te produseer, publiseer, druk en verkoop en met of sonder koste versprei;
- (iii) met betrekking tot die toeriste industrie in die Provinsie, rolprente, fotos of ander beeldmateriaal (insluitend video en digitale materiaal) te produseer en versprei, met of sonder koste, en deur uitstallings, uitsendings, televisie uitsendings, praatjies en openbare lesings te borg, reël of organsieer;

(c) toerisme in die Provinsie ontwikkel deur, onder andere –

- (i) toerisme ontwikkelingsgeleenthede te identifiseer en toepaslike inisiatiewe en programme te implementeer om dit te ontgin;
- (ii) effektiewe maatreels implementeer om die bevordering van die vlak van standarde van toerisme produkte en dienste wat in die Provinsie aangebied word, te fasiliteer;
- (iii) toerisme opleidingsbehoefte te identifiseer en toerisme opleidingsinisiatiewe te fasiliteer;
- (iv) bystand te verleen met en deel te neem in die ontwikkeling en implementering van 'n nasionalen stelsel van standarde, klassifikasie en gradering vir toeriste akkommodasie, instansies, produkte en dienste;
- (v) beleggingsgeleenthede en potensiële beleggingsgeleenthede in toerisme in die Oos Kaap, in samewerking met staatsorgane of

instansies verantwoordelik vir beleggings of bellegingsbevordering in die Provinsie, te identifiseer; en

- (d) die transformasie van die toerisme industrie te fasiliteer deur die sporing van die huidige voorsieningsketting prosesse van die staatsdepartemente van die Provinsie in die verkryging van akkommodasie, instansies, produkte en dienste in die Provinsie, te fasiliteer.

(3) Ten einde die bevoegdhede en verpligtinge soos oorweeg word in hierdie artikel effektief uit te oefen en na te kom, moet die Agentskap, onder andere –

- (a) ten einde toerisme aktiwiteite na te volg en om die ekonomiese bydrae daarvan in die Provinsie te bepaal, toepaslike navorsings- en inligting bestuurstelsels ontwikkel en onderhou;
- (b) 'n databasis van alle toerisme aantreklikhede, geriewee, infrastruktuur, dienste, natuurlike en kultuur aantreklikhede en waar hulle in die Provinsie voorkom, ontwikkel en onderhou;
- (c) as sekretariaat vir die Provinsiale Registrateur vir Toeriste Gidse wie deur die LUK aangestel word ingevolge artikel 21 van die Wet op Toerisme, 1993 en aan die Agentskap gesekondeer is ingevolge hierdie Wet, dien;
- (d) enige toeriste gerief en persoon wat 'n toeriste diens aanbied of bedryf soos oorweeg word in Hoofstuk 6, registreer; en
- (e) fondse van die Oos Kaap Toerisme Ontwikkelingsfonds soos oorweeg word in artikel 38, in ooreenstemming met die doelwitte van daardie Fonds, toeken.

14 Bevoegdhede en pligte van Agentskap met betrekking tot administrasie van Agentskap

Die Raad mag-

- (a) na oorleg met die LUK, die diensstaat van die Agentskap bepaal, insluitende die sekretariaat van die Provinsiale Registrateur van Toeriste Gidse wat in artikel 21 van die Toerisme Wet, 1993 beoog word, en die

uitvoerende bestuur en ander werknemers soos oorweeg word in artikel 28, aanstel;

- (b) by wyse van ooreenkoms, die dienste van enige persoon, insluitend enige orgaan van die staat, aanstel vir die verrigting van enige spesifieke handeling, taak of opdrag;
- (c) enige reg in of met betrekking tot 'n roerende of onroerende bate verkry of vervreem, of enige eiendom huur of verhuur;
- (d) 'n bank rekening opmaak en bedryf;
- (e) enige fondse van die Agentskap belê;
- (f) onderhewig aan die Wet op Openbare Finansiële Bestuur, 1999, geld leen;
- (g) fooie hef vir enige werk verrig of dienste gelewer of tantième as gevolg van enige uitvindings, of rekenaar programme;
- (h) versekering uitneem teen-
 - (i) enige verlies, skade of risiko; of
 - (ii) enige aanspreeklikheid wat dit mag opdoen in die toepassing van hierdie Wet;
- (i) lede van die Raad en personeel lede verseker ten opsigte van liggaamlike besering, ongeschiktheid of dood slegs en direk voortspruitend uit 'n ongeluk wat plaasvind in die loop van die verrigting van hulle verpligtinge; en
- (j) regshandelinge verrig, insluitend handelinge wat verband hou met of ten behoeve van enige ander persoon of staatsorgaan.

Hoofstuk 4

Algemene Bestuur van Agentskap

15 Rol van Raad

- (1) Die Agentskap word bestuur deur 'n Raad wat -

- (a) strategiese leiding vir die Agentskap gee;
- (b) verantwoordelik is vir die prestasie van die Agentskap;
- (c) teenoor die LUK verantwoordelik is vir die prestasie van die Agentskap; en
- (d) ondersteun word deur 'n hoof uitvoerende beampte, ander uitvoerende bestuurders en ander werknemers.

(2) Die Agentskap kommunikeer met die LUK deur die voorsittende beampte van die Raad.

16 Samestelling van Raad

(1) Die Raad bestaan uit nie minder as sewe en nie meer as nege lede nie aangestel deur die LUK van nominasies wat ontvang word soos oorweeg word in artikel 17.

(2) Die volgende belangegroepe moet verteenwoordig word op die Raad:

- (a) Die Departement;
- (b) die toerisme industrie;
- (c) biodiversiteits- en bewaringsbestuur;
- (d) die besigheidsgemeenskap;
- (e) finansiële bestuur;
- (f) bemarkingsbestuur; en
- (g) die publiek.

(3) Die Raad moet in breë verteenwoordigend van die bevolkingsamestelling van die Provinsie wees.

17 Nominasie prosedure

(1) Die Departement moet, ten minste 90 dae voor die verstryking van elke ampstermyn van die lede van die Raad, aansoeke of nominasies versoek vir persone om aangestel te word vir die daaropvolgende ampstermyn van die Raad by wyse van kennisgewing in die *Gazette* en die plasing van 'n advertensie in 'n

toonaangewende koerant in die Provinsie ten einde die belangegroepe in artikel 16(2) bedoel, te verteenwoordig.

(2) Die uitnodiging vir aansoeke en nominasies waarna verwys word in subartikel (1) moet voorsiening maak vir aansoeke en nominasies om ingedien te word binne 30 dae van die datum van die uitnodiging of die datum van publikasie van die kennisgewing.

(3) Enige aansoek of nominasie wat gemaak word na aanleiding van 'n kennisgewing of advertensie ingevolge subartikel (1) moet vergesel word van -

- (a) die persoonlike inligting van die aansoeker of die genomineerde persoon;
- (b) besonderhede van die aansoeker of die genomineerde persoon se kwalifikasies of ondervinding in die aangeleenthede wat in artikel 16(2) gelys is;
- (c) in die geval van 'n nominasie, 'n brief van aanvaarding van die nominasie deur die genomineerde persoon;
- (d) 'n geswore verklaring deur die aansoeker of die genomineerde persoon dat hy of sy nie onbevoeg is nie ingevolge artikel 10; en
- (e) toestemming deur die aansoeker of die genomineerde persoon dat die inligting wat deur hom of haar verskaf is geverifieer mag word.

(4) Die Departement moet, binne 30 dae na die verstrykingsdatum in die kennisgewing of advertensie vermeld, die aansoeke en nominasies wat ontvang is evalueer en 'n verslag voorlê aan die LUK wat 'n opsomming bevat van die proses wat gevolg is in die uitnodiging en evaluering van aansoeke en nominasies wat ontvang is, 'n lys van alle aansoeke en nominasies ontvang en aanbevelings met betrekking tot geskikte kandidate vir aanstelling op die Raad.

(5) Wanneer die Departement die aansoeke en nominasies evalueer moet dit die volgende in ag neem—

- (a) die aansoeker of genomineerde persoon se kennis en ondervinding van die belangegroep wat hy of sy gaan verteenwoordig indien aangestel word; en

(b) die Agentskap se oogmerke.

(6) Die LUK moet, so gou doenlik na ontvangs van die verslag in subartikel (4) bedoel, die aanbevelings wat gemaak is evalueer en die lede van die Raad vir die daaropvolgende ampstermyn aanstel.

(7) Wanneer die LUK persone selekteer vir aanstelling moet die LUK -

(a) ag slaan op die behoefte om persone aan te stel wat benadeel is deur ongeregverdigde diskriminasie;

(b) ag slaan op die geografiese verspreiding in die Provinsie; en

(c) verseker dat die Raad saamgestel is uit persone wat 'n wye verskeidenheid van toepaslike ondervinding en kennis het.

(8) Indien geen, onvoldoende of ongeskikte aansoeke of nominasies binne die tydperk in die kennisgewing of advertensie vermeld ontvang word, moet die Departement die LUK daarvan inlig in die verslag in subartikel (4) bedoel, en die LUK mag, na oorleg met die Raad, die vereiste getal persone aanstel, wie, as dit nie was vir die feit dat daardie persone nie aansoek gedoen het of genomineer is nie ingevolge die prosedure wat in hierdie artikel bedoel word, kwalifiseer om aangestel te word in terme van hierdie Wet.

(9) Die LUK moet, sou gou doenlik na die aanstelling van die lede van die Raad, by wyse van kennisgewing in die *Gazette* die volgende publiseer -

(a) die naam van elke persoon aangestel;

(b) die datum van wanneer die aanstelling van krag word; en

(c) die ampstermyn waarna verwys word in artikel 23.

18 Onbevoegdheid om aangestel te word as lid van Raad

'n Persoon is onbevoeg om as 'n lid van die Raad aangestel te word of te dien indien daardie persoon-

(a) 'n Lid van die Nasionale Vergadering of Nasionale Raad van Provinsies, enige provinsiale wetgewer of munisipaliteit is of word of voltyds in diens is

- van 'n orgaan van die staat, met die uitsluiting van die verteenwoordiger van die Departement in artikel 16(2)(a) bedoel;
- (b) nie 'n Suid Afrikaanse burger is nie of nie permanente verblyf het nie en wie normaalweg in die Republiek woonagtig is;
- (c) onderhewig is of word aan 'n finale bevel van die hof in terme waarvan sy of haar boedel geskwestreer is kragtens die Insolvensie Wet, 1936 (Wet No. 24 van 1936), of indien sy of haar boedel geskwestreer is in terme van die wette van enige ander land of gebied deur 'n bevoegde hof of Agentskap van sodanige land of gebied, of indien hy of sy van sy of haar boedel tot voordeel van sy krediteure afstand gedoen het;
- (d) aangehou is of deur die Hoë Hof kragtens die Wet op Geestesgesondheid, 1973 (Wet No. 18 van 1973) as geestesongesteld verklaar is;
- (e) in die Republiek of elders, aan diefstal, bedrog, vervalsing of uitreiking van 'n vervalste dokument, meened, of enige oortreding waarvan oneerlikheid 'n element is of van enige oortreding in terme van die Wet op Voorkoming van Korruptsie, 1958 (Wet No. 6 van 1958), die Wet op Korruptsie, 1992 (Wet No. 94 van 1992), Deel 1 van 4, of artikel 17, 20 of 21 (in so verre dit betrekking het op die voormelde oortredings) van Hoofstuk 2 van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede Wet, 2004 (Wet No. 12 van 2004), of die Maatskappye Wet, 1973 (Wet No. 61 van 1973), of van die oortreding van hierdie Wet, ongeag of sodanige gevangenisstraf ten volle of gedeeltelik opgeskort is, skuldig bevind is;
- (f) aan 'n oortreding, anders as 'n oortreding in paragraaf (e) bedoel en met gevangenisstraf sonder die opsie van 'n boete vir 'n tydperk van nie minder as drie maande, ongeag of sodanige gevangenisstraf ten volle of gedeeltelik opgeskort is, skuldig bevind is;
- (g) sonder toestemming inligting wat verkry word as gevolg van sy of haar lidmaatskap van die Raad openbaar of onbehoorlik daarmee handel; of
- (h) versuim om 'n belang in artikel 22(1) bedoel te openbaar.

19 Bedanking van lid en ontruiming van amp

(1) 'n Lid van die Raad mag ter enige tyd van die Raad bedank met een maand se skriftelike kennisgewing aan die voorsittende beampte wie onmiddelik die LUK, Raad en die hoof uitvoerende beampte dienoooreenkomstig in kennis moet stel.

(2) 'n Lid van die Raad wie bedank soos in subartikel (1) bedoel moet sy of haar amp ontruim aan die einde van die kennisgewing tydperk hierin bedoel.

(3) 'n Lid van die Raad hou op om 'n lid te wees en moet sy of haar amp ontruim met onmiddelike gevolg indien hy of sy-

(a) nie meer bevoeg is ingevolge artikel 18 om 'n lid te wees nie; of

(b) deur die LUK in terme van artikel 20 uit sy amp verwyder word.

20 Verwydering van lid van Raad, ontbinding van Raad en aanstelling van tussentydse Raad

(1) Die LUK mag, na behoorlike ondersoek, of op aanbeveling van die Raad na behoorlike ondersoek, met onmiddelike gevolg 'n lid van die Raad uit sy of haar amp verwyder as gevolg van enige of alle van die volgende:

(a) Wangedrag;

(b) onvermoë om die verpligtinge van sy of haar amp doeltreffend na te kom;

(c) afwesigheid van drie opeenvolgende vergaderings van die Raad sonder die toestemming van die Raad, behalwe met bewys van goeie rede; en

(d) versuim om 'n belang in terme van artikel 22 te openbaar of om te stem op of bywoning van of deelname in, verrigtinge van die Raad terwyl hy of sy sodanige belang in artikel 22 bedoel, het.

(2) Die LUK mag, na behoorlike ondersoek, die Raad met onmiddelike gevolg ontbind, indien dit versuim in enige of alle van die volgende:

(a) Nakoming van sy fidusiëre verpligtinge;

(b) bereiking van sy doelwitte in terme van hierdie Wet; en

(c) uitvoering van sy verpligtinge soos in Hoofstuk 3 bedoel.

(3) Na die ontbinding van die Raad in subartikel (2) bedoel, moet die LUK 'n tussentydse Raad aanstel wat bestaan uit tussen vyf en sewe lede en hy of sy hoef nie die aansoek, nominasie en aanstellingsprosedure in artikel 17 bedoel te volg nie.

(4) Die LUK moet die tussentydse Raad binne 30 dae na die ontbinding van die Raad aanstel en die ampstermyn van die tussentydse Raad is 'n tydperk wat nie ses maande oorskrei nie.

(5) Die LUK moet die voorsittende Beamppte en onder-voorsittende Beamppte van die tussentydse Raad aanstel.

(6) Die bepalings van hierdie Wet met betrekking tot die Raad is van toepassing op die tussentydse Raad.

21 Aanstelling van lid in vakante amp

(1) Wanneer 'n amp op die Raad vakant word as gevolg van enige handeling in artikel 19 bedoel, of indien 'n lid van die Raad oorlede is voor die vestyking van sy of haar ampstermyn, moet die Raad, so gou doenlik nadat die amp vakant word die LUK in kennis stel dat die amp vakant geword het;

(2) Die LUK moet, so gou doenlik na die ontvangs van die inligting van die Raad -

(a) op 'n oop en deursigtige wyse, die belangegroep wat deur daardie lid verteenwoordig was versoek om nominasies te verskaf vir 'n verteenwoordiger of aansoeke versoek vir 'n persoon om in die vakante amp aangestel te word;

(b) die aansoeke en nominasies ontvang evalueer; en

(c) 'n genomineerde persoon of aansoeker in die vakante amp aanstel.

(3) Indien geen, onvoldoende of ongeskikte aansoeke of nominasies bedoel word in subartikel (1)(b) ontvang word, en die LUK mag, na oorleg met die Raad, 'n persoon op die Raad aanstel wie, as dit nie was vir die feit dat daardie persoon nie aansoek gedoen het of genomineer is nie ingevolge die prosedure wat in hierdie artikel bedoel word, kwalifiseer om aangestel te word in terme van hierdie Wet.

(4) Die LUK moet, sou gou doenlik na die aanstelling van die lid van die Raad, by wyse van kennisgewing in die *Gazette* die volgende publiseer -

- (a) die naam van die persoon aangestel;
- (b) die datum van wanneer die aanstelling van krag word; en
- (c) die ampstermyn waarna verwys word in artikel 23.

(5) Die persoon wie aangestel is tot die vakante amp op die Raad vul die vakante amp vir die gedeelte van die tydperk wat die lid wie se amp vakant geword het aangestel was en wat nie verstryk het nie.

22 Openbaarmaking van belang

(1) 'n Persoon mag nie op die Raad aangestel word nie, tensy sodanige persoon die nodige openbaarmaking gemaak het dat -

- (a) direk of indirek, persoonlik of deur sy of haar eggenote, vennoot of assosiaat, dat hy of sy 'n direkte of indirekte finansiële belang in die toerisme of biodiversiteitsbestuur industrie het; of
- (b) sy of haar eggenote, vennoot of assosiaat, 'n amp beklee in of 'n werknemer is van enige maatskappy, organisasie of ander persoon, ongeag of dit 'n individu of regspersoon is, wat 'n direkte of indirekte finansiële belang het van die aard wat in paragraaf (a) bedoel word.

(2) Indien dit, te enige tyd gedurende die verrigtinge van die Raad, voorkom dat 'n Raadslid enige belang het of kan hê wat 'n konflik van belang teweeg kan bring tussen hom of haar of sy of haar belang en die Agentskap en sy belange-

- (a) moet daardie Raadslid dadelik die aard van sy of haar belang openbaar en die vergadering verlaat ten einde die oorblywende Raadslede in staat te stel om die aangeleentheid te bespreek en te besluit of daardie Raadslid verhoed word van deelname in daardie vergadering as gevolg van 'n konflik van belang; en
- (b) die openbaarmaking van 'n belang deur daardie Raadslid en die besluit wat deur die oorblywende Raadslede met betrekking tot die

aangeleentheid geneem word, moet ingesluit word in die notule van die vergadering.

(3) Indien enige Raadslid versuim om enige belang te openbaar soos vereis word deur subartikel (2) of, onderhewig aan die bepalinge van daardie subartikel, indien hy of sy teenwoordig is by die vergaderplek waar 'n vergadering van die Raad gehou word of op enige wyse deelneem in die verrigtinge van die Raad, is die relevante verrigtinge van die Raad nietig.

23 Voorsittende beampte en onder-voorsittende beampte

(1) Die LUK moet 'n voorsittende beampte en 'n onder-voorsittende beampte vir elke nuut saamgestelde Raad aanstel.

(2) Die onder-voorsittende beampte moet, indien die voorsittende beampte vir enige rede nie in staat is om voor te sit nie, waarneem as voorsittende beampte en moet al die funksies van die voorsittende beampte verrig en mag al die bevoegdhede van die voorsittende beampte uitoefen.

(3) Indien beide die voorsittende beampte en die onder-voorsittende beampte vir enige rede nie in staat is om tydens 'n Raadsvergadering voor te sit nie, moet die lede wat teenwoordig is een van die lede verkies om by daardie vergadering voor te sit en die persoon wat verkies is mag al die funksies en al die bevoegdhede van die voorsittende beampte verrig en uitoefen.

(4) 'n Voorsittende beampte of onder-voorsittende beampte mag sy amp ontruim en sodanige ontruiming beëndig nie sy of haar lidmaatskap van die Raad nie en indien die voorsittende beampte of onder-voorsittende beampte die setel ontruim het, moet die LUK 'n voorsittende beampte of onder-voorsittende beampte aanstel vanuit die geledere van die Raadslede vir die oorblywende ampstermyn van die Raad.

24 Ampstermyn

(1) 'n Raadslid beklee die pos vir 'n tydperk van drie jaar, bereken vanaf die datum vandat hulle aanstelling van krag word en 'n Raadslid mag aangestel word vir een addisionele ampstermyn wat nie drie jaar oorskrei nie.

(2) Ongeag subartikel (1), mag die LUK, by wyse van kennisgewing in die *Gazette*, na oorleg met die Raad, die ampstermyn van die Raad vir 'n tydperk van ses maande verleng, maar hy of sy mag slegs die ampstermyn van die Raad twee keer verleng.

(3) Ongeag die duur van die ampstermyn in subartikel (1) bedoel, moet Raadslede in hulle pos voortgaan tot tyd en wyl die daaropvolgende Raad behoorlik deur die LUK saamgestel is.

25 Vergaderings van Raad

(1) Die LUK moet, so gou doenlik na die aanstelling van die Raadslede vir die eerste ampstermyn, die tyd en plek van sy eerste vergadering bepaal.

(2) Die Raad moet die tyd en plek van enige toekomstige vergaderings vir die eerste en daaropvolgende ampstermyne van die Raad bepaal.

(3) Die Raad vergader so gereeld soos wat omstandighede vereis, maar ten minste vier keer in elke finansiële jaar.

(4) 'n Meerderheid van Raadslede is 'n kworum by 'n vergadering.

(5) Elke Raadslid, insluitende die voorsittende beampte, het een stem en in die geval van 'n staking van stemme, het die voorsittende beampte van die vergadering het 'n beslissende stem bykomend tot sy of haar normale stem.

(6) Onderhewig aan die goedkeuring van die Raad, mag enige persoon wie nie 'n Raadslid is nie dit bywoon of daaraan deelneem, maar mag nie in 'n vergadering van die Raad stem nie.

(7) Die Raad moet beheerreëls aanneem wat voorsiening maak vir die prosedure van verrigtinge by vergaderings en ter rekord plasing van die verrigtinge insluitende die beheerreëls vir spesiale vergaderings.

26 Besluite van Raad

(1) 'n Besluit van die meerderheid van Raadslede wat teenwoordig is by enige behoorlike gekonstitueerde vergadering is 'n besluit van die Raad.

(2) Geen besluit wat geneem word deur of handeling wat verrig word kragtens die goedkeuring van die Raad is ongeldig bloot as gevolg van -

- (a) 'n vakante amp op die Raad ten tye wat die besluit geneem is of die handeling goedgekeur is nie; of
- (b) die feit dat enige persoon wie nie geregtig was om te sit as 'n Raadslid nie, deelgeneem het aan die vergadering ten tye wat die besluit geneem is of die handeling goedgekeur is, indien die lede wie teenwoordig was, die vereiste prosedure vir besluite gevolg het.

27 Verpligtinge van Raad

(1) Die Raad moet, addisioneel tot sy die verpligtinge en verantwoordelikhede as rekenpligtige gesag van die Agentskap soos bedoel in die Wet op Openbare Finansiële Bestuur, 1999 -

- (a) voorsiening maak vir effektiewe, deursigtige en verantwoordbare korporatiewe beheer en effektiewe oorsig van die sake van die Agentskap handhaaf, deur beheerreëls aan ten neem in ooreenstemming met subartikel (2);
- (b) alle toepaslike wetgewing en ooreenkomste nakom; en
- (c) ten alle tye handel in ooreenstemming met die gedragskode vir Raadslede wat deur die LUK voorgeskryf word.

(2) Die Raad moet beheerreëls aanneem wat in hoofsaak voldoen aan die beginsels van goeie bestuur van openbare instellings en wat vir ten minste die volgende voorsiening maak:

- (a) Die rol en vergaderings van die Raad;
- (b) die rol van die voorsittende beampte van die Raad;
- (c) prestasie evaluering van Raadslede;
- (d) die rol van die hoof uitvoerende beampte en ander uitvoerende bestuurders van die Agentskap;

- (e) prestasie evaluering van die hoof uitvoerende beampte en ander uitvoerende bestuurders van die Agentskap;
- (f) die samestelling en prosedures vir en prosedure van vergaderings van komitees van die Raad;
- (g) die finansiële bestuur van die Agentskap soos bedoel in die Wet op Openbare Finansiële Bestuur, 1999;
- (h) 'n verkrygingsbeleid; en
- (i) 'n vergoedingsbeleid vir werknemers van die Agentskap, ontwikkel in oorleg met die LUK en die LUK verantwoordelik vir finansies in die Provinsie.

28 Uitvoerende bestuur en werknemers

(1) Die Raad moet –

- (a) 'n hoof uitvoerende beampte aanstel;
- (b) die ampstermyn van die hoof uitvoerende beampte bepaal; en
- (c) die diensvoorwaardes van die hoof uitvoerende beampte bepaal.

(2) Die hoof uitvoerende beampte moet 'n prestasie ooreenkoms met die Raad aangaan by aanvaarding van sy of haar aanstelling en hy of sy is verantwoordelik teenoor die Raad.

(3) Die hoof uitvoerende beampte is verantwoordelik vir die bedryf van die Agentskap om te verseker dat die Agentskap effektief en doeltreffend bestuur word en in ooreenstemming met die strategiese besluite van die Raad en die implementering daarvan deur die uitvoerende komitee.

(4) Die Agentskap moet die diensvoorwaardes vir sy werknemers bepaal, insluitende die vergoeding wat in ooreenstemming met die vergoedingsbeleid in artikel 27(2)(i) bedoel .

(5) Die hoof uitvoerende beampte mag, onderhewig aan die algemene of spesiale opdragte van die Raad (indien enige), werknemers vir die Agentskap aan te

stel om die werk wat nodig is vir die bereiking van die oogmerke van die Agentskap te verrig.

(6) Die hoof uitvoerende beamppte mag enige oorspronklike of gedelegeerde verpligting of bevoegdheid aan enige werknemer wat in terme van subartikel (5) aangestel is, in ooreenstemming met artikel 31(1)(c) delegeer.

29 Komitees

(1) Die Raad mag, onderhewig aan subartikel (2), enige komitee instel om bystand te verleen in die verrigting van sy funksies en lede vir daardie komitee aanstel, en die Raad mag ter enige tyd enige sodanige komitee ontbind of hersaamstel.

(2) Die Raad moet, ten minste, die volgende permanente komitees instel:

- (a) 'n uitvoerende komitee;
- (b) 'n audit komitee;
- (c) 'n vergoedingskomitee; en
- (d) 'n disziplinêre komitee.

(3) Die Raad moet, onderhewig aan enige toepaslike wetgewing, die aantal lede en die opdrag van elke komitee bepaal.

(4) Die Raad mag die lidmaatskap van 'n lid van 'n komitee summier beëindig indien -

- (a) die verrigting deur die lid van die bevoegdhede en funksies van daardie komitee onvoldoende is;
- (b) die lid, of deur siekte of vir enige ander rede, nie in staat is om die funksies van die komitee doeltreffend te verrig nie; of
- (c) die lid versuim het om enige wetgewing wat gedrag van lede voorskryf na te kom of oortree het.

(5) Indien hierdie Wet of die Raad nie 'n voorsittende beamppte vir 'n komitee aanwys nie, mag die komitee 'n voorsittende beamppte vanuit hulle geledere verkies.

30 Uitvoerende komitee

(1) Die uitvoerende komitee wat kragtens artikel 29 ingestel word bestaan uit die voorsittende beampte van die Raad en wie as die voorsittende beampte van die uitvoerende komitee optree, die hoof uitvoerende beampte, enige toepaslike uitvoerende bestuurder en die regsadviseur van die Agentskap.

(2) Die oogmerk van die uitvoerende komitee is om die dag-tot-dag aktiwiteite van die Agentskap te bestuur om te verseker dat die strategiese besluite van die Raad effektief en tydig geïmplementeer word en dat die Agentskap die bepalings van hierdie Wet, die Wet op Openbare Finansiële Bestuur, 1999 en enige ander toepaslike wet nakom.

31 Delegasies deur Raad

(1) Die Raad moet 'n stelsel van delegasie ontwikkel ten einde administratiewe en operasionele doeltreffendheid te bevorder en voorsiening maak vir voldoende wigte en teenwigte, en, die Raad mag, in ooreenstemming met daardie stelsel -

(a) die toepaslike bevoegdhede, uitsluitend die bevoegdheid om 'n komitee in te stel, beheerreëls vir 'n komitee voor te skryf en fondse toe te ken, skriftelik aan 'n komitee, die hoof uitvoerende beampte, 'n Raadslid of 'n werknemer van die Agentskap deleger;

(b) die verrigting van enige van sy funksies aan 'n komitee, die hoof uitvoerende beampte, 'n Raadslid of 'n werknemer van die Agentskap toeken; en

(c) die delegasie en toekenning van enige van die bevoegdhede of funksies wat aan die hoof uitvoerende beampte gedelegeer of toegeken is deur die Raad of aan hom of haar toegeken is kragtens hierdie Wet, en wat aan enige werknemer van die Agentskap gedelegeer is, goedkeur.

(2) 'n Delegasie of toekenning in terme van subartikel (1) -

(a) is aan sodanige beperkings en voorwaardes wat die Raad mag opleë onderhewig;

(b) mag subdelegasie goedkeur; en

- (c) ontnem nie die Raad of hoof uitvoerende beampte in die geval van 'n delegasie of toekenning in terme van subartikel (1)(c) van die gedelegeerde bevoegdheid of die verrigting van die verpligting wat toegeken is.

(3) Die Raad mag enige besluit wat deur 'n komitee, die hoof uitvoerende beampte, 'n Raadslid of 'n werknemer van die Agentskap geneem is as gevolg van 'n delegasie of toekenning in terme van subartikel (1), bevestig, wysig of terugtrek.

Hoofstuk 5

Finansiële Aangeleenthede en verslagdoening

32 Finansiële jaar

Die finansiële jaar van die Agentskap is van 1 April tot 31 Maart.

33 Inkomste van Agentskap

Die inkomste van die Agentskap bestaan uit -

- (a) fooie, heffings en ander gelde ontvang of gehef deur die Agentskap kragtens die bepalings van hierdie Wet of enige ander wet;
- (b) inkomste verkry deur die verrigting van sy funksies;
- (c) geld wat deur die Wetgewer toegeken word;
- (d) toekennings van staatsorgane ontvang;
- (e) vrywillige bydraes, donasies en bewilligings deur die Agentskap ontvang;
- (f) geld wat in terme van hierdie Wet geleen word;
- (g) inkomste wat uit beleggings verkry word;
- (h) strawwe, boetes en die opbrengs van verkope van verbeurdverklaarde items wat die Agentskap kragtens die bepalings van hierdie Wet of enige ander wet ontvang of herwin en toegeken word; en
- (i) geld wat die Agentskap uit enige ander bron toeval.

34 Jaarlikse begroting van Agentskap

(1) Die Agentskap moet, nie later as 30 September van elke finansiële jaar of enige ander tydperk tussen die die LUK en die Agentskap ooreengekom, deur die HVD, 'n begroting van die verwagte inkomste en uitgawe vir die volgendefinansiële jaar aan die LUK voorlê vir sy of haar goedkeuring, soos in die Wet op Openbare Finansiële Bestuur, 1999, bepaal word.

(2) Die Agentskap mag nie vir 'n tekort begroot nie en mag nie oorskotte akkumuleer sonder die vooraf skriftelike toestemming van die Nasionale tesourie nie.

(3) Die Raad is verantwoordelik om te verseker dat die uitgawes van die Agentskap in ooreenstemming die goedgekeurde begroting is.

35 Inhoud van strategiese plan

(1) Die Agentskap moet, nie later as 30 September van elke finansiële jaar, of enige ander tydperk tussen die LUK en die Agentskap ooreengekom deur die HVK 'n strategiese plan aan die LUK vir sy of haar goedkeuring voorlê, soos bepaal in die Wet op Openbare Finansiële Bestuur, 1999.

(2) Die strategiese plan moet –

(a) n tydperk van drie jaar dek;

(b) jaarliks op 'n deurlopende basis opgedateer word; en

(c) die grondslag van die jaarlikse verslae van die Agentskap vorm.

(3) Bykomend tot die vereistes van die Wet op Openbare Finansiële Bestuur, 1999, en enige doelwitte en resultate wat die LUK mag bepaal, moet die strategiese plan van die Agentskap voorsiening maak vir die wyse waarop die Agentskap beplan om gevolg te gee aan sy doelstellings soos in artikel 11 omskryf, insluitende 'n inter-regeringskoördineringsstrategie en 'n eie inkomste genereringstrategie en voorlopige aksie planne.

(4) Die LUK en die Agentskap moet bepaal wat aanvaarbare vlakke van wesenlikheid en betekenisvolheid daarstel ten opsigte van sake wat in die Agentskap se jaarverslag en finansiële state opgeneem moet word ingevolge artikels 54(2) en 55(2) van die Wet op Openbare Finansiële Bestuur, 1999.

36 Voorbereiding en voorlegging van jaarverslag en finansiële state

(1) Die Raad is die rekenpligtige gesag vir die Agentskap en moet die jaarverslag en finansiële state van die Agentskap ingevolge artikel 55 van die Wet op Openbare Finansiële Bestuur, 1999 voorberei en dit, tesame met die ouditeur se verslag op die finansiële state, aan die Oos Kaapse tesourie, die LUK en, indien die Ouditeur-Generaal dit nie geouditeer het nie, die Ouditeur-Generaal, voorlê

(2) Die Raad moet, vir doeleindes van artikel 55(3) van die Wet op Openbare Finansiële Bestuur, 1999, die jaarverslag en finansiële state deur die HVD aan die LUK voorlê vir ter tafellegging in die Wetgewer.

(3) Die LUK moet, binne 20 dae na ontvangs, die jaarverslag en finansiële state van die Agentskap, in die Wetgewer ter tafel lê indien die Wetgewer in sitting is, of indien die Wetgewer nie in sitting is nie, binne 14 dae na die aanvang van die daaropvolgende sitting.

37 Kwartaalverslag

(1) Die Raad moet, in streng nakoming van die tersaaklike bepalings van die Wet op Openbare Finansiële Bestuur, 1999, en die Tesourie Regulasies ingevolge daardie Wet uitgevaardig, 'n kwartaalverslag aan die LUK voorlê.

(2) Elke kwartaalverslag van die Agentskap moet met die stand van die sake, aktiwiteite, bedryf, en finansiële posisie van die Agentskap, insluitende-

- (a) die mate waartoe die Agentskap gedurende die betrokke finansiële kwartaal sy doelstellings bereik of bevorder het;
- (b) die relevante inligting met betrekking tot prestasie in die ekonomiese, doeltreffende en effektiewe benutting van hulpbronne;
- (c) die bedrag geld, indien enige, van die staat of enige ander bron ontvang en enige ander finansiële verpligting van die Agentskap; en
- (d) die volledige diensstaat en samestelling van die Agentskap.

(3) Nieteenstaande die bepalings van subartikel (1), mag die LUK, ter enige tyd, die Raad versoek om binne 'n tydperk deyr hom of haar bepaal 'n tussentydse verslag aan hom of haar voor te lê, wat betrekking het op die stand van sake,

aktiwiteite, bedryf, en finansiële posisie van die Agentskap of met betrekking tot enige spesifieke aangeleentheid deur die LUK geïdentifiseer.

(4) Die Raad moet 'n prosedure daarstel vir kwartaallikse verslagdoening aan die LUK ingevolge die Wet op Openbare Finansiële Bestuur, 1999 en hierdie Hoofstuk, ten einde effektiewe prestasie monitering, evaluering en regstellende stappe te fasiliteer.

38 Instelling van Oos Kaapse Toerisme Ontwikkelingsfonds

(1) Die Oos Kaapse Toerisme Ontwikkelingsfonds word hierby ingestel as 'n rekening in die provinsiale Tesourie.

(2) Die oogmerk van die Oos Kaapse Toerisme Ontwikkelingsfonds is om voorheen benadeelde individue, jeug en vroue in die toerisme sektor te bemagtig en ontwikkel.

(3) Die Agentskap moet, in oorleg met die LUK, 'n implementeringsplan vir die operasionalisering van die Oos Kaapse Toerisme Ontwikkelingsfonds ontwikkel.

(4) Die Oos Kaapse Toerisme Ontwikkelingsfonds mag bestaan uit –

- (a) 'n persentasie van toepaslike Agentskapsfondse, toegeken deur die Wetgewer;
- (b) enige skenking of bewilliging wat vir 'n spesifieke toerisme-ontwikkelingsaktiwiteit gemaak word;
- (c) 'n provinsiale toerisme ontwikkelingsheffing in artikel 41 bedoel; en
- (d) enige ander befondsingsmeganisme wat deur die Agentskap geïdentifiseer is en deur die LUK goedgekeur word voor die benutting van daardie befondsingsmeganisme deur die Agentskap.

(5) Enige gelde, bates of beleggings in die Oos Kaapse Toerisme Ontwikkelingsfonds aan die einde van 'n finansiële jaar moet in die Oos Kaapse Toerisme Ontwikkelingsfonds na die daaropvolgende finansiële jaar oorgedra word.

39 Instelling van Oos Kaapse Biodiversiteitsbewaring en Ontwikkelingsfonds

(1) Die Agentskap moet 'n fonds vir die bewaring en ontwikkeling van biodiversiteit instel en die fonds word die Oos Kaapse Biodiversiteitsbewaring en Ontwikkelingsfonds genoem.

(2) Die oogmerk van die Oos Kaapse Biodiversiteitsbewaring en Ontwikkelingsfonds is die bevordering van natuurlike hulpbron beskermingsaktiwiteite binne die beskermde gebiede.

(3) Die Agentskap moet, in oorleg met die LUK, 'n implementeringsplan vir die operasionalisering van die Oos Kaapse Biodiversiteitsbewaring en Ontwikkelingsfonds ontwikkel.

(4) Die Oos Kaapse Biodiversiteitsbewaring en Ontwikkelingsfonds mag bestaan uit –

- (a) 'n persentasie van toepaslike Agentskapsfondse toegeken deur die Wetgewer;
- (b) enige donasie of erflating wat vir 'n spesifieke natuurlike hulpbron beskermingsaktiwiteit gemaak word; en
- (c) enige ander befondsingsmeganisme wat deur die Agentskap geïdentifiseer word en deur die LUK goedgekeur word voor die benutting van daardie befondsingsmeganisme deur die Agentskap, insluitend die heffing van toegangsgelde, boetes en bates verbeurdverklaar as gevolg van 'n oortreding wat in 'n beskermde gebied begaan word.

(5) Enige gelde, bates of beleggings in die Oos Kaapse Biodiversiteitsbewaring en Ontwikkelingsfonds aan die einde van 'n finansiële jaar moet in die Oos Kaapse Biodiversiteitsbewaring en Ontwikkelingsfonds na die daaropvolgende finansiële jaar oorgedra word.

40 Benutting van die Oos Kaapse Toerisme Ontwikkelingsfonds en die Oos Kaapse Biodiversiteitsbewaring en Ontwikkelingsfonds

(1) Die provinsiale Tesourie administreer die geld, bates en beleggings in beide die Oos Kaapse Toerisme Ontwikkelingsfonds en die Oos Kaapse

Biodiversiteitsbewaring en Ontwikkelingsfonds en moet die fondse, in ooreenstemming met die implementeringsplanne waarna in artikels 38(2) en 39(2) verwys word en die ontwikkelingsdoelwitte van die Agentskap, toeken.

(2) Die Oos Kaapse Toerisme Ontwikkelingsfonds en die Oos Kaapse Biodiversiteitsbewaring en Ontwikkelingsfonds mag gebruik word -

- (a) vir die ontwikkeling en opleiding van klein-, medium en mikro ondernemings en voorheen benadeelde individue en gemeenskappe, jeug en vroue in toerisme en biodiversiteitsbewaring;
- (b) om enige navorsing in toerisme in die Provinsie te onderneem of bevorder;
- (c) om enige navorsing in biodiversiteitsbewaring of enige aangeleentheid wat vir biodiversiteitsbewaring in 'n beskermde gebied van wesenlike belang is te onderneem of bevorder;
- (d) om aan enige persoon of liggaam wat die navorsing doen waarna verwys word in paragraaf (b) of (c), in die Provinsie of elders, finansiële bystand te verleen;
- (e) om die opvoeding en opleiding van -
 - (i) enige persoon; en
 - (ii) werknemers van die Agentskap, hetsy deur toekennings, studieleninge en beurse,aan te wakker;
- (f) om 'n bewustheid van die belangrikheid van biodiversiteitsbewaring in die Provinsie aan te wakker.

(2) Alle gelde, bates of beleggings in die Oos Kaapse Toerisme Ontwikkelingsfonds en die Oos Kaapse Biodiversiteitsbewaring en Ontwikkelingsfonds, wat by wyse van enige donasie of erflating toegeken word moet in ooreenstemming met die voorwaardes, indien enige, van sodanige donasie of erflating gebruik word.

41 Provinsiale toerisme-ontwikkelingsheffing

(1) Die Agentskap mag, in oorleg met die LUK en by wyse van kennisgewing in die *Gazette*, -

- (a) 'n provinsiale toerisme-ontwikkelingsheffing instel wat betaalbaar is deur 'n toeriste gerief of 'n persoon wat 'n toeriste diens aanbied of bedryf; en
- (b) van tyd om tyd 'n heffing voorskryf, wat by die prys van dienste gevoeg moet word wat verskaf word deur toeriste geriewe of die persoon wat 'n toeriste diens aanbied of bedryf; of
- (c) 'n heffing vasstel wat bereken is teen die koers wat in die kennisgewing bepaal word.

(2) Indien die Agentskap 'n provinsiale toerisme-ontwikkelingsheffing in ooreenstemming met hierdie artikel instel, is dit bevoeg om by wyse van siviele geding in 'n bevoegde hof, die bedrag van die heffing wat uitstaande is in terme van hierdie artikel, van 'n toeriste gerief of persoon wat aanspreeklik is vir betaling, verhaal.

Hoofstuk 6

Registrasie van Toeriste Geriewe of Persone wat Toeriste Dienste Aanbied of Bedryf

42 Register van toeriste geriewe en toeriste dienste in Provinsie

(1) Bykomend tot die register van toeriste gidse in artikel 21 van die Toerisme Wet, 1993 bedoel, moet die Agentskap 'n register van alle toeriste geriefe en persone wat 'n toeriste diens in die Provinsie aanbied of bedryf, ontwikkel en onderhou.

(2) Vir doeleindes van hierdie Hoofstuk, bied of bedryf 'n persoon 'n toeriste diens indien daardie persoon 'n toeriste gids, toer operateur, kourier of 'n opleidingsverskaffer is en 'n fasiliteit is 'n toeriste gerief indien daardie fasiliteit 'n hotel, gasteplaas, gastehuis, bed en ontbyt instelling, konferensie sentrum of restaurant is.

(3) Die Agentskap mag by wyse van kennisgewing in die *Gazette* enige ander tipe gerief of diens as 'n toeriste gerief of toeriste diens vir doeleindes van hierdie Wet aanwys.

43 Registrasie van toeriste gerief en toeriste diens in Provinsie

(1) Enige toeriste gids moet ingevolge die bepalings van die Wet op Toerisme, 1993 registreer by die Provinsiale Registrateur van Toeriste Gidse en die bepalings van daardie Wet is van toepassing op toeriste gidse.

(2) Enige toeriste gerief of persoon wat 'n toeriste diens in die Provinsie aanbied of bedryf moet by die Agentskap as sodanig registreer, met ingang van 'n datum wat deur die Agentskap vasgestel word by wyse van kennisgewing in die *Gazette*, en geen toeriste gerief of persoon wat 'n toeriste diens aanbied of bedryf mag na daardie datum voortgaan om diegerief te bedryf of die diens aan te bied of te bedryf nie tensy sodanige gerief of persoon geregistreer is.

(3) Die Agentskap moet by wyse van kennisgewing in die *Gazette*, die vereistes bepaal waaraan enige toeriste gerief of toeriste diens moet voldoen alvorens die gerief of persoon geregistreer mag word.

44 Aansoek vir registrasie as toeriste gerief of toeriste diens

(1) Enige toeriste gerief, of persoon wat 'n toeriste diens aanbied of bedryf of 'n persoon wat beoog om 'n toeriste gerief of toeriste diens te bedryf of aan te bied en te bedryf, moet by die Agentskap vir die registrasie van die toeriste gerief of toeriste diens aansoek doen.

(2) 'n Aansoek in subartikel (1) bedoel moet -

- (a) gedoen word op die wyse wat deur die Agentskap bepaal word;
- (b) vergesel word van die fooi wat deur die Agentskap by wyse van kennisgewing in die *Gazette* bepaal word;
- (c) vergesel word van enige planne, dokumente en ander inligting of besonderhede met betrekking tot die toeriste gerief of toeriste diens; en
- (d) enige addisionele dokumentasie of inligting wat deur die Agentskap vereis mag word.

45 Bevoegdhede van Agentskap met betrekking tot registrasie

(1) Die Agentskap mag, indien na sy mening, die vereistes vir die registrasie van 'n toeriste gerief of toeriste diens -

- (a) aan voldoen is, die toeriste gerief of toeriste diens of beoogde toeriste gerief of toeriste diens registreer; of
- (b) nie aan voldoen is nie of nie aan voldoen kan word nie, weier om die toeriste gerief of toeriste diens of beoogde toeriste gerief of toeriste diens te registreer.

(2) Alvorens die Agentskap 'n toeriste gerief of toeriste diens registreer -

- (a) moet die Agentskap die toeriste gerief of toeriste diens inspekteer of toesien dat dit geinspekteer word; en
- (b) mag die Agenstakp verdere ondersoeke instel met betrekking tot die toeriste gerief of toeriste diens.

46 Sertifikaat van registrasie

(1) Die Agentskap moet 'n sertifikaat van registrasie in die voorgeskrewe vorm aan 'n geregistreered toeriste gerief of persoon wat 'n toeriste diens aanbied of bedryf uitreik.

(2) Indien enige toeriste gerief of persoon wat 'n toeriste diens aanbied of bedryf ophou om geregistreer te wees of indien enige persoon ophou om 'n toeriste gerief of toeriste diens aan te bied of te bedryf, moet daardie toeriste gerief of persoon sonder versuim, die sertifikaat van registrasie aan die Agentskap teruggee.

47 Publikasie van lys van geregistreerde toeriste gerief en toeriste dienste

Die Agentskap moet periodiek, op sodanige wyse as wat dit mag bepaal, 'n lys en besonderhede van geregistreerde toeriste gerief en toeriste dienste tesame met aanbied of bedryf van sodanige toeriste gerief en toeriste dienste publiseer.

48 Kansellasië van registrasie van toeriste gerief en toeriste diens

(1) Die Agentskap mag, indien 'n toeriste gerief of 'n persoon wat 'n toeriste diens aanbied of bedryf nie die registrasie vereiste nakom nie, 'n kennisgewing aan

daardie toeriste gerief of persoon uitreik waarin die gerief of persoon drie maande vanaf die datum van die kennisgewing gegun word om die registrasie vereiste na te kom, en by versuim om te voldoen mag die Agentskap die registrasie terugtrek.

(2) Die Agentskap mag, indien die Agentskap dit nodig ag, die tydperk in subartikel (1) bedoel, verleng.

(3) Die toeriste gerief of die persoon wat 'n toeriste diens aanbied of bedryf die ten opsigte waarvan 'n kennisgewing uitgereik is, mag voor verstryking van die tydperk van drie maande of enige tydperk so verleng, skriftelike voorleggings aan die Agentskap rig met betrekking tot die beoogde terugtrekking van die registrasie van die toeriste gerief of toeriste diens.

(4) Indien, by die verstryking van die tydperk van drie maande of die tydperk so verleng, die Agentskap van mening is dat die betrokke vereiste nie nagekom is nie, mag die Agentskap die registrasie terugtrek en moet die toeriste gerief of die persoon wat die toeriste diens aanbied of bedryf daarvan in kennis gestel word.

49 Tydperk van geldigheid van registrasie en hernuwing

(1) Enige registrasie in terme van hierdie Wet is geldig vir 'n tydperk van een jaar bereken van die datum van uitreiking van die registrasie sertifikaat.

(2) Die toeriste gerief of persoon wat 'n toeriste diens aanbied of bedryf moet, ten minste 60 dae voor verstryking van die registrasie, by die Agentskap aansoek doen vir die hernuwing van die registrasie.

(3) 'n aansoek in subartikel (1) bedoel moet -

(a) gedoen word op die wyse wat die Agentskap bepaal; en

(b) vergesel word van die hernuwingsfooi wat deur die Agentskap by wyse van kennisgewing in die *Gazette* bepaal word.

(4) Die Agentskap mag, alvorens die registrasie van 'n toeriste gerief of toeriste diens hernu word, -

(a) die toeriste gerief of toeriste diens inspekteer of toesien dat dit geïnspekteer word; en

- (b) verdere ondersoeke instel met betrekking tot die toeriste gerief of toeriste diens.

50 Appel teen besluit van Agentskap

(1) Enige persoon wat ontevrede is met enige besluit van die Agentskap met betrekking tot -

- (a) die weiering van 'n aansoek vir registrasie;
 - (b) die terugtrekking van enige registrasie; of
 - (c) die kansellasië van enige registrasie,
- mag, op die voorgeskrewe wyse, na die LUK appelleer.

(2) Die LUK mag die Agentskap versoek om hom of haar met die skriftelike redes vir sy besluit en 'n verslag van die verrigtinge te voorsien.

(3) Wanneer 'n appèl aangeteken word -

- (a) word die besluit van die Agentskap opgehef, totdat die appèl gefinaliseer is; of
- (b) teen die weiering om enige registrasie te hernu, mag die LUK die geldigheid van sodanige registrasie verleng, totdat die appèl gefinaliseer is.

(4) Die LUK moet, na oorweging van die voorlegging en redes vir sy besluit deur die Agentskap verskaf -

- (a) die besluit van die Agentskap handhaaf; of
- (b) sodanige besluit ter syde stel,

en indien hy of sy besluit om die besluit ter syde te stel, dit met 'n behoorlike besluit vervang.

(6) Die besluit van die LUK is finaal.

Hoofstuk 7

Onderzoek van Persele

51 Aanwysing van inspekteur

(1) Die Agentskap mag enige werknemer van die Agentskap as 'n inspekteur aanstel of aanwys.

(2) Die LUK mag enige werknemer van die Agentskap as 'n omgewingsbestuur inspekteur aanwys in terme van artikel 31C van die "National Environment Management Act, 1998".

(3) 'n Inspekteur word, in die uitoefening van sy of haar bevoegdhede in terme van hierdie Wet, geag om vredesbeampte te wees soos omskryf in artikel 1 van die Strafproses Wet, 1977 (Wet No. 51 van 1977).

(4) 'n Sertifikaat van aanstelling of aanwysing wat deur die Agentskap in die voorgeskrewe vorm uitgereik word en wat sertifiseer dat 'n persoon aangestel of aangewys is as 'n inspekteur, is *prima facie* bewys van die aanstelling of aanwysing.

52 Bevoegdhede en pligte van inspekteur

(1) 'n Omgewingsbestuur inspekteur beskik oor al die bevoegdhede en verpligtinge en mag al die funksies wat aan 'n omgewingsbestuur inspekteur ingevolge die "National Environmental Management Act, 1998" toegeken is, uitoefen.

(2) 'n Inspekteur mag 'n inspeksie doen en nakoming vereis van hierdie Wet en enige ander wet wat aan hom of haar die bevoegdheid verleen om 'n inspeksie te doen of nakoming te vereis van enige toerisme verwante aangeleentheid.

(3) Onderhewig aan enige ander wet, mag 'n inspekteur wat 'n inspeksie doen -

(a) enige persoon teenwoordig op enige grond of 'n perseel ondervra met betrekking tot enige aangeleentheid wat relevant mag wees tot die inspeksie;

(b) enige persoon ondervra wie die inspekteur van mening is relevante inligting tot die inspeksie mag hê;

- (c) enige dokument wat 'n persoon vereis word om te hou in terme van hierdie Wet of enige ander wet of wat relevant mag wees tot enige toerisme verwante inspeksie, inspekteer;
 - (d) 'n kopie maak van enige dokument in paragraaf (c) bedoel, of indien nodig, die dokument verwyder ten einde 'n kopie te maak;
 - (e) fotos neem of oudio-visuele opnames maak van enige iets of enige persoon, proses, aksie of voorwaarde met betrekking tot enige grond of perseel;
 - (f) nakomingskennisgewings uitvaardig in terme van artikel 59 of 'n perseel in terme van artikel 60 toemaak; en
 - (g) alle nodige aksies neem ten einde die inspeksie te doen.
- (4) 'n Inspekteur wat enige iets van die grond of 'n perseel wat ondersoek word verwyder, moet-
- (a) 'n kwitansie aan die eienaar of persoon in beheer van die grond of perseel uitreik; en
 - (b) dit so gou doenlik na bereiking van die doel waarvoor dit verwyder is teruggee.

53 Betreding met lasbrief

(1) An inspekteur mag enige grond of perseel betree indien 'n 'n lasbrief in ooreenstemming met subartikel (2) uitgereik het wat die inspekteur magtig om die grond of perseel te betree, en die lasbrief is steeds geldig.

(2) 'n Regterlike amptenaar mag 'n lasbrief om enige grond of perseel te betree en te ondersoek uitreik indien die regterlike amptenaar, as gevolg skriftelike inligting op eed, rede het om te glo dat -

- (a) dat dit in die belang van die publiek nodig is om inligting te bekom en dat dit nie bekom kan word sonder betreding van die grond of die perseel; of
- (b) daar nie-nakoming is van hierdie Wet.

(3) 'n Lasbrief in terme van subartikel (2) mag ter enige tyd uitgereik word en moet pertinent -

- (a) die grond of perseel wat betree en ondersoek mag word identifiseer; en
- (b) die inspekteur magtig om die grond of perseel te betree en ondersoek en om enige iets te doen wat in artikel 52 beoog word.

(4) 'n Lasbrief in terme van subartikel (2) is geldig totdat -

- (a) dit uitgevoer word;
- (b) dit gekanselleer word deur die regterlike amptenaar wie dit uitgereik het of, in sy of haar afwesigheid, deur 'n regterlike amptenaar;
- (c) die doel waarvoor dit uitgereik was, weggeval het; of
- (d) 90 dae het verloop vanaf die datum waarop dit uitgereik was.

(5) 'n Inspekteur wat 'n lasbrief uitvoer moet, voordat enige inspeksie aanvang neem -

(a) indien die eienaar van of 'n persoon oënskynlik in beheer van die grond of perseel teenwoordig is -

- (i) homself of haarself identifiseer en sy of haar bevoegheid aan daardie persoon verduidelik of bewys lewer van sy of haar aanstelling of aanwysing; en

- (ii) 'n kopie van die lasbrief aan daardie persoon of 'n persoon daarin vermeld oorhandig; of

(b) indien die eienaar of 'n persoon oënskynlik in beheer van die grond of perseel nie teenwoordig is nie of weier om 'n kopie van die lasbrief te aanvaar, 'n kopie van die lasbrief aan die grond of perseel in 'n opvallende en sigbare plek vasheg.

54 Betreding sonder lasbrief

(1) 'n Inspekteur wie nie 'n lasbrief in sy of haar besit het nie mag enige grond of perseel betree en ondersoek met die toestemming van die eienaar of 'n persoon

oënskynlik in beheer van die grond of perseel indien daardie persoon ouer as 18 jaar oud voorkom.

(2) Bykomend tot die betreding wat in terme van subartikel (1) toegelaat word, mag 'n inspekteur enige grond of perseel sonder 'n lasbrief betree -

(a) indien enige ander wet dit magtig; of

(b) ten einde vas te stel of 'n nakomingskennisgewing wat uitgereik is in terme van artikel 59 en wat uitstaande daadwerklik nagekom is.

(3) Alvorens 'n inspeksie op enige grond of perseel in terme van hierdie artikel gedoen word, moet die inspekteur homself of haarself identifiseer en sy of haar bevoegdheid verduidelik of bewys lewer van sy of haar aanstelling of aanwysing aan die persoon oënskynlik in beheer van die grond of perseel of die persoon wie toestemming verleen het om te betree.

(4) Enige betreding en inspeksie van enige grond of perseel sonder 'n lasbrief moet tussen sonop en sononder uitgevoer word.

55 Redelike gebruik van geweld

(1) 'n Inspekteur wat 'n lasbrief in terme van artikel 53 uitvoer mag enige weerstand om betreding of inspeksie oorkom deur geweld wat redelik nodig is te gebruik, insluitend die oopbreek van 'n slot, deur of venster van die grond of perseel wat betree word.

(2) Alvorens geweld gebruik word, moet die persoon wat die lasbrief uitvoer hoorbaar toegang vereis en moet sy of haar doel aankondig, tensy hy of sy rede het om te glo dat deur dit te doen dit iemand sal uitlok om enige onderwerp of dokument wat die doel van die inspeksie is, te vernietig, weg te doen daarmee of om daarmee te peuter.

(3) Geweld mag nie gebruik word om 'n betreding te bewerkstellig of 'n inspeksie in terme van artikel 54 te doen nie, behalwe as enige ander wet dit toelaat of in 'n noodgeval.

56 Inspekteur mag vergesel word

'n Inspekteur mag gedurende 'n inspeksie vergesel word deur 'n lid van die Suid Afrikaanse Polisie Diens of enige ander persoon wat redelik nodig is om tydens die inspeksie by te staan.

57 Verpligting om dokument te verskaf

Enige persoon wie in besit is van enige dokument wat relevant is tot 'n inspeksie, moet dit op versoek van 'n inspekteur verskaf.

58 Verpligting om vrae te antwoord en inspekteur by te staan

(1) Enige persoon wie deur 'n inspekteur in terme van hierdie Hoofstuk ondervra word moet eers ingelig word van sy of haar grondwetlike regte voordat enige ondervraging kan begin en enige vrywillige antwoord daarna deur daardie persoon moet waar en getrou wees na die beste van sy of haar vermoë.

(2) 'n antwoord of verduideliking wat aan 'n inspekteur gegee word mag nie gebruik of toegelaat word in strafgedinge teen die persoon wie dit verskaf nie, behalwe in gedinge teen daardie persoon op 'n klag wat verband hou met -

- (a) die administrasie van of aflê van 'n eed;
- (b) die maak van 'n vals verklaring; of
- (c) die versuim om ten volle en voldoende te antwoord op 'n geldige vraag.

(3) 'n Eienaar of okkupeerder van enige grond of perseel moet enige gerief en bystand voorsien wat redelik deur 'n inspekteur vereis word in die effektiewe nakoming van sy of haar funksies.

59 Nakomingskennisgewing

(1) 'n Inspekteur wie van mening is dat enige bepaling van hierdie Wet nie nagekom is nie, mag, onderhewig aan subartikel (2), 'n nakomingskennisgewing in die voorgeskrewe vorm aan die eienaar of persoon oënskynlik in beheer van die relevante grond of perseel, uitreik.

(2) 'n nakomingskennisgewing in subartikel (1) bedoel moet die volgende bevat -

- (a) die bepaling wat na bewering nie nagekom is nie;

- (b) besonderhede van die aard en omvang van die beweerde nie-nakoming;
- (c) enige stappe wat geneem moet word en die tydperk waarbinne daardie stappe geneem moet word; en
- (d) enige straf wat in terme van Hoofstuk 8 opgelê mag word in die geval van nie-nakoming van daardie stappe.

(3) 'n Nakomingskennisgewing bly geldig totdat 'n inspekteur 'n nakomingssertifikaat ten opsigte van daardie kennisgewing uitreik.

(4) 'n Inspekteur wie tevrede is dat die eienaar of persoon oënskynlik in beheer van enige grond of perseel die terme van 'n nakomingskennisgewing nagekom het mag 'n voorgeskrewe nakomingssertifikaat uitreik ten einde daar nakoming aan te dui.

60 Sluiting van geregistreerde en ander perseel

'n Inspekteur mag enige geregistreerde toeriste gerief ef of ander perseel toemaak waar -

- (a) die geregistreerde eienaar of betrokke persoon, of sy of haar bestuurder of agent versuim het om 'n nakomingskennisgewing wat met betrekking tot sodanige perseel in terme van artikel 59 uitgereik is, na te kom; en
- (b) die eienaar van 'n ongeregistreerde toeriste gerief versuim om sodanige toeriste gerief in terme van Hoofstuk 6 te registreer.

Hoofstuk 8

Oortredings en Strawwe

61 Algemene oortredings

(1) 'n Persoon is skuldig aan 'n oortreding indien daardie persoon enige reëls van die Agentskap met betrekking tot toegang in 'n beskermde gebiede of enige verbode aktiwiteit wat deur nasionale of provinsiale omgewingsbestuurswetgewing geïdentifiseer word, oortree, versuim om daaraan gehoor te gee of onderneem.

(2) 'n Persoon is skuldig aan 'n oortreding indien daardie persoon met opset vals of misleidende inligting met betrekking tot enige toeriste gerief of toeriste diens op enige wyse publiseer of veroorsaak of toelaat dat dit gepubliseer word.

(3) 'n Persoon is skuldig van 'n oortreding indien daardie persoon verantwoordelik is vir die betaling, invordering or indiening van enige heffing in terme van hierdie Wet en daardie persoon versuim of weier om daardie heffing te betaal, in te vorder of in te dien.

(4) 'n Persoon is skuldig aan 'n oortreding indien daardie persoon moet registreer in terme van hierdie Wet en daardie persoon bedryf 'n besigheid as 'n toeriste gerief of 'n toeriste diens sonder sodanige registrasie.

(5) 'n Persoon is skuldig aan 'n oortreding indien daardie persoon enige bepaling van hierdie Wet wat nie spesifiek elders as 'n oortreding verklaar word nie oortree.

62 Oortredings met betrekking tot Raad en Agentskap

'n Persoon is skuldig aan 'n oortreding indien daardie persoon -

- (a) die uitvoering van amptelike verpligtinge verhoed of met die Raad, 'n lid van die Raad of 'n werknemer van die Agentskap inmeng in sodanige uitvoering;
- (b) met opset die Agentskap, lid van die Raad of 'n werknemer van die Agentskap, vals of misleidende inligting gee; of
- (c) valslik voorgee om 'n lid van die Raad, 'n werknemer van die Agentskap, of die vertaler of assistent van daardie werknemer te wees.

63 Oortredings met betrekking tot inspeksies

'n Persoon is skuldig aan 'n oortreding indien daardie persoon -

- (a) weier om 'n inspekteur tot 'n perseel, waartoe die inspekteur behoorlik gemagtig is om toegang te hê, toegang te gee;
- (b) 'n inspekteur in die uitoefening of uitvoering van 'n bevoegdheid of verpligting in terme van hierdie Wet verhinder, of daarmee inmeng of verhoed;

- (c) weier om 'n inspekteur met 'n dokument of inligting te voorsien wat die persoon wettiglik vereis word om te voorsien in terme van hierdie Wet;
- (d) vals of misleidend inligting aan 'n inspekteur gee;
- (e) onwettig die eienaar van enige grond of perseel, of 'n persoon werksaam vir daardie eienaar, verhoed om die die grond of perseel te betree ten einde aan 'n vereiste van hierdie Wet te voldoen;
- (f) voorgee om 'n inspekteur te wees;
- (g) 'n toestemming of 'n lasbrief, nakomingskennisgewing of nakomingsertifikaat in Hoofstuk 7 bedoel, vervals;
- (h) versuim om 'n nakomingskennisgewing wat in terme van artikel 59 uitgereik word na te kom;
- (i) enige grond of perseel sonder 'n lasbrief betree in omstandighede waar 'n lasbrief vereis word;
- (j) teenstrydig met 'n lasbrief wat in terme van Hoofstuk 7 uitgereik word optree;
- (k) sonder bevoegheid enige grond of perseel betree of inspekteer;
- (l) enige inligting openbaar met betrekking tot die finansies of besigheid van enige persoon wat bekom is in die uitoefening van enige bevoegdheid of verrigting in terme van hierdie Wet behalwe -
 - (i) aan 'n persoon wie daardie inligting benodig ten einde 'n bevoegdheid of verpligting in terme van hierdie Wet uit te oefen of uit te voer;
 - (ii) waar die openbaarmaking deur 'n bevoegdhede hof beveel word; of
 - (iii) waar die openbaarmaking in ooreenstemming is met die bepalings van enige wet.

64 Strawwe

Enige persoon wie skuldig bevind word aan 'n oortreding kragtens hierdie Wet is strafbaar -

- (a) in die geval van 'n oortreding van die reëls in artikel 61(1) bedoel -
- (i) met die eerste skuldigbevinding, tot 'n boete wat nie R250 000 oorskrei nie of gevangenisstraf vir 'n tydperk wat nie 15 jaar oorskrei nie, of tot beide sodanige boete en sodanige gevangenisstraf; en
 - (ii) in die geval van 'n tweede of daaropvolgende skuldigbevinding vir die dieselfde oortreding, tot 'n boete wat nie R500 000 oorskrei nie of gevangenisstraf vir 'n tydperk wat nie 30 jaar oorskrei nie, of tot beide sodanige boete en sodanige gevangenisstraf;
- (b) in die geval van 'n oortreding of verbode aktiwiteit in artikel 61(1) bedoel, anders as 'n oortreding van die reëls, met die straf wat in die betrokke nasionale of provinsiale omgewingsbestuurswetgewing voorsiening gemaak word;
- (c) in geval van 'n oortreding in artikel 62 bedoel tot 'n boete wat nie R5 000,00 oorskrei nie of tot gevangenisstraf vir 'n tydperk wat nie een jaar oorskrei nie of tot beide sodanige boete en sodanige gevangenisstraf; en
- (d) in die geval van 'n algemene oortreding in artikel 61(2) tot (5) bedoel, tot 'n boete of gevangenisstraf vir 'n tydperk wat nie twee jaar oorskrei nie of tot beide sodanige boete en sodanige gevangenisstraf.

65 Vermoedens

(1) Wanneer enige vuurwapen, lewende wildedier, karkas van 'n wildedier, insluitend 'n vis, of flora gevind word in of bewys word dat dit in enige voertuig, vaartuig, boot, vaartuig, vlot, vliegtuig of ander vervoermiddel was, word dit vermoed, totdat die teendeel bewys word, dat dit in die besit was van die persoon in beheer van sodanige voertuig, vaartuig, boot, vaartuig, vlot, vliegtuig of ander vervoermiddel.

(2) Wanneer enige bedreigde flora, beskermde flora of onbeskermde inheemse flora in besit van 'n persoon gevind word of dit word bewys dat die bedreigde flora, beskermde flora of onbeskermde inheemse flora in besit van daardie persoon was, word dit vermoed dat hy of sy, totdat die teendeel bewys word, sodanige flora gepluk het.

(3) Wanneer enige wilde lewende dier in besit van 'n persoon gevind word of dit word bewys dat daardie persoon in besit was van enige wilde lewende dier, word dit vermoed, totdat die teendeel bewys word, dat hy of sy sodanige dier in aanhouding gehou het op die relevante tyd.

(4) Wanneer enige persoon gevind word waar hy of sy besig is om enige wilde dier of die karkas van 'n wilde dier uit 'n slagyster, strik, vanggat, net, voëllym of enige ander toestel of middel te verwyder of dit word bewys dat hy of sy enige wilde dier of die karkas van 'n wilde dier uit 'n slagyster, strik, vanggat, net, voëllym of enige ander toestel of middel verwyder het, word dit vermoed, totdat die teendeel bewys word, dat hy of sy sodanige slagyster, strik, vanggat, net, voëllym of enige ander toestel of middel gelê of voorberei het en die betrokke dier gevang het.

(5) Wanneer ookal -

(a) 'n voertuig, vaartuig, boot, vaartuig, vlot, vliegtuig of ander vervoermiddel gebruik word of gebruik was vir die doel van of met betrekking tot die pleging van 'n oortreding kragtens hierdie Wet;

(b) (i) enige wilde dier of die karkas van 'n wilde dier insluitend 'n vis in verband waarmee 'n oortreding kragtens hierdie Wet begaan is; of

(ii) enige wapen, implement, lyn, gif of enige ander onderwerp wat gebruik kan word vir jag of vangs van enige wilde dier insluitend 'n vis en wat gebruik word of gebruik is of wat 'n element uitmaak van die pleging van 'n oortreding kragtens hierdie Wet, gevind word in of teenwoordig was in enige voertuig, vaartuig, boot, tuig, vlot, vliegtuig of ander vervoermiddel,

word vermoed dat die eienaar van sodanige voertuig, vaartuig, boot, tuig, vlot, vliegtuig of ander vervoermiddel en ook elke persoon daarop of daarin ten tye van die pleging van die oortreding of ten tye wanneer die wilde dier, karkas of ander onderwerp in paragrafe (a) en (b) bedoel gevind is in voertuig, vaartuig, boot, vaartuig, vlot, vliegtuig of ander vervoermiddel, die betrokke oortreding gepleeg het en is onderhewig aan skuldigbevinding en vonnis in verband daarmee tensy hy of sy bewys dat hy of sy nie sodanige oortreding gepleeg het nie en nie daaraan deelgeneem het of die pleging van die oortreding kon verhoed nie.

(6) Wanneer enige persoon op enige openbare pad in besit gevind word van enige vuurwapen (anders as 'n pistool of rewolwer) wat gelaai is of nie op so 'n manier toegemaak is dat die loop en die sneller geheel en al are toegemaak is, word dit vermoed dat hy of sy besig is om 'n wilde dier van of op sodanige pad te jag, totdat die teendeel bewys word.

(7) Wanneer in enige vervolging kragtens hierdie Wet beweer word dat 'n oortreding gepleeg is ten opsigte van enige fauna of flora van die spesies in die klag vermeld, word dit vermoed, in die afwesigheid van getuienis tot die teendeel, dat sodanige fauna of flora van die spesies in die klag vermeld is.

(8) Wanneer in enige vervolging kragtens hierdie Wet beweer word dat 'n handeling wat 'n oortreding uitmaak gepleeg is binne die grense van 'n beskermde gebied wat binne die jurisdiksie van die Agentskap val word dit vermoed, in die afwesigheid van getuienis tot die teendeel, dat dit binne die grense van daardie beskermde gebied gepleeg is.

(9) Wanneer in enige vervolging kragtens hierdie Wet beweer word dat enige fauna of flora wat 'n element in die pleging van die oortreding uitmaak van 'n spesifieke dimensie of massa is, word dit vermoed, in die afwesigheid van getuienis tot die teendeel, dat sodanige fauna of flora van daardie dimensie of massa is.

(10) Wanneer 'n persoon gevind word besig om 'n kollig te skyn en om 'n vuurwapen te dra word dit vermoed, totdat die teendeel bewys word, dat hy of sy besig is om te jag met behulp van kunsmatige lig.

(11) 'n Wilde dier of inheemse plant waarin of waarop 'n elektroniese sender ingeplant of vasgeheg is, word vermoed om van oorsprong te wees van die plek waarin dit was ten tye van die inplanting of vashegting van die sender, soos aangeteken in die register wat vir hierdie doeleindes deur die Departement gehou word.

66 Jurisdiksie van landdroshof

'n Landdroshof het jurisdiksie om enige straf waarvoor in hierdie Wet voorsiening gemaak word op te lê.

Hoofstuk 10

Oorgangsbepalings

67 Ontbinding van “Eastern Cape Parks Board” en “Eastern Cape Tourism Board”

Vanaf die datum van inwerkingtreding van hierdie Wet, word die “Eastern Cape Parks Board” en die “Eastern Cape Tourism Board” afgeskaf en die Rade wat aangestel is in terme van die “Provincial Parks Boards Act (Eastern Cape), 2003”, en die “Eastern Cape Tourism Board Act, 2003” ontbind.

68 Regsopvolger

(1) Vanaf die datum van inwerkingtreding van hierdie Wet, is die Agentskap, vir alle doeleindes die regsopvolger van die “Eastern Cape Parks Board” en die “Eastern Cape Tourism Board”, en

(a) word die eienaar van alle roerende en onroerende eiendom van die “Eastern Cape Parks Board” en die “Eastern Cape Tourism Board”;

(b) vervang die “Eastern Cape Parks Board” en die “Eastern Cape Tourism Board”, as party tot alle kontrakte asof die Agentskap die kontraksparty was ten tye van kontraktering en die kontraktuele regte, verpligtinge en verantwoordelikhede van die “Eastern Cape Parks Board” en die “Eastern Cape Tourism Board” ingevolge daarvan word oorgedra aan die Agentskap; en

(c) word geag om alle finansiële instrumente van die “Eastern Cape Parks Board” en die “Eastern Cape Tourism Board” uit te gereik het.

(2) Enige gelde wat onmiddelik voor die inwerkingtreding van hierdie Wet tot krediet van die “Eastern Cape Parks Board” en die “Eastern Cape Tourism Board” in die onderskeie bank rekeninge lê vestig in die Agentskap en moet oorgedra word na die bank rekening van die Agentskap sodra dit oopgemaak word.

(3) Enige verwysing in enige wet of dokument na die “Eastern Cape Parks Board” of die “Eastern Cape Tourism Board” moet uitgelê word as ‘n verwysing na die Agentskap, tensy sodanige uitleg duidelik ontoepaslik is.

69 Tussentydse Raad

(1) Die LUK moet, binne sewe dae vanaf die datum van inwerkingtreding van hierdie Wet, sodanige persone as wat hy of sy goeddink, aanstel om as lede van die tussentydse Raad te dien en moet 'n voorsittende beampte en 'n onder-voorsittende beampte aanstel.

(2) Die ampstermyn van lede van die tussentydse Raad is ses maande of totdat die LUK die lede vir die eerste ampstermyn in artikel 17 bedoel aangestel het.

(3) Die tussentydse Raad mag die dieselfde bevoegdhede en pligte wat aan die Raad in terme van hierdie Wet opgedra is, uitoefen en verrig.

(4) Die LUK mag die lede van die tussentydse Raad vergoed.

70 Waarnemende hoof uitvoerende beampte

(1) Die LUK moet, binne sewe dae vanaf die datum van inwerkingtreding van hierdie Wet, sodanige persoon as wat hy of sy goeddink, as waarnemende hoof uitvoerende beampte van die Agentskap aanstel.

(2) Die LUK moet 'n waarnemende hoof uitvoerende beampte aanstel vir 'n tydperk van ses maande of totdat die Raad 'n hoof uitvoerende beampte aanstel.

(3) Die waarnemende hoof uitvoerende beampte mag dieselfde bevoegdhede en pligte wat aan die hoof uitvoerende beampte in terme van hierdie Wet opgedra of gedelegeer is, uitoefen en verrig.

(4) Die LUK mag die waarnemende hoof uitvoerende beampte sodanige vergoeding betaal wat nie die trefwydte van die salarisskaal wat op die hoof uitvoerende beamptes van die "Eastern Cape Parks Board" en die "Eastern Cape Tourism Board" van toepassing is, oorskrei nie.

71 Regsgedinge en interne gedinge en ondersoeke

(1) Alle strafgedinge wat onmiddelik voor die inwerkingtreding van hierdie Wet ingestel is kragtens die bepalings van die "Provincial Parks Boards Act (Eastern Cape), 2003", en die "Eastern Cape Tourism Board Act, 2003", en gedinge wat nie afgehandel is voor die inwerkingtreding van hierdie Wet nie, moet in alle opsigte voortgesit en afgehandel word, asof hierdie Wet nie gepromulgeer is nie.

(2) Geen bepaling van hierdie Wet beïnvloed enige siviele geding wat hangende is by die inwerkingtreding van hierdie Wet nie, en sodanige geding moet voortgesit word en afgehandel word in alle opsigte asof hierdie Wet nie gepromulgeer is nie.

(3) 'n Siviele geding word, vir die doeleindes van hierdie artikel, geag om hangende te wees indien, met die inwerkingtreding van hierdie Wet, 'n dagvaarding uitgereik is maar uitspraak nog nie gelewer is nie, en is afgehandel wanneer uitspraak gelewer word.

(4) Enige interne verhoor, ondersoek of dissiplinêre verhoor wat ingestel is deur die "Eastern Cape Parks Board" of die "Eastern Cape Tourism Board" en wat hangende is op die datum van inwerkingtreding van hierdie Wet, mag voortgesit word of ingestel word asof hierdie Wet nie gepromulgeer is nie.

72 Bestuur van beskermde gebiede

Die bestuur van die beskermde gebiede wat die "Eastern Cape Parks Board" geïdentifiseer het as Provinsiale parke in sy jurisdiksie en wat die "Eastern Cape Parks Board" bestuur in terme van die "Provincial Parks Boards Act (Eastern Cape), 2003", word hiermee aan die Agentskap toegeken ongeag van die feit dat die LUK nie daardie Provinsiale parke aan die "Eastern Cape Parks Board" in terme van daardie Wet opgedra het nie en die Agentskap is die bestuurbevoegheid van daardie beskermde gebiede vir doeleindes van artikel 38(2) van die "National Environmental Management: Protected Areas Act, 2003".

73 Finansiële, administratiewe en ander rekords van "Eastern Cape Parks Board" en "Eastern Cape Tourism Board"

Alle finansiële, administratiewe en ander rekords van die "Eastern Cape Parks Board" en die "Eastern Cape Tourism Board" moet aan die Agentskap oorgedra word.

74 Werknemers van "Eastern Cape Parks Board" en "Eastern Cape Tourism Board"

(1) 'n persoon wie, onmiddellik voor die inwerkingtreding van hierdie Wet, in diens was van die "Eastern Cape Parks Board" of die "Eastern Cape Tourism Board" word oorgedra in diens van die Agentskap met behoud van die salaris, toelaes en ander

diensvoorwaardes wat van toepassing was op daardie persoon voor die inwerkingtreding van die Wet en hy of sy word geag om kragtens hierdie Wet aangestel te wees.

(2) Die salaris, toelaes en ander diensvoorwaardes van sodanige persoon word geag kragtens hierdie Wet vasgestel te wees, en enige verlof, pensioen of ander voordele wat die persoon toekom as gevolg van daardie persoon se diens in die "Eastern Cape Parks Board" of die "Eastern Cape Tourism Board" word geag aan die persoon toe te kom as gevolg van sy of haar diens in die Agentskap.

(3) Onderhewig aan die bepalings van hierdie Wet, is enige-

- (a) wet met betrekking tot enige diensvoorwaarde;
- (b) maatreël met betrekking tot die verpligtinge, funksies en bevoegdhede; of
- (c) reëling met betrekking tot enige administratiewe funksie,

wat van toepassing was op 'n persoon in diens van die "Eastern Cape Parks Board" of die "Eastern Cape Tourism Board" onmiddelik voor inwerkingtreding van hierdie Wet, bly van krag totdat dit gewysig word deur die Agentskap en die betrokke werknemer.

75 Voortdoring van registrasie van toeriste gidse, toer operateurs, koeriers, opleiding verskaffers, hotelle, ander akkommodasie instansies, konferensie sentrums, restaurante en aangewese toeriste geriewe

(1) 'n Persoon wie onmiddelik voor die inwerkingtreding van hierdie Wet geregistreer was in terme van die "Eastern Cape Tourism Board Act, 2003" en as gevolg van daardie registrasie, bevoeg was om 'n besigheid te bedryf soos omskryf word in daardie Wet, word geag kragtens hierdie Wet geregistreer te wees en is, onderhewig aan hierdie Wet, bevoeg om daardie besigheid te bedryf onderhewig aan die voorwaardes wat ten opsigte van sodanige persoon met betrekking tot sodanige persoon se registrasie om daardie besigheid te bedryf in terme van die "Eastern Cape Tourism Board Act, 2003".

(2) 'n Persoon waarna in subartikel (1) verwys word moet, voor die datum wat daardie registrasie sou verval het as dit nie was vir die feit dat die "Eastern Cape Tourism Board Act, 2003" herroep is nie, aansoek doen by die Agentskap in

ooreenstemming met artikel 46 vir 'n sertifikaat van registrasie in ruil vir die sertifikaat van registrasie wat aan sodanige persoon uitgereik is kragtens die "Eastern Cape Tourism Board Act, 2003".

(3) By ontvangs van 'n aansoek in terme van subartikel (2), moet die Agentskap die nuwe sertifikaat van registrasie uitreik wat die vereistes in artikel 43 bedoel bevat.

76 Bestuursplanne

Enige bestuursplan wat deur die "Eastern Cape Parks Board" by die LUK vir goedkeuring ingedien is en wat -

(a) deur die LUK goedgekeur is, word geag goedgekeur te wees in terme van hierdie Wet; en

(b) nog nie deur die LUK goedgekeur is nie, moet deur hom of haar goedgekeur word in terme van hierdie Wet.

77 Ondersoeke en wetstoepassingsaktiwiteite

Enige ondersoek of wetstoepassingsaktiwiteit wat kragtens die "Provincial Parks Boards Act (Eastern Cape), 2003", en die "Eastern Cape Tourism Act, 2003" gedoen of onderneem is word geag gedoen of onderneem te word kragtens die bepalings van hierdie Wet vir die doeleindes van vervolging en 'n bevinding van die hof.

78 Algemene bepalings

(1) Vanaf die datum van inwerkingtreding van hierdie Wet, vestig alle bates, regte, verpligtinge en aanspreeklikheid van die "Eastern Cape Parks Board" en die "Eastern Cape Tourism Board" waarna nie in hierdie hoofstuk verwys word nie, in die Agentskap;

(2) Enige iets wat gedoen is of enige besluit wat geneem is deur die "Eastern Cape Parks Board" en die "Eastern Cape Tourism Board" in terme van enige bepaling van die "Provincial Parks Boards Act (Eastern Cape), 2003", en die "Eastern Cape Tourism Act, 2003", word geag gedoen of geneem te wees deur die Agentskap.

(3) Enige heffings of fooie wat deur die "Eastern Cape Parks Board" en die "Eastern Cape Tourism Board" in terme van die "Provincial Parks Boards Act (Eastern Cape), 2003", en die "Eastern Cape Tourism Act, 2003" bepaal is voor die die inwerkingtreding van hierdie Wet word geag om kragtens hierdie Wet vasgestel te wees.

(4) Geen handeling wat deur die "Eastern Cape Parks Board" binne die Provinsiale parke in terme van die "Provincial Parks Boards Act (Eastern Cape), 2003" verrig is nie is ongeldig bloot omdat die LUK nie die Provinsiale parke aan die "Eastern Cape Parks Board" in terme van daardie Wet opgedra het nie.

Hoofstuk 10

Algemene Bepalings

79 Prosedurele billikheid

Onderhewig aan die bepalinge van hierdie Wet, in die geval waar die Agentskap 'n besluit of enige ander stap van 'n administratiewe aard kragtens hierdie Wet neem wat die regte en verpligtinge van 'n ander persoon aantast, moet die Agentskap -

- (a) die aard en impak daarvan skriftelik, gedruk of elektronies bekend maak aan enige geaffekteerde persoon en liggaam op 'n manier wat daarop gerig is om te verseker dat hulle volle kennis daarvan dra; en
- (b) enige toepaslike vereiste vir 'n redelike administratiewe handeling insluitend die verskaffing van redes vir diskresionêre besluite kragtens enige wet ingestel of opgelê word, nakom.

80 Herroeping van wette

Die "Eastern Cape Tourism Board Act" 2003, en die "Provincial Parks Boards Act (Eastern Cape), 2003", word hiermee herroep.

Hoofstuk 11

Kort Titel en Inwerkingtreding

81 Kort titel en inwerkingtreding

(1) Hierdie Wet word die Oos Kaap Parke en Toerisme Agentskap Wet, 2010 genoem en tree in werking op 'n datum deur die Premier by wyse van kennisgewing in die *Gazette* bepaal.

(2) Die Premier mag verskillende datums vir inwerkingtreding van verskillende artikels of hoofstukke bepaal.
