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YESIFUNDAZWE
saKwaZulu-Natali

Ishicilelwe ngegunya
(Irejistiwe njengephandaba eposihhovisi)



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VAN
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UMTHETHO WAKWAZULU-NATALI WEZOKUTHUTHA UMPHAKATHI, 2005
(No. 03 ka 2005)
(Uvunywe mhlaka 2005-11-03)

UMTHETHO

Wokuhlinzekela uguquko kanye nokuhlelwa kabusha kohlelo lwezokuthutha umphakathi esiFundazweni saKwaZulu-Natali; ukuthuthukisa kanye nokuqalisa inqubomgomo yezokuthutha umphakathi esifundazweni; ukuhlinzeka ngohlaka lwezikhungo oluzosebenza ngempumelelo; ukwenza lula ukuthuthukiswa kanye nokuhlinzekwa kwezokuthutha umphakathi kuyona yonke imiphakathi; ukudlondlobalisa izinga lempilo emiphakathini eyayingabhekelleke phambilini ngokuthuthukisa izinto zokuhamba kanye nokukwazi ukufinyelela kwezokuthutha; ukuhlinzekela ukwenziwa kwezinto obala entuthukweni kanye nasekuqalisweni

kwezinqubomgomo nezinqubo zezokuthutha umphakathi esifundazweni; ukuletha ulawulo oluzinzile nokulandelwa kohlelo lwezokuthutha umphakathi; ukufaka izinhlelo zesifundazwe ngokuqondene nezindaba okukhulunywa ngazo eSahlukweni sesi-3 soMthetho kaZwelonke woGuquko kwezokuthutha eziHamba Phansi, 2000 (uMthetho No. 22 ka 2000) ngaphansi kohlelo olukhona lwenqubomgomo yezokuthutha eziHamba Phansi kuzwelonke; kanye nokuhlizekela izindaba eziphathelele nalokho.

MAKUMISWE uMthetho yiSishayamthetho sesiFundazwe saKwaZulu-Natali kanje:

UKUHLELWA KWEZIGABA

Izigaba

ISAHLUKO 1 UKWETHULWA KWEZIHLELWANE

1. Izincazelo
2. Ukusebenza, umumo nenhloso yoMthetho
3. Amandla nemisebenzi kaNgqongqoshe
4. Imithethonqubo eyenziwe nguNgqongqoshe
5. Ukwedluliselwa kwamandla nguNgqongqoshe
6. Uhlelo lolwazi nokubika

ISAHLUKO 2 UKUHLELELWA KWEZOKUTHUTHA

7. Umsebenzi wokuhlelela ezokuthutha
8. Isibopho sokunqunywa kwezidingo ekuhleleleni kwezokuthutha

ISAHLUKO 3 IZIKHUNGO ZEZOKUTHUTHA

9. Izivumelwano zokusungulwa kwezindawo zezokuthutha kanye nezikhungo zezokuthutha
10. Ukumenyenzelwa kwezindawo zezokuthutha kanye nokusungulwa kwezikhungo zezokuthutha
11. Izimfuneko zezivumelwano zokusungula
12. Imisebenzi namandla ezikhungo zezokuthutha
13. Amandla angeziwe ezikhungo zezokuthutha
14. Ukwenganyelwa kwezikhungo zezokuthutha
15. Izimali zesikhungo zezokuthutha
16. Ukusetshenziswa kwezimali zezikhungo zezokuthutha
17. Izimalimboleko ezikhungweni zezokuthutha
18. Izimali ezikhishwa ngokubona kukaNgqongqoshe
19. Ukudluliselwa kwamandla ngumgwamanda owengamele
20. Imigwamanda yezokuthutha
21. Imigwamanda ehlanganyele yezokuthutha
22. Ukuhlakazwa kwezikhungo zezokuthutha

ISAHLUKO 4 IBHODI ELINIKEZA AMALAYISENSI EZOKUTHUTHA UMPHAKATHI

23. Ukusungulwa kweBhodi
24. Ukuphanyiswa kwamagama abantu abazoba kwiBhodi
25. Ukuqokwa kweBhodi
26. Isikhathi sokuqokwa kwelungu leBhodi
27. Ukuqokwa kukaSihlalo neSekela likaSihlalo weBhodi
28. Ukudalulwa kokuhlomula ngokwezimali noma ngenye indlela kwamalungu eBhodi
29. Ukwehluleka ukudalula ukuhlomula ngokwezimali noma ngenye indlela
30. Ukuhoxa kwelungu leBhodi
31. Ukwesula esikhundleni kwelungu leBhodi
32. Ukuxoshwa kwelungu leBhodi
33. Amandla nemisebenzi yeBhodi
34. Izicelo nezedluliselwano zokukhishwa kwamalayisensi okusebenza
35. Izinqubo zeBhodi
36. Ukuphikisa isinqumo seBhodi
37. Abasebenzi beBhodi
38. Ukuxhaswa ngezimali kweBhodi
39. Ukukhokhelwa nezibonelelo zamalungu eBhodi
40. Umbiko wonyaka weBhodi
41. Isibopho sokubika ngezimali

ISAHLUKO 5 AMALAYISENSI OKUSEBENZA NEZINDABA EZIPHATHELELE NAWO

42. Izibopho ezibekwe kubafakizicelo
43. Ilayisensi yokusebenza eyodwa ngemoto ngayinye
44. Uhlelo lokuphanyiswa ngokoMthetho waMatekisi weSikhashana
45. Ukuguqulwa kwezimvume zebanga
46. Ukuqhubeka kanye nokuguqulwa kwezimvume ezikhona ngokoMthetho kaZwelonke woGuquko kwezokuthutha eziHamba Phansi
47. Ukudingeka kwelayisensi yokusebenza ukuze uqhube umsebenzi wokuthutha umphakathi

48. Izicelo ezimayelana namalayisensi okusebenza
49. Izicelo ezimayelana namalayisensi okusebenza esikhashana
50. Amalayisensi okusebenza emisebenzi yokuthutha umphakathi ahlinzekelwe ezinhlelweni zokuthutha
51. Amalayisensi okusebenza emisebenzi eyenziwa ngenkontileka
52. Ukushicilelwa kweminingwane yezicelo kanye nokudluliswa kwezikhalo
53. Ukubhekwa kwezicelo eziphathelele namalayisensi okusebenza emisebenzi engenziwa ngenkontileka
54. Izihlinzeko eziqondene nemisebenzi eyenziwa ngamatekisi angamakhumbi
55. Ukukhishwa kwamalayisensi okusebenza kanye nokuqukethwe yiwo
56. Igunya elinikezwa yilayisensi yokusebenza
57. Abantu abangaba namalayisensi okusebenza
58. Imithetho esebenza ngokuqondene namalayisensi okusebenza ehlukeni
59. Ukusetshenziswa kwemoto eyodwa emabangeni amade kanye nakweminye imisebenzi yokuthutha umphakathi
60. Ukuchitshiyelwa kwelayisensi yokusebenza: Ukukhishwa kwemoto ebaluliwe
61. Imibandela ekhethekile mayelana namatekisi aqashwayo
62. Imisebenzi yomnikazi welayisensi yokusebenza
63. Ukukhishwa kwesikhashana kwemoto ebaluliwe
64. Imicimbi ekhethekile
65. Ukuhoxiswa, ukumiswa noma ukuchitshiyelwa kwamalayisensi yokusebenza
66. Ukungafaneleki ukuba nelayisensi yokusebenza
67. Imisebenzi ephakathi kwezifundazwe

ISAHLUKO 6

ISIGUNGU SOKUDLULISA SEZOKUTHUTHA

68. Ukusungulwa kwesiGungu sokuDlulisela
69. Ukuphakanyiswa kwamagama abantu abazoba sesiGungwini sokuDlulisela
70. Ukuqokwa kwamalungu esiGungu Sokudlulisa
71. Isikhathi sokuqokwa kwamalungu esiGungu Sokudlulisa
72. Ukuqokwa kukaSihlalo neSekela likaSihlalo wesiGungu Sokudlulisa
73. Ukudalula emva kokuba kuphakanyiswe amagama esiGungwini Sokudlulisa
74. Ukwehluleka ukudalula ukuhlomula ngokwezimali noma ngenye indlela
75. Ukukhokhelwa kwamalungu esiGungu Sokudlulisa
76. Imihlangano yesiGungu Sokudlulisa
77. Amandla nemisebenzi yesiGungu Sokudlulisa
78. Izinqumo ezidluliselwe esiGungwini Sokudlulisa
79. Umbiko wonyaka wesiGungu Sokudlulisa
80. Izihlinzeko zesikhashana
81. Abasebenzi besiGungu sokuDlulisela

ISAHLUKO 7

UMBHALISI WEZOKUTHUTHA WESIFUNDAZWE

82. Ukuqokwa koMbhali weZokuthutha weSifundazwe
83. Isikhathi sokuqokwa koMbhali
84. Ukuqokwa koMbhali oyiBamba
85. Inkokhelo nezibonelelo
86. Imisebenzi yoMbhali
87. Izitifiki zokubhalisa, izinombolo zokubhalisa nezimpawu ezihlukanisayo
88. Ukusula, ukushiya esikhundleni kanye nokususwa esikhundleni
89. Ukusungulwa kanye nemisebenzi yepaneli yabacubunguli
90. Ukuqokwa, inkokhelo kanye nemibandela kokusebenza kwabacubunguli
91. Imihlangano yepaneli yabacubunguli
92. Abasebenzi abasiza uMbhali
93. Umbiko wonyaka kanye nesibopho sokubika ngezimali

ISAHLUKO 8

UKUBHALISWA KWEZINHLANGANO ZAMATEKISI ANGAMAKHUMBI, AMALUNGU KANYE NALABO ABANGEWONA AMALUNGU

94. Ukubhaliswa kwesikhashana kwezinhlangano ezazibhalisiwe phambilini
95. Ukubhaliswa kwesikhashana kwezinhlangano ezingafanelekile ngokugcwele ukubhaliswa ngokugcwele
96. Ukuguqulwa kokubhaliswa kwesikhashana kube ukubhaliswa ngokugcwele
97. Ukubhaliswa ngokugcwele kwezinhlangano
98. Ukubhaliswa kwamalungu akhona ezinhlangano
99. Ukubhaliswa kwamalungu amasha
100. Ukubhaliswa kwabantu abangewona amalungu
101. Ukubhaliswa okuyimpoqo kwezinhlangano nabaqhubi bemisebenzi yamatekisi angamakhumbi
102. Ukwesulwa noma ukumiswa kokubhaliswa
103. Inqubo yokufaka isicelo nokubhalisa

ISAHLUKO 9

UKUBHALISWA KWEZINYE IZINHLOBO EZINGEWONA AMATEKISI ANGAMAKHUMBI

104. Imithethonqubo ngokubhaliswa kwezinye izinhlobo zemisebenzi okungeyona yamatekisi angamakhumbi

ISAHLUKO 10
IZIBOPHO EZIBEKWE EZINHLANGANWENI, ABAQHUBI NABASHAYELI

105. Ukugunyazwa kwabaqhubi nabashayeli
106. UMthethosisekelo Oyiqophelo Elibekiwe kanye noMgomo woKuziphatha
107. Ukungahambisani nomthethosisekelo obhalisiwe kanye nokwaphulwa koMgomo woKuziphatha
108. Ukubhaliswa akukuvimbela ukushushiswa

ISAHLUKO 11
UKUQINISEKISWA KOKULANDELWA KOMTHETHO

109. Ukuqinisekiswa kokulandelwa komthetho kwezokuthutha umphakathi
110. Ukuqokwa kwabasebenzi abangabhekele ukuqinisekiswa kokulandelwa komthetho njengabahloli
111. Ukuthathwa kwezimoto
112. Ubufakazi ngezinto ezithile
113. Ukuxazululwa kwezinkinga
114. Izinyathelo eziphuthumayo
115. Amandla ezikhulu ezigunyaziwe
116. Amacala nezijezi

ISAHLUKO 12
IZINDABA EZIJWAYELEKILE

117. Izihlinzeko eziphatelene nabashayeli kanye nezimoto
118. Imithetho yomasipala
119. Izihlinzeko zesikhashana

ISAHLUKO 13
UKUCHITHWA KWEMITHETHO EYEDLULE KANYE NOKUHUNYUSHWA KWALO MTHETHO

120. Ukuchithwa nokuchitshiyelwa kwemithetho kanye nokushiwayo
121. Isihloko esifushane nokuqala koMthetho ukusebenza

ISAHLUKO 1
IZIHLINZEKO EZETHULAYO

Izincazelo

1.(1) Kulo Mthetho, ngaphandle uma ingqikithi isho okunye –

“isiGungu Sokudlulisa”, kusho isiGungu Sezokuthutha Sokudlulisa saKwaZulu-Natali esisungulwe ngokwesigaba 68.

“umfakisicelo” uma kukhulunywa ngezicelo zamalayisensi okusebenza njengoba kuhlinzekwe esigabeni 48, kusho ilungu noma umuntu ofuna ukuba ilungu lenhlangano, umuntu ongelona ilungu, umuntu osebenza ngezokuthutha umphakathi, ibhizinisi elibhalisile noma umuntu ozifakela ngokwakhe isicelo noma egameni lebhizinisi elibhalisile;

“ilayisensi yokusebenza ebekelwe indawo ethile” kusho iyilayisensi yokusebenza egunyaza ukusebenza endaweni ethile echaziwe;

“umuntu ofuna ukuba yilungu” kusho umuntu noma ibhizinisi elibhalisiwe elinikezwe ubulungu besikhashana benhlangano, kusalandwe ukuvunywa kokuba yilungu lenhlangano ngokugcwele;

“iBhodi” kusho iBhodi Elinikeza Amalayisensi Ezokuthutha Umphakathi KwaZulu-Natali;

“uMgomo Wokuziphatha” kusho uMgomo Wokuziphatha obekwe nguNgqongqoshe ngokwesigaba 106;

“uMthethosisekelo” kusho uMthethosisekelo weRiphabhuliki yaseNingizimu Afrika;

“inkontileka” kusho inkontileka yesikhashana, inkontileka ekhona enikeziwe, inkontileka yokwenza umsebenzi noma inkontileka yomsebenzi oxhasiwe;

“uMnyango” kusho uMnyango Wezokuthutha waKwaZulu-Natali;

“iGazethi” kusho *iGazethi yesiFundazwe*;

“umnikazi” ngokuqondene nelayisensi yokusebenza, kusho umuntu noma ibhizinisi elinikezwe ilayisensi;

“uMthetho wamaTekisi wesiKhashana” kusho uMthetho wamaTekisi Angamakhumbi Wesikhashana waKwaZulu-Natali, 1998 (uMthetho No. 4 ka 1998);

“UNgqongqoshe” kusho iLungu loMkhandlu oPhethe lesiFundazwe elibhekene nezokuthutha;

“UNgqongqoshe wezeziMali” kusho iLungu loMkhandlu oPhethe lesiFundazwe elibhekene nezezimali;

“UNgqongqoshe” kusho uNgqongqoshe wezokuThutha ezingeni likazwelonke likahulumeni;

“UMthetho kaZwelonke woGuquko kwezokuThutha eziHamba Phansi” kusho uMthetho kaZwelonke woGuquko kwezokuThutha eziHamba Phansi, 2000 (uMthetho No. 22 ka 2000)

“UMthetho kaZwelonke wezokuThutha eMgwaqeni” kusho uMthetho kaZwelonke wezokuThutha eMgwaqeni, 1996 (uMthetho No. 93 ka 1996);

“umuntu ongelona ilungu” kunencazelo enikezwe nguMthetho kaZwelonke woGuquko kwezokuthutha eziHamba Phansi, kodwa ngezinhloso zalo Mthetho, lapho kufanele khona, kufaka phakathi nomqhubi;

“**ilayisensi yokusebenza**” kusho igunya lokwenza umsebenzi wokuthutha umphakathi njengoba kuchaziwe eMthethweni kaZwelonke woGuquko kwezokuThutha eziHamba Phansi, 2000 (uMthetho No. 22 ka 2000), nelinikeziwe futhi lakhishwa ngokuhambisana neSahluko 5 salo Mthetho, kodwa lokhu akufaki ilayisensi yokusebenza yesikhashana;

“**umqhubi**” kusho umuntu noma ibhizinisi elibhalisiwe eliqhuba umsebenzi wokuthutha umphakathi;

“**imvume**” kusho igunya lokwenza umsebenzi wokuthutha umphakathi elikhishwe ngokoMthetho wezokuThutha eMgwaqeni, 1977 (uMthetho No. 74 ka 1977), novele usebenza ekuqaleni kokusebenza kwalo Mthetho;

“**isikhungo esihlelayo**” kusho isiphathimandla okukhulunywa ngaso eSahlukweni 2 salo Mthetho kanye nasesigabeni 20 soMthetho kaZwelonke woGuquko kwezokuThutha eziHamba Phansi, 2000 (uMthetho No. 22 ka 2000);

“**ukubeka**” kusho ukubeka ngomthethonqubo ngokuhambisana nalo Mthetho;

“**isiFundazwe**” kusho isiFundazwe saKwaZulu-Natali;

“**isiShayamthetho sesiFundazwe**” kusho isiShayamthetho sesiFundazwe saKwaZulu-Natali;

“**imvume yebanga elisuka maphakathi**” lokhu kunencazelo equkethwe eMthethweni wesiKhashana wamaTekisi;

“**ibhizinisi elibhalisiwe**” kusho ibhizinisi elibhalisiwe ngokwanoma imuphi umthetho olawula ukubumbeka kanye nokusebenza kwalolo hlobo lwebhizinisi elisungulelwe izinhloso zokuhlizeka imisebenzi yokuthutha umphakathi”

“**uMbhali**” kusho umuntu oqokwe njengoMbhali wezokuThutha esiFundazweni ngokwesigaba 82(1);

“**uMthetho wezokuThutha eMgwaqeni**” kusho uMthetho wezokuThutha eMgwaqeni, 1977 (uMthetho No. 74 ka 1977);

“**ilayisensi yokusebenza echazwe ngomzila**” kusho ilayisensi yokusebenza echaza kabanzi umzila noma inhlanganisela yemizila, ngokusho indawo okusukwa kuyo nalapho okuphelelwa khona kanye nanoma iyiphi enye indawo ephakathi kwalezi zindawo, edingekile ukuze kuhlonzwe ngokufanele lowo msebenzi;

“**lo Mthetho**” kubandakanya imithethonqubo eyenziwe ngokwesigaba 4 salo Mthetho;

“**indawo yezokuthutha**” kusho indawo yezokuthutha ehlongozwe esigabeni 9(2)(a) yase imenezelwa ngokwesigaba 10(1)(b);

“**isikhungo sezokuthutha**” kusho isikhungo sezokuthutha okukhulunywe ngasio esigabeni 9(2)(b) sase sisungulwa ngokwesigaba 10(1)(d);

(2) Noma iliphi elinye igama noma isisho kunencazelo enikezwe eMthethweni kaZwelonke woGuquko kweZokuthutha eZihamba Phansi.

Ukusebenza, umumo nenhloso yoMthetho

2.(1) Lo Mthetho usebenza esiFundazweni saKwaZulu-Natali.

(2) Lo Mthetho –

- kufanele ufundwe neZahluko 1, 2 no 4 zoMthetho kaZwelonke woGuquko kweZokuthutha eZihamba Phansi;
- uthatha isikhundla somthetho wesifundazwe njengoba kuhlinzekwe esigabeni 3(b)(i) soMthetho kaZwelonke woGuquko kweZokuthutha eZihamba Phansi ngokuqondene nazo zonke izindaba okukhulunywe ngazo kulo Mthetho; futhi
- uthatha indawo yeSahluko 3 soMthetho kaZwelonke woGuquko kweZokuthutha eZihamba Phansi.

(3) Lo Mthetho uhlinzeka ngezinyathelo ezidingekile:

- ukuletha uguquko ezikhungweni ezisemkhakheni wezokuthutha umphakathi;
- ukuhlela kabusha, ukulawula kanye nokuqinisekisa ukulandelwa kohlelo lwezokuthutha umphakathi esiFundazweni;
- ukufeza izinqumbomgo zokuthutha umphakathi, amaqophelo namazinga kuzwelonke nasesifundazweni; kanye
- nokuletha uguquko olungenazihibe ohlelweni olusha oluyalelwe eMthethweni kaZwelonke woGuquko kweZokuthutha eZihamba Phansi.

Amandla nemisebenzi kaNgqongqoshe

3.(1) Ngaphezu kwemisebenzi ehlinzekelwe esigabeni 9(1) soMthetho kaZwelonke woGuquko kweZokuthutha eZihamba Phansi, uNgqongqoshe kufanele –

- enze kube lula ukukhula kokusetshenziswa kwezokuthutha umphakathi esiFundazweni;
- athathe izinyathelo ezifanele ukukhuthaza ukubambisana phakathi kweziphathimandla ezihlelayo esiFundazweni, noma phakathi kwalezi ziphathimandla nesiFundazwe, ukugwema ukuphindeka komsebenzi.
- ekuthatheni noma iziphi izinyathelo ukukhuthaza ezokuthutha umphakathi,
 - akhuthaze ukuphepha okufanele kwabagibeli jikelele, ngaphansi kwezinjongo zezokuthutha umphakathi.
 - akhuthaze ukuziphatha ngendlela efanele nehambisana nokuqhutshwa kwebhizinisi ohlangothini lwabaqhubi ekuhlinzekweni kwemisebenzi yezokuthutha umphakathi, futhi akhuthaze ukuncintisana ngamathenda ezinkontileka nezibonelelo zokwehliselwa imali;
 - akhuthaze indlela yokusebenza eyesekeleka emaswini nedidiyelwe ekuhlinzekweni kwezokuthutha umphakathi; futhi
 - aqhubezele noma aqququzele ukusetshenziswa ngokonga kwemithombo yamandla kanye nokunqanda noma ukunciphisa umthelela ongemuhle kwimvelo.
- athuthukise ezokuthutha umphakathi ukuze –
 - zikhwazi ukuze izidingo zalabo abazisebenzisayo;
 - zisebenze kahle ngokuqondene nokusetshenziswa kwezidingongqangi;
 - izinsiza ezinikezwayozibe ngezeqophelo eliphezulu futhi ziyafinyeleleke, zisetshenziswe ngokuhambisana nengqalasizinda ekhona ngezindleko ezingabizi; futhi
 - ukuphepha kube into yokuqala eqashelwayo uma kuqhutshwa imisebenzi yezokuthutha;
- aphokophelele ukuqinisekisa ukuthi ekukhuthazweni kwezokuthutha ezididiyele, izidingo zabantu abasebenzisa ezokuthutha ziyabhekelwa;
- akhuthaze ukuhlelelwa kwezokuthutha okudidiyele esiFundazweni futhi aqinisekise ukulungiswa kohlaka lwesifundazwe lwezokuthutha ngokuhambisana nezihlinzeko eziqondene zoMthetho kaZwelonke woGuquko kweZokuthutha eZihamba Phansi; futhi

- (g) ahlele uHlaka lwaMasu oKusebenza lokuThuthukisa abaMnyama kwezoMnotho kanye nezinhlelo eziqondene nezokuthutha umphakathi ngokwesigaba 11 soMthetho wokuThuthukisa abaMnyama kwezoMnotho, 2003 (uMthetho No. 53 ka 2003).
- (2) Ngaphezu kwanoma imaphi amandla nemisebenzi eshiwo kulo Mthetho, uNgqongqoshe engathatha noma isiphi isinyathelo esidingekayo ukufezekisa izinjongo zalo Mthetho: Inqobo nje uma inhlosongqangi yaleso sinyathelo kungukudlondlobalisa imisebenzi yezokuthutha umphakathi kanye nokuqinisekisa ukuphepha nokuvikeleka komphakathi.
- (3) Lapho khona, ekuqaleni kokusebenza kwalo Mthetho, isiFundazwe besivele sihlelela ezokuthutha umphakathi, ngaphandle kwmisebenzi ebekwe esigabeni 20(4) soMthetho kaZwelonke woGuquko kwezokuThutha eziHamba Phansi, ngokoMthethosisekelo obekufanele kwenziwe ngomasipala, uNgqongqoshe kanye neziphathimandla zokuhlela ezithintekayo kufanele zenze amalungiselo okudlulisela imisebenzi yokuhlela kwiziphathimandla zokuhlela ezithintekayo.

Imithethonqubo eyenziwa nguNgqongqoshe

- 4.(1) UNgqongqoshe, ngesaziso *kwiGazethi*, angenza imithethonqubo ngokumaqondana nanoma yiluphi udaba –
- okungenzeka noma okufanele ibekwe nguNgqongqoshe ngokwalo Mthetho; futhi
 - oludingekayo ekusingathweni ngempumelelo kwalo Mthetho.
- (2) Noma yimuphi umthethonqubo owenziwe ngokwanoma imuphi umthetho omdala futhi obusebenza ngaphambi kokuqala kwalo Mthetho, ngokuqondene nezindaba uNgqongqoshe ngokwesigatshana (1) anamandla okwenza imithethonqubo ngazo, ukwenzela izinhloso zalo Mthetho, uthathwa njengomthethonqubo owenziwe ngokwaleso sigatshana kuze kube uNgqongqoshe wenza umthethonqubo ozothatha isikhundla salowo mthethonqubo ngokwalesi sigaba.

Ukudluliselwa kwamandla nguNgqongqoshe

- 5.(1) UNgqongqoshe angadlulisela eNhlokweni yoMnyango –
- noma imaphi amandla anikezwe uNgqongqoshe yilo Mthetho, ngaphandle kwamandla ngokwesigaba 4, okwenza imithethonqubo;
 - noma imuphi umsebenzi onikezwe uNgqongqoshe yilo Mthetho, ngaphandle kwanoma imuphi umsebenzi omayelana nokuqokwa kanye nokuxoshwa kwamalungu eBhodi, kwamalungu esiGungu Sokudlulisa, uMbhalisi kanye namalungu ephaneli yabacubunguli.
- (2) Noma yimaphi amandla noma umsebenzi odluliselwe ngokwesigatshana (1) kufanele wenziwe ngaphansi kwemibandela enganqunywa nguNgqongqoshe.
- (3) Noma ikuphi ukudluliselwa kwamandla ngokwesigatshana (1) –
- kufanele kubhalwe phansi;
 - akuvimbi uNgqongqoshe ukuba asebenzise lawo mandla noma enze lowo msebenzi; futhi
 - kungahoxiswa noma kuchitshiyelwe ngokubhaliweyo ngokubhala nguNgqongqoshe; futhi
 - akwephuci uNgqongqoshe igunya eliphathelene nokusebenzisa amandla akhe noma ukuqhuba umsebenzi wakhe.

Uhlelo lolwazi nokubika

- 6.(1) Ilungu loMkhandlu oPhethe kufanele –
- ngokubonisana noNgqongqoshe; futhi
 - emva kokubonisana nezikhungo zezokuthutha kanye nomasipala, lakhe libuye ligcine uhlelo lolwazi nokubika, edingekile ekufezeni izinjongo zalo Mthetho noma zenqubomgomo yezokuthutha umphakathi kazwelonke neyesifundazwe.
- (2) Uhlelo olunjalo kufanele lusebenze ngokufana nezikhungo zezokuthutha kanye nomasipala esiFundazweni.
- (3) Kusukela ngosuku olunqunywe nguNgqongqoshe, uNgqongqoshe angagodla ukunikezwa kwezabelo noma izimali ezikhungweni zezokuthutha noma komasipala, kuze kube leso siphathimandla noma umasipala sekuhambisana ngokugcwele nezimfuneko ezibekiwe kanye nezimfuneko zokubika ezihlinzekelwe esigatshaneni (1).
- (4) UNgqongqoshe kufanele ngesaziso *kwiGazethi* ashicilele inqubo okukhulunywe ngayo esigatshaneni (1).
- (5) UNgqongqoshe kufanele aqoqe ulwazi oluphathelele nezokuthutha umphakathi futhi aqinisekise ukuthi luyatholakala ebantwini abantshisekelo noma asabalalise ulwazi oluphathelele nezokuthutha ngamaphephandaba, umsakazo, umabonakude noma ngeminye imithombo yezindaba, ngokuhambisana noMthetho wokuKhuthaza Ukufinyelela Olwazini, 2000 (uMthetho No. 2 ka 2000).
- (6) Ngaphezu kwezimfuneko zokubika njalo ngonyaka okumele zigcinwe yiBhodi, uMbhalisi kanye nesiGungu Sokudlulisa njengoba kuhlinzekwe kulo Mthetho, le migwamanda kufanele ihambisane nanoma iziphi ezinye izimfuneko zokubika ezinganqunywa nguNgqongqoshe izikhathi ngezikhathi.

ISAHLUKO 2 UKUHLELELWA EZOKUTHUTHA

Umsebenzi wokuhlelela ezokuthutha

- 7.(1) Iziphathimandla ezihlelayo zinesibopho somebenzi wokuhlelela ezokuthutha okufanele wenziwe ngokwemikhawulo yenqubomgomo, ngokwemigomo ejwayelekile kanye nangokwezinhlobo zezinhlelo ezibekwe yiNgxenye 7 yeSahluko 2 soMthetho kaZwelonke woGuquko kweZokuthutha eZihamba Phansi.
- (2) UNgqongqoshe kufanele aqinisekise ukuhlanganiswa kwezinqubo zokuhlelela zazo zonke iziphathimandla ezihlelayo bese kuthi ekwenzeni njalo, aqinisekise ukuthi zonke izinhlelo zibheka –
- nemisebenzi yezokuthutha umphakathi eyenziwa emingceleni yezindawo zeziphathimandla ezihlelayo;
 - nemiphambo yemigwaqo nemizila yezitimela;
 - nezidingo zezinhlobo ezikhethekile zabagibeli;
 - nombango phakathi kweziphathimandla ezihlelayo ezingomakhelwane kongaholela ekuphindaphindweni komsebenzi owodwa noma ekuhlinzekweni ngokweqile kwezinsiza zezokuthutha nengqalasizinda esifundeni; kanye
 - nokudidiyelwa kwezokuthutha kanye nokuhlelela ukusetshenziswa komhlaba ngokoMthetho Wokulethwa Kwentuthuko, 1995 (uMthetho No. 67 ka 1995), okanye noma ngokwanoma imuphi omunye umthetho wesifundazwe.

Isibopho sokunqunywa kwezidingo ekuhlelelweni kwezokuthutha

8.(1) Ukuze kufezekiswe inqubomgomo kazwelonke kanye neyesifundazwe, kanye nokulethwa kwezidingongqangi ngokugudluka endleleni eyeyame kakhulu kumhlinzeki kugxilwe endleleni eyeyame kwisidingo, ngokuphambene nendlela egxile kumhlinzeki, isikhungo esihlelayo kufanele siqume isidingo semisebenzi yezokuthutha umphakathi kungabandakanya ukuhlelelwa kokuhlolwa mathupha kwendawo lapho kunesidingo, okungenzeka noma kungenzeki ukuthi isikhungo esihlelayo sesizakhile yini izinhlelo zezithuthi zendawo yaso.

- (2) Isikhungo esihlelayo singacela usizo loMbhali ekunqunyweni kwesidingo lapho izinhlelo zezokuthutha noma ucwaningo lwezokuhlela lungekho ukunikeza umhlahlandlela ekunqumeni ngesidingo somsebenzi.
- (3) Usizo olunikezwa nguMbhali ngokwesigatshana (2) lungabandakanya, ukuhlolwa mathupha kwendawo.
- (4) Lapho sesitholile isikhungo esihlelayo isidingo somsebenzi ngokwezinhlelo zezokuthutha noma ngokocwaningo lwezokuhlela, singadlulisela kwiBhodi ukuze likhiphe amalaysensi okusebenza adingekayo.
- (5) Isikhungo esihlelayo esifisa ukusebenzisa ilungelo laso lokudlulisa ngokwesigatshana (4), kufanele siqale kuMbhali, okuzofanele aqinisekise ukuthi indawo noma umzila othintekayo uyaziwa njengobhaliswe nanoma iyiphi inhlango noma umuntu ongelona ilungu.
- (6) Lapho, ngemva kokulandelwa kwesigatshana (5), uMbhali –
- (a) ethola ukuthi indawo noma umzila othintekayo uyingxenywe yoxhaxha lwemizila ebhalisile yenhlango ekhona noma yomuntu ongelona ilungu, uMbhali kufanele anikeze inhlango efanele noma lowo muntu ongelona ilungu, kuye ngesimo, ithuba lokwenelisa isidingo somsebenzi –
- (i) esimweni lapho ithuba lamukelwa, uMbhali kufanele –
- (aa) abhalise ilungu, ofuna ukuba yilungu lenhlango noma umuntu ongelona ilungu ngokuqondene nendawo noma umzila othintekayo; futhi
- (bb) adlulisele kwiBhodi ukuze lishicilele *kwiGazethi* imininingwane emayelana namalaysensi okusebenza azonikezwa njengengxenywe yokudlulisa; noma
- (ii) esimweni lapho ithuba lingemukelwa, uMbhali kufanele azise isikhungo esihlelayo, nokuyilapho isikhungo esihlelayo kufanele sithathe izinyathelo eziphuthumayo ukumema abahlinzeki bemisebenzi ukuba bafake izicelo zokwenza umsebenzi odingekayo;
- (b) abone ukuthi indawo noma umzila othintekayo awuyona ingxenywe yemizila ebhaliswe yanoma iyiphi inhlango noma umuntu ongelona ilungu, uMbhali kufanele azise isikhungo esihlelayo, esimeni lapho khona isikhungo esihlelayo kufanele sithathe izinyathelo eziphuthumayo ukuba ameme abahlinzeki bomsebenzi ukufaka isicelo sokwenza umsebenzi odingekayo.
- (7) Iithuba elinikeziwe ngokwesigatshana (6)(a) kanye nezimemo zokwenza umsebenzi okukhulunywe ngakho ezigatshaneni (6)(b)(ii) no (6)(b) kufanele kulawulwe ngokwenqubo nangokwezikhathi ezibekiwe.
- (8) Kuze kube kufika isikhathi lapho khona iBhodi linikeza amalaysensi adingekile okusebenza, ithuba elinikezwe ngokwesigatshana (6)(a) alinikezi ofuna ukuqhuba umsebenzi ilungelo lokuqhuba umsebenzi kungakafiki.
- (9) Isikhungo esihlelayo kufanele sisungule isigcawu sokubonisana kusona okumelwe ababambe iqhaza ababalulekile ukuletha ukusebenzisana ekwakheni kabusha uhlelo lwezokuthutha, kubandakanya nokubalulwa kwesidingo semisebenzi.
- (10) Ukwakheka kwesigcawu sokubonisana okukhulunywe ngaso esigatshaneni (9) kanye nezinqubo ezilawula ukusebenza kwaso kufanele kubekwe.

ISIAHLUKO 3 IZIKHUNGO ZEZOKUTHUTHA

Izivumelwano zokusungulwa kwezindawo zezokuthutha kanye nezikhungo zezokuthutha

9.(1) Izikhungo zezokuthutha zingasungulelwa izindawo zezokuthutha, kuphela njengoba kuhlinzekelwe kulesi Sahluko kanye naseNgxenyeni yesi-5 yoMthetho kaZwelonke woGuquko kwezokuThutha eziHamba Phansi, futhi kuphela uma imisebenzi yaleso siphathimandla ngokuqondene nemisebenzi yomasipala abathintekayo ihambisana noMthethosisekelo kanye nemithetho yohulumeni basekhaya esebenzayo.

- (2) Umasipala okanye noma ibaphi omasipala ababili noma ngaphezulu ngokubambisana, zoMthetho kaZwelonke woGuquko kweZothutha eZihamba Phansi, ikakhulukazi isigaba 11 salo Mthetho, bangangena esivumelwaneni sokusungula noNgqongqoshe, ngokwesigaba 11 salo Mthetho, okuzothi ngokuhambisana naso –
- (a) indawo noma izindawo ezingaphansi kwegunya lolawulo lomasipala noma zawo masipala abasebenza ngokubambisana, noma ingxenywe yaleyo ndawo noma lezo zindawo zomasipala, njengoba isimo singadinga lokho, ziyophenduka indawo yezokuthutha; futhi
- (b) isikhungo sezokuthutha sizosungulelwa leyo indawo yezokuthutha.

Ukumenyezelwa kwezindawo zezokuthutha kanye nokusungulwa kwezikhungo zezokuthutha

10.(1) UNgqongqoshe kumele zingakadluli izinsuku eziyi-14 emva kokuqedwa kwesivumelwano okukhulunywe ngaso esigabeni 9, ngesaziso *kwiGazethi* –

- (a) akhiphe isaziso futhi ashicilele isivumelwano sokusungula;
- (b) amemezele leyo ndawo ethintekayo njengendawo yezokuthutha, futhi ayinikeze igama elinikezwe kuleso sivumelwano;
- (c) uma kunesidingo, ahoxise njengoba kubaluliwe esigabeni 3(1)(c) soMthetho wezokuThutha zasemaDolobheni, 1977 (uMthetho No. 78 ka 1977), isaziso okuthe ngaso, indawo noma izindawo zikamasipala noma zomasipala ezithintekayo zafakwa kulowo mkhandludolobha wendawo yezokuthutha ngokuhambisana nendima (a) noma (b) yesigaba 3(1) salowo Mthetho; futhi
- (d) ngokuhambisana futhi kunciek esivumelwaneni sokusungula, asungulele leyo ndawo yezokuthutha isikhungo sezokuthutha kusukela ngosuku olubekelwe leyo nhloso esivumelwaneni sokusungula.
- (2) Isivumelwano sokusungula, emva kokuba sesishicilelwe, sisebenza njengomthetho futhi akukho sichibiyelo saso esiyoba namandla omthetho kuze kube leso sichibiyelo sesishicilelwe nguNgqongqoshe ngesaziso *kwiGazethi*.

Izimfuneko zezivumelwano zokusungula**11. Isivumelwano sokusungula kufanele sibhalwe futhi sihlinzekele lokhu okulandelayo –**

- (a) ukuzibophezela kwalabo abayingxenywe yesivumelwano beqinisekisa ukuvumelana kwabo ngokusungulwa kwesikhungo sezokuthutha kuleyo ndawo yezokuthutha ethintekayo;
- (b) igama elizonikwa indawo yezokuthutha;
- (c) usuku lesi sikhungo sezokuthutha esizosungulwa ngalo;
- (d) ukusungulwa kanye nesakhiwo kanye nohlaka lomgwamanda owengamele waleso sikhungo sezokuthutha, isibalo samalungu awo kanye nendlela okufanele aqokwe ngayo ngokwezikhundla: Inqobo nje uma kuzoba ngumuntu osebenza njengekhansela likamasipala oyingxenywe yesivumelwano sokusungula (emva kwalokhu ozobizwa ngomasipala obambe iqhaza), ongaqokwa njengelungu lomgwamanda owengamele;
- (e) ukukhunjwa nokuqokwa kukasihlalo kanye nesekela likasihlalo womgwamanda owengamele;
- (f) izinqubo zokuvota namalungelo okuvota amalungu emihlanganweni yomgwamanda owengamele kanye nakunona iliphi ikomidi lawo, nezindlela kanye nezinqubo zokusombulula ungingqetshe ekuthathweni kwezinqumo;
- (g) ukuqokwa noma ukukhunjwa kwesikhulu esiyinhloko yaleso sikhungo sezokuthutha, nezibopho, imisebenzi namandla ahambisana naleso sikhundla;
- (h) amandla omgwamanda olawulayo angadluliselwa kunoma iliphi ilungu kumalungu awo noma esikhulwini esiyinhloko;
- (i) indawo ezoba ikomkhulu laleso sikhungo sezokuthutha kanye neyemihlangano yomgwamanda waso oowengamele;
- (j) ikheli lokuziyela mathupha ekuletheni, ekuthumeleni noma ekushiyezi zonke izincwadi, imibhalo, izaziso kanye nezincwadi zenkantolo ezibhekiswe esikhungweni sezokuthutha;
- (k) esimweni lapho indawo yezokuthutha inezindawo ezingaphansi kwegunya lolawulo noma izingxenywe zalezo zindawo, zomasipala ababili noma ngaphezulu ababambe iqhaza –
 - (i) umnikelo kamasipala ngamunye obambe iqhaza oxhaswe lwezimali lwaleso sikhungo sezokuthutha;
 - (ii) ukwenziwa komsebenzi wobungcweti, wobuchwepheshe, wezokuphatha, wobubhalane kanye nanoma imuphi omunye umsebenzi ovelayo, odingekile, noma oqondene noma oyingxenywe yokusetshenziswa kwamandla yileso sikhungo sezokuthutha;
 - (iii) kuncike kulo Mthetho, izimfuneko okufanele ziqashelwe kanye nezinqubo okufanele zilandelwe yinoma yimuphi umasipala obambe iqhaza ofuna ukuhoxa kuleso sikhungo sezokuthutha, kanye nemisebenzi yaso kanye nezibopho zawo ngokuqondene nezethembiso zokukhokha ezikhona kanye nezikweletu zaleso sikhungo sezokuthutha; kanye
 - (iv) nezinqubo ezizolandelwa uma kuhlakazwa ngokuzithandela isikhungo sezokuthutha;
- (l) izinhlelo ezenzelwe ukwenziwa komsebenzi wobungcweti, wobuchwepheshe, wezokuphatha, wobubhalane kanye nomunye umsebenzi wesikhungo sezokuthutha ngokwesigaba 20, uma ngabe ubungakafakwa ngaphansi kwendima (k)(ii).

Imisebenzi namandla ezikhungo zezokuthutha**12.(1) Isikhungo sezokuthutha kufanele senze imisebenzi ephoqelekile enikezwe sona ngokwesigaba 10(13) soMthetho kaZwelonke woGuquko kwezokuthutha eziHamba Phansi, futhi kuncike emandleni nemisebenzi enikezwe omasipala ababambe iqhaza ngokomthetho osebenza kohulumeni basekhaya, ngokuvumelana noNgqongqoshe, noma lapho kunesidingo khona, oNgqongqoshe –**

- (a) singakhuthaza ukuphepha kwezokuthutha umphakathi
 - (b) singagququza futhi sikhuthaze ukusetshenziswa kwezinto zokuhamba ezikhona ukundlobalisa ukusebenza ngempumelelo kohlelo lwezokuthutha nokunciphisa isikhathi kanye nezindleko zokuhamba;
 - (c) simakethe uhlelo lwezokuthutha umphakathi futhi sikhuthaze sibuye sithathe umthwalo wokwazisa ngalolo hlelo;
 - (d) sihlinzeke ngolwazi kubasebenzisi noma kulabo abafuna ukuba ngabasebenzisi bezokuthutha umphakathi;
 - (e) esimweni semisebenzi exhasiwe, sinqume uhlaka lwamanani kanye nemali yokugibela, kanye namanani ehliwise ohlobo olukhethekile lwabagibeli siphinde futhi siguqule amanani okugibela ngezikhathi ezithile ngokubonisana nababambe iqhaza, uma ngabe isikhungo sezokuthutha senza umsebenzi oxhasiwe ngokwesigaba 10(13)(f) soMthetho kaZwelonke woGuquko kwezokuthutha eziHamba Phansi;
 - (f) esimweni semisebenzi yezokuthutha yumphakathi ekhokhelwayo (engaxhasiwe), sibeka amanani okugibela ngokubhekela ukukhuthaza ukuncintisana okunokulingana phakathi kwabaqhubi bemisebenzi yezokuthutha umphakathi;
 - (g) sikhokhela abaqhubi ngokwezinkontileka zemisebenzi exhasiwe kanye nangokwezivumelwano zamanani ehliwise esiyingxenywe yazo, uma isiphathimandla senza umsebenzi oxhasiwe;
 - (h) senza uphenyo ngezimo zezimali kanye nangezinkambiso zokusebenza –
 - (i) kwabantu, ngaleso sikhathi, abangabaqhubi noma abangaba abaqhubi ngokuqondene nendawo yokuthutha; noma
 - (ii) kwabanikazi bamalayisensi okusebenza, ngaleso sikhathi, abaqhuba imisebenzi yezokuthutha umphakathi kuleyo ndawo;
 - (i) sethula noma sisungule, noma sisize noma sigququzele, sikhuthaze futhi senze lula ukwethulwa noma ukusungulwa kohlelo lwamathikithi oludidiyele futhi sinqume noma sibeke izinyathelo zomthethonqubo kanye nolawulo lokwabiwa kwemali engenayo kubaqhubi abathintekayo kulolo hlelo;
 - (j) silawule ukulethwa kwezidingo –
 - (i) ngokubeka amazinga okusebenza nawobuchwepheshe nangokuhlola ukuhambisana nawo; kanye
 - (ii) nangokuqapha izinkontileka nezibonelelo zokwehliselwa imali;
 - (k) sakha, siqalise sibuye siqaphe isu lokugwema, ukunciphisa noma ukwehlisa noma umuphi umthelela ongemuhle kwimvelo wohlelo lwezokuthutha ezihamba phansi; futhi
 - (l) ngokuvumelana nomasipala abafanele ababambe iqhaza –
 - (i) senza imisebenzi eqondene nemigwaqo kamasipala;
 - (ii) sithatha izinyathelo zokunciphisa umonakalo ohlelweni lomgwaqo kuleyo ngxenywe yendawo yezokuthutha.
- (2) UNgqongqoshe nesikhungo sezokuthutha bangavuma –
- (a) ukuthi imisebenzi eyahlukene izokwenziwa ezindaweni zasemakhaya kunalezo ezisemadolobheni endaweni yezokuthutha ethintekayo; noma
 - (b) esimweni sikamasipala wesifunda ongumasipala obambe iqhaza oHleni C oluhlinzekelwe esigabeni 155(1)(c) kuMthethosisekelo, ukuthi imisebenzi eyahlukene ingenziwa ezindaweni ezingaphansi kwegunya lolawulo lomasipala abasoHleni B endaweni ethintekayo, kunokuba kube sezindaweni ezingaphandle kwalezi zindawo.

(3) Ngenhloso yokuqinisekisa ukusebenza komthetho wezokuthutha endaweni yaso, isikhungo sezokuthutha kufanele sixhumane njalo noMbutho wamaPhoyisa waseNingizimu Afrika, iziphathimandla ezifanele zokugcinwa komthetho esifundazweni nakomasipala noma izikhungo kanye nabahloli abaqokiwe nabasebenza ngokoMthetho wezokuThutha eMgwaqeni eZeqa uMngcele, 1998 (uMthetho No. 4 ka 1998).

(4) Isikhungo sezokuthutha, ngokuvumelana nomasipala obambe iqhaza, singazethwesa umsebenzi wokulekelela umasipala obambe iqhaza, ekulandeleni amasu okulawula ezokuthutha okuhloswe ngawo ukwenza ngcono ukuhamba kwezimoto emgwaqeni endaweni yezokuthutha engaphansi kwegunya lolawulo lwalowo masipala obambe iqhaza.

(5) Uma ngabe isikhungo sezokuthutha –

(a) sehluleka ukwenza umsebenzi ofanele ukuba siwenze ohlinzekelwe esigabeni 10(13) soMthetho kaZwelonke woGuquko kwezokuThutha eziHamba Phansi; noma

(b) sithi kade sizibophezele ukwenza umsebenzi ongaphoqiwe obalulwe esigatshaneni (1) bese sehluleka ukuwenza; noma

(c) sehluleka ukwenza lo msebenzi ngendlela efanele nangempumelelo ngokuhambisana nalo Mthetho, noMthetho kaZwelonke woGuquko kweZokuthutha eZihamba Phansi kanye neminye imithetho esebenzayo;

uNgqongqoshe, ngokusebenzisa isaziso esibhaliweyo esibhekiswe kuleso sikhungo sezokuthutha ngomgwamanda waso owengamele noma ngesikhulu esiyinhloko, angayalela lesi sikhungo sezokuthutha ukuba silungise iphutha laso bese senza lowo msebenzi, noma ukuba siwenze ngokufanele nangempumelelo singadlulisi isikhathi esibalulwe esazisweni.

(6) Umgwamanda oowengamele nesikhulu esiyinhloko kufanele baqinisekise ukuthi ulandelwa ngokushesha umyalelo okhishwe uNgqongqoshe ngokwesigatshana (5).

(7) Uma isikhungo sezokuthutha sehluleka ukulungisa iphutha esikhathini esinikiwe esazisweni esishiwo esigatshaneni (5), uNgqongqoshe –

(a) angangenelela ngokuthatha izinyathelo zokwenza ukuba umsebenzi wenziwe nguMnyango noma ngomunye umgwamanda noma ngumuntu onamandla okwenza lokho ngokwesigaba 139 soMthethosisekelo; futhi

(b) angasebenzisa izimali ezisuka esiKhwameni sesiFundazwe seziMali eziNgenayo ezibekelwe lesi sikhungo sezokuthutha ukukhokhela izindleko ezidaleka ngenxa yokuthatha lezo zinyathelo; noma lezo zindleko zithathwe esikhungweni sezokuthutha.

(8) Isikhungo sezokuthutha singafaka isicelo kuNgqongqoshe semvume yokuqala indima yemisebenzi egcwele yeBhodi ngokumaqondana nemisebenzi yezokuthutha kuhlangene nokulayishwa kanye nokuhanjiswa kwabagibeli ngaphakathi kwemingcele yendawo lapho isikhungo sezokuthutha sinikeziwe amandla okuphatha.

(9) Kuncike endeleni yokuhlulwa njengoba ibekiwe esigabeni 30(2) soMthetho kaZwelonke woGuquko kweZokuthutha eZihamba Phansi uma kuhlangabezwe nayo yisikhungo sezokuthutha, uNgqongqoshe angasigunyaza lesi sicelo esichazwe esigatshaneni (8).

(10) Lapho isiphathimandla sesiyitholile imvume leyo edingaka ngaphansi kwesigatshana (8) –

(a) imisebenzi yonke egcwele yeBhodi iyobe isinikezwa isikhungo sezokuthutha; kanye

(b) izihlinzeko zalo Mthetho ngokumaqondana neBhodi ngakho konke okuphokophelelwe nalokho okuhlosiwe zithathwe njengezinkomba ebhizinisini elifanele lesikhungo sezokuthutha elisungulelwe ukwenza leyo misebenzi.

(11) Kuye ngokubonakala kwesidingo sokuthuthukiswa kwesikhungo sezokuthutha futhi inqobo nje uma kungashayisani nezihlinzeko zesivumelwano sokusungula isikhungo sezokuthutha noma sokwabiwa kwemisebenzi okuhlinzekelwe kuleso sivumelwano sokusungula, noma yikuphi ukubalulwa kukamasipala kulo Mthetho kumele kuhunyushwe njengokuqondise esikhungweni sezokuthutha.

Amandla angeziwe ezikhungo zezokuthutha

13.(1) Isikhungo sezokuthutha singaba nesivumelwano nomasipala ongalibambile iqhaza, esingavumela isikhungo sezokuthutha ukuba sisebenzise amandla noma senze umsebenzi egameni lalowo masipala, onikezwe sona ngokuhambisana nalo Mthetho noma noMthetho kaZwelonke woGuquko kwezokuThutha eziHamba Phansi.

(2) Isikhungo sezokuthutha singangena kuphela kuleso sivumelwano uma sinamandla ngokwalo Mthetho kanye nokwanoma yimuphi omunye uMthetho ophathelene nokuthuthwa komphakathi, amandla afanayo noma ukwenza umsebenzi ngokuqondene nendawo yaso yezokuthutha.

(3) Isivumelwano okukhulunywa ngaso esigatshaneni (1) singafaka phakathi ukusetshenziswa kwezimali zesikhungo sezokuthutha ngaphandle kwendawo yaso yezokuthutha, uma uNgqongqoshe kanye noNgqongqoshe wezeziMali bevuma bobabili.

(4) Ngaphezu kwamandla adluliselwe kuso ngokwalo Mthetho kanye nangokoMthetho kaZwelonke woGuquko kwezokuThutha eziHamba Phansi, isikhungo sezokuthutha singenza noma isiphi isenzo esisemthethweni noma senze noma yini inkampani enegunya elisemthethweni lokuyenza ngaphandle uma ingahambisani nalo Mthetho noma noMthetho kaZwelonke woGuquko kwezokuThutha eziHamba Phansi.

Ukwenganyelwa kwezikhungo zezokuthutha

14.(1) Isikhungo sezokuthutha silawulwa futhi senganyelwa wumgwamanda owengamele osungulelwe sona ngokuhambisana nesivumelwano sokusungula esisebenza ngokuqondene naleso siphathimandla esengamele.

(2) Umgwamanda owengamele umele isikhungo sezokuthutha, kanti futhi konke okwenziwa umgwamanda olawulayo okanye noma ngubani ogunyazwe yilowo mgwamanda ukuba awumele, kuthathwa njengezenzo zaleso siphathimandla.

Izimali zezikhungo zezokuthutha

15.(1)(a) Isikhulu esiphezulu sesikhungo sezokuthutha kumele sigcine amarekhodi afanele okubalwa kwezimali ngokuhambisana nenkambiso eyamukelekile yokubalwa kwezimali ukuze akhombise ngokugcwele isimo saso sezimali.

(b) Amarekhodi okubalwa kwezimali kumele afake i-akhawunti yemali engenayo okumele ifakwe njengengxenye yezimali eziyinzuzo nezamukelwa yisikhungo sezokuthutha futhi kumele zifakwe nezindleko ezenziwe.

(2)(a) Yileso naleso siphathimandla kumele zingakadluli izinyanga ezintathu ngaphambi kokuphela konyaka wezimali, silungise isititende semali engenile kanye nemali ezosebenza onyakeni wezimali olandelayo, okumele silethwe kumasipala noma komasipala ababambe iqhaza, lungakashayi usuku oluzonqunywa nguNgqongqoshe, kodwa leso siphathimandla nganoma isiphi isikhathi ungakapheli unyaka wezimali singaletha isabelozimali sokwengeza salowo nyaka wezimali kumasipala noma komasipala ukuze siphasiswe.

(b) Isikhungo sezokuthutha kumele ngawo lowo mzuzu sidlulise ipheshana lesitatimende semali okucatshangelwa ukuthi izongena naleyo ezosetshenziswa kanye nohlaka lohlahlomali olwengeziwe, uma kudingekile, okukhulunywe ngayo endimeni (a) ukuya kuNgqongqoshe.

(c) Isikhungo sezokuthutha asikwazi ukungena ezindlekweni ezingaphezulu kwesamba sesisonke, esifaka phakathi isamba esengezayo sesabelozimali njengoba sivunywe ngumasipala noma ngomasipala ngokuhambisana nendima (a).

(d) Isikhungo sezokuthutha singasungula isikhwama esiseceleni nganoma iyiphi inhloso ehlobene nemisebenzi yaso ngokwalo Mthetho, esivunywe nguNgqongqoshe, futhi sifake izimali kuleso sikhwama ezibekelwe leyo nhloso esabelwenizimali kufaka phakathi noma yisiphi isabelozimali sokwengeza esivunywe ngokwendima (a).

Ukusetshenziswa kwezimali zesikhungo sezokuthutha

16.(1) Isikhungo sezokuthutha, ngokuhambisana nezinhlelo zaso zezokuthutha –

(a) singakhokha izindleko zokwenza imisebenzi yaso noma ngokusebenzisa amandla aso;

(b) singasiza izinhlobo ezikhethekile zabagibeli ngokubhelisela izimali

zokugibela noma ngokukhokhela lowo mqhubi ngokuqondene nomsebenzi awenze ngokohlelo lwezokuthutha olugunyaziwee.

(c) singakhokhela ingxenywe ethile yezindleko zempahla ezidingwa ngumasipala

ukulawula ukuhamba kwezimoto endaweni yezokuthutha ngokuhambisana nohlelo lwezokuthutha oluphasisiwe;

(d) singakhokha inani okuvunyelwene ngalo ngezinkontileka zomsebenzi

oxhasiwe, izinkontileka zamathenda ezikhona, izinkontileka zesikhashana noma izibonelelo zokwehliselwa imali ngokuhambisana nohlelo lwezokuthutha oluvunyiwe;

(e) singakhokha isinxephezelo soMthetho kaZwelonke woGuquko

kwezokuThutha eZihamba Phansi, ngamalayisensi okusebenza ahoxisiwe ngokwesigaba 51 salo Mthetho;

(f) singakhokha izindleko zokwethulwa kwezobuchwepheshe obusha kwezokuthutha umphakathi;

(g) singakhokha izindleko zokukhombisa noma zezinhlelovinyo kwezokuthutha ezihamba phansi;

(h) singanika uxhasomali lwezokuqeqesha kwezobunjiniyela kwezokuthutha noma kwezomnotho ezithinta ezokuthutha okanye noma yiluphi udaba oluhlobene nezokuthutha ezihamba phansi;

(i) singakhokha izindleko zokwakha nokuqalisa izinhlelo zezokuthutha;

(j) singakhokha inzalo kwizimalimboleko esinikezwe zona futhi sibuyise lezo malimboleko ngamangcozungcozu singakapheli isikhathi esinqunywe nguNgqongqoshe ngokuvumelana noNgqongqoshe wezeziMali;

(k) singakhokha izindleko zezimoto ezikhethekile ezisetsenziselwa ezokuthutha umphakathi ngaphansi kwezinkontileka zomsebenzi oxhasiwe noma kwezibonelelo zokwehliselwa imali; noma

(l) singakhokha izindleko zokuhlela, ukwakha, ukuphatha, ukugcina noma ukulungisa imigwaqo kanye nezinye izingqalasisinda.

(2) UNgqongqoshe angenza imithethonqubo mayelana nendlela imali esele yezikhungo zezokuthutha engabekwa ngayo.

(3) Ngemvume kaNgqongqoshe, isikhungo sezokuthutha singasebenzisa imali endaweni engaphandle kwendawo yaso yezokuthutha, ngokuvumelana nezinye izikhungo zezokuthutha nomasipala abathintekayo, ngenhloso yokwenza imisebenzi yaso.

Izimalimboleko ezikhungweni zezokuthutha

17.(1) UNgqongqoshe, ngokusebenzisa izimali ezabiwe yiSishayamthetho sesiFundazwe, angaboleka isikhungo sezokuthutha imali ukusiza ekuqaliseni lo Mthetho, ngokuhambisana noMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999).

(2) Isikhungo sezokuthutha kumele sikhokhe inzalo yemali ebolekiwe bese sikhokhela imalimboleko ngamangcozungcozu nangesikhathi esinganqunywa nguNgqongqoshe, ngokuvumelana noNgqongqoshe wezeziMali.

Izimali zosizo ezikhishwa ngokubona kukaNgqongqoshe

18. UNgqongqoshe, ngokuhambisana noMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999) angakhipha izimali zosizo ukwelekelela izikhungo zezokuthutha ukukhokhela, ngokuhambisana nezinhlelo zazo zezokuthutha –

(a) izinhlelo ezinkulu, kufaka phakathi nokuthengwa kwempahla engasuseki, ukuthengwa kwesitokwe esizosiza izinhlelo zezokuthutha umphakathi, uhlaziyo oluhlobene nokuthuthukiswa kwezinhlelo zezokuthutha umphakathi, kanye nokutholwa kwamalungelo emizila.

(b) izindleko zokuxhumanisa ezokuthutha umphakathi kanye nezinye izinhlobo zokuthutha ezihamba phansi;

(c) ukwethulwa kwezobuchwepheshe obusha kwezokuthutha umphakathi;

(d) izinhlelo zezokuthutha ezihamba phansi edlondlobalisa ukuthuthukiswa kwezomnotho nenhlalo kanye nokwakhiwa kabusha kwezindawo zasemadolobheni noma ezasemakhaya kubandakanya ukuthuthukiswa kwezimboni, ezokuhwebelana, ezamabhizinisi kanye nezindawo zokuhlala, uma izinhlelo –

(i) zikhulisa ukusebenza ngempumelelo kwezokuthutha zomphakathi ehlobene nazo ngokomsebenzi;

(ii) zisungula ukuxhumana okusha noma okudlondlobele phakathi kwezokuthutha umphakathi kanye nezinye ezokuthutha ezihamba phansi; noma

(iii) inciphisa isidingo sokuhamba ngezimoto ezingathuthi umphakathi ngenxa yobude bohambo lwalezo zimoto;

(e) izinhlelo zezokuthutha umphakathi ezihlelwe, zakhiwa zabuye zenzelwa ukuhlangabezana nezidingo zezinhlobo ezikhethekile zabagibeli; noma

(f) izindleko zezimoto noma isitokwe esisetsenziswa ekuhlinzekweni kwezokuthutha umphakathi ngaphansi kwezinkontileka zomsebenzi oxhasiwe noma kwezibonelelo zokwehliselwa imali.

Ukwedluliselwa kwamandla ngumgwamanda owengamele

19.(1) Umgwamanda owengamele wesikhungo sezokuthutha ungadlulisela noma imaphi amandla awo noma imisebenzi yawo ngokwalo Mthetho, ngaphandle kwamandla okwengamela ahlinzekelwe ezigabeni 14 kunoma yiluphi ilungu lalowo mgwamanda owengamele.

- (2) Ukwedluliswa kwamandla komgwamanda owengamele ngokwesigatshana (1) –
- kungenziwa ngokuhambisana nanoma imiphi imibandela enqunywe umgwamanda olawulayo;
 - kunganikezwa ngokuhambisana nanoma yimaphi amandla okubuye udlulise, futhi kuhambisane nanoma yimiphi imibandela enganqunywa kanjalo, uma ikhona; futhi
 - kumele kubhalwe phansi kube nayo yonke imininingwane yezindaba ezidluliswayo kanye neyemibandela efakiwe ehambisana nalokho kudluliswa, futhi lapho igunya lokuphinde udlulise linikezwa, kumele kucaciswe lokho kanye nanoma yimiphi eminye imibandela ehambisana nakho.
- (3) Umgwamanda owengamele, nganoma isiphi isikhathi –
- ungachibiyela noma uhoxise ukudluliselwa kwamandla okwenziwe ngokwesigatshana (1); noma
 - uhoxise noma isiphi isinqumo esenziwe noma ngubani ngokuphathelene nodaba oludluliswe, futhi unqume udaba ngokwawo: inqobo nje uma isinqumo esenziwe ngokuhambisana negunya lokwedlulisa amandla okubuye sahoxiswa lapho khona sinikeza ilungelo kunoma iluphi uhlangothi lwesithathu.
- (4) UNGqongqoshe, uma enelisekile ukuthi izidingo zezokuthutha umphakathi esifundazweni noma endaweni yezokuthutha, zikubeka njengemfuneko, ngesaziso *kwiGazethi* –
- angavimbela ukudluliselwa kwanoma imaphi amandla noma umsebenzi ezimweni ezithile ezibalulwe esazisweni;
 - angabekela umkhawulo izimo lapho khona noma yimaphi amandla noma umsebenzi kungadluliswa;
 - angabeka imibandela yokudluliselwa kwanoma yimaphi amandla noma umsebenzi; noma
 - ngokuqondene nanoma yimaphi amandla noma umsebenzi okubalulwe esazisweni, angavimbela ukubuye kudluliswe kwamandla uma kwenzeka umgwamanda owengamele uwadlulisela lawo mandla noma lowo msebenzi.

Imigwamanda yezokuthutha

- 20.(1) Izinhlangothi eziyingxenyane yesivumelwano sokusungula zingakuhlizekela –
- ukuthi umsebenzi wobungcweti, owobuchwepheshe, owobubhalane kanye nanoma imuphi omunye oba khona, odingekile, noma ohambisana nokusebenza kwesikhungo sezokuthutha noma nokusetshenziswa kwamandla noma ukwenziwa kwemisebenzi, kumele wenzelwe isikhungo sezokuthutha –
 - ihhovisi lokuphatha likamasipala oyedwa komasipala ababambe iqhaza ababalulwe kuleso sivumelwano; noma
 - ngowodwa noma ngaphezulu eminyangweni yamahhovisi okuphatha kamasipala ebalulwe owodwa noma ngaphezulu komasipala ababambe iqhaza, futhi kuleso simo, izihlinzeko eziqondene zoMthetho woHulumeni baseKhaya: Izinhlelo zoMasipala, ka 2000 (uMthetho No. 32 ka 2000), kumele zisebenze; noma
 - ukusungulwa yisikhungo sezokuthutha komgwamanda ozoba ngaphansi kwaso futhi ulawulwe yiso (ukusukela lapha obizwa ngomgwamanda wezokuthutha) ukwenza wonke umsebenzi walolo hlobo okanye noma iluphi uhlobo olubaluliwe noma umkhakha walowo msebenzi wehathimandla sezokuthutha.
- (2) Lapho khona isivumelwano sokusungula sihliznekela ukusungulwa komgwamanda wezokuthutha –
- kungahliznekela futhi kuleso sivumelwano ukuthi isikhungo sezokuthutha, uma sikelwa, ukwenza njalo ngesinye isikhungo sezokuthutha, sisize ngowaso umgwamanda wezokuthutha ukwenzela lesi siphathimandla lolu hlobo lomsebenzi –
 - ngokuhambisana nesivumelwano esibhalwe phansi okungenwe kuso phakathi kwezikhungo zezokuthutha ezithintekayo;
 - ngemali noma ngokukhokhwa kwesamba esibalulwe kuleso sivumelwano; futhi
 - ngokuhambisana –
 - nemibandela nezimiso ezibekiwe esivumelwaneni sokusungula, uma zikhona; kanye
 - nemibandela nezimiso ezibekelwe ngokukhethekile lesi sivumelwano; futhi
 - kumele okungenani kuhlinzekelwe lokhu okulandelayo:
 - lapho kungesikho ukuthi yonke imisebenzi yobungcweti, ubuchwepheshe, ezokuphatha, ububhalane kanye neminye ehlobene nakho yesikhungo sezokuthutha iyokwenziwa umgwamanda wezokuthutha, kubalulwe uhlobo lomsebenzi okumele wenziwe umgwamanda wezokuthutha;
 - indawo lapho amahhovisi omgwamandanda wezokuthutha azoba khona;
 - indlela noma inqubo ezolandelwa lapho kunqunywa umumo wabasebenzi besigungu sezokuthutha; kanye
 - nokuthi ngubani onamandla okuqoka nokuxosha abasebenzi baso.

Imigwamanda ehlanganyele yezokuthutha

- 21.(1) UNGqongqoshe kanye nezimbili noma ngaphezulu izikhungo zezokuthutha ezigunyazwe omasipala bazo ababambe iqhaza, bangangena esivumelwaneni esihlinzekela ukwakhiwa komgwamanda wezokuthutha ngaphansi kwalezo zikhungo zezokuthutha ngokuhlanganyela, ukwenzelana umsebenzi wobungcweti, owobuchwepheshe, owezokuphatha, owobubhalane kanye nomunye umsebenzi ovela noma odingekile ekusebenzeni kwaso njengesikhungo sezokuthutha kanye nasekusebenziseni amandla noma ekwenzeni imisebenzi yaso (emva kwalokhu obizwa ngomgwamanda ohlanganyele wezokuthutha).
- (2) Kuleso sivumelwano kumele kubuye kuhlinzekelwe okungenani –
- izindaba ezibalulwe esigabeni 20(2)(b), esisebenza ngokuqondene nesigungu sezokuthutha esihlanganyelwe, ngokuhambisana nezinguquko ezidingwa yisimo;
 - amandla ezikhungo zezokuthutha ezibambe iqhaza mayelana nokuqashwa komsebenzi kanye nolawulo lomgwamanda wezokuthutha ohlanganyele;
 - umnikelo waleso naleso sigungu sezokuthutha ngasinye oxhaswenimali lomgwamanda wezokuthutha ohlanganyele.

Ukhlakazwa kwezikhungo zezokuthutha

- 22.(1)(a) Kuncike endimeni (b) yalesi sigatshana, isikhungo sezokuthutha singahlakazwa kuphela ngendlela okuchazwe ngayo kulesi sigaba.
- (b) Izihlinzeko zendima (a)
- aziwathikamezi amandla eLungu loMkhandlu oPhethe ohulumeni basekhaya, uma lenza ngokwesigaba 14 soMthetho woHulumeni baseKhaya: Izinhlelo zoMasipala, 1998 (uMthetho No. 117 ka 1998), ukwenza noma iziphi izinhlelo ezingaba nomthelela ophambene nohlosiwe; futhi
 - aziphambuki emandleni omthetho kanye nomthelela wanoma iziphi izinhlelo ezenziwe kanjalo.

- (2) Isikhungo sezokuthutha kumele sihlakazwe ngokwesigatshana (1) uma lezi zimfuneko ezilandelayo sekuhlangatshezenwe nazo:
- lapho khona isikhungo sezokuthutha esifaka kuphela umasipala oyedwa, sesinqume ukuba sikumise ukubamba kwawo iqhaza esikhungweni sezokuthutha futhi sesimazisile uNgqongqoshe ngokumbhalela ngesinqumo saso;
 - lapho isikhungo sezokuthutha sifaka omasipala ababili noma ngaphezulu –
 - omasipala abathintekayo sebevumelene ngokomgomo ukuthi isikhungo sezokuthutha sihlakazwe, futhi sebemazisile uNgqongqoshe ngokumbhalela ngalokho; noma
 - oyedwa noma ababili balabo masipala, njengoba isimo singavela, esenqume noma sebenqume ukuba akuyeke noma bakuyeke ukubamba kwabo iqhaza esikhungweni sezokuthutha futhi bonke omasipala asebenqume kanjalo sebemazisile uNgqongqoshe kanye nomunye umasipala noma nabanye omasipala njengoba isimo singakhomba lokho, ngesinqumo esibhalile;
 - uNgqongqoshe, ezinsukwini ezingama-30 emva kokuba azisiwe –
 - ngesaziso esishicilelwe *kwiGazethi* kanye nephephandaba elifundwa kakhulu endaweni yezokuthutha ethintwa yileso saziso, esekudalulile ukuhlakazwa okuhlongozwayo kwesikhungo sezokuthutha esithintekayo;
 - esememe izinhlangothi ezinentshisekelo ukuba ziphawule futhi benze izethulo ngokuqondene nakho; futhi
 - esebacelele ukuba bakubhale phansi lokho kuphawule kanye nezethulo kuqondiswe kuNgqongqoshe lungakadluli usuku olubalulwe kuleso saziso, kodwa kumele okungenani kudlule isikhathi esingangezinsuku ezingama-30; kanye
 - Uma bonke abantu abayingxenywe yesikhungo sezokuthutha sebefinyelele esivumelwaneni okuzokwenziwa ngaso izinhlelo, sekubukwe izinto okuphawulwe ngazo kanye nezethulo uma zikhona, ezinikezwe kulandela isaziso sikaNgqongqoshe ngokwendima (c), mayelana nezindaba ezibalulwe esigabeni 10(14) soMthetho kaZwelonke woGuquko kwezokuThutha eziHamba Phansi, kodwa usuku lokuhlakazwa kumele lunqunywe ngendlela yokuthi lubeke kwacaca kahle futhi lunika igebe lesikhathi okungenani lwezinsuku eziyi-14 kusukela osukwini lwesaziso esishicilelwe ngokumaqondana nesigatshana (4).
- (3) Uma uNgqongqoshe kanye nomasipala noma omasipala, njengoba isimo singasho lokho, abayingxenywe yaleso sikhungo sezokuthutha behluleka ukufinyelela esivumelwaneni njengoba kucatshangelwa esigatshaneni (2)(d)
- udaba noma izindaba lezo kumele zinqunywe ngesahlulelo ngokoMthetho woKwahlulela, 1965 (uMthetho No. 42 ka 1965)
 - isinqumo sikamahluleli singujuqu futhi siyabophezela; kanye nesinqumo sikamehluleli saziwa njengesihlosiwe ngokwesigatshana (2) ukuthi siyingxenywe yesivumelwano okukhulunywe ngaso endimeni (d) yaleso sigatshana noma, lapho kudingakele, njengento eyakha isivumelwano.
- (4) UNgqongqoshe kumele, zingakapheli izinsuku ezingamashumi amathathu kusukela osukwini lwesivumelwano esihlinzekelwe esigatshaneni (2) noma (3), ngesaziso *kwiGazethi* kanye nasephephandabeni elifundwa uwonkewonke endaweni yezokuthutha ethintekayo, amemezele ukuhlakazwa kwesikhungo sezokuthutha futhi ashicilele imibandela yaleso sivumelwano kanye nosuku lokuhlakazwa.

ISIAHLUKO 4 IBHODI ELINIKEZA AMALAYISENSI EZOKUTHUTHA UMPHAKATHI

Ukusungulwa kweBhodi

23. IBhodi Elinikeza amaLayisensi ezokuThutha uMphakathi KwaZulu-Natali ngalokhu liyasungulwa.

Ukuphakanyiswa kwamagama abantu abazoba kwiBhodi

24.(1) UNgqongqoshe kumele ngokusebenzisa indlela eyakhelwe ukufinyelela esibalweni esikhulu sabahlali besifundazwe, ameme ukuphakanyiswa kwamagama abantu abozoqokelwa kwiBhodi.

(2) Ukumenywa kwamagama abantu ngokwesigatshana (1) kumele kusho –

- inqubo yokuphakamisa amagama;
- okudingekayo ukuze umuntu aqokwe; kanye
- nosuku okumele ngalo amagama abantu aphakanyisiwe abe esetholiwe nguNgqongqoshe.

(3)(a) UNgqongqoshe kumele aqoke iphaneli yokuhlunga yezikhulu zoMnyango ezingevile ebantwini abane ukucubungula amagama aphakanyisiwe bese yenze izincomo ngabantu abaphakanyisiwe.

(b) UNgqongqoshe, ngokubona kwakhe, angaqoka abantu abangevile kwababili abanesipiliyoni embonini yezokuthutha ukusiza iphaneli yokuhlunga ekwenzeni izincomo ngabantu abaphakanyisiwe.

Ukuqokwa kweBhodi

25.(1) UNgqongqoshe kumele, ngokubona amagama abantu aphakanyisiwe ngokwesigaba 24(1) kanye nezincomo ezenziwe yiphaneli ehlungayo okukhulunywe ngayo esigabeni 24(3), aqoke kwiBhodi amalungu angevile kwamahlangu anesipiliyoni kwezokuthutha umphakathi, ezindabeni zezezimboni, ezokuhwebelana, ezezimali noma ezomthetho, okumele afake phakathi –

- umuntu oyedwa omsebenzi wakhe kungubumeli obufundelwe noma ummeli wasemajajini;
- umuntu oyedwa onolwazi olunzulu kwezezimali nezokuhwebelana;
- umuntu oyedwa onobuchule noma ulwazi olunzulu lwemboni yezokuthutha umphakathi;
- abantu ababili abanconywe umgwamanda omele abagibeli; kanye
- nokungenani oyedwa wesifazane ohambisana nanoma yikuphi kulezi zinto ezibalulwe endimeni (a) kuya ku (d).

(2) UNgqongqoshe angaqoka amalungu amabili azoshintshana kwiBhodi, azoba khonela ukusebenza kwiBhodi uma kwenzeka ilungu liba nokushayisana nezinjongo noma lingakwazi ukuba khona ekulalelweni.

(3) Amalungu abalulwe esigatshaneni (1) kanye namalungu azoshintshana abalulwe esigatshaneni (2) kumele abe ngabantu abafanelekile abakwaziyo ukuzimela, bangavuni hlangothi futhi babe nobulungiswa.

(4) Umuntu akakwazi ukuqokwa njengelungu noma njengelungu elizoshintshana nelinye kwiBhodi uma lowo muntu –

- eseke wasuswa esikhundleni esithinta umphakathi ngenxa yokungaziphathi kahle;
- eseke wakhishelwa umyalelo wokwahlulwa yizikweletu futhi engakahlengeki kuzo;
- eseke waboshelwa icala futhi wagwetshwa isikhathi ejele esingaphezu kwezinyanga eziyi-12 ngaphandle kokuzikhetshela inhlawulo; noma
- eseke walahlwa yicala elifaka phakathi ukungethembeki.

- (5)(a) UNgqongqoshe kumele agcwalise isikhala esikhona kwiBhodi noma kuamalungu azoshintshana eBhodi ngokuhambisana nezihlinzeko nesigaba 24.
 (b) Izihlinzeko zezigatshana (1) kuya ku (4) ziyasebenza, nezinguquko ezifanele, ekugcwalisweni kwezikhala.

Isikhathi sokuqokwa kwelungu leBhodi

26.(1) Ilungu leBhodi kumele liqokwe isikhathi esingeki seqe eminyakeni emithathu.

(2) Ngokwesigatshana (1), uNgqongqoshe angabuye aliqoke kabusha ilungu leBhodi isikhathi esengeziwe esingeqi eminyakeni emithathu.

(3) Amalungu eBhodi lesiFundazwe eLinikeza amaLayisensi okusebenza lawo okukhulunywa ngawo esigabeni 30 soMthetho kaZwelonke woGuquko kwezokuThutha eziHamba Phansi futhi aqokwe nguNgqongqoshe ngaphambi kokuqala kokusebenza kwalo Mthetho kumele aqhubeke nokusebenza: Inqobo nje uma kuzothi uma ilungu, ekuqaleni kokusebenza kwalo Mthetho, lizobe selisebenze isikhathi –

(a) esingaphezulu kwesikhathi esinqunywe esigatshaneni (1) no (2), isikhathi sokusebenza salelo lungu kwiBhodi kumele sinqunyelwe insalela yesikhathi salo ebelingakasisebenzi;

(b) esingakeqi esikhathini esihlinzekwe ezigatshaneni (1) no (2), lelo lungu kumele lisebenze insalela yesikhathi salo ebelingakasisebenzi futhi lingakwazi ukubuye liqokwe kabusha esinye isikhathi esengeziwe esingaphezulu sesikhathi esingafinyelela esikhathini esihlinzekwe ezigatshaneni (1) no (2).

Ukuqokwa kukaSihlalo neSekela likaSihlalo weBhodi

27. UNgqongqoshe kumele aqoke bobabili uSihlalo kanye neSekela likaSihlalo weBhodi.

Ukudalulwa kokuhlomula ngokwezimali noma ngenye indlela kwamalungu eBhodi

28.(1) Umuntu oqokelwe kwiBhodi kumele –

(a) zingakapheli izinsuku eziyishumi eqokiwe, alethe kuNgqongqoshe, incwadi yokudalula noma ikuphi ukuhlomula ngokwemali nangenye indlela embonini yezokuthutha okungenzeka ukuba ahlobene noma ashayisana nokuqokwa njengelungu leBhodi, nokumele ifake ulwazi olufanele mayelana nanoma yikuphi ukulahlwa yicala loHlelo loMthetho wokuShushiswa koBelelesi, 1977 (uMthetho No. 51 ka 1977).

(b) encwadini yokudalula ebalulwe ngenhla endimeni (a), afake phakathi ukuhlomula ngokwemali kanye nangenye indlela embonini yezokuthutha amalungu omndeni ahlobene noma abantu asondelene nabo, okungenzeka kuhlobane noma kushayisane nokuqokwa njengelungu leBhodi; futhi

(c) akumele acatshangelwe isikhundla sokuba ilungu leBhodi lapho kutholakala ukuthi lowo muntu ophakanyisiwe wagodla ulwazi ngamabomu olumayelana nokuhlomula ngokwezimali kanye nangenye indlela kuNgqongqoshe.

(2) Lapho ilungu leBhodi noma lomndeni walo eliseduze noma elisebenzisana nabo behlangabezana noshintsho ekuhlomuleni ngokwezimali nangenye indlela embonini yezokuthutha noma ethola ukuhlomula embonini yezokuthutha noma enesizathu sokuba nolwazi ngalolo shintsho noma lokho kuthola ukuhlomula, ilungu leBhodi kumele, zingakapheli izinsuku eziyi-10 kusukela ngosuku loshintsho noma lokuthola ukuhlomula, lethule incwadi edalula lokho kuhlomula kuNgqongqoshe.

Ukwehluleka ukudalula ukuhlomula ngokwezimali noma ngenye indlela

29.(1) Ilungu leBhodi elehluleka ukudalula njengoba kuhlongozewe esigabeni 28 lenza icala.

(2) INhloko yoMnyango, uma isithola ukuthi ilungu leBhodi lehlulekile ukuhambisana nezihlinzeko zesigaba 28, kumele iluphenye udaba bese iludlulisela kuNgqongqoshe ukuze athathe izinyathelo ezifanele zokuqondisa izigwegwe.

Ukuhoxa kwelungu leBhodi

30.(1) Ilungu leBhodi kumele lihoxe kunoma iluphi udaba noma ukulalelwa kodaba lapho khona ilungu lomndeni elisondele noma umuntu osondelene nalo kungalindeleka ukuthi abe nokuhlomula noma ezinye izinto ngokwemali noma ngenye indlela emphumeleni wesinqumo seBhodi.

(2) Noma imuphi umuntu angenza isicelo, ngomlomo noma ngokubhala, sokuba ilungu leBhodi lihoxe lapho lowo muntu enesizathu esimenza akholwe ukuthi ilungu leBhodi, ilungu lomndeni noma umuntu osondele angaba nokuhlomula ngokwemali noma nokunye ukushayisana kwezinjongo emphumeleni wesinqumo selungu leBhodi.

(3) Umuntu ofaka isicelo esibalulwe esigatshaneni (2) kumele anikeze izizathu zesicelo sakhe.

(4) Uma kunesicelo esibalulwe esigatshaneni (2), uSihlalo weBhodi kumele athathe isinqumo ngodaba, ngaphandle kwasezimeni lapho isicelo siqondene noSihlalo weBhodi, nokuyilapho udaba kumele lunqunywe yiSekela likaSihlalo.

Ukwesula esikhundleni kwelungu leBhodi

31. Ilungu leBhodi, noma isiphi isikhathi futhi zingakapheli izinsuku ezingama-30 zesasizo esibhaliwe esiya kuNgqongqoshe noma lowo olikhethile, lingasula, ngaphandle uma uNgqongqoshe noma umuntu ophakanyisiwe nguye angemukela isikhathi esifushane sesaziso lapho lokwenza kungazukulimaza ukusebenza ngendlela kweBhodi.

Ukuxoshwa kwelungu leBhodi

32. Umuntu akakwazi ukuqhubeka nokuba sesikhundleni njengelungu okanye ilungu elishintshana nelinye leBhodi uma –

(a) eseke wasuswa esikhundleni esithinta umphakathi ngenxa yokungaziphathi kahle;

(b) eseke wahlulelwa njengomuntu ohlulwe yizikweletu futhi engakahlengeki kuzo;

(c) eseke walahlwa yicala elifaka phakathi ukungethembeki;

(d) eseke waboshelwa icalawaphinda wagwetshwa isikhathi esingaphezulu kwezinyanga eziyi-12 ngaphandle kokuzikhethela inhlawulo;

(e) ehlulekile ukudalula ukushayisana kwezinjongo ngokwezimali noma nangenye indlela ngokwesigaba 28;

(f) ehlulekile ukuhoxa njengoba kudingwa yisigaba 30;

(g) ebandakanyeke ekuziphatheni, ngokubona kukaNgqongqoshe, okuhlaza isikhundla selungu noma imisebenzi yeBhodi noma okungase kulimaze igama leBhodi; noma

(h) ehlulekile ukwenza imisebenzi yeBhodi ngokwekhono lakhe.

(2) UNgqongqoshe, emva kophenyo olufanele, angalixosha lelo lungu noma ilungu elishintshana nelinye nganoma isiphi isizathu kwez-ibalulwe esigatshaneni (1).

(3) UNgqongqoshe kumele, ngokucelwa yilungu leBhodi noma ilungu elishintshana nelinye eselimiswe ukusebenza njengoba kuhlinzekelwe esigatshaneni (1), anikeze izizathu ezibhaliwe ngokuxoshwa kwelungu.

Amandla nemisebenzi yeBhodi

- 33.(1) Imisebenzi yeBhodi ukwamukela, ukucubungula nokunquma noma ukubhekana ngokuhambisana nalo Mthetho –
- (a) nezindaba ezidluliselwe kulo zivela kwiziphathimandla ezihlelayo ukuze kunikezwe amalayisensi okusebenza adingekile ukuze kuqaliswe izinhlelo zezokuthutha ezakhiwe izikhungo zezokuthutha ezifanele;
 - (b) nezicelo zokunikezwa kwamalayisensi okusebenza, kwezokuthutha phakathi ezisifundazweni;
 - (c) nezicelo zokunikezwa kwamalayisensi okusebenza kwezokuthutha phakathi kwezifundazwe, esifundazweni ngokuvuma kweBhodi lamalayisensi elifanele lesinye isifundazwe, noma lazo zonke ezinye izifundazwe, lapho khona kuthathwa noma kwehliswa abagibeli, kuye ngesimo, ngokwesigaba 30(5) soMthetho kaZwelonke woGuquko kweZokuthutha eZihamba Phansi;
 - (d) nezicelo zokuvuselela, ukuchibiyela noma ukudlulisela amalayisensi okusebenza ayenikezwe yilo maqondana nezokuthutha phakathi kwezifundazwe, kuncike ekugunyazeni kweBhodi lamalayisensi elifanele lesinye isifundazwe, noma azo zonke ezinye izifundazwe, lapho khona kugibela noma kwehla abagibeli;
 - (f) nezicelo zamalayisensi okusebenza esikhashana;
 - (g) nezicelo zokukhishwa unomphele kwezimoto ezibalulwe kumalayisensi okusebenza; kanye
 - (h) nezicelo zokukhishwa okwesikhashana kwemoto ebalulwe kwilayisensi yokusebenza.

(2) Emva kokuphothulwa kokuguqulwa kohlelo lokuklanywa kwamabanga okukhulunywa ngayo ngaphansi kwesigaba 45, iBhodi lingaphinde liyicele ilayisensi yokusebenza ngenhloso yokuchaza kabusha umzila noma imizila lapho khona iBhodi libona ukuthi ukuchazwa kwayo akucacile noma akwanele: Inqobo nje uma ekwenzeni njalo iBhodi kuzomele lichaze kabusha umzila ngokuhambisana neminingwane ethile okumele ihlinzekwe yisikhungo esihlelayo.

(3) Ibhodi, ngesaziso esibhaliwe esithunyelwe ekhelini elagcina linikeziwe, lingadinga noma imuphi umnikazi welayisensi anelise iBhodi singakapheli isikhathi esibekiwe esazisweni, ukuthi imisebenzi egunyazwe yilayisensi yokusebenza elifanele isahlinzekwa noma ihlinzekwa ngokugculisayo, noma ahlinzeke iBhodi ngolunye ulwazi oluqondene nelayisensi yokusebenza efanele, futhi nomnikazi naye kumele ahambisane naleso saziso.

Izicelo nezidluliselo zokukhishwa kwamalayisensi okusebenza

34.(1) IBhodi, ekunqumeni ngesicelo noma isedluliselo selayisensi yokusebenza, ukuvuselela noma ukudluliselwa kwelayisensi yokusebenza kumele libheke –

- (a) isizathu sanoma yisiphi isedluliselo esibekwe yisikhungo esihlelayo kanye noMbhali, ikakhulukazi isizathu sanoma ikuphi ukwedluliswa okwenziwe ngokwesigaba 8;
- (b) indlela ezokuthutha umphakathi ezizohlinzekwa ezihambisana ngayo nenqubomgomo kazwelonke neyesifundazwe kanye nezinhlaka ezifanele nezinhlelo zezokuthutha ezakhiwe yiziphathimandla ezihlelayo;
- (c) indlela ezokuthutha umphakathi ezizohlinzekwa ezinesidingo noma ezidingekayo emphakathini;
- (d) izidingo zabagibeli kuleyo ndawo yezokuthutha noma kulowo mzila umfakisiselo afuna ukusebenza kuwo;
- (e) ukuthi kungabe imisebenzi yezokuthutha umphakathi kanye nezinsiza okukhona kubagibeli endaweni yezokuthutha noma kulowo mzila ohlongoziwe zanele yini;
- (f) ukuthi kungabe isidingo somsebenzi ofakelwe isicelo kungahlangatshezwana naso ngezinhlelo zezokuthutha esezivele zikhona noma izinhlelo ezisohlelweni yisikhungo esihlelayo;
- (g) isidingo sokuhlanganisa zonke izinhlobo zezokuthutha umphakathi, kufaka phakathi ezokuthutha ngesitimela ngendlela eyonga imali ebhekela izidingo zomphakathi;
- (h) ikhono lomfakisiselo lokuhlinzeka ngezokuthutha ezigculisayo emzileni noma emizileni ehlongozwayo;
- (i) noma yiliphi irekhodi lokulahlwa yicala lomfakisiselo;
- (j) ukuba khona kwesithiyo, ukuvinjelwa noma isithibelo esibekwe ngumthetho ekusetshenzisweni kwezimoto endaweni noma esitaladini noma emgwaqeni osemzileni umfakisiselo ahlongoza ukusebenza kuwo;
- (k) noma yiziphi izethulo ezenziwe yizinhlangothi ezinentshisekelo maqondana naleso sicelo;
- (l) isimo sokubhaliswa somfakisiselo uma kwenzeka eyilungu noma efuna ukuba yilungu lenhlangano noma efuna ukungabi yilungu;
- (m) noma imuphi umbiko noma umbhalo obhalwe kulandela uphenyo ngesimo sezimali kanye nangokwezinkambiso zokusebenza zomfakisiselo;
- (n) izicelo ezenziwe ngabaqhubi abebenza lo msebenzi, ezimeni lapho khona isicelo silandela ukwenziwa kwemisebenzi emizileni esilungisiwe; futhi
- (o) nanoma yiliphi elinye iphuzu, ngokubona kweBhodi, elingathinta isinqumo sokugunyaza isicelo noma sokufaka noma sokuguqula umbandela noma imfuneko.

(2) Lapho khona umuntu noma umgwamanda wenza isicelo somsebenzi omusha, sokuchitshiyelwa komzila noma sokuguqulwa emotweni enenjini enkulu, iBhodi kumele ledluliselwe isicelo ukuba sicutshungulwe yisikhungo esihlelayo esifanele kanye noMbhali ngokuhambisana nezinqubo ezibalulwe esigabeni 8, inhloso yalokhu kucutshungulwa –

- (a) ukunquma ngokudingeka komsebenzi;
- (b) ukuthola kahle isimo sokubhaliswa somfakisiselo;
- (c) ukuqinisekisa ukuthi kungabe indawo ethintekayo noma umzila kuyingxenywe yini yemizila yenhlangano ekhona noma loyo ongelona ilungu.

(3) Isikhungo esihlelayo kanye noMbhali kumele basiphendule isedluliselo esibalulwe esigatshaneni (2), ngendlela nangesikhathi esibekiwe.

(4) IBhodi akumele licubunguli isicelo uma kungumuntu oyedwa oseke wenza isicelo ngaphambilini ngenhloso noma ngomzila owodwa ezinyangeni eziyisithupha kusukela osukwini isicelo sokuqala esacutshungulwa ngalo senqatshelwa yiBhodi, ngaphandle uma iBhodi yeneliseka ukuthi kuzowusiza umphakathi ukusicubungula isicelo.

(5) Ekubhekani nanoma yisiphi isedluliso sokunikezelwa kwamalaysensi okusebenza, iBhodi linganikeza amalaysensi okusebenza avuna abanye abaqhubi ngaphandle kwalaba abahlonzwe uMbhalisi njengabahlinzeki bemisebenzi ngokuhambisana nezihlinzeko zesigaba 8(6), lapho iBhodi ligculisekile ukuthi ukwenza njalo kuzovumelana nezinqubomgomo yesifundazwe.

Izinqubo zeBhodi

35.(1) Ikhoramun yomhlangothi weBhodi ingamalungu amathathu okungenani.

- (2) IBhodi kumele, ukwenzela ukubhekana nalezo zinto ezihlinzekelwe esigabeni 34(1)(a) kuya ku (o), livumele noma ngumuphi umuntu othintekayo noma onentshisekelo kulolo daba, noma umuntu onegunya lokumela lowo muntu, ukuba avele phambi kweBhodi futhi –
- anikeze ubufakazi noma enze izethulo ngomlomo;
 - abize ofakazi abuye ahole nobufakazi nganoma yini ephathele nalolo daba; noma
 - ahlome imibuzo noma ngubani onikeza ubufakazi njengofakazi kulolo daba.
- (3) IBhodi, ukwenzela ukubhekana nanoma iluphi udaba oluphambi kwalo ngokwalo Mthetho –
- ngesaziso esibekwe wumthethonqubo futhi saletwa ngendlela ebekiwe, lingadinga noma ngubani ukuba avele ngaphambi kweBhodi ukuba anikeze ubufakazi noma alethe noma iyiphi incwadi noma umbhalo anawo noma ongaphansi kolawulo lwakhe;
 - lingabiza noma ngubani okhona endaweni lapho udaba lucutshungulwa khona yiBhodi, ukuba avele ngaphambi kwalo ukunikeza ubufakazi noma ukuletha noma iyiphi incwadi, uhlelo noma umbhalo angaba nawo ngaleso sikhathi;
 - lingahloma imibuzo noma ngubani ovela ngaphambi kweBhodi njengofakazi;
 - linganqaba ukulalela noma ngubani ovela ngaphambi kweBhodi njengofakazi onqabayayo ukufungiswa njengofakazi;
 - lingabizela umuntu esigcawini sokulalelwa kweBhodi noma ukukhipha nanoma imiphi imibhalo;
 - lingacela incwadi kwsikhungo esihlelayo, kuMbhalisi okanye kunoma yimuphi omunye umuntu ngodaba olungaphambi kweBhodi;
 - lingagunyaza ukukhokhelwa kukafakazi ngokulandela inani elingashiwo nguNgqongqoshe izikhathi ngezikhathi, kwimithethonqubo;
 - lingakhipha umyalelo wezindleko kulowo ohluleka ukuhambisana nesibopho esisemthethweni ngaphandle kokukhombisa isizathu esizwakalayo;
 - lingabiza isigcawu sokulalela njengoba kudingekile, futhi lesi sigcawu sivulekile emphakathini, ngaphandle lapho iBhodi linesizathu esilenzela likholwe ukuthi kungaba ubulungiswa uma lihlala noma lilalela ubufakazi bukafakazi othile umphakathi ungavulelwe; futhi
 - lingelalele noma Inqume ukuthi udaba alukho mqoka, lunohlevane alucacile noma iBhodi alinalo igunya lokulalela njengokusho kwalo Mthetho: Inqobo nje uma kuzomele kunikezwe izizathu ezibhaliwe lapho khona udaba lungezulalelwa noma lunqunywe.
- (4) USihlalo noma elinye ilungu leBhodi esingethe ukuhlala kweBhodi lapho khona umuntu evela njengofakazi njengoba kushiwo esigatshaneni (4), kumele lifungise ufakazi.
- (5) Izinqumo zeBhodi kumele zithunyelwe ngokubhaliwe kuzo zonke izinhlangothi ezithintekayo zingakapheli izinsuku eziyi-14 isinqumo siphumile.
- (6) Noma ngubani ophazamisela ngokungemthetho imihlangano yeBhodi angatholakala enecala.
- (7) Ngaphambi kokufaka isicelo phambi kweBhodi ukuze likhiphe isinqumo, iHhovisi likaNobhala weBhodi kumele licubungule isicelo ukubona ukuthi siyahambisana nezinto ezifunekayo ezibekiwe esigabeni 48(4).
- (8) Lapho khona izimfuneko eziyisisekelo lezi ezibalulwe esigabeni 48(4) kungazange kulangatshezwane nazo ngumfakisicelo, isicelo kumele simiswe yiHhovisi likaNobhala weBhodi besesicutshungulwa njengoba kubekiwe.
- (9) Ngaphandle njengoba kubekiwe kulo Mthetho, iNhloko yoMnyango noma umuntu ojutshwe yiyo kumele anqume ngezinqubo zokusebenza ezizolandelwa yiBhodi.

Ukuphikisa isinqumo seBhodi

36.(1) Kuncike kwimithethonqubo eyengamele inkambiso yokudlulisa udaba, isinqumo seBhodi singujuqu futhi singadluliswa kuphela zingakapheli izinsuku eziyi- 14 kusukela osukwini lokunikezwa kwesinqumo ezinhlangothini ezithintekayo, esiGungwini Sokwedlulisa esisungulwe ngokwesigaba 68 esikhuluma ngezindaba zezokuthutha esifundazweni noma isiGungu Sezokuthutha Sokwedlulisa esisungulwe ngokwesigaba 3 soMthetho Wesigungu Sezokuthutha Sokwedlulisa, 1998 (uMthetho No. 39 ka 1998), okhuluma ngezindaba zezokuthutha ezithinta izifundazwe.

(2) IBhodi, lapho khona umfakisicelo edlulisa udaba ngesinqumo, lingenza izethulo ezibhaliwe ngodaba lizedlulisele esiGungwini Sokwedlulisa.

(3) Isikhungo esihlelayo noma uMbhalisi silahlekelwa ilungelo lokwedlulisa udaba lapho behlulekile khona ukuhlangabezana nezimfuneko zesigaba 34(3), noma uma kuyisikhungo esihlelayo, izimo ezibalulwe esigabeni 50(5) ziyasebenza.

Abasebenzi beBhodi

37. INhloko yoMnyango kumele iqoke abasebenzi abazonikeza usizo kwezokuphatha njengoba kudingwa yiBhodi, kuncike emithethweni eyengamele imisebenzi kahulumeni.

Ukuxhaswa ngezimali kweBhodi

38. Izimali zeBhodi zifaka phakathi –

- izimali ezabiwe yisiShayamthetho sesiFundazwe; kanye
- neminikelo etholwe ngokusemthethweni yiBhodi kunoma yimuphi umthombo osemthethweni.

Ukukhokhelwa nezibonelelo zamalungu eBhodi

39. Amalungu eBhodi anelungelo lokukhokhelwa nokuthola izibonelelo njengoba kunganquma uNgqongqoshe ngokubonisana noNgqongqoshe wezeziMali.

Umbiko wonyaka weBhodi

40.(1) USihlalo weBhodi kumele ethule umbiko wonyaka ngemisebenzi yeBhodi kuNgqongqoshe zingakapheli izinsuku ezingama-30 kuphele unyaka wezimali.

(2) USihlalo, embikweni wonyaka, angancoma izichibiyelo zomthetho, zolawulo kanye nezenqubo kulo Mthetho.

Isibopho sokubika ngezimali

41. USihlalo weBhodi, ngokuhambisana noMthetho woKuphathwa kweZimali ikaHulumeni, 1999 (uMthetho No. 1 ka 1999) unomthwalo –

- (a) wokubika ngezimali zoMbuso nangezinye izimali ezitholiwe noma ezikhokhiwe noma ezikwi-akhawunti yeBhodi; kanye
- (b) nowokugcina amarekhodi ayiwo ezimali namanye.

ISIAHLUKO 5**AMALAYISENSI OKUSEBENZA NEZINDABA EZIPHATHELENE NAWO****Izibopho ezibekwe kubafakizicelo**

42. Lapho umfakizicelo efaka isicelo selayisensi yokusebenza, noma sokuvuselela, ukuchibiyela noma ukudlulisela ilayisensi yokusebenza, *umthwalo* usemahlombe omfakizicelo ukunikeza ubufakazi –

- (a) bokuthi ngokubekwa kwezimo, kuzowusiza umphakathi ukusivuma isicelo;
- (b) bokuthi ezokuthutha umphakathi isicelo esimayelana nazo, zingahlinzekwa ngokuqhubekayo; kanye
- (c) bokuthi umfakizicelo uyakwazi ukunikeza umshwalense odingekile wokuvikela abagibeli.

Ilayisensi yokusebenza eyodwa ngemoto ngayinye

43. Ilayisensi eyodwa kuphela engakhishwa ngemoto ngayinye, kodwa leyo layisensi kumele ibe negunya lokusebenza emizileni engaphezulu kowodwa.

Uhlelo lokuphasiswa ngokoMthetho waMatekisi weSikhashana

44.(1) Lo Mthetho awukuvimbela ukuphathulwa kohlelo lokuphasiswa njengokusho kweNgxenyane X yoMthetho waMatekisi weSikhashana.

(2) UNgqongqoshe, ngezinhloso zokukhuthaza ukuphathulwa kwenqubo yokugunyaza okukhulunywe ngayo esigatshaneni (1), ngesaziso *kwiGazethi* angabuyekeza izinsuku okumele ngazo kube sekuphathulwiwe.

(3) Naphezu kwezinye izihlinzeko ezengamele isimo sezimvume kanye nokunikezwa nokukhishwa kwamalaysensi okusebenza eziqukethwe kulo Mthetho, isigunyazo sokusebenza esikhishiwe yiBhodi lesiFundazwe loKunikeza amaLaysensi oKusebenza elisungulwe ngokwesigaba 30 soMthetho kaZwelonke woGuquko kweZokuthutha eZihamba Phansi, ngokuhambisana nohlelo lokuphasisa olubalulwe esigatshaneni (1), kumele sifane nelaysensi yokusebenza.

Ukuguqulwa kwezimvume zebanga

45.(1) Umnikazimvume yamabanga kumele ngndlela ebekiwe, ethule isicelo kwiBhodi sokuguqula leyo mvume ibe ilayisensi yomzila noma echazwa ngendawo esikhathini esinqunywe nguNgqongqoshe *kwiGazethi*.

(2) Inqubo kanye nendlela yokufaka izicelo zokuguqula izimvume zamabanga ngokwesigatshana (1), zinjengoba zichazwe kumthethonqubo 5 weMithethonqubo yoMthetho waMatekisi weSikhashana, oqukethwe eSazisweni No. 346 sika 1998 esashicilelwa *kwiGazethi* (yeSifundazwe) No. 5316 yomhla zingama-26 kuLwezi 1998, ufundwa nomthethonqubo 3 weMithethonqubo kaZwelonke woGuquko kwezokuThutha eziHamba Phansi emayelana namaLaysensi okusebenza kanye neziNdaba eziPhathelele nalokho yesiFundazwe, equkethwe eSazisweni No. 149 sika 2001 ngokushicilelwa *kwiGazethi* No. 6020 yomhla zingama-23 kuMbaso 2001.

(3) Isikhathi sokuguqulwa esibalulwe kwisigatshana (2) kufanele kwenziwe ngokwesigaba 55 soMthetho wesiKhashana wamaTekisi, okunikezwa kwawo kuhambisana nemigomo ebalulwe esigabeni 32 soMthetho kaZwelonke woGuquko kwezokuThutha eZihamba Phansi, okuthi isikhathi sangempela sanoma iyiphi imvume eguquliwe kuhlale kungashintshile.

Ukuqhubeka kanye nokuguqulwa kwezimvume ezikhona njengoba kudingwa wuMthetho kaZwelonke woGuquko kwezokuThutha eziHamba Phansi

46.(1) Kuncike esigabeni 45(1), izimvume ngosuku lokuqala lokusebenza kwalo Mthetho ezingakaphelelwa yisikhathi, zithathwe ngale kokwenza nto ngokuthi seziguqulelwe ekubeni yilaysensi yokusebenza.

(2) Amalaysensi okusebenza emisebenzi engahlelelwa, aguquke nagle kokwenza nto, ngokwesigatshana (1), uma esetshenziswa –

- (a) ngezimoto ezingamakhumbi, angaguqulwa abe ngamalaysensi okusebenza emisebenzi engahleliwe noma ehleliwe eyenziwa ngamakhumbi, kuye ngezinhlelo ezifanele zezokuthutha, uma zikhona, uma kuyekwa amalaysensi amabili okusebenza ukuze kuphume eyodwa: Inqobo nje uma ilaysensi yokusebenza ethatha isikhundla senye kumele ikhishelwe isikhathi esingezukunqunywa, uma omabili amalaysensi okusebenza okuqala abekade engenaso isikhathi esinqunyelwe, kungenjalo kube yisikhathi esinqunyiwe esingevile eminyakeni emihlanu, futhi kumele, ngaphezu kwezindaba ezibalulwe kwenye ingxenye yalo Mthetho, lisho isibalo sabagibeli abahleli okumele abangathwalwa;

(b) ngezimoto ezihlalisa abantu abangaphansi kwabayisishiyagalolunye, kufaka phakathi nomshayeli, angabuye aguqulwe abe amalaysensi okusebenza –

(i) emisebenzi engahleliwe eyenziwa ngamakhumbi uma kuyekwa amalaysensi amabili kuthathwe elilodwa, futhi nelaysensi yokusebenza kumele ikhishwe isikhathi esinganqunyiwe uma omabili amalaysensi okusebenza okuqala ebenganqunyelwe isikhathi, kungenjalo kube yisikhathi esingevile eminyakeni emihlanu; noma

(ii) emisebenzi engahleliwe noma ehleliwe eyenziwa ngamakhumbi, ekuyekweni kwamalaysensi okusebenza amane kuthathwe eyodwa, futhi nelaysensi yokusebenza kumele ikhishwe isikhathi esinganqunyiwe uma omane amalaysensi okusebenza okuqala ebenganqunyelwe isikhathi, kungenjalo kube isikhathi esingevile eminyakeni emihlanu, futhi kumele ngaphezu kwezindaba ezibalulwe kwenye ingxenye yalo yalo Mthetho, isho isibalo sabagibeli abahleli abangalayishwa.

Ukudingeka kwelayisensi yokusebenza ukuze uqhube umsebenzi wokuthutha umphakathi

47. Akekho umuntu ongaqhuba umsebenzi wezokuthutha umphakathi uma engeyena umnikazi welayisensi efanele yokusebenza yaleyo moto.

Izicelo ezimayelana namalayisensi okusebenza

48.(1) Noma ngubani ohlose ukwenza umsebenzi wokuthutha umphakathi kumele afake isicelo selayisensi yokusebenza kwiBhodi.

- (2) Umnikazi welayisensi angafaka isicelo kwiBhodi sokuvuselela noma sokuchibiyela ilayisensi yokusebenza.
- (3) Umuntu ofisa ukudlulisa ilayisensi yokusebenza angafaka isicelo kwiBhodi ngemvume ebhaliwe yomnikazi welayisensi yokudlulisa ilayisensi yokusebenza.
- (4) Izicelo ngokwezogathana (1), (2) no (3) kumele –
 - (a) zifakwe ngendlela ebekiwe;
 - (b) zifakwe kwifomu ebekiwe; futhi
 - (c) ziphelezwe yimali ebekiwe.

Izicelo ezimayelana namalayisensi okusebenza esikhashana

49.(1) Namuphi umuntu ohlose ukuqhuba umsebenzi wokuthutha umphakathi okwesikhashana ngosuku oluthile maqondana nomcimbi othile, kumele afake isicelo selayisensi yokusebenza yesikhashana kwiBhodi.

- (2) Umthwalo ukumfakisicelo okukhulunywa ngaye esigatshaneni (1) ukuba aveze ubufakazi besidingo saleyo layisensi yokusebenza yesikhashana.
- (3) Isicelo okukhulunywa ngaso esigatshaneni (1) kumele –
 - (a) sifakwe ngendlela ebekiwe;
 - (b) sifakwe ngefomu ebekiwe; futhi
 - (c) siphelwezelwe yimali ebekiwe.

Amalayisensi okusebenza emisebenzi yokuthutha umphakathi ahlinzekelwe ezinhlelweni zokuthutha

50.(1) Ngaphambi kokucubungula noma isiphi isicelo –

- (a) sokunikeza, ukuvuselela, nokuchibiyela noma ukudlulisela ilayisensi yokusebenza egunyaza ukuqhutshwa kwanoma yimuphi umsebenzi wokuthutha umphakathi ngaphandle komsebenzi wokuqashwa kwemoto; noma
- (b) ngokwezinqubo zokuguqula ezihlinzekelwe ezigabeni 45 no 46(2), endaweni yesikhungo esihlelayo, iBhodi kumele ngesaziso esibhalwe phansi lazise isikhungo esihlelayo ngesicelo leso, lisinxuse ukuba senze izincomo mayelana nesicelo, kanye nanoma yiziphi ezinye izethulo, eziyiswe kwiBhodi singakapheli isikhathi esibalulwe esazisweni.
- (2)(a) Isikhungo esihlelayo kumele senze izincomo zaso kanye nanoma iziphi izethulo esizibona zifanele, sesicubungule nezinhlelo zezokuthutha ezihlelelwe indawo yaso, noma uma lezo zinhlelo zingakalungiswa, zavunywa noma zashicilelwa, ngokuhambisana ne mibuzo kanye nophenyo olwenziwe yisona kanye nangokuhambisana nanoma yiziphi izimfuneko ezingabekwa noma imihlahlandlela enganikezwa uNgqongqoshe, bese siziletha kwiBhodi singakapheli isikhathi esivunyelwe yileso saziso.
- (b) IBhodi, ekucubunguleni leso sicelo, kumele ilandele izinhlelo zokuthutha eziphasisiwe, futhi ingeyigunyaze ilayisensi yokusebenza ngendlela ephikisana naziphi izinhlelo zezokuthutha eziphasisiwe.
- (3) IBhodi, ekubhakeni lezi zicelo, kumele lenze ngokuhambisana nezinhlelo zezokuthutha futhi lingeke lakhapha ilayisensi yokusebenza ephikisana naziphi izinhlelo zokuthutha eziphasisiwe.
- (4) IBhodi kumele licubungule noma yiziphi izincomo kanye nezethulo ezilethwe ngokwesigatshana (2).
- (5) Lapho khona isikhungo esihlelayo sihlulekile ukuletha izincomo nezethulo kwiBhodi emva kokuba selisinxusile, iBhodi lingasebenza futhi linqume ngazo ngaphandle kwemibono yesikhungo esihlelayo, ngokubuka izindaba ezibalulwe esigabeni 53(1).

Amalayisensi okusebenza emisebenzi eyenziwa ngenkontileka

51.(1) Lapho khona kunikezwe inkontileka yokwenza umsebenzi noma inkontileka yomsebenzi oxhasiwe, yibhodi lamathenda elinegunya lokwenza lokho noma yisiphathimandla emva kokuphuthulwa kwenqubo yokukhishwa kwamathenda ngokuhambisana nomthetho, iBhodi alikwazi ukwenqaba isicelo somqhubi ofanele sokunikezwa noma sokuvuselelwa kwelayisensi yokusebenza elifunelwa lowo msebenzi.

- (2) Lowo mqhubi kumele achaze esicelweni sakhe imoto ngayinye okuzoqhutshwa ngayo umsebenzi wokuthutha umphakathi ngokwaleyo nkontileka.
- (3) Uma isicelo siphumelela ngokuqondene naleyo layisensi, lowo mqhubi uzoba nelungelo lokunikezwa ilayisensi yokusebenza ngemoto ngayinye azoqhuba ngayo umsebenzi wokuthutha umphakathi ngokwaleyo nkontileka.
- (4) Amalayisensi okusebenza okuqhuba imisebenzi yokuthutha umphakathi okumele akhishwe ngokwezinkontileka zokwenza umsebenzi noma zinkontileka zomsebenzi oxhasiwe kumele akhishelwe kuphela isikhathi kanye nangokuhambisana nemibandela kanye nezimiso zaleyo nkontileka, ngokwesigaba 48(2) njengoba sichitshiyelwa ukulula isikhathi sawo lapho khona isikhathi salezo zinkontileka seluliwe.

Ukushicilelwa kwemininingwane yezicelo kanye nokudluliswa kwezikhalo

52.(1) Ngokwesigatshana (2), iBhodi kumele ngaphambi kokucubungula isicelo sokunikeza, ukuvuselela, ukuchibiyela noma ukudlulisela ilayisensi yokusebenza yemisebenzi yezokuthutha engaphakathi esifundazweni, liqinisekise ukushicilelwa kwiGazethi kanye nasemaphandabeni lawo afundwa kakhulu imininingwane yesicelo njengoba kungabekwa.

- (2) Isicelo akudingeki ukuba size sishicilelwe ngokwesigatshana (1) uma kuyisicelo –
 - (a) esiqondene nomsebenzi owenziwa ngenkontileka njengoba kuhlinzekelwe esigabeni 51;
 - (b) sokuchibiyela imininingwane yemoto efanayo ebalulwe kwilayisensi yokusebenza;
 - (c) sokukhishwa kwemoto ebaluliwe njengoba kuhlinzekelwe esigabeni 60;
 - (d) sokukhishwa okwesikhashana kwemoto ebaluliwe njengoba kuhlinzekelwe esigabeni 63; noma

- (e) esihlobene nokwenziwa semthethweni komsebenzi wokuthutha owenzelwe abafundi ovumelana nezimfuneko ezinqunywe nguNgqongqoshe futhi eacisa usuku lokuvala.
- (3) Umuntu onentshisekelo ofisa ukuletha izethulo kwiBhodi zokungahambisani noma zokweseka isicelo esishicilelwe ngokwesigatshana (1), kumele enze njalo ngendlela kanye nangesikhathi esibekiwe, futhi iBhodi –
- (a) kumele ivumele umuntu, ozothi ngesikhathi esibekiwe, alethe izethulo zokuhlola ifomu lesicelo lomfakisicelo kanye nemibhalo ehambisana naso ehhovisi leBhodi uma ezokhokha imali ebekiwe; futhi
- (b) ngokucelwa yilowo muntu, lingamnikeza amakhophi esicelo uma ekhokha imali ebekiwe.
- (4) IBhodi kumele livumele umfakisicelo ukuba ahlole izethulo eziphikisa noma ezeseke isicelo, ngaphandle kokukhokhiswa, emahhovisi alo abuye enze amakhophi azo uma esekhokhe imali ebekiwe.
- (5)(a) Ilungelo lokuphikisa noma lokuletha izethulo libuye lisebenze nasezindabeni ezibalulwe ezindimeni (a)(i)(bb), (a)(ii) kanye no(b) zesigaba 8(6).
- (b) Izihlinzeko zesigatshana (1) kanye no (2) ziyasebenza, noshintsho oludingekile, ekuphakamisweni kanye nasezethulweni okukhulunywe ngakho endimeni (a).

Ukubhekwa kwezicelo eziphathelene namalayisensi okusebenza emisebenzi engenziwa ngenkontileka

53.(1) Lapho khona kwenziwa isicelo sokunikeza, sokuvuselela, sokuchibiyela noma sokwedlulisa ilayisensi yokusebenza maqondene nemisebenzi engenziwa ngenkontileka, iBhodi lingasivuma noma lisenqabe isicelo kuphela emva kokuba, ngokwesigatshana (2) selicubungulile –

- (a) noma imoto okuzoqhutshwa ngayo umsebenzi ikulungele yini lokho;
- (b) izethulo zesikhungo esihlelayo mayelana nobukhona bamarenke noma izikhumulo noma ezinye izinsiza kanye nezindawo zokugibela noma ukwehla kanye nezokugcina noma ukupaka izimoto ezenza lowo msebenzi;
- (c) ukuba khona komthetho kamasipala, umthethonqubo, isithiyi, isivimbelo noma isithibelo sikamasipala esiqondene nalowo msebenzi wokuthutha umfakisicelo aphakamise ukuba awenze ngegunya laleyo layisensi yokusebenza isicelo esiqondene nayo;
- (d) noma umfakisicelo, noma umuntu okudluliselwa kuye uma kwedluliswa, useke walahlwa yini icala elibucayi njengoba kuchaziwe, alenza ngesikhathi esibekiwe ngaphambi kosuku lwesicelo;
- (e) ikhono lomfakisicelo, noma umuntu okudluliselwa kuye uma kwedluliswa, lokuqhuba umsebenzi ofunelwa ilayisensi lokusebenza ngendlela egculisayo;
- (f) izethulo zedluliswe ngendlela efanele ngokumaqondana nesicelo somfakisicelo noma iliphi elinye iqembu elinentshisekelo; kanye
- (g) izethulo ezivela kuMbhali ngesimo sabaqhubi abahlinzeka umsebenzi wezokuthutha umphakathi ababhaliwe, uma bekhona, labo emizileni noma izindawo okuthintekayo.
- (2) Isicelo selayisensi yokusebenza esiphathelene nomsebenzi ongenziwa ngenkontileka okunoma imuphi umzila noma imizila endaweni yesikhungo esihlelayo asikwazi ukuvunywa uma izimfuneko zokuthutha umphakathi zalowo mzila noma imizila ethile kuhlangatshezwana nazo ngendlela egculisayo ngezokuthutha umphakathi ezikhona ezihlinzekwa ngenkontileka yokwenza umsebenzi noma 'ngenkontileka yomsebenzi oxhasiwe noma ngokuhambisana namalayisensi okusebenza njengoba kukhonjiswe ezinhlelweni zezokuthutha eziqondene, uma zikhona.
- (3)(a) IBhodi lingagunyaza isicelo sokunikezwa, ukuvuselelwa, ukuchitshiyelwa noma ukudluliswa kwelayisensi yokusebenza yomsebenzi ongenziwa ngenkontileka ngokuhambisana nanoma imiphi imibandela enqunywe yilo: Inqobo nje uma leyo mibandela ingeke ingahambisani nalo Mthetho noma noMthetho kaZwelonke woGuquko kwezokuThutha eziHamba Phansi.
- (b) Umbandela ungabekwa ngale ndlela kuphela emva kokubhekwa kwezindaba ngokwesigatshana (1) kanye, lapho kufanele khona, nangokwesigatshana (2) okumele zibhekwe ngenhloso yokunquma ngesicelo.

Izihlinzeko eziqondene nemisebenzi eyenziwa ngamatekisi angamakhumbi

54.(1) Ayikho ilayisensi yokusebenza egunyaza imisebenzi yamatekisi angamakhumbi enganikezwa ngaphandle uma –

- (a) umfakisicelo eyilungu lenhlangano ebhalisiwe;
- (b) umfakisicelo ngokwesigaba 99(2) esemkelwe njengelungu lesikhashana lenhlangano kusalindwe umphumela wesicelo sakhe kwiBhodi, futhi uMbhali esekuqinisekise lokho ngokubhaliwe; noma
- (c) UMbhali ekuqinisekisa ngokubhaliwe ukuthi umfakisicelo usebhalisiwe njengomuntu ongelona ilungu ngokwesigaba 100.
- (2) Ilayisensi yokusebenza yekhumbi inganikezelwa umzila owodwa noma ngaphezulu: Inqobo nje uma leyo layisensi yokusebenza inganikezelwa indawo ethile ezimeni lapho kunesidingo sokuba kuxegiswe indlela yokusebenza, njengasesimweni lapho kunabaqhubi abathululela abanye abaqhubi.

Ukukhishwa kwamalayisensi okusebenza kanye nokuqokethwe yiwo

55.(1) UNgqongqoshe angabeka inqubo ezolandelwa yiBhodi yokukhipha amalayasensi okusebenza.

- (2) Noma iyiphi ilayisensi yokusebenza enikeziwe, yavuselelwa, yachitshiyelwa noma yadluliselwa ngokuhambisana nalo Mthetho kumele ikhishwe ngendlela nangesimo esibekwe isikhulu seBhodi esijutshwe yiNhloko yoMnyango.
- (3) Ilayisensi yokusebenza ingekhishwe ngaphandle uma –
- (a) umuntu oyidingayo efake isicelo sokunikezwa, ukuvuselelwa, ukuchitshiyelwa noma ukudluliselwa kwayo, noma sokuguqulwa kwemvume yamabanga ngokwesigaba 45, kuye ngesimo, ngokuhambisana nalo Mthetho;
- (b) umfakisicelo lapho eselethe kwisikhulu esibalulwe esigatshaneni (2) isitifiketi sokuvumeleka ukuhamba emgwaqeni esakhishelwa imoto ilayisensi yokusebenza eqondene nayo ngemva kwesikhathi esisazobekwa noma ikhophi eqinisekise ngokugxivizwa yaleso sitifiketi;
- (c) esimweni sokuvuselelwa, kuchitshiyelwa noma kudluliswa ilayisensi yokusebenza, kanye nasesimeni lapho kuguqulwa imvume yamabanga ngokwesigaba 45 umfakisicelo eseyibuyisele kwiBhodi imvume leyo noma ilayisensi yokusebenza, eyakhishwa phambili ikhishelwa umsebenzi ofanayo wokuthutha umphakathi;
- (d) umfakisicelo eselethe kwiBhodi, njengoba kufuneka –
- (i) incwadi eyisiqinisekiso evela kuMbhali yokuthi umfakisicelo uyilungu elibhalisiwe lenhlangano, noma ubhalise njengomuntu ongelona ilungu; noma

(ii) di eyisiqinisekiso evela enhlanganweni esebenza kulowo mzila noma imizila ethintekayo eqinisekisa ukuthi umfakisicelo welayisensi usemukelwe njengelungu laleyo nhlango, noma

(iii) iketi esibalulwe esigabeni 87(1); futhi

(e) fakazi obugculisayo bomshwalense wokuvikela abagibeli sebunikeziwe.

(4) Ilayisensi yokusebenza kumele iqukethe imininingwane ebekiwe.

(5) Ilayisensi entsha yokusebenza ingekhishwe ngaphandle uma umfakisicelo esenikeze ubufakazi obugculisa iBhodi bokuthi ungumkhokhi wentela obhalisile ngokoMthetho wokuKhokhwa kweNtela, 1962 (uMthetho No. 58 ka 1962), noma ngokwalowo Mthetho, akudingekile ukuba abhalise: Inqobo nje uma ukwenzela izimfuneko zalesi sigaba, noma iyiphi ilayisensi ekhishwe kulandela izinqubo ezibalulwe ezigabeni 44, 45 no 46 akumele lithathwe njengelayisensi entsha yokusebenza.

Igunya elinikezwa yilayisensi yokusebenza

56. Ilayisensi yokusebenza enikezwe futhi yakhishwa ngokwalo Mthetho –

(a) ayimgunyazi umnikazi ukuba asebenzise ezokuthutha emgwaqeni womphakathi endaweni engaphansi kwegunya lolawulo lwanoma imuphi umasipala uma kungekho emthethweni ukwenza njalo ngokwanoma imuphi umthetho kazwelonke noma wesifundazwe noma kamasipala; futhi

(b) ayimkhululi umnikazi esibophweni sokuba ahambisane nanoma iyiphi imfuneko noma umbandela obekwe ngokwanoma yimuphi umthetho noma ilayisensi ekhishwe yinoma yisiphi esinye isiphathimandla esinegunya.

Abantu abangaba namalayisensi okusebenza

57. Ilayisensi yokusebenza ingakhishwa kuphela kumuntu obhaliswe, ngokoMthetho kaZwelonke wezokuThutha eMgwaqeni, njengomnikazi noma umqhubi wemoto, njengoba kuchazwa kulowo Mthetho, futhi kwashiwo kwilayisensi yokusebenza, ngaphandle uma ilayisensi yokusebenza iqondene nokuqhutshwa komsebenzi ngokuhambisana nenkontileka yokwenza umsebenzi noma inkontileka yomsebenzi oxhasiwe, futhi umqhubi oyingxenywe yenkontileka ebuye wawunikeza omunye umqhubi umsebenzi ukuze enze ingxenywe yalowo msebenzi egameni lakhe, kanti esimeni esinjalo –

(a) umqhubi okudluliselwe kuye umsebenzi kumele abhaliswe njengomnikazi noma umqhubi waleyo moto ayisebenzisela lowo msebenzi egameni lomqhubi oyingxenywe yenkontileka yokwenza umsebenzi noma yenkontileka yomsebenzi oxhasiwe; futhi

(b) leyo moto kumele ibalulwe kwilayisensi yokusebenza njengemoto okuqhutshwa ngayo lowo msebenzi.

Imithetho esebenza ngokuqondene namalayisensi okusebenza ehlukeni

58.(1) Ekunqumeni isikhathi samalayisensi okusebenza emisebenzi engenziwa ngenkontileka, iBhodi kumele libheke –

(a) isimo esikhona manje nengahle sibe khona esikhathini esizayo kwisidingo somzila noma semizila, noma lapho kudingekile, kuleyo ndawo ethintekayo;

(b) ukuphumelela kwaleyo misebenzi ehlongozwayo ukuhlangabezana nesidingo;

(c) lapho kunesidingo, ukuthi kungenzeka yini ngomuso ukuthi lo msebenzi ungabe usadingeka ngokwezinhlelo ezikhona zezokuthutha; kanye

(d) nokuthi kungenzeka yini ukuthi umsebenzi ufakwe ngaphansi kwenkontileka yokwenza umsebenzi noma kwenkontileka yomsebenzi oxhasiwe.

(2) Esimweni samalayisensi okusebenza amabanga amade, iBhodi ekunqumeni izindawo zokugibela nezokwehla kumele libeke umbandela wokuthi abagibeli abakwazi ukugitshezwa noma behliswe endleleni, ngaphandle uma umqhubi enesivumelwano ngalokhu neziphathimandla lezo ezigunyaziwe zezokuthutha kanye nomasipala abathintekayo.

(3) Esimweni sesicelo sokugunyaza, ukuvuselela noma ukuchitshiyelwa kwelayisensi yokusebenza mayelana namabanga amade, kumele kubukwe ngeso elinzulu izihluzo zezinhlelo zanoma iziphi izithuthi ezilungiswe yisikhungo sezokuthutha esiqondene kanye, kuye ngokuhambisana nale ndima –

(a) nokuthi umsebenzi ozohlinzekwa ngumfakisicelo udingeke kangakanani ukusiza umphakathi;

(b) nezidingo zomphakathi zalowo msebenzi kulowo mzila noa imizila kuleyo ndawo umfakisicelo ahlongoza ukusebenzela kuyo;

(c) zezokuthutha ezikhona ukusetshenziswa wumphakathi kulowo mzila noma kuleyo mizila noma kuleyo ndawo;

(d) nesidingo sokuqinisekisa ukuxhumanisa zonke izinhlobo zezokuthutha, kufaka phakathi izitimela, ukuze kube nokulingana ngokomnotho phakathi kwezinhlobo zezokuthutha kubukwe nokusizakala komphakathi;

(e) esimweni samatekisi angamakhumbi, nezincwadi zanoma iyiphi inhlangano yamatekisi engathinteka ngqo.

Ukusetshenziswa kwemoto eyodwa emabangeni amade kanye nakweminye imisebenzi yokuthutha umphakathi

59.(1)(a) Imoto ebalulwe kwilayisensi yokusebenza njengemoto yokuqhuba umsebenzi obalulwe ohlelweni lwezokuthutha, ayikwazi ukufakwa kwenye ilayisensi njengemoto yokuqhuba noma yimuphi umsebenzi wamabanga amade, ngaphandle uma isikhungo esihlelayo sikuvumele lokhu.

(b) Isikhungo esihlelayo singenikeze imvume okukhulunywe ngayo endimeni (a) lapho khona ukuqhutshwa komsebenzi wamabanga amade kungahle kube nomthelela ongemuhle ngokusebenzisa leyo moto emisebenzini yezokuthutha umphakathi ehlinzekelwe kulolo hlelo lwezokuthutha;

(2) Imoto ebalulwe kwilayisensi yokusebenza ukwenza umsebenzi wamabanga amade ayikwazi ukuthi kuleyo layisensi iphinde ibalulwe njengemoto yokuqhuba umsebenzi wezokuthutha ohlinzekelwe ohlelweni lwezokuthutha, ngaphandle uma isikhungo esihlelayo sikuvumele lokho.

Ukuchitshiyelwa kwelayisensi yokusebenza: Ukukhishwa kwemoto ebaluliwe

60.(1) Lapho khona umnikazi welayisensi yokusebenza yokuqhuba noma yimuphi umsebenzi wokuthutha umphakathi efisa ukukhipha imoto ebalulwe kwilayisensi yokusebenza nokufaka enye imoto ethwala isibalo esifanayo sabagibeli, kumele afake isicelo sokukhishwa ngendlela ebekiwe, asibhekise esikhulwini seBhodi esigunyazwe yiNhloko yoMnyango ngokubhaliwe ukuba sicubungule lolo daba: Inqobo nje uma isimo semoto efakwayo singezokuthikanyezwa yilokhu kukhishwa.

(2) Isikhulu esigunyaziwe seBhodi kumele sikuvumele ukukhishwa bese sinikeza ilayisensi echitshiyelwe kumnikazi welayisensi, uma sigulisekile ukuthi –

(a) imoto efakwayo ithwala isibalo esifanayo sabagibeli njengalena ekhishwayo, noma esingaphansi, noma leso sibalo singaphezulu ngamaphesenti angamashumi amabili kunale moto ekhishwayo, futhi isesimeni esifanayo nesaleso semoto ekhishwayo, kanti iqophelo nezinga lomsebenzi ogunyazwe yilayisensi yokusebenza alizokuthikamezeka yilokhu kukhishwa;

- (b) imoto efakwayo ifanelekile ukuqhuba umsebenzi wokuthutha umphakathi ogunyazwe yileyo layisensi yokusebenza, isiqinisekisiwe ukuthi ingakwazi ukuhamba emgwaqeni futhi inelayisensi ehambisana nemithetho yokuhamba kwezimoto emgwaqeni; futhi
(c) umfakisicelo sokukhishwa unikeze ulwazi oludingekayo ukuthola okufunekayo kulesi sigaba.

(3) Lapho khona umqhubimsebenzi ongaphansi komunye eqhuba ingxenye yomsebenzi wokuthutha umphakathi oqondene nelayisensi yokusebenza egameni lomnikazi, umqhubimsebenzi ongaphansi komunye angathembela ezinhlinzekweni zalesi sigaba ukukhipha noma iyiphi imoto angumnikazi wayo obhalisiwe futhi ebaluliwe kuleyo layisensi yokusebenza, kube ngathi umqhubimsebenzi ongaphansi komunye ungumnikazi.

Imibandela ekhethekile mayelana namatekisi aqashwayo

61. Esimweni samatekisi aqashwayo, imoto ebalulwe kwilayisensi yokusebenza egunyaza ukuqhutshwa kwalowo msebenzi –

- (a) ingayishiya indawo echazwe kwilayisensi yokusebenza uma, ohambeni olubuyayo, izothwala abagibeli abafanayo nalabo ebalayishile ngesikhathi isaya kungenjalo imoto kumele ibuye kuleyo ndawo ingenamuntu;
(b) ingathatha noma iluphi uhambo ngemali enganqunywa ngokusebenzisa isilinganiso sebanga esifakwe kuleyo moto uma imali yalolo hambo kuvunyelwene ngayo phakathi komshayeli nomgibeli noma nabagibeli abathintekayo ngaphambi kohambo.

Imisebenzi yomnikazi welayisensi yokusebenza

62.(1) Umnikazi welayisensi yokusebenza kumele –

- (a) ekuqhubeni umsebenzi oqondene nelayisensi yokusebenza, ahambisane nemibandela yokugunyazwa enikezwa yiyo kanye nezimiso ekhishwe ngaphansi kwazo, futhi uma umsebenzi uhlinzekelwe ohlelweni lwezokuthutha, aqhuba lowo msebenzi ngokuhambisana nalolo hlelo;
(b) agcine ilayisensi engumsuka yokusebenza noma ikhophi yayo emotweni ebalulwe kwilayisensi, futhi lapho imoto echazwe kanjalo ikhishwe okwesikhashana, ngokwesigaba 63, agcine ilayisensi yokusebenza kanye nesigunyazo sesikhashana esikhishelwe imoto efakwayo kuleyo moto isikhathi sokukhishwa okwesikhashana, kodwa iBhodi lingayalela ngokubhaliwe ukuthi izithasiselo kwilayisensi yokusebenza akumele zigcinwe emotweni lapho ziningi kakhulu ukuba lokhu kungenziwa;
(c) uma ecelwa yisikhulu esinegunya, akhiphe ilayisensi yokusebenza;
(d) agcine ilayisensi yokusebenza kanye nekhophi yayo efothokhophiwe isesimweni sokuthi amagama nezimbolo kuyabonakala futhi, uma ilayisensi yokusebenza yonakele noma ingasafundeki kahle, noma ilahleka noma intshontshwa, afake isicelo sokuthola ikhophi yayo ezoma ngendlela ebekiwe;
(e) anamathelise noma aligcine linanyathelisiwe ngendlela ebekiwe uphawu oluhlukanisayo kuleyo moto, ilayisensi okusebenza eliqondene nalo;
(f) ngaphandle uma ilayisensi yokusebenza izosebenza isikhathi esinganqunyiwe, afake isicelo kusenesikhathi sokuba ivuselelwe;
(g) ngaso sonke isikhathi agcine imoto eqondene nelayisensi yokusebenza isesimweni esiphephile futhi ifanelekile ukuhamba emgwaqeni abuye –
(i) ayise kohlolwa leyo moto ukufaneleka ukuhamba emgwaqeni singakadluli isikhathi esivunyelwe lokho uMthetho kaZwelonke wezokuThutha emgwaqeni; futhi
(ii) alethe isitifiketi sokufaneleka ukuhamba emgwaqeni esikhishwe emva kwalokho kuhlolwa kwiBhodi zingakapheli izinsuku ezingama-30 emva kokuba sikhishiwe;
(h) abuyisele ilayisensi yokusebenza eseyiphelwe isikhathi noma eselihoxisiwe kwiBhodi zingakapheli izinsuku eziyi-7;
(i) azise iBhodi ngokulibhaliwela ngendlela ebekiwe zingakapheli izinsuku eziyi-7 eyekile ukuqhuba umsebenzi ogunyazwe ilayisensi yokusebenza, noma kumiswe leyo misebenzi ngezinye izizathu ezingabaluliwe esigabeni 63;
(j) aqinisekise ukuthi umshwalense wokuvikela abagibeli uyahambisana nezimfuneko, ngokuhambisana nezidingo zemisebenzi ilayisensi yokusebenza eliqondene nayo kanye neminye imisebenzi yezokuthutha umphakathi eyenziwa ngumnikazi welayisensi; futhi
(k) ahambisane nezihlinzeko zalo Mthetho kanye nanoma imiphi eminye imithetho efanele.

(2)(a) Igunya elinikezwa yilayisensi yokusebenza alikwazi –

- (i) ukuyekwa noma linikezwe omunye ngumnikazi, futhi akekho umuntu ongazibandakanya nalokho kuyekwa noma ukunikezwa komunye, ngaphandle lapho khona ilayisensi yokusebenza idluliselwa ngokuhambisana nalo Mthetho; noma
(ii) ukuqashiswa ngumnikazi walo noma ngomunye umuntu.

(b) Isivumelwano okufinyelelwe kuso ngokwaphula indima (a) asinawo amandla ngokomthetho futhi siyicala ngokwalo Mthetho.

Ukukhishwa kwesikhashana kwemoto ebaluliwe

63.(1) Lapho imoto ebalulwe elayisensini yokusebenza yokuqhutshwa komsebenzi wokuthutha umphakathi isingasasebenzi okwesikhashana, isikhulu seBhodi esigunyazwe yilo, ngokuthola isicelo kumnikazi welayisensi, noma lapho imoto ingeyomqhubimsebenzi ongaphansi komunye ngokufaka isicelo kwalowo mqhubimsebenzi ongaphansi komunye, singagunyaza ngokubhala phansi umnikazi noma umqhubimsebenzi ongaphansi komunye njengoba isimo singagunyaza, ukuba asebenzise enye imoto okwesikhashana esikhundleni saleyo moto ukuqhuba lowo msebenzi nkuncike ezingatshaneni (2) no (3).

(2) Ukugunyazwa okubhalwe phansi kumele kume ngendlela ebekiwe futhi kube okwesikhathi esibekiwe.

(3)(a) Isibalo sabagibeli semoto efakwa esikhundleni senye kumele silingane naleso semoto ebalulwe kwilayisensi yokusebenza, noma –

- (i) singaba sincane kunaso; noma
(ii) sibe ngaphezulu ngokungevile kumaphesenti angama-20.

(b) Imoto efakwa esikhundleni senye kumele ibe sesimni esifanele sokuqhuba lowo msebenzi wokuthutha umphakathi, futhi ngaphandle uma isigaba sisho okunye, kumele kukho konke ihambisane nezidingo kanye nemibandela esebenzayo ngokwalo Mthetho mayelana naleyo moto ebaluliwe kwilayisensi yokusebenza.

(4) Isigunyazo esibhalwe phansi kumele sigcinwe emotweni efakwayo esiqondene nayo, kanye nelayisensi yokusebenza eqondene nemoto ekhishwayo kuze kuphele isikhathi ekhishwe sona esibalulwe kuleso sigunyazo.

(5) Imoto efakwayo iyothathwa njengemoto esetshenziswa ngaphansi kwelayisensi yokusebenza ebalulwe emotweni ekhishiwe, kuze kuphele isikhathi esigunyaziwe ekhishwe sona.

Imicimbi ekhethekile

64.(1) Akekho umuntu ongaqhuba umsebenzi wokuthutha umphakathi ewuyisa noma ewususa omcimbini okhethekile ngaphandle uma –

- (a) kuwukuthi usebenza ukuqashelwa ukuthutha abantu ngokwelayisensi yokusebenza efanele;
 - (b) kungaphansi kwegunya lelayisensi yokusebenza esivele igunyaza lowo msebenzi wokuthutha kulowo mzila noma kuleyo ndawo; noma
 - (c) kungaphansi kwegunya lelayisensi ekhethekile yokusebenza elinikezwe futhi lakhishelwa umnikazi ngokwalesi sigaba.
- (2) Umuntu ongagunyaziwe isigatshana (1)(a) noma (b) ukuqhuba umsebenzi wokuthutha umphakathi ewusa noma ewususa emcimbini okhethekile, angafaka isicelo kwiBhodi ukuba limnikeze ilayisensi elikhethekile yokusebenza ngendlela ebekiwe.
- (3) IBhodi lingagunyaza isicelo ngokwesigatshana (2) futhi likhiphe ilayisensi yokusebenza uma –
- (a) lenelisekile, ngezizathu ezizwakalayo, ukuthi ezokuthutha ezikhona ukusa noma ukususa abagibeli emcimbini othile okhethekile azenele kuhlangebezana nesidingo esihlawumbeliso;
 - (b) lanelisekile, ngezizathu ezizwakalayo ukuthi ezokuthutha ezikhona azizukuphazamiseka noma zenzeleke phansi; futhi
 - (c) ezinye izimfuneko okungenzeka zibekwe ukuba kuhlangezwe nazo.
- (4) Umthwalo wokunikeza ubufakazi ngezinto ezibalulwe esigatshaneni (3) usemahlombe omfakisicelo.
- (5) IBhodi lingadinga umfakisicelo ukuba angeze isicelo noma ngaluphi ulwazi ukuseseka.
- (6) Ilayisensi yokusebenza ekhethekile inganikezelwa umcimbi okhethekile owodwa futhi isikhathi esingekho ngaphezu kobude balowo mcimbi.
- (7) Ilayisensi yokusebenza ekhethekile ngokwalesi sigaba kumele –
- (a) ichaze lowo mcimbi okhethekile kanye nosuku noma izinsuku ozoba ngazo;
 - (b) ichaze umzila noma imizila ezokuthutha ukuya nokubuya kulowo mcimbi ezizohamba ngayo;
 - (c) ichaze izikhumbulo, amarenke noma izindawo zokuma ezingasetshenziswa.
- (8) Ilayisensi yokusebenza ekhethekile ngokwalesi sigaba ingakhishwa ihambisana nophawu olwahlukanisayo olukhethekile okumele lunanyathelise emotweni ilayisensi yokusebenza eqondene nalo, kuze kuphele isikhathi somsebenzi wokuthutha umphakathi ukuya nokubuya emcimbini okhethekile.
- (9) UNgqongqoshe angenza imithethonqubo ehlinzekela ukuthi amalayisensi okusebenza akhethekile ngokwalesi sigaba anikezwe futhi akhishwe ngomasipala noma eminye imigwamanda, izikhungo noma izikhulu ezibalulwe kuleyo mithethonqubo.

Ukuhoxiswa, ukumiswa noma ukuchitshiyelwa kwelayisensi yokusebenza

65.(1) Lapho khona umsebenzi owenziwa ngokwenkontileka esimisiwe nganoma yisiphi isizathu, iBhodi kumele uma lithola ubufakazi bokumiswa kwenkontileka yilesi siphathimandla esiqondene nezinkontileka, lihoxise wonke amalayisensi okusebenza ayekade enikezwe ngokuqondene naleyo nkontileka.

- (2) Lapho iBhodi lithola ukuthi ilayisensi yokusebenza beyingasetshenziswa izinsuku eziyi-7 noma ngaphezulu, iBhodi kumele ngesaziso esibhaliwe, libize umnikazi welayisensi ukuba anikeze izizathu ezizwakalayo, zingakapheli izinsuku eziyi-14 kusukela ngosuku lokulethwa kwesaziso, sokungawuqhubi umsebenzi wokuthutha umphakathi lelo layisensi eliqondene nawo, nokuthi kungani iBhodi kungamele liyihoxise leyo layisensi yokusebenza: Inqobo nje uma iBhodi –
- (a) lanelisekile yizizathu ezinikeziwe, umnikazi kumele avunyelwe isikhathi esengeziwe kodwa esingevile ezinsukwini eziyi-7, ukuqhubeka nokuqhuba lowo msebenzi, futhi umnikazi kumele aziswe ngokubhalalelwa; noma
 - (b) linganelisekile, noma lapho umnikazi ehlulekile ukunikeza izizathu ezizwakalayo singakapheli isikhathi esivunyelwe esazisweni, iBhodi bese kuthi phakathi kwamahora angu 72 kumele lihoxise ilayisensi yokusebenza bese libhalela lazise umnikazi welayisensi limazise ngalokho bese limyalela ukuba abuyise leyo layisensi yokusebenza kanye nezimpawu ezihlukanisayo ezihamba nayo, kwiBhodi zingakapheli izinsuku eziyisikhombisa emva kosuku lwesaziso.
- (3) IBhodi nganoma yisiphi isikhathi lingahoxisa, lichibiyele noma limise ilayisensi yokusebenza isikhathi elingasibona sifanele, uma umnikazi –
- (a) oqashwe ngumnikazi elahlwe yicala ngokwalo Mthetho noma ngokomthetho ohlobene nezimoto noma ukulawulwa kokuhamba kwezimoto;
 - (b) ephula noma ehluleka ukuhambisana nezihlinzeko zanoma yisiphi isinqumo, isivumelwano, ilayisensi noma ukukhululwa okuhlobene nokukhokhelwa ngomsebenzi noma amahora omsebenzi futhi ngokwanoma yimuphi umthetho obophezelayo kumnikazi njengomqashi kanye nakubasebenzi bakhe;
 - (c) elahlwa yiliphi icala elingathathwa njengelimenza angakwazi ukuhlinzeka ngomsebenzi wokuthutha umphakathi;
 - (d) engazange ahambisane nemibandela nezimfuneko zelayisensi yokusebenza;
 - (e) ehlulekile ukuqala umsebenzi ogunyazwe yilayisensi yokusebenza okanye yinoma iyiphi ingxenye yalo zingakapheli izinsuku ezingama-30 ikhishiwe ilayisensi yokusebenza;
 - (f) engasakwazi ukuhlinzeka ngomshwalense odingekile wokuvikela abagibeli njengoba kuhlinzekwe esigabeni 62(i)(j);
 - (g) ehlulekile ukuhambisana nesaziso esikhishwe ngokwesigaba 33(3); noma
 - (h) ngokungahambisani nokufunwa isigaba 101 akasabhalisiwe njengelungu noma njengomuntu ongelona ilungu, emva kosuku olugcwaliswe lapho, noma uma kuyilayisensi yokusebenza egunyaza umsebenzi wokuthutha umphakathi ngaphandle kwemisebenzi yamakhumbi angamatekisi, umnikazi engasahambisani nezimfuneko zesigaba 104.
- (4) IBhodi nganoma yisiphi isikhathi lingahoxisa ilayisensi yokusebenza eyanikezwa noma eyakhishwa ngephutha yilona, noma ngenxa yolwazi olungelona iqiniso elinikezwe iBhodi.
- (5) IBhodi nganoma yisiphi isikhathi lingahoxisa noma limise isikhathi elisibona sifanele noma iyiphi ilayisensi yokusebenza uma izimo ilayisensi yokusebenza eyakhishwa ngaphansi kwazo seziguquke kakhulu.
- (6) Ngaphandle kokunaka izimo ezibalulwe ezigatshaneni (2) no (3), iBhodi nganoma yisiphi isiphi esinye isizathu, lingesula noma liguqule noma imuphi umbandela noma imfuneko noma lichaze, lichazise, liphandle noma kungenjalo lichibiyele imibandela nezimiso zelayisensi yokusebenza: Inqobo nje uma inhlosongqangi yokwenza lokho kuwukwenza ngcono umsebenzi wezokuthutha umphakathi kanye nokuqinisekisa ukuphepha nokuvikeleka kuzo.

(7) IBhodi alikwazi ukuhoxisa noma ukumisa noma iyiphi ilayisensi yokusebenza noma lesule noma liguqule noma yimuphi umbandela noma imfuneko noma lengeze noma yimuphi umbandela noma imfuneko yokuchibiyela ilayisensi yokusebenza njengoba kuhlinzekiwe ezigatshaneni (3) kuya ku (6) ngaphandle uma –

- (a) IBhodi selinikeze isaziso esingekho ngaphansi kwezinsuku eziyi-14 ngenhloso yalo, kanye nezizathu ezibhaliwe, ngeposi elibhalisiwe noma eliqinisekisiwe umnikazi welayisensi yokusebenza: Inqobo nje uma iBhodi lingabeka isikhathi esifushane sesaziso ezimweni lapho iBhodi elizibona zifanele ukuthi kungawusiza umphakathi ukwenza njalo;
- (b) umnikazi welayisensi yokusebenza esenikeziwe ithuba, kungaba nguye siqu sakhe noma ngamgunyaze ukuba ammele lokuvela ngaphambi kweBhodi futhi anikeze ubufakazi, abuye enze izethulo ngesenzo esihlongozwayo; futhi
- (c) isikhungo sezokuthutha noma umasipala esenikezwe ithuba lokuletha izethulo kwiBhodi ngesenzo esihlongozwayo ngendlela ebekiwe futhi esikhathini esibekwe yimithethonqubo.

Ukungafaneleki ukuba nelayisensi yokusebenza

66.(1) Umuntu obandakanyeka ngqo kule misebenzi elandelayo noma ekuphathweni kwayo akakwazi ukuba nelayisensi yokusebenza noma abandakanyeke ekuhlinzekweni komsebenzi wokuthutha umphakathi uma –

- (a) ehlunga izicelo zamalaysensi okusebenza;
- (b) ekhipha amalaysensi okusebenza;
- (c) ebandakanyeka ekulungisweni kanye/noma ekwakhiweni kwenqubomgomo yezokuthutha, isu, izinhlaka, izinhlelo noma naziphi izinqubo ezihlonene zokusingatha ezihambelana nazo zezokuphepha;
- (d) eyingxenywe yohlelo lokubhalisa abaqhubi bomsebenzi wokuthutha umphakathi; noma
- (e) eyisikhulu esigunyaziwe njengoba kuchazwa eMthethweni kaZwelonke woGuquko kweZokuthutha eZihamba Phansi.

Imisebenzi ephakathi kwezifundazwe

67. Ngenxa yokuthi imisebenzi ephakathi kwezifundazwe ingena ngaphansi kwegunya lolawulo lukazwelonke –

- (a) izicelo zemisebenzi ephakathi kwezifundazwe ezivela ezifundazweni kumele zenziwe ngokuhambisana nezihlinzeko zoMthetho kaZwelonke woGuquko kweZokuthutha eZihamba Phansi; futhi
- (b) iBhodi kumele libhekane nezicelo zemisebenzi ephakathi kwezifundazwe ngokuhambisana nezihlinzeko zoMthetho kaZwelonke woGuquko kweZokuthutha eZihamba Phansi.

ISIAHLUKO 6 ISIGUNGU SOKUDLULISA SEZOKUTHUTHA

Ukusungulwa kwesiGungu sokuDlulisa

68. Isigungu sokuDlulisa sezokuthutha saKwaZulu-Natali ngalokhu siyasungulwa.

Ukuphakanyiswa kwamagama abantu abazoba sesiGungwini Sokudlulisa

69.(1) UNgqongqoshe kumele, ngokusebenzisa indlela eyakhelwe ukufinyelela esibalweni esikhulu sabahlali besiFundazwe, ameme ukuba kuphakanyiswe amagama abantu –

- (a) ngenhloso yokuqoka amalungu amabili njengoba kuhlongoziwe ngaphansi kwesigaba 70(1)(a), yilawa –
 - (i) abaqeqeshelwe, abasebenzayo njengabameli noma abameli basemajajini abanekhono okungenani esiyiminyaka eyi-10 besebenza; futhi
 - (ii) abanesikhathi bengabasebenzi bezobulungiswa enkantolo ephakeme; futhi
 - (b) labo, ngenhloso yokuqoka ilungu lesithathu njengoba kucacisiwe ngaphansi kwesigaba 70(1)(b), abanesikhathi esiyiminyaka emihlanu embonini yezokuthutha umphakathi.
- (2) Ukumenywa zokuphakanyiswa kwamagama ngokwesigatshana (1) kumele kuchaze –
- (a) inqubo yokuphakanyiswa kwamagama;
 - (b) okufunekayo ukuze umuntu aphakanyiswe; kanye
 - (c) nosuku okuzomele ngalo amagama aphakanyisiwe abe esetholwe nguNgqongqoshe.
- (3)(a) UNgqongqoshe kumele aqoke iphaneli ezohlunga yezikhulu eziphezulu zoMnyango ezingekho ngaphansi kwezine ukuba zibuyekeze wonke amagama aphakanyisiwe bese lenza izincomo ngabantu abaphakanyisiwe.
- (b) UNgqongqoshe, kuye ngokubona kwakhe, angaqoka abantu abangekho ngaphansi kwababili abanesipiliyoni embonini yezokuthutha noma abangabammeli noma abammeli basemajajini ukuba basize iphaneli ehlukayo ebalulwe endimeni (a) uma yenza izincomo ngabantu abaphakanyisiwe.

Ukuqokwa kwamalungu esiGungu sokuDlulisa

70.(1) UNgqongqoshe kumele ngokubuka amagama aphakanyisiwe awathole ngokwesigaba 69(1) kanye nezincomo ezenziwe iphaneli ehlukayo ehlinzekelwe esigabeni 69(3), aqoke amalungu amathathu, kuwo –

- (a) amabili kumele –
 - (i) abe ngaqeqeshelwe, abenze njengabammeli noma abameli basemajajini abanesikhathi okungenani esiyiminyaka eyishumi besebenza; noma
 - (ii) benekhono njengezazimthetho enkantolo ephakeme; futhi
 - (b) ilungu lesithathu malibe neminyaka okungenani emihlanu lisebenza ezimbonini yokuthutha umphakathi.
- (2) UNgqongqoshe kumele, ngokubheka amagama aphakanyisiwe atholakale ngokwesigaba 69(1) nezincomo zokukhetha iphaneli ehlukayo ngokwesigaba 69(3) futhi ngokuphathelene nesigatshana (3), okungenani aqoke ilungu elilodwa elizoshintshana nelinye kanye nangevile kwamabili azoshintshana namanye esiGungwini Sokudlulisa, azoba sesiGungwini Sokudlulisa uma kwenzeka ilungu liba nokungqubuzana kwezinjongo noma lingakwazi ukuba sekulalelweni kodaba.
- (3) Ilungu noma amalungu ashintshana nelinye elibalulwe esigatshaneni (2) kumele libe ngummeli osebenzayo noma njengobameli basemajajini okungenani iminyaka eyishumi.
- (4) Amalungu esiGungu Sokudlulisa abalulwe esigatshaneni (1) kanye namalungu ashintshana namanye abalulwe esigatshaneni (2) kumele abe ngabantu abafanelekile ababonakala bezimele, bengavuni hlangothi futhi benobulungiswa.
- (5) Umuntu akakwazi ukuqokwa noma aqhubeke nokubasesikhundleni njengelungu noma yilungu elishintshana nelinye esiGungwini Sokudlulisa uma –

- (a) eseke wasuswa esikhundleni esithinta umphakathi ngenxa yokungaziphathi kahle;
- (b) eseke wakhishelwa isahlulelo njengomuntu ohlulwa yizikweletu noma ongakahlengeki kuzo; noma
- (c) eseke walahlwa noma wagwetshwa yicala –
 - (i) elifaka phakathi ukungethembeki; noma
 - (ii) isigwebo salo esaba wukugqunywa ejele ngaphandle kokuzikhethela inhlawulo.
- (d) ehlomla ngokwezimali ebhizinisini elikunoma imuphi umkhakha wemboni yezokuthutha umphakathi noma enza umsebenzi ohlobene nalokho; noma
- (e) ilungu lomndeni elisondele noma umngani osondele ongahlomula ngqo ngokwezimali noma ngokwebhizinisi kunoma yimuphi umkhakha wemboni yezokuthutha.

Isikhathi sokuqokwa kwamalungu esiGungu sokuDlulisa

71.(1) UNgqongqoshe kumele, ngesikhathi eqoka okokuqala amalungu azoba sesiGungwini Sokudlulisa, aqoke –

- (a) umuntu oyedwa isikhathi esiyiminyaka emibili; kanye
 - (b) nalawa amanye amalungu esiGungu sokuDlulisa iminyaka emithathu.
- (2) Amalungu esiGungu sokuDlulisa angabuye aqokwe kabusha isikhathi esengeziwe esiyiminyaka emithathu.

Ukuqokwa kukaSihlalo kanye neSekela likaSihlalo wesiGungu sokuDlulisa

72. UNgqongqoshe kumele aqoke uSihlalo neSekela likaSihlalo wesiGungu sokuDlulisa, bobabili okumele bafaneleke ngokwesigaba 70(1)(a).

Ukudalula emva kokuba kuphakanyiswe amagama esiGungwini sokuDlulisa

73.(1) Umuntu ophakanyiselwe esiGungwini sokuDlulisa kumele zingakapheli izinsuku eziyishumi emva kokuba igama lakhe liphakanyisiwe, alethe kuNgqongqoshe incwadi yokudalula ayibhalile eqinisekisa ukuthi akahlomuli ngokwezimali okanye noma ngandlalani embonini yezokuthutha okungenzeka ihlobane noma ishayisane nokuqokwa kwakhe njengelungu lesiGungu sokuDlulisa, nokuyincwadi okumele ifake ulwazi olufanele mayelana nanoma yikuphi ukulahlwa yicala olusoHlelweni 1 loMthetho wokuShushiswa koBelelesi, 1977 (uMthetho No. 51 ka 1977).

(2) Incwadi ebalulwe esigatshaneni (1) kumele ifake ukuhlomula ngokwezimali okanye noma ngenye indlela embonini yezokuthutha kwamalungu omndeni asondele noma umngani osondele, okungahlobana noma kushayisane nokuqokelwa esiGungwini sokuDlulisa njengelungu.

(3) Umuntu ophakanyisiwe akumele acatshangelwe isikhundla esiGungwini sokuDlulisa uma ehluleka ukuletha incwadi yokudalula ebalulwe kulesi sigaba.

(4) Lapho ilungu lesiGungu sokuDlulisa noma ilungu lomndeni elisondele noma umngani osondele beba noguquko ekuhlomuleni kwabo ngokwezimali okanye kokunye futhi lithola ukuhlomula embonini yezokuthutha noma ngokusentandweni yemboni yezokuthutha eziguqukile ezinomthelela olimaza ikhono lalo lokuqhubeka nokusebenza njengelungu lesiGungu sokuDlulisa, ilungu lesiGungu sokuDlulisa kumele, zingakapheli izinsuku eziyishumi lazile ngezimo eziguqukile, lilethe incwadi yokudalula kuNgqongqoshe emazisa –

- (a) ngalezo zimo eziguqukile; kanye
- (b) nangesinyathelo ahlose ukusithatha kulandela lezo zimo eziguqukile.

Ukwehluleka ukudalula ukuhlomula ngokwezimali noma ngenye indlela

74.(1) Ilungu lesiGungu Sokudlulisa elehlulekile ukudalula njengoba kuchazwe esigabeni 73 lenza icala.

(2) INhloko yoMnyango uma seyazi ukuthi ilungu lesiGungu sokuDlulisa lihlulekile ukuhambisana nezihlinzeko zesigaba 73 kumele iphenye lolo daba bese iludlulisela kuNgqongqoshe ukuze athathe izinyathelo zokuqondisa izigwegwe ezifanele.

Ukukhokhelwa kwamalungu esiGungu sokuDlulisa

75.(1) Amalungu esiGungu Sokudlulisa kumele akhokhelwe izinkokhelo kanye nezibonelelo ezinqunywe nguNgqongqoshe ngokubonisana noNgqongqoshe wezeziMali.

(2) Ilungu lesiGungu sokuDlulisa elingumsebenzi kahulumeni alikwazi ukuthola inkokhelo ngaphezu kweholo lalo, ngaphandle uma kungeyenzindleko zokuhamba kanye nezindleko elizikhokhele lona eziphathelele nokusebenza noma nemisebenzi yesiGungu Sokudlulisa.

Imihlangano yesiGungu sokuDlulisa

76.(1) Umhlangano wokuqala wesiGungu sokuDlulisa kumele ubanjwe ngesikhathi nasendaweni eyonqunywa nguNgqongqoshe, bese kuthi emva kwalokho imihlangano iyobanjwa ngesikhathi nasezindaweni eziyonqunywa nguSihlalo wesiGungu sokuDlulisa.

(2) USihlalo wesiGungu sokuDlulisa kumele abize umhlangano ophuthumayo –

- (a) ngokwesicelo noma isivumelwano seningi lamalungu; futhi
- (b) lapho ecelwe ukwenza njalo nguNgqongqoshe.

(3) Ikhoramu yomhlangano wesiGungu sokuDlulisa ingamalungu amabili okungenani.

(4) Inqubo emihlanganweni yesiGungu Sokudlulisa, kubandakanya nenqubo yokuthatha izinqumo, kumele inqunywe yisiGungu sokuDlulisa kuye ngemiyalelo kaNgqongqoshe uma ikhona.

(5) Isinqumo seningi lamalungu esiGungu Sokudlulisa akhona emhlanganweni siba yisinqumo sesiGungu Sokudlulisa ngokuqondene nalokho okuqhubekayo kanti uma kwenzeka kuba nesibalo esilinganayo samavoti, umuntu ongunqunywe womhlangano unevoti elingujuqu ngaphezu kwevoti lakhe elejwayelekile.

Amandla nemisebenzi yesiGungu sokuDlulisa

77.(1) Isigungu sokuDlulisa siwumgwamanda ozimele nokumele usebenze ngendlela engenzeleli nengavuni hlangothi ukuze ilalele izicelo zokudlulisa ngezinqumo ezithathwe yiBhodi, Mbhalisi kanye nesikhungo esihlelayo.

- (2)(a) Kuncike esigatshaneni (4), isiGungu sokuDlulisa kumele silalele udaba oludluliselwe kulo ngokwamarekhodi esiwanikezwe imigwamanda okuphikiswana nesinqumo sayo futhi singelalele ubufakazi obusha.
- (b) Uma kuba nobufakazi obusha ekulalelweni kodaba oludluliswayo, isiGungu sokuDlulisa kumele siphindisele udaba emuva emgwamandeni okuphikiswana nesinqumo saso.
- (3) IsiGungu sokuDlulisa sibophezelwe yizinhlelo zezokuthutha ezifanele.
- (4) IsiGungu sokuDlulisa, ngokubona kwaso nangenhloso yokuzazulula leyo yinto ephambi kwaso ngokwalo Mthetho –
- (a) singavumela umuntu othintekayo noma onentshisekelo odabeni, noma ogunyazwe ukuba amele lowo muntu, ukuba avele ngaphambi kwaso futhi –
- (i) anikeze ubufakazi noma enze izethulo ngomlomo ezimayelana nodaba oludluliswayo;
- (ii) abize ofakazi abuye ahole ubufakazi ngephuzu eliqondene nodaba olwedluliswayo; noma
- (iii) aphonse imibuzo umuntu oseke wafakaza ngaphambili odabeni olwedlulisiwe;
- (b) ngesaziso esibhaliwe esibekiwe futhi sathunyelwa ngendlela ebekiwe, singadinga umuntu ukuba avele ngaphambi kwaso ukuba azonikeza ubufakazi noma alethe incwadi, uhlelo okanye noma yimuphi umbhalo noma okuthile lowo muntu anakho;
- (c) singabiza umuntu okhona endaweni lapho isiGungu sokuDlulisa silalela khona udaba, ukuba avele ngaphambi kwaso ukunikeza ubufakazi noma ukuletha incwadi, uhlelo noma omunye umbhalo noma okuthile lowo muntu anakho;
- (d) singahloma imibuzo umuntu ovele njengofakazi; futhi
- (e) singaba ukulalela umuntu ovele ngaphambi kwaso njengofakazi uma lowo muntu enqaba ukufungiswa noma ukuzibophezela ekukhulumeni iqiniso.
- (5) Umuntu ongusihlalo emhlanganweni wesiGungu sokuDlulisa lapho khona kuvele umuntu njengofakazi njengoba kushiwo esigatshaneni (4), kumele afungise noma abophezele lowo muntu ekukhulumeni iqiniso.

Izinqumo ezidluliselwe esiGungwini sokuDlulisa

- 78.(1) Ngaphandle uma kuhlinzekwe ngokunye kulo Mthetho futhi kuye ngokwesigatshana (2), umuntu noma inhlangano –
- (a) efake isicelo kwiBhodi sokunikezwa, ukuchitshiyelwa noma ukudluliselwa kwelayisensi yokusebenza noma ilayisensi yayo esihoxisiwe, yaguqulwa noma yamiswa yiBhodi;
- (b) engumnikazi welayisensi yokusebenza ekhishwe yiBhodi;
- (c) elethe izethulo kwiBhodi izwakalisa ukungahambisani noma yeseka isicelo, ngendlela nangesikhathi esibekiwe;
- (d) esifake isicelo sokubhaliswa kuMbhalisi ngokuhambisana nalo Mthetho noma ukubhaliswa kwayo osekuhoxisiwe noma kwamiswa nguMbhalisi;
- (e) esibhaliswe nguMbhalisi;
- (f) ethintekayo yisenzo, umyalelo noma isinqumo seBhodi, sesikhungo esihlelayo noma soMbhalisi
- (g) enentshisekelo ophenyweni olwenziwa yinoma yiziphi kulezi zikhungo, ngendlela nangesikhathi esibekwe emva kokuba leso senzo senziwa noma lowo myalelo noma isinqumo sanikezwa, ingaphikisana naleso senzo, lowo myalelo noma isinqumo esiGungwini sokuDlulisa.
- (2) Lapho iBhodi, uMbhalisi noma isikhungo esihlelayo sazise lowo othintekayo ngomyalelo noma ngesinqumo esibalulwe esigatshaneni (1) ngencwadi ebhaliwe, usuku lwaleyo ncwadi luthathwa njengosuku lowo myalelo noma leso sinqumo esathathwa ngalo.
- (3) IsiGungu sokuDlulisa kumele –
- (a) sithole futhi, ngokuhambisana nezihlinzeko zalesi sigaba kanye nezinqubomgomo, sibheke isidluliso esifakiwe ngokumaqondana nesigatshana (1) zingakapheli izinsuku ezingama-60 sitholakele isicelo sokudlulisa; futhi
- (b) sazise ngesinqumo saso zonke izinhlangothi ezifanele ngesikhathi leso esinqunyiwe
- (4) IsiGungu sokuDlulisa, ekucubunguleni isidluliso –
- (a) singachitha isidluliso bese sivumelana nesenzo, umyalelo noma isinqumo okuphikiswana nkho;
- (b) singavuna isidluliso, sibeke eceleni isenzo, umyalelo noma isinqumo okuphikiswana nakho, futhi
- (i) singaguqula isinqumo seBhodi, uMbhalisi noma isiphathimandla esisebenzayo ngesinye isenzo, umyalelo noma isinqumo iBhodi, uMbhalisi noma isikhungo esihlelayo esihlelayo engabe sikwenzile noma sisinikezile; noma
- (ii) singadlulisala lolu daba oluholele ekudlulisweni kwesicelo kwiBhodi, uMbhalisi noma isiphathimandla esisebenzayo, njengoba isimo singabalula lokho, ukuze udaba lucutshungulwe kabusha; noma
- (c) singavuna ingxenye yesidluliso bese siguqula isenzo, umyalelo noma isinqumo okuphikiswana nakho.
- (5) USihlalo wesiGungu sokuDlulisa noma ilungu elikhethelwe lomsebenzi nguSihlalo, ngokubona kwakhe kanye nangale kokunikeza isaziso kuqala noma alalele noma iluphi olunye uhlangothi olunentshisekelo –
- (a) angasigunyaza isicelo sokuxolelwa kokufakwa ngemuva kwesikhathi kwesaziso sokudluliswa kodaba: Inqobo nje uma isicelo sokudlulisela nxanye udaba oludluliswe lufakiwe kanyekanye ngokomthethonqubo engakapheli amasonto ayisithupha emva kokuba iBhodi, uMbhalisi noma isikhungo esihlelayo senze leso senzo noma enikeze umyalelo noma isinqumo okuphikiswana naso;
- (b) lingabeka eceleni isenzo, umyalelo noma isinqumo seBhodi, soMbhalisi noma sesikhungo esihlelayo okuphikiswana naso bese libuyisela udaba emuva kwiBhodi, kuMbhalisi noma esikhungweni esihlelayo leso ukudluliswa kodaba kuphathelele naso futhi lidlulise udaba kwiBhodi noma uMbhalisi, njengoba kungabe kudingekile, ukuze lucutshungulwe kabusha.
- (6) Isenzo, umyalelo noma isinqumo sesiGungu sokuDlulisa ngokwesigatshana (4)(b)(i) noma (c), ngaphandle uma kungenxa yezinhloso zesigatshana (1), sithathwa njengesenzo, umyalelo noma isinqumo seBhodi, soMbhalisi noma sesikhungo esihlelayo, njengoba kungabe kudingekile.

Umbiko wonyaka wesiGungu sokuDlulisa

- 79.(1) USihlalo wesiGungu sokuDlulisa kumele alethe umbiko wonyaka ngemisebenzi yesiGungu sokuDlulisa kuNgqongqoshe zingakapheli izinsuku ezingama-30 kuphele unyaka wezimali.
- (2) USihlalo, embikweni wonyaka, angancoma izichibiyelo ezifanele zomthetho, zolawulo nenqubo kulo Mthetho.

Izihlinzeko zesikhashana

80. Noma yiluphi udaba oludlulisiwe olusalindle ngaphambi –
- (a) kwekhomishana (iKhomishana yeZokuthutha kaZwelonke) njengoba ichaziwe

eMthethweni Wezokuthutha eMgwaqeni; noma
 (b) kwesiGungu Sokudlulisa Sezokuthutha, esisungulwe ngokwesigaba 3
 soMthetho Wesigungu Sokudlulisa Sezokuthutha, 1998 (uMthetho No. 39 ka 1998),
 ngosuku lokuqala kokusebenza kwalo Mthetho, kumele lusingathwe yileyo Khomishana noma yilesi siGungu ngokwaleyo mithetho,
 kungakhathalekile ukuthi izihlinzeko zesigaba 78 zithini.

Abasebenzi besiGungu sokuDlulisa

81. INhloko yoMnyango kumele, kuncike emithethweni eyengamele imisebenzi kahulumeni, ihlinzeke ngabasebenzi kanye nangokunye okudingekile ukusiza isiGungu sokuDlulisa ukuba senze imisebenzi yaso.

ISAHLUKO 7

UMBHALISI WEZOKUTHUTHA WESIFUNDAZWE

Ukuqokwa koMbhali si wezokuThutha wesiFundazwe

82.(1) UNgqongqoshe kumele aqoke umuntu ofanelekile ukuba abe nguMbhali si wezokuThutha wesiFundazwe ngokuhambisana nemibandela okuvunyelwene ngayo phakathi kukaNgqongqoshe noNgqongqoshe wezeziMali.

(2) Phezu kwezihlinzeko zezigatshana (1), (3), no(4) sithini, uMbhali si oqokwe ngokoMthetho wamaTekisi wesiKhashana, uthathwa njengoMbhali si wezokuThutha wesiFundazwe oqokwe ngokwesigatshana (1), futhi angaqhubeka nokusebenza kuze kuphele isikhathi ayeqokelwe sona.

(3) Ngaphambi kokuqoka umuntu njengoMbhali si, uNgqongqoshe kumele –

(a) ngokusebenzisa indlela eyenzelwe ukufinyelela esibalweni esikhulu sabantu abahlala esifundazweni, ameme abantu ukuba bafake izicelo zesikhundla soMbhali si;

(b) ashicilele, ngesaziso, *kwiGazethi* noma ephephandabeni elitholakala kusona sonke isiFundazwe, igama lomuntu ahlongoza ukumqoka njengoMbhali si, bese emema imibono kanye nezethulo ngokuqondene nalokho; futhi

(c) acubungulise noma yikuphi ukuphawula kanye nezethulo ezitholwe maqondana nokuqokwa okuhlongozwayo koMbhali si.

(4)(a) UNgqongqoshe kumele aqoke iphaneli ezohlunga enezikhulu eziphezulu zoMnyango ezingekho ngaphansi kwabantu abane ukubheka zonke izicelo zesikhundla soMbhali si.

(b) UNgqongqoshe, ngokubona kwakhe, angaqoka abantu abangevile kwababili abanesipiliyoni embonini yezokuthutha ukusiza iphaneli ehlungayo ebalulwe endimeni (a) ukubheka zonke izicelo zesikhundla soMbhali si.

(c) UNgqongqoshe kumele acubungule izincomo ezibalulwe ezindimeni (a) no (b) ngaphambi kokuqoka uMbhali si.

(5) UMbhali si kumele angavuni hlangothi, azimele futhi abe nobulungiswa ekusebenziseni amandla kanye nasekwenzeni imisebenzi anikezwe yona yilo Mthetho kanye nanoma yimaphi amandla anikezwe wona noma adluliselwe nguNgqongqoshe futhi kumele enze njalo ngaphandle kokwesaba, ukwenzela noma ukwenzela phansi.

(6) UMbhali si kanye namalungu omndeni wakhe nasondelene nabo bangehlomule ngqo ngokwezimali noma ngokwebhizinisi kunoma yimuphi umkhakha wemboni yezokuthutha umphakathi.

(7) Umuntu angeqokwe noma aqhubeke abe sesikhundleni njengoMbhali si uma –

(a) eseke wasuswa esikhundleni esithinta umphakathi ngenxa yokungaziphathi kahle;

(b) eseke wakhishelwa isahlulelo njengomuntu ohlulwe yizikweletu futhi engakahlengeki kuzo; noma

(c) eseke waboshelwa icala waze wagwetshwa ejele isikhathi esingaphezulu kwezinyanga eziyi-12 ngaphandle kokuzikhethela inhlawulo

(d) eseke waboshelwa icala elifaka phakathi ukungathembeki

Isikhathi sokuqokwa koMbhali si

83.(1) UMbhali si uqokwa isikhathi esiyiminyaka emithathu.

(2) UMbhali si uyakwazi ukuthi abuye aqokwe eminye iminyaka emithathu yokucina.

Ukuqokwa koMbhali si oyibamba

84. Uma ihhovisi loMbhali si lingaqashile umuntu owenza lo msebenzi noma uMbhali si esesusiwe esikhundleni noma ehluleka ukwenza imisebenzi yakhe, uNgqongqoshe angaqoka noma ubani osifanele lesi sikhundla ongeke azithuke njengomuntu ongefanelekile ochazwe esigabeni 82(7), ukuba abambeke uMbhali si futhi asebenzise amandla, enze nemisebenzi yaleso sikhundla kuze kufike lesi sikhathi lapho sesigcwalisiwe isikhala noma kuze kube umnikazi sikhundla uyabuyela, kuye ngesimo, olifanele lelihhovisi.

Inkokhelo nezibonelelo

85. UMbhali si noma umuntu oqokelwe ukubamba njengoMbhali si kumele akhokhelwe inkokhelo nezibonelelo ezinqunywe nguNgqongqoshe ngokubonisana noNgqongqoshe Wezezimali.

Imisebenzi yoMbhali si

86. UMbhali si kumele –

(a) acubungule bese athathe isinqumo nganoma yisiphi isicelo sokubhaliswa ngokuhambisana nalo Mthetho;

(b) anikeze isitifiketi sokubhaliswa okwesikhashana noma ngokugcwele, kuye ngesimo, kunoma iyiphi inhlangano kanye namalungu ayo noma abangewona amalungu awo, ngokuhambisana nalo Mthetho;

(c) agcine uhluwa okumele abhale kulo imininingwane yenhlangano ngayinye, ilungu noma umuntu ongelona ilungu obhaliswe ngokuhambisana nalo Mthetho njengoba kubekiwe;

(d) athathe izinyathelo ezifanele zokuqokelela ulwazi kanye nokuqapha ukulandelwa noma ukungahambisani kwezinhlangano ezibhalisiwe nemithethosisekelo yazo ebhalisiwe kanye nemithetho esebenzayo, kanye nokwamalungu abhalisiwe nalawo angabhalisiwe nezihlinzeko zoMgomo Wokuziphatha obekwe ngokwesigaba 106;

(e) asize ekukhuthazweni kwezinkambiso zobungcweti yizinhlangano ezibhalisiwe namalungu azo kanye nalabo abangewona amalungu;

(f) athathe izinyathelo ezifanele ukuqinisekisa ukuthi izinhlangano kanye nabaqhubi babhalisile ngokwalo Mthetho;

- (g) anikeze izeluleko kanye nosizo ezinhlanganweni kanye nakubaqhubi ukubasiza ukuba izicelo zabo zokubhaliswa ziphumelele;
- (h) acubungule bese ethatha isinqumo ngokumiswa nokusulwa kokubhaliswa kwenhlangano, ilungu noma umuntu ongelona ilungu njengokuhlizeka kwesigaba 102;
- (i) lapho ukubhalisa kwesulwe noma kumisiwe nganoma yisiphi isizathu, azise iBhodi singakadluli isikhathi esibekiwe, nokuyothi emva kwaso iBhodi komele lihoxise noma limise lawo malayisensi okusebenza isikhathi esifanele;
- (j) lapho seyibhalisile inhlango ehlanganisa izifundazwe noma abangewona amalungu, adlulisele ikhophi yesitifiketi sokubhaliswa kanye nayo yonke imininingwane ebhalisiwe yenhlangano noma abangewona amalungu kuMbhalisi noma eMnyangweni obhekene nezokuthutha esifundazweni ngasinye lapho amalungu aleyo nhlangano noma abangewona amalungu besebenzela khona;
- (k) abuyekeze izichibiyelo ezihlongozwayo kwimithethosisekelo yezinhlango ezibhalisiwe ukuze aqinisekise ukuthi izichibiyelo ziyahambisana nokufunekayo ngoMthethosisekelo oseQophelweni eLidingekile njengoba kuhlinzekwe esigabeni 106, bese exhumana nezinhlangano ngenhloso yokugwema ukuphasiswa kwezichibiyelo ezingahambisani, noma azazise ngokungahambisani kwezichibiyelo eziphasiswe yizo, bese eziyalela ukuba ziziyeke lezo zichibiyelo;
- (l) aqinisekise izinqubo zentando yeningi ngaphakathi ezinhlanganweni;
- (m) agcine amarekhodi alo lonke ulwazi kanye nemininingwane edingekile ukugcina uHla lokuBhalisa lwezokuThutha lukaZwelonke;
- (n) amukele, aphenye noma angenelele ekungezwanini kanye naseezikhalweni ezilethwe –
- yinhlangano ngokuqondene nokungaboni ngaso linye okungaxazululiwe nelungu elilodwa noma ngaphezulu alo;
 - yilungu lenhlangano ngokuqondene nokungaboni ngaso linye okungaxazululiwe nenhlangano yelungu;
 - yinhlangano ngokuqondene nokungaboni ngaso linye okungaxazululiwe nenye inhlango noma namalungu alo;
 - ngumuntu ongelona ilungu;
 - umgwamanda obandakanyeka ekuhlinzekweni kwemisebenzi wokuthutha umphakathi; noma
 - yilungu lomphakathi;
- (o) amukele, aphenye noma angenelele ukungaboni ngaso linye kanye nasezikhalweni ngaphakathi embonini yezokuthutha –
- ezidluliswe nguNgqongqoshe;
 - ezidluliswe yiBhodi;
 - ezidluliswe yisikhungo esihlelayo;
 - ezidluliswe omunye umgwamanda kahulumeni;
- (p) ngesaziso esibhaliwe angakapheli amasonto amabili emva kokuba ethathe isinyathelo ngokwesigaba 102 ephikisana –
- nenhlangano ebhalisiwe azise uNgqongqoshe kanye neBhodi; noma
 - nelungu noma nomuntu ongelona ilungu azise iBhodi, ngaleso sinyathelo asithathile kanye nangezizathu zalokho; futhi
- (q) enze neminye imisebenzi edingekile ngokuhambisana nalo Mthetho.

Izitifiketi zokubhalisa, izinombolo zokubhalisa kanye nezimpawu ezihlukanisayo

87.(1) Emva kokubhaliswa kwenhlangano, ilungu noma umuntu ongelona ilungu, uMbhalisi kumele anikeze inombolo yokubhalisa enhlanganweni, kwilungu noma kumuntu ongelona ilungu othintekayo bese emnikeza isitifiketi sokubhaliswa noma isitifiketi sokubhaliswa okwesikhashana, kuye ngesimo, ngendlela nangokuma futhi siqukethe imininingwane ebekiwe.

(2) Lapho ilungu noma umuntu ongelona ilungu ebhaliswa, uMbhalisi, kusukela ngosuku olunqunywe nguNgqongqoshe kwiGazethi, kumele akhiphe, nendlela enqunyiwe, uphawu oluhlukanisayo ngemoto ngayinye yelungu elibhalisiwe noma yomuntu ongelona ilungu esetshenziswa ngaphansi kwegunya lelayisensi yokusebenza efanele.

Ukusula, ukushiya esikhundleni nokususwa esikhundleni

88.(1) UMbhalisi angasula ngokuthi anikeze isaziso senyanga eyodwa asibhalele uNgqongqoshe.

- (2) UMbhalisi kumele ashiye esikhundleni sakhe uma –
- engasahambisani nesigaba 82(6);
 - etholakala ukuthi akasifanele isikhundla sakhe ngaphansi kwesigaba 82(7);
 - esuswa esikhundleni ngokwesigatshana (3); noma
 - esula.
- (3) UNgqongqoshe angamsusa uMbhalisi esikhundleni uma –
- ehlulekile ukuhambisana nemibandela sokuqokwa kwakhe;
 - etholakale enecala lokungaziphathi kahle noma ehlulekile ukwenza imisebenzi yakhe njengoMbhalisi;
 - engakwazi ukwenza ngendlela efanele imisebenzi yakhe njengoMbhalisi; noma
 - esekhubazeke ngendlela yokuthi akasakwazi ukwenza imisebenzi yakhe;
 - ngenxa yoguquko ezimweni ezithile, engasakwazi ukungavuni hlangothi ekwenzeni imisebenzi yakhe.

Ukusungulwa kanye nemisebenzi yepaneli yabacubunguli

89.(1) UNgqongqoshe, emva kokubonisana noMbhalisi nangokusebenzisa isaziso kwiGazethi, angasungula ipaneli enesibalo sabacubunguli esinqunywe nguNgqongqoshe.

- (2) Imisebenzi yepaneli yabacubunguli –
- ukusiza uMbhalisi;
 - ukweluleka uMbhalisi nokwenza izincomo mayelana nanoma yiluphi udaba oluhlinzekelwe nguMbhalisi nolumayelana nodaba olungachazwa nguMbhalisi lolo futhi oluchaza ukusebenza kwamandla noma ukwenziwa kwemisebenzi yoMbhalisi ngokuhambisana nalo Mthetho;
 - ngokucelwa futhi nangemiyalelo yoMbhalisi –
 - lenze uphenyo bese libika ngelikutholayo kanye nangezinzincomo zalo kuMbhalisi; futhi
 - liqaphe ukuhambisana kwezinhlangano ezibhalisiwe nemithethosisekelo yazo ebhalisiwe kanye nemithetho esebenzayo, kanye nokwamalungu abhalisiwe kanye nalabo abangewona amalungu noMgomo wokuziphatha oqondene.
- (3) Abacubunguli kumele basebenzise amandla noma benze imisebenzi ngokuzimela nangokungavuni hlangothi, ngaphandle kokwesaba, ukwenzelela noma ukwenzela phansi.

Ukuqokwa, inkokhelo kanye nemibandela kokusebenza kwabacubunguli

90.(1) Kuncike esigatshaneni (2), uNgqongqoshe kumele aqoke abacubunguli ababalulwe esigabeni 89(1) njengamalungu ephaneli lapho khona kungathathwa amalungu nguMbhali si uma kunesidingo.

(2) Ngokwenza njalo, uNgqongqoshe kumele aqoke abantu abafanelekile abangavuni hlangothi, kodwa akakwazi ukuqoka noma ngubani ongahambisani nezimfuneko zesigaba 82(7) ezisebenza kuMbhali si.

(3) Abacubunguli baqokelwa kwiphaneli isikhathi sokuqala esiyiminyaka emithathu, nengangezwa ngeminye emithathu yokugcina.

(4) Umcubunguli ngamunye unelungelo –

(a) lenkokhelo ngesikhathi lapho lowo mcubunguli ebesebenza umsebenzi wephaneli yabacubunguli ngokwalo Mthetho, ngenani elibalwe ngokosuku noma ngokwehora elinqunywe nguNgqongqoshe ngokubonisana noNgqongqoshe Wezezimali;

(b) lokukhokhelwa, ngokuhambisana nenani elinqunywe nguNgqongqoshe, ngazo zonke izindleko zokuhamba nokudla nokulala elingene kuzo ngesikhathi lenza umsebenzi wephaneli.

(5) Isigaba 88 ngokuqondene nokungafaneleki kanye nokuxoshwa esikhundleni koMbhali si, sisebenza nasesikhundleni somcubunguli, ngokuhambisana nezinguquko ezidingekile.

Imihlangano yephaneli yabacubunguli

91.(1)(a) UMbhali si angabiza imihlangano yabacubunguli uma ebona kunesidingo, endaweni nangesikhathi esinqunywe nguMbhali si.

(b) UMbhali si kufanele abe ngusihlalo wemihlangano nabacubunguli ngaphandle uma enquma ngokunye odabeni oluthile.

(2) UMbhali si kumele aqinisekise ukuthi amaminithi okuqhubeke emihlanganweni nabacubunguli ayathathwa.

Abasebenzi abasiza uMbhali si

92. INhloko yoMnyango kumele, ngokuhambisana nemithetho elawula imisebenzi kahulumeni, ihlinzeke ngezisebenzi ezidingekile ukusiza uMbhali si ekwenzeni imisebenzi yakhe.

Umbiko wonyaka kanye nesibopho sokubika ngezimali

93.(1) UMbhali si kumele alethe umbiko wonyaka ngemisebenzi yehhovisi lakhe kuNgqongqoshe zingakapheli izinsuku ezingama-30 kuphele unyaka wezimali, nokuwumbiko phakathi kokunye okumele ubalule lokhu okulandelayo:

(a) ukusebenza kwehhovisi loMbhali si;

(b) ukusebenza kwephaneli labacubunguli kanye neqhaza lalo negalelo lalo ekusizeni uMbhali si ekwenzeni imisebenzi yalelo hhovisi;

(c) izindaba ezimayelana nokubhaliswa ngokuhambisana nalo Mthetho; kanye

(d) nanoma yiluphi udaba olusematheni noma oluvuka ekusetshenzisweni kwalo Mthetho.

(2) UNgqongqoshe kumele ethule umbiko woMbhali si kwisiShayamthetho sesiFundazwe zingakapheli izinsuku ezingama-30 ewutholile, uma isishayamthetho sihleli, noma uma singakahlali, emhlanganweni waso olandelayo.

(3) UMbhali si, kuncike eMthethweni woKuphathwa kweZimali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999), ubhekene –

(a) nokubika ngezimali zoMbuso kanye nangezinye izimali ezitholwe noma zakhokhelwa nguMbhali si; kanye

(b) nokugcinwa kwamarekhodi aqondile okubalwa kwezimali kanye namanye amarekhodi.

ISAHLUKO 8**UKUBHALISWA KWEZINHLANGANO ZAMATEKISI ANGAMAKHUMBI, AMALUNGU KANYE NALABO ABANGEWONA AMALUNGU****Ukubhaliswa kwesikhashana kwezinhlangano ezazibhalisiwe phambilini**

94. Inhlangano, okuthi ngaphambi kokuqala ukusebenza kwalo Mthetho yabe ibhalisiwe okwesikhashana ngokwesigaba 8(4) soMthetho wamaTekisi wesiKhashana, ithathwa ngokuthi ibhalisiwe okwesikhashana ngokuhambisana nezihlinzeko zoMthetho kaZwelonke woGuquko kwezokuThutha eziHamba Phansi.

Ukubhaliswa kwesikhashana kwezinhlangano ezingafanelekile ukubhaliswa ngokugcwele

95.(1) UMbhali si kumele abhalise okwesikhashana noma iyiphi inhlangano, isikhathi esibekiwe, uma leyo nhlangano ekufakeni isicelo imanelisa uMbhali si ukuthi –

(a) isibe khona isikhathi esingekho ngaphansi kwesikhathi esibekiwe;

(b) isibalo samalungu siyahlangabezana nesibalo esibekiwe;

(c) onke amalungu ayo, ngokuhambisana nendlela ezobekwa ngomthethonqubo, azilandele izihlinzeko zoMgomo wokuziPhatha;

(d) inhlangano inomthethosisekelo –

(i) olandelwe yiwonke amalungu, futhi ngokuhambisana nawo noma yikuphi ukwaphulwa kwalezo zihlinzeko ezibalulwe eMgomeni WokuziPhatha yinoma iliphi ilungu kuzoholela ekujezisweni okufanele noma konswinyo yikomiti elimile lokuqondisa izigwegwe emva kokuphenyo olufanele;

(ii) ohambisana nezimfuneko ezibekwe nguNgqongqoshe ngokwesigaba 106;

(e) wonke amalungu ayo anamalayisensi afanele okusebenza ngemoto ngayinye azosebenza ngayo ukuqhuba imisebenzi yamatekisi angamakhumbi, noma asefake izicelo zalawo malayisensi;

(f) isicelo senhlangano sokubhaliswa okwesikhashana senziwe ngabayimele abagunyaziwe, sihambisana nemali yesicelo (uma ikhona);

(g) izamba zemali yokujoyina kanye neyobulungu azeqi esilinganisweni sezamba esibekiwe;

(h) inhlangano inikeze lonke ulwazi oludingwa nguMbhali si.

(2) UMbhali si, uma egculisekile ngokuthi inhlangano efaka isicelo iyahlangabezana nezimfuneko zokubhaliswa okwesikhashana ezibekwe yisigatshana (1), kumele ayibhalise okwesikhashana bese eyikhiphela isitifiketi esifanele sokubhaliswa.

(3) Ukubhaliswa kwesikhashana kwezinhlangano kuyophela uma kwenzeka eyodwa yalezi zinto ezilandelayo –

(a) uma kuphela isikhathi esinqunywe nguNgqongqoshe ngokwesigatshana (1);

(b) uma inhlangano ithola ukubhaliswa ngokugcwele ngokwesigaba 97.

Ukugququlwa kokubhaliswa kwesikhashana kube wukubhaliswa ngokugcwele

96.(1) UMbhalisi kumele agunyaze ukubhaliswa okugcwele kwenhlangano, okuthe ngaphambi kokuphela kwesikhathi sokubhaliswa kwesikhashana, yafaka isicelo kuMbhalisi sokugququla ukubhaliswa kwesikhashana kube ukubhaliswa okugcwele futhi isimgculisile uMbhalisi –

- (a) ukuthi iyahlangabezana nezimfuneko zesigaba 97; kanye
- (b) nokuthi isibumisile ubulungu bawo wonke amalungu okuthe ngosuku lwesicelo atholakala enganayo ilayisensi yokusebenza efanele ngemoto ngayinye ilungu enza ngayo imisebenzi yamatekisi angamakhumbi.

(2) Lesi sigaba asiyivimbeli inhlangano ukubhaliswa kwayo osekuphelile ukuba ingafaki isicelo sokubhaliswa ngokugcwele ngokwesigaba 97.

Ukubhaliswa ngokugcwele kwezinhlangano

97. UMbhalisi kumele agunyaze ukubhaliswa okugcwele kunoma iyiphi inhlangano kanye nelungu layo ngalinye okuthe ngokufaka isicelo lamanelisa uMbhalisi ngokuthi –

- (a) inhlangano iyahambisana nezindima (a), (b), (c) no (d) zesigaba 95(1);
- (b) isicelo senhlangano sokubhaliswa senziwe ngabantu abagunyaziwe ukumela leyo nhlangano ngendlela ebalulwe kulesi sigaba, siphelekezela yimali yesicelo ebekiwe (uma ikhona);
- (c) ilungu nelungu elenzelwa isicelo sokubhaliswa linelayisensi esemthethweni yokusebenza ngemoto ngayinye elizoqhuba ngayo umsebenzi wamatekisi angamakhumbi;
- (d) izamba zemali yokujoyina kanye nemali yobulungu benhlangano azeqi kwizamba ezibekiwe;
- (e) inhlangano ihlinzeke ngalo lonke ulwazi olungadingwa nguMbhalisi.

Ukubhaliswa kwamalungu akhona ezinhlangano

98.(1) Emva kokubhalisa inhlangano ngokuhambisana nezigaba 94 kuya ku 97, bonke abantu inhlangano elethe imininingwane yabo njengamalungu ayo kumele babhaliswe nguMbhalisi, ngendlela ebekiwe.

(2) Umthwalo usemahlombe elungu lenhlangano ukuba ithathe izinyathelo ezifanele ukuqinisekisa ukuthi liyabhaliswa ngokwesigatshana (1).

(3) Akekho umuntu ongaqhubeka abhaliswe njengelungu lenhlangano engenayo ilayisensi yokusebenza esemthethweni.

Ukubhaliswa kwamalungu amasha

99.(1) Lapho inhlangano isimukele ilungu elisha elinelayisensi yokusebenza eqondene nendawo noma nemizila inhlangano enikezwe yona nguMbhalisi, ikomidi eliphethe, omunye umgwamanda noma osesikhundleni enhlanganweni egunyazwe yilelo komidi noma umgwamanda, kumele afake isicelo kuMbhalisi ngendlela ebekiwe, sokuba ilungu elisha libhaliswe njengelungu zingakapheli izinsuku eziyi-14 lamukeliwe.

(2) Lapho inhlangano ebhalisiwe igunyaza ubulungu besikhashana kofuna ukuba yilungu kusalindwe umphumela wesicelo salelo lungu kwiBhodi sokunikezwa ilayisensi yokusebenza endaweni noma emizileni lapho inhlangano igunyazwe khona nguMbhalisi, inhlangano kumele yazise uMbhalisi ngalobo bulungu besikhashana zingakapheli izinsuku eziyi-14 kunikezwe lobo bulungu.

(3) Uma kwenzeka isicelo selayisensi yokusebenza esibalulwe esigatshaneni (2) –

- (a) siphumelela, iBhodi kumele lazise uMbhalisi zingakapheli izinsuku eziyi-14, bese yena ebhalisa lelo lungu lenhlangano ngokufanele; noma
- (b) singaphumeleli, iBhodi kumele lazise uMbhalisi zingakapheli izinsuku eziyi-14, nokuzomele ayalele inhlangano ukuba ibuqede ubulungu balelo lungu lesikhashana zingakapheli izinsuku eziyi-14 kuphume lowo myalelo, futhi ukuhluleka ukwenza njalo kwenhlangano kuzothathwa njengecala lokungaziphathi kahle.

Ukubhaliswa kwabantu abangewona amalungu

100.(1) Umuntu ongelona ilungu, ngosuku lokuqala ukusebenza kwalo Mthetho, ongumnikazi welayisensi yokusebenza yomsebenzi wamatekisi angamakhumbi kumele singakapheli isikhathi esibekiwe, afake isicelo kuMbhalisi sokubhaliswa njengomuntu ongelona ilungu, futhi emva kokubhalisa alandele uMgomo wokuziPhatha obekwe ngokwesigaba 106.

(2) UMbhalisi akakwazi ukubhalisa umuntu ongelona ilungu njengoba kubalulwa esigatshaneni (1), ngokuqondene nelayisensi yokusebenza eqondene nendawo noma nemizila uMbhalisi asevele eyigunyazile inhlangano kuyona, ngaphandle uma –

- (a) lowo muntu ongelona ilungu enganikeza izizathu ezizwakalayo zokuthi kungani engakwazi ukujoyina inhlangano ebhaliselwe leyo ndawo noma leyo mizila; noma
- (b) uMbhalisi ekwazi ukuqinisekisa ukuthi ayikho inhlangano ebhalisiwe ngokuqondene naleyo ndawo noma nemizila okukhulunywa ngayo noma, lapho khona kukhona inhlangano ebhalisiwe –
 - (i) umfakisicelo enqatshelwe ubulungu benhlangano;
 - (ii) izimfuneko zokwamukelwa njengelungu zenzelela; noma
 - (iii) umfakisicelo angeke akwazi ukuba ilungu lenhlangano ngenxa yezimo ezikhona ngaleso sikhathi.

(3) Ngokwesigatshana (2) uMbhalisi akakwazi ukugodla ilayisensi yomuntu ongelona ilungu uma lowo muntu –

- (a) enelayisensi yokusebenza esefanele ngemoto ngayinye enza ngayo umsebenzi wamatekisi angamakhumbi; futhi
- (b) eqhuba umsebenzi oqondene nelayisensi yokusebenza, ngokuhambisana nemibandela, kanye nezimiso okubekiwe kuyo.

(4) Ukuhluleka komuntu ongelona ilungu ukufaka isicelo sokubhaliswa njengoba kubalulwe esigatshaneni (1) kungaholela ekutheni leyo layisensi ethintekayo –

- (a) iphelelwe yisikhathi futhi lowo muntu ongelona ilungu alahlekelwe amalungelo akhe ngokuqondene nelayisensi yokusebenza; futhi
- (b) ihoxiswe yiBhodi njengoba kubekwe ngumthethonqubo.

Ukubhaliswa okuyimpoqo kwezinhlangano nabaqhubi bemisebenzi yamatekisi ngamakhumbi

101. Kusukela ngosuku lokuqala ukusebenza kwalo Mthetho –

- (a) zonke izinhlangano ezibandakanyeka ekuqhutshweni komsebenzi wamatekisi angamakhumbi kumele okungenani zibhaliswe okwesikhashana ngokwalesi Sahluko, futhi ayikho inhlangano engaqhubeka nokusebenza kanjalo ngaphandle uma ibhalisiwe;

- (b) akekho umuntu ongaqhuba umsebenzi wamatekisi angamakhumbi ngaphandle uma lowo muntu eyilungu elibhalisiwe lenhlangano ebhalisiwe ngokwalesi Sahluko, noma uma kungumuntu ongelona ilungu abe ebhalisiwe ngokufanele ngosuku olubekwe nguNgqongqoshe ebhekela izihlinzeko zesigaba 100(1); futhi
- (c) iBhodi kumele lihoxise wonke amalayisensi okusebenza agunyaza umsebenzi wamatekisi angamakhumbi lapho umnikazi walo ongelona ilungu lenhlangano ebhalisiwe ngokwalesi Sahluko futhi esehlulekile ukuhambisana nezimfuneko zesigaba 100(1).

Ukwesulwa noma ukumiswa kokubhaliswa

102.(1) UMbhalisi kumele asule ukubhaliswa –

- (a) kwenhlangano –
- engasekho noma engasazinzile esiFundazweni; noma
 - ebhalise ngendlela enomgunyathi;
- (b) kwelungu, ngokuqondene nenhlangano ethile, lapho –
- ukubhaliswa kwaleyo nhlangano kwesuliwe; noma
 - ubulungu baleyo nhlangano buqediwe ngokuhambisana nomthethosisekelo wayo; noma
- (c) komuntu obhalisiwe ongelona ilungu –
- ongasahlali esiFundazweni;
 - uma kuyinkampani, ingasekho; noma
 - engasenayo ilayisensi yokusebenza efanele ngemoto ngayinye esetshenziselwa ukuqhuba lowo msebenzi.
- (2) UMbhalisi angamisa, isikhathi esizobekwa, ukubhaliswa –
- kwanoma iyiphi inhlangano ehlukelela ukuhambisana nalo Mthetho noma nanoma yimuphi omunye umthetho oqondene, okanye noma yiluphi uhlinzeko lomthethosisekelo wayo ebhalisiwe eqondene nokusetshenziswa kwalo Mthetho;
 - kwanoma iliphi ilungu ubulungu balo enhlanganweni osebumisiwe;
 - kwanoma iliphi ilungu noma umuntu ongelona ilungu ophule uMgomo wokuziPhatha; noma
 - kwanoma iliphi ilungu noma umuntu ongelona ilungu olahlwe icala elibalulwe esigabeni 115.
- (3) UMbhalisi ngesaziso esibhaliwe kumele azise inhlangano, ilungu noma umuntu ongelona ilungu ngokwesulwa noma ngokumiswa kokubhaliswa kanye nezizathu zalokho, futhi lapho uMbhalisi ebona kunesidingo ayalele inhlangano, ilungu noma umuntu ongelona ilungu, kuye ngesimo, ukuba abuyisele isitifiketi sokubhaliswa esiqondene kanye nezimpawu ezihlukanisayo kuMbhalisi singakapheli isikhathi esizobekwa.
- (4) Emva kokwaziswa yinhlangano ebhalisiwe ukuthi sebuphelisiwe noma sebumisiwe ubulungu belungu elibhalisiwe ngenxa yokungahambisani nomthethosisekelo wayo obhalisiwe noma ngokwaphula uMgomo wokuziPhatha, uMbhalisi kumele esule ukubhaliswa kwalelo lungu noma abumise isikhathi esifanayo, kuphela emva kokuba uMbhalisi esezanelisile ukuthi ilungu elithintekayo –
- linqume ukuba lingasiphikisi isinqumo; noma
 - emva kokuba lisiphikisile isinqumo aliphumelelanga futhi alizange lidlulisele udaba kuMbhalisi.
- (5) Uma kwenzeka ilungu elibalulwe esigatshaneni (4) seliludlulisele kuMbhalisi udaba lwenhlangano, uMbhalisi kumele akugodle ukwesulwa kokubhaliswa kwalelo lungu kuze kulindwe isinqumo ngomphumela wokudluliswa kodaba.
- (6) Lapho khona inhlangano isibuqediwe ubulungu ngenxa yokwaphula kwelungu koMgomo wokuziPhatha, uMbhalisi, uma izimo zikuvumela lokho, angakwesula ukubhaliswa kwelungu ngokuqondene nanoma iyiphi enye inhlangano lowo muntu ayilungu layo, emva kokuba lelo lungu selinikezwe ithuba elanele lokwenza izethulo libuye linikeze nezizathu zokuthi kungani lesi sinyathelo kungamele sithathwe.

Inqubo yokufaka isicelo nokubhalisa

103. Indlela yokufaka isicelo kanye nenqubo yokubhalisa kumele ibe njengoba ibekiwe.

ISAHLUKO 9

UKUBHALISWA KWEZINYE IZINHLOBO EZINGEWONA AMATEKISI ANGAMAKHUMBI

Imithethonqubo ngokubhaliswa kwezinye izinhlobo okungeyona imisebenzi yamatekisi angamakhumbi

104. UNgqongqoshe angenza imithethonqubo ehlinzekela ukubhaliswa kwezinhlangano, amalungu azo kanye nabaqhubi bezinye izinhlobo ezingewona amatekisi angamakhumbi okumele zeyame emigomweni ebalulwe eSahlukweni 8 salo Mthetho, kodwa kungafaka ukuchezuka kuyona noma ukwengeza kuyona, futhi leyo mithethonqubo ingenza lokho kubhaliswa ukuba kube yimpoqo kusukela ngosuku olunqunywe nguNgqongqoshe, futhi ahlinzekele nangoswinyo ngokwehluleka ukubhalisa.

ISAHLUKO 10

IZIBOPHO EZIBEKWE EZINHLANGANWENI, ABAQHUBI KANYE NABASHAYELI

Ukugunyazwa kwabaqhubi nabashayeli

105. UNgqongqoshe angabeka imibandela engamiswa kanye namaqophelo namazinga okumele alandelwe ngabaqhubi bomsebenzi wokuthutha umphakathi kanye nabashayeli bezimoto ezithutha umphakathi, ukwenzela ukunikezwa isitifiketi njengabaqhubi nabashayeli abanegunya kwezokuthutha umphakathi.

UMthethosisekelo oyiQophelo eLibekiwe kanye noMgomo wokuziPhatha

106.(1) Umgomo wokuziPhatha kanye noMthethosisekelo oyiQopheli eliBekiwe okubalulwe kwimithethonqubo 26 no 27, ngokwahlukana, yeMithethonqubo kaZwelonke yoGuquko kweZokuthutha eZihamba Phansi emayelana namaLayisensi neziNdaba eziPhathelene nawo, yesiFundazwe, equkethwe esazisweni No. 149 sika 2001, njengoba sishicilelwe *kwiGazethi* No. 6020 sikaMbaso ka 2001, kumele kuqhubekwe nokusebenza ngosuku lokuqala kokusebenza kwalo Mthetho.

- (2) Umthethosisekelo wenhlangano obhalisiwe kumele uhambanisane nezidingo zoMthethosisekelo OyiQophelo Elibekiwe njengoba ubekwe nguNgqongqoshe.
- (3) Uma kwenzeka kuba nokushayisana phakathi kwezihlinzeko zomthethosisekelo wenhlangano nalezo zoMthethosisekelo oseQophelweni eLibekiwe, izihlinzeko zomthethosisekelo oyiQophelo elibekiwe yizona ezizolandelwa.

- (4) Abaqhubi bomsebenzi wokuthutha umphakathi kanye nabashayeli bezimoto ezithutha umphakathi kumele balandele uMgomo Wokuziphatha njengoba ubekwe uNgqongqoshe izikhathi ngezikhathi.
- (5) UNgqongqoshe angenza imithetho yokwengeza –
- mayelana nezimfuneko okumele inhlango ebhalisiwe ngokwalo Mthetho ihambisane nazo ekwenzeni imisebenzi yayo;
 - mayelana nezimfuneko okumele umqhubi obhalisiwe ngokwalo Mthetho ahambisane nazo ekwenzeni umsebenzi wakhe; kanye
 - nebeka indlela yokuziphatha ohlangothini lwenhlango ebhalisiwe, ilungu, umuntu ongelona ilungu noma umqhubi engeyona indlela efanele yokuziphatha ngokwesigaba 107.

Ukungahambisani nomthethosisekelo obhalisiwe kanye nokwaphulwa koMgomo woKuziphatha

- 107.(1)(a) Lapho uMbhali enezizathu ezizwakalayo ezimenza asole ukuthi inhlango ebhalisiwe ihlulekile ukuhambisana nanoma yiluphi uhlinzeko lwalo Mthetho noma nanoma imuphi omunye umthetho osebenzayo okanye umthethosisekelo wayo obhalisiwe, noma ukuthi umqhubi obhalisiwe usephule uMgomo Wokuziphatha, uMbhali kumele enze uphenyo ngodaba.
- (b) Ekwenzeni lolu phenyo, uMbhali kumele anikeze inhlango noma umqhubi ithuba elanele lokwenza izethulo noma lokunikeza ubufakazi mayelana nokungalandelwa noma nokwaphulwa okusolakalayo.
- (c) Ekunqumeni udaba, izethulo kanye nobufakazi obethulwe yinhlango noma ngumqhubi kumele kucutshungulwe.
- (2) Lapho khona ngokwalo Mthetho, isenzo esithile sokungalandeli noma sokwaphula siyicala lobugebengu futhi inhlango noma umqhubi ethweswe icala elinjalo, uMbhali angakuhlalela ukuphenywa kuze kube ukushushiswa kummangalelwa sekuphuthuliwe noma sekuhoxisiwe.
- (3) (a) Uma uMbhali ethola inhlango noma umqhubi enecala lalokho kungahambisani noma lokwaphula umgomo, uMbhali kumele ngesaziso esibhaliwe ayalele leyo nhlango noma umqhubi ukuba akulungise lokho kungahambisani noma ukwaphula umgomo singakapheli isikhathi esibalulwe esazisweni.
- (b) Inhlango noma umqhubi onikezwa lesa saziso, angacela ihhovisi loMbhali ukuba limsize.
- (4) Ekwahlulekeni ukuhambisana nalesi saziso, uMbhali angabeka inhlawulo yesamba esibekelwe lokho kungahambisani noma ukwaphula umgomo, noma esule ukubhaliswa kwenhlango noma komqhubi noma amise ukubhaliswa.
- (5) Ngaphandle kokuthutha amandla anikezwa yizigatshana (1) kuya ku (4), futhi lapho uMbhali ekholwa ukuthi ikhono lenhlango lokuphatha izindaba zayo selikhinyabezekile, uMbhali angathutha noma yisiphi isinyathelo esifanele, okufaka phakathi ukumemezela ukhetho ngokuhambisana nomthethosisekelo waleyo nhlango, nokungaba yinto ayibuka njengenesidingo ukubuyisela ulawulo oluhle.

Ukubhaliswa akukuvimbela ukushushiswa

108. Ukubhaliswa kwanoma yimuphi umqhubi akuvimbi ukushushiswa kwalowo mqhubi ngecala elibalulwe esigabeni 116(1)(a).

ISAHLUKO 11

UKUQINISEKISWA KOKULANDELWA KOMTHETHO

Ukuqinisekiswa kokulandelwa komthetho kwezokuthutha umphakathi

- 109.(1) Ngaphezu kwezinyathelo ezihlinzekelwe kulo Mthetho maqondana nokulandelwa komthetho, uNgqongqoshe, izikhungo zezokuthutha kanye nomasipala kumele bathathe izinyathelo zokwakha izinhlelo zokwenza ngcono ukulandelwa komthetho kwezokuthutha umphakathi ezindaweni ezingaphansi kwegunya lolawulo lwazo ngokwahlukana.
- (2) Naphezu kwezihlinzeko zanoma yimuphi omunye umthetho –
- uNgqongqoshe;
 - isikhungo sezokuthutha; noma
 - umasipala,
- kulesi sigaba obizwa ngesiphathimandla esiqinisekisa ukulandelwa komthetho, bangangena esivumelwaneni mayelana nezindaba ezibalulwe esigatshaneni (3).
- (3) Isivumelwano esibalulwe esigatshaneni (2) singahlinzekela ukuthi –
- imisebenzi yokulandelwa komthetho kwezokuthutha umphakathi iyokwenziwa yisiphathimandla esiqinisekisa ukulandelwa komthetho esisodwa endaweni engaphansi kwegunya lolawulo lwesinye.
 - izikhulu ezinegunya zesisodwa salezi ziphathimandla zingaphakanyiselwa kwesinye isiphathimandla somthetho okwesikhashana;
 - imisebenzi yokulandelwa komthetho kwezokuthutha umphakathi yenziwe ngokuhlanganyela, noma isikhungo sikahulumeni noma esizimele egameni lesiphathimandla somthetho; ngemibandela nezimiso ezibekwe esivumelwaneni, kufaka phakathi imibandela ngokuthi yisiphi isiphathimandla esiqinisekisa ukulandelwa komthetho okumele sithwale izindleko.

Ukuqokwa kwabasebenzi abangabhekele ukuqinisekiswa kokulandelwa komthetho njengabahloli

- 110.(1) UNgqongqoshe noma umuntu ojutshiwe omele isikhungo sezokuthutha noma umasipala angakhomba abasebenzi eminyangweni yabo eyehlukene abangabantu abafanelekile, njengabahloli ezindabeni, ngokwalo Mthetho, ezingena ngaphansi kwegunya lolawulo lwesiFundazwe, isikhungo sezokuthutha noma umasipala, kuye ngesimo.
- (2) Inhloko yoMnyango noma umuntu ojutshiwe omele isikhungo sezokuthutha noma umasipala, kuye ngesimo, anganikeza wonke umuntu okhonjwe njengomhloli isitifiketi sokuqokwa kanye nokokuzazisa okusemthethweni.
- (3) Imisebenzi yabahloli abaqokwe ngale ndlela ukuba baqaphele ukulandelwa kwalo Mthetho esiFundazweni, noma endaweni yezokuthutha ethintekayo, babuye basize ekuphenyeni nasekugwemeni amacala abalulwe esigabeni 116.
- (4) Ekwenzeni leyo misebenzi, umhloli uyoba nawo wonke amandla anikezwe isikhulu esigunyaziwe yilo Mthetho noma ngokuhambisana nalo Mthetho.
- (5) Uma enza nanoma yimuphi umsebenzi noma esebenzisa noma yimaphi amandla ngokwalo Mthetho, umhloli uma ecelwa noma ngubani awasebenzisa kuye amandla, noma ayenza kuye umsebenzi, kumele akhiphe isitifiketi sokuqashwa.

Ukuthathwa kwezimoto

111.(1) Isikhulu esigunyaziwe esanelisiwe, ngokubuka izizathu ezizwakalayo, ukuthi imoto –

- (a) isetshenziswa yinoma ngubani ukuqhuba umsebenzi wokuthutha umphakathi ngaphandle kwelayisensi edingekile yokusebenza noma ngokungahambisani nemibandela ebekwe maqondana nalokho; noma
- (b) ayikho esimweni sokuthi ingaba semgwaqeni,

singayithatha imoto kusalindwe uphenyo nokushushiswa kwalowo muntu ngecala elibalulwe esigabeni 116(1) noma (b).

(2) Izingqubo ezilandelwayo ekuthatheni izimoto, ziyogcinwa ziphethwe ngokudedelwa noma zidayiswe kumele zibekwe nguNgqongqoshe.

(3) Isamba semali yokugcinwa ekhokhwayo ezimotweni ezithathiwe kumele sinqunywe yinhloko yesiphathimandla somthetho esiqondene esibalulwe esigabeni 109(2).

Ubufakazi ngezinto ezithile

112.(1) Umbhalo osemthethweni osalayisensi yokusebenza noma ikhophi yawo eqinisekisiwe ngokugxiviziwa, ukukhishwa nje kwawo ekushushisweni kwecala elibalulwe esigabeni 115(1) uyokwamukelwa njengobufakazi, lapho ubukwa, bokuthi uyilayisensi ekhishwe ngokusemthethweni, noma uyikhophi eyiqiniso, kanye nokuthi imininingwane ebhalwe kuwo iyiqiniso.

(2) Umbhalo osemthethweni othi imoto echazwe kuwo ibhaliswe ngokuhambisana noMthetho oqondene, egameni lomuntu obalulwe lapho njengomnikazi, futhi ongumbhalo okhishwe ngokuhambisana nalowo mthetho ngumsebenzi wesiphathimandla esibhalisa izimoto sendawo lapho khona leyo moto eyabhaliswa khona, ukukhishwa nje kwawo ekushushisweni ngokwalo Mthetho, uyokwamukelwa njengobufakazi, ekubonweni kwawo, bobunikazi obubhalisiwe balowo muntu bemoto kanye nokuthi imininingwane ebhalwe kuwo iyiqiniso.

Ukuxazululwa kwezinkinga

113.(1) Lapho isimo sengxabano siqhamuka emkhakheni wezinto zokuthutha umphakathi, uNgqongqoshe angabeka izinqubo zokuxazululwa kwenkinga, lokho okungahlanganisa, kodwa kungacini nje kuphela, ekusungulweni kwekomidi lesikhashana lokuxazulula izinkinga ukusebenza njengomahluleli lapho kunengxabano.

(2) Lelo komidi, uma lisungulwa, kufanele libe namalungu njengesichibiyelo, futhi uNgqongqoshe engachibiyela izinqubo zalo kanye nezindawo lapho kuzohlanganelwa khona, ezinganika izinqubo zokuphenya isimo futhi nokubika kuNgqongqoshe ngomphumela wesahlulelo.

(3) Lesi sigaba asijivazi kunoma isiphi isiphathimandla sanoma iluphi uhloko ngokumayelana nalo Mthetho ukuqhubeka nezindlela zokuqondisa izigwegwe noma ukuthatha ezinye izinyathelo, njengoba isimo singabe sigunyaza, ngokungakhathaleli imisebenzi yekomidi.

(4) Akekho umuntu ongaqokwa ukusebenza kwikomidi elicazulula izinkinga uma yena ena –

- (a) eseke wasuswa ehovisi lomphakathi ngenxa yokungaziphathi kahle kwakhe;
- (b) eseke watholakala ukuthi unezikweletu futhi ehlulekile noma eselulekwa;
- (c) eseke waboshelwa icala –
 - (i) lapho uthola ukuthi kunokungathembeki; noma
 - (ii) lapho uthola ukuthi useke waboshwa isikhathi esingaphezulu kwezinyanga ezingu 12 ngaphandle kokunikwa inhlawulo;
- (d) unezinhloso zokuhlomula ebhizinisini kunoma imuphi umkhakha wezimboni zezithuthi zomphakathi noma wenza izinto ezihlobene nalokho; noma
- (e) isihlobo sakhe esisondele onezinhloso zokuhlomula noma izinhloso zebhizinisi kunoma imuphi umkhakha wezimboni zokuthutha umphakathi

Izinyathelo eziphuthumayo

114.(1) Lapho uNgqongqoshe ekubona kubalulekile ukuthatha izinyathelo eziphuthumayo ukubuyisela esimweni esejwayelekile imisebenzi yezokuthutha endaweni ekhahlanyezwe wudlame, ukungazinzi, ukungezwani noma ukungqubuzana, uNgqongqoshe angamemezela leyo ndawo, okungaba yisiFundazwe sonke, “njengendawo yezokuthutha ekhahlamezekile” ngezinhloso zalesi sigaba, ngesaziso *kwiGazethi*.

(2) Emva kokuba esenze isimezelo ngokwesigatshana (1), uNgqongqoshe angavala umzila owodwa noma ngaphezulu noma yonke imizila endaweni ethintekayo isikhathi esingathathwa njengesifanele, futhi uma kunesidingo ukwenzela umphakathi, uNgqongqoshe angacela iBhodi ukuba –

- (a) limise okwesikhashana noma iyiphi ilayisensi yokusebenza egunyaza imisebenzi yokuthutha umphakathi endaweni emenyezelwe ngokwesigatshana (1); noma
- (b) likhiphe amalayisensi okusebenza esikhashana agunyaza abanye abaqhubi ukuba basebenze emizileni evaliwe ngaleso sikhathi isavaliwe.

(3) Naphezu kwanoma yiluphi uhlinzeko olusho okuphambene, ngaphambi kokuthatha isinyathelo ngokwesigatshana (2), uNgqongqoshe noma umasipala othintekayo kumele ashicilele ngolimi olufanele uhlobo kanye nenhloso yesinyathelo esihlosiwe kanye nemininingwane yemizila noma amarenki okuzovalwa.

(4) Noma yibaphi abantu abanentshisekelo noma abathintekayo bangenza izethulo kuNgqongqoshe noma umasipala, ngendlela futhi nangesikhathi esibekiwe, ukuthi kungani izinqumo ezenziwe ngokwesigatshana (1) no (2) kumele zicutshungulwe futhi.

(5) Lapho iBhodi lenza njengokuyalela kwesigatshana (2), izihlinzeko ezijwayelekile zalo Mthetho ezihlobene nezinto ezifana nesaziso kubaqhubi abathintekayo kulo mkhakha, ngokwazisa ngesinqumo seBhodi, ithuba lokufaka izikhalazo kanye nanoma yini evikela amalungelo abantu abahlinzeka ngomsebenzi, ongathi esimweni esijwayelekile usebenza kuphela endaweni enokuthula, ngeke kuze kusebenze.

Amandla ezikhulu ezigunyaziwe

115.(1) Ngaphezu kwemisebenzi enikezwe isikhulu esigunyaziwe yilo Mthetho noma ngokwalo Mthetho, isikhulu esigunyaziwe –

- (a) singamisa imoto singene kuyo bese sithola ukuthi isetshenziselwa ukuthutha umphakathi noma sibheke ukulandelwa kwanoma yiluphi uhlinzeko lwalo Mthetho, noma kwemibandela yanoma iyiphi ilayisensi yokusebenza, futhi ngenxa yalezo zinhloso singahlola imoto kanye nanoma imiphi imibhalo efanele;

- (b) singadinga ukuba amarekhodi agcinwe emotweni ngokwalo Mthetho, akhishwe umshayeli wemoto noma umsizi womshayeli, uma ekhona, ukuze siwahlole;
- (c) singadinga umshayeli ukuba amnikeze amagama akhe aphelele kanye nekheli lalapho ehlala khona, kanye nobufakazi obubhaliwe balokho, kufaka phakathi igama kanye nekheli lomnikazi wemoto, neminingwane yebhizinisi imoto esetshenziselwa lona;
- (d) singadinga umshayeli noma omunye umuntu oshayela imoto ukuba akhiphe noma yimiphi imibhalo noma amarekhodi asemotweni akumshayeli noma kulowo muntu aphaathelene nabantu abathuthwayo ukuze kuhlolwe;
- (e) singadinga noma ngubani osemotweni esolakala, ngezizathu ezizwakalayo, ukuthi isetshenziselwa ukuthutha umphakathi, noma umuntu osolakala, ngezizathu ezizwakalayo, ukuthi ubekuleyo moto esikhathini esingasingakanani, anikeze isikhulu igama eliphelele kanye nobufakazi obubhaliwe balokho futhi asho ukuthi uyakwazi yini okuthuthwa yileyo moto, bese enikeza igama nekheli lomuntu okhokhelwe noma ozokhokhelwa;
- (f) singangena noma iyiphi indawo yebhizinisi nganoma yisiphi isikhathi ukuqapha ukulandelwa kwalo Mthetho, futhi sibuze noma yimuphi umuntu, ngokubona kwesikhulu esigunyaziwe, ongakwazi ukunikeza noma iluphi ulwazi oludingekela leyo nhloso, futhi singadinga lowo muntu ukuba akhiphe noma iziphi izincwadi nemibhalo, kanye namanye amarekhodi anoma iluphi uhlobo ukuze kuhlolwe, nokungabaluleka ukwenzela ukuqapha, futhi acaphune noma enze amakhophi awo, abuye afune incazelo nganoma yini ebhalwe kuleyo ncwadi, umbhalo noma elinye irekhodi, kodwa noma ngubani obuzwa kanjalo noma odingeka ukuba anikeze incazelo unelungelo lamagunya akhethekile atholwa yinoma wubani ofakaza phambi kwenkantolo yomthetho;
- (g) singadinga ukuba umshayeli noma omunye umuntu oshayela imoto esetshenziselwa ukuthutha umphakathi akhiphe imibhalo, eyanikezwa isikhungo esinamandla ngokwalo Mthetho, noma ngokoMthetho weZokuthutha eMgwaqeni maqondana nemoto noma nomsebenzi wezokuthutha umphakathi imoto esetshenziselwa wona ngokwalo Mthetho, noma ngokuhambisana nomunye uMthetho (kuye ngesimo) futhi, nokumele ngokwalo Mthetho noma lowo Mthetho igcinwe kuleyo moto; futhi
- (h) ngokomyalelo weBhodi, singathatha ilayisensi yokusebenza esiphelele yisikhathi noma esihoxisiwe okwesikhashana ngokwalo Mthetho, bese siyinyikeza iBhodi.

- (2)(a) Lapho isikhulu esigunyaziwe sithola imoto esetshenziselwa ukuthutha umphakathi ngaphansi kwegunya lelayisensi yokusebenza ingekho esimweni esifanele ngale ndlela yokuthi ingaba yingozi kubantu noma empahleni, isikhulu esinegunya singayalela umshayeli noma omunye umuntu oyishayelayo ukuba anikezele ngelayisensi yokusebenza, kanye nazo zonke izimpawu ezihlukanisayo okuqondene naleyo moto, bese siqabala lowo mshayeli noma lowo muntu ukuba ayisebenzise leyo moto ukuthutha umphakathi, futhi singayithatha leyo moto njengoba kuhlinzekwe esigabeni 111(1).
- (b) Ilayisensi yokusebenza enikezelwe kanjalo iyogcinwa yisikhulu esinegunya kuze kube lokho okungagculisi sekulungisiwe futhi nemoto isiqinisekisiwe ukuthi ikufanele ukuhamba emgwaqeni ngokuhambisana nezinqubo ezibekwe nguNgqongqoshe.

Amacala nezijeziso

116.(1) Umuntu unecala uma -

- (a) eqhuba umsebenzi wokuthutha umphakathi ngaphandle kokuba nelayisensi edingekayo yokusebenza;
- (b) eqhuba umsebenzi wokuthutha umphakathi ngokuphikisana nemibandela nezimiso zelayisensi yokusebenza, noma eqhuba imoto engahambisani nezimfuneko zesigaba 62(1)(g);
- (c) eba ngumnikazi welayisensi yokusebenza noma umsebenzi walowo mnikazi, avumele omunye umuntu ukuba asebenzise leyo layisensi yokusebenza emotweni okungeyona ebalulwe kwilayisensi yokusebenza;
- (d) efaka isicelo noma ethola ilayisensi yokusebenza azi ukuthi ilayisensi yokusebenza ekhona isivele ikhishelwe imoto efanayo;
- (e) ngenhloso yokukhohlisa, efoja, eguqula, elimaza noma engeza noma yini kunoma iyiphi ilayisensi yokusebenza noma komunye umbhalo osemthethweni okhishwe ngokwalo Mthetho;
- (f) kuthi ebe azi ukuthi incwadi ayisiyo ilayisensi yokusebenza, noma incwadi esemthethweni enjalo noma ukuthi isiguquliwe, ayisekho esimweni noma kwengezwe okunye kuyona, ayisebenzise;
- (g) enikeza ulwazi olungelona iqiniso esicelweni noma ngokuqondene nesicelo esenziwe kwiBhodi noma kuMbhali, noma ekuveleni kunoma ikuphi ukulalelwa, noma uphenyo ngaphambi kweBhodi noma uMbhali;
- (h) ezenza isikhulu esinegunya;
- (i) eqashisela noma eqasha ilayisensi yokusebenza kumnikazi wayo ngokwephula izihlinzeko zesigaba 62(2);
- (j) aphula izihlinzeko zesigaba 66 eziphathelene nokungafaneleki mayelana nokuba namalayisensi okusebenza;
- (k) ehluleka ukunikeza nokugcina umshwalense wokuvikela abagibeli obalulwe esigabeni 62(1)(j);
- (l) ethi engumnikazi welayisensi yokusebenza noma engumshayeli wemoto ilayisensi yokusebenza eqondene nayo, ehluleke ukuhambisana nanoma yimuphi umsebenzi noma isibopho esibekwe kuye njengomnikazi noma njengomshayeli noma ngokwalo Mthetho;
- (m) enqinda ngenhloso noma evimbela isikhulu esinegunya esenza imisebenzi yaso ehambisana naleso sikhundla;
- (n) enqaba noma ehluleka ukuhambisana nanoma yimuphi umyalelo osemthethweni noma imfuno eyenziwa isikhulu esinegunya esenza umsebenzi esinikezwe wona yilo Mthetho noma ngokwalo Mthetho;
- (o) ehluleka ukubuyisela ilayisensi yokusebenza, isitifiketi sokubhaliswa, noma uphawu oluhlukanisayo kwiBhodi noma kuMbhali, uma edingwa ukuba enze njalo yilo Mthetho;
- (p) ngaphandle kwesizathu esizwakalayo -
- (i) enqaba noma ehluleka ukuvula ngaphambi kweBhodi, kuMbhali noma kwesiGungu Sokudlulisa ngokuhambisana nomyalelo noma nencwadi yenkantolo ekhishwe ngokwalo Mthetho;
- (ii) enqaba noma ehluleka ukuphendula, noma ukuphendula ngokwazi kwakhe nangekhono lakhe, noma yimuphi umbuzo awubuzwe ngokusemthethweni yinoma yiliphi ilungu leBhodi, uMbhali noma isiGungu Sokudlulisa, kuye ngesimo; noma
- (iii) enqaba noma ehluleka ukukhipha noma iyiphi incwadi, umbhalo noma uhlelo okanye noma iliphi irekhodi lwanoma yiluphi uhlobo, ngokuhambisana nalowo myalelo noma leyo ncwadi yenkantolo;
- (q) kuthi esalayishwe njengomgibeli emotweni eqhuba umsebenzi wokuthutha umphakathi, lowo muntu -
- (i) ahluleke ukukhokha imali yokugibela okumele ayikhokhe ngohambo uma isicelwa ngumshayeli noma ngumsizi womshayeli waleyo moto ethintekayo;
- (ii) ebhema noma ephuza utshwala noma okanye yini edakisayo noma engekho emthethweni kuleyo moto;
- (iii) eziphatha ngendlela ebeka engcupheni inhlalakahle yabanye abagibeli;
- (iv) engalaleli umyalelo womshayeli noma womsizi womshayeli waleyo moto awunikeze ngenhloso yokugcina uzinzo noma yokuqeda ukuphazamiseka noma yokulawula noma isiphi isimo esiphuthumayo esenzekayo emotweni; noma
- (v) enza noma yisiphi isenzo kuleyo moto esingadala ukulimala noma esingafaka engozini impilo yanoma ngubani noma sili-maze noma iyiphi impahla;

- (r) ehlixa abagibeli emngceleli noma eduze nomngcele ohlukanisa amazwe ngokwaphula isigaba 46(2) soMthetho kaZwelonke woGuquko kwezokuThutha eziHamba Phansi;
- (s) esebenzisa imoto ukuqhuba umsebenzi wokuthutha umphakathi ngokwaphula isigaba 31 soMthetho kaZwelonke woGuquko kweZokuthutha eZihamba Phansi;
- (t) ethi engumnikazi welayisensi yokusebenza, ehluleke ukwazisa iBhodi ngokuqedwa noma ngokumiswa kwalowo msebenzi ngokwesigaba 62(1)(i);
- (u) ethi engumnikazi welayisensi yokusebenza, ehluleke ukuhambisana nesaziso esibalulwe esigabeni 33(3);
- (v) eqhuba umsebenzi wokuthutha umphakathi ngaphandle kwesigunyazo esibhalwe esibalulwe esigabeni 63;
- (w) ephula noma iyiphi ihlinzeko yalo Mthetho.
- (2) Lapho umuntu elahlwa yinoma iliphi emacaleni abalulwe –
- (a) ezindimeni (a) kuya ku (k) zesigatshana (1), angahlawuliswa noma agqunywe ejele isikhathi esingevile eminyakeni emibili, noma kokubili; noma
- (b) kunanoma iyiphi indima yaleso sigatshana, angahlawuliswa noma agqunywe ejele isikhathi esingevile ezinyangeni ezintathu, noma kokubili.
- (3) Lapho imenenja, umuntu omele omunye, noma osebenzela umnikazi welayisensi yokusebenza enza noma engenzi noma isiphi isenzo, okungathi uma umnikazi ekwenza noma engakwenzi lokho ngokwakhe, bese kuba icala ngokwesigatshana (1), lowo mnikazi uyoba necala uma –
- (a) njengomnikazi –
- (i) eshaye indiva noma evumele ngokwazi isenzo noma ukungenziwa kwesenzo esithintekayo; noma
- (ii) engazange athathe izinyathelo ezifanele ukugwema lesenzo noma ukungenziwa kwaleso senzo; futhi
- (b) isenzo noma ukungenzi nhlobo lwaleso senzo, kungaba semthethweni noma kungabi semthethweni, kungena ngaphansi kwegunya noma kokusebenza kwemenenja, komuntu omele omunye noma komsebenzi

ISAPHLUKO 12 IZINDABA EZIJWAYELEKILE

Izihlinzeko eziphathelele nabashayeli kanye nezimoto

- 117.**(1) Kuye ngokwesigaba 106, uNgqongqoshe angabeka imigomo yokuziphatha kubashayeli bezimoto ezisetshenzisela ukuthutha umphakathi, engahluka kuye ngokwezinhlobo ezahlukene zomsebenzi wokuthutha, futhi labo bashayeli kumele bahambisane naleyo migomo yokuziphatha ngazo zonke izikhathi uma benza lo msebenzi.
- (2) UNgqongqoshe angabeka izimfuneko zokuthi abashayeli bezimoto ezisetshenzisela ukuthutha umphakathi kumele baqeqeshwe, isibonelo, ukuze bazi izindawo abazosebenzela kuzo nokuthi zinani ekhangayo, noma ukwenzela ezinye izinhloso, futhi angakubeka ezimfunekweni ukuthi abashayeli angeke bakwazi ukuzishayela lezo zimoto ngaphandle uma bekuphuthule ngempumelelo lokho kuqeqeshwa, noma abeke eminye imibandela.
- (3) Kuye ngokuhambisana nalo Mthetho kanye nezihlinzeko ezifanele zoMthetho kaZwelonke woGuquko kweZokuthutha eZihamba Phansi, uNgqongqoshe angabeka imithethonqubo eyengamele uhlobo lwemoto okumele isetshenziswe ukuhlinzeka umsebenzi othile wokuthutha umphakathi futhi leyo mithethonqubo ingahlinzeka ngezimfuneko namaqophelo kulezo zimoto, lapho uNgqongqoshe ebona ukuthi izinyathelo zidingekile ukuqinisa ukuphepha kwabagibeli.
- (4) Izimfuneko ezibekwe ngokwesigatshana (3) zengeza azithathi indawo yezimfuneko zoMthetho kaZwelonke wezokuThutha eMgwaqeni.

Imithetho yomasipala

- 118.** Umasipala, ngokuhambisana nemithetho kanye nezinhlelo zokuthutha okufanele, angenza imithetho yomasipala –
- (a) ukulawula ubungakho noma isibalo sezimoto ezisetshenzisela ukuqhuba umsebenzi wokuthutha umphakathi ezingangena ingxenye ethile engaphansi kwegunya lolawulo lwakhe futhi anqume isikhathi noma izikhathi leyo moto engangena ngazo kuleyo ngxenye;
- (b) ukulawula noma anqabele ukungena kwaleyo moto engxenyeni ebaluliwe ngesikhathi esibekiwe;
- (c) ukunqabela ukugitshezwa noma ukwehliswa kwabagibeli yileyo moto engxenyeni ebaluliwe ngesikhathi esibekiwe, futhi anqume isikhathi noma izikhathi okungagitshezwa noma kwehliswe ngazo;
- (d) ukuhlinzekela ukunikezwa izinombolo kwemizila kanye nokwabiwa kwayo ezinhlanganweni ezithile noma kubaqhubi, kanye nendlela nokukhishwa kwezimpawu ezihlukanisayo ngokuqondene nalokho;
- (e) ukwaba izinsiza, kufaka phakathi namarenke, kubaqhubi abathile noma izinhlangotho kanye nemali ezobizwa ngalokho;
- (f) ukulawula ukuziphatha komashali bamarenke;
- (g) ukuhlinzekela noma iliphi olunye udaba ukufezekisa izinjongo zalo Mthetho ezingashayisani nalo Mthetho noma imithethonqubo eyenziwe ngaphansi kwawo.

Izihlinzeko zesikhashana

- 119.**(1) Ngokubhekela ukugcinwa kohlelo lokuphasiswa koMthetho wesiKhashana waMatekisi ohlinzekelwe esigabeni 44 salo Mthetho, kanye namandla anikezwe uNgqongqoshe okubukeza izinsuku ezingujuqu zalolu hlelo, ukungasetshenziswa kwangesikhathi esedlule kwamandla okuguqula izinsuku ezingujuqu zohlelo akukwazi –
- (a) ukwenza izinqumo noma izinyathelo ezithathwe ngokoMthetho wesiKhashana wamaTekisi zingabe zisaba namandla; futhi
- (b) ukwenza izinkontileka ezithinteka ngale ndlela ukuba ziphelelwe isikhathi.
- (2) Noma yiluphi uphawu oluhlukanisayo olukhishwe ngaphambi kokuqala ukusebenza kwalo Mthetho ngokumayelana noMthetho wezokuThutha eMgwaqeni lukhishelwa imoto esebenzisa ilayisensi yokusebenza, luthathwa njengophawu oluhlukanisayo olukhishwe ngokwalo Mthetho, kuze kube leyo layisensi yokusebenza iphelelwa yisikhathi, iyahoxiswa okanye yesulwe ngokwalo Mthetho, kuthathwa njengophawu oluhlukanisayo ngokwalo Mthetho.
- (2) Ukuqokwa, ukukhonjwa, umthethonqubo, isaziso noma umbhalo owenziwe, washicilelwa noma wakhishwa ngokoMthetho weZokuthutha eMgwaqeni, kuthathwa ngokuthi kwamanyezelwa, kwasungulwa, kwenziwa, kwashicilelwa, noma kwakhishwa ngokwezihlinzeko ezihambisana nezalo Mthetho.

(3) Isicelo sokukhishwa noma sokunikezwa kwemvume esingabhekwa ekuqaleni kokusebenza kwalo Mthetho, sithathwa ngokuthi siyisicelo esenziwe ngokwalo Mthetho sokunikezwa kwelayisensi yokusebenza efanele.

ISIAHLUKO 13

UKUCHITHWA KWEMITHETHO EYEDLULE KANYE NOKUHUNYUSHA KWALO MTHETHO

Ukuchithwa kanye nokuchithiyelwa kwemithetho nokushiwayo

120.(1) Kuye ngokuhambisana nezihlinzeko zesigatshana (2), imithetho ebalulwe ohleni lokuqala loHlelo, ngalokhu iyachithwa njengo-ba kuchazwe ohleni lwesithathu lwalolu Hlelo olubaluliwe.

(2) Naphezu kokuchithwa kwemithetho ebalulwe esigatshaneni (1) –

(a) noma yini eyenziwa ngokomthetho ochithiwe nengakwazi ukuba yenziwe ngokohlinzeko lwalo Mthetho, ithathwa ngokuthi yenziwe ngokohlinzeko olufanele lwalo Mthetho;

(b) nanoma yikuphi okuqhubekayo okuqale ngokomthetho ochithiwe, kumele kuqhubekwe nakho kuze kuphuthulwe kube ngathi lowo mthetho ubungakachithwa: Inqobo nje uma noma yikuphi ukudluliswa kodaba okuvelayo kuzobhekwa nakho ngokuhambisana nezihlinzeko zalo Mthetho.

(3) Uma kukhona ukushayisana phakathi kwalo Mthetho kanye nanoma yimuphi omunye umthetho wesifundazwe othinta ezokuthutha umphakathi esiFundazweni, kuyolandelwa lo Mthetho.

Isihloko esifushane nokuqala koMthetho ukusebenza

121.(1) Lo Mthetho ubizwa ngoMthetho waKwaZulu-Natali wezokuThutha uMphakathi, 2005, futhi uyoqala ukusebenza ngosuku oluyonqunywa nguNgqongqoshe *kwiGazethi*.

(2) Izingxenywe noma izigaba ezahlukene zalo Mthetho zingaqaliswa ngezinsuku ezahlukene noma ngokuqondene nezindawo ezahlukene.

UHLELO

Ukuchithwa kanye nokuchithiyelwa kwemithetho kanye nezigaba ezishiwayo (Isigaba 120(1))

Inombolo nonyaka womthetho	Isihloko	Okuchithwayo
UMthetho No. 74 ka 1977	UMthetho weZokuThutha eMgwaqeni, 1977	Wonke – (a) ngaphandle kwezigaba 3, 8, 11(1), 26, 26A, 27, 43 no 44; futhi (b) nangaphandle kwalapho khona noma yiluphi uhlinzeko loMthetho lusetshenziswa ngokuqondene nezokuthutha ezizwela imingcele yeRiphabhuliki kanye nangokuqondene namandla nemisebenzi yekhomishana
UMthetho No. ka 1998	UMthetho waKwaZulu-Natali waMatekisi angamaKhumbi, 1998	Wonke, ngaphandle kweNgxenywe X ezogcinwa kuze kube uhlelo lokuphasiswa olubalulwe esigabeni 44 soMthetho waKwaZulu-Natali wezokuThutha uMphakathi, 2005 seluphuthuliwe

No. 3, 2005

5 December 2005

[English text signed by the Premier]

KWAZULU-NATAL PUBLIC TRANSPORT ACT, 2005

(Act No. 3 of 2005)

(Assented to on 2005-11-03)

ACT

To provide for the transformation and restructuring of the public transport system in the Province of KwaZulu-Natal; to develop and implement provincial public transport policy; to provide for an effective institutional framework; to facilitate the development and provision of public transport for all communities; to enhance the quality of life of historically disadvantaged communities through improved mobility and access to transport services; to provide for transparency in the development and implementation of provincial public transport policies and practices; to bring about effective regulation and enforcement of the public transport system; to substitute provincial arrangements for matters dealt with in Chapter 3 of the National Land Transport Transition Act, 2000 (Act No. 22 of 2000), within the framework of prevailing national land transport policy; and to provide for matters connected therewith.

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

ARRANGEMENT OF SECTIONS

Sections

**CHAPTER 1
INTRODUCTORY PROVISIONS**

1. Definitions
2. Application, status and purpose of Act
3. Powers, functions and duties of MEC
4. Regulations by MEC
5. Delegations by MEC
6. Information and reporting system

**CHAPTER 2
TRANSPORT PLANNING**

7. Transport planning function
8. Responsibility for needs determination in transport planning

**CHAPTER 3
TRANSPORT AUTHORITIES**

9. Agreements for formation of transport areas and transport authorities
10. Declaration of transport areas and establishment of transport authorities
11. Requirements for founding agreements
12. Functions and competencies of transport authorities
13. Ancillary powers of transport authorities
14. Governance of transport authorities
15. Finances of transport authorities
16. Utilisation of transport authority funds
17. Loans to transport authorities
18. Discretionary grants by MEC
19. Delegations by governing body
20. Transport executives
21. Joint transport executives
22. Dissolution of transport authorities

**CHAPTER 4
PUBLIC TRANSPORT LICENSING BOARD**

23. Establishment of Board
24. Nominations for Board
25. Appointment of Board
26. Term of appointment of member of Board
27. Appointment of Chairperson and Deputy Chairperson of Board
28. Declaration of financial or other interests by members of Board
29. Failure to declare financial or other interests
30. Recusal of member of Board
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CHAPTER 1 INTRODUCTORY PROVISIONS

Definitions

1.(1) In this Act, unless inconsistent with the context –

“**Appeals Tribunal**” means the KwaZulu-Natal Transport Appeals Tribunal established in terms of section 68;

“**applicant**”, in the context of applications for operating licences as provided for in section 48, means a member or an aspirant member of an association, a non-member, an existing operator of public transport services, a duly registered entity, or an individual acting either in a personal capacity or on behalf of a duly registered entity;

“**area-defined operating licence**” means an operating licence which authorises operations within a defined geographical area;

“**aspirant member**” means a person or a duly registered entity that has been granted temporary membership of an association pending approval of full membership of an association;

“**Board**” means the KwaZulu-Natal Public Transport Licensing Board established by section 23;

“**Code of Conduct**” means the Code of Conduct prescribed by the MEC in terms of section 106;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**contract**” means an interim contract, a current tendered contract, a commercial service contract or a subsidised service contract;

“**Department**” means the KwaZulu-Natal Department of Transport;

“**Gazette**” means the official *Provincial Gazette* of the Province;

“**holder**” in relation to an operating licence, means the person or entity in whose favour it was issued;

“**Interim Taxi Act**” means the KwaZulu-Natal Interim Minibus Taxi Act, 1998 (Act No. 4 of 1998);

“**MEC**” means the Member of the Executive Council of the Province responsible for public transport;

“**MEC for Finance**” means the Member of the Executive Council of the Province responsible for finance;

“**Minister**” means the Minister of Transport in the national sphere of government;

“**National Land Transport Transition Act**” means the National Land Transport Transition Act, 2000 (Act No. 22 of 2000);

“**National Road Traffic Act**” means the National Road Traffic Act, 1996 (Act No. 93 of 1996);

“**non-member**” has the meaning assigned to it by the National Land Transport Transition Act, but for purposes of this Act, where appropriate, also includes an operator;

“**operating licence**” means an authorisation to undertake a public transport service as defined in the National Land Transport Transition Act, 2000 (Act No. 22 of 2000), and granted and issued in accordance with Chapter 5 of this Act, but does not include a temporary operating licence;

“**operator**” means a person or a duly registered entity carrying on the business of operating a public transport service;

“**permit**” means an authorisation to undertake a public transport service issued in terms of the Road Transportation Act, 1977 (Act No. 74 of 1977), and which is in force at the commencement of this Act;

“**planning authority**” means an authority contemplated in Chapter 2 of this Act and section 20 of the National Land Transport Transition Act, 2000 (Act No. 22 of 2000);

“**prescribe**” means prescribe by regulation in terms of this Act;

“**Province**” means the Province of KwaZulu-Natal;

“**Provincial Legislature**” means the Legislature of the Province of KwaZulu-Natal;

“**radius permit**” has the meaning set out in the Interim Taxi Act;

“**registered entity**” means an entity registered in accordance with any legislation governing the constitution and operation of that type of entity, which has been established for the purposes of rendering public transport services;

“**Registrar**” means the person appointed as the Provincial Transport Registrar in terms of section 82(1);

“**Road Transportation Act**” means the Road Transportation Act, 1977 (Act No. 74 of 1977);

“**route-based operating licence**” means an operating licence which broadly describes the route or combination of routes by specifying the origin and destination of the service and any intermediate point necessary for proper identification of the service;

“**this Act**” includes regulations made in terms section 4 of this Act;

“**transport area**” means an area contemplated in section 9(2)(a) and declared in terms of section 10(1)(b);

“**transport authority**” means an authority contemplated in section 9(2)(b) and established in terms of section 10(1)(d);

(2) Any other word, term or expression bears the meaning assigned to it in the National Land Transport Transition Act.

Application, status and purpose of Act

2.(1) This Act applies in the Province of KwaZulu-Natal.

(2) This Act –

(a) must be read with Chapters 1, 2 and 4 of the National Land Transport Transition Act;

(b) is a replacing provincial law for the Province as provided for in section 3(b)(i) of the National Land Transport Transition Act with regard to all matters dealt with in this Act; and

(c) replaces Chapter 3 of the National Land Transport Transition Act.

(3) This Act provides the measures necessary to –

(a) bring about institutional reform in the public transport sphere;

(b) restructure, regulate and enforce the public transport system of the Province;

(c) give effect to national and provincial public transport policies, norms and standards; and

(d) achieve a smooth transition to the new system mandated in the National Land Transport Transition Act.

Powers, functions and duties of MEC

3.(1) The MEC must, in addition to the functions provided for in section 9(1) of the National Land Transport Transition Act –

(a) facilitate the increased utilisation of public transport in the Province;

(b) take the necessary steps to promote co-ordination between planning authorities in the Province, or between such authorities and the Province, with a view to avoiding duplication of effort;

(c) in taking any measures to promote public transport –

(i) further, within overall public transport objectives, the reasonable safety of passengers;

(ii) encourage efficient and commercial conduct on the part of operators in their provision of public transport services, and encourage competitive tendering for contracts and concessions;

(iii) further a strategic and integrated approach to the provision of public transport; and

(iv) further or encourage the efficient use of energy resources, and limit or reduce adverse environmental impact to the minimum;

(d) promote public transport so that –

(i) it is effective in meeting user needs;

(ii) it operates efficiently as regards the use of resources;

(iii) the services provided are of acceptable quality and readily accessible and are operated in conjunction with effective infrastructure provided at reasonable cost; and

(iv) in the operation of public transport services, high priority is given to safety;

(e) strive to ensure that in the promotion of integrated transport due consideration is given to the needs of transport users;

(f) promote integrated transport planning in the Province and cause to be prepared a provincial transport framework in accordance with the relevant provisions of the National Land Transport Transition Act; and

(g) prepare a Black Economic Empowerment Strategic Framework and relevant plans for public transport in line with section 11 of the Black Economic Empowerment Act, 2003 (Act No. 53 of 2003).

(2) Notwithstanding any powers, functions and duties specifically contained in this Act, the MEC may take any action required to pursue the objectives of this Act: Provided that the primary purpose of such action is to enhance public transport services and to ensure the safety and security thereof.

(3) Where, at the commencement of this Act, the Province has been undertaking planning of public transport, other than of services contemplated in section 20(4) of the National Land Transport Transition Act, which in terms of the Constitution should be undertaken by municipalities, the MEC and the planning authorities concerned must make arrangements for the transfer of the planning functions to the planning authorities concerned.

Regulations by MEC

4.(1) The MEC may, by notice in the *Gazette*, make regulations with regard to any matter which –

(a) may or must be prescribed by the MEC in terms of this Act; and

(b) is necessary for the effective administration of this Act.

(2) Any regulation made in terms of any previous law and in force immediately before the commencement of this Act with regard to matters in relation to which the MEC in terms of subsection (1) is competent to make regulations, is regarded for the purposes of this Act, as a regulation made in terms of that subsection until such time as the MEC makes a superseding regulation in terms of this section.

Delegations by MEC

5.(1) The MEC may delegate to the Head of Department –

- (a) any power conferred on the MEC by this Act, except the power, in terms of section 4, to make regulations;
- (b) any duty imposed on the MEC by this Act, except any duty regarding the appointment, and termination of office, of the members of the Board, the members of the Appeals Tribunal, the Registrar and the panel of assessors.

(2) Any power or duty delegated in terms of subsection (1) must be exercised or performed subject to such conditions as the MEC may determine.

(3) Any delegation in terms of subsection (1) –

- (a) must be in writing;
- (b) does not prohibit the MEC from exercising that power or performing that duty;
- (c) may at any time be withdrawn or amended in writing by the MEC; and
- (d) does not divest the MEC of the responsibility concerning the exercise of the power or the performance of the duty.

Information and reporting system

6.(1) The MEC must –

- (a) in consultation with the Minister; and
- (b) after consultation with transport authorities and municipalities, develop and maintain an information and reporting system, which is necessary to give effect to the objectives of this Act or of national and provincial public transport policy.

(2) Such system must apply uniformly to transport authorities and municipalities in the Province.

(3) From a date determined by the MEC, the MEC may withhold from a transport authority or municipality appropriations or grants until the transport authority or municipality has fully complied with the requirements as prescribed and with the reporting requirements provided for in subsection (1).

(4) The MEC must by notice in the *Gazette* publish the system referred to in subsection (1).

(5) The MEC must undertake the collection of information in connection with public transport and make it available to interested persons or disseminate information in connection with public transport by means of the press, radio, television or other media, subject to the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

(6) In addition to the annual reporting requirements required to be observed by the Board, Registrar and the Appeals Tribunal as provided for in this Act, these bodies must comply with any additional reporting requirements which the MEC may determine from time to time.

CHAPTER 2 TRANSPORT PLANNING

Transport planning function

7.(1) Planning authorities are responsible for the transport planning function which must be performed in accordance with the policy parameters, general principles and types of plans prescribed by Part 7 of Chapter 2 of the National Land Transport Transition Act.

(2) The MEC must ensure the co-ordination of the planning processes of all planning authorities and in so doing, must ensure that all plans address –

- (a) public transport services operating across the boundaries of the areas of planning authorities;
- (b) road and rail networks;
- (c) the needs of special categories of passengers;
- (d) rivalry between neighbouring planning authorities that may result in the duplication or over-supply of transport facilities and infrastructure in the region; and
- (e) the integration of transport and land use planning within the context of the Development Facilitation Act, 1995 (Act No. 67 of 1995), or any other provincial law.

Responsibility for needs determination in transport planning

8.(1) In order to give effect to national and provincial transport policy and to provide for service delivery through a “demand driven” system as opposed to a “supplier driven” system, the planning authority must determine the need for public transport services, which may include the undertaking of inspections *in loco* where deemed necessary, whether or not the planning authority has developed transport plans for its area.

(2) A planning authority may enlist the assistance of the Registrar in the determination of need where transport plans or planning studies are not available to guide the decision on the need for services.

(3) The assistance to be rendered by the Registrar in terms of subsection (2) may, if necessary, include the conducting of inspections *in loco*.

(4) A planning authority having determined the need for service in terms of transport plans or planning studies may make a referral to the Board for the granting of the necessary operating licences.

(5) A planning authority wishing to exercise its right of referral in terms of subsection (4) must channel the referral through the Registrar, who must verify whether the affected area or route is on record as being registered with any association or non-member.

(6) Where, pursuant to subsection (5), the Registrar –

- (a) identifies that the affected area or route is part of the registered route network of an existing association or non-member, the Registrar must offer the relevant association or non-member, as the case may be, the opportunity to satisfy the need for service –
 - (i) in the event of the offer being accepted, the Registrar must –

- (aa) register the member, aspirant member of the association or non-member in respect of the affected area or route; and
 - (bb) refer to the Board for publication in the *Gazette* of the details concerning the operating licences to be granted as part of the referral; or
 - (ii) in the event of the offer not being accepted, the Registrar must notify the planning authority, in which case the planning authority must take immediate steps to invite service providers to apply to render the necessary service;
 - (b) identifies that the affected area or route does not form part of the registered route network of any association or non-member, the Registrar must notify the planning authority, in which case the planning authority must take immediate steps to invite service providers to apply to render the necessary service.
- (7) The offer made in terms of subsection (6)(a) and the invitations to provide service referred to in subsections (6)(a)(ii) and (6)(b) must be dealt with in terms of a process and within time periods prescribed.
- (8) Until such time as the Board has granted the necessary operating licences, the offer made in terms of subsection (6)(a) does not constitute an automatic right to operate the service by the candidate operator.
- (9) A planning authority must establish a consultative forum comprising representation from key stakeholders to facilitate interaction on the reshaping of the transport system, including the identification of need for services.
- (10) The composition of the consultative forum referred to in subsection (9) as well as the procedures governing its functioning must be prescribed.

CHAPTER 3 TRANSPORT AUTHORITIES

Agreements for formation of transport areas and transport authorities

- 9.(1) Transport authorities may be established for transport areas only as provided for in this Chapter and Part 5 of the National Land Transport Transition Act, and only if the functions of such authority in relation to the functions of the municipalities involved comply with the Constitution and applicable local government legislation.
- (2) A municipality or any two or more municipalities jointly, may, subject to the relevant provisions of the National Land Transport Transition Act, in particular section 11 of that Act, enter into a founding agreement with the MEC, in accordance with section 11 of this Act, in terms of which –
- (a) the area or areas of jurisdiction of the municipality or of the municipalities acting jointly, or part of such area or areas, as the case may be, will become a transport area; and
 - (b) a transport authority is to be established for such a transport area.

Declaration of transport areas and establishment of transport authorities

- 10.(1) The MEC must, not later than 14 days after the conclusion of an agreement referred to in section 9, by notice in the *Gazette* –
- (a) give notice of and publish the founding agreement;
 - (b) declare the area concerned to be a transport area, and assign to it the name provided for in that agreement;
 - (c) where applicable, withdraw, in the manner as provided for in section 3(1)(c) of the Urban Transport Act, 1977 (Act No. 78 of 1977), the notice by which the area or areas of the municipality or municipalities concerned had been included in the relevant metropolitan transport area in terms of paragraph (a) or (b) of section 3(1) of that Act; and
 - (d) in accordance with and subject to the founding agreement, establish for that transport area a transport authority with effect from the date specified for that purpose in the founding agreement.
- (2) A founding agreement, upon having been so published, has the force of law and no amendment thereof has any legal force or effect until the amendment has been published by the MEC by notice in the *Gazette*.

Requirements for founding agreements

11. The founding agreement must be in writing and provide at least for the following –
- (a) a declaration by the contracting parties affirming their agreement on the establishment of a transport authority for the transport area concerned;
 - (b) the name to be assigned to the transport area;
 - (c) the date with effect from which that transport authority is to be established;
 - (d) the establishment and structure of a governing body for that transport authority, the number of its members and the manner in which they are to be designated and appointed: Provided that only a person who serves as a councillor of a municipality party to the founding agreement (hereafter called a participating municipality), may be designated and appointed a member of the governing body;
 - (e) the designation and appointment of a chairperson and deputy chairperson for the governing body;
 - (f) voting procedures and members' voting rights at meetings of the governing body and any committee thereof, where applicable, and mechanisms and procedures for breaking deadlocks in decision-making;
 - (g) the appointment or designation of a chief executive officer for that transport authority, and the responsibilities, functions and powers attached to that office;
 - (h) the powers of the governing body that may be delegated to any of its members or to the chief executive officer;
 - (i) the venue for the head office of that transport authority and for meetings of its governing body;
 - (j) the physical address for delivering, sending or serving all correspondence, documents, notices and court processes directed to the transport authority;
 - (k) in the case where the transport area consists of the areas of jurisdiction, or parts of such areas, of two or more participating municipalities –
 - (i) the contribution of each participating municipality to the funding of that transport authority;
 - (ii) the performance of the professional, technical, administrative, clerical, secretarial and other work arising from, necessary for, or relevant or incidental to, the exercise and performance by that transport authority of its powers and functions;
 - (iii) subject to this Act, the requirements to be observed and procedures to be followed by any participating municipality that wants to withdraw from that transport authority, and its responsibilities, duties and obligations with regard to the then current or outstanding commitments and liabilities of that authority; and

- (iv) the procedures to be followed for and pursuant to the voluntary dissolution of that transport authority;
- (l) the arrangements made for the performance of the professional, technical, administrative, clerical and other work of the transport authority in terms of section 20, if not already covered under paragraph (k)(ii).

Functions and competencies of transport authorities

12.(1) A transport authority must perform the compulsory functions assigned to it by section 10(13) of the National Land Transport Transition Act and may, subject to the powers and duties allocated to the participating municipalities by legislation applicable to local government, with the agreement of the MEC or, where applicable, MECs –

- (a) promote security in public transport;
 - (b) encourage and promote the optimal use of the available travel modes so as to enhance the effectiveness of the transport system and reduce travelling time and costs;
 - (c) market the public transport system and promote and assume responsibility for publicity associated with that system;
 - (d) provide information to users or potential users of public transport;
 - (e) in the case of subsidised services, determine fare structures and fare levels, and concessionary fares for special categories of passengers, and periodically adjust fares in consultation with stakeholders, if the transport authority is exercising the subsidy function in terms of section 10(13)(f) of the National Land Transport Transition Act;
 - (f) in the case of commercial (unsubsidised) public transport services, set minimum fares bearing in mind the desirability of encouraging equitable competition between operators of public transport services;
 - (g) make payments to operators in terms of subsidised service contracts and concessionary fare agreements to which it is a party, if the transport authority is exercising the subsidy function;
 - (h) institute and conduct investigations into the financial circumstances and operating practices of –
 - (i) persons who, at the time, are existing or potential operators in relation to or in the transport area; or
 - (ii) the holders of operating licences who, at the time, are operating public transport services in relation to or in that area;
 - (i) introduce or establish, or assist in or encourage, promote and facilitate the introduction or establishment of integrated ticketing systems and determine or prescribe measures for the regulation and control of revenue-sharing among the operators involved in that system;
 - (j) exercise control over service delivery through –
 - (i) the setting of operational and technical standards, and monitoring compliance therewith; and
 - (ii) the monitoring of contracts and concessions;
 - (k) develop, implement and monitor a strategy to prevent, minimise or reduce any adverse impact of the land transport system on the environment; and
 - (l) in agreement with relevant participating municipalities –
 - (i) take over functions related to municipal roads;
 - (ii) apply measures to limit damage to the road system in that part of the transport area.
- (2) The MEC and a transport authority may agree –
- (a) that different functions will be undertaken in rural areas as opposed to urban areas in the transport area concerned; or
 - (b) in the case of a district municipality being a participating municipality that is a category C municipality provided for in section 155(1)(c) of the Constitution, that different functions may be undertaken within the areas of jurisdiction of the category B municipalities in the area concerned, as opposed to areas outside of such areas.
- (3) With a view to ensuring co-ordinated transport law enforcement within its area, the transport authority must liaise on a continuous basis with the South African Police Service, the relevant provincial and municipal law enforcement authorities or agencies and the inspectors appointed and serving in terms of the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998).
- (4) A transport authority may, with the agreement of a participating municipality, assume co-responsibility for, or assist the participating municipality in, the application of traffic management techniques aimed at improving road traffic movement in that part of the transport area that coincides with the area of jurisdiction of that participating municipality.
- (5) Whenever a transport authority –
- (a) fails to perform a compulsory function provided for in section 10(13) of the National Land Transport Transition Act;
 - (b) having undertaken a voluntary function referred to in subsection (1), fails to perform it; or
 - (c) fails to perform such a function properly and effectively in accordance with this Act, the National Land Transport Transition Act and other applicable laws,
- the MEC may, by written notice addressed to the transport authority through its governing body or chief executive officer, order that transport authority to remedy its default and perform the function concerned, or, to perform it properly and effectively as the case may be, not later than the date stated in the notice.
- (6) The governing body and the chief executive officer must ensure speedy compliance with the directive issued by the MEC in terms of subsection (5).
- (7) If the transport authority fails to remedy the default within the period allowed for in the notice mentioned in subsection (5), the MEC may –
- (a) intervene by taking steps to have the function performed by the Department or any other body or person that has the capacity to do so, subject to section 139 of the Constitution; and
 - (b) use moneys from the Provincial Revenue Fund that are earmarked for allocation to that transport authority to pay the costs arising from taking those steps, or recover those costs from the transport authority.
- (8) A transport authority may apply to the MEC for permission to assume responsibility for the full range of functions of the Board in relation to transport services involving the picking up and setting down of passengers within the boundaries of the area over which the transport authority has jurisdiction.
- (9) Subject to the criteria laid down in section 30(2) of the National Land Transport Transition Act being met by the transport authority, the MEC may approve the application referred to in subsection (8).
- (10) Where the transport authority has secured the permission sought under subsection (8) –
- (a) the Board's full range of functions will automatically vest with the transport authority; and

(b) the provisions of this Act referring to the Board must for all intents and purposes be construed as references to the appropriate entity of the transport authority set up to perform the relevant functions.

(11) To the extent that it may be deemed necessary for appropriate empowerment of a transport authority and provided that it is not in conflict with the provisions of the founding agreement establishing the transport authority or the assignment of functions provided for in such founding agreement, any reference to a municipality in this Act must be construed as a reference to a transport authority.

Ancillary powers of transport authorities

13.(1) A transport authority may enter into an agreement with a municipality that is not a participating municipality in terms of which the transport authority is to exercise or perform on behalf of that municipality any power or function entrusted to the municipality by or in terms of this Act or the National Land Transport Transition Act.

(2) The transport authority may only enter into such an agreement if it is competent in terms of this Act and other applicable legislation pertaining to public transport, to exercise or perform the same or a similar power or function with regard to its transport area.

(3) An agreement in terms of subsection (1) may involve the utilisation of funds of a transport authority outside of its transport area, if the MEC and the MEC for Finance both agree.

(4) In addition to the powers conferred on it by or in terms of this Act and the National Land Transport Transition Act, a transport authority may perform any legal act or do anything which a juristic person is competent in law to perform or do, except in so far as may be inconsistent with this Act or the National Land Transport Transition Act.

Governance of transport authorities

14.(1) A transport authority is governed and controlled by the governing body established for it in accordance with the founding agreement in force in respect of that authority.

(2) The governing body represents the transport authority, and all acts performed by the governing body or anyone duly authorised by that body to act in its place, are deemed to be the acts of the transport authority.

Finances of transport authorities

15.(1)(a) The chief executive officer of a transport authority must keep proper accounting records in accordance with generally accepted accounting practice and procedures so as to fully reflect the proper state of its financial affairs.

(b) The accounting records must include a revenue account which must be credited with all moneys which accrue to, and are received by, the transport authority, and must be debited with the expenses incurred by that authority.

(2)(a) Each transport authority must, not later than three months before the end of each financial year prepare a statement of estimated income and expenditure for the next financial year, which must be submitted to the participating municipality or municipalities for approval not later than the date to be determined by the MEC but that authority may at any time during the course of the current financial year submit a supplementary budget for that financial year to the municipality or municipalities for approval.

(b) The transport authority must at the same time submit a copy of the statement of estimated income and expenditure and supplementary budget, if applicable, referred to in paragraph (a) to the MEC.

(c) A transport authority may not incur any expenditure in excess of the total amount, including a supplementary amount of the budget as approved by the municipality or municipalities in terms of paragraph (a).

(d) A transport authority may establish a reserve fund for any purpose connected with its functions in terms of this Act, which has been approved by the MEC, and allocate to the reserve fund the moneys made available for that purpose in the budget including any supplementary budget approved in terms of paragraph (a).

Utilisation of transport authority funds

16.(1) A transport authority may in terms of its transport plans –

(a) defray the costs of performing its functions or exercising its powers;

(b) assist special categories of passengers through concessionary fares or by recompensing the relevant operator in respect of a service provided in terms of an approved transport plan;

(c) defray a specified part of the cost of equipment required by a municipality for regulating and controlling traffic in a transport area in terms of an approved transport plan;

(d) pay the agreed price for subsidised service contracts, current tendered contracts, interim contracts or concessions in terms of an approved transport plan;

(e) pay compensation in accordance with section 51 of the National Land Transport Transition Act for operating licences withdrawn under section 51 of that Act;

(f) defray the cost of the introduction of new technology into public transport;

(g) defray the cost of demonstration or pilot projects in land transport;

(h) make grants for training in transport engineering or transport economics or other matters related to land transport;

(i) defray the costs of preparing and implementing transport plans;

(j) pay interest on loans granted to it and redeem such loan in the instalments and within the period as the MEC determines with the concurrence of the MEC for Finance;

(k) defray the capital costs of specialized vehicles used in the provision of public transport under subsidised service contracts or concessions; or

(l) defray the costs of planning, designing, constructing, managing, controlling, maintaining or rehabilitating roads and other transport infrastructure.

(2) The MEC may make regulations regarding the manner in which cash balances of transport authorities may or must be invested.

(3) With the consent of the MEC, a transport authority may spend money in an area outside of its transport area, in agreement with the other transport authorities or municipalities concerned, for the purpose of performing its functions.

Loans to transport authorities

17.(1) The MEC may, from moneys appropriated by the Provincial Legislature, grant loans to a transport authority to assist it in the implementation of this Act, subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(2) The transport authority must pay the interest on a loan so granted and redeem the loan in such instalments and within such period as the MEC, with the concurrence of the MEC for Finance, may determine.

Discretionary grants by MEC

18. The MEC may, subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999), make grants to assist transport authorities in financing, in terms of their transport plans –

- (a) capital projects including the acquisition of fixed property, the initial acquisition of rolling stock for public transport systems, alternatives analysis related to the development of public transport systems, and the acquisition of rights of way;
- (b) the capital costs of co-ordinating public transport with other types of land transport;
- (c) the introduction of new technology into public transport;
- (d) land transport projects that enhance socio-economic development and urban or rural restructuring, including industrial, commercial, business and residential development, if the projects –
 - (i) enhance the effectiveness of public transport to which they are related physically or functionally;
 - (ii) establish new or enhanced co-ordination between public transport and other land transport; or
 - (iii) reduce the need for movement by private vehicles as expressed by the average trip length of such vehicles;
- (e) public transport projects planned, designed, and carried out to meet the needs of special categories of passengers; or
- (f) the capital costs of motor vehicles or rolling stock used in the provision of public transport under subsidised service contracts or concessions.

Delegations by governing body

19.(1) The governing body of a transport authority may delegate any of its powers or functions in terms of this Act, except the power of governance provided for in section 14 to any member of that governing body.

(2) A delegation by the governing body in terms of subsection (1) –

- (a) may be made on and subject to any conditions determined by the governing body;
 - (b) may be given together with the power to sub-delegate, on and subject to any conditions so determined, if any; and
 - (c) must be in writing and contain full particulars of the matters being delegated and of any conditions attached to the delegation, and, where the power of sub-delegation is conferred, must state that fact as well as any conditions attached.
- (3) The governing body may at any time –
 - (a) amend or revoke a delegation made in terms of subsection (1); or
 - (b) withdraw any decision made by any person with regard to a delegated matter, and decide the matter itself: Provided that a decision made in terms of a delegated authority may not be withdrawn where it confers a right or entitlement on any third party.

(4) The MEC may, if he or she is satisfied that the interests of land transport in the province or the transport area so require, by notice in the *Gazette* –

- (a) prohibit the delegation of any particular power or function, whether generally or in the circumstances specified in the notice;
- (b) limit the circumstances in which any particular power or function may be delegated;
- (c) prescribe conditions for the delegation of any particular power or function; or
- (d) in relation to any power or function specified in the notice, prohibit sub-delegation in the event of the governing body delegating that power or function.

Transport executives

20.(1) The parties to a founding agreement may provide therein –

- (a) that the professional, technical, administrative, clerical and other work arising from, necessary for, associated with or incidental to the functioning of the transport authority or the exercise or carrying out of its powers and functions, is to be performed for the transport authority by –
 - (i) the municipal administration of one of the participating municipalities specified in that agreement; or
 - (ii) any one or more specified departments in the municipal administration of one or more participating municipalities, and in such case, the relevant provisions of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), must apply; or
- (b) for the establishment by the transport authority of a body under its auspices and subject to its control (hereafter called a transport executive), to perform all work of that nature or any specified type or category of that work for the transport authority.

(2) Where the founding agreement provides for the establishment of a transport executive –

- (a) provision may also be made in that agreement that the transport authority, if requested thereto by another transport authority, may make its transport executive available to perform work of that nature for that other authority –
 - (i) in terms of a written agreement entered into between the transport authorities concerned;
 - (ii) for a fee or against payment of an amount specified in that agreement; and
 - (iii) in accordance with and subject to –
 - (aa) the standard terms and conditions, if any, stipulated in the founding agreement; and
 - (bb) the terms and conditions specially stipulated in that agreement; and
- (b) provision must be made at least for the following –
 - (i) where not all the professional, technical, administrative, clerical and associated work of the transport authority is to be performed by the transport executive, specification of the type or category of work for the performance of which the transport executive is to be responsible;
 - (ii) the place where the offices of the transport executive will be situated;
 - (iii) the manner in or procedure according to which the staff establishment of the transport executive is to be determined; and
 - (iv) the power to appoint and dismiss its staff.

Joint transport executives

21.(1) The MEC and any two or more transport authorities authorised thereto by their respective participating municipalities, may enter into an agreement providing for the formation of a transport executive under the auspices of those transport authorities jointly, to perform, for each of them, the professional, technical, administrative, clerical and other work arising from, necessary for, associated with or incidental to its functioning as a transport authority and exercising or carrying out its powers and functions (hereafter called a joint transport executive).

- (2) In such an agreement provision must further be made for at least –
- (a) the matters mentioned in section 20(2)(b), which, with the changes required by the context, applies in relation to a joint transport executive;
 - (b) the powers of the participating transport authorities with regard to the exercise of supervision and control over their joint transport executive;
 - (c) the contribution of each participating transport authority to the funding of their joint transport executive.

Dissolution of transport authorities

22.(1)(a) Subject to paragraph (b) of this subsection, a transport authority may be dissolved only as provided for in this section.

- (b) The provisions of paragraph (a) –
- (i) do not affect the capacity of the Member of the Executive Council for local government, when acting in terms of section 14 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), to make any arrangements having the opposite effect; and
 - (ii) do not detract from the legal force and effect of any arrangements so made.
- (2) A transport authority must be dissolved in terms of subsection (1) if the following requirements have been met –
- (a) where the transport authority involves only one municipality, it has decided to terminate its participation in the transport authority and has notified the MEC in writing of the decision;
 - (b) where the transport authority involves two or more municipalities –
 - (i) the municipalities concerned have agreed in principle that the transport authority be dissolved, and have so notified the MEC in writing of that fact; or
 - (ii) one or some of those municipalities, as the case may be, has or have decided to terminate its or their participation in that transport authority and every municipality that has so decided, has so notified the MEC and the other municipality, or, each of the other municipalities, as the case may be, in writing of the decision;
 - (c) the MEC, within 30 days after having been so notified, has –
 - (i) by notice published in the *Gazette* and a newspaper generally read in the transport area affected by that notification, made known the proposed dissolution of the transport authority concerned;
 - (ii) invited interested parties to comment and make representations with regard thereto; and
 - (iii) requested them to furnish those comments and representations, in writing, to the MEC not later than the date specified in that notice, but a period of at least 30 days must be allowed for that purpose; and
 - (d) if all the parties to the transport authority have concluded an agreement in terms of which arrangements are made, with due regard to the comments and representations, if any, furnished in response to the MEC's notice in terms of paragraph (c), with regard to the matters listed in section 10(14) of the National Land Transport Transition Act, but the date of dissolution must be so determined as to allow a period of at least 14 days from the date of the publication of the notice in terms of subsection (4).

- (3) If the MEC and the municipality or municipalities, as the case may be, party to that transport authority fail to reach agreement as contemplated in subsection (2)(d) –
- (a) the matter or matters concerned must be determined by arbitration in terms of the Arbitration Act, 1965 (Act No.42 of 1965);
 - (b) the arbitrator's determination is final and binding; and
 - (c) the arbitrator's determination is regarded for the purposes of subsection (2) as being part of the agreement contemplated in paragraph (d) of that subsection or, where applicable, as constituting that agreement.

(4) The MEC must, within 30 days of the date of an agreement provided for in subsection (2) or (3), by notice in the *Gazette* and a newspaper generally read in the transport area concerned, make known the dissolution of the transport authority and publish the terms of that agreement and the date of dissolution.

CHAPTER 4 PUBLIC TRANSPORT LICENSING BOARD

Establishment of Board

23. The KwaZulu-Natal Public Transport Licensing Board is hereby established.

Nominations for Board

24.(1) The MEC must, using a method designed to reach the greatest number of residents in the Province, invite the nomination of persons for the Board.

- (2) The invitation for nominations in terms of subsection (1) must specify the –
- (a) nomination procedure;
 - (b) requirements for nomination; and
 - (c) date by which a nomination must be received by the MEC.
- (3)(a) The MEC must appoint a selection panel of no less than four Departmental senior officials to review all nominations and make recommendations on the nominees.
- (b) The MEC may, in his or her sole discretion, appoint no more than two persons with experience in the transport industry to assist the selection panel with making recommendations on the nominees.

Appointment of Board

25.(1) The MEC must, based on nominations received in terms of section 24(1) and recommendations by the selection panel referred to in section 24(3), appoint no more than five members with experience in public transport, industrial, commercial, financial or legal matters to the Board, which must include –

- (a) one person who is a qualified attorney or advocate;
- (b) one person with extensive financial and commercial expertise;
- (c) one person with expertise or knowledge of the public transport industry;
- (d) two persons recommended by a commuter representative body; and
- (e) at least one female conforming to any of the profiles referred to in paragraph (a) to (d).

(2) The MEC may appoint two alternate members to the Board, who will be available to serve on the Board on an *ad hoc* basis in the event a member has a conflict of interest or is otherwise unavailable for a hearing.

(3) The members referred to in subsection (1) and alternate members referred to in subsection (2) must be fit and proper persons characterised by their independence, impartiality and fairness.

(4) A person may not be appointed as a member or alternate member of the Board if he or she has –

- (a) been or is removed from public office on account of misconduct;
- (b) been or is declared insolvent and has not been rehabilitated;
- (c) been or is convicted of an offence and sentenced to a period of imprisonment exceeding 12 months without the option of a fine; or
- (d) been or is convicted of an offence of which dishonesty is an element.

(5)(a) The MEC must fill any vacancy in the Board or in the alternate members to the Board in accordance with the provisions of section 24.

(b) The provisions of subsections (1) to (4) apply, with the necessary changes, to the filling of any vacancy.

Term of appointment of member of Board

26.(1) A member of the Board must be appointed for an initial term not exceeding three years.

(2) Subject to subsection (1), the MEC may re-appoint a member of the Board for an additional term not exceeding three years.

(3) The members of the Provincial Operating Licensing Board referred to in section 30 of the National Land Transport Transition Act and appointed by the MEC before the commencement of this Act must continue in office: Provided that should the member, at the commencement of this Act, have served on the Board for a total period of service –

- (a) in excess of the maximum period provided for in subsections (1) and (2), such member's tenure with the Board must be limited to serving the remainder of his or her current term;
- (b) which does not exceed the maximum period provided for in subsections (1) and (2), such member must serve the remainder of his or her current term and may be re-appointed for a further period that will not exceed the maximum period provided for in subsections (1) and (2).

Appointment of Chairperson and Deputy Chairperson of Board

27. The MEC must appoint both the Chairperson and the Deputy Chairperson of the Board.

Declaration of financial or other interests by members of Board

28.(1) A nominee to the Board must –

- (a) within 10 days of being nominated, submit to the MEC a written declaration of any and all financial or other interests in the transport industry which could be related to or may be in conflict with an appointment as a member of the Board, which declaration must include relevant information about any conviction for a Schedule 1 offence in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (b) in the declaration referred to in paragraph (a) include financial and other interests in the transport industry of immediate family members or close associates, which could be related to or may be in conflict with an appointment as a member of the Board; and
- (c) not be considered for the position of a member of the Board where it is found that the nominee deliberately withheld information pertaining to financial or other interests contemplated in this section.

(2) Where a member of the Board or immediate family member or close associate experiences a change in financial or any other interests in the transport industry or acquires an interest in the transport industry or has reason to know of any such change or acquisition, the member of the Board must, within 10 days of the date of the change or acquisition, submit a written declaration to that effect to the MEC.

Failure to declare financial or other interests

29.(1) A member of the Board who fails to make a declaration envisaged in section 28 commits an offence.

(2) The Head of Department on becoming aware that a Board member has failed to comply with the provisions of section 28 must investigate the matter and refer the matter to the MEC for appropriate disciplinary action.

Recusal of member of Board

30.(1) A member of the Board must recuse himself or herself in any matter or proceeding where he or she, an immediate family member or close associate has or reasonably could be expected to have a financial or other conflict of interest in the outcome of a decision by the Board.

(2) Any interested person may make an application, orally or in writing, for a member of the Board to recuse himself or herself where the person has reason to believe that the member of the Board, a family member or close associate has or could reasonably be expected to have a financial or other conflict of interest in the outcome of a decision by the Board.

(3) A person making an application referred to in subsection (2) must give reasons for his or her request.

(4) In the event of an application referred to in subsection (2), the Chairperson of the Board must decide on the matter, save that in cases where the application concerns the Chairperson of the Board, the matter must be decided by the Deputy Chairperson.

Resignation of member of Board

31. A member of the Board may, at any time and on not less than 30 days' written notice to the MEC or to his or her nominee resign, save that the MEC or his or her nominee may accept a shorter period of notice where this would not be detrimental to the efficient functioning of the Board.

Termination of appointment of member of Board

32.(1) A person may not remain in office as a member or alternate member of the Board if he or she has –

- (a) been or is removed from public office on account of misconduct;
- (b) been or is declared insolvent and has not been rehabilitated;
- (c) been or is convicted of an offence and sentenced to a period of imprisonment exceeding 12 months without the option of a fine;
- (d) been or is convicted of an offence of which dishonesty is an element;
- (e) failed to declare his or her financial interests or other possible conflicts of interest in terms of section 28;
- (f) failed to recuse himself or herself as required by section 30;
- (g) engaged in conduct which, in the opinion of the MEC, brings or could bring the office of the member or activities of the Board into disrepute or threatens the integrity of the Board; or
- (h) failed to carry out the duties and functions of the Board to the best of his or her ability.

(2) The MEC may, after due inquiry, terminate the appointment of a member or alternate member on any of the grounds provided for in subsection (1).

(3) The MEC must, on request of a Board member or alternate member whose services have been terminated as provided for in subsection (1), give written reasons for the termination of services.

Powers and functions of Board

33.(1) The functions of a Board are to receive, consider and decide on or otherwise dispose of, in accordance with this Act –

- (a) referrals from planning authorities for the granting of operating licences required to give effect to the implementation of transport plans developed by the relevant planning authorities;
- (b) applications for the granting of operating licences for intra-provincial transport;
- (c) applications for the granting of operating licences for inter-provincial transport originating within the Province, subject to the approval of the relevant licensing board of the other province, or of every other province, in which passengers are picked up or set down, as the case may be, subject to section 30 (5) of the National Land Transport Transition Act;
- (d) applications for the renewal, amendment or transfer of operating licences for intra-provincial transport;
- (e) applications for the renewal, amendment or transfer of operating licences that had been so granted by it for inter-provincial transport, subject to the approval of the relevant licensing board of the other province, or of every other province, in which passengers embark or disembark;
- (f) applications for temporary operating licences;
- (g) applications for the permanent replacement of motor vehicles specified in operating licences; and
- (h) applications for temporary replacement of the vehicle specified in an operating licence.

(2) Upon finalisation of the radius conversion process contemplated under section 45, the Board may recall an operating licence for purposes of redefining the route or routes where the Board is of the opinion that the route description is vague or inadequate: Provided that in so doing the Board must redefine the route in accordance with specific details to be supplied by the planning authority.

(3) The Board may, by written notice sent to his or her last-recorded address, require any holder to satisfy the Board within the time specified in the notice, that the services authorised by the relevant operating licence are still being provided or are being provided sufficiently, or to provide the Board with other reasonable information relating to the relevant operating licence, and the holder must comply with such a notice.

Applications and referrals for granting of operating licences

34.(1) The Board, in deciding an application or referral for an operating licence, renewal, amendment or transfer of an operating licence must consider –

- (a) the basis of any referral made by a planning authority and the Registrar, in particular the basis of any referral made in terms of section 8;
- (b) the extent to which the public transport to be provided is consistent with national and provincial policy and relevant frameworks and transport plans developed by planning authorities;
- (c) the extent to which the public transport service to be provided is necessary or desirable in the public interest;
- (d) the needs of the commuting public within the transport area or along the route which the applicant proposes to operate;
- (e) whether the existing public transport services and facilities available to the commuting public in the transport area or along the proposed route are adequate;
- (f) whether the need for service applied for can be met through already approved transport plans or plans in the process of being developed by a planning authority;
- (g) the need for co-ordination of all forms of public transport, including transport by rail, on an economically sound basis with due regard to the public interest;
- (h) the ability of the applicant to provide satisfactory transport on the proposed route or routes;
- (i) any previous criminal record of the applicant;
- (j) the existence of a prohibition, limitation or restriction imposed by law on the use of motor vehicles in the area or on a street or road on the route on which the applicant proposes to operate;
- (k) any representations by an interested party submitted in connection with the application;
- (l) the registration status of the applicant in the event of the applicant being a member or aspirant member of an association or a non-member;

- (m) any report or document drawn up as a result of an inquiry into the financial circumstances and operating practices of the applicant;
 - (n) the claims made by operators who have historically provided the service, in circumstances where the application is in response to the provision of services along upgraded routes; and
 - (o) any other factor which, in the opinion of the Board, may affect the decision to grant an application or to attach or vary a condition or requirement.
- (2) Where a person or body makes application for a new service, amendment of route or conversion to a vehicle of higher capacity, the Board must refer the application for consideration by the relevant planning authority and the Registrar in accordance with the principles envisaged in section 8, the object of which consideration is to –
- (a) determine the need for service;
 - (b) verify the registration status of the applicant; and
 - (c) confirm whether or not the affected area or route is part of the route network of an existing association or non-member.
- (3) The planning authority and the Registrar must respond to the referral mentioned in subsection (2) in the manner and within the prescribed period.
- (4) The Board must not consider an application if the same person made a previous application for the same purpose or route within six months of the date on which the application was initially considered and refused by the Board, unless the Board is satisfied that it is in the public interest to consider the application.
- (5) In disposing of any referral for the granting of operating licences, the Board may grant operating licences in favour of operators other than those identified by the Registrar as the candidate service providers in accordance with the provisions of section 8(6), where the Board is satisfied that to do so will be in compliance with provincial policies.

Procedures of Board

35.(1) The quorum for a meeting of the Board is at least three members of the Board.

- (2) The Board must, for the purpose of dealing with those matters provided for in section 34 (1)(a) to (o), allow any person affected by or interested in such matter, or the duly authorised representative of such person, to appear before the Board and –
- (a) give evidence or make oral representations;
 - (b) call witnesses and lead evidence on any question relevant to such matter; or
 - (c) question any person who testifies as a witness in such matter.
- (3) The Board may, for the purpose of dealing with any matter before it in terms of this Act –
- (a) by written notice prescribed by regulation and served in the manner so prescribed, require any person to appear before the Board to give evidence or to produce any book, plan or other document or article in his or her possession or under his or her control;
 - (b) call upon any person present in or at the place where such matter is dealt with by the Board, to appear before it to give evidence or to produce any book, plan or other document or article which such person may at the time have in his or her possession;
 - (c) question any person appearing before the Board as a witness;
 - (d) refuse to hear any person appearing before the Board as a witness who refuses to be sworn in or to be affirmed;
 - (e) *subpoena* a person to attend Board hearings or to produce any documents;
 - (f) request clarification from the planning authority, Registrar or any other person on a matter before the Board;
 - (g) authorise payment of witness fees pursuant to the tariff as specified from time to time by the MEC in regulations;
 - (h) issue an order as to costs for a party who fails to comply with a statutory obligation without good cause;
 - (i) hold hearings as required, with hearings open to the public except where the Board has reason to believe that the interests of justice would be served by holding a hearing or listening to the testimony of a specific witness behind closed doors; and
 - (j) not hear or decide any matter which is frivolous, vexatious, does not clearly state a claim or the Board does not have authority to hear the matter as provided for in this Act: Provided that written reasons must be given where a matter is not heard or decided.
- (4) The Chairperson or other Board member presiding over a Board hearing at which a person appears as a witness as provided for in subsection (3) must administer an oath or affirmation to the witness.
- (5) Decisions of the Board must be served in writing on all interested parties within 14 days of the decision.
- (6) A person who unlawfully disrupts the proceedings of the Board is guilty of an offence.
- (7) Prior to placing an application before the Board for a decision, the Secretariat of the Board must scrutinise the application for compliance with the basic requirements referred to in section 48(4).
- (8) Where the basic requirements referred to in section 48(4) have not been met by the applicant, the application must be put on hold by the Secretariat of the Board and dealt with as prescribed.
- (9) Except as specified in this Act, the Head of Department or his or her designee must determine the administrative procedures to be followed by the Board.

Appeal against decision of Board

- 36.**(1) Subject to regulations governing the appeal process, a decision of the Board is final and may be appealed on the record, within 14 days of the date of the decision being served on the parties, to the Appeals Tribunal established in terms of section 68 on intra-provincial transport matters or the Transport Appeal Tribunal established in terms of section 3 of the Transport Appeal Tribunal Act, 1998 (Act No. 39 of 1998), on inter-provincial transport matters.
- (2) The Board may, where an applicant appeals a decision, make written submissions on the matter to the Appeals Tribunal.
- (3) A planning authority or the Registrar forfeits the right of appeal where they have failed to meet the requirements of section 34(3), or in the case of a planning authority where the circumstances referred to in section 50(5) apply.

Staff of Board

37. The Head of Department must appoint staff to provide administrative assistance required by the Board, subject to the laws governing the public service.

Funding of Board

38. The funds of the Board consist of –
- (a) money appropriated by the Provincial Legislature; and
 - (b) donations or contributions lawfully received by the Board from any legal source.

Remuneration and allowances of members of Board

39. Members of the Board are entitled to remuneration and allowances as may be determined by the MEC in consultation with the MEC for Finance.

Annual report of Board

40. (1) The Chairperson of the Board must submit an annual report on the activities of the Board to the MEC within 30 days of the end of the financial year.
- (2) The Chairperson may, in the annual report, recommend necessary legislative, regulatory and procedural amendments to this Act.

Financial accountability

41. The Chairperson of the Board is, subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999), responsible for –
- (a) accounting for State and any other funds received or paid out for or on account of the office of the Board; and
 - (b) maintaining proper accounting and other records.

CHAPTER 5 OPERATING LICENCES AND ASSOCIATED MATTERS

Obligations placed on applicants

42. Where an applicant applies for an operating licence, or the renewal, amendment or transfer of an operating licence, the *onus* is on the applicant to prove that –
- (a) with due regard to the circumstances, it is in the public interest to grant the application;
 - (b) the public transport to which the application refers can be rendered on a sustainable basis; and
 - (c) the applicant is capable of providing the necessary passenger liability insurance cover for passengers.

One operating licence issued per vehicle

43. Only one operating licence may be issued for any vehicle, but such licence may contain authorisation to operate on more than one route.

Legitimation process of the Interim Taxi Act

44. (1) This Act does not preclude the finalisation of the legitimation process as provided for in Part X of the Interim Taxi Act.
- (2) The MEC may, for purposes of facilitating the finalisation of the legitimation process referred to in subsection (1), by notice in the *Gazette* revise the dates by which this process must be finalised.
- (3) Notwithstanding other provisions governing the status of permits and the granting and issuing of operating licences contained in this Act, an authorisation to operate granted by the Provincial Operating Licensing Board established in terms of section 30 of the National Land Transport Transition Act, in terms of the legitimation process referred to in subsection (1), must take the form of an operating licence.

Conversion of radius permit

45. (1) A holder of a radius permit must in the manner prescribed, submit an application to the Board for the conversion of such permit to a route based or area defined operating licence within the period determined by the MEC in the *Gazette*.
- (2) The procedure for and manner of lodging applications for conversion of radius permits in terms of subsection (1), is as provided for in regulation 5 of the Interim Taxi Act Regulations, contained in Notice No. 346 of 1998 as published in (Provincial) *Gazette* No. 5316 of 26 November 1998, read with regulation 3 of the National Land Transport Transition Regulations on Operating Licences and Related Matters for the Province, contained in Notice No. 149 of 2001 as published in (Provincial) *Gazette* No. 6020 of 23 April 2001.
- (3) The conversion process referred to in sub-section (2) must be undertaken in accordance with section 55 of the Interim Taxi Act, it being provided that in line with the principles enunciated in section 32 of the National Land Transport Transition Act, the original validity period of any permit so converted will remain unaltered.

Continuation and conversion of existing permits as required by National Land Transport Transition Act

46. (1) Subject to section 45(1), permits which on the date of the commencement of this Act have not yet expired, are deemed to have been automatically converted to an operating licence.
- (2) Operating licences for unscheduled services, which have been automatically converted in terms of subsection (1), may if operated by –
- (a) minibus vehicles, be further converted to operating licences for unscheduled or scheduled services operated by midibuses, depending on relevant transport plans, if any, on the surrender of two operating licences for one: Provided that the replacing operating licence must be issued for an indefinite period if both of the original operating licences carried an indefinite validity period, otherwise for a fixed period not exceeding five years, and must, in addition to the matters mentioned elsewhere in this Act, specify the number of seated passengers that may be carried;
 - (b) vehicles with a seating capacity of less than nine persons, including the driver, be further converted to operating licences –
 - (i) for unscheduled services operated by minibuses on the surrender of two operating licences for one, and the operating licence must be issued for an indefinite period if both of the original operating licences carried an indefinite validity period, otherwise for a fixed period not exceeding five years; or
 - (ii) for unscheduled or scheduled services operated by midibuses, on the surrender of four operating licences for one, and the operating licence must be issued for an indefinite period if all four of the original operating licences carried an indefinite validity period, otherwise for a fixed period not exceeding five years, and must, in addition to the matters mentioned elsewhere in this Act, specify the number of seated passengers that may be carried.

Operating licence prerequisite for operation of public transport service

47. No person may operate a public transport service without being the holder of the appropriate operating licence for the vehicle concerned.

Applications concerning operating licences

48.(1) Any person who intends operating a public transport service must apply to the Board for an operating licence.

(2) A holder may apply to the Board for the renewal or amendment of an operating licence.

(3) A person wishing to take transfer of an operating licence may apply to the Board with the written consent of the holder for transfer of the operating licence.

(4) Applications in terms of subsections (1), (2) and (3) must –

- (a) be made in the prescribed manner;
- (b) be made on the prescribed form; and
- (c) be accompanied by the prescribed fee.

Applications concerning temporary operating licences

49. (1) Any person who intends operating a public transport service on a temporary basis on a particular date in connection with a particular event or occurrence, must apply to the Board for a temporary operating licence.

(2) The onus is on the applicant referred to in subsection (1) to prove the necessity for the temporary operating licence.

(3) An application referred to in subsection (1) must –

- (a) be made in the prescribed manner;
- (b) be made on the prescribed form; and
- (c) be accompanied by the prescribed fee.

Operating licences for public transport services provided for in transport plans

50.(1) Before considering any application –

- (a) for the granting, renewal, amendment or transfer of an operating licence authorising the operation of any public transport service other than a charter service; or
- (b) in terms of the conversion processes provided for in sections 45 and 46(2), in the area of a planning authority, the Board must by written notice inform the planning authority of the application concerned, with the request to make recommendations with regard to the application, together with any representations, to the Board within the period stated in the notice.

(2)(a) The planning authority must make its recommendations and any representations it considers fit, having due regard to the transport plans prepared for its area, or, if such plans have not yet been prepared, approved or published, according to due inquiries and investigations carried out by it and to any requirements that may be prescribed or guidelines that may be provided by the MEC, and submit them to the Board within the period allowed therefore by such notice.

(b) The Board may condone the late submission of the recommendations and representations referred to in paragraph (a).

(3) The Board, in disposing of such an application, must act according to and may not grant an operating licence contrary to any approved transport plans.

(4) The Board must consider any recommendations and representations submitted in terms of subsection (2).

(5) Where the planning authority has failed to submit recommendations and representations to the Board in response to the latter's request, the Board may dispose of and decide the application without any input from the planning authority, by considering the matters mentioned in section 53(1).

Operating licences for contracted services

51.(1) Where any commercial service contract or subsidised service contract has been awarded by a competent tender board or authority after completion of a process of public tendering in accordance with the law, the Board may not refuse the application of the relevant operator for the granting or renewal of an operating licence required for the purposes of that service.

(2) That operator must specify in the application every vehicle by means of which the public transport service in terms of such a contract is to be operated.

(3) Upon having applied successfully with regard to such an operating licence, that operator will be entitled to be issued with an operating licence for every vehicle by means of which the public transport service in terms of such a contract is to be operated.

(4) Operating licences for the operation of public transport services to be provided in terms of commercial service contracts or subsidised service contracts must be granted only for the duration and subject to the terms and conditions of the contract concerned, and may, subject to section 48(2), be amended to extend the duration thereof where the duration of the relevant contract is extended.

Publication of particulars of applications and submission of objections

52.(1) Subject to subsection (2), the Board must before considering an application for the granting, renewal, amendment or transfer of an operating licence for intra-provincial public transport services, cause to be published in the *Gazette* and in newspapers that are widely read such particulars of the application as may be prescribed.

(2) An application need not be published in terms of subsection (1) where it is an application –

- (a) in respect of a contracted service provided for in section 51;
- (b) to amend the particulars of the same vehicle specified in the operating licence;
- (c) for replacement of a specified vehicle as provided for in section 60;
- (d) for temporary replacement of a specified vehicle as provided for in section 63; or
- (e) relating to the formalisation of a dedicated learner transport service that complies with requirements prescribed by the MEC and which specifies a cut-off date.

- (3) An interested person who wishes to submit representations to the Board objecting to or supporting an application published in terms of subsection (1), must do so in the manner and within the time prescribed, and the Board –
- (a) must allow a person who, within the time prescribed, submits representations to inspect the applicant's application form and related documents at the office of the Board on payment of the prescribed fee; and
 - (b) may, at the request of such a person, provide him or her with copies thereof on payment of the prescribed fee.
- (4) The Board must likewise allow the applicant to inspect, free of charge, at its offices, and to make copies on payment of the prescribed fee, of representations objecting to or supporting the application.
- (5)(a) The right to lodge objections or submit representations also applies to the matters referred to in paragraphs (a)(i)(bb), (a)(ii) and (b) of section 8(6).
- (b) The provisions of subsections (1) and (2) apply, with the necessary changes, to objections or representations referred to paragraph (a).

Disposing of applications with regard to operating licences for non-contracted services

- 53.(1) Where any application is made for the granting, renewal, amendment or transfer of an operating licence in respect of a non-contracted service, the Board may grant or refuse the application only after having considered, subject to subsection (2) –
- (a) whether the vehicle by means of which the service is to be operated is suitable for that purpose;
 - (b) representations by a planning authority as to the availability of ranks or terminals or other facilities or spaces for boarding or alighting from and for holding or parking vehicles engaged in the operation of that service;
 - (c) the existence of any by-law, regulation, prohibition, limitation or restriction by a municipality that has relevance to the transport service that the applicant proposes to provide under the authority of the operating licence;
 - (d) whether the applicant, or the transferee in the case of a transfer, has any previous conviction for an offence of the type and seriousness prescribed, committed within the prescribed period before the date of the application;
 - (e) the ability of the applicant, or the transferee in the case of a transfer, to operate in a satisfactory manner the service for which the operating licence is sought;
 - (f) representations duly submitted in connection with the application by the applicant or any interested party; and
 - (g) representations from the Registrar as to the status of registered operators, if any, who provide public transport services in the affected routes or areas.
- (2) An application for an operating licence relating to the operation of a non-contracted service on any route or routes in the area of a planning authority may not be granted if the public transport requirements for the particular route or routes are adequately served by existing public transport services provided in terms of a commercial service contract or subsidised service contract or in terms of operating licences as shown by relevant transport plans, if any.
- (3)(a) The Board may grant an application for the granting, renewal, amendment or transfer of an operating licence for a non-contracted service subject to any conditions determined by it: Provided that such conditions may not be inconsistent with this Act or with the National Land Transport Transition Act.
- (b) A condition may be so imposed only after consideration of the matters which, in terms of subsection (1) and, where applicable, subsection (2), are to be taken into consideration for the purpose of deciding the application.

Provisions specific to minibus taxi-type services

- 54.(1) No operating licence authorising minibus taxi-type services may be granted unless –
- (a) the applicant is a member of a registered association;
 - (b) the applicant in terms of section 99(2) has been accepted as a temporary member by an association pending the outcome of his or her application to the Board, and the Registrar has confirmed this in writing; or
 - (c) the Registrar certifies in writing that the applicant has been registered as a non-member in terms of section 100.
- (2) An operating licence for a minibus taxi-type service may be granted for more than one route: Provided that an operating licence may be granted for a specified area in instances where the need for operational flexibility demands it, such as in cases of feeder services.

Issuing of operating licences, and contents thereof

- 55.(1) The MEC must prescribe the procedure to be followed by the Board for the issuing of operating licences.
- (2) Any operating licence granted, renewed, amended or transferred in accordance with this Act must be issued, in the prescribed manner and form, by an official of the Board designated by the Head of the Department for that purpose.
- (3) An operating licence may not be issued unless –
- (a) the person requiring it has applied for the granting, renewal, amendment or transfer thereof, or for conversion of a radius permit in terms of section 45, as the case may be, in accordance with this Act;
 - (b) the applicant has submitted to the official referred to in subsection (2) a current roadworthy certificate which was issued for the vehicle to which the operating licence relates not earlier than a point in time to be prescribed, or a duly certified copy of such a certificate;
 - (c) in the case of the renewal, amendment or transfer of an operating licence, and in the case of the conversion of a radius permit in terms of section 45, the applicant has returned to the Board the relevant permit or operating licence, as the case may be, that was issued previously for the same public transport service;
 - (d) the applicant has submitted to the Board, as applicable –
 - (i) written confirmation from the Registrar that the applicant is a registered member of an association, or a registered non-member; or
 - (ii) written confirmation from the association operating on the route or routes in question confirming that the applicant has been accepted as a member of that association, or
 - (iii) a certificate referred to in section 87 (1); and
 - (e) satisfactory proof of passenger liability insurance cover has been produced.
- (4) An operating licence must contain such details as may be prescribed.

(5) A new operating licence may not be issued unless the applicant has furnished proof to the satisfaction of the Board that the applicant is registered as a taxpayer in terms of the Income Tax Act, 1962 (Act No. 58 of 1962), or, in terms of that Act, is not required so to register: Provided that for purposes of the requirements of this section any operating licence issued pursuant to the processes referred to in sections 44, 45 and 46 must not be regarded as a new operating licence.

Authority conveyed by operating licence

56. An operating licence granted and issued in terms of this Act –

- (a) does not authorise the holder to undertake transport on or over a public road in the area of jurisdiction of any municipality if it is unlawful to do so in terms of any national or provincial law or any by-law of the municipality; and
- (b) does not exempt the holder from the obligation to comply with any requirement or condition imposed by or in terms of any law or licence issued by any other competent authority.

Persons who may hold operating licences

57. An operating licence may only be issued to and held by the person registered, in terms of the National Road Traffic Act, as the owner or operator of the vehicle, as defined in that Act, and specified in the operating licence, except where the operating licence relates to the operation of a service in terms of a commercial service contract or a subsidised service contract, and the operator party to the contract has sub-contracted another operator to operate part of that service on behalf of the first-mentioned operator and in such a case –

- (a) the sub-contracted operator must be the so registered owner or operator of the vehicle used by the latter for operating that service on behalf of the operator party to the commercial service contract or subsidised service contract; and
- (b) that vehicle must be specified in the operating licence as the vehicle to be so used for operating that service.

Rules applicable with regard to various operating licences

58.(1) In determining the period of operating licences for non-contracted services, the Board must consider –

- (a) current and envisaged trends in demand on the route or routes, or, where applicable, in the particular area, concerned;
- (b) the efficiency of the proposed services in meeting the demand;
- (c) where applicable, the likelihood that, in future, the service may no longer be required in terms of any relevant transport plans; and
- (d) the likelihood that the service may become the subject of a commercial service contract or a subsidised service contract.

(2) In the case of operating licences for long-distance services, the Board when determining the picking up and setting down points must impose the condition that passengers may not be picked up or set down en route, unless the operator has reached agreement in this regard with the respective transport authorities and municipalities.

(3) In the case of an application for the granting, renewal or amendment of an operating licence relating to a long-distance service, due regard must be given to the provisions of any transport plans prepared by the relevant planning authority and, subject to this paragraph –

- (a) the extent to which the service to be provided by the applicant is necessary and desirable in the public interest;
- (b) the requirements of the public for the service along the route or routes on which or the particular area in which the applicant proposes to operate;
- (c) the existing transport facilities available to the public on that route or those routes or in that area;
- (d) the need to ensure co-ordination of all forms of transport, including transport by rail, to achieve an economically sound balance between the transport modes with due regard to the public interest;
- (e) in the case of a minibus taxi-type service, the recommendations of any taxi associations that may be directly affected.

Use of same vehicle for long-distance and other public transport services

59.(1)(a) A vehicle specified in an operating licence as being the vehicle by means of which a service provided for in a transport plan is to be operated, may not also be specified in the operating licence as being the vehicle by means of which any long-distance service is to be operated, unless the planning authority has consented thereto.

(b) The planning authority may not grant the consent referred to in paragraph (a) where the operation of the long-distance service will or is likely to be detrimental to the operation, by means of that vehicle, of the public transport services provided for in that transport plan.

(2) A vehicle specified in an operating licence to provide a long-distance service may not also be specified in the operating licence as being the vehicle by means of which a public transport service provided for in a transport plan is to be operated, unless the planning authority has consented thereto.

Amendment of operating licence: Replacement of specified vehicle

60.(1) Where the holder of an operating licence for the operation of any public transport service wishes to replace the vehicle that is specified in that operating licence with another vehicle with the same passenger capacity, the holder must apply for the replacement, in the manner prescribed, to an official of the Board whom the Head of the Department has authorised in writing to dispose of the matter: Provided the nature of the replacing vehicle is not affected by the replacement.

(2) The authorised official of the Board must allow the replacement and issue an amended operating licence to the holder, if satisfied that –

- (a) the replacing vehicle has the same passenger capacity as the replaced vehicle, or less, or such capacity is less than twenty percent greater than that of the replaced vehicle, and is of the same nature as the replaced vehicle, and that the quality and standard of the service which is authorised by the operating licence will not be affected by the replacement;
- (b) the replacing vehicle is otherwise suitable for the operation of the public transport service authorised by that operating licence, has been certified as roadworthy and is properly licensed in compliance with road traffic laws; and
- (c) the applicant for the replacement has provided the information necessary to establish the requirements of this section.

(3) Where a sub-contractor operates any part of the public transport service to which an operating licence relates on behalf of the holder, the sub-contractor may rely on the provisions of this section to replace any vehicle of which the latter is the registered owner and which is specified in that operating licence, in all respects as if the sub-contractor were the holder.

Special conditions relating to metered taxi services

61. In the case of a metered taxi service, the vehicle specified in the operating licence authorising the operation of that service, may –

- (a) leave the area described in the operating licence if, on the return journey, it is to carry the same passengers as those it carries on the outward journey or the vehicle is to return to that area empty; and

(b) operate any particular journey at a fare not determined by operating the meter fitted to that vehicle if the fare for the particular journey has been agreed upon between the driver and the passenger or passengers concerned before the journey begins.

Duties of holder of operating licence

62.(1) The holder of an operating licence must –

- (a) in operating the service to which the operating licence relates, comply with the terms of the authorisation conferred by it and the conditions to which it is subject, and, where that service is one provided for in a transport plan, operate that service in accordance with that plan;
- (b) keep the original operating licence or a duplicate original in the vehicle specified in such licence, and, where the vehicle so specified is temporarily replaced in terms of section 63, keep the operating licence and the temporary authorisation issued for the replacing vehicle in that vehicle for the duration of the temporary replacement, but the Board may direct in writing that the annexures to an operating licence do not have to be kept in such vehicle where they are too bulky to allow for this;
- (c) on demand by an authorised officer, produce the operating licence;
- (d) keep the operating licence and any duplicate original thereof in such a condition that the letters and figures thereon are clearly legible and, if the operating licence is damaged or ceases to be clearly legible, or is lost or stolen, apply for a duplicate original in the manner prescribed;
- (e) affix and keep affixed in the manner prescribed a distinguishing mark on the vehicle to which the operating licence relates;
- (f) except in the case of an operating licence valid for an indefinite period, apply timeously for renewal thereof;
- (g) at all times keep the vehicle to which the operating licence relates in a safe and roadworthy condition and –
 - (i) have that vehicle examined for roadworthiness not later than the time allowed therefore in the National Road Traffic Act; and
 - (ii) submit the new roadworthy certificate issued after every such examination to the Board within 30 days after it has been issued;
- (h) return an operating licence that has lapsed or has been withdrawn or cancelled, to the Board within seven days;
- (i) notify the Board in writing in the prescribed manner within seven days of ceasing to operate the service authorised by the operating licence, or of suspending such services for reasons other than those provided for in section 63;
- (j) ensure that passenger liability insurance cover in compliance with prescribed requirements is maintained for the services to which the operating licence relates as well as all other public transport services operated by the holder; and
- (k) comply with the provisions of this Act and with any other relevant laws.

(2)(a) The authority conferred by an operating licence may not –

- (i) be ceded or otherwise alienated by the holder, and no person may be a party to such a cession or alienation, except where the operating licence is transferred in accordance with this Act; or
- (ii) be hired out by the holder or any other person.

(b) A transaction concluded in contravention of paragraph (a) has no legal force or effect whatsoever and constitutes an offence in terms of this Act.

Temporary replacement of specified vehicle

63.(1) Where the vehicle specified in an operating licence for the operation of a public transport service has become defective temporarily, an official of the Board duly authorised by it may, on application by the holder, or, where that vehicle belongs to a sub-contractor, on application by that sub-contractor, in writing authorise the holder or the sub-contractor, as the case may be, to use another vehicle temporarily in the place of that vehicle for the purpose of operating that service, subject to subsections (2) and (3).

(2) The written authorisation must be in the form and for a period as prescribed.

(3)(a) The passenger capacity of the replacing vehicle must be equal to that of the vehicle specified in the relevant operating licence, or may –

- (i) be smaller; or
- (ii) exceed that capacity by not more than 20 per cent.

(b) The replacing vehicle must be suitable for the operation of that public transport service and, except in so far as this section provides otherwise, must comply in all other respects with the requirements and conditions that apply and are in force in terms of this Act with regard to the vehicle so specified in the operating licence.

(4) The written authorisation must be kept in the replacing vehicle to which it relates, together with the operating licence applicable to the replaced vehicle for the duration of the period of replacement provided for in that authorisation.

(5) The replacing vehicle will, during the authorised period of replacement, be regarded in all respects as the vehicle operated under the operating licence specifying the replaced vehicle.

Special events

64.(1) No person may operate a public transport service to or from a special event except –

- (a) in the course of operating a charter service in terms of an appropriate operating licence;
- (b) under the authority of an operating licence which already authorises the relevant transport on the route or in the area in question; or
- (c) under the authority of a special operating licence granted and issued to a holder in terms of this section.

(2) A person who is not authorised by subsection (1)(a) or (b) to undertake a public transport service to or from a special event, may apply to the Board for a special operating licence in the prescribed manner.

(3) The Board may grant an application in terms of subsection (2) and issue such a special operating licence if –

- (a) satisfied, on reasonable grounds, that the existing public transport services available to move passengers to or from the particular special event are not sufficient to meet the estimated demand;
- (b) satisfied, on reasonable grounds, that existing services will not be disrupted or prejudiced; and
- (c) other criteria as may be prescribed are met.

- (4) The *onus* of proving the matters mentioned in subsection (3) rests on the applicant.
- (5) The Board may require the applicant to supplement the application with any information in support thereof.
- (6) A special operating licence may be granted only for one particular, special event and for a period that is not longer than the duration of such event.
- (7) A special operating licence in terms of this section must –
- specify the particular special event and the date or dates on which it occurs;
 - state the route or routes on which the transport to and from the special event may be provided; and
 - specify the terminals, ranks or stopping places that may be used.
- (8) A special operating licence in terms of this section may be issued with a special distinguishing mark which must be affixed to the vehicle to which the operating licence relates for the duration of the public transport service to and from the special event.
- (9) The MEC may make regulations providing that special operating licences in terms of this section may be granted and issued by municipalities or other bodies, institutions or officials specified in the regulation.

Withdrawal, suspension or amendment of operating licence

- 65.(1) Where a service operated in terms of a contract has been terminated for any reason, the Board must, upon proof of termination furnished by the relevant contracting authority, withdraw all operating licences previously granted in relation to that contract.
- (2) Where it comes to the notice of the Board that an operating licence has not been in use for 7 days or more, the Board must by notice, in writing, call on the holder to advance good reasons, within 14 days of the date of delivery of the notice, for not operating the public transport service to which that operating licence relates, and, accordingly, why the Board should not cancel that operating licence: Provided that where the Board is –
- satisfied with the reasons advanced, the holder must be allowed a further period, but not more than 7 days, to resume the operation of that service, and the holder, must be informed in writing, accordingly; or
 - not satisfied, or where the holder has failed to advance good reasons within the time allowed in the notice, the Board must cancel the operating licence and within 72 hours in writing inform the holder accordingly and direct the holder to surrender that operating licence, together with the distinguishing marks with regard thereto, to the Board within seven days after the date of the notice.
- (3) The Board may at any time withdraw, amend or suspend an operating licence for such period as it may deem fit, if the holder –
- or employee of the holder has been convicted of an offence in terms of this Act or in terms of a law relating to motor vehicles or the regulation of traffic;
 - contravenes or fails to comply with the provisions of any determination, agreement, award, licence or exemption which relates to remuneration for work or hours of work and which in terms of any law is binding on the holder as an employer and upon his or her employees;
 - is convicted of an offence that renders him or her incapable of providing the public transport services;
 - has not abided by the conditions and requirements of the operating licence;
 - has failed to initiate the service authorised by the operating licence or any part thereof within 30 days of the issuing of the operating licence;
 - is no longer capable of providing the necessary passenger liability insurance as provided for in section 62(1)(j);
 - has failed to comply with a notice issued in terms of section 33(3); or
 - contrary to the requirements of section 101 is not registered as a member or non-member, after the date contemplated therein, or has ceased to be so registered, or in the case of an operating licence authorising public transport services other than minibus taxi-type services the holder ceases to comply with the requirements of section 104.
- (4) The Board may at any time withdraw an operating licence which was granted or issued by it erroneously or on the basis of incorrect or false information supplied to the Board.
- (5) The Board may at any time withdraw or suspend for a period it deems fit, any operating licence if the circumstances under which the operating licence was granted have materially changed.
- (6) Notwithstanding the circumstances referred to in subsections (2) and (3) the Board may for any other reason, cancel or vary any condition or requirement of or add any condition or requirement to, or define, redefine, curtail or otherwise amend the terms and conditions of an operating licence: Provided that the primary purpose for doing so is to enhance public transport services and to ensure safety and security thereof.
- (7) The Board may not withdraw or suspend any operating licence or cancel or vary any condition or requirement of or add any condition or requirement to or amend an operating licence as provided for in subsections (3) to (6) unless –
- the Board has given no less than 14 days written notice of its intention, together with written reasons, by registered or certified post to the holder of the operating licence: Provided that the Board may impose a shorter period of notice in circumstances where the Board deems it to be in the public interest to do so;
 - the holder of the operating licence has been given an opportunity, either personally or through his or her duly authorised representative, to appear before the Board and adduce evidence and submit representations on the proposed action; and
 - the transport authority or municipality has been given an opportunity to submit representations to the Board on the proposed action in the manner and within the time prescribed by regulations.

Disqualification with regard to holding of operating licence

66. A person directly involved in the following functions or management thereof may not hold an operating licence or be engaged in the provision of a public transport service if he or she –
- evaluates applications for operating licences;
 - issues operating licences;
 - is engaged in the preparation and/or development of transport policy, strategy, frameworks, plans or any other associated management and administrative processes;
 - is involved with the process of registering operators of public transport services; or
 - is an authorised officer as defined in the National Land Transport Transition Act.

Inter-provincial services

67. To the extent that inter-provincial services fall within the ambit of national competence –

- (a) applications for inter-provincial public transport services originating in the Province must be made in accordance with the relevant provisions of the National Land Transport Transition Act; and
- (b) the Board must dispose of applications for inter-provincial services in accordance with the relevant provisions of the National Land Transport Transition Act.

CHAPTER 6 TRANSPORT APPEALS TRIBUNAL

Establishment of Appeals Tribunal

68. The KwaZulu-Natal Transport Appeals Tribunal is hereby established.

Nominations for Appeals Tribunal

69.(1) The MEC must, using a method designed to reach the greatest number of residents in the Province, invite the nomination of persons –

- (a) who, for the purpose of appointing two members as contemplated under section 70(1)(a), are –
 - (i) qualified, practicing attorneys or advocates with at least 10 years experience; or
 - (ii) have experience as judicial officers in the High Court, and
- (b) who, for the purpose of appointing a third member as contemplated under section 70(1)(b), have at least 5 years experience in the public transport industry.

(2) The invitation for nominations in terms of subsection (1) must specify the –

- (a) nomination procedure;
- (b) requirements for nomination; and
- (c) date by which a nomination must be received by the MEC.

(3)(a) The MEC must appoint a selection panel of no less than four Departmental senior officials to review all nominations and make recommendations on the nominees.

(b) The MEC may, in his or her sole discretion, appoint no more than two persons with experience in the transport industry or who are attorneys or advocates to assist the selection panel provided for in paragraph (a) by making recommendations on the nominees.

Appointment of Appeals Tribunal members

70.(1) The MEC must, based on nominations received in terms of section 69(1) and recommendations by the selection panel provided for in section 69(3), appoint three members, of whom –

- (a) two must –
 - (i) be qualified, practicing attorneys or advocates with at least 10 years experience; or
 - (ii) have experience as judicial officers in the High Court, and
- (b) the third member must have at least 5 years experience in the public transport industry.

(2) The MEC must, based on the nominations received in terms of section 69(1) and the recommendations by the selection panel provided for in section 69(3), and subject to subsection (3), appoint at least one alternate member and no more than two alternate members to the Appeals Tribunal, who will serve on the Appeals Tribunal in the event a member has a conflict of interest or is otherwise unavailable for a hearing.

(3) The alternate member or members provided for in subsection (2) must be qualified, practising attorneys or advocates with at least 10 years experience.

(4) The Appeals Tribunal members provided for in subsection (1) and alternate members provided for in subsection (2) must be fit and proper persons characterised by their independence, impartiality and fairness.

(5) A person may not be appointed or remain in office as a member or alternate member of the Appeals Tribunal if he or she has –

- (a) been or is removed from public office on account of misconduct;
- (b) been or is declared insolvent and has not been rehabilitated; or
- (c) been or is convicted of an offence –
 - (i) of which dishonesty is an element; or
 - (ii) for which a term of imprisonment without the option of a fine has been imposed;
- (d) a financial interest in a business in any sector of the public transport industry or is engaged in an activity connected therewith; or
- (e) an immediate family member or close associate who has any direct financial or business interest in any sector of the public transport industry.

Term of appointment of Appeals Tribunal members

71.(1) The MEC must, at the time of making the initial appointments to the Appeals Tribunal, appoint –

- (a) one person for an initial term of two years; and
- (b) the balance of members of the Appeals Tribunal for a term of three years.

(2) Members of the Appeals Tribunal may be re-appointed for one additional term of three years.

Appointment of Chairperson and Deputy Chairperson of Appeals Tribunal

72. The MEC must appoint the Chairperson and the Deputy Chairperson of the Appeals Tribunal, both of whom must be qualified in terms of section 70(1)(a).

Declaration upon nomination to Appeals Tribunal

73.(1) A nominee to the Appeals Tribunal must within 10 days of being nominated, submit to the MEC a written declaration confirming that he or she does not have any financial or other interests in the transport industry which could be related to or are in conflict with an

appointment as a member of the Appeals Tribunal, which declaration must include relevant information about any conviction for a Schedule 1 offence in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

(2) The declaration provided for in subsection (1) must include financial and other interests in the transport industry of immediate family members or close associates, which could be related to or are in conflict with an appointment as a member of the Appeals Tribunal.

(3) A nominee must not be considered for a position on the Appeals Tribunal where he or she fails to submit the declaration referred to in this section.

(4) Where a member of the Appeals Tribunal or an immediate family member or close associate experiences a change in financial or any other interests in the transport industry, or acquires an interest in the transport industry, or has reason to know of any changed circumstances which have the effect of impairing his or her ability to continue functioning as a member of the Appeals Tribunal, the member of the Appeals Tribunal must, within 10 days of becoming aware of the changed circumstances, submit a written declaration to the MEC advising –

- (a) of such changed circumstances; and
- (b) his or her intended action consequent to the changed circumstances.

Failure to declare financial or other interests

74.(1) A member of the Appeals Tribunal who has failed to make a declaration envisaged in section 73 commits an offence.

(2) The Head of Department on becoming aware that an Appeals Tribunal member has failed to comply with the provisions of section 73 must investigate the matter and refer the matter to the MEC for appropriate disciplinary action.

Remuneration of members of Appeals Tribunal

75.(1) The members of the Appeals Tribunal must be paid the remuneration and allowances determined by the MEC in consultation with the MEC for Finance.

(2) A member of the Appeals Tribunal who is a member of the public service may not be paid remuneration in addition to his or her salary, except for travelling and out-of-pocket expenses related to the business or activities of the Appeals Tribunal.

Meetings of Appeals Tribunal

76.(1) The first meeting of the Appeals Tribunal must be held at the time and place determined by the MEC, and thereafter meetings will be held at the times and places determined by the Chairperson of the Appeals Tribunal.

(2) The Chairperson of the Appeals Tribunal must convene a special meeting –

- (a) at the request or agreement of the majority of the members; and
- (b) when requested to do so by the MEC.

(3) A *quorum* for a meeting of the Appeals Tribunal is at least two members.

(4) The procedure at meetings of the Appeals Tribunal, including the procedure for taking decisions, must be determined by the Appeals Tribunal subject to the directions, if any, of the MEC.

(5) The decision of the majority of the members of the Appeals Tribunal present at a meeting constitutes the decision of the Appeals Tribunal in respect of those proceedings and in the event of an equal number of votes, the person presiding at the meeting has a casting (decisive) vote in addition to his or her deliberative (normal) vote.

Powers and functions of Appeals Tribunal

77.(1) The Appeals Tribunal is an independent body which must act in a fair and impartial manner to hear appeals against decisions made by the Board, the Registrar and a planning authority.

(2)(a) Subject to subsection (4), the Appeals Tribunal must hear appeals based solely on the record provided by the entities against which the appeal is directed and may not hear new evidence.

(b) If new evidence is introduced in an appeal proceeding, the Appeals Tribunal must refer the matter back to the entity against whom the appeal is directed.

(3) The Appeals Tribunal is bound by relevant transport plans.

(4) The Appeals Tribunal may, in its discretion and for the purpose of dealing with a matter before it in terms of this Act –

- (a) allow a person affected by or interested in the matter, or the duly authorised representative of that person, to appear before it and –
 - (i) give evidence or make oral representations relevant to the appeal;
 - (ii) call witnesses and lead evidence on a question relevant to the appeal; or
 - (iii) question a person who testified at the appeal;

(b) by written notice as prescribed and served in the manner prescribed, require a person to appear before it to give evidence or to hand over a book, plan or other document or article in his or her possession or under his or her control;

(c) call upon a person present at the place where the Appeals Tribunal deals with the matter, to appear before it to give evidence or to hand over a book, plan or other document or article which the person has in his or her possession;

(d) question a person appearing before it as a witness; and

(e) refuse to hear a person appearing before it as a witness who refuses to be sworn in or to be affirmed.

(5) The person presiding at a meeting of the Appeals Tribunal at which a person appears as a witness as provided for in subsection (4), must administer an oath or affirmation to the person so appearing.

Appeals to Appeals Tribunal

78.(1) Save as otherwise provided in this Act and subject to subsection (2), a person who, or association which –

(a) has applied to the Board for the grant, amendment or transfer of an operating licence or whose operating licence has been withdrawn, varied or suspended by the Board;

(b) is the holder of an operating licence issued by the Board;

(c) in the manner and within the time prescribed, submitted representations to the Board objecting to or supporting an application;

- (d) has applied to the Registrar for registration in terms of this Act or whose registration has been withdrawn or suspended by the Registrar;
- (e) has been registered by the Registrar;
- (f) is affected by an act, direction or decision of the Board, planning authority or Registrar; or
- (g) has an interest in an inquiry conducted by any of these entities,
- may, in the manner and within the time prescribed after the said act was performed or the said direction or decision was given, appeal against the act, direction or decision to the Appeals Tribunal.
- (2) Where the Board, Registrar or planning authority notifies a person of a direction or decision referred to in subsection (1) by means of a written document, the date of that document is deemed to be the date on which that direction or decision was given.
- (3) The Appeals Tribunal must –
- receive and, subject to the provisions of this section and the regulations, consider an appeal lodged with it in terms of subsection (1) within 60 days of receipt of the notice of appeal; and
 - communicate its decision to all relevant parties within the prescribed period.
- (4) The Appeals Tribunal, in considering an appeal, may –
- reject the appeal and confirm the act, direction or decision appealed against;
 - uphold the appeal, set aside the act, direction or decision appealed against, and –
 - substitute the decision of the Board, Registrar or planning authority with another act, direction or decision which the Board, Registrar or planning authority could have performed or given; or
 - remit the matter which gave rise to the appeal to the Board, Registrar or planning authority, as the case may be, for consideration afresh; or
 - uphold the appeal partially and vary the act, direction or decision appealed against.
- (5) The Chairperson of the Appeals Tribunal or a member thereof nominated by the Chairperson may, in his or her discretion and without giving prior notice to or hearing any interested party –
- grant an application for condonation of the late filing of a notice of appeal: Provided the application for condonation and the appeal are lodged simultaneously, in the manner prescribed by regulation within six weeks after the Board, Registrar or planning authority performed the act or gave the direction or decision appealed against, or refuse it; or
 - set aside an act, direction or decision of the Board, Registrar or planning authority appealed against and remit the matter to the Board or Registrar, as the case may be, for consideration afresh.
- (6) An act, direction or decision of the Appeals Tribunal in terms of subsection (4)(b)(i) or (c) is, except for the purposes of subsection (1), deemed to be an act, direction or decision of the Board, Registrar or planning authority, as the case may be.

Annual report of Appeals Tribunal

- 79.**(1) The Chairperson of the Appeals Tribunal must submit an annual report on the activities of the Appeals Tribunal to the MEC within 30 days of the end of the financial year.
- (2) The Chairperson may, in the annual report, recommend necessary legislative, regulatory and procedural amendments to this Act.

Transitional provisions

- 80.** Any appeal pending before –
- the Commission (National Transport Commission) as defined in the Road Transportation Act; or
 - the Transport Appeal Tribunal established in terms of section 3 of the Transport Appeal Tribunal Act, 1998 (Act No. 39 of 1998),
- on the date of commencement of this Act, must be disposed of by such Commission or Tribunal in terms of those Acts, despite the provisions of section 78.

Staff of Appeals Tribunal

- 81.** The Head of Department must, subject to the laws governing the public service, provide the staff and other means necessary to enable the Appeals Tribunal to perform its functions.

CHAPTER 7 PROVINCIAL TRANSPORT REGISTRAR

Appointment of Provincial Transport Registrar

- 82.**(1) The MEC must, appoint a fit and proper person as the Provincial Transport Registrar for the Province on terms and conditions agreed to between the MEC and the MEC for Finance.
- (2) Despite the provisions of subsection (1), (3) and (4), the Registrar appointed in terms of the Interim Taxi Act, is regarded as the Provincial Transport Registrar appointed in terms of subsection (1) and may continue in office until expiry of the period for which he or she was appointed.
- (3) Before appointing a person as Registrar, the MEC must –
- using a method designed to reach the greatest number of residents in the Province, invite the application of persons for the position of Registrar;
 - publish, in a notice in the *Gazette* and province-wide newspapers, the name of the person he or she proposes to appoint as Registrar, and invite comment and representations in that regard; and
 - give due consideration to any comments and representations received in connection with the proposed appointment of the Registrar.
- (4)(a) The MEC must appoint a selection panel of no less than four Departmental senior officials to review all applications for the post of Registrar.
- (b) The MEC may, in his or her sole discretion, appoint no more than two persons with experience in the transport industry to assist the selection panel referred to in paragraph (a) with reviewing all applications for the post of Registrar.

- (c) The MEC must, consider the recommendations referred to in paragraphs (a) and (b) before appointing the Registrar.
- (5) The Registrar must be impartial, independent and fair in the exercise of powers and performance of duties assigned to him or her by this Act and any powers assigned or delegated by the MEC and must do so without fear, favour or prejudice.
- (6) The Registrar and his or her family members and close associates may not have any direct financial or business interest in any sector of the public transport industry.
- (7) A person may not be appointed or remain in office as Registrar if he or she has –
- been or is removed from public office on account of misconduct;
 - been or is declared insolvent and has not been rehabilitated;
 - been or is convicted of an offence and sentenced to a period of imprisonment exceeding 12 months without the option of a fine; or
 - been or is convicted of an offence of which dishonesty is an element.

Term of appointment of Registrar

83.(1) The Registrar is appointed for a term of three years.

(2) The Registrar is eligible for re-appointment for one additional term of three years.

Appointment of Acting Registrar

84. When the office of Registrar is vacant or the Registrar is removed or is unable to perform his or her functions, the MEC may appoint any fit and proper person who is not subject to any disqualification referred to in section 82(7), to act as Registrar and exercise the powers, functions and duties of that office until the vacancy is filled or the incumbent of the office has resumed duty, as the case may be.

Remuneration and allowances

85. The Registrar or a person appointed to act in place of the Registrar must be paid the remuneration and allowances determined by the MEC in consultation with the MEC for Finance.

Functions of Registrar

86. The Registrar must –

- consider and decide upon any application for registration in terms of this Act;
- grant a certificate of provisional or full registration, as the case may be, to any registered association and its members, or to non-members, in terms of this Act;
- keep a register in which he or she must cause to be recorded and kept up to date such details or particulars of each association, member or non-member registered in terms of this Act as prescribed;
- take reasonable steps to collate information and monitor compliance or non-compliance of registered associations with their registered constitutions and applicable legislation, and of registered members and non-members with the provisions of the Code of Conduct prescribed in terms of section 106;
- assist in the promotion of professional practices by registered associations and their members and by registered non-members;
- take all reasonable steps to ensure that associations and operators register in terms of this Act;
- provide advice and assistance to associations and operators to enable them to apply successfully for registration;
- consider and give a decision on the suspension and cancellation of the registration of an association, member or non-member as provided for in section 102;
- where registration is cancelled or suspended for any reason, notify the Board accordingly within a period to be prescribed, after which the Board must withdraw, or suspend for an appropriate period the relevant operating licences;
- upon registration of an inter-provincial association or non-member, forward a copy of the certificate of registration and all registered details of the association or non-member to the Registrar or department responsible for transport affairs in each province to or from which the members of the said association or non-members operate;
- evaluate proposed amendments to the constitutions of registered associations in order to ensure that the amendments are consistent with the requirements of the Minimum Standard Constitution as provided for in section 106, and liaise with associations with a view to preventing the adoption of amendments that are not so consistent, or inform them of the inconsistency of amendments adopted by them, and call on them to abandon such amendments;
- facilitate democratic procedures within associations;
- keep records of all other information and particulars required to maintain the National Transport Register;
- receive, investigate or mediate disputes and complaints submitted by –
 - an association with respect to an unresolved dispute with one or more of its members;
 - an association member with respect to an unresolved dispute with the member's association;
 - an association with respect to an unresolved dispute with another association or its members;
 - a non-member;
 - any entity engaged in the provision of public transport services; or
 - a member of the public;
- receive, investigate or mediate disputes and complaints within the transport industry–
 - referred by the MEC;
 - referred by the Board;
 - referred by a planning authority; or
 - referred by another government body;
- by written notice within two weeks after having acted in terms of section 102 against –
 - a registered association notify the MEC and the Board; or
 - a member or non-member notify the Board, of the action so taken and the reasons therefor; and
- undertake any other duties required in terms of this Act.

Certificates of registration, registration numbers and distinguishing marks

87.(1) Upon having registered an association, a member or non-member, the Registrar must allocate a unique registration number to the association, member or non-member concerned and issue to him, her or it a registration certificate or a certificate of provisional registration, as the case may be, in the manner and form and containing the particulars as prescribed.

(2) Where a member or non-member is registered the Registrar, with effect from a date determined by the MEC in the *Gazette*, must issue, in the manner and form prescribed, a distinguishing mark for every vehicle of the registered member or non-member that is used, under the authority of an appropriate operating licence.

Resignation, vacation of office and removal from office

88.(1) The Registrar may resign by giving one calendar month's written notice to the MEC.

(2) The Registrar must vacate his or her office if he or she –

- (a) is no longer compliant with section 82(6);
- (b) becomes disqualified under section 82(7);
- (c) is removed from office in terms of subsection (3); or
- (d) resigns.

(3) The MEC may remove the Registrar from office if he or she –

- (a) has failed to comply with a condition of his or her appointment;
- (b) has been guilty of improper conduct or has regularly neglected his or her duties as Registrar;
- (c) is unable to perform efficiently his or her duties as Registrar; or
- (d) is incapacitated to the extent of not being able to perform his or her duties;
- (e) as a result of a change in circumstances, is no longer likely to be impartial in the exercise of his or her duties.

Establishment and functions of panel of assessors

89.(1) The MEC may, after consultation with the Registrar, by notice in the *Gazette* establish a panel of the number of assessors determined by the MEC.

(2) The functions of the panel of assessors are –

- (a) to assist the Registrar;
- (b) to advise the Registrar and make recommendations with regard to any matter which may be referred to it by the Registrar and which relates to the exercise or performance of the Registrar's powers, functions and duties in terms of this Act;
- (c) at the request of and subject to the directions of the Registrar, to –
 - (i) undertake any investigation and report its findings and recommendations to the Registrar; and
 - (ii) monitor compliance of registered associations with their registered constitutions and applicable legislation, and of registered members and non-members with the relevant Code of Conduct.

(3) Assessors must exercise or perform their powers and functions independently and impartially, without fear, favour or prejudice.

Appointment, remuneration and conditions of service of assessors

90.(1) Subject to subsection (2), the MEC must appoint the assessors referred to in section 89(1) as members of a panel from which members may be drawn by the Registrar when necessary.

(2) In so doing, the MEC must appoint fit and proper persons who are characterised by their impartiality, but may not appoint any person who does not comply with the requirements of section 82(7) applicable to the Registrar.

(3) Assessors are appointed to the panel for a maximum initial term of three years, which may be extended for a final further term of three years.

(4) Each of the assessors is entitled to –

- (a) remuneration for time when the assessor was officially occupied with the work of the panel of assessors in terms of this Act, at a daily or hourly rate determined by the MEC in consultation with the MEC for Finance;
- (b) be reimbursed, in accordance with a tariff determined by the MEC, for all reasonable travelling and subsistence expenses necessarily incurred while the assessor was officially occupied with the work of that panel.

(5) Section 88 relating to the disqualifications for and termination of office of the Registrar applies, with the necessary changes, to the office of an assessor.

Meetings of panel of assessors

91.(1)(a) The Registrar may call meetings of assessors when deemed necessary, at the place and time determined by the Registrar.

(b) The Registrar must chair meetings with assessors unless the Registrar decides otherwise in a particular case.

(2) The Registrar must ensure that minutes are kept of the proceedings at meetings with assessors.

Staff to assist Registrar

92. The Head of the Department must, subject to the laws governing the public service, provide the staff necessary to assist the Registrar in the performance of his or her functions.

Annual reporting and financial accountability

93.(1) The Registrar must submit an annual report on the activities of his or her office to the MEC within 30 days of the end of the financial year which report must, inter alia, deal with the following –

- (a) the functioning of the Registrar's office;
- (b) the functioning of the panel of assessors, and its role and contributions in assisting the Registrar in the performance of the functions of that office;
- (c) matters concerning registrations in terms of this Act; and
- (d) other topical matters in connection with or arising from the application of this Act.

- (2) The MEC must table the Registrar's report in the Provincial Legislature within 30 days of receipt, if the legislature is then sitting, or if it is not then sitting, at its next sitting.
- (3) The Registrar is, subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999) responsible for –
- accounting for State and any other funds received or paid out for or on account of the Registrar; and
 - maintaining accurate and up to date accounting and other records.

CHAPTER 8

REGISTRATION OF MINIBUS TAXI ASSOCIATIONS, MEMBERS AND NON-MEMBERS

Provisional registration of associations previously registered

94. An association which, before the commencement of this Act was provisionally registered in terms of section 8(4) of the Interim Taxi Act, is regarded and treated as provisionally registered in terms of the relevant provisions of the National Land Transport Transition Act.

Provisional registration of associations not qualifying directly for full registration

95.(1) The Registrar must grant provisional registration to any association, for the prescribed period, if the association upon application made by it satisfies the Registrar that –

- it has been in existence for a period not less than the minimum period prescribed;
 - the number of members meets the prescribed minimum;
 - all its members, in accordance with a method to be prescribed by regulation, have subscribed to the provisions of the Code of Conduct;
 - the association has a constitution –
 - which has been subscribed to by all its members, and in terms of which any breach of those specified provisions of the Code of Conduct by any member will result in the imposition of an appropriate penalty or sanction by a standing disciplinary committee after due inquiry; and
 - which complies with the minimum requirements prescribed by the MEC in terms of section 106;
 - all of its members hold appropriate operating licences for each vehicle by means of which they operate their respective minibus taxi-type services, or have applied for such operating licences;
 - the association's application for provisional registration has been made by the association's authorised representatives, accompanied by the prescribed application fee (if any);
 - the amounts of the joining fee and membership fee do not exceed the maximum amounts as prescribed;
 - that the association has supplied all of the information reasonably required by the Registrar.
- (2) The Registrar, if satisfied that an applicant association meets the requirements for provisional registration imposed by subsection (1), must register it provisionally and must issue to the association an appropriate registration certificate.
- (3) The provisional registration of an association will lapse when either one of the following events occurs –
- when the period determined by the MEC in terms of subsection (1) expires;
 - when the association obtains full registration in terms of section 97.

Conversion of provisional registration to full registration

96.(1) The Registrar must grant full registration to an association which, before the expiry of the period of its provisional registration, has applied to the Registrar to convert its provisional registration to full registration and has satisfied the Registrar –

- that it meets the requirements of section 97; and
 - that it has terminated the membership of every member who at the date of the application does not hold a valid and appropriate operating licence for each vehicle by means of which the member operates minibus taxi-type services.
- (2) This section does not prevent an association whose provisional registration has lapsed from applying for full registration in terms of section 97.

Full registration of associations

97. The Registrar must grant full registration to any association and each of its members who upon application made by it satisfies the Registrar that –

- the association complies with paragraphs (a), (b), (c) and (d) of section 95(1);
- the association's application for registration has been made by the association's authorised representatives in the manner referred to in this section, accompanied by the prescribed application fee (if any);
- each member in respect of whom application for registration is made holds a valid operating licence for each vehicle by means of which the member operates minibus taxi-type services;
- the amounts of the joining fee and membership fee of the association do not exceed the maximum amounts as prescribed; and
- the association has supplied all of the information reasonably required by the Registrar.

Registration of existing members of associations

98.(1) Upon having registered an association in terms of sections 94 to 97, as the case may be, all persons in respect of whom the association has submitted the required particulars as members of that association must be registered by the Registrar, in the prescribed manner.

(2) The onus rests on a member of an association to take the steps necessary to ensure that he or she becomes registered in terms of subsection (1).

(3) No person may remain as a registered member of an association who is not the holder of a valid operating licence.

Registration of new members

99.(1) Where a registered association has admitted a new member who holds an operating licence which coincides with the area or routes for which the association is recognised by the Registrar, the executive committee, other body or office-bearer of the association duly authorised by that committee or body, must apply to the Registrar in the manner prescribed for the new member's registration as a member within 14 days of such admission.

- (2) Where a registered association grants temporary membership to an aspiring member pending the outcome of that member's application to the Board for the granting of an operating licence over the area or routes for which the association is recognised by the Registrar, the association must notify the Registrar of that temporary membership within 14 days of granting such membership.
- (3) Should the application for an operating licence referred to in subsection (2) be –
- (a) successful, the Board must notify the Registrar within 14 days, who must then register the said member of the association accordingly; or
 - (b) unsuccessful, the Board must notify the Registrar within 14 days, who must direct the association to terminate the membership of that temporary member within 14 days of the issuing of the directive, and failure by the association to do so will amount to misconduct.

Registration of non-members

100.(1) A non-member who, as at the date of commencement of this Act, is the holder of an operating licence for minibus taxi-type services must within the prescribed period, apply to the Registrar for registration as a non-member, and upon registration must, subscribe to the Code of Conduct prescribed in terms of section 106.

- (2) The Registrar may not register a non-member as referred to in subsection (1), in respect of an operating licence which coincides with the area or routes for which the Registrar has already recognised an association, unless –
- (a) the non-member can provide valid reasons as to why the non-member cannot join an association registered for the relevant area or routes; or
 - (b) the Registrar is able to confirm that there is no registered association with regard to the area or routes in question or, where there is such a registered association –
 - (i) the applicant has been refused membership of the association;
 - (ii) the requirements for admission to membership are unfair; or
 - (iii) the applicant cannot reasonably be expected to become a member of the association in view of the prevailing circumstances.
- (3) Subject to subsection (2) the Registrar may not withhold registration from a non-member if the non-member –
- (a) holds an appropriate operating licence for each vehicle by means of which the non-member operates a minibus taxi-type service; and
 - (b) operates the service to which such an operating licence relates, in compliance with the terms of, and conditions attached to, the operating licence.
- (4) A non-member's failure to apply for registration as referred to in subsection (1) may result in the affected operating licence –
- (a) lapsing and the non-member forfeiting his or her rights with regard to that operating licence; and
 - (b) being withdrawn by the Board as prescribed by regulation.

Compulsory registration of associations and operators of minibus taxi-type services

101. As from the date of commencement of this Act –

- (a) every association engaged in the operation of minibus taxi-type services must be at least provisionally registered in terms of this Chapter, and no association may carry on business as such unless it is so registered;
- (b) no person may operate minibus taxi-type services unless that person is a registered member of an association registered in terms of this Chapter, or in the case of a non-member is duly registered by a date prescribed by the MEC having regard to the provisions of section 100(1); and
- (c) the Board must withdraw all operating licences authorising minibus taxi-type services where the holder thereof is not a member of an association that is registered in terms of this Chapter and has failed to comply with the requirements of section 100(1).

Cancellation or suspension of registration

102.(1) The Registrar must cancel the registration of –

- (a) an association which –
 - (i) has ceased to exist or is no longer based in the Province; or
 - (ii) has secured registration through fraudulent conduct;
 - (b) a member, in respect of a particular association, where –
 - (i) the registration of that association is cancelled; or
 - (ii) membership of that association has been duly terminated in accordance with its constitution; or
 - (c) a registered non-member who –
 - (i) is no longer based in the Province;
 - (ii) if a juristic person, has ceased to exist; or
 - (iii) does not hold an appropriate operating licence for each vehicle used to operate the relevant service.
- (2) The Registrar may suspend, for a period to be prescribed, the registration of –
- (a) any association for failure to comply with this Act or any other relevant legislation, or any provision of its registered constitution that is material for the application of this Act;
 - (b) any member whose membership of an association has been suspended;
 - (c) any member or non-member for having breached the Code of Conduct; or
 - (d) any member or non-member who has been convicted of an offence referred to in section 115.
- (3) The Registrar by written notice must inform an association, member or non-member of cancellation or suspension of registration and the reasons therefor, and where the Registrar considers it necessary direct the association, member or non-member, as the case may be, to return the relevant registration certificate and distinguishing marks to the Registrar within a period to be prescribed.
- (4) Upon being notified by a registered association that it has terminated or suspended the membership of a registered member for non-compliance with its registered constitution or breach of the Code of Conduct, the Registrar must cancel that member's registration or suspend it for the same period, respectively, only after the Registrar is satisfied that the affected member –
- (a) has chosen not to appeal against the decision; or
 - (b) having appealed against the decision of the association, has been unsuccessful and has not lodged an appeal with the Registrar.

(5) In the event that the member referred to in subsection (4) has appealed to the Registrar against the decision of the association, the Registrar must withhold cancellation of that member's registration pending his or her decision on the outcome of the appeal.

(6) Where an association has terminated membership due to a member's breach of the Code of Conduct, the Registrar may, if justified in the circumstances, cancel that member's registration in respect of any other association of which the former is a member, after having given the member sufficient opportunity to make representations and advance reasons why the action contemplated should not be invoked.

Application and registration procedure

103. The form of application and registration procedure must be as prescribed.

CHAPTER 9 REGISTRATION OF MODES OTHER THAN MINIBUS TAXI-TYPE SERVICES

Regulations on registration of modes other than minibus taxi-type services

104. The MEC may make regulations providing for the registration of associations, their members and operators of modes other than minibus taxi-type services which should be broadly based on the principles referred to in Chapter 8 of this Act, but may include deviations therefrom or additions thereto, and such regulations may make such registration compulsory as from a date determined by the MEC, and provide for sanctions for failure to register.

CHAPTER 10 OBLIGATIONS IMPOSED ON ASSOCIATIONS, OPERATORS AND DRIVERS

Accreditation of operators and drivers

105. The MEC may prescribe conditions to be imposed and norms and standards to be observed by operators of public transport services and drivers of public transport vehicles, for the purposes of certification as accredited operators and drivers in the public transport sector.

Minimum Standard Constitution and Code of Conduct

106.(1) The Code of Conduct and Minimum Standard Constitution referred to in regulations 26 and 27, respectively, of the National Land Transport Transition Regulations on Operating Licences and Related Matters for the Province, contained in Notice No. 149 of 2001, as published in (Provincial) *Gazette* No. 6020 of 23 April 2001, must continue to apply as at the date of commencement of this Act.

(2) The constitution of a registered association must conform to the requirements of the Minimum Standard Constitution prescribed by the MEC from time to time.

(3) In an event of a conflict between the provisions of the constitution of an association with those of the Minimum Standard Constitution, the provisions of the latter prevail.

(4) Operators of public transport services and drivers of public transport vehicles must observe the Code of Conduct as prescribed by the MEC from time to time.

(5) The MEC may prescribe additional rules –

- (a) as to the requirements with which an association registered in terms of this Act must comply in conducting its affairs;
- (b) as to the requirements with which an operator registered in terms of this Act must comply in conducting his or her business; and
- (c) prescribing conduct on the part of a registered association, member, non-member or operator which constitutes improper conduct for the purposes of section 107.

Non-compliance with registered constitution, and breach of Code of Conduct

107.(1)(a) Where the Registrar on reasonable grounds suspects that a registered association has failed to comply with any provision of this Act or other applicable legislation or its registered constitution, or that a registered operator has breached the relevant Code of Conduct, the Registrar must conduct an investigation into the matter.

(b) In conducting such an investigation, the Registrar must give the association or operator an opportunity to make representations or give evidence with regard to the alleged non-compliance or breach.

(c) In deciding the matter, the representations and evidence presented by the association or operator must be taken into consideration.

(2) Where in terms of this Act, the specific act of non-compliance or breach constitutes a criminal offence and the association or operator has been charged with such an offence, the Registrar may postpone the investigation until the criminal proceedings against the accused have been finalised or withdrawn.

(3)(a) If the Registrar finds an association or operator guilty of such a non-compliance or breach, the Registrar, by notice in writing, must direct the association or operator to remedy the non-compliance or breach within the period stated in the notice.

(b) An association or operator to whom such a notice has been given, may approach the Registrar's office for assistance.

(4) Upon failure to comply with such a notice, the Registrar may impose a fine in the amount as prescribed for the specific non-compliance or breach, or cancel the registration of the association or operator or suspend the registration.

(5) Without derogating from the powers conferred by subsections (1) to (4) and where the Registrar has reason to believe that the ability of an association to govern its affairs has become irretrievably impaired, the Registrar may take any appropriate action, including but not limited to the calling of elections in terms of the constitution of that association, which he or she may consider necessary to restore good governance.

Registration no bar to prosecution

108. The registration of any operator is no bar to the prosecution of such operator for an offence mentioned in section 116(1)(a).

CHAPTER 11 LAW ENFORCEMENT

Public transport law enforcement

109.(1) In addition to the measures provided for in this Act with regard to law enforcement, the MEC, transport authorities and municipalities must take active steps to develop systems to improve public transport law enforcement in their respective jurisdictions.

- (2) Despite the provisions of any other law –
- (a) the MEC;
 - (b) a transport authority; or
 - (c) a municipality,
- called in this section an enforcement authority, may enter into an agreement in terms of the matters mentioned in subsection (3).
- (3) An agreement referred to in subsection (2) may provide that –
- (a) public transport law enforcement functions will be undertaken by one enforcement authority in the area of jurisdiction of another;
 - (b) authorised officers of one such enforcement authority may be seconded to another enforcement authority temporarily; or
 - (c) public transport law enforcement functions are undertaken jointly, or by a public or private sector agency on behalf of an enforcement authority;
- on terms and conditions set out in the agreement, including conditions as to which enforcement authority must bear the costs involved.

Appointment of non-enforcement personnel as inspectors

110.(1) The MEC or the delegated representative of a transport authority or municipality may designate employees in their respective Departments who are fit and proper persons, as inspectors for the purposes of matters which, in terms of this Act, fall under the jurisdiction of the Province, a transport authority or municipality, as the case may be.

- (2) The Head of Department or the delegated representative of a transport authority or municipality, as the case may be, must issue to every inspector so designated a certificate of appointment and official proof of identity in the prescribed form.
- (3) The functions of inspectors so appointed are to monitor compliance with this Act in the Province, or in the transport area concerned, and to assist with the investigation and prevention of offences referred to in section 116.
- (4) In performing those functions, an inspector will have all the powers conferred on an authorised officer by or in terms of this Act.
- (5) When performing any function or duty or exercising any power in terms of this Act, an inspector must on demand by any person in relation to whom the power, function or duty is exercised or performed, produce his or her certificate of appointment.

Impounding of vehicles

111.(1) An authorised officer who is satisfied on reasonable grounds that a motor vehicle is –

- (a) being used by any person for the operation of public transport without the necessary operating licence or contrary to the conditions imposed with regard thereto; or
- (b) unroadworthy,

may impound the vehicle pending the investigation and prosecution of that person for an offence mentioned in section 116(1)(a) or (b).

- (2) The procedures in terms of which vehicles must be impounded, stored for safekeeping, subsequently released or disposed of must be prescribed by the MEC.
- (3) The scale of storage fees applicable to impounded vehicles must be determined by the head of the relevant enforcement authority mentioned in section 109(2).

Proof of certain facts

112.(1) An official document which purports to be an operating licence or a copy thereof certified as a true copy, will on mere production in any prosecution for an offence mentioned in section 115(1), be admissible in evidence as proof, at face value, that it is such a licence which had been lawfully issued, or that it is a true copy thereof, as the case may be, and of the truth and accuracy of the particulars thereof.

(2) An official document which states that the motor vehicle described therein is registered, in terms of the relevant law, in the name of a person specified therein as the owner, and which purports to have been issued in terms of such a law by an employee of the registering authority for motor vehicles of the place where the vehicle was so registered, will on mere production in a prosecution in terms of this Act, be admissible as proof, at face value, of the person's registered ownership of the vehicle and of the truth and accuracy of the particulars contained therein.

Conflict resolution

113.(1) Where a situation of conflict arises in the public transport sector, the MEC may prescribe conflict resolution procedures, which may include, but are not limited to, establishing an ad hoc conflict resolution committee to act as arbitrator in the conflict.

(2) Such a committee, if established, must consist of a number of members as prescribed, and the MEC may prescribe procedures for and venues for meetings thereof, which may provide for procedures to investigate the situation and for reporting to the MEC on the outcome of the arbitration.

(3) This section does not derogate from any of the powers of any statutory body in terms of this Act to proceed with disciplinary proceedings or take other steps, as the case may be, regardless of the committee's activities.

- (4) A person may not be appointed to serve on a conflict resolution committee if he or she has –
- (a) been or is removed from public office on account of misconduct;
 - (b) been or is declared insolvent and has not been rehabilitated;

- (c) been or is convicted of an offence –
 - (i) of which dishonesty is an element; or
 - (ii) for which a term of imprisonment exceeding 12 months without the option of a fine has been imposed;
- (d) a financial interest in a business in any sector of the public transport industry or is engaged in an activity connected therewith; or
- (e) an immediate family member who has any direct financial or business interest in any sector of the public transport industry.

Emergency measures

114.(1) Where the MEC is of the opinion that emergency measures are necessary to normalize transport services in an area affected by violence, unrest, conflict or instability, the MEC may declare the area, which may be the entire Province, as a “transport crisis area” for purposes of this section, by notice in the *Gazette*.

(2) Having made a declaration in terms of subsection (1), the MEC may close one or more or all of the routes in the affected area for a period as may be deemed fit and, if necessary in the public interest, the MEC may request the Board to –

- (a) temporarily suspend any operating licence insofar as it authorises public transport services in the area declared in terms of subsection (1); or
- (b) issue temporary operating licences authorising other operators to operate the closed routes for the period of their closure.

(3) Notwithstanding any provision to the contrary, before taking action in terms of subsection (2), the MEC or affected municipality must publicise through an appropriate medium the nature and purpose of the intended action together with details of the routes or ranks that will be closed.

(4) Any interested or affected persons may make representations to the MEC or municipality, in the manner and within the time period prescribed, as to why the decisions made in terms of subsection (1) and (2) should be reconsidered.

(5) Where the Board acts in terms of subsection (2), the normal provisions of this Act relating to matters such as notice to affected operators, notification of Board decisions, opportunity to lodge objections and any other protection of service provider rights, which would normally be applicable in a stable environment, will not apply.

Powers of authorised officers

115.(1) In addition to the functions and duties imposed on an authorised officer by or in terms of this Act, an authorised officer may –

- (a) stop a motor vehicle to enter it and establish if it is used for public transport or to monitor compliance with any provision of this Act, or with the terms of any operating licence, and may for those purposes examine or inspect the vehicle and any documentation that may be relevant;
- (b) require that the records to be kept in the vehicle in terms of this Act, be produced by the driver of the vehicle or by the conductor, if any, for inspection;
- (c) require from the driver to furnish the latter’s full name and residential address, and documentary proof thereof, as well as the name and address of the owner of the vehicle, and particulars of the business in connection with which the vehicle is being used;
- (d) require that the driver or other person in charge of the vehicle forthwith produce for inspection any documents or other records that are in or on the vehicle in the possession of the driver or that person that relate to the persons being conveyed on such vehicle;
- (e) require that any person on a motor vehicle suspected on reasonable grounds to be used for public transport, or a person suspected on reasonable grounds to have been on such a vehicle recently, furnish the latter’s full name and address and documentary proof thereof and state if the latter has paid or has to pay any consideration for conveyance on the vehicle, and furnish the name and address of the person to whom the payment has been made or will have to be made;
- (f) enter or enter upon any business premises at any reasonable time to monitor compliance with this Act, and question any person who, in the opinion of the authorised officer, may be able to furnish any information required for that purpose, and may require such a person to produce, for examination or inspection, any books and documents, and any other records of any type whatsoever, that may be relevant for monitoring purposes, and make extracts therefrom or copies thereof, and demand an explanation of any entries in such a book, document, or other record, but any person so questioned or required to furnish an explanation is entitled to all the privileges to which any person testifying before a court of law is entitled;
- (g) require that the driver or other person in charge of a motor vehicle used for public transport produce any documents whatsoever, that were issued by a competent authority in terms of this Act, or the Road Transportation Act with regard to the vehicle or the public transport for which it may be used in terms of this Act, or such other Act (as the case may be) and which, in terms of this Act or that law have to be kept on that vehicle; and
- (h) upon the order of the Board, attach an operating licence that has expired or lapsed or has been withdrawn temporarily in terms of this Act, and hand it over to the Board.

(2)(a) Where an authorised officer finds a vehicle used for public transport under the authority of an operating licence to be so defective as to be a danger to persons or property, the authorised officer may order the driver or other person in charge of the motor vehicle to surrender that operating licence, as well as all distinguishing marks relating to the vehicle, and prohibit that driver or person forthwith to use the vehicle for public transport, and may impound the vehicle as provided for in section 111(1).

(b) The operating licence so surrendered will be retained by the authorised officer until the defects have been remedied and the vehicle is certified to be roadworthy in accordance with procedures prescribed by the MEC.

Offences and penalties

116.(1) A person is guilty of an offence if he or she –

- (a) operates or undertakes a public transport service without holding the necessary operating licence;
- (b) operates or undertakes a public transport service contrary to the terms and conditions of an operating licence, or who operates a vehicle which does not comply with the requirements of section 62(1)(g);
- (c) being the holder of an operating licence or the agent or employee of such a holder, the person allows someone else to use that operating licence for a vehicle other than the vehicle specified in the operating licence;
- (d) applies for or obtains an operating licence knowing that a current operating licence has already been issued with regard to the same vehicle;

- (e) with the intent to deceive forges, alters, defaces, damages or adds to any operating licence or other official document issued in terms of this Act;
- (f) knowingly that a document is not an operating licence, or such another official document or that it has been altered, defaced, damaged or added to, uses the document;
- (g) furnishes or gives false information in or with regard to any application made to the Board or Registrar, or in the course of appearing in any proceedings, investigation or inquiry before the Board or Registrar;
- (h) impersonates an authorised officer;
- (i) hires out or hires from the holder an operating licence in contravention of the provisions of section 62(2);
- (j) contravenes the provisions of section 66 relating to disqualification with regard to the holding of operating licences;
- (k) fails to provide and maintain the passenger liability insurance cover referred to in section 62(1)(j);
- (l) being the holder of an operating licence or the driver of a vehicle to which that operating licence relates, fails to comply with any duty or obligation imposed on such a holder or driver by or in terms of this Act;
- (m) wilfully obstructs or hinders an authorised officer who is discharging the duties attached to the office concerned;
- (n) refuses or fails to comply with any lawful order, direction or demand made by an authorised officer in the discharge or performance of any function or duty entrusted to the authorised officer by or in terms of this Act;
- (o) fails to return an operating licence, registration certificate, or a distinguishing mark to the Board or Registrar, as the case may be, if required to do so by this Act;
- (p) without good reason –
- (i) refuses or fails to appear before the Board, Registrar or Appeals Tribunal in compliance with an order or subpoena issued in terms of this Act;
 - (ii) refuses or fails to answer, or to answer to the best of the person's knowledge and ability, any question lawfully put to the person by any member of the Board, Registrar or Appeals Tribunal, as the case may be; or
 - (iii) refuses or fails to produce any book, document or plan or any other record of any nature or kind whatsoever, or any article, in compliance with such an order or subpoena;
- (q) whilst being conveyed as a passenger on a vehicle in the course of the operation of a public transport service, the person –
- (i) fails to pay the fare due for the journey when payment is requested by the driver or conductor of the vehicle concerned;
 - (ii) smokes or consumes alcohol or any intoxicating or illegal substance on that vehicle;
 - (iii) acts in a manner that is prejudicial to the well – being of a fellow passenger;
 - (iv) disobeys a reasonable instruction issued by the driver or conductor of that vehicle for the purpose of maintaining order or ending a disturbance or controlling any emergency arising or existing on that vehicle; or
 - (v) performs any act in or on that vehicle that could cause injury to or endanger the life of any person or cause damage to any property;
- (r) sets down passengers at or near an international border in contravention of section 46(2) of the National Land Transport Transition Act;
- (s) uses a vehicle for a public transport service in contravention of section 31 of the National Land Transport Transition Act;
- (t) being the holder of an operating licence, fails to notify the Board of cessation or suspension of the relevant service in terms of section 62(1)(i);
- (u) being the holder of an operating licence, fails to comply with a notice referred to in section 33(3);
- (v) operates or undertakes a public transport service without the written authorisation referred to in section 63;
- (w) contravenes any other provision of this Act.
- (2) Where a person is convicted of any one of the offences mentioned in –
- (a) paragraphs (a) to (k) of subsection (1), a fine or a term of imprisonment not exceeding two years, or both, may be imposed; or
 - (b) any other paragraph of that subsection, a fine or a term of imprisonment not exceeding three months, or both, may be imposed.
- (3) Whenever a manager, agent or employee of the holder of an operating licence performs or omits to perform any act which, if the holder had performed or omitted to perform that act personally, would have constituted an offence in terms of subsection (1), that holder will be guilty of that offence if –
- (a) the holder –
 - (i) connived at or knowingly permitted the act or omission concerned; or
 - (ii) did not take all reasonable measures to prevent that act or omission; and
 - (b) an act or omission of the nature of the act or omission charged, whether legal or illegal, fell within the scope of the authority or the course of the employment of the manager, agent or employee.

CHAPTER 12 GENERAL MATTERS

Provisions relating to drivers and vehicles

117.(1) Subject to section 106 the MEC may prescribe codes of conduct for drivers of vehicles used to provide public transport services, which may differ according to different types of services, and such drivers must comply with such codes of conduct at all times while those services are undertaken.

(2) The MEC may prescribe requirements that drivers of vehicles used to provide public transport services must undergo training, for example to familiarise them with the areas in which the services are operated and the features and attractions of those areas, or for other purposes, and may provide in the requirements that drivers may not drive such vehicles unless they successfully complete such training, or impose other conditions.

(3) Subject to this Act and relevant provisions of the National Land Transport Transition Act, the MEC may prescribe regulations governing the type of vehicle to be used to provide a particular public transport service and such regulations may provide for requirements and standards for such vehicles, where the MEC is of the opinion that measures are needed to enhance the safety of passengers.

(4) Requirements prescribed in terms of subsection (3) are in addition to, and not in substitution of, the requirements of the National Road Traffic Act.

By-laws

- 118.** A municipality may, in accordance with applicable legislation and transport plans, make by-laws to –
- regulate the size or number of motor vehicles used for public transport services that may enter a specified sector of its area of jurisdiction and determine the time or times when such a vehicle may enter that sector;
 - regulate or prohibit the entry of such a motor vehicle in a specified sector during a set period;
 - prohibit the picking up or setting down of passengers by such a vehicle in a specified sector during a set period, and determine the time or times when the picking up or setting down may take place;
 - provide for the numbering of routes and allocation thereof to particular associations or operators, and the form and issuing of distinguishing marks in that regard;
 - allocate facilities, including ranks, to particular operators or associations and the charging of fees in that regard;
 - regulate the conduct of rank marshals;
 - provide for any other matter to further the objects of this Act that are not in conflict with this Act or regulations made thereunder.

Transitional provisions

119. (1) Having regard to the preservation of the legitimisation process of the Interim Taxi Act provided for in section 44 of this Act, and the power conferred upon the MEC to revise deadlines for this process, the previous non-exercise of the power to alter process deadlines may not –

- render invalid any decisions or actions taken in terms of the Interim Taxi Act; and
 - render any permits so affected as lapsed.
- (2) Any distinguishing mark issued before the commencement of this Act in terms of the Road Transportation Act for a vehicle in relation to which an operating licence relates, is regarded and treated for the purposes of this Act, until such time as that operating licence lapses, is withdrawn or cancelled in terms of this Act, as a distinguishing mark issued in terms of this Act.
- (3) An appointment, designation, regulation, notice or document made, published or issued, in terms of the Road Transportation Act is deemed to have been declared, established, made, published, issued or done in terms of the corresponding provisions of this Act.
- (4) An application for the issue or grant of a permit which has not been disposed of at the commencement of this Act, is deemed to be an application in terms of this Act for the granting of the appropriate operating licence.

CHAPTER 13**REPEAL OF PRIOR STATUTES AND INTERPRETATION OF THIS ACT****Repeal and amendment of laws and savings**

120.(1) Subject to the provisions of subsection (2), the laws referred to in the first column of the Schedule are hereby repealed to the extent set out in the third column of the said Schedule.

- (2) Notwithstanding the repeal of the laws referred to in subsection (1) –
- anything done in terms of the repealed law which is capable of being done in terms of a provision of this Act, is deemed to have been done in terms of the relevant provision of this Act;
 - any proceedings commenced in terms of the repealed law, must be continued and concluded as if such law had not been repealed: Provided that any appeal arising therefrom must be dealt with in accordance with the provisions of this Act.
- (3) If there is a conflict between this Act and any other provincial law affecting public transport in the Province, this Act prevails.

Short title and commencement

121.(1) This Act is called the KwaZulu-Natal Public Transport Act, 2005, and comes into operation on a date to be determined by the MEC in the *Gazette*.

- (2) Different parts or sections of this Act may be brought into effect on different dates, or in respect of different areas.

SCHEDULE**Repeal and amendment of laws and savings***(Section 120(1))*

<i>Number and year of law</i>	<i>Title</i>	<i>Extent of repeal</i>
Act No. 74 of 1977	Road Transportation Act, 1977	The whole – (a) except sections 3, 8, 11(1), 26, 26A, 27, 43 and 44; and (b) except in so far as any provision of the Act is applied with respect to transport across the borders of the Republic and with respect to the powers and functions of the commission
Act No. 4 of 1998	KwaZulu-Natal Interim Minibus Taxi Act, 1998	The whole, except Part X which is preserved until such time as the legitimisation process referred to in section 44 of the KwaZulu-Natal Public Transport Act, 2005, is completed

KWAZULU-NATAL WET OP OPENBARE VERVOER, 2005
 (Wet No. 3 van 2005)
 (Goedgekeur op 2005-11-03)

WET

Om voorsiening te maak vir die transformasie en herstrukturering van die openbare vervoerstelsel in die provinsie KwaZulu-Natal; om provinsiale openbare vervoerbeleid te ontwikkel en te implementeer; om voorsiening te maak vir 'n doeltreffende institusionele raamwerk; om die ontwikkeling en voorsiening van openbare vervoer vir alle gemeenskappe te bevorder; om die lewensgehalte van histories benadeelde gemeenskappe te verhoog deur middel van groter mobiliteit en toegang tot vervoerdienste; om vir deursigtigheid voorsiening te maak in die ontwikkeling en implementering van provinsiale vervoerbeleid en praktyke; om doeltreffende regulering en toepassing van die openbare vervoerstelsel te weeg te bring bring; om provinsiale reëlings vir aangeleenthede wat in hoofstuk 3 van die Nasionale Oorgangswet op Landvervoer, 2000 (Wet No. 22 of 2000) behandel word, binne die raamwerk van geldende nasionale landvervoerbeleid te vervang; en om vir aangeleenthede in verband daarmee voorsiening te maak.

DAAR WORD soos volg deur die Parlement van die provinsie KwaZulu-Natal bepaal: –

INDELING VAN ARTIKELS

Artikels

HOOFSTUK 1 INLEIDENDE BEPALINGS

1. Omskrywings
2. Toepassing, status en doel van Wet
3. Bevoegdheid, funksies en pligte van LUR
4. Regulasies deur LUR
5. Delegasies deur LUR
6. Inligtingsbehoefte en rapporteringstelsels

HOOFSTUK 2 VERVOERBEPLANNING

7. Vervoerbeplanningfunksie
8. Verantwoordelikheid vir behoeftebepaling in vervoerbeplanning

HOOFSTUK 3 VERVOEROWERHEDE

9. Ooreenkomste vir die stigting van vervoergebiede en -owerhede
10. Verklaring van vervoergebiede en instelling van vervoerowerhede
11. Vereistes vir stigtingsooreenkomste
12. Funksies en bevoegdhede van vervoerowerhede
13. Aanvullende bevoegdhede van vervoerowerhede
14. Bestuur van vervoerowerhede
15. Finansies van vervoerowerhede
16. Gebruik van vervoerowerheidsfondse
17. Lenings aan vervoerowerhede
18. Diskresionêre toewysings deur LUR
19. Delegasies deur bestuursliggaam
20. Vervoer uitvoerende bestuursliggame
21. Gesamentlike vervoer uitvoerende bestuursliggame
22. Ontbinding van vervoerowerhede

HOOFSTUK 4 LISENSIERAAD VIR OPENBARE VERVOER

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24. Benoemings vir Raad
25. Aanstelling van Raad
26. Aanstellingstermyn van lid van Raad
27. Aanstelling van voorsitter en adjunkvoorsitter van Raad
28. Verklaring van finansiële of ander belange van lede van Raad
29. Versuim om finansiële of ander belange te verklaar
30. Onttrekking van lid van Raad
31. Bedanking van lid van Raad
32. Beëindiging van aanstelling van lid van Raad

33. Bevoegdhede en funksies van Raad
34. Aansoeke en verwysings vir die toestaan van bedryfslisensies
35. Raadsprosedures
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37. Raadspersoneel
38. Befondsing van Raad
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40. Raad se jaarverslag
45. Finansiële aanspreeklikheid

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43. Een bedryfslisensie per voertuig uitgereik
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50. Bedryfslisensies vir openbare vervoerdienste waarvoor in vervoerplanne voorsiening gemaak is
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52. Publikasie van verskeie aangeleenthede betreffende bedryfslisensies
53. Afhandeling van aansoeke met betrekking tot bedryfslisensies vir nie-gekontrakteerde dienste
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55. Uitreiking van bedryfslisensies en inhoud daarvan
56. Magtiging oorgedra deur 'n bedryfslisensie
57. Persone wat bedryfslisensies mag hou
58. Reëls van toepassing met betrekking tot verskillende bedryfslisensies
59. Gebruik van dieselfde voertuig vir langafstand en ander openbare vervoerdienste
60. Wysiging van bedryfslisensie: Vervanging van gespesifiseerde voertuig
61. Spesiale voorwaardes wat verband hou met gemeterde taxidienste
62. Pligte van houer van bedryfslisensie
63. Tydelike vervanging van gespesifiseerde voertuig
64. Spesiale geleenthede
65. Intrekking, opskorting of wysiging van bedryfslisensie
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70. Aanstelling van Appèltribunaallede
71. Aanstellingstermyn van Appèltribunaallede
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86. Funksies van Registrator
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89. Instelling en funksies van paneel van assessore
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95. Voorlopige registrasie van verenigings wat nie direk vir volledige registrasie kwalifiseer nie
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117. Bepalings wat verband hou met bestuurders en voertuie
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120. Herroeping en wysiging van wette en voorbehoude
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**HOOFSTUK 1
INLEIDENDE BEPALINGS**

Omskrywings

1.(1) In hierdie Wet, tensy dit met die samehang strydig is, beteken –

“**Appèltribunaal**” die KwaZulu-Natal Vervoerappèltribunaal ingevolge 68 ingestel;

“**Applikant**” in die samehang van aansoeke vir operateurslisensies soos in artikel 49 bedoel, ’n lid of kandidaatlid van ’n vereniging, ’n nie-lid, ’n bestaande operateur van openbare vervoerdienste, ’n behoorlik geregistreerde entiteit, of ’n individu wat óf in ’n persoonlike hoedanigheid óf namens ’n behoorlik geregistreerde entiteit optree;

“**bedryfslisensie**” die magtiging om ’n openbare vervoerdiens te onderneem soos voorgeskryf in die Nasionale Oorgangswet op Landvervoer, 2000 (Wet No. 22 van 2000) en toegestaan en uitgereik in ooreenstemming met hoofstuk 5 van hierdie Wet;

“**beplanningsowerheid**” enige liggaam wat ingevolge artikel 9 van hierdie Wet en artikel 20 van die Nasionale Oorgangswet op Landvervoer, 2000 (Wet No. 22 van 2000) vervoerplanne vir sy gebied moet voorberei;

“**Departement**” die KwaZulu-Natal Departement van Vervoer;

“**gebiedsgedefinieerde permit**” ’n permit wat bedrywighede in ’n omskrewe geografiese gebied magtig;

“**Gedragskode**” die Gedragskode deur die LUR voorgeskryf ingevolge artikel 106;

“**geregistreerde entiteit**” ’n entiteit geregistreer in ooreenstemming met enige wetgewing wat die stigting en bedryf van dié tipe entiteit reël en wat ingestel is met die doel om openbare vervoerdienste te lewer;

“**Grondwet**” die Grondwet van die Republiek van Suid-Afrika, 1996;

- “**hierdie Wet**” sluit enige regulasies in wat ingevolge artikel 4 van hierdie Wet verorden is;
- “**houer**” met betrekking tot ’n operateurlisensie, die persoon of entiteit in wie se guns dit uitgereik is;
- “**Kandidaatlid**” ’n persoon of behoorlik geregistreerde entiteit aan wie tydelike lidmaatskap van ’n vereniging toegestaan is in afwagting van goedkeuring vir volledige lidmaatskap van ’n vereniging;
- “**Koerant**” die amptelike *Provinsiale Koerant* van die provinsie;
- “**kontrak**” ’n tussentydse kontrak, ’n geldende tenderkontrak, ’n handelsdienskontrak, of ’n gesubsidieerde dienskontrak;
- “**LUR**” die lid van die Uitvoerende Raad van die provinsie verantwoordelik vir vervoer;
- “**LUR vir Finansies**” die lid van die Uitvoerende Raad van die provinsie verantwoordelik vir finansiële aangeleenthede;
- “**Minister**” die minister van Vervoer op nasionale regeringsvlak;
- “**Nasionale Oorgangswet op Landvervoer**” die Nasionale Oorgangswet op Landvervoer, 2000 (Wet No. 22 van 2000);
- “**Nasionale Padverkeerswet**” die Nasionale Padverkeerswet, 1996 (Wet No. 93 van 1996);
- “**nie-lid**” het die betekenis wat deur die Nasionale Oorgangswet op Landvervoer daaraan toegeskryf is, maar vir die doel van hierdie Wet, waar gepas, sluit dit ook ’n operateur in;
- “**operateur**” ’n persoon of behoorlik geregistreerde entiteit wat ’n openbare vervoerdiens bedryf;
- “**permit**” ’n magtiging uitgereik ingevolge die Wet op Padvervoer, 1977 (Wet No. 74 van 1977) om ’n openbare vervoerdiens te onderneem, en wat van krag is by die inwerkingtreding van hierdie Wet;
- “**Provinsiale Wetgewer**” die wetgewer van die provinsie KwaZulu-Natal;
- “**Provinsie**” die provinsie KwaZulu-Natal;
- “**Raad**” die KwaZulu-Natal Openbare Vervoerlisensieraad ingestel by artikel 23;
- “**Registrateur**” die persoon wat as Provinsiale Vervoerregistrateur aangestel is ingevolge artikel 82(1);
- “**roetegebaseerde permit**” ’n permit wat naastenby die roete of kombinasie van roetes beskryf deur die oorsprong en bestemming van die diens, en enige tussenliggende punt vir behoorlike identifkasië van die diens, te spesifiseer;
- “**Tussentydse Wet op Taxis’s**” die KwaZulu-Natal Tussentydse Wet op Minibustaxi’s, 1998 (Wet No. 4 van 1998);
- “**vervoergebied**” ’n vervoergebied verklaar ingevolge artikel 10(1)(b);
- “**vervoerowerheid**” ’n vervoergebied ingestel ingevolge artikel 10(1)(d);
- “**voorskryf**” by regulasie voorskryf ingevolge hierdie Wet;
- “**Wet op Padvervoer**” die Wet op Padvervoer, 1977 (Wet No. 74 van 1977);

(2) Enige ander woord, term of uitdrukking het die betekenis wat in die Nasionale Oorgangswet op Landvervoer daaraan toegeskryf is.

Toepassing, status en doel van Wet

2.(1) Hierdie Wet is van toepassing in die provinsie KwaZulu-Natal.

(2) Hierdie Wet –

- (a) moet saamgelees word met hoofstukke 1, 2 en 4 van die Nasionale Oorgangswet op Landvervoer;
- (b) is ’n vervangende provinsiale wet vir die provinsie soos bedoel in artikel 3(b)(i) van die Nasionale Oorgangswet op Landvervoer met betrekking tot alle aangeleenthede waarmee in hierdie Wet gehandel word; en
- (c) vervang hoofstuk 3 van die Nasionale Oorgangswet op Landvervoer.

(3) Hierdie Wet maak voorsiening vir maatreëls wat nodig is om –

- (a) institusionele hervorming in die sfeer van openbare vervoer te weeg te bring;
- (b) die provinsiale openbare vervoerstelsel te herstruktureer, te reguleer en toe te pas;
- (c) uitvoering te gee aan nasionale en provinsiale openbare vervoerbeleid, norme en standaarde; en
- (d) ’n gladde oorgang na die nuwe stelsel wat in die Nasionale Oorgangswet op Landvervoer gemagtig word, te verweselik.

Bevoegdhede, funksies en pligte van LUR

3.(1) Bykomend tot die funksies in artikel 9(1) van die Nasionale Oorgangswet op Landvervoer bedoel, moet die LUR –

- (a) die verhoogde gebruik van openbare vervoer in die provinsie fasiliteer;
- (b) die nodige stappe doen om koördinasie tussen beplanningsowerhede in die provinsie te bevorder, of tussen sulke owerhede en die provinsie, met die doel om duplikasie van werksaamhede te voorkom;
- (c) deur maatreëls wat openbare vervoer ondersteun –
 - (i) die redelike veiligheid van passasiers binne die algehele openbare vervoeroogmerke bevorder;
 - (ii) doeltreffende en kommersiële gedrag aan die kant van operateurs in hulle lewering van openbare vervoerdienste, asook mededingende aansoeke vir kontrakte en konsessies, aanmoedig;
 - (iii) ’n strategiese en geïntegreerde benadering tot die lewering van openbare vervoer bevorder;
 - (iv) die doeltreffende gebruik van energiebronne bevorder en aanmoedig en die nadelige uitwerking daarvan op die omgewing verminder of tot die minimum beperk;
- (d) openbare vervoer bevorder sodat –
 - (i) dit doeltreffend in gebruikers se behoeftes voorsien;
 - (ii) dit doeltreffend bedryf word met betrekking tot die gebruik van hulpbronne;
 - (iii) die dienste wat gelewer word van ’n uitstaande gehalte is, geredelik toeganklik is en tesame met doeltreffende infrastruktuur bedryf word wat teen ’n redelike koste voorsien is;
 - (iv) by die bedryf van ’n openbare vervoerdiens hoë voorkeur aan veiligheid gegee word;

- (e) daarna strewende om te verseker dat by die bevordering van geïntegreerde vervoer behoorlike oorweging aan die behoeftes van vervoerbruikers gegee word;
- (f) geïntegreerde vervoerbeplanning in die provinsie bevorder en toesien dat 'n provinsiale vervoerraamwerk ooreenkomstig die betrokke bepalings van die Nasionale Oorgangswet op Landvervoer voorberei word;
- (g) 'n Swart Ekonomiese Bemagtigings- Strategiese Raamwerk en verbandhoudende planne vir openbare vervoer voorberei in ooreenstemming met artikel 11 van die Wet op Swart Ekonomiese Bemagtiging, 2003 (Wet No. 53 van 2003).
- (2) Die LUR kan met die doel om die finalisering van die wettigingsproses te fasiliteer wat in deel X van die Tussentydse Wet op Taxi's vervat is by kennisgewing in die *Koerant* die datums hersien waarteen hierdie proses gefinaliseer moet word.
- (3) Ondanks enige bevoegdthede, funksies en pligte wat in hierdie Wet vervat is, kan die LUR enige vereiste optrede loods om die oogmerke van hierdie Wet na te streef: Met dien verstande dat die hoofoogmerk van dié optrede moet wees om openbare vervoerdienste te verbeter en die veiligheid en sekuriteit daarvan te verseker.
- (4) Waar by die inwerkingtrekking van hierdie Wet die provinsie die beplanning van openbare vervoer, behalwe dienste tussen gebiede van beplanningsowerhede, onderneem het wat ingevolge die Grondwet deur munisipaliteite onderneem moet word, moet die LUR en die betrokke beplanningsowerhede reëlins tref vir die oordrag van die beplanningsfunksies aan die betrokke beplanningsowerhede.

Regulasies deur LUR

- 4.(1) Die LUR kan by kennisgewing in die *Koerant* regulasies uitvaardig wat –
- ingevolge hierdie Wet voorgeskryf kan of moet word;
 - nodig is vir die doeltreffende administrasie van hierdie Wet.
- (2) Enige regulasie uitgevaardig ingevolge enige vorige wet en van toepassing onmiddellik voor die inwerkingtrekking van hierdie Wet met betrekking tot aangeleenthede waarvoor die LUR ingevolge subartikel (1) bevoeg is om regulasies te maak, word vir die doel van hierdie Wet beskou as regulasies wat uitgevaardig is ingevolge daardie subartikel tot tyd en wyl die LUR 'n vervangende regulasie ingevolge hierdie artikel uitvaardig.

Delegasies deur LUR

- 5.(1) Die LUR kan aan die Hoof van Departement –
- enige bevoegdheid deleger deur hierdie Wet aan die LUR verleen, buiten die bevoegdheid, ingevolge artikel 4, om regulasies uit te vaardig;
 - enige plig deleger deur hierdie Wet aan die LUR opgelê, buiten enige plig betreffende die aanstelling en beëindiging van 'n amp van die lede van die Raad, die lede van die Appèltribunaal, die Registrateur en die paneel van assessore.

Inligtingsbehoefte en rapporteringstelsels

- 6.(1) Die LUR moet –
- in oorleg met die Minister; en
 - na oorlegpleging met vervoerowerhede en munisipaliteite, 'n inligtings- en rapporteringstelsel ontwikkel en in stand hou om inligting in te samel wat verband hou met die oogmerke van hierdie Wet of nasionale en provinsiale openbare vervoerbeleid.
- (2) Dié stelsel moet eenvormig van toepassing wees op vervoerowerhede en munisipaliteit in die provinsie.
- (3) Vanaf 'n datum deur die LUR bepaal, kan die LUR bewilligings of toewysings aan 'n vervoerowerheid of munisipaliteit terughou, tensy die vervoerowerheid of munisipaliteit volledig voldoen aan die vereistes gespesifiseer in die provinsiale vervoerbeleid en aan die rapporteringsvereistes in subartikel (1) bedoel.
- (4) Die LUR moet by kennisgewing in die *Koerant* die stelsel in subartikel (1) bedoel, publiseer.
- (5) Die LUR moet die versameling van inligting oor openbare vervoer onderneem en dit aan belangstellende persone beskikbaar stel, of inligting oor openbare vervoer deur middel van die pers, radio, televisie en ander media versprei behoudens die Wet op die Bevordering van Toegang tot Inligting, 2000 (Wet No. 2 van 2000).
- (6) Bykomend tot die jaarlikse verslagdoeningsvereistes wat die Raad, Registrateur en Appèltribunaal moet nakom, moet hierdie liggame aan enige bykomende verslagdoeningsvereistes voldoen wat die LUR van tyd tot tyd bepaal.

HOOFTUK 2 VERVOERBEPLANNING

Vervoerbeplanningsfunksie

- 7.(1) Beplanningsowerhede is verantwoordelik vir die vervoerbeplanningsfunksie wat uitgevoer moet word in ooreenstemming met beleidspareters, algemene beginsels en tipe planne wat deur deel 7 van hoofstuk 2 van die Nasionale Oorgangswet op Landvervoer voorgeskryf word.
- (2) Die LUR moet die koördinasie van die beplanningsprosesse van alle beplanningsowerhede verseker en in die proses verseker dat alle planne die volgende aanspreek –
- openbare vervoerdienste wat oor die grense heen van die gebiede van beplanningsowerhede bedryf word;
 - pad- en spoornetwerke;
 - vragbewegings;
 - die behoeftes van spesiale kategorieë van passasiers;
 - mededinging tussen naburige beplanningsowerhede wat tot die duplikasie of oorvoorsiening van vervoergeriewe en infrastruktuur in die gebied kan lei; en
 - die integrasie van vervoer- en grondgebruikbeplanning binne die samehang van die Wet op Ontwikkelingsfasilitering, 1995 (Wet No. 67 van 1995), of enige ander provinsiale wet.

Verantwoordelikheid vir behoeftebepaling in vervoerbeplanning

- 8.(1) Om uitvoering te gee aan nasionale en provinsiale vervoerbeleid wat 'n nuwe benadering tot dienslewering vereis met 'n verskuiwing van 'n "verskaffergedrewe" na 'n "vraaggedrewe" stelsel, moet die beplanning-

sowerheid die behoefte vir openbare vervoerdienste bepaal met inbegrip van die uitvoer van ter plaatse ondersoeke, óf die beplanning-sowerheid vervoerplanne vir sy gebied ontwikkel het óf nie.

- (2) 'n Beplanningsowerheid kan die hulp van die Registrateur inroep om 'n behoefte te bepaal waar vervoerplanne of beplanningstudies wat die besluit betreffende die behoefte vir diens moet rig nie bestaan nie.
- (3) Die bystand wat die Registrateur ingevolge subartikel (2) verleen, kan, indien nodig, die uitvoer van ter plaatse ondersoeke insluit.
- (4) 'n Beplanningsowerheid wat die behoefte vir diens ingevolge vervoerplanne of beplanningstudies vasgestel het, kan die Raad vir die toestaan van die nodige bedryfslisensie nader.
- (5) 'n Beplanningsowerheid wat sy reg tot verwysing ingevolge subartikel (4) wil uitoefen, moet dit deur die Registrateur kanaliseer, wie se verantwoordelikheid dit is om na te gaan of die betrokke gebied of roete nie reeds ten gunste van 'n vereniging of nie-lid geregistreer is nie.
- (6) Waar die Registrateur, ingevolge subartikel (5) –
- (a) die betrokke gebied of roete identifiseer as deel van die geregistreerde roetenetwerk van 'n bestaande vereniging of nie-lid, moet die Registrateur die betrokke vereniging of nie-lid, na gelang van die geval, die geleentheid bied om die behoefte vir diens te bevredig –
- (i) in die geval van aanvaarding van die aanbod, moet die Registrateur –
- (aa) die lid, kandidaatlid van die vereniging of nie-lid registreer met betrekking tot die betrokke gebied of roete; en
- (bb) die aangeleentheid na die Raad verwys wat die besonderhede van die bedryfslisensie wat uitgereik staan te word as deel van die verwysing in die *Koerant* moet publiseer; of
- (ii) ingeval die aanbod nie aanvaar word nie, moet die Registrateur die beplanningsowerheid in kennis stel, in welke geval die beplanningsowerheid onmiddellik stappe moet doen om diensverskaffers te nooi om aansoek te doen om die nodige diens te lewer.
- (b) die betrokke gebied of roete identifiseer as nie deel van die geregistreerde roetenetwerk van enige vereniging of nie-lid nie, moet die Registrateur die beplanningsowerheid in kennis stel, in welke geval die beplanningsowerheid onmiddellik stappe moet doen om diensverskaffers te nooi om aansoek te doen om die nodige diens te lewer.
- (7) Die aanbod wat ingevolge subartikel (6)(a) gemaak word en die uitnodigings om die diens te lewer wat in subartikels (6)(a)(ii) vermeld word, moet hanteer word ingevolge 'n proses en binne tydperke wat voorgeskryf word.
- (8) Tot tyd en wyl die Raad die nodige bedryfslisensie uitgereik het, sal die aanbod wat ingevolge subartikel (6)(a) gemaak is nie as 'n outomatiese reg vir die kandidaatoperateur geld om die diens te bedryf nie.
- (9) Daar sal van 'n beplanningsowerheid verwag word om 'n raadplegingsforum, bestaande uit al die belangrike belanghebbendes, in te stel om wisselwerking met betrekking tot die hervorming van die vervoerstelsel, met inbegrip van die identifisering van die behoefte vir diens, te fasiliteer.
- (10) Die samestelling van die raadplegingsforum in subartikel (9) bedoel, sowel as die prosedures wat sy funksies reël, moet voorgeskryf word.

HOOFSTUK 3 VERVOEROWERHEDE

Ooreenkomste vir die stigting van vervoergebiede en -owerhede

9.(1) Vervoerowerhede kan vir vervoergebiede ingestel word alleenlik soos hierdie hoofstuk en deel 5 van die Nasionale Oorgangswet op Landvervoer bepaal, en alleenlik indien die funksies van dié owerheid met betrekking tot die funksies van die munisipaliteit betrokke voldoen aan die Grondwet en toepaslike plaaslike regeringswetgewing.

(2) Enige enkele munisipaliteit of enige twee of meer munisipaliteite kan, behoudens die toepaslike bepalings van die Nasionale Oorgangswet op Landvervoer, 'n stigtingsooreenkoms met die LUR sluit wat aan artikel 11 van hierdie Wet moet voldoen, ingevolge waarvan –

- (a) die regsgebied of 'n deel van dié gebied van 'n munisipaliteit, of regsgebiede of deel daarvan na gelang van die geval, van daardie twee of meer kwalifiserende munisipaliteite gesamentlik 'n vervoergebied word; en
- (b) 'n vervoerowerheid vir sodanige vervoergebied ingestel word.

(3) Die partye tot die stigtingsooreenkoms kan ooreenstem om die grense van die betrokke vervoergebied te wysig: Met dien verstande dat sou dié wysiging die gebied van 'n bykomende munisipaliteit insluit, moet die vervoerowerheid, indien reeds ingestel, ingevolge artikel 22 ontbind en opnuut saamgestel word.

Verklaring van vervoergebiede en instelling van vervoerowerhede

10.(1) Die LUR moet, nie later as 14 dae na die sluiting van die ooreenkoms bedoel in artikel 9, deur middel van 'n kennisgewing in die *Koerant* –

- (a) kennis gee van en die stigtingsooreenkoms, wat aan die vereistes van artikel 11 moet voldoen, publiseer;
- (b) die betrokke gebied as 'n vervoergebied verklaar, en aan dit die naam toeken waarvoor in die ooreenkoms voorsiening gemaak is;
- (c) waar van toepassing, op die wyse soos bepaal in artikel 3(1)(c) van die Wet op Stedelike Vervoer, 1977 (Wet No. 78 van 1977) die kennisgewing terugtrek waarby die gebied of gebiede van die betrokke munisipaliteit ingesluit is in die betrokke metropoli-taanse vervoergebied ingevolge paragraaf (a) of (b) van artikel 3(1) van dié Wet; en
- (d) in ooreenstemming met en onderworpe aan die stigtingsooreenkoms, 'n vervoerowerheid vir dié vervoergebied instel met ingang van 'n datum wat vir dié doel in die stigtingsooreenkoms gespesifiseer is.

(2) 'n Stigtingsooreenkoms wat aldus gepubliseer is, is regtens afdwingbaar en geen wysiging daaraan het enige regsrag of effek totdat die LUR die wysiging by kennisgewing in die *Koerant* publiseer nie.

Vereistes vir stigtingsooreenkomste

11. Die stigtingsooreenkoms moet op skrif gestel word en ten minste vir die volgende voorsiening maak –

- (a) 'n verklaring deur die kontrakterende partye wat hulle ooreenkoms om 'n vervoerowerheid vir die betrokke vervoergebied in te stel, bevestig;
- (b) die naam wat aan die vervoergebied toegewys is;
- (c) die datum met ingang waarvan die vervoerowerheid ingestel word;
- (d) die instelling en struktuur van 'n bestuursliggaam vir dié vervoerowerheid, die aantal lede en die wyse waarop hulle aangewys en aangestel word: Met dien verstande dat llegs 'n persoon wat as raadslid van 'n munisipaliteit, wat 'n party tot die stigtingsooreenkoms is (hierna 'n deelnemende munisipaliteit genoem), dien as lid van die bestuursliggaam aangewys en aangestel kan word;
- (e) die aanwysing en aanstelling van 'n voorsitter en adjunkvoorsitter vir die bestuursliggaam;
- (f) stemprosedures en lede se stemregte by vergaderings van die bestuursliggaam en enige komitee daarvan, waar van toepassing, en meganismes en prosedures om dooie punte tydens besluitneming baas te raak;
- (g) die aanstelling of aanwysing van 'n hoofuitvoerende beampte vir dié vervoer- owerheid en die verantwoordelikhede, funksies bevoegdhede verbonde aan dié pos;
- (h) die bevoegdhede van die bestuursliggaam wat aan enige van sy lede of die hoofuitvoerende beampte gedelegeer kan word;
- (i) die plek vir die hoofkantoor van dié vervoerowerheid en vir vergaderings van sy bestuursliggaam;
- (j) die fisiese adres vir die aflewering, stuur of betekening van alle korrespondensie, dokumente, kennisgewings en hofprosesstukke wat aan die vervoerowerheid gerig word;
- (k) in die geval waar die vervoergebied uit die regsgebiede, of gedeeltes van sulke gebiede, van twee of meer deelnemende munisipaliteite bestaan –
 - (i) die bydrae van elke deelnemende munisipaliteit tot die befondsing van die vervoerowerheid;
 - (ii) die uitvoering van die professionele, tegniese, administratiewe, klerklike, sekretariële en ander werk wat voortspruit uit, nodig is vir, of toepaslik of bybehorend is tot die uitoefening en uitvoering van die vervoerowerheid se bevoegdhede en funksies;
 - (iii) behoudens hierdie Wet, die vereistes wat nagekom moet word en die prosedures wat gevolg moet word deur enige deelnemende munisipaliteit wat hom aan die vervoerowerheid wil onttrek, en sy verantwoordelikhede, pligte en verpligtinge met betrekking tot die dan geldende of uitstaande verpligtinge en aanspreeklikhede van dié owerheid; en
 - (iv) die prosedures wat gevolg moet word vir en ingevolge die vrywillige ontbinding van dié vervoerowerheid;
- (l) die reëlings vir die uitvoering van die professionele, tegniese, administratiewe, klerklike en ander werk van die vervoerowerheid ingevolge artikel 21, indien nie reeds deur paragraaf (k)(ii) gedek nie.

Funksies en bevoegdhede van vervoerowerhede

12.(1) 'n Vervoerowerheid moet die verpligte funksies uitvoer wat by artikel 10(13) van

die Nasionale Oorgangswet op Landvervoer aan hom toegewys is en kan, behoudens die bevoegdhede en pligte toegewys aan die deelnemende munisipaliteite deur die wetgewing van toepassing op plaaslike bestuur, met die toestemming van die LUR, of waar van toepassing, LUR'e –

- (a) die veiligheid ten opsigte van openbare vervoer bevorder;
- (b) die optimale gebruik van die beskikbare metodes (van vervoer) aanmoedig en bevorder om sodoende die doeltreffendheid van die vervoerstelsel te verhoog en vervoertyd en –koste te verminder;
- (c) 'n landvervoerinligtingstelsel ontwikkel, bedryf en in stand hou;
- (d) die openbare vervoerstelsel bemark, bevorder en verantwoordelikheid aanvaar vir die publisiteitsfunksie wat met die stelsel verband hou;
- (e) gebruikers of potensiële gebruikers van openbare vervoer van inligting voorsien;
- (f) indien die vervoerowerheid die subsidiefunksie ingevolge artikel 10(13)(f) van die Nasionale Oorgangswet op Landvervoer uitoefen, in die geval van gesubsidieerde dienste, reisgeldstrukture en –vlakke en konsessiereisgeld vir spesiale kategorieë van passasiers bepaal en reisgeld periodiek in oorleg met belanghebbendes aanpas;
- (g) in die geval van kommersiële (nie-gesubsidieerde) openbare vervoerdienste, minimum reisgeld vasstel gedagtig aan die wenslikheid om billike mededinging tussen operateurs van openbare vervoerdienste aan te moedig;
- (h) indien die vervoerowerheid die subsidiefunksie uitoefen, betalings aan operateurs maak ingevolge gesubsidieerde dienskontrakte en konsessiereisgeldooreenkomste waarvan dit 'n party is;
- (i) ondersoek instel en lei na die finansiële omstandighede en bedryfspraktyke van –
 - (i) persone wat, op daardie tydstip, bestaande of potensiële operateurs met betrekking tot of in 'n vervoergebied is; of
 - (ii) die houers van bedryfslisensies wat, op daardie tydstip, 'n openbare vervoerdiens met betrekking tot of in die gebied bedryf en, indien die houer 'n maatskappy is wat aan 'n groep van maatskappye behoort, ook na die omstandighede en praktyke van enige ander maatskappy in dié groep van maatskappye;
- (j) 'n geïntegreerde kaartjiesstelsel bekend stel of instel, of bystand daartoe verleen of aanmoedig, of bevorder en fasiliteer en maatreëls bepaal of voorskryf vir die regulering en beheer van inkomstedeling tussen operateurs wat by die stelsel betrokke is;
- (k) beheer uitoefen oor dienslewering deur –
 - (i) die vasstelling van operasionele en tegniese standaarde en die monitering van die nakoming daarvan; en
 - (ii) die monitering van kontrakte en konsessies;
- (l) 'n strategie ontwikkel, implementeer en moniteer wat enige ernstige impak van die landvervoerstelsel op die omgewing voorkom, beperk of verminder;
- (m) in ooreenstemming met betrokke deelnemende munisipaliteite –
 - (i) die funksies oorneem met betrekking tot munisipale paaie;
 - (ii) maatreëls toepas om skade aan die pad in dié deel van die vervoergebied te beperk;

(2) Die LUR en vervoerowerheid kan ooreenkom –

- (a) dat verskillende funksies in landelike gebiede in teenstelling met stedelike gebiede in die betrokke vervoergebied onderneem moet word; of
- (b) in die geval van 'n distriksmunisipaliteit wat 'n deelnemende munisipaliteit en 'n kategorie C munisipaliteit is soos in artikel 155(1) (c) van die Grondwet bedoel, dat verskillende funksies onderneem kan word in die regsgebied van die kategorie B munisipaliteite in die betrokke gebied, in teenstelling met gebiede buite sulke gebiede.

(3) Met die oog daarop om gekoördineerde vervoerwetstoepassing in sy gebied te verseker, moet die vervoerowerheid op 'n voortgesette grondslag skakel met die Suid-Afrikaanse Polisiediens, die toepaslike provinsiale en munisipale wetstoepassingsowerhede of -agente en die inspekteurs wat ingevolge die Wet op Oorgrenspadvervoer, 1998 (Wet No. 4 van 1998) aangestel is en diens doen.

(4) 'n Vervoerowerheid kan, met die instemming van 'n deelnemende munisipaliteit, medeverantwoordelikheid aanvaar vir, of die deelnemende munisipaliteit bystaan met, die toepassing van verkeersbestuurstechnieke wat daarop gemik is om padvervoerbeweging te verbeter in dié deel van die vervoergebied wat saamval met die regsgebied van dié deelnemende munisipaliteit.

(5) Wanneer 'n vervoerowerheid –

(a) in gebreke bly om 'n verpligte funksie in artikel 10(13) van die Nasionale Oorgangswet op Landvervoer bedoel, uit te voer; of

(b) in gebreke bly om 'n vrywillige funksie onderneem in subartikel (1) bedoel, uit te voer; of

(c) in gebreke bly om dié funksie behoorlik en doeltreffend in ooreenstemming met hierdie Wet, die Nasionale Oorgangswet op Landvervoer en ander toepaslike wette uit te voer,

kan die LUR, deur middel van 'n skriftelike kennisgewing wat aan die bestuursliggaam of hoofuitvoerende beampte van die vervoerowerheid gerig is, die vervoerowerheid beveel om sy versuim reg te stel en die betrokke funksie uit te voer, of om dit behoorlik en doeltreffend, na gelang van die geval, uit te voer voor 'n datum wat in die kennisgewing vermeld word.

(6) Die bestuursliggaam en die hoofuitvoerende beampte is verantwoordelik vir die spoedige nakoming van die voorskrif wat ingevolge subartikel (5) uitgereik is.

(7) Indien die vervoerowerheid in gebreke bly om die versuim reg te stel binne die tydperk daarvoor toegelaat in die kennisgewing vermeld in subartikel (5), kan die LUR –

(a) ingryp deur stappe te doen om die funksie te laat uitvoer deur die departement of enige ander liggaam of persoon wat oor die vermoë beskik om dit te doen behoudens artikel 139 van die Grondwet; en

(b) gelde uit die Provinsiale Inkomstefonds, wat geormerk is vir toewysing aan die vervoerowerheid, gebruik om te betaal vir die koste wat voortspruit uit die doen van dié stappe, of dié koste van die vervoerowerheid verhaal.

(8) Tot die mate wat dit nodig geag word vir gepaste bemagtiging van 'n vervoerowerheid en mits dit nie teenstrydig is met die bepalinge van die stigtingsooreenkoms waarby die vervoerowerheid ingestel is nie, of met die toewysing van funksies in dié stigtingsooreenkoms voorgeskryf, moet enige verwysing na 'n munisipaliteit in hierdie Wet vertolk word as 'n verwysing na 'n vervoerowerheid.

Aanvullende bevoegdhede van vervoerowerhede

13.(1) 'n Vervoerowerheid kan 'n ooreenkoms met 'n munisipaliteit aangaan wat nie 'n deelnemende munisipaliteit is nie ingevolge waarvan die vervoerowerheid 'n bevoegdheid of funksie namens daardie munisipaliteit uitoefen of verrig wat ingevolge hierdie Wet of die Nasionale Oorgangswet op Landvervoer aan die munisipaliteit toevertrou is.

(2) Die vervoerowerheid kan slegs so 'n ooreenkoms aangaan indien dit ingevolge hierdie Wet en ander toepaslike vervoerwetgewing bevoeg is om dieselfde of 'n soortgelyke bevoegdheid of werksaamheid met betrekking tot sy vervoergebied uit te oefen of te verrig.

(3) 'n Ooreenkoms ingevolge subartikel (1) kan die aanwending van fondse van 'n vervoerowerheid buite sy vervoergebied insluit indien beide die LUR en LUR vir Finansies daartoe instem.

(4) Bykomend tot die bevoegdhede wat deur of ingevolge hierdie Wet of die Nasionale Oorgangswet op Landvervoer aan hom verleen is, kan 'n vervoerowerheid enige regshandeling verrig of enigiets doen wat 'n regspersoon regtens bevoegd is om te verrig of te doen, behalwe waar dit teenstrydig met hierdie Wet of die Nasionale Oorgangswet op Landvervoer mag wees.

Bestuur van vervoerowerhede

14.(1) 'n Vervoerowerheid word bestuur en beheer deur die bestuursliggaam wat daarvoor ingestel is ingevolge die stigtingsooreenkoms wat vir dié owerheid van krag is en wat uit raadslede van die samestellende munisipaliteite moet bestaan.

(2) Die bestuursliggaam verteenwoordig die vervoerowerheid en alle handelinge wat deur die bestuursliggaam uitgevoer word of enigeen wat deur dié liggaam daartoe gemagtig is om namens hom op te tree, sal as handelinge van die owerheid geag word.

Finansies van vervoerowerhede

15.(1)(a) Die hoofuitvoerende beampte van 'n vervoerowerheid moet behoorlike rekenkundige aantekeninge hou in ooreenstemming met algemeen aanvaarde rekenkundige praktyke en prosedures om sodoende volledig die juiste toedrag van sy finansiële sake aan te dui.

(b) Die rekenkundige aantekeninge moet 'n inkomsterekening insluit wat gekrediteer moet word met alle gelde wat die vervoerowerheid toeval of ontvang het en moet gedebiteer word met al die uitgawes wat daardie owerheid aangegaan het.

(2)(a) Elke vervoerowerheid moet nie later as drie maande voor die einde van elke finansiële jaar 'n staat van geraamde inkomste en uitgawes vir die volgende finansiële jaar voorberei wat aan die deelnemende munisipaliteit of munisipaliteite voorgelê moet word vir goedkeuring voor of op 'n datum wat deur die LUR bepaal is, maar dié owerheid kan te eniger tyd deur die loop van die lopende finansiële jaar 'n aanvullende begroting vir daardie finansiële jaar aan die munisipaliteit of munisipaliteite vir goedkeuring voorlê.

(b) 'n Vervoerowerheid mag nie enige uitgawe aangaan wat die totale bedrag oorskry nie, met inbegrip van die aanvullende bedrag van die begroting soos deur die munisipaliteit of munisipaliteite ingevolge paragraaf (a) goedgekeur.

(c) 'n Vervoerowerheid kan 'n reserwefonds instel vir enige oogmerk wat met sy funksies ingevolge hierdie Wet verband hou en wat deur die LUR goedgekeur is, en die gelde aan die reserwefonds toewys wat vir daardie doel in die begroting voorsiening voor gemaak is met inbegrip van enige aanvullende begroting wat ingevolge paragraaf (a) goedgekeur is.

Gebruik van vervoerowerheidsfondse

16.(1) 'n Vervoerowerheid kan ingevolge sy vervoerplanne en volgens sulke voorwaardes as wat hy geskik ag –

(a) die koste bestry met betrekking tot die uitvoering van sy funksies of die uitoefening van sy bevoegdhede;

(b) aan spesiale kategorieë van passasiers bystand verleen deur konsessiereisgeld of deur die betrokke operateur te vergoed vir 'n diens gelewer ingevolge 'n goedgekeurde vervoerplan;

(c) die koste van 'n gespesifiseerde deel van toerusting bestry wat deur 'n munisipaliteit benodig word vir die regulering en beheer van verkeer in 'n vervoergebied ingevolge 'n goedgekeurde vervoerplan;

- (d) die ooreengekome prys vir gesubsidieerde dienskontrakte, geldende tenderkontrakte, tussentydse kontrakte of konsessies ingevolge 'n goedgekeurde vervoerplan betaal;
 - (e) vergoeding betaal vir bedryfslisensies wat ingevolge artikel 51 van die Nasionale Oorgangswet op Landvervoer teruggetrek is;
 - (f) die koste bestry vir die invoering van nuwe tegnologie in openbare vervoer;
 - (g) die koste bestry vir die demonstrasie van loodsprojekte met betrekking tot padvervoer;
 - (h) bydraes maak vir opleiding in vervoeringenieurswese of -ekonomie of ander aangeleenthede wat met landvervoer verband hou;
 - (i) die koste vir die voorbereiding en implementering van vervoerplanne bestry;
 - (j) rente betaal op lenings wat aan hom toegestaan is en die lening in paaiement en binne die tydperk delg wat deur die LUR in medewerking met die LUR vir Finansies bepaal is;
 - (k) die kapitaalkoste bestry van gespesialiseerde voertuie wat in die voorsiening van openbare vervoer ingevolge gesubsidieerde dienskontrakte of konsessies gebruik word;
 - (l) die koste bestry vir die beplanning, ontwerp, bou, bestuur, beheer, onderhoud en herstel van paaie en ander vervoerinfrastruktuur.
- (2) Die LUR kan regulasies uitvaardig met betrekking tot die wyse waarop die kontantsaldo's van vervoerowerhede belê kan of moet word.
- (3) 'n Vervoerowerheid kan, met die toestemming van die LUR, geld in 'n gebied buite sy vervoergebied, met instemming van die ander vervoerowerhede en munisipaliteit daarby betrokke, spandeer met die doel om sy funksies te verrig.

Lenings aan vervoerowerhede

17.(1) Die LUR kan, uit gelde wat deur die Provinsiale Wetgewer bewillig is, lenings aan 'n vervoerowerheid toestaan om hom by te staan met die implementering van hierdie Wet behoudens die Wet op die Bestuur van Openbare Finansies, 1999 (Wet No. 1 van 1999).

(2) Die vervoerowerheid moet rente betaal op 'n lening wat aldus toegeken is en die lening delg deur middel van paaiemente en binne 'n tydperk wat die LUR in medewerking met die LUR vir Finansies mag bepaal.

Diskresionêre toewysings deur LUR

18. Die LUR kan behoudens die Wet op die Bestuur van Openbare Finansies, 1999 (Wet No. 1 van 1999) toewysings maak om vervoerowerhede te help om, ingevolge hulle vervoerplanne, die volgende te finansier –

- (a) kapitaalprojekte met inbegrip van die aanskaffing van vaste eiendom, die aanvanklike aanskaffing van spoorvoertuie vir die stelsels, alternatiewe ontledings wat verband hou met die ontwikkeling van die stelsels, en die verkryging van reg van weë;
- (b) die kapitaalkoste vir die koördinasie van openbare vervoer met ander tipes vervoer;
- (c) die invoering van nuwe tegnologie in openbare vervoer;
- (d) landvervoerprojekte wat sosio-ekonomiese ontwikkeling bevorder, asook stedelike of landelike hersamestelling, met inbegrip van nywerheids-, kommersiële, besigheids- en residensiële ontwikkeling, indien die projekte –
 - (i) die doeltreffendheid bevorder van openbare vervoer waarmee dit in verband staan; of
 - (ii) nuwe of groter koördinasie tussen openbare en ander landvervoer bewerkstellig; of
 - (iii) die behoefte aan die beweging van privaat voertuie, soos deur die gemiddelde reisafstand van sulke voertuie uitgedruk, verminder; of
 - (iv) aanleiding gee tot beweging wat die bestaande reserwevermoë van die bewegingstelsel gebruik;
- (e) openbare vervoerprojekte wat beplan, ontwerp en uitgevoer word om die behoeftes van spesiale kategorieë van passasiers te bevredig;
- (f) die kapitaalkoste van motor- of spoorvoertuie wat gebruik word om openbare vervoerdienste ingevolge gesubsidieerde dienskontrakte of konsessies te voorsien.

Delegasies deur bestuursliggaam

19.(1) Die bestuursliggaam van 'n vervoerowerheid kan enige van sy bevoegdheid of funksies ingevolge hierdie Wet, buiten die bevoegdheid van bestuur soos in artikel 14 bedoel, aan enige lid van dié bestuursliggaam deleger.

- (2) 'n Delegasie deur die bestuursliggaam ingevolge subartikel (1) –
- (a) kan gegee word op en behoudens enige voorwaardes wat deur die bestuursliggaam bepaal word;
 - (b) kan gegee word tesame met die bevoegdheid om te onderdeleger op en behoudens enige voorwaardes wat so bepaal is, indien enige; en
 - (c) moet skriftelik geskied en moet volledige besonderhede bevat van die aangeleentheid wat gedeleger word en van enige voorwaarde wat aan die delegasie toegevoeg is en, waar die bevoegdheid van onderdelegering verleen is, moet die feit vermeld word asook enige voorwaarde daaraan toegevoeg.
- (3) Die bestuursliggaam kan te eniger tyd –
- (a) 'n delegasie wat ingevolge subartikel (1) gegee is, wysig of terugtrek;
 - (b) enige besluit wat deur enige persoon met betrekking tot die gedelegerde aangeleentheid gemaak is, terugtrek en self oor die aangeleentheid besluit. Met dien verstande dat 'n besluit wat ingevolge 'n gedelegerde bevoegdheid gemaak is en 'n reg of beregtiging aan 'n derde party verleen nie teruggetrek kan word nie.
- (4) Die LUR kan, indien hy of sy oortuig is dat die landvervoerbelange in die provinsie of die vervoergebied dit vereis, by kennisgewing in die *Koerant* –
- (a) die delegasie van enige bepaalde bevoegdheid of werksaamheid verbied, of in die algemeen of in die omstandighede in die kennisgewing gespesifiseer;
 - (b) die omstandighede waaronder enige bepaalde bevoegdheid of funksie gedeleger kan word, beperk;
 - (c) voorwaardes vir die delegasie van enige bepaalde bevoegdheid of funksie kan voorskryf; en
 - (d) betreffende enige bevoegdheid of funksie wat in die kennisgewing gespesifiseer is, onderdelegasie verbied in die geval waar die bestuursliggaam dié bevoegdheid of funksie gedeleger het.

Vervoer uitvoerende betuursliggame

20.(1) Die partye tot 'n stigtingsooreenkoms kan daarin voorsiening maak –

- (a) dat die professionele, tegniese, administratiewe, klerklike en ander werk wat voortspruit uit, nodig is vir, gepaardgaan of bybe-

horend is tot die funksionering van die vervoerowerheid of die uitoefening of uitvoering van sy bevoegdhede en funksies, namens die vervoerowerheid verrig word deur –

- (i) die munisipale administrasie van een van die deelnemende munisipaliteite wat in die ooreenkoms gespesifiseer word; of
 - (ii) enige een of meer gespesifiseerde departemente in die munisipale administrasie van een of meer deelnemende munisipaliteite en dat in so 'n geval die toepaslike bepalings van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000) sal geld; of
 - (b) vir die instelling van 'n liggaam (hierna 'n vervoer uitvoerende bestuursliggaam genoem) onderhewig aan die toesig en beheer van die vervoerliggaam, om al die werk van dié aard of enige gespesifiseerde tipe of kategorie van dié werk vir die vervoerowerheid te verrig.
- (2) Waar die stigtingsooreenkoms voorsiening maak vir die instelling van 'n vervoer uitvoerende bestuursliggaam –
- (a) kan voorsiening in die ooreenkoms gemaak word dat die vervoerowerheid, indien daartoe versoek deur 'n ander vervoerowerheid, sy vervoer uitvoerende bestuursliggaam beskikbaar stel om werk van dié aard namens die ander owerheid te verrig –
 - (i) ingevolge 'n skriftelike ooreenkoms wat tussen die betrokke vervoerowerhede aangegaan word;
 - (ii) vir 'n fooi of teen betaling van 'n bedrag wat in dié ooreenkoms gespesifiseer word; en (iii) in ooreenstemming en behoudens –
 - (aa) die standaardbepalings en –voorwaardes, indien enige, wat in die stigtingsooreenkoms gestipuleer is; en
 - (bb) die bepalings en voorwaardes wat spesiaal in daardie ooreenkoms gestipuleer is; en
 - (b) voorsiening moet ten minste vir die volgende gemaak word –
 - (i) waar nie al die professionele, tegniese, administratiewe, klerklike en verwante werk van die vervoerowerheid deur die vervoer uitvoerende bestuursliggaam verrig moet word nie, spesifikasie van die tipe of kategorie van werk vir wie se uitvoering die vervoer uitvoerende bestuursliggaam verantwoordelik is;
 - (ii) die plek waar die kantore van die vervoer uitvoerende bestuursliggaam geleë sal wees;
 - (iii) die wyse waarop of die prosedure waarvolgens die personeeldienstataat bepaal moet word; en
 - (iv) die gesagsetel wat sy personeel kan aanstel en afdank.

Gesamentlike vervoer uitvoerende bestuursliggame

21.(1) Die LUR en enige twee of meer vervoerowerhede wat daartoe gemagtig is deur hulle onderskeie deelnemende munisipaliteite kan 'n ooreenkoms aangaan om voorsiening te maak vir die samestelling van 'n vervoer uitvoerende bestuursliggaam onder die gesamentlike toesig van dié vervoerowerhede om vir elkeen van hulle die professionele, tegniese, administratiewe, klerklike en ander werk te verrig wat voorspruit uit, nodig is vir, verband hou met of bybehorend is tot hulle funksionering as 'n vervoerowerheid en om hulle bevoegdhede en funksies uit te oefen of uit te voer (hierna 'n gesamentlike vervoer uitvoerende bestuursliggaam genoem).

- (2) In so 'n ooreenkoms moet voorsiening vir ten minste die volgende gemaak word –
- (a) die aangeleenthede in artikel 20(2)(b) gemeld wat, met die veranderinge wat deur die samehang vereis word, van toepassing is ten aansien van 'n gesamentlike vervoer uitvoerende bestuursliggaam;
 - (b) die bevoegdhede van die deelnemende vervoerowerhede met betrekking tot die uitoefening van toesig en beheer oor die gesamentlike vervoer uitvoerende bestuursliggaam;
 - (c) die bydrae van elke deelnemende vervoerowerheid tot die befondsing van hul gesamentlike vervoer uitvoerende bestuursliggaam.

Ontbinding van vervoerowerhede

22.(1)(a) Behoudens paragraaf (b) van hierdie subartikel kan 'n vervoerowerheid net ontbind word soos in hierdie artikel bepaal.

- (b) Die bepalings van paragraaf (a) –
- (i) beïnvloed nie die bevoegdheid van die lid van die Uitvoerende Raad vir plaaslike regering indien hy ingevolge artikel 14 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998) handel om enige reëlings met die teoorgestelde gevolg te maak nie, en
 - (ii) doen nie afbreuk aan die regs krag en –gevolge van enige reëlings wat aldus gemaak is nie.
- (2) 'n Vervoerowerheid moet ingevolge subartikel (1) ontbind word indien die volgende vereistes nagekom is –
- (a) waar slegs een munisipaliteit by die vervoerowerheid betrokke is, hy besluit het om sy deelname aan die vervoerowerheid te beëindig en hy die LUR skriftelik van sy besluit in kennis gestel het;
 - (b) waar twee of meer munisipaliteite by die vervoerowerheid betrokke is –
 - (i) die betrokke munisipaliteite in beginsel ooreengekom het om die vervoerowerheid te ontbind en die LUR dienooreenkomstig van hierdie feit in kennis gestel het;
 - (ii) een of sommige, na gelang van die geval, van dié munisipaliteite besluit het om sy of hulle, na gelang van die geval, deelname aan dié vervoerowerheid te beëindig en elke munisipaliteit wat die besluit geneem het die LUR en die ander munisipaliteit of elk van die ander munisipaliteite, na gelang van die geval, van die besluit in kennis gestel het.
 - (c) Die LUR, binne 30 dae dat hy op die wyse in kennis gestel is –
 - (i) by kennisgewing van publikasie in die *Koerant* en 'n koerant wat algemeen gelees word in die vervoergebied wat deur dié kennisgewing geraak word, die voorgestelde ontbinding van die betrokke owerheid bekend gemaak het;
 - (ii) belanghebbende partye uitgenooi het om kommentaar te lewer en vertoë daarvoor te rig; en
 - (iii) hulle versoek het om dié kommentaar en vertoë skriftelik aan die LUR te rig binne die tydperk in die kennisgewing vermeld, maar 'n periode van minstens 30 dae moet vir dié doel toegelaat word.
 - (d) Indien al die partye van die vervoerowerheid 'n ooreenkoms bereik het ingevolge waarvan reëlings getref is, met deeglike inagneming van die kommentaar en vertoë, indien enige, ingedien in reaksie op die LUR se kennisgewing ingevolge paragraaf (b) met betrekking tot die aangeleenthede aangetoon in artikel 10(14) van die Nasionale Oorgangswet op Landvervoer, maar die datum van die ontbinding moet aldus bepaal word dat dit voorsiening maak vir die gee van voldoende kennisgewing in ooreenstemming met subartikel (3).

(3) Die LUR moet binne 30 dae van die datum van 'n ooreenkoms in subartikel (2) bedoel by kennisgewing in die *Koerant* en 'n koerant wat algemeen in die betrokke vervoergebied gelees word, die ontbinding van die vervoerowerheid bekend maak en die voorwaardes van die ooreenkoms publiseer, maar die datum van die ontbinding moet aldus bepaal word om voorsiening te maak vir voldoende kennisgewing.

HOOFSTUK 4 LISENSIERAAD VIR OPENBARE VERVOER

Instelling van Raad

23. Die KwaZulu-Natal Lisensieraad vir Openbare Vervoer word hierby ingestel.

Benoemings vir Raad

24.(1) Die LUR moet deur gebruik te maak van 'n metode wat ontwerp is om die grootste aantal inwoners in die provinsie te bereik benoemings van persone vir die Raad vra.

(2) Die uitnodiging vir benoemings ingevolge subartikel (1) moet die volgende spesifiseer –

- (a) benoemingsprosedure;
- (b) vereistes vir benoeming; en
- (c) datum waarop benoemings die LUR moet bereik.

(3)(a) Die LUR moet 'n keurkomitee van minstens vier senior departementele beamptes aanstel om alle benoemings te hersien en aanbevelings oor die benoemdes te maak.

(b) Die LUR kan, geheel na eie goedgeskiktheid, hoogstens drie persone met ondervinding van die vervoerbedryf aanstel om die keurkomitee by te staan met die maak van aanbevelings oor die benoemdes.

Aanstelling van Raad

25.(1) Die LUR moet, gebaseer op benoemings wat ingevolge artikel 24(1) ontvang is en aanbevelings deur die keurkomitee in artikel 24(3) bedoel, hoogstens vyf lede in die Raad aanstel met ondervinding van openbare vervoer, nywerheids-, handels-, finansiële en regsangeleenthede, wat moet insluit –

- (a) twee persone wat gekwalifiseerde prokureurs of advokate is;
- (b) een persoon met uitgebreide finansiële en handelskundigheid;
- (c) een persoon met kundigheid of kennis van die openbare vervoerbedryf;
- (d) een persoon wat deur 'n verteenwoordigende liggaam vir pendelaars aanbeveel is; en
- (e) ten minste een vrou wat aan enige van die profielvereistes in paragraaf (a) tot (d) vermeld, voldoen.

(2) Die LUR kan twee plaasvervangende lede in die Raad aanstel wat beskikbaar is om op 'n *ad hoc*-grondslag in die Raad te dien in geval 'n lid 'n botsing van belange ondervind of andersins nie vir 'n verhoor beskikbaar is nie.

(3) Die lede in subartikel (1) bedoel en die plaasvervangende lede in subartikel (2) bedoel, moet geskikte en gepaste persone wees wat gekenmerk word deur hul onafhanklikheid, onpartydigheid en billikheid.

(4) 'n Persoon kan nie as 'n lid of plaasvervangende lid van die Raad aangestel word nie indien hy of sy –

- (a) handelingsonbevoegd is;
- (b) op grond van wangedrag uit 'n openbare amp ontslaan is of word;
- (c) insolvent verklaar is of word en nie gerabilliteer is nie;
- (d) skuldig bevind is of word aan 'n misdryf waarvan oneerlikheid 'n wesentlike bestanddeel is;

Aanstellingstermyn van lid van Raad

26.(1) 'n Lid van die Raad word vir 'n aanvanklike termyn van hoogstens drie jaar aangestel.

(2) Behoudens subartikel (1), kan die LUR 'n lid van die Raad heraanstel vir 'n bykomende tydperk van hoogstens drie jaar.

(3) Die lede van die Raad wat voor die inwerkingtreding van hierdie Wet deur die LUR aangestel is, moet in die amp voortgaan: Met dien verstande dat indien die lid, by die inwerkingtreding van hierdie Wet, in die Raad gedien het vir 'n totale dienstydperk –

- (a) wat die maksimum tydperk bedoel in subartikels (1) en (2) oorskry, word dié lid se ampstermyn by die Raad beperk tot die res van sy of haar huidige termyn.
- (b) wat nie die maksimum tydperk bedoel in subartikels (1) en (2) oorskry nie, is dié lid daarop geregtig om die res van sy of haar huidige termyn uit te dien en kan heraanstelling word vir 'n verdere tydperk wat sy of haar totale dienstydperk in ooreenstemming sal bring met die maksimum tydperk in subartikels (1) en (2) bedoel.

Aanstelling van voorsitter en adjunkvoorsitter van Raad

27. Die LUR moet die –

- (a) voorsitter van die Raad; en
- (b) ondervoorsitter, aanstel en beide van hulle moet gekwalifiseerde prokureurs of advokate wees.

Verklaring van finansiële of ander belange deur lede van Raad

28.(1) 'n Benoemde vir die Raad moet –

- (a) binne 10 dae na die benoeming, 'n skriftelike verklaring by die LUR indien van enige finansiële of ander belange in die vervoerbedryf wat verband hou of kan hou of bots met 'n aanstelling as 'n lid van die Raad, welke verklaring verbandhoudende inligting moet bevat aangaande enige skuldigbevinding weens 'n Bylae 1-misdryf ingevolge die Strafproseswet, 1977 (Wet No. 51 van 1977);
- (b) in die verklaring bedoel in subparagraaf (a), finansiële en ander belange in die vervoerbedryf van familieledes of vertroude medewerkers insluit wat verband hou of kan hou of bots met 'n aanstelling as 'n lid van die Raad; en
- (c) nie vir 'n posisie in die Raad oorweeg word nie indien dit blyk dat die benoemde met voorbedagte rade inligting rakende finansiële en ander belange in hierdie artikel bedoel, weerhou het.

(2) Waar 'n lid van die Raad of familielid of vertroude medewerker 'n verandering in finansiële of enige ander omstandighede ervaar en 'n belang in die vervoerbedryf bekom of rede het om kennis te dra van enige veranderde omstandighede, moet die lid van die Raad die LUR binne 10 dae na die datum van die veranderde omstandighede skriftelike van die verandering van finansiële of ander belange in kennis stel.

Versuim om finansiële of ander belange te verklaar

29.(1) 'n Lid van die Raad wat versuim om 'n verklaring bedoel in artikel 28 te doen, pleeg 'n misdryf.

(2) Die Hoof van Departement moet, wanneer dit aan die lig kom dat 'n lid van die Raad in gebreke gebly het om aan die bepalings van artikel 28 te voldoen, die aangeleentheid ondersoek en na die LUR verwys vir gepaste dissiplinêre optrede.

Onttrekking van lid van Raad

30.(1) 'n Lid van die Raad moet hom- of haarself onttrek van enige aangeleentheid of verrigting waar hy of sy, 'n familielid of vertroude medewerker 'n finansiële of ander belang of redelikerwys verwag om 'n belang by die uitslag van die Raad se beslissing te hê.

(2) 'n Belanghebbende kan deur middel van 'n mondelings of 'n skriftelike versoek aansoek doen dat 'n lid van die Raad hom- of haarself onttrek waar die belanghebbende rede het om te glo dat die lid van die Raad, 'n familielid of vertroude medewerker 'n finansiële of ander botsende belang of redelikerwys verwag om 'n belang by die uitslag van 'n beslissing van die lid van die Raad te hê.

(3) 'n Belanghebbende wat 'n aansoek bedoel in subartikel (2) indien, moet redes vir sy of haar versoek verskaf.

(4) In die geval van 'n aansoek bedoel in subartikel (2), moet die voorsitter 'n beslissing oor die aangeleentheid maak, behalwe in gevalle waar die aansoek die voorsitter aangaan moet die aangeleentheid deur die adjunkvoorsitter beslis word.

Bedanking van lid van Raad

31. 'n Lid van die Raad kan te eniger tyd bedank deur nie minder as 30 dae skriftelik kennis te gee, behalwe as die LUR of sy of haar benoemde 'n korter kennisgewingstydperk aanvaar indien hy of sy daarvan oortuig is dat die besluit nie die doeltreffende funksionering van die Raad sal benadeel nie.

Beëindiging van aanstelling van lid van Raad

32.(1) 'n Persoon kan nie as lid of plaasvervangende lid in sy amp aanbly nie indien hy of sy –

- (a) handelingsonbevoegd is;
- (b) op grond van wangedrag uit 'n openbare amp ontslaan is of word;
- (c) insolvent verklaar is of word en nie gerehabiliteer is nie;
- (d) skuldig bevind is of word aan 'n misdryf waarvan oneerlikheid 'n wesentlike bestanddeel is;
- (e) versuim het om sy of haar finansiële of ander moontlike botsings van belange ingevolge artikel 28 te verklaar;
- (f) versuim het om hom- of haarself te onttrek soos deur artikel 30 vereis;
- (g) skuldig is aan gedrag wat die amp van die lid of die werksaamhede van die Raad, na die mening van die LUR, in onguns bring of kan bring of dreig om die integriteit van die Raad aan te tas;
- (h) versuim het om die pligte en funksies van die Raad na die beste van sy of haar vermoë uit te voer.

(2) Die LUR kan na deeglike ondersoek die aanstelling van 'n lid of plaasvervangende lid op enige van die gronde in subartikel (1) vermeld, beëindig.

(3) Die LUR moet, op versoek van 'n lid van die Raad of 'n plaasvervangende lid wie se dienste beëindig is soos in subartikel (1) bedoel, skriftelike redes vir die diensbeëindiging gee.

Bevoegdhede en funksies van die Raad

33.(1) Die funksies van 'n Raad is om die volgende in ontvangs te neem, dit te oorweeg en daaroor te besluit of dit af te handel ooreenkomstig hierdie Wet –

- (a) verwysings deur beplanningsowerhede vir die toestaan van bedryfslisensies wat nodig is om gevolg te gee aan die implementering van vervoerplanne wat deur die betrokke beplanningsowerhede ontwikkel is.
- (b) aansoeke vir die toestaan van bedryfslisensies vir intraprovisiale vervoer;
- (c) behoudens artikel 30 (5) van die Nasionale Oorgangswet op Landvervoer, aansoeke vir die toestaan van bedryfslisensies vir interprovisiale vervoer wat sy oorsprong in hierdie provinsie het, behoudens die goedkeuring van die betrokke lisensieringsraad van die ander provinsie, of van enige ander provinsie waar passasiers op- of afgelaai word, na gelang van die geval;
- (d) aansoeke vir die hernuwing, wysiging of oordrag van bedryfslisensies vir intraprovisiale vervoer; en
- (e) aansoeke vir die hernuwing, wysiging of oordrag van lisensies wat deur hom uitgereik is vir interprovisiale vervoer, behoudens die toestemming van die betrokke lisensieringsraad van die ander provinsie, of enige ander provinsie waar passasiers op- of afgelaai word;
- (f) aansoeke vir tydelike bedryfslisensies wat die applikant magtig om openbare vervoer op 'n spesifieke datum vir 'n spesifieke geleentheid of gebeurtenis te voorsien, met die onus wat op die applikant rus om die noodsaak van die tydelike lisensie te bewys;
- (g) aansoeke vir die permanente vervanging van motorvoertuie wat in bedryfslisensie gespesifiseer word; en
- (h) aansoeke vir tydelike vervanging van die voertuig wat in die bedryfslisensie gespesifiseer word.

(2) By die finalisering van die radiusomskakelingsproses, sal die Raad daarop geregtig wees om 'n bedryfslisensie in te trek met die doel om die roete of roetes te herbepaal indien die Raad van mening is dat die roetebeskrywing vaag of onvoldoende is: Met dien verstande dat wanneer dit gedoen word die Raad die roete herbepaal in ooreenstemming met spesifieke besonderhede wat deur die beplanningsowerheid voorsien moet word.

(3) Die Raad kan, deur 'n skriftelike kennisgewing aan sy of haar laaste aangetekende adres te rig, van enige houër vereis om die Raad, binne die tydperk wat in die kennisgewing gespesifiseer word, te oortuig dat die dienste wat deur die betrokke lisensie gemagtig is steeds gelewer word of steeds doeltreffend gelewer word, of om die Raad van enige ander redelike inligting te voorsien wat met die betrokke bedryfslisensie verband hou, en die houër moet aan sodanige kennisgewing voldoen.

Aansoeke en verwysings vir die toestaan van bedryfslisensies

34.(1) Die Raad moet die volgende oorweeg waneer hulle oor 'n aansoek of verwysing vir 'n bedryfslisensie, hernuwing, wysiging of oordrag van 'n bedryfslisensie besluit –

- (a) die grondslag van enige verwysing deur 'n beplanningsowerheid en die Registrateur, in besonder die grondslag van enige verwysing wat ingevolge artikel 8 gedoen is;
- (b) in hoeverre die openbare vervoer wat voorsien staan te word in ooreenstemming is met nasionale en provinsiale beleid en toepaslike raamwerke en vervoerplanne wat deur vervoerowerhede ontwikkel is;

- (c) in hoeverre die openbare vervoer wat voorsien staan te word noodsaaklik of wenslik vir die openbare belang is;
 - (d) die behoeftes van die pendelpublik in die vervoergebied of langs die roete wat die applikant beplan om te bedryf;
 - (e) of die bestaande vervoerdienste en geriewe wat in die vervoergebied of langs die roete tot die beskikking van die pendelpublik is, voldoende is;
 - (f) of die behoefte aan 'n diens waarvoor aansoek gedoen word, bevredig kan word deur middel van reeds goedgekeurde vervoerplanne of planne wat 'n beplanningsowerheid besig is om te ontwikkel;
 - (g) die behoefte vir die koördinasie van alle vorme van openbare vervoer, met inbegrip van spoorvervoer, op 'n gesonde ekonomiese grondslag met behoorlike inagneming van die openbare belang;
 - (h) die vermoë van die applikant om bevredigende vervoer langs die voorgestelde roete of roetes te voorsien;
 - (i) enige vorige oortredings van die applikant;
 - (j) die bestaan van 'n verbod, inkorting of beperking wat regtens opgelê is betreffende die gebruik van motorvoertuie in die gebied of in 'n straat of pad langs die roete wat die applikant beplan om te bedryf;
 - (k) enige verstoë wat deur 'n belanghebbende party in verband met die aansoek ingedien is;
 - (l) die registrasiestatus van die applikant ingeval die applikant 'n lid of kandidaatlid van 'n vereniging is of 'n nie-lid;
 - (m) enige verslag of dokument wat opgestel is as gevolg van 'n ondersoek na die finansiële omstandighede en bedryfspraktyke van die applikant;
 - (n) en behoorlik kennis neem van die eise van die operateurs wat in die verlede die diens gelwer het in omstandighede waar die aansoek ingevolge die voorsiening van dienste langs opgegradeerde roetes geskied;
 - (o) enige ander faktor wat, na die mening van die Raad, die besluit om 'n aansoek goed te keur of 'n vereiste voorwaarde toe te voeg of te wysig, kan beïnvloed.
- (2) Waar 'n persoon of liggaam aansoek doen vir 'n nuwe diens, wysiging van roete of omskakeling na 'n voertuig met 'n groter vermoë moet die Raad die aansoek vir oorweging na die betrokke beplanningsowerheid en die Registrateur verwys ooreenkomstig die proses in artikel 8 bedoel.
- (3) Die beplanningsowerheid en die Registrateur moet op die verwysing vermeld in paragraaf (2) reageer op die wyse en binne 'n tydperk wat voorgeskryf is.
- (4) Die Raad moet nie 'n aansoek oorweeg nie indien dieselfde persoon 'n vorige aansoek vir dieselfde doel of roete indien binne ses maande van die datum waarop die aansoek oorspronklik deur die Raad oorweeg en geweier is, tensy die Raad daarvan oortuig is dat dit in die openbare belang is om die aansoek te oorweeg.
- (5) By die afhandeling van enige verwysing vir die toestaan van bedryfslisensies, kan die Raad bedryfslisensies ten gunste van operateurs toe te staan, behalwe dié wat deur die Registrateur as kandidaatdiensverskaffers in ooreenstemming met die bepalinge van artikel 8(6) geïdentifiseer is, indien die Raad daarvan oortuig is dat deur dit te doen spesifieke beleidsdoelmerke wat deur die LUR voorgeskryf is, bevorder sal word.

Raadsprosedures

35.(1) Die kworum vir 'n vergadering van die Raad is minstens drie lede van die Raad.

- (2) Die Raad funksioneer as 'n hersieningsliggaam met betrekking tot die hantering van aansoeke en verwysings vir die toestaan van bedryfslisensies.
- (3) Die Raad moet, met die oog op die afhandeling van die aangeleenthede in artikel 34 (1) (a) tot (f) vermeld, enige persoon wat deur die aangeleentheid geaffekteer word of daarin belangstel, of 'n behoorlik gemagtigde verteenwoordiger van dié persoon, toelaat om voor die Raad te verskyn, en –
- (a) getuienis af te lê of mondelings verstoë te rig; of
 - (b) getuies te roep en te lei oor enige kwessie wat met dié aangeleentheid verband hou; of
 - (c) enige persoon te ondervra wat as 'n getuie in dié aangeleentheid optree.
- (4) Die Raad kan, met die oog op die afhandeling van enige saak wat voor hom ingevolge hierdie Wet dien –
- (a) deur middel van skriftelike kennisgewing, by regulasie bepaal en op die voorgeskrewe wyse beteken, van enige persoon vereis om voor die Raad te verskyn om getuienis te af te lê of enige boek, plan of ander dokument of artikel in te dien wat in sy of haar besit is of onder sy of haar beheer is;
 - (b) enige persoon oproep wat teenwoordig is in of op die plek waar dié aangeleentheid deur die Raad behandel word om voor hom te verskyn om getuienis af te lê of enige boek, plan of ander dokument of artikel in te dien wat dié persoon op daardie tydstip in sy of haar besit mag hê;
 - (c) enige persoon ondervra wat voor die Raad as 'n getuie verskyn;
 - (d) weier om enige persoon aan te hoor wat voor die Raad as getuie verskyn wat weier om ingesweer te word of om 'n plegtige verklaring af te lê;
 - (e) enige persoon as getuie dagvaar om Raadsverhore by te woon of dokumente *subpoena*;
 - (f) 'n verduideliking oor 'n aangeleentheid wat voor die Raad dien, versoek van die beplanningsowerheid, Registrateur of enige ander persoon;
 - (g) betalings magtig van getuiegeld ingevolge die tarief soos van tyd tot tyd deur die Minister in regulasies gespesifiseer word;
 - (h) 'n kostebevel aan 'n party uitreik wat sonder goeie rede versuim om aan 'n wetlike verpligting te voldoen;
 - (i) verhore hou soos vereis word, met verhore wat deur die publiek bygewoon kan word buiten waar die Raad van mening is dat dit in belang van geregtigheid is om 'n verhoor agter geslote deure te hou of die getuienis van 'n spesifieke getuie aldus aan te hoor;
 - (j) nie enige aangeleentheid aanhoor of beslis wat beuselagtig, kwelsugtig, nie duidelik 'n eis stel nie of 'n aangeleentheid is waaroor die Raad nie enige bevoegdheid, soos in hierdie Wet bedoel, het om dit aan te hoor nie: Met dien verstande dat skriftelike redes verskaf moet word waar 'n aangeleentheid nie aanhoor of beslis word nie.
- (5) Die voorsitter of enige ander Raadslid wat as voorsitter by 'n Raadsverhoor optree waar iemand as 'n getuie verskyn soos in subartikel (4) bedoel, moet die getuie onder eed of plegtige verklaring stel.
- (6) Beslissings van die Raad moet skriftelik aan alle belanghebbende partye beteken word binne 14 dae ná die beslissing.
- (7) Enige persoon wat die verrigtinge van die Raad ontwrig, kan aan 'n misdryf skuldig bevind word.

- (8)(a) Die Raad kan, na sy goedunke, 'n kostebevel uitreik.
 (b) Geen kostebevel kan uitgereik word nie, tensy die Raad bevind het dat die aansoek of die opposisie daarteen beuselagtig, kwelsugtig of onnodig vertraag of onbehoorlik uitgereik is.
 (c) 'n Kostebevel moet deel uitmaak van die Raad se besluit.
 (d) 'n Verklaring wat deur die voorsitter van die Raad as korrek gesertifiseer is met betrekking tot die totale koste van die aangeleentheid wat aldus beslis en getakaseer is, kan by die klerk of register van 'n hof met bevoegde jurisdiksie geliasseer word en die verklaring het dieselfde gevolg as 'n siviele uitspraak.
 (e) Enige verrigtinge in paragraaf (d) bedoel, kan as 'n kostebevel in 'n uitspraak in 'n siviele hof beskou word.
 (f) In die geval van 'n geskil oor 'n bedrag wat ingevolge hierdie artikel betaalbaar is, kan die party van die voorsitter van die Raad vereis om die kosterekening te takseer, in welke geval die beginsels, prosedures en tariewe wat van toepassing is wanneer 'n kosterekening in 'n siviele geding in 'n landdroshof getakseer word, gevolg moet word vir sover dit onder die omstandighede prakties is.
- (9) 'n Lid van die Raad se Sekretariaat wat deur die voorsitter van die Raad vir die spesifieke doel aangewys is, is daarop geregtig om aansoeke vir tydelike bedryfslisensies vermeld in artikel 33(1)(h) af te handel.
- (10) Voordat 'n aansoek voor die Raad dien, moet die Sekretariaat van die Raad die aansoek noukeurig nagaan om te verseker dat dit aan die basiese vereistes soos voorgeskryf, voldoen.
- (11) Waar die basiese vereistes wat by regulasie voorgeskryf moet word, soos bedoel in subartikel (10), nie deur die applikant nagekom is nie moet die aansoek deur die Raad se Sekretariaat oorgehou word op 'n wyse soos voorgeskryf.
- (12) Behalwe soos in hierdie Wet gespesifiseer, is die Hoof van Departement of sy benoemde verantwoordelik vir die vasstelling van die administratiewe prosedures wat deur die Raad gevolg moet word.

Appel teen beslissing van Raad

36.(1) Behoudens regulasies wat die appèlprosedure reël, is die besluit van die Raad final en kan, binne 14 dae vanaf die datum waarop die besluit aan die partye beteken is, op appèl geneem word na die Appèltribunaal wat ingevolge artikel 68 vir intraprovisiale vervoer-aangeleenthede ingestel is of die Vervoerappèltribunaal wat ingevolge artikel 3 van die Wet op die Vervoerappèltribunaal, 1998 (Wet No. 39 van 1998) vir interprovinsiale aangeleenthede ingestel is.

(2) Die Raad kan, waar die applikant teen 'n besluit appelleer, 'n skriftelike voorlegging oor die aangeleentheid aan die Appèltribunaal voorlê.

(3) 'n Beplanningsowerheid of Registrateur verbeur die reg tot appèl waar hulle versuim het om aan die vereistes van artikel 34(3) te voldoen, of in die geval van 'n beplanningsowerheid waar die omstandighede vermeld in artikel 50(5) van toepassing is.

Raadspersoneel

37. Die Hoof van Departement moet, behoudens die wette wat die staatsdiens reguleer, personeel aanstel om administratiewe bystand te verleen wat die Raad verlang.

Befondsing van Raad

38. Die fondse van die Raad bestaan uit –

- (a) gelde deur Provinsiale Wetgewer bewillig; en
- (b) skenkings of bydraes wat wettig deur die Raad van enige bron ontvang is.

Vergoeding en toelaes van lede van Raad

39. Lede van die Raad is geregtig op vergoeding en toelaes soos deur die LUR in oorleg met die LUR vir Finansies bepaal.

Raad se jaarverslag

40.(1) Die voorsitter van die Raad moet 'n jaarverslag oor die werksaamhede van die Raad aan die LUR voorlê binne 30 dae na die einde van die boekjaar.

(2) Die voorsitter kan in die jaarverslag die nodige wets-, regulerende en prosedurewysigings aan hierdie Wet aanbeveel.

Finansiële aanspreeklikheid

41. Behoudens die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 of 1999), het die voorsitter van die Raad die verantwoordelikheid om –

- (a) rekenskap te gee van Staats- en ander fondse ontvang of uitbetaal vir of namens die kantoor van die Raad; en
- (b) behoorlike rekeningkundige en ander rekords vol te hou.

HOOFSTUK 5

BEDRYFSLISENSIES EN VERWANTE AANGELEENTHEDE

Verpligtinge wat op applikante rus

42. Waar 'n applikant vir 'n bedryfslisensie, hernuwing, wysiging of oordrag van 'n bedryfslisensie aansoek doen, rus die onus op die applikant om te bewys dat –

- (a) met behoorlike inagneming van die omstandighede, dit in die openbare belang is om die aansoek goed te keur;
- (b) die openbare vervoer waarna in die aansoek verwys word op 'n volhoubare grondslag gelewer kan word; en
- (c) die applikant daartoe in staat is om die nodige passasiërs-aanspreeklikheids-versekeringsdekking aan die passasiërs kan voorsien.

Een bedryfslisensie per voertuig uitgereik

43. Slegs een bedryfslisensie kan vir enige voertuig uitgereik word, maar die lisensie kan magtiging bevat dat meer as een roete bedryf word.

Vrygestelde openbare vervoerdienste

44. Die LUR kan by regulasie voorskryf watter openbare vervoerdienste vrygestel is van die vereistes van artikel 48, tesame met die voorwaardes waaronder sodanige vrygestelde dienste bedryf kan word.

Wettigingsproses van die Tussentydse Wet op Taxi's

45.(1) Hierdie Wet belet nie die finalisering van die wettigingsproses soos voorgeskryf in deel X van die Tussentydse Wet op Taxi's nie.

(2) Nieteenstaande ander bepalings in hierdie Wet vervat wat die status van permitte en die toekenning en uitreiking van bedryfslisensies reël, moet 'n magtiging wat die Raad ingevolge die wettigingsproses vermeld in subartikel (1) toeken die vorm van 'n bedryfslisensie aanneem.

Omskakeling van radiuspermit

46.(1) Die houër van 'n radiuspermit moet binne die tydperk wat deur die LUR in die *Koerant* bepaal word op die voorgeskrewe wyse 'n aansoek by die Raad indien vir die omskakeling van dié permit in 'n roetegebaseerde of gebiedsgeïndefinieerde permit.

(2) Die prosedure vir en wyse waarop die aansoek vir omskakeling van radiuspermitte ingevolge subartikel (1) ingedien moet word, is soos voorgeskryf in regulasie 5 van die Tussentydse Taxiwetregulasies, vervat in Kennisgewing No. 346 van 1998 soos gepubliseer in (Provinsiale) *Koerant* No. 5316 van 26 November 1998, saamgelees met regulasie 3 van die Nasionale Landvervoer se Oorgangsregulasies op Bedryfslisensie en Verwante Aangeleenthede vir die provinsie, vervat in Kennisgewing No. 149 van 2001 soos gepubliseer in (Provinsiale) *Koerant* No. 6020 van 23 April 2001.

Verlenging en omskakeling van bestaande permitte soos deur die Nasionale Oorgangswet op Landvervoer vereis

47.(1) Behoudens artikel 46(1), word permitte wat op die datum van die inwerkingtreding van hierdie Wet nog nie verstryk het nie, geag omgeskakel te wees na 'n bedryfslisensie soos beoog in artikel 32 van die Nasionale Oorgangswet op Landvervoer.

(2) Behoudens artikel 31(3) van die Nasionale Oorgangswet op Landvervoer kan bedryfslisensies vir ongeskeduleerde dienste, wat outomaties ingevolge subartikel (1) omgeskakel is, indien dit bedryf word deur –

(a) minibusvoertuie, verder omgeskakel word na bedryfslisensies vir ongeskeduleerde of geskeduleerde dienste bedryf deur midibusse, afhange van die betrokke vervoerplanne, indien enige, by die afstanddoening van twee bedryfslisensies vir een: Met dien verstande dat die vervangingsbedryfslisensie vir 'n onbepaalde tydperk uitgereik word indien beide die oorspronklike bedryfslisensies oor 'n onbepaalde geldigheidstydperk beskik het, andersins vir 'n vasgestelde tydperk van hoogstens vyf jaar en moet, bykomend tot die aangeleenthede wat elders in hierdie Wet genoem word, die aantal sittende passasiers spesifiseer wat vervoer kan word;

(b) voertuie met 'n sitplekvermoë van minder as nege persone, met inbegrip van die bestuurder, verder omgeskakel kan word na bedryfslisensies –

(i) vir ongeskeduleerde dienste bedryf deur midibusse by die afstanddoening van twee bedryfslisensies vir een, en die bedryfslisensie moet vir 'n onbepaalde tydperk uitgereik word indien beide die oorspronklike bedryfslisensies oor 'n onbepaalde geldigheidstydperk beskik het, andersins vir 'n vasgestelde tydperk van hoogstens vyf jaar; of

(ii) vir ongeskeduleerde of geskeduleerde dienste bedryf deur midibusse, by die afstanddoening van vier bedryfslisensies vir een, en die bedryfslisensie moet vir 'n onbepaalde tydperk uitgereik word indien al vier die oorspronklike bedryfslisensies oor 'n onbepaalde geldigheidstydperk beskik het, andersins vir 'n vasgestelde tydperk van hoogstens vyf jaar en moet, bykomend tot die aangeleenthede wat elders in hierdie Wet gemeld word, die aantal sittende passasiers spesifiseer wat vervoer kan word.

Bedryfslisensievoorvereiste vir bedryf van openbare vervoerdiens

48. Niemand mag 'n openbare vervoerdiens bedryf sonder om 'n lisensiehouer van die toepaslike bedryfslisensie vir die betrokke voertuig te wees nie.

Aansoeke betreffende bedryfslisensies

49.(1) Enige persoon wat beplan om 'n openbare vervoerdiens te bedryf, moet by die Raad vir die nodige bedryfslisensie aansoek doen.

(2) 'n Houer kan by die Raad aansoek doen vir die vernuwing of wysiging van 'n bedryfslisensie.

(3) 'n Persoon of liggaam wat oordrag wil neem van 'n bedryfslisensie kan met die skriftelike goedkeuring van die houer by die Raad vir die oordrag van die lisensie aansoek doen.

(4) Aansoeke ingevolge subartikels (1), (2) en (3) moet –

(a) op die voorgeskrewe wyse gedoen word;

(b) op die voorgeskrewe vorm ingedien word;

(c) moet vergesel gaan van die voorgeskrewe gelde.

Bedryfslisensies vir openbare vervoer waarvoor in vervoerplanne voorsiening gemaak is

50.(1) Voordat enige aansoek oorweeg word –

(a) vir die bestaan, hernuwing, wysiging of oordrag van 'n bedryfslisensie wat die bedryf van enige vervoerdiens buiten 'n huurdiens magtig; of

(b) ingevolge die omskakelingsprosesse in artikels 46 en 47(2) bedoel, in die gebied van 'n beplanningsoowerheid moet die Raad die beplanningsoowerheid deur middel van 'n skriftelike kennisgewing van die betrokke aansoek in kennis stel met die versoek dat aanbevelings, tesame met enige verdoë ten opsigte van die aansoek, binne die tydperk in die kennisgewing gemeld aan die Raad gemaak word.

(2) Die beplanningsoowerheid moet sy aanbevelings maak of enige verdoë wat hy gepas ag, met deeglike inagneming van die vervoerplanne wat vir sy gebied voorberei is of, indien sulke planne nog nie voorberei, goedgekeur of gepubliseer is nie, ooreenkomstig behoorlike navrae en ondersoeke wat deur hom uitgevoer is en ooreenkomstig enige vereistes of riglyne wat deur die LUR voorgeskryf of voorsien is, en dit aan die Raad voorlê binne die tydperk in die kennisgewing vermeld en die Raad kan die laat indiening van dié aanbevelings en verdoë kondoneer.

- (3) Die Raad moet ooreenkomstig goedgekeurde vervoerplanne handel wanneer hy dié aansoek afhandel, en mag hy nie 'n bedryfslisensie strydig met enige van dié planne goedkeur nie.
- (4) Die Raad moet enige aanbevelings en verhoë wat ingevolge subartikel (2) voorgelê is, oorweeg.
- (5) Waar die beplanningsowerheid versuim om aanbevelings en verhoë aan die Raad ingevolge 'n versoek van laasgenoemde voor te lê, kan die Raad die aansoek afhandel en daarvoor beslis sonder enige inset van die beplanningsowerheid deur die aangeleenthede in subartikel 54 vermeld, te oorweeg.

Bedryfslisensies vir gekontrakteerde dienste

- 51.(1) Waar enige handelsdienskontrak of gesubsidieerde dienskontrak deur 'n bevoegde tenderraad of owerheid na 'n proses van openbare tenders ooreenkomstig die reg toegeken is, mag die Raad nie die aansoek van die betrokke operateur vir die toestaan of hernuwing van 'n bedryfslisensie wat vir die doeleindes van daardie diens vereis word, weier nie.
- (2) Die operateur moet in die aansoek elke voertuig spesifiseer waardeur die openbare vervoerdiens ingevolge dié kontrak bedryf gaan word.
- (3) Indien die operateur se aansoek vir dié bedryfslisensie suksesvol is, is dié operateur daarop geregtig dat 'n bedryfslisensie uitgereik word vir elke voertuig waardeur die openbare vervoerdiens ingevolge dié kontrak bedryf gaan word.
- (4) Bedryfslisensies vir die bedryf van openbare vervoerdienste ingevolge handelsdienskontrakte of gesubsidieerde dienskontrakte moet slegs toegeken word vir die duur en behoudens die bepalinge en voorwaardes van die betrokke kontrak, en kan gewysig word om die duur daarvan te verleng waar die duur van die betrokke kontrak verleng word.

Publikasie van verskeie aangeleenthede betreffende bedryfslisensies

- 52.(1) Behoudens subartikel (2), moet die Raad, voordat hy 'n aansoek vir die toestaan, hernuwing, wysiging of oordrag van 'n bedryfslisensie vir intraprovinciale vervoerdienste goedkeur, toesien dat dié besonderhede van die aansoek wat voorgeskryf mag word in die *Koerant* gepubliseer word.
- (2) 'n Aansoek hoef nie kragtens subartikel (1) gepubliseer te word nie waar dit 'n aansoek is –
- ten opsigte van 'n gekontrakteerde diens soos in artikel 51 bedoel;
 - om die besonderhede te wysig van dieselfde voertuig wat in die bedryfslisensie gespesifiseer is;
 - vir die vervanging van 'n gespesifiseerde voertuig soos bedoel in artikel 60; of
 - vir tydelike vervanging van 'n spesifieke voertuig soos bedoel in artikel 63.
- (3) 'n Belanghebbende persoon wat van voorneme is om verhoë aan die Raad te rig waarin hy 'n aansoek wat ingevolge subartikel (1) gepubliseer is, wil teenstaan of ondersteun, moet dit op 'n wyse en binne die tydperk doen wat die Raad voorskryf en die Raad –
- moet 'n persoon wat binne die voorgeskrewe tydperk verhoë rig, toelaat om die aansoeker se aansoekvorm en verwante dokumente by die kantoor van die Raad na te gaan teen betaling van die voorgeskrewe gelde; en
 - kan op versoek van dié persoon hom van afskrifte daarvan voorsien teen betaling van die voorgeskrewe gelde.
- (4) Die Raad moet eweneens die applikant toelaat om verhoë wat die aansoek teenstaan of ondersteun kosteloos by die kantoor van die Raad na te gaan, en afdrucke daarvan te maak teen betaling van die voorgeskrewe gelde.
- (5) Die reg om besware aan te teken of verhoë te rig, is ook van toepassing op die aangeleenthede vermeld in paragrawe (a)(i)(bb), (a)(ii) en (b) van artikel 8(6).

Afhandeling van aansoeke met betrekking tot bedryfslisensies vir nie-gekontrakteerde dienste

- 53.(1) Waar enige aansoek ingedien word vir die toestaan, hernuwing, wysiging of oordrag van 'n bedryfslisensie ten opsigte van 'n niegekontrakteerde diens, kan die Raad die aansoek goedkeur of weier slegs nadat, behoudens subartikel 2, oorweging geskenk is aan –
- of die voertuig waardeur die diens bedryf gaan word vir daardie doel geskik is;
 - verhoë deur 'n beplanningsowerheid met betrekking tot die beskikbaarheid van staanplekke of eindpunte of ander geriewe of ruimtes vir op- of afklim en vir die beweging of parkering van voertuie wat vir bedryf van daardie diens gebruik word;
 - die bestaan van enige verordening, regulasie, verbodsbepaling, inkorting of beperking van 'n munisipaliteit wat betrekking het op die vervoerdiens wat die aansoeker beoog om te bedryf kragtens die magtiging van die bedryfslisensie waarmee die aansoek in verband staan;
 - of die applikant, bedoelende die oordragontvanger in die geval van 'n oordrag, oor enige vorige veroordeling vir 'n misdryf van die tipe of erns wat voorgeskryf is, beskik en of dit binne die voorgeskrewe tydperk voor die datum van die aansoek gepleeg is;
 - die vermoë van die applikant, bedoelende die oordragontvanger in die geval van 'n oordrag, om die diens waarvoor 'n lisensie verlang word bevredigend te bedryf;
 - verhoë deur die aansoeker of enige belanghebbende party wat behoorlik met betrekking tot die aansoek gerig is;
 - verhoë van die Registrateur met betrekking tot die status van geregistreerde operateurs, indien enige, wat openbare vervoerdienste op die betrokke roetes of in die gebiede lewer.
- (2) 'n Aansoek vir 'n bedryfslisensie wat verband hou met die bedryf van 'n niegekontrakteerde diens op enige roete of roetes in die gebied van 'n beplanningsowerheid, mag nie toegestaan word nie indien die openbare vervoerbehoefte vir die besondere roete of roetes voldoende bevredig word deur bestaande vervoerdienste ingevolge 'n handelsdienskontrak of gesubsidieerde dienskontrak of ingevolge bedryfslisensies soos deur toepaslike vervoerplanne, indien enige, aangetoon.
- (3)(a) Die Raad kan 'n aansoek vir die toestaan, hernuwing, wysiging, of oordrag van 'n bedryfslisensie vir 'n niegekontrakteerde diens goedkeur behoudens enige voorwaardes, deur hom bepaal, wat nie onbestaanbaar is met hierdie Wet of die Nasionale Oorgangswet op Landvervoer nie.
- (b) 'n Voorwaarde kan aldus opgelê word slegs na oorweging van die aangeleenthede wat ingevolge subartikel (1) en, waar van toepassing, subartikel (2) in oorweging geneem is vir die doel om oor die aansoek te besluit.

Bepalings spesifiek vir minibustaxi-tipe dienste

54.(1) Geen bedryfslisensie wat minibustaxi-tipe dienste magtig mag toegestaan word nie, tensy –

- (a) die applikant 'n lid van 'n geregistreerde vereniging is nie;
- (b) die applikant ingevolge artikel 99(2) as 'n tydelike lid deur 'n vereniging aanvaar is hangende die uitslag van sy of haar aansoek aan die Raad, en die Registrateur dit skriftelik bevestig het; of
- (c) die Registrateur skriftelik sertifiseer dat die applikant as 'n nie-lid geregistreer is ingevolge artikel 100.

(2) 'n Bedryfslisensie vir 'n minibustaxi-tipe diens kan vir meer as een roete toegestaan word: Met dien verstande dat 'n bedryfslisensie vir 'n gespesifiseerde gebied toegeken kan word in gevalle waar die behoefte vir operasionele buigsamheid dit vereis, soos in die geval van toevoerdienste.

Uitreiking van bedryfslisensies en inhoud daarvan

55.(1) Die LUR moet die prosedure voorskryf wat die Raad moet volg vir die uitreiking van bedryfslisensies.

(2) Enige bedryfslisensie wat ooreenkomstig hierdie Wet toegestaan, hernu, gewysig of oorgedra word, moet op die voorgeskrewe wyse en vorm uitgereik word deur 'n beampte van die Raad wat deur die Raad vir dié doel aangewys is.

(3) 'n Bedryfslisensie mag nie uitgereik word nie, tensy –

- (a) die persoon wat dit vereis, ooreenkomstig hierdie Wet aansoek gedoen het vir die toestaan, hernuwing, wysiging of oordrag daarvan, of vir die omskakeling van 'n radiuspermit ingevolge artikel 46, na gelang van die geval;
- (b) die houër, op 'n tydstip nie vroeër as wat voorgeskryf word, 'n geldende padwaardigheidsertifikaat, uitgereik vir die voertuig waarop die bedryfslisensie betrekking het, aan die beampte in artikel (2) vermeld, voorlê, of 'n behoorlike gesertifiseerde afskrif van dié sertifikaat;
- (c) in die geval van 'n hernuwing, wysiging, of oordrag van 'n bedryfslisensie, en in die geval van die omskakeling van 'n radiuspermit ingevolge artikel 46, die aansoeker die betrokke permit of bedryfslisensie, na gelang van die geval, wat voorheen vir dieselfde openbare vervoerdiens uitgereik is aan die Raad terugbesorg;
- (d) die houër aan die Raad voorlê, soos van toepassing –
 - (i) skriftelike bevestiging van die Registrateur dat die houër 'n geregistreerde lid van vereniging is, of 'n geregistreerde nie-lid; of
 - (ii) skriftelike bevestiging van die vereniging wat die betrokke roete of roetes bedryf waarin bevestig word dat die houër as lid van dié vereniging aanvaar is, of
 - (iii) 'n sertifikaat in artikel 87(1) bedoel; en
- (e) bevredigende bewys van passasiërsaanspreeklikheidsversekeringsdekking gelewer is.

(4) 'n Bedryfslisensie moet dié besonderhede bevat wat voorgeskryf is.

(5) 'n Nuwe bedryfslisensie mag nie uitgereik word nie, tensy die applikant bewys tot die bevrediging van die Raad gelewer het dat die applikant as belastingpligtige ingevolge die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962) geregistreer is of, ingevolge dié Wet, nie verplig is om aldus te registreer nie: Met dien verstande dat vir die doel van die vereistes van hierdie artikel enige bedryfslisensie uitgereik ingevolge die prosese bedoel in artikels 45, 46 en 47 nie as 'n nuwe bedryfslisensie beskou word nie.

Magtiging oorgedra deur 'n bedryfslisensie

56. 'n Bedryfslisensie wat ingevolge hierdie Wet toegestaan en uitgereik is –

- (a) magtig nie die houër om vervoer op of oor 'n openbare pad in die regsgebied van enige munisipaliteit te onderneem nie indien dit wederegtelik is ingevolge enige nasionale of provinsiale wet of enige verordening van die munisipaliteit;
- (b) stel die houër nie vry van die verpligting om aan enige vereiste of voorwaarde te voldoen wat deur of ingevolge enige wet of lisensie deur enige ander bevoegde owerheid opgelê is nie.

Persone wat houers van bedryfslisensies mag wees

57. 'n Bedryfslisensie mag slegs uitgereik word aan en gehou word deur die persoon wat ingevolge die Nasionale Padverkeerswet as die eienaar of operateur van die voertuig, soos in dié Wet omskryf, geregistreer is en in die bedryfslisensie gespesifiseer word, behalwe waar die bedryfslisensie verband hou met die bedryf van 'n diens ingevolge 'n handelsdienskontrak of 'n gesubsidieerde dienskontrak, en die operateur wat 'n party tot die ooreenkoms is 'n ander operateur as subkontraakteur aangestel het om 'n gedeelte van die diens namens die eersgenoemde operateur te bedryf, en in dié geval –

- (a) moet die operateur wat as subkontraakteur aangestel is die geregistreerde eienaar of operateur van die voertuig wees wat deur laasgenoemde vir die bedryf van dié diens gebruik word namens die operateur wat 'n party tot die handelsdienskontrak of gesubsidieerde dienskontrak is; en
- (b) moet dié voertuig in die bedryfslisensie gemeld word as die voertuig wat vir die bedryf van dié diens gebruik gaan word.

Reëls van toepassing met betrekking tot verskillende bedryfslisensies

58.(1) By die vasstelling van die tydperk van bedryfslisensies vir niegekontraakteerde dienste, moet behoorlike oorweging aan die volgende geskenk word –

- (a) heersende en verwagte neigings met betrekking tot vraag op die roete of roetes of, waar van toepassing, in die betrokke gebied;
- (b) die doeltreffendheid van die voorgestelde dienste om in die behoeftes te voorsien;
- (c) waar van toepassing, die waarskynlikheid dat die diens nie meer in die toekoms benodig sal word nie ingevolge enige toepaslike vervoerplanne;
- (d) die waarskynlikheid dat die diens die onderwerp van 'n handelsdienskontrak of 'n gesubsidieerde dienskontrak kan word.

(2) In die geval van bedryfslisensies vir langafstanddiens dienste moet die Raad, wanneer hy die op- en aflaaipunte bepaal, die voorwaarde oplê dat passasiërs nie onderweg op- of afgelaai mag word nie, tensy die operateur met die betrokke vervoerowerhede of munisipaliteite 'n ooreenkoms in hierdie verband bereik het.

(3) In die geval van 'n aansoek vir die toestaan, hernuwing of wysiging van 'n bedryfslisensie betreffende 'n langafstanddiens, moet behoorlike oorweging aan die bepalinge van enige vervoerplanne van die betrokke vervoerowerheid geskenk word en, behoudens hierdie paragraaf –

- (a) die omvang waartoe die diens wat deur die applikant gelewer staan te word nodig en wenslik is in die openbare belang;
- (b) die behoeftes van die publiek vir die diens langs die roete of roetes waarop of spesifieke gebied waarbinne die applikant beoog om te werk;
- (c) die bestaande vervoergeriewe wat tot die publiek se beskikking is op dié roete of roetes of in dié gebied;
- (d) die behoefte om die koördinasie van van alle vorme van vervoer, met inbegrip van spoorvervoer, te verseker om 'n gesonde ekonomiese balans tussen vervoermetodes te bewerkstellig met behoorlike inagneming van die openbare belang;
- (e) in die geval van 'n minibustaxi-tipe diens, die aanbevelings van enige taxiverenigings wat regstreeks beïnvloed mag word.

Gebruik van dieselfde voertuig vir langafstand en ander openbare vervoerdienste

59.(1)(a) 'n Voertuig wat in 'n bedryfslisensie gespesifiseer word as synde die voertuig waarmee 'n diens, waarvoor in 'n vervoerplan voorsiening gemaak is, bedryf moet word, mag nie ook in die bedryfslisensie gespesifiseer word as synde die voertuig waarmee enige langafstanddiens bedryf moet word nie, behalwe as die beplanningsowerheid daartoe instem.

(b) Maar die beplanningsowerheid mag nie daartoe instem nie indien die langafstanddiens tot nadeel is, of waarskynlik tot nadeel gaan wees, van die bedryf van die openbare vervoerdienste deur middel van dié voertuig waarvoor in dié vervoerplan voorsiening gemaak is.

(2) 'n Voertuig wat in 'n bedryfslisensie gespesifiseer word om 'n langafstanddiens te lewer, mag nie ook in die bedryfslisensie gespesifiseer word as synde die voertuig waardeur 'n openbare vervoerdiens, waarvoor in 'n vervoerplan voorsiening gemaak is, bedryf moet word nie, behalwe as die beplanningsowerheid daartoe ingestem het.

Wysiging van bedryfslisensie: Vervanging van gespesifiseerde voertuig

60.(1) Waar die houer van 'n bedryfslisensie vir die bedryf van 'n openbare vervoerdiens verlang om die voertuig wat in dié bedryfslisensie gespesifiseer word met 'n ander voertuig met dieselfde passasiersvermoë te vervang, moet die houer op die voorgeskrewe wyse vir die vervanging aansoek doen by 'n beampte van die Raad wat skriftelik deur die Raad daartoe gemagtig is om die aangeleentheid af te handel: Met dien verstande dat die aard van die vervangingsvoertuig nie deur die vervanging beïnvloed word nie.

(2) Die gemagtigde beampte van die Raad moet die vervanging toelaat en 'n gewysigde bedryfslisensie aan die houer uitreik indien tevrede dat –

- (a) die vervangingsvoertuig dieselfde passasiersvermoë as die vervangde voertuig het, of kleiner, of die vermoë minder as twintig persent groter as dié van die vervangde voertuig is, en van dieselfde aard as die vervangde voertuig is, en dat die gehalte en standaard van die diens wat deur die bedryfslisensie gemagtig is nie deur die vervanging beïnvloed sal word nie;
- (b) die vervangingsvoertuig andersins geskik is vir die bedryf van die openbare vervoerdiens wat deur dié bedryfslisensie gemagtig word, as padwaardig gesertifiseer is en behoorlik gelisensieer is in ooreenstemming met padverkeerswette; en
- (c) die applikant vir vervanging die inligting verskaf het wat nodig is om aan die vereistes van hierdie artikel te voldoen.

(3) Waar 'n subkontraakteur enige deel van die openbare vervoerdiens waarop 'n bedryfslisensie betrekking het namens die houer bedryf, kan die subkontraakteur hom in alle opsigte, asof die subkontraakteur die houer is, op die bepalings van hierdie artikel beroep om enige voertuig waarvan laasgenoemde die geregistreerde eienaar is en wat in die bedryfslisensie gespesifiseer word, te vervang.

Spesiale voorwaardes wat verband hou met gemeterde taxidiens

61. In die geval van 'n gemeterde taxidiens kan die voertuig wat gespesifiseer word in die bedryfslisensie wat dié diens magtig –

- (a) die gebied wat in die bedryfslisensie beskryf word, verlaat indien hy op sy terugreis dieselfde passasiers vervoer as met sy heenreis, of moet die voertuig leeg na dié gebied terugkeer;
- (b) enige spesifieke reis onderneem teen 'n tarief wat nie deur die werking van die meter wat in die voertuig gemonteer is, bepaal word nie indien die bestuurder en die betrokke passasier of passasiers vooraf, voordat die reis 'n aanvang neem, oor die reisgeld vir die spesifieke reis ooreengekom het.

Pligte van houer van bedryfslisensie

62.(1) Die houer van 'n bedryfslisensie moet –

- (a) by die bedryf van die diens waarop die bedryfslisensie betrekking het, die bepalings van die magtiging wat dit verleen en die voorwaardes waaraan dit onderworpe is, nakom en, waar dit 'n diens is waarvoor in 'n vervoerplan voorsiening gemaak is, dié diens in ooreenstemming met dié plan bedryf;
- (b) die oorspronklike bedryfslisensie of 'n afskrif van die oorspronklike in die voertuig wat in die lisensie gespesifiseer word, hou en waar dié gespesifiseerde voertuig tydelik ingevolge artikel 63 vervang word, die bedryfslisensie en die tydelike magtiging wat vir die vervangingsvoertuig uitgereik is in die voertuig hou vir die duur van die tydelike vervanging, maar die Raad kan skriftelik gelas dat die aanhangsel by 'n bedryfslisensie nie in die voertuig gehou hoef te word nie indien dit te lwyg daarvoor is;
- (c) op versoek van 'n gemagtigde beampte die bedryfslisensie toon;
- (d) die oorspronklike bedryfslisensie of enige afskrif van die oorspronklike in 'n toestand hou sodat die letters en syfers daarop duidelik leesbaar is, en indien die bedryfslisensie beskadig word of nie meer duidelik leesbaar is nie of verloor of gesteel word, op die voorgeskrewe wyse vir 'n afskrif van die oorspronklike aansoek doen;
- (e) op die voorgeskrewe wyse 'n kenteken op die voertuig waarop die bedryfslisensie betrekking het, aanbring en daar hou;
- (f) behalwe in die geval van 'n bedryfslisensie wat vir 'n onbepaalde tydperk geldig is, betyds vir die hernuwing daarvan aansoek doen;
- (g) die voertuig waarop die bedryfslisensie betrekking het ten alle tye in 'n veilige en padwaardige toestand hou en –
 - (i) die voertuig vir padwaardigheid laat toets nie later as die datum wat daarvoor toegelaat word in die Nasionale Padverkeerswet nie; en
 - (ii) die nuwe padwaardigheidsertifikaat wat na elke so 'n toets uitgereik word binne 30 dae nadat dit uitgereik is aan die Raad voorlê;
- (h) 'n bedryfslisensie wat verval het of ingetrek of gekanselleer is binne sewe dae aan die Raad terugbesorg;
- (i) binne sewe dae nadat die lewering van die diens, wat deur die bedryfslisensie gemagtig word, beëindig is of die diens opgeskort is vir ander redes as in artikel 63 bedoel, die Raad skriftelik op die voorgeskrewe wyse daarvan in kennis stel;
- (j) verseker dat passasiersaanspreeklikheidsversekeringsdekking in ooreenstemming met voorgeskrewe vereistes gehandhaaf word vir die diens waarop die bedryfslisensie betrekking het, asook alle ander openbare vervoerdienste wat deur die houer bedryf word;
- (k) aan die bepalings van hierdie Wet en alle ander toepaslike wette voldoen.

- (2)(a) Die magtiging wat deur 'n bedryfslisensie verleen word, mag nie –
 (i) deur die houer gesedeer of andersins vervreem word nie, en geen persoon mag 'n party tot sodanige sessie of vervreemding wees nie, behalwe waar die bedryfslisensie ingevolge hierdie Wet oorgedra word;
 (ii) deur die houer uitgehuur of deur enige ander persoon gehuur word nie.
- (b) 'n Transaksie wat in stryd met paragraaf (a) gesluit word, het geen regsrag of waarde nie en is 'n misdryf ingevolge hierdie Wet.

Tydlike vervanging van gespesifiseerde voertuig

63.(1) Waar die voertuig wat in 'n bedryfslisensie vir die bedryf van 'n openbare vervoerdiens gespesifiseer word tydelik onklaar raak, kan 'n beampte van die Raad wat behoorlik deur hom daartoe gemagtig is op versoek van die houer, of waar die voertuig aan die subkontraakteur behoort, op versoek van die subkontraakteur, die houer of die subkontraakteur namens die houer skriftelik magtig om tydelik in die plek van dié voertuig 'n ander voertuig te gebruik met die doel om dié diens behoudens subartikels (2) en (3) te bedryf.

(2) Die geskrewe magtiging moet in die vorm en vir 'n tydperk soos voorgeskryf, geskied.

(3)(a) Die passasiersvermoë van die vervangingsvoertuig moet gelyk wees aan die vermoë van die voertuig wat in die betrokke bedryfslisensie gespesifiseer word, of kan –

- (i) kleiner wees; of
 (ii) dié vermoë met hoogstens 20 persent oorskry.

(b) Die vervangingsvoertuig moet geskik wees vir die bedryf van dié openbare vervoerdiens en moet, behalwe waar hierdie artikel anders bepaal, in alle ander opsigte voldoen aan die vereistes en voorwaardes wat van toepassing en ingevolge hierdie Wet van krag is met betrekking tot die voertuig wat so in die bedryfslisensie gespesifiseer word.

(4) Die skriftelik magtiging moet in die vervangingsvoertuig waarop dit betrekking het, tesame met die bedryfslisensie van toepassing op die vervangde voertuig, gehou word vir die duur van die tydperk van vervanging waarvoor in dié magtiging voorsiening gemaak is.

(5) Die vervangingsvoertuig sal vir die magtigingstydperk van die vervanging in alle opsigte beskou word as die voertuig wat kragtens die bedryfslisensie wat die vervangde voertuig spesifiseer, bedryf word.

Spesiale geleentheid

64.(1) Niemand mag 'n openbare vervoerdiens ná of vanaf 'n spesiale geleentheid onderneem nie, behalwe –

- (a) in die loop van 'n huurdiens wat ingevolge 'n gepaste bedryfslisensie bedryf word; of
 (b) ingevolge die magtiging van 'n bedryfslisensie wat reeds die toepaslike vervoer op die betrokke roete of in die gebied magtig; of
 (c) ingevolge 'n spesiale bedryfslisensie wat ingevolge hierdie artikel aan 'n houer toegestaan en uitgereik is.

(2) 'n Houer van 'n bedryfslisensie wat nie deur subartikel (1)(a) of (b) gemagtig is om 'n openbare vervoerdiens ná en vanaf 'n spesiale geleentheid te onderneem nie, kan op die voorgeskrewe wyse by die Raad vir 'n spesiale bedryfslisensie aansoek doen.

(3) Die Raad kan 'n aansoek ingevolge subartikel (2) goedkeur en dié spesiale bedryfslisensie uitreik indien –

- (a) op redelike gronde daarvan oortuig dat die bestaande openbare vervoerdiens wat beskikbaar is om passasiers ná en vanaf die spesiale geleentheid te vervoer, nie voldoende is om in die geraamde vraag te voorsien nie;
 (b) op redelike gronde daarvan oortuig is dat die bestaande dienste nie ontwrig of benadeel sal word nie; en
 (c) daar aan ander maatstawwe wat voorgeskryf mag word, voldoen is.

(4) Die onus om die aangeleentheid vermeld in subartikel (3) te bewys, rus op die applikant.

(5) Die Raad kan van die applikant vereis om die aansoek aan te vul met enige inligting ter ondersteuning daarvan.

(6) 'n Spesiale bedryfslisensie kan alleenlik vir een besondere spesiale geleentheid toegestaan word en vir 'n tydperk wat nie langer is as die duur van dié geleentheid nie.

(7) 'n Spesiale bedryfslisensie ingevolge hierdie artikel moet –

- (a) die spesiale geleentheid en die datum of datums waarop dit plaasvind, spesifiseer;
 (b) die roete of roetes waarlangs die vervoer ná en vanaf die spesiale geleentheid voorsien mag word, meld;
 (c) die eindpunte, staanplekke en stilhouplekke wat gebruik mag word, spesifiseer.

(8) 'n Spesiale bedryfslisensie ingevolge hierdie artikel kan met 'n spesiale kenteken uitgereik word wat op die voertuig waarop die bedryfslisensie betrekking het, aangebring moet word vir die duur van die openbare vervoerdiens ná en vanaf die spesiale geleentheid.

(9) Die LUR kan regulasies uitvaardig om daarvoor voorsiening te maak dat spesiale bedryfslisensies ingevolge hierdie artikel deur munisipaliteite of ander liggame, instellings of beamptes, wat in die regulasies gespesifiseer word, toegestaan en uitgereik mag word.

Intrekking, opskorting of wysiging van bedryfslisensie

65.(1) Waar 'n diens wat ingevolge 'n kontrak bedryf word vir enige rede beëindig word, moet die Raad, na bewyslewering deur die kontrakterende owerheid van die beëindiging, alle bedryfslisensies wat voorheen in verband met die ooreenkoms uitgereik is, terugtrek.

(2) Waar dit onder die aandag van die Raad kom dat 'n bedryfslisensie nie vir 7 dae of langer in gebruik was nie, moet die Raad deur middel van 'n skriftelike kennisgewing 'n beroep op die houer doen om goeie redes aan te voer waarom die openbare vervoerdiens, waarop die bedryfslisensie betrekking het, nie bedryf is nie, en dienooreenkomstig, waarom die Raad nie dié bedryfslisensie moet kanselleer nie: Met dien verstande dat waar die Raad –

- (a) tevrede is met die redes wat aangevoer word, moet die houer 'n verdere tydperk, maar hoogstens 7 dae, gegun word om die bedryf van dié diens te hervat, en die houer moet dienooreenkomstig skriftelik in kennis gestel word; of
 (b) nie tevrede is nie, of waar die houer in gebreke bly om goeie redes binne die toegelate tydperk aan te voer, moet die Raad die bedryfslisensie kanselleer en die houer dienooreenkomstig skriftelik in kennis stel en die houer beveel om dié bedryfslisensie binne sewe dae na die datum van die kennisgewing terug te gee, tesame met die kentekens wat daarmee in verband staan.

(3) Behoudens subartikel (4), kan die Raad te eniger tyd 'n bedryfslisensie intrek, wysig of opskort vir 'n tydperk wat hy nodig ag indien die houer –

- (a) of werker van die houer skuldig bevind word aan 'n misdryf ingevolge hierdie Wet of ingevolge 'n wet wat op motorvoertuie of die regulering van verkeer betrekking het;
- (b) die bepalings van enige vasstelling, ooreenkoms, arbitrasiebeslissing, lisensie of vrystelling wat verband hou met vergoeding vir werk of werkure oortree of in gebreke bly om daaraan te voldoen en wat ingevolge enige wet bindend is op die houer as 'n werkgewer en op sy of haar werknemers;
- (c) skuldig bevind word aan enige misdryf wat hom of haar onbevoeg maak om die openbare vervoerdienste te lewer;
- (d) nie die voorwaardes en vereistes van die bedryfslisensie nagekom het nie;
- (e) in gebreke bly om die diens, of enige deel daarvan, wat deur die bedryfslisensie gemagtig is binne 30 dae nadat die bedryfslisensie uitgereik is, te inisieer;
- (f) nie langer in staat is om die passasiersaanspreeklikheidsversekeringsdekking soos in artikel 62(1)(j) bedoel, te voorsien nie;
- (g) in gebreke bly om aan 'n kennisgewing wat ingevolge artikel 33(3) uitgereik is, te voldoen;
- (h) strydig met die vereistes van artikel 105 nie as 'n lid of nie-lid geregistreer is nie na die da tum daarin beoog, of nie langer aldus geregistreer is nie, of in die geval van 'n bedryfslisensie wat openbare vervoerdienste, behalwe minibustaxi-tipe dienste, magtig die houer nie langer aan die vereistes van artikel 104 voldoen nie.
- (4) Die Raad kan te eniger tyd 'n bedryfslisensie intrek wat verkeerdelik deur hom toegestaan of uitgereik is, of op die grondslag van onjuis of valse inligting wat aan die Raad verstrekk is.
- (5) Die Raad kan te eniger tyd, vir 'n tydperk wat hy dit nodig ag, enige bedryfslisensie intrek of opskort indien die omstandighede waaronder die bedryfslisensie toegestaan is wesenlik verander het.
- (6) Niteenstaande die omstandighede in subartikels (2) en (3) beoog, kan die Raad vir enige ander rede enige voorwaarde of vereiste kanselleer of verander van, of enige voorwaarde of vereiste toevoeg tot, of die bepalings en voorwaardes van 'n bedryfslisensie omskryf, heromskryf, inkort of andersins wysig: Met dien verstande dat die hoofogmerk moet wees om die openbare vervoerdienste te verbeter of die veiligheid en sekuriteit daarvan te verseker.
- (7) Die Raad mag nie enige bedryfslisensie intrek of opskort nie, of enige voorwaarde of vereiste kanselleer of verander van, of enige voorwaarde of vereiste toevoeg tot 'n bedryfslisensie, of dit wysig nie soos in subartikels (3) tot (6) beoog tensy –
- (a) die Raad nie minder as 14 dae skriftelik kennis van sy voorneme, tesame met skriftelike redes, gegee het nie deur middel van geregistreerde of gesertifiseerde pos aan die houer van die bedryfslisensie: Met dien verstande dat die Raad 'n korter kennisgewingstydperk kan voorskryf waar die Raad dit in die openbare belang ag;
- (b) die houer van die bedryfslisensie die geleentheid gebied is, hetsy persoonlik of deur sy behoorlik gemagtigde verteenwoordiger, om voor die Raad te verskyn en getuienis aan te bied en vertoë te rig met betrekking tot die voorgestelde optrede; en
- (c) die vervoerowerheid of munisipaliteit die geleentheid gebied is om vertoë tot die Raad te rig met betrekking tot die voorgestelde optrede op die wyse en binne die tyd wat by regulasies voorgeskryf word.

Diskwalifikasie met betrekking tot die hou van bedryfslisensie

- 66.(1) 'n Persoon wat direk by die volgende funksies of bestuur daarvan betrokke is, mag nie die houer van 'n bedryfslisensie wees nie of betrokke wees by die lewering van 'n vervoerdiens indien hy of sy –
- (a) aansoek vir bedryfslisensies oorweeg nie;
- (b) bedryfslisensies uitreik nie;
- (c) betrokke is by die voorbereiding en/of ontwikkeling van vervoerbeleid, strategie, raamwerke, planne of enige ander verbandhoudende bestuurs- en administratiewe prosesse;
- (d) betrokke is by die proses om operateurs vir openbare vervoerdienste te registreer; of
- (e) 'n gemagtigde beampte is soos in die Nasionale Oorgangswet op Landvervoer omskryf.

Interprovinsiale dienste

- 67.(1) Tot die mate wat interprovinsiale dienste binne die trefwydte van die nasionale bevoegdheid val –
- (a) moet aansoeke vir interprovinsiale openbare vervoer wat sy oorsprong in die provinsie het in ooreenstemming met die toepaslike bepalings van die Nasionale Oorgangswet op Landvervoer ingedien word; en
- (b) die Raad moet aansoeke vir interprovinsiale dienste in ooreenstemming met die toepaslike bepalings van die Nasionale Oorgangswet op Landvervoer afhandel.

HOOFSUK 6 VERVOERAPPÈLTRIBUNAAL

Instelling van Vervoerappèltribunaal

68. Die KwaZulu-Natal Vervoerappèltribunaal word hierby ingestel.

Benoemings vir Appèltribunaal

- 69.(1) Die LUR moet, deur die gebruikmaking van 'n metode wat ontwerp is om die grootste aantal inwoners in die provinsie te bereik, uitnodigings rig vir die benoeming van persone met ondervinding as 'n –
- (a) gekwalifiseerde, praktiserende prokureur of advokaat met ten minste 10 jaar regservaring; of
- (b) regterlike amptenare in die Hooggeregshof.
- (2) Die uitnodiging vir benoemings ingevolge subartikel (1) moet die volgende spesifiseer –
- (a) benoemingsprosedure;
- (b) vereistes vir benoeming; en
- (c) datum waarop 'n benoeming aan die LUR voorgelê moet word.
- (3)(a) Die LUR moet 'n keurkomitee bestaande uit minstens vier senior departementele beamptes aanstel om alle benoemings te hersien en aanbevelings oor die benoemdes te maak.
- (b) Die LUR kan, geheel na eie goeddunke, hoogstens twee persone met ervaring van die vervoerbedryf of wat prokureurs of advokate is, aanstel om die keurkomitee in paragraaf (a) bedoel, by te staan met die maak van aanbevelings oor die benoemdes.

Aanstelling van Appèltribunaallede

70.(1) Die LUR moet, gebaseer op benoemings wat ingevolge artikel 69(1) ontvang is en aanbevelings deur die keurkomitee in artikel 69(3) bedoel, drie lede aanstel waarvan twee lede –

- (a) minstens 10 jaar ervaring het as 'n gekwalifiseerde praktiserende prokureurs of advokate; en
- (b) as regterlike amptenare in die Hooggeregshof opgetree het.

(2) Die LUR moet minstens een en hoogstens twee plaasvervangende lede in die Appèltribunaal aanstel wat in die Appèltribunaal sal dien ingeval 'n lid 'n botsing van belange ondervind of andersins nie vir 'n verhoor beskikbaar is nie.

(3) Die plaasvervangende lid in subartikel (2) bedoel, moet 'n gekwalifiseerde prokureur of advokaat wees en oor minstens 10 jaar ervaring beskik.

(4) Die Appèltribunaallede in subartikel (1) bedoel en die plaasvervangende lede in subartikel (2) bedoel, moet geskikte en gepaste persone wees wat gekenmerk word deur hul onafhanklikheid, onpartydigheid en billikheid.

(5) 'n Persoon mag nie as lid of plaasvervangende lid van die Appèltribunaal aangestel word nie of in die amp aanbly nie indien hy of sy –

- (a) handelingsonbevoegd is;
- (b) op grond van wangedrag uit 'n openbare amp ontslaan is of word;
- (c) insolvent verklaar is of word en nie gerehabiliteer is nie; of
- (d) skuldig bevind is aan 'n misdryf –
 - (i) waarvan oneerlikheid 'n wesentlike bestanddeel is;
 - (ii) waarvoor gevangenisstraf sonder die keuse van 'n boete opgelê is;
- (e) 'n finansiële belang het in enige sektor van die vervoerbedryf of betrokke is by enige werksaamheid wat daarmee in verband staan;
- (f) 'n onmiddellike familielid het wat enige direkte finansiële of sakebelange in enige sektor van die vervoerbedryf het.

Aanstellingstermyn van Appèltribunaallede

71.(1) Die LUR moet, wanneer hy die aanvanklike aanstellings vir die Appèltribunaal doen, –

- (a) een persoon vir 'n aanvanklike termyn van twee jaar aanstel; en
- (b) die balans van lede van die Appèltribunaal vir 'n termyn van drie jaar aanstel.

(2) Lede van die Appèltribunaal kan heraan gestel word vir een verdere termyn van drie jaar.

Aanstelling van voorsitter en adjunkvoorsitter van Appèltribunaal

72. Die LUR moet 'n voorsitter en adjunkvoorsitter vir die Appèltribunaal aanstel waarvan beide gekwalifiseerd moet wees ingevolge artikel 70(1).

Verklaring by benoeming vir Appèltribunaal

73.(1) 'n Benoemde vir die Appèltribunaal moet binne 10 dae na die benoeming 'n skriftelike verklaring by die LUR indien van enige finansiële of ander belange in die vervoerbedryf wat verband hou of kan hou of bots met 'n aanstelling as 'n lid van die Appèltribunaal, welke verklaring verbandhoudende inligting moet bevat aangaande enige skuldigbevinding weens 'n Bylae 1-misdryf ingevolge die Strafproseswet, 1977 (Wet No. 51 van 1977).

(2) Die verklaring in subartikel (1) bedoel moet die finansiële en ander belange in die vervoerbedryf van onmiddellike familieledede insluit wat verband kan hou of bots met 'n aanstelling as 'n lid van die Appèltribunaal.

(3) 'n Benoemde moet nie vir 'n posisie in die Appèltribunaal oorweeg word nie indien hy of sy in gebreke bly om die verklaring in hierdie artikel beoog, voor te lê.

(4) Waar 'n lid van die Appèltribunaal of 'n onmiddellike familielid 'n verandering in finansiële of ander omstandighede ervaar en 'n belang in die vervoerbedryf bekom, of rede het om kennis te dra van enige veranderde omstandighede wat die uitwerking het dat sy of haar vermoë, om voort te gaan om as lid van die Appèltribunaal te funksioneer, aangetas word, moet die lid van die Appèltribunaal, binne 10 dae nadat die veranderde omstandighede aan die lig gekom, die LUR deur middel van 'n skriftelike verklaring in kennis stel –

- (a) van die veranderde omstandighede; en
- (b) van sy of haar beoogde optrede voortvloeiend uit die veranderde omstandighede.

Versuim om finansiële of ander belange te verklaar

74.(1) 'n Lid van die Appèltribunaal wat versuim om 'n verklaring bedoel in artikel 73 te doen, word geag 'n misdryf te pleeg.

(2) Die Hoof van Departement moet, wanneer dit aan die lig kom dat 'n lid van die Appèltribunaal in gebreke gebly het om aan die bepalings van artikel 73 te voldoen, die aangeleentheid ondersoek en na die LUR vir gepaste dissiplinêre optrede verwys.

Vergoeding van lede van die Appèltribunaal

75.(1) Die lede van die Appèltribunaal word die vergoeding en toelaes betaal wat deur die LUR in oorleg met die LUR vir Finansies bepaal is.

(2) 'n Lid van die Appèltribunaal wat 'n lid van die staatsdiens is, ontvang nie enige vergoeding bykomend tot sy of haar salaris nie, behalwe vir reis en los uitgawes wat met die sake of werksaamhede van die Appèltribunaal in verband staan.

Vergaderings van Appèltribunaal

76.(1) Die eerste vergadering van die Appèltribunaal moet op 'n tyd en plek gehou word wat deur die LUR bepaal word, en daarna sal vergaderings gehou word op tye en plekke wat deur die voorsitter van die Appèltribunaal bepaal word.

(2) Die lede van die Appèltribunaal kan by ooreenkoms 'n spesiale vergadering belê, en moet so 'n vergadering belê indien deur die LUR daartoe versoek.

(3) 'n Kworum vir 'n vergadering van die Appèltribunaal is twee lede.

(4) Die prosedure by vergaderings van die Appèltribunaal, met inbegrip van die prosedure waarvolgens besluite geneem word, moet deur die Appèltribunaal bepaal word behoudens die voorskrifte, indien enige, van die LUR.

(5) Die beslissing van die meerderheid van die lede van die Appèltribunaal teenwoordig by 'n vergadering maak die besluit van die Raad uit ten opsigte van daardie verrigtinge, en in die geval van 'n staking van stemme het die persoon wat op die vergadering voorsit die beslissende stem bykomend tot sy of haar gewone stem.

(6) Die Appèltribunaal moet appèlle aanhoor binne 60 dae nadat die kennisgewing van appèl ontvang is en die beslissings daarvoor aan al die betrokke partye binne die voorgeskrewe tydperk meedeel.

Bevoegdhede en funksies van Appèltribunaal

77.(1) Die Appèltribunaal is 'n onafhanklike liggaam wat op 'n regverdige en onpartydige wyse moet optree wanneer hy appèlle teen besluite van die Raad, die Registrateur en 'n beplanningsowerheid moet aanhoor.

(2)(a) Die Appèltribunaal moet appèlle aanhoor bloot op grond van die stukke wat deur die entiteite teen wie die appèl gerig is, verskaf word en mag nie nuwe getuienis aanhoor nie.

(b) Indien nuwe getuienis in 'n appèlsaak gelewer word, moet die Appèltribunaal die aangeleentheid terugverwys na die entiteit teen wie die appèl gerig is.

(3) Die Appèltribunaal word gebind deur die toepaslike vervoerplanne.

(4) Behoudens die bevoegdhede wat deur hierdie Wet toegeken is, kan die Appèltribunaal met die oog op die afhandeling van enige aangeleentheid wat voor hom ingevolge hierdie Wet dien –

(a) in sy diskresie 'n persoon wat deur die aangeleentheid geaffekteer word of 'n belang daarby het, of die behoorlik gemagtigde verteenwoordiger van daardie persoon, toelaat om voor hom te verskyn en –

(i) getuienis te lewer of mondelingse vertoë rig wat met die appèl verband hou;

(ii) getuienis te roep en lei oor 'n kwessie wat met die appèl verband hou; of

(iii) 'n persoon te ondervra wat by die appèl getuig;

(b) deur skriftelike kennisgewing soos voorgeskryf en op die voorgeskrewe wyse beteken, van 'n persoon vereis om voor hom te verskyn om getuienis af te lê of om 'n boek, plan of ander dokument of artikel in sy of haar besit of onder sy of haar beheer te oorhandig;

(c) 'n persoon oproep wat teenwoordig is op die plek waar die aangeleentheid deur die Appèltribunaal behandel word om voor hom te verskyn om getuienis af te lê of om 'n boek, plan of ander dokument of artikel in sy of haar besit te oorhandig;

(d) 'n persoon ondervra wat voor hom as 'n getuie verskyn; en

(e) weier om 'n persoon aan te hoor wat voor hom as 'n getuie verskyn wat weier om 'n eed of 'n plegtige verklaring af lê.

(5) Die persoon wat as voorsitter van die Appèltribunaal optree waar 'n persoon as 'n getuie verskyn soos in subartikel (1) bepaal, moet die persoon wat aldus verskyn onder eed of plegtige verklaring stel.

Appèlle na die Appèltribunaal

78.(1) Behalwe soos andersins in hierdie Wet bepaal en behoudens subartikel (2), kan 'n persoon of vereniging wat –

(a) by die Raad aansoek gedoen het vir die toestaan, wysiging of oordrag van 'n bedryfslisensie of wie se bedryfslisensie deur die Raad ingetrek, gewysig of opgeskort is;

(b) die houër is van 'n bedryfslisensie wat deur die Raad uitgereik is;

(c) op die wyse en binne die tydperk voorgeskryf, vertoë aan die Raad gerig het om teen 'n aansoek beswaar aan te teken of dit te ondersteun;

(d) by die Registrateur vir registrasie ingevolge hierdie Wet aansoek gedoen het of wie se registrasie deur die Registrateur ingetrek of opgeskort is;

(e) deur die Registrateur geregistreer is;

(g) geaffekteer word deur 'n handeling, voorskrif of beslissing van die Raad, beplanningsowerheid of Registrateur; of

(f) 'n belang by 'n ondersoek het wat deur enige van hierdie entiteite uitgevoer is, op die wyse en binne die tydperk voorgeskryf, nadat die voornoemde handeling uitgevoer is of die voornoemde voorskrif of beslissing uitgereik is, teen die handeling, voorskrif of beslissing na die Appèltribunaal appelleer.

(2) Waar die Raad of die Registrateur 'n persoon deur middel van 'n skriftelike dokument in kennis stel van 'n voorskrif of beslissing vermeld in subartikel (1), word die datum van daardie dokument geag die datum te wees waarop daardie voorskrif of beslissing gegee is.

(3) Behoudens die bepalinge van hierdie artikel en die regulasies moet die Appèltribunaal 'n appèl ontvang en oorweeg wat by hom aangeteken is ingevolge subartikel 1 en kan –

(a) die appèl van die hand wys en die handeling, opdrag of beslissing waarteen geappelleer word, bekragtig; of

(b) die appèl handhaaf, die handeling, opdrag of beslissing waarteen geappelleer word, ter syde stel en –

(i) die Raad of Registrateur se besluit vervang deur 'n ander handeling, opdrag of beslissing wat die Raad of Registrateur kon gegee het; of

(ii) die aangeleentheid wat tot die appèl aanleiding gegee het na die Raad of Registrateur, na gelang van die geval, terugverwys vir heroerweging; of

(c) die appèl gedeeltelik handhaaf en die handeling, opdrag of beslissing waarteen geappelleer word, verander.

(4) Die voorsitter van die Appèltribunaal, of 'n lid daarvan wat deur die voorsitter benoem is, kan na sy of haar oordeel en sonder om vooraf kennis aan enige belanghebbende party te gee of so 'n party aan te hoor –

(a) 'n aansoek om kondonasie vir die laat indiening van 'n kennisgewing of appèl toestaan: Met dien verstande dat die appèl aangeteken word op die wyse by regulasie voorgeskryf en binne 30 dae nadat die Raad of Registrateur die handeling uitgevoer het of die opdrag of beslissing waarteen geappelleer word, gegee het of dit weier;

(b) 'n aansoek om die opskorting van die werking van 'n handeling, opdrag of beslissing van die Raad of Registrateur waarteen geappelleer word, toestaan of weier, hangende die aanhoor van die aangeleentheid deur 'n vol sitting van die Appèltribunaal; of

(c) 'n handeling, opdrag of beslissing van die Raad of Registrateur waarteen geappelleer word, ter syde stel en die aangeleentheid na die Raad of Registrateur, na gelang van die geval, terugverwys vir heroerweging.

(5) 'n Handeling, opdrag of beslissing van die Appèltribunaal ingevolge subartikel (3)(b)(i) of (c) word, behalwe vir die doel van subartikel (1), beskou as 'n handeling, opdrag of beslissing van die Raad of Registrateur, na gelang van die geval.

Jaarverslag van Appèltribunaal

79.(1) Die voorsitter van die Appèltribunaal moet 'n jaarverslag oor die werksaamhede van die Appèltribunaal aan die LUR voorlê binne 30 dae na die einde van die boekjaar.

(2) Die voorsitter kan in die jaarverslag die nodige wets-, regulerende en prosedurewysigings met betrekking tot hierdie Wet aanbeveel.

Oorgangsbepalings

80. Enige appèl hangende voor –

- (a) die kommissie (Nasionale Vervoerkommissie) soos omskryf in die Wet op Padvervoer; of
- (b) die Vervoerappèltribunaal ingestel ingevolge artikel 3 van die Wet op die Vervoerappèltribunaal, 1998 (Wet No. 39 van 1998), op die datum van die inwerkingtreding van hierdie Wet moet, ondanks die bepaling van artikel 78, deur dié kommissie of tribunaal ingevolge daardie wette afgehandel word.

Personeel van Appèltribunaal

81. Die Hoof van Department moet, behoudens die wette wat die staatsdiens reguleer, die personeel en ander middele voorsien wat nodig is om die Appèltribunaal in staat te stel om sy funksies te verrig.

HOOFSTUK 7

PROVINSIALE VERVOERREGISTRATEUR

Aanstelling van Provinsiale Vervoerregistrateur

82.(1) Die LUR moet 'n geskikte en gepaste persoon as Provinsiale Vervoerregistrateur vir die provinsie aanstel ooreekomstig bepalinge en voorwaardes waarvoor die LUR en die LUR vir Finansies ooreengekom het.

(2) Ondanks die bepalinge van subartikels (1), (3) en (4), word die Registrateur wat ingevolge die Tussentydse Wet op Taxi's aangestel is, beskou as die Provinsiale Vervoerregistrateur aangestel ingevolge subartikel (1) en kan in die amp voortgaan tot verstryking van die tydperk waarvoor hy of sy aangestel is.

(3) Voordat 'n persoon as Registrateur aangestel word, moet die LUR –

- (a) deur die gebruikmaking van 'n metode wat ontwerp is om die grootste aantal inwoners in die provinsie te bereik, aansoeke van persone vra vir die posisie van Registrateur;
- (b) 'n kennisgewing publiseer met die naam van die persoon wat hy of sy van plan is om aan te stel, en uitnodigings vir kommentaar en vertoë in dié verband rig; en
- (c) behoorlike oorweging skenk aan enige kommentaar en vertoë wat in verband met die voorgestelde aanstelling van die Registrateur ontvang is.

(4)(a) Die LUR moet 'n keurkomitee van minstens vier senior departementele beamptes aanstel om al die benoemings vir die pos van Registrateur te hersien.

(b) Die LUR kan, geheel en al volgens sy of haar goeddunke, hoogstens twee persone met ondervinding van die vervoerbedryf aanstel om die keurkomitee in paragraaf (a) bedoel, by te staan met die hersiening van al die aansoeke vir die pos van Registrateur.

(c) Die LUR moet die aanbevelings in paragraaf (a) en (b) bedoel, oorweeg voordat 'n Registrateur aangestel word.

(5) Die Registrateur moet onpartydig, onafhanklik en regverdig wees in die uitoefening van bevoegdhede en die vervulling van pligte wat deur hierdie Wet aan hom of haar toegewys is, of enige bevoegdhede wat deur die LUR toegewys of gedelegeer is en moet dit uitvoer sonder vrees, begunstiging of vooroordeel.

(6) Die Registrateur en sy of haar familieleden en vertroude medewerkers mag nie enige direkte finansiële of sakebelang in enige sektor van die vervoerbedryf hê nie.

(7) 'n Persoon mag nie as Registrateur aangestel word nie of in die amp aanbly nie indien hy of sy –

- (a) handelingsonbevoegd is;
- (b) op grond van wangedrag uit 'n openbare amp ontslaan is of word;
- (c) insolvent verklaar is of word en nie gerehabiliteer is nie; of
- (d) skuldig bevind is of word aan 'n misdryf waarvan oneerlikheid 'n weselike bestanddeel is.

Aanstellingstermyn van Registrateur

83.(1) Die Registrateur word vir 'n tydperk van drie jaar aangestel.

(2) Die Registrateur kan in aanmerking kom vir heraanstelling vir een bykomende termyn van drie jaar.

Aanstelling van Waarnemende Registrateur

84. Wanneer die Registrateur sy of haar amp ontruim of ontslaan word of tydelik nie in staat is om sy of haar funksies te verrig nie, kan die LUR 'n persoon aanstel wat hy of sy as geskik ag om in die plek van die Registrateur waar te neem vir 'n tydperk van hoogstens drie maande, en sodanige aanstelling is onderhewig aan die voorwaardes wat deur die LUR bepaal word.

Vergoeding en toelaes

85. Die Registrateur of 'n persoon wat aangestel word om in sy plek waar te neem, moet die vergoeding en toelaes betaal word wat deur die LUR in oorleg met die LUR vir Finansies vasgestel word.

Funksies van Registrateur

86. Die Registrateur moet –

- (a) enige aansoek vir registrasie ingevolge hierdie Wet oorweeg en daarvoor besluit;
- (b) 'n sertifikaat van voorlopige registrasie of volledige registrasie, na gelang van die geval, aan enige geregistreerde vereniging en sy lede, of aan nie-lede, ingevolge hierdie Wet toestaan;

- (c) 'n register hou soos voorgeskryf waarin hy of sy moet toesien dat die besonderhede van elke vereniging, lid of nie-lid wat ingevolge hierdie Wet geregistreer is, aangeteken en op datum gehou word;
- (d) alle redelike stappe doen om inligting te versamel en nakoming of nienakoming te monitor van geregistreeerde verenigings met hul geregistreeerde grondwette en toepaslike wetgewing, en van geregistreeerde lede en nie-lede met die Gedragskode ingevolge artikel 106 voorgeskryf;
- (e) bystand verleen met betrekking tot die bevordering van professionele praktyke deur geregistreeerde verenigings en hul lede en deur geregistreeerde nie-lede;
- (f) alle redelike stappe doen om verenigings en operateurs aan te moedig om ingevolge hierdie Wet te registreer;
- (g) advies en bystand aan verenigings en operateurs verleen om hulle in staat te stel om suksesvol vir registrasie aansoek te doen;
- (h) die opskorting en kansellering van die registrasie van 'n vereniging, lid of nie-lid oorweeg en 'n beslissing daarvoor maak soos in artikel 102 bepaal;
- (i) waar registrasie vir enige rede gekanselleer of opgeskort word, die Raad dienooreenkomstig in kennis stel binne 'n tydperk wat voorgeskryf moet word, waarna die Raad die betrokke bedryfslisensies vir 'n gepaste periode moet intrek of opskort;
- (j) by registrasie van 'n interprovinsiale vereniging, 'n afskrif van die registrasiesertifikaat en alle registrasiebesonderhede van die vereniging aanstuur na die Registrateur of departement verantwoordelik vir vervoeraangeleenthede in elke provinsie waarin die lede van die genoemde vereniging in bedryf is;
- (k) voorgestelde wysigings aan die grondwette van geregistreeerde verenigings evalueer om te verseker dat die wysigings in ooreenstemming is met die vereistes van die Minimum Standaardgrondwet soos in artikel 106 voorgeskryf, oorleg pleeg met verenigings met die oog om te voorkom dat wysigings aanvaar word wat nie in ooreenstemming is nie, of hulle in kennis stel van die teenstrydigheid van wysigings wat deur hulle aanvaar is, en 'n beroep op hulle doen om dié wysigings te laat vaar;
- (l) demokratiese prosedures binne verenigings fasiliteer;
- (m) aantekeninge hou van alle ander inligting en besonderhede wat nodig is om die Nasionale Vervoerregister in stand te hou;
- (n) geskilpunte en klagtes ontvang, ondersoek en bemiddel wat ingedien word deur –
 - (i) 'n vereniging met betrekking tot 'n onopgeloste geskilpunt met een van sy lede;
 - (ii) 'n lid van 'n vereniging met betrekking tot 'n onopgeloste geskilpunt met die lid se vereniging;
 - (iii) 'n vereniging met betrekking tot 'n onopgeloste geskilpunt met 'n ander vereniging of sy lede;
 - (iv) 'n nie-lid;
 - (v) enige entiteit wat betrokke is by die lewering van openbare vervoerdienste; of
 - (vi) 'n lid van die publiek;
- (o) geskilpunte en klagtes binne die vervoerbedryf ontvang, ondersoek en bemiddel –
 - (i) deur die LUR na hom verwys;
 - (ii) deur die Raad na hom verwys;
 - (iii) deur 'n beplanningsowerheid na hom verwys; of
 - (iv) deur 'n ander regeringsliggaam na hom verwys;
- (p) deur middel van skriftelike kennisgewing binne twee weke nadat ingevolge artikel 106 opgetree is teen –
 - (i) 'n geregistreeerde vereniging die LUR en die Raad in kennis stel; of
 - (ii) 'n lid of nie-lid die Raad in kennis stel, van die stappe wat aldus gedoen is en die redes daarvoor; en
- (q) enige ander pligte onderneem wat ingevolge hierdie Wet nodig is.

Registrasiesertifikaat, registrasienommers en kentekens

87.(1) By registrasie van 'n vereniging, 'n lid of nie-lid, moet die Registrateur 'n unieke registrasienommer aan die betrokke vereniging, lid of nie-lid toeken en aan hom, haar of die vereniging 'n registrasiesertifikaat of voorlopige registrasiesertifikaat, na gelang van die geval, uitreik op die wyse en in die vorm en met die besonderhede soos voorgeskryf.

(2) Waar 'n lid of nie-lid geregistreer is, moet die Registrateur, met ingang van 'n datum wat deur die LUR in die *Koerant* bepaal is, op die wyse en in die vorm voorgeskryf, 'n kenteken vir elke voertuig van die geregistreeerde lid of nie-lid wat ingevolge die magtiging van 'n gepaste bedryfslisensie gebruik word, uitreik.

Bedanking, ontruiming van amp en ontslag

88.(1) Die Registrateur kan bedank deur 'n skriftelike kennisgewing van een kalendermaand aan die LUR te rig.

(2) Die Registrateur moet sy of haar amp ontruim indien hy of sy –

- (a) nie meer aan artikel 82(6) voldoen nie;
- (b) uit die amp ontslaan word ingevolge subartikel (3); of
- (c) bedank.

(3) Die LUR kan die Registrateur uit die amp ontslaan indien hy of sy –

- (a) versuim om aan 'n voorwaarde van sy of haar aanstelling te voldoen;
- (b) skuldig is aan onbehoorlike gedrag of gereeld sy of haar pligte as Registrateur versuim;
- (c) nie in staat is om sy of haar pligte as Registrateur doeltreffend te vervul nie; of
- (d) tot die mate onbevoeg verklaar is dat hy of sy nie in staat is om sy of haar pligte te vervul nie;
- (e) weens 'n verandering in omstandighede vermoedelik nie langer onpartydig kan wees in die uitvoering van sy of haar pligte nie.

Instelling en funksies van paneel van assessore

89.(1) Die LUR kan, na oorlegpleging met die Registrateur, by kennisgewing in die *Koerant*, 'n paneel van assessore instel waarvan die getal deur die LUR bepaal word.

(2) Dit is die funksie van die paneel van assessore om –

- (a) die Registrateur by te staan;
- (b) die Registrateur met raad te bedien en aanbevelings te maak met betrekking tot enige aangeleentheid wat deur die Registrateur aan hul voorsien word en verband hou met die uitoefening of vervulling van die Registrateur se bevoegdhede, funksies en pligte ingevolge hierdie Wet;
- (c) op versoek van en behoudens die opdragte van die Registrateur –
 - (i) enige ondersoek te onderneem en sy bevindinge en aanbevelings aan die Registrateur te rapporteer; en

(ii) geregistreerde verenigings se nakoming te monitor van hul geregistreerde grondwette en teopaslike wetgewing, en van geregistreerde lede en nie-lede met die betrokke Gedragskode.

(3) Assessore moet hulle bevoegdhede en funksies op 'n onafhanklike en onpartydige wyse en sonder vrees, begunstiging of vooroordeel uitoefen.

Aanstelling, vergoeding en diensvoorwaardes van assessore

90.(1) Behoudens subartikel (2), moet die LUR die assessore in 93(1) bedoel, aanstel as lede van 'n paneel waaruit die Registrateur kan put indien nodig

(2) Wanneer hy dit doen, moet die LUR geskikte en gepaste persone aanstel wat deur hulle onpartydigheid gekenmerk word, maar mag hy nie enige lid aanstel wat nie aan die vereistes van artikel 82(7), wat op die Registrateur van toepassing is, voldoen nie.

(3) Assessore word in die paneel aangestel vir 'n aanvanklike maksimum termyn van drie jaar wat verleng kan word met 'n verdere finale termyn van drie jaar.

(4) Elkeen van die assessore is daarop geregtig om –

(a) vergoed te word vir die tyd wat die assessor amptelik besig was met die werk van die paneel ingevolge hierdie Wet teen 'n dag- of uurtarief wat deur die LUR in oorleg met die LUR vir Finansies bepaal is;

(b) vergoed te word, in ooreenstemming met 'n tarief wat deur die LUR bepaal is, vir alle redelike reis- en verblyf koste wat noodsaaklikerwys aangegaan is terwyl die assessor amptelik besig was met die werk van die paneel.

(5) Artikel 88 wat verband hou met die onbevoegdheidsgronde en beëindiging van die amp van die Registrateur is, met die nodige veranderinge, van toepassing op die amp van assessor.

Vergaderings van paneel van assessore

91.(1)(a) Die Registrateur kan vergaderings van assessore byeenroep wanneer dit nodig geag word op 'n plek en tyd wat deur die Registrateur bepaal word.

(b) Die Registrateur sit voor by vergaderings met assessore tensy die Registrateur in 'n besondere geval anders besluit.

(2) Die Registrateur moet toesien dat notule bygehou word van die verrigtinge by vergaderings met assessore.

Personeel om Registrateur by te staan

92.Die Hoof van Departement moet, behoudens die wette wat die staatsdiens reguleer, die personeel wat nodig is voorsien om die Registrateur in die uitoefening van sy of haar funksies by te staan.

Jaarlikse verslagdoening en finansiële aanspreeklikheid

93.(1) Die Registrateur moet 'n jaarverslag oor die werksaamhede van sy kantoor aan die LUR voorle binne 30 dae na die einde van die boekjaar welke verslag, onder meer, die volgende moet behandel –

(a) die funksionering van die Registrateur se kantoor;

(b) die funksionering van die paneel van assessore en sy rol en bydraes met betrekking tot die bystand wat aan die Registrateur verleen is ten opsigte van die uitoefening van daardie amp se funksies;

(c) aangeleenthede betreffende registrasie ingevolge hierdie Wet; en

(d) ander aktuele aangeleenthede betreffende of voortspruitend uit die toepassing van hierdie Wet.

(2) Die LUR moet die Registrateur se verslag in die Provinsiale Wetgewer ter tafel lê binne 30 dae nadat dit ontvang is indien die wetgewer dan in sitting is of indien dit nie in sitting is nie, binne 30 dae na die begin van sy volgende sitting.

(3) Die Registrateur is, behoudens die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), verantwoordelik vir –

(a) boekhouding van Staats- en ander fondse wat ontvang of uitbetaal is vir of namens die Registrateur; en

(b) die instandhouding van akkurate en bygeskrewe rekeningkundige en ander gegewens.

HOOFSTUK 8

REGISTRASIE VAN MINIBUSTAXIVERENIGINGS, LEDE EN NIE-LEDE

Voorlopige registrasie van verenigings voorheen geregistreer

94. 'n Vereniging wat, voor die inwerkingtrekking van hierdie Wet, voorlopig geregistreer is kragtens artikel 8(4) van die Tussentydse Wet op Taxi's, word beskou en behandel asof voorlopig geregistreer ingevolge die bepalinge van die Nasionale Oorgangswet op Landvervoer.

Voorlopige registrasie van verenigings wat nie direk vir volledige registrasie kwalifiseer nie

95.(1) Die Registrateur moet voorlopige registrasie vir die voorgeskrewe tydperk aan enige vereniging toestaan indien die vereniging na die indiening van sy aansoek die Registrateur tevrede stel dat –

(a) hy vir 'n tydperk bestaan wat nie korter is as die tydperk wat voorgeskryf word nie;

(b) die getal lede aan die voorgeskrewe minimum voldoen;

(c) al sy lede, in ooreenstemming met 'n wyse wat by regulasie voorgeskryf word, die bepalinge van die Gedragskode onderskryf;

(d) die vereniging oor 'n grondwet beskik –

(i) wat deur al sy lede onderskryf word en ingevolge waarvan enige verbreking van daardie gespesifiseerde bepalinge van die Gedragskode deur enige lid sal lei tot die oplegging van 'n paslike straf of sanksie deur 'n staande dissiplinêre komitee na deeglike ondersoek; en

(ii) wat voldoen aan die minimum vereistes wat deur die LUR ingevolge artikel 106 voorgeskryf is;

(e) al sy lede die houers is van paslike bedryfslisensies vir elke voertuig waardeur hulle hulle onderskeie minibustaxi-tipe dienste bedryf, of vir sodanige bedryfslisensie aansoek gedoen het;

(f) die vereniging se aansoek vir voorlopige registrasie gedoen is deur die vereniging se gemagtigde verteenwoordigers, vergesel van die voorgeskrewe aansoekgelde (indien enige);

(g) die bedrae van die aansluitings- en lidmaatskapsgelde nie die maksimum bedrae oorskry soos voorgeskryf;

- (h) die vereniging al die inligting voorsien het wat redelikerwys deur die Registrateur vereis word.
- (2) Die Registrateur moet, indien hy tevrede is dat 'n vereniging wat aansoek doen aan die vereistes vir voorlopige registrasie voldoen wat deur subartikel (1) opgelê word, die vereniging voorlopig registreer en 'n paslike registrasiesertifikaat aan hom uitreik.
- (3) Die voorlopige registrasie van 'n vereniging verval indien enige van die volgende gevalle hom voordoen –
- indien die tydperk wat deur die LUR ingevolge subartikel (1) vasgestel is, verstryk;
 - indien die vereniging volledige registrasie ingevolge artikel 97 bekom.

Omskakeling van voorlopige registrasie in volledige registrasie

96.(1) Die Registrateur moet volledige registrasie toestaan aan 'n vereniging wat, voor die verstryking van die periode vir sy voorlopige registrasie, by die Registrateur aansoek gedoen het vir die omskakeling van sy voorlopige registrasie in volledige registrasie en die Registrateur tevrede gestel het –

- dat hy aan die vereistes van artikel 97 voldoen; en
 - dat hy die lidmaatskap van elke lid beëindig het wat op die datum van die aansoek nie die houër was van 'n geldige en paslike bedryfslisensie vir elke voertuig waardeur die lid minibustaxi-tipe dienste bedryf nie.
- (2) Hierdie artikel verhoed nie 'n vereniging, wie se voorlopige registrasie verstryk het nie, om vir volledige registrasie ingevolge artikel 97 aansoek te doen nie.

Volledige registrasie van verenigings

97. Die Registrateur moet volledige registrasie toestaan aan enige vereniging en elk van die lede daarvan wat na indiening van die aansoek die Registrateur tevrede stel dat –

- die vereniging aan paragrafe (a), (b), (c) en (d) van artikel 95(1) voldoen;
- die vereniging se aansoek om registrasie deur die vereniging se gemagtigde verteenwoordigers gedoen is op die wyse in hierdie artikel bedoel en vergesel is van die voorgeskrewe aansoekgelde (indien enige);
- elke lid ten opsigte waarvan 'n aansoek om registrasie gedoen is die houër is van 'n geldige bedryfslisensie vir elke voertuig waardeur die lid minibustaxi-tipe dienste bedryf;
- die bedrae van die aansluitings- en lidmaatskappgelde van die vereniging nie die maksimum bedrae soos voorgeskryf, oorskry nie;
- die vereniging al die inligting wat redelikerwys deur die Registrateur vereis word, voorsien het.

Registrasie van bestaande lede van verenigings

98.(1) By registrasie van 'n vereniging ingevolge artikels 94 tot 97, na gelang van die geval, moet al die persone ten opsigte waarvan die vereniging die verlangde besonderhede as lede van daardie vereniging voorgelê het op die voorgeskrewe wyse deur die Registrateur geregistreer word.

- (2) Die onus rus op die lid van 'n vereniging om die nodige stappe te doen om te verseker dat hy of sy ingevolge subartikel (1) geregistreer word.
- (3) Geen persoon kan as 'n geregistreerde lid van 'n vereniging aanbly wat nie die houër van 'n geldige bedryfslisensie is nie.

Registrasie van nuwe lede

99.(1) Waar 'n geregistreerde vereniging 'n nuwe lid toelaat wat die houër van 'n bedryfslisensie is wat saamval met die gebied of roetes waarvoor die vereniging deur die Registrateur erken word, moet die uitvoerende komitee, ander liggaam of 'n ampsdraer van die vereniging wat behoorlik deur dié komitee of liggaam gemagtig is by die Registrateur op die voorgeskrewe wyse aansoek doen vir die nuwe lid se registrasie as 'n lid binne 14 dae na dié toelating.

- (2) Waar 'n geregistreerde vereniging tydelike lidmaatskap toestaan aan 'n kandidaatlid hangende die uitslag van dié lid se aansoek by die Raad vir die toekenning van 'n bedryfslisensie vir die gebied of roetes waarvoor die vereniging deur die Registrateur erken word, moet die vereniging die Registrateur in kennis stel van dié tydelike lidmaatskap binne 14 dae nadat dié lidmaatskap toegestaan is.
- (3) Indien die aansoek om 'n bedryfslisensie in subartikel (2) bedoel –
- sukcesvol is, moet die Raad die Registrateur binne 14 dae daarvan in kennis stel wat op sy beurt die lid van die vereniging dienoreenkomstig moet registreer; of
 - onsuksesvol is, moet die Raad die Registrateur binne 14 dae daarvan in kennis stel wat op sy beurt die vereniging moet aansê om die tydelike lidmaatskap van daardie lid te beëindig binne 14 dae nadat die voorskrif uitgereik is, en versuim van die vereniging om hieraan te voldoen, sal neerkom op wangedrag.

Registrasie van nie-lede

100.(1) 'n Nie-lid wat by die inwerkintreding van hierdie Wet die houër is van 'n bedryfslisensie vir minibustaxi-tipe dienste moet binne die voorgeskrewe tydperk by die Registrateur aansoek doen om as nie-lid geregistreer te word en moet by registrasie die Gedragskode onderskryf wat ingevolge artikel 106 voorgeskryf word.

- (2) Die Registrateur mag nie 'n nie-lid bedoel in subartikel (1) registreer nie ten opsigte van 'n bedryfslisensie wat saamval met die gebied of roetes waarvoor die Registrateur reeds 'n vereniging erken het nie, tensy –
- die nie-lid geldige redes kan aanvoer waarom die nie-lid nie by 'n vereniging kan aansluit wat vir die betrokke gebied of roetes geregistreer is nie; of
 - die Registrateur in staat is om te bevestig dat daar geen geregistreerde vereniging met betrekking tot die gebied of roetes ter sprake is nie, of waar daar wel so 'n geregistreerde vereniging is –
 - die applikant lidmaatskap van die vereniging geweier is;
 - die vereistes vir lidmaatskap onregverdig is; of
 - daar nie redelikerwys van die applikant verwag kan word om in die lig van die heersende omstandighede 'n lid van die vereniging te word nie.
- (3) Behoudens subartikel (2) mag die Registrateur nie registrasie van 'n nie-lid weerhou nie indien die nie-lid –
- die houër is van 'n gepaste bedryfslisensie vir elke voertuig deur middel waarvan die nie-lid 'n minibustaxi-tipe diens bedryf; en

(b) die diens waarop die bedryfslisensie betrekking het, bedryf in ooreenstemming met die bepalings en voorwaardes verbonde aan die bedryfslisensie.

- (4) 'n Nie-lid se versuim om vir registrasie bedoel in subartikel (1) aansoek te doen, kan daartoe lei dat die geaffekteerde bedryfslisensie –
- verval en die nie-lid sy of haar regte met betrekking tot die bedryfslisensie verbeur; en
 - deur die Raad ingetrek word soos by regulasie voorgeskryf.

Verpligte resgistrasie van verenigings en operateurs van minibustaxi-tipe dienste

101. Vanaf die datum van die inwerkingtreding van hierdie Wet –

- moet elke vereniging wat betrokke is by die bedryf van minibustaxi-tipe dienste minstens voorlopig geregistreer wees ingevolge hierdie hoofstuk en geen vereniging mag aanhou om sodanig sake te doen nie tensy hy aldus geregistreer is nie;
- mag geen persoon 'n minibustaxi-tipe diens bedryf nie tensy dié persoon 'n geregistreerde lid van 'n vereniging is wat ingevolge hierdie hoofstuk geregistreer is of, in die geval van 'n nie-lid, behoorlik geregistreer is op 'n datum wat deur die LUR voorgeskryf word met inagneming van die bepalings van artikel 100(1); en
- moet die Raad al die bedryfslisensies wat minibustaxi-tipe dienste magtig, intrek waar die houer daarvan nie 'n lid is van 'n vereniging wat ingevolge hierdie hoofstuk geregistreer is nie en in gebreke gebly het om aan die vereistes van artikel 96 te voldoen.

Kansellasië of opskorting van registrasie

102.(1) Die Registrateur moet die registrasie kanselleer van –

- 'n vereniging wat –
 - nie meer bestaan nie of nie meer in die provinsie gesetel is nie; of
 - registrasie op 'n bedrieglike wyse verkry het;
- 'n lid, ten opsigte van 'n bepaalde vereniging, waar –
 - die registrasie van daardie vereniging gekanselleer is; of
 - die lidmaatskap van daardie vereniging na behore beëindig is in ooreenstemming met sy grondwet; of
- 'n geregistreerde nie-lid wat –
 - nie meer in die provinsie gesetel is nie;
 - indien 'n regs persoon, nie meer bestaan nie; of
 - nie die houer is van 'n gepaste bedryfslisensie vir elke voertuig wat gebruik word om die betrokke diens te bedryf nie.

(2) Die Registrateur kan, vir 'n tydperk wat voorgeskryf moet word die registrasie opskort van –

- enige vereniging wat in gebreke bly om aan hierdie Wet of enige toepaslike wetgewing te voldoen of aan enige bepaling van sy geregistreerde grondwet wat wesenlik is vir die toepassing van hierdie Wet;
- enige lid wie se lidmaatskap van 'n vereniging opgeskort is;
- enige lid of nie-lid wat die Gedragskode verbreek het; of
- enige lid of nie-lid wat skuldig bevind is aan 'n misdryf bedoel in artikel 115.

(3) Die Registrateur moet 'n vereniging, lid of nie-lid, na gelang van die geval, deur middel van 'n skriftelike kennisgewing in kennis stel van 'n kansellasië of opskorting van registrasie en die redes daarvoor verstrek, en om die betrokke registrasiesertifikaat en kentekens aan die Registrateur terug te besorg binne 'n periode wat voorgeskryf staan te word.

(4) Wanneer 'n geregistreerde vereniging die Registrateur in kennis stel dat hy die lidmaatskap van 'n geregistreerde lid beëindig of opgeskort het weens die nienakoming van sy geregistreerde grondwet of verbreking van die Gedragskode, moet die Registrateur onderskeidelik daardie lid se registrasie kanselleer of dit vir dieselfde tydperk opskort, slegs indien die Registrateur tevrede is dat die geaffekteerde lid –

- gekies het om nie teen die beslissing te appelleer nie; of
- se appèl teen die beslissing van die vereniging onsuksesvol was en dat daar nie 'n appèl by die Registrateur aangeteken is nie.

(5) In die geval dat die lid bedoel in subartikel (4) na die Registrateur appelleer teen die beslissing van die vereniging, moet die Registrateur die kansellasië van daardie lid se registrasie terughou hangende sy of haar beslissing oor die uitslag van die appèl.

(6) Waar 'n vereniging lidmaatskap beëindig weens 'n lid se verbreking van die Gedragskode kan die Registrateur, indien in die omstandighede geregverdig, daardie lid se lidmaatskap ten opsigte van enige ander vereniging waarvan eersgenoemde 'n lid is, kanselleer nadat die lid voldoende geleentheid gegun is om verhoër te word en redes aan te voer waarom die beoogde optrede nie geneem behoort te word nie

Aansoek- en registrasieprosedure

103. Die vorm van die aansoek- en registrasieprosedure is soos voorgeskryf.

HOOFSTUK 9

REGISTRASIE VAN METODEDES BEHALWE MINIBUSTAXI-TIPE DIENSTE

Regulasies oor metodes behalwe minibustaxi-tipe dienste

104. Die LUR kan regulasies uitvaardig om voorsiening te maak vir die registrasie van verenigings, hulle lede en operateurs vir (vervoer)metodes behalwe minibustaxi-tipe dienste wat oor die algemeen op die beginsels in hoofstuk 8 van hierdie Wet vermeld, gebaseer moet word, maar kan afwykings daarvan of byvoegings daartoe insluit en dié regulasies kan dié registrasie verpligtend maak vanaf 'n datum deur die LUR bepaal en voorsiening maak vir strafbepalings vir versuim om te registreer.

HOOFSTUK 10

VERPLIGTINGE OP GELÊ AAN VERENIGINGS, OPERATEURS EN BESTUURDERS

Akkreditering van operateurs en bestuurders

105. Die LUR kan voorwaardes voorskryf wat opgelê moet word en norme en standaarde wat deur operateurs van openbare vervoerdienste en bestuurders van openbare vervoerartuie nagekom moet word vir die doel van sertifisering as geakkrediteerde operateurs en bestuurders in die openbare vervoersektor.

Minimum Standaardgrondwet en Gedragskode

106.(1) Die Gedragskode en Minimum Standaardgrondwet vermeld in onderskeidelik regulasies 26 en 27 van die Nasionale Landvervoer se Oorgangsregulasies op Bedryfslisensies en Verwante Aangeleenthede vir die provinsie, vervat in Kennisgewing No. 149 van 2001, soos gepubliseer in (Provinsiale) *Koerant* No. 6020 van 23 April 2001, bly van toepassing op die datum waarop hierdie Wet in werking tree.

- (2) Die Grondwet van 'n geregistreerde vereniging moet voldoen aan die vereistes van die Minimum Standaardgrondwet deur die LUR voorgeskryf.
- (3) In die geval van 'n botsing tussen die bepalings van 'n grondwet van 'n vereniging met dié van die Minimum Standaardgrondwet geld laasgenoemde se bepalings.
- (4) Operateurs van openbare vervoerdienste en bestuurders van openbare vervoervoertuie moet die Gedragskode soos deur die LUR voorgeskryf, nakom.
- (5) Die LUR kan bykomende reëls maak –
- met betrekking tot die vereistes waaraan 'n vereniging wat ingevolge hierdie Wet geregistreer is, moet voldoen wanneer hy sake doen;
 - met betrekking tot die vereistes waaraan 'n operateur wat ingevolge hierdie Wet geregistreer is, moet voldoen wanneer hy of sy sake doen; en
 - wat gedrag voorskryf vir die geregistreerde vereniging, lid, nie-lid of operateur wat onbehoorlike gedrag uitmaak vir die doel van artikel 107.

Nienakoming van geregistreerde grondwet en verbreking van Gedragskode

107.(1) (a) Waar die registrateur op redelike gronde vermoed dat 'n geregistreerde vereniging versuim het om aan enige bepaling van hierdie Wet of enige ander toepaslike wet of sy geregistreerde grondwet te voldoen, of dat 'n geregistreerde operateur die betrokke Gedragskode verbreek het, moet die registrateur 'n ondersoek na die aangeleentheid gelas.

(b) By die uitvoering van dié ondersoek, moet die Registrateur die vereniging of operateur die geleentheid gee om verhoër te word of getuie-nis aan te bied met betrekking tot die beweerde nienakoming of verbreking.

(c) Wanneer daar oor die aangeleentheid besluit word, moet die verhoër en getuie-nis wat deur die vereniging of die operateur aangebied is, in aanmerking geneem word.

(2) Waar ingevolge hierdie Wet die spesifieke nienakoming of verbreking 'n misdryf uitmaak en die vereniging of operateur vir dié misdryf aangekla word, kan die Registrateur die ondersoek uitstel totdat die strafregtelike prosedure teen die beskuldigde afgehandel of teruggetrek is.

(3)(a) Indien die Registrateur die vereniging of operateur skuldig bevind aan die nienakoming of verbreking moet die Registrateur die vereniging of operateur deur middel van 'n skriftelike kennisgewing aansê om die nienakoming of breuk te herstel binne die tydperk wat in die kennisgewing gemeld word.

(b) 'n Vereniging of operateur aan wie sodanige kennisgewing besorg is, kan die Registrateur se kantoor nader vir bystand.

(4) Indien daar nie aan die kennisgewing voldoen word nie, kan die Registrateur 'n boete opleë vir die bedrag soos voorgeskryf vir die spesifieke nienakoming of breuk, of die registrasie van die vereniging of operateur kanselleer of opskort.

(5) Sonder om afbreuk te doen aan die bevoegdhede wat deur subartikels (1) tot (4) verleen word en waar die Registrateur rede het om te vermoed dat die vermoë van 'n vereniging om sy sake te reël onherstelbaar aangetas is, kan die Registrateur enige toepaslike stappe doen, met inbegrip van maar nie beperk tot die uitroep van 'n verkiesing ingevolge die grondwet van daardie vereniging nie, wat hy of sy nodig mag ag om goeie bestuur te herstel.

Registrasie geen belet tot vervolging

108. Die registrasie van enige operateur is geen beletsel ten opsigte van die vervolging van dié operateur vir 'n misdryf in artikel 115(1)(a) vermeld nie.

HOOFSTUK 11 WETSTOEPASSING

Openbare vervoerwetstoepassing

109.(1) Bykomend tot die maatreëls wat in hierdie Wet voorgeskryf word met betrekking tot wetstoepassing moet die LUR, vervoerowerhede en munisipaliteite daadwerklik stappe doen om stelsels te ontwikkel om openbare vervoerwetstoepassing in hulle onderskeie jurisdiksiegebiede te verbeter.

- (2) Ondanks die bepalings van enige ander wet, kan –
- die LUR;
 - 'n vervoerowerheid;
 - 'n munisipaliteit, in hierdie artikel 'n toepassingsowerheid genoem, 'n ooreenkoms ingevolge die aangeleentheid vermeld in subartikel (3) aangaan.
- (3) 'n Ooreenkoms in subartikel (2) bedoel, kan voorsiening maak dat –
- openbare vervoerwetstoepassingsfunksies deur een toepassingsowerheid in die regsgebied van 'n ander onderneem kan word;
 - gemagtigde beamptes tydelik van een so 'n toepassingsowerheid na 'n ander toepassingsowerheid gesekondeer kan word;
 - openbare vervoerwetstoepassingsfunksies gesamentlik onderneem kan word, of deur 'n openbare of privaatsektoragentskap namens 'n wetstoepassingsowerheid;
- volgens bepalings en voorwaardes wat in die ooreenkoms uiteengesit word, met inbegrip van bepalings oor watter toepassingsowerheid die koste daarvan moet dra.

Aanstelling van nietoepassingspersoneel as inspekteurs

110.(1) Die LUR of die gedelegeerde verteenwoordiger van 'n vervoerowerheid of munisipaliteit kan werknemers in hulle onderskeie departemente wat geskikte en gepaste persone is, aanwys as inspekteurs met die oog op aangeleenthede wat ingevolge hierdie Wet onder die jurisdiksie van die provinsie, 'n vervoerowerheid of munisipaliteit val, na gelang van die geval.

(2) Die Hoof van Departement of die gedelegeerde verteenwoordiger van 'n vervoerowerheid of munisipaliteit, na gelang van die geval, moet aan elke inspekteur wat aldus aangewys is 'n aanstellingsertifikaat en amptelike bewys van identiteit volgens die voorgeskrewe wyse uitreik.

(3) Die funksies van inspekteurs wat aldus aangestel word, is die monitering van die nakoming van hierdie Wet in die provinsie of in die betrokke vervoergebied en om bystand te verleen met die ondersoek en voorkoming van misdrywe wat in artikel 115 vermeld word.

(4) In die uitvoering van dié funksies beskik die inspekteur oor al die bevoegdhede wat aan 'n gemagtige beampte deur of ingevolge hierdie Wet verleen is.

(5) Wanneer 'n inspekteur enige 'n funksie of plig vervul of enige bevoegdheid ingevolge hierdie Wet uitoefen, moet hy of sy op aanvraag van enige persoon in verband waarmee die bevoegdheid, funksie of plig uitgeoefen of vervul word sy of haar aanstellingsertifikaat toon.

Inbeslagneming van voertuie

111.(1) 'n Gemagtigde beampte wat op redelike gronde daarvan oortuig is dat 'n motorvoertuig –

(a) deur enige persoon gebruik word vir die bedryf van openbare vervoer sonder die nodige bedryfslisensie of teentsrydig met die voorwaardes wat in verband daarmee opgelê is; of

(b) onpadwaardig is,

kan die voertuig in beslag neem ingevolge die ondersoek en vervolging van daardie persoon vir 'n misdryf vermeld in artikel 115(1)(a) of (b).

(2) Die prosedures ingevolge waarvan voertuie in beslag geneem moet word, veilig geberg word, daarna vrygestel of verwyder word, moet deur die LUR voorgeskryf word.

(3) Die berggeldtarief van toepassing op inbeslagneneemde voertuie moet deur die hoof van die betrokke toepassingsowerheid in artikel 109(2) vermeld, vasgestel word.

Bewys van sekere feite

112.(1) 'n Dokument wat voorgee om 'n bedryfslisensie te wees of 'n afskrif daarvan wat as 'n gewaarmerkte afskrif gesertifiseer is, sal deur die blote voorlegging daarvan by enige vervolging vir 'n misdryf vermeld in artikel 115(1) in getuienis toelaatbaar wees as bewys dat dit 'n lisensie is wat regsgeldig uitgereik is, of dat dit 'n ware afskrif daarvan is, na gelang van die geval, en van die waarheid en akkuraatheid van die besonderhede daarvan.

(2) 'n Dokument wat verklaar dat die voertuig wat daarin beskryf word ingevolge die betrokke wet geregistreer is in die naam van 'n persoon wat daarin as eienaar gespesifiseer word, en wat voorgee om ingevolge sodanige wet uitgereik te wees deur 'n werknemer van die registrasie-owerheid vir motorvoertuie van die plek waar die voertuig aldus geregistreer is, sal deur die blote voorlegging daarvan by 'n vervolging ingevolge hierdie Wet toelaatbaar wees as voldoende bewys van die persoon se geregistreerde eienaarskap en van die waarheid en akkuraatheid van die besonderhede wat daarin vervat is.

Noodmaatreëls

113.(1) Waar die LUR van mening is dat noodmaatreëls nodig is om vervoerdienste te normaliseer in 'n gebied wat deur geweld, onrus, konflik of onstabielheid geaffekteer is, kan die LUR die gebied by kennisgewing in die *Koerant* as 'n "vervoerkrisisgebied", wat die hele provinsie kan insluit, verklaar vir die doel van hierdie artikel: Met dien verstande dat niks die LUR of geaffekteerde munisipaliteit verhoed om stappe te doen wat in subartikel 2 bedoel word nadat daar aan subartikel 3 voldoen is voordat die kennisgewing gepubliseer word.

(2) Nadat 'n verklaring ingevolge subartikel (1) gdoen is, kan die LUR of geaffekteerde munisipaliteit een of meer of al die roetes of staanplekke in die geaffekteerde gebied sluit vir 'n tydperk wat hulle goeddink en indien nodig in die openbare belang kan die LUR die Raad versoek om –

(a) enige bedryfslisensie tydelik op te skort in soverre dit openbare vervoerdienste magtig in die gebied wat ingevolge subartikel (1) verklaar is; of

(b) 'n tydelike bedryfslisensie uit te reik wat ander operateurs magtig om die roetes wat gesluit is, te bedryf vir die tydperk van hul sluiting.

(3) Ondanks strydige bepalings moet die LUR of geaffekteerde munisipaliteit, voordat stappe ingevolge subartikel (2) gedoen word, die aard en doel van die beplande optrede deur middel van 'n gepaste medium bekend maak tesame met besonderhede van die roetes of staanplekke wat gesluit staan te word.

(4) Enige belanghebbende of geaffekteerde persone kan verhoë rig waarom die besluite wat ingevolge subartikels (1) en (2) geneem is, in heroerweging geneem behoort te word.

Bevoegdhede van gemagtigde beamptes

114.(1) Bykomend tot die funksies en pligte wat aan 'n gemagtigde beampte deur of ingevolge hierdie Wet opgelê is, kan 'n gemagtigde beampte –

(a) 'n motorvoertuig stop om in te klim en vas te stel of dit vir openbare vervoer gebruik word, of om die nakoming van enige bepalings van hierdie Wet of die bepalings van enige bedryfslisensie te moniteer, en die voertuig of enige toepaslike dokumente vir daardie doeleindes ondersoek of inspekteer;

(b) vereis dat dokumente wat ingevolge hierdie Wet in die voertuig gehou moet word deur die bestuurder van die voertuig of kondukteur, indien enige, vir inspeksie getoon word;

(c) van die bestuurder vereis dat laasgenoemde sy volle naam en woonadres, en dokumentêre bewys daarvan, verskaf, asook die naam en adres van die voertuigeienaar en besonderhede oor die sake in verband waarmee die voertuig gebruik word;

(d) van die bestuurder of ander persoon in beheer van die voertuig vereis om onverwyld enige dokumente of ander stukke wat in of op die voertuig in besit van die bestuurder of dié ander persoon is en wat betrekking het op die persone wat in sodanige voertuig vervoer word vir inspeksie te toon;

(e) van enige persoon in 'n motorvoertuig, waarvan op redelike gronde vermoed word dat dit vir openbare vervoer gebruik word, of 'n persoon waarvan op redelike gronde vermoed word dat hy of sy 'n passasier in sodanige voertuig was, vereis dat laasgenoemde sy of haar volle naam en dokumentêre bewys daarvan verskaf en verklaar of hy of sy enige betaling gemaak het of moet maak om in die voertuig vervoer te word, en dat hy of sy die naam en adres van die persoon verstrekk aan wie die betaling gedoen is of gedoen moet word;

(f) enige sakeperseel op enige redelike tyd betree om die nakoming van hierdie Wet te monitor, en enige persoon ondervra wat na die mening van die gemagtigde beampte in staat is om enige inligting te verstrekk wat vir daardie doel benodig word, en van so persoon vereis om enige boeke, dokumente en ander stukke van enige tipe wat vir die moniteerdoeleindes toepaslik kan wees, vir inspeksie en ondersoek te verskaf, en uittreksels of afskrifte daarvan maak, en 'n verduideliking vereis van enige inskrywings in dié boek, dokument of ander stuk, maar enige persoon wat aldus ondervra word of van wie 'n verduideliking vereis word, is geregtig op al die voorregte waarop enige persoon wat in 'n geregshof getuig, geregtig is;

(g) vereis dat die bestuurder of ander persoon in beheer van 'n motorvoertuig wat gebruik word vir openbare vervoer, enige dokumente verskaf wat deur 'n bevoegde owerheid uitgereik is ingevolge hierdie Wet of die Wet op Padvervoer met betrekking tot die voertuig of die openbare vervoer waarvoor dit gebruik mag word ingevolge hierdie Wet, of so 'n ander wet (na gelang van die geval) en wat ingevolge hierdie Wet of daardie wet in die voertuig gehou moet word; en

(h) op bevel van die Raad beslag lê op 'n bedryfslisensie wat verstryk of verval het of tydelik ingetrek is ingevolge hierdie Wet en dit aan die Raad oorhandig.

(2)(a) Waar 'n gemagtigde beampte bevind dat 'n voertuig wat vir openbare vervoer kragtens die bevoegdheid van 'n bedryfslisensie gebruik word so onklaar is dat dit 'n gevaar vir mens en eiendom inhou, kan die gemagtigde beampte die bestuurder of ander persoon in beheer van die voertuig beveel om van daardie bedryfslisensie afstand te doen, asook van alle kentekens wat op die voertuig betrekking het, en die bestuurder of persoon onverwyld verbied om die voertuig vir openbare vervoer te gebruik en beslag op die voertuig lê soos in artikel 111(1) bepaal.

(b) Die bedryfslisensie waarvan aldus afstand gedoen is, word deur die gemagtigde beampte teruggehou todat die foute reggestel is en die voertuig as padwaardig gesertifiseer is in ooreenstemming met prosedures deur die LUR voorgeskryf.

Misdrywe en strawwe

115.(1) 'n Persoon is aan 'n misdryf skuldig indien hy of sy –

(a) 'n openbare vervoerdiens bedryf of onderneem en nie oor die nodige bedryfslisensie beskik nie;

(b) 'n openbare vervoerdiens strydig met die bepalings en voorwaardes van die bedryfslisensie bedryf of onderneem, of 'n motorvoertuig hanteer wat nie aan die vereistes van artikel 62(1)(g) voldoen nie;

(c) as die houer van die bedryfslisensie of as die agent of werknemer van so 'n houer iemand anders toelaat om die bedryfslisensie te gebruik vir 'n voertuig anders as die voertuig wat in die bedryfslisensie gespesifiseer word;

(d) aansoek doen om of 'n bedryfslisensie bekom wetende dat 'n geldende bedryfslisensie reeds vir dieselfde voertuig uitgereik is;

(e) met die bedoeling om te bedrieg enige bedryfslisensie of amptelike dokument wat ingevolge hierdie Wet uitgereik is, vervals, verander, skend, beskadig of daaraan toevoeg;

(f) wetende dat 'n dokument nie 'n bedryfslisensie of so 'n ander amptelike dokument is nie, of dat dit verander, geskend, beskadig of daaraan toegevoeg is, die dokument gebruik;

(g) vals inligting verskaf of verstrekk in of met betrekking tot enige aansoek wat by die Raad of Registrateur ingedien is, of in die loop van die verskyning in enige verrigtinge of ondersoek voor die Raad of Registrateur;

(h) hom of haar as 'n gemagtigde beampte voordoen;

(i) 'n bedryfslisensie uithuur of 'n bedryfslisensie van die houer daarvan huur strydig met die bepalings van artikel 62(2);

(j) die bepalings van artikel 66, wat betrekking het op diskwalifikasie met betrekking tot die hou van 'n bedryfslisensie, oortree;

(k) in gebreke bly om die passasiërs aanspreeklikheidsverzekeringsdekking bedoel in artikel 62(1)(j) te voorsien of in stand te hou;

(l) as die houer van 'n bedryfslisensie of die bestuurder van 'n voertuig waarop dié bedryfslisensie betrekking het, in gebreke bly om enige plig of verpligting na te kom wat op dié houer deur of ingevolge hierdie Wet opgelê is;

(m) 'n gemagtigde beampte met voorbedagte rade dwarsboom of verhinder om die pligte te vervul wat aan die betrokke amp kleef;

(n) weier of versuim om aan enige wettige bevel, voorskrif of eis te voldoen wat 'n gemagtigde beampte gee in die vervulling of nakoming van enige funksie of plig wat deur of ingevolge hierdie Wet aan hom toevertrou is;

(o) versuim om 'n bedryfslisensie, registrasiesertifikaat of kenteken aan die Raad of Registrateur, na gelang van die geval, terug te besorg indien hierdie Wet dit vereis;

(p) sonder goeie rede –

(i) weier of versuim om ingevolge 'n bevel of getuiedagvaarding wat ingevolge hierdie Wet uitgereik is, voor die Raad, Registrateur of Appèltribunaal te verskyn;

(ii) weier of versuim om enige wettig gestelde vraag, of na die beste wete en vermoë van die persoon, te beantwoord wat enige lid van die Raad, Registrateur of Appèltribunaal, na gelang van die geval, aan die persoon stel; of

(iii) weier of versuim om enige boek, dokument of plan of enige ander stuk van enige aard of soort of enige artikel ingevolge so 'n bevel of getuiedagvaarding te verskaf;

(q) terwyl as 'n passasier in 'n voertuig vervoer word in die loop van die bedryf van 'n openbare vervoerdiens, die persoon –

(i) versuim om die verskuldigde reisgeld vir die reis te betaal wanneer betaling deur die bestuurder of kondukteur van die betrokke voertuig versoek word;

(ii) in die voertuig rook, sterk drank of enige bedwelmende stof gebruik;

(iii) op 'n wyse handel wat skadelik vir die welsyn van 'n mede passasier is;

(iv) 'n redelike opdrag verontagsaam wat deur die bestuurder of kondukteur van daardie voertuig gegee word vir die doel om orde te handhaaf of 'n oproerigheid te beëindig of enige noodgeval te beheer wat in die voertuig ontstaan of bestaan; of

(v) enige daad in die voertuig verrig wat 'n besering kan veroorsaak of die lewe van enige persoon in gevaar stel of skade aan eiendom veroorsaak;

(r) passasiërs aflaai by of naby 'n internasionale grens in stryd met artikel 46(2) van die Nasionale Oorgangswet op Landvervoer;

(s) 'n voertuig vir 'n openbare vervoerdiens in stryd met artikel 31 van die Nasionale Oorgangswet op Landvervoer gebruik;

- (t) as houer van 'n bedryfslisensie versuim om die Raad in kennis te stel van 'n staking of opskorting van die diens ingevolge artikel 62(1)(i);
 - (u) as houer van 'n bedryfslisensie versuim om aan 'n kennisgewing in artikel 33(3) vermeld, te voldoen;
 - (v) 'n openbare vervoerdiens bedryf of onderneem sonder die skriftelike magtiging in artikel 63 bedoel;
 - (w) enige ander bepaling van hierdie Wet oortree.
- (2) Waar 'n persoon skuldig bevind word aan enige van die misdrywe vermeld in –
- (a) paragrawe (a) tot (k) van subartikel (1), kan 'n gevangenisstraf van hoogstens twee jaar of 'n boete van hoogstens R100 000, of beide, opgelê word; of
 - (b) enige ander paragraaf van dié subartikel, kan 'n gevangenisstraf van hoogstens drie maande of 'n boete van hoogstens R5 000, of beide, opgelê word.
- (3) Wanneer 'n bestuurder, agent of werknemer van die houer van 'n bedryfslisensie enige handeling uitvoer, of versuim om enige handeling uit te voer wat, indien die houer die handeling uitgevoer het of versuim het om die handeling uit te voer, 'n misdryf sou uitgemaak het ingevolge subartikel (1), is daardie houer skuldig aan 'n misdryf indien –
- (a) die houer –
 - (i) die betrokke handeling of versuim oogluikend of wetend toegelaat het; of
 - (ii) nie alle redelike maatreëls getref het om die handeling of versuim te voorkom nie; en
 - (b) 'n handeling of versuim, met die aard van die handeling of versuim waarvoor aangekla, hetsy wettig of onwettig, binne die bestek van die magtiging of in die loop van die diens van die bestuurder, agent of werknemer val.

HOOFSTUK 12 ALGEMENE SAKE

Konflikhantering

116.(1) Waar 'n konfliktsituasie in die openbare vervoerdienssektor ontstaan, kan die LUR konflikthanteringsprosedures voorskryf wat die instelling van 'n *ad hoc*-hanteringskomitee kan insluit, maar nie daartoe beperk is nie, om as arbiter in die konflik op te tree.

(2) Dié komitee, indien dit ingestel word, moet uit 'n voorgeskrewe aantal lede bestaan en die LUR kan prosedures en vergaderplekke daarvoor voorskryf om voorsiening te maak vir prosedures om die situasie te ondersoek asook vir rapportering aan die LUR met betrekking tot die uitslag van die arbitrasie.

(3) Sonder om op die komitee se werksaamhede te let, doen hierdie artikel nie afbreuk aan enige van die bevoegdhede van enige statutêre liggaam om ingevolge hierdie Wet met tugprosedure voort te gaan of om ander stappe te doen nie, na gelang van die geval.

(4) 'n Persoon mag nie aangestel word om in 'n konflikthanteringskomitee te dien nie indien hy of sy –

- (a) handelingsonbevoegd is;
- (b) weens wangedrag uit 'n opebare amp ontslaan is of word;
- (c) insolvent verklaar is of word en nie gerehabiliteer is nie;
- (d) skuldig bevind is aan 'n misdryf –
 - (i) waarvan oneerlikheid 'n wesentlike bestanddeel is; of
 - (ii) waarvoor gevangenisstraf sonder die keuse van 'n boete opgelê is;
- (e) 'n finansiële belang in 'n onderneming in enige sektor van die vervoerbedryf het of betrokke is in 'n werksaamheid wat daarmee in verband staan; of
- (f) 'n onmiddellike familielid het wat enige direkte finansiële of sakebelang in enige sektor van die vervoerbedryf het.

Bepalings wat verband hou met bestuurders en voertuie

117.(1) Behoudens artikel 106 kan die LUR gedragskodes voorskryf vir bestuurders van voertuie wat gebruik word om openbare vervoerdienste te lewer en sodanige bestuurders moet te alle tye aan die gedragskodes voldoen wanneer dié dienste onderneem word.

(2) Die LUR kan vereistes voorskryf dat bestuurders van voertuie wat gebruik word om openbare vervoerdienste te lewer, opleiding moet ondergaan, byvoorbeeld om hulle vertrouwd te maak met die gebiede waar die dienste gelewer word en met die kenmerke en attraksies van daardie gebiede, of vir ander doeleindes, en kan in die vereistes bepaal dat bestuurders nie dié voertuie mag bestuur nie tensy hulle dié opleiding suksesvol voltooi het, of ander voorwaardes kan opgelê word.

(3) Behoudens hierdie Wet en toepaslike bepalings van die Nasionale Oorgangswet op Landvervoer, kan die LUR regulasies voorskryf wat die tipe voertuig reël wat vir 'n spesifieke openbare vervoerdiens gebruik moet word, en sodanige regulasies kan voorsiening maak vir vereistes en standaarde vir dié voertuie waar die LUR van mening is dat maatreëls nodig is om die veiligheid van passasiers te verhoog.

(4) Vereistes wat ingevolge subartikel (3) voorgeskryf word, is bykomend tot en nie ter vervanging van die vereistes van die Nasionale Padverkeerswet nie.

Verordeninge

118. 'n Munisipaliteit kan, in ooreenstemming met toepaslike vervoerplanne, verordeninge uitvaardig om –

- (a) die grootte of aantal motorvoertuie te reguleer wat vir openbare vervoerdienste gebruik word en wat 'n spesifieke sektor van sy regsgebied binnegaan, en die tyd of tye bepaal wat so 'n voertuig daardie sektor mag binnegaan;
- (b) die binnegaan van sodanige motorvoertuig in 'n spesifieke sektor gedurende 'n vasgestelde tydperk reguleer of verbied;
- (c) die op- en aflaai van passasiers deur dié voertuig in 'n spesifieke sektor gedurende 'n vasgestelde tydperk te verbied, en die tyd of tye te bepaal wanneer die op- of aflaai mag plaasvind;
- (d) voorsiening te maak vir die numering van die roetes en die toekenning daarvan aan bepaalde verenigings of operateurs, en die vorm en uitreiking van kentekens in dié verband;
- (e) geriewe, met inbegrip van staanplekke, aan spesifieke operateurs toe te wys asook die heffing van gelde in dié verband;
- (f) die gedrag van staanplekopsieners te reguleer;

(g) voorsiening te maak vir enige ander aangeleentheid ter bevordering van die oogmerke van hierdie Wet wat nie in botsing met hierdie Wet of regulasies wat ingevolge daarvan uitgereik is nie.

Oorgangsbepalings

119.(1) Met inagneming van die behoud van die wettigingsproses van die Tussentydse Wet op Taxi's wat in deel X voorgeskryf word, en die bevoegdheid wat aan die LUR opgelê is om spertye vir hierdie proses te bepaal, kan die vorige nie-uitoefening van die bevoegdheid om prosessertye te wysig nie –

- (a) enige beslissings of stappe wat ingevolge die Tussentydse Wet op Taxi's geneem of gedoen is ongeldig maak nie; en
- (b) enige permitte wat so geaffekteer word se verstryking tot gevolg hê nie.

(2) Waar, te enige tyd voor die inwerkingtreding van hierdie Wet –

- (a) 'n persoon ingevolge die Wet op Padvervoer skuldig bevind is aan 'n misdryf wat ingevolge hierdie Wet 'n misdryf is, word die persoon, waar van toepassing vir hierdie Wet, beskou en behandel as 'n persoon wat 'n ooreenstemmende misdryf ingevolge hierdie Wet begaan het; en
- (b) enige kenteken wat ingevolge die Wet op Padvervoer uitgereik is vir 'n voertuig waarop 'n bedryfslisensie van toepassing is, word dit vir die doel van hierdie Wet beskou en behandel, tot tyd en wyl die bedryfslisensie ingevolge hierdie Wet verval, opgeskort of gekanselleer word, beskou as 'n kenteken uitgereik ingevolge hierdie Wet.

(3) 'n Aanstelling, aanwysing, regulasie, kennisgewing of dokument wat ingevolge die Wet op Padvervoer gemaak, gepubliseer of uitgereik is, word geag ingevolge die ooreenstemmende bepalinge van hierdie Wet verklaar, ingestel, gemaak, gepubliseer, uitgereik of gedoen te wees.

(4) 'n Aansoek vir die uitreiking of toestaan van 'n permit wat nog nie afgehandel is by die inwerkingtreding van hierdie Wet nie, word geag 'n aansoek te wees vir die toestaan van die toepaslike bedryfslisensie ingevolge hierdie Wet.

HOOFSTUK 13

HERROEPING VAN VORIGE WETTE EN UITLEG VAN HIERDIE WET

Herroeping en wysiging van wette en voorbehoude

120.(1) Behoudens die bepalinge van subartikel (2), word die wette wat in die eerste kolom van die Bylae vermeld word, hierby herroep tot die mate uiteengesit in die derde kolom van die genoemde Bylae.

(2) Ondanks die herroeping van die wette in subartikel (1) bedoel –

- (a) word enigiets wat ingevolge die herroepe wet gedoen is wat ook ingevolge 'n bepaling van hierdie Wet gedoen kon word, geag gedoen te wees ingevolge die toepaslike bepaling van hierdie Wet;
- (b) moet enige aksies wat ingevolge die herroepe wet begin is, voortgesit word en afgehandel word asof sodanige wet nie herroep is nie: Met dien verstande dat daar met enige appèl wat daaruit voortspruit in ooreenstemming met die bepalinge van hierdie Wet gehandel word.

(3) Indien daar 'n teenstrydigheid is tussen hierdie Wet en enige ander provinsiale wet wat openbare vervoer affekteer, geld hierdie Wet.

Kort titel en inwerkingtreding

121.(1) Hierdie Wet heet die KwaZulu-Natal Wet op Openbare Vervoer, 2005, en tree in werking op 'n datum wat die LUR in die *Koerant* bepaal.

(2) Verskillende gedeeltes of artikels van hierdie Wet kan op verskillende datums in werking tree, of met betrekking tot verskillende gebiede.

BYLAE

Herroeping van wette en voorbehoude (Artikel 120(1))

Nommer en jaar van wet	Titel	Omvang van herroeping
Wet No. 74 van 1977	Wet op Padvervoer, 1977	Die hele – (a) behalwe artikels 3, 8, 11(1), 26, 26A, 27, 43 en 44; en (b) behalwe in soverre as wat enige bepaling van die Wet toegepas word met betrekking tot vervoer oor die grense van die Republiek en met betrekking tot die bevoegdhede en funksies van die kommissie
Wet No. 4 van 1998	KwaZulu-Natal Tussentydse Wet op Minibustaxi's, 1998	Die hele, behalwe deel X wat behou word tot tyd en wyl die wettigingsproses vermeld in artikel 45 van die KwaZulu-Natal Wet op Openbare Vervoer, 2004 voltooi is

