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saKwaZulu-Natali

Ishicilelwe ngegunya  
(Irejistiwe njengephephandaba eposihhovisi)

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**UMTHETHO WEKHOMISHANA YENTSHA WAKWAZULU-NATALI, 2005**  
(uMthetho No. 7 ka 2005)  
Uvunywe mhlaka 2005-12-01

# UMTHETHO

Wokuhlinzekela ukusungulwa kweKhomishana yeNtsha yaKwaZulu-Natali; wokunquma izinhloso kanye nemisebenzi yeKhomishana; wokunquma indlela iKhomishana ezophathwa, yenganyelwe, ixhaswe ngayo ngezimali, nesibalo sabasebenzi ezoba naso; wokuchitha uMthetho weKhomishana yeNtsha waKwaZulu-Natali, 1998; kanye nokuhlinzekela izindaba eziphathe-lene nalokhu.

MAKUMISWE UMTHETHO yiSishayamthetho seSifundazwe saKwaZulu-Natali, kanje:—

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**ISAHLUKO 1  
IZINCAZELO**

**Izincazelo**

1. Kulo Mthetho, ngaphandle uma ingqikithu ikhomba okwehlukile:

“iGazethi” kusho iGazethi yeSifundazwe saKwaZulu-Natali;

“iKhomishana” kusho iKhomishana esungulwe yisigaba 2;

“iKomidi leSishayamthetho lemisebenzi ethile” kusho ikomidi leSishayamthetho seSifundazwe elihlanganisa amaLungu eSishayamthetho seSifundazwe aqokwe ngokufanelekile ngokwemithetho engenakuguquka kanye nangezinhlelo zeSishayamthetho seSifundazwe;

“iLungu loMkhandlu oPhethe elengamele” kusho uNdunankulu weSifundazwe saKwaZulu-Natali noma lelo lungu loMkhandlu oPhethe weSifundazwe saKwaZulu-Natali uNdunankulu adlulisele kulo ukuphathwa kwalo Mthetho;

“imithethonqubo” kusho imithethonqubo eyenziwe ngokwesigaba 29;

“ingxenywe yombuso” inencazelo efanayo naleyo enikezwe yona esigabeni 239 soMthethosisekelo;

“iNhloko yoMnyango” kusho uMqondisi-Jikelele noma, lapho uNdunankulu edlulisele ukuphathwa kwalo Mthetho kwilungu loMkhandlu oPhethe, isikhulu esiphezulu salowo mnyango kaHulumeni weSifundazwe saKwaZulu-Natali lelo lungu eliwengamele;

“intsha” kusho namuphi umuntu oneminyaka ephakathi kweyi-14 kanye nengama-35 esifundazweni;

“isifundazwe” kusho isifundazwe saKwaZulu-Natali njengoba kubekiwe esigabeni 103 soMthethosisekelo, kanti futhi “-esifundazwe” kunencazelo ehambisana nale;

“isiKhulu esiyiNhloko sokuPhathwa kweZimali” kusho isiKhulu esiyiNhloko sokuPhathwa kweZimali seKhomishana esiqokwe ngokwesigaba 18;

“iSishayamthetho seSifundazwe” kusho iSishayamthetho seSifundazwe saKwaZulu-Natali njengoba kubekiwe esigabeni 124 soMthethosisekelo;

“lo Mthetho” kubandakanya imithethonqubo;

“udaba lwentsha” kusho naluphi udaba okukhulunywe ngalo kulo Mthetho, uMgomo weNtsha kaZwelonke noma naluphi olunye udaba oluqondene namalungelo emthethweni entsha;

“uMgomo weNtsha kaZwelonke” kusho namuphi umgomo noma uhlaka oluphathelele nezindaba zentsha olwakhiwe wuMkhandlu kaZwelonke oPhethe noma uhlaka noma umgwamanda, osungulwe ngaphansi kwegunya loMkhandlu kaZwelonke oPhethe ngenhloso efanayo naleyo yeKhomishana;

“uMkhandlu oPhethe” kusho uMkhandlu oPhethe weSifundazwe saKwaZulu-Natali njengoba kubekiwe esigabeni 132 soMthethosisekelo;

“uMkhandlu kaZwelonke oPhethe” kusho uMkhandlu kaZwelonke oPhethe okukhulunywa ngawo esigabeni 83 soMthethosisekelo;

“uMnyango” kusho iHhovisi likaNdunankulu noma, lapho uNdunankulu edlulisele ukuphathwa kwalo Mthetho kwilungu loMkhandlu oPhethe, umnyango kaHulumeni weSifundazwe saKwaZulu-Natali lelo lungu eliwengamele;

“uMqulu waMalungelo” kusho uMqulu waMalungelo oqukethwe eSahlukweni 2 soMthethosisekelo;

“uMthethosisekelo” kusho uMthethosisekelo waseRiphabhuliki yaseNingizimu Afrika, 1996;

“umunxa wasekhaya” kusho umunxa wasekhaya kahulumeni njengoba kubekiwe esigabeni 40 soMthethosisekelo;

“umunxa wesifundazwe” kusho umunxa wesifundazwe kahulumeni njengoba kubekiwe esigabeni 40 soMthethosisekelo;

“uNdunankulu” kusho uNdunankulu weSifundazwe saKwaZulu-Natali njengoba kubekiwe esigabeni 125 soMthethosisekelo;

“isiKhulu esiyiNhloko yeZokuphatha” kusho isiKhulu esiyiNhloko yeZokuphatha seKhomishana esiqokwe ngokwesigaba 16;

**ISAHLUKO 2  
IKHOMISHANA YENTSHA YAKWAZULU-NATALI**

**Ukusungulwa kweKhomishana yeNtsha yaKwaZulu-Natali**

2.(1) Isiphathamandla esizokwaziwa ngeKhomishana yeNtsha yaKwaZulu-Natali ngalokhu siyasungulwa.

(2)(a) IKhomishana yisikhungo somphakathi sesifundazwe esebenza ngaphansi koMthetho wokuPhathwa kweZimali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999).

(b) Usihlalo weKhomishana uyisikhulu esibophezeke ukubika ngezimali zeKhomishana.

**Izinhloso zeKhomishana**

3. Izinhloso zeKhomishana —

(a) ukukhuthaza ukuqaliswa ukusebenza koMgomo weNtsha kaZwelonke;

(b) ukukhuthaza, ukuqapha kanye nokubuyeleza ukuvikeleka, kugququzelwa kanye nokufezwa kwamalungelo entsha aqukethwe eMqulwini waMalungelo yizo zonke izingxenywe zombuso esifundazweni kanye nasemunxeni ohulumeni basekhaya;

(c) ukugququzela ukuthuthukiswa kwentsha yizingxenywe zombuso eminxeni yesifundazwe neyasekhaya ngezinsiza ezikhona;

(d) ukugququzela ukubhekana ngendlela efanayo kanye nokubambisana kwezingxenywe zonke zombuso eminxeni yesifundazwe neyasekhaya mayelana nanoma yiluphi udaba oluthinta intsha;

(e) ukuhlanganisa intsha evela emasikweni, ezinkolweni okwehlukene, akhuluma izilimi ezahlukene neseke amaqembu ezombusazwe ehlukene;

(f) ukugququzela umoya wokuzigqaja kwentsha;

- (g) ukufundisa intsha ngamalungelo ayo emthethweni kanye nezindlela ezikhona zokulandelwa komthetho; kanye  
 (h) ukusiza intsha ekufinyeleleni emalungelweni ayo omthetho.

#### Imisebenzi yeKhomishana

##### 4.(1) IKhomishana kumele —

- (a) yakhe futhi igcine uhlelo oludidiyelwe lokuqalisa ukusebenza uMgomo weNtsha kaZwelonke futhi yengamele ukuqaliswa kwawo, emva kokuba noMhandlu oPhethe sewulugunyazile lolo hlelo noma ukuchitshiyelwa kwalo;  
 (b) yakhe uhlelo lokuthuthukiswa kwentsha oludidiyelwe futhi yengamele ukuqaliswa kwalo, emva kokuba uMkhandlu oPhethe sewulugunyazile noma ukuchitshiyelwa kwalo;  
 (c) mayelana nokuvikeleka, ukukhuthazwa kanye nokufezeka kwamalungelo entsha okuqukethwe eMqulwini waMalungelo, iqaphe futhi ibuyekeze imigomo kanye nezinkambiso —  
 (i) zezingxenywe zombuso eminxeni yesifundazwe neyasekhaya; kanye  
 (ii) neyanoma yisiphi isimiso, umgwamanda noma umuntu esifundazweni;  
 (d) ukuze kugqugquzelwe indlela efanayo yokubhekana kanye nokubambisana kwazo zonke izingxenywe zombuso eminxeni yesifundazwe neyasekhaya mayelana nanoma yiluphi udaba lwentsha —  
 (i) ibize imihlangano phakathi kwezingxenywe zombuso eminxeni yesifundazwe neyasekhaya;  
 (ii) isebenze njengomxhumanisi phakathi kwezingxenywe zombuso eminxeni yesifundazwe neyasekhaya kanye nentsha;  
 (iii) isebenze njengomxhumanisi phakathi kwezingxenywe zombuso eminxeni yesifundazwe neyasekhaya nezinye izinhlaka noma imigwamanda enezinhloso ezifanayo nalezo zeKhomishana; futhi  
 (iv) ibonisane nanoma yisiphi isimiso noma umgwamanda nganoma yiluphi udaba lwentsha;  
 (e) yakhe futhi yenze izinhlelo zolwazi nokufunda kanye nemikhankaso emayelana —  
 (i) nokugqugquzelwa kokuzwana kanye nokuzigqaja ngamasiko, ngezenkolo, ngezilimi kanye nangokwezombusazwe;  
 (ii) namalungelo omthetho entsha kanye nezindlela ezikhona zokugqugquzela ukulandelwa komthetho;  
 (f) iphenye futhi icubungule ngokwayo noma ngokubona kweLungu loMkhandlu oPhethe elengamele, nasiphi isikhhalazo, isethulo noma isincomo esiphathelene nanoma yiluphi udaba oluthinta intsha futhi isize umfaki sikhhalazo ukuba athole amalungelo akhe —  
 (i) ngokumdlulisela engxenyeni yombuso efanele noma esimisweni noma emgwamandeni okufanele; kanye  
 (ii) nangokumeluleka nganoma yiziphi izingxenywe zenqubo ezifanele eziphathelene nesikhhalazo, isethulo noma isincomo sakhe;  
 (g) yenze ucwaningo noma idale ukuba kwenziwe ucwaningo ukuze kuqhutshwe izinhloso zeKhomishana;  
 (h) yenze izincomo eziphathelene futhi yeluleke iLungu loMkhandlu oPhethe —  
 (i) ngokuqaliswa ukusebenza koMgomo weNtsha kaZwelonke;  
 (ii) nganoma yimuphi umgomo noma inkambiso yengxenywe yombuso emunxeni wesifundazwe noma wasekhaya noma yanoma yisiphi isimiso, umgwamanda noma umuntu esifundazweni;  
 (iii) ngokuqalisa ukusebenza uhlelo lokuthuthukiswa kwentsha;  
 (iv) ngendlela yokubhekana kanye nokubambisana kwezingxenywe zombuso emunxeni wesifundazwe noma wasekhaya;  
 (v) nganoma yiluphi ucwaningo okumele lwenziwe ngokuphathelene nanoma yiluphi udaba oluthinta intsha; kanye  
 (vi) nanganoma yimuphi umthetho okhona noma ohlongozwayo owengamele noma ophathelene nanoma yiluphi udaba oluthinta intsha;  
 (i) ibike kwiLungu loMkhandlu oPhethe elengamele njalo emva kwezinyanga ezintathu kanye nakanye ngonyaka ngokusebenza kwayo; futhi  
 (j) ngaphambi kokwethula umbiko okukhulunywe ngawo endimeni (i), ngokusemandleni nangokungenzeka —  
 (a) ibonisane nazo zonke izingxenywe zombuso, izinhlaka, imigwamanda noma abantu okunentshisekelo; futhi  
 (b) ihlanganise nanoma yiziphi izethulo eziphakanyisiwe kanye nezimpendulo zeKhomishana kulezo zethulo kulowo mbiko.

##### (2) IKhomishana —

- (a) ingenza namuphi umsebenzi enikezwe wona yilo Mthetho noma yimuphi omunye umthetho;  
 (b) ekwenzeni imisebenzi yayo ngokwalo Mthetho, ngezinhlalo ezithile, ingangenela ezivumelwaneni zokuhlizekwa kwemisebenzi ngabantu abanolwazi lobuchwepheshe noma olukhethekile odabeni oluthinta intsha futhi inganquma inkokhelo, kubandakanya ukukhokhelwa kwezindleko zokuhamba, zokuziphilisa kanye nezinye izindleko, kwalabo Bantu; futhi  
 (c) ngokujwayelekile, ingenza yonke into edingekayo noma efanele ukufeza izinhloso zayo kanye nokwenza imisebenzi yayo.

##### (3) Zonke izingxenywe zombuso emunxeni wesifundazwe nowasekhaya kumele —

- (a) zibambisane neKhomishana ngendlela efanele ukuyenza ukuba yenze imisebenzi yayo, futhi isebenzise amandla ayo;  
 (b) zihlinzeke ukufinyelela okwanele ezakhiweni zazo kanye nakumarikhodi ngezinhlalo zokwenza ucwaningo noma naluphi uphenyo okukhulunywe ngalo eMthethweni; futhi  
 (c) zihlinikeze iKhomishana izimpendulo ezanele ngesikhathi esifanele kunanoma yiluphi uphenyo lweKhomishana okukhulunywe ngalo kulo Mthetho.

##### (4) IKhomishana ingabika nanoma yiyiphi ingxenywe yombuso emunxeni wesifundazwe noma wasekhaya ehluleka ukuhambisana nezihlinzeko zesigatshana (3) eMkhandlweni oPhethe kanye naseSishayamthetho seSifundazwe ngokusebenzisa noma iLungu loMkhandlu oPhethe elengamele.

#### Ukubumbeka kweKhomishana

##### 5.(1) IKhomishana ibunjwe ngamalungu aqokwe ngokugcwele ayisithupha, aqokwe yiLungu loMkhandlu oPhethe elengamele ngokulandela inqubo ebekwe ezigatshaneni (2) no (7) —

- (i) ayizakhamizi zaseNingizimu Afrika ezihlala esifundazweni;  
 (ii) ngokuhlanganyela emele intsha yesifundazwe; futhi  
 (iii) ngokuhlanganyela banemfundo, ulwazi, ikhono kanye nesipiliyoni okudingekayo nokufanele ukwenza imisebenzi yeKhomishana: Kuye ngokuthi okungenani ilungu elilodwa leKhomishana kumele libe nolwazi, kanye nesipiliyoni ekuphathweni kwezimali; futhi  
 (iv) abakwazi ukuthi bangafaneleki ukuba babe sezikhundleni ngokwezindima (a) kuya ku (h) zesigaba 10(1).

##### (2) ILungu loMkhandlu oPhethe elengamele kumele ngesaziso kwiGazethi futhi okungenani emaphephandabeni amabili asabalala nesi-

fundazwe, limeme ukuphakanyiswa kwabazoqokelwa kwiKhomishana ukuba kwenziwe zingakapheli izinsuku ezingama-21 kusukela ngosuku lokushicilelwa kwesaziso.

- (3) Ukumenywa kokuphakanyiswa kwamagama ngokwesigatshana (2) kumele kuchaze —
- inqubo yokuphakamisa;
  - okudingekayo uma uphakamisa; kanye
  - nosuku okumele ngalo ukuphakamisa kube sekufinyelelele kwiLungu loMkhandlu oPhethe elengamele.
- (4) Ilungu loMkhandlu oPhethe elengamele kumele liqoke iphaneli ehlukayo yezikhulu ezingekho ngaphezu kwezintathu eMnyangweni ukuba zicubungule konke ukuphakamisa bese benza izincomo ngabaphakanyisiwe.
- (5) ILungu loMkhandlu oPhethe elengamele, ngokubona kwalo, lingaqoka abantu abangekho ngaphezu kwabathathu abanesipiliyoni ngezindaba zentsha ukuba basize iphaneli ehlukayo ngokwenza izincomo ngabaphakanyisiwe.
- (6) ILungu lomkhandlu oPhethe elengamele kumele, ngesaziso *kwiGazethi*, kanye okungenani nasemaphephandabeni amabili asabalala nesifundazwe, ameme uvo lomphakathi ngohla olufingqiwe lwabakhethwa ukuba luzwakaliswe zingakapheli izinsuku ezingama-21 emva kosuku lokushicilela.
- (7) Emva kokuphela kwesikhathi sokuzwakaliswa kovo lomphakathi futhi ecubungula naziphi izethulo, iLungu loMkhandlu oPhethe elengamele kumele akhethwe abakhethwa abayisithupha afaneleke kunabo bonke ohleni olufingqiwe bese ebaqokela kwiKhomishana noma abaqalise kabusha ukuphakanyiswa kwamagama okukhulunywe ngakho esigatshaneni (2).
- (8) Ilungu loMkhandlu oPhethe kumele liqoke elinye lamalungu njengosihlalo nelinye njengesekela likasihlalo.
- (9) Ilungu loMkhandlu oPhethe elengamele, nangasiphi isikhathi lingahoxisa nakuphi ukukhunjwa ngaphansi kwesigatshana (8), uma ngokubona kweLungu loMkhandlu oPhethe elengamele, kunezizathu ezizwakalayo zokwenza lokho emva kokunikhezela namaphi amalungelo okuphatha kwilungu.
- (10) Akukho sikhala kubulungu beKhomishana noma ukushoda kwesibalo samalungu eKhomishana okungaphazamisa noma kukhinyabeze ukusebenza kweKhomishana noma namaphi amalungelo, imisebenzi noma amandla okubekwe noma okunikezwe kuyo yilo Mthetho.
- (11) Akukho sinqumo seKhomishana esisebenzayo ngaphandle uma siphasiswe emhlanganweni —
- lapho ikhoramu edingekayo ngokwesigaba 12(5) ibe khona; kanye
  - nobanjwe ngokulandela lezi ezinye izihlinzeko zesigaba 12.

#### Ukudalula kwabaphakanyiselwe kwiKhomishana kwemivuzo yezimali noma eminye imivuzo kanye nezimfihlo

6.(1) Umuntu ophakanyiselwe kwiKhomishana kumele, zingakapheli izinsuku ezingama-30 ephakanyisiwe, adalule ngokubhaliweyo, kwiLungu loMkhandlu oPhethe elengamele —

- namuphi umvuzo oza ngqo noma ongezi indlela —
    - ongadala ukushayisana mayelana nemisebenzi yakhe njengelungu leKhomishana;
    - ongahle ngokufanele ulindeleke ukuba ukhinyabeze Khomishana ekwenzeni imisebenzi yayo; futhi
  - oqukethe ulwazi olufanele oluqondene nanoma ukugwethelwa —
    - icala ngaphansi kohlelo 1 ngokoMthetho oBhekele uBelelesi, 1977 (uMthetho No. 51 ka 1977); kanye
    - icala eliphathelene nokungathembeki.
- (2) Ukudalula okukhulunywe ngakho esigatshaneni (1) kumele kubandakanye ulwazi olufanele oluphathelene nemivuzo yezimali kanye neminye imivuzo yamalungu omndeni noma abantu lowo ophakanyisiwe asondelene nabo, okungashayisana nokuqokwa kwakhe njengelungu leKhomishana.
- (3) Umuntu ophakanyisiwe angeke atshangelelwa ukuqokwa njengelungu leKhomishana lapho kutholakala ukuthi lowo muntu ugodle ngabomu ulwazi okukhulunywa ngalo kulesi sigaba.
- (4) Lapho ilungu leKhomishana lihlangabezana noguquko ezimweni zezimali noma ezinye izimo noma lizuzwa, lelo lungu kumele, zingakapheli izinsuku eziyishumi kusukela ngosuku lokushintsha kwezimo, lidalule kabusha ngokubhaliwe kwiLungu loMkhandlu oPhethe elengamele.
- (5) Lapho ilungu lomndeni noma osondelene nelungu leKhomishana ehlangabezana noguquko esimweni sezimali noma kwesinye isimo noma ezuzwa, okungadala ukushayisana nokuqokwa kwelungu leKhomishana, ilungu leKhomishana kumele, zingakapheli izinsuku eziyishumi kusukela ngosuku lokushintsha kwezimo, lidalule kabusha ngokubhaliwe kwiLungu loMkhandlu oPhethe elengamele.
- (6) Ilungu leKhomishana angeke laba khona, noma libambe iqhaza engxoxweni yokuthatha isinqumo nganoma yiluphi udaba olusezithebeni zeKhomishana lapho lelo lungu linokuzuzwa okukhulunywe ngakho esigatshaneni (1).
- (7) Ilungu leKhomishana lingesebenzise isikhundla salo noma izibonelelo, noma ulwazi oluyimfihlo elithole njengelungu leKhomishana, ukuze lizuzwe lona ngokwalo noma ngokuzuzisa omunye umuntu ngokungeyikho.
- (8) ILungu loMkhandlu oPhethe elengamele kumele ligcine uhla olusha lokubhaliswa kwemivuzo yamalungu eKhomishana edalulwe ngokwalesi sigaba.

#### Ukwehluleka kwelungu leKhomishana ukudalula imivuzo yezimali noma eminye imivuzo namacala

7. Ilungu leKhomishana elehlulekayo ukudalula njengoba kubekiwe esigabeni 6 lena icala.

#### Isikhathi sokuba sesikhundleni kwelungu leKhomishana

8.(1) Ilungu leKhomishana liba sesikhundleni kusukela ngosuku lokuqokwa kwalo kuze kube wusuku lokukhethwa kweSishayamthetho seSifundazwe emva nje kosuku lokuqokwa.

(2) Ilungu eseliphelelwe yisikhathi sokuba sesikhundleni lingaphinde liqokwe yiLungu loMkhandlu oPhethe elengamele ukuba libe sesikhundleni okwesibili ngale kokulandela inqubo ebekiwe esigabeni 5(2) kuya ku (7).

(3) Akukho lungu elingasebenzela iKhomishana iminyaka eyishumi ilandelana.

**Ukwesula kwelungu leKhomishana**

9. Ilungu leKhomishana, nangasiphi isikhathi ngesaziso sezinsuku ezingekho ngaphansi kwezingama-30, lingesula kuye ngokuthi iLungu loMkhandlu oPhethe elengamele noma okhethwe yilo angavum ayini ukusebenza ngaphansi kwesaziso sokwesula isikhathi esifushane kunalesi lapho eneliseka ukuthi ukwenza njalo angeke kulimaze ukusebenza ngempumelelo kweKhomishana.

**Ukuhoxiswa kokuqokwa kwelungu leKhomishana**

10.(1) Umuntu angebe sesikhundleni njengelungu leKhomishana uma eseke —

- (a) eseneminyaka engama-35 ubudala;
- (b) wangaphila kahle emqondweni;
- (c) wakhishwa esikhundleni somphakathi ngenxa yokungaziphathi kahle;
- (d) wamenyezelwa njengomuntu osezikweletwini ngokungenakuhlengeka;
- (e) wagwetshelwa icala —
  - (i) elingaphansi kwamacala oHlelo 1 ngokoMthetho oBhekele uBelelesi, 1977 (uMthetho No. 51 ka 1977); noma
  - (ii) elibandakanya ukungethembeki;
- (f) ehlulekile ukudalula —
  - (i) ukushayisana kwemivuzo yezimali noma okunye okungahle kube nokushayisana kwemivuzo; noma
  - (ii) ulwazi olufanele mayelana nanoma yikuphi ukugwetshwa okungahle kube khona, ngokwesigaba 6;
- (g) waba —
  - (i) yilungu leSishayamthetho sikaZwelonke;
  - (ii) isithunywa ngokugcwele eMkhandlwini kaZwelonke weZifundazwe;
  - (iii) yilungu lesishayamthetho sesifundazwe; noma
  - (iv) yilungu lomkhandlu kamasipala;
- (h) wasebenza njengelungu leKhomishana iminyaka yaze yayishumi ilandelana;
- (i) ehlulekile ukuhoxa njengoba kudingekile esigabeni 13;
- (j) ngale kwesizathu esizwakalayo ehlulekile ukuthamela imihlangano yeKhomishana yaze yamithathu ilandelana;
- (k) ebandakanyeka ekuziphatheni, ngokubona kwelungu loMkhandlu oPhethe elengamele, ehlaze isikhundla selungu noma imisebenzi yeKhomishana noma ethunaza isithunzi seKhomishana; noma
- (l) ehlulekile ukwenza imisebenzi yeKhomishana nhokusemandleni akhe.

(2) ILungu loMkhandlu oPhethe elengamele lingakumisa ukuqokwa kwelungu leKhomishana, emva kokunikezela namaphi amalungelo okuphatha kulelo lungu —

- (a) ngaphansi kwanoma yiziphi izizathu ezibekwe esigatshaneni (1);
- (b) ngesincomo seKhomishana, ngezizathu ezizwakalayo nezizingenzeleli, ngokwesinqumo esithathwe ngokwesekwa yivoti okungenani yamalungu amabili kwamathathu eKhomishana; noma
- (c) lapho ilungu lehlukela ukuhambisana nezihlinzeko zalo Mthetho.

(3) ILungu loMkhandlu oPhethe elengamele kumele, ngokucela kwelungu leKhomishana elimisebenzi yalo ihoxisiwe njengoba kuhlinzekiwe esigatshaneni (1), linikeze izizathu ezibhaliweyo ngokumiswa komsebenzi.

(4) Nasiphi isikhala kwiKhomishana kumele, zingakapheli izinsuku ezingama-90, sigcwaliselwe lesi sikhathi esisasele ilungu elishiyayo eliliqokelwe sona ngendlela efanayo okwaqokwa ngalo lelo lungu.

**Ukukhokhelwa kwamalungu eKhomishana**

11.(1) ILungu likhokhelwa ngezimali zeKhomishana leyo nkokhelo kanye nezibonelelo njengoba kunganqunywa yiLungu loMkhandlu oPhethe elengamele ngokubonisana neLungu loMkhandlu oPhethe elengamele ezezimali.

(2) ILungu loMkhandlu oPhethe elengamele kumele linqume imibandela yokusebenza yamalungu eKhomishana kanye nezinqubo, kubandakanya amasu okulawula, ukuphathwa, ukusingathwa kanye nokucutshungulwa kwezicelo zokukhokhelwa izindleko zokuhamba nezokuziphilisa ezidaleke ngenkathi amalungu enza imisebenzi yeKhomishana.

**Imihlangano yeKhomishana**

12.(1) IKhomishana kumele ihlangane kanye ngenyanga ngezikhathi kanye nasezindaweni okunqunywe ngusihlalo emva kokubonisana namanye amalungu eKhomishana.

(2) Wonke amalungu eKhomishana kumele aziswe ngalowo nalowo mihlangano ngokubhaliwe, okungenani kusasele izinsuku eziyi-14 ukuba kubanjwe lowo mihlangano, kanti futhi lesi saziso kumele siqathe uhlelo lokuzodingidwa kulowo mihlangano ohlongozwayo.

(3) Esimweni lapho usihlalo noma isekela likasihlalo weKhomishana bengekho kunoma yimuphi umhlangano weKhomishana, amalungu akhona kulowo mihlangano angakhetha omunye wawo ukuba apha the lowo mihlangano.

(4) Umhlangano ophuthumayo weKhomishana ungabizwa ngesicelo —

- (a) sikasihlalo; noma
- (b) seningi (ababili kwabathathu) lamalungu eKhomishana ngesicelo esibhaliwe, lapho usihlalo kumele, ngokubhaliwe, azise wonke amalungu eKhomishana ngesikhathi kanye nendawo kwalowo mihlangano ophuthumayo.

(5) Ikhoram yomhlangano weKhomishana yakhiwa yiningi lamalungu ayo.

(6) Nasiphi isinqumo seKhomishana kumele sithathwe ngokuvumelana kweningi lamalungu akhona kunom ayimuphi umhlangano weKhomishana, kanti futhi esimweni lapho kunokulingana kwamavoti nganoma yiluphi udaba, ilungu eliphethe umhlangano othintekayo liyoba nevoti enqumayo ukwengeza evotini lelo lokudingida njengelungu leKhomishana.

(7) Okuqhubekayo kuyo yonke imihlangano kumele kuqoshwe futhi kubhalwe emaminithini ngendlela efanele.

(8)(a) Amaminithi omhlangano odlule kumele afundwe ekuqaleni kwalowo nalowo mihlangano.

(b) Amaminithi angathathwa njengafundiwe uma amakhophi awo enikezwe amalungu ngaphambi komhlangano.

(c) Usihlalo angawasayina amaminithi kuphela uma sekudluliwe ekuphikisaneni nawo kanye nasekuwalungiseni.

(9) Usihlalo kumele anqume ngemibuzo yokuhleleka kanye nenqubo.

(10) Uma ilungu elithile liphikisana nanoma yisiphi isinqumo, umbuzo kumele ufakwe evotini bese kuthi isinqumo seningi lamalungu sibe ngujuqu futhi sibophezele iKhomishana.

(11)(a) IsiKhulu esiyiNhloko yokuPhatha kanye nesiKhulu esiyiNhloko yokuPhathwa kweZimali bangethabela futhi babambe iqhaza, kodwa bangevoto, emhlanganweni weKhomishana.

(b) Umsebenzi weKhomishana, ngokumenywa yiKhomishana, angathamela umhlangano weKhomishana.

#### **Ukuhoxa kwelungu leKhomishana**

13.(1) Ilungu leKhomishana kumele lihoxe kunanoma yiluphi udaba noma okuqhubekayo lapho ilungu lomndeni walo noma osondelene nalo kungenzeka noma elindeleke ukuba azuze ngokwezimali noma ngenye indlela empumeleni wesinqumo seKhomishana.

(2) Namuphi umuntu angafaka isicelo, ngomlomo noma ngokubhaliwe, sokuba ilungu leKhomishana lihoxe lapho lowo muntu ekholelwa ukuthi lelo lungu, ilungu lomndeni walo noma asondelene nalo bayazuza noma kulindeleke ukuba bazuze ngokwezimali noma ngenye indlela empumeleni wesinqumo seKhomishana.

(3) Umuntu ofaka isicelo okukhulunywe ngaso esigatshaneni (2) kumele anikeze izizathu ngesicelo sakhe.

(4) Esimweni sesicelo okukhulunywa ngaso esigatshaneni (2), uSihlalo weKhomishan kumele anqume ngodaba, ngaphandle kwesimo lapho isicelo sithinta usihlalo, lolo daba kumele lunqunywe yiLungu loMkhandlu oPhethe elengamele noma elimkhethile.

(5) Ilungu leKhomishana lingesebenzise isikhundla salo noma izibonelelo, noma ulwazi oluyimfihlo olutholakale njengelungu leKhomishana, ukuze lizuze lona ngokwalo noma ukuze lizuzise omunye umuntu ngokungekhona.

#### **Ikomidi lokuphatha leKhomishana**

14.(1) IKhomishana ingasungula ikomidi lokuphatha elihlanganisa —

(a) usihlalo kanye nesekele likasihlalo beKhomishana; kanye

(b) okungenani nelinye ilungu elilodwa leKhomishana, eliqokwe yiKhomishana.

(2) Okungenani ilungu elilodwa lekomidi lokuphatha kumele libe nolwazi noma isipiliyoni sokusebenza ekuphathweni kwezimali.

(3) Usihlalo kanye nesekele lakhe beKhomishana bangosihlalo nesekele nasekomidini lokuphatha.

(4) Ikomidi lokuphatha kumele lenze imisebenzi futhi lisebenzise amandla eKhomishana njengoba iKhomishana, kuncike esigabeni 30(2)(c) kanye no (5), ingalijuba.

(5) Ikomidi lokuphatha kumele lihlangele njalo uma kunesidingo ukwenza imisebenzi lisebenzise namandla ngezikhathi nasezindaweni, kanye nangokuhambisana nenqubo, njengoba lingazinqumela.

(6) IsiKhulu esiyiNhloko yeZokuphatha kanye nesiKhulu esiyiNhloko yokuPhathwa kweZimali zingawethamela futhi zibambe iqhaza emhlanganweni wekomidi lokuphatha.

#### **Amanye amakomidi eKhomishana**

15.(1) IKhomishana ingaqoka elinye ikomidi elilodwa noma ngaphezulu elivuleleke nakwabangewona amalungu alo, ukuze lisize noma asize ekwenzeni imisebenzi nasekusebenziseni namandla eKhomishana.

(2)(a) Ikomidi okukhulunywe ngalo esigatshaneni (1) kumele —

(i) libe namalungu amabili noma angaphezulu eKhomishana;

(ii) libe nosihlalo oyilungu leKhomishana; futhi

(iii) lenze imisebenzi yeKhomishana njengoba iKhomishana inganquma.

(b) IKhomishana, ngasiphi isikhathi ingalihlakaza noma ilibumbe kabusha lelo komidi.

(3)(a) IKhomishana, kuncike esigabeni 30(2)(d) kanye no (5), ingadlulisela namiphi imisebenzi yayo ekomidini eliqokwe ngokwesigatshana (1).

(b) Namaphi amandla noma umsebenzi okudluliselwe okusetshenziswa ngaleyo ndlela kuthathwa njengokusetshenziswe noma okwenziwe yiKhomishana.

(c) IKhomishana ayibambekile ukuba yenze imisebenzi noma isebenzise amandla ayo adluliselwe ngaleyo ndlela.

(d) IKhomishana ingachibiyela, ibuyekeze noma ichithe nasiphi isinqumo sekomidi.

### **ISIAHLUKO 3**

#### **ISIKHULU ESIIYINHLOKO YEZOKUPHATHA, ISIKHULU ESIIYINHLOKO YOKUPHATHWA KWEZIMALI KANYE NABASEBENZI BEKHOMISHANA**

#### **IsiKhulu esiyiNhloko yeZokuphatha seKhomishana**

16.(1) IKhomishana kumele, ekubonisaneni neLungu loMkhandlu oPhethe elengamele, ingaqoka umuntu onemfundo, ikhono nesipiliyoni ngokufanelekile ukuba abe yisiKhulu esiyiNhloko yeZokuphatha seKhomishana.

(2)(a) IsiKhulu esiyiNhloko yeZokuphatha siba sesikhundleni kusukela ngosuku lokuqokwa kuze kube usuku lokukhethwa kweSishayamthetho seSifundazwe emva nje kosuku lokuqokwa.

(b) IsiKhulu esiyiNhloko yeZokuphatha singaphinde siqokwe, kodwa angeke sisebenze kuleso sikhundla iminyaka eyeve kweyishumi ilandelana.

(3)(a) Ukuqokwa kwesiKhulu esiyiNhloko yeZokuphatha kuncike ekuphathweni kwesivumelwano sokusebenza esibhaliwe phakathi kwalowo muntu kanye neKhomishana.

(b) Ikhomishana kanye nesiKhulu esiyiNhloko yeZokuphatha, ngokubhaliwe nangesivumelwano, bangasichibiyela isivumelwano sokusebenza.

(4) IKhomishana ingakumisa ukuqashwa kwesiKhulu esiyiNhloko yeZokuphatha ngokulandela umthetho wabasebenzi nokusebenza oqondene.

(5) Ngezinhliso zokudalulwa kwemivuzo yezimali noma eminye imivuzo kanye nokugwetshwa, izihlinzeko zesigaba 6 ziyasebenza kanye nezinguquko ezifanele esiKhulwini esiyiNhloko yeZokuphatha.

#### **Imisebenzi yesiKhulu esiyiNhloko yeZokuphatha**

**17.** IsiKhulu esiyiNhloko yeZokuphatha siyinhloko yezokuphatha zeKhomishana, sibika kwiKhomishana —

- (a) ukuphathwa nokusingathwa jikelele kweKhomishana ngokulandela umyalelo weKhomishana;
- (b) ukuqokwa kwabasebenzi beKhomishana okukhulunywe ngakho esigabeni 20(1);
- (c) ngokubonisana neKhomishana, ukunquma umgomo wokuziphatha, osebenza esiKhulwini esiyiNhloko yeZokuphatha, esiKhulwini esiyiNhloko yokuPhathwa kweZimali kanye nabo bonke abasebenzi beKhomishana, nangokufanele ngezinhliso zokuqondisa izigwegwe, ukuqiniseka —
  - (i) ukuhambisana nomthetho ofanele, kubandakanya lo Mthetho;
  - (ii) ukusetshenziswa ngempumelelo nangokonga kwezimali nezinsiza zeKhomishana;
  - (iii) ukugquzuzela kanye nokugcina iqophelo eliphezulu lokuziphatha ngobungcweti;
  - (iv) ukugwema ukushayisana kwemivuzo (kwezintshisekelo);
  - (v) ukuvikeleka kolwazi oluyimfihlo olugcinwe yiKhomishana; kanye
  - (vi) nomsebenzi onobungcweti, ukuthembeka, ukungachemi, ukungenzeleli, ukuba nesimilo kanye nokulinganis;
- (d) ukugcinwa kokuziphatha kwabasebenzi abaqokwe ngokwendima futhi, ngokwalezo zinhloso, ubophezelekile ukuba abike kwiKhomishana; kanye
- (e) nokuqiniseka ukuhambisana kweKhomishana nezihlinzeko zalo Mthetho kanye nanoma yimuphi omunye umthetho ofanele.

(2) Uma isiKhulu esiyiNhloko yeZokuphatha ngasizathu simbe singakwazi ukwenza imisebenzi yaso, iKhomishana kumele, ngokubhaliwe, iqoke omunye umuntu njengeBamba lesiKhulu esiyiNhloko yeZokuphatha kuze kube isiKhulu esiyiNhloko yeZokuphatha siyakwazi ukuqhubeka naleyo misebenzi.

#### **Isikhulu sokuPhathwa kweZimali seKhomishana**

**18.**(1) IKhomishana kumele, ekubonisaneni neLungu loMkhandlu oPhethe elengamele, iqoke umuntu oqeqeshwe ngokufanele onolwazi olubonakalayo, kanye nesipiliyoni, ekuphathweni kwezimali ukuba abe yisiKhulu sezokuPhathwa kweZimali esiyiNhloko seKhomishana.

(2) Isikhulu sezokuPhathwa kweZimali esiyiNhloko sibika —

- (a) kwiKhomishana maqondana nezindaba eziphathelene nokuphathwa kwezimali zeKhomishana;
- (b) esiKhulwini esiyiNhloko yeZokuphatha maqondana nezindaba ezingangeni ngaphansi kwendima (a).

(3) Izihlinzeko zesigaba 16(3) kuya ku (5) ziyasebenza nezinguquko ezifanele esiKhulwini sezokuPhathwa kweZimali esiyiNhloko.

#### **Imisebenzi yesiKhulu sezokuPhathwa kweZimali esiyiNhloko**

**19.**(1) IsiKhulu sezokuPhathwa kweZimali esiyiNhloko siyisikhulu esiphezulu esibophezeleke ukubika ngezimali ekuphathweni kweKhomishana futhi kumele sisize usihlalo weKhomishana ekwenzeni imisebenzi kasihlalo weKhomishana njengesiphathimandla esibophezeke ukubika ngezimali ngokoMthetho wokuPhathwa kweZimali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999).

(2) IsiKhulu sezokuPhathwa kweZimali esiyiNhloko sibhekele ikahulukazi —

- (a) ukuphathwa kwezimali zeKhomishana ngokulandela uMthetho wokuPhathwa kweZimali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999), ngomyalelo weKhomishana; kanye
- (b) nokuqiniseka ukuthi iKhomishana iyahambisana nezihlinzeko zoMthetho wokuPhathwa kweZimali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999), kanye namuphi omunye umthetho ofanele ophathelene nokuphathwa kanye nokusingathwa kwezimali.

(3) Uma isiKhulu sezokuPhathwa kweZimali esiyiNhloko, nganoma yisiphi isizathu singakwazi ukwenza namiphi imisebenzi yaso, iKhomishana kumele, ngokubhaliwe iqoke omunye umuntu ozoba yiBamba lesiKhulu sezokuPhathwa kweZimali esiyiNhloko kuze kube isiKhulu sezokuPhathwa kweZimali esiyiNhloko sesiyakwazi ukubuyela kuleyo misebenzi.

#### **Abasebenzi beKhomishana**

**20.**(1) IsiKhulu esiyiNhloko yeZokuphatha kumele, kuncike esigatshaneni (2), siqashe amalungu abasebenzi eKhomishana njengoba kungadingeka —

- (a) ukuba basize isiKhulu esiyiNhloko yeZokuphatha kanye nesiKhulu esiyiNhloko yoKuphathwa kweZimali ekufezeni emisebenzi yabo ngokwalo Mthetho; kanye
- (b) nokuba basize iKhomishana ngomsebenzi ophathelene nokwenziwa kwemisebenzi yeKhomishana.

(2) IKhomishana kumele yakhe umgomo wezabasebenzi weKhomishana.

#### **Ukudluliselwa kwabasebenzi kwiKhomishana**

**21.** IKhomishana ingasebenzisa abantu abadluliselwe kuyo ukusuka emisebenzini kahulumeni ngokulandela izihlinzeko zoMthetho weMisebenzi kaHulumeni, 1994 (iSimemezelo No. 103 sika 1994).

#### **Ukudalulwa ngumfakisicelo somsebenzi wokuba ngumsebenzi weKhomishana imivuzo yezezimali noma eminye kanye nokugwetshwa**

**22.**(1) Umfakisicelo sokusebenza njengelungu labasebenzi beKhomishana kumele, lapho efaka isicelo, adalule esiKhulwini esiyiNhloko yeZokuphatha, ngokubhaliwe —

- (a) noma yimuphi umvuzo oza ngqo noma ngenye indlela, wezimali noma omunye umvuzo —
  - (i) ongadala ukushayisana kwentshisekelo maqondana nemisebenzi yakhe njengelungu labasebenzi; noma
  - (ii) okungalindeleka ngokufanele ukuba kukhinyabeze iKhomishana ekwenzeni imisebenzi yayo; kanye
- (b) nokuqokethe ulwazi olufanele mayelana nanoma yikuphi ukugwetshelwa —
  - (i) icala loHlelo 1 ngokoMthetho oBhekele uBelelesi, 1977 (uMthetho No. 51 ka 1977); kanye
  - (ii) necala elibandakanya ukungethembeki.



- (2) Ukudalula okukhulunywa ngakho esigatshaneni (1) kumele kubandakanye ulwazi olufanele oluphathelele nemivuzo yezimali noma eminye imivuzo yamalungu omndeni noma ilungu elingumfakisicelo elisondelele nabo, engashayisana nokuqokwa njengelungu labasebenzi.
- (3) Umfakisicelo angeke acatshangelwa ukuqokwa njengelungu labasebenzi lapho kutholakala ukuthi lowo mfakisicelo wagodla ngabomu ulwazi okukhunywe ngalo kulesi sigaba.
- (4) Lapho ilungu labasebenzi lihlangebezana noguquko ezimweni zezimali noma kunaziphi ezinye izimo noma ezuzwa, lelo lungu kumele, zingakapheli izinsuku eziyishumi kusukela ngosuku lokushintsha kwezimo, lethule ukudalula okubuyekeziwe esiKhulwini esiyiNhloko yeZokuphatha.
- (5) Lapho ilungu lomndeni noma onsondelele nelungu labasebenzi leKhomishana lihlangebezana noguquko ezimweni zezimali noma yiziphi ezinye izimo noma ethola umvuzo, ongadala ukushayisana nokuqokwa kwelungu labasebenzi, lelo lungu labasebenzi kumele, zingakapheli izinsuku eyishumi kusukela kwashintsha izimo, kumele libhale ukudalula okubuyekeziwe ikubhekise esiKhulwini esiyiNhloko yeZokuphatha.
- (6) Ilungu labasebenzi beKhomishana angeke laba khona, noma libambe iqhaza, engxoxweni noma ekuthathweni kwsinqumo nganoma yiluphi udaba ngaphambi kweKhomishana lapho ilungu linentshisekelo (linomvuzo) okukhulunywe ngayo esigatshaneni (1).
- (7) Ilungu labasebenzi beKhomishana angeke lasebenzisa isikhundla noma amathuba kwalo, noma ulwazi oluyimfihlo ekuthole njengelungu labasebenzi beKhomishana, ukuze lizuze lona noma lizuzise omunye umuntu ngokungekhona.
- (8) Ilungu labasebenzi beKhomishana elihluleka noma elenqaba ukubambisana nezigatshana (1) kuya ku (7) —  
 (a) lithathwa njengelephula umgomo wokuziphatha okukhulunywe ngawo esigabeni 17(1)(c); futhi  
 (b) libhekana nezinyathelo zokuqondiswa izigwegwe okukhulunywe ngazo kulowo mgomo wokuziphatha, emthethweni wezabasebenzi noma wokusebenza oqondene, kanye naseMthethweni wokuPhathwa kweZimali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999).
- (9) Isikhulu esiyiNhloko yeZokuphatha kumele sigcine uhla olubuyekeziwe l okudalulwa kwemivuzo ngamalungu abasebenzi beKhomishana edalulwe ngokwalesi sigaba.
- (10) Lesi sigaba siyasebenza, nezinguquko ezifanele, kumuntu odluliselwe kwiKhomishana ngokwesigaba 21.

#### ISAHLUKO 4 UKUXHASWA NGEZIMALI KANYE NOKUPHATHWA KWEKHOMISHANA

##### Izimali zeKhomishana

23.(1) Izimali zeKhomishana zihlanganisa —

- (a) imali eyabiwe yiSishayamthetho seSifundazwe;  
 (b) iminikelo etholakale ngokusemthethweni yiKhomishana ivela kunoma yimuphi umthombo;  
 (c) inzuzo ngokongiwa kwezimali zeKhomishana; kanye  
 (d) nemali evela kunanoma yimuphi umthombo ngokusemthethweni.
- (2) IKhomishana kumele isebenzise izimali zayo —  
 (a) ekukhokheleni izinkokhelo, izibonelelo kanye nezindleko zokuhamba nokuziphilisa —  
 (i) kumalungu ayo;  
 (ii) esiKhulwini esiyiNhloko yeZokuphatha seKhomishana;  
 (iii) esiKhulwini esiyiNhloko yokuPhathwa kweZimali seKhomishana; kanye  
 (iv) nakumalungu abasebenzi beKhomishana; kanye  
 (b) nasekubhekaneni nezindleko eziphathelele —  
 (i) ukusebenza kanye nokusingathwa kwansuku zonke kweKhomishana; kanye  
 (ii) nokwenziwa kwemisebenzi yeKhomishana kanye nokusetshenziswa kwamandla ayo, kanye nokwenziwa kwemisebenzi yayo ngokwalo Mthetho.
- (3) Isikhulu esiyiNhloko yokuPhathwa kweZimali kumele, ngokuvunyelwa yiKhomishana —  
 (a) avule i-akhawunti egameni leKhomishana nesikhungo esibhaliselwe ukuba yibhange ngokoMthetho waMabhange, 1990, (uMthetho No. 94 ka 1990); futhi  
 (b) afake kuleyo akhawunti yonke imali etholakale ngokwesigatshana (1).
- (4) Ilungu loMkhandlu oPhethe elengamele, ngokubonisana neLungu loMkhandlu oPhethe elengamele ezezimali, kumele linqume —  
 (a) inkokhelo kanye nemibandela yokusebenza; kanye  
 (b) nezibonelelo zezimpesheni nemihlalaphansi,  
 kwesiKhulu esiyiNhloko yeZokuphatha, isikhulu esiyiNhloko yokuPhathwa kweZimali kanye namanye amalungu abasebenzi beKhomishana.

##### Ukuphathwa kwezimali nokubika

24.(1) Isikhulu esiyiNhloko yokuPhathwa kweZimali kumele sense ukuba kugcinwe amabhuku afanele nagcwele ezimali kanye nawo wonke amarekhodi afanele aqondene nalezo zimali.

- (2) Isikhulu esiyiNhloko yokuPhathwa kweZimali kumele siqiniseke ukuthi izabelomali zonyaka, izinhlelo zokusebenza, imibiko yonyaka kanye nezitatimende zezimali ezicwaningwe kweKhomishana kuyalungiswa futhi kwethulwe ngokuhambisana noMthetho wokuPhathwa kweZimali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999).
- (3)(a) IKhomishana kumele icwaningelwe amabhuku ayo nguMcwanningimabhuku-Jikelele ngokuhambisana noMthetho woCwaningo-mabhuku oMphakathi, 2004 (uMthetho No. 25 ka 2004), kanye noMthetho wokuPhathwa kweZimali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999).
- (b) IKhomishana kumele ibike ngokuhambisana noMthetho wokuPhathwa kweZimali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999).

**ISAHLUKO 5  
IZIHLINZEKO EZIJWAYELEKILE**

**Ukuvikeleka kolwazi oluyimfihlo olugcinwe yiKhomishana**

25.(1) Naliphi irekhodi, umbiko, imininingwane noma olunye ulwazi lwanoma yiluphi uhlobo noma kwanoma yimuphi umumo okwakhiwe noma okutholwe yiKhomishana kuthathwa njengokuyimfihlo futhi akukho muntu ongadalula lolo lwazi oluyimfihlo ngaphandle —

- (a) uma kuhlinzekelwe ngokwehlukile kulo Mthetho;
- (b) njengoba kungadingeka ukuze kwenziwe imisebenzi yeKhomishana;
- (c) uma kudingeka ngokwanoma yimuphi umthetho;
- (d) uma kunesigunyazo esibhaliweyo sesiKhulu esiyiNhloko yeZokuphatha ngokubonisana neKhomishana.

(2) IKhomishana, amalungu ngawodwana eKhomishana, isiKhulu esiyiNhloko yeZokuphatha, isiKhulu esiyiNhloko yokuPhathwa kweZimali kanye namalungu abasebenzi beKhomishana kumele bathathe zonke izinyathelo nokucophelela okufanele ukuqinisekisa ukuthi ulwazi oluyimfihlo luhlala luyimfihlo nokuthi akukho muntu ongagunyaziwe ofinyelela kulolo lwazi noma otholayo ngalo.

**Ukusetshenziswa kwegama leKhomishana**

26.(1) Akukho muntu, ngale kwesigunyazo esibhaliweyo sesiKhulu esiyiNhloko yeZokuphatha ngokubonisana neKhomishana, nangayiphi indlela ongamela noma ongasebenzisa igama, izinhlamvu ezifingqiwe, i-*logo*, ukwakhiwa noma impahla esetshenziswa noma okungeyeKhomishana.

- (2) Akukho muntu ongaphosisa azenze omelet iKhomishana.
- (3) Namuphi umuntu ophula izigatshana (1) no (2) uyotholwa enecala.

**Amacala ajwayelekile**

27. Namuphi umuntu ozenza sengathi ugunyaziwe ukuba abize noma aqoqe izimali, iminikelo egameni, noma ngokuyalelwa yiKhomishana, uyotholwa enecala.

**Izinhlawulo**

28. Namuphi umuntu ogwetshelwe icala ngokwalo Mthetho angahlawuliswa noma agqunywe ejele isikhathi esingekho ngaphezu kweminyaka emihlanu.

**Imithethonqubo**

29. ILungu loMkhandlu oPhethe elengamele, emva kokubinisana neKhomishana, kanye nangesaziso *kwiGazethi*, lingenza imithethonqubo emayelana —

- (a) nanoma yiluphi udaba olunganqunywa noma okumele lunqunywe ngokwalo Mthetho; noma
- (b) nanoma yiluphi udaba lwezokuphatha noma olumayelana nenqubo oludingekayo ukuze kusetshenziswe izihlinzeko zalo Mthetho.

**Ukudluliselwa kwamandla nemisebenzi**

30.(1) ILungu loMkhandlu oPhethe elengamele lingadlulisela kwiNhloko yoMnyango —

- (a) namaphi amandla anikezwe iLungu loMkhandlu oPhethe elengamele yilo Mthetho, ngaphandle kwamandla, ngokwesigaba 29, okwenza imithethonqubo.
- (b) namuphi umsebenzi obekwe kwiLungu loMkhandlu oPhethe elengamele yilo Mthetho, ngaphandle kwanoma yimuphi umsebenzi ophathelene nokuqokwa, kanye nokumiswa esikhundleni kwamalungu eKhomishana okukhulunywe ngakho ezigabeni 5 no 10.

(2) IKhomishana ingadlulisela —

- (a) esiKhulwini esiyiNhloko yeZokuphatha;
- (b) esiKhulwini esiyiNhloko yokuPhathwa kweZimali;
- (c) ekomidini lokuphatha okukhulunywe ngalo esigabeni 14
- (d) kunanoma yiliphi elinye ikomidi okukhulunywe ngalo esigabeni 15,

namaphi amandla noma umsebenzi onikezwe iKhomishana yilo Mthetho, ngaphandle kwanoma yimuphi umsebenzi wokuba yisiphathi-mandla seKhomishana esibophezeleke ukubika.

(3) IsiKhulu esiyiNhloko yeZokuphatha singadlulisela kunoma yiliphi ilungu labasebenzi beKhomishana namaphi amandla noma umsebenzi onikezwe noma obekwe emahlombe esiKhulu sokuPhatha esiyiNhloko ngokwalo Mthetho.

(4) Namaphi amandla noma umsebenzi okudluliselwe ngokwesigatshana (1), (2) noma (3) —

- (a) kumele kube ngokubhaliweyo;
- (b) akumvimbeli umuntu noma umgwamanda odlulisele lawo mandla noma umsebenzi ukusebenzisa lawo mandla noma lowo msebenzi; futhi
- (c) nangasiphi isikhathi kungahoxiswa noma kuchitshiyelwe ngokubhaliwe yilowo muntu noma umgwamanda.

**Ukuchithwa komthetho**

31. UMthetho weKhomishana yeNtsha waKwaZulu-Natali, 1998 (uMthetho No. 1 ka 1998), ngalokhu uyachithwa.

**Isihloko esifingqiwe**

32. Lo Mthetho ubizwa ngoMthetho weKhomishana yeNtsha waKwaZulu Natali, 2005.

No. 7, 2005

28 December 2005

*[English text signed by the Premier]*

**KWAZULU-NATAL YOUTH COMMISSION ACT, 2005**  
(Act No. 7 of 2005)  
Assented to on 2005-12-01

# ACT

To provide for the establishment of the KwaZulu-Natal Youth Commission; to determine the objects and functions of the Commission; to determine the manner in which the Commission is to be managed, governed, staffed and financed; to repeal the KwaZulu-Natal Youth Commission Act, 1998; and to provide for matters connected therewith.

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

## ARRANGEMENT OF SECTIONS

### Section

#### CHAPTER 1 DEFINITIONS

1. Definitions

#### CHAPTER 2 KWAZULU-NATAL YOUTH COMMISSION

2. Establishment of KwaZulu-Natal Youth Commission
3. Objects of Commission
4. Functions of Commission
5. Composition of Commission
6. Declaration by nominee to Commission of financial or other interests and convictions
7. Failure of member of Commission to declare financial or other interests and convictions
8. Term of office of member of Commission
9. Resignation of member of Commission
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11. Remuneration of members of Commission
12. Meetings of Commission
13. Recusal of member of Commission
14. Management committee of Commission
15. Other committees of Commission

#### CHAPTER 3 CHIEF ADMINISTRATIVE OFFICER, CHIEF FINANCIAL OFFICER AND STAFF OF COMMISSION

16. Chief Administrative Officer of Commission
17. Functions of Chief Administrative Officer
18. Chief Financial Officer of Commission
19. Functions of Chief Financial Officer of Commission
20. Staff of Commission
21. Secondment or transfer of staff to Commission
22. Declaration by applicant for employment as member of staff of Commission of financial or other interests and convictions

#### CHAPTER 4 FUNDING AND MANAGEMENT OF COMMISSION

23. Funds of Commission
24. Financial management and reporting

#### CHAPTER 5 GENERAL PROVISIONS

25. Security of confidential information held by Commission
26. Use of name of Commission
27. General offences
28. Penalties
29. Regulations
30. Delegations
31. Repeal of law

## 32. Short title

**CHAPTER 1  
DEFINITIONS****Definitions**

1. In this Act, unless the context indicates otherwise

“**Bill of Rights**” means the Bill of Rights contained in Chapter 2 of the Constitution;

“**Chief Administrative Officer**” means the Chief Administrative Officer of the Commission appointed in terms of section 16;

“**Chief Financial Officer**” means the Chief Financial Officer of the Commission appointed in terms of section 18;

“**Commission**” means the Commission established by section 2;

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

“**Department**” means the Office of the Premier or, where the Premier has assigned the administration of this Act to a member of the Executive Council, the department in the Provincial Government of KwaZulu-Natal for which that member of the Executive Council is responsible;

“**Executive Council**” means the Executive Council of the Province of KwaZulu-Natal as contemplated in section 132 of the Constitution;

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

“**Head of Department**” means the Director-General or, where the Premier has assigned the administration of this Act to a member of the Executive Council, the most senior officer of the department in the Provincial Government of KwaZulu-Natal for which that member of the Executive Council is responsible;

“**local sphere**” means the local sphere of government contemplated in section 40 of the Constitution;

“**National Executive**” means the National Executive contemplated in section 83 of the Constitution;

“**National Youth Policy**” means any policy or framework relating to youth matters developed by the National Executive or by a structure or body, established under the authority of the National Executive with objects similar to that of the Commission;

“**organ of state**” bears the meaning assigned to it in section 239 of the Constitution;

“**Premier**” means the Premier of the Province of KwaZulu-Natal as contemplated in section 125 of the Constitution;

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

“**Provincial Legislature**” means the Legislature of the Province of KwaZulu-Natal as contemplated in section 124 of the Constitution;

“**provincial sphere**” means the provincial sphere of government contemplated in section 40 of the Constitution;

“**Portfolio Committee**” means a committee of the Provincial Legislature comprising Members of the Provincial Legislature duly appointed in terms of the Standing Rules and Orders of the Provincial Legislature;

“**regulations**” means regulations made in terms of section 29;

“**responsible Member of the Executive Council**” means the Premier of the Province of KwaZulu-Natal or that member of the Executive Council of the Province of KwaZulu-Natal to whom the Premier has assigned the administration of this Act;

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

“**youth**” means any person between the ages of 14 and 35 in the Province;

“**youth matter**” means any matter contemplated in this Act, the National Youth Policy or any other matter relevant to the rights in law of the youth.

**CHAPTER 2  
KWAZULU-NATAL YOUTH COMMISSION****Establishment of KwaZulu-Natal Youth Commission**

2.(1) A juristic person to be known as the KwaZulu-Natal Youth Commission is hereby established.

(2)(a) The Commission is a provincial public entity subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(b) The chairperson of the Commission is the accounting authority of the Commission.

**Objects of Commission**

3. The objects of the Commission are —

- (a) to facilitate the implementation in the Province of the National Youth Policy;
- (b) to facilitate, monitor and evaluate the protection, promotion and fulfillment of the rights of the youth contained in the Bill of Rights by organs of state in the provincial and local spheres;
- (c) to promote the development of the youth by organs of state in the provincial and local spheres within available resources;
- (d) to promote a uniform approach and cooperation by all organs of state in the provincial and local spheres in respect of any youth matter;
- (e) to unite the youth from diverse cultural backgrounds, religious persuasions, linguistic orientations and political affiliations;
- (f) to promote a spirit of patriotism among the youth;
- (g) to educate the youth on their rights in law and the available enforcement mechanisms; and
- (h) to assist the youth in accessing their rights in law.

**Functions of Commission****4.(1) The Commission must —**

- (a) develop and keep an updated integrated implementation plan for the implementation of the National Youth Policy and coordinate the implementation thereof, after the Executive Council has approved the plan or any amendment thereto;
- (b) develop and keep an updated integrated youth development plan and co-ordinate the implementation thereof, after the Executive Council has approved the plan or any amendment thereto;
- (c) with regard to the protection, promotion and fulfillment of the rights of the youth contained in the Bill of Rights, monitor and review the policies and practices of —
  - (i) organs of state in the provincial and local spheres; and
  - (ii) any other structure, body or person in the province;
- (d) in order to promote a uniform approach and cooperation by all organs of state in the provincial and local spheres in respect of any youth matter —
  - (i) convene meetings between organs of state in the provincial and local spheres;
  - (ii) act as a link between organs of state in the provincial and local spheres and the youth;
  - (iii) act as a link between organs of state in the provincial and local spheres and other structures or bodies with objects similar to that of the Commission; and
  - (iv) consult any other structure or body on any youth matter;
- (e) develop and conduct information and educational programmes and campaigns in regard to —
  - (i) the promotion of cultural, religious, linguistic and political harmony and patriotism; and
  - (ii) the rights in law of the youth and the available enforcement mechanisms;
- (f) investigate and consider of its own accord or on the direction of the responsible Member of the Executive Council, any complaint, representation or recommendation relating to any youth matter and assist the complainant to access his or her right by —
  - (i) a reference to an appropriate organ of state or other structure or body; and
  - (ii) advice on any applicable procedural aspects relating to the complaint, representation or recommendation;
- (g) conduct research or cause research to be conducted to further the objects of the Commission;
- (h) make recommendations relating to and advise the responsible Member of the Executive Council on —
  - (i) the implementation of the National Youth Policy;
  - (ii) any policy or practice of an organ of state in the provincial or local sphere or any structure, body or person in the Province;
  - (iii) the implementation of the youth development plan;
  - (iv) the approach and level of cooperation by organs of state in the provincial or local sphere;
  - (v) any research which should be conducted in connection with any youth matter; and
  - (vi) any existing or proposed legislation governing or relating to any youth matter;
- (i) report to the responsible Member of the Executive Council on a quarterly and an annual basis on the performance of its functions; and
- (j) before submitting the report contemplated in paragraph (i), in so far as it is possible and practicable —
  - (i) consult with all interested organs of state, structures, bodies or persons; and
  - (ii) include any objections raised and the Commission's response thereto in such report.

**(2) The Commission may —**

- (a) perform any function assigned to it by this Act or any other law;
- (b) in the performance of its functions in terms of this Act, for specific projects, enter into contracts for the services of persons having technical or specialised knowledge of any youth matter and must determine the remuneration, including reimbursement for traveling, subsistence and other expenses, of such persons; and
- (c) generally, do everything which is necessary or expedient to achieve its objects and to perform its functions.

**(3) All organs of state in the provincial and local sphere must —**

- (a) afford the Commission such co-operation as may be reasonably practical to enable the Commission to perform its functions, discharge its duties and exercise its powers;
- (b) provide reasonable access to their premises and records for purposes of conducting research or any investigation contemplated in the Act; and
- (c) furnish the Commission with adequate responses within a reasonable time to any enquiry by the Commission contemplated in the Act.

(4) The Commission may report any organ of state in the provincial or local sphere which fails to comply with the provisions of subsection (3) to the Executive Council and the Provincial Legislature through the responsible Member of the Executive Council.

**Composition of Commission****5.(1) The Commission consists of six full-time members, appointed by the responsible Member of the Executive Council in accordance with the procedure set out in subsections (2) to (7) who —**

- (i) are South African citizens resident in the Province;
- (ii) are youth, collectively representative of the youth in the Province;
- (iii) collectively possess the necessary qualifications, knowledge, skill and experience required to perform the functions of the Commission: Provided that at least one member of the Commission must have proven knowledge of, or experience in, financial management; and
- (iv) are not ineligible to remain in office in terms of paragraphs (a) to (h) of section 10(1).

(2) The responsible Member of the Executive Council must by notice in the *Gazette* and at least two newspapers circulating in the Province, invite nominations for appointment to the Commission to be made within 21 days of the date of publication.

**(3) The invitation for nominations in terms of subsection (2) must specify the —**

- (a) nomination procedure;
- (b) requirements for nomination; and
- (c) date by which a nomination must be received by the responsible Member of the Executive Council.

(4) The responsible Member of the Executive Council must appoint a selection panel of no more than three senior officers in the

Department to review all nominations and make recommendations on the nominees.

- (5) The responsible Member of the Executive Council may, in his or her sole discretion, appoint no more than three persons with experience in youth matters to assist the selection panel with making recommendations on the nominees.
- (6) The responsible Member of the Executive Council must, by notice in the *Gazette* and at least two newspapers circulating in the Province, invite public comment on the short list of candidates to be made within 21 days of the date of publication.
- (7) After the expiry of the period for public comment and considering any submissions, the responsible Member of the Executive Council must select the six most suitable candidates from the short list and appoint them to the Commission or re-commence the nomination process contemplated in subsection (2).
- (8) The responsible Member of the Executive Council must designate one of the members as chairperson and another as deputy chairperson.
- (9) The responsible Member of the Executive Council may at any time withdraw any designation under subsection (8) if, in the opinion of the responsible Member of the Executive Council, there are good reasons for doing so after giving effect to any administrative rights of the member.
- (10) No vacancy in the membership of the Commission or a deficiency in the number of members of the Commission affects or impairs the corporate existence of the Commission or any rights, duties or powers conferred or imposed by this Act upon the Commission.
- (11) No decision of the Commission is valid unless passed at a meeting —
- (a) at which the *quorum* required by section 12(5) was present; and
  - (b) held in accordance with the other provisions of section 12.

#### **Declaration by nominee to Commission of financial or other interests and convictions**

6.(1) A nominee to the Commission must, within 30 days of being nominated, submit to the responsible Member of the Executive Council, a written declaration —

- (a) of any direct or indirect interest, financially or otherwise, which —
    - (i) may constitute a conflict of interest in respect of his or her functions as a member of the Commission; or
    - (ii) could reasonably be expected to compromise the Commission in the performance of its functions; and
  - (b) containing relevant information about any conviction —
    - (i) for a Schedule 1 offence in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977); and
    - (ii) for an offence of which dishonesty is an element.
- (2) The declaration referred to in subsection (1) must include relevant information pertaining to the financial and other interests of family members or close associates of the nominee, which could be in conflict with an appointment as a member of the Commission.
- (3) A nominee may not be considered for appointment as a member of the Commission where it is found that the nominee deliberately withheld information contemplated in this section.
- (4) Where a member of the Commission experiences a change in financial or any other circumstances or acquires an interest, the member must, within 10 days of the date of the changed circumstances, submit a revised written declaration to the responsible Member of the Executive Council.
- (5) Where a family member or close associate of a member of the Commission experiences a change in financial or any other circumstances or acquires an interest, which could constitute a possible conflict with the appointment of the member of the Commission, the member of the Commission must, within 10 days of the date of the changed circumstances, submit a revised written declaration to the responsible Member of the Executive Council.
- (6) A member of the Commission may not be present at, or participate in, the discussion of or the taking of a decision on any matter before the Commission in which that member has an interest contemplated in subsection (1).
- (7) A member of the Commission may not use his or her position or privileges, or confidential information obtained as a member of the Commission, for personal gain or to improperly benefit another person.
- (8) The responsible Member of the Executive Council must keep an updated register of the interests of members of the Commission disclosed in terms of this section.

#### **Failure of member of Commission to declare financial or other interests and convictions**

7. A member of the Commission who fails to make a declaration contemplated in section 6 commits an offence.

#### **Term of office of member of Commission**

- 8.(1) A member of the Commission holds office from the date of his or her appointment until the date of the election of the Provincial Legislature immediately following the date of appointment.
- (2) A member whose term of office has expired may be reappointed by the responsible Member of the Executive Council without following the procedure as set out in section 5(2) – (7).
- (3) No member may serve on the Commission for more than ten consecutive years.

#### **Resignation of member of Commission**

9. A member of the Commission may, at any time and on not less than 30 days written notice, resign save that the responsible Member of the Executive Council or his or her nominee may accept a shorter period of notice where he or she is satisfied that to do so would not be detrimental to the efficient functioning of the Commission.

#### **Termination of appointment of member of Commission**

- 10.(1) A person may not remain in office as a member of the Commission if he or she has —
- (a) attained the age of 35 years;
  - (b) become of an unsound mind;

- (c) been or is removed from public office on account of misconduct;
  - (d) been or is declared insolvent and has not been rehabilitated;
  - (e) been or is convicted of —
    - (i) a Schedule 1 offence in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977); or
    - (ii) an offence of which dishonesty is an element;
  - (f) failed to declare —
    - (i) his or her financial or other possible conflicts of interest; or
    - (ii) relevant information about any possible conviction,
 in terms of section 6;
  - (g) become —
    - (i) a member of the National Assembly;
    - (ii) a permanent delegate to the National Council of Provinces;
    - (iii) a member of a provincial legislature; or
    - (iv) a member of a municipal council;
  - (h) served as a member of the Commission for ten consecutive years;
  - (i) failed to recuse himself or herself as required by section 13;
  - (j) without good reason failed to attend three consecutive meetings of the Commission;
  - (k) engaged in conduct which, in the opinion of the responsible Member of the Executive Council, brings or could bring the office of the member or activities of the Commission into disrepute or threatens the integrity of the Commission; or
  - (l) failed to carry out the duties and functions of the Commission to the best of his or her ability.
- (2) The responsible Member of the Executive Council may terminate the appointment of a member of the Commission, after giving effect to any administrative rights of the member —
- (a) on any of the grounds provided for in subsection (1);
  - (b) on the recommendation of the Commission, for reasons which are fair and just, by a resolution adopted with a supporting vote of at least two-thirds of the members of the Commission; or
  - (c) upon failure by the member to comply with the provisions of this Act.
- (3) The responsible Member of the Executive Council must, on request of a member of the Commission whose services have been terminated as provided for in subsection (1), give written reasons for the termination of service.
- (4) Any vacancy on the Commission must, within 90 days, be filled for the unexpired portion of the term for which the vacating member was appointed in the same manner in which the vacating member was appointed.

#### **Remuneration of members of Commission**

- 11.(1) A member is paid from the funds of the Commission such remuneration and allowances as may be determined by the responsible Member of the Executive Council in consultation with the Member of the Executive Council responsible for finance.
- (2) The responsible Member of the Executive Council must determine conditions of service of members of the Commission and procedures, including control measures, for the management, handling and processing of claims for subsistence and traveling expenses incurred by members in the performance of the Commission's functions.

#### **Meetings of Commission**

- 12.(1) The Commission must meet monthly at the times and venues determined by the chairperson after consultation with the other members of the Commission.
- (2) Every member of the Commission must be notified of each meeting in writing, at least 14 days prior to such meeting, and such notification must contain an agenda for the proposed meeting.
- (3) In the event that the chairperson or deputy chairperson of the Commission is absent from any meeting of the Commission, the members present at that meeting may elect one of their number to preside at that meeting.
- (4) A special meeting of the Commission may be called at the request of —
- (a) the chairperson; or
  - (b) two-thirds of the members of the Commission by written petition, whereupon the chairperson must, in writing, notify every member of the Commission of the time and place of the special meeting.
- (5) A *quorum* for a meeting of the Commission is a majority of its members.
- (6) Any decision of the Commission must be taken by resolution of the majority of the members present at any meeting of the Commission and, in the event of an equality of votes on any matter, the member presiding at the meeting in question will have a casting vote in addition to his or her deliberative vote as a member of the Commission.
- (7) The proceedings of all meetings of the Commission must be duly recorded and minuted.
- (8)(a) The minutes of the previous meeting must be read at the commencement of each meeting.
- (b) The minutes may be regarded as read if copies thereof were furnished to the members of the Commission prior to the meeting.
- (c) The chairperson may only sign the minutes once objections or corrections have been dealt with.
- (9) The chairperson must decide on questions of order or procedure.
- (10) If any member objects to any such decision, the question must be put to the vote and the decision of the majority of the members is final and binding on the Commission.
- (11)(a) The Chief Administrative Officer and the Chief Financial Officer may attend and participate in, but may not vote, at a meeting of the Commission.
- (b) A member of staff of the Commission may, on invitation by the Commission, attend a meeting of the Commission.

**Recusal of member of Commission**

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

(2) Any person may make an application, orally or in writing, for a member of the Commission to recuse himself or herself where the person has reason to believe that the member, 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 Commission.

(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 Commission must decide on the matter, save that in cases where the application concerns the chairperson, the matter must be decided on by the responsible Member of the Executive Council or his or her nominee.

(5) A member of the Commission may not use his or her position or privileges, or confidential information obtained as a member of the Commission, for personal gain or to improperly benefit another person.

**Management committee of Commission**

14.(1) The Commission may establish a management committee consisting of —

- (a) the chairperson and deputy chairperson of the Commission; and
- (b) at least one other member of the Commission, appointed by the Commission.

(2) At least one member of the management committee must have proven knowledge or experience of financial management.

(3) The chairperson and deputy chairperson of the Commission are the chairperson and deputy chairperson, respectively, of the management committee.

(4) The management committee must perform such duties and may exercise such powers of the Commission as the Commission may, subject to section 30(2)(c) and (5), delegate to it.

(5) The management committee must meet as often as is necessary to perform and exercise its duties and powers at such times and places, and in accordance with such procedure, as that committee determines.

(6) The Chief Administrative Officer and the Chief Financial Officer may attend and participate in, but may not vote, at a meeting of the management committee.

**Other committees of Commission**

15.(1) The Commission may appoint one or more other committees not limited to its own members to assist it in the exercise of its powers and the performance of its duties and functions.

(2)(a) A committee contemplated in subsection (1) must —

- (i) consist of two or more members of the Commission;
- (ii) be chaired by a member of the Commission; and
- (iii) perform such duties and functions of the Commission as the Commission may determine.

(b) The Commission may, at any time, dissolve or reconstitute such a committee.

(3)(a) The Commission may, subject to section 30(2)(d) and (5), delegate any of its powers or assign any of its duties or functions to a committee appointed in terms of subsection (1).

(b) Any delegated or assigned power, duty or function so exercised or performed is regarded to have been exercised or performed by the Commission.

(c) The Commission is not absolved from exercising or performing any power, duty or function so delegated or assigned.

(d) The Commission may amend, review or rescind any decision of a committee.

**CHAPTER 3****CHIEF ADMINISTRATIVE OFFICER, CHIEF FINANCIAL OFFICER AND STAFF OF COMMISSION****Chief Administrative Officer of Commission**

16.(1) The Commission must, in consultation with the responsible Member of the Executive Council, appoint a suitably qualified, skilled and experienced person as Chief Administrative Officer to the Commission.

(2)(a) The Chief Administrative Officer holds office from the date of appointment until the date of the election of the Provincial Legislature immediately following the date of appointment.

(b) The Chief Administrative Officer may be reappointed, but may not serve in that capacity for more than ten consecutive years.

(3)(a) The appointment of the Chief Administrative Officer is subject to the conclusion of a written performance agreement entered into between that person and the Commission.

(b) The Commission and the Chief Administrative Officer may, in writing and by agreement, amend the performance agreement.

(4) The Commission may terminate the Chief Administrative Officer's employment in accordance with applicable employment and labour law.

(5) For purposes of the declaration of financial or other interests and convictions, the provisions of section 6 apply with the necessary changes to the Chief Administrative Officer.

**Functions of Chief Administrative Officer**

17.(1) The Chief Administrative Officer is the head of administration of the Commission, reports to the Commission and is responsible for —

- (a) the general management and administration of the Commission in accordance with the direction of the Commission;
- (b) the appointment of members of staff of the Commission contemplated in section 20(1);



(c) in consultation with the Commission, the determination of a code of conduct, applicable to the Chief Administrative Officer, the Chief Financial Officer and all members of staff of the Commission, justiciable for purposes of disciplinary proceedings, to ensure —

- (i) compliance with applicable law, including this Act;
- (ii) the effective, efficient and economical use of the Commission's funds and resources;
- (iii) the promotion and maintenance of a high standard of professional ethics;
- (iv) the prevention of conflicts of interest;
- (v) the protection of confidential information held by the Commission; and
- (vi) professional, honest, impartial, fair, ethical and equitable service;

(d) the maintenance of discipline over the members of staff appointed in terms of paragraph (b) and is, for those purposes, accountable to the Commission; and

(e) ensuring compliance by the Commission with the provisions of this Act and any other applicable law.

(2) If the Chief Administrative Officer is for any reason unable to perform any of his or her functions, the Commission must, in writing, appoint another person as Acting Chief Administrative Officer until the Chief Administrative Officer is able to resume those functions.

#### **Chief Financial Officer of Commission**

**18.**(1) The Commission must, in consultation with the responsible Member of the Executive Council, appoint a suitably qualified person with proven knowledge of, and experience in, financial management as Chief Financial Officer to the Commission.

(2) The Chief Financial Officer reports to —

- (a) the Commission in relation to matters pertaining to the financial management of the Commission; and
- (b) the Chief Administrative Officer in relation to matters falling outside the ambit of paragraph (a).

(3) The provisions of section 16(3) – (5) apply with the necessary changes to the Chief Financial Officer.

#### **Functions of Chief Financial Officer**

**19.**(1) The Chief Financial Officer is the chief accounting officer in the administration of the Commission and must assist the chairperson of the Commission in the performance of the duties and functions of the chairperson of the Commission as accounting authority in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(2) The Chief Financial Officer is specifically responsible for —

- (a) the financial management of the Commission in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999), by direction of the Commission; and
- (b) ensuring compliance by the Commission with the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999), and any other applicable law pertaining to financial management and administration.

(3) If the Chief Financial Officer is for any reason unable to perform any of his or her functions, the Commission must, in writing, appoint another person as Acting Chief Financial Officer until the Chief Financial Officer is able to resume those functions.

#### **Staff of Commission**

**20.**(1) The Chief Administrative Officer must, subject to subsection (2), employ members of staff of the Commission as may be reasonably necessary —

- (a) to assist the Chief Administrative Officer and the Chief Financial Officer in fulfilling their functions in terms of this Act; and
- (b) to assist the Commission with the work incidental to the performance by the Commission of its functions.

(2) The Commission must determine a human resources policy for the Commission.

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

**21.** The Commission may utilise the services of persons seconded or transferred from the public service in accordance with the provisions of the Public Service Act, 1994 (Proclamation No. 103 of 1994).

#### **Declaration by applicant for employment as member of staff of Commission of financial or other interests and convictions**

**22.**(1) An applicant for employment as a member of staff of the Commission must, upon application, submit to the Chief Administrative Officer, a written declaration —

- (a) of any direct or indirect interest, financially or otherwise, which —
  - (i) may constitute a conflict of interest in respect of his or her functions as a member of staff; or
  - (ii) could reasonably be expected to compromise the Commission in the performance of its functions; and
- (b) containing relevant information about any conviction —
  - (i) for a Schedule 1 offence in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977); and
  - (ii) for an offence of which dishonesty is an element.

(2) The declaration referred to in subsection (1) must include relevant information pertaining to the financial and other interests of family members or close associates of the applicant, which could be in conflict with an appointment as a member of staff.

(3) An applicant may not be considered for appointment as a member of staff where it is found that the applicant deliberately withheld information contemplated in this section.

(4) Where a member of staff experiences a change in financial or any other circumstances or acquires an interest, the member must, within 10 days of the date of the changed circumstances, submit a revised written declaration to the Chief Administrative Officer.

(5) Where a family member or close associate of a member of staff of the Commission experiences a change in financial or any other circumstances or acquires an interest, which could constitute a possible conflict with the appointment of the member of staff, the member of staff must, within 10 days of the date of the changed circumstances, submit a revised written declaration to the Chief Administrative Officer.

(6) A member of staff of the Commission may not be present at, or participate in, the discussion of or the taking of a decision on any

matter before the Commission in which that member has an interest contemplated in subsection (1).

(7) A member of staff of the Commission may not use his or her position or privileges, or confidential information obtained as a member of staff of the Commission, for personal gain or to improperly benefit another person.

(8) A member of staff of the Commission who fails or refuses to comply with subsections (1) – (7) —

(a) is regarded as being in breach of the code of conduct referred to in section 17(1)(c); and

(b) is subject to disciplinary measures contemplated in such code of conduct, applicable employment and labour law, and the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(9) The Chief Administrative Officer must keep an updated register of the interests of members of staff of the Commission disclosed in terms of this section.

(10) This section applies, with the necessary changes, to a person seconded or transferred to the Commission in terms of section 21.

#### **CHAPTER 4 FUNDING AND MANAGEMENT OF COMMISSION**

##### **Funds of Commission**

23.(1) The funds of the Commission consist of —

(a) money appropriated by the Provincial Legislature;

(b) donations or contributions lawfully received by the Commission from any source;

(c) interest on investments of the Commission; and

(d) income lawfully derived from any other source.

(2) The Commission must utilise its funds —

(a) for the payment of remuneration, allowances and subsistence and travelling expenses of

(i) the members of the Commission;

(ii) the Chief Administrative Officer of the Commission;

(iii) the Chief Financial Officer of the Commission; and

(iv) the members of staff of the Commission; and

(b) to cover costs in connection with —

(i) the day to day operation and administration of the Commission; and

(ii) the performance of the duties and functions of the Commission and the exercise of its powers and the performance of its functions and duties in terms of this Act.

(3) The Chief Financial Officer must, with the concurrence of the Commission —

(a) open an account in the name of the Commission with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990); and

(b) deposit therein all money received in terms of subsection (1).

(4) The responsible Member of the Executive Council, in consultation with the Member of the Executive Council responsible for finance, must determine —

(a) the remuneration and conditions of service; and

(b) the pension and retirement benefits,

of the Chief Administrative Officer, the Chief Financial Officer and the other members of staff of the Commission.

##### **Financial management and reporting**

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

(2) The Chief Financial Officer must ensure that the Commission's annual budgets, corporate plans, annual reports and audited financial statements are prepared and submitted in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(3)(a) The Commission must be audited by the Auditor-General in accordance with the Public Audit Act, 2004 (Act No. 25 of 2004), and the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(b) The Commission must report in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999).

#### **CHAPTER 5 GENERAL PROVISIONS**

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

25.(1) Any record, report, data or other information of whatsoever nature or in whatsoever format created or acquired by the Commission is considered confidential and no person may disclose such confidential information except —

(a) as otherwise provided for in this Act;

(b) as is materially necessary to perform the functions of the Commission;

(c) as is required in terms of any law;

(d) with the written approval of the Chief Administrative Officer in consultation with the Commission.

(2) The Commission, the individual members of the Commission, the Chief Administrative Officer, the Chief Financial Officer and the members of staff of the Commission must take all reasonable steps and precautions to ensure that confidential information remains strictly confidential and that no unauthorised person obtains access thereto or knowledge thereof.

##### **Use of name of Commission**

26.(1) No person may, without the prior written approval of the Chief Administrative Officer in consultation with the Commission, in any way represent or make use of any name, acronym, logo, design or material used or owned by the Commission.

- (2) No person may falsely claim to be acting on behalf of the Commission.  
 (3) Any person who contravenes subsections (1) or (2) is guilty of an offence.

#### General offences

27. Any person who falsely claims that he or she is authorised to charge or collect fees, donations or contributions on behalf of, or by direction of, the Commission, is guilty of an offence.

#### Penalties

28. Any person convicted of an offence in terms of this Act is liable to a fine or to imprisonment for a period not exceeding 5 years.

#### Regulations

29. The responsible Member of the Executive Council may, after consultation with the Commission, and by notice in the *Gazette*, make regulations regarding —

- (a) any matter that may or must be prescribed in terms of this Act; or  
 (b) any administrative or procedural matter necessary to give effect to the provisions of this Act.

#### Delegations

30.(1) The responsible Member of the Executive Council may delegate to the Head of Department —

- (a) any power conferred on the responsible Member of the Executive Council by this Act, except the power, in terms of section 29, to make regulations; or  
 (b) any duty imposed on the responsible Member of the Executive Council by this Act, except any duty regarding the appointment, and termination of office, of the members of the Commission contemplated in sections 5 and 10.

(2) The Commission may delegate to —

- (a) the Chief Administrative Officer;  
 (b) the Chief Financial Officer;  
 (c) the management committee referred to in section 14;  
 (d) any other committee referred to in section 15,  
 any power or duty conferred or imposed on the Commission by this Act, except any duty as accounting authority of the Commission.

(3) The Chief Administrative Officer may delegate to any member of staff of the Commission any power or duty conferred or imposed on the Chief Administrative Officer by this Act.

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

(5) Any delegation referred to in subsection (1), (2) or (3) —

- (a) must be in writing;  
 (b) does not prohibit the person or body that made the delegation from exercising that power or performing that duty; and  
 (c) may at any time be withdrawn or amended in writing by that person or body.

#### Repeal of law

31. The KwaZulu-Natal Youth Commission Act, 1998 (Act No. 1 of 1998), is hereby repealed.

#### Short title

32. This Act is called the KwaZulu-Natal Youth Commission Act, 2005.

No. 7, 2005

28 Desember 2005

[Engelse teks deur die Premier geteken]

### KWAZULU-NATAL JEUGKOMMISSIEWET, 2005

(Wet No. 7 van 2005)

Goedgekeur op 2005-12-01

## WET

Om voorsiening te maak vir die instelling van die KwaZulu-Natal Jeugkommissie; om die oogmerke en werksaamhede van die Kommissie te bepaal; om die wyse te bepaal waarop die Kommissie bestuur, geadministreer, beman en gefinansier moet word; om die KwaZulu-Natal Jeugkommissiewet, 1998 te herroep; en om vir aangeleenthede in verband daarmee voorsiening te maak.

DAAR WORD soos volg deur die Provinsiale Wetgewer van die Provinsie KwaZulu-Natal bepaal:-

#### INDELING VAN ARTIKELS

Artikel

#### HOOFSTUK 1 OMSKRYWINGS

1. Omskrywings

## HOOFSTUK 2 KWAZULU-NATAL JEUGKOMMISSIE

2. Instelling van KwaZulu-Natal Jeugkommissie
3. Oogmerke van Kommissie
4. Werkzaamhede van Kommissie
5. Samestelling van Kommissie
6. Verklaring van finansiële en ander belange en veroordelings deur die genomineerde aan die Kommissie
7. Versuim van lid van die Kommissie om finansiële en ander belange en veroordelings te verklaar
8. Ampstermyn van lid van Kommissie
9. Bedanking van lid van Kommissie
10. Beëindiging van aanstelling van lid van Kommissie
11. Vergoeding van lede van Kommissie
12. Vergaderings van Kommissie
13. Onttrekking van lid van Kommissie
14. Bestuurskomitee van Kommissie
15. Ander komitees van Kommissie

## HOOFSTUK 3 HOOF ADMINISTRATIEWE BEAMPTE, HOOF FINANSIËLE BEAMPTE EN PERSONEEL VAN KOMMISSIE

16. Hoof Administratiewe Beampte van Kommissie
17. Werkzaamhede van Hoof Administratiewe Beampte
18. Hoof Finansiële Beampte van Kommissie
19. Werkzaamhede van Hoof Finansiële Beampte van Kommissie
20. Personeel van Kommissie
21. Afstaan of oorplasing van personeel na Kommissie
22. Verklaring van finansiële en ander belange of veroordelings deur aansoeker om betrekking as personeellid van Kommissie

## HOOFSTUK 4 BEFONDSING EN BESTUUR VAN KOMMISSIE

23. Fondse van Kommissie
24. Finansiële bestuur en verslagdoening

## HOOFSTUK 5 ALGEMENE BEPALINGS

25. Sekerheid van vertroulike inligting wat deur die Kommissie gehou word
26. Gebruik van Kommissie se naam
27. Algemene misdrywe
28. Strawwe
29. Regulasies
30. Delegasie
31. Herroeping van wet
32. Kort titel

## HOOFSTUK 1 OMSKRYWINGS

### Omskrywings

1. In hierdie Wet, tensy die samehang anders aandui, beteken —

“**Departement**” die Kantoor van die Premier of, waar die Premier die administrasie van hierdie Wet aan ’n Lid van die Uitvoerende Raad toegeken het, die department in die Provinsiale Regering van KwaZulu-Natal waarvoor sodanige Lid van die Uitvoerende Raad verantwoordelik is;

“**Departementshoof**” die Direkteur-generaal of, waar die Premier die administrasie van hierdie Wet aan ’n Lid van die Uitvoerende Raad toegeken het, die mees senior beampte van die departement in die Provinsiale Regering van KwaZulu-Natal;

“**Grondwet**” die Grondwet van die Republiek van Suid-Afrika, 1996;

“**Handves van Regte**” die Handves van Regte soos vervat in Hoofstuk 2 van die Grondwet;

“**hierdie Wet**” ook die regulasies;

“**Hoof Administratiewe Beampte**” die Hoof Administratiewe Beampte van die Kommissie ingevolge artikel 16 aangestel;

“**Hoof Finansiële Beampte**” van die Kommissie ingevolge artikel 16 aangestel;

“**jeug**” enige persoon in die provinsie tussen die ouderdom van 14 en 35, en “**jeugdige**” het ’n ooreenstemmende betekenis;

“**jeugaangeleenthede**” enige aangeleentheid bedoel in hierdie Wet, die Nasionale Jeugbeleid of enige ander aangeleentheid wat op die wetlike regte van die jeug betrekking het;

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

“**Kommissie**” die Kommissie by artikel 2 ingestel;

“**Nasionale Jeugbeleid**” enige beleid of raamwerk betreffende jeugaangeleenthede wat deur die Nasionale Uitvoerende Gesag

ontwikkel is of deur 'n struktuur of liggaam wat kragtens die bevoegdheid van die Nasionale Uitvoerende Gesag ingestel is met dieselfde oogmerke as die van die Kommissie;

“**Nasionale Uitvoerende Gesag**” die Nasionale Uitvoerende Gesag soos bedoel in artikel 83 van die Grondwet;

“**plaaslike sfeer**” die plaaslike regeringsfeer soos bedoel in artikel 40 van die Grondwet;

“**portefeuljekomitee**” 'n komitee van die Provinsiale Wetgewer bestaande uit lede van die Provinsiale Wetgewer behoorlik aangestel ingevolge die reglement van orde van die Provinsiale Wetgewer;

“**Premier**” die Premier van die provinsie KwaZulu-Natal soos bedoel in artikel 125 van die Grondwet;

“**provinsiale sfeer**” die provinsiale regeringsfeer soos bedoel in artikel 40 van die Grondwet;

“**Provinsiale Wetgewer**” die Wetgewer van die provinsie KwaZulu-Natal soos bedoel in artikel 124 van die Grondwet;

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

“**regulasies**” die regulasies ingevolge artikel 25 uitgevaardig;

“**Sekretaris**” die Sekretaris ingevolge artikel 14 aangestel;

“**staatsorgaan**” het die betekenis wat in artikel 239 van die Grondwet daaraan geheg word;

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

“**verantwoordelike Lid van die Uitvoerende Raad**” die Premier van die provinsie KwaZulu-Natal of sodanige Lid van die Uitvoerende Raad van die provinsie KwaZulu-Natal aan wie die Premier die administrasie van hierdie Wet toegeken het.

## HOOFSTUK 2 KWAZULU-NATAL JEGUKOMMISSIE

### Instelling van KwaZulu-Natal Jeugkommissie

2.(1) Daar word hierby 'n regs persoon ingestel wat as die KwaZulu-Natal jeugkommissie bekend sal staan.

(2) Die voorsitter van die Kommissie is die rekenpligtige gesag van die Kommissie.

### Oogmerke van die Kommissie

3. Die oogmerke van die Kommissie is —

- (a) om die implementering van die Nasionale Jeugbeleid in die provinsie te fasiliteer;
- (b) om die beskerming, bevordering en verwesenliking van jeugregte vervat in die Handves van Regte deur staatsorgane in die provinsiale en plaaslike sfeer te fasiliteer, monitor en evalueer;
- (c) om die ontwikkeling van die jeug deur staatsorgane in die provinsiale en plaaslike sfeer met beskikbare hulpbronne te bevorder;
- (d) om 'n eenvormige benadering en samewerking deur alle staatsorgane in die provinsiale en plaaslike sfeer ten opsigte van enige jeugaangeleentheid te bevorder;
- (e) om die jeug uit uiteenlopende kulturele, agtergronde, godsdienstige oortuigings, taalgroepe en politieke lidmaatskap te verenig;
- (f) om 'n gees van patriotisme by die jeug te bevorder;
- (g) om die jeug op te voed met betrekking tot hul wetlike regte en die beskikbare toepassingsmeganismes; en
- (h) om die jeug by te staan met toegang tot hul wetlike regte.

### Werkzaamhede van die Kommissie

4.(1) Die Kommissie moet —

- (a) 'n geïntegreerde implementeringsplan vir die implementering van die Nasionale Jeugbeleid ontwikkel en op datum hou, asook die implementering daarvan koördineer nadat die Uitvoerende Raad die plan of enige wysiging daaraan goedgekeur het;
- (b) 'n geïntegreerde jeugontwikkelingsplan ontwikkel en op datum hou en die implementering daarvan koördineer nadat die Uitvoerende Raad die plan of enige wysiging daaraan goedgekeur het;
- (c) met betrekking tot die beskerming, bevordering en verwesenliking van die regte van die jeug vervat in die Handves van Regte, die beleid en praktyke monitor en hersien van —
  - (i) staatsorgane in die provinsie en plaaslike sfeer; en
  - (ii) enige ander struktuur, liggaam of persoon in die provinsie;
- (d) ten einde 'n eenvormige benadering en samewerking deur al die staatsorgane in die provinsiale en plaaslike sfeer te bevorder ten opsigte van enige jeugaangeleentheid —
  - (i) vergderings belê tussen staatsorgane in die provinsiale en plaaslike sfeer;
  - (ii) optree as skakel tussen staatsorgane in die provinsiale en plaaslike sfeer en die jeug;
  - (iii) optree as skakel tussen staatsorgane in die provinsiale en plaaslike sfeer en ander strukture of liggame met dieselfde oogmerke as die van die Kommissie; en
  - (iv) oorleg pleeg met enige ander struktuur of liggaam oor enige jeugaangeleentheid;
- (e) inligtings- en opleidingsprogramme en veldtogte ontwikkel en aanbied met betrekking tot —
  - (i) die bevordering van kulturele, godsdienstige, taal- en politieke harmonie en patriotisme; en
  - (ii) die wetlike regte van die jeug en die beskikbare toepassingsmeganismes;
- (f) uit eie beweging of in opdrag van die verantwoordelike Lid van die Uitvoerende Raad enige klagte, verzoek of aanbeveling betreffende enige jeugaangeleentheid ondersoek en oorweeg en die klaer bystaan om toegang tot sy of haar reg te verkry deur —
  - (i) 'n verwysing na die betrokke staatsorgaan of ander struktuur of liggaam; en
  - (ii) advies te gee oor enige toepaslike prosedure-aspekte betreffende die klagte, verzoek of aanbeveling;
- (g) navorsing doen of toesien dat navorsing gedoen word om die oogmerke van die Kommissie te bevorder;
- (h) aanbevelings doen en die verantwoordelike Lid van die Uitvoerende Raad adviseer oor —

- (i) die implementering van die Nasionale Jeugbeleid;
  - (ii) enige beleid of praktyk van 'n staatsorgaan in die provinsiale of plaaslike sfeer of enige struktuur, liggaam of persoon in die provinsie;
  - (iii) die implementering van die jeugontwikkelingsplan;
  - (iv) die benadering en vlak van samewerking deur staatsorgane in die provinsiale of plaaslike sfeer;
  - (v) enige navorsing wat ten opsigte van enige jeugaangeleentheid gedoen moet word; en
  - (vi) enige bestaande of voorgestelde wetgewing wat enige jeugaangeleentheid reël of daarmee in verband staan;
  - (i) kwartaalliks en jaarliks aan die verantwoordelike Lid van die Uitvoerende Raad verslag doen oor die verrigting van sy werksaamhede; en
  - (j) voordat die verslag bedoel in paragraaf (i) voorgelê word, sover dit moontlik en uitvoerbaar is —
    - (i) oorleg pleeg met alle staatsorgane, strukture, liggame of persone; en
    - (ii) enige besware wat geopper is en die Kommissie se reaksie daarop in sodanige verslag insluit.
- (2) Die Kommissie kan —
- (a) enige werksaamheid verrig deur hierdie Wet of enige ander wet aan hom opgedra;
  - (b) by die verrigting van sy werksaamhede ingevolge hierdie Wet, vir spesifieke projekte kontrakte aangaan vir die dienste van persone met tegniese of gespesialiseerde kennis van enige jeugaangeleentheid en moet die vergoeding, met inbegrip van terugbetaling van vir reis-, verblyf- en ander uitgawes, van sodanige persone bepaal; en
  - (c) in die algemeen alles doen wat nodig of wenslik is om sy oogmerke te bereik en om sy werksaamhede te verrig.
- (3) Alle staatsorgane in die provinsiale en plaaslike sfeer moet —
- (a) sodanige samewerking aan die Kommissie verleen wat redelikerwys prakties is om die Kommissie in staat te stel om sy werksaamhede te verrig, sy pligte te vervul en sy bevoegdhede uit te oefen;
  - (b) redelike toegang tot hulle persele en rekords verleen vir die doeleindes van navorsing of enige ondersoek bedoel in hierdie Wet; en
  - (c) die Kommissie binne 'n redelike tyd van bevredigende antwoorde voorsien op enige navraag deur die Kommissie in hierdie Wet bedoel.
- (4) Die Kommissie kan enige staatsorgaan in die provinsiale of plaaslike sfeer wat versuim om aan die bepalings van subartikel (3) te voldoen, deur die verantwoordelike Lid van die Uitvoerende Raad aan die Uitvoerende Raad en die Provinsiale Wetgewer rapporteer.

#### Samestelling van Kommissie

- 5.(1) Die Kommissie bestaan uit ses voltydse lede, deur die verantwoordelike Lid van die Uitvoerende Raad aangestel in ooreenstemming met die prosedure uiteengesit in subartikels (2) tot (7), wat —
- (i) Suid-Afrikaanse burgers is, in die provinsie woonagtig is;
  - (ii) gesamentlik oor die nodige kwalifikasies, kennis, vaardighede en ondervinding beskik om die werksaamhede van die Kommissie te verrig; met dien verstande dat minstens een lid van die Kommissie bewese kennis oor, of ondervind van finansiële bestuur het, en
  - (iii) nie ongeskik is om in die amp ingevolge paragraaf (a) tot (h) van artikel 10(1) aan te bly nie.
- (2) Die verantwoordelike Lid van die Uitvoerende Raad moet, by kennisgewing in die *Koerant* en minstens twee koerante wat in die provinsie versprei word, benoemings aanvra vir aanstelling in die Kommissie, welke benoemingsbinne 21 dae na die publikasiedatum ingedien moet word.
- (3) Die vra van benoemings ingevolge subartikel (2) moet die —
- (a) benoemingsprosedure;
  - (b) benoemingsvereistes; en
  - (c) datum waarop benoemings by die verantwoordelike Lid van die Uitvoerende Raad moet wees, spesifiseer.
- (4) Die verantwoordelike Lid van die Uitvoerende Raad moet 'n keurkomitee bestaande uit hoogstens drie senior amptenare van die departement aanstel om alle benoemings te hersien en aanbevelings oor die benoemdes te maak.
- (5) Die verantwoordelike Lid van die Uitvoerende Raad kan, na sy of haar goeddunke, hoogstens drie persone met ervaring van jeugaangeleenthede aanstel om die keurkomitee by te staan met die doen van aanbevelings oor die benoemdes.
- (6) Die verantwoordelike Lid van die Uitvoerende Raad moet, by kennisgewing in die *Koerant* en minstens twee koerante wat in die provinsie versprei word, openbare kommentaar aanvra oor die kortlys van kandidate, welke kommentaar binne 21 dae na die publikasiedatum ingedien moet word.
- (7) Nadat die tydperk vir openbare kommentaar en die oorweging van enige voorleggings verstryk het, moet die verantwoordelike Lid van die Uitvoerende Raad die ses mees geskikte kandidate op die kortlys kies en hulle in die Kommissie aanstel of die benoemingsproses bedoel in subartikel (2) herhaal.
- (8) Die verantwoordelike Lid van die Uitvoerende Raad moet een van die lede as voorsitter en 'n ander as ondervoorsitter aanwys.
- (9) Die verantwoordelike Lid van die Uitvoerende Raad kan op enige tydstip die aanwysings kragtens subartikel (8) terugtrek indien, na die mening van die verantwoordelike Lid van die Uitvoerende Raad, daar grondige redes daarvoor bestaan nadat uitvoering gegee is aan enige administratiewe regte van die lid.
- (10) Geen vakante betrekking in die lidmaatskap van die Kommissie of 'n tekort aan die getal lede van die Kommissie beïnvloed of benadeel die wesenlike bestaan van die Kommissie of enige regte, pligte of magte wat deur hierdie Wet aan die Kommissie toegeken of opgelê word nie.
- (11) Geen besluit van die Kommissie is geldig tensy goedgekeur deur 'n vergadering —
- (a) waarby die kworum soos vereis in artikel 12(5) teenwoordig was nie; en
  - (b) gehou in ooreenstemming met die ander bepalings van artikel 12.

**Verklaring deur benoemde tot Kommissie van finansiële of ander belange en veroordelings**

6.(1) 'n Benoemde vir die Kommissie moet binne 30 dae na die benoeming, 'n skriftelike verklaring by die verantwoordelike Lid van die Uitvoerende Raad indien —

- (a) van alle regstreekse of onregstreekse belange, finansiël of andersins, wat —
  - (i) 'n botsende belang mag uitmaak ten opsigte van sy of haar funksies as 'n lid van die Kommissie; of
  - (ii) redelikerwys verwag kan word om die Kommissie in die uitvoering van sy pligte te kompromiteer; en
- (b) relevante inligting bevat oor enige veroordelings —
  - (i) vir 'n Bylae 1-oortreding ingevolge die Strafproseswet, 1977 (Wet No. 51 van 1977); en
  - (ii) vir enige misdryf waarvan oneerlikheid 'n element is.

(2) Die verklaring waarna in subartikel (1) verwys word moet tersaaklike inligting bevat rakende enige finansiële en ander belange van familieleden of vertroude medewerkers of die benoemde wat strydig kan wees met 'n aanstelling as 'n lid van die Kommissie.

(3) 'n Benoemde mag nie vir 'n posisie as lid van die Kommissie oorweeg word indien dit blyk dat die benoemde met voorbedagte rade inligting bedoel in hierdie artikel weerhou het nie.

(4) Waar daar 'n verandering in die finansiële of enige ander omstandighede van 'n lid van die Kommissie plaasvind en 'n belang verkry word, moet die lid binne 10 dae na die datum van die veranderde omstandighede 'n skriftelike verklaring oor veranderde finansiële en ander belange by die verantwoordelike Lid van die Uitvoerende Raad indien.

(5) Waar daar 'n verandering in die finansiële of enige ander omstandighede van 'n familielid of vertroude medewerker van 'n lid van die Kommissie plaasvind en 'n belang verkry word wat strydig is met die aanstelling van die lid van die Kommissie, moet die lid van die Kommissie binne 10 dae na die datum van die veranderde omstandighede 'n hersiene skriftelike verklaring by die verantwoordelike Lid van die Uitvoerende Raad indien.

(6) 'n Lid van die Kommissie mag nie teenwoordig wees of deelneem aan 'n bespreking oor, of die neem van 'n besluit oor enige saak wat voor die Kommissie dien waarin sodanige lid 'n belang het soos bedoel in subartikel (1).

(7) 'n Lid van die Kommissie mag nie sy of haar posisie of voorregte, of vertroulike inligting wat hy of sy as 'n lid van die Kommissie bekom het, vir persoonlike verryking gebruik of om 'n ander persoon op 'n onregmatige wyse te bevoordeel nie.

(8) Die verantwoordelike Lid van die Uitvoerende Raad moet 'n opgedateerde register byhou van die belange van lede van die Kommissie wat ingevolge hierdie artikel verklaar is.

**Versuim deur 'n lid van die Kommissie om finansiële en ander belange en veroordelings te verklaar.**

7.(1) 'n Lid van die Kommissie wat versuim om 'n verklaring beoog in artikel 6 te doen, pleeg 'n misdryf.

**Ampstermyn van lid van Kommissie**

8.(1) 'n Lid van die Kommissie beklee die amp vanaf die datum van aanstelling tot die datum van verkiesing van die Provinsiale Wetgewer wat onmiddellik op die datum van aanstelling volg.

(2) 'n Lid wie se ampstermyn verstryk het, kan deur die verantwoordelike Lid van die Uitvoerende Raad heraangestel word sonder om die prosedure uiteengesit in artikel 5(2) – (7) te volg.

(3) Geen lid kan vir meer as tien agtereenvolgende jare op die Kommissie dien nie.

**Bedanking van lid van Kommissie**

9. 'n Lid van die Kommissie kan te enige tyd bedank deur nie minder as 30 dae skriftelik kennis te gee nie, behalwe waar die verantwoordelike Lid van die Uitvoerende Raad of sy benoemde 'n korter kennisgewingstydperk aanvaar indien hy of sy tevrede is dat so 'n stap nie die doeltreffende werking van die Kommissie sal benadeel nie.

**Beëindiging van aanstelling van lid van Kommissie**

10.(1) 'n Persoon mag nie in die amp as lid van die Kommissie aanbly nie indien hy of sy —

- (a) die ouderdom van 35 jaar bereik het;
- (b) geestelik versteurd raak;
- (c) uit 'n openbare amp weens wangedrag ontslaan is of word;
- (d) insolvent verklaar is of word en nog nie gerehabiliteer is nie;
- (e) skuldig bevind is of word aan —
  - (i) 'n Bylae 1-misdryf ingevolge die Strafproseswet, 1977 (Wet No. 51 van 1977);
  - (ii) 'n misdryf waarvan oneerlikheid 'n element is;
- (f) versuim het om —
  - (i) sy of haar finansiële en ander moontlike belangebotsings; of
  - (ii) relevante inligting oor enige moontlike veroordelings in artikel 6 genoem, bekend te maak
- (g) of dien as 'n —
  - (i) lid van die Nasionale Vergadering;
  - (ii) permanente afgevaardigde tot die Nasionale Raad van Provinsies;
  - (iii) lid van die provinsiale wetgewer; of
  - (iv) lid van 'n munisipale raad;
- (h) as 'n lid van die Kommissie vir langer as 10 jaar gedien het;
- (i) versuim het om hom of haar te onttrek soos deur artikel 13 vereis word;
- (j) sonder grondige rede versuim het om drie agtereenvolgende vergaderings van die Kommissie by te woon;
- (k) gedrag openbaar wat, na die oordeel van die verantwoordelike Lid van die Uitvoerende Raad, die amp van die lid of die bedrywighede van die Kommissie oneer aandoen of die eerbaarheid van die Kommissie in gevaarstel; of
- (l) versuim het om die pligte en werksaamhede van die Kommissie na die beste van sy of haar vermoë te verrig.

(2) Die verantwoordelike Lid van die Uitvoerende Raad kan die aanstelling van 'n lid van die Kommissie beëindig, nadat uitvoering

gegee is aan enige administratiewe regte van die lid —

- (a) op enige van die gronde soos bepaal in subartikel (1);
  - (b) op aanbeveling van die Kommissie, vir redes wat billik en regverdig is, deur 'n besluit wat met 'n ondersteunende stem van minstens twee-derdes van die lede van die Kommissie aanvaar is; of
  - (c) indien die lid versuim om aan die bepalings van die Wet te voldoen.
- (3) Die verantwoordelike Lid van die Uitvoerende Raad moet, op versoek van 'n lid van die Kommissie wie se dienste beëindig is, soos bepaal in subartikel (1), skriftelike redes gee vir die diensbeëindiging.
- (4) Enige vakature in die Kommissie moet binne 90 dae gevul word vir die onverstreke gedeelte van die tydperk waarvoor sodanige lid aangestel is op dieselfde wyse as wat sodanige lid aangestel is.

#### **Vergoeding van lede van Kommissie**

11.(1) 'n Lid word uit die fondse van die Kommissie sodanige vergoeding en toelaes betaal as wat die verantwoordelike Lid van die Uitvoerende Raad in ooreenstemming met die Lid van die Uitvoerende Raad verantwoordelik vir finansies bepaal.

(2) Die verantwoordelike Lid van die Uitvoerende Raad moet diensvoorwaardes vir lede van die Kommissie bepaal en prosedures, met inbegrip van beheermaatreëls, vir die bestuur, hantering en verwerking van eise vir reis- en verblyfuitgawes wat deur lede aangegaan is in die verrigting van die Kommissie se werksaamhede.

#### **Vergaderings van Kommissie**

12.(1) Die Kommissie moet maandeliks vergader op die tye en plekke wat deur die voorsitter bepaal word na ooreenstemming met die ander lede van die Kommissie.

- (2) Elke lid van die Kommissie moet skriftelik van elke vergadering in kennis gestel word minstens 14 dae voor sodanige vergadering, en sodanige kennisgewing moet 'n agenda vir die voorgestelde vergadering bevat.
- (3) In die geval dat die voorsitter of ondervoorsitter van die Kommissie afwesig is van enige vergadering van die Kommissie, moet die lede teenwoordig by daardie vergadering iemand uit hul geledere kies om by daardie vergadering voor te sit.
- (4) 'n Spesiale vergadering van die Kommissie kan belê word op versoek van —
  - (a) die voorsitter; of
  - (b) twee-derdes van die lede van die Kommissie by wyse van 'n skriftelike versoek, waarna die voorsitter elke lid van die Kommissie skriftelik van die tyd en plek van die spesiale vergadering in kennis moet stel.
- (5) 'n Meerderheid van die lede van die Kommissie maak 'n kworum uit vir 'n vergadering.
- (6) Enige besluit van die Kommissie word geneem deur 'n beslissing van die meerderheid van die lede teenwoordig op enige vergadering van die Kommissie en, in geval van 'n staking van stemme oor enige aangeleentheid, het die voorsitter 'n beslissende stem bykomend tot sy of haar gewone stem as lid van die Kommissie.
- (7) Die verrigtinge van alle vergaderings van die Kommissie moet behoorlik genotuleer word.
- (8)(a) Die notule van die vorige vergadering moet voorgelees word by die begin van elke vergadering.
- (b) Die notule kan as gelees beskou word indien afskrifte daarvan voor die vergadering aan lede van die Kommissie gegee is.
- (c) Die voorsitter moet die notule onderteken slegs nadat daar met besware en korreksies gehandel is.
- (9) Die voorsitter besluit oor kwessies rakende orde of prosedure.
- (10) Indien enige lid 'n beswaar opper ten opsigte van enige sodanige besluit, moet die kwessie tot stemming gebring word en is die besluit van die meerderheid van die lede finaal en bindend op die Kommissie.
- (11) (a) Die Hoof Administratiewe Beampte mag 'n vergadering van die Kommissie bywoon en daaraan deelneem, maar nie stem nie.
- (b) 'n Personeelid van die Kommissie kan, op uitnodiging van die Kommissie, 'n vergadering van die Kommissie bywoon.

#### **Onttrekking van lid van Kommissie**

13.(1) 'n Lid van die Kommissie moet hom- of haarself van enige aangeleentheid of verrigting onttrek waarby hy of sy, 'n familielid of vertroude medewerker 'n finansiële of ander belang by die uitslag het van 'n besluit van die Kommissie of redelikerwys verwag om 'n belang te hê.

- (2) Enige persoon kan mondeliks of skriftelik verhoërig dat 'n lid van die Kommissie hom- of haarself onttrek waar die persoon rede het om te glo dat die lid, 'n familielid of vertroude medewerker 'n finansiële of ander strydige belang het by die uitslag van 'n besluit van die Kommissie of redelikerwys verwag of sodanige belang te hê.
- (3) 'n Persoon wat 'n aansoek vermeld in subartikel (2) indien, moet redes vir sy of haar versoek gee.
- (4) In die geval van 'n aansoek vermeld in subartikel (2), moet die voorsitter van die Kommissie 'n beslissing oor die aangeleentheid maak, behalwe in gevalle waar die aansoek die voorsitter aangaan, in welke geval die aangeleentheid deur die verantwoordelike Lid van die Uitvoerende Raad of sy benoemde beslis word.
- (5) 'n Lid van die Kommissie mag nie sy posisie of voorregte, of vertroulike inligting wat as lid van die Kommissie verkry is, vir persoonlike gewin gebruik nie of om 'n ander persoon onbehoorlik te bevoordeel nie.

#### **Bestuurskomitee van die Kommissie**

14.(1) Die Kommissie mag 'n bestuurskomitee tot stand bring wat bestaan uit —

- (a) die voorsitter en ondervoorsitter van die Kommissie; en
  - (b) minstens een ander lid van die Kommissie wat deur die Kommissie aangestel is.
- (2) Minstens een lid van die bestuurskomitee moet bewese kennis of ondervinding van finansiële bestuur hê.
- (3) Die voorsitter en ondervoorsitter van die Kommissie is die voorsitter en ondervoorsitter van die bestuurskomitee, onderskeidelik.



- (4) Die bestuurskomitee moet sodanige pligte en sodanige magte van die Kommissie uitoefen soos aan dit deur die Kommissie opgedra word kragtens artikel 30(2)(c) en (5).
- (5) Die bestuurskomitee moet gereeld vergader soos wat nodig is om sy pligte en magte uit te voer en uit te oefen op sodanige tye en plekke, en in ooreenstemming met sodanige prosedure soos deur komitee bepaal.
- (6) Die Hoof Administratiewe Beampte en die Hoof Finansiële Beampte kan vergaderings van die bestuurskomitee bywoon en daaraan deelneem, maar mag nie stem nie.

#### **Ander komitees van die Kommissie**

- 15.(1) Die Kommissie kan een of meer komitees aanstel wat nie beperk word tot sy eie lede nie, ten einde hom te help in die uitoefening van sy magte en die uitvoering van sy pligte en werksaamhede.
- (2)(a) 'n Komitee soos beoog in subartikel (1) moet —
- (i) bestaan uit twee of meer lede van die Kommissie;
  - (ii) 'n lid van die Kommissie as voorsitter hê; en
  - (iii) sodanige pligte en funksies van die Kommissie uitvoer soos deur die Kommissie bepaal.
- (b) Die Kommissie mag so 'n komitee te enige tyd ontbind of herkonstitueer.
- (3)(a) Die Kommissie kan, onderhewig aan artikel 30(2)(d) en (5), enige van sy magte afwentel of enige van sy pligte of funksies aan 'n komitee toewys wat ingevolge subartikel (1) aangestel is.
- (b) Enige afgewentelde of toegewese mag, plig of funksie wat sodanig uitgeoefen of uitgevoer word, word geag om deur die Kommissie uitgeoefen of uitgevoer te word.
- (c) Die Kommissie is nie onthef van die uitoefening of uitvoering van enige sodanige afgewentelde of toegewese mag, plig of funksie nie.
- (d) Die Kommissie kan enige besluit van 'n komitee wysig, hersien of nietig verklaar.

### **HOOFSTUK 3 HOOF ADMINISTRATIEWE BEAMPTE, HOOF FINANSIËLE BEAMPTE EN PERSONEEL VAN KOMMISSIE**

#### **Hoof Administratiewe Beampte van Kommissie**

- 16.(1) Die Kommissie moet, in oorlegpleging met die verantwoordelike Lid van die Uitvoerende Raad, 'n toepaslik gekwalifiseerde, vaardige en ervare persoon as Hoof Administratiewe Beampte van die Kommissie aanstel.
- (2)(a) Die Hoof Administratiewe Beampte beklee die amp vanaf die datum van aanstelling tot die datum van die verkiesing van die Provinsiale Wetgewer wat onmiddellik op die datum van aanstelling volg.
- (b) Die Hoof Administratiewe Beampte kan heraanstelling word.
- (3)(a) Die aanstelling van die Hoof Administratiewe Beampte is onderhewig aan die sluit van 'n geskrewe prestasiekontrak tussen daardie persoon en die Kommissie.
- (b) Die Kommissie en die Hoof Administratiewe Beampte kan die prestasiekontrak skriftelik en deur ooreenkoms wysig.
- (4) Die Kommissie kan die Hoof Administratiewe Beampte se dienste beëindig in ooreenstemming met toepaslike emplojerings- en arbeidswette.
- (5) Vir die doeleindes van die verklaring van finansiële en ander belange, geld die bepalings van artikel 6 met die nodige veranderings vir die Hoof Administratiewe Beampte.

#### **Werksaamhede van Hoof Administratiewe Beampte**

- 17.(1) Die Hoof Administratiewe Beampte is die hoof van die administrasie van die Kommissie, doen verslag aan die Kommissie en is verantwoordelik vir —
- (a) die algemene bestuur en administrasie van die Kommissie in ooreenstemming met die leiding van die Kommissie;
  - (b) die aanstelling van personeellede van die Kommissie bedoel in artikel 20(1);
  - (c) die vasstelling van 'n gedragskode in oorleg met die Kommissie, wat op die Hoof Administratiewe Beampte, die Hoof Finansiële Beampte en alle personeellede van die Kommissie van toepassing sal wees, bereikbaar vir doeleindes van dissiplinêre verrigtinge ten einde —
    - (i) nakoming van toepaslike wetgewing, met inbegrip van hierdie Wet;
    - (ii) die effektiewe, doeltreffende en ekonomiese gebruik van die Kommissie se fondse en hulpbronne;
    - (iii) die bevordering en handhawing van 'n hoë standard van professionele etiek;
    - (iv) die voorkoming van belangebotsings;
    - (v) die beskerming van vertroulike inligting in besit van die Kommissie; en
    - (vi) professionele, eerlike, onpartydige, regverdige, etiese en billike diens te verseker;
  - (d) die handhawing van dissipline met betrekking tot personeellede aangestel ingevolge paragraaf (b) en is vir daardie doeleindes teenoor die Kommissie aanspreeklik; en
  - (e) die nakoming deur die Kommissie van die bepalings van die hierdie Wet en enige ander toepaslike wetgewing.
- (2) Indien die Hoof Administratiewe Beampte vir enige rede nie in staat is om sy of haar werksaamhede te verrig nie, moet die Kommissie 'n ander persoon skriftelik as waarnemende Hoof Administratiewe Beampte aanstel totdat die Hoof Administratiewe Beampte in staat is om daardie werksaamhede te hervat.

#### **Hoof Finansiële Beampte**

- 18.(1) Die Kommissie moet, in oorlegpleging met die verantwoordelike Lid van die Uitvoerende Raad, 'n toepaslik gekwalifiseerde persoon met 'n bewese kennis van, en ondervinding in, finansiële bestuur as Hoof Finansiële Beampte van die Kommissie in diens stel.
- (2) Die Hoof Finansiële Beampte doen verslag aan —
- (a) die Kommissie rakende sake oor die finansiële bestuur van die Kommissie; en

(b) die Hoof Administratiewe Beampte rakende sake wat buite die omvang van paragraaf (a) val.

(3) Die bepaling van artikel 16(3)-(5) het toepassing met die nodige veranderinge op die Hoof Finansiële Beampte.

#### **Werkzaamhede van die Hoof Finansiële Beampte**

19.(1) Die Hoof Finansiële Beampte is die hoof rekenpligtige beampte in die administrasie van die Kommissie en moet die voorsitter van die Kommissie van hulp wees in die uitvoering van die pligte en funksies van die voorsitter van die Kommissie as rekenpligtige kenner in terme van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

(2) Die Hoof Finansiële Beampte is spesifiek verantwoordelik vir —

(a) die finansiële bestuur van die Kommissie in ooreenstemming met die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), onder leiding van die Kommissie; en

(b) die versekerde navolging van die Kommissie van die voorwaardes van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), en enige ander toepaslike wet wat te make het met finansiële bestuur en administrasie.

(3) Indien die Hoof Finansiële Beampte vir enige rede nie in staat is om sy of haar werkzaamhede uit te voer nie, moet die Kommissie skriftelik 'n ander persoon as Waarnemende Hoof Finansiële Beampte aanstel totdat die Hoof Finansiële Beampte in staat is om sy werkzaamhede te hervat.

#### **Personeel van die Kommissie**

20.(1) Die Hoof Administratiewe Beampte moet, behoudens subartikel (2), personeel in diens neem soos wat redelikerwys nodig is —

(i) om die Hoof Administratiewe Beampte by te staan met die verrigting van hul werkzaamhede ingevolge hierdie Wet; en

(ii) om die Kommissie by te staan met werk wat verband hou met die verrigting van die Kommissie se werkzaamhede.

(2) Die Kommissie moet 'n menslike hulpbronbeleid vir die Kommissie bepaal.

#### **Afstaan of oorpasing van personeel na Kommissie**

21. Die Kommissie kan die dienste van persone wat afgestaan is deur of oorgeplaas is van die staatsdiens in ooreenstemming met die bepaling van die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994).

#### **Verklaring deur aansoeker om betrekking as personeellid van Kommissie van finansiële en ander belange en veroordelings**

22.(1) 'n Aansoeker wat aansoek doen om 'n betrekking as personeellid van die Kommissie moet, wanneer aansoek gedoen word, 'n skriftelike verklaring by die Hoof Administratiewe Beampte indien —

(a) van enige regstreekse en onregstreekse belange, finansiël en andersins wat —

(i) 'n belangekonflik mag wees in terme van sy of haar werkzaamhede as lid van die personeel; of

(ii) redelikerwys na verwagting die Kommissie in die uitvoering van sy werkzaamhede kan kompromiteer; en

(b) relevante inligting bevat oor enige veroordeling —

(i) vir 'n Bylae-1 oortreding in terme van die Strafproseswet, 1977 (Wet No. 51 van 1977); en

(ii) vir 'n misdryf waarvan oneerlikheid 'n element is.

(2) Die verklaring waarna verwys word in subartikel (1) moet relevante inligting bevat oor die finansiële en ander belange van familieledes of vertroude medewerkers van die aansoeker wat strydig kan wees met 'n aanstelling as 'n personeellid.

(3) 'n Aansoeker mag nie oorweeg word vir aanstelling as personeellid nie indien dit blyk dat die aansoeker doelbewus inligting weerhou het wat met finansiële en ander belange bedoel in hierdie artikel verband hou.

(4) Waar daar 'n verandering in die finansiële of enige ander omstandighede van 'n personeellid plaasvind en 'n belang verkry word, moet die lid binne 10 dae na die datum van die veranderde omstandighede 'n hersiene skriftelike verklaring oor veranderde finansiële en ander belange by die Hoof Administratiewe Beampte indien.

(5) Waar daar 'n verandering in die finansiële of enige ander omstandighede van 'n familielid of vertroude medewerker van 'n personeellid plaasvind en 'n belang verkry word wat strydig kan wees met 'n aanstelling van die personeellid, moet die personeellid binne 10 dae na die datum van die veranderde omstandighede 'n skriftelike verklaring by die Hoof Administratiewe Beampte indien.

(6) 'n Personeellid van die Kommissie mag nie teenwoordig wees by, of deelneem aan, die bespreking van of neem van 'n besluit oor enige aangeleentheid voor die Kommissie waarin daardie lid 'n belang bedoel in subartikel (1) het nie.

(7) 'n Personeellid van die Kommissie mag nie sy of haar posisie of voorregte, of vertroulike inligting wat as 'n personeellid van die Kommissie verkry is vir persoonlike gewin gebruik nie of om 'n ander persoon onbehoorlik te bevoordeel nie.

(8) 'n Personeellid van die Kommissie wat versuim om aan subartikels (1) tot (7) te voldoen —

(a) word geag die gedragskode vermeld in artikel 17(1)(c) te verbreek; en

(b) is onderhewig aan dissiplinêre maatreëls bedoel in sodanige gedragskode, emplojerings- en arbeidswette en die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

(9) Die Hoof Administratiewe Beampte moet 'n opgedateerde register byhou van die belange van personeellede van die Kommissie wat ingevolge hierdie artikel verklaar is.

(10) Hierdie artikel geld, met die nodige veranderings, vir 'n persoon wat aan die Kommissie afgestaan of daarheen oorgeplaas is kragtens artikel 21.

## **HOOFSTUK 4 BEFONDSING EN BESTUUR VAN KOMMISSIE**

#### **Fondse van Kommissie**

23.(1) Die fondse van die Kommissie bestaan uit —

(a) gelde deur die Provinsiale Wetgewer bewillig;

- (b) skenkings of bydraes wat wettig deur die Kommissie van enige bron
  - (c) ontvang is;
  - (d) rente op beleggings van die Kommissie; en
  - (e) inkomste wat wettiglik van enige ander bron verkry is.
- (2) Die Kommissie moet sy fondse gebruik —
- (a) vir die betaling van vergoeding, toelaes en reis- en verblyfuitgawes van —
    - (i) die lede van die Kommissie;
    - (ii) die Hoof Administratiewe Beampte van die Kommissie;
    - (iii) die Hoof Finansiële Beampte van die Kommissie; en
    - (iv) die personeellede van die Kommissie
  - (b) uitgawes te bestry met betrekking tot —
    - (i) die daaglikse bedrywighede en administrasie van die Kommissie; en
    - (ii) die verrigting van die Kommissie se werksaamhede en die uitoefening van sy bevoegdhede en die uitvoering van sy funksies en verpligtinge ingevolge hierdie Wet.
- (3) Die Hoof Administratiewe Beampte moet, met die instemming van die Kommissie —
- (a) 'n rekening in die naam van die Kommissie open by 'n instelling wat ingevolge die Bankwet, 1990 (Wet No. 94 van 1990) as bank geregistreer is; en
  - (b) alle gelde daarin stort wat ingevolge subartikel (1) ontvang is.
- (4) Die verantwoordelike Lid van die Uitvoerende Raad moet, in oorleg met die lid van die Uitvoerende Raad verantwoordelik vir finansies —
- (i) die vergoeding en diensvoorwaardes; en
  - (ii) die pensioen- en aftredevoordele,
- bepaal van die Hoof Administratiewe Beampte, die Hoof Finansiële Beampte en die ander personeellede van die Kommissie.

#### **Finansiële bestuur en verslagdoening**

- 24.(1) Die Hoof Administratiewe Beampte moet volledige en behoorlike rekeningboeke hou en al die nodige rekords wat daarmee in verband staan.
- (2) Die Hoof Administratiewe Beampte moet verseker dat die Kommissie se jaarlikse begrotings, korporatiewe planne, jaarverslae en geouditeerde finansiële state voorberei en ooreenkomstig die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999) ingedien word.
- (3) Die Kommissie moet geouditeer word en verslag doen ooreenkomstig die Wet op Openbare Ouditering, 2004 (Wet No. 25 van 2004), en die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

### **HOOFSTUK 5 ALGEMENE BEPALINGS**

#### **Sekerheid van vertroulike inligting wat deur die Kommissie gehou word**

- 25.(1) Enige rekord, verslag, data of enige ander inligting van watter aard ook al of in watter formaat ook al geskep of verkry deur die Kommissie, word as vertroulik beskou en geen persoon mag sodanige vertroulik inligting openbaar nie behalwe —
- (a) soos andersins in hierdie Wet bepaal;
  - (b) soos in belangrike mate nodig om die werksaamhede van die Kommissie te verrig;
  - (c) soos vereis ingevolge enige wet;
  - (d) met die skriftelike goedkeuring van die Hoof Administratiewe Beampte in oorleg met die Kommissie.
- (2) Die Kommissie, die individuele lede van die Kommissie, die Hoof Administratiewe Beampte, die Hoof Finansiële Beampte en personeellede van die Kommissie moet alle redelike stappe en voorsorgmaatreëls tref om te verseker dat vertroulike inligting streng vertroulik bly en dat geen ongemagtigde persoon toegang daartoe of kennis daarvan verkry nie.

#### **Gebruik van Kommissie se naam**

- 26.(1) Geen persoon mag, sonder die vooraf skriftelike goedkeuring van die Hoof Administratiewe Beampte, in oorleg met die Kommissie, op enige wyse die Kommissie verteenwoordig of gebruik maak van enige naam, akroniem, logo, ontwerp of material wat deur die Kommissie gebruik word of aan hom behoort nie.
- (2) Geen persoon mag valslik voorgee om namens die Kommissie te handel nie.
- (3) Enige persoon wat subartikel (1) of (2) oortree, is skuldig aan 'n misdryf.

#### **Algemene misdrywe**

27. Enige persoon wat valslik voorgee dat hy of sy gemagtig is om fooie, skenkings of bydraes te hef of te vra namens of in opdrag van die Kommissie, is skuldig aan 'n misdryf.

#### **Strawwe**

28. Enige persoon wat skuldig bevind word aan 'n misdryf ingevolge hierdie Wet is stafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens 5 jaar.

#### **Regulasies**

29. Die verantwoordelike Lid van die Uitvoerende Raad kan, na oorlegpleging met die Kommissie, en by kennisgewing in die *Koerant*, regulasies uitvaardig betreffende —
- (a) enige aangeleentheid wat ingevolge hierdie Wet voorgeskryf moet of kan word; of
  - (b) enige administratiewe of prosedure-aangeleentheid wat nodig is om uitvoering te gee aan die bepalinge van hierdie Wet.

**Delegasie**

**30.**(1) Die verantwoordelike Lid van die Uitvoerende Raad kan aan die Departementshoof —

- (a) enige bevoegdheid deur hierdie Wet aan die verantwoordelike Lid van die Uitvoerende Raad verleen, behalwe die bevoegdheid bedoel in artikel 29 om regulasies uit te vaardig; of
- (b) enige plig deur hierdie Wet aan die verantwoordelike Lid van die Uitvoerende Raad opgelê, behalwe enige plig betreffende die aanstelling en ampsbeëindiging van lede van die Kommissie bedoel in artikel 5 en 10 deleger.

(2) Die Kommissie mag enige bevoegdheid of plig wat deur hierdie Wet aan die Kommissie opgedra word, na —

- (a) die Hoof Administratiewe Beampste;
- (b) die Hoof Finansiële Beampste;
- (c) die bestuurskomitee warna in artikel 14 verwys word;
- (d) enige ander komitee warna in artikel 15 verwys word afwentel, behalwe die bevoegdhede as rekenpligtige gesag van die Kommissie.

(3) Die Hoof Administratiewe Beampste kan enige bevoegdheid of plig wat aan die Hoof Administratiewe Beampste deur hierdie Wet opgedra is, aan enige personeellid deleger.

(4) Enige bevoegdheid of plig wat ingevolge subartikel (1), (2) en (3) gedeleger is, moet uitgeoefen of verrig word behoudens sodanige voorwaardes as wat die persoon of liggaam wat die delegasie uitgevoer het, nodig ag.

(5) Enige delegasie ingevolge subartikel (1), (2) of (3) ,

- (a) moet skriftelik geskied;
- (b) verhoed nie die persoon of liggaam wat daardie delegasie uitgevoer het, om die bevoegdheid uit te oefen of daardie plig te verrig nie; en
- (c) kan te eniger tyd skriftelik deur daardie persoon of liggaam teruggetrek of gewysig word.

**Herroeping van wet**

**31.** Die KwaZulu-Natal Jeugkommissiewet, 1998 (Wet No. 1 of 1998) word hierby herroep.

**Kort titel**

**32.** Hierdie Wet heet die KwaZulu-Natal Jeugkommissiewet, 2005.