



KWAZULU-NATAL PROVINCE
KWAZULU-NATAL PROVINSIE
ISIFUNDAZWE SAKWAZULU-NATALI

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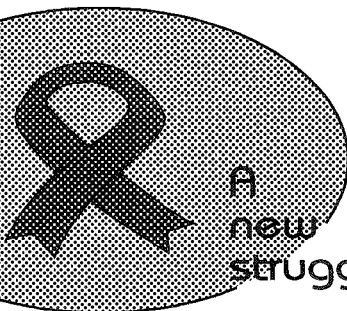
PIETERMARITZBURG,

31 AUGUST 2007
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No. 32

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

Prevention is the cure

**AIDS
HELPLINE**

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DEPARTMENT OF HEALTH



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PROVINCIAL NOTICE—PROVINSIALE KENNISGEWING—ISAZISO SESIFUNDAZWE

No. 331

31 August 2007

KWAZULU-NATAL LEGISLATURE**KWAZULU-NATAL PETITIONS ACT, 2003 (ACT NO. 4 OF 2003):
CORRECTION NOTICE**

Notice is hereby given that the correct version of the KwaZulu-Natal Petitions Act, 2003 (Act No. 4 of 2003), as enacted by the KwaZulu-Natal Legislature and assented to by the Premier on 5 December 2003, is hereby published.

KWAZULU-NATAL PETITIONS ACT, 2003**(Act No. 4 of 2003)****Assented to on 2003-12-05****ACT**

To provide for the right to submit a petition to the Parliament of KwaZulu-Natal; to establish the procedure to be followed in submitting a petition to Parliament; to provide for the functions of the Private Members' Legislative Proposals, Pensions and Petitions Standing Committee of Parliament; to lay down the general principles and procedure for public participation in the process of government in the Province; and to provide for incidental matters.

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

1. Definitions

In this Act -

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

“**Chairperson**” means the chairperson of the Committee;

“**Committee**” means the Private Members’ Legislative Proposals, Pensions and Petitions Standing Committee of Parliament;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

“**Local Government**” means the local sphere of government in the Province as contemplated in sections 151 and 155 of the Constitution;

“**Member**” means a member of the Parliament of KwaZulu-Natal elected to a seat in terms of sections 105 and 106 of the Constitution;

“**Parliament**” means the Provincial Legislature of KwaZulu-Natal as contemplated in section 104 of the Constitution;

“**Petition**” means a complaint, request, representation or submission addressed by a petitioner to the Committee, and may take the form of -

(a) a single petition, which is an individual submission from a single petitioner concerning a particular complaint or request;

(b) a collective petition, which is a collection of signatures from a number of petitioners concerning a particular complaint or request;

(c) a group petition, made up of individual or group submissions from a number of petitioners concerning the same or substantially similar complaints or requests; or

(d) an association petition, which is an individual submission from an association, or an individual mandated by an association, concerning a particular complaint or request;

“**Petitioner**” means a person who has addressed a petition to the Committee, and includes a natural or juristic person acting -

(a) in his, her or its own interest;

(b) in the interest of another person who, or body which, is not in a position to seek relief in his, her or its own name;

(c) as a member of, or in the interest of, a group or class of persons; or

(d) in the public interest,

and includes an association acting in the interest of its members;

“**Province**” means the province of KwaZulu-Natal established in terms of section 103 of the Constitution;

“**Secretary**” means the Secretary of the Provincial Parliament of KwaZulu-Natal;

“Speaker” means the Speaker of Parliament elected in terms of section 111 of the Constitution; and

“Standing Rules” means the standing rules and orders made for the conduct of the business of the KwaZulu-Natal Parliament in terms of section 116 of the Constitution.

2. General principles of the Act

(1) The Committee must -

- (a) subject to subsection (3), take appropriate steps to encourage and facilitate participation by the public, particularly previously politically, socially, and economically excluded communities, in the process of government in the Province, especially the legislative and other processes of Parliament;
- (b) enhance democracy by exercising maximum accountability and transparency;
- (c) receive petitions from a petitioner; and
- (d) respect the rights of petitioners.

(2) A right conferred by this Act must be exercised in a manner which is reasonable and justifiable.

(3) The Committee must take all reasonable steps, within its available resources, to achieve the progressive realization of the rights of public participation as set out under subsection (1).

3. Composition of Committee

The Committee consists of those Members as determined from time to time by the Standing Rules.

4. Right to petition

(1) Subject to the provisions of this Act and any other law, a petitioner has the right to address a petition to the Committee.

(2) A petitioner may only petition Parliament requesting the amendment of provincial legislation under section 7(2)(a) or the reconsideration of a general or administrative decision under section 7(2)(b) where the petitioner has exhausted all other administrative avenues for relief.

(3) A petitioner may petition Parliament requesting any other form of relief envisaged under section 7.

(4) The administrative support service envisaged under section 15 must render assistance to a prospective petitioner who wishes to submit a petition to the Committee, including but not limited to -

- (a) ensuring compliance with the format of the petition under section 6; and
- (b) the correction of a petition under section 16(1)(c)(i).

5. Jurisdiction of Committee

- (1) The Speaker, or any person authorised by him or her, must receive a petition.
- (2) The Speaker must refer a petition to the Committee in terms of this Act.
- (3) The Committee must consider every petition referred to it in terms of this Act.

6. Format of Petition

A petition must be in the format set out in the First Schedule.

7. Content of Petition and Relief Sought

- (1) A petitioner must request a form of relief which -
 - (a) is constitutional; and
 - (b) falls within the provincial legislative competence. This means that the subject matter of the petition must fall within either a Functional Area of Concurrent National and Provincial Legislative Competence under Schedule 4 to the

Constitution or a Functional Area of Exclusive Provincial Legislative Competence under Schedule 5 to the Constitution.

(2) A petitioner may request -

- (a) the amendment of provincial legislation, pending or enacted;
- (b) the reconsideration of a general or administrative decision affecting the petitioner;
- (c) steps to be taken to grant relief to the petitioner; and/or
- (d) any other form of relief deemed by the Speaker, acting in accordance with the approval procedure determined under section 10, to be reasonable.

8. Signing of Petitions

(1) Subject to subsections (2) and (3), a petition must be signed by every petitioner.

(2) The Speaker may waive compliance with subsection (1) where he or she deems waiver necessary and reasonable.

(3) Where a petitioner is unable to sign his or her name, he or she may make a mark on the petition, which mark must be witnessed by two other persons, both of whom must sign as witnesses next to the mark.

9. Language of Petitions

(1) A petition may be lodged in any of the eleven official languages recognized in section 6(1) of the Constitution.

(2) After lodgement, the Speaker must ensure that -

- (a) the petition is translated into English, Afrikaans and isiZulu within two weeks; and
- (b) each translation is certified by a sworn translator to be a true and correct translation of the original petition.

10. Approval by the Speaker or Committee for Tabling

(1) A petition must be deposited for at least one working day with the Speaker, whereafter the Speaker must ensure compliance with section 9(2).

(2) The Speaker must immediately submit the translated petition to the Committee, by providing every member of the Committee with a copy of the petition and any supporting documentation, for consideration and report before it is tabled in the House.

(3) The Speaker or Committee must not approve a petition for tabling in the House -

- (a) requesting relief in conflict with the Constitution;
- (b) requesting relief which Parliament is not competent to grant in accordance with its jurisdiction as set out in section 104(1) of, read with Schedules 4 and 5 to, the Constitution;
- (c) that seeks to review or overturn the proceedings or judgement of a competent court;
- (d) that seeks to intervene in a matter which is *sub judice*;
- (e) originating from a prisoner and connected to his or her case;
- (f) involving a subject matter that is before a commission of inquiry established in terms of the KwaZulu-Natal Commissions Act, 1999 (KZN Act No. 3 of 1999), and other relevant bodies; or
- (g) requesting the amendment of provincial legislation under section 7(2)(a) or the reconsideration of a general or administrative decision under section 7(2)(b) where the petitioner has failed to exhaust all other administrative avenues for relief.

(4) Where approval for the tabling of a petition in the House is refused by the Speaker, the Speaker must refer the matter to the Committee for reconsideration and final decision.

(5) The Committee must provide a report to the Speaker either approving or disapproving of the tabling of the petition in the House, with reasons.

(6) The Speaker must refer a petition not approved for tabling in the House by him or her or the Committee back to the petitioner, together with reasons, and a recommendation, where appropriate, that the petitioner petition the National Assembly.

11. Tabling

(1) Subject to his or her satisfaction that the petition complies with this Act, the Speaker must cause the petition to be tabled in the House as soon as is reasonably practicable after approval for tabling in the House by the Speaker or the Committee.

(2) No debate may take place in the House on the tabling of a petition.

(3) After tabling of a petition, a motion on notice relating to the petition may be moved and debated.

12. Oral Submissions

(1) Subject to subsection (2), a petitioner must submit a petition in writing, written in the petitioner's preferred language, to the Speaker or any person authorised by him or her.

(2) The Committee may allow a petitioner to supplement a written petition with oral submissions.

(3) Before it considers a petition, the Committee must record and reduce to writing oral submissions contemplated in subsection (2).

13. Powers and Functions of the Committee

(1) The Committee must -

- (a) consider a petition that has been tabled with a view to settling the matter; and
- (b) where applicable, advise a petitioner of other appropriate remedies available to him or her.

(2) The Committee may refer the petition to a relevant Portfolio Committee, which must draft a report containing an opinion on the petition for submission to the Committee within four weeks of the referral.

(3) The Committee may invite any appropriate municipal council of a local government in the Province, institution supporting constitutional democracy mentioned in Chapter 9 of the Constitution, organization, union, body or State department to -

- (a) consider the petition and submit, within four weeks of the date of the referral, a memorandum containing an opinion and recommendations on the petition; and/or
- (b) send a representative to attend a meeting of the Committee to provide additional information.

(4) If the Committee is of the opinion that the conduct of a person or body to whom a petition has been referred in terms of this section is unsatisfactory, and that the circumstances merit this action, the Committee may make a complaint to the Public Protector, or take other appropriate action.

(5) Subject to the provisions of this Act, if requested to do so by a petitioner, the Committee may resolve a dispute, reverse an act or rectify an omission by means of mediation or negotiation.

(6) The Committee may make a recommendation to a person or body on the basis of a petition.

(7) The Committee may conclude its consideration of a petition if it is of the opinion that -

- (a) no steps, or no further steps, can be taken to settle the matter; or
- (b) the matter has been settled as requested by the petitioner.

(8) The Committee must -

- (a) make quarterly reports of referrals as contemplated in subsections (2) and (3) to Parliament; and

(b) report to Parliament on a petition where the Committee has completed its investigations and reached a recommendation, at the next Sitting immediately following the Committee's final decision on the petition.

(9) Subject to the provisions of this Act, the Committee may, in consultation with the Speaker, regulate its proceedings and perform its functions in a manner as it deems fit.

14. Sitting of the Committee

(1) The Committee may, for the purpose of receiving evidence or for deliberating, sit at a time and a place in the Province as the Chairperson determines.

(2) Evidence presented to the Committee must be heard in public, unless it is reasonable and justifiable to exclude the public and the media in an open and democratic society.

(3) The Chairperson must give the petitioner and all interested and affected parties written notice of the date, time and venue of a Committee meeting containing the relevant petition as an agenda item, at least one week prior to the date of the meeting.

15. Administrative Support Service

The Secretary must provide administration support staff to the Committee to enable it to perform its functions and duties.

16. Procedures relating to Petitions

(1) The administration support service must -

- (a) register every petition received in a Petitions Register;
- (b) open a file for every petition;
- (c) in terms of section 4(4) of this Act, prepare every petition received for consideration by the Committee, which may involve -
 - (i) correction, if possible, of the petition, in consultation with the petitioner, to ensure that a petition complies with the provisions of this Act; and

- (ii) the translation of a petition;
 - (d) prepare a full list of outstanding petitions addressed to Parliament, and make it available to each meeting of the Committee; and
 - (e) present a petition prepared under paragraph (c) to the Chairperson, who must table the petition at a meeting of the Committee for consideration within two (2) weeks of the date on which the Chairperson received the petition.

- (2) The Committee must notify a petitioner within four (4) weeks of the date on which a petition was tabled of -
 - (a) the manner in which a petition is being dealt with; and
 - (b) the reasons why it is being dealt with in that particular manner.

- (3) Subject to the right of the Committee to continue to act on the complaint or request if the Committee deems the matter to be of public importance, a petitioner may withdraw a petition.

- (4) The Committee must, after concluding its consideration of a petition in terms of section 13(7), submit the petition file and its recommendation to the Speaker.

- (5) After the submission of a petition under subsection (4), the Speaker must scrutinize the contents of the file within two (2) weeks.

- (6) A Member is entitled to scrutinize the file and the recommendation of the Committee.

- (7) The Speaker may -
 - (a) refer the file to the Committee for reconsideration; or
 - (b) refer the file to the Committee for closure, providing written reasons for such action.

- (8) A Member may object to the closing of the file, and must provide reasons for his or her objection.

- (9) The Speaker may supplement this procedure by way of regulations.

17. Content of Committee Report

The Committee, in its report under section 13(8)(b), may recommend to the House that -

- (a) the request contained in the petition be acceded to or that some other relief be granted;
- (b) it is unable to support the request made in the petition; or
- (c) the petition be referred to the National Assembly for consideration.

18. Decision by the House

(1) Parliament may debate the recommendation of the Committee on the petition.

(2) After consideration of the report by the Committee, and possible debate under subsection (1), the House may by vote resolve to -

- (a) accept the recommendation of the Committee, with or without amendment;
- (b) reject the recommendation of the Committee in whole or in part;
- (c) refer the recommendation of the Committee or the petition to the National Assembly in terms of section 104(5) of the Constitution; or
- (d) refer the matter back to the Committee for further consideration and report.

(3) The Secretary must inform the petitioner in writing of the decision of the House with regard to a particular petition, and reasons therefor, within seven days of the decision by the House.

19. Consideration of a Settled Petition

A petition in respect of a matter on which a decision has been taken is not entitled to reconsideration by the Committee, unless that petition provides new facts or relevant evidence that justify a reconsideration of the matter.

20. Witnesses

(1) A petitioner may, at his or her own expense and only with the consent of the Committee, give evidence in support of the petition at a meeting of the Committee.

(2) For the purpose of ascertaining a matter relating to the subject of its investigation, the Committee may -

- (a) summon a person to attend a sitting of the Committee, as a witness, in order to give evidence, or produce any book, document or object required by the Committee; or
- (b) subpoena a person to attend a sitting of the Committee, as a witness, in order to give evidence, or produce any book, document or object, before the Committee at the time and place specified in the subpoena.

(3) A subpoena contemplated in subsection (2)(b) must be signed and issued by the Chairperson, and served on the person subpoenaed either by a registered letter sent through the post, or by delivery by a person authorized thereto by the Chairperson, or by any method determined by the Speaker in the form of regulations.

(4) A witness must, before giving evidence, take an oath or make an affirmation administered by the Chairperson, a Member or an employee of the Committee, as the Chairperson may designate.

(5) The Secretary to Parliament must pay to a person, other than an employee of a provincial department, who has been subpoenaed to attend a sitting of the Committee as a witness, or who has given evidence before the Committee, the sum for traveling and attendance time and for transport expenses actually incurred which the person would be entitled to as a witness before a magistrate's court.

21. Offences

(1) A person duly subpoenaed in terms of section 20(2)(b) and (3) who, without sufficient cause -

- (a) fails to attend the meeting of the Committee at the time and place specified in the subpoena; or
 - (b) fails to remain in attendance at the meeting of the Committee until the completion of the investigation before the Committee, or until he or she is excused by the Chairperson from further attendance,
- commits an offence.

(2) A person called as a witness under section 20(2)(a) or (b) who, without sufficient cause -

- (a) refuses to be sworn in or to make an affirmation as a witness after she or he has been requested by the Chairperson to do so;
- (b) after having been sworn in or having made an affirmation, fails to answer fully and satisfactorily any question lawfully put to him or her;
- (c) after having been sworn in or having made an affirmation, gives false evidence before the Committee on a matter, knowing the evidence to be false or not believing it to be true; or
- (d) fails to produce a book, document or object in his or her possession or custody or under his or her control, which he or she has been called to produce, commits an offence.

(3) A person who -

- (a) threatens, obstructs or unduly influences a witness to refrain from giving evidence or to give false evidence before the Committee;
- (b) threatens, obstructs or unduly influences a witness concerning the production of a paper, book, record or document before the Committee;
- (c) with the intent to deceive the Committee, produces before the Committee a false, untrue, fabricated or falsified paper, book, record or document;
- (d) destroys or conceals a book, document or object which to his or her knowledge might be of assistance to the Committee in any matter relating to the subject of its investigation; or
- (e) wilfully furnishes the Committee with information, or makes a statement before it, which is false or misleading, commits an offence.

22. Penalties

A person convicted of an offence in terms of section 21 is liable to a fine or imprisonment for a period not exceeding 12 months, or both a fine and imprisonment.

23. Retention of books, documents or objects by the Committee

The Committee may retain, for a reasonable period after a meeting, a book, document or object that it has requested or subpoenaed a person to produce in terms of section 20(2)(a) or (b).

24. Delegation of powers by Committee

(1) The Committee may delegate its powers to a subcommittee of the Committee in terms of the Standing Rules and Orders of Parliament.

(2) On completion of its mandate, the subcommittee must report its findings to the Committee in writing.

(3) Nothing prevents the Committee from exercising powers delegated to a subcommittee under subsection (1).

25. Accountability to Parliament

(1) The Committee must prepare a quarterly report on every petition it has adjudicated upon for submission to Parliament for consideration.

(2) The Committee must prepare and submit an annual written report of its activities to Parliament.

(3) The annual written report of the Committee must provide for an evaluation of the responsiveness, efficiency and timeousness with which petitions dealt with via the procedure determined under section 13(3) were resolved.

(4) A debate on an issue raised in a report of the Committee to Parliament must take place if more than five Members so demand.

(5) Parliament may refer a matter emanating from a report of the Committee back to the Committee for reconsideration.

26. Regulations

The Speaker, after consultation with the Committee, must make regulations required for carrying out the provisions of this Act.

27. Short title and commencement

(1) This Act is called the KwaZulu-Natal Petitions Act, 2003.

(2) This Act comes into operation on a date fixed by the Speaker by proclamation in the *Provincial Gazette*.

FIRST SCHEDULE :**FORM OF PETITION PRESCRIBED BY
THE STANDING RULES AND ORDERS OF
THE KWAZULU-NATAL PARLIAMENT****PETITION**

.....
Signature of Member introducing the petition

**To the Honourable Speaker and Members of
the KwaZulu-Natal Parliament :-**

The Petitioner of the undersigned

*[insert the name of the petitioner/s or a description of the group of petitioners, and place
of residence or place of business]*

respectfully submits that

*[set out the facts and representations to be brought to the notice of the House and
details of the relief sought]*

The petitioner/s requests / request that the House consider his, her or their submissions
favourably, and grant the relief which it may deem fit.

[signature or witnessed mark of every petitioner]

KWAZULU-NATAL LEGISLATURE**KWAZULU-NATAL PETITIONS ACT, 2003 (ACT NO. 4 OF 2003):
COMMENCEMENT OF ACT**

The Speaker of the KwaZulu-Natal Legislature has, in terms of section 27(2) of the KwaZulu-Natal Petitions Act, 2003 (Act No. 4 of 2003), determined the date of publication of this notice as the date of commencement of the Act.

**TW MCHUNU
SPEAKER OF THE KWAZULU-NATAL LEGISLATURE**



KWAZULU-NATAL LEGISLATURE**KWAZULU-NATAL PETITIONS ACT, 2003 (ACT NO. 4 OF 2003):
PROMULGATION OF REGULATIONS**

The Speaker of the KwaZulu-Natal Legislature has, in terms of section 26 of the KwaZulu-Natal Petitions Act, 2003 (Act No. 4 of 2003), made the regulations contained in the Schedule.

TW MCHUNU
SPEAKER OF THE KWAZULU-NATAL LEGISLATURE

SCHEDULE**KWAZULU-NATAL PETITIONS ACT, 2003 (KZN Act No. 4 of 2003)****REGULATIONS RELATING TO
THE SUBMISSION AND CONSIDERATION OF PETITIONS**

The Speaker of the KwaZulu-Natal Legislature has, in terms of section 26 of the **KwaZulu-Natal Petitions Act, 2003 (KZN Act No. 4 of 2003)**, made the regulations contained in the Schedule.

SCHEDULE**ARRANGEMENT OF REGULATIONS**

1. Definitions
2. Application of Regulations
3. Responsibilities of the Committee
4. Rights of a Petitioner
5. Submission
6. Registration of Petition
7. The Petition File
8. Preliminary investigation of Petition
9. Declaration of Personal Interest and Referral
10. Committee
11. Closure and Submission of Petition after Decision by the House
12. Right of Appeal

13. Parliament not in Session
14. Conflict of Interest
15. Short title

Annexure A

Definitions

1. In these regulations, unless the context indicates otherwise, any word or expression defined in the **KwaZulu-Natal Petitions Act, 2003 (KZN Act No. 4 of 2003)** has that meaning, and -

“**appeal**” means an appeal in terms of regulation 12;

“**administrative support service**” means the administrative support contemplated in section 15;

“**petition file**” means the file contemplated in regulations 6(1)(b) and 7;

“**Petitions Register**” means the register contemplated in regulation 6(1)(a);

“**statement of complaint**” means the subject matter of a petition and any information provided by the petitioner; and

“**the Act**” means the **KwaZulu-Natal Petitions Act, 2003 (KZN Act No. 4 of 2003)**.

Application of Regulations

2. These regulations apply to any petition submitted in accordance with the Act.

Responsibilities of the Committee

3. The Committee must, from time to time, take reasonable steps to —

(a) inform the citizens of the province of their rights in terms of the Act;

(b) inform the citizens of the province of the physical address, postal address, electronic address or fax number where a petition may be submitted;

(c) exercise maximum accountability and transparency in the consideration of a petition;

(d) where appropriate, or if requested to do so by a petitioner, resolve a dispute, reverse an act or rectify an omission by means of mediation or negotiation;

(e) where appropriate, lodge a complaint with the Public Protector in terms of the Public Protector Act, 1994 (Act No. 23 of 1994), if the conduct of a person or body to whom a petition has been referred, is unsatisfactory;

(f) assume a supervisory role in respect of the administrative support service;

(g) in general, issue directions to the administrative support service in respect of preliminary investigations;

(h) instruct the administrative support service to report to it on the efficacy of the processes of public participation and petitions;

(i) instruct the administrative support service to organize and manage programmes designed to promote, advertise or popularize public participation and petitions; and

(j) ensure that persons or categories of persons previously disadvantaged by unfair discrimination enjoy full participation in the process of provincial government.

Rights of a Petitioner

4. Subject to compliance with the Act, a petitioner has the right -

- (a) to submit a petition in accordance with the First Schedule to the Act;
 - (b) to submit a petition in any of the eleven official languages recognized in section 6(1) of the Constitution;
 - (c) to be assisted by the administrative support services in submitting a petition;
 - (d) at any time before the Committee concludes its consideration of the petition -
 - (i) to submit new information to the Committee in respect of the subject matter of the petition;
 - (ii) to submit a written rebuttal against any statement, opinion or recommendation expressed by any person or body in respect of that petition;
 - (iii) to inform the Committee if any person or body has, subsequent to the submission of the petition, addressed the matter in respect of which the petition was submitted; and
 - (iv) to submit a request to the Committee to obtain any information or hear any evidence or oral submission in respect of the subject matter of the petition, which information or evidence must be included in the petition file;
 - (e) to be notified by the Committee within four weeks of the tabling of the petition submitted by him or her of -
 - (i) the file number of the petition file assigned to that petition;
 - (ii) the manner in which a petition is being dealt with; and
 - (iii) the reasons why the petition is being dealt with in that manner;
 - (f) to have his or her petition considered by the Committee, unless the petition is subject to a disqualification contemplated in the Act or these regulations;
 - (g) to be given written reasons if the Committee refuses to consider a petition;
 - (h) to attend any Committee meeting where his or her petition is considered, unless the Chairperson determines otherwise and has in writing prior to the meeting informed the petitioner of that determination and the reasons therefor;
 - (i) to be advised in writing of the outcome of the consideration by the Committee of the petition;
 - (j) to be advised by the Committee, where appropriate, of other remedies available to him or her;
 - (k) to have access to the petition file at any reasonable time;
 - (l) to have his or her rights provided for in -
 - (i) the Constitution, especially his or her right to administrative justice; and
 - (ii) the Act and these regulations,
- respected by Parliament, the Speaker, the Committee and the administrative support service; and
- (m) to withdraw a petition.

Submission

5.(1) A petition must be submitted in accordance with the provisions of the Act.

(2) A petition must be delivered in person or by mail, whether by ordinary mail or by electronic transmission.

(3) The administrative support service must, on receipt of a petition, complete the form in Annexure "A" to these regulations, reflecting -

- (a) the name of the person who made the petition, or the name of the group or class of persons on whose behalf that person has made that petition;
- (b) the capacity contemplated in paragraphs (a), (b), (c) and (d) of the definition of "petitioner" in section 1 of the Act in which the petitioner is acting;
- (c) the contact details of the person making the petition;
- (d) the subject matter of the petition; and

- (e) any other matter which the Speaker or the Committee may require to be detailed.
- (4) The administrative support services must -
- (a) on receipt of a petition, ensure that the form in the annexure to these regulations is duly completed as detailed under sub-regulation (3) above;
 - (b) render assistance, excluding financial assistance, to any person who is unable to submit a petition complying with all the requirements imposed by the Act and these regulations; and
 - (c) determine whether the petition complies with the requirements of the Act and these regulations in order to be considered by the Committee, and enter an opinion in this regard in the petition file.

Registration of Petition

6.(1) The administrative support service must—

- (a) register a petition by entering the details thereof in an official Petitions Register;
- (b) open a “petition file” which must contain the information detailed under regulation 7;
- (c) assign a file number to the petition file contemplated in paragraph (b); and
- (d) within seven working days after delivery of a petition in terms of regulation 5 which has been registered as a petition in terms of paragraph (a), inform the person who made the petition of the registration of the petition and the file number assigned to that petition.

(2) The Speaker may at any time direct the administrative support service to inform any other person or body in writing of the petition.

The Petition File

7.(1) The petition file contemplated in regulation 6(1) must contain —

- (a) a duly completed petition in the format of the First Schedule to the Act;
- (b) a duly completed form contemplated in regulation 5(3);
- (c) the preliminary investigation into the statement of complaint;
- (d) any opinion held or recommendation made by the administrative support service in respect of the petition;
- (e) any opinion or comment on the matter furnished by a legal adviser contemplated in regulation 8(1)(f);
- (f) the steps taken by the administrative support services in accordance with regulation 8; and
- (g) the name of any person or body who was requested to provide information in respect of or comment on the petition as contemplated in regulation 8(2) and who or which failed or refused to do so and, if available, their reasons for failing or refusing to do so.

(2) The administrative support service must retain a full and legible copy of the petition file.

Preliminary investigation of Petition

8.(1) The administrative support service must, after registration of a petition and the opening of a petition file as contemplated in regulation 6(1)(b), conduct a preliminary investigation in respect of that petition and -

(a) if applicable, obtain all information or documents on policy held by the national executive or any other relevant official body on the petition;

(b) obtain all information or documents on policy held by the executive authority of the province on the petition;

(c) endeavour to obtain the official comment of the Department which is responsible for a function of the executive of the province which is relevant to the petition;

(d) if applicable, obtain all information or documents on policy held by a municipal council of a local government which is responsible for a function within its jurisdiction which is relevant to on the petition;

(e) if necessary, cause the petition and any other relevant information or document to be translated; and

(f) if the petition pertains to -

- (i) a question of law;
- (ii) the interpretation of legislation;
- (iii) a legislative proposal; or
- (iv) a Bill tabled in Parliament,

require a Legal Advisor of Parliament or the executive authority of the province to render advice or express an opinion on that matter.

(2) The administrative support service or the Legal Advisor contemplated in paragraph (f) of sub-regulation (1) may request any person or body other than contemplated in sub-regulation (1) to comment on or provide information held by him, her or it in respect of the statement or complaint which may reasonably be required to complete the preliminary investigation into the petition.

(3) The administrative support service must, if it has in terms of -

- (a) paragraphs (a), (b), (c) or (d) of sub-regulation (1), or sub-regulation (2), requested information, documents on policy or official comment;
- (b) paragraph (e), requested a translation of the petition and other information; or
- (c) paragraph (f), requested legal advice or a legal opinion,

request the Department, body, municipal council, local government, translator or Legal Advisor concerned, as the case may be, to provide that information, documents on policy or official comment within 14 working days after receipt of that request.

(4) The administrative support service must conduct its preliminary investigation without favour or prejudice to the petitioner or the petition and in accordance with any code of conduct applicable to an employee of Parliament.

(5) The administrative support service must, within 30 working days of registration of a petition, submit the petition file to the Speaker for actioning under section 10 of the Act.

Declaration of Personal Interest and Referral

9.(1) (a) In the event that the Speaker has a personal interest in the petition-

- (i) he or she must make a written declaration to such effect, addressed to the Chairperson of the Committee and the administrative support service; and
- (ii) the Deputy Speaker must undertake any function or duty imposed upon the Speaker by the Act or these regulations.

(b) The administrative support service must place a copy of the declaration under paragraph (a) in the petition file.

(2) The Speaker must, upon receipt of the petition file, examine the file and -

- (a) may refer the file back to the administrative support service with instructions he or she may deem appropriate, including an instruction in respect of the period of time within which the administrative support service must comply with his or her instructions; or
- (b) pursuant to section 10 of the Act, submit the petition to the Committee and / or make a determination regarding approval for the tabling of the petition in the House.

Committee

10.(1) Within 3 months from the date of submission of the petition, the Committee must consider and deal with the petition referred to it by the Speaker in accordance with the Act, these regulations and the Standing Rules.

(2) The Committee, in addition to its functions provided for in the Act and the Standing Rules, may -

- (a) issue directions to the administrative support service in respect of the further investigation of a particular petition; and
- (b) instruct the administrative support service to inform the petitioner in writing of interim developments in respect of the consideration and resolution of a particular petition.

(3) The Committee must, after concluding its consideration of the petition, include the details thereof in its report to Parliament contemplated in section 13(8)(b) of the Act.

Closure and Submission of Petition after Decision by the House

11.(1) The Secretary must, after final Resolution by the House, notify the petitioner and, if necessary, any other person or body in writing of the outcome of the petition, and reasons therefore, within seven days of the decision of the House.

(2) The administrative support service must, after final Resolution by the House and compliance with sub-regulation (1), -

- (a) close the petition file; and
- (b) archive the petition file in accordance with any applicable law pertaining to the archiving of documents.

Right of Appeal

12.(1) A petitioner may appeal against -

- (a) a refusal by the Speaker or Committee to table a petition in the House under section 10 of the Act;
- (b) a determination by the Chairperson to consider the petition submitted by that petitioner behind closed doors under section 14(2) of the Act; or
- (c) any recommendation, referral to another person or body or other decision of the Committee after consideration of the petition submitted by him or her.

(2) (a) A petitioner who intends to exercise his or her right of appeal must, within 21 working days of receipt of written notification of any matter contemplated in sub-regulation (1), submit a document recording his or her appeal and to be known as the "appeal document".

(b) The document contemplated in paragraph (a) must be submitted in the same manner as a petition, as provided for in the Act and these regulations.

(c) A petitioner may at any time withdraw an appeal, by written notice.

(d) The administrative support service must, upon request, render reasonable assistance to a petitioner in the lodging of an appeal.

- (3) The appeal document must, with reference to -
- (a) the process of the consideration of the petition by the Committee; or
 - (b) the written reasons furnished by the Committee or the chairperson of the Committee for its, his or her decision,
- set out -
- (i) the reasons for the appeal;
 - (ii) the matters in respect of which the Committee or the chairperson erred; and
 - (iii) the decision, recommendation or conclusion the Committee should, in the opinion of the petitioner, have made or arrived at.
- (4) The appeal document may not contain information which, before the conclusion of the consideration of the petition by the Committee, was not included in the petition file.
- (5) The administrative support service must forthwith upon receipt of the appeal document -
- (a) in writing acknowledge receipt of the appeal document;
 - (b) enter the details of the appeal document in the Petitions Register;
 - (c) include the appeal document in the petition file;
 - (d) in writing, notify the Committee and any person or body who has in any way been involved with the petition, of the appeal and provide the Committee or that person or body with a copy of the appeal document; and
 - (e) refer the appeal document and the petition file to the Speaker.
- (6) Subject to sub-regulation (7), the Speaker must, within 15 working days of receipt of the appeal document and the petition file, consider the appeal and may thereafter -
- (a) dismiss the appeal;
 - (b) table the appeal document and refer it to the Committee for re-consideration;
 - (c) refer the appeal document and the petition file with a recommendation to-
 - (i) Parliament;
 - (ii) a Standing Committee of Parliament;
 - (iii) the Premier or a member of the Cabinet of the province;
 - (iv) the municipal council of a local government; or
 - (v) an institution supporting constitutional democracy contemplated in Chapter 5 of the Constitution; or
 - (d) make any other determination which he or she is competent in law to make in respect of the petition.
- (7) (a) In the event that the Speaker has made a declaration of personal interest in the petition under regulation 9(1), the Deputy Speaker must conduct the appeal process.
- (b) The person or body taking a final decision on the appeal must provide written reasons for such decision.
- (8) The administrative support service must -
- (a) upon instructions from the Speaker or the Committee, from time to time inform the person who lodged the appeal of the status of, or progress in respect of, the appeal; and
 - (b) within 15 working days after the final decision in respect of the appeal, in writing advise the person who lodged the appeal of the outcome of the appeal, together with reasons.

Parliament not in Session

13.(1) The -

(a) provisions of the Act, the Standing Rules or these regulations; and
(b) duties and obligations placed on a person or body, including the Committee or a Member, in terms of the Act, the Standing Rules or these regulations, are not suspended in respect of a petition solely because Parliament is in recess, at the end of a legislative term or for whatever other reason not sitting.

(2) A petition submitted before Parliament goes on recess or is at the end of a legislative term must be dealt with in accordance with the Act, the Standing Rules and these regulations as if Parliament were still sitting.

(3) If -

(a) the term of office of Parliament expires;
(b) Parliament is dissolved in terms of section 109 of the Constitution; or
(c) the Premier has called an election for Parliament,
and the Committee has not yet finalized its consideration of the petition, the Committee must immediately cease its consideration of the petition and refer the petition to the Speaker, who must instruct the administrative support service to hold over the petition until a new Parliament has been elected and has met for its first sitting contemplated in section 110(1) of the Constitution.

(4) If the administrative support service is investigating a petition in a period during which Parliament has not yet been elected, it must hold the petition over until a new Parliament has been elected and has met for the first sitting contemplated in section 110(1) of the Constitution.

(5) The administrative support service must in writing inform a petitioner if a situation contemplated in this regulation arises.

Conflict of Interest

14.(1) Any member of the Committee or member of staff of the administrative support service must, if he or she has a direct pecuniary interest in any petition, in respect of any petitioner, or in the outcome of a petition, immediately upon becoming aware of that interest -

(a) in writing notify the Speaker and the Committee of that interest and the details thereof; and
(b) cause a copy of that notification under paragraph (a) to be lodged in the petition file.

(2) Sub-regulation (1) does not in any way derogate from the provisions of -

(a) the Powers, Privileges and Immunities of Parliament and the Provincial Legislatures Act, 2004 (Act No. 4 of 2004); or
(b) any code of ethics or code of conduct applicable to any member of the Committee or member of staff of the administrative support service.

Short title

15. These regulations are called the KwaZulu-Natal Petitions Regulations, 2006.

Annexure A
KwaZulu-Natal Parliament
Petition in terms of section 6 of the
KwaZulu-Natal Petitions Act, 2003 (KZN Act No. 4 of 2003)

Full names of petitioner

If applicable, name of person or group on whose behalf the petitioner is acting

Address of petitioner

ID number of petitioner

Registration number of petitioner {if a legal person}

Contact telephone number of petitioner

Fax number of petitioner

E-mail address of petitioner

Summary of Petition {a brief description of the subject matter as detailed in the format of the First Schedule to the Act}

Number of pages appended to this document containing the petition

Titles and number of pages of annexures to petition

Description of any evidence not in paper form submitted with this petition

Date

Place

KWAZULU-NATAL WETGEWER**KWAZULU-NATAL WET OP PETISIES, 2003 (WET NO. 4 VAN 2003):
KENNISGEWING VAN REGSTELLING**

Kennisgewing geskied hiermee dat die korrekte weergawe van die KwaZulu-Natal Wet op Petisies, 2003 (Wet No. 4 van 2003), soos deur die KwaZulu-Natal Wetgewer bepaal en deur die Premier op 5 Desember 2003 goedgekeur, hiermee gepubliseer word.

**KWAZULU-NATAL WET OP PETISIES, 2003
(Wet No. 4 van 2003)
Goedgekeur op 2003-12-05****WET**

Om voorsiening te maak vir die reg om 'n petisie by die Parlement van KwaZulu-Natal in te dien; om die prosedure te vestig wat gevolg moet word by die indiening van 'n petisie by die Parlement; om voorsiening te maak vir die funksies van die vaste komitee van die Parlement oor private lede se wetgewende voorstelle, pensioene en petisies; om die algemene beginsels en prosedures vir openbare deelname aan die regeringsproses in die provinsie te bepaal; en om vir aanverwante aangeleenthede voorsiening te maak.

DAAR WORD soos volg deur die Parlement van die provinsie KwaZulu-Natal bepaal:-

1. Omskrywings

In hierdie Wet beteken -

"Grondwet" die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996);

"Kabinet" die uitvoerende raad van die provinsie KwaZulu-Natal soos bedoel in artikel 132 van die Grondwet;

"komitee" die vaste komitee van die Parlement vir private lede se wetgewende voorstelle, pensioene en petisies;

"lid" 'n lid van die Parlement van KwaZulu-Natal wat ingevolge artikel 105 en 106 van die Grondwet verkies is om 'n lid te wees;

"Parlement" die Provinsiale Wetgewer van KwaZulu-Natal soos bedoel in artikel 104 van die Grondwet;

"petisie" 'n klagte, versoek, verhoog of voorlegging wat 'n petitioner aan die komitee rig en kan die vorm aanneem van -

(a) 'n enkele petisie wat 'n individuele voorlegging van een petitioner is betreffende 'n bepaalde klagte of versoek;

(b) 'n gesamentlike petisie wat 'n versameling is van handtekeninge van 'n aantal petisionarisse betreffende 'n bepaalde klagte of versoek;

(c) 'n groeppetisie saamgestel uit individuele of groepvoorleggings van 'n aantal petisionarisse betreffende dieselfde of wesenlik soortgelyke klagtes of versoeke; of

(d) 'n assosiasie-petisie wat 'n individuele voorlegging van 'n vereniging of 'n individu is aan wie 'n mandaat verleen is deur 'n vereniging, betreffende 'n bepaalde klagte of versoek;

"petitionaris" 'n persoon wat 'n petisie aan die komitee gerig het en sluit 'n natuurlike of regspersoon in wat optree -

(a) in sy of haar eie belang;

(b) in die belang van 'n ander persoon of liggaam wat nie by magte is om verligting in sy of haar eie naam te soek nie;

(c) as 'n lid van of in die belang van 'n groep of klas persone; of

(d) in die openbare belang,

en sluit 'n vereniging in wat in die belang van sy lede optree;

"plaaslike regering" die plaaslike regeringsfeer in die provinsie soos bedoel in artikel 151 en 155 van die Grondwet;

"provinsie" die provinsie KwaZulu-Natal gevestig ingevolge artikel 103 van die Grondwet;

"Reglement van Orde" die vaste reëls en orders opgestel vir die verrigting van die sake van die Parlement van KwaZulu-Natal ingevolge artikel 116 van die Grondwet;

"sekretaris" die Sekretaris van die Provinsiale Parlement van KwaZulu-Natal;

"Speaker" die Speaker van die Parlement verkies ingevolge artikel 111 van die Grondwet; en

"voorsitter" die voorsitter van die komitee.

2. Algemene beginsels van die Wet

(1) Die komitee moet -

(a) behoudens subartikel (3) toepaslike stappe doen om deelname deur die publiek, en veral gemeenskappe wat voorheen polities, maatskaplik en ekonomies uitgesluit was, aan die regeringsproses in die provinsie en veral aan die wetgewende en ander prosesse van die Parlement, aan te moedig en te fasiliteer;

(b) demokrasie bevorder deur die maksimum toerekenbaarheid en deursigtigheid uit te oefen;

(c) petisies van 'n petisionaris ontvang; en

(d) die regte van petisionarisse respekteer.

(2) 'n Reg wat by hierdie Wet verleen word, moet uitgeoefen word op 'n wyse wat redelik en regverdigbaar is.

(3) Die komitee moet alle redelike stappe, binne sy beskikbare bronne, doen om die progressiewe verwesenliking van die regte van openbare deelname, soos in subartikel (1) uiteengesit, te bereik.

3. Samestelling van komitee

Die komitee bestaan uit lede soos van tyd tot tyd deur die Reglement van Orde bepaal.

4. Reg om petisie in te dien

(1) Behoudens die bepalings van hierdie Wet en enige ander wet, besit 'n petisionaris die reg om 'n petisie aan die komitee te rig.

(2) 'n Petisionaris kan slegs 'n petisie aan die Parlement rig ingevolge waarvan die wysiging van provinsiale wetgewing versoek word kragtens artikel 7(2)(a) of die heroorweging van 'n algemene of administratiewe besluit kragtens artikel 7(2)(b), nadat die petisionaris alle ander administratiewe weë vir verligting uitgeput het.

(3) 'n Petisionaris kan 'n petisie aan die Parlement rig ingevolge waarvan enige ander vorm van verligting, soos in artikel 7 beoog, versoek word.

(4) Die administratiewe ondersteuningsdiens bedoel in artikel 15 moet bystand aan 'n voornemende petisionaris verleen wat 'n petisie aan die komitee wil rig, met inbegrip van, maar nie beperk nie, tot -

(a) die versekering van die nakoming van die formaat van die petisie kragtens artikel 6; en

(b) die regstelling van 'n petisie kragtens artikel 16(1)(c)(i).

5. Jurisdiksie van komitee

(1) Die Speaker of enige ander persoon wat deur hom of haar daartoe gemagtig word, moet 'n petisie ontvang.

(2) Die Speaker moet 'n petisie ingevolge hierdie Wet na die komitee verwys.

(3) Die komitee moet elke petisie wat ingevolge hierdie Wet na hom verwys word, oorweeg.

6. Formaat van petisie

'n Petisie moet in die formaat wees wat in die eerste bylae uiteengesit word.

7. Inhoud van petisie en verligting versoek

(1) 'n Petisionaris moet 'n vorm van verligting versoek wat -

(a) grondwetlik is; en

(b) binne die provinsiale wetgewende bevoegdheid ressorteer. Dit beteken dat die onderwerp van die petisie binne óf 'n funksionele gebied van konkurrente nasionale en provinsiale wetgewende bevoegdheid kragtens bylae 4 by die Grondwet, óf binne 'n funksionele gebied van eksklusiewe provinsiale wetgewende bevoegdheid kragtens bylae 5 by die Grondwet moet ressorteer.

(2) 'n Petisionaris kan -

- (a) die wysiging van provinsiale wetgewing, hangende of verorden, versoek;
- (b) die heroorweging van 'n algemene of administratiewe besluit wat die petitioneris raak, versoek;
- (c) versoek dat stappe gedoen word om verligting vir die petitioneris te verkry; en/of
- (d) enige ander vorm van verligting versoek wat deur die Speaker, handelende ooreenkomstig die goedkeuringsprosedure bepaal kragtens artikel 10, geag word redelik te wees.

8. Ondertekening van petisies

- (1) Behoudens subartikel (2) en (3) moet 'n petisie deur elke petitioneris onderteken word.
- (2) Die Speaker kan afstand doen van die nakoming van subartikel (1) indien hy of sy sodanige afstanddoening nodig en redelik ag.
- (3) Indien 'n petitioneris nie sy of haar naam kan teken nie, kan hy of sy 'n merk op die petisie aanbring, en twee ander persone moet albei hulle handtekeninge as getuie langs die merk aanbring.

9. Taal van petisies

- (1) 'n Petisie kan in enige van die elf amptelike tale wat in artikel 6(1) van die Grondwet erken word, ingedien word.
- (2) Na indiening moet die Speaker verseker dat -
 - (a) die petisie binne twee weke in Afrikaans, Engels en isiZulu vertaal word; en
 - (b) elke vertaling deur 'n beëdigde vertaler as 'n ware en korrekte vertaling van die oorspronklike petisie gewaarmerk word.

10. Goedkeuring deur die Speaker of komitee om petisie ter tafel te lê

- (1) 'n Petisie moet vir minstens een werksdag by die Speaker ingedien word, waarna die Speaker moet verseker dat artikel 9(2) nagekom word.
- (2) Die Speaker moet onverwyld die vertaalde petisie aan die komitee voorlê deur elke komiteelid van 'n afskrif van die petisie en enige ondersteunende

dokumentasie te voorsien vir oorweging en verslag voordat dit in die Huis ter tafel gelê word.

- (3) Die Speaker of komitee mag nie 'n petisie wat in die Huis ter tafel gelê moet word, goedkeur -
- (a) wat verligting strydig met die Grondwet versoek nie;
- (b) wat verligting versoek wat die Parlement nie bevoeg is om te verleen ingevolge sy jurisdiksie, soos uiteengesit in artikel 104(1), saamgelees met bylae 4 en 5 tot die Grondwet nie;
- (c) wat poog om die verrigtinge of uitspraak van 'n bevoegde hof te hersien of om te keer nie;
- (d) wat poog om tussenbeide te tree in 'n saak wat *sub judice* is nie;
- (e) wat van 'n gevangene afkomstig is en met sy of haar saak verband hou nie;
- (f) wat 'n aangeleentheid behels wat voor 'n kommissie van ondersoek is, ingestel ingevolge die KwaZulu-Natal Wet op Kommissies, 1999 (KZN Wet No. 3 van 1999), en ander betrokke liggame nie; of
- (g) wat die wysiging van provinsiale wetgewing kragtens artikel 7(2)(a) of die heroorweging van 'n algemene of administratiewe besluit kragtens artikel 7(2)(b) versoek nie, indien die petitioner versuim het om alle ander administratiewe weë vir verligting uit te put.
- (4) Wanneer goedkeuring vir die tertafellegging van 'n petisie in die Huis deur die Speaker geweier word, moet die Speaker die aangeleentheid na die komitee vir heroorweging en finale besluit verwys.
- (5) Die komitee moet 'n verslag aan die Speaker voorsien waarin die tertafellegging van die petisie in die Huis, met redes, goedgekeur of afgekeur word.
- (6) Die Speaker moet 'n petisie wat nie deur hom of haar of die komitee vir tertafellegging in die Huis goedgekeur is nie, terug na die petitioner verwys, tesame met redes en 'n aanbeveling, waar toepaslik, dat die petitioner die petisie by die Nasionale Vergadering indien.

11. Tertafellegging

- (1) Onderworpe aan sy of haar oortuiging dat die petisie aan hierdie Wet voldoen, moet die Speaker die petisie in die Huis ter tafel laat lê sodra dit redelik prakties uitvoerbaar is en na goedkeuring vir tertafellegging in die Huis deur die Speaker of die komitee.

(2) Geen debat mag in die Huis oor die tertafellegging van 'n petisie gevoer word nie.

(3) Nadat 'n petisie ter tafel gelê is, kan 'n kennisgewingsmosie betreffende die petisie voorgestel en bespreek word.

12. Mondelinge voorleggings

(1) Behoudens subartikel (2) moet 'n petitioner 'n petisie skriftelik, geskryf in die petitioner se verkose taal, by die Speaker of enige persoon wat deur hom of haar daartoe gemagtig is, indien.

(2) Die komitee kan 'n petitioner toelaat om 'n skriftelike petisie met mondelinge voorleggings aan te vul.

(3) Voordat die komitee 'n petisie oorweeg, moet hy mondelinge voorleggings bedoel in subartikel (2) opteken en op skrif plaas.

13. Bevoegdhede en funksies van die komitee

(1) Die komitee moet -

(a) 'n petisie wat ter tafel gelê is met die doel om die aangeleentheid te besleg, oorweeg; en

(b) waar van toepassing, 'n petitioner in kennis stel van ander toepaslike middele wat aan hom of haar beskikbaar is.

(2) Die komitee kan die petisie na 'n toepaslike portefeuljekomitee verwys, wat 'n verslag moet opstel waarin 'n mening oor die petisie verskyn, vir voorlegging aan die komitee binne vier weke na die verwysing.

(3) Die komitee kan enige toepaslike munisipale raad van 'n plaaslike regering in die provinsie, 'n instelling wat grondwetlike demokrasie ondersteun, vermeld in hoofstuk 9 van die Grondwet, organisasie, unie, liggaam of staatsdepartement nooi om -

(a) die petisie te oorweeg en binne vier weke na die datum van die verwysing 'n memorandum in te dien wat 'n mening en aanbevelings oor die petisie bevat; en/of

(b) 'n verteenwoordiger te stuur om 'n vergadering van die komitee by te woon ten einde bykomende inligting te verskaf.

- (4) Indien die komitee van mening is dat die gedrag van 'n persoon of liggaam na wie 'n petisie ingevolge hierdie artikel verwys is, onbevredigend is en dat die omstandighede sodanige optrede regverdig, kan die komitee 'n klagte by die Openbare Beskermer aanhangig maak of ander toepaslike stappe doen.
- (5) Behoudens die bepalings van hierdie Wet, kan die komitee, indien aldus versoek deur 'n petisionaris, deur middel van bemiddeling of onderhandeling 'n geskil bylê, 'n handeling omkeer of 'n versuim regstel.
- (6) Die komitee kan 'n aanbeveling aan 'n persoon of liggaam oor die basis van 'n petisie doen.
- (7) Die komitee kan sy oorweging van 'n petisie beëindig indien hy van oordeel is dat -
- (a) geen stappe of geen verdere stappe gedoen kan word om die aangeleentheid te skik nie; of
- (b) die aangeleentheid geskik is soos deur die petisionaris versoek.
- (8) Die komitee moet -
- (a) kwartaallikse verslae van verwysings, soos in subartikel (2) en (3) bedoel, by die Parlement indien; en
- (b) aan die Parlement verslag doen oor 'n petisie indien die komitee sy ondersoek afgehandel het en 'n aanbeveling gedoen het, tydens die volgende sitting wat onmiddellik op die komitee se finale besluit oor die petisie volg.
- (9) Behoudens die bepalings van hierdie Wet, kan die komitee, in oorlegpleging met die Speaker, sy verrigtinge reguleer en sy funksies verrig op 'n wyse wat hy goed dink.

14. Sitting van die komitee

- (1) Die komitee kan met die doel om getuienis te ontvang of vir bespreking, op 'n tyd en plek in die provinsie sitting hou soos deur die voorsitter bepaal.
- (2) Getuienis wat aan die komitee voorgelê word, moet in die openbaar aangehoor word, tensy dit redelik en regverdigbaar is om die publiek en die media in 'n oop en demokratiese gemeenskap daarvan uit te sluit.
- (3) Die voorsitter moet die petisionaris en alle belanghebbende partye en partye wat daardeur geraak word, minstens een week voor die datum van die vergadering skriftelike kennis van die datum, tyd en plek van 'n

komiteevergadering gee, waarin die betrokke petisie as 'n item op die agenda aangetoon word.

15. Administratiewe ondersteuningsdiens

Die sekretaris moet administratiewe ondersteuningspersoneel aan die komitee voorsien om hom in staat te stel om sy funksies en pligte te verrig.

16. Prosedures betreffende petisies

(1) Die administratiewe ondersteuningsdiens moet -

(a) elke petisie wat ontvang word, in 'n petisieregister aanteken;

(b) 'n lêer vir elke petisie open;

(c) ingevolge artikel 4(4) van hierdie Wet elke petisie wat vir oorweging deur die komitee ontvang word, voorberei wat die volgende kan insluit -

(i) regstelling, indien moontlik, van die petisie, in oorlegpleging met die petitioner, om te verseker dat 'n petisie aan die bepalings van hierdie Wet voldoen; en

(ii) die vertaling van 'n petisie;

(d) 'n volledige lys van uitstaande petisies wat aan die Parlement gerig is, opstel en dit aan elke vergadering van die komitee beskikbaar stel; en

(e) 'n petisie, voorberei kragtens paragraaf (c), aan die voorsitter gee, wat die petisie binne twee weke na die datum waarop die voorsitter die petisie ontvang het, by 'n vergadering van die komitee vir oorweging ter tafel moet lê.

(2) Die komitee moet 'n petitioner binne vier weke na die datum waarop 'n petisie ter tafel gelê is, in kennis stel van -

(a) die wyse waarop 'n petisie gehanteer word; en

(b) die redes waarom dit op daardie bepaalde wyse gehanteer word.

(3) Behoudens die reg van die komitee om voort te gaan met sy optrede in verband met die klagte of versoek indien die komitee die aangeleentheid in die openbare belang ag, kan 'n petitioner 'n petisie terugtrek.

(4) Na die afhandeling van sy oorweging van 'n petisie ingevolge artikel 13(7), moet die komitee die petisielêer en sy aanbeveling by die Speaker indien.

(5) Na die indiening van 'n petisie kragtens subartikel (4), moet die Speaker die inhoud van die lêer binne twee weke nagaan.

(6) 'n Lid is daarop geregtig om die lêer en die aanbeveling van die komitee na te gaan.

(7) Die Speaker kan -

(a) die lêer na die komitee vir heroorweging verwys; of

(b) die lêer na die komitee vir sluiting verwys,

en moet skriftelike redes vir sodanige optrede verstrek.

(8) 'n Lid kan teen die sluiting van die lêer beswaar aanteken en moet redes vir sy of haar beswaar verskaf.

(9) Die Speaker kan hierdie prosedure by wyse van regulasies aanvul.

17. Inhoud van komiteeverslag

Die komitee kan in sy verslag kragtens artikel 13(8)(b) by die Huis aanbeveel dat -

(a) daar gehoor gegee word aan die versoek in die petisie of dat 'n ander vorm van verligting toegestaan word;

(b) hy nie die versoek in die petisie kan ondersteun nie; of

(c) die petisie na die Nasionale Vergadering vir oorweging verwys word.

18. Besluit deur die Huis

(1) Die Parlement kan die komitee se aanbeveling oor die petisie bespreek.

(2) Na oorweging van die komitee se verslag en moontlike bespreking kragtens subartikel (1), kan die Huis kragtens besluit, besluit om -

(a) die komitee se aanbeveling, met of sonder wysiging, te aanvaar;

(b) die komitee se aanbeveling in sy geheel of gedeeltelik van die hand te wys;

(c) die komitee se aanbeveling of die petisie ingevolge artikel 104(5) van die Grondwet na die Nasionale Vergadering te verwys; of

(d) die aangeleentheid terug na die komitee vir verdere oorweging en verslag te verwys.

(3) Die sekretaris moet die petisionaris binne sewe dae na die besluit deur die Huis skriftelik van die besluit van die Huis in kennis stel met betrekking tot 'n bepaalde petisie en die redes daarvoor.

19. Oorweging van 'n afgehandelde petisie

'n Petisie ten opsigte van 'n aangeleentheid waaroor 'n besluit geneem is, mag nie deur die komitee heroorweeg word nie, tensy daardie petisie nuwe feite of tersaaklike getuienis aan die dag bring wat 'n heroorweging van die aangeleentheid regverdig.

20. Getuies

(1) 'n Petisionaris kan op sy of haar eie koste en slegs met die toestemming van die komitee getuienis ter ondersteuning van die petisie by 'n vergadering van die komitee lewer.

(2) Met die doel om hom te vergewis van 'n aangeleentheid betreffende die onderwerp van sy ondersoek, kan die komitee -

(a) 'n persoon inroep om 'n sitting van die komitee as 'n getuie by te woon ten einde getuienis te lewer of enige boek, dokument of voorwerp wat deur die komitee benodig word, voor te lê; of

(b) 'n persoon as 'n getuie dagvaar om 'n sitting van die komitee as 'n getuie by te woon ten einde getuienis te lewer of enige boek, dokument of voorwerp aan die komitee voor te lê op die tyd en plek wat in die getuiedagvaarding vermeld word.

(3) 'n Getuiedagvaarding bedoel in subartikel (2)(b) moet deur die voorsitter onderteken en uitgereik word en aan die persoon wat as 'n getuie gedagvaar is, per aangetekende pos beteken word, of afgelewer word deur 'n persoon wat daartoe deur die voorsitter gemagtig is, of deur middel van enige metode wat die Speaker in die vorm van regulasies bepaal.

(4) 'n Getuie moet voordat hy of sy getuienis lewer, 'n eed of 'n plegtige verklaring voor die voorsitter, 'n lid of 'n werknemer van die komitee, wat deur die voorsitter aangewys word, aflê.

(5) Die sekretaris van die Parlement moet aan 'n persoon, behalwe 'n werknemer van 'n provinsiale departement, wat as getuie gedagvaar is om 'n sitting van die komitee as 'n getuie by te woon of wat getuienis voor die komitee

afgelê het, die bedrag betaal vir reis- en bywoningstyd en vir vervoerokoste wat werklik aangegaan is en waarop sodanige persoon geregtig sou gewees het as 'n getuie in 'n landdroshof.

21. Misdrywe

(1) Iemand wat behoorlik ingevolge artikel 20(2)(b) en (3) as 'n getuie gedagvaar is en sonder voldoende rede -

(a) versuim om 'n vergadering van die komitee by te woon op die tyd en plek wat in die getuiedagvaarding vermeld word; of

(b) versuim om aanwesig te bly op 'n vergadering van die komitee tot die afhandeling van die ondersoek voor die komitee of totdat hy of sy deur die voorsitter van verdere deelname verskoon word,

begaan 'n misdryf.

(2) Iemand wat kragtens artikel 20(2)(a) of (b) as 'n getuie gedagvaar is en sonder voldoende rede -

(a) weier om as 'n getuie beëdig te word of om 'n plegtige verklaring af te lê nadat hy of sy deur die voorsitter versoek is om aldus te doen;

(b) nadat hy of sy beëdig is of 'n plegtige verklaring afgelê het, versuim om volledig of bevredigend 'n vraag wat wettiglik aan hom of haar gestel word, te beantwoord;

(c) nadat hy of sy beëdig is of 'n plegtige verklaring afgelê het, valse getuienis voor die komitee oor 'n aangeleentheid aflê, wetende dat die getuienis vals is of nie glo dat dit waar is nie; of

(d) versuim om 'n boek, dokument of voorwerp wat in sy of haar besit of bewaring is of onder sy of haar beheer is, om wat hy of sy aangesê is om voor te lê, voor te lê,

begaan 'n misdryf.

(3) Iemand wat -

(a) 'n getuie dreig, dwarsboom of onbehoorlik beïnvloed om getuienis te weerhou of om valse getuienis voor die komitee af te lê;

(b) 'n getuie dreig, dwarsboom of onbehoorlik beïnvloed betreffende die voorlegging van 'n geskrif, boek, rekord of dokument aan die komitee;



- (c) met die bedoeling om die komitee te mislei, 'n valse, onware, versinde of vervalste geskrif, boek, rekord of dokument aan die komitee voorlê;
 - (d) 'n boek, dokument of voorwerp wat na sy of haar wete die komitee van hulp kan wees in enige aangeleentheid betreffende die onderwerp van sy ondersoek, vernietig of verberg; of
 - (e) opsetlik inligting aan die komitee verstrek of 'n verklaring voor hom aflê wat vals of misleidend is,
- begaan 'n misdryf.

22. Strawwe

Iemand wat skuldig bevind word aan 'n misdryf ingevolge artikel 21, is strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens 12 maande of met sowel 'n boete as gevangenisstraf.

23. Behoud van boeke, dokumente of voorwerpe deur die komitee

Die komitee kan vir 'n redelike tydperk na 'n vergadering 'n boek, dokument of voorwerp, wat hy versoek het of 'n persoon wat h y gedagvaar het om ingevolge artikel 20(2)(a) of (b) voor te lê, behou.

24. Delegasie van bevoegdhede deur komitee

- (1) Die komitee kan sy bevoegdhede aan 'n subkomitee van die komitee ingevolge die Reglement van Orde van die Parlement deleger.
- (2) By die voltooiing van sy mandaat, moet die subkomitee sy bevindinge skriftelik aan die komitee rapporteer.
- (3) Niks verhoed die komitee om die bevoegdhede wat aan 'n subkomitee ingevolge subartikel (1) gedelegeer is, uit te oefen nie.

25. Aanspreeklikheid teenoor Parlement

- (1) Die komitee moet 'n kwartaalverslag oor elke petisie wat hy bereg het, aan die Parlement vir oorweging opstel.
- (2) Die komitee moet 'n skriftelike jaarverslag oor sy aktiwiteite opstel en aan die Parlement voorlê.
- (3) Die skriftelike jaarverslag van die komitee moet voorsiening maak vir 'n evaluering van die responsiwiteit, doeltreffendheid en tydigheid waarmee petisies volgens die prosedure bepaal ingevolge artikel 13(3) gehanteer is, besleg is.

(4) 'n Bespreking van 'n aangeleentheid wat in 'n verslag van die komitee aan die Parlement geopper is, moet plaasvind indien meer as vyf lede aldus versoek.

(5) Die Parlement kan 'n aangeleentheid wat uit 'n verslag van die komitee voortspruit, terug na die komitee vir heroorweging verwys.

26. Regulasies

Die Speaker moet, na oorlegpleging met die komitee, regulasies wat nodig is vir die uitvoering van die bepalings van hierdie Wet, uitvaardig.

27. Kort titel en inwerkingtreding

(1) Hierdie Wet heet die KwaZulu-Natal Wet op Petisies, 2003.

(2) Hierdie Wet tree in werking op 'n datum wat die Speaker by proklamasie in die *Provinsiale Koerant* bepaal.

EERSTE BYLAE**VORM VAN PETISIE VOORGESKRYF DEUR DIE REGLEMENT VAN ORDE
VAN DIE PARLEMENT VAN KWAZULU-NATAL****PETISIE**

.....
Handtekening van lid wat die petisie indien

Aan die agbare Speaker en lede van die Parlement van KwaZulu-Natal:-

Die petisie van die ondergetekende

*[Verstrek die naam van die petitioneris/se of 'n beskrywing van die groep
petitionarisse en woonplek of besigheidsplek]*

versoek met eerbied dat

*[Gee 'n uiteensetting van die feite en vertoë waarop die aandag van die Huis
gevestig moet word en besonderhede van die verligting wat versoek word]*

Die petitioneris/se versoek dat die Huis sy, haar of hulle voorleggings gunstig
oorweeg en die verligting wat die Huis goed vind, toestaan.

[Handtekening of beëdigde merk van elke petitioneris]

KWAZULU-NATAL WETGEWER**KWAZULU-NATAL WET OP PETISIES, 2003 (WET NO. 4 VAN 2003):
INWERKINGTREDING VAN WET**

Die Speaker van die KwaZulu-Natal Wetgewer het kragtens artikel 27(2) van die KwaZulu-Natal Wet op Petisies, 2003 (Wet No. 4 van 2003), bepaal dat die publikasiedatum van hierdie kennisgewing ook die datum is waarop die Wet in werking tree.

T.W. MCHUNU
SPEAKER VAN DIE KWAZULU-NATAL WETGEWER

KWAZULU-NATAL WETGEWER**KWAZULU-NATAL WET OP PETISIES, 2003 (WET NO. 4 VAN 2003):
AFKONDIGING VAN REGULASIES**

Die Speaker van die KwaZulu-Natal Wetgewer het, ooreenkomstig artikel 26 van die KwaZulu-Natal Wet op Petisies, 2003 (Wet No. 4 van 2003), die volgende regulasies gemaak wat in die Bylae vervat word.

**TW MCHUNU
SPEAKER VAN DIE KWAZULU-NATAL WETGEWER**

BYLAE**KWAZULU-NATAL WET OP PETISIES, 2003 (KZN Wet No. 4 van 2003)****REGULASIES RAKENDE
DIE INDIEN EN OORWEGING VAN PETISIES**

Die Speaker van die KwaZulu-Natal Parlement het ooreenkomstig artikel 26 van die **KwaZulu-Natal Wet op Petisies, 2003 (KZN Wet No. 4 van 2003)**, die volgende regulasies gemaak wat in die Bylae vervat word.

BYLAE**RANGSKIKKING VAN REGULASIES**

1. Omskrywings
2. Toepassing van Regulasies
3. Komitee se verantwoordelikhede
4. Regte van Petisionaris

5. Indiening
6. Registrasie van Petisie
7. Die Petisielêër
8. Voorlopige ondersoek na Petisie
9. Verklaring oor Persoonlike Belange en Verwysing
10. Komitee
11. Sluitingsdatum en Indien van Petisie na Besluit deur die Huis
12. Reg tot Appél
13. Parlement nie in Sitting nie
14. Botsende Belange
15. Kort title

Aanhangsel A

Omskrywings

1. In hierdie regulasies, tensy die konteks andersins aandui, het enige woord of uitdrukking wat in die **KwaZulu-Natal Wet op Petisies, 2003 (KZN Wet No. 4 van 2003)** omskryf word, daardie betekenis, en –

“**administratiewe ondersteuningsdiens**” die administratiewe ondersteuning soos bedoel in artikel 15;

“**appél**” ‘n appél ingevolge regulasie 12;

“**die Wet**” die **KwaZulu-Natal Wet op Petisies, 2003 (KZN Wet No. 4 van 2003)**.

“**klagteverklaring**” die inhoud van ‘n petisie en enige inligting wat deur die petitioner verskaf word;

“**petisielêër**” die lêër soos bedoel in regulasies 6(1)(b) en 7; en

“**petisieregister**” die register soos bedoel in regulasie 6(1)(a);

Toepassing van Regulasies

2. Hierdie regulasies is van toepassing op enige petisie wat ingevolge die Wet ingedien word.

Komitee se Verantwoordelikhede

3. Die Komitee moet van tyd tot tyd redelike stappe doen om –

(a) die Provinsie se burgers aangaande hul regte ingevolge die Wet in te lig;

(b) die Provinsie se burgers oor die fisiese adres, posadres, elektroniese adres of faksnummer waarheen ‘n petisie gestuur mag word, in te lig;

(c) maksimum toerekenbaarheid en deursigtigheid tydens die oorweging van ‘n petisie te beoefen;

(d) waar toepaslik, of indien aldus deur ‘n petitioner versoek, ‘n geskil te besleg, ‘n handeling om te keer of ‘n versuim reg te stel deur middel van bemiddeling of onderhandeling;

(e) waar toepaslik, ‘n klagte by die Openbare Beskermer ingevolge die Wet op die Openbare Beskermer, 1994 (Wet No. 23 van 1994) in te dien, indien die optrede van ‘n persoon of liggaam na wie ‘n petisie verwys is, onbevredigend is;

(f) ‘n oorsigtelike rol met betrekking tot die administratiewe ondersteuningsdiens te speel;

(g) oor die algemeen rigting aan die administratiewe ondersteuningsdiens te gee met betrekking tot voorlopige ondersoeke;

- (h) die administratiewe ondersteuningsdiens aan te sê om terugvoering te gee oor die doeltreffendheid van die prosesse rakende openbare deelname en petisies;
- (i) die administratiewe ondersteuningsdiens aan te sê om programme te organiseer en te bestuur wat daarop gemik is om openbare deelname en petisies te bevorder, te adverteer of aan te moedig; en
- (j) te verseker dat persone of kategorieë van persone wat voorheen deur onregverdigde diskriminasie benadeel is, volle deelname aan die provinsiale regeringsproses geniet.

Regte van Petisionaris

4. Behoudens die bepalings van die Wet, is 'n petisionaris daarop geregtig –
- (a) om 'n petisie ingevolge die Eerste Bylae van die Wet in te dien;
 - (b) 'n petisie in enige van die elf amptelike tale wat in artikel 6(1) van die Grondwet erken word, in te dien;
 - (c) om administratiewe ondersteuningsdiens met die indien van 'n petisie te ontvang;
 - (d) om enige tyd voordat die Komitee sy oorweging van die petisie finaliseer -
 - (i) nuwe inligting rakende die inhoud van die petisie aan die Komitee voor te lê;
 - (ii) om 'n skriftelike weerlegging teen enige stelling, mening of aanbeveling voor te lê wat deur enige persoon of liggaam ten opsigte van daardie petisie geuiter is;
 - (iii) om die Komitee in te lig indien enige persoon of liggaam, die aangeleentheid ten opsigte waarvan die petisie voorgelê is, aangespreek het nadat die petisie ingedien is, en
 - (iv) om die Komitee te versoek om enige inligting te bekom of enige getuienis of mondelinge voorlegging aan te hoor ten opsigte van die petisie se inhoud, welke inligting by die petisielêer ingesluit moet word;
 - (e) om binne vier weke na die tertaaflegging van die petisie wat deur hom of haar ingedien is, deur die Komitee ingelig te word aangaande –
 - (i) die lêernommer van die petisielêer wat aan sodanige petisie toegewys is;
 - (ii) die wyse waarop met 'n petisie gehandel word; en
 - (iii) die redes waarom daar met die petisie op sodanige wyse gehandel word;
 - (f) om sy of haar petisie deur die Komitee te laat oorweeg, mits die petisie aan 'n diskwalifikasie onderworpe soos deur die Wet of hierdie regulasies bedoel word;
 - (g) om skriftelike redes te ontvang indien die Komitee weier om 'n petisie te oorweeg;
 - (h) om enige vergadering waartydens sy of haar petisie oorweeg word, by te woon, mits die Voorsitter andersins bepaal en die petisionaris, voor die vergadering plaasvind, skriftelik in kennis stel van sodanige bepaling, tesame met die redes daarvoor;
 - (i) om skriftelik in kennis gestel te word van die uiteinde van die Komitee se oorweging van die petisie;
 - (j) om, waar toepaslik, deur die Komitee in kennis gestel te word van ander toepaslike middel wat aan hom of haar beskikbaar is;
 - (k) om op enige redelike tydstip toegang tot die petisielêer te hê;
 - (l) om sy of haar regte vervat te hê in-
 - (i) die Grondwet, in besonder sy of haar reg tot administratiewe geregtigheid; en
 - (ii) die Wet en hierdie Regulasies,
 gerespekteer deur die Parlement, die Speaker, die Komitee en die administratiewe ondersteuningsdiens; en
 - (m) om 'n petisie terug te trek.

Indiening

5. (1) 'n Petisie moet ooreenkomstig die bepalings van die Wet ingedien word.

(2) 'n Petisie moet persoonlik, deur die pos, hetsy gewone pos of deur middel van elektroniese oordrag, afgelewer word.

(3) Die administratiewe ondersteuningsdiens moet na die ontvangs van 'n petisie, die vorm in Aangangsel "A" van hierdie regulasies voltooi wat die volgende besonderhede moet bevat -

- (a) die naam van die persoon wat die petisie opgetrek het, of die naam van die groep of klas persone namens wie daardie persoon die petisie opgetrek het;
- (b) die hoedanigheid waarin die petitioneris optree, soos bedoel in paragrafe (a), (b), (c) en (d) in die omskrywing van "petitionaris" in artikel 1 van die Wet;
- (c) die kontakbesonderhede van die persoon wat die petisie opstel;
- (d) die inhoud van die petisie; en
- (e) enige ander aangeleentheid wat die Speaker of die Komiteeversoek om daarby ingesluit te word.

(4) Die administratiewe ondersteuningsdiens moet –

- (a) na die ontvangs van 'n petisie verseker dat die vorm in die aangangsel tot hierdie regulasies behoorlik voltooi word, soos in sub-regulasie (3) hierbo omskryf word;
- (b) hulp, uitsluitende finansiële hulp, aan enige persoon verleen wat nie by magte is om 'n petisie in te dien wat al die vereistes nakom wat deur die Wet en hierdie regulasies te laste gelê word nie; en
- (c) bepaal of die petisie die vereistes van die Wet en hierdie regulasies nakom alvorens dit deur die Komitee oorweeg word, en 'n mening in hierdie verband in die petisielêer aanteken.

Registrasie van Petisie

6. (1) Die administratiewe ondersteuningsdiens moet –

- (a) 'n petisie registreer deur die besonderhede daarvan in 'n amptelike Petisieregister aan te teken;
- (b) 'n "petisielêer" oopmaak wat die inligting moet bevat wat in regulasie 7 omskryf word;
- (c) 'n lêernommer aan die petisielêer toewys soos bedoel in paragraaf (b); en
- (d) binne sewe werksdae na die aflewering van 'n petisie ingevolge regulasie 5, wat as 'n petisie geregistreer is ingevolge paragraaf (a), die persoon wat die petisie opgetrek het, in kennis stel van die registrasie van die petisie en die lêernommer wat aan sodanige petisie toegewys is.

(2) Die Speaker mag te enige tyd die administratiewe ondersteuningsdiens versoek om enige ander persoon of liggaam skriftelik van die petisie in kennis te stel.

Die Petisielêer

7. (1) Die petisielêer, soos bedoel in regulasie 6(1), moet die volgende bevat –

- (a) 'n behoorlik voltooide petisie in die formaat van die Eerste Bylae van die Wet;
- (b) 'n behoorlik voltooide vorm, soos bedoel in regulasie 5(3);
- (c) die voorlopige ondersoek na die stelling of klagte;
- (d) enige mening wat gehuldig is of voorstel wat gemaak is deur die administratiewe ondersteuningsdiens ten opsigte van die petisie;
- (e) enige mening of kommentaar oor die aangeleentheid wat verskaf is deur 'n regsadviseur, soos bedoel in regulasie 8(1)(f);

- (f) die stappe wat deur die administratiewe ondersteuningsdiens ingevolge regulasie 8 gedoen is; en
- (g) die naam van enige persoon of liggaam wat versoek is om inligting te verskaf ten opsigte van of kommentaar oor die petisie, soos bedoel in regulasie 8(2), en wie of wat in gebreke gebly het om sodanige aksie uit te voer en, indien beskikbaar, die redes vir sodanige versuim.

(2) Die administratiewe ondersteuningsdiens moet 'n volledige en leesbare afskrif van die petisielêer hou.

Voorlopige ondersoek na Petisie

8. (1) Die administratiewe ondersteuningsdiens moet, na afloop van die registrasie van 'n petisie en die oopmaak van 'n petisielêer, soos bedoel in regulasie 6(1)(b), 'n voorlopige ondersoek na sodanige petisie instel en –

- (a) indien toepaslik, alle inligting of dokumentasie bekom oor die beleid wat deur die nasionale uitvoerende raad of enige ander tersaaklike amptelike liggaam oor die petisie gevolg word;
- (b) al die inligting of dokumentasie bekom oor die beleid wat deur die uitvoerende gesag van die provinsie oor die petisie gevolg word;
- (c) poog om 'n amptelike uitspraak in te win van die Departement wat verantwoordelik is vir enige funksie van die uitvoerende gesag van die provinsie wat op die petisie van toepassing is;
- (d) indien toepaslik, alle inligting of dokumentasie in te win oor die beleid wat gevolg word deur 'n munisipale raad of 'n plaaslike regering wat verantwoordelik is vir 'n funksie binne sy jurisdiksie en wat op die petisie van toepassing is;
- (e) indien nodig, versoek dat die petisie en enige ander relevante inligting of dokument vertaal word; en
- (f) indien die petisie betrekking het op –
 - (i) 'n wetlike aangeleentheid;
 - (ii) die interpretasie van wetgewing;
 - (iii) 'n wetgewende voorstel; of
 - (iv) 'n wetsontwerp wat in die Parlement ter tafel gelê is;'n regsadviseur van die Parlement of die uitvoerende gesag van die provinsie versoek om raad te gee of om 'n mening oor die aangeleentheid te lug.

(2) Die administratiewe ondersteuningsdiens of die regsadviseur, soos beoog in paragraaf (f) van sub-regulasie (1), mag enige persoon of liggaam, anders as wat in sub-regulasie (1) bedoel word, versoek om kommentaar te lewer of beskikbare inligting te verskaf met betrekking tot die stelling of klagte waarvan redelikerwyse verwag mag word om die voorlopige ondersoek na die petisie te voltooi.

(3) Die administratiewe ondersteuningsdiens moet, indien dit ooreenkomstig –

- (a) paragraaf (a), (b), (c) of (d) van sub-regulasie (1), of sub-regulasie (2) inligting, dokumentasie oor beleid of amptelike kommentaar aangevra het;
 - (b) paragraaf (e) 'n vertaling van die petisie en ander inligting aangevra het; of
 - (c) paragraaf (f), regsadvies of 'n regsmening aangevra het,
- die relevante departement, liggaam, munisipale raad, plaaslike regering, vertaler of regsadviseur, soos die geval ook al mag wees, versoek om sodanige inligting, dokumentasie oor beleid of amptelike kommentaar binne 14 werksdae na die ontvangs van sodanige versoek te verskaf.

(4) Die administratiewe ondersteuningsdiens moet sy voorlopige ondersoek sonder begunstiging van, of benadeling teenoor die petisionaris of die petisie uitvoer, en ingevolge enige gedragskode wat op 'n werknemer van die Parlement van toepassing is.

(5) Die administratiewe ondersteuningsdiens moet binne 30 werksdae vanaf die registrasie van 'n petisie, die petisielêer aan die Speaker vir optrede behoudens artikel 10 van die Wet voorlê.

Verklaring oor Persoonlike Belange en Verwysing

9. (1) (a) Indien die Speaker 'n persoonlike belang by die petisie het –
(i) moet hy of sy 'n geskrewe verklaring in hierdie verband aflê en aan die Voorsitter van die Komitee en die administratiewe ondersteuningsdiens rig; en
(ii) die Adjunkspeaker moet enige funksie of plig wat deur die Wet of hierdie regulasies aan die Speaker toegedeel word, onderneem.
(b) Die administratiewe ondersteuningsdiens moet 'n afskrif van die verklaring onder paragraaf (a) in die petisielêer plaas.

(2) Die Speaker moet, by ontvangs van die petisielêer, die lêer ondersoek en –
(a) mag die lêer terug na die administratiewe ondersteuningsdiens verwys, tesame met instruksies wat hy of sy toepaslik ag, insluitende 'n instruksie ten opsigte van die periode of tyd waarin die administratiewe ondersteuningsdiens aan sy of haar instruksies moet voldoen; of
(b) behoudens klousule 10 van die Wet, die petisie by die Komitee indien en/of 'n bepaling maak ten opsigte van die tertaaflegging van die petisie voor die Huis.

Komitee

10. (1) Die Komitee moet binne 3 maande vanaf die datum van die indiening van die petisie, die petisie wat deur die Speaker na die Komitee verwys is, oorweeg en ooreenkomstig die Wet, hierdie regulasies en die Reglement van Orde daarmee handel.

(2) Bykomend tot sy funksies, soos bedoel in die Wet en die Reglement van Orde, mag die Komitee –
(a) opdrag gee aan die administratiewe ondersteuningsdiens om 'n bepaalde petisie verder te ondersoek; en
(b) opdrag gee aan die administratiewe ondersteuningsdiens om die petisionaris skriftelik in kennis te stel van enige tussentydse verwikkelinge ten opsigte van die beoordeling van, en beslissing oor 'n bepaalde petisie.

(3) Die Komitee moet, na afloop van sy beoordeling van die petisie, die besonderhede daarvoor in sy verslag aan die Parlement insluit, soos beoog in klousule 13(8)(b) van die Wet.

Sluitingsdatum en Indien van Petisie na Besluit deur die Huis

11. (1) Die Sekretaris moet, na 'n finale beslissing deur die Huis, die petisionaris en, indien nodig, enige ander persoon of liggaam skriftelik in kennis stel van die uiteinde van die petisie, tesame met redes daarvoor, binne sewe dae na die besluit deur die Huis.

(2) Die administratiewe ondersteuningsdiens moet na 'n finale beslissing deur die Huis en ingevolge sub-regulasie (1), –

- (a) die petisielêer sluit; en
- (b) die petisielêer argiveer ooreenkomstig enige toepaslike wet wat op die argivering van dokumente van toepassing is.

Reg tot appél

12. (1) 'n Petisionaris mag appél aanteken teen –

- (a) 'n weiering deur die Speaker of Komitee om 'n petisie in die Huis ingevolge klousule 10 van die Wet ter tafel te lê;
- (b) 'n bepaling deur die Voorsitter om die petisie wat deur sodanige petisionaris ingedien is, agter geslote deure ingevolge klousule 14(2) van die Wet te oorweeg; of
- (c) enige aanbeveling, verwysing na 'n ander persoon of liggaam of 'n ander besluit van die Komitee na sy oorweging van die petisie wat deur hom of haar ingedien is.

(2) (a) 'n Petisionaris wat beoog om sy of haar reg tot appél uit te oefen, moet binne 21 werksdae vanaf die ontvangs van 'n geskrewe kennisgewing oor enige aangeleentheid, soos bedoel in sub-regulasie (1), 'n dokument indien wat sy of haar appél boekstaaf en wat as die "appéldokument" bekend sal staan.

(b) Die dokument, soos bedoel in paragraaf (1), moet op dieselfde wyse as 'n petisie ingedien word, soos wat in die Wet en hierdie regulasies beoog word.

(c) 'n Petisionaris mag te eniger tyd 'n appé by wyse van 'n geskrewe kennisgewing terugtrek.

(d) Die administratiewe ondersteuningsdiens moet, op versoek, redelike ondersteuning aan 'n petisionaris met die indien van 'n appél verleen.

(3) Die appéldokument moet met verwysing na, –

- (a) die proses wat die Komitee in die oorweging van die petisie gevolg het;
- (b) die skriftelike redes wat die Komitee of die voorsitter van die Komitee vir sy of haar of die Komitee se besluit gegee het, die volgende uiteensit –
 - (i) die redes vir die appél;
 - (ii) die aangeleenthede ten opsigte waarvan die Komitee of die voorsitter gefouteer het; en
 - (iii) die besluit, aanbeveling of gevolgtrekking wat die Komitee, na die mening van die petisionaris, moes maak het of waartoe die Komitee moes gekom het.

(4) Die appéldokument mag nie inligting bevat wat nie by die petisielêer ingesluit was voor die sluiting van die Komitee se oorweging van die petisie nie.

(5) Die administratiewe ondersteuningsdiens moet na die ontvangs van die appéldokument, sonder verwyl –

- (a) skriftelike ontvangs van die appéldokument erken;
- (b) die besonderhede van die appéldokument in die Petisieregister aanteken;
- (c) die appéldokument in die petisielêer plaas;
- (d) die Komitee en enige persoon of liggaam wat op welke wyse ook al by die petisie betrokke was, skriftelik van die appél in kennis stel, en die Komitee of daardie persoon of liggaam van 'n afskrif van die appéldokument voorsien; en
- (e) die appéldokument en die petisielêer na die Speaker verwys.

(6) Behoudens sub-regulasie (7), moet die Speaker binne 15 werksdae na die ontvangs van die appéldokument en die petisielêer, die appél oorweeg, en mag daarna –

- (a) die appél van die hand wys;

- (b) die appéldokument ter tafel lê en dit na die Komitee vir heroorweging verwys;
- (c) die appéldokument en die petisielêer, tesame met 'n aanbeveling na die volgende verwys–
 - (i) Parlement;
 - (ii) 'n Staande Komitee van die Parlement;
 - (iii) die Premier of 'n lid van die Kabinet van die provinsie;
 - (iv) die munisipale raad van 'n plaaslike regering; of
 - (v) 'n instelling wat grondwetlike demokrasie ondersteun, soos bedoel in Hoofstuk 5 van die Grondwet; of
- (d) enige ander bepaling maak wat hy of sy regtens bevoeg is om met betrekking tot die petisie te maak.

- (7) (a) Ingeval die Speaker 'n verklaring oor persoonlike belang in die petisie ingevolge regulasie 9(1) gemaak het, moet die Adjunkspeaker die appélproses behartig.
- (b) Die persoon of liggaam wat 'n finale beslissing oor die appél maak, moet skriftelike redes vir sodanige beslissing verskaf.

- (8) Die administratiewe ondersteuningsdiens moet –
 - (a) op die Speaker of die Komitee se instruksies, die appéllant van tyd aangaande die status en vordering van die appél in kennis stel; en
 - (b) die appellant, binne 15 werksdae na die finale beslissing oor die appél, skriftelik oor die uiteinde van die appél adviseer, tesame met die redes daarvoor.

Parlement nie in Sitting nie

13. (1) Die –

- (a) bepalings van die Wet, die Reglement van Orde of hierdie regulasies; en
- (b) take en verpligtinge wat ingevolge die Wet, die Reglement van Orde of hierdie regulasies op 'n persoon of liggaam, insluitend die Komitee of 'n Lid gedraes word; word nie ten opsigte van 'n petisie opgehef omdat die Parlement in reses gaan aan die einde van 'n wetgewende termyn is of vir welke rede ook al nie in sitting is nie.

- (2) 'n Petisie wat ingedien word voor die Parlement in reses gaan of aan die einde van 'n wetgewende termyn staan, moet ingevolge die Wet, die Reglement van Orde of hierdie regulasies hanteer word, asof die Parlement steeds in sitting is.

(3) Indien –

- (a) die ampstermyn van die Parlement verstryk;
 - (b) die Parlement ingevolge artikel 109 van die Grondwet ontbind word; of
 - (c) die Premier 'n verkiesing van die Parlement uitgevaardig het,
- en die Komitee nog nie sy oorweging van 'n petisie gefinaliseer het nie, moet die Komitee onverwyld sy oorweging van die petisie staak en die petisie na die Speaker verwys wat die administratiewe ondersteuningsdiens moet aansê om die petisie te laat oorsaak totdat 'n nuwe Parlement verkies is en vir sy eerste sitting, ingevolge artikel 110(1) van die Grondwet, byeengeroep word.

- (4) Indien die administratiewe ondersteuningsdiens ondersoek instel na die petisie gedurende 'n tydperk waarin die Parlement nog nie verkies is nie, moet die petisie oorgestaan laat word totdat 'n nuwe Parlement verkies word en vir die eerste sitting, ingevolge artikel 11(1) van die Grondwet, byeengeroep word.



(5) Die administratiewe ondersteuningsdiens moet 'n petisionaris skriftelik in kennis stel indien 'n situasie opduik soos wat in hierdie regulasies voorsien word.

Botsende Belange

14. (1) Enige Komiteelid of personeellid van die administratiewe ondersteuningsdiens, indien hy of sy 'n direkte finansiële belang het by enige petisie, met betrekking tot enige petisionaris, of in die uiteinde van 'n petisie, moet wanneer hy of sy bewus word van daardie belang, onverwyld –

(a) die Speaker en die Komitee skriftelik van daardie belang en die besonderhede daarvan in kennis stel; en

(b) toesien dat 'n afskrif van sodanige kennisgewing ingevolge paragraaf (a) in die petisielêer ingesluit word.

(2) Sub-regulasie (1) doen op geen wyse afbreuk aan die bepalings van –

(a) die Wet op die Magte, Voorregte en Privilegie van die Parlement en Provinsiale Wetgewers, 2004 (Wet No. 4 van 2004) nie; of

(b) enige morele kode of gedragskode wat op enige lid van die Komitee of personeellid van die administratiewe ondersteuningsdiens van toepassing is nie.

Kort titel

15. Hierdie regulasies staan bekend as die KwaZulu-Natal Regulasies oor Petisies, 2005.

Bylaag A
KwaZulu-Natal Wetgewer
Petisie ooreenkomstig artikel 6 van die
KwaZulu-Natal Wet op Petisies, 2003 (KZN Wet No. 4 van 2003)

Petisionaris se volle name

Naam van persoon of groep namens wie die petisionaris optree, indien van toepassing

Petisionaris se adres

Petisionaris se ID-nommer

Petisionaris (indien 'n regs persoon) se registrasienommer

Petisionaris se kontaktelefoonnommer

Petisionaris se faksnommer

Petisionaris se epos-adres

Opsomming van Petisie ('n kort beskrywing van die onderwerp onder bespreking, soos uiteengesit in die formaat van die Eerste Bylaag van die Wet)

Aantal bladsye aangeheg by hierdie dokument wat die petisie bevat

Titels en aantal bladsye van aanhangsels tot petisie

Beskrywing van enige getuienis wat nie op papier saam met hierdie petisie voorgelê word nie

Datum

Plek

No. 331

31 kuNcwaba 2007

ISISHAYAMTHETHO SAKWAZULU-NATALI**UMTHETHO WAMAPHETHISHINI WAKWAZULU-NATALI, KA-2003
(UMTHETHO NO. 4 KA-2003)****ISAZISO SOKULUNGISA**

Ngalokhu kunikezwa isaziso sokuthi umbhalo okuyiwona woMthetho Wamaphethishini WaKwaZulu-Natali, ka-2003 (uMthetho No. 4 ka-2003), njengoba uphasiswe yiSishayamthetho saKwaZulu-Natali wabuye wavunywa nguNdankulu mhla zi-5 kuZibandlela 2003, uyashicilelwa.

UMTHETHO WAMAPHETHISHINI WAKWAZULU-NATALI, 2003 (NO. 4 KA 2003)**Uvunywe ngomhlaka 2003-12-05****UMTHETHO**

Ukuhlinzeka ilungelo lokwethula iphethishini ePhalamende laKwaZulu-Natali, ukusungula inqubo okumele ilandelwe ekwethulweni kwephethishini ePhalamende; ukuhlinzekela imisebenzi yeKomidi eLimile leMithetho ePhakanyiswa ngamaLungu Ngasese, iziMpesheni kanye namaPhethishini ; ukubeka izimiso kanye nezinqubo zokubanjwa kweqhaza wumphakathi ezinhlelweni zikaHulumeni wesiFundazwe, kanye nokuhlinzekela izindaba ezimayelana nalokho.

MAKUMISWE UMTHETHO yiPhalamende lesiFundazwe saKwaZulu-Natali kanje:**Izincazelo**

Kulo Mthetho –

“iKhabhinethi” kusho uMkhandlu oPhethe wesifundazwe saKwaZulu-Natali njengokusho kwesigaba 132 soMthethosisekelo;

“iKomidi” kusho iKomidi eLimile leMithetho ePhakanyiswa ngamaLungu Ngasese, iziMpesheni kanye namaPhethishini lePhalamende leSifundazwe;

“iLungu” kusho iLungu lePhalamende lesiFundazwe saKwaZulu-Natali elikhethelwe isihlalo ngokwezigaba 105 no 106 zoMthethosisekelo;

“iMithetho eMile” kusho imithetho emile nemiyaelo ebekelwe ukwenziwa komsebenzi wePhalamende lesiFundazwe ngokwesigaba 116 soMthethosisekelo;

“iPhalamende” kusho iSishayamthetho sesiFundazwe saKwaZulu-Natali njengoba kusho isigaba 104 soMthethosisekelo;

“iphethishini” kusho isikhalazo, isicelo, isethulo noma umbiko okuthunyelwa ngumfakiphethishini eKomidini, futhi singaba kulesi simo –

(a) sephethishini eyodwa, ukuba yisethulo esisodwa esivela kumfakiphethishini oyedwa esimayelana nesikhalazo noma isicelo;

(b) iphethishini ehlanganyele, ehlanganise amasiginesha avela kubafakiphethishini abaningi mayelana nesikhalazo noma isicelo esithize;

(c) iphethishini yeqeqeba, elihlanganise izethulo zabantu ngabanye noma iqembu iqeqeba kubafakiphethishini imbandakanya izikhalazo ezifanayo noma ezihambelanayo noma izicelo; noma

(d) iphethishini kasoseshini; eyisethulo esisodwa esivela kusosesheni noma kumuntu ogunyazwe ngusosesheni noma mayelana nesikhalazo noma isicelo esithize;

“isifundazwe” kusho isifundazwe saKwaZulu-Natali esasungulwa ngokwesigaba 103 somthethosisekelo;

“uhulumeni wasekhaya” kusho izinga likahulumeni wasekhaya eSifundazweni njengokusho kwezigaba 151 no 155 zoMthethosisekelo;

“umfakiphethishini” usho umuntu othumele iphethishini eKomidini, futhi kumbandakanya umuntu-qobo noma umuntu womthetho omele -

(a) ozimele noma omele umthetho;

(b) omele omunye umuntu engaqonde ukwenza inzuzo ngokwakhe;

(c) njengelungu noma ngenhloso yoquqaba noma uhlobo lwabantu; noma

(d) omele intando yomphakathi, futhi kumbandakanya usosesheni olwela ilungelo lamalunga awo;

“uMthethosisekelo” kusho uMthethosisekelo weRiphabhuliki yaseNingizimu Afrika, 996 (uMthetho 108 ka 1996)

“uNobhala” kusho uNobhala wePhalamende leSifundazwe saKwaZulu-Natali;

“uSihlalo” kusho usihlalo weKomidi; kanti

“uSomlomo” kusho uSomlomo wePhalamende lesiFundazwe okhethwe ngokwesigaba 111 soMthethosisekelo.

2. Imigomo ejwayelekile yoMthetho

(1) Ikomidi kumele –

(a) kuncike esigatshaneni (3), lithathe izinyathelo ezifanele ukukhuthaza futhi liqalise ukubanjwa kweqhaza wumphakathi ohlelweni lukaHulumeni esiFundazweni, ikakhulukazi leyo miphakathi eyayishiywe ngaphandle kwezombusazwe, ezenhlalo nezomnotho;

(b) lithuthukise intando yeningi ngokuqhakambisa ukubophezeleka ukuphendula ngezimali kanye nokwenzelaa izinto obala;

(c) lamukele iphethishini evela kumfakiphethishini; futhi

(d) lihloniphe amalungelo abafakiphethishini.

(2) Ilungelo eligunyazwe yilo Mthetho kumele lisetshenziswe ngendlela efanele nenobulungiswa.

(3) Ikomidi kumele lithathe zonke izinyathelo ezifanele, ngokusemandleni alo, ukuphumelela ukufezekiswa okunenqubekela phambili kwamalungelo okubamba iqhaza komphakathi njengoba kubekiwe ngaphansi kwesigatshana (1).

3. Ukubumbeka kweKomidi

Ikomidi lakhiwe yilawo Malungu amiselwe ukwenza lokho yiKomidi eliMile lezinqubo izikhathi ngezikhathi.

4. Ilungelo lokuthumela iphethishini

(1) Kweyame ezihlinzekweni zalo Mthetho kanye nanoma yimuphi omunye umthetho, umfakiphethishini unelungelo lokubhekisa iphethishini eKomidini.

(2) Umfakiphethishini angafaka iphethishini ePhalamende kuphela uma ecela kuchitshiyelwe umthetho wesifundazwe nfaphansi kwesigaba 7(2)(a) noma ukuba kucutshunguliswe isinqumo esithathwe kwezokuphatha noma isinqumo nje esejwayelekile ngaphansi kwesigaba 7(2)(b) lapho umfakiphethishini esezihambe zonke izinhlaka zokuphatha ukuze athole usizo.

(3) Umfakiphethishini angafaka iphethishini ePhalamende ecela noma yiluphi usizo lwezokuphatha kumele lunikezele ngosizo kozimisele ukwethula iphethishini eKomidini.

(4) Abemisebenzi yokweseka ezokuphatha abahlongozwayo ngaphansi kwesigaba 15 kumele bahlinzeke usizo kongahle afake iphethishini ofisa ukufaka iphethishini eKomidini, kubandakanya kodwa kungagcini lapho –

(a) ukuze kuqinisekwe ukuthi uyahambisana nendlela okumele iphethishini ibhalwe ngayo ngaphansi kwesigaba 6; futhi

(b) ukuze kulungiswe iphethishini okukhulunywe ngayo ngaphansi kwesigaba 16(1)(c)(i).

5. Amandla eKomidi

(1) USomlomo noma namuphi umuntu ogunyazwe nguye kumele emukele iphethishini.

(2) USomlomo kumele edlulisele iphethishini eKomidini ngokwalo Mthetho.

(3) Ikomidi kumele lidingide noma iyiphi iphethishini elethwe kulo ngokwezimiso zalo Mthetho.

Indlela yokubhala iphethishini

Iphethishini kumele ibhalwe ngendlela ebekiwe kwiSheduli yokuQala.

Okuqukethwe yiphethishini kanye nosizo oludingekayo

(1) Umfakiphethishini kumele acele uhlobo losizo –

(a) oluhambisana noMthethosisekelo; futhi

(b) olungena ngaphansi kwemithetho yesifundazwe. Lokhu kusho ukuthi udaba olundikimba yephethishini kumele lungene ngaphansi kwemithetho esebenza ngokuhambisana phakathi kwezifundazwe nozwelonke ngaphansi kukaSheduli 4 woMthethosisekelo noma lapho amandla okushaya umthetho kungawesifundazwe kuphela ngaphansi kukaSheduli 5 woMthethosisekelo.

(2) Umfakiphethishini angacela –

(a) ukuchitshiyelwa komthetho wesifundazwe, osalindelwe noma

osumisiwe;

(b) ukucutshungulwa kabusha kwesinqumo esijwayelekile sokuphatha esithinta umfakiphethishini.

(c) izinyathelo ezinokuthathwa ekunikezeleni ngosizo kumfakiphethishini; kanye/noma

(d) naluphi olunye uhlobo losizo uSomlomo alubona lufanelekile, esebenza ngokuhambisananenkubo yokugunyaza enqunywe ngaphansi kwesigaba 10.

Ukusayinwa kwamaphethishini

(1) Kweyame ezihlinzekweni zezigatshana (2) no (3), iphethishini kumele isayinwe yilowo nalowo ongumfakiphethishini.

(2) USomlomo angadedela ilungelo lokuhambisana nesigatshana (1) lapho ebona kunesidingo futhi kufanelekile.

(3) Lapho umfakiphethishini ehluleka ukusayina igama lakhe, angenza uphawu kwiphethishini, lolo phawu okumele lufakazelwe ngabanye abantu ababili, bobabili okumele basayine njengofakazi eduze kophawu.

Ulimi lwamaphethishini

(1) Iphethishini ingabhalwa nganoma yiluphi ulimi olusemthethweni kwizilimi eziyishumi nanye ezivunyelwe ngokwesigaba 6(1) soMthethosisekelo.

(2) Emva kokufakwa kwayo, uSomlomo kumele aqiniseke ukuthi –

(a) iphethishini ihunyushelwa eSingisini, esiBhunwini kanye nasesiZulwini engakapheli amasonto amabili, futhi

(b) lokho nalokho kuhumusha kuqinisekiswa ngumhumushi ofungisiwe njengokuliqiniso kanye nokuhumushe iphethishini engumsuka njengoba injalo.

10. Ukwamukelwa nguSomlomo noma yiKomidi ukuba yethulwe

(1) Iphethishini kumele ishiywe kuSomlomo okungenani usuku olulodwa lwezinsuku zokusebenza, emva kwalokho uSomlomo kumele aqiniseke ukuthi iyahambisana yini nesigaba 9(2).

(2) USomlomo kumele ngokushesha ethule iphethishini ehunyushiwe eKomidini, ngokunikeza wonke amalungu ekomidi ikhophi yep hethishini nanganoma yimuphi umbhalo oyesekeyo, ukuze ucutshungulwe futhi kwenziwe nombiko ngaphambi kokuba yethulwe eNdlini.

(3) USomlomo noma iKomidi akumele bavumele iphethishini ukuba yethulwe eNdlini –

(a) ecela usizo olushayisana noMthethosisekelo;

(b) ecela usizo iPhalamende elingenawo amandla okulunikeza ngokwamandla alo

njengokulawula kwesigaba 104(1), sifundeka namaSheduli 4 no 5, koMthethosisekelo;

(c) efuna kubuyezwe noma kuguqulwe okuqhubeka noma isinqumo senkantolo yomthetho;

(d) efuna ukungenelela odabeni olusezithebeni zenkantolo;

- (e) esuka esiboshweni futhi exhumene necala laso;
- (f) ebandakanya udaba oluphambi kwekhomishani yophenyo esungulwe ngokoMthetho wamaKhomishana waKwaZulu-Natali, 1999 (uMthetho waKwaZulu-Natali No. 3 ka 1999), kanye neminye imigwamanda efanele; noma
- (g) ethinta ukuchitshiyelwa komthetho wesifundazwe ngaphansi kwesigaba 7(2)(a) noma ukuba kucusngulwe ngabusha isinqumo esejwayelekile noma sabezokuphatha ngaphansi kweigaba 7(2)(b) lapho umfakiphethishini esehlulekile kuzo zonke izinyathelo zokuthola usizo kwabezokuphatha.
- (4) Lapho ukugunyazwa kokwethulwa kwephethishini eNdlini kwe nqatshelwa nguSomlomo, uSomlomo kumele udaba alwedlulisele eKomidini ukuze ludingidwe kabusha kukhishwe nesinqumo esingujuqu.
- (5) IKomidi kumele linikeze uSomlomo umbiko ovumela noma ophikisana nokwethulwa kwephethishini eNdlini, nezizathu ngalokho.
- (6) USomlomo kumele abuyisele iphethishini angayemukelanga noma engemukelwanga yiKomidi ukuba yethulwe eNdlini emuva kumfakiphethishini, kunye nezizathu kanye nesincomo, lapho kufanelekile, sokuthi umfakiphethishini ukuba akayithumele kwiNdlu yeSishayamthetho kaZwelonke.

Ukwethulwa

- (1) Kuncike ekuzaneliseni kwakhe ukuthi iphethishini iyahambisana nalo Mthetho, uSomlomo kumele enze amalungiselelo okwethulwa kwephethishini eNdlini ngokushesha okunokwenzeka emva kokugunyazwa kwephethishini ukuba yethulwe eNdlini nguSomlomo noma yiKomidi.
- (2) Ngeke kwenziwa nkulumompikiswano eNdlini nxa kwethulwa iphethishini.
- (3) Emva kokwethulwa kwephethishini, kungaphakanyiswa isaziso mayelana nesethulo bese kwenziwa inkulumbo-mpikiswano.

Izaziso ngomlomo

- (1) Ngokwesigatshana (2), umfakiphethishini kumele ethule iphethishini ngokubhaliwe, ibhalwe ngolimi aziqokele lona, ibhekiswe kuSomlomo nakunoma yimuphi umuntu ogunyazwe nguSomlomo.
- (2) IKomidi lingamvumela umfakiphethishini ukuthi avale isikhala sephethishini ebhaliwe ngokwenza izethulo ngomlomo.
- (3) Ngaphambi kokudingida iphethishini, iKomidi kumele liqophe futhi libhale phansi izethulo ezenziwe ngomlomo ngokuhlinzekelwa yisigatshana (2)

Amandla nemisebenzi yeKomidi

- (1) IKomidi kumele –
- (a) lizidingide iphethishini ethulwe ngenhloso yokuxazulula udaba; futhi
- (b) lapho kunesidingo, leluleke umfakiphethishini ngezinye izixazululo angazisebenzisa.

(2) Ikomidi lingedlulisela iphethishini eKomidini lomnyango ofanele, okumele lenze umbiko oqukethe umbono walo ngephethishini ukuze wethulwe eKomidini e ngakapheli amasonto amane udluliselwe kulo.

(3) Ikomidi lingamema umkhandlu kamasipala kahulumeni wasekhaya ofanele esifundazweni, isikhungo eseseka intando yeningi ehlinzekelwe kuMthethosisikelo okukhulunywa ngayo eSahlukweni 9 soMthethosisikelo, inhlangano, inyunyana, umgwamanda noma umnyango kahulumeni ukuba –

(a) udingide iphethishini futhi uyethule, engakedluli amasonto amane idluliseliwe, imemorandamu equkethe umbono nezincwadi ngephethishini; futhi/noma

(b) lithumele olimele ukuba ahambele umhlangano weKomidi ukuze lihlinzeke ngolunye ulwazi olwengeziwe.

(4) Uma iKomidi linombono wokuthi ukuziphatha komuntu noma uhlaka okuthunyelwe kulo iPhethishini ngokwalezi zigaba akwanelisi, kanye nokuthi izimo zivuna lesisinyathelo, iKomidi lingakhalaza kuMvikeli woMphakathi, noma lithathe ezinye izinyathelo ezifanele.

(5) Uma iKomidi libona ukuthi ukuziphatha komuntu noma umgwamanda iphethishini edluliselwe kuye noma kuwo ngokwalesi sigaba akugculisi, nokuthi izimo ziphoqa ukuba kuthathwe lesi sinyathelo, iKomidi lingafaka isikhalazo kuMvikeli woMphakathi, noma lithathe ezinye izinyathelo ezifanele.

(6) Kuncike ezihlinzekweni zalo Mthetho, um alinxuswe ukuba lenze njalo ngumfakiphethishini, iKomidi lingaxazulula ukungaboni ngaso linye, liguqule isenzo noma lilungise iphutha ngendlela yokulamula noma yokubonisana.

(7) IKomidi lingenza isincwadi kumuntu noma umgwamanda ngephethishini.

(7) Ikomidi lingaphothula ukudingida kwalo iphethishini uma linombono wokuthi –

(a) akunazinyathelo, noma ezinye izinyathelo ezingathathwa ukuze kusonjululwe lolo daba; noma

(b) udaba selusonjululwe ngokwesicelo somfakiphethishini.

(8) IKomidi kumele –

(a) lenze umbiko wezinyanga ezintathu mayelana nokudluliselwa kwamaphethishini okukhulunywa ngakho ezigatshaneni (2) no (3); futhi

(b) libikele iPhalamende ngephethishini lapho iKomidi seliphothule uphenyo khona lenza nezincwadi, ngokushesha ekuhlaleni okulandelayo kusukela iKomidi lenze isinqumo sokugcina ngephethishini.

(9) Kuncike ezihlinzekweni zalo Mthetho; iKomidi ngokubonisana noSomlomo, lingalawula izinqubo zalo futhi lenze imisebenzi yalo ngendlela eliyibona ifanele.

14. Ukuhlala kwekomidi

(1) Ngezinhlalo zokwemukela ubufakazi noma ukudingida udaba, iKomidi lingahlala ngesikhathi nasendaweni esifundazweni lapho kunganquma uSihlalo.

(2) Ubufakazi onunikezelwe eKomidini kumele bulalelwe emphakathini, ngaphandle uma kunesizathu futhi kwesikeleka ukuba umphakathi kanye nabezindaba bangabandakanywa emphakathini onenqubo yentando yeningi nowenzela izinto obala.

(3) USihlalo kumele anikeze umfakiphethishini kanye nazo zonke izinhlangothi ezithintekayo nezinentshisekelo isaziso esibhaliweyo ngosuku, isikhathi kanye nendawo lapho kuzobanjelwa khona umhlangano wekomidi siqukethe iphethishini ezodingidwa njengephuzu lohlelo lomhlangano, okungenani isonto ngaphansi kosuku lomhlangano.

15. Imisebenzi yokweseka ezokuphatha

UNobhala kumele ahlinzeke iKomidi ngabasebenzi abazoxhasa ezokuphatha ukuze likwazi ukwenza imisebenzi yalo.

16. Izinqubo ezimayelana namaphethishini

(1) Abemisebenzi yokweseka ezokuphatha kumele –

- (a) babhalise noma iyiphi iphethishini etholakele ohleni lokubhalisa amaphethishini;
- (b) bavule ifayela lanoma iyiphi iphethishini;
- (c) ngokwesigaba 4(4) salo Mthetho, balungise wonke amaphethishini atholakele ukuze adingidwe yiKomidi, okungabandakanya –
 - (i) ukulungiswa, uma kunesidingo, ngokubonisana nomfakiphethishini, ukuqinisekisa ukuthi iphethishini iyahambisana nezihlinzeko zalo Mthetho; kanye
 - (ii) nokuhunyushwa kwephethishini;

(d) balungise uhlu oluphelele lwamaphethishini asilele athunyelwe ePhalamende, baluhambise kuyo yonke imihlangano yeKomidi; futhi

(e) bethula iphethishini ehlelwe ngaphansi kwendima (c) eya kuSihlalo, okumele ayethule emhlanganweni weKomidi ukuze idingidwe engakapheli amasonto amabili eyitholile iphethishini.

(2) Ikomidi kumele lazise umfakiphethishini engakapheli amasonto amane kusukela ngosuku iphethishini eyethulwa ngalo –

- (a) ngendlela iphethishini edingidwa ngayo; kanye
- (b) nangezizathu zokuthi kungani idingidwa ngaleyo ndlela.

(3) Kuncike elungelweni leKomidi lokuqhubeka nokubhekana nesikhalazo noma isicelo uma iKomidi libona lolo daba lufanele luthathwe njengolubalulekile emphakathini, umfakiphethishini angayihoxisa iphethishini.

(4) Ikomidi kumele, emva kokudingida kwalo iphethishini ngokwesigaba 13(7), lethule fayela yephethishini nezincomo zalo kuSomlomo.

(5) Emva kokwethulwa kwephethishini ngaphansi kwesigatshana (4), uSomlomo kumele acubungulisise okuqukethe yilelo fayela engakedluli amasonto amabili (2).

(6) Ilungu linelungelo lokucubungulisisa ifayela kanye nezincomo zeKomidi.

(7) USomlomo –

- (a) angadlulisela ifayela eKomidini ukuze lidingidwe kabusha; noma

(b) angadlulisela ifayela eKomidini ukuze livalwe, anikeze izizathu ezibhaliweyo ngokwenza njalo.

(8) Ilungu lingaphikisana nokuvalwa kwefayela, futhi kumele linikeze izizathu ngokuphikisa kwalo.

(9) USomlomo angenezela kule nqubo ngemithethonqubo.

17. Okuqukethwe wumbiko wekomidi

Ikomidi, embikweni walo ngaphansi kwesigaba 13(8)(b), lingancoma eNdlini ukuthi –

- (a) isicelo esiqukethwe yiphethishini semukelwe noma kunikezwe olunye usizo;
- (b) alikwazi ukweseka isicelo esenziwe kwiphethishini; noma
- (c) iphethishini idluliselwe eNdlini yeSishayamthetho sikaZwelonke ukuze iwudingide.

18. Isinqumo seNdlu

(1) IPhalamende lingenza inkulumo-mpikiswano ngesincomo seKomidi mayelana nephethishini.

(2) Emva kokuba seyiwudingidile umbiko weKomidi, futhi sekube nenkulumo-mpikiswano ngaphansi kwesigaba (1), iNdlu, ngokusebenzisa ivoti, inganquma ukuthi –

- (a) yamukele isincomo seKomidi siphelile noma sichitshiyelwe;
- (b) ichithe sonke noma ingxenye yesincomo seKomidi;
- (c) idlulisele isincomo seKomidi noma iphethishini eNdlini yeSishayamthetho sikaZwelonke ngokwesigaba 104(5) soMthethosisekelo; noma
- (d) iphindisele udaba eKomidini ukuze liludingide kabusha lenze nombiko.

(3) UNobhala kumele azise umfakiphethishini ngokubhaliweyo ngesinqumo seNdlu mayelana nephethishini ethile, nezizathu zaleso sinqumo, zingakapheli izinsuku eziyisikhombisa emva kwesinqumo seNdlu.

19. Ukudingidwa kwephethishini esiphethiwe

Iphethishini emayelana nodaba oseluthathelwe isinqumo ayinakudingidwa kabusha yiKomidi, ngaphandle uma leyo phethishini ihlinzeka ngamaqiniso amasha noma ubufakazi obufanele obuvumela ukuba udaba ludingidwe kabusha.

20. Ofakazi

(1) Umfakiphethishini, ngezakhe izindleko futhi kuphela uma iKomidi livuma, anganikeza ubufakazi emhlanganweni weKomidi ukweseka iphethishini yakhe.

(2) Ngenhloso yokuqinisekisa ngodaba oluphenywa yikomidi, iKomidi –

(a) lingathumela isamanisi kumuntu ukuba athamele umhlangano walo, njengofakazi, ukuze ethule ubugfakazi noma aveze noma iyiphi incwadi, umbhalo noma wutho okudingwa yiKomidi; noma

(b) lingabizela umuntu ukuba azovela emhlanganweni walo, njengofakazi, ukuze ethule ubugfakazi noma aveze noma iyiphi incwadi, umbhalo noma wutho okudingwa yiKomidi ngesikhathi kanye nasendaweni okubekwe kumasamanisi.

(3) Amasamanisi okukhulunywa ngawo esigatshaneni (2)(b) kumele asayinwe futhi akhishwe nguSihlalo, bese ethunyelwa kumuntu obizelwa eKomidini ngokusebenzisa incwadi ebhalisiwe ethunyelwe ngeposi, noma ngokuba ihanjiswe mathupha ngumuntu ogunyazwe nguSihla lo, noma nangayiphi indlela enqunywe nguSomlomo ngokumisa imithethonqubo.

(4) Ufakazi kumele, ngaphambi kokwethula ubufakazi, afunge noma enze isithembiso phambi kukaSihlalo, iLungu noma umsebenzi weKomidi, njengokukhomba kukaSihlalo.

(5) UNobhala wePhalamende kumele akhokhele umuntu ongeyena umsebenzi womnyango wesifundazwe, obizelwe phambi kweKomidi njengofakazi, noma owethule ubufakazi ngaphambi kweKomidi, isamba semali ebhekele ukuhamba kanye nesikhathi sokwethamela umhlangano kanye neyokugibela esebenzile, lowo muntu ayengaba nelungelo lokuyithola uma wayekade ebe ngufakazi wenkantolo.

21. Amacala

(1) Umuntu obizwe ngamasamanisi ngokwezigaba 20 (2)(b) no (3), okuthi ngale kwesizathu esizwakalayo –

(a) ohluleka ukuhambela umhlangano weKomidi ngesikhathi nasendaweni okubekwe kumasamanisi; noma

(b) ohluleka ukuhlala alinde emhlanganweni weKomidi kuze kuphethwe uphenyo oluphambi kweKomidi, noma kuze kube udedelwa nguSihlalo ekuqhubekeni nokuhlala alinde, wenza icala.

(2) Umuntu obizwe njengofakazi ngaphansi kwesigaba 20(2)(a) noma (b) , okuthi, ngale kwesizathu esizwakayo –

(a) onqaba ukufungiswa noma ukuthembisa ukukhuluma iqiniso njengofakazi emva kukucelwa nguSihlalo ukuba enze njalo;

(b) emva kokufungiswa noma ukuthembisa ukukhuluma iqiniso, ohluleka ukuphendula ngokugcwele nangokwanelisayo namuphi umbuzo abuzwe wona ngokusemthethweni;

(c) emva kokufungiswa noma esethembisile ukukhuluma iqiniso, onikeza ubufakazi obungamanga ngaphambi kweKomidi odabeni lumbe, azi ukuthi lobo bufakazi bungamanga noma engakholwa ukuthi buyiqiniso; noma

(d) ohluleka ukuveza incwadi, umbhalo noma wutho olungakuye noma olugcinwe nguye noma olulawulwa nguye, acelwe ukuba aluveze, wenza icala.

(3) Umuntu –

(a) owesabisa, ovimba noma ofake umoya omubi ufakazi ukuba enqabe ukwethula ubufakazi, noma ukuba anike ubufakazi obungamanga phambi kweKomidi;

(b) owesabisa, ovimba noma ofake umoya omubi ufakazi mayelana nokuveza iphepha, incwadi, irekhodi noma umbhalo phambi kweKomidi;

(c) ngenhloso yokwedusa iKomidi, ovezela kweKomidi iphepha, ibhuku, irekhodi noma umbhalo okungamanga, okungenabuqiniso, okwakhiwe noma okubunjiwe;

(d) odabula noma ofihlea incwadi, umbhalo noma wutho ngokolwazi lwakhe okungaba wusizo eKomidini kunoma yiluphi udaba oluphenywa yilo; noma

(e) ngamabomu onikeza iKomidi ulwazi, noma owenza isitatimende phambi kwalo, esingamanga noma esidukisayo, wenza icala.

22. Izinhlawulo

Umuntu olahlwe ngecala ngokwesigaba 21 angahlawuliswa noma aboshwe isikhathi esingeqile ezinyangeni ezinguyi-12, noma kokubili inhlawulo nokudonsa ejele.

23. Ukugcinwa kwezincwadi, imibhalo nezinto yikomidi

Ikomidi lingacina ibhuku, isikhathi esithile emva komhlangano, incwadi, umbhalo noma wutho ebelilicele noma elibhalele umuntu ukuba alulethe ngaphansi kwesigaba 20(2)(a) noma (b).

24. Ukudlulisela amandla kweKomidi

(1) Ikomidi linganikezela amandla alo ekomidini elingaphansi kwalo ngokweMithetho eMile ngokweMiyalelo yePhalamende.

(2) Emva kokuqeda umsebenzi walo, iKomidi elingaphansi kumele libikele ikomidi elikhulu ngokubhaliweyo.

(3) Akukho okungavimba iKomidi ekusebenziseni amandla eliwanikezele eKomidini elingaphansi kwalo ngokwesigatshana (1).

25. Ukuphendula ePhalamende

(1) Ikomidi kumele lihlele umbiko wezinyanga ezintathu nganoma iyiphi iphethishini elikhophe isinqumo sayo ukuba wethulwe ePhalamende ukuze udingidwe.

(2) Ikomidi kumele lihlele futhi lethule umbiko wonyaka obhaliwe wayo yonke imisebenzi yalo ePhalamende.

(3) Umbiko wonyaka obhaliwe weKomidi kumele uhlinzekele ukubuyezekwa kokuphendula ngokushesha, ubungcweti kanye nokugcinwa kwesikhathi uma kudindidwa amaphethishini ngokusebenzisa inqubo enqunywe ngaphansi kweigaba 13(3). Efficient

(4) Inkulumo-mpikiswano ngodaba oluphakanyiswe embikweni weKomidi othunyelwe ePhalamende kumele ibekhona uma amaLungu angaphezulu kwamahlanu efisa kanjalo.

(5) IPhalamende lingaphindisela eKomidini noma yiluphi udaba oluvuka embikweni weKomidi ukuba ludingidwe kabusha.

26. Imithethonqubo

USomlomo, emva kokubonisana neKomidi, kumele ashaye imithethonqubo edingekayo ukuze kugcinwe izihlinzeko zalo Mthetho.

27. Isihloko esifingqiwe kanye nokuqala ukusebenza

(1) Lo Mthetho waziwa njengoMthetho wamaPhethishini waKwaZulu-Natali, 2003.

(2) Lo Mthetho uyoqala ukusebenza ngosuku olunqunywe nguSomlomo ngesimemezelo kwiGazethi yesiFundazwe

ISHEDULI YOKUQALA:**UHLOBO LWEPHETHISHINI OLUNQUNYWE YIMITHETHO EMILE KANYE
NEMIYALELO KWEPHALAMENDE LAKWAZULU-NATALI****IPHETHISHINI**

Isignesha yeLungu elethula iphethishini

Ibhokiswe kuSomlomo oHloniphekile kanyenamaLungu ePhalamende laKwaZulu-Natali:

Iphethishini yosayine ngenzansi

[gcwalisa igama lomfakiphethishini/labafakiphethishini noma incazelo ngeqoqo labafakiphethishini, kanye nendawo yokuhlala noma indawo lapho besebenza khona]

wethula ngokuzithoba ukuthi

[beka amaqiniso nezethulo okumele zaziswe iNdlu kanye nemininingwane yosizo oludingekayo]

Umfakiphethishini/abafakiphethishini ucela/bacela ukuba iNdlu idingide izethulo zakhe/zabo ngokwanelisayo, bese inikeza usizo ecabanga ukuthi lufanele.

ISISHAYAMTHETHO SAKWAZULU-NATALI**UMTHETHO WAMAPHETHISHINI WAKWAZULU-NATALI, 2003 (UMTHETHO NO. 4 KA-2003)****UKUQALA KOKUSEBENZA KOMTHETHO**

USomlomo wesiFundazwe saKwaZulu-Natali, ngokuhambisana nesigaba 27(2) soMthetho Wamaphethishini WaKwaZulu-Natali, ka-2003 (uMthetho No. 4 ka-2003), usenqume usuku lokushicilelwa kwalesi saziso njengosuku lokuqala kokusebenza kwalo Mthetho.

T.W. MCHUNU**USOMLOMO WESISHAYAMTHETHO SAKWAZULU-NATALI**

ISISHAYAMTHETHO SAKWAZULU-NATALI**UMTHETHO WAMAPHETHISHINI WAKWAZULU-NATALI, KA-2003
(UMTHETHO NO. 4 KA-2003)****UKUMENYEZELWA KWEMITHETHONQUBO**

USomlomo weSishayamthetho saKwaZulu-Natali, ngokuhambisana nesigaba 26 soMthetho Wamaphethishini WaKwaZulu-Natali, ka-2003 (uMthetho No. 4 ka-2003), usenze imithethonqubo equkethwe kuSheduli.

T.W. MCHUNU**USOMLOMO WESISHAYAMTHETHO SAKWAZULU-NATALI****ISHEDULI****IMITHETHONQUBO EPATHELENE NOKWETHULWA KANYE
NOKUCUTSHUNGULWA KWAMAPHETHISHINI**

USomlomo wePhalamende laKwaZulu-Natali, ngokwesigaba 26 soMthetho wamaPhethishini waKwaZulu-Natali, 2003 (uMthetho No. 4 ka 2003), wenze imithethonqubo equkethwe kulolu Hlelo.

UHLELO**UKUHLELEKA KWEMITHETHONQUBO**

1. Izincazelo
2. Ukusebenza kweMithethonqubo
3. Izibopho zeKomidi
4. Amalungelo omfakiphethishini
5. Ukwethulwa kwephethishini

6. Ukubhaliswa kwephethishini
7. Ifayela lephethishini
8. Uphenyo lokwendlalela lwephethishini
9. Ukudalulwa kweqhaza langasese neseDLuliselo
10. Ikomidi
11. Ukuvalwa nokwethulwa kwephethishini emva kwesinqumo seNdlu
12. Ilungelo lokufaka isicelo sokuphikisa isinqumo
13. Iphalamende lisekhefina
14. Ukushayisana kwamaqhaza
15. Isihloko esifushane

Isithasiselo A

Izincazelo

1. Kule mithethonqubo, ngaphandle uma ingqikithi ikhomba okwehlukile, naliphi igama noma ibinza okuchazwe eMthethweni wamaPhethishini waKwaZulu-Natali, 2003 (uMthetho waKwaZulu-Natali No. 4 ka 2003) kunaleyo ncazelo, kanti futhi –
 - “**ifayela lephethishini**” kusho ifayela okukhulunywa ngalo kwimithethonqubo 6(1)(b) kanye no-7;
 - “**isicelo sokuphikisa isinqumo**” kusho isicelo sokuphikisana nesinqumo ngokomthethonqubo 12;
 - “**isitatimende sokukhalaza**” kusho udaba oluqukethwe yiphethishini kanye naluphi ulwazi olunikezwe umfakiphethishini;
 - “**uhla lwamaphethishini abhalisiwe**” kusho uhla okukhulunywa ngalo kumthethonqubo 6(1)(a);
 - “**umsebenzi wokweseka ezokuphatha**” kusho ukweseka ezokuphatha okuhlongozwe esigabeni 15; kanti
 - “**uMthetho**” kusho uMthetho wamaPhethishini waKwaZulu-Natali, 2003 (uMthetho waKwaZulu-Natali No. 4 ka 2003).

Ukusebenza kwemithethonqubo

2. Le mithethonqubo iyosebenza kunoma yiyiphi iphethishini eyethulwe ngokulandela uMthetho.

Izibopho zeKomidi

3. Ikomidi kumele, izikhathi ngezikhathi, lithathe izinyathelo ezifanele –
 - (a) ukwazisa izakhamizi zesifundazwe ngamalungelo azo ngokwalo Mthetho;
 - (b) ukwazisa izakhamizi zesifundazwe ngamakheli esakhiwo, ngamakheli eposi, ngamakheli ekhompinyutha noma ngenombolo yesikhahlamezi lapho iphethishini ingathunyelwa khona;
 - (c) ukwenzela izinto obala futhi libophezeleke ukubika ngokusezingeni eliphezulu ekucubunguleni iphethishini;

- (d) lapho kufanele khona, noma uma licelwe ngumfakiphethishini ukuba lenze njalo, lixazulule ukushayisana, libuyisele emuva isenzo noma lilungise ukweqiwa ngokungenelela noma ngokuxoxisana;
- (e) lapho kufanele, lifake isikhalo kuMvikeli woMphakathi ngokoMthetho woMvikeli woMphakathi, 1994 (uMthetho No. 23 ka 1994), uma lokho kuziphatha komuntu noma umgwamanda okufakwe ngakho iphethishini, akugculisi;
- (f) libambe iqhaza lokuqapha mayelana nomsebenzi wokweseka ezokuphatha;
- (g) ngokujwayelekile, linikeze imikhombandlela mayelana nemisebenzi yokweseka ezokuphatha maqondana nophenyo olwendlalelayo;
- (h) liyalele abemisebenzi yokweseka ezokuphatha ukuba babike kulo ngempumelelo yezinqubo zokubamba iqhaza komphakathi kanye namaphethishini;
- (i) liyalele abemisebenzi yokweseka ezokuphatha ukuba bahlele futhi basingathe izinhlelo okuhloswe ngazo ukugqugquzela, ukukhangisa noma ukuqhakambisa ukubamba iqhaza komphakathi kanye namaphethishini; futhi
- (j) liqiniseke ukuthi abantu noma uhlobo lwabantu ababekade bencishwe amathuba phambilini ngokwecwaswa ngokungafanele babamba iqhaza ngokugcwele kuhulumeni wesifundazwe.

Amalungelo omfakiphethishini

4. Kuye ngokuhambisana noMthetho, umfakiphethishini unelungelo –
- (a) lokufaka iphethishini ngokuhambisana noHlelo lokuQala loMthetho;
 - (b) lokufaka iphethishini nganoma yiluphi lwezilimi eziyishumi nanye ezisemthethweni ezivunyiwe esigabeni 6(1) soMthethosisekelo;
 - (c) lokusizwa ngabemisebenzi yokweseka ezokuphatha ekufakeni iphethishini;
 - (d) nangasiphi isikhathi ngaphambi kokuba iKomidi liphothule ukucubungula kwalo iphethishini, –
 - (i) lokwethula ulwazi olusha eKomidini mayelana nodaba oluqukethwe yiphethishini;
 - (ii) lokuphikisa ngokubhaliwe nanoma yisiphi isitatimende, umbono noma isincomo okubekwe yinoma yimuphi umuntu noma umgwamanda mayelana naleyo phethishini;
- lokwazisa iKomidi uma umuntu noma umgwamanda othile, kulandela ukwethulwa kwephethishini, eselucubungulile lolo daba olwethulelwe iphethishini; kanye nelokufaka isicelo eKomidini sokuthola naluphi ulwazi noma sokulalela nabuphi ubufakazi noma isethulo somlomo maqondana nodaba oluqukethwe kwiphethishini, okuwulwazi noma ubufakazi okumele bubandakanyeke efayeleni lephethishini;
- lokwaziswa yiKomidi engakapheli amasonto amane yethuliwe iphethishini efakwe ngumfakiphethishini –
- ngenombolo yefayela lephethishini enikezwe leyo phethishini;
- ngendlela iphethishini esingethwe ngayo; kanye
- nangezizathu zokuthi kungani iphethishini isingethwe ngaleyo ndlela;

lokuba iphethishini yakhe icutshungulwe yiKomidi, ngaphandle uma iphethishini ihoxiswa ngenxa yokungahlangabezani nezimfanelo zokufaneleka okukhulunywe ngakho eMthethweni noma ku le mithethonqubo;

lokunikezwa izizathu ezibhaliweyo uma iKomidi lenqaba ukucubungula iphethishini; lokuthamela namuphi umhlango weKomidi lapho iphethishini icutshungulwa khona, ngaphandle uma uSihlalo enquma ngokwehlukile futhi, ngokubhaliweyo ngaphambi komhlango azise umfakiphethishini ngaleso sinqumo kanye nezizathu zaso;

lokwaziswa ngokubhaliweyo ngomphumela wocubungulo lwephethishini yiKomidi;

lokwaziswa yiKomidi, lapho kufanele, ngezinye izinyathelo angazithatha;

lokufinyelela kwifayela yephethishini nangasiphi isikhathi esifanele;

lokuba amalungelo akhe ahlinzekelwe –

kumthethosisekelo, ikakhulukazi ilungelo lobulungiswa kwezokuphatha;

eMthethweni kanye nale mithethonqubo,

ahlonishwe yiPhalamende, wuSomlomo, yiKomidi kanye nawuphiko

Iwemisebenzi yokweseka ezokuphatha; kanye

(iii) nelokuhoxisa iphethishini.

Ukwethulwa kwephethishini

5. (1) Iphethishini kumele yethulwe ngokuhambisana nezihlinzeko zoMthetho.
- (2) Iphethishini kumele ihanjiswa mathuba noma ngeposi, kungaba iposi elejwayelekile noma i-imeyili.
- (3) Abemisebenzi yokweseka ezokuphatha kumele, ekutholeni iphethishini, bagcwalise ifomu eseSithasiselweni "A" kule Mithethonqubo, ekhombisa –
 - (a) igama lomuntu ofake iphethishini, noma igama leqembu noma leqegeba elithile labantu lowo muntu ayenze egameni labo;
 - (b) isikhundla okukhulunywe ngaso ezindimeni (a), (b), (c) kanye no (d) sencazelo "yomfakiphethishini" esigabeni 1 soMthetho lapho lowo muntu afaka iphethishini ngaphansi kwaso;
 - (c) iminingwane yokuxhumana yomuntu ofaka iphethishini;
 - (d) udaba oluqokethwe kwiphethishini; kanye
 - (e) nanoma yiluphi olunye udaba uSomlomo noma iKomidi abangadinga ukuba kwenatshwe ngalo.
- (4) Abemisebenzi yokweseka ezokuphatha kumele –
 - (a) ekutholeni iphethishini, baqiniseke ukuthi ifomu esesithasiselweni kule mithethonqubo igcwaliswa ngokufanele njengoba kubekiwe ngaphansi kwesigatshana (3) ngenhla;
 - (b) banikeze usizo, ngaphandle kosizo lwezimali, kunanoma yimuphi umuntu ongakwazi ukwethula iphethishini ehambisana nazo zonke izimfuneko ezibekwe nguMthetho kanye nale Mithethonqubo; futhi
 - (c) banqume ukuthi kungabe iphethishini iyahambisana yini nezimfuneko zoMthetho kanye nale Mithethonqubo ukuze icutshungulwe yiKomidi, futhi bafake umbono ngalokhu efayeleni lephethishini.

Ukubhaliswa kwephethishini

6. (1) Abemisebenzi yokweseka ezokuphatha kumele –
- (a) babhalise iphethishini ngokugcwalisa imininingwane yayo oHlwini lokuBhalisa amaPhethishini olusemthethweni;
 - (b) bavule “ifayela lephethishini” okumele l iqukathe ulwazi olubekwe ngaphansi komthethonqubo 7;
 - (c) banikeze ifayela lephethishini inombolo yalo okukhulunywe ngayo endimeni (b); futhi
 - (d) zingakapheli izinsuku zokusebenza eziyisikhombisa emva kokwethulwa kwephethishini ngokomthethonqubo 5, ebhaliswe njengephethishini ngokwendima (a), bazise umuntu ofake iphethishini ngokubhaliswa kwephethishini kanye nenombolo yefayela enikezwe yona.
- (2) USomlomo, nangasiphi isikhathi, angayalela abemisebenzi yokweseka ezokuphatha ukuba bazise nanoma yimuphi omunye umuntu noma umgwamanda ngokubhaliwe ngaleyo phethishini.

Ifayela lephethishini

7. (1) Ifayela lephethishini okukhulunywe ngalo kumthethonqubo 6(1) kumele liqukathe –
- (a) iphethishini egcwaliswe ngokufanele ngendlela ebekiwe oHlelweni lokuQala loMthetho;
 - (b) ifomu egcwaliswe ngokuphelele okukhulunywe ngayo kumthethonqubo 5(3);
 - (c) uphenyo olwendlelela isitatimende sesikhalazo;
 - (d) namuphi umbono noma isincomo kwabemisebenzi yokweseka ezokuphatha mayelana naleyo phethishini;
 - (e) namuphi umbono ngodaba oluhlinzekwe ngumeluleki wezomthetho okukhulunywe ngawo kumthethonqubo 8(1)(f);
 - (f) izinyathelo ezithathwe ngabemisebenzi yokweseka ezokuphatha ngokulandela umthethonqubo 8; kanye
 - (g) negama lanoma yimuphi umuntu noma umgwamanda ocele ukuhlinzeka ulwazi noma uvo ngephethishini njengoba kubekiwe kumthethonqubo 8(2) kanye nomuntu noma umgwamanda owehluleka noma owenqaba ukwenza njalo, kanye, uma zikhona, nezizathu zabo zokwehluleka noma ukwenqaba ukwenza njalo.
- (2) Abemisebenzi yokweseka ezokuphatha kumele bagcine ikhophi egcwele nefundekayo yefayela lephethishini.

Uphenyo lokwendlelela lwephethishini

8. (1) Abemisebenzi yokweseka ezokuphatha kumele, emva kokubhaliswa kwephethishini kanye nokuvulwa kwefayela lephethishini njengoba

kuhlongoziwe kumthethonqubo 6(1)(b), benze uphenyo lokwendlalela mayelana naleyo phethishini futhi –

- (a) uma kufanelekile, bathole lonke ulwazi noma imibhalo ngomgomo okugcinwe abaphathi bazwelonke noma yimuphi omunye umgwamanda osemthethweni ofanele okwiphethishini;
- (b) bathole lonke ulwazi noma imibhalo ngomgomo okugcinwe isiphathimandla sesifundazwe ngaleyo phethishini;
- (c) bazame ukuthola umbono osemthethweni woMnyango owengamele umsebenzi emkhandlwini wesifundazwe oqondene naleyo phethishini;
- (d) uma kufanelekile, bathole lonke ulwazi noma imibhalo ngomgomo okugcinwe ngumkhandlu kamasipala kahulumeni wasekhaya owengamele umsebenzi osegunyeni lawo oqondene naleyo phethishini;
- (e) uma kunesidingo, bahlele ukuba leyo phethishini noma naluphi olunye ulwazi noma umbhalo ukuba kuhunyushwe; futhi
- (f) uma leyo phethishini iphathelene –
 - (i) nodaba lomthetho;
 - (ii) nokuhunyushwa kwemithetho;
 - (iii) nesiphakamiso somthetho; noma
 - (iv) uMthethosivivinyo obekwe ezithebeni zePhalamende,

badinga uMeluleki weZomthetho wePhalamende noma isiphathimandla sesifundazwe ukuba sihlizwe ngezaluleko noma sibeke umbono ngalolo daba.

(2) Abemisebenzi yokweseka ezokuphatha noma uMeluleki weZomthetho okukhulunywe ngabo endimeni (f) yomthethonqutshana (1) bangacela namuphi umuntu noma umgwamanda ngaphandle kwalabo okukhulunywe ngabo kumthethonqutshana (1) ukuba babeke umbono noma bahlinzeke ulwazi abanalo, mayelana nesitatimende noma isikhalazo okungadingeka ngokufanele ukuze kuphothulwe uphenyo lokwendlalela iphethishini.

(3) Abemisebenzi yokweseka ezokuphatha kumele, uma –

- (a) ngokwezindima (a), (b), (c) noma (d) zomthethonqutshana (1) noma (2), becele ulwazi, imibhalo ngomgomo noma ngombono osemthethweni;
- (b) ngokwendima (e), becele ukuhunyushwa kwephethishini kanye nolunye ulwazi; noma
- (c) ngokwendima (f), becele izeluleko zomthetho noma umbono wezomthetho,

bacele uMnyango, umgwamanda, umkhandlu kamasipala, uhulumeni wasekhaya, umhumushi noma umeluleki wezomthetho abathintekayo, kuye ngesimo, ukuba bahlinzeke lolu lwazi, imibhalo ngomgomo noma ngombono osemthethweni zingakapheli izinsuku eziyi-14 emva kokuthola lesi sicelo.

(4) Abemisebenzi yokweseka ezokuphatha kumele benze uphenyo lokwendlalela ngale kokwenzelela noma ukucwasa umfakiphethishini noma iphethishini kanye nangokulandela namuphi umgomo wokuziphatha osebenzayo kumsebenzi wephalamende.

(5) Abemisebenzi yokweseka ezokuphatha kumele, zingakapheli izinsuku ezingama-30 emva kokubhaliswa kwephethishini, bethule ifayela lephethishini kuSomlomo ukuze kuthathwe izinyathelo ngaphansi kwesigaba 10 soMthetho.

Ukudalulwa kweqhaza langasese nesedluliselo

9. (1) (a) Esimweni lapho uSomlomo eneqhaza langasese kwiphethishini –
- (i) kumele adalule ngokubhaliweyo ngalelo qhaza, abhekise kuSihlalo weKomidi kanye nabemisebenzi yokweseka ezokuphatha; futhi
 - (ii) iSekela likaSomlomo kumele lenze namuphi umsebenzi onikezwe uSomlomo nguMthetho noma le mithethonqubo.
- (b) Abemisebenzi yokweseka ezokuphatha kumele babeke ikhophi yencwadi yokudalula ngaphansi kwendima (a) efayeleni lephethishini.
- (2) USomlomo kumele, lapho ethola ifayela yephethishini, ayihlole futhi –
- (a) angayibuyisela emuva kwabemisebenzi yokweseka ezokuphatha nemiyalelo angayibona ifanele, kuhlanganisa nomyalelo oqondene nesikhathi okumele ngaso abemisebenzi yokweseka ezokuphatha babe sebehambisana ngaso nemiyalelo yakhe;
 - (b) ngokulandela isigaba 10 soMthetho, angethula iphethishini eKomidini futhi/noma anqume mayelana nokugunyazelwa ukubekwa ezithebeni zeNdlu yeSishayamthetho kwephethishini.

IKomidi

10. (1) Zingakapheli izinyanga ezintathu kusukela ngosuku lokwethulwa kwephethishini, iKomidi kumele licubungule futhi libhekane nephethishini edluliselwe kulo nguSomlomo ngokulandela uMthetho, le mithethonqubo kanye neMithetho eNgenakuguquka.
- (2) IKomidi, ukwengeza emisebenzi elihlinzekelwe yona nguMthetho kanye neMithetho eNgenakuguquka, –
- (a) lingakhipha imiyalelo kwabemisebenzi yokweseka ezokuphatha mayelana nophenyo oluqhubekayo ngephethishini ethile;
 - (b) lingayalela abemisebenzi yokweseka ezokuphatha ukuba bazise umfakiphethishini ngokubhaliweyo ngokuqhubekayo okwesikhashana maqondana nokucutshungulwa knaye nokusonjululwa kwephethishini ethile.
- (3) IKomidi kumele, emva kokuphuthula ucubungulo lwalo lwephethishini, lifake leyo mininingwane embikweni walo kwiPhalamende okukhulunywa ngawo esigabeni 13(8)(b) soMthetho.

Ukuvalwa nokwethulwa kwephethishini emva kwesinqumo seNdlu

11. (1) UNobhala kumele, emva kweSinqumo esingujuqu seNdlu, azise umfakiphethishini kanye, uma kunesidingo, namuphi omunye umuntu noma

umgwamanda ngokubhaliwe ngomphumela wephethishini, kanye nezizathu zalokho, zingakapheli izinsuku eziyisikhombisa iNdlu ithathe isinqumo.

(2) Abemisebenzi yokweseka ezokuphatha kumele, emva kwesinqumo esingujuqu seNdlu kanye nangokuhambisana nomthethonqutshana (1), -

- (a) bavale ifayela lephethishini; futhi
- (b) bagcine ifayela lephethishini endaweni egcina amarekhodi ngokuhambisana nanoma yimuphi umthetho ofanele ophathelene nokugcinwa kwemibhalo kumarekhodi.

Ilungelo lokufaka isicelo sokuphikisa isinqumo

12. (1) Umfakiphethishini angaphikisana –

- (a) nokwenqaba kukaSomlomo noma iKomidi ukwethula iphethishini eNdlini ngaphansi kwesigaba 10 soMthetho;
- (b) nesinqumo sikaSihlalo sokucubungula iphethishini eyethulwe ngumfakiphethishini ekusitheleni ngaphansi kwesigaba 14(2) soMthetho; noma
- (c) nanoma yisiphi isincomo, ukwedluliselwa komuntu umuntu noma umgwamanda noma esinye isinqumo seKomidi emva kokucubungula iphethishini eyethulwe nguye.
- (2) (a) Umfakisicelo ohlose ukusebenzisa ilungelo lakhe lokufaka isicelo sokuphikisa isinqumo kumele, zingakapheli izinsuku ezingama-21 zokusebenza ethole isaziso esibhaliweyo sanoma yiluphi udaba okukhulunywe ngalo kumthethonqutshana (1), ethule umbhalo oqukethe isicelo sakhe sokuphikisa isinqumo nozobizwa “ngombhalo wesicelo sokuphikisa isinqumo”.
- (b) Umbhalo okukhulunywa ngawo endimeni (a) kumele wethulwe ngendlela efanayo nephethishini, njengoba kuhlinzekiwe eMthethweni kanye nakule mithethonqubo.
- (c) Umfakiphethishini nangesiphi isikhathi angasihoxisa isicelo sokuphikisa isinqumo ngesaziso esibhaliwe.
- (d) Abemisebenzi yokweseka ezokuphatha kumele, ekutholeni isicelo, banikeze usizo olulindelekile kumfakiphethishini ngokufaka isicelo sokuphikisa isinqumo.

(3) Umbhalo wesicelo sokuphikisa isinqumo kumele, ubhekise –

- (a) kwinqubo yokucutshungulwa kwephethishini elandelwe yiKomidi; noma
- (b) ezizathwini ezibhaliweyo ezanikezwa yiKomidi noma ngusihlalo weKomidi ngesizathu salo noma sakhe, ubeke –

izizathu zokufaka isicelo sokuphika isinqumo;

izinto iKomidi noma uSihlalo enza iphutha maqondana nazo; kanye nesinqumo, isincomo noma isiphetho, ngokubona komfakiphethishini, okwakumele iKomidi noma usihlalo bafinyelele kuso.

Umbhalo wesicelo sokuphikisa isinqumo ungequkathe ulwazi, ngaphambi kokuphothulwa kokucutshungulwa kwephethishini yiKomidi, olwalungafakwanga efayeleni lephethishini.

Abemisebenzi yokweseka ezokuphatha kumele ngokushesha lapho bethola umbhalo wesicelo sokuphikisa isinqumo –

- (a) ngokubhaliweyo bazise oyifakile ngokuthi bawutholile umbhalo;
- (b) bagcwalise imininingwane yombhalo wesicelo sokuphikisa i isinqumo ohlwini lwamaphethishini;
- (c) bafake umbhalo wesicelo sokuphikisa isinqumo efayeleni lephethishini;
- (d) ngokubhaliweyo, bazise iKomidi kanye namuphi umuntu noma umgwamanda nangayiphi indlela obubandakanyeka kwiphethishini, ngesicelo sokuphikisa isinqumo futhi bahlinzeke iKomidi noma lowo muntu noma umgwamanda ikhophi yombhalo wesicelo sokuphikisa isinqumo; futhi
- (e) badlulisele umbhalo wesicelo sokuphikisa isinqumo kanye nefayela lephethishini kuSomlomo.

(6) Kuncike kumthethonqutshana (7), uSomlomo kumele, zingakapheli izinsuku eziyi-15 zokusebenza ethole umbhalo wesicelo sokuphikisa isinqumo kanye nefayela lephethishini, asicubungule isicelo bese kuthi emva kwalokho –

- (a) angasichitha isicelo;
- (b) angawethula umbhalo futhi awudlulisele eKomidini ukuba liwucubungule kabusha;
- (c) angadlulisela umbhalo wesicelo sokuphikisa isinqumo kanye nefayela lephethishini nesincomo –

(i) ePhalamende;

(ii) eKomidini eLingenakuguquka lePhalamende;

kuNdunankulu noma kwilungu leKhabhinethi yesifundazwe;

emkhandlwini kamasipala kahulumeni wasekhaya; noma

esikhungweni eseseka intando yeningi ngokomthethosisekelo okukhulunywa ngayo eSahlukweni 5 soMthethosisekelo; noma

angathatha noma yisiphi esinye isinqumo anamandla omthetho ukuba asithathe maqondana naleyo phethishini.

(7) (a) Esimweni lapho uSomlomo esedalule iqhaza elithinta yena ngqo kwiphethishini ngaphansi komthethonqubo 9(1), iSekela likaSomlomo kumele liqhube izinyathelo zokubhekana nesicelo sokuphikisa isinqumo.

(b) Lowo muntu noma umgwamanda othatha isinqumo sokugcina ngesicelo sokuphikisa isinqumo kumele anikeze izizathu ezibhaliwe ngaleso sinqumo.

Abemisebenzi yokweseka ezokuphatha kumele –

ekuyalelweni nguSomlomo noma yiKomidi, izikhathi ngezikhathi, bazise umuntu ofake isicelo sokuphikisana nesinqumo ngesimo, noma ukuthi sekuhambe

kwafikaphi maqondana nesicelo sakhe; futhi

zingakapheli izinsuku eziyi-15 emva kokuthathwa kwesinqumo esingujuqu

mayelana nesicelo sokuphikisa isinqumo, ngokubhaliwe bazise umuntu ofake

isicelo ngomphumela wesicelo sokuphikisa isinqumo, kuhambisana nezizathu.

Iphalamende lisekhefina

- 13.** (1) (a) Izihlinzeko zoMthetho, iMithetho eNgenakuguquka noma le Mithethonqubo;
- (b) imisebenzi kanye nezibopho okubekwe kumuntu noma umgwamanda, kubandakanya iKomidi noma iLungu, ngokoMthetho, iMithetho eNgenakuguquka noma le Mithethonqubo, akumiswa okwesikhashana maqondana nephethishini ngenxa nje kuphela yokuthi iPhalamende lisekhefina, ekupheleni kwesikhathi sokusebenza kwesishayamthetho noma lingahleli ngenxa yanoma yisiphi esinye isizathu.
- (2) Iphethishini elethwe ngaphambi kokuba iPhalamende liye ekhefina noma selibheke ekupheleni kwesikhathi sokusebenza kwesishayamthetho kumele kubhekwane nayo ngokwalo Mthetho, iMithetho eNgenakuguquka kanye nale Mithethonqubo kube sengathi iPhalamende lisahleli.
- (3) Uma –
- (a) isikhathi sokusebenza kwePhalamende siphela;
- (b) iPhalamende lihlakazwa ngokwesigaba 109 soMthethosisekelo; noma
- (c) uNdunankulu ebize ukhetho lwePhalamende, futhi iKomidi lingakakuphuthuli ukucubungula kwalo iphethishini, iKomidi kumele limise ngokushesha ukucubungula kwalo iphethishini, bese liyidlulisela kuSomlomo, okumele ayalele abemisebenzi yokweseka ezokuphatha ukuba bayihlelise kuze kube iPhalamende elisha selikhethiwe futhi selike lahlala kanye njengoba kubekiwe esigabeni 110(1) soMthethosisekelo.
- (4) Uma abemisebenzi yokweseka ezokuphatha bephenya ngephethishini ngesikhathi iPhalamende lingakakhethwa, kumele bayihlelise iphethishini kuze kube iPhalamende elisha selikhethiwe futhi selike lahlala kanye njengoba kubekiwe esigabeni 110(1) soMthethosisekelo.
- (5) Abemisebenzi yokweseka ezokuphatha, ngokubhaliwe kumele bazise umfakiphethishini uma kuvela isimo okukhulunywa ngaso kulo mthethonqubo.

Ukushayisana kwamaqhaza

- 14.** (1) Naliphi ilungu leKomidi noma ilungu labasebenzi bemisebenzi yokweseka ezokuphatha kumele, uma lineqhaza ngqo l ezimali kunanoma yiyiphi iphethishini, maqondana nanoma yimuphi umfakiphethishini, noma umphumela wephethishini, ngokushesha lapho liba nolwazi ngalelo qhaza –
- (a) ngokubhaliwe lazise uSomlomo kanye neKomidi ngalelo qhaza kanye neminingwane yayo; futhi
- (b) lifake ikhophi yaleyo ncwadi okukhulunywa ngayo ngaphansi kwendima
- (b) efayeleni lephethishini.
- (2) Umthethonqutshana (1) awuphambuki nangayiphi indlela ezihlinzekweni –
- (a) zoMthetho waMandla, iZibonelelo kanye nokuVikeleka kwamaLungu ePhalamende kanye naweZishayamthetho zeZifundazwe, 2004 (uMthetho No. 4 ka 2004); kanye

(b) nezanoma yimuphi umgomo wokuziphatha noma wezimilo osebenza kunanoma yiliphi iungu leKomidi noma ilungu labasebenzi bemisebenzi yokweseka ezokuphatha.

Isihloko esifushane

15. Le mithethonubo ibizwa ngeMithethonqubo yamaPhethishini yaKwaZulu-Natali.

ISITHASISELO A

Sishayamthetho saKwaZulu-Natali
Iphethishini ngokuhambisana nesigaba 6
soMthetho WaKwaZulu-Natali Wamaphethishini (uMthetho onguNo. 4
ka-2003)

Amagama aphelele omfakiphethishini

Uma kunesidingo, igama lomuntu noma iqembu elimelwe ngumfakiphethishini

Ikheli lomfakiphethishini

Inombolo kamazisi yomfakiphethishini

Inombolo yokubhalisa yomfakiphethishini (uma kuyinkampani)

Inombolo yocingo yokuxhumana nomfakiphethishini

Inombolo yefeksi yomfakisisicelo

Ikheli le-imeyili lomfakiphethishini

Iqoqa lePhethishini (ukuchazwa kafushane kwengqikithi njengoba kwenekewe ngendlela ekhonjiswe kuSheduli Yokuqala yoMthetho)

Isibalo samakhasi angeziwe kulo mbhalo oqukethe iphethishini

Izihloko kanye nesibalo samakhasi ezithasiselo zephethishini

Ukuchazwa kwanoma ibuphi ubufakazi obungabhaliwe obulethwe kanye nale phethishini

GENERAL NOTICES—ALGEMENE KENNISGEWINGS—ISAZISO SIKAWONKE-WONKE

No. 21

31 August 2007

***KwaZulu-Natal Traditional Leadership and Governance
Amendment Bill, 2007******Notice in terms of Rule 192 of the Standing Rules of the KwaZulu-Natal Legislature***

Notice is hereby given in terms of Rule 192 of the Standing Rules of the Provincial Legislature that the KwaZulu-Natal Traditional Leadership and Governance Amendment Bill, 2007 as set out hereunder, has been introduced into the aforesaid Legislature and will be considered by the Traditional Affairs and Local Government Portfolio Committee. The public and other interested groups are invited to submit representations on the said Bill, which representations must be addressed to:

Attention: Ms NP Zuma
The Secretary
KwaZulu-Natal Legislature
Private Bag X 9112
PIETERMARITZBURG
3200

so as to reach her not later than 15 days from the date of publication.

N NAIDOO
Secretary to the KwaZulu-Natal Legislature

**KWAZULU-NATAL
TRADITIONAL LEADERSHIP AND GOVERNANCE
AMENDMENT BILL, 2007**

CERTIFIED: 7 May 2007 Principal State Law Advisor 2

GENERAL EXPLANATORY NOTE:

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

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

BILL

To amend the KwaZulu-Natal Traditional Leadership and Governance Act, 2005, so as to clarify the leadership of traditional sub-communities; to provide for the power of an *Inkosi* to prepare a testamentary succession document identifying his or her successor; to provide for the safekeeping of testamentary succession documents; to provide for the recognition of *Amakhosi* who were recognised as such prior to the commencement of the Act; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 5 of 2005

1. Section 1 of the KwaZulu-Natal Traditional Leadership and Governance Act, 2005 (Act No. 5 of 2005), hereinafter referred to as the principal Act, is hereby amended by the insertion after the definition of "traditional leader" of the following definition:

“**traditional sub-community**” means a community –

(a) subject to the system of traditional leadership; and

(b) observing a system of customary law,

but which is located in an area different from the area in which the *Inkosi* to whom the community owes allegiance resides.”.

Insertion of section 2A in Act 5 of 2005

2. The following section is hereby inserted in the principal Act after section 2:

“**Recognition of traditional sub-communities**

2A.(1) An *Inkosi* of a traditional sub-community may, in the manner provided for in subsections (2) and (3), apply for the recognition of such traditional sub-community.

(2) If the Premier grants the application for the recognition of a traditional sub-community, the *Inkosi* must appoint an *Induna* to represent the *Inkosi* in the

area or areas under the supervision of the *Inkosi* and in which the *Inkosi* does not reside.

(3) Subsections (5)(c) and (6) apply with the necessary changes to an application referred to in subsection (1). ”.

CERTIFIED: 7 May 2007 Principal State Law Advisor 3

Amendment of section 19 of Act 5 of 2005

3. Section 19 of the principal Act is hereby amended by the substitution in subsection (1) for subparagraph (iii) of paragraph (a) of the following subparagraph:

“(iii) the Premier must, subject to subsection (3) of this section and section 3, recognise a person so identified in terms of subsection (1)(a)(i) as an *Inkosi*; Provided that if the reason for the vacancy is the death of the recognised *Inkosi*, *Umnteni wenkosi* must, before identifying the person to be appointed as an *Inkosi*, consider the content of the testamentary succession document referred to in section 19A.”.

Insertion of section 19A in Act 5 of 2005

4. The following section is hereby inserted in the principal Act after section 19:

“Preparation of testamentary succession document by *Inkosi*

19A.(1) An *Inkosi* must, after consultation with *Umnteni wenkosi*, prepare a testamentary succession document identifying the person the *Inkosi* wishes to succeed him or her as *Inkosi*.

(2) A testamentary succession document must be in writing, and signed by the *Inkosi* concerned.

(3) An *Inkosi* signs the testamentary succession document by appending his or her signature or making his or her mark, which must be witnessed by at least two members of *Umnteni wenkosi* each of whom must append his or her signature or mark to the document.

(4) The responsible Member of the Executive Council must appoint a person to act as custodian and repository of all testamentary succession documents.

(5) The custodian and repository must keep any testamentary succession document lodged with him or her in safe custody in separate sealed envelopes, until such envelopes are opened by him or her after the death of the *Inkosi* concerned, or until the *Inkosi* concerned requests, in writing, the return thereof in order to amend, or alter the testamentary succession document or to execute a new testamentary succession document.

(6) Any amendment or alteration to a testamentary succession document must be in writing and signed and witnessed as provided for in subsections (2) and (3).”.

Amendment of section 52 of Act 5 of 2005

5. Section 52 of the principal Act is hereby amended by the addition after subsection (6) of the following subsection:–

“(7) An *Inkosi* appointed as such in terms of applicable provincial legislation, and who was recognized as such immediately before the commencement of this Act is regarded to have been recognized as such in terms of section 19 of this Act.”.

Substitution of section 48 of Act 5 of 2005

6. The following section is hereby substituted for section 48 of the principal Act:

“Delegations [of powers, assignments, agency and service delivery agreements]

48.(1) The Premier may, subject to the provisions of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), delegate to the responsible Member of the Executive Council any role, power, function or duty conferred on, or assigned to, the Premier by this Act.

[(1)(a)] (2) The responsible Member of the Executive Council may delegate to the Head of Department any role, power, function or duty [contemplated] conferred on, or assigned to, the responsible Member of the Executive Council [in] by this Act, except the power to make regulations and issue notices, to the head of department.

(b) **Such delegation does not prevent the exercise of the relevant power by the responsible Member of the Executive Council concerned.**

(2) **Departments in the provincial government, statutory institutions, organs of state and municipalities may –**

(a) **delegate or assign any power or function to; or**

(b) **enter into agency or service delivery agreements with, the institutions contemplated in section 46].**

(3) Any role, power, function or duty delegated in terms of subsections (1) or (2) must be exercised or performed subject to such conditions as the person who made the delegation considers necessary.

(4) Any delegation referred to in subsections (1) or (2) –

(a) must be in writing;

(b) does not prohibit the person or who made the delegation from exercising that power or performing that role, function or duty; and

(c) may at any time be withdrawn or amended in writing by the person who made the delegation.”.

Short title

7. This Act is called the KwaZulu Natal Traditional Leadership and Governance Amendment Act, 2007.

KWAZULU-NATAL
TRADITIONAL LEADERSHIP AND GOVERNANCE AMENDMENT BILL, 2007
EXPLANATORY MEMORANDUM

INTRODUCTION

In 2005 the Provincial Legislature of KwaZulu-Natal passed the Traditional Leadership and Governance Act, 2005 (No. 5 of 2005) in order to provide for the recognition of traditional communities, the establishment and recognition of traditional councils, traditional leadership positions, the recognition of traditional leaders, houses of traditional leaders and certain ancillary matters.

During the implementation of the Act it became necessary to deal with the position of traditional sub-communities which had not had not been specifically dealt with in the Act, and to provide for the power of an *Inkosi* to prepare a testamentary succession document identifying his or her successor, and to provide for the recognition of *Amakhosi* who were recognised as such prior to the commencement of the Act.

The Traditional Leadership and Governance Framework Act and the Constitution were analysed during this process and the provisions are fully compliant with the relevant prescripts. This Bill addresses those issues that are considered urgent to finalise and to give full effect to the provincial government business on traditional leadership.

CLAUSE BY CLAUSE EXPLANATION OF THE BILL

Clauses 1 and 2

Clauses 1 and 2 have been introduced to provide for the situation where there are two or more traditional communities which owe allegiance to one traditional leader (e.g. *Isilo's* three or more areas in Nongoma and Babanango and three areas belonging to *Iqadi* at Inanda/ Ndwedwe and Bulwer). These clauses provide for the definition of "traditional sub-community", and for an *Inkosi* to apply for recognition of such communities.

Clauses 3 and 4

Clauses 4 provide for an *Inkosi* to prepare a testamentary succession document in which the *Inkosi* identifies the person he or she wishes to succeed him or her as *Inkosi*, and sets out the formalities which must be complied with for the proper execution and safekeeping of such documents. Clause 3 provides that *Umdeni wenkosi* must consider the testamentary document before identifying the person to succeed the *Inkosi* upon the *Inkosi's* death.

Clause 5

Clause 5 provides for *amakhosi* who were appointed by applicable provincial legislation, and who were recognized as such immediately before the commencement of the Act to be recognized in terms of the Act. This clause seeks to address the administrative issues created by all *amakhosi* having to reapply for recognition, and it imposes no obligation on traditional leaders to re-apply for recognition. This will, *inter alia*, provide for those awaiting a decision of the Commission where their position is under the Commission's investigation.

Clause 6

Clause 6 provides for delegations of powers in order to permit the Premier to delegate some or all his responsibilities to the Minister in circumstances where the Premier is unable to perform those duties himself. This power is subject to national legislation and to the Traditional Leadership and Governance Framework Act. The clause also permits the Minister to delegate certain functions to the Head of Department where the Minister cannot perform those functions himself or herself. The clause prescribes the formalities for such delegations and provides the legal ambit of the delegation.

**KWAZULU-NATAL WYSIGINGSWETSONTWERP OP
TRADISIONELE LEIERSKAP
EN REGERING, 2007**

***Kennisgewing ooreenkomstig Reël 192 van die Staande Reëls van die KwaZulu-Natal
Wetgewer***

Kennisgewing geskied hiermee ooreenkomstig Reël 192 van die Staande Reëls van die KwaZulu-Natal Wetgewer dat die KwaZulu-Natal Wysigingswetsontwerp op Tradisionele Leierskap en Regering, 2007 soos hieronder uiteengesit, by die voorgemelde Wetgewer ingedien is en deur die Portfoliokomitee oor Plaaslike Regering en Tradisionele Aangeleenthede oorweeg sal word. Die publiek en ander belanghebbende groepe word uitgenooi om vertoë oor die vermelde wetsontwerp in te dien, welke vertoë gerig moet word aan:

Aandag: Me NP Zuma
Die Sekretaris
KwaZulu-Natal Legislature
Privaatsak X 9112
PIETERMARITZBURG
3200

Vertoë moet haar nie later as 15 dae vanaf die datum van hierdie publikasie bereik nie.

N NAIDOO
Sekretaris van die KwaZulu-Natal Wetgewer

KWAZULU-NATAL
WYSIGINGSWETSONTWERP OP TRADISIONELE LEIERSKAP
EN REGERING, 2007

ALGEMEEN VERDUIDELIKENDE NOTAS:

[] Woorde in vetdruk tussen vierkantige hakies dui skrapings uit bestaande verordenings aan
 _____ Onderstreepte woorde dui invoegings by bestaande verordenings aan

WETSONTWERP

Om die KwaZulu-Natal Wet op Tradisionele Leierskap en Regering, 2005, te wysig om sodoende die leierskap van tradisionele subgemeenskappe uiteen te sit; om voorsiening te maak vir die bevoegdheid van 'n *Inkosi* om 'n testamentêre opvolgingsdokument voor te berei vir die aanwysing van sy of haar opvolger; om voorsiening te maak vir die veilige bewaring van testamentêre opvolgingsdokumente; om voorsiening te maak vir die erkenning van *Amakhosi* wat voor die inwerkingtreding van die Wet as sodanig erken is; en om voorsiening te maak vir sake wat daarmee verband hou.

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

Wysiging van artikel 1 van Wet No. 5 van 2005

1. Artikel 1 van die KwaZulu-Natal Wet op Tradisionele Leierskap en Regering, 2005 (Wet No. 5 van 2005), hierna die Hoofwet genoem, word hierby gewysig deur die invoeging van die volgende omskrywing na die omskrywing van "tradisionele leier":

“**tradisionele subgemeenskap**” beteken 'n gemeenskap –

(a) wat onderhewig is aan die tradisionele leierskapstelsel; en

(b) wat 'n stelsel van gewoontereg nakom,

maar wat geleë is in 'n gebied wat verskillend is van die gebied waarin die *Inkosi* aan wie die gemeenskap trou verskuldig is, woon.”.

Invoeging van artikel 2A by Wet No. 5 van 2005

2. Die volgende artikel word hierby na artikel 2 by die Hoofwet ingevoeg:

“Erkenning van tradisionele subgemeenskappe

2A.(1) 'n *Inkosi* of 'n tradisionele subgemeenskap kan, op die wyse waarvoor voorsiening gemaak is in subartikels (2) en (3), aansoek doen vir die erkenning van sodanige tradisionele subgemeenskap.

(2) Indien die Premier die aansoek om erkenning van 'n tradisionele subgemeenskap toestaan, moet die *Inkosi* 'n *Induna* aanstel om die *Inkosi* te verteenwoordig in die gebied of gebiede onder die *Inkosi* se toesig en waarin die *Inkosi* nie woon nie.

(3) Subartikels (5)(c) en (6) is met die nodige veranderings van toepassing op 'n aansoek vermeld in subartikel (1). ”.

Wysiging van artikel 19 van Wet No. 5 van 2005

3. Artikel 19 van die Hoofwet word hierby gewysig deur die vervanging in subartikel (1) van subparagraaf (iii) van paragraaf (a) deur die volgende subparagraaf:

“(iii) die Premier moet, onderhewig aan subartikel (3) van hierdie artikel en artikel 3, ‘n persoon as ‘n *Inkosi* erken wat ingevolge subartikel (1)(a)(i) as sodanig aangewys is: Met dien verstande dat indien die rede vir die vakature die dood van die erkende *Inkosi* is, die *Umndeni wenkosi* voor identifisering van die persoon wat as ‘n *Inkosi* aangestel moet word, die inhoud van die testamentêre opvolgingsdokument vermeld in artikel 19A, moet oorweeg.”.

Invoeging van artikel 19A by Wet No. 5 van 2005

4. Die volgende artikel word hierby na artikel 19 by die Hoofwet ingevoeg:

“Voorbereiding van testamentêre opvolgingsdokument deur *Inkosi*

19A.(1) ‘n *Inkosi* moet, na oorlegpleging met *Umndeni wenkosi*, ‘n testamentêre opvolgingsdokument voorberei waarin die *Inkosi* die persoon geïdentifiseer wat verkies word om hom of haar as *Inkosi* op te volg.

(2) ‘n Testamentêre opvolgingsdokument moet skriftelik en deur die betrokke *Inkosi* geteken wees.

(3) ‘n *Inkosi* teken die testamentêre opvolgingsdokument deur sy of haar handtekening of sy of haar merk aan te bring, wat deur ten minste twee lede van *Umndeni wenkosi* gestaaf moet word en elk moet sy of haar handtekening of merk op die dokument aanbring.

(4) Die verantwoordelike Lid van die Uitvoerende Raad moet ‘n persoon aanstel om as bewaarder en vertroueling van alle testamentêre opvolgingsdokumente op te tree.

(5) Die bewaarder en vertroueling moet enige testamentêre opvolgingsdokument wat by hom of haar in veilige bewaring gedeponeer is in aparte verseëelde koeverte, totdat sodanige koeverte deur hom of haar oopgemaak word na die dood van die betrokke *Inkosi*, of totdat die betrokke *Inkosi* skriftelik die terugbesorging daarvan versoek ten einde die testamentêre opvolgingsdokument te wysig of te verander of om ‘n nuwe testamentêre opvolgingsdokument ten uitvoering te bring.

(6) Enige wysiging of verandering aan ‘n testamentêre opvolgingsdokument moet skriftelik wees en geteken en gestaaf wees soos vermeld in subartikels (2) en (3).”.

Wysiging van artikel 52 van Wet No. 5 van 2005

5. Artikel 52 van die Hoofwet word hierby gewysig deur die invoeging van die volgende subartikel na subartikel (6):–

“(7) ‘n *Inkosi* wat as sodanig aangestel is ingevolge die provinsiale wetgewing, en wat as sodanig erken is onmiddelik voor die inwerkingtreding van hierdie Wet word as erken geag ingevolge artikel 19 van hierdie Wet.”.

Vervanging van artikel 48 van Wet No. 5 van 2005

6. Die volgende artikel vervang hierby artikel 48 van die Hoofwet:

“Delegasies [van bevoegdhede, opdragte, agentskaps- en diensleweringsooreenkomste]

48.(1) Die Premier kan, onderhewig aan die bepalings van die Raamwerkwet op Tradisionele Leierskap en Regering, 2003 (Wet No. 41 van 2003), enige rol, bevoegdheid, funksie of plig



CVISION

verleen of oorgedra aan die Premier deur hierdie Wet, aan die verantwoordelike Lid van die Uitvoerende Raad delegeer.

[(1)(a)] (2) Die verantwoordelike Lid van die Uitvoerende Raad kan enige rol, bevoegdheid, funksie of plig aan die Hoof van die Departement delegeer [bedoel] verleen of oorgedra aan die verantwoordelike Lid van die Uitvoerende Raad[in] deur hierdie Wet, behalwe die bevoegdheid om regulasies uit te vaardig en kennisgewings uit te reik[, **aan die departementshoof.**

(b) Sodanige delegasie verhoed nie die uitoefening van die betrokke bevoegdheid deur die betrokke verantwoordelike Lid van Uitvoerende Raad nie.

(2) Departemente van die Provinsiale Regering, statutêre instellings, staatsorgane en munisipaliteite kan –

(a) enige bevoegdheid of funksie delegeer of oordra aan; of

(b) agentskaps- of diensleweringsooreenkomste sluit met,

die instellings bedoel in artikel 46].

(3) Enige rol, bevoegdheid, funksie of plig gedelegeer ingevolge subartikel (1) of (2) moet uitgeoefen of verrig word onderhewig aan sodanige voorwaardes as wat die persoon wat die delegering doen, nodig ag.

(4) Enige delegasie vermeld in subartikel (1) of (2) –

(a) moet skriftelik wees;

(b) verbied nie die persoon of wie die delegering gedoen het om daardie bevoegdheid uit te oefen of daardie rol, funksie of plig te verrig nie; en

(c) kan te eniger tyd skriftelik onttrek of gewysig word deur die persoon wat die delegering gedoen het. ”.

Kort titel

7. Hierdie Wet word genoem die KwaZulu-Natal Wysigingswet op Tradisionele Leierskap en Regering, 2007.

KWAZULU-NATAL
WYSIGINGSWETSONTWERP OP TRADISIONELE LEIERSKAP
EN REGERING, 2007
VERKLARENDE MEMORANDUM

INLEIDING

In 2005 het die Provinsiale Wetgewer van KwaZulu-Natal die Wysigingswetsontwerp op Tradisionele Leierskap en Regering (Wet No. 5 van 2005) aangeneem om sodoende voorsiening te maak vir die erkenning van tradisionele gemeenskappe, die stigting en erkenning van tradisionele rade, tradisionele leierskapsposisies, die erkenning van tradisionele leiers, rade vir tradisionele leiers en sekere aangeleenthede wat daarmee verband hou.

Met die implementering van die Wet het dit nodig geword om die posisie van tradisionele subgemeenskappe uit te spel omdat daar nie spesifiek in die Wet daarmee gehandel is nie, en om voorsiening te maak vir die bevoegdheid van 'n *Inkosi* om 'n testamentêre opvolgingsdokument op te stel waarin sy of haar opvolger geïdentifiseer word, en om voorsiening te maak vir die erkenning van *amakhosi* wat as sodanig erken is voor die Wet in werking getree het.

Die Raamwet op Tradisionele Leierskap en Regering, 2003 (Wet No 41 van 2003) en die Grondwet is gedurende dié proses ontleed en die bepalings voldoen ten volle aan die tersaaklike voorskrifte. Hierdie wetsontwerp handel met vraagstukke wat as dringend beskou word ten einde volle effek aan die provinsiale regering se werksaamhede met betrekking tot tradisionele leierskap te gee.

VERDUIDELIKING VAN ALLE KLOUSULES IN DIE WETSONTWERP

Klousules 1 en 2

Klousules 1 en 2 is aangebring om voorsiening te maak vir die situasie waar twee of meer tradisionele gemeenskappe trou gesweer het aan een tradisionele leier (bv. *Isilo* se drie of meer gebiede in Nongoma en Babanango en drie gebiede wat aan *Iqadi* by Inanda/Ndwedwe en Bulwer behoort). Hierdie klousules maak voorsiening vir die definisie van "tradisionele subgemeenskap", en vir 'n *Inkosi* om aansoek te doen om erkenning van sodanige gemeenskappe.

Klousules 3 en 4

Klousule 4 maak voorsiening vir 'n *Inkosi* om 'n testamentêre opvolgingsdokument op te stel waarin die *Inkosi* die persoon identifiseer wat hy wil hê hom of haar as *Inkosi* moet opvolg, en sit die formaliteite uiteen waaraan voldoen moet word vir die behoorlike uitvoering en veilige bewaring van sodanige dokumente. Klousule 3 maak voorsiening dat *Umndeni wenkosi*, voor identifisering van die persoon wat 'n *Inkosi* na sy of haar dood moet opvolg, die inhoud van die testamentêre opvolgingsdokument moet oorweeg.

Klousule 5

Klousule 5 maak voorsiening vir *amakhosi* wat deur toepaslike provinsiale wetgewing aangestel is, en wat as sodanig erken is onmiddellik voor die inwerkingtreding van die Wet om in ooreenstemming met die Wet erken te word. Hierdie klousule poog om die administratiewe kwessies aan te pak wat geskep is omdat alle *amakhosi* om erkenning

moet heraansoek doen, en dit plaas geen verpligting op tradisionele leiers om weer om erkenning aansoek te doen nie. Dit sal onder meer voorsiening maak vir diegene wat op 'n besluit van die Kommissie wag wanneer hulle deur die Kommissie ondersoek word.

Klousule 6

Klousule 6 maak voorsiening vir die oordrag van bevoegdhede om die Premier toe te laat om sommige of al sy verantwoordelikhede aan die Minister oor te dra in omstandighede waar die Premier nie by magte is om daardie pligte self uit te voer nie. Hierdie bevoegdheid is onderhewig aan nasionale wetgewing en die Raamwetwet op Tradisionele Leierskap en Regering, 2003 (Wet No 41 van 2003). Die klousule laat ook die Minister toe om sekere funksies aan die Hoof van die Departement oor te dra as hy of sy nie self daardie funksies kan verrig nie. Die klousule skryf die formaliteite vir sodanige oordrag voor en voorsien die wetlike omvang van die oordrag.

No. 21

31 kuNcwaba 2007

**UMTHETHOSIVIVINYO OYISICHIBIYELO WOBUHOLI BOMDABU
NOKUBUSA WAKWAZULU-NATALI, 2007**

**Isaziso ngokuhambisana noMthetho 192 weMithetho Emileyo yeSishayamthetho
saKwaZulu-Natali**

Ngalokhu kunikezwa isaziso ngokuhambisana noMthetho 192 weMithetho Emileyo yeSishayamthetho sesiFundazwe maqondana nokuthi uMthethosivivinyo Oyisichibiyelo Wobuholi Bomdabu Nokubusa, ka-2007, njengoba uchazwe ngezansi, sewethuliwe eSishayamthethweni esibalulwe ngenhla futhi uzocutshungulwa yiKomidi Lesishayamthetho Lohulumeni Basekhaya Nezindaba Zomdabu. Umphakathi kanye nabanye abanentshisekelo bayamenywa ukuba balethe izethulo ezimayelana nalo Mthethosivivinyo, okumele ziqondiswe ku -:

Nksz. N.P. Zuma
UNobhala
ISishayamthetho saKwaZulu-Natali
Isikhwama Seposi X 9112
Pietermaritzburg
3200

ukuze zifinyelele kuye zingakapheli izinsuku eziyi-15 kusukela ngosuku okushicilelwe ngalo lesi saziso

N. NAIDOO
UNobhala weSishayamthetho saKwaZulu-Natali

INCAZELO EJWAYELEKILE:

[] Amagama abhalwe ngokugqamile akubakaki abayisikwele
akhombisa okweqiwe emthethweni okhona

_____ Amagama adwetshelwe ngomugqa oqinile akhombisa okufakiwe
emthethweni okhona

UMTHETHOSIVIVINYO

Wokuchibiyela uMthetho wobuHoli nokuBusa kweNdabuko waKwaZulu-Natali, 2005, ukuze kucaciswe ubuholi bemiphakathi emincane esekelwe ngokwenqubo yomdabu; wokuhlinzekela amandla okuthi iNkosi ibhale umbhalo ohlonza umuntu ozoyilandela esikhundleni sobuKhosi; wokuhlinzekela ukugcinwa endaweni ephephile kwaleyo mibhalo; wokuhlinzekela ukwamukelwa kwamaKhosi ayemukelwe ngaphambi kokuqaliswa koMthetho; kanye nokuhlinzekela okunye okuphathelene nalokho.

MAKUMISWE UMTHETHO yisiShayamthetho sesiFundazwe saKwaZulu-Natali, kanje:-

Ukuchitshiyelwa kwesigaba 1 sika soMthetho 5 ka 2005

1. Isigaba 1 soMthetho wobuHoli nokuBusa kweNdabuko, 2005 (uMthetho No. 5 ka 2005), emva kwalokhu ozobizwa ngoMthetho omkhulu, ngalokhu siyachitshiyelwa ngokufaka emva kwencazelo “umholi wendabuko” le ncazelo elandelayo:

“umphakathi omncane osekelwe ngokwenqubo yomdabu” kusho umphakathi –

(a) ongaphansi kohlelo lobuholi bomdabu; futhi

(b) ohlonipha uhlelo lomthetho wesintu,

kodwa osendaweni ehluke kunaleyo ndawo ehlala iNkosi lowo mphakathi okhonza ngaphansi kwayo.”.

Ukufakwa kwesigaba 2A eMthethweni 5 ka 2005

2. Lesi sigaba esilandelayo ngalokhu sifakwa eMthethweni omkhulu emva kwesigaba 2:

“Ukwamukelwa kwemiphakathi emincane esekelwe ngokwenqubo yomdabu

2A.(1) INkosi yomphakathi omncane osekelwe ngokwenqubo yomdabu, ngendlela ehlinzekelwe ezigatshaneni (2) no (3), zingafaka isicelo sokwamukelwa njengomphakathi omncane osekelwe ngokwenqubo yomdabu.

(2) Uma uNdunankulu evuma isicelo sokwamukelwa komphakathi omncane osekelwe ngokwenqubo yomdabu, iNkosi kumele ibeke induna ukuba imele iNkosi endaweni noma ezindaweni ezingaphansi kwesandla sayo iNkosi engahlali kuyona noma kuzona.

(3) Izigatshana (5)(c) no (6) ziyosebenza ngezinguquko ezidingekayo esicelweni okukhulunywe ngaso kumthethonqutshana (1).”.

Ukuchitshiyelwa kwesigaba 19 soMthetho 5 ka 2005

3. Isigaba 19 soMthetho omkhulu ngalokhu siyachitshiyelwa ngokufaka esikhundleni sesigatshana (1) indinyana (iii) yendima (a) yale ndinyana elandelayo:

“(iii) uNdunankulu kumele, kuncike esigatshaneni (3) salesi sigaba kanye nesigaba 3, amukele umuntu ohlonzwe ngokwesigatshana (1)(a)(i)

njengeNkosi: Kuncike ekutheni uma isizathu sokuvuleka kwesikhala kudalwe ngukukhothama kweNkosi ebikhona, uMndeni weNkosi kumele, ngaphambi kokuhlonza umuntu ozobekwa njengeNkosi, ucubungule okuqukethwe embhalweni ohlonza umuntu ozoyilandela esikhundleni sobuKhosi okukhulunywe ngawo esigabeni 19A.”.

Ukufakwa kwesigaba 19A eMthethweni 5 ka 2005

4. Lesi sigaba ngalokhu sifakwa eMthethweni omkhulu emva kwesigaba 19:

“Ukubhalwa kombhalo ohlonza umuntu ozolandela esikhundleni sobuKhosi yiNkosi

19A.(1) INkosi kumele, emva kokubonisana noMndeni wayo, ibhale umbhalo ohlonza umuntu ozoyilandela esikhundleni sobuKhosi ohlonza umuntu efisa ukuba athathe isikhundla sobuKhosi emva kwayo.

(2) Umbhalo ohlonza umuntu ozolandela esikhundleni sobuKhosi kumele ubhalwe, futhi usayinwe yiNkosi ethintekayo.

(3) INkosi isayina umbhalo ohlonza umuntu ozoyilandela esikhundleni sobuKhosi ngokufaka isignesha yayo noma ngokubeka uphawu lwayo, okumele kube nofakazi okungenani ababili boMndeni wayo nabo okumele bafake amasignesha abo noma babeke izimpawu zabo kulowo mbhalo.

(4) ILungu loMkhandlu oPhethe kumele liqoke umuntu ozokuba ngumphathi nomgcini wayo yonke imibhalo yokuhlonza abantu abazolandela esikhundleni sobuKhosi.

(5) Umphathi nomgcini kumele agcine umbhalo wokuhlonza abantu abazolandela esikhundleni sobuKhosi ayinikeziwe endaweni ephephile nasezimvilophini ezahlukene ezivaliwe, aze ayivule emva kokukhothama kweNkosi ethintekayo, noma kuze kube iNkosi ethintekayo icela,

ngokubhalwe phansi, ukuba ubuyiswe ukuze ichibiyele, noma ishintshe umbhalo wokuhlonza umuntu ozolandela esikhundleni sobuKhosi noma ibhale umbhalo wokuhlonza umuntu ozolandela esikhundleni sobuKhosi omusha.

(6) Noma yikuphi ukuchitshiyelwa noma ukushintshwa kombhalo wokuhlonza umuntu ozolandela esikhundleni sobuKhosi kumele ubhalwe phansi, usayinwe futhi ube nofakazi njengoba kuhlinzekelwe ezigatshaneni (2) no (3)."

Ukuchitshiyelwa kwesigaba 52 soMthetho 5 ka 2005

5. Isigaba 52 soMthetho omkhulu ngalokhu siyachitshiyelwa ngokwengeza emva kwesigatshana (6) lesi sigatshana esilandelayo:-

"(7) INkosi ebekwe ngokomthetho okhona wesifundazwe, neyamukelwa kanjalo ngaphambi kokuqaliswa kwalo Mthetho kuthathwa ngokuthi yamukelwa kanjalo ngokwesigaba 19 salo Mthetho."

Ukushintshwa kwesigaba 48 soMthetho 5 ka 2005

6. Esikhundleni salesi sigaba ngalokhu kufakwa isigaba 48 soMthetho oMkhulu:

"Ukudluliselwa [kwamandla, ukunikezela ngemisebenzi, izivumelwano zokumelana kanye nokwethulwa kwemisebenzi]

48.(1) UNdunankulu, kuncike ezinhlinzekweni zoMthetho owuHlaka wobuHoli nokuBusa kweNdabuko, 2003 (uMthetho No. 41 ka 2003), angadlulisela kwiLungu loMkhandlu oPhethe noma yiliphi iqhaza, umsebenzi noma isibopho okunikwe, uNdunankulu yilo Mthetho.

[(1)(a) (2) iLungu loMkhandlu oPhethe lingadlulisela amandla kwiNhloko yoMnyango nanoma yiliphi iqhaza, amandla, umsebenzi noma isibopho [okuhlongozwe] okuthweswe noma okunikezwe, iLungu loMkhandlu

oPhethe [kulo] yilo Mthetho, ngaphandle kwamandla okwenza imithethonqubo kanye nokukhipha izaziso[, kwinhloko yomnyango.

(b) Lokho kudlulisela akukuvimbeli ukusetshenziswa kwamandla afanele nguNgqongqoshe othintekayo.

(2) Iminyango kaHulumeni wesiFundazwe, izikhungo ezimiswe ngokusemthethweni, izinhloko zombuso kanye nomasipala –

(a) zingadlulisela noma zinikezele amandla noma umsebenzi; noma

(b) zingene ezivumelwaneni zokumelana nezokwethulwa kwemisebenzi,

nezikhungo ezihlongozwe esigabeni 46].

(3) Noma yilphi iqhaza, amandla, umsebenzi noma isibopho okudluliselwe ngokwesiqatshana (1) noma (2) kumele kusetshenziswe noma kwenziwe kuncike kuleyo mibandela engabonwa idingeka ngumuntu odluliselile.

(4) Noma yikuphi ukudlulisela okukhulunywe ngakho esiqatshaneni (1) noma (2) –

(a) kumele kubhalwe phansi;

(b) akuvimbeli umuntu odluliselile ekusebenziseni amandla, ekubambeni iqhaza noma ekwenzeni umsebenzi; futhi

(c) noma yingasiphi isikhathi kungahoxiswa noma kuchitshiyelwe ngokubhalwe phansi ngumuntu odluliselile.”.

Isihloko esifingqiwe

7. Lo Mthetho ubizwa ngokuthi uMthethosichibiyelo wobuHoli nokuBusa kweNdabuko waKwaZulu-Natali, 2007.

UMTHETHOSIVIVINYWA WOKUCHIBIYELA UMTHETHO WAKWAZULU-NATALI WOBUHOLI BENDABUKO, 2007

IMEMORANDAMU ECHAZAYO

ISINGENISO

Ngonyaka ka-2005, iSishayamthetho Sesifundazwe SaKwaZulu-Natali samisa uMthetho Wobuholi Bendabuko, 2005 (uMthetho No. 5 ka-2005) ukuze uhlinzekelwe ukuhlonishwa kwemiphakathi yomdabu, ukusungulwa kanye nokuhlonishwa kwemikhandlu yomdabu, izikhundla zobuholi bomdabu, ukuhlonishwa kwabaholi bomdabu, izindlu zabaholi bomdabu kanye nezinye izindaba eziphathelele nalokho.

Ekuqalisweni ukusebenza kwalo Mthetho, kwaba nesidingo sokubhekela iqhaza lemiphakathi yomdabu engaphansi kweminye yomdabu okwakungahlinzekelwe ngokukhethekile kulo Mthetho, kanye nokuhlinzekela amandla enkosi okubhala imibhalo ehlonza umuntu oyothatha isikhundla sayo, kanye nokuhlinzekela ukuhlonishwa kwamakhosi ayaziwa njengamakhosi ngaphambi kokuqala kwalo Mthetho ukusebenza.

INCAZELO YESIGABA NGESIGABA

Izigaba 1 no 2

Izigaba 1 no 2 zethulelwe ukuhlinzekela isimo lapho kunemiphakathi yomdabu emibili noma ngaphezulu ekhonzwa ngaphansi komholi oyedwa wendabuko (njengezindawo zikaNomthebe ezintathu noma ngaphezulu kwaNongoma naseBabanango kanye nezindawo ezintathu ezingena ngaphansi kwesizwe samaQadi (eNanda, eNdwedwe nase-Bulwer). Lezi zigaba zihlinzeka incazelo "yomphakathi ongaphansi komunye", kanye nokuba inkosi eyengamele leyo miphakathi ifake isicelo sokuba ihlonishwe leyo miphakathi enjalo.

Izigaba 3 no 4

Isigaba 4 zihlinzekela ukuba inkosi ibhale umbhalo ohlonza umuntu efisa ukuba angene esikhundleni sayo, bese ibeka neminingwane okumele ilandelwe ukuze kugcinwe leyo mibhalo. Isigaba 3 zihlinzekela ukuba umndeni wenkosi kumele ufunde umbhalo wozongena ezicathuleni zenkosi ngaphambi kokuhlonza umuntu oyongena esikhundleni senkosi uma inkosi ikhothama.

Isigaba 5

Isigaba 5 zihlinzekela amakhosi ayeqokwe ngokomthetho ofanele wesifundazwe, nayethathwa njengamakhosi ngaphambi nje kokuqala ukusebenza kwalowo Mthetho ukuba ahlonishwe ngokwalo Mthetho. Lesi sigaba siqonde ukubhekela

izindaba zokuphatha ezidalwa ukuthi onke amakhosi kumele afake isicelo kabusha ukuze ahlonishwe, kanti futhi akunasibopho kubaholi bendabuko ukuba bafake kabusha isicelo sokuhlonishwa. Lokhu, phakathi kokunye, kuhlinzekela labo abalinde isinqumo seKhomishana lapho izikhundla zabo ziphenywa yiKhomishana.

Isigaba 6

Isigaba 6 sihlinzekela ukudluliselwa kwamandla ukuze kugunyazwe uNdunankulu ukuba adlulisele eminye noma yonke imisebenzi yakhe kuNgqongqoshe ezimweni lapho uNdunankulu engakhoni ukwenza leyo misebenzi ngokwakhe. La mandla ancike emithethweni kazwelonke kanye naseMthethweni Kazwelonke Wohlaka Lobuholi Bendabuko. Lesi sigaba siphinde sigunyaze uNgqongqoshe ukuba adlulisele ingxenye yale misebenzi eNhlokweni Yomnyango lapho uNgqongqoshe engakhoni ukuyenza ngokwakhe leyo misebenzi. Lesi sigaba sibeka imininingwane yaleyo misebenzi edluliselwayo futhi ihlinzeka nangomkhawulo womthetho ngalokho kudlulisela.

No. 22

31 August 2007

CANDIDATE LIST: REVIEW IN TERMS OF ITEM 21 OF SCHEDULE 1A TO THE ELECTRICAL ACT, 1998 (ACT NO. 73 OF 1998)

In terms of item 21 of Schedule 1A to the Electoral Act, 1998 I, Nerusha Naidoo, Secretary of the KwaZulu-Natal Legislature, hereby publish the reviewed candidate list of the African National Congress.

No	FULL NAMES IN ORDER OF PREFERENCE	ID NUMBER
1.	Bhamjee Yussuf Suleman	5001105183084
2.	Mthembu Thembinkosi Mafuthwini	6503265320082
3.	Ngidi Bhekizizwe Zabulon	5009185361082
4.	Zungu Thandiwe Rosemary	6008090756088
5.	Nkinqa Siphelo Irvine	6804145561089
6.	Lukhele Aubrey Mbusi	6010108350088
7.	Maharaj Sharmkumar	5803295178083
8.	Ntabeni Cynthia Nelisa	5507080176085
9.	Mbili Sihle Maxwell	6907175494087
10.	Mchunu Mbuso Cyril	6004025871084
11.	Mdlalose Audrey Sibongile	8111070726087
12.	Xaba Bhekinkosi Justice	5407135428086
13.	Mhlongo Thuluzubone Mary-Jane	4406110270084
14.	Mosweu Augustinous Zolile	6905025810080
15.	Dlomo Sakhephi Mdumiseni Michael	5707115702081
16.	Ngcobo Enoch Thembinkosi	6601017129080
17.	Ngubo Gladman Sonwabiso	5511205854081
18.	Bobat Rashid Goolam Hoosen	5602250195086
19.	Ngubane Bonginkosi Sehla	4902105664083
20.	Hlongwane Xolani Shem Mlindiseni	7405250467085
21.	Dlodlo Themba Authur	5912265853080
22.	Ngubane Paul Mazipho	7106165462084
23.	Zondi Glenoford Hloniphizwe	6112165904084

24.	Hlatshwayo Isabella Zanele	6404030365082
25.	Nyawose Meshack Sithenjwa	6303085547083
26.	Madlala Mayiboyi Vincent	6303225607086
27.	Reddy Ramchandra Gengadu	4708315150080
28.	Madlopha Celiwe Qhamkile	6611110640081
29.	Mavundla Ian Mfanukhona	6403155785082
30.	Mthimkhulu Elijah Sgungwana Welcome	5209145737088
31.	Fourie Gill Steven	5704305124085
32.	Mthethwa Sifiso Henry	6408235277083
33.	Cele Phumzile Harriet	6608050519085
34.	Mdakane Nhlanhla Joshua	6503265484086
35.	Dlamini Jacobeth Naledi	6211120494080
36.	Khoza Jini Patrick	5103245614083
37.	Mvelase Busisiwe	6003280324086
38.	Nxumalo Siphwe Hebron	4802195522086
39.	Mhlongo Simon Simo	5901225557085
40.	Qwabe Sesi Esther	5310210521082
41.	Naidoo Rampathie	5512100153088
42.	Mthethwa Siphon Pieter	6504046219080

No. 22

31 Augustus 2007

KANDIDAATLYS: HERSIENING INGEVOLGE ITEM 21 VAN BYLAAG 1A VAN DIE KIESWET,1998 (WET NO. 73 VAN 1998)

Ek, Nerusha Naidoo, Sekretaris van die KwaZulu-Natal Wetgewer, publiseer hierby die hersiene kandidaatlys van die African National Congress ingevolge item 21 van Bylaag 1 A van die Kieswet, 1998:

No	VOLLE NAME IN VOLGORDE VAN VOORKEUR	ID NOMMER
1.	Bhamjee Yussuf Suleman	5001105183084
2.	Mthembu Theminkosi Mafuthwini	6503265320082

3.	Ngidi Bhekizizwe Zabulon	5009185361082
4.	Zungu Thandiwe Rosemary	6008090756088
5.	Nkinqa Siphelo Irvine	6804145561089
6.	Lukhele Aubrey Mbusi	6010108350088
7.	Maharaj Sharmkumar	5803295178083
8.	Ntabeni Cynthia Nelisa	5507080176085
9.	Mbili Sihle Maxwell	6907175494087
10.	Mchunu Mbuso Cyril	6004025871084
11.	Mdlalose Audrey Sibongile	8111070726087
12.	Xaba Bhekinkosi Justice	5407135428086
13.	Mhlongo Thuluzubone Mary-Jane	4406110270084
14.	Mosweu Augustinous Zolile	6905025810080
15.	Dlomo Sakhephi Mdumiseni Michael	5707115702081
16.	Ngcobo Enoch Thembinkosi	6601017129080
17.	Ngubo Gladman Sonwabiso	5511205854081
18.	Bobat Rashid Goolam Hoosen	5602250195086
19.	Ngubane Bonginkosi Sehla	4902105664083
20.	Hlongwane Xolani Shem Mlindiseni	7405250467085
21.	Dlodlo Themba Authur	5912265853080
22.	Ngubane Paul Mazipho	7106165462084
23.	Zondi Glenoford Hloniphizwe	6112165904084
24.	Hlatshwayo Isabella Zanele	6404030365082
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30.	Mthimkhulu Elijah Sgungwana Welcome	5209145737088

31.	Fourie Gill Steven	5704305124085
32.	Mthethwa Sifiso Henry	6408235277083
33.	Cele Phumzile Harriet	6608050519085
34.	Mdakane Nhlanhla Joshua	6503265484086
35.	Dlamini Jacobeth Naledi	6211120494080
36.	Khoza Jini Patrick	5103245614083
37.	Mvelase Busisiwe	6003280324086
38.	Nxumalo Siphwe Hebron	4802195522086
39.	Mhlongo Simon Simo	5901125557085
40.	Qwabe Sesi Esther	5310210521082
41.	Naidoo Rampathie	5512100153088
42.	Mthethwa Siphon Pieter	6504046219080

No. 22

31 kuNcwaba 2007

UHLA KWABAKHETHWA: UKUBUYEKEZWA NGOKOHLAMVU 21 LOHLELO 1A LOMTHETHO WOKHETHO, 1998 (UMTHETHO NO. 73 KA 1998)

NGOKOHLAMVU 21 loHlelo 1A loMthetho woKhetho, 1998, mina Nerusha Naidoo, uNobhala wesiShayamthetho saKwaZulu-Natali, ngalokhu ngishicilela uhla olubuyekeziwe lwabakhethwa be-African National Congress.

No	AMAGAMA APHELE NGOKULANDELANA	INOMBOLO KAMAZISI
1.	Bhamjee Yussuf Suleman	5001105183084
2.	Mthembu Thembinkosi Mafuthwini	6503265320082
3.	Ngidi Bhekizizwe Zabulon	5009185361082
4.	Zungu Thandiwe Rosemary	6008090756088
5.	Nkinqa Siphelo Irvine	6804145561089
6.	Lukhele Aubrey Mbusi	6010108350088
7.	Maharaj Sharmkumar	5803295178083
8.	Ntabeni Cynthia Nelisa	5507080176085
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10.	Mchunu Mbuso Cyril	6004025871084
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15.	Dlomo Sakhephi Mdumiseni Michael	5707115702081
16.	Ngcobo Enoch Thembinkosi	6601017129080
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19.	Ngubane Bonginkosi Sehla	4902105664083
20.	Hlongwane Xolani Shem Mlindiseni	7405250467085
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28.	Madlopha Celiwe Qhamkile	6611110640081
29.	Mavundla Ian Mfanukhona	6403155785082
30.	Mthimkhulu Elijah Sgungwana Welcome	5209145737088
31.	Fourie Gill Steven	5704305124085
32.	Mthethwa Sifiso Henry	6408235277083
33.	Cele Phumzile Harriet	6608050519085
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36.	Khoza Jini Patrick	5103245614083
37.	Mvelase Busisiwe	6003280324086

38.	Nxumalo Sphiwe Hebron	4802195522086
39.	Mhlongo Simon Simo	5901125557085
40.	Qwabe Sesi Esther	5310210521082
41.	Naidoo Rampathie	5512100153088
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