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**KWAZULU-NATAL PROVINSIE**  
**ISIFUNDAZWE SAKWAZULU-NATALI**

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**GENERAL NOTICES—ALGEMENE KENNISGEWINGS—IZAZISO ZIKAWONKE-WONKE**

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**No. 9****21 September 2011****KWAZULU-NATAL LAND ADMINISTRATION AND IMMOVABLE ASSET  
MANAGEMENT BILL, 2010**

Notice in terms of Rule 194 of the Standing Rules of the KwaZulu-Natal Legislature

Notice is hereby given in terms of Rule 194 of the Standing Rules of the KwaZulu-Natal Legislature that the KwaZulu-Natal Land Administration and Immovable Asset Management Bill, 2010 as set out hereunder, has been introduced into the aforesaid Legislature and will be considered by the Public Works Portfolio Committee. The public and other interested groups are invited to submit representations on the said Bill, which representations must be addressed to:

Attention: Mrs KI Masondo  
The Secretary  
KwaZulu-Natal Legislature  
Private Bag X9112  
PIETERMARITZBURG  
3200

E-mail: [masondok@kznlegislature.gov.za](mailto:masondok@kznlegislature.gov.za)

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  
LAND ADMINISTRATION AND IMMOVABLE ASSET MANAGEMENT BILL, 2010**

## **BILL**

**To provide for land administration and immovable asset management in KwaZulu-Natal; to provide for the acquisition of property by the Provincial Government; to provide for the disposal of Provincial state land; to provide for the expropriation of property by the Provincial Government; to provide for the management and maintenance of Provincial state land or immovable assets; to provide for the establishment and maintenance of a Provincial state land register; to provide for the repeal of the KwaZulu-Natal Land Administration Act, 2003; to provide for a transitional arrangement and validation; and to provide for matters connected therewith.**

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

### **ARRANGEMENT OF SECTIONS**

#### *Section*

#### **CHAPTER 1 DEFINITIONS**

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#### **CHAPTER 2 OBJECTS AND APPLICATION OF ACT**

##### **2. Objects of Act**

##### **3. Application of Act**

#### **CHAPTER 3 ACQUISITION OF PROPERTY**

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#### **CHAPTER 4 DISPOSAL OF PROVINCIAL STATE LAND**

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CHAPTER 1  
DEFINITIONS

**Definitions**

1. In this Act, unless the context indicates otherwise –

"**acquire**" means the purchase, exchange, hiring or receipt of an immovable asset by any means by the Provincial Government;

"**beneficiary**" means any person, company or organisation which acquires Provincial state land or any right in respect of Provincial state land;

**"compensation"** means market-related compensation and, in the case of compensation arising from the expropriation of property, must be determined in accordance with section 25(3) of the Constitution read with section 12 of the Expropriation Act, 1975 (Act No. 63 of 1975);

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

**"custodian"** means the Department in the Province of KwaZulu-Natal responsible for public works represented by the Member of the Executive Council of KwaZulu-Natal responsible for public works contemplated in section 12(1)(a) and (2), or such other Department or Departments in the Province of KwaZulu-Natal represented by that other Member or those other Members of the Executive Council contemplated in section 12(1)(b) and (2)(a) and (b), as the case may be;

**"dispose"** includes the sale, exchange, donation or letting of Provincial state land (including the allocation of Provincial state land free of charge for a period of time), the conclusion of any form of land availability agreement in respect of property with any beneficiary and the registration of any real or personal right in respect of Provincial state land in favour of a beneficiary;

**"exchange"** means the simultaneous acquisition and disposal of immovable property or any right in respect of immovable property in terms of an agreement between the Provincial Government and any other party or where the compensation payable by the parties to each other are offset and only the difference, if any, is payable to the appropriate party;

**"Executive Council"** means the Executive Council of the Province of KwaZulu-Natal;

**"Gazette"** means the official *Provincial Gazette* of KwaZulu-Natal;

**"GIAMA"** means the Government Immovable Asset Management Act, 2007 (Act No. 19 of 2007);

**"immovable asset"** means any immovable asset or property, including any interest or right in immovable property, but excluding any right contemplated in the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), and **"immovable**

**property** has a corresponding meaning;

**"interest"** means a real right or entitlement or personal right;

**"Interest of public administration"** means an action or decision complying with the principles expressed in sections 195 and 217 of the Constitution;

**"KwaZulu-Natal Royal Household Trust"** means the KwaZulu-Natal Royal Household Trust established by section 2(1) of the KwaZulu-Natal Royal Household Trust Act, 2007 (Act No. 2 of 2007);

**"land availability agreement"** means any written agreement in terms of which the right to develop property is granted to a party other than the owner of the property, at his or her own risk, and on such terms and conditions as may be agreed;

**"Member of the Executive Council responsible for finance"** means the member of the Executive Council of the Province of KwaZulu-Natal responsible for finance;

**"municipality"** means a municipality referred to in section 155 of the Constitution of the Republic of South Africa, 1996, and established by and under sections 11 and 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), read with sections 3, 4 and 5 of the KwaZulu-Natal Determination of Types of Municipality Act, 2000 (Act No. 7 of 2000);

**"National Government"** means the government of the Republic of South Africa;

**"owner"** means owner as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937), and includes the registered holder of any real or personal right in respect of property;

**"Premier"** means the Premier-in-Executive Council of the Province of KwaZulu-Natal as contemplated in section 125 of the Constitution;

**"property"** means immovable property as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937), and includes any real or personal right in respect of immovable property;



**"Province"** means the Province of KwaZulu-Natal, and **"provincial"** has a corresponding meaning;

**"Provincial Government"** means the Executive Council of the Province of KwaZulu-Natal;

**"Provincial Legislature"** means the Legislature of the Province of KwaZulu-Natal;

**"Provincial state land"** means –

- (a) any immovable property which vests in the Provincial Government in accordance with item 28(1) of Schedule 6 to the Constitution; or
- (b) any immovable property acquired by the Provincial Government since 27 April 1994;

**"Provincial Treasury"** means the Provincial Treasury for the Province of KwaZulu-Natal established in terms of section 17(1) of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

**"public interest"** means an action or decision complying with the principles expressed in section 25 of the Constitution;

**"Registrar"** means the Registrar of Deeds as defined in the Deeds Registries Act, 1937 (Act No. 47 of 1937);

**"regulations"** means regulations made in terms of section 24;

**"responsible Member of the Executive Council"** means the Member of the Executive Council of KwaZulu-Natal responsible for public works: Provided that where powers, duties or functions have been assigned in terms of section 22 to another Member of the Executive Council, such other Member of the Executive Council has those powers, duties and functions of the responsible Member of the Executive Council, but only to the extent of the assignment;

**"this Act"** includes the regulations; and

**"user department"** means a Provincial department or organ of state that uses or intends to use an immovable asset in support of its service delivery objectives, and

includes a custodian in relation to an immovable asset that it occupies or intends to occupy, and “user” has a corresponding meaning.

## CHAPTER 2 OBJECTS AND APPLICATION OF ACT

### **Objects of Act**

**2. The objects of this Act are –**

- (a) to enable the Provincial Government to administer the management of Provincial state land, including the process of –
  - (i) the acquisition of property;
  - (ii) the disposal of Provincial state land; and
  - (iii) the expropriation of property,
- (iv) management and maintenance of Provincial State land;
- (b) to create an obligation for the establishment and maintenance of a current register of all Provincial state land by the Provincial Government; and
- (c) to harmonise provincial land administration and management legislation with GIAMA.

### **Application of Act**

**3.(1) If the provisions of this Act are inconsistent with any provincial law relating to –**

- (a) the management and maintenance of Provincial state land;
- (b) the acquisition of property;
- (c) the disposal of Provincial state land; or
- (d) the expropriation of property,

by the Provincial Government, then the provisions of this Act prevail.

**(2) Where this Act –**

- (a) does not regulate a matter pertaining to the administration or management of state land or immovable assets in the Province, the provisions of GIAMA; or
- (b) does not regulate a matter pertaining to the administration or management of state land or immovable assets in the Province to the same degree or as fully as the provisions of GIAMA, the additional or more onerous provisions of GIAMA,

apply in the Province.

**(3) This Act does not apply to land deemed to vest in the Ingonyama Trust in terms of the KwaZulu-Natal Ingonyama Trust Act, 1994 (Act No. 3KZ of 1994).**

### CHAPTER 3 ACQUISITION OF PROPERTY

#### **Acquisition of property by Provincial Government**

4.(1) The responsible Member of the Executive Council may, on such terms and conditions as may be required in the interest of public administration, acquire property on behalf of the Provincial Government.

(2) Property acquired in terms of subsection (1) –

- (a) vests in the Provincial Government;
- (b) is Provincial state land; and
- (c) must be registered in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937), in the name of the Provincial Government, unless the acquisition is that of a leasehold right of a duration of less than 10 years.

### CHAPTER 4 DISPOSAL OF PROVINCIAL STATE LAND

#### **Disposal of Provincial state land by Provincial Government**

5.(1) The responsible Member of the Executive Council may –

- (a) subject to the provisions of subsections (2), (3) and (4); and
- (b) after due consideration of all written representations and submissions,

dispose of Provincial state land on such terms and conditions as may be required in the interest of the public or in the interest of public administration: Provided that the provisions of paragraphs (a) and (b) do not apply to a disposal –

- (i) to a department in the National Government, a municipality or the KwaZulu-Natal Royal Household Trust; or
- (ii) amounting to the letting of Provincial state land for a period not exceeding 12 months.

(2) When the responsible Member of the Executive Council intends to dispose of Provincial state land in terms of subsection (1), the responsible Member of the Executive Council must give notice of the intention to dispose of the Provincial state land in the *Gazette* and in at least one newspaper circulating in the area in which the Provincial state land is situated.

(3) The notice must –

- (a) identify the Provincial state land affected and include the following information

regarding the Provincial state land –

- (i) the full title deed description, including the title deed number, the magisterial district in which the Provincial state land is situated, the extent of the land and, if applicable, the nature of any right in respect of such land;
  - (ii) the current zoning of the Provincial state land;
  - (iii) the actual current use of the Provincial state land; and
  - (iv) full details of any improvements to, and structures on, the Provincial state land;
- (b) give interested parties an opportunity to make written representations or submissions regarding the proposed disposal within a period of not less than 30 days; and
- (c) include a physical address and contact details of a person from whom full details regarding the proposed disposal may be obtained.

(4) The responsible Member of the Executive Council must, in addition to the notice to be published in terms of subsection (2), cause a copy of such notice to be sent by registered post or delivered to –

- (a) the occupier, if any, of the Provincial state land mentioned in such notice;
- (b) the municipal manager of the municipality for the area in which the Provincial state land concerned is situated;
- (c) the Heads of all Departments in the Provincial Government;
- (d) the Regional Land Claims Commissioner for KwaZulu-Natal; and
- (e) the Head of the Department in the National Government responsible for public works,

advising those persons that they may make written representations or submissions regarding the proposed disposal within a period of not less than 30 days of receipt of the notice.

(5) Where the responsible Member of the Executive Council disposes of Provincial state land by donation for a specific purpose and that purpose changes without the written consent of the responsible Member of the Executive Council, such Provincial State land reverts to the Province.

#### **Registrar to note land availability agreements**

6. Where Provincial state land is disposed of in terms of section 5(1) by means of a land availability agreement, the responsible Member of the Executive Council must lodge such

agreement with the Registrar for the making of such endorsement on the title deed of the property as the Registrar considers appropriate.

**Disposal and transfer of provincial State land free of charge to municipality or KwaZulu-Natal Royal Household Trust by agreement**

7.(1) The responsible Member of the Executive Council may, with the concurrence of the Premier and on the written request of –

- (a) the council of a municipality; or
- (b) the Board of the KwaZulu-Natal Royal Household Trust,

dispose of and transfer to the relevant municipality or the KwaZulu-Natal Royal Household Trust, by agreement between the responsible Member of the Executive Council on behalf of the Provincial Government and the municipality or the KwaZulu-Natal Royal Household Trust, as the case may be, any provincial State land described in such agreement, which –

- (i) is situated within the Province of KwaZulu-Natal; and
- (ii) vests in, or is under the control of, the Province of KwaZulu-Natal by or under any

law,

free of charge but subject to any condition which the Provincial Government may determine: Provided that where any such provincial State land or any portion of such land contemplated in this section is occupied by a traditional community as defined in section 1(1) of the KwaZulu-Natal Traditional Leadership and Governance Act, 2005 (Act No. 5 of 2005), the provisions of this section only apply after consultation with that traditional community.

(2) The provisions of section 5(2) – (4) apply with the necessary changes to any transfer contemplated in subsection (1) of this section.

(3) Subject to national legislation –

- (a) the Registrar, must upon application made to him or her by the Municipal Manager of the relevant municipality or the Chief Executive Officer of the KwaZulu-Natal Royal Household Trust and on production of the agreement contemplated in subsection (1), make such entries and endorsements as he or she may deem necessary in or on any relevant register, certificate or other document in his or her office or laid before him or her, in order to register such land by virtue of such agreement transferred by the Provincial Government to, and vesting in, the relevant municipality or the KwaZulu-Natal Royal Household Trust, in the name of the municipality or the KwaZulu-Natal Royal Household Trust, as the case may be; and
- (b) no transfer duty, stamp duty or office or other fees are payable in respect of a

transfer and registration contemplated in this section.

## CHAPTER 5 EXPROPRIATION OF PROPERTY

### **Power of Provincial Government to expropriate property for public purpose**

8.(1) Subject to the provisions of section 25 of the Constitution, and section 9 of this Act, the responsible Member of the Executive Council, on behalf of the Provincial Government, may expropriate any property in the public interest and for a public purpose with regard to –

- (a) any matter within a functional area listed in Part A of Schedule 4 to the Constitution;
- (b) any matter within a functional area listed in Part A of Schedule 5 to the Constitution;
- (c) any matter outside the functional areas referred to in paragraphs (a) and (b), and that is expressly assigned to provinces generally or to the Province specifically; or
- (d) any matter that is reasonably necessary for, or incidental to, the effective exercise of a power or function concerning any matter referred to in paragraphs (a) – (c) of this section.

(2) Property expropriated in terms of this section –

- (a) vests in the Provincial Government;
- (b) is Provincial state land; and
- (c) must be registered in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937), in the name of the Provincial Government.

### **Expropriation procedure**

9.(1) When the responsible Member of the Executive Council intends to expropriate property in terms of section 8, the responsible Member of the Executive Council must give notice of the intention to expropriate such property in the *Gazette* and in at least one newspaper circulating in the area in which the property is situated.

(2) The notice must –

- (a) identify the property affected and include the following information regarding the property –
  - (i) the full title deed description, including the title deed number, the magisterial

- district in which the property is situated, the extent of the property and, if applicable, the nature of any right in respect of such property;
- (ii) the current zoning of the land;
- (iii) the actual current use of the land; and
- (iv) full details of any improvements to, and structures on, the land;
- (b) give interested parties an opportunity to make written representations or submissions regarding the expropriation within a period of not less than 30 days;
- (c) invite any person claiming compensation as a result of the expropriation to enter into negotiations with the responsible Member of the Executive Council in that regard; and
- (d) draw attention to the provisions of subsection (5)(a).

(3) The responsible Member of the Executive Council must, in addition to the notice to be published in terms of subsection (2), cause a copy of such notice to be sent by registered post or delivered to –

- (a) the registered owner of the property;
- (b) the occupier, if any, of the property; and
- (c) the municipal manager of the municipality for the area in which the property is situated,

advising those persons that they may make written representations or submissions regarding the proposed expropriation within a period of not less than 30 days of receipt of the notice.

(4)(a) The responsible Member of the Executive Council may, after due consideration of all written representations and submissions referred to in subsections (2)(b) and (3), expropriate the property referred to in subsection (2)(a) by notice in the *Gazette* and in at least one newspaper circulating in the area in which the property is situated.

(b) The responsible Member of the Executive Council must, within 30 days after publication of the notice of expropriation referred to in paragraph (a), deliver by hand or by registered post a copy of such notice to –

- (i) the registered owner of the expropriated property;
- (ii) the occupier, if any, of the expropriated property;
- (iii) the registered holder, if any, of a right in respect of the expropriated property; and
- (iv) the municipal manager of the municipality for the area in which the property is situated.

(5)(a) An expropriation referred to in subsection (4) takes effect immediately on publication

of the notice in the *Gazette* even though compensation payable in respect of such property has not been finally determined or paid.

(b) On the date of expropriation, the ownership of the property vests in the Provincial Government in terms of section 8(2) and all responsibilities and obligations in respect of, amongst others, risk, costs, existing leases, maintenance, rates, taxes and levies relating to the property passes to the Provincial Government.

(c) The responsible Member of the Executive Council must forthwith lodge a copy of the notice referred to in subsection (4)(a) with the Registrar for such endorsement of the title deed of the property as the Registrar deems necessary.

(6)(a) The owner of the property may claim compensation arising from an expropriation referred to in subsection (4).

(b) If the responsible Member of the Executive Council and an owner of the property fail to reach agreement regarding the payment of compensation, either party may refer the matter to a court for determination, or they may agree to refer the dispute to an arbitrator for arbitration.

(7) In the event that an arbitrator is appointed as contemplated in subsection (6)(b) he or she

—

- (a) determines the time, venue and procedures which apply in the arbitration;
- (b) determines the dispute and makes a written award giving reasons for such award as soon as possible after the arbitration and his or her determination is binding;
- (c) may not make an award of costs; and
- (d) is paid, out of moneys appropriated for this purpose by the Provincial Legislature, such fees and allowances as the responsible Member of the Executive Council, with the concurrence of the Member of the Executive Council responsible for finance, may determine.

#### **Withdrawal of expropriation**

10.(1) If the responsible Member of the Executive Council is of the opinion that it is in the public interest to withdraw an expropriation of property, the responsible Member of the Executive Council may withdraw the expropriation at any time before the registration of the transfer of the property in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937), has taken place.

(2)(a) The withdrawal of the expropriation must be done by notice in the *Gazette* in the



manner referred to in section 9(2), (3) and (4), read with the necessary changes, and ownership of the property vests in the owner from whom the property was expropriated from the date of publication of the withdrawal notice.

(b) The responsible Member of the Executive Council must forthwith lodge a copy of the notice referred to in paragraph (a) with the Registrar for such endorsement of the title deed of the property as the Registrar deems necessary.

(3) Any compensation paid in terms of section 9(6) must forthwith be refunded to the Provincial Government.

(4) The owner is entitled to claim expenses or actual financial loss which he or she has directly or indirectly incurred owing to such expropriation after a written notice by registered post has been sent to the responsible Member of the Executive Council setting out a detailed statement of the amount of such expenses or actual financial loss, together with supporting documentary proof.

(5)(a) If the responsible Member of the Executive Council and an owner of the property fail to reach agreement regarding the payment of expenses or actual financial loss, either party may refer the matter to a court for determination, or they may agree to refer the dispute to an arbitrator for arbitration.

(b) If the dispute is referred to arbitration, the provisions of section 9(7) apply with the necessary changes.

## CHAPTER 6 PROVINCIAL STATE LAND REGISTER

### **Provincial state land register**

11.(1) The responsible Member of the Executive Council must establish and maintain a consolidated register of all Provincial state land.

(2) The register referred to in subsection (1) must –

(a) subject to the provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), be accessible to the public; and

(b) contain the following information regarding Provincial state land –

(i) the full title deed description, including the title deed number, the magisterial district in which the land is situated, the extent of the land and, if applicable, the nature of any right in respect of such land;

- (ii) the current zoning of the land;
- (iii) the actual current use of the land;
- (iv) the intended use of the land;
- (v) full details of any improvements to, and structures on, the land; and
- (vi) the department or departments of the Provincial Government responsible for the control and use of the land.

(3) A Member of the Executive Council, other than the Member of the Executive Council responsible for public works, who controls, uses or is the custodian of Provincial state land must, on request, provide the Member of the Executive Council responsible for public works with the particulars of the information referred to in subsection (2)(b) in respect of such land.

## CHAPTER 7 MANAGEMENT OF PROVINCIAL STATE LAND

### **Management of Provincial state land**

12.(1)(a) At the date of the commencement of this Act, all Provincial state land falls under the custodianship of the responsible Member of the Executive Council and it is regarded that the Premier has, in terms of section 4(1)(c) of GIAMA, designated the responsible Member as the custodian of such Provincial state land or immovable assets.

(b) The responsible Member may, in terms of section 18 of GIAMA, in writing, assign or withdraw an assignment of any or all of his or her powers, duties and responsibilities as a custodian.

(2) Where property is acquired pursuant to the provisions of this Act, the responsible Member of the Executive Council is the custodian of such property and it is regarded that the Premier has, in terms of section 4(1)(c) of GIAMA, designated the responsible Member as the custodian of such Provincial state land or immovable asset: Provided that where the property is acquired for a purpose or function relating to –

- (a) the portfolio or sphere of responsibility of another Member of the Executive Council, the responsible Member of the Executive Council must, in terms of section 18 of GIAMA, in writing, assign and pass custodianship of that property, being Provincial state land, to the relevant Member of the Executive Council; and
- (b) the portfolios or spheres of responsibility of two or more Members of the Executive Council, the Premier must determine which Member of the Executive Council is to be regarded as the custodian of the property to whom the responsible Member of the

Executive Council must, in terms of section 18 of GIAMA, in writing, assign and pass custodianship.

(3) If Provincial state land under the custodianship of a Member of the Executive Council in terms of subsection (2)(a) or (b) is no longer required for the exercise of the functions relating to the portfolio or sphere of responsibility of the custodian Member of the Executive Council, that Member of the Executive Council must forthwith return custodianship of that property to the responsible Member of the Executive Council.

(4) Any passing of custodianship referred to in this section may be for an indefinite or fixed period and subject to such conditions as the responsible Member of the Executive Council may determine: Provided that any custodian or user department must budget for the maintenance of any immovable asset in respect of which it is the custodian or user department.

## CHAPTER 8 IMMOVABLE ASSET MANAGEMENT PLAN

### **Immovable asset management plan**

13.(1) Subject to the provisions of GIAMA, the responsible Member of the Executive Council must –

- (a) develop an immovable asset management plan, to be known as a custodian immovable asset management plan, in relation to all the immovable assets which are in its custody; and
- (b) develop a consolidated user immovable asset management plan, which relates to all the immovable assets which the custodian uses or intends to use in support of its own service delivery objectives.

(2) The Member of the Executive Council for a user department must develop an immovable asset management plan to be known as a user immovable asset management plan in relation to the immovable assets which that user department uses or intends to use.

### **Minimum contents of custodian immovable asset management plan**

14. A custodian immovable asset management plan prepared in terms of section 13(1)(a) must include at least –

- (a) a portfolio strategy and management plan;
- (b) a management plan for each immovable asset throughout its life cycle;
- (c) a performance assessment of the immovable asset;
- (d) a condition assessment of the immovable asset;
- (e) the maintenance activities required and the total and true cost of the maintenance activities identified; and
- (f) a disposal strategy and management plan.

#### **Minimum contents of a user immovable asset management plan**

**15.** A user immovable asset management plan prepared in terms of section 13(1)(b) must include at least –

- (a) a strategic needs assessment;
- (b) an acquisition plan;
- (c) an operations plan; and
- (d) an immovable asset surrender plan.

#### **Submission of immovable asset management plan**

**16.(1)** The accounting officer of a custodian must, on a date determined by the Provincial Treasury, submit a copy of its custodian immovable asset management plan to the Provincial Treasury.

**(2)** The accounting officer of a user department must –

- (a) on a date determined by the Provincial Treasury, submit its user immovable asset management plan as part of its strategic plan to the Provincial Treasury; and
- (b) on a date determined by the custodian, submit a copy of its user immovable asset management plan to the relevant custodian.

#### **Status of user immovable asset management plan**

**17.** A user immovable asset management plan –

- (a) is for the purpose of this Act, the principal immovable asset strategic planning instrument which guides and informs all immovable asset management decisions by the user department; and
- (b) binds the user department in the exercise of its executive authority.

**User department to give effect to user immovable asset management plan**

**18.** A user department must implement its user immovable asset management plan and conduct immovable asset management in a manner which is consistent with this Act, the provisions of GIAMA and its user immovable asset management plan.

**Revision and amendment of immovable asset management plan**

**19.(1)** A user department –

- (a) must annually revise its user immovable asset management plan after its budget allocations have been finalised by the Provincial Treasury and must incorporate the revised user immovable asset management plan into its strategic plan;
- (b) may amend its user immovable asset management plan in accordance with a prescribed process; and
- (c) must submit its revised and amended user immovable asset management plan to the relevant custodian.

(2) A custodian must annually revise its custodian immovable asset management plan after receipt of the revised and amended user immovable asset management plan or where other factors necessitate such revision.

## CHAPTER 9 GENERAL PROVISIONS

**Execution of documents**

**20.** The responsible Member of the Executive Council may sign –

- (a) any document relating to the management of Provincial state land;
- (b) any document required to give effect to –
  - (i) the acquisition of property;
  - (ii) the disposal of Provincial state land; or
  - (iii) the expropriation of property; and
- (c) any agreement contemplated in section 7(1).

**Annual report**

**21.(1)** The responsible Member of the Executive Council must, within 90 days of the end of a financial year, submit an annual report to the Provincial Legislature.

(2) The report referred to in subsection (1) must include –

(a) the full details of all written offers received from any person to acquire Provincial state land;

(b) the purpose and full details of all disposals of Provincial state land in terms of section 5, including –

(i) the full title deed description, including the title deed number, the magisterial district in which the land is situated, the extent of the property and, if applicable, the nature of any right in respect of such land;

(ii) the full name and identity number of the beneficiary;

(iii) the purchase price, if any, payable in respect of the land;

(iv) any restrictive condition imposed in respect of the land; and

(v) the purpose for which the land was used prior to the disposal and, if available, the current or intended purpose for which the land is to be used;

(c) the purpose and full details of all acquisitions of property in terms of section 4, including –

(i) the full title deed description, including the title deed number, the magisterial district in which the property is situated, the extent of the property and, if applicable, the nature of any right in respect of such property;

(ii) the purchase price, if any, payable in respect of the property;

(iii) any restrictive condition imposed in respect of the property;

(iv) the purpose for which the property was used prior to the acquisition or re-acquisition and, if available, the current or intended purpose for which the property is to be used;

(d) the purpose and full details of all expropriations of property in terms of section 8, including –

(i) the full title deed description, including the title deed number, the magisterial district in which the property is situated, the extent of the property and, if applicable, the nature of any right in respect of such property;

(ii) the full name and identity number of the previous owner of the property;

(iii) the purchase price or compensation paid in respect of the property;

(iv) any restrictive condition imposed in respect of the property; and

(v) the purpose for which the land was used prior to the disposal and, if available, the current or intended purpose for which the property is to be used; and

(e) the sum total of the payments for the period of the report –

(i) received by the Provincial Government for disposals of Provincial state land in terms of section 5;

- (ii) made by the Provincial Government for acquisition of property in terms of section 4; and
- (iii) made by the Provincial Government for expropriation of property in terms of section 8.

#### **Assignment of powers, duties and functions by Premier**

**22.(1)** The Premier may, at the request of any Member of the Executive Council, by notice in the *Gazette* and subject to such conditions as the Premier may determine, either generally or in regard to –

- (a) a specific property;
- (b) specified Provincial state land;
- (c) any matter within a functional area listed in Part A of Schedule 4 to the Constitution;
- (d) any matter within a functional area listed in Part A of Schedule 5 to the Constitution;
- (e) any matter outside the functional areas referred to in paragraphs (c) and (d), and that is expressly assigned to provinces generally or to the Province of KwaZulu-Natal specifically; or
- (f) any matter that is reasonably necessary for, or incidental to, the effective exercise of a power or function concerning any matter referred to in paragraphs (a) – (c) of this section,

assign to such Member of the Executive Council any power, duty or function conferred or imposed upon the responsible Member of the Executive Council in terms of this Act, other than –

- (i) the duty to establish and maintain a consolidated register of all Provincial state land referred to in section 11(1);
- (ii) the powers, duties and functions referred to in section 12; and
- (iii) the power to make regulations referred to in section 24.

(2) An assignment to any other Member of the Executive Council referred to in subsection (1) does not prevent the exercise of the power or the performance of the duty or function concerned by the responsible Member of the Executive Council.

#### **Delegation of powers, duties and functions by responsible Member of Executive Council**

**23.(1)** The responsible Member of the Executive Council may, subject to such conditions as

he or she may determine, delegate any power, duty or function conferred on him or her by or under this Act, other than –

- (a) the power to publish a notice required in terms of section 9(4); and
- (b) the power to make regulations referred to in section 24,

to an officer in the service of the Provincial Government.

(2) A delegation referred to in subsection (1) –

- (a) must be in writing;
- (b) must be exercised subject to such conditions determined by the responsible Member of the Executive Council;
- (c) does not divest the responsible Member of the Executive Council of the power, duty or function delegated;
- (d) does not prevent the exercise of the power or the performance of the duty or function concerned by the responsible Member of the Executive Council; and
- (e) may at any time be withdrawn or amended in writing by the responsible Member of the Executive Council.

### **Regulations**

24. The responsible Member of the Executive Council may make regulations –

- (a) regarding the norms and standards, including procedures, applicable to the acquisition, expropriation, exchange, disposal and letting of Provincial state land, the demolition of buildings on Provincial state land, and donations of Provincial state land;
- (b) regarding the establishment and maintenance of the Provincial state land register; and
- (c) regarding any other matter the responsible Member of the Executive Council considers necessary, appropriate or expedient for the achievement of the purpose or objects of this Act.

### **Repeal of law**

25. The KwaZulu-Natal Land Administration Act, 2003 (Act No. 3 of 2003), is hereby repealed.

### **Transitional arrangement and validation**

26. Any act, determination, designation, decision, matter or any other thing done, made,



taken, executed or carried out or purported to have been done, made, taken, executed or carried out by the responsible Member of the Executive Council or any other Member of the Executive Council in terms of or in pursuance of the repealed KwaZulu-Natal Land Administration Act, 2003 (Act No. 3 of 2003), from 28 November 2003 to the date of commencement of this Act, is not invalid by reason only of the administration of the repealed Act not having been formally assigned to the responsible Member of the Executive Council or any other Member of the Executive Council.

**Short title**

**27.** This Act is called the KwaZulu-Natal Land Administration and Immovable Asset Management Act, 2010.

**MEMORANDUM ON THE OBJECTS  
OF THE  
KWAZULU-NATAL LAND ADMINISTRATION AND  
IMMOVABLE ASSET MANAGEMENT BILL, 2010**

**1. BACKGROUND**

**1.1 Although –**

(a) the objects of the KwaZulu-Natal Land Administration and Immoveable Asset Management Bill, 2010, remain fairly similar to those of the KwaZulu-Natal Land Administration Act, 2003 (Act No. 3 of 2003), namely, to create a mechanism whereby the Province of KwaZulu-Natal can effectively administer all immovable property vested in the Provincial Government, to establish procedures whereby immovable property can be acquired or disposed of by the Provincial Government, including expropriation proceedings, to establish a register to reflect all Provincial state land and to provide for annual reporting by the responsible Member of the Executive Council to the Provincial Legislature, detailing all acquisitions and disposals effected in terms of the envisaged Act; and

(b) the main principles of the 2003 Act have been retained,

it has been necessary to introduce the new 2010 Bill to address practical issues experienced in the implementation of the 2003 Act and to ensure that the 2010 Bill appropriately harmonises the provisions of the 2003 Act with the national legislation, namely, the Government Immoveable Asset Management Act, 2007 (Act No. 19 of 2007), referred to as GIAMA.

**1.2** Due to the volume of technical amendments, certain changes in the order and format of retained provisions; to facilitate the harmonisation of those provisions with GIAMA and to ensure that the end product would be more user-friendly, it was considered appropriate to introduce new principal legislation instead of dealing with an amendment Bill to the 2003 Act.

**1.3** The Bill is the result of a broad-based consultative process with different stakeholders and other departments involved in land administration matters.

**2. CLAUSE BY CLAUSE EXPLANATION**

In summary, the Bill provides as follows –

**Clause 1: Definitions**

Clause 1 seeks to define terms that are used in the Bill with the view to restrict or

extend the meaning of those terms. This clause is largely self-explanatory.

**Clause 2:**

Clause 2 sets out the objectives of the Bill.

**Clause 3:**

Clause 3 provides for the application of the Act. It provides that the provisions of the envisaged Act pertaining to the acquisition and disposal of immovable property will prevail over other legislation.

The clause ensures that this Act will not apply to property that is vested in the Ingonyama Trust in terms of the KwaZulu-Natal Ingonyama Trust Act, 1994 (Act No. 3KZ of 1994).

**Clause 4:**

Clause 4 empowers the Member of the Executive Council for public works to acquire immovable property. Property so acquired, vests in the KwaZulu-Natal Provincial Government.

**Clause 5:**

Clause 5 empowers the Member of the Executive Council for public works to dispose of land. The process to be followed is set out in this clause.

**Clause 6:**

Clause 6 provides that land may also be acquired by way of land availability agreements. This is a written agreement which passes the right to develop property to someone other than the owner of the property. In this way provision is made for the development of land in the Province. These agreements must be lodged with the Registrar of Deeds for the endorsement of such an agreement on the title deed of the property.

**Clause 7:**

Clause 7 empowers the Member of the Executive Council for public works, with the concurrence of the Premier-in-Executive Council, to dispose of provincial State land free of charge, to a municipality or the KwaZulu-Natal Royal Household Trust by agreement, but subject to conditions which the Provincial Government may determine.

**Clause 8:**

Clause 8 empowers the Member of the Executive Council for public works to expropriate immovable property, subject to section 25 of the Constitution, 1996, for a public purpose. Property expropriated in terms of this clause, vests in the KwaZulu-Natal Provincial Government.

**Clause 9:**

Clause 9 sets out the detailed procedure to be followed in expropriating property for a public purpose.

**Clause 10:**

Clause 10 empowers the Member of the Executive Council for public works to withdraw an expropriation prior to registration of transfer.

**Clause 11:**

Clause 11 imposes a duty on the Member of the Executive Council for public works to establish and maintain a register of all Provincial state land. It also lists the details such register must contain.

**Clause 12:**

Clause 12 seeks to align GIAMA to the provincial legislation, specifically this Bill. In terms of section 4(1)(c) of GIAMA, the Premier of a Province or the Member of the Executive Council designated by the Premier, is the custodian of Provincial state land or immovable assets. This is the default position in terms of the national legislation (GIAMA).

Clause 12(1)(a) deals with the status of provincial State Land at the date the Bill comes into operation as an Act of the Provincial Legislature and expressly –

- (a) states that all Provincial state land in KwaZulu-Natal falls under the custodianship of the Member of the Executive Council responsible for public works; and
- (b) provides that it is regarded that the Premier has, in terms of section 4(1)(c) of GIAMA, designated the Member of the Executive Council responsible for public works as the custodian of such Provincial state land or immovable assets.

This simplifies matters in the Province as no recourse need now be had to any other

legislation, documentation or executive acts of the Premier to determine what the position is with regard to provincial State land in KwaZulu-Natal at the date the Bill comes into operation as an Act of the Provincial Legislature.

Clause 12(1)(b) expressly confirms that, pursuant to this, the Member of the Executive Council responsible for public works retains all his or her powers conferred by section 18 of GIAMA and, in terms of section 18 of GIAMA, may, in writing, assign or withdraw any or all of his or her powers, duties and responsibilities as a custodian.

Clause 12(2) deals with the status of provincial State Land after the date the Bill comes into operation as an Act of the Provincial Legislature. The clause proposes that the default position in KwaZulu-Natal is that Member of the Executive Council for public works is the custodian of such property. However, where such property is acquired for the purpose or function of another department in the Provincial Government, the Member of the Executive Council for public works must pass custody of that property, being Provincial state land, to the department concerned. In the event that two or more departments jointly use the same property, the Premier must determine who is to be custodian of the property.

In the event that the property is no longer required by the Member of the Executive Council to whom custodianship was passed, that Member of the Executive Council is required to return the custodianship to the Member of the Executive Council for public works (clause 12(3)).

Clause 12(4) also requires that departments must budget for the maintenance of immovable assets in their custody or property which they use.

**Clause 13:**

Clause 13 sets out that the Member of the Executive Council for public works must develop an immovable asset management plan, to be known as a custodian immovable asset management plan, in relation to all the immovable assets which are in its custody. It also requires the Member of the Executive Council for public works to develop a user immovable asset management plan which is for immovable assets which are used by, or are going to be used by, provincial departments.

**Clause 14:**

Clause 14 sets out what is to be contained in a custodian immovable asset management plan.

**Clause 15:**

Clause 15 sets out what is to be contained in a user immovable asset management plan.

**Clause 16:**

Clause 16 places a duty on the accounting officers of custodian departments to submit copies of their custodian immovable asset management plans to the Provincial Treasury. It also requires accounting officers of user departments to submit copies of their user immovable asset management plans to the Provincial Treasury and to the custodian.

**Clause 17:**

Clause 17 specifies the status of the immovable asset management plan indicating that it informs all decisions relating to the immovable asset.

**Clause 18:**

Clause 18 requires user departments to apply their immovable asset management plan and conduct the management of the immovable assets consistently within the provisions of the Bill and GIAMA.

**Clause 19:**

Clause 19 sets out that a user department annually revise its immovable asset management plan. It states that a user department may amend its user immovable asset management plan within a prescribed process and makes provision for the submission of the plan to the relevant custodian.

This clause also requires a custodian to annually revise its immovable asset management plan after it receives revised or amended user immovable asset management plans.

**Clause 20:**

Clause 20 gives signing powers to the Member of the Executive Council for public works for the effective management, acquisition, disposal and expropriation of an immovable asset.

**Clause 21:**

Clause 21 seeks to compel the Member of the Executive Council for public works to submit an annual report to the Provincial Legislature within 90 days of the end of a financial year. The information to be contained in such a report is also set out.

**Clause 22:**

Clause 22 seeks to empower the Premier, by notice in the *Gazette* and subject to such conditions as the Premier may determine, either generally or in regard to a specific property or specified Provincial state land, to assign to any other Member of the Executive Council any power, duty or function conferred or imposed upon the Member of the Executive Council for public works in terms of this Bill, other than the duty to establish and maintain a consolidated register of all Provincial state land referred to in clause 11(1) of this Bill and the power to make regulations referred to in clause 16 of this Bill.

**Clause 23:**

Clause 23 provides for delegation of powers by the Member of the Executive Council for public works to the Head of Department or an officer in the Department.

**Clause 24:**

Clause 24 empowers the Member of the Executive Council for public works to make regulations.

**Clause 25:**

Clause 25 provides for the repeal of the current KwaZulu-Natal Land Administration Act, 2005 (Act No. 3 of 2005).

**Clause 26:**

Clause 26 provides for transitional arrangements and seeks to validate actions taken and functions performed by the Member of the Executive Council for public works in terms of or in pursuance of the KwaZulu-Natal Land Administration Act (Act No. 3 of 2003).

**Clause 27:**

Clause 27 contains the short title of the Act.

### **3. ORGANISATIONAL AND PERSONNEL IMPLICATIONS FOR PROVINCIAL GOVERNMENT**

No undue organisational and personnel implications are foreseen.

### **4. FINANCIAL IMPLICATIONS FOR PROVINCIAL GOVERNMENT**

No undue financial implications are foreseen.

### **5. DEPARTMENTS/ BODIES/ PERSONS CONSULTED**

The Bill has been drafted in consultation with –

**5.1** the Office of the Premier; and

**5.2** the provincial Department of Public Works,

and after consultation with –

**5.3** the national Department of Rural Development and Land Reform; and

**5.4** organised local government.



No. 9

21 September 2011

**KWAZULU-NATAL WETSONTWERP OP GRONDADMINISTRASIE EN  
BESTUUR VAN ONROERENDE BATES, 2010**

**Kennisgewing ooreenkomstig Reël 194 van die Staande Reëls van die KwaZulu-Natal  
Wetgewer**

Kennisgewing geskied hiermee ooreenkomstig Reël 194 van die Staande Reëls van die KwaZulu-Natal Wetgewer dat die KwaZulu-Natal Wetsontwerp op Grondadministrasie en die Bestuur van Onroerende Bates, 2010 soos hieronder uiteengesit, by die voorgemelde Wetgewer ingedien is en deur die Portefeuljekomitee oor Openbare Werke 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:

Vir aandag: Mev. Kl Masondo  
Die Sekretaris  
KwaZulu-Natal Wetgewer  
Privaatsak X9112  
PIETERMARITZBURG  
3200

E-mail: [masondok@kznlegislature.gov.za](mailto:masondok@kznlegislature.gov.za)

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

N NAIDOO  
Sekretaris van die KwaZulu-Natal Wetgewer

**KWAZULU-NATAL  
WETSONTWERP OP GRONDADMINISTRASIE EN DIE BESTUUR VAN ONROERENDE  
BATES, 2010**

## **WETSONTWERP**

**Om voorsiening te maak vir grondadministrasie en die bestuur van onroerende bates in KwaZulu-Natal; om voorsiening te maak vir die verkryging van eiendom deur die provinsiale regering; om voorsiening te maak vir beskikking oor provinsiale staatsgrond; om voorsiening te maak vir die ontelening van eiendom deur die provinsiale regering; om voorsiening te maak vir die bestuur en instandhouding van provinsiale staatsgrond of onroerende bates; om voorsiening te maak vir die instelling en instandhouding van 'n provinsiale staatsgrondregister; om voorsiening te maak vir die herroeping van die KwaZulu-Natal Wet op Grondadministrasie, 2003; om voorsiening te maak vir 'n oorgangsreëling en validasie; en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.**

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

### **RANGSKIKKING VAN ARTIKELS**

#### *Artikel*

#### **HOOFSTUK 1 OMSKRYWINGS**

1. Omskrywings

#### **HOOFSTUK 2 OOGMERKE EN TOEPASSING VAN WET**

2. Oogmerke van Wet
3. Toepassing van Wet

#### **HOOFSTUK 3 VERKRYGING VAN EIENDOM**

4. Verkryging van eiendom deur provinsiale regering

#### **HOOFSTUK 4 BESKIKKING OOR PROVINSIALE STAATSGROND**

5. Beskikking oor provinsiale staatsgrond deur provinsiale regering
6. Registrateur moet grondbeskikbaarheidsooreenkomste noteer
7. Beskikking oor en oordrag van provinsiale staatsgrond gratis aan munisipaliteit of KwaZulu-Natal Koninklike Huishoudingtrust by wyse van ooreenkoms

#### **HOOFSTUK 5 ONTEIENING VAN EIENDOM**

8. Bevoegdheid van provinsiale regering om eiendom vir openbare doeleindes te onteien
9. Onteieningsprosedure

10. Onttrekking van onteining

**HOOFTUK 6**  
**PROVINSIALE STAATSGRONDREGISTER**

11. Provinsiale staatsgrondregister

**HOOFTUK 7**  
**BESTUUR VAN PROVINSIALE STAATSGROND**

12. Bestuur van provinsiale staatsgrond

**HOOFTUK 8**  
**PLAN VIR DIE BESTUUR VAN ONROERENDE BATES**

13. Plan vir die bestuur van onroerende bates

14. Minimum inhoud van bewaardersplan vir die bestuur van onroerende bates

15. Minimum inhoud van 'n gebruikersplan vir die bestuur van onroerende bates

16. Voorlegging van plan vir die bestuur van onroerende bates

17. Status van gebruikersplan vir die bestuur van onroerende bates

18. Gebruikersdepartement moet uitvoering gee aan gebruikersplan vir die bestuur van onroerende bates

19. Hersiening en wysiging van plan vir die bestuur van onroerende bates

**HOOFTUK 9**  
**ALGEMENE BEPALINGS**

20. Tenuitvoerbrengring van dokumente

21. Jaarverslag

22. Toewysing van bevoegdhede, pligte en funksies deur Premier

23. Delegering van bevoegdhede, pligte en funksies deur verantwoordelike lid van Uitvoerende Raad

24. Regulasies

25. Herroeping van Wet

26. Oorgangsreëling en validasie

27. Kort titel

**HOOFTUK 1**  
**OMSKRYWINGS**

**Omskrywings**

1. In hierdie Wet, tensy uit die konteks anders blyk, beteken –

**"verkry"** die aankoop, ruil, huur of ontvangs van 'n onroerende bate op enige manier deur die provinsiale regering;

**"begunstigde"** enige persoon, maatskappy of organisasie wat provinsiale staatsgrond of enige reg met betrekking tot provinsiale staatsgrond verkry;

**"vergoeding"** markverwante vergoeding en, in die geval van vergoeding wat voortspruit uit die onteining van eiendom, moet bepaal word ooreenkomstig artikel 25(3) van die Grondwet saamgelees met artikel 12 van die Onteieningswet, 1975 (Wet No. 63 van 1975);

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

**"bewaarder"** die Departement in die provinsie KwaZulu-Natal verantwoordelik vir openbare werke verteenwoordig deur die lid van die Uitvoerende Raad van KwaZulu-Natal verantwoordelik vir openbare werke bedoel in artikel 12(1)(a) en (2), of sodanige ander departement of departemente in die provinsie KwaZulu-Natal verteenwoordig deur daardie ander lid of daardie ander lede van die Uitvoerende Raad bedoel in artikel 12(1)(b) en (2)(a) en (b), na gelang van die geval;

**"beskik oor"** met inbegrip van die verkoop, ruil, skenking of verhuring van provinsiale staatsgrond (insluitend die gratis toekenning van provinsiale staatsgrond vir 'n tydperk), die sluiting van enige grondbesikbaarheidsooreenkoms met betrekking tot eiendom met enige begunstigde en die registrasie van enige werklike of persoonlike reg met betrekking tot provinsiale staatsgrond ten gunste van 'n begunstigde;

**"ruil"** die gelyktydige verkryging en beskikking oor onroerende eiendom of enige reg met betrekking tot onroerende eiendom ingevolge 'n ooreenkoms tussen die provinsiale regering en enige ander party of waar die vergoeding betaalbaar deur die partye aan mekaar opgeweeg word en slegs die verskil, indien enige, is betaalbaar aan die betrokke party;

**"Uitvoerende Raad"** die Uitvoerende Raad van die provinsie KwaZulu-Natal;

**"Koerant"** die amptelike *Provinsiale Koerant* van KwaZulu-Natal;

**"GIAMA"** die Wet op die Bestuur van Onroerende Regeringsbates, 2007 (Wet No. 19 van 2007);

**"onroerende bates"** enige onroerende bate of eiendom, met inbegrip van enige belang of reg in onroerende eiendom, maar uitsluitend enige reg bedoel in die Wet op Minerale- en Petroleumhulpbronontwikkeling, 2002 (Wet No. 28 van 2002), en **"onroerende eiendom"** het 'n ooreenstemmende betekenis;

**"belang"** 'n werklike reg of aanspraak of persoonlike reg;

**"belang van publike administrasie"** 'n daad of besluit wat aan die beginsels vermeld in artikels 195 en 217 van die Grondwet voldoen;

**"KwaZulu-Natal Koninklike Hulshoudingtrust"** die KwaZulu-Natal Koninklike Huishoudingtrust ingestel deur artikel 2(1) van die KwaZulu-Natal Koninklike Huishoudingtrust Act, 2007 (Wet No. 2 van 2007);

**"grondbesikbaarheidsooreenkoms"** enige skriftelike ooreenkoms ingevolge waarvan die reg om eiendom te ontwikkel toegestaan word aan 'n party buiten die eienaar van die eiendom, op sy og haar eie risiko, en op sodanige terme en voorwaardes as waaroor ooreengekom is;

**"lid van die Uitvoerende Raad verantwoordelik vir finansies"** die lid van die Uitvoerende Raad van die provinsie KwaZulu-Natal verantwoordelik vir finansies;

**"munisipaliteit"** 'n munisipaliteit vermeld in artikel 155 van die Grondwet van die Republiek van Suid-Afrika, 1996, en ingestel deur en kragtens artikels 11 en 12 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998), saamgelees met artikels 3, 4 en 5 van die KwaZulu-Natal Wet op die Bepaling van Soorte Munisipaliteite, 2000 (Wet No. 7 van 2000);

**"nasionale regering"** die regering van die Republiek van Suid-Afrika;

**"eienaar"** eienaar soos omskryf in artikel 102 van die Wet op die Registrasie van Aktes, 1937 (Wet No. 47 van 1937), en sluit in die geregistreerde houer van enige werklike of persoonlike reg met betrekking tot eiendom;

**"Premier"** die Premier-in-Uitvoerende Raad van die provinsie KwaZulu-Natal soos bedoel in artikel 125 van die Grondwet;

**"eiendom"** onroerende eiendom soos omskryf in artikel 102 van die Wet op Registrasie van Aktes, 1937 (Wet No. 47 van 1937), en sluit in enige werklike of persoonlike reg met betrekking tot onroerende eiendom;

**"provinsie"** die provinsie KwaZulu-Natal, en **"provinsiale"** het 'n ooreenstemmende betekenis;

**"provinsiale regering"** die Uitvoerende Raad van die provinsie KwaZulu-Natal;

**"Provinsiale Wetgewer"** die Wetgewer van die provinsie KwaZulu-Natal;

**"provinsiale staatsgrond"** –

- (a) enige onroerende eiendom waarvoor die provinsiale regering beskik ooreenkomstig item 28(1) van bylae 6 by die Grondwet; of
- (b) enige onroerende eiendom verkry deur die provinsiale regering sedert 27 April 1994;

**"Provinsiale Tesourie"** die Provinsiale Tesourie vir die provinsie KwaZulu-Natal ingestel ingevolge artikel 17(1) van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999);

**"openbare belang"** 'n daad of besluit wat aan die beginsels vermeld in artikel 25 van die Grondwet voldoen;

**"Registrateur"** die Registrateur van Aktes soos omskryf in die Wet op die Registrasie van Aktes, 1937 (Wet No. 47 van 1937);

**"regulasies"** regulasies uitgevaardig ingevolge artikel 24;

**"verantwoordelike lid van die Uitvoerende Raad"** die lid van die Uitvoerende Raad van KwaZulu-Natal verantwoordelik vir openbare werke: Met dien verstande dat waar bevoegdhede, pligte of funksies ingevolge artikel 22 aan 'n ander lid van die Uitvoerende Raad toegewys is, het sodanige ander lid van die Uitvoerende Raad daardie bevoegdhede, pligte en funksies van die verantwoordelike lid van die Uitvoerende Raad, meer slegs tot die mate van die toewysing;

**"hierdie Wet"** ook die regulasies; en

**"gebruikersdepartement"** 'n provinsiale departement of staatsorgaan wat 'n onroerende bate gebruik of van voorneme is om te gebruik ter ondersteuning van sy dienslewingsdoelwitte, en sluit 'n bewaarder in ten opsigte van 'n onroerende bate wat hy okkupeer of van voorneme is om te okkupeer, en **"gebruiker"** het 'n ooreenstemmende betekenis.

## HOOFSTUK 2 OOGMERKE EN TOEPASSING VAN WET

### Oogmerke van Wet

#### 2. Die oogmerke van hierdie Wet is –

- (a) om die provinsiale regering in staat te stel om die bestuur van provinsiale landstaatsgrond te administreer, met inbegrip van die proses van –
  - (i) die verkryging van eiendom;
  - (ii) beskikking oor provinsiale staatsgrond;
  - (iii) die onteiening van eiendom; en
  - (iv) bestuur en instandhouding van provinsiale staatsgrond;
- (b) om 'n verpligting te skep vir die instelling en instandhouding van 'n huidige register van alle provinsiale staatsgrond deur die provinsiale regering; en
- (c) om provinsiale grondadministrasie- en bestuurswetgewing met GIAMA te harmoniseer.

### Toepassing van Wet

#### 3.(1) Indien die bepalings van hierdie Wet teenstrydig is met enige provinsiale wet ten opsigte van –

- (a) die bestuur en instandhouding van provinsiale staatsgrond;
- (b) die verkryging van eiendom;
- (c) beskikking oor provinsiale staatsgrond; of
- (d) die onteiening van eiendom,

deur die provinsiale regering, geld die bepalings van hierdie Wet.

#### (2) Waar hierdie Wet –

- (a) nie 'n aangeleentheid reguleer betreffende die administrasie of bestuur van staatsgrond of onroerende bates in die provinsie nie, is die bepalings van GIAMA; of



(b) nie 'n aangeleentheid reguleer betreffende die administrasie of bestuur van staatsgrond of onroerende bates in die provinsie tot dieselfde mate of so volledig as die bepalings van GIAMA nie, is die bykomende of meer knellende bepalings van GIAMA, van toepassing in die provinsie.

(3) Hierdie Wet is nie van toepassing op grond wat geag word om in die Ingonyama Trust te berus ingevolge die KwaZulu-Natal Wet op die Ingonyama Trust, 1994 (Wet No. 3KZ van 1994) nie.

### HOOFSTUK 3 VERKRYGING VAN EIENDOM

#### **Verkryging van eiendom deur provinsiale regering**

4.(1) Die verantwoordelike lid van die Uitvoerende Raad kan, op sodanige terme en voorwaardes as vereis in die belang van publieke administrasie, eiendom namens die provinsiale regering verkry.

(2) Eiendom verkry ingevolge subartikel (1) –

- (a) berus by die provinsiale regering;
- (b) is provinsiale staatsgrond; en
- (c) moet geregistreer word ingevolge die Wet op die Registrasie van Aktes, 1937 (Wet No. 47 van 1937), in die naam van die provinsiale regering, tensy die verkryging dié van 'n huurreg van 'n durasie van minder as 10 jaar is.

### HOOFSTUK 4 BESKIKKING OOR PROVINSIALE STAATSGROND

#### **Beskikking oor provinsiale staatsgrond deur provinsiale regering**

5.(1) Die verantwoordelike lid van die Uitvoerende Raad kan –

- (a) onderhewig aan die bepalings van subartikels (2), (3) en (4); en
- (b) na behoorlike oorweging van alle skriftelike vertoë en voorleggings,

oor provinsiale staatsgrond beskik op sodanige terme en voorwaardes as vereis in die belang van die publiek of in die belang van publieke administrasie: Met dien verstande dat die bepalings van paragrawe (a) en (b) nie van toepassing is nie op 'n beskikking–

- (i) aan 'n departement in die nasionale regering, 'n munisipaliteit of die KwaZulu-Natal Koninklike Huishoudingstrust; of
- (ii) wat neerkom op die verhuring van provinsiale staatsgrond vir 'n tydperk wat

nie 12 maande oorskry nie.

(2) Wanneer die verantwoordelike lid van die Uitvoerende Raad van voorneme is om oor provinsiale staatsgrond te beskik ingevolge subartikel (1), moet die verantwoordelike lid van die Uitvoerende Raad kennis gee van die voorneme om oor die provinsiale staatsgrond te beskik in die *Koerant* en in ten minste een koerant met wye sirkulasie in die gebied waarin die provinsiale staatsgrond geleë is.

(3) Die kennisgewing moet –

(a) die provinsiale staatsgrond wat geraak word, identifiseer en die volgende inligting aangaande die provinsiale staatsgrond insluit –

(i) die volledige transportaktebeskrywing, met inbegrip van die transportaktenommer, die landdrostdistrik waarin die provinsiale staatsgrond geleë is, die grootte van die grond en, indien van toepassing, die aard van enige reg met betrekking tot sodanige grond;

(ii) die huidige sonering van die provinsiale staatsgrond;

(iii) die werklike huidige gebruik van die provinsiale staatsgrond; en

(iv) volledige besonderhede van enige verbeterings aan, en strukture op, die provinsiale staatsgrond;

(b) aan belanghebbende partye die geleentheid bied om skriftelike verhoë of voorleggings te maak aangaande die voorgename beskikking binne 'n tydperk van nie minder nie as 30 dae; en

(c) 'n fisiese adres en kontakbesonderhede insluit van 'n persoon van wie volledige besonderhede aangaande die voorgename beskikking bekom kan word.

(4) Die verantwoordelike lid van die Uitvoerende Raad moet, buiten die kennisgewing wat ingevolge subartikel (2) gepubliseer moet word, 'n afskrif van sodanige kennisgewing per geregistreerde pos laat stuur of laat aflewer aan –

(a) die okkuperder, indien enige, van die provinsiale staatsgrond vermeld in sodanige kennisgewing;

(b) die munisipale bestuurder van die munisipaliteit vir die gebied waarin die betrokke provinsiale staatsgrond geleë is;

(c) die hoof van alle departemente in die provinsiale regering;

(d) die Streeksgrondeisekommissaris vir KwaZulu-Natal; en

(e) die hoof van die departement in die nasionale regering verantwoordelik vir openbare werke,

wat daardie persone inlig dat hulle skriftelike verhoë of voorleggings kan maak aangaande

die voorgenome beskikking binne 'n tydperk van nie minder nie as 30 dae na ontvangs van die kennisgewing.

(5) Waar die verantwoordelike lid van die Uitvoerende Raad oor provinsiale staatsgrond beskik by wyse van skenking vir 'n spesifieke doel en daardie doel verander sonder die skriftelike toestemming van die verantwoordelike lid van die Uitvoerende Raad, val sodanige provinsiale staatsgrond terug aan die provinsie.

#### **Registrateur moet grondbeskikbaarheidsooreenkomste noteer**

6. Waar daar ingevolge artikel 5(1) oor provinsiale staatsgrond beskik word by wyse van 'n grondbeskikbaarheidsooreenkoms, moet die verantwoordelike lid van die Uitvoerende Raad sodanige ooreenkoms by die Registrateur indien vir die aanbring van sodanige endossement op die transportakte van die eiendom wat die Registrateur toepaslik ag.

#### **Beskikking oor en oordrag van provinsiale staatsgrond gratis aan munisipaliteit of KwaZulu-Natal Koninklike Huishoudingtrust by wyse van ooreenkoms**

7.(1) Die verantwoordelike lid van die Uitvoerende Raad kan, met die instemming van die Premier en op skriftelike versoek van –

(a) die raad van 'n munisipaliteit; of

(b) die Raad van die KwaZulu-Natal Koninklike Huishoudingtrust,

aan die tersaaklike munisipaliteit of die KwaZulu-Natal Koninklike Huishoudingtrust, by wyse van ooreenkoms tussen die verantwoordelike lid van die Uitvoerende Raad namens die provinsiale regering en die munisipaliteit of die KwaZulu-Natal Koninklike Huishoudingtrust, na gelang van die geval, enige provinsiale staatsgrond beskryf in sodanige ooreenkoms oordra en oor beskik, wat –

(i) binne die provinsie KwaZulu-Natal geleë is; en

(ii) by die provinsie KwaZulu-Natal berus of onder sy beheer staan volgens of kragtens enige wet,

gratis maar onderworpe aan enige voorwaarde wat die provinsiale regering mag bepaal: Met dien verstande dat indien enige sodanige provinsiale staatsgrond of enige gedeelte van sodanige grond bedoel in hierdie artikel deur 'n tradisionele gemeenskap geokkupeer word soos omskryf in artikel 1(1) van die KwaZulu-Natal Wet op Tradisionele Leierskap en Regering, 2005 (Wet No. 5 van 2005), die bepalings van hierdie artikel is slegs van toepassing na oorleg met daardie tradisionele gemeenskap.

(2) Die bepalings van artikel 5(2) - (4) is van toepassing, met die nodige veranderings, op enige oordrag bedoel in subartikel (1) van hierdie artikel.

(3) Onderhewig aan nasionale wetgewing –

(a) moet die Registrateur, wanneer aansoek aan hom of haar gerig word deur die munisipale bestuurder van die tersaaklike munisipaliteit of die hoof- uitvoerende beampte van die KwaZulu-Natal Koninklike Huishoudingtrust en by die vertoon van die ooreenkoms bedoel in subartikel (1), sodanige inskrywings en endossemente maak as wat hy of sy nodig ag in of op enige tersaaklike register, sertifikaat of ander dokument in sy of haar kantoor of wat aan hom of haar voorgelê word, ten einde sodanige grond te registreer uit hoofde van sodanige ooreenkoms deur die provinsiale regering aan die betrokke munisipaliteit of die KwaZulu-Natal Koninklike Huishoudingtrust oorgedra en op hom oorgegaan, in die naam van die munisipaliteit of die KwaZulu-Natal Koninklike Huishoudingtrust, na gelang van die geval; en

(b) is geen oordragbelasting, seëlbelasting of amps- of ander gelde betaalbaar met betrekking tot 'n oordrag en registrasie bedoel in hierdie artikel nie.

## HOOFSTUK 5 ONTEIENING VAN EIENDOM

### **Bevoegdheid van provinsiale regering om eiendom vir openbare doeleindes te onteien**

8.(1) Onderhewig aan die bepalings van artikel 25 van die Grondwet, en artikel 9 van hierdie Wet, kan die verantwoordelike lid van die Uitvoerende Raad, namens die provinsiale regering, enige eiendom in die openbare belang en vir openbare doeleindes onteien met betrekking tot –

(a) enige aangeleentheid binne 'n funksionele gebied vermeld in deel A van bylae 4 by die Grondwet;

(b) enige aangeleentheid binne 'n funksionele gebied vermeld in deel A van bylae 5 by die Grondwet;

(c) enige aangeleentheid buite die funksionele gebiede vermeld in paragrawe (a) en (b), en wat uitdruklik aan provinsies oor die algemeen of aan hierdie provinsie in besonder toegewys is; of

(d) enige aangeleentheid wat redelikerwys nodig is vir, of gepaard gaan met, die doeltreffende uitoefening van 'n bevoegdheid of funksie rakende enige aangeleentheid vermeld in paragrawe (a) – (c) van hierdie artikel.

(2) Eiendom onteien ingevolge hierdie artikel –

- (a) berus by die provinsiale regering;
- (b) is provinsiale staatsgrond; en
- (c) moet ingevolge die Wet op die Registrasie van Aktes, 1937 (Wet No. 47 van 1937), in die naam van die provinsiale regering geregistreer word.

### **Onteieningsprosedure**

9.(1) Wanneer die verantwoordelike lid van die Uitvoerende Raad van voorneme is om eiendom ingevolge artikel 8 te onteien, moet die verantwoordelike lid van die Uitvoerende Raad kennis gee van die voorneme om sodanige eiendom te onteien in die *Koerant* en in ten minste een koerant met wye sirkulasie in die gebied waarin die eiendom geleë is.

(2) Die kennisgewing moet –

(a) die eiendom wat geraak word, identifiseer en die volgende inligting aangaande die eiendom insluit –

- (i) die volledige transportaktebeskrywing, met inbegrip van die transportaktenommer, die landdrostdistrik waarin die eiendom geleë is, die grootte van die eiendom en, indien van toepassing, die aard van enige reg. met betrekking tot sodanige eiendom;
- (ii) die huidige sonering van die grond;
- (iii) die werklike huidige gebruik van die grond; en
- (iv) volledige besonderhede van enige verbeterings aan, en strukture op, die grond;

(b) aan belanghebbende partye die geleentheid bied om skriftelike verhoë of voorleggings te maak aangaande die voorgenome beskikking binne 'n tydperk van nie minder nie as 30 dae; en

(c) enige persoon wat vergoeding eis as gevolg van die onteining, uitnoui om met die verantwoordelike lid van die Uitvoerende Raad in daardie opsig te onderhandel; en

(d) die aandag vestig op die bepalings van subartikel (5)(a).

(3) Die verantwoordelike lid van die Uitvoerende Raad moet, buiten die kennisgewing wat ingevolge subartikel (2) gepubliseer moet word, 'n afskrif van sodanige kennisgewing per geregistreerde pos laat stuur of laat aflewer aan –

- (a) die geregistreerde eienaar van die eiendom;
- (b) die okkuperder, indien enige, van die eiendom; en
- (c) die munisipale bestuurder van die munisipaliteit vir die gebied waarin die eiendom geleë is,

wat daardie persone inlig dat hulle skriftelike vertoë of voorleggings kan maak aangaande die voorgenome onteiening binne 'n tydperk van nie minder nie as 30 dae na ontvangs van die kennisgewing.

(4)(a) Die verantwoordelike lid van die Uitvoerende Raad kan, na behoorlike oorweging van alle skriftelike vertoë en voorleggings vermeld in subartikels (2)(b) en (3), die eiendom vermeld in subartikel (2)(a) onteien by wyse van kennisgewing in die *Koerant* en in ten minste een koerant met wye sirkulasie in die gebied waarin die eiendom geleë is.

(b) Die verantwoordelike lid van die Uitvoerende Raad moet, binne 30 dae na publikasie van die kennisgewing of onteiening vermeld in paragraaf (a), 'n afskrif van sodanige kennisgewing per hand of per geregistreerde pos aflewer aan –

- (i) die geregistreerde eienaar van die onteiene eiendom;
- (ii) die okkupeerder, indien enige, van die onteiene eiendom;
- (iii) die geregistreerde houer, indien enige, van 'n reg ten opsigte van die onteiene eiendom; en
- (iv) die munisipale bestuurder van die munisipaliteit vir die gebied waarin die eiendom geleë is.

(5)(a) 'n Onteiening vermeld in subartikel (4) is onmiddellik van krag by publikasie van die kennisgewing in die *Koerant* al is vergoeding betaalbaar met betrekking tot sodanige eiendom nie finaal bepaal of betaal nie.

(b) Op die datum van onteiening, berus die eienaarskap van die eiendom by die provinsiale regering ingevolge artikel 8(2) en gaan alle verantwoordelikhede en verpligtinge met betrekking tot, onder andere, risiko, kostes, bestaande huurkontrakte, instandhouding, eiendomsbelasting, belasting en heffings ten opsigte van die eiendom oor op die provinsiale regering.

(c) Die verantwoordelike lid van die Uitvoerende Raad moet onverwyld 'n afskrif van die kennisgewing vermeld in subartikel (4)(a) by die Registrateur indien vir die aanbring van sodanige endossement op die transportakte van die eiendom wat die Registrateur toepaslik ag.

(6)(a) Die eienaar van die eiendom kan vergoeding eis voortspruitend uit 'n onteiening vermeld in subartikel (4).

(b) Indien die verantwoordelike lid van die Uitvoerende Raad en 'n eienaar van die eiendom versuim om 'n ooreenkoms te bereik aangaande die betaling van vergoeding, kan enige van die partye die aangeleentheid na 'n hof verwys vir beslissing, of hulle kan ooreenkom om die geskil na 'n arbiter te verwys vir arbitrasie.

(7) In die geval dat 'n arbiter aangestel is soos bedoel in subartikel (6)(b) –

- (a) bepaal hy of sy die tyd, plek en prosedures wat in die arbitrasie van toepassing is;
- (b) bepaal hy of sy die geskil en maak 'n skriftelike arbitrasiebeslissing met redes vir sodanige arbitrasiebeslissing so gou doenlik na die arbitrasie en sy of haar beslissing is bindend;
- (c) mag hy of sy nie 'n arbitrasiebeslissing van kostes maak nie; en
- (d) word hy of sy, uit gelde wat vir hierdie doel deur die Provinsiale Wetgewer bewillig is, sodanige gelde en toelae betaal as deur die verantwoordelike lid van die Uitvoerende Raad, met die instemming van die lid van die Uitvoerende Raad verantwoordelik vir finansies, bepaal.

### **Onttrekking van onteiening**

10.(1) Indien die verantwoordelike lid van die Uitvoerende Raad van mening is dat dit in die openbare belang is om 'n onteiening van eiendom terug te trek, kan die verantwoordelike lid van die Uitvoerende Raad die onteiening terugtrek te eniger tyd voor die registrasie van die oordrag van die eiendom ingevolge die Wet op die Registrasie van Aktes, 1937 (Wet No. 47 van 1937) plaasgevind het.

(2)(a) Die onttrekking van die onteiening moet plaasvind by wyse van kennisgewing in die *Koerant* op die wyse vermeld in artikel 9(2), (3) en (4), saamgelees met die nodige veranderings, en eienaarskap van die eiendom berus by die eienaar van wie die eiendom onteien is vanaf die datum van publikasie van die onttrekkingskennisgewing.

(b) Die verantwoordelike lid van die Uitvoerende Raad moet onverwyld 'n afskrif van die kennisgewing vermeld in paragraaf (a) by die Registrateur indien vir die aanbring van sodanige endossement op die transportakte van die eiendom wat die Registrateur toepaslik ag.

(3) Enige vergoeding betaal ingevolge artikel 9(6) moet onverwyld aan die provinsiale regering terugbetaal word.

(4) Die eienaar is daarop geregtig om uitgawes te eis of werklike finansiële verlies wat hy of sy direk of indirek aabgegaan het as gevolg van sodanige onteiening nadat 'n skriftelike kennisgewing per geregistreerde pos aan die verantwoordelike lid van die Uitvoerende Raad gestuur is, met vermelding van 'n gedetailleerde staat van die bedrag van sodanige uitgawes of werklike finansiële verlies, saam met ondersteunende dokumentêre bewyse.

(5)(a) Indien die verantwoordelike lid van die Uitvoerende Raad en 'n eienaar van die eiendom versuim om 'n ooreenkoms te bereik aangaande die betaling van uitgawes of werklike finansiële verlies, kan enige van die partye die aangeleentheid na 'n hof verwys vir beslissing, of hulle kan ooreenkom om die geskil na 'n arbiter vir arbitrasie te verwys.

(b) Indien die geskil vir arbitrasie verwys is, is die bepalings van artikel 9(7) van toepassing met die nodige veranderings.

## HOOFSTUK 6 PROVINSIALE STAATSGRONDREGISTER

### **Provinsiale staatsgrondregister**

11.(1) Die verantwoordelike lid van die Uitvoerende Raad moet 'n gekonsolideerde register van alle provinsiale staatsgrond instel en onderhou.

(2) Die register vermeld in subartikel (1) moet –

(a) onderhewig aan die bepalings van die Wet op die Bevordering van Toegang tot Inligting, 2000 (Wet No. 2 van 2000), vir die publiek toeganklik wees; en

(b) die volgende inligting aangaande provinsiale staatsgrond bevat –

(i) die volledige transportaktebeskrywing, met inbegrip van die transportaktenommer, die landdrosdistrik waarin die grond geleë is, die grootte van die grond en, indien van toepassing, die aard van enige reg met betrekking tot sodanige grond;

(ii) die huidige sonering van die grond;

(iii) die werklike huidige gebruik van die grond;

(iv) die voorgenome gebruik van die grond;

(v) volledige besonderhede van enige verbeterings aan, en strukture op, die grond; en

(vi) die departement of departemente van die provinsiale regering verantwoordelik vir die beheer en gebruik van die grond.

(3) 'n Lid van die Uitvoerende Raad, buiten die lid van die Uitvoerende Raad verantwoordelik vir openbare werke, wat provinsiale staatsgrond beheer, gebruik of die bewaarder daarvan is, moet, op versoek, die lid van die Uitvoerende Raad verantwoordelik vir openbare werke voorsien van die besonderhede van die inligting vermeld in subartikel (2)(b) met betrekking tot sodanige grond.



## HOOFSTUK 7 BESTUUR VAN PROVINSIALE STAATSGROND

### **Bestuur van provinsiale staatsgrond**

12.(1)(a) Op die inwerkingtreedingsdatum van hierdie Wet, val alle provinsiale staatsgrond onder die bewaarderskap van die verantwoordelike lid van die Uitvoerende Raad en word dit beskou as dat die Premier, ingevolge artikel 4(1)(c) van GIAMA, die verantwoordelike lid aangewys het as die bewaarder van sodanige provinsiale staatsgrond of onroerende bates.

(b) Die verantwoordelike lid kan, ingevolge artikel 18 van GIAMA, 'n toewysing van enige of al sy of haar bevoegdhede, pligte en verantwoordelikhede as 'n bewaarder skriftelik toewys of onttrek.

(2) Waar eiendom ooreenkomstig die bepalings van hierdie Wet verkry word, is die verantwoordelike lid van die Uitvoerende Raad die bewaarder van sodanige eiendom en word dit beskou as dat die Premier, ingevolge artikel 4(1)(c) van GIAMA, die verantwoordelike lid aangewys het as die bewaarder van sodanige provinsiale staatsgrond of onroerende bate: Met dien verstande dat waar die eiendom verkry is vir 'n doel of funksie ten opsigte van –

(a) die portefeulje of sfeer van verantwoordelikheid van 'n ander lid van die Uitvoerende Raad, moet die verantwoordelike lid van die Uitvoerende Raad, ingevolge artikel 18 van GIAMA, skriftelik bewaarderskap van daardie eiendom, synde provinsiale staatsgrond, aan die tersaaklike lid van die Uitvoerende Raad toewys en aangee; en

(b) die portefeuljes of sfere van verantwoordelikheid van twee of meer lede van die Uitvoerende Raad, moet die Premier bepaal watter lid van die Uitvoerende Raad as die bewaarder beskou moet word van die eiendom aan wie die verantwoordelike lid van die Uitvoerende Raad, ingevolge artikel 18 van GIAMA, bewaarderskap skriftelik moet toewys en aangee.

(3) Indien provinsiale staatsgrond onder die bewaarderskap van 'n lid van die Uitvoerende Raad ingevolge subartikel (2)(a) of (b) nie meer vereis word vir die verrigting van die funksies ten opsigte van die portefeulje of sfeer van verantwoordelikheid van die bewaarder-lid van die Uitvoerende Raad nie, moet daardie lid van die Uitvoerende Raad onverwyld bewaarderskap van daardie eiendom aan die verantwoordelike lid van die Uitvoerende Raad teruggee.

(4) Enige aangee van bewaarderskap vermeld in hierdie artikel kan vir 'n onbepaalde of vasgestelde tydperk wees en onderhewig wees aan sodanige voorwaardes as deur die verantwoordelike lid van die Uitvoerende Raad bepaal: Met dien verstande dat enige

bewaarder of gebruikersdepartement moet begroot vir die instandhouding van enige onroerende bate waarvan hy die bewaarder of gebruikersdepartement is.

## HOOFSTUK 8 PLAN VIR DIE BESTUUR VAN ONROERENDE BATES

### **Plan vir die bestuur van onroerende bates**

**13.(1)** Onderhewig aan die bepalings van GIAMA, moet die verantwoordelike lid van die Uitvoerende Raad –

- (a) 'n plan ontwikkel vir die bestuur van onroerende bates, om bekend te staan as 'n bewaardersplan vir die bestuur van onroerende bates, ten opsigte van al die onroerende bates wat in sy bewaring is; en
- (b) 'n gekonsolideerde gebruikersplan ontwikkel vir die bestuur van onroerende bates, wat verband hou met al die onroerende bates wat die bewaarder gebruik of van voorneme is om te gebruik ter ondersteuning van sy eie diensleweringsoelwitte.

(2) Die lid van die Uitvoerende Raad vir 'n gebruikersdepartement moet 'n plan ontwikkel vir die bestuur van onroerende bates om bekend te staan as 'n gebruikersplan vir die bestuur van onroerende bates ten opsigte van die onroerende bates wat daardie gebruikersdepartement gebruik of van voorneme is om te gebruik.

### **Minimum inhoud van bewaardersplan vir die bestuur van onroerende bates**

**14.** 'n Bewaardersplan vir die bestuur van onroerende bates voorberei ingevolge artikel 13(1)(a) moet ten minste –

- (a) 'n portefeuljestrategie en bestuursplan;
- (b) 'n bestuursplan vir elke onroerende bate dwarsdeur sy lewenssiklus;
- (c) 'n prestasiebeoordeling van die onroerende bate;
- (d) 'n toestandbeoordeling van die onroerende bate;
- (e) die instandhoudingsaktiwiteite vereis en die totale en ware koste van die instandhoudingsaktiwiteite soos geïdentifiseer; en
- (f) 'n beskikkingstrategie en bestuursplan,

insluit.

### **Minimum Inhoud van 'n gebruikersplan vir die bestuur van onroerende bates**

**15.** 'n Gebruikersplan vir die bestuur van onroerende bates voorberei ingevolge artikel

13(1)(b) moet ten minste –

- (a) 'n strategiese behoeftebepaling;
- (b) 'n verkrygingsplan;
- (c) 'n bedryfsplan; en
- (d) 'n onroerende bate-oorgaweplan,

insluit.

#### **Voorlegging van plan vir die bestuur van onroerende bates**

16.(1) Die rekenpligtige beampte van 'n bewaarder moet, op 'n datum bepaal deur die Provinsiale Tesourie, 'n afskrif van sy bewaardersplan vir die bestuur van onroerende bates aan die Provinsiale Tesourie voorlê.

(2) Die rekenpligtige beampte van 'n gebruikersdepartement moet –

- (a) op 'n datum bepaal deur die Provinsiale Tesourie, sy gebruikersplan vir die bestuur van onroerende bates as deel van sy strategiese plan aan die Provinsiale Tesourie voorlê; en
- (b) op 'n datum bepaal deur die bewaarder, 'n afskrif van sy gebruikersplan vir die bestuur van onroerende bates aan die betrokke bewaarder voorlê.

#### **Status van gebruikersplan vir die bestuur van onroerende bates**

17. 'n Gebruikersplan vir die bestuur van onroerende bates –

- (a) is vir die doeleindes van hierdie Wet, die hoof- onroerende bate strategiese beplanningsinstrument wat alle onroerende batebestuursbesuite deur die gebruikersdepartement rig en inspireer; en
- (b) bind die gebruikersdepartement in die uitoefening van sy uitvoerende gesag.

#### **Gebruikersdepartement moet uitvoering gee aan gebruikersplan vir die bestuur van onroerende bates**

18. 'n Gebruikersdepartement moet sy gebruikersplan implementeer vir die bestuur van onroerende bates en uitvoer van onroerende batebestuur op 'n wyse wat konsekwent is met hierdie Wet, die bepalings van GIAMA en sy gebruikersplan vir die bestuur van onroerende bates.

**Hersiening en wysiging van plan vir die bestuur van onroerende bates****19.(1) 'n Gebruikersdepartement –**

- (a) moet jaarliks sy gebruikersplan hersien vir die bestuur van onroerende bates nadat sy begrotingstoekenings deur die Provinsiale Tesourie gefinaliseer is en moet die hersiene gebruikersplan vir die bestuur van onroerende bates in sy strategiese plan inkorporeer;
- (b) kan sy gebruikersplan wysig vir die bestuur van onroerende bates ooreenkomstig 'n voorgeskrewe proses; en
- (c) moet sy hersiene en gewysigde gebruikersplan vir die bestuur van onroerende bates aan die betrokke bewaarder voorlê.

(2) 'n Bewaarder moet jaarliks sy bewaardersplan hersien vir die bestuur van onroerende bates na ontvangs van die hersiene en gewysigde gebruikersplan vir die bestuur van onroerende bates of waar ander faktore sodanige hersiening noodsaak.

**HOOFSTUK 9  
ALGEMENE BEPALINGS****Tenuitvoerbrenging van dokumente****20. Die verantwoordelike lid van die Uitvoerende Raad kan –**

- (a) enige dokument ten opsigte van die bestuur van provinsiale staatsgrond;
- (b) enige dokument wat vereis word om –
  - (i) die verkryging van eiendom;
  - (i) beskikking oor provinsiale staatsgrond; of
  - (iii) die onteiening van eiendom,

in werking te stel; en

- (c) enige ooreenkoms bedoel in artikel 7(1),

teken.

**Jaarverslag**

**21.(1)** Die verantwoordelike lid van die Uitvoerende Raad moet, binne 90 dae na die einde van 'n finansiële jaar, 'n jaarverslag aan die Provinsiale Wetgewer voorlê.

(2) Die verslag vermeld in subartikel (1) moet die volgende insluit –

- (a) die volledige besonderhede van alle skriftelike aanbiedinge ontvang van enige persoon om provinsiale staatsgrond te verkry;

(b) die doel en volledige besonderhede van alle beskikking oor provinsiale staatsgrond ingevolge artikel 5, met inbegrip van –

- (i) die volledige transportaktebeskrywing, met inbegrip van die transportaktenommer, die landdrostdistrik waarin die grond geleë is, die grootte van die eiendom en, indien van toepassing, die aard van enige reg met betrekking tot sodanige grond;
- (ii) die volle naam en identiteitsnommer van die begunstigde;
- (iii) die aankoopprys, indien enige, betaalbaar met betrekking tot die grond;
- (iv) enige beperkende voorwaarde opgelê met betrekking tot die grond; en
- (v) die doel waarvoor die grond gebruik is voor die beskikking en, indien beskikbaar, die huidige of voorgenome doel waarvoor die grond gebruik moet word;

(c) die doel en volledige besonderhede van alle verkrygings van eiendom ingevolge artikel 4, met inbegrip van –

- (i) die volledige transportaktebeskrywing, met inbegrip van die transportaktenommer, die landdrostdistrik waarin die eiendom geleë is, die grootte van die eiendom en, indien van toepassing, die aard van enige reg met betrekking tot sodanige eiendom;
- (ii) die aankoopprys, indien enige, betaalbaar met betrekking tot die eiendom;
- (iii) enige beperkende voorwaarde opgelê met betrekking tot die eiendom;
- (iv) die doel waarvoor die eiendom gebruik is voor die verkryging of herverkryging en, indien beskikbaar, die huidige of voorgenome doel waarvoor die eiendom gebruik moet word;

(d) die doel en volledige besonderhede van alle onteienings van eiendom ingevolge artikel 8, met inbegrip van –

- (i) die volledige transportaktebeskrywing, met inbegrip van die transportaktenommer, die landdrostdistrik waarin die eiendom geleë is, die grootte van die eiendom en, indien van toepassing, die aard van enige reg met betrekking tot sodanige eiendom;
- (ii) die volle naam en identiteitsnommer van die vorige eienaar van die eiendom;
- (iii) die aankoopprys of vergoeding betaal met betrekking tot die eiendom;
- (iv) enige beperkende voorwaarde opgelê met betrekking tot die eiendom; en
- (v) die doel waarvoor die grond gebruik is voor die beskikking en, indien beskikbaar, die huidige of voorgenome doel waarvoor die eiendom gebruik moet word;

(e) die somtotaal van die betaling vir die tydperk van die verslag –

- (i) ontvang deur die provinsiale regering vir beskikking oor provinsiale

staatsgrond ingevolge artikel 5;

(ii) gemaak deur die provinsiale regering vir verkryging van eiendom ingevolge artikel 4; en

(iii) gemaak deur die provinsiale regering vir onteining van eiendom ingevolge artikel 8.

### **Toewysing van bevoegdhede, pligte en funksies deur Premier**

22.(1) Die Premier kan, op versoek van enige lid van die Uitvoerende Raad, by wyse van kennisgewing in die *Koerant* en onderhewig aan sodanige voorwaardes as deur die Premier bepaal, hetsy oor die algemeen of met betrekking tot –

(a) 'n spesifieke eiendom;

(b) gespesifiseerde provinsiale staatsgrond;

(c) enige aangeleentheid binne 'n funksionele gebied vermeld in deel A van bylae 4 by die Grondwet;

(d) enige aangeleentheid binne 'n funksionele gebied vermeld in deel A van bylae 5 by die Grondwet;

(e) enige aangeleentheid buite die funksionele gebiede vermeld in paragrawe (c) en (d), en wat uitdruklik toegewys is aan provinsies oor die algemeen of aan die provinsie KwaZulu-Natal in besonder; of

(f) enige aangeleentheid wat redelikerwys nodig is vir, of gepaard gaan met, die doeltreffende uitoefening van 'n bevoegdheid of funksie rakende enige aangeleentheid vermeld in paragrawe (a) – (c) van hierdie artikel,

aan sodanige lid van die Uitvoerende Raad enige bevoegdheid, plig of funksie wat aan die verantwoordelike lid van die Uitvoerende Raad verleen of opgelê is ingevolge hierdie Wet toewys, buiten –

(i) die plig om 'n gekonsolideerde register van alle provinsiale staatsgrond vermeld in artikel 11(1) in te stel en te onderhou;

(ii) die bevoegdhede, pligte en funksies vermeld in artikel 12; en

(iii) die bevoegdheid om regulasies vermeld in artikel 24 uit te vaardig.

(2) 'n Toewysing aan enige ander lid van die Uitvoerende Raad vermeld in subartikel (1) voorkom nie die uitoefening van die bevoegdheid of die uitvoering van die plig of verrigting van die betrokke funksie deur die verantwoordelike lid van die Uitvoerende Raad nie.

**Delegering van bevoegdhede, pligte en funksies deur verantwoordelike lid van Uitvoerende Raad**

23.(1) Die verantwoordelike lid van die Uitvoerende Raad kan, onderhewig aan sodanige voorwaardes soos hy of sy mag bepaal, enige bevoegdheid, plig of funksie wat aan hom of haar verleen of opgelê is deur of kragtens hierdie Wet, buiten –

- (a) die bevoegdheid om 'n kennisgewing vereis ingevolge artikel 9(4) te publiseer; en
- (b) die bevoegdheid om regulasies vermeld in artikel 24 uit te vaardig,

aan 'n beampte in diens van die provinsiale regering delegeer.

(2) 'n Delegasie vermeld in subartikel (1) –

- (a) moet skriftelik wees;
- (b) moet uitgeoefen word onderhewig aan sodanige voorwaardes bepaal deur die verantwoordelike lid van die Uitvoerende Raad;
- (c) ontnem nie die verantwoordelike lid van die Uitvoerende Raad van die bevoegdheid, plig of funksie so gedelegeer nie;
- (d) voorkom nie die uitoefening van die bevoegdheid of die uitvoering van die plig of verrigting van die betrokke funksie deur die verantwoordelike lid van die Uitvoerende Raad nie; en
- (e) kan te eniger tyd skriftelik onttrek of gewysig word deur die verantwoordelike lid van die Uitvoerende Raad.

**Regulasies**

24. Die verantwoordelike lid van die Uitvoerende Raad kan regulasies uitvaardig –

- (a) aangaande die norme en standaarde, met inbegrip van prosedures, van toepassing op die verkryging, onteining, ruiling, beskikking en verhuring van provinsiale staatsgrond, die sloping van geboue op provinsiale staatsgrond, en skenkings van provinsiale staatsgrond;
- (b) aangaande die instelling en instandhouding van die provinsiale staatsgrondregister; en
- (c) aangaande enige ander aangeleentheid wat die verantwoordelike lid van die Uitvoerende Raad as nodig, toepaslik of wenslik beskou vir die bereiking van die doel of oogmerke van hierdie Wet.

**Herroeping van Wet**

25. Die KwaZulu-Natal Wet op Grondadministrasie, 2003 (Wet No. 3 van 2003), word hiermee herroep.

**Oorgangsreëling en validasie**

26. Enige wet, beslissing, toewysing, besluit, aangeleentheid of enige ander ding wat deur die verantwoordelike lid van die Uitvoerende Raad of enige ander lid van die Uitvoerende Raad ingevolge of ooreenkomstig die herroepe KwaZulu-Natal Wet op Grondadministrasie, 2003 (Wet No. 3 van 2003), vanaf 28 November 2003 tot die datum van inwerkingtreding van hierdie Wet gedoen, gemaak, geneem, verrig of uitgevoer is of na bewering gedoen, gemaak, geneem, verrig of uitgevoer is, is nie ongeldig nie slegs omrede die administrasie van die herroepe Wet nie formeel aan die verantwoordelike lid van die Uitvoerende Raad of enige ander lid van die Uitvoerende Raad toegewys is nie.

**Kort titel**

27. Hierdie Wet word genoem die KwaZulu-Natal Wet op Grondadministrasie en die Bestuur van Onroerende Bates, 2010.



**MEMORANDUM OOR DIE OOGMERKE  
VAN DIE  
KWAZULU-NATAL WETSONTWERP OP GRONDADMINISTRASIE EN DIE BESTUUR VAN  
ONROERENDE BATES, 2010**

**1. AGTERGROND**

**1.1 Hoewel –**

(a) die oogmerke van die KwaZulu-Natal Wetsontwerp op Grondadministrasie en die Bestuur van Onroerende Bates, 2010, taamlik soortgelyk bly aan dié van die KwaZulu-Natal Wet op Grondadministrasie, 2003 (Wet No. 3 van 2003), naamlik om 'n meganisme te skep waarmee die provinsie van KwaZulu-Natal alle onroerende eiendom waaroor die provinsiale regering beskik, doeltreffend kan administreer, om prosedures in te stel waarmee onroerende eiendom deur die provinsiale regering verkry of oor beskik kan word, met inbegrip van onteieningsverrigtinge, om 'n register in te stel om alle provinsiale staatsgrond te weerspieël en om voorsiening te maak vir jaarlikse verslagdoening deur die verantwoordelike lid van die Uitvoerende Raad aan die Provinsiale Wetgewer, wat alle verkrygings en beskikkings opsom wat ingevolge die beoogde Wet uitgevoer is; en

(b) die hoofbeginsels van die 2003 Wet behou is,

was dit nodig om die nuwe 2010 Wetsontwerp in te dien om praktiese kwessies wat tydens die implementering van die 2003 Wet ondervind is, aan te spreek en om te verseker dat die 2010 Wetsontwerp die bepalings van die 2003 Wet toepaslik met die nasionale wetgewing harmoniseer, naamlik, die Wet op die Bestuur van Onroerende Regeringsbates, 2007 (Wet No. 19 van 2007), waarna as GIAMA verwys word.

**1.2** As gevolg van die volume van tegniese wysigings, sekere veranderings in die volgorde en formaat van bepalings wat behou is; om die harmonisering van daardie provisions met GIAMA te fasiliteer en om te verseker dat die eindproduk meer gebruikersvriendelik sal wees, is dit paslik beskou om nuwe hoofwetgewing in te dien in plaas daarvan om met 'n Wysigingswetsontwerp tot die 2003 Wet te handel.

**1.3** Die Wetsontwerp is die gevolg van 'n breëgebaseerde oorlegplegingsproses met verskillende belanghebbendes en ander departemente betrokke by grondadministrasie-aangeleenthede.

**2. KLOUSULE BY KLOUSULE VERDUIDELIKING**

Ter opsomming bepaal die Wetsontwerp soos volg –

**Klousule 1: Omskrywings**

Klousule 1 poog om terme te omskryf wat in die Wetsontwerp gebruik word met die oog daarop om die betekenis van daardie terme te beperk of uit te brei. Hierdie klousule is grootliks selfverduidelikend.

**Klousule 2:**

Klousule 2 sit die doelwitte van die Wetsontwerp uiteen.

**Klousule 3:**

Klousule 3 maak voorsiening vir die toepassing van die Wet. Dit bepaal dat die bepalings van die beoogde Wet betreffende die verkryging en beskikking oor onroerende eiendom die oorhand oor ander wetgewing voer.

Die klousule verseker dat hierdie Wet nie van toepassing sal wees op eiendom waaroor die Ingonyama Trust ingevolge die KwaZulu-Natal Wet op die Ingonyama Trust, 1994 (Wet No. 3KZ van 1994) beskik nie.

**Klousule 4:**

Klousule 4 bemagtig die lid van die Uitvoerende Raad vir openbare werke om onroerende eiendom te verkry. Eiendom wat aldus verkry word, berus by die KwaZulu-Natal Provinsiale Regering.

**Klousule 5:**

Klousule 5 bemagtig die lid van die Uitvoerende Raad vir openbare werke om oor grond te beskik. Die proses wat gevolg moet word, word in hierdie klousule uiteengesit.

**Klousule 6:**

Klousule 6 bepaal dat grond ook by wyse van grondbeskikbaarheidsooreenkomste verkry mag word. Dit is 'n skriftelike ooreenkoms wat die reg om eiendom te ontwikkel, aangee na iemand anders as die eienaar van die eiendom. Op hierdie wyse word voorsiening gemaak vir die ontwikkeling van grond in die provinsie. Hierdie ooreenkomste moet by die Registrateur van Aktes ingedien word vir die endossering van sodanige ooreenkoms op die transportakte van die eiendom.

**Klousule 7:**

Klousule 7 bemagtig die lid van die Uitvoerende Raad vir openbare werke, met die instemming van die Premier-in-Uitvoerende Raad, om gratis aan 'n munisipaliteit of die

KwaZulu-Natal Koninklike Huishoudingtrust by wyse van ooreenkoms oor provinsiale staatsgrond te beskik, maar onderworpe aan voorwaardes wat die provinsiale regering mag bepaal.

**Klousule 8:**

Klousule 8 bemagtig die lid van die Uitvoerende Raad vir openbare werke om onroerende eiendom vir openbare doeleindes te onteien, onderhewig aan artikel 25 van die Grondwet, 1996. Eiendom wat ingevolge hierdie klousule onteien is, berus by die KwaZulu-Natal provinsiale regering.

**Klousule 9:**

Klousule 9 sit die gedetailleerde prosedure uiteen wat gevolg moet word by die onteiening van eiendom vir openbare doeleindes.

**Klousule 10:**

Klousule 10 bemagtig die lid van die Uitvoerende Raad vir openbare werke om 'n onteiening voor registrasie van oordrag te onttrek.

**Klousule 11:**

Klousule 11 lê 'n plig aan die lid van die Uitvoerende Raad vir openbare werke op om 'n register van alle provinsiale staatsgrond in te stel en te onderhou. Dit vermeld ook die besonderhede wat sodanige register moet bevat.

**Klousule 12:**

Klousule 12 poog om GIAMA met die Provinsiale Wetgewer, in besonder hierdie Wetsontwerp, in lyn te bring. Ingevolge artikel 4(1)(c) van GIAMA, is die Premier van 'n provinsie of die lid van die Uitvoerende Raad aangewys deur die Premier, die bewaarder van provinsiale staatsgrond of onroerende bates. Dit is die verstekposisie ingevolge nasionale wetgewing (GIAMA).

Klousule 12(1)(a) handel oor die status van provinsiale staatsgrond op die datum waarop die Wetsontwerp as 'n wet van die Provinsiale Wetgewer in werking tree en uitdruklik –

(a) verklaar dat alle provinsiale staatsgrond in KwaZulu-Natal onder die bewaarderskap van die lid van die Uitvoerende Raad verantwoordelik vir openbare werke val; en

(b) bepaal dat die Premier, ingevolge artikel 4(1)(c) van GIAMA, geag word as

dat hy of sy die lid van die Uitvoerende Raad verantwoordelik vir openbare werke as die bewaarder van sodanige provinsiale staatsgrond of onroerende bates aangewys het.

Dit vereenvoudig sake in die provinsie aangesien daar nou geen toegang nodig is nie tot enige ander wetgewing, dokumentasie of uitvoerende wette van die Premier om te bepaal wat die posisie is met betrekking tot provinsiale staatsgrond in KwaZulu-Natal op die datum waarop die Wetsontwerp in werking tree as 'n Wet van die Provinsiale Wetgewer.

Klousule 12(1)(b) bevestig uitdruklik dat die lid van die Uitvoerende Raad verantwoordelik vir openbare werke daarvolgens al sy of haar bevoegdhede verleen deur artikel 18 van GIAMA behou en, ingevolge artikel 18 van GIAMA, enige of al sy of haar bevoegdhede, pligte en verantwoordelikhede as 'n bewaarder skriftelik kan toewys of onttrek.

Klousule 12(2) handel oor die status van provinsiale staatsgrond na die datum waarop die Wetsontwerp as 'n Wet van die Provinsiale Wetgewer in werking tree. Die klousule stel voor dat die verstekposisie in KwaZulu-Natal is dat die lid van die Uitvoerende Raad vir openbare werke die bewaarder van sodanige eiendom is. Waar sodanige eiendom verkry word vir die doel of funksie van 'n ander departement in die provinsiale regering, moet die lid van die Uitvoerende Raad vir openbare werke egter die bewaring van daardie eiendom, synde provinsiale staatsgrond, na die betrokke departement aangee. In die geval dat twee of meer departemente dieselfde eiendom gesamentlik gebruik, moet die Premier bepaal wie die bewaarder van die eiendom moet wees.

In die geval dat die eiendom nie meer deur die lid van die Uitvoerende Raad na wie bewaarderskap aangegee is, vereis word nie, word van daardie lid van die Uitvoerende Raad vereis om die bewaarderskap aan die lid van die Uitvoerende Raad vir openbare werke terug te gee (klousule 12(3)).

Klousule 12(4) vereis ook dat departemente moet begroot vir die instandhouding van onroerende bates in hul bewaring of eiendom wat hulle gebruik.

#### **Klousule 13:**

Klousule 13 sit uiteen dat die lid van die Uitvoerende Raad vir openbare werke 'n plan vir die bestuur van onroerende bates, wat bekend sal staan as 'n bewaarderplan vir die

bestuur van onroerende bates, moet ontwikkel ten opsigte van al die onroerende bates wat in sy bewaring is. Dit vereis ook van die lid van die Uitvoerende Raad vir openbare werke om 'n gebruikersplan te ontwikkel vir die bestuur van onroerende bates wat vir onroerende bates bedoel is wat deur provinsiale departemente gebruik word of gebruik gaan word.

**Klousule 14:**

Klousule 14 sit uiteen wat in 'n bewaarderplan vir die bestuur van onroerende bates vervat moet word.

**Klousule 15:**

Klousule 15 sit uiteen wat in 'n gebruikersplan vir die bestuur van onroerende bates vervat moet word.

**Klousule 16:**

Klousule 16 lê 'n plig aan die rekenpligtige beamptes van bewaarderdepartemente op om afskrifte van hul bewaarderplanne vir die bestuur van onroerende bates aan die Provinsiale Tesourie voor te lê. Dit vereis ook van rekenpligtige beamptes van gebruikersdepartemente om afskrifte van hul gebruikersplanne vir die bestuur van onroerende bates aan die Provinsiale Tesourie en aan die bewaarder voor te lê.

**Klousule 17:**

Klousule 17 spesifiseer die status van die plan vir die bestuur van onroerende bates wat aandui dat dit alle besluite ten opsigte van die onroerende bates inspireer.

**Klousule 18:**

Klousule 18 vereis van gebruikersdepartemente om hul plan vir die bestuur van onroerende bates toe te pas en die bestuur van die onroerende bates konsekwent binne die bepalings van die Wetsontwerp en GIAMA te bedryf.

**Klousule 19:**

Klousule 19 vermeld dat 'n gebruikersdepartement jaarliks sy plan vir die bestuur van onroerende bates moet hersien. Dit meld dat 'n gebruikersdepartement sy gebruikersplan vir die bestuur van onroerende bates binne 'n voorgeskrewe proses kan wysig en maak voorsiening vir die voorlegging van die plan aan die tersaaklike bewaarder.

Hierdie klousule vereis ook van 'n bewaarder om sy plan vir die bestuur van onroerende bates jaarliks te hersien nadat hy hersiene of gewysigde gebruikersplanne vir die bestuur van onroerende bates ontvang het.

**Klousule 20:**

Klousule 20 verleen tekenbevoegdhede aan die lid van die Uitvoerende Raad vir openbare werke vir die doeltreffende bestuur, verkryging, beskikking en onteiening van 'n onroerende bate.

**Klousule 21:**

Klousule 21 poog om die lid van die Uitvoerende Raad vir openbare werke te verplig om 'n jaarverslag aan die Provinsiale Wetgewer voor te lê binne 90 dae na die einde van 'n finansiële jaar. Die inligting wat in sodanige verslag vervat moet word, word ook uiteengesit.

**Klousule 22:**

Klousule 22 poog om die Premier te bemagtig, by wyse van 'n kennisgewing in die *Koerant* en onderhewig aan sodanige voorwaardes as deur die Premier bepaal, hetsy oor die algemeen of met betrekking tot 'n spesifieke eiendom of gespesifiseerde provinsiale staatsgrond, om enige bevoegdheid, plig of funksie wat aan die lid van die Uitvoerende Raad vir openbare werke verleen of opgelê word ingevolge hierdie Wetsontwerp aan enige ander lid van die Uitvoerende Raad toe te wys, buiten die plig om 'n gekonsolideerde register van alle provinsiale staatsgrond vermeld in klousule 11(1) van hierdie Wetsontwerp in te stel en te onderhou en die bevoegdheid om regulasies vermeld in klousule 16 van hierdie Wetsontwerp uit te vaardig.

**Klousule 23:**

Klousule 23 maak voorsiening vir die delegering van bevoegdhede deur die lid van die Uitvoerende Raad vir openbare werke aan die Hoof van die Departement of 'n beampte in die Departement.

**Klousule 24:**

Klousule 24 bemagtig die lid van die Uitvoerende Raad vir openbare werke om regulasies uit te vaardig.

**Klousule 25:**

Klousule 25 maak voorsiening vir die herroeping van die huidige KwaZulu -Natal Wet op

Grondadministrasie, 2005 (Wet No. 3 van 2005).

**Klousule 26:**

Klousule 26 maak voorsiening vir oorgangsreëlings en poog om stappe gedoen en funksies verrig deur die lid van die Uitvoerende Raad vir openbare werke ingevolge of ooreenkomstig die KwaZulu-Natal Wet op Grondadministrasie (Wet No. 3 van 2003) te bekragtig.

**Klousule 27:**

Klousule 27 bevat die kort titel van die Wet.

**3. ORGANISATORIESE EN PERSONEELIMPLIKASIES VIR PROVINSIALE REGERING**

Geen buitensporige organisatoriese en personeelimplikasies word voorsien nie.

**4. FINANSIËLE IMPLIKASIES VIR PROVINSIALE REGERING**

Geen buitensporige finansiële implikasies word voorsien nie.

**5. DEPARTEMENTE/ LIGGAME/ PERSONE GERAADPLEEG**

Die Wetsontwerp is opgestel in oorleg met –

5.1 die Premierskantoor; en

5.2 die Provinsiale Departement van Openbare Werke,

en na oorleg met –

5.3 die Nasionale Departement van Plattelandse Ontwikkeling en Grondhervorming;

en

5.4 georganiseerde plaaslike regering.

No. 9

21 kuMandulo 2011

## UMTHETHOSIVIVINYO WOKUPHATHWA KOMHLABA NOKULAWULWA KWEMPAHLA ENGASESEKI WAKWAZULU- NATALI, 2010

Isaziso ngokuhambisana noMthetho 194 weMithetho Emileyo YesiShayamthetho saKwaZulu-Natali

Ngalokhu kunikezwa isaziso ngokuhambisana noMthetho 194 weMithetho Emileyo YesiShayamthetho SaKwaZulu-Natali maqondana nokuthi uMthethosivivinyo Wokuphathwa Komhlaba Nokulawulwa Kwempahla Engasuseki WaKwaZulu-Natali, 2010, njengoba uchazwe ngezansi, sewethuliwe esiShayamthethweni esibalulwe ngenhla futhi uzocutshungulwa yiKomidi LesiShayamthetho Lezemisebenzi Yomphakathi. Umphakathi kanye nabanye abanentshisekelo bayamenywa ukuba balethe izethulo ezimayelana nalo Mthethosivivinyo, okumele ziqondiswe ku -:

Nkk KI Masondo  
UNobhala  
IsiShayamthetho saKwaZulu-Natali  
IsiKhwama Seposi X 9112  
Pietermaritzburg  
3200

E-mail: [masondok@kznlegislature.gov.za](mailto:masondok@kznlegislature.gov.za)

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

N NAIDOO  
UNobhala wesiShayamthetho saKwaZulu-Natali



**UMTHETHOSIVIVINYO WOKUPHATHWA KOMHLABA NOKULAWULWA KWEMPAHLA  
EZINGASUKI WAKWAZULU-NATALI, 2010**

## UMTHETHOSISIVINYO

**Wokuhlinzekela ukuphathwa komhlaba nokulawulwa kwezakhiwo ezingasuki KwaZulu-Natali; wokuhlinzekela ukutholakala komhlaba uHulumeni wesiFundazwe; wokuhlinzekela ukuhlelwa komhlaba ongokahulumeni esiFundazweni; wokuhlinzekela ukwabiwa komhlaba uHulumeni wesiFundazwe; wokuhlinzekelwa ukuphathwa nokunakekelwa komhlaba ongokahulumeni nempahla engasuki yesiFundazwe; wokuhlinzekela ukusungulwa nokugcinwa kwerejista yomhlaba ongokahulumeni esiFundazweni; wokuhlinzekela ukuchithwa koMthetho wokuPhathwa koMhlaba waKwaZulu-Natali, 2003; wokuhlinzekela izinhlelo zesikhashana nokusebenza komthetho; kanye nokuhlinzekela okunye okuphathelene nalokho.**

MAWUMISWE yisiShayamthetho sesiFundazwe saKwaZulu-Natali, kanje:-

### UKUHLELEKA KWEZIGABA

*Isigaba*

#### ISAHLUKO 1 IZINCAZELO

1. Izincazelo

#### ISAHLUKO 2 IZINHLOSO NOKUSEBENZA KOMTHETHO

2. Izinhloso zoMthetho

3. Ukusebenza koMthetho

#### ISAHLUKO 3 UKUTHOLAKALA KOMHLABA

4. Ukutholakala komhlaba uHulumeni wesiFundazwe

#### ISAHLUKO 4 UKUHLELWA KOMHLABA ONGOKAHULUMENI ESIFUNDAZWENI

5. Ukuhlelwa komhlaba ongokahulumeni esiFundazweni uHulumeni wesiFundazwe

6. Umbhalisi uyobhalisa izivumelwano zokuba khona komhlaba

7. Ukuhlelwa nokudluliselwa komhlaba ongokahulumeni wesiFundazwe mahhala kumasipala noma kwiThrasti yaseNdlunkulu yaKwaZulu-Natali ngesivumelwano

#### ISAHLUKO 5 UKWABIWA KOMHLABA

8. Amandla kaHulumeni wesiFundazwe okwaba umhlaba ukuze usetshenziselwe umphakathi

9. Inqubo yokwaba umhlaba

10. Ukuhoxiswa kokwabiwa komhlaba

## ISAPHLUKO 6

## IREJISTA YOMHLABA ONGOKAHULUMENI ESIFUNDAZWENI

11. Irejista yomhlaba ongokahulumeni esiFundazweni

## ISAPHLUKO 7

## UKUPHATHWA KOMHLABA ONGOKAHULUMENI WESIFUNDAZWE

12. Ukuphathwa komhlaba ongokahulumeni wesiFundazwe

## ISAPHLUKO 8

## ISU LOKULAWULWA KWEMPAPHLA ENGASUKI

13. Isu lokulawulwa kwempapula engasuki

14. Okungaqukathwa uhlelo lokuphathwa kwempapula engasuki lwalowo oyigcinile

15. Okungaqukathwa uhlelo lokuphathwa kwempapula engasuki loyisebenzisayo

16. Ukuthunyelwa kohlelo lokuphathwa kwempapula engasuki

17. Isimo sohlelo lokuphathwa kwempapula engasuki lwalowo owusebenzisayo

18. Umnyango osebenzisa uhlelo lwempapula engasuki uyonquma ngesikhathi sokuqala kokulusebenzisa

19. Ukubuyekwezwa nokuchitshiyelwa kohlelo lokuphathwa kwempapula engasuki

## ISAPHLUKO 9

## IZINHLENGEKO EZEJWAYELEKILE

20. Imibhalo edingekayo

21. Umbiko wonyaka

22. Ukukhishwa kwamandla, kwamajoka nemisebenzi uNdunankulu

23. Ukudluliselwa kwamandla, kwamajoka nemisebenzi yiLungu loMkhandlu oPhethe

24. Imithethonqubo

25. Ukuchithwa kwemithetho

26. Izinhleنگeko zesikhashana nokusebenza komthetho

27. Isihloko esifingqiwe

## ISAPHLUKO 1

## IZINCAZELO

**Izincazelo**

1. Kulo Mthetho, ngaphandle uma ingqikithi isho okwehlukile –

"**ukuthola**" kusho ukuthenga, ukushintshelana, ukuqasha noma ukwamukela izakhiwo ezingasuki nganoma iyiphi indlela kukaHulumeni wesiFundazwe;

"**undlalifa**" kushiwo noma imuphi umuntu, inkampani noma inhlangotho ethola umhlaba kahulumeni wesiFundazwe noma ilungelo mayelana nomhlaba kahulumeni

wesiFundazwe;

**"Inkokhelo"** kushiwo inkokhelo ehambisana namanani ajwayelekile futhi, uma inkokhelo idingeka ngenxa yokwabiwa komhlaba, kumele inqunywe ngokuhambisana nesigaba 25(3) soMthethosisekelo sifundwa nesigaba 12 soMthetho woKwabiwa oMhlaba, 1975 (uMthetho No. 63 ka 1975);

**"uMthethosisekelo"** kushiwo uMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996;

**"undlalifa"** kushiwo uMnyango esiFundazweni saKwaZulu-Natali obhekele imisebenzi yomphakathi omelwe yiLungu loMkhandlu oPhethe kwaZulu-Natali elibhekele imisebenzi yomphakathi elihlongozwe esigabeni 12(1)(a) no (2), noma omunye uMnyango noma iMinyango esiFundazweni saKwaZulu-Natali emelwe ilungu noma amaLungu eMkhandlwini oPhethe njengoba kuhlangozwe esigabeni 12(1)(b) noma (2)(a) no (b), njengoba kungaba njalo;

**"ukuhlela"** kubandakanya ukudayisa, ukushintshelana, ukunikela noma ukubolekisa ngomhlaba kahulumeni wesiFundazwe (kubandakanya ukwaba umhlaba kahulumeni wesiFundazwe mahhala isikhathi esithile), ukuphothulwa kwesivumelwano sanoma iluphi uhlobo mayelana nomhlaba nanoma imuphi undlalifa kanye nokubhaliswa kwelungelo lalowo muntu mayelana nomhlaba ongokahulumeni wesiFundazwe egameni lalowo ndlalifa;

**"ukushintshelana"** kushiwo ukushintshelana ngesakhiwo esingenakususwa nanoma iliphi ilungelo lesakhiwo esingenakususwa ngesivumelwano esiphakathi kukaHulumeni wesiFundazwe nanoma imuphi omunye umuntu noma uma kudingeka inkokhelo ezokhokhwa uhlangothi oluthile koluye uhlangothi ukuze kushintshelwane ngokulingana, uma ikhona, kumele ikhokhelwe olunye uhlangothi;

**"uMkhandlu oPhethe"** kushiwo uMkhandlu oPhethe eFundazweni saKwaZulu-Natali;

**"iGazethi"** kushiwo iGazethi esemthethweni yesiFundazwe saKwaZulu-Natali;

**"i-GIAMA"** kushiwo uMthetho wokuPhathwa kweMpahla kaHulumeni engenakuSuswa, 2007 (uMthetho No. 19 ka 2007);

**"Impahla esingasuki"** kushiwo noma iyiphi impahla engasuki noma umhlaba, kubandakanya ubunikazi noma ilungelo mayelana nempahla engasuki kodwa kungabandakanyi noma iliphi ilungelo elihlongozwe eMthethweni wokuThuthukiswa kokuMbiwa Phansi noWoyela, 2002 (uMthetho No. 28 ka 2002), futhi igama **"izakhiwo ezingasuki"** linencazelo efanayo;

**"ukuthinteka"** kushiwo ilungelo elisemthethweni noma ukubophezeleka noma ilungelo lomuntu siqu;

**"okuthinta uhulumeni"** kushiwo isenzo noma isinqumo esihambisana nemigomo ebekwe ezigabeni 195 no 217 soMthethosisekelo;

**"iThrasti yaseNdlunkulu yaKwaZulu-Natali"** kushiwo iThrasti yaseNdlunkulu yaKwaZulu-Natali esungulwe yisigaba 2(1) soMthetho weThrasti yaseNdlunkulu yaKwaZulu-Natali, 2007 (uMthetho No. 2 ka 2007);

**"isivumelwano sokutholakala komhlaba"** kushiwo noma isiphi isivumelwano lapho kukhishwa khona ilungelo lokuthuthukisa umhlaba linikezwe omunye umuntu ongeyena umnikazi womhlaba, ngokuzethemba kwakhe, nangemigomo nemibandela okungavunyelwana ngakho;

**"iLungu loMkhandlu oPhethe elibhekele ezezimali"** kushiwo ilungu loMkhandlu oPhethe elibhekele ezezimali;

**"umasipala"** kushiwo umasipala okukhulunywe ngawo esigabeni 155 soMthethosisekelo waseNingizimu Afrika, 1996, osungulwe ngaphansi kwesigaba 11 no 12 zoMthetho weziNhlobo zoMasipala woHulumeni baseKhaya, 1998 (uMthetho No. 117 ka 198), ofundwa nezigaba 3, 4 no 5 zoMthetho wokuNqunywa kweziNhlobo zoMasipala waKwaZulu-Natali, 2000 (uMthetho No. 7 ka 2000) ;

**"uHulumeni kaZwelonke"** kushiwo uhulumeni weRiphabhulikhi yaseNingizimu Afrika;

**"umnikazi"** kushiwo umnikazi njengoba kuchazwe esigabeni 102 soMthetho wokuBhaliswa kwamaTayitela, 1937 (uMthetho No. 47 ka 1937), futhi kubandakanya umnikazi obhalisiwe onanoma iliphi ilungelo elisemthethweni mayelana nomhlaba;

**"uNdunankulu"** kushiwo uNdunankulu eMkhandlwini oPhethe esiFundazweni

saKwaZulu-Natali njengoba kuhlangozwe esigabeni 125 soMthethosisekelo;

**"Isakhiwo"** kushiwo isakhiwo esingasuki njengoba kuchazwe esigabeni 102 soMthetho wokuBhaliswa kwamaTayitela, 1937 (uMthetho No. 47 ka 1937), futhi kubandakanya noma iliphi ilungelo elisemthethweni mayelana naleso sakhiwo esingasuki;

**"isiFundazwe"** kushiwo isiFundazwe saKwaZulu-Natali, futhi igama **"okwesifundazwe"** linencazelo efanayo;

**"uHulumeni wesiFundazwe"** kushiwo uMkhandlu oPhethe wesiFundazwe saKwaZulu-Natali;

**"isiShayamthetho sesiFundazwe"** kushiwo isiShayamthetho sesiFundazwe saKwaZulu-Natali;

**"umhlaba kahulumeni wesifundazwe"** kushiwo –

- (a) noma iyiphi impahla engasuki elawulwa uHulumeni wesiFundazwe ngokuhambisana nohlamvu 28(1) soHlelo 6 loMthethosisekelo; noma
- (b) noma iyiphi impahla engasuki etholwe uHulumeni wesiFundazwe kusukela mhla zingama-27 kuMbasa ka 1994;

**"iHhovisi loMngcinimfa wesiFundazwe"** kushiwo iHhovisi loMngcinimfa wesiFundazwe saKwaZulu-Natali elisungulwe ngokwesigaba 17(1) soMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999);

**"okuthinta umphakathi"** kushiwo isenzo noma isinqumo esihambisana nemigomo ebekwe esigabeni 25 soMthethosisekelo;

**"uMbhalisi"** kushiwo uMbhalisi wamaTayitela njengoba kubekwe eMthethweni wokuBhaliswa kwamaTayitela, 1937 (uMthetho No. 47 ka 1937);

**"Imithethonqubo"** kushiwo imithethonqubo eyakhiwe ngokwesigaba 24;

**"iLungu loMkhandlu oPhethe"** kushiwo iLungu loMkhandlu oPhethe elibhekele imisebenzi yomphakathi: Kuncike ekutheni uma amandla, amajoka noma imisebenzi kunikezwe elinye iLungu loMkhandlu oPhethe, lelo Lungu loMkhandlu oPhethe linalawo mandla, majoka nemisebenzi yeLungu loMkhandlu oPhethe, kodwa kangangoba

lijutshiwe;

**"Io Mthetho"** kubandakanya nemithethonqubo; futhi

**"uMyango othintekayo"** kushiwo uMnyango wesiFundazwe noma uhlaka lombuso olusebenzisa noma oluhlose ukusebenzisa isakhiwo esingasuki ukuze silekelele ezinhlosweni zokuhlinzeka izidingo, futhi kubandakanya umgcini mayelana nempahla engasuki oyisebenzisayo noma ohlose ukuyisebenzisa, futhi igama **"oyisebenzisayo"** linencazelo efanayo.

## ISIAHLUKO 2 IZINHLOSO NOKUSEBENZA KOMTHETHO

### Izinhloso zoMthetho

#### 2. Izinhloso zalo Mthetho –

(a) ukuvumela uHulumeni wesiFundazwe ukuba alawule ukuphathwa komhlaba kahulumeni wesiFundazwe, kubandakanya nezinhlelo –

(i) zokuthola umhlaba;

(ii) zokuhlela umhlaba kahulumeni wesiFundazwe;

(iii) zokwabiwa komhlaba,

(iv) zokuphathwa nokunakekelwa komhlaba kahulumeni wesiFundazwe;

(b) kwenza kube nesibopho sokusungulwa nokunakekelwa kwerejista yawo wonke umhlaba ongokahulumeni esiFundazweni uHulumeni wesiFundazwe; kanye

(c) nokuhlanganisa umthetho wesifundazwe wokuphathwa nokulawulwa komhlaba ne-GIAMA.

### Ukusebenza koMthetho

3.(1) Uma izinhlinzeko zalo Mthetho ziba nokushayisana nanoma imuphi omunye umthetho ophathelene –

(a) nokuphathwa nokunakekelwa komhlaba kahulumeni wesiFundazwe;

(b) nokutholakala komhlaba;

(c) nokuhlelwa komhlaba kahulumeni wesiFundazwe; noma

(d) nokwabiwa komhlaba,

kaHulumeni wesiFundazwe, izinhlinzeko zalo Mthetho izona eziyosebenza.

(2) Uma lo Mthetho –

(a) ungalawuli ezindabeni eziphathelene nokuphathwa noma nokulawulwa komhlaba kahulumeni noma kwezakhiwo ezingasuki esiFundazweni, izinhlinzeko ze-GIAMA ziyosebenza esiFundazweni; noma

(b) ungalawuli ezindabeni eziphathelene nokuphathwa nokulawulwa komhlaba kahulumeni noma kwempahla engasuki esiFundazweni ngezinga elifanayo noma elilingana nele-GIAMA, kuyokwengezwa ezinye izinhlinzeko ze-GIAMA ziyosebenza esiFundazweni.

(3) Lo Mthetho awusebenzi emhlabeni othathwa njengongaphansi kweNgonyama Thrasti ngokoMthetho weNgonyama Thrasti waKwaZulu-Natali, 1994 (uMthetho No. 3 ka 1994).

### ISAPHLUKO 3 UKUTHOLAKALA KOMHLABA

#### **Ukutholakala komhlaba uHulumeni wesiFundazwe**

4.(1) ILungu loMkhandlu oPhethe, ngemigomo nemibandela njengoba kungadingeka ngokufuna kukahulumeni, ungathola umhlaba egameni likaHulumeni.

(2) Umhlaba otholakele ngokwesigatshana (1) –

(a) uphethwe uHulumeni wesiFundazwe;

(b) ungumhlaba kahulumeni wesiFundazwe; futhi

(c) kumele ubhaliswe ngokoMthetho wokuBhaliswa kwamaTayitela, 1937 (uMthetho No. 47 ka 1937), egameni likaHulumeni wesiFundazwe, ngaphandle uma ukutholakala kwalowo mhlaba kungokokuqashiselana kwesikhati esingaphansi kweminyaka eyi-10.

### ISAPHLUKO 4 UKUHLELWA KOMHLABA KAHULUMENI WESIFUNDAZWE

#### **Ukuhlelwa komhlaba ongokahulumeni wesiFundazwe uHulumeni wesiFundazwe**

5.(1) ILungu loMkhandlu oPhethe –

(a) kuncike ezinhlinzekweni zezigatshana (2), (3) no (4); futhi

(b) ngemuva kokucubungula izethulo ezibhaliwe mayelana nalokho,

lingahlela umhlaba kahulumeni wesiFundazwe ngemigomo nemibandela njengoba kungadingeka ukuze kuneliseke umphakathi noma uhulumeni: Kuncike ekutheni izinhlinzeko zezindima (a) no (b) azisebenzi kulokho kuhlelwa komhlaba –

(i) emnyangweni okuHulumeni kaZwelonke, kumasipala noma kwiThrasti



yaseNdlunkulu yesiFundazwe saKwaZulu-Natali; noma

(ii) okufinyelela ekutheni kuqashiswe ngomhlaba kahulumeni wesiFundazwe isikhathi esingaphezu kwezinyanga eziyi-12.

(2) Uma iLungu loMkhandlu oPhethe lihlose ukuhlela umhlaba kahulumeni wesiFundazwe ngokwesigatshana (1), iLungu loMkhandlu oPhethe kumele likhiphe isaziso saleyo nhloso yokuhlela umhlaba kahulumeni wesiFundazwe kwiGazethi kanye nasephephandabeni okungenani elilodwa eliphuma kuleyo ndawo okukuyo umhlaba kahulumeni wesiFundazwe.

(3) Isaziso kumele –

(a) sisho umhlaba kahulumeni wesiFundazwe othintekayo futhi sibandakanye le mininingwane elandelayo emayelana nomhlaba kahulumeni wesiFundazwe –

(i) incazelo ephela yetayitela, kubandakanya inombolo yetayitela, isifundankantolo lapho kukhona umhlaba kahulumeni wesiFundazwe, ububanzi bomhlaba kanye nohlobo lwamalungeo aphaathelene nalowo mhlaba uma ekhona;

(ii) ukuklanywa komhlaba kahulumeni wesiFundazwe;

(iii) lokho umhlaba kahulumeni wesiFundazwe osetshenziselwa khona; kanye

(iv) neminingwane egcwele yokuthuthukiswa; nezakhiwo ezikhona emhlabeni kahulumeni wesiFundazwe;

(b) sinikeze izinhlangothi ezithintekayo ithuba lokwenza izethulo noma imibiko ebhalwe phansi mayelana nokuhlelwa komhlaba okuhlongozwayo esikhathini esiyizinsuku ezingama-30; futhi

(c) kufakwe ikheli lendawo neminingwane yokuxhumana yomuntu okungatholakala kuyena ulwazi oluphelele mayelana nokuhlelwa komhlaba.

(4) ILungu loMkhandlu oPhethe kumele, ngaphezu kwesaziso esishicilelwe ngokwesigatshana (2), lithumele ikhophi yaleso saziso ngeposi noma ngesandla –

(a) kohlala kulowo mhlaba kahulumeni wesiFundazwe obalulwe esazisweni, uma ekhona;

(b) kwimenenja kamasipala wendawo lapho kukhona umhlaba kahulumeni wesiFundazwe othintekayo;

(c) kwizinhloko zemiNyango kaHulumeni wesiFundazwe;

(d) kuKhomishana wesiFunda wokuBuyiselwa kwemiHlabo KwaZulu-Natali; kanye

(e) nakwizinhloko yoMnyango obhekele ezemisebenzi yomphakathi kuHulumeni kaZwelonke;

leluleke labo bantu ngokuthi bangenza izethulo ezibhalwe phansi noma imibiko mayelana

nokuhlelwa komhlaba okuhlongozwayo zingakedluli zinsuku ezingama-30 kutholakale isaziso.

(5) Uma iLungu loMkhandlu oPhethe lihlela umhlaba kahulumeni wesiFundazwe ngokuthi linikele ngawo ukuze kufezwe izinhloso ezithile bese zishintsha lezo zinhloso ngaphandle kwemvume ebhalwe phansi ekhishwe iLungu loMkhandlu oPhethe, lowo mhlaba kahulumeni wesiFundazwe uyobuyiselwa esiFundazweni.

**UMBHALISI wamatayitela uyokwenza izivumelwano zokutholakala komhlaba**

6. Uma umhlaba kahulumeni wesiFundazwe uhlelwa ngokwesigaba 5(1) ngesivumelwano sokutholakala komhlaba, iLungu loMkhandlu oPhethe kumele lenze leso sivumelwano noMbhalisi wamatayitela ukuze kugunyazwe itayitela lomhlaba ngendlela uMbhalisi wamatayitela ayibona ifanele.

**Ukuhlelwa nokudluliselwa komhlaba kahulumeni wesifundawe mahhala kumasipala noma kwiThrasti yaseNdlunkulu yaKwaZulu-Natali ngesivumelwano**

7.(1) ILungu loMkhandlu oPhethe, ngemuva kokubonisana noNdunankulu nangesicelo esibhalwe phansi –

(a) somkhandlu kamasipala; noma

(b) seBhodi yeThrasti yaseNdlunkulu yaKwaZulu-Natali,

lingahlela futhi lidlulisele kumasipala othile noma kwiThrasti yaseNdlunkulu yaKwaZulu-Natali, njengoba kungaba njalo, noma imuphi umhlaba kahulumeni wesiFundazwe ngesivumelwano phakathi kwelungu loMkhandlu oPhethe egameni likaHulumeni wesiFundazwe nakumasipala noma kwiThrasti yaseNdlunkulu yesiFundazwe saKwaZulu-Natali, njengoba kungaba njalo, noma imuphi umhlaba kahulumeni wesiFundazwe ochazwe esivumelwaneni, -

(i) osesiFundazweni saKwaZulu-Natali; futhi

(ii) onikezwe, noma olawulwa isiFundazwe saKwaZulu-Natali ngokwanoma imuphi umthetho,

mahhala kodwa kuncike kunoma imuphi umbandela uHulumeni wesiFundazwe angayinquma: Kuncike ekutheni uma noma imuphi umhlaba kahulumeni wesiFundazwe noma ingxenye yawo njengoba kuhlongozwe kulesi sigaba usetshenziswa umphakathi wendabuko njengoba uchazwe esigabeni 1(1) soMthetho wokuBusa nobuHoli beNdabuko waKwaZulu-Natali, 2005 (uMthetho No. 5 ka 2005), izinhlinzeko zalesi sigaba zisebenza kuphela uma sekubonisiwe nalowo mphakathi wendabuko.

(2) Izinhlinzeko zesigaba 5(2) kuya ku (4) zisebenza nezinguquko ezidingekile kunoma ikuphi ukudluliselwa komhlaba okuhlongozwe esigatshaneni (1) salesi sigaba.

(3) Kuncike emthethweni kazwelonke –

(a) uMbhalisi wamatayitela, uma ethola isicelo esilethwe iMenenja kaMasipala othile noma esiKhulwini esiPhezulu seThrasti yaseNdlunkulu yaKwaZulu-Natali futhi uma kukhishwa isivumelwano esihlongozwe esigatshaneni (1), kumele agcwalise noma aqinisekise ngendlela ayibona ifanele kunoma iyiphi irejista, isitifiketi noma omunye umbhalo osehhovisi lakhe noma anikezwe wona, ukuze abhalise lowo mhlaba ngokwamandla esivumelwano esidluliselwe uHulumeni wesiFundazwe, futhi anikezwa, umasipala othintekayo noma iThrasti yaseNdlunkulu yaKwaZulu-Natali, egameni likamasipala noma leThrasti yaseNdlunkulu yaKwaZulu-Natali, njengoba kungaba njalo; futhi

(b) akukho zimali zokudlulisela umhlaba, zesigxivizo noma ezinye izimali okudingeka zikhokhelwe ukudluliselwa komhlaba nokubhaliswa kwawo njengoba kuhlongozwe kulesi sigaba.

## ISAPHLUKO 5 UKWABIWA KOMHLABA

**Amandla kaHulumeni wesiFundazwe okwaba umhlaba ngokwezinhloso zomphakathi**

8.(1) Kuncike ezinhlinzekweni zesigaba 25 soMthethosisekelo, nesigaba 9 salo Mthetho, iLungu loMkhandlu oPhethe, egameni likaHulumeni wesiFundazwe, lingaba noma imuphi umhlaba ngokwezifiso zomphakathi nangenhloso yokusetshenziswa umphakathi mayelana –

(a) nanoma ikuphi ukusetshenziswa komhlaba okukleliswe eNgxenyeni A yoHello 4 loMthethosisekelo;

(b) nanoma ikuphi ukusetshenziswa komhlaba okukleliswe eNgxenyeni A yoHello 5 loMthethosisekelo;

(c) nanoma ikuphi okunye ukusetshenziswa okungangeni kuleyo ndawo okukhulunywe ngakho ezindimeni (a) no (b), futhi futhi okucaciswe kahle ukuthi okwesifundazwe jikelele noma okwesifundazwe ngandlela thile; noma

(d) nanoma iluphi udaba oludingekayo noma oluhlobene nokusetshenziswa ngendlela efanele kwamandla nemisebenzi ephathelene nodaba okukhulunywe ngalo ezindimeni

(a) kuya ku (c) salesi sigaba.

(2) Umhlaba owabiwayo ngokwalesi sigaba –

- (a) unikezwa isiFundazwe;
- (b) ungumhlaba kahulumeni wesifundazwe; futhi
- (c) kumele ubhaliswe ngokoMthetho wokuBhaliswa kwamaTayitela, 1937 (uMthetho No. 47 ka 1937), egameni likaHulumeni wesiFundazwe.

#### **Inqubo yokwaba umhlaba**

9.(1) Uma iLungu loMkhandlu oPhethe lihlangoza ukwaba umhlaba ngokwesigaba 8, iLungu loMkhandlu oPhethe kumele likhiphe isaziso ngenhloso yalo yokwaba lowo mhlaba kwiGazethi nasephephandabeni okungenani elilodwa elitholakala lapho kukhona lowo umhlaba.

#### **(2) Isaziso kumele –**

- (a) sisho umhlaba othintekayo futhi sibandakanye le mininingwane elandelayo –
  - (i) incazelo ephilele yetayitela, kubandakanya inombolo yetayitela, isifunda nkantolo lapho kukhona lowo mhlaba, ububanzi bomhlaba kanye, nanoma imaphi amalungelo lowo mhlaba onawo uma ekhona;
  - (ii) oklanyelwe khona umhlaba;
  - (iii) ububanzi bomhlaba; kanye
  - (iv) neminingwane yanoma ikuphi ukuthuthukiswa komhlaba, nezakhiwo ezikulowo mhlaba;
- (b) sinikeze izinhlangothi ezithintekayo ithuba lokwenza izethulo ezibhalwe phansi noma imibiko mayelana nokwabiwa komhlaba esikhathini esingevile ezinsukwini ezingama-30;
- (c) simeme noma imuphi umuntu ofuna isinxephezelo ngenxa yokwabiwa komhlaba ukuba kungenwe ezingxoxweni neLungu loMkhandlu oPhethe mayelana nalokho; futhi
- (d) sibhekelele izinhlinzeko zesigatshana (5)(a).

(3) ILungu loMkhandlu oPhethe, ngaphezu kwesaziso esiyoshicilelwa ngokwesigatshana (2), kumele liphinde lithumele ikhophi yaleso saziso ngeposi noma ngesandla –

- (a) kumnikazi obhalisiwe womhlaba;
- (b) kohlala kulowo mhlaba uma ekhona; kanye
- (c) nakwimenenja kamasipala wakuleyo ndawo lapho kukhona lowo mhlaba, leluleke labo bantu ukuba benze izethulo noma imibiko ebhalwe phansi mayelana nokwabiwa komhlaba komhlaba esikhathini esingevile ezinyangeni ezingama-30 kuphume leso saziso.

(4)(a) ILungu loMkhandlu oPhethe, ngemuva kokubheka zonke izethulo nemibiko ebhalwe phansi okukhulunywe ngakho kwisigatshana (2)(b) no (3), lingawaba umhlaba okukhulunywe ngawo kwisigatshana 2(a) ngesaziso kwiGazethi nasephephandabeni okungenani elilodwa elitholakala kuleyo ndawo okukhona kuyo umhlaba.

(b) ILungu loMkhandlu oPhethe kumele, ezinsukwini ezingama-30 ngemuva kokushicilelwa kwesaziso sokwabiwa komhlaba okukhulunywe ngaso endimeni (a), lihambise ngesandla noma ngeposi elibhalisiwe leso saziso –

- (i) kumnikazi obhalisiwe womhlaba owabiwayo;
- (ii) kohlala kumhlaba owabiwayo, uma ekhona;
- (iii) konamalungelo mayelana nomhlaba owabiwayo, uma ekhona; kanye
- (iv) nemenenja kamasipala weridawo lapho kukhona umhlaba.

(5)(a) Ukwabiwa komhlaba okukhulunywe ngakho esigatshaneni (4) kuyoqala ukusebenza ngokushesha ngemuva kokushicilelwa kwesaziso kwiGazethi nakuba inkokhelo eyisinxephezelo mayelana nalowo mhlaba ingakakhokhwa noma ingakanqunywa.

(b) Ngosuku lokwabiwa komhlaba, ubunikazi bomhlaba bunikezwa uHulumeni wesiFundazwe ngokwesigaba 8(2) futhi onke amajoka nezibopho mayelana, phakathi kokunye, nokubhekelela, nezindleko, nezivumelwano zokuqashiselana ezikhona, nokunakekelwa, namareyithi, nezintela nezimali ezikhokhwayo eziphathelele nomhlaba zidluliselwa kuHulumeni wesiFundazwe.

(c) ILungu loMkhandlu oPhethe kumele ngemuva kwalokho lithumele ikhophi yesaziso okukhulunywe ngaso kwisigatshana (4)(a) kuMbhalisi wamaTayitela ukuze kugunyazwe itayitela lomhlaba njengoba uMbhalisi wamatayitela engabona kufanele.

(6)(a) Umnikazi womhlaba angafaka isikhalazo sokuthi akhokhelwe ngokwabiwa komhlaba okukhulunywe ngakho kwisigatshana (4).

(b) Uma iLungu loMkhandlu oPhethe nomnikazi womhlaba behluleka ukufinyelela esivumelwaneni mayelana nokukhokhelana, noma iluphi uhlangothi lungadlulisela udaba enkantolo ukuze inqume ngalo, noma bangavumelana ngokudlulisela kumxazululi ukuze ludingidwe.

(7) Esimweni lapho kuqokwe umxazululi njengoba kuhlangozwe esigatshaneni (6)(b) kumele –

- (a) anqume isikhathi indawo nenqubo ezosetshenziswa ekuxazululweni kodaba;
- (b) anqume ngodaba futhi abhale phansi isinqumo nezizathu zokukhipha leso sinqumo ngokushesha ngemuva kokudingidwa kodaba futhi isinqumo sakhe singujuqu;
- (c) angeke akhiphe izinqumo mayelana nenani; futhi

(d) uyokhokhelwa ezimalini ezabelwe lokho isiShayamthetho sesiFundazwe, imali nezibonelelo njengoba kunganquma iLungu loMkhandlu oPhethe, ngokubonisana neLungu loMkhandlu oPhethe elibhekele ezezimali.

#### **Ukuhoxiswa kokwabiwa komhlaba**

**10.(1)** Uma iLungu loMkhandlu oPhethe libona ukuthi kuyisifiso somphakathi ukuthi kuhoxiswe ukwabiwa komhlaba, iLungu loMkhandlu oPhethe lingahoxisa noma nini ngaphambi kokubhaliswa, ukudluliselwa komhlaba ngokoMthetho wokuBhaliswa kwamaTayitela, 1937 (uMthetho No. 47 ka 1937), osekwenziwe.

(2)(a) Ukuhoxiswa kokwabiwa komhlaba kumele kwenziwe ngesaziso kwiGazethi ngendlela ebekwe kwisigaba 9(2), (3), no (4), nezinguquko ezifanele, futhi ubunikazi bomhlaba bunikezwa umnikazi obekuvele kungobakhe kusukela ngosuku lokushicilelwa kwesaziso sokuhoxisa ukwabiwa komhlaba.

(b) ILungu loMkhandlu oPhethe kumele ngemuva kwalokholinikeze uMbhalisi wamaTayitela ikhophi yesaziso okukhulunywe ngaso endimeni (a) ukuze agunyaze itayitela lomhlaba njengoba engabona kufanele.

(3) Noma isiphi isinxephezelo ezikhokhwe ngokwesigaba 9(6) kumele ngemuva kwalokho sibuyiselwe kuHulumeni wesiFundazwe.

(4) Umnikazi womhlaba unelungelo lokufuna izindleko noma inkokhelo ngezimali ezimlahlekele ngqo noma ngandlela thile ngenxa yalokho kwabiwa komhlaba ngemuva kokuba sekuthunyelwe isaziso esibhalwe phansi kwiLungu loMkhandlu oPhethe esibeka isitatimende sesamba salezo zindleko nezimali ezilahlekile, kanjalo nezincwadi eziwubufakazi obesekela lokho.

(5)(a) Uma iLungu loMkhandlu oPhethe nomnikazi womhlaba behlukela ukufinyeela esivumelwaneni mayelana nokukhokhwa kwezindleko nezimali ezilahlekile, noma iluphi uhlangothi lungadlulisela lolu daba enkantolo ukuze kuphume isinqumo, noma izinhlangothi zombili zingavumelana ngokuthola umxazululi ozoxazulula udaba.

(b) Uma udaba ludluliselwe kumxazululi, izinhlinzeko zesigaba 9(7) ziyosebenza nezinguquko ezifanele.

**ISAPHLUKO 6**  
**I-REJISTA YOMHLABA KAHULUMENI WESIFUNDAZWE**

**Irejista yomhlaba kahulumeni wesifundazwe**

**11.(1)** ILungu loMkhandlu oPhethe kumele ligcine i-rejista ehlanganisiwe yomhlaba kahulumeni wesifundazwe.

**(2)** Irejista okukhulunywe ngayo kwisigatshana (1) kumele –

(a) kuncike kwizinhlinzeko zoMthetho wokuGqugquzelwa kokuTholakala koLwazi, 2000 (uMthetho No. 2 ka 2000), itholakale ephakathini; futhi

(b) ibe nale mininingwane elandelayo emayelana nomhlaba kahulumeni wesifundazwe

–

(i) incazelo ephelele tayitela, kubandakanya inombolo yetayitela, isifunda nkantolo lapho kukhona umhlaba, ububanzi bomhlaba, namalungelo aphantselane nalowo mhlaba, uma ekhona;

(ii) ukuklanywa komhlaba;

(iii) osetshenziselwa khona umhlaba;

(iv) ohlose ukusetshenziselwa khona umhlaba;

(v) imininingwane ephelele yanoma ikuphi ukuthuthukiswa, nezakhiwo ezikhona, kumhlaba; kanye

(vi) nomnyango noma iminyango kuHulumeni wesifundazwe ebhekele ukulawula ukusetshenziswa komhlaba.

**(3)** ILungu loMkhandlu oPhethe, ngaphandle kweLungu loMkhandlu oPhethe elibhekele imisebenzi yomphakathi, elilawula, elisebenzisa noma eligcine umhlaba kahulumeni wesifundazwe kumele, uma kuceliwe, lihlinzeke iLungu loMkhandlu oPhethe elibhekele imisebenzi yomphakathi imininingwane yolwazi okukhulunywe ngayo kwisigatshana (2)(b) mayelana nalowo mhlaba.

**ISAPHLUKO 7**  
**UKUPHATHWA KOMHLABA KAHULUMENI WESIFUNDAZWE**

**Ukuphathwa komhlaba kahulumeni wesifundazwe**

**12.(1)(a)** Ngosuku lokuqala lokusebenza kwalo Mthetho, zonke izindawo zikahulumeni wesifundazwe zingena ngaphansi kwesandla seLungu loMkhandlu oPhethe futhi kuthathwa ngokuthi uNdunankulu, ngokwesigaba 4(1)(c) se-GIAMA, ubeke iLungu loMkhandlu oPhethe njengomgcinini womhlaba kahulumeni wesifundazwe noma wempahla engenakususwa.

(b) ILungu loMkhandlu oPhethe, ngokwesigaba 18 se-GIAMA, ngencwadi, liyonikezela noma lihoxise ukunikezela amandla athile noma wonke amandla alo kanjalo namajoka

nemisebenzi njengomlondolozisi.

(2) Uma umhlaba utholakale ngenxa yezinhlinzeko zalo Mthetho, iLungu loMkhandlu oPhethe liyogcina lowo mhlaba futhi kuthathwa ngokuthi uNdunankulu, ngokwesigaba 4(1)(c) se-GIAMA, uqoke iLungu loMkhandlu oPhethe njengomgcini womhlaba kahulumeni wesiFundazwe noma wempahla engenakususwa: Kuncike ekutheni uma umhlaba utholakale ngenhloso noma ngemisebenzi ephathelene—

(a) nejoka noma nemisebenzi egixabezwe elinye iLungu loMkhandlu oPhethe, iLungu loMkhandlu oPhethe kumele, ngokwesigaba 18 se-GIAMA, ngencwadi, linikeze noma lidlulisele ubunikazi balowo mhlaba, okungumhlaba kahulumeni wesiFundazwe, kulelo Lungu loMkhandlu oPhethe elithintekayo; futhi

(b) namajoka noma nemisebenzi egixabezwe amaLungu oMkhandlu oPhethe amabili noma ngaphezulu, uNdunankulu kumele anqume iLungu loMkhandlu oPhethe okuyilona elizothathwa njengelizogcina lowo mhlaba, ngokwesigaba 18 se-GIAMA okuyothi ngemuva kwalokho iLungu loMkhandlu oPhethe, ngencwadi, llinikeze noma lidlulisele ubunikazi bomhlaba.

(3) Uma umhlaba kahulumeni wesiFundazwe ophethwe iLungu loMkhandlu oPhethe ngokwesigatshana (2)(a) noma (b) ungasadingeki ukuze kufezwe amajoka nemisebenzi yeLungu loMkhandlu oPhethe eligcine lowo mhlaba, lelo Lungu loMkhandlu oPhethe kumele ngokushesha ngemuva kwelokho libuyisele ubunikazi balowo mhlaba kwiLungu loMkhandlu oPhethe.

(4) Noma ikuphi ukudluliselwa kobunikazi bomhlaba okukhulunywe ngakho kulesi sigaba, isikhathi esithile noma isikhathi esinganqunyiwe futhi kuncike kuleyo migomo nemibandela enganqunywa yiLungu loMkhandlu oPhethe: Kuncike ekutheni noma imuphi umgcini noma umnyango osebenzisa umhlaba kumele ube nesabelomali esibekelwe ukunakekelwa kwanoma iyiphi impahla engasuki eyigcinile noma eyisebenzisayo.

## ISAHLUKO 8

### UHLELO LOKUPHATHWA KWEMPAHLA ENGASUKI

#### **Uhlelo lokuphathwa kwempahla engasuki**

13.(1) Kuncike ezinhlinzekweni ze-GIAMA, iLungu loMkhandlu oPhethe kumele —

(a) lakhe uhlelo lokuphathwa kwempahla engasuki, oluyokwaziwa njengohlelo lokuphathwa kwempahla engasuki lomgcini wempahla, mayelana nayo yonke impahla engasuki ayigcinile; futhi



(b) lakhe uhlelo oluhlanganisiwe lokuphathwa kwempahla engasuki lwalowo oyisebenzisayo, oluphathele nayo yonke impahla engasuki esetshenziswa noma ehlelelwe ukusetshenziswa umgcini wempahla ukuze kufezwe izihloso zakhe zokuhlinzeka kwezidingo zomphakathi.

(2) ILungu loMkhandlu oPhethe lomnyango okuyowona osebenzisa impahla engasuki kumele wakhe uhlelo lokuphathwa kwempahla engasuki oluzokwaziwa njengohlelo lokuphatha impahla engasuki loyisebenzisayo, mayelana naleyo mpahla engasuki esetshenziswa noma okuhloswe ukuthi isetshenziswe yilowo mnyango.

**Okungaqukathwa uhlelo lokuphathwa kwempahla engasuki lwalowo oyigcinile**

**14.** Uhlelo lokuphathwa kwempahla engasuki lwalowo oyigcinile ngokwesigaba 13(1)(a) kumele lubandakanye okungenani –

- (a) isu lokusebenza nohlelo lokuphatha;
- (b) uhlelo lokuphatha impahla engenakususwa lwempilo yayo yonke;
- (c) ukuhlolwa kokusebenza kwempahla engasuki;
- (d) ukuhlolwa kwesimo ekuso impahla engasuki;
- (e) ukunakekelwa okudingekayo kanye nesamba nezindleko eziyiqiniso zokunakekela ezihlonziwe; kanye
- (f) nesu lokuhlela kanjalo nohlelo lokuphatha.

**Okungaqukathwa uhlelo lokuphathwa kwempahla engasuki loyisebenzisayo**

**15.** Uhlelo lokuphatha impahla engasuki loyisebenzisayo olwenziwe ngokwesigaba 13(1)(b) kumele lubandakanye okungenani –

- (a) ukuhlolwa kwezinto ezidingekayo;
- (b) uhlelo lokuyithola;
- (c) uhlelo lokuyisebenzisa; kanye
- (d) nohlelo lokuyeka impahla engasuki.

**Ukuthunyelwa kohlelo lokuphathwa kwempahla engasuki**

**16.(1)** Isikhulu esinesibopho sokubika kumele, ngosuku oluyonqunywa iHhovisi oMgcinimafa wesiFundazwe, sithumele ikhophi yohlelo lokuphathwa kwempahla engasuki lwalowo oyigcinile eHhovisi loMgcinimafa wesiFundazwe.

- (2) Isikhulu esinesibopho sokubika somnyango osebenzisa impahla engasuki kumele –
- (a) ngosuku olunqunywe iHhovisi oMgcinimafa wesiFundazwe, sithumele eHhovisi loMgcinimafa wesiFundazwe uhlelo lokuphathwa kwempahla engasuki lwalowo oyisebenzisayo njengengxenywe yesu lakhe lokusebenza; futhi
  - (b) ngosuku olunqunywe ogcine impahla engasuki, sithumele ikhophi yohlelo lokuphathwa kwempahla engasuki loyisebenzisayo kulowo oyigcinile.

**Isimo sohlelo lokuphathwa komhlaba ongasuki lwalowo owusebenzisayo**

**17. Uhlelo lokuphathwa kwempahla engasuki lwalowo oyisebenzisayo –**

- (a) ngokwenhloso yalo Mthetho, luyilona hlelo olubalulekile olungasetshenziswa lokuphathwa kwempahla engenakususwa olulawula zonke izinqumo zokuphathwa kwempahla engasuki ezithathwa umnyango oyisebenzisayo; futhi
- (b) lubophezela umnyango olusebenzisayo lapho usebenzisa amandla awo ngokomthetho.

**Umnyango osebenzisa uhlelo lwempahla engasuki uyonquma ngesikhathi sokuqala kokulusebenzisa**

**18.** Umnyango osebenzisa hlelo lokuphathwa kwempahla engasuki kumele uqalise ukusetshenziswa kohlelo lokuphathwa kwempahla engasui futhi luphathe impahla engenakususwa ngendlela ehambisanayo noMthetho, nezinhlinzeka ze-GIAMA kanjalo nohlelo lokuphathwa kwempahla engasuki kwalowo oyisebenzisayo.

**Ukubuyezwa nokuchitshiyelwa kohlelo lokuphathwa kwempahla engasuki**

**19.(1) Umnyango osebenzisa impahla engasuki –**

- (a) kumele ubuyekeze minyaka yonke uhlelo lokuphathwa kwempahla engasuki ngemuva kokuba kuphothulwe ukwabiwa kwezimali iHhovisi loMgcinimafa wesiFundazwe futhi kumele ubandakanye uhlelo lokuphathwa kwempahla engenakususwa lwalowo oyisebenzisayo olubuyekeziwe ohlelweni lwawo lokusebenza;
- (b) ungachibiyela uhlelo lwawo lokuphathwa kwempahla engasuki ngokuhambisana enzinhlalo ezinqunyiwe; futhi
- (c) kumele lithumele uhlelo lwalo olubuyekeziwe lokuphathwa kwempahla engasui kulowo oyigcinile.

(2) Ogcine impahla engasuki kumele minyaka yonke abuyekeze uhlelo lwakhe lokuphathwa kwempahla engasuki ngemuva kokuthola uhlelo lokuphathwa kwempahla engasuki noma

ukuma kukhona isidingo salokho kubuyekizwa.

## ISAPHLUKO 9 IZINHLINZEKO EZEJWAYELEKILE

### **Imibhalo edingekayo**

**20.** ILungu loMkhandlu oPhethe lingasayina –

(a) noma imuphi umbhalo omayelana nokuphathwa komhlaba kahulumeni wesiFundazwe;

(b) noma imuphi umbhalo odingekayo ukuze kuqale ukusebenza –

(i) kokusetshenziswa komhlaba;

(ii) kokuhlelwa komhlaba kahulumeni wesiFundazwe; noma

(iii) kokwabiwa komhlaba; kanye

(c) nanoma isiphi isivumelwano esihlongozwe esigabeni 7(1).

### **Umbiko wonyaka**

**21.(1)** ILungu loMkhandlu oPhethe kumele, ezinsukwini ezingama-90 kuphele unyaka wezimali, lithumele umbiko wonyaka kwisiShayamthetho sesiFundazwe.

(2) Umbiko okukhulunywe ngawo kwisigatshana (1) kumele ubandakanye –

(a) imininingwane egcwele yanoma ikuphi okuvezwe yinoma imuphi umuntu ngenhloso yokuthola umhlaba kahulumeni wesiFundazwe;

(b) inhloso nemininingwane egcwele yakho konke ukuhlelwa komhlaba kahulumeni wesiFundazwe ngokwesigaba 5, kubandakanya –

(i) incazelo egcwele yetayitela, kubandakanya inombolo yetayitela, isifundankantolo lapho kukhona umhlaba, ububanzi bomhlaba, uma kukhona, nohlobo lwamalungelo akhona kulowo mhlaba;

(ii) amagama aphelele nenombolo kamazisi kandlelifa;

(iii) inani odayiswa ngalo, uma likhona, elikhokhelwa lowo mhlaba;

(iv) imibandela ebekiwe malana nokusetshenziswa kwalowo mhlaba; kanye

(v) nenhloso obukade usetshenziselwa yona umhlaba ngaphambi kokuthi uhlelwe, uma kukhona, kanye enhloso okuhloswe ukuthi usetshenziselwe yona;

(c) inhloso nemininingwane egcwele yakho konke okutholakele mayelana nomhlaba ngokwesigaba 5, kubandakanya –

(i) incazelo ephelele yetayitela, isifundankantolo okuso umhlaba, ububanzi, uma bukhona, nohlobo lwamalungelo akhona kulowo mhlaba, uma ekhona;

- (ii) inani odayiswa ngalo, uma likhona, elikhokhelwa umhlaba;
  - (iii) noma imuphi umbandela obekiwe mayelana nomhlaba;
  - (iv) inhloso obewusetshenziselwa yona umhlaba ngaphambi kokuthi utholakale noma utholakale kabusha kanye nezinhloso okuhloswe ukuthi usetshenziselwe zona, uma zikhona;
- (d) inhloso neminingwane ephелеle ephелеle yakho konke ukwabiwa komhlaba ngokwesigaba 8, kubandakanya –
- (i) incazelo ephелеle yeatayitela, isifundankantolo okuso umhlaba, ububanzi, uma bukhona, nohlobo lwamalungelo akhona kulowo mhlaba, uma ekhona;
  - (ii) amagama aphēlele nenombolo kamazisi yobekade engumnikazi;
  - (iii) inani odayiswa ngalo, noma izinxephezelo, esikhokhelwa umhlaba;
  - (iv) noma imuphi umbandela obekiwe mayelana nomhlaba; and
  - (v) inhloso obewusetshenziselwa yona umhlaba ngaphambi kokuthi utholakale noma utholakale kabusha kanye nezinhloso okuhloswe ukuthi usetshenziselwe zona, uma zikhona; kanye
- (e) nesamba esihlangene esikhokhwayo ngesikhathi sombiko –
- (i) esitholwe uHulumeni wesiFundazwe ukuze kuhlelwe umhlaba kahulumeni wesiFundazwe ngokwesigaba 5;
  - (ii) esikhishwe uhulumeni wesiFundazwe ukuze kutholakale umhlaba ngokwesigaba 4; futhi
  - (iii) esikhishwe uHulumeni wesiFundazwe ukuze kwabiwe umhlaba ngokwesigaba 8.

#### **Ukunikezelwa kwamandla, kwamajoka nemisebenzi uNdunankulu**

**22.(1)** UNdunankulu, uma iLungu loMkhandlu licela, anganquma ngesaziso kwiGazethi futhi kuncike kwimibandela njengoba kunganquma uNdunankulu, ngokujwayelekile noma mayelana –

- (a) nomhlaba othile;
- (b) nomhlaba othile kahulumeni wesiFundazwe;
- (c) noma iluphi udaba olungaphansi kwemisebenzi ekleliwe eNgxenyeni A yoHlelo 4 loMthethosisekelo;
- (d) noma iluphi udaba olungaphansi kwemisebenzi ekleliwe eNgxenyeni A yoHlelo 5 loMthethosisekelo;
- (e) noma iluphi udaba olungangeni emisebenzini ebalulwe endimeni (c) no (d), kodwa olujutshelwe ukwenziwa izifundazwe zizonke noma ngqo isifundazwe saKwaZulu-Natali; noma

(f) noma iluphi udaba oludingekayo noma oluthintana nokusetshenziswa kwamandla namajoka aphaathelene nanoma iluphi udaba olusezindimeni (a) kuya ku (c) zalesi sigaba,

anike lelo Lungu loMkhandlau oPhethe noma imaphi amandla, amajoka noma imisebenzi eyabelwe noma enqunyelwe iLungu loMkhandlu oPhethe ngokwalo Mthetho, ngaphandle –

(i) komsebenzi wokwakha nokugcina uhlu oluhlanganisiwe lomhlaba kahulumeni wesiFundazwe okukhulunywe ngao esigabeni 11(1);

(ii) kwamandla, amajoka nemisebenzi okukhulunywe ngakho esigabeni 12; kanjalo

(iii) namandla okwakha imithethonqubo okukhulunywe ngawo esigabeni 24.

(2) Ukujutshwa kwanoma iliphi elinye iLungu oMkhandlu oPhethe okukhulunywe ngakho esigatshaneni (1) akuvimbeli iLungu loMkhandlu oPhethe ukuba lisebenzise amandla alo okwenza leyo isebenzi noma lawo.

#### **Ukudluliselwa kwamandla kwamajoka nemisebenzi yeLungu loMkhandlu oPhethe**

**23.**(1) ILungu oMkhandlu oPhethe, kuncike kuleyo mibandela elingayinquma, lingadlulisela noma imaphi amandla, amajoka noma imisebenzi elijutshelwe khona ngokwalo Mthetho, ngaphandle –

(a) kwamandla okushicilela izaziso ngokwesigaba 9(4); kanye

(b) namandla okwenza imithethonqubo okukhulunywe ngayo esigabeni 24, esikhulwini esisebenzela uHulumeni wesiFundazwe.

(2) Ukudluliselwa kwamandla okukhulunywe ngakho esigatshaneni (1) –

(a) kumele kubhalwe phansi;

(b) kumele kwenziwe kuncike kuleyo mibandela enganqunywa iLungu loMkhandlu oPhethe;

(c) akuphuci iLungu loMkhandlu oPhethe amandla, amajoka noma imisebenzi edluliselwe;

(d) akuvimbeli iLungu loMkhandlu oPhethe ukuba lenze leyo misebenzi lisebenzise lawo mandla noma lifeze lawo majoka adluliselwe; futhi

(e) noma nini kungahoxiswa noma kuchitshiyelwe iLungu loMkhandlu oPhethe.

#### **Imithethonqubo**

**24.** ILungu loMkhandlu oPhethe lingakha imithethonqubo –

- (a) mayelana nezindlela namazinga, kubandakanya izinqubo ezisetshenziswayo ekutholakaleni, ekwabiweni, ekushintshweni, ekuhlelweni nasekuqashiseni ngomhlaba kahulumeni wesiFundazwe, nokunikelwa komhlaba kahulumeni wesiFundazwe;
- (b) mayelana nokusungulwa nokugcinwa kwerejista yomhlaba kahulumeni wesiFundazwe; futhi
- (c) mayelana nanoma iluphi udaba iLungu loMkhandlu oPhethe elilubona ludingeka, lufanele noma lubalulekile ukuze kufezwe izinhloso zalo Mthetho.

#### **Ukuchithwa komthetho**

25. UMthetho wokuPhathwa koMhlaba waKwaZulu-Natali, 2003 (uMthetho No. 3 ka 2003), ngalokhu uyachithwa.

#### **Izinhlinzeko zesikhashana nokuqala kokusebenza koMthetho**

26. Noma isiphi isenzo, inhloso, ukujutshwa, isinqumo, udaba noma okunye okwenziwa, okuthathwa, okunqunywa noma okufeziwe noma okuthathwa njengokwenziwe, njengokuthathwe, okunqunywe noma okufezwe iLungu oMkhandlu oPhethe nanoma iliphi elinye iLungu loMkhandlu oPhethe ngokulandela noma ngenhloso yokufeza uMthetho wokuPhathwa koMhlaba waKwaZulu-Natali, 2003 (uMthetho No. 3 ka 203), kusukela mhla zingama-28 kuNhlolanja ka 203 kuze kufike osukwini lokuqala kokusebenza kwalo Mthetho ngeke kuthathwe njengokungasebenzi ngenxa yokusetshenziswa koMthetho ochithwayo kuphela uma lo Mthetho bewungakanikezelwa ngokusemthethweni kwiLungu loMkhandlu oPhethe noma kwamanye amaLungu oMkhandlu oPhethe.

#### **Isihloko esifingqiwe**

27. Lo Mthetho ubizwa ngoMthetho wokuPhathwa koMhlaba neMpahla eNgasuki waKwaZulu-Natali, 2010.

**IMEMORANDAMU NGEZINHLOSO ZOMTHETHOSIVIVINYO WOKUPHATHWA  
KOMHLABA NOKULAWULWA KWEMPAHLA ENGASUKI WAKWAZULU-NATALI, 2010**

**1. ISENDLALELO**

**1.1 Nakuba -**

(a) izinhloso zoMthethosivivinyo wokuPhathwa koMhlaba nokuLawulwa kweMpahla eNgasuki waKwaZulu-Natali, 2010 ziyohlale zifana nalezo zoMthetho wokuPhathwa koMhlaba waKwaZulu-Natali, 2003 (uMthetho No. 3 ka 2003), okungukwakha indlela isiFundazwe saKwaZulu-Natali esingaphatha ngayo ngempumelelo yonke impahla engenakususwa esezandleni zikaHulumeni wesiFundazwe, okungukusungula izinqubo okungatholakala ngazo noma kuhlelwe ngazo impahla engenakususwa uHulumeni wesiFundazwe, kubandakanya izinhlelo zokwaba umhlaba, nokusungula irejista ezoveza wonke umhlaba kahulumeni wesiFundazwe nokuthi iLungu loMkhandlu oPhethe lihlinzeke isiShayamthetho sesiFundazwe ngombiko wonyaka ochaza ngakho konke ukutholakala nokuhlelwa komhlaba okwenzekile ngokwalowo Mthetho; futhi

(b) zonke izinhloso zoMthetho ka 2003 zingazange zishintshwe, kubonakale kubalulekile ukwethula uMthethosivivinyo omusha ka 2010 ukuze kubhekelelwe izinto ezithile okuthe kwahlangatshezwana nazo ngenkathi kusetshenziswa uMthetho ka 2003 futhi uqinisekise ukuthi uMthethosivivinyo ka 2010 wenza ukuthi izinhlinzeko zoMthetho ka 2003 zihambisane nomthetho kazwelonke, okunguMthetho wokuPhathwa kweMpahla eNgasuki kaHulumeni, 2007 (uMthetho No. 19 ka 2007), phecelezi i-GIAMA.

1.2 Ngenxa yesibalo sezinto ezifuna ukuchitshiyelwa, izinguquko ezithile ezidingekayo nokuthi kuhlelwe kahle izinhlinzeko ezingadinge kususwa; ukuze kuhlinzekelwe ukuba lezo zinhlinzeko zihambisane ne-GIAMA nokuqinisekisa ukuthi kwakhiwe uMthetho ozo fundeka kalula, kubonakale kufanele ukuthi kwakhiwe umthetho omusha esikhundleni sokuthi kwenziwe uMthethosivivinyo oysisichibiyelo soMthetho ka 2003.

1.3 Kufinyelelwe esinqumweni sokwakha uMthethosivivinyo ngemuva kokubonisana okubanzi phakathi kwezinhloso ezithintekayo neminye iminyango ethintekayo ezindabeni eziphathelene nomhlaba.

**2. INCAZELO YESIGABA NGESIGABA**

Kafushane, uMthethosisekelo uhlinzeka kanje -

**Isigaba 1: Izincazelo**

Isigaba 1 sihlase ukuchaza amagama asetshenziswe kuMthethosivivinyo ngombono wokuthi kukhawulwe noma kwelulwe izincazelo zalawo magama. Lesi sigaba sizichaza sona kabanzi.

**Isigaba 2:**

Isigaba 2 sibeka izinhloso soMthethosivivinyo

**Isigaba 3:**

Isigaba 3 sihlizekela ukusebenza koMthetho. Sihlizeka ngokuthi izinhlizeko ezikhona eMthethweni eziphathelele nokutholakala nokuhlelwa kwempahla engenakususwa ziyohlonishwa ngaphezu kweminye imithetho.

Isigaba siqinisekisa ukuthi lo Mthetho angeke usebenze kuMhlaba osezandleni zeNgonyama Trust ngokoMthetho weNgonyama Trust waKwaZulu-Natali, 1994 (uMthetho No. 3 ka 1994).

**Isigaba 4:**

Isigaba 4 sinikeza iLungu loMkhandlu oPhethe elibhekele imisebenzi yomphakathi amandla okuthola impahla engasuki. Impahla etholakale lapho, inikezwa uHulumeni wesiFundazwe saKwaZulu-Natali.

**Isigaba 5:**

Isigaba 5 sinikeza iLungu loMkhandlu oPhethe elibhekele imisebenzi yomphakathi amandla okuhlela umhlaba. Kubekwe nenqubo okumele ilandelwe kulesi sigaba.

**Isigaba 6:**

Isigaba 6 sihlizeka ngokuthi umhlaba ungatholakala futhi ngezivumelwano zokuba khona kwawo. Lesi yisivumelwano ezibhalwe phansi esidlulisela ilungelo lokuthuthukisa impahla komunye umuntu ngaphandle komnikazi wempahla. Ngaleyo ndlela-ke kuhlizekwa ngokuthi kuthuthukiswe umhlaba esiFundazweni. Lezi zivumelwano kumele zihanjiswe uMbhalisi wamaTayitela ukuze agunyaze leso sivumelwano kwitayitela lomhlaba.

**Isigaba 7:**

Isigaba 7 sinikeza iLungu loMkhandlu oPhethe elibhekele imisebenzi yomphakathi



amandla, ngokubonisana noNdunankulu eMkhandlwini oPhethe, okwabela umasipala noma iThrasti taseNdlunkulu yaKwaZulu-Natali umhlaba kahulumeni wesiFundazwe mahhala, kodwa kuncike kwimibandela enganqunywa uHulumeni wesiFundazwe.

**Isigaba 8:**

Isigaba 8 sinikeza iLungu loMkhandlu oPhethe elibhekele imisebenzi yomphakathi amandla okwaba impahla engasuki, kuncike esigabeni 25 soMthethosisekelo, 1996, ukuze usetshenziselwe umphakathi. Umhlaba owabiwe ngokwalesi sigaba, ungokaHulumeni wesiFundazwe saKwaZulu-Natali.

**Isigaba 9:**

Isigaba 9 sibeka izinqubo ezicacile okumele zilandelwe uma kwabiwa umhlaba osetshenziselwa umphakathi.

**Isigaba 10:**

Isigaba 10 sinikeza iLungu loMkhandlu oPhethe elibhekele imisebenzi yomphakathi amandla okuhoxisa ukwabiwa komhlaba ngaphambi kokuba kubhaliswe ukudluliselwa kwawo.

**Isigaba 11:**

Isigaba 11 sibeka ijoka eLungwini loMkhandlu oPhethe elibhekele imisebenzi yomphakathi lokwakha nokugcina irejista yawo wonke umhlaba kahulumeni wesiFundazwe. Siphinde sinikeze ngohlu lwezinto okumele zibe kuleyo rejista.

**Isigaba 12:**

Isigaba 12 sihlose ukuhlela i-GIAMA ukuse ihambisane nomthetho wesifundazwe, ikakhulukazi lo Mthethosivivinyo. Ngokwesigaba 4(1) se-GIAMA, uNdunankulu wesiFundazwe noma iLungu loMkhandlu oPhethe eliqokwe uNdunankulu, yibona abayogcina umhlaba noma impahla engasuki kahulumeni wesiFundazwe. Lokhu kuyashayisana nomthetho kazwelonke (iGIAMA).

Isigaba 12(1)(a) sikhuluma ngesimo somhlaba kahulumeni wesiFundazwe ngosuku okuyiqala ukusebenza ngalo lo Mthethosivivinyo njengoMthetho wesiShayamthetho wesiFundazwe futhi ngokucacile -

- (a) sibeka ukuthi wonke umhlaba ongokahulumeni wesiFundazwe uyogcinwa yiLungu loMkhandlu oPhethe elibhekele imisebenzi yomphakathi; futhi
- (b) sihlinzeka ngokuthi kuthathwa njengokuthi uNdunankulu, ngokwesigaba

4(1)(c) se-GIAMA, uqoke iLungu loMkhandlu oPhethe elibhekele ezemisebenzi yomphakathi njengomgcini womhlaba kahulumeni wesiFundazwe noma wempahla engenakususwa.

Loku kucacisa izinto esiFundazweni ngoba manje akusekho micikiliso edinga ukulandelwa ngokwanoma imuphi omunye umthetho, imibhalo noma izinyathelo ezingathathwa uNdunankulu ukunquma ukuthi kumele kwenzekeni mayelana nomhlaba kahulumeni wesiFundazwe saKwaZulu-Natali kusukela osukwini lokuqala kokusebenza kwalo Mthethosivivinyo njengoMthetho wesiShayamthetho sesiFundazwe.

Isigaba 12(1)(b) siqinisekisa ukuthi, ngaphezu kwalokhu, iLungu loMkhandlu oPhethe elibhekele imisebenzi yomphakathi liyawagcina amandla alao eliwanikezwa yisigaba 18 se-GIAMA, ngokwesigaba 18 se-GIAMA njengomlondolozhi, ngencwadi, linganikezela noma liphuce amandla alo omunye umuntu.

Isigaba 12(2) sikhuluma ngesimo somhlaba kahulumeni wesiFundazwe ngemuva kokuqala kokusebenza kwalo Mthethosivivinyo njengoMthetho wesiShayamthetho sesiFundazwe. Isigaba sihlangoza ukuthi isimo saKwaZulu-Natali sibeka iLungu loMkhandlu oPhethe elibhekele imisebenzi yomphakathi njengomuntu okunguyena ongumlondolozhi walowo mhlaba. Nakuba kunjalo, uma lowo mhlaba utholakale ngenhloso yokuthi usetshenziswe omunye umnyango kaHulumeni wesiFundazwe, iLungu loMkhandlu oPhethe elibhekele imisebenzi yoMphakathi kumele lidlulisele kulowo mnyango otintekayo ubunikazi balowo mhlaba kahulumeni wesiFundazwe. Uma kuyiminyango omibili noma ngaphezulu esebenzisa lowo mhlaba ngokuhlanganyela, uNdunankulu kumele anqume ukuthi ubani ozokuba ngumlondolozhi walowo mhlaba.

Uma iLungu loMkhandlu oPhethe ebelinikezwe ubunikazi bokulondolozha umhlaba kahulumeni wesiFundazwe lingasawusebenzisi, lelo Lungu loMkhandlu oPhethe kudingeka libuyisele ubunikazi balowo mhlaba kwiLungu loMkhandlu oPhethe elibhekele imisebenzi yomphakathi (isigaba 12(3)).

Isigaba 12(4) siphinde sifune ukuthi iminyango ikhiphe isabelomali sokulungisa impahla engasuki elondolozhiwe noma umhlaba ewusebenzisayo.

**Isigaba 13:**

Isigaba 13 sibeka ukuthi iLungu loMkhandlu oPhethe elibhekele imisebenzi yomphakathi kumele lakhe uhlelo lokuphathwa kwempahla engasuki, oluzokwaziwa njengohlelo lokuphathwa kwempahla engenakususwa lomlondolozisi, mayelana nempahla engenakususwa elondolozisiwe. Siphinde sifune ukuthi iLungu loMkhandlu oPhethe elibhekele imisebenzi yomphakathi lakhe uhlelo lokuphathwa kwempahla engasuki loyisebenzisayo okungolwempahla engasuki esetshenziswa noma ezosetshenziswa, iminyango yesifundazwe.

**Isigaba 14:**

Isigaba 14 sibeka okumele kuqukathwe ohlelweni lokuphathwa kwempahla engasuki lomlondolozisi.

**Isigaba 15:**

Isigaba 15 sibeka okumele kuqukathwe uhlelo lokuphathwa kwempahla engasuki loyisebenzisayo.

**Isigaba 16:**

Isigaba 16 sibeka ijoka esikhulwini esiphethe emyangweni olondolozise umhlaba kahulumeni wesifundazwe ukuba sithumele amakhophi ohlelo lokuphathwa kwempahla engasuki eMnyangweni kaMgcinimafa. Siphinde sifune ukuthi isikhulu esiphethe somnyango ngamunye sithumele amakhophi ohlelo lokuphathwa kwempahla engasuki loyisebenzisayo eMnyangweni kaMgcinimafa nakulowo ongumlondolozisi wempahla.

**Isigaba 17:**

Isigaba 17 sicacisa ngokubaluleka kohlelo lokuphathwa kwempahla engasuki ngokuthi ilona olulandelwayo uma kuthathwa zonke izinqumo mayelana nempahla engasuki.

**Isigaba 18:**

Isigaba 18 sifuna umnyango osebenzisa impahla engasuki ukuba usebenzise uhlelo uhlelo lwawo lokuphathwa kwempahla engasuki futhi wenze ukuthi ukuphathwa kwempahla engasuki kuhambisane nezinhlinzeko zoMthethosivivinyo kanye ne-GIAMA.

**Isigaba 19:**

Isigaba 19 sibeka ukuthi umnyango osebenzisa impahla engasuki minyaka yonke kumele ubuyekeze uhlelo lokuphathwa kwempahla engasuki. Sibeka ukuthi umnyango ungachibiyela uhlelo lwawo lokuphathwa kwempahla engasuki ngokulandela imigudu

efanele futhi wenze izinhlinzeko zokuthunyelwa ohlelo kulondolozwa walowo mhlaba.

Lesi sigaba siphinde sidinge umlondolozwa ukuba minyaka yonke abuyekeze uhlelo lokuphathwa kwempahla engasuki ngemuva kokuthola izinhlelo ezibuyekeziwe noma ezichitshiyelwe zokuphathwa kwempahla engasuki koyisebenzisayo.

**Isigaba 20:**

Isigaba 20 sinika iLungu loMkhandlu oPhethe elibhekele imisebenzi yomphakathi amandla okusayina mayelana nokuphathwa nokutholakala, nokuhlelwa nokwabiwa kwempahla engasuki.

**Isigaba 21:**

Isigaba 21 sizama ukuphoqa iLungu loMkhandlu oPhethe elibhekele imisebenzi yomphakathi ukuthi lithumele umbiko wonyaka kwisiShayamthetho sesiFundazwe ezinsukwini ezingama-90 kuphele unyaka wezimali.

Ulwazi okumele luqathwe kulowo mbiko nalo lubekiwe.

**Isigaba 22:**

Isigaba 22 sihlase ukunika amandla uNdunankulu, ngesaziso kwiGazethi futhi kuncike kwimibandela njengoba uNdunankulu enganquma, ngokujwayelekile nje noma mayelana nomhlaba othile kahulumeni wesiFundazwe, ukuze anike noma iliphi iLungu loMkhandlu oPhethe amandla, amajoka noma imisebenzi enikezwe iLungu loMkhandlu oPhethe elibhekele imisebenzi yomphakathi ngokwalo Mthethosivivinyo, ngaphandle kwejoka lokwakha nokugcina i-rejista ehlanganyele yomhlaba kahulumeni wesiFundazwe okukhulunywe ngawo esigabeni 11(1) soMthethosivivinyo namandla okwakha imithethonqubo okukhulunywe ngayo esigabeni 16 salo Mthethosivivinyo.

**Isigaba 23:**

Isigaba 23 sihlizekela ukudluliselwa kwamandla yiLungu loMkhandlu oPhethe elibhekele imisebenzi yomphakathi kwiNhloko yoMnyango noma esikhulwini soMnyango.

**Isigaba 24:**

Isigaba 24 sinika amandla iLungu loMkhandlu oPhethe okwakha imithethonqubo.

**Isigaba 25:**

Isigaba 25 sihlizekela ukuchithwa koMthetho wokuPhathwa koMhlaba waKwaZulu-

Natali, 2005 (uMthetho No. 3 ka 2005) okhona.

**Isigaba 26:**

Isigaba 26 sihlizenzeka izinhlinzeko zesikhashana futhi sizama ukuqinisekisa izinqumo ezithathiwe nemisebenzi eyenziwe yiLungu loMkhandlu oPhethe elibhekele imisebenzi yomphakathi ngehloso yokufeza uMthetho wokuPhathwa koMhlaba waKwaZulu-Natali (uMthetho No. 3 ka 2005).

**Isigaba 27:**

Isigaba 27 siqukethe isihloko sifingiwe soMthetho.

**3. IZINGQINAMBA NGOKWAKHEKA NEZABASEBENZI KUHULUMENI  
WESIFUNDAZWE**

Akukho zingqinamba ezilindeleke ukuba khona mayelana nokwakheka nabasebenz.

**4. IZINGQINAMBA ZEZEZIMALI KUHULUMENI WESIFUNDAZWE**

Akukho zingqinamba zezezimali ezilindelekile.

**5. IMINYANGO/IMIGWAMANDA/ABANTU OKUBONISWANE NABO**

UMthethosivivinyo wakhiwe ngemuva kokuba kuboniswa -

5.1 noNdunankulu wesiFundazwe; kanye

5.2 noMnyango wezeMisebenzi yoMphakathi wesiFundazwe,  
nangemuva kokubonisana -

5.3 noMnyango kaZwelonke wokuThuthukiswa kweziNdawo zaseMakhaya  
nokuBuyiselwa koMhlaba; kanye

5.4 nohlaka lohulumeni wasekhaya.

No. 10

21 September 2011

**CANDIDATE LIST: REVIEW IN TERMS OF ITEM 21 OF SCHEDULE 1A TO THE ELECTORAL 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 Democratic Alliance.

NO.	FULL NAMES	ID NUMBER
1.	Sizwe Wiseman Mchunu	781010 5284 082
2.	Ganesan Mari	520215 5121 087
3.	Makhosazana Mpho Mdlalose	570411 0838 085
4.	Thomas Francis Norman Stokes	440724 5127 082
5.	Radley Edward Keys	541101 5096 088
6.	Johann Krog	500208 5069 087
7.	Mark Harvey Steele	571203 5028 088
8.	Premhid Kameel	890817 5027 081
9.	Roy Dean Macpherson	610528 5106 085
10.	Robert Alfred Lees	521025 5042 087

No. 10

21 September 2011

**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 Demokratiese Alliansie ingevolge item 21 van Bylaag 1A van die Kieswet, 1998.

NO.	VOLLE NAME	ID NOMMER
1.	Sizwe Wiseman Mchunu	781010 5284 082
2.	Ganesan Mari	520215 5121 087
3.	Makhosazana Mpho Mdlalose	570411 0838 085
4.	Thomas Francis Norman Stokes	440724 5127 082
5.	Radley Edward Keys	541101 5096 088
6.	Johann Krog	500208 5069 087
7.	Mark Harvey Steele	571203 5028 088
8.	Premhid Kameel	890817 5027 081
9.	Roy Dean Macpherson	610528 5106 085
10.	Robert Alfred Lees	521025 5042 087

No. 10

21 kuMandulo 2011

**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-Democratic Alliance.

NO.	AMAGAMA APHELELE NGOKULANDELANA	INOMBOLO KAMAZISI
1.	Sizwe Wiseman Mchunu	781010 5284 082
2.	Ganesan Mari	520215 5121 087
3.	Makhosazana Mpho Mdlalose	570411 0838 085
4.	Thomas Francis Norman Stokes	440724 5127 082
5.	Radley Edward Keys	541101 5096 088
6.	Johann Krog	500208 5069 087
7.	Mark Harvey Steele	571203 5028 088
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