



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

**Provincial Gazette • Provinsiale Koerant • Igazethi Yesifundazwe**

**GAZETTE EXTRAORDINARY—BUITENGEWONE KOERANT—IGAZETHI EYISIPESHELI**

*(Registered at the post office as a newspaper) • (As 'n nuusblad by die poskantoor geregistreer)  
(Irejistiwee njengephephandaba eposihhovisi)*

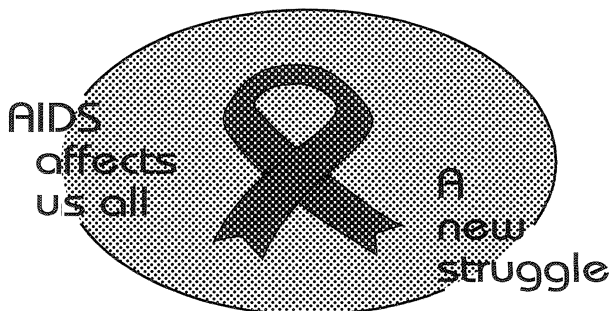
**Vol. 7**

**PIETERMARITZBURG,**

30 AUGUST 2013  
30 AUGUSTUS 2013  
30 kuNCWABA 2013

**No. 1015**

**We all have the power to prevent AIDS**



**AIDS  
HELPLINE**

**0800 012 322**

DEPARTMENT OF HEALTH

**Prevention is the cure**

*N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes*



**IMPORTANT NOTICE**

The Government Printing Works will not be held responsible for faxed documents not received due to errors on the fax machine or faxes received which are unclear or incomplete. Please be advised that an "OK" slip, received from a fax machine, will not be accepted as proof that documents were received by the GPW for printing. If documents are faxed to the GPW it will be the sender's responsibility to phone and confirm that the documents were received in good order.

Furthermore the Government Printing Works will also not be held responsible for cancellations and amendments which have not been done on original documents received from clients.

**CONTENTS**

<i>No.</i>		<i>Page</i>
<b>PROVINCIAL NOTICE</b>		
145	KwaZulu-Natal Legislature: Publication of allocations from the Political Parties Fund: 2012/13 .....	3
<b>GENERAL NOTICE</b>		
54	KwaZulu-Natal Royal Household Trust Amendment Bill, 2013.....	9

**INHOUD**

<i>No.</i>		<i>Bladsy</i>
<b>PROVINSIALE KENNISGEWING</b>		
145	KwaZulu-Natal Wetgewer: Publikasie van toekennings deur Fonds vir Politieke Partye: 2012/13 .....	5
<b>ALGEMENE KENNISGEWING</b>		
54	KwaZulu-Natal Wysigingswetsontwerp op die Koninklike Huishoudings-trust.....	19

<i>No.</i>		<i>Ikhasi</i>
<b>ISAZISO SESIFUNDAZWE</b>		
145	ISishayamthetho saKwaZulu-Natali: Ukushicilelwa kwezimali ezabeliwe amaqembu ezombusazwe zisuka esikhwameni sawo-2012/13 .....	7
<b>ISAZISO SIKAWONKE-WONKE</b>		
54	UMthethosivivinyo wokuChibiyela uMthetho weThrasti yaseNdlunkulu waKwaZulu-Natali, 2013 .....	29

---

**PROVINCIAL NOTICE—PROVINSIALE KENNISGEWING—ISAZISO SESIFUNDAZWE**


---

No. 145

30 August 2013

## KWAZULU-NATAL LEGISLATURE

### PUBLICATION OF ALLOCATIONS FROM THE POLITICAL PARTIES FUND- 2012/13

In terms of Section 7 of the KwaZulu-Natal Funding of Represented Political Parties Act, Act No. 7 of 2008, I, Nerusha Naidoo, Secretary of the KwaZulu-Natal Legislature hereby publish allocations made from the Political Parties Fund for the year ended 31 March 2013:

(a) Opening balance at the commencement of the financial year:

As at 01 April 2012 the fund had a balance of **R 2, 174,477.21**.

(b) The amount and source of moneys paid into the Political Parties' Fund.

- **R30 million** was received from the equitable share on 23 April 2012.
- Interest earned totalling **R 661,109.90** was deposited into the fund bank account.

(c) Names of the Parties to whom allocations were made, and the amounts of those allocations.

**Allocations to represented political parties for the period ended 31 March 2013**

Political Party	Allocated Amount
ANC	16,300,000.00
IFP	6,400,000.00
DA	3,100,000.00
MF	1,600,000.00
COPE	1,300,000.00
ACDP	1,300,000.00
	<b>R30,000,000.00</b>

(d) The amounts invested by the Political Parties' Fund in terms of section 5(3) above, and the interest earned thereon:

Monies are not invested.

Interest earned amounts to **R 661,109.90**

(e) The closing balance of moneys held by the Political Parties' Fund at the end of the financial year:

The balance was **R 2,925,010.48** at 31 March 2013 which is made up as follows:

Opening balance of R 2, 174,477.21.

Add: Equitable share of R 30,000,000.00

Add: Interest earned of R 661,109.90

Less: Administration costs of R 141,425.76

Less: Allocations to political parties of R 29,768,401.17; and

Less: Bank charges of R 749.70

**NERUSHA NAIDOO**  
**SECRETARY: KWAZULU-NATAL LEGISLATURE**

No. 145

30 August 2013

## KWAZULU-NATAL WETGEWER

### PUBLIKASIE VAN TOEKENNINGS DEUR FONDS VIR POLITIEKE PARTYE – 2012/13

Ingevolge artikel 7 van die Wet op die Befondsing van Verteenwoordigende Politieke Partye van KwaZulu-Natal, Wet No 7 van 2008, publiseer ek, Nerusha Naidoo, Sekretaris van die KwaZulu-Natal Wetgewer, hiermee toekennings wat deur die Fonds vir Politieke Partye gemaak is vir die tydperk wat op 31 Maart 2013 ten einde geloop het:

(a) Aanvangsaldo aan die begin van die boekjaar:

Op 01 April 2012 het die fonds 'n saldo van **R 2, 174,477.21** gehad.

(b) Die bedrag en oorsprong van gelde wat in die Fonds vir Politieke Partye inbetaal is:

- **R30 miljoen** is ontvang vanaf die billike aandeel op 23 April 2012.
- Rente verdien het 'n total van **R661,109.90** beloop en is in die fond se bankrekening gedeponeer.

Name van die Partye aan wie toekennings gemaak is, en die bedrae van sodanige toekennings:

**Toekennings aan verteenwoordigende politieke partye vir die tydperk wat op 31 Maart 2012 ten einde geloop het:**

<b>Politieke party</b>	<b>Bedrag toegeken</b>
ANC	R16,300,000.00
IVP	R6,400,000.00
DA	R3,100,000.00
MF	R1,600,000.00
COPE	R1,300,000.00
ACDP	R1,300,000.00
	<b>R30,000,000.00</b>

(d) Die bedrae wat ingevolge artikel 5 (3) hierbo deur die Fonds vir Politieke Partye belê is en die rente daarop verdien:

Gelde is nie belê.

Rente verdien beloop **R 661,109.90**

- (e) Die eindsaldo van gelde in die Fonds vir Politieke Partye aan die einde van die boekjaar:

Die balans op 31 Maart 2013 was **R 2,925,010.48** wat soos volg opgemaak is:

Aanvangsaldo van R 2, 174,477.21

Plus: Billike aandeel van R 30,000,000.00

Plus: Finansiële inkomste van R661,109.90

Minus: Administrasiekoste van R141,425.76

Minus: Toewysings van R 29,768.401.17 aan politieke partye en

Minus: Bankkoste van R 749.70

**NERUSHA NAIDOO**  
**SEKRETARIS: KWAZULU-NATAL WETGEWER**

No. 145

30 kuNcwaba 2013

## ISISHAYAMTHETHO SAKWAZULU-NATALI

### UKUSHICILELWA KWEZIMALI EZABELWE AMAQEMBU EZOMBUSAZWE ZISUKA ESIKHWAMENI SAWO – 2012/13

Ngokwesigaba 7 soMthetho waKwaZulu-Natali Wokuxhaswa Ngezimali Kwamaqembu Ezombusazwe Amelelekile ka-2008 (uMthetho No. 7 ka-2008), mina, Nerusha Naidoo, uNobhala weSishayamthetho saKwaZulu-Natali ngalokhu ngishicilela izimali ezabelwe amaqembu ezombusazwe zisuka eSikhwameni sawo amaqembu ezombusazwe onyakeni wezimali owaphela ngomhlaka 31 kuNdasa 2013:

(a) Imali eyayisele ekuqaleni konyaka wezimali:

Ngomhla lu-1 kuMbaso 2012 imali okwavulwa unyaka isele kwakungama  
**R 2, 174,477.21**

(b) Isamba kanye nomthombo wezimali ezafakwa esiKhwameni Samaqembu Ezombusazwe.

- Imali eyizigidi ezingama- 30 zamarandi (**R30 million**) yatholakala emalini eyabiwa ngokokumeleleka ngomhlaka 23 kuMbaso 2012.
- Imali eyinzalo eyisamba esingama- **R661,109.90** yafakwa kwi-ak hawunti yasebhanghe lesikhwama.

(c) Amagama amaqembu abelwa izimali kanye nezamba ezabiwa:

**Izimali ezabelwa amaqembu ezombusazwe amalelekile onyakeni wezimali owaphela ngomhlaka 31 kuNdasa 2013**

<b>Iqembu lezombusazwe</b>	<b>Isamba elabelwa sona</b>
ANC	R16,300,00.00.
IFP	R6,400,00.00
DA	R3,100,000.00
MF	R1,600,000.00
COPE	R1,300,000.00
ACDP	R1,300.000.00
	<b>R30,000,000.00</b>

(d) Izimali ezitshalwe yiSikhwama Samaqembu Ezombusazwe ngokwesigaba 5(3) ngenhla, kanye nenzalo eyakhekile ngazo:  
Izimali azitshalwanga.

Inzalo eyakhekile iyisamba esingama **R661,109.90**

- (e) Imali eyayisele emabhukwini eSikhwama Samaqembu Ezombusazwe ekupheleni konyaka wezimali:

Imali eyayisele ngomhlaka 31 kuNdasa 2013 engama **R 2,925,010.48** yayakhiwe yilezi zimali ezilandelayo:

Imali eyayisele emabhukwini: R 2, 174,477.21

Kuhlanganiswa nemali eyabiwa ngokokumeleleka engama R30 000 000.00

Kuhlanganiswa inzalo eyakhekile iyisamba esingama R661,109.90

Kususwa imali ekhokhelwa ezokuphatha engama R141,425.76

Kususwa imali eyabelwa amaqembu ezombusazwe engama R30 000 000

Kususwa nemali ekhokhelwa ibhange engama R749.70

**NERUSHA NAIDOO**

**UNOBHALA WESISHAYAMTHETHO SAKWAZULU-NATAL**



---

**GENERAL NOTICE—ALGEMENE KENNISGEWING—ISAZISO SIKAWONKE-WONKE**

---

**No. 54****30 August 2013**

## **KwaZulu-Natal Royal Household Trust Amendment Bill, 2013**

### **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 Provincial Legislature that the KwaZulu-Natal Royal Household Trust Amendment Bill, 2013 as set out hereunder, has been introduced into the aforesaid Legislature and will be considered by the Premier and Royal Household Portfolio Committee. The public and other interested groups are invited to submit representations on the said Bill, which representations must be addressed to:

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

Email: [madiden@kznlegislature.gov.za](mailto:madiden@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 ROYAL HOUSEHOLD TRUST AMENDMENT BILL, 2013****GENERAL EXPLANATORY NOTE:**

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

\_\_\_\_\_ Words underlined with a solid line indicate insertions in existing enactments

**BILL**

To amend the KwaZulu-Natal Royal Household Trust Act, 2007; to further regulate the determination and publication of the list of names of persons who are members of the Royal Household or *Umnndeni WeSilo* who may benefit from the Royal Household Trust; to further regulate the applicability of the Public Finance Management Act, 1999, to the Trust; to further regulate the duties, powers and functions of the Trust; to further regulate the appointment and dismissal of the Chief Executive Officer of the Trust; to further regulate the funds and income of the Trust; to further regulate penalties for certain offences; to further regulate the delegation of powers by the Board to the management committee; and to provide for matters connected therewith.

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

**Amendment of section 2 of Act 2 of 2007**

1. Section 2 of the KwaZulu-Natal Royal Household Trust Act, 2007 (Act No. 2 of 2007), hereinafter referred to as the principal Act, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2)(a) The Trust is a provincial public entity.

(b) **[subject to t]** The Public Finance Management Act, 1999 (Act No. 1 of 1999), applies to the Trust, subject to any exemption of the Trust from any provision of that Act as contemplated in section 92 of the Public Finance Management Act, 1999.

(c) Any reference in this Act to the Public Finance Management Act, 1999, is regarded as a reference to that Act, subject to any exemption of the Trust from any provision of that Act as contemplated in section 92 of that Act.”.

**Amendment of section 4 of Act 2 of 2007**

2. Section 4 of the principal Act is hereby amended by –

(a) the substitution for subsection (1) of the following subsection:

“(1) For the purposes of section 3, the Royal Household or *Umnjeni WeSilo* consists of the royal Queens and those blood relatives of the Monarch **[as contained] whose names appear** in a list to be determined [published for comments] from time to time [by notice in the Gazette] by the responsible Member of the Executive Council after consultation with the Monarch.”; and

(b) the substitution for subsection (2) of the following subsection:

“(2) The responsible Member of the Executive Council –

(a) may, after consultation with the Monarch [and by notice in the Gazette] withdraw, substitute or amend the list [published] determined in terms of subsection (1); and

(b) must permanently keep on record, in the office of the responsible Member of the Executive Council, the dated originals of any such lists determined by the responsible Member of the Executive Council under the signature of the responsible Member of the Executive Council.”.

**Amendment of section 5 of Act 2 of 2007**

3. Section 5 of the principal Act is hereby amended by the insertion after paragraph (c) of the following paragraph:

“(cA) may, with the prior written approval of –

(i) the Board; and

(ii) the Auditor-General,

and, subject to any exemption of the Trust from any provision of the Public Finance Management Act, 1999 (Act No. 1 of 1999), as contemplated in section 92 of that Act or any term, condition, guideline or directive as may be determined, imposed or issued by the person or body referred to in paragraphs (i) and (ii) above and, subject to any other law –

(aa) borrow, raise or invest monies and funds;

(bb) acquire and hold shares in any company as defined in the Companies Act, 2008 (Act No. 71 of 2008); or

(cc) engage in any trading or business enterprise or venture with the object of generating income for the Trust.”.

**Amendment of section 11 of Act 2 of 2007**

4. Section 11 of the principal Act is hereby amended by –

(a) the substitution for subsection (1) of the following subsection:

“(1) The **[responsible Member of the Executive Council] Board** must, **[after]** in consultation with the **[Board] responsible Member of the Executive Council**, appoint a fit and proper and suitably qualified person as the Chief Executive Officer of the Trust.”; and

(b) the substitution for subsection (4) of the following subsection:

“(4) The **[responsible Member of the Executive Council] Board** may, **[after]** in consultation with the **[Board] responsible Member of the Executive Council**, terminate the Chief Executive Officer’s employment in accordance with applicable employment and labour law.”.

**Amendment of section 16 of Act 2 of 2007**

5. Section 16 of the principal Act is hereby amended by the substitution for paragraph (d) of subsection (1) of the following paragraph:

“(d) income lawfully derived from –

(i) fundraising;

(ii) trading or business enterprises or ventures; or

(iii) any other source.”.

**Amendment of section 17 of Act 2 of 2007**

6. Section 17 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The Chief Executive Officer must ensure that the Trust’s annual budgets, corporate plans, annual reports and audited financial statements are prepared and submitted in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999), subject to any exemption of the Trust from any provision of that Act as contemplated in section 92 of the Public Finance Management Act, 1999.”.

**Amendment of section 26 of Act 2 of 2007**

7. Section 26 of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph:

“(b) in terms of section 7(5), ~~24(3)~~ or **[section]** 25(3), is liable to a fine or to imprisonment for a period not exceeding 5 years.”.

**Amendment of section 28 of Act 2 of 2007**

8. Section 28 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The Board may delegate to –

(a) the Chief Executive Officer; or

(b) the management committee,

any power or duty conferred or imposed on the Board by this Act.”.

**Short title and commencement**

9.(1) This Act is called the KwaZulu-Natal Royal Household Trust Amendment Act, 2013.

(2) Sections 1 and 2 are regarded to have come into operation on 14 November 2007.

**MEMORANDUM  
ON THE OBJECTS  
OF THE  
KWAZULU-NATAL ROYAL HOUSEHOLD TRUST AMENDMENT BILL, 2013**

**1. BACKGROUND**

With the enactment of the KwaZulu-Natal Royal Household Act, 2007, in 2007, and its subsequent implementation, it has become necessary at this stage to address certain practical issues experienced in the implementation of the principal Act.

**2. CLAUSE BY CLAUSE EXPLANATION**

In summary, the amendment Bill provides as follows –

**Clause 1: Amendment of section 2 of principal Act**

Clause 1 of the Bill seeks to amend section 2 of the principal Act dealing with the applicability of the Public Finance Management Act, 1999, (PFMA) to the Trust.

With the passage of the principal Act, it was considered imperative to ensure that the PFMA was applicable to the Trust to ensure proper and appropriate standards of financial control.

Since the establishment of the Trust, it has become apparent that it is practically impossible for the Trust to function effectively, being subject to all provisions of the PFMA. The Auditor-General has also made certain recommendations in this regard.

The proposed amendment, therefore, envisages possible exemptions from certain provisions of the PFMA by the National Minister of Finance in terms of section 92 of the PFMA. This option would still retain the PFMA as a basis for sound financial control, but would expressly offer the possibility of exemptions to be determined nationally by the

National Minister of Finance in terms of the National Act (the PFMA).

Section 92 of the PFMA provides as follows –

**“92. Exemptions**

*The Minister [of Finance, national], by notice in the National Government Gazette, may exempt any institution to which this Act applies, or any category of those institutions, from any specific provisions of this Act for a period determined in the notice.”.*

Clause 9(2) proposes that clause 1 is regarded to have come into operation on 14 November 2007, being the date of commencement of the principal Act.

**Clause 2: Amendment of section 4 of principal Act**

Clause 2 of the Bill seeks to amend section 4 of the principal Act.

Section 4 of the principal Act deals with *Umnndeni WeSilo* or the Royal Household and determines that the Royal Household consists of the royal Queens and blood relatives of the Monarch as contained in a list to be published for comments by notice in the *Gazette* by the responsible Member (Premier) after consultation with the Monarch.

A list has been compiled but not yet published, as required by the principal Act as various concerns have been noted in relation to the desirability of –

- (a) making the list public; and
- (b) eliciting comment from the public on the list as published.

It has been considered to be preferable not to publish the list in the *Gazette*, but to deal with the list on a purely administrative basis between the Premier and the Monarch, and the proposed amendment gives effect to this.

The Premier must, permanently, keep on record the dated originals of any such lists determined by the Premier.

Clause 9(2) proposes that clause 2 is regarded to have come into operation on 14 November 2007, being the date of commencement of the principal Act.

**Clause 3: Amendment of section 5 of principal Act**

Clause 3 of the Bill seeks to amend section 5 of the principal Act dealing with the powers,

functions and duties of the Trust.

One of the overriding reasons for establishing the Trust was to encourage some form of revenue generation for the Trust to ensure that the Trust, over time, would become less reliant on funding appropriated by the Provincial Legislature.

The proposed amendment in clause 3 of the Bill further regulates the powers of the Trust and expressly empowers the Trust to generate revenue by determining certain fees and to –

- (a) borrow, raise or invest monies and funds;
- (b) acquire and hold shares in any company; or
- (c) engage in any trading or business enterprise or venture with the object of generating income for the Trust.

These envisaged powers contemplated in paragraphs (a) – (c) above may only be exercised within a strict system of checks and balances: prior written approvals and subject to terms, conditions, guidelines or directives which may be imposed.

**Clause 4: Amendment of section 11 of principal Act**

Clause 4 of the Bill seeks to amend section 11 of the principal Act dealing with the appointment and dismissal of the Chief Executive Officer of the Trust.

The Act provides that the responsible Member (Premier) must, in consultation with the Board, appoint the Chief Executive Officer of the Trust. There is a similar provision in respect of the possible dismissal of the Chief Executive Officer.

It is considered preferable that the Board, appointed by the responsible Member (Premier), appoints and dismisses the Chief Executive Officer in consultation with the Premier, and the proposed amendment gives effect to this.

**Clause 5: Amendment of section 16 of principal Act**

Clause 5 of the Bill envisages the amendment of section 16 of the principal Act and is, primarily, a consequential amendment pursuant to the proposed amendment of section 5 of the principal Act as set out in clause 3.

The amendment makes it clear that the Trust may receive fees as contemplated in the proposed new section 5(cA) and that lawful income of the Trust, which the Trust may



receive, includes income from fundraising or trading or business enterprises or ventures.

**Clause 6: Amendment of section 17 of principal Act**

Clause 6 of the Bill seeks to amend section 17 of the principal Act and is, primarily, a consequential amendment pursuant to the proposed amendment of section 2 of the principal Act as set out in clause 1, envisaging possible exemptions from certain provisions of the PFMA by the National Minister of Finance in terms of section 92 of the PFMA.

**Clause 7: Amendment of section 26 of principal Act**

Clause 7 seeks to amend section 26 of the principal Act which deals with penalties.

It is proposed that paragraph (b) of section 26 be extended to include a specific penalty for a person convicted of an offence in terms of section 24(3), which includes representing or making use of the name, acronym, logos, designs or material used or owned by the Trust without the prior written authorisation of the Trust, or falsely claiming to be acting on behalf of the Trust.

**Clause 8: Amendment of section 28 of principal Act**

Clause 8 seeks to amend section 28 of the principal Act which deals with delegations.

It is proposed that subsection (2) of section 28 be extended to include delegations by the Board to its management committee.

Section 10 of the principal Act deals with the management committee of the Board and section 10(4) expressly provides that the management committee must perform such duties and may exercise such powers of the Board as the Board may delegate to it in terms of section 28(2).

**Clause 9: Short title and commencement**

Clause 9 contains the short title of the amendment Act and provides that clauses 1 and 2 are regarded to have come into operation on 14 November 2007, being the date of the coming into operation of the principal 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 Board of Trustees of the KwaZulu-Natal Royal Household Trust.

#### **6. CONTACT PERSONS**

##### **6.1 Office of the Premier**

Name: Adv. Jacques Wolmarans

Position: Chief State Law Advisor

Telephone: (033) 341 3375

Fax: (033) 394 4153

Cellular: 082 903 8251

e-mail: [jacques.wolmarans@kznpremier.gov.za](mailto:jacques.wolmarans@kznpremier.gov.za)

##### **6.2 KwaZulu-Natal Royal Household Trust**

Name: Judge SJ Ngwenya

Position: Chairperson: Board of Trustees

**No. 54****30 Augustus 2013**

## KWAZULU-NATAL WYSIGINGSWETSONTWERP OP DIE KONINKLIKE HUISHOUDINGSTRUST, 2013

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

Kennsigewing geskied hiermee ooreenkomstig Reël 194 van die Staande Reëls van die KwaZulu-Natal Wetgewer dat die KwaZulu-Natal Wysigingswetsontwerp op die Koninklike Huishoudingstrust, 2013 soos hieronder uiteengesit, by die voorgemelde Wetgewer ingedien is en deur die Portfoliokomitee oor Premier en Koninklike Huishouding Plaaslike oorweeg sal word. Die publiek en ander belanghebbende groepe word uitgenooi om vertoë oor die vermelde wetsontwerp in te dien, welke vertoë gerig moet word aan:

Aandag: Me. NP Madide  
Die Sekretaris  
KwaZulu-Natal Legislature  
Privaatsak X 9112  
PIETERMARITZBURG  
3200  
Email: [madiden@kznlegislature.gov.za](mailto:madiden@kznlegislature.gov.za)

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

N NAIDOO  
Sekretaris van die KwaZulu-Natal Wetgewer

## KWAZULU-NATAL WYSIGINGSWETSONTWERP OP DIE KONINKLIKE HUISHOUDINGSTRUST, 2013

### ALGEMENE VERDUIDELIKENDE NOTA:

[ ] Woorde wat in vetdruk en vierkantige hakies is, dui weglatings van bestaande wetsbepalinge aan  
\_\_\_\_\_ Woorde onderstreep deur 'n soliede lyn dui byvoegings tot bestaande wetsbepalinge aan

### WETSONTWERP

Om die KwaZulu-Natal Wet op die Koninklike Huishoudingstrust, 2007, te wysig; om die bepaling en publikasie van die naamlys van persone wat lede van die Koninklike Huishouding of *Umnjeni WeSilo* is, en wat voordeel mag trek uit die Koninklike Huishoudingstrust, verder te reguleer; om die toepaslikheid van die Wet op Openbare Finansiële Bestuur, 1999, op die Trust verder te reguleer; om die pligte, bevoegdhede en werksaamhede van die Trust verder te reguleer; om die aanstelling en afdanking van die Hoof- Uitvoerende Beampte van die Trust verder te reguleer; om die fondse en inkomste van die Trust verder te reguleer; om die strawwe vir sekere misdrywe verder te reguleer; om die delegering van bevoegdhede aan die bestuurskomitee deur die Raad verder te reguleer; en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

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

#### Wysiging van artikel 2 van Wet 2 van 2007

1. Artikel 2 van die KwaZulu-Natal Wet op die Koninklike Huishoudingstrust, 2007 (Wet No. 2 van 2007), hierna verwys na as die Hoofwet, word hiermee gewysig deur die vervanging van subartikel (2) deur die volgende subartikel:

“(2)(a) Die Trust is 'n provinsiale openbare entiteit.

(b) **[behoudens d]** Die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), is van toepassing op die Trust, behoudens enige vrystelling van die Trust van enige bepaling van daardie Wet, soos bedoel in artikel 92 van die Wet op Openbare Finansiële Bestuur, 1999.

(c) Enige verwysing in hierdie Wet na die Wet op Openbare Finansiële Bestuur, 1999, word beskou as 'n verwysing na daardie Wet, behoudens enige vrystelling van die Trust van enige bepaling van daardie Wet, soos bedoel in artikel 92 van daardie Wet.”

**Wysiging van artikel 4 van Wet 2 van 2007**

2. Artikel 4 van die Hoofwet word hiermee gewysig deur –

(a) die vervanging van subartikel (1) deur die volgende subartikel:

“(1) Vir die doeleindes van artikel 3, bestaan die Koninklike Huishoudingstrust [Monarg] of Umndeni WeSilo [bestaan] uit die koninklike Koninginne en daardie bloedverwante van die Monarg [soos vervat] wie se name verskyn in ‘n lys wat van tyd tot tyd deur die verantwoordelike Lid van die Uitvoerende Raad bepaal sal word [in die Koerant] na oorlegpleging met die Monarg [gepubliseer sal word]”; en

(b) die vervanging van subartikel (2) met die volgende subartikel:

“(2) Die verantwoordelike Lid van die Uitvoerende Raad –

(a) kan, na oorlegpleging met die Monarg, die lys intrek, vervang of wysig soos bepaal ingevolge subartikel (1); en

(b) moet, in die kantoor van die verantwoordelike Lid van die Uitvoerende Raad, 'n rekord permanent byhou van die gedateerde oorspronklikes van enige sodanige lys te bepaal deur die verantwoordelike Lid van die Uitvoerende Raad onder die handtekening van die verantwoordelike Lid van die Uitvoerende Raad.”.

**Wysiging van artikel 5 van Wet 2 van 2007**

3. Artikel 5 van die Hoofwet word hiermee gewysig deur die invoeging na paragraaf (c) van die volgende paragraaf:

“(cA) kan, met die vooraf verkrygte skriftelike goedkeuring van –

(i) die Raad; en

(ii) die Ouditeur-generaal,

en, behoudens enige vrystelling van die Trust van enige bepaling van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), soos bedoel in artikel 92 van daardie Wet of enige bepaling, voorwaarde, riglyn of opdrag soos bepaal, opgelê of uitgereik mag word deur die persoon of liggaam verwys na in paragrawe (i) en (ii) hierbo, en behoudens enige ander wet –

(aa) gelde en fondse leen, insamel of belê;

(bb) aandele in enige maatskappy, soos omskryf in die Maatskappywet, 2008 (Wet No. 71 van 2008), bekom en hou; of

(cc) betrokke raak by enige handel- of sakebedryf of -onderneming met die doel om inkomste te genereer vir die Trust.”.

#### **Wysiging van artikel 11 van Wet 2 van 2007**

4. Artikel 11 van die Hoofwet word hiermee gewysig deur –

(a) die vervanging van subartikel (1) deur die volgende subartikel:

“(1) Die **[verantwoordelike Lid van die Uitvoerende Raad] Raad** moet, **[na] in** oorleg met die **[Raad] verantwoordelike Lid van die Uitvoerende Raad**, 'n geskikte en behoorlik gekwalifiseerde persoon aanstel as die Hoof- Uitvoerende Beampte van die Trust.”; en

(b) die vervanging van subartikel (4) deur die volgende subartikel:

“(4) Die **[Lid van die Uitvoerende Raad] Raad** kan, **[na] in** oorlegpleging met die **[Raad] verantwoordelike Lid van die Uitvoerende Raad**, die diens van die Hoof- Uitvoerende Beampte beëindig in ooreenstemming met toepaslike indiensnemings[**emplojerings**]- en arbeidsreg.”.

#### **Wysiging van artikel 16 van Wet 2 van 2007**

5. Artikel 16 van die Hoofwet word hiermee gewysig deur die vervanging van paragraaf (d) van subartikel (1) deur die volgende paragraaf:

“(d) inkomste wettiglik afkomstig uit –

(i) fondsinsameling;

(ii) handel- of sakebedrywe of -ondernemings; of

(iii) enige ander bron.”.

#### **Wysiging van artikel 17 van Wet 2 van 2007**

6. Artikel 17 van die Hoofwet word hiermee gewysig deur die vervanging van subartikel (2) deur die volgende subartikel:

“(2) Die Hoof- Uitvoerende Beampte moet verseker dat die Trust se jaarlikse begrotings, korporatiewe planne, jaarverslae en geouditeerde finansiële state opgestel en voorgelê word in ooreenstemming met die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), behoudens enige vrystelling van die Trust van enige bepaling van daardie Wet soos bedoel in artikel 92 van die Wet op Openbare Finansiële Bestuur, 1999.”.

**Wysiging van artikel 26 van Wet 2 van 2007**

7. Artikel 26 van die Hoofwet word hiermee gewysig soos volg:

“Enige persoon wat ingevolge hierdie Wet skuldig bevind word [, is strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens 5 jaar] aan 'n misdryf, is –  
(a) ingevolge artikel 25(1) of (2), strafbaar met 'n boete of gevangenisstraf vir 'n termyn wat nie die termyn oorskry wat in Nasionale wetgewing vir korrupsie bepaal is nie; of  
(b) ingevolge artikel 7(5), 24(3) of 25(3), strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens 5 jaar.”

**Wysiging van artikel 28 van Wet 2 van 2007**

8. Artikel 28 van die Hoofwet word hiermee gewysig deur die vervanging van subartikel (2) deur die volgende subartikel:

“(2) Die Raad kan [**delegeer**] aan –  
(a) die Hoof- Uitvoerende Beampte; of  
(b) die bestuurskomitee.  
enige bevoegdheid of plig delegeer wat deur hierdie Wet aan die Raad verleen of opgelê is.”

**Kort titel en inwerkingtreding**

9.(1) Hierdie Wet word die KwaZulu-Natal Wysigingswet op die Koninklike Huishoudingstrust, 2013 genoem.

(2) Die datum van inwerkingtreding van artikels 1 en 2 word geag as 14 November 2007.

**MEMORANDUM  
OOR DIE OOGMERKE  
VAN DIE  
KWAZULU-NATAL WYSIGINGSWETSONTWERP OP DIE KONINKLIKE  
HUISHOUDINGSTRUST, 2013**

**1. AGTERGROND**

Met die verordening van die KwaZulu-Natal Wet op die Koninklike Huishoudingstrust, 2007, in 2007, en die daaropvolgende implementering, het dit noodsaaklik geword op hierdie stadium om sekere praktiese aangeleenthede, soos ervaar in die implementering van die Hoofwet, aan te spreek.

**2. KLOUSULE VIR KLOUSULE VERDUIDELIKING**

Ter opsomming maak die Wysigingswetsontwerp voorsiening soos volg –

**Klausule 1: Wysiging van artikel 2 van die Hoofwet**

Klausule 1 van die Wetsontwerp beoog om artikel 2 van die Hoofwet, wat handel met die toepaslikheid van die Wet op Openbare Finansiële Bestuur, 1999, (WOFB) op die Trust, te wysig.

Met die aanneming van die Hoofwet was dit as noodsaaklik beskou om te verseker dat die WOFB van toepassing was op die Trust ten einde behoorlike en toepaslike standaarde van finansiële beheer te verseker.

Sedert die instelling van die Trust het dit duidelik geword dat dit feitlik onmoontlik is vir die Trust om effektief te funksioneer terwyl dit onderworpe is aan alle bepalings van die WOFB. Die Ouditeur-Generaal het ook sekere aanbevelings in hierdie verband gemaak.

Die voorgestelde wysiging beoog aldus moontlike vrystellings van sekere bepalings van die WOFB deur die Nasionale Minister van Finansies ingevolge artikel 92 van die WOFB. Hierdie opsie sal nogsteeds die WOFB as 'n basis vir gesonde finansiële beheer behou, maar sal uitdruklik die moontlikheid van vrystellings bied, wat nasionaal bepaal sal word deur die Nasionale Minister van Finansies ingevolge die Nasionale Wet (die WOFB).



Artikel 92 van die WOFB maak voorsiening soos volg –

**“92. Vrystellings**

*Die Minister [van Finansies, nasionaal], deur kennisgewing in die Nasionale Staatskoerant, kan enige instansie waarop hierdie Wet van toepassing is, of enige kategorie van daardie instellings, vrystel van enige spesifieke bepalings van hierdie Wet vir 'n tydperk bepaal in die kennisgewing.”*

Klousule 9(2) stel voor dat klousule 1 geag word as in werking gestel op 14 November, 2007, synde die aanvangsdatum van die Hoofwet.

**Klousule 2: Wysiging van artikel 4 van Hoofwet**

Klousule 2 van die Wetsontwerp beoog om artikel 4 van die Hoofwet te wysig.

Artikel 4 van die Hoofwet handel met *Umndeni WeSilo* of die Koninklike Huishouding en bepaal dat die Koninklike Huishouding bestaan uit die koninklike Koninginne en bloedverwante van die Monarg soos vervat in 'n lys wat vir kommentaar gepubliseer sal word deur kennisgewing in die *Koerant* deur die verantwoordelike Lid (Premier), na oorlegpleging met die Monarg.

'n Lys is opgestel, maar nog nie gepubliseer nie, soos vereis word deur die Hoofwet, aangesien verskeie besorgdhede opgemerk is met betrekking tot die wenslikheid van –

- (a) die openbaarmaking van die lys; en
- (b) kommentaar van die publiek op die lys, soos gepubliseer, teweeg te bring.

Dit word as meer wenslik beskou om nie die lys in die *Koerant* te publiseer nie maar om die lys te hanteer, op 'n suiwer administratiewe grondslag, tussen die Premier en die Monarg, en die voorgestelde wysiging gee uitvoering aan hierdie besluit.

Die Premier moet die gedateerde oorspronklikes van enige sodanige lyste, soos bepaal deur die Premier, permanent op rekord hou.

Klousule 9(2) stel voor dat klousule 2 geag word as in werking gestel op 14 November 2007, synde die aanvangsdatum van die Hoofwet.

**Klousule 3: Wysiging van artikel 5 van Hoofwet**

Klousule 3 van die Wetsontwerp beoog om artikel 5 van die Hoofwet, wat handel met die bevoegdhede, werksaamhede en pligte van die Trust, te wysig.

Een van die oorheersende redes vir die instelling van die Trust was om een of ander vorm van inkomstegenerasie vir die Trust aan te moedig ten einde te verseker dat die Trust se afhanklikheid van befondsing, soos bewillig deur die Provinsiale Wetgewer, met die verloop van tyd sal afneem.

Die voorgestelde wysiging in klousule 3 van die Wetsontwerp reguleer die bevoegdhede van die Trust en bemagtig die Trust uitdruklik om inkomste te genereer deur die bepaling van sekere fooie en om –

- (a) gelde en fondse te leen, in te samel of te belê;
- (b) aandele in 'n maatskappy te bekom en te hou; of
- (c) betrokke te raak in enige handel- of sakebedrywe of -onderneming met generering van inkomste vir die Trust ten doel.

Hierdie beoogde bevoegdhede bedoel in paragrawe (a) – (c) hierbo kan slegs uitgeoefen word binne 'n streng stelsel van wigte en teenwigte: vooraf skriftelike goedkeurings en behoudens bepalinge, voorwaardes, riglyne of opdragte wat opgelê kan word.

#### **Klousule 4: Wysiging van artikel 11 van Hoofwet**

Klousule 4 van die Wetsontwerp beoog om artikel 11 van die Hoofwet, wat handel met die aanstelling en afdanking van die Hoof- Uitvoerende Beampte van die Trust, te wysig.

Die Wet maak voorsiening dat die verantwoordelike Lid (Premier), in oorlegpleging met die Raad, die Hoof- Uitvoerende Beampte van die Trust moet aanstel. Daar is 'n soortgelyke bepaling met betrekking tot die moontlike afdanking van die Hoof- Uitvoerende Beampte.

Dit word beskou as verkieslik dat die Raad, aangestel deur die verantwoordelike Lid (Premier), die Hoof- Uitvoerende Beampte aanstel en afdank in oorlegpleging met die Premier en die voorgestelde wysiging gee uitvoering hieraan.

#### **Klousule 5: Wysiging van artikel 16 van Hoofwet**

Klousule 5 van die Wet beoog die wysiging van artikel 16 van die Hoofwet en is hoofsaaklik 'n gevolglike wysiging ooreenkomstig die voorgestelde wysiging van artikel 5 van die Hoofwet, soos uiteengesit in klousule 3.

Die wysiging stel dit duidelik dat die Trust fondse kan ontvang, soos bedoel in die voorgestelde nuwe artikel 5(cA), en dat regmatige inkomste van die Trust, wat die Trust mag ontvang, inkomste uit fondsinsameling of handel- of sakebedrywe of -ondernemings insluit.

**Klousule 6: Wysiging van artikel 17 van Hoofwet**

Klousule 6 van die Wetsontwerp beoog die wysiging van artikel 17 van die Hoofwet en is hoofsaaklik 'n gevolglike wysiging ooreenkomstig die voorgestelde wysiging van artikel 2 van die Hoofwet soos uiteengesit in klousule 1, wat moontlike vrystellings van sekere bepalings van die WOFB deur die Nasionale Minister van Finansies in die vooruitsig stel, ingevolge artikel 92 van die WOFB.

**Klousule 7: Wysiging van artikel 26 van Hoofwet**

Klousule 7 beoog die wysiging van artikel 26 van die Hoofwet wat handel met strawwe.

Dit word voorgestel dat paragraaf (b) van artikel 26 uitgebrei word om 'n bepaalde straf in te sluit vir 'n persoon wat skuldig bevind is aan 'n misdryf ingevolge artikel 24(3), wat insluit verteenwoordiging of gebruikmaking van die naam, akroniem, logo's, ontwerpe of materiaal gebruik deur, of in besit van, die Trust, sonder die vooraf geskrewe toestemming van die Trust, of valslik voorgee om namens die Trust op te tree.

**Klousule 8: Wysiging van artikel 28 van Hoofwet**

Klousule 8 beoog die wysiging van artikel 28 van die Hoofwet wat handel met delegerings.

Dit word voorgestel dat subartikel (2) van artikel 28 uitgebrei word om delegerings deur die Raad aan sy bestuurskomitee in te sluit.

Artikel 10 van die Hoofwet handel met die bestuurskomitee van die Raad en artikel 10(4) maak uitdruklik voorsiening dat die bestuurskomitee sodanige pligte moet uitvoer en sodanige bevoegdhede van die Raad kan uitoefen soos wat die Raad aan die bestuurskomitee kan delegeer ingevolge artikel 28(2).

**Klousule 9: Kort titel en aanvang**

Klousule 9 bevat die kort titel van die Wysigingswet en maak voorsiening dat die inwerkingtreedingsdatum van klousules 1 en 2 geag word as 14 November 2007, synde die datum van inwerkingtreding van die Hoofwet.

**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 Kantoor van die Premier; en

5.2 die Raad van Trustees van die KwaZulu-Natal Koninklike Huishoudingstrust.

**6. KONTAKPERSONE****6.1 Kantoor van die Premier**

Naam: Adv. Jacques Wolmarans

Posisie: Hoofstaatsregsadviseur

Telefoon: (033) 431 3375

Faks: (033) 394 4153

Sellulêr: 082 903 8251

e-pos: [jacques.wolmarans@kznpremier.gov.za](mailto:jacques.wolmarans@kznpremier.gov.za)

**6.2 KwaZulu-Natal Koninklike Huishoudingstrust**

Naam: Regter SJ Ngwenya

Posisie: Voorsitter: Raad van Trustees

No. 54

30 kuNcwaba 2013

## UMTHETHOSIVIVINYO WOKUCHIBIYELA UMTHETHO WETHRASTI YASENDLUNKULU WAKWAZULU-NATALI, 2013,

Isaziso ngokuhambisana noMthetho 194 weMithetho Emileyo yeSishayamthetho saKwaZulu-Natali

Ngalokhu kunikezwa isaziso ngokuhambisana noMthetho 194 weMithetho Emileyo yeSishayamthetho sesiFundazwe maqondana nokuthi Umthethosivivinyo Wokuchibiyela Umthetho Wethrasti Yasendlunkulu Wakwazulu-Natali, 2013, njengoba uchazwe ngezansi, sewethuliwe eSishayamthethweni esibalulwe ngenhla futhi uzocutshungulwa yiKomidi Lesishayamthetho Lomnyango kaNdunankulu Nezindaba zaseNdlunkulu. Umphakathi kanye nabanye abanentshisekelo bayamenywa ukuba balethe izethulo ezimayelana nalo Mthethosivivinyo, okumele ziqondiswe ku -:

Nksz. NP Madide  
UNobhala  
ISishayamthetho saKwaZulu-Natali  
Isikhwama Seposi X 9112  
Pietermaritzburg  
3200

Email: [madiden@kznlegislature.gov.za](mailto:madiden@kznlegislature.gov.za)

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

N NAIDOO  
UNobhala weSishayamthetho saKwaZulu-Natali

**UMTHETHOSIVIVINYO WOKUCHIBIYELA UMTHETHO WETHRASTI YASENDLUNKULU  
WAKWAZULU-NATALI, 2013**

**INCAZELO EJWAYELEKILE:**

[     ] Amagama abhalwe ngokugqamile akubakaki akhombisa okweqiwe kulokhu okubhaliwe  
\_\_\_\_\_ Amagama adweshelwe ngomugqa ohlangene akhombisa okufakiwe kulokhu okubhaliwe

**UMTHETHOSIVIVINYO**

Wokuchibiyela uMthetho weThrasti yaseNdlunkulu waKwaZulu-Natali, 2007; wokulawula ukunqunywa nokushicilelwa kohlu lwamagama abantu abangamalungu omndeni waseNdlunkulu noma oMndeni weSilo abangahlomula kwiThrasti yaseNdlunkulu; wokulawula ukusebenza koMthetho wokuPhathwa kweziMali zikaHulumeni, 1999, kwiThrasti; wokulawula imisebenzi, amandla kanye namajoka eThrasti; wokulawula ukuqokwa nokuxoshwa kwesiKhulu esiPhezulu seThrasti; wokulawula izimali zeThrasti; wokulawula izinhlawulo zamacala athile; wokulawula ukudluliselwa kwamandla eBhodi kwikomidi labaphathi; nokuhlinzekela okunye okuphathelene nalokho.

**MAWUMISWE** isiShayamthetho sesiFundazwe saKwaZulu-Natali, kanje:-

**Ukuchitshiyelwa kwesigaba 2 soMthetho 2 ka 2007**

1. Isigaba 2 soMthetho weThrasti yaseNdlunkulu waKwaZulu-Natali, 2007 (uMthetho No. 2 ka 2007), ngemuva kwalokhu ozobizwa ngoMthetho omkhulu, ngalokhu siyachitshiyelwa ngokufaka esikhundleni sesigatshana (2) lesi sigatshana esilandelayo:

“(2)(a) IThrasti iwuhlaka lukahulumeni wesifundazwe\_

(b) **[kuncike e]** UMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999), uyasebenza kwiThrasti, kuncike ekutheni iThrasti ingakhululwa kunoma iziphi izinhlinzeko zalowo Mthetho njengoba kuhlongozwe esigabeni 92 soMthetho wokuPhathwa kweziMali zikaHulumeni, 1999.

(c) Nanoma ikuphi kulo Mthetho okususelwe eMthethweni wokuPhathwa kweziMali zikaHulumeni, 1999, kuthathwa njengokususelwe kulowo Mthetho kuncike ekutheni iThrasti ingakhululwa kunoma iziphi izinhlinzeko zalowo Mthetho njengoba kuhlongozwe esigabeni 92 salowo Mthetho.”

### Ukuchitshiyelwa kwesigaba 4 soMthetho 2 ka 2007

#### 2. Isigaba 4 soMthetho omkhulu, ngalokhu siyachitshiyelwa –

(a) ngokufaka esikhundleni sesigatshana (1) lesi sigatshana esilandelayo:

“(1) Ngokwezinhloso zesigaba 3, iNdlunkulu noma uMndeni weSilo ubandakanya oNdlunkulu kanye nalezo zihlobo zegazi zeSilo [njengoba zibalulwe] amagama azo avela ohlwini oluzongunywa [oluzoshicilelwa ukuze kuphawulwe ngalo] njalo emva kwesikhathi esibekiwe [ngokushicilela isaziso kwiGazethi] iLungu loMkhandlu oPhethe ngemuva kokubonisana neSilo samaBandla.”;

(b) nangokufaka esikhundleni sesigatshana (2) lesi sigatshana esilandelayo:

“(2) ILungu loMkhandlu oPhethe –

(a) ngemuva kokubonisana neSilo samaBandla [nangokushicilela isaziso kwiGazethi] lingahoxisa, lishintshe noma lichibiyele uhlu [olushicilelwe] olunqunywe ngokwesigatshana (1); futhi

(b) kumele ligcine kumarekhodi ehovisi leLungu loMkhandlu oPhethe, uhlu okuyilonalona olusayiniwe olunqunywe iLungu loMkhandlu oPhethe nolusayinwe iLungu loMkhandlu oPhethe.”.

### Ukuchitshiyelwa kwesigaba 5 soMthetho 2 ka 2007

#### 3. Isigaba 5 soMthetho omkhulu ngalokhu siyachitshiyelwa ngokufaka ngemuva kwendima

(c) le ndima elandelayo:

“(cA) ngemvume ebhaliwe –

(i) yeBhodi; kanye

(ii) noMcwaningimabhuku-Jikelele,

futhi, kuncike kunoma ikuphi ukukhululwa kweThrasti kunoma iziphi izinhlinzeko zoMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 1999), njengoba kuhlangozwe esigabeni 92 salowo Mthetho nanoma imuphi umgomo, umbandela, umhlahlandlela noma umyalelo njengoba kunganqunywa, kungabekwa noma kungakhishwa umuntu noma umgwamanda okukhulunywe ngawo ezindimeni (i) no (ii) ngenhla, futhi kuncike kunoma imuphi omunye umthetho –

(aa) ingaboleka, icele iminikelo noma itshale izimali;

(bb) ingathenga futhi ibe namasheya kunoma kuyiphi inkampani njengoba kuchazwe eMthethweni weziNkampani, 2008 (uMthetho No. 71 ka 2008); noma

(cc) izibandakanye kunoma ikuphi ukuhwebelana nakunoma iliphi ibhizinisi ngenhloso yokungenisa imali kwiThrasti.”.

**Ukuchitshiyelwa kwesigaba 11 soMthetho 2 ka 2007****4. Isigaba 11 soMthetho omkhulu ngalokhu siyachitshiyelwa –**

(a) ngokufaka esikhundleni sesigatshana (1) lesi sigatshana esilandelayo:

“(1) IBhodi [iLungu loMkhandlu oPhethe] ngemuva kokubonisana [neBhodi] neLungu loMkhandlu oPhethe, kumele iqoke umuntu ofanelekile noqeqeshwe ngendlela efanele ukuba abe isikhulu esiPhezulu seThrasti.”;

(b) nangokufaka esikhundleni sesigatshana (4) lesi sigatshana esilandelayo:

“(4) IBhodi [iLungu loMkhandlu oPhethe] ngemuva kokubonisana [neBhodi] neLungu loMkhandlu oPhethe, ingamisa ukuqashwa kwesikhulu esiPhezulu ngokuhambisana nomthetho wokuqasha kanye nezabasebenzi.”.

**Ukuchitshiyelwa kwesigaba 16 soMthetho 2 ka 2007****5. Isigaba 16 soMthetho omkhulu ngalokhu siyachitshiyelwa ngokufaka esikhundleni sendima**

(d) yesigatshana (1) le ndima elandelayo:

“(d) imali engene ngokusemthethweni –

(i) ngeminikelo;

(ii) ngokuhweba noma ngebhizinisi;

(iii) nanganoma yimuphi omunye umthombo.”.

**Ukuchitshiyelwa kwesigaba 17 soMthetho 2 ka 2007**

**6. Isigaba 17 soMthetho omkhulu ngalokhu siyachitshiyelwa ngokufaka esikhundleni sesigatshana (2) lesi sigatshana esilandelayo:**

“(2) Isikhulu esiPhezulu kumele siqinisekise ukuthi isabelomali sonyaka seThrasti, izinhlelo zokusebenza, imibiko yonyaka kanye nezitatimende zonyaka ezicwaningiwe ziyalungiswa futhi ziyathulwa ngokuhambisana noMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999), kuncike ekutheni iThrasti ingakhululwa kunoma iziphi izinhlinzeco zalowo Mthetho njengoba kuhlangozwe esigabeni 92 soMthetho wokuPhathwa kweziMali zikaHulumeni, 1999.”.

**Ukuchitshiyelwa kwesigaba 26 soMthetho 2 ka 2007**

**7. Isigaba 26 soMthetho omkhulu ngalokhu siyachitshiyelwa ngokufaka esikhundleni sendima**

(b) le ndima elandelayo:



“(b) ngokwesigaba 7(5), 24(3) noma **[isigaba]** 25(3), angakhokhiswa inhlawulo noma agqunywe ejele isikhathi esingeqile eminyakeni emihlanu (5).”.

#### **Ukuchitshiyelwa kwesigaba 28 soMthetho 2 ka 2007**

8. Isigaba 28 soMthetho omkhulu ngalokhu siyachitshiyelwa ngokufaka esikhundleni sesigatshana (2) lesi sigatshana esilandelayo:

“(2) IBhodi ingadlulisela –

(a) kwisiKhulu esiPhezulu; noma

(b) kwikomidi labaphathi,

noma yimaphi amandla athweswe noma anikezwe iBhodi yilo Mthetho.”.

#### **Isihloko esifingqiwe nokuqaliswa koMthetho**

9.(1) Lo Mthetho ubizwa ngoMthetho weThrasti yaseNdlunkulu waKwaZulu-Natali, 2013.

(2) Izigaba 1 no 2 zithathwa njengeziqale ukusebenza mhla ziyi-14 kuLwezi 2007.

**IMEMORANDAMU NGEZINHLOSO  
ZOMTHETHOSIVIVINYO WOKUCHIBIYELA UMTHETHO  
WETHRASTI YASENDLUNKULU WAKWAZULU-NATALI, 2013**

**1. ISENDLALELO**

Ngemuva kokumiswa koMthetho weThrasti yaseNdlunkulu waKwaZulu-Natali, 2007, ngonyaka ka 2007 nangemuva kokuqaliswa kwawo, kubonakale kunesidingo sokuthi kubhekanwe nezingqinamba ezithile okuhlangatshezwane nazo ngesikhathi kuqaliswa lo Mthetho omkhulu.

**2. UKUCHAZWA KWESIGABA SOMTHETHO NGASINYE**

Kafishane nje, uMthethosivivinyo wokuchibiyela uhlinzeka kanje –

**Isigaba soMthetho 1: Ukuchitshiyelwa kwesigaba 2 soMthetho omkhulu**

Isigaba soMthetho 1 soMthethosivivinyo sihlose ukuchibiyela isigaba 2 soMthetho omkhulu esiphathelene nokusebenza koMthetho wokuPhathwa kweziMali zikaHulumeni, 1999, (i-PFMA) kwiThrasti.

Ngokumiswa koMthetho omkhulu, kwakubalulekile ukuqinisekisa ukuthi uMthetho wokuPhathwa kweziMali zikaHulumeni uyasetshenziswa kwiThrasti ukuqinisekisa amazinga afanele okulawula izimali.

Selokhu kusungulwe iThrasti, sekubonakele ukuthi ngeke ikwazi ukusebenza ngendlela efanele uma ilandela zonke izinhlinzeko zoMthetho wokuPhathwa kweziMali zikaHulumeni. UMcwaningimabhuku-Jikelele usenze izincomo ezithile mayelana nalokhu.

Ngakho-ke, isichibiyelo esihlongozwayo sihlose ukuthi uNgqongqoshe obhekele ezeziMali kuZwelonke akhulule iThrasti ezinhlinzekweni ezithile zoMthetho wokuPhathwa kweziMali zikaHulumeni ngokwesigaba 92 soMthetho wokuPhathwa kweziMali zikaHulumeni. UMthetho wokuPhathwa kweziMali zikaHulumeni usazoqhubeka nokusebenza njengesisekelo sokulawula izimali ngendlela efanele, kodwa iThrasti izokhululwa ezinhlinzekweni ezithile uNgqongqoshe obhekele ezeziMali kuZwelonke ngokoMthetho kaZwelonke (uMthetho wokuPhathwa kweziMali zikaHulumeni).

Isigaba 92 soMthetho wokuPhathwa kweziMali zikaHulumeni sihlinzeka kanje –

**“92. Ukukhululwa**

*UNgqongqoshe [obhekele ezeziMali kuZwelonke], ngesaziso kwiGazethi kaHulumeni kaZwelonke, angakhulula noma isiphi isikhungo esilawulwa ngokwalo Mthetho, nanoma imuphi umkhakha walezo zikhungo, kunoma iziphi izinhlinzeka zalo Mthetho isikhathi esinqunywe kwisaziso.”*

Isigaba soMthetho 9(2) sihlongoza ukuthi isigaba soMthetho 1 sithathwe njengesaqala ukusebenza mhla ziyi-14 kuLwezi 2007, okuwusuku okwaqaliswa ngalo uMthetho omkhulu.

**Isigaba soMthetho 2: Ukuchitshiyelwa kwesigaba 4 soMthetho omkhulu**

Isigaba soMthetho 2 soMthethosivivinyo sihlose ukuchibiyela isigaba 4 soMthetho omkhulu.

Isigaba 4 soMthetho omkhulu sikhuluma ngoMndeni weSilo samaBandla noma ngeNdlunkulu futhi sinquma ukuthi iNdlunkulu ibandakanya oNdlunkulu kanye nezihlobo zegazi zeSilo samaBandla njengoba kuqukethwe ohlwini oluzoshicilelwa ngesaziso kwiGazethi yiLungu loMkhandlu oPhethe (uNdunankulu) ngemuva kokubonisana neSilo samaBandla ukuze umphakathi ubeke izimvo zawo.

Uhlu seluhlanganisiwe kodwa alukashicilelwa njengoba kudingeka ngokoMthetho omkhulu ngenxa yokucela kwemibuzo ethile mayelana nokuthi ngabe kunesidingo yini sokuthi –

- (a) uhlu ludalulwe emphakathini; nokuthi
- (b) kutholakale izimvo zomphakathi mayelana nohlu olushicilelwe.

Kubonakale kungcono ukuba uhlu lungashicilelwa *kwiGazethi*, kodwa kudingidwe ngalo ngendlela ejwayelekile yokusebenza phakathi kukaNdunankulu neSilo samaBandla, kanti lesi sichibiyelo esihlongozwayo sihlose ukugunyaza lokhu.

UNdunankulu kumele agcine kumarekhodi lezo zinhlu okuyizonazona ezinqunywe uyena uNdunankulu.

Isigaba soMthetho 9(2) sihlongoza ukuthi isigaba soMthetho 2 sithathwe njengesaqala ukusebenza mhla ziyi-14 kuLwezi 2007, okuwusuku okwaqaliswa ngalo uMthetho omkhulu.

**Isigaba soMthetho 3: Ukuchitshiyelwa kwesigaba 5 soMthetho omkhulu**

Isigaba soMthetho 3 soMthethosivivinyo sihlose ukuchibiyela isigaba 5 soMthetho omkhulu esiphathelene namandla, nemisebenzi namajoka eThrasti.

Esinye sezizathu eziqala zokusungulwa kweThrasti kwakuwukugqugquzela ukuthi iThrasti izingenisele imali ethile ukuze kuqinisekise ukuthi ngemuva kwesikhathi iThrasti ayethembeli ezimalini ezabelwa yisiShayamthetho sesiFundazwe.

Isichibiyelo esihlongozwayo esigabeni soMthetho 3 soMthethosivivinyo siphinde silawule amandla eThrasti futhi sinika iThrasti amandla okungenisa imali ngokunquma izimali ezithile ezikhokhwayo kanye –

- (a) nokuboleka, nokuqoqa noma nokutshala izimali;
- (b) nokuthenga nokuba namasheya kunoma iyiphi inkampani; noma
- (c) nokuhwebelana noma nokusebenzisana namabhezini nezinkampani ngenhloso yokungenisa imali kwiThrasti.

La mandla ahlangozwe kwindima (a) kuya ku (c) ngenhla angasetshenziswa kuphela ngohlelo oluqondile lokuqapha, ngokuthola imvume ebhalwe phansi kuqala futhi kuncike esivumelwaneni, kwimibandela, kwimikhombandlela noma kwimiyalelo engabekwa.

**Isigaba soMthetho 4: Ukuchitshiyelwa kwesigaba 11 soMthetho omkhulu**

Isigaba soMthetho 4 soMthethosivivinyo sihlose ukuchibiyela isigaba 11 soMthetho omkhulu esiphathelene nokuqokwa kanye nokuxoshwa kwesiKhulu esiPhezulu seThrasti.

UMthetho uhlinzeka ngokuthi iLungu loMkhandlu oPhethe (uNdunankulu), kumele ngemuva kokubonisana neBhodi, liqoke isiKhulu esiPhezulu seThrasti. Ukuxoshwa kwesiKhulu esiPhezulu okungenzeka nakho kuhlinzekelwe ngendlela efanayo.

Kubonakala kungcono ukuthi iBhodi eqokwe yiLungu loMkhandlu oPhethe (uNdunankulu), ukuba kube iyona eqoka nexosha isiKhulu esiPhezulu ngemuva kokubonisana noNdunankulu futhi isichibiyelo esihlongozwayo sigunyaza lokhu.

**Isigaba soMthetho 5: Ukuchitshiyelwa kwesigaba 16 soMthetho omkhulu**

Isigaba soMthetho 5 soMthethosivivinyo sihlose ukuchibiyela isigaba 16 soMthetho omkhulu futhi, isona esiyimbangela yokuchitshiyelwa okuhlongozwayo kwesigaba 5 soMthetho omkhulu njengoba kubekwe esigabeni soMthetho 3.

Isichibiyelo sikubeka ngokucacile ukuthi iThrasti ingakhokhelwa izimali njengoba kuhlongozwe esigabeni 5(cA) esisha nokuthi imali engene ngokusemthethweni kwiThrasti ibandakanya imali etholakale ezimalini eziqoqwayo noma ngokuhwebelana noma emabhizinisini.

**Isigaba soMthetho 6: Ukuchitshiyelwa kwesigaba 17 soMthetho omkhulu**

Isigaba soMthetho 6 soMthethosivivinyo sihlose ukuchibiyela isigaba 17 soMthetho omkhulu futhi, isona esiyimbangela yokuchitshiyelwa okuhlongozwayo kwesigaba 2 soMthetho omkhulu njengoba kubekiwe esigabeni soMthetho 1, sihlose ukuthi iThrasti ikhululwe ezinhlinzekweni ezithile zoMthetho wokuPhathwa kweziMali zikaHulumeni uNgqongqoshe obhekele ezeziMali kuZwelonke ngokwesigaba 92 soMthetho wokuPhathwa kweziMali zikaHulumeni.

**Isigaba soMthetho 7: Ukuchitshiyelwa kwesigaba 26 soMthetho omkhulu**

Isigaba soMthetho 7 sihlose ukuchibiyela isigaba 26 soMthetho omkhulu esikhuluma ngezinhlawulo.

Kuhlongozwa ukuthi indima (b) yesigaba 26 yelulwe ukuze ibandakanye izinhlawulo ezithile mayelana nomuntu otholakale enecala ngokwesigaba 24(3), okubandakanya ukumela iThrasti noma ukusebenzisa igama, isifinyezo, amalogo, imifanekiso noma impahla okusetshenziswa noma okungokweThrasti ngaphandle kokugunyazwa yiThrasti ngemvume ebhalwe phansi, noma ukuqamba amanga athi wenza okuthile egameni leThrasti.

**Isigaba soMthetho 8: Ukuchitshiyelwa kwesigaba 28 soMthetho omkhulu**

Isigaba soMthetho 8 sihlose ukuchibiyela isigaba 28 soMthetho omkhulu esiphathelene nokudluliselwa kwamandla.

Kuhlongozwa ukuthi isigatshana (2) sesigaba 28 selulwe ukuze sibandakanye ukudluliselwa kwamandla eBhodi kwikomidi labaphathi.

Isigaba 10 soMthetho omkhulu sikhuluma ngekomidi labaphathi beBhodi kanti isigaba 10(4) sikubeka kucace ukuthi ikomidi labaphathi kumele lenze leyo misebenzi edluliselwe kulo futhi lingasebenzisa lawo mandla eliwanikezwe iBhodi njengoba iBhodi lingawadlulisela kulo ngokwesigaba 28(2).

**Isigaba soMthetho 9: Isihloko esifingqiwe nokuqaliswa koMthetho**

Isigaba soMthetho 9 siqukethe isihloko esifingqiwe soMthethosichibiyelo futhi sihlinzeka ngokuthi isigaba soMthetho 1 sithathwe njengesaqala ukusebenza mhla ziyi-14 kuLwezi 2007, okuwusuku okwaqaliswa ngalo uMthetho omkhulu.

**3. IZINGQINAMBA KWEZOKUPHATHA KANYE NAKUBASEBENZI KUHULUMENI WESIFUNDAZWE**

Akukho zingqinamba kwezokuphatha nakubasebenzi ezilindelekile.

**4. IZIMALI EZIZODINGEKA KUHULUMENI WESIFUNDAZWE**

Akukho zimali okulindeke ukuthi zidingeke.

**5. IMINYANGO/IMIGWAMANDA OKUBONISENWE NAYO**

UMthethosivivinyo ubhalwe ngokubonisana –

5.1 neHhovisi likaNdunankulu; kanye

5.2 neBhodi yabaPhatheli beThrasti yaseNdlunkulu yaKwaZulu-Natali.

**6. OKUNGAXHUNYANWA NABO**

**6.1 eHhovisi likaNdunankulu**

Igama: UMmeli wasemaJajini u-Jacques Wolmarans  
 Isikhundla: UMeluleki oMkhulu woMbuso kwezoMthetho  
 Ucingo: (033) 341 3375  
 Ifeksi: (033) 394 4153  
 Umakhalekhukhwini: 082 903 8251  
 I-imeyli: [jacques.wolmarans@kznpremier.gov.za](mailto:jacques.wolmarans@kznpremier.gov.za)

**6.2 kwiThrasti yaseNdlunkulu yaKwaZulu-Natali**

Igama: UJaji SJ Ngwenya  
 Isikhundla: USihlalo weBhodi yabaPhatheli beThrasti



