

**KWAZULU-NATAL PROVINCE  
KWAZULU-NATAL PROVINSIE  
ISIFUNDAZWE SA KWAZULU-NATALI**

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

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**PIETERMARITZBURG,**

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21 kuNHLOLANJA 2013

**No. 903**

**IMPORTANT NOTICE**

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**GENERAL NOTICE—ISAZISO SIKAWONKE-WONKE**

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**No. 30****21 February 2013****DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS****PUBLICATION OF THE KWAZULU-NATAL TRADITIONAL LEADERSHIP AND GOVERNANCE BILL, 2013, IN COMPLIANCE WITH SECTION 154(2) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996**

1. In compliance with section 154(2) of the Constitution of the Republic of South Africa, 1996, the KwaZulu-Natal Traditional Leadership and Governance Bill, 2013, is hereby published for public comment.

2. Organised local government, municipalities and other interested persons are invited to submit comments in writing on the proposed amendment by post to –

The Head of Department  
Co-operative Governance and Traditional Affairs  
Private Bag X9078  
Pietermaritzburg  
3200

3. Comments may also be –

- (a) delivered by hand to the 3rd Floor, Wadley House, 115 Jabu Ndlovu Street, Pietermaritzburg, 3201;
- (b) sent by facsimile to 086 633 3905; or
- (c) sent by electronic mail to [nathi.mpungose@kzncogta.gov.za](mailto:nathi.mpungose@kzncogta.gov.za).

4. All comments must be received by no later than 15 March 2013, and must clearly be marked: **For Attention: Mr N Mpungose.**

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**No. 30****21 kuNhlolanja 2013****UMNYANGO WEZOKUBUSA NGOKUBAMBISANA NEZOMDABU****UKUSHICILELWA KOMTHETHOSIVIVINYO WOBUHOLI BOMDABU NOKUBUSA WAKWAZULU-NATALI, 2013, NGOKUHAMBISANA NESIGABA 154(2) SOMTHETHOSISEKELO WERIPHABHULIKHI YASENINGIZIMU AFRIKA, 1996**

1. Ngalokhu kushicilelwa uMthethosivivinyo wobuHoli boMdabu nokuBusa waKwaZulu-Natali, 2013, ngokuhambisana nesigaba 154(2) soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996, ukuze umphakathi ubeke izimvo zawo.

2. Izinglangano ezimele ohulumeni basekhaya, omasipala kanye nabantu abanentshisekelo bayamenywa ukuba bathumele izimvo zabo ezibhalwe phansi mayelana nalesi sichibiyelo esihlongozwayo ngeposi –

kwiNhloko yoMnyango wezokuBusa ngokuBambisana nezoMdabu  
Private Bag X9078  
Pietermaritzburg  
3200

3. Izimvo –

- (a) zingalethwa ngesandla e-3<sup>rd</sup> Floor, Wadley House, 115 Jabu Ndlovu Street, Pietermaritzburg, 3201;
- (b) zingathunyelwa ngefeksi ku: 086 633 3905; noma
- (c) zithunyelwe nge-imeyli ku: [nathi.mpungose@kzncogta.gov.za](mailto:nathi.mpungose@kzncogta.gov.za).

4. Zonke izimvo kumele zifike ungakadluli umhla ziye-15 kuNdasa 2013, futhi zibhalwe ngokucacile: **Ziqondiswe: kuMnu. N Mpungose.**

**KWAZULU-NATAL**  
**TRADITIONAL LEADERSHIP AND GOVERNANCE BILL, 2013**

*(The English text is the official text of the Bill)*

## BILL

To provide for the recognition of *iziZwe*, Traditional Leadership, and traditional institutions; to provide for a regulatory framework for the recognition and the vesting of roles, powers and functions in, as well as the allocation of functions to, Traditional Councils, Traditional Leaders and other Traditional Leadership structures; to provide a framework for the development, capacity building and support of Traditional Councils, Traditional Leaders and other Traditional Leadership structures; to provide for the establishment of the Provincial House of Traditional Leaders, Local Houses of Traditional Leaders, and the KwaZulu-Natal Commission on Traditional Leadership Disputes and Claims; the vesting of roles, powers and functions in, as well as the allocation of functions to, these institutions; to provide a framework for the development, capacity building and support of these institutions; to provide for an enabling framework to support collaboration and co-operative governance between all the above and the provincial government; to provide for a code of conduct; to provide for contributions by members of traditional communities; to provide for regulatory powers of the Premier and the responsible Member of the Executive Council; to provide for the delegations of powers, assignments and agreements; to provide for mechanisms for dispute resolution; to provide for offences and penalties; to provide for transitional matters; to provide for the amendment or repeal of applicable provincial legislation; and to provide for related matters.

## PREAMBLE

WHEREAS the Province of KwaZulu-Natal, in accordance with the Constitution, National Framework Policy and the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), acknowledges the existence of *iziZwe* in the Province, and seeks to –

- recognise, protect, preserve, transform, as well as to provide an enabling environment for the development of *iziZwe*, traditional institutions, customary law and customs;
- define a place and role of Traditional Leadership within the system of democratic governance in South Africa; and
- restore the integrity and legitimacy of the institution of Traditional Leadership in line with customary law and customs,

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

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17. Identification and recognition of *iBambabukhosi, iBambela, and iSekela leNkosi*
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## CHAPTER 1

### DEFINITIONS, APPLICATION AND GUIDING PRINCIPLES

#### Definitions

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

“**area of jurisdiction**” means a designated area of jurisdiction for an *isiZwe* recognised as contemplated in section 5, a Traditional Council recognised as contemplated in section 25, and a Local House as established in section 53;

“**Chairperson of the Traditional Council**” means any Traditional Leader who is *ex-officio* the chairperson of a Traditional Council, and includes –

- (a) *iNkosi*;
- (b) *isiPhakanyiswa*;
- (c) *iBambabukhosi*;
- (d) *iBambela*;
- (e) *iSekela leNkosi*; and
- (f) *iso leSilo*;

“**Code of Conduct**” means the codes of conduct contained in Schedules 6 and 7 to this Act;

“**Commission**” means the KwaZulu-Natal Commission on Traditional Leadership Disputes and Claims established as contemplated in section 58;

“**Constitution**” means the Constitution of the Republic of South Africa Act, 1996 (Act 108 of 1996);

“**customary law**” means those customs that are deemed to be binding on, and enforceable in respect of, all members of a particular *isiZwe*, whether it is recognised as contemplated in this Act or not;

“**customs**” means traditional practices adhered to by an *isiZwe*, whether it is recognised as contemplated in this Act or not;

“**Department**” means the department in the KwaZulu-Natal Provincial Government responsible for Traditional Affairs;

**“district municipality”** means a municipality that has municipal executive and legislative authority in an area that includes more than one local municipality, as contemplated in section 5 of the KwaZulu-Natal Determination of Types of Municipalities Act, 2000 (Act No. 7 of 2000), and which is described in section 155(1)(c) of the Constitution as a category C municipality;

**“electoral college”** means an electoral college consisting of all adult members of that *isiZwe* recognised as contemplated in section 5;

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

**“government”** means the national, provincial, or local spheres of government as contemplated in section 40(1) of the Constitution;

**“house”** means a house as classified by *iNkosi* in consultation with *uMndeni weNkosi* according to custom and customary law and this may include *iNdlunkulu*, *iQadi* and *iKhohlo*;

**“iBambabukhosi”** means a person recognised as contemplated in section 17;

**“iBambela”** means a person recognised as contemplated in section 17;

**“imbizo”** means a meeting or gathering of the members of an *isiZwe* called by the Traditional Leader concerned;

**“iNduna”** means a person recognised as *iNduna* for a specific *isiGodi* as contemplated in section 15;

**“iNkosi”** means a person recognised as contemplated in section 13;

**“institution”** means any institution established or recognised as contemplated in this Act, but excludes an *isiZwe* and a Traditional Leader;

**“iSekela leNkosi”** means a person recognised as contemplated in section 17;

**“iSilo”** means the person recognised as monarch of KwaZulu-Natal as contemplated in section 12;

**"isiPhakanyiswa"** means a person elected as contemplated in section 14;

**"isiGodi"** means a demarcated traditional ward within the area of jurisdiction of a Traditional Council, recognised as contemplated in section 9;

**"isiZwe"** means a traditional community recognised as contemplated in terms section 5;

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

**"legislation"** means national, provincial or local government legislation, whether principal or subordinate;

**"Local House"** means a Local House of Traditional Leaders established as contemplated in section 53;

**"local municipality"** means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls, as contemplated in section 4 of the KwaZulu-Natal Determination of Types of Municipalities Act, 2000 (Act No. 7 of 2000), and which is described in section 155(1)(b) of the Constitution as a category B municipality;

**"MEC"** means the Member of the Executive Council responsible for Traditional Affairs in KwaZulu-Natal;

**"metropolitan municipality"** means a municipality that has exclusive municipal executive and legislative authority in its area of jurisdiction, as contemplated in section 3 of the KwaZulu-Natal Determination of Types of Municipalities Act, 2000 (Act No. 7 of 2000), and which is described in section 155(1)(a) of the Constitution as a category A municipality;

**"Minister"** means the Minister in the national sphere of government responsible for Traditional Leadership matters;

**"municipal council"** means a municipal council as contemplated in Chapter 7 of the Constitution;

**“municipality”** means a municipality as contemplated in Chapter 7 of the Constitution, and includes all demarcated wards within a specific municipality;

**“municipal ward committees”** means municipal ward committees established as contemplated in section 73 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

**“National Commission”** means the Commission on Traditional Leadership Disputes and Claims established as contemplated in section 22 of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003);

**“National House”** means the National House of Traditional Leaders as contemplated in section 212(2)(a) of the Constitution and established as contemplated in the National House of Traditional Leaders Act, 1997 (Act No. 10 of 1997);

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

**“prescribed”** means prescribed by way of schedule, regulation or notice as contemplated in this Act;

**“President”** means the President of the Republic of South Africa;

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

**“Provincial House”** means the Provincial House of Traditional Leaders for the Province of KwaZulu-Natal as contemplated in section 39;

**“regional authority”** means a regional authority established as contemplated in applicable legislation;

**“royal family”** means the traditional institution which, according to Zulu customary law and customs, is responsible for the identification of the successor of *Isilo*;

**“Secretary of the Provincial House”** means the head of the administration of the Provincial House of Traditional Leaders, appointed in terms of section 50;

“**sub-isiZwe**” means a traditional sub-community recognised as contemplated in section 7;

“**this Act**” includes the schedules to this Act and any regulations made and notices issued as contemplated in this Act;

“**Traditional Council**” means a council established as contemplated in section 25;

“**traditional institution**” means an institution, whether recognised as contemplated in this Act or not, established as contemplated in the applicable customary law and customs of an *isiZwe*, whether recognised as contemplated in section 3 or not;

“**Traditional Leader**” means a person recognised in Chapter 3 of this Act as a Traditional Leader; and

“**uMndeni**” means *uMndeni weNkosi* or the immediate family of *iNkosi* of a particular *isiZwe* recognised as contemplated in section 4, excluding the royal family and includes –

- (a) the core house in which *ubuKhosi* currently resides, which decides on matters relating to *ubuKhosi*, and consists of at least –
  - (i) the wife or wives, children, brothers and sisters of the current *iNkosi*, including paternal half-brothers and half-sisters;
  - (ii) the father and grandfather of the current *iNkosi*, in the event that they are still alive; and
  - (iii) the surviving brothers and sisters of the father and grandfather of the current *iNkosi*; and
- (b) any other house or houses, subject to the customs and customary laws of *uMndeni* concerned, that are made up of descendants of the common ancestors of the core house, who are informed of decisions of the core house relating to matters of *ubuKhosi*.

(2) An expression, which denotes the singular includes the plural and vice versa.

## Application

2. This Act applies to the Province of KwaZulu-Natal as contemplated in the Constitution, and is administered by the MEC.

**Guiding principles**

3.(1) All *iziZwe*, traditional institutions and Traditional Leaders established or recognised as contemplated in this Act, and all traditional institutions not expressly recognised as contemplated in this Act, but established in accordance with the customary law and customs of *isiZwe* concerned, must transform and adapt customary law and customs so as to comply with the Constitution, in particular by –

- (a) preventing unfair discrimination;
- (b) promoting equality; and
- (c) seeking to progressively advance gender representation in the succession to Traditional Leadership positions.

(2) No traditional institution or Traditional Leader may promote or prejudice the interests of any political party.

(3) Every traditional institution and Traditional Leader recognised as contemplated in this Act must, in the carrying out, execution and performance of its roles, powers and functions –

- (a) apply the principles of co-operative government and intergovernmental relations as contemplated in Chapter 3 of the Constitution and any other law; and
- (b) uphold and implement the basic values and principles governing public administration as contemplated in Chapter 10 of the Constitution and any other law.

**CHAPTER 2****RECOGNITION AND WITHDRAWAL OF RECOGNITION OF *IZIZWE*****Recognition and withdrawal of *ubuNgonyama***

4. The provisions of section 2A of the Traditional Leadership and Governance Framework Act, 2003, apply in respect of the recognition and withdrawal of the recognition of the *ubuNgonyama* for the Province of KwaZulu-Natal.

**Recognition of *iziZwe***

5.(1) A community may be recognised as an *isiZwe* if it –

- (a) is subject to a system of Traditional Leadership as contemplated in that community's customs;

- (b) observes a system of customary law;
- (c) recognises itself as a distinct *isiZwe* with a proven history of existence, from a particular point in time up to the present, distinct and separate from other *iziZwe*;
- (d) occupies a specific geographical area; and
- (e) has a number of *iziGodi* under *iziNduna*.

(2)(a) The Premier, after consultation with the persons and bodies contemplated in paragraph (b), may recognise a community as contemplated in sub-section (1) as an *isiZwe* with a defined geographic area by notice in the *Provincial Gazette* upon –

- (i) written application by the community concerned, in a format substantially compliant with Schedule 1; or
- (ii) having decided to establish one or more communities as contemplated in section 6(3).

(b) Any application contemplated in paragraph (a) must be accompanied by an application for the recognition of an *iNkosi* for the particular community concerned.

(c) Any decision by the Premier as contemplated in paragraph (a), must be taken after consultation with –

- (i) the MEC;
- (ii) the community concerned;
- (iii) the Local House in whose jurisdictional area the community is located;
- (iv) the Provincial House; and
- (v) *iSilo*.

(d) Before taking a decision as contemplated in paragraph (a), the Premier may appoint an independent person or persons to conduct an investigation in order to determine whether *isiZwe* complies with the criteria as contemplated in sub-section (1).

(e) The Premier must reach a decision regarding the recognition of a community within a reasonable period having regard to the circumstances and nature of the application.

(f) In the event that the Premier –

- (i) approves the written application, he or she must notify the applicants concerned in writing of his or her decision and publish the notice in the *Provincial Gazette* as contemplated in sub-section (2)(a); or
- (ii) refuses the written application, he or she must notify the applicants concerned, in writing, of the reasons for the refusal within a period of 60 days after the decision contemplated in paragraph (e).



**Withdrawal of recognition of *iziZwe***

6.(1) The Premier, after consultation with the MEC, may consider the withdrawal of the recognition of an *isiZwe* upon a written application by –

- (a) *isiZwe* concerned,
- (b) two or more *iziZwe* that wish to be merged into a single *isiZwe*;
- (c) an *isiZwe* that wishes to be sub-divided into more than one *isiZwe*; or
- (d) one or more *iziZwe* to review the position of an *isiZwe* or *iziZwe* that was or were divided or merged prior to 1994 in terms of the then applicable legislation.

(2) The application contemplated in sub-section (1) must provide detailed reasons supporting the application for withdrawal of the recognition of *isiZwe* concerned: Provided that the Premier may appoint an independent person or persons to conduct an investigation in order to establish whether there is sufficient cause for the withdrawal of the recognition of the relevant community as an *isiZwe*.

(3) The Premier, subject to the provisions of sub-section (2), must reach a decision regarding the withdrawal of recognition of *isiZwe* concerned within a reasonable period.

(4) The Premier, subject to the provisions of sub-sections (2) and (3), may –

- (a) by notice in the *Provincial Gazette*, withdraw the recognition of *isiZwe* contemplated in sub-section (1); or
- (b) refuse to withdraw the recognition of *isiZwe* contemplated in sub-section (1), in which event he or she must notify *isiZwe* concerned of the reasons for the refusal within a period of 60 days after the decision contemplated in sub-section (3).

**Recognition of sub-*iziZwe***

7.(a) Where an *isiZwe* occupies two or more geographical areas, *iNkosi* of the community concerned may apply to the Premier in writing for the recognition of a sub-*isiZwe* for the geographical area which is located outside the area where the seat of *iNkosi* is situated.

(b) The provisions of section 5, read with the necessary changes, apply to the recognition of such a sub-*isiZwe*.

(c) If the Premier approves the application for the recognition of sub-*isiZwe*, *iNkosi* must, in writing, request the Premier to recognise *iso leNkosi* for the sub-*isiZwe* as contemplated in section 16.

**Withdrawal of recognition of sub-isiZwe**

8.(1) The withdrawal of the recognition of a sub-*isiZwe* may only be considered where the relevant *iNkosi* applies to the Premier to withdraw such recognition.

(2) The application contemplated in sub-section (1) must provide detailed reasons supporting the application for withdrawal of the recognition of the sub-*isiZwe* concerned: Provided that the Premier may appoint an independent person or persons to conduct an investigation in order to establish whether there is sufficient cause for the withdrawal of the recognition of the relevant sub-*isiZwe*.

(3) The Premier, subject to the provisions of sub-section (2), must reach a decision regarding the withdrawal of recognition of the sub-*isiZwe* concerned within a reasonable period.

(4) The Premier, subject to the provisions of sub-sections (2) and (3) may –

- (a) by notice in the *Provincial Gazette*, withdraw the recognition of the sub-*isiZwe* contemplated in sub-section (1); or
- (b) refuse to withdraw the recognition of the sub-*isiZwe* contemplated in sub-section (1), in which event he or she must notify *iNkosi* concerned of the reasons for the refusal within a period of 60 days after the decision contemplated in sub-section (3).

**Recognition of *iziGodi***

9.(1) An *isiGodi* may be recognised as such if it –

- (a) is recognised by *iNkosi* and the Traditional Council of *isiZwe* concerned;
- (b) is situated within the area of jurisdiction of the Traditional Council of the relevant *isiZwe*;
- (c) is managed by an *iNduna* recognised as contemplated in section 15; and
- (d) will contribute to the effective and efficient administration of the relevant Traditional Council.

(2)(a) In the event that a portion of an *isiZwe* is of the view that it complies with the criteria contemplated in sub-section (1), it may request the relevant Traditional Council to apply to the Premier for the recognition of such portion of the community as an *isiGodi*.

(b) If the Traditional Council is of the opinion that the portion of *isiZwe* referred to in paragraph (a) does not comply with the criteria set out in sub-section (1), the Traditional Council must inform the community and Premier accordingly and provide reasons for such a view.

(3) Before taking a decision as contemplated in sub-section (4), the Premier may appoint an independent person or persons to conduct an investigation in order to determine whether the application for recognition of *isiGodi* complies with the criteria contemplated in sub-section (1).

(4) The Premier must reach a decision regarding the recognition of a community within a reasonable period having regard to the circumstances and nature of the application.

(5) In the event that the Premier refuses the written application, he or she must notify the applicants concerned of the reasons for the refusal within a period of 60 days after the decision contemplated in sub-section (4).

(6) The Premier may, after consultation with the relevant Traditional Council and *iNkosi* –  
(a) refuse to recognise *isiGodi* concerned; or  
(b) recognise *isiGodi* concerned as part of *isiZwe* concerned by notice in the *Provincial Gazette*.

#### **Withdrawal of recognition of *iziGodi***

**10.(1)** The withdrawal of the recognition of an *isiGodi* may only be considered where *iNkosi* and the Traditional Council concerned request the Premier to withdraw such recognition.

(2) The application contemplated in sub-section (1) must provide detailed reasons supporting the application for withdrawal of the recognition of *isiGodi* concerned: Provided that the Premier may appoint an independent person or persons to conduct an investigation in order to establish whether there is sufficient cause for the withdrawal of the recognition of the relevant *isiGodi*.

(3) The Premier, subject to the provisions of sub-section (2), must reach a decision regarding the withdrawal of recognition of *isiGodi* concerned within a reasonable period.

(4) The Premier, subject to the provisions of sub-sections (2) and (3) may –  
(a) by notice in the *Provincial Gazette*, withdraw the recognition of *isiGodi* contemplated in sub-section (1); or  
(b) refuse to withdraw the recognition of *isiGodi* contemplated in sub-section (1), in which event he or she must notify *iNkosi* and the Traditional Council concerned of the

reasons for the refusal within a period of 60 days after the date of the decision contemplated in sub-section (3).

### CHAPTER 3 TRADITIONAL LEADERS

#### Recognition and remuneration of Traditional Leadership

11.(1) The following Traditional Leadership positions are recognised:

- (a) *iSilo*;
- (b) *amaKhosi*;
- (c) *iziPhakanyiswa*; and
- (d) *iziNduna*.

(2) The following criteria apply whenever a leadership position is to be recognised –

- (a) a proven history of existence of such leadership position within the community concerned;
- (b) a proven history of acceptance of such leadership position by the community concerned;
- (c) the proven application over time of established customary law and customs within the particular community, pertaining to the hereditary succession or election of leadership including the term of the elected leadership;
- (d) a history of functions and powers of the specific leadership position in terms of the established customary law and customs within the particular community;
- (e) the recognition of the community in terms of this Act; and
- (f) a proven history of either –
  - (i) hereditary leadership in terms of customary law or customs of the community, with or without a customary role for community participation in the determination or confirmation of the individual as leader; or
  - (ii) elected leadership where, in terms of the customary law or customs of the community concerned, the leader is elected.

(3) The remuneration, allowances and benefits payable to *iSilo*, *amaKhosi*, *iziPhakanyiswa* and *iziNduna* are as determined in the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998).

**Identification, recognition and withdrawal of recognition of *iSilo***

12. The provisions of sections 9 and 10 of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), apply to the identification, recognition and withdrawal of recognition of *iSilo*.

**Identification and recognition of *amaKhosi***

13.(1) Whenever the position of *iNkosi* is to be filled –

(a) *uMndeni* must, within a reasonable period after the position has become vacant, having regard to the circumstances, applicable customary law and customs, and the guidelines contained in Schedule 2 –

- (i) identify a person to assume the position of *iNkosi*;
- (ii) inform *iSilo*, in writing, of the person identified to fill the position of *iNkosi*, providing reasons for such identification;
- (iii) in writing, inform the Premier and the MEC of the person identified to fill the position of *iNkosi* as well as the reasons for such identification: Provided that the notification to the Premier must include proof that item (ii) has been complied with; and

(b) the Premier, after consultation with the MEC, and subject to sub-sections (2) and (3), must recognise a person so identified as contemplated in paragraph (a)(i) as *iNkosi*.

(2) The following grounds exclude any person from being recognised as *iNkosi*:

- (a) the conviction of an offence for which a sentence of imprisonment of more than 12 months without the option of a fine was imposed;
- (b) physical incapacity or mental infirmity which, based on acceptable medical evidence, makes it impossible for *iNkosi* to function as such;
- (c) a determination by the National Commission as contemplated in section 26(2)(b) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), that a previous appointment or recognition of the person concerned was made incorrectly; or
- (d) a transgression of customary law or a custom that warrants non-recognition.

(3) Where there is evidence or an allegation that the identification of the person identified for recognition as *iNkosi* was not done in terms of custom and customary law, the Premier may –

- (a) appoint a person or persons to conduct an investigation and to provide a report on whether the identification of the person was done in terms of custom and customary law; or
  - (b) nonetheless recognise the person so identified as *iNkosi*.
- (4) The Premier, after having considered the report contemplated in sub-section (3)(a), may—
  - (a) recognise the person so identified as *iNkosi*; or
  - (b) refuse to recognise the person so identified as *iNkosi*, in which event the Premier must inform *uMndeni* of the reasons for his or her decision and request *uMndeni* to identify another person as contemplated in sub-section (1).
- (5) The recognition of the person identified as *iNkosi* as contemplated in this section must be done by way of —
  - (a) publication of a notice of recognition in the *Provincial Gazette* by the Premier; and
  - (b) the issuing of a certificate of recognition to *iNkosi* concerned.
- (6) Upon publication of the notice of recognition of *iNkosi* in the *Provincial Gazette*, the Head of the Department must inform *iSilo*, the Provincial House and the Local House concerned of the recognition of *iNkosi*.

#### **Identification and recognition of *iziPhakanyiswa***

**14.** For the purposes of the identification and recognition of *iziPhakanyiswa*, the process as contemplated in section 13, applies with the necessary changes provided that —

- (a) such recognition shall be for a period of five years;
- (b) any reference to *uMndeni* is deemed to refer to an electoral college; and
- (c) the customary identification processes referred to in section 13(1)(a) are replaced by a democratic election, to be held in the prescribed manner.

#### **Identification and recognition of *iziNduna***

**15.(1)** Whenever the position of *iNduna* for a specific *isiGodi* is to be filled —

- (a) a person who is to assume the position of *iNduna* must, in terms of customs or customary law, be identified by *iNkosi* or be nominated by the community concerned at an *imbizo* called for that purpose, within a reasonable time after the need arises for

such a position to be filled, taking into account whether any of the grounds referred to in section 13(2) apply to that person;

(b) *iNkosi* must apply to the Premier for the recognition of the person so identified or nominated and provide the Premier with the particulars of such person; and

(c) the Premier concerned must recognise the person so identified or nominated as *iNduna*, as contemplated in section 13(5), read with the necessary changes.

#### **Identification and Recognition of *iso leSilo* and *iso leNkosi***

**16.(1)** For the purposes of identification and recognition of *iso leSilo* and *iso leNkosi*, the provisions of section 13 apply with the necessary changes, provided that –

(a) *iSilo* identifies the persons for recognition as *iso leSilo* in the *uSuthu isiZwe* and its sub-*iziZwe*; and

(b) *iNkosi* identifies the persons for recognition as *iso leNkosi* in any sub-*isiZwe* established and recognised as contemplated in section 7.

(2) In the event that *iso leSilo* or *iso leNkosi* should pass away, retire or resign at any stage whilst *uSuthu isiZwe* or any other *isiZwe* does not have a recognised *iSilo*, *iNkosi*, *iBambabukhosi* or *iBambela*, as the case may be, the Premier must, within a period of 90 days of the position becoming vacant, recognise a suitable person from the members of the sub-*isiZwe* to manage the affairs of the sub-*isiZwe* concerned, until *iSilo*, *iNkosi*, *iBambabukhosi* or *iBambela*, as the case may be, is recognised and appoints *iso leSilo* or *iso leNkosi*, as case may be.

#### **Identification and recognition of *iBambabukhosi*, *iBambela*, and *iSekela leNkosi***

**17.(1)** The provisions of section 13 apply with the necessary changes to the identification and recognition of *iBambabukhosi*, *iBambela* and *iSekela leNkosi*: Provided that –

(a) *iBambabukhosi* may only be identified and recognised where the successor to the leadership position concerned has been identified, but is still a minor in accordance with the customs and customary law of *isiZwe* concerned;

(b) *iBambela* may only be identified and recognised where –

(i) a successor to the leadership position concerned has not been identified;

(ii) the identification of the successor to the leadership position concerned is being reconsidered as contemplated in section 13(3), as the case may be;

(iii) *iSilo*, *iNkosi* or *isiPhakanyiswa* recognised as contemplated in sections 12, 13 or 14, as the case may be, will be absent from his or her area of jurisdiction for a period of more than six months for –

(aa) the treatment of illness;

(bb) study purposes; or

(cc) any other lawful purpose, excluding circumstances contemplated in paragraph (c); and

(c) *iSekela leNkosi* must be identified and recognised by *iNkosi* or *isiPhakanyiswa* after consultation with *uMndeni* or the electoral college, as the case may be, for the duration of the absence of *iNkosi* or *isiPhakanyiswa*, as the case may be, where such *iNkosi* or *isiPhakanyiswa* –

(i) becomes a full-time member of a municipal council;

(ii) is elected as a member of a provincial legislature;

(iii) is elected as a member of the National Assembly;

(iv) is appointed as a permanent delegate to the National Council of Provinces;

(v) is elected to, or appointed in, a full-time position in the National or Provincial House or a Local House;

(vi) is appointed as a full-time member of the National Commission;

(vii) is appointed as a member of the Commission; or

(viii) is appointed in a full-time position in any of the three spheres of government.

(2) Notwithstanding the provisions of sub-section (1)(b) the Premier must, in the event that *uMndeni* fails to identify a person for recognition as *iNkosi* or *iBambabukhosi* within a period of 60 days after the date on which the position has become vacant, after consultation with *uMndeni*, identify and recognise a suitable person who is either an *iNduna* or a member of the Traditional Council, as *iBambela*, until such time that *iNkosi* or *iBambabukhosi* is identified as contemplated in sections 13 or 17.

(3) The recognition of *iBambabukhosi*, *iBambela* and *iSekela leNkosi* must be reviewed by the Premier at least once every five years.

(4) The notice of recognition of *iBambabukhosi* published by the Premier in the *Provincial Gazette* must stipulate the identity of the successor to *ubuKhosi*, on whose behalf *iBambabukhosi* has been recognised, and *iBambabukhosi* must acknowledge that he or she has no claim to *ubuKhosi* by completing the form contemplated in Schedule 3.



**Grounds for withdrawal of recognition of Traditional Leaders****18. The recognition of any Traditional Leader –**

(a) must be withdrawn if he or she –

- (i) has been convicted of an offence with a sentence of imprisonment for more than 12 months without the option of a fine;
- (ii) suffers from a physical incapacity or mental infirmity which, based on acceptable medical evidence, makes it impossible for that *iNkosi* or *iNduna* to function as such;
- (iii) no longer permanently resides within the area of the Traditional Council;
- (iv) has been removed from office in terms of the code of conduct; or
- (v) a determination by the National Commission as contemplated in section 25 of the Traditional Leadership and Governance Framework Act, 2003 (Act No 41 of 2003), that a previous appointment or recognition of the person concerned was made incorrectly; and

(b) may be withdrawn if he or she has transgressed a customary law or custom, on a ground that warrants withdrawal of recognition.

**Withdrawal of recognition of *amaKhosi*****19.(1) Whenever any of the grounds contemplated in –**

- (a) section 13(2) come to the attention of *uMndeni*, *uMndeni* must request the Premier, in writing, to withdraw the recognition of *iNkosi* concerned; or
- (b) section 13(3) come to the attention of *uMndeni* and *uMndeni* decides to recommend the withdrawal of the recognition of *iNkosi*, *uMndeni* must, in writing, inform the Premier of the particulars of, and the reasons for, the requested removal.

(2) In the event that the Premier decides to remove *iNkosi*, the Premier must withdraw the recognition of *iNkosi* by notice in the *Provincial Gazette*, which notice must provide particulars of the reasons for the withdrawal of recognition.

(3) Upon publication of the notice of withdrawal of recognition of *iNkosi* in the *Provincial Gazette*, the Head of the Department must inform *iSilo*, *uMndeni*, the Provincial House and the Local House concerned of the withdrawal of recognition of *iNkosi*.

(4) Where the Premier has withdrawn the recognition of *iNkosi*, as contemplated in sub-section (2), the identification and recognition of a successor as contemplated in section 13 must commence forthwith.

#### **Withdrawal of recognition of *isiPhakanyiswa***

20.(1) Whenever any of the grounds contemplated in –

- (a) section 13(2) come to the attention of the Traditional Council or members of *isiZwe*, the Traditional Council or members of *isiZwe* must request the Premier to withdraw the recognition of *isiPhakanyiswa* concerned; or
- (b) section 13(3) come to the attention of the Traditional Council or members of *isiZwe*, and the Traditional Council or members of *isiZwe* decide to recommend the withdrawal of the recognition of *isiPhakanyiswa*, the Traditional Council or members of *isiZwe* must, in writing, inform the Premier of the particulars of, and the reasons for, the requested removal.

(2) In the event that the Premier decides to remove *isiPhakanyiswa*, the Premier must withdraw the recognition of *isiPhakanyiswa* by notice in the *Provincial Gazette*, which notice must provide particulars of the reasons for the withdrawal of recognition: Provided that the recognition of *isiPhakanyiswa*, at the conclusion of his or her term of office, is terminated without the necessity of a notice in the *Provincial Gazette*.

(3) Upon publication of the notice of withdrawal of recognition of *isiPhakanyiswa* in the *Provincial Gazette*, the Head of the Department must inform *iSilo*, the Provincial House and the Local House concerned of the withdrawal of recognition of *isiPhakanyiswa*.

(4) Where the Premier has withdrawn the recognition of *isiPhakanyiswa*, as contemplated in sub-section (2), the process to elect a new *isiPhakanyiswa*, as contemplated in section 14, must commence within a period of 60 days.

#### **Withdrawal of recognition of *iziNduna***

21.(1) Whenever any of the grounds contemplated in –

- (a) section 13(2) come to the attention of *iNkosi*, the Traditional Council or members of *isiZwe*, *iNkosi*, the Traditional Council or members of *isiZwe* must then request the Premier to withdraw the recognition of *iziNduna* concerned; or

(b) section 13(3) come to the attention of *iNkosi*, the Traditional Council or members of *isiZwe*, and *iNkosi*, the Traditional Council or members of *isiZwe* decide to recommend the withdrawal of the recognition of *iNduna*, *iNkosi*, the Traditional Council or members of *isiZwe* must, in writing, inform the Premier of the particulars of, and the reasons for, the requested removal.

(2) In the event that the Premier decides to remove *iNduna*, the Premier must withdraw the recognition of *iNduna* by notice in the *Provincial Gazette*, which notice must provide particulars of the reasons for the withdrawal of recognition.

(3) Upon publication of the notice of withdrawal of recognition of *iNduna* in the *Provincial Gazette*, the Head of the Department must inform *iNkosi* and the Traditional Council concerned of the withdrawal of recognition of *iNduna*.

(4) Where the Premier has withdrawn the recognition of *iNduna*, as contemplated in sub-section (2), the process to recognise a new *iNduna*, as contemplated in section 15, must commence within a period of 60 days.

#### **Withdrawal of recognition of *iso leSilo* and *iso leNkosi***

22.(a) Whenever *iSilo* or *iNkosi* decides to remove *iso leSilo* and *iso leNkosi*, he or she must inform the Premier, in writing, of such decision, whereafter the Premier must withdraw the recognition of *iso leSilo* and *iso leNkosi*.

(b) The provisions of section 13(5) apply to the withdrawal of recognition contemplated in paragraph (a).

#### **Removal of *iBambabukhosi*, *iBambela* and *iSekela leNkosi***

23. The recognition of *iBambabukhosi*, *iBambela* and *iSekela leNkosi* –

(a) is withdrawn by operation of law where –

(i) in the case of *iBambabukhosi* and *iBambela* the successor to the position of *iNkosi* is recognised as contemplated in section 13; or

(ii) in the case of *iSekela leNkosi*, when the circumstances leading to the absence of *iNkosi* as contemplated in section 17(1)(c), no longer exist; or

(b) may be withdrawn in accordance with the provision of section 18, 68 or 70.

## CHAPTER 4

### ESTABLISHMENT, COMPOSITION AND RECOGNITION OF KINGSHIP AND TRADITIONAL COUNCILS

#### **Establishment, composition and recognition of Kingship Council**

**24.** A Kingship Council must be established and recognised in KwaZulu-Natal in accordance with the provisions of section 3A of the Traditional Leadership and Governance Framework Act, 2003.

#### **Establishment, composition and recognition of Traditional Councils**

**25.(1)** Once the Premier has recognised an *isiZwe* as contemplated in section 5, *isiZwe*, with the assistance of the Department, must establish a Traditional Council as contemplated in this section and in compliance with Schedule 4, within a period of three months after the date of recognition of the community concerned.

(2) The number of members of a Traditional Council must, at a minimum, comprise of one-third women.

(3) The members of a Traditional Council, who must be at least 18 years old, must consist of

—

(a) Traditional Leaders and members of *isiZwe* selected by *iNkosi* concerned, who is an *ex officio* member and chairperson of the Traditional Council, for a term of five years, aligned with the term of office of the National House of Traditional Leaders, in terms of that community's customs, which may include consultation with *uMndeni*, taking into account the need for overall compliance with paragraph (b); and

(b) other members of *isiZwe* who are democratically elected in a prescribed manner, for a term of five years aligned with the term of office of the National House of Traditional Leaders and who must constitute 40% of the members of the Traditional Council: Provided that the term of office of members of the Traditional Council will not terminate until the date on which the newly elected members of the Traditional Council assume office.

(4) *iNkosi* must announce the names of the members of the Traditional Council selected by him or her in terms of sub-section (3)(a) before the remaining members of the Traditional Council are elected.

(5) *iNkosi* concerned must submit the names of the members of the Traditional Council and the particulars of the establishment of that Traditional Council to the Premier, in writing, within two weeks of the date of establishment of that council in terms of this section.

(6) Where an insufficient number of women are available to participate in the Traditional Council, as envisaged in sub-sections (3)(a) and (b), *iNkosi* concerned must submit proof to the Premier that an insufficient number of women are available to so participate.

(7) On receipt of the information contemplated in sub-sections (5) or (6), the Premier must consider whether the establishment of the Traditional Council concerned was done in accordance with this section and section 3 of the Traditional Leadership and Governance Framework Act, 2003.

(8) Where sub-section (6) is not applicable, and if the Premier is satisfied that this section and section 3 of the Traditional Leadership and Governance Framework Act, 2003, have been complied with, the Premier must, by notice in the *Gazette*, recognise the Traditional Council and determine its area of jurisdiction.

(9) Where sub-section (6) is applicable, the Premier may, if he or she is satisfied after consultation with *isiZwe* concerned that it has been proved that there is an insufficient number of women available to participate in the Traditional Council, determine a lower threshold than that required by section 3(2)(b) of the Traditional Leadership and Governance Framework Act, 2003, for that Traditional Council.

(10) After the Premier has determined a lower threshold in terms of sub-section (9) and the Premier is satisfied that the other provisions of this section and section 3 of the Traditional Leadership and Governance Framework Act, 2003, have been complied with, the Premier must, by notice in the *Gazette*, recognise the Traditional Council and determine its area of jurisdiction.

(11) The provisions of this section apply with the necessary changes to –

- (a) the establishment, composition and recognition of Traditional Councils chaired by *iziPhakanyiswa*; and
- (b) the re-constitution of Traditional Councils upon the expiry of the five year term of office of a Traditional Council.

(12) At the first meeting of a Traditional Council established and recognised as contemplated in this section, the members of the Traditional Council must elect a deputy chairperson from amongst its members, who must act as chairperson of the Traditional Council during the temporary absence of the chairperson of the Traditional Council.

(13) The provisions of this section, as well as sections 26 and 27, apply with the necessary changes to the establishment, composition and recognition of traditional sub-councils.

### **Vacating of seats and filling of vacancies**

**26.**(1) The seat of a member of a Traditional Council becomes vacant –

- (a) upon the death of the member;
- (b) if the member resigns in writing;
- (c) if the member has been convicted of an offence and sentenced to imprisonment of more than 12 months without the option of a fine; or
- (d) if the member is of unsound mind and has been so declared by a competent court.

(2) If a member of a Traditional Council vacates a seat, the chairperson of the Traditional Council must inform the Department of the vacancy within a period of 14 days after the date on which the vacancy occurred and the vacancy must be filled as contemplated in sub-sections (3) and (4) below: Provided that a member contemplated in this sub-section will only serve on the Traditional Council for the remainder of the term of office of the remaining members.

(3) Any vacancy amongst –

- (a) the selected members of a Traditional Council must be filled by *iNkosi*, as contemplated in section 25(3)(a), within a period of 30 days after the date on which the vacancy has occurred; or
- (b) the elected members of a Traditional Council must be filled, as contemplated in section 25(3)(b), within a period of 90 days after the date on which the vacancy has occurred.

### **Withdrawal of recognition of Traditional Councils**

**27.** In the event that the Premier withdraws the recognition of an *isiZwe* as contemplated in section 6, the notice contemplated in section 6(4)(b) must also provide for the simultaneous withdrawal of recognition of the Traditional Council concerned, as well as for related matters.

## CHAPTER 5

### ROLES, POWERS AND FUNCTIONS OF TRADITIONAL LEADERS

#### **Roles, powers and functions of *iSilo***

**28. *iSilo* must –**

- (a) uphold the Constitution and the laws of KwaZulu-Natal;
- (b) promote peace, stability and nation building;
- (c) serve as a symbol of –
  - (i) provincial unity; and
  - (ii) cross-cultural unity;
- (d) protect and promote –
  - (i) customary law and customs;
  - (ii) *iziZwe*;
  - (iii) traditional institutions; and
  - (iv) the Zulu royal legacy;
- (e) install *amaKhosi*;
- (f) participate in the activities of the Provincial House; and
- (g) carry out, execute and perform the roles, powers and functions provided for in –
  - (i) customary law and customs;
  - (ii) any other legislation; and
  - (iii) regulations published as contemplated in section 9(5)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003).

#### **Roles, powers, and functions of *amaKhosi***

**29.(1) *amaKhosi* must –**

- (a) protect and promote –
  - (i) customary law and customs; and
  - (ii) the institution of Traditional Leadership;
- (b) manage the affairs of *isiZwe* concerned as contemplated in this Act and other applicable legislation;
- (c) co-operate with, support and assist traditional institutions in the carrying out, execution and performance of their roles, powers and functions;
- (d) serve as a symbol of unity within *isiZwe* concerned;

- (e) promote indigenous knowledge systems for sustainable development and disaster management;
- (f) share information and co-operating with other *amaKhosi*;
- (g) act as chairperson of the Traditional Council recognised as contemplated in section 25;
- (h) act on behalf of the Traditional Council recognised as contemplated in section 25 when it is not in session;
- (i) be co-responsible with Traditional Councils recognised as contemplated in section 25 for the development of *iziZwe*, including their general socio-economic upliftment;
- (j) participate in municipal councils as contemplated in section 81 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
- (k) participate in the activities of the Local House;
- (l) participate in the activities of the Provincial House;
- (m) promote the ideals of co-operative governance, integrated development planning, sustainable development and service delivery;
- (n) meet at least once every six months with *isiZwe* concerned to –
  - (i) give account of their activities; and
  - (ii) provide information on the contents and implications of new laws and government programmes; and
- (o) carry out, execute and perform any other role, power or function allocated to *amaKhosi* as contemplated in this Act, other applicable legislation, customary law and customs.

(2) Provincial organs of state may, through legislative and administrative measures, provide for roles, powers or functions for *amaKhosi* in respect of –

- (a) arts and culture;
- (b) land administration;
- (c) agriculture;
- (d) health;
- (e) housing;
- (f) welfare;
- (g) the administration of justice;
- (h) safety and security;
- (i) the registration of births, deaths and customary marriages;
- (j) economic development;
- (k) environment;
- (l) tourism;



- (m) disaster management;
- (n) the management of natural resources;
- (o) the dissemination of information relating to government policies and programmes;
- and
- (p) education.

(3) Whenever an organ of state considers allocating roles, powers and functions to *amaKhosi* by means of assignments, delegations, agency agreements or powers of attorney, as contemplated in sub-section (2), that organ of state must –

- (a) seek the concurrence of the MEC;
- (b) consult with –
  - (i) the Provincial House; and
  - (ii) the Local House concerned;
- (c) ensure that the allocation of roles, powers and functions is consistent with the Constitution and applicable legislation;
- (d) take the customary law and customs of *isiZwe* concerned into consideration;
- (e) ensure that the allocation of roles, powers and functions is accompanied by sufficient skills development, administrative, financial and other support and that appropriate measures to account for such support are implemented;
- (f) ensure, to the extent that it is possible, that the allocation of roles, powers and functions is implemented uniformly; and
- (g) promote the constitutional principles of co-operative governance, the constitutional basic values and principles of public administration, integrated development planning, sustainable development and service delivery through the allocation of roles, powers and functions.

(4) In the carrying out, execution and performance of the roles, powers and functions contemplated in sub-sections (1) and (2), *amaKhosi* must –

- (a) keep proper records;
- (b) disclose the receipt of gifts as contemplated in the codes of conduct; and
- (c) adhere to both the codes of conduct.

(5) The organ of state concerned and the MEC must monitor the carrying out, execution and performance of the roles, powers and functions allocated to *amaKhosi* by the organ of state concerned: Provided that in the event that *amaKhosi* do not comply with any of the provisions of sub-sections (1) to (4), the MEC may intervene by taking any appropriate steps to ensure compliance.

(6) The provisions of this section apply with the necessary changes to *iziPhakanyiswa*.

**Roles, powers and functions of *iBambabukhosi*, *iBambela*, *iSekela leNkosi* and *iso leSilo***

30. For purposes of the roles, powers and functions of *iBambabukhosi*, *iBambela*, *iSekela leNkosi* and *iso leSilo*, the provisions of section 29(1), apply with the necessary changes.

**Allocation of roles, powers and functions to *iBambabukhosi*, *iBambela*, *iSekela leNkosi* and *iso leSilo* by organs of state**

31. For purposes of the allocation of roles, powers and functions to *iBambabukhosi*, *iBambela*, *iSekela leNkosi* and *iso leSilo* by organs of state, the provisions of section 29(2) apply with the necessary changes.

**Roles, powers and functions of *iziNduna***

32. *iNduna* must –

- (a) participate in the activities of municipal ward committees to promote the development of *isiGodi*;
- (b) represent *iNkosi* of *isiZwe* concerned where necessary;
- (c) identify development needs of *isiGodi*;
- (d) attend to conflict resolution issues;
- (e) disseminate information to communities;
- (f) attend meetings of *iziNduna* convened by *iNkosi* of *isiZwe* concerned;
- (g) attend to the allocation of residential areas; and
- (h) manage the day-to-day running of *isiGodi*.

**Roles, powers and functions of Traditional Councils**

33.(1) A Traditional Council must –

- (a) manage the affairs of *isiZwe* in accordance with the customary law and customs of the community concerned;
- (b) assist, support and guide *amaKhosi* and *iziPhakanyiswa* in the carrying out, execution and performance of their roles, powers and functions;
- (c) support municipalities in the identification of community needs;

- (d) facilitate the involvement of *isiZwe* concerned in the amendment of the Integrated Development Plan of the local municipality in whose area of jurisdiction that community resides;
- (e) recommend to government, after consultation with the local municipality, the Local House concerned and the Provincial House, appropriate mechanisms and steps that will contribute to the development of *isiZwe* concerned, as well as service delivery and development in general within the area of jurisdiction of the Traditional Council;
- (f) participate in the development of policy and legislation at local government level;
- (g) participate in development programmes of municipalities and of the provincial and national spheres of government;
- (h) promote the ideals of co-operative governance, integrated development planning, sustainable development and service delivery;
- (i) promote indigenous knowledge systems for sustainable development and disaster management;
- (j) alert the relevant municipality to any hazard or calamity that threatens the area of jurisdiction of the Traditional Council in question, or the well-being of people living in such area of jurisdiction and contribute to disaster management in general;
- (k) share information and co-operate with other Traditional Councils;
- (l) co-operate with all municipal ward committees within its area of jurisdiction;
- (m) meet at least once every six months with its *isiZwe* to give account of the activities and finances of the Traditional Council; and
- (n) carry out, execute and perform any other role, power or function allocated to a Traditional Council as contemplated in this Act and other applicable legislation.

(2) Provincial Organs of State may, through legislative and administrative measures, provide for roles, powers and functions for Traditional Councils in respect of –

- (a) arts and culture;
- (b) land administration;
- (c) agriculture;
- (d) health;
- (e) housing;
- (f) welfare;
- (g) the administration of justice;
- (h) safety and security;
- (i) the registration of births, deaths and customary marriages;
- (j) economic development;
- (k) environment;

- (l) tourism;
- (m) disaster management;
- (n) the management of natural resources;
- (o) the dissemination of information relating to government policies and programmes;
- and
- (p) education.

(3) Whenever an organ of state considers allocating roles, powers and functions to a Traditional Council, by means of assignments, delegations, agency agreements or powers of attorney, as contemplated in sub-section (2), the provisions of section 29(3) apply with the necessary changes.

(4) A Traditional Council –

- (a) may enter into service delivery agreements with a municipality in accordance with the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and any other applicable legislation; and
- (b) must perform the customary roles, powers and functions provided for in the customary law and customs of *isiZwe* concerned, in addition to any roles, powers and functions allocated to a Traditional Council as contemplated in this Act and other applicable legislation; and
- (c) in the performance of its roles, powers and functions, must –
  - (i) keep proper records;
  - (ii) have its financial statements audited;
  - (iii) disclose the receipt of gifts in accordance with the codes of conduct; and
  - (iv) adhere to the codes of conduct.

(5) The MEC –

- (a) must monitor the carrying out, execution and performance of the roles, powers and functions allocated as contemplated in this Act and other applicable legislation to Traditional Councils, and
- (b) in the event that a Traditional Council does not comply with any of the provisions of sub-sections (1), (2) and (4), may intervene by taking any appropriate steps to ensure compliance.

(6)(a) The MEC, if he or she is satisfied that a Traditional Council is unable to perform the functions assigned to it in terms of this Act in an efficient and effective manner, or in a manner that promotes good governance and administration, may appoint any person as an

administrator to assist the Traditional Council concerned to perform the powers and functions of such Traditional Council.

(b) The administrator appointed as contemplated in paragraph (a) must be competent to exercise and perform any power or function conferred or imposed by law upon the Traditional Council concerned and will be deemed to have exercised or performed such power or function on behalf of the Traditional Council.

(c) The appointment of the administrator contemplated in this sub-section must be reviewed after a period of 180 days.

(7) The provisions of this section and section 34 apply with the necessary changes to any traditional sub-council established and recognised as contemplated in section 7.

#### **Partnerships between municipalities and Traditional Councils**

**34.** The Department must promote partnerships between municipalities and Traditional Councils, which must be –

- (a) based on the principles of mutual respect and recognition of the status and roles of the respective parties; and
- (b) guided by and based on the constitutional principles of co-operative governance and the constitutional basic values and principles governing public administration.

#### **Staffing of Traditional Councils**

**35.(1)** The MEC must provide support to Traditional Councils, which may include secondment of staff to Traditional Councils, taking into consideration the extent of the areas of jurisdiction of Traditional Councils and the needs of *isiZwe* concerned.

(2) The staff seconded to Traditional Councils must report to a person designated by *iNkosi* concerned.

(3) Any unacceptable behaviour or conduct of the staff seconded to Traditional Councils must be reported to the MEC.

#### **Meetings of Traditional Councils**

**36.(1)** *iNkosi* must, within 21 days after the establishment of a Traditional Council in terms of section 25, convene the first meeting of the Traditional Council.

(2)(a) Meetings of Traditional Councils are chaired by *iNkosi* under whose area of jurisdiction the Traditional Council falls, unless *iNkosi* is absent from a meeting, in which event that meeting will be chaired by the deputy chairperson.

(b) The deputy chairperson of a Traditional Council is elected by the members of that Traditional Council at its first meeting: Provided that the deputy chairperson only presides at any meeting of the Traditional Council in the event that *iNkosi* is absent.

(c) In the event that both the chairperson and deputy chairperson are absent from a meeting, that meeting must be chaired by an acting chairperson, who must be elected by the members present at the meeting, from one of their number.

(3) Every Traditional Council must hold an ordinary meeting at least once every quarter on a day and time determined by the chairperson.

(4) A written notice of the meeting must be given to all members of the Traditional Council at least seven days prior to the date of the meeting.

(5) The procedure to be followed at any meeting of the Traditional Council must be in accordance with customary law and customs.

### **Minutes of meetings**

**37.**(1) Every Traditional Council must keep minutes of each of its meetings in which the following must be recorded –

- (a) the date, time and place of the meeting;
- (b) the names of the members present;
- (c) a summary of every decision taken at the meeting; and
- (d) if a member so requests, the fact that he or she voted against any decision taken.

(2) A copy of the minutes must, within fifteen days after any meeting, be forwarded to the relevant district office of the Department.

### **Subsistence and traveling allowances for members of Traditional Councils**

**38.** The Premier, in consultation with the MEC and the Member of the Executive Council responsible for Finance, may determine the subsistence and traveling allowances payable to members of Traditional Councils.

## CHAPTER 6

### HOUSES OF TRADITIONAL LEADERS

#### **Establishment and membership of KwaZulu-Natal Provincial House of Traditional Leaders**

**39.**(a) The KwaZulu-Natal Provincial House of Traditional Leaders is hereby established.

(b) The term of office of members of the Provincial House is five years, which period must be aligned to the term of office of the members of the National House of Traditional Leaders: Provided that the term of office of members of the Provincial House will not terminate until the date on which the newly elected members of the Provincial House assume office.

(c) Subject to the provisions of section 40(1)(a), the members contemplated in this section must be chairpersons of Traditional Councils established and recognised as contemplated in section 25 and are eligible for re-election.

#### **Composition and seat of Provincial House**

**40.**(1) The Provincial House consists of the following members –

(a) *iSilo* or his or her nominee; and

(b) a minimum of three and a maximum of seven members elected from each Local House of Traditional Leaders.

(2) Each Local House must, subject to sub-section (1)(b), elect from its members the number of representatives to the Provincial House contemplated in Schedule 5.

(3) The seat of the Provincial House will be determined by the Executive Council from time to time, after consultation with the Executive Committee of the Provincial House.

(4) A Provincial House may establish and elect an executive committee comprising no more than 10 members of that Provincial House, which committee has the powers and functions –

(a) conferred upon it by the Rules of the Provincial House; and

(b) delegated to it by the Provincial House.

#### **Qualification for membership of the Provincial House**

**41.** A person is not eligible to become a member of the House if that person –

- (a) is a full-time member of a municipal council, a member of provincial legislature or a member of Parliament;
- (b) at the time of the election of members of the House, is serving a sentence of imprisonment;
- (c) is an unrehabilitated insolvent;
- (d) is of unsound mind and has been so declared by a competent court;
- (e) has been convicted of a criminal offence and sentenced to more than 12 months' imprisonment without the option of a fine;
- (f) is not a South African citizen; or
- (g) is not permanently resident within the Republic of South Africa.

#### **Vacation of seats in the Provincial House**

**42.** The seat of a member of the Provincial House becomes vacant –

- (a) upon the death of a member;
- (b) if the member resigns by written notice under his or her hand;
- (c) if the member becomes disqualified in terms of section 41;
- (d) if he or she, without having obtained leave in accordance with the rules and orders, absents himself or herself from three consecutive meetings of the House; or
- (e) is removed from the Provincial House for breach of the code of conduct contained in Part C of Schedule 7 to this Act.

#### **Filling of vacancies in the Provincial House**

**43.(1)** Where a vacancy occurs in the Provincial House, the Secretary of the Provincial House must, within 14 days, inform the MEC of such a vacancy occurring, whereafter the MEC must, within a reasonable period, inform the Premier.

(2) A vacancy in the House must be filled, within 60 days, by the election of a member for the unexpired portion of the term of office of the member in whose place he or she is elected, and in the same manner in which the latter member was elected.

(3) A vacancy must be filled as contemplated in section 40(2) of this Act.



**Election of Chairperson and Executive Committee of Provincial House**

**44.**(1) The Provincial House must meet within 30 days after the election of a new House at a time and place to be determined by the Premier by notice in the *Provincial Gazette*.

(2) At the meeting contemplated in sub-section (1), a Judge of the High Court of the Republic of South Africa must act as chairperson until such time as the chairperson and deputy chairperson of the Provincial House have been elected by members of the House, whereafter the Chairperson of the House must conduct the election of the remaining members of the Executive Committee of the House.

(3) Subject to the provisions of sub-section (8), the chairperson and deputy chairperson hold office for the term of the Provincial House and they are eligible for re-election at the expiry of their term of office: Provided that no member may serve as a chairperson or deputy chairperson for more than two consecutive terms.

(4) The chairperson has the powers and functions assigned to him or her in terms of this Act and the rules and orders of the Provincial House.

(5) If the chairperson is absent or for any reason is unable to perform his or her functions, or when the office of chairperson is vacant, the deputy chairperson must act as chairperson until the chairperson returns or is again able to properly perform his or her functions, or until a new chairperson is elected.

(6) If any of the circumstances described in sub-section (5) applies to both the chairperson and the deputy chairperson, a member of the Provincial House elected by members present at the meeting must act as chairperson for as long as the circumstances contemplated in sub-section (5) prevail.

(7) The deputy chairperson or the member elected as contemplated in sub-section (6) may exercise the powers and must perform the functions of the chairperson.

(8) The chairperson or deputy chairperson –

- (a) must vacate his or her office if he or she ceases to be a member of the Provincial House;
- (b) may be removed from office by a vote of no confidence supported by a 75% (seventy-five per cent) majority of all the members of the Provincial House; and
- (c) may resign by lodging his or her resignation, in writing, with the secretary to the Provincial House.

(9) In the event that the chairperson or deputy chairperson vacates his or her seat, the process contemplated in sub-section (2) must be followed to elect a new chairperson or deputy chairperson.

(10) The Executive Committee or any member thereof may carry out such functions, execute such powers and perform such duties as may be delegated by the Provincial House during any time whenever the Provincial House is not in session.

(11) The Executive Committee and any member thereof, who has carried out functions, executed powers and performed duties contemplated in sub-section (10), must submit a report for ratification of any such action taken to the House at the next session of the House.

(12) If the position of any member of the Executive Committee becomes vacant before the expiry of his or her term of office, his or her position must be filled by another member within 45 days, which member will serve for the remainder of the current term of office of the remaining members of the Executive Committee.

#### **Status of members of Provincial House**

45.(a) The chairperson and the deputy chairperson are full-time members of the Provincial House.

(b) The Premier may, after consultation with the Provincial House, determine by notice in the *Provincial Gazette* that certain other members of the Provincial House are to serve as full-time members of the Provincial House.

#### **Election of representatives to National House**

46. The Provincial House must, in its first sitting, elect its representatives to serve in the National House in accordance with the provisions of section 4 of the National House of Traditional Leaders Act, 2009 (Act No. 22 of 2009).

#### **Meetings of Provincial House**

47.(1) While presiding at a meeting of the Provincial House, the chairperson, deputy chairperson or other member presiding does not have a deliberative vote, but has a casting vote in the case of an equality of votes.

- (2) An ordinary meeting of the House must be held at least once quarterly.
- (3) In addition to the ordinary meetings of the Provincial House, the executive committee may, at any time, and if so directed by the Premier, call a special meeting of the Provincial House on a day and at a place to be determined by the executive committee.
- (4) At a special meeting called by the executive committee, only those matters that are placed before the House may be dealt with.
- (5) If a special meeting is called at the direction of the Premier, only those matters which necessitated the calling of the special meeting may be dealt with.
- (6) The chairperson may convene a special meeting of the Provincial House, within a period of seven days, upon receiving a written request by at least ten members of the Provincial House.
- (7) Should the chairperson fail to convene a special meeting of the Provincial House, as contemplated in sub-section (6), such members may, on the expiry of the period contemplated in sub-section (6), request the Premier to call a special meeting of the Provincial House.
- (8) Notice of meetings of the Provincial House must be given to all members in such manner and form as the Provincial House may, from time to time, determine.
- (9) An officer from the Department, designated by the MEC, may attend the meetings of the Provincial House to advise the House regarding government policies and legislation that relate to traditional affairs.

### **Rules of Provincial House**

**48.** After the election of the Executive Committee as contemplated in section 44(2), the Provincial House must adopt its Rules of procedure in respect of the following matters –

- (a) interim rules by the Chairperson;
- (b) suspension or amendment of rules;
- (c) quorum and meetings of the Provincial House;
- (d) vacating of office and filling of vacancies;

- (e) nomination of members to the National House, of which a sufficient number must be female;
- (f) powers and functions of the Chairperson;
- (g) standing and portfolio committees;
- (h) election and duration of appointment of conveners and members of committees;
- (i) powers and functions of committees and conveners of committees;
- (j) code of conduct for members;
- (k) committee meetings;
- (l) sub-committees;
- (m) minutes of meetings and committee reports;
- (n) rules of debate and motions in the Provincial House;
- (o) consideration of draft legislation by the Provincial House;
- (p) duties of the secretary of the Provincial House; and
- (q) any other matter related or incidental to the effective functioning of the Provincial House.

### **Roles, powers and functions of Provincial House**

**49.(1)** The Provincial House has –

- (a) the roles, powers and functions conferred upon it by this Act; and
- (b) any other roles, powers and functions –
  - (i) conferred or imposed upon it by national legislation; and
  - (ii) allocated to it by the MEC.

**(2)** The Provincial House must –

- (a) represent, protect and promote –
  - (i) the interests of all *iziZwe* recognised as contemplated in section 5; and
  - (ii) the institution of Traditional Leadership; and
- (b) as the custodian of customary law and customs, ensure the protection and promotion thereof;
- (c) at the request of the MEC, conduct research and advise the MEC on –
  - (i) the formulation of policies, standards and guidelines in respect of the development of *iziZwe*, Traditional Councils and Local Houses;
  - (ii) proposed executive or administrative action by government affecting *iziZwe*, traditional institutions, customary law and customs;
  - (iii) draft provincial legislation dealing with or affecting *iziZwe*, traditional institutions, customary law and customs; and

- (iv) mechanisms to ensure and enhance the effective participation of traditional institutions in governance;
- (d) at the request of the MEC, consider and make recommendations to the MEC on –
  - (i) provincial programmes relating to traditional affairs;
  - (ii) the contents and co-ordination of integrated development plans;
- (e) comment, in writing, on Provincial bills dealing with or affecting *iziZwe*, traditional institutions, customary law and customs within 30 days from the date on which the bill was referred to it by the Speaker of the Provincial Legislature, as contemplated in section 57; and
- (f) generally do everything that is reasonably necessary for or incidental to its roles, powers and functions.

(3) The Provincial House must –

- (a) keep proper records;
- (b) have its financial statements audited by the Auditor-General;
- (c) in addition to quarterly meetings, hold an annual meeting with Local Houses to give account of the activities and finances of the House;
- (d) enforce the Code of Conduct contained in Schedule 7 to this Act;
- (e) establish clear relationships with, and facilitate co-operation and communication between itself, Local Houses as well as municipalities;
- (f) maximize the efficiency of communication and decision-making within the administration of the House;
- (g) assign clear responsibilities for the management and co-ordination of the administration of the House; and
- (h) create and promote an equitable, fair, open, non-discriminatory and supportive environment for all *iziZwe* and Local Houses in the Province.

**Administration and accountability of the Provincial House**

**50.(1)** The MEC must, in terms of the provisions of the Public Service Act, 1994 (Proclamation 103 of 1994), appoint a person as Secretary to the Provincial House who must –

- (a) exercise or perform the powers and functions conferred upon or delegated to the Secretary by this Act and the rules and orders; and
- (b) subject to the directions of the Provincial House, perform such work as is incidental to the exercise or performance by the House of its powers and functions.

(2) The MEC must, subject to the Public Service Act, 1994, second as many staff members as may be necessary to discharge the work of the Provincial House.

(3) The Secretary must be supported in the exercise or performance of his or her powers and functions by officers of the Department seconded in terms of sub-section (2) for that purpose.

### **Remuneration, allowances and benefits payable to members of Provincial House**

**51.** The remuneration of and payment of allowances and benefits to the Chairperson, Deputy Chairperson and ordinary members of the Provincial House are as determined in the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998).

### **Support to Provincial House**

**52.** The Provincial government must adopt measures as may be necessary to support and strengthen the capacity of the House to fulfil its functions and such support may include the provision of –

- (a) infrastructure;
- (b) finances;
- (c) human resources;
- (d) skills development programmes; and
- (e) administrative systems.

### **Establishment of Local Houses of Traditional Leaders**

**53.(1)** A Local House is hereby established in the areas of district municipalities where there are five or more *iziZwe*.

(2) In the event that less than five *iziZwe* exist in the area of any district municipality, the Traditional Leaders within that district municipality must choose one from amongst their number to represent *iziZwe* at the sitting of meetings of such district municipalities.

### **Composition and executive committee of Local Houses**

**54.(1)** Each Local House consists of all *amaKhosi* within the district municipality.

- (2) A Local House may establish and elect an executive committee comprising of no more than seven members of that Local House.
- (3) An executive committee of a Local House has the roles and functions conferred or imposed upon it by that Local House conferred upon it by the Rules of the Local House concerned, or delegated to it by the Local House concerned.
- (4) The provisions of sections 41, 42, 43, 44, and 48 apply with the necessary changes to the Local Houses.

### **Meetings of Local Houses**

- 55.**(1) The responsible Member of the Executive Council must, by notice in the *Provincial Gazette*, convene the first meetings of Local Houses.
- (2) At the first meeting of a Local House a person appointed by the responsible Member of the Executive Council must act as Chairperson until such time as the Chairperson and Deputy Chairperson of that Local House have been elected by the members of that House.
  - (3) Meetings of Local Houses must be convened by written notice to all the members at least four days prior to the date of the meeting.

### **Roles Powers and Functions of Local Houses**

- 56.** The roles, powers and functions of all Local Houses of Traditional Leaders are to –
- (a) advise the district municipality or metropolitan municipality in question on –
    - (i) matters pertaining to customary law, customs, Traditional Leadership and the *iziZwe* within the district municipality or metropolitan municipality;
    - (ii) the development of planning frameworks that impact on *iziZwe*; or
    - (iii) the development of by-laws that impact on *iziZwe*; and
  - (b) participate in local programmes that have the development of rural communities as objective;
  - (c) participate in local initiatives that are aimed at monitoring, reviewing or evaluating government programmes in rural communities, and
  - (d) comment on any legislation of the district municipality concerned –
    - (i) affecting the customs or customary law of the *iziZwe* within its area of jurisdiction; and
    - (ii) regarding the provision of services or the demarcation of boundaries or land tenure which affects *iziZwe*.

**Referral of draft legislation to Provincial House and Local Houses**

**57.(1)** Any draft legislation dealing with or affecting *iziZwe*, traditional institutions, customary law and customs must be referred by the Speaker of the –

(a) Provincial Legislature to the Provincial House for its written comments, as contemplated in section 49(1)(f), before it is passed by the Provincial Legislature and any comment by the Provincial House must be tabled in the Provincial Legislature prior to the passing of the Provincial bill concerned; and

(b) Municipal Council to the Local House concerned for its written comments as contemplated in section 56(1)(d) before it is passed by the municipal council and any comment by the Local House concerned must be tabled in the municipal council prior to the passing of the draft municipal legislation concerned.

(2) The Provincial House must convene a special meeting to consider and make written representations on such draft legislation to the Provincial Legislature within 30 days of receipt thereof: Provided that in the event that the Provincial House fails to consider the draft legislation or fails to make written representations to the Provincial Legislature within 30 days of the referral, the draft legislation may be put to the vote in the Provincial Legislature without further notice to the Provincial House.

(3) If the Local House objects to such draft legislation, its comments and recommendations may be referred to the responsible Member of the Executive Council and the Provincial Legislature within 30 days.

**CHAPTER 7****KWAZULU-NATAL PROVINCIAL COMMISSION ON TRADITIONAL LEADERSHIP  
DISPUTES AND CLAIMS****Establishment of KwaZulu-Natal Provincial Commission on Traditional Leadership  
Disputes and Claims**

**58.** The KwaZulu-Natal Provincial Commission on Traditional Leadership Disputes and Claims is hereby established.

**Composition and term of office of Provincial Commission**

**59.(1)** The Premier, in consultation with the MEC and the Member of the Executive Council responsible for finance, must, within a period of three months after the promulgation of this



Act, and by notice in the *Provincial Gazette*, appoint a maximum of five persons as members of the Provincial Commission who have expert knowledge regarding the historical and present legal and administrative context concerning –

- (a) *iziZwe*;
- (b) customary law and customs;
- (c) Traditional Leadership;
- (d) traditional land; or
- (e) other traditional institutions.

(2) The term of office of members of the Provincial Commission is five years: Provided that –

- (a) any member may be re-appointed for one further term of five years; and
- (b) the notice contemplated in sub-section (1) must include the terms and conditions of appointment of the members of the Provincial Commission.

(3) The Premier may appoint the members of the existing Provincial Committee to the National Commission on Traditional Leadership Disputes and Claims, established in terms of section 26A of the Traditional Leadership and Governance Framework Act, 2003, to the Provincial Commission.

#### **Meetings and rules of Provincial Commission**

60.(1) The Provincial Commission must meet within 30 days after the date of the notice contemplated in section 59(1) to determine the rules for the conduct and management of its proceedings.

(2) The Provincial Commission must meet as and when necessary to consider and rule on any dispute or claim referred to it as contemplated in section 62.

#### **Vacancies and filling of vacancies**

61.(1) A vacancy occurs whenever a member of the Provincial Commission –

- (a) dies;
- (b) resigns by giving written notice to the Premier;
- (c) is removed as contemplated in section 64;
- (d) becomes a full-time member of a municipal council;
- (e) is elected as a member of a provincial legislature;
- (f) is elected as a member of the National Assembly;
- (g) is appointed as a permanent delegate to the National Council of Provinces;

- (h) is elected to, or appointed in, a full-time position in the National or Provincial House or a Local House;
- (i) is appointed as a full-time member of the National Commission; or
- (j) is appointed in a full-time position in any of the three spheres of government.

(2) Any vacancy on the Provincial Commission must be filled whenever it arises as contemplated in section 59(1).

### **Powers and functions of Commission**

**62.(1)** The Commission, subject to the provisions of section 25 of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), must –

- (a) perform and execute the powers and functions contemplated in this Act;
- (b) investigate, report and make recommendations on any dispute or claim that was submitted to the National Commission after 1 September 2010, as well as any new dispute or claim lodged after the date of commencement of this Act;
- (c) investigate any matters referred to it by the Premier in accordance with the provisions of this Act; and
- (d) at the request of the MEC, investigate, report and make recommendations on any claim, dispute or other matter –
  - (i) relating to –
    - (aa) iziZwe;
    - (bb) Traditional Councils;
    - (cc) Traditional Leadership;
    - (dd) Traditional Leaders;
    - (ee) traditional land; and
    - (ff) other traditional institutions; or
  - (ii) involving a relationship between organs of state and the items contemplated in paragraph (i).

(2) The provisions of sections 3, 4, 5, 6, 7 and 9 of the KwaZulu-Natal Commissions Act, 1999 (Act No. 3 of 1999), apply with the necessary changes to the Commission.

(3) Any recommendations contemplated in sub-section (1) must be –

- (a) taken with the support of a majority of the members of the Commission; and
- (b) submitted to the Premier within 14 days after completion of the report for his or her decision.

(4) The Premier must, within a period of 60 days, make a decision on the recommendation: Provided that in the event that the Premier takes a decision that differs from the recommendation of the Commission, the Premier must provide written reasons for such decision to the Commission and the person or persons who lodged the dispute or claim.

(5) The Commission must provide a comprehensive report on its activities to the MEC either quarterly, or when requested to do so by the MEC.

#### **Support to Commission**

63.(1) The MEC must provide the necessary administrative, financial and other support to the Commission to perform and execute the powers and functions contemplated in this Act and any other applicable legislation.

(2) The Commission may, subject to the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999), appoint a person or an institution to conduct research on its behalf.

#### **Removal of members of Commission**

64. The Premier, in consultation with the MEC, may remove a member of the Commission on grounds of –

- (a) conviction of an offence with a sentence of imprisonment for more than 12 months without the option of a fine;
- (b) physical incapacity or mental infirmity which, based on acceptable medical evidence, makes it impossible for the member to function as such; or
- (c) such member having been declared insolvent by a competent court.

## **CHAPTER 8 GENERAL PROVISIONS**

#### **Oath of Office**

65. The oath and affirmation contained in Parts A and B to Schedule 7 to this Act apply, with the necessary changes, and must be taken by all Traditional Leaders, members of Traditional Councils, the Provincial House and Local Houses.

**Codes of Conduct**

66.(1) The Code of Conduct contained in Schedule 6 to this Act applies to all Traditional Leaders and members of Traditional Councils in KwaZulu-Natal: Provided that the provisions of Part C of the Code of Conduct contained in Schedule 7 to this Act also apply, with the necessary changes, to all Traditional Leaders and members of Traditional Councils in KwaZulu-Natal.

(2) The Code of Conduct contained in Schedule 7 to this Act applies to all members of the Provincial and Local Houses in KwaZulu-Natal: Provided that for the purposes of Part C of the said Code of Conduct, any reference to "*the House*" includes both the Provincial House and all Local Houses.

**Power of Executive Council to summon Traditional Leaders**

67.(1) The Executive Council may, whenever it deems it necessary, summon any Traditional Leader in writing to appear before it in order to investigate –

- (a) any matter which is harming or is likely to harm isiZwe concerned;
- (b) any matter of importance or concern which directly or indirectly affects such Traditional Leader in his or her capacity as such, or which affects the Provincial Government in the performance of its functions; or
- (c) any other matter likely to prejudicially affect the administration of the Provincial Government in the area of isiZwe concerned.

(2) The Executive Council may, after it has considered the matter –

- (a) direct the Traditional Leader to take certain steps to resolve the problem; or
- (b) instruct the responsible Member of the Executive Council to institute an inquiry in terms of section 68 whenever there is reason to believe the Traditional Leader is guilty of misconduct.

**Inquiry into misconduct**

68.(1) Whenever there is reason to believe that a Traditional Leader is guilty of misconduct in that he or she –

- (a) fails or refuses to comply with the provisions of this Act or any other law with which it is his or her duty to comply;
- (b) has breached the Code of Conduct;

- (c) disobeys, disregards or wilfully defaults in carrying out a lawful order given to him or her by a competent authority;
- (d) conducts him or herself in a disgraceful, improper or unbecoming manner;
- (e) uses intoxicants or drugs excessively;
- (f) abuses his or her powers or extorts, or by the use of compulsion or arbitrary means obtains any tribute, fee, reward or gift;
- (g) tries or punishes any person without the necessary authority to do so;
- (h) is negligent or indolent in the discharge of his or her duties; or
- (i) has been convicted of an offence,

the responsible Member of the Executive Council must charge the Traditional Leader, in writing, with such misconduct.

(2) The charge referred to in sub-section (1) must –

- (a) set out particulars of the allegations which have been made against the Traditional Leader; and
- (b) direct the Traditional Leader to respond to the allegations, in writing, within 21 days, which response must be an admission or denial of the allegations, and which may be accompanied by a written explanation of the circumstances surrounding the matter.

(3) If the Traditional Leader denies the charge or fails to respond thereto within the specified time, the responsible Member of the Executive Council must appoint a presiding officer to conduct an enquiry into the allegations.

(4) The presiding officer appointed in terms of sub-section (3) above must convene an enquiry into the allegations and must give the Traditional Leader who has been charged no less than 14 days' notice of the date, time and place of the enquiry.

(5) At the enquiry the Traditional Leader charged must be granted the right to be heard, either personally or through a legal representative, and may cross-examine any person called as a witness by the presiding officer conducting the enquiry, inspect any document produced in evidence, give evidence in person and call any other persons as witnesses.

(6) The presiding officer must keep a record of the proceedings of the enquiry.

(7) The presiding officer may subpoena any person to attend the enquiry and to adduce evidence relating to the charge against the Traditional Leader.

(8) Any person subpoenaed in terms of sub-section (7) who fails to attend the enquiry at the time, date and place specified in the subpoena commits an offence and may, on conviction, be sentenced to a fine or to imprisonment not exceeding a period of six months.

(9) The failure of the Traditional Leader charged to attend the enquiry without a valid reason, either personally or by a legal representative, does not invalidate the proceedings against him or her.

(10) At the conclusion of the enquiry the presiding officer must forward to the Executive Council his or her findings, the record of the proceedings, any observations and recommendations which he or she may wish to make, and (if applicable) any recommended sanction.

(11) The Executive Council may, after considering a finding of misconduct, any comments and recommendation of the presiding officer, together with any representations made by the Traditional Leader concerned, impose on that Traditional Leader either one or more of the following sanctions –

- (a) a formal written warning;
- (b) a suspension order without remuneration for a period not exceeding three months;
- (c) a fine, not exceeding an amount equal to three month's remuneration, which may be recovered from remuneration paid to him or her in terms of the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998), in such instalments as the Executive Council may determine, and which must be paid into the Provincial Revenue Fund; or
- (d) a notice withdrawing recognition of that Traditional Leader.

(12) Any sanction as contemplated in sub-section (11) imposed by the Executive Council must be published by notice in the *Provincial Gazette*.

### **Suspension of Traditional Leader**

**69.(1)** The responsible Member of the Executive Council may, after consultation with the Premier, suspend from office any Traditional Leader who is suspected of misconduct pending the finalisation of proceedings instituted in terms of section 68 of this Act.

(2) Any Traditional Leader who has been suspended under this section is not entitled to any remuneration during the period of his or her suspension: Provided that the responsible Member of the Executive Council may, for good and sufficient reason, and upon representations from the said Traditional Leader, order payment of the whole or a portion of the remuneration due to that Traditional Leader during his or her suspension.

(3) The responsible Member of the Executive Council or the Executive Council may, after consultation with the Premier, withdraw the suspension of a Traditional Leader.

(4) *IBambabukhosi* may be appointed in accordance with the provisions of this Act to act for any suspended Traditional Leader where the responsible Member of the Executive Council deems it necessary.

#### **Breaches of codes of conduct**

70. Any breaches of the codes of conduct contained in Schedules 6 and 7 must be dealt with in accordance with the procedure contemplated in section 68.

#### **Contributions by members of *isiZwe***

71.(1) A Traditional Council may request members of an *isiZwe*, or any section of an *isiZwe*, to make a voluntary contribution to the Traditional Council concerned: Provided that –

- (a) no such contribution may be collected, unless the majority of the members of such an *isiZwe*, or any section of an *isiZwe*, at an *imbizo* convened for that purpose, have consented to the payment of such contribution;
- (b) such contributions may only be collected from members of *isiZwe* concerned for the purposes of –
  - (i) financing a specific project; or
  - (ii) any other customary purpose; and
- (c) the responsible Member of the Executive Council may prescribe the specific purposes and maximum contributions that may be levied as contemplated in this section.

(2) Any contributions paid as contemplated in this section must be deposited into a trust account, opened and managed on behalf of *isiZwe* concerned, by or on behalf of the Traditional Council.

**Regulatory powers**

**72.(1)** The Premier, after consultation with the MEC, may issue notices in the *Provincial Gazette* as contemplated in this Act.

**(2)** The MEC may, by notice in the *Provincial Gazette* –

- (a) make regulations, issue notices and publish guidelines in respect of –
  - (i) any matter which is required or permitted by this Act to be prescribed;
  - (ii) the introduction and implementation of a system of performance management for Traditional Councils, Traditional Leaders, the Provincial House and Local Houses; and
  - (iii) any election contemplated in this Act; and
  - (iv) any administrative or procedural matter necessary to give effect to the provisions of this Act, including the manner in which all elections contemplated in this Act are to be conducted; and
- (b) amend any Schedule to this Act.

**Juristic personality**

**73.** The following institutions have juristic personality –

- (a) Traditional Councils;
- (b) the Provincial House; and
- (c) Local Houses.

**Assets, liabilities and resources**

**74.** The institutions contemplated in section 73 –

- (a) may –
  - (i) acquire, own, possess, hold, lease, alienate, encumber, or dispose of any movable or immovable property;
  - (ii) acquire rights and incur liabilities in carrying out, executing and performing their roles, powers and functions as contemplated in this Act;
  - (iii) establish and administer a trust in accordance with the provisions of the Trust Property Control Act, 1988 (Act No. 57 of 1988); and
  - (iv) insure with any company or persons against any losses, damages, risks and liabilities; and
- (b) must efficiently manage all assets and resources.



**Delegation of powers, assignments, agency and service delivery agreements**

**75.**(1) The Premier, in consultation with the Executive Council, may delegate any role, power or function contemplated in this Act to the MEC, provided that any such delegation does not prevent the exercise of the relevant power by the Premier concerned.

(2) The MEC may delegate any role, power or function contemplated in this Act, except the power to make regulations and issue notices, to the Head of the KwaZulu-Natal Provincial department responsible for Traditional Affairs, provided that any such delegation does not prevent the exercise of the relevant power by the MEC concerned.

(3) Any person contemplated in sub-sections (1) and (2) and to whom any role, power or function has been delegated may, with the prior written approval of the Executive Council, further delegate such power or function to a person or body approved by the Executive Council.

(4) Provincial government departments, statutory institutions, organs of state and municipalities may –

- (a) delegate or assign any power or function to; or
- (b) enter into agency or service delivery agreements with,

Traditional Councils.

**Dispute resolution**

**76.**(1) Whenever a dispute concerning customary law or customs arises within an *isiZwe* or between *iziZwe* or other traditional institutions on a matter arising from the implementation of this Act or otherwise, members of such a community or institution and Traditional Leaders within *isiZwe* or traditional institution concerned must seek to resolve the dispute internally and in accordance with customary law and customs.

(2) Any dispute contemplated in subsection (1) that cannot be resolved must be referred to –

- (a) the Provincial House, which must seek to resolve the dispute in accordance with its rules and procedures;
- (b) the MEC, in the event that the Provincial House is unable to resolve said dispute, who must seek to resolve the dispute by way of informal mediation; and

(c) the Premier, in the event that the MEC is unable to resolve said dispute, who must resolve the dispute after consultation with –

- (i) the MEC;
- (ii) the parties to the dispute; and
- (iii) the Provincial House.

(3) The Premier may refer the matter to the Provincial Commission for its recommendation prior to a final decision on the dispute contemplated in this section.

### **Cross-boundary arrangements**

77. The Premier, after consultation with the MEC, may enter into agreements with other provincial governments in respect of matters relating to *iziZwe*, Traditional Leaders or traditional institutions in the event that the management of such matters would be better served by a joint approach by the provincial governments concerned.

### **Offences and penalties**

78.(1) A person is guilty of an offence if that person –

- (a) purports to be a Traditional Leader without having been recognised as contemplated in this Act;
- (b) wilfully obstructs the carrying out, performance or execution of any role, power or function vested in, or allocated to, any Traditional Leader, any Traditional Council, the Provincial House, any Local House or the Provincial Commission as contemplated in this Act or any other law.

(2) A person convicted of an offence contemplated in sub-section (1) is liable to a fine or imprisonment not exceeding 12 months, or both such fine and imprisonment.

### **Transitional arrangements**

79.(1) All executive and administrative actions performed by the Provincial Government in good faith relating to *iziZwe*, *isiZwe* members, Traditional Leadership, Traditional Leaders, traditional authorities, community authorities, Traditional Councils or their respective jurisdictional areas and the informal recognition of *isiPhakanyiswa* as *iNkosi*, before the date of commencement of this Act, are hereby deemed to have been validly performed –

- (a) as if the required legal basis, including, but not limited to, delegations, assignments, agency agreements, powers of attorney or service delivery agreements, had been in existence at the time of such actions being performed; or
- (b) where the then existing legal basis including, but not limited to, delegations, assignments, agency agreements, powers of attorney or service delivery agreements, was not fully complied with.

(2) Any traditional community or traditional sub-community recognised in terms of applicable legislation prior to the commencement of this Act, is deemed to have been recognised as an *isiZwe* or sub-*isiZwe* as contemplated in this Act.

(3) Any Traditional Leader recognised or appointed, in terms of applicable legislation prior to the commencement of this Act, to a Traditional Leadership position contemplated in Chapter 3 of this Act is deemed to have been recognised as a Traditional Leader as contemplated in this Act, subject to a decision of the National Commission as contemplated in section 26 of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003).

(4) Any traditional authority, Traditional Council and traditional sub-council recognised in terms of applicable legislation prior to the commencement of this Act, is deemed to have been established and recognised as a Traditional Council or sub-council as contemplated in this Act, subject to compliance with section 25 within a period of one year of the commencement of this Act.

(5) Any *isiGodi* recognised in terms of applicable customs and customary law prior to the date of commencement of this Act must be recognised, as contemplated in section 9, within a period of 24 months after the date of commencement of this Act.

(6) Any *iNduna* recognised in terms of applicable customs and customary law, notwithstanding the provisions of any other law, prior to the date of commencement of this Act must be recognised, as contemplated in section 15, within a period of 24 months after the date of commencement of this Act.

(7) All community authorities currently in existence in the jurisdictional area of the uMzimkhulu municipality are hereby deemed to be recognised as *iziZwe*, headed by *iziPhakanyiswa* in terms of this Act: Provided that elections to elect *iziPhakanyiswa* for such communities must be held within a period of six months after the of the date of commencement of this Act.

**Amendment and repeal of laws**

80. The laws mentioned in the first and second column of Schedule 8 are amended or repealed to the extent set out in the third column of the Schedule.

**Short title and commencement**

81. This Act is called the KwaZulu-Natal Traditional Leadership and Governance Act, 2013.

**SCHEDULE 1****APPLICATION FOR RECOGNITION AS *ISIZWE****(Section 5(2)(a)(i))***Form TA 1**

**Postal Address:**      **The Premier of KwaZulu-Natal**  
                                 **Private Bag X9037**  
                                 **PIETERMARITZBURG**  
                                 **3200**

**Street Address:**      **Moses Mabhida Building**  
                                 **300 Langalibalele Street**  
                                 **PIETERMARITZBURG**  
                                 **3200**

For the Attention of: The Premier

***Notes to the Applicant:***

***A) This is an application for recognition as isiZwe in terms of section 5 of the KwaZulu-Natal Traditional Leadership and Governance Act, 2013 (Act No. XX of 2013.***

***B) The applicant must provide sufficient information to support this application and this may include evidence in the form of any documents the applicant may deem relevant.***

***C) The Premier may decline to consider this application if the form is not completed in full, or is not clearly written.***

**1. Name of the applicant representing *isiZwe*:**

**2. Contact details of the Applicant:**

Postal address:

Telephone number:

Cellular number:

Electronic (e-mail) address:

**3. Name of *isiZwe* applying for recognition:**

**4. Other name or names of *isiZwe*:**

5. The name of a person <i>isiZwe</i> regards as its <i>iNkosi</i> :	
6. Geographical area / Physical location of <i>isiZwe</i> and description of the area within which <i>isiZwe</i> generally resides:	
District Municipality:	
Local Municipality:	
7. Where applicable, please indicate if <i>isiZwe</i> is currently part of any existing <i>isiZwe</i> : If yes, please specify:	
8. <b>Motivation for application</b> Background of <i>isiZwe</i> (including system of customary law, previous leaders of <i>isiZwe</i> (family tree), the proven history of existence, the number of <i>iziGodi</i> and <i>iziNduna</i> and other relevant information relating to the background and history of that <i>isiZwe</i> ):	
(Additional documents may be attached if necessary)	
Signed at _____ (place) on this _____ day of _____	
Signature:	
Name of Representative:	
Designation:	

This form must be accompanied by an application for the recognition of an *iNkosi* for *isiZwe* concerned, in terms of section 5(2) of the Act.

<b><u>For Official Use Only</u></b>	<b><u>Yes</u></b> (Please mark with X)	<b><u>No</u></b> (Please mark with X)
1. Has the form been completed correctly?		
2. Is application ready for a Cabinet Memorandum?		
3. Is application recommended for referral to the KwaZulu-Natal Commission on Traditional Leadership Disputes and Claims?		
4. Comments:		
Official Stamp:		

## SCHEDULE 2

### GUIDELINES ON THE IDENTIFICATION OF SUCCESSORS TO *UBUKHOSI*

(Section 13(1)(a))

1. Subject to the customs and customary laws of *uMndeni* and *isiZwe* concerned, an *iNkosi* must, in a meeting of *uMndeni* convened for that purpose, declare which of his houses is the senior house: Provided that in the event that *iNkosi* elects to change the status of his houses, *iNkosi* concerned must declare his new decision in the same manner in which his previous decision was declared.
2. Having regard to the applicable customs and customary law of *uMndeni* and *isiZwe* concerned, any of the following persons may be identified as the successor to *ubuKhosi* –
  - (a) the firstborn son of the wife of *iNkosi*, from the house identified by *iNkosi* in terms of item 1 as the senior house;
  - (b) the firstborn son of the first wife of *iNkosi*;
  - (c) the firstborn son of the wife of *iNkosi*, whose *ilobolo* was paid for by *isiZwe* concerned;
  - (d) the firstborn son of the wife of *iNkosi*, who is from a royal family, or another *uMndeni*; or
  - (e) any son of *iNkosi* identified by *iNkosi* in writing, in consultation with *uMndeni*.
3. Notwithstanding the criteria listed in paragraphs (a) to (d) of item 2, *uMndeni* may decide to identify a successor born through the custom of *uKungena*, *ukufaka esiswini* and the custom of paying *ilobolo* for an illegitimate child of *iNkosi*.
4. In the unlikely event that no successor can be identified, as contemplated items 2 and 3, *uMndeni* may decide to move *ubuKhosi* to the next qualifying house in terms of the seniority of the houses.



**SCHEDULE 3****DECLARATION BY IBAMBABUKHOSI***(Section 17(4))*

I, \_\_\_\_\_, Identity Number: \_\_\_\_\_,  
having been identified for recognition as *iBambabukhosi* by *uMndeni* of the  
\_\_\_\_\_ *isiZwe*, hereby declare under oath as follows:

1. I hereby acknowledge that I have been identified for recognition as *iBambabukhosi* of  
*isiZwe* of \_\_\_\_\_, on behalf of \_\_\_\_\_, who has been  
identified as the successor to *ubuKhosi*, whose identification and future recognition I support  
and confirm.

2. I hereby specifically acknowledge that –

(a) I have no current or future claim to *ubuKhosi* of *isiZwe* of  
\_\_\_\_\_;

(b) I will not aspire to be recognised as *iNkosi* of the said Community at any time in the  
future; and

(c) I will voluntarily relinquish my position as *iBambabukhosi* upon the recognition of  
\_\_\_\_\_ as *iNkosi* of *isiZwe* of  
\_\_\_\_\_.

\_\_\_\_\_  
**DEPONENT**

**SIGNED AND SWORN** to before me, at \_\_\_\_\_ on  
this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by the deponent who has  
acknowledged that he/she understands the contents of this affidavit, has declared that  
he/she has no objection to taking the oath, that he/she regards the oath as binding on  
his/her conscience and he/she uttered the following words:

*"I swear that the contents of this affidavit are true, so help me God."*

\_\_\_\_\_  
**COMMISSIONER OF OATHS**

**FULL NAME:** \_\_\_\_\_

**BUSINESS ADDRESS:** \_\_\_\_\_

\_\_\_\_\_  
**CAPACITY:** \_\_\_\_\_

**AREA:** \_\_\_\_\_

**SCHEDULE 4****FORMULA FOR THE DETERMINATION OF THE NUMBER OF MEMBERS OF A  
TRADITIONAL COUNCIL***(Section 25(1))*

1. The selection process of members indicated in the table hereunder must be done by *iNkosi*, who is an *ex officio* member of the selected members in terms of section 25 of this Act.

2. In selecting the 60% members of the total number of members of the Traditional Council, *iNkosi* must strive to comply with the requirement that at least one third of the total number of members on the Traditional Council must be women.

Number of recognised <i>iziNduna</i>	Selected Members equal 60% of total number of members				Elected Members equal 40% of total number of members	Total number of members	Total number of women (one third of total)
	Communiy Members	<i>izi- Nduna</i>	<i>iNko- si</i>	Total Selected Members	Total Elected Members		
15 or less	2	3	1	6	4	10	3
15 to 20	3	5	1	9	6	15	5
20 to 25	4	7	1	12	8	20	7
25 to 30	5	9	1	15	10	25	8
30 to 35	6	11	1	18	12	30	10
35 to 40	7	13	1	21	14	35	12
40 to 45	8	15	1	24	16	40	13
45 to 50	9	17	1	27	18	45	15
51 or more	10	19	1	30	20	50	17

**SCHEDULE 5****ELECTED MEMBERS OF THE KWAZULU-NATAL  
PROVINCIAL HOUSE OF TRADITIONAL LEADERS***(Section 40(2))*

<b>COLUMN 1</b>	<b>COLUMN 2</b>
<b>LOCAL HOUSES OF TRADITIONAL LEADERS</b>	<b>NUMBER OF REPRESENTATIVES</b>
Ugu Local House	7
uMgungundlovu Local House	4
uThukela Local House	4
uMzinyathi Local House	4
Amajuba Local House	3
Zululand Local House	5
uMkhanyakude Local House	3
uThungulu Local House	7
iLembe Local House	6
Sisonke Local House	7
eThekwini Local House	3

**SCHEDULE 6****CODE OF CONDUCT FOR TRADITIONAL LEADERS AND  
MEMBERS OF TRADITIONAL COUNCILS***(Section 66)***General conduct of Traditional Leader****1. A Traditional Leader –**

- (a) must perform the functions allocated to him or her in good faith, diligently, honestly and in a transparent manner;
- (b) must fulfil his or her role in an efficient manner;
- (c) may not conduct himself or herself in a disgraceful, improper or unbecoming manner;
- (d) must comply with any applicable legislation;
- (e) must act in the best interest of isiZwe or communities he or she serves;
- (f) must promote unity amongst iziZwe;
- (g) may not embark on actions that would create division within or amongst iziZwe;
- (h) must promote nation building;
- (i) may not refuse to provide any service to a person on political or ideological grounds;
- (j) must foster good relations with the organs of state with whom he or she interacts;
- (k) must promote the principles of a democratic and open society; and
- (l) must disclose gifts received.

**General conduct of Traditional Council****2. A Traditional Council must –**

- (a) perform the functions allocated to it in good faith, diligently, honestly and in a transparent manner;
- (b) execute its roles, powers and functions in an efficient manner;
- (c) comply with any applicable legislation;
- (d) act in the best interest of isiZwe it serves;
- (e) give effect to the principles governing public administration set out in section 195 of the Constitution; and
- (f) foster good relations with the organs of state with whom it interacts.

**SCHEDULE 7***(Sections 65 and 66)***CODE OF CONDUCT FOR MEMBERS OF HOUSES OF TRADITIONAL LEADERS****PART A****OATH BY MEMBERS OF THE HOUSE**

I, ..... (name of member), do swear that I will be faithful to the KwaZulu-Natal Provincial House of Traditional Leaders / \_\_\_\_\_ Local House of Traditional Leaders and do solemnly and sincerely promise at all times to promote that which will advance, and to oppose all that may harm, the House; to obey, observe, uphold and maintain the laws, rules, orders and procedures of the House and all other laws of the Republic of South Africa; to discharge my duties with all my strength and talents to the best of my knowledge and ability and true to the dictates of my conscience; to do justice unto all and to devote myself to the well-being of the House and its members.

May the Almighty God by His Grace and/or the ancestors guide and sustain me in keeping this oath with honour and dignity.

So help me God.

**PART B****AFFIRMATION**

I, ..... (name of member), do solemnly affirm that I will be faithful to the KwaZulu-Natal Provincial House of Traditional Leaders / \_\_\_\_\_ Local House of Traditional Leaders and do solemnly and sincerely promise at all times to promote that which will advance, and to oppose all that may harm, the House; to obey, observe, uphold and maintain the laws, rules, orders and procedures of the House and all other laws of the Republic of South Africa; to discharge my duties with all my strength and talents to the best of my knowledge and ability and true to the dictates of my conscience; to do justice unto all and to devote myself to the well-being of the House and its members.

May the ancestors guide and sustain me in keeping this affirmation with honour and dignity.

## **PART C**

### **CODE OF CONDUCT**

#### **Members of the House**

##### **Performance of functions by members**

**1. A member of the House must –**

- (a) perform the functions of office in good faith and in an honest, non-discriminatory and transparent manner; and
- (b) at all times act in the best interest of the House and in such a way that the credibility and the integrity of the House is not compromised.

##### **Attendance at meetings**

**2. A member of the House must attend each meeting of the House and of a committee of which that member of the House is a member, except when –**

- (a) leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the House; or
- (b) that member of the House is required in terms of this Code to withdraw from the meeting.

##### **Sanctions for non-attendance of meetings**

**3.(1) The House may impose a sanction as determined by the rules and orders of the House on a member of the House for –**

- (a) not attending a meeting which that member of the House is required to attend in terms of item 2; or
- (b) failing to remain in attendance at such a meeting.

(2) A member of the House who is absent from three or more consecutive meetings of the House, or from three or more consecutive meetings of a committee of the House, which that member of the House is required to attend in terms of item 2, must be removed from office as a member of the House.

(3) The MEC must inform the relevant Premier of the removal of the member of the House represented.

(4) Proceedings for the imposition of a sanction including removal of a member of a House must be conducted in accordance with a uniform standing procedure which the House must adopt for the purposes of this item.

#### **Disclosure of interests**

4.(1) A member of the House must –

- (a) disclose to the House; or to any committee of the House of which that member of the House is a member, any direct or indirect personal or private business interest that that member of the House, or any spouse, partner or business associate of that member of the House may have in any matter before the House or the committee of the House; and
- (b) withdraw from the proceedings of the House or committee of the House when that matter is considered by the House or its committee, unless the House or its committee decides that the member of the House's direct or indirect interest in the matter is trivial or irrelevant.

(2) A member of the House who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the House, must disclose full particulars of the benefit of which the member of the House is aware at the first meeting of the House at which it is possible for the member of the House to make the disclosure.

(3) This section does not apply to an interest or benefit which a member of the House, or a spouse, partner, business associate or close family member has or acquires in common with other members of the House.

#### **Personal gain**

5.(1) A member of the House may not use the position or privileges of a member of the House, or confidential information obtained as a member of the House, for private gain or to improperly benefit another person.

(2) Except with the prior consent of the House, a member of the House may not –

- (a) be a party to or beneficiary under a contract for –
  - (i) the provision of goods or services to the House; or



- (ii) the performance of any work otherwise than as a member of the House and for the House; or
- (b) obtain a financial interest in any business of the House; or
- (c) for a fee or other consideration appear on behalf of any other person before the House or its committee.

(3) If more than one quarter of the members of the House object to consent being given to a member of the House in terms of sub-item (2), such consent may only be given to the member of the House with the approval of the MEC.

#### **Declaration of interests**

6.(1) When elected or appointed, a member of the House must, within 60 days, declare, in writing, to an officer of the House designated by the MEC the following financial interests held by that member of the House –

- (a) shares and securities in any company;
- (b) membership of any close corporation;
- (c) interest in any trust;
- (d) directorships;
- (e) partnerships;
- (f) other financial interests in any business undertaking;
- (g) employment and remuneration;
- (h) interest in property;
- (i) pension; and
- (j) subsidies, grants and sponsorships by any organisation.

(2) Any change in the nature or detail of the financial interests of a member of the House must be declared in writing to the officer referred to in sub-item (1) annually.

(3) Gifts received by a member of the House above an amount as may be prescribed by notice in the *Provincial Gazette*, from time to time, must also be declared in accordance with sub-item (1).

(4) The House must determine which of the financial interests referred to in sub-item (1) must be made public, having regard to the need for confidentiality and the public interest for disclosure.

(5) The declaration of interests and gifts contemplated in this item must substantially comply with the format of Annexure A to this Schedule and must be completed annually, where necessary, in order to comply with the provisions of sub-item (2).

#### **Rewards, gifts and favours**

7. A member of the House may not request, solicit or accept any reward, gift or favour for –
- (a) voting or not voting in a particular manner on any matter before the House or before a committee of the House of which that member of the House is a member;
  - (b) persuading the House or any committee of the House in regard to the exercise of any power, function or duty;
  - (c) making a representation to the House or any committee of the House; or
  - (d) disclosing privileged or confidential information.

#### **Unauthorised disclosure of information**

8.(1) A member of the House may not, without the permission of the House or a committee, disclose any privileged or confidential information of the House or committee to any unauthorised person.

(2) For the purpose of this item "privileged or confidential information" includes any information –

- (a) determined by the House or committee of the House to be privileged or confidential;
- (b) discussed in closed session by the House or its committee;
- (c) disclosure of which would violate a person's right to privacy; or
- (d) declared to be privileged, confidential or secret in terms of the law.

(3) This item does not derogate from the right of any person to access to information in terms of national legislation.

#### **Breach of Code**

9.(1) If the House, on reasonable suspicion, is of the opinion that a provision of the Code of Conduct has been breached, the House must –

- (a) authorise an investigation of the facts and circumstances of the alleged breach;

- (b) give the member of the House a reasonable opportunity to reply in writing regarding the alleged breach; and
- (c) report the matter to a meeting of the House after paragraphs (a) and (b) have been complied with.

(2) A report referred to in sub-item (1)(c) may be made available to the public.

(3) The House must report the outcome of the investigation to the MEC.

(4) The Secretary of the House must ensure that each member of the House, when taking office, is given a copy of this Code and that a copy of the Code is available in every room or place where the House or a committee of the House meets.

(5) The House may –

- (a) investigate and make a finding on any alleged breach of a provision of this Code; or
- (b) establish a special committee –
  - (i) to investigate and make a finding on any alleged breach of this Code; and
  - (ii) to make appropriate recommendations to the House.

(6) If the House or a special committee appointed by the House to conduct the investigation finds that a member of the House has breached a provision of this part of the Code of Conduct, the House may –

- (a) issue a formal warning to the member of the House;
- (b) reprimand the member of the House;
- (c) suspend the member of the House for a period in consultation with the MEC; and
- (d) remove the member of the House from office in consultation with the MEC.

(7)(a) Any member of the House who has been warned, reprimanded, suspended or removed in terms of paragraph (a), (b), (c) or (d) of sub-item (6) may, within 14 days of having been notified of the decision of House, appeal to the MEC in writing, setting out the reasons on which the appeal is based.

(b) A copy of the appeal must be provided to the House.

(c) The House may, within 14 days of receipt of the appeal referred to in paragraph (b), make any representation pertaining to the appeal to the MEC in writing.

(d) The MEC may, after having considered the appeal, confirm, set aside or vary the decision of the House and inform the member of the House and the House of the outcome of the appeal.

(8) The MEC may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make recommendations on whether the member of the House should be suspended or removed from office.

(9) If the MEC is of the opinion that a member of the House has breached a provision of this Code, and that such contravention warrants a suspension or removal from office, the MEC may –

- (a) suspend the member of the House for a period and on conditions determined by the MEC; or
- (b) remove the member of the House from office.

(10) Any investigation in terms of this item must be conducted in accordance with the rules of natural justice.

**ANNEXURE A****DECLARATION OF INTERESTS AND GIFTS**

I, the undersigned: \_\_\_\_\_

Postal address: \_\_\_\_\_

Residential address: \_\_\_\_\_

Position held: \_\_\_\_\_

PERSAL No: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_,

hereby certify that the following information is complete and correct to the best of my knowledge:

**1. Shares and other financial interests**

<b>Number of shares/Extent of financial interests</b>	<b>Nature</b>	<b>Nominal Value</b>	<b>Name of Company/Entity</b>

**2. Directorships and partnerships**

<b>Name of corporate entity or partnership</b>	<b>Type of business</b>	<b>Amount of Remuneration</b>

**3. Consultancies**

<b>Name of client</b>	<b>Nature</b>	<b>Type of business activity</b>	<b>Value of any benefits received</b>

**4. Sponsorships**

Source of assistance/sponsorship	Description of assistance/sponsorship	Value of assistance/sponsorship

**5. Gifts and hospitality from a source other than a family member**

Description	Value	Source

**6. Land and property**

Description	Extent	Area	Value

\_\_\_\_\_  
**SIGNATURE**

**DATE:** \_\_\_\_\_

**PLACE:** \_\_\_\_\_

**OATH/AFFIRMATION**

*1. I certify that before administering the oath/affirmation I asked the deponent the following questions and wrote down her/his answers in his/her presence:*

*(i) Do you know and understand the contents of the declaration?*

Answer \_\_\_\_\_

*(ii) Do you have any objection to taking the prescribed oath or affirmation?*

Answer \_\_\_\_\_

*(ii) Do you consider the prescribed oath or affirmation to be binding on your conscience?*

Answer \_\_\_\_\_

2. I certify that the deponent has acknowledged that she/he knows and understands the contents of this declaration. The deponent uttered the following words: "I swear that the contents of this declaration are true, so help me God". / "I truly affirm that the contents of the declaration are true". The signature/mark of the deponent is affixed to the declaration in my presence.

**COMMISSIONER OF OATHS / JUSTICE OF PEACE**

(COMPLETE IN BLOCK LETTERS)

Full first names and surname: \_\_\_\_\_

Designation: \_\_\_\_\_ Ex Officio Republic of South Africa

Physical address of Institution: \_\_\_\_\_

Date: \_\_\_\_\_ Place: \_\_\_\_\_

Signature: \_\_\_\_\_

\_\_\_\_\_  
**SIGNATURE OF MEC**

\_\_\_\_\_  
**DATE**

**NAME OF MEC:** \_\_\_\_\_

**PORTFOLIO: CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**

**SCHEDULE 8****Repeal of laws***(Section 80)*

<b><i>Number and year of law</i></b>	<b><i>Title</i></b>	<b><i>Extent of repeal</i></b>
Act No. 5 of 2005	KwaZulu-Natal Traditional Leadership and Governance Act, 2005	The whole
Act No. 9 of 2007	KwaZulu-Natal Traditional Leadership and Governance Amendment Act, 2007	The whole
Act No. 4 of 1965	The Transkei Authorities Act, 1965	The whole insofar as it is applicable to the uMzimkhulu Local Municipality
Act No. 68 of 1951	The Black Authorities Act, 1951	The whole insofar as it is applicable to the uMzimkhulu Local Municipality
Act No. 15 of 1976	The Republic of Transkei Constitution Act, 1976	The whole insofar as it is applicable to the uMzimkhulu Local Municipality
Act No. 16 of 1985	KwaZulu Act on the Code of Zulu Law, 1985	The whole
Proclamation No. R151 of 1987	Natal Code of Zulu Law, 1987	The whole



**MEMORANDUM  
ON THE OBJECTS OF  
THE KWAZULU-NATAL TRADITIONAL LEADERSHIP AND GOVERNANCE BILL, 2012**

**1. BACKGROUND**

The Provincial Government of KwaZulu-Natal, in accordance with Chapter 12 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), National Framework Policy and legislation including the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), acknowledges the existence of traditional communities in the Province.

Through the enactment of the Bill, the Provincial Government therefore seeks to –

- recognise, protect, preserve, transform, as well as to provide an enabling environment for the development of traditional communities, traditional institutions, customary law and customs;
- define a place and role of Traditional Leadership within the system of democratic governance in South Africa; and
- restore the integrity and legitimacy of the institution of Traditional Leadership in line with customary law and customs.

As a result of amendments to the Traditional Leadership and Governance Framework Act, 2003, as well as challenges faced during the implementation of the current KwaZulu-Natal Traditional Leadership and Governance Act, 2005 (Act No. 5 of 2005), it has become necessary to substantially amend the said Act in order to ensure its compliance with the amended Traditional Leadership and Governance Framework Act, 2003, and a decision was taken to replace the current KwaZulu-Natal Act with new legislation, rather than amending the existing Act.

This proposed new legislation is fully compliant with the Constitution, 1996, the Traditional Leadership and Governance Framework Act, 2003, as well as other transversal legislation, thereby ensuring uniformity in the application of legislation affecting traditional institutions and leaders. In addition, and in order to facilitate the implementation of the Act, numerous Schedules have been developed and are attached to the Bill, rather than including the Schedules in separate regulations that are promulgated subsequent to the enactment of the

Bill. Provision is made in the Bill empowering the MEC responsible for Traditional Affairs to amend the Schedules by notice in the *Provincial Gazette*, thereby ensuring that any challenges in the implementation of the Act can be dealt with expeditiously.

## 2. OBJECTS OF THE BILL

The objects of the Bill is to provide for –

- (a) the recognition of *iziZwe*, Traditional Leadership, and traditional institutions;
- (b) a regulatory framework for the recognition and the vesting of roles, powers and functions in, as well as the allocation of functions to, Traditional Councils, Traditional Leaders and other Traditional Leadership structures;
- (c) a framework for the development, capacity building and support of Traditional Councils, Traditional Leaders and other Traditional Leadership structures;
- (d) the establishment of the Provincial House of Traditional Leaders, Local Houses of Traditional Leaders, and the KwaZulu-Natal Commission on Traditional Leadership Disputes and Claims;
- (e) the vesting of roles, powers and functions in, as well as the allocation of functions to, these institutions;
- (f) a framework for the development, capacity building and support of these institutions;
- (g) an enabling framework to support collaboration and co-operative governance between all the above and the Provincial government;
- (h) a code of conduct;
- (i) contributions by members of *iziZwe*;
- (j) regulatory powers of the Premier and the responsible Member of the Executive Council;
- (k) the delegations of powers, assignments and agreements;
- (l) mechanisms for dispute resolution;
- (m) offences and penalties;
- (n) transitional matters;
- (o) the repeal of applicable provincial legislation; and
- (p) related matters.

### **3. OBJECTS AND DISCUSSION**

#### **Clause 1: Definitions**

This clause contains all standard definitions relevant to the Bill and, where possible, the vernacular terms for traditional institutions and leaders have been used for ease of reference.

#### **Clause 2: Application**

This clause provides that the Bill, once enacted, will be applicable within the Province of KwaZulu-Natal.

#### **Clause 3: Guiding Principles**

Clause 3 replicates the guiding principles contained in the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), and applies to all traditional communities, institutions and leaders within KwaZulu-Natal who are enjoined to transform and adapt customary law and customs so as to comply with the Constitution of the Republic of South Africa, 1996. In addition, all institutions and leaders are prohibited from promoting or prejudicing the interest of any political party and must apply and implement the principles of co-operative government, intergovernmental relations and the principles governing public administration.

#### **Clause 4: Recognition and withdrawal of *ubuNgonyama***

This clause makes reference to the relevant provisions of applicable national legislation with regard to the recognition of *ubuNgonyama*.

#### **Clause 5: Recognition of *iziZwe***

This clause provides for the criteria and processes to be followed by a prospective traditional community, which is applying for recognition as *isiZwe* by the Premier. Amongst others, it provides for the consultation process that must precede any decision of the Premier and empowers the Premier to appoint an independent person or persons to conduct an investigation in order to determine whether the traditional community should be recognised as such or not. In addition the clause details the process that the Premier must follow in recognising a traditional community, which recognition is effected by way of a notice in the *Provincial Gazette*. For ease of reference, a form prescribing the manner in which application for recognition as an *isiZwe* has been attached to the Act as a Schedule.

#### **Clause 6: Withdrawal of recognition of *iziZwe***

This clause provides for the process and circumstances in which the Premier may withdraw the recognition of *isiZwe*, which includes the sub-division or merger of *iziZwe*, whether they were merged or sub-divided before or after 1994. In addition this clause empowers the

Premier to appoint a person or persons to conduct an investigation into the proposed withdrawal of recognition and to withdraw the recognition of *isiZwe* by notice in the *Provincial Gazette*, alternatively, to refuse such withdrawal.

**Clause 7: Recognition of sub-*isiZwe***

This clause provides for the recognition of sub-*isiZwe* that are located in a different geographical area to *isiZwe*, and prescribes a similar process to the process the Premier must follow in clause 5 to recognise such a sub-*isiZwe*, upon application by *iNkosi* concerned.

**Clause 8: Withdrawal of recognition of sub-*isiZwe***

This clause provides for the process and circumstances in which the recognition of a sub-*isiZwe* may, upon application by the relevant *iNkosi*, be withdrawn by the Premier by notice in the *Provincial Gazette*.

**Clause 9: Recognition of *iziGodi***

This clause provides for the recognition of *iziGodi* within *isiZwe* and the process to be followed by the Traditional Council in applying to the Premier for recognition as *iziGodi*.

**Clause 10: Withdrawal of recognition of *iziGodi***

This clause provides that the withdrawal of recognition of an *isiGodi* may only be considered by the Premier, where *iNkosi* and the Traditional Council concerned request such a withdrawal of recognition and empowers the Premier to appoint a person or persons to conduct an investigation to establish whether such withdrawal of recognition is warranted.

**Clause 11: Recognition and remuneration of Traditional Leadership**

This clause provides for the recognition of the Traditional Leadership positions of *iSilo*, *amaKhosi*, *iziPhakanyiswa* and *iziNduna* and the criteria for recognition to such positions.

**Clause 12: Identification, recognition and withdrawal of recognition of *iSilo***

This clause makes reference to the relevant provisions of applicable National legislation with regard to the identification, recognition and withdrawal of recognition of *iSilo*.

**Clause 13: Identification and recognition of *amaKhosi***

This clause provides for the criteria, process and procedures for the identification and recognition of *amaKhosi* by the Premier by notice in the *Provincial Gazette* and a Schedule has been included, which provides guidelines to *uMndeni* on the identification of a successor

to *ubuKhosi*. To facilitate the implementation of these guidelines an attempt has been made to provide a detailed definition of *uMndeni*, including the core and broader *uMndeni* and specifying which part of *uMndeni* is the decision-making body in identifying a successor to *ubuKhosi*, subject to the specific customs and customary laws of *uMndeni* and *isiZwe* concerned.

**Clause 14: Identification and recognition of *iziPhakanyiswa***

This clause provides for the criteria, process and procedures for the identification and recognition of *iziPhakanyiswa* by the Premier by notice in the *Provincial Gazette*.

**Clause 15: Identification and recognition *iziNduna***

This clause provides for the criteria, process and procedures for the identification and recognition of *iziNduna* by the Premier by notice in the *Provincial Gazette*. The current legislation does not provide for the identification and recognition of *iziNduna*, which has caused challenges in the implementation of the National Framework legislation as well as uncertainty as to the number of appointed *iziNduna* in KwaZulu-Natal. In providing for the recognition of *iziNduna* by the Premier, the Bill will enable the relevant Department to establish comprehensive and complete database of all *iziNduna* currently recognised in KwaZulu-Natal.

**Clause 16: Identification and recognition of *iso leSilo and iso leNkosi***

This clause provides for the criteria, process and procedures for the identification and recognition of *iso leSilo and iso leNkosi* by the Premier by notice in the *Provincial Gazette* and empowers the Premier to recognise a suitable person as *iso leSilo* or *iso leNkosi*, in the event that the relevant *isiZwe* does not have a recognised Traditional Leader.

**Clause 17: *iBambabukhosi, iBambela, and iSekela leNkosi***

This clause provides for the criteria, process and procedures for the identification and recognition of *iBambabukhosi, iBambela, and iSekela leNkosi* by the Premier by notice in the *Provincial Gazette*. As a result of challenges faced during the implementation of the current Act, two new positions of *iBambela* and *iSekela leNkosi* are created to cater for the situations where no successor to *ubuKhosi* has been recognised as yet, or where the relevant Traditional Leader will be absent from *isiZwe* for a period of more than six months for a variety of reasons, as well as a situation where the relevant Traditional Leader is elected to political office or is appointed in a full-time position in government.

**Clause 18: Grounds for withdrawal of recognition of Traditional Leaders**

This clause provides for the circumstances in which the Premier must or may withdraw the recognition of any Traditional Leader by notice in the *Provincial Gazette*.

**Clause 19: Withdrawal of recognition of amaKhosi**

This clause provides for the process *uMndeni* must follow in applying to the Premier for the withdrawal of recognition of an *iNkosi*, as a result of the disqualification of *iNkosi* for reasons contemplated in clause 13(2), or in the event of a flawed recognition process contemplated in clause 13(3), which withdrawal must be effected by way of notice in the *Provincial Gazette*.

**Clause 20: Withdrawal of recognition of iziPhakanyiswa**

This clause provides for the process any members of a Traditional Council or *isiZwe* must follow in applying to the Premier for the withdrawal of recognition of an *isiPhakanyiswa*. Provision is made for the term of office of *iziPhakanyiswa* to end after five years and this is aligned with the term of office of Traditional Councils.

**Clause 21: Withdrawal of recognition of iziNduna**

This clause provides for the process *iNkosi* must follow in applying to the Premier for the withdrawal of recognition of an *iziNduna*, which withdrawal must be effected by way of notice in the *Provincial Gazette*.

**Clause 22: Withdrawal of recognition of iso leSilo and iso leNkosi**

This clause provides for the process *iso leSilo and iso leNkosi* must follow in applying to the Premier for the withdrawal of recognition of an *iso leSilo and iso leNkosi*, which withdrawal must be effected by way of notice in the *Provincial Gazette*.

**Clause 23: Removal of iBambabukhosi, iBambela and iSekela leNkosi**

This clause provides for the recognition of *iBambabukhosi*, *iBambela* and *iSekela leNkosi* may be withdrawn by operation of law or as provided for in clauses 18, 68 or 70 of the Bill.

**Clause 24: Establishment, composition and recognition of Kingship Council**

This clause makes reference to the relevant provisions of applicable National legislation with regard to the establishment, composition and recognition of a Kingship Council.

**Clause 25: Establishment, composition and recognition of Traditional Councils**

This clause comprehensively provides for the establishment, composition and recognition of Traditional Councils and makes the clause applicable to the establishment, composition and

recognition of traditional sub-councils as well. In order to facilitate the composition of the Traditional Councils in compliance guidelines published by the MEC responsible for Traditional Affairs, a Schedule was developed and attached to the Bill, which Schedule provides for the number of members of each Traditional Council, to a maximum of 50, depending on the number of *iziNduna zeziGodi* per *isiZwe*, and also provides for the minimum number of women per Traditional Council. The clause empowers the Premier to reduce the minimum number of women in each Traditional Council in certain circumstances and describes the procedure for the official recognition of the Traditional Council by the Premier by notice in the *Provincial Gazette* and the process to be followed by the council at its first meeting.

**Clause 26: Vacating of seats and filling of vacancies**

This clause provides for the circumstances under which a seat on a Traditional Council becomes vacant and also provides for the manner in which vacant seats on a Traditional Council must be filled.

**Clause 27: Withdrawal of recognition of Traditional Councils**

This clause provides that where the Premier withdraws the recognition of an *isiZwe* in terms of clause 6 of the Bill, the notice issued in terms of clause 6 must also provide for the withdrawal of recognition of the relevant Traditional Council.

**Clause 28: Roles, powers and functions of *iSilo***

This clause provides for the roles, powers and functions of *iSilo* arising from customs, customary laws and statutory provisions, as well as roles assigned to *iSilo* by the Executive Council.

**Clause 29: Roles, powers, and functions of *amaKhosi***

The roles, powers and functions of *amaKhosi* are set out in this clause and provision is also made for provincial organs of state to assign or delegate additional roles, powers and functions to *amaKhosi* through legislative or administrative measures. The clause also provides for the process any organ of state must follow in assigning or delegating roles, powers and functions to *amaKhosi*, as well as the manner in which *amaKhosi* must carry out, execute or perform these roles, powers and functions and the duty of the MEC to monitor the implementation of this clause.

**Clause 30: Roles, powers and functions of *iBambabukhosi*, *iBambela*, *iSekela leNkosi* and *iso leSilo***

This clause provides that roles, powers and functions allocated to *amaKhosi* in terms of clause 29(1) are also performed and executed by *iBambabukhosi*, *iBambela*, *iSekela leNkosi* and *iso leSilo*.

**Clause 31: Allocation of roles, powers and functions to *iBambabukhosi*, *iBambela*, *iSekela leNkosi* and *iso leSilo* by organs of state**

This clause provides that roles, powers and functions allocated to *amaKhosi* by organs of state, in terms of clause 29(2) are also performed and executed by *iBambabukhosi*, *iBambela*, *iSekela leNkosi* and *iso leSilo*.

**Clause 32: Roles, powers and functions of *iziNduna***

This clause lists the roles, powers and functions of *iziNduna*, as enumerated by National Government in various documents, including the job description of *iziNduna* developed by the Independent Commission on the Remuneration of Public Office Bearers.

**Clause 33: Roles, powers and functions of Traditional Councils**

This clause provides for the roles, powers and functions of Traditional Councils and provision is also made for Provincial organs of state to provide for additional roles, powers and functions for Traditional Councils through legislative and administrative measures. The clause also provides that whenever an organ of state considers allocating roles, powers and functions to a Traditional Council, by means of assignments, delegations, agency agreements or powers of attorney, as contemplated in sub-clause (2) of clause 33, the provisions of clause 29(3) apply with the necessary changes. The clause also provides that the MEC must monitor the carrying out, execution and performance of the roles, powers and functions allocated as contemplated in this Act and other applicable legislation to Traditional Councils and may intervene in the event that the council does not comply. The MEC, if he or she is satisfied that a Traditional Council is unable to perform the functions assigned to it in terms of the Act in an efficient and effective manner, or in a manner that promotes good governance and administration, may appoint any person as an administrator to assist the Traditional Council concerned to perform the powers and functions of such Traditional Council. The provisions of this clause and clause 34 apply with the necessary changes to any traditional sub-council established and recognised, as contemplated in clause 7.

**Clause 34: Partnerships between municipalities and Traditional Councils**

This clause provides for the Department to promote partnerships between municipalities and Traditional Councils.



**Clause 35: Staffing of Traditional Councils**

This clause provides that the MEC must provide support to Traditional Councils including through the secondment of staff to Traditional Councils. The clause also provides that the staff seconded to Traditional Councils must report to a person designated by the *iNkosi* concerned.

**Clause 36: Meetings of Traditional Councils**

This clause provides for the regulation of proceedings at meetings of Traditional Councils. Meetings of Traditional Councils must be chaired by *iNkosi* under whose area of jurisdiction the Traditional Council falls. The clause also makes provision for a deputy chairperson to be elected by the members of a Traditional Council at its first meeting. The clause also provides that every Traditional Council must hold an ordinary meeting at least once every quarter.

**Clause 37: Minutes of meetings**

This clause provides that Traditional Councils are to keep minutes of each of its meetings and specifies what information should be recorded on the minutes. The clause also provides that a copy of the minutes of every Traditional Council meeting must be forwarded to the relevant district office of the Department within fifteen days after any meeting.

**Clause 38: Subsistence and traveling allowances for members of Traditional Councils**

This clause provides that the Premier, in consultation with the MEC and the MEC for Finance, may determine the subsistence and traveling allowances payable to members of Traditional Councils.

**Clause 39: Establishment and membership of KwaZulu-Natal Provincial House of Traditional Leaders**

This clause provides for the establishment of the KwaZulu-Natal House of Traditional Leaders. This clause also provides that the term of office of members of the Provincial House is five years, which period must be aligned to the term of office of the members of the National House of Traditional Leaders. The clause also provides that the term of office of members of the Provincial House will not terminate until the date on which the newly elected members of the Provincial House assume office. The clause further provides that the members of the Provincial House must be chairpersons of Traditional Councils established and recognized in terms of the Bill.

**Clause 40: Composition and seat of Provincial House**

This clause provides that the Provincial House consists of *iSilo* or his/her nominee and a minimum of three and a maximum of seven members elected from each Local House of Traditional Leaders. This clause also provides that each Local House must elect from its members the number of representatives to the Provincial House as contemplated in Schedule 5 of the Bill. This clause also provides that the Provincial House may establish and elect an executive committee.

**Clause 41: Qualification for membership of the Provincial House**

This clause provides for the criteria which will render a person ineligible for membership to the Provincial House.

**Clause 42: Vacation of seats in the Provincial House**

This clause provides for the vacation of seats in the Provincial House and provides the circumstances under which the seat of a member of the Provincial House would become vacant.

**Clause 43: Filling of vacancies in the Provincial House**

This clause provides for the procedure to be followed where a vacancy occurs in the Provincial House and provides that the Secretary of the Provincial House must, within 14 days of a vacancy occurring, inform the MEC of the vacancy, whereafter the MEC must inform the Premier of the vacancy within a reasonable time. The clause also provides that any vacancy must be filled within 60 days in the manner contemplated in clause 40(2) of the Bill.

**Clause 44: Election of Chairperson and Executive Committee of Provincial House**

This clause provides that the Provincial House must meet within 30 days after the election of a new House at a time and place determined by the Premier by notice in the *Provincial Gazette*. The clause also makes provision for a Judge of the High Court to act as a chairperson at the first meeting until a chairperson and deputy chairperson have been elected by the members and provides for the election of an Executive Committee for the Provincial House. The clause further provides for the vacating of office by the chairperson or deputy chairperson and makes provision for the filling of such vacancy.

**Clause 45: Status of members of Provincial House**

This clause provides that the chairperson and deputy chairperson of the Provincial House are full-time members of the Provincial House. The clause also provides that the Premier

may, after consultation with the Provincial House, determine, by notice in the *Provincial Gazette*, that certain other members are full-time members of the Provincial House.

**Clause 46: Election of representatives to National House**

This clause provides that the Provincial House must elect its representatives to serve in the National House at its first sitting in accordance with the procedure contained in the National House of Traditional Leaders Act, 2009 (Act No. 22 of 2009).

**Clause 47: Meetings of Provincial House**

This clause provides for meetings and proceedings at meetings of the Provincial House and provides that an ordinary meeting of the Provincial House must be held at least once quarterly and provision is also made for special meetings of the Provincial House which may be called by the Premier, the Executive Committee of the House or upon request by at least ten members of the Provincial House.

**Clause 48: Rules of Provincial House**

This clause provides for the various matters in respect of which the Provincial House must adopt its Rules of Procedure.

**Clause 49: Roles, powers and functions of Provincial House**

This clause provides for the roles, powers and functions of the Provincial House and provides that the Provincial House must represent, protect and promote the interests of all *iziZwe* recognised in terms of the Bill and the institution of Traditional Leadership. The clause also provides that the Provincial House must be responsible for the protection, promotion and codification of customary law and customs. Provision is also made for the Provincial House to conduct research at the request of the MEC in respect of the matters mentioned in the clause. The Provincial House may also make recommendations to the MEC on Provincial programmes relating to traditional affairs or on the content and co-ordination of municipally integrated development plans and comment on Provincial Bills affecting *iziZwe*. The Provincial House must, inter alia, keep proper records and have its financial statements audited by the Auditor-General.

**Clause 50: Administration and accountability of the Provincial House**

This clause provides for the appointment, by the MEC, of a Secretary to the Provincial House. The Secretary is responsible for the administration of the House. The clause also makes provision for the MEC to second as many Departmental staff members as may be necessary to discharge the work of the Provincial House.

**Clause 51: Remuneration, allowances and benefits payable to members of Provincial House**

This clause provides that the remuneration, allowances and benefits to the chairperson, deputy chairperson and ordinary members of the Provincial House are as determined in the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998).

**Clause 52: Support to Provincial House**

This clause provides that the Provincial Government must adopt necessary measures to support and strengthen the capacity of the House to fulfil its functions. This support may include the provision of infrastructure, finances, human resources, skills development programmes and administrative systems.

**Clause 53: Establishment of Local Houses of Traditional Leaders**

This clause provides for the establishment of Local Houses in the areas of district municipalities where there are five or more *iziZwe*. The clause also provides that where there are less than five *iziZwe* within the area of any district municipality, the Traditional Leaders within that district must choose from amongst their number to represent *iziZwe* at the sitting of meetings of the district municipality.

**Clause 54: Composition and executive committee of Local Houses**

This clause provides that each Local House consists of all *amaKhosi* within the district municipality and also makes provision for each Local House to establish and elect an executive committee comprising no more than seven members of that Local House.

**Clause 55: Meetings of Local Houses**

This clause provides for meetings of Local Houses and provides that the MEC must, by notice in the *Provincial Gazette*, convene the first meetings of Local Houses and appoint a person to act as Chairperson until the chairperson and deputy chairperson have been elected by the members of a House.

**Clause 56: Roles Powers and Functions of Local Houses**

This clause provides that the roles, powers and functions of Local Houses of Traditional Leaders are, inter alia, to advise the relevant district or metropolitan municipality on matters pertaining to customary law, customs, Traditional Leadership and *iziZwe* within the district or metropolitan municipality and to develop planning frameworks or by-laws that impact on *iziZwe*, participate in local programmes for the development of rural communities and

participate in local initiatives for the monitoring, reviewing or evaluation of government programmes in rural communities. The clause further provides that Local Houses can comment on any legislation of the district or metropolitan municipality that affects the customs or customary law of *iziZwe* within its area of jurisdiction or regarding the provision of services or the demarcation of boundaries or land tenure which affects *iziZwe*.

**Clause 57: Referral of draft legislation to Provincial House and Local Houses**

This clause provides for draft legislation dealing with or affecting *iziZwe*, traditional institutions, customary law or customs to be referred to Provincial and Local Houses for comment. In respect of Provincial legislation, the Speaker of the Legislature must refer the draft legislation to the Provincial House for comment and in respect of draft local government legislation (i.e. by-laws) the Speaker of the relevant municipal council must refer the draft legislation to relevant Local House(s) for comment.

**Clause 58: Establishment of KwaZulu-Natal Provincial Commission on Traditional Leadership Disputes and Claims**

This clause provides for the establishment of the KwaZulu-Natal Provincial Commission on Traditional Leadership Disputes and Claims.

**Clause 59: Composition and term of office of Commission**

This clause provides for the composition and term of office of the Commission. In terms of this clause, the Premier, in consultation with the MEC and the Member of the Executive Council responsible for Finance, must, within a period of three months after the promulgation of this Act, and by notice in the Provincial Gazette, appoint a maximum of five persons as members of the Provincial Commission who have expert knowledge regarding the historical and present legal and administrative context concerning *iziZwe*, customary law and customs, Traditional Leadership or other traditional institutions. The clause further provides that the term of office of members of the Commission is five years and the Premier may appoint the existing Provincial Committee to the National Commission on Traditional Leadership Disputes and Claims established in terms of the Traditional Leadership and Governance Framework Act, 2003, to the Provincial Commission.

**Clause 60: Meetings and rules of Commission**

This clause provides that the Commission must meet within 30 days after the date of the notice contemplated in clause 59(1) of the Bill to determine the rules for the conduct and management of its proceedings and the Commission must meet as and when necessary to consider and rule on any dispute or claim referred to it in terms of the Bill.

**Clause 61: Vacancies and filling of vacancies**

This clause provides for the circumstances under which a vacancy would occur on the Commission and makes provision for the filling of such vacancy.

**Clause 62: Powers and functions of Commission**

This clause provides for the powers and functions of the Commission. The Commission must perform and execute its powers and functions in terms of the Bill and investigate, report and make recommendations on any dispute or claim that was submitted to the National Commission after 1 September 2010, as well as any new dispute or claim lodged after the date of commencement of the Bill. The clause further provides that the Commission must investigate any matters referred to it by the Premier in accordance with the provisions of the Bill and at the request of the MEC, investigate, report and make recommendations on any matter relating to iziZwe, Traditional Councils, Traditional Leadership, Traditional Leaders and other traditional institutions or involving a relationship between organs of state and the above Traditional Leaders or institutions. In terms of this clause the Provincial Commission also has an obligation to provide regular reports on its activities to the Premier.

**Clause 63: Support to Commission**

This clause provides that MEC must provide the necessary administrative, financial and other support to the Commission to perform its duties. The Commission may also appoint a person or institution to conduct research on its behalf.

**Clause 64: Removal of members of Commission**

This clause provides that the Premier, in consultation with the MEC, may remove a member of the Commission on any of the grounds set out in clause 64.

**Clause 65: Oath of Office**

This clause provides for an oath or affirmation which must be taken by all Traditional Leaders, members of Traditional Councils, the Provincial House of Traditional Leaders and Local Houses of Traditional Leaders contemplated in the Bill. The oath and affirmation is contained in Parts A and B to Schedule 7 of the Bill.

**Clause 66 Codes of Conduct**

This clause provides that the Code of Conduct contained in Schedule 6 to the Bill is applicable to all Traditional Leaders and members of Traditional Councils in KwaZulu-Natal, provided that the provisions of Part C of the Code of Conduct contained in Schedule 7 to this

Act also apply, with the necessary changes, to all Traditional Leaders and members of Traditional Councils in KwaZulu-Natal. This clause further provides that the Code of Conduct contained in Schedule 7 to the Bill applies to all members of the Provincial and Local Houses in KwaZulu-Natal, provided that for the purposes of Part C of the said Code of Conduct, any reference to "the House" includes both the Provincial House and all Local Houses.

**Clause 67: Power of Executive Council to summon Traditional Leaders**

This clause provides that the Executive Council may, whenever it deems necessary, summon any Traditional Leader, in writing, to appear before it in order to investigate any matter which is harming or likely to harm any *isiZwe* concerned or any matter of importance or concern which directly or indirectly affects such Traditional Leader in his or her capacity as such or which affects the Provincial Government in the performance of its functions or any matter which is likely to prejudicially affect the administration of the Provincial Government in the area of *isiZwe* concerned. The clause further provides that the Executive Council may, after considering the matter, direct the Traditional Leader to take certain steps to resolve the problem or instruct the MEC to institute an inquiry in terms of the Bill.

**Clause 68: Inquiry into misconduct**

This clause provides that the MEC must charge a Traditional Leader with misconduct whenever there is reason to believe that a Traditional Leader is guilty of misconduct. The clause also provides the procedure to be followed in order to charge a Traditional Leader with misconduct and provides that the charge must set out the particulars of the allegations made against the Traditional Leader and he or she must be given a period of 21 days to admit or deny the allegations and make any representations. If the Traditional Leader denies the allegations or fails to respond within 21 days, the MEC must appoint a presiding officer to conduct an enquiry into the allegations. The clause further provides the procedure for the enquiry and provides that, upon completion thereof, the presiding officer must forward his or her findings, the record of the enquiry proceedings and any observations, recommendations and any recommended sanctions to the MEC for consideration. Thereafter the MEC may impose any of the sanctions contained in sub-clause 68(11) of the Bill, which sanction must be published in the *Provincial Gazette*.

**Clause 69: Suspension of Traditional Leader**

This clause provides that the MEC may, after consultation with the Premier, suspend from office any Traditional Leader who is suspected of misconduct pending the finalisation of proceedings instituted in terms of clause 68 of the Bill. The clause further provides that any Traditional Leader who has been suspended under this clause is not entitled to any

remuneration during the period of his or her suspension, however, the MEC may, for good and sufficient reason, order payment of the whole or a portion of the remuneration due to that Traditional Leader during his or her suspension. The clause also provides that the MEC may, after consultation with the Premier, withdraw the suspension of a Traditional Leader and provision is also made for the appointment of *iBambabhukosi* where the MEC deems it necessary.

#### **Clause 70: Breaches of Codes of Conduct**

This clause provides that any breach of the Codes of Conduct contained in Schedules 6 and 7 to the Bill must be dealt with in terms of clause 68 of the Bill.

#### **Clause 71: Contributions by members of *isiZwe***

This clause provides that a Traditional Council may request members of an *isiZwe*, or any section of an *isiZwe*, to make a voluntary contribution to the Traditional Council concerned, provided that no such contribution may be collected, unless the majority of the members of such an *isiZwe*, or any section of an *isiZwe*, at an *imbizo* convened for that purpose, have consented to the payment of such contribution. The clause further provides that the above contributions may only be collected from members of an *isiZwe* for the purposes of financing a specific project or any other customary purpose and must be deposited into a trust account opened and managed on behalf of *isiZwe* or the Traditional Council concerned. The clause also provides that the MEC may prescribe the specific purposes and maximum contributions that may be levied as contemplated in this clause.

#### **Clause 72: Regulatory powers**

This clause provides that the Premier and the MEC may issue notices and make regulations, respectively, in the *Provincial Gazette* as contemplated in the Bill. The clause further provides that the MEC may make regulations, issue notices and publish guidelines in respect of any matter which is required or permitted by the Bill to be prescribed, the introduction and implementation of a system of performance management for Traditional Councils, Traditional Leaders, the Provincial House and Local Houses and any election contemplated in the Bill and any necessary administrative or procedural matter or to amend any schedule to the Bill.

#### **Clause 73: Juristic personality**

This clause provides that Traditional Councils, the Provincial House and Local Houses all have juristic personality.



**Clause 74: Assets, liabilities and resources**

This clause provides that the institutions contemplated in clause 63 may acquire, own, possess, hold, lease, alienate, encumber or dispose of any movable or immovable property, acquire rights and incur liabilities in carrying out, executing and performing their roles, powers and functions as contemplated in the Bill. The clause further provides that these institutions may establish and administer a trust in accordance with the provisions of the Trust Property Control Act, 1998 (Act No. 57 of 1998), insure with any company or persons against any losses, damages, risks and liabilities and must efficiently manage all assets and resources.

**Clause 75: Delegation of powers, assignments, agency and service delivery agreements**

This clause provides that the Premier, in consultation with the Executive Council, may delegate any role, power or function contemplated in this Act to the MEC, provided that any such delegation does not prevent the exercise of the relevant power by the Premier concerned. The clause also provides that the MEC may delegate any role, power or function contemplated in the Bill, except the power to make regulations and issue notices, to the Head of the KwaZulu-Natal Provincial department responsible for Traditional Affairs, provided that any such delegation does not prevent the exercise of the relevant power by the MEC concerned. The clause also provides that any person to whom any role, power or function has been delegated may, with the prior written approval of the Executive Council, further delegate such power or functions to a person or body approved by the Executive Council. The clause also provides that Provincial government departments, statutory institutions, organs of state and municipalities may delegate or assign any power or function to or enter into agency or service delivery agreements with Traditional Councils.

**Clause 76: Dispute resolution**

This clause provides that whenever a dispute concerning customary law or customs arises within an *isiZwe* or between *iziZwe* or other traditional institutions on a matter arising from the implementation of this Act or otherwise, members of such a community or institution and Traditional Leaders within *isiZwe* or traditional institution concerned must seek to resolve the dispute internally and in accordance with customary law and customs. The clause also provides that any dispute that cannot be resolved must be referred to the Provincial House for resolution. The clause also provides that in the event that the Provincial House is unable to resolve the dispute it must be referred to the MEC for resolution and should the MEC be unable to resolve the dispute, it must be referred to the Premier for resolution. The clause also provides that the Premier must resolve the dispute after consultation with the MEC, the

parties to the dispute and the Provincial House. The clause further provides that the Premier may refer the matter to the Provincial Commission for its recommendation prior to a final decision on the dispute contemplated in this clause.

**Clause 77: Cross-boundary arrangements**

This clause provides that the Premier, after consultation with the MEC, may enter into agreements with other Provincial governments in respect of matters relating to *iziZwe*, Traditional Leaders or traditional institutions in the event that the management of such matters would be better served by a joint approach by the Provincial governments concerned.

**Clause 78: Offences and penalties**

This clause provides that a person is guilty of an offence if that person purports to be a Traditional Leader without having been recognised as contemplated in this Act or wilfully obstructs the carrying out, performance or execution of any role, power or function vested in, or allocated to, any Traditional Leader, any Traditional Council, the Provincial House, any Local House or the Provincial Commission as contemplated in this Act or any other law. The clause also provides that a person convicted of an offence is liable to a fine or imprisonment not exceeding 12 months, or both such fine and imprisonment.

**Clause 79: Transitional arrangements**

This clause provides that all executive and administrative actions performed by the Provincial Government in good faith relating to *iziZwe*, *isiZwe* members, Traditional Leadership, Traditional Leaders, Traditional Authorities, Community Authorities, Traditional Councils or their respective jurisdictional areas and the informal recognition of *isiPhakanyiswa* as *iNkosi*, before the date of commencement of this Act, are deemed to have been validly performed. The clause also provides that any *iNduna* recognised in terms of applicable customs and customary law, notwithstanding the provisions of any other law, prior to the date of commencement of this Act, must be recognised as contemplated in clause 15, within a period of 24 months after the date of commencement of this Bill once enacted.

**Clause 80: Amendment and repeal of laws**

This clause makes reference to Schedule 3 of the Bill which contains the laws that are to be amended or repealed by this Bill once enacted.

**Clause 81: Short title and commencement**

This clause contains the short title of the Bill.

**SCHEDULE 1**

Schedule 1 to the Bill contains the Application Form TA1 to be used for an application for recognition as *isiZwe*.

**SCHEDULE 2**

Schedule 2 to the Bill contains the guidelines on the identification of successors to *ubuKhosi* contemplated in clause 13(1)(a) of the Bill.

**SCHEDULE 3**

Schedule 3 to the Bill contains the declaration by *iBambabukhosi* contemplated in clause 17(4) of the Bill.

**SCHEDULE 4**

Schedule 4 to the Bill contains the formula for the determination of the number of members of a Traditional Council contemplated in clause 25(1) of the Bill.

**SCHEDULE 5**

Schedule 5 to the Bill contains the number of elected members of the KwaZulu-Natal Provincial House of Traditional Leaders contemplated in clause 40(2) of the Bill.

**SCHEDULE 6**

Schedule 6 to the Bill contains the Code of Conduct for Traditional Leaders and Members of Traditional Councils contemplated in clause 66 of the Bill.

**SCHEDULE 7**

Schedule 7 to the Bill contains the Code of Conduct for Members of Houses of Traditional Leaders.

**SCHEDULE 8**

Schedule 8 to the Bill contains the laws that are to be repealed by this Bill, once enacted.

#### 4. CONSTITUTIONAL IMPLICATIONS

The Bill will give effect to the aims and objects of the Constitution as it applies to traditional institutions, leaders and authorities within the Province of KwaZulu-Natal.

#### 5. BODIES AND ORGANISATIONS CONSULTED

The KwaZulu-Natal Provincial House of Traditional Leaders, all Local Houses within KwaZulu-Natal, all district and local municipalities within KwaZulu-Natal and organised local government, are to be consulted on the Bill: the latter two in compliance with the provisions of section 154(2) of the Constitution of the Republic of South Africa, 1996.

#### 6. FINANCIAL IMPLICATIONS

Not determined as yet.

#### 7. ORGANISATION AND PERSONNEL IMPLICATIONS

Not determined as yet.

#### 8. IMPLICATIONS FOR MUNICIPALITIES

The implications for municipalities in terms of the Bill are, inter alia –

- (a) Clause 34 of the Bill provides that the Department must promote partnerships between municipalities and Traditional Councils;
- (b) Clause 29(1)(j) provides for *Amakhosi* to participate in municipal councils as contemplated in section 81 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
- (c) Clause 32(a) provides for *iziNduna* to participate in the activities of municipal ward committees to promote the development of *iziGodi*;
- (d) Clause 33(1) provides that Traditional Councils must support municipalities in the identification of community needs, facilitate the involvement of *isiZwe* in the amendment of the integrated development plan of the local municipality in whose area of jurisdiction that community resides, participate in the development of policy and legislation at local government level, participate in development programmes of municipalities, alert relevant municipalities to any hazard or calamity that threatens the area of jurisdiction of the relevant Traditional Council and co-operate with municipal ward committees within its area of jurisdiction;

(e) Clause 33(4) provides that a Traditional Council may enter into service delivery agreements with a municipality in accordance with the Local Government: Municipal Systems Act, 2000 and any other applicable legislation; and

(f) Clause 57(1) of the Bill provides that any draft legislation dealing with or affecting *iziZwe*, traditional institutions, customary law and customs must be referred by the Speaker of a Municipal Council to the Local House concerned for its written comments, as contemplated in clause 56(1)(d), before it is passed by the municipal council and any comment by the Local House concerned must be tabled in the municipal council prior to the passing of the draft municipal legislation concerned.

#### **9. CONTACT PERSON**

**NAME:** MS N QHOBOSHEANE

**TITLE:** HEAD OF DEPARTMENT: KWAZULU-NATAL DEPARTMENT OF  
CO-OPERATIVE GOVERNMENT AND TRADITIONAL AFFAIRS

**CONTACT NO.:** (033) 395 2831

**FAX:** (033) 345 6432

#### **10. LEGISLATIVE PROCEDURE**

Due to the fact that the subject matter of the Bill affects the status, institutions, powers or functions of local government, the Bill is to be published for public comment in terms of section 154(2) of the Constitution of the Republic of South Africa, 1996, before it is introduced into the KwaZulu-Natal Legislature to enable organised local government, municipalities and other interested persons an opportunity to make representations on the draft Bill.

**UMTHETHOSIVIVINYO WOBUHOLI BOMDABU NOKUBUSA WAKWAZULU-NATALI, 2013**

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*(Umbhalo wesiNgisi iwona mbhalo osemthethweni walo Mthethosivivinyo)*  
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## UMTHETHOSIVIVINYO

Wokuhlinzekela ukubunjwa kweziZwe, kobuholi bomdabu, nezikhungo zomdabu; wokuhlinzekela uhlaka lokulawula ukuze kutholakale futhi kwabiwe amajoka, amandla nemisebenzi, kuphinde kwabiwe nemisebenzi yemikhandlu yomdabu, yabaholi bomdabu neyezinye izinhlaka zobuholi bomdabu; wokuhlinzeka uhlaka lokusungulwa, lokuhlonyiswa ngamakhono kanjalo nokwesekwa kwemikhandlu yomdabu, kwabaholi bomdabu nezinye izinhlaka zobuholi bomdabu; wokuhlinzekela ukusungulwa kweNdlu yabaHoli boMdabu yesiFundazwe, kweziNdlu zabaHoli boMdabu zeziNdawo, kanye neKhomishana yokuXazulula ukuNgaboni Ngasolinye neziMangalo eziphathelelene nobuHoli boMdabu; wokuthwesa amajoka, amandla nemisebenzi, kanjalo nokwabela lezi zikhungo imisebenzi; wokuhlinzeka uhlaka lokusungulwa, lokuhlonyiswa ngamakhono nokwesekwa kwalezi zikhungo; wokuhlinzekela uhlaka olufanele lokweseka ukusebenzisana nokubusa ngokubambisana phakathi kwalezi zikhungo ezingenhla nohulumeni wesifundazwe; wokuhlinzekela inqubo yokuziphatha; wokuhlinzekela iqhaza lamalungu emiphakathi yomdabu; wokuhlinzekela amandla okulawula kaNdunankulu neLungu loMkhandlu oPhethe; wokuhlinzekela ukudluliselwa kwamandla, kwemisebenzi nezivumelwano; wokuhlinzekela izinhlelo zokuxazulula ukungaboni ngasolinye; wokuhlinzekela amacala nezinhlawulo; wokuhlinzekela izinhlelo zesikhashana; wokuhlinzekela ukuchitshiyelwa noma ukuchithwa komthetho osebenzayo wesifundazwe; nokuhlinzekela okunye okuphathelelene nalokho.

## ISENDLALELO

Njengoba isiFundazwe saKwaZulu-Natali, ngokuhambisana noMthethosisekelo, nohlaka lwenqubomgomo kazwelonke kanye noMthetho woHlaka lobuHoli boMdabu nokuBusa, 2003 (uMthetho No. 41 ka 2003), sikuhlonipha ukuba khona kweziZwe esiFundazweni, futhi sihlöse –

- ukuhlonipha, ukuvikela, ukonga, ukuguqula, kanjalo nokuhlinzeka ngezimo ezivumela ukubunjwa kweziZwe, ukusungulwa kwezikhungo zomdabu, kwemithetho yesintu kanye nesintu;
- ukucacisa ngendawo neqhaza lobuholi bomdabu embusweni wentando yeningi eNingizimu Afrika; kanye
- nokubuyisa isithunzi nokuhlonipheka kwesikhungo sobuholi bomdabu ngokuhambisana nemithetho yesintu namasiko,

**NGAKHO-KE MAWUMISWE** yisiShayamthetho sesiFundazwe saKwaZulu-Natali, kanje:-

## UKUHLELEKA KWEZIGABA

Izigaba

### ISAHLUKO 1

#### IZINCAZELO, UKUSEBENZA KOMTHETHO NEMIGOMO EYIMIKHOMBANDLELA

1. Izincazelo
2. Ukusebenza komthetho
3. Imigomo eyimikhombandlela

### ISAHLUKO 2

#### UKUBUNJWA NOKUHLAKAZWA KWEZIZWE

4. Ukubunjwa nokuhlakazwa kobuNgonyama
5. Ukubunjwa kweziZwe
6. Ukuhlakazwa kweziZwe
7. Ukubunjwa kweziZwana
8. Ukuhlakazwa kweziZwana
9. Ukubunjwa kweziGodi
10. Ukuhlakazwa kweziGodi

### ISAHLUKO 3

#### ABAHOLI BOMDABU

11. Ukubekwa nokukhokhelwa kwabaholi bomdabu
12. Ukuqokwa, ukubekwa nokwehliswa esihlalweni kweSilo
13. Ukuqokwa nokubekwa kwamaKhosi
14. Ukuqokwa nokubekwa kweziPhakanyiswa
15. Ukuqokwa nokubekwa kweziNduna
16. Ukuqokwa nokubekwa kweso leSilo neso leNkosi
17. Ukuqokwa nokubekwa kweBambabukhosi, kweBambela neSekela leNkosi
18. Izizathu zokwehliswa esikhundleni kwabaholi bomdabu
19. Ukweliswa esihlalweni kwamaKhosi
20. Ukweliswa esikhundleni kweziPhakanyiswa



21. Ukwehliswa esikhundleni kweziNduna
22. Ukwehliswa esikhundleni kweso leSilo neso leNkosi
23. Ukususwa kweBambabukhosi, kweBambela neSekela leNkosi

#### ISAPHLUKO 4

##### UKUSUNGULWA, UKUBUNJWA NOKUBEKWA KOBUKHOSI NEMIKHANDLU YOMDABU

24. Ukusungulwa, ukubunjwa nokubekwa komkhandlu wobukhosi
25. Ukusungulwa, ukubunjwa nokubekwa kwemikhandlu yomdabu
26. Ukushiywa kwezikhundla nokugcwaliswa kwezikhala
27. Ukuhlakazwa kwemikhandlu yomdabu

#### ISAPHLUKO 5

##### AMAJOKA, AMANDLA NEMISEBENZI YABAHOLI BOMDABU

28. Amajoka, amandla nemisebenzi yeSilo
29. Amajoka, amandla nemisebenzi yamaKhosi
30. Amajoka, amandla nemisebenzi yeBambabukhosi, yeBambela, yeSekela leNkosi neyeso leSilo
31. Ukwabiwa kwamajoka, kwamandla nemisebenzi yeBambabukhosi, yeBambela, yeSekela leNkosi neyeso leSilo yizinhlobo zombuso
32. Amajoka, amandla nemisebenzi yeziNduna
33. Amajoka, amandla nemisebenzi yemikhandlu yomdabu
34. Ukusebenzisana phakathi komasipala nemikhandlu yomdabu
35. Ukuhlinzekwa ngabasebenzi kwemikhandlu yomdabu
36. Imihlangano yemikhandlu yomdabu
37. Amaminithi emihlangano
38. Ukukhokhelwa kwamalungu emikhandlu yomdabu izindleko zokuhamba ngokomsebenzi

#### ISAPHLUKO 6

##### IZINDLU ZABAHOLI BOMDABU

39. Ukusungulwa nobulungu kwiNdlu yabaHoli boMdabu yesiFundazwe saKwaZulu-Natali
40. Ukubunjwa nezihlalo zeNdlu yesiFundazwe
41. Ukufaneleka ukuba yilungu leNdlu yesiFundazwe
42. Ukushiya isikhundla kwiNdlu yesiFundazwe
43. Ukugcwaliswa kwezikhala zomsebenzi kwiNdlu yesiFundazwe

44. Ukukhethwa kukaSihlalo neKomidi eliPhethe leNdlu yesiFundazwe
45. Isimo samalungu eNdlu yesiFundazwe
46. Ukukhethwa kwezithunywa kwiNdlu kaZwelonke
47. Imihlangano yeNdlu yesiFundazwe
48. Imithetho yeNdlu yesiFundazwe
49. Amajoka, amandla nemisebenzi yeNdlu yesiFundazwe
50. Ukuphathwa nesibopho sokubika seNdlu yesiFundazwe
51. Ukukhokhelwa, izibonelelo nemihlomulo ekhokhelwa amalungu eNdlu yesiFundazwe
52. Ukwesekwa kweNdlu yesiFundazwe
53. Ukusungulwa kweziNdlu zabaHoli boMdabu zeziNdawo
54. Ukubunjwa kwezindlu zezindawo nekomidi eliphethe
55. Imihlangano yeziNdlu zeziNdawo
56. Amajoka, amandla nemisebenzi yeziNdlu zeziNdawo
57. Ukudluliselwa kwemithetho esewuhlaka kwiNdlu yesiFundazwe neziNdlu zeziNdawo

#### ISAPHLUKO 7

##### IKHOMISHANA YESIFUNDAZWE EBHEKELE UKUNGABONI NGASOLINYE NEZIMANGALO EZIPHATHELENE NOBUHOLI BOMDABU

58. Ukusungulwa kweKhomishana yesiFundazwe saKwaZulu-Natali ebhekele ukuNgaboni Ngasolinye neziMangalo mayelana nobuHoli boMdabu
59. Ukubunjwa kweKhomishana nesikhathi sokusebenza kwayo
60. Imihlangano nemithetho yeKhomishana
61. Izikhala zomsebenzi nokugcwaliswa kwezikhala
62. Amandla nemisebenzi yeKhomishana
63. Ukwesekwa kweKhomishana
64. Ukususwa kwamalungu eKhomishana

#### ISAPHLUKO 8

##### IZINHLENGEKO EZEJWAYELEKILE

65. Amandla okwenza isifungo
66. Inqubo yokuziphatha
67. Amandla oMkhandlu oPhethe okubizela esigcawini abaholi bomdabu
68. Uphenyo mayelana nokungaziphathi kahle
69. Umiswa komholi womdabu

70. Ukwephulwa kwenqubo yokuziphatha
71. Izimali ezikhokhwa amalungu eziZwe
72. Amandla okushaya imithetho
73. Ukuzimela ngokomthetho
74. Impahla, izikweletu nezinsizakusebenza
75. Ukudluliselwa kwamandla, kwemisebenzi, kwe-ejensi nezivumelwano zokuhlinzekwa kwezidingo
76. Ukuxazululwa kokungaboni ngasolinye
77. Izinhlelo mayelana nemingcele eyeqanayo
78. Amacala nezinhlawulo
79. Izinhlelo zesikhashana
80. Ukuchitshiyelwa nokuchithwa kwemithetho
81. Isihloko esifingqiwe nokuqala kokusebenza komthetho

#### **UHLELO 1**

Isicelo sokwemukelwa njengesizwe

#### **UHLELO 2**

Imikhombandlela yokuqokwa kobuKhosi

#### **UHLELO 3**

Isifungo esenziwa iBambabukhosi

#### **UHLELO 4**

Inqubo yokunquma isibalo samalungu oMkhandlu woMdabu

#### **UHLELO 5**

Amalungu akhethiwe eNdlu yabaHoli boMdabu yesiFundazwe saKwaZulu-Natali

#### **UHLELO 6**

INqubo yokuziPhatha yabaHoli boMdabu namalungu eMikhandlu yomdabu

#### **UHLELO 7**

INqubo yokuziPhatha yamaLungu eziNdlu zabaHoli boMdabu

## UHLELO 8

Ukuchithwa kwemithetho

### ISAHLUKO 1

IZINCAZELO, UKUSEBENZA KOMTHETHO NEMIGOMO EYIMIKHOMBANDLELA

#### Izincazelo

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

“**indawo ephethwe**” kushiwo indawo ephethwe isiZwe esemukelwe njengoba kuhlongozwe esigabeni 5, umkhandlu obekwe njengoba kuhlongozwe esigabeni 25, neNdlu yeNdawo esungulwe ngokwesigaba 53;

“**uSihlalo womkhandlu womdabu**” kushiwo umholi womdabu oyilungu eliyinhloko emkhandlwini womdabu, futhi kubandakanya –

- (a) iNkosi
- (b) isiPhakanyiswa
- (c) iBambabukhosi
- (d) iBambela
- (e) iSekela leNkosi
- (f) iSo leNkosi

“**iNqubo yokuziPhatha**” kushiwo inqubo yokuziphatha equkethwe oHlelweni 6 no 7 kulo Mthetho;

“**iKhomishana**” kushiwo iKhomishana yokuXazulula ukuNgaboni Ngasolinye neziKhalo mayelana nobuHoli boMdabu yaKwaZulu-Natali esungulwe njengoba kuhlongozwe esigabeni 58;

“**uMthethosisekelo**” kushiwo uMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996 (uMthetho 108 ka 1996);

**“umthetho wesintu”** kushiwo lowo mthetho wesintu othathwa njengobophezelayo, futhi osebenza kuwona wonke amalungu aleso SiZwe esemukelwe njengoba kubekwe kulo Mthetho noma ngenye indlela;

**“isintu”** kushiwo izenzo ezingokomdabu ezilandelwa yisiZwe esithile, esemukelwe ngokwalo Mthetho noma ngenye indlela;

**“uMnyango”** kushiwo uMnyango kuHulumeni wesiFundazwe saKwaZulu-Natali obhekele ezomdabu;

**“umasipala wesifunda”** kushiwo umasipala onamandla okuphatha njengomasipala futhi onamandla ngokomthetho endaweni enomasipala basekhaya abangaphezu kowodwa, njengoba kuhlangozwe esigabeni 5 soMthetho wokuNqunywa kweziNhlobo zoMasipala waKwaZulu-Natali, 2000 (uMthetho No. 7 ka 2000), futhi ochazwe njengomasipala osemkhakheni C esigabeni 155(1)(c) soMthethosisekelo;

**“ithimba elikhethiwe”** kushiwo ithimba elikhethiwe elibunjwe amalungu amadala aleso siZwe abekwe njengoba kuhlangozwe esigabeni 5;

**“uMkhandlu oPhethe”** kushiwo uMkhandlu oPhethe wesiFundazwe saKwaZulu-Natali;

**“uhulumeni”** kushiwo amazinga kahulumeni kuzwelonke, esifundazweni nohulumeni basekhaya njengoba kuhlangozwe esigabeni 40(1) soMthethosisekelo;

**“indlu”** kushiwo indlu njengoba ibunjwe iNkosi ngokubonisana noMndeni weNkosi ngokulandela isintu nemithetho yesintu, kanti lokhu kungabandakanya iNdlunkulu, iQadi neKhohlo;

**“iBambabukhosi”** kushiwo umuntu obekwe njengoba kuhlangozwe esigabeni 17;

**“iBambela”** kushiwo umuntu obekwe njengoba kuhlangozwe esigabeni 17;

**“imbizo”** kushiwo umhlangano wamalungu esiZwe obizwe umholi othile womdabu;

**“iNduna”** kushiwo umuntu obekwe njengeNduna yesiGodi esithile njengoba kuhlangozwe esigabeni 15;

**“iNkosi”** kushiwo umuntu obekwe njengoba kuhlangozwe esigabeni 13;

**“isikhungo”** kushiwo noma isiphi isikhungo esisungulwe noma esakhiwe njengoba kuhlangozwe kulo Mthetho, ngaphandle kweziZwe nomholi womdabu;

**“iSekela leNkosi”** kushiwo umuntu obekwe njengoba kuhlangozwe esigabeni 17;

**“iSilo”** kushiwo umuntu ogcotshwe njengeSilo saKwaZulu-Natali njengoba kuhlangozwe esigabeni 12;

**“isiPhakanyiswa”** kushiwo umuntu okhethwe njengoba kuhlangozwe esigabeni 14;

**“isiGodi”** kushiwo isigodi esiklanywe ngokomdabu ngaphansi kwendawo elawulwa umkhandlu womdabu, eyemukelwe njengoba kuhlangozwe esigabeni 9;

**“isiZwe”** kushiwo umphakathi womdabu obunjwe njengoba kuhlangozwe esigabeni 5;

**“iKwaZulu-Natali”** kushiwo isifundazwe saKwaZulu-Natali;

**“umthetho”** kushiwo umthetho kahulumeni kazwelonke, wesifundazwe nowasekhaya, okungaba umthetho omkhulu noma umthetho ongaphansi komthetho omkhulu;

**“iNdlu yeNdawo”** kushiwo iNdlu yabaHoli boMdabu yeNdawo esungulwe njengoba kuhlangozwe esigabeni 53;

**“umasipala wasekhaya”** kushiwo umasipala owabelana ngamandla okuphatha nawomthetho endaweni yawo nomasipala wesifunda ongaphansi kwawo, njengoba kuhlangozwe esigabeni 4 soMthetho wokuNqunywa kweziNhlobo zoMasipala waKwaZulu-Natali, 2000 (uMthetho No. 7 ka 2000), futhi ochazwe njengomasipala osemkhakheni B yisigaba 155(1)(b) soMthethosisekelo;

**“iLungu loMkhandlu oPhethe”** kushiwo iLungu loMkhandlu oPhethe elibhekele ezomdabu KwaZulu-Natali;

**“umasipala womkhandludolobha”** kushiwo umasipala onamandla okuphatha namandla ngokomthetho endaweni engaphansi kwawo, njengoba kuhlangozwe esigabeni 2 soMthetho wokuNqunywa kweziNhlobo zoMasipala waKwaZulu-Natali, 200 (uMthetho No. 7 ka 2000), futhi ochazwe njengomasipala osemkhakheni A yisigaba 155(1)(a) soMthethosisekelo;

**“uNgqongqoshe”** kushiwo uNgqongqoshe ezingeni likahulumeni kazwelonke obhekele ezobuholi bomdabu;

**“umkhandlu kamasipala”** kushiwo umkhandlu kamasipala ohlangozwe kwiSahluko 7 soMthethosisekelo;

**“umasipala”** kushiwo umasipala njengoba uhlangozwe kwiSahluko 7 soMthethosisekelo, futhi kubandakanya wonke amawadi angaphansi kwalowo masipala;

**“amakomidi amawadi kamasipala”** kushiwo amakomidi amawadi kamasipala asungulwe njengoba kuhlangozwe esigabeni 73 soMthetho weziNhlaka zoMasipala woHulumeni baseKhaya, 1998 (uMthetho No. 117 ka 1998);

**“iKhomishana kaZwelonke”** kushiwo iKhomishana ebhekele ukuNgaboni Ngasolinye neziKhalo mayelana nobuHoli boMdabu njengoba kuhlangozwe esigabeni 22 soMthetho wobuHoli boMdabu nokuBusa, 2003 (uMthetho No. 41 ka 2003);

**“iNdlu kaZwelonke”** kushiwo iNdlu yabaHoli boMdabu kaZwelonke njengoba kuhlangozwe esigabeni 212(2)(a) soMthethosisekelo futhi esungulwe njengoba kuhlangozwe eMthethweni weNdlu yabaHoli boMdabu kaZwelonke, 1997 (uMthetho No. 10 ka 1997);

**“uNdunankulu”** kushiwo uNdunankulu waKwaZulu-Natali;

**“okunqunyiwe”** kushiwo okunqunyiwe ngohlelo, ngomthethonqubo noma ngesaziso njengoba kuhlangozwe kulo Mthetho;

**“uMengameli”** kushiwo uMengameli weRiphabhulikhi yaseNingizimu Afrika;

**“iGazethi yesiFundazwe”** kushiwo iGazethi kaHulumeni wesiFundazwe saKwaZulu-Natali;

**“iNdlu yesiFundazwe”** kushiwo iNdlu yabaHoli boMdabu yesiFundazwe saKwaZulu-Natali njengoba kuhlangozwe esigabeni 39;

**“umaziphathe wesifunda”** kushiwo umaziphathe wesifunda osungulwe njengoba kuhlangozwe emthethweni okhona;

**“umndeni waseNdlunkulu”** kushiwo isikhungo somdabu ngokomthetho wesiZulu nangokwesintu, esibhekele ukuqoka oyothatha isihlalo seSilo;

**“uNobhala weNdlu yesiFundazwe”** kushiwo inhloko yezokuphatha yendlu yabaholi bomdabu yesifundazwe, eqokwe ngokwesigaba 50;

**“isiZwana”** kushiwo isiZwe esincane somdabu esibunjwe njengoba kuhlangozwe esigabeni 7;

**“Io Mthetho”** kubandakanya neziNhlelo zalo Mthetho, nanoma imiphi imithethonqubo eyenziwe nesaziso ezikhishwe njengoba kuhlangozwe kulo Mthetho;

**“umkhandlu womdabu”** kushiwo umkhandlu osungulwe njengoba kuhlangozwe esigabeni 25;

**“isikhungo somdabu”** kushiwo, esemukelwe ngokwalo Mthetho noma ngenye indlela, esisungulwe njengoba kuhlangozwe emthethweni wesintu osetshenziswayo nangendlela yesintu yaleso siZwe, eyemukelwe njengoba kuhlangozwe esigabeni 3 noma ngenye indlela;



“**umholi womdabu**” kushiwo umuntu obekwe kwiSahluko 3 salo Mthetho njengomholi womdabu;

“**uMndeni**” kushiwo uMndeni weNkosi noma uzalo lweNkosi yesiZwe esithile owemukelwe njengoba kuhlangozwe esigabeni 4, ngaphandle komndeni waseNdlunkulu, futhi kubandakanya –

(a) indlu lapho ubuKhosi bukhona, okuyiyona enquma ngezinto ezithinta ubuKhosi, futhi ibandakanya okungenani –

- (i) umfazi noma abafazi beNkosi, izingane, abafowabo nodadewabo beNkosi ebusayo, kubandakanya abazalwa sendelinye neNkosi;
- (ii) uyise noyisemkhulu weNkosi ebusayo, uma besaphila; kanye
- (iii) nabafowabo nodadewabo bakayise noyisemkhulu weNkosi ebusayo; kanye

(b) nanoma iyiphi enye indlu noma izindlu, kuncike kwimithetho yesintu noma kwisintu esisetshenziswa yilowo mndeni othintekayo, ezakhiwe yisizukulwane sokhokho abafanayo nabendlu enkulu, abanolwazi mayelana nezinqumo zendlu enkulu eziphathelele nobuKhosi.

(2) Igama elisho ubunye libandakanya nobuningi nelisho ubuningi libandakanya nobunye.

### **Ukusebenza komthetho**

2. Lo Mthetho usebenza esiFundazweni saKwaZulu-Natali njengoba kuhlangozwe kuMthethosisekelo, futhi ulawulwa yiLungu loMkhandlu oPhethe.

### **Imigomo eyimikhombandlela**

3.(1) Zonke iziZwe ezibunjwe, izikhungo zomdabu ezisungulwe nabaholi bomdabu ababekwe njengoba kuhlangozwe kulo Mthetho, nazo zonke izikhungo zomdabu ezingazange zisungulwe ngokwalo Mthetho kodwa ezisungulwe ngokuhambisana nemithetho yesintu kanye nesintu esisetshenziswa yilesi nalesi siZwe, kumele zishintshe futhi zisungule imithetho yesintu ehambisanayo noMthethosisekelo, ikakhulukazi ngokuthi –

- (a) kugwenywe ukucwasana okungafanele;
- (b) kugqugquzelwe ukulingana; futhi

- (c) kuzanywe ukugqugquzela ukuba ubulili obahlukahlukene bumeleleke ezikhundleni zobuholi bomdabu.
- (2) Akukho sikhungo somdabu noma mholi womdabu oyogqugquzela noma enzelele noma iyiphi inhlango yezelele.
- (3) Zonke izikhungo zomdabu nabaholi bomdabu ababekwe njengoba kuhlangozwe kulo Mthetho kumele uma benza imisebenzi yabo, befeza amajoka abo, noma besebenzisa amandla abo –
- (a) basebenzise imigomo yokubusa ngokubambisana neyobudlelwane obuhle phakathi kwezinhlobo zikahulumeni njengoba kuhlangozwe kwiSahluko 3 soMthethosisekelo nakunoma imuphi omunye umthetho; futhi
  - (b) babe qotho futhi bagcine baphinde basebenzise imigomo elawula uhulumeni njengoba kuhlangozwe kwiSahluko 10 soMthethosisekelo nanoma imuphi omunye umthetho.

## ISAHLUKO 2

### UKUBUNJWA NOKUHLAKAZWA KWEZIZWE

#### **Ukubunjwa nokuhlakazwa kobuNgonyama**

4. Izinhlinzeko zesigaba 2A soMthetho woHlobo lobuHoli boMdabu nokuBusa, 2003, ziyasebenza uma kubunjwa noma kuhlakazwa ubuNgonyama esiFundazweni saKwaZulu-Natali.

#### **Ukubunjwa kwezizwe**

5.(a) Umphakathi ungathathwa njengesizwe uma –

- (a) usebenzisa uhlelo lobuholi bomdabu njengoba kuhlangozwe emithethweni yesintu yalowo mphakathi;
- (b) usebenzisa uhlelo lwemithetho yesintu;
- (c) wona uzibona njengesizwe esinomlando obambekayo, kusukela esikhathini esithize kuze kube manje, owehlukile kunezinye izizwe;
- (d) sinendawo yaso ethile esakhe kuyo; futhi
- (e) sineziGodi eziphethwe yiziNduna.

(2)(a) UNdunankulu, ngemuva kokubonisana nabantu nemigwamanda ehlongozwe endimeni (b), angemukela umphakathi ohlongozwe kwisigatshana (a) njengesiZwe esihlala endaweni ethile ngesaziso kwiGazethi yesiFundazwe –

(i) uma lowo mphakathi ufaka isicelo ngencwadi, ngendlela ehambisanayo noHlelo 1; noma

(ii) uma ekhetha ukubumba umphakathi owodwa noma ngaphezulu njengoba kuhlongozwe esigabeni 6(3).

(b) Noma isiphi isicelo esihlongozwe endimeni (a) kumele sihambisane nesicelo sokubekwa kweNkosi yalowo mphakathi othintekayo.

(c) Noma isiphi isinqumo sikaNdunankulu njengoba kuhlongozwe endimeni (a) kumele sithathwe ngemuva kokubonisana –

(i) neLungu loMkhandlu oPhethe;

(ii) nomphakathi othintekayo;

(iii) neNdlu yeNdawo elawula indawo okwakhe kuyo lowo mphakathi;

(iv) neNdlu yesiFundazwe; kanye

(v) neSilo.

(d) Ngaphambi kokuthatha isinqumo njengoba kuhlongozwe endimeni (a), uNdunankulu angaqoka umuntu noma abantu abazimele abazokwenza uphenyo ukuze kutholakale ukuthi leso siZwe siyahambisana yini nenqubo ehlongozwe kwisigatshana (1).

(e) UNdunankulu umele aphume nesinqumo mayelana nokwamukelwa kwalowo mphakathi kungekudala ngemuva kokubheka izimo nohlobo lwesicelo.

(f) Uma kwenzeka uNdunankulu –

(i) egunyaza isicelo esibhalwe phansi, kumele azise umfakisicelo othintekayo ngencwadi ngesinqumo sakhe, futhi ashicilele isaziso kwiGazethi yesiFundazwe njengoba kuhlongozwe kwisigatshana (2)(a); noma

(ii) echitha isicelo esibhalwe phansi, kumele azise umfakisicelo othintekayo ngencwadi ngesinqumo sakhe sokuchitha isicelo ezinsukwini ezingama-60 ethathe isinqumo esihlongozwe endimeni (e).

### **Ukuhlakazwa kwesiZwe**

6.(1) UNdunankulu, ngemuva kokubonisana neLungu loMkhandlu oPhethe, angahlela ukuhlakaza isiZwe uma ethola isicelo –

(a) saleso siZwe esithintekayo;

- (b) seziZwe ezimbili ezifisa ukuba zihlanganiswe zibe yisiZwe esisodwa;
- (c) sesiZwe esifisa ukuba sihlukaniswe sibe yiziZwe ezingaphezu kwesisodwa;
- (d) sesiZwe noma seziZwe sokubuyekeza isimo seziZwe noma seziZwe ezahlukaniswa noma ezahlanganiswa ngaphambi konyaka ka 1994 ngenxa yemithetho yangaleso sikhathi.

(2) Isicelo esihlongozwe kwisigatshana (1) kumele sihlizwe ngemininingwane echaza kabanzi izizathu ezeseke isicelo sokuhlakazwa kwaleso siZwe: Kuncike ekutheni uNdunankulu angaqoka umuntu noma abantu abazimele abazokwenza uphenyo ukuze kutholakale ukuthi zikhona yini izizathu ezanele zokuba kuhlakazwe lowo mphakathi njengesizwe.

(3) UNdunankulu, kuncike ezinhlinzekweni zesigatshana (2), kumele afinyelele esinqumweni mayelana nokuhlakazwa kwaleso siZwe ngesikhathi esifanele.

(4) UNdunankulu, kuncike ezinhlinzekweni zesigatshana (2) –

- (a) ngesaziso kwiGazethi yesiFundazwe, angahlakaza isizwe esihlongozwe kwisigatshana (1); noma
- (b) angenqaba ukuhlakaza isizwe esihlongozwe kwisigatshana (1), okuyothi uma kunjalo, azise isizwe esithintekayo ngezizathu zokwenqaba ukuhlakaza isizwe ezinsukwini ezingama-60 ethathe isinqumo esihlongozwe kwisigatshana (3).

### **Ukubunjwa kwezizwana**

7.(a) Uma isizwe sinezindawo ezimbili noma ngaphezulu ezahlukene esakhe kuzo, iNkosi yalowo mphakathi ingafaka isicelo kuNdunankulu ngencwadi sokubumba isizwana kuleyo ndawo engaphandle kwalapho kuhlala khona iNkosi.

(b) Izinhlinzeko zesigaba 5, sifundwa nezinguquko ezidingekayo, ziyasebenza uma kubunjwa isizwana.

(c) Uma uNdunankulu egunyaza isicelo sokubunjwa kwesizwana, iNkosi kumele icele uNdunankulu ngencwadi ukuba abeke iso leNkosi kuleso siZwana njengoba kuhlongozwe esigabeni 16.

**Ukuhlakazwa kwesiZwana**

8.(1) Ukuhlakazwa kwesiZwana kungenziwa kuphela uma iNkosi ethintekayo ifaka isicelo kuNdunankulu sokuthi sihlakazwe.

(2) Isicelo esihlongozwe kwisigatshana (1) kumele sibeke izizathu ezicacile ezeseke isicelo sokuba kuhlakazwe leso siZwana: Kuncike ekutheni uNdunankulu angaqoka umuntu noma abantu abazimele abazokwenza uphenyo ukuze kutholakale ukuthi zikhona yini izizathu ezanele zokuba kuhlakazwe leso siZwana.

(3) UNdunankulu, kuncike ezinhlinzekweni zesigatshana (2), kumele aphume nesinqumo mayelana nokuhlakazwa kwaleso siZwana ngesikhathi esifanele.

(4) UNdunankulu, kuncike ezinhlinzekweni zesigatshana (2) no (3) –

(a) ngesaziso kwiGazethi yesiFundazwe, angahlakaza isiZwana ezihlongozwe kwisigatshana (1) noma

(b) enqabe ukuhlakaza isiZwana esihlongozwe kwisigatshana (1), okuyothi ngemuva kwalokho azise iNkosi ethintekayo izizathu zokwenqaba kwakhe ezinsukwini ezingama-60 ethathe isinqumo esihlongozwe kwisigatshana (3).

**Ukubunjwa kweziGodi**

9.(1) IsiGodi singathathwa njengesigodi uma –

(a) sibunjwa yiNkosi nomkhandlu womdabu waleso siZwe esithintekayo;

(b) sisendaweni ephethwe umkhandlu womdabu waleso siZwe;

(c) siphethwe yiNduna ebekwe njengoba kuhlongozwe esigabeni 15; futhi

(d) sizobamba iqhaza ekuphathweni ngendlela efanele kwalowo mkhandlu womdabu othintekayo.

(2)(a) Uma kwenzeka ingxenye ethile yesiZwe ibona ukuthi iyahlangabezana nale nqubo ehlongozwe kwisigatshana (1), ingacela kulowo mkhandlu womdabu othintekayo ukuba ufake isicelo kuNdunankulu sokuba leyo ngxenye yomphakathi yenziwe isiGodi.

(b) Uma umkhandlu womdabu ubona ukuthi ingxenye yesiZwe okukhulunywe ngayo endimeni (a) ayihlangabezani nenqubo ebekwe kwisigatshana (1), umkhandlu womdabu kumele wazise umphakathi noNdunankulu futhi usho izizathu zalokho.

(3) Ngaphambi kokuthatha isinqumo njengoba kuhlangozwe kwisigatshana (4), uNdunankulu angaqoka umuntu noma abantu abazimele ukuba benze uphenyo ukuze kutholakale ukuthi isicelo sokubunjwa kwesiGodi siyahlangabezana yini nenqubo ehlongozwe kwisigatshana (1).

(4) UNdunankulu kumele aphume nesinqumo mayelana nokubunjwa kwaleso siGodi ngesikhathi esifanele ebhekelela izimo nohlobo lwesicelo.

(5) Uma uNdunankulu echitha isicelo esibhalwe phansi, kumele azise abafakizicelo abathintekayo izizathu zakhe ezinsukwini ezingama-60 ethathe lesi sinqumo esihlongozwe kwisigatshana (4).

(6) UNdunankulu, ngemuva kokubonisana nomkhandlu womdabu othintekayo kanjalo neNkosi

–

(a) angachitha ukubunjwa kwaleso siGodi; noma

(b) avumele ukubunjwa kwaleso siGodi njengengxenywe yaleso siZwe ngesaziso kwiGazethi yesiFundazwe.

#### **Ukuhlakazwa kweziGodi**

**10.(1)** Ukuhlakazwa kwesiGodi kungenziwa kuphela uma iNkosi nomkhandlu womdabu othintekayo becela kuNdunankulu ukuba asihlakaze.

(2) Isicelo esihlongozwe kwisigatshana (1) kumele sihlinzeke izizathu ezizwakalayo ezeseka isicelo sokuhlakazwa kwaleso siGodi: Kuncike ekutheni uNdunankulu angaqoka umuntu noma abantu abazimele abazokwenza uphenyo ukuze kutholakale ukuthi zikhona yini izizathu zokuba kuhlakazwe lesi siGodi.

(3) UNdunankulu, kuncike ezinhlinzekweni zesigatshana (2), kumele athathe isinqumo mayelana nokuhlakazwa kwesiGodi ngesikhathi esifanele.

(4) UNdunankulu, kuncike ezinhlinzekweni zesigatshana (2) no (3) –

(a) angahlakaza isiGodi esihlongozwe kwisigatshana (1) ngesaziso kwiGazethi yesiFundazwe; noma

(b) angenqaba ukuhlakaza isiGodi esihlongozwe kwisigatshana (1), okumele ngemuva kwalokho azise iNkosi nomkhandlu womdabu othintekayo ngezizathu zokwenqaba kwakhe ezinsukwini ezingama-60 kusukela ethathe isinqumo esihlongozwe kwisigatshana (3).

### ISAHLUKO 3

#### ABAHOLI BOMDABU

##### **Ukubekwa nokukhokhelwa kwabaholi bomdabu**

**11.(1)** Izikhundla zobuholi bomdabu ezisemthethweni yilezi ezilandelayo:

- (a) iSilo;
- (b) amaKhosi;
- (c) isiPhakanyiswa; kanye
- (d) neziNduna.

**(2)** Le nqubo elandelayo iyona elandelwayo uma kubekwa abaholi bomdabu:

- (a) umlando obambekayo wokuba khona kwaleso sikhundla sobuholi kulowo mphakathi othintekayo;
- (b) umlando obambekayo wokwemukeleka kwaleso sikhundla sobuholi emphakathini othintekayo;
- (c) ubufakazi bokusetshenziswa kwesintu nemithetho yesintu yilowo mphakathi othintekayo, mayelana nokushiyelana izikhundla noma nokukhethwa kwabaholi kubandakanya nesikhathi sokuba sesikhundleni salabo baholi abakhethiwe;
- (d) umlando mayelana nemisebenzi namandla alezo zikhundla zobuholi ngokwemithetho yesintu nesintu salowo mphakathi;
- (e) ukwemukeleka kwalowo mphakathi ngokwalo Mthetho; kanye
- (f) nomlando obambekayo –
  - (i) wokushiyelwana kwezikhundla ngokwemithetho yesintu noma ngokwesintu esisetshenziswa yilowo mphakathi, noma ngabe umphakathi ulibambile noma awulibambanga iqhaza ngokwesintu ekunqumeni noma ekuqinisekiseni ukuthi kuqokwa bani njengomholi; noma
  - (ii) wobuholi obukhethiwe, ngokomthetho wesintu noma ngokwesintu salowo mphakathi othintekayo, uma umholi ekhethwa.

(3) Iholo, izibonelelo nemihlomulo etholwa iSilo, amaKhosi, isiPhakanyiswa neziNduna injengoba inqunyiwe eMthethweni wokuHolelwa kwabaSebenzi bakaHulumeni, 1998 (uMthetho No. 20 ka 1998).

#### **Ukuqokwa, ukubekwa nokwehliswa esihlalweni kweSilo**

12. Izinhlinzeko zezigaba 9 no 10 zoMthetho woHlaka lobuHoli boMdabu nokuBusa, 2003, ziyasebenza uma kuqokwa, kubekwa noma kwehliswa esihlalweni iSilo.

#### **Ukuqokwa nokubekwa kwamaKhosi**

13.(1) Uma kuba khona isikhala seNkosi okumele sivalwe –

(a) uMndeni kumele, kungakapholi maseko kuvele leso sikhala, ngokubhekelela izimo ezikhona, imithetho yesintu esetshenziswayo, nemikhombandlela equkethwe oHlelweni 2 –

(i) uqoke umuntu ozothatha ubuKhosi;

(ii) wazise iSilo ngencwadi ngomuntu oqokelwe ukuthatha ubuKhosi, uhlinzeke nezizathu zokuqokwa kwalowo muntu;

(iii) wazise uNdunankulu neLungu loMkhandlu oPhethe ngencwadi ngomuntu oqokelwe ukuthatha ubukhosi nezizathu zokuqokwa kwalowo muntu: Kuncike ekutheni isaziso esibhekiswe kuNdunankulu kumele sibandakanye ubufakazi bokuthi okushiwo wuhlamvu (ii) sekwenziwe; futhi

(b) uNdunankulu, ngemuva kokubonisana neLungu loMkhandlu oPhethe, futhi kuncike kwizigatshana (2) no (3), kumele abeke lowo muntu oqokiwe ngokwendima (a)(i) njengeNkosi.

(2) Lezi zizathu ezilandelayo zivimbela noma ngubani ekutheni abekwe njengeNkosi:

(a) uma eke watholakala enecala wagwetshwa ukubhadla ejele isikhathi esingaphezu kwezinyanga eziyi-12 ngaphandle kokubonelelwa ngenhlawulo;

(b) ekhubazekile emzimbeni noma engqondweni, ngobufakazi obubambekayo bodokotela, okungenza angakwazi ukusebenza njengeNkosi;

(c) uma kuba nesinqumo esithathwe yiKhomishana kaZwelonke njengoba kuhlangozwe esigabeni 26(2)(b) soMthetho woHlaka lobuHoli boMdabu nokuBusa, 2003 (uMthetho



No. 41 ka 2003), sokuthi ukuqokwa noma ukubekwa kwalowo muntu kwakungafanele; noma

(d) kungazange kuhlunishwe umthetho wesintu noma isintu esenqabela ukuqokwa kwakhe.

(3) Uma kunobufakazi noma kunezinsolo zokuthi ukuqokwa komuntu oqokelwa ukuba abekwe njengeNkosi kwenziwe ngaphandle kokulandelwa kwesintu noma komthetho wesintu, uNdunankulu –

(a) angaqoka umuntu noma abantu abazokwenza uphenyo futhi balethe umbiko oveza ukuthi ngabe ukuqokwa kwalowo muntu kwenziwe ngokwesintu noma ngokomthetho wesintu yini; noma

(b) ngale kwalokho abeke lowo muntu oqokiwe njengeNkosi.

(4) Uma uNdunankulu esecubungule umbiko ohlongozwe kwisigatshana (3)(a) –

(a) angabeka lowo muntu oqokiwe njengeNkosi; noma

(b) angenqaba ukubeka lowo muntu oqokiwe njengeNkosi, okumele uma kuba njalo uNdunankulu azise uMndeni ngezizathu zesinqumo sakhe futhi acele uMndeni ukuba uqoke omunye umuntu njengoba kuhlongozwe kwisigatshana (1).

(5) Ukubekwa komuntu oqokwe njengeNkosi njengoba kuhlongozwe kulesi sigaba kumele kwenziwe –

(a) ngokuthi uNdunankulu ashicilele isaziso sokubekwa kwakhe kwiGazethi yesiFundazwe; futhi

(b) kukhishwe isitifiketi sokubekwa kwaleyo Nkosi.

(6) Uma sekushicilelwe isaziso sokubekwa kweNkosi kwiGazethi yesiFundazwe, iNhloko yoMnyango kumele yazise iSilo, iNdlu yesiFundazwe neNdlu yeNdawo ethintekayo mayelana nokubekwa kwaleyo Nkosi.

#### **Ukuqokwa nokubekwa kweziPhakanyiswa**

**14.** Uma kuqokwa noma kubekwa isiPhakanyiswa, kuyosetshenziswa inqubo ehlongozwe esigabeni 13 nezinguquko ezidingekayo, kuncike ekutheni –

(a) lokho kuqokwa kuyoba okweminyaka emihlanu;

- (b) konke okwenziwa uMndeni kuyokwenziwa abantu abanelungelo lokuvota; futhi
- (c) ukuqokwa ngokwesintu okukhulunywe ngakho esigabeni 13(1)(a) kuyoshintsha kube ukhetho olungokwentando yeningi, oluyobanjwa ngendlela enqunyiwe.

#### **Ukuqokwa nokubekwa kweziNduna**

**15.(1)** Uma kwenzeka kuba nesikhala seNduna esigodini esithile okumele sivalwe –

- (a) umuntu okumele athathe isikhundla sokuba yiNduna kumele, ngokwesintu noma ngokomthetho wesintu akhonjwe yiNkosi noma aphakanyiswe yilowo mphakathi eMbizweni ebizelwe lokho, kungakapholi maseko kuvele lesi sikhala okumele sigcwaliswe, kubhekwe nokuthi izizathu okukhulunywe ngazo esigabeni 13(2) azimthinti yini lowo muntu;
- (b) iNkosi, kumele icele kuNdunankulu ukuba kubekwe lowo muntu oseqokiwe noma osephakanyisiwe futhi ihlinzeke uNdunankulu ngemininingwane yalowo muntu; futhi
- (c) uNdunankulu kumele abeke lowo muntu oqokiwe noma ophakanyisiwe njengeNduna, njengoba kuhlangozwe esigabeni 13(5), sifundwa nezinguquko ezidingekayo.

#### **Ukuqokwa nokubekwa kweso leSilo neso leNkosi**

**16.(1)** Izinhlinzeko zesigaba 13 ziyosebenza nezinguquko ezidingekayo uma kuqokwa futhi kubekwa iso leSilo neso leNkosi, kuncike ekutheni –

- (a) iSilo siqoka futhi sibeka umuntu ozokuba yiso leSilo esiZweni sasoSuthu naseziZwaneni ezingaphansi kwaso; futhi
- (b) iNkosi iqoka futhi ibeka umuntu ozokuba yiso leNkosi kunoma isiphi isiZwana esibunjwe njengoba kuhlangozwe esigabeni 7.

(2) Uma kwenzeka iso leSilo noma iso leNkosi lishona, lithatha umhlalaphansi noma lesula noma nini ngenkathi isiZwe sasoSuthu nanoma isiphi esinye isiZwe singenaso iSilo, iNkosi, iBambabukhosi noma iBambela, njengoba kungaba njalo, uNdunankulu, kumele, ezinsukwini ezingama-90 kuvele lesi sikhundla, aqoke umuntu ofanele kumalungu aleso siZwe elizolawula izindaba zaleso siZwana esithintekayo, kuze kubekwe iSilo, iNkosi, iBambabukhosi noma iBambela, njengoba kungaba njalo, elizoqoka futhi libeke iso leSilo noma iso leNkosi, njengoba kungaba njalo.

**Ukuqokwa nokubekwa kweBambabukhosi, kweBambela seSekela leNkosi**

17.(1) Izinhlinzeko zesigaba 13 zisebenza nezinguquko ezidingekayo uma kuqokwa futhi kubekwa iBambabukhosi, iBambela neSekela leNkosi: Kuncike ekutheni –

(a) iBambabukhosi lingaqokwa futhi libekwe uma lowo omele ukuthatha lesi sikhundla ekhona, kodwa esemncane ngokweminyaka uma kubhekwa ngokwesintu noma ngokomthetho wesintu waleso siZwe;

(b) iBambela lingaqokwa futhi libekwe uma –

(i) ozothatha lesi sikhundla engakaqokwa;

(ii) ukuqokwa komuntu ozothatha lesi sikhundla kusacutshungulwa njengoba kuhlangozwe esigabeni 13(3), njengoba kungaba njalo;

(iii) iSilo, iNkosi noma isiPhakanyiswa esibekwe njengoba kuhlangozwe ezigabeni 12, 13 noma 14, njengoba kungaba njalo, izophuma endaweni ezibusa ngaphansi kwayo isikhathi esingaphezu kwezinyanga eziyisithupha –

(aa) liyolashelwa ukugula;

(bb) liyofunda; noma

(cc) lithathe uhambo olusemthethweni, ngaphandle kwezimo ezibekwe endimeni (c);

(c) iSekela leNkosi kumele liqokwe futhi libekwe yiNkosi noma isiPhakanyiswa ngemuva kokubonisana noMndeni noma nabantu abanelungelo lokuvota, njengoba kungaba njalo, isikhathi iNkosi noma isiPhakanyiswa esizobe singekho ngaso, njengoba kungaba njalo, uma leyo Nkosi noma lesi siPhakanyiswa –

(i) siba yilungu elisebenza ngokugcwele emkhandlwini kamasipala;

(ii) sikhethwa njengelungu lesiShayamthetho sesifundazwe;

(iii) sikhethwa njengelungu lePhalamende likaZwelonke;

(iv) siqokwa njengesithunywa esisebenza ngokugcwele eMkhandlwini weziFundazwe ezahlukahlukene kaZwelonke;

(v) sikhethwa, siqokwa ukuba sisebenze ngokugcwele kwiNdlu yabaHoli boMdabu kaZwelonke, yesiFundazwe noma yeNdawo;

(vi) siqokwa ukuba sisebenze ngokugcwele kwiKhomishana kaZwelonke;

(vii) siqokwa ukuba yilungu leKhomishana; noma

(viii) siqokwa ukuba sisebenze ngokugcwele kunoma iliphi izinga emazingeni amathathu kahulumeni.

(2) Ngale kokulandela izinhlinzeko zesigatshana (1)(b), uNdunankulu kumele, uma uMndeni wehluleka ukuqoka umuntu ozobekwa njengeNkosi noma njengeBambabukhosi ezinsukwini ezingama-60 ngemuva kosuku okuvele ngalo isikhala, ngemuva kokubonisana noMndeni, aqoke futhi abeke umuntu ofanele oyiNduna noma oyilungu lomkhandlu womdabu njengeBambela, kuze kube iNkosi noma iBambabukhosi liyaqokwa njengoba kuhlongozwe ezigabeni 13 noma 17.

(3) Ukubekwa kweBambabukhosi, kweBambela neSekela leNkosi kumele kubuyezwe uNdunankulu okungenani kanye njalo ngemuva kweminyaka eyisihlanu.

(4) Isaziso sokubekwa kweBambabukhosi esishicilelwe uNdunankulu kwiGazethi yesiFundazwe kumele siveze ukuthi ubani ozothatha ubuKhosi okunguyena obanjelwe yiBambabukhosi elibekwayo, futhi iBambabukhosi kumele lidalule ukuthi aliyona iNkosi ngokusemthethweni ngokuthi ligcwaliswe ifomu elihlongozwe oHlelweni 3.

#### **Izizathu zokwehliswa esikhundleni kwabaholi bomdabu**

##### **18. Umholi womdabu –**

(a) kumele ehliswe esikhundleni uma –

- (i) etholakale necala wagwetshwa ukubhadla ejele isikhathi ezingaphezu kwezinyanga eziyi-12 ngaphandle kokubonelelwa ngenhlawulo;
- (ii) ekhubazekile emzimbeni noma engqondweni, ngokobufakazi bodokotela, okumenza angakwazi ukusebenza njengeNkosi noma njengeNduna;
- (iii) engasahlali ngokugcwele endaweni engaphansi komkhandlu womdabu;
- (iv) esuswe esikhundleni ngenxa yokungaziphathi kahle; noma
- (v) iKhomishana kaZwelonke ithathe isinqumo njengoba kuhlongozwe esigabeni 25 soMthetho woHlaka lobuHoli boMdabu nokuBusa, 2003 (uMthetho No. 41 ka 2003), sokuthi ukuqokwa noma ukubekwa kwalowo muntu kwaba yiphutha; futhi

(b) angehliswa esikhundleni uma ephule umthetho wesintu noma isintu, ngezizathu eziphoqa ukuba ehliswe esikhundleni.

#### **Ukwehliswa esihlalweni kwamaKhosi**

##### **19.(1) Uma kwenzeka uMndeni –**

- (a) uhlangabezana nezizathu ezihlongozwe esigabeni 13(2), uMndeni kumele ucele uNdunankulu ngencwadi ukuba ehlise esihlalweni leyo Nkosi ethintekayo; noma
- (b) uhlangabezana nezizathu ezihlongozwe esigabeni 13(3), futhi uMndeni unquma ukuphakamisa ukuba kwehliswe esihlalweni iNkosi, uMndeni kumele wazise uNdunankulu ngencwadi mayelana neminingwane, nezizathu zaleso sicelo sokwehlisa iNkosi esihlalweni.
- (2) Uma uNdunankulu enquma ukwehlisa iNkosi esihlalweni, uNdunankulu kumele ehlise iNkosi ngesaziso kwiGazethi yesiFundazwe, okumele lesa sазiso siveze iminingwane yezizathu zokwehliswa kwaleyo Nkosi esihlalweni.
- (3) Uma sekushicilelwa isaziso sokwehliswa kweNkosi esihlalweni kwiGazethi yesiFundazwe, iNhloko yoMnyango kumele yazise iSilo, uMndeni, iNdlu yesiFundazwe neNdlu yaleyo Ndawo ethintekayo mayelana nokwehliswa kweNkosi esihlalweni.
- (4) Uma uNdunankulu esehlise iNkosi esihlalweni, njengoba kuhlongozwe kwisigatshana (2), kumele ngemva kwalokho kuqokwe futhi kubekwe ozothatha isihlalo njengoba kuhlongozwe esigabeni 13.

#### **Ukwehliswa esikhundleni kweziPhakanyiswa**

##### **20.(1) Uma kwenzeka umkhandlu womdabu noma amalungu esiZwe –**

- (a) ehlangabezana nezizathu ezihlongozwe esigabeni 13(2), umkhandlu womdabu noma amalungu esiZwe kumele acele uNdunankulu ukuba ehlise esikhundleni lesa siPhakanyiswa esithintekayo; noma
- (b) ehlangabezana nezizathu ezihlongozwe esigabeni 13(3), futhi umkhandlu womdabu noma amalungu esiZwe enquma ukuphakamisa ukuba kwehliswe isiPhakanyiswa esikhundleni, umkhandlu womdabu noma amalungu esiZwe kumele azise uNdunankulu ngencwadi iminingwane nezizathu ezenza bacele ukuba kwehliswe esikhundleni isiPhakanyiswa.
- (2) Uma uNdunankulu enquma ukwehlisa esikhundleni isiPhakanyiswa, uNdunankulu kumele ehlise esikhundleni isiPhakanyiswa ngesaziso kwiGazethi yesiFundazwe, okumele lesa sазiso sibe neminingwane yezizathu zokwehliswa esikhundleni kweziPhakanyiswa: Kuncike ekutheni

isiPhakanyiswa siyehla esikhundleni uma sekuphele isikhathi ebesiqokelwe sona ngale kokuthi kuze kukhishwe isaziso kwiGazethi yesiFundazwe.

(3) Uma sekushicilelwa isaziso sokwehliswa kwesiPhakanyiswa esikhundleni kwiGazethi yesiFundazwe, iNhloko yoMnyango kumele yazise iSilo, iNdlu yesiFundazwe neNdlu yaleyo Ndawo mayelana nokwehliswa kwesiPhakanyiswa esikhundleni.

(4) Uma uNdunankulu esehlise isiPhakanyiswa esikhundleni, njengoba kuhlangozwe kwisigatshana (2), kumele kuqale uhlelo lokukhethwa kwesiPhakanyiswa esisha, njengoba kuhlangozwe esigabeni 14, e ezinsukwini ezingama-60.

#### **Ukwehliswa esikhundleni kweziNduna**

**21.(1)** Uma kwenzeka iNkosi, umkhandlu womdabu noma amalungu esiZwe –

(a) ehlangabezana nesinye sezizathu ezihlongozwe esigabeni 13(2), iNkosi, umkhandlu womdabu noma amalungu esiZwe, kumele acele uNdunankulu ukuba ehlise esikhundleni leyo Nduna; noma

(b) ehlangabezana nesinye sezizathu ezihlongozwe esigabeni 13(3), iNkosi, umkhandlu womdabu noma amalungu esiZwe kumele athathe isinqumo sokuphakamisa ukuba kwehliswe iNduna esikhundleni ngokubhalela uNdunankulu emazise ngemininingwane nezizathu zaleso sicelo.

(2) Uma kwenzeka uNdunankulu enquma ukwehlisa esikhundleni iNduna, uNdunankulu kumele ehlise esikhundleni iNduna ngesaziso kwiGazethi yesiFundazwe, okumele leso saziso sihlinzeke ngemininingwane yezizathu zokwehliswa kweNduna esikhundleni.

(3) Uma kushicilelwa isaziso sokwehliswa kweNduna esikhundleni kwiGazethi yesiFundazwe, iNhloko yoMnyango kumele yazise iNkosi nomkhandlu womdabu othintekayo, mayelana nokwehliswa kweNduna esikhundleni.

(4) Uma uNdunankulu esehlise iNduna esikhundleni, njengoba kuhlangozwe kwisigatshana (2), uhlelo lokubekwa kweNduna entsha, njengoba kuhlangozwe esigabeni 15, kumele luqale kungakapholi maseko.

**Ukwehliswa esikhundleni kweso leSilo neso leNkosi**

22.(a) Uma kwenzeka iSilo noma iNkosi ikhetha ukususa iso leSilo noma iso leNkosi, kumele yazise uNdunankulu ngencwadi mayelana naleso sinqumo, okuyothi ngemuva kwalokho uNdunankulu ehlise esikhundleni iso leSilo kanye neso leNkosi.

(b) Izinhlinzeko zesigaba 13(5) ziyasebenza uma kwehliswa esikhundleni iso leSilo noma iso leNkosi njengoba kuhlongozwe endimeni (a).

**Ukususwa kweBambabukhosi neSekela leNkosi**

23. IBambabukhosi, iBambela neSekela leNkosi –

(a) liyasuswa ngokuthi kusetshenziswe umthetho uma –

(i) uma kuyiBambabukhosi neBambela, umuntu ozothatha isihlalo sobuKhosi esebekiwe njengoba kuhlongozwe esigabeni 13; noma

(ii) uma kuyiSekela leNkosi, uma izimo ebezenza iNkosi ingabi khona njengoba kuhlongozwe esigabeni 17(1)(c) sezidlulile; noma

(b) lingasuswa ngokulandela izinhlinzeko zesigaba 18, 68 no 70.

**ISAHLUKO 4****UKUSUNGULWA, UKUBUNJWA NOKUBEKWA KWEMIKHANDLU YAMAKHOSI  
NEMIKHANDLU YOMDABU****Ukusungulwa, ukubunjwa nokubekwa kwemikhandlu yamakhosi**

24. Umkhandlu wamakhosi kumele usungulwe futhi ubekwe KwaZulu-Natali ngokuhambisana nezinhlinzeko zesigaba 3A soMthetho woHlaka lobuHoli oMdabu nokuBusa, 2003.

**Ukusungulwa, ukubunjwa nokubekwa kwemikhandlu yomdabu**

25.(1) Uma uNdunankulu esebumbe isiZwe njengoba kuhlongozwe esigabeni 5, isiZwe, ngosizo loMnyango, kumele sisungule umkhandlu womdabu njengoba kuhlongozwe kulesi sigaba ngokuhambisana noHlelo 4, ezinyangeni ezintathu kubunjwe leso siZwe.

(2) Isibalo samalungu omkhandlu womdabu kumele okungenani sibe nengxenywe eyodwa kokuthathu yabantu besifazane.

(3) Amalungu omkhandlu womdabu kumele okungenani abe neminyaka eyi-18 ubudala, futhi kube –

(a) abaholi bomdabu namalungu esiZwe akhethwe yiNkosi yaleso siZwe, yona eyokuba yilungu elilawulayo futhi elinguSihlalo womkhandlu womdabu, isikhathi esiyiminyaka emihlanu ngokuhambisana nesikhathi sokusebenza kweNdlu yabaHoli boMdabu kaZwelonke, ngokwesintu salowo mphakathi, okungabandakanya ukubonisana noMndeni, kubhekelelwa ikakhulu isidingo sokuba kulandelwe izinhlinzeko zendima (b); kanye

(b) namanye amalungu esiZwe akhethwe ngenqubo yentando yeningi ngendlela enqunyiwe, isikhathi esiyiminyaka emihlanu ngokuhambisana nesikhathi sokusebenza kweNdlu yabaHoli boMdabu kaZwelonke okumele bakhe isibalo esingama-40% sawo wonke umkhandlu womdabu:

Kuncike ekutheni amalungu omkhandlu womdabu ayoqhubeka nokusebenza kuze kube amalungu amasha omkhandlu womdabu ayaqala ukusebenza.

(4) INkosi kumele imemezele amagama amalungu omkhandlu womdabu ewakhethile ngokwesigatshana (3)(a) ngaphambi kokuba kukhethwe amanye amalungu omkhandlu womdabu asasele.

(5) INkosi kumele ithumele amagama amalungu omkhandlu womdabu neminingwane yokusungulwa kwalowo mkhandlu womdabu kuNdunankulu ngencwadi emasontweni amabili kusukela kusungulwe lowo mkhandlu ngokwalesi sigaba.

(6) Uma singatholakali isibalo esidingekayo sabantu besifazane abazobamba iqhaza emkhandlwini womdabu, njengoba kudingeka ngokwesigatshana (3)(a) no (b), iNkosi kumele ilethe ubufakazi kuNdunankulu bokuthi asihlangani isibalo sabantu besifazane abazobamba iqhaza esidingekayo.

(7) Uma ethola le mininingwane ehlongozwe kwisigatshana (5) noma (6), uNdunankulu kumele abheke ukuthi ngabe lowo mkhandlu womdabu usungulwe ngokuhambisana nalesi sigaba yini kanjalo nesigaba 3 soMthetho woHlaka lobuHoli boMdabu nokuBusa, 2003.



(8) Uma isigatshana (6) singathinteki, futhi uNdunankulu enelisekile ukuthi lesi sigaba nesigaba 3 soMthetho woHlaka lobuHoli boMdabu nokuBusa, 2003 zilandelwe kahle, uNdunankulu kumele abeke lowo mkhandlu womdabu futhi anqume nendawo ozosebenza kuyona ngesaziso kwiGazethi.

(9) Uma kuthinteka isigatshana (6), uNdunankulu, ngemuva kokubonisana naleso siZwe uma enelisekile ukuthi kunobufakazi bokuthi asikho isibalo sabantu besifazane okudingeka babe yingxenye yomkhandlu womdabu, anganquma isibalo esincane kunaleso esidingekayo ngokwesigaba 3(2)(b) soMthetho woHlaka lobuHoli boMdabu nokuBusa, 2003, kulowo mkhandlu womdabu.

(10) Uma uNdunankulu esenqume isibalo esincane kunaleso esidingekayo ngokwesigatshana (9), futhi enelisekile ukuthi ezinye izinhlinzeko zalesi sigaba nesigaba 3 soMthetho woHlaka lobuHoli boMdabu nokuBusa, 2003 zilandeliwe, uNdunankulu kumele abeke lowo mkhandlu womdabu futhi anqume nendawo ozosebenza kuyona, ngesaziso kwiGazethi.

(11) Izinhlinzeko zalesi sigaba zisebenza nezinguquko ezidingekayo uma –

- (a) kusungulwa, kubunjwa futhi kubekwa imikhandlu yomdabu eholwa isiPhakanyiswa njengosihlalo; nalapho
- (b) kusungulwa kabusha imikhandlu yomdabu uma sekuphela isikhathi sokusebenza kwayo esiyiminyaka emihlanu.

(12) Emhlanganweni wokuqala womkhandlu womdabu osungulwe futhi obekwe njengoba kuhlangozwe kulesi sigaba, amalungu omkhandlu womdabu kumele akhethe isekela likaSihlalo emalungwini awo, okumele lisebenze njengosihlalo womkhandlu womdabu uma usihlalo womkhandlu womdabu engekho okwesikhashana.

(13) Izinhlinzeko zalesi sigaba, kanjalo nezezigaba 26 no 27, zisebenza nezinguquko ezidingekayo uma kusungulwa, kubunjwa futhi kubekwa imikhandlu emincane yomdabu.

#### **Ukushiya kwezikhundla nokugcwaliswa kwezikhala**

**26.(1)** Isikhundla seLungu lomkhandlu womdabu sisala singenamuntu –

- (a) uma ilungu lishona;
- (b) uma ilungu lesula ngencwadi;
- (c) uma ilungu litholakale necala lase ligwetshwa ukubhadla ejele isikhathi esingaphezu kwezinyanga eziyi-12 ngaphandle kokubonelelwa ngenhlawulo; noma
- (d) uma ilungu limenyezelwe yinkantolo yomthetho njengelingaphilile kahle engqondweni.

(3) Noma isiphi isikhala esivelayo –

- (a) emalungwini omkhandlu womdabu aqokiwe, kumele sivalwe yiNkosi, njengoba kuhlangozwe esigabeni 25(3)(a), ezinsukwini ezingama-30 ngemuva kosuku okuvele ngalo lesi sikhala;
- (b) emalungwini omkhandlu womdabu akhethiwe, kumele sivalwe njengoba kuhlangozwe esigabeni 25(3)(b), ezinsukwini ezingama-90 ngemuva kosuku okuvele ngalo lesi sikhala.

**Ukuhlakazwa kwemikhandlu yomdabu**

**27.** Uma kwenzeka uNdunankulu ehlakaza isiZwe njengoba kuhlangozwe esigabeni 6, isaziso esihlangozwe esigabeni 6(4)(b) kumele siphinde sihambisane nesokuhlakazwa komkhandlu womdabu, nokunye okuphathelele nalokho.

**ISAHLUKO 5**

**AMAJOKA, AMANDLA NEMISEBENZI YABAHOLI BOMDABU**

**Amajoka, amandla nemisebenzi yeSilo**

**28.** ISilo kumele –

- (a) siqinisekise ukuhlonishwa koMthethosisekelo nemithetho yaKwaZulu-Natali;
- (b) sigqugquzele ukuthula, uzinzo nokwakhiwa kwesiZwe;
- (c) sibe wuphawu –
  - (i) lobumbano esifundazweni; kanye
  - (ii) nobumbano lwamasiko ehlukahlukene;
- (d) sivikele futhi sigqugquzele –
  - (i) isintu namasiko esintu;
  - (ii) iziZwe;

- (iii) izikhungo zomdabu; kanye
- (iv) ubuqhawe bobukhosi baKwaZulu;
- (e) sibeke amaKhosi;
- (f) sibambe iqhaza emisebenzini yeNdlu yesiFundazwe; futhi
- (g) sibambe iqhaza, sisebenzise amandla futhi senze imisebenzi ehlinzekwe –
  - (i) kwisintu nakwimithetho yesintu;
  - (ii) kunoma imuphi omunye umthetho; kanye
  - (iii) nakwimithetho eshicilelwe njengoba kuhlangozwe esigabeni 9(5)(a) soMthetho woHlaka lobuHoli boMdabu nokuBusa, 2003 (uMthetho No. 41 ka 2003).

### **Amajoka, amandla nemisebenzi yamaKhosi**

#### **29.(1) AmaKhosi kumele –**

- (a) avikele futhi agqugquzele –
  - (i) isintu nemithetho yesintu; kanye
  - (ii) nesikhungo sobuholi bomdabu;
- (b) aphaathe izindaba zeziZwe zawo njengoba kuhlangozwe kulo Mthetho nakweminye imithetho esetshenziswayo;
- (c) asebenzisane, eseke futhi asize izikhungo zomdabu uma senza imisebenzi yazo, zisebenzisa amandla azo futhi zifeza amajoka azo;
- (d) abe wuphawu lobumbano eziZweni zawo;
- (e) agqugquzele izinhlelo zokusabalalisa ulwazi ngokomdabu ukuze kube nentuthuko futhi kulawulwe izinhlekelele;
- (f) abelane ngolwazi futhi asebenzisane namanye amaKhosi;
- (g) abe ngosihlalo bemikhandlu yomdabu ebekwe njengoba kuhlangozwe esigabeni 25;
- (h) amele imikhandlu yomdabu ebekwe njengoba kuhlangozwe esigabeni 25 ngesikhathi engasebenzi ngazo;
- (i) asebenze ngokubambisana nemikhandlu yomdabu ebekwe njengoba kuhlangozwe esigabeni 25 ukuze kuthuthukiswe iziZwe, kubandakanya ukusimamiswa komnotho emiphakathini yawo;
- (j) abambe iqhaza emikhandlwini yomasipala ebekwe njengoba kuhlangozwe esigabeni 81 soMthetho weziNhlaka zoMasipala woHulumeni baseKhaya, 1998 (uMthetho No. 117 ka 1998);

- (k) abambe iqhaza emisebenzini yeNdlu yeNdawo;
  - (l) abambe iqhaza emisebenzini yeNdlu yesiFundazwe;
  - (m) agqugquzele umbono wokubusa ngokubambisana, wokuhlelwa kwentuthuko ngendlela edidiyele, wentuthuko kanye nokuhlinzekwa kwezidingo;
  - (n) ahlangane okungenani kanye ngemuva kwezinyanga eziyisithupha neziZwe zawo –
    - (i) ukuyozibikela ngemisebenzi ayenzayo; kanye
    - (ii) nokuzihlinzeka ngolwazi kanjalo nezibopho nokushiwo yimithetho emisha nezinhlelo zikahulumeni; futhi
  - (o) enze imisebenzi, asebenzise amandla futhi afeze amajoka anikezwe amaKhosi njengoba kuhlangozwe kulo Mthetho, neminye imithetho esebenzayo, nemithetho yesintu nesintu.
- (2) Izinhlaka zombuso zesifundazwe, ngemithetho nezokuphatha, zihlinzeka amaqhaza, amandla noma imisebenzi yamaKhosi mayelana –
- (a) nezobuciko namasiko;
  - (b) nezokuphathwa komhlaba;
  - (c) nezolimo;
  - (d) nezempilo;
  - (e) nezezindlu;
  - (f) nezenhlalakahle;
  - (g) nezokuphatha ngobulungiswa;
  - (h) nezokuphepha nokuvikeleka;
  - (i) nokubhaliswa kwezingane ezizalwayo, abashonayo nemishado yesintu;
  - (j) nokuthuthukiswa komnotho;
  - (k) nendalo;
  - (l) nezokuvakasha;
  - (m) nokulawulwa kwezinhlekelele;
  - (n) nokuphathwa kwezinto eziyimvelo;
  - (o) nokusatshaliswa kolwazi mayelana nezinqubomgomo nezinhlelo zikahulumeni; kanye
  - (p) nezemfundo.

(3) Uma kwenzeka uhlaka lombuso luhlela ukuhlinzeka amaKhosi amajoka, amandla nemisebenzi ngokuwajuba, ngokuwathuma, ngezivumelwano zama-ejensi noma ngokwenza izifungo ezisemthethweni, njengoba kuhlangozwe kwisigatshana (2), uhlaka lombuso kumele –

(a) lucele imvume kwiLungu loMkhandlu oPhethe;

(b) lubonisane –

(i) neNdlu yesiFundazwe; kanye

(ii) neNdlu yaleyo Ndawo;

(c) luqinisekise ukuthi ukuhlinzekwa kwamajoka, kwamandla nemisebenzi kuyahambisana noMthethosisekelo nemithetho esetshenziswayo;

(d) lubhekelele imithetho yesintu nesintu esisetshenziswa yileso siZwe;

(e) luqinisekise ukuthi ukuhlinzekwa kwamajoka, kwamandla nemisebenzi kuhambisana nokuthuthukiswa kwamakhono okufanele, ukwesekwa kwezokuphatha, kwezezimali nokunye ukwesekwa okudingekayo, nokuthi kuthathwe izinyathelo ezifanele mayelana nokubika ngalokho kwesekwa okuhlinzekiwe.

(f) luqinisekise ukuthi ukwabiwa kwamajoka, kwamandla nemisebenzi kwenziwa ngendlela efanayo; futhi

(g) lugqugquzele imigomo engokomthethosisekelo yokubusa ngokubambisana, imigomo engokomthethosisekelo yezokuphatha kuhulumeni, ukuhlelwa kwentuthuko okudidiyele, intuthuko esimeme nokuhlinzekwa kwezidingo ngokuthi kwabiwe amajoka, amandla nemisebenzi.

(4) Uma esefeza amajoka, esebenzisa amandla noma enza imisebenzi yawo njengoba kuhlangozwe kwisigatshana (1) no (2), amaKhosi kumele –

(a) agcine amarekhodi ngendlela;

(b) adalule izipho azitholayo njengoba kubekwe kwinqubo yokuziphatha; futhi

(c) ahloniphe zombili izinqubo zokuziphatha.

(5) Uhlaka lombuso oluthintekayo neLungu loMkhandlu oPhethe kumele baqaphe ukufezwa kwamajoka, ukusetshenziswa kwamandla nokwenziwa kwemisebenzi eyabelwe amaKhosi yilolo hlaka lombuso: Kuncike ekutheni uma kwenzeka amaKhosi engahambisani nanoma yiziphi kulezi zinhlinzeko kwisigatshana (1) kuya ku (4), uLungu loMkhandlu oPhethe lingangenelela ngokuthatha izinyathelo ezifanele ukuqinisekisa ukulandelwa komthetho.

(6) Izinhlinzeko zalesi sigaba zisebenza nezinguquko ezidingekayo kwiziPhakanyiswa.

**Amajoka, amandla nemisebenzi yeBambabukhosi, yeBambela, yeSekela leNkosi neso leSilo**

30. Ngenhloso yokunquma amajoka, amandla nemisebenzi yeBambabukhosi, yeBambela, yeSekela leNkosi neso leSilo, izinhlinzeko zesigaba 29(1), zisebenza nezinguquko ezidingekayo.

**Ukwabiwa kwamajoka, kwamandla nemisebenzi yeBambabukhosi, yeBambela, yeSekela leNkosi neso leSilo**

31. Ngenhloso yokwabiwa kwamajoka, kwamandla nemisebenzi yeBambabukhosi, yeBambela, yeSekela leNkosi neso leSilo wuhlaka lombuso, izinhlinzeko zesigaba 29(2) zisebenza nezinguquko ezidingekayo.

**Amajoka, amandla nemisebenzi yeziNduna**

32. INduna kumele –

- (a) ibambe iqhaza emisebenzini yamakomidi eWadi kamasipala yokugqugquzela ukuthuthukiswa kwesiGodi;
- (b) imele iNkosi yesiZwe uma kunesidingo;
- (c) ihlonze izidingo zentuthuko zesiGodi;
- (d) ibe yingxenye yokuxazululwa kokungaboni ngasolinye;
- (e) isabalalise ulwazi emphakathini;
- (f) ihambele imihlangano yeziNduna ebizwe yiNkosi yaleso siZwe;
- (g) ibhekelele ukusikwa kweziza; futhi
- (h) ibhekelele imisebenzi yansuku zonke yesiGodi.

**Amajoka, amandla nemisebenzi yemikhandlu yomdabu**

33.(1) umkhandlu womdabu kumele –

- (a) uphathe izindaba zesiZwe ngokuhambisana nemithetho yesintu nesintu salowo mphakathi;
- (b) usize, weseke futhi ukhalime amaKhosi neziPhakanyiswa uma zifeza amajoka azo, zisebenzisa amandla azo noma zenza imisebenzi yazo;

- (c) weseke omasipala ukuhlonza izidingo zomphakathi;
  - (d) ubhekelele ukubandakanywa kwesiZwe uma kuchitshiyelwa amasu entuthuko adidiyele kumasipala wasekhaya lapho kuhlala khona lowo mphakathi;
  - (e) wenze izincomo kuhulumeni, ngemuva kokubonisana nomasipala wasekhaya, iNdlu yeNdawo ethintekayo, iNdlu yesiFundazwe, ngezinhlelo ezifanele nezinyathelo ezingathathwa ukuze kuthuthukiswe isiZwe, kanjalo nangokuhlinzekwa kwezidingo nentuthuko jikelele kuleyo ndawo engaphansi komkhandlu womdabu;
  - (f) ubambe iqhaza ekusungulweni kwenqubomgomo nemithetho ezingeni lohulumeni basekhaya;
  - (g) ubambe iqhaza ezinhlelweni zentuthuko komasipala nasezingeni likahulumeni wesifundazwe nokazwelonke;
  - (h) ugqugquzele umbono okubusa ngokubambisana, wokuhlelwa kwentuthuko okudidiyele, wentuthuko nokuhlinzekwa kwezidingo;
  - (i) ugqugquzele izinhlelo zolwazi zomdabu mayelana nentuthuko nokulawulwa kwezinhlekelele;
  - (j) uxwayise umasipala othintekayo nganoma ibuphi ubungozi noma isigameko ezifufusayo endaweni engaphansi komkhandlu womdabu, noma ngenhlalakahle yabantu abahlala kuleyo ndawo, futhi ubambe iqhaza ekulawulweni kwezinhlekelele;
  - (k) wabelane ngolwazi futhi usebenzisane neminye imikhandlu yomdabu;
  - (l) usebenzisane namakomidi amawadi omasipala endaweni engaphansi kwawo;
  - (m) uhlangane nesiZwe okungenani kanye ngemuva kwezinyanga eziyisithupha ukuzosibikela ngemisebenzi oyenzile nezimali somkhandlu womdabu; kanye
  - (n) wenze noma imiphi eminye imisebenzi, usebenzise amandla noma ufeze amajoka ahlinzekwe umkhandlu womdabu njengoba kuhlangozwe kulo Mthetho nakunoma imuphi omunye umthetho osebenzayo.
- (2) Izinhlaka zombuso zesifundazwe, ngemithetho nezokuphatha, zihlinzeka amaqhaza, amandla noma imisebenzi yemikhandlu yomdabu mayelana –
- (a) nezobuciko namasiko;
  - (b) nezokuphathwa komhlaba;
  - (c) nezolimo;
  - (d) nezempilo;
  - (e) nezezindlu;
  - (f) nezenhlalakahle;

- (g) nezokuphatha ngobulungiswa;
- (h) nezokuphepha nokuvikeleka;
- (i) nokubhaliswa kwezingane ezizalwayo, abashonayo nemishado yesintu;
- (j) nokuthuthukiswa komnotho;
- (k) nendalo;
- (l) nezokuvakasha;
- (m) nokulawulwa kwezinhlekelele;
- (n) nokuphathwa kwezinto eziyimvelo;
- (o) nokusatshaliswa kolwazi mayelana nezinqubomgomo nezinhlelo zikahulumeni; kanye
- (p) nezemfundo.

(3) Uma kwenzeka uhlaka lombuso luhlela ukuhlinzeka umkhandlu womdabu amajoka, amandla nemisebenzi ngokuwujuba, ngokuwuthuma, ngezivumelwano zama-ejensi noma ngokwenza izifungo ezisemthethweni, njengoba kuhlangozwe kwisigatshana (2), izinhlinzeko zesigaba 29(3) ziyosebenza nezinguquko ezidingekayo.

(4) Umkhandlu womdabu –

- (a) ungangena esivumelwaneni zokuhlinzekwa kwezidingo nomasipala ngokuhambisana noMthetho weziNhlelo zoMasipala woHulumeni baseKhaya, 2000 (uMthetho No. 32 ka 2000), nanoma imuphi omunye umthetho osebenzayo; futhi
- (b) kumele ufeze amajoka, usebenzise amandla wenze nemisebenzi ehlinzekelwe emithethweni yesintu nakwisintu saleso siZwe, ngaphezu kwanoma imaphi amajoka, amandla nemisebenzi eyabelwe umkhandlu womdabu njengoba kuhlangozwe kulo Mthetho nakunoma imuphi omunye umthetho osebenzayo; futhi
- (c) uma ufeza amajoka, usebenzisa amandla futhi wenza imisebenzi yawo, kumele –
  - (i) ugcine amarekhodi ngendlela;
  - (ii) wenze izitatimende zezimali zicwaningwe;
  - (iii) udalule izipho abazitholayo njengoba kubekwe kwinqubo yokuziphatha; futhi
  - (iv) uhloniphe izinqubo zokuziphatha.

(5) ILungu loMkhandlu oPhethe –



(a) kumele liqaphe ukufezwa kwamajoka, ukusetshenziswa kwamandla nokwenziwa kwemisebenzi okuhlongozwe kulo Mthetho nakweminye imithetho esebenzayo kwimikhandlu yomdabu; futhi

(b) uma umkhandlu womdabu ungazilandeli izinhlinzeko zezigatshana (1), (2), no (4), lingangenelela ngokuthatha izinyathelo ezifanele zokuqinisekisa ukulandelwa komthetho.

(6)(a) ILungu loMkhandlu oPhethe, uma linelisekile ukuthi umkhandlu womdabu uyehluleka ukwenza imisebenzi yawo ojutshelwe yona ngokwalo Mthetho ngendlela efanele, noma ngendlela egqugquzela ukubusa nokuphatha okuhle, lingaqoka noma imuphi umuntu njengomphathi ozosiza umkhandlu womdabu othintekayo ukuba usebenzise amandla awo futhi wenze imisebenzi yawo.

(b) Umphathi oqokiwe njengoba kuhlangozwe endimeni (a) kumele abe nekhono lokusebenzisa amandla nokwenza imisebenzi enqunywe noma ebekwe umthetho ukuba yenziwe yilowo mkhandlu womdabu, futhi kuyothathwa ngokuthi usebenzise lawo mandla noma wenze leyo misebenzi egameni lomkhandlu womdabu.

(c) Ukuqokwa komphathi okuhlongozwe kulesi sigatshana kumele kubuyekezwe ngemuva kwezinsuku eziyi-180.

(7) Izinhlinzeko zalesi sigaba nesigaba 34, zisebenza nezinguquko ezidingekayo kunoma imuphi umkhandlu omncane womdabu osungulwe futhi obekwe njengoba kuhlangozwe esigabeni 7.

#### **Ukusebenzisana phakathi komasipala nemikhandlu yomdabu**

**34.** UMnyango kumele ugqugquzele ukusebenzisana phakathi komasipala nemikhandlu yomdabu okumele –

(a) kuncike kwimigomo yokuhloniphana nokwazisa ukubaluleka neqhaza lezinhlangothi ngokwahlukana; futhi

(b) kulawulwe futhi kususelwe emigomweni engokomthethosisekelo yokubusa ngokubambisana nemigomo engokomthethosisekelo elawula ukusebenza kukahulumeni.

**Ukuqashwa kwabasebenzi bemikhandlu yomdabu**

**35.(1)** ILungu loMkhandlu oPhethe kumele leseke imikhandlu yomdabu, okubandakanya, ukutholela imikhandlu yomdabu abasebenzi, kubhekelelwa ububanzi bezindawo ezingaphansi kwemikhandlu yomdabu nezidingo sesiZwe esithintekayo.

(2) Abasebenzi abatholelwe imikhandlu yomdabu kumele babike kumuntu oqokwe yiNkosi yaleso siZwe.

(3) Ukuziphatha budlabha noma ngendlela engemukelekile kwabasebenzi abatholelwe imikhandlu yomdabu kumele kubikwe kwiLungu loMkhandlu oPhethe.

**Imihlangano yemikhandlu yomdabu**

**36.(1)** INkosi kumele ibize umhlangano wokuqala womkhandlu womdabu ezinsukwini ezingama-21 kusungulwe lowo mkhandlu womdabu njengoba kuhlangozwe esigabeni 25.

(2)(a) Imihlangano yemikhandlu yomdabu iholwa yiNkosi yaleyo ndawo engaphansi kwayo njengosihlalo, uma iNkosi ingekho emhlanganweni umhlangano uyoholwa isekela likasihlalo.

(b) Isekela likasihlalo womkhandlu womdabu likhethwa amalungu alowo mkhandlu womdabu emhlanganweni wokuqala: Kuncike ekutheni isekela likasihlalo liba wusihlalo wanoma imuphi umhlangano womkhandlu womdabu uma iNkosi ingekho.

(c) Uma usihlalo neSekela likasihlalo bengekho emhlanganweni, lowo mhlango kumele uholwa yibamba likasihlalo, okumele likhethwe amalungu akhona emhlanganweni kuwona amalungu.

(3) Yonke imikhandlu yomdabu kumele ibambe imihlangano ejwayelekile okungenani kanye ngemuva kwekota yonyaka ngosuku nesikhathi esinqunywe usihlalo.

(4) Kumele kukhishwe isaziso esibhalwe phansi sinikezwe ewonke amalungu omkhandlu womdabu kusasele okungenani izinsuku eziyisikhombisa kushaye usuku lomhlangano.

(5) Inqubo okumele ilandelwe kunoma imuphi umhlangano womkhandlu womdabu kumele ihambisane nomthetho wesintu nesintu.

**Amaminithi emihlangano**

**37.(1)** Yonke imikhandlu yomdabu kumele igcine amaminithi omhlangano ngamunye okumele kuwona kuqoshwe lokhu okulandelayo:

- (a) isikhathi usuku nendawo yomhlangano;
- (b) amagama amalungu abethamele umhlangano;
- (c) amanqampunqampu ezinqumo ezithathiwe emhlanganweni; kanye
- (d) uma kucela ilungu, nolwazi lokuthi livumelene noma liphikisene nesinqumo esithathiwe ngevoti.

(2) Ikhophi yamaminithi kumele ihanjiswe emahhovisi esifunda oMnyango ezinsukwini eziyishumi nanhlanu kudlule umhlangano.

**Ukukhokhelwa kwamalungu emikhandlu yomdabu izindleko zokuhamba ngokomsebenzi**

**38.** UNdunankulu, ngokubonisana neLungu loMkhandlu oPhethe kanye neLungu loMkhandlu oPhethe elibhekele ezezimali, anganquma mayelana nokukhokhelwa kwamalungu emikhandlu yomdabu izindleko zokuhamba ngokomsebenzi.

**ISAHLUKO 6****IZINDLU ZABAHOLI BOMDABU****Ukusungulwa nobulungu kwiNdlu yabaHoli boMdabu yesiFundazwe saKwaZulu-Natali**

**39.(a)** Ngalokhu kusungulwa iNdlu yabaHoli boMdabu yesiFundazwe saKwaZulu-Natali.

(b) Isikhathi sokusebenza kwamalungu eNdlu yesiFundazwe yiminyaka emihlanu, okumele sihambisane nesikhathi sokusebenza kwamalungu eNdlu yabaHoli boMdabu kaZwelonke: Kuncike ekutheni amalungu eNdlu yesiFundazwe amadala angeke ayeke ukusebenza kuze kuqale ukusebenza amalungu amasha eNdlu yesiFundazwe.

(c) Kuncike ezinhlinzekweni zesigaba 40(1)(a), amalungu ahlongozwe kulesi sigaba kumele abe ngosihlalo bemikhandlu yomdabu esungulwe futhi ebekwe njengoba kuhlongozwe esigabeni 25, futhi angakwazi ukuphinde aqokelwe elinye ihlandla.

**Ukubunjwa nezikhundla kwiNdlu yesiFundazwe**

**40.(1)** INdlu yesiFundazwe yakhiwe yilawa malungu –

(a) iSilo noma oqokwe yisona; kanye

(b) namalungu aphakathi kwamathathu kuya kwayisikhombisa akhethwe yiNdlu ngayinye yabaHoli boMdabu yeNdawo.

(2) INdlu yeNdawo ngayinye kumele, kuncike ezinhlinzekweni zesigatshana (1)(b), ikhethe kumalungu ayo isibalo sabantu abazoyimela kwiNdlu yesiFundazwe njengoba kuhlangozwe oHlelweni 5.

(3) Izikhundla kwiNdlu yesiFundazwe ziyonqunywa uMkhandlu oPhethe izikhathi ngezikhathi, ngemuva kokubonisana noMkhandlu oPhethe weNdlu yesiFundazwe.

(4) INdlu yesiFundazwe ingasungula futhi ikhethe ikomidi eliphethe elakhiwe amalungu angeqile kwayi-10 eNdlu yesiFundazwe, okuyikomidi elinamandla namajoka –

(a) elinikezwe wona yiMithetho yeNdlu yesiFundazwe; kanye

(b) nadluliselwe kulo yiNdlu yesiFundazwe.

**Ukufaneleka ukuba yiLungu leNdlu yesiFundazwe**

**41.** Umuntu akakufanele ukuba yilungu leNdlu yesiFundazwe uma –

(a) eyilungu elisebenza ngokugcwele emkhandlwini kamasipala, eyilungu lesiShayamthetho sesiFundazwe noma eyilungu lePhalamende;

(b) ngesikhathi kukhethwa amalungu eNdlu yesiFundazwe, obedonsa isigwebo sokubhadla ejele;

(c) ecwile ezikweletini ngokungenakuhlengeka;

(d) emenyezelwe yinkantolo yomthetho njengomuntu ongaphilile kahle engqondweni;

(e) eke watholakala necala wagwetshwa isigwebo sezinyanga ezingaphezu kwe-12 ebhadla ejele ngaphandle kokubonelelwa ngenhlawulo;

(f) engesona isakhamuzi saseNingizimu Afrika; noma

(g) engahlali ngokuphelele kwiRiphabhulikhi yaseNingizimu Afrika.

Ukushiya isikhundla kwiNdlu yesiFundazwe

**42.** Ilungu leNdlu yesiFundazwe liyasuka esikhundleni uma –

- (a) lishona;
- (b) lesula esikhundleni ngesaziso esibhalwe phansi yilona qobo;
- (c) lisuswa esikhundleni ngokwesigaba 41;
- (d) lephule emihlanganweni emithathu elandelanayo yeNdlu yesiFundazwe ngaphandle kokugunyazwa ukwephula ngokuhambisana nemithetho nemigomo; noma
- (e) lixoshwa kwiNdlu yesiFundazwe ngenxa yokwephula imigomo yokuziphatha equkethwe yiNgxenye C yoHlelo 7 lwalo Mthetho.

#### **Ukugcwaliswa kwezikhala zomsebenzi kwiNdlu yesiFundazwe**

**43.**(1) Uma kuvele isikhala somsebenzi kwiNdlu yesiFundazwe, uNobhala weNdlu yesiFundazwe kumele azise iLungu loMkhandlu oPhethe mayelana naleso sikhala ezinsukwini eziyi-14 sivelile, okuyothi ngemuva kwalokho iLungu loMkhandlu oPhethe lazise uNdunankulu ngokushesha.

(2) Isikhala somsebenzi kwiNdlu yesiFundazwe kumele sivalwe ezinsukwini ezingama-60 sivelile, ngokuthi kukhethwe ilungu elizosebenza lesa sikhathi esisasele seLungu elishiyile, futhi likhethwe ngendlela efanayo naleyo obekukhethwe ngayo ilungu elishiyile.

(3) Isikhala somsebenzi kumele sigcwaliswe njengoba kuhlongozwe esigabeni 40(2) salo Mthetho.

#### **Ukukhethwa kukaSihlalo neKomidi eliPhethe leNdlu yesiFundazwe**

**44.**(1) INdlu yesiFundazwe kumele ihlangane ezinsukwini ezingama-30 kukhethwe iNdlu yesiFundazwe entsha endaweni nangesikhathi esinqunywe uNdunankulu ngesaziso kwiGazethi yesiFundazwe.

(2) Emhlanganweni ohlongozwe kwisigatshana (1), iJaji lenkantolo ePhakeme kwiRiphabhulikhi yaseNingizimu Afrika kumele libambe njengosihlalo kuze kukhethwe usihlalo neSekela lakhe amalungu eNdlu yesiFundazwe, okuyothi ngemuva kwalokho uSihlalo weNdlu yesiFundazwe aqhube ukhetho lokukhethwa kwamanye amalungu ekomidi eliphethe leNdlu yesiFundazwe.

(3) Kuncike ezinhlinzekweni zesigatshana (8), usihlalo neSekela likasihlalo kumele babe sezikhundleni sonke isikhathi sokusebenza kweNdlu yesiFundazwe futhi bangakwazi ukuphinde baqokelwe elinye ihlandla uma sekuphele isikhathi sabo sokuba sesikhundleni: Kuncike ekutheni akukho lungu eliyosebenza njengosihlalo noma isekela likasihlalo amahlandla angaphezu kwamabili alandelayo.

(4) Usihlalo unamandla nemisebenzi anikezwe yona ngokwalo Mthetho nemithetho nemiyalelo yeNdlu yesiFundazwe.

(5) Uma usihlalo engekho noma engakwazi ukwenza umsebenzi wakhe ngenxa yanoma isiphi isizathu, noma uma isikhundla sikaSihlalo singenamuntu, isekela likasihlalo kumele libambe njengosihlalo kuze kube usihlalo uyabuya noma uyakwazi ukwenza imisebenzi yakhe, noma kuze kube kukhethwa usihlalo omusha.

(6) Uma lezi zimo ezibekwe kwisigatshana (5) ngasenhla zehlakalela bobalili usihlalo nesekele lakhe, ilungu leNdlu yesiFundazwe elikhethwe amalungu akhona emhlanganweni kumele libambe njengosihlalo kuze kube kuxazululeka lezi zimo ezihlongozwe kwisigatshana (5).

(7) Isekela likasihlalo noma ilungu elikhethwe njengoba kuhlongozwe kwisigatshana (6), lingasebenzisa amandla futhi lenze imisebenzi kasihlalo.

(8) Usihlalo noma isekela likasihlalo –

- (a) kumele ashiye isikhundla sakhe uma eyeka ukuba yilungu leNdlu yesiFundazwe;
- (b) angasuswa esikhundleni ngokuvumelana kweningi lamalungu elingamaphesenti angamashumi ayisikhombisa (70%) emalungwini eNdlu yesiFundazwe uma engasabethembi ubuholi bakhe; futhi
- (c) angesula ngokuletha incwadi yokwesula kunobhala weNdlu yesiFundazwe.

(9) Uma kwenzeka usihlalo noma isekela likasihlalo lishiya isikhundla salo, inqubo ehlongozwe kwisigatshana (2) kumele ilandelwe uma sekukhethwa usihlalo omusha noma isekela likasihlalo elisha.

(10) IKomidi eliPhethe nanoma yiliphi ilungu lalo lingenza imisebenzi, lisebenzise amandla noma lifeze amajoka elingawanikezwa yiNdlu yesiFundazwe noma nini uma iNdlu yesiFundazwe isaguqile.

(11) IKomidi eliphethe nanoma iliphi ilungu lalo elenza imisebenzi, elisebenzisa amandla noma elifeza amajoka njengoba kuhlangozwe kwisigatshana (10), kumele lilethe umbiko ogunyaza noma isiphi isenzo elisenzile kwiNdlu yesiFundazwe emhlanganweni olandelayo weNdlu yesiFundazwe.

(12) Uma kwenzeka ilungu leKomidi eliPhethe lishiya isikhundla salo ngaphambi kokuphela kwesikhathi sokusebenza kwalo, kumele isikhundla salo sivalwe elinye ilungu ezinsukwini ezingama-45, lelo lungu liyosebenza isikhathi esisasele seLungu elishiyile eKomidini eliPhethe.

#### **Isimo samalungu eNdlu yesiFundazwe**

**45.(a)** Usihlalo nesekele likasihlalo bangamalungu asebenza ngokugcwele eNdlu yesiFundazwe.

(b) UNdunankulu, ngemuva kokubonisana neNdlu yesiFundazwe, anganquma ngesaziso kwiGazethi yesiFundazwe ukuthi amalungu athile eNdlu yesiFundazwe asebenze ngokugcwele kwiNdlu yesiFundazwe.

#### **Ukukhethwa kwezithunywa kwiNdlu kaZwelonke**

**46.** INdlu yesiFundazwe kumele, emhlanganweni wayo wokuqala, ikhethe izithunywa zayo ezizoyimela kwiNdlu kaZwelonke ngokuhambisana nezinhlinzeko zesigaba 4 soMthetho weNdlu yabaHoli boMdabu kaZwelonke, 2009 (uMthetho No. 22 ka 2009).

#### **Imihlangano yeNdlu yesiFundazwe**

**47.(1)** Ngesikhathi bengamele umhlangano weNdlu yesiFundazwe, usihlalo, isekela likasihlalo noma elinye ilungu elengamele, abanalo ilungelo lokuvota, kodwa banevoti elingujuqu uma kwenzeka kuba nokulingana kwamavoti.

(2) Kumele kubanjwe umhlangano ojwayelekile weNdlu yesiFundazwe okungenani kanye ngekota yonyaka.

(3) Ngaphezu kwemihlangano ejwayelekile yeNdlu yesiFundazwe, ikomidi eliphethe lingabiza umhlangano ophuthumayo weNdlu yesiFundazwe ngosuku nasendaweni enganqunywa yilona noma inini, futhi uma liyalelwe uNdunankulu.

(4) Emhlanganweni ophuthumayo obizwe yikomidi eliphethe, kuyodingidwa ngalezo zinto ezibekwe phambi kweNdlu yesiFundazwe kuphela.

(5) Uma umhlangano ophuthumayo ubizwe ngomyalelo kaNdunankulu, kuyodingidwa lezo zindaba ezibizelwe lowo mhlango ophuthumayo kuphela.

(6) Usihlalo angabiza umhlangano ophuthumayo weNdlu yesiFundazwe, ezinsukwini eziyisi-7, uma ethola isicelo esibhalwe phansi samalungu okungenani ayishumi eNdlu yesiFundazwe.

(7) Uma uSihlalo ehluleka ukubiza umhlangano ophuthumayo weNdlu yesiFundazwe, njengoba kuhlangozwe kwisigatshana (6) lawo malungu, uma kwedlula isikhathi esihlongozwe kwisigatshana (6), anganxusa uNdunankulu ukuba abize umhlangano ophuthumayo weNdlu yesiFundazwe.

(8) Isaziso semihlangano yeNdlu yesiFundazwe kumele sinikezwe wonke amalungu ngendlela nangesimo esinganqunywa yiNdlu yesiFundazwe izikhathi ngezikhathi.

(9) Umsebenzi ovela eMnyangweni, oqokwe yiLungu loMkhandlu oPhethe, angethamela imihlangano yeNdlu yesiFundazwe, ukuze eluleke iNdlu yesiFundazwe ngezinqubomgomo nemithetho kahulumeni ephathelene nezomdabu.

#### **Imithetho yeNdlu yesiFundazwe**

**48.** Uma sekukhethwe ikomidi eliphethe njengoba kuhlangozwe esigabeni 44(2), iNdlu yesiFundazwe kumele ibeke iMithetho yokusebenza mayelana nalezi zinto ezilandelayo:

- (a) imithetho yesikhashana kaSihlalo;
- (b) ukuchithwa noma ukuchitshiyelwa kwemithetho;



- (c) isibalo sabantu abangabamba umhlangano weNdlu yesiFundazwe;
- (d) ukushiya kwezikhundla nokugcwaliswa kwezikhala;
- (e) ukuphakanyiswa kwamalungu eNdlu kaZwelonke, okumele abe nesibalo esanele sabantu besifazane;
- (f) amandla nemisebenzi kaSihlalo;
- (g) amakomidi esikhashana namakomidi emisebenzi ethile;
- (h) ukukhethwa nesikhathi sokusebenza kwabaphathi namalungu amakomidi;
- (i) amandla nemisebenzi yamakomidi nabaphathi bamakomidi;
- (j) inqubo yokuziphatha yamalungu;
- (k) imihlangano yamakomidi;
- (l) amakomidi amancane;
- (m) amaminithi emihlangano nemibiko yamakomidi;
- (n) imithetho yokuphikisana nezinqumo zeNdlu yesiFundazwe;
- (o) ukucutshungulwa kwemithetho esewuhlaka kweNdlu yesiFundazwe;
- (p) imisebenzi kunobhala weNdlu yesiFundazwe; kanye
- (q) nanoma ikuphi okunye okuphathelene noma okuhambisana nokusebenza kweNdlu yesiFundazwe.

### **Amaqhaza nemisebenzi yeNdlu yesiFundazwe**

#### **49.(1) INdlu yesiFundazwe –**

- (a) inamaqhaza, inamandla kanye nemisebenzi ehlinzekwe yona yilo Mthetho; kanye
- (b) nanoma imaphi amanye amaqhaza, amandla nemisebenzi –
  - (i) ehlinzekwe noma eyinikezwe imithetho kazwelonke; kanye
  - (ii) neyinikezwe yiLungu loMkhandlu oPhethe.

#### **(2) INdlu yesiFundazwe kumele –**

- (a) imele, ivikele futhi igqugquzele –
  - (i) izifiso zazo zonke iziZwe ezibunjwe njengoba kuhlangozwe esigabeni 5; kanye
  - (ii) nesikhungo sobuholi bomdabu.
- (b) njengomlondolozo wemithetho yesintu nesintu, iqinisekise ukuvikelwa nokugqugquzelwa kwayo;
- (c) uma kucela iLungu loMkhandlu oPhethe, yenze ucwaningo futhi inikeze iLungu loMkhandlu oPhethe izaluleko mayelana –

- (i) nokusungulwa kwezinqubomgomo, kwamazinga nemikhomandlela emayelana nokuthuthukiswa kweziZwe, kwemikhandlu yomdabu neziNdlu zeziNdawo;
  - (ii) nezenzo zokuphatha nokulawula ezihlongozwa uhulumeni ezithinta iziZwe, izikhungo zomdabu, imithetho yesintu nesintu;
  - (iii) nemithetho esewuhlaka yesifundazwe ephathelene noma ethinta iziZwe, izikhungo zomdabu, imithetho yesintu nesintu; kanye
  - (iv) nezinhlalo zokuqinisekisa nokugqugquzela ukubamba iqhaza kwezikhungo zomdabu kuhulumeni;
- (d) uma kucela iLungu loMkhandlu oPhethe, icubungule futhi yenze izincomo kwiLungu loMkhandlu oPhethe mayelana –
- (i) nezinhlalo zesifundazwe eziphathelene nezomdabu; kanye
  - (ii) nokuhlanganisa nokudidiyela amasu entuthuko adidiyele;
- (e) iphawule, ngokubhalwe phansi, kwimithethosivivinyo yesifundazwe ephathelene noma ethinta iziZwe, izikhungo zomdabu, imithetho yesintu noma isintu, ezinsukwini ezingama-30 kusukela osukwini uSomlomo wesiShayamthetho sesiFundazwe adlulisele ngalo umthethosivivinyo kuyona, njengoba kuhlongozwe esigabeni 57; futhi
- (f) yenze konke okudingekayo noma okufanele okuhambisana namajoka, namandla nemisebenzi yayo.

(3) INdlu yesiFundazwe kumele –

- (a) igcine amarekhodi ngendlela;
- (b) izitatimende zayo zezimali zicwaningwe uMcwaningimabhuku-Jikelele;
- (c) ngaphezu kwemihlangano yamakota onyaka, ibambe umhlangano waminyaka yonke nezindlu zezindawo ukuzobika ngokusebenza nangezimali zeNdlu yesiFundazwe;
- (d) isebenzise uMgomo wokuziPhatha oqukethwe oHlelweni 7 lwalo Mthetho;
- (e) yakhe ubudlelwane obuhle, futhi ihlinzekele ukusebenzisana nokuxhumana phakathi kwayo, izindlu zezindawo kanjalo nomasipala;
- (f) yenze kube nezinga eliphezulu kwezokuxhumana nokuthathwa kwezinqumo ekuphathweni kweNdlu yesiFundazwe;
- (g) inikeze amajoka acacile abaphathi nokudidiyelwa kwezokuphatha kwiNdlu yesiFundazwe;
- (h) yakhe futhi igqugquzele ukulingana, ubulungiswa, ukuvuleleka, ukungacwasani futhi kwesekwe zonke iziZwe nezindlu zezindawo esifundazweni.

**Ezokuphatha nesibopho sokubika zeNdlu yesiFundazwe**

**50.**(1) ILungu loMkhandlu oPhethe kumele, ngokwezinhlinzeko zoMthetho wabaSebenzi bakaHulumeni, 1994 (iSimemezelo 103 sika 1994), liqoke umuntu ozokuba uNobhala weNdlu yesiFundazwe, okumele –

- (a) asebenzise amandla futhi enze imisebenzi enikezwe noma edluliselwe kuNobhala yilo Mthetho nemithetho nemiyalelo; futhi
- (b) kuncike kwimiyalelo yeNdlu yesiFundazwe, enze neminye imisebenzi ehambisana nokusetshenziswa kwamandla nokwenziwa kwemisebenzi yeNdlu yesiFundazwe.

(2) ILungu loMkhandlu oPhethe, kuncike eMthethweni wabaSebenzi bakaHulumeni, 1994, kumele lidlulisele abasebenzi abadingekayo kwiNdlu yesiFundazwe ukuze kufezekiswe umsebenzi weNdlu yesiFundazwe.

(3) Unobhala kumele alekelelwe ukwenza imisebenzi yakhe noma ukusebenzisa amandla akhe abasebenzi boMnyango abadluliselwe ngokwesigatshana (2) ngokwaleyo nhloso.

**Ukuholelwa, izibonelelo nemihlomulo ekhokhelwa amalungu eNdlu yesiFundazwe**

**51.** Ukuholelwa, ukukhokhwa kwezibonelelo nemihlomulo kaSihlalo, kaSekela kaSihlalo namalungu ejwayelekile eNdlu yesiFundazwe, kunjengoba kunquniwe eMthethweni wokuKhokhelwa kwabaSebenzi bakaHulumeni, 1998 (uMthetho No. 20 ka 1998).

**Ukwesekwa kweNdlu yesiFundazwe**

**52.** Uhulumeni wesifundazwe kumele athathe izinyathelo ezidingekayo ukweseka nokusimamisa ikhono lokusebenza kweNdlu yesiFundazwe ukuze yenze imisebenzi yayo, futhi lokho kwesekwa kungabandakanya ukuhlinzekwa –

- (a) ngengqalasizinda;
- (b) ngezimali;
- (c) ngabasebenzi;
- (d) ngezinhlelo zokuthuthukiswa kwamakhono; kanye
- (e) nezinhlelo zezokuphatha.

**Ukusungulwa kweziNdlu zabaHoli boMdabu zeziNdawo**

**53.**(1) Ngalokhu kusungulwa iziNdlu zeziNdawo ngaphansi komasipala bezifunda abakhelwe iziZwe eziyisihlanu noma ngaphezulu.

(2) Uma kwenzeka kuba khona iziZwe ezingaphansi kwesihlanu ngaphansi komasipala wesifunda othile, abaholi bomdabu kulowo masipala wesifunda kumele bakhethe oyedwa kubona ozomela iziZwe emihlanganweni yalowo masipala wesifunda.

**Ukubunjwa nekomidi eliphethe leNdlu yeNdawo**

**54.**(a) INdlu yeNdawo ngayinye yakhiwe amaKhosi akhona ngaphansi komasipala wesifunda.

(b) INdlu yeNdawo ingasungula futhi ikhethe ikomidi eliphethe elakhiwe amalungu angeqile kwayisikhombisa aleyo Ndlu yeNdawo.

(c) Ikomidi eliphethe leNdlu yeNdawo lineqhaza nemisebenzi eliyihlinzekwe yiNdlu yeNdawo ngemithetho yaleyo Ndlu yeNdawo ethintekayo, noma edluliselwe kulo yiNdlu yeNdawo ethintekayo.

(d) Izinhlinzeko zesigaba 41, 42, 43, 44, no 48, zisebenza nezinguquko ezidingekayo kwiziNdlu zeziNdawo.

**Imihlangano yeziNdlu zeziNdawo**

**55.**(a) ILungu loMkhandlu oPhethe kumele, ngesaziso kwiGazethi yesiFundazwe, libize imihlangano yokuqala yezindlu zeziNdawo.

(b) Emihlanganweni wokuqala weNdlu yeNdawo umuntu oqokwe yiLungu loMkhandlu oPhethe kumele abe nguSihlalo kuze kube amalungu aleyo Ndlu yeNdawo akhetha uSihlalo neSekela likaSihlalo waleyo Ndlu yeNdawo.

(c) Imihlangano yeNdlu yeNdawo kumele ibizwe ngesaziso esibhalwe phansi esibhekiswe kuwona wonke amalungu okungenani kusasele izinsuku ezine kufike usuku lomhlangano.

**Amaqhaza, amandla nemisebenzi yeziNdlu zeziNdawo**

**56.** Amaqhaza, amandla nemisebenzi yazo zonke iziNdlu zabaHoli boMdabu zeziNdawo –

(a) ukweluleka umasipala wesifunda noma womkhandludolobha mayelana –

- (i) nezinto eziphathelene nemithetho yesintu, nesintu, nobuholi bomdabu neziZwe ezikhona kulowo masipala wesifunda noma womkhandludolobha;
- (ii) nokwakhiwa kwezinhlelo zokuhlola intuthuko ezithinta iziZwe; noma
- (iii) nokusungulwa kwemithetho yomasipala ethinta iziZwe;
- (b) ukubamba iqhaza ezinhlelweni zomphakathi ezinhloso yazo ukuthuthukisa imiphakathi yomdabu;
- (c) ukubamba iqhaza ezinhlelweni zomphakathi ezihlose ukuqapha, ukubuyekeza nokuhlola izinhlelo zikahulumeni emiphakathini yomdabu; kanye
- (d) ngokuphawula kunoma imiphi imithetho kamasipala wesifunda –
  - (i) ethinta isintu nemithetho yesintu yalezo ziZwe ezingaphansi kwawo; futhi
  - (ii) ethinta ukuhlinzekwa kwezidingo noma ethinta imingcele noma umhlaba okuyinto ethinta iziZwe.

**Ukudluliselwa kwemithetho esahlongozwa kwiNdlu yesiFundazwe nakwiziNdlu zeziNdawo**

**57.(1)** Noma imuphi umthetho osahlongozwa ophathelene noma othinta iziZwe, izikhungo zomdabu, imithetho yesintu nesintu kumele idluliselwe –

- (a) uSomlomo wesiShayamthetho sesiFundazwe kwiNdlu yesiFundazwe ukuze kutholakale izimvo ezibhalwe phansi njengoba kuhlangozwe esigabeni 49(1)(f), ngaphambi kokuba iphasiswe yisiShayamthetho sesiFundazwe, futhi zonke izimvo ezenziwe yiNdlu yesiFundazwe kumele zethulwe phambi kwesiShayamthetho sesiFundazwe ngaphambi kokuba kuphasiswe lowo mthethosivivinyo; kanye
- (b) noMkhandlu kaMasipala kwiNdlu yeNdlu yeNdawo ethintekayo ukuze kutholakale izimvo ezibhalwe phansi njengoba kuhlangozwe esigabeni 56(1)(d) ngaphambi kokuba uphasiswe umkhandlu kamasipala futhi zonke izimvo ezenziwe iNdlu yeNdawo kumele zethulwe phambi komkhandlu kamasipala ngaphambi kokuba kuphasiswe lowo mthetho kamasipala ohlongozwayo.

(2) INdlu yesiFundazwe kumele ibize umhlangano ophuthumayo ukuze kucutshungulwe izimvo ezibhaliwe mayelana nalowo mthetho ohlongozwayo kwisiShayamthetho sesiFundazwe, ezinsukwini ezingama-30 uzitholile: Kuncike ekutheni uma kwenzeka iNdlu yesiFundazwe yehluleka ukucubungula umthetho ohlongozwayo noma yehluleka ukuletha izimvo ezibhalwe phansi kwisiShayamthetho sesiFundazwe ezinsukwini ezingama-30 iceliwe, umthetho

ohlongozwayo ungavotelwa kwisiShayamthetho sesiFundazwe ngaphandle kokuthi kuphinde kwaziswe iNdlu yesiFundazwe.

(3) Uma iNdlu yeNdawo iphikisana nomthetho ohlongozwayo, izimvo nezincomo zayo zingadluliselwa kwiLungu loMkhandlu oPhethe nakwisiShayamthetho sesiFundazwe ezinsukwini ezingama-30.

#### ISAHLUKO 7

IKHOMISHANA YESIFUNDAZWE SAKWAZULU-NATALI EBHEKELE UKUNGABONI

NGASOLINYE NEZIMANGALO EZIPHATHELENE NOBUHOLI BOMDABU

**Ukusungulwa kweKhomishana yesiFundazwe saKwaZulu-Natali ebhekele ukuNgaboni Ngasolinye neziMangalo eziphathelele nobuHoli boMdabu**

**58.** Ngalokhu kusungulwa iKhomishana yesiFundazwe saKwaZulu-Natali ebhekele ukuNgaboni Ngasolinye neziMangalo eziphathelele nobuHoli boMdabu.

#### **Ukubunjwa nesikhathi sokusebenza kweKhomishana yesiFundazwe**

**59.**(1) UNdunankulu, ngokubonisana neLungu loMkhandlu oPhethe kanye neLungu loMkhandlu oPhethe elibhekele ezezimali, ezinyangeni ezintathu kumiswe lo Mthetho, nangesaziso *kwiGazethi yesiFundazwe*, kumele aqoke abantu abangeqile kwabayisihlanu abazoba ngamalungu eKhomishana yesiFundazwe abanolwazi olunzulu mayelana nezomthetho nezokuphatha zaphambilini nezamanje ezithinta –

- (a) iziZwe;
- (b) umthetho wesintu nesintu;
- (c) ubuholi bomdabu;
- (d) umhlaba ongaphansi kwamaKhosi; noma
- (e) ezinye izikhungo zomdabu.

(2) Isikhathi sokuba esikhundleni samalungu eKhomishana yesiFundazwe yiminyaka emihlanu: Kuncike ekutheni –

- (a) noma iliphi ilungu lingaphinde liqokelwe esikhundleni ihlandla elilodwa elilandelayo leminyaka emihlanu; futhi

(b) isaziso esihlongozwe kwisigatshana (1) kumele sibandakanye isikhathi sokuba esikhundleni kanye nemibandela yokuqokwa kwamalungu eKhomishana yesiFundazwe.

(3) UNdunankulu angaqokela kwiKhomishana kaZwelonke ebhekele ukuNgaboni Ngasolinye neziMangalo eziphathelene nobuHoli boMdabu amalungu aseKomidini leKhomishana yesiFundazwe, esungulwe ngokwesigaba 26A soMthetho woHlaka lobuHoli boMdabu nokuBusa, 2003, kwiKhomishana yesiFundazwe.

#### **Imihlangano nemithetho yeKhomishana yesiFundazwe**

**60.(a)** IKhomishana yesiFundazwe kumele ihlangane zingakapheli izinsuku ezingama-30 kukhishwe isaziso esihlongozwe esigabeni 59(1) ukuze inqume imithetho ezoqhuba ngayo kanye nezobhekela ukuphathwa kwemisebenzi yayo.

(b) IKhomishana yesiFundazwe kumele ihlangane uma kuba nesidingo sokuthi icubungule futhi ithathe isinqumo mayelana nokungaboni ngasolinye noma nesimangalo esidluliselwe kuyo njengoba kuhlangozwe esigabeni 62.

#### **Izikhala zomsebenzi kanye nokugcwaliswa kwezikhala zomsebenzi**

**61.(1)** Isikhala somsebenzi sivela uma kwenzeka ilungu leKhomishana yesiFundazwe –

(a) lishona;

(b) lesula emsebenzini ngokwazisa uNdunankulu ngencwadi;

(c) lixoshwe njengoba kuhlangozwe esigabeni 64; noma

(d) liba yilungu elisebenza ngokugcwele eMkhandlwini kaMasipala;

(e) likhethwe njengelungu lesiShayamthetho sesiFundazwe;

(f) likhethwe njengelungu lePhalamende;

(g) liqokwe njengesithunywa esisebenza ngokugcwele eMkhandlwini weziFundazwe ezehlukene kaZwelonke;

(h) likhethelwe, noma liqokelwe esikhundleni ngokugcwele eNdlini kaZwelonke noma yesiFundazwe noma yeNdawo;

(i) liqokwe njengelungu elisebenza ngokugcwele kwiKhomishana kaZwelonke; noma

(j) liqokelwe esikhundleni ngokugcwele kunoma yimaphi amazanga amathathu kahulumeni.

(2) Nanoma isiphi isikhala somsebenzi esivela kwiKhomishana yesiFundazwe kumele sigcwaliswe njengoba kuhlongozwe esigabeni 59(1).

### **Amandla nemisebenzi yeKhomishana**

**62.(1)** IKhomishana, kuncike ezinhlinzekweni zesigaba 25 soMthetho woHlaka lobuHoli boMdabu nokuBusa, 2003 (uMthetho No. 41 ka 2003), kumele –

- (a) yenze futhi isebenzise amandla kanye nemisebenzi ehlongozwe kulo Mthetho;
- (b) iphenye, yethule umbiko futhi yenze izincomo nganoma ikuphi ukungaboni ngasolinye noma isimangalo esifakwe kwiKhomishana kaZwelonke ngemva komhla lu-1 kuMandulo 2010, kanye nanoma ikuphi ukungaboni ngasolinye noma isimangalo esisha esifakwe ngemva kosuku lokuqala kokusebenza kwalo Mthetho;
- (c) iphenye nanoma iluphi udaba oludluliselwe kuyona uNdunankulu ngokuhambisana nezinhlinzeko zalo Mthetho; futhi
- (d) uma icelwa iLungu loMkhandlu oPhethe, iphenye, yethule umbiko kanye nezincomo nganoma ikuphi ukungaboni ngasolinye noma isimangalo noma ngolunye udaba –
  - (i) oluphathelele –
    - (aa) neziZwe;
    - (bb) nemikhandlu yomdabu;
    - (cc) nobuholi bomdabu;
    - (dd) nabaholi bomdabu;
    - (ee) nomhlaba ongaphansi kwamaKhosi; kanye
    - (ff) nezinye izikhungo zomdabu; noma
  - (ii) olubandakanya ubudlelwano phakathi kwezinhlaka zombuso kanye nezindaba ezihlongozwe endimeni (i).

(2) Izinhlinzeko zezigaba 3, 4, 5, 6, 7 no 9 zoMthetho wamaKhomishana waKwaZulu-Natali, 1999 (uMthetho No. 3 ka 1999) zisebenza nezinguquko ezidingekayo kwiKhomishana.

(3) Noma iziphi izincomo ezihlongozwe esigatshaneni (1) kumele –

- (a) zemukelwe ngokwesekwa yiningi lamalungu eKhomishana; futhi
- (b) zihanjiswa kuNdunankulu kungakapheli izinsuku eziyishumi nane (14) ngemva kokuphothulwa kombiko ukuze athathe isinqumo;



(4) IKhomishana kumele ihlinzeke iLungu loMkhandlu oPhethe ngombiko ophelele ngemisebenzi eyenzayo, njalo ngekota yonyaka noma uma kwenzeka icelwa iLungu loMkhandlu oPhethe ukuba yethule umbiko.

#### **Ukwesekwa kweKhomishana**

**63.**(a) ILungu loMkhandlu oPhethe kumele lihlinzeke iKhomishana ngosizo oludingekayo lwezokuphatha, lwezezimali kanye nangokunye ukwesekwa ukuze yenze imisebenzi futhi isebenzise amandla ahlongozwe kulo Mthetho nakunoma imuphi omunye umthetho.

(b) IKhomishana, kuncike kwizinhlinzeko zoMthetho wokuPhathwa kweziMali zikaHulumeni, 1999, (uMthetho No. 1 ka 1999), ingaqoka umuntu noma isikhungo esizokwenza ucwaningo egameni layo.

#### **Ukuxoshwa kwamalungu eKhomishana**

**64.** UNdunankulu, ngokuxhumana neLungu loMkhandlu oPhethe, angaxosha ilungu leKhomishana ngalezi zizathu:

(a) ukulahlwa icala ligqunywe ejele isikhathi esingaphezu kwezinyanga eziyi-12 ngaphandle kokubonelelwa ngenhlawulo;

(b) ukukhubazeka emzimbeni noma ukuphazamiseka engqondweni, ngokobufakazi bodokotela, okwenza ukuba lelo lungu lingabe lisakwazi ukwenza imisebenzi yalo; noma

(c) uma lelo lungu limenyezelwe yinkantolo njengelicwile ezikweletini ngokungenakuhlengeka.

### **ISAPHLUKO 8**

#### **IZINHHLINZEKO EZEJWAYELEKILE**

#### **Isifungo sokuthatha isikhundla**

**65.** Ukufunga nokuqinisa okutholakala kwiziNgxenye A no B zoHlelo 7 kulo Mthetho kusebenza, nezinguquko ezidingekayo, futhi kumele kwenziwe yibo bonke abaHoli boMdabu, amalungu eMikhandlu yoMdabu, iziNdlu zesiFundazwe kanye neziNdlu zeziNdawo zabaHoli boMdabu.

**Umgomo wokuziPhatha**

66.(1) Umgomo wokuziPhatha oqukethwe oHlelweni 6 lwalo Mthetho usebenza kubo bonke abaHoli boMdabu nakuwo wonke amalungu emikhandlu yomdabu KwaZulu-Natali: Kuncike ekutheni izinhlinzeko zeNgxenywe C yoMgomo wokuziPhatha oqukethwe oHlelweni 7 lwalo Mthetho, ziyasebenza, nezinguquko ezidingekayo, kubo bonke abaholi bomdabu nakuwo wonke amalungu emikhandlu yomdabu KwaZulu-Natali.

(2) Umgomo wokuziPhatha oqukethwe oHlelweni 7 kulo Mthetho usebenza kuwo wonke amalungu eziNdlu zesiFundazwe kanye neziNdlu zeziNdawo zabaHoli boMdabu KwaZulu-Natali: Kuncike ekutheni inhloso yeNgxenywe C yoMgomo wokuziPhatha, kunanoma isiphi isimo "iNdlu" ibandakanya iNdlu yesiFundazwe nazo zonke iziNdlu zeziNdawo zabaHoli boMdabu.

**Amandla oMkhandlu oPhethe okubizela esigcawini abaHoli boMdabu**

67.(1) UMkhandlu oPhethe, uma ubona kunesidingo ungabizela esigcawini noma yimuphi umholi womdabu ngencwadi ukuze avele ngaphambi kwawo uma ufuna ukuphenya –

- (a) nganoma yiluphi udaba olukhinyabeza noma olungase lukhinyabeze isiZwe esithintekayo;
- (b) nganoma yiluphi udaba olubalulekile noma oluthinta ngqo noma ngandlela thile lowo mholi womdabu ngokwesikhundla sakhe, noma oluphazamisa uHulumeni wesiFundazwe ekwenzeni imisebenzi yakhe;
- (c) nanoma yiluphi olunye udaba olungahle lungabi nomthelela omuhle ekuphatheni kukaHulumeni wesiFundazwe kwindawo okwakhe kuyo isiZwe esithintekayo.

(2) UMkhandlu oPhethe ngemva kokucubungula udaba –

- (a) ungayalela umholi womdabu ukuba athathe izinyathelo ezithile ukuze kuxazululwe inkinga;
- (b) ungayalela iLungu loMkhandlu oPhethe ukuba lenze uphenyo ngokuhambisana nesigaba 68 noma nini lapho kunesizathu esenza lisele ukuthi lowo mholi womdabu unecala lokungaziphathi kahle.

**Uphenyo ngokungaziphathi kahle**

68.(1) Uma kunezinsolo zokuthi umholi womdabu unecala lokungaziphathi kahle ngokuthi –

- (a) uyehluleka noma uyinqaba ukulandela izinhlinzeko zalo Mthetho noma zanoma yimuphi umthetho okungumsebenzi wakhe ukuba ahambisane nazo;
- (b) wephule uMgomo wokuziPhatha;
- (c) akahloniphi, ushaya indiva noma uphazama ngabomu ukulandela umyalelo osemthethweni anikezwe wona yisiphathimandla esifanele;
- (d) uziphatha ngendlela ephoxayo, engafanele noma engahambisani nesikhundla sakhe;
- (e) ucwile ophuzweni oludakayo noma ezidakamizweni;
- (f) usebenzisa ngendlela engafanele amandla akhe noma uphoqa, noma usebenzisa amaqhinga noma amasu angafanele ukwemukela imali, inkokhelo noma izipho;
- (g) ujezisa noma uzama ukujezisa omunye umuntu engenalo igunya elifanele lokwenza njalo;
- (h) ubudedengu noma uvilapha ukwenza imisebenzi ajutshelwe yona; noma
- (i) ulahlwa yicala,

ilungu lomkhandlu ophethe kumele libhalele lowo mholi womdabu limthwese icala lokungaziphathi kahle.

(2) Icala okukhulunywe ngalo kwisigatshana (1) kumele –

- (a) liveze imininingwane ngezinsolo ezibhekiswe kulowo mholi womdabu; futhi
- (b) liyalele umholi womdabu ukuba aziphendulele ngokubhalwe phansi mayelana nalezo zinsolo abekwa zona kungakapheli izinsuku ezingama-21, leyo mpendulo kumele ibe ngeyokuvuma noma ngeyokuphika izinsolo abekwa zona, futhi kumele ihambisane nencazelo ebhaliwe ngokuqondene nezimo ezithinta lolo daba;

(3) Uma umholi womdabu eliphika icala noma ehluleka ukuziphendulela esikhathini esibekiwe, iLungu loMkhandlu oPhethe elibhekele kumele liqoke isikhulu esizophatha lolo daba esizohola uphenyo mayelana nezinsolo.

(4) Isikhulu esiphethe esiqokwe ngokuhambisana nesigatshana (3) ngenhla kumele siqale uphenyo ngezinsolo, futhi sazise lowo mholi womdabu othweswe icala kusasele izinsuku eziyi-14, isikhathi kanye nendawo okuzoqhutshelwa kuyo uphenyo.

(5) Ngesikhathi sokwenziwa kophenyo kumele umholi womdabu othweswe icala anikezwe ilungelo lokwethula uhlangothi lwakhe, yena siqu sakhe noma ngokusebenzisa ummeli wezomthetho, futhi naye anganikezwa ithuba lokupheka ngemibuzo noma ngubani obizwe

njengofakazi isikhulu esiphethe esihola uphenyo, ahlole nanoma yimuphi umbhalo onikezwe njengobufakazi, ethule ubufakazi yena siqu sakhe, futhi abize nanoma ngubani njengofakazi.

(6) Isikhulu esiphethe kumele sigcine amarekhodi akho konke okuqhubekayo ngophenyo.

(7) Isikhulu esiphethe singabizela esigcawini noma ngubani ukuba azokwethula ubufakazi mayelana necala elethweswe umholi womdabu.

(8) Nanoma ngubani obizelwe esigcawini ngokuhambisana nesigatshana (7) owehluleka ukuza lapho kubanjelwe khona uphenyo ngesikhathi, ngosuku nasendaweni ebalulwe kulowo myalelo uyobekwa icala, futhi uma limlahla angahlawuliswa, noma agqunywe ejele isikhathi esingeqile ezinyangeni eziyisithupha.

(9) Uma umholi womdabu obekwe icala ehluleka ukuza yena siqu sakhe noma athumele ummeli wezomthetho ophenyweni ngaphandle kokunikeza isizathu esizwakalayo, lokho akwenzi uphenyo olwenziwayo ngaye lungabi semthethweni.

(10) Ekuphothulweni kophenyo, isikhulu esiphethe kumele sihambise eMkhandlwini oPhethe lokho esikutholile, irekhodi lakho konke okuqhubekile ngesikhathi sophenyo, nanoma yikuphi esikuphawulile ngophenyo kanye nezincomo esinazo, nanoma yisiphi isinyathelo esincoma ukuba sithathwe (uma sikhona).

(11) UMkhandlu oPhethe, ngemva kokubheka imiphumela yophenyo, nanoma iluphi uvo kanye nezincomo zesikhulu esiphethe, kanjalo namaphuzu abekwe umholi womdabu othintekayo, unganikeza lowo mholi womdabu othintekayo isijeziso esisodwa noma ngaphezulu kulezi ezilandelayo –

(a) isexwayiso esibhaliwe;

(b) umyalelo wokumiswa ngaphandle kokuhola isikhathi esingekho ngaphezu kwezinyanga ezintathu;

(c) inhlawulo, engeqile kwisamba esilingana nehlolo lezinyanga ezintathu, engabanjwa kwiholo lakhe ngokuhambisana noMthetho wokuKhokhelwa kwabaSebenzi bakaHulumeni, 1998 (uMthetho No. 20 ka 1998), ngokuyibamba ngamancozu ngokunquma koMkhandlu oPhethe, futhi okumele ikhokhwe esiKhwameni seNtela yesiFundazwe; noma

(d) isaziso sokuhoxiswa kwesitifiketi sokubekwa salowo mholi womdabu.

(12) Nanoma isiphi isijeziso njengoba kuhlangozwe esigatshaneni (11) esibekwe uMkhandlu oPhethe kumele sishicilelwe ngokukhipha isiziso *kwiGazethi yesiFundazwe*.

#### **Ukumiswa komholi womdabu**

69.(a) ILungu loMkhandlu oPhethe ngemva kokuxhumana noNdunankulu, lingamisa esikhundleni nanoma yimuphi umholi womdabu osolwa ngokungaziphathi kahle kuze kube kuphothulwa uphenyo olwenziwe ngokwesigaba 68 salo Mthetho.

(b) Nanoma yimuphi umholi womdabu omiswe ngaphansi kwalesi sigaba akanalo ilungelo lokukhokhelwa ngesikhathi esamisiwe: Kuncike ekutheni iLungu loMkhandlu oPhethe ngokunikeza izizathu ezizwakalayo kanye nezethulo zalowo mholi womdabu othintekayo, lingayalela ukuthi umholi womdabu akhokhelwe wonke noma ingxenye yomholo ngesikhathi esamisiwe.

(c) ILungu loMkhandlu oPhethe noma uMkhandlu oPhethe ngemva kokubonisana noNdunankulu, ungahoxisa ukumiswa komholi womdabu.

(d) Kungaqokwa iBambabukhosi ngokuhambisana nezinhlinzeko zalo Mthetho ukuba limbambele nanoma yimuphi umholi womdabu osamisiwe uma iLungu loMkhandlu oPhethe libona kunesidingo.

#### **Ukwephulwa koMgomo wokuziPhatha**

70. Nanoma ikuphi ukwephulwa komgomo wokuziphatha okuqukethwe oHlelweni 6 no 7, kumele kubhekwane nakho ngokwenqubo ehlongozwe esigabeni 68.

#### **Izimali eziqoqwa kumalungu eZizwe**

71.(1) UMkhandlu womdabu ungacela amalungu esiZwe, noma iyiphi ingxenye yesiZwe, ukuba ngokuzithandela kwaso sikhokhe imali ethile eMkhandlwini woMdabu othintekayo: Kuncike ekutheni –

(a) ayikho imali engaqoqwa, ngaphandle kokuthi iningi labantu abangamalungu aleso Sizwe, nanoma iyiphi ingxenye yesiZwe, libize imbizo ebese kuvunyelwana ngokukhokhwa kwaleyo mali; futhi

(b) lezo zimali zingaqoqwa kuphela kumalungu esiZwe esithintekayo ngenhloso –

(i) yokuxhasa ngezimali umklamo othize; noma

(ii) nganoma iziphi ezinye izinhloso eziqondene nokugcinwa kwesintu; futhi

(c) ilungu loMkhandlu oPhethe lingabeka izizathu zenhloso yokukhokhwa kwaleyo mali kanye nemali okumele iqoqwe njengoba kuhlongozwe kulesi sigaba.

(2) Noma iyiphi imali ekhokhiwe njengoba kuhlongozwe kulesi sigaba kumele ifakwe kwi-akhawunti yethrasti, evulwe futhi eyenganyelwe egameni lesiZwe esithintekayo, ngumkhandlu womdabu noma egameni lomkhandlu womdabu.

### **Amandla okushaya imithetho**

**72.**(1) UNdunankulu, ngemva kokubonisana neLungu loMkhandlu oPhethe, angakhipha isaziso *kwiGazethi yesiFundazwe* njengoba kuhlongozwe kulo Mthetho.

(2) ILungu loMkhandlu oPhethe, ngokukhipha isaziso *kwiGazethi yesiFundazwe* –

(a) lingenza imithethonqubo, likhiphe izaziso futhi lishicilele imikhombandlela ephathelene –

(i) nanoma yiluphi udaba oludingeka noma olugunyazwe yilo Mthetho ukuba lufundwe;

(ii) nokwethulwa kanye nokuqaliswa kohlelo lokulawulwa amazinga okusebenza lwemikhandlu yobuholi bomdabu, lwabaholi bomdabu, lweNdlu yesiFundazwe neziNdlu zeziNdawo;

(iii) nanoma yiluphi ukhetho oluhlongozwe kulo Mthetho; okanye

(iv) nanoma iluphi udaba oluphathelene nezokuphatha noma nezinqubo oludingekayo ukuze kufezekiswe izinhlinzeko zalo Mthetho, kubandakanya indlela okumele ukhetho oluhlongozwe kulo Mthetho lusingathwe ngayo; kanye

(b) nokuchitshiyelwa kwanoma yiluphi uHlelo kulo Mthetho.

### **Ukuzimela ngokoMthetho**

**73.** Lezi zikhungo ezilandelayo zizimele ngokomthetho:

(a) iMikhandlu yobuHoli boMdabu;

(b) iNdlu yesiFundazwe; kanye

(c) neziNdlu zeziNdawo.

### **Izimpahla, izikweletu nezinsiza**

#### **74. Izikhungo ezihlongozwe esigabeni 73 –**

(a) kungenzeka –

- (i) zithole, zibe abanikazi, zithathe, zigcine, ziqashe, zichithe, zibambe, noma zilahle nanoma iyiphi impahla esukayo nengenakususwa;
- (ii) zithole amalungelo futhi zibe nezikweletu ngesikhathi zisebenzisa amandla azo futhi zenze imisebenzi yazo ngokuhlongozwe kulo Mthetho;
- (iii) zisungule futhi ziphathe ithrasti ngokuhambisana nezinhlinzeko zoMthetho wokuLawulwa kweziMpahla zeThrasti, 1998 (uMthetho No. 57 ka 1998); futhi
- (iv) zibe nomshwalensi kunoma iyiphi inkampani noma kubantu ukuvikela ukulahlekelwa, ukonakalelwa, ingozi kanye nezikweletu; futhi

(b) kumele ziphathe ngendlela efanele zonke izimpahla kanye nezinsiza.

### **Ukudluliselwa kwamandla, imisebenzi, ama-ejensi kanye nezivumelwano zokuhlinzekwa kwezidingo**

**75.(1)** UNdunankulu, ngokuxhumana noMkhandlu oPhethe, angadlulisela kwiLungu loMkhandlu oPhethe noma iliphi iqhaza, amandla noma umsebenzi ohlongozwe kulo Mthetho, kuncike ekutheni lokho kudluliselwa akuvimbeli uNdunankulu ukuba asebenzise lawo mandla.

(2) ILungu loMkhandlu oPhethe lingadlulisela kwiNhloko yoMnyango kaHulumeni wesiFundazwe ebhekele izindaba zomdabu noma iliphi iqhaza, amandla noma umsebenzi ohlongozwe kulo Mthetho, ngaphandle kwamandla okwenza imithethonqubo nokukhipha izaziso, kuncike ekutheni nanoma yikuphi ukudluliselwa kwamandla akuvimbi iLungu loMkhandlu oPhethe elithintekayo ukusebenzisa lawo mandla.

(3) Nanoma yimuphi umuntu ohlongozwe esigatshaneni (1) no (2), ojutshiwe, okudluliselwe kuye amandla noma umsebenzi, ngemvume ebhaliwe yoMkhandlu oPhethe, angadlulisela phambili lawo mandla noma umsebenzi kumuntu noma umgwamanda ovunywe uMkhandlu oPhethe.

(4) Iminyango kahulumeni wesifundazwe, izikhungo ezisemthethweni, izinhlaka zombuso nomasipala –

(a) bangadlulisela noma banikeze amandla namajoka; noma

(b) bangangena kwizivumelwano zokusebenzisana noma zokuhlinzekwa kwezidingo, nemikhandlu yomdabu.

### **Ukuxazululwa kokungaboni ngasolinye**

**76.**(1) Uma kwenzeka kuqubuka ukungaboni ngasolinye mayelana nomthetho wesintu nesintu esiZweni noma phakathi kweziZwe noma kwezikhungo zomdabu ngenxa yokusetshenziswa kwalo Mthetho noma ngenxa yokunye, amalungu alowo mphakathi noma aleso sikhungo okanye abaholi bomdabu esiZweni sonke noma esikhungweni somdabu esithintekayo kumele baxazulule kungaboni ngasolinye bebodwa nangendlela ehambisana nomthetho wesintu kanye nesintu.

(2) Noma ikuphi ukungaboni ngasolinye okuhlongozwe esigatshaneni (1) okungaxazululeki kumele kudluliselwe –

(a) kwiNdlu yesiFundazwe, okumele ikuxazulule ngokuhambisana nemithetho yayo kanye nezinqubo zayo;

(b) uma kwenzeka iNdlu yesiFundazwe yehluleka khona ukuxazulula ukungaboni ngasolinye okukhona, kumele iLungu loMkhandlu oPhethe lixazulule ukungaboni ngaso linye ngendlela elula yokubuyisana ngokuxoxisana;

(c) uma iLungu loMkhandlu oPhethe lehluleka ukuxazulula ukungaboni ngasolinye, kumele kube uNdunankulu oxazulula ukungaboni ngaso linye, ngemva kokuxhumana –

(i) neLungu loMkhandlu oPhethe;

(ii) nezinhlangothi ezingaboni ngasolinye; kanye

(iii) neNdlu yesiFundazwe.

(3) UNdunankulu angadlulisela udaba kwiKhomishana yesiFundazwe ukuze yenze izincomo ngesinqumo esingumnqamulajuqu sokungaboni ngalosinye okuhlongozwe kulesi sigaba.



**Izivumelwano phakathi kwezifundazwe**

77. UNdunankulu, ngemva kokubonisana neLungu loMkhandlu oPhethe, angangena ezivumelwaneni nabanye ohulumeni bezifundazwe mayelana nezindaba ezithinta iziZwe, abaholi bomdabu noma izikhungo zomdabu esimweni lapho ukusingathwa kwalezo zindaba kungenziwa kangcono ngokuhlanganyela kohulumeni bezifundazwe ezithintekayo.

**Amacala nezinhlawulo**

78.(1) Umuntu ulahlwa yicala uma –

- (a) ezenza umholi womdabu ngaphandle kokubekwa njengoba kuhlongozwe kulo Mthetho;
- (b) ephazamisa ngabomu ukufezekiswa kwamajoka, ukusetshenziswa kwamandla nokwenziwa komsebenzi onikezwe noma imuphi umholi womdabu, umkhandlu womdabu, iNdlu yesiFundazwe, nanoma iyiphi iNdlu yabaHoli boMdabu yeNdawo noma iKhomishana yesiFundazwe njengoba kuhlongozwe kulo Mthetho nanoma yimuphi omunye umthetho.

(2) Umuntu olahlwe yicala elihlongozwe esigatshaneni (1) anganikezwa inhlawulo noma agqunywe ejele isikhathi esingeqile ezinyangeni eziyi-12, noma kokubili inhlawulo nokugqunywa ejele.

**Izinhlinzeko zesikhashana**

79.(1) Zonke izinyathelo zezokuphatha ezithathwe uHulumeni wesiFundazwe ngezinhloso ezinhle mayelana neziZwe, namalungu esiZwe, nobuholi bomdabu, nabaholi bomdabu, nomaziphathe bomdabu, nomaziphathe bomphakathi, nemikhandlu yomdabu noma nezindawo ezingaphansi kwayo, kanye nokubekwa kwesiPhakanyiswa njengeNkosi, ngaphambi kosuku lokuqalisa kwalo Mthetho, ngalokhu kuthathwa ngokuthi zenziwe ngokusemthethweni –

- (a) kufane nokuthi zonke izinyathelo zomthetho, kubandakanya, phakathi kokunye, ukudluliselwa kwamandla, ukujutshelwa umsebenzi, izivumelwano zokusebenzisana, amandla okwenza izifungo, izivumelwano zokuhlinzekwa kwezidingo, zilandeliwe ngesikhathi kuthathwa leso sinyathelo; noma
- (b) uma izinyathelo zomthetho, kubandakanya, phakathi kokunye, ukudluliselwa kwamandla, ukujutshelwa umsebenzi, izivumelwano zokusebenzisana, amandla

okwenza izifungo, izivumelwano zokuhlinzekwa kwezidingo zingalandelwanga ngokusemthethweni.

(2) Noma yisiphi isiZwe noma isiZwana esibekwe ngokwemithetho ekhona ngaphambi kokuqala kokusebenza kwalo Mthetho, sithathwa njengesizwe noma isiZwana esibekwe njengoba kuhlongozwe kulo Mthetho.

(3) Nanoma yimuphi umholi womdabu obekwe noma oqokwe ngokwemithetho ekhona ngaphambi kokuqala kokusebenza kwalo Mthetho, esikhundleni sokuba umholi womdabu esihlongozwe kwiSahluko 3 salo Mthetho, uthathwa njengobekwe njengomholi womdabu njengoba kuhlongozwe kulo Mthetho, kuncike esinqumweni seKhomishana kaZwelonke njengoba kuhlongozwe esigabeni 26 soMthetho woHlaka lobuHoli boMdabu nokuBusa, 2003 (uMthetho No. 41 ka 2003).

(4) Nanoma yimuphi umaziphathe womdabu, umkhandlu womdabu kanye nomkhandlu ongaphansi komkhandlu omkhulu womdabu obekwe ngokusetshenziswa komthetho ngaphambi kokuqalisa kwalo Mthetho, uthathwa njengobekwe njengomkhandlu womdabu noma umkhandlu ongaphansi komkhandlu omkhulu womdabu njengoba kuhlongozwe kulo Mthetho, kuncike ekutheni kuhambisana nesigaba 25 esikhathini esingangonyaka owodwa kusukela kuqale ukusebenza kwalo Mthetho.

(5) Nanoma isiphi isiGodi esibekwe ngokwesintu nangokomthetho wesintu ngaphambi kosuku lokuqala kokusebenza kwalo Mthetho, kumele sibekwe njengoba kuhlongozwe esigabeni 9, ngaphambi kwezinyanga ezingama-24 kusukela kuqale ukusebenza kwalo Mthetho.

(6) Nanoma iyiphi iNduna ebekwe ngokwesintu nangokomthetho wesintu, ngaphandle kwezinhlinzeko zanoma yimuphi omunye umthetho, ngaphambi kokuqaliswa kwalo Mthetho, kumele ibekwe njengoba kuhlongozwe esigabeni 15, ngaphambi kwezinyanga ezingama-24 kusukela kuqale ukusebenza kwalo Mthetho.

(7) Bonke omaziphathe bomphakathi abakhona njengamanje endaweni engaphansi kukamasipala waseMzimkhulu ngalokhu bathathwa njengababekwe njengesizwe, esiPhethwe iziPhakanyiswa ngokwalo Mthetho: Kuncike ekutheni ukhetho lokukhetha iziPhakanyiswa

kuleyo miphakathi kumele lubanjwe ngaphambi kwezinyanga eziyi-6 kusukela osukwini lokuqalisa kokusebenza kwalo Mthetho.

**Ukuchitshiyelwa nokuchithwa kwemithetho**

**80.** Imithetho ebalulwe ohlwini lokuqala nolwesibili loHlelo 8 iyachitshiyelwa noma iyachithwa ngobungako obubekwe ohlwini lwesithathu loHlelo.

**Isihloko esifingqiwe nokuqala kokusebenza komthetho**

**81.** Lo Mthetho ubizwa ngoMthetho wobuHoli boMdabu nokuBusa waKwaZulu-Natali, 2013.

**UHLELO 1**  
**ISICELO SOKUBEKWA NJENGESIZWE**  
 (Isigaba 5(2)(a)(i))

**IFOMU TA 1**

**Ikheli lePosi: UNdunankulu waKwaZulu-Natali**  
**isiKhwama sePosi X9037**  
**uMgungundlovu**  
**3200**

**Ikheli loMgwaqo: Moses Mabhida Building**  
**300 Langalibalele Street**  
**uMgungundlovu**  
**3200**

Iqondiswe: kuNdunankulu	
<b>Okumele kuqaphelwe umfakisicelo:</b>	
A) Lesi isicelo sokubekwa njengesizwe ngokwesigaba 5 soMthetho wobuHoli boMdabu nokuBusa waKwaZulu-Natali, XXX (uMthetho No. XX ka XXXX).	
B) Umfakisicelo kumele ahlinzeke ngemininingwane efanele ukweseka lesi sicelo lokho kungabandakanya ubufakazi kwanoma yimiphi imibhalo umfakisicelo ayibona ihambisana naso.	
C) UNdunankulu angenqaba ukucubungula lesi sicelo uma ifomu ingagcwalisiwe ngokuphelele, noma ingabhaliwe ngendlela efanele.	
1.	Igama lomfakisicelo omele isizwe:
2.	<b>Imininingwane yokuxhumana yoMfakisicelo:</b>
	Ikheli lePosi:
	Ucingo:
	Inombolo kamakhal'ekhukhwini:

	I-Imeyli:
3.	Igama lesiZwe esifake isicelo sokubekwa:
4.	Elinye igama noma amanye amagama esiZwe:
5.	Igama lomuntu isiZwe esimthatha njengeNkosi:
6.	Indawo esikuyo kwibalazwe/Indawo esakhe kuyo kanye nokuchazwa kwendawo isiZwe esakhe kuyo:
	UMasipala wesiFunda:
	UMasipala waseKhaya:
7.	Uma kunesidingo, veza ukuthi ingabe isiZwe siyingxenyeni yini yesiZwe esikhona: Uma kunjalo, sicela uchaze:
8.	<p><b>Izincomo mayelana isicelo</b></p> <p>Umlando wesiZwe (kubandakanya uhlelo lomthetho wesintu, abaholi abadala besiZwe (ukulandelana kozalo), ubufazi bomlando wokuba khona kwesiZwe, isibalo seziGodi kanye nezinduna kanye neminye imininingwane efanele ephathelene nomlando kanye nemvelaphi yaleso Sizwe)</p> <p><b>(Imibhalo eneminingwane eyongeziwe ingafakwa uma kunesidingo salokho)</b></p>
Sisayinwe e_____ (Indawo) ngalolu suku mhla zi_____ ku_____	
	<b>Isiginisha:</b>
	<b>Igama loMele isiZwe:</b>
	<b>Isikhundla:</b>

Leli fomu kumele lihambisane nesicelo sokubekwa kweNkosi yesiZwe esithintekayo, ngokwesigaba 5(2) soMthetho.

<b><u>Okusetshenziswa iziphathimandla kuphela</u></b>	<b><u>Yebo</u></b> (Faka uphawu X)	<b><u>Cha</u></b> (Faka uphawu X)
1. Ingabe ifomu igcwaliswe ngendlela efanele		
2. Isicelo siyilungele iMemorandamu yeKhabhinethi		
3. Isicelo sithole isincomo sokudluliselwa kwiKhomishana yesiFundazwe saKwaZulu-Natali ebhekele ukuNgaboni Ngasolinye neziMangalo eziphathelele nobuHoli boMdabu		
4. Ukuphawula:		
5. Isitembu esisemthethweni		

**UHLELO 2****IMIKHOMBANDLELA YOKUQOKA OZOBEKWA ESIHLALWENI SOBUKHOSI (ozobekwa njengeNkosi/ukuthatha ubukhosi)**

(Isigaba 13(1)(a))

1. Kuncike kwisintu nasemithethweni yesintu yoMndeni kanye nesiZwe esithintekayo, iNkosi kumele imemezele ukuthi iyona yiphi indlu enkulu kwiziNdlu zayo, emhlanganweni woMndeni obizelwe lokho: Kuncike ekutheni uma ikhetha ukushintsha isimemezelo sayo, leyo Nkosi kumele imemezele izinqumo sayo esisha ngendlela efanayo naleyo ememezele ngayo isinqumo sangaphambilini.
2. Ngokuqaphela isintu nemithetho yesintu yoMndeni nesiZwe esithintekayo, noma imuphi umuntu phakathi kwalaba angaqokwa njengozothatha isihlalo sobuKhosi:
  - (a) inkosana ezalwa indlunkulu yeNkosi, endlini eqokwe iNkosi ngokohlamvu 1 njengendlu enkulu;
  - (b) inkosana ezalwa indlunkulu yokuqala yeNkosi;
  - (c) inkosana ezalwa indlunkulu yeNkosi eyalotsholwa isiZwe esithintekayo;
  - (d) inkosana yendlunkulu yeNkosi ezalwa ebukhosini, noma komunye uMndeni; noma
  - (e) nanoma yiphi indodana yeNkosi eqokwe iNkosi ngokubhala incwadi, nangokubonisana noMndeni.
3. Ngale kwendlela ebaluliwe kusukela kwindima (a) kuya ku (d) yohlamvu 2, uMndeni ungathatha isinqumo sokuziqokela wona ozobekwa esihlalweni sobukhosi ngokwesiko *lokuNgenwa, ukufaka esiswini* okuwukuthi uma indlunkulu yokuqala ingenayo indodana ebese kuthathwa indodana yakwenye indlu inikezwe yona kanye nosiko lokulotsholwa kwengane yeNkosi ezalwe esihlahleni.
4. Uma kwenzeka kungatholakali ozobekwa esihlalweni sobukhosi, njengoba kuhlangozwe kuhlamlvu 2 no 3, uMndeni unganquma ukudlulisela ubuKhosi kwenye indlu efanele ukuthatha ubukhosi ngokulandelana kwezindlu kusuka kwenkulu kuya kwencane.

**UHLELO 3**  
**UKUMENYEZELWA KWEBAMBABUKHOSI**  
(Isigaba 17(4))

Mina, \_\_\_\_\_, Inombolo kaMazisi: \_\_\_\_\_,  
ngiqokwe njengozobekwa njengeBambabukhosi uMndeni wesiZwe \_\_\_\_\_,  
ngalokhu ngimemezela ngaphansi kwesifungo kanje:

Ngalokhu ngiyakuqonda ukuthi ngiqokelwe ukubekwa njengeBambabukhosi lesiZwe  
sakwa \_\_\_\_\_, esikhundleni sika \_\_\_\_\_, oqokwe  
njengozohlala esihlaweni sobuKhosi, ukuqokwa nokubekwa kwakhe esikhathini esizayo  
ngiyakweseka futhi ngiyakuqinisekisa.

Ngalokhu mina uqobo ngiyakuqonda ukuthi –

- (a) Angikwazi manje nangomuso ukufuna ubuKhosi besiZwe \_\_\_\_\_;
- (b) Angisoze ngaba nentshisekelo yokubekwa njengeNkosi yesiZwe okukhulunywe ngaso  
nanoma nini ngomuso; futhi
- (c) Ngiyogudluka ngokwami esikhundleni njengeBambabukhosi uma  
sekubekwa \_\_\_\_\_njengeNkosi yesiZwe \_\_\_\_\_.

\_\_\_\_\_  
**Ofungayo**



**ISAYINWE YAFUNGELWA** ngaphambi kwami, e\_\_\_\_\_ ngalolu suku lwamhla\_\_\_\_\_20\_\_\_\_, ofungayo ukuthi uyakuqonda okuqukethwe yilesi sifungo, umemezela ukuthi akanakho ukuphikisana nesifungo, nokuthi usithatha njengazibophezela kuso ngokusho lamazwi alandelayo: *“Ngiyafunga ukuthi okuqukethwe kulesi sifungo kuyiqiniso lodwa, inkosi ingisize.”*

\_\_\_\_\_  
**UMFUNGISI**

**AMAGAMA APHELELE:** \_\_\_\_\_

**IKHELI LEBHIZINISI:** \_\_\_\_\_

\_\_\_\_\_  
**ISIKHUNDLA:** \_\_\_\_\_

**INDAWO:** \_\_\_\_\_

**UHLELO 4****INQUBO YOKUQOKWA KWESIBALO SAMALUNGU OMKHANDLU WOMDABU**

(Isigaba 25(1))

1. Uhlelo lokukhethwa kwamalungu olubalulwe kwitebhula elingezansi kumele lenziwe iNkosi, eliyilungu ngokwesikhundla sayo kumalungu akhethwe ngokwesigaba 25 salo Mthetho.

2. Uma isiqoka amalungu angama-60% esibalo sonke samalungu omkhandlu womdabu, iNkosi kumele izame ukulandela isidingo sokuthi okungenani ingxenye eyodwa kokuthathu yesibalo sonke samalungu omkhandlu womdabu kube ngabesifazane.

Isibalo seziNduna ezibekiwe	Amalungu aqokiwe alinganiselwa kuma 60% esibalo sesisonke samalungu				Amalungu akhethiwe angama 40% esibalo sesisonke samalungu	Isibalo sesisonke samalungu	Isibalo sesisonke sabesifazane (ingxenye eyodwa kokuthathu)
15 noma ngaphansi	Amalungu omphakathi	iziNduna	amaKhosi	Isibalo sonke samalungu aqokiwe	Isibalo sesisonke samalungu akhethiwe		
15 noma ngaphansi	2	3	1	6	4	10	3
15 kuya ku 20	3	5	1	9	6	15	5
20 kuya ku 25	4	7	1	12	8	20	7
25 kuya ku 30	5	9	1	15	10	25	8
30 kuya ku 35	6	11	1	18	12	30	10
35 kuya ku 40	7	13	1	21	14	35	12

40 kuya ku 45	8	15	1	24	16	40	13
45 kuya ku 50	9	17	1	27	18	45	15
51 noma ngaphezulu	10	19	1	30	20	50	17

**UHLELO 5**

**AMALUNGU AKHETHIWE ENDLU YOBUHOLI BOMDABU ESIFUNDAZWENI  
SAKWAZULU-NATALI**

(Isigaba 40(2))

<b>UHLU 1</b>			<b>UHLU2</b>
<b>IZINDLU</b>	<b>ZOBUHOLI</b>	<b>BOMDABU</b>	<b>ISIBALO SEZITHUNYWA</b>
<b>ZENDAWO</b>			
Indlu yobuHoli boMdabu yesiFunda uGu			7
Indlu yobuHoli boMdabu yesiFunda saseMgungundlovu			4
Indlu yobuHoli boMdabu yesiFunda sasoThukela			4
Indlu yobuHoli boMdabu yesiFunda saseMzinyathi			4
Indlu yobuHoli boMdabu yesiFunda saseMajuba			3
Indlu yobuHoli boMdabu yesiFunda sase-Zululand			5
Indlu yobuHoli boMdabu yesiFunda saseMkhanyakude			3
Indlu yobuHoli boMdabu yesiFunda sasoThungulu			7
Indlu yobuHoli boMdabu yesiFunda iLembe			6
Indlu yobuHoli boMdabu yesiFunda saseSisonke			7
Indlu yobuHoli boMdabu yesiFunda saseThekwini			3

**UHLELO 6**  
**UMGOMO WOKUZIPHATHA WABAHOLI BOMDABU NAMALUNGU EMIKHANDLU**  
**YOMDABU**  
(Isigaba 66)

**Umgomo ojwayelekile wokuziphatha komholi womdabu**

**1. Umholi womdabu kumele –**

- (a) enze imisebenzi anikezwe yona ngobuqotho, ngokukhuthala, ngokwethembeka nangendlela esobala;
- (b) asebenzise isikhundla sakhe ngendlela enobuhlakani;
- (c) angaziphathi ngendlela eyihlazo, engafanele noma ethunaza isikhundla sakhe;
- (d) ahambisane nanoma yimuphi umthetho osebenzayo;
- (e) konke akwenzayo akwenze ngendlela ebeka phambili izidingo zesiZwe noma imiphakathi ayisebenzelayo;
- (f) akhuthaze ubunye phakathi kwesiZwe;
- (g) angazihlanganisi nezinto ezizodala uqhekeko phakathi kwesiZwe;
- (h) agqugquzele ukwakhiwa kwesiZwe;
- (i) angenqabi ukwenza umsebenzi kunoma yimuphi umuntu ngenxa yezizathu zezombusazwe noma zokwehlukana ngokwemibono;
- (j) akhuthaze ubudlelwano obuhle nezinhloko zombuso asebenzisana nazo;
- (k) agqugquzele inqubomgomo yentando yabantu nomphakathi ovulelekile; futhi
- (l) adalule izipho azitholile.

**Umgomo ojwayelekile wokuziphatha komkhandu wobuholi bomdabu**

**2. Umkhandlu womdabu kumele –**

- (a) wenze imisebenzi ejutshelwe yona ngobuqotho, ngokukhuthala, ngokwethembeka nangendlela engafihli lutho;
- (b) ubambe iqhaza emisebenzini eyabelwe yona, usebenzise amandla namajoka ngendlela enekhono;
- (c) uhambisane nanoma yimuphi umthetho osebenzayo;
- (d) konke okwenzayo ukwenze ngendlela ebeka phambili izidingo zesiZwe noma zemiphakathi oyisebenzelayo;

(e) ufezekise ukusebenza kwezinqubomgomo ezilawula ezokuphatha kuhulumeni ezibalulwe esigabeni 195 soMthethosisekelo; futhi

(f) ukhuthaze ubudlelwano obuhle nezinhlaka zombuso osebenzelana nazo.

**UHLELO 7****UMGOMO WOKUZIPHATHA KWAMALUNGU EZINDLU ZABAHOLI BOMDABU**

(Izigaba 65 no 66)

**INGXENYE A****ISIFUNGO SAMALUNGU ENDLU**

Mina,.....(Igama lelungu), ngiyafunga ukuthi ngizokwethembeka kwiNdlu yabaHoli boMdabu yesiFundazwe saKwaZulu-Natali /iNdlu yabaHoli boMdabu yesiFunda sase\_\_\_\_\_ ngiyafunga futhi ngiyethembisa ukuthi ngezikhathi zonke ngizogqugquzela lokho okuzoqhubela phambili iNdlu, ngilwisane nakho konke okungakhubaza iNdlu yobuHoli boMdabu; ngizohlonipha, ngizokwenza, ngizofezekisa futhi ngigcine imithetho, izinqubo, imiyalelo kanye nemigomo yeNdlu yobuHoli boMdabu kanye nayo yonke eminye imithetho yeRiphabhulikhi yaseNingizimu Afrika; ngizokwenza yonke imisebenzi yami ngawo onke amandla enginawo nangobuhlakani futhi nangeqiniso ngalo lonke ulwazi namandla enginawo kusuka ekujuleni kukanembeza wami; ngizokwenza ubulungiswa kubo bonke; ngizozinikela ekusebenzeleni inhlalakahle yeNdlu yobuHoli boMdabu kanye namalungu ayo.

Sengathi uMdali oPhezu konke ngoMusa wakhe kanye noma abangasekho bangangihola bangigcine ukuze ngikwazi ukugcina lesi sifungo ngenhlonipho nangobuqotho.

Inkosi ingisize.

**INGXENYE B****UKUQINISA**

Mina,.....(Igama lelungu), ngiyakuqinisekisa ukuthi ngizokwethembeka eNdlini yabaHoli boMdabu yesiFundazwe saKwaZulu-Natali /iNdlu yabaHoli boMdabu yeNdawo \_\_\_\_\_ ngiyafunga futhi ngiyethembisa ukuthi ngezikhathi zonke ngizogqugquzela ukwenza ngcono ngilwisane nakho konke okungakhubaza iNdlu

yobuHoli boMdabu; ngokuzithoba, ngizolandela, ngeseke ngiphinde ngigcine imithetho, izinqubo, imiyalelo kanye nemigomo yeNdlu yobuHoli boMdabu kanye neminye imithetho yeRiphabhulikhi yaseNingizimu Afrika; ukwenza imisebenzi yami ngawo onke amandla enginawo nangobuhlakani futhi nangeqiniso ngalo lonke ulwazi namandla enginawo kusuka ekujuleni kukanembeza wami; ukwenza ubulungiswa kubo bonke; nokuzinikela ekusebenzeleni inhlalakahle yeNdlu yobuHoli boMdabu kanye namalungu ayo.

Sengathi uMdali oPhezu konke ngoMusa wakhe kanye noma abangasekho bangangihola bangigcine ukuze ngikwazi ukugcina isifungo ngenhlonipho nangobuqotho.



**INGXENYE C**  
**UMGOMO WOKUZIPHATHA**

**Amalungu eNdlu yobuHoli boMdabu**

**Ukwenziwa kwemisebenzi amalungu**

**1. Ilungu leNdlu kumele –**

- (a) lenze imisebenzi elinikezwe yona ngokwethembeka, ngokungacwasi nangendlela esobala; futhi
- (b) ngezikhathi zonke lisebenze ngendlela ebeka phambili izidingo zeNdlu yobuHoli boMdabu nangendlela engadicileli ubuqotho kanye nokwethembeka kweNdlu yobuHoli boMdabu.

**Ukwethamelwa kwemihlangano**

**2. Ilungu leNdlu yobuHoli boMdabu kumele lethamele yonke imihlangano yeNdlu kanye neyekomidi eliyilungu lalo, ngaphandle –**

- (a) uma linikezwe umhlaba khefu wokuthi lingayethameli ngokomthetho osebenzayo noma ngokuqunywe imithetho nemiyalelo yeNdlu yobuHoli boMdabu; noma
- (b) uma lelo lungu leNdlu yobuHoli boMdabu kudingeka ngokwalo Mgomo ukuba lihoxiswe emhlanganweni.

**Ukubekwa icala ngokungayethameli imihlangano**

**3.(1) INdlu ingabeka icala njengoba kunganquma imithetho nemiyalelo yeNdlu yobuHoli boMdabu ilungu leNdlu:**

- (a) uma lingawethameli umhlangano okudingeka ukuba liwethamele ngokohlamvu 2; noma
- (b) lehluleka ukuhlala lowo mhlangano.

(2) Ilungu leNdlu yobuHoli boMdabu elingezanga emhlanganweni kwaze kwaba izikhawu ezintathu noma ngaphezulu imihlangano ilandelana, noma kusukela kwizikhawu ezintathu noma ngaphezulu imihlangano ilandelana yekomidi leNdlu yobuHoli boMdabu, lelo lungu leNdlu yobuHoli boMdabu okudingeka ukuba liwethamele ngokohlamvu 2, kumele lisuswe esikhundleni njengelungu leNdlu yobuHoli boMdabu.

(3) ILungu loMkhandlu oPhethe kumele lazise uNdunankulu othintekayo ngokuxoshwa kwelungu elimele iNdlu yobuHoli boMdabu.

(4) Izigwebo zokungawethameli umhlangano, kubandakanya ukuxoshwa kwelungu leNdlu yobuHoli boMdabu kumele zikhishwe ngokusebenzisa inqubo efanayo okumele ibekwe yiNdlu yobuHoli boMdabu ngokwezinhloso zalokho.

#### **Ukudalula ukuhlomula**

##### **4.(1) Ilungu leNdlu kumele –**

(a) lidalulele iNdlu kanye nanoma iliphi ikomidi leNdlu yobuHoli boMdabu eliyilungu lalo, noma ikuphi ukuhlomula ngqo noma ngandlela thile ebhizinisini elizimele, noma ukuhlomula kwalowo elishade naye, umlingani welungu leNdlu kwezamabhizinisi okuthinta noma iluphi udaba olusezithebeni zeNdlu noma zekomidi leNdlu; futhi

(b) lihoxe emihlanganweni eqhubekayo yeNdlu yobuHoli boMdabu noma yekomidi leNdlu yobuHoli boMdabu uma kucutshungulwa lolo daba, ngaphandle uma iNdlu noma ikomidi linezizathu zokuthi lokho kuhlomula kwelungu akubalulekile noma akuhlangene nalolo daba oludingidwayo.

(2) Ilungu leNdlu yobuHoli boMdabu lowo elishade naye, umlingani noma elithandana naye, elibambisene naye kwezamabhizinisi noma ilungu lomndeni elisondelene nalo, elithola noma elifuna noma ikuphi ukuhlomula ngqo enkampanini esebenzisana neNdlu, kumele lidalule imininingwane egcwele yokuhlomula elinakho emhlanganweni wokuqala weNdlu elingakwazi ngawo ukudalulela iNdlu ngalokho.

(3) Lesi sigaba asisebenzi ekuhlomuleni kwelungu leNdlu yobuHoli bomdabu, noma kwalowo elishade naye, elithandana naye, elibambisene naye kwezamabhizinisi noma ilungu lomndeni elisondelene nalo, uma namanye amalungu eNdlu yobuHoli boMdabu ehlomula.

#### **Ukuzihlomulisa**

5.(1) Ilungu leNdlu angeke lisebenzise isikhundla salo noma amalungelo alo akhethekile elinikezwe wona njengelungu leNdlu, noma imininingwane eyimfihlo eliyithole njengelungu leNdlu, ukuze lizenzele inzuzo ngendlela engafanele.

(2) Ngaphandle kwemvume kuqala yeNdlu ilungu leNdlu angeke –

(a) laba ingxenywe noma lihlomule kwisivumelwano –

(i) sokuhlinzeka impahla noma imisebenzi kwiNdlu; noma

(ii) sokwenza nanoma imuphi umsebenzi ngaphandle komsebenzi wokuba yilungu leNdlu nokusebenzela iNdlu;

(b) lahlomula ngemali misebenzini yeNdlu; noma

(c) limele noma imuphi umuntu ozolikhokhela ngaphambi kweNdlu noma kwekomidi layo.

(3) Uma amalungu angaphezulu kwekota leNdlu ephikisana mvume enikezwa ilungu leNdlu ngokohlamvana (2), leyo mvume inganikezwa kuphela ilungu leNdlu yobuHoli boMdabu ngegunya leLungu loMkhandlu oPhethe.

### **Ukudalula ukuhlomula**

6.(1) Uma selikhethiwe noma seliqokiwe, ilungu leNdlu kumele lidalule ngencwadi lokhu kuhlomula kwalo ngokwezezimali okulandelayo esikhulwini seNdlu esiqokwe yiLungu loMkhandlu oPhethe ezinsukwini ezingama-60:

(a) amasheya kanye nezibambiso kunoma iyiphi inkampani;

(b) ubulungu kunoma iyiphi ibhizinisi;

(c) ukuhlomula kunoma iyiphi ithrasti;

(d) kuba ngumqondisi;

(e) ukuba yingxenywe yebhizinisi elihlanganyele;

(f) okanye ukuhlomula ngokwezezimali kunoma iliphi ibhizinisi;

(g) umsebenzi eliwenzayo neholo;

(h) ukuhlomula kwimpahla;

(i) impesheni; kanye

(j) nosizo lwezimali, izibonelelo kanye noxhasomali kunoma iyiphi inhlangano.

(2) Nanoma iluphi ushintsho mayelana nohlobo kanye neminingwane yokuhlomula ngokwezezimali kwelungu leNdlu kumele ludalulwe ngencwadi esikhulwini esiqokiwe okukhulunywe ngaso ohlamvini (1) minyaka yonke.

(3) Izipho ezitholwe ilungu leNdlu ezingaphezu kwenani elinganqunywa ngesaziso *kwiGazethi yesiFundazwe* izikhathi ngezikhathi, kumele zidalulwe njengoba kubekwe kuhlamvana (1).

(4) INdlu kumele inqume ukuthi ikuphi ukuhlomula ngokwezezimali okukhulunywe ngakho ohlamvini (1) okumele kudalulelwe umphakathi kubhekelelwa Ubucayi balokho kanye nesidingo sokuthi kwaziswe umphakathi.

(5) Ukudalulwa kokuhlomula kanye nokwemukela izipho okuhlongozwe kulolu hlamvu kubalulekile ukuthi kume ngendlela ebekwe kwisiThasiselo A kulolu Hlelo, futhi kumele kwenziwe minyaka yonke uma kunesidingo, ukuze kulandelwe izinhlinzeko zohlamvana (2).

### **Imihlomulo, izipho nokwenzelela**

7. Ilungu leNdlu angeke lacela, lancenga noma lemukela nanoma yimuphi umhlomulo, isipho noma ukwenzelela –

- (a) ukuze livote noma lingavoti odabeni oluthile oluphambi kweNdlu noma kwekomidi leNdlu lelo lungu leNdlu eliyilungu lalo;
- (b) ngokunxenxa iNdlu noma ikomidi leNdlu yobuholi bomdabu maqondana nokusetshenziswa kwanoma yimaphi amandla, umsebenzi noma ijoka;
- (c) ngokumela kwiNdlu noma kunoma yiliphi ikomidi leNdlu; noma ukudalula amalungelo akhethekile noma imininingwane eyimfihlo.

### **Ukudalulwa kolwazi oluyimfihlo okungagunyaziwe**

8.(1) Ilungu leNdlu angeke ladalulela umuntu ongafanele noma iluphi ulwazi olukhethekile noma oluyimfihlo lweNdlu noma lwekomidi ngaphandle kwemvume yeNdlu noma yekomidi.

(2) Ngokwenhloso yalolu hlamvu 'ulwazi olukhethekile noma oluyimfihlo' lubandakanya nanoma yiluphi ulwazi –

- (a) olunqunywe yiNdlu noma ikomidi leNdlu njengolukhethekile noma oluyimfihlo;
- (b) oludingidwe yiNdlu noma yikomidi leNdlu emhlanganweni oyinguyazana;
- (c) ukudalulwa kwalo okunganyathela ilungelo lomunye umuntu lokuba nemfihlo; noma
- (d) olumenyezelwe njengolukhethekile noma oluyimfihlo ngokomthetho.

(3) Loluhlamvu aluphazamisi amalungelo anoma imuphi umuntu okuthola ulwazi ngokomthetho kazwelonke.

**Ukwephulwa komgomo wokuziphatha**

9.(1) Uma iNdlu, inezinsolo eziqinile zokuthi kwep hulwe uMgomo wokuziPhatha, kumele –

- (a) iqale uphenyo ngamaqiniso kanye nezimo zokwep hulwa komgomo wokuziphatha;
- (b) inikeze ilungu leNdlu yobuHoli boMdabu ithuba lokuziphendulela ngencwadi mayelana nezinsolo elibekwa zona zokwep hula umgomo wokuziphatha; futhi
- (c) ibike ngalolu daba emhlanganweni weNdlu uma sekulandelwe izindima (a) no (b).

(2) Umbiko okukhulunywe ngawo kuhlamlvana (1)(c) ungadalulelwa umphakathi.

(3) INdlu kumele yethule umbiko ngalokhu okutholakale ngesikhathi kwenziwa uphenyo kwiLungu loMkhandlu oPhethe.

(4) UNobhala weNdlu kumele aqinisekise ukuthi ilungu ngalinye leNdlu uma lithatha isikhundla salo linikezwa ikhophi yomgomo wokuziphatha futhi leyo khophi yomgomo wokuziphatha itholakala kuwo wonke amagumbi noma kuzo zonke izindawo lapho iNdlu noma ikomidi leNdlu lihlanganela khona.

(5) INdlu –

- (a) ingenza uphenyo ebese ithola umphumela mayelana nokwep hulwa kwezinhlinzeko zomgomo wokuziphatha; noma
- (b) ingasungula ikomidi eliyisipesheli –
  - (i) elizophenya ebese liqhamuka nemiphumela mayelana nokwep hulwa kwezinhlinzeko zomgomo wokuziphatha; futhi
  - (ii) yenze izincomo ngalokho kwiNdlu.

(6) Uma iNdlu noma ikomidi eliyisipesheli eliqokwe iNdlu ukuba lenze uphenyo lithola ukuthi ilungu leNdlu lephule izinhlinzeko zale ngxenye yoMgomo wokuziPhatha, iNdlu yobuHoli boMdabu –

- (a) inganikeza ilungu leNdlu isexwayiso esibhalwe phansi;
- (b) ingajezisa ilungu leNdlu;
- (c) ingamisa ilungu leNdlu isikhathi esinganqunywa ngokubonisana neLungu loMkhandlu oPhethe; futhi
- (d) ingaxosha ilungu leNdlu ngokubonisana neLungu loMkhandlu oPhethe.

(7)(a) Noma iliphi ilungu leNdlu elithole isexwayiso, isijeziso, elimisiwe noma elixoshiwe ngokwendima (a), (b), (c), noma (d) yohlamvana (6) lingafaka isimangalo kwiLungu loMkhandlu oPhethe ngokubhala phansi ezinsukwini eziyi-14 laziswe ngesinqumo, libeke izizathu ezingala isimangalo salo esincike kuzo.

(b) Ikhophi yesimangalo kumele ithunyelwe kwiNdlu.

(c) INdlu kungakapheli izinsuku eziyi-14 ithole isimangalo okukhulunywe ngaso kwindima (b) ingenza izethulo eziphathelene nesimangalo ngokubhalela iLungu lomkhandlu oPhethe.

(d) ILungu loMkhandlu oPhethe, ngemva kokucubungula isimangalo, lingaqinisekisa, lingachitha noma lithathe esinye isinqumo mayelana nesinqumo seNdlu bese lazisa ilungu kanye neNdlu ngemiphumela yaleso simangalo.

(8) ILungu loMkhandlu oPhethe lingaqoka umuntu noma ikomidi elizophenya nganoma iziphi izinsolo zokwepfulwa kwezinhlinzeko zomgomo wokuziphatha futhi lenze izincomo mayelana nokuthi ilungu leNdlu kufanele limiswe noma lixoshwe.

(9) Uma iLungu loMkhandlu oPhethe libona ukuthi ilungu leNdlu lephule izinhlinzeko zomgomo wokuziphatha, nokuthi lokho kuphoqe ukuthi limiswe noma lixoshwe, iLungu loMkhandlu oPhethe –

(a) lingamisa ilungu leNdlu isikhathi esithile nangemibandela enqunywe iLungu oMkhandlu oPhethe; noma

(b) lingaxosha ilungu leNdlu bomdabu.

(10) Nanoma yiluphi uphenyo ngalokhu kumele lwenziwe ngokuhambisana nemithetho yobulungiswa.

**ISITHASISELO A****UKUDALULWA KOKUHLOMULA KANYE NEZIPHO**

Mina: \_\_\_\_\_  
 Ikheli lePosi: \_\_\_\_\_  
 Ikheli leNdawo yokuhlala: \_\_\_\_\_  
 Isikhundla: \_\_\_\_\_  
 Inombolo yePhezali \_\_\_\_\_  
 Ucingo: \_\_\_\_\_  
 Ifeksi: \_\_\_\_\_

Ngalokhu ngiqinisa ukuthi le mininingwane elandelayo iphelele futhi iyiqiniso ngokolwazi lonke enginalo:

**1. Amasheya kanye nokunye ukuhlomula ngokwezezimali**

<b>Isibalo samasheya/Ubungako bokuhlomula ngokwezezimali</b>	<b>Uhlobo</b>	<b>Inani</b>	<b>Igama leNkampani/lebhizinisi</b>

**2. Ukuba ngumqondisi nokuhlanganyela**

<b>Igama lebhizinisi noma ukuhlanganyela</b>	<b>Uhlobo lwebhizinisi</b>	<b>Inani leholo</b>

**3. Okuthintwana nabo**

<b>Igama lekilayenti</b>	<b>Uhlobo</b>	<b>Uhlobo lomsebenzi owenziwayo</b>	<b>Inani lanoma imiphi imihlomulo etholakalayo</b>

**4. Uxhasomali**

<b>Umthombo wosizo/woxhasomali</b>	<b>Incazelo yosizo/yoxhasomali</b>	<b>Inani losizo/loxhasomali</b>

**5. Izipho nosizo oluvela kwabangesiwona umndeni**

<b>Ukuchazwa</b>	<b>Inani</b>	<b>Umthombo</b>

**6. Umhlaba nempahla**

<b>Ukuchazwa</b>	<b>Ubukhulu</b>	<b>Indawo</b>	<b>Inani</b>



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**ISIGINESHA****USUKU:** \_\_\_\_\_**INDAWO:** \_\_\_\_\_**UKUFUNGA/UKUQINISA**

1. *Ngiyaqinisa ngaphambi kokubhekelelwa kwesifungo/kokuqinisa ukuthi ngimbuzile le mibuzo elandelayo ofungayo ngase ngibhala phansi izimpendulo zakhe ngaphambi kwakhe:*

(i) *Ingabe uyakwazi futhi uyakuqonda okuqukethwe okufakazelayo?*

Impendulo \_\_\_\_\_

(ii) *Ingabe uyaphikisana nokwenza isifungo noma ukuqinisa okubhaliwe?*

Impendulo \_\_\_\_\_

(iii) *Ingabe isifungo noma ukuqinisa okubhaliwe ukuthatha njengozibophezela kukho?*

Impendulo \_\_\_\_\_

2. *Ngiyaqinisa ukuthi ofungayo uyakuqonda okuqukethwe yilokhu akufakazelayo. Ofungayo usho lamazwi: "Ngiyafunga ukuthi okuqukethwe yilokhu engikufakazelayo kuyiqiniso lodwa, Inkosi ingisize." / "Ngiyaqinisa ukuthi okuqukethwe yilokhu engikufakazelayo kuyiqiniso lodwa". Isiginesha/ukugingqa isithupha kofakazayo kwenziwe ngesikhathi sokwenziwa kobufakazi ngaphambi kwami*

**UMFUNGISI OSEMTHEHWENI/IJAJI**

Amagama onke aphelele nesibongo: \_\_\_\_\_

(Bhala ngokuhlukanisa)

Isikhundla: \_\_\_\_\_ osebenzela iRiphabhulikhi yaseNingizimu

Afrika

Igama lomgwaqo wesikhungo: \_\_\_\_\_

Usuku: \_\_\_\_\_ Indawo: \_\_\_\_\_

ISIGINESHA YELUNGU LOMKHANDLU OPHETHE USUKU

IGAMA LELUNGU LOMKHANDLU OPHETHE: \_\_\_\_\_

ISIKHUNDLA: UMBHEKELI WEZOKUBUSA NGOKUBAMBISANA NEZOMDABU

Isiginesha: \_\_\_\_\_

## UHLELO 8

### Ukuchithwa kwemithetho

(Isigaba 80)

Inombolo kanye nonyaka womthetho	Isihloko	Ubungako obuchithwayo
UMthetho No. 5 ka 2005	UMthetho wobuHoli boMdabu nokuBusa waKwaZulu-Natali, 2005	Wonke
UMthetho No. 9 ka 2007	UMthethosichibiyelo wobuHoli boMdabu nokuBusa waKwaZulu- Natali, 2007	Wonke

UMthetho No. 4 ka 1965	UMthetho weziPhathimandla wase-Transkei, 1965	Wonke njengoba usebenza kuMasipala waseNdaweni yaseMzimkhulu
UMthetho No. 68 ka 1951	UMthetho weziPhathimandla zabaNsundu, 1951	Wonke njengoba usebenza kuMasipala waseNdaweni yaseMzimkhulu
UMthetho No. 15 ka 1976	UMthethosisekelo weRiphabhulikhi yase-Transkei, 1976	Wonke njengoba usebenza kuMasipala waseNdaweni yaseMzimkhulu
UMthetho No. 16 ka 1985	UMthetho woMgomo woMthetho wesiZulu waKwaZulu, 1085	Wonke
Isimemezelo No. R. 151 sika 1987	UMthetho woMgomo wesiZulu waseNatali, 1987	Wonke

**IMEMORANDAMU YEZINHLOSO ZOMTHETHOSIVIVINYO WOBUHOLI BOMDABU  
NOKUBUSA WAKWAZULU-NATALI, 2013**

**1. ISENDLALELO**

UHulumeni wesiFundazwe saKwaZulu-Natali, ngokulandela iSahluko 12 soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996, uhlaka lwenqubomgomo kazwelonke kanye nomthetho kubandakanya uMthetho woHlaka lobuHoli boMdabu nokuBusa, 2003 (uMthetho No. 41 ka 2003), uyakuhlonipha ukuba khona kwemiphakathi yomdabu esiFundazweni.

Ngokuphasiswa kwalo koMthethosivivinyo, uHulumeni wesiFundazwe uhlose –

- ukuhlonipha, ukuvikela, ukonga, ukuguqula, kanye nokuhlinzeka ngezimo esivumela ukubunjwa kwemiphakathi yomdabu, ukusungulwa kwezikhungo zomdabu, kwemithetho yesintu kanye nesintu;
- ukucacisa ngendawo kanye neqhaza lobuholi bomdabu embusweni kahulumeni wentando yeningi eNingizimu Afrika; kanye
- nokubuyisa isithunzi nokuhlonipheka kwesikhungo sobuholi bomdabu ngokuhambisana nemithetho yesintu kanye nesintu.

Ngenxa yokuchitshiyelwa koMthetho woHlaka lobuHoli boMdabu nokuBusa, 2003, kanye nezinselelo okubhekanwe nazo ngesikhathi sokuqalisa koMthetho wobuHoli boMdabu nokuBusa waKwaZulu-Natali, 2005 (uMthetho No. 5 ka 2005), osebenzayo, kubonakale kunesidingo esikhulu sokuchitshiyelwa kwalo Mthetho, ukuqinisekisa ukuthi uyahambisana nezichibiyelo zoMthetho woHlaka lobuHoli boMdabu nokuBusa, 2003, futhi kuthathwe nesinqumo sokuthi kusungulwe uMthetho omusha ozothatha indawo yoMthetho waKwaZulu-Natali okhona, kunokuba kuchitshiyelwe uMthetho okhona.

Lo mthetho omusha ohlongozwayo uhambisana ngokugcwele noMthethosisekelo, 1996, noMthetho woHlaka lobuHoli boMdabu nokuBusa, 2003, kanye neminye imithetho ehlobene nawo, ngalokho kuqinisekiswa ukufana uma kusetshenziswa imithetho ethinta izikhungo zomdabu kanye nabaholi bomdabu. Ngaphezu kwalokhu, futhi ngenhloso yokulungiselela ukuqalisa koMthetho, kusungulwe iziNhlelo eziningi zase zinanyathiselwa kuMthethosivivinyo, kunokuba iziNhlelo ezibe kwimithethonqubo ekhishwa eceleni uma sekuphasiswe uMthethosivivinyo. KuMthethosivivinyo kunenhlinzeko enikeza iLungu loMkhandlu oPhethe elibhekele ezomdabu amandla okuchibiyela iziNhlelo ngesaziso kwiGazethi yesiFundazwe

ngalokho kuqinisekiswa ukuthi noma iziphi izinselelo ezivela uma kuqaliswa uMthetho kuyabhekwana nazo ngokushesha.

## **IZINHLOSO ZOMTHETHOSIVIVINYO**

Izinjongo zomthethosivivinyo ukuhlinzekela -

- ukubunjwa kweziZwe, kobuholi bomdabu, kanye nezikhungo zomdabu;
- uhlaka lokulawula ukuze kubunjwe futhi kunqunywe amaqhaza, amandla nemisebenzi yemikhandlu yomdabu, yabaholi bomdabu kanye nezinye izinhlaka zobuholi bomdabu;
- uhlaka lwentuthuko, lokuthuthukiswa kwamakhono kanye nokwesekwa kwemikhandlu yomdabu nezinye izinhlaka zobuholi bomdabu;
- ukusungulwa kweNdlu yesiFundazwe yabaHoli boMdabu, iziNdlu zeziNdawo zabaHoli boMdabu, kanye neKhomishana yesiFundazwe saKwaZulu-Natali ebhekele ukungaboni ngasolinye nezimangalo eziphathelele nobuholi bomdabu;
- ukunqunywa kwamaqhaza, kwamandla kanye nemisebenzi nokwabiwa kwemisebenzi yabelwa lezi zikhungo;
- uhlaka lwentuthuko, lokuthuthukiswa kwamakhono kanye nokwesekwa kwezikhungo;
- uhlaka oluzokwazi ukweseka ukusebenzisana ngokuhlanganyela kanye nokubusa ngokubambisana phakathi kwazo zonke izinhlaka ezingenhla kanye nohulumeni wesifundazwe;
- umgomo wokuziphatha;
- ukufaka isandla kwamalungu esiZwe;
- amandla okulawula kaNdunankulu kanye neLungu loMkhandlu oPhethe;
- ukudluliselwa kwamandla, imisebenzi kanye nezivumelwano;
- izinhlelo okuxazulula ukungaboni ngasolinye; ukuhlinzekela amacala nezinhlawulo;
- izinhlinzeko zesikhashana;
- ukuchithwa komthetho wesifundazwe okhona; kanye
- nokunye okuphathelele nalokho.

## **2. IZINHLOSO KANYE NOKUCHAZWA KWEZIGABA**

### **Isigaba somthetho 1: Izincazelo**

Lesi sigaba somthetho siqukethe zonke izincazelo eziphathelele noMthethosivivinyo, futhi kwezinye izindawo kusetshenziswe amagama ajwayelekile ezikhungo zomdabu kanye nabaholi bomdabu ukuze kube lula ukubona.

### **Isigaba somthetho 2: Ukusebenza komthetho**

Lesi sigaba somthetho sihlinzeka ngokuthi uMthethosivivinyo, uma usumisiwe, uzosetshenziswa esiFundazweni sonke saKwaZulu-Natali.

### **Isigaba somthetho 3: Imigomo eyimikhombandlela**

Isigaba somthetho 3 siphinda imigomo elandelwayo equkethwe kuMthetho woHlaka lobuHoli boMdabu nokuBusa, 2003 (uMthetho No. 41 ka 2003), futhi sisetshenziswa kuwo wonke umphakathi womdabu, izikhungo zomdabu nakubaholi bomdabu kuyo yonke iKwaZulu-Natali, ubayalela ukuba bashintshe futhi basungule imithetho yesintu namasiko ehambisanayo noMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996. Ukwengeza kulokhu zonke izikhungo nabaholi bomdabu abavumelekile ukugqugqezela noma ukuchema nanoma iliphi iqembu lezopolitiki, futhi kumele basebenzise baphinde baqalise imigomo kahulumeni wobumbano, emazingeni kahulumeni nemigomo elawula ukuphathwa komphakathi.

### **Isigaba somthetho 4: Ukubunjwa nokuhlakazwa kobuNgonyama**

Lesi sigaba somthetho senza kube lula ukuthola izinhlinzeko zoMthetho kaZwelonke osebenzayo maqondana nokubunjwa kobuNgonyama.

### **Isigaba somthetho 5: Ukubunjwa kweziZwe**

Lesi sigaba somthetho sihlizekela ngendlela nangezinhlelo ezizolandelwa uma kubunjwa umphakathi womdabu, okungukufaka isicelo sokubunjwa kweSizwe kuNdunankulu. Phakathi kokunye sihlizeka ngezinhlelo zokuxhumana okumele ziholwe isinqumo sikaNdunankulu, futhi sinika amandla uNdunankulu okuqoka umuntu ozimele noma abantu abazoqhuba uphenyo ukuze kutholakale ukuthi ingabe lowo mphakathi womdabu kufanele yini ubekwe njengoba usho noma akufanele. Unkwengeza kulokhu isigaba somthetho sibeka imininingwane yohlelo okumele lulandelwe uNdunankulu uma ebeka umphakathi womdabu, lokho kubekwa okwenziwa ngokukhipha isazo *kwiGazethi* yesiFundazwe. Ukuze kube lula ukuthola ifomu

elibhalwe indlela okumele isicelo sibunjwe kweSizwe senziwe ngayo ifakiwe kuMthetho njengoHlelo.

#### **Isigaba somthetho 6: Ukuhlakazwa kweSizwe**

Lesi sigaba somthetho sihlizekela ngezinhlelo ezilandelwayo kanye neminingwane engenza ukuba uNdunankulu ahlakaze iSizwe, okubandakanya ukuhlukaniswa phakathi noma ukuhlanganiswa kweZizwe, okungenzeka kuthi zazihlanganiswe noma zaihlukaniswe ngaphambi kuka 1994. Ukwengeza kulokhu lesi sigaba somthetho sinika amandla uNdunankulu okuqoka umuntu noma abantu abazoqhuba uphenyo ngokuhlakazwa okuhlongozwayo, kanye nokuhoxisa ukubunjwa kweZizwe ngokukhipha isaziso *kwiGazethi* yesiFundazwe, okanye eyenqabela lokho kuhoxiswa.

#### **Isigaba somthetho 7: Ukubunjwa kweZizwana**

Lesi sigaba somthetho sihlizekela ukubunjwa kweZizwana ezisezindaweni ezehlukene ngaphansi kweSizwe, futhi sibeka indlela efanayo nale okumele ilandelwe uNdunankulu esigabeni somthetho 5, ukuze kubunjwe leso siZwana, seNkosi ethintekayo efake isicelo.

#### **Isigaba somthetho 8: Ukuhlakazwa kweZizwe ezincane**

Lesi sigaba somthetho sihlizekela ngezindlela kanye neminingwane engenza ukuba isicelo esifakwa iNkosi ethintekayo sokubunjwa kweSizwana, sihlakazwe uNdunankulu ngokufaka isaziso *kwiGazethi* yesiFundazwe.

#### **Isigaba somthetho 9: Ukubunjwa kweziGodi**

Lesi sigaba somthetho sihlizeka ngokubunjwa kweziGodi phakathi kweSizwe, nangezindlela okumele zilandelwe umkhandlu womdabu uma ufaka isicelo kuNdunankulu sokubumba isiGodi.

#### **Isigaba somthetho 10: Ukuhlakazwa kwesiGodi**

Lesi sigaba sihlizekela ngokuthi ukuhlakazwa kwesiGodi kungacutshungulwa kuphela uNdunankulu, lapho iNkosi nomkhandlu womdabu othintekayo ufaka isicelo sokuhlakazwa lokho kunika amandla uNdunankulu okuba aqoke umuntu noma abantu abazoqhuba uphenyo ukuze kutholakale ukuthi ingabe lokho kuhlakazwa kunazo yini izizathu.

**Isigaba somthetho 11: Ukubekwa kanye nokuholelwa kobuholi bomdabu**

Lesi sigaba somthetho sihlizekela ngokubekwa kobuholi bomdabu ngokwezikhundla ezisemthethweni ezilandelayo okuyiSilo, amaKhosi, iziPhakanyiswa kanye neziNduna nezindlela ezisetshenziswayo zokubabeka kulezo zikhundla.

**Isigaba somthetho 12: Ukukhonjwa, ukubekwa nokwehliswa esihlalweni kweSilo**

Lesi sigaba somthetho senza kube lula ukuthola kwizinhlinzeko ezifanele zoMthetho kaZwelonke osebenzayo maqondana nokukhonjwa, ukubekwa nokwehliswa esihlalweni kweSilo.

**Isigaba somthetho 13: Ukukhonjwa kanye nokubekwa kwamaKhosi**

Lesi sigaba sihlizekela ngendlela, ngohlelo nangezinqubo zokukhonjwa kanye nokubekwa kwamaKhosi nguNdunankulu ngesaziso *kwiGazethi yesiFundazwe*, futhi lufakiwe uHlelo oluhlinzeka ngemikhombandlela yoMndeni mayelana nokukhonjwa kozothatha ubuKhosi. Ukulandelela ukuqaliswa kwale mikhombandlela, kwenziwe imizamo yokuhlinzeka uMndeni ngezincazelo ezifanelekile, kubandakanya uMndeni kanye noZalo, futhi kuyachazwa ukuthi iluphi uhlangothi loMndeni okumele luphume nesinqumo uma kukhonjwa ozothatha ubuKhosi, kuncike emasikweni alandelwayo nasemthethweni wamasiko oMndeni kanye neSizwe esithintekayo.

**Isigaba somthetho 14: Ukukhonjwa nokubekwa kweziPhakanyiswa**

Lesi sigaba somthetho sihlizeka ngendlela, ngohlelo nangezinqubo zokukhomba nokubeka iziPhakanyiswa nguNdunankulu ngesaziso *kwiGazethi yesiFundazwe*.

**Isigaba somthetho 15: Ukukhonjwa nokubekwa kweziNduna**

Lesi sigaba somthetho sihlizekela ngendlela, ngohlelo nangezinqubo zokukhomba nokubeka iziNduna nguNdunankulu ngesaziso *kwiGazethi yesiFundazwe*. UMthetho osebenzayo awuhlinzekeli ukukhonjwa nokubekwa kweziNduna, lokhu sekwenze kwaba nezinsalelo uma kuqaliswa umthetho wohlaka lukazwelonke nokungabi nasiqiniseko sokuthi singakanani isibalo sezinduna eziqokiwe KwaZulu-Natali. Ukuhlizekela ukubekwa kweziNduna nguNdunankulu, uMthethosivivinyo uzovumela ukuba uMnyango othintekayo uqalise uhlelo lokugcina imininingwane kwikhompuyutha oluzoba neminingwane egcwele yazo zonke iziNduna ezikhona njengamanje KwaZulu-Natali.



**Isigaba somthetho 16: Ukukhonjwa nokubekwa kweSo leSilo kanye neSekela leNkosi**

Lesi sigaba somthetho sihlizekela ngendlela, ngohlelo nangezinqubo zokukhomba nokubeka iSo leSilo kanye neso leNkosi nguNdunankulu ngesaziso *kwiGazethi yesiFundazwe*, futhi sinikeza amandla uNdunankulu okukhomba umuntu ofanelekile njengeSo leSilo noma leNkosi, lapho isiZwe esithintekayo singenaye umholi womdabu.

**Isigaba somthetho 17: IBambabukhosi, iBambela kanye neSekela leNkosi**

Lesi sigaba sihlizekela indlela, ngohlelo nezinqubo zokukhomba nokubeka iBambabukhosi, iBambela neSekela leNkosi nguNdunankulu ngesaziso *kwiGazethi yesiFundazwe*. Ngenxa yezinselelo ezibhekene nokuqalisa koMthetho, sekwakhiwe izikhala zezikhundla ezimbili zeBambabukhosi neSekela leNkosi zakhiwele ukubhekela izimo lapho khona kungakakhonjwa ozobekwa njengeNkosi, noma lapho khona umholi womdabu othintekayo ezobe engekho phakathi kweSizwe isikhathi esingaphezu kwezinyanga eziyi-6 ngenxa yezizathu ezehlukene, nalapho khona umholi womdabu othintekayo eqokelwe esikhundleni sezepolitiki noma eqokelwe esikhundleni ngokugcwele kuhulumeni.

**Isigaba somthetho 18: Izizathu zokwehliswa esikhundleni kwabaholi bomdabu**

Lesi sigaba sihlizekela ngezimo ezingenza ukuba uNdunankulu ehlise esikhundleni nanoma imuphi umholi womdabu ngesaziso *kwiGazethi yesiFundazwe*.

**Isigaba somthetho 19: Ukwehliswa esihlalweni kwamaKhosi**

Lesi sigaba somthetho sihlizekela indlela uMndeni okumele uyilandele uma ufaka isicelo kuNdunankulu sokwehlisa iNkosi esikhundleni, ngesizathu sokungafaneleki kweNkosi esihlongozwe esigabeni somthetho 13(2), noma lapho kwenzeke iphutha kwangalandelwa inqubo ehlongozwe esigabeni somthetho 13(2), lokho kwehliswa esikhundleni kumele kwenziwe ngesaziso *kwiGazethi yesiFundazwe*.

**Isigaba somthetho 20: Ukwehliswa esihlalweni kweziPhakanyiswa**

Lesi sigaba somthetho sihlizekela ngendlela noma yiliphi ilungu lomkhandlu womdabu okumele liyilandele uma lifaka isicelo kuNdunankulu sokwehlisa esikhundleni iziPhakanyiswa. Izinhlinzeko zenziwe zesikhathi okumele iziPhakanyiswa zisihlale esikhundleni esiphela eminyakeni eyi-5, futhi lokhu kuhambisana nesikhathi sokuhlala esikhundleni kwemikhandlu yomdabu.

**Isigaba somthetho 21: Ukwehliswa esikhundleni kweziNduna**

Lesi sigaba somthetho sihlizekela ngendlela okumele ilandelwe uma kufakwa isicelo kuNdunankulu sokwehliswa esikhundleni kweziNduna, lokho kwehliswa esikhundleni kumele kwenziwe ngesaziso *kwiGazethi yesiFundazwe*.

**Isigaba somthetho 22: Ukwehliswa esikhundleni kweso leSilo kanye neso leNkosi**

Lesi sigaba sihlizekela ngendlela okumele ilandelwe uma kufakwa isicelo kuNdunankulu sokwehliswa esikhundleni kweso leSilo kanye neSo leNkosi, lokho kwehliswa esikhundleni kumele kwenziwe ngesaziso *kwiGazethi yesiFundazwe*.

**Isigaba somthetho 23: Ukususwa kweBambabukhosi, iBambela kanye neSekela leNkosi**

Lesi sigaba somthetho sihlizekela ngokuthi ukubekwa kweBambabukhosi, iBambela kanye neSekela leNkosi kungahoxiswa ngokusebenza komthetho noma ngokuhlizekwe ezigabeni zomthetho 18, 68 no 70 zoMthethosivivinyo.

**Isigaba somthetho 24: Ukusungulwa, ukubunjwa nokubekwa komkhandlu wobukhosi**

Lesi sigaba somthetho senza kube lula ukuthola kwizinhlizeko umthetho kaZwelonke osebenzayo maqondana nokusungulwa, ukubunjwa nokubekwa komkhandlu wobukhosi.

**Isigaba somthetho 25: Ukusungulwa, ukubunjwa nokubekwa kwemikhandlu yomdabu**

Lesi sigaba somthetho kabanzi sihlizekela ngokusungulwa, ukubunjwa nokubekwa kwemikhandlu yomdabu, futhi senza ukuba isigaba somthetho sisebenze uma kusungulwa, kubunjwa futhi kubekwa imikhandlu emincane yobuholi bomdabu. Ukuze kubhekelelwe ukubunjwa kwemikhandlu yomdabu ngokuhambisana nemikhombandlela eshicilelwe uNgqongqoshe obhekele izindaba zomdabu, kwakhiwe uHlelo lwafakwa kuMthethosivivinyo, lolu Hlelo luhlizekela ngesibalo samalungu omkhandlu womdabu ngamunye, esigcina kumalungu angama-50, kuye ngesibalo zeziNduna zeziGodi kwiSizwe ngasinye, futhi sihlizekela ngenani eliphansi labesifazane kumkhandlu ngamunye womdabu. Isigaba somthetho sinika amandla uNdunankulu sokwehlisa inani eliphansi labesifazane kumkhandlu ngamunye womdabu ngenxa yezizathu ezithile, futhi sichaza ngenqubo yokubekwa ngokusemthethweni komkhandlu womdabu nguNdunankulu ngokukhipha isaziso kwiGazethi yesiFundazwe kanye nendlela elandelwa umkhandlu emhlanganweni wawo wokuqala.

**Isigaba somthetho 26: Ukushiya kwezikhundla nokugcwaliswa kwezikhala**

Lesi sigaba sihlizekela ngezimo ezingenza ukuba kube nesikhala emkhandlwini womdabu futhi sihlizekela ngendlela ezigcwaliswa ngayo izikhala ezivele kumkhandlu womdabu.

**Isigaba somthetho 27: Ukuhlakazwa kwemikhandlu yomdabu**

Lesi sigaba sihlizeka ngokuthi lapho uNdunankulu ehlakaza isiZwe ngokwesigaba somthetho 6 soMthethosivivinyo, ukhipha isaziso ngokwesigaba somthetho 6, kumele futhi ahlinzeke ngokuhlakazwa komkhandlu womdabu othintekayo.

**Isigaba somthetho 28: Amajoka, amandla nemisebenzi yeSilo**

Lesi sigaba somthetho sihlizekela ngamajoka, amandla kanye nemisebenzi yeSilo, kusukela emasikweni nasemthethweni wesintu nakwizinhlinzeko zomthetho, kanye namaqhaza akhishelwe iSilo uMkhandlu oPhethe.

**Isigaba somthetho 29: Amajoka, amandla nemisebenzi yamaKhosi**

Amajoka, amandla kanye nemisebenzi yamaKhosi ibekwe esigabeni somthetho futhi kwahlinzekwa nangezinhlaka zombuso wesifundazwe ukuba zabe noma zidlulisele amaqhaza ongeziwe, amandla kanye nemisebenzi yamaKhosi, ngokusebenzisa izindlela zomthetho nezokuphatha. Isigaba somthetho futhi sihlizekela ngendlela nanoma iluphi uhlaka lombuso okumele liyilandela uma labela amaKhosi amaqhaza, amandla noma imisebenzi, kanye nendlela okumele amakhosi aqhube, akhiphe noma asebenze ngayo kulamaqhaza, amandla kanye nemisebenzi anikezwe yona, futhi kuyisibopho seLungu loMkhandlu oPhethe ukulandelela ukuqalisa kwalesi sigaba somthetho.

**Isigaba somthetho 30: Amajoka, amandla nemisebenzi yeBambabukhosi, yeBambela, yeSekela leNkosi neso leSilo**

Lesi sigaba somthetho sihlizeka ngokuthi, amajoka, amandla kanye nemisebenzi enikezwe amaKhosi ngokwesigaba somthetho 29(1) yenziwa futhi iBambabukhosi, iBambela, iSekela leNkosi kanye neso leSilo.

**Isigaba somthetho 31: Ukwabelwa kwamajoka, amandla nemisebenzi yeBambabukhosi, yeBambela, yeSekela leNkosi neso leSilo**

Lesi sigaba somthetho sihlizeka ngokuthi amajoka, amandla kanye nemisebenzi eyabelwe amaKhosi izinhlaka zombuso, ngokwesigaba somthetho 29(2) yenziwa futhi iBambabukhosi, iBambela, iSekela leNkosi kanye neSo leSilo.

**Isigaba somthetho 32: Amajoka, amandla nemisebenzi yeziNduna**

Lesi sigaba somthetho sibhale onke amajoka, amandla kanye nemisebenzi yeziNduna, njengoba ibalwe uHulumeni kaZwelonke emibhalweni eyehlukene, kubandakanya nencazelo yomsebenzi owenziwa iziNduna eyakhiwe iKhomishana eziMele ebhekele ukuKhokhelwa kwezisebenzi zikaHulumeni.

**Isigaba somthetho 33: Amajoka, amandla nemisebenzi yemikhandlu yomdabu**

Lesi sigaba somthetho sihlizekela ngamajoka, amandla kanye nemisebenzi yemikhandlu yomdabu futhi kwahlizekwa izinhloko zombuso ukuba zhlizekele ngamaqhaza ongeziwe, amandla kanye nemisebenzi yamaKhosi, ngokusebenzisa izindlela zomthetho nezokuphatha. Lesi sigaba somthetho futhi sihlizeka ngokuthi noma nini lapho uhlaka lombuso lucabanga ukwabela amaqhaza, amandla kanye nemisebenzi umkhandlu womdabu, ngokuwunika ijoka, ukudlulisela, kanye nesivumelwano se- ejensi noma amandla okwenza izifungo, njengoba kuhlangozwe esigatshaneni somthetho (2) sesigaba somthetho 33, izinhlizeko zesigaba somthetho 29(3) esisebenza noguquko oludingekayo. Isigaba somthetho futhi sihlizeka ngokuthi iLungu loMkhandlu oPhethe kumele lilandelele ukuqhutshwa, nokukhishwa kanye nokwenziwa kwamajoka, amandla kanye nemisebenzi eyabiwe njengoba kuhlangozwe kulo Mthetho nakweminye imithetho esetshenziwa emikhandlwini yomdabu futhi lingangenelela lapho umkhandlu ungenzi okulindeleke kuwona. ILungu loMkhandlu oPhethe uma leneliseka ngokuthi umkhandlu womdabu uyehlulekaukwenza imisebenzi ethweswe yona ngokwalo Mthetho ngendlela efanele nesebenzayo, noma ngendlela egqugquzela ukuphatha ngokuhle, lingaqoka umuntu njengozobhekela ezokuphatha ozosiza umkhandlu womdabu othintekayo ukusebenzisa amandla nokwenza imisebenzi yawo lowo mkhandlu womdabu. Izinhlizeko zalesi sigaba somthetho kanye nesigaba somthetho 34, sisebenza noguquko oludingekayo kunoma imuphi umkhandlu omncane womdabu osungulwe futhi wabekwa njengoba kuhlangozwe esigabeni somthetho 7.

**Isigaba somthetho 34: Ukusebenzisana phakathi komasipala nemikhandlu yomdabu**

Lesi sigaba somthetho sihlizekela uMnyango ngokugqugquzela ukusebenzisana phakathi komasipala nemikhandlu yomdabu.

**Isigaba somthetho 35: Ukuqashwa kwabasebenzi bemikhandlu yomdabu**

Lesi sigaba sihlinzeka ngokuthi iLungu loMkhandlu oPhethe kumele lihlinzeke ngokweseka imikhandlu yomdabu kubandakanya ukusiselwa abasebenzi bemikhandlu yomdabu. Isigaba somthetho sihlinzeka futhi ngokuthi ukusiselwa abasebenzi bemikhandlu kumele kubikwe kumuntu obekwe iNkosi ethintekayo.

**Isigaba somthetho 36: Imihlangano yemikhandlu yomdabu**

Lesi sigaba sihlinzekela ngomthethonqubo wokuqhutshwa kwemihlangano yemikhandlu yomdabu. Imihlangano yemikhandlu yomdabu kumele iphathwe iNkosi engaphansi kwendawo yomkhandlu ophethe. Isigaba somthetho futhi sihlinzela ngokukhethwa kwesekela likasihlalo amalungu omkhandlu womdabu emhlanganweni wawo wokuqala. Isigaba somthetho sihlinzeka futhi ngokuthi yonke imikhandlu yomdabu kumele ibambe imihlangano ejwayelekile okungenani kanye njalo ngekwata.

**Isigaba somthetho 37: Amaminithi emihlangano**

Lesi sigaba somthetho sihlinzeka ngokuthi imikhandlu yomdabu kumele igcine amaminithi ayo yonke imihlangano futhi kubalulwe yonke imininingwane okumele ibhalwe kumaminithi. Isigaba somthetho sihlinzeka futhi ngokuthi ikhophi yamaminithi yawo yonke imihlangano yomkhandlu womdabu kumele ithunyelwe ehhovisi lesifunda esifanele loMnyango kungakapheli izinsuku ezingamashumi ayisihlanu emva kwanoma imuphi umhlangano.

**Isigaba somthetho 38: Ukukhokhelwa kwamalungu emikhandlu yomdabu izindleko zokuhamba ngokomsebenzi**

Lesi sigaba somthetho sihlinzeka ngokuthi uNdunankulu, ngokubonisana neLungu loMkhandlu oPhethe kanye neLungu loMkhandlu oPhethe elibhekele ezezimali, anganquma mayelana nokukhokhelwa kwamalungu emikhandlu yomdabu izindleko zokuhamba ngokomsebenzi.

**Isigaba somthetho 39: Ukusungulwa nobulungu kwiNdlu yabaHoli boMdabu yesiFundazwe saKwaZulu-Natali**

Lesi sigaba somthetho sihlinzeka ngokusungulwa kweNdlu yabaHoli boMdabu yesiFundazwe saKwaZulu-Natali. Lesi sigaba somthetho sihlinzeka futhi ngokuthi isikhathi sokuba sesikhundleni kwamalungu eNdlu yesiFundazwe iminyaka emihlanu okumele sihambisane nesikhathi sokusebenza kwamalungu eNdlu yabaHoli boMdabu kaZwelonke. Isigaba somthetho sihlinzeka futhi ngokuthi isikhathi sokuba sesikhundleni samalungu eNdlu yesiFundazwe angeke ayeke ukusebenza kuze kube kubanjwa ukhetho lwamalungu amasha

eNdplu yesiFundazwe azoqala ukusebenza. Isigaba somthetho siyaqhubeka sihlinzeka ukuthi amalungu eNdlu yesiFundazwe kumele kube oSihlalo bemikhandlu yomdabu esungulwe futhi yabekwa ngokwalo Mthethosivivinyo.

**Isigaba somthetho 40: Ukubunjwa kanye nezikhundla zeNdlu yesiFundazwe**

Lesi sigaba somthetho sihlinzeka ngokuthi iNdlu yesiFundazwe iqukethe iSilo noma abaqokwe isona abaphakathi kwamalungu amathathu kuya kwayisikhombisa akhethwe kwiNdlu yesiFunda ngayinye yabaHoli boMdabu. Lesi sigaba sihlinzeka futhi iNdlu yesiFunda kumele ikhethe amalungu ayo esibalo sabantu abazoyimela kwiNdlu yesiFundazwe njengoba kuhlangozwe kuHlelo 5 lo Mthethosivivinyo. Lesi sigaba somthetho sihlinzeka futhi ngokuthi iNdlu yesiFundazwe ingasungula futhi ikhethe ikomidi eliphethe.

**Isigaba somthetho 41: Ukufaneleka kokuba ilungu leNdlu yesiFundazwe**

Lesi sigaba sihlinzekela ngondlela engenza umuntu abe ngongafanelekile ukuba ilungu leNdlu yesiFundazwe.

**Isigaba somthetho 42: Ukushiya esikhundleni kwiNdlu yesiFundazwe**

Lesi sigaba sihlinzekela ngokushiya isihlalo kwiNdlu yesiFundazwe futhi sihlinzeka ngezimo ezingenza kugcwaliswe ezingenza kube nesihlalo selungu leNdlu yesiFundazwe.

**Isigaba somthetho 43: Ukugcwaliswa kwezikhala zomsebenzi kwindlu yesiFundazwe**

Lesi sigaba somthetho sihlinzekela ngezinqubo ezilandelwayo uma kuvela isikhala somsebenzi kwiNdlu yesiFundazwe futhi sihlinzeka ngokuthi uNobhala weNdlu yesiFundazwe kumele ezinsukwini eziyi-14 sivelile, azise iLungu loMkhandlu oPhethe ngesikhala esivelile ngemva kweLungu loMkhandlu oPhethe azise uNdunankulu ngokushesha. Isigaba somthetho sihlinzeka futhi ngokuthi nanoma isiphi isikhala esivelile kumele sivalwe esinsukwini ezingama-60 ngendlela ehlongozwe esigabeni somthetho 40(2) soMthethosivivinyo.

**Isigaba somthetho 44: Ukukhethwa kukaSihlalo neKomidi eliPhethe leNdlu yesiFundazwe**

Lesi sigaba sihlinzeka ngokuthi iNdlu yesiFundazwe kumele ihlangane ezinsukwini ezingama-30 kukhethwe iNdlu entsha yesiFundazwe endaweni nangesikhathi esinqunywe uNdunankulu ngesaziso kwiGazethi yesiFundazwe. Isigaba somthetho futhi sihlinzekela iJaji leNkantolo ePhakeme ukuba libambe njengosihlalo emhlanganweni wokuqala kuze kube amalungu

akhettha uSihlalo noSekela Sihlalo futhi sihlizekela ngokushiya kukaSihlalo isikhundla noma uSekela Sihlalo kanye nezinhlinzeko zokuvalwa kwaleso sikhala somsebenzi.

**Isigaba somthetho 45: Isimo samalungu eNdlu yesiFundazwe**

Lesi sigaba somthetho sihlizeka ngokuthi usihlalo kanye nosekela sihlalo wendlu yesiFundazwe bangamalungu asebenza ngokugcwele eNdlu yesiFundazwe. Isigaba somthetho sihlizeka futhi ngokuthi uNdunankulu ngemva kokuxhumana neNdlu yesiFundazwe anganquma ngesaziso kwiGazethi yesiFundazwe ukuthi amalungu athile eNdlu yesiFundazwe asebenza ngokugcwele kwiNdlu yesiFundazwe.

**Isigaba somthetho 46: Ukukhethwa kwezithunywa kwiNdlu kaZwelonke**

Lesi sigaba somthetho sihlizeka ngokuthi iNdlu yesiFundazwe kumele ikhethe izithunywa zayo ezizoyimela kwiNdlu kaZwelonke emhlanganweni wayo wokuqala ngokuhambisana nezinhlinzeko eziqukethwe kuMthetho weNdlu yabaHoli boMdabu kaZwelonke, 2009 (uMthetho No. 22 ka 2009).

**Isigaba somthetho 47: Imihlangano yeNdlu yesiFundazwe**

Lesi sigaba sihlizekela imihlangano nangezinqubo ezenziwa emhlanganweni weNdlu yesiFundazwe futhi sihlizeka ngokuthi umhlangano ojwayelekile weNdlu yesiFundazwe kumele ubanjwe okungenani kanye ngekota yonyaka futhi izinhlinzeko zenziwe zemihlangano ephuthumayo yeNdlu yesiFundazwe engabizwa uNdunankulu, iKomidi eliPhethe leNdlu noma uma ubizwe ngamalungu okungenani ayishumi eNdlu yesiFundazwe.

**Isigaba somthetho 48: Imithetho yeNdlu yesiFundazwe**

Lesi sigaba sihlizekela ngezindaba ezehlukene mayelana nokuthi kumele iNdlu yesiFundazwe ibeke kanjani imithetho yayo kanye nezinqubo zayo zokusebenza.

**Isigaba somthetho 49: Amaqhaza, amandla kanye nemisebenzi yeNdlu yesiFundazwe**

Lesi sigaba sihlizekela ngamaqhaza, amandla kanye nemisebenzi yeNdlu yesiFundazwe futhi sihlizeka ngokuthi iNdlu yesiFundazwe kumele imele, ivikele futhi igqugquzele izifiso zazo zonke iziZwe ezibunjwe ngokoMthethosivivinyo kanye nezikhungo zobuholi bomdabu. Isigaba somthetho futhi sihlizeka ngokuthi iNdlu yesiFundazwe kumele ibhekele ukuvikela,

ukugqugquzela kanye ihlele ukusebenza komthetho wesintu namasiko. Kuhlinzekiwe futhi Indlu yesiFundazwe ngokuqhuba ucwaningo uma kusho iLungu loMkhandlu oPhethe mayelana nezindaba ezibalulwe esigabeni somthetho. Indlu yesiFundazwe ingenza futhi izincomo kwiLungu loMkhandlu oPhethe ngezinhlelo zesifundazwe eziphathele nezindaba zomdabu noma ngokuphathwa kanye nokudidiyelwa kwezinhlelo zikamasipala zentuthuko nokubeka imibono ngemithethosivivinyo ephazamisa iziZwe. Indlu yesiFundazwe kumele phakathi kokunye igcine amarekhodi futhi ibe nezitatimende zayo zezimali ezicwaningwe uMncwaningimabhuku-Jikelele.

**Isigaba somthetho 50: Ezokuphatha kanye nesibopho sokubika seNdlu yesiFundazwe**

Lesi sigaba somthetho sihlizekela ngokuqokwa kukaNobhala yiLungu loMkhandlu oPhethe weNdlu yesiFundazwe. UNobhala ubhekele ezokuphathwa kweNdlu. Isigaba somthetho futhi sihlizeka ngokuthi iLungu loMkhandlu oPhethe lidlulisela abasebenzi boMnyango abadingekayo njengoba kufanele kufezekiwe umsebenzi weNdlu yesiFundazwe.

**Isigaba somthetho 51: Ukuholelwa, izibonelelo kanye nemihlomulo ekhokhelwa amalungu eNdlu yesiFundazwe**

Lesi sigaba sihlizeka ngokuthi ukuholelwa, izibonelelo kanye nemihlomulo kaSihlalo, uSekela Sihlalo kanye nemalungu ajwayelekile eNdlu yesiFundazwe anjengoba enqunyiwe eMthethweni wokuKhokhelwa kwabaSebenzi bakaHulumeni, 1998 (uMthetho No. 20 ka 1998).

**Isigaba somthetho 52: Ukwesekwa kweNdlu yesiFundazwe**

Lesi sigaba sihlizeka ngokuthi uHulumeni wesifundazwe kumele athathe izinyathelo ezidingekayo ukweseka nokusimamisa ikhono lokusebenza kweNdlu yesiFundazwe. Lokhu kweseka kungabandakanya ukuhlizekwa ngezingqalasizinda, ngezimali, ngabasebenzi, ngezinhlelo zokuthuthukiswa kwamakhono kanye nezinhlelo zezokuphatha.

**Isigaba somthetho 53: Ukusungulwa kweziNdlu zesiFunda zabaHoli boMdabu**

Lesi sigaba somthetho sihlizekela ngokusungulwa kweziNdlu zesiFunda ngaphansi komasipala bezifunda abakhelwe iziZwe eziyisihlanu noma ngaphezulu. Isigaba somthetho sihlizeka futhi ngokuthi lapho kuneziZwe ezingaphansi kwezinhlanu endaweni engaphansi kukamasipala wesifunda, abaholi bomdabu abakulowo masipala wesifunda kumele bakhethe phakathi kwabo ozomela iziZwe emihlanganweni yalowo masipala wesifunda.



**Isigaba somthetho 54: Ukubunjwa kanye nekomidi eliphethe leNdlu yesiFunda**

Lesi sigaba sihlinzeka ngokuthi INdlu yesiFunda ngayinye iqukethe amaKhosi angaphansi kukamasipala wesifunda futhi sihlinzeka ngokuthi ukuze iNdlu yesiFunda ngayinye isungule futhi ikhethe ikomidi eliphethe kumele yakhiwe amalungu angeqile kwayisikhombisa aleyo Ndlu yesiFunda.

**Isigaba somthetho 55: Imihlangano yeziNdlu zesiFunda**

Lesi sigaba sihlinzekela nemihlangano yeziNdlu zesiFunda futni sihlinzeka ngokuthi iLungu loMkhandlu oPhethe kumele ngesaziso *kwiGazethi* yesiFundazwe, libize imihlangano yeNdlu yesiFunda liphinde liqoke umuntu ozoba nguSihlalo kuze kube uSihlalo kanye noSekela Sihlalo baqokwa amalungu eNdlu.

**Isigaba somthetho 56: Amaqhaza, amandla kanye nemisebenzi eNdlu yesiFunda**

Lesi sigaba sihlinzeka ngokuthi amaqhaza, amandla kanye nemisebenzi yeziNdlu zesiFunda zabaHoli boMdabu, phakathi kokunye, ukweluleka isifunda noma umasipala womkhandlu dolobha othintekayo ngezindaba eziphathelene nomthetho wesintu, amasiko, ubuholi bomdabu kanye neziZwe ezingaphansi kukamasipala womkhandlu dolobha nokwakha izinhlobo zokuhlela intuthuko noma imithetho yomasipala ethinta iziZwe, ukubamba iqhaza ezinhlelweni zomphakathi ezihlose ukuthuthukisa imiphakathi yomdabu. Isigaba somthetho siqhubeka nokuhlinzeka ukuthi indlu yesifunda ingaphawula nganoma imiphi imithetho yesifunda noma yomasipala bemikhandlu dolobha ethinta amasiko kanye nomthetho wesintu wesiZwe endaweni engaphansikwaso noma ephathelene nokuhlinzekwa kwemisebenzi noma kwemingcele noma komhlaba othinta isiZwe.

**Isigaba somthetho 57: Ukudluliselwa kwemithetho esahlongozwa kwiNdlu yesiFundazwe kanye neziNdlu zesiFunda**

Lesi sigaba somthetho sihlinzekela ngomthetho osahlongozwa ophathelene noma othinta isiZwe, izikhungo zomdabu. Umthetho wesintu noma wamasiko, okumele udluliselwe eNdlini yesiFundazwe noma yesiFunda ukuze kuphawulwe ngawo. Mayelana nomthetho wesiFundazwe, uSomlomo wesiShayamthetho kumele ethule umthetho ohlongozwayo kwiNdlu yesiFundazwe ukuze kuphawulwe ngawo futhi maqondana nomthetho ohlongozwayo wohulumeni basekhaya (isibonelo: imithetho yomasipala) uSomlomo womkhandlu kamasipala othintekayo kumele awethule umthetho ohlongozwayo kwiNdlu yesiFunda ethintekayo ukuze iphawule ngawo.

**Isigaba somthetho 58: Ukusungulwa kweKhomishana yesiFundazwe saKwaZulu-Natali ebhekele ukuNgaboni Ngasolinye neziMangalo eziphathelene nobuHoli boMdabu**

Lesi sigaba somthetho sihlinzekela ngokusungulwa kweKhomishana yesiFundazwe saKwaZulu-Natali ebhekele ukuNgaboni Ngasolinye neziMangalo eziphathelene nobuHoli boMdabu.

**Isigaba somthetho 59: Ukubunjwa kanye nesikhathi sokuba sesiKhundleni kweKhomishana yesiFundazwe**

Lesi sigaba sihlinzekela ngokubunjwa kanye nesikhathi esihlalwa esikhundleni iKhomishana. Ngokwalesi sigaba somthetho, uNdunankulu, ngokuxhumana neLungu loMkhandlu oPhethe kanye neLungu loMkhandlu oPhethe elibhekele ezezimali, okumele ezinyangeni ezi-3 ngemva kokumiswa koMthetho, nangokukhipha isaziso *kwiGazethi yesiFundazwe*, aqoke abantu abayisihlanu abazoba ngamalungu eKhomishana yesiFundazwe abanolwazi olunzulu mayelana nomlando kanye nomthetho osebenzayo oqukethe ezokuphathwa mayelana neziZwe, umthetho wesintu kanye namasiko, ubuholi bomdabu; noma ezinye izikhungo zomdabulsigaba somthetho siqhubeka nokuhlinzeka ngokuthiisikhathi sokuba sesiKhundleni seKhomishana yesiFundazwe saKwaZulu-Natali ebhekele ukuNgaboni Ngasolinye neziMangalo eziphathelene nobuHoli boMdabu isungulwe ngokoMthetho woHlaka lobuHoli boMdabu nokuBusa, 2003, kwiKhomishana yesiFundazwe.

**Isigaba somthetho 60: Imihlangano neMithetho yeKhomishana yesiFundazwe**

Lesi sigaba somthetho sihlinzeka ngokuthi iKhomishana yesiFundazwe kumele ihlangane zingakapheli izinsuku ezingama-30 ngemva kokukhishwa kwesaziso esihlongozwe esigabeni 59(1) soMthethosivivinyo ukuze inqume imithetho ezoqhuba ngayo kanye nezobhekela ukuphathwa kwemisebenzi yalo futhi iKhomishana yesiFundazwe kumele ihlangane futhi uma kunesidingo sokuthi icubungule futhi ithathe isinqumo mayelana nokungaboni ngasolinye noma ngesiMangalo esidluliselwe kuyo ngokoMthethosivivinyo.

**Isigaba somthetho 61: Izikhala zoMsebenzi kanye nokugcwaliswa kweziKhala**

Lesi sigaba somthetho sihlinzekela ngezimo ezidala ukuba kuvele isikhala somsebenzi kwiKhomishana futhi sihlinzeka nangokugcwaliswa kwaleso sikhala somsebenzi.

**Isigaba somthetho 62: Amandla kanye nemisebenzi yeKhomishana**

Lesi sigaba sihlizenzekela ngamandla kanye nemisebenzi yeKhomishana. IKhomishana kumele yenze futhi isebenzise amandla kanye nemisebenzi ngokwalo Mthethosivivinyo futhi iphenye, yethule umbiko kanye nezinto nganoma ikuphi ukungaboni ngasolinye noma ukumangala okwalethwa kwiKhomishana kaZwelonke ngemva lu-1 kuMandulo 2010, kanye nanoma ikuphi ukungaboni ngasolinye noma isimangalo esisha esifakwe ngemva kosuku lokuqalisa kwalo Mthethosivivinyo. Isigaba somthetho siyaqhubeka sihlizenzeka ngokuthi iKhomishana kumele iphenye nanoma iluphi udaba oludluliselwe kuyona nguNdunankulu ngokuhambisana nezinhlinzeka zoMthethosivivinyo futhi uma icelwa iLungu loMkhandlu oPhethe, iphenye, yethule umbiko, futhi yenze nezinto nganoma ikuphi ukungaboni ngasolinye noma isimangalo noma ngolunye udaba oluphathele nesiZwe, imikhandlu yomdabu, ubuholi bomdabu, abaholi bomdabu kanye nezinye izikhungo zomdabu noma olubandakanya ubudlelwano phakathi kwezinhloko zombuso kanye nezingaphezu kwabaholi bomdabu kanye nezikhungo. Ngokwalesi sigaba somthetho iKhomishana yesiFundazwe inesibopho sokwethula umbiko njalo ngemisebenzi eyenzayo kuNdunankulu.

**Isigaba somthetho 63: Ukweseka iKhomishana**

Lesi sigaba somthetho sihlizenzeka ngokuthi iLungu loMkhandlu oPhethe kumele lihlizenze ngosizo oludingekayo lezokuphatha, lezimali kanye nangokunye ukwesekwa kweKhomishana ukwenza imisebenzi yayo, iKhomishana ingaqoka futhi umuntu noma isikhungo esizoqhuba ucwaningo egameni layo.

**Isigaba somthetho 64: Ukususwa esikhundleni kwamalungu eKhomishana**

Lesi sigaba somthetho sihlizenzeka ngokuthi uNdunankulu, ngokuxhumana neLungu loMkhandlu oPhethe, angagudluzisa esikhundleni ilungu leKhomishana nganoma iziphi izizathu ezibekwe esigabeni somthetho 64.

**Isigaba somthetho 65: isifungo sokuthatha isikhundla**

Lesi sigaba sihlizenzekela ngofunga noma ngokuqinisa okumele kwenziwe yibo bonke abaholi bomdabu, amalungu omkhandlu womdabu, iNdlu yesiFundazwe yabaholi bomdabu kanye neziNdlu zesiFunda zabaholi bomdabu okuhlongozwe kuMthethosivivinyo. Ukufunga nokuqinisa kuqokethwe kwiziNgxenye A no B zoHlelo 7 loMthethosivivinyo.

**Isigaba somthetho 66: Umgomo wokuziphatha**

Lesi sigaba somthetho sihlizeka ngokuthi uMgomo wokuziPhatha oqukethwe oHlelweni 6 kuMthethosivivinyo usebenza kubo bonke abaholi bomdabu nakuwo wonke amalungu emikhandlu yomdabu KwaZulu-Natali, kuncike ekutheni izinhlinzeko zeNgxenywe C yoMgomo wokuziPhatha oqukethwe oHlelweni 7 kulo Mthetho, ziyasebenza, nezinguquko ezidingekayo, kubo bonke abaholi bomdabu kanye namalungu emikhandlu yomdabu KwaZulu-Natali. Lesi sigaba somthetho siqhubeka nokuhlizeka ukuthi uMgomo wokuziPhatha oqukethwe oHlelweni 7 kuMthethosivivinyo uyasebenza kuwo wonke amalungu eziNdlu zesifundazwe kanye neziFunda KwaZulu-Natali, kuncike ekutheni izinhloso zeNgxenywe C zoMgomo wokuziPhatha oshwoyo, kunoma isiphi isimo "iNdlu" ibandakanya iNdlu yesiFundazwe kanye neziNdlu zesifunda zoMdabu.

**Isigaba somthetho 67: Amandla oMkhandlu oPhethe okubiza abaholi bomdabu**

Lesi sigaba sihlizeka ngokuthi uMkhandlu oPhethe, uma kunesidingo ungabiza nanoma yimuphi umholi womdabu, ngokumbhalelo incwadi ukuze avele ngaphambi kwawo uma ufuna ukumphenya nganoma yiluphi udaba olukhinyabeza noma olungahle lukhinyabeze isiZwe esithintekayo noma nanoma yiluphi udaba olubalulekile noma oluthinta ngqo noma ngandlela thizeni lowo mholi womdabu ngokwesikhundla sakhe noma oluphazamisa uHulumeni wesifundazwe ekwenzeni imisebenzi yakhe nanoma yiluphi olunye udaba olungahle lungabi nomthelela omuhle ekuphatheni kukaHulumeni wesifundazwe endaweni okwakhe kuyo isiZwe esithintekayo. Lesi sigaba somthetho siqhubeka sihlizeke ngokuthi uMkhandlu oPhethe ngemva kokucubungula udaba, ungayalela umholi womdabu ukuba athathe izinyathelo ezithile ukuze axazulule inkinga noma angayalela iLungu loMkhandlu oPhethe ukuba lenze uphenyo ngokwalo Mthethosivivinyo.

**Isigaba somthetho 68: Uphenyo ngokungaziphathi kahle**

Lesi sigaba sihlizeka ngokuthi iLungu loMkhandlu oPhethe kumele libeke umholi womdabu icala lokungaziphathi kahle uma kunezinsolo zalokho. Lesi sigaba siphinde sihlizeke futhi ngenqubo elandelwayo uma kubekwa icala lokungaziphathi kahle umholi womdabu futhi sihlizeka ngokuthi kuchazwe imininingwane ngezinsolo ezibhekiswe kuye futhi umholi womdabu ayalelwe ukuba aziphendulele ngokubhalwe phansi mayelana nalezo zinsolo kungakapheli izinsuku ezingama-21, leyo mpendulo kumele ibe ngeyokuvuma noma ngeyokuphika. Uma eliphika icala noma ehluleka ukuziphendulela esikhathini esibekiwe, iLungu loMkhandlu oPhethe kumele liqoke isikhulu esiphezulu ukuba sihole uphenyo mayelana nezinsolo. Isigaba somthetho siyaqhubeka futhi nokuhlizeka inqubo elandelwayo yokwenza

uphenyo futhi sihlizeka ngokuthi umka selufinyelele emaphethelweni uphenyo, isikhulu esiqokiwe kumele sithumelele amarekhodi, esikutholile, izincomo kanye nanoma ikuphi okuqhubekile ngesikhathi sopenyo, nesikuphawulile ngesikhathi sopenyo iLungu loMkhandlu oPhethe ukuze likucubungule. Ngemva kwalokho iLungu loMkhandlu oPhethe unganikeze lowo othintekayo isijeziso esiqukethwe esigatshaneni somthetho 68(11) soMthethosivivinyo, okumele sishicilelwe ngesaziso *kwiGazethi yesiFundazwe*.

#### **Isigaba somthetho 69: Ukumiswa komholi womdabu**

Lesi sigaba sihlizeka ngokuthi iLungu loMkhandlu oPhethe ngemva kokuxhumana noNdunankulu angamisa esikhundleni nanoma yimuphi umholi womdabu osolwa ngokungaziphathi kahle kuze kube kuphuthulwa uphenyo olwenziwa ngokwesigaba somthetho 68 soMthethosivivinyo. Isigaba somthetho siqhubeka sihlizeka ngokuthi nanoma yimuphi umholi womdabu omiswe ngaphansi kwalesi sigaba somthetho akanalo ilungelo lokukhokhelwa ngesikhathi esamisiwe, ngalokho, iLungu loMkhandlu oPhethe ngezizathu ezizwakalayo nangezethulo zalowo mholi womdabu othintekayo lingayalela ukuthi umholi womdabu akhokhelwe wonke noma ingxenye yomholo ngesikhathi esamisiwe. Isigaba somthetho sihlizeka futhi ngokuthi iLungu loMkhandlu ngemva kokuxhumana noNdunankulu, lingahoxisa ukumiswa komholi womdabu futhi nezinhlizeko zokuqokwa kweBambabukhosi zenziwe uma iLungu loMkhandlu oPhethe libona kunesidingo.

#### **Isigaba somthetho 70: Ukwepfulwa koMgomo wokuziPhatha**

Lesi sigaba somthetho sihlizeka ngokuthi ukwepfulwa koMgomo wokuziPhatha oqukethwe oHlelweni 6 no 7 kuMthethosivivinyo kumele kubhekwane nakho ngokwenqubo ehlongozwe esigabeni somthetho 68.

#### **Isigaba somthetho 71: Izimali eziqoqwa kumalungu eziZwe**

Lesi sigaba sihlizeka ngokuthi umkhandlu womdabu ungacela amalungu esiZwe, noma iyiphi ingxenye yesiZwe, ukuba ngokuzithandela kwaso sikhokhe imali ethile eMkhandlwini woMdabu othintekayo, kuncike ekutheni ayikho engaqoqwa, ngaphandle kokuthi iningi labantu abangamalungu aleso Sizwe, nanoma iyiphi ingxenye yeSizwe, libize imbizo ebese kuvunyelwana ngokukhokhwa kwaleyo mali. Isigaba somthetho siqhubeka sihlizeka ngokuthi lezo zimali zingaqoqwa kuphela kumalungu eSizwe esithintekayo ngenhloso futhi yokuxhasa ngezimali umklamo othize okanye nganoma iziphi ezinye izinhloso eziqondene nokugcinwa kosiko futhi nanoma iyiphi imali ekhokhiwe njengoba kuhlongozwe kulesi sigaba kumele ifakwe

kwi-akhawunti yethrasti, evulwe futhi eyenganyelwe egameni leSizwe esithintekayo, ngumkhandlu womdabu noma egameni lomkhandlu womdabu. Isigaba siphinde sihlizweke futhi ngokuthi iLungu loMkhandlu oPhethe lingabeka izizathu zenhloso yokukhokhwa kwaleyo mali kanye nemali okumele iqoqwe njengoba kuhlangozwe kulesi sigaba somthetho.

#### **Isigaba somthetho 72: Amandla okulawula**

Lesi sigaba sihlizweke ngokuthi uNdunankulu, ngemva kokuxhumana neLungu loMkhandlu oPhethe, angakhipha isaziso *kwiGazethi yesiFundazwe* njengoba kuhlangozwe kulo Mthethosivivinyo. Isigaba somthetho siqhubeka sihlizweke ngokuthi iLungu loMkhandlu oPhethe, ngokukhipha isaziso *kwiGazethi yesiFundazwe* lingenza imithethonqubo, likhiphe izaziso futhi lishicilele imikhombandlela ephathelene nanoma yiluphi udaba oludingwa noma oluvunyelwe yilo Mthethosivivinyo ukuba lufundwe, ukwethulwa kanye nokuqaliswa kohlelo lokulawulwa kokwenziwa komsebenzi yimikhandlu yobuholi bomdabu, abaholi bomdabu, iziNdlu zesiFundazwe kanye neziNdlu zesiFunda zobuHoli boMdabu kanye nanoma yiluphi ukhetho oluhlangozwe kulo Mthethosivivinyo kanye nanoma ikuphi ukuphathwa noma udaba lwenqubo noma lokuchitshiyelwa kwanoma yiluphi uhlelo kuMthethosivivinyo

#### **Isigaba somthetho 73: Ukuba seMthethweni**

Lesi sigaba sihlizweke ngokuthi imikhandlu yomdabu, iNdlu yesiFundazwe kanye neziNdlu zesiFunda zobuHoli boMdabu zonke zinokuba semthethweni.

#### **Isigaba somthetho 74: Izimpahla, izikweletu nezinsiza**

Lesi sigaba sihlizweke ngokuthi izikhungo ezihlangozwe esigabeni somthetho 63 kungenzeka zifune, zibe abanikazi, zibambe, zigcine, ziqashe, ziqhelise, zilayishe, noma zilahle nanoma iyiphi impahla egudluzekayo, zifune amalungelo futhi zibe nezikweletu ngesikhathi zisebenzisa amandla azo futhi zenze imisebenzi yazo ngokuhlangozwe kulo Mthethosivivinyo. Lesi sigaba somthetho siqhubeka sihlizweke ngokuthi izikhungo zingasungula futhi zilawule ithrasti ngokuhambisana nezinhlinzeko zoMthetho wokuLawulwa kweziMpahla zeThrasti, 1998 (uMthetho No. 57 ka 1998) futhi zibe nomshwalensi kunoma iyiphi inkampani noma umuntu ukuvikela ukulahlekelwa, ukonakalelwa, ingozi kanye nezikweletu futhi kumele ziphathe ngendlela efanele zonke izimpahla kanye nezinsiza.

**Isigaba somthetho 75: Ukudluliselwa kwamandla, ukujutshelwa umsebenzi, ama-ejensi kanye nokulethwa kwezidingo**

Lesi sigaba sihlizeka ngokuthi uNdunankulu, ngokuxhumana noMkhandlu oPhethe, angajuba ukuba kubanjwe nanoma iliphi iqhaza, adlulisele amandla noma umsebenzi ohlongozwe kulo Mthetho kwiLungu loMkhandlu oPhethe, kuncike ekutheni nanoma ikuphi ukudluliselwa akuvimbela ukusetshenziswa kwalawo mandla nguNdunankulu othintekayo. Isigaba somthetho futhi siqhubeka sihlizeka ngokuthi iLungu loMkhandlu oPhethe lingajuba ukuba kubanjwe nanoma iliphi iqhaza, kudluliselwe amandla noma umsebenzi ohlongozwe kulo Mthetho, ngaphandle kwamandla okwenza imithethonqubo nokukhipha izaziso, kwiNhloko yoMnyango kaHulumeni wesiFundazwe ebhekele izindaba zomdabu, kuncike ekutheni nanoma yikuphi ukudluliselwa kwamandla akuvimbela ukusetshenziswa kwalawo mandla yiLungu loMkhandlu oPhethe elithintekayo. Isigaba somthetho siqhubeka sihlizeka ngokuthi nanoma yimuphi umuntu ojutshiwe, okudluliselwe kuye amandla noma umsebenzi, ngemvume ebhaliwe yoMkhandlu oPhethe, angadlulisela phambili lawo mandla noma umsebenzi kumuntu noma umgwamanda ovunywe uMkhandlu oPhethe. Isigaba somthetho siqhubeka sihlizeka ngokuthi iminyango kahulumeni wesifundazwe, izikhungo ezisungulwe ngokomthetho, izinhloko zombuso kanye nomasipala angadlulisela noma anikezele nanoma yimaphi amandla noma umsebenzi noma kwi-ejensi noma izivumelwano zokulethwa kwezidingo nemikhandlu yomdabu.

**Isigaba somthetho 76: Ukuxazululwa kokungaboni ngasolinye**

Lesi sigaba sihlizeka ngokuthi lapho kusuke kunokungaboni ngasolinye mayelana nomthetho womdabu noma wezamasiko esiZweni noma phakathi kweziZwe noma ezikhungweni zomdabu ngodaba olususwa ukuqalisa kwalo Mthetho noma okunye, amalungu alowo mphakathi noma isikhungo okanye abaholi bomdabu esiZweni sonke noma esikhungweni somdabu esithintekayo kumele lokhu kungaboni ngasolinye kuxazululwe ngaphakathi nangendlela ehambisana nomthetho womdabu kanye namasiko. Isigaba somthetho sihlizeka futhi ngokuthi nanoma ikuphi ukungaboni ngasolinye okungaxazululeki kumele kudluliselwe eNdlini yesiFundazwe, okumele ikuxazulule. Isigaba somthetho sihlizeka futhi ngokuthi lapho iNdlu yesiFundazwe yehluleka ukuxazulula kumele iludlulisele kwiLungu loMkhandlu oPhethe, uma kwenzeka ukuthi liyehluleka kufanele liludlulisele kuNdunankulu. Isigaba futhi sihlizeka ngokuthi uNdunankulu kumele ngemva kokuxhumana neLungu loMkhandlu oPhethe, izinhlangathi ezingaboni ngasolinye kanye neNdlu yesiFundazwe. Isigaba siqhubeka sihlizeka ngokuthi uNdunankulu angadlulisela udaba kwiKhomishana yesiFundazwe ukuze yenze izincomo ngesinqumo esingumqamulajuqu sokungaboni ngasolinye okuhlongozwe kulesi sigaba.

**Isigaba somthetho 77: Izivumelwano phakathi kwezifundazwe**

Lesi sigaba somthetho sihlinzeka ngokuthi uNdunankulu, ngemva kokuxhumana neLungu loMkhandlu oPhethe, angangena ezivumelwaneni nabanye ohulumeni bezifundazwe mayelana nezindaba ezithinta iziZwe, abaholi bomdabu noma izikhungo zomdabu lapho ukusingathwa kwalezo zindaba kungenziwa kangcono ngokuhlanganyela kohulumeni bezifundazwe ezithintekayo.

**Isigaba somthetho 78: Amacala nezinhlawulo**

Lesi sigaba sihlinzeka ngokuthi umuntu unecala uma lowo muntu ezenza umholi womdabu ngaphandle kokubekwa njengoba kuhlangozwe kulo Mthethosivivinyo noma ngabomu evimbela ukuqhutshwa, ukwenziwa komsebenzi, ukusetshenziswa kwanoma umuphi umsebenzi obhekene naye, amandla noma umsebenzi anikezwe wona, noma obekelwe nanoma imuphi umholi womdabu, umkhandlu womdabu, iNdlu yesiFundazwe, nanoma iyiphi iNdlu yabaHoli boMdabu yeNdawo noma iKhomishana yesiFundazwe njengoba kuhlangozwe kulo Mthetho nanoma yimuphi omunye umthetho. Isigaba somthetho sihlinzeka futhi ngokuthi umuntu olahlwe yicala anganikezwa inhlawulo noma agqunywe ejele isikhathi esingeqile ezinyangeni eziyi-12, noma kokubili leyo nhlawulo nokugqunywa ejele.

**Isigaba somthetho 79: Izinhlelo zesikhashana**

Lesi sigaba somthetho sihlinzeka ngokuthi zonke izinyathelo ezathathwa uHulumeni wesifundazwe ngobuqotho ngokuphathelene neziZwe, umphakathi owakhele isiZwe, ubuholi bomdabu, abaholi bomdabu, omaziphathe bomdabu, omaziphathe bomphakathi, imikhandlu yomdabu noma izindawo ezahlukeni ezingaphansi kwayo ngokusemthethweni, kanye nokubekwa kwesiPhakanyiswa njengeNkosi abantu. Ngaphambi kosuku lokuqalisa kwalo Mthethosivivinyo, ngalokhu kuthathwa ngokuthi kwenziwa ngokusemthethweni. Isigaba somthetho sihlinzeka futhi ngokuthi nanoma Nanoma iyiphi iNduna ebekwe ngokwesiko nangokomthetho wesintu, ngaphandle kwezinhlinzeko zanoma yimuphi omunye umthetho, ngaphambi kokuqaliswa kwalo Mthetho, kumele ibekwe njengoba kuhlangozwe esigabeni 15, ngaphambi kwezinyanga ezingama-24 kusukela kuqale ukusebenza kwalo Mthetho.

**Isigaba somthetho 80: Ukuchitshiyelwa nokuchithwa kwemithetho**

Lesi sigaba senza kube lula ukuthola uHlelo 3 loMthethosivivinyo oluqukethe imithetho ezochitshiyelwa noma ezochithwa ukumiswa kwalo Mthethosivivinyo.



**Isigaba somthetho 81: Isihloko esifingqiwe**

Lesi sigaba somthetho siqukethe isihloko esifingqiwe soMthethosivivinyo

**UHLELO 1**

Uhlelo 1 kuMthethosivivinyo luqukethe iFomu yokufaka isicelo TA1 elizosetshenziselwa ukufaka isicelo sokubunjwa kwesiZwe.

**UHLELO 2**

Uhlelo 2 loMthethosivivinyo luqukethe imikhombandlela yokuqoka ozobekwa esihlalweni sobuKhosi okuhlongozwe esigabeni somthetho 13(1)(a) soMthethosivivinyo.

**UHLELO 3**

Uhlelo 3 loMthethosivivinyo luqukethe ukumenyezela kweBambabukhosi okuhlongozwe esigabeni somthetho 17(4) soMthethosivivinyo.

**UHLELO 4**

Uhlelo 4 loMthethosivivinyo luqukethe ifomula yokuqoka kwesibalo samalungu omkhandlu womdabu okuhlongozwe esigabeni somthetho 25(1) soMthethosivivinyo.

**UHLELO 5**

Uhlelo 5 loMthethosivivinyo luqukethe isibalo samalungu akhethiwe eNdlu yobuHoli boMdabu esiFundazweni saKwaZulu-Natali okuhlongozwe esigabeni somthetho 40(2) soMthethosivivinyo.

**UHLELO 6**

Uhlelo 6 loMthethosivivinyo luqukethe uMgomo wokuziPhatha kubaHoli boMdabu nakumalungu eMikhandlu yoMdabu okuhlongozwe esigabeni somthetho 66 soMthethosivivinyo

**UHLELO 7**

Uhlelo 7 loMthethosivivinyo luqukethe uMgomo wokuziPhatha kwamaLungu eziNdlu zabaHoli boMdabu.

**UHLELO 8**

Uhlelo 8 loMthethosivivinyo luqukethe imithetho okumele ichithwe yilo Mthethosivivinyo, uma usumisiwe.

**4. IZINGQINAMBA EZINGOKOMTHETHOSISEKELO**

UMthethosivivinyo uyoqala ukusebenza ukufeza izinhloso kanye nezinjongo zoMthethosisekelo njengoba usebenza ezikhungweni zomdabu, kubaholi nakwabasemagunyeni esiFundazweni saKwaZulu-Natali.

**5. IMIGWAMANDA KANYE NEZINHLANGANO OKUXHUNYANWE NAZO**

Indlu yesiFundazwe kanye nabaHoli boMdabu yaKwaZulu-Natali, zonke iziNdlu zeziNdawo KwaZulu-Natali, zonke izifunda kanye nomasipala basekhaya KwaZulu-Natali kanye nohulumeni basekhaya abahlanganyele, kuzoxhunanwa nabo ngalo Mthethosivivinyo, kanye nowokugcina, ngokuhambisana nezinhlinzeko zesigaba 154(2) soMthethosisekelo waseRiphabhulikhi yaseNingizimu Afrika, 1996.

**6. IZIMALI EZIZODINGEKA KUHULUMENI WESIFUNDAZWE**

Akukho zimali okulindeleke ukuthi zidingeke.

**7. IZINGQINAMBA KWEZOKUPHATHA KANYE NEZABASEBENZI KUHULUMENI WESIFUNDAZWE**

Akukho zingqinamba kwezokuphatha nezabasebenzi ezilindelekile.

**8. IZINGQINAMBA KOMASIPALA**

Izingqinamba komasipala ngokwalo Mthethosivivinyo, phakathi kokunye –

- (a) Isigaba somthetho 34 soMthethosivivinyo sihlinzeka ngokuthi uMnyango kumele ugqugquzele ukusebenzisana phakathi komasipala nemikhandlu yomdabu;
- (b) Isigaba somthetho 29(1)(j) sihlizekela amaKhosi ngokubambiqhaza emikhandlwini yomasipala njengoba kuhlangozwe esigabeni 81 soMthetho weziNhlaka zoMasipala koHulumeni baseKhaya, 1998 (uMthetho No 117 ka 1998);

- (c) Isigaba somthetho 32(a) sihlinzeka iziNduna ngokubamba iqhaza emisebenzini yamakomidi amawadi omasipala ukugqugquzela intuthuko yeziGodi;
- (d) Isigaba somthetho 33(1) sihlinzeka ngokuthi imikhandlu yomdabu kumele useke omasipala ukuze kutholakale izimfuno zomphakathi, ilandelele ukuzibandakanya kwesiZwe ekuchitsheyelweni kohlelo oludidiyelwe lwentuthuko lomasipala basekhaya abangaphansi kwendawo lapho okuhlala khona leyo miphakathi, ukubambiqhaza ekwakheni inqubo kanye nomthetho emazingeni ohulumeni basekhaya, ukubambiqhaza ezinhlelweni zentuthuko yomasipala, ukuqwashiza omasipala abathintekayo kunoma yibuphi ubungozi noma inhlekelele engavela endaweni engaphansi kwawo umkhandlu womdabu othintekayo kanye nokusebenzisana namakomidi amawadi omasipala endaweni engaphansi kwawo;
- (e) Isigaba somthetho 33(4) sihlinzeka ngokuthi umkhandlu womdabu unganenela isivumelwano sokulethwa kwezidingo komasipala ngokuhambisana noMthetho weziNhlelo zoMasipala koHulumeni baseKhaya, 2000 nanoma yimuphi omunye umthetho; futhi
- (f) Isigaba somthetho 57(1) soMthethosivivinyo sihlinzeka ngokuthi nanoma imuphi umthetho ohlongozwayo ophathelene nesiZwe, izikhungo zomdabu, umthetho wesintu kanye namasiko kumele kudluliselwe kuSomlomo woMkhandlu kaMasipala endlini yesiFunda esithintekayo ukuze uphawule ngokubhalwe phansi njengoba kuhlongozwe esigabeni somthetho 56(1)(d) ngaphambi kokuphasiswa umkhandlu kamasipala futhi nanoma ikuphi ukuphawula kweNdlu yesiFunda ethintekayo kumele kwethulelwe umkhandlu kamasipala ngaphambi kokuphasiswa komthetho ohlongozwayo kamasipala othintekayo.

## **9. OKUXHUNYANWA NAYE**

**IGAMA:** NKSZ N QHOBOSHANE

**ISIKHUNDLA:** IHLOKO YOMNYANGO WEZOKUBUSA NGOKUBAMBISANA  
NEZINDABA ZOMDABU

**UCINGO:** (033) 395 2831

**IFEKSI:** (033) 345 6232

**10. INQUBO NGOKOMTHETHO**

Ngenxa yokuthi uMthethosisinyo uthinta kakhulu isimo, ukwakheka, amandla noma imisebenzi yohulumeni basekhaya, uMthethosivivinyo uzoshicilelwa ngokwesigaba 154(2) soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996 ukuze umphakathi uphawule ngawo ngaphambi kokuthi wethulwe esiShayamthetho saKwaZulu-Natali ukuze ohulumeni basekhaya, omasipala kanye nabantu abanesifiso sokuphawula bakwazi ukubeka uvo lwabo ngoMthethosivivinyo ohlongozwayo.

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