



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

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

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**PIETERMARITZBURG,**

13 FEBRUARY 2014  
13 FEBRUARIE 2014  
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**No. 1094**

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

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No. 3

13 February 2014

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

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

Notice is hereby given in terms of Rule 194 of the Standing Rules of the Provincial Legislature that the KwaZulu-Natal Royal Household Trust Amendment Bill, 2013 as set out hereunder, has been introduced into the aforesaid Legislature and will be considered by the Premier and Royal Household Portfolio Committee. The public and other interested groups are invited to submit representations on the said Bill, which representations must be addressed to:

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

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

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

N NAIDOO  
Secretary to the KwaZulu-Natal Legislature

**KWAZULU-NATAL  
ROYAL HOUSEHOLD TRUST  
AMENDMENT BILL, 2013**

**GENERAL EXPLANATORY NOTE:**

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

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

**BILL**

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

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

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

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

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

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

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

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

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

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

“(1) For the purposes of section 3, the Royal Household or *Umndeni WeSilo* consists of the royal Queens and those blood relatives of the Monarch **[as contained]** whose names appear in a list to be determined **[published for comments]** from time to

time [by notice in the Gazette] by the responsible Member of the Executive Council after consultation with the Monarch.”; and

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

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

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

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

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

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

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

(i) the Board; and

(ii) the Auditor-General,

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

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

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

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

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

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

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

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

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

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

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

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

“(d) income lawfully derived from =  
(i) fundraising;  
(ii) trading or business enterprises or ventures; or  
(iii) any other source.”.

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

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

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

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

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

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

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

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

“(2) The Board may delegate to =

(a) the Chief Executive Officer; or

(b) the management committee,

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

#### **Short title and commencement**

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

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



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

**1. BACKGROUND**

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

**2. CLAUSE BY CLAUSE EXPLANATION**

In summary, the amendment Bill provides as follows –

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

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

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

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

The proposed amendment, therefore, envisages possible exemptions<sup>6</sup> from certain provisions of the PFMA by the National Minister of Finance in terms of section 92 of the PFMA. This option would still retain the PFMA as a basis for sound financial control, but would expressly offer the possibility of exemptions to be determined nationally by the National Minister of Finance in terms of the National Act (the PFMA).

Section 92 of the PFMA provides as follows –

**“92. Exemptions**

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

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

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

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

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

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

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

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

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

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

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

Clause 3 of the Bill seeks to amend section 5 of the principal Act dealing with the powers, functions and duties of the Trust.

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

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

to –

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

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

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

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

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

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

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

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

The amendment makes it clear that the Trust may receive fees as contemplated in the proposed new section 5(cA) and that lawful income of the Trust, which the Trust may receive, includes income from fundraising or trading or business enterprises or ventures.

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

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

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

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

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

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

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

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

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

**Clause 9: Short title and commencement**

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

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

No undue organisational and personnel implications are foreseen.

**4. FINANCIAL IMPLICATIONS FOR PROVINCIAL GOVERNMENT**

No undue financial implications are foreseen.

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

The Bill has been drafted in consultation with –

5.1 the Office of the Premier; and

5.2 the Board of Trustees of the KwaZulu-Natal Royal Household Trust.

## 6. CONTACT PERSONS

### 6.1 Office of the Premier

Name: Adv. Jacques Wolmarans

Position: Chief State Law Advisor

Telephone: (033) 341 3375

Fax: (033) 394 4153

Cellular: 082 903 8251

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

### 6.2 KwaZulu-Natal Royal Household Trust

Name: Judge SJ Ngwenya

Position: Chairperson: Board of Trustees

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

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

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

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

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

N NAIDOO  
Sekretaris van die KwaZulu-Natal Wetgewer

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

**ALGEMENE VERDUIDELIKENDE NOTA:**

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

**WETSONTWERP**

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

(i) die Raad; en

(ii) die Ouditeur-generaal.

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

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

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

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

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

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

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

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

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

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

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

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

“(d) inkomste wettiglik afkomstig uit –

(i) fondsinsameling;

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

(iii) enige ander bron.”.

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

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

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

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

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

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

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

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

“(2) Die Raad kan [**delegeer**] aan –

(a) die Hoof- Uitvoerende Beampste; of

(b) die bestuurskomitee,

enige bevoegdheid of plig delegeer wat deur hierdie Wet aan die Raad verleen of opgelê is.”.

#### **Kort titel en inwerkingtreding**

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

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

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

**1. AGTERGROND**

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

**2. KLOUSULE VIR KLOUSULE VERDUIDELIKING**

Ter opsomming maak die Wysigingswetsontwerp voorsiening soos volg –

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

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

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

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

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

Artikel 92 van die WOFB maak voorsiening soos volg –

**“92. Vrystellings**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **Klousule 9: Kort titel en aanvang**

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

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

Geen buitensporige organisatoriese en personeelimplikasies word voorsien nie.

### **4. FINANSIËLE IMPLIKASIES VIR PROVINSIALE REGERING**

Geen buitensporige finansiële implikasies word voorsien nie.

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

Die Wetsontwerp is opgestel in oorleg met –

**5.1** die Kantoor van die Premier; en

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

### **6. KONTAKPERSONE**

#### **6.1 Kantoor van die Premier**

Naam: Adv. Jacques Wolmarans

Posisie: Hoofstaatsregsadviseur

Telefoon: (033) 431 3375

Faks: (033) 394 4153

Sellulêr: 082 903 8251

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

#### **6.2 KwaZulu-Natal Koninklike Huishoudingstrust**

Naam: Regter SJ Ngwenya

Posisie: Voorsitter: Raad van Trustees



No. 3

13 kuNhlolanja 2014

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

Isaziso ngokuhambisana noMthetho 194 weMithetho Emileyo yeSishayamthetho saKwaZulu-Natali

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

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

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

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

N NAIDOO  
UNobhala weSishayamthetho saKwaZulu-Natali

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

**INCAZELO EJWAYELEKILE:**

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

**UMTHETHOSIVIVINYO**

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

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

**Ukuchitshiyelwa kwesigaba 2 soMthetho 2 ka 2007**

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

“(2)(a) IThrasti iwuhlaka lukahulumeni wesifundazwe.

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

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

**Ukuchitshiyelwa kwesigaba 4 soMthetho 2 ka 2007**

2. Isigaba 4 soMthetho omkhulu, ngalokhu siyachitshiyelwa –

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

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

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

“(2) ILungu loMkhandlu oPhethe =

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

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

### **Ukuchitshiyelwa kwesigaba 5 soMthetho 2 ka 2007**

3. Isigaba 5 soMthetho omkhulu ngalokhu siyachitshiyelwa ngokufaka ngemuva kwendima

(c) le ndima elandelayo:

“(cA) ngemvume ebhaliwe –

(i) yeBhodi; kanye

(ii) noMcwaningimabhuku-Jikelele,

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

(aa) ingaboleka, icele iminikelo noma itshale izimali;

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

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

### **Ukuchitshiyelwa kwesigaba 11 soMthetho 2 ka 2007**

4. Isigaba 11 soMthetho omkhulu ngalokhu siyachitshiyelwa –

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

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

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

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

#### **Ukuchitshiyelwa kwesigaba 16 soMthetho 2 ka 2007**

5. Isigaba 16 soMthetho omkhulu ngalokhu siyachitshiyelwa ngokufaka esikhundleni sendima

(d) yesigatshana (1) le ndima elandelayo:

“(d) imali engene ngokusemthethweni –

(i) ngeminikelo;

(ii) ngokuhweba noma ngebhizinisi;

(iii) nanganoma yimuphi omunye umthombo.”.

#### **Ukuchitshiyelwa kwesigaba 17 soMthetho 2 ka 2007**

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

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

#### **Ukuchitshiyelwa kwesigaba 26 soMthetho 2 ka 2007**

7. Isigaba 26 soMthetho omkhulu ngalokhu siyachitshiyelwa ngokufaka esikhundleni sendima (b) le ndima elandelayo:

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

**Ukuchitshiyelwa kwesigaba 28 soMthetho 2 ka 2007**

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

“(2) IBhodi ingadlulisela –

(a) kwisiKhulu esiPhezulu; noma

(b) kwikomidi labaphathi.

noma yimaphi amandla athweswe noma anikezwe iBhodi yilo Mthetho.”

**Isihloko esifingqiwe nokuqaliswa koMthetho**

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

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

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

**1. ISENDLALELO**

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

**2. UKUCHAZWA KWESIGABA SOMTHETHO NGASINYE**

Kafishane nje, uMthethosivivinyo wokuchibiyela uhlinzeka kanje –

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

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

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

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

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

Isigaba 92 soMthetho wokuPhathwa kweziMali zikaHulumeni sihlizeka kanje –

**“92. Ukukhululwa**

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

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

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

Isigaba soMthetho 2 soMthethosivivinyo sihlose ukuchibiyela isigaba 4 soMthetho omkhulu.

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

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

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

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

UNdunankulu kumele agcine kumarekhodi lezo zinhlu okuyizonazona ezinqunywe uyena uNdunankulu.

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Akukho zingqinamba kwezokuphatha nakubasebenzi ezilindelekile.

**4. IZIMALI EZIZODINGEKA KUHULUMENI WESIFUNDAZWE**

Akukho zimali okulindeke ukuthi zidingeke.

**5. IMINYANGO/IMIGWAMANDA OKUBONISENWE NAYO**

UMthethosivivinyo ubhalwe ngokubonisana –

5.1 neHhovisi likaNdunankulu; kanye

5.2 neBhodi yabaPhatheli beThrasti yaseNdlunkulu yaKwaZulu-Natali.

**6. OKUNGAXHUNYANWA NABO**

**6.1 eHhovisi likaNdunankulu**

Igama: UMmeli wasemaJajini u-Jacques Wolmarans

Isikhundla: UMeluleki oMkhulu woMbuso kwezoMthetho

Ucingo: (033) 341 3375

Ifeksi: (033) 394 4153

Umakhalekhukhwini: 082 903 8251

I-imeyli: [jacques.wolmarans@kznpremier.gov.za](mailto:jacques.wolmarans@kznpremier.gov.za)

**6.2 kwiThrasti yaseNdlunkulu yaKwaZulu-Natali**

Igama: UJaji SJ Ngwenya

Isikhundla: USihlalo weBhodi yabaPhatheli beThrasti

No. 4

13 February 2014

## KWAZULU-NATAL GAMING AND AMEMNDMENT BETTINGBILL, 2013

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

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

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

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

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

N NAIDOO  
Secretary to the KwaZulu-Natal Legislature

**KWAZULU-NATAL  
GAMING AND BETTING AMENDMENT BILL, 2013**

**GENERAL EXPLANATORY NOTE:**

- [ ] Words in bold type in square brackets indicate omissions from existing enactments  
\_\_\_\_\_ Words underlined with a solid line indicate insertions in existing enactments

**BILL**

**To amend the KwaZulu-Natal Gaming and Betting Act, 2010, so as to effect textual amendments; to insert new definitions and new provisions; and to provide for matters connected therewith.**

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

**Amendment of section 1 of Act 8 of 2010**

1. Section 1 of the KwaZulu-Natal Gaming and Betting Act, 2010 (Act No. 8 of 2010), hereinafter referred to as the principal Act, is hereby amended –

(a) by the substitution for the definition of “bingo” of the following definition:

“**bingo**” means a game, **[organised as a group activity, in which multiple players compete against each other, including a game]** whether played in whole, or in part by electronic means, or otherwise –

(a) **[that is played]** for consideration, using cards or other devices, including devices that depict cards –

(i) that are divided into spaces each of which bears a different number, picture or symbol; and

(ii) **[with]** such numbers, pictures or symbols being arranged randomly **[such]** so that each card or **[similar]** device contains a unique set of numbers, pictures or symbols;

(b) in which **[an operator or announcer calls or displays]** a series of numbers, pictures or symbols are called or displayed in random order and **[the players match each such number, picture or symbol]** such numbers, pictures or symbols are matched on the card or device as **[it is]** they are called or displayed; and

(c) in which the player **[who]** whose card or device is first to **[match]** have all the spaces **[on the card or device]** matched thereon, or **[who matches]** on whose card or device a specified set of numbers, pictures or symbols **[on the**

**card or device] are matched, wins a prize or prizes,**  
or any other substantially similar game declared to be bingo in accordance with  
section 6(4)(b) of the National Gambling Act, 2004 (Act No. 7 of 2004);”;

(b) by the insertion after the definition of “bingo licence” of the following definition:

“**bingo seat**” means one gaming position in a bingo hall;”;

(c) the substitution for the definition of “bookmaker” of the following definition:

“**bookmaker**” means a person [who is] licensed in terms of section 94, to accept offers or stakes in the process of transacting bets on horse races, sports, sporting events or any other events or contingencies, or on a combination of such horse races, sports, sporting events, other events or contingencies;”;

(d) by the insertion after the definition of “committee” of the following definitions:

“**compulsory specification**” means a compulsory specification as defined in section 1 of the National Regulator for Compulsory Specifications Act, 2008 (Act No. 5 of 2008);

“**conformity assessment**” means a conformity assessment as defined in section 1 of the National Regulator for Compulsory Specifications Act, 2008 (Act No. 5 of 2008);

“**conformity assessment services provider**” means a person that undertakes conformity assessments on behalf of the National Regulator for Compulsory Specifications, in terms of an agreement entered into by such person and the National Regulator for Compulsory Specifications;”;

(e) by the substitution for the definition of “corporate body” of the following definition:

“**corporate body**” means a company registered in terms of the Companies Act, [1973] 2008 (Act No. [61] 71 of [1973] 2008), or a partnership [, or which was formed in pursuance of the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957), or a close corporation registered in terms of the Close Corporations Act, 1984 (Act No. 69 of 1984)];”;



(f) by the insertion after the definition of "gaming machine" of the following definition:

**"gaming position" means –**

(a) a gaming machine designed for use by a single natural person;

(b) a component of a gaming machine which is designed for use by more than one natural person, which component facilitates participation in gaming by a single natural person;

(c) a component of gaming equipment which facilitates participation in gaming by a single natural person; or

(d) a seat or standing space in licensed premises, which facilitates participation in gaming by a single natural person;";

(g) by the deletion of the definition of "**Horse Racing and Betting Transformation Fund**";

(h) by the substitution for the definition of "independent site operator" of the following definition:

**"independent site operator" means a site operator [who] that is not linked to a route operator and that is licensed to [own and] operate limited payout machines on a [single] site [and is responsible for maintaining the machines, effecting the collection of money and paying the applicable taxes and levies];";**

(i) by the insertion after the definition of "inspector" of the following definition:

**"letter of authority certificate" means a certificate issued by the National Regulator for Compulsory Specifications, as contemplated in section 5(2)(f) of the National Regulator for Compulsory Specifications Act, 2008 (Act No. 5 of 2008), which permits commodities or products to be sold or services to be supplied;";**

(j) by the substitution for the definition of "National Horseracing Authority" of the following definition:

**"National Horseracing Authority" means the professional body that controls the sport of thoroughbred horseracing in the Republic of South Africa;";**

(k) by the insertion after the definition of "National Horseracing Authority" of the following definition:

**"NRCS" means the National Regulator for Compulsory Specifications of South Africa established by section 3(1) of the National Regulator for Compulsory**

Specifications Act, 2008 (Act No. 5 of 2008);;

(l) by the substitution for the definition of "person" of the following definition:

**"person"** means a natural [**or juristic**] person [, **a group of such persons**] or a corporate body, unless the context indicates a contrary intention;";

(m) by the substitution for the definition of "publish" of the following definition:

**"publish"** includes, unless the context indicates a contrary intention, to exhibit, circulate, announce or cause to be exhibited or circulated or announced in any manner whatsoever;";

(n) by the substitution for the definition of "registrant" of the following definition:

**"registrant"** means a person [**who**] that holds a valid registration certificate or temporary registration certificate issued in terms of this Act;";

(o) by the substitution for the definition of "route operator" of the following definition:

**"route operator"** means a person [**who**] that is licensed in terms of this Act to provide limited payout machines to site operators and to conduct any other prescribed activities;";

(p) by the insertion after the definition of "SABS" of the following definitions:

**"SANS"** means a South African National Standard approved by the South African Bureau of Standards in accordance with the Standards Act, 2008 (Act No. 8 of 2008);";

**"Securities Services Act"** means the Securities Services Act, 2004 (Act No. 36 of 2004);";

(q) by the substitution for the definition of "site operator" of the following definition:

**"site operator"** means a person [**who**] that is authorised to keep and operate limited payout machines [**on his or her premises**] in terms of a licence issued in accordance with this Act;";

(r) by the insertion after the definition of "sports bet" of the following definition:

**"standardbred horse-race"** means a horse-race in which only standardbred

horses may compete, at a trot or pace, under the rules of Trotting South Africa: Provided that a horse-race in which any other horse competes at a trot or pace, under the rules of Trotting South Africa, is deemed to be a standardbred horse-race, for the purposes of this Act;”;

(s) by the insertion after the definition of “this Act” of the following definition:

“**thoroughbred horse-race**” means a horse-race in which only thoroughbred horses may compete, ridden at a gallop, by a natural person who is licensed by the National Horseracing Authority, under the rules of that entity;”;

(t) by the insertion after the definition of “totalisator” of the following definition:

“**totalisator agency**” means totalisator premises from which a totalisator agent operates an agency of a totalisator, in terms of an agreement between such totalisator and such totalisator agent;”;

(u) by the substitution for the definition of “totalisator agent” of the following definition:

“**totalisator agent**” means a person [who] that is appointed, under contractual terms which do not constitute a contract of employment and in terms of section 111(1)(b)(ii), by a totalisator licensee, to operate an agency of [the relevant] that totalisator licensee;” and

(v) by the insertion after the definition of “**totalisator premises**” of the following definitions:

“**Transformation Fund**” means the fund established in terms of section 137 of the Act; and

“**Trotting South Africa**” means a professional body, as recognised by the International Trotting Association, that controls the sport of standardbred horseracing in the Republic of South Africa.”.

#### **Amendment of section 6 of Act 8 of 2010**

2. Section 6 of the principal Act is hereby amended –

(a) by the substitution for paragraph (c) of subsection (1) of the following paragraph:

- “(c) promote opportunities for historically disadvantaged persons to participate in the **[horse racing and betting industries]**gambling industry of the Province in the capacity of **[any of the persons required to be licensed or registered in terms of section 89, 94, 103, 110 or 111]**licensees or registrants under the Act;”;
- (b) by the substitution for paragraph (d) of subsection (1) of the following paragraph:
- “(d) increase the ownership stakes of historically disadvantaged persons in the **[horse racing and betting industries]**gambling industry of the Province;” and
- (c) by the substitution for subsection (3) of the following subsection:
- “(3) The responsible Member of the Executive Council may issue directives to the Board relating to the objects of the Board contemplated in **[subsection]**paragraphs [(1)](c), (d), (e) and (f) of subsection (1).”.

#### **Amendment of section 7 of Act 8 of 2010**

3. Section 7 of the principal Act is hereby amended –

- (a) by the substitution for paragraph (q) of subsection (2) of the following paragraph:
- “(q) authorise, with or without conditions, or refuse an application made as prescribed, by a person licensed in terms of section [89,] 94 or 110, [in accordance with section 121,] to temporarily undertake betting transactions, for a fixed period, at [the] any venue in the Province [of a sporting or other event];” and
- (b) by the substitution for subparagraph (iii) of paragraph (g) of subsection (3) of the following subparagraph:
- “(iii) all gaming equipment or each gaming machine or limited payout machine being used, or made available for use, by a licensee, **[is registered and certified in terms of the National Gambling Act]** conforms with an applicable compulsory specification and has been registered by the Board against the issue of a valid letter of authority certificate.”.

#### **Amendment of section 9 of Act 8 of 2010**

4. Section 9 of the principal Act is hereby amended by the substitution for paragraph (c) of subsection (1) of the following paragraph:

- “(c) he or she is, at the time of the appointment, or during the preceding 12 months was –
- (i) a person contemplated in section 8(1) of the Public Service Act, 1994

(Proclamation No. 103 of 1994); **[or]**

(ii) a political office bearer; or

(iii) an employee of a municipality;".

#### **Amendment of section 10 of Act 8 of 2010**

5. Section 10 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (3) of the following paragraph:

"(b) an affidavit by the nominee wherein the nominee affirms that he or she is not disqualified in terms of section 9: **Provided that if the nominee has been convicted of an offence contemplated in section 9(1)(j), such nominee must furnish an affidavit wherein he or she discloses full details of any conviction and affirms that he or she is not disqualified in terms of any of the other provisions of section 9;**".

#### **Amendment of section 30 of Act 8 of 2010**

6. Section 30 of the principal Act is hereby amended by the insertion after subsection (7) of the following new subsections:

"(8) The Board may, after first affording the licence holder or registrant an opportunity to make representations, impose conditions which are clear and unambiguous, are objectively measurable and are reasonably achievable, upon the issue of any licence or certificate of registration, or upon the renewal of any licence or certificate of registration.

(9) A licensee or registrant may, at any time, apply to the Board for any condition to be amended, substituted or rescinded, whereupon the Board may grant or refuse the application: Provided that in all cases in which the amendment, substitution or rescission of any condition attached to a licence has the potential to affect the attainment or promotion of the Board's objects in terms of section 6 of the Act, the Board may amend, substitute or rescind such condition, only in consultation with the responsible Member of the Executive Council.

(10) Where the application has been granted, the Chief Executive Officer must cause the amendment, substitution or rescission to be endorsed on the licence or registration certificate."

**Amendment of section 32 of Act 8 of 2010**

7. Section 32 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) is –

(i) a person contemplated in section 8(1) of the Public Service Act, 1994 (Proclamation No. 103 of 1994), or charged with any decision-making or criminal enforcement function pertaining to gambling or the regulation thereof; **[or]**

(ii) a political office bearer; or

(iii) an employee of a municipality.”.

**Insertion of section 32A in Act 8 of 2010**

8. The following section is hereby inserted in the principal Act after section 32 –

**“Duration of registration of employees**

**32A.(1) An employee registration certificate, unless cancelled by the Board, is valid for a period of at least 36 months following the date of issue.**

**(2) Following the 36 month period contemplated in subsection (1), a registration certificate is valid for a further period, ending on the last day of the registered employee's birth month, following the next anniversary of the registered employee's birthday.**

**(3) This section applies to all natural person registrants who are employees of licensees or registrants.**”.

**Amendment of section 40 of Act 8 of 2010**

9. Section 40 of the principal Act is hereby amended by the substitution for subparagraph (ii) of paragraph (g) of subsection (1) of the following subparagraph:

“(ii) does not comply in all material respects with **[a national norm or standard]** an applicable compulsory specification or with a norm or standard determined by the Board; or”.

**Amendment of section 43 of Act 8 of 2010**

10. Section 43 of the principal Act is hereby amended –

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

“(1) A licensee or a registrant that is not an employee of a licensee or registrant may, at any time, make application to the Board for **[his or her]** such licence or certificate of registration to be transferred to another person and, in such event, the provisions of sections 30, 31, 32, 33, 34, 35, 36, 37 and 38 apply, with the necessary changes.”; and

(b) by the substitution for subsection (3) of the following subsection:

“(3) When an application is granted, the Chief Executive Officer must **[cause the name of the licensee to be altered appropriately on the licence]** issue a licence or certificate of registration, as the case may be, to the new holder of such licence or certificate of registration.”.

**Insertion of section 43A in Act 8 of 2010**

11. The following section is hereby inserted in the principal Act after section 43 –

**“Financial interests**

**43A.**(1) The Board must, periodically and systematically, ensure that persons acquiring a financial interest in a licensee or registrant are not disqualified from holding such interest, by virtue of section 32 of the Act.

(2) For the purposes of this section, a financial interest does not include –

(a) an indirect interest held in any fund or investment if the person holding that interest has no control over the investment decisions made in respect of that fund or investment; or

(b) any entitlement to revenue accruing to a person pursuant to a contract for the supply of goods or services to a licensee or registrant.

(3) It is an offence for a licensee or a registrant to fail to disclose to the Board the details of any acquisition by any person of a financial interest of five per cent or more in such licensee or registrant, once 30 days have passed since the licensee or registrant has established the occurrence of such an acquisition, or would reasonably have been

expected to have established the occurrence of such an acquisition: Provided that a public company, having listed securities that are traded on any exchange, is only required to establish the occurrence of, and report on, such acquisitions every six months following the issue of the licence or certificate of registration to such public company.

(4) Where a licensee or registrant is a public company having listed securities that are traded on any exchange, in addition to the notification contemplated in subsection (3), such licensee or registrant must simultaneously submit an updated securities register to the Board.

(5) The acquirer of any direct financial interest in a licensee or registrant is required to disclose to the Board the details of such acquisition, within 60 days of the occurrence of such acquisition, in the manner prescribed by the Board.

(6) The acquirer of a financial interest in a licensee or registrant of five per cent or more of the business to which the licence or registration relates, must make application for authority to retain such financial interest, by following the procedures and requirements contemplated in sections 32, 33, 34, 35, 36, 37 and 38, which will apply to the application, with the necessary changes.

(7) When the Board suspects, on reasonable and objective grounds, that an acquirer of a financial interest in a licensee or registrant of less than five per cent of the business to which the licence or registration relates may be disqualified, in terms of section 32, from retaining such financial interest, such acquirer may be required by the Board to make application for authority to retain such financial interest, by following the procedures and requirements contemplated in sections 32, 33, 34, 35, 36, 37 and 38, which will apply to the application, with the necessary changes.

(8) For the purposes of this section –

“exchange”, when used as a noun, means exchange as defined in section 1 of the Securities Services Act, 2004 (Act No. 36 of 2004);

“listed securities” means listed securities as defined in section 1 of the Securities Services Act, 2004;



“public company” means a public company as defined in section 1 of the Securities Services Act, 2004;

“securities” means securities as defined in section 1 of the Securities Services Act, 2004; and

“securities register” means a securities register as defined in section 1 of the Companies Act, 2008 (Act No. 71 of 2008).”

#### **Amendment of section 44 of Act 8 of 2010**

12. Section 44 of the principal Act is hereby amended –

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

“(1) A licensee or registrant may, at any time, make application for the approval of the relocation [removal], whether permanently or temporarily, of [his or her] the business operations of such licensee or registrant, from the premises specified in the licence or certificate of registration, to other premises.”; and

(b) by the insertion after subsection (3) of the following new subsections:

“(4) The Board must prescribe the procedures to be followed in making application for an approval contemplated in subsection (1).

(5) An application contemplated in subsection (1) must be accompanied by the fee prescribed in Schedule 2.”

#### **Amendment of section 53 of Act 8 of 2010**

13. Section 53 of the principal Act is hereby amended by the deletion of subsections (4) and (5).

#### **Repeal of section 54 of Act 8 of 2010**

14. Section 54 of the principal Act is hereby deleted.

**Amendment of section 55 of Act 8 of 2010**

15. Section 55 of the principal Act is hereby amended –

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

“(1) No person may keep premises where gaming machines, electronic bingo terminals or limited payout machines are played unless **[he or she]** such person is in possession of **[a]** an appropriate valid **[casino]** licence **[, independent site operator licence or site operator licence]** issued in terms of this Act.”; and

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

“(2) No person may [–

**(a) make gaming machines or limited payout machines available for use in any licensed premises;**

**(b) undertake the regular maintenance or repair, replacement or upgrading of gaming machines or limited payout machines in such premises;]** exercise the rights of, or

**[(c)]** conduct any **[other]** prescribed activities of a **[route operator, unless he or she is in possession of a casino licence, route operator licence, site operator licence or independent site operator]** licensee, unless such person holds an appropriate licence issued in terms of this Act.”.

**Amendment of section 56 of Act 8 of 2010**

16. Section 56 of the principal Act is hereby amended by the deletion of subsections (4) and (5).

**Amendment of section 59 of Act 8 of 2010**

17. Section 59 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

“(a) is of a type and model that does not conform with **[a national norm or standard]** an applicable compulsory specification or, where there is no **[national norm or standard]** applicable compulsory specification, does not conform with a norm **[and]** or standard determined by the Board;”.

**Amendment of section 62 of Act 8 of 2010**

**18. Section 62 of the principal Act is hereby amended –**

(a) by the substitution for paragraph (d) of subsection (1) of the following paragraph:

“(d) **[standards and]** requirements in relation to the gaming equipment placed, used and operated in a bingo hall;”;

(b) by the deletion of subsections (4) and (5).”.

**Amendment of section 69 of Act 8 of 2010**

**19. Section 69 of the principal Act is hereby amended –**

(a) by the deletion of the word “or” after paragraph (c);

(b) by the insertion of the word “or” after paragraph (d); and

(c) by the insertion after paragraph (d) of the following new paragraph:

“(e) the registration becomes due for renewal in terms of section 32A.”.

**Amendment of section 77 of Act 8 of 2010**

**20. Section 77 of the principal Act is hereby amended –**

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

“(1) All persons licensed in terms of this Act must [, **subject to section 129,**] pay the taxes imposed in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010, **[into]** to the **[Provincial Revenue Fund]** Board, in the manner prescribed and, at the same time, must lodge a tax return with the Board, in the manner prescribed.”; and

(b) by the insertion after subsection (2) of the following new subsections:

“(3) The Board must effect any required distribution of a portion of the taxes received, as prescribed by the KwaZulu-Natal Gaming and Betting Tax Act, 2010, and must thereafter pay the balance of the taxes received into the Provincial Revenue Fund, in the manner prescribed: Provided that payment of the taxes into the Provincial Revenue Fund must be made no later than 20 days after the end of every calendar month.

“(4) At the same time that the Board makes payment of the taxes into the Provincial Revenue Fund in terms of subsection (3), the Board must provide both the Provincial Treasury and the responsible Member of the Executive Council with a

detailed report regarding the taxes received and distributed by the Board, in the manner prescribed.”.

**Amendment of section 78 of Act 8 of 2010**

21. Section 78 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) When a licence is suspended in terms of this section, the activity authorised by the licence must **[also be suspended]** cease: Provided that cessation of the said activity may only be enforced by the Board 24 hours after a licensee or registrant has been notified by the Board, in writing, of the failure to pay and such licensee or registrant has, thereafter, failed to pay the fee, tax or levy, together with the prescribed penalty, prior to the expiry of the 24 hour period.”.

**Amendment of section 89 of Act 8 of 2010**

22. Section 89 of the principal Act is hereby amended –

(a) by the substitution for paragraph (c) of subsection (3) of the following paragraph:

“(c) unless the Board has consulted with the National Horseracing Authority or Trotting South Africa, as appropriate, and has obtained **[from it]** written evidence that **[the racecourse or] any [racecourses] racecourse** to be specified in the licence **[comply] complies** with the rules and any other requirements of the **[said] appropriate** authority;” and

(b) by the substitution for subsection (8) of the following subsection:

“(8) All race meetings held on a racecourse or racecourses specified in a racecourse operator’s licence must be conducted under and in terms of the constitution, rules and regulations of the National Horseracing Authority, or of Trotting South Africa, as appropriate.”.

**Repeal of section 90 of Act 8 of 2010**

23. Section 90 of the principal Act is hereby deleted.

**Amendment of section 91 of Act 8 of 2010**

24. Section 91 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Unless renewed in terms of subsection (2), the licence issued in terms of section 89(1) expires on the thirty-first day of **[December] March** of the financial year of the Board in respect of which **[it] such licence** was issued or renewed: Provided that, for the purposes of this section, the financial year of the Board is the period 1 April to 31 March.”.

**Amendment of section 94 of Act 8 of 2010**

25. Section 94 of the principal Act is hereby amended –

(a) by the substitution for subsection (4) of the following subsection:

“(4) A bookmaker’s licence may be issued to a single natural person, to two or more natural persons who operate the business in terms of a partnership agreement, or to a single corporate body.”; and

(b) by the substitution for subsection (7) of the following subsection:

“(7) Unless cancelled earlier in terms of section 99, a bookmaker’s licence expires on the thirty-first day of **[December] March** of the financial year of the Board [for] in respect of which it was issued but may be renewed, in the manner prescribed by the Board, from year to year in the discretion of the Board and on payment of the licence renewal fee prescribed in Schedule 2: Provided that, for the purposes of this section, the financial year of the Board is the period 1 April to 31 March.”.

**Repeal of section 97 of Act 8 of 2010**

26. Section 97 of the principal Act is hereby deleted.

**Repeal of section 98 of Act 8 of 2010**

27. Section 98 of the principal Act is hereby deleted.

**Repeal of section 106 of Act 8 of 2010**

28. Section 106 of the principal Act is hereby deleted.

**Amendment of section 111 of Act 8 of 2010**

29. Section 111 of the principal Act is hereby amended by the insertion after subsection (5) of the following new subsections:

“(6) The Board may, upon written notification to the totalisator operator concerned, determine, following an investigation into the duties and functions of an employee of the totalisator operator concerned, that such employee requires registration as a totalisator manager.

“(7) The Board may make rules regulating the registration of other employees of a totalisator operator, who are not registered as totalisator managers.”.

**Repeal of section 120 of Act 8 of 2010**

30. Section 120 of the principal Act is hereby deleted.

**Repeal of section 121 of Act 8 of 2010**

31. Section 121 of the principal Act is hereby deleted.

**Amendment of section 123 of Act 8 of 2010**

32. Section 123 of the principal Act is hereby amended –

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

“(1) A person licensed in terms of section 94 or 110 may not utilise for the purpose of recording bets and betting transactions, any computerised record keeping system or any amendment to an approved computerised record keeping system, unless such system or amendment **thereto [has been approved by the Board and certified by the SABS]** conforms with an applicable compulsory specification and the Board has separately approved and registered such computerised record keeping system, or amendment thereto, against a letter of authority certificate, or where there is no applicable compulsory specification, such computerised record keeping system conforms with a norm or standard for computerised record keeping

systems, as determined by the Board.”;

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

“(2) Any person [**who**] that wishes to develop, manufacture or amend a computerised record keeping system, or supply a computerised record keeping system [**or any amendment to an approved computerised record keeping system**] to a person licensed in terms of [**this**] section 94 or 110, must apply to the Board, in the manner prescribed by the Board, for approval and registration of such system or amendment thereto and such application must be accompanied by the relevant application and investigation fees prescribed in Schedule 2, which fees are payable to the Board.”;

(c) by the substitution for subsection (3) of the following subsection:

“(3) The Board may –

- (a) approve, conditionally or unconditionally, or reject a computerised record keeping system or an amendment thereto; or
- (b) refer an application back to the manufacturer or supplier thereof for the submission of further information.”;

(d) by the substitution for subsection (4) of the following subsection:

“(4) The Board may require a person licensed in terms of section 94 or 110 to [**connect to**] establish electronic communications between such monitoring system as the Board may determine and the approved computerised record keeping system utilised by such person.”; and

(e) by the insertion after subsection (4) of the following subsection:

“(5) The Board must maintain an up-to-date register, which must be electronically accessible to every holder of a bookmaker’s licence, at no charge and which must specify, in respect of each computerised record keeping system and each version of a computerised record keeping system approved by the Board –

- (a) the identifying number of each currently approved version of the computerised record keeping system; and
- (b) the date of approval of such version.”.

#### **Amendment of section 125 of Act 8 of 2010**

33. Section 125 of the principal Act is hereby amended by the substitution for section 125 of the following section:

**“Vicarious responsibility**

125. A totalisator licensee or bookmaker, in relation to the activities authorised by the relevant licence, is vicariously responsible for the acts and omissions of the employees of such totalisator licensee or bookmaker.”.

**Amendment of section 128 of Act 8 of 2010**

34. Section 128 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A bookmaking business must deduct from the amount won by a bettor, exclusive of the amount staked by the bettor, the taxes and deductions determined in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010, and must pay such monies to the Board in accordance with the provisions of section [129] 77.”.

**Amendment of section 137 of Act 8 of 2010**

35. Section 137 of the principal Act is hereby amended –

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

**“137. [Horse Racing and Betting]Transformation Fund**

(1) There is hereby established a fund to be known as the **[Horse Racing and Betting]**Transformation Fund.”;

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

“(2) Any funds intended for the development of sport and held in trust by the committee established in terms of section 21A of the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957), must, on the day on which this Act comes into operation, be paid into the **[Horse Racing and Betting]**Transformation Fund established under this section.”;

(c) by the substitution for subsection (3) of the following subsection:

“(3) The responsible Member of the Executive Council may, out of monies appropriated by the Provincial Legislature for that purpose and subject to such terms and conditions as he or she may impose, make grants to the **[Horse Racing and Betting]**Transformation Fund.”;

(d) by the substitution for subsection (4) of the following subsection:

“(4) The assets of the **[Horse Racing and Betting]**Transformation Fund must,



subject to the prior approval of the responsible Member of the Executive Council, be utilized for the purposes of realising the objects of the Board contemplated in section 6(1)(c), (d) and (e).”;

(e) by the substitution for subsection (5) of the following subsection:

“(5) The Board must open and maintain a separate banking or savings account at a banking institution in the Province and must deposit therein all monies accruing to the **[Horse Racing and Betting]**Transformation Fund from any source.”;

(f) by the substitution for subsection (6) of the following subsection:

“(6) The interest on monies deposited in terms of subsection (3) and (4) must accrue to the **[Horse Racing and Betting]**Transformation Fund.”;

(g) by the substitution for subsection (7) of the following subsection:

“(7) The Board must keep separate and proper accounting records in respect of the **[Horse Racing and Betting]**Transformation Fund, containing particulars of any money or interest on money received and any money paid.”;

(h) by the substitution for subsection (8) of the following subsection:

“(8) No amount standing to the credit of the **[Horse Racing and Betting]**Transformation Fund forms part of the assets of the Board or may be attached on behalf of a creditor or creditors of the Board.”; and

(i) by the substitution for subsection (9) of the following subsection:

“(9) The accounting and other related records of the **[Horse Racing and Betting]**Transformation Fund must, at the expense of the Board, be audited by the Auditor-General.”.

#### Short title

36. This Act is called the KwaZulu-Natal Gaming and Betting Amendment Act, 2013.

**MEMORANDUM  
ON THE OBJECTS  
OF THE  
KWAZULU-NATAL GAMING AND BETTING AMENDMENT BILL, 2013**

**1. BACKGROUND**

The main motivation for amending the recently promulgated KwaZulu-Natal Gaming and Betting Act, 2010 (hereinafter “the Act”), is to rectify or strengthen areas of the Act around which current litigation revolves, or regarding which the threat of litigation exists. The main threats stem from the bingo provisions in the Act and from competing interpretations of the provisions of the Act which deal with the acquisition of a financial interest in a gambling licensee.

There are numerous other proposed amendments relating to neither acquisition of an interest in a licensee nor to bingo which are, however, also contained in the Bill. A substantial proportion of these proposals stem from the KwaZulu-Natal Gaming and Betting Board (“the Board”), many originate from the Chief Directorate: Gaming and Betting, and still others have been requested by the gambling industry.

**2. CLAUSE BY CLAUSE EXPLANATION**

In summary, the amendment Bill provides as follows:-

**Clause 1: Amendments to section 1 (definitions)**

- (a) Amendments to the definition of “bingo” and to other bingo-related definitions are proposed. The intention being to shore up the bingo provisions against the threat of litigation against the bingo industry (and against the Board and the Premier).
- (b) The definition of “Horse Racing and Betting Transformation Fund” is deleted and a new definition of “Transformation Fund” is inserted. These amendments are linked to the amendments made to section 137, which currently deals with the “Horse Racing and Betting Transformation Fund”.
- (c) A number of new definitions have been inserted in order to bring the provisions of the Act, in respect of the system of compulsory standards (SABS standards) applicable to gaming equipment, into harmony with National legislation dealing with compulsory

standards (the National Regulator for Compulsory Specifications Act, 2008 (Act No. 5 of 2008)).

(d) A number of definitions, which imply that the “person” being referred to is only a “natural person”, have been amended so as to clarify that both legal and natural persons are being referred to through use of the word “person”.

(e) Due to the fact that harness racing (otherwise known as “trotting”, or “sulky racing” and using the standardbred horse) is becoming established in the Province, definitions need to be amended and/or added to distinguish between thoroughbred horseracing and harness racing.

(f) The definition of “totalisator agent” is amended and the definition of “totalisator agency” has been added in order to improve the clarity of the provisions in the Act seeking to regulate totalisators.

#### **Clause 2: Amendment of section 6**

These amendments are firstly designed to change the impact on, and application of, the section on the “horse racing and betting industries” only to a broader impact on, and application of, the section to the “gambling industry of the Province”. Lastly, purely technical amendments are made to subsection (3) of section 6.

#### **Clause 3: Amendment of section 7**

Paragraph (q) of subsection (2) of section 7 is amended so as to allow bookmakers and totalisator operators to temporarily conduct their operations from potentially any venue other than their approved premises. Currently they are only potentially allowed to temporarily operate from the venue of a sporting or other event.

Subparagraph (g)(iii) of subsection (3) of section 7 is amended so as to align with the terminology used in the National Regulator for Compulsory Specifications Act, 2008.

#### **Clause 4: Amendment of section 9**

Section 9 of the Act deals with disqualification from being appointed to the Board. This amendment extends the disqualifications to persons who, at the time of the appointment, or during the preceding 12 months, were employees of a municipality.

#### **Clause 5: Amendment of section 10**

Paragraph (b) of subsection (3) removes reference to the making of an affidavit by a nominee for appointment to the Board, whereby the nominee must disclose full details of any conviction. This is because the Member of the Executive Council responsible for gambling, under the new 2010 legislation, no longer has the power to appoint a nominee in certain circumstances, despite the nominee being otherwise disqualified.

**Clause 6: Amendment of section 30**

New subsections 8, 9 and 10 clarify the board's powers in relation to the imposition of conditions of licence or registration.

**Clause 7: Amendment of section 32**

Section 32 deals with disqualifications for licence or registration. This amendment extends the disqualifications to persons who, at the time of the appointment, or during the preceding 12 months, were employees of a municipality.

**Clause 8: Insertion of section 32A in Act 8 of 2010**

This new section deals with the duration of registration of natural person employees. Currently employee registrations do not require annual renewal but the new clauses provide for renewal every three years, following the date of issue.

**Clause 9: Amendment of section 40**

This amendment (along with others in the Bill) aligns the Act with the terminology used and the procedures provided for in the National Regulator for Compulsory Specifications Act, 2008.

**Clause 10: Amendment of section 43**

This clause amends section 43 by the substitution for subsection (1) of a new subsection, clarifying that licensees or registrants that are natural person employees of gambling operators may not transfer such licence or registration to another natural person.

Subsection (3) is amended to improve clarity of meaning.

**Clause 11: Insertion of section 43A in Act 8 of 2010**

Section 54, dealing with persons acquiring a financial interest in a licensee or registrant, will be repealed and replaced with the new section 43A, which will also deal with persons acquiring a

financial interest in a licensee or registrant. Current litigation revolves around the interpretation of Section 54. Firstly, section 54 is located in the chapter on casinos, which implies that it applies only to casinos. This is why the provision is being relocated to a chapter of the Act which applies to all licensees and registrants. The provision is furthermore regarded, in general, as inadequate and impractical in its current form.

**Clause 12: Amendment of section 44**

Subsection (1) of section 44 is amended, firstly, in order to include reference to registrants and secondly, in order to improve clarity of meaning.

New subsections (3) and (4) are added, so as to empower the Board to prescribe the procedures to be followed in making application for an approval of the relocation of the business operations of a licensee or registrant, from one set of premises to another, and to provide for the levying of a fee for such applications.

**Clause 13: Amendment of section 53**

Subsections (4) and (5) of section 53 are deleted. These provisions deal with the amendment, substitution or rescission of conditions of a casino licence. The provisions are superfluous, because the amendment, substitution or rescission of conditions of all kinds of licences is dealt with in the general chapter of the Act that deals with licensing and registration (Chapter 5).

**Clause 14: Repeal of section 54**

Section 54 deals with the acquisition of a controlling interest or a financial interest in a casino licensee and has been replaced by the new section 43A, which applies to all licensees and registrants.

**Clause 15: Amendment of section 55**

Subsection (1) is amended by the inclusion of reference to “electronic bingo terminals” and other insertions and deletions, making it more clear what the provision is meant to include and regulate.

Subsection (2) is amended in order to simplify it and thereby greatly improve clarity of meaning.

**Clause 16: Amendment of section 57**

Section 57 of the Act is hereby amended by the deletion of subsections (4) and (5), which are superfluous, due to the proposed amendments to section 30 of the Act which deal with conditions of licence in a general manner, i.e. the amended section is applicable to all licence types.

**Clause 17: Amendment of section 59**

Paragraph (a) of section 59 is amended so as to align with the terminology of the National Regulator for Compulsory Specifications Act, 2008.

**Clause 18: Amendment of section 62**

Paragraph (d) of subsection (1) is amended by the removal of the words “standards and”, so as to align with the provisions of the National Regulator for Compulsory Specifications Act, 2008.

The deletion of subsections (4) and (5) because these provisions are superfluous, since the amendment, substitution or rescission of conditions of all kinds of licences are dealt with in the general chapter of the Act that deals with licensing and registration (Chapter 5).

**Clause 19: Amendment of section 69**

Section 69 is amended by the insertion after subparagraph (d) of a new subparagraph (e), which states “the registration falls to be renewed in terms of section 32A”. The importance of this is that while, currently, the duration of registration of certain employees is essentially indefinite, barring certain circumstances arising, the proposed new section 32A limits the registration period for such employees to between 36 and 48 months, depending on the date upon which the anniversary of the employee’s birthday falls.

**Clause 20: Amendment of section 77**

Subsection (1) of section 77 is amended so as to require that all gambling operators pay tax into an account of the Board, as opposed to the current situation, whereby some gambling operators are required to pay tax directly into the Provincial Revenue Fund.

Section 77 is amended by the insertion of a new subsection (3), which requires that the Board distributes a portion of the taxes received, as prescribed, and that the Board must thereafter pay the balance of the taxes into the Provincial Revenue Fund no later than 20 days after the end of every calendar month.

A new subsection (3) is inserted and requires the Board to provide both the Provincial Treasury and the responsible Member of the Executive Council with a detailed report regarding the taxes received and distributed by the Board.

**Clause 21: Amendment of section 78**

Subsection (2) of section 78 is amended by the addition of a proviso which essentially has the effect that a licensee is now given notice before the suspension of a licence for the failure to pay a fee, tax or levy is enforced whereas, at present, a suspension of licence for the failure to pay a fee, tax or levy is meant to take immediate effect.

**Clause 22: Amendment of section 89**

Paragraph (c) of subsection (3) of section 89 is amended to include reference to Trotting South Africa, in addition to the National Horseracing Authority. These are the licensed racecourse operators for harness racing and thoroughbred racing (two forms of professional horse racing), respectively.

Subsection (8) is also amended for the purpose of including reference to Trotting South Africa, in addition to the National Horseracing Authority.

**Clause 23: Repeal of section 90**

Section 90, which deals with the procurement of an interest in a racecourse operator, is repealed so as to avoid an internal conflict, because the new section 43A deals with the procurement of a financial interest in all licensees and registrants.

**Clause 24: Amendment of section 91**

Section 91 is amended so as to align the licence renewal period for racecourse operators with that of other types of licences.

**Clause 25: Amendment of section 94**

Section 94 is amended, firstly, so as to clarify the types of persons that may hold a bookmaker's licence and, secondly, to align the licence renewal period for bookmakers with that of other types of licences.

**Clause 26: Repeal of section 97**

Section 97 is deleted in order to resolve potential internal conflicts with other provisions of the Act, which also deal with change in ownership of a licence, because these provisions deal with change in ownership in a manner intended to apply to all licence types.

**Clause 27: Repeal of section 98**

Section 98 is deleted in order to resolve potential internal conflicts with other provisions of the Act which also deal with change in directors of a company which owns a licence, because these provisions deal with such changes in a manner intended to apply to all licence types.

**Clause 28: Repeal of section 106**

Section 106 is deleted in order to resolve potential internal conflicts with other provisions of the Act, which also deal with registration of persons because these provisions deal with registrations in a manner intended to apply to all registration types.

**Clause 29: Amendment of section 111**

The amendment to section 111 is intended to afford the Board additional powers in dealing with the appointment and registration of totalisator operators, totalisator managers and totalisator agents, in alignment with the Board's existing powers in relation to bookmakers' managers.

**Clause 30: Repeal of section 120**

The repeal of section 120 is intended to avoid potential internal conflicts with the proposed amendments to section 44, which deal with relocation of the business operations of a licensee or registrant, from one set of premises to another, in a manner intended to apply to all licence and registration types.

**Clause 31: Repeal of section 121**

The repeal of section 121 is intended to avoid potential internal conflicts with the proposed amendments to section 44, which deal with relocation of the business operations of a licensee or registrant (including a temporary relocation), from one set of premises to another, in a manner intended to apply to all licence and registration types.

**Clause 32: Amendment of section 123**



Subsection (1) of section 123 is amended so as to be aligned with the terminology used in the National Regulator for Compulsory Specifications Act, 2008.

Subsections (2), (3) and (4) of section 123 are amended in order to improve clarity of understanding of these provisions.

A new subsection (5) is inserted in order to clarify that an approved version of a computerised record keeping system does not cease to be an approved version of a computerised record keeping system when a new version of such system is developed and approved. The new provision also serves to place a requirement upon the Board to maintain an up-to-date register of all approved computerised record keeping systems, including each approved version of an approved computerised record keeping system.

**Clause 33: Amendment of section 125**

The amendment to section 125 limits vicarious responsibility of a totalisator licensee or bookmaker, for the acts and omissions of the employees of such totalisator licensee or bookmaker, to acts and omissions related to the activities authorised by the relevant licence.

**Clause 34: Amendment of section 128**

The amendment to section 128 changes a cross reference from section 129 to section 77, an amendment which is consequential upon the amendments made to sections 77 and 129.

**Clause 35: Amendment of section 137**

Section 137 is amended by replacing the phrase "Horse Racing and Betting Transformation Fund", wherever it appears in the section, with the phrase "Transformation Fund". These amendments are linked to the amendments made to the definitions: the definition of "Horse Racing and Betting Transformation Fund" is deleted and a new definition of "Transformation Fund" is inserted.

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

No undue organisational or personnel implications are foreseen.

#### 4. FINANCIAL IMPLICATIONS FOR PROVINCIAL GOVERNMENT

No undue financial implications are foreseen.

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

The Bill has been drafted in consultation with –

5.1 The KwaZulu-Natal Gaming and Betting Board; and

5.2 The KwaZulu-Natal Gambling industry.

#### 6. CONTACT PERSONS

##### 6.1 Office of the Premier

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##### 6.2 Office of the Premier

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No. 4

13 Februarie 2014

## **KWAZULU-NATAL WYSIGINGSWETSONTWERP OP DOBBELARY EN WEDDERY, 2013**

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

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

**Aandag:** Me. NP Madide  
Die Sekretaris  
KwaZulu-Natal Legislature  
Privaatsak X 9112  
PIETERMARITZBURG  
3200

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

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

N NAIDOO  
Sekretaris van die KwaZulu-Natal Wetgewer

**KWAZULU-NATAL  
WYSIGINGSWETSONTWERP OP DOBBELARY EN WEDDERY, 2013**

**ALGEMENE VERDUIDELIKENDE NOTA:**

- [ ] Woorde wat in vetdruk en vierkantige hakies is, dui uitlatings uit bestaande wetsbepalings aan  
\_\_\_\_\_ Woorde onderstreep deur 'n soliede lyn dui byvoegings tot bestaande wetsbepalings aan

**WETSONTWERP**

**Om die KwaZulu-Natal Wet op Dobbelay en Weddery, 2010, te wysig, om sodoende teksuele wysigings te bewerkstellig; om nuwe omskrywings en nuwe bepalinge in te voeg; en om vir aangeleenthede voorsiening te maak wat daarmee verband hou.**

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

**Wysiging van artikel 1 van Wet 8 van 2010**

1. Artikel 1 van die KwaZulu-Natal Wet op Dobbelay en Weddery, 2010 (Wet No. 8 van 2010), hierna verwys na as die Hoofwet, word hiermee gewysig –

(a) deur die invoeging na die omskrywing van “**ander gebeurtenis of gebeurlikheid**” van:

“**assessering van nakoming**” assessering van nakoming soos omskryf in artikel 1 van die Wet op Die Nasionale Reguleerder vir Verpligte Spesifikasies, 2008 (Wet No. 5 van 2008);

“**assessering van nakoming diensverskaffer**” ’n persoon wat nakomingsassesserings onderneem namens die Nasionale Reguleerder vir Verpligte Spesifikasies, ingevolge ’n ooreenkoms aangegaan deur sodanige persoon en die Nasionale Reguleerder vir Verpligte Spesifikasies.”;

(b) deur die vervanging van die omskrywing van “beroepswedder” deur die volgende omskrywing:

“**beroepswedder**” ’n persoon [wat] ingevolge artikel 94 gelisensieer [is] om aanbiedinge of wedgeld te aanvaar by die proses van die aangaan van weddenskappe op perdewedrenne, sport, sportgebeurtenisse of enige ander

gebeurtenisse of gebeurlikhede, of op 'n kombinasie van sodanige perdewedrenne, sport, sportgebeurtenisse, ander gebeurtenisse of gebeurlikhede;”;

(c) deur die vervanging van die omskrywing van “bingo” deur die volgende omskrywing:

“**“bingo”** 'n spel, [wat as 'n groepsaktiwiteit gereël word, waarin verskeie spelers teen mekaar wedywer, met inbegrip van 'n spel wat] hetsy volkome of gedeeltelik gespeel volgens elektroniese metodes, of andersins –

(a) vir vergoeding [**gespeel word**], deur kaarte of ander toestelle te gebruik, ingesluit toestelle wat kaarte voorstel –

(i) wat in ruimtes verdeel word wat elk oor 'n ander nommer, prentjie of simbool beskik; en

(ii) [**met**] sodanige nommers, prentjies of simbole wat willekeurig gerangskik is sodat elke kaart of [**soortgelyke**] toestel 'n unieke stel nommers, prentjies of simbole bevat; en

(b) waartydens [**n operateur of aankondiger**] 'n reeks nommers, prentjies of simbole in 'n willekeurige volgorde uitgeroep of vertoon word en [**die spelers elke sodanige nommer, prentjie of simbool**] sodanige nommers, prentjies of simbole vergelyk word op die kaart of toestel [**vir ooreenstemming vergelyk terwyl**] soos dit uitgeroep of vertoon word; en

(c) waartydens die speler wie se [**ruimtes op die**] kaart of toestel die eerste is waarop al die ruimtes ooreenstem, of op wie se kaart of toestel 'n spesifieke stel nommers, prentjies of simbole [**op die kaart of toestel**] ooreenstem, 'n prys of pryse wen,

of enige ander soortgelyke spel wat as bingo verklaar is in ooreenstemming met artikel 6(4)(b) van die Nasionale Dobbeltwet, 2004 (Wet No. 7 van 2004);”;

(d) deur die invoeging na die omskrywing van “bingolisensie” van die volgende omskrywing:

“**“bingositplek”** beteken een dobbelposisie in 'n bingosaal;”;

(e) deur die invoeging na die omskrywing van “dobbeltjurisdiksie” van die volgende omskrywing:

“**“dobbeltposisie”** beteken –

(a) 'n dobbelmasjien ontwerp vir gebruik deur 'n enkel natuurlike persoon;

(b) 'n dobbelmasjienkomponent ontwerp vir gebruik deur meer as een natuurlike persoon, welke komponent deelname aan dobbel deur 'n enkel-natuurlike persoon fasiliteer;

(c) 'n dobbeltoerustingskomponent wat deelname aan dobbel deur 'n enkel natuurlike persoon fasiliteer; of

(d) 'n sit- of staanplek op 'n gelisensieerde perseel wat deelname aan dobbel deur 'n enkel natuurlike persoon fasiliteer;";

(f) deur die vervanging van die omskrywing van "korporatiewe liggaam" deur die volgende omskrywing:

**""korporatiewe liggaam" 'n maatskappy wat ingevolge die Maatskappywet, [1973] 2008 (Wet No. [61] 71 van [1973] 2008) geregistreer is, of 'n vennootskap [, of wat ingevolge die Ordonnansie op die Regulering van Wedrenne en Weddery, 1957 (Ordonnansie No. 28 van 1957) tot stand gekom het, of 'n beslote korporasie wat ingevolge die Wet op Beslote Korporasies, 1984 (Wet No. 69 van 1984) geregistreer is];"**;

(g) deur die invoeging na die omskrywing van "lisensiehouer" van die volgende omskrywing:

**""magtigingsbrief-sertifikaat" 'n sertifikaat uitgereik deur die Nasionale Reguleerder vir Verpligte Spesifikasies, soos bedoel in artikel 5(2)(f) van die Wet op die Nasionale Reguleerder vir Verpligte Spesifikasies, 2008 (Wet No. 5 van 2008), wat toelaat dat handelware en produkte verkoop word of dienste verskaf word;"**;

(h) deur die vervanging van die omskrywing van "Nasionale Perdewedrenowerheid" deur die volgende omskrywing:

**""Nasionale Perdewedrenowerheid" die professionele liggaam wat volbloedperdewedrensport in die Republiek van Suid-Afrika beheer;"**;

(i) deur die invoeging na die omskrywing van "Nasionale Perdewedrenowerheid" van die volgende omskrywing:

**""NRVS" die Nasionale Reguleerder vir Verpligte Spesifikasies van Suid-Afrika ingestel deur artikel 3(1) van die Wet op die Nasionale Reguleerder vir Verpligte Spesifikasies, 2008 (Wet No. 5 van 2008);"**;

(j) deur die vervanging van die omskrywing van “onafhanklike perseeloperateur” deur die volgende omskrywing:

“**“onafhanklike perseeloperateur”** ’n perseeloperateur wat nie aan ’n roete-operateur gekoppel is nie en wat gelisensieer is om beperkte uitbetaalmasjiene op ’n **[enkel]** perseel te **[besit en]** bedryf **[en verantwoordelik is vir instandhouding van die masjiene, insameling van gelde en betaling van die toepaslike belasting en heffings]**”;

(k) deur die invoeging na die omskrywing van “ondervoorsitter” van die volgende omskrywing:

“**Perdedrafsport Suid-Afrika**” ’n professionele liggaam, soos erken deur die Internasionale Perdedrafsportvereniging, wat standaardgeteelde perdewedrensport in die Republiek van Suid-Afrika beheer.”

(l) deur die skraping van die omskrywing **“Perdewedren- en Weddenskaptransformasiefonds”**;

(m) deur die vervanging van die omskrywing van “perseeloperateur” deur die volgende omskrywing:

“**“perseeloperateur”** ’n persoon wat gemagtig is om beperkte uitbetaalmasjiene **[op sy of haar perseel]** aan te hou en te bedryf ingevolge ’n lisensie wat ooreenkomstig hierdie Wet uitgereik is”;

(n) deur die vervanging van die omskrywing van “persoon” deur die volgende omskrywing:

“**“persoon”** ’n natuurlike **[of regs]**persoon **[, ’n groep van sodanige persone]** of ’n korporatiewe liggaam, tensy die samehang ’n ander bedoeling aandui”;

(o) deur die vervanging van die omskrywing van “publiseer” deur die volgende omskrywing:

“**“publiseer”** ook, tensy die samehang ’n teenstrydige bedoeling aandui, om te vertoon, te sirkuleer, aan te kondig of te laat vertoon of sirkuleer of aankondig op enige wyse hoegenaamd”;



- (p) deur die invoeging na die omskrywing van “SABS” van die volgende omskrywing:  
“SANS” ’n Suid-Afrikaanse Nasionale Standaard goedgekeur deur die Suid-Afrikaanse Buro vir Standaarde in ooreenstemming met die Standaardwet, 2008, (Wet No. 8 van 2008);”;
- (q) deur die invoeging na die omskrywing van “sportweddenskap” van die volgende omskrywing:  
“standaardgeteelde perdewedren” ’n perdewedren waarin slegs standaardgeteelde perde kan meeding, teen ’n drafstap of pas, kragtens die reëls van Perdedrafsport Suid-Afrika: Met dien verstande dat ’n perdewedren waarin enige ander perd meeding, teen ’n drafstap of pas, kragtens die reëls van Perdedrafsport Suid-Afrika, beskou word as ’n standaardgeteelde perdewedren vir die doeleindes van hierdie Wet;”;
- (r) deur die vervanging van die omskrywing van “totalisatoragent” deur die volgende omskrywing:  
“totalisatoragent” ’n persoon wat kragtens kontraktuele bepalinge wat nie ’n indiensnemingskontrak uitmaak nie en, ingevolge artikel 111(1)(b)(ii), deur ’n totalisatorlisensiehouer aangestel word om ’n agentskap van [die betrokke] daardie totalisatorlisensiehouer [te bestuur en] te bedryf;”;
- (s) deur die invoeging na die omskrywing van “totalisatoragent” van die volgende omskrywing:  
“totalisatoragentskap” totalisatorperseel vanwaar ’n totalisatoragent ’n agentskap van ’n totalisator bedryf, ingevolge ’n ooreenkoms tussen sodanige totalisator en sodanige totalisatoragent;”;
- (t) deur die invoeging na die omskrywing van “totalisatorperseel” van die volgende omskrywing:  
“Transformasiefonds” die fonds ingestel ingevolge artikel 137 van die Wet;”;
- (u) deur die invoeging na die omskrywing van “vergoeding” van die volgende omskrywings:

“**verpligte spesifikasie**” ’n verpligte spesifikasie soos omskryf in artikel 1 van die Wet op die Nasionale Reguleerder vir Verpligte Spesifikasies, 2008 (Wet No. 5 van 2008);”;

“**volbloedperdewedren**” ’n perdewedren waarin slegs volbloedperde kan meeding en wat gery word teen ’n galop deur ’n natuurlike persoon wat gelisensieer is deur die Nasionale Perdewedrenowerheid kragtens die reëls van daardie entiteit;”; en

(v) deur die invoeging na die omskrywing van “wedrenbyeenkoms” van die volgende omskrywing:

“**Wet op Sekuriteitedienste**” die Wet op Sekuriteitedienste, 2004 (Wet No. 36 van 2004);”.

#### **Wysiging van artikel 6 van Wet 8 van 2010**

2. Artikel 6 van die Hoofwet word hiermee gewysig –

- (a) deur die vervanging van paragraaf (c) van subartikel (1) deur die volgende paragraaf:
- “(c) geleentehede te bevorder vir voorheen benadeelde persone om deel te neem in die **[perdewedren- en weddenskapbedryf]** dobbelbedryf van die Provinsie in die hoedanigheid van **[enige van die persone vereis om gelisensieer of geregistreer te word ingevolge artikel 89, 94, 103, 110 of 111]** lisensiehouers of geregistreerdes kragtens die Wet;”;
- (b) deur die vervanging van paragraaf (d) van subartikel (1) deur die volgende paragraaf:
- “(d) die eienaarsbelang van voorheen benadeelde persone in die **[perdewedren- en weddenskapbedryf]** dobbelbedryf van die Provinsie te verhoog;”;
- (c) deur die vervanging van subartikel (3) deur die volgende subartikel:
- “(3) Die verantwoordelike Lid van die Uitvoerende Raad kan opdrag gee aan die Raad met betrekking tot die oogmerke van die Raad bedoel in **[subartikel]** paragrafe [(1)](c), (d), (e) en (f) van subartikel (1).”.

#### **Wysiging van artikel 7 van Wet 8 van 2010**

3. Artikel 7 van die Hoofwet word hiermee gewysig –

- (a) deur die vervanging van paragraaf (q) van subartikel 2 deur die volgende paragraaf:

“(q) ’n persoon wat kragtens artikel [89,] 94 of 110 gelisensieer is, [ingevolge artikel 121,] magtig, met of sonder voorwaardes, of ’n aansoek, gemaak soos voorgeskryf, om tydelik wedtransaksies vir ’n vasgestelde tydperk by [die] enige plek in die Provinsie [van ’n sport- of ander gebeurtenis] te onderneem, weier;”; en  
(b) deur die vervanging van subparagraaf (iii) van paragraaf (g) van subartikel (3) deur die volgende paragraaf:

“(iii) alle casinodobbeltouersting of elke casinodobbeltouersting of beperkte uitbetaalmasjien wat gebruik word, of vir gebruik beskikbaar gestel word, deur [middel van]’n lisensiehouer [geregistreer en gesertifiseer is ingevolge die Nasionale Dobbelwet] voldoen aan ’n toepaslike verpligte spesifikasie en deur die Raad geregistreer is by die uitreiking van ’n geldige magtigingsbrief-sertifikaat.”.

#### **Wysiging van artikel 9 van Wet 8 van 2010**

4. Artikel 9 van die Hoofwet word hiermee gewysig deur die vervanging van paragraaf (c) van subartikel (1) deur die volgende paragraaf:

“(c) hy of sy tydens aanstelling of gedurende die voorafgaande twaalf maande –  
(i) ’n persoon bedoel in artikel 8(1) van die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994) is of was;  
(ii) ’n amptelike ampsbekleër is of was; of  
(iii) ’n werknemer van ’n munisipaliteit is of was.”.

#### **Wysiging van artikel 10 van Wet 8 van 2010**

5. Artikel 10 van die Hoofwet word hiermee gewysig deur die vervanging van paragraaf (b) van subartikel (3) deur die volgende paragraaf:

“(b) ’n beëdigde verklaring deur die benoemde waarin die benoemde bevestig dat hy of sy nie ingevolge artikel 9 onbevoeg is nie[: **Met dien verstande dat indien die benoemde weens ’n misdryf skuldig bevind is soos bedoel in artikel 9(1)(j), sodanige benoemde ’n beëdigde verklaring moet voorsien waarin hy of sy volle besonderhede van enige skuldigbevinding bekend moet maak en bevestig dat hy of sy nie ingevolge enige ander van die bepalinge van artikel 9 onbevoeg is nie;**”.

**Wysiging van artikel 30 van Wet 8 van 2010**

6. Artikel 30 van die Hoofwet word hiermee gewysig deur die invoeging na subartikel (7) van die volgende nuwe subartikels:

“(8) Die Raad kan, nadat die lisensiehouer of geregistreerde eers ’n geleentheid gebied is om vertoë te rig, voorwaardes oplê wat duidelik en ondubbelsinnig is, objektief meetbaar en redelik haalbaar is, by die uitreiking van enige lisensie of registrasiesertifikaat of by die hernuwing van enige lisensie of registrasiesertifikaat.

“(9) ’n Lisensiehouer of geregistreerde kan, te eniger tyd, aansoek doen by die Raad om enige voorwaarde te wysig, te vervang of te herroep, waarop die Raad die aansoek kan toestaan of weier: Met dien verstande dat, in alle gevalle waar die wysiging, vervanging of herroeping van enige voorwaarde verbonde aan ’n lisensie die potensiaal het om die verwesenliking of bevordering van die Raad se oogmerke te raak, ingevolge artikel 6 van die Wet, kan die Raad sodanige voorwaarde wysig, vervang of herroep slegs in oorleg met die verantwoordelike Lid van die Uitvoerende Raad.

“(10) Waar die aansoek toegestaan is, moet die Hoof- Uitvoerende Beamppte teweegbring dat die wysiging, vervanging of herroeping op die lisensie of registrasiesertifikaat bekragtig word.”.

**Wysiging van artikel 32 van Wet 8 van 2010**

7. Artikel 32 van die Hoofwet word hiermee gewysig deur die vervanging van paragraaf (a) van subartikel (1) deur die volgende paragraaf:

“(a) ten tye van die doen van die aansoek –

- (i) ’n persoon bedoel in artikel 8(1) van die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994) **[is]** of aangekla is van enige besluitnemings- of krimineel afdwingbare funksie wat met dobbelary of die regulering daarvan verband hou; **[of]**
- (ii) ’n politieke ampsdraer is; of
- (iii) ’n werknemer van ’n munisipaliteit is;”.

**Invoeging van artikel 32A in Wet 8 van 2010**

8. Die volgende artikel word hiermee ingevoeg in die Hoofwet na artikel 32 –

**“Duur van registrasie van werknemers**

**32A (1) ’n Werknemersregistrasiesertifikaat, tensy deur die Raad gekanselleer, is geldig vir ’n tydperk van minstens 36 maande vanaf die uitreikingsdatum.**

**(2) Volgende op die tydperk van 36 maande, bedoel in subartikel (1), is ’n registrasiesertifikaat geldig vir ’n verdere tydperk, wat eindig op die laaste dag van die geregistreerde werknemer se geboortemaand, wat volg op die volgende herdenking van die geregistreerde werknemer se verjaarsdag.**

**(3) Hierdie artikel is van toepassing op alle natuurlike persoon geregistreerdes wat werknemers van lisensiehouers of geregistreerdes is.”.**

**Wysiging van artikel 40 van Wet 8 van 2010**

9. Artikel 40 van die Hoofwet word hiermee gewysig deur die vervanging van subparagraaf (ii) van paragraaf (g) van subartikel (1) deur die volgende subparagraaf:

“(ii) nie in alle belangrike aspekte voldoen aan [**n nasionale norm of standaard**] **’n toepaslike verpligte spesifikasie** of aan ’n norm of standaard wat deur die Raad bepaal word nie; of”.

**Wysiging van artikel 43 van Wet 8 van 2010**

10. Artikel 43 van die Hoofwet word hiermee gewysig –

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

“(1) ’n Lisensiehouer of ’n geregistreerde wat nie ’n werknemer van ’n lisensiehouer of geregistreerde is nie, kan te eniger tyd by die Raad aansoek doen om [**sy of haar**] sodanige lisensie of registrasiesertifikaat na iemand anders te laat oordra en in so ’n geval is die bepalings van artikels 30, 31, 32, 33, 34, 35, 36, 37 en 38 met die nodige veranderinge van toepassing.”; en

(b) deur die vervanging van subartikel (3) deur die volgende subartikel:

“(3) Indien ’n aansoek toegestaan word, moet die Hoof- Uitvoerende Beampte [**die naam van die lisensiehouer toepaslik op die lisensie laat verander**] ’n lisensie of registrasiesertifikaat uitreik, na gelang van die geval, aan die nuwe lisensiehouer van sodanige lisensie of registrasiesertifikaat.”.

**Invoeging van artikel 43A in Wet 8 van 2010**

11. Die volgende artikel word hiermee ingevoeg in die Hoofwet na artikel 43 –

**“Finansiële belange**

43A.(1) Die Raad moet, van tyd tot tyd en stelselmatig, verseker dat persone wat ’n finansiële belang in ’n lisensiehouer of geregistreerde bekom, nie onbevoeg is om sodanige belang te hou nie, uit hoofde van artikel 32 van die Wet.

(2) Vir die doeleindes van hierdie artikel, sluit ’n finansiële belang nie in nie –

(a) ’n indirekte belang gehou in enige fonds of belegging indien die persoon wat so ’n belang hou geen beheer het oor beleggingsbesluite gemaak ten opsigte van daardie fonds of belegging nie; of

(b) enige reg op opgelope inkomste aan ’n persoon ooreenkomstig ’n kontrak vir diensverskaffing of verskaffing van goedere aan ’n lisensiehouer of geregistreerde.

(3) Versuim deur ’n lisensiehouer of ’n geregistreerde om aan die Raad die besonderhede van enige verkryging van ’n finansiële belang van vyf persent of meer in sodanige lisensiehouer of geregistreerde, deur enige persoon, bekend te maak, is ’n misdryf, sodra 30 dae verloop het sedert die lisensiehouer of geregistreerde bevestig het dat sodanige verkryging plaasgevind het, of sou redelikerwys van verwag word om die voorkoms van sodanige verkryging te bevestig: Met dien verstande dat daar verwag word van ’n openbare maatskappy, na die notering van sekuriteite wat op enige beurs verhandel word, om die voorkoms van, en verslaglewering oor, sodanige verkrygings te bevestig slegs elke ses maande nadat die lisensie of registrasiesertifikaat aan sodanige openbare maatskappy uitgereik is.

(4) Waar ’n lisensiehouer of geregistreerde ’n openbare maatskappy is en genoteerde sekuriteite verhandel op enige beurs, bykomend tot die kennisgewing bedoel in subartikel (3), moet sodanige lisensiehouer of geregistreerde gelyktydig ’n opgedateerde sekuriteiteregister by die Raad indien.

(5) Daar word vereis van die verkryger van enige direkte finansiële belang in ’n lisensiehouer of geregistreerde om aan die Raad die besonderhede van sodanige

verkryging openbaar te maak, binne 60 dae vandat sodanige verkryging plaasgevind het, op die wyse soos voorgeskryf deur die Raad.

(6) Die verkryger van 'n finansiële belang van vyf persent of meer in 'n lisensiehouer of geregistreerde van die besigheid waarop die lisensie of registrasie betrekking het, moet aansoek doen om magtiging om sodanige finansiële belang te behou, deur die prosedures en vereistes bedoel in artikels 32, 33, 34, 35, 36, 37 en 38 te volg, wat van toepassing sal wees op die aansoek, met die nodige veranderinge.

(7) Waar die Raad vermoed, op redelike en objektiewe gronde, dat 'n verkryger van 'n finansiële belang van minder as vyf persent in die lisensiehouer of geregistreerde van die besigheid waarop die lisensie of registrasie betrekking het, kan die verkryger onbevoeg verklaar word, ingevolge artikel 32, om sodanige finansiële belang te behou en die Raad kan van sodanige verkryger vereis om aansoek te doen om sodanige finansiële belang te behou deur die prosedures en vereistes te volg soos bedoel in artikels 32, 33, 34, 35, 36, 37 en 38, wat van toepassing sal wees op die aansoek, met die nodige veranderinge.

(8) Vir die doeleindes van hierdie artikel beteken –

“aandelebeurs” wanneer gebruik as 'n selfstandige naamwoord, aandelebeurs soos omskryf in artikel 1 van die Wet op Sekuriteitedienste, 2004 (Wet No. 36 van 2004);

“genoteerde sekuriteite” genoteerde sekuriteite, soos omskryf in artikel 1 van die Wet op Sekuriteitedienste, 2004;

“openbare maatskappy” openbare maatskappy soos omskryf in artikel 1 van die Wet op Sekuriteitedienste, 2004;

“sekuriteite” sekuriteite soos omskryf in artikel 1 van die Wet op Sekuriteitedienste, 2004; en

“sekuriteiteregister” 'n sekuriteiteregister soos omskryf in artikel 1 van die Maatskappywet, 2008 (Wet No. 71 van 2008);”.

**Wysiging van artikel 44 van Wet 8 van 2010**

12. Artikel 44 van die Hoofwet word hiermee gewysig –

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

“(1) 'n Lisensiehouer of geregistreerde kan te eniger tyd aansoek doen om goedkeuring vir die hervestiging [verskuiwing], hetsy permanent of tydelik, van **[sy of haar]** die besigheidsbedrywe van sodanige lisensiehouer of geregistreerde, vanaf die perseel wat in die lisensie of registrasiesertifikaat vermeld word, na 'n ander perseel.”; en

(b) deur die invoeging na subartikel (3) van die volgende nuwe subartikels:

“(4) Die Raad moet prosedures voorskryf wat gevolg moet word by die aansoek doen om goedkeuring, soos bedoel in subartikel (1).

(5) 'n Aansoek, soos bedoel in subartikel (1), moet vergesel gaan van die fooi voorgeskryf in Bylae 2.”.

**Wysiging van artikel 53 van Wet 8 van 2010**

13. Artikel 53 van die Hoofwet word hiermee gewysig deur die skraping van subartikels (4) en (5).

**Herroeping van artikel 54 van Wet 8 van 2010**

14. Artikel 54 van die Hoofwet word hiermee geskrap.

**Wysiging van artikel 55 van Wet 8 van 2010**

15. Artikel 55 van die Hoofwet word hiermee gewysig –

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

“(1) Geen persoon mag 'n perseel in stand hou waar casinodobbemasjiene, elektroniese bingoterminale of beperkte uitbetaalmasjiene gespeel word nie, tensy **[hy of sy]** sodanige persoon in besit is van 'n toepaslike geldige **[casino]**lisensie, bingolisensie, **[onafhanklike perseeloperateurslisensie of 'n perseeloperateurslisensie]** uitgereik ingevolge hierdie Wet.”; en

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



“(2) Geen persoon mag [–

(a) **casinodobbelmasjiene of beperkte uitbetaalmasjiene beskikbaar stel vir gebruik in enige gelisensieerde perseel nie;**

(b) **die gereelde instandhouding of die herstel, vervanging of opknapping van ’n casinodobbelmasjien of beperkte uitbetaalmasjiene in sodanige perseel onderneem nie;] die regte uitoefen van, of**

**[(c)] enige [ander] voorgeskrewe aktiwiteite van ’n [roete-operateur bedryf nie, tensy hy of sy in besit is van ’n casinolisensie, roete-operateurslisensie, perseeloperateurslisensie of onafhanklike perseeloperateurslisensie] lisensiehouer bedryf nie, tensy sodanige persoon in besit is van ’n toepaslike lisensie uitgereik ingevolge hierdie Wet.”.**

#### **Wysiging van artikel 56 van Wet 8 van 2010**

16. Artikel 56 van die Hoofwet word hiermee gewysig deur die skapping van subartikels (4) en (5).

#### **Wysiging van artikel 59 van Wet 8 van 2010**

17. Artikel 59 van die Hoofwet word hiermee gewysig deur die vervanging van paragraaf (a) deur die volgende paragraaf:

“(a) van ’n tipe en model is wat nie voldoen aan [**n nasionale norm of standaard**] in toepaslike verpligte spesifikasie of, indien daar geen [**nasionale norm of standaard**] toepaslike verpligte spesifikasie is nie, nie voldoen aan ’n norm [**en**] of standaard wat deur die Raad bepaal is nie;”.

#### **Wysiging van artikel 62 van Wet 8 van 2010**

18. Artikel 62 van die Hoofwet word hiermee gewysig –

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

“(d) [**standaarde en**] vereistes met betrekking tot die casinodobbeltoerusting wat in ’n bingosaal geplaas, gebruik en bedryf word;”;

(b) deur die skapping van subartikels (4) en (5).”.

**Wysiging van artikel 69 van Wet 8 van 2010**

19. Artikel 69 van die Hoofwet word hiermee gewysig –

- (a) deur die invoeging van die woord “of” na paragraaf (d); en
- (b) deur die invoeging na paragraaf (d) van die volgende nuwe paragraaf:  
“(e) die registrasie word betaalbaar vir hernuwing ingevolge artikel 32A.”.

**Wysiging van artikel 77 van Wet 8 van 2010**

20. Artikel 77 van die Hoofwet word hiermee gewysig –

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

“(1) Alle persone wat gelisensieer is ingevolge hierdie Wet moet [, **kragtens artikel 129,** die belasting aan die [Provinsiale Inkomstefonds] Raad betaal, op die voorgeskrewe wyse, wat opgelê is ingevolge die KwaZulu-Natal Belastingwet op Dobbelary en Weddery, 2010[.], en 'n belastingopgawe moet, op die voorgeskrewe wyse, terselfdertyd ingedien word by die Raad.”; en

- (b) deur die invoeging na subartikel (2) van die volgende nuwe subartikels:

“(3) Die Raad moet enige voorgeskrewe verdeling van 'n deel van die belasting ontvang teweegbring, soos voorgeskryf deur die KwaZulu-Natal Wet op Dobbelary en Weddery, 2010, en moet daarna die balans van die belasting ontvang aan die Provinsiale Inkomstefonds betaal op die voorgeskrewe wyse: Met dien verstande dat die betaling van belasting aan die Provinsiale Inkomstefonds gemaak moet word, nie later nie as 20 dae na die einde van elke kalendermaand.

“(4) Op dieselfde tyd wat die Raad die betaling van belasting aan die Provinsiale Inkomstefonds maak, ingevolge subartikel (3), moet die Raad beide die Provinsiale Tesourie en die verantwoordelike Lid van die Uitvoerende Raad voorsien van 'n breedvoerige verslag, op die voorgeskrewe wyse, ten opsigte van belasting ontvang en verdeel deur die Raad.”.

**Wysiging van artikel 78 van Wet 8 van 2010**

21. Artikel 78 van die Hoofwet word hiermee gewysig deur die vervanging van subartikel (2) deur die volgende subartikel:

“(2) Indien ’n lisensie ingevolge hierdie artikel opgeskort word, word die aktiwiteit wat deur die lisensie gemagtig word, **[ook opgeskort]** gestaak: Met dien verstande dat staking van die vermelde aktiwiteit slegs deur die Raad afdwingbaar is 24 uur nadat ’n lisensiehouer of geregistreerde, skriftelik, deur die Raad in kennis gestel is van die versuim om te betaal en sodanige lisensiehouer of geregistreerde het, daarna, versuim om die fooi, belasting of heffing te betaal, tesame met die voorgeskrewe boete, voor die verstryking van die 24-uur tydperk.”.

#### **Wysiging van artikel 89 van Wet 8 van 2010**

22. Artikel 89 van die Hoofwet word hiermee gewysig –

(a) deur die vervanging van paragraaf (c) van subartikel (3) deur die volgende paragraaf:

“(c) tensy die Raad met die Perdewedrenowerheid of Perdedrafsport Suid-Afrika, soos toepaslik, [gelisensieer ingevolge die Nasionale Dobbeltwet] oorleg gepleeg het en skriftelike bewys **[van hom]** ontvang het dat **[die renbaan of]** enige [renbane] renbaan wat in die lisensie vermeld moet word aan die reëls en enige ander vereistes van die **[voornoemde]** toepaslike owerheid voldoen;”;

(b) deur die vervanging van subartikel (8) deur die volgende subartikel:

“(8) Alle wedrenbyeenkomste wat op ’n renbaan of renbane gehou word wat in ’n renbaanoperateurslisensie vermeld word, moet bedryf word kragtens en ingevolge die grondwet, reëls en regulasies van die Nasionale Perdewedrenowerheid of van Perdedrafsport Suid-Afrika, waar toepaslik.”.

#### **Herroeping van artikel 90 van Wet 8 van 2010**

23. Artikel 90 van die Hoofwet word hiermee geskrap.

#### **Wysiging van artikel 91 van Wet 8 van 2010**

24. Artikel 91 van die Hoofwet word hiermee gewysig deur die vervanging van subartikel (1) deur die volgende subartikel:

“(1) Tensy dit ingevolge subartikel (2) hernuwe word, verstryk die lisensie wat ingevolge artikel 89(1) uitgereik is, op die een-en-dertigste dag van **[Desember]** Maart van die finansiële jaar van die Raad ten opsigte waarvan **[dit]** sodanige lisensie uitgereik of

hernuwe is: Met dien verstande dat, vir die doeleindes van hierdie artikel, die finansiële jaar van die Raad duur vir die tydperk van 1 April tot 31 Maart.”.

#### **Wysiging van artikel 94 van Wet 8 van 2010**

25. Artikel 94 van die Hoofwet word hiermee gewysig –

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

“(4) ’n Beroepswedderslisensie kan uitgereik word aan ’n enkel natuurlike persoon, aan twee of meer natuurlike persone wat die besigheid bedryf ingevolge ’n vennootskapsooreenkoms, of ’n enkel korporatiewe liggaam.”; en

(b) deur die vervanging van subartikel (7) deur die volgende subartikel:

“(7) Tensy dit vroeër ingevolge artikel 99 gekanselleer is, verstryk ’n beroepswedderslisensie op die een-en-dertigste dag van [**Desember**] **Maart** van die finansiële jaar van die Raad ten opsigte [waarvoor] waarvan dit uitgereik is, maar kan van jaar tot jaar na goeddunke van die Raad op die voorgeskrewe wyse hernuwe word en by betaling van die lisensiegeld soos voorgeskryf in bylae 2[.]: Met dien verstande dat, vir die doeleindes van hierdie artikel, die finansiële jaar van die Raad duur vir die tydperk van 1 April tot 31 Maart.”.

#### **Herroeping van artikel 97 van Wet 8 van 2010**

26. Artikel 97 van die Hoofwet word hiermee geskrap.

#### **Herroeping van artikel 98 van Wet 8 van 2010**

27. Artikel 98 van die Hoofwet word hiermee geskrap.

#### **Herroeping van artikel 106 van Wet 8 van 2010**

28. Artikel 106 van die Hoofwet word hiermee geskrap.

#### **Wysiging van artikel 111 van Wet 8 van 2010**

29. Artikel 111 van die Hoofwet word hiermee gewysig deur die invoeging na subartikel (5) van

die volgende nuwe subartikels:

“(6) Die Raad kan bepaal, deur skriftelike kennisgewing aan die betrokke totalisator, en nadat die pligte en werksaamhede van ’n werknemer van die betrokke totalisatoroperateur ondersoek is, dat registrasie van sodanige werknemer as ’n totalisatorbestuurder vereis word.

(7) Die Raad kan reëls maak wat die registrasie van ander werknemers van ’n totalisatoroperateur, wat nie as totalisatorbestuurders geregistreer is nie, reguleer.”.

#### **Herroeping van artikel 120 van Wet 8 van 2010**

30. Artikel 120 van die Hoofwet word hiermee geskrap.

#### **Herroeping van artikel 121 van Wet 8 van 2010**

31. Artikel 121 van die Hoofwet word hiermee geskrap.

#### **Wysiging van artikel 123 van Wet 8 van 2010**

32. Artikel 123 van die Hoofwet word hiermee gewysig –

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

“(1) ’n Persoon wat ingevolge artikel 94 of 110 gelisensieer is, mag nie, met die doel om weddenskappe en wedtransaksies op te teken, enige gerekenariseerde boekhoustelsel of enige verandering aan ’n goedgekeurde gerekenariseerde boekhoustelsel gebruik nie, tensy sodanige stelsel of verandering daaraan [deur die Raad goedgekeur en deur die SABS gesertifiseer is.] in ooreenstemming is met ’n toepaslike verpligte spesifikasie en die Raad het sodanige gerekenariseerde boekhoustelsel, of wysiging daaraan met ’n magtigingsbrief-sertifikaat, afsonderlik goedgekeur. Waar daar geen toepaslike verpligte spesifikasie is nie, moet sodanige boekhoustelsel ooreenstem met ’n norm of standaard vir gerekenariseerde boekhoustelsels, soos bepaal deur die Raad.”;

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

“(2) Enige persoon wat ’n gerekenariseerde boekhoustelsel [of enige verandering aan ’n goedgekeurde gerekenariseerde boekhoustelsel] wil ontwikkel of

vervaardig of gerekenariseerde boekhoustelsel wil wysig, of aan 'n persoon wat ingevolge artikel 94 of 110 gelisensieer is, wil verskaf, moet by die Raad op die wyse deur die Raad voorgeskryf, aansoek doen om goedkeuring en registrasie van sodanige stelsel of verandering daaraan, en sodanige aansoek moet vergesel gaan van die betrokke aansoek- en ondersoekgeld wat in bylae 2 voorgeskryf word, welke gelde aan die Raad betaalbaar is.”;

(c) deur die vervanging van subartikel (3) deur die volgende subartikel:

“(3) Die Raad kan –

(a) 'n gerekenariseerde boekhoustelsel of verandering daaraan voorwaardelik of onvoorwaardelik goedkeur of dit verwerp; of

(b) 'n aansoek na die vervaardiger of verskaffer daarvan terugverwys vir die indiening van verdere inligting.”;

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

“(4) Die Raad kan vereis dat 'n persoon wat gelisensieer is kragtens artikel 94 of 110 elektroniese kommunikasie daarstel tussen sodanige moniteringstelsel [as wat die Raad bepaal] en die goedgekeurde gerekenariseerde boekhoustelsel wat gebruik word deur sodanige persoon, soos bepaal deur die Raad. [moet koppel]”; en

(e) deur die invoeging na subartikel (4) van die volgende subartikel:

“(5) Die Raad moet 'n opgedateerde register byhou, wat elektronies toeganklik moet wees vir elke houer van 'n beroepswedderslisensie, teen geen koste nie, en wat, ten opsigte van elke gerekenariseerde boekhoustelsel en elke weergawe van 'n gerekenariseerde boekhoustelsel goedgekeur deur die Raad –

(a) die identifikasienommer van elke huidiglik goedgekeurde weergawe van die gerekenariseerde boekhoustelsel; en

(b) die datum van goedkeuring van sodanige weergawe, moet spesifiseer.”.

### **Wysiging van artikel 125 van Wet 8 van 2010**

33. Artikel 125 van die Hoofwet word hiermee gewysig deur die vervanging van artikel 125 deur die volgende artikel:

#### **“Middellike verantwoordelikheid**

125. 'n Totalisatorlisensiehouer of beroepswedder, met betrekking tot die aktiwiteite gemagtig deur die betrokke lisensie, is middellik verantwoordelik vir die doen en late van

die werknemers van sodanige totalisatorlisensiehouer of beroepswedder.”.

#### **Wysiging van artikel 128 van Wet 8 van 2010**

34. Artikel 128 van die Hoofwet word hiermee gewysig deur die vervanging van subartikel (1) deur die volgende subartikel:

“(1) ’n Beroepsweddersonderneming moet van die bedrag wat ’n wedder wen, uitgesonderd die bedrag wat deur die wedder gewaag is, die belasting en aftrekkings soos bepaal in die KwaZulu-Natal Belastingwet op Dobbelary en Weddery, 2010, aftrek en sodanige gelde aan die Raad ooreenkomstig die bepalings van artikel **[129] 77** betaal.”.

#### **Wysiging van artikel 137 van Wet 8 van 2010**

35. Artikel 137 van die Hoofwet word hiermee gewysig –

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

**“137. [Perdewedren- en Weddenskaptransformasiefonds]Transformasiefonds**

(1) Daar word hierby ’n fonds, wat as die **[Perdewedren- en Weddenskaptransformasiefonds]Transformasiefonds** bekend staan, ingestel.”;

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

“(2) Enige fondse wat bestem is vir die ontwikkeling van sport en wat in trust gehou word deur die komitee bedoel in artikel 21A van die Ordonnansie op die Regulering van Wedrenne en Weddery, 1957 (Ordonnansie No. 28 van 1957) moet op die dag waarop hierdie Wet in werking tree, in die **[Perdewedren- en Weddenskaptransformasiefonds]Transformasiefonds**, wat kragtens hierdie artikel ingestel word, gestort word.”;

(c) deur die vervanging van subartikel (3) deur die volgende subartikel:

“(3) Die verantwoordelike Lid van die Uitvoerende Raad kan uit gelde wat deur die Provinsiale Wetgewer vir hierdie doel bewillig word en behoudens sodanige voorwaardes wat hy of sy oplê, toekennings aan die **[Perdewedren- en Weddenskaptransformasiefonds]Transformasiefonds** doen.”;

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

“(4) Die bates van die **[Perdewedren- en Weddenskaptransformasiefonds]Transformasiefonds** moet, behoudens die voorafgaande goedkeuring van die verantwoordelike Lid van die Uitvoerende Raad,

gebruik word vir die doeleindes van die verwesenliking van die oogmerke van die Raad bedoel in artikel 6(1)(c), (d) en (e).”;

(e) deur die vervanging van subartikel (5) deur die volgende subartikel:

“(5) Die Raad moet ’n afsonderlike bank- of spaarrekening by ’n bankinstelling of bouvereniging in KwaZulu-Natal open en in stand hou en alle gelde wat aan die **[Perdewedren- en Weddenskaptransformasiefonds]Transformasiefonds** uit enige bron toeval, daarin deponeer.”;

(f) deur die vervanging van subartikel (6) deur die volgende subartikel:

“(6) Die rente op gelde wat ingevolge subartikel (3) en (4) gedeponeer word, val aan die **[Perdewedren- en Weddenskaptransformasiefonds]Transformasiefonds** toe.”;

(g) deur die vervanging van subartikel (7) deur die volgende subartikel:

“(7) Die Raad moet afsonderlike en behoorlike rekenkundige rekords hou ten opsigte van **[Perdewedren- en Weddenskaptransformasiefonds]Transformasiefonds** wat besonderhede bevat van enige gelde of rente op gelde ontvang en enige gelde betaal.”;

(h) deur die vervanging van subartikel (8) deur die volgende subartikel:

“(8) Geen bedrag wat tot die krediet van die **[Perdewedren- en Weddenskaptransformasiefonds]Transformasiefonds** staan, mag beskou word as ’n deel uit te maak van die bates van die Raad nie en mag ook nie namens ’n krediteur of krediteure van die Raad beslag op gelê word nie.”; en

(i) deur die vervanging van subartikel (9) deur die volgende subartikel:

“(9) Die rekenkundige en ander verbandhoudende rekords van die **[Perdewedren- en Weddenskaptransformasiefonds]Transformasiefonds** moet op koste van die Raad deur die Ouditeur-generaal geouditeer word.”.

#### Kort titel

36. Hierdie Wet word die KwaZulu-Natal Wysigingswet op Dobbelay en Weddery, 2013, genoem.



**MEMORANDUM  
OOR DIE OOGMERKE  
VAN DIE  
KWAZULU-NATAL WYSIGINGSWETSONTWERP OP DOBBELARY EN WEDDERY**

**1. AGTERGROND**

Die hoofmotivering vir wysiging van die onlangs gepromulgeerde KwaZulu-Natal Wet op Dobbelary en Weddery, 2010, (hierna “die Wet”), is ten einde die gedeeltes van die Wet, waarom huidige regsgedinge draai, reg te stel of verstewig, of ten opsigte waarvan die bedreiging van regsgedinge bestaan. Die hoofbedreigings spruit voort uit die bingobepalings in die Wet en uit teenstrydige interpretasies van die bepalings van die Wet wat handel oor die verkryging van ’n finansiële belang in ’n dobbellisensiehouer.

Daar is verskeie ander voorgestelde wysigings met betrekking tot nóg verkryging van ’n belang in ’n lisensiehouer nóg bingo wat, nietemin, ook in die Wetsontwerp vervat is. ’n Beduidende proporsie van hierdie voorstelle is afkomstig vanaf die KwaZulu-Natal Dobbelary en Wedderyraad (“die Raad”), talle met hul oorsprong in die Hoofdirektoraat: Dobbelary en Weddery en steeds word ander versoek deur die dobbelarybedryf.

**2. KLOUSULE VIR KLOUSULE VERDUIDELIKING**

Ter opsomming, die Wysigingswetsontwerp maak voorsiening soos volg –

**Klousule 1: Wysigings tot artikel 1 (omskrywings)**

- (a) Wysigings tot die omskrywing van “bingo” en tot ander bingoverwante omskrywings word voorgestel. Die doel is om die bingobepalings te versterk teen die bedreiging van regsgedinge ingestel teen die bingoedryf (en teen die Raad en die Premier).
- (b) Die omskrywing van “Perdewedren- en Weddenskaptransformasiefonds” word geskrap en die nuwe omskrywing “Transformasiefonds” word ingevoeg. Hierdie wysigings is gekoppel aan die wysigings gemaak aan artikel 137 wat teenswoordig handel oor die “Perdewedren- en Weddenskaptransformasiefonds”.
- (c) ’n Aantal nuwe omskrywings is ingevoeg ten einde die bepalings van die Wet, ten opsigte van die stelsel van verpligte standarde (SABS standarde) van toepassing te maak op dobbeltoerusting, in berigting te bring met Nasionale wetgewing wat handel oor verpligte standarde (Wet op Nasionale Reguleerder vir Verpligte Spesifikasies, 2008 (Wet No. 5 van 2008)).

(d) 'n Aantal omskrywings wat impliseer dat die "persoon" waarna verwys word slegs 'n "natuurlike persoon" is, is gewysig ten einde dit duidelik te maak dat daar na beide regs- en natuurlike persone verwys word deur gebruik van die woord "persoon".

(e) As gevolg van die feit dat tuigwedrenne (andersins bekend as "drafstap" of "sulkieresies" en die gebruik van 'n standaardgeteelde perd) besig is om gevestig te raak in die Provinsie, moet omskrywings gewysig en/of bygevoeg word ten einde onderskeid te tref tussen volbloedperdewedrenne en tuigwedrenne.

(f) Die omskrywing "totalisatoragent" word gewysig en die omskrywing van "totalisatoragentskap" word bygevoeg, ter verbetering van die duidelikheid van die bepaling in die Wet wat poog om totalisators te reguleer.

#### **Klousule 2: Wysiging van artikel 6**

Hierdie wysigings is eerstens ontwerp om die impak op, en die toepassing van, die artikel oor die "perdewedren en wedderybedryf" te verander tot slegs 'n breër impak op, en toepassing van, die artikel oor die "dobbelrybedryf van die Provinsie". Laastens word suiwer tegniese wysigings gemaak aan subartikel (3) van artikel 6.

#### **Klousule 3: Wysiging van artikel 7**

Paragraaf (q) van subartikel (2) van artikel 7 word gewysig ten einde beroepswedders en totalisatoroperateurs toe te laat om tydelik hul werksaamhede te bedryf vanaf enige potensiële plek anders as hul goedgekeurde perseel. Huidiglik word hulle slegs potensieel toegelaat om tydelik werksaam te wees vanaf die plek van 'n sport- of ander gebeurtenis.

Subparagraaf (g)(iii) van subartikel (3) van artikel 7 word gewysig ten einde berig te wees met die terminologie wat in die Wet op Nasionale Reguleerder vir Verpligte Spesifikasies, 2008, gebruik is.

#### **Klousule 4: Wysiging van artikel 9**

Artikel 9 handel oor onbevoegdheid om tot die Raad aangestel te word. Hierdie wysiging brei die onbevoegdheid uit tot persone wat, ten tye van die aanstelling, of tydens die voorafgaande 12 maande, werknemers van 'n munisipaliteit was.

#### **Klousule 5: Wysiging van artikel 10**

Paragraaf (b) van subartikel (3) verwyder verwysing na die aflê van eed deur 'n benoemde vir

aanstelling op die Raad, waarby die benoemde volledige besonderhede van enige skuldigbevinding moet verklaar. Dit is omdat die Lid van die Uitvoerende Raad verantwoordelik vir Dobbelary, kragtens die 2010 wetgewing, nie langer oor die bevoegdheid beskik om 'n benoemde aan te stel onder sekere omstandighede nie, ten spyte daarvan dat die benoemde andersins onbevoeg verklaar is.

**Klousule 6: Wysiging van artikel 30**

Nuwe subartikels 8, 9 en 10 verduidelik die Raad se bevoegdheid met betrekking tot die oplegging van voorwaardes van lisensie of registrasie.

**Klousule 7: Wysiging van artikel 32**

Artikel 32 handel oor onbevoegdheid vir lisensie of registrasie. Hierdie wysiging brei die onbevoegdhede uit tot persone wat, ten tye van die aanstelling, of gedurende die voorafgaande 12 maande, 'n werknemer van 'n munisipaliteit was.

**Klousule 8: Invoeging van artikel 32A in Wet 8 van 2010**

Hierdie nuwe artikel handel oor die duur van registrasie van natuurlike persoon werknemers. Huidiglik vereis werknemerregistrasies nie jaarlikse hernuwing nie, maar die nuwe klousule maak voorsiening vir hernuwing elke drie jaar, wat volg op die datum van uitreiking.

**Klousule 9: Wysiging van artikel 40**

Die wysiging (saam met ander in die Wetsontwerp) berig die Wet met die terminologie gebruik en die prosedures voorsien voor in die Wet op Nasionale Reguleerder vir Verpligte Spesifikasies, 2008.

**Klousule 10: Wysiging van artikel 43**

Hierdie klousule wysig artikel 43 deur die vervanging van subartikel (1) deur 'n nuwe subartikel wat dit duidelik maak dat lisensiehouers of geregistreerdes wat natuurlike persoon werknemers of dobbeloperateurs is, nie sodanige lisensie of registrasie kan oordra aan 'n ander natuurlike persoon nie.

Subartikel (3) word gewysig om die duidelikheid van betekenis te verbeter.

**Klousule 11: Invoeging van artikel 43A in Wet 8 van 2010**

Artikel 54, wat handel oor persone wat 'n finansiële belang verkry in 'n lisensiehouer of geregistreerde, sal herroep en vervang word deur die nuwe artikel 43A, wat ook sal handel oor persone wat 'n finansiële belang verkry in 'n lisensiehouer of geregistreerde. Huidige regsgedinge draai om die interpretasie van artikel 54. Eerstens, artikel 54 word aangetref in die hoofstuk oor casinos, wat impliseer dat dit op slegs casinos van toepassing is. Vir hierdie rede word die bepaling verskuif na 'n hoofstuk van die Wet wat van toepassing is op alle lisensiehouers en geregistreerdes. Bowendien word die bepaling, in sy huidige vorm, beskou, in die algemeen, as onvoldoende en onprakties.

**Klousule 12: Wysiging van artikel 44**

Subartikel (1) van artikel 44 word gewysig, eerstens, ten einde verwysing na geregistreerdes in te sluit en, tweedens, om die duidelikheid van die betekenis te verbeter.

Nuwe subartikels (3) en (4) word bygevoeg ten einde die Raad te bemagtig om die prosedures voor te skryf wat gevolg moet word by aansoek doen om goedkeuring van die hervestiging van die sakebedrywighede van 'n lisensiehouer of geregistreerde, vanaf een stel persele na 'n ander, en om voorsiening te maak vir die heffing van 'n fooi vir sodanige aansoeke.

**Klousule 13: Wysiging van artikel 53**

Subartikels (4) en (5) van artikel 53 word geskrap. Hierdie bepalings handel oor die wysiging, vervanging of herroeping van voorwaardes vir 'n casinolisensie. Die bepalings is oorbodig omrede die wysiging, vervanging of herroeping van voorwaardes vir alle lisensiestipes mee gehandel word in die algemene hoofstuk van die Wet wat handel oor lisensiëring en registrasie (Hoofstuk 5).

**Klousule 14: Herroeping van artikel 54**

Artikel 54 handel oor die verkryging van 'n beherende belang of 'n finansiële belang in 'n casinolisensiehouer en word vervang deur die nuwe artikel 43A, wat van toepassing is op alle lisensiehouers en geregistreerdes.

**Klousule 15: Wysiging van artikel 55**

Subartikel (1) word gewysig deur die insluiting van verwysing na "elektroniese bingoterminalle" en ander invoegings en skrapings om dit duideliker te maak wat die bepaling bedoel is om in te sluit en te reguleer.

Subartikel (2) word gewysig vir vereenvoudiging en daardeur die duidelikheid van die betekenis aansienlik te verbeter.

**Klousule 16: Wysiging van artikel 57**

Artikel 57 van die Wet word hiermee gewysig deur die skapping van subartikels (4) en (5), wat oorbodig is, weens die voorgestelde wysigings aan artikel 30 van die Wet wat handel oor lisensievoorwaardes op 'n algemene wyse, dit wil sê die gewysigde artikel is van toepassing op alle lisensietipes.

**Klousule 17: Wysiging van artikel 59**

Paragraaf (a) van artikel 59 word gewysig ten einde berig te wees met die terminologie van die Wet op Nasionale Reguleerder vir Verpligte Spesifikasies, 2008.

**Klousule 18: Wysiging van artikel 62**

Paragraaf (d) van subartikel (1) word hiermee gewysig deur die verwydering van die woorde “standaarde en”, ten einde in berigting te wees met die bepalings van die Wet op Nasionale Reguleerder vir Verpligte Spesifikasies, 2008.

Die skapping van subartikels (4) en (5), aangesien hierdie bepalings oorbodig is omrede die wysiging, vervanging of herroeping van voorwaardes van alle lisensietipes behandel word in die algemene hoofstuk van die Wet wat handel oor lisensiering en registrasie (Hoofstuk 5).

**Klousule 19: Wysiging van artikel 69**

Klousule 69 word gewysig deur die invoeging na subparagraaf (d) van 'n nuwe subparagraaf (e), wat verklaar dat “die registrasie val om hernu te word ingevolge artikel 32A.” Die belangrikheid hiervan is dat terwyl, teenswoordig, die duur van registrasie van sekere werknemers hoofsaaklik onbepaald is, met uitsondering van die ontstaan van sekere omstandighede, beperk die voorgestelde nuwe artikel 32A die registrasietydperk vir sodanige werknemers tot tussen 36 tot 48 maande, afhangend van die datum waarop die herdenking van die werknemer se verjaardsdag val.

**Klousule 20: Wysiging van artikel 77**

Subartikel (1) van artikel 77 word gewysig ten einde te vereis dat alle dobbeloperateurs

belasting in 'n rekening van die Raad inbetaal, in teenstelling met die huidige situasie waarby sommige dobbeloperateurs verplig is om belasting direk in die Provinsiale Inkomstefonds te betaal.

Artikel 77 word gewysig deur die invoeging van 'n nuwe subartikel (3), wat vereis dat die Raad 'n gedeelte van die belasting wat ontvang word versprei, soos voorgeskryf, en dat die Raad daarna die balans van die belasting in die Provinsiale Inkomstefonds inbetaal, nie later nie as 20 dae na die einde van elke kalendermaand.

'n Nuwe subartikel (3) word ingevoeg en vereis van die Raad om aan beide die Provinsiale Tesourie en die verantwoordelike Lid van die Uitvoerende Raad 'n breedvoerige verslag betreffende belasting deur die Raad ontvang en versprei, te voorsien.

#### **Klousule 21: Wysiging van artikel 78**

Klousule (2) van artikel 78 word gewysig deur die byvoeging van 'n bepaling wat hoofsaaklik uitwerking gee daaraan dat 'n lisensiehouer nou kennis gegee word voor die opskorting van 'n lisensie vir die versuim van betaling van 'n fooi, belasting of heffing, terwyl die bedoeling, teenswoordig, is dat die opskorting van lisensie vir die versuim van betaling van 'n fooi, belasting of heffing onmiddelik van krag moet wees.

#### **Klousule 22: Wysiging van artikel 89**

Paragraaf (c) van subartikel (3) van artikel 89 word hiermee gewysig om verwysing na Perdedrafsport Suid-Afrika in te sluit, bykomend tot die Nasionale Perdewedrenowerheid. Dit is die gelisensieerde renbaanoperateurs, onderskeidelik vir tuigwedrenne en volbloedwedrenne (twee vorme van professionele perdewedrenne).

Subartikel (8) word ook gewysig vir die doel om verwysing na Perdedrafsport Suid-Afrika in te sluit, bykomend tot die Nasionale Perdewedrenowerheid.

#### **Klousule 23: Herroeping van artikel 90**

Artikel 90, wat handel oor die verkryging van 'n belang in 'n renbaanoperateur word herroep ten einde 'n interne konflik te vermy omrede die nuwe artikel 43A handel oor die verkryging van 'n finansiële belang in alle lisensiehouers en geregistreerdes.

**Klousule 24: Wysiging van artikel 91**

Artikel 91 word gewysig ten einde die lisensiehernuwingstydperk vir renbaanoperateurs te berig met die van ander lisensietipes.

**Klousule 25: Wysiging van artikel 94**

Artikel 94 word gewysig, eerstens, ten einde die soorte persone wat 'n beroepswedderslisensie kan hou te verduidelik en tweedens, om die lisensiehernuwingstydperk vir beroepswedders te berig met die van ander lisensietipes.

**Klousule 26: Herroeping van artikel 97**

Artikel 97 word geskrap ten einde potensiële interne konflik op te los met ander bepalings van die Wet, wat ook handel oor verandering in eienaarskap van 'n lisensie, want hierdie bepalings handel oor verandering van eienaarskap op 'n wyse bedoel om op toepassing te wees op alle lisensietipes.

**Klousule 27: Herroeping van artikel 98**

Artikel 98 word geskrap ten einde potensiële interne konflik op te los tussen ander bepalings van die Wet wat ook handel oor verandering in direkteure van 'n maatskappy wat 'n lisensie besit, omrede hierdie bepalings handel oor sodanige veranderinge op 'n wyse bedoel om van toepassing te wees op alle lisensietipes.

**Klousule 28: Herroeping van artikel 106**

Artikel 106 word geskrap ten einde potensiële interne konflik op te los tussen ander bepalings van die Wet wat ook handel oor die registrasie van persone omrede hierdie bepalings handel oor registrasies op 'n wyse bedoel om op toepassing te wees op alle tipes van registrasie.

**Klousule 29: Wysiging van artikel 111**

Die wysiging van artikel 111 is bedoel om bykomende bevoegdhede aan die Raad te verleen in die hantering van die aanstelling en registrasie van totalisatorsoperateurs, totalisatorbestuurders en totalisatoragente, in berigting met die Raad se bestaande bevoegdhede met betrekking tot beroepsweddersbestuurders.

**Klousule 30: Herroeping van artikel 120**

Die herroeping van artikel 120 is bedoel om potensiële konflik te vermy tussen die voorgestelde

wysigings van artikel 44, wat handel oor die hervestiging van die sakebedrywe van 'n lisensiehouer of registreerde, van een stel persele na 'n ander, op 'n wyse bedoel om van toepassing te wees op alle lisensie- en registrasietipes.

**Klousule 31: Herroeping van artikel 121**

Die herroeping van artikel 121 is bedoel om potensiële konflik te vermy tussen die voorgestelde wysigings van artikel 44, wat handel oor die hervestiging van die sakebedrywe van 'n lisensiehouer of registreerde (ingesluit 'n tydelike hervestiging), vanaf een stel persele na ander, op 'n wyse bedoel om van toepassing te wees op alle lisensie- en registrasiesoorte.

**Klousule 32: Wysiging van artikel 123**

Subartikel (1) van artikel 123 word gewysig ten einde berig te wees met die terminologie gebruik in die Wet op Nasionale Reguleerder vir Verpligte Spesifikasies, 2008.

Subartikels (2), (3) en (4) van artikel 123 word gewysig ten einde duidelikheid oor die begrip van hierdie bepalings te verbeter.

'n Nuwe subartikel (5) word ingevoeg ten einde te verduidelik dat 'n goedgekeurde weergawe van 'n gerekenariseerde boekhoustelsel nie ophou om 'n goedgekeurde weergawe van 'n gerekenariseerde boekhoustelsel te wees nie, wanneer 'n nuwe weergawe van sodanige stelsel ontwikkel en goedgekeur word. Die nuwe bepaling dien ook as 'n vereiste wat op die Raad geplaas word om 'n opgedateerde register van alle goedgekeurde gerekenariseerde boekhoustelsels, insluitend elke goedgekeurde weergawe van 'n goedgekeurde gerekenariseerde boekhoustelsel, in stand te hou.

**Klousule 33: Wysiging van artikel 125**

Die wysiging van artikel 125 beperk middellike verantwoordelikheid van 'n totalisatorlisensiehouer of beroepswedder vir die handelinge en weglatings van die werknemers van sodanige totalisatorlisensiehouer of beroepswedder, tot handelinge en weglatings verwant aan die aktiwiteite bemaagtig deur die betrokke lisensie.

**Klousule 34: Wysiging van artikel 128**

Die wysiging van artikel 128 verander 'n kruisverwysing van artikel 129 na artikel 77, 'n wysiging wat voortvloeiend is uit die wysigings gemaak aan artikels 77 en 129.



**Klousule 35: Wysiging van artikel 137**

Artikel 137 word gewysig deur die vervanging van die frase “**Perdewedren- en Weddenskaptransformasiefonds**”, waar ook al dit voorkom in die artikel, met die woord “**Transformasiefonds**”. Hierdie wysigings is gekoppel aan die wysigings wat aan die omskrywings gemaak is: die omskrywing van “Perdewedren- en Weddenskapstransformasiefonds” word geskrap en ’n nuwe omskrywing van “Transformasiefonds” word ingevoeg.

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

Geen onbehoorlike organisatoriese en personeelimplikasies word voorsien nie.

**4. FINANSIËLE IMPLIKASIES VIR PROVINSIALE REGERING**

Geen onbehoorlike finansiële implikasies word voorsien nie.

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

Die Wetsontwerp is opgestel in oorlegpleging met –

5.1 Die KwaZulu-Natal Raad op Dobbelary en Weddery; en

5.2 Die KwaZulu-Natal Dobbelarybedryf.

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

Naam: Mnr NS Mutheiwana  
Posisie: Algemene Bestuurder: Dobbelary en Weddery  
Telefoonnommer: (033) 395 2640  
Faksnommer: (033) 342 4913  
Selfoonnommer: 082 562 8070  
e-pos: [ndanduleni.mutheiwana@kznpremier.gov.za](mailto:ndanduleni.mutheiwana@kznpremier.gov.za)

**6.2 Kantoor van die Premier**

Naam: Mnr BR Wilkinson  
Posisie: Adjunkbestuurder: Dobbelary en Weddery  
Telefoonnommer: (033) 395 2849  
Faksnommer: (033) 342 4913  
Selfoonnommer: 082 853 6774  
e-pos: [barry.wilkinson@kznpremier.gov.za](mailto:barry.wilkinson@kznpremier.gov.za)

No. 4

13 kuNhlolanja 2014

## UMTHETHOSIVIVINYO WOKUCHIBIYELA UMTHETHOWEMIDLALO WEZEMIDLALO YEMALI NOKUBHEJA WAKWAZULU-NATALI, 2013

Isaziso ngokuhambisana noMthetho 194 weMithetho Emileyo yeSishayamthetho saKwaZulu-Natali

Ngalokhu kunikezwa isaziso ngokuhambisana noMthetho 194 weMithetho EmileyoyeSishayamthetho sesiFundazwe maqondana nokuthi Umthethosivivinyo wokuChibiyela uMthetho wezeMidlalo yeMali nokuBheja waKwaZulu-Natali, 2013, njengoba uchazwe ngezansi, sewethuliwe eSishayamthethweni esibalulwe ngenhla futhi uzocutshungulwa yiKomidi Lesishayamthetho Lomnyango kaNdunankulu Nezindaba zaseNdlunkulu. Umphakathi kanye nabanye abanentshisekelo bayamenywa ukuba balethe izethulo ezimayelana nalo Mthethosivivinyo, okumele ziqondiswe ku -:

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

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

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

N NAIDOO  
UNobhala weSishayamthetho saKwaZulu-Natali

**UMTHETHOSIVIVINYO  
WOKUCHIBIYELA UMTHETHO WEZEMIDLALO YEMALI NOKUBHEJA WAKWAZULU-  
NATALI, 2013**

**IZINCAZELO EZEJWAYELEKILE:**

- [    ] Amagama abhalwe ngokugqamile kubakaki abayizikwele akhombisa okususiwe emthethweni okhona  
 \_\_\_\_\_ Amagama adwetshelwe ngomugqa ohlangene akhombisa okufakiwe emthethweni okhona

**UMTHETHOSIVIVINYO**

**Wokuchibiyela uMthetho wezeMidlalo yeMali nokuBheja waKwaZulu-Natali, 2010, ukuze kuchitshiyelwe umbhalo; wokufaka izincazelo nezinhlinzeko ezintsha; nokuhlinzekela okunye okuphathelene nalokho.**

MAWUMISWE yisiShayamthetho sesiFundazwe saKwaZulu-Natali, kanje:-

**Ukuchitshiyelwa kwesigaba 1 soMthetho 8 ka 2010**

1. Ngalokhu kuchitshiyelwa isigaba 1 soMthetho wezeMidlalo yeMali nokuBheja waKwaZulu-Natali, 2010 (uMthetho No. 8 ka 2010), ngemuva kwalokhu ozobizwa ngoMthetho omkhulu –

- (a) ngokuthi kufakwe esikhundleni sencazelo yegama “ibhingo” le ncazelo elandelayo:

“**ibhingo**” kushiwo umdlalo, **[ohlelwe njengento eyenziwa iqoqo labantu, lapho abadlali abaningi beqhudelana khona, kubandakanya umdlalo] okungaba** uwonke, noma ingxenye yawo idlalwa ngemishini kagesi, **noma ngenye indlela** –

- (a) **[odlalwa]** ngokuthi kusetshenziswe amakhadi noma ezinye isigqebhezana zokudlala, **kubandakanya izigqebhezana ezimele amakhadi** –

(i) ahlukaniswe ngezikhala ezinezinombolo, ezinezithombe noma ezinezimpawu ezahlukene; futhi

(ii) **[anezinombolo] lezo zinombolo, [anezithombe] lezo zithombe** noma

**[anezimpawu] lezo zimpawu** ezihlelwe ngendlela exovekile ukuze ikhadi ngalinye noma isigqebhezana sokudlala sibe nezinombolo, nezithombe noma nezimpawu zaso sodwa;

- (b) lapho **[umqhubi noma omemezelayo ebiza noma eveza] kuvezwa noma kubizwa** izinombolo, izithombe noma izimpawu eziningi ngendlela exovekile bese **[abadlali beqhathanisa lezo zinombolo, lezo zithombe noma lezo zimpawu] lezo zinombolo, lezo zithombe, lezo zimpawu ziqhathaniswa** ngendlela efanele

ekhadini noma esigqebhezaneni sokudlala njengoba zibiziwe noma ziveziwe; futhi

(c) lapho umdlali **[oba owokuqala]** okhadi lakhe noma osigqebhezana sakhe sokudlala siba ngesokuqala ukuqondana nazo zonke izikhala, noma [oqondanisa] okhadi lakhe noma osigqebhezana sakhe sokudlala siqondana nezinombolo ezithile, nezithombe ezithile noma nezimpawu ezithile **[ekhadini noma esigqebhezaneni sokudlala]**, uthola umklomelo noma imiklomelo,

nanoma imuphi omunye umdlalo odlalwayo omenyenzelwa njengomdlalo webhingo ngokuhambisana nesigaba 6(4)(b) soMthetho wezokuGembula kaZwelonke, 2004 (uMthetho No. 7 ka 2004);

(b) ngokuthi kufakwe ngemuva kwencazelo yegama "ilayisensi yebhingo" le ncazelo elandelayo:

**"isihlalo sebhingo"** kushiwo indawo eyodwa yokuhlala egumbini lebhingo;

(c) ngokuthi kufakwe esikhundleni sencazelo yegama "ubhukhi" le ncazelo elandelayo:

**"ubhukhi"** kushiwo umuntu **[onikezwe]** ilayisensi ngokwesigaba 94, yokwamukela okukhishwayo noma iziteki ngenhloso yokubhejisa emjahweni wamahashi, kwezemidlalo, emcimbini wezemidlalo nakunoma imuphi umcimbi noma umbuthano noma kwinhlanganisela yaleyo mijaho yamahashi, yemidlalo, yemicimbi yezemidlalo noma yeminye imicimbi noma imibuthano;

(d) ngokuthi kufakwe ngemuva kwencazelo yegama "ikomidi" le ncazelo elandelayo:

**"amazinga ayimpogo"** kushiwo amazinga ayimpogo njengoba kuchazwe esigabeni 1 soMthetho woHlaka oluLawula amaZinga ayiMpogo lukaZwelonke, 2008 (uMthetho No. 5 ka 2008);

**"ukuhlola ukuhambisana namazinga ayimpogo"** kushiwo ukuhlola ukuhambisana namazinga ayimpogo njengoba kuchazwe esigabeni 1 soMthetho woHlaka oluLawula amaZinga ayiMpogo lukaZwelonke, 2008 (uMthetho No. 5 ka 2008);

**"ohlinzeka ngemisebenzi yokuhlola ukuhambisana namazinga ayimpogo"** kushiwo umuntu owenza umsebenzi wokuhlola ukuhambisana namazinga ayimpogo egameni loHlaka oluLawula amaZinga ayiMpogo lukaZwelonke, ngokwesivumelwano okungenwe kusona phakathi kwalowo muntu noHlaka oluLawula amaZinga ayiMpogo lukaZwelonke;

(e) ngokuthi kufakwe esikhundleni sencazelo yegama "inkampani" le ncazelo elandelayo:

**"inkampani"** kushiwo inkampani ebhaliswe ngokoMthetho weziNkampani, [1973] 2008 (uMthetho No. [61] 71 ka [1973] 2008), noma ibhizinisi lababambisene [, noma eyasungulwa ngokuhambisana ne-Odinensi yokuLawula ezemiJaho yamaHhashi, 1957 (i-Odinensi No. 28 ka 1957), noma inkampani ezimele ebhaliswe ngokoMthetho weziNkampani eziziMele, 1984 (uMthetho No. 69 ka 1984)];";

(f) ngokuthi kufakwe ngemuva kwencazelo yegama "umshini wokudlala" le ncazelo elandelayo:

**"indawo yokudlala"** kushiwo –

(a) umshini wokudlala owakhelwe ukusetshenziswa umuntu oyedwa kuphela;

(b) ingxenye yomshini wokudlala owakhelwe ukusetshenziswa abantu abangaphezu koyedwa, kodwa ekwazi ukufaka umuntu oyedwa kuphela ukuba adlale;

(c) ingxenye yomshini wokudlala evumela kuphela ukuba kudlale umuntu oyedwa; noma

(d) isihlalo noma indawo yokuma ezakhiweni ezinelayisensi, evumela kuphela ukuba kudlale umuntu oyedwa;";

(g) ngokuthi kwesulwe incazelo yegama **"[isiKhwama sokuGuqula ezeMijaho yamaHhashi nezokuBheja]";**

(h) ngokuthi kufakwe esikhundleni sencazelo yegama "umqhubi wendawo ozimele" le ncazelo elandelayo:

**"umqhubi wendawo ozimele"** kushiwo umqhubi wendawo ongahlangene nomqhubi womzila futhi onelayisensi [yobunikazi] yokuqhuba imishini yokudlala ekhokha isamba esithile endaweni [eyodwa futhi obhekele ukunakekela imishini, ukuqoqa izimali ezidlaliwe nokukhokha intela nezinye izimali ezikhokhwayo];";

(i) ngokuthi kufakwe ngemuva kwencazelo yegama "umhloli" le ncazelo elandelayo:

**"isitifiketi sencwadi yemvume"** kushiwo isitifiketi esikhishwe uHlaka oluLawula amaZinga ayiMpoqo lukaZwelonke, njengoba kuhlangozwe esigabeni 5(2)(f) soMthetho woHlaka oluLawula amaZinga ayiMpoqo lukaZwelonke, 2008 (uMthetho No. 5 ka 2008), esigunyaza impahla noma imikhigizo ukuba idayiswe noma ihlinzekwe;";

(j) ngokuthi kufakwe esikhundleni sencazelo yegama "uMaziphathe wezemijaho yamaHhashi kaZwelonke" le ncazelo elandelayo:

“**uMaziphathe wezemiJaho yamaHhashi kaZwelonke**” kushiwo umgwamanda osemthethweni olawula umdlalo womjaho wamahhashi kwiRiphabhulikhi yaseNingizimu Afrika;”;

(k) ngokuthi kufakwe ngemuva kwencazelo yegama “uMaziphathe wezemiJaho yamaHhashi kaZwelonke” le ncazelo elandelayo:

“**i-NRCS**” kushiwo uHlaka oluLawula amaZinga ayiMpoqo lukaZwelonke olusungulwe ngokwesigaba 3(1) soMthetho woHlaka oluLawula amaZinga ayiMpoqo lukaZwelonke, 2008 (uMthetho No. 5 ka 2008);”;

(l) ngokuthi kufakwe esikhundleni sencazelo yegama “umuntu” le ncazelo elandelayo:

“**umuntu**” kushiwo umuntu qobo [**noma ngokomthetho, iqoqo labantu**] noma inkampani, ngaphandle uma ingqikithi isho okwehlukile;”;

(m) ngokuthi kufakwe esikhundleni sencazelo yegama “ukushicilela” le ncazelo elandelayo:

“**ukushicilela**” kubandakanya, ngaphandle uma ingqikithi isho okwehlukile, ukukhangisa, ukusabalalisa, ukumemezela noma ukwenza ukuthi kukhangiswe noma kusatshalaliswe noma kumenyenzelwe nganoma iyiphi indlela;”;

(n) ngokuthi kufakwe esikhundleni sencazelo yegama “obhalisile” le ncazelo elandelayo:

“**obhalisile**” kushiwo umuntu onesitifiketi esisemthethweni sokubhaliswa noma onesitifiketi sesikhashana sokubhaliswa esikhishwe ngokwalo Mthetho;”;

(o) ngokuthi kufakwe esikhundleni sencazelo yegama “umqhubi womzila” le ncazelo elandelayo:

“**umqhubi womzila**” kushiwo umuntu othole ilayisensi ngokwalo Mthetho ukuze ahlinzeke imishini yokudlala ekhokha isamba esithile kubaqhubi bezindawo nokuqhuba eminye imisebenzi enqunyiwe;”;

(p) ngokuthi kufakwe ngemuva kwencazelo yegama “SABS” le ncazelo elandelayo:

“**i-SANS**” kushiwo iZinga likaZwelonke eNingizimu Afrika eligunyazwe uPhiko olubhekele amaZinga eMpahla lwaseNingizimu Afrika ngokuhambisana noMthetho wamaZinga eMpahla ka 2008;”;

“**uMthetho weZabelo**” kushiwo uMthetho weZabelo, 2004 (uMthetho No. 36 ka 2004);”;

(q) ngokuthi kufakwe esikhundleni sencazelo yegama “umqhubi wendawo” le ncazelo elandelayo:

“**umqhubi wendawo**” kushiwo umuntu ogunyazwe ukugcina nokuqhuba



imishini yokudlala ekhokha isamba esithile **[ezakhiweni zakhe]** ngokwelayisensi ekhishwe ngokuhambisana nalo Mthetho;”;

(r) ngokuthi kufakwe ngemuva kwencazelo yegama “ukubhejela imidlalo” lencazelo elandelayo:

“**umjaho wamahhashi omtelebhelo**” kushiwo umjaho wamahhashi lapho amahhashi omtelebhelo engancintisana khona, ngaphansi kwemithetho ye-Trotting South Africa: Kuncike ekutheni umjaho wamahhashi lapho wonke amanye amahhashi encintisana ngokutelebhelwa, ngokwemithetho ye-Trotting South Africa, uthathwa ngokuthi umjaho wamahhashi omtelebhelo, ngokwenhloso yalo Mthetho;”;

(s) ngokuthi kufakwe ngemuva kwencazelo yegama “lo Mthetho” le ncazelo elandelayo:

“**umjaho wamahhashi omjaho**” kushiwo umjaho wamahhashi lapho kungancintisana khona amahhashi omjaho kuphela, agitshelwayo ukuze agijime, umuntu onelayisensi ayinikezwe uMaziphathe wezemiJaho yamaHhashi kaZwelonke, ngokwemithetho yalowo maziphathe;”;

(t) ngokuthi kufakwe ngemuva kwencazelo yegama “umqhubi wethotho” le ncazelo elandelayo:

“**i-ejensi yomqhubi wethotho**” kushiwo izakhiwo zomqhubi wethotho lapho i-ejenti yomqhubi wethotho iqhubela khona i-ejensi yomqhubi wethotho, ngokwesivumelwano phakathi komqhubi wethotho naleyo ejenti yomqhubi wethotho;”;

(u) ngokuthi kufakwe esikhundleni sencazelo yegama “i-ejenti yomqhubi wethotho” le ncazelo elandelayo:

“**i-ejenti yomqhubi wethotho**” kushiwo umuntu oqokiwe, ngokwenkontileka kodwa okungesiyona inkontileka yokugashwa nangokwesigaba 111(1)(b)(ii), umqhubi wethotho onelayisensi, ukuba aqhube i-ejensi yalowo mqhubi wethotho onelayisensi;”;

(v) nangokuthi kufakwe ngemuva kwencazelo yegama “**izakhiwo zomqhubi wethotho**” le ncazelo elandelayo:

“**IsiKhwama soGuguko**” kushiwo isikhwama esisungulwe ngokwesigaba 137 soMthetho; kanti

“**i-Trotting South Africa**” kushiwo umgwamanda osemthethweni, owemukelwe ngokusemthethweni yi-International Trotting Association, olawula umdlalo wemijaho yamahhashi omtelebhelo kwiRiphabhuliki yaseNingizimu Afrika.”.

### Ukuchitshiyelwa kwesigaba 6 soMthetho 8 ka 2010

#### 2. Ngalokhu kuchitshiyelwa isigaba 6 soMthetho omkhulu –

(a) ngokuthi kufakwe esikhundleni sendima (c) yesigatshana (1) le ndima elandelayo:

"(c) ukugqugquzela amathuba abantu ababencishwe amathuba phambilini okuba babambe iqhaza **[emjahweni wamahhashi nasembonini yezokubheja]** embonini yezokubheja yesiFundazwe [njenganoma yibaphi abantu okudingeka ukuba anikezwe ilayisensi noma abhaliswe ngokwesigaba 89, 94, 103, 110 noma 111] njengabanikazi bamalayisensi kanye nababhalise ngaphansi kwalo Mthetho;";

(b) nangokuthi kufakwe esikhundleni sendima (d) yesigatshana (1) le ndima elandelayo:

"(d) ukukhulisa inani lobunikazi beziteki labantu ababencishwe amathuba phambilini **[emijahweni yamahhashi kanye nasembonini yezokubheja]** embonini yezokubheja yesiFundazwe;";

(c) nangokuthi kufakwe esikhundleni sesigatshana (3) lesi sigatshana esilandelayo:

"(3) ILungu loMkhandlu oPhethe linganikeza iBhodi imiyalelo ephathelene nezinjongo zeBhodi ezihlongozwe **[esigatshaneni]** ezindimeni [(1)](c), (d), (e) no (f) zesigatshana (1).".

### Ukuchitshiyelwa kwesigaba 7 soMthetho 8 ka 2010

#### 3. Ngalokhu kuchitshiyelwa isigaba 7 soMthetho omkhulu –

(a) ngokuthi kufakwe esikhundleni sendima (q) yesigatshana (2) le ndima elandelayo:

"(q) ukugunyaza, ngemibandela noma ngaphandle kwemibandela, noma ukuchitha isicelo esenziwe ngendlela enqunyiwe, umuntu onelayisensi ngokwesigaba **[89,]** 94 noma 110, **[ngokuhambisana nesigaba 121,]** ukuba abheje okwesikhashana, isikhathi esinqunyiwe, kunoma iyiphi indawo esiFundazweni [yemicimbi yezemidlalo noma yeminye imicimbi];"; kanye

(b) nangokuthi kufakwe esikhundleni sendinyana (iii) yendima (g) yesigatshana (3) le ndinyana elandelayo:

"(iii) yonke impahla yemidlalo yemali noma umshini ngamunye wokudlala noma umshini okhokha isamba esithile osetshenziswayo, noma owethulwa umnikazi welayisensi ukuba usetshenziswe, **[ubhalisiwe futhi unesitifiketi ngokoMthetho wezokuGembula waseNingizimu Afrika]** uyahlangabezana namazinga ayimpoqo futhi ubhalisiwe yiBhodi ngokuthi ukhishelwe isitifiketi sencwadi yemvume esisemthethweni.".

**Ukuchitshiyelwa kwesigaba 9 soMthetho 8 ka 2010**

4. Ngalokhu kuchitshiyelwa isigaba 9 soMthetho omkhulu ngokuthi kufakwe esikhundleni sendima (c) yesigatshana (1) le ndima elandelayo:

"(c) ngesikhathi eqokwa, noma ezinyangeni eziyi-12 ezedlule –

(i) ubengumuntu ohlongozwe esigabeni 8(1) soMthetho wemiSebenzi kaHulumeni, 1994 (iSimemezelo No. 103 sika 1994);[noma]

(ii) ubenesikhundla ngokwezepolitiki; noma

(iii) ubesebenzela umasipala;".

**Ukuchitshiyelwa kwesigaba 10 soMthetho 8 ka 2010**

5. Ngalokhu kuchitshiyelwa isigaba 10 soMthetho omkhulu nokuthi kufakwe esikhundleni sendima (b) yesigatshana (3) le ndima elandelayo –

(b) incwadi efungelwe ngophakanyisiwe lapho ophakanyisiwe enika khona isiqinisekiso esifungelwe ngokuthi akahoxisiwe ngokwesigaba 9[: **Kuncike ekutheni uma ophakanyisiwe eke walahlwa yicala ngokwephula umthetho ohlongozwe esigabeni 9(1)(j), lowo ophakanyisiwe kumele ahlinzeke incwadi efungelwe edalula imininingwane ephelele mayelana nokulahlwa kwakhe yicala futhi anikeze isiqinisekiso esifungelwe sokuthi akahoxisiwe ngokwanoma yiziphi ezinye izinhlinzeko zesigaba 9];**";

**Ukuchitshiyelwa kwesigaba 30 soMthetho 8 ka 2010**

6. Ngalokhu kuchitshiyelwa isigaba 30 soMthetho omkhulu ngokuthi kufakwe ngemuva kwesigatshana (7) lezi zigatshana ezilandelayo:

"(8) IBhodi, ngemuva kokunikeza umnikazi welayisensi noma obhalisile ithuba lokwenza izethulo, ingabeka imibandela ecacile nesobala, enezilinganiso ezifanele futhi ezifezekayo, uma isikhipha noma iyiphi ilayisensi noma isitifiketi sokubhalisa, noma uma ivuselela noma iyiphi ilayisensi noma isitifiketi sokubhalisa.

(9) Umnikazi welayisensi noma obhalisile angafaka isicelo noma inini kwiBhodi sokuba kuchitshiyelwe, kushintshwe noma kuhoxiswe noma imuphi umbandela, kanti iBhodi ingasemukela noma isichithe leso sicelo: Kuncike ekutheni uma kwenzeka ukuthi ukuchitshiyelwa, ukushintshwa noma ukuhoxiswa noma imuphi umbandela ohambisana nelayisensi kungaphazamisa ukufezekiswa nokugququzelwa kwezinhloso zeBhodi ngokwesigaba 6 soMthetho, iBhodi ingachibiyela, ingashintsha noma ingahoxisa lowo mbandela, kuphela ngokubonisana neLungu loMkhandlu

oPhethe.

(10) Uma isicelo sesigunyaziwe, isiKhulu esiPhezulu kumele sigunyaze ukufakwa kwaleso sichibiyelo, lolo shintsho noma lokho kuhoxiswa kwilayisensi noma esitifiketini sokubhalisa."

#### **Ukuchitshiyelwa kwesigaba 32 soMthetho 8 ka 2010**

7. Ngalokhu kuchitshiyelwa isigaba 32 soMthetho omkhulu ngokuthi kufakwe esikhundleni sendima (a) yesigatshana (1) le ndima elandelayo:

- "(a)(i) ungumuntu ohlongozwe esigabeni 8(1) soMthetho wemiSebenzi kaHulumeni, 1994 (iSimemezelo No. 103 sika 1994), noma unikezwe amandla okuthatha izinqumo noma ijoka lokuqapha ubugebengu mayelana nokugembula noma nokulawulwa kwakho; **[noma]**
- (ii) unesikhundla ngokwezepolitiki; noma
- (iii) ungumsebenzi kamasipala;"

#### **Ukufakwa kwesigaba 32A soMthetho 8 ka 2010**

8. Ngalokhu kufakwa lesi sigaba esilandelayo emthethweni okhona ngemuva kwesigaba 32

—

#### **"Isikhathi sokubhaliswa kwabasebenzi**

32A.(1) Isitifiketi sokubhaliswa komsebenzi, ngaphandle uma sisulwa yiBhodi, sisebenza isikhathi okungenani esiyizinyanga ezingama-36 kusukela osukwini esikhishwe ngalo.

(2) Uma sekuphele izinyanga ezingama-36 ezihlongozwe esigatshaneni (1), isitifiketi sokubhaliswa siyaqhubeka nokusebenza isikhathi esithile, kuze kushaye usuku lokugcina lwenyanga azalwa ngayo umsebenzi obhalisiwe, ngemuva kosuku lokuzalwa olulandelayo lomsebenzi obhalisile.

(3) Lesi sigaba sisebenza kubona bonke abantu ababhalisile abaqashwe abanikazi bamalayisensi noma abantu ababhalisile."

**Ukuchitshiyelwa kwesigaba 40 soMthetho 8 ka 2010**

9. Ngalokhu kuchitshiyelwa isigaba 40 soMthetho omkhulu ngokuthi kufakwe esikhundleni sendinyana (ii) yendima (g) yesigatshana (1) le ndinyana elandelayo:

"(ii) ongahlangabezani ngandlela zonke **[namazinga namaqophelo kazwelonke]** namazinga ayimpogo abekiwe noma namazinga namaqophelo anqunywe yiBhodi; noma".

**Ukuchitshiyelwa kwesigaba 43 soMthetho 8 ka 2010**

10. Ngalokhu kuchitshiyelwa isigaba 43 soMthetho omkhulu –

(a) ngokuthi kufakwe esikhundleni sesigatshana (1) lesi sigatshana esilandelayo:

"(1) Umnikazi welayisensi noma obhalisile ongeyena umsebenzi welayisensi noma womuntu obhalisile, noma nini angafaka isicelo kwiBhodi sokuthi leyo layisensi [yakhe] noma lesi sitifiketi sokubhaliswa sidluliselwe komunye umuntu futhi, uma kuba njalo, kuyosebenza izinhlinzeko zezigaba 30, 31, 32, 33, 34, 35, 36, 37 no 38 nezinguquko ezidingekayo.";

(b) nangokuthi kufakwe esikhundleni sesigatshana (3) lesi sigatshana esilandelayo:

"(3) Uma isicelo sigunyaziwe, isikhulu esiPhezulu kumele **[sishintshe igama lomnikazi welayisensi ngendlela efanele kwilayisensi]** sikhiphe ilayisensi noma isitifiketi sokubhaliswa njengoba kungaba njalo, kumnikazi omusha welayisensi noma wesitifiketi sokubhaliswa."

**Ukufakwa kwesigaba 43A soMthetho 8 ka 2010**

11. Ngalokhu kufakwa lesi sigaba esilandelayo eMthethweni omkhulu ngemuva kwesigaba 43 –

**"Ukuhlomula ngokwezezimali**

**43A.(1)** IBhodi kumele izikhathi ngezikhathi nangohlelo oluthile iqinisekise ukuthi abantu abahlomulayo ngokwezezimali kumnikazi welayisensi noma kumuntu obhalisile akubona abantu abangakufanele ukuhlomula kanjalo, ngokwezinhlinzeko zesigaba 32 soMthetho.

(2) Ngokwezinhloso zalesi sigaba, ukuhlomula ngokwezezimali akubandakanyi –

(a) ukuhlomula ngandlela thile kunoma iziphi izimali noma utshalomali uma umuntu onaleso sikhundla engenawo amandla ekuthathweni kwezingqumo zokutshalwa kwezimali mayelana naleso sikhwama noma mayelana nalolo tshalomali;

(b) nanoma ikuphi ukuhlomula kwingeniso eqhamuka kwinkontileka yokuhlinzekwa kwezidingo noma komsebenzi nomnikazi welayisensi noma nomuntu obhalisile.

(3) Kuyicala kumnikazi welayisensi noma kumuntu obhalisile ukwehluleka ukudalula kwiBhodi imininingwane yanoma ikuphi ukuhlomula ngokwezezimali kwanoma imuphi umuntu okungamaphesenti ayisihlanu noma ngaphezulu kulowo mnikazi welayisensi noma lowo muntu obhalisile, uma sekwedlule izinsuku ezingama-30 lowo mnikazi welayisensi noma lowo muntu obhalisile etholile ukuthi kunalokho kuhlomula, noma okulindeleke ukuthi ngabe wazile ngalokho kuhlomula: Kuncike ekutheni inkampani enezabelo ehweba ngazo kunoma iziphi izimakethe, kudingeka ukuthi ithole ngalokho kuhlomula bese ibika ngakho, njalo ngemuva kwezinyanga eziyisithupha uma sekukhishwe ilayisensi noma isitifiketi sokubhaliswa saleyo nkampani.

(4) Uma umnikazi welayisensi noma obhalisile kuyinkampani ebhalise izabelo zayo ehweba ngazo kunoma iziphi izimakethe, ngaphezu kwesaziso esihlongozwe kwisigatshana (3), lowo mnikazi welayisensi noma obhalisile kumele kanye nalokho athumele kwiBhodi irejista yalezo zabelo evuselelwe.

(5) Oqala ukuhlomula ngokwezezimali ngqo kumnikazi welayisensi noma kobhalisile, kudingeka ukuba adalule kwiBhodi imininingwane yalokho kuhlomula, ezinsukwini ezingama-60 kuqale lokho kuhlomula, ngendlela enqunywe yiBhodi.

(6) Ohlomulayo ngokwezezimali kumnikazi welayisensi noma kobhalisile ngamaphesenti ayisihlanu noma ngaphezulu ebhizinisini lomnikazi welayisensi noma lomuntu obhalisile, kumele afake isicelo sokugunyazwa ukuqhubeka nalokho kuhlomula, ngokulandela izinqubo kanye nezidingo ezihlongozwe ezigabeni 32, 33, 34, 35, 36, 37 no 38, eziyosebenza esicelweni, nezinguquko ezidingekayo.

(7) Uma iBhodi isola, ngezizathu ezizwakalayo nezifanele, ukuthi ohlomulayo ngokwezezimali kumnikazi welayisensi noma kobhalisile, uhlomula ngamaphesenti angaphansi kwayisihlanu ebhizinisini lomnikazi welayisensi noma lobhalisile, angengatshelwa, ngokwesigaba 32, ukuba aqhubeke nalokho kuhlomula ngokwezezimali, lowo muntu angacelwa yiBhodi ukuba afake isicelo sokugunyazwa ukuba aqhubeke nokuhlomula ngokwezezimali, ngokulandela izinqubo nezidingo ezihlongozwe esigabeni 32, 33, 34, 35, 36, 37 no 38, eziyosebenza esicelweni,

nezinguquko ezidingekayo.

(8) Ngokwenhloso yalesi sigaba –

"izimakethe" uma lisetshenziswa njengebizo, kushiwo izimakethe njengoba kuchazwe esigabeni 1 soMthetho weZabelo, 2004 (uMthetho No. 36 ka 2004);

"izabelo ezibhalisiwe" kushiwo izabelo ezibhalisiwe njengoba kuchazwe esigabeni 1 soMthetho weZabelo, 2004;

"inkampani" kushiwo noma iyiphi inkampani njengoba kuchazwe esigabeni 1 soMthetho weZabelo, 2004;

"izabelo" kushiwo izabelo njengoba kuchazwe esigabeni 1 soMthetho weZabelo, 2004; kanti

"irejista yezabelo" kushiwo irejista yezabelo njengoba kuchazwe esigabeni 1 soMthetho weziNkampani, 2008 (uMthetho No. 71 ka 2008)."

#### **Ukuchitshiyelwa kwesigaba 44 soMthetho 8 ka 2010**

**12.** Ngalokhu kuchitshiyelwa isigaba 44 soMthetho omkhulu –

(a) ngokuthi kufakwe esikhundleni sesigatshana (1) lesi sigatshana esilandelayo:

"(1) Umnikazi welayisensi noma obhalisile, noma nini, angafaka isicelo sokugunyazwa ukushintsha **[ukususa]**, okungaba okwesikhashana noma unomphelo, indawo yokusebenza yebhizinisi **[lakhe]** lomnikazi welayisensi noma lobhalisile, lisuka ezakhiweni ezibhalwe kwilayisensi noma esitifiketini sokubhaliswa liyiswa kwezinye izakhiwo.";

(b) nangokuthi kufakwe ngemuva kwesigatshana (3) lesi sigatshana esisha esilandelayo:

"(4) IBhodi kumele inqume inqubo okumele ilandelwe uma kwenziwa isicelo sokugunyazwa esihlongozwe kwisigatshana (1).

(5) Isicelo esihlongozwe kwisigatshana (1) kumele sihambisane nemali ekhokhwayo enqunywe oHlelweni 2."

**Ukuchitshiyelwa kwesigaba 53 soMthetho 8 ka 2010**

13. Ngalokhu kuchitshiyelwa isigaba 53 soMthetho omkhulu ngokuthi kususwe isigatshana (4) no (5).

**Ukuchithwa kwesigaba 54 soMthetho 8 ka 2010**

14. Ngalokhu kususwa isigaba 54 soMthetho omkhulu.

**Ukuchitshiyelwa kwesigaba 55 soMthetho 8 ka 2010**

15. Ngalokhu kuchitshiyelwa isigaba 55 soMthetho omkhulu –

(a) ngokuthi kufakwe esikhundleni sesigatshana (1) lesi sigatshana esilandelayo:

"(1) Akekho umuntu ongaba nezakhiwo lapho kudlalwa khona imishini yokudlala, amatheminali kagesi okudlala ibhingo noma imishini ekhokha isamba esinqunyiwe ngaphandle uma lowo muntu onelayisensi esemthethweni [yekhasino, enelayisensi yomqhubi wendawo ozimele noma enelayisensi yomqhubi wendawo] ekhishwe ngokwalo Mthetho."; futhi

(b) nangokuthi kufakwe esikhundleni sesigatshana (2) lesi sigatshana esilandelayo:

"(2) Akekho umuntu [–

**(a) ongafaka imishini yokudlala noma imishini ekhokha isamba esithile ezakhiweni ezinelayisensi ukuze idlalwe;**

**(b) ongalungisa noma ongakhanda, ashintshe noma aphucule imishini yokudlala noma imishini ekhokha isamba esithile kuleso sakhiwo;] ongasebenzisa amalungelo noma**

**[(c)] enze noma imiphi [eminye] imisebenzi enqunyiwe [yomqhubi womzila, ngaphandle uma lowo muntu enelayisensi yekhasino, enelayisensi yomqhubi wendawo noma enelayisensi yomqhubi wendawo ozimele] yomnikazi welayisensi, ngaphandle uma lowo muntu enelayisensi esemthethweni ekhishwe ngokwalo Mthetho."**

**Ukuchitshiyelwa kwesigaba 56 soMthetho 8 ka 2010**

16. Ngalokhu kuchitshiyelwa isigaba 56 soMthetho omkhulu ngokuthi kususwe izigatshana (4) no (5).



**Ukuchitshiyelwa kwesigaba 59 soMthetho 8 ka 2010**

17. Ngalokhu kuchitshiyelwa isigaba 59 soMthetho omkhulu ngokuthi kufakwe esikhundleni sendima (a) le ndima elandelayo:

"(a) wakhiwe noma uwuhlobo olungahambisani [**namazinga noma namaqophelo kazwelonke**] namazinga ayimpoqo asebenzayo noma, uma kungekho [**mazinga noma maqophelo kazwelonke**] mazinga ayimpoqo asebenzayo, ungangabazani namazinga [**kanye**] noma namaqophelo anqunywe yiBhodi,".

**Ukuchitshiyelwa kwesigaba 62 soMthetho 8 ka 2010**

18. Ngalokhu kuchitshiyelwa isigaba 62 soMthetho omkhulu –

(a) ngokuthi kufakwe esikhundleni sendima (d) yesigatshana (1) le ndima elandelayo:

"(d) [**amazinga kanye**] izidingo eziphathele nempahla yemidlalo yemali ebekwe, esetshenziswa futhi eqhutshwa egumbini lebhingo;"

(b) nangokususwa kwezigatshana (4) no (5)."

**Ukuchitshiyelwa kwesigaba 69 soMthetho 8 ka 2010**

19. Ngalokhu kuchitshiyelwa isigaba 69 soMthetho omkhulu –

(a) ngokuthi kususwe igama "noma" ngemuva kwendima (c);

(b) ngokuthi kufakwe igama "noma" ngemuva kwendima (d);

(c) nangokuthi kufakwe ngemuva kwendima (d) le ndima entsha elandelayo:

"(e) ukubhaliswa kudingeka kuvuselelwe ngokwesigaba 32A."

**Ukuchitshiyelwa kwesigaba 77 soMthetho 8 ka 2010**

20. Ngalokhu kuchitshiyelwa isigaba 77 soMthetho omkhulu –

(a) ngokuthi kufakwe esikhundleni sesigatshana (1) lesi sigatshana esilandelayo:

"(1) Bonke abantu abanamalaysensi ngokwalo Mthetho kumele [**kuncike esigabeni 129,**] bakhokhe izintela ezinqunyiwe ngokoMthetho weNtela yemiDlalo yeMali nokuBheja waKwaZulu-Natali, 2010, [**kwisiKhwama seNgeniso yesiFundazwe**] kwiBhodi, ngendlela enqunyiwe futhi ngesikhathi esifanayo, kumele bahambise izincwadi zentela kwiBhodi ngendlela enqunyiwe."

(b) nangokuthi kufakwe esikhundleni sesigatshana (2) lezi sigatshana ezilandelayo:

"(3) IBhodi kumele ikhokhise zonke izimali zentela ezitholakele, njengoba kunqunywe eMthethweni weNtela yemiDlalo yeMali nokuBheja waKwaZulu-

Natali, 2010, futhi kumele ngemuva kwalokho ikhokhe izimali ezisele zentela esiKhwameni seNgeniso sesiFundazwe, ngendlela enqunyiwe: Kuncike ekutheni ukukhokhwa kwentela esiKhwameni seNgeniso yesiFundazwe kumele kwenziwe ezinsukwini ezingama-20 kuphele inyanga ngayinye.

(4) Ngesikhathi iBhodi ikhokha izintela esiKhwameni seNgeniso sesiFundazwe ngokwesigatshana (3), iBhodi kumele ihlinzeke umgcinimafa kanjalo neLungu loMkhandlu oPhethe ngombiko ochaza kabanzi mayelana nentela etholakele futhi ekhishwe yiBhodi, ngendlela enqunyiwe."

#### **Ukuchitshiyelwa kwesigaba 78 soMthetho 8 ka 2010**

21. Ngalokhu kuchitshiyelwa isigaba 78 soMthetho omkhulu ngokuthi kufakwe esikhundleni sesigatshana (2) lesi sigatshana esilandelayo:

"(2) Uma ilayisensi imisiwe ngokwalesi sigaba, imisebenzi egunyazwa yilayisensi **[nayo kumele imiswe]** kumele ingaqhubeki: Kuncike ekutheni ukumiswa kwaleyo misebenzi kungenziwa kuphela iBhodi, emahoreni angama-24 ngemuva kokuba iBhodi yazise umnikazi welayisensi noma obhalisile, ngencwadi, ngokwehluleka ukukhokha kwalowo mnikazi welayisensi noma lowo obhalisile izimali ezikhokhwayo, intela noma ilevi, kanjalo nenhlawulo enqunyiwe, engakapheli amahora angama-24."

#### **Ukuchitshiyelwa kwesigaba 89 soMthetho 8 ka 2010**

22. Ngalokhu kuchitshiyelwa isigaba 89 soMthetho omkhulu –

(a) ngokuthi kufakwe esikhundleni sendima (c) yesigatshana (3) le ndima elandelayo:

"(c) ngaphandle uma iBhodi ibonisene neNhlangotho yezeMijahlo yamaHhashi kaZwelonke noma ne-Trotting South Africa, njengoba kufanele, futhi ithole **[kuyona]** ubufakazi obubhalwe phansi bokuthi **[inkundla yemijahlo yamahhashi noma izinkundla zemijahlo yamahhashi]** noma iyiphi inkundla yemijahlo yamahhashi ebhalwe kwilayisensi iyahlangabezana nemithetho nezinye izidingo zenhlangano ethintekayo;"

(b) nangokuthi kufakwe esikhundleni sesigatshana (8) lesi sigatshana esilandelayo:

"(8) Yonke imijahlo ebanjwa enkundleni yemijahlo yamahhashi noma ezinkundleni zemijahlo yamahhashi ezibalulwe kwilayisensi yomqhubi wenkundla yomjahlo yamahhashi kumele ibanjwe ngokuhambisana nomthethosisekelo, nemithetho nemithethonqubo yeNhlangotho yezeMijahlo yamaHhashi kaZwelonke, noma ne-Trotting South Africa, njengoba

kufanele."

**Ukuchithwa kwesigaba 90 soMthetho 8 ka 2010**

23. Ngalokhu kususwa isigaba 90 soMthetho omkhulu.

**Ukuchitshiyelwa kwesigaba 91 soMthetho 8 ka 2010**

24. Ngalokhu kuchitshiyelwa isigaba 91 soMthetho omkhulu ngokuthi kufakwe esikhundleni sesigatshana (1) lesi sigatshana esilandelayo:

"(1) Ngaphandle uma ivuselelwe ngokwesigatshana (2), ilayisensi ekhishwe ngokwesigaba 89(1) iphelelwa yisikhathi ngosuku lomhla zingama-31 [**kuZibandlela**] kuNdasa wonyaka wezimali weBhodi ngalowo nyaka ekhishwe ngawo: Kuncike ekutheni ngokwezinhloso zalesi sigaba, unyaka wezimali weBhodi uqala mhla lu-1 kuMbasu uphele mhla zingama-31 kuNdasa."

**Ukuchitshiyelwa kwesigaba 94 soMthetho 8 ka 2010**

25. Ngalokhu kuchitshiyelwa isigaba 94 soMthetho omkhulu –

(a) ngokuthi kufakwe esikhundleni sesigatshana (4) lesi sigatshana esilandelayo:

"(4) Ilayisensi kabhukhi ingakhishelwa umuntu oyedwa, abantu ababili noma ngaphezulu abasebenza ebhizinisini ngesivumelwano sokusebenzisana, noma inkampani eyodwa.";

(b) nangokuthi kufakwe esikhundleni sesigatshana (7) lesi sigatshana esilandelayo:

"(7) Ngaphandle uma seyivele yesuliwe ngokwesigaba 99, ilayisensi kabhukhi iphelelwa yisikhathi ngosuku lomhla zingama-31 [**kuZibandlela**] kuNdasa wonyaka wezimali weBhodi ekhishwe ngawo kodwa ingavuselelwa, ngendlela enqunywe yiBhodi, unyaka nonyaka ngokubona kweBhodi nangemuva kokukhokhwa kwezimali zokuvuselelwa kwelayisensi ezinqunywe oHlelweni 2: Kuncike ekutheni ngokwezinhloso zalesi sigaba, unyaka wezimali weBhodi uqala mhla lu-1 kuMbasu uphele mhla zingama-30 kuNdasa."

**Ukuchithwa kwesigaba 97 soMthetho 8 ka 2010**

26. Ngalokhu kususwa isigaba 97 soMthetho omkhulu.

**Ukuchithwa kwesigaba 98 soMthetho 8 ka 2010**

27. Ngalokhu kususwa isigaba 98 soMthetho omkhulu.

**Ukuchithwa kwesigaba 106 soMthetho 8 ka 2010**

28. Ngalokhu kususwa isigaba 106 soMthetho omkhulu.

**Ukuchitshiyelwa kwesigaba 111 soMthetho 8 ka 2010**

29. Ngalokhu kuchitshiyelwa isigaba 111 soMthetho omkhulu ngokuthi kufakwe esikhundleni sesigatshana (5) lesi sigatshana esilandelayo:

"(6) IBhodi, ngesaziso esibhalwe phansi somnikazi wethotho othintekayo, inganquma, ngemuva kokwenza uphenyo mayelana namajoka nemisebenzi yomsebenzi oqashwe umnikazi wethotho othintekayo, ukuthi lowo msebenzi kudingeka abhaliswe njengemenenja yomnikazi wethotho.

(7) IBhodi ingenza imithetho elawula ukubhaliswa kwabanye abasebenzi bomnikazi wethotho, abangabhalisile njengemenenja yomnikazi wethotho."

**Ukuchithwa kwesigaba 120 soMthetho 8 ka 2010**

30. Ngalokhu kususwa isigaba 120 soMthetho omkhulu.

**Ukuchithwa kwesigaba 121 soMthetho 8 ka 2010**

31. Ngalokhu kususwa isigaba 121 soMthetho omkhulu.

**Ukuchitshiyelwa kwesigaba 123 soMthetho 8 ka 2010**

32. Ngalokhu kuchitshiyelwa isigaba 123 soMthetho omkhulu –

(a) ngokuthi kufakwe esikhundleni sesigatshana (1) lesi sigatshana esilandelayo:

"(1) Umuntu onelayisensi ngokwesigaba 94 noma 110 angeke asebenzise ngenhloso yokugqoka ukubheja neminingwane ephathelene nokubheja, noma iluphi uhlelo lwekhompyutha lokugcina amarekhodi nanoma iluphi uhlelo lwekhompyutha lokugcina amarekhodi oluchitshiyelwe, ngaphandle uma lolu hlelo noma ukuchitshiyelwa kwalo [kugunyazwe yiBhodi futhi kwaqinisekiswa yi-SABS] kuhambisana namazinga ayimpogo abekiwe futhi

iBhodi igunyaze futhi yabhalisa lolo hlelo lwekhompyutha lokugcina amarekhodi, noma ukuchitshiyelwa kwalo, ngesitifiketi sokugunyazwa, noma uma kungekho mazinga ayimpoqo abekiwe, lolo hlelo lwekhompyutha lokugcina amarekhodi luhlangabezana namazinga namaqophelo ezinhlelo zekhompyutha zokugcinwa kwamarekhodi, njengoba kunqume iBhodi."

(b) ngokuthi kufakwe esikhundleni sesigatshana (2) lesi sigatshana esilandelayo:

"(2) Noma imuphi umuntu ofisa ukuqala, ukwakha noma ukuchibiyela uhlelo lwekhompyutha lokugcina amarekhodi, noma ukuhlinzeka uhlelo lwekhompyutha lokugcina amarekhodi **[noma ukuchibiyela uhlelo lwekhompyutha lokugcina amarekhodi olugunyaziwe]** lomuntu onelayisensi ngokwesigaba 94 noma 110, kumele afake isicelo kwiBhodi, ngendlela enqunywe yiBhodi, sokuthi kugunyazwe futhi kubhaliswe lolo hlelo noma ukuchitshiyelwa kwalo futhi leso sicelo kumele sihambisane nezimali ezikhokhwayo zesicelo nezophenyo ezinqunywe oHlelweni 2, okuyizimali ezikhokhwa kwiBhodi."

(c) ngokuthi kufakwe esikhundleni sesigatshana (3) lesi sigatshana esilandelayo:

"(3) IBhodi –

(a) ingagunyaza, ngemibandela noma ngaphandle kwemibandela, noma ichithe uhlelo lwekhompyutha lokugcina amarekhodi noma ukuchitshiyelwa kwalo; noma

(b) ingabuyisela emuva isicelo kumkhiqizi noma kumhlinzeki walo ukuze alethe eminye iminingwane."

(d) ngokuthi kufakwe esikhundleni sesigatshana (4) lesi sigatshana esilandelayo:

"(4) IBhodi ingacela umuntu onelayisensi ngokwesigaba 94 noma 110 **[ukuba axhume]** ukuba axhumanise ngogesi lolo hlelo lokuqapha njengoba iBhodi inganquma nohlelo lwekhompyutha lokugcina amarekhodi olugunyaziwe alusebenzisayo lowo muntu."

(e) nangokuthi kufakwe ngemuva kwesigatshana (4) lesi sigatshana esilandelayo:

"(5) IBhodi kumele igcine irejista evuselelwe, okumele itholakale kalula ngemishini kagesi kubona bonke obhukhi abanamalayisensi, mahhala, futhi okumele icacise, mayelana nohlelo lwekhompyutha lokugcina amarekhodi nohlobo ngalunye lohlelo lwekhompyutha lokugcina amarekhodi olugunyazwe yiBhodi –

(a) inombolo ehlonza uhlobo ngalunye olugunyaziwe lohlelo lwekhompyutha lokugcina amarekhodi; kanye

(b) nosuku ukugunyazwe ngalo lolo hlobo."

### Ukuchitshiyelwa kwesigaba 125 soMthetho 8 ka 2010

33. Ngalokhu kuchitshiyelwa isigaba 125 soMthetho omkhulu ngokuthi kufakwe esikhundleni sesigaba 125 lesi sigaba esilandelayo:

**"Ijoka lokuphendula ngezenzo zabasebenzi**

**125.** Umnikazi welayisensi yethotho noma ubhukhi, mayelana nemisebenzi egunyazwe ilayisensi yakhe, unelinye ijoka eliseceleni lokuphendula ngezenzo namaphutha abasebenzi balowo mnikazi welayisensi yethotho noma balowo bhukhi."

### Ukuchitshiyelwa kwesigaba 128 soMthetho 8 ka 2010

34. Ngalokhu kuchitshiyelwa isigaba 128 soMthetho omkhulu ngokuthi kufakwe esikhundleni sesigatshana (1) lesi sigatshana esilandelayo:

"(1) Ibhizinisi lobubhukhi kumele libambe emalini ewinwe umuntu obhejayo, ngale kwemali eyisiteki ewinwe umuntu obhejayo, intela nezimali ezibanjwayo ezinqunywe ngokoMthetho weNtela yeMidlalo yeMali nokuBheja waKwaZulu-Natali, 2010, futhi kumele likhokhe lezo zimali kwiBhodi ngokuhambisana nezinhlinzeko zesigaba [129] 77."

### Ukuchitshiyelwa kwesigaba 137 soMthetho 8 ka 2010

35. Ngalokhu kuchitshiyelwa isigaba 137 soMthetho omkhulu –

(a) ngokuthi kufakwe esikhundleni sesigatshana (1) lesi sigatshana esilandelayo:

**"137. [Isikhwama sokuGuqula ezeMijaho yamaHhashi nezokuBheja] Isikhwama soGuquko**

(1) Ngalokhu kusungulwa isikhwama esizokwaziwa ngokuthi [Isikhwama sokuGuqula ezeMijaho yamaHhashi nezokuBheja] Isikhwama soGuquko."

(b) ngokuthi kufakwe esikhundleni sesigatshana (2) lesi sigatshana esilandelayo:

"(2) Noma yiziphi izimali ezihlose ukuthuthukisa umdlalo futhi nezenganyelwe ikomidi elisungulwe ngokwesigaba 21A se-Odinensi yokuLawula iMijaho nokuBheja, 1957 (i-Odinensi No. 28 ka 1957), kumele, ngosuku lokuqalisa kwalo Mthetho, zikhokhwe [esiKhwameni sokuGuqula ezeMijaho yamaHhashi nezokuBheja] esiKhwameni soGuquko esisungulwe ngaphansi kwalesi sigaba."

(c) ngokuthi kufakwe esikhundleni sesigatshana (3) lesi sigatshana esilandelayo:

"(3) ILungu loMkhandlu oPhethe elibhekele, ezimalini ezabiwe

yisiShayamthetho sesiFundazwe ngaleyo nhloso futhi kuncike kuleyo migomo nakuleyo mibandela njengoba linganquma, linganikela **[esiKhwameni sokuGuqula ezeMijaho yamaHhashi nezokuBheja]** esiKhwameni soGuquko.”;

(d) ngokuthi kufakwe esikhundleni sesigatshana (4) lesi sigatshana esilandelayo:

“(4) Izimpahla **[zesiKhwama sokuGuqula ezeMijaho yamaHhashi nezokuBheja]** zesiKhwama soGuquko kumele, kuncike kwimvume yeLungu loMkhandlu oPhethe ukuthi zisetshenziswe ngezinhloso zokufeza izinjongo zeBhodi ezihlongozwe esigabeni 6(1)(c), (d) no (e).”;

(e) ngokuthi kufakwe esikhundleni sesigatshana (5) lesi sigatshana esilandelayo:

“(5) IBhodi kumele ivule futhi igcine ibhuku eliseceleni lasebhang noma i-akhawunti yokulondoloza imali ebhange esiFundazweni futhi kumele ifake zonke izimali eziqongelelwe **[esiKhwameni sokuGuqula ezeMijaho yamaHhashi nezokuBheja]** esiKhwameni soGuquko ezivela nakweminye imithombo.”;

(f) ngokuthi kufakwe esikhundleni sesigatshana (6) lesi sigatshana esilandelayo:

“(6) Inzalo yezimali ezifakwe ebhange ngokwesigatshana (3) no (4) kumele ziqongelelwe **[esiKhwameni sokuGuqula ezeMijaho yamaHhashi nezokuBheja]** esiKhwameni soGuquko.”;

(g) ngokuthi kufakwe esikhundleni sesigatshana (7) lesi sigatshana esilandelayo:

“(7) IBhodi kumele igcine ngokuhlukana wonke amarekhodi afanele ezimali **[zesiKhwama sokuGuqula ezeMijaho yamaHhashi nezokuBheja]** zesiKhwama soGuquko, aqukethe imininingwane yazo zonke izimali noma inzuzo yemali etholakele kanye nezimali ezikhokhiwe.”;

(h) ngokuthi kufakwe esikhundleni sesigatshana (8) lesi sigatshana esilandelayo:

“(8) Ayikho imali ekweletwayo **[esiKhwameni sokuGuqula ezeMijaho yamaHhashi nezokuBheja]** esiKhwameni soGuquko eyoba yingxenyeyezimpahla zeBhodi noma eyothathwa egameni lomuntu okweleta noma labantu abakweleta iBhodi.”; kanye

(i) nangokuthi kufakwe esikhundleni sesigatshana (9) lesi sigatshana esilandelayo:

“(9) Amarekhodi ezimali neminye imininingwane ephathelene **[nesiKhwama sokuGuqula ezeMijaho yamaHhashi nezokuBheja]** nesiKhwama soGuquko, kumele iBhodi iwakhokhelwe ukuze acwaningwe uMcwaningimabhuku-Jikelele.”.

**Isihloko esifingqiwe**

**36.** Lo Mthetho ubizwa ngoMthetho wokuChibiyela uMthetho wezeMidlalo yeMali nokuBheja waKwaZulu-Natali, 2013.



**IMEMORANDAMU**  
**NGEZINHLOSO ZOMTHETHOSIVIVINYO WOKUCHIBIYELA UMTHETHO**  
**WEZEMIDLALO YEMALI NOKUBHEJA WAKWAZULU-NATALI, 2013**

**1. ISENDLALELO**

Isizathu esinqala sokuchibiyela uMthetho wezeMidlalo yeMali nokuBheja waKwaZulu-Natali, 2010 osanda kushicilelwa (ngemuva kwalokhu ozobizwa “ngoMthetho”, ukulungisa noma ukuqinisa izingxenye ezithile zoMthetho okuyizona eziholele ekutheni kube nokudonsisana ezinkantolo, noma ezingaholela ekuyisweni enkantolo. Izingqinamba zisukela kwizinhlinzeko zebhingo eMthethweni nasekuhunyushweni kwezinhlinzeko zoMthetho ezikhuluma ngokuhlomula ngokwezezimali kumnikazi welayisensi yokugembula.

Ngale kwalokho, ziningi izichibiyelo ezihlongozwe kulo Mthethosivivinyo eziphathelele nokuhlomula ngokwezezimali kumnikazi welayisensi noma webhingo. Ingxenye enkulu yalokhu okuhlongozwayo isuselwa kwiBhodi lezeMidlalo yeMali nokuBheja laKwaZulu-Natali (“iBhodi”), kanti okunye kuvela oPhikweni loMqondisi omKhulu: IwezeMidlalo yeMali nokuBheja kanti kunokunye okucelwe imboni yezokugembula.

**2. UKUCHAZWA KWESIGABA SOMTHETHO NGASINYE**

Kafishane nje, uMthethosivivinyo wokuchibiyela uhlinzeka kanje: –

**Isigaba somthetho 1: Ukuchitshiyelwa kwesigaba 1 (izincazelo)**

(a) Sihlongoza ukuchitshiyelwa kwencazelo “yebhingo” nezinye izincazelo eziphathelele nebhingo, ngenhloso yokuqinisa izinhlinzeko ezingaholele ekutheni kube nokudonsisana ezinkantolo (neziphikisana neBhodi kanye noNdunankulu).

(b) Sisusa incazelo “yesiKhwama sezeMijaho yamaHhashi nezokuBheja” kufakwe incazelo entsha “yesiKhwama soGuquko”. Lezi zichibiyelo zihambisana nokuchitshiyelwa kwesigaba 137, njengamanje esikhuluma “ngesiKhwama soGuquko”.

(c) Sifaka izincazelo eziningi ezintsha ukuze izinhlinzeko zoMthetho, mayelana nohlelo oluphathelele nohlelo oluyimpoqo lokuhlolwa kwamazinga (amazinga akwa-SABS) olusetshenziswa uma kuhlolwa impahla yokudlala, zihambisane nomthetho kazwelonke ophathelele namazinga ayimpoqo (uMthetho woMlawuli wamaZinga ayiMpoqo kaZwelonke, 2008).

(d) Sichibiyela izincazelo eziningi ezihlose ukucacisa ukuthi “umuntu” kushiwo “umuntu qobo”, kokubili umuntu ngokomthetho noma umuntu qobo kuqonde “umuntu”.

(e) Ngenxa yokuthi umjaho wamahhashi adonsa izinqola (obuye waziwe “ngomjaho womtelebhelu”, usuyasimama esiFundazweni, kudingeka ukuthi izincazelo zichitshiyelwe futhi/noma zifakwe ukuze kube nomehluko phakathi komjaho womtelebhelu kanye nomjaho wamahhashi adonsa izinqola.

(f) Sichibiyela incazelo “ye-ejenti yomqhubi wethotho” nencazelo “ye-ejensi yomqhubi wethotho” ifakiwe ukuze kucaciswe kangcono ngezinhlinzeko ezihlose ukulawula abaqhubi bamathotho eMthethweni.

### **Isigaba somthetho 2: Ukuchitshiyelwa kwesigaba 6**

Okokuqala lezi zichibiyelo zenzelwe ukuguqula umthelela okhona kanye nokusetshenziswa kwesigaba esikhuluma “ngezimboni zemijaho yamahhashi nezokubheja” ukuba sibe nomthelela omkhulu esigabeni esikhuluma “ngemboni yezokugembula esiFundazweni” nasekusetshenzisweni kwaso. Okokugcina, izichibiyelo ezenziwe esigatshaneni (3) sesigaba 6.

### **Isigaba somthetho 3: Ukuchitshiyelwa kwesigaba 7**

Indima (q) yesigatshana (2) sesigaba 7 ichitshiyelwe ukunikeza obhuki nabaqhubi bamathotho imvume yesikhashana yokuqhuba imisebenzi yabo kunoma iyiphi indawo ngaphandle kwezindawo zabo ezisemthethweni. Njengamanje bavumeleke ukuba okwesikhashana basebenzele ezinkundleni zemidlalo noma kweminye imicimbi.

Indinyana (g)(iii) yesigatshana (3) sesigaba 7 ichitshiyelwe ukuze ihambisane namagama asetshenziswe eMthethweni woMlawuli wamaZinga ayiMpoqo kaZwelonke, 2008.

### **Isigaba somthetho 4: Ukuchitshiyelwa kwesigaba 9**

Isigaba 9 soMthetho sikhuluma ngokungafaneleki ukuqokelwa kwiBhodi. Lokhu kuchibiyela kwelula isikhathi sokungafaneleki komuntu, ngesikhathi eqokwa, noma ezinyangeni eziyi-12 ezedlule ebengumuntu osebenzela umasipala.

### **Isigaba somthetho 5: Ukuchitshiyelwa kwesigaba 10**

Indima (b) yesigatshana (3) isusa inhlinzeko yokwenziwa kwencwadi efungelwe ngophakanyiselwe ukuba aqokelwe kwiBhodi, lapho ophakanyisiwe kumele adalule yonke imininingwane yanoma ikuphi ukulahlwa icala. Ngenxa yokuthi iLungu loMkhandlu oPhethe

elibhekele ezokugembula, ngaphansi komthetho omusha ka 2010, alisenawo amandla okuqoka ophakanyisiwe ezimweni ezithile, ngaphandle kokuthi ophakanyisiwe akafanelekile.

**Isigaba somthetho 6: Ukuchitshiyelwa kwesigaba 30**

Izigatshana 8, 9 no 10 ezintsha zicacisa ngamandla eBhodi mayelana nokubeka imibandela yelayisensi noma yokubhaliswa.

**Isigaba somthetho 7: Ukuchitshiyelwa kwesigaba 32**

Isigaba 32 sikhuluma ngokungafaneleki ukunikezwa ilayisensi noma ukubhaliswa. Lokhu kuchibiyela kwelula isikhathi sokungafaneleki komuntu ngesikhathi eqokwa, noma ezinyangeni eziyi-12 ezedlule ebengumuntu osebenzela umasipala.

**Isigaba somthetho 8: Ukufakwa kwesigaba 32A eMthethweni 8 ka 2010**

Lesi sigaba esisha sikhuluma ngesikhathi sokubhaliswa kwabasebenzi bomuntu qobo. Njengamanje ukubhaliswa kwabasebenzi akudingi ukuvuselelwa njalo ngonyaka, kodwa izigaba zomthetho ezintsha zihlinzekela ngokuvuselelwa njalo eminyakeni emithathu, kusukela osukwini esikhishwe ngalo.

**Isigaba somthetho 9: Ukuchitshiyelwa kwesigaba 40**

Lesi sichibiyelo (nezinye ezenziwe kulo Mthethosivivinyo) siqinisekisa ukuthi uMthetho uhambisana namagama asetshenzisiwe kanye nezinqubo ezihlinzekelwe eMthethweni woMlawuli wamaZinga ayiMpoqo kaZwelonke, 2008.

**Isigaba somthetho 10: Ukuchitshiyelwa kwesigaba 43**

Lesi sigaba somthetho sichibiyela isigaba 43 ngokuthi kufakwe esikhundleni sesigatshana (1) isigatshana esisha, esicacisa ngokuthi abanikazi bamalayisensi noma ababhalisile abangabasebenzi qobo babaqhubi bezokugembula, abadluliseli leyo layisensi noma ukubhaliswa komunye umuntu.

Isigatshana (3) sichitshiyelwe ukuze sicacise kangcono ngokushiwo incazelo.

**Isigaba somthetho 11: Ukufakwa kwesigaba 43A kuMthetho 8 ka 2010**

Isigaba 54, esikhuluma ngabantu abafuna ukuhlomula ngokwezezimali kumnikazi welayisensi noma kumuntu obhalisile, sizochithwa bese kufakwa isigaba 43A esisha, esizokhuluma futhi ngabantu abafuna ukuhlomula ngokwezezimali kumnikazi welayisensi noma kumuntu obhalisile. Ukudonsisana okukhona njengamanje mayelana nokuhunyushwa kwesigaba 54. Okokuqala isigaba 54 sibekwe kwisahluko samakhasino, okusho ukuthi

sisebenza kumakhasino kuphela. Yingakho inhlinzeko iyofakwa kwisahluko soMthetho esiphathelene nabo bonke abanikazi bamalaysensi kanye nabantu ababhalisile. Inhlinzeko iphinde ithathwe, ngokwejwayelekile, njengenganele futhi nengasebenzi ngendlela ebekwe ngayo njengamanje.

**Isigaba somthetho 12: Ukuchitshiyelwa kwesigaba 44**

Isigatshana (1) sesigaba 44 sichitshiyelwe, okukuqala ukuze sibandakanywe ababhalisile, kanti, okwesibili ukuze sicacise kangcono incazelo.

Izigatshana (3) no 4 ezintsha ezengeziwe, ukuze zinike iBhodi amandla okunquma ngenqubo okumele ilandelwe uma kufakwa isicelo sokugunyaza ukushintsha indawo yokusebenza yebhizinisi lomnikazi welayisensi noma lobhalisile, lisuka ezakhiweni ezibhalwe kwilaysensi liyiswa kwenye indawo nokuhlinzekela imali yelevi ekhokhwayo uma kufakwa lezo zicelo.

**Isigaba somthetho 13: Ukuchitshiyelwa kwesigaba 53**

Izigatshana (4) no (5) zesigaba 53 zisusiwe. Lezi zinhlinzeko zikhuluma ngokuchitshiyelwa, nokushintshwa nangokuhoxiswa kwemibandela yamalaysensi ekhasino. Lezi zinhlinzeko azinasidingo, ngoba ukuchitshiyelwa, ukufaka esikhundleni noma ukuhoxiswa kwemibandela yazo zonke izinhlobo zamalaysensi kukhulunywe ngakho kwisahluko soMthetho esiphathelene nokukhishwa kwamalaysensi kanye nokubhaliswa (iSahluko 5).

**Isigaba somthetho 14: Ukuchithwa kwesigaba 54**

Isigaba 54 sikhuluma ngokulawula nokuhlomula ngokwezezimali komnikazi welayisensi yekhasino kanti esikhundleni saso kufakwe isigaba 43A esisha, esisebenza kubo bonke abanikazi bamalaysensi kanye nababhalisile.

**Isigaba somthetho 15: Ukuchitshiyelwa kwesigaba 55**

Isigaba (1) sichitshiyelwe ngokuthi kufakwe igama elithi "amatheminali kagesi okudlala ibhingo" kanye nokunye okufakwe nokususiwe, kwenza ukuthi kuzwakale kangcono lokho okumele kubandakanywe futhi kulawulwe inhlinzeko.

Isigatshana (2) sichitshiyelwe ukwenza lula futhi ngalokho sicacise kangcono okushiwo incazelo.

**Isigaba somthetho 16: Ukuchitshiyelwa kwesigaba 57**

Isigaba 57 soMthetho ngalokhu siyachitshiyelwa ngokususa izigatshana (4) no (5),

ezinganasidingo, ngenxa yokuchitshiyelwa kwesigaba 30 soMthetho okuhlongozwayo, esikhuluma ngemibandela yelayisensi ejwayelekile, isibonelo: isigaba esichitshiyelwe sisebenza kuzo zonke izinhlobo zamalaysensi.

**Isigaba somthetho 17: Ukuchitshiyelwa kwesigaba 59**

Indima (a) yesigaba 59 ichitshiyelwe ukuze ihambisane namagama aseMthethweni woMlawuli wamaZinga ayiMpoqo kaZwelonke, 2008.

**Isigaba somthetho 18: Ukuchitshiyelwa kwesigaba 62**

Indima (d) yesigatshana (1) ichitshiyelwe ngokususwa kwamagama “amazinga kanye”, ukuze ihambisane nezinhlinzeko zoMthetho woMlawuli wamaZinga ayiMpoqo kaZwelonke, 2008.

Ukususwa kwezigatshana (4) no (5), ngenxa yokuthi lezi zinhlinzeko azinasidingo, ngoba ukutshiyelwa, nokushintshwa kanye nokuhoxiswa kwemibandela yazo zonke izinhlobo zamalaysensi kukhulunywe ngakho kwisahluko soMthetho esiphathelene nokukhishwa kwamalaysensi kanye nokubhaliswa (iSahluko 5).

**Isigaba somthetho 19: Ukuchitshiyelwa kwesigaba 69**

Isigaba 69 sichitshiyelwe ngokuthi kufakwe ngemuva kwendinyana (d) yendinyana (e) entsha, ebeka ukuthi “ukubhaliswa kudingeka kuvuselelwe ngokwesigaba 32A”. Lokhu kubaluleke ngokuthi njengamanje, isikhathi esibekelwe ukubhaliswa kwabasebenzi abathile asicaci kahle, ngenxa yezimo ezithile eziqhamukayo, isigaba 32A esisha esihlongozwayo, sinquma isikhathi esibekelwe ukubhaliswa kwalabo bazebenzi okuyizinyanga ezingama-36 kanye nezinyanga ezingama-48, kuncike osukwini umuntu obhalisiwe aqala ngalo ukusebenza.

**Isigaba somthetho 20: Ukuchitshiyelwa kwesigaba 77**

Isigatshana (1) sesigaba 77 sichitshiyelwe ukuze bonke abanamalaysensi bakhokhe intela kwi-akhawunti yeBhodi, esikhundleni sokuthi abanye abaqhubi bezokugembula kudingeka ukuthi bakhokhe intela esiKhwameni seNgeniso yesiFundazwe.

Isigaba 77 sichitshiyelwe ngokufaka isigatshana (3) esisha, esinquma ukuthi iBhodi kumele yabe ingxenye yezintela ezitholakele, njengoba kunqunyiwe nokuthi iBhodi kumele ngemuva kwalokho ifake izimali ezisele zentela esiKhwameni seNgeniso yesiFundazwe ezinsukwini ezingama-20 kuphele inyanga ngayinye.

Isigatshana (3) esisha sifakiwe futhi siquma ukuthi iBhodi kumele lihlinzeke uMgcinimafa wesiFundazwe kanjalo neLungu loMkhandlu oPhethe ngombiko ochaza kabanzi mayelana nentela etholakele kanye neyabiwe iBhodi.

**Isigaba somthetho 21: Ukuchitshiyelwa kwesigaba 78**

Isigatshana (2) sesigaba 78 sichitshiyelwe ngokwengezwa kwenhlinzeko enomthelela omkhulu ekutheni umnikazi welayisensi aqale anikezwe isaziso ngaphambi kokuba kumiswe ilayisensi ngenxa yokwehluleka ukukhokha imali, intela noma ilevi enqunyiwe kanti, njengamanje, ukumiswa kwelayisensi ngenxa yokwehluleka ukukhokha imali, intela noma ilevi kumele kwenziwe ngokushesha.

**Isigaba somthetho 22: Ukuchitshiyelwa kwesigaba 89**

Indima (c) yesigatshana (3) sesigaba 89 sichitshiyelwe ukuze kufakwe i-Trotting South Africa, kuMaziphathe weMijaho yamaHhashi kaZwelonke. Lezi izinkundla zabaqhubi bemijaho yamahhashi ezinamalayisensi zemijaho yamahhashi adonsa izinqola kanye neyomtebhelo (okuyizinhlobo ezimbili ezisemthethweni zomjaho wamahhashi) ngokwahlukana kwazo.

Isigaba (8) naso sichitshiyelwe ngenhloso yokufaka i-Trotting South Africa, kuMaziphathe weMijaho yamaHhashi kaZwelonke.

**Isigaba somthetho 23: Ukuchitshiyelwa kwesigaba 90**

Isigaba 90, sikhuluma ngokuhlomula kumnikazi welayisensi yomqhubi wenkundla yomjaho, ukuze kugwenywe ukushayisana ngaphakathi, ngoba isigaba 43A esisha sikhuluma ngokuhlomula ngokwezezimali kubo bonke abanikazi bamalayisensi noma kwababhalisile.

**Isigaba somthetho 24: Ukuchitshiyelwa kwesigaba 91**

Isigaba 91 sichitshiyelwe ukuze isikhathi sokuvuselelwa kwamalayisensi abaqhubi bezinkundla zemijaho sihambisane nezinye izinhlobo zamalayisensi.

**Isigaba somthetho 25: Ukuchitshiyelwa kwesigaba 94**

Isigaba 94 sichitshiyelwe, okokuqala, ukuze sichaze ngezinhlobo zabantu abangaba namalayisensi obhukhi kanti, okwesibili, ukuze isikhathi sokuvuselelwa kwamalayisensi obhukhi sihambisane nezinye izinhlobo zamalayisensi.

**Isigaba somthetho 26: Ukuchithwa kwesigaba 97**

Isigaba 97 sisusiwe ukuze kungabi nokushayisana kwangaphakathi ngezinye izinhlinzeko

zoMthetho, ezikhuluma ngokushintshwa kobunikazi belayisensi, ngoba lezi zinhlinzeko zikhuluma ngokushintshwa kozoba umnikazi welayisensi okuhloswe ukuba kusebenze kuzo zonke izinhlobo zamalaysensi.

**Isigaba somthetho 27: Ukuchithwa kwesigaba 98**

Kususwe isigaba 98 ukuze kungabi nokushayisana kwangaphakathi ngezinye izinhlinzeko zoMthetho ezikhuluma ngokushintshwa kwabaqondisi benkampani enelayisensi, ngoba lezi zinhlinzeko zikhuluma ngalolo shintsho okuhloswe ukuba lusebenze kuzo zonke izinhlobo zamalaysensi.

**Isigaba somthetho 28: Ukuchithwa kwesigaba 106**

Kususwe isigaba 106 ukuze kungabi nokushayisana kwangaphakathi ngezinye izinhlinzeko zoMthetho ezikhuluma ngokubhaliswa kwabantu, ngoba lezi zinhlinzeko zikhuluma ngokubhaliswa ngendlela okuhloswe ukuba isebenze kuzo zonke izinhlobo zokubhaliswa.

**Isigaba somthetho 29: Ukuchitshiyelwa kwesigaba 111**

Ukuchitshiyelwa kwesigaba 111 kuhlose ukunika iBhodi amandla engeziwe okuqoka nokubhalisa abaqhubi bamathotho, izimenenja zamathotho kanye nama-ejenti amathotho, ngokuhambisana namandla anikezwe iBhodi mayelana nezimenenja zobhukhi.

**Isigaba somthetho 30: Ukuchithwa kwesigaba 120**

Ukuchithwa kwesigaba 120 kuhlose ukugwema ukushayisana kwangaphakathi ngezichibiyelo ezihlongozwe esigabeni 44, esikhuluma ngokushintsha indawo yokusebenza yebhizinisi lomnikazi welayisensi noma lobhalisile, lisuka ezakhiweni ezibhalwe kwilayisensi liyiswa kwezinye izakhiwo, ngendlela okuhloswe ukuba isebenze kuzo zonke izinhlobo zamalaysensi kanye nezokubhaliswa.

**Isigaba somthetho 31: Ukuchithwa kwesigaba 121**

Ukuchithwa kwesigaba 121 kuhlose ukugwema ukushayisana kwangaphakathi ngezichibiyelo ezihlongozwe esigabeni 44, esikhuluma ngokushintsha indawo yokusebenza yebhizinisi lomnikazi welayisensi lobhalisile, lisuka ezakhiweni ezibhalwe kwilayisensi liyiswa kwezinye izakhiwo (kubandakanya ukushintshela ezakhiweni ezizosetshenziswa okwesikhashana), ngendlela okuhloswe ukuba isebenze kuzo zonke izinhlobo zamalaysensi kanye nokubhaliswa.

**Isigaba somthetho 32: Ukuchitshiyelwa kwesigaba 123**

Isigatshana (1) sesigaba 123 sichitshiyelwe ukuze sihambisane namagama asetshenziswe

eMthethweni woMlawuli wamaZinga ayiMpoqo kaZwelonke, 2008.

Izigatshana (2), (3) no (4) zesigaba 123 zichitshiyelwe ukuze zicacise kangcono lezi zinhlinzeko.

Isigaba (5) esisha sifakiwe ukuze sicacise ngokuthi ukugunyazwa kohlelo lwekhompyutha lokugcina amarekhodi aluyeki ukuba uhlelo olugunyaziwe lwekhompyutha lokugcina amarekhodi, uma sekunohlelo olusha olugunyaziwe. Inhlinzeko entsha iphoqa iBhodi ukuthi igcine irejista evuselelwe yazo zonke izinhlelo zekhompyutha zokugcina amarekhodi ezigunyaziwe, kubandakanya uhlobo ngalunye lwekhompyutha lokugcina amarekhodi olugunyaziwe.

**Isigaba somthetho 33: Ukuchitshiyelwa kwesigaba 125**

Ukuchitshiyelwa kwesigaba 125 kunciphisa ijoka lokuphendula ngezenzo zabasebenzi labanikazi bamayisensi noma lobhukhi, ngezenzo namaphutha abasebenzi balabo banikazi bamalayisensi noma bobhukhi, mayelana nemisebenzi egunyazwe kuleyo layisensi.

**Isigaba somthetho 34: Ukuchitshiyelwa kiwesigaba 128**

Ukuchitshiyelwa kwesigaba 128 kuguqula okucashunwe esigabeni 129 kube ngokucashunwe esigabeni 77, okuyisona sizathu esiholele ekuchitshiyelweni kwezigaba 77 no 129.

**Isigaba somthetho 35: Ukuchitshiyelwa kwesigaba 137**

Isigaba 137 sichitshiyelwe ngokufaka esikhundleni sesisho "isiKhwama sokuGuqula ezeMijaho yamaHhashi nezokuBheja", yonke indawo lapho sivela khona esigabeni, isisho "isiKhwama soGuquko". Lezi zichibiyelo zihambisana nezichibiyelo ezenziwe kwizincazelo: Incazelo "yesiKhwama sokuGuqula ezeMijaho yamaHhashi nezokuBheja" isusiwe kwafakwa incazelo entsha "yesiKhwama soGuquko".

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

Akukho zingqinamba kwezokuphatha nezabasebenzi ezilindelekile.

**4. IZIMALI EZIZODINGEKA KUHULUMENI WESIFUNDAZWE**

Akukho zimali ezizodingeka ezilindelekile.



## 5. IMINYANGO/IMIGWAMANDA OKUXHUNYANWE NAYO

UMthethosivivinyo ubhalwe ngokuxhumana –

5.1 neBhodi yezeMidlalo yeMali nokuBheja yaKwaZulu-Natali; kanye

5.2 neMboni yezokuGembula yaKwaZulu-Natali.

## 6. OKUNGAXHUNYANWA NABO

### 6.1 Ehhovisi likaNdunankulu

Igama: Mnuz. NS Mutheiwana  
Isikhundla: UMqondisi oMkhulu: wezemiDlalo yeMali nokuBheja  
Ucingo: (033) 395 2640  
Ifeksi: (033) 342 4913  
Iselula: 082 562 8070  
I-imeyli: [ndanduleni.mutheiwana@kznpremier.gov.za](mailto:ndanduleni.mutheiwana@kznpremier.gov.za)

### 6.2 Ehhovisi likaNdunankulu

Igama: Mnuz. BR Wilkinson  
Isikhundla: ISekela loMqondisi: wezemiDlalo yeMali nokBheja  
Ucingo: (033) 395 2849  
Ifeksi: (033) 342 4913  
Iselula: 082 853 6774  
I-imeyli: [barry.wilkinson@kznpremier.gov.za](mailto:barry.wilkinson@kznpremier.gov.za)

No. 5

13 February 2014

## KWAZULU-NATAL PROVINCIAL LANGUAGES BILL, 2013

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

Notice is hereby given in terms of Rule 194 of the Standing Rules of the KwaZulu-Natal Legislature that the KwaZulu-Natal Provincial Languages Bill, 2013 as set out hereunder, has been introduced into the aforesaid Legislature and will be considered by the Arts and Culture Portfolio Committee. The public and other interested groups are invited to submit representations on the said Bill, which representations must be addressed to:

Attention: Mrs M C Madondo  
The Secretary  
KwaZulu-Natal Legislature  
Private Bag X9112  
PIETERMARITZBURG  
3200

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

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

N NAIDOO  
Secretary to the KwaZulu-Natal Legislature

**KWAZULU-NATAL  
PROVINCIAL LANGUAGES BILL, 2013**

## BILL

To provide for the determination of provincial official languages in the Province of KwaZulu-Natal; to provide for the regulation and monitoring of the use of provincial official languages by all governmental bodies in the Province of KwaZulu-Natal; to elevate the status and advance the use of indigenous languages spoken in the Province; to provide for the establishment of the KwaZulu-Natal Provincial Language Service; to provide for the establishment of the KwaZulu-Natal Intergovernmental Language Forum; to provide for the development of internal language policies by governmental bodies in the Province; to provide for the development and adoption of the KwaZulu-Natal Development and Advancement of Indigenous Languages Policy; to provide for the repeal of the KwaZulu-Natal Parliamentary Official Languages Act, 1998; and to provide for matters incidental thereto.

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

### ARRANGEMENT OF SECTIONS

#### *Section*

#### CHAPTER 1 DEFINITIONS

##### 1. Definitions

#### CHAPTER 2 OBJECTS AND APPLICATION OF ACT

##### 2. Objects of Act 3. Application of Act

**CHAPTER 3****PROVINCIAL OFFICIAL LANGUAGES AND TRANSLATION, EDITING AND INTERPRETING SERVICES**

4. Determination of provincial official languages
5. Use of provincial official languages in proceedings of Executive Council, Municipal Councils and Provincial Legislature
6. Use of provincial official languages for legislative purposes
7. Use of provincial official languages by governmental bodies in Province
8. Translation, editing and interpreting services

**CHAPTER 4****KWAZULU-NATAL PROVINCIAL LANGUAGE SERVICE**

9. Establishment of KwaZulu-Natal Provincial Language Service
10. Powers, functions and duties of KwaZulu-Natal Language Service
11. Staff of the Provincial Language Service

**CHAPTER 5****KWAZULU-NATAL INTERGOVERNMENTAL LANGUAGE FORUM**

12. KwaZulu-Natal Intergovernmental Language Forum (KWANILAF0)

**CHAPTER 6****DEVELOPMENT OF INTERNAL LANGUAGE POLICIES AND KWAZULU-NATAL DEVELOPMENT AND ADVANCEMENT OF INDIGENOUS LANGUAGES POLICY**

13. Internal language policies
14. KwaZulu-Natal Development and Advancement of Indigenous Languages Policy

**CHAPTER 7****INTERNAL COMPLAINTS MECHANISM AND HANDLING OF LANGUAGE DISPUTES**

15. Internal complaints mechanism
16. Handling of language disputes

**CHAPTER 8****MONITORING OF, AND REPORTING ON, USE OF PROVINCIAL OFFICIAL LANGUAGES**

17. Designated language officials or units
18. Monitoring of, and reporting on, use of provincial official languages

## CHAPTER 9 GENERAL PROVISIONS

19. Regulations
20. Delegations
21. Repeal of law
22. Short title

## CHAPTER 1 DEFINITIONS

### Definitions

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

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

“**Department**” means the Department in the Province of KwaZulu-Natal responsible for language matters in the Province;

“**eleven official languages**” means the official languages of the Republic of South Africa, contemplated in section 6(1) of the Constitution;

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

“**financial year**” means the period commencing on 1 April of a particular year and terminating on 31 March of the following year;

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

“**governmental body**” means –

- (a) any provincial department or municipality in the Province of KwaZulu-Natal;
- (b) any statutory body, commission, board or council in the provincial or local

sphere of government in the Province of KwaZulu-Natal; and  
(c) the Provincial Legislature;

**“Head of Department”** means the person appointed as the accounting officer of the Department;

**“head of governmental body”** means the accounting officer of any governmental body in the Province or any person acting as such;

**“indigenous languages spoken in the Province”** means those languages which –

- (a) according to historical records, originated in South Africa and spoken in the Province; and
- (b) in the past were not afforded the requisite recognition and status as compared to English and Afrikaans;

**“internal language policies”** means internal language policies developed by respective governmental bodies in the Province, as contemplated in section 13;

**“KWANILAF0”** means the KwaZulu-Natal Intergovernmental Language Forum, contemplated in section 12;

**“language complainant”** means any person who lodges a language complaint contemplated in section 15(1);

**“language complaint”** means a language complaint contemplated in section 15(1);

**“language dispute”** means a language dispute contemplated in section 15(2)(f);

**“Language Dispute Resolution Committee”** means a Language Dispute Resolution Committee, appointed by the responsible Member of the Executive Committee, from time to time, in terms of section 16(2);

**“Municipal Council”** means the Municipal Council of any municipality contemplated in section 157 of the Constitution;

**“PanSALB”** means the Pan South African Language Board, established in terms of section 2 of the Pan South African Language Board Act, 1995;

**“Pan South African Language Board Act”** means the Pan South African Language Board Act, 1995 (Act No. 59 of 1995);

**“prescribed”** means prescribed by regulation under section 19, and **“prescribe”** has a corresponding meaning;

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

**“Provincial Government”** means the government of the Province;

**“Provincial Language Committee”** means the Provincial Language Committee for the Province established by PanSALB in terms of section 8(8)(a) of the Pan South African Language Board Act, 1995;

**“Provincial Language Service”** means the KwaZulu-Natal Provincial Language Service, established in terms of section 9;

**“Provincial Legislature”** means the Legislature of the Province as contemplated in section 105 of the Constitution and having legislative authority for the Province as contemplated in section 104(1) of the Constitution;

**“provincial official languages”** means the provincial official languages contemplated in section 4(1);

**“regulations”** means regulations made in terms of section 19;

**“responsible Member of the Executive Council”** means the Member of the Executive Council of the Province responsible for language matters in the Province; and



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

## CHAPTER 2 OBJECTS AND APPLICATION OF ACT

### **Objects of Act**

2. The objects of the Act are to –

- (a) determine provincial official languages for the Province;
- (b) regulate and monitor the use of provincial official languages by all governmental bodies in the Province;
- (c) promote parity of esteem and equitable treatment of all provincial official languages in the Province;
- (d) empower the public to use languages of their choice in order to access government services, knowledge and information;
- (e) provide measures aimed at ensuring redress for the previously marginalised indigenous languages in the Province; and
- (f) promote multilingualism and linguistic diversity in the Province.

### **Application of Act**

3. This Act applies to –

- (a) the Executive Council;
- (b) all Municipal Councils in the Province as contemplated in section 157 of the Constitution; and
- (c) all governmental bodies in the Province.

## CHAPTER 3 PROVINCIAL OFFICIAL LANGUAGES AND TRANSLATION, EDITING AND INTERPRETING SERVICES

### **Determination of provincial official languages**

4.(1) The official languages of the Province are isiZulu, English, isiXhosa and Afrikaans.

(2) Notwithstanding subsection (1) –

(a) all eleven official languages of the Republic of South Africa, as contemplated in section 6(1) of the Constitution, must –

- (i) enjoy parity of esteem; and
- (ii) be treated equitably,

in the Province; and

(b) the Provincial Government must, in co-operation with PanSALB –

(i) promote and create conditions for the usage of –

- (aa) all eleven official languages;
- (bb) the Khoi, Nama and San languages; and
- (cc) South African Sign Language,

in the Province; and

(ii) promote respect for –

- (aa) all languages commonly used by communities in South Africa; and
- (bb) other languages used for religious purposes.

#### **Use of provincial official languages in proceedings of Executive Council, Municipal Councils and Provincial Legislature**

5.(1) Any of the provincial official languages may be used in any debate or address in any proceedings of –

- (a) the Executive Council;
- (b) any committee of the Executive Council;
- (c) any Municipal Council;
- (d) any committee of any Municipal Council;
- (e) the Provincial Legislature; and
- (f) any committee of the Provincial Legislature.

(2) To give effect to subsection (1), reasonable arrangements must be made for the provision of interpreting services during the sittings of the Provincial Legislature, the Executive Council and Municipal Councils and any committee of the Provincial Legislature, the Executive Council and Municipal Councils.

(3) Any record of –

- (a) the Executive Council;
- (b) Municipal Councils;
- (c) any committee of –
  - (i) the Executive Council; and
  - (ii) Municipal Councils,

may be printed and published in any of the provincial official languages: Provided that any person may request a translated version of the original record or publication in any other provincial official language.

### **Use of provincial official languages for legislative purposes**

6.(1) Any –

- (a) provincial law (Act) or draft provincial law (Bill); and
- (b) regulation, proclamation or rule made under, or by virtue of, any provincial law,

published in the *Gazette* or any newspaper circulating in the Province, must be so published in all provincial official languages.

(2) Any notice issued under, or by virtue of, any provincial law and published in the *Gazette* or any newspaper circulating in the Province, must be so published in at least two provincial official languages: Provided that –

- (a) language use and preference of the members of public targeted by the notice must be taken into consideration; and
- (b) one of the languages used to publish the notice must, subject to regional circumstances, be one of the indigenous languages spoken in the Province.

(3) Any municipal by-law, rule or notice published in the *Gazette* or any newspaper by any municipality in the Province must be published in at least two provincial official languages: Provided that –

- (a) local language use and preference must be taken into consideration; and
- (b) one of the languages used to publish the notice must, subject to regional circumstances, be one of the indigenous languages spoken in the Province.

**Use of provincial official languages by governmental bodies in Province**

7.(1) All governmental bodies in the Province must, through internal language policies contemplated in section 13, and subject to –

- (a) language use and preference of the majority of the customers and clients of the relevant governmental body; and
- (b) regional circumstances,

designate at least two provincial official languages for –

- (i) internal, external, written and oral communication; and
- (ii) publication,

purposes: Provided that any governmental body in the Province may, in addition, so designate any one or more of the eleven official languages.

(2) Reasonable arrangements to provide interpreting and translation services must be made to accommodate any member of the public wishing to communicate with any governmental body in the Province, using any other provincial official language not designated in terms of subsection (1).

(3) One of the languages designated in terms of subsection (1) must, subject to language use and preference of the customers and clients of the relevant governmental body, be one of the indigenous languages spoken in the Province.

(4)(a) Any record or publication of any governmental body in the Province may be printed and published in any of the languages designated in terms of subsection (1): Provided that any person may request a translated version of the original record or publication in any other provincial official language.

(b) The responsible Member of the Executive Council may prescribe the period within which a translated version of the original record or publication in any other provincial official language must be provided following a request contemplated in paragraph (a).

(5) Where governmental bodies in the Province –

- (a) identify;
- (b) market; or
- (c) promote,

their services, they must use the provincial official languages designated in terms of subsection

(1) in their signs, letterheads, billboards and promotional material.

(6) Where a governmental body in the Province directs written communication or correspondence to a customer, client or member of the public, such communication or correspondence must be in the preferred provincial official language as may be indicated by such customer, client or member of the public.

### **Translation, editing and interpreting services**

**8.(1)** The Provincial Language Service, contemplated in section 9, must –

- (a) in respect of the provincial official languages; and
- (b) within a reasonable time of a request or within such period as may be prescribed by the responsible Member of the Executive Council,

provide translation, editing and interpreting services as may be required by the Provincial Legislature, the Executive Council, any Municipal Council in the Province and any governmental body in the Province.

(2) The Provincial Language Service may, on request, and –

- (a) subject to practicality and expense; and
- (b) within such time frames or periods as may be prescribed by the responsible Member of the Executive Council,

coordinate the provision of translation, editing and interpreting services as may be required by the Provincial Legislature, the Executive Council, any Municipal Council and any governmental body in the Province, in respect of –

- (i) any of the eleven official languages;
- (ii) any of the Khoi, Nama and San languages;
- (iii) South African Sign Language; and
- (iv) Braille.

(3) Any governmental body in the Province requiring any translation, editing or interpreting services, contemplated in subsections (1) and (2), must direct a written request to the Provincial Language Service.

CHAPTER 4  
KWAZULU-NATAL PROVINCIAL LANGUAGE SERVICE

**Establishment of KwaZulu-Natal Provincial Language Service**

9.(1) There is hereby established the KwaZulu-Natal Provincial Language Service, hereinafter referred to as the Provincial Language Service.

(2) The Provincial Language Service –

- (a) is a component within the Department; and
- (b) is not a juristic person.

**Powers, functions and duties of the Provincial Language Service**

10.(1) The Provincial Language Service must –

- (a) monitor the implementation of the provisions of –
  - (i) this Act;
  - (ii) any regulation made in terms of section 19; and
  - (iii) internal language policies contemplated in section 13,by all governmental bodies in the Province;
- (b) promote and monitor equitable use of provincial official languages by all governmental bodies in the Province in order to ensure equitable access to government services, knowledge and information by all citizens of the Province;
- (c) provide support to all governmental bodies in the Province in respect of language matters;
- (d) take practical and positive measures to –
  - (i) promote multilingualism in the Province;
  - (ii) promote the use and development of indigenous languages spoken in the Province; and
  - (iii) entrench language equity in the Province;
- (e) promote and monitor good language management by all governmental bodies in the Province for efficient public service administration;
- (f) promote and monitor respect for the language rights of the citizens of the Province by all governmental bodies in the Province;
- (g) monitor the development, review and implementation of internal language policies,

- as contemplated in section 13, by all governmental bodies in the Province;
- (h) provide translation, editing and interpreting services to any governmental body in the Province;
  - (i) monitor and improve the quality of translation, editing and interpreting services in the Province;
  - (j) manage terminology and literature development in the Province;
  - (k) support the learning and teaching of all provincial official languages in the Province;
- and
- (l) provide administrative and secretarial support to KWANILAF0 contemplated in section 12.

(2) The Provincial Language Service may –

- (a) facilitate training programmes on translation, editing and interpreting techniques;
- (b) foster any cooperation with any governmental body or any non-governmental organisation for the attainment of its objects and the exercise of its powers, functions and duties; and
- (c) generally, do anything –
  - (i) necessary or expedient for the carrying out of its powers, functions or duties in terms of this Act; and
  - (ii) reasonably incidental or ancillary to the carrying out of such powers, functions or duties.

### **Staff of Provincial Language Service**

11.(1) The staff of the Provincial Language Service consists of employees appointed by the Head of Department in terms of the Public Service Act, 1994 (Proclamation No. 103 of 1994).

(2) The staff of the Provincial Language Service must, collectively, be fully competent to –

- (a) translate, edit, and interpret;
- (b) manage the outsourcing of translation, editing and interpreting services; and
- (c) provide quality control services in respect of any outsourced translation, editing and interpreting work,

in all the provincial official languages.

(3) The staff of the Provincial Language Service must, for the purposes of section 10(1), collectively possess sufficient and appropriate skills, experience and knowledge in policy development.

## CHAPTER 5

### KWAZULU-NATAL INTERGOVERNMENTAL LANGUAGE FORUM

#### **KwaZulu-Natal Intergovernmental Language Forum**

12.(1) There is hereby established the KwaZulu-Natal Intergovernmental Language Forum (KWANILAF0).

(2) The objects, powers, functions and duties of KWANILAF0 are to –

- (a) promote general co-ordination, co-operation and consultation between all governmental bodies in the Province on language matters;
- (b) co-ordinate, align and monitor the implementation of internal language policies in the Province;
- (c) investigate any matter relating to the implementation of this Act and advise the responsible Member of the Executive Council;
- (d) promote engagement and dialogue between the Provincial Government and any organisation or person with an interest in language matters in the Province;
- (e) represent the Provincial Government on, and participate in and contribute to, any national intergovernmental language forum; and
- (f) perform such other functions that may be prescribed or assigned to KWANILAF0 by the responsible Member of the Executive Council.

(3) KWANILAF0 comprises of –

- (a) such members of staff of the Provincial Language Service as designated by the responsible Member of Executive Council;
- (b) language practitioners from all governmental bodies in the Province, designated as such in terms of section 17;
- (c) officials representing specialist language units, contemplated in section 17; and
- (d) such other person as may be designated and appointed by the responsible Member of Executive Council who, in the opinion of the responsible Member of Executive



Council, may assist KWANILAF0 in the fulfilment of its objects, the exercise of its powers and the performance of its functions and duties.

- (4) The responsible Member of the Executive Council must –
- (a) designate the Chairperson and the Deputy Chairperson of KWANILAF0;
  - (b) determine the term of office of the Chairperson and the Deputy Chairperson; and
  - (c) determine such other terms and conditions of appointment of the Chairperson and Deputy Chairperson.
- (5)(a) The responsible Member of the Executive Council must convene the first meeting of KWANILAF0.
- (b) KWANILAF0 must, thereafter, meet as often as necessary, but at least four times a year at such times and places as the Chairperson may determine.
- (c) Governmental bodies in the Province must, in respect of the officials representing the relevant governmental body in KWANILAF0, and –
- (i) within the allocated resources of that governmental body; and
  - (ii) subject to any applicable law or policies governing subsistence and travelling of that governmental body,
- make the necessary provision for any subsistence and travelling costs that may be incurred in attending the meetings of KWANILAF0.
- (6) The administrative and secretarial work incidental to the performance of the functions of KWANILAF0 must be performed by officers or employees of the Department designated for such purpose by the Head of Department in accordance with the Public Service Act, 1994 (Proclamation No. 103 of 1994).

## CHAPTER 6

### DEVELOPMENT OF INTERNAL LANGUAGE POLICIES AND KWAZULU-NATAL DEVELOPMENT AND ADVANCEMENT OF INDIGENOUS LANGUAGES POLICY

#### **Internal language policies**

- 13.(1) All governmental bodies in the Province must –

- (a) within 18 months of the commencement of this Act; and
  - (b) after consultation with the Provincial Language Service,
- develop and approve their respective internal language policies.
- (2) Internal language policies contemplated in subsection (1) must be consistent with the provisions of this Act and any regulations made under this Act in terms of section 19.
- (3) An internal language policy for any governmental body in the Province, must –
- (a) as contemplated in section 7 –
    - (i) identify at least two of the provincial official languages for purposes of internal and external, written and oral communication and publication purposes, for the relevant governmental body;
    - (ii) stipulate how the relevant governmental body communicates with any member of the public wishing to communicate with that governmental body, using any other language not designated in terms of section 7;
  - (b) provide for an internal complaints mechanism contemplated in section 15; and
  - (c) be published in the *Gazette* as soon as reasonably practicable, but not later than 90 days after adoption.
- (4) Each governmental body in the Province must –
- (a) inform their customers and clients of the existence of its internal language policy and make it available on request and free of charge;
  - (b) ensure that a copy of its internal language policy is available on request to its customers and clients and the members of the public; and
  - (c) display at all its offices, a summary of its language policy in such a manner and place that it can be seen and read by its customers and clients and members of the public.

#### **KwaZulu-Natal Development and Advancement of Indigenous Languages Policy**

14. The responsible Member of the Executive Council must, after consultation with the Provincial Language Committee and KWANILAF0, develop and adopt the KwaZulu-Natal Development and Advancement of Indigenous Languages Policy.

CHAPTER 7  
INTERNAL COMPLAINTS MECHANISM AND HANDLING OF LANGUAGE DISPUTES

**Internal complaints mechanism**

15.(1) Every governmental body in the Province must, through their internal language policies contemplated in section 13, provide for a detailed internal complaints mechanism that –

(a) may be used by any member of the public wishing to lodge a language complaint for any alleged violation or threatened violation of any –

(i) language right contemplated in the Constitution, this Act or the internal language policy of the relevant governmental body; or

(ii) provision of this Act or of any internal language policy of that governmental body,

by the governmental body; and

(b) must be followed by –

(i) the complainant to lodge a language complaint; and

(ii) the governmental body to investigate and resolve language complaints.

(2) The complaints mechanism must –

(a) identify the authority within the governmental body with whom a language complaint may be lodged;

(b) indicate a period within which a language complaint may be lodged: Provided that all language complaints must be lodged within 90 days of the date upon which the language complainant became aware of the violation or threatened violation of any –

(i) language right;

(ii) provision of this Act; or

(iii) provision of the internal language policy of the relevant governmental body;

(c) indicate that language complaints must –

(i) be in writing: Provided that any language complainant who cannot read and write must be assisted by officials of the relevant governmental body to reduce the language complaint to writing;

(ii) specify the provision of this Act or the nature of the right allegedly violated or allegedly threatened to be violated; and

(iii) specify the grounds on which the language complainant bases his or her

language complaint;

(d) require the language complainant to identify his or her interest in the matter: Provided that if the person lodging the language complaint is acting on behalf of a third party or a group of individuals, he or she must also submit proof of authority;

(e) specify the period within which the language complaint lodged with the relevant governmental body must be finalised: Provided that all language complaints must be finalised within 30 days from the date of receipt of the complaint;

(f) specify that a language complainant aggrieved by –

(i) the failure of the governmental body concerned to finalise the language complaint within 30 days of receipt, as contemplated in paragraph (e); or

(ii) the manner in which the relevant governmental body investigated, handled or finalised his or her language complaint,

may refer a language dispute, as contemplated in section 16(1), to the responsible Member of the Executive Council for further investigation and resolution in terms of section 16(5);

(g) specify that the responsible Member of the Executive Council, may –

(i) in respect of any complaint that remains unresolved; and

(ii) on his or her own initiative,

make a determination that a language dispute, as contemplated in section 16(1) –

(aa), has arisen; and

(bb) must be subjected to further investigation, as contemplated in section 16(5); and

(h) specify any other information as may be prescribed by the responsible Member of the Executive Council.

### **Handling of language disputes**

**16.(1)** A language dispute arises when –

(a) a language complaint remains unresolved as contemplated in section 15(2)(f); or

(b) when the responsible Member of the Executive Council, in terms of section 15(2)(g), makes a determination that a language dispute has arisen.

(2) Where a language dispute arises, a complainant may refer the language dispute to –

- (a) PanSALB, in terms of section 11 of the Pan South African Language Board Act, 1995; or
- (b) the responsible Member of the Executive Council in terms of subsection (3).

(3) Where the complainant elects to follow the process contemplated in subsection (2)(b), he or she must, within 21 days, refer the language dispute to the responsible Member of the Executive Council for further investigation and resolution as contemplated in subsection (5).

(4) Where the responsible Member of the Executive Council has made a determination, as contemplated in section 15(2)(g), that a language dispute has arisen he or she must, within 21 days, notify –

- (a) the relevant governmental body concerned; and
- (b) the complainant,

of his or her intention to refer the language dispute for further investigation and resolution, as contemplated in subsection (5).

(5) The responsible Member of the Executive Council must, within 30 days –

- (a) and upon receipt of a referral of a language dispute; or
- (b) of the responsible Member of the Executive Council having made a determination, as contemplated in section 15(2)(g), that a language dispute has arisen,

appoint a Language Dispute Resolution Committee.

(6) The Language Dispute Resolution Committee must, within 90 days of appointment –

- (a) investigate the language dispute;
- (b) facilitate an amicable resolution of the language dispute by facilitation, conciliation or negotiation; and
- (c) report and make recommendations to the responsible Member of the Executive Council on the outcome of the language dispute.

(7) The Language Dispute Resolution Committee, appointed by the responsible Member of the Executive Council in terms of subsection (2), may subpoena any person, body or governmental body to –

- (a) appear before it;
- (b) give evidence; and

(c) produce any relevant record or document.

(8) In the event that the language dispute is incapable of an amicable resolution as contemplated in subsection (5)(b) –

(a) the Language Dispute Resolution Committee must submit a report to the responsible Member of the Executive Council containing –

(i) factual details of the dispute;

(ii) any verbal or written submission made by the –

(aa) language complainant; or

(bb) relevant governmental body,

pertaining to the language dispute; and

(iii) recommendations on the appropriate ruling, as contemplated in paragraph (b);

(b) the responsible Member of the Executive Council, may, within 30 days of receipt of the Language Dispute Resolution Committee's report, contemplated in paragraph (a), determine the dispute by –

(i) issuing a compliance notice, calling upon the relevant governmental body to rectify any act or omission which gave rise to the language dispute: Provided that the governmental body has 30 days to comply with the compliance notice; or

(ii) dismissing the language dispute.

## CHAPTER 8

### MONITORING OF, AND REPORTING ON, USE OF PROVINCIAL OFFICIAL LANGUAGES

#### **Designated language practitioners or specialist language service units**

17.(1) Heads of governmental bodies in the Province, must –

(a) after consultation with the Provincial Language Service;

(b) subject to any law governing the employment of personnel of the relevant governmental body; and

(c) subject to the language needs of each governmental body in the Province, designate one or more language practitioners or a specialist language service unit within their establishment.

(2) The designated language practitioner or specialist language service unit contemplated in

subsection (1) is responsible for –

- (a) ensuring that the relevant governmental body –
  - (i) implements the provisions of this Act and any regulation in terms of this Act;
  - (ii) develops and implements an internal language policy, contemplated in section 13; and
  - (iii) complies with the reporting requirements contemplated in section 18;
- (b) managing and facilitating all requests for translation, editing and interpretation services, contemplated in section 8, for the relevant governmental body; and
- (c) representing the relevant governmental body on KWANILAF0.

### **Monitoring of, and reporting on, use of provincial official languages**

**18.(1)** Governmental bodies in the Province must –

- (a) within three months after the end of each financial year; or
- (b) within such other period as may be determined by the responsible Member of the Executive Council,

submit a report to the responsible Member of the Executive Council on –

- (i) steps taken by the relevant governmental body to comply with the provisions of this Act;
- (ii) the development and implementation of an internal language policy, contemplated in section 15;
- (iii) the activities of any specialist language service unit of the relevant governmental body;
- (iv) any complaints received by the relevant governmental body and how these complaints were dealt with; and
- (v) any other matter as may be prescribed by the responsible Member of the Executive Council.

(2) KWANILAF0 must –

- (a) within three months after the end of each financial year; or
- (b) within such other period as may be determined by the responsible Member of the Executive Council,

provide an annual report to the responsible Member of the Executive Council in respect of –

- (i) the fulfilment of its objects, the exercise of its powers and the performance of

its functions and duties;

(ii) any issue pertaining to the implementation of this Act; and

(iii) any other matter as may be prescribed.

(3) The responsible Member of the Executive Council must –

(a) after consultation with the Provincial Language Committee; and

(b) within five months after the end of each financial year,

table an annual report in the Provincial Legislature on the implementation of this Act and the provincial language policy in the Province.

## CHAPTER 9 GENERAL PROVISIONS

### Regulations

19. The responsible Member of the Executive Council may, by notice in the *Gazette* and after consultation with the Provincial Language Committee, make regulations prescribing –

(a) any matter which is required or permitted to be prescribed in terms of this Act; or

(b) any administrative or procedural matter necessary to give effect to the provisions of this Act.

### Delegations

20.(1) The responsible Member of the Executive Council may delegate to the Provincial Language Committee or to the Head of Department –

(a) any power conferred on the responsible Member of the Executive Council by this Act, except the power to make regulations in terms of section 19; or

(b) any duty imposed on the responsible Member of the Executive Council by this Act.

(2) Any power or duty delegated in terms of subsection (1) must be exercised or performed subject to such conditions as the responsible Member of the Executive Council considers necessary.

(3) Any delegation in terms of subsection (1) –



- (a) must be in writing;
- (b) may not prohibit the responsible Member of the Executive Council from exercising that power or performing that duty; and
- (c) may, at any time, be withdrawn or amended in writing by the responsible Member of the Executive Council.

**Repeal of law**

21. The KwaZulu-Natal Parliamentary Official Languages Act, 1998 (Act No. 10 of 1998), is hereby repealed.

**Short title**

22. This Act is called the KwaZulu-Natal Provincial Languages Act, 2013.

**MEMORANDUM ON THE OBJECTS  
OF THE  
KWAZULU-NATAL PROVINCIAL LANGUAGES BILL, 2013**

**BACKGROUND**

1.(a) In addition to determining eleven official languages for the Republic of South Africa, section 6 of the Constitution of the Republic of South Africa, 1996 ("the Constitution"), further provides that –

- (i) the State must take practical and positive measures to elevate the status and advance the use of indigenous languages;
- (ii) the National government and provincial government, may, after taking into account usage, practicality, expense, regional circumstances and balance of needs of the target population, use at least any two of the official languages for government purposes. Municipalities must take language usage and preferences of their residents into consideration when deciding on the languages to be used for government purposes; and
- (iii) the National government and provincial governments, by legislation and other measures, must regulate and monitor their use of official languages.

(b) It is against the abovementioned constitutional imperative that the responsible Member of the Executive Council responsible for Arts and Culture in the Province ("the MEC") seeks to introduce the KwaZulu-Natal Languages Bill.

**SALIENT PROVISIONS OF THE BILL**

2.(1) The main objects of the Bill are to provide for –

- (a) the determination of provincial official languages for the Province;
- (b) the regulation and monitoring of the use of provincial official languages by all governmental bodies in the Province;
- (c) the establishment of the KwaZulu-Natal Provincial Language Service and the KwaZulu-Natal Intergovernmental Language Forum;
- (d) measures for the development of indigenous languages and sign language in the Province;

- (e) the repeal of the KwaZulu-Natal Parliamentary Official Languages Act, 1998 (Act No. 10 of 1998); and
- (f) other incidental matters thereto.

(2) Chapter 1 of the Bill provides for the definitions.

(3) Chapter 2 provides for the objects and the application of the Bill. The Bill, once passed into law, will apply to all governmental bodies in the Province.

(4)(a) Chapter 3 of the Bill provides for the determination of isiZulu, English, isiXhosa and Afrikaans as the provincial official languages in KwaZulu-Natal.

(b) Chapter 3 further provides for the use of the provincial official languages in the Province. This chapter also provides for the utilisation of translation, editing and interpreting services.

(5) Chapter 4 provides for the establishment of the Provincial Language Service as a specialist component within the Department. This chapter also provides for the powers, functions and duties of the Provincial Language Service, which include but are not limited to

- (a) monitoring the implementation of this Act, regulations, and internal policies by governmental bodies in the Province;
- (b) promoting and monitoring good language management by governmental bodies in the Province; and
- (c) promoting and monitoring respect for language rights of the citizens of the Province by all governmental bodies in the Province.

(6) Chapter 5 provides for the establishment of the Provincial Intergovernmental Forum, called KwaZulu-Natal Intergovernmental Language Forum (KWANILAFO).

(7) Chapter 6 provides for the development of internal language policies by all governmental bodies in the Province. This chapter also provides for the development of the KwaZulu-Natal Policy on the Development and Advancement of Indigenous Languages.

(8) Chapter 7 provides for the issues relating to the handling of language complaints and disputes arising from any violation of language rights or any provisions of this Bill.

(9) Chapter 8 provides for monitoring and reporting mechanisms on the use of provincial official languages in the Province.

(10) Chapter 9 provides for general provisions namely regulations, delegations, the repeal of the KwaZulu-Natal Parliamentary Official Languages, 1998 (Act No. 10 of 1998) and the short title of the Act.

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

3. None.

### **FINANCIAL IMPLICATIONS FOR PROVINCIAL GOVERNMENT**

4. None.

### **DEPARTMENTS / BODIES CONSULTED**

5. Representatives of all provincial departments and municipalities in the Province, academics and experts on languages were invited to provide input and comments on the Bill.

### **CONSTITUTIONAL IMPLICATIONS**

6. The Bill seeks to dictate to the Municipalities in the Province as to how they should take cognisance of the languages of preference of their customers when performing their functions; hence section 154(2) of the Constitution of the Republic of South Africa, 1996, is applicable. In terms of the said provision the MEC must, prior to introducing this Bill in the Legislature, publish it for public comment, in a manner that allows organised local government and other interested persons an opportunity to make representations on the Bill.

**UMNYANGO WEZOBUCIKO, EZAMASIKO, EZEMIDLALO NEZOKUVAKASHA****UKUSHICILELWA KOMTHETHOSIVIVINYO WEZILIMI ZESIFUNDAZWE WAKWAZULU-NATALI, 2013, NGOKULANDELA ISIGABA 154(2) SOMTHETHOSISEKELO WERIPHABHULIKHI YASENINGIZIMU AFRIKA, 1996**

1. Ngenhloso yokulandela isigaba 154(2) soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996 (uMthetho 108 ka 1996), ngalokhu kushicilelwa uMthethosivivinyo weziLimi zesiFundazwe waKwaZulu-Natali, 2013 ukuze kutholakale izimvo zomphakathi.

2. Izinhloko zohulumeni basekhaya, omasipala nabantu abathintekayo bayamenywa ukuba bathumele izimvo zabo ezibhalwe phansi mayelana nalo Mthethosivivinyo ohlongozwayo zingakedluli izinsuku ezingamashumi amathathu (30) kushicilelwe lesi sazi, –

- (a) ngeposi kwiNhloko yoMnyango wezobuCiko namaSiko, Private Bag X9140 Pietermaritzburg, 3200;
- (b) ngesandla e-2<sup>nd</sup> Floor, Heritage House, 222 Jabu Ndlovu Street, Pietermaritzburg, Zibhekiswe ku-Mnu. MB Mnguni;
- (c) ngefeksi ku: (033) 264 3494; noma
- (d) nge-imeyili ku: [mngunim@kzndac.gov.za](mailto:mngunim@kzndac.gov.za).

Sikhishwe ngaphansi kwesandla sami eMgungundlovu ngalolu suku mhla zi.....  
ku....., oNyakeni weziNkulungwane eziMbili neShumi naNtathu.

**NKK. NN SIBHIDLA-SAPHETHA**

iLungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali  
elibhekele ezobuCiko, ezamaSiko, ezemiDlalo nezokuNgcebeleka

No. 5

13 Februarie 2014

## KWAZULU-NATAL WETSONTWERP OP PROVINSIALE TALE, 2013

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

Kennisgewing geskied hiermee ingevolge Reël 194 van die Staande Reëls van die KwaZulu-Natal Wetgewer dat die KwaZulu-Natal Wetsontwerp op Provinsiale Tale, 2013 soos hieronder uiteengesit, by die voorgemelde Wetgewer ingedien is en deur die Portefeuljekomitee oor Kuns en Kultuur oorweeg sal word. Die publiek en ander belanghebbende groepe word uitgenooi om vertoë oor die vermelde Wetsontwerp in te dien, welke vertoë gerig moet word aan:

Vir aandag: Mev M C Madondo  
Die Sekretaris  
KwaZulu-Natal Wetgewer  
Privaatsak X9112  
PIETERMARITZBURG  
3200

E-pos: [madondom@kznlegislature.gov.za](mailto:madondom@kznlegislature.gov.za)

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

N NAIDOO  
Sekretaris van die KwaZulu-Natal Wetgewer

**KWAZULU-NATAL  
WETSONTWERP OP PROVINSIALE TALE, 2013**

## WETSONTWERP

Om voorsiening te maak vir die bepaling van provinsiale amptelike tale in die Provinsie van KwaZulu-Natal; om voorsiening te maak vir die regulering en monitering van die gebruik van provinsiale amptelike tale deur alle regeringsliggame in die Provinsie van KwaZulu-Natal; om die agting vir en die gebruik van gesproke inheemse tale te bevorder in die Provinsie; om voorsiening te maak vir die instelling van die KwaZulu-Natal Provinsiale Taaldiens; om voorsiening te maak vir die instelling van die KwaZulu-Natal Interregerings- taalforum; om voorsiening te maak vir die ontwikkeling van interne taalbeleide deur regeringsliggame in die Provinsie; om voorsiening te maak vir die ontwikkeling en aanvaarding van die KwaZulu-Natal Beleid vir die Ontwikkeling en Bevordering van Inheemse Tale; om voorsiening te maak vir die herroeping van die KwaZulu-Natal Wet op Parlementêre Amptelike Tale, 1998; en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

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

### RANGSKIKKING VAN ARTIKELS

#### *Artikel*

#### HOOFSTUK 1 OMSKRYWINGS

1. Omskrywings

#### HOOFSTUK 2 OOGMERKE EN TOEPASSING VAN WET

2. Oogmerke van Wet
3. Toepassing van Wet

#### HOOFSTUK 3 PROVINSIALE AMPTELIKE TALE EN VERTAAL-, REDIGEER- EN TOLKDIENSTE



4. Bepaling van provinsiale amptelike tale
5. Gebruik van provinsiale amptelike tale in verrigtinge van Uitvoerende Raad, Munisipale Rade en Provinsiale Wetgewer
6. Gebruik van provinsiale amptelike tale vir wetgewende doeleindes
7. Gebruik van provinsiale amptelike tale deur regeringsliggame in Provinsie
8. Vertaal-, redigeer- en tolkdienste

#### HOOFSUK 4

##### KWAZULU-NATAL PROVINSIALE TAALDIENS

9. Instelling van KwaZulu-Natal Provinsiale Taaldiens
10. Bevoegdhede, werksaamhede en pligte van KwaZulu-Natal Taaldiens
11. Personeel van die Provinsiale Taaldiens

#### HOOFSUK 5

##### KWAZULU-NATAL INTERREGERINGSTAALFORUM

12. KwaZulu-Natal Interreringstaalforum (KWANILAFO)

#### HOOFSUK 6

##### ONTWIKKELING VAN INTERNE TAALBELEIDE EN KWAZULU-NATAL BELEID VIR ONTWIKKELING EN BEVORDERING VAN INHEEMSE TALE

13. Interne taalbeleide
14. KwaZulu-Natal Beleid vir Ontwikkeling en Bevordering van Inheemse Tale

#### HOOFSUK 7

##### MEGANISME VIR INTERNE KLAGTES EN HANTERING VAN TAALDISPUTE

15. Meganisme vir interne klagtes
16. Hantering van taaldispute

#### HOOFSUK 8

##### MONITERING VAN, EN VERSLAGLEWERING OOR, GEBRUIK VAN PROVINSIALE AMPTELIKE TALE

17. Aangewese taalbeamptes of -eenhede
18. Monitering van, en verslaglewering oor, gebruik van provinsiale amptelike tale

## HOOFSUK 9 ALGEMENE BEPALINGS

19. Regulasies
20. Delegerings
21. Herroeping van wet
22. Kort titel

## HOOFSUK 1 OMSKRYWINGS

### Omskrywings

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

“**Departement**” die Departement in die Provinsie van KwaZulu-Natal verantwoordelik vir taalaangeleenthede in die Provinsie;

“**Departementshoof**” die persoon aangestel as die rekenpligtige beampte van die Departement;

“**elf amptelike tale**” die amptelike tale van die Republiek van Suid-Afrika, soos bedoel in artikel 6(1) van die Grondwet;

“**finansiële jaar**” die tydperk met ingang van 1 April van ’n spesifieke jaar wat eindig op 31 Maart van die daaropvolgende jaar;

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

“**hierdie Wet**” sluit die regulasies in;

“**hoof van regeringsliggaam**” die rekenpligte beampte van enige regeringsliggaam in die Provinsie of enige persoon wat sodanig optree;

“**inheemse tale gepraat in die Provinsie**” daardie tale wat –

- (a) volgens historiese rekords, hul oorsprong in Suid-Afrika het en gepraat word in die Provinsie; en
- (b) in die verlede nie die nodige erkenning en status, in vergelyking met Engels

en Afrikaans, gekry het nie;

“**interne taalbeleide**” interne taalbeleide ontwikkel deur onderskeie regeringsliggame in die Provinsie, soos bedoel in artikel 13;

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

“**KWANILAFO**” die KwaZulu-Natal Interregeringstaalforum soos bedoel in artikel 12;

“**Munisipale Raad**” die Munisipale Raad van enige munisipaliteit bedoel in artikel 157 van die Grondwet;

“**PanSAT**” die Pan-Suid-Afrikaanse Taalraad, ingestel ingevolge artikel 2 van die Wet op die Pan-Suid-Afrikaanse Taalraad, 1995;

“**provinsiale amptelike tale**” die provinsiale amptelike tale bedoel in artikel 4(1);

“**Provinsiale Regering**” die regering van die Provinsie;

“**Provinsiale Taaldiens**” die KwaZulu-Natal Provinsiale Taaldiens ingestel ingevolge artikel 9;

“**Provinsiale Taalkomitee**” die Provinsiale Taalkomitee vir die Provinsie ingestel deur PanSAT ingevolge artikel 8(8)(a) van die Wet op die Pan-Suid-Afrikaanse Taalraad, 1995;

“**Provinsiale Wetgewer**” die Wetgewer van die Provinsie soos bedoel in artikel 105 van die Grondwet, en beskik oor wetgewende gesag vir die Provinsie soos bedoel in artikel 104(1) van die Grondwet;

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

“**regeringsliggaam**” –

(a) enige provinsiale departement of munisipaliteit in die Provinsie van KwaZulu-

Natal;

(b) enige statutêre liggaam, kommissie, bestuur of raad in die provinsiale- of plaaslike regeringsfeer in die Provinsie van KwaZulu-Natal; en

(c) die Provinsiale Wetgewer;

**“regulasies”** regulasies gemaak ingevolge artikel 19;

**“Resolusiekomitee vir 'n taaldispuut”** 'n Resolusiekomitee vir 'n taaldispuut, van tyd tot tyd aangestel deur die verantwoordelike Lid van die Uitvoerende Raad, ingevolge artikel 16(2);

**“taaldispuut”** 'n taaldispuut soos bedoel in artikel 15(2)(f);

**“taalklaer”** enige persoon wat 'n taalklagte soos bedoel in artikel 15(1) indien;

**“taalklagte”** 'n taalklagte soos bedoel in artikel 15(1);

**“Uitvoerende Raad”** die Uitvoerende Raad van die Provinsie van KwaZulu-Natal;

**“verantwoordelike Lid van die Uitvoerende Raad”** die Lid van die Uitvoerende Raad van die Provinsie verantwoordelik vir taalaangeleenthede in die Provinsie;

**“voorgeskrewe”** voorgeskryf deur regulasie volgens artikel 19, en **“voorgeskryf”** het 'n ooreenstemmende betekenis; en

**“Wet op die Pan-Suid-Afrikaanse Taalraad”** die Wet op die Pan-Suid-Afrikaanse Taalraad, 1995 (Wet No. 59 van 1995).

## HOOFSUK 2

### OOGMERKE EN TOEPASSING VAN WET

#### Oogmerke van Wet

2. Die oogmerke van die Wet is om –

- (a) die provinsiale amptelike tale vir die Provinsie te bepaal;
- (b) die gebruik van provinsiale amptelike tale deur alle regeringsliggame in die Provinsie te reguleer en monitor;
- (c) gelykwaardigheid en regverdige behandeling van alle provinsiale amptelike tale in die Provinsie te bevorder;
- (d) die publiek te bemagtig om tale van hul keuse te gebruik ten einde toegang tot regeringsdienste, kennis en inligting te bekom;
- (e) maatreëls te voorsien wat gemik is daarop om die regstelling van voorheen gemarginaliseerde inheemse tale in die Provinsie te verseker; en
- (f) veeltaligheid en taalkundige diversiteit in die Provinsie te bevorder.

### **Toepassing van Wet**

3. Die wet is van toepassing op –

- (a) die Uitvoerende Raad;
- (b) alle Munisipale Rade in die Provinsie soos bedoel in artikel 157 van die Grondwet; en
- (c) alle regeringsliggame in die Provinsie.

## HOOFSTUK 3

### PROVINSIALE AMPTELIKE TALE EN VERTAAL-, REDIGEER- EN TOLKDIENSTE

#### **Bepaling van provinsiale amptelike tale**

4.(1) Die amptelike tale van die Provinsie is isiZulu, Engels, isiXhosa en Afrikaans.

(2) Nieteenstaande artikel (1) moet –

(a) al elf amptelike tale van die Republiek van Suid-Afrika, soos bedoel in artikel 6(1) van die Grondwet –

- (i) gelykwaardigheid geniet; en
- (ii) regverdiglik behandel word,

in die Provinsie; en

(b) die Provinsiale Regering moet, in samewerking met PanSAT –

- (i) toestande skep en bevorder vir die gebruik van –

- (aa) al elf amptelike tale;
- (bb) die Khoi-, Nama- en Santale; en
- (cc) Suid-Afrikaanse Gebaretaal,  
in die Provinsie; en
- (ii) respek bevorder vir –
  - (aa) alle tale meestal gebruik deur gemeenskappe in Suid-Afrika; en
  - (bb) ander tale wat gebruik word vir godsdiensdoeleindes.

### **Gebruik van provinsiale amptelike tale in verrigtinge van Uitvoerende Raad, Munisipale Rade en Provinsiale Wetgewer**

5.(1) Enige van die provinsiale amptelike tale mag gebruik word in enige debat of toespraak in enige verrigtinge van –

- (a) die Uitvoerende Raad;
- (b) enige komitee van die Uitvoerende Raad;
- (c) enige Munisipale Raad;
- (d) enige komitee van enige Munisipale Raad;
- (e) die Provinsiale Wetgewer; en
- (f) enige komitee van die Provinsiale Wetgewer.

(2) Om uitvoering te gee aan subartikel (1) moet redelike reëlings getref word vir die voorsiening van tolkdienste gedurende sittings van die Provinsiale Wetgewer, die Uitvoerende Raad, Munisipale Rade en enige komitee van die Provinsiale Wetgewer, die Uitvoerende Raad en Munisipale Rade.

(3) Enige rekord van –

- (a) die Uitvoerende Raad;
- (b) Munisipale Rade;
- (c) enige komitee van –
  - (i) die Uitvoerende Raad; en
  - (ii) Munisipale Rade,

mag gedruk en gepubliseer word in enige van die Provinsiale amptelike tale: Met dien verstande dat enige persoon 'n vertaalde weergawe van die oorspronklike rekord of publikasie in enige provinsiale amptelike taal mag aanvra.

**Gebruik van provinsiale amptelike tale vir wetgewende doeleindes**

6.(1) Enige –

- (a) provinsiale wet (Wet) of konsep-provinsiale wet (Wetsontwerp); en
- (b) regulasie; proklamasie of reël gemaak onder, of uit hoofde van, enige provinsiale wet gepubliseer in die *Koerant* of enige koerant wat versprei word in die Provinsie, moet aldus gepubliseer word in alle provinsiale amptelike tale.

(2) Enige kennisgewing uitgereik onder, of uit hoofde van, enige provinsiale wet en gepubliseer in die *Koerant* of enige koerant wat versprei word in die Provinsie, moet sodanig gepubliseer word in ten minste twee provinsiale amptelike tale: Met dien verstande dat –

- (a) taalgebruik en voorkeur van die lede van die publiek waarop die kennisgewing betrekking het, in oorweging geneem moet word; en
- (b) een van die tale gebruik in die publisering van die kennisgewing moet, onderhewig aan streeksomstandighede, een van die inheemse tale wees wat in die Provinsie gepraat word.

(3) Enige munisipale verordening, reël of kennisgewing gepubliseer deur enige munisipaliteit in die Provinsie in die *Koerant* of enige koerant moet gepubliseer word in ten minste twee Provinsiale amptelike tale: Met dien verstande dat –

- (a) plaaslike taalgebruik en -voorkeur in oorweging geneem moet word; en
- (b) een van die tale gebruik vir publikasie van die kennisgewing moet, onderhewig aan streeksomstandighede, een van die inheemse tale wees wat in die Provinsie gepraat word.

**Gebruik van provinsiale amptelike tale deur regeringsliggame in Provinsie**

7.(1) Alle regeringsliggame in die Provinsie moet, deur interne taalbeleide soos bedoel in artikel 13, en onderhewig aan –

- (a) taalgebruik en voorkeur van die meerderheid klante en kliënte van die betrokke regeringsliggaam; en
- (b) streeksomstandighede,

ten minste twee van die Provinsiale amptelike tale aanwys vir –

- (i) interne, eksterne, geskrewe en mondelinge kommunikasie-; en
- (ii) publikasie-,

doeleindes: Met dien verstande dat enige regeringsliggaam in die Provinsie addisioneel enige een of meer van die elf amptelike tale as sodanig mag aanwys.

(2) Redelike reëlings moet gemaak word vir die voorsiening van tolk- en vertaaldienste ten einde enige lid van die publiek wat verlang om met enige regeringsliggaam in die Provinsie te kommunikeer deur die gebruik van enige ander provinsiale amptelike taal wat nie aangewys is nie, ingevolge subartikel (1), te akkommodeer.

(3) Een van die tale aangewys ingevolge subartikel (1) moet, onderhewig aan taalgebruik en -voorkeur van klante en kliënte van die betrokke regeringsliggaam, een van die inheemse tale wees wat in die Provinsie gepraat word.

(4)(a) Enige rekord of publikasie van enige regeringsliggaam in die Provinsie mag gedruk of gepubliseer word in enige van die tale aangewys ingevolge subartikel (1): Met dien verstande dat enige persoon 'n vertaalde weergawe van die oorspronklike rekord of publikasie mag aanvra in enige ander provinsiale amptelike taal.

(b) Die verantwoordelike Lid van die Uitvoerende Raad mag die tydperk waartydens die vertaalde weergawe van die oorspronklike rekord of publikasie in enige ander provinsiale amptelike taal voorsien moet word, na 'n versoek soos bedoel in paragraaf (a), voorskryf.

(5) Indien regeringsliggame in die Provinsie hul dienste –

- (a) identifiseer;
- (b) bemark; of
- (c) bevorder,

moet hulle die provinsiale amptelike tale, aangewys ingevolge subartikel (1), gebruik in hul tekens, briefhoofde, reklameborde en reklamemateriaal.

(6) Indien 'n regeringsliggaam in die Provinsie geskrewe kommunikasie of korrespondensie aan 'n klant, kliënt of lid van die publiek rig, moet sodanige kommunikasie of korrespondensie in die gewenste provinsiale amptelike taal wees soos aangedui mag word deur sodanige klant, kliënt of lid van die publiek.



**Vertaal-, redigeer- en tolkdienste**

8.(1) Die Provinsiale Taaldiens, bedoel in artikel 9, moet –

- (a) ten opsigte van die provinsiale amptelike tale; en
- (b) binne 'n redelike tyd van 'n versoek of binne sodanige tydperk soos voorgeskryf mag word deur die verantwoordelike Lid van die Uitvoerende Raad,

vertaal-, redigeer- en tolkdienste voorsien soos vereis mag word deur die Provinsiale Wetgewer, die Uitvoerende Raad, enige Munisipale Raad in die Provinsie en enige regeringsliggaam in die Provinsie.

(2) Die Provinsiale Taaldiens mag, op navraag, en –

- (a) onderhewig aan praktiese oorwegings en uitgawes; en
- (b) binne sodanige tydraamwerke of tydperke soos voorgeskryf mag word deur die verantwoordelike Lid van die Uitvoerende Raad,

die voorsiening van vertaal-, redigeer- en tolkdienste koördineer soos vereis mag word deur die Provinsiale Wetgewer, die Uitvoerende Raad, enige Munisipale Raad en enige regeringsliggaam in die Provinsie, ten opsigte van –

- (i) enige van die elf amptelike tale;
- (ii) enige van die Khoi-, Nama- of Santale;
- (iii) Suid-Afrikaanse Gebaretaal; en
- (iv) Braille.

(3) Enige regeringsliggaam in die Provinsie wat enige vertaal-, redigeer- of tolkdienste benodig, soos bedoel in artikels (1) en (2), moet 'n skriftelike versoek aan die Provinsiale Taaldiens rig.

**HOOFSUK 4****KWAZULU-NATAL PROVINSIALE TAALDIENS****Instelling van KwaZulu-Natal Provinsiale Taaldiens**

9.(1) Hiermee word die KwaZulu-Natal Provinsiale Taaldiens ingestel, hierna verwys na as die Provinsiale Taaldiens.

(2) Die Provinsiale Taaldiens –

- (a) is 'n komponent binne die Departement; en
- (b) is nie 'n regs persoon nie.

### **Bevoegdhede, werksaamhede en pligte van die Provinsiale Taaldiens**

#### **10.(1) Die Provinsiale Taaldiens moet –**

- (a) die implementering van die bepalings van –
  - (i) hierdie Wet;
  - (ii) enige regulasie gemaak ingevolge artikel 19; en
  - (iii) interne taalbeleide bedoel in artikel 13,deur alle regeringsliggame in die Provinsie monitor;
- (b) regverdige gebruik van provinsiale amptelike tale deur alle regeringsliggame in die Provinsie, vir die versekering van regverdige toegang tot regeringsdienste, kennis en inligting vir alle burgers van die Provinsie monitor en bevorder;
- (c) ondersteuning aan alle regeringsliggame in die Provinsie voorsien ten opsigte van taalaangeleenthede;
- (d) praktiese en positiewe stappe neem om –
  - (i) veeltaligheid in die Provinsie te bevorder;
  - (ii) die gebruik en ontwikkeling van inheemse tale wat gepraat word in die Provinsie te bevorder; en
  - (iii) taalgelykheid in die Provinsie te vestig;
- (e) goeie taalbestuur deur alle regeringsliggame in die Provinsie vir doeltreffende openbare diensadministrasie monitor en bevorder;
- (f) respek vir die taalregte van die burgers van die Provinsie deur alle regeringsliggame in die Provinsie monitor en bevorder;
- (g) die ontwikkeling, hersiening en implementering van interne taalbeleide, soos bedoel in artikel 13, deur alle regeringsliggame in die Provinsie, monitor;
- (h) vertaal-, redigeer- en tolkdienste voorsien aan enige regeringsliggame in die Provinsie;
- (i) die kwaliteit van vertaal-, redigeer- en tolkdienste in die Provinsie te monitor en verbeter;
- (j) terminologie- en literatuurontwikkeling in die Provinsie bestuur;
- (k) die aanleer en onderrig van alle provinsiale amptelike tale in die Provinsie ondersteun; en

(l) administratiewe en sekretariële ondersteuning aan KWANILAF0 verskaf, soos bedoel in artikel 12.

(2) Die Provinsiale Taaldiens mag –

- (a) opleidingsprogramme in vertaal-, redigeer- en tolkteenieke fasiliteer;
- (b) enige samewerking met enige regeringsliggaam of enige nie-regerings- organisasie kweek vir die verwesenliking van sy oogmerke en die uitoefening van sy bevoegdhede, werksaamhede en pligte; en
- (c) in die algemeen, enigiets doen –
  - (i) wat nodig of voordelig is vir die uitvoer van sy bevoegdhede, werksaamhede en pligte ingevolge hierdie Wet; en
  - (ii) wat redelik toevallig of bykomend is tot die uitvoering van sodanige bevoegdhede, werksaamhede of pligte.

#### **Personeel van Provinsiale Taaldiens**

11.(1) Die personeel van die Provinsiale Taaldiens bestaan uit werknemers aangestel deur die Departementshoof ingevolge die Staatsdienswet, 1994 (Proklamasie Wet No. 103 van 1994).

(2) Die personeel van die Provinsiale Taaldiens moet, as 'n eenheid, ten volle bekwaam wees om –

- (a) te vertaal, redigeer en tolk;
- (b) die uitbesteding van vertaal-, redigeer- en tolkdienste te bestuur; en
- (c) kwaliteitskontroledienste te voorsien ten opsigte van enige uitbestede vertaal-, redigeer- en vertolkwerk,

in al die provinsiale amptelike tale.

(3) Die personeel van die Provinsiale Taaldiens moet, vir die doelwitte van artikel 10(1), gesamentlik oor voldoende en toepaslike vaardighede, ondervinding en kennis vir beleidsontwikkeling beskik.

HOOFSTUK 5  
KWAZULU-NATAL INTERREGERINGSTAALFORUM

**KwaZulu-Natal Interregeringstaalforum**

12.(1) Hiermee word die KwaZulu-Natal Interregeringstaalforum (KWANILAFO) ingestel.

(2) Die oogmerke, bevoegdhede, werksaamhede en pligte van KWANILAFO is om –

- (a) algemene koördinasie, samewerking en oorlegpleging rakende taalaangeleenthede tussen alle regeringsliggame in die Provinsie te bevorder;
- (b) die implementering van interne taalbeleide in die Provinsie te koördineer, berig en monitor;
- (c) enige aangeleentheid met betrekking tot die implementering van hierdie Wet te ondersoek en om die verantwoordelike Lid van die Uitvoerende Raad te adviseer;
- (d) betrokkenheid en dialoog tussen die Provinsiale regering en enige organisasie of persoon met 'n belang in taalaangeleenthede in die Provinsie te bevorder;
- (e) die Provinsiale regering te verteenwoordig by, deel te neem aan en bydra tot enige Nasionale Interregeringstaalforum; en
- (f) sodanige ander funksies te verrig wat voorgeskryf of toegewys mag word aan KWANILAFO deur die verantwoordelike Lid van die Uitvoerende Raad.

(3) KWANILAFO bestaan uit –

- (a) sodanige personelede van die Provinsiale Taaldiens soos aangewys deur die verantwoordelike Lid van Uitvoerende Raad;
- (b) taalpraktisyns van alle regeringsliggame in die Provinsie, sodanig aangewys ingevolge artikel 17;
- (c) verteenwoordigende beamptes van spesialis taaleenhede, soos bedoel in artikel 17; en
- (d) sodanige ander persoon wat aangewys en aangestel mag word deur die verantwoordelike Lid van Uitvoerende Raad wat, in die opinie van die verantwoordelike Lid van die Uitvoerende Raad, KWANILAFO mag bystaan in die nakoming van sy oogmerke, die uitoefen van sy bevoegdhede en die uitvoer van sy werksaamhede en pligte.

(4) Die verantwoordelike Lid van die Uitvoerende Raad moet –

- (a) die Voorsitter en Ondervoorsitter van KWANILAF0 aanwys;
- (b) die ampstermyn van die Voorsitter en Ondervoorsitter bepaal; en
- (c) sodanige ander bepalings en voorwaardes vir die aanstelling van die Voorsitter en Ondervoorsitter bepaal.

(5)(a) Die verantwoordelike Lid van die Uitvoerende Raad moet die eerste vergadering van KWANILAF0 belê.

(b) KWANILAF0 moet daarna, so dikwels as moontlik vergader, maar ten minste vier keer 'n jaar op sodanige tye en plekke soos die Voorsitter mag bepaal.

(c) Regeringsliggame in die Provinsie moet, ten opsigte van die beamptes verteenwoordigend van die betrokke regeringsliggaam in KWANILAF0; en –

- (i) binne die toegewese hulpbronne van daardie regeringsliggaam; en
- (ii) onderhewig aan enige toepaslike wet of beleide wat reis- en verblyfkostes van daardie regeringsliggaam beheer,

die nodige voorsiening maak vir enige reis- en verblyfkostes wat aangegaan mag word as gevolg van die bywoon van vergaderings van KWANILAF0.

(6) Die administratiewe en sekretariële werk bykomend tot die verrigtinge van die werksaamhede van KWANILAF0 moet verrig word deur beamptes of werknemers van die Departement aangewys vir sodanige doel deur die Departementshoof in ooreenstemming met die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994).

## HOOFSUK 6

### ONTWIKKELING VAN INTERNE TAALBELEIDE EN KWAZULU-NATAL BELEID VIR ONTWIKKELING EN BEVORDERING VAN INHEEMSE TALE

#### **Interne taalbeleide**

13.(1) Alle regeringsliggame in die Provinsie moet –

- (a) binne 18 maande vanaf inwerkingtreding van hierdie Wet; en
- (b) na oorlegpleging met die Provinsiale Taaldiens,

hul onderskeie interne taalbeleide ontwikkel en goedkeur.

(2) Interne taalbeleide bedoel in artikel (1) moet konsekwent wees met die bepalings van hierdie

Wet en enige regulasies gemaak onder hierdie Wet ingevolge artikel 19.

(3) 'n Interne taalbeleid vir enige regeringsliggaam in die Provinsie moet –

(a) soos bedoel in artikel 7 –

(i) ten minste twee van die provinsiale amptelike tale identifiseer vir doeleindes van interne en eksterne, geskrewe of mondelinge kommunikasie en publikasie doeleindes vir die betrokke regeringsliggaam; en

(ii) stipuleer hoe die betrokke regeringsliggaam kommunikeer met enige lid van die publiek wat die begeerte het om met daardie regeringsliggaam te kommunikeer deur die gebruik van enige ander taal nie aangewys ingevolge artikel 7 nie;

(b) voorsiening maak vir 'n meganisme vir interne klagtes, soos bedoel in artikel 15; en

(c) gepubliseer word in die *Koerant* so gou as redelik prakties uitvoerbaar, maar nie later nie as 90 dae na aanvaarding.

(4) Elke regeringsliggaam in die Provinsie moet –

(a) sy klante en kliënte inlig van die bestaan van sy interne taalbeleid en dit gratis en op versoek beskikbaar stel;

(b) verseker dat 'n afskrif van sy interne taalbeleid beskikbaar is op versoek aan sy klante en kliënte en die lede van die publiek; en

(c) 'n opsomming van sy taalbeleid ten toon stel in al sy kantore en op sodanige wyse en in sodanige posisie dat dit sigbaar is en gelees kan word deur sy klante en kliënte en lede van die publiek.

#### **KwaZulu-Natal Beleid vir Ontwikkeling en Bevordering van Inheemse Tale**

14. Die verantwoordelike Lid van die Uitvoerende Raad moet, na oorlegpleging met die Provinsiale Taalkomitee en KWANILAFU, die KwaZulu-Natal Beleid vir die Ontwikkeling en Bevordering van Inheemse Tale ontwikkel en aanneem.

## HOOFSTUK 7

## MEGANISME VIR INTERNE KLAGTES EN HANTERING VAN TAALDISPUTE

**Meganisme vir interne klagtes**

15.(1) Elke regeringsliggaam in die Provinsie moet, deur hul interne taalbeleide soos bedoel in artikel 13, voorsiening maak vir 'n breedvoerige meganisme vir interne klagtes wat –

(a) gebruik mag word deur enige lid van die publiek wat verlang om 'n taalklagte in te dien vir enige beweerde oortreding of dreigende oortreding van enige –

(i) taalreg bedoel in die Grondwet, hierdie Wet of die interne taalbeleid van die betrokke regeringsliggaam; of

(ii) voorsiening van hierdie Wet of van enige interne taalbeleid van daardie regeringsliggaam,

deur die regeringsliggaam; en

(b) moet nagekom word deur –

(i) die klaer by die indiening van 'n taalklagte; en

(ii) die regeringsliggaam om taalklagtes te ondersoek en op te los.

(2) Die meganisme vir klagtes moet –

(a) die owerheid binne die regeringsliggaam identifiseer by wie die taalklagte ingedien mag word;

(b) die tydperk aandui vir die indien van 'n taalklagte: Met dien verstande dat alle taalklagtes binne 90 dae ingedien moet word vanaf die datum waarop die taalklaer bewus geword het van die oortreding of dreigende oortreding van enige –

(i) taalreg;

(ii) bepaling van hierdie Wet; of

(iii) bepaling van die interne taalbeleid van die betrokke regeringsliggaam;

(c) aandui dat taalklagtes –

(i) skriftelik moet wees: Met dien verstande dat enige taalklaer wat nie kan lees of skryf nie bygestaan moet word deur beampes van die betrokke regeringsliggaam om die taalklagte skriftelik vas te lê;

(ii) die bepaling van hierdie Wet spesifiseer, óf die aard van die reg wat na bewering oortree is óf na bewering 'n dreigende oortreding is; en

(iii) spesifiseer wat die gronde is waarop die taalklaer se taalklagte gebaseer is;

(d) vereis dat die taalklaer sy of haar belang in die aangeleentheid identifiseer: Met

dien verstande dat, sou die persoon wat die taalklagte indien optree namens 'n derde party of 'n groep individue, hy of sy ook bewys van magtiging moet indien;

(e) die tydperk vir die afhandeling van die taalklagte wat ingedien is by die regeringsliggaam spesifiseer: Met dien verstande dat alle taalklagtes binne 30 dae vanaf datum van ontvangs van die klagte afgehandel moet word;

(f) spesifiseer dat enige taalklaer wat gegrief is deur –

(i) die versuim van die betrokke regeringsliggaam om die taalklagte af te handel binne 30 dae vanaf ontvangs, soos bedoel in paragraaf (e); of

(ii) die wyse waarop die betrokke regeringsliggaam sy of haar taalklagte ondersoek, hanteer of afgehandel het,

'n taaldispuut mag verwys na die verantwoordelike Lid van die Uitvoerende Raad, soos bedoel in artikel 16(1), vir verdere ondersoek en resoluksie ingevolge artikel 16(5);

(g) spesifiseer dat die verantwoordelike Lid van die Uitvoerende Raad –

(i) ten opsigte van enige klagte wat steeds onopgelos is; en

(ii) op sy of haar eie inisiatief,

'n bepaling mag maak dat 'n taaldispuut, soos bedoel in artikel 16(1) –

(aa) ontstaan het; en

(bb) onderwerp word aan verdere ondersoek, soos bedoel in artikel 16(5);

en

(h) enige ander inligting, soos voorgeskryf mag word deur die verantwoordelike Lid van die Uitvoerende Raad, spesifiseer.

### **Hantering van taaldispute**

**16.(1)** 'n Taaldispuut ontstaan wanneer –

(a) 'n taalklagte onopgelos bly soos bedoel in artikel 15(2)(f); of

(b) indien die verantwoordelike Lid van die Uitvoerende Raad, ingevolge artikel 15(2)(g), bepaal dat 'n taaldispuut ontstaan het.

(2) Waar 'n taaldispuut ontstaan, mag 'n klaer die taaldispuut verwys na –

(a) PanSAT, ingevolge artikel 11 van die Wet op die Pan-Suid-Afrikaanse Taalraad, 1995; of

(b) die verantwoordelike Lid van die Uitvoerende Raad ingevolge subartikel (3).



(3) Indien die klaer verkies om die proses bedoel in subartikel (2)(b) te volg, moet hy of sy, binne 21 dae, die taaldispuut verwys na die verantwoordelike Lid van die Uitvoerende Raad vir verdere ondersoek en resoluëie soos bedoel in subartikel (5).

(4) Indien die verantwoordelike Lid van die Uitvoerende Raad 'n beslissing gemaak het, soos bedoel in artikel 15(2)(g), dat 'n taaldispuut ontstaan het, moet hy of sy binne 21 dae –

- (a) die toepaslike regeringsliggaam; en
- (b) die klaer,

in kennis stel van sy of haar voorneme om die taaldispuut te verwys vir verdere ondersoek en resoluëie, soos bedoel in subartikel (5).

(5) Die verantwoordelike Lid van die Uitvoerende Raad moet, binne 30 dae –

- (a) en by ontvangs van 'n verwysing van 'n taaldispuut; of
- (b) nadat die verantwoordelike Lid van die Uitvoerende Raad 'n beslissing gemaak het, soos bedoel in artikel 15(2)(g), dat 'n taaldispuut ontstaan het,

'n Resoluëiekomitee vir die taaldispuut aanstel.

(6) Die Resoluëiekomitee vir die taaldispuut moet, binne 90 dae vanaf aanstelling –

- (a) die taaldispuut ondersoek;
- (b) 'n minlike resoluëie vir die taaldispuut bereik deur fasilitering, bemiddeling of onderhandeling; en
- (c) verslag lewer en aanbevelings maak aan die verantwoordelike Lid van die Uitvoerende Raad betreffende die uitkoms van die taaldispuut.

(7) Die Resoluëiekomitee vir die taaldispuut, aangestel deur die verantwoordelike Lid van die Uitvoerende Raad ingevolge subartikel (2), mag enige persoon, liggaam of regeringsliggaam dagvaar om –

- (a) voor die komitee te verskyn;
- (b) getuënie te lewer; en
- (c) enige relevante rekord of dokument te verskaf.

(8) Sou dit blyk dat 'n minlike resoluëie, soos bedoel in subartikel (5)(b), vir die taaldispuut nie moontlik is nie –

- (a) moet die Resoluëiekomitee vir die taaldispuut 'n verslag voorlê aan die

verantwoordelike Lid van die Uitvoerende Raad, insluitend –

- (i) feitlike besonderhede van die dispuut;
- (ii) enige verbale of skriftelike indiening deur die –
  - (aa) taalklaer; of
  - (bb) betrokke regeringsliggaam,met betrekking tot die taaldispuut; en
- (iii) voorstelle vir die toepaslike beslissing, soos bedoel in paragraaf (b);

(b) die verantwoordelike Lid van die Uitvoerende Raad mag, binne 30 dae vanaf ontvangs van die Resolusiekomitee vir die taaldispuut se verslag, soos bedoel in paragraaf (a), die dispuut beslis deur –

- (i) 'n nakomingskennisgewing uit te reik wat beroep doen op die betrokke regeringsliggaam om enige daad of weglating wat gelei het tot die taaldispuut te herstel: Met dien verstande dat die regeringsliggaam binne 30 dae voldoen aan die nakomingskennisgewing; of
- (ii) die taaldispuut verwerp.

## HOOFSTUK 8

### MONITERING VAN, EN VERSLAGLEWERING OOR, GEBRUIK VAN PROVINSIALE AMPTELIKE TALE

#### **Aangewese taalpraktisyns of spesialis-taaldienseenhede**

17.(1) Hoofde van regeringsliggame in die Provinsie moet –

- (a) na oorlegpleging met die Provinsiale Taaldiens;
- (b) onderhewig aan enige wet wat indiensneming van personeel van die betrokke regeringsliggaam beheer; en
- (c) onderhewig aan die taalbehoefte van elke regeringsliggaam in die Provinsie,

een of meer taalpraktisyns of 'n spesialis-taaldienseenheid binne hul instansie aanwys.

(2) Die aangewese taalpraktisyn of spesialis-taaldienseenheid bedoel in subartikel (1) is verantwoordelik vir –

- (a) die versekering dat die betrokke regeringsliggaam –
  - (i) die bepalings van hierdie Wet en enige ander regulasies ingevolge hierdie Wet

- implementeer;
  - (ii) 'n interne taalbeleid ontwikkel en implementeer, soos bedoel in artikel 13; en
  - (iii) die vereistes vir verslaglewering soos bedoel in artikel 18 nakom;
- (b) die bestuur en fasilitering van alle versoeke vir vertaal-, redigeer- en tolkdienste bedoel in artikel 8, van die betrokke regeringsliggaam; en
- (c) verteenwoordiging van die betrokke regeringsliggaam op KWANILAFO.

### **Monitering van, en verslaglewering oor, gebruik van provinsiale amptelike tale**

**18.(1)** Regeringsliggame in die Provinsie moet –

- (a) binne drie maande vanaf die einde van elke finansiële jaar; of
- (b) binne sodanige ander tydperk soos bepaal mag word deur die verantwoordelike Lid van die Uitvoerende Raad,

'n verslag voorlê aan die verantwoordelike Lid van die Uitvoerende Raad ten opsigte van –

- (i) stappe geneem deur die betrokke regeringsliggaam ter nakoming van die bepalings van hierdie Wet;
- (ii) die ontwikkeling en implementering van 'n interne taalbeleid soos bedoel in artikel 15;
- (iii) die aktiwiteite van enige spesialis-taaldienseenheid van die betrokke regeringsliggaam;
- (iv) enige klagtes ontvang deur die betrokke regeringsliggaam en die wyse waarop die klagtes hanteer is; en
- (v) enige ander aangeleentheid soos voorgeskryf mag word deur die verantwoordelike Lid van die Uitvoerende Raad.

(2) KWANILAFO moet –

- (a) binne drie maande vanaf die einde van elke finansiële jaar; of
- (b) binne sodanige ander tydperk soos bepaal mag word deur die verantwoordelike Lid van die Uitvoerende Raad,

'n jaarlikse verslag voorlê aan die verantwoordelike Lid van die Uitvoerende Raad ten opsigte van –

- (i) die bereiking van sy doelwitte, die uitvoering van sy bevoegdhede en die nakoming van sy werksaamhede en pligte;
- (ii) enige aangeleentheid betreffende die implementering van hierdie Wet; en

(iii) enige ander aangeleentheid soos voorgeskryf mag word.

(3) Die verantwoordelike Lid van die Uitvoerende Raad moet –

(a) na oorlegpleging met die Provinsiale Taalkomitee; en

(b) binne vyf maande vanaf die einde van elke finansiële jaar,

'n jaarlikse verslag oor die implementering van hierdie Wet en die provinsiale taalbeleid in die Provinsie ter tafel lê in die Provinsiale Wetgewer.

## HOOFSTUK 9 ALGEMENE BEPALINGS

### Regulasies

19. Die verantwoordelike Lid van die Uitvoerende Raad mag, deur kennisgewing in die *Koerant* en na oorlegpleging met die Provinsiale Taalkomitee, regulasies maak wat –

(a) enige aangeleentheid wat vereis word of toegelaat is om voorgeskryf te word ingevolge hierdie Wet; of

(b) enige administratiewe of prosedurele aangeleentheid noodsaaklik om uitwerking te gee aan die bepalinge van hierdie Wet,

voorskryf.

### Delegerings

20.(1) Die verantwoordelike Lid van die Uitvoerende Raad mag aan die Provinsiale Taalkomitee of aan die Departementshoof –

(a) enige bevoegdheid toegeken aan die verantwoordelike Lid van die Uitvoerende Raad deur hierdie Wet, met uitsondering van die bevoegdheid om regulasies te maak ingevolge artikel 19; of

(b) enige opgelegde plig van die verantwoordelike Lid van die Uitvoerende Raad deur hierdie Wet,

delegeer.

(2) Enige bevoegdheid of plig gedelegeer ingevolge subartikel (1) moet uitgeoefen of uitgevoer word onderhewig aan sodanige voorwaardes soos die verantwoordelike Lid van die Uitvoerende

Raad nodig ag.

(3) Enige delegering ingevolge subartikel (1) –

(a) moet skriftelik wees;

(b) mag die verantwoordelike Lid van die Uitvoerende Raad nie verhinder om daardie bevoegdheid, of verrigting van daardie plig, uit te voer nie; en

(c) mag te enige tyd deur die verantwoordelike Lid van die Uitvoerende Raad teruggetrek of gewysig word.

### **Herroeping van wet**

21. Die KwaZulu-Natal Wet op Parlementêre Amptelike Tale, 1998 (Wet No. 10 van 1998), word hiermee herroep.

### **Kort titel**

22. Hierdie Wet word die KwaZulu-Natal Wet op Provinsiale Tale, 2013 genoem.

**MEMORANDUM OOR DIE OOGMERKE  
VAN DIE KWAZULU-NATAL WETSONTWERP OP PROVINSIALE TALE, 2013**

**AGTERGROND**

1. (a) Bykomend tot die bepaling van elf amptelike tale vir die Republiek van Suid-Afrika, voorsien artikel 6 van die Grondwet van die Republiek van Suid-Afrika, 1996 ("die Grondwet") verder dat –

- (i) die Staat praktiese en positiewe stappe moet neem om die status van inheemse tale te verhoog en gebruik van sodanige tale te bevorder;
- (ii) die Nasionale regering en provinsiale regering mag, na inagneming van gebruik, praktiese aspekte, uitgawes, streeksomstandighede en die balansering van die behoeftes van die teikenpopulasie, ten minste twee van die amptelike tale gebruik vir regeringsdoeleindes. Munisipaliteite moet die taalgebruik en taalvoorkeure van hul inwoners in ag neem wanneer besluit word op die tale wat gebruik sal word vir regeringsdoeleindes; en
- (iii) die Nasionale regering en provinsiale regerings, deur wetgewing en ander maatreëls, hul gebruik van amptelike tale reguleer en monitor.

(b) Deur die bogenoemde grondwetlike imperatief beoog die verantwoordelike Lid van die Uitvoerende Raad, verantwoordelik vir Kuns en Kultuur in die Provinsie (die "LUR"), om die KwaZulu-Natal Wet op Tale, 2012 in te dien.

**HOOFBEPALINGS VAN DIE WETSONTWERP**

2. (1) Die hoofogmerke van die Wetsontwerp is om voorsiening te maak vir –

- (a) die vasstelling van provinsiale amptelike tale vir die Provinsie;
- (b) die regulering en monitering van die gebruik van provinsiale amptelike tale deur alle regeringsliggame in die Provinsie;
- (c) die instelling van die KwaZulu-Natal Provinsiale Taaldiens en die KwaZulu-Natal Interregeringstaalforum;
- (d) maatreëls vir die ontwikkeling van inheemse tale en gebaretaal in die Provinsie;
- (e) die herroeping van die KwaZulu-Natal Wet op Parlementêre Amptelike Tale, 1998 (Wet No. 10 van 1998); en
- (f) ander aangeleenthede wat daarmee verband hou.

(2) Hoofstuk 1 van die Wetsontwerp maak voorsiening vir die woordskrywings.

(3) Hoofstuk 2 maak voorsiening vir die oogmerke en die toepassing van die Wetsontwerp. Die Wetsontwerp, sodra dit aangeneem is as wet, sal van toepassing wees op alle regeringsliggame in die Provinsie.

(4)(a) Hoofstuk 3 van die Wetsontwerp maak voorsiening vir die bepaling van isiZulu, Engels, isiXhosa en Afrikaans as die provinsiale amptelike tale in KwaZulu-Natal.

(b) Hoofstuk 3 maak verder voorsiening vir die gebruik van die provinsiale amptelike tale in die Provinsie. Hierdie hoofstuk maak ook voorsiening vir die benutting van vertaal-, redigeer- en interpreteerdienste.

(5) Hoofstuk 4 maak voorsiening vir die instelling van die Provinsiale Taaldiens as 'n spesialisiteit binne die Departement. Hierdie hoofstuk maak ook voorsiening vir die bevoegdhede, werksaamhede en pligte van die Provinsiale Taaldiens wat insluit, maar nie beperk is nie, tot –

(a) die monitering van die implementering van hierdie Wet, regulasies en interne beleide deur regeringsliggame in die Provinsie;

(b) bevordering en monitering van goeie taalbestuur deur regeringsliggame in die Provinsie; en

(c) bevordering en monitering van respek vir die taalregte van burgers van die Provinsie deur alle regeringsliggame in die Provinsie.

(6) Hoofstuk 5 maak voorsiening vir die instelling van die Provinsiale Interregeringsforum, genoem die KwaZulu-Natal Interregeringstaalforum (KWANILAF0).

(7) Hoofstuk 6 maak voorsiening vir die ontwikkeling van interne taalbeleide deur alle regeringsliggame in die Provinsie. Hierdie hoofstuk maak ook voorsiening vir die ontwikkeling van die KwaZulu-Natal Beleid vir die Ontwikkeling en Bevordering van Inheemse Tale.

(8) Hoofstuk 7 maak voorsiening vir die aangeleenthede wat verband hou met die hantering van taalklagtes en -dispute wat voorspruit uit enige skending van taalregte of enige bepalings van hierdie Wetsontwerp.

(9) Hoofstuk 8 maak voorsiening vir meganismes vir monitering en verslaglewing vir die gebruik van provinsiale amptelike tale in die Provinsie.

(10) Hoofstuk 9 maak voorsiening vir algemene bepalings naamlik regulasies, delegerings, herroeping van die KwaZulu-Natal Wet op Parlementêre Amptelike Tale, 1998 (Wet No. 10 van 1998), en die korttitel van die Wet.

### **ORGANISATORIESE- EN PERSONEELIMPLIKASIES VIR PROVINSIALE REGERING**

3. Geen.

### **FINANSIËLE IMPLIKASIES VIR PROVINSIALE REGERING**

4. Geen.

### **DEPARTEMENTE / LIGGAME GERAADPLEEG**

5. Verteenwoordigers van alle provinsiale departemente en munisipaliteite in die Provinsie, akademië en taaldeskundiges was genooi om insette en kommentaar betreffende die Wetsontwerp te lewer.

### **GRONDWETLIKE IMPLIKASIES**

6. Die Wetsontwerp beoog om voor te skryf aan munisipaliteite in die Provinsie ten opsigte van die wyse waarop kennis geneem moet word van hul klante se taalvoorkeure tydens die uitvoer van hul pligte; daarom is artikel 154(2) van die Grondwet van die Republiek van Suid-Afrika, 1996, van toepassing. Kragtens die vermelde bepaling moet die Lid van die Uitvoerende Raad, voor indiening van die Wetsontwerp by die Wetgewer, dit publiseer vir openbare kommentaar op 'n wyse wat geleentheid bied aan georganiseerde plaaslike regering en ander belanghebbendes om verhoë oor die Wetsontwerp te rig.



**ISEBE LEZOBUGCISA, INKCUBEKO, EZEMIDLALO NOLONWABO****ISAZISO SOMTHETHO OSAYILWAYO WEELWIMI WEPHONDO LAKWAZULU-NATALA, 2013, NGOKULANDELA ICANDELO LE- 154(2) LOMGAQO-SISEKO WERIPHABLIKHI YASEMZANTSI AFRIKA, 1996**

1. Ngokulandela icandelo le- 154(2) loMgaqo-Siseko weRiphablikihi yaseMzantsi Afrika, 1996 (uMthetho we- 108 ka- 1996), uMthetho osayilwayo weLwimi lePhondo laKwaZulu-Natala, 2013, uyethulwa ukuba uluntu luvakalise izimvo zalo.

2. Amasebe aseburhulumenteni, oomasipala kanye namanye amaqumrhu nemibutho enomdla ayacelwa ukuba avakalise izimvo zawo ngembalelwano ngalo Mthetho osayilwayo kungekapheli iintsuku ezingama-30 emva kokukhutshwa kwesi sazi, ngoku –

(a) posela iNtloko yeSebe: ezoBugcisa neNkcubeko, Private Bag X9140 Pietermaritzburg, 3200;

(b) hambisa ngesandla kumgangatho wesibini kwisakhiwo esibizwa nge, Heritage House, 222 Jabu Ndlovu Street, Pietermaritzburg, qondisa ku: Mnumzana MB Mnguni;

(c) feksela ku: (033) 264 3494; okanye

(d) thumela i-meyili ku: [mngunim@kzndac.gov.za](mailto:mngunim@kzndac.gov.za).

Sikhutshwe ndim e..... ngalo mhla we ..... ku ....., Amawaka amabini neShumi elineSithathu.

**NKKZ. NN SIBHIDLA-SAPHETHA, UMPHATHISWA (MEC)**

iLungu lesiGqeba esiLawulayo sePhondo laKwaZulu-Natala elijongene nezoBugcisa, iNkcubeko, ezeMidlalo noLonwabo

No. 5

13 kuNhlolanja 2014

## UMTHETHOSIVIVINYO WEZILIMI ZESIFUNDAZWE WAKWAZULU-NATALI, 2013

Isaziso ngokuhambisana noMthetho 194 weMithetho Emileyo YesiShayamthetho saKwaZulu-Natali

Ngalokhu kunikezwa isaziso ngokuhambisana noMthetho 194 weMithetho Emileyo YesiShayamthetho SaKwaZulu-Natali maqondana nokuthi uMthethosivivinyo weZilimi zesiFundazwe WaKwaZulu-Natali, 2013 njengoba uchazwe ngezansi, sewethuliwe esiShayamthethweni esibalulwe ngenhla futhi uzocutshungulwa yiKomidi LesiShayamthetho Lezobuciko Namasiko. Umphakathi kanye nabanye abanentshisekelo bayamenywa ukuba balethe izethulo ezimayelana nalo Mthethosivivinyo, okumele ziqondiswe ku -:

Nkk MC Madondo  
UNobhala  
IsiShayamthetho saKwaZulu-Natali  
IsiKhwama Seposi X 9112  
Pietermaritzburg  
3200

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

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

N NAIDOO  
UNobhala wesiShayamthetho saKwaZulu-Natali

**UMTHETHOSIVIVINYO WEZILIMI ZESIFUNDAZWE  
WAKWAZULU-NATALI, 2013**

## UMTHETHOSIVIVINYO

Wokuhlinzekela ukunqunywa kwezilimi ezisemthethweni esiFundazweni saKwaZulu-Natali; wokuhlinzekela ukulawulwa nokuqashwa kokusetshenziswa kwezilimi ezisemthethweni zesiFundazwe izona zonke izinhlaka zikahulumeni esiFundazweni saKwaZulu-Natali; wokwenyusa izinga nokuthuthukisa ukusetshenziswa kwezilimi zomdabu ezikhulunywa esiFundazweni; wokuhlinzekela ukusungulwa koPhiko lweziLimi lwesiFundazwe saKwaZulu-Natali; wokuhlinzekela ukusungulwa kwesiGungu seziLimi seziNhlaka zikaHulumeni saKwaZulu-Natali; wokuhlinzekela ukusungulwa kwezinqubomgomo zezilimi zangaphakathi zezinhlaka zikahulumeni esiFundazweni; wokuhlinzekela ukusungulwa nokulandelwa kweNqubomgomo yokuThuthukiswa nokuNothiswa kweziLimi zoMdabu yaKwaZulu-Natali; wokuhlinzekela ukuchithwa koMthetho weziLimi eziseMthethweni zePhalamende laKwaZulu-Natali, 1998 (uMthetho No. 10 ka 1998); nokuhlinzekela okunye okuphathelele nalokho.

MAWUMISWE yisiShayamthetho sesiFundazwe saKwaZulu-Natali, kanje:-

### UHLELEKA KWEZIGABA

*Isigaba*

ISAHLUKO 1

IZINCAZELO

1. Izincazelo

ISAHLUKO 2

IZINHLOSO NOKUSEBENZA KOMTHETHO

2. Izinhloso zoMthetho

3. Ukusebenza koMthetho

## ISAHLUKO 3

IZILIMI EZISEMTHETHWENI ZESIFUNDAZWE NEMISEBENZI YOKUHUMUSHA,  
YOKUHLELA NEYOKUTOLIKA

4. Ukunqunywa kwezilimi ezisemthethweni zesifundazwe
5. Ukusetshenziswa kwezilimi ezisemthethweni zesifundazwe emihlanganweni yoMkhandlu oPhethe, yeMikhandlu yoMasipala neyesiShayamthetho sesiFundazwe
6. Ukusetshenziswa kwezilimi ezisemthethweni zesifundazwe uma kushaywa imithetho
7. Ukusetshenziswa kwezilimi ezisemthethweni zesifundazwe yizinhlaka zikahulumeni esiFundazweni
8. Imisebenzi yokuhumusha, yokuhlela neyokutolika

## ISAHLUKO 4

## UPHIKO LWEZILIMI LWESIFUNDAZWE SAKWAZULU-NATALI

9. Ukusungulwa koPhiko lweziLimi lwesiFundazwe saKwaZulu-Natali
10. Amandla, amajoka nemisebenzi yoPhiko lweziLimi lwaKwaZulu-Natali
11. Abasebenzi boPhiko lweziLimi lwesiFundazwe

## ISAHLUKO 5

## ISIGUNGU SEZILIMI SEZINHLAKA ZIKAHULUMENI SAKWAZULU-NATALI

12. IsiGungu seziLimi seziNhlaka zikaHulumeni saKwaZulu-Natali (i-KWANILAFU)

## ISAHLUKO 6

UKUSUNGULWA KWEZINQUBOMGOMO ZEZILIMI ZANGAPHAKATHI NENQUBOMGOMO  
YOKUTHUTHUKISWA NOKUNOTHISWA KWEZILIMI ZOMDABU YAKWAZULU-NATALI

13. Izinqubomgomo zezilimi zangaphakathi
14. Inqubomgomo yokuThuthukiswa nokuNothiswa kweziLimi zoMdabu yaKwaZulu-Natali

## ISAHLUKO 7

UHLELO LWEZIKHALO LWANGAPHAKATHI NOKUXAZULULWA KOKUNGABONI  
NGASOLINYE MAYELANA NEZILIMI

15. Uhlelo lwezikhalo lwangaphakathi
16. Ukuxazululwa kokungaboni ngasolinye mayelana nezilimi

## ISAHLUKO 8

UKUQAPHA NOKUBIKA NGOKUSETSHENZISWA KWEZILIMI EZISEMTHETHWENI  
ZESIFUNDAZWE

17. Abasebenzi noma izimpiko zemisebenzi yezilimi
18. Ukuqapha nokubika ngokusetshenziswa kwezilimi ezisemthethweni zesifundazwe

## ISAHLUKO 9

## IZINHLINZEKO EZEJWAYELEKILE

19. Imithethonqubo
20. Ukudluliselwa kwamandla
21. Ukuchithwa komthetho
22. Isihloko esifingqiwe

## ISAHLUKO 1

## IZINCAZELO

**Izincazelo**

1. Kulo Mthetho, ngaphandle uma ingqikithi isho okwehlukile –

"uMthethosisekelo" kushiwo uMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996;

"uMnyango" kushiwo uMnyango wesiFundazwe saKwaZulu-Natali obhekele izindaba zezilimi;

"izilimi eziyishumi nanye ezisemthethweni" kushiwo izilimi ezisemthethweni kwiRiphabhulikhi yaseNingizimu Afrika, ezihlongozwe esigabeni 6(1) soMthethosisekelo;

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

"unyaka wezimali" kushiwo isikhathi esiqala mhla lu-1 kuMbasa kuya kumhla zingama-31 kuNdasa wonyaka olandelayo;

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

**"uhlaka lukahulumeni"** kushiwo –

(a) noma imuphi umnyango wesifundazwe noma umasipala esiFundazweni saKwaZulu-Natali;

(b) noma iluphi uhlaka olusemthethweni, ikhomishana, ibhodi noma umkhandlu ezingeni lesifundazwe noma lohulumeni basekhaya esiFundazweni saKwaZulu-Natali; kanye

(c) nesiShayamthetho sesiFundazwe;

**"iNhloko yoMnyango"** kushiwo umuntu oqokwe njengesikhulu esinesibopho sokubika soMnyango;

**"inhloko yohlaka lukahulumeni"** kushiwo isikhulu esinesibopho sokubika sanoma iluphi uhlaka lukahulumeni wesiFundazwe noma umuntu obambe kuleso sikhundla;

**"izilimi zomdabu ezikhulunywayo esiFundazweni"** kushiwo lezo zilimi, –

(a) ngokwamarekhodi omlando okungezomdabu eNingizimu Afrika futhi ezikhulunywa esiFundazweni; futhi

(b) phambilini ebezingahlonishwa ngokwanele futhi zingasetshenziswa ngendlela elinganayo nesiNgisi nesiBhunu;

**"izinqubomgomo zangaphakathi zezilimi"** kushiwo izinqubomgomo zangaphakathi zezilimi ezisungulwe izinhloko zikahulumeni ezahlukahlukene esiFundazweni, njengoba kuhlangozwe esigabeni 13;

**"i-KWANILAFO"** kushiwo isiGungu seziLimi seziNhlaka zikaHulumeni saKwaZulu-Natali, esihlongozwe esigabeni 12;

**"ofaka isikhalo esiphathelene nezilimi"** kushiwo noma imuphi umuntu ofaka isikhalo esiphathelene nezilimi ohlongozwe esigabeni 15(1);

**"isikhalo esiphathelene nezilimi"** kushiwo isikhalo esiphathelene nezilimi esihlongozwe esigabeni 15(1);

**“ukungaboni ngasolinye mayelana nezilimi”** kushiwo ukungaboni ngasolinye okuphathelene nezilimi njengoba kuhlongozwe esigabeni 15(2)(f);

**“iKomidi lokuXazulula ukuNgaboni Ngasolinye okuphathelene neziLimi”** kushiwo iKomidi lokuXazulula ukuNgaboni Ngasolinye okuphathelene neziLimi, eliqokwe iLungu loMkhandlu oPhethe, izikhathi ngezikhathi, ngokwesigaba 16(2);

**“uMkhandlu kaMasipala”** kushiwo uMkhandlu wanoma imuphi uMasipala njengoba kuhlongozwe esigabeni 157 soMthethosisekelo;

**“i-PanSALB”** kushiwo iBhodi yeziLimi kaZwelonke, eyasungulwa ngokwesigaba 2 soMthetho weBhodi yeziLimi kaZwelonke;

**“uMthetho weBhodi yeziLimi kaZwelonke”** kushiwo uMthetho weBhodi yeziLimi kaZwelonke, 1995 (uMthetho No. 59 ka 1995);

**“okunqunyiwe”** kushiwo okunqunywe umthethonqubo ngaphansi kwesigaba 19, kanti igama **“ukunquma”** linencazelo efanayo;

**“isiFundazwe”** kushiwo isiFundazwe saKwaZulu-Natali esihlongozwe esigabeni 103 soMthethosisekelo, kanti igama **“okwesiFundazwe”** linencazelo efanayo;

**“uHulumeni wesiFundazwe”** kushiwo uhulumeni wesiFundazwe saKwaZulu-Natali;

**“iKomidi leziLimi lesiFundazwe”** kushiwo iKomidi leziLimi lesiFundazwe elisungulwe yi-PanSALB ngokwesigaba 8(8)(a) soMthetho weBhodi yeziLimi kaZwelonke, 1995 (uMthetho No. 59 ka 1995);

**“uPhiko lweziLimi lwesiFundazwe”** kushiwo uPhiko lweziLimi lwesiFundazwe saKwaZulu-Natali olusungulwe ngokwesigaba 9;

**“isiShayamthetho sesiFundazwe”** kushiwo isiShayamthetho sesiFundazwe njengoba kuhlongozwe esigabeni 105 soMthethosisekelo, futhi esinamandla okushaya imithetho



yesiFundazwe njengoba kuhlangozwe esigabeni 104(1) soMthethosisekelo;

**"izilimi ezisemthethweni zesifundazwe"** kushiwo izilimi ezisemthethweni zesifundazwe ezihlongozwe esigabeni 4(1);

**"imithethonqubo"** kushiwo imithethonqubo esungulwe ngokwesigaba 19;

**"iLungu loMkhandlu oPhethe"** kushiwo iLungu loMkhandlu oPhethe esiFundazweni elibhekele izindaba eziphatelene nezilimi esiFundazweni; kanti

**"lo Mthetho"** ubandakanya nemithethonqubo.

## ISAHLUKO 2

### IZINHLOSO NOKUSEBENZA KOMTHETHO

#### Izinhloso zoMthetho

##### 2. Izinhloso zoMthetho –

- (a) ukunquma izilimi ezisemthethweni zesiFundazwe;
- (b) ukulawula nokuqapha ukusetshenziswa kwezilimi ezisemthethweni zesifundazwe izona zonke izinhloso zikahulumeni esiFundazweni;
- (c) ukugqogqezela ukuba kuhlonishwe futhi kuphathwe ngokulingana zonke izilimi ezisemthethweni zesiFundazwe;
- (d) ukweseka umphakathi ukuthi usebenzise izilimi ngokuzikhethela uma ufuna ukuthola izidingo nolwazi kuhulumeni;
- (e) ukuhlinzeka amasu okuhloswe ngawo ukuqinisekisa ukuthi izilimi zomdabu ebezingashaywa ndiva esiFundazweni ziyabhekelelwa; kanye
- (f) nokugqogqezela ubuliminingi nokusetshenziswa kwezilimi ezahlukahlukene esiFundazweni.

#### Ukusebenza koMthetho

##### 3. Lo Mthetho usebenza –

- (a) eMkhandlwini oPhethe;

- (b) kuyo yonke imiKhandlu yoMasipala esiFundazweni njengoba kuhlongozwe esigabeni 157 soMthethosisekelo;
- (c) nakuzo zonke izinhlaka zikahulumeni esiFundazweni.

### ISAHLUKO 3

#### IZILIMI EZISEMTHETHWENI ZESIFUNDAZWE NEMISEBENZI YOKUHUMUSHA, YOKUHLELA NEYOKUTOLIKA

#### **Ukuqokwa kwezilimi ezisemthethweni zesifundazwe**

4.(1) Izilimi ezisemthethweni zesifundazwe isiZulu, isiNgisi, isiXhosa nesiBhunu.

(2) Ngale kokushiwo yisigatshana (1) –

(a) zonke izilimi eziyishumi nanye zeRiphabhulikhi yaseNingizimu Afrika, njengoba kuhlongozwe esigabeni 6(1) soMthethosisekelo, kumele –

(i) zihlonishwe ngendlela elinganayo; futhi

(ii) ziphathwe ngendlela efanayo,

esiFundazweni; futhi

(b) uHulumeni wesiFundazwe kumele, ngokubambisana ne-PanSALB –

(i) agqugquzele futhi aqinisekise ukusetshenziswa –

(aa) kwazo zonke izilimi ezisemthethweni eziyishumi nanye;

(bb) kolimi lwama-Khoi, lwama-Nama nolwama-San; kanye

(cc) noLimi lweziMpawu lwaseNingizimu Afrika,

esiFundazweni; futhi

(ii) agqugquzele ukuhlonishwa –

(aa) kwazo zonke izilimi ezivame ukusetshenziswa yimiphakathi yaseNingizimu Afrika; kanye

(bb) nezinye izilimi ezisetshenziselwa ezenkolo.

#### **Ukusetshenziswa kwezilimi ezisemthethweni zesifundazwe emihlanganweni yoMkhandlu oPhethe, yeMikhandlu yoMasipala neyesiShayamthetho sesiFundazwe**

5.(1) Kungasetshenziswa noma iluphi ulimi olusemthethweni lwesiFundazwe uma kunezingxoxo, izinkulumompikiswano noma kwethulwa inkulumo emhlanganweni –

- (a) woMkhandlu oPhethe;
- (b) wanoma iliphi ikomidi loMkhandlu oPhethe;
- (c) wanoma imuphi uMkhandlu kaMasipala;
- (d) wanoma iliphi ikomidi loMkhandlu kaMasipala;
- (e) wesiShayamthetho sesiFundazwe; kanye
- (f) nowanoma iliphi ikomidi lesiShayamthetho sesiFundazwe.

(2) Ukuze kufezeke okushiwo kwisigatshana (1), kumele kube nezinhlelo ezithile zokuhlinzeka ngosizo lokutolika uma kunomhlangano wesiShayamthetho sesiFundazwe, woMkhandlu oPhethe nowoMkhandlu kaMasipala, kanjalo nowanoma iliphi ikomidi lesiShayamthetho sesiFundazwe, loMkhandlu oPhethe neloMkhandlu kaMasipala.

(3) Noma iliphi irekhodi –

- (a) loMkhandlu oPhethe;
- (b) loMkhandlu kaMasipala;
- (c) lanoma iliphi ikomidi –
  - (i) loMkhandlu oPhethe;
  - (ii) neloMkhandlu kaMasipala,

lingagaywa bese lishicilelwa nganoma iluphi ulimi olusemthethweni lwesifundazwe: Kuncike ekutheni noma imuphi umuntu angacela ukuhunyushelwa irekhodi noma ushicilelo nganoma iluphi olunye ulimi olusemthethweni lwesifundazwe.

### **Ukusetshenziswa kwezilimi ezisemthethweni zesifundazwe uma kushaywa imithetho**

6.(1) Noma imuphi –

- (a) umthetho wesifundazwe (uMthetho) noma umthetho osewuhlaka wesifundazwe (uMthethosivivinyo); kanye
- (b) nomthethonqubo, nesimemezelo noma isinqumo esithathwe ngokulandela noma imuphi umthetho wesifundazwe,

oshicilelwe kwiGazethi noma ephephandabeni elifundwa kakhulu esiFundazweni, kumele kushicilelwe ngazo zonke izilimi ezisemthethweni zesifundazwe.

(2) Noma isiphi isaziso esikhishwe ngokulandela noma imuphi umthetho wesiFundazwe futhi sashicilelwa kwiGazethi noma ephephandabeni elifundwa kakhulu esiFundazweni, kumele

sishicilelwe okungenani ngezilimi ezimbili ezisemthethweni zesifundazwe: Kuncike ekutheni –

- (a) kuyaqikelelwa ukuthi ulimi oluzosetshenziswa yilolo olusetshenziswa amalungu omphakathi okuyiwona okubhekiswe kuwo lesa sazi; futhi
- (b) kuyaqinisekiswa ukuthi olunye phakathi kwezilimi ezikhethwayo uma kushicilelwa isazi, lungolunye lwezilimi zomdabu ezikhulunywayo esiFundazweni.

(3) Noma imuphi umthetho kamasipala, isinqumo noma isazi esishicilelwa umasipala kwiGazethi nakunoma iliphi iphephandaba esiFundazweni, kumele kushicilelwe okungenani ngezilimi ezimbili ezisemthethweni zesifundazwe: Kuncike ekutheni –

- (a) kumele kubhekelelwe ukuthi ulimi olusetshenziswa kuleyo ndawo alusali; futhi
- (b) kumele olunye lwezilimi ezisetshenziswayo uma kushicilelwa isazi, kuncike esifundeni ngasinye, lube ngolunye lwezilimi zomdabu ezikhulunywayo esiFundazweni.

#### **Ukusetshenziswa kwezilimi ezisemthethweni zesifundazwe izinhlaka zikahulumeni wesiFundazwe**

7.(1) Zonke izinhlaka zikahulumeni esiFundazweni, ngokusebenzisa izinqubomgomo zangaphakathi zezilimi ezihlongozwe esigabeni 13, futhi kuncike ekutheni –

- (a) kusetshenziswa ulimi olukhulunywa futhi olukhethwa yiningi lamakhasimende namakilayenti alolo hlaka lukahulumeni; futhi
- (b) kubhekelelwa izimo zaleso naleso sifunda,

kumele ziqoke okungenani izilimi ezimbili ezisemthethweni zesifundazwe ngenhloso –

- (i) yezokuxhumana kwangaphakathi, kwangaphandle, yokubhala kanjalo neyokukhuluma; kanye
- (ii) neyokushicilela:

Kuncike ekutheni noma iluphi uhlaka lukahulumeni esiFundazweni, ngaphezu kwalokho, lungaqoka olunye noma ezinye izilimi kulezo eziyishumi nanye ezisemthethweni.

(2) Kumele kwenziwe izinhlelo ezithile mayelana nokutolika nokuhumusha ukubhekelela amalungu omphakathi afisa ukuxhumana nanoma iluphi uhlaka lukahulumeni esiFundazweni akhuluma noma iluphi olunye ulimi olusemthethweni lwesifundazwe olungaqokwanga ngokwesigatshana (1).

(3) Olunye lwezilimi oluqokwe ngokwesigatshana (1), kuncike ekutheni amakhasimende alolo

hlaka lukahulumeni asebenzisa futhi akhetha luphi ulimi, kumele kube olunye lwezilimi zomdabu ezikhulunywayo esiFundazweni.

(4)(a) Noma iliphi irekhodi noma ushicilelo lwanoma iluphi uhlaka lukahulumeni esiFundazweni lingagaywa noma lishicilelwe nganoma iluphi ulimi oluqokwe ngokwesigatshana (1): Kuncike ekutheni omunye umuntu angacela ukhunuyushelwa lelo rekhodi noma lolo shicilelo ngolunye ulimi olusemthethweni lwesifundazwe.

(b) ILungu loMkhandlu oPhethe linganquma isikhathi okumele kuhlinzekwe ngaso irekhodi noma ushicilelo oluhunyushwe ngolunye ulimi olusemthethweni lwesifundazwe ngemuva kokuthola isicelo esihlongozwe endimeni (a).

(5) Uma izinhlaka zikahulumeni esiFundazweni –

(a) ziveza;

(b) zikhangisa; noma

(c) ziqhakambisa,

imisebenzi eziyenzayo, kumele zisebenzise izilimi ezisemthethweni zesifundazwe eziqokwe ngokwesigatshana (1) ezimpawini zazo, ezihlokweni zemibhalo, emabhodini ezikhangiso nasezintweni zokukhangisa.

(6) Uma uhlaka lukahulumeni esiFundazweni lubhalela ikhasimende noma ilungu lomphakathi incwadi, leyo ncwadi kumele ibhalwe ngolimi olusemthethweni lwesifundazwe oluqokwe ilelo khasimende noma ilelo lungu lomphakathi.

### **Imisebenzi yokuhumusha, yokuhlela neyokutolika**

8.(1) UPhiko lweziLimi lwesiFundazwe, oluhlongozwe esigabeni 9, kumele –

(a) mayelana nezilimi ezisemthethweni zesifundazwe;

(b) nangesikhathi esithile kutholakale isicelo noma ngesikhathi esithile esinganqunywa iLungu loMkhandlu oPhethe,

luhlinzeke ngemisebenzi yokuhumusha, yokuhlela neyokutolika njengoba kunganxusa isiShayamthetho sesiFundazwe, uMkhandlu oPhethe, noma imuphi uMkhandlu kaMasipala kanye nanoma iluphi uhlaka lukahulumeni lwesiFundazwe.

(2) UPhiko lweziLimi lwesiFundazwe, uma luthola isicelo, futhi –

- (a) kuncike ekutheni singafezeka nasezindlekweni olungangena kuzona;
- (b) nangezikhathi ezibekiwe njengoba kunganquma iLungu loMkhandlu oPhethe, lungahlela ukuba kuhunyushwe, kuhlelwe futhi kutolikwe njengoba kungacela isiShayamthetho sesiFundazwe, uMkhandlu oPhethe, noma imuphi uMkhandlu kaMasipala kanye nanoma iluphi uhlaka lukahulumeni esiFundazweni, mayelana –
  - (i) nanoma iluphi ulimi kweziyishumi nanye ezisemthethweni;
  - (ii) nanoma iluphi ulimi lwama-Khoi, lwama-Nama nolwama-San;
  - (iii) noLimi lweziMpawu lwaseNingizimu Afrika; kanye
  - (iv) noLimi lwaBangaboni emehlweni.

(3) Noma iluphi uhlaka lukahulumeni esiFundazweni oludinga usizo lwezokuhumusha, lwezokuhlela noma lwezokutolika, oluhlongozwe ezigatshaneni (1) no (2), kumele lufake isicelo esibhalwe phansi oPhikweni lweziLimi lwesiFundazwe.

#### ISAHLUKO 4

#### UPHIKO LWEZILIMI LWESIFUNDAZWE SAKWAZULU-NATALI

##### **Ukusungulwa koPhiko lweziLimi lwesiFundazwe saKwaZulu-Natali**

9.(1) Ngalokhu kusungulwa uPhiko lweziLimi lwesiFundazwe saKwaZulu-Natali, ngemuva kwalokhu oluzobizwa ngoPhiko lweziLimi lwesiFundazwe.

(2) UPhiko lweziLimi lwesiFundazwe –

- (a) luwuPhiko olungaphakathi eMnyangweni; futhi
- (b) aluyena umuntu ngokomthetho.

##### **Amandla, amajoka nemisebenzi yoPhiko lweziLimi lwesiFundazwe**

10.(1) UPhiko lweziLimi lwesiFundazwe kumele –

- (a) luqaphe ukusetshenziswa kwezinhlinzeko –
  - (i) zalo Mthetho;
  - (ii) zanoma imuphi umthethonqubo osungulwe ngokwesigaba 19; kanye
  - (iii) nezinqubomgomo zezilimi zangaphakathi ezihlongozwe esigabeni 13, izona zonke izinhlaka zikahulumeni esiFundazweni;

- (b) lugqugquzele futhi luqaphe ukusetshenziswa ngendlela elinganayo kwazo zonke izilimi ezisemthethweni zesifundazwe ukuze kuqinisekise ukuthi zonke izakhamizi zesiFundazwe zithola izidingo kanjalo nolwazi kuhulumeni ngendlela elinganayo;
- (c) lweseke zonke izinhlaka zikahulumeni esiFundazweni maqondana nezindaba eziphathelene nezilimi;
- (d) luthathe izinyathelo ezidingekayo nezifanele –
- (i) ukugqugquzela ubuliminingi esiFundazweni;
  - (ii) ukugqugquzela ukusetshenziswa nokuthuthukiswa lwezilimi zomdabu ezikhulunywayo esiFundazweni; kanye
  - (iii) nokuqinisekisa ukulingana kwezilimi esiFundazweni;
- (e) lugqugquzele futhi luqaphe ukuphathwa kahle kwezilimi kuzona zonke izinhlaka zikahulumeni esiFundazweni ukuze imisebenzi kahulumeni iqhutshwe ngendlela efanele;
- (f) lugqugquzele futhi luqaphe ukuhlonishwa kwamalungelo ezilimi ezakhamizi zesiFundazwe izona zonke izinhlaka zikahulumeni esiFundazweni;
- (g) luqaphe ukuthi zonke izinhlaka zikahulumeni esiFundazweni zisungula, zibuyekeza futhi ziqalisa izinqubomgomo zangaphakathi zezilimi, njengoba kuhlongozwe esigabeni 13;
- (h) luhlinzeke izinhlaka zikahulumeni esiFundazweni ngosizo lokuhumusha, lokuhlela nolokutolika;
- (i) luqaphe futhi luthuthukise izinga lokuhumusha, lokuhlela nolokutolika esiFundazweni;
- (j) lulawule uhelo lokuqanjwa kwamagama nokubhalwa kwezincwadi esiFundazweni;
- (k) lweseke ukufundwa nokufundiswa kwazo zonke izilimi ezisemthethweni zesifundazwe; futhi
- (l) lweseke i-KWANILAFU ngezokuphatha nemisebenzi yobubhalane njengoba kuhlongozwe esigabeni 12.

(2) UPhiko lweziLimi lwesiFundazwe –

- (a) lungahlela izinhlelo zokuqeqeshwa mayelana namasu okuhumusha, okuhlela nawokutolika;
- (b) lungabambisana nanoma iluphi uhlaka lukahulumeni noma inhlangotho engekho ngaphansi kukahulumeni ukuze lufezekise izinhloso zalo, lusebenzise amandla alo, lufeze amajoka alo futhi lwenze imisebenzi yalo; futhi
- (c) lungenza noma yini –

- (i) edingekayo ukuze lusebenzise amandla alo, lufeze amajoka alo futhi lwenze imisebenzi yalo ngokwalo Mthetho; futhi
- (ii) ehambisanayo noma ehlobene nokusetshenziswa kwamandla alo, nokufeza amajoka alo nokwenza imisebenzi yalo.

#### **Abasebenzi boPhiko lweziLimi lwesiFundazwe**

11.(1) UPhiko lweziLimi lwesiFundazwe lunabasebenzi abaqokwe iNhloko yoMnyango ngokoMthetho wemiSebenzi kaHulumeni, 1994 (Isimemezelo No. 103 ka 1994).

(2) Abasebenzi boPhiko lweziLimi lwesiFundazwe, kumele, bebonke babe nekhono –

- (a) lokuhumusha, lokuhlela nelokutolika;
- (b) lokulawula ukudluliselwa kwabanye ongoti kwemisebenzi yokuhumusha, yokuhlela neyokutolika; kanye
- (c) nelokuqapha izinga lomsebenzi kuleyo misebenzi yokuhumusha, yokuhlela neyokutolika edluliselwe kwabanye ongoti,

kuzona zonke izilimi ezisemthethweni zesifundazwe.

(3) Abasebenzi boPhiko lweziLimi lwesiFundazwe, ngokwezinhloso zesigaba 10(1), bebonke kumele babe namakhono, isipiliyoni nolwazi olufanele futhi oludingekayo ukusungula inqubomgomo.

### ISAPHELA 5

#### ISIGUNGU SEZILIMI SEZINHLAKA ZIKAHULUMENI SAKWAZULU-NATALI

#### **IsiGungu seziLimi seziNhlaka zikaHulumeni saKwaZulu-Natali**

12.(1) Ngalokhu kusungulwa isiGungu seziLimi seziNhlaka zikaHulumeni saKwaZulu-Natali (i-KWANILAFU).

(2) Izinhloso, amandla, amajoka nemisebenzi ye-KWANILAFU –

- (a) ukugqunguzela ukusebenzisana, ukubambisana nokubonisana kuzona zonke izinhloso zikahulumeni esiFundazweni mayelana nezindaba ezithinta izilimi;



- (b) ukudidiyela, ukuhlela kanye nokuqapha ukuqaliswa kwezinqubomgomo zangaphakathi zezilimi esiFundazweni;
- (c) ukuphenya nganoma iluphi udaba oluphathelele nokuqaliswa kwalo Mthetho nokweluleka iLungu loMkhandlu oPhethe;
- (d) ukugqugquzela ukubonisana nezingxoxo phakathi kukaHulumeni wesiFundazwe nanoma iyiphi enye inhlango noma umuntu onentshisekelo ezindabeni ezithinta izilimi esiFundazweni;
- (e) ukumela uHulumeni wesiFundazwe, nokubamba iqhaza kanjalo nokuba negalelo kunoma isiphi isiGungu seziLimi seziNhlaka zikaHulumeni sikaZwelonke; kanye
- (f) nokwenza eminye imisebenzi iLungu loMkhandlu oPhethe elinganquma ukuba yenziwe i-KWANILAFU.

(3) I-KWANILAFU yakhiwe –

- (a) amalungu abasebenzi boPhiko lweziLimi lwesiFundazwe abaqokwe iLungu loMkhandlu oPhethe;
- (b) abasebenzi bezilimi bazo zonke izinhlaka zikahulumeni esiFundazweni, abaqokelwe lokho ngokwesigaba 17;
- (c) abasebenzi abamele izinhlaka ezisebenza ngezilimi, ezihlongozwe esigabeni 17; kanye
- (d) nanoma imuphi omunye umuntu ongaqokwa noma ongaqashwa iLungu loMkhandlu oPhethe, ngokubona kwalo iLungu loMkhandlu oPhethe, ongasiza i-KWANILAFU ekufezekiseni izinhloso zayo, ekusebenziseni amandla ayo nasekwenzeni imisebenzi namajoka ayo.

(4) ILungu loMkhandlu oPhethe kumele –

- (a) liqoke uSihlalo neSekela likaSihlalo be-KWANILAFU;
- (b) linqume isikhathi sokuba sesikhundleni sikaSihlalo neSekela lakhe; futhi
- (c) linqume eminye imigomo nemibandela yokuqashwa kukaSihlalo neSekela lakhe.

(5)(a) ILungu loMkhandlu oPhethe kumele libize umhlangano wokuqala we-KWANILAFU.

(b) Ngemuva kwalokho kumele i-KWANILAFU ihlangane njalo uma kunesidingo, kodwa okungenani kane ngonyaka, ngalezo zikhathi nakuleyo ndawo enganqunywa uSihlalo.

(c) Izinhlaka zikahulumeni esiFundazweni, kumele, mayelana nabasebenzi abamele lezo zinhlaka zikahulumeni kwi-KWANILAFU –

- (i) nangalezo zinsiza ezinazo lezo zinhlaka zikahulumeni; futhi
- (ii) kuncike kunoma imiphi imithetho nezinqubomgomo ezikhona ezilawula ukukhokhelwa ngokuhamba ngokomsebenzi zalolo nalolo hlaka, ihlinzekele noma iziphi izindleko zokuhamba ngokomsebenzi ezingabangelwa ukwethanyelwa kwemihlangano ye-KWANILAFU.

(6) Imisebenzi yezokuphatha neyobubhalane ehambisana nokwenziwa kwemisebenzi ye-KWANILAFU kumele yenziwe izikhulu noma abasebenzi boMnyango abaqokelwe lokho iNhlolo yoMnyango ngokuhambisana noMthetho wemiSebenzi kaHulumeni, 1994 (Isimemezelo No. 103 sika 1994).

## ISAHLUKO 6

### UKUSUNGULWA KWEZINQUBOMGOMO ZEZILIMI ZANGAPHAKATHI NENQUBOMGOMO YOKUTHUTHUKISWA NOKUNOTHISWA KWEZILIMI ZOMDABU YAKWAZULU-NATALI

#### **Izinqubomgomo zezilimi zangaphakathi**

**13.(1)** Zonke izinhlaka zikahulumeni esiFundazweni kumele –

- (a) zingakedluli izinyanga eziyi-18 kuqaliswe lo Mthetho;
- (b) nangemuva kokubonisana noPhiko lweziLimi lwesiFundazwe, zisungule futhi zigunyaze izinqubomgomo zazo zezilimi zangaphakathi.

(2) Izinqubomgomo zezilimi zangaphakathi ezihlongozwe kwisigatshana (1) kumele zihambisane nezinhlinzeko zalo Mthetho nezanoma imiphi imithethonqubo esungulwe ngokwalo Mthetho ngokwesigaba 19.

(3) Inqubomgomo yezilimi yangaphakathi yanoma iluphi uhlaka lukahulumeni esiFundazweni, kumele –

- (a) njengoba kuhlongozwe esigabeni 7 –
  - (i) inqume okungenani izilimi ezimbili ezisemthethweni zesifundazwe ezizosetshenziselwa ukuxhumana kwangaphakathi nokwangaphandle, ukuxhumana ngokubhala nangokukhuluma kanjalo nangezinhloso zokushicilela, zalolo hlaka lukahulumeni;

- (ii) inqume ukuthi lolo hlaka lukahulumeni luzoxhumana kanjani namalungu omphakathi afisa ukuxhumana nalo, kusetshenziswa noma iluphi olunye ulimi olungaqokiwe ngokwesigaba 7;
  - (b) ihlinzekele uhlelo lwangaphakathi lokufaka izikhalo, oluhlongozwe esigabeni 15; futhi
  - (c) ishicilelwe kwiGazethi ngokushesha, kodwa zingakedluli izinsuku ezingama-90 yamukelwe ngokusemthethweni.
- (4) Uhlaka ngalunye lukahulumeni esiFundazweni kumele –
- (a) lwazise amakhasimende alo ukuthi ikhona inqubomgomo yezilimi yangaphakathi futhi itholakala mahhala uma kukhona oyidingayo;
  - (b) luqinisekise ukuthi ikhophi yenqubomgomo yezilimi yangaphakathi iyatholakala uma icelwa amakhasimende kanjalo namalungu omphakathi; futhi
  - (c) lukhangise kuwona wonke amahhovisi alo, inqubomgomo yalo efinqiwe ngendlela nasendaweni lapho izobonakala khona futhi ifundwe kalula amakhasimende alo kanjalo namalungu omphakathi.

#### **INqubomgomo yokuThuthukiswa nokuNothiswa kweziLimi zoMdabu yaKwaZulu-Natali**

14. ILungu loMkhandlu oPhethe kumele, ngemuva kokubonisana neKomidi leziLimi lesiFundazwe ne-KWANILAFO, lisungule futhi liqalise iNqubomgomo yokuThuthukiswa nokuNothiswa kweziLimi zoMdabu yaKwaZulu-Natali.

#### **ISAHLUKO 7**

#### **UHLELO LWEZIKHALO LWANGAPHAKATHI NOKUXAZULULWA KOKUNGABONI NGASOLINYE MAYELANA NEZILIMI**

#### **Uhlelo lwezikhalo lwangaphakathi**

15.(1) Zonke izinhlaka zikahulumeni esiFundazweni kumele, ngokusebenzisa izinqubomgomo zazo zangaphakathi zezilimi ezihlongozwe esigabeni 13, zihlinzekele uhlelo olunzulu lwezikhalo lwangaphakathi –

- (a) olungasetshenziswa inoma iliphi ilungu lomphakathi elifisa ukufaka isikhalo mayelana nanoma iziphi izinsolo noma imizamo yokeckela phansi –
  - (i) noma iliphi ilungelo lolimi njengoba kuhlongozwe kuMthethosisekelo, kulo

Mthetho noma kwinqubomgomo yezilimi yangaphakathi yalezo zinhlaka zikahulumeni;

(ii) nanoma iziphi izinhlinzeko zalo Mthetho noma zanoma iyiphi inqubomgomo yezilimi yangaphakathi yalolo hlaka lukahulumeni,

uhlaka lukahulumeni; futhi

(b) okumele lulandelwe –

(i) ofaka isikhalo ukuze afake isikhalo esiphathelene nezilimi; kanye

(ii) nohlaka lukahulumeni oluyophenya futhi luxazulule izikhalo eziphathelene nezilimi.

(2) Uhlelo lokufaka izikhalo kumele –

(a) luhlonze isiphathimandla ngaphakathi ohlakeni lukahulumeni okufakwa kulona isikhalo esiphathelene nezilimi;

(b) lunqume isikhathi okungafakwa ngaso izikhalo esiphathelene nezilimi: Kuncike ekutheni zonke izikhalo eziphathelene nezilimi kumele zifakwe zingakedluli izinsuku ezingama-90 kusukela osukwini lapho ofaka isikhalo mayelana nezilimi ebone ngalo kungahlonishwa noma kunemizamo yokungahloniphi noma –

(i) iliphi ilungelo lolimi;

(ii) iziphi izinhlinzeko zalo Mthetho; noma

(iii) inhlinzeko yenqubomgomo yangaphakathi yezilimi yalolo hlaka lukahulumeni;

(c) luveze ukuthi izikhalo mayelana nezilimi kumele –

(i) zibhalwe phansi: Kuncike ekutheni noma imuphi umuntu ofaka isikhalo mayelana nezilimi ongakwazi ukubhala nokufunda kumele asizwe abasebenzi balolo hlaka lukahulumeni ekutheni abhale phansi lesi sikhalo esiphathelene nezilimi;

(ii) zicacise izinhlinzeko zalo Mthetho noma uhlobo kwelungelo okusolakala ukuthi alingahlonishwanga noma okunemizamo yokuthi lingahlonishwa; futhi

(iii) zicacise izizathu lowo ofaka isikhalo esiphathelene nezilimi eziyimbangela yesikhalo sakhe;

(d) luphoqe ofaka isikhalo esiphathelene nezilimi ukuba aveze ukuthinteka kwakhe kulolo daba: Kuncike ekutheni uma umuntu ofaka isikhalo esiphathelene nezilimi emele omunye umuntu noma iqembu labantu, kumele alethe incwadi emgunyaza ukuba enze njalo;

(e) lubalule isikhathi okumele lolo hlaka lukahulumeni oluthintekayo luphothule ngaso

ukudingidwa kwesikhalo esiphathelene nezilimi: Kuncike ekutheni zonke izikhalo eziphathelene nezilimi kumele ziphothulwe ezinsukwini ezingama-30 kusukela osukwini okutholakale ngalo isikhalo;

(f) lubalule ukuthi noma imuphi umuntu ofaka isikhalo esibangelwe –

(i) ukwehluleka kwalolo hlaka lukahulumeni ukuphothula isikhalo sakhe esiphathelene nezilimi ezinsukwini ezingama-30 uthole isikhalo, njengoba kuhrongozwe endimeni (e); noma

(ii) indlela lolo hlaka lukahulumeni olwenze ngayo uphenyo, oluphathe ngayo noma oluphothule ngayo isikhalo sakhe esiphathelene nezilimi,

angadlulisela leso sikhalo sakhe, njengoba kuhrongozwe esigabeni 16(1), kwiLungu loMkhandlu oPhethe ukuze siphinde siphenywe futhi kutholakale isixazululo ngokwesigaba 16(5);

(g) lubalule ukuthi iLungu loMkhandlu oPhethe, -

(i) mayelana nanoma isiphi isikhalo esingaxazululiwe; futhi

(ii) ngokuzithathela kwalo izinyathelo,

linganquma ukuthi ukungaboni ngasolinye mayelana nezilimi, njengoba kuhrongozwe esigabeni 16(1) –

(aa) kukhona; futhi

(bb) kumele kwenziwe olunye uphenyo, njengoba kuhrongozwe esigabeni 16(5); futhi

(h) lubalule noma imiphi eminye imininingwane njengoba kunganquma iLungu loMkhandlu oPhethe.

### **Ukuxazululwa kokungaboni ngasolinye mayelana nezilimi**

**16.(1)** Ukungaboni ngasolinye mayelana nezilimi kudalwa –

(a) ukuthi isikhalo mayelana nezilimi singaxazululeki njengoba kuhrongozwe esigabeni 15(2)(f); noma

(b) ukuthi iLungu loMkhandlu oPhethe, ngokwesigaba 15(2)(g), linqume ukuthi sekube nokungaboni ngasolinye mayelana nezilimi.

(2) Uma kuba nokungaboni ngasolinye, ofaka isikhalo angabhekisa isikhalo sakhe –

(a) kwi-PanSALB ngokwesigaba 11 soMthetho weBhodi yeziLimi kaZwelonke; noma

(b) kwiLungu loMkhandlu oPhethe ngokwesigatshana (3).

(3) Uma ofaka isikhalo ekhetha ukulandela inqubo ebekwe kwisigatshana (2)(b), kumele, ezinsukwini ezingama-21, azise iLungu loMkhandlu oPhethe ngokungaboni ngasolinye mayelana nezilimi ukuze kuphinde kuphenywe futhi kutholakale isixazululo njengoba kuhrongozwe kwisigatshana (5).

(4) Uma iLungu loMkhandlu oPhethe selithathe isinqumo, njengoba kuhrongozwe kwisigaba 15(2)(g), sokuthi kunokungaboni ngasolinye, kumele ezinsukwini ezingama-21, lazise –

(a) uhlaka lukahulumeni oluthintekayo; kanye

(b) nalowo ofaka isikhalo,

ngenhloso yalo yokudlulisa udaba lokungaboni ngasolinye mayelana nezilimi ukuze kuphinde kuphenywe futhi kutholakale isixazululo, njengoba kuhrongozwe kwisigatshana (5).

(5) ILungu oMkhandlu oPhethe kumele, zingakedluli izinsuku ezingama-30 –

(a) lazisiwe ngodaba lokungaboni ngasolinye mayelana nezilimi oludluliselwe kulo; noma

(b) lithathe isinqumo njengoba kuhrongozwe kwisigaba 15(2)(g), sokuthi kukhona ukungaboni ngasolinye mayelana nezilimi,

liqoke iKomidi lokuXazulula ukuNgaboni Ngasolinye mayelana neziLimi.

(6) IKomidi lokuXazulula ukuNgaboni Ngasolinye mayelana neziLimi, kumele zingakedluli izinsuku ezingama-90 liqokiwe –

(a) liphenye ngodaba lokungaboni ngasolinye mayelana nezilimi;

(b) liqhamuke nesixazululo salolo daba lokungaboni ngasolinye mayelana nezilimi, ngokuthi kulungiswe amaphutha, kubuyiswane noma kuxoxiswane; futhi

(c) libike liphinde lenze izincomo kwiLungu loMkhandlu oPhethe mayelana nemiphumela yokuxazululwa kwalokho kungaboni ngasolinye.

(7) IKomidi lokuXazulula ukuNgaboni Ngasolinye, eliqokwe iLungu loMkhandlu oPhethe ngokwesigatshana (2), lingabizela esigcawini noma imuphi umuntu, umgwamanda noma uhlaka lukahulumeni ukuba –

(a) luvele phambi kwalo;

(b) lwethule ubufakazi; futhi

(c) luveze noma iliphi irekhodi noma umbhalo odingekayo.

(8) Uma kwenzeka ukuthi ukuxazululwa kokungaboni ngasolinye mayelana nezilimi akuqhamuki nesixazululo esigculisayo njengoba kuhlongozwe kwisigatshana (5)(b) –

(a) iKomidi lokuXazulula ukuNgaboni Ngasolinye kumele lithumele umbiko kwiLungu loMkhandlu oPhethe oqukethe –

(i) imininingwane yezihibe ezibe khona ngenkathi kuxazululwa ukungaboni ngasolinye;

(ii) noma imuphi umbiko obhalwe phansi noma owethulwe ngomlomo owethulwe

–

(aa) ofake isikhalo esiphathelene nezilimi; noma

(bb) ilolo hlaka oluthintekayo,

mayelana nalokho kungaboni ngasolinye; futhi

(iii) lenze izincomo mayelana nezinqumo ezifanele ukuthathwa, njengoba kuhlongozwe endimeni (b);

(b) iLungu loMkhandlu oPhethe, zingakedluli izinsuku ezingama-30 lithole umbiko weKomidi lokuXazulula ukuNgaboni Ngasolinye njengoba kuhlongozwe endimeni (a), lingathatha isinqumo ngalokho kungaboni ngasolinye ngokuthi –

(i) likhiphe isaziso sokuba kulandelwe umthetho, esinxusa lolo hlaka lukahulumeni ukuba lulungise noma isiphi isenzo noma iphutha elibangele ukuthi kube nokungaboni ngasolinye: Kuncike ekutheni uhlaka lukahulumeni lunqunyelwe izinsuku ezingama-30 ukuthi lenze okushiwo isaziso sokuba kulandelwe umthetho; noma

(ii) lichithe lokho kungaboni ngasolinye mayelana nezilimi.

## ISAHLUKO 8

### UKUQAPHA NOKUBIKA MAYELANA NOKUSETSHENZISWA KWEZILIMI

#### EZISEMTHETHWENI ZESIFUNDAZWE

#### **Abasebenzi abaqashwayo noma izimpiko ezikhethekile zezilimi**

17.(1) IziNhloko zezinhlaka zikahulumeni esiFundazweni –

(a) ngemuva kokubonisana noPhiko lweziLimi lwesiFundazwe;

(b) kuncike kunoma imuphi umthetho olawula ukuqashwa kwabasebenzi balolo hlaka lukahulumeni; futhi

(c) kuncike kwizidingo zolimi olunazo lolo hlaka lukahulumeni esiFundazweni,

kumele ziqashe umsebenzi noma abasebenzi bezilimi noma zisungule uphiko lwezilimi ngaphansi kwezinhlaka zazo.

(2) Umsebenzi wezilimi oqashiwe noma uphiko lwezilimi oluhlongozwe kwisigatshana (1) lubhekele –

(a) ukuqinisekisa ukuthi lolo hlaka lukahulumeni –

(i) luqalisa izinhlinzeko zalo Mthetho nanoma imuphi umthethonqubo owakhiwe ngokwalo Mthetho;

(ii) lusungula futhi luqalisa inqubomgomo yezilimi yangaphakathi, njengoba kuhlangozwe esigabeni 13; futhi

(iii) luyahambisana nezidingo ezimayelana nokubika ezihlongozwe esigabeni 18;

(b) ukulawulwa nokubhekelela zonke izicelo eziphathelelele nokuhumusha, nokuhlela kanye nokutolika ezihlongozwe esigabeni 8, kulolo hlaka lukahulumeni oluthintekayo; kanye

(c) nokumela lolo hlaka lukahulumeni kwi-KWANILAFU.

#### **Ukuqapha nokubika mayelana nokusetshenziswa kwezilimi ezisemthethweni zesifundazwe**

**18.(1)** Izinhlaka zikahulumeni esiFundazweni kumele –

(a) zingakedluli izinyanga ezintathu kuphele unyaka wezimali ngamunye; noma

(b) ngaleso sikhathi esinganqunywa iLungu loMkhandlu oPhethe,

zithumele umbiko kwiLungu loMkhandlu oPhethe mayelana –

(i) nezinyathelo ezithathwe ilolo hlaka lukahulumeni ukuhambisana nezinhlinzeko zalo Mthetho;

(ii) nokusungulwa kanye nokuqaliswa kwenqubomgomo yangaphakathi, njengoba kuhlangozwe esigabeni 15;

(iii) nemisebenzi yanoma iluphi uphiko lwezilimi lwalolo hlaka lukahulumeni;

(iv) nanoma iziphi izikhalo ezitholwe yilolo hlaka lukahulumeni nokuthi kubhekwane kanjani nalezo zikhalo; kanye

(v) nanoma iluphi olunye udaba olunganqunywa iLungu loMkhandlu oPhethe.

(2) I-KWANILAFU kumele –

(a) zingakedluli izinyanga ezintathu ngemuva kokuphela konyaka wezimali ngamunye; noma



(b) ngaleso sikhathi esinganqunywa iLungu oMkhandlu oPhethe, yethulele iLungu loMkhandlu oPhethe umbiko wonyaka mayelana –

- (i) nokufezekisa kwayo izinhloso zayo, nokusebenzisa amandla ayo kanye nokwenza imisebenzi namajoka ayo;
- (ii) nanoma iluphi udaba oluthinta ukusetshenziswa kwalo Mthetho; kanye
- (iii) nanoma iluphi udaba olunganqunywa ukuba ilwethule.

(3) ILungu loMkhandlu oPhethe –

(a) ngemuva kokubonisana neKomidi leziLimi lesiFundazwe; futhi

(b) zingakedluli izinyanga ezinhlanu ngemuva kokuphela konyaka wezimali ngamunye,

kumele lethulele isiShayamthetho sesiFundazwe umbiko wonyaka mayelana nokuqaliswa kwalo Mthetho nanoma iyiphi enye inqubomgomo yezilimi yesifundazwe.

## ISAHLUKO 9

### IZINHLINZEKO EZEJWAYELEKILE

#### **Imithethonqubo**

**19.** ILungu loMkhandlu oPhethe, ngesaziso kwiGazethi futhi ngemuva kokubonisana neKomidi leziLimi lesiFundazwe, lingasungula imithethonqubo enquma –

- (a) nganoma iluphi udaba okudingeka noma okuvumeleke ukuba inqume ngalo ngokwalo Mthetho; noma
- (b) nganoma iluphi udaba oluphathelele nezokuphatha noma nezinqubo ukuze kuqaliswe izinhlinzeko zalo Mthetho.

#### **Ukudluliselwa kwamandla**

**20.(1)** ILungu loMkhandlu oPhethe lingadlulisela eKomidini leziLimi lesiFundazwe noma kwiNhloko yoMnyango –

- (a) noma imaphi amandla iLungu loMkhandlu oPhethe elithweswe wona ngokwalo Mthetho, ngaphandle kwamandla okusungula imithethonqubo ngokwesigaba 19; noma
- (b) noma iliphi ijoka elinikezwe iLungu loMkhandlu oPhethe yilo Mthetho.

(2) Noma imaphi amandla noma amajoka adluliselwe ngokwesigatshana (1) kumele

asetshenziswe noma afezwe kuncike kuleyo mibandela iLungu oMkhandlu oPhethe eliyibona ifanele.

(3) Noma ikuphi ukudluliselwa kwamandla ngokwesigatshana (1) –

(a) kumele kubhalwe phansi;

(b) angeke kuvimbele iLungu loMkhandlu oPhethe ukuba lisebenzise lawo mandla loma lifeze lawo majoka; futhi

(c) kungahoxiswa noma kuchitshiyelwe nganoma isiphi isikhathi ngencwadi yiLungu loMkhandlu oPhethe.

### **Ukuchithwa komthetho**

21. UMthetho weziLimi eziseMthethweni zePhalamende waKwaZulu-Natali, 1998 (uMthetho No. 10 ka 1998), ngalokhu uyachithwa.

### **Isihloko esifingqiwe**

22. Lo Mthetho ubizwa ngoMthetho weziLimi zesiFundazwe waKwaZulu-Natali, 2013.

**IMEMORANDAMU****NGEZINHLOSO****ZOMTHETHOSIVIVINYO WEZILIMI ZESIFUNDAZWE SAKWAZULU-NATALI, 2013****ISENDLALELO**

1.(a) Ngaphezu kokunquma izilimi eziyishumi nanye ezisemthethweni zeRiphabhulikhi yaseNingizimu Afrika, isigaba 6 soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996 (“uMthethosisekelo”) siphinde sihlizwe ngokuthi –

(i) uMbuso kumele uthathe izinyathelo ezibonakalayo nezifanele ukunothisa nokuthuthukisa ukusetshenziswa kwezilimi zomdabu;

(ii) uhulumeni kazwelonke nowesifundazwe, ngemuva kokubheka ukusetshenziswa kwezilimi, izinyathelo ezingasebenza, izindleko, izimo zezifunda kanye nokubhekelela izidingo zalabo bantu abahlosiwe, angasebenzisa okungenani izilimi ezimbili ezisemthethweni ngenhloso yokuqhuba imisebenzi kahulumeni. Omasipala kumele babhekelele izilimi ezikhulunywa nezikhethwa izakhamizi zabo, uma benquma mayelana nezilimi ezizosetshenziswa uma kuqhutshwa imisebenzi kahulumeni; futhi

(iii) uhulumeni kazwelonke nohulumeni bezifundazwe kumele balawule futhi baqaphe ukusetshenziswa kwezilimi ezisemthethweni ngokuthi basungule imithetho noma ngezinye izindlela.

(b) Ngenxa yale mibandela yoMthethosisekelo ebekwe ngasenhla, iLungu loMkhandlu oPhethe elibhekele ezobuciko namasiko esiFundazweni (“iLungu loMkhandlu oPhethe”) lihlose ukwethula uMthethosivivinyo weziLimi zesiFundazwe saKwaZulu-Natali.

**OKUSHIWO YIZINHLINZEKO ZOMTHETHOSIVIVINYO**

2.(1) Izinhlosongqangi zoMthethosivivinyo ukuhlinzekela –

(a) ukunqunywa kwezilimi ezisemthethweni zesifundazwe;

(b) ukulawulwa nokuqashwa kokusetshenziswa kwezilimi ezisemthethweni zesifundazwe izona zonke izinhloko zikahulumeni esiFundazweni;

(c) ukusungulwa koPhiko lweziLimi lwesiFundazwe saKwaZulu-Natali nesiGungu zeziLimi zeziNhlaka zikaHulumeni saKwaZulu-Natali;

(d) izindlela zokuthuthukisa izilimi zomdabu nolimi lwezimpawu esiFundazweni;

- (e) ukuchithwa koMthetho weziLimi eziseMthethweni zePhalamende waKwaZulu-Natali, 1998 (uMthetho No. 10 ka 1998); kanye
- (f) nokuhlinzekela okunye okuphathelene nalokho.

(2) ISahluko 1 soMthethosivivinyo sihlinzekela izincazelo.

(3) ISahluko 2 sihlinzekela izinhloso nokusebenza koMthethosivivinyo. UMthethosivivinyo, uma usuphasisiwe waba uMthetho, uyosebenza kuzona zonke izinhloso zikahulumeni esiFundazweni.

(4)(a) ISahluko 3 soMthethosivivinyo sihlinzekela ukunqunywa kwezilimi ezisemthethweni zesiFundazwe saKwaZulu-Natali okuyisiZulu, isiNgisi, isiXhosa nesiBhunu.

(b) ISahluko 3 sihlinzekela ukusetshenziswa kwezilimi ezisemthethweni zesifundazwe. Lesi sahluko siphinde sihlinzekele nemisebenzi yokuhumusha, yokuhlela neyokutolika.

(5)(a) ISahluko 4 sihlinzekela ukusungulwa koPhiko lweziLimi lwesiFundazwe, okuwuphiko olukhethekile olungaphakathi eMnyangweni. Lesi sahluko siphinde sihlinzekele amandla, imisebenzi namajoka oPhiko lweziLimi lwesiFundazwe, ebandakanya phakathi kokunye -

- (i) ukuqapha ukusetshenziswa kwalo Mthetho, imithethonqubo, nezinqubomgomo zangaphakathi, izinhloso zikahulumeni esiFundazweni;
- (ii) ukugqugquzela nokuqapha ukuphathwa kahle kwezilimi izinhloso zikahulumeni esiFundazweni; kanye
- (iii) nokugqugquzela nokuqapha ukuhlonishwa kwamalungelo ezilimi zezakhamuzi zesiFundazwe izona zonke izinhloso zikahulumeni esiFundazweni.

(6) ISahluko 5 sihlinzekela ukusungulwa kwesigungu sezilimi zeziNhlaka zikaHulumeni, esibizwa ngesiGungu zeziLimi zeziNhlaka zikaHulumeni saKwaZulu-Natali (KWANILAFU).

(7) ISahluko 6 sihlinzekela ukusungulwa kwezinqubomgomo zangaphakathi zezilimi izona zonke izinhloso zikahulumeni esiFundazweni. Lesi sahluko siphinde sihlinzekele ukusungulwa kwenqubomgomo yaKwaZulu-Natali yokuthuthukiswa nokunothiswa kwezilimi zomdabu.

(8) ISahluko 7 sihlinzekela izindaba eziphathelene nokulalelwa kwezikhalo nokungaboni

ngaso linye okudalwa ukungahlonishwa kwanoma imaphi amalungelo ezilimi noma kwanoma iziphi izinhlinzeko zalo Mthethosivivinyo.

(9) ISahluko 8 sihlizekela izinhlelo zokuqapha nokubika mayelana nokusetshenziswa kwezilimi ezisemthethweni zesifundazwe.

(10) ISahluko 9 sihlizekela izinhlinzeko ezejwayelekile okuyimithethonqubo, ukudluliselwa kwamandla, ukuchithwa koMthetho weziLimi eziseMthethweni zePhalamende waKwaZulu-Natali, 1998 (uMthetho No. 10 ka 198) nesihloko esifingqiwe soMthetho.

### **IZINGQINAMBA KWEZOKUPHATHA NEZABASEBENZI KUHULUMENI WESIFUNDAZWE**

3. Azikho.

### **IZIMALI EZIZODINGEKA KUHULUMENI WESIFUNDAZWE**

4. Azikho.

### **IMINYANGO/IMIGWAMANDA OKUBONISWENE NAYO**

5. Kwamenywa bonke abamele yonke iMinyango yesiFundazwe nomasipala besiFundazwe, izifundiswa nongoti kwezezilimi nabo bamenywa ukuba babeke izimvo nemibono yabo ngalo Mthethosivivinyo.

### **IZINGQINAMBA NGOKOMTHETHOSISEKELO**

6. UMthethosivivinyo uhlose ukushayela oMasipala esiFundazweni umthetho mayelana nokuthi kumele balihloniphe kanjani ilungelo lamakhasimende abo mayelana nezilimi uma benza imisebenzi yabo; yingakho kusebenza isigaba 154(2) soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996. Ngokwalezi zinhlinzeko okukhulunywe ngazo, iLungu loMkhandlu oPhethe kumele ngaphambi kokwethula lo Mthethosivivinyo kwisiShayamthetho, liwushicilele ukuze umphakathi ubeke izimvo nemibono yawo, ngendlela evumela ukuthi ohulumeni basekhaya kanjalo nabantu abanentshisekelo bathole ithuba lokwenza izethulo ngoMthethosivivinyo.

**DEPARTEMENT VAN KUNS, KULTUUR, SPORT EN ONTSPANNING****PUBLIKASIE VAN DIE KWAZULU-NATAL WETSONTWERP OP PROVINSIALE TALE, 2013, IN OOREENSTEMMING MET ARTIKEL 154(2) VAN DIE GRONDWET VAN DIE REPUBLIEK VAN SUID-AFRIKA, 1996**

1. In ooreenstemming met artikel 154(2) van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet 108 van 1996), word die KwaZulu-Natal Wetsontwerp op Provinsiale Tale, 2013, hiermee gepubliseer vir openbare kommentaar.

2. Georganiseerde plaaslike regering, munisipaliteite en ander belanghebbendes word genooi om skriftelike kommentaar op die voorgestelde Wetsontwerp nie later nie as 30 dae na die publikasie van die kennisgewing in te dien, per –

(a) pos aan die Departementshoof, Kuns en Kultuur, Privaatsak X9140, Pietermaritzburg, 3200;

(b) hand na die 2de vloer, Heritage House, Jabu Ndlovustraat 222, Pietermaritzburg, Aandag: Mnr MB Mnguni;

(c) faks na: (033) 264 3494; of

(d) e-pos aan: [mngunim@kzndac.gov.za](mailto:mngunim@kzndac.gov.za).

Gegee onder my Hand te ..... op hierdie ..... dag van ....., Tweeduisend-en-Dertien.

**ME NN SIBHIDLA-SAPHETHA, LUR**

Lid van die Uitvoerende Raad van die Provinsie van KwaZulu-Natal  
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