



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

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Vol. 9

PIETERMARITZBURG,

15 MAY 2015
15 MEI 2015
15 KUNHLABA 2015

No. 1364

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Furthermore, the fax number **012- 748 6030** will also be **discontinued** from this date and customers will only be able to submit notice requests through the email address submit.egazette@gpw.gov.za.



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GENERAL NOTICE—ALGEMENE KENNISGEWING—ISAZISO SIKAWONKE-WONKE

No. 21**15 May 2015****KWAZULU-NATAL ROYAL HOUSEHOLD TRUST BILL, 2015****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 Bill, 2015 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@kznleg.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
BILL, 2015**

BILL

To establish a statutory trust for the Royal Household in the Province of KwaZulu-Natal; to determine the objects and functions of the Royal Household Trust; to determine the manner in which the Royal Household Trust is to be managed, governed, staffed and financed; to determine the allocation, transfer and apportionment of the powers, functions, assets, liabilities, rights, duties, obligations and employees of the abolished Department of the Royal Household; to provide for the repeal of the KwaZulu-Natal Royal Household Trust Act, 2007; to provide for transitional arrangements; and to provide for matters connected therewith.

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

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3. Objects of Trust

4. *Umnndeni WeSilo*

5. Duties, powers and functions of Trust

**CHAPTER 3
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CHAPTER 1 DEFINITIONS

Definitions

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

“**Board**” means the Board of Trustees of the Royal Household Trust referred to in section 6(1);

“**Chief Financial Officer**” means the Chief Financial Officer of the Trust referred to in section 15(1);

“**Constitution**” means the Constitution, 1996;

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

“**financial year**” means the period from 1 April in any year to 31 March of the following year;

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

“**Head of Secretariat**” means the Head of Secretariat of the Board referred to in section 16(1);

“**His Majesty**” means the Monarch for the Province of KwaZulu-Natal;

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

“**Monarch**” means the Monarch for the Province of KwaZulu-Natal, being –

(a) the person holding office as the King of the Zulu nation, the King of *AmaZulu*, the *Ingonyama* or *Isilo*, at the date of commencement of this Act; or

(b) the Monarch for the Province of KwaZulu-Natal as may subsequently be defined in the Constitution of KwaZulu-Natal or other provincial legislation;

“**National Treasury**” means the National Treasury established by section 5 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

“**Premier**” means the Premier of the Province of KwaZulu-Natal as contemplated in section 125 of the Constitution;

“**prescribed**” means prescribed in terms of this Act and “**prescribe**” has a corresponding meaning;

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

“**Provincial Legislature**” means the Legislature of the Province of KwaZulu-Natal;

“**regulations**” means regulations made in terms of section 30;

“**Royal Household**” means “*uMndeni weSilo*”, the traditional institution of the Royal Family of the Monarch according to Zulu customary law and customs;

“**staff**”, in relation to the “**Board**” and the “**Trust**”, includes persons designated, seconded or transferred in terms of section 16(1)(b) and (2);

“**this Act**” includes the regulations and the Schedule;

“**Trust**” means the Royal Household Trust established by section 2(1);

“*Umndeni WeSilo*” means the Royal Queens and blood relatives of the Monarch as contained in the list contemplated in section 4.

CHAPTER 2 ESTABLISHMENT OF ROYAL HOUSEHOLD TRUST

Establishment of Royal Household Trust

2.(1) A juristic person to be known as the Royal Household Trust (hereinafter referred to as “the Trust”) is hereby established.

(2) The Trust is the legal successor in title to the Royal Household Trust established in terms of section 2(1) of the repealed KwaZulu-Natal Royal Household Trust Act, 2007 (Act No. 2 of 2007).

(3)(a) The Trust is a provincial public entity.

(b) The Public Finance Management Act, 1999 (Act No. 1 of 1999), applies to the Trust only in respect of moneys appropriated by the Provincial Legislature as contemplated in section 17 (1)(a), 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.

(d) The Board of Trustees of the Trust is the accounting authority of the Trust.

(4) The Trust Property Control Act, 1988 (Act No. 57 of 1988), does not apply to the Trust and a member of the Board of Trustees referred to in section 6(1) is exempted from furnishing any form of security.

Objects of Trust

3.(1) The Trust must, in a manner consistent with the provisions of this Act and within the available budget and resources –

(a) be administered for the benefit of the Monarch and the other members of the Royal Household, including their –

- (i) material welfare;
- (ii) educational needs;
- (iii) aspirations; and
- (iv) social well-being,

befitting their status; and

(b) provide for the administration, maintenance and management of the assets of the Trust, including the Royal palaces and the Royal farms.

(2) The Trust may, by any lawful means –

(a) generate –

- (i) revenue;
- (ii) income;
- (iii) business; and
- (iv) goodwill; and

(b) acquire assets,

for the Trust.

Umndeni WeSilo

4.(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 whose names appear in a list as provided from time to time by the Monarch to the Premier.

(2) The Premier –

- (a) may, after consultation with the Monarch withdraw, substitute or amend the list referred to in subsection (1); and
- (b) must permanently keep on record, in the office of the Premier, the dated originals of any such lists provided by the Monarch under the signature of Monarch.

Duties, powers and functions of Trust

5. The Trust –

- (a) must perform the functions and carry out the duties and responsibilities imposed by this Act;
- (b) may exercise any power –
 - (i) conferred by any other provision of this Act or any other law; or
 - (ii) delegated or assigned to the Trust by the Premier;
- (c) may, in the exercise of its powers or the performance of its duties and functions in terms of this Act, for specific projects, enter into contracts for the services of persons having technical or specialised knowledge of any matter relating to the Trust and must determine the remuneration, including reimbursement for traveling, subsistence and other expenses, of such persons;
- (d) may, with the prior written approval of –
 - (i) the Member of the Executive Council responsible for finance; 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, directive or regulation as may be determined, imposed, issued or made by the persons referred to in paragraphs (i) and (ii) above and, subject to any other law –

- (aa) borrow, raise or invest monies and funds;
- (bb) establish, 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, business or agricultural enterprise or venture with the object of generating income, business or goodwill for the Trust; and

(e) may, generally, do everything which is necessary or expedient to achieve its objects referred to in section 3 and to perform the duties and carry out the functions referred to in paragraphs (a) – (d).

CHAPTER 3 BOARD OF TRUSTEES OF ROYAL HOUSEHOLD TRUST

Composition of Board of Trustees of Trust

6.(1)(a) The Trust acts through a Board of Trustees (hereinafter referred to as “the Board”) consisting of at least five, but not more than seven, members appointed by the Premier after consultation with the Monarch.

(b) One of the members of the Board must be designated by the Premier as Chairperson of the Board.

(c) The members of the Board must be fit and proper persons to serve the best interests of the Trust, collectively possessing appropriate knowledge, experience and skills: Provided that at least two members of the Board must have proven knowledge or experience of financial management.

(d) The Premier must, within two months after the appointment of the members of the Board, inform the Executive Council and the relevant Portfolio Committee of the names of the members of the Board including the term of their appointment.

(2) The Chairperson of the Board must –

(a) facilitate liaison between the Premier and the Monarch; and

(b) report to the Premier on a quarterly basis regarding the activities of the Board and the Trust and matters which are considered relevant.

(3) At the first meeting of the Board referred to in section 10(1), the members of the Board must elect a Deputy Chairperson from amongst the members of the Board.

(4)(a) Any vacancy on the Board amongst the members must be filled in the same manner in which the member who vacates the office was appointed.

(b) If the office of Deputy Chairperson of the Board becomes vacant, a Deputy Chairperson must be elected in accordance with subsection (3).

(5) No deficiency in the number of members of the Board affects or impairs the corporate existence of the Trust or any rights, duties or powers conferred or imposed by this Act upon the Trust or the Board.

Term of office and reappointment of members of Board

7. Members of the Board hold office for a period of five years or such lesser period as the Premier may determine and are eligible for re-appointment at the expiry of such period: Provided that no member may be re-appointed after having served on the Board for a continuous period of 10 years.

Vacancies, removal and resignation from office of members of Board

8.(1) The Premier may, after having afforded a member of the Board the opportunity to state his or her case, at any time terminate the term of office of such member if, in the opinion of the Premier, there are justifiable and cogent reasons for doing so.

(2) A member of the Board may resign by giving not less than 30 days written notice to the Premier: Provided that the Premier may waive the resignation notice.

(3) A member of the Board must vacate office if –

- (a) the member is convicted of an offence of which dishonesty is an element;
- (b) the member has been declared insolvent; or
- (c) the member is absent from two or more meetings of the Board in one financial year without the permission of the Chairperson.

(4) Whenever a vacancy occurs on the Board, the Premier must, subject to section 6(4)(a), appoint a person to fill such vacancy for the unexpired portion of the period of appointment of the member of the Board in whose place such person is appointed.

Temporary suspension of member of Board

9. The Premier may suspend a member of the Board whilst the Premier is investigating allegations which, if found to be correct, may result in the member's appointment being terminated in terms of section 8(1) or (3).

Meetings and procedures at meetings of Board

10.(1) The first meeting of the Board must be held on a date and at a time and venue determined by the Premier, whereafter all future meetings must be as determined by the Chairperson:

Provided that the Board must meet at least five times in any given financial year.

(2) The *quorum* for a meeting of the Board is a majority of the members of the Board.

(3) The proceedings at a meeting of the Board must, subject to the provisions of this section, be determined by the Chairperson including the right to decide that any matter under discussion may be withdrawn before it is put to the vote.

(4) The Chairperson must preside at all meetings of the Board: Provided that in his or her absence the Deputy Chairperson must preside, and in the event that neither the Chairperson nor the Deputy Chairperson are present at a meeting of the Board, the members of the Board then present may elect, from their own number, a person to act as Chairperson for the duration of that particular meeting.

(5) A decision of the Board must be taken by a majority of the votes of the members of the Board present at a meeting and, in the event of an equality of votes on any matter, the Chairperson has a casting vote in addition to his or her deliberative vote.

(6) The Board must keep minutes of its meetings and record its decisions and resolutions in writing.

(7) No decision of the Board is invalid merely by reason of a vacancy in the Board: Provided that the decision is taken by the required majority of the members of the Board then present and entitled to sit as members of the Board.

(8) The Chairperson, or a majority of the Board, may call an extraordinary meeting of the Board in which event the provisions of this section apply with the necessary changes.

(9) The –

(a) Director-General of the Province may attend and participate;

(b) Chief Financial Officer may attend and participate; and

(b) Head of Secretariat may participate,

but may not vote, in a meeting of the Board.

Recusal of member of Board from meetings and proceedings of Board

11.(1) A member of the Board must recuse himself or herself from a matter being investigated,

considered or voted upon by the Board if one or more of the following occur –

- (a) if he or she has a direct or indirect financial or other interest in the matter; or
- (b) if there is a possibility that a direct or indirect financial or other interest in the matter might arise.

(2) If at any stage during the course of any proceedings before the Board it appears that a member of the Board who is present at that meeting has or may have an interest contemplated in subsection (1), such member must forthwith disclose the nature of his or her interest and leave the meeting.

(3) Any disclosure made in terms of subsection (2) must be recorded in the minutes of the meeting in question.

(4) If it subsequently emerges that the Board took a decision on a matter in respect of which a member of the Board has failed to disclose an interest contemplated in subsection (1), such decision by the Board is invalid.

(5) For the purposes of this section "**indirect financial or other interest**" includes, but is not limited to, an interest held by any member's –

- (a) business partner, associate or employer, other than the State;
- (b) spouse, partner in a customary marriage, or person with whom such member cohabits or lives as though they are married; or
- (c) child, parent or sibling.

Remuneration of members of Board

12.(1)(a) Subject to subsections (1)(b) and (2)(a), a member of the Board may be paid such remuneration and allowances as may be determined by the Premier in consultation with the Member of the Executive Council responsible for finance.

(b) A member of the Board who receives remuneration, allowances or other benefits by virtue of his or her office, position, post or employment in –

- (i) the national government;
- (ii) a provincial government;
- (iii) a municipality;
- (iv) a corporation, body or institution in which the national or a provincial government has a controlling interest; or
- (v) a public entity, a national government business enterprise or a provincial government

business enterprise as defined in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999),

and who continues to receive such remuneration, allowances or other benefits while serving as a member of the Board, may only receive remuneration and allowances referred to in paragraph (a) to the extent required to place such member in the financial position he or she would have been in were it not for such office, position, post or employment.

(c) Different remuneration and allowances may be determined for the following categories of members of the Board –

- (i) the Chairperson;
- (ii) the Deputy Chairperson; and
- (iii) the other members of the Board.

(2)(a) A member of the Board may, in respect of his or her functions as a member, receive reimbursement for reasonable actual subsistence and travelling expenses necessitated by the actual attendance of a meeting of the Board.

(b) The Member of the Executive Council responsible for finance must determine procedures, including control measures, for the management, handling and processing of claims for subsistence and traveling expenses contemplated in paragraph (a).

Establishment of committees to assist Board

13.(1) The Board may establish committees consisting of one or more of its members to –

- (a) assist the Board in the performance of any of its powers, duties or functions; or
- (b) enquire or conduct research into any matter falling within the mandate of the Board in terms of this Act.

(2) When establishing a committee contemplated in subsection (1), the Board must –

- (a) determine the terms of reference of such committee including, but not limited to, whether or not such committee ceases to exist once it has completed the task or tasks allocated to it by the Board;
- (b) appoint a Chairperson of such committee who must be a member of the Board; and
- (c) determine whether or not such committee may co-opt persons who are not members of the Board and, if so, on what terms and conditions.

(3) The Board may, at any time, terminate the existence of a committee or any mandate given to a committee, irrespective of whether or not such committee has completed the task or tasks allocated to it by the Board.

Co-opting of persons to committees of Board

14.(1) The Board may, if it is of the opinion that a particular person is able to assist it in regard to any of its powers, duties or functions, co-opt such person for that purpose to a committee of the Board for such period as the Board may determine.

(2) A person co-opted in terms of subsection (1) is not entitled to vote at any meeting of a committee of the Board.

(3)(a) A person co-opted in terms of subsection (1) may, in respect of his or her functions as a co-opted member of a committee of the Board, receive reimbursement for reasonable actual subsistence and travelling expenses necessitated by the actual attendance of a meeting of a committee of the Board.

(b) The Member of the Executive Council responsible for finance must determine procedures, including control measures, for the management, handling and processing of claims for subsistence and traveling expenses contemplated in paragraph (a).

CHAPTER 4**CHIEF FINANCIAL OFFICER OF ROYAL HOUSEHOLD TRUST, HEAD OF SECRETARIAT OF BOARD AND OTHER STAFF OF ROYAL HOUSEHOLD TRUST****Chief Financial Officer of Trust**

15.(1) The Board may, in consultation with the Premier, appoint a fit and proper and suitably qualified person as the Chief Financial Officer of the Trust.

(2) The Chief Financial Officer –

(a) is directly responsible and accountable to the Board;

(b) must report to the Board; and

(c) must, within three months of being appointed, conclude a written performance agreement with the Board.

(3) The Board may, in consultation with the Premier, terminate the Chief Financial Officer's appointment in accordance with applicable employment and labour law.

Head of Secretariat of Board and staff of Trust

16.(1) The Director-General of the Province must –

(a) designate a senior manager, employed by the Provincial Government in terms of the Public Service Act, 1994 (Proclamation No. 103 of 1994), as the Head of Secretariat of the Board to render administrative, technical and professional secretarial and other support services to the Board in exercising its powers, performing its duties and fulfilling its functions; and

(b) designate such other persons, employed by the Provincial Government in terms of the Public Service Act, 1994, as may be reasonably necessary, to assist –

(i) the Board with the administrative, technical and secretarial work incidental to the exercise of its powers, the performance of its duties and the fulfilment of its functions; and

(ii) the Trust with the achievement of its objects, the exercise of its powers, the performance of its duties and the fulfilment of its functions,

in terms of this Act.

(2) The Board and the Trust may utilise the services of persons seconded or transferred in accordance with the provisions of the Public Service Act, 1994.

(3) The Head of Secretariat –

(a) is directly responsible and accountable to the Director-General of the Province for the performance and operations of the Secretariat of the Board;

(b) must report to the Director-General of the Province and the Chairperson of the Board on the activities of the Secretariat of the Board and the staff of the Trust referred to in subsections (1)(b) and (2); and

(c) must, within three months of being designated as such, conclude a written performance agreement with the Director-General of the Province.

(4) The staff of the Trust, designated in terms of subsection (1)(b) or seconded or transferred in terms of subsection (2), must report and are accountable to the Head of Secretariat of the Board.

CHAPTER 5 FUNDING AND MANAGEMENT OF ROYAL HOUSEHOLD TRUST

Funds of Trust

17.(1) The funds of the Trust consist of –

(a) moneys appropriated by the Provincial Legislature;

(b) donations or contributions lawfully received by the Trust from any source;

- (c) interest on investments of the Trust; and
- (d) income lawfully derived from –
 - (i) fundraising;
 - (ii) trading or business enterprises or ventures; or
 - (iii) any other source.

(2) The Trust must utilise its funds –

- (a) for the payment of remuneration, allowances and subsistence and travelling expenses of the members of the Board; and
- (b) to cover costs in connection with –
 - (i) the day to day operation and administration of the Trust; and
 - (ii) the performance of the duties and functions of the Trust and the exercise of its powers in terms of this Act.

(3)(a) The Board must, with the concurrence of the Member of the Executive Council responsible for finance, open an account in the name of the Trust with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990), and promptly deposit into it all money received in terms of subsection (1).

(b) All payments from the account of the Trust must be made on the authority of the Board or a person or persons designated in writing for that purpose by the Board.

(c) No payment may be made from the account of the Trust other than for the purposes contemplated in subsection (2) and section 3.

Financial administration and management of Trust

18.(1) Subject to the provisions of this Act and the Public Finance Management Act, 1999 (Act No. 1 of 1999), the Board is the accounting authority of the Trust and is responsible for the administration and management of the Trust and in particular for –

- (a) all expenditure out of the funds of the Trust; and
- (b) the receipt for the credit of the Trust of all moneys due or accruing to the Trust.

(2)(a) The Board must ensure that separate books of account and records are kept in respect of –

- (i) moneys appropriated by the Provincial Legislature contemplated in section 17(1)(a); and
- (ii) the other funds of the Trust contemplated in section 17(1)(b) – (d).

(b) The Board must cause full and proper books of account and all the necessary records in relation to moneys appropriated by the Provincial Legislature referred to in paragraph (a)(i) to be kept in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999), generally

accepted accounting practices and such other principles and practices as may be prescribed by the National Treasury and determined by the Auditor-General.

(3) The Board 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.

(4) The Board must, within three months before the end of each financial year, submit to the Provincial Treasury for approval –

(a) a business plan for the Trust, containing measurable objectives and the other information contemplated in section 19(3)(b) and (c); and

(b) a statement of the estimated income and expenditure of the Trust,

in respect of the following three financial years.

(5) In any financial year the Board may submit to the Provincial Treasury for approval, adjusted or supplementary statements of the estimated income and expenditure of the Trust for that financial year.

(6) The Trust may not enter into any financial commitment beyond its approved budget and its accumulated reserves.

(7) The Board may –

(a) with the approval of the Provincial Treasury, invest any unexpended portion of the moneys of the Trust with the Corporation for Public Deposits or any other institution categorised or listed from time to time by the National Treasury as a Category "A1" financial institution; or

(b) with the approval of the Provincial Treasury, dispose of that portion in any other manner.

(8) The Board may, with the approval of the Provincial Treasury, establish a reserve fund for the Trust and deposit into it such amounts as the Provincial Treasury approves.

(9) Any unexpended balance in the Trust at the end of a financial year is carried forward as a credit in the Trust for the next financial year.

Audit and annual report of Trust

19.(1) The Auditor-General must audit the financial statements of the Trust.

(2)(a) The Board must table a report on the activities of the Trust during a financial year in the Provincial Legislature within five months after the end of that financial year.

(b) Within five months after the report has been tabled, the Chairperson of the Board, and at least two other members of the Board, must brief the relevant Portfolio Committee on the annual report.

(3) The report must –

(a) include a balance sheet and a statement of income and expenditure certified by the Auditor-General;

(b) state the extent to which the Trust has achieved or advanced its objects and purpose referred to in section 3 and the measurable objectives as set out in its business plan as contemplated in section 18(4)(a) during the financial year concerned; and

(c) contain relevant performance information regarding the economic, efficient and effective application of resources and specifically a comparison between planned and actual performance indicators as set out in that business plan.

CHAPTER 6 GENERAL PROVISIONS

Acquisition and disposal of immovable property by Trust

20. The Trust may, with the prior approval of the Provincial Treasury, lease, acquire, hold or dispose of immovable property in the course of its business.

Legal proceedings against Trust

21.(1) Any legal proceedings against the Trust must be instituted in accordance with the Institution of Legal Proceedings against certain Organs of State Act, 2002 (Act No. 40 of 2002).

(2) The Trust is, for purposes of subsection (1), regarded as an organ of state contemplated in paragraph (c) of the definition thereof in section 1 of the said Act.

Limitation of liability

22. Neither the Board nor any individual member of the Board, the Chief Financial Officer of the Trust, the Head of Secretariat of the Board or a member of staff of the Trust, is liable for anything

done in good faith in the exercise of a power or the performance of a duty or function in terms of this Act.

Trust must establish website

23.(1) The Trust must –

- (a) design, establish and maintain its own official website; and
- (b) place on that official website any information required to be made public in terms of this Act or any other law.

(2) The Head of Secretariat of the Trust must maintain and regularly update the official website of the Trust.

Security of confidential information held by Trust

24.(1) Subject to the Constitution, the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), and any other applicable law, no person may disclose any information submitted to the Trust in connection with any legal brief or instruction, unless –

- (a) he or she is ordered to do so by a court of law; or
- (b) the person who gave such brief or instruction consents thereto in writing.

(2) Any person who contravenes subsection (1) is guilty of an offence.

Disestablishment of Trust

25. The Trust may only be disestablished in terms of an Act of the Provincial Legislature.

Use of name of Trust

26.(1) No person may, without the prior written authorisation of the Board, in any way represent or make use of the name, acronym, logos, designs or material used or owned by the Trust.

(2) No person may falsely claim to be acting on behalf of the Trust.

(3) Any person who contravenes subsection (1) or (2) is guilty of an offence.

Delegation by Board

27.(1) The Board may, by a special resolution, delegate to the Chief Financial Officer of the Trust, the Head of Secretariat of the Board or a member of staff of the Trust, any power or duty conferred or imposed on the Board or the Trust 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 Board considers necessary.

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

(a) must be in writing;

(b) does not prohibit the Board from exercising that power or performing that duty; and

(c) may at any time be withdrawn or amended in writing by the Board.

General offences

28.(1) A member of the Board, the Chief Financial Officer of the Trust, the Head of Secretariat of the Board, a member of staff of the Trust, an adviser, agent or any other person engaged, employed by, or acting on behalf of, the Board or Trust is guilty of an offence if he or she directly or indirectly accepts any bribe or receives any unauthorised fee or reward from any person in connection with anything done or offered by the Board or Trust.

(2) Any person is guilty of an offence if he or she, in respect of or in connection with anything done or offered by the Board or Trust, bribes or attempts to bribe or corruptly influences or attempts to corruptly influence a member of the Board, the Chief Financial Officer of the Trust, the Head of Secretariat of the Board, a member of staff of the Trust, an adviser, agent or any other person engaged, employed by, or acting on behalf of, the Board or Trust.

(3) Any person who falsely claims that he or she is authorised to charge or collect fees, donations or contributions on behalf of, or by direction of, the Board or Trust is guilty of an offence.

(4) Any person who contravenes or fails to comply with the provisions of this Act or any regulation, is guilty of an offence.

Penalties

29. Any person convicted of an offence –

- (a) in terms of section 28(1) or (2), is liable to a fine or to imprisonment for a period not exceeding that determined by national legislation for corruption; or
- (b) in terms of section 24(2), 26(3) or 28(3) or (4), is liable to a fine or to imprisonment for a period not exceeding 5 years.

Regulations

30.(1) Subject to subsection (2), the Premier may, after consultation with the Board and by notice in the *Gazette*, make regulations regarding –

- (a) any matter that may or must be prescribed in terms of this Act; or
- (b) any administrative or procedural matter necessary to give effect to the provisions of this Act.

(2) Subject to –

- (a) the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999); and
- (b) any exemption of the Trust from any provision of that Act as contemplated in section 92 of the Public Finance Management Act, 1999,

the Member of the Executive Council responsible for finance may, after consultation with the Premier and the Board and by notice in the *Gazette*, make regulations concerning –

- (i) the financial administration, management and control of the Trust;
- (ii) the leasing, acquisition, holding or disposal of immovable property by the Trust;
- (iii) a conflict of interest of, and the acceptance of gifts by, a member of the Board, the Chief Financial Officer of the Trust, the Head of Secretariat of the Board, or a member of staff of the Trust; or
- (iv) any matter referred to in subparagraphs (aa) – (cc) of section 5(d).

Transitional arrangements

31.(1) As stated in section 2(2) of this Act, the Trust is the legal successor in title to the KwaZulu-Natal Royal Household Trust established in terms of section 2(1) of the repealed KwaZulu-Natal Royal Household Trust Act, 2007 (Act No. 2 of 2007).

(2) The persons who, on the day before the date of the commencement of this Act, were appointed or designated as members of the Board and Chairperson of the KwaZulu-Natal Royal Household Trust established in terms of section 2(1) of the repealed KwaZulu-Natal Royal Household Trust Act, 2007, continue as members of the Board and Chairperson of the Trust and

are regarded as having been appointed in terms of section 6 of this Act with effect from the date of the coming into operation of this Act.

(3)(a) The appointment of a person who, on the day before the date of the commencement of this Act, was the Chief Executive Officer of the KwaZulu-Natal Royal Household Trust established in terms of section 2(1) of the repealed KwaZulu-Natal Royal Household Trust Act, 2007, is, on the date of the coming into operation of this Act, terminated in accordance with applicable employment and labour law.

(b) The person who, on the day before the date of the commencement of this Act, was appointed as the Chief Financial Officer of the KwaZulu-Natal Royal Household Trust established in terms of section 2(1) of the repealed KwaZulu-Natal Royal Household Trust Act, 2007, continues as the Chief Financial Officer of the Trust and is regarded as having been appointed in terms of section 15(1) of this Act with effect from the date of the coming into operation of this Act.

(4)(a) The determination as set out in the Schedule applies with effect from 12 December 2014 in respect of the allocation, transfer and apportionment of the powers, functions, assets, liabilities, rights, duties, obligations and employees of the abolished Department of the Royal Household.

(b) The Premier, after consultation with the Board, may by notice in the *Gazette* and with effect from a date to be specified in such notice –

(i) amend; or

(ii) substitute,

the Schedule to this Act.

CHAPTER 7 REPEAL OF LAW AND SHORT TITLE

Repeal of law

32. The KwaZulu-Natal Royal Household Trust Act, 2007 (Act No. 2 of 2007), is hereby repealed.

Short title

33. This Act is called the KwaZulu-Natal Royal Household Trust Act, 2015.

SCHEDULE**Determination in respect of the allocation, transfer and apportionment
of the powers, functions, assets, liabilities, rights, duties, obligations and employees
of the abolished Department of the Royal Household
(Section 31(4))**

1. The Office of the Premier is responsible for the following functions of the abolished Department of the Royal Household –

(a) official administrative support to His Majesty in respect of His Majesty's official roles, duties and functions in terms of the KwaZulu-Natal Traditional Leadership and Governance Act, 2005 (Act No. 5 of 2005); and

(b) other official administrative support to His Majesty, including –

(i) the administration and payment of –

(aa) the official remuneration of His Majesty; and

(bb) subsistence and travel expenses and claims for official trips undertaken by His Majesty; and

(ii) speechwriting and praise-singing for, and on behalf of, His Majesty.

2. The Royal Household Trust, established by section 2(1) of this Act, is responsible for all other functions of the abolished Department of the Royal Household, including –

(a) administrative support pertaining to –

(i) the personal and private activities of His Majesty;

(ii) the activities of the Queens and other members of the Royal Household, which are, essentially, personal and private activities; and

(iii) the administration and payment of the remuneration (salaries, allowances and benefits) of the Queens;

(b) the administration, maintenance and management of the Royal palaces and the Royal farms; and

(c) the administration and management of the payment of remuneration, allowances and subsistence and travel expenses and claims of Trustees (Board Members) of the Royal Household Trust for approved Royal Household Trust business and activities.

3.(a) All the powers and duties of the abolished Department of the Royal Household relating specifically to the functions referred to in item 1(a) and (b) above, are transferred to, and vest in, the Office of the Premier.

(b) All other powers and duties of the abolished Department of the Royal Household are transferred to, and vest in, the Royal Household Trust.

4.(a) The –

(i) budget, funds and movable assets of the abolished Department of the Royal Household; and

(ii) other rights, whether tangible or intangible, of the abolished Department of the Royal Household, whether such rights are conferred by, or arise from, contractual agreement or otherwise, of the abolished Department of the Royal Household,

relating specifically to the functions referred to in item 1(a) and (b) above are transferred to, and vest in, the Office of the Premier.

(b) The remaining –

(i) budget, funds and movable assets of the abolished Department of the Royal Household; and

(ii) other rights, whether tangible or intangible, of the abolished Department of the Royal Household, whether such rights are conferred by, or arise from, contractual agreement or otherwise, of the abolished Department of the Royal Household,

are transferred to, and vest in, the Royal Household Trust.

5. All immovable assets, if any, registered in the name of the abolished Department of the Royal Household are, transferred to and vest in, the Royal Household Trust: Provided that the Royal Household Trust is not obliged to pay or render any consideration, monetary or otherwise, in respect of the transfer and vesting of any such immovable assets to, or in, the Royal Household Trust: Provided, further, that the ancillary rights and obligations of the abolished Department of the Royal Household in respect of such immovable assets to determine, fix and collect rental, to take legal action to evict tenants in default and to maintain existing structures and dwellings, vest in the Royal Household Trust.

6.(a) Any liability or obligation relating specifically to the functions referred to in item 1(a) and (b) above, whether contingent, vested or latent, of the abolished Department of the Royal Household, whether such liability or obligation is assigned by, or arises from, contractual agreement or otherwise, is transferred to, and vests in, the Office of the Premier: Provided that any financial deficit on the books of the abolished Department of the Royal Household may be defrayed by the KwaZulu-Natal Provincial Government from moneys specially appropriated by the Provincial Legislature for that purpose.

(b) Any other liability or obligation, whether contingent, vested or latent, of the abolished Department of the Royal Household, whether such liability or obligation is assigned by, or arises from, contractual agreement or otherwise, is transferred to, and vests in, the Royal Household Trust: Provided that any financial deficit on the books of the abolished Department of the Royal Household may be defrayed by the KwaZulu-Natal Provincial Government from moneys specially appropriated by the Provincial Legislature for that purpose.

Household may be defrayed by the KwaZulu-Natal Provincial Government from moneys specially appropriated by the Provincial Legislature for that purpose.

7.(a) All employees of the abolished Department of the Royal Household, are hereby absorbed, transferred to, and placed in the service of, the Office of the Premier, with the retention of remuneration, rights, benefits and privileges, subject to the laws governing the public service and any applicable resolution of the General Public Service Sector Bargaining Council (GPSSBC).

(b) The practical implication of item 7(a) above, is that –

(i) all employees on the establishment of the abolished Department of the Royal Household are placed on the establishment of;

(ii) the total personnel and salary budget of the abolished Department of the Royal Household, is transferred to, and vests in; and

(iii) the funded vacant posts on the establishment of the abolished Department of the Royal Household are transferred to, and placed on the establishment of,

the Office of the Premier.

8. The employees listed in the **Annexure**, being employees of the abolished Department of the Royal Household, transferred to the Office of the Premier and performing functions and duties not relating specifically to the functions referred to in item 1(a) and (b) above are designated (in terms of section 16(1)(b) of this Act) to assist the Royal Household Trust with the achievement of its objects, the exercise of its powers, the performance of its duties and the fulfilment of its functions, in relation to the administration, maintenance and management of the Royal palaces and the Royal farms and are, subject to the laws governing the public service and any applicable resolution of the General Public Service Sector Bargaining Council (GPSSBC), seconded to the Royal Household Trust, with the retention of remuneration, rights, benefits and privileges (in terms of section 16(2) of this Act).

ANNEXURE
List of employees seconded to the Royal Household Trust
(Item 8 of Schedule)

	<i>Name</i>	<i>Identity Number</i>	<i>PERSAL Number</i>
AUXILIARY SERVICES RELATED TO THE ROYAL PALACES AND THE ROYAL FARMS			
1.	BIYELA, QH	590220 5441 084	60166789
2.	CHONCO, CT	641217 5481 082	60204788
3.	NDLOVU, ZA	790503 5964 082	63962977
4.	ZITHA, MS	580827 5748 082	60209038
5.	ZULU, NA	820301 5470 083	64178820
6.	ZUNGU, LM	640921 5647 089	60200014
DLAMAHLAHLA ROYAL PALACE			
7.	BUTHELEZI, ET	540411 0727 087	60269405
8.	BUTHELEZI, MR	540804 5794 088	60263938
9.	FAKUDE, BN	640101 7396 087	61624098
10.	MABASO, MR	760326 5427 082	64316751
11.	MANDLAZI, BF	600313 0407 081	60299541
12.	MATHE, EP	620101 1194 089	60288540
13.	MATHE, MN	621212 5864 087	60299631
14.	MATHE, N	621222 0878 081	60264101
15.	MATHE, TA	591008 0696 086	61665223
16.	MTHETHWA, MP	570930 0344 083	61667773
17.	SHONGWE, OK	670306 5741 087	60300132
18.	SHONGWE, NJ	640527 5469 083	60300817
19.	ZWANE, TW	660511 0498 086	60299690
ENYOKENI ROYAL PALACE			
20.	MAGUBANE, BZ	520120 5713 083	60299479
21.	MASONDO, NB	560101 1027 083	60299878
22.	SIBIYA, ZM	640811 0761 086	60300671
23.	ZULU, GJ	560408 0435 088	64036332
24.	ZULU, SM	791128 1025 081	64319211
25.	ZULU, ZG	561123 0856 089	60295287
26.	ZUNGU, ZM	640811 0761 086	61623911
INGWAVUMA ROYAL PALACE			
27.	GINA, GM	690204 5573 087	61830526
28.	GINA, NT	740102 5303 085	61624161
29.	GWALA, GN	601015 5419 081	61663212
30.	JOBE, BB	880602 5787 088	64602711
31.	MAHENDULA, A	550224 5367 083	60264110
32.	MNGOMEZULU, SM	820412 6319 086	64604268
33.	MYENI, MW	620419 5612 082	64602427
34.	NYAWO, NE	790521 5774 087	64602605

KHANGELA ROYAL PALACE			
35.	NDWANDWE, G	541225 1184 083	60299681
36.	NDWANDWE, TB	720604 1092 087	64257002
37.	NSELE, TB	540904 0257 089	60263946
38.	NTANZI, FN	571112 0889 081	61663751
39.	NXELE, VS	610425 5499 083	61667749
40.	MASANGO, EM	710614 5801 088	64291251
41.	MASANGO, MA	520604 0507 087	60271639
42.	MASANGO, NI	530219 5461 087	60263768
43.	MASUKU, MP	570429 5507 083	61663336
44.	MBATHA, FT	620404 1290 083	60299665
45.	MBATHA, NI	601225 0430 088	61626091
46.	MTHETHWA, HT	610502 0595 089	60238763
47.	SHAMASE, LQ	731029 5378 083	62047027
48.	SHONGWE, BV	660221 5378 083	61666777
49.	SITHOLE, CR	560925 0370 080	60301678
50.	SITHOLE, JM	620925 5778 087	64257142
51.	SITHOLE, KJ	590505 1050 081	60274689
52.	SITHOLE, MD	511110 0605 088	60271621
53.	ZULU, MJ	510217 5469 088	60299673
54.	ZULU, TJ	560620 0805 080	60263873
KWAKHETHA ROYAL PALACE			
55.	CEBEKHULU, SS	800331 0737 081	64179001
56.	GWALA, JA	680726 5506 081	61668010
57.	GWALA, PK	600814 5423 080	60288574
58.	GWALA, SB	650714 5640 080	61672726
59.	MNGADI, TB	651231 0330 087	60299614
60.	MTHIYANE, ZP	670101 7150 084	64393437
61.	NDWANDWE, PM	690214 5456 084	61880396
62.	NTULI, SS	700202 0366 083	60299738
63.	NXUMALO, PG	610825 5685 088	61663557
64.	SHAMASE, ZA	530211 5732 088	61668061
65.	ZULU, GR	590409 5758 080	60300078
66.	ZULU, MC	581103 0251 081	60286971
67.	ZULU, SK	670101 7150 084	61663921
68.	ZULU, TN	661021 0523 080	64612091
LINDUZULU ROYAL PALACE			
69.	FAKUDE, MG	630926 5303 080	61625990
70.	NKOSI, SA	591123 0434 089	60300973
71.	SITHOLE, MB	720707 5908 081	61626082
72.	ZULU, NM	650101 1977 080	61667684
73.	ZULU, NP	860116 1199 085	64257193
74.	ZUNGU, DM	640130 5410 080	61624047
75.	XABA, PN	680101 1229 080	60299941
ONDINI ROYAL PALACE			
76.	KHUMALO, MS	600917 0635 085	64568504

77.	MNCWANGO, M	521115 5475 088	64569349
THOKAZI ROYAL FARM			
78.	KHUMALO, NB	601221 0565 080	61627836
79.	MPANZA, BT	580203 0782 084	61624268
80.	NENE, MS	570201 0646 087	61624616
81.	NTSHALINTSHALI, GA	550805 0822 086	61625906
UMFOLOZI ROYAL FARM			
82.	NHLEBELA, HE	541004 5594 088	61623717
ZWARTKOP ROYAL FARM			
83.	GINA, MZ	630411 5858 086	61625493

**MEMORANDUM
ON THE OBJECTS
OF THE
KWAZULU-NATAL ROYAL HOUSEHOLD TRUST BILL, 2015**

1. HISTORY

In his **2005/ 2006** Budget Speech, for the Department: Royal Household, former Premier **JS Ndebele** stated that:

“Mr Speaker, as indicated, the findings confirm that a government department is not the appropriate structure to provide support and service to His Majesty. It is recommended that the Department, the Royal Household should be disestablished”.

Since **2003**, consideration was given as to the most appropriate vehicle or structure to replace the Department of the Royal Household and a draft Bill saw the light already in **2005** to establish a statutory Trust, to be administered for the benefit of the Monarch and the other members of the Royal Household in the Province of KwaZulu-Natal.

This Bill was ultimately enacted in **2007** as the KZN Royal Household Trust Act, the main objective of the Act being to address the practical problems relating to the maintenance and upkeep of the KwaZulu-Natal Royal Household. The intention was, that the Trust would replace the Department of the Royal Household and, over time, would become self-sustainable to and generate additional revenue for the Royal Household over and above the public funds appropriated for the Royal Household by the Provincial Legislature.

The original intention in **2005** was to abolish the Department of the Royal Household with the establishment of the Trust, but this idea was shelved due to political pressure from certain quarters, with the result that the Department of the Royal Household and the Royal Household Trust existed side by side for the sake of political expediency. This scenario created its own challenges and dynamics, particularly in relation to confusion over the powers, duties and functions of the respective entities and the resultant turf battles and relationship issues that have been experienced.

Had the Department of the Royal Household been disestablished sooner and had the Board of Trustees of the KZN Royal Household Trust exploited the full potential of the Trust available in terms of the **2007** Act, to generate additional revenue for the Royal Household, the situation in respect of the Royal Household would probably not have been as critical as it currently is.

Prior to **2005** and ever since then, there have always been issues in respect of the financial

management of the Royal Household and over-expenditure of the budget of the Royal Household, which has been a constant source of embarrassment to the Provincial Government.

2. BACKGROUND

With the enactment of the KwaZulu-Natal Royal Household Trust Act, 2007, (hereinafter referred to as the 2007 Act), and its subsequent implementation, it became abundantly clear that it was critical to address practical issues experienced in the implementation of the principal Act, most notably issues pertaining to the financial management and administration of the Royal Household Trust.

Initially, the concept of the Royal Household Trust leading up to the enactment of the 2007 Act, was that the envisaged new Royal Household Trust would function as a largely independent statutory Trust which had the potential to generate additional revenue for the benefit of the Royal Household in addition to funds appropriated by the Provincial Legislature.

The 2007 Act was drafted in the light of this paradigm and made provision for a Chief Executive Officer (CEO) for the Trust and envisaged that the Trust would appoint its own staff who would not be public servants. The Public Finance Management Act, 1999 (PFMA) would apply to the Trust to ensure sound financial control in respect of public funds received by the Trust. Practical experience in relation to the management and administration of the Trust since 2007 demonstrated that the original "arms-length" approach by government had, for various reasons, not been successful and that a more "hands-on approach" by government was required to ensure the success of the Trust by containing expenditure on administration and streamlining financial administration and management.

As this new approach would necessitate comprehensive and fundamental amendments to the 2007 Act, it was considered preferable to replace the 2007 Act, hence this 2015 KwaZulu-Natal Royal Household Trust Bill which, when enacted, will become the new KwaZulu-Natal Royal Household Act, 2015.

Other issues, such as –

- (a) the final disestablishment of the Department of the Royal Household;
- (b) the relationships between the disestablished Department, the Office of the Premier and the Royal Household Trust;
- (c) the proposed apportionment and allocation of functions between the disestablished Department, the Office of the Premier and the Royal Household Trust;
- (d) dealing with the staff of the disestablished Department;

(e) the attendant costs of a CEO and other staff for the Royal Household Trust in the light of the prevailing economic situation; and

(f) the performance and general and financial administration and management of the Royal Household Trust since 2007,

also necessitated a shift in thinking on the way forward for the Royal Household Trust which could not be implemented by mere superficial amendments to the 2007 Act.

Hence, the proposed Bill reflecting this new thinking.

3. CLAUSE BY CLAUSE EXPLANATION

In summary, the Bill provides as follows –

CHAPTER 1 (DEFINITIONS)

Clause 1:

Clause 1 contains the definitions which are largely self-explanatory.

CHAPTER 2 (ESTABLISHMENT OF ROYAL HOUSEHOLD TRUST)

Clause 2:

Clause 2 deals with the establishment of Royal Household Trust and emphasizes that the Trust is the successor in title to the Royal Household Trust established in terms of the 2007 Act.

In respect of moneys appropriated by the Provincial Legislature (public funds), the Public Finance Management Act, 1999, (PFMA) applies 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 clause, therefore, envisages possible exemptions from certain provisions of the PFMA by the National Minister of Finance in terms of section 92 of the PFMA. This option retains 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.”

In accordance with the provisions of the PFMA the clause expressly states that the Board of Trustees of the Trust is the accounting authority of the Trust.

Clause 3:

Clause 3 deals with the objects of the Trust which are couched rather widely and emphasizes that the Trust must be administered for the benefit of His Majesty (the Monarch) and the other members of the Royal Household.

It is expressly stated that the Trust may generate revenue, income, business and goodwill and acquire assets and it is hoped that the Trust, with a more “hands-on” approach by government in the affairs of the Trust, will be better placed to exploit the hitherto untapped potential to generate additional revenue for the benefit of the Royal Household in addition to funds appropriated by the Provincial Legislature.

Clause 4:

Clause 4 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 whose names appear in a list as provided from time to time by His Majesty.

Clause 5:

Clause 5 deals in detail with the duties, powers and functions 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 Trust is expressly empowered 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 30 also empowers the Member of the Executive Council responsible for finance to make regulations in respect of these matters.

CHAPTER 3 (BOARD OF TRUSTEES OF ROYAL HOUSEHOLD TRUST)**Clause 6:**

The Trust acts through a Board of Trustees and clause 6 deals with the composition of the Board of Trustees of the Trust and how the Board is constituted.

Clause 7:

Clause 7 provides for the term of office (5 years) and reappointment of members of the Board.

Clause 8:

Clause 8 deals with vacancies, removal and resignation from office of members of the Board.

Clause 9:

Clause 9 provides for the temporary suspension of a member of the Board pending an investigation of allegations which could lead to the termination of the member's appointment.

Clause 10:

Clause 10 deals in detail with meetings and procedures at meetings of the Board. A decision of the Board is taken by a majority of the votes of the members and the Chairperson has a casting vote. The Director-General of the Province and the Chief Financial Officer of the Trust may attend and participate, but may not vote, in a meeting of the Board. The Head of Secretariat, of course, also attends and may participate, but may not vote.

Clause 11:

Clause 11 provides for the recusal of a member of the Board from meetings and proceedings of the Board if such member has a direct or indirect interest in a matter. A member must disclose his or her interest and the disclosure must be recorded in the minutes of the meeting.

Clause 12:

Clause 12 details in detail with remuneration of members of the Board, as well as subsistence and travelling expenses. "Double dipping" is expressly prohibited. The possibility of "double dipping" (the undesirable and unethical practice of simultaneously receiving more than one full remuneration or income from several different government or public sector sources funded by taxpayers) is expressly prohibited.

Clause 13:

Clause 13 authorises the Board to establish committees to assist the Board.

Clause 14:

Clause 14 authorises the Board to co-opt persons to committees of the Board to assist the Board for such period as the Board may determine. Co-opted persons may not vote at a meeting of a committee of the Board. The clause also deals with the reimbursement of expenses reasonably and actually incurred by co-opted persons.

CHAPTER 4 (CHIEF FINANCIAL OFFICER OF ROYAL HOUSEHOLD TRUST, HEAD OF SECRETARIAT OF BOARD AND STAFF OF ROYAL HOUSEHOLD TRUST)**Clause 15:**

Clause 15 provides that the Board may, in consultation with the Premier, appoint a fit and proper and suitably qualified person as the Chief Financial Officer of the Trust.

The Chief Financial Officer –

- (a) is directly responsible and accountable to the Board;
- (b) must report to the Board; and
- (c) must, within three months of being appointed, conclude a written performance agreement with the Board.

Clause 16:

Clause 16 deals with the Head of Secretariat of the Board and other staff of the Trust.

This clause proposes a radical departure from the provisions of the 2007 Act. Instead of having a CEO, it is proposed that the Director-General must designate a senior manager employed by the Provincial Government in terms of the Public Service Act, 1994, as the Head of Secretariat of the Board to render administrative, technical and professional secretarial and other support services to the Board.

Instead of the Trust being authorised to appoint its own staff complement as provided for in the 2007 Act, the Bill now proposes that the Director-General must also designate other persons employed by the Provincial Government in terms of the Public Service Act, 1994, to assist the Board with its administrative, technical and secretarial work.

The implication of this is that costs will be contained in that the Trust will not need to employ and manage its own staff (save for the Chief Financial Officer referred to in clause 15). Practically, public servants attached to the Chief Directorate: King's Support and Royal Household on the approved establishment of the Office of the Premier will be designated to assist the Board and

the Trust. The staff absorbed by the Office of the Premier on transfer from the abolished Department of the Royal Household will also be utilised to assist the Board and the Trust. These designated staff will report to, and be managed by, the Chief Director/ General Manager: King's Support and Royal Household who will be designated as the Head of Secretariat of the Board of the Royal Household Trust.

This will establish a close link and practical working relationship between the Board of the Trust and the Office of the Premier in the Provincial Government.

Provision is also made for the Board and the Trust to utilise the services of persons seconded or transferred in accordance with the provisions of the Public Service Act, 1994.

CHAPTER 5 (FUNDING AND MANAGEMENT OF ROYAL HOUSEHOLD TRUST)

Clause 17:

Clause 17 provides for the funds of the Trust. Apart from public funding (money appropriated by the Provincial Legislature), the funds of the Trust consist of donations or contributions, interest on investments and other income lawfully derived from fundraising or trading or business enterprises and ventures.

This clause must be read with clause 3 which expressly states that the Trust may generate revenue, income, business and goodwill and acquire assets. It is hoped that the Trust, with a more "hands-on" approach by the Provincial Government in the affairs of the Trust, will be better placed to exploit the hitherto untapped potential to generate additional revenue for the benefit of the Royal Household in addition to funds appropriated by the Provincial Legislature.

Clause 18:

Clause 18 deals in detail with the financial administration and management of the Trust and draws a distinction between the sources of funding of the Trust (public funds and other funds).

Clause 19:

Clause 19 regulates the audit and annual report of the Trust.

CHAPTER 6 (GENERAL PROVISIONS)

Clause 20:

Clause 20 determines that the Trust may lease, acquire hold or dispose of immovable property.

Clause 21:

Clause 21 provides that the Trust is an organ of state and where legal proceedings are instituted against the Trust, the Institution of Legal Proceedings against Certain Organs of State Act, 2002, applies.

Clause 22:

Clause 22 deals with limitation of liability of a member of the Board, the Chief Financial Officer of the Trust, the Head of Secretariat of the Board or a member of staff of the Trust for anything done in good faith in terms of the Act.

Clause 23:

Clause 23 determines that the Trust must establish an official website and that the Head of Secretariat of the Board must maintain and regularly update the website.

Clause 24:

Clause 24 deals with security of confidential information held by the Trust.

Clause 25:

Clause 25 provides that the Trust may only be disestablished by an Act of the Provincial Government.

Clause 26:

Clause 26 prohibits the unauthorised use of the name of the Trust and creates an offence.

Clause 27:

Clause 27 authorises the Board to make certain delegations to the Chief Financial Officer of the Trust, the Head of Secretariat of the Board or a member of staff of the Trust.

Clause 28:

Clause 28 creates certain general offences.

Clause 29:

Clause 29 provides for penalties for the offences created.

Clause 30:

Clause 30 authorises –

- (a) the Premier, after consultation with the Board, to make regulations in respect of administrative and procedural matters; and

- (b) the Member of the Executive Council responsible for finance, after consultation with the Premier and the Board, to make regulations concerning –
- (i) the financial administration, management and control of;
 - (ii) the leasing, acquisition, holding or disposal of immovable property by;
 - (iii) conflict of interest of, and the acceptance of gifts by, a member of the Board, the Chief Financial Officer of the Trust, the Head of Secretariat of the Board, or a member of staff; and
 - (iv) the trading, business or agricultural enterprises or ventures of,
- the Trust.

Clause 31:

Clause 31 deals in detail with transitional arrangements.

The Trust is the legal successor in title to the Royal Household Trust established in terms of the 2007 Act.

The members of the Board and the Chairperson, as appointed by the Premier in terms of the 2007 Act continue as members of the Board and Chairperson and are regarded as having been appointed in terms of section 6 of the Bill when enacted as the new Act.

As a Chief Executive Officer (CEO) will not be required in terms of the Bill when enacted, the Bill proposes that the appointment of this person be terminated in accordance with applicable employment and labour law on the date of coming into operation of the new Act.

The Chief Financial Officer (CFO) appointed in terms of the 2007 Act, continues as the CFO of the Trust and is regarded as having been appointed in terms of section 15(1) of the Bill when enacted as the new Act.

Clause 31 must also be read with the Schedule to the Bill. The Schedule contains a determination in respect of the of the allocation, transfer and apportionment of the powers, functions, assets, liabilities, rights, duties, obligations and employees of the abolished Department of the Royal Household with effect from 12 December 2014 (the date of publication of the Proclamation by the President amending Schedule 2 to the Public Service Act, 1994, removing the KwaZulu-Natal Department of the Royal Household from the list of KwaZulu-Natal Departments appearing in Schedule 2, thereby effectively abolishing the KwaZulu-Natal Department of the Royal Household (Proclamation No. 83 of 2014: *Amendment of Schedule 2 to*

the Public Service Act, 1994: KwaZulu-Natal, as published in *Government Gazette* No. 38290 of 12 December 2014)).

CHAPTER 7 (REPEAL OF LAW AND SHORT TITLE)

Clause 32:

Clause 32 repeals the 2007 Act.

Due to the comprehensive and fundamental proposed amendments to the 2007 Act, it was considered preferable to repeal and replace the 2007 Act with this Bill which, when enacted, will become the new Act.

Clause 33:

Clause 33 contains the short title.

SCHEDULE (Determination in respect of the allocation, transfer and apportionment of the powers, functions, assets, liabilities, rights, duties, obligations and employees of the abolished Department of the Royal Household (Section 31(4))

As stated above, the Schedule deals in detail with the allocation, transfer and apportionment of the powers, functions, assets, liabilities, rights, duties, obligations and employees of the abolished Department of the Royal Household.

ANNEXURE (List of employees seconded to the Royal Household Trust (item 8 of Schedule))

The Annexure to the Schedule contains a list of employees of the disestablished Department of the Royal Household absorbed by, and *transferred* to, the Office of the Premier and *seconded* to the Trust.

All staff absorbed by the Office of the Premier on transfer from the abolished Department of the Royal Household, including staff thus transferred to the Office of the Premier and subsequently seconded to the Trust (as listed in the Annexure), will report to, and be managed by, the Chief Director/ General Manager: King's Support and Royal Household in the Office of the Premier who is to be designated as the Head of Secretariat of the Board of the Royal Household Trust.

4. ORGANISATIONAL AND PERSONNEL IMPLICATIONS FOR PROVINCIAL GOVERNMENT

No undue organisational and personnel implications are foreseen.

5. FINANCIAL IMPLICATIONS FOR PROVINCIAL GOVERNMENT

No undue financial implications are foreseen.

6. DEPARTMENTS/ BODIES/ PERSONS CONSULTED

The Bill has been drafted in consultation with –

- 6.1 the Office of the Premier;
- 6.2 the Board of Trustees of the KwaZulu-Natal Royal Household Trust; and
- 6.3 organised labour.

7. CONTACT PERSONS

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No. 21

15 Mei 2015

KWAZULU-NATAL WETSONTWERP OP DIE KONINKLIKE HUISHOUDINGSTRUST, 2015

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

Kennsigewing geskied hiermee ooreenkomstig Reël 194 van die Staande Reëls van die KwaZulu-Natal Wetgewer dat die KwaZulu-Natal Wetsontwerp op die Koninklike Huishoudingstrust, 2015 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@kznleg.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
WETSONTWERP OP DIE KONINKLIKE HUISHOUDINGTRUST, 2015**

WETSONTWERP

Om 'n statutêre trust vir die Koninklike Huishouding in die Provinsie van KwaZulu-Natal in te stel; om die oogmerke en werksaamhede vir die Koninklike Huishoudingtrust te bepaal; om die wyse te bepaal waarop die Koninklike Huishoudingtrust bestuur, beheer, beman en finansier sal word; om die toewysing, oordrag en toebedeling van die bevoegdhede, werksaamhede, bates, laste, regte, pligte, verpligtinge en werknemers van die afgeskafte Departement van Koninklike Huishouding te bepaal; om voorsiening te maak vir die herroeping van die KwaZulu-Natal Wet op die Koninklike Huishoudingtrust, 2007; om voorsiening te maak vir oorgangsreëlings; 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 KONINKLIKE HUISHOUDINGTRUST

2. Instelling van Koninklike Huishoudingtrust
3. Oogmerke van Trust
4. *uMndeni weSilo*
5. Pligte, bevoegdhede en werksaamhede van Trust

HOOFSTUK 3 RAAD VAN TRUSTEES VAN KONINKLIKE HUISHOUDINGTRUST

6. Samestelling van Raad van Trusteese van Trust
7. Ampstermyn en heraanstelling van lede van Raad
8. Vakatures, verwydering en bedanking uit amp van lede van Raad
9. Tydelike skorsing van lid van Raad
10. Vergaderings en prosedures by vergaderings van Raad
11. Onttrekking van lid van Raad van vergaderings en verrigtinge van Raad
12. Besoldiging van lede van Raad
13. Instelling van komitees om Raad by te staan

14. Koöptering van persone tot komitees van Raad

HOOFSTUK 4

HOOF- FINANSIËLE BEAMPTTE VAN KONINKLIKE HUISHOUDINGTRUST, HOOF VAN SEKRETARIAAT VAN RAAD EN PERSONEEL VAN KONINKLIKE HUISHOUDINGTRUST

15. Hoof- Finansiële Beamppte van Trust
16. Hoof van Sekretariaat van Raad en personeel van Trust

HOOFSTUK 5

BEFONDSING EN BESTUUR VAN KONINKLIKE HUISHOUDINGTRUST

17. Fonds van Trust
18. Finansiële administrasie en bestuur van Trust
19. Oudit en jaarverslag van Trust

HOOFSTUK 6

ALGEMENE BEPALINGS

20. Verkryging en beskikking van onroerende eiendom deur Trust
21. Regsgedinge teen Trust
22. Beperking van aanspreeklikheid
23. Trust moet webwerf daarstel
24. Sekuriteit van vertroulike inligting deur Trust gehou
25. Ontbinding van Trust
26. Gebruik van Trust se naam
27. Delegering deur Raad
28. Algemene misdrywe
29. Strawwe
30. Regulasies
31. Oorgangsreëlings

HOOFSTUK 7

HERROEPING VAN WET EN KORT TITEL

32. Herroeping van wet
33. Kort titel

BYLAE

Bepaling ten opsigte van die toewysing, oordrag en toebedeling van die bevoegdhede, werksaamhede, bates, laste, regte, pligte, verpligtinge en werknemers van die afgeskafte Departement van Koninklike Huishoudingtrust (*Artikel 31(4)*)

AANHANGSEL

Lys van werknemers afgestaan aan die Koninklike Huishoudingtrust (*item 8 van Bylae*)

HOOFSTUK 1
OMSKRYWINGS

Omskrywings

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

“**finansiële jaar**” die tydperk vanaf 1 April in enige jaar tot 31 Maart van die volgende jaar;

“**Grondwet**” die Grondwet, 1996;

“**hierdie Wet**” sluit die regulasies en die Bylae in;

“**Hoof- Finansiële Beampte**” die Hoof- Finansiële Beampte van die Trust verwys na in artikel 15(1);

“**Hoof van Sekretariaat**” die Hoof van Sekretariaat van die Raad vermeld in artikel 16(1);

“**Koerant**” die amptelike Provinsiale *Koerant* van KwaZulu-Natal;

“**Koninklike Huishouding**” “*uMndeni weSilo*”, die tradisionele instelling van die Koninklike Familie van die Monarg ooreenkomstig Zoeloegewoontereg en -gebruike;

“**Lid van die Uitvoerende Raad verantwoordelik vir Finansies**” die lid van die Uitvoerende Raad van die Provinsie van KwaZulu-Natal verantwoordelik vir Finansies;

“**Monarg**” die Monarg van die Provinsie van KwaZulu-Natal synde –

(a) die persoon wat die amp as Koning van die Zoeloenasie, die Koning van *AmaZulu*, die *Ingonyama* of *Isilo* beklee by die datum van inwerkingtrede van hierdie Wet; of

(b) die Monarg van die Provinsie van KwaZulu-Natal soos dit vervolgens in die Grondwet van KwaZulu-Natal of ander provinsiale wetgewing omskryf mag word;

“**Nasionale Tesourie**” die Nasionale Tesourie ingestel deur artikel 5 van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999);

“**personeel**” met betrekking tot die “**Raad**” en die “**Trust**”, sluit in persone aangewys,

afgestaan of oorgeplaas ingevolge artikel 16(1)(b) en (2);

“**Premier**” die Premier van die Provinsie van KwaZulu-Natal soos bedoel in artikel 125 van die Grondwet;

“**Provinsiale Regering**” die regering van die Provinsie van KwaZulu-Natal;

“**Provinsiale Wetgewer**” die Wetgewer van die Provinsie van KwaZulu-Natal;

“**Raad**” die Raad van Trustees van die Koninklike Huishoudingtrust vermeld in artikel 6(1);

“**regulasies**” regulasies gemaak ingevolge artikel 30;

“**Sy Majesteit**” die Monarg van die Provinsie van KwaZulu-Natal;

“**Trust**” die Koninklike Huishoudingtrust deur artikel 2(1) ingestel;

“**uMndeni weSilo**” die Koninklike Koninginne en bloedverwante van die Monarg soos vervat in die lys bedoel in artikel 4;

“**Uitvoerende Raad**” die Uitvoerende Raad van die Provinsie KwaZulu-Natal; en

“**voorgeskryf**” voorgeskryf ingevolge hierdie Wet en “**voorskryf**” het 'n ooreenstemmende betekenis.

HOOFTUK 2 INSTELLING VAN KONINKLIKE HUISHOUDINGSTRUST

Instelling van Koninklike Huishoudingtrust

2.(1) 'n Regspersoon wat bekend sal staan as die Koninklike Huishoudingtrust (hierna verwys na as “die Trust”) word hiermee ingestel.

(2) Die Trust is die regsopvolger in titel tot die Koninklike Huishoudingtrust ingestel ingevolge artikel 2(1) van die herroepe KwaZulu-Natal Wet op die Koninklike Huishoudingtrust, 2007 (Wet No. 2 van 2007).

- (3)(a) Die Trust is 'n provinsiale openbare entiteit.
- (b) 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.
- (d) Die Raad van Trustees van die Trust is die rekenpligtige gesag van die Trust.
- (4) Die Wet op die Beheer van Trusteïendom, 1988 (Wet No. 57 van 1988), is nie van toepassing op die Trust nie en 'n lid van die Raad van Trustees vermeld in artikel 6(1) en is vrygestel daarvan om enige vorm van sekuriteit aan te bied.

Oogmerke van Trust

3.(1) Die Trust moet, op 'n wyse verenigbaar met die bepalings van hierdie Wet en binne die beskikbare begroting en hulpbronne –

(a) administreer word tot voordeel van die Monarg en die ander lede van die Koninklike Huishouding, ingesluit hul –

- (i) stoflike welsyn;
- (ii) opvoedkundige behoeftes;
- (iii) aspirasies; en
- (iv) maatskaplike welstand;

wat by hul status pas; en

(b) voorsiening maak vir die administrasie, instandhouding en bestuur van die bates van die Trust, ingesluit die Koninklike paleise en die Koninklike plase.

(2) Die Trust kan, deur enige regmatige middele –

(a) vir die Trust –

- (i) ontvangste;
- (ii) inkomste;
- (iii) sake; en
- (iv) welwillendheid,

genereer; en

(b) bates verkry.

uMndeni weSilo

4.(1) Vir die doeleindes van artikel 3 bestaan die Monarg en *uMndeni weSilo* uit die Koninklike Koninginne en daardie bloedverwante van die Monarg wie se name in 'n lys verskyn soos van tyd tot tyd deur die Monarg aan die Premier voorsien.

(2) Die Premier –

- (a) kan, na oorlegpleging met die Monarg, die lys vermeld in subartikel (1) terugtrek, vervang of wysig; en
- (b) moet, in die kantoor van die Premier, sodanige gedateerde, oorspronklike lys, onder handtekening van Monarg en deur die Monarg voorsien, permanent op rekord hou.

Pligte, bevoegdhede en werksaamhede van Trust

5. Die Trust –

- (a) moet die werksaamhede verrig en die pligte en verantwoordelikhede uitvoer soos opgelê deur hierdie Wet;
- (b) kan enige bevoegdheid –
 - (i) verleen deur enige bepaling van hierdie Wet of enige ander wet; of
 - (ii) gedelegeer of toegewys aan die Trust deur die Premier, uitoefen;
- (c) kan, in die uitoefening van sy bevoegdhede of die uitvoer van sy pligte en verrigting van sy werksaamhede vir bepaalde projekte en ingevolge hierdie Wet, kontrakte vir die dienste van persone wat oor tegniese of gespesialiseerde kennis beskik, vir enige aangeleentheid met betrekking tot die Trust, sluit en moet die besoldiging, ingesluit vergoeding vir reis- en verblyfkostes en ander uitgawes, van sodanige persone bepaal;
- (d) kan, met die vooraf skriftelike goedkeuring van –
 - (i) die Lid van die Uitvoerende Raad verantwoordelik vir Finansies; en
 - (ii) die Ouditeur-generaal,en behoudens enige vrywaring 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, opdrag of regulasie soos bepaal, opgelê, uitgereik of gemaak deur die persone verwys na in paragraaf (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), daarstel, verkry of besit; of

(cc) by enige handeldryf, sake- of landbou-onderneming betrokke raak met die oogmerk om inkomste, sake of welwillendheid vir die Trust te genereer; en

(e) kan, oor die algemeen, enigiets doen wat nodig of wenslik is ten einde sy oogmerke vermeld in artikel 3 te bereik en om die pligte en die werksaamhede, soos vermeld in paragrawe (a) – (d), uit te voer en te verrig.

HOOFSTUK 3 RAAD VAN TRUSTEES VAN KONINKLIKE HUISHOUDINGSTRUST

Samestelling van Raad van Trustees van Trust

6.(1)(a) Die Raad tree op deur 'n Raad van Trustees (hierna verwys na as "die Raad") bestaande uit minstens vyf, en hoogstens sewe, lede wat aangestel word deur die Premier na oorlegpleging met die Monarg.

(b) Een van die lede van die Raad moet deur die Premier as Voorsitter van die Raad aangewys word.

(c) Die lede van die Raad moet geskikte en bekwame persone wees om die beste belange van die Trust te dien en moet gesamentlik oor toepaslike kennis, ondervinding en vaardigheid beskik: Met dien verstande dat minstens twee lede van die Raad oor bewese kennis of ondervinding van finansiële bestuur moet beskik.

(d) Die Premier moet, binne twee maande vanaf die Raadslede se aanstelling, die Uitvoerende Raad en die betrokke Portefeuljekomitee in kennis stel van die Raadslede se name, ingesluit hul aanstellingstermyn.

(2) Die Voorsitter van die Raad moet –

(a) skakeling tussen die Premier en die Monarg fasiliteer; en

(b) kwartaalliks aan die Premier verslag lewer met betrekking tot die aktiwiteite van die Raad en Trust en aangeleenthede wat as tersaaklik beskou word.

(3) By die eerste vergadering van die Raad, soos vermeld in artikel 10(1), moet die lede van die Raad 'n Ondervoorsitter uit die geledere van die Raad kies.

(4)(a) Enige vakature op die Raad in die geledere van die lede moet gevul word op dieselfde wyse waarop die lid wat die amp ontruim het, aangestel was.

(b) Indien die amp van die Ondervoorsitter vakant raak moet 'n Ondervoorsitter verkies word in ooreenstemming met subartikel (3).

(5) Geen tekort in die getal lede van die Raad beïnvloed of benadeel die korporatiewe bestaan van die Raad of enige regte, pligte of bevoegdhede verleen of opgelê deur hierdie Wet op die Trust of die Raad nie.

Ampstermyn en heraanstelling van lede van Raad

7. Lede van die Raad beklee 'n amp vir 'n tydperk van vyf jaar, of sodanige korter tydperk soos wat die Premier kan bepaal, en is verkiesbaar vir heraanstelling by die verstryking van sodanige tydperk: Met dien verstande dat geen lid heraan gestel kan word nadat hy of sy vir 'n aaneenlopende tydperk van 10 jaar op die Raad gedien het nie.

Vakatures, verwydering en bedanking uit amp van lede van Raad

8.(1) Die Premier kan, nadat 'n lid van die Raad die geleentheid gegun is om sy of haar saak te stel, te eniger tyd die ampstermyn van sodanige lid beëindig indien, na die mening van die Premier, daar grondige en afdoende redes bestaan om dit te doen.

(2) 'n Lid van die Raad kan bedank deur nie minder nie as 30 dae skriftelike kennis te gee aan die Premier: Met dien verstande dat die Premier kan afsien van die kennisgewing van bedanking.

(3) 'n Lid van die Raad moet die amp ontruim indien –

- (a) die lid skuldig bevind is aan 'n misdryf waarvan oneerlikheid 'n element is;
- (b) die lid insolvent verklaar is; of
- (c) die lid afwesig is van twee of meer vergaderings van die Raad in een finansiële jaar sonder toestemming van die Voorsitter.

(4) Wanneer 'n vakature op die Raad ontstaan moet die Premier, behoudens artikel 6(4)(a), 'n persoon aanstel om sodanige vakature te vul vir die onverstreke deel van die aanstellingstydperk van die lid van die Raad in wie se plek sodanige persoon aangestel is.

Tydlike skorsing van lid van Raad

9. Die Premier kan 'n lid van die Raad skors terwyl die Premier die bewerings ondersoek wat, indien daar gevind word dat dit korrek is, kan lei tot beëindiging van die lid se aanstelling ingevolge artikel 8(1) of (3).

Vergaderings en prosedures by vergaderings van Raad

10.(1) Die eerste vergadering van die Raad moet gehou word op 'n tyd, datum en plek bepaal deur die Premier, waarna alle toekomstige vergaderings moet plaasvind soos deur die Voorsitter bepaal: Met dien verstande dat die Raad minstens vyf keer in enige gegewe finansiële jaar moet vergader.

(2) Die kworum vir 'n vergadering van die Raad is 'n meerderheid van die lede van die Raad.

(3) Die verrigtinge by 'n vergadering van die Raad moet, behoudens die bepalings van hierdie artikel, bepaal word deur die Voorsitter, ingesluit die reg om te besluit dat enige aangeleentheid onder bespreking teruggetrek kan word voordat daarvoor gestem word.

(4) Die Voorsitter moet voorsit by alle vergaderings van die Raad: Met dien verstande dat in sy of haar afwesigheid die Ondervoorsitter moet voorsit, en in die geval dat beide die Voorsitter en die Ondervoorsitter nie by 'n vergadering van die Raad teenwoordig is nie, kan die lede van die Raad wat dan teenwoordig is, uit hul eie geledere, 'n persoon kies om as Voorsitter op te tree vir die duur van daardie betrokke vergadering.

(5) 'n Besluit van die Raad moet deur 'n meerderheid van die stemme van die lede teenwoordig by 'n vergadering geneem word en, in die geval van 'n staking van stemme, het die Voorsitter 'n beslissende stem bykomend tot sy of haar beraadslagende stem.

(6) Die Raad moet notules hou van sy vergaderings en sy besluite en resolusies skriftelik opteken.

(7) Geen besluit van die Raad is ongeldig bloot op grond van 'n vakature op die Raad nie: Met dien verstande dat die besluit deur die vereiste meerderheid van die lede van die Raad dan teenwoordig, en geregtig om as lede van die Raad te sit, geneem is.

(8) Die Voorsitter, of 'n meerderheid van die Raad, kan 'n buitengewone vergadering van die Raad belê in welke geval die bepalings van hierdie artikel, met die nodige veranderinge, van toepassing is.

(9) Die –

- (a) Direkteur-generaal van die Provinsie kan 'n vergadering van die Raad bywoon en daaraan deelneem;
- (b) Hoof- Finansiële Beampte kan 'n vergadering van die Raad bywoon en daaraan deelneem; en
- (c) Hoof van Sekretariaat kan aan 'n vergadering van die Raad deelneem, maar kan nie stem nie.

Onttrekking van lid van Raad van vergaderings en verrigtinge van Raad

11.(1) 'n Lid van die Raad moet homself of haarself van 'n aangeleentheid onttrek wat deur die Raad ondersoek, oorweeg of oor gestem word indien een of meer van die volgende geld

–

- (a) indien hy of sy oor 'n regstreekse of onregstreekse finansiële of ander belang in die aangeleentheid beskik; of
 - (b) indien die moontlikheid bestaan dat 'n regstreekse of onregstreekse finansiële of ander belang in die aangeleentheid kan opduik.
- (2) Indien dit in enige stadium gedurende die verloop van enige verrigtinge voor die Raad voorkom dat 'n lid van die Raad wat teenwoordig is by daardie vergadering oor 'n belang, bedoel in subartikel (1), beskik of mag beskik, moet sodanige lid onverwyld die aard van sy of haar belang verklaar en die vergadering verlaat.
- (3) Enige bekendmaking ingevolge subartikel (2) moet aangeteken word in die notule van die betrokke vergadering.
- (4) Indien dit gevolglik blyk dat die Raad 'n besluit geneem het oor 'n aangeleentheid ten opsigte waarvan 'n lid van die Raad versuim het om 'n belang bedoel in subartikel (1) van hierdie artikel te verklaar, is sodanige besluit van die Raad ongeldig.
- (5) Vir die doeleindes van hierdie artikel sluit "**regstreekse finansiële of ander belang**" in, maar is nie beperk nie tot, 'n belang gehou deur enige lid se –
- (a) sakevennoot, kollega of werkgewer, anders as die Staat;
 - (b) gade, deelgenoot in 'n gewoontehuwelik, of persoon saam met wie sodanige lid woon of leef asof hulle getroud is; of
 - (c) kind, ouer of broer of suster.

Besoldiging van lede van Raad

12.(1)(a) Behoudens subartikels (1)(b) en (2)(a), kan 'n lid van die Raad sodanige besoldiging en toelaes betaal word soos deur die Premier bepaal kan word, in oorlegpleging met die Lid van die Uitvoerende Raad verantwoordelik vir Finansies.

(b) 'n Lid van die Raad wat besoldiging, toelaes of ander voordele ontvang uit hoofde van sy of haar amp, posisie, pos of diens in –

- (i) die nasionale regering;
- (ii) 'n provinsiale regering;
- (iii) 'n munisipaliteit;
- (iv) 'n korporasie, liggaam of instelling waarin die nasionale of provinsiale regering 'n beherende belang het; of
- (v) 'n openbare entiteit, 'n nasionale regering-sakeonderneming of 'n provinsiale regering-sakeonderneming soos omskryf in artikel 1 van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999),

en wie voortgaan om sodanige besoldiging, toelaes of ander voordele te ontvang terwyl hy of sy as lid van die Raad diens doen, kan alleenlik die besoldiging en toelaes vermeld in paragraaf (a) ontvang tot die mate wat vereis word om sodanige lid in die finansiële posisie te plaas waarin hy of sy sou wees indien dit nie was vir sodanige amp, posisie, pos of diens nie.

(c) Verskillende besoldiging en toelaes kan bepaal word vir die volgende kategorieë van lede van die Raad –

- (i) die Voorsitter;
- (ii) die Ondervoorsitter; en
- (iii) die ander lede van die Raad.

(2)(a) 'n Lid van die Raad kan, ten opsigte van sy of haar werksaamhede as 'n lid, vergoeding vir redelike en werklike reis- en verblyfuitgawes ontvang wat deur die werklike bywoning van 'n vergadering van die Raad genoodsaak is.

(b) Die Lid van die Uitvoerende Raad verantwoordelik vir Finansies moet prosedures, met inbegrip van beheermaatreëls, vir die beheer, hantering en prosessering van eise vir reis- en verblyfuitgawes bedoel in paragraaf (a) bepaal.

Instelling van komitees om Raad by te staan

13.(1) Die Raad kan komitees, wat uit een of meer van sy lede bestaan, instel om –

- (a) die Raad by te staan in die uitoefening van sy bevoegdhede, uitvoering van pligte en verrigting van werksaamhede; of

(b) navraag of navorsing te doen oor enige aangeleentheid binne die mandaat van die Raad ingevolge hierdie Wet.

(2) Wanneer 'n komitee bedoel in subartikel (1) ingestel word, moet die Raad –

(a) die opdrag van sodanige komitee bepaal, ingesluit, maar nie beperk nie tot, hetsy of nie sodanige komitee ophou om te bestaan sodra sy taak of take, soos aan hom toegewys deur die Raad, afgehandel is;

(b) 'n Voorsitter van sodanige komitee wat 'n lid van die Raad moet wees aanstel; en

(c) bepaal hetsy of nie sodanige komitee persone wat nie lede van die Raad is nie kan koöpteer en, indien wel, op watter bepalings en voorwaardes.

(3) Die Raad kan te eniger tyd die bestaan van 'n komitee, of enige mandaat wat aan 'n komitee gegee is, beëindig, ongeag of sodanige komitee die taak of take wat deur die Raad aan hom toegewys is, afgehandel het of nie.

Koöptering van persone op komitees van Raad

14.(1) Die Raad kan, indien hy van mening is dat 'n bepaalde persoon bevoeg is om hom by te staan rakende enige van sy bevoegdhede, pligte of werksaamhede, sodanige persoon vir daardie doel koöpteer op 'n komitee van die Raad vir sodanige tydperk wat die Raad kan bepaal.

(2) 'n Persoon gekoöpteer ingevolge subartikel (1) is nie geregtig om by enige vergadering van 'n komitee van die Raad te stem nie.

(3)(a) 'n Persoon gekoöpteer ingevolge subartikel (1) kan, ten opsigte van sy of haar werksaamhede as 'n gekoöpteerde lid op 'n komitee van die Raad, vergoeding ontvang vir redelike en werklike reis- en verblyfuitgawes genoodsaak deur die werklike bywoning van 'n vergadering van 'n komitee van die Raad.

(b) Die Lid van die Uitvoerende Raad verantwoordelik vir Finansies moet prosedures, met inbegrip van beheermaatreëls, vir die bestuur, hantering en prosessering van eise vir reis- en verblyfuitgawes bedoel in paragraaf (a), bepaal.

HOOFSTUK 4 HOOF- FINANSIËLE BEAMPTTE VAN KONINKLIKE HUISHOUDINGSTRUST, HOOF VAN SEKRETARIAAT VAN RAAD EN ANDER PERSONEEL VAN KONINKLIKE HUISHOUDINGSTRUST

Hoof- Finansiële Beampte van Trust

15.(1) Die Raad kan, in oorlegpleging met die Premier, 'n geskikte en behoorlik gekwalifiseerde persoon aanstel as Hoof- Finansiële Beampte van die Trust.

(2) Die Hoof- Finansiële Beampte –

- (a) is regstreeks verantwoordelik en aanspreeklik aan die Raad;
- (b) moet aan die Raad rapporteer; en
- (c) moet, binne drie maande vanaf aanstelling, 'n skriftelike prestasie-ooreenkoms met die Raad sluit.

(3) Die Raad kan, in oorlegpleging met die Premier, die diens van die Hoof- Finansiële Beampte beëindig in ooreenstemming met toepaslike indiensnemings- en arbeidsreg.

Hoof van Sekretariaat van Raad en personeel van Trust

16.(1) Die Direkteur-generaal van die Provinsie moet –

- (a) 'n senior bestuurder, in diens geneem deur die Provinsiale Regering ingevolge die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994), aanwys as Hoof van Sekretariaat van die Raad ten einde administratiewe, tegniese en professionele sekretariële en ander ondersteuningsdienste aan die Raad te verleen in die uitoefening van sy bevoegdhede, uitvoer van sy pligte en verrigting van werksaamhede; en
- (b) sodanige ander persone in diens van die Provinsiale Regering ingevolge die Staatsdienswet, 1994, aanwys soos redelik nodig kan wees, ten einde –
 - (i) die Raad met die administratiewe, tegniese en sekretariële werk bykomstig tot die uitoefening van sy bevoegdhede, die uitvoer van sy pligte en verrigting van sy werksaamhede; en
 - (ii) die Trust met die vervulling van sy oogmerke, die uitoefening van sy bevoegdhede, die uitvoer van sy pligte en verrigting van sy werksaamhede, ingevolge hierdie Wet by te staan.

(2) Die Raad en die Trust kan die dienste van persone afgestaan of oorgeplaas in ooreenstemming met die bepalings van die Staatsdienswet, 1994, benut.

(3) Die Hoof van Sekretariaat –

- (a) is regstreeks aan die Direkteur-generaal van die Provinsie verantwoordbaar en aanspreeklik vir die prestasie en werksaamhede van die Sekretariaat van die Raad;
- (b) moet aan die Direkteur-generaal van die Provinsie en die Voorsitter van die Raad verslag lewer oor die aktiwiteite van die Sekretariaat van die Raad en die personeel van die Trust vermeld in subartikels (1)(b) en (2); en
- (c) moet, binne drie maande vanaf aanwysing as Hoof van Sekretariaat 'n skriftelike prestasie-ooreenkoms met die Direkteur-generaal van die Provinsie sluit.

(3) Die personeel van die Trust, aangewys ingevolge subartikel (1)(b), of afgestaan of oorgeplaas ingevolge subartikel (2), is aan die Hoof van Sekretariaat van die Raad verantwoordbaar en moet aan hom of haar rapporteer.

HOOFSTUK 5 BEFONDSING EN BESTUUR VAN KONINKLIKE HUISHOUDINGSTRUST

Fondse van Trust

17.(1) Die fondse van die Trust bestaan uit –

- (a) gelde bewillig deur die Provinsiale Wetgewer;
- (b) skenkings of bydraes wettiglik deur die Trust vanaf enige bron ontvang;
- (c) rente op beleggings van die Trust; en
- (d) inkomste wettiglik afkomstig van –
 - (i) fondsinsameling;
 - (ii) handelsdryf of sake-ondernemings; of
 - (iii) enige ander bron.

(2) Die Trust moet sy fondse benut –

- (a) vir die betaling van besoldiging, toelaes en reis- en verblyfkostes van die lede van die Raad; en
- (b) om kostes te dek in verband met –
 - (i) die daaglikse bedryf en administrasie van die Trust; en
 - (ii) die uitvoer van die pligte en verrigting van werksaamhede van die Trust en die uitoefening van sy bevoegdhede ingevolge hierdie Wet.

(3)(a) Die Raad moet, met die instemming van die Lid van die Uitvoerende Raad verantwoordelik vir Finansies, 'n rekening in die naam van die Trust oopmaak by 'n instelling geregistreer as 'n bank ingevolge die Bankewet, 1990 (Wet No. 94 van 1990), en onmiddellik alle gelde ontvang ingevolge subartikel (1) daarin deponeer.

(b) Alle betalings uit die rekening van die Trust moet gemaak word op gesag van die Raad of 'n persoon of persone skriftelik aangewys deur die Raad vir daardie doel.

(c) Geen betaling kan uit die rekening van die Trust gemaak word behalwe vir die doeleindes bedoel in subartikel (2) en artikel 3 nie.

Finansiële administrasie en bestuur van Trust

18.(1) Behoudens die bepalings van hierdie Wet en die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), is die Raad die rekenpligtige gesag van die Trust en is verantwoordelik vir die administrasie en bestuur van die Trust en in die besonder vir –

(a) alle besteding uit die fondse van die Trust; en

(b) die ontvangs, tot die krediet van die Trust, van alle gelde verskuldig aan of opgeloop tot die Trust.

(2) Die Raad moet teweegbring dat volledige en behoorlike rekeningboeke en alle nodige tersaaklike rekords gehou word in ooreenstemming met die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), algemeen aanvaarbare rekenkundige praktyke en ander sodanige ander beginsels en praktyke soos deur die Nasionale Tesourie voorgeskryf kan word en deur die Ouditeur-generaal bepaal kan word.

(3) Die Raad moet verseker dat die Trust se jaarlikse begrotings, korporatiewe planne, jaarverslae en geouditeerde finansiële state voorberei 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.

(4) Die Raad moet, binne drie maande voor die einde van elke finansiële jaar, by die Provinsiale Tesourie –

(a) 'n sakeplan vir die Trust, wat meetbare doelwitte en ander inligting bedoel in artikel 19(3)(b) en (c) bevat; en

(b) 'n verslag van die beraamde inkomste en uitgawes van die Trust, ten opsigte van die volgende drie finansiële jare voorlê vir goedkeuring.

(5) In enige finansiële jaar kan die Raad aangepaste of aanvullende verslae van die beraamde inkomste en uitgawes van die Trust vir daardie finansiële jaar aan die Provinsiale Tesourie voorlê vir goedkeuring.

(6) Die Trust kan geen finansiële verbintenis bo en behalwe sy goedgekeurde begroting en sy opgelope reserwes aangaan nie.

(7) Die Raad kan –

(a) met die goedkeuring van die Provinsiale Tesourie enige onbestede gedeelte van die gelde van die Trust belê by die Korporasie vir Openbare Deposito's of enige ander instelling wat van tyd tot tyd deur die Nasionale Tesourie as 'n Kategorie "A1" finansiële instelling gekategoriseer of gelys word; of

(b) met die goedkeuring van die Provinsiale Tesourie op enige ander wyse oor daardie gedeelte beskik.

(8) Die Raad kan, met die goedkeuring van die Provinsiale Tesourie, 'n reserwefonds vir die Trust instel en sodanige bedrae as wat die Provinsiale Tesourie goedkeur daarin stort.

(9) Enige onbestede balans in die Trust teen die einde van 'n finansiële jaar word as 'n krediet in die Trust vir die volgende finansiële jaar oorgedra.

Oudit en jaarverslag van Trust

19.(1) Die Ouditeur-generaal moet die finansiële state van die Trust oudit.

(2)(a) Die Raad moet 'n verslag oor die werksaamhede van die Trust in 'n finansiële jaar in die Provinsiale Wetgewer binne vyf maande na die einde van daardie finansiële jaar ter tafel lê.

(b) Binne vyf maande nadat die verslag ter tafel gelê is, moet die Voorsitter van die Raad, en minstens twee ander lede van die Raad, die betrokke Portefeuljekomitee oor die jaarverslag voorlig.

(3) Die verslag moet –

(a) 'n balansstaat en 'n inkomste- en uitgawestaat, gesertifiseer deur die Ouditeur-generaal, insluit;

(b) die mate waarin die Trust sy doelwitte, vermeld in artikel 3, vir die betrokke boekjaar bereik of bevorder het uiteensit asook die meetbare doelwitte soos in sy sakeplan bedoel in artikel 18(4)(a) uiteengesit; en

(c) toepaslike prestasie-inligting betreffende die ekonomiese, doeltreffende en doelmatige benutting van hulpbronne bevat en spesifiek 'n vergelyking tussen beplande en werklike prestasie-aanduiders soos in die sakeplan uiteengesit.

HOOFSTUK 6 ALGEMENE BEPALINGS

Verkryging en beskikking van onroerende eiendom deur Trust

20. Die Trust kan, met die vooraf goedkeuring van die Provinsiale Tesourie, onroerende eiendom huur, verkry, besit of daarvoor beskik in die verloop van sake.

Regsgedinge teen Trust

21.(1) Enige regsgedinge teen die Trust moet ingestel word in ooreenstemming met die Wet op die Instel van Geregtelike Verrigtinge teen sekere Staatsorgane, 2002 (Wet No. 40 van 2002).

(2) Die Trust word, vir doeleindes van subartikel (1), beskou as 'n staatsorgaan bedoel in paragraaf (c) van die omskrywing daarvan in artikel 1 van die vermelde Wet.

Beperking van aanspreeklikheid

22. Nóg die Raad nóg enige individuele lid van die Raad, die Hoof- Finansiële Beampte van die Trust, die Hoof van Sekretariaat of 'n personeellid van die Trust is aanspreeklik vir enigiets wat te goeder trou gedoen is in die uitoefening van 'n bevoegdheid of die uitvoering van 'n plig of verrigting van 'n werksaamheid ingevolge hierdie Wet.

Trust moet webwerf daarstel

23.(1) Die Trust moet –

- (a) sy eie amptelike webwerf ontwerp, daarstel en instandhou; en
- (b) op daardie amptelike webwerf enige inligting wat vereis word om openbaar gemaak te word plaas, ingevolge hierdie Wet of enige ander wet.

(2) Die Hoof van Sekretariaat van die Trust moet die amptelike webwerf van die Trust instandhou en gereeld opdateer.

Sekuriteit van vertroulike inligting gehou deur Trust

24.(1) Behoudens die Grondwet, die Wet op Bevordering van Toegang tot Inligting, 2000 (Wet No. 2 van 2000), en enige ander toepaslike wetgewing, kan geen persoon enige inligting wat voorgelê is aan die Trust in verband met enige regsopdrag of instruksie openbaar maak nie, tensy –

- (a) hy of sy deur 'n hof daartoe beveel is; of
- (b) die persoon wat sodanige opdrag of instruksie verskaf het skriftelik daartoe instem.

(2) Enige persoon wat subartikel (1) oortree is skuldig aan 'n misdryf.

Ontbinding van Trust

25. Die Trust kan alleenlik ingevolge 'n Wet van die Provinsiale Wetgewer ontbind word.

Gebruik van Trust se naam

26.(1) Geen persoon kan, sonder die vooraf skriftelike goedkeuring van die Trust, op enige wyse die naam, akroniem, embleme, ontwerpe of materiaal wat deur die Trust gebruik of besit word, gebruik of dit verteenwoordig nie.

(2) Geen persoon kan valslik voorgee dat hy of sy namens die Trust handel nie.

(3) Enige persoon wat subartikels (1) en (2) oortree is skuldig aan 'n misdryf.

Delegering deur Raad

27.(1) Die Raad kan, deur 'n spesiale resoluëie, aan die Hoof- Finansiële Beampite van die Trust, die Hoof van Sekretariaat van die Raad of 'n personeellid van die Trust, enige bevoegdheid of plig verleen of opgelê op die Raad of die Trust deur hierdie Wet, delegeer.

(2) Enige bevoegdheid of plig gedelegeer ingevolge subartikel (1) moet uitgeoefen of uitgevoer word behoudens sodanige voorwaardes wat die Raad nodig ag.

(3) 'n Delegering verwys na in subartikel (1) –

- (a) moet skriftelik wees;
- (b) verhoed nie die Raad om daardie bevoegdheid uit te oefen of daardie plig uit te voer nie; en
- (c) kan te eniger tyd skriftelik deur die Raad teruggetrek of gewysig word.

Algemene misdrywe

28.(1) 'n Lid van die Raad, die Hoof- Finansiële Beamppte, die Hoof van Sekretariaat van die Raad, 'n personeellid van die Trust, 'n adviseur, agent of enige ander persoon betrokke by, in diens van, of wat handel namens, die Raad of Trust is skuldig aan 'n misdryf indien hy of sy regstreeks of onregstreeks enige omkoopgeld of enige ander ongemagtigde gelde of vergoeding van enige persoon ontvang in verband met enigiets wat deur die Trust gedoen of aangebied word.

(2) Enige persoon is skuldig aan 'n misdryf indien hy of sy ten opsigte van, of in verband met, enigiets wat deur die Trust gedoen of aangebied word, 'n lid van die Raad, die Hoof- Finansiële Beamppte van die Trust, die Hoof van Sekretariaat van die Raad, 'n personeellid van die Trust, 'n adviseur, agent of enige ander persoon betrokke by, in diens van, of wat namens die Raad of Trust handel omkoop of probeer omkoop, of beïnvloed om korrupsie te pleeg of probeer beïnvloed om korrupsie te pleeg.

(3) Enige persoon wat valslik voorgee dat hy of sy gemagtig is om gelde, donasies of bydraes namens, of in opdrag van, die Raad of Trust te hef of in te samel, is skuldig aan 'n misdryf.

(4) Enige persoon wat die bepalings van hierdie Wet of regulasies met betrekking tot hierdie Wet oortree of versuim om daaraan te voldoen, is skuldig aan 'n misdryf.

Strawwe

29. Enige persoon wat aan 'n misdryf skuldig bevind word –

(a) ingevolge artikel 28(1) of (2) is strafbaar met 'n boete, of tot gevangenisstraf vir 'n tydperk wat nie die tydperk soos bepaal deur nasionale wetgewing vir korrupsie oorskry nie; of

(b) ingevolge artikel 24(2), 26(3) of 28(3) of (4), is strafbaar met 'n boete, of gevangenisstraf vir 'n tydperk van hoogstens vyf jaar.

Regulasies

30.(1) Behoudens subartikel (2) kan die Premier, na oorlegpleging met die Raad en deur kennisgewing in die *Koerant*, regulasies maak betreffende –

- (a) enige aangeleentheid wat voorgeskryf kan word of voorgeskryf moet word ingevolge hierdie Wet; of
- (b) enige administratiewe of prosedurele aangeleentheid wat nodig is om uitvoering aan die bepalings van hierdie Wet te gee.

(2) Behoudens –

- (a) die bepalings van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999); en
- (b) enige vrystelling van die Trust van enige bepaling van daardie Wet soos bedoel in artikel 92 van die Wet op Openbare Finansiële Bestuur, 1999,

kan die Lid van die Uitvoerende Raad verantwoordelik vir Finansies, na oorlegpleging met die Premier en die Raad en deur kennisgewing in die *Koerant*, regulasies maak betreffende –

- (i) die finansiële administrasie, bestuur en beheer van die Trust;
- (ii) die huur, verkryging, besit of beskikking van onroerende eiendom deur die Trust;
- (iii) strydige belange van, en die aanvaarding van geskenke deur, 'n lid van die Raad, die Hoof- Finansiële Beampte van die Trust, die Hoof van Sekretariaat van die Raad, of 'n personeellid van die Trust; of
- (iv) enige aangeleentheid verwys na in subparagrafe (aa) – (cc) van artikel 5(d).

Oorgangsreëlings

31.(1) Soos vermeld in artikel 2(2) van hierdie Wet, is die Trust die regsopvolger in titel van die KwaZulu-Natal Koninklike Huishoudingtrust ingestel ingevolge artikel 2(1) van die KwaZulu-Natal Wet op die Koninklike Huishoudingtrust, 2007 (Wet No. 2 van 2007), wat herroep is.

(2) Die persone wat op die dag voor die inwerkingtreddingsdatum van hierdie Wet as lede van die Raad en Voorsitter van die KwaZulu-Natal Koninklike Huishoudingtrust ingestel ingevolge artikel 2(1) van die herroepe KwaZulu-Natal Wet op die Koninklike Huishoudingtrust, 2007, aangestel of aangewys is, gaan voort as lede van die Raad en Voorsitter van die Trust en word beskou as aangestel ingevolge artikel 6 van hierdie Wet effektief vanaf die inwerkingtreddingsdatum van hierdie Wet.

(3)(a) 'n Persoon wat, op die dag voor die inwerkingtreddingsdatum van hierdie Wet, die Hoof-Uitvoerende Beampte van die KwaZulu-Natal Koninklike Huishoudingtrust, ingestel

ingevolge artikel 2(1) van die herroepe KwaZulu-Natal Wet op die Koninklike Huishoudingtrust, 2007, op die inwerkingtreedingsdatum van hierdie Wet was, se aanstelling word beëindig in ooreenstemming met toepaslike indiensnemings- en arbeidsreg.

(b) Die persoon wat, op die dag voor inwerkingtreding van hierdie Wet, aangestel was as die Hoof- Finansiële Beampte van die KwaZulu-Natal Koninklike Huishoudingtrust ingestel ingevolge artikel 2(1) van die herroepe KwaZulu-Natal Wet op die Koninklike Huishoudingtrust, 2007, gaan voort as die Hoof- Finansiële Beampte van die Trust en word beskou as aangestel ingevolge artikel 15(1) van hierdie Wet, effektief vanaf die inwerkingtreedingsdatum van hierdie Wet.

(4)(a) Die bepaling, soos uiteengesit in die Bylae, is van toepassing met inwerkingtreding vanaf 12 Desember 2014 ten opsigte van die toewysing, oordrag en toebedeling van die bevoegdhede, werksaamhede, bates, laste, regte, pligte, verpligtinge en werknemers van die afgeskafte Departement van die Koninklike Huishouding.

(b) Die Premier kan, na oorlegpleging met die Raad, deur kennisgewing in die *Koerant* en met inwerkingtreding vanaf 'n datum aangedui in sodanige kennisgewing die Bylae tot hierdie Wet –

(i) wysig; of

(ii) vervang.

HOOFSTUK 7 HERROEPING VAN WET EN KORT TITEL

Herroeping van wet

32. Die KwaZulu-Wet op die Koninklike Huishoudingtrust, 2007 (Wet No. 2 van 2007), word hiermee herroep.

Kort titel

33. Hierdie wet word die KwaZulu-Natal Wet op die Koninklike Huishoudingtrust, 2015 genoem.

BYLAE**Bepaling ten opsigte van die toewysing, oordrag en toebedeling van die bevoeghede, bates, laste, regte, pligte, verpligtinge en werknemers van die afgeskafte Departement van die Koninklike Huishouding (Artikel 31(4))**

1. Die Kantoor van die Premier is verantwoordelik vir die volgende werksaamhede van die afgeskafte Departement van die Koninklike Huishouding –

- (a) amptelike administratiewe ondersteuning aan Sy Majesteit ten opsigte van Sy Majesteit se amptelike rolle, pligte en werksaamhede ingevolge die Wet op Tradisionele Leierskap en Regering, 2005 (Wet No. 5 van 2005); en
- (b) ander amptelike administratiewe ondersteuning aan Sy Majesteit, ingesluit –
 - (i) die administrasie en betaling van –
 - (aa) die amptelike besoldiging van Sy Majesteit; en
 - (bb) reis- en verblyfkostes en eise vir amptelike reise onderneem deur Sy Majesteit; en
 - (ii) skryf van toesprake en lofuiting vir, en namens, Sy Majesteit.

2. Die Koninklike Huishoudingstrust, ingestel deur artikel 2(1) van hierdie Wet, is verantwoordelik vir alle ander werksaamhede van die afgeskafte Departement van die Koninklike Huishouding, ingesluit –

- (a) administratiewe ondersteuning betreffende –
 - (i) persoonlike en privaataktiwiteite van Sy Majesteit;
 - (ii) die aktiwiteite van die Koninginne en ander lede van die Koninklike Huishouding wat wesenlik persoonlike en privaataktiwiteite is;
 - (iii) die administrasie en betaling van die besoldiging (salarisse, toelaes en voordele) van die Koninginne; en
- (b) die administrasie, instandhouding en bestuur van die Koninklike paleise en Koninklike plase; en
- (c) die administrasie en bestuur van die besoldiging, toelaes en reis- en verblyfuitgawes en eise van Trustrees (Raadslede) van die Koninklike Huishoudingstrust vir goedgekeurde sake en bedrywighede van die Koninklike Huishoudingstrust.

3.(a) Alle bevoeghede en pligte van die afgeskafte Departement van die Koninklike Huishouding wat in die besonder betrekking het op die werksaamhede vermeld in item 1(a) en (b) hierbo word oorgedra aan, en berus by, die Kantoor van die Premier.

(b) Alle ander bevoegdhede en pligte van die afgeskafte Departement van die Koninklike Huishouding word oorgedra aan, en berus by, die Koninklike Huishoudingtrust.

4.(a) Die –

(i) begroting, fondse en roerende bates van die afgeskafte Departement van die Koninklike Huishouding; en

(ii) ander regte, hetsy tasbaar of ontasbaar, van die afgeskafte Departement van die Koninklike Huishouding, hetsy sodanige regte toegeken is deur, of voortspruit uit, kontraktuele ooreenkoms of andersins, van die afgeskafte Departement van die Koninklike Huishouding,

wat in die besonder betrekking het op die werksaamhede verwys na in item 1(a) en (b) hierbo, word oorgedra aan, en berus by, die Kantoor van die Premier.

(b) Die oorblywende –

(i) begroting, fondse en roerende bates van die afgeskafte Departement van die Koninklike Huishouding; en

(ii) ander regte, hetsy tasbaar of ontasbaar, van die afgeskafte Departement van die Koninklike Huishouding, hetsy sodanige regte toegeken is deur, of voortspruit uit, kontraktuele ooreenkoms of andersins, van die afgeskafte Departement van die Koninklike Huishouding,

word oorgedra aan, en berus by, die Koninklike Huishoudingtrust.

5. Alle onroerende bates, indien enige, geregistreer in die naam van die afgeskafte Departement van die Koninklike Huishouding word oorgedra aan, en berus by, die Koninklike Huishoudingtrust: Met dien verstande dat die Koninklike Huishoudingtrust nie verplig is om enige oorweging, hetsy geldelik of andersins, te betaal of te verleen ten opsigte van die oordrag en berusting van enige sodanige onroerende bates aan, of by, die Koninklike Huishoudingtrust nie: Met dien verstande, verder, dat die bykomstige regte en verpligtinge van die afgeskafte Departement van die Koninklike Huishouding, ten opsigte van sodanige onroerende bates, om huurgeld te bepaal, vas te lê en te kollekteer, om regstappe te neem ten einde huurders wat agterstallig is met huurgeld uit te sit en om bestaande strukture en wonings in stand te hou, by die Koninklike Huishoudingtrust berus.

6.(a) Enige aanspreeklikheid of verpligting wat spesifiek betrekking het op die werksaamhede van die afgeskafte Departement van die Koninklike Huishouding vermeld in item 1(a) en (b) hierbo, hetsy voorwaardelik, berustend of verborge, hetsy sodanige aanspreeklikheid of verpligting toegewys is deur, of voortspruit uit, kontraktuele ooreenkoms of andersins, word oorgedra aan, en berus by, die Kantoor van die Premier: Met dien

verstande dat enige finansiële tekort op die boeke van die afgeskafte Departement van die Koninklike Huishouding gedek kan word deur die KwaZulu-Natal Provinsiale Regering met gelde wat deur die Provinsiale Wetgewer spesifiek vir daardie doel bewillig is.

(b) Enige ander aanspreeklikheid of verpligting, hetsy voorwaardelik, berustend of verborge, van die afgeskafte Departement van die Koninklike Huishouding, hetsy sodanige aanspreeklikheid of verpligting toegewys is deur, of voortspruit uit, kontraktuele ooreenkoms of andersins, word oorgedra aan, en berus by, die Koninklike Huishoudingstrust: Met dien verstande dat enige finansiële tekort op die boeke van die afgeskafte Departement van die Koninklike Huishouding gedek kan word deur die KwaZulu-Natal Provinsiale Regering met gelde wat deur die Provinsiale Wetgewer spesifiek vir daardie doel bewillig is.

7.(a) Alle werknemers van die afgeskafte Departement van die Koninklike Huishouding word hiermee opgeneem in, oorgeplaas na, en geplaas in diens van die Kantoor van die Premier, met die behoud van besoldiging, regte, voordele en voorregte behoudens die wette wat die staatsdiens en enige toepaslike resoluë van die Staatsdiens se Koördinerende Onderhandelingsraad (SKOR) beheer.

(b) Die praktiese implikasie van item 7(a) hierbo is dat –

- (i) alle werknemers, by die instelling van die afgeskafte Departement van die Koninklike Huishouding, geplaas word by die instelling van;
- (ii) die totale personeelkomplement en salarisbegroting van die afgeskafte Departement van die Koninklike Huishouding oorgeplaas word na, en berus by; en
- (iii) die befondsde poste wat vakant is by die instelling van die afgeskafte Departement van die Koninklike Huishouding word oorgeplaas na, en geplaas, by die instelling van, die Kantoor van die Premier.

8. Die werknemers gelys in die **Aanhangsel**, synde werknemers van die afgeskafte Departement van die Koninklike Huishouding, oorgeplaas na die Kantoor van die Premier en wat werksaamhede verrig en pligte uitvoer wat nie spesifiek betrekking het op die werksaamhede vermeld in item 1(a) en (b) hierbo nie, word aangewys (ingevolge artikel 16(1)(b) van hierdie Wet) om bystand te verleen aan die Koninklike Huishoudingstrust in die vervulling van sy oogmerke, die uitoefening van sy bevoegdhede, die uitvoer van sy pligte en die verrigting van sy werksaamhede met betrekking tot die administrasie, instandhouding en bestuur van die Koninklike paleise en die Koninklike plase en is, behoudens die wette wat die staatsdiens en enige toepaslike resoluë van die Staatsdiens se Koördinerende Onderhandelingsraad (SKOR) bestuur, oorgeplaas met die behoud van besoldiging, regte, voordele en voorregte (ingevolge artikel 16(2) van hierdie Wet).

AANHANGSEL
Lys van werknemers afgestaan aan die Koninklike Huishoudingtrust
(Item 8 van Bylae)

	NAAM	IDENTITEITSNOMMER	PERSALNOMMER
HULPDIENSTE BETROKKE BY DIE KONINKLIKE PALEISE EN DIE KONINKLIKE PLASE			
1.	BIYELA, QH	590220 5441 084	60166789
2.	CHONCO, CT	641217 5481 082	60204788
3.	NDLOVU, ZA	790503 5964 082	63962977
4.	ZITHA, MS	580827 5748 082	60209038
5.	ZULU, NA	820301 5470 083	64178820
6.	ZUNGU, LM	640921 5647 089	60200014
DLAMAHLAHLA KONINKLIKE PALEIS			
7.	BUTHELEZI, ET	540411 0727 087	60269405
8.	BUTHELEZI, MR	540804 5794 088	60263938
9.	FAKUDE, BN	640101 7396 087	61624098
10.	MABASO, MR	760326 5427 082	64316751
11.	MANDLAZI, BF	600313 0407 081	60299541
12.	MATHE, EP	620101 1194 089	60288540
13.	MATHE, MN	621212 5864 087	60299631
14.	MATHE, N	621222 0878 081	60264101
15.	MATHE, TA	591008 0696 086	61665223
16.	MTHETHWA, MP	570930 0344 083	61667773
17.	SHONGWE, OK	670306 5741 087	60300132
18.	SHONGWE, NJ	640527 5469 083	60300817
19.	ZWANE, TW	660511 0498 086	60299690
ENYOKENI KONINKLIKE PALEIS			
20.	MAGUBANE, BZ	520120 5713 083	60299479
21.	MASONDO, NB	560101 1027 083	60299878
22.	SIBIYA, ZM	640811 0761 086	60300671
23.	ZULU, GJ	560408 0435 088	64036332
24.	ZULU, SM	791128 1025 081	64319211
25.	ZULU, ZG	561123 0856 089	60295287
26.	ZUNGU, ZM	640811 0761 086	61623911
INGWAVUMA KONINKLIKE PALEIS			
27.	GINA, GM	690204 5573 087	61830526
28.	GINA, NT	740102 5303 085	61624161
29.	GWALA, GN	601015 5419 081	61663212
30.	JOBE, BB	880602 5787 088	64602711
31.	MAHENDULA, A	550224 5367 083	60264110
32.	MNGOMEZULU, SM	820412 6319 086	64604268
33.	MYENI, MW	620419 5612 082	64602427
34.	NYAWO, NE	790521 5774 087	64602605

KHANGELA KONINKLIKE PALEIS			
35.	NDWANDWE, G	541225 1184 083	60299681
36.	NDWANDWE, TB	720604 1092 087	64257002
37.	NSELE, TB	540904 0257 089	60263946
38.	NTANZI, FN	571112 0889 081	61663751
39.	NXELE, VS	610425 5499 083	61667749
40.	MASANGO, EM	710614 5801 088	64291251
41.	MASANGO, MA	520604 0507 087	60271639
42.	MASANGO, NI	530219 5461 087	60263768
43.	MASUKU, MP	570429 5507 083	61663336
44.	MBATHA, FT	620404 1290 083	60299665
45.	MBATHA, NI	601225 0430 088	61626091
46.	MTHETHWA, HT	610502 0595 089	60238763
47.	SHAMASE, LQ	731029 5378 083	62047027
48.	SHONGWE, BV	660221 5378 083	61666777
49.	SITHOLE, CR	560925 0370 080	60301678
50.	SITHOLE, JM	620925 5778 087	64257142
51.	SITHOLE, KJ	590505 1050 081	60274689
52.	SITHOLE, MD	511110 0605 088	60271621
53.	ZULU, MJ	510217 5469 088	60299673
54.	ZULU, TJ	560620 0805 080	60263873
KWAKHETHA KONINKLIKE PALEIS			
55.	CEBEKHULU, SS	800331 0737 081	64179001
56.	GWALA, JA	680726 5506 081	61668010
57.	GWALA, PK	600814 5423 080	60288574
58.	GWALA, SB	650714 5640 080	61672726
59.	MNGADI, TB	651231 0330 087	60299614
60.	MTHIYANE, ZP	670101 7150 084	64393437
61.	NDWANDWE, PM	690214 5456 084	61880396
62.	NTULI, SS	700202 0366 083	60299738
63.	NXUMALO, PG	610825 5685 088	61663557
64.	SHAMASE, ZA	530211 5732 088	61668061
65.	ZULU, GR	590409 5758 080	60300078
66.	ZULU, MC	581103 0251 081	60286971
67.	ZULU, SK	670101 7150 084	61663921
68.	ZULU, TN	661021 0523 080	64612091
LINDUZULU KONINKLIKE PALEIS			
69.	FAKUDE, MG	630926 5303 080	61625990
70.	NKOSI, SA	591123 0434 089	60300973
71.	SITHOLE, MB	720707 5908 081	61626082
72.	ZULU, NM	650101 1977 080	61667684
73.	ZULU, NP	860116 1199 085	64257193
74.	ZUNGU, DM	640130 5410 080	61624047
75.	XABA, PN	680101 1229 080	60299941

ONDINI KONINKLIKE PALEIS			
76.	KHUMALO, MS	600917 0635 085	64568504
77.	MNCWANGO, M	521115 5475 088	64569349
THOKAZI KONINKLIKE PLAAS			
78.	KHUMALO, NB	601221 0565 080	61627836
79.	MPANZA, BT	580203 0782 084	61624268
80.	NENE, MS	570201 0646 087	61624616
81.	NTSHALINTSHALI, GA	550805 0822 086	61625906
UMFOLOZI KONINKLIKE PLAAS			
82.	NHLEBELA, HE	541004 5594 088	61623717
ZWARTKOP KONINKLIKE PLAAS			
83.	GINA, MZ	630411 5858 086	61625493

**MEMORANDUM
OOR DIE OOGMERKE
VAN DIE
WETSONTWERP OP DIE KWAZULU-NATAL KONINKLIKE HUISHOUDINGSTRUST, 2015**

1. GESKIEDENIS

In sy **2005/ 2006** Begrotingstoespraak, vir die Departement: Koninklike Huishouding, het die voormalige Premier, **JS Ndebele** verklaar dat:

“Meneer die Speaker, soos aangedui bevestig die bevindinge dat 'n regeringsdepartement nie die gepaste struktuur vir die verskaffing van ondersteuning en diens aan Sy Majesteit is nie. Dit word aanbeveel dat die Departement, die Koninklike Huishouding, ontbind behoort te word.”.

Sedert **2003** is die mees geskikte medium of struktuur oorweeg om die Departement van die Koninklike Huishouding te vervang en reeds in **2005** het 'n Konsepwetsontwerp vir die instelling van 'n statutêre Trust wat geadministreer sou word om tot die Monarg en die ander lede van die Koninklike Huishouding in die Provinsie van KwaZulu-Natal se voordeel te strek, die lig gesien.

Hierdie Wetsontwerp is oplaas in **2007** verorden as die KwaZulu-Natal Wet op die Koninklike Huishoudingtrust, met hoofoogmerk van die Wet die aanspreek van praktiese probleme met betrekking tot die instandhouding en onderhoud van die KwaZulu-Natal Koninklike Huishouding. Die bedoeling was dat die Trust die Departement van die Koninklike Huishouding sou vervang en sou, mettertyd, selfonderhoudend word en aanvullende inkomste vir die Koninklike Huishouding genereer, bo en behalwe die openbare fondse wat vir die Koninklike Huishouding deur die Provinsiale Wetgewer bewillig was.

Die oorspronklike bedoeling in **2005** was om die Departement van die Koninklike Huishouding af te skaf by die instelling van die Trust maar hierdie idee is egter opsygeskuif as gevolg van politieke druk vanuit sekere oorde, met die gevolg dat die Departement van die Koninklike Huishouding en die Koninklike Huishoudingtrust sy aan sy bestaan het ter wille van politieke wenslikheid. Hierdie scenario het sy eie uitdagings en wisselwerkings geskep, in die besonder met betrekking tot verwarring oor die bevoegdhede, pligte en werksaamhede van die onderskeie entiteite en die gevolglike turffoorloë en verhoudingskwessies wat beleef is.

Indien die Departement van die Koninklike Huishouding vroeër ontbind is, en sou die Raad van Trustees van die KwaZulu-Natal Koninklike Huishoudingtrust die volle potensiaal van die

Trust, wat beskikbaar was ingevolge die 2007 wet, ontgin het ten einde aanvullende inkomste vir die Koninklike Huishouding te genereer, sou die omstandighede ten opsigte van die Koninklike Huishouding waarskynlik nie so krities gewees het as wat dit tans is nie.

Voor 2005, en sedertdien, is daar nog altyd strydpunte ten opsigte van die finansiële bestuur van die Koninklike Huishouding en oorbesteding van die Koninklike Huishouding se begroting, wat 'n konstante bron van verleentheid vir die Provinsiale Regering is.

2. AGTERGROND

Met die verordening van die KwaZulu-Natal Wet op die Koninklike Huishoudingstrust, 2007 (hierna verwys na as die 2007 Wet), en die daaropvolgende inwerkingstelling, het dit baie duidelik geword dat dit krities is om praktiese aangeleenthede, wat ervaar is met die inwerkingstelling van die Hoofwet, aan te spreek, die merkbaarste daarvan aangeleenthede betreffende die finansiële bestuur en administrasie van die Koninklike Huishoudingstrust.

Oorspronklik was die konsep van die Koninklike Huishoudingstrust, wat gelei het tot die verordening van die 2007 Wet, dat die beoogde nuwe Koninklike Huishoudingstrust sou funksioneer as 'n grootliks onafhanklike statutêre Trust wat die potensiaal om aanvullende inkomste te genereer tot voordeel van die Koninklike Huishouding ingehou het, bykomend tot fondse bewillig deur die Provinsiale Wetgewer.

Die 2007 Wet is opgestel in die lig van hierdie paradigma en het voorsiening gemaak vir 'n Hoof- Uitvoerende Beampste vir die Trust en het beoog dat die Trust sy eie personeel, wat nie staatsamptenare sou wees nie, sou aanstel. Die Wet op Openbare Finansiële Bestuur, 1999, (WOFB) sou van toepassing wees op die Trust ten einde gesonde finansiële bestuur, ten opsigte van openbare fondse wat deur die Trust ontvang is, te verseker. Praktiese ervaring met betrekking tot die bestuur en administrasie van die Trust sedert 2007 het bewys dat die oorspronklike "op 'n afstand bly" benadering deur die regering, om verskeie redes, nie suksesvol was nie en dat 'n meer praktiese benadering van direkte en aktiewe betrokkenheid deur die regering vereis word ten einde die sukses van die Trust te verseker deur besteding aan administrasie in toom te hou en finansiële administrasie en bestuur te stroomlyn.

Aangesien hierdie nuwe benadering omvattende en fundamentele wysigings aan die 2007 Wet sou genoodsaak, is dit verkieslik beskou om die 2007 Wet te vervang, aldus hierdie

2015 KwaZulu-Natal Wetsontwerp op die Koninklike Huishoudingtrust wat, wanneer verorden, die nuwe KwaZulu-Natal Wet op die Koninklike Huishouding 2015, sal word.

Ander aangeleenthede soos –

- (a) die finale ontbinding van die Departement van die Koninklike Huishouding;
- (b) die verhoudinge tussen die ontbinde Departement, die Kantoor van die Premier en die Koninklike Huishoudingtrust;
- (c) die voorgestelde toebedeling en toewysing van fondse tussen die ontbinde Departement, die Kantoor van die Premier en die Koninklike Huishoudingtrust;
- (d) hantering van die personeel van die ontbinde Departement;
- (e) die gepaardgaande kostes vir 'n Hoof- Uitvoerende Beampte en ander personeel vir die Koninklike Huishoudingtrust in die lig van die heersende ekonomiese omstandighede; en
- (f) die werkverrigting en algemene en finansiële administrasie en bestuur van die Koninklike Huishoudingtrust sedert 2007,

het ook 'n denkrigtingverskuiwing oor die pad vorentoe vir die Koninklike Huishoudingtrust, wat nie deur bloot oppervlakkige wysigings aan die 2007 Wet in werking gestel kon word nie, genoodsaak.

Gevolgtik weerspieël die voorgename Wetsontwerp hierdie nuwe denkrigting.

3. KOUSULE VIR KLOUSULE VERDUIDELIKING

Ter opsomming maak die Wetsontwerp voorsiening soos volg –

HOOFSTUK 1 (OMSKRYWINGS)

Klousule 1:

Klousule 1 bevat die omskrywings wat hoofsaaklik selfverduidelikend is.

HOOFSTUK 2 (INSTELLING VAN KONINKLIKE HUISHOUDINGTRUST)

Klousule 2:

Klousule 2 handel oor die instelling van die Koninklike Huishoudingtrust en beklemtoon dat die Trust die regsopvolger in titel tot die Koninklike Huishoudingtrust, ingestel ingevolge die 2007 Wet, is.

Die Wet op Openbare Finansiële Bestuur, 1999, (WOFB) is van toepassing op die Trust ten einde behoorlike en toepaslike standaarde van finansiële beheer te verseker. Sedert die

instelling van die Trust het dit aan die lig gekom dat dit prakties onmoontlik is vir die Trust om doeltreffend te funksioneer terwyl dit onderwerp is aan al die bepalings van die WOFB. Die Ouditeur-generaal het ook sekere aanbevelings ten opsigte hiervan gemaak.

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

Artikel 92 van die WOFB maak voorsiening soos volg –

“92. Vrystellings

The Minister [van Finansies, nasionaal], kan by kennisgewing in die nasionale Staatskoerant enige instelling op wie hierdie Wet van toepassing is, of enige kategorie van daardie instellings, van enige spesifieke bepalings van hierdie Wet vrystel vir 'n tydperk in die kennisgewing bepaal.”

Ooreenkomstig die bepalings van die WOFB stel die klousule dit uitdruklik dat die Trust se Raad van Trustees die rekenpligtige gesag van die Trust is.

Klousule 3:

Klousule 3 handel oor die oogmerke van die Trust wat taamlik breed verwoord is en beklemtoon dat die Trust geadministreer moet word tot voordeel van Sy Majesteit (die Monarg) en die ander lede van die Koninklike Huishouding.

Dit word uitdruklik gestel dat die Trust ontvangstes, inkomste, sake en welwillendheid kan genereer en bates verkry en daar word gehoop dat die Trust, met 'n benadering van meer aktiewe betrokkenheid deur regering in die sake van die Trust, in 'n beter posisie sal wees ten einde die, tot dusver, onbenutte potensiaal om aanvullende inkomste te genereer tot voordeel van die Koninklike Huishouding, bykomend tot fondse deur die Provinsiale Wetgewer bewillig.

Klousule 4:

Klousule 4 handel oor *uMndeni WeSilo*, of die Koninklike Huishouding, en bepaal dat die Koninklike Huishouding uit die Koninklike Koninginne en bloedverwante van die Monarg bestaan, wie se name op 'n lys verskyn soos van tyd tot tyd deur Sy Majesteit voorsien.

Klousule 5:

Klousule 5 handel breedvoerig oor die pligte, bevoegdhede en werksaamhede van die Trust.

Een van die oorheersende redes vir die instelling van die Trust was om enige vorm van inkomste vir die Trust te genereer ten einde te verseker dat die Trust, met verloop van tyd, minder afhanklik sou raak van befondsing bewillig deur die Provinsiale Wetgewer.

Die Trust is uitdruklik bemagtig om inkomste te genereer deur die bepaling van sekere fooie en om –

- (a) gelde en fondse te leen, insamel of belê;
- (b) aandele in enige maatskappy te verkry en besit;
- (b) betrokke te wees by enige handeldryf of sakeonderneming met die oogmerk om inkomste vir die Trust te genereer.

Hierdie beoogde bevoegdhede bedoel in paragrawe (a) – (c) hierbo kan slegs uitgeoefen word binne 'n streng stelsel van wigte en teenwigte: vooraf geskrewe goedkeurings en behoudens bepalinge, voorwaardes, riglyne of opdragte wat opgelê kan word. Klousule 30 bemagtig ook die Lid van die Uitvoerende Raad verantwoordelik vir Finansies om regulasies ten opsigte van hierdie aangeleenthede te maak.

HOOFSTUK 3 (RAAD VAN TRUSTEES VAN KONINKLIKE HUISHOUDINGSTRUST)**Klousule 6:**

Die Trust tree op deur 'n Raad van Trustees en klousule 6 handel oor die samestelling van die Raad van Trustees van die Trust en die samestelling van die Raad.

Klousule 7:

Klousule 7 maak voorsiening vir die ampstermyn (vyf jaar) en heraanstelling van Raadslede.

Klousule 8:

Klousule 8 handel oor vakatures, verwydering en bedanking uit amp van Raadslede.

Klousule 9:

Klousule 9 maak voorsiening vir die tydelike skorsing van 'n Raadslid hangende 'n ondersoek van bewerings wat mag lei tot die beëindiging van die lid se aanstelling.

Klousule 10:

Klousule 10 handel breedvoerig oor vergaderings en vergaderingsprosedures van die Raad. 'n Besluit van die Raad word geneem deur 'n meerderheidstem van die lede en die Voorsitter het 'n beslissende stem. Die Direkteur-generaal van die Provinsie en die Hoof-Finansiële Beamppte van die Trust kan 'n vergadering van die Raad bywoon en deelneem daaraan maar mag nie stem nie. Uiteraard kan die Hoof van Sekretariaat ook die vermelde vergadering bywoon en deelneem daaraan, maar mag nie stem nie.

Klousule 11:

Klousule 11 maak voorsiening vir 'n Raadslid se onttrekking van vergaderings en prosedures van die Raad indien sodanige lid 'n regstreekse of onregstreekse belang by 'n aangeleentheid besit. 'n Lid moet sy of haar belang verklaar en die verklaring moet in die notule van die vergadering opgeneem word.

Klousule 12:

Klousule 12 handel breedvoerig oor die besoldiging van Raadslede, asook die reis- en verblyfuitgawes. "Dubbelskep" word uitdruklik verbied. Die moontlikheid van "dubbel skep" (die ongewenste en onetiese praktyk om tegelykertyd meer as een volle besoldiging of inkomste te ontvang vanaf etlike verskillende regerings- of openbare sektorbronne wat befonds word deur belastingbetalers) word uitdruklik verbied.

Klousule 13:

Klousule 13 magtig die Raad om komitees in te stel om die Raad by te staan.

Klousule 14:

Klousule 14 magtig die Raad om persone tot komitees van die Raad te koöpteer ten einde die Raad by te staan vir sodanige tydperk wat die Raad mag bepaal. Gekoöpteerde persone mag nie by 'n vergadering van 'n komitee van die Raad stem nie. Die klousule handel ook oor die vergoeding van uitgawes wat redelikerwys en werklik aangegaan is deur gekoöpteerde persone.

HOOFSTUK 4 (HOOF- FINANSIËLE BEAMPTE VAN KONINKLIKE HUISHOUDINGSTRUST, HOOF VAN SEKRETARIAAT VAN RAAD EN PERSONEEL VAN KONINKLIKE HUISHOUDINGSTRUST)

Klousule 15:

Klousule 15 maak voorsiening dat die Raad, in oorlegpleging met die Premier, 'n geskikte en behoorlik-gekwalifiseerde persoon as die Hoof- Finansiële Beampte van die Raad kan aanstel.

Die Hoof- Finansiële Beampte –

- (a) is regstreeks verantwoordelik en verantwoordbaar aan die Raad;
- (b) moet aan die Raad verslag lewer; en
- (c) moet, binne drie maande na aanstelling, 'n skriftelike prestasie-ooreenkoms met die Raad sluit.

Klousule 16:

Klousule 16 handel oor die Hoof van die Sekretariaat van die Raad en ander personeel van die Trust.

Hierdie klousule stel voor dat 'n drastiese nuwe koers, weg van die bepalings van die 2007 Wet, ingeslaan word. In stede van 'n Hoof- Uitvoerende Beampte, word voorgestel dat die Direkteur-generaal 'n senior bestuurder in diens van die Provinsiale Regering, ingevolge die Staatsdienswet, 1994, aanwys as die Hoof van die Sekretariaat van die Raad ten einde administratiewe, tegniese en professionele sekretariële en ander ondersteuningsdienste aan die Raad te verleen.

In plaas daarvan dat die Raad gemagtig word om sy eie personeel aan te stel, soos daarvoor voorsiening gemaak is in die 2007 Wet, stel die Wet nou voor dat die Direkteur-generaal ook ander persone in diens van die Provinsiale Regering ingevolge die Staatsdienswet, 1994, moet aanwys om die Raad in sy administratiewe, tegniese en sekretariële werk by te staan.

Die implikasie hiervan is dat kostes verder in bedwang gehou sal word deurdat dit nie vir die Trust nodig sal wees om sy eie personeel in diens te neem en bestuur nie (met uitsondering van die Hoof- Finansiële Beampte vermeld in klousule 15). Prakties gesproke sal staatsamptenare verbonde aan die Hoof-direktoraat: Koningsondersteuning en Koninklike Huishouding, by die goedgekeurde instelling van die Kantoor van die Premier, aangewys word om die Raad en die Trust by te staan. Die personeel wat deur die Kantoor van die Premier opgeneem word by oordrag van die afgeskafte Departement van die Koninklike Huishouding sal ook aangewend word om die Raad en die Trust by te staan. Hierdie aangewese personele sal rapporteer aan, en bestuur word deur, die Hoof-direkteur/

Algemene Bestuurder: Koningsondersteuning en Koninklike Huishouding, wat as die Hoof van Sekretariaat van die Raad van die Koninklike Huishoudingtrust aangewys sal word.

Dit sal noue bande en 'n praktiese werksverhouding tussen die Raad van die Trust en die Kantoor van die Premier in die Provinsiale Regering daarstel.

Voorsiening word ook gemaak vir die Raad en die Trust vir die benutting van dienste van persone wat afgestaan of oorgeplaas is, in ooreenkoms met die bepalinge van die Staatsdienswet, 1994.

HOOFSTUK 5 (BEFONDSING EN BESTUUR VAN KONINKLIKE HUISHOUDINGSTRUST)

Klousule 17:

Klousule 17 maak voorsiening vir die fondse van die Trust. Afgesien van openbare befondsing (gelde bewillig deur die Provinsiale Wetgewer), bestaan die fondse van die Trust uit skenkings of bydraes, rente op beleggings en ander inkomste wat wettiglik vanaf fondsinsameling of handeldryf of sakeondernemings afkomstig is.

Hierdie klousule moet gelees word met klousule 3 wat uitdruklik verklaar dat die Trust ontvangste, inkomste, sake en welwillendheid kan genereer en bates verkry. Daar word gehoop dat die Trust, met 'n benadering van meer direkte en aktiewe betrokkenheid deur die Provinsiale Regering in die sake van die Trust, beter geplaas sal wees ten einde die, tot dusver, onbenutte potensiaal om aanvullende inkomste te genereer tot voordeel van die Koninklike Huishouding te ontgin, bykomend tot fondse bewillig deur die Provinsiale Wetgewer.

Klousule 18:

Klousule 18 handel breedvoerig oor die finansiële administrasie en bestuur van die Trust.

Klousule 19:

Klousule 19 reguleer die oudit en jaarverslag van die Trust.

HOOFSTUK 6 (ALGEMENE BEPALINGS)

Klousule 20:

Klousule 20 bepaal dat die Trust onroerende eiendom kan verhuur, verkry, besit of daarvoor beskik.

Klousule 21:

Klousule 21 maak voorsiening dat die Trust 'n staatsorgaan is en, vir die doel van regsgedinge teen die Trust, is die Wet op die Instel van Regstappe teen Sekere Staatsinstellings, 2002 (Wet No. 40 van 2002), van toepassing.

Klousule 22:

Klousule 22 handel oor die beperking van aanspreeklikheid van 'n Raadslid, die Hoof-Finansiële Beampte, die Hoof van Sekretariaat van die Raad of 'n personeellid van die trust vir enigiets wat ingevolge die Wet te goeder trou gedoen is.

Klousule 23:

Klousule 23 bepaal dat die Trust 'n amptelike webwerf moet daarstel en dat die Hoof van Sekretariaat van die Raad die webwerf in stand moet hou en gereeld moet opdateer.

Klousule 24:

Klousule 24 handel oor die sekuriteit van vertroulike inligting gehou deur die Trust.

Klousule 25:

Klousule 25 maak voorsiening dat die Trust alleenlik deur 'n Wet van die Provinsiale Wetgewer ontbind kan word.

Klousule 26:

Klousule 26 verbied die ongemagtigde gebruik van die naam van die Trust en dat dit beskou word as 'n misdryf.

Klousule 27:

Klousule 27 magtig die Raad om sekere delegerings aan die Hoof- Finansiële Beampte van die Trust, die Hoof van Sekretariaat van die Raad of 'n personeellid van die Trust te maak.

Klousule 28:

Klousule 28 skep sekere algemene misdrywe.

Klousule 29:

Klousule 29 maak voorsiening vir strawwe vir die misdrywe wat geskep is.

Klousule 30:

Klousule 30 magtig –

- (a) die Premier, na oorlegpleging met die Raad, om regulasies ten opsigte van administratiewe en prosedurele aangeleenthede te maak; en
- (b) die Lid van die Uitvoerende Raad verantwoordelik vir Finansies, na oorlegpleging met die Premier en die Raad, om regulasies te maak betreffende –
- (i) die finansiële administrasie, bestuur en beheer van;
 - (ii) die verhuring, verkryging, besit of beskikking van onroerende eiendom deur;
 - (iii) strydige belange van, en die ontvangs van geskenke deur, 'n lid van die Raad, die Hoof- Finansiële Beampte van die Trust, die Hoof van Sekretariaat van die Raad of 'n personeellid van; en
 - (iv) die handeldryf, sake- of landbou-ondernemings van,
- die Trust.

Klousule 31:

Klousule 31 handel breedvoerig oor oorgangsreëlings.

Die Trust is die regsopvolger in titel tot die Koninklike Huishoudingtrust wat ingevolge die 2007 Wet ingestel is.

Die Raadslede en die Voorsitter, soos aangestel deur die Premier ingevolge die 2007 Wet, gaan voort as Raadslede en Voorsitter en word beskou as aangestel ingevolge artikel 6 van die Wetsontwerp wanneer verorden as die nuwe Wet.

Aangesien 'n Hoof- Uitvoerende Beampte nie 'n vereiste sal wees ingevolge die Wetsontwerp wanneer verorden nie, stel die Wetsontwerp voor dat die aanstelling van hierdie persoon, in ooreenstemming met toepaslike indiensnemings- en arbeidswetgewing op die inwerkingtreddingsdatum van die nuwe Wet, beëindig word.

Die Hoof- Finansiële Beampte, wat aangestel is ingevolge die 2007 Wet, gaan voort as die Hoof- Finansiële Beampte en word, ingevolge artikel 15(1) van die Wetsontwerp, wanneer verorden as die nuwe Wet, beskou as aangestel.

Klousule 31 moet ook gelees word met die Bylaag tot die Wetsontwerp. Die Bylaag bevat 'n bepaling ten opsigte van die toewysing, oordrag en toebedeling van die bevoegdhede, werksaamhede, bates, laste, regte, pligte, verpligtinge en werknemers van die afgeskafte Departement van die Koninklike Huishouding met inwerkingtreding vanaf 12 Desember 2014 (die publiseringsdatum van die Proklamasie deur die President wat Bylaag 2 tot die Staatsdienswet, 1994, wysig deur die KwaZulu-Natal Departement van die Koninklike

Huishouding te verwyder van die lys van KwaZulu-Natal Departemente wat in Bylaag 2 verskyn, en wat daarmee die KwaZulu-Natal Departement van die Koninklike Huishouding (Proklamasie No. 83 van 2014): *Wysiging van Bylaag 2 tot die Staatsdienswet, 1994: KwaZulu-Natal*, soos gepubliseer in *Staatskoerant* No. 38290 van 12 Desember 2014), effektiewelik afskaf).

HOOFSTUK 7 (HERROEPING VAN WET EN KORT TITEL)

Klousule 32:

Klousule 32 herroep die 2007 Wet.

Vanweë die omvattende en fundamentele voorgestelde wysigings tot die 2007 Wet is dit wenslik geag om die 2007 Wet te herroep en te vervang met hierdie Wetsontwerp wat die nuwe Wet, wanneer verorden, sal word.

Klousule 33:

Klousule 33 bevat die kort titel.

BYLAE (Bepaling ten opsigte van die toekenning, oordrag en toewysing van die bevoegdhede, werksaamhede, bates, laste, regte, pligte, verpligtinge en werknemers van die afgeskafte Departement van die Koninklike Huishouding (artikel 31(4)).

Soos hierbo vermeld handel die Bylae breedvoerig oor die toekenning, oordrag en toewysing van die bevoegdhede, werksaamhede, bates, laste, regte, pligte, verpligtinge en werknemers van die afgeskafte Departement van die Koninklike Huishouding.

AANHANGSEL (Lys van werknemers afgestaan aan die Koninklike Huishoudingstrust (item 8 van Bylae)).

Die Aanhangsel tot die Bylae bevat 'n werknemerslys van die ontbinde Departement van die Koninklike Huishouding opgeneem in, en *oorgeplaas* na, die Kantoor van die Premier en *afgestaan* aan die Trust.

Alle personeel wat opgeneem is in die Kantoor van die Premier by oorpasing vanaf die afgeskafte Departement van die Koninklike Huishouding, ingesluit personeel aldus oorgeplaas na die Kantoor van die Premier en gevolglik afgestaan aan die Trust (soos gelys

in die Aanhangsel), sal rapporteer aan, en bestuur word deur, die Hoof-direkteur/ Algemene Bestuurder: Koningsondersteuning en Koninklike Huishouding in die Kantoor van die Premier, wat aangewys sal word as die Hoof van Sekretariaat van die Raad van die Koninklike Huishoudingtrust.

4. ORGANISATORIESE- EN PERSONEELIMPLIKASIES VIR PROVINSIALE REGERING

Geen buitensporige organisatoriese- en personeelimplikasies word in die vooruitsig gestel nie.

5. FINANSIËLE IMPLIKASIES VIR PROVINSIALE REGERING

Geen buitensporige finansiële implikasies word in die vooruitsig gestel nie.

6. DEPARTEMENTE/ LIGGAME/ PERSONE GERAADPLEEG

Die Wetsontwerp is opgestel in oorlegpleging met –

- 6.1 die Kantoor van die Premier;
- 6.2 die Raad van Trustees van die KwaZulu-Natal Koninklike Huishoudingtrust; en
- 6.3 georganiseerde arbeid.

7. KONTAKPERSONE

Kantoor van die Premier

- | | |
|-----------|--|
| 7.1 Naam: | Mnr. Frikkie Brooks |
| Posisie: | SHB: Makrobeleid en Strategiese Beplanning |
| Telefoon: | (031) 327 9360 |
| Faks: | (031) 301 0334 |
| Selfoon: | 082 808 8020 |
| epos: | frikkie.brooks@kznpremier.gov.za |
| 7.2 Naam: | Adv. Jacques Wolmarans |
| Posisie: | Hoofstaatsregsadviseur |
| Telefoon: | (033) 341 3375 |
| Faks: | (033) 394 4153 |
| Selfoon: | 082 903 8251 |
| epos: | jacques.wolmarans@kznpremier.gov.za |

7.3 Naam: **Mnr. Mark Serfontein**
Posisie: Staatsregsadviseur
Telefoon: (033) 341 3388
Faks: (033) 394 4153
Selfoon: 082 977 6915
epos: mark.serfontein@kznpremier.gov.za

No. 21

15 kuNhlaba 2015

UMTHETHOSIVIVINYO WETHRASTI YASENDLUNKULU WAKWAZULU-NATALI, 2015

Isaziso ngokuhambisana noMthetho 194 weMithetho Emileyo yeSishayamthetho saKwaZulu-Natali

Ngalokhu kunikezwa isaziso ngokuhambisana noMthetho 194 weMithetho Emileyo yeSishayamthetho sesiFundazwe maqondana nokuthi Umthethosivivinyo Wethrasti Yasendlunkulu WaKwaZulu-Natali, 2015, 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@kznleg.gov.za

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

N NAIDOO
UNobhala weSishayamthetho saKwaZulu-Natali

UMTHETHOSIVIVINYO
WETHRASTI YASENDLUNKULU WAKWAZULU-NATALI, 2015

UMTHETHOSIVIVINYO

Wokusungula iThrasti yaseNdlunkulu esemthethweni esiFundazweni saKwaZulu-Natali; wokunquma izinhloso nemisebenzi yeThrasti yaseNdlunkulu; wokunquma indlela iThrasti yaseNdlunkulu okumele iphathwe ngayo, yenganyelwe ngayo, ihlinzekwe ngayo ngabasebenzi nokumele ihlinzekwe ngayo ngezimali; wokunquma ukwabiwa, ukudluliselwa kanye nokuhlukaniswa kwamandla, kwemisebenzi, kwempahla, kwezikweletu, kwamalungelo, kwamajoka, kwezibopho kanye nabasebenzi boMnyango waseNdlunkulu osuhlakaziwe; wokuhlinzekela ukuchithwa koMthetho weThrasti yaseNdlunkulu, 2007; wokuhlinzekela izinhlinzeko zesikhashana; nokuhlinzekela okunye okuphathelene nalokho.

MAWUMISWE isiShayamthetho sesiFundazwe saKwaZulu-Natali, kanje:-

UKUHLELWA KWEZIGABA

Isigaba

ISAHLUKO 1**IZINCAZELO**

1. Izincazelo

ISAHLUKO 2**ITHRASTI YASENDLUNKULU**

2. Ukusungulwa kweThrasti yaseNdlunkulu
3. Izinhloso zeThrasti
4. Umndeni weSilo
5. Amajoka, amandla nemisebenzi yeThrasti

ISAHLUKO 3**IBHODI YABAPHATHI BETHRASTI YASENDLUNKULU**

6. Ukubunjwa kweBhodi yabaPhathi beThrasti
7. Isikhathi sokusebenza nokuqokwa kwamalungu eBhodi
8. Izikhala, ukuxoshwa nokusula emsebenzini kwamalungu eBhodi
9. Ukumiswa okwesikhashana kwelungu leBhodi
10. Imihlangano nezindaba ezisezithebeni zeBhodi
11. Ukuhoxiswa kwelungu leBhodi emihlanganweni nasezindabeni ezisezithebeni zeBhodi
12. Amaholo amalungu eBhodi

13. Ukusungulwa kwamakomidi eBhodi
14. Ukusiswa kwabasebenzi

ISAHLUKO 4

ISIKHULU ESIPHEZULU ESIBHEKELE EZEZIMALI KWITHRASTI YASENDLUNKULU, INHLOKO YOPHIKO LUKANOBHALA WEBHODI KANYE NABASEBENZI BETHRASTI YASENDLUNKULU

15. IsiKhulu esiPhezulu esibhekele ezeziMali kwiThrasti
16. INhloko yoPhiko lukaNobhala weBhodi nabasebenzi beThrasti

ISAHLUKO 5

UKUHLINZEKWA NGEZIMALI NOKUPHATHWA KWETHRASTI YASENDLUNKULU

17. Izimali zeThrasti
18. Ukuphathwa kwezimali nokuphathwa kweThrasti
19. Ukucwaningwa kwamabhuku kanye nombiko wonyaka weThrasti

ISAHLUKO 6

IZINHLINZEKO EZIJWAYELEKILE

20. Ukuthengwa nokuchithwa kwempahla engenakususwa iThrasti
21. Izinyathelo zomthetho ezithathelwa iThrasti
22. Okungeke umuntu ahlawuliselwa kona
23. IThrasti kumele isungule isizindalwazi
24. Ukuvikelwa kolwazi oluyimfihlo olugcinwe iThrasti
25. Ukuhlakazwa kweThrasti
26. Ukusetshenziswa kwegama leThrasti
27. Ukudluliselwa kwamandla iBhodi
28. Amacala ajwayelekile
29. Izinhlawulo
30. Imithethonqubo
31. Izinhlinzeko zesikhashana

ISAHLUKO 7

UKUCHITHWA KWEMITHETHO NESIHLOKO ESIFINGQIWE

32. Ukuchithwa komthetho
33. Isihloko esifingqiwe

UHLELO

Isinqumo mayelana nokwabiwa, nokudluliselwa nokuhlukaniswa kwamandla, kwemisebenzi, kwempahla kwezikweletu, kwamalungelo, kwamajoka, kwezibopho kanye nabasebenzi boMnyango waseNdlunkulu osuhlakaziwe ((*Isigaba 31(4)*)

ISITHASISELO

Uhlu lwabasebenzi abasiselwe kwiThrasti yaseNdlunkulu (uhlamvu 8 loHlelo)

ISAHLUKO 1
IZINCAZELO

IZINCAZELO

1. Kulo Mthetho, ngaphandle uma ingqikithi isho okwehlukile –

“iBhodi” kushiwo iBhodi yabaPhathi beThrasti yaseNdlunkulu okukhulunywe ngayo esigabeni 6(1);

“isiKhulu esiPhezulu esibhekele ezeziMali” kushiwo isiKhulu esiPhezulu esibhekele ezeziMali okukhulunywe ngaso esigabeni 15(1);

“uMthethosisekelo” kushiwo uMthethosisekelo ka 1996;

“uMkhandlu oPhethe” kushiwo uMkhandlu ophethe esiFundazweni saKwaZulu-Natali;

“unyaka wezimali” kushiwo isikhathi esiqala mhla lu-1 kuMbaso kuya kumhla zingama-31 kuNdasa wonyaka olandelayo;

“iGazethi” kushiwo iGazethi yesiFundazwe saKwaZulu-Natali;

“iNhloko yoPhiko lukaNobhala” kushiwo iNhloko yoPhiko lukaNobhala weBhodi okukhulunywe ngayo esigabeni 16(1);

“iNgonyama” kushiwo iSilo sesiFundazwe saKwaZulu-Natali;

“iLungu loMkhandlu oPhethe elibhekele ezeziMali” kushiwo iLungu loMkhandlu oPhethe elibhekele ezeziMali esiFundazweni saKwaZulu-Natali;

“iSilo” kushiwo iSilo sesiFundazwe saKwaZulu-Natali, –

(a) okungosesikhundleni sokuba iNkosi yesiZwe samaZulu, iNkosi yamaZulu, Ingonyama noma iSilo, ngesikhathi kuqaliswa lo Mthetho;

(b) iSilo sesiFundazwe saKwaZulu-Natali njengoba singachazwa kuMthethosisekelo waKwaZulu-Natali noma komunye umthetho wesifundazwe;

“iHhovisi loMgcinimafa likaZwelonke” kushiwo iHhovisi loMgcinimafa likaZwelonke elisungulwe ngokwesigaba 5 soMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No.1 ka 1999);

“uNdunankulu” kushiwo uNdunankulu wesiFundazwe saKwaZulu-Natali njengoba kuhlangozwe esigabeni 125 soMthethosisekelo;

“okunqunyiwe” kushiwo okunqunyiwe ngokwalo Mthetho kanti “ukunquma” kunencazelo efanayo;

“uHulumeni wesiFundazwe” kushiwo uHulumeni wesiFundazwe saKwaZulu-Natali;

“isiShayamthetho sesiFundazwe” kushiwo isiShayamthetho sesiFundazwe saKwaZulu-Natali;

“imithethonqubo” kushiwo imithethonqubo eyenziwe ngokwesigaba 30;

“iNdlunkulu” kushiwo uMndeni weSilo, isikhungo somdabu soMndeni waseNdlunkulu weSilo ngokomthetho wesintu wesiZulu nangokwamasiko;

“abasebenzi”, mayelana “neBhodi” kanye “neThrasti”, kubandakanya abantu abaqokwe, abasiswe noma abadluliselwe ngokwesigaba 16(1)(b) no (2);

“lo Mthetho” kubandakanya imithethonqubo kanye noHlelo;

“iThrasti” kushiwo iThrasti yaseNdlunkulu esungulwe isigaba 2(1);

“uMndeni weSilo” kushiwo oNdlunkulu kanye nezihlobo zegazi zeSilo njengoba kuqukethwe ohlwini oluhlongozwe esigabeni 4.

ISAHLUKO 2

UKUSUNGULWA KWETHRASTI YASENDLUNKULU

Ukusungulwa kweThrasti yaseNdlunkulu

2.(1) Ngalokhu kusungulwa umuntu ngokomthetho ozobizwa ngeThrasti yaseNdlunkulu (ngemuva kwalokhu ozobizwa “ngeThrasti”).

(2) IThrasti izothatha ngokusemthethweni isikhundla seThrasti yaseNdlunkulu eyasungulwa ngokwesigaba 2(1) soMthetho osuchithiwe uMthetho weThrasti yaseNdlunkulu, 2007 (uMthetho No. 2 ka 2007).

(3)(a) IThrasti iwuhlaka lukahulumeni wesifundazwe.

(b) UMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999), uyasebenza kwiThrasti kuphela maqondana nezimali ezabiwe isiShayamthetho sesiFundazwe njengoba kuhlangozwe esigabeni 17(1)(a), kuncike ekutheni iThrasti ingakhululwa kunoma iziphi izinhlinzeko zalowo Mthetho njengoba kuhlangozwe 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 kuhlangozwe esigabeni 92 salowo Mthetho.

(d) IBhodi yabaPhathi beThrasti iyona enesibopho sokubika ngeThrasti.

(4) UMthetho wokuLawulwa kweMpahla yeThrasti, 1988 (uMthetho No. 57 ka 1988), awusebenzi kwiThrasti kanti ilungu leBhodi yabaPhathi okukhulunye ngayo esigabeni 6(1) likhululiwe ekuletheni noma iluphi uhlobo lwesibambiso.

Izinhloso zeThrasti

3.(1) IThrasti kumele, ngendlela ehambisana nezinhlinzeko zalo Mthetho nangezimali ezikhona kwisabelomali nezinsiza –

(a) iphathwe ngendlela ezohlomulisa iSilo kanye neNdlunkulu, kubandakanya

–

(i) izidingo zabo zenhlalakahle;

(ii) izidingo zemfundo;

(iii) izifiso zabo; kanye

(iv) nendlela abaphila ngayo,

okufanele isikhundla sabo; futhi

(b) iphathwe ngendlela yokuthi ihlinzekela ukugcinwa nokunakekelwa kwempahla yeThrasti kubandakanya izigodlo zaseNdlunkulu kanye namapulazi.

(2) IThrasti, nganoma iyiphi indlela esemthethweni –

(a) ingangenisa –

(i) imali;

- (ii) imivuzo;
 - (iii) ibhizinisi; kanye
 - (iv) nempahla; futhi
- (b) ingathenga impahla,
konke lokhu ikwenzela iThrasti.

Umndeni weSilo

4.(1) Ngokwezinhloso zesigaba 3, uMndeni weSilo ubandakanya oNdlunkulu kanye nezihlobo zegazi zeSilo amagama azo abalulwe ohlwini iSilo samaBandla esiluhlinzeka uNdunankulu njalo ngemuva kwesikhathi esithile.

(2) UNdunakulu –

- (a) ngemuva kokubonisana neSilo, angahoxisa, angashintsha noma angachibiyela uhlu okukhulunywe ngalo kwisigatshana (1); futhi
- (b) kumele agcine irekhodi, eHhovisi likaNdunankulu, elisayiniwe elinamakhophi okuyiwonawona alezo zinhlu ezihlinzekwe zasayinwa iSilo.

Amajoka, amandla kanye nemisebenzi yeThrasti

5. IThrasti –

- (a) kumele yenze imisebenzi ibuye ifeze amajoka abekwe yilo Mthetho;
- (b) ingasebenzisa noma imaphi amandla –
 - (i) ewanikezwe inoma iyiphi inhlinzeko yalo Mthetho nanoma imuphi omunye umthetho; noma
 - (ii) adluliselwe noma anikezwe iThrasti uNdunankulu;
- (c) ekusebenziseni amandla ayo noma ekufezeni amajoka ayo noma ekwenzeni imisebenzi yayo ngokuhambisana nalo Mthetho, emiklameni ethile, ingangena ezivumelwaneni zokusebenzisana nabantu abanolwazi lwezobuchwepheshe noma olukhethekile kunoma iluphi udaba oluqondene neThrasti futhi kumele inqume amaholo, kubandakanya nokukhokhelwa imali yokuhamba ngomsebenzi, izindleko zokulala ngaphandle kanye nezinye izindleko zalabo bantu;
- (d) ngaphambi kokuthola imvume ebhaliwe –
 - (i) yeLungu loMkhandlu oPhethe elibhekele ezeziMali; kanye
 - (ii) noMcwaningimabhuku Jikelele,futhi, kuncike kunoma ikuphi ukukhululwa kweThrasti kunoma iyiphi inhlinzeko yoMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999),

njengoba kuhlangezwe esigabeni 92 salowo Mthetho noma imuphi umgomo, umbandela, umhlahlandlela, umyalelo noma umthethonqubo njengoba unganqunywa, ungabekwa, ungakhishwa noma ungenziwa abantu okukhulunywe ngabo ezindimeni (i) no (ii) ngenhla futhi, kuncike kunoma imuphi omunye umthetho

- (aa) ingaboleka, ithole noma itshale izimali;
- (bb) ingasungula, ingathenga noma ibe namasheya kunoma iyiphi inkampani njengoba kuchazwe eMthethweni weziNkampani, 2008 (uMthetho No. 71 ka 2008); noma
- (cc) izibandakanye kwezohwebo, ebhizinisini, kwezolimo ngenhloso yokuzuza imali, ibhizinisi noma yokuthuthukisa iThrasti; futhi
- (e) ngokujwayelekile ingenza konke okudingekile noma okufanele ukufeza izinhloso ezibalulwe esigabeni 3 kanye nokufeza amajoka nemisebenzi ebalulwe ezindimeni (a) kuya ku (d).

ISAHLUKO 3

IBHODI YABAPHATHI BETHRASTI YASENDLUNKULU

Ukubunjwa kweBhodi yabaPhathi beThrasti

6.(1)(a) IThrasti isebenza ngeBhodi yabaPhathi (ngemuva kwalokhu ezobizwa "ngeBhodi") enamalungu amahlanu, kodwa angeqile kwayisikhombisa, aqokwe uNdunankulu ngemuva kokubonisana neSilo.

(b) Elilodwa lamalungu eBhodi kumele liqokwe uNdunankulu njengoSihlalo weBhodi.

(c) Amalungu eBhodi kumele abe ngafanelekile ukusebenzela iThrasti, ewonke kumele abe nolwazi, isipiliyoni kanye namakhono adingekayo: Kuncike ekutheni okungenani amabili awo kumele abe nolwazi olunzulu noma nesipiliyoni sokuphathwa kwezimali.

(d) UNdunankulu kumele, ezinyangeni ezimbili ngemuva kokuqokwa kwamalungu eBhodi, azise uMkhandlu oPhethe kanye neKomidi lemiSebenzi elifanele amagama amalungu eBhodi kubandakanya nesikhathi aqokelwe sona.

(2) USihlalo weBhodi kumele –

(a) aqinisekise ukuxhumana phakathi kukaNdunankulu neSilo samaBandla; futhi

(b) abike kuNdunankulu njalo ngemuva kwezinyanga ezintathu (ngekota) mayelana nemisebenzi yeBhodi kanye neThrasti nezindaba azibona zisemqoka.

(3) Emhlanganweni wokuqala weBhodi okukhulunywe ngawo esigabeni 10(1), amalungu eBhodi kumele aqoke iSekela likaSihlalo phakathi kwamalungu eBhodi.

(4)(a) Noma isiphi isikhala seBhodi phakathi kwamalungu kumele sigcwaliswe ngendlela efanayo naleyo ilungu elishiya isikhundla elaqokwa ngayo.

(b) Uma kuvela isikhala sesikhundla seSekela likaSihlalo weBhodi, iSekela likaSihlalo kumele liqokwe ngokuhambisana nesigatshana (3).

(5) Akukho kushoda esibalweni samalungu eBhodi okuthikameza noma okukhubaza ubukhona beThrasti njengesikhungo nanoma imaphi amalungelo, amajoka noma amandla anikezelwe noma abekwe yilo Mthetho kwiThrasti noma kwiBhodi.

Isikhathi sokuqokelwa esikhundleni kanye nokuqokwa kabusha kwamalungu eBhodi

7. Amalungu eBhodi aqokelwa iminyaka emihlanu noma lesi sikhathi esincane uNdunankulu angasinquma futhi angaphinde aqokwe kabusha uma sekuphele lesi sikhathi: Kuncike ekutheni alikho ilungu elingaphinde liqokwe ngemuva kokusebenza kwiBhodi iminyaka eyishumi elandelanayo.

Izikhala, ukuxoshwa nokusula esikhundleni kwamalungu eBhodi

8.(1) UNdunankulu ngemuva kokuthi esenike ilungu leBhodi ithuba lokubeka uhlangothi lwalo lodaba, noma ingasiphi isikhathi angamisa lelo lungu emsebenzini uma, ngokubona kukaNdunankulu, kunezizathu ezizwakalayo neziphathekayo zokwenze njalo.

(2) Ilungu leBhodi lingasula esikhundleni ngokunikeza uNdunankulu isaziso esingekho ngaphansi kwezinsuku ezingama-30: Kuncike ekutheni uNdunankulu angasichitha lesi sazi soku sula.

(3) Ilungu leBhodi kumele lishiye isikhundla uma –

(a) lilahlwe icala eliphathelene nokungathembeki;

(b) licwile ezikweletini ngokungenakuhlengeka;

(c) liphuthe emihlanganweni yeBhodi emibili noma ngaphezulu onyakeni wezimali owodwa ngaphandle kwemvume kaSihlalo.

(4) Noma inini uma kuvela isikhala kwiBhodi, uNdunankulu, kumele, kuncike esigabeni 6(4)(a), aqoke umuntu ozogcwalisa lesi sikhala isikhathi esisele sokuqokwa kwelungu leBhodi salowo muntu elingena esikhundleni sakhe.

Ukumiswa okwesikhashana kwelungu leBhodi

9. UNdunankulu angamisa ilungu leBhodi ngesikhathi esaphenya ngezinsolo, okuyothi uma kutholakala ukuthi ziyiqiniso, kuholele ekutheni ukuqokwa kwelungu kumiswe ngokwesigaba 8(1) noma (3).

Imihlangano kanye nezindaba ezisezithebeni zeBhodi

10.(1) Umhlangano wokuqala weBhodi kumele ubanjwe endaweni, ngosuku nangesikhathi esinqunywe uNdunankulu, kuthi ngemuva kwalokho yonke imihlangano kumele inqunywe uSihlalo: Kuncike ekutheni iBhodi kumele ihlangane okungenani izikhawu ezinhlanu ngonyaka.

(2) Isibalo samalungu adingekayo ukuze kubanjwe umhlangano weBhodi iningi lamalungu eBhodi.

(3) Izindaba ezisezithebeni zeBhodi kumele, kuncike kwizinhlinzeko zalesi sigaba, zinqunywe uSihlalo kubandakanya ilungelo lokunquma ukuthi nanoma iluphi udaba olusezithebeni lungahoxiswa ngaphambi kokuthi luvotelwe.

(4) USihlalo kumele engamele yonke imihlangano yeBhodi: Kuncike ekutheni uma engekho iSekela likaSihlalo kumele lengamele umhlangano, kanti uma bobabili uSihlalo neSekela likaSihlalo bengekho emhlanganweni weBhodi, amalungu eBhodi akhona angaqoka, omunye wawo, ukuba abambe njengoSihlalo kulowo mhlango.

(5) Isinqumo seBhodi kumele sithathwe ngeningi lamavoti amalungu eBhodi akhona emhlanganweni futhi, uma kube nokulingana kwamavoti kunoma iluphi udaba, uSihlalo unevoti eliwujuqu ngaphezu kwevoti lakhe elijwayelekile.

(6) IBhodi kumele igcine amaminithi emihlangano yayo futhi iqophe izinqumo nezisombululo zayo ngokubhalwe phansi.

(7) Asikho isinqumo seBhodi esingasebenzi ngenxa yokuba khona kwesikhala kwiBhodi: Kuncike ekutheni isinqumo sithathwe iningi elidingekayo lamalungu eBhodi abekhona futhi angunya lokuhlala njengamalungu eBhodi.

(8) USihlalo, noma iningi lamalungu eBhodi, angabiza umhlangano weBhodi oyisipesheli lapho kungasebenza khona izinhlinzeko zalesi sigaba ngezinguquko ezidingekayo.

(9) Labantu ababalulwe ngezansi, –

(a) uMqondisi Jikelele wesiFundazwe angawethamela umhlangano futhi abambe iqhaza;

(b) isiKhulu esiPhezulu esibhekele ezeziMali singawethamela umhlangano futhi sibambe iqhaza; kanye

(c) neNhloko yoPhiko lukaNobhala ingabamba iqhaza,

kodwa angeke bavota, emhlanganweni weBhodi.

Ukuhoxa kwelungu emihlanganweni nasezindabeni ezisezithebeni zeBhodi

11.(1) Ilungu leBhodi kumele lizihoxise odabeni oluphenywa, olucutshungulwa noma oluvotelwa iBhodi uma kwenzeka okukodwa noma ngaphezulu kwalokhu –

(a) uma lihlomula ngqo noma ngandlela thile ngokwezezimali noma lithinteka ngandlela thile kulolo daba;

(b) kungenzeka ukuthi lihlomule ngqo noma ngandlela thile ngokwezezimali noma lithinteka ngandlela thile kulolo daba.

(2) Uma kunoma isiphi isigaba ngesikhathi kudingidwa udaba olusezithebeni zeBhodi kubonakala ukuthi ilungu leBhodi elikhona kulowo mhlangothi liyathinteka noma lingase lithinteke njengoba kuhlangozwe esigatshaneni (1), lelo lungu kumele lidalule indlela elithinteka ngayo bese liphuma emhlanganweni.

(3) Noma ikuphi ukudalula okwenziwe ngokwesigatshana (2) kumele kuqoshwe kumaminithi alowo mhlangothi.

(4) Uma ngemuva kwalokho kuvela ukuthi iBhodi ithathe isinqumo odabeni ilungu leBhodi elihluleke kulo ukudalula ukuthinteka okuhlangozwe esigatshaneni (1), lesi sinqumo seBhodi angeke sisebenze.

(5) Ngokwezinhloso zalesi sigaba “**ukuhlomula ngokwezezimali noma ngenye indlela**” kwelungu kubandakanya, kodwa akugcini nje, ngokuhlomula –

(a) komlingani walo ebhizinisini, kwelisebenzisana naye, komqashi walo, ngaphandle koMbuso;

(b) kwelishade naye, kwelishade naye ngokwesintu, noma kwelihlalisana naye sabantu abashadile; noma

(c) kwengane yalo, komzali walo noma kwelizalwa naye.

Umholo wamalungu eBhodi

12.(1)(a) Kuncike kwizinhlinzeko zezigatshana (1)(b) no (2)(a), ilungu leBhodi lingakhokhelwa lowo mholo kanye nalezo zibonelelo njengoba zinganqunywa uNdunankulu ngokubonisana neLungu loMkhandlu oPhethe elibhekele ezeziMali.

(b) Ilungu leBhodi elithola umholo, izibonelelo kanye neminye imihlomulo ngokwesikhundla salo –

- (i) kuhulumeni kazwelonke;
- (ii) kuhulumeni wesifundazwe;
- (iii) kumasipala;
- (iv) enkampanini, emgwamandeni noma esikhungweni esilawulwa uhulumeni wesifundazwe noma kazwelonke; noma
- (v) ohlakeni lukahulumeni, ebhizinisini likahulumeni kazwelonke noma likahulumeni wesifundazwe njengoba kuchazwe esigabeni 1 soMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999),

futhi oqhubekayo nokuthola lowo mholo, lezo zibonelelo kanye neminye imihlomulo ngesikhathi esebenza njengelungu leBhodi, lingathola umholo kanye nezibonelelo okukhulunywe ngazo endimeni (a) ngendlela eyobeka lelo lungu esimweni sezimali ebelizoba kusona ukuba belingaqashiwe kuleso sikhundla.

(c) Amaholo kanye nezibonelelo ezahlukeni kunganqunyelwa la mazinga amalungu eBhodi –

- (i) uSihlalo;
- (ii) iSekela likaSihlalo; kanye
- (iii) namanye amalungu eBhodi.

(2)(a) Ilungu leBhodi, mayelana nemisebenzi yalo njengelungu, lingakhokhelwa izimali zokuhamba ngomsebenzi nezokulala ngaphandle okudalwe ukwethamela imihlangano yeBhodi.

(b) ILungu loMkhandlu oPhethe elibhekele ezeziMali kumele linqume inqubo, kubandakanya izindlela zokulawula, zokuphatha, zokubhekana nezokukhokha izindleko zokulala ngaphandle nezokuhamba ngomsebenzi ezihlongozwe endimeni (a).

Ukusungulwa kwamakomidi azosiza iBhodi

13.(1) IBhodi ingasungula amakomidi anelungu layo elilodwa noma anamalungu ayo angephezu kwelilodwa –

- (a) ukusiza iBhodi ekusebenziseni amandla ayo, ekufezeni amajoka ayo, ekwenzeni imisebenzi yayo; noma
- (b) ukwenza uphenyo noma ucwaningo nganoma iluphi udaba olungena ngaphansi kwemisebenzi iBhodi ejutshelwe yona ngokwalo Mthetho.

(2) Uma isungula ikomidi elihlongozwe esigatshaneni (1), iBhodi kumele –

- (a) inqume amaphuzu okuzosetshenzelwa phezu kwawo, kubandakanya, kodwa kungagcini nje, ngokuthi ngabe lelo komidi angeke lisasebenza yini uma sekuphuthulwe umsebenzi noma imisebenzi ebeliyabelwe iBhodi;
- (b) iqoke uSihlalo walelo komidi okumele abe ilungu leBhodi; futhi
- (c) inqume ukuthi ngabe lelo komidi lingasiselwa yini abantu abangewona amalungu eBhodi futhi, uma kunjalo, ngaphansi kwamiphi imigomo nemibandela.

(3) IBhodi, noma inini, ingamisa ukusebenza kwekomidi nanoma imuphi umsebenzi ikomidi elijutshelwe wona, kungakhathaleki ukuthi noma ngabe lelo komidi beseliwuphuthulile yini umsebenzi noma imisebenzi ebeliyabelwe iBhodi.

Ukusiswa kwabantu emakomidini eBhodi

14.(1) IBhodi, uma ibona ukuthi ukuthi umuntu othile angakwazi ukuyisiza mayelana nanoma imaphi amandla, amajoka nanoma imiphi imisebenzi, ingalanda lowo ukuthi azosiza kwikomidi leBhodi leso sikhathi iBhodi engasinquma.

(2) Umuntu osisiwe ngokwesigatshana (1) akanalo ilungelo lokuvota.

(3)(a) Umuntu osisiwe ngokwesigatshana (1), mayelana nemisebenzi yakhe njengelungu lekomidi yeBhodi elisisiwe, angakhokhelwa izindleko zokulala ngaphandle nezokuhamba ngomsebenzi ezidalwe ukwethamela imihlangano yeBhodi.

(b) ILungu loMkhandlu oPhethe elibhekele ezeziMali kumele linqume izindlela, kubandakanya izindlela zokulawula, zokuphatha, zokubhekelela kanye nezokukhokha izindleko zokulala ngaphandle nezokuhamba ngomsebenzi ezihlongozwe endimeni (a).

IS AHLUKO 4

ISIKHULU ESIPHEZULU ESIBHEKELE EZEZIMALI KWITHRASTI YESENDLUNKULU, INHLOKO YOPHIKO LUKANOBHALA WEBHODI KANYE NABANYE ABASEBENZI BETHRASTI YASENDLUNKULU

IsiKhulu esiPhezulu seThrasti esibhekele ezeziMali

15.(1) IBhodi, ngokubonisana noNdunankulu, ingaqoka umuntu ofanekelile noqeqeshwe ngendlela efanele njengesikhulu esiPhezulu esizobhekela ezeziMali kwiThrasti.

(2) Isikhulu esiPhezulu esibhekele ezeziMali kwiThrasti –

- (a) siphethwe futhi sinesibopho sokubika kwiBhodi;
- (b) kumele sibike kwiBhodi;
- (c) kumele, ezinyangeni ezintathu siqokiwe, sisayine isivumelwano sokusebenza neBhodi.

(3) IBhodi, ngokubonisana noNdunankulu, ingamisa isikhulu esiPhezulu emsebenzini ngokulandela imithetho esebenzayo yokuqashwa neyezabasebenzi.

INhloko yoPhiko lukaNobhala kanye nabasebenzi beThrasti

16.(1) UMqondisi Jikelele wesiFundazwe kumele –

(a) aqoke umphathi omkhulu, oqashwe uhulumeni wesiFundazwe ngokoMthetho wabaSebenzi baHulumeni, 1994 (iSimemezelo No. 103 sika 1994), njengeNhloko yoPhiko lukaNobhala weBhodi ukuhlinzeka imisebenzi yasehhovisi, yezobuchwepheshe kanye neyobubhalane obuseqophelweni elidingekayo kanye neminye imisebenzi yokweseka iBhodi ekusebenziseni amandla ayo, ekufezeni amajoka ayo nasekwenzeni imisebenzi yayo; futhi

(b) aqoke abanye abantu, abaqashwe uHulumeni wesiFundazwe ngokoMthetho wabaSebenzi baHulumeni, 1994, njengoba kungaba nesidingo, ukusiza –

(i) iBhodi ngemisebenzi yasehhovisi, yezobuchwepheshe neyezobubhalane ehambisana nokusebenzisa amandla ayo, ukufeza amajoka ayo nokwenza imisebenzi yayo; kanye

(ii) neThrasti ukuze ifeze izinhloso zayo, isebenzise amandla ayo, ifeze amajoka ayo futhi yenze nemisebenzi yayo,

ngokwalo Mthetho.

(2) IBhodi neThrasti ingasebenzisa abantu abadluliselwe noma abasisiwe ngokuhambisana nezinhlinzeka zoMthetho wabaSebenzi baHulumeni, 1994.

(3) INhloko yoPhiko lukaNobhala –

- (a) iphethwe futhi inesibopho sokubika kuMqondisi Jikelele wesiFundazwe ngokusebenza nangokwenziwa uPhiko lukaNobhala weBhodi;
- (b) kumele ibike kuMqondisi Jikelele wesiFundazwe nakuSihlalo weBhodi ngemisebenzi yoPhiko lukaNobhala weBhodi kanye nabasebenzi beThrasti okukhulunywe ngabo ezigatshaneni (1)(b) no (2); futhi
- (c) kumele, ezinyangeni ezintathu iqokelwe kuleso sikhundla, isayine isivumelwano sokusebenza noMqondisi Jikelele wesiFundazwe.

(4) Abasebenzi beThrasti, abaqokwe ngokwesigatshana (1)(b) noma abasiswe noma abadluliselwe ngokwesigatshana (2), kumele babike futhi banesibopho sokubika kwiNhlolo yoPhiko lukaNobhala.

ISAHLUKO 5

UKUHLINZEKWA NGEZIMALI NOKUPHATHWA KWETHRASTI YASENDLUNKULU

Izimali zeThrasti

17.(1) Izimali zeThrasti zibandakanya –

- (a) imali eyabiwe isiShayamthetho sesiFundazwe;
- (b) iminikelo etholwe iThrasti ngokusemthethweni kunoma imuphi umthombo;
- (c) inzuzo yezimali ezitshaliwe zeThrasti; kanye
- (d) nemali engena ngokusemthethweni etholakala –
 - (i) ngokufuna uxhaso ngezindlela ezithile;
 - (ii) ngokuhweba noma ngamabhizinisi;
 - (iii) nakunoma imuphi omunye umthombo.

(2) IThrasti kumele isebenzise izimali zayo –

- (a) ukukhokha imiholo, izibonelelo nezindleko zokulala ngaphandle nezokuhamba ngomsebenzi kwamalungu eBhodi; kanye
- (b) nokukhokha izindleko eziphathelele –
 - (i) nemisebenzi yansuku zonke nokuphathwa kweThrasti;
 - (ii) nokufezwa kwamajoka nokwenziwa kwemisebenzi yeThrasti kanye nokusetshenziswa kwamandla ayo ngokwalo Mthetho.

(3)(a) IBhodi kumele, ngokuvumelana neLungu loMkhandlu oPhethe elibhekele ezeziMali, ivule i-akhawunti egameni leThrasti nesikhungo esibhaliswe njengebhangwe ngokoMthetho

wamaBhange, 1990 (uMthetho No. 94 ka 1990), futhi ngokushesha ifake kuyona yonke imali etholakale ngokwesigatshana (1).

(b) Zonke izimali eziphuma kwi-akhawunti yeThrasti kumele zikhishwe ngemvume yeBhodi noma yomuntu noma yabantu abaqokelwe lokho iBhodi ngokubhalwe phansi.

(c) Akukho mali eyophuma kwi-akhawunti yeThrasti ngaphandle kwezinhloso ezihlongozwe esigatshaneni (2) no (3).

Ukuphathwa kwezimali nokwenganyelwa kweThrasti

18.(1) Kuncike ezinhlinzekweni zalo Mthetho noMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999), iBhodi iwumgwamanda onesibopho sokubika kwiThrasti futhi inesibopho sokwengamela nokuphatha iThrasti futhi ikakhulu –

(a) zonke izindleko ezikhishwa ezimalini zeThrasti; kanye

(b) namarisidi azo zonke izikweletu zeThrasti okumele zikhokhwe noma zikhokhelwe iThrasti.

(2)(a) IBhodi kumele iqinisekise ukugcinwa kwamabhuku ezimali kanye namarekhodi ahlukene maqondana –

(i) nezimali ezabiwe isiShayamthetho sesiFundazwe ezihlongozwe esigabeni

17(1)(a); kanye

(ii) nezinye izimali zeThrasti ezihlongozwe esigabeni 17(1)(b) kuya ku (d).

(b) IBhodi kumele iqinisekise ukugcinwa kwamabhuku ezimali kanye nawo wonke amarekhodi adingekayo ngendlela efanele maqondana nezimali ezabiwe isiShayamthetho sesiFundazwe okukhulunywe ngazo endimeni (a)(i) okumele agcinwe ngokuhambisana noMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999), ngokuvamile okuthathwa njengendlela eyaziwayo neyamukelekile esetshenziselwa ukulawula amabhuku ezimali kanye neminye imigomo nezinqubo njengoba zinganqunywa iHhovisi loMgcinimafa likaZwelonke kanye noMcwaningimabhuku Jikelele.

(3) IBhodi kumele iqinisekise ukuthi izabelomali zonyaka, izinhlelo zokusebenza, imibiko yonyaka kanye nezitatimende zezimali ezicwaningiwe ziyalungiswa futhi ziyahanjiswa ngokuhambisana noMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999), kuncike kunoma ikuphi ukukhululwa kweThrasti kunoma iziphi izinhlinzeko zalowo Mthetho njengoba kuhlongozwe esigabeni 92 soMthetho wokuPhathwa kweziMali zikaHulumeni, 1999.

(4) IBhodi kumele, ezinyangeni ezintathu kuphele unyaka wezimali, ihambise eHhovisi loMgcinimafa lesiFundazwe ukuze kugunyazwe –

(a) uhlelo lokusebenza lweThrasti, oluqukethe izinhloso ezibekelwe isikhathi nokuthi zizofezwa kanjani nolunye ulwazi oluhlongozwe esigabeni 19(3)(b) no (c); kanye

(b) nesitatimende esikanekisiwe sezimali ezizongena nezizochithwa zeThrasti, maqondana neminyaka emithathu ezayo.

(5) Kunoma imuphi unyaka wezimali iBhodi ingaletha eHhovisi loMgcinimafa lesiFundazwe izitatimende ezilinganiselwe noma ezinezelayo zezimali ezizongena noma ezizochithwa zeThrasti zalowo nyaka ukuze zigunyazwe.

(6) IThrasti angeke izibophezele ngokwezezimali ngokungaphezu kwesabelomali sayo esigunyaziwe kanye nemali yayo eqongelelwe.

(7) IBhodi –

(a) ngemvume yeHhovisi loMgcinimafa lesiFundazwe, ingatshala ingxenye yezimali ezingasetshenziswanga zeThrasti kwi-*Corporation for Public Deposits* nakunoma isiphi esinye isikhungo esibalulwe iHhovisi loMgcinimafa likaZwelonke njengesikhungo sokulondoloza imali esiseZingeni "A" njalo ngemuva kwesikhathi esithile; noma

(b) ngemvume yeHhovisi loMgcinimafa lesiFundazwe, ingasebenzisa leyo ngxenye nganoma iyiphi enye indlela.

(8) IBhodi, ngemvume yeHhovisi loMgcinimafa lesiFundazwe, ingasungula isikhwama sokulondoloza imali seThrasti bese ifaka kuyona lezo zimali iHhovisi loMgcinimafa lesiFundazwe elingazigunyaza.

(9) Noma iyiphi imali engasetshenziswanga esele kwiThrasti ekupheleni konyaka wezimali idluliselwa njengemali iThrasti enayo ngonyaka olandelayo.

Ukucwaningwa kwamabhuku kanye nombiko wonyaka weThrasti

19.(1) UMcwaningimabhuku Jikelele kumele acwaninge izitatimende zezimali zeThrasti.

(2)(a) IBhodi kumele yethule umbiko ngemisebenzi yeThrasti ngonyaka wezimali kwisiShayamthetho sesiFundazwe ezinyangeni ezinhlanu kuphele lowo nyaka wezimali.

(3) Umbiko kumele –

(a) ubandakanye isitatimende sesimo sezimali kanye nesitatimende semali engenile nechithiwe eziqinisekiswa uMcwaningimabhuku Jikelele;

(b) uchaze ngendlela iThrasti efeze ngayo izinhloso zayo okukhulunywe ngazo esigabeni 3 kanye nezinhloso ezikhombisa ukuthi zizofezwa kanjani nini zibekwe zicace ohlelweni lokusebenza njengoba kuhlangozwe esigabeni 18(4)(a) ngonyaka wezimali othintekayo; futhi

(c) ube neminingwane edingekayo yendlela yokusebenza mayelana nokusetshenziswa kwezimali ngendlela eyongayo, esheshayo nenemiphumela ebonakalayo ikakhulu uma kuqhathaniswa okuhlelwe ukuthi kwenziwe nezinkomba zokuzokwenziwa njengoba kubekwe kulolo hlelo lokusebenza.

ISAHLUKO 6

IZINHLINZEKO EZIJWAYELEKILE

Ukuthengwa nokuchithwa kwempahla engenakususwa

20. IThrasti, ngemvume yeHhovisi loMgcinimafa lesiFundazwe, ingaqasha, ingathenga, ingaba noma ingachitha impahla engenakususwa ngesikhathi isasebenza.

Izinyathelo zomthetho ezithathelwa iBhodi

21.(1) Noma iziphi izinyathelo zomthetho ezithathelwa iThrasti kumele zithathwe ngokulandela uMthetho wokuThathela iziNhlaka zikaHulumeni iziNyathelo zoMthetho, 2002 (uMthetho No. 40 ka 2002).

(2) IThrasti kumele, ngokwezinhloso zesigatshana (1), ithathwe njengohlaka lukahulumeni oluhlangozwe endimeni (c) yencazelo lwayo esigabeni soMthetho okukhulunywe ngawo.

Okungeke umuntu ahlawuliselwa kona

22. IBhodi nanoma imuphi omunye umuntu, isikhulu esiPhezulu esibhekele ezeziMali, iNhloko yoPhiko lukaNobhala noma umsebenzi weThrasti angeke ahlawuliselwa noma yini ayenze ngenhloso yokusebenzisa amandla noma yokufeza ijoka noma yokwenza umsebenzi ngokwalo Mthetho.

IThrasti kumele isungule isizindalwazi

23.(1) IThrasti kumele –

- (a) isungule futhi igcine esimweni sokusebenza isizindalwazi sayo esisemthethweni; futhi
- (b) ifake kuleso sizindalwazi esisemthethweni noma iluphi ulwazi okumele lwaziwe uwonkewonke ngokwalo Mthetho nanoma imuphi omunye umthetho.

(2) INhloko yoPhiko lukaNobhala weThrasti kumele igcine esimweni sokusebenza futhi ivuselele ulwazi njalo kwisizindalwazi esisemthethweni seThrasti.

Ukuvikeleka kolwazi olugcinwe iThrasti

24.(1) Kuncike kuMthethosisekelo, uMthetho wokuGqugquzela ukuTholakala koLwazi, 2000 (uMthetho No. 2 ka 2000), nanoma imuphi omunye umthetho, akukho muntu ongadalula noma iluphi ulwazi olwethulwe kwiThrasti maqondana nanoma imuphi umyalelo womthetho, ngaphandle uma –

- (a) eyalelwe ukuba enze njalo inkantolo yomthetho; noma
- (b) umuntu ohlinzeke lowo myalelo emnika imvume ngokubhalwe phansi.

(2) Noma imuphi umuntu owephula isigatshana (1) uyothweswa icala.

Ukuhlakazwa kweThrasti

25. IThrasti ingahlakazwa kuphela ngokoMthetho wesiShayamthetho sesiFundazwe.

Ukusetshenziswa kwagama leThrasti

26.(1) Akukho muntu, ngaphandle kwemvume ebhalwe phansi yeBhodi, noma ingayiphi indlela ongamela noma asebenzise igama, isifinyezo, amalogo, imidwebo noma impahla esetshenziswa noma okungeyeThrasti.

(2) Akukho muntu ongaqamba amanga athi wenza okuthile egameni leThrasti.

(3) Noma imuphi umuntu owephula isigatshana (1) no (2) uyothweswa icala.

Ukudluliselwa kwamandla iBhodi

27.(1) IBhodi, ngesixazululo esikhethekile, ingadlulisela kwisiKhulu esiPhezulu esibhekele ezeziMali kwiThrasti, kwiNhloko yoPhiko lukaNobhala noma kumsebenzi weThrasti, noma imaphi amandla noma ijoka elithweswe noma elinikwe iBhodi noma iThrasti yilo Mthetho.

(2) Noma imaphi amandla noma ijoka ngokwesigatshana (1) kumele asetshenziswe noma lifezwe kuncike kuleyo mibandela iBhodi engayibona ifanele.

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

(a) kumele kubhalwe phansi;

(b) akuvimbeli iBhodi ekusebenziseni lawo mandla noma ekufezeni lelo joka; futhi

(c) noma ingasiphi inini kungahoxiswa noma kuchitshiyelwe iBhodi ngokubhalwe phansi.

Amacala ajwayelekile

28.(1) Ilungu leBhodi, isiKhulu esiPhezulu esibhekele ezeziMali kwiThrasti, iNhloko yoPhiko lukaNobhala noma umsebenzi weThrasti, umeluleki, i-ejenti nanoma imuphi umuntu osebenza, oqashwe noma owenza okuthile egameni leBhodi noma leThrasti unecala uma egwazelwa ngandlela thile noma amukela imali engagunyaziwe noma umvuzo kunoma imuphi umuntu maqondana nomsebenzi owenziwa noma okhishwe iBhodi noma iThrasti.

(2) Noma imuphi umuntu unecala uma, maqondana nomsebenzi owenziwa noma okhishwe iBhodi noma iThrasti, egwazela noma ezama ukugwazela noma eyenga ngenkohlakalo noma ezama ukuyenga ngenkohlakalo ilungu leBhodi, isiKhulu esiPhezulu esibhekele ezeziMali kwiThrasti, iNhloko yoPhiko lukaNobhala weBhodi, umsebenzi weThrasti, umeluleki, i-ejenti nanoma imuphi umuntu osebenzela noma oqashwe noma owenza okuthile egameni leBhodi noma leThrasti.

(3) Noma imuphi umuntu oqamba amanga athi ugunyaziwe ukukhokhisa noma ukuqoqa izimali noma iminikelo egameni, noma ngomyalelo weBhodi noma weThrasti unecala.

(4) Noma imuphi umuntu ophula noma ohluleka ukuhambisana nezinhlinzeko zalo Mthetho nanoma imuphi umthethonqubo, unecala.

Izinhlawulo

29. Noma imuphi umuntu othweswe icala –

- (a) ngokwesigaba 28(1) noma (2), uyokhokhiswa inhlawulo noma agqunywe ejele isikhathi esingeqile kuleso esinqunywe umthetho wenkohlakalo kazwelonke; noma
- (b) ngokwesigaba 24(2), 26(3) noma 28(3) no (4), uyokhokhiswa inhlawulo noma agqunywe ejele isikhathi esingeqile eminyakeni emihlanu.

Imithethonqubo

30.(1) Kuncike kwisigatshana (2), uNdunankulu, ngemuva kokubonisana neBhodi nangesaziso kwiGazethi, angenza imithethonqubo emayelana –

- (a) nanoma iluphi udaba olunganqunywa noma okumele lunqunywe ngokwalo Mthetho; noma
- (b) nanoma iluphi udaba oluphathelele nokusebenza noma nenqubo oludingekayo ukuqalisa izinhlinzeko zalo Mthetho.

(2) Kuncike –

- (a) kwizinhlinzeko zoMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999); kanye
- (b) nasekukhululweni kweThrasti kunoma iyiphi inhlinzeko yoMthetho ehlongozwe esigabeni 92 soMthetho wokuPhathwa kweziMali zikaHulumeni, 1999,

iLungu loMkhandlu oPhethe elibhekele ezeziMali, ngemuva kokubonisana noNdunankulu kanye neBhodi nangesaziso kwiGazethi, lingenza imithethonqubo emayelana –

- (i) nokuphathwa kwezimali, nokwenganyelwa kanye nokulawulwa kweThrasti;
- (ii) nokuqashwa, nokuthengwa noma nokuchithwa kwempahla engenakususwa iThrasti;
- (iii) nokuphambene nomthetho, nokwamukela izipho, kwamalungu eBhodi, kwesiKhulu esiPhezulu esibhekele ezeziMali kwiThrasti, kweNhloko yoPhiko lukaNobhala weBhodi noma komsebenzi weThrasti;
- (iv) nanoma iluphi udaba okukhulunywe ngalo ezindinyaneni (aa) kuya ku (cc) zesigaba 5(d).

Izinhlelo zesikhashana

31.(1) Njengoba kubekiwe esigabeni 2(2) salo Mthetho, iThrasti ngokomthetho ithatha isikhundla seThrasti yaseNdulunkulu yaKwaZulu-Natali eyasungulwa ngokwesigaba 2(1) soMthetho weThrasti yaseNdulunkulu, 2007 (uMthetho No. 2 ka 2007) osuchithiwe.

(2) Abantu, ngosuku olwandulela usuku lokuqala kokusebenza kwalo Mthetho, ababeqokwe noma ababeqashwe njengamalungu eBhodi noSihlalo weThrasti yaseNdlunkulu yaKwaZulu-Natali eyasungulwa ngokwesigaba 2(1) soMthetho weThrasti yaseNdlunkulu, 2007 (uMthetho No. 2 ka 2007) osuchithiwe, bayaqhubeka njengamalungu eBhodi noSihlalo weThrasti futhi bathathwa njengabantu abaqashwe ngokwesigaba 6 salo Mthetho kusukela ngosuku lokuqala kokusebenza kwalo Mthetho.

(3)(a) Ukuqokwa komuntu, ngosuku olwandulela usuku lokuqala kokusebenza kwalo Mthetho, owayeyisiKhulu esiPhezulu seThrasti yaseNdlunkulu yaKwaZulu-Natali eyasungulwa ngokwesigaba 2(1) soMthetho weThrasti yaseNdlunkulu, 2007 osuchithiwe, ngosuku lokuqala kokusebenza kwalo Mthetho, esamiswa ngokomthetho wezabasebenzi nowokuqashwa osebenzayo.

(b) Umuntu, ngosuku olwandulela usuku lokuqala kokusebenza kwalo Mthetho, owayeqokwe njengesiKhulu esiPhezulu esibhekele ezeziMali kwiThrasti yaseNdlunkulu yaKwaZulu-Natali eyasungulwa ngokwesigaba 2(1) soMthetho weThrasti yaseNdlunkulu, 2007 osuhlakaziwe, uyaqhubeka nokuba isikhulu esiPhezulu esibhekele ezeziMali kwiThrasti futhi uthathwa njengomuntu oqokwe ngokwesigaba 15(1) salo Mthetho kusukela ngosuku lokuqala kokusebenza kwalo Mthetho.

(4)(a) Isinqumo njengoba kubekwe oHlelweni sisebenza kusukela mhla ziyi-12 kuZibandlela 2014 mayelana nokwabiwa, nokudluliselwa nokuhlukaniswa kwamandla, kwemisebenzi, kwempahla, kwezikweletu, kwamalungelo, kwamajoka, kwezibopho kanye nabasebenzi koMnyango waseNdlunkulu osuhlakaziwe.

(b) UNdunankulu, ngemuva kokubonisana neBhodi, ngesaziso kwiGazethi nangosuku oluzobalulwa kuleso saziso –

(i) sokuchibiyela; noma

(ii) nokushintsha,

uHlelo lwalo Mthetho.

ISAHLUKO 7

UKUCHITHWA KOMTHETHO KANYE NESIHLOKO ESIFINGQIWE

Ukuchithwa komthetho

32. UMthetho weThrasti yaseNdlunkulu yaKwaZulu-Natali, 2007 (uMthetho No. 2 ka 2007), ngalokhu uyachithwa.

Isihloko esifingqiwe

33. Lo Mthetho ubizwa ngoMthetho weThrasti yaseNdlunkulu yaKwaZulu-Natali, 2015.

UHLELO

Isinqumo mayelana nokwabiwa nokudluliselwa nokuhlukaniswa kwamandla, kwemisebenzi, kwempahla, kwezikweletu, kwamalungelo, kwamajoka, kwezibopho nabasebenzi boMnyango waseNdlunkulu osuhlakaziwe (Isigaba 31(4))

1. IHhovisi likaNdunankulu linesibopho sale misebenzi elandelayo yoMnyango waseNdlunkulu osuhlakaziwe –

(a) ukuhlinzekwa ngemisebenzi okusemthethweni kweSilo samaBandla maqondana namaqhaza, namajoka kanye nemisebenzi esemthethweni yoNgangezwe Lakhe ngokoMthetho wobuHoli boMdabu nokuBusa, 2005 (uMthetho No. 5 ka 2005); kanye

(b) neminye imisebenzi yokweseka oNgangezwe Lakhe, kubandakanya –

(i) ukulawulwa nokukhokhwa –

(aa) komholo weSilo samaBandla; kanye

(bb) nezindleko zokuhamba ngomsebenzi nezokulala ngaphandle nezinkambo eziphathelene nomsebenzi ezithathwa iSilo samaBandla; kanye

(ii) nokubhalwa kwezinkulumo ezizokwethulwa iSilo samaBandla kanye nokuhaywa kweSilo.

2. IThrasti yaseNdlunkulu, esungulwe isigaba 2(1) salo Mthetho, izokwenza yonke imisebenzi yoMnyango waseNdlunkulu osuhlakaziwe, kubandakanya –

(a) nokuhlinzekwa ngemisebenzi ephathelene –

(i) nokuqondene neSilo samaBandla uqobo;

(ii) nemisebenzi yoNdlunkulu kanye namanye amalungu aseNdlunkulu, eqondene nabo uqobo; kanye

(iii) nokulawulwa nokukhokhwa kwamaholo (amaholo, izibonelelo kanye nemivuzo) yoNdlunkulu; kanye

(b) nokuphathwa nokulawulwa kanye nokunakekelwa kwezigidlo zaseNdlunkulu kanye namapulazi aseNdlunkulu;

(c) nokulawulwa nokukhokhwa kwamaholo, kwezibonelelo kanye nezindleko zokuhamba nezokulala ngaphandle nezimali okumele zikhokhelwe abaPhathi (amaLungu eBhodi) beThrasti yaseNdlunkulu zezindaba nemisebenzi yeThrasti yaseNdlunkulu egunyaziwe.

3.(a) Wonke amandla namajoka oMnyango waseNdlunkulu osuhlakaziwe aphantelene nemisebenzi okukhulunywe ngayo ohlamvini 1(a) no (b) ngenhla, adluliselwa futhi anikezwa iHhovisi likaNdunankulu.

(b) Wonke amandla namajoka oMnyango waseNdlunkulu osuhlakaziwe adluliselwa futhi anikezwa iThrasti yaseNdlunkulu.

4.(a) Lokhu okulandelayo, –

(i) isabelomali, izimali noma impahla enokususwa yoMnyango waseNdlunkulu osuhlakaziwe;

(ii) amanye amalungelo, noma ngabe ayaphatheka noma awaphatheki, oMnyango waseNdlunkulu osuhlakaziwe,

okuphathelene nemisebenzi okukhulunywe ngayo ohlamvini 1(a) no (b) ngenhla kudluliselwa futhi kunikezwa iHhovisi likaNdunankulu.

(b) Okusele –

(i) njengesabelomali, izimali noma impahla enokususwa yoMnyango waseNdlunkulu osuhlakaziwe; kanye

(ii) namanye amalungelo, noma ngabe ayaphatheka noma awaphatheki, oMnyango waseNdlunkulu osuhlakaziwe,

kudluliselwa futhi kunikezwa iThrasti yaseNdlunkulu.

5. Zonke izimpahla ezinokususwa, uma zikhona, ezibhaliswe egameni loMnyango waseNdlunkulu osuhlakaziwe, zidluliselwa futhi zinikezwa iThrasti yaseNdlunkulu: Kuncike ekutheni iThrasti yaseNdlunkulu ayinaso isibopho sokukhokha noma sokucubungula, imali noma okunye, maqondana nokudluliselwa noma kokunikezwa noma iyiphi impahla engenakususwa, kwiThrasti yaseNdlunkulu: Kuphinde kuncike ekutheni amanye amalungelo noma izibopho ezengeziwe zoMnyango waseNdlunkulu osuhlakaziwe maqondana naleyo mpahla engenakususwa zokunquma, zokuhlela nokuqoqa intela, zokuthatha izinyathelo zomthetho zokuxosha abaqashi abangakhokhi ngendlela nokugcina amabhilidi akhona nezindlu kunikezwa iThrasti yaseNdlunkulu.

6.(a) Noma isiphi isikweletu noma isibopho ikakhulu esiphathelene nemisebenzi okukhulunywe ngayo ohlamvini 1(a) no (b) ngenhla, noma ngabe esingase senzeke, esimile noma ebesingakaziwa, soMnyango waseNdlunkulu osuhlakaziwe, noma ngabe leso sikweletu noma leso sibopho sikhishwe, noma sivela esivumelwaneni senkontileka noma ngenye indlela, sidluliselwa, futhi sinikezwa iHhovisi likaNdunankulu: Kuncike ekutheni noma iziphi izikweletu ezisemabhukwini oMnyango waseNdlunkulu osuhlakaziwe zingakhokhwa

uHulumeni wesiFundazwe saKwaZulu-Natali ezimalini ezabelwe lokho isiShayamthetho sesiFundazwe.

(b) Noma isiphi esinye isikweletu noma isibopho, ngenhla, noma ngabe esingase senzeke, esimile noma ebesingakaziwa, soMnyango waseNdlunkulu osuhlakaziwe, noma ngabe lesi sikweletu noma lesi sibopho sikhishwe, noma sivela esivumelwaneni senkontileka noma ngenye indlela, sidluliselwa, futhi sinikezwa iThrasti yaseNdlunkulu: Kuncike ekutheni noma iziphi izikweletu ezisemabhukwini oMnyango waseNdlunkulu osuhlakaziwe zingakhokhwa uHulumeni wesiFundazwe saKwaZulu-Natali ezimalini ezabelwe lokho isiShayamthetho sesiFundazwe.

7.(a) Bonke abasebenzi boMnyango waseNdlunkulu osuhlakaziwe, ngalokhu bafakwa ngaphansi, badluliselwa futhi baqashwa njengabasebenzi beHhovisi likaNdunankulu, bazogcina amaholo, amalungelo, imivuzo, izibonelelo kanye namagunya abawanikwe ngokomthetho, kuncike emithethweni elawula uhulumeni nanoma isiphi isisombululo se-General Public Sector Bargaining Council (GPSSBC).

(b) Okushiwo uhlamvu 7(a) ngenhla, ukuthi –

(i) bonke abasebenzi abebeqashwe uMnyango waseNdlunkulu osuhlakaziwe sebefakwa kumumohlaka;

(ii) bonke abasebenzi kanye nesabelomali samaholo soMnyango waseNdlunkulu osuhlakaziwe, kudluliselwa futhi kunikezwa;

(iii) zonke izikhala zemisebenzi ezihlinzekelwe kwisabelomali somumohlaka woMnyango waseNdlunkulu osuhlakaziwe, sebefakwa kumumohlaka,

weHhovisi likaNdunankulu.

8. Abasebenzi ababalulwe kwisiThasiselo, okungabasebenzi boMnyango waseNdlunkulu osuhlakaziwe, badluliselwa eHhovisi likaNdunankulu bese kuthi labo abenza imisebenzi engaphathelene nemisebenzi okukhulunywe ngayo ohlamvini 1(a) no (b) ngenhla baqokwa (ngokwesigaba 16(1)(b) salo Mthetho) ukusiza iThrasti yaseNdlunkulu ukufeza izinhloso zayo, ukusebenzisa amandla ayo, ukufeza amajoka ayo nokwenza imisebenzi yayo, maqondana nezokuphatha nokunakekela izigodlo zaseNdlunkulu namapulazi aseNdlunkulu, futhi kuncike emithethweni elawula uhulumeni nanoma isiphi isisombululo se-General Public Sector Bargaining Council (GPSSBC), badluliselwa kwiThrasti yaseNdlunkulu namaholo, namalungelo kanye namagunya abawanikwe ngokomthetho (ngokwesigaba 16(2) salo Mthetho).

ISITHASISELO

Uhlu lwabasebenzi abadluliselwa kwiThrasti yaseNdlunkulu

(Uhlamvu 8 loHlelo)

<i>Igama</i>	<i>Inombolo kamazisi</i>	<i>Inombolo ye-PERSAL</i>
IMISEBENZI EPHATHELENE NEZIGODLO ZASENDLUNKULU KANYE NAMAPULAZI ASENDLUNKULU		
1. BIYELA, QH	590220 5441 084	60166789
2. CHONCO, CT	641217 5481 082	60204788
3. NDLOVU, ZA	790503 5964 082	63962977
4. ZITHA, MS	580827 5748 082	60209038
5. ZULU, NA	820301 5470 083	64178820
6. ZUNGU, LM	640921 5647 089	60200014
ISIGODLO SAKWADLAMAHLAHLA		
7. BUTHELEZI, ET	540411 0727 087	60269405
8. BUTHELEZI, MR	540804 5794 088	60263938
9. FAKUDE, BN	640101 7396 087	61624098
10. MABASO, MR	760326 5427 082	64316751
11. MANDLAZI, BF	600313 0407 081	60299541
12. MATHE, EP	620101 1194 089	60288540
13. MATHE, MN	621212 5864 087	60299631
14. MATHE, N	621222 0878 081	60264101
15. MATHE, TA	591008 0696 086	61665223
16. MTHETHWA, MP	570930 0344 083	61667773
17. SHONGWE, OK	670306 5741 087	60300132
18. SHONGWE, NJ	640527 5469 083	60300817
19. ZWANE, TW	660511 0498 086	60299690
ISIGODLO SASENYOKENI		
20. MAGUBANE, BZ	520120 5713 083	60299479
21. MASONDO, NB	560101 1027 083	60299878

22.	SIBIYA, ZM	640811 0761 086	60300671
23.	ZULU, GJ	560408 0435 088	64036332
24.	ZULU, SM	791128 1025 081	64319211
25.	ZULU, ZG	561123 0856 089	60295287
26.	ZUNGU, ZM	640811 0761 086	61623911
ISIGODLO SASENGWAVUMA			
27.	GINA, GM	690204 5573 087	61830526
28.	GINA, NT	740102 5303 085	61624161
29.	GWALA, GN	601015 5419 081	61663212
30.	JOBE, BB	880602 5787 088	64602711
31.	MAHENDULA, A	550224 5367 083	60264110
32.	MNGOMEZULU, SM	820412 6319 086	64604268
33.	MYENI, MW	620419 5612 082	64602427
34.	NYAWO, NE	790521 5774 087	64602605
ISIGODLO SAKWAKHANGELA			
35.	NDWANDWE, G	541225 1184 083	60299681
36.	NDWANDWE, TB	720604 1092 087	64257002
37.	NSELE, TB	540904 0257 089	60263946
38.	NTANZI, FN	571112 0889 081	61663751
39.	NXELE, VS	610425 5499 083	61667749
40.	MASANGO, EM	710614 5801 088	64291251
41.	MASANGO, MA	520604 0507 087	60271639
42.	MASANGO, NI	530219 5461 087	60263768
43.	MASUKU, MP	570429 5507 083	61663336
44.	MBATHA, FT	620404 1290 083	60299665
45.	MBATHA, NI	601225 0430 088	61626091
46.	MTHETHWA, HT	610502 0595 089	60238763
47.	SHAMASE, LQ	731029 5378 083	62047027
48.	SHONGWE, BV	660221 5378 083	61666777
49.	SITHOLE, CR	560925 0370 080	60301678
50.	SITHOLE, JM	620925 5778 087	64257142
51.	SITHOLE, KJ	590505 1050 081	60274689
52.	SITHOLE, MD	511110 0605 088	60271621

53.	ZULU, MJ	510217 5469 088	60299673
54.	ZULU, TJ	560620 0805 080	60263873
ISIGODLO SAKWAKHETHA			
55.	CEBEKHULU, SS	800331 0737 081	64179001
56.	GWALA, JA	680726 5506 081	61668010
57.	GWALA, PK	600814 5423 080	60288574
58.	GWALA, SB	650714 5640 080	61672726
59.	MNGADI, TB	651231 0330 087	60299614
60.	MTHIYANE, ZP	670101 7150 084	64393437
61.	NDWANDWE, PM	690214 5456 084	61880396
62.	NTULI, SS	700202 0366 083	60299738
63.	NXUMALO, PG	610825 5685 088	61663557
64.	SHAMASE, ZA	530211 5732 088	61668061
65.	ZULU, GR	590409 5758 080	60300078
66.	ZULU, MC	581103 0251 081	60286971
67.	ZULU, SK	670101 7150 084	61663921
68.	ZULU, TN	661021 0523 080	64612091
ISIGODLO SAKWALINDUZULU			
69.	FAKUDE, MG	630926 5303 080	61625990
70.	NKOSI, SA	591123 0434 089	60300973
71.	SITHOLE, MB	720707 5908 081	61626082
72.	ZULU, NM	650101 1977 080	61667684
73.	ZULU, NP	860116 1199 085	64257193
74.	ZUNGU, DM	640130 5410 080	61624047
75.	XABA, PN	680101 1229 080	60299941
ISIGODLO SASONDINI			
76.	KHUMALO, MS	600917 0635 085	64568504
77.	MNCWANGO, M	521115 5475 088	64569349
IPULAZI LASENDLUNKULU ELISETHOKAZI			
78.	KHUMALO, NB	601221 0565 080	61627836
79.	MPANZA, BT	580203 0782 084	61624268

80.	NENE, MS	570201 0646 087	61624616
81.	NTSHALINTSHALI, GA	550805 0822 086	61625906
IPULAZI LASENDLUNKULU ELISEMFOLOZI			
82.	NHLEBELA, HE	541004 5594 088	61623717
IPULAZI LASENDLUNKULU ELISE-ZWARTKOP			
83.	GINA, MZ	630411 5858 086	61625493

**IMEMORANDAMU
NGEZINHLOSO**

ZOMTHETHOSIVIVINYO WETHRASTI YASENDLUNKULU WAKWAZULU-NATALI, 2015

1. UMLANDO

Ethula inkulumo yeSabelomali sonyaka wezimali ka **2005/2006** yoMnyango waseNdlunkulu, owayenguNdunankulu u-**JS Ndebele** wathi:

“Baba Somlomo, njengoba kubekiwe, imiphumela iqinisekisa ukuthi umnyango kahulumeni awulona uhlaka olufanele ukweseka nokuhlinzeka ngemisebenzi iSilo samaBandla. Kuphakanyiswa ukuthi uMnyango waseNdlunkulu kumele uhlakazwe”.

Kusukela ngo **2003**, kwahlalwa phansi kwabhekwa ukuthi iluphi uhlaka olungathatha isikhundla soMnyango waseNdlunkulu, kwabe sekulotshwa uMthethosivivinyo ngonyaka ka **2005** wokusungula iThrasti esemthemthweni, ukuze kuhlomule iSilo samaBandla kanye namanye amalungu aseNdlunkulu esiFundazweni saKwaZulu-Natali.

UMthethosivivinyo wagcina umiswe ngonyaka ka **2007** njengoMthetho weThrasti yaseNdlunkulu, inhlosongqangi yoMthetho kwakuwukulungisa izinkinga eziphathelene nokunakekelwa nokugcinwa kweNdlunkulu isesimweni esikahle. Inhloso, kwakuwukuthi iThrasti izothatha isikhundla soMnyango waseNdlunkulu bese kuthi, ngemuva kwesikhathi, izimele ikwazi ukungenisela iNdlunkulu imali ngaphezu kwezimali zikahulumeni ezabelwa iNdlunkulu isiShayamthetho sesiFundazwe.

Inhloso ngonyaka ka **2005** kwakuwukuhlakaza uMnyango waseNdlunkulu ngokusungula iThrasti, kodwa leli su lamiswa ngenxa yengcindezi yezepolitiki eyayiqhamuka ezinhlangothini ezithile, okwaholela ekutheni kube khona uMnyango waseNdlunkulu kanye neThrasti yaseNdlunkulu futhi kokubili kusebenze kanye kanye ukuze kube nozinzo kwezepolitiki. Lesi simo sidale izinselelo, ikakhulu mayelana nokudideka ngamandla, namajoka kanye nemisebenzi yezinhloso ezehlukahlukene futhi kwaba khona nokudonsisana okwalandela kanye nokungaboni ngaso linye.

Ukuba uMnyango waseNdlunkulu wahlakazwa ngalesiya sikhathi nokuba iBhodi yabaPhathi yeThrasti yaseNdlunkulu yaKwaZulu-Natali yasebenzisa amandla eThrasti ngokugcwele enawo ngokoMthetho ka **2007**, okuwukungenisela uMnyango waseNdlunkulu imali ethe xaxa, isimo mayelana neNdlunkulu ngabe asisibi kangaka.

Ngaphambi konyaka ka 2005 futhi kusukela lapho, belokhu kunezinkinga mayelana nokuphathwa kwezimali zaseNdlunkulu kanye nokusetshenziswa ngokweqile kwesabelomali saseNdlunkulu, obekuyinsakavukela nobekuthela uHulumeni wesiFundazwe ngehlozo.

2. ISENDLALELO

Ngokumiswa koMthetho weThrasti yaseNdlunkulu, 2007 (ngemuva kwalokhu ozobizwa ngoMthetho ka 2007), kanye nokuqaliswa kwawo okwalandela, sekucace bha ukuthi kwakubalulekile ukuthi kuqale kubhekwe izinkinga okwahlangatshezwana nazo ekuqaliseni uMthetho omkhulu, okwaqapheleka kakhulu kwaba izindaba eziphathelene nokuphathwa kwezimali kanye nokuphathwa kweThrasti yaseNdlunkulu.

Ekuqaleni, umbono ngeThrasti yaseNdlunkulu kuze kufike ekumisweni koMthetho ka 2007, kwakuwukuthi iThrasti yaseNdlunkulu entsha eyayihlongozwa iyosebenza njengeThrasti enkulu ezimele eyokwazi ukuzingenisela imali eyengeziwe ukuze kuhlomule iNdlunkulu ngaphezu kwezimali ezabelwe isiShayamthetho sesiFundazwe.

UMthetho ka 2007 walotshwa kunalowo mcabango futhi wahlinzekela isiKhulu esiPhezulu (CEO) seThrasti futhi kwakuhloswe ukuthi iThrasti iyoqoka abasebenzi bayo abangeke babe abasebenzi bahulumeni. UMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (PFMA) iyosebenza kwiThrasti ukuqinisekisa ukulawulwa kwezimali mayelana nezimali zikahulumeni ezitholwe iThrasti. Okwabonakala mayelana nendlela yokuphatha nokulawula iThrasti kusukela ngo 2007 yakhombisa ukuziqhelelanisa kukahulumeni, ngezizathu ezithile, okungaba nemiphumela emihle kwacaca ukuthi kudingeka ukuthi uhulumeni azibambebe mathupha ukuqinisekisa ukuphumelela kweThrasti ngokulawula indlela okusetshenziswa ngayo izimali zokuphatha kanye nokuqinisekisa ukuphathwa nokusetshenziswa kwezimali ngendlela efanele.

Njengoba le ndlela entsha izodinga izichibiyelo ezinzulu nezijulile eMthethweni ka 2007, kubonakale kungcono ukuthi kusungulwe omunye uMthetho ozosebenza esikhundleni soMthetho ka 2007, yingakho kuyothi uma uMthethosivivinyo weThrasti yaseNdlunkulu ka 2015 usumisiwe, ube uMthetho weThrasti yaseNdlunkulu, 2015 omusha.

Ezinye izindaba, –

- (a) njengokuhlakazwa kokugcina koMnyango waseNdlunkulu;
- (b) njengobudlelwane phakathi koMnyango osuhlakaziwe, iHhovisi likaNdunankulu kanye neThrasti yaseNdlunkulu;

- (c) njengokuhlukaniswa nokwabiwa kwemisebenzi phakathi koMnyango osuhlakaziwe, iHhovisi likaNdunankulu kanye neThrasti yaseNdlunkulu;
- (d) njengokubhekana nabasebenzi boMnyango osuhlakaziwe;
- (e) njengezindleko ezihambisana nesiKhulu esiPhezulu kanye nabanye abasebenzi beThrasti yaseNdlunkulu kubhekelelwa isimo somnotho; kanye
- (f) njengokusebenza nokuphathwa kwezimali zeThrasti yaseNdlunkulu kusukela ngo 2007,

kudingeke ukuthi kushintshwe indlela yokucabanga ngendlela yokuqhubeka phambili neThrasti yaseNdlunkulu okungakwazanga ukuqaliswa nje ngezichibiyelo zoMthetho ka 2007.

Ngakho-ke, uMthethosivivinyo ohlongozwayo uveza lo mqondo.

3. UKUCHAZWA KWESIGABA NGASINYE

Kafishane nje, uMthethosivivinyo uhlinzeka kanje –

IS AHLUKO 1 (IZINCAZELO)

Isigaba soMthetho 1:

Isigaba soMthetho 1 siqakethe izincazelo ezizichaza ngokwazo.

IS AHLUKO 2 (UKUSUNGULWA KWETHRASTI YASENDLUNKULU)

Isigaba soMthetho 2:

Isigaba soMthetho 2 sikhuluma ngokusungulwa kweThrasti yaseNdlunkulu futhi sigcizelela ukuthi iThrasti ithatha isikhundla seThrasti yaseNdlunkulu eyasungulwa ngokoMthetho ka 2007.

Maqondana nezimali ezabiwe isiShayamthetho sesiFundazwe (izimali zikahulumeni), uMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (PFMA) uyasebenza kwiThrasti ukuqinisekisa ukulawulwa ngendlela kwezimali. Selokhu kusungulwe iThrasti, sekucacile ukuthi angeke kwenzekwe ukuthi isebenze iThrasti ngendlela efanele, ngokuthi ilandele zonke izinhlinzeko zoMthetho wokuPhathwa kweziMali zikaHulumeni. UMcwaningimabhuku Jikelele usenze izincomo mayelana nalokho.

Lesi sigaba soMthetho, sihlongoza ukukhululwa kwizinhlinzeko ezithile zoMthetho wokuPhathwa kweziMali zikaHulumeni uNgqongqoshe wezeziMali kaZwelonke ngokwesigaba 92 soMthetho wokuPhathwa kweziMali zikaHulumeni. Lokhu kugcina uMthetho wokuPhathwa kweziMali zikaHulumeni njengendlela okuyiyo yokulawula izimali,

kodwa kuhlinzekela ukukhululwa okuyonqunywa kuzwelonke uNgqongqoshe wezeziMali kaZwelonke ngokoMthetho kaZwelonke (i-PFMA).

Isigaba 92 soMthetho wokuPhathwa kweziMali zikaHulumeni sihlinzekela lokhu okulandelayo –

“92. Ukukhululwa

UNgqongqoshe [wezeziMali, kuzwelonke], ngesaziso kwiGazethi kaHulumeni kaZwelonke, angakhulula noma isiphi isikhungo lo Mthetho osebenza kusona, nanoma isiphi isigaba salezo zikhungo, kunoma iziphi izinhlinzeko zalo Mthetho isikhathi esiyonqunywa ngesaziso.”

Ngokuhambisana nezinhlinzeko zoMthetho wokuPhathwa kweziMali zikaHulumeni isigaba soMthetho sikubeka kucace ukuthi iBhodi yabaPhathi inesibopho sokubika seThrasti.

Isigaba soMthetho 3:

Isigaba soMthetho 3 sikhuluma ngezinhloso zeThrasti ezigxile kakhulu nezigcizelela ukuthi iThrasti kumele iphathwe ngendlela ezohlomulisa iSilo samaBandla namanye amalungu aseNdlunkulu.

Kubekwe kwasobala ukuthi iThrasti ingazingenisela imali, amabhizinisi kanye noxhaso futhi ingathenga impahla futhi kunethemba lokuthi iThrasti, ngokuthi uhulumeni asebenzise indlela yokuzibambela mathupha ezindabeni zeThrasti, iyoba semathubeni amahle okusebenzisa amandla ayo ukuzingenisela imali eyengeziwe ezohlomulisa iNdlunkulu ngaphezu kwezimali ezabelwe isiShayamthetho sesiFundazwe.

Isigaba soMthetho 4:

Isigaba soMthetho 4 sikhuluma ngoMndeni weSilo noma ngeNdlunkulu futhi sinquma ukuthi iNdlunkulu iqukethe oNdlunkulu kanye nezihlobo zegazi zeSilo amagama azo avela ohlwini njengoba luyohlinzekwa iSilo samaBandla njalo ngemuva kwesikhathi esithile.

Isigaba soMthetho 5:

Isigaba soMthetho 5 sikhuluma kabanzi ngamajoka, ngamandla kanye nemisebenzi yeThrasti.

Esinye zezizathu ezisemqoka zokusungulwa kweThrasti ukuyigqugquzela ukuthi ikwazi ukuzingenisela imali ukuqinisekisa ukuthi iThrasti, ngokuhamba kwesikhathi, iyokwazi ukuzimela ingathembeli nje kuphela ezimalini ezabelwa isiShayamthetho sesiFundazwe.

IThrasti inamandla okuzingenisela imali ngokunquma izimali ezithile kanye –

- (a) nokuboleka, nokungenisa noma nokutshala izimali; noma
- (b) nokuthenga nokuba namasheya kunoma iyiphi inkampani; noma
- (c) nokuzindakanya kwezohwebo nakunoma iliphi ibhizinisi ngenhloso yokuzingenisela imali.

La mandla ahlangozwe ezindimeni (a) kuya ku (c) ngenhla angasetshenziswa kuphela ngaphansi kohlelo oluqashiwe olulawulwa ngendlela efanele: Imvume ebhalwe phansi futhi kuncike kwimigomo, imibandela, imihlahlandlela noma imiyalelo engabekwa. Isigaba soMthetho 30 siphinde sinike iLungu loMkhandlu oPhethe elibhekele ezeziMali amandla okwenza imithethonqubo maqondana nalezi zindaba.

ISAHLUKO 3 (IBHODI YABAPHATHI YASENDLUNKULU)

Isigaba soMthetho 6:

IThrasti isebenza ngeBhodi yabaPhathi futhi isigaba soMthetho 6 sikhuluma ngokwakheka kweBhodi yabaPhathi nokuthi ibunjwe kanjani.

Isigaba soMthetho 7:

Isigaba soMthetho 8 sihlizekela isikhathi sokuqokelwa esikhundleni (iminyaka emihlanu) kanye nokuqokwa kabusha kwamalungu eBhodi.

Isigaba soMthetho 8:

Isigaba soMthetho 8 sikhuluma ngezikhala zomsebenzi, nokuxoshwa nokusula esikhundleni kwamalungu eBhodi.

Isigaba soMthetho 9:

Isigaba soMthetho 9 sihlizekela ukumiswa okwesikhashana kwelungu leBhodi kusenziwa uphenyo ngezinsolo ezingaholela ekuxoshweni kwelungu.

Isigaba soMthetho 10:

Isigaba soMthetho 10 sikhuluma kabanzi ngemihlangano kanye nezinqubo zemihlangano yeBhodi. Isinqumo seBhodi esithathwe iningi lamavoti amalungu futhi uSihlalo unevoti eliwujuqu. UMqondisi Jikelele wesiFundazwe kanye nesiKhulu esiPhezulu esibhekele ezeziMali kwiThrasti bangethamela futhi babambe iqhaza, kodwa angeke bavote, emhlanganweni weBhodi. INhloko yoPhiko lukaNobhala, nayo ngokunjalo, ingethamela futhi ibambe iqhaza kulowo mhlango, kodwa angeke ivote.

Isigaba soMthetho 11:

Isigaba soMthetho 11 sihlizekela ukuhoxa kwelungu leBhodi emihlanganweni noma ezindabeni ezisezithebeni zeBhodi uma lelo lungu lithinteka ngqo noma ngandlela thile kulolo daba. Ilungu kumele lidalule ukuthinteka kwalo ngqo noma ngandlela thile bese kuthi lokho elikudalulile kuqoshwe emaminithini omhlangano.

Isigaba soMthetho 12:

Isigaba soMthetho 12 sichaza kabanzi amaholo amalungu eBhodi, kanye nezindleko zokuhamba ngomsebenzi nezokulala ngaphandle. Ukuhola umholo ongaphezu kowodwa akuvunyelwe. Ukuhola umholo ongaphezu kowodwa (okuwumkhuba, omubi nokhombisa ukungathembeki, wokuhola umholo ongaphezu kowodwa emithonjeni kahulumeni ehlukeno noma ezinhlangeni zikahulumeni ezehlukene ezikhokhelwa abakhokhi bentela) akuvunyelwe nhlobo.

Isigaba soMthetho 13:

Isigaba soMthetho 13 sigunyaza iBhodi ukuthi isungule amakomidi azosiza iBhodi.

Isigaba soMthetho 14:

Isigaba soMthetho 14 sigunyaza iBhodi ukuthi isisele abantu kumakomidi eBhodi ukusiza iBhodi leso sikhathi esiyonqunywa iBhodi. Abantu abasisiswe angeke bavote emihlanganweni yekomidi leBhodi. Isigaba soMthetho sikhuluma ngokukhokhelwa izindleko ngendlela efanele abantu abasisiwe abangene kuzona.

ISAPHLUKO 4 (ISIKHULU ESIPHEZULU ESIBHEKELE EZEZIMALI KWITHRASTI YASENDLUNKULU, INHLOKO YOPHIKO LUKANOBHALA WEBHODI KANYE NABASEBENZI BETHRASTI YASENDLUNKULU)**Isigaba soMthetho 15:**

Isigaba soMthetho 15 sihlizeka ukuthi iBhodi, ngokubonisana noNdunankulu, ingaqoka umuntu ofanelekile noqeqeshwe ngendlela efanele njengesikhulu esizobhekela ezeziMali kwiThrasti.

Isikhulu esiPhezulu esibhekele ezeziMali kwiThrasti –

- (a) siphethwe futhi sinesibopho sokubika kwiBhodi;
- (b) kumele sibike kwiBhodi;
- (c) kumele, ezinyangeni ezintathu siqokiwe, sisayine isivumelwano sokusebenza neBhodi.

Isigaba soMthetho 16:

Isigaba soMthetho 16 sikhuluma ngeNhloko yoPhiko lukaNobhala kanye nabasebenzi beThrasti.

Lesi sigaba soMthetho sihlangoza ukuchezuka kwizinhlinzeko zoMthetho ka 2007. Esikhundleni sokuthi kube nesiKhulu esiPhezulu, kuhlangozwa ukuthi uMqondisi Jikelele kumela aqoke umphathi omkhulu oqashwe uHulumeni wesiFundazwe ngokoMthetho wabaSebenzi baHulumeni, 1994, njengeNhloko yoPhiko lukaNobhala weBhodi ukuhlinzeka imisebenzi yasehhovisi, eyezobuchwepheshe neyobubhalane obuseqophelweni elidingekayo kanye nemisebenzi yokweseka iBhodi.

Esikhundleni sokuthi iThrasti igunyazwe ukuqoka abasebenzi bayo njengoba kuhlinzekelwe eMthethweni ka 2007, manje uMthethosivivinyo uhlangoza ukuthi uMqondisi Jikelele kumele aqoke abanye abantu abaqashwe uHulumeni wesiFundazwe ngokoMthetho wabaSebenzi baHulumeni, 1994, ukusiza iBhodi ngemisebenzi yasehhovisi, eyezobuchwepheshe neyobubhalane.

Lokhu kusho ukuthi izindleko zizoncipha ngoba iThrasti ayidingi ukuqasha nokulawula abasebenzi (ngaphandle kwesiKhulu esiPhezulu esibhekele ezeziMali kwiThrasti okukhulunywe ngaso esigabeni soMthetho 15). Abasebenzi bahulumeni abasebenza ngaphansi koPhiko loMqondisi oMkhulu olubhekele ukwesekwa kweSilo samaBandla neNdlunkulu kumumohlaka weHhovisi likaNdunankulu bayoqokwa ukusiza iBhodi neThrasti. Abasebenzi abafakwe ngaphansi kweHhovisi likaNdunankulu ngokudluliselwa besuka eMnyangweni waseNdlunkulu usuchithiwe bayosiza iBhodi kanye neThrasti. Labasebenzi bayobika, futhi bayophathwa uMqondisi oMkhulu woPhiko olubhekele ukwesekwa kweSilo samaBandla neNdlunkulu oyoqokwa iNhloko yoPhiko lukaNobhala weBhodi yeThrasti yaseNdlunkulu.

Lokhu kuzoqinisa ukuxhumana nobudlelwane bokusebenzisana phakathi kweBhodi yeThrasti neHhovisi likaNdunankulu likaHulumeni wesiFundazwe.

Kwenziwe inhlinzeko yokuthi iBhodi neThrasti yaseNdlunkulu isebenzise abantu abasisiwe noma abadluliselwe ngokuhambisana nezinhlinzeko zoMthetho wabaSebenzi baHulumeni, 1994.

ISAHLUKO 5 (UKUHLINZEKWA NGEZIMALI NOKUPHATHWA KWETHRASTI YASENDLUNKULU)**Isigaba soMthetho 17:**

Isigaba soMthetho 17 sihlizekela izimali zeThrasti. Ngaphandle kwezimali zikahulumeni (izimali ezabiwe isiShayamthetho sesiFundazwe), izimali zeThrasti ziqukethe iminikelo, inzalo yezimali ezitshaliwe kanye nenye imali engena ngokusemthethweni etholakala ngokufuna uxhaso noma ngokuhweba noma ngamabhizinisi.

Lesi sigaba soMthetho kumele sifundwe nesigaba soMthetho 3 esibalula ukuthi iThrasti ingazingenisela imali, ngamabhizinisi, ngoxhaso kanye neminikelo futhi izitholele impahla. Kunethemba lokuthi iThrasti, ngokuzibambela mathupha kukaHulumeni wesiFundazwe ezindabeni zeThrasti, kuyoyibeka ethubeni elihle lokuzingenisela imali ukuze kuhlomule iNdlunkulu ngaphezu kwezimali ezabelwe isiShayamthetho.

Isigaba soMthetho 18:

Isigaba soMthetho 18 sikhuluma kabanzi ngokuphathwa kwezimali kanye nokuphathwa kweThrasti futhi sicacisa umehluko phakathi kwemithombo yezimali yeThrasti (izimali zikahulumeni kanye nezinye izimali).

Isigaba soMthetho 19:

Isigaba soMthetho 19 silawula ukucwaningwa nombiko weThrasti.

ISAHLUKO 20 (IZINHLINZEKO EZIJWAYELEKILE)

Isigaba soMthetho 20:

Isigaba soMthetho 20 siquma ukuthi iThrasti ingaqasha, ibe noma idayise impahla engenakususwa.

Isigaba soMthetho 21:

Isigaba soMthetho 21 sihlizekela ukuthi iThrasti iwuhlaka lukaHulumeni futhi uma iThrasti ithathelwe izinyathelo zomthetho, uMthetho wokuThathela iziNhlaka zikaHulumeni iziNyathelo zoMthetho, 2002 uyosebenza.

Isigaba soMthetho 22:

Isigaba soMthetho 22 sikhuluma ngalokho ilungu leBhodi elingeke lahlawuliselwa kona, isiKhulu esiPhezulu esibhekele ezeziMali kwiThrasti, iNhlako yoPhiko lukaNobhala weBhodi noma abasebenzi beThrasti uma likwenze ngezinhloso ezinhle ngokwalo Mthetho.

Isigaba soMthetho 23:

Isigaba soMthetho 23 sinquma ukuthi iThrasti kumele isungule isizindalwazi esimthethweni nokuthi iNhloko yoPhiko lukaNobhala weBhodi kumele ivuselele ulwazi kwisizindalwazi njalo.

Isigaba soMthetho 24:

Isigaba soMthetho 24 sikhuluma ngokuvikeleka kolwazi oluginwe iThrasti.

Isigaba soMthetho 25:

Isigaba soMthetho 25 sihlizekela ukuthi iThrasti ingakahlakazwa kuphela uMthetho kaHulumeni wesiFundazwe.

Isigaba soMthetho 26:

Isigaba soMthetho 26 sivimbela ukusetshenziswa kwegama leThrasti okungagunyaziwe nokuthi lokho kuyicala.

Isigaba soMthetho 27:

Isigaba soMthetho 27 sigunyaza iBhodi ukuthi idlulisele amandla kwisiKhulu esiPhezulu seThrasti, kwiNhloko yoPhiko lukaNobhala weBhodi noma kumsebenzi weBhodi.

Isigaba soMthetho 28:

Isigaba soMthetho 28 sihlizekela amacala ajwayelekile.

Isigaba soMthetho 29:

Isigaba soMthetho 29 sihlizekela izinhlawulo zamacala enziwe.

Isigaba soMthetho 30:

Isigaba soMthetho 30 sigunyaza –

(a) uNdunankulu, ngemuva kokubonisana neBhodi, ukuthi enze imithethonqubo mayelana nezindaba eziphathelele nokusebenza noma nenqubo; futhi

(b) iLungu loMkhandlu oPhethe elibhekele ezeziMali, ngemuva kokubonisana noNdunankulu neBhodi, ukwenza imithethonqubo ephathelene –

(i) nokuphathwa kwezimali nokulawulwa kwazo;

(ii) nokuqashwa, nokuthengwa, nokuchithwa kwempahla engenakususwa;

(iii) nokuphambana nomthetho, kanye nokwamukela izipho, kwamalungu eBhodi, kwesiKhulu esiPhezulu esibhekele ezeziMali kwiThrasti, kweNhloko yoPhiko lukaNobhala, noma komsebenzi weBhodi; kanye

(iv) nokuhweba, nebhizinisi kanye nebhizinisi lezolimo,

kweThrasti.

Isigaba soMthetho 31:

Isigaba soMthetho 31 sichaza kabanzi ngezinhlelo zesikhashana.

IThrasti ithatha isikhundla seThrasti yaseNdlunkulu eyasungulwa ngokoMthetho ka 2007.

Amalungu eBhodi kanye noSihlalo, njengoba beqokwe uNdunankulu ngokoMthetho ka 2007 bayaqhubeka njengamalungu eBhodi noSihlalo futhi kuthathwa ngokuthi baqokwe ngokwesigaba 6 soMthethosivivinyo uma usimisiwe njengoMthetho omusha.

Njengoba isikhulu esiPhezulu singeke sidingeke ngokoMthethosivivinyo uma usumisiwe, uMthethosivivinyo uhlongoza ukuthi ukuqokwa kwalo muntu makumiswe ngokuhambisana nemithetho yezabasebenzi neyokuqasha esebenzayo kusukela ngosuku lokuqala kokusebenza koMthetho omusha.

Isikhulu esiPhezulu esibhekele ezeziMali esaqokwa ngokoMthetho ka 2007, siyaqhubeka njengesikhulu esiPhezulu esibhekele ezeziMali kwiThrasti futhi sithathwa njengesiqokwe ngokwesigaba 15(1) soMthethosivivinyo uma usumisiwe njengoMthetho omusha.

Isigaba soMthetho 31 kumele sifundwe nohlelo loMthethosivivinyo. Uhlelo luqethe isinqumo mayelana nokwabiwa, nokudluliselwa kanye nokuhlukaniswa kwamandla, kwemisebenzi, kwempahla, kwezikweletu, kwamalungelo, kwamajoka, kwezibopho kanye nabasebenzi boMyango waseNdlunkulu osuhlakaziwe kusukela mhla ziyi-12 kuZibandlela 2014 (usuku okwashicilelwa ngalo iSimemezelo sikaMongameli esichibiyela uHlelo 2 loMthetho wabaSebenzi baHulumeni, 1994, esasikhipha uMnyango waseNdlunkulu waKwaZulu-Natali ohlwini lweMinyango yaKwaZulu-Natali evela oHlelweni 2, ngalokho sihlakaza uMnyango waseNdlunkulu waKwaZulu-Natali (iSimemezelo No. 83 sika 2014: *Ukuchitshiyelwa koHlelo 2 loMthetho wabaSebenzi baHulumeni, 1994: saKwaZulu-Natali*, njengoba sichicilelwe kwiGazethi kaHulumeni No. 38290 yamhla ziyi-12 kuZibandlela 2014)).

ISAHLUKO 7 (UKUCHITHWA KOMTHETHO KANYE NESIHLOKO ESIFINGQIWE)

Isigaba soMthetho 32:

Isigaba soMthetho 32 sichitha uMthetho ka 2007.

Ngenxa yezichibiyelo ezinzulu nezijulile ebezihlongozwa eMthethweni ka 2007, kubonakale kungcono ukuthi uvele uchithwe bese kufakwa lo Mthethosivivinyo esikhundleni sawo okuyothi, uma usumisiwe ube uMthetho omusha.

Isigaba soMthetho 33:

Isigaba soMthetho 33 siqukethe isihloko esifingqiwe.

UHLELO (Isinqumo mayelana nokwabiwa, nokudluliselwa kanye nokuhlukaniswa kwamandla, kwemisebenzi, kwempahla, kwezikweletu, kwamalungelo, kwamajoka, kwezibopho kanye nabasebenzi boMnyango waseNdlunkulu osuhlakaziwe (Isigaba 31(4))

Njengoba kubekiwe ngenhla, uHlelo lukhuluma kabanzi ngokwabiwa, ngokudluliselwa nangokuhlukaniswa kwamandla, kwemisebenzi, kwempahla, kwezikweletu, kwamalungelo, kwamajoka, kwezibopho kanye nabasebenzi boMnyango waseNdlunkulu osuhlakaziwe.

ISITHASISELO (Uhlu lwabasebenzi abasiselwe kwiThrasti yaseNdlunkulu (uhlamvu 8 loHlelo))

IsiThasiselo soHlelo siqukethe uhlu lwabasebenzi boMnyango waseNdlunkulu osuhlakaziwe abazofakwa ngaphansi, futhi *badluliselwe*, eHhovisi likaNdunankulu futhi *basiselwe* kwiThrasti.

Bonke abasebenzi abazofakwa ngaphansi kweHhovisi likaNdunankulu ngokudluliselwa besuka eMnyangweni waseNdlunkulu osuhlakaziwe, kubandakanya abasebenzi abadluliselwe kanjalo eHhovisi likaNdunankulu base besiselwa kwiThrasti (njengoba kubalulwe kwisiThasiselo), bayobika, futhi baphathwe, uMqondisi oMkhulu obhekele ukweSekwa kweSilo samaBandla neNdlunkulu eHhovisi likaNdunankulu okumele aqokwe iNhlolo yoPhiko lukaNobhala weBhodi yeThrasti yaseNdlunkulu.

4. IZINGQINAMBA KWEZOKUPHATHA KANYE NAKUBASEBENZI KUHULUMENI WESIFUNDAZWE

Akukho zingqinamba kwezokuphatha nakubasebenzi ezilindelekile.

5. IZIMALI EZIZODINGEKA KUHULUMENI WESIFUNDAZWE

Akukho zimali okulindeke ukuthi zidingeke.

6. IMINYANGO/IMIGWAMANDA/NABANTU OKUBONISENWE NAYO

Lo Mthethosivivinyo ulotshwe ngokubonisana –

- 6.1 neHhovisi likaNdunankulu;
- 6.2 neBhodi yabaPhathi beThrasti yaseNdlunkulu yaKwaZulu-Natali; kanye
- 6.3 nezinhlango zabasebenzi.

7. OKUNGAXHUNYANWA NABO**EHhovisi likaNdunankulu**

7.1 Igama: Mnu. Frikkie Brooks
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