



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

Provincial Gazette • Provinsiale Koerant • Igazethi Yesifundazwe

GAZETTE EXTRAORDINARY — BUITENGEWONE KOERANT — IGAZETHI EYISIPESHELI

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

PIETERMARITZBURG

Vol. 10

25 FEBRUARY 2016
25 FEBRUARIE 2016
25 KUNHLOLANJA 2016

No. 1618

PART 1 OF 2

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DEPARTMENT OF HEALTH

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PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 2 OF 2016**DEPARTMENT OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS****PUBLICATION OF THE KWAZULU-NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT) BILL, 2016, THE KWAZULU-NATAL JOINT MUNICIPAL PENSION FUND (SUPERANNUATION) BILL, 2016, AND THE KWAZULU-NATAL JOINT MUNICIPAL PROVIDENT FUND BILL, 2016, IN COMPLIANCE WITH SECTION 154(2) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996**

1. In compliance with section 154(2) of the Constitution of the Republic of South Africa, 1996, the following Bills are hereby published for comment:

- (a) the KwaZulu-Natal Joint Municipal Pension Fund (Retirement) Bill, 2016;
- (b) the KwaZulu-Natal Joint Municipal Pension Fund (Superannuation) Bill, 2016; and
- (c) the KwaZulu-Natal Joint Municipal Provident Fund Bill, 2016.

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

The Head of Department
Cooperative Governance and Traditional Affairs
Private Bag X9078
Pietermaritzburg
3200

3. Comments may also be –

- (a) delivered by hand to Room 108, 14th Floor South Tower, Natalia Building, 330 Langalibalele Street, Pietermaritzburg, 3201;
- (b) sent by facsimile to (033) 394 9714; or
- (c) sent by electronic mail to heinz.kuhn@kzncogta.gov.za.

4. All comments must be received by no later than 31 March 2016, and must clearly be marked:

For attention: Mr KW Kuhn.

**KWAZULU-NATAL JOINT MUNICIPAL
PENSION FUND (RETIREMENT) BILL, 2016**

BILL

To provide for the continued existence of, and the continuation of, both membership of and association with, the Natal Joint Municipal Pension Fund (Retirement); for the renaming of the Natal Joint Municipal Pension Fund (Retirement) as the KwaZulu-Natal Joint Municipal Pension Fund (Retirement); for the power of the responsible Member of the Executive Council to make regulations; for transitional arrangements; for the repeal of laws and savings; and for matters incidental thereto.

PREAMBLE

WHEREAS there is a need to replace pre-1994 racially discriminatory Natal Ordinances that determined the establishment and implementation of two separate race-based pension systems for municipal employees, being the Natal Joint Municipal Pension Fund (Superannuation) and the Natal Joint Municipal Pension Fund (Retirement), which have been assigned to the Province by the President in accordance with section 235(8) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), and which have become obsolete with the commencement of the democratic dispensation on 27 April 1994;

WHEREAS the assigned racially based pre-1994 Ordinances have become provincial legislation as determined by section 239 of the Constitution of the Republic of South Africa, 1996, and the Provincial Legislature is consequently competent to repeal, amend and substitute such legislation in accordance with section 104(1)(b) of the 1996 Constitution;

WHEREAS there is a need to ensure that all race-based references and that all forms of differentiation between the two pension funds regarding the categories of beneficiaries and their dependants are removed;

AND WHEREAS it is necessary to replace the current Natal Joint Municipal Pension Fund (Retirement) statutory framework with a framework that is solely regulated by, aligned to, and compliant with the Constitution of the Republic of South Africa, 1996, the nationally applicable Pension Funds Act, 1956 (Act No. 24 of 1956), and the principles of good governance,

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

Definitions

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

“**actuary**” means a person who is –

(a) a fellow of an institute, faculty, society or chapter of actuaries registered as such in accordance with the applicable legislation; and

(b) appointed by the –

(i) Registrar; and

(ii) Board of Trustees,

as a valuator as contemplated in section 9A of the Pension Funds Act, 1956 (Act No. 24 of 1956);

“**auditor**” means a public accountant and auditor who is –

(a) registered as such in accordance with the Public Accountants’ and Auditors’ Act, 1991 (Act No. 80 of 1991); and

(b) appointed by the Board of Trustees;

“**benefit**” means any pension granted or other amount due in accordance with the regulations to a member, pensioner, dependant or other person;

“**Board of Trustees**” means the Board of Trustees contemplated in section 7A of the Pension Funds Act, 1956 (Act No. 24 of 1956), and established as prescribed;

“**committee of management**” means the committee of management elected in accordance with the provisions of the Rules;

“**employee**” means an employee as contemplated in sections 8(2) and (3);

“**Financial Services Board**” means the Financial Services Board established in accordance with section 2 of the Financial Services Board Act, 1990 (Act No. 97 of 1990);

“**Fund**” means the Natal Joint Municipal Pension Fund (Retirement), renamed as the KwaZulu-Natal Joint Municipal Pension Fund (Retirement) in accordance with section 4 from the commencement date of this Act;

“**general committee**” means the general committee elected in accordance with the provisions of the Rules;

“KwaZulu-Natal Joint Municipal Provident Fund” means the KwaZulu-Natal Joint Municipal Provident Fund, established in accordance with section 2 of the KwaZulu-Natal Joint Municipal Provident Fund Act, 1995 (Act No. 4 of 1995);

“member” unless the context determines otherwise, means a natural person who –

- (a) at any stage prior to the commencement date of this Act contributed to the Fund, and from the commencement date of this Act continues to contribute to the Fund; or
- (b) on any date subsequent to the commencement date of this Act starts to contribute to the Fund;

“municipality” –

- (a) includes a metropolitan municipality, a district municipality or a local municipality as contemplated in section 155(6) of the Constitution of the Republic of South Africa, 1996;
- (b) means a municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
- (c) when contemplated as an entity or a corporate body, means a municipality as described in section 2 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and
- (d) when contemplated as a geographic area, means a municipal area determined as contemplated in the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998);

“Municipal Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

“Natal Joint Municipal Pension Fund (Retirement)” means the Natal Joint Municipal Pension Fund (Retirement), established by section 2 of the Natal Joint Municipal Pension Fund (Retirement) Ordinance, 1974 (Ordinance No. 27 of 1974);

“Natal Joint Municipal Pension Fund (Superannuation)” means the Natal Joint Municipal Pension Fund (Superannuation) established by section 2 of the Local Government Superannuation Ordinance, 1973 (Ordinance No. 24 of 1973);

“**notice**” means a notice issued in terms of a regulation;

“**ordinance**” includes the regulations made thereunder;

“**Pension Funds Act**” means the Pension Funds Act, 1956 (Act No. 24 of 1956);

“**prescribed**” means prescribed by the responsible Member of the Executive Council by regulation made or notice issued in accordance with section 7;

“**principles of good governance**” means the principles as set out in the King Code and Report on Governance in South Africa, 2009, and any amendments thereto, or revision thereof;

“**promulgation**” means promulgation in the Provincial *Gazette*;

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

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

“**regulation**” means a regulation made under this Act, and includes any Schedule to such regulations;

“**Regulations governing the Natal Joint Municipal Pension Fund (Retirement)**” means the Regulations governing the Natal Joint Municipal Pension Fund (Retirement) published in Provincial Notice No. 180 of 1975 on 13 May 1975;

“**responsible Member of the Executive Council**” means the Member of the Executive Council responsible for local government;

“**Rules**” for purposes of the Pension Funds Act, means –

(a) the Rules for the Management and Administration of the Natal Joint Municipal Pension Fund (Superannuation), the Natal Joint Municipal Pension Fund (Retirement), and the KwaZulu-Natal Joint Municipal Provident Fund issued in accordance with the regulations made under the –

(i) Local Government Superannuation Ordinance, 1973 (Ordinance No. 24 of 1973);

(ii) Natal Joint Municipal Pension Fund (Retirement) Ordinance, 1974 (Ordinance No. 27 of 1974); and

(iii) KwaZulu-Natal Joint Municipal Provident Fund Act, 1995 (Act No. of 1995); and

(b) any further Schedules made in accordance with section 7, after the date of commencement of this Act; and

“**this Act**” includes the regulations and notices issued in terms of such regulations.

Objects of Act

2. The objects of this Act are to replace the current Fund statutory framework with a framework that is solely regulated by, aligned to, and compliant with the –

- (a) Constitution of the Republic of South Africa, 1996;
- (b) Pension Funds Act; and
- (c) principles of good governance.

Application of Act

3.(1) This Act applies to all municipalities associated with, and members of, the Fund.

(2) The provisions of the Pension Funds Act, apply to this Act, and the Pension Funds Act, prevails in the event of an irreconcilable conflict between the application of the Pension Funds Act and the provisions of this Act.

Renaming, continuation and operation of Natal Joint Municipal Pension Fund (Retirement)

4.(1) The Natal Joint Municipal Pension Fund (Retirement) –

- (a) is renamed as the KwaZulu-Natal Joint Municipal Pension Fund (Retirement);
- (b) continues to exist with all its associated rights, powers, duties, responsibilities, assets and liabilities as they were immediately prior to the commencement date of this Act; and
- (c) operates in accordance with the provisions of this Act, subject to the provisions of section 3(2) of this Act.

(2) The regulations governing the Natal Joint Municipal Pension Fund (Retirement) and the rules apply to the Fund.

Continuation of membership of Fund

5. Subject to the provisions of this Act or any other law a person who, immediately prior to the date of commencement of this Act, was a member of the Fund, continues to be a member of the Fund.

Continuation of association with Fund

6. Every municipality that, immediately prior to the commencement of this Act, was associated with the Fund continues to be associated with the Fund.

Powers of responsible Member of Executive Council

7.(1) The responsible Member of the Executive Council, after consultation with the Fund, may –

- (a) appoint an –
 - (i) actuary to conduct an actuarial valuation of the Fund; and
 - (ii) auditor to audit financial statements of the Fund; and
- (b) by regulation, repeal, amend or substitute any existing Regulations governing the Natal Joint Municipal Pension Fund (Retirement) and Rules;
- (c) by regulation, make, repeal, amend or substitute any regulations –
 - (i) in respect of the asset base, investments and financial and other sources of income of the Fund;
 - (ii) to provide that members of the Fund may elect to transfer to the –
 - (aa) Natal Joint Municipal Pension Fund (Superannuation); or
 - (bb) KwaZulu-Natal Joint Municipal Provident Fund,and vice versa, in accordance with the provisions of section 14 of the Pension Funds Act; and
 - (iii) not inconsistent with this Act, for any matter that he or she considers necessary or expedient to facilitate the application of this Act: Provided that the generality of this power is not limited by any of the provisions of paragraph (a), (b), (c)(i) or (c)(ii); and
- (d) issue notices pertaining to this Act or regulations made in accordance with this Act by publication in the Provincial *Gazette*.

(2) Any regulation made or notice issued by the responsible Member of the Executive Council in accordance with subsection (1) may be made or issued with effect from any date whether prior or subsequent to the date of promulgation thereof.

Transitional arrangements

8.(1) Subject to the protection of existing rights contemplated in sections 4(1)(b) and 9(2), the

–

(a) Committee of Management established in accordance with regulation 7 of the Regulations governing the Natal Joint Municipal Pension Fund (Retirement) continues, for all purposes, to operate, without interruption, as the Board of Trustees of the Fund with all the powers, functions, duties and roles that, prior to the commencement of this Act, vested in the Committee of Management of the Fund;

(b) General Committee established in accordance with regulation 7 of the Regulations governing the Natal Joint Municipal Pension Fund (Retirement) continues, for all purposes, to operate, without interruption, as the General Committee of the Fund with all the powers, functions, duties and roles that, prior to the commencement of this Act, vested in the General Committee of the Fund; and

(c) Fund continues to be governed, managed and operated, with the necessary changes, in compliance with the provisions of every –

(i) law; and

(ii) administrative and financial procedure,

that applied to the Fund prior to the date of commencement of this Act, and as amended from time to time.

(2) Subject to subsection (3), an employee is any person in the service of a municipality, who

–

(a) is employed in a full-time capacity in the said municipality; and

(b) has attained the age of 17 years but had not, at the time of joining the said municipality, reached an age eight years less than the pension age.

(3) For the purposes of this Act –

(a) any person who is employed by a municipality and whose services will be terminated on completion of the purpose for which he or she is employed, within a maximum period of three (3) years, may be regarded by the municipality not to be an employee;

(b) a person joining the service of a municipality after having reached an age eight years less than the pension age may elect, with the consent of the employing municipality, to be regarded as an employee; and

(c) subject to the approval of the Board of Trustees, a person joining the service of a municipality in a part-time capacity may elect, with the consent of the employing municipality, to be regarded as an employee.

(4) A special general meeting, consisting of all associated municipalities and employee members of the Fund, must be held within a period not exceeding 12 months after the date of publication of this Act in the Provincial *Gazette*.

Repeal of law and savings

9.(1) The law mentioned in the first and second columns of the Schedule to this Act is hereby repealed to the extent set out in the third column of the said Schedule.

(2) All regulations made under the Natal Joint Municipal Pension Fund (Retirement) Ordinance, 1974 (Ordinance No. 27 of 1974), and the Rules, to the extent that they apply to the Natal Joint Municipal Pension Fund (Retirement), remain in full force and effect as if the said Ordinance has not been repealed as contemplated in subsection (1).

Short title

10. This Act is called the KwaZulu-Natal Joint Municipal Pension Fund (Retirement) Act, 2016.

SCHEDULE
LAW REPEALED
(Section 9(1))

ORDINANCE OF THE FORMER PROVINCE OF NATAL

<i>Number and year of law</i>	<i>Title</i>	<i>Extent of repeal</i>
Ordinance No. 27 of 1974	Natal Joint Municipal Pension Fund (Retirement) Ordinance, 1974	The whole

**MEMORANDUM
ON THE OBJECTS
OF THE
KWAZULU-NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT) BILL, 2016**

1. INTRODUCTION

The aim of the Bill is to replace racially discriminatory Natal Ordinances that have become obsolete with the commencement of the democratic dispensation on 27 April 1994 and to ensure that all race-based references and that all forms of differentiation between the Natal Joint Municipal Pension Fund (Superannuation) and the Natal Joint Municipal Pension Fund (Retirement) regarding the categories of beneficiaries and their dependants are removed.

In terms of section 235(8) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), the President assigned the race-based Local Government Superannuation Ordinance, 1973 (Ordinance No. 24 of 1973), and the Natal Joint Municipal Pension Fund (Retirement) Ordinance, 1974 (Ordinance No. 27 of 1974), to the Province. Section 239 of the Constitution of the Republic of South Africa, 1996, determines that such assigned legislation becomes provincial legislation. Section 104(1)(b) of the Constitution of the Republic of South Africa, 1996, which empowers the KwaZulu-Natal Provincial Legislature to enact provincial legislation, includes the power to amend, repeal and substitute any provincial legislation (whether assigned pre-1994 legislation or post-1994 KwaZulu-Natal provincially enacted legislation).

The Bill establishes a framework that replaces the current Natal Joint Municipal Pension Fund (Retirement) statutory framework with a framework that is solely regulated by, aligned to and compliant with, the Constitution of the Republic of South Africa, 1996, the nationally applicable Pension Funds Act, 1956 (Act No. 24 of 1956), and the principles of good governance.

The Natal Joint Municipal Pension Fund (Superannuation) was established in 1973 by the Local Government Superannuation Ordinance, 1973 (Ordinance No. 24 of 1973). Membership of this Fund was exclusive to white persons.

The Natal Joint Municipal Pension Fund (Retirement) was established in 1974 by the Natal Joint Municipal Pension Fund (Retirement) Ordinance, 1974 (Ordinance No. 27 of 1974). Membership of this Fund was limited to non-white persons.

The Rules for the Management and Administration of the Natal Joint Municipal Pension Fund (Superannuation), Natal Joint Municipal Pension Fund (Retirement) and the KwaZulu-Natal Joint Municipal Provident Fund were issued, and amended from time to time, in terms of the regulations made under the Natal Joint Municipal Pension Fund (Retirement) Ordinance, 1974 (Ordinance No. 27 of 1974), the Local Government Superannuation Ordinance, 1973 (Ordinance No. 24 of 1973), and the KwaZulu-Natal Joint Municipal Provident Fund Act, 1995 (Act No. 4 of 1995). These regulations and rules are, to a large extent, identical in substance. However, the membership of the Funds, as well as the beneficiaries and dependants, were based solely on race. As a result, by removing all race-based references, ensuring that there is no differentiation between the Natal Joint Municipal Pension Fund (Superannuation) and the Natal Joint Municipal Pension Fund (Retirement) regarding the categories of beneficiaries and their dependants, the legislation is no longer racially discriminatory.

2. DISCUSSION

2.1 Clause 1: Definitions

Clause 1 defines words and expressions used in the KwaZulu-Natal Joint Municipal Pension Fund (Retirement) Bill, 2016. The applicable definitions contained in the Natal Joint Municipal Pension Fund (Retirement) Ordinance, 1974 (Ordinance No. 27 of 1974), and the regulations made thereunder, as well as the Rules for the Management and Administration of the Natal Joint Municipal Pension Fund (Superannuation), Natal Joint Municipal Pension Fund (Retirement), and the KwaZulu-Natal Joint Municipal Provident Fund, co-inform the contents of clause 1.

2.2 Clause 2: Objects of Act

Clause 2 sets out the objects of the Act, being to replace the current Natal Joint Municipal Pension Fund (Retirement) statutory framework with a new framework regulated by, aligned to, and compliant with the Constitution of the Republic of South Africa, 1996, the Pension Funds Act, 1956 (Act No. 24 of 1956), and the principles of good governance.

2.3 Clause 3: Application of Act

Clause 3 provides that the Act applies to the municipalities associated with, and members of, the Natal Joint Municipal Pension Fund (Retirement). In addition, it states that the Pension Funds Act, 1956 (Act No. 24 of 1956), applies to the Act and takes precedence in the event of an irreconcilable conflict.

2.4 Clause 4: Renaming, continuation and operation of Natal Joint Municipal Pension Fund (Retirement)

Clause 4 provides that the Natal Joint Municipal Pension Fund (Retirement) is renamed as the KwaZulu-Natal Joint Municipal Pension Fund (Retirement) and continues to exist with all the associated rights, powers, duties, responsibilities, assets and liabilities as it was immediately prior to the commencement date of the Act. The KwaZulu-Natal Joint Municipal Pension Fund (Retirement) operates in accordance with the provisions of the Act and the Pension Funds Act, 1956 (Act No. 24 of 1956). The regulations made with regard to, and all the Rules applicable to, the Natal Joint Municipal Pension Fund (Retirement) apply to the KwaZulu-Natal Joint Municipal Pension Fund (Retirement).

2.5 Clause 5: Continuation of membership of Fund

Clause 5 defines the members of the KwaZulu-Natal Joint Municipal Pension Fund (Retirement). All persons who, immediately prior to the commencement date of the Act, were members of the Natal Joint Municipal Pension Fund (Retirement) continue to be members of the KwaZulu-Natal Joint Municipal Pension Fund (Retirement).

2.6 Clause 6: Continuation of association with Fund

Clause 6 determines that all municipalities associated with the Natal Joint Municipal Pension Fund (Retirement) immediately prior to the commencement of the Act, continue to be associated with the KwaZulu-Natal Joint Municipal Pension Fund (Retirement).

2.7 Clause 7: Powers of responsible Member of the Executive Council

Clause 7 grants certain powers to the responsible Member of the Executive Council (MEC). The MEC is empowered to appoint an actuary for purposes of an actuarial valuation, and an auditor for purposes of an audit of the financial status of the KwaZulu-Natal Joint Municipal Pension Fund (Retirement). The MEC may make regulations to amend, substitute or repeal existing regulations made in terms of the Natal Joint Municipal Pension Fund (Retirement) Ordinance, 1974 (Ordinance No. 27 of 1974), as well as in respect of the asset base, investments and financial and other sources of the KwaZulu-Natal Joint Municipal Pension Fund (Retirement). In addition, the clause empowers the MEC to make regulations to provide that members of the two pension funds and the KwaZulu-Natal Joint Municipal Provident Fund may elect to transfer between the two funds, as well as regulations pertaining to other matters if these are not inconsistent with the Act and if he or she considers them necessary or expedient to facilitate the application of the Act. The MEC may also issue notices. Regulations and notices may be made or issued with effect from any date, whether prior or subsequent to the date of promulgation thereof.

2.8 Clause 8: Transitional arrangements

Clause 8 sets out a number of transitional arrangements regarding the Committee of Management and the General Committee. The Committee of Management and the General Committee of the Natal Joint Municipal Pension Fund (Retirement), for all purposes, continue to operate as the Board of Trustees and the General Committee, respectively, without interruption and with all their powers, functions, duties and roles. The clause also contains a provision regarding the governance, management and operation of the KwaZulu-Natal Joint Municipal Pension Fund (Retirement), and defines an “**employee**” for purposes of the Act. In addition, the clause provides for a special general meeting to be held within twelve (12) months after the publication of the Act.

2.9 Clause 9: Repeal of law and savings

Clause 9 provides for the repeal of the Natal Joint Municipal Pension Fund (Retirement) Ordinance, 1974 (Ordinance No. 27 of 1974), as well as savings relating to the Regulations regarding the Natal Joint Municipal Pension Fund (Retirement) and the rules relevant to the said Fund.

2.10 Clause 10: Short title

Clause 10 sets out the short title of the Act. Where no specific date of commencement is mentioned, the Act will come into operation on the date of its publication in the *Provincial Gazette*.

3. BODIES AND ORGANISATIONS CONSULTED

The following bodies and organisations will be consulted subsequent to the publication of the Bill in accordance with the provisions of section 154(2) of the Constitution of the Republic of South Africa, 1996:

3.1 The Registrar of Pension Funds;

3.2 The KwaZulu-Natal Joint Municipal Pension and Provident Fund;

3.3 Associated municipalities;

3.4 Members of the Natal Joint Municipal Pension Fund (Retirement) by means of a special general meeting; and

3.5 The Committee of Management of the Natal Joint Municipal Pension Fund (Retirement).

4. FINANCIAL IMPLICATIONS FOR PROVINCE

In the execution of the fiduciary responsibilities relating to the governance, management and administration of the consequences of the implementation of this Bill, the responsible Member of the Executive Council may appoint an independent auditor and independent actuary in order to provide independent information that will materially assist in the full implementation of the provisions of this Bill and, amongst others, to ensure that all race-based references and that all forms of differentiation between the Natal Joint Municipal Pension Fund (Superannuation) and the Natal Joint Municipal Pension Fund (Retirement) regarding the categories of beneficiaries and their dependants are removed.

5. FINANCIAL AND OTHER IMPLICATIONS FOR MUNICIPALITIES

Associated municipalities' monthly contributions will, from the commencement date of the Act onwards, be increased to ensure that the KwaZulu-Natal Joint Municipal Pension Fund (Retirement) will be able to meet all its obligations to all members.

6. FINANCIAL AND OTHER IMPLICATIONS FOR MEMBERS

None.

7. LEGISLATIVE PROCEDURE

Upon in-principle approval of this Bill by the responsible Member of the Executive Council, the KwaZulu-Natal Department of Cooperative Governance and Traditional Affairs intends to submit the draft Bill and Memorandum on the Objects to municipalities, members of the Natal Joint Municipal Pension Fund (Retirement) and a special general meeting for written comment, whereafter the Bill will again be submitted to the Provincial Chief State Law Advisor and the Provincial Treasury.

The KwaZulu-Natal Department of Cooperative Governance and Traditional Affairs then intends to submit the Bill to Cabinet for its approval and transferral to the KwaZulu-Natal Provincial Legislature. It is envisaged that this process will be concluded during the 2015/2016 financial year.

8. CONTACT PERSON

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**KWAZULU-NATAL JOINT MUNICIPAL
PENSION FUND (SUPERANNUATION) BILL, 2016**

BILL

To provide for the continued existence of, and the continuation of, both membership of and association with, the Natal Joint Municipal Pension Fund (Superannuation); for the renaming of the Natal Joint Municipal Pension Fund (Superannuation) as the KwaZulu-Natal Joint Municipal Pension Fund (Superannuation); for the power of the responsible Member of the Executive Council to make regulations; for transitional arrangements; for the repeal of laws and savings; and for matters incidental thereto.

PREAMBLE

WHEREAS there is a need to replace pre-1994 racially discriminatory Natal Ordinances that determined the establishment and implementation of two separate race-based pension systems for municipal employees, being the Natal Joint Municipal Pension Fund (Superannuation) and the Natal Joint Municipal Pension Fund (Retirement), which have been assigned to the Province by the President in accordance with section 235(8) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), and which have become obsolete with the commencement of the democratic dispensation on 27 April 1994;

WHEREAS the assigned racially based pre-1994 Ordinances have become provincial legislation as determined by section 239 of the Constitution of the Republic of South Africa, 1996, and the Provincial Legislature is consequently competent to repeal, amend and substitute such legislation in accordance with section 104(1)(b) of the Constitution of the Republic of South Africa, 1996;

WHEREAS there is a need to ensure that all race-based references and that all forms of differentiation between the two pension funds regarding the categories of beneficiaries and their dependants are removed;

AND WHEREAS it is necessary to replace the current Natal Joint Municipal Pension Fund (Superannuation) statutory framework with a framework that is solely regulated by, aligned to, and compliant with the Constitution of the Republic of South Africa, 1996, the nationally applicable Pension Funds Act, 1956 (Act No. 24 of 1956), and the principles of good governance,

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

Definitions

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

“**actuary**” means a person who is –

(a) a fellow of an institute, faculty, society or chapter of actuaries registered as such in accordance with the applicable legislation; and

(b) appointed by the –

(i) Registrar; and

(ii) Board of Trustees,

as a valuator as contemplated in section 9A of the Pension Funds Act, 1956 (Act No. 24 of 1956);

“**auditor**” means a public accountant and auditor who is –

(a) registered as such in accordance with the Public Accountants’ and Auditors’ Act, 1991 (Act No. 80 of 1991); and

(b) appointed by the Board of Trustees;

“**Board of Trustees**” means the Board of Trustees contemplated in section 7A of the Pension Funds Act, 1956 (Act No. 24 of 1956), and established as prescribed;

“**committee of management**” means the committee of management elected in accordance with the provisions of the Rules;

“**employee**” means an employee as contemplated in sections 8(2) and (3);

“**Financial Services Board**” means the Financial Services Board established in accordance with section 2 of the Financial Services Board Act, 1990 (Act No. 97 of 1990);

“**Fund**” means the Natal Joint Municipal Pension Fund (Superannuation), renamed as the KwaZulu-Natal Joint Municipal Pension Fund (Superannuation) in accordance with section 4 from the commencement date of this Act;

“**general committee**” means the general committee elected in accordance with the provisions of the Rules;

“KwaZulu-Natal Joint Municipal Provident Fund” means the KwaZulu-Natal Joint Municipal Provident Fund, established in accordance with section 2 of the KwaZulu-Natal Joint Municipal Provident Fund Act, 1995 (Act No. 4 of 1995);

“member” unless the context determines otherwise, means a natural person who –

- (a) at any stage prior to the commencement date of this Act contributed to the Fund, and from the commencement date of this Act continues to contribute to the Fund; or
- (b) on any date subsequent to the commencement date of this Act starts to contribute to the Fund;

“municipality” –

- (a) includes a metropolitan municipality, a district municipality or a local municipality as contemplated in section 155(6) of the Constitution of the Republic of South Africa, 1996;
- (b) means a municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
- (c) when contemplated as an entity or a corporate body, means a municipality as described in section 2 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and
- (d) when contemplated as a geographic area, means a municipal area determined as contemplated in the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998);

“Municipal Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

“Natal Joint Municipal Pension Fund (Retirement)” means the Natal Joint Municipal Pension Fund (Retirement), established by section 2 of the Natal Joint Municipal Pension Fund (Retirement) Ordinance, 1974 (Ordinance No. 27 of 1974);

“Natal Joint Municipal Pension Fund (Superannuation)” means the Natal Joint Municipal Pension Fund (Superannuation) established by section 2 of the Local Government Superannuation Ordinance, 1973 (Ordinance No. 24 of 1973);

“notice” means a notice issued in terms of a regulation;

“ordinance” includes the regulations made thereunder;

“Pension Funds Act” means the Pension Funds Act, 1956 (Act No. 24 of 1956);

“prescribed” means prescribed by the responsible Member of the Executive Council by regulation made or notice issued in accordance with section 7;

“principles of good governance” means the principles as set out in the King Code and Report on Governance in South Africa, 2009, and any amendments thereto, or revision thereof;

“promulgation” means promulgation in the Provincial *Gazette*;

“Province” means the Province of KwaZulu-Natal;

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

“regulation” means a regulation made under this Act, and includes any Schedule to such regulations;

“Regulations governing the Natal Joint Municipal Pension Fund (Superannuation)” means the regulations governing the Natal Joint Municipal Pension Fund (Superannuation) published in Provincial Notice No. 246 of 1974 on 24 May 1974;

“responsible Member of the Executive Council” means the Member of the Executive Council responsible for local government;

“Rules” for purposes of the Pension Funds Act, means –

(a) the Rules for the Management and Administration of the Natal Joint Municipal Pension Fund (Superannuation), the Natal Joint Municipal Pension Fund (Retirement), and the KwaZulu-Natal Joint Municipal Provident Fund, issued in accordance with the regulations made under the –

(i) Local Government Superannuation Ordinance, 1973 (Ordinance No. 24 of 1973);

(ii) Natal Joint Municipal Pension Fund (Retirement) Ordinance, 1974 (Ordinance No. 27 of 1974); and

(iii) KwaZulu-Natal Joint Municipal Provident Fund Act, 1995 (Act No. 4 of 1995); and

(b) any further Schedules made in accordance with section 7, after the date of commencement of this Act; and

“this Act” includes the regulations and notices issued in terms of such regulations.

Objects of Act

2. The objects of this Act are to replace the current Fund statutory framework with a framework that is solely regulated by, aligned to, and compliant with the –

(a) Constitution of the Republic of South Africa, 1996;

(b) Pension Funds Act; and

(c) principles of good governance.

Application of Act

3.(1) This Act applies to all municipalities associated with, and members of, the Fund.

(2) The provisions of the Pension Funds Act apply to this Act, and the Pension Funds Act prevails in the event of an irreconcilable conflict between the application of the Pension Funds Act and the provisions of this Act.

Renaming, continuation and operation of Natal Joint Municipal Pension Fund (Superannuation)

4.(1) The Natal Joint Municipal Pension Fund (Superannuation) –

- (a) is renamed as the KwaZulu-Natal Joint Municipal Pension Fund (Superannuation);
- (b) continues to exist with all its associated rights, powers, duties, responsibilities, assets and liabilities as they were immediately prior to the commencement date of this Act; and
- (c) operates in accordance with the provisions of this Act, subject to the provisions of section 3(2) of this Act.

(2) The regulations governing the Natal Joint Municipal Pension Fund (Superannuation) and the rules apply to the Fund.

Continuation of membership of Fund

5. Subject to the provisions of this Act or any other law a person who, immediately prior to the date of commencement of this Act, was a member of the Fund, continues to be a member of the Fund.

Continuation of association with Fund

6. Every municipality that, immediately prior to the commencement of this Act, was associated with the Fund, continues to be associated with the Fund.

Powers of responsible Member of Executive Council

7.(1) The responsible Member of the Executive Council, after consultation with the Fund, may –

- (a) appoint an –
 - (i) actuary to conduct an actuarial valuation of the Fund; and
 - (ii) auditor to audit financial statements of the Fund;
- (b) by regulation, repeal, amend or substitute any existing Regulations governing the Natal Joint Municipal Pension Fund (Superannuation) and Rules;
- (c) by regulation, make, repeal, amend or substitute any Regulations –
 - (i) in respect of the asset base, investments and financial and other sources of income of the Fund;

- (ii) to provide that members of the Fund may elect to transfer to the –
 - (aa) Natal Joint Municipal Pension Fund (Retirement); or
 - (bb) KwaZulu-Natal Joint Municipal Provident Fund,and vice versa, in accordance with the provisions of section 14 of the Pension Funds Act; and
- (iii) not inconsistent with this Act, for any matter that he or she considers necessary or expedient to facilitate the application of this Act: Provided that the generality of this power is not limited by any of the provisions of paragraph (a), (b), (c)(i) or (c)(ii); and
- (d) issue notices pertaining to this Act or regulations made in accordance with this Act by publication in the Provincial *Gazette*.

(2) Any regulation made or notice issued by the responsible Member of the Executive Council in accordance with subsection (1) may be made or issued with effect from any date whether prior or subsequent to the date of promulgation thereof.

Transitional arrangements

8.(1) Subject to the protection of existing rights contemplated in sections 4(1)(b) and 9(2), the –

- (a) Committee of Management established in accordance with regulation 7 of the Regulations governing the Natal Joint Municipal Pension Fund (Superannuation) continues, for all purposes, to operate, without interruption, as the Board of Trustees of the Fund with all the powers, functions, duties and roles that, prior to the commencement of this Act, vested in the Committee of Management of the Fund;
- (b) General Committee established in accordance with regulation 7 of the Regulations governing the Natal Joint Municipal Pension Fund (Superannuation) continues, for all purposes, to operate, without interruption, as the General Committee of the Fund with all the powers, functions, duties and roles that, prior to the commencement of this Act, vested in the General Committee of the Fund; and
- (c) Fund continues to be governed, managed and operated, with the necessary changes, in compliance with the provisions of every –
 - (i) law; and
 - (ii) administrative and financial procedure,that applied to the Fund prior to the date of commencement of this Act, and as amended from time to time.

(2) Subject to subsection (3), an employee is any person in the service of a municipality, who

–

- (a) is employed in a full-time capacity in the said municipality; and
- (b) has attained the age of 17 years, but had not at the time of joining the said municipality reached an age eight years less than the pension age.

(3) For the purposes of this Act –

- (a) any person who is employed by a municipality and whose services will be terminated on completion of the purpose for which he or she is employed, within a maximum period of three years, may be regarded by the municipality not to be an employee;
- (b) a person joining the service of a municipality after having reached an age eight years less than the pension age may elect, with the consent of the employing municipality, to be regarded as an employee; and
- (c) subject to the approval of the Board of Trustees, a person joining the service of a municipality in a part-time capacity may elect, with the consent of the employing municipality, to be regarded as an employee.

(4) A special general meeting, consisting of all associated municipalities and employee members of the Fund must be held within a period not exceeding 12 months after the date of publication of this Act in the Provincial *Gazette*.

Repeal of laws and savings

9.(1) The laws mentioned in the first and second columns of Parts A and B of the Schedule to this Act are hereby repealed to the extent set out in the third column of the said Schedule.

(2) All regulations made under the Local Government Superannuation Ordinance, 1973 (Ordinance No. 24 of 1973), and the Rules, to the extent that they apply to the Natal Joint Municipal Pension Fund (Superannuation), remain in full force and effect as if the said Ordinance has not been repealed as contemplated in subsection (1).

Short title

10. This Act is called the KwaZulu-Natal Joint Municipal Pension Fund (Superannuation) Act, 2016.

SCHEDULE
LAWS REPEALED

(Section 9(1))

PART A: ORDINANCES OF THE FORMER PROVINCE OF NATAL

<i>Number and year of law</i>	<i>Title</i>	<i>Extent of repeal</i>
Ordinance No. 24 of 1973	Local Government Superannuation Ordinance, 1973	The whole

PART B: REGULATIONS MADE IN TERMS OF ORDINANCES OF THE FORMER PROVINCE OF NATAL

<i>Number and year of law</i>	<i>Title</i>	<i>Extent of repeal</i>
Provincial Notice No. 246 of 1974	Regulations governing the Natal Joint Municipal Pension Fund (Superannuation), 1974	All references to "White"

**MEMORANDUM
ON THE OBJECTS
OF THE
KWAZULU-NATAL JOINT MUNICIPAL PENSION FUND (SUPERANNUATION) BILL,
2016**

1. INTRODUCTION

The aim of the Bill is to replace racially discriminatory Natal Ordinances that have become obsolete with the commencement of the democratic dispensation on 27 April 1994 and to ensure that all race-based references and that all forms of differentiation between the Natal Joint Municipal Pension Fund (Superannuation) and the Natal Joint Municipal Pension Fund (Retirement) regarding the categories of beneficiaries and their dependants are removed.

In terms of section 235(8) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), the President assigned the race-based Local Government Superannuation Ordinance, 1973 (Ordinance No. 24 of 1973), and the Natal Joint Municipal Pension Fund (Retirement) Ordinance, 1974 (Ordinance No. 27 of 1974), to the Province. Section 239 of the Constitution of the Republic of South Africa, 1996, determines that such assigned legislation becomes provincial legislation. Section 104(1)(b) of the Constitution of the Republic of South Africa, 1996, which empowers the KwaZulu-Natal Provincial Legislature to enact provincial legislation, includes the power to amend, repeal and substitute any provincial legislation (whether assigned pre-1994 legislation or post-1994 KwaZulu-Natal provincially enacted legislation).

The Bill establishes a framework that replaces the current Natal Joint Municipal Pension Fund (Superannuation) statutory framework with a framework that is solely regulated by, aligned to and compliant with, the Constitution of the Republic of South Africa, 1996, the nationally applicable Pension Funds Act, 1956 (Act No. 24 of 1956), and the principles of good governance.

The Natal Joint Municipal Pension Fund (Superannuation) was established in 1973 by the Local Government Superannuation Ordinance, 1973 (Ordinance No. 24 of 1973). Membership of this Fund was exclusive to white persons.

The Natal Joint Municipal Pension Fund (Retirement) was established in 1974 by the Natal Joint Municipal Pension Fund (Retirement) Ordinance, 1974 (Ordinance No. 27 of 1974). Membership of this Fund was limited to non-white persons.

The Rules for the Management and Administration of the Natal Joint Municipal Pension Fund (Superannuation), Natal Joint Municipal Pension Fund (Retirement) and the KwaZulu-Natal Joint Municipal Provident Fund were issued, and amended from time to time, in terms of the regulations made under the Natal Joint Municipal Pension Fund (Retirement) Ordinance, 1974 (Ordinance No. 27 of 1974), the Local Government Superannuation Ordinance, 1973 (Ordinance No. 24 of 1973), and the KwaZulu-Natal Joint Municipal Provident Fund Act, 1995 (Act No. 4 of 1995). These regulations and Rules are, to a large extent, identical in substance. However, the membership of the Funds, as well as the beneficiaries and dependants, were based solely on race. As a result, by removing all race-based references, ensuring that there is no differentiation between the Natal Joint Municipal Pension Fund (Superannuation) and the Natal Joint Municipal Pension Fund (Retirement) regarding the categories of beneficiaries and their dependants, the legislation is no longer racially discriminatory.

2. DISCUSSION

2.1 Clause 1: Definitions

Clause 1 defines words and expressions used in the KwaZulu-Natal Joint Municipal Pension Fund (Superannuation) Bill, 2016. The applicable definitions contained in the Local Government Superannuation Ordinance, 1973 (Ordinance No. 24 of 1973), and the regulations made thereunder, as well as the Rules for the Management and Administration of the Natal Joint Municipal Pension Fund (Superannuation), Natal Joint Municipal Pension Fund (Retirement), and the KwaZulu-Natal Joint Municipal Provident Fund, co-inform the contents of clause 1.

2.2 Clause 2: Objects of Act

Clause 2 sets out the objects of the Act, being to replace the current Natal Joint Municipal Pension Fund (Superannuation) statutory framework with a new framework regulated by, aligned to, and compliant with the Constitution of the Republic of South Africa, 1996, the Pension Funds Act, 1956 (Act No. 24 of 1956), and the principles of good governance.

2.3 Clause 3: Application of Act

Clause 3 provides that the Act applies to the municipalities associated with, and members of, the Natal Joint Municipal Pension Fund (Superannuation). In addition, it states that the Pension Funds Act, 1956 (Act No. 24 of 1956), applies to the Act and takes precedence in the event of an irreconcilable conflict.

2.4 Clause 4: Renaming, continuation and operation of Natal Joint Municipal Pension Fund (Superannuation)

Clause 4 provides that the Natal Joint Municipal Pension Fund (Superannuation) is renamed as the KwaZulu-Natal Joint Municipal Pension Fund (Superannuation) and continues to exist with all the associated rights, powers, duties, responsibilities, assets and liabilities as it was immediately prior to the commencement date of the Act. The KwaZulu-Natal Joint Municipal Pension Fund (Superannuation) operates in accordance with the provisions of the Act and the Pension Funds Act, 1956 (Act No. 24 of 1956). The regulations made with regard to, and all the rules applicable to, the Natal Joint Municipal Pension Fund (Superannuation) apply to the KwaZulu-Natal Joint Municipal Pension Fund (Superannuation).

2.5 Clause 5: Continuation of membership of Fund

Clause 5 defines the members of the KwaZulu-Natal Joint Municipal Pension Fund (Superannuation). All persons who, immediately prior to the commencement date of the Act, were members of the Natal Joint Municipal Pension Fund (Superannuation) continue to be members of the KwaZulu-Natal Joint Municipal Pension Fund (Superannuation).

2.6 Clause 6: Continuation of association with Fund

Clause 6 determines that all municipalities associated with the Natal Joint Municipal Pension Fund (Superannuation) immediately prior to the commencement of the Act, continue to be associated with the KwaZulu-Natal Joint Municipal Pension Fund (Superannuation).

2.7 Clause 7: Powers of responsible Member of the Executive Council

Clause 7 grants certain powers to the responsible Member of the Executive Council (MEC). The MEC is empowered to appoint an actuary for purposes of an actuarial valuation, and an auditor for purposes of an audit of the financial status of the KwaZulu-Natal Joint Municipal Pension Fund (Superannuation). The MEC may make regulations to amend, substitute or repeal existing regulations made in terms of the Local Government Superannuation Ordinance, as well as in respect of the asset base, investments and financial and other sources of the KwaZulu-Natal Joint Municipal Pension Fund (Superannuation). In addition, the clause empowers the MEC to make regulations to provide that members of the two

pension funds and the KwaZulu-Natal Joint Municipal Provident Fund may elect to transfer between the funds, as well as regulations pertaining to other matters if these are not inconsistent with the Act and if he or she considers them necessary or expedient to facilitate the application of the Act. The MEC may also issue notices. Regulations and notices may be made or issued with effect from any date, whether prior or subsequent to the date of promulgation thereof.

2.8 Clause 8: Transitional arrangements

Clause 8 sets out a number of transitional arrangements regarding the Committee of Management and the General Committee. The Committee of Management and the General Committee of the Natal Joint Municipal Pension Fund (Superannuation) for all purposes continue to operate as the Board of Trustees and the General Committee, respectively, without interruption and with all their powers, functions, duties and roles. The clause also contains a provision regarding the governance, management and operation of the KwaZulu-Natal Joint Municipal Pension Fund (Superannuation), and defines an “**employee**” for purposes of the Act. In addition, the clause provides for a special general meeting to be held within twelve (12) months after the publication of the Act.

2.9 Clause 9: Repeal of laws and savings

Clause 9 provides for the repeal of the Local Government Superannuation Ordinance, 1973 (Ordinance No. 24 of 1973), as well as savings relating to the Regulations regarding the Natal Joint Municipal Pension Fund (Superannuation) and the Rules relevant to the said Fund.

2.10 Clause 10: Short title

Clause 10 sets out the short title of the Act and provides that the Act. Where no specific date of commencement is determined, the Act will come into operation on the date of its publication in the Provincial *Gazette*.

3. BODIES AND ORGANISATIONS CONSULTED

The following bodies and organisations will be consulted subsequent to the publication of the Bill in accordance with the provisions of section 154(2) of the Constitution of the Republic of South Africa, 1996:

3.1 The Registrar of Pension Funds;

3.2 The KwaZulu-Natal Joint Municipal Pension and Provident Fund;

3.3 Associated municipalities;

3.4 Members of the Natal Joint Municipal Pension Fund (Superannuation) by means of a special general meeting; and

3.5 The Committee of Management of the Natal Joint Municipal Pension Fund (Superannuation).

4. FINANCIAL IMPLICATIONS FOR PROVINCE

In the execution of the fiduciary responsibilities relating to the governance, management and administration of the consequences of the implementation of this Bill, the responsible Member of the Executive Council may appoint an independent auditor and independent actuary in order to provide independent information that will materially assist in the full implementation of the provisions of this Bill and, amongst others, to ensure that all race-based references and that all forms of differentiation between the Natal Joint Municipal Pension Fund (Superannuation) and the Natal Joint Municipal Pension Fund (Retirement) regarding the categories of beneficiaries and their dependants are removed.

5. FINANCIAL AND OTHER IMPLICATIONS FOR MUNICIPALITIES

Associated municipalities' monthly contributions will, from the commencement date of the Act onwards, be increased to ensure that the KwaZulu-Natal Joint Municipal Pension Fund (Superannuation) will be able to meet all its obligations to all members.

6. FINANCIAL AND OTHER IMPLICATIONS FOR MEMBERS

None.

7. LEGISLATIVE PROCEDURE

Upon in-principle approval of this Bill by the responsible Member of the Executive Council, the KwaZulu-Natal Department of Cooperative Governance and Traditional Affairs intends to submit the draft Bill and Memorandum on the Objects to municipalities, members of the Natal Joint Municipal Pension Fund (Superannuation) and a special general meeting for written comment, whereafter the Bill will again be submitted to the Provincial Chief State Law Advisor and the Provincial Treasury.

The KwaZulu-Natal Department of Cooperative Governance and Traditional Affairs then intends to submit the Bill to Cabinet for its approval and transferral to the KwaZulu-Natal Provincial Legislature. It is envisaged that this process will be concluded during the 2016/2017 financial year.

8. CONTACT PERSON

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**KWAZULU-NATAL JOINT MUNICIPAL
PROVIDENT FUND BILL, 2016**

BILL

To provide for the continued existence of, and the continuation of both membership of and association with, the KwaZulu-Natal Joint Municipal Provident Fund; for the power of the responsible Member of the Executive Council to make regulations; for transitional arrangements; for the repeal of laws and savings; for the validation of certain actions; for the retrospective validation of the establishment and operation of the Natal Joint Municipal Pension Fund Staff Provident Fund; and for matters incidental thereto.

PREAMBLE

WHEREAS it is necessary to replace the current KwaZulu-Natal Joint Municipal Provident Fund framework with a framework that is solely regulated by, aligned to, and compliant with the Constitution of the Republic of South Africa, 1996, the nationally applicable Pension Funds Act, 1956 (Act No. 24 of 1956), and the principles of good governance,

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

Definitions

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

“**actuary**” means a person who is –

(a) a fellow of an institute, faculty, society or chapter of actuaries registered as such in accordance with the applicable legislation; and

(b) appointed by the –

(i) Registrar; and

(ii) Board of Trustees,

as a valuator as contemplated in section 9A of the Pension Funds Act, 1956 (Act No. 24 of 1956);

“**auditor**” means a public accountant and auditor who is –

(a) registered as such in accordance with the Public Accountants’ and Auditors’ Act, 1991 (Act No. 80 of 1991); and

(b) appointed by the Board of Trustees;

“**benefit**” means any benefit granted or other amount due, in accordance with the regulations to a member, dependant or other person;

“**Board of Trustees**” means the Board of Trustees contemplated in section 7A of the Pension Funds Act, 1956 (Act No. 24 of 1956), and established as prescribed;

“**committee of management**” means the committee of management elected in accordance with the provisions of the Rules;

“**employee**” means an employee as contemplated in sections 8(2) and (3);

“**Financial Services Board**” means the Financial Services Board established in accordance with section 2 of the Financial Services Board Act, 1990 (Act No. 97 of 1990);

“**Fund**” means the KwaZulu-Natal Joint Municipal Provident Fund;

“**general committee**” means the general committee elected in accordance with the provisions of the rules;

“**KwaZulu-Natal Joint Municipal Provident Fund**” means the KwaZulu-Natal Joint Municipal Provident Fund established by section 2 of the KwaZulu-Natal Joint Municipal Provident Fund Act, 1995 (Act No. 4 of 1995);

“**member**” unless the context determines otherwise, means a natural person who –

- (a) at any stage prior to the commencement date of this Act contributed to the Fund, and from the commencement date of this Act continues to contribute to the Fund; or
- (b) on any date subsequent to the commencement date of this Act starts to contribute to the Fund;

“**municipality**” –

- (a) includes a metropolitan municipality, a district municipality or a local municipality as contemplated in section 155(6) of the Constitution of the Republic of South Africa, 1996;
- (b) means a municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

(c) when contemplated as an entity or a corporate body, means a municipality as described in section 2 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and

(d) when contemplated as a geographic area, means a municipal area determined as contemplated in the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998);

“**notice**” means a notice issued in terms of a regulation;

“**Pension Funds Act**” means the Pension Funds Act, 1956 (Act No. 24 of 1956);

“**prescribed**” means prescribed by the responsible Member of the Executive Council by regulation made or notice issued in accordance with section 7;

“**principles of good governance**” means the principles as set out in the King Code and Report on Governance in South Africa, 2009, and any amendments thereto, or revision thereof;

“**promulgation**” means promulgation in the Provincial *Gazette*;

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

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

“**regulation**” means a regulation made under this Act, and includes any Schedule to such regulations;

“**Regulations governing the KwaZulu-Natal Joint Municipal Provident Fund**” means the Regulations governing the KwaZulu-Natal Joint Municipal Provident Fund published in Provincial Notice No. 135 of 1996 on 4 April 1996;

“**responsible Member of the Executive Council**” means the Member of the Executive Council responsible for local government;

“**Rules**” for purposes of the Pension Funds Act, means –

(a) the Rules for the Management and Administration of the Natal Joint Municipal Pension Fund (Superannuation), the Natal Joint Municipal Pension Fund

(Retirement), and the KwaZulu-Natal Joint Municipal Provident Fund, issued in accordance with the regulations made under the –

- (i) Local Government Superannuation Ordinance, 1973 (Ordinance No. 24 of 1973);
- (ii) Natal Joint Municipal Pension Fund (Retirement) Ordinance, 1974 (Ordinance No. 27 of 1974); and
- (iii) KwaZulu-Natal Joint Municipal Provident Fund Act, 1995 (Act No. 4 of 1995); and

(b) any further Schedules made in accordance with section 7, after the date of commencement of this Act; and

“**this Act**” includes the regulations made and notices issued in terms of such regulations.

Objects of Act

2. The objects of this Act are to replace the current Fund framework with a framework that is solely regulated by, aligned to, and compliant with the –

- (a) Constitution of the Republic of South Africa, 1996;
- (b) Pension Funds Act; and
- (c) principles of good governance.

Application of Act

3.(1) This Act applies to all municipalities associated with, and members of, the Fund.

(2) The provisions of the Pension Funds Act apply to this Act, and the Pension Funds Act prevails in the event of an irreconcilable conflict between the application of the Pension Funds Act and the provisions of this Act.

Continuation and operation of Fund

4.(1) The Fund –

- (a) continues to exist with all the associated rights, powers, duties, responsibilities, assets and liabilities as they were immediately prior to the commencement date of this Act; and
- (b) operates in accordance with the provisions of this Act, subject to the provisions of section 3(2).

(2) The regulations governing the KwaZulu-Natal Joint Municipal Provident Fund and the rules apply to the Fund.

Continuation of membership of Fund

5. Subject to the provisions of this Act or any other law, a person who, immediately prior to the date of commencement of this Act, was a member of the Fund, continues to be a member of the Fund.

Continuation of association with Fund

6. Every municipality that, immediately prior to the commencement of this Act, was associated with the Fund, continues to be associated with the Fund.

Powers of responsible Member of Executive Council

7.(1) The responsible Member of the Executive Council, after consultation with the Fund, may –

(a) appoint an –

(i) actuary to conduct an actuarial valuation of the Fund; and

(ii) auditor to audit financial statements of the Fund; and

(b) by regulation, repeal, amend or substitute any existing Regulations governing the KwaZulu-Natal Joint Municipal Provident Fund;

(c) by regulation, make, repeal, amend or substitute any regulations –

(i) in respect of the asset base, investments and financial and other sources of income of the Fund; and

(ii) not inconsistent with this Act, for any matter that he or she considers necessary or expedient to facilitate the application of this Act: Provided that the generality of this power is not limited by any of the provisions of paragraph (a), (b) or (c); and

(d) issue notices pertaining to this Act or the Regulations by publication in the *Provincial Gazette*.

(2) Any regulation made or notice issued by the responsible Member of the Executive Council in accordance with subsection (1), may be made or issued with effect from any date whether prior or subsequent to the date of promulgation thereof.

Transitional arrangements

- 8.(1) Subject to the protection of existing rights contemplated in sections 4(1) and 9(2) the –
- (a) Committee of Management established in accordance with Regulation 5 of the Regulations governing the KwaZulu-Natal Joint Municipal Provident Fund continues, for all purposes, to operate, without interruption, as the Board of Trustees of the Fund with all the powers, functions, duties and roles that, prior to the commencement of this Act, vested in the Committee of Management of the Fund;
 - (b) General Committee established in accordance with Regulation 5 of the Regulations governing the KwaZulu-Natal Joint Municipal Provident Fund continues, for all purposes, to operate, without interruption, as the General Committee of the Fund with all the powers, functions, duties and roles that, prior to the commencement of this Act, vested in the General Committee of the Fund; and
 - (c) Fund continues to be governed, managed and operated, with the necessary changes, in compliance with the provisions of every –
 - (i) law; and
 - (ii) administrative and financial procedure,that applied to the Fund prior to the date of commencement of this Act.
- (2) Subject to subsection (3), an employee is any person in the service of an associated municipality, who –
- (a) is employed in a full-time capacity in the said municipality; and
 - (b) has attained the age of 17 years, but had not at the time of joining the said municipality reached an age 8 years less than the pension age.
- (3) For the purposes of this Act –
- (a) any person who is employed by an associated municipality and whose services are terminated on completion of the purpose for which he or she is employed, within a maximum period of three years, may be regarded by such municipality not to be an employee;
 - (b) a person joining the service of an associated municipality after having reached an age eight years less than the pension age may elect, with the consent of the employing municipality, to be regarded as an employee; and
 - (c) subject to the approval of the Board of Trustees, a person joining the service of an associated municipality in a part-time capacity may elect, with the consent of the employing municipality, to be regarded as an employee.

(4) A special general meeting, consisting of all associated municipalities and employee members of the Fund, must be held within a period not exceeding 12 months after the date of commencement of this Act.

Repeal of law and savings

9.(1) The law mentioned in the first and second columns of the Schedule to this Act is hereby repealed to the extent set out in the third column of the said Schedule.

(2) All regulations made under the KwaZulu-Natal Joint Municipal Provident Fund Act, 1995 (Act No. 4 of 1995), and the Rules, to the extent that they apply to the Fund, remain in full force and effect as if the said Act has not been repealed as contemplated in subsection (1), until such time as they are amended, repealed or replaced by a Regulation or a Rule, as the case may be, made in accordance with section 7.

Short title

10. This Act is called the KwaZulu-Natal Joint Municipal Provident Fund Act, 2016.

SCHEDULE
LAW REPEALED
(Section 9(1))

<i>Number and year of law</i>	<i>Title</i>	<i>Extent of repeal</i>
Act No. 4 of 1995	KwaZulu-Natal Joint Municipal Provident Fund Act, 1995	The whole

**MEMORANDUM
ON THE OBJECTS
OF THE
KWAZULU-NATAL JOINT MUNICIPAL PROVIDENT FUND BILL, 2016**

1. INTRODUCTION

The Bill establishes a framework for the continuation of the KwaZulu-Natal Joint Municipal Provident Fund. The framework is solely regulated by, aligned to and compliant with, the Constitution of the Republic of South Africa, 1996, the nationally applicable Pension Funds Act, 1956 (Act No. 24 of 1956), and the principles of good governance.

The KwaZulu-Natal Joint Municipal Provident Fund was established in 1996 by the KwaZulu-Natal Joint Municipal Provident Fund Act, 1995 (Act No. 4 of 1995).

The Rules for the Management and Administration of the Natal Joint Municipal Pension Fund (Superannuation), Natal Joint Municipal Pension Fund (Retirement) and the KwaZulu-Natal Joint Municipal Provident Fund were issued, and amended from time to time, in terms of the regulations made under the Natal Joint Municipal Pension Fund (Retirement) Ordinance, 1974 (Ordinance No. 27 of 1974), the Local Government Superannuation Ordinance, 1973 (Ordinance No. 24 of 1973), and the KwaZulu-Natal Joint Municipal Provident Fund Act, 1995 (Act No. 4 of 1995).

2. DISCUSSION

2.1 Clause 1: Definitions

Clause 1 defines words and expressions used in the KwaZulu-Natal Joint Municipal Provident Fund Bill, 2016. The applicable definitions contained in the KwaZulu-Natal Joint Municipal Provident Fund Act, 1995 (Act No. 4 of 1995), and the regulations made thereunder, as well as the Rules for the Management and Administration of the Natal Joint Municipal Pension Fund (Superannuation), Natal Joint Municipal Pension Fund (Retirement), and the KwaZulu-Natal Joint Municipal Provident Fund, co-inform the contents of clause 1.

2.2 Clause 2: Objects of Act

Clause 2 sets out the objects of the Act, being to replace the current KwaZulu-Natal Joint Municipal Provident Fund framework with a new framework regulated by, aligned to, and compliant with the Constitution of the Republic of South Africa, 1996, the Pension Funds Act, 1956 (Act No. 24 of 1956), and the principles of good governance.

2.3 Clause 3: Application of Act

Clause 3 provides that the Act applies to the municipalities associated with, and members of, the KwaZulu-Natal Joint Municipal Provident Fund. In addition, it states that the Pension Funds Act, 1956 (Act No. 24 of 1956), applies to the Act and takes precedence in the event of an irreconcilable conflict.

2.4 Clause 4: Continuation and operation of Fund

Clause 4 provides that the KwaZulu-Natal Joint Municipal Provident Fund continues to exist with all the associated rights, powers, duties, responsibilities, assets and liabilities as it was immediately prior to the commencement date of the Act. The KwaZulu-Natal Joint Municipal Provident Fund operates in accordance with the provisions of the Act and the Pension Funds Act, 1956 (Act No. 24 of 1956). The regulations made with regard to, and all the Rules applicable to, the KwaZulu-Natal Joint Municipal Provident Fund apply to the KwaZulu-Natal Joint Municipal Provident Fund.

2.5 Clause 5: Continuation of membership of Fund

Clause 5 defines the members of the KwaZulu-Natal Joint Municipal Provident Fund. All persons who, immediately prior to the commencement date of the Act, were members of the KwaZulu-Natal Joint Municipal Provident Fund continue to be members of the KwaZulu-Natal Joint Municipal Provident Fund.

2.6 Clause 6: Continuation of association with Fund

Clause 6 determines that all municipalities associated with the KwaZulu-Natal Joint Municipal Provident Fund immediately prior to the commencement of the Act, continue to be associated with the KwaZulu-Natal Joint Municipal Provident Fund.

2.7 Clause 7: Powers of responsible Member of Executive Council

Clause 7 grants certain powers to the responsible Member of the Executive Council (MEC). The MEC is empowered to appoint an actuary for purposes of an actuarial valuation, and an auditor for purposes of an audit of the financial status of the KwaZulu-Natal Joint Municipal Provident Fund. The MEC may make regulations to repeal, amend or substitute existing regulations made in terms of the KwaZulu-Natal Joint Municipal Provident Fund, as well as in respect of the asset base, investments and financial and other sources of the KwaZulu-Natal Joint Municipal Provident Fund. In addition, the clause empowers the MEC to make regulations pertaining to other matters if these are not inconsistent with the Act and if he or she considers them necessary or expedient to facilitate the application of the Act. The MEC

may also issue notices. Regulations and notices may be made or issued with effect from any date, whether prior or subsequent to the date of promulgation thereof.

2.8 Clause 8: Transitional arrangements

Clause 8 sets out a number of transitional arrangements regarding the Committee of Management and the General Committee. The Committee of Management and the General Committee of the KwaZulu-Natal Joint Municipal Provident Fund, for all purposes, continue to operate as the Board of Trustees and the General Committee, respectively, without interruption and with all their powers, functions, duties and roles. The clause also contains a provision regarding the governance, management and operation of the KwaZulu-Natal Joint Municipal Provident Fund, and defines an “**employee**” for purposes of the Act. In addition, the clause provides for a special general meeting to be held within 12 months after the publication of the Act.

2.9 Clause 9: Repeal of law and savings

Clause 9 provides for the repeal of the KwaZulu-Natal Joint Municipal Provident Fund Act, 1995 (Act No. 4 of 1995), as well as savings relating to the regulations regarding the KwaZulu-Natal Joint Municipal Provident Fund and the Rules relevant to the said Fund.

2.10 Clause 10: Short title

Clause 10 sets out the short title of the Act. Where no specific date of commencement is mentioned, the Act will come into operation on the date of its publication in the *Provincial Gazette*.

3. BODIES AND ORGANISATIONS CONSULTED

The following bodies and organisations will be consulted subsequent to the publication of the Bill in accordance with the provisions of section 154(2) of the Constitution of the Republic of South Africa, 1996:

- 3.1** The Registrar of Pension Funds;
- 3.2** The KwaZulu-Natal Joint Municipal Pension and Provident Fund;
- 3.3** Associated municipalities;
- 3.4** Members of the KwaZulu-Natal Joint Municipal Provident Fund by means of a special general meeting; and
- 3.5** The Committee of Management of the KwaZulu-Natal Joint Municipal Provident Fund.

4. FINANCIAL IMPLICATIONS FOR PROVINCE

None.

5. FINANCIAL AND OTHER IMPLICATIONS FOR MUNICIPALITIES

None.

6. FINANCIAL AND OTHER IMPLICATIONS FOR MEMBERS

None.

7. LEGISLATIVE PROCEDURE

Upon in-principle approval of this Bill by the responsible Member of the Executive Council, the KwaZulu-Natal Department of Cooperative Governance and Traditional Affairs intends to submit the draft Bill and Memorandum on the Objects to municipalities, members of the KwaZulu-Natal Joint Municipal Provident Fund and a special general meeting for written comment, whereafter the Bill will again be submitted to the Provincial Chief State Law Advisor and the Provincial Treasury.

The KwaZulu-Natal Department of Cooperative Governance and Traditional Affairs then intends to submit the Bill to Cabinet for its approval and transferral to the KwaZulu-Natal Provincial Legislature. It is envisaged that this process will be concluded during the 2016/2017 financial year.

8. CONTACT PERSON

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Position: Senior Manager: Legal Services
Department of Cooperative Governance and Traditional Affairs
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Cell phone: +27 83 282 5119
Fax: +27 33 394 9714
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PROVINSIALE KENNISGEWING 2 VAN 2016**DEPARTEMENT VAN SAMEWERKENDE REGERING EN TRADISIONELE SAKE****PUBLIKASIE VAN DIE WETSONTWERP OP KWAZULU-NATAL GEMEENSKAPLIKE MUNISIPALE PENSIOENFONDS (AFTREDE), 2016, DIE WETSONTWERP OP KWAZULU-NATAL GEMEENSKAPLIKE MUNISIPALE PENSIOENFONDS (SUPERANNUASIE), 2016 EN DIE WETSONTWERP OP KWAZULU-NATAL GEMEENSKAPLIKE MUNISIPALE VOORSORGFONDS, 2016, OOREENKOMSTIG ARTIKEL 154(2) VAN DIE GRONDWET VAN DIE REPUBLIEK VAN SUID-AFRIKA, 1996**

1. Ooreenkomstig artikel 154(2) van die Grondwet van die Republiek van Suid-Afrika, 1996, word die volgende Wetsontwerpe gepubliseer vir kommentaar:

- (a) Wetsontwerp op die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Aftrede), 2016;
- (b) Wetsontwerp op die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie), 2016; en
- (c) Wetsontwerp op die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds, 2016.

2. Georganiseerde plaaslike regering, munisipaliteite en ander belanghebbende persone word uitgenooi om skriftelike kommentaar op die voorgenome Wet in te dien per pos aan –

Die Departementshoof
Samewerkende Regering en Tradisionele Sake
Privaatsak X9078
Pietermaritzburg
3200

3. Kommentaar kan ook –

- (a) per hand afgelewer word by Kamer 108, 14de Vloer, Suid-toring, Natalia Gebou, Langalibalelestraat 330, Pietermaritzburg, 3201;
- (b) per faks gestuur word aan (033) 394 9714; of
- (c) per elektroniese pos gestuur word aan heinz.kuhn@kzncogta.gov.za.

4. Alle kommentaar moet nie later nie as 31 Maart 2016 ontvang word en moet duidelik gemerk word:

Vir aandag: Mnr. KW Kuhn.

**WETSONTWERP
OP DIE
KWAZULU-NATAL
GEMEENSKAPLIKE MUNISIPALE PENSIOENFONDS (AFTREDING), 2016**

WETSONTWERP

Om voorsiening te maak vir die voortgesette bestaan van, en die voorsetting van, beide lidmaatskap van, en assosiasie met, die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding); vir die hernoeming van die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) as die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding); vir die bevoegdheid van die verantwoordelike Lid van die Uitvoerende Raad om regulasies te maak; vir oorgangsreëlings; vir die herroeping van wette en behoud; en vir aangeleenthede wat daarmee verband hou.

AANHEF

AANGESIEN dit nodig is om rasgebaseerde, diskriminerende Natal Ordonnansies voor 1994, wat die instelling en inwerkingstelling van twee afsonderlike rasgebaseerde pensioenstelsels vir munisipale werknemers bepaal het, te vervang, synde die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) en die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), wat aan die Provinsie toegewys is deur die President ooreenkomstig artikel 235(8) van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993), en wat uitgedien geraak het met die aanvang van die demokratiese bedeling op 27 April 1994;

AANGESIEN die toegewysde rasgebaseerde Ordonnansies provinsiale wetgewing geword het voor 1994, soos bepaal deur artikel 239 van die Grondwet van die Republiek van Suid-Afrika, 1996, en die Provinsiale Wetgewer gevolglik bevoeg is om sodanige wetgewing te herroep, wysig en vervang ooreenkomstig artikel 104(1)(b) van die 1996 Grondwet;

AANGESIEN daar 'n behoefte bestaan om te verseker dat alle rasgebaseerde verwysings en alles wat deel vorm van onderskeid tussen die twee pensioenfondse met betrekking tot die kategorieë begunstigdes en hul afhanklikes verwyder word;

EN AANGESIEN dit nodig is om die statutêre raamwerk van die huidige Natal Gemeenskaplike Pensioenfonds (Aftreding) te vervang met 'n raamwerk wat uitsluitlik gereguleer word deur, berig word met, en ooreenkomstig die Grondwet van die Republiek van Suid-Afrika, 1996, die nasionaal toepaslike Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), en die beginsels van goeie regering,

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

Omskrywings

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

“**aktuaris**” ’n persoon wie –

(a) ’n genoot is van ’n instituut, fakulteit, vereniging of kapittel van aktuarisse as sodanig geregistreer ooreenkomstig toepaslike wetgewing; en

(b) aangestel is deur die –

(i) Registrateur; en

(ii) Raad van Trustees,

as ’n waardeerder soos bedoel in artikel 9A van die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956);

“**algemene komitee**” die algemene komitee verkies ooreenkomstig die bepalings van die Reëls;

“**beginsels van goeie regering**” die beginsels soos uiteengesit in die King-verslag oor Bestuur in Suid-Afrika, 2009 en enige wysigings daaraan, of hersiening daarvan;

“**bestuurskomitee**” die bestuurskomitee verkies ooreenkomstig die bepalings van die Reëls;

“**Fonds**” die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), hernoem as die KwaZulu-Natal Gemeenskaplike Pensioenfonds (Aftreding) ooreenkomstig artikel 4 vanaf die inwerkingtreddingsdatum van hierdie Wet;

“**hierdie Wet**” sluit die regulasies en kennisgewings uitgereik ingevolge sodanige regulasies in;

“**kennisgewing**” ’n kennisgewing uitgereik ingevolge ’n regulasie;

“**KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds**” die KwaZulu-Natal Gemeenskaplike Voorsorgfonds, ooreenkomstig artikel 2 van die KwaZulu-Natal Wet op Gemeenskaplike Voorsorgfonds, 1995 (Wet No. 4 van 1995), ingestel;

“**lid**” tensy uit die samehang anders blyk, ’n natuurlike persoon wie –

(a) op enige stadium voor die inwerkingtreddingsdatum van hierdie Wet tot die Fonds bygedra het en vanaf die inwerkingtreddingsdatum van hierdie Wet voortgaan om tot die Fonds by te dra; of

(b) op enige datum wat volg op die inwerkingtredingsdatum van hierdie Wet begin om tot die Fonds by te dra;

“munisipaliteit” –

(a) ingesluit 'n metropolitaanse munisipaliteit, 'n distriksmunisipaliteit of 'n plaaslike munisipaliteit soos bedoel in artikel 155(6) van die Grondwet van die Republiek van Suid-Afrika, 1996;

(b) 'n munisipaliteit ingestel ingevolge die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998);

(c) 'n munisipaliteit, wanneer bedoel as 'n entiteit of 'n korporatiewe liggaam, soos in artikel 2 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000) omskryf; en

(d) 'n munisipale gebied, wanneer bedoel as 'n geografiese gebied, bepaal soos bedoel in die Wet op Plaaslike Regering: Munisipale Afbakeningswet, 1998 (Wet No. 27 van 1998);

“Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding)” die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), ingestel deur artikel 2 van die Ordonnansie op die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), 1974 (Ordonnansie No. 27 van 1974);

“Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie)” die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) ingestel deur artikel 2 van die Ordonnansie op Plaaslike Regering Superannuasie, 1973 (Ordonnansie No. 24 van 1973);

“ordonnansie” die regulasies daarkragtens gemaak ingesluit;

“ouditeur” 'n openbare rekenmeester en ouditeur wie –

(a) as sodanig geregistreer is ooreenkomstig die Wet op Openbare Rekenmeesters en Ouditeurs, 1991 (Wet No. 80 van 1991); en

(b) aangestel is deur die Raad van Trustees;

“proklamasie” in die Provinsiale *Koerant* geproklameer;

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

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

“**Raad op Finansiële Dienste**” die Raad op Finansiële Dienste ingestel ooreenkomstig artikel 2 van die Wet op die Raad van Finansiële Dienste, 1990 (Wet No. 97 van 1990);

“**Raad van Trustees**” die Raad van Trustees bedoel in artikel 7A van die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), en ingestel soos voorgeskryf;

“**Reëls**” vir die doeleindes van die Wet op Pensioenfondse –

(a) die Reëls vir die Bestuur en Administrasie van die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie), die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), en die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds, uitgereik ooreenkomstig die regulasies gemaak kragtens die –

(i) Ordonnansie op Plaaslike Regering Superannuasie, 1973 (Ordonnansie No. 24 van 1973);

(ii) Ordonnansie op Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), 1974 (Ordonnansie No. 27 van 1974); en

(iii) KwaZulu-Natal Wet op Gemeenskaplike Munisipale Voorsorgfonds, 1995 (Wet No. 4 van 1995); en

(b) enige verdere Bylaes gemaak, ooreenkomstig artikel 7, na die inwerkingtreedingsdatum van hierdie Wet;

“**regulasie**” ’n regulasie gemaak kragtens hierdie Wet, ingesluit enige Bylae tot sodanige regulasies;

“**Regulasies wat die Natal Gemeenskaplike Munisipale Pensionfonds (Aftreding) beheer**” die Regulasies wat die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), gepubliseer in Provinsiale Kennisgewing No. 180 van 1975 op 13 Mei 1975 beheer;

“**verantwoordelike Lid van die Uitvoerende Raad**” die Lid van die Uitvoerende Raad verantwoordelik vir plaaslike regering;

“**voordeel**” enige pensioen toegestaan of ander bedrag verskuldig aan ’n lid, pensioenaris, afhanklike of ander persoon, ooreenkomstig die regulasies;

“voorgeskrif” deur die verantwoordelike Lid van die Uitvoerende Raad voorgeskryf deur regulasie gemaak of kennisgewing uitgereik ooreenkomstig artikel 7;

“werknemer” ’n werknemer soos bedoel in artikels 8(2) en (3);

“Wet op Munisipale Stelsels” die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000);

“Wet op Munisipale Strukture” die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 117 van 1998); en

“Wet op Pensioenfondse” die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956).

Oogmerke van Wet

2. Die oogmerke van hierdie Wet is om die huidige statutêre raamwerk van die Fonds te vervang met ’n raamwerk wat uitsluitlik gereguleer word deur, berig is met, en voldoen aan die

–

- (a) Grondwet van die Republiek van Suid-Afrika, 1996;
- (b) Pensioenfondswet; en
- (c) beginsels van goeie regering.

Toepassing van Wet

3.(1) Hierdie Wet is van toepassing op alle munisipaliteite in assosiasie met, en lede van, die Fonds.

(2) Die bepalings van die Wet op Pensioenfondse, is van toepassing op hierdie Wet, en die Wet op Pensioenfondse geld in die geval van ’n onverenigbare konflik tussen die toepassing van die Pensioenfondswet en die bepalings van hierdie Wet.

Hernoeming, voortbestaan en bedryf van Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding)

4.(1) Die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) –

- (a) word hernoem as die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding);

(b) bly voortbestaan met al sy verwante regte, bevoegdhede, pligte, verantwoordelikhede, bates en laste soos hulle was onmiddelik voor die inwerkingtreddingsdatum van hierdie Wet; en

(c) word bedryf ooreenkomstig die bepalings van hierdie Wet, behoudens die bepalings van artikel 3(2) van hierdie Wet.

(2) Die Regulasies wat die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) beheer en die Reëls is van toepassing op die Fonds.

Voortgesette Fondslidmaatskap

5. Behoudens die bepalings van hierdie Wet of enige ander wet gaan 'n persoon, wie onmiddelik voor die inwerkingtreddingsdatum van hierdie Wet lid was van die Fonds, voort om 'n lid van die Fonds te wees.

Voortgesette assosiasie met Fonds

6. Elke munisipaliteit wat, onmiddelik voor die inwerkingtredding van hierdie Wet, in assosiasie was met die Fonds se assosiasie met die Fonds duur voort.

Bevoegdhede van verantwoordelike Lid van die Uitvoerende Raad

7.(1) Die verantwoordelike Lid van die Uitvoerende Raad, na oorlegpleging met die Fonds, kan –

(a) die volgende aanstel –

(i) 'n aktuaris, ten einde 'n aktuariële waardasie van die Fonds uit te voer; en

(ii) 'n ouditeur, ten einde finansiële verslae van die Fonds te oudit; en

(b) deur regulasie, enige bestaande Regulasies wat die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) beheer en Reëls, herroep, wysig of vervang;

(c) deur regulasie, enige Regulasies maak, herroep, wysig of vervang –

(i) ten opsigte van die bategrondslag, beleggings en finansiële en ander inkomstebronne van die Fonds;

(ii) ten einde te voorsien dat lede van die Fonds kan kies om oorgeplaas te word na die –

(aa) Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie); of

(bb) KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds,

en omgekeerd; en

(iii) wat nie onverenigbaar met hierdie Wet is nie, vir enige ander aangeleentheid wat hy of sy nodig of wenslik beskou ten einde die toepassing van hierdie Wet te fasiliteer: Met dien verstande dat die algemeenheid van hierdie bevoegdheid nie beperk word deur enige van die bepalings van paragraaf (a), (b), (c)(i) of (c)(ii) nie; en

(d) kennisgewings uitreik betreffende hierdie Wet of regulasies gemaak ooreenkomstig hierdie Wet deur publikasie in die Provinsiale *Koerant*.

(2) Enige regulasie gemaak of kennisgewing uitgereik deur die verantwoordelike Lid van die Uitvoerende Raad ooreenkomstig subartikel (1) kan gemaak of uitgereik word met inwerkingtreding vanaf enige datum, hetsy voor of volgende op die proklamasiedatum daarvan.

Oorgangsreëlings

8.(1) Behoudens die beskerming van bestaande regte bedoel in artikels 4(1)(b) en 9(2) –

(a) gaan die Bestuurskomitee, ingestel ooreenkomstig regulasie 7 van die Regulasies wat die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) beheer, voort, vir alle doeleindes, om werkzaam te wees, sonder onderbreking, as die Raad van Trustees van die Fonds met al die bevoegdhede, werksaamhede, pligte en rolle wat, voor die inwerkingtreding van hierdie Wet, in die Bestuurkomitee van die Fonds gesetel was;

(b) gaan die Algemene Komitee, ingestel ooreenkomstig regulasie 7 van die Regulasies wat die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) beheer, voort, vir alle doeleindes, om werkzaam te wees, sonder onderbreking, as die Algemene Komitee van die Fonds met al die bevoegdhede, werksaamhede, pligte en rolle wat, voor die inwerkingtreding van hierdie Wet, in die Algemene Komitee van die Wet gesetel was; en

(c) gaan die Fonds voort om beheer, bestuur en bedryf te word, met die nodige veranderinge, ooreenkomstig die bepalings van elke –

(i) wet; en

(ii) administratiewe en finansiële prosedure,

wat van toepassing was op die Fonds voor die inwerkingtredingsdatum van hierdie Wet, en soos van tyd tot tyd gewysig.

(2) Behoudens subartikel (3) is 'n werknemer enige persoon in diens van 'n munisipaliteit en wie –

- (a) in 'n voltydse hoedanigheid in diens geneem is deur die vermelde munisipaliteit; en
- (b) die ouderdom van 17 jaar bereik het maar nie, ten tye van aansluiting by die vermelde munisipaliteit, 'n ouderdom van agt jaar minder as die pensioenouderdom bereik het nie.

(3) Vir die doeleindes van hierdie Wet –

- (a) kan enige persoon wat in diens geneem is deur 'n munisipaliteit en wie se dienste beëindig sal word by voltooiing van die doel vir sy or haar indiensneming, binne 'n tydperk van hoogstens drie (3) jaar, nie beskou word as 'n werknemer van die munisipaliteit nie;
- (b) 'n persoon wat in diens van 'n munisipaliteit aansluit nadat 'n ouderdom van agt jaar minder as die pensioenouderdom bereik is, kan, met die instemming van die indiensnemingsmunisipaliteit, kies om as 'n werknemer geag te word; en
- (c) behoudens die goedkeuring van die Raad van Trustees, kan 'n persoon wat in 'n deeltydse hoedanigheid in diens geneem word deur 'n munisipaliteit, met die instemming van die indiensnemingsmunisipaliteit, kies om as 'n werknemer geag te word.

(4) 'n Spesiale algemene vergadering, bestaande uit alle munisipaliteite in assosiasie met, en werknemerslede van, die Fonds moet binne 'n tydperk wat nie (12) maande na die publikasiedatum van hierdie Wet in die Provinsiale *Koerant* oorskry nie, gehou word.

Herroeping van wet en behoud

9.(1) Die wet vermeld in die eerste en tweede kolomme van die Bylae tot hierdie Wet word hiermee herroep tot die omvang uiteengesit in die derde kolom van die vermelde Bylae.

(2) Alle regulasies gemaak kragtens die Ordonnansie op die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), 1974 (Ordonnansie No. 27 van 1974), en die Reëls, tot die omvang wat dit van toepassing is op die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), bly van krag en afdwingbaar asof die vermelde Ordonnansie nie herroep is nie, soos bedoel in subartikel (1).

Kort titel

10. Hierdie Wet word die Wet op KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), 2016 genoem.

BYLAE
WET HERROEP
(Artikel 9(1))

ORDONNANSIE VAN DIE VOORMALIGE PROVINSIE VAN NATAL

<i>Nommer en jaar van wet</i>	<i>Titel</i>	<i>Omvang van herroeping</i>
Ordonnansie No. 27 van 1974	Ordonnansie op die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), 1974	Die geheel

MEMORANDUM
OOR DIE OOGMERKE
VAN DIE
WETSONTWERP OP DIE KWAZULU-NATAL GEMEENSKAPLIKE MUNISIPALE
PENSIOENFONDS (AFTREDING), 2016

1. INLEIDING

Die doel van die Wetsontwerp is om die rassisties-diskriminerende Natal Ordonnansies wat uitgedien geraak het met die inwerkingtreding van die demokratiese bedeling op 27 April 1994 te vervang en ten einde te verseker dat alle rasgebaseerde verwysings en alle vorme van onderskeid tussen die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) en die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) betreffende die kategorieë van begunstigdes en hul afhanklikes verwyder word.

Ingevolge artikel 235(8) van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993), het die President die rasgebaseerde Ordonnansie op die Plaaslike Regering Superannuasie, 1973 (Ordonnansie No. 24 van 1973), en die Ordonnansie op die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), 1974 (Ordonnansie No. 27 van 1974), aan die Provinsie toegewys. Artikel 239 van die Grondwet van die Republiek van Suid-Afrika, 1996 bepaal dat sodanig toegewysde wetgewing provinsiale wetgewing word. Artikel 104(1)(b) van die Grondwet van die Republiek van Suid-Afrika, 1996, wat aan die KwaZulu-Natal Provinsiale Wetgewer die bevoegdheid verleen om provinsiale wetgewing te verorden, sluit die bevoegdheid in om enige provinsiale wetgewing te wysig, herroep en vervang (ingesluit toegewysde wetgewing voor of na 1994 KwaZulu-Natal provinsiale verordende wetgewing).

Die Wetsontwerp stel 'n raamwerk in wat die statutêre raamwerk van die huidige Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) vervang met 'n raamwerk wat uitsluitlik gereguleer word deur, berig is met, en voldoen aan, die Grondwet van die Republiek van Suid-Afrika, 1996, die nasionale toepaslike Wet op Pensioenfondse, 1956 (Wet No. 24 van 1973), en die beginsels van goeie regering.

Die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) was in 1973 ingestel deur die Ordonnansie op Plaaslike Regering Superannuasie, 1973 (Ordonnansie No. 24 van 1973). Lidmaatskap van hierdie Fonds was eksklusief vir wit persone.

Die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) was in 1974 ingestel deur die Ordonnansie op die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), 1974 (Ordonnansie No. 27 van 1974). Lidmaatskap van hierdie Fonds was beperk tot nie-blanke persone.

Die Reëls vir die Bestuur en Administrasie van die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie), die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) en die Natal Gemeenskaplike Munisipale Voorsorgfonds was uitgereik, en gewysig van tyd tot tyd, ingevolge die regulasies gemaak kragtens die Ordonnansie op die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), 1974 (Ordonnansie No. 27 van 1974), die Ordonnansie op die Plaaslike Regering, 1973 (Ordonnansie No. 24 van 1973), en die Wet op die Natal Gemeenskaplike Munisipale Voorsorgfonds, 1995 (Wet No. 4 van 1995). Hierdie regulasies en reëls is, tot 'n groot mate, identies in inhoud. Desnieteenstaande was die lidmaatskap van die Fonds, asook die begunstigdes en afhanklikes, uitsluitlik rasgebaseerd. Gevolglik, deur die verwydering van alle rasgebaseerde verwysings, word verseker dat daar geen onderskeid tussen die Natal Gemeenskaplike Pensioenfonds (Superannuasie) en die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) betreffende die kategorieë van begunstigdes en hul afhanklikes bestaan nie, en is die wetgewing nie meer diskriminerend op grond van ras nie.

2. BESPREKING

2.1 Klousule 1: Omskrywings

Klousule 1 omskryf woorde en uitdrukkings gebruik in die Wetsontwerp op die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), 2016. Die toepaslike omskrywings vervat in die Ordonnansie op die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), 1974 (Ordonnansie No. 27 van 1974), en die regulasies daarkragtens gemaak, asook die Reëls vir die Bestuur en Administrasie van die Natal Gemeenskaplike Munisipale Fonds (Superannuasie), Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), en die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds lig gesamentlik die inhoud van klousule 1 in.

2.2 Klousule 2: Oogmerke van Wet

Klousule 2 sit die oogmerke van die Wet uiteen, synde om die statutêre raamwerk vir die huidige Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) te vervang met die nuwe statutêre raamwerk vir die huidige Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) wat gereguleer word deur, berig word met, en voldoen aan die Grondwet van die

Republiek van Suid-Afrika, 1996, die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), en die beginsels van goeie regering.

2.3 Klousule 3: Toepassing van Wet

Klousule 3 voorsien dat die Wet van toepassing is op die munisipaliteite in assosiasie met, en lede van, die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding). Dit vermeld verder dat die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), van toepassing is op die Wet en geniet voorkeur in die geval van 'n onverenigbare konflik.

2.4 Klousule 4: Hernoeming, voortbestaan en bedryf van Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding)

Klousule 4 voorsien dat die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) hernoem word na die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) en voortbestaan met al die geassosieerde regte, bevoegdhede, pligte, verantwoordelikhede, bates en laste soos dit bestaan het onmiddelik voor die inwerkingtreddingsdatum van die Wet. Die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) word bedryf ooreenkomstig die bepalings van die Wet en die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956). Die regulasies gemaak met betrekking tot, en al die reëls van toepassing op, die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) is van toepassing op die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding).

2.5 Klousule 5: Voortgesette Fondslidmaatskap

Klousule 5 omskryf die lede van die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding). Alle persone wie, onmiddelik voor die inwerkingtreddingsdatum van die Wet, lede van die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) was, gaan voort om lede van die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) te wees.

2.6 Klousule 6: Voortgesette assosiasie met Fonds

Klousule 6 bepaal dat alle munisipaliteite in assosiasie met die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) onmiddelik voor die inwerkingtredding van die Wet, voortgaan om met die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) in assosiasie te wees.

2.7 Klousule 7: Bevoegdhede van verantwoordelike Lid van die Uitvoerende Raad

Klousule 7 verleen sekere bevoegdhede aan die verantwoordelike Lid van die Uitvoerende Raad (LUR). Die LUR is gemagtig om 'n aktuaris aan te stel met die uitvoer van 'n aktuariële waardasie ten doel, en 'n ouditeur vir 'n audit van die finansiële status van die KwaZulu-Natal

Gemeenskaplike Munisipale Pensioenfonds (Aftreding). Die LUR kan regulasies maak vir die wysiging, vervanging of herroeping van bestaande regulasies gemaak ingevolge die Ordonnansie op die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), 1974 (Ordonnansie No. 27 van 1974), asook ten opsigte van die bategrondslag, beleggings en finansiële en ander bronne van die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding). Verder bemagtig die klousule die LUR om regulasies te maak ten einde voorsiening te maak dat lede van die twee pensioenfondse en die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds oorplasing tussen die twee fondse kan kies, asook regulasies rakende ander aangeleenthede indien dit nie onvereenigbaar is met die Wet nie, en indien hy of sy dit as nodig of wenslik beskou ten einde die toepassing van die Wet te fasiliteer. Die LUR kan ook kennisgewings uitreik. Regulasies en kennisgewings kan gemaak of uitgereik word met enige inwerkingtreddingsdatum, hetsy voor of vervolgens die proklamasiedatum daarvan.

2.8 Klousule 8: Oorgangsreëlings

Klousule 8 sit 'n aantal oorgangsreëlings aangaande die Bestuurskomitee en die Algemene Komitee uiteen. Die Bestuurskomitee en die Algemene Komitee van die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) gaan voort, vir alle doeleindes, om werksaam te wees as die Raad van Trustees en die Algemene Komitee, onderskeidelik, sonder onderbreking en met al hul bevoegdhede, werksaamhede, pligte en rolle. Die klousule bevat ook 'n bepaling aangaande die beheer, bestuur en bedryf van die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) en omskryf 'n "**werknemer**" vir doeleindes van die Wet. Die klousule maak verder voorsiening vir 'n spesiale algemene vergadering wat gehou moet word binne twaalf (12) maande na die publikasie van die Wet.

2.9 Klousule 9: Herroeping van wet en behoud

Klousule 9 maak voorsiening vir die herroeping van die Ordonnansie op die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), 1974 (Ordonnansie No. 27 van 1974), asook behoud. wat betrekking het op die Regulasies aangaande die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) en die reëls van toepassing op die vermelde Fonds.

2.10 Klousule 10: Kort titel

Klousule 10 sit die kort titel van die Wet uiteen. Waar geen bepaalde datum van inwerkingtredding vermeld word nie, sal die Wet in werking tree by publikasiedatum in die *Provinsiale Koerant*.

3. LIGGAME EN ORGANISASIES GERAADPLEEG

Die volgende liggame en organisasies sal geraadpleeg word na die publikasie van die Wetsontwerp ooreenkomstig die bepalings van artikel 154(2) van die Grondwet van die Republiek van Suid-Afrika, 1996:

- 3.1** Die Registrateur van Pensioenfondse;
- 3.2** Die KwaZulu-Natal Gemeenskaplike Munisipale Pensioen- en Voorsorgfonds;
- 3.3** Geassosieerde munisipaliteite;
- 3.4** Lede van die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), deur middel van 'n spesiale algemene vergadering; en
- 3.5** Die Bestuurskomitee van die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding).

4. FINANSIËLE IMPLIKASIES VIR PROVINSIE

In die uitvoer van die vertrouensverantwoordelikhede ten opsigte van die beheer, bestuur en administrasie van die gevolge van die inwerkingstelling van hierdie Wetsontwerp kan die verantwoordelike Lid van die Uitvoerende Raad 'n onafhanklike ouditeur en onafhanklike aktuaris aanstel ten einde onafhanklike inligting te voorsien wat wesenlik bystand sal verleen met die volle inwerkingstelling van die bepalings van hierdie Wetsontwerp en, onder andere, ten einde te verseker dat alle rasgebaseerde verwysings en alle vorme van onderskeid tussen die Natal Gemeenskaplike Pensioenfonds (Superannuasie) en die Natal Gemeenskaplike Pensioenfonds (Aftreding), met betrekking tot die kategorieë van begunstigdes en hul afhanklikes, verwyder word.

5. FINANSIËLE EN ANDER IMPLIKASIES VIR MUNISIPALITEITE

Geassosieerde munisipaliteite se maandelikse bydraes sal, vanaf die inwerkingtreddingsdatum van die Wet, verhoog word ten einde te verseker dat die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) in staat sal wees om al sy verpligtinge aan alle lede na te kom.

6. FINANSIËLE EN ANDER IMPLIKASIES VIR LEDE

Geen.

7. WETGEWENDE PROSEDURE

By aanvaarding van hierdie Wetsontwerp, in beginsel, deur die verantwoordelike Lid van die Uitvoerende Raad, beoog die KwaZulu-Natal Departement van Samewerkende Regering en Tradisionele Sake om die Konsepwetsontwerp en Memorandum oor die Oogmerke aan munisipaliteite, lede van die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) en 'n spesiale algemene vergadering voor te lê vir skriftelike kommentaar, waarna die Wetsontwerp weer aan die Provinsiale Hoofstaatsregsadviseur en die Provinsiale Tesourie voorgelê sal word.

Die KwaZulu-Natal Departement van Samewerkende Regering en Tradisionele Sake beoog dan om die Wetsontwerp aan Kabinet voor te lê vir sy goedkeuring en oordrag na die KwaZulu-Natal Provinsiale Wetgewer. Dit word beoog dat hierdie proses tydens die 2016/2017 boekjaar afgehandel sal word.

8. KONTAKPERSOON

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**WETSONTWERP
OP DIE KWAZULU NATAL GEMEENSKAPLIKE MUNISIPALE
PENSIOENFONDS (SUPERANNUASIE), 2016**

WETSONTWERP

Om voorsiening te maak vir die voortgesette bestaan van, en die voortsetting van beide lidmaatskap van en assosiasie met, die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie); vir die hernoeming van die Natal Gemeenskaplike Munisipale Pensioenfonds as die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie); vir die bevoegdheid van die verantwoordelike Lid van die Uitvoerende Raad om regulasies te maak; vir oorgangsreëlings; vir die herroeping van wette en behoud; en vir aangeleenthede wat daarmee verband hou.

AANHEF

AANGESIEN dit nodig is om pre-1994 rassediskriminerende Natal Ordonnansies wat die instelling en inwerkingstelling van twee afsonderlike rasgebaseerde pensioenfondsstelsels vir munisipale werknemers bepaal het, te vervang, synde die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), wat toegewys is aan die Provinsie deur die President ooreenkomstig artikel 235(8) van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993), en wat uitgedien geraak het met die inwerkingtreding van die demokratiese bedeling op 27 April 1994;

AANGESIEN die toegewysde rasgebaseerde pre-1994 Ordonnansies provinsiale wetgewing geword het, soos bepaal deur artikel 239 van die Grondwet van die Republiek van Suid-Afrika, 1996, en die Provinsiale Wetgewing gevolglik bevoeg is om sodanige wetgewing te herroep, wysig en vervang ooreenkomstig artikel 104(1)(b) van die Grondwet van die Republiek van Suid-Afrika, 1996;

AANGESIEN daar 'n behoefte bestaan om te verseker dat alle rasgebaseerde verwysings en alles wat deel vorm van onderskeid tussen die twee pensioenfondse met betrekking tot die kategorieë begunstigdes en hul afhanklikes verwyder word;

EN AANGESIEN dit nodig is om die statutêre raamwerk van die huidige Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) te vervang met 'n raamwerk wat uitsluitlik gereguleer word deur, berig word met, en ooreenkomstig die Grondwet van die Republiek van Suid-Afrika, 1996, die nasionaal toepaslike Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), en die beginsels van goeie regering.

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

Omskrywings

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

“**aktuaris**” ’n persoon wat –

(a) ’n genoot is van ’n instituut, fakulteit, vereniging of kapittel van aktuarisse as sodanig geregistreer ooreenkomstig toepaslike wetgewing; en

(b) aangestel deur die –

(i) Registrateur; en

(ii) Raad van Trustees,

as ’n waardeerder soos bedoel in artikel 9A van die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956);

“**algemene komitee**” die algemene komitee verkies ooreenkomstig die bepalings van die Reëls;

“**beginsels van goeie regering**” die beginsels soos uiteengesit in die King-verslag oor Bestuur in Suid-Afrika, 2009, en enige wysigings daaraan, of hersiening daarvan;

“**bestuurskomitee**” die bestuurskomitee verkies in ooreenstemming met die bepalings van die Reëls;

“**Fonds**” die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie), hernoem as die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) ooreenkomstig artikel 4 vanaf die inwerkingtreddingsdatum van hierdie Wet;

“**hierdie Wet**” ingesluit die regulasies en kennisgewings uitgereik ingevolge sodanige regulasies ;

“**kennisgewing**” ’n kennisgewing uitgereik ingevolge ’n regulasie;

“**KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds**” die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds, ooreenkomstig artikel 2 van die KwaZulu-

Natal Wet op Gemeenskaplike Munisipale Voorsorgfonds, 1995 (Wet No. 4 van 1995), ingestel;

“**lid**”, tensy dit uit die samehang anders blyk, ’n natuurlike persoon wie –

(a) op enige stadium voor die inwerkingtreddingsdatum van hierdie Wet tot die Fonds bygedra het en vanaf die inwerkingtreddingsdatum van hierdie Wet voortgaan om tot die Fonds by te dra; of

(c) op enige datum wat volg op die inwerkingtreddingsdatum van hierdie Wet begin om tot die Fonds by te dra;

“**munisipaliteit**” –

(a) ingesluit ’n metropolitaanse munisipaliteit, ’n distriksmunisipaliteit of ’n plaaslike munisipaliteit soos bedoel in artikel 155(6) van die Grondwet van die Republiek van Suid-Afrika, 1996;

(b) ’n munisipaliteit ingevolge die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998), ingestel;

(c) ’n munisipaliteit, wanneer bedoel as ’n entiteit of ’n korporatiewe liggaam soos omskryf in artikel 2 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000); en

(d) ’n munisipale gebied, wanneer bedoel as ’n geografiese gebied, bepaal soos bedoel in die Wet op Plaaslike Regering: Munisipale Afbakening, 1998 (Wet No. 27 van 1998);

“**Munisipale Stelselwet**” die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000);

“**Munisipale Strukturewet**” die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998);

“**Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding)**” die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), ingestel deur artikel 2 van die Ordonnansie op die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), 1974 (Ordonnansie No. 27 van 1974);

“**Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie)**” die Natal Gemeenskaplike Pensioenfonds (Superannuasie), ingestel deur artikel 2 van die

Ordonnansie op Plaaslike Regering Superannuasie, 1973 (Ordonnansie No. 24 van 1973);

“**ordonnansie**” die regulasies daarkragtens gemaak ingesluit;

“**ouditeur**” ’n openbare rekenmeester en ouditeur wie –

- (a) as sodanig geregistreer is ooreenkomstig die Wet op Openbare Rekenmeesters en Ouditeurs, 1991 (Wet No. 80 van 1991); en
- (b) aangestel is deur die Raad van Trustees;

“**Pensioenfondswet**” die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956);

“**proklamasie**” die proklamasie in die Provinsiale *Koerant*;

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

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

“**Raad op Finansiële Dienste**” die Raad op Finansiële Dienste ingestel ooreenkomstig artikel 2 van die Wet op die Raad op Finansiële Dienste, 1990 (Wet No. 97 van 1990);

“**Raad van Trustees**” die Raad van Trustees bedoel in artikel 7A van die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), en ingestel soos voorgeskryf;

“**Reëls**” vir die doeleindes van die Pensioenfondswet –

- (a) die Reëls vir die Bestuur en Administrasie van die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie), die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), en die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds, uitgereik ooreenkomstig die regulasies gemaak kragtens die –
 - (i) Ordonnansie op Plaaslike Regering Superannuasie, 1973 (Ordonnansie No. 24 van 1973);
 - (ii) Ordonnansie op Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), 1974 (Ordonnansie No. 27 van 1974); en
 - (iii) KwaZulu-Natal Wet op Gemeenskaplike Munisipale Voorsorgfonds, 1995 (Wet No. 4 van 1995); en

(b) enige verdere Bylaes gemaak, ooreenkomstig artikel 7, na die inwerkingtreedingsdatum van hierdie Wet;

“**regulasie**” ’n regulasie gemaak kragtens hierdie Wet, ingesluit enige Bylae tot sodanige regulasies;

“**Regulasies wat die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) beheer**” die regulasies wat die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie), gepubliseer in Provinsiale Kennisgewing No. 246 van 1974 op 24 Mei 1974, beheer;

“**verantwoordelike Lid van die Uitvoerende Raad**” die Lid van die Uitvoerende Raad verantwoordelik vir plaaslike regering;

“**voorgeskryf**” deur die verantwoordelike Lid van die Uitvoerende Raad voorgeskryf deur regulasie gemaak of kennisgewing uitgereik ooreenkomstig artikel 7; en

“**werknemer**” ’n werknemer soos bedoel in artikels 8(2) en (3).

Oogmerke van Wet

2. Die oogmerke van hierdie Wet is om die huidige statutêre raamwerk van die Fonds te vervang met ’n raamwerk wat uitsluitlik gereguleer word deur, berig is met, en voldoen aan die –

- (a) Grondwet van die Republiek van Suid-Afrika, 1996;
- (b) Pensioenfondswet; en
- (c) beginsels van goeie regering.

Toepassing van Wet

3.(1) Die Wet is van toepassing op alle munisipaliteite in assosiasie met, en lede van, die Fonds.

(2) Die bepalings van die Pensioenfondswet is van toepassing op hierdie Wet, en die Pensioenfondswet geld in die geval van ’n onverenigbare konflik tussen die toepassing van die Pensioenfondswet en die bepalings van hierdie Wet.

Hernoeming, voortbestaan en bedryf van Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie)

4.(1) Die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) –

- (a) word hernoem as die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie);
- (b) bly voortbestaan met al sy verwante regte, bevoegdhede, pligte, verantwoordelikhede, bates en laste soos hulle was onmiddelik voor die inwerkingtreddingsdatum van hierdie Wet; en
- (c) word bedryf ooreenkomstig die bepalings van hierdie Wet, behoudens die bepalings van artikel 3(2) van hierdie Wet.

(2) Die Regulasies wat die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) beheer, en die Reëls, is van toepassing op die Fonds.

Voortgesette lidmaatskap van Fonds

5. Behoudens die bepalings van hierdie Wet of enige ander wet gaan 'n persoon wie, onmiddelik voor die inwerkingtreddingsdatum van hierdie Wet, lid was van die Fonds, voort om 'n lid van die Fonds te wees.

Voortgesette assosiasie met Fonds

6. Elke munisipaliteit wat, onmiddelik voor die inwerkingtredding van die hierdie Wet, in assosiasie was met die Fonds se assosiasie met die Fonds duur voort.

Bevoegdhede van verantwoordelike Lid van Uitvoerende Raad

7.(1) Die verantwoordelike Lid van die Uitvoerende Raad kan, na oorlegpleging met die Fonds, –

- (a) die volgende aanstel –
 - (i) 'n aktuaris, ten einde 'n aktuariële waardasie van die Fonds uit te voer; en
 - (ii) 'n ouditeur, ten einde finansiële verslae van die Fonds te oudit;
- (c) deur regulasie, enige bestaande Regulasies wat die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) beheer en Reëls, herroep, wysig of vervang;

- (c) deur regulasie, enige Regulasies maak, herroep, wysig of vervang –
- (i) ten opsigte van die bategrondslag, beleggings en finansiële en ander inkomstebronne van die Fonds;
 - (ii) ten einde te voorsien dat lede van die Fonds kan kies om oorgeplaas te word na die –
 - (aa) Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding); of
 - (bb) KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds,en omgekeerd, ooreenkomstig die bepalings van artikel 14 van die Pensioenfondswet; en
 - (iii) nie onverenigbaar met hierdie Wet is nie, vir enige aangeleentheid wat hy of sy nodig of wenslik beskou ten einde die toepassing van hierdie Wet te fasiliteer: Met dien verstande dat die algemeenheid van hierdie bevoegdheid nie beperk word deur enige van die bepalings van paragraaf (a), (b), (c)(i) of (c)(ii) nie; en
 - (d) kennisgewings uitreik betreffende hierdie Wet of regulasies gemaak ooreenkomstig hierdie Wet deur publikasie in die Provinsiale *Koerant*.

(2) Enige Regulasie gemaak of kennisgewing uitgereik deur die verantwoordelike Lid van die Uitvoerende Raad ooreenkomstig subartikel (1) kan gemaak of uitgereik word met inwerkingtreding vanaf enige datum, hetsy voor of vervolgens die proklamasiedatum daarvan.

Oorgangsreëlings

- 8.(1) Behoudens die beskerming van bestaande regte bedoel in artikels 4(1)(b) en 9(2) –
- (a) gaan die Bestuurskomitee, ingestel ooreenkomstig regulasie 7 van die Regulasies wat die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) beheer, voort, vir alle doeleindes, om werkzaam te wees, sonder onderbreking, as die Raad van Trustees van die Fonds met al die bevoegdhede, werksaamhede, pligte en rolle wat, voor die inwerkingtreding van hierdie Wet, in die Bestuurskomitee van die Fonds gesetel was;
 - (b) gaan die Algemene Komitee, ingestel ooreenkomstig regulasie 7 van die Regulasies wat die Natal Gemeenskaplike Munisipale Pensioenfonds beheer, voort, vir alle doeleindes, om werkzaam te wees, sonder onderbreking, as die Algemene Komitee van die Fonds met al die bevoegdhede, werksaamhede, pligte en rolle wat, voor die inwerkingtreding van hierdie Wet, in die Algemene Komitee van die Fonds gesetel was; en

- (c) gaan die Fonds voort om beheer, bestuur en bedryf te word, met die nodige veranderinge, ooreenkomstig die bepalings van elke –
- (i) wet; en
 - (ii) administratiewe en finansiële prosedure,
- wat van toepassing was op die Fonds voor die inwerkingtreddingsdatum van hierdie Wet, en soos van tyd tot tyd gewysig.
- (2) Behoudens subartikel (3) is 'n werknemer enige persoon in die diens van 'n munisipaliteit en wie –
- (a) in 'n voltydse hoedanigheid in diens geneem is deur die vermelde munisipaliteit; en
 - (b) die ouderdom van 17 jaar bereik het maar nie, ten tye van aansluiting by die vermelde munisipaliteit, 'n ouderdom van agt jaar minder as die pensioenouderdom bereik het nie.
- (3) Vir die doeleindes van hierdie Wet –
- (a) kan enige persoon, wat in diens geneem is deur 'n munisipaliteit en wie se dienste beëindig sal word by voltooiing van die doel vir sy of haar indiensneming, binne 'n tydperk van hoogstens drie jaar, nie beskou word as 'n werknemer van die munisipaliteit nie;
 - (b) 'n persoon wat in diens van 'n munisipaliteit aansluit nadat 'n ouderdom van agt jaar minder as die pensioenouderdom bereik is, kan, met die instemming van die indiensnemingsmunisipaliteit, kies om as 'n werknemer beskou te word; en
 - (c) behoudens die goedkeuring van die Raad van Trustees kan 'n persoon, wat in diens van 'n munisipaliteit aansluit in 'n deeltydse hoedanigheid kies, met die instemming van die indiensnemingsmunisipaliteit, om as 'n werknemer beskou te word.
- (4) 'n Spesiale algemene vergadering, bestaande uit alle munisipaliteite in assosiasie met, en werknemerslede van, die Fonds moet binne 'n tydperk wat nie 12 maande na die publikasiedatum van hierdie Wet in die Provinsiale *Koerant* oorskry nie, gehou word.

Herroeping van wette en behoud

9.(1) Die wet vermeld in die eerste en tweede kolomme van Dele A en B van die Bylae tot hierdie Wet word hiermee herroep tot die omvang uiteengesit in die derde kolom van die vermelde Bylae.

(2) Alle regulasies gemaak kragtens die Ordonnansie op Plaaslike Regering Superannuasie, 1973 (Ordonnansie No. 24 van 1973), en die Reëls, tot die omvang wat dit van toepassing is op die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie), bly van krag en afdwingbaar asof die vermelde Ordonnansie nie herroep is nie soos bedoel in subartikel (1).

Kort titel

10. Hierdie Wet word die KwaZulu-Natal Wet op Gemeenskaplike Munisipale Pensioenfonds (Superannuasie), 2016 genoem.

BYLAE
WETTE HERROEP

(Artikel 9(1))

DEEL A: ORDONNANSIES VAN DIE VOORMALIGE PROVINSIE VAN NATAL

<i>Nommer en jaar van wet</i>	<i>Titel</i>	<i>Omvang van herroeping</i>
Ordonnansie No. 24 van 1973	Ordonnansie op Plaaslike Regering Superannuasie, 1973	Die geheel

DEEL B: REGULASIES GEMAAK INGEVOLGE ORDONNANSIES VAN DIE VOORMALIGE PROVINSIE VAN NATAL

<i>Nommer en jaar van wet</i>	<i>Titel</i>	<i>Omvang van herroeping</i>
Provinsiale Kennisgewing No. 246 van 1974	Regulasies vir die beheer van die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie), 1974	Alle verwysings na "Wit"

MEMORANDUM
OOR DIE OOGMERKE
VAN DIE
KWAZULU-NATAL WETSONTWERP OP GEMEENSKAPLIKE MUNISIPALE
PENSIOENFONDS (SUPERANNUASIE), 2016

1. INLEIDING

Die doel van die Wetsontwerp is om die rassisties-diskriminerende Natal Ordonnansies wat uitgedien geraak het met die aanvang van die demokratiese bedeling op 27 April 1994 te vervang en ten einde te verseker dat alle rasgebaseerde verwysings en alle vorme van onderskeid tussen die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) en die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) betreffende die kategorieë van begunstigdes en hul afhanklikes verwyder word.

Ingevolge artikel 235(8) van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993), het die President die rasgebaseerde Ordonnansie op Plaaslike Regering Superannuasie, 1973 (Ordonnansie No. 24 van 1973), en die Ordonnansie op die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), 1974 (Ordonnansie No. 27 van 1974) aan die Provinsie toegewys. Artikel 239 van die Grondwet van die Republiek van Suid-Afrika, 1996, bepaal dat sodanige toegewysde wetgewing provinsiale wetgewing word. Artikel 104(1)(b) van die Grondwet van die Republiek van Suid-Afrika, 1996, wat aan die KwaZulu-Natal Provinsiale Wetgewer die bevoegdheid verleen om provinsiale wetgewing te verorden, sluit die bevoegdheid in om enige provinsiale wetgewing te wysig, herroep en vervang (ingesluit toegewysde wetgewing voor of na 1994 KwaZulu-Natal provinsiale verordende wetgewing).

Die Wetsontwerp stel 'n raamwerk in wat die statutêre raamwerk van die huidige Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) vervang met 'n raamwerk wat uitsluitlik gereguleer word deur, berig is met, en voldoen aan, die Grondwet van die Republiek van Suid-Afrika, 1996, die nasionale toepaslike Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), en die beginsels van goeie regering.

Die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) was in 1973 ingestel deur die Ordonnansie op Plaaslike Regering Superannuasie, 1973 (Ordonnansie No. 24 van 1973). Lidmaatskap van hierdie Fonds was eksklusief vir wit persone.

Die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) was in 1974 ingestel deur die Ordonnansie op die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), 1974 (Ordonnansie No. 27 van 1974). Lidmaatskap van hierdie Fonds was beperk tot nie-blanke persone.

Die Reëls vir die Bestuur en Administrasie van die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie), Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) en die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds was uitgereik, en van tyd tot tyd gewysig, ingevolge die regulasies gemaak behoudens die Ordonnansie op die Natal Gemeenskaplike Pensioenfonds (Aftreding), 1974 (Ordonnansie No. 27 van 1974), die Ordonnansie op Plaaslike Regering Superannuasie, 1973 (Ordonnansie No. 24 van 1973), en die KwaZulu-Natal Wet op Gemeenskaplike Voorsorgfonds, 1995 (Wet No. 4 van 1995). Hierdie regulasies en Reëls is, tot 'n groot mate, identies in inhoud. Desnieteenstaande was die lidmaatskap van die Fondse, asook die begunstigdes en afhanklikes, uitsluitlik rasgebaseerd. Gevolglik, deur die verwydering van alle rasgebaseerde verwysings, word verseker dat daar geen onderskeid tussen die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) en die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) betreffende die kategorieë van begunstigdes en hulle afhanklikes bestaan nie, en is die wetgewing nie meer diskriminerend op grond van ras nie.

2. BESPREKING

2.1 Klousule 1: Omskrywings

Klousule 1 omskryf woorde en uitdrukkings gebruik in die KwaZulu-Natal Wetsontwerp op Gemeenskaplike Munisipale Pensioenfonds (Superannuasie), 2016. Die toepaslike omskrywings vervat in die Ordonnansie op Plaaslike Regering Superannuasie, 1973 (Ordonnansie No. 24 van 1973), en die regulasies daarkragtens gemaak, asook die Reëls vir die Bestuur en Administrasie van die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie), Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), en die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds, lig gesamentlik die inhoud van klousule 1 in.

2.2 Klousule 2: Oogmerke van Wet

Klousule 2 sit die oogmerke van die Wet uiteen, synde om die statutêre raamwerk vir die huidige Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) te vervang met 'n nuwe raamwerk wat gereguleer word deur, berig word met, en voldoen aan die Grondwet

van die Republiek van Suid-Afrika, 1996, die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), en die beginsels van goeie regering.

2.3 Klousule 3: Toepassing van Wet

Klousule 3 maak voorsiening dat die Wet van toepassing is op munisipaliteite in assosiasie met, en lede van, die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie). Dit vermeld verder dat die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), van toepassing is op die Wet en geniet voorkeur in die geval van 'n onvereenigbare konflik.

2.4 Klousule 4: Hernoeming, voortbestaan en bedryf van Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie)

Klousule 4 maak voorsiening dat die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) hernoem word as die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) en voortbestaan met al die geassosieerde regte, bevoegdhede, pligte, verantwoordelikhede, bates en laste soos dit bestaan het onmiddelik voor die inwerkingtredingsdatum van die Wet. Die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) word bedryf ooreenkomstig die bepalings van die Wet en die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956). Die regulasies gemaak met betrekking tot, en al die reëls van toepassing op, die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) is van toepassing op die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie).

2.5 Klousule 5: Voortgesette Fondslidmaatskap

Klousule 5 omskryf die lede van die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie). Alle persone wie, onmiddelik voor die inwerkingtredingsdatum van die Wet, lede van die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) was, gaan voort om lede van die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) te wees.

2.6 Klousule 6: Voortgesette assosiasie met Fonds

Klousule 6 bepaal dat alle munisipaliteite in assosiasie met die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) onmiddelik voor die inwerkingtreding van die Wet, voortgaan om met die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) in assosiasie te wees.

2.7 Klousule 7: Bevoegdhede van verantwoordelike Lid van die Uitvoerende Raad

Klousule 7 verleen sekere bevoegdhede aan die verantwoordelike Lid van die Uitvoerende Raad (LUR). Die LUR is gemagtig om 'n aktuaris aan te stel met die uitvoer van 'n aktuariële waardasie ten doel, en 'n ouditeur vir 'n audit van die finansiële status van die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie). Die LUR kan regulasies maak vir die wysiging, vervanging of herroeping van bestaande regulasies gemaak ingevolge die Ordonnansie op Plaaslike Regering Superannuasie, asook ten opsigte van die bategrondslag, beleggings en finansiële en ander bronne van die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie). Verder bemagtig die klousule die LUR om regulasies te maak ten einde voorsiening te maak dat lede van die twee pensioenfondse en die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds oorplasing tussen die fondse kan kies, asook regulasies rakende ander aangeleenthede indien dit nie onverenigbaar met die Wet is nie, en indien hy of sy dit as nodig of wenslik beskou ten einde die toepassing van die Wet te fasiliteer. Die LUR kan ook kennisgewings uitreik. Regulasies en kennisgewings kan gemaak of uitgereik word met enige inwerkingtredingsdatum, hetsy voor of vervolgens die proklamasiedatum daarvan.

2.8 Klousule 8: Oorgangsreëlings

Klousule 9 sit 'n aantal oorgangsmaatreëls met betrekking tot die Bestuurskomitee en Algemene Komitee uiteen. Die Bestuurskomitee en die Algemene Komitee van die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) gaan voort, vir alle doeleindes, om werksaam te wees as die Raad van Trustees en die Algemene Komitee, onderskeidelik, sonder onderbreking en met al hul bevoegdhede, werksaamhede, pligte en rolle. Die klousule bevat ook 'n bepaling aangaande die beheer, bestuur en bedryf van die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie), en omskryf 'n "werknemer" vir doeleindes van die Wet. Die klousule maak verder voorsiening vir 'n spesiale algemene vergadering wat gehou moet word binne twaalf (12) maande na publikasie van die Wet.

2.9 Klousule 9: Herroeping van wette en behoud

Klousule 9 maak voorsiening vir die herroeping van die Ordonnansie op Plaaslike Regering Superannuasie, 1973 (Ordonnansie No. 24 van 1973), asook behoud wat betrekking het op die Regulasies ten opsigte van die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) en die Reëls van toepassing op die vermelde Fonds.

2.10 Klousule 10: Kort titel

Klousule 10 sit die kort titel van die Wet uiteen. Waar geen bepaalde datum van inwerkingtreding bepaal is nie, sal die Wet in werking tree by publikasiedatum in die *Provinsiale Koerant*.

3. LIGGAME EN ORGANISASIES GERAADPLEEG

Die volgende liggame en organisasies sal geraadpleeg word na die publikasie van die Wetsontwerp ooreenkomstig die bepalings van artikel 154(2) van die Grondwet van die Republiek van Suid-Afrika, 1996:

- 3.1** Die Registrateur van Pensioenfondse;
- 3.2** Die KwaZulu-Natal Gemeenskaplike Munisipale Pensioen- en Voorsorgfonds;
- 3.3** Geassosieerde munisipaliteite;
- 3.4** Lede van die Natal Gemeenskaplike Pensioenfonds (Superannuasie), deur middel van 'n spesiale algemene vergadering; en
- 3.5** Die Bestuurskomitee van die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie).

4. FINANSIËLE IMPLIKASIES VIR PROVINSIE

In die uitvoer van die vertrouensverantwoordelikhede ten opsigte van die beheer, bestuur en administrasie van die gevolge van die inwerkingstelling van hierdie Wetsontwerp kan die verantwoordelike Lid van die Uitvoerende Raad 'n onafhanklike ouditeur en 'n onafhanklike aktuaris aanstel ten einde onafhanklike inligting te voorsien wat wesenlik bystand sal verleen met die volle inwerkingstelling van die bepalings van hierdie Wetsontwerp en, onder andere, ten einde te verseker dat alle rasgebaseerde verwysings en alle vorme van onderskeid tussen die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) en die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), met betrekking tot die kategorieë van begunstigdes en hul afhanklikes, verwyder word.

5. FINANSIËLE EN ANDER IMPLIKASIES VIR MUNISIPALITEITE

Geassosieerde munisipaliteite se maandelikse bydrae sal, vanaf die inwerkingtredingsdatum van die Wet, verhoog word ten einde te verseker dat die KwaZulu-Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) in staat sal wees om al sy verpligtinge aan alle lede na te kom.

6. FINANSIËLE EN ANDER IMPLIKASIES VIR LEDE

Geen.

7. WETGEWENDE PROSEDURE

By aanvaarding van hierdie Wetsontwerp, in beginsel, deur die verantwoordelike Lid van die Uitvoerende Raad, beoog die KwaZulu-Natal Departement van Samewerkende Regering en Tradisionele Sake om die Konsepwetsontwerp en Memorandum oor die Oogmerke aan munisipaliteite, lede van die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie) en 'n spesiale algemene vergadering voor te lê vir skriftelike kommentaar, waarna die Wetsontwerp weer aan die Provinsiale Hoofstaatsregsadviseur en die Provinsiale Tesourie voorgelê sal word.

Die KwaZulu-Natal Departement van Samewerkende Regering en Tradisionele Sake beoog dan om die Wetsontwerp aan Kabinet voor te lê vir sy goedkeuring en oordrag na die KwaZulu-Natal Provinsiale Wetgewer. Dit word beoog dat hierdie proses tydens die 2016/2017 boekjaar afgehandel sal word.

8. KONTAKPERSOON

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**WETSONTWERP OP DIE
KWAZULU-NATAL GEMEENSKAPLIKE MUNISIPALE
VOORSORGFONDS, 2016**

WETSONTWERP

Om voorsiening te maak vir die voortgesette bestaan van, en voortsetting van beide lidmaatskap van en assosiasie met, die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds; vir die bevoegdheid van die verantwoordelike Lid van die Uitvoerende Raad om regulasies te maak; vir oorgangsreëlings; vir die herroeping van wette en behoud; vir die bekragtiging van sekere handeling; vir die retrospektiewe bekragtiging van die instelling en bedryf van die Natal Gemeenskaplike Munisipale Personeelvoorsorgfonds; en vir aangeleenthede wat daarmee verband hou.

AANHEF

AANGESIEN dit nodig is om die huidige raamwerk vir die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds te vervang met 'n raamwerk wat uitsluitlik gereguleer word deur, berig word met, en voldoen aan die Grondwet van die Republiek van Suid-Afrika, 1996, die nasionaal toepaslike Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), en die beginsels van goeie regering,

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

Omskrywings

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

“**aktuaris**” ’n persoon wat –

(a) ’n genoot is van ’n instituut, fakulteit, vereniging of kapittel van aktuarisse as sodanig geregistreer ooreenkomstig toepaslike wetgewing; en

(b) aangestel is deur die –

(i) Registrateur; en

(ii) Raad van Trustees,

as ’n waardeerder soos bedoel in artikel 9A van die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956);

“**algemene komitee**” die algemene komitee verkies ooreenkomstig die bepalings van die Reëls;

“**beginsels van goeie regering**” die beginsels soos uiteengesit in die King-verslag oor Bestuur in Suid-Afrika, 2009, en enige wysigings daaraan, of hersiening daarvan;

“**bestuurskomitee**” die bestuurskomitee verkies in ooreenstemming met die bepalings van die Reëls;

“**Fonds**” die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds;

“**hierdie Wet**” ingesluit die regulasies gemaak en kennisgewings uitgereik ingevolge sodanige regulasies;

“**kennisgewing**” ’n kennisgewing uitgereik ingevolge ’n regulasie;

“**KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds**” die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds ingestel deur artikel 2 van die Wet op die KwaZulu-Natal Wet op die Gemeenskaplike Munisipale Voorsorgfonds, 1995 (Wet No. 4 van 1995);

“**lid**”, tensy dit uit die samehang anders blyk, ’n natuurlike persoon wie –

- (a) op enige stadium voor die inwerkingtreddingsdatum van hierdie Wet tot die Fonds bygedra het en vanaf die inwerkingtreddingsdatum van hierdie Wet voortgaan om tot die fonds by te dra; of
- (b) op enige datum wat volg op die inwerkingtreddingsdatum van hierdie Wet begin om tot die Fonds by te dra;

“**munisipaliteit**” –

- (a) ingesluit ’n metropolitaanse munisipaliteit, ’n distriksmunisipaliteit of ’n plaaslike munisipaliteit soos bedoel in artikel 155(6) van die Grondwet van die Republiek van Suid-Afrika, 1996;
- (b) ’n munisipaliteit ingestel ingevolge die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998);
- (c) ’n munisipaliteit, wanneer bedoel as ’n entiteit of korporatiewe liggaam, soos omskryf in artikel 2 van die Wet op Plaaslike Regering: Munisipale Stelsel, 2000 (Wet No. 32 van 2000); en
- (d) ’n munisipale gebied, wanneer bedoel as ’n geografiese gebied, bepaal soos bedoel in die Wet op Plaaslike Regering: Munisipale Afbakening, 1998 (Wet No. 27 van 1998);

“**ouditeur**” ’n openbare rekenmeester en ouditeur wie –

- (a) as sodanig geregistreer is ooreenkomstig die Wet op Openbare Rekenmeesters en Ouditeurs, 1991 (Wet No. 80 van 1991); en

(b) aangestel is deur die Raad van Trusteers;

“**Pensioenfondswet**” die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956);

“**proklamasie**” die proklamasie in die Provinsiale *Koerant*;

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

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

“**Raad op Finansiële Dienste**” die Raad op Finansiële Dienste ingestel ooreenkomstig artikel 2 van die Wet op die Raad van Finansiële Dienste, 1990 (Wet No. 97 van 1990);

“**Raad van Trusteers**” die Raad van Trusteers bedoel in artikel 7A van die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), en ingestel soos voorgeskryf;

“**Reëls**” vir doeleindes van die Pensioenfondswet, –

(a) die Reëls vir die Bestuur en Administrasie van die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie), die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), en die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds, uitgereik ooreenkomstig die Regulasies uitgevaardig kragtens die –

(i) Ordonnansie op Plaaslike Regering Superannuasie, 1973 (Ordonnansie No. 24 van 1973);

(ii) Ordonnansie op Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), 1974 (Ordonnansie No. 27 van 1974); en

(iii) KwaZulu-Natal Wet op Gemeenskaplike Munisipale Voorsorgfonds, 1995 (Wet No. 4 van 1995); en

(b) enige verdere Bylaes gemaak ooreenkomstig artikel 7, na die inwerkingtreddingsdatum van hierdie Wet;

“**regulasie**” ’n regulasie gemaak kragtens hierdie Wet, ingesluit enige Bylae tot sodanige regulasies;

“**Regulasies wat die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds beheer**” die Regulasies wat die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds, gepubliseer in Provinsiale Kennisgewing No. 135 van 1996 op 4 April 1996, beheer;

“**verantwoordelike Lid van die Uitvoerende Raad**” die Lid van die Uitvoerende Raad verantwoordelik vir plaaslike regering;

“**voordeel**” enige voordeel toegeken of ander bedrag verskuldig ooreenkomstig die regulasies aan ’n lid, afhanklike of ander persoon;

“**voorgeskryf**” deur die verantwoordelike Lid van die Uitvoerende Raad voorgeskryf deur regulasie gemaak of kennisgewing uitgereik ooreenkomstig artikel 7; en

“**werknemer**” ’n werknemer soos bedoel in artikels 8(2) en (3).

Oogmerke van Wet

2. Die oogmerke van die Wet is om die huidige raamwerk van die Fonds te vervang met ’n raamwerk wat uitsluitlik gereguleer word deur, berig is met, en voldoen aan die –

- (a) Grondwet van die Republiek van Suid-Afrika, 1996;
- (b) Pensioenfondswet; en
- (c) beginsels van goeie regering.

Toepassing van Wet

3.(1) Die Wet is van toepassing op alle munisipaliteite in assosiasie met, en lede van, die Fonds.

(2) Die bepalings van die Pensioenfondswet is van toepassing op hierdie Wet, en die Pensioenfondswet geld in die geval van ’n onverenigbare konflik tussen die toepassing van die Pensioenfondswet en die bepalings van hierdie Wet.

Voortsetting en bedryf van Fonds

4.(1) Die Fonds –

- (a) gaan voort om te bestaan met alle geassosieerde regte, bevoegdhede, pligte, verantwoordelikhede, bates en laste soos dit was onmiddellik voor die inwerkingtreedingsdatum van hierdie Wet; en
- (b) word bedryf ooreenkomstig die bepalings van hierdie Wet, onderhewig aan die bepalings van artikel 3(2).

(2) Die Regulasies wat die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds beheer en die Reëls is van toepassing op die Fonds.

Voortgesette Fondslidmaatskap

5. Behoudens die bepalings van hierdie Wet of enige ander wet gaan 'n persoon wie, onmiddellik voor die inwerkingtredingsdatum van hierdie Wet, 'n lid was van die Fonds, voort om 'n lid van die Fonds te wees.

Voortgesette assosiasie met Fonds

6. Elke munisipaliteit wat, onmiddellik voor die inwerkingtreding van hierdie Wet, in assosiasie was met die Fonds se assosiasie met die Fonds duur voort.

Bevoegdhe van verantwoordelike Lid van Uitvoerende Raad

7.(1) Die verantwoordelike Lid van die Uitvoerende Raad kan, na oorlegpleging met die Fonds, –

(a) 'n –

- (i) aktuaris aanstel, ten einde 'n aktuariële waardasie van die Fonds uit te voer; en
- (ii) ouditeur aanstel ten einde finansiële verslae van die Fonds te oudit;

(b) deur regulasie, enige bestaande Regulasies wat die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds beheer herroep, wysig of vervang;

(c) deur regulasies, enige Regulasies maak, herroep, wysig of vervang –

- (i) ten opsigte van die batebasis, beleggings en finansiële en ander inkomstebronne van die Fonds; en

(ii) wat nie onverenigbaar met hierdie Wet is nie, vir enige aangeleentheid wat hy of sy nodig of wenslik beskou ten einde die toepassing van hierdie Wet te fasiliteer: Met dien verstande dat die algemeenheid van hierdie bevoegdheid nie beperk word deur enige van die bepalings van paragraaf (a), (b), of (c) nie; en

(d) kennisgewings uitreik betreffende hierdie Wet of die Regulasies gemaak deur publikasie in die Provinsiale *Koerant*.

(2) Enige Regulasie gemaak of kennisgewing uitgereik deur die verantwoordelike Lid van die Uitvoerende Raad ooreenkomstig subartikel (1) kan gemaak of uitgereik word met inwerkingtreding vanaf enige datum hetsy voor of volgende op die proklamasiedatum daarvan.

Oorgangsreëlings

8.(1) Behoudens die beskerming van bestaande regte bedoel in artikels 4(1) en 9(2) –

(a) gaan die Bestuurskomitee, ingestel ooreenkomstig regulasie 5 van die Regulasies wat die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds beheer, voort, vir alle doeleindes, om werkzaam te wees, sonder onderbreking, as die Raad van Trustees van die Fonds met al die bevoegdhede, werksaamhede, pligte en rolle wat, voor die inwerkingtreding van hierdie Wet, in die Bestuurskomitee van die Fonds gesetel was;

(b) gaan Algemene Komitee, ingestel ooreenkomstig regulasie 5 van die Regulasies wat die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds beheer, voort, vir alle doeleindes, om werkzaam te wees, sonder onderbreking, om te funksioneer as die Algemene Komitee van die Fonds met al die bevoegdhede, werksaamhede, pligte en rolle wat, voor die inwerkingtreding van hierdie Wet, in die Algemene Komitee van die Fonds gesetel was; en

(c) gaan die Fonds voort om beheer, bestuur en bedryf te word, met die nodige veranderinge, ooreenkomstig die bepalings van elke –

(i) wet; en

(ii) administratiewe en finansiële prosedure,

wat van toepassing was op die Fonds voor die inwerkingtreddingsdatum van hierdie Wet.

(2) Behoudens subartikel (3), is 'n werknemer enige persoon in die diens van 'n geassosieerde munisipaliteit, wie –

(a) in 'n voltydse hoedanigheid in diens geneem is deur die vermelde munisipaliteit ; en

(b) die ouderdom van 17 jaar bereik het, maar nie, ten tye van aansluiting by die vermelde munisipaliteit, 'n ouderdom van agt jaar minder as die pensioenouderdom bereik het nie.

(3) Vir die doeleindes van hierdie Wet –

(a) kan enige persoon, wat in diens geneem is deur 'n geassosieerde munisipaliteit en wie se dienste beëindig sal word by voltooiing van die doel vir sy of haar indiensneming, binne 'n tydperk van hoogstens drie jaar, deur die munisipaliteit beskou word om nie 'n werknemer te wees nie;

(b) kan 'n persoon wat in die diens van 'n geassosieerde munisipaliteit aansluit nadat 'n ouderdom van agt jaar minder as die pensioenouderdom bereik is, met die instemming van die indiensnemingsmunisipaliteit, kies om as 'n werknemer beskou te word; en

(c) behoudens die goedkeuring van die Raad van Trustees, kan 'n persoon wat in diens van 'n geassosieerde munisipaliteit aansluit in 'n deelydse hoedanigheid, met die instemming van die indiensnemingsmunisipaliteit, kies om as 'n werknemer beskou te word.

(4) 'n Spesiale algemene vergadering, bestaande uit alle munisipaliteite in assosiasie met, en werknemerslede van, die Fonds moet binne 'n tydperk wat nie 12 maande na die inwerkingtreddingsdatum van hierdie Wet oorskry nie, gehou word.

Herroeping van wet en behoud

9.(1) Die wet vermeld in die eerste en tweede kolom van die Bylae tot hierdie Wet word hiermee herroep tot in die omvang uiteengesit in die derde kolom van die vermelde Bylae.

(2) Alle regulasies gemaak kragtens die KwaZulu-Natal Wet op Gemeenskaplike Munisipale Voorsorgfonds, 1995 (Wet No. 4 van 1995), en die Reëls, tot in die omvang wat dit van toepassing is op die Fonds, bly van krag en afdwingbaar asof die vermelde Wet nie herroep is nie, soos bedoel in subartikel (1), tot sodanige tyd wat dit gewysig, herroep of vervang word deur 'n Regulasie of 'n Reël, na gelang van die geval, gemaak ooreenkomstig artikel 7.

Kort titel

10. Hierdie Wet word die KwaZulu-Natal Wet op Gemeenskaplike Munisipale Voorsorgfonds, 2016 genoem.

BYLAE
WET HERROEP
(Artikel 9(1))

Nommer en jaar van wet	Titel	Omvang van herroeping
Wet No. 4 van 1995	KwaZulu-Natal Wet op Gemeenskaplike Munisipale Voorsorgfonds, 1995	Die geheel

MEMORANDUM
OOR DIE OOGMERKE
VAN DIE
KWAZULU-NATAL WETSONTWERP OP DIE GEMEENSKAPLIKE MUNISIPALE
VOORSORGFONDS, 2016

1. INLEIDING

Die Wetsontwerp stel 'n raamwerk in vir die voortsetting van die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds. Die raamwerk word uitsluitlik gereguleer deur, berig met en voldoen aan, die Grondwet van die Republiek van Suid-Afrika, 1996 die nasionaal toepaslike Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), en die beginsels van goeie regering.

Die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds was in 1996 ingestel deur die KwaZulu-Natal Wet op Gemeenskaplike Munisipale Voorsorgfonds, 1995 (Wet No. 4 van 1995).

Die Reëls vir die Bestuur en Administrasie van die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie), Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding) en die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds was uitgereik, en van tyd tot tyd gewysig, ingevolge regulasies gemaak behoudens die Ordonnansie op die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), 1974 (Ordonnansie No. 27 van 1974), die Ordonnansie op Plaaslike Regering Superannuasie, 1973 (Ordonnansie No. 24 van 1973), en die KwaZulu-Natal Wet op Gemeenskaplike Munisipale Voorsorgfonds, 1995 (Wet No. 4 van 1995).

2. BESPREKING

2.1 Klousule 1: Omskrywings

Klousule 1 omskryf woorde en uitdrukkings gebruik in die KwaZulu-Natal Wetsontwerp op Gemeenskaplike Munisipale Voorsorgfonds, 2016. Die toepaslike omskrywings vervat in die KwaZulu-Natal Wet op Gemeenskaplike Munisipale Voorsorgfonds, 1995 (Wet No. 4 van 1995), en die regulasies daarkragtens gemaak, asook die Reëls vir die Bestuur en Administrasie van die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie), Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), en die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds, lig gesamentlik die inhoud van klousule 1 in.

2.2 Klousule 2: Oogmerke van Wet

Klousule 2 sit die oogmerke van die Wet uiteen, synde om die huidige raamwerk van die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds te vervang met 'n nuwe raamwerk wat gereguleer word deur, berig word met, en voldoen aan die Grondwet van die Republiek van Suid-Afrika, 1996, die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), en die beginsels van goeie regering.

2.3 Klousule 3: Toepassing van Wet

Klousule 3 maak voorsiening dat die Wet van toepassing is op munisipaliteite in assosiasie met, en lede van, die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds. Dit vermeld verder dat die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), van toepassing is op die Wet en geniet voorkeur in die geval van 'n onverenigbare konflik.

2.4 Klousule 4: Voortsetting en bedryf van Fonds

Klousule 4 maak voorsiening dat die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds voortgaan om te bestaan met al die geassosieerde regte, bevoegdhede, pligte, verantwoordelikhede, bates en laste soos dit was onmiddellik voor die inwerkingtreddingsdatum van die Wet. Die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds word bedryf in ooreenstemming met die bepalings van die Wet en die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956). Die regulasies gemaak met betrekking tot, en al die Reëls van toepassing op, die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds is van toepassing op die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds.

2.5 Klousule 5: Voortgesette Fondslidmaatskap

Klousule 5 omskryf die lede van die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds. Alle persone wie, onmiddellik voor die inwerkingtreddingsdatum van die Wet, lede van die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds was, gaan voort om lede van die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds te wees.

2.6 Klousule 6: Voortgesette assosiasie met Fonds

Klousule 6 bepaal dat alle munisipaliteite in assosiasie met die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds, onmiddellik voor die inwerkingtreding van die Wet, voortgaan om met die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds in assosiasie te wees.

2.7. Klousule 7: Bevoegdhede van verantwoordelike Lid van Uitvoerende Raad

Klousule 7 verleen sekere bevoegdhede aan die verantwoordelike Lid van die Uitvoerende Raad (LUR). Die LUR is gemagtig om 'n aktuaris aan te stel met die uitvoer van 'n aktuariële waardasie ten doel, en 'n ouditeur vir 'n oudit van die finansiële status van die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds. Die LUR kan regulasies maak vir die wysiging, vervanging of herroeping van bestaande regulasies gemaak ingevolge die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds, asook ten opsigte van die bategrondslag, beleggings en finansiële en ander bronne van die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds. Verder bemagtig die klousule die LUR om regulasies te maak betreffende ander aangeleenthede indien dit nie onverenigbaar is met die Wet nie en indien hy of sy dit as nodig of wenslik beskou ten einde die toepassing van die Wet te fasiliteer. Die LUR kan ook kennisgewings uitreik. Regulasies en kennisgewings kan gemaak of uitgereik word met enige inwerkingtreddingsdatum, hetsy voor of vervolgens die proklamasiedatum daarvan.

2.8 Klousule 8: Oorgangsreëlings

Klousule 8 sit 'n aantal oorgangsreëlings met betrekking tot die Bestuurskomitee en die Algemene Komitee uiteen. Die Bestuurskomitee en die Algemene Komitee van die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds gaan voort, vir alle doeleindes, om werkzaam te wees as die Raad van Trustees en die Algemene Komitee, onderskeidelik, sonder onderbreking en met al hul bevoegdhede, werksaamhede, pligte en rolle. Die klousule bevat ook 'n bepaling aangaande die beheer, bestuur en bedryf van die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds, en omskryf 'n "**werknemer**" vir doeleindes van die Wet. Die klousule maak verder voorsiening vir 'n spesiale algemene vergadering wat gehou moet word binne 12 maande na die publikasie van die Wet.

2.9 Klousule 9: Herroeping van wet en behoud

Klousule 9 maak voorsiening vir die herroeping van die KwaZulu-Natal Wet op Gemeenskaplike Munisipale Voorsorgfonds, 1995 (Wet No. 4 van 1995), asook behoud wat betrekking het op die Regulasies ten opsigte van die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds en die Reëls van toepassing op die vermelde Fonds.

2.10 Kort titel

Klousule 10 sit die kort titel van die Wet uiteen. Waar geen bepaalde datum van inwerkingtreding vermeld word nie, sal die Wet in werking tree by publikasiedatum in die *Provinsiale Koerant*.

3. LIGGAME EN ORGANISASIES GERAADPLEEG

Die volgende liggame en organisasies sal geraadpleeg word na die publikasie van die Wetsontwerp ooreenkomstig die bepalings van artikel 154(2) van die Grondwet van die Republiek van Suid-Afrika, 1996:

- 3.1** Die Registrateur van Pensioenfondse;
- 3.2** Die KwaZulu-Natal Gemeenskaplike Munisipale Pensioen- en Voorsorgfonds;
- 3.3** Geassosieerde munisipaliteite;
- 3.4** Lede van die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds by wyse van 'n spesiale algemene vergadering; en
- 3.5** Die Bestuurskomitee van die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds.

4. FINANSIËLE IMPLIKASIES VIR PROVINSIE

Geen.

5. FINANSIËLE EN ANDER IMPLIKASIES VIR MUNISIPALITEITE

Geen.

6. FINANSIËLE EN ANDER IMPLIKASIES VIR LEDE

Geen.

7. WETGEWENDE PROSEDURE

By aanvaarding van hierdie Wetsontwerp, in beginsel, deur die verantwoordelike Lid van die Uitvoerende Raad, beoog die KwaZulu-Natal Departement van Samewerkende Regering en Tradisionele Sake om die Konsepwetsontwerp en Memorandum oor die Oogmerke aan munisipaliteite, lede van die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds en 'n spesiale algemene vergadering voor te lê vir skriftelike kommentaar, waarna die Wetsontwerp weer aan die Provinsiale Hoofstaatsregsadviseur en die Provinsiale Tesourie voorgelê sal word.

Die KwaZulu-Natal Departement van Samewerkende Regering en Tradisionele Sake beoog dan om die Wetsontwerp aan Kabinet voor te lê vir sy goedkeuring en oordrag na die

KwaZulu-Natal Provinsiale Wetgewer. Dit word beoog dat hierdie proses tydens die 2016/2017 boekjaar afgehandel sal word.

8. KONTAKPERSOON

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UMNYANGO WEZOKUBUSA NGOKUBAMBISANA NEZOMDABU

UKUSHICILELWA KOMTHETHOSIVIVINYO WESIHWAMA SEZIMPESHENI ESIHLANGANYELE SOMASIPALA WAKWAZULU-NATALI (SOMHLALAPHANSI), 2016, KOMTHETHOSIVIVINYO WESIHWAMA SEZIMPESHENI ESIHLANGANYELE SOMASIPALA WAKWAZULU-NATALI (SEZIMALI EZIBANJWA EMHOLWENI), 2016, KANYE NOMTHETHOSIVIVINYO WESIHWAMA SEZIMPESHENI ESIHLANGANYELE SOMASIPALA WAKWAZULU-NATALI (SE-PROVIDENT FUND), 2016, NGOKUHAMBISANA NESIGABA 154(2) SOMTHETHOSISEKELO WERIPHABHULIKHI YASENINGIZIMU AFRIKA

1. Ngokuhambisana nesigaba 154(2) soMthethosisekelo weRiphabhuliki yaseNingizimu Afrika, 1996, ngalokhu kushicilelwa le Mithethosivivinyo elandelayo ukuze abantu babeke izimvo zabo:

- (a) uMthethosivivinyo wesikhwama sezimpesheni esihlanganyele soMasipala waKwaZulu-Natali (soMhlalaphansi), 2016;
- (b) uMthethosivivinyo wesikhwama sezimpesheni esihlanganyele soMasipala waKwaZulu-Natali (sezimali ezibanjwa eMholweni), 2016; kanye
- (c) noMthethosivivinyo wesikhwama sezimpesheni esihlanganyele soMasipala waKwaZulu-Natali (se-Provident Fund), 2016.

2. Izinhlangano ezimele ohulumeni basekhaya, omasipala kanye nabantu abanentshisekelo bayamenywa ukuba balethe izimvo zabo ezibhalwe phansi mayelana noMthetho ohlongozwayo bese ithunyelwa ngeposi –

kwiNhloko yoMnyango wezokuBusa ngokuBambisana nezoMdabu
Private BagX9078
Pietermaritzburg
3200

3. Izimvo zingathunyelwa futhi –

- (a) ngesandla ku-Room 108, 14th Floor South Tower, Natalia Building, 330 Langalibalele Street, Pietermaritzburg, 3201;
- (b) ngefeksi ku (033) 394 9714; noma
- (c) nge-imeyli ku heinz.kuhn@kzncogta.gov.za.

4. Zonke izimvo kumele zifike ungakadluli umhla ziyi-31 kuNdasa 2016, futhi kumele zibhalwe ngokucacile ukuthi:

Ziqondiswe kuMnuz. KW Kuhn.

**UMTHETHOSIVIVINYO WESIKHWAMA SEMPESHENI ESIHLANGANYELE
SOMASIPALA SAKWAZULU-NATALI (SOMHLALAPHANSI), 2016**

UMTHETHOSIVIVINYO

Wokuhlinzekela ukuqhubeka kokuba khona, nokuqhubeka nobulungu nokuzibandakanya esiKhwameni seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi); wokuhlinzekela ukuqanjwa kabusha kwesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi) njengesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (soMhlalaphansi); wokuhlinzekela amandla eLungu loMkhandlu oPhethe okusungula imithethonqubo; wokuhlinzekela izinhlinzeko zesikhashana; wokuhlinzekela ukuchithwa kwemithetho nezingxenye zemithetho ezishiywa zinjalo; nokuhlinzekela okunye okuphathelene nalokho.

ISENDLALELO

NJENGOBA kunesidingo sokuthi kushintshwe ama-Odinensi aseNatali abandlulula ngokobuhlanga asungulwa ngaphambi konyaka ka 1994 ayenquma ukuthi kusungulwe futhi kusetshenziwe izinhlelo zempesheni ezimbili ezihlukanisa ngokobuhlanga zabasebenzi bomasipala, okuyisiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) kanye nesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi) ezagunyazwa ukuthi zisetshenziswe yisiFundazwe uMengameli ngokulandela isigaba 235(8) soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1993 (uMthetho No. 200 ka 1993), futhi esezidlulelwe yisikhathi njengoba kuqale ukusebenza imithetho yentando yeningi mhla zingama-27 kuMbasa ka 1994;

NJENGOBA ama-Odinensi asungulwa ngokubhekelela ubuhlanga ngaphambi kuka 1994 enziwe aba yimithetho yesifundazwe njengoba kunquma isigaba 239 soMthethosisekelo waseNingizimu Afrika, 1996, futhi isiShayamthetho sesiFundazwe sinamandla ngokomthetho okuchitha, okuchibiyela nokushintsha leyo mithetho ngokuhambisana nesigaba 104(1)(b) soMthethosisekelo ka 1996;

NJENGOBA kunesidingo sokuqinisekisa ukuthi konke okukhuluma nobuhlanga nazo zonke izinhlobo zokwehlukana phakathi kwezikhwama zempesheni mayelana nezigaba zabahlomuli kanye nemindeni yabo kuyasuswa;

NANJENGOBA kunesidingo sokuthi kushintshwe uhlaka olusemthethweni lwesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi) olukhona kube nohlaka oluzolawulwa noluzohambosana noMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996, noMthetho weziKhwama zeMpesheni kaZwelonke, 1956 (uMthetho No. 24 ka 1956) osebenzayo, kanye nemigomo yokubusa okuhle;

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

Izincazelo

1. Kulo Mthetho, ngaphandle uma ingqikithi isho okwehlukile –

“**ungoti wezezimali**” kushiwo umuntu –

(a) oyingxenywe yesikhungo, yophiko, yenhlangano noma yeqembu longoti bezezimali obhalisiwe ngokuhambisana nemithetho ekhona; kanye

(b) noqokwe –

(i) uMbhalisi; kanye

(ii) neBhodi lesiKhwama,

njengobhekele izilinganiso njengoba kuhlangozwe esigabeni 9A soMthetho wesiKhwama seMpesheni, 1956 (uMthetho No. 24 ka 1956);

“**umcwaningimabhuku**” kushiwo umbali wezimali zomphakathi kanye nomcwaningimabhuku –

(a) obhaliselwe lokhu ngokuhambisana noMthetho wabaBali beziMali zoMphakathi kanye nabaCwaningimabhuku, 1991 (uMthetho No. 80 ka 1991); futhi

(b) oqokwe yiBhodi labaPhathi;

“**umhlomulo**” kushiwo noma yimuphi umhlomulo wempesheni noma wezinye izimali okumele zikhokhelwe ilungu, osethathe umhlalaphansi, owomndeni noma omunye umuntu ngokuhambisana nemithethonqubo;

“**iBhodi labaPhathi**” kushiwo iBhodi labaPhathi elihlongozwe esigabeni 7A soMthetho wesiKhwama seMpesheni, 1956 (uMthetho No. 24 ka 1956), futhi elisungulwe ngendlela ebekiwe;

“**ikomidi labaphathi**” kushiwo ikomidi labaphathi eliqokwe ngokuhambisana nezinhlinzeko zeMithetho;

“**umsebenzi**” kushiwo umsebenzi njengoba kuhlangozwe ezigabeni 8(2) no (3);

“**iBhodi lezeziMali**” kushiwo iBhodi lezeziMali esungulwe ngokuhambisana nesigaba 2 soMthetho weBhodi lezeziMali, 1990 (uMthetho No. 97 ka 1990);

“**isiKhwama**” kushiwo isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), esiqanjwe kabusha njengesisiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (soMhlalaphansi) ngokuhambisana nesigaba 4 kusukela ngosuku lokusebenza kwalo Mthetho;

“**ikomidi elikhulu**” kushiwo ikomidi elikhulu eliqokwe ngokuhambisana nezinhlizwe zeMithetho;

“**isiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (se-Provident Fund)**” kushiwo isiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*) esisungulwe ngokuhambisana nesigaba 2 soMthetho wesisiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*), 1995 (uMthetho No. 4 ka 1995);

“**ilungu**” ngaphandle uma inqgikithi isho okwehlukile, kushiwo umuntu –

- (a) ngaphambi kosuku lokuqala ukusebenza kwalo Mthetho obefaka izimali esiKhwameni, futhi kusukela ngosuku lokuqala ukusebenza kwalo Mthetho ophinde aqhubeke nokufaka izimali esiKhwameni; noma
- (b) kusukela kunoma yiluphi usuku olwandulela usuku loqala kokusebenza kwalo Mthetho oqalisa ukufaka imali esiKhwameni;

“**umasipala**” –

- (a) kubandakanya umasipala wodolobha elikhulu, umasipala wesifunda noma umasipala wendawo njengoba kuhlongozwe esigabeni 155(6) soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika;
- (b) kushiwo umasipala osungulwe ngokoMthetho weziNhlaka zoMasipala woHulumeni baseKaya, 1998 (uMthetho No. 117 ka 1998);
- (c) uma uhlangozwe njengebhizinisi, kushiwo umasipala njengoba uchazwe esigabeni 2 soMthetho weziNhlelo zoMasipala woHulumeni baseKaya, 2000 (uMthetho No. 32 ka 2000); kanti
- (d) uma uchazwe njengendawo ngokomumo wezwe noma njengenhlangano, kushiwo indawo kamasipala enqunywe njengoba kuhlongozwe eMthethweni wokuKlanywa kweMingcele yoMasipala woHulumeni baseKhaya, 1998 (uMthetho No. 27 ka 1998);

“**uMthetho weziNhlaka zoMasipala**” kushiwo uMthetho weziNhlaka zoMasipala woHulumeni baseKhaya, 1998 (uMthetho No. 117 ka 1998);

“uMthetho weziNhlelo zoMasipala” kushiwo uMthetho weziNhlelo zoMasipala woHulumeni baseKhaya, 2000 (uMthetho No. 32 ka 2000);

“isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi)” kushiwo isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), esasungulwa yisigaba 2 se-Odinensi yesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), 1974 (i-Odinensi No. 27 ka 1974);

“isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni)” kushiwo isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) esasungulwa yisigaba 2 se-Odinensi yeziMali eziBanjwa eMholweni yoHulumeni baseKhaya, 1973 (i-Odinensi No. 24 ka 1973);

“isaziso” kushiwo isaziso esikhishwe ngokomthethonqubo;

“i-odinensi” kubandakanya nemithethonqubo esungulwe ngaphansi kwayo;

“uMthetho weziKhwama zeMpesheni” kushiwo uMthetho weziKhwama zeMpesheni, 1956 (uMthetho No. 24 ka 1956);

“okunqunyiwe” kushiwo okunqunywe yiLungu loMkhandlu oPhethe elibhekele ohulumeni basekhaya ngomthethonqubo osungulwe noma ngesaziso esikhiwe ngokuhambisana nesigaba 7;

“imigomo yokubusa okuhle” kushiwo imigomo njengoba ibekwe kwi-*King Code and Report on Governance in South Africa*, 2009, nanoma yiziphi izichibiyelo zayo, noma ukubuyezwa kwayo;

“isimemezelo” kushiwo isimemezelo esikhishwe kwiGazethi yesiFundazwe;

“isiFundazwe” kushiwo isiFundazwe saKwaZulu-Natali;

“iGazethi yesiFundazwe” kushiwo iGazethi yesiFundazwe saKwaZulu-Natali;

“umthethonqubo” kushiwo umthethonqubo osungulwe ngaphansi kwalo Mthetho, futhi kubandakanya noma yiluphi uHlelo lwaleyo mithethonqubo;

“iMithethonqubo elawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi)” kushiwo iMithethonqubo elawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi) eyashicilelwa kwiSaziso sesiFundazwe No. 180 sika 1975 mhla ziyi-13 kuNhlabha 1975;

“iLungu loMkhandlu oPhethe” kushiwo iLungu loMkhandlu oPhethe elibhekele ohulumeni basekhaya;

“iMithetho” ngokwezinhloso zoMthetho weziKhwama zeMpesheni, kushiwo –

(a) iMithetho yokuPhatha nokuLawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni), isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), kanye nesiKhwama soMhlalaphansi esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*), ekhishwe ngokwemithethonqubo esungulwe –

(i) ngokwe-Odinensi yeziMali eziBanjwa eMholweni yoHulumeni baseKhaya, 1973 (i-Odinensi No. 24 ka 1973);

(ii) ngokwe-Odinensi yeziKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), 1974 (i-Odinensi No. 27 ka 1974); kanye

(iii) nangokoMthetho weziKhwama soMhlalaphansi esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*), 1995 (uMthetho No. 4 ka 1995); kanye

(b) nazo zonke ezinye iziNhlelo ezisungulwe ngokuhambisana nesigaba 7, ngemuva kosuku lokuqala lokusebenza kwalo Mthetho;

“lo Mthetho” kubandakanya imithethonqubo nezaziso ezikhishwe ngokwaleyo mithethonqubo.

Izinhloso zoMthetho

2. Izinhloso zoMthetho ukushintsha uhlaka olusemthethweni lwesiKhwama olusebenzayo kufakwe uhlaka oluwalwa kuphela, nolulandela, noluhambisana, –

(i) noMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika;

(ii) noMthetho weziKhwama zeMpesheni; kanye

(iii) nemigomo yokubusa okuhle.

Ukusebenza koMthetho

3.(1) Lo Mthetho usebenza kubona bonke omasipala abayingxenywe futhi abangamalungu esiKhwama.

(2) Izinhlinzeko zoMthetho weziKhwama zeMpesheni ziyasebenza kulo Mthetho, futhi uMthetho weziKhwama zeMpesheni yiwona oyosebenza uma kwenzeka kuba nokushayisana phakathi kwezinhlinzeko zoMthetho weziKhwama zeMpesheni nezinhlinzeko zalo Mthetho.

Ukuqanjwa kabusha, ukuqhubeka nokusebenza kwesiKhwama seMpesheni eziHlanganyele zoMasipala baseNatali (soMhlalaphansi)

4.(1) IsiKhwama seMpesheni eziHlanganyele zoMasipala saseNatali (soMhlalaphansi)

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- (a) siqanjwa kabusha njengesikhwama seMpesheni eziHlanganyele zoMasipala saKwaZulu-Natali (soMhlalaphansi);
- (b) siyaqhubeka nokusebenza nawo wonke amalungelo, amandla, amajoka, imisebenzi, impahla nezikweletu zaso njengoba bekunjalo, kusukela ngosuku lokuqalisa kokusebenza kwalo Mthetho; futhi
- (c) sisebenza ngokuhambisana nezinhlinzeko zalo Mthetho, kuncike ezinhlinzekweni zesigaba 3(2) zalo Mthetho.

(2) Imithethonqubo elawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi) kanye neMithetho iyasebenza esiKhwameni seMpesheni.

Ukuqhubeka nokuba yilungu lesiKhwama seMpesheni

5. Kuncike ezihlinzekweni zalo Mthetho nanoma yimuphi omunye umthetho, umuntu ngaphambi kosuku lokuqala kokusebenza kwalo Mthetho, obekade eyilungu lesiKhwama, uyoqhubeka nokuba yilungu lesiKhwama seMpesheni.

Ukuqhubeka nokuzibandakanya nesiKhwama seMpesheni

6. Bonke omasipala, ngaphambi kokuqala kokusebenza kwalo Mthetho, abebeyingxenywe yesiKhwama seMpesheni, bathathwa njengabayingxenywe yesiKhwama seMpesheni.

Amandla eLungu loMkhandlu oPhethe

7.(1) ILungu loMkhandlu oPhethe, ngemva kokubonisana nabesiKhwama seMpesheni –

(a) lingaqoka –

- (i) ungoti wezezimali ozohlola ezezimali esiKhwameni seMpesheni; kanye

- (ii) nomcwaningimabhuku ozocwaninga izitatimende zezimali zesiKhwama seMpesheni; futhi
- (b) ngomthethonqubo, lingachitha, lingachibiyela noma lingashintsha noma yimiphi iMithethonqubo ekhona elawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi) neMithetho;
- (c) ngomthethonqubo, lingachitha, lingachibiyela noma lingashintsha noma yimiphi iMithethonqubo –
- (i) emayelana nempahla, notshalomali kanye nezimali kanjalo neminye imithombo yengeniso yesiKhwama seMpesheni; futhi
- (ii) ehlinzeka ngokuthi amalungu esiKhwama seMpesheni angakhethe ukudluliselwa –
- (aa) esiKhwameni seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni); noma
- (bb) esiKhwameni seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (se-*Provident Fund*),
- kunoma yisiphi phakathi kwalezi zikhwama, ngokuhambisana nezinhlinzeko zesigaba 14 soMthetho weziKhwama zeMpesheni; futhi
- (iii) engashayisani nalo Mthetho, mayelana nanoma yiluphi udaba elilubona lunesidingo noma luwusizo ukuze kuhlinzekelwe ukusebenza kwalo Mthetho: Kuncike ekutheni ukusetshenziswa kwala mandla akuvinjelwa nanoma yiziphi izinhlinzeko zendima (a), (b), (c)(i) noma c(ii); futhi
- (d) lingakhipha izaziso eziphathelele nalo Mthetho noma imithethonqubo ngokuhambisana nalo Mthetho ngokusishicilela kwiGazethi yesiFundazwe.

(2) Noma yimuphi umthethonqubo osungulwe noma isaziso esikhishwe yiLungu loMkhandlu oPhethe ngokuhambisana nesigatshana (1), singashicilelwa noma singakhishwa, siyoqala ukusebenza ngosuku olungaphambi noma ngemuva kosuku lokumenyezela kwaso.

Izinhlinzeko zesikhashana

8.(1) Kuncike ekuvikelweni kwamalungelo akhona ahlangozwe ezigabeni 4(1)(b) kanye no 9(2) –

- (a) iKomidi labaPhathi elisungulwe ngokuhambisana nomthethonqubo 7 weMithethonqubo elawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi) liyaqhubeka, ngazo zonke izinjongo, nokusebenza, ngaphandle kokuphazamiseka, njengeBhodi labaPhathi besiKhwama seMpesheni elinawo wonke amandla, imisebenzi, amajoka namaqhaza, ngaphambi kokuqala

kokusebenza kwalo Mthetho, abekade enikezwe iKomidi labaPhathi besiKhwama seMpesheni;

(b) iKomidi eliKhulu elasungulwa ngokuhambisana nomthethonqubo 7 weMithethonqubo elawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi) liyaqhubeka, ngazo zonke izinjongo, nokusebenza, ngaphandle kokuphazamiseka, njengeKomidi eliKhulu lesiKhwama seMpesheni elinawo wonke amandla, imisebenzi, amajoka namaqhaza, ngaphambi kokuqala kokusebenza kwalo Mthetho, abekade enikezwe iKomidi eliKhulu zesiKhwama seMpesheni; futhi

(c) isiKhwama seMpesheni siyaqhubeka nokubuswa, nokuphathwa kanye nokulawulwa, ngezinguquko ezidingekayo, ngokuhambisana nezinhlizeko zayo yonke

–

(i) imithetho; kanye

(ii) nezinqubo zezokuphatha nezezimali,

ebezisebenza esiKhwameni seMpesheni ngaphambi kosuku lokuqala kokusebenza kwalo Mthetho.

(2) Kuncike kwisigatshana (3), umsebenzi yinoma yimuphi umuntu osebenzela umasipala, –

(a) osebenza ngokugcwele kulowo masipala; futhi

(b) oneminyaka engaphezu kweyi-17 ubudala, kodwa ngenkathi ejoyina umasipala obeneminyaka engaphezu kweyi-8 emsalele ngaphambi kokuthola impesheni.

(3) Ngokwezinjongo zalo Mthetho –

(a) noma yimuphi umuntu oqashwe umasipala futhi ozoyeka ukusebenza ngemva kokuphela komsebenzi othile abeqashelwe wona, ingakapheli iminyaka emithathu, angeke athathwe njengomsebenzi kamasipala;

(b) umuntu oqashwa umasipala esesalelwe iminyaka engaphansi kweyi-8 ukuthi athole impesheni yokuguga angakhetha, ngemvume yalowo masipala omqashayo, ukuthi athathwe njengomsebenzi; futhi

(c) kuncike ekugunyazweni yiBhodi labaPhathi, umuntu oqashwa umasipala ezosebenza ngezikhathi ezithile angakhetha, ngemvume kamasipala omqashayo, ukuthi athathwe njengomsebenzi.

(4) Kumele kubanjwe umhlangano okhethekile, obandakanya wonke amalungu abasebenzi nomasipala abayingxenye yesiKhwama seMpesheni, zingakadluli izinyanga eziyi-12 ngemva kokushicilelwa kwalo Mthetho kwiGazethi yesiFundazwe.

Ukuchithwa komthetho nezingxenywe zomthetho ezishiywa zinjalo

9.(1) Umithetho obalulwe ohlwini lokuqala nolwesibili loHlelo olukulo Mthetho ngalokhu uyachithwa ngendlela ebekwe ohlwini lwesithathu lwalolu Hlelo.

(2) Yonke imithethonqubo esungulwe yi-Odinensi yeziMali eziBanjwa eMholweni yoHulumeni baseKhaya, 1973 (i-Odinensi No. 24 ka 1973), neMithetho, ngendlela esebenza ngayo esiKhwameni seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (soMhlalaphansi), siyoqhubeka nokusebenza sengathi le-Odinensi okukhulunywa ngayo ayizange ichithwe njengoba kuhlangozwe kwisigatshana (1).

Isihloko esifingqiwe

10. Lo Mthetho ubizwa ngoMthetho wesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (soMhlalaphansi), 2016.

UHLELO
UMTHETHO OCHITHIWAYO

(Isigaba 9(1))

I-ODINENSI YESIFUNDAZWE SASENATALI SAKUDALA

<i>Inombolo nonyaka womthetho</i>	<i>Isihloko</i>	<i>Okuchithwayo</i>
i-Odinensi No. 27 ka 1974	i-Odinensi yesiKhwama seMpesheni esiHlanganyele soMasipala yaseNatali (soMhlalaphansi), 1974	<i>Yonke</i>

**IMEMORANDAMU
NGEZINHLOSO**

**ZOMTHETHOSIVIVINYO WESIKHWAMA SEMPESHENI ESIHLANGANYELE
SOMASIPALA SAKWAZULU-NATALI (SEZIMALI EZIBANJWA EMHOLWENI), 2016**

1. ISINGENISO

Inhloso yalo Mthethosivivinyo ukuthatha indawo yama-Odinensi aseNatali abandlulula ngokobuhlanga asedlulelwe yisikhathi njengoba kuqale inqubo yentando yeningi mhla zingama-27 kuMbaso ka 1994, kanjalo nokuqinisekisa ukuthi konke okukhuluma ngobuhlanga kanye nokwehlukaniwa ngokobuhlanga phakathi kwesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) nesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi) maqondana nemikhakha yabahlomulayo nemindeni yabo kuyasuswa.

Ngokwesigaba 235(8) soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1993 (uMthetho No. 200 ka 1993), uMengameli wayalela izifundazwe ukuthi zisebenzise imithetho ebandlulula ngokobuhlanga okuyi-Odinensi yeziMali eziBanjwa eMholweni yoHulumeni baseKhaya, 1973 (i-Odinensi No. 24 ka 1973), ne-Odinensi yeziKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), 1974 (i-Odinensi No. 27 ka 1974). Isigaba 239 soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996, sinquma ukuthi leyo mithetho iba yimithetho yezifundazwe. Isigaba 104(1)(b) soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996, esinikeza isiShayamthetho saKwaZulu-Natali amandla okushaya imithetho yesifundazwe, sibandakanya namandla okuchibiyela, okuchitha kanjalo nokushintsha noma yimuphi umthetho wesifundazwe (okungaba umthetho owashaywa yisifundazwe saKwaZulu-Natali ngemva noma ngaphambi konyaka ka 1994).

UMthethosivivinyo usungula uhlaka lokushintsha isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), uhlaka olusemthethweni olulawulwa kuphela futhi, oluhambisana noMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996, umthetho okhona kazwelonke okunguMthetho weziKhwama zeziMpesheni, 1956 (uMthetho No. 24 ka 1956), kanye nemigomo yokubusa okuhle.

IsiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) sasungulwa ngonyaka ka 1973 yi-Odinensi yeziMali eziBanjwa eMholweni yoHulumeni baseKhaya, 1973 (i-Odinensi No. 24 ka 1973). Ubulungu kulesi siKhwama kwakuvumeleke kwabamhlophe kuphela.

IsiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi) sasungulwa ngonyaka ka 1974 yi-Odinensi yesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), 1974 (i-Odinesi No. 27 ka 1974). Ubulungu kulesi siKhwama kwakuvumeleke kwabangebona abebala.

Kwakhishwa iMithetho yezokuPhatha nokuLawula yesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni), yesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), kanye neyesiKhwama soMhlalaphansi esiHlanganyele soMasipala saKwaZulu-Natali, ebilokhu ichtshiyelwa njalo ngemva kwesikhathi esithile, ngokwemithethonqubo eyasungulwa ngokwe-Odinensi yesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni), 1974 (i-Odinensi No. 27 ka 1974), ngokwe-Odinensi yeziMali eziBanjwa eMholweni yoHulumeni baseKhaya, 1973 (i-Odinensi No. 24 ka 1973) nangokoMthetho wesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali, 1995 (uMthetho No. 4 ka 1995). Le mithethonqubo nemithetho ithi mayifane ngokwezinhloso zayo. Kodwa-ke, ubulungu kulezi ziKhwama zeMpesheni, kanye nabahlomulyayo kanye nemindeni yabo, kwakuncike kwezobuhlanga. Ngenxa yalokho, ngokususa konke okukhuluma ngokubandulula ngokobuhlanga, ukuqinisekisa ukuthi akukho ukwehlukaniswa ngokobuhlanga okukhona ngaphansi kwesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) nesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi) maqondana nemikhakha yabahlomulayo nemindeni yabo, umthetho awusabandlululi ngokobuhlanga.

2. OKUSHIWO UMTHETHOSIVIVINYO

2.1 Isigaba soMthetho 1: Izincazelo

Isigaba soMthetho 1 sichaza amagama nezincazelo asetshenziswe kuMthethosivivinyo wesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (soMhlalaphansi), 2016. Izincazelo ezisetshenzisiwe neziqukethwe kwi-Odinensi yesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (yoMhlalaphansi), 1974 (i-Odinensi No. 27 ka 1974), kanye nemithethonqubo eyasungulwa ngaphansi kwayo, kanjalo neMithetho yokuLawulwa nokuPhathwa kwesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni), nesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), nesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*), yizona ngokuhlanganyela ezakha okuqukethwe yisigaba somthetho 1.

2.2 Isigaba soMthetho 2: Izinjongo zoMthetho

Isigaba soMthetho 2 sibeka izinjongo zoMthetho, ezishintsha uhlaka olukhona njengamanje lwesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), uhlaka olusemthethweni ngohlaka olusha olulawulwa, oluhambisana, futhi olulandela uMthethosisekelo weRiphabhlikhi yaseNingizimu Afrika, 1996, uMthetho wesikhwama seMpesheni, 1956 (uMthetho No. 24 ka 1956), kanye nemigomo yokubusa okuhle.

2.3 Isigaba soMthetho 3: Ukusebenza koMthetho

Isigaba soMthetho 3 sihlizeka ngokuthi uMthetho usebenza kubo bonke omasipala abajoyine isikhwama seMpesheni, nakumalungu esikhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi). Ngaphezu kwalokho, sibeka ukuthi uMthetho weziKhwama zeMpesheni, 1956 (uMthetho No. 24 ka 1956), uyasebenza kulo Mthetho futhi yiwona oyosebenza uma kwenzeka kuba nokushayisana okungakuxazululeki.

2.4 Isigaba soMthetho 4: Ukuqanjwa kabusha, ukuqhubeka nokusebenza kwesiKhwama seMpesheni eziHlanganyele zoMasipala saseNatali (seziMali eziBanjwa eMholweni)

Isigaba soMthetho 4 sihlizekela isikhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), siqanjwa kabusha kuthiwa isikhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (soMhlalaphansi) futhi siyaqhubeka nokusebenza nawo wonke amalungelo, amandla, amajoka, imisebenzi, impahla kanye nezikweletu zaso njengoba bekunjalo kusukela ngosuku lokuqala kokusebenza kwalo Mthetho. Isikhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (soMhlalaphansi) sisebenza ngokuhambisana nezinhlinzeko zalo Mthetho nezomthetho weziKhwama zeMpesheni, 1956 (uMthetho No. 24 ka 1956). Imithethonqubo esungulwe, nayo yonke imithetho esebenza, esikhwameni seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi) iyasebenza esikhwameni seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (soMhlalaphansi).

2.5 Isigaba soMthetho 5: Ukuqhubeka nokuba yilungu lesiKhwama seMpesheni

Isigaba soMthetho 5 sichaza amalungu esikhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (soMhlalaphansi). Bonke abantu, ngaphambi kosuku lokuqala kokusebenza kwalo Mthetho, abebengamalungu esikhwama seMpesheni esiHlanganyele saseNatali (soMhlalaphansi) bayaqhubeka nokuba amalungu esikhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (soMhlalaphansi).

2.6 Isigaba soMthetho 6: Ukuqhubeka nokuba yingxenywe yesiKhwama seMpesheni

Isigaba soMthetho 6 siquma ukuthi bonke omasipala abebekade beyingxenywe yesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi) ngaphambi kokuqala kokusebenza kwalo Mthetho, bayaqhubeka nokuba yingxenywe yesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (soMhlalaphansi).

2.7 Isigaba soMthetho 7: Amandla eLungu loMkhandlu oPhethe

Isigaba soMthetho 7 sinikeza iLungu loMkhandlu oPhethe amandla athile. ILungu loMkhandlu oPhethe linikezwe amandla okuqoka ungoti wezezimali ngezinhloso zokuhlola isimo sezezimali, kanye nomcwaningimabhuku ozocwaninga izitatimende zezimali zesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (soMhlalaphansi). ILungu loMkhandlu oPhethe lingasungula imithethonqubo yokuchitha, yokuchibiyela, yokushintsha imithethonqubo ekhona esungulwe ngokwe-Odinensi yesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (soMhlalaphansi), mayelana nempahla, notshalomali kanye nezimali kanjalo futhi neminye imithombo yengeniso yesiKhwama seMpesheni esiHlanganyele soMasipala (seziMali eziBanjwa eMholweni). Ngaphezu kwalokho, isigaba somthetho sinika iLungu loMkhandlu oPhethe amandla okusungula imithethonqubo yokuthi amalungu alezi zikhwama zempesheni ezimbili kanye nesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*) angakwazi ukukhetha ukudluliselwa phakathi kwalezi zikhwama zempesheni, kanjalo nemithethonqubo ephathelene nezinye izindaba uma zingahambisani noMthetho futhi uma libona ukuthi ziyaphuthuma noma kunesidingo sokuthi ukuze kuqaliswe ukusebenza koMthetho. ILungu loMkhandlu oPhethe nalo lingazikhipha izaziso. Kungakhiswa imithethonqubo nezaziso eziqala ukusebenza nganoma yiluphi usuku, olungaba ngaphambi noma ngemuva kosuku lokushicilelwa kwazo.

2.8 Isigaba soMthetho 8: Izinhlinzeko zesikhashana

Isigaba soMthetho 8 sibeka izinhlinzeko zesikhashana eziningi eziphathelene neKomidi labaPhathi kanjalo neKomidi eliKhulu. IKomidi labaPhathi neKomidi eliKhulu lesiKhwama seMpesheni esiHlanganyele soMasipala (soMhlalaphansi) athathwa njengamaKomidi esiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (soMhlalaphansi), futhi ngokwazo zonke izinjongo liyaqhubeka nokusebenza njengoba iBhodi labaPhathi kanye neKomidi eliKhulu, maqondana nalokhu, ngaphandle kokuphazamiseka njengeKomidi eliKhulu lesiKhwama seMpesheni nawo onke amandla, imisebenzi, amajoka namaqhaza. Isigaba somthetho futhi siqukethe isihlinzeko esiphathelene nokubuswa, nokuphathwa kanye nokusebenza kwesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (soMhlalaphansi), futhi siphinde sichaze umsebenzi siphinde futhi sichaze “**umsebenzi**”

ngekwezinhloso zalo Mthetho. Ukwengeza kulokhu, isigaba sihlinzekela ngomhlangano okhethekile omkhulu okhethekile okumele ubanjwe zingakadluli izinyanga eziyi-12 kushicilelwe lo Mthetho.

2.9 Isigaba soMthetho 9: Ukuchithwa komthetho nezingxenywe zomthetho ezishiywa zinjalo

Isigaba soMthetho 9 sihlinzekela ukuchithwa kwe-Odinensi yesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi) ka 1973 (i-Odinensi No. 24 ka 1973), kanjalo nezingxenywe zomthetho ezishiywa zinjalo eziphathelele neMithethonqubo yesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi) nemithetho ephathelele nalesi siKhwama okukhulunywa ngaso.

2.10 Isigaba soMthetho 10: isihloko esifingqiwe

Isigaba soMthetho 10 sibeka isihloko esifingqiwe soMthetho. Uma lungekho usuku lokuqala kokusebenza koMthetho olunqunyiwe, uMthetho uyoqala ukusebenza ngosuku oshicilelwe ngalo kwiGazethi yesiFundazwe.

3. IMIGWAMANDA NEZINHLANGANO OKUBONISWENE NAZO

Le migwamanda nezinhlangano ezilandelayo kuyoboniswa nazo ngemva kokushicilelwa koMthethosivivinyo ngokuhambisana nezinhlinzeko zesigaba 154(2) zoMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996:

3.1 Umbhalisi wesiKhwama seMpesheni;

3.2 IsiKhwama seMpesheni esiHlanganyele nese-*Provident Fund* soMasipala saKwaZulu-Natali;

3.3 Omasipala abajoyinile;

3.4 AmaLungu esiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi) kusetshenziswa umhlangano okhethekile; kanye

3.5 neKomidi labaPhathi lesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi).

4. IZIMALI EZIZODINGEKA ESIFUNDAZWENI

Ukuze kufezekiswe ngendlela efanele amajoka okugcinwa kwamafa aphaathelene nokubuswa, nokuphathwa kanye nokulawulwa kwemiphumela yokuqaliswa kokusebenza kwalo Mthethosivivinyo, iLungu loMkhandlu oPhethe lingaqoka umcwaningimabhuku ozimele kanye nongoti wezezimali ozimele ukuze bahlinzeke ulwazi oluzimele oluzosiza ekutheni kuqaliswe ngokuphelele ukusebenza kwezinhlinzeko zalo Mthethosivivinyo, phakathi

kokunye, ukuqinisekisa ukuthi konke okukhuluma ngokubuhlanga kanye nokwehlukiswa ngokubuhlanga phakathi kwesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) nesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi) maqondana nemikhakha yabahlomulayo nemindeneni yabo kuyasuswa.

5. IZIMALI NOKUNYE OKUZODINGEKA KOMASIPALA

IziMali ezikhokhwa woMasipala abajoyinile, nyanga zonke kusukela ngosuku lokuqala kokusebenza koMthetho, zizokhushulwa ukuze kuqinisekise ukuthi isiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (soMhlalaphansi) siyakwazi ukubhekana nezibopho zaso kuwona wonke amalungu.

6. IZIMALI NOKUNYE OKUZODINGEKA KUMALUNGU

Azikho.

7. INQUBO NGOKOMTHETHO

Uma lo Mthethosivivinyo usugunyaziwe ngokusemthethweni yiLungu loMkhandlu oPhethe, uMnyango wezokuBusa ngokuBambisana nezoMdabu waKwaZulu-Natali uhlose ukunikeza omasipala, amalungu nomhlangano okhethekile esiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), uMthethosivivinyo osehuhlaka kanye neMemorandamu ngeziNjongo zawo, ukuze kulethwe izimvo ezibhalwe phansi, okuyothi ngemva kwalokho uMthethosivivinyo uphinde uhanjise kuMeluleki woMbuso kwezoMthetho oyiNhloko wesiFundazwe kanye naseHhovisi loMgcinimafa lesiFundazwe.

UMnyango wezokuBusa ngokuBambisana nezoMdabu waKwaZulu-Natali uhlose ukwethula lo Mthethosivivinyo kwiKhabhinethi ukuze iwugunyaze futhi udluliselwe kwisiShayamthetho sesiFundazwe saKwaZulu-Natali. Kulindeleke ukuthi lolu hlelo luphothulwe ngonyaka wezimali ka 2016/2017.

8. OKUNGAXHUNYANWA NAYE

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Isikhundla: uMphathi woPhiko lwezoMthetho
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**UMTHETHOSIVIVINYO WESIKHWAMA SEMPESHENI ESIHLANGANYELE
SOMASIPALA WAKWAZULU-NATALI (SEZIMALI EZIBANJWA EMHOLWENI), 2016**

UMTHETHOSIVIVINYO

Wokuhlinzekela ubukhona, nokuqhubeka, nokuba yilungu nokuzibandakanya esiKhwameni seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni); wokuhlinzekela ukuqanjwa kabusha kwesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) ngesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (seziMali eziBanjwa eMholweni); wokuhlinzekela amandla eLungu loMkhandlu oPhethe elibhekele ohulumeni basekhaya okusungula imithethonqubo; wokuhlinzekela izinhlinzeko zesikhashana; wokuhlinzekela ukuchithwa kwemithetho nezingxenywe zemithetho ezishiywa zinjalo; nokuhlinzekela okunye okuphathelene nalokho.

ISENDLALELO

NJENGOBA kunesidingo sokuthi kushintshwe ama-Odinensi aseNatali abandlulula ngokobuhlanga asungulwa ngaphambi konyaka ka 1994 ayenquma ukuthi kusungulwe futhi kusetshenziwe izinhlelo zempesheni ezimbili ezihlukanisa ngokobuhlanga zabasebenzi bomasipala, okuyisiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) kanye nesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi) ezagunyazwa ukuthi zisetshenziswe yisiFundazwe uMengameli ngokulandela isigaba 235(8) soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1993 (uMthetho No. 200 ka 1993), futhi esezidlulelwe yisikhatshi njengoba kuqale ukusebenza imithetho yentando yeningi mhla zingama-27 kuMbasa ka 1994;

NJENGOBA ama-Odinensi asungulwa ngokubhekelela ubuhlanga ngaphambi kuka 1994 enziwe aba yimithetho yesifundazwe njengoba kunquma isigaba 239 soMthethosisekelo waseNingizimu Afrika, 1996, futhi isiShayamthetho sesiFundazwe sinamandla ngokomthetho okuchitha, okuchibiyela nokushintsha leyo mithetho ngokuhambisana nesigaba 104(1)(b) soMthethosisekelo ka 1996;

NJENGOBA kunesidingo sokuqinisekisa ukuthi konke okukhuluma ngobuhlanga nazo zonke izinhlobo zokwehlukana phakathi kwezikhwama zempesheni mayelana nezigaba zabahlomuli kanye nemindeneni yabo kuyasuswa.

NANJENGOBA kunesidingo sokuthi kushintshwe uhlaka olusemthethweni lwesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziBanjwa eMholweni) olukhona kube nohlaka oluzolawulwa noluzohambosana noMthethosisekelo weRiphabhulikhi

yaseNingizimu Afrika, 1996, noMthetho weziKhwama zeMpesheni kaZwelonke, 1956 (uMthetho No. 24 ka 1956) osebenzayo, kanye nemigomo yokubusa okuhle;

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

Izincazelo

1. Kulo Mthetho, ngaphandle uma ingqikithi isho okwehlukile –

“**ungoti wezezimali**” kushiwo umuntu –

(a) oyingxenywe yesikhungo, yophiko, yenhlangano noma yeqembu longoti bezezimali obhaliswe ngokuhambisana nemithetho esebenzayo; futhi

(b) oqokwe –

(i) wuMbhalisi; kanye

(ii) neBhodi labaPhathi,

njengobhekele izilinganiso njengoba kuhlangozwe esigabeni 9A soMthetho weziKhwama zeMpesheni, 1956 (uMthetho No. 24 ka 1956);

“**umcwaningimabhuku**” kushiwo umbhali wamabhuku ezimali kanye nomcwaningimabhuku –

(a) obhaliswe kanjalo ngokoMthetho obizwa nge-*Public Accountant's and Auditor's Act*, 1991 (uMthetho No. 80 ka 1991); futhi

(b) oqokwe yiBhodi labaPhathi;

“**iBhodi labaPhathi**” kushiwo iBhodi labaPhathi elihlangozwe esigabeni 7A soMthetho weziKhwama zeMpesheni, 1956 (uMthetho No. 24 ka 1956), futhi esasungulwa njengoba kunqunyiwe;

“**ikomidi labaphathi**” kushiwo ikomidi labaphathi elikhethwe ngokuhambisana nezinhlinzeko zeMithetho;

“**umsebenzi**” kushiwo umsebenzi njengoba kuhlangozwe esigabeni 8(2) no (3);

“**iBhodi yezeziMali**” kushiwo iBhodi yezeziMali esungulwe ngokuhambisana nsigaba 2 soMthetho weBhodi yezeziMali, 1990 (uMthetho No. 97 ka 1990);

“**isiKhwama**” kushiwo isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni), esiqanjwe kabusha kwathiwa isiKhwama seMpesheni

esiHlanganyele soMasipala saKwaZulu-Natali (seziMali eziBanjwa eMholweni) ngokuhambisana nesigaba 4 kusukela ngosuku lokuqala kokusebenza kwalo Mthetho;

“ikomidi elikhulu” “kushiwo ikomidi elikhulu elikhethwe ngokulandela izinhlinzeko zeMithetho;

“isiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali” kushiwo isiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali, esisungulwe ngokwesigaba 2 soMthetho wesiKhwama seMpesheni esiHlanganyele soMasipala waKwaZulu-Natali (se-*Provident Fund*), 1995 (uMthetho No. 4 ka 1995);

“ilungu” ngaphandle uma inqikithi isho okwehlukile, kushiwo umuntu –

- (a) noma yinini ngaphambi kosuku lokuqala kokusebenza kwalo Mthetho obefaka imali esiKhwameni, futhi kusukela ngosuku lokuqala kokusebenza kwalo Mthetho oqhubekayo nokufaka imali esiKhwanemi; noma
- (b) ngemuva kosuku lokuqala kokusebenza kwalo Mthetho oqala ukufaka imali esiKhwameni;

“umasipala” –

- (a) kubandakanya umasipala wodolobha elikhulu, umasipala wesifunda noma umasipala wendawo njengoba kuhlongozwe esigabeni 155(6) soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika;
- (b) kushiwo umasipala osungulwe ngokoMthetho weziNhlaka zoMasipala woHulumeni baseKhaya, 1998 (uMthetho No. 117 ka 1998);
- (c) uma uhlangozwe njengebhizinisi, kushiwo umasipala njengoba uchazwe esigabeni 2 soMthetho weziNhlelo zoMasipala woHulumeni baseKhaya, 2000 (uMthetho No. 32 ka 2000); kanti
- (d) uma uchazwe njengendawo ngokomumo wezwe noma njengenhlango, kushiwo indawo kamasipala enqunywe njengoba kuhlongozwe eMthethweni wokuKlanywa kweMingcele yoMasipala woHulumeni baseKhaya, 1998 (uMthetho No. 27 ka 1998);

“uMthetho weziNhlaka zoMasipala” kushiwo uMthetho weziNhlaka zoMasipala woHulumeni baseKhaya, 1998 (uMthetho No. 117 ka 1998);

“uMthetho weziNhlelo zoMasipala” kushiwo uMthetho weziNhlelo zoMasipala woHulumeni baseKhaya, 2000 (uMthetho No. 32 ka 2000);

“isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi)” kushiwo isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), esasungulwa yisigaba 2 se-Odinensi yesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), 1974 (i-Odinensi No. 27 ka 1974);

“isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni)” kushiwo isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) esasungulwa yisigaba 2 se-Odinensi yeziMali eziBanjwa eMholweni yoHulumeni baseKhaya, 1973 (i-Odinensi No. 24 ka 1973);

“isaziso” kushiwo isaziso esikhishwe ngokomthethonqubo;

“i-odinensi” kubandakanya nemithethonqubo esungulwe ngaphansi kwayo;

“uMthetho weziKhwama zeMpesheni” kushiwo uMthetho weziKhwama zeMpesheni, 1956 (uMthetho No. 24 ka 1956);

“okunqunywe” kushiwo okunqunywe yiLungu loMkhandlu oPhethe elibhekele ohulumeni basekhaya ngomthethonqubo osunguliwe noma ngesaziso esikhiwe ngokuhambisana nesigaba 7;

“imigomo yokubusa okuhle” kushiwo imigomo njengoba ibekwe kwi-*King Code and Report on Governance in South Africa*, 2009, nanoma yiziphi izichibiyelo zayi, noma ukubuyezwa kwayo;

“isimemezelo” kushiwo isimemezelo esikhishwe kwiGazethi yesiFundazwe;

“isiFundazwe” kushiwo isiFundazwe saKwaZulu-Natali;

“iGazethi yesiFundazwe” kushiwo iGazethi yesiFundazwe saKwaZulu-Natali;

“**umthethonqubo**” kushiwo umthethonqubo osungulwe ngaphansi kwalo Mthetho, futhi kubandakanya noma yiluphi uHlelo lwaleyo mithethonqubo;

“**iMithethonqubo elawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni)**” kushiwo imithethonqubo elawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) eyashicilelwa kwiSaziso sesiFundazwe No. 246 sika 1974 mhla zingama-24 kuNhlaba 1974;

“**iLungu loMkhandlu oPhethe**” kushiwo iLungu loMkhandlu oPhethe elibhekele ohulumeni basekhaya;

“**iMithetho**” ngokwezinhloso zoMthetho weziKhwama zeMpesheni, kushiwo –

(a) iMithetho yokuPhatha nokuLawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni), isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), kanye nesiKhwama soMhlalaphansi esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*), ekhishwe ngokwemithethonqubo esungulwe –

(i) ngokwe-Odinensi yeziMali eziBanjwa eMholweni yoHulumeni baseKhaya, 1973 (i-Odinensi No. 24 ka 1973);

(ii) ngokwe-Odinensi yeziKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), 1974 (i-Odinensi No. 27 ka 1974); kanye

(iii) nangokoMthetho weziKhwama soMhlalaphansi esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*), 1995 (uMthetho No. 4 ka 1995);

(c) nazo zonke ezinye iziNhlelo ezisungulwe ngokuhambisana nesigaba 7, ngemuva kosuku lokuqala lokusebenza kwalo Mthetho;

“**lo Mthetho**” kubandakanya nemithethonqubo nezaziso ezikhishwe ngokwaleyo mithethonqubo.

Izinhloso zoMthetho

2. Izinhloso zoMthetho ukushintsha uhlaka olusemthethweni lwesiKhwama olusebenzayo kufakwe uhlaka oluwalwa kuphela, nolulandela, noluhambisana, –

(i) noMthethosesekelo weRpihabhulikhi yaseNingizimu Afrika;

- (ii) noMthetho weziKhwama zeMpesheni; Kanye
- (iii) nemigomo yokubusa okuhle.

Ukusebenza koMthetho

3.(1) Lo Mthetho usebenza kubona bonke omasipala abayingxanye nakamalungu esiKhwama.

(2) Izinhlinzeko zoMthetho weziKhwama zeMpesheni ziyasebenza kulo Mthetho, futhi uMthetho weziKhwama zeMpesheni yiwona oyosebenza uma kwenzeka kuba nokushayisana phakathi kwezinhlinzeko zoMthetho weziKhwama zeMpesheni nezinhlinzeko zalo Mthetho.

Ukuqanjwa kabusha, ukuqhubeka nokusebenza kwesiKhwama seMpesheni eziHlanganyele zoMasipala baseNatali (seziMali eziBanjwa eMholweni)

4.(1) IsiKhwama seMpesheni eziHlanganyele zoMasipala saseNatali (seziMali eziBanjwa eMholweni)

–

- (a) siqanjwa kabusha njengesikhwama seMpesheni eziHlanganyele zoMasipala saKwaZulu-Natali (seziMali eziBanjwa eMholweni);
- (b) siyaqhubeka nokusebenza nawo wonke amalungelo, amandla, amajoka, imisebenzi, impahla nezikweletu zaso njengoba bekunjalo, kusukela ngosuku lokuqalisa kokusebenza kwalo Mthetho;
- (c) sisebenza ngokuhambisana nezinhlinzeko zalo Mthetho, kuncike ezinhlinzekweni zesigaba 3(2) zalo Mthetho.

(2) Imithethonqubo elawula isiKhwama seMpesheni eziHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) kanye neMithetho iyasebenza esiKhwameni seMpesheni.

Ukuqhubeka nokuba yilungu lesiKhwama seMpesheni

5. Kuncike ezihlinzekweni zalo Mthetho nanoma yimuphi omunye umthetho, umuntu ngaphambi kosuku lokuqala kokusebenza kwalo Mthetho, obekade eyilungu lesiKhwama, uyoqhubeka nokuba yilungu lesiKhwama seMpesheni.

Ukuqhubeka nokuzibandakanya nesiKhwama seMpesheni

6. Bonke omasipala, ngaphambi kokuqala kokusebenza kwalo Mthetho, abebeyingxenywe yesiKhwama seMpesheni, bathathwa njengabayingxenywe yesiKhwama seMpesheni.

Amandla eLungu loMkhandlu oPhethe

7.(1) ILungu loMkhandlu oPhethe, ngemva kokubonisana nabesiKhwama seMpesheni –

(a) lingaqoka –

(i) ungoti wezezimali ozohlola ezezimali esiKhwameni seMpesheni; kanye

(ii) nomcwaningimabhuku ozocwaninga izitatimende zezimali zesiKhwama seMpesheni; futhi

(b) ngomthethonqubo, lingachitha, lingachibiyela noma lingashintsha noma yimiphi iMithethonqubo ekhona elawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) neMithetho;

(c) ngomthethonqubo, lingachitha, lingachibiyela noma lingashintsha noma yimiphi iMithethonqubo –

(i) emayelana nempahla, notshalomali kanye nezimali kanjalo neminye imithombo yengeniso yesiKhwama seMpesheni; futhi

(ii) ehlinzeka ngokuthi amalungu esiKhwama seMpesheni angakhethe ukudluliselwa –

(aa) esiKhwameni seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi); noma

(bb) esiKhwameni seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*),

kunoma yisiphi phakathi kwalezi zikhwama, ngokuhambisana nezinhlinzeko zesigaba 14 soMthetho weziKhwama zeMpesheni; futhi

(iii) engashayisani nalo Mthetho, mayelana nanoma yiluphi udaba elilubona lunesidingo noma lususizo ukuze kuhlinzekelwe ukusebenza kwalo Mthetho: Kuncike ekutheni ukusetshenziswa kwala mandla akuvinjelwa nanoma yiziphi izinhlinzeko zendima (a), (b), (c)(i) noma c(ii); futhi

(d) lingakhipha izaziso eziphathelele nalo Mthetho noma imithethonqubo ngokuhambisana nalo Mthetho ngokusishicilela kwiGazethi yesiFundazwe.

(2) Noma yimuphi umthethonqubo osungulwe noma izaziso esikhishwe yiLungu loMkhandlu oPhethe ngokuhambisana nesigatshana (1), singashicilelwa noma singakhishwa nganoma yiluphi 4usuku ngaphambi noma ngemuva kosuku lokumenyenzelwa kwaso.

Izinhlinzeko zesikhashana

8.(1) Kuncike ekuvikelweni kwamalungelo akhona ahlongozwe ezigabeni 4(1)(b) kanye no 9(2) –

(a) iKomidi labaPhathi elisungulwe ngokuhambisana nomthethonqubo 7 weMithethonqubo elawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) liyaqhubeka, ngazo zonke izinjongo, nokusebenza, ngaphandle kokuphazamiseka, njengeBhodi lesiKhwama seMpesheni elinawo wonke amandla, imisebenzi, amajoka namaqhaza, ngaphambi kokuqala kokusebenza kwalo Mthetho, abekade enikezwe iKomidi labaPhathi besiKhwama seMpesheni;

(b) iKomidi eliKhulu elasungulwa ngokuhambisana nomthethonqubo 7 weMithethonqubo elawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) liyaqhubeka, ngazo zonke izinjongo, nokusebenza, ngaphandle kokuphazamiseka, njengeKomidi eliKhulu lesiKhwama seMpesheni elinawo wonke amandla, imisebenzi, amajoka namaqhaza, ngaphambi kokuqala kokusebenza kwalo Mthetho, abekade enikezwe iKomidi eliKhulu lesiKhwama seMpesheni; futhi

(c) isiKhwama seMpesheni siyaqhubeka nokubuswa, nokuphathwa kanye nokulawulwa, ngezinguquko ezidingekayo, ngokuhambisana nezinhlinzeko zayo yonke –

(i) imithetho; kanye

(ii) nezinqubo zezokuphatha nezezimali,

ebezisebenza esiKhwameni seMpesheni ngaphambi kosuku lokuqala kokusebenza kwalo Mthetho.

(2) Kuncike kwisigatshana (3), umsebenzi yinoma yimuphi umuntu osebenzela umasipala, –

(a) osebenza ngokugcwele kulowo masipala; futhi

(b) oneminyaka engaphezu kweyi-17 ubudala, kodwa ngenkathi ejoyina umasipala obeneminyaka engaphezu kwesi-8 emsalele ngaphambi kokuthola impesheni.

(3) Ngokwezinjongo zalo Mthetho –

(a) noma yimuphi umuntu oqashwe umasipala futhi ozoyeka ukusebenza ngemva kokuphela komsebenzi othile abeqashelwe wona, ingakapheli iminyaka emithathu, angeke athathwe njengomsebenzi kamasipala;

(b) umuntu oqashwa umasipala esesalelwe iminyaka engaphansi kweyi-8 ukuthi athole impesheni yokuguga angakhetha, ngemvume yalowo masipala omqashayo, ukuthi athathwe njengomsebenzi; futhi

(c) kuncike ekugunyazweni yiBhodi labaPhathi, umuntu oqashwa umasipala ezosebenza ngezikhathi ezithile angakhetha, ngemvume kamasipala omqashayo, ukuthi athathwe njengomsebenzi.

(4) Kumele kubanjwe umhlangano okhethekile, obandakanya bonke omasipala amalungu nabasebenzi abangamalungu esiKhwama seMpesheni, zingakadluli izinyanga eziyi-12 ngemva kokushicilelwa kwalo Mthetho kwiGazethi yesiFundazwe.

Ukuchithwa kwemithetho nezingxenye zemithetho ezishiywa zinjalo

9.(1) Imithetho ebalulwe ohlwini lokuqala nolwesibili loHlelo lweziNgxenye A no B zoHlelo lwalo Mthetho ngalokhu iyachithwa ngendlela ebekwe ohlwini lwesithathu lwalolu Hlelo.

(2) Yonke imithethonqubo esungulwe yi-Odinensi yeziMali eziBanjwa eMholweni yoHulumeni baseKhaya, 1973 (i-Odinensi No. 24 ka 1973), neMithetho, ngendlela esebenza ngayo esiKhwameni seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (seziMali eziBanjwa eMholweni), siyoqhubeka nokusebenza sengathi le Odinensi okukhulunywa ngayo ayizange ichithwe njengoba kuhlongozwe kwisigatshana (1).

Isihloko esifingqiwe

10. Lo Mthetho ubizwa ngoMthetho wesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (seziMali eziBanjwa eMholweni), 2016.

UHLELO
IMITHETHO ECHITHWAYO
(Isigaba 9(1))

INGXENYE A: AMA-ODINENSI ESIFUNDAZWE SASENATALI SAKUDALA

<i>Inombolo nonyaka womthetho</i>	<i>Isihloko</i>	<i>Okuchithwayo</i>
I-Odinensi No. 24 ka 1973	I-Odinensi yeziMali eziBanjwa eMholweni yoHulumeni baseKhaya, 1973	Yonke

INGXENYE B: IMITHETHONQUBO ESUNGULWE NGOKWAMA-ODINENSI ESIFUNDAZWE SASENATALI SAKUDALA

<i>Inombolo nonyaka womthetho</i>	<i>Isihloko</i>	<i>Okuchithwayo</i>
ISaziso sesiFundazwe No. 246 sika 1974	IMithethonqubo elawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni), 1974	Konke okukhuluma "ngabamhlophe"

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

Provincial Gazette • Provinsiale Koerant • Igazethi Yesifundazwe

GAZETTE EXTRAORDINARY — BUITENGEWONE KOERANT — IGAZETHI EYISIPESHELI

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

Vol. 10

PIETERMARITZBURG
25 FEBRUARY 2016
25 FEBRUARIE 2016
25 KUNHLOLANJA 2016

No. 1618

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IMEMORANDAMU**NGEZINHLOSO****ZOMTHETHOSIVIVINYO WESIKHWAMA SEMPESHENI ESIHLANGANYELE
SOMASIPALA SAKWAZULU-NATALI (SEZIMALI EZIBANJWA EMHOLWENI), 2016****1. ISINGENISO**

Inhloso yalo Mthethosivivinyo ukuthatha indawo yama-Odinensi aseNatali abandlulula ngokobuhlanga asedlulelwe yisikhathi njengoba kwaqala inqubo yentando yeningi mhla zingama-27 kuMbaso ka 1994, kanjalo nokuqinisekisa ukuthi konke okukhuluma ngobuhlanga kanye nokwehlukani ngokobuhlanga phakathi kwesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) nesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi) maqondana nemikhakha yabahlomulayo nemindeni yabo kuyasuswa.

Ngokwesigaba 235(8) soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1993 (uMthetho No. 200 ka 1993), uMengameli wayalela izifundazwe ukuthi zisebenzise imithetho ebandlulula ngokobuhlanga okuyi-Odinensi yeziMali eziBanjwa eMholweni yoHulumeni baseKhaya, 1973 (i-Odinensi No. 24 ka 1973), ne-Odinensi yeziKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), 1974 (i-Odinensi No. 27 ka 1974). Isigaba 239 soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996, siquma ukuthi leyo mithetho iba yimithetho yezifundazwe. Isigaba 104(1)(b) soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996, esinikeza isiShayamthetho saKwaZulu-Natali amandla okushaya imithetho yesifundazwe, sibandakanya namandla okuchibiyela, okuchitha kanjalo nokushintsha noma yimuphi umthetho wesifundazwe (okungaba umthetho owashaywa yisifundazwe saKwaZulu-Natali ngemva noma ngaphambi konyaka ka 1994).

UMthethosivivinyo usungula uhlaka lokushintsha isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni), uhlaka olusemthethweni olulawulwa kuphela, oluhambisana noMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996, umthetho okhona kazwelonke okunguMthetho weziKhwama zeMpesheni, 1956 (uMthetho No. 24 ka 1956), kanye nemigomo yokubusa okuhle.

IsiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) sasungulwa ngonyaka ka 1973 yi-Odinensi yeziMali eziBanjwa eMholweni yoHulumeni baseKhaya, 1973 (i-Odinensi No. 24 ka 1973). Ubulungu kulesi siKhwama kwakuvumeleke kwabamhlophe kuphela.

IsiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi) sasungulwa ngonyaka ka 1974 yi-Odinensi yesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), 1974 (i-Odinesi No. 27 ka 1974). Ubulungu kulesi siKhwama kwakuvumeleke kwabangebona abebala.

Kwakhishwa iMithetho yezokuPhatha nokuLawula yesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni), yesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), kanye neyesiKhwama soMhlalaphansi esiHlanganyele soMasipala saKwaZulu-Natali, ebilokhu ichtshiyelwa njalo ngemva kwesikhathi esithile, ngokwemithethonqubo eyasungulwa ngokwe-Odinensi yesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni), 1974 (i-Odinensi No. 27 ka 1974), ngokwe-Odinensi yeziMali eziBanjwa eMholweni yoHulumeni baseKhaya, 1973 (i-Odinensi No. 24 ka 1973) nangokoMthetho wesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*), 1995 (uMthetho No. 4 ka 1995). Le mithethonqubo neMithetho ithi mayifane ngokwezinhloso zayo. Kodwa-ke, ubulungu kulezi ziKhwama zeMpesheni, kanye nabahlomulyayo kanye nemindeni yabo, kwakuncike kwezobuhlanga. Ngenxa yalokho, ngokususa konke okukhuluma ngokubandulula ngokobuhlanga, ukuqinisekisa ukuthi akukho ukwehlukaniswa ngokobuhlanga okukhona ngaphansi kwesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) nesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi) maqondana nemikhakha yabahlomulayo nemindeni yabo, umthetho awusabandlululi ngokobuhlanga.

2. OKUSHIWO UMTHETHOSIVIVINYO

2.1 Isigaba soMthetho 1: Izincazelo

Isigaba soMthetho 1 sichaza amagama nezisho ezisetshenziswe kuMthethosivivinyo wesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (seziMali eziBanjwa eMholweni), 2016. Izincazelo ezisetshenzisiwe neziqukethwe kwi-Odinensi yeziMali eziBanjwa eMholweni yoHulumeni baseKhaya, 1973 (i-Odinensi No. 24 ka 1973), kanye nemithethonqubo eyasungulwa ngaphansi kwayo, kanjalo neMithetho yokuLawulwa nokuPhathwa kwesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni), nesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), nesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*), yizona ngokuhlanganyela ezakha okuqukethwe yisigaba somthetho 1.

2.2 Isigaba soMthetho 2: Izinjongo zoMthetho

Isigaba soMthetho 2 sibeka izinjongo zoMthetho, ezishintsha uhlaka olukhona njengamanje lwesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni), uhlaka olusemthethweni ngohlaka olusha olulawulwa kuphela futhi oluhambisana noMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996, uMthetho wesikhwama seMpesheni, 1956 (uMthetho No. 24 ka 1956), kanye nemigomo yokubusa okuhle.

2.3 Isigaba soMthetho 3: Ukusebenza koMthetho

Isigaba soMthetho 3 sihlizeka ngokuthi uMthetho, usebenza kubo bonke omasipala abajoyine isikhwama seMpesheni, nakumalungu esiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni). Ngaphezu kwalokho, sibeka ukuthi uMthetho weziKhwama zeMpesheni, 1956 (uMthetho No. 24 ka 1956), uyasebenza kulo Mthetho futhi yiwona oyosebenza uma kwenzeka kuba nokushayisana okungakuxazululeki.

2.4 Isigaba soMthetho 4: Ukuqanjwa kabusha, ukuqhubeka nokusebenza kwesiKhwama seMpesheni eziHlanganyele zoMasipala saseNatali (seziMali eziBanjwa eMholweni)

Isigaba soMthetho 4 sihlizekela isikhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni), siqanjwa kabusha kuthiwa isikhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (seziMali eziBanjwa eMholweni) futhi siyaqhubeka nokusebenza nawo wonke amalungelo, amandla, amajoka, imisebenzi, impahla kanye nezikweletu zaso njengoba bekunjalo kusukela ngosuku lokuqala kokusebenza kwalo Mthetho. Isikhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (seziMali eziBanjwa eMholweni) sisebenza ngokuhambisana nezinhlinzeko zalo Mthetho nezomthetho weziKhwama zeMpesheni, 1956 (uMthetho No. 24 ka 1956). Imithethonqubo esungulwe, nayo yonke imithetho esebenza, esiKhwameni seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) iyasebenza esiKhwameni seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (seziMali eziBanjwa eMholweni).

2.5 Isigaba soMthetho 5: Ukuqhubeka nokuba yilungu lesiKhwama seMpesheni

Isigaba soMthetho 5 sichaza amalungu esiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (seziMali eziBanjwa eMholweni). Bonke abantu, ngaphambi kosuku lokuqala kokusebenza kwalo Mthetho, abebengamalungu esiKhwama seMpesheni esiHlanganyele saseNatali (seziMali eziBanjwa eMholweni) bayaqhubeka nokuba amalungu esiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (seziMali eziBanjwa eMholweni).

2.6 Isigaba soMthetho 6: Ukuqhubeka nokuba yingxenyeye yesiKhwama seMpesheni

Isigaba soMthetho 6 sinquma ukuthi bonke omasipala abebekade beyingxenyeye yesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) ngaphambi kokuqala kokusebenza kwalo Mthetho, bayaqhubeka nokuba yingxenyeye yesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (seziMali eziBanjwa eMholweni).

2.7 Isigaba soMthetho 7: Amandla eLungu loMkhandlu oPhethe

Isigaba soMthetho 7 sinikeza iLungu loMkhandlu oPhethe amandla athile. ILungu loMkhandlu oPhethe linikezwe amandla okuqoka ungoti wezezimali ngezinhloso zokuhlola isimo sezezimali, kanye nomcwaningimabhuku ozocwaninga izitatimende zezimali zesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (seziMali eziBanjwa eMholweni). ILungu loMkhandlu oPhethe lingasungula imithethonqubo yokuchitha, yokuchibiyela, yokushintsha imithethonqubo ekhona esungulwe ngokwe-Odinensi yesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (seziMali eziBanjwa eMholweni), mayelana nempahla, notshalomali kanye nezimali kanjalo futhi neminye imithombo yengeniso yesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (seziMali eziBanjwa eMholweni). Ngaphezu kwalokho, isigaba somthetho sinika iLungu loMkhandlu oPhethe amandla okusungula imithethonqubo yokuthi amalungu alezi zikhwama zempesheni ezimbili kanye nesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*) angakwazi ukukhetha ukudluliselwa phakathi kwalezi zikhwama zempesheni, kanjalo nemithethonqubo ephathelene nezinye izindaba uma zingahambisani noMthetho futhi uma libona ukuthi ziyaphuthuma noma kunesidingo sokuthi ukuze kuqaliswe ukusebenza koMthetho. ILungu loMkhandlu oPhethe nalo lingazikhipha izaziso. Kungakhiswa iMithethonqubo nezaziso eziqala ukusebenza nganoma yiluphi usuku, olungaba ngaphambi noma ngemuva kosuku lokushicilelwa kwazo.

2.8 Isigaba soMthetho 8: Izinhlinzeko zesikhashana

Isigaba soMthetho 8 sibeka izinhlinzeko zesikhashana eziningi eziphathelene neKomidi labaPhathi kanjalo neKomidi eliKhulu. IKomidi labaPhathi neKomidi eliKhulu lesiKhwama seMpesheni esiHlanganyele soMasipala (seziMali eziBanjwa eMholweni) athathwa njengamaKomidi esiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (seziMali eziBanjwa eMholweni), futhi ngokwazo zonke izinjongo liyaqhubeka nokusebenza njengoba iRhodi labaPhathi kanye neKomidi eliKhulu, maqondana nalokhu, ngaphandle kokuphazamiseka njengeKomidi eliKhulu lesiKhwama seMpesheni nawo wonke amandla, imisebenzi, amajoka namaqhaza. Isigaba somthetho futhi siqukethe isihlinzeko esiphathelene nokubuswa, nokuphathwa kanye nokusebenza kwesiKhwama seMpesheni

esiHlanganyele soMasipala saKwaZulu-Natali (seziMali eziBanjwa eMholweni), futhi siphinde sichaze umsebenzi siphinde futhi sichaze “**umsebenzi**” ngekwezinhloso zalo Mthetho. Ngaphezu kwalokho, isigaba sihlinzekela umhlangano okhethekile omkhulu okhethekile okumele ubanjwe zingakadluli izinyanga eziyi-12 kushicilelwe lo Mthetho.

2.9 Isigaba soMthetho 9: Ukuchithwa kwemithetho nezingxenywe zomthetho ezishiywa zinjalo

Isigaba soMthetho 9 sihlinzekela ukuchithwa kwe-Odinensi yesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) ka 1973 (i-Odinensi No. 24 ka 1973), kanjalo nezingxenywe zomthetho ezishiywa zinjalo okuphathelele neMithethonqubo yesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) neMithetho ephathelene nalesi siKhwama okukhulumywa ngaso.

2.10 Isigaba soMthetho 10: isihloko esifingqiwe

Isigaba soMthetho 10 sibeka isihloko esifingqiwe soMthetho. Uma lungekho usuku lokuqala kokusebenza koMthetho olunqunyiwe, uMthetho uyoqala ukusebenza ngosuku oshicilelwe ngalo kwiGazethi yesifundazwe.

3. IMIGWAMANDA NEZINHLANGANO OKUBONISWENE NAZO

Le migwamanda nezinhlangano ezilandelayo kuyoboniswa nazo ngemva kokushicilelwa koMthethosivivinyo ngokuhambisana nezinhlinzeko zesigaba 154(2) zoMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996:

- 3.1** UMbhalisi wesiKhwama seMpesheni;
- 3.2** IsiKhwama seMpesheni nese-*Provident Fund* noMhlalaphansi esiHlanganyele soMasipala saKwaZulu-Natali;
- 3.3** Omasipala abajoyinile;
- 3.4** AmaLungu esiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) kusetshenziswa umhlangano okhethekile; kanye
- 3.5** neKomidi labaPhathi lesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni).

4. IZIMALI EZIZODINGEKA ESIFUNDAZWENI

Ukuze kufezekiswe ngendlela efanele amajoka okugcinwa kwamafa aphaathelene nokubuswa, nokuphathwa kanye nokulawulwa kwemiphumela yokuqaliswa kokusebenza kwalo Mthethosivivinyo, iLungu loMkhandlu oPhethe lingaqoka umcwaningimabhuku

ozimele kanye nongoti wezezimali ozimele ukuze bahlinzeke ulwazi oluzimele oluzosiza ekutheni kuqaliswe ngokuphelele ukusebenza kwezinhlinzeko zalo Mthethosivivinyo, phakathi kokunye, ukuqinisekisa ukuthi konke okukhuluma ngkubandlulula ngokobuhlanga kanye nokwehlukaniwa ngokobuhlanga phakathi kwesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni) nesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi) maqondana nemikhakha yabahlomulayo nemindeni yabo kuyasuswa.

5. IZIMALI NOKUNYE OKUZODINGEKA KOMASIPALA

IziMali ezikhokhwa woMasipala abajoyinile, nyanga zonke kusukela ngosuku lokuqala kokusebenza koMthetho, zizokhushulwa ukuze kuqinisekise ukuthi isiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (seziMali eziBanjwa eMholweni) siyakwazi ukubhekana nezibopho zaso kuwona wonke amalungu.

6. IZIMALI NOKUNYE OKUZODINGEKA KUMALUNGU

Azikho.

7. INQUBO NGOKOMTHETHO

Uma lo Mthethosivivinyo usugunyaziwe ngokusemthethweni yiLungu loMkhandlu oPhethe, uMnyango wezokuBusa ngokuBambisana nezoMdabu waKwaZulu-Natali uhlose ukunikeza omasipala amalungu esiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni), uMthethosivivinyo osewuhlaka kanye neMemorandamu ngeziNjongo zawo, ubambe nomhlangano okhethekile ukuze kulethwe izimvo ezibhalwe phansi, okuyothi ngemva kwalokho uMthethosivivinyo uphinde uhanjise kuMeluleki woMbuso kwezoMthetho oyiNhloko wesiFundazwe kanye naseHhovisi loMgcinimafa lesiFundazwe.

UMnyango wezokuBusa ngokuBambisana nezoMdabu waKwaZulu-Natali uhlose ukwethula lo Mthethosivivinyo kwiKhabhinethi ukuze iwugunyaze futhi udluliselwe kwisiShayamthetho sesiFundazwe saKwaZulu-Natali. Kulindeleke ukuthi lolu hlelo luphothulwe ngonyaka wezimali ka 2016/2017.

8. OKUNGAXHUNYANWA NAYE

Igama: Mnuz. KW Kuhn
Isikhundla: uMphathi woPhiko lwezoMthetho
eMnyangweni wezokuBusa ngokuBambisana nezoMdabu
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**UMTHETHOSIVIVINYO WESIKHWAMA SEMPESHENI ESIHLANGANYELE
SOMASIPALA SAKWAZULU-NATALI (SE-PROVIDENT FUND), 2016**

UMTHETHOSIVIVINYO

Wokuhlinzekela ukuqhubeka kokuba khona, nokuqhubeka nobulungu nokuzibandakanya esiKhwameni seMpesheni esiHlanganyele soMasipala saseNatali (*se-Provident Fund*); wokuhlinzekela amandla eLungu loMkhandlu oPhethe okusungula imithethonqubo; wokuhlinzekela izinhlinzeko zezikhashana; wokuhlinzekela ukuchithwa kwemithetho nezingxenye zemithetho ezishiywa zinjalo; wokuhlinzekela ukuqinisekiswa kokuthathwa kwezinyathelo ezithile; wokuhlinzekela ukucutshungulwa kabusha kokuqinisekiswa kokusungulwa nokusebenza kwesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (*se-Provident Fund*) sabasebenzi; nokuhlinzekela okunye okuphathelele nalokho.

ISENDLALELO

NJENGOBA kunesidingo sokuthi kushintshwe uhlaka esiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*) olukhona esikhundleni sazo kufakwe uhlaka olulawulwa kuphela futhi oluhambisana noMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996, uMthetho weziKhwama zeMpesheni, 1956 (uMthetho No. 24 ka 1956), osebenza kuzwelonke Kanye nemigomo yokubusa ngokuhle.

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

Izincazelo

1. Kulo Mthetho, ngaphandle uma ingqikithi isho okwehlukile –

“**ungoti wezezimali**” kushiwo umuntu –

(a) oyingxenye yesikhungo, yophiko, yenhlangano noma yeqembu longoti bezezimali obhalisiwe ngokuhambisana nemithetho ekhona; kanye

(b) noqokwe –

(i) uMbhalisi; kanye

(ii) neBhodi labaPhathi,

njengobhekele izilinganiso njengoba kuhlangozwe esigabeni 9A soMthetho weziKhwama zeMpesheni, 1956 (uMthetho No. 24 ka 1956);

“**umcwaningi mabhuku**” kushiwo umbali wezimali zomphakathi kanye nomcwaningimabhuku –

(a) obhaliselwe lokhu ngokuhambisana noMthetho wabaBali beziMali zoMphakathi kanye nabaCwaningi maBhuku, 1991 (uMthetho No. 80 ka 1991); futhi

(b) noqokwe yiBhodi labaPhathi;

“**umhlomulo**” kushiwo noma yimuphi umhlomulo wempesheni ophumayo noma wezinye izimali okumele zikhokhelwe ilungu, isihlobo noma omunye umuntu ongaphansi kwakhe ngokuhambisana nemithethonqubo;

“**iBhodi labaPhathi**” kushiwo iBhodi labaPhathi elihlongozwe esigabeni 7A soMthetho weziKhwama zeMpesheni, 1956 (uMthetho No. 24 ka 1956), futhi elisungulwe ngendlela enqunyiwe;

“**ikomidi labaphathi**” kushiwo ikomidi labaphathi eliqokwe ngokuhambisana nezinhlinzeko zeMithetho;

“**umsebenzi**” kushiwo umsebenzi njengoba kuhlangezwe esigabeni 8(2) no (3);

“**iBhodi lezeziMali**” kushiwo iBhodi lezeziMali elisungulwe ngokuhambisana nesigaba 2 soMthetho weBhodi lezeziMali, 1990 (uMthetho No. 97 ka 1990);

“**isiKhwama**” kushiwo isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (*se-Provident Fund*);

“**ikomidi eliKhulu**” kushiwo ikomidi eliKhulu eliqokwe ngokuhambisana nezinhlinzeko zeMithetho;

“**isiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (se-Provident Fund)**” kushiwo isiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*) esisungulwe ngokuhambisana nesigaba 2 soMthetho wesikhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*Provident Fund*), 1995 (uMthetho No. 4 ka 1995);

“**ilungu**” ngaphandle uma inqgikithi isho okwehlukile, kushiwo umuntu –

(a) ngaphambi kosuku lokuqala ukusebenza kwalo Mthetho obefaka izimali esiKhwameni, futhi kusukela ngosuku lokuqala ukusebenza kwalo Mthetho ophinde aqhubeke nokufaka izimali esiKhwameni; noma

(b) kusukela kunoma yiluphi usuku olwandulela usuku loqala kokusebenza kwalo Mthetho oqalisa ukufaka imali esiKhwameni;

“**umasipala**” –

(a) kubandakanya umasipala wodolobha eliKhulu, umasipala wesifunda noma

umasipala wendawo njengoba kuhlangozwe esigabeni 155(6) soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika;

(b) kushiwo umasipala osungulwe ngokoMthetho weziNhlaka zoMasipala, 1998 (uMthetho No. 117 ka 1998);

(c) uma uhlongozwe njengebhizinisi, kushiwo umasipala njengoba uchazwe esigabeni 2 soMthetho weziNhlelo zoMasipala, 2000 (uMthetho No. 32 ka 2000); kanti

(d) uma uchazwe njengendawo ngokomumo wezwe noma njengenhlango, kushiwo indawo kamasipala enqunywe njengoba kuhlangozwe eMthethweni wokuKlanywa kweMingcele yoMasipala woHulumeni baseKhaya, 1998 (uMthetho No. 27 ka 1998);

“isaziso” kushiwo isaziso esikhishwe ngokomthethonqubo;

“uMthetho weziKhwama zeMpesheni” kushiwo uMthetho weziKhwama zeMpesheni, 1956, (uMthetho No. 24 ka 1956);

“okunqunyiwe” kushiwo okunqunywe yiLungu loMkhandlu oPhethe ngokwenqubomgomo esungulwe noma ngokwesaziso esikhishwe ngokuhambisana nesigaba 7;

“imigomo yokubusa okuhle” kushiwo imigomo njengoba ibekwe kwi-*King Code and Report on Governance in South Africa*, 2009, nanoma yiziphi izichibiyelo zayo, noma ukubuyezwa kwayo;

“isimemezelo” kushiwo isimemezelo esikhishwe kwiGazethi yesiFundazwe;

“isiFundazwe” kushiwo isiFundazwe saKwaZulu-Natali;

“iGazethi yesiFundazwe” kushiwo iGazethi yesiFundazwe saKwaZulu-Natali;

“umthethonqubo” kushiwo umthethonqubo osungulwe ngokwalo Mthetho, futhi kubandakanya noma yiluphi uHlelo olukuleyo Mithethonqubo;

“iMithethonqubo elawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (se-Provident Fund)” kushiwo iMithethonqubo elawula isiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (se-*Provident Fund*) eyashicilelwa kwiSaziso sesiFundazwe No. 135 sika 1996 mhla zi-4 kuMbasa 1996;

“iLungu loMkhandlu oPhethe” kushiwo iLungu loMkhandlu oPhethe elibhekele ohulumeni basekhaya;

“iMithetho” ngokwezinhloso zoMthetho weziKhwama zeMpesheni, kushiwo –

(a) iMithetho yokuphatha nokuLawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni), isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), kanye nesiKhwama soMhlalaphansi esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*), ekhishwe ngokwemithethonqubo esungulwe –

(i) ngokwe-Odinensi yeziMali eziBanjwa eMholweni yoHulumeni baseKhaya, 1973 (i-Odinensi No. 24 ka 1973);

(ii) ngokwe-Odinensi yeziKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), 1974 (i-Odinensi No. 27 ka 1974); kanye

(iii) nangokoMthetho weziKhwama soMhlalaphansi esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*), 1995 (uMthetho No. 4 ka 1995); kanye

(b) nayo yonke imithethonqubo esungulwe nezaziso ezikhishwe ngokwaleyo mithethonqubo.

“Io Mthetho” kubandakanya imithethonqubo nezaziso ezikhishwe ngokwaleyo mithethonqubo.

Izinhloso zoMthetho

2. Izinhloso zoMthetho ukushintsha uhlaka olusemthethweni lwesiKhwama olusebenzayo kufakwe uhlaka oluwalwa kuphela, nolulandela, noluhambisana, –

(i) noMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika;

(ii) noMthetho weziKhwama zeMpesheni; kanye

(iii) nemigomo yokubusa okuhle.

Ukusebenza koMthetho

3.(1) Lo Mthetho usebenza kubona bonke omasipala abayingxenye futhi abangamalungu esiKhwama.

(2) Izinhlinzeko zoMthetho weziKhwama zeMpesheni, 1956 ziyasebenza kulo Mthetho, 1956 futhi uMthetho weziKhwama zeMpesheni yiwona oyosebenza uma kwenzeka kuba nokushayisana phakathi kwezinhlinzeko zoMthetho weziKhwama zeMpesheni nezinhlinzeko zalo Mthetho.

Ukuqhubeka kokusebenza kwesiKhwama**4.(1) IsiKhwama –**

(a) siyaqhubeka nokusebenza nawo wonke amalungelo, amandla, amajoka, nayo yonke imisebenzi, impahla nazo zonke izikweletu zaso njengoba bekunjalo, kusukela ngosuku lokuqala kokusebenza kwalo Mthetho.

(b) sisebenza ngokuhambisana nezinhlinzeko zalo Mthetho, kuncike kwizinhlinzeko zesigaba 3(2) zalo Mthetho.

(2) IMithethonqubo elawula isiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (se-*Provident Fund*) kanye neMithetho iyasebenza esiKhwameni.

Ukuqhubeka nokuba yilungu lesiKhwama seMpesheni

5. Kuncike ezihlinzekweni zalo Mthetho nanoma yimuphi omunye umthetho, umuntu ngaphambi kosuku lokuqala kokusebenza kwalo Mthetho, obekade eyilungu lesiKhwama, uyoqhubeka nokuba yilungu lesiKhwama seMpesheni.

Ukuqhubeka nokuzibandakanya nesiKhwama seMpesheni

6. Bonke omasipala, ngaphambi kokuqala kokusebenza kwalo Mthetho, abebeyingxenyeye yesiKhwama seMpesheni, bathathwa njengabayingxenyeye yesiKhwama seMpesheni.

Amandla eLungu loMkhandlu oPhethe

7.(1) ILungu loMkhandlu oPhethe, ngemva kokubonisana nabesiKhwama seMpesheni –

(a) lingaqoka –

(i) ungoti wezezimali ozohlola ezezimali esiKhwameni seMpesheni; kanye

(ii) nomcwaningimabhuku ozocwaninga izitatimende zezimali zesiKhwama seMpesheni; futhi

(b) ngomthethonqubo, lingachitha, lingachibiyela noma lingashintsha noma yimiphi iMithethonqubo ekhona elawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (se-*Provident Fund*) neMithetho;

(c) ngomthethonqubo, lingachitha, lingachibiyela noma lingashintsha noma yimiphi iMithethonqubo –

(i) emayelana nempahla, notshalomali kanye nezimali kanjalo neminye imithombo yengeniso yesiKhwama seMpesheni; futhi

(ii) engashayisani nalo Mthetho, mayelana nanoma yiluphi udaba elilubona lunesidingo noma luwusizo ukuze kuhlinzekelwe ukusebenza kwalo Mthetho: Kuncike ekutheni

ukusetshenziswa kwala mandla akuvinjelwa nanoma yiziphi izinhlinzeko zendima (a), (b) noma (c); futhi

(d) lingakhipha izaziso eziphathelene nalo Mthetho noma iMithethonqubo ngokuhambisana nalo Mthetho ngokusishicilela kwiGazethi yesiFundazwe.

(2) Noma yimuphi umthethonqubo osungulwe noma isaziso esikhishwe yiLungu loMkhandlu oPhethe ngokuhambisana nesigatshana (1), singashicilelwa noma singakhishwa, siyoqala ukusebenza ngosuku olungaphambi noma ngemuva kosuku lokumenyezela kwaso.

Izinhlinzeko zesikhashana

8.(1) Kuncike ekuvikelweni kwamalungelo akhona ahlongozwe ezigabeni 4(1) kanye no 9(2)

–

(a) iKomidi labaPhathi elisungulwe ngokuhambisana noMthethonqubo 5 weMithethonqubo elawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (*se-Provident Fund*) liyaqhubeka, ngazo zonke izinjongo, nokusebenza, ngaphandle kokuphazamiseka, njengeBhodi labaPhathi besiKhwama seMpesheni elinawo wonke amandla, imisebenzi, amajoka namaqhaza, ngaphambi kokuqala kokusebenza kwalo Mthetho, abekade enikezwe iKomidi labaPhathi besiKhwama seMpesheni;

(b) iKomidi eliKhulu elasungulwa ngokuhambisana nomthethonqubo 7 weMithethonqubo elawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (*se-Provident Fund*) liyaqhubeka, ngazo zonke izinjongo, nokusebenza, ngaphandle kokuphazamiseka, njengeKomidi eliKhulu lesiKhwama seMpesheni elinawo wonke amandla, imisebenzi, amajoka namaqhaza, ngaphambi kokuqala kokusebenza kwalo Mthetho, abekade enikezwe iKomidi eliKhulu zesiKhwama seMpesheni; futhi

(c) isiKhwama seMpesheni siyaqhubeka nokubuswa, nokuphathwa kanye nokulawulwa, ngezinguquko ezidingekayo, ngokuhambisana nezinhlinzeko zayo yonke –

(i) imithetho; kanye

(ii) nezinqubo zezokuphatha nezezimali,

ebezisebenza esiKhwameni seMpesheni ngaphambi kosuku lokuqala kokusebenza kwalo Mthetho.

(2) Kuncike kwisigatshana (3), umsebenzi yinoma yimuphi umuntu osebenzela umasipala, –

(a) osebenza ngokugcwele kulowo masipala; futhi

(b) oneminyaka engaphezu kweyi-17 ubudala, kodwa ngenkathi ejoyina umasipala obeneminyaka engaphezu kweyi-8 emsalele ngaphambi kokuthola impesheni.

(3) Ngokwezinjongo zalo Mthetho –

(a) noma yimuphi umuntu oqashwe umasipala futhi ozoyeka ukusebenza ngemva kokuphela komsebenzi othile abeqashelwe wona, ingakapheli iminyaka emithathu, angeke athathwe njengomsebenzi kamasipala;

(b) umuntu oqashwa umasipala esesalelwe iminyaka engaphansi kweyi-8 ukuthi athole impesheni yokuguga angakhetha, ngemvume yalowo masipala omqashayo, ukuthi athathwe njengomsebenzi; futhi

(c) kuncike ekugunyazweni yiBhodi labaPhathi, umuntu oqashwa umasipala ezosebenza ngezikhathi ezithile angakhetha, ngemvume kamasipala omqashayo, ukuthi athathwe njengomsebenzi.

(4) Kumele kubanjwe umhlangano okhethekile, obandakanya wonke amalungu abasebenzi nomasipala abayingxanye yesiKhwama seMpesheni, zingakadluli izinyanga eziyi-12 ngemva kokushicilelwa kwalo Mthetho kwiGazethi yesiFundazwe.

Ukuchithwa komthetho nezingxanye zomthetho ezishiywa zinjalo

9.(1) Umthetho obalulwe ohlwini lokuqala nolwesibili loHlelo olukulo Mthetho ngalokhu uyachithwa ngendlela ebekwe ohlwini lwesithathu lwalolu Hlelo.

(2) Yonke imithethonqubo esungulwe ngaphansi kwesiKhwama seMpesheni esiHlanganyele, (*se-Provident Fund*), 1995 neMithetho, ngendlela esebenza ngayo esiKhwameni seMpesheni, siyoqhubeka nokusebenza sengathi uMthetho okukhulunywa ngawo awuzange uchithwe njengoba kuhlangozwe esigatshaneni (1), kuze kube iyachitshiyelwa, iyachithwa noma iyashintshwa esikhundleni sayo kufakwa uMthethonqubo noma uMthetho, njengoba kungaba njalo, kwenziwa ngokuhambisana nesigaba 7.

Isihloko esifingqiwe

10. Lo Mthetho ubizwa ngoMthetho wesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*), 2016.

UHLELO
UMTHETHO OCHITHWAYO

(Isigaba 9(1))

<i>Inombolo nonyaka womthetho</i>	<i>Isihloko</i>	<i>Okuchithwayo</i>
UMthetho No. 4 ka 1995	UMthetho wesikhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (<i>se-Provident Fund</i>), 1995	<i>Wonke</i>

IMEMORANDAMU
NGEZINHLOSO
ZOMTHETHOSIVIVINYO WESIKHWAMA SEMPESHENI ESIHLANGANYELE
SOMASIPALA SAKWAZULU-NATALI (SE-PROVIDENT FUND), 2016

1. ISINGENISO

UMthethosivivinyo usungula uhlaka oluzoqinisekisa ukuqhubeka kwesiKhwama zeMpesheni eziHlanganyelo soMasipala saseNatali (*se-Provident Fund*). Uhlaka lulawulwa kuphela futhi luhambisana noMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996 noMthetho weziKhwama zeMpesheni kaZwelonke osebenzayo, 1956 (uMthetho No. 24 ka 1956), Kanye nemigomo yokubusa okuhle.

IsiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*) sasungulwa ngonyaka ka 1996 uMthetho wesikhwama seMpesheni esiHlanganyele soMasipala saseNatali (*se-Provident Fund*), 1995 (uMthetho No. 4 ka 1995).

Kwakhishwa iMithetho yezokuPhatha nokuLawula yesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni), yesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), kanye neyesiKhwama soMhlalaphansi esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*), ebilokhu ichtshiyelwa njalo ngemva kwesikhathi esithile, ngokwemithethonqubo eyasungulwa ngokwe-Odinensi yesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (yoMhlalaphansi), 1974 (i-Odinensi No. 27 ka 1974), ngokwe-Odinensi yeziMali eziBanjwa eMholweni yoHulumeni baseKhaya, 1973 (i-Odinensi No. 24 ka 1973) nangokoMthetho wesikhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*we-Provident Fund*), 1995, (uMthetho No. 4 ka 1995).

2. OKUSHIWO UMTHEETHOSIVIVINYO

2.1 Isigaba soMthetho 1: Izincazelo

Isigaba soMthetho 1 sichaza amagama nezincazelo okusetshenziswe kuMthethosivivinyo wesikhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*), 2016. Izincazelo ezisetshenzisiwe neziqokethwe kuMthetho wesikhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali, 1995 (*se-Provident Fund*), 1995 (uMthetho No. 4 1995), kanye nemithethonqubo eyasungulwa ngaphansi kwawo, kanjalo neMithetho yokuLawulwa nokuPhathwa kwesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni), nesiKhwama seMpesheni

esiHlanganyele soMasipala saKwaZulu-Natali (soMhlalaphansi), nesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (*se-Provident Fund*), yizona ngokuhlanganyela ezakha isigaba somthetho 1.

2.2 Isigaba soMthetho 2: Izinjongo zoMthetho

Isigaba soMthetho 2 sibeka izinjongo zoMthetho, okungukushintsha uhlaka olusebenzayo njengamanje lwesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (*se-Provident Fund*) kufakwe uhlaka olulawulwa kuphela futhi oluhambisana noMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996, uMthetho weziKhwama zeMpesheni, 1956 (uMthetho No. 24 ka 1956) kanye nemigomo yokubusa okuhle.

2.3 Isigaba soMthetho 3: Ukusebenza koMthetho

Isigaba soMthetho 3 sihlinzeka ngokuthi uMthetho usebenza kubo bonke omasipala, nakumalungu ajoyine isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (*se-Provident Fund*). Ngaphezu kwalokho, sibeka ukuthi uMthetho weziKhwama zeMpesheni, 1956 (uMthetho No. 24 ka 1956), uyasebenza kulo Mthetho futhi yiwona osetshenziswayo uma kwenzeka kuba nokushayisana okungenakuxazululeka.

2.4 Isigaba soMthetho 4: Ukuqhubeka kokusebenza kwesiKhwama

Isigaba soMthetho 4 sihlinzekela ngokuthi isiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*), siyaqhubeka nokusebenza nawo wonke amalungelo, amandla, amajoka, imisebenzi, impahla kanye nezikweletu zaso njengoba bekunjalo kusukela ngosuku lokuqala kokusebenza kwalo Mthetho. IsiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*) sisebenza ngokuhambisana nezinhlinzeko zalo Mthetho noMthetho weziKhwama zeMpesheni, 1956 (uMthetho No. 24 ka 1956). IMithethonqubo esungulwe maqondana, Kanye nayo yonke iMithetho esebenza esiKhwameni seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*) iyasebenza esiKhwameni seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*).

2.5 Isigaba soMthetho 5: Ukuqhubeka nokuba yilungu lesiKhwama

Isigaba soMthetho 5 sichaza amalungu esiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*). Bonke abantu, ngaphambi kosuku lokuqala kokusebenza kwalo Mthetho, abebengamalungu esiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*) bayaqhubeka nokuba amalungu esiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*).

2.6 Isigaba soMthetho 6: Ukuqhubeka nokuba yingxenywe yesiKhwama

Isigaba soMthetho 6 siquma ukuthi bonke omasipala abebekade beyingxenywe yesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*) ngaphambi kokuqala kokusebenza kwalo Mthetho, bayaqhubeka nokuba yingxenywe yesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*).

2.7 Isigaba soMthetho 7: Amandla eLungu loMkhandlu oPhethe

Isigaba soMthetho 7 sinikeza iLungu loMkhandlu oPhethe amandla athile. ILungu loMkhandlu oPhethe linikezwe amandla okuqoka ungoti wezezimali ngezinhloso zokuhlola isimo sezezimali, kanye nomcwaningimabhuku ozocwaninga izitatimende zezimali esiKhwameni seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*). ILungu loMkhandlu oPhethe lingasungula imithethonqubo yokuchitha, yokuchibiyela, yokushintsha imithethonqubo ekhona esungulwe ngokwe-Odinensi yesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*), kanjalo mayelana nempahla, notshalomali kanye nezimali neminye imithombo yengeniso yesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*). Ngaphezu kwalokho, isigaba somthetho sinika iLungu loMkhandlu oPhethe amandla okusungula imithethonqubo ephathelene nezinye izindaba uma ingashayisani noMthetho futhi uma libona kunesidingo noma izosiza ekuqalisweni kokusebenza kwalo Mthetho. ILungu loMkhandlu oPhethe lingaphinde likhiphe izaziso. Kungasungulwa iMithethonqubo nezaziso ezingaqala ukusebenza nganoma yiluphi usuku, okungaba olungaphambi noma ngemuva kosuku lokushicilelwa kwayo.

2.8 Isigaba soMthetho 8: Izinhlinzeko zesikhashana

Isigaba soMthetho 8 sibeka izinhlinzeko zesikhashana eziningi eziphathelene neKomidi labaPhathi kanjalo neKomidi eliKhulu. IKomidi labaPhathi neKomidi eliKhulu lesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*), ngazo zonke izinhloso, aqhubeka nokusebenza njengeBhodi labaPhathi kanye neKomidi eliKhulu, ngokwehlukahlukana, futhi ngaphandle kokuphazamiseka nawo onke amandla, imisebenzi, amajoka namaqhaza. Isigaba somthetho futhi siqukethe inhlinzeko ephathelene nokubuswa, nokuphathwa kanye nokusebenza kwesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*), futhi siphinde sichaze umsebenzi siphinde futhi sichaze “**umsebenzi**” ngekwezinhloso zalo Mthetho. Ngaphezu kwalokho, isigaba somthetho sihlinzekela umhlangano okhethekile omkhulu okumele ubanjwe zingakedluli izinyanga eziyi-12 kushicilelwe lo Mthetho.

2.9 Isigaba soMthetho 9: Ukuchithwa komthetho nezingxenye zomthetho ezishiywa zinjalo

Isigaba soMthetho 9 sihlizekela ukuchithwa koMthetho wesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*) 1995 (uMthetho No. 4 ka 1995), kanjalo nezingxenye zomthetho ezishiywa zinjalo eziphathelele neMithethonqubo yesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*) neMithetho ephathelele nalesi siKhwama esibaluliwe.

2.10 Isigaba soMthetho 10: isihloko esifingqiwe

Isigaba soMthetho 10 sibeka isihloko esifingqiwe soMthetho. Uma lungekho usuku lokuqala kokusebenza koMthetho olunqunywe, uMthetho uyoqala ukusebenza ngosuku oshicilelwe ngalo kwiGazethi yesiFundazwe.

3. IMIGWAMANDA NEZINHLANGANO OKUBONISWENE NAZO

Le migwamanda nezinhlango ezilandelayo kuyoboniswa nazo ngemva kokushicilelwa koMthethosivivinyo ngokuhambisana nezinhlango zesisigaba 154(2) zoMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996:

3.1 UMbhalisi wesiKhwama seMpesheni;

3.2 IsiKhwama seMpesheni noMhlalaphansi esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*);

3.3 Omasipala abajoyinile; kanye

3.4 AmaLungu wesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*) kusetshenziswa umhlangano okhethekile.

3.5 neKomidi labaPhathi wesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*).

4. IZIMALI EZIZODINGEKA ESIFUNDAZWENI

Azikho.

5. IZIMALI NOKUNYE OKUZODINGEKA KOMASIPALA

Azikho.

6. IZIMALI NOKUNYE OKUZODINGEKA KUMALUNGU

Azikho.

7. INQUBO NGOKOMTHETHO

Uma lo Mthethosivivinyo usugunyaziwe ngokusemthethweni yiLungu loMkhandlu oPhethe, uMnyango wezokuBusa ngokuBambisana nezoMdabu waKwaZulu-Natali uhlose ukunikeza omasipala, amalungu nomhlangano okhethekile esiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (*se-Provident Fund*), uMthethosivivinyo osewuhlaka kanye neMemorandamu ngeziNjongo zawo, ukuze kulethwe izimvo ezibhalwe phansi, okuyothi ngemva kwalokho uMthethosivivinyo uphinde uhanjiswa kuMeluleki woMbuso kwezoMthetho oyiNhloko wesiFundazwe kanye naseHhovisi loMgcinimafa lesiFundazwe.

UMnyango wezokuBusa ngokuBambisana nezoMdabu waKwaZulu-Natali uhlose ukwethula lo Mthethosivivinyo kwiKhabhinethi ukuze iwugunyaze futhi udluliselwe kwisiShayamthetho sesiFundazwe saKwaZulu-Natali. Kulindeleke ukuthi lolu hlelo luphothulwe ngonyaka wezimali ka 2016/2017.

8. OKUNGAXHUNYANWA NAYE

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Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001.
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Publications: Tel: (012) 748 6053, 748 6061, 748 6065