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INHOUD

IZIQULATHO

PROVINCIAL NOTICE

PROVINSIALE KENNISGEWING

ISAZISO SEPHONDO

The following Bill is hereby published for general information:

Die volgende Wetsontwerp word hierby vir algemene inligting gepubliseer:

Lo Mthetho uSayilwayo ulandelayo upapashwa apha ukwenzela ulwazi ngokubanzi:

Western Cape Commissioner for Children Bill [B 9—2005]

Wes-Kaapse Kommissaris vir Kinders Wetsontwerp [W9—2005]

UMthetho oSayilwayo woMkomishinala waBantwana wePhondo [B9—2005]

P.N. 360/2005 8 November 2005

P.K. 360/2005 8 November 2005

P.K. 360/2005 8 Novemba 2005

Any person or organization wishing to comment on the said Bill is requested to lodge such comment in writing before or on 28 November 2005:

Enige persoon of organisasie wat kommentaar oor die genoemde Wetsontwerp wens te lewer, word versoek om sodanige kommentaar skriftelik te lewer voor of op 28 November 2005:

Nabani na okanye nawuphi na umbutho onqwenela ukuphawula ngalo Mthetho uSayilwayo kuthethwa ngawo uyacelwa ukuba afake izimvo zakhe phambi okanye ngomhla wama-28 Novemba 2005:

- (a) by posting it to:
The Acting Secretary:
Western Cape Provincial Parliament
(Attention: Ms N F Saliwa)
P.O. Box 648
Cape Town
8000

- (a) deur dit te pos aan:
Die Waarnemende Sekretaris:
Wes-Kaapse Provinsiale Parlement
(Aandag: me. N F Saliwa)
Posbus 648
Kaapstad
8000

- (a) ngokuwuposela ku:
Nobhala oBambeleyo
INtshona Koloni IPalamente ye-Phondo (Iya ku: Nkszn N F Saliwa)
P. O. Box 648
EKapa
8000

- (b) by email to:
nsaliwa@wcpp.gov.za

- (b) deur dit te epos aan:
nsaliwa@wcpp.gov.za

- (b) nge-imeyile ku:
nsaliwa@wcpp.gov.za

- (c) by fax to:
N F Saliwa
(021) 487-1685

- (c) deur dit te faks aan:
N F Saliwa
(021) 487-1685

- (c) ngefeksi ku:
N F Saliwa
(021) 487-1685

R. G. Hindley
Acting Secretary to Parliament

R. G. Hindley
Waarnemende Sekretaris van die
Parlement

R. G. Hindley
UNobhala oBambeleyo

BILL

To provide for the appointment of a Commissioner for Children in the province of the Western Cape; qualifications to hold office; powers and functions; financial provisions and accountability; and matters incidental thereto.

WHEREAS section 78 of the Constitution of the Western Cape, 1997, establishes the office of Commissioner for Children;

AND WHEREAS recognition is given to the need to protect and promote the rights and best interests of children;

NOW THEREFORE the Provincial Parliament of the Western Cape enacts as follows:—

CHAPTER 1

DEFINITIONS

Definitions

1. In this Act, unless the context indicates otherwise:
 - “**child**” means a person under the age of 18 years;
 - “**Commissioner**” means the Commissioner for Children established under section 78 of the Constitution of the Western Cape, 1997;
 - “**organ of state**” means an organ of state as defined in section 239 of the Constitution;
 - “**Premier**” means the Premier of the province of Western Cape;
 - “**Province**” means the province of the Western Cape;
 - “**Provincial Constitution**” means the Constitution of the Western Cape, 1997 (Act 1 of 1998);
 - “**Provincial Parliament**” means the Parliament of the Province of the Western Cape;
 - “**the Constitution**” means the Constitution of the Republic of South Africa, 1996;
 - “**this Act**” includes any regulations issued in terms thereof.

CHAPTER 2

APPOINTMENT, DISQUALIFICATION, REMOVAL, SUSPENSION, REMUNERATION AND PRINCIPLES GOVERNING COMMISSIONER FOR CHILDREN

Appointment

2. (1) The Premier must appoint a Commissioner for a period of three years, renewable once.

(2) A committee, composed of all parties represented in the Provincial Parliament, which decide to participate, must by means of notices in the media in all three official languages of the Province call for nominations from civil society for names of suitable persons to fill the position of Commissioner.

(3) The committee, referred to in (2), must publish the names of all nominations so received in the media, in the three languages of the Province, and call for objections from members of the public to any names appearing on the list of nominations.

(4) The committee must consider all nominations and objections so received and may invite any nominated person for an interview.

(5) The committee must forward copies of all the nominations and objections received to the Premier.

(6) The committee must forward the proposed shortlist to the Provincial Parliament for adoption.

(7) The Provincial Parliament must recommend the shortlist to the Premier after it has approved the persons whose names appear on the said shortlist, by a resolution adopted by a majority of the votes cast.

(8) The Premier must, within 14 days of receiving the recommended shortlist from the Provincial Parliament, and after considering the nominations and all the relevant information provided by the committee and the Provincial Parliament, appoint a Commissioner.

Qualifications for appointment

3. (1) The Commissioner must be a South African citizen who—

- (a) is a fit and proper person; and
- (b) has proven specialised knowledge of, or relevant professional experience or a substantial academic record in, children's issues.

(2) In addition to the requirements in subsection (1), the Commissioner may not, after assumption of duties as Commissioner—

- (a) be a member of the National or Provincial Parliament, or of a municipal council, or of a national or provincial statutory body, or be in the service of any organ of state, or
- (b) hold any office of profit, or engage in any occupation for reward outside the duties of the office of Commissioner.

Oath or affirmation

4. Before commencement of duties, the Commissioner must take an oath or make a solemn affirmation that he or she will independently and impartially exercise the powers and perform the functions of the office of Commissioner without fear, favour or prejudice.

Removal and suspension

5. (1) The Premier may remove a Commissioner from office only on—

- (a) the grounds of misconduct, incapacity or incompetence;
- (b) a finding to that effect by a committee composed of those parties represented in the Provincial Parliament that wish to participate; and
- (c) the adoption by the Provincial Parliament of a resolution calling for that person's removal from office with a supporting vote of at least two thirds of the members of the Provincial Parliament.

(2) The Premier—

- (a) may suspend a Commissioner from office at any time after the start of the proceedings of a committee of the Provincial Parliament that has to decide about the person's removal from office; and
- (b) must remove a Commissioner from office upon adoption by the Provincial Parliament of the resolution calling for that Commissioner's removal.

Vacancy in office of Commissioner

6. (1) The Premier may allow a Commissioner to vacate his or her office before the expiration of the three year term of appointment—

- (a) on account of continued ill health that prevents the Commissioner from properly carrying out his or her functions or duties; or

- (b) at the Commissioner's request, provided that the request is in writing and is addressed to the Premier at least three calendar months before the date on which the Commissioner wishes to vacate office, unless the Premier allows a shorter period in a specific case.
- (2) A vacancy in the office of Commissioner arises if the Commissioner—
 - (a) dies;
 - (b) resigns in terms of (1)(b), or
 - (c) is removed from office or suspended in terms of section 5.

Principles governing Commissioner for Children

7. In the exercise or performance of his or her powers and functions, the Commissioner must—
- (a) have regard to the principles laid down in the United Nations Convention on the Rights of the Child, 1989, the African Charter on the Rights of the Child, 1990, and any other international treaties, conventions or agreements affecting children which have been ratified by the President of the Republic of South Africa;
 - (b) strive to promote the rights, needs and best interests of children in all areas of society in the Province;
 - (c) ensure that the interests of children in the Province are given full consideration by public and private authorities, individuals and organisations; and
 - (d) promote awareness of legislation affecting children in the Province by providing sufficient information concerning children's interests and rights to the public and the private sectors.

CHAPTER 3

FUNCTIONS AND DUTIES

Monitoring

8. The Commissioner must—
- (a) require the Heads of the Provincial Departments responsible for community safety, social services, health, education, and sport to maintain a close liaison with the Commissioner in order to monitor—
 - (i) the safety of children in the Province;
 - (ii) provincial projects intended to enhance public awareness of issues relating to the rights of children contained in section 28 (1) of the Constitution;
 - (iii) the implementation of the United Nations Convention on the Rights of the Child, 1989, the African Charter on the Rights of the Child, 1990, and any other international treaties, conventions or agreements affecting children which have been ratified by the President of the Republic of South Africa;
 - (iv) the rights, needs and interests of children in home care, foster care and child and youth care centres;
 - (v) provincial projects launched in aid of children in various circumstances;
 - (vi) public hospitals and health care facilities in regard to the treatment of children, and
 - (vii) public and private schools;
 - (b) maintain close liaison with the Commissioner for Correctional Services in the Province to monitor the availability of health, social welfare and educational services and recreational facilities for children in prison and other children who are in official custody;
 - (c) maintain close liaison with the Commissioner for Police Services in the Province to monitor:
 - (i) the reported number of crimes committed against children; and
 - (ii) the reported number of crimes committed by children to optimise co-operation between the South African Police Service and provincial departments that deal with or render a service to children who come into conflict with the law;

- (d) maintain close liaison with the Department of Justice in the Province to optimise co-operation between the Department of Justice and provincial departments that deal with or render a service to—
 - (i) child victims of crime;
 - (ii) the Office of the Family Advocate;
 - (iii) the Family Courts;
 - (iv) Children's Court Commissioners;
 - (v) prosecutors dealing with children; and
 - (vi) criminal courts dealing with all matters involving children in conflict with the law;
- (e) maintain close liaison with private organisations, institutions and agencies that work with children in the Province to monitor common practices and promote co-operation between provincial organs of state and the public sector on matters relating to the protection of the rights and interests of children; and
- (f) maintain liaison with relevant national departments regarding legislation that affects children, to ensure that the implementation of measures provided for in national legislation may be optimally utilised by him or her to protect the best interest of the children in the Province.

Investigations

9. (1) The Commissioner may conduct or initiate investigations and enquiries with regard to any matter falling within the scope of his or her functions.

(2) The Commissioner must conduct an audit of all existing or proposed legislation affecting or likely to affect the rights and interests of children in the Province at the commencement of this Act and must make the audit available to the Premier.

Research

10. (1) The Commissioner may conduct or initiate research—

- (a) with regard to any matter falling within the scope of his or her functions; and
- (b) aimed at informing the development of policy or practice that is in the best interests of the child.

(2) The Commissioner may facilitate co-operation with, and provide for input from, the public sector and academic institutions with regard to identifying, undertaking and implementing research.

Education

11. The Commissioner may conduct and develop information programmes to educate the public about and foster public understanding and awareness of—

- (a) this Act;
- (b) the United Nations Convention on the Rights of the Child, 1989;
- (c) the African Charter on the Rights of the Child, 1990;
- (d) section 28(1) of the Constitution;
- (e) other relevant international conventions, and
- (f) any other matter falling within the scope of his or her functions.

Lobbying

12. The Commissioner may—

- (a) lobby members or groups of members of the Provincial or National Parliament and may make recommendations concerning—
 - (i) any existing or proposed policy that affects or is likely to affect the rights of children;
 - (ii) any system of family law;
 - (iii) any system of indigenous law customs or practice; or
 - (iv) any other existing or proposed legislation that affects or is likely to affect the rights of children;
- (b) invite co-operation and input from the public and private sectors when deciding to lobby for legislative review.

Advising

13. The Commissioner may advise and make recommendations to any person or organ of state in the Province whose policies and practices relating to children have been monitored, investigated or researched by the Commissioner.

Application for matters to be taken up for monitoring, investigation or research

14. (1) Any person may request the Commissioner to take up a matter for monitoring, investigation or research in terms of the powers and functions conferred in terms of this Act.

(2) The Commissioner may also of his or her own initiative take up a matter for monitoring, investigation or research in terms of the powers and functions conferred in terms of this Act.

(3) All applications for a matter to be taken up by the Commissioner for monitoring, investigation or research must, as far as possible, be in writing and in the format provided for by the office of the Commissioner.

(4) An application to the Commissioner must contain the following information:

- (a) the names and addresses of the persons requesting or initiating the matter;
- (b) reasons as to why the Commissioner should monitor, investigate or research the matter;
- (c) a summary of the evidence supporting the belief that the matter should be monitored, investigated or researched;
- (d) the names and addresses of persons or organs of state alleged to be involved, to the extent that such information is available;
- (e) a description of any document or material that should be considered ; and
- (f) a copy of the document referred to in (e).

(5) An application for a matter to be monitored, investigated or researched must be sworn or solemnly affirmed before a Commissioner of Oaths.

(6) The decision to monitor, investigate or research a matter is entirely in the discretion of the Commissioner.

(7) If, during the course of monitoring, investigating or researching a matter, the Commissioner is of the opinion that it is in the interests of a child to appoint any curator, the Commissioner may bring such application, in accordance with the Rules of Court.

Additional powers and functions

15. To enable the Commissioner to exercise and perform the powers and functions conferred in terms of this Act, the Commissioner may—

- (a) on the authority of a magistrate, having jurisdiction within the area within which the search is to be conducted, accompany the South African Police Services when exercising powers of search and seizure in respect of any matter relating to the interests and protection of children;
- (b) subpoena any person or give notice to any person to appear before him or her to give evidence, or to produce any book, report, document or object in his or her possession or under his or her control at the time and place stipulated in the subpoena or notice; provided that—
 - (i) the subpoena or notice must be signed and issued by the Commissioner and served by the Commissioner or any other person authorised by the Commissioner to do so, in the same manner as a subpoena or notice, as the case may be, for a witness at a trial in the High Court;
 - (ii) any person appearing before the Commissioner may be assisted by a legal representative at his or her own cost;
- (c) administer an oath or affirmation to any person appearing as a witness before the Commissioner;
- (d) appoint such persons as may be necessary for the performance of the functions of the office of Commissioner, on such terms and conditions of service as determined in consultation with the Premier and the Provincial Minister responsible for finance.

Duties

16. The Commissioner—

- (a) must report annually to the Provincial Parliament on the measures taken by the Western Cape government to protect and promote the interests of children in the Province;
- (b) must submit any recommendations made to any person or organ of state concurrently to the Provincial Parliament;
- (c) may submit a special report to the Provincial Parliament at any other time, on any matter relating to this Act which, in the opinion of the Commissioner, should not be deferred until the annual report, and
- (d) must make all reports and recommendations available to the public.

Liability

17. The Commissioner or any person appointed by him or her will not be liable in respect of anything done in good faith under any provisions of this Act or the Provincial Constitution.

CHAPTER 4

OBLIGATIONS OF ORGANS OF STATE AND ACCESS TO INFORMATION AND INSTITUTIONS

Obligations

18. (1) All organs of state must assist and protect the Commissioner and ensure the independence, impartiality, dignity and effectiveness of the office of the Commissioner.

(2) No person or any organ of state may interfere with the functioning of the Commissioner or his or her staff, or obstruct the functioning of the Commissioner or his or her staff.

(3) When the Commissioner makes recommendations to any person or organ of state, that person or organ of state must report in writing to the Commissioner on his or her or its actions in response to those recommendations within a reasonable time stipulated by the Commissioner.

(4) Any person or organ of state who or which, either wholly or in part, refuses or fails to implement the Commissioner's recommendations must, upon request, furnish the Commissioner with written reasons for such refusal or failure, within a reasonable time stipulated by the Commissioner.

Access to information and institutions

19. (1) Organs of state and public and private institutions for children must, at the Commissioner's request, provide information with regard to any matter falling within the scope of the Commissioner's functions.

(2) All public institutions for children must allow the Commissioner access to their premises for the purpose of carrying out any function or duty contemplated in Chapter 3 of this Act.

CHAPTER 5

ADMINISTRATION OF THE OFFICE OF COMMISSIONER

Administrative functions

20. The administrative functions of the office of the Commissioner may be performed by officers in the service of the Provincial Government: Western Cape.

Funding

21. The Provincial Parliament may vote funds within the Province's resources to enable the Commissioner to perform his or her functions in terms of this Act.

Accounting officer

22. The Commissioner is the accounting authority in terms of the Public Finance Management Act, 1999, and any directions, regulations or instructions issued in terms of this Act.

Remuneration of Commissioner

23. The remuneration and other terms and conditions of employment of the Commissioner must, from time to time, be determined by the Premier in consultation with the Provincial Minister responsible for finance, bearing in mind the available resources of the Province.

Donations

24. The office of the Commissioner may receive donations subject to Treasury regulations and instructions and other applicable financial prescripts.

CHAPTER 6**GENERAL PROVISIONS****Regulations**

25. The Premier may make regulations regarding any matter that he or she considers necessary in order to achieve the objectives of this Act.

Offences and penalties

26. Any person who—

- (a) contravenes or fails to comply with any provisions of this Act;
- (b) obstructs the Commissioner in the performance of functions or duties contemplated in this Act;
- (c) refuses, or fails to furnish, information or an explanation in regard to a request for information from a Commissioner, or furnishes information that is false and misleading knowing that it is false and misleading,

is guilty of an offence and liable to a fine not exceeding R10 000.

Short title and commencement

27. This Act is called the Western Cape Commissioner for Children Act and comes into operation upon a date set by the Premier by proclamation in the *Provincial Gazette*.

**EXPLANATORY MEMORANDUM
WESTERN CAPE COMMISSIONER FOR CHILDREN BILL**

1. INTRODUCTION

- 1.1 The Bill provides for the appointment of a Western Cape Commissioner for Children with the primary responsibility of protecting and promoting the best interests of children in the Province.

2. COMMENT ON INDIVIDUAL CLAUSES

- 2.1 Clause 1 — This clause provides for the interpretation and definition of certain terms used in the Bill.
- 2.2 Clause 2 — This clause provides for the appointment of a Western Cape Commissioner for Children for a period of three years.
- 2.3 Clause 3 — This clause lists the qualifications required for appointment as Western Cape Commissioner for Children.
- 2.4 Clause 4 — This clause provides for the oath or affirmation that the Western Cape Commissioner for Children is to take or make before his or her appointment.
- 2.5 Clause 5 — This clause provides for the removal and suspension of the Western Cape Commissioner for Children.
- 2.6 Clause 6 — This clause provides for the circumstances under which a vacancy for the position of the Western Cape Commissioner for Children occurs.
- 2.7 Clause 7 — This clause determines the principles governing the Western Cape Commissioner for Children in the exercise or performance of his or her powers and functions.
- 2.8 Clause 8 — This clause deals with the monitoring functions and duties of the Western Cape Commissioner for Children.
- 2.9 Clause 9 — This clause relates to the investigating functions and duties of the Western Cape Commissioner for Children.
- 2.10 Clause 10 — This clause deals with the research functions and duties of the Western Cape Commissioner for Children.
- 2.11 Clause 11 — This clause deals with the education functions and duties of the Western Cape Commissioner for Children.
- 2.12 Clause 12 — This clause deals with the lobbying functions and duties of the Western Cape Commissioner for Children.
- 2.13 Clause 13 — This clause deals with the advisory functions and duties of the Western Cape Commissioner for Children.
- 2.14 Clause 14 — This clause determines the application procedure to the Western Cape Commissioner for Children to monitor, investigate or research any matter.
- 2.15 Clause 15 — This clause makes provision for the additional powers and functions of the Western Cape Commissioner for Children, such as the power to subpoena any person to appear before him or her to give evidence.
- 2.16 Clause 16 — This clause provides for reporting to the Provincial Parliament by the Western Cape Commissioner for Children and other duties.

- 2.17** Clause 17 — This clause determines that the Western Cape Commissioner for Children, or any person appointed by him or her, will not be liable for anything done in good faith under any provision of this Act or the Provincial Constitution.
- 2.18** Clause 18 — This clause provides for the obligations of the Western Cape Commissioner for Children, and organs of state when exercising their powers and functions.
- 2.19** Clause 19 — This clause deals with access to information to public and private institutions by the Western Cape Commissioner for Children.
- 2.20** Clause 20 — This clause regulates the administrative functions of the Western Cape Commissioner for Children.
- 2.21** Clause 21 — This clause deals with the funding of the Western Cape Commissioner for Children.
- 2.22** Clause 22 — This clause determines that the Commissioner is the accounting authority in terms of the Public Finance Management Act, 1999.
- 2.23** Clause 23 — This clause deals with the remuneration and other terms and conditions of employment of the Western Cape Commissioner for Children.
- 2.24** Clause 24 — This clause provides for the Western Cape Commissioner for Children to receive donations subject to Treasury regulations and other applicable prescripts.
- 2.25** Clause 25 — This clause provides for the Premier to make regulations regarding any matter he or she considers necessary in order to achieve the objects of the Act.
- 2.26** Clause 26 — This clause lists the offences and penalties relating to this Act and the Western Cape Commissioner for Children.
- 2.27** Clause 27 — This clause provides for the short title and commencement of the Act. This Act is called the Western Cape Commissioner for Children Act and comes into operation on a date to be set by the Premier by proclamation in the *Provincial Gazette*.

WETSONTWERP

Om voorsiening te maak vir die aanstelling van 'n Kommissaris vir Kinders in die provinsie Wes-Kaap; kwalifikasies vir ampsbekleding; bevoegdhede en funksies; finansiële bepalinge en rekenpligtigheid; en aangeleenthede wat daarmee in verband staan.

NADEMAAL artikel 78 van die Grondwet van die Wes-Kaap, 1997, die amp van Kommissaris vir Kinders instel;

EN NADEMAAL die noodsaaklikheid om die regte en beste belange van kinders te beskerm en te bevorder, erken word;

WORD DAAR DERHALWE deur die Provinsiale Parlement van die Wes-Kaap bepaal, soos volg:

HOOFSTUK 1

WOORDOMSKRYWINGS

Woordomskrywings

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
“**die Grondwet**” die Grondwet van die Republiek van Suid-Afrika, 1996;
“**hierdie Wet**” ook enige regulasies wat ingevolge daarvan uitgevaardig word;
“**kind**” ’n persoon onder die ouderdom van 18 jaar;
“**Kommissaris**” die Kommissaris vir Kinders, ingestel kragtens artikel 78 van die Grondwet van die Wes-Kaap, 1997;
“**Premier**” die Premier van die provinsie Wes-Kaap;
“**Provinsie**” die provinsie van die Wes-Kaap;
“**Provinsiale Grondwet**” die Grondwet van die Wes-Kaap, 1997 (Wet 1 van 1998);
“**Provinsiale Parlement**” die Provinsiale Parlement van die Wes-Kaap Provinsie;
“**staatsorgaan**” ’n staatsorgaan soos omskryf in artikel 239 van die Grondwet;

HOOFSTUK 2

AANSTELLING, ONBEVOEGVERKLARING, AMPSONTHEFFING, SKORSING, BESOLDIGING, EN BEGINSELS VAN TOEPASSING OP KOMMISSARIS VIR KINDERS

Aanstelling

2. (1) Die Premier moet ’n Kommissaris aanstel vir ’n tydperk van drie jaar, wat een maal hernu kan word.

(2) ’n Komitee bestaande uit alle partye wat in die Provinsiale Parlement verteenwoordig is en besluit om deel te neem, moet by wyse van kennisgewings in die media in al drie amptelike tale van die Provinsie benoemings van die burgerlike samelewing vra vir name van geskikte persone om die posisie van Kommissaris te vul.

(3) Die komitee, waarna verwys in (2), moet die name van alle benoemings wat aldus ontvang is, in die media publiseer in al drie amptelike tale van die Provinsie, en besware teen enige name wat op die lys benoemings verskyn, van lede van die publiek vra.

(4) Die komitee moet alle benoemings en besware wat aldus ontvang is, oorweeg, en kan enige benoemde persoon vir 'n onderhoud nooi.

(5) Die komitee moet afskrifte van al die nominasies en besware wat ontvang is, aanstuur na die Premier.

(6) Die komitee moet die voorgestelde kortlys aanstuur na die Provinsiale Parlement vir aanvaarding.

(7) Die Provinsiale Parlement moet die kortlys by die Premier aanbeveel, nadat dit die benoemde persone wie se name op die kortlys verskyn, goedgekeur het, by 'n besluit wat deur 'n meerderheid van die uitgebragte stemme aangeneem is.

(8) Die Premier moet binne 14 dae vanaf ontvangs van die Provinsiale Parlement, en na oorweging van die nominasies en alle ander relevante inligting voorsien deur die komitee en die Provinsiale Parlement, 'n Kommissaris aanstel.

Kwalifikasies vir aanstelling

3. (1) Die Kommissaris moet 'n Suid-Afrikaanse burger wees wat—

- (a) 'n geskikte en gepaste persoon is; en
- (b) beskik oor bewese gespesialiseerde kennis, of tersaaklike professionele ondervinding, of 'n aansienlike akademiese rekord, ten opsigte van kwessies wat met kinders te make het.

(2) Benewens die vereistes in (1) mag die Kommissaris na ampsaanvaarding as Kommissaris nie—

- (a) 'n lid van die Nasionale of Provinsiale Parlement, of 'n munisipale raad, of 'n nasionale of provinsiale statutêre liggaam, of in diens van enige staatsorgaan, wees nie, of
- (b) enige besoldigde amp beklee of teen vergoeding enige beroep beoefen wat buite die pligte van die amp van Kommissaris val nie.

Eed of plegtige verklaring

4. Voor die aanvang van pligte, moet die Kommissaris 'n eed aflê of plegtige verklaring doen dat hy of sy sonder vrees, begunstiging of vooroordeel die bevoegdhede en funksies van die amp van Kommissaris onafhanklik en onpartydig sal uitoefen en verrig.

Ampsonthefing en skorsing

5. (1) Die Premier kan 'n Kommissaris van sy of haar amp onthef slegs op grond van—

- (a) wangedrag, onvermoë of onbevoegdheid;
- (b) 'n bevinding te dien effekte deur 'n komitee bestaande uit daardie partye wat in die Provinsiale Parlement verteenwoordig is en wil deelneem; en
- (c) 'n besluit van die Provinsiale Parlement wat aangeneem is, met die ondersteuning van ten minste twee derdes van die lede van die Provinsiale Parlement, wat vra dat die Kommissaris van sy of haar amp onthef word.

(2) Die Premier—

- (a) kan 'n Kommissaris in sy of haar amp skors te eniger tyd na die aanvang van die verrigtinge van 'n komitee van die Provinsiale Parlement wat oor daardie persoon se onthefing van sy of haar amp moet besluit; en
- (b) moet 'n Kommissaris van sy of haar amp onthef by aanname deur die Provinsiale Parlement van die besluit wat vra dat die Kommissaris van die amp onthef word.

Vakature in amp van Kommissaris

6. (1) Die Premier kan 'n Kommissaris toelaat om sy of haar amp voor die verstryking van die aanstellingstermyn van drie jaar te ontruim—

- (a) op grond van voortdurende swak gesondheid wat die Kommissaris verhoed om sy of haar funksies of pligte behoorlik te verrig; of

- (b) op versoek van die Kommissaris, mits die versoek skriftelik is en tot die Premier gerig word minstens drie kalendermaande voor die datum waarop die Kommissaris sy of haar amp wil ontruim, tensy die Premier 'n korter tydperk in 'n bepaalde geval toelaat.
- (2) 'n Vakature in die amp van Kommissaris ontstaan wanneer die Kommissaris—
 - (a) te sterwe kom;
 - (b) ingevolge (1)(b) bedank; of
 - (c) van sy of haar amp onthef of geskors word ingevolge artikel 5.

Beginsels van toepassing op Kommissaris vir Kinders

7. Die Kommissaris moet in die uitoefening of verrigting van sy of haar bevoegdhede of funksies—

- (a) ag slaan op die beginsels wat voorgeskryf is in die Verenigde Nasies se Konvensie vir die Regte van die Kind, 1989, die Afrika Handves vir Kinderregte, 1990, en enige ander internasionale verdrae, konvensies of ooreenkomste wat kinders raak en wat deur die President van die Republiek van Suid-Afrika bekragtig is;
- (b) daarna streef om die regte, behoeftes en beste belange van kinders op alle terreine van die samelewing in die Provinsie te bevorder;
- (c) toesien dat die belange van kinders in die Provinsie ten volle in ag geneem word deur openbare en private owerhede, individue en organisasies; en
- (d) bewustheid van wetgewing in die Provinsie wat kinders raak, bevorder deur voldoende inligting oor kinders se belange en regte aan die publiek en die private sektor beskikbaar te stel.

HOOFSTUK 3

FUNKSIES EN PLIGTE

Monitering

8. Die Kommissaris moet—

- (a) van die Hoofde van die Provinsiale Departemente verantwoordelik vir gemeenskapsveiligheid, maatskaplike dienste, gesondheid, onderwys, en sport verlang om in noue skakeling met die Kommissaris te bly ten einde die volgende te monitor:
 - (i) die veiligheid van kinders in die Provinsie;
 - (ii) provinsiale projekte wat daarop gemik is om die openbare bewustheid van kwessies rakende die regte van kinders, soos vervat in artikel 28(1) van die Grondwet, te verskerp;
 - (iii) die implementering van die Verenigde Nasies se Konvensie vir die Regte van die Kind, 1989, die Afrika Handves vir Kinderregte, 1990, en enige ander internasionale verdrae, konvensies of ooreenkomste wat kinders raak en wat deur die President van die Republiek van Suid-Afrika bekragtig is;
 - (iv) die regte, behoeftes en belange van kinders in tuissorg, pleegsorg en kinder- en jeugsorgsentrums;
 - (v) provinsiale projekte geloods om kinders in verskeie omstandighede te help;
 - (vi) openbare hospitale en gesondheidsorgfasiliteite met betrekking tot die behandeling van kinders, en
 - (vii) openbare skole en private skole;
- (b) in noue skakeling met die Kommissaris vir Korrektiewe Dienste in die Provinsie bly om die beskikbaarheid van gesondheids-, maatskaplike- en opvoedkundige dienste en ontspanningsgeriewe vir kinders in gevangenis en ander kinders wat in amptelike aanhouding is, te monitor;
- (c) in noue skakeling met die Kommissaris vir Polisiedienste in die Provinsie bly om die volgende te monitor:
 - (i) die getal gerapporteerde kriminele dade wat teen kinders gepleeg is; en
 - (ii) die getal gerapporteerde kriminele dade wat deur kinders gepleeg is;

- en om optimale samewerking te verkry tussen die Suid-Afrikaanse Polisiediens en provinsiale departemente wat te make het met of 'n diens lewer aan kinders wat met die gereg bots;
- (d) in noue skakeling met die Departement van Justisie in die Provinsie bly om optimale samewerking te verkry tussen die Departement van Justisie en provinsiale departemente wat te make het met of 'n diens lewer aan—
- (i) kinderslagoffers van kriminele dade;
 - (ii) die Kantoor van die Gesinsadvokaat;
 - (iii) die Gesinshowe;
 - (iv) Kommissarisse van die Kinderhof;
 - (v) aanklaers wat met kinders werk; en
 - (vi) kriminele howe wat te make het met alle sake waarby kinders wat met die wet gebots het, betrokke is;
- (e) in noue skakeling bly met private organisasies, instellings en agentskappe wat in die Provinsie met kinders werk, om algemene praktyke te monitor en samewerking tussen provinsiale staatsorgane en die openbare sektor in sake rakende die beskerming van die regte en belange van kinders te bevorder.
- (f) in noue skakeling bly met die relevante nasionale departemente rakende wetgewing wat kinders affekteer, om te verseker dat die implementering van maatreëls, waarvoor voorsiening gemaak word in nasionale wetgewing, deur hom of haar optimaal gebruik word om die beste belange van kinders in die Provinsie te beskerm.

Ondersoeke

9. (1) Die Kommissaris kan ondersoek en navrae doen of inisier in enige saak wat binne die bestek van sy of haar funksies val.

(2) Die Kommissaris moet 'n oudit uitvoer van alle bestaande of voorgestelde wetgewing wat by die inwerkingtreed van hierdie Wet die regte en belange van kinders in die Provinsie raak of waarskynlik sal raak en moet die oudit aan die Premier beskikbaar stel.

Navorsing

10. (1) 'n Kommissaris kan navorsing doen of inisier—

- (a) met betrekking tot enige saak wat binne die bestek van sy of haar funksies val; en
- (b) wat, by die ontwikkeling van 'n beleid of praktyk wat in die beste belange van die kind is, ten doel het om inhoud daaraan te verleen.

(2) Die Kommissaris kan samewerking fasiliteer met, en voorsiening maak vir insette deur, die openbare sektor en akademiese instellings ten opsigte van die identifisering, onderneming en implementering van navorsing.

Onderwys

11. (1) Die Kommissaris kan inligtingsprogramme implementeer en ontwikkel om die publiek op te voed oor en openbare begrip en bewustheid van die volgende aan te moedig:

- (a) hierdie Wet;
- (b) die Verenigde Nasies se Konvensie vir die Regte van die Kind, 1989;
- (c) die Afrika Handves vir Kinderregte, 1990;
- (d) artikel 28(1) van die Grondwet;
- (e) ander ter saaklike internasionale konvensies, en
- (f) enige ander saak wat binne die bestek van sy of haar funksies val.

Steunwerwing

12. 'n Kommissaris kan—

- (a) steun by lede of groepe van lede in die Provinsiale of Nasionale Parlement werf en aanbevelings doen in verband met—
 - (i) enige bestaande of voorgestelde beleid wat die regte van kinders raak of waarskynlik sal raak;
 - (ii) enige stelsel van familiereg;

- (iii) enige stelsel van inheemse regsgewoontes of-gebruike; of
 - (iv) enige ander bestaande or voorgestelde wetgewing wat die regte van kinders raak of waarskynlik sal raak.
- (b) samewerking en insette van die openbare en private sektore vra wanneer besluit word om steun vir die hersiening van wetgewing te werf.

Advisering

13. Die Kommissaris mag advies gee aan en aanbevelings doen by enige persoon of staatsorgaan in die Provinsie wie se beleid en praktyke ten opsigte van kinders gemonitor, ondersoek of nagevors word deur die Kommissaris.

Aansoek van sake vir monitering, ondersoek of navorsing

14. (1) Enige persoon kan die Kommissaris versoek om 'n saak vir monitering, ondersoek of navorsing te aanvaar ingevolge die bevoegdhede en funksies wat ingevolge hierdie Wet verleen word.

(2) Die Kommissaris kan ook op eie inisiatief 'n saak vir monitering, ondersoek of navorsing aanvaar ingevolge die bevoegdhede en funksies wat ingevolge hierdie Wet verleen word.

(3) Alle aansoeke dat die Kommissaris 'n saak vir monitering, ondersoek of navorsing moet aanvaar, moet sover moontlik, skriftelik wees en in die formaat waarvoor die kantoor van die Kommissaris voorsiening maak.

(4) 'n Aansoek aan die Kommissaris moet die volgende inligting bevat:

- (a) die name en adresse van die persone wat die saak versoek of inisieer;
- (b) redes waarom die Kommissaris die saak moet monitor, ondersoek of navors;
- (c) 'n opsomming van die bewyse ter staving van die mening dat die saak gemonitor, ondersoek of nagevors moet word;
- (d) die name en adresse van persone of staatsorgane wat na bewering betrokke is, vir sover sulke inligting beskikbaar is;
- (e) 'n beskrywing van enige dokument of materiaal wat oorweeg moet word; en
- (f) 'n kopie van die dokument in (e) genoem.

(5) 'n Aansoek dat 'n saak gemonitor, ondersoek of nagevors word, moet onder eed of bevestiging voor 'n Kommissaris van Ede afgelê of gedoen word.

(6) Die Kommissaris kan geheel na goeë dunks besluit of 'n saak gemonitor, ondersoek of nagevors moet word.

(7) Indien, tydens die monitering, ondersoek of navorsing van 'n saak, die Kommissaris van mening is dat dit in belang van die kind is om enige kurator aan te stel, mag die Kommissaris, ingevolge Hofreëls, so 'n aansoek bring.

Bykomende bevoegdhede en funksie

15. Ten einde die Kommissaris in staat te stel om die bevoegdhede uit te oefen en die funksies te verrig wat ingevolge hierdie Wet verleen word, kan die Kommissaris-

- (a) op magtiging van 'n landdros, wat jurisdiksie het oor die area waarbinne die deursoeking sal plaasvind, die Suid-Afrikaanse Polisiediens vergesel by die uitoefening van magte van deursoeking en beslaglegging, wat verband hou met enige aangeleentheid rakende die belange en beskerming van kinders;
- (b) enige persoon as getuie dagvaar of aan enige persoon kennis gee om voor hom of haar te verskyn om getuie te lewer, of om 'n boek, verslag, dokument of artikel in sy of haar besit of onder sy of haar beheer, voor te lê op die tyd en plek wat in die getuiedagvaarding of kennisgewing gestipuleer word; met dien verstande dat—
 - (i) die getuiedagvaarding of kennisgewing deur die Kommissaris onderteken en uitgereik moet word en op dieselfde wyse as 'n dagvaarding of kennisgewing, na gelang van die geval, vir 'n getuie by 'n verhoor in die Hooggeregshof deur die Kommissaris of enige ander persoon wat deur die Kommissaris daartoe gemagtig is, beteken moet word;
 - (ii) enige persoon wat voor die Kommissaris verskyn, op eie koste deur 'n regsverteenvoerder bygestaan kan word;
- (c) 'n eed of bevestiging afneem van enige persoon wat as getuie verskyn;

- (d) enige persone wat nodig is vir die verrigting van die funksies van die amp van Kommissaris, aanstel ooreenkomstig die bepalings en voorwaardes wat in oorleg met die Premier en die Provinsiale Minister verantwoordelik vir finansies bepaal word.

Pligte

16. Die Kommissaris—

- (a) moet jaarliks aan die Provinsiale Parlement verslag doen oor die maatreëls wat deur die Wes-Kaapse regering getref is om die kinders in die Provinsie te beskerm en hul belange te bevorder;
- (b) moet enige aanbevelings wat by enige persoon of staatsorgaan gedoen is, tegelykertyd aan die Provinsiale Parlement voorlê;
- (c) kan op enige ander tyd 'n spesiale verslag oor enige kwessie betreffende hierdie Wet wat, na die Kommissaris se oordeel, nie tot die jaarverslag uitgestel behoort te word nie, by die Provinsiale Parlement indien, en
- (d) moet alle verslae en aanbevelings aan die publiek beskikbaar stel.

Aanspreeklikheid

17. Die Kommissaris of enige persoon deur hom of haar aangestel, sal nie aanspreeklik wees ten opsigte van enigiets wat te goeder trou kragtens enige bepalings van hierdie Wet of die Provinsiale Grondwet gedoen word nie.

HOOFSTUK 4

VERPLIGTINGE VAN STAATSORGANE EN TOEGANG TOT INLIGTING EN INSTELLINGS

Verpligtinge

18. (1) Alle staatsorgane moet die Kommissaris bystaan en beskerm en die onafhanklikheid, onpartydigheid, waardigheid en effektiwiteit van die amp van Kommissaris verseker.

(2) Geen persoon of enige staatsorgaan mag in die funksionering van die Kommissaris of sy of haar personeel inmeng, of die funksionering van die Kommissaris of sy of haar personeel belemmer nie.

(3) Wanneer die Kommissaris aanbevelings by enige persoon of staatsorgaan doen, moet daardie persoon of staatsorgaan binne 'n redelike tyd wat die Kommissaris stipuleer, skriftelik aan die Kommissaris verslag doen oor sy of haar optrede in reaksie op daardie aanbevelings.

(4) Enige persoon of staatsorgaan wat weier of versuim om die Kommissaris se aanbevelings of in die geheel of gedeeltelik te implementeer, moet op versoek skriftelike redes vir die weiering of versuim aan die Kommissaris verstrek binne 'n redelike tyd wat die Kommissaris stipuleer.

Toegang tot inligting en instellings

19. (1) Staatsorgane en openbare en private instellings vir kinders moet op versoek van die Kommissaris inligting verstrek oor enige saak wat binne die bestek van die Kommissaris se funksies val.

(2) Alle openbare instellings vir kinders moet toegang tot hul persele aan die Kommissaris verleen met die doel om enige funksie of plig in Hoofstuk 3 van hierdie Wet beoog, te verrig.

HOOFSTUK 5

ADMINISTRASIE VAN KANTOOR VAN KOMMISSARIS

Administratiewe funksies

20. Die administratiewe funksies van die kantoor van die Kommissaris mag deur beamptes in die diens van die Provinsiale Regering: Wes-Kaap verrig word.

Befondsing

21. Die Provinsiale Parlement mag fondse, binne die Provinsie se hulpbronne bewillig, ten einde die Kommissaris in staat te stel om sy of haar funksies ingevolge hierdie Wet te verrig.

Rekenpligtige beampte

22. Die Kommissaris is die rekenpligtige beampte ingevolge die Wet op Openbare Finansiële Bestuur, 1999, en enige voorskrifte, regulasies of instruksies ingevolge daardie Wet uitgereik.

Besoldiging van Kommissaris

23. Die besoldiging en ander bepalinge en voorwaardes ten opsigte van die diens van die Kommissaris moet, van tyd tot tyd, deur die Premier in oorleg met die Provinsiale Minister verantwoordelik vir finansies bepaal word, met inagneming van die beskikbare hulpbronne van die Provinsie.

Skenkings

24. Die kantoor van die Kommissaris kan skenkings, behoudens Tesourie-regulasies en -opdragte en ander toepaslike finansiële voorskrifte, ontvang.

HOOFSTUK 6**ALGEMENE BEPALINGS****Regulasies**

25. Die Premier kan regulasies afkondig betreffende enige saak wat hy of sy nodig ag ten einde die doelwitte van hierdie Wet te bereik.

Misdrywe en strawwe

26. Enige persoon wat—

- (a) enige bepalinge van hierdie Wet oortree of versuim om daaraan te voldoen;
- (b) 'n Kommissaris hinder in die verrigting van funksies of pligte in hierdie Wet beoog;
- (c) weier of versuim om inligting of 'n verduideliking te verstrek met betrekking tot 'n versoek om inligting van 'n Kommissaris, of inligting verstrek wat vals en misleidend is in die wete dat dit vals en misleidend is, is skuldig aan 'n misdryf en strafbaar met 'n boete van hoogstens R 10 000.

Kort titel en inwerkingtreding

27. Hierdie Wet heet die Wes-Kaapse Wet op die Kommissaris vir Kinders en tree in werking op 'n datum deur die Premier by proklamasie in die Provinsiale Koerant vasgestel.

VERKLARENDE MEMORANDUM
WES-KAAPSE KOMMISSARIS VIR KINDERS WETSONTWERP

1. INLEIDING

- 1.1 Die Wetsontwerp maak voorsiening vir die aanstelling van die Wes-Kaapse Kommissaris vir Kinders met die beskerming en bevordering van die beste belange van kinders in die Provinsie as primêre verantwoordelikheid.

2. KOMMENTAAR OP INDIVIDUELE KLOUSULES

- 2.1 Klousule 1 — Hierdie klousule maak voorsiening vir die vertolking en omskrywing van sekere terme wat in die Wetsontwerp gebruik word.
- 2.2 Klousule 2 — Hierdie klousule maak voorsiening vir die aanstelling van die Wes-Kaapse Kommissaris vir Kinders vir 'n periode van drie jaar.
- 2.3 Klousule 3 — Hierdie klousule noem die kwalifikasies wat vereis word vir aanstelling as Wes-Kaapse Kommissaris vir Kinders.
- 2.4 Klousule 4 — Hierdie klousule maak voorsiening vir die eed of plegtige verklaring wat die Wes-Kaapse Kommissaris vir Kinders moet aflê of maak voor hy of sy aangestel word.
- 2.5 Klousule 5 — Hierdie klousule maak voorsiening vir die ampsontheffing en skorsing van die Wes-Kaapse Kommissaris vir Kinders.
- 2.6 Klousule 6 — Hierdie klousule maak voorsiening vir omstandighede waaronder 'n vakatuur vir die amp van Wes-Kaapse Kommissaris vir Kinders ontstaan.
- 2.7 Klousule 7 — Hierdie klousule bepaal die beginsels wat van toepassing is op die Wes-Kaapse Kommissaris vir Kinders in die uitoefening of verrigting van sy of haar bevoegdhede en funksies.
- 2.8 Klousule 8 — Hierdie klousule handel oor die funksies en pligte van die Wes-Kaapse Kommissaris vir Kinders rakende monitering.
- 2.9 Klousule 9 — Hierdie klousule handel oor die funksies en pligte van die Wes-Kaapse Kommissaris vir Kinders rakende ondersoek.
- 2.10 Klousule 10 — Hierdie klousule handel oor die funksies en pligte van die Wes-Kaapse Kommissaris vir Kinders rakende navorsing.
- 2.11 Klousule 11 — Hierdie klousule handel oor die funksie en pligte van die Wes-Kaapse Kommissaris vir Kinders rakende onderwys.
- 2.12 Klousule 12 — Hierdie klousule handel oor die funksie en pligte van die Wes-Kaapse Kommissaris vir Kinders rakende steunwerwing.
- 2.13 Klousule 13 — Hierdie klousule handel oor die funksie en pligte van die Wes-Kaapse Kommissaris vir Kinders rakende advisering.
- 2.14 Klousule 14 — Hierdie klousule bepaal die aansoekprosedure aan die Wes-Kaapse Kommissaris vir Kinders om enige aangeleentheid te monitor, ondersoek of na te vors.
- 2.15 Klousule 15 — Hierdie klousule maak voorsiening vir die bykomende bevoegdhede en funksies van die Wes-Kaapse Kommissaris vir Kinders, soos die bevoegdheid om persone te dagvaar om voor hom of haar te verskyn om getuienis te lewer.

- 2.16** Klousule 16 — Hierdie klousule maak voorsiening vir verslagdoening aan die Provinsiale Parlement deur die Wes-Kaapse Kommissaris vir Kinders en ander pligte.
- 2.17** Klousule 17 — Hierdie klousule bepaal dat die Wes-Kaapse Kommissaris vir Kinders, of enige persoon deur hom of haar aangestel is, nie aanspreeklik sal wees ten opsigte van enigiets wat te goeder trou kragtens enige bepalings van hierdie Wet of die Provinsiale Grondwet gedoen word nie.
- 2.18** Klousule 18 — Hierdie klousule maak voorsiening vir die verpligtinge van die Wes-Kaapse Kommissaris vir Kinders en staatsorgane in die uitvoer van hulle bevoegdheids- en funksies .
- 2.19** Klousule 19 — Hierdie klousule handel oor die toegang tot inligting van publieke en private instellings deur die Wes-Kaapse Kommissaris vir Kinders.
- 2.20** Klousule 20 — Hierdie klousule reguleer die administratiewe funksies van die Wes-Kaapse Kommissaris vir Kinders.
- 2.21** Klousule 21 — Hierdie klousule handel oor die befondsing van die Wes-Kaapse Kommissaris vir Kinders.
- 2.22** Klousule 22 — Hierdie klousule bepaal dat die Kommissaris die rekenpligtige beampte is ingevolge die Wet op Openbare Finansiële Bestuur, 1999.
- 2.23** Klousule 23 — Hierdie klousule handel oor die besoldiging en ander bepalings en diensvoorwaardes van die Wes-Kaapse Kommissaris vir Kinders.
- 2.24** Klousule 24 — Hierdie klousule maak voorsiening vir die Wes-Kaapse Kommissaris vir Kinders om skenkings te ontvang, behoudens Tesourie-regulasies en ander toepaslike finansiële voorskrifte.
- 2.25** Klousule 25 — Hierdie klousule maak voorsiening vir die Premier om regulasies uit te vaardig betreffende enige aangeleentheid wat hy of sy nodig ag ten einde die doelwitte van hierdie Wet te bereik.
- 2.26** Klousule 26 — Hierdie klousule bepaal die misdrywe en strawwe met betrekking tot die Wet en die Wes-Kaapse Kommissaris vir Kinders.
- 2.27** Klousule 27 — Hierdie klousule maak voorsiening vir die kort titel en inwerkingtreding van die Wet. Die Wet heet die Wes-Kaapse Kommissaris vir Kinders Wet en tree in werking op 'n datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal.

UMTHETHO OSAYILWAYO

Ulungiselelwa ukutyunjwa koMkomishinala waBantwana kweli phondo leNtshona Koloni; iimfanelo zokuba kweso sikhundla; amagunya nemisebenzi yakhe; imimiselo engezimali nokuba nobutyala; kunye nemicimbi enxulumene noko.

NJENGOKO icandelo 78 loMgaqo-siseko weNtshona Koloni, 1997, limisela ukusekwa kweofisi yoMkomishinala waBantwana;

NANJENGOKO iqondwa imfuneko yokukhusela nokwazisa ngamalungelo neemfuno eziphambili zabantwana;

KUNGOKO iPalamente yePhondo leNtshona Koloni iwisa umthetho ngokwale ndlela ilandelayo:—

ISAHLUKO 1

IINKCAZELO

IiNkcazelo

1. Kulo Mthetho , ngaphandle kokuba oko kubhaliweyo kuchaza nto yimbi—
 - “**umntwana**” ngumntu omyaka yobudala ingaphantsi kweli-18;
 - “**UMkomishinala**” nguMkomishinala waBantwana omiselwe phantsi kwecandelo 78 loMgaqo-siseko weNtshona Koloni, 1997;
 - “**iqumrhu lombuso**” liqumrhu lombuso njengoko lichazwe kwicandelo 239 loMgaqo-siseko;
 - “**iNkulumbuso**” yiNkulumbuso yePhondo leNtshona Koloni;
 - “**iPhondo**” liPhondo leNtshona Koloni;
 - “**UMgaqo-siseko wePhondo**” nguMgaqo-siseko weNtshona Koloni 1997 (UMthetho 1 ka 1998);
 - “**iPalamente yePhondo**” yiPalamente yePhondo;
 - “**uMgaqo-siseko**” nguMgaqo-siseko weRiphabhliki yoMzantsi Afrika, 1996;
 - “**lo Mthetho**” ubandakanya nayiphi na imigaqo ekhutshwe ngokwalo mthetho.

ISAHLUKO 2

UKUMISELWA, UKUTHINTELWA; UKUSUSWA ESIKHUNDLENI, UKUNQUNYANYISWA, UMVUZO NEMIMISELO ELAWULA UMKOMISHINALA WABANTWANA

Ukumiselwa

2. (1) INkulumbuso kufuneka imisele uMkomishinala isithuba seminyaka emithathu, nesinokuvuselelwa kanye.

(2) Ikomiti emalungu amele wonke amaqela akwiPalamente yePhondo afunayo ukuthabatha inxaxheba kufuneka, ngezaziso ezifakwe kumajelo eendaba ngazo zontathu iilwimi zaseburhulumente zeli phondo, imemelele uluntu ukuba lize namagama abantu abanokufaneleka kwisikhundla sobuKomishinala.

(3) Ikomiti ekubhekiswe kuyo kwicandelo (2), kufuneka ipapashe amagama abo bonke abaphakanyiswe kumajelo eendaba, oko kwenziwe ngazo zontathu iilwimi

zaseburhulumenteni beli Phondo kananjalo imemelele abo baphikisa nawaphi na amagama akuluhlu lweziphakamiso.

(4) Ikomiti kufuneka iziqwalasele zonke iziphakamiso neziphikiso ezifumanekileyo kwaye inako ukubizela kudliwano-ndlebe nabani na ogama lakhe liphakanyisiweyo.

(5) Ikomiti kufuneka iqulunqe uluhlu lwabantu abathathu, bantu abo ngokubona kwekomiti, ekunokutyunjwa kubo uMkomishinala ngokufaneleka kwabo nokusilungela kwabo eso sikhundla.

(6) IPalamente yePhondo kufuneka ithi yakuwamkela amagama avela kolo luhlu iwadlulisele kwiNkulumbuso, oko ikwenza ngokwesigqibo esityatyathwe sisininzi seevoti.

(7) INkulumbuso kufuneka kwiintsuku ezili-14 ilufumene olo luhlu luvela kwiPalamente yePhondo, ityumbe njengoMkomishinala umntu ogama livelayo kolo luhlu luphakanyisiweyo.

Imfanelo zokutyunjwa

3. (1) UMkomishinala kufuneka ibe ngummi weloMzantsi Afrika—

(a) ongumntu ofanelekileyo nosilungeleyo isikhundla eso; kananjalo

(b) abe ngumntu obonakalise ukuba nolwazi olulodwa, okanye onamava obungcali okanye omgangatho wemfundo uvakalayo ngokubhekiselele kwimiba emalunga nabantwana.

(2) Ngaphezu kweemfuno ezikwicandelwana (1), uMkomishinala lowo akufanelanga, emva kokuqalisa umsebenzi wakhe wokuba ngumKomishinala—

(a) abe lilungu lePalamente yeSizwe okanye yePhondo, okanye abe lilungu lebhunga likamasipala, okanye lequmrhu lesizwe okanye lephondo, okanye abe uphantsi kwenkonzo yalo naliphi na iqumrhu lombuso, okanye

(b) abe unesikhundla esimngenisela inzuzo, okanye abandakanyeke kuwo nawuphi na umsebenzi avuzwayo ngawo ngaphandle komsebenzi wakhe wokuba nguMkomishinala.

Isifungo sokuvuma

4. Ngaphambi kokuqalisa ukusebenza, uMkomishinala kuya kufuneka ukuba afunge okanye avume ngokunyanisekileyo ukuba uya kuwasebenzisa ngokuzimeleyo nangokungenamkhethe amagunya nemisebenzi yokuba nguMkomishinala, ekwenza oko ngaphandle koloyiko, ngokungakhethiyo nangobulungisa.

Ukususwa nokunqunyanyiswa

5. (1) INkulumbuso inokumsusa uMkomishinala esikhundleni kuphela xa—

(a) athe akaziphatha kakuhle, xa engenako ukuqhubeka ngomsebenzi wakhe okanye xa engawazi umsebenzi wakhe;

(b) loo nto ingumbono wekomiti enawo wonke amaqela asepalamente anqwenela ukuthabatha inxaxheba; kananjalo

(c) loo nto yamkelwe yiPalamente yePhondo, ikwenza oko ngesigqibo esithi makasuswe esihlalweni, sigqibo eso siphelkwa ziivowuti ezilingana nezithathu ezimbini zamalungu ePalamente yePhondo.

(2) INkulumbuso—

(a) inako ukumnqumamisa uMkomishinala kwisikhundla sakhe nanini na emva kokuqala kokuqhutywa kwemicimbi yekomiti yePalamente yePhondo efanele ukwenza isigqibo ngokususwa kwaloo mntu esikhundleni; kwaye

(b) kufuneka imsuse uMkomishinala esikhundleni emva kokwamkelwa kweso sigqibo yiPalamente yePhondo, sigqibo eso sithi uMkomishinala makasuswe esikhundleni.

Ukungabikho mntu kwisikhundla sobuKomishinala

6. (1) INkulumbuso inako ukumvumela uMkomishinala ukuba asishiye isikhundla sakhe ngaphambi kokuphela kwethuba leminyaka emithathu lokutyunjwa kwakhe—

(a) ngenxa yokugula okungapheliyo okuthintela uMkomishinala ekuwuqhubeni kakuhle umsebenzi wakhe; okanye

(b) ngenxa yesicelo esivela kuMkomishinala, phofu xa eso sicelo sibhaliwe kwaye sibhekiswe kwiNkulumbuso kwiinyanga zekhalenda ezintathu

ngaphambi komhla uMkomishinala lowo afuna ukusishiya ngawo isikhundla, ngaphandle xa iNkulumbuso itha yavumela ithuba elifutshane kunoko kwimo ethile.

- (2) Isithuba kwiofisi yoMkomishinala sibakhona xa uMkomishinala athe—
- (a) wabhubha;
 - (b) wayeka emsebenzini ngokwecandelwana (1)(b), okanye
 - (c) xa athe wasuswa esikhundleni okanye wanqunyanyiswa ngokwecandelo 5.

Imimiselo elawula uMkomishinala waBantwana

7. Xa efezekisa okanye eqhuba umsebenzi wakhe okanye esebenzisa amagunya nemisebenzi yakhe, uMkomishinala kufuneka—

- (a) anike ingqwalasela imimiselo emiselwe ngumbutho weZizwe eziManyeneyo UMnqophiso omalunga naMalungelo aBantwana, 1989, umMiselo wamalungelo oMntwana, 1990, kunye nazo naziphi na ezinye imithetho yezizwe ngezizwe, iminqophiso okanye izivumelwano ezichaphazela abantwana eziye zavunywa nguMongameli weRiphabliki yoMzantsi Afrika.
- (b) azame ukukhuthaza amalungelo, iimfuno neminqweno yabantwana kulo lonke uluntu lweeli Phondo.
- (c) aqinisekise ukuba iminqweno yabantwana kweli Phondo inikwa ingqwalasela epheleleyo luluntu nabasemagunyeni babucala, ngabantu nemibutho; kananjalo
- (d) akhuthaze ukwaziwa kwemithetho echaphazela abantwana kweli phondo ngokuthi abonelele ngengcaciso eyaneleyo emalunga neminqweno yabantwana namalungelo kwicandelo laseburhulumenteni nelabucala.

ISIAHLUKO 3

IMISEBENZI

Ukubeka iliso

8. UMkomishinala kufuneka—

- (a) afune ukuba iiNtloko zamaSebe ePhondo ezijongene nokhuseleko loluntu, iinkonzo zentlalo, ezempilo, ezemfundo kunye nezemidlalo zihlale ziqhagamshelana noMkomishinala ukuze kubekwe iliso —
 - (i) kukhuseleko lwabantwana beli Phondo;
 - (ii) kwii projekthi zephondo ezijolise ekuphakamiseni ulwazi lolu luntu ngokubhekiselele kumalungelo abantwana achazwe kwicandelo 28 (1) loMgaqo-siseko;
 - (iii) Ukusungulwa koMnqophiso omalunga naMalungelo aBantwana, 1989, umMiselo waMalungelo oMntwana, 1990, kunye nazo naziphi na ezinye imithetho yezizwe ngezizwe, iminqophiso okanye izivumelwano ezichaphazela abantwana eziye zavunywa nguMongameli weRiphabliki yoMzantsi Afrika.
 - (iv) amalungelo, iimfuno neminqweno yabantwana abahlala kwimizi yokukhathalela abantwana, kumakhaya agcina abantwana nakumaziko okukhathalela ulutsha.
 - (v) iiprojekthi zephondo ezimiselwe ngenjongo yokunceda abantwana abaphantsi kwentlobo ngeentlobo zeemeko;
 - (vi) izibhedlele zikarhulumente namaziko okukhathalela ezempilo ngokubhekiselele kwimpatho yabantwana,
 - (vii) izikolo zikarhulumente nezabucala;
- (b) ukuhlala kuqhagamshelwana noMkomishinala weeNkonzo zoLuleko kwiPhondo ukuze kubekwe iliso ekufumanekeni kweenkonzo zempilo, ezentlalo nentlalo-ntle kunye nezemfundo kunye namaziko olonwabo abantwana abasentolongweni kunye nabanye abantwana abaselugcinweni lwabasemthethweni.
- (c) ukuhlala kukho uqhagamshelwano noMkomishinala weeNkonzo zaMapolisa kweli Phondo ukuze kubekwe iliso:
 - (i) inani elixeliweyo leentlobo zolwaphulomthetho olwenziwe ngokubhekiselele kubantwana; kunye

- (ii) nenani elixeliweyo leentlobo zolwaphulomthetho olwenziwe ngabantwana ukuphakamisa umgangatho wentsebenziswano phakathi kweeNkonzo zamaPolisa oMzantsi Afrika namasebe ePhondo ajongene okanye abonelela ngeenkono kubantwana abathi bangqzulane nomthetho;
- (d) Ukuqhagamshelana neSebe lezoBulungisa kweli Phondo ukuze kuphakanyiswe umgangatho wentsebenziswano phakathi kweSebe lezoBulungisa namasebe ephondo ajongene nabonelela ngeenkono —
 - (i) amaxhoba angabantwana olwaphulo-mthetho iofisi yeGqwetha leJaji leeNtsapho;
 - (iii) IiNkundla zeeNtsapho;
 - (iv) OoKomishinala beeNkundla zaBantwana; abatshutshisi abajongene nabantwana; kunye
 - (vi) neenkundla zamatyala ezijongene nayo yonke imicimbi ebandakanya abantwana abangqzulana nemithetho;
- (e) ukuhlala kukho uqhagamshelwano namaqumrhu abucala, amaziko neearhente ezisebenza ngabantwana kweli Phondo ukuze kubekwe iliso kwizenzo kananjalo kukhuthazwe intsebenziswano phakathi kwamaqumrhu ombuso kunye necandelo labucala ngokubhekiselele kwimiba enxulumene nokukhuselwa kwamalungelo neminqweno yabantwana.

Uphando

9. (1) UMKomishinala unakho ukusungula okanye ukuqhuba uphando ngokubhekiselele kuwo nawuphi na umcimbi ophantsi kwamagunya akhe.

(2) UMKomishinala kufuneka aqhube uphicotho lwayo yonke imithetho ekhoyo okanye ecetywayo echaphazela okanye enokuchaphazela amalungelo neminqweno yabantwana kweli Phondo ekuqaliseni kwalo Mthetho kwaye kufuneka olo phicotho aludlulisele kwiNkulumbuso.

Uphengululo

10. (1) UMKomishinala unakho ukuqhuba okanye ukusungula uphengululo—

- (a) ngokubhekiselele kuwo nawuphi na umcimbi osemagunyeni akhe; kwaye
- (b) naleyo ijongene nokulungiselela ukuqulunqwa kwemigaqo-nkqubo okanye iinkqubo ezingumnqweno olungele umntwana.

(2) UMKomishinala unako ukwenza amalungiselelo entsebenziswano kananjalo enze amalungiselelo okuba uluntu lube negalelo ndawonye namaziko emfundo ephakamileyo ngokubhekiselele ekuchongweni nasekusunguleni iinkqubo zophengululo.

Ezemfundo

11. UMKomishinala unako ukuqhuba nokuqulunqa iinkqubo zengcaciso ukuze kufundiswe uluntu kananjalo kunyanzeliswe ukuqondwa nokwaziwa kwezi zinto zilandelayo luluntu:

- (a) lo Mthetho,
- (b) UMNqophiso weZizwe ngokuBhekiselele kuMalungelo oMntwana, 1989,
- (c) UMNqophiso weAfrika ngokuBhekiselele kuMalungelo oMntwana, 1990,
- (d) icandelo 28(1) loMgaqo-siseko;
- (e) eminye iminqophiso yezizwe, kunye
- (f) nayo nayiphi na eminye imicimbi esemagunyeni akhe.

Uphembelelo

12. UMKomishinala unako—

- (a) ukuphembelela amalungu okanye amaqela amalungu ePalamente yePhondo okanye yeSizwe kwaye unako ukuveza umbono wakhe—
 - (i) malunga nawo nawuphi na umgaqo-nkqubo okhoyo okanye ocetywayo ochaphazela okanye onokuchaphazela amalungelo abantwana;
 - (ii) naziphi na iinkqubo zemithetho weentsapho;
 - (iii) naziphi na iinkqubo zemithetho yomthonyama okanye izenzo; okanye

- (iv) nayo nayiphi na eminye imithetho ekhoyo okanye ecetywayo echaphazela okanye esenokuchaphazela amalungelo abantwana;
- (b) ukumemelela intsebenziswano kunye nokuvezwa kwemibono luluntu necandelo labucala xa esenza isigqibo sokuphemelela umoya wokuba kuhlaziywe umthetho.

Ukucebisa

13. UMkomishinala unako ukucebisa kanaanjalo aveze imibono yakhe nakubani na okanye kwiqumrhu lombuso kweli phondo elimigaqo-nkqubo nezenzo ezinxulumene nabantwana eziye zabekwa iliso, zaphandwa okanye zaphengululwa nguMkomishinala.

Ukusetyenziswa kwemicimbi efanele ukubekwa iliso, iphandwe okanye iphengululwe

14. (1) Nabani na unako ukucela uMkomishinala ukuba asingathe nawuphi na umcimbi ofuna ukubekwa iliso, ukuphandwa nokuphengululwa ngokubhekiselele kumagunya amiselwe ngokwalo Mthetho.

(2) UMkomishinala unako ngokuzithandela kwakhe ukusungula asingathe nawuphi na umcimbi ofuna ukubekwa iliso, ukuphandwa nokuphengululwa ngokubhekiselele kumagunya amiselwe ngokwalo Mthetho.

(3) Zonke izicelo ezimalunga nokusingatha umcimbi nguMkomishinala ngenjongo yokubeka ilizo, ukuphanda nokuphengulula, kangangoko, kufuneka zibe zezibhaliweyo kambe zibe ngendlela emiselwe nguMkomishinala.

(4) Isicelo esibhekiswa kuMkomishinala kufuneka siqulathe le ngcaciso ilandelayo:

- (a) amagama needilesi zabo bantu benza isicelo eso okanye abo bafuna ukusungula umcimbi lowo;
- (b) izizathu zokuba uMkomishinala kufuneka ukuba awubeke iliso, awuphande okanye awuphengulule loo mcimbi;
- (c) isishwankathelo sobungqina obuxhasa umbono wokuba loo mcimbi kufuneka ubekwe iliso, uphandwe okanye uphengululwe;
- (d) amagama needilesi abantu okanye zamaqumrhu ombuso ekuthiwa bayabandakanyeka, kangangoko inokufumaneka ngako loo ngcaciso;
- (e) inkcazo yalo naluphi na uxwebhu okanye into efuna ukuqwalaselwa; kunye
- (f) nekopi yoxwebhu ekubhekiswe kulo ku-(e).

(5) Isicelo sokuba umcimbi othile ubekwe iliso, uphandwe okanye uphengululwe kufuneka ibe sisicelo esifungelweyo okanye esingqinwe ngenene nangenyaniso phambi koMkomishinala weziFungo.

(6) Isigqibo sokubeka iliso, sokuphanda nokuphengulula umcimbi othile sisigqibo esinokwenziwa ngokubona koMkomishinala kuphela.

(7) Xa kunokuthi ngelo xesha lokubeka iliso, lokuphanda okanye lokuphengulula loo mcimbi, uMkomishinala unoluvo lokuba ngumnqweno womntwana ukuba kutyunjwe umgadi, uMkomishinala eso sicelo asingasifaka ngokweMigaqo yeNkundla.

Amanye amagunya nemisebenzi

15. Ukwenzela ukuba uMkomishinala abe nakho ukusebenzisa nokufezekisa amagunya nemisebenzi ayinikwe ngulo Mthetho, uMkomishinala —

- (a) ngokokugunyaziswa ngumantyi onamagunya kuloo mmandla ekufanele ukuqhutyelwa kuwo uphengululo anganako ukupheleka abeeNkonzo zamaPolisa oMzantsi Afrika xa efezekisa amagunya awo okuphanda nokuthimba ngokubhekiselele kuwo nawuphi na umcimbi onxulumene neminqweno nokukhuselwa kwabantwana;
- (b) thumelela nabani na umsila wengwe okanye ukumnika isaziso sokuba eze ngaphambili kwakhe aze kunika ubungqina, okanye eze nencwadi, ingxelo, uxwebhu okanye into anayo okanye ebiphantsi kolawulo lwakhe ngexesha nakwindawo echazwe kuxwebhu oluqulethe umsila wengwe okanye isaziso; Phofu xa—
 - (i) loo msila wengwe okanye eso saziso sithe sasayinwa sakhutshwa nguMkomishinala sanikelwa nguMkomishinala okanye nabani na ongomnye onikwe igunya lokwenza njalo nguMkomishinala, kusenzelwa ingqina kwiNkundla ePhakamileyo;

- (ii) nabani na ovela phambi koMkomishinala unako ukuncediswa ngummeli kwezomthetho ngeendleko zakhe;
- (c) ukufungisa okanye ukungqinisa nabani na omi phambi koMkomishinala njengengqina;
- (d) atyumbe abo bantu xa kukho imfuneko ukuze kuqhutywe umsebenzi weofisi yoMkomishinala, phantsi kwemiqathango neemeko zenkonzo njengoko zimiselwe ngokubonisana neNkulumbuso kunye noMphathiswa wePhondo ojongene nezimali.

Imisebenzi

16. UMkomishinala—

- (a) kufuneka qho ngonyaka enze ingxelo kwipalamente yePhondo ngokubhekiselele kumanyathelo athatyathwe ngurhulumente weNtshona Koloni ukukhusela nokukhuthaza iminqweno yabantwana beli Phondo.
- (b) kufuneka afake naziphi na iziphakamiso ezenziwe kuye nabani na okanye kwiqumrhu lombuso ngaxeshanye nokufakwa kwazo kwiPalamente yePhondo;
- (c) unako ukufaka ingxelo eyodwa kwiPalamente yePhondo nanini na, ngokubhekiselele kuwo nawuphi na umba onxulumene nalo Mthetho, mba lowo ngokoluvo loMkomishinala ungafanelanga kumiselwa ingxelo yonyaka ozayo, kwaye
- (d) kufuneka zonke iingxelo neziphakamiso enze ukuba zibe nokufikelelwa luluntu.

Ubutyala

17. UMkomishinala okanye naye nabani na otyunjwe nguye akayi kuba nabutyala ngokubhekiselele kwinto ayenze engenanjongo zigwenxa phantsi kwalo Mthetho noMgaqo-siseko wePhondo.

ISAHLUKO 4

IZINYANZELISO ZAMAQUMRHU OMBUSO KUNYE NOKUFIKELELA KULWAZI NAKUMAZIKO

Izinyanzeliso

18. (1) Onke amaqumrhu ombuso kufunekaancedise akhusele uMkomishinala kanaanjalo aqinisekise ukuzimela, ukungabi namkhethe, ukuba nesidima nokusebenza kakuhle kweofisi yoMkomishinala.

(2) Akukho mntu okanye iqumrhu lombuso elinelungelo lokuphazamisana nomsebenzi woMkomishinala okanye nabasebenzi bakhe, okanye athintele ukusebenza koMkomishinala okanye abasebenzi bakhe.

(3) Xa uMkomishinala esenza iziphakamiso kuye nabani na okanye kwiqumrhu lombuso, loo mntu okanye elo qumrhu kufuneka lenze ingxelo ebhaliweyo liyithumele kuMkomishinala malunga nezenzo zalo ngokubhekiselele ekusabeleni ezo ziphakamiso, oko kwenziwe kwithuba elifanelekileyo nelimiselwe nguMkomishinala.

(4) Nabani na okanye iqumrhu lombuso othe wala okanye wasilela ngokupheleleyo okanye ngokungaphelelanga ukusebenzisa iziphakamiso zoMkomishinala, kuya kufuneka ngesicelo, anike uMkomishinala izizathu ezibhaliweyo zoko kwala okanye oko kusilela, kwithuba elifanelekileyo nelimiselwe nguMkomishinala.

Ukufikelela kolwazi kumaziko

19. (1) Amaqumrhu ombuso abantwana kunye namaziko aseburhulumenteni kanti nawabucala kufuneka anike ingcaciso ngokubhekiselele kuwo nawuphi na umcimbi osemagunyeni omsebenzi woMkomishinala.

(2) Wonke amaziko aseburhulumenteni abantwana kufuneka amvumele uMkomishinala ukuba angene kumasango awo ngenjongo yokuhuba umsebenzi wakhe njengoko ukhankanywe kwiSahluko 3 salo Mthetho.

ISAHLUKO 5**UKULAWULWA KWE OFISI YOMKOMISHINALA****Imisebenzi yolawulo**

20. Imisebenzi yolawulo yeofisi yoMkomishinala ingaqhutywa ngamagosa aqeshwe nguRhulumente wePhondo: leNtshona Koloni

Inkxaso-mali

21. IPalamente yePhondo ingamisela inkxaso-mali kwiimali zePhondo ukuze uMkomishinala abe nokuwuqhuba umsebenzi wakhe ngokwemiqathango yalo Mthetho.

IGosa eleNza iNgxelo

22. UMkomishinala nguye olugosa elenza ingxelo ngokwemiqathango yoMthetho wokuPhathwa kweeMali zoLuntu, 1999, kunye nayo nayiphi na imiyalelo okanye imigaqo ekhutshwe ngokwemiqathango yalo Mthetho;

Umvuzo woMkomishinala

23. Umvuzo kunye neminye imiqathango yengqesho uMkomishinala aqeshwe phantsi kwayo kufuneka apha ekuhambeni kwexesha imiselwe yiNkulumbuso ibonisene noMphathiswa wePhondo osingethe imicimbi yezimali, kunikwe ingqwalasela ubukho bezinto eziluncedo kwiPhondo.

Iminikelo

24. I-Ofisi yoMkomishinala inako ukufumana iminikelo ngokwemigaqo yeCandelo loLawulo-mali kunye nemiyalelo kunye neminye imiyalelo yezimali.

ISAHLUKO 6**IMI QATHANGO NGOKUBANZI****Imigaqo**

25. INkulumbuso inako ukumisela imigaqo ngokunxulumene nawuphi na umcimbi ewubona njengoyimfuneko ukuze kuphunyezwe iinjongo zalo Mthetho.

Ulwaphulo-mthetho nezohlwayo

26. Umntu othe—

- (a) waphula okanye watyeshela imimiselo yalo mthetho;
- (b) waphazamisa uMkomishinala ekuqhubeni umsebenzi wakhe ekhankanywe kulo Mthetho,
- (c) wala okanye wasilela ekunikeni ingcaciso okanye ukucacisa ngokubhekiselele kwisicelo sokunikwa ingcaciso esibhekiswe kuMkomishinala, okanye othe wanika ingcaciso engeyonyani nelahlekisayo esazi ukuba ayiyonyaniso kwaye iyalahlekisa.
uya kufunyanwa enetyala lokwaphula umthetho kwaye uya kugwetywa ifayini engadlulanga kuma-R10 000.

ISihloko esifutshane nomhla wokusungulwa

27. Lo Mthetho kuthiwa nguMthetho weNtshona Koloni woMkomishinala waBantwana kwaye uya kuqalisa ukusebenza ngomhla oya kumiselwa yiNkulumbuso ngesibhengezo esifakwe *kwiGazethi yePhondo*.

**IMEMORANDAM YENGCACISO
UMTHETHO OSAYILWAYO WOMKOMISHINALA WABANTWANA
WENTSHONA KOLONI**

1. INTSHAYELELO

- 1.1 Lo mthetho usayilwayo wokumiselwa koMkomishinala waBantwana weNtshona Koloni eya kuba luxanduva lwakhe oluphambili ukukhusela nokuxhasa ezona mfuno zabantwana zizizo kweli Phondo.

2. UKUNIKA INKCAZELO NGEGATYA NGALINYE

- 2.1 Igatya 1 — Eli gatya lichaza ngokucaciswa/ukutolikwa nokunikwa kwenkcazo kwizigama ezithile ezisetyenziswe kulo Mthetho usayilwayo.
- 2.2 Igatya 2 — Eli gatya lichaza ngokuqeshwa koMkomishinala waBantwana weNtshona Koloni, isithuba seminyaka emithathu.
- 2.3 Igatya 3 — Eli gatya lidwelisa iimfanelo ezifunekayo zemfundo anazo ukuze abe angaqeshwa njengoMkomishinala waBantwana weNtshona Koloni.
- 2.4 Igatya 4 — Eli gatya lichaza ngokufunga okanye ukuqinisekisa into ekufuneka yenziwe nguMkhomishinala waBantwana weNtshona Koloni ngaphambi kokuba aqeshwe.
- 2.5 Igatya 5 — Eli gatya lichaza ngokushenxiswa nangokurhoxiswa koMkhomishinala waBantwana weNtshona Koloni.
- 2.6 Igatya 6 — Eli gatya lichaza ngeemeko apho isikhundla soMkhomishinala waBantwana weNtshona Koloni sithe asabi namntu.
- 2.7 Igatya 7 — Eli gatya limisela imithetho-siseko yolawulo yoMkhomishinala waBantwana weNtshona Koloni kwimisebenzi okanye xa esebenzisa amandla akhe naxa esenza imisebenzi yakhe.
- 2.8 Igatya 8 — Eli gatya lijongene nokubekwa kweliso kwimisebenzi nakuxanduva loMkhomishinala waBantwana weNtshona Koloni.
- 2.9 Igatya 9 — Eli gatya libhekiselela kwimisebenzi nakuxanduva loMkomishinala waBantwana weNtshona Koloni kwezophando.
- 2.10 Igatya 10 — Eli gatya lijongene nemisebenzi yophengululo yoMkhomishinala waBantwana weNtshona Koloni.
- 2.11 Igatya 11 — Eli gatya lijongene nemisebenzi kwanoxanduva loMkhomishinala waBantwana weNtshona Koloni kwezemfundo.
- 2.12 Igatya 12 — Eli gatya lijongene nokuphemelela imisebenzi noxanduva loMkhomishinala waBantwana weNtshona Koloni.
- 2.13 Igatya 13 — Eli gatya lijongene nemisebenzi kwanoxanduva loMkhomishinala waBantwana kwiingcebiso.
- 2.14 Igatya 14 — Eli gatya limisela inkqubo eya kulandelwa yokwenziwa kwezicelo kuMkhomishinala waBantwana weNtshona Koloni, ukubeka iliso, ukuphanda okanye ukuphengulula nawuphi na umcimbi.
- 2.15 Igatya 15 — Eli gatya lenza ulungiselelo lwamagunya ongezelelweyo nemisebenzi yoMkhomishinala waBantwana weNtshona Koloni, njengegunya lokubizela enkundleni nawuphi na umntu ukuba aye kuvela phambi kwayo okanye anike ubungqina.

- 2.16** Igatya 16 — Eli gatya lichaza ngengxelo eyenziwa nguMkhomishinala waBantwana weNtshona Koloni kwiPalamente yePhondo kunye neminye imisebenzi.
- 2.17** Igatya 17 — Eli gatya limisela uMkhomishinala waBantwana weNtshona Koloni, okanye nawuphi na umntu onyulwe nguye ukuba akayi kuthwala xanduva lwayo nayiphi na into ayenze engenazingongo zimbi phantsi kwawo nawuphi na ummiselo walo Mthetho okanye uMgaqo-siseko wePhondo.
- 2.18** Igatya 18 — Eli Igatya lichaza ngemimiselo yoMkhomishinala waBantwana weNtshona Koloni, amaqumrhu orhulumente xa esebenzisa amagunya awo naxa esenza imisebenzi yawo.
- 2.19** Igatya 19 — Eli gatya lijongene nokufikeleliswa kweenkcukacha kumaziko orhulumente nakumaziko azimeleyo abucala, oko kusenziwa nguMkhomishinala waBantwana weNtshona Koloni.
- 2.20** Igatya 20 — Eli gatya limisela imisebenzi yolawulo yoMkhomishinala weNtshona Koloni.
- 2.21** Igatya 21 — Eli gatya lijongene nokubonelela ngemali yoMkhomishinala waBantwana weNtshona Koloni.
- 2.22** Igatya 22 — Eli gatya limisela uMkhomishinala ukuba nguye ongugunyaziwe ophnendulayo ngokwemiqathango yomthetho iPublic Finance Management Act, 1999.
- 2.23** Igatya 23 — Eli gatya lijongene nemivuzo kunye neminye imimiselo nemiqathango yokuqeshwa koMkhomishinala waBantwana weNtshona Koloni.
- 2.24** Igatya 24 — Eli gatya lichaza ukuba nguMkhomishinala waBantwana owamkela iminikelo, ekwenza oko ngokuxhomekeke kwimimiselo yeCandelo loNondyebo kunye neminye imimiselo esetyenziswayo.
- 2.25** Igatya 25 — Eli gatya lichaza ngeNkulumbuso ukuba yiyo eyenza imimiselo ngokubhekiselele kuwo nawuphi na umcimbi ewubona ufanelekile khon' ukuze kuphunyezwe lo Mthetho.
- 2.26** Igatya 26 — Eli gatya lidwelisa amatyala kunye nemidliwo ephathelele kulo Mthetho nakuMkhomishinala waBantwana weNtshona Koloni.
- 2.27** Igatya 27 — Eli gatya lichaza ngesihloko esifutshane nokuqalisa ukusebenza koMthetho. Lo Mthetho ubizwa ngokuba nguMthetho woMkhomishinala waBantwana weNtshona Koloni. Kufuneka iqalise ukusebenza ngomhla oya kumiselwa yiNkulumbuso kwisibhengezo se*Gazethi yePhondo*.