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WESTERN CAPE BIOSPHERE RESERVES REGULATIONS

The Provincial Minister of Local Government, Environmental Affairs and Development Planning in the Province of the Western Cape has made the regulations set out in the Schedule in terms of section 10 of the Western Cape Biosphere Reserves Act, 2011 (Act 6 of 2011). 5

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Definitions

1. In these regulations, “the Act” means the Western Cape Biosphere Reserves Act, 2011 (Act 6 of 2011), and unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act retains that meaning. 25

Public participation in establishment of biosphere reserve

2. (1) Any person, group of persons or organ of state requesting preliminary approval for the establishment of a biosphere reserve as contemplated in section 3(1) of the Act (in this regulation referred to as “the applicant”) must— 30

- (a) publish a notice of the proposed establishment of a biosphere reserve in the *Provincial Gazette* and at least two newspapers distributed in the area in which the biosphere reserve is to be located; and
- (b) if the proposed biosphere reserve is to include any private land— 35
 - (i) send a copy of the notice by registered post to the last known postal address of each owner of land within the affected area; and
 - (ii) inform in an appropriate manner any other person whose rights to that land could be affected by the establishment of the biosphere reserve.

- (2) The notice contemplated in subregulation (1)(a) must— 40
 - (a) invite members of the public to submit to the applicant written representations on, or objections to, the establishment of the biosphere reserve within 60 days from the date of publication of the notice in the *Provincial Gazette*;
 - (b) contain sufficient information to enable members of the public to submit meaningful representations or objections; and 45
 - (c) include a clear description or map of the area that will be incorporated in the biosphere reserve.

(3) The applicant may allow any interested person to present oral evidence to the applicant, but such evidence must be allowed in instances where the proposed establishment of the biosphere reserve could affect the rights or interests of a local community. 50

(4) The applicant must give due consideration to all representations and objections received or presented before submitting the request for preliminary approval of the establishment of a biosphere reserve to the Minister.

Establishment of Biosphere Reserve Interim Committee

3. (1) A Biosphere Reserve Interim Committee must comprise at least the following:
- (a) One representative nominated by each district municipality within whose area of jurisdiction the proposed biosphere reserve or part thereof is located;
 - (b) one representative nominated by each local municipality within whose area of jurisdiction the proposed biosphere reserve or part thereof is located; 5
 - (c) one representative nominated by each metropolitan municipality within whose area of jurisdiction the proposed biosphere reserve or part thereof is located;
 - (d) one representative nominated by the Department; 10
 - (e) one representative nominated by the provincial department responsible for agriculture;
 - (f) one representative nominated by CapeNature;
 - (g) one representative nominated by Agri Wes-Cape;
 - (h) one representative nominated by all ratepayers' associations located within 15 the proposed biosphere reserve or part thereof, after a nomination process undertaken by the ratepayers' associations;
 - (i) one representative nominated by all community-based organisations located within the proposed biosphere reserve or part thereof, after a nomination process undertaken by the community-based organisations; and 20
 - (j) one representative nominated by all non-governmental organisations with an interest in the proposed biosphere reserve, after a nomination process undertaken by the non-governmental organisations.
- (2) The persons nominated in accordance with subregulation (1) must elect a chairperson. 25
- (3) The chairperson must provide the Minister with the particulars of the persons nominated, in order for the Minister to assess whether the Biosphere Reserve Interim Committee will be broadly representative as required by section 3(5) of the Act.
- (4) If the Minister is not satisfied that the proposed composition of the Biosphere Reserve Interim Committee adheres to the requirements of section 3(5) of the Act, the 30 Minister must refer the matter to the chairperson.
- (5) If necessary for the purpose of allowing the Biosphere Reserve Interim Committee to continue with the compilation of an application for UNESCO designation of the biosphere reserve, the Minister may approve the proposed composition of the Biosphere Reserve Interim Committee after due consideration of the nominations even if it does 35 not fully comply with the requirements set out in subregulation (1).
- (6) Any person, or person representing the group of persons or organ of state contemplated in section 3(1) of the Act, may elicit nominations from the entities listed in subregulation (1) for the membership of the Biosphere Reserve Interim Committee.

Establishment of Management Committee 40

4. (1) The Biosphere Reserve Interim Committee must—
- (a) within 30 days after the publication of the notice of the designation of the biosphere reserve contemplated in section 4(5) of the Act publish a notice in the *Provincial Gazette* and at least two newspapers distributed in the area of the biosphere reserve inviting the public to submit within 60 days from the 45 date of publication of the notice in the *Provincial Gazette* names of persons for appointment to the Management Committee of the biosphere reserve;
 - (b) within 30 days after the expiry of that sixty-day period provide the Minister with the names and particulars of the persons it intends to appoint to the Management Committee; and 50
 - (c) within 30 days of the Minister's endorsement of those appointments establish the Management Committee and appoint its members.
- (2) The Management Committee must comprise the following portfolios or areas of responsibility or any combination thereof:
- (a) Chairperson; 55
 - (b) vice chairperson;
 - (c) accounting officer;
 - (d) biodiversity and conservation;
 - (e) community affairs;
 - (f) labour; 60

- (g) commerce;
 - (h) education;
 - (i) economic development and planning;
 - (j) marketing and public relations; and
 - (k) tourism. 5
- (3) The Management Committee must appoint persons with suitable technical expertise to support and advise it.
- (4) The Management Committee must submit the names of the persons appointed in accordance with subregulation (3) to the Minister for endorsement, and these persons must comprise at least the following: 10
- (a) One representative nominated by the Department;
 - (b) one representative nominated by the provincial department responsible for agriculture;
 - (c) one representative nominated by CapeNature;
 - (d) one representative nominated by each district municipality within whose area of jurisdiction the biosphere reserve or part thereof is located; 15
 - (e) one representative nominated by each local municipality within whose area of jurisdiction the biosphere reserve or part thereof is located; and
 - (f) one representative nominated by each metropolitan municipality within whose area of jurisdiction the biosphere reserve or part thereof is located. 20
- (5) The Minister may on request of the Management Committee approve other portfolios or areas of responsibility to be provided for in the Management Committee.
- (6) The Minister may on request of the Management Committee approve other technical expertise to be provided in support of the Management Committee.
- (7) The management of a biosphere reserve contemplated in section 11(1) of the Act must— 25
- (a) nominate suitable persons to fill the portfolios or areas of responsibility contemplated in subregulation (2);
 - (b) nominate persons with suitable technical expertise as contemplated in subregulation (3); 30
 - (c) provide the Minister with the names and particulars of the persons it nominates to the Management Committee; and
 - (d) establish the Management Committee and appoint its members once the Minister has endorsed those nominations.
- (8) If necessary for the purpose of the continued management of a biosphere reserve, the Minister may approve the proposed composition of the Management Committee even if it does not fully comply with the requirements set out in subregulation (2). 35

Compilation of constitution

5. (1) The Management Committee must adopt as the legal form of the biosphere reserve— 40
- (a) a non-profit company in terms of the Companies Act, 2008 (Act 71 of 2008); or
 - (b) a nonprofit organisation in terms of the Nonprofit Organisations Act, 1997 (Act 71 of 1997).
- (2) The constitution as contemplated in section 5(4)(b) of the Act must be compiled in terms of the legal form adopted in accordance with subregulation (1). 45
- (3) The constitution of the biosphere reserve must provide for at least the following:
- (a) A code of conduct for members;
 - (b) accountability and responsibility;
 - (c) standing rules of order; 50
 - (d) the role and responsibilities of the Management Committee; and
 - (e) a mechanism for dispute resolution.

Participation of interested and affected parties in preparation of framework plan

6. (1) The Management Committee, in preparing a framework plan as contemplated in section 6(1) of the Act, must publish the products as contemplated in regulation 7(1) in the *Provincial Gazette* and at least two newspapers distributed in the area of the biosphere reserve. 55
- (2) The Management Committee must invite interested and affected parties to submit to the Management Committee written representations or objections on the products

within 60 days from the date of publication in the *Provincial Gazette*.

(3) The Management Committee must, where the proposed framework plan could affect the rights or interests of a local community, allow any interested or affected party to make oral representations to the Management Committee.

(4) The Management Committee must give due consideration to all representations and objections received or presented before preparing the final framework plan. 5

(5) The Minister must publish the approved framework plan in the *Provincial Gazette*.

Drafting of framework plan

7. (1) A framework plan must include at least the following products: 10

(a) A report on the current status of the geographical area concerned, including problems and issues;

(b) a project framework, including goals and objectives;

(c) a spatial-development report;

(d) a first draft plan and further draft plans, if needed; and 15

(e) a final draft plan.

(2) In order to ensure that interested and affected parties and the competent authorities participate fully in the process principle of planning, each product listed in subregulation (1) must include—

(a) a drafting phase; 20

(b) a stakeholder participation phase; and

(c) an endorsement phase.

(3) Any amendment made to a framework plan as contemplated in section 6(7) of the Act must be undertaken in terms of the process contemplated in subregulations (1) and (2). 25

Transitional provisions

8. (1) Should a biosphere reserve existing in the Province on the date of commencement of the Act not constitute a legal form as contemplated in regulation 5(1), the Management Committee as appointed in terms of section 11(1)(a) of the Act must comply with regulation 5(1) within 12 months of the date of commencement of these regulations. 30

(2) Subject to subregulations (3) and (4), the Minister may approve a spatial plan in existence before the commencement of the Act as a framework plan in terms of the Act.

(3) The Minister may approve a spatial plan in terms of subregulation (2) as a framework plan, if he or she is satisfied that— 35

(a) the spatial plan is consistent with the provisions of the Act;

(b) inputs submitted by organs of state, interested and affected parties and the public have been addressed adequately;

(c) the spatial plan does not compromise or impede municipal planning; and

(d) the spatial plan complies with any other requirements that the Minister 40 considers applicable.

(4) If the Minister is not so satisfied, he or she may—

(a) amend the spatial plan to meet the requirements of subregulation (3) before approving it as a framework plan;

(b) refer the spatial plan to the Management Committee concerned to address the requirements of subregulation (3) and to resubmit it to the Minister for reassessment; or 45

(c) withdraw the spatial plan.

(5) The Minister must within 10 days of taking a decision to approve a spatial plan as a framework plan, or a decision to amend or withdraw a spatial plan, in terms of this regulation publish a notice of the decision in the *Provincial Gazette*. 50

Financial assistance

9. (1) A Biosphere Reserve Interim Committee or Management Committee may make an application to the Minister for financial assistance for a project, as contemplated in section 8 of the Act, and must in its application— 55

(a) submit a business plan;

(b) submit a budget;

- (c) indicate to what extent the financial assistance will be used to attain the objectives of the Man and the Biosphere Programme;
- (d) indicate to what extent the financial assistance will support departmental strategic goals and objectives; and
- (e) indicate what measures will be put in place to ensure effective, efficient and transparent financial management and internal control. 5
- (2) If the Minister approves an application for financial assistance contemplated in subregulation (1), the Minister and the relevant Biosphere Reserve Interim Committee or Management Committee must conclude a written memorandum of agreement concerning the financial assistance. 10
- (3) A Biosphere Reserve Interim Committee or Management Committee in receipt of financial assistance contemplated in section 8(1) of the Act must—
- (a) for audit purposes retain all expenditure vouchers, on all of which the biosphere-reserve project numbers must be indicated and which include cashed cheques; and 15
- (b) forward to the Minister within five months of the end of the financial year of the biosphere reserve the audited financial statements for the biosphere reserve.
- (4) A Biosphere Reserve Interim Committee or Management Committee contemplated in subregulation (3) must— 20
- (a) submit a written report on the operational and project progress to the Minister every month as well as on the request of the Minister;
- (b) submit a final report on the project to the Minister within 40 days of the completion of a project; and
- (c) grant the Department access to project information and the financial records of the biosphere reserve at all reasonable times after the Department has given written notice to the Biosphere Reserve Interim Committee or Management Committee of its intention to inspect the financial records. 25
- (5) The written report contemplated in subregulation (4)(a) must contain relevant project information, including financial records, updated time frames and revised deliverables (where applicable), and information on the project's management and organisation, stakeholder participation and ownership. 30
- (6) Should a Biosphere Reserve Interim Committee or Management Committee contemplated in subregulation (3) not start with a project, the project will be deemed to be cancelled with effect from— 35
- (a) three months after the funds have been paid over for that project; or
- (b) the later date as agreed upon in writing between the Biosphere Reserve Interim Committee or Management Committee and the Minister,
- and all funds already provided as financial assistance under section 8(1) of the Act must be refunded, including interest thereon, calculated at the prevailing interest rate set by the South African Reserve Bank, to the Minister within 30 days from the date of cancellation of the project. 40
- (7) Funds provided by the Minister as financial assistance under section 8(1) of the Act for or during a financial year of the biosphere reserve must be used before the end of that financial year, or before such later date as agreed upon in writing between the Biosphere Reserve Interim Committee or Management Committee and the Minister. 45
- (8) Funds provided by the Minister as financial assistance under section 8(1) of the Act and not used, including interest thereon calculated at the prevailing interest rate set by the South African Reserve Bank, must be paid back to the Minister immediately on completion of the project. 50
- (9) Notwithstanding subregulations (7) and (8), the Minister may in writing allow the Biosphere Reserve Interim Committee or Management Committee to roll over surplus funds, including interest thereon, to the following financial year to be used for the purposes of operational expenditure or any other biosphere-reserve projects, subject to the conclusion of a new memorandum of agreement between the Biosphere Reserve Interim Committee or Management Committee and the Minister, which must include a business plan and budget approved by the Minister. 55
- (10) A Biosphere Reserve Interim Committee or Management Committee may obtain financial assistance from other sources in order to execute its mandate in terms of the Man and the Biosphere Programme. 60

Reporting

- 10.** (1) In the annual report contemplated in section 5(4)(c) of the Act, the Management Committee must provide at least the following:
- (a) The amount of funding received from provincial and national government sources, a description of the projects completed and the budget allocation per project; 5
 - (b) the amount of funding received from municipalities, a description of the projects completed and the budget allocation per project;
 - (c) the amount of funding received from non-governmental and donor organisations, a description of the projects completed and the budget allocation per project; 10
 - (d) the composition of the Management Committee;
 - (e) a schedule of meetings held and attendance of Management Committee members;
 - (f) the composition of the staff of the Management Committee; 15
 - (g) the number of jobs created through the implementation of projects;
 - (h) the area within the biosphere reserve put under formal conservation status;
 - (i) particulars of the implementation of the biosphere-reserve operational and corporate management plan and framework plan; and
 - (j) any other matter the Minister may request the Management Committee to report on. 20
- (2) Any subsequent changes in the composition of the Management Committee or in the persons with suitable technical expertise appointed in terms of regulation 4(3) must be reported to the Minister within 30 days of the changes taking place.

Appeal to Minister 25

- 11.** (1) A person wishing to appeal against a decision referred to in section 9(5) of the Act must lodge a notice of appeal with the Minister within 20 days of being notified of the decision, or if not notified, of becoming aware of the decision.
- (2) The notice of appeal must specify at least—
- (a) the name of the appellant; 30
 - (b) a description of the matter to which the appeal refers;
 - (c) details of the decision to which the appeal refers;
 - (d) the grounds of appeal; and
 - (e) a brief summary of the facts on which the appellant relies.
- (3) The Minister may confirm, set aside or vary the decision concerned. 35
- (4) The Minister must make a decision as contemplated in subregulation (3) within 30 days of the notice of appeal being lodged in terms of subregulation (1).

Withdrawal of biosphere-reserve status

- 12.** If, in terms of a review as contemplated in section 5(5) of the Act, it is found that a biosphere reserve no longer complies with the Man and the Biosphere criteria, the Minister— 40
- (a) may, after consultation with the Management Committee and interested and affected parties, recommend the withdrawal of the biosphere-reserve status of the biosphere reserve; and
 - (b) must forward the recommendation to the national Minister for submission to UNESCO. 45

Short title

- 13.** These regulations are called the Western Cape Biosphere Reserves Regulations, 2013.

WES-KAAPSE REGULASIES OP BIOSFEERRESERVATE

Die Provinsiale Minister van Plaaslike Regering, Omgewingsake en Ontwikkelings-
 beplanning in die Provinsie Wes-Kaap het ingevolge artikel 10 van die Wes-Kaapse Wet
 op Biosfeerreservate, 2011 (Wet 6 van 2011), die regulasies in die Bylae uiteengesit,
 gemaak. 5

BYLAE**INDELING VAN REGULASIES**

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Woordomskrywing

1. In hierdie regulasies beteken “die Wet” die Wes-Kaapse Wet op Biosfeerreservate, 2011 (Wet 6 van 2011), en tensy dit uit die samehang anders blyk, behou ’n woord of uitdrukking waaraan daar in die Wet ’n betekenis geheg is, daardie betekenis.

Openbare deelname aan instelling van biosfeerreservaat

2. (1) Enige persoon, groep persone of staatsorgaan wat voorlopige goedkeuring vir die instelling van ’n biosfeerreservaat versoek soos in artikel 3(1) van die Wet beoog (in hierdie regulasie “die aansoeker” genoem), moet—

- (a) ’n kennisgewing van die voorgestelde instelling van ’n biosfeerreservaat in die *Provinsiale Koerant* en in ten minste twee koerante wat in die gebied versprei word waarin die biosfeerreservaat geleë sal wees, publiseer; en
- (b) indien die voorgestelde biosfeerreservaat enige privaat grond sal insluit— 35
 - (i) ’n afskrif van die kennisgewing per geregistreerde pos aan die mees onlangs bekende posadres van elke eienaar van grond in die geaffekteerde gebied stuur; en
 - (ii) enige ander persoon wie se regte op daardie grond deur die instelling van die biosfeerreservaat geaffekteer sou kan word, op ’n gepaste manier in kennis stel. 40

(2) Die kennisgewing in subregulasie (1)(a) beoog, moet—

- (a) lede van die publiek nooi om skriftelike verhoë oor, of besware teen, die instelling van die biosfeerreservaat aan die aansoeker voor te lê binne 60 dae na die datum van publikasie van die kennisgewing in die *Provinsiale Koerant*; 45
- (b) voldoende inligting bevat om lede van die publiek in staat te stel om sinvolle verhoë of besware voor te lê; en
- (c) ’n duidelike beskrywing of kaart insluit van die gebied wat by die biosfeerreservaat ingesluit sal word.

(3) Die aansoeker kan enige belanghebbende persoon toelaat om mondelinge 50 getuienis aan die aansoeker te lewer, maar sodanige getuienis moet toegelaat word in gevalle waar die voorgestelde instelling van die biosfeerreservaat die regte of belange van ’n plaaslike gemeenskap sou kan affekteer.

(4) Die aansoeker moet aan alle verhoë en besware wat ontvang of gelewer word, behoorlike oorweging skenk voordat die versoek om voorlopige goedkeuring van die 55 instelling van ’n biosfeerreservaat aan die Minister voorgelê word.

Instelling van Tussentydse Biosfeerreservaatkomitee

3. (1) 'n Tussentydse Biosfeerreservaatkomitee moet uit ten minste die volgende bestaan:
- (a) Een verteenwoordiger wat benoem word deur elke distriksmunisipaliteit binne wie se regsgebied die voorgestelde biosfeerreservaat of 'n gedeelte daarvan geleë is; 5
 - (b) een verteenwoordiger wat benoem word deur elke plaaslike munisipaliteit binne wie se regsgebied die voorgestelde biosfeerreservaat of 'n gedeelte daarvan geleë is;
 - (c) een verteenwoordiger wat benoem word deur elke metropolitaanse munisipaliteit binne wie se regsgebied die voorgestelde biosfeerreservaat of 'n gedeelte daarvan geleë is;
 - (d) een verteenwoordiger wat deur die Departement benoem word;
 - (e) een verteenwoordiger wat deur die provinsiale departement verantwoordelik vir landbou benoem word; 15
 - (f) een verteenwoordiger wat deur CapeNature benoem word;
 - (g) een verteenwoordiger wat deur Agri Wes-Kaap benoem word;
 - (h) een verteenwoordiger wat benoem word deur alle belastingbetalersverenigings geleë binne die voorgestelde biosfeerreservaat of binne 'n gedeelte daarvan, na 'n benoemingsproses deur die belastingbetalersverenigings; 20
 - (i) een verteenwoordiger wat benoem word deur alle gemeenskapsgebaseerde organisasies geleë binne die voorgestelde biosfeerreservaat of binne 'n gedeelte daarvan, na 'n benoemingsproses deur die gemeenskapsgebaseerde organisasies; en 25
 - (j) een verteenwoordiger wat benoem word deur alle nieregeringsorganisasies met 'n belang by die voorgestelde biosfeerreservaat, na 'n benoemingsproses deur die nieregeringsorganisasies.
- (2) Die persone wat ooreenkomstig subregulasie (1) benoem is, moet 'n voorsitter kies. 30
- (3) Die voorsitter moet die Minister voorsien van die besonderhede van die persone wat benoem is, sodat die Minister kan bepaal of die Tussentydse Biosfeerreservaatkomitee breedweg verteenwoordigend is soos by artikel 3(5) van die Wet vereis word.
- (4) Indien die Minister nie oortuig is dat die voorgestelde samestelling van die Tussentydse Biosfeerreservaatkomitee aan die vereistes van artikel 3(5) van die Wet voldoen nie, moet die Minister die aangeleentheid na die voorsitter verwys. 35
- (5) Indien nodig ten einde die Tussentydse Biosfeerreservaatkomitee in staat te stel om voort te gaan met die opstel van 'n aansoek om UNESCO-aanwysing van die biosfeerreservaat, kan die Minister die voorgestelde samestelling van die Tussentydse Biosfeerreservaatkomitee na behoorlike oorweging van die benoemings goedkeur, selfs al voldoen dit nie ten volle aan die vereistes in subregulasie (1) uiteengesit nie. 40
- (6) Enige persoon, of persoon wat die groep persone of staatsorgaan in artikel 3(1) van die Wet beoog verteenwoordig, kan benoemings van die entiteite in subregulasie (1) gelys, vir lidmaatskap van die Tussentydse Biosfeerreservaatkomitee aanvra. 45

Instelling van Bestuurskomitee

4. (1) Die Tussentydse Biosfeerreservaatkomitee moet—
- (a) binne 30 dae na die publikasie van die kennisgewing van die aanwysing van die biosfeerreservaat in artikel 4(5) van die Wet beoog, 'n kennisgewing in die *Provinsiale Koerant* en ten minste twee koerante wat in die gebied van die biosfeerreservaat versprei word, publiseer waarin die publiek genooi word om binne 60 dae na die datum van publikasie van die kennisgewing in die *Provinsiale Koerant* name van persone vir aanstelling in die Bestuurskomitee van die biosfeerreservaat voor te lê; 50
 - (b) binne 30 dae na verstryking van daardie sestigdag-tydperk die Minister van die name en besonderhede van die persone voorsien wat hy beoog om in die Bestuurskomitee aan te stel; en 55
 - (c) binne 30 dae na die Minister se bekragtiging van daardie aanstellings, die Bestuurskomitee instel en die lede daarvan aanstel.
- (2) Die Bestuurskomitee moet uit die volgende portefeuljes of gebiede van 60

verantwoordelikheid of enige kombinasie daarvan bestaan:

- (a) Voorsitter;
 - (b) ondervoorsitter;
 - (c) rekenpligtige beampte;
 - (d) biodiversiteit en bewaring; 5
 - (e) gemeenskapsake;
 - (f) arbeid;
 - (g) handel;
 - (h) onderwys;
 - (i) ekonomiese ontwikkeling en beplanning; 10
 - (j) bemarking en skakelwerk; en
 - (k) toerisme.
- (3) Die Bestuurskomitee moet persone met geskikte tegniese kundigheid aanstel om hom te ondersteun en aan hom raad te gee.
- (4) Die Bestuurskomitee moet die name van die persone wat ooreenkomstig subregulasie (3) aangestel is, aan die Minister vir bekragting voorlê, en hierdie persone moet uit ten minste die volgende bestaan:
- (a) Een verteenwoordiger wat deur die Departement benoem word;
 - (b) een verteenwoordiger wat deur die provinsiale departement verantwoordelik vir landbou benoem word; 20
 - (c) een verteenwoordiger wat deur CapeNature benoem word;
 - (d) een verteenwoordiger wat benoem word deur elke distriksmunisipaliteit binne wie se regsgebied die voorgestelde biosfeerreservaat of 'n gedeelte daarvan geleë is;
 - (e) een verteenwoordiger wat benoem word deur elke plaaslike munisipaliteit binne wie se regsgebied die voorgestelde biosfeerreservaat of 'n gedeelte daarvan geleë is; en 25
 - (f) een verteenwoordiger wat deur elke metropolitaanse munisipaliteit benoem word binne wie se regsgebied die voorgestelde biosfeerreservaat of 'n gedeelte daarvan geleë is. 30
- (5) Die Minister kan op versoek van die Bestuurskomitee ander portefeuljes of gebiede van verantwoordelikheid waarvoor daar in die Bestuurskomitee voorsiening gemaak moet word, goedkeur.
- (6) Die Minister kan op versoek van die Bestuurskomitee ander tegniese kundigheid goedkeur waarvoor daar ter ondersteuning van die Bestuurskomitee voorsiening gemaak moet word. 35
- (7) Die bestuur van 'n biosfeerreservaat in artikel 11(1) van die Wet beoog, moet—
- (a) geskikte persone benoem om die portefeuljes of gebiede van verantwoordelikheid wat in subregulasie (2) beoog word, te vul;
 - (b) persone met geskikte tegniese kundigheid soos in subregulasie (3) beoog, 40 benoem;
 - (c) die Minister van die name en besonderhede van die persone wat die bestuur vir die Bestuurskomitee benoem, voorsien; en
 - (d) die Bestuurskomitee instel en die lede daarvan aanstel nadat die Minister daardie benoemings bekragtig het. 45
- (8) Indien nodig vir die voortgesette bestuur van 'n biosfeerreservaat, kan die Minister die voorgestelde samestelling van die Bestuurskomitee goedkeur, selfs al voldoen dit nie ten volle aan die vereistes in subregulasie (2) uiteengesit nie.

Opstel van grondwet

5. (1) Die Bestuurskomitee moet die volgende as die regsvorm van die biosfeerreservaat aanneem: 50
- (a) 'n Maatskappy sonder winsoogmerk ingevolge die Maatskappywet, 2008 (Wet 71 van 2008); of
 - (b) 'n organisasie sonder winsoogmerk ingevolge die Wet op Organisasies Sonder Winsoogmerk, 1997 (Wet 71 van 1997). 55
- (2) Die grondwet soos in artikel 5(4)(b) van die Wet beoog, moet ingevolge die regsvorm wat ooreenkomstig subregulasie (1) aangeneem is, opgestel word.
- (3) Die grondwet van die biosfeerreservaat moet vir ten minste die volgende voorsiening maak:
- (a) 'n Gedragskode vir lede; 60
 - (b) rekenpligtigheid en verantwoordelikheid;

- (c) staande ordereëls;
- (d) die rol en verantwoordelikhede van die Bestuurskomitee; en
- (e) 'n meganisme vir geskilbeslegting.

Deelname van belanghebbende en geaffekteerde partye aan opstel van raamwerkplan 5

6. (1) Die Bestuurskomitee moet by die opstel van 'n raamwerkplan soos in artikel 6(1) van die Wet beoog, die produkte soos in regulasie 7(1) beoog, in die *Provinsiale Koerant* en ten minste twee koerante wat in die gebied van die biosfeerreservaat versprei word, publiseer.

(2) Die Bestuurskomitee moet belanghebbende en geaffekteerde partye nooit om skriftelike versoë of besware oor die produkte binne 60 dae na die datum van publikasie in die *Provinsiale Koerant* aan die Bestuurskomitee voor te lê.

(3) Die Bestuurskomitee moet, waar die voorgestelde raamwerkplan die regte of belange van 'n plaaslike gemeenskap sou kan affekteer, enige belanghebbende of geaffekteerde party toelaat om mondelinge versoë tot die Bestuurskomitee te rig. 15

(4) Die Bestuurskomitee moet aan alle versoë en besware wat ontvang of gelewer is, behoorlike oorweging skenk, voordat hy die finale raamwerkplan opstel.

(5) Die Minister moet die goedgekeurde raamwerkplan in die *Provinsiale Koerant* publiseer.

Opstel van raamwerkplan 20

7. (1) 'n Raamwerkplan moet ten minste die volgende produkte insluit:

- (a) 'n Verslag oor die huidige status van die betrokke geografiese gebied, insluitende probleme en kwessies;
- (b) 'n projekraamwerk, insluitende mikpunte en oogmerke;
- (c) 'n ruimtelike-ontwikkelingsverslag; 25
- (d) 'n eerste konsepplan en verdere konsepplanne, indien nodig; en
- (e) 'n finale konsepplan.

(2) Ten einde te verseker dat belanghebbende en geaffekteerde partye en die bevoegde owerhede ten volle aan die prosesbeginsel van beplanning deelneem, moet elke produk wat in subregulasie (1) genoem word, die volgende insluit: 30

- (a) 'n Opstelfase;
- (b) 'n belanghebbendedeelname-fase; en
- (c) 'n bekragtigingsfase.

(3) Enige wysiging aan 'n raamwerkplan soos in artikel 6(7) van die Wet beoog, moet ooreenkomstig die proses in subregulasies (1) en (2) beoog, gedoen word. 35

Oorgangsbepalings

8. (1) Indien 'n biosfeerreservaat wat op die datum van inwerkingtreding van die Wet in die Provinsie bestaan, nie 'n regsform soos in regulasie 5(1) beoog uitmaak nie, moet die Bestuurskomitee soos ingevolge artikel 11(1)(a) van die Wet aangestel, binne 12 maande na die datum van inwerkingtreding van hierdie regulasies aan regulasie 5(1) voldoen. 40

(2) Behoudens subregulasies (3) en (4) kan die Minister 'n ruimtelike plan wat voor die inwerkingtreding van die Wet bestaan het as 'n raamwerkplan ingevolge die Wet goedkeur.

(3) Die Minister kan 'n ruimtelike plan ingevolge subregulasie (2) as 'n raamwerkplan goedkeur, indien hy of sy oortuig is dat— 45

- (a) die ruimtelike plan in ooreenstemming met die bepalinge van die Wet is;
- (b) insette wat deur staatsorgane, belanghebbende en geaffekteerde partye en die publiek voorgelê is, toereikende aandag gekry het;
- (c) die ruimtelike plan nie munisipale beplanning in die gedrang bring of belemmer nie; en 50
- (d) die ruimtelike plan voldoen aan enige ander vereistes wat die Minister as toepaslik beskou.

(4) Indien die Minister nie aldus oortuig is nie, kan hy of sy—

- (a) die ruimtelike plan wysig om aan die vereistes van subregulasie (3) te voldoen, voordat hy of sy dit as 'n raamwerkplan goedkeur; 55
- (b) die ruimtelike plan na die betrokke Bestuurskomitee verwys om aan die

vereistes van subregulasie (3) aandag te gee en om dit weer aan die Minister vir herassessering voor te lê; of

(c) die ruimtelike plan intrek.

(5) Die Minister moet binne 10 dae na 'n besluit geneem is om 'n ruimtelike plan as 'n raamwerkplan goed te keur, of 'n besluit om 'n ruimtelike plan te wysig of in te trek, 'n kennisgewing van die besluit ingevolge hierdie regulasie in die *Provinsiale Koerant* publiseer. 5

Finansiële bystand

9. (1) 'n Tussentydse Biosfeerreservaatkomitee of Bestuurskomitee kan by die Minister aansoek doen om finansiële bystand vir 'n projek, soos in artikel 8 van die Wet beoog, en moet in sy aansoek— 10

(a) 'n sakeplan voorlê;

(b) 'n begroting voorlê;

(c) aandui in watter mate die finansiële bystand gebruik sal word om die oogmerke van die Mens en die Biosfeer-program te bereik; 15

(d) aandui in watter mate die finansiële bystand departementele strategiese miktipes en oogmerke sal steun; en

(e) aandui watter maatreëls getref sal word om doeltreffende, doelmatige en deursigtige finansiële bestuur en interne beheer te verseker.

(2) Indien die Minister 'n aansoek om finansiële bystand in subregulasie (1) beoog goedkeur, moet die Minister en die betrokke Tussentydse Biosfeerreservaatkomitee of Bestuurskomitee 'n skriftelike memorandum van ooreenkoms aangaan rakende die finansiële bystand. 20

(3) 'n Tussentydse Biosfeerreservaatkomitee of Bestuurskomitee wat finansiële bystand in artikel 8 van die Wet beoog ontvang het, moet— 25

(a) vir ouditdoeleindes alle bewyse van uitgawes behou, op elkeen waarvan die biosfeerreservaat-projeknommers aangedui moet word en wat gewisselde tjeks insluit; en

(b) binne vyf maande na die einde van die finansiële jaar van die biosfeerreservaat die geouditeerde finansiële state vir die biosfeerreservaat aan die Minister stuur. 30

(4) 'n Tussentydse Biosfeerreservaatkomitee of Bestuurskomitee in subregulasie (3) beoog, moet—

(a) elke maand asook op versoek van die Minister 'n skriftelike verslag oor die bedryfs- en projekvordering aan die Minister voorlê; 35

(b) binne 40 dae na die voltooiing van 'n projek 'n finale verslag oor die projek aan die Minister voorlê; en

(c) toegang tot projekinligting en die finansiële rekords van die biosfeerreservaat te alle redelike tye aan die Departement verleen nadat die Departement skriftelik aan die Tussentydse Biosfeerreservaatkomitee of Bestuurskomitee kennis gegee het van sy voorneme om insae in die finansiële rekords te kry. 40

(5) Die skriftelike verslag in subregulasie (4)(a) beoog, moet tersaaklike projekinligting bevat, onder meer finansiële rekords, bygewerkte tydraamwerke en hersiene lewerbare produkte (waar van toepassing), en inligting oor die bestuur en organisasie van die projek, die deelname van belanghebbendes en eienaarskap. 45

(6) Indien 'n Tussentydse Biosfeerreservaatkomitee of Bestuurskomitee in subregulasie (3) beoog nie met 'n projek begin nie, word die projek beskou gekanselleer te wees met ingang van—

(a) drie maande nadat die fondse vir daardie projek oorbetal is; of

(b) die latere datum waarop daar skriftelik tussen die Tussentydse Biosfeerreservaatkomitee of Bestuurskomitee en die Minister ooreengekom is, 50

en moet alle fondse wat reeds as finansiële bystand kragtens artikel 8(1) van die Wet verskaf is binne 30 dae vanaf die datum van kansellering van die projek aan die Minister terugbetaal word met rente, bereken teen die heersende rentekoers wat deur die Suid-Afrikaanse Reserwebank bepaal word. 55

(7) Fondse wat vir of gedurende 'n finansiële jaar van die biosfeerreservaat deur die Minister as finansiële bystand kragtens artikel 8(1) van die Wet verskaf word, moet voor die einde van daardie finansiële jaar gebruik word, of voor sodanige latere datum as waarop daar skriftelik tussen die Tussentydse Biosfeerreservaatkomitee of Bestuurskomitee en die Minister ooreengekom word. 60

(8) Fondse wat deur die Minister as finansiële bystand kragtens artikel 8(1) verskaf is

en nie gebruik is nie, met inbegrip van rente daarop, bereken teen die heersende rentekoers wat deur die Suid-Afrikaanse Reserwebank bepaal word, moet onmiddellik na voltooiing van die projek aan die Minister terugbetaal word.

(9) Nieteenstaande subregulasies (7) en (8) kan die Minister die Tussentydse Biosfeerreservaatkomitee of Bestuurskomitee skriftelik toelaat om oorskotfondse, met inbegrip van rente daarop, na die volgende finansiële jaar te verleng om vir die doeleindes van bedryfsuitgawes of enige ander biosfeerreservaatprojekte gebruik te word, behoudens die aangaan van 'n nuwe memorandum van ooreenkoms tussen die Tussentydse Biosfeerreservaatkomitee of Bestuurskomitee en die Minister, wat 'n sakeplan en begroting wat deur die Minister goedgekeur is, moet insluit.

(10) 'n Tussentydse Biosfeerreservaatkomitee of Bestuurskomitee kan finansiële bystand uit ander bronne verkry ten einde sy mandaat ingevolge die Mens en die Biosfeer-program uit te voer.

Verslagdoening

10. (1) In die jaarverslag in artikel 5(4)(c) van die Wet beoog, moet die Bestuurskomitee ten minste die volgende verstrek:

- (a) Die bedrag befondsing wat uit provinsiale en nasionale regeringsbronne ontvang is, 'n beskrywing van die projekte wat voltooi is en die begrotingstoewysing per projek;
- (b) die bedrag befondsing wat van munisipaliteite ontvang is, 'n beskrywing van die projekte wat voltooi is en die begrotingstoewysing per projek;
- (c) die bedrag befondsing wat van nieregerings- en skenkerorganisasies ontvang is, 'n beskrywing van die projekte wat voltooi is en die begrotingstoewysing per projek;
- (d) die samestelling van die Bestuurskomitee;
- (e) 'n skedule van vergaderings gehou en bywoning deur Bestuurskomiteedele;
- (f) die samestelling van die personeel van die Bestuurskomitee;
- (g) die getal werksgeleenthede wat deur die implementering van projekte geskep is;
- (h) die gebied binne die biosfeerreservaat wat onder formele bewaringstatus geplaas is;
- (i) besonderhede van die implementering van die bedryfs- en korporatiewe bestuursplan en raamwerkplan vir die biosfeerreservaat; en
- (j) enige ander aangeleentheid waarvoor die Minister die Bestuurskomitee kan versoek om verslag te doen.

(2) Enige latere veranderinge in die samestelling van die Bestuurskomitee of in die persone met geskikte tegniese kundigheid wat ingevolge regulasie 4(3) aangestel is, moet binne 30 dae nadat die veranderinge plaasgevind het by die Minister aangemeld word.

Appèl na Minister

11. (1) 'n Persoon wat teen 'n besluit in artikel 9(5) van die Wet bedoel wil appelleer, moet 'n kennisgewing van appèl binne 20 dae nadat sodanige persoon van die besluit in kennis gestel is, of by gebrek aan kennisgewing, 20 dae nadat sodanige persoon van die besluit bewus geword het, by die Minister indien.

(2) Die kennisgewing van appèl moet ten minste die volgende vermeld:

- (a) Die naam van die appellant;
- (b) 'n beskrywing van die aangeleentheid waarop die appèl betrekking het;
- (c) besonderhede van die besluit waarop die appèl betrekking het;
- (d) die gronde van appèl; en
- (e) 'n bondige opsomming van die feite waarop die appellant steun.

(3) Die Minister kan die betrokke besluit bevestig, tersyde stel of verander.

(4) Die Minister moet 'n besluit soos in subregulasie (3) beoog neem binne 30 dae na die indiening van die kennisgewing van appèl ingevolge subregulasie (1).

Intrekking van biosfeerreservaatstatus

12. Indien daar ingevolge 'n hersiening soos in artikel 5(5) van die Wet beoog, bevind word dat 'n biosfeerreservaat nie meer aan die Mens en die Biosfeer-kriteria voldoen nie—

- (a) kan die Minister, na oorleg met die Bestuurskomitee en belanghebbende en geaffekteerde partye, die intrekking van die biosfeerreservaatstatus van die biosfeerreservaat aanbeveel; en
- (b) moet die Minister die aanbeveling aan die nasionale Minister stuur vir voorlegging aan UNESCO.

Kort titel

13. Hierdie regulasies heet die Wes-Kaapse Regulasies op Biosfeerreservate, 2013.

IMIGAQO YOOVIMBA BENDALO EPHILAYO YENTSHONA KOLONI

UMphathiswa wooRhulumente boMmandla kwiPhondo, imiCimbi yeNdalo esiNgqongileyo noCwangciso loPhuhliso kwiPhondo leNtshona Koloni wenze le Migaqo elapha kule Shedyuli eyenziwe kulandelwa icandelo 10 loMthetho wooVimba beNdalo ePhilayo weNtshona Koloni, 2011 (uMthetho 6 ka-2011). 5

ISHEDYULI ULANDELELWANISO LWEMIGAQO

1. Iinkcazelo 10
2. Intatho-nxaxheba yoluntu ekumiselweni kovimba wendalo ephilayo
3. Ukumiselwa kweKomiti yeThutyana yoVimba weNdalo ePhilayo
4. Ukumiselwa kweKomiti eLawulayo
5. Ukuqulunqwa komgaqosiseko
6. Intatho-nxaxheba yamaqela anomdla nalawo achaphazelekayo ekwenziweni kwesicwangciso sesikhokelo 15
7. Ukuyilwa kwesicwangciso sesikhokelo
8. Imigaqo yethutyana
9. Inxaso-mali
10. Ukunikwa kwengxelo 20
11. Ukubhena kuMphathiswa
12. Ukurhoxiswa kwewonga lokuba nguvimba wendalo ephilayo
13. Isihloko esifutshane

Iinkcazelo

1. Kule migaqo, “uMthetho” uthetha uMthetho woVimba weNdalo ePhilayo weNtshona Koloni, 2011 (uMthetho 6 ka-2011), yaye ngaphandle kokuba imeko igama elisetyenziswe kuyo ithetha nto yimbi, iintsingiselo ebesele zinikiwe kuMthetho isezizo ezi kubhekiswe kuzo nakule migaqo. 25

Intatho-nxaxheba yoluntu ekumiselweni kovimba wendalo ephilayo

2. (1) Nawuphi na umntu okanye iqela labantu okanye iziko likarhulumente (ekubhekiswe kulo apha “njengomfaki-sicelo”) elifuna imvume yokumisela uvimba wendalo ephilayo njengoko kuchaziwe kwicandelo 3(1) loMthetho kufuneka— 30
 - (a) apapashe isaziso sesiphakamiso sokwenziwa kovimba wendalo ephilayo kwiGazethi yePhondo nakumaphephandaba, ubuncinane amabini, ahanjiswa kummandla oza kuba kuwo uvimba wendalo ephilayo ocetywayo; kwanjalo 35
 - (b) ukuba ngaba lo vimba wendalo ephilayo ucetywayo uza kubandakanya umhlaba wabucala—
 - (i) makuthunyelwe ikopi yesaziso nge-posi erijistarishiweyo kwidilesi ye-posi yokugqibela yomnini ngamnye womhlaba ochaphazelekayo; kwanjalo
 - (ii) kwaziswe ngendlela eyiyo nawuphi na omnye umntu onamalungelo achaphazelekayo ngokwenziwa kwalo vimba wendalo ephilayo kuloo ndawo. 40
- (2) Isaziso esichazwe kumgaqwana (1)(a) kufuneka—
 - (a) simeme uluntu ukuba lungenise kumfaki-sicelo izimvo zalo ezibhaliweyo okanye inkcaso yalo malunga nokumiselwa kovimba wendalo ephilayo zingaphelanga iintsuku ezingama-60 ukususela kusuku lokupapashwa kwesaziso kwiGazethi yePhondo; 45
 - (b) siqulathe iinkukacha ezaneleyo ukuze uluntu lukwazi ukufaka izimvo zalo ezivakalayo okanye inkcaso yalo; yaye
 - (c) kufuneka sibandakanye iinkcazelo ecacileyo okanye imephu yalo mmandla ekuza kwenziwa kuwo uvimba wendalo ephilayo. 50
- (3) Umfaki-sicelo angavumela nawuphi na umntu onomdla ukuba angenise ubungqina obuthethwa ngomlomo ngumfaki-sicelo, kodwa obo bungqina kufuneka buvunyelwe kuphela apho lo vimba wendalo ephilayo ucetywayo uza kuchaphazela amalungelo okanye izinto ezisetyenziswa luluntu oluhlala kuloo mmandla. 55
- (4) Umfaki-sicelo kufuneka aqwalasele ngokukuko zonke izimvo ezingenisweyo kunye nezichaso ezifunyenweyo phambi kokuba angenise isicelo sakhe kuMphathiswa sokuba enze uvimba wendalo ephilayo, ukuze samkelwe.

Ukumiselwa kweKomiti yeThutyana yoVimba weNdalo ePhilayo

3. (1) IKomiti yeThutyana yoVimba wendalo ePhilayo, kufuneka ubuncinane ibe naba bantu balandelayo:
- (a) Ummeli omnye okhethwe ngumasipala ngamnye wesithili okuloo mmandla ekuza kwenziwa kuwo lo vimba wendalo ephilayo okanye inxalenye yawo; 5
 - (b) ummeli omnye okhethwe ngumasipala ngamnye wengingqi okuloo mmandla ekuza kwenziwa kuwo loo vimba wendalo ephilayo okanye inxalenye yawo;
 - (c) ummeli omnye okhethwe ngumasipala ngamnye wenqila okuloo mmandla ekuza kwenziwa kuwo loo vimba wendalo ephilayo okanye inxalenye yawo;
 - (d) ummeli omnye okhethwe liSebe; 10
 - (e) ummeli omnye okhethwe lisebe lephondo elijongene nemicimbi yezolimo;
 - (f) ummeli omnye okhethwe yiCapeNature;
 - (g) ummeli omnye okhethwe yiAgri Wes-Cape;
 - (h) ummeli omnye okhethwe ngumbutho wabarhafi beenkonzo zikamasipala okuloo mmandla ekuza kwenziwa kuwo loo vimba wendalo ephilayo okanye inxalenye yawo; emva kwenkqubo yokutyunjwa kommeli lowo etyunjwa ngumbutho wabarhafi beenkonzo zikamasipala; 15
 - (i) ummeli omnye okhethwe yimibutho yasekuhlaleni ekuloo mmandla ekuza kwenziwa kuwo loo vimba wendalo ephilayo okanye inxalenye yawo, emva kwenkqubo yokutyunjwa kommeli lowo etyunjwa yimibutho yasekuhlaleni; kunye 20
 - (j) nommeli omnye okhethwe yimibutho engekho phantsi korhulumente echaphazelekayo kukwenziwa kwalo vimba wendalo ephilayo ucetywayo, emva kwenkqubo yokutyunjwa kommeli lowo etyunjwa yimibutho engekho phantsi korhulumente. 25
- (2) Abantu abatyunjiweyo ngokomgaqwana (1) kufuneka bonyule usihlalo.
- (3) Usihlalo kufuneka anike uMphathiswa iinkcukacha zabantu abatyunjiweyo ukuze uMphathiswa ahlale ukuba iKomiti yeThutyana yoVimba weNdalo ePhilayo ingaba imele wonke umntu na njengoko kuchaziwe kwicandelo 3(5) loMthetho.
- (4) Ukuba ngaba uMphathiswa akanelisekanga kukuba ubulungu obuphakanyisiweyo beKomiti yeThutyana yoVimba weNdalo ePhilayo buyazithobela iimfuno zecandelo 3(5) loMthetho, uMphathiswa kufuneka abuyisele lo mba kusihlalo. 30
- (5) Ukuba kuyimfuneko, kulungiselelwa iKomiti yeThutyana yoVimba weNdalo ePhilayo ukuba iqhube nokuqulunqa isicelo sokuba kwenziwe uvimba wendalo ephilayo ohambelana neemfuno zeUNESCO, uMphathiswa angabamkela ubulungu beKomiti yeThutyana yoVimba weNdalo ePhilayo emva kokuqwalasela abantu abatyunjiweyo, nokuba abuthobelanga ngokupheleleyo iimfuno ezichazwe kumgaqwana (1). 35
- (6) Nawuphi na umntu omele iqela labantu okanye omele iziko likarhulumente njengoko kuchaziwe kwicandelo 3(1) loMthetho angacela ukutyunjwa ngamaqela achazwe kumgaqwana (1) ukuze abe lilungu leKomiti yeThutyana yoVimba weNdalo ePhilayo. 40

Ukumiselwa kweKomiti eLawulayo

4. (1) IKomiti yeThutyana yoVimba weNdalo ePhilayo kufuneka—
- (a) zingaphelanga iintsuku ezingama-30 zokupapashwa kwesaziso sokuba kucetywa ukwenziwa uvimba wendalo ephilayo ochazwe kwicandelo 4(5) loMthetho, ipapashe isaziso kwiGazethi yePhondo nakumaphephandaba, ubuncinane amabini, ahanjiswa kummandla oza kuba kuyo uvimba wendalo ephilayo imema uluntu ukuba lungenise amagama abantu amabonyulwe ukuba babe kwiKomiti eLawulayo yovimba wendalo ephilayo zingaphelanga iintsuku ezingama-60 ukusukela ngomhla wopapasho lwesaziso kwiGazethi yePhondo; 45
 - (b) zingaphelanga iintsuku ezingama-30 emva kokuphelelwa kwesithuba seentsuku ezingamashumi amathandathu, inike uMphathiswa amagama kunye nenkcukacha zabantu eneenjongo zokubonyulela kwiKomiti eLawulayo; kananjalo 50
 - (c) zingaphelanga iintsuku ezingama-30 emva kokuba uMphathiswa amkele lo magama onyuliweyo, imisele iKomiti eLawulayo ibeke namalungu ayo. 55
- (2) IKomiti eLawulayo kufuneka ibe nezi potifoliyo zilandelayo okanye abantu abaza kujongana nale misebenzi ilandelayo okanye indibanisela yayo: 60

- (a) Usihlalo;
- (b) usekela-sihlalo;
- (c) igosa elinika inkcaza ngemali
- (d) izilwanyana nezityalo nolondolozo;
- (e) imicimbi yasekuhlaleni; 5
- (f) imicimbi yezabasebenzi;
- (g) ezorhwebo;
- (h) imfundo;
- (i) uphuhliso nocwangciso lwezoqoqosho;
- (j) iintengiso nemicimbi yobudlelane noluntu; kunye 10
- (k) nokhenketho.
- (3) IKomiti eLawulayo kufuneka ityumbe abantu abanobungcali obububo ukuba baxhase yaye bacebise ikomiti le.
- (4) IKomiti eLawulayo mayingenise amagama atyunjwe kulandelwa umgaqwana (3) kuMphathiswa ukuba awamkele yaye abo bantu kufuneka ubuncinane babe naba bantu balandelayo: 15
- (a) Ummeli omnye okhethwe liSebe;
- (b) ummeli omnye okhethwe lisebe lephondo elijongene nemicimbi yezolimo;
- (c) ummeli omnye okhethwe yiCapeNature;
- (d) Ummeli omnye okhethwe ngumasipala ngamnye wesithili okuloo mmandla ekuza kwenziwa kuwo lo vimba wendalo ephilayo okanye inxalenye yawo; 20
- (e) ummeli omnye okhethwe ngumasipala ngamnye wengingqi okuloo mmandla ekuza kwenziwa kuwo lo vimba wendalo ephilayo okanye inxalenye yawo;
- (f) ummeli omnye okhethwe ngumasipala ngamnye wenqila okuloo mmandla ekuza kwenziwa kuwo lo vimba wendalo ephilayo okanye inxalenye yawo. 25
- (5) UMphathiswa angathi ngokucelwa yiKomiti eLawulayo amkele ezinye iipotifoliyo okanye abantu abaza kwenza eminye imisebenzi echazwe yiKomiti eLawulayo.
- (6) UMphathiswa angathi ngokucelwa yiKomiti eLawulayo amkele ezinye iingcali eziya kuxhasa iKomiti eLawulayo. 30
- (7) Abalawuli bovimba wendalo ephilayo abachazwe kwicandelo 11(1) loMthetho kufuneka—
- (a) batyumbe abantu abafanelekileyo ukuba benze imisebenzi echazwe kumgaqwana (2);
- (b) batyumbe abantu abanobungcali obufanelekileyo nobufunekayo njengoko kuchaziwe phaya kumgaqwana (3); 35
- (c) banike uMphathiswa amagama neenkukacha zabantu abatyunjelwe kwiKomiti eLawulayo; yaye
- (d) bamisele iKomiti eLawulayo ze babeke abantu emva kokuba uMphathiswa ewamkele amagama abo. 40
- (8) Ukuba ngaba kuyimfuneko, ukulungiselela ukuqhuba kolawulo lovimba wendalo ephilayo, uMphathiswa angamkela amalungu aphakanyisiweyo eKomiti eLawulayo nokuba ngaba akazithobelanga zonke iimfuno ezichazwe kumgaqwana (2).

Ukuqulunqwa komgaqosiseko

5. (1) IKomiti eLawulayo kufuneka yamkele uvimba wendalo ephilayo osemthethweni— 45
- (a) oyinkampani engenzi nzuzo ngokomthetho *iCompanies Act, 2008* (uMthetho 71 wama-2008); okanye
- (b) umbutho ongenzi nzuzo ngokomthetho *iNonprofit Organisations Act, 1997* (uMthetho 71 ka-1997). 50
- (2) Umgaqo-siseko ochazwe kwicandelo 5(4)(b) loMthetho kufuneka uqulunqwe ngokusemthethweni kulandelwa uhlobo oluchazwe kumgaqwana (1).
- (3) Umgaqo-siseko wovimba wendalo ephilayo kufuneka ubuncinane ube nezi zinto zilandelayo:
- (a) Umgaqo wokuziphatha kwamalungu; 55
- (b) uniko-nkcazelo ngokuqhubekayo nomsebenzi olindelekileyo;
- (c) imigaqo emiyo yokusebenza;
- (d) indima noxanduva lweKomiti eLawulayo; kunye
- (e) nenkqubo esetyenziswayo ukusombulula iimbambano.

Intatho-nxaxheba yamaqela anomdla nalawo achaphazelekayo ekwenziweni kwesicwangciso sesikhokelo

6. (1) Xa iKomiti eLawulayo, isenza isicwangciso sesikhokelo njengoko sichaziwe kwicandelo 6(1) loMthetho, kufuneka ipapashe *kwiGazethi yePhondo* iimveliso njengokuba kuchaziwe kumgaqo 7(1) nakumaphephandaba, ubuncinane amabini, ahanjiswa kummandla oza kuba kuwo uvimba wendalo ephilayo. 5

(2) IKomiti eLawulayo kufuneka imeme amaqela anomdla kunye nalawo achaphazelekayo ukuba angenise kwiKomiti eLawulayo izimvo ezibhaliweyo okanye inkcaso yawo kwiimveliso ezo zingaphelanga iintsuku ezingama-60 ukususela kumhla wopapasho *kwiGazethi yePhondo*. 10

(3) Apho isicwangciso sesikhokelo siza kuchaphazela amalungelo nezinto zabahlali baloo ngingqi, iKomiti eLawulayo kufuneka ivumele iqela elinomdla okanye elichaphazelekayo ukuba lize kuvakalisa izimvo zalo ngomlomo kwiKomiti eLawulayo.

(4) IKomiti eLawulayo kufuneka ithathele ingqalelo zonke izimvo nezichaso ezifunyenweyo nezichazwe ngomlomo phambi kokuba yenze isicwangciso sesikhokelo sokugqibela. 15

(5) UMphathiswa kufuneka apapashe isicwangciso sesikhokelo esamkelweyo *kwiGazethi yePhondo*.

Ukuyilwa kwesicwangciso sesikhokelo 20

7. (1) Isicwangciso sesikhokelo kufuneka sibandakanye ubuncinane ezi zinto zilandelayo:

- (a) ingxelo ngobume bangoku bommandla ekuza kwenziwa kuwo lo myezo, kubandakanywa neengxaki nemiba ekhoyo; 25
- (b) isikhokelo seprojekthi, kubandakanywa neenjongo;
- (c) ingxelo yophuhliso lwemihlaba engenanto;
- (d) uqulunqo lokuqala lwesicwangciso nezinye izicwangciso ezilandelayo, xa oko kuyimfuneko; kananjalo
- (e) noqulunqo lokugqibela lwesicwangciso.

(2) Ukuqinisekisa ukuba amaqela anomdla nalawo achaphazelekayo kunye noogunyaziwe abanezakhono bathatha inxaxheba ngokupheleleyo kwinkqubo nakwizicwangciso, imveliso nganye edweliswe kumgaqwana (1) kufuneka ibandakanye—

- (a) isigaba soqulunqo;
- (b) isigaba sokuthatha inxaxheba kwabo bachaphazelekayo; kunye 35
- (c) nesigaba solwamkelo.

(3) Nasiphi na isilungiso okanye utshintsho olwenziwe kwisicwangciso sesikhokelo njengoko kuchaziwe kwicandelo 6(7) loMthetho kufuneka senziwe kulandelwa inkqubo echazwe kwimigaqwana (1) no-(2).

Imigaqo yethutyana 40

8. (1) Ukuba ngaba kukho uvimba wendalo ephilayo okhoyo kwiPhondo xa kuqala ukusebenza kwalo Mthetho ongenziwanga ngokusemthethweni njengoko kuchaziwe kumgaqo 5(1), iKomiti eLawulayo etyunjwe kulandelwa icandelo 11(1)(a) loMthetho kufuneka iqinisekise ukuba iyawuthobela lo mgaqo 5(1) zingaphelanga iinyanga ezili-12 emva kokuqala kokusebenza kwale migaqo. 45

(2) Elandela imigaqwana (3) no-(4), uMphathiswa angamkela isicwangciso semihlaba engenanto ekhoyo phambi kokuqala kokusebenza kwalo Mthetho, njengesicwangciso sesikhokelo ngokwalo Mthetho.

(3) UMphathiswa, angamkela isicwangciso semihlaba engenanto ngokomgaqwana (2) njengesicwangciso sesikhokelo, ukuba wanelisekile ukuba— 50

- (a) isicwangciso somhlaba ongenanto siyahambelana nemigaqo yalo Mthetho;
- (b) izimvo ezingenisiweyo ngamaziko karhulumente kunye nabo bantu bachaphazelekayo ziye zaqwalaseliswa zaze zahoywa;
- (c) isicwangciso somhlaba ongenanto asichaphazeli okanye asiphazamisani nezicwangciso zikamasipala; kananjalo 55
- (d) isicwangciso somhlaba ongenanto sithobela naziphi na ezinye iimfuno uMphathiswa azibona ziyimfuneko.

(4) Ukuba ngaba uMphathiswa akanelisekanga, unakho—

- (a) ukutshintsha isicwangciso somhlaba ongenanto ukuba sihambelane neemfuno zomgaqwana (3) phambi kokuba asamkele njengesicwangciso sesikhokelo;
 - (b) ukudlulisela isicwangciso somhlaba ongenanto kwiKomiti eLawulayo echaphazekayo ukuba ithathele ingqalelo iimfuno zomgaqwana (3), ze iphinde isingenise kuMphathiswa ukuba aphinde asihlole; okanye 5
 - (c) asirhoxise isicwangciso somhlaba ongenanto.
- (5) UMphathiswa kufuneka zingaphelanga iintsuku ezili-10 emva kokuba ethabathe isigqibo sokwamkela okanye sokutshintsha okanye sokurhoxisa isicwangciso ngomhlaba, apapashe isaziso sesigqibo eso *kwiGazethi yePhondo*.

Inkxaso-mali 10

9. (1) IKomiti yeThutyana yoVimba weNdalo ePhilayo okanye iKomiti eLawulayo ingafaka isicelo soncedo-mali kuMphathiswa seprojekthi echazwe kwicandelo 8 loMthetho, yaye kufuneka kwisicelo eso—
- (a) ifake isicwangciso sokusebenza;
 - (b) ifake uhlahlo-mali; 15
 - (c) ichaze ukuba inkxaso-mali leyo iza kusetyenziswa njani ukuphumeza iinjongo zeNkqubo yoVimba weNdalo ePhilayo;
 - (d) ichaze ukuba inkxaso-mali leyo iza kuzixhasa njani iinjongo ezicwangcisiweyo zesebe; kananjalo
 - (e) ichaze ukuba ngawaphi amanyathelo aza kuthathwa ukuqinisekisa ulawulo olunempumelelo, oluneziqhamo nolungafihlisiyo lwemali nolawulo lwangaphakathi kwiziko elo. 20
- (2) Ukuba ngaba uMphathiswa uyasamkela isicelo senkxaso-mali njengokuba kuchazwe kumgaqwana (1), uMphathiswa neKomiti yeThutyana yoVimba weNdalo ePhilayo okanye iKomiti eLawulayo kufuneka benze imemorandam yesivumelwano 25 enxulumene nenkxaso-mali.
- (3) IKomiti yeThutyana yoVimba weNdalo ePhilayo okanye iKomiti eLawulayo xa ifumana inkxaso-mali njengokuba kuchazwe kwicandelo 8 loMthetho kufuneka—
- (a) ukulungiselela uphicotho-zincwadi, igcine zonke iivawutsha zenkcitho, apho iinombolo zeprojekthi yovimba wendalo ephilayo zimele ziphawulwe khona neziqoka iitsheki ezitshintshwe zayimali; kananjalo 30
 - (b) zingaphelanga iinyanga ezintlanu zokuphela konyaka-mali wovimba wendalo ephilayo, inike uMphathiswa ingxelo ephicothiweyo yemali yovimba wendalo ephilayo.
- (4) IKomiti yeThutyana yoVimba weNdalo ePhilayo okanye iKomiti eLawulayo njengokuba uchazwe kumgaqwana (3) kufuneka— 35
- (a) ingenise ingxelo ebhaliweyo engokusebenza kunye nkqubela yeprojekthi kuMphathiswa qho ngenyanga okanye xa eyicelile uMphathiswa;
 - (b) ingenise ingxelo yokugqibela engeprojekthi kuMphathiswa zingaphelanga iintsuku ezingama-40 zokugqitywa kweprojekthi; yaye 40
 - (c) ivumele isebe ukuba likwazi ukuphendla ulwazi olumalunga neengxelo zemali zeprojekthi yomyezo wendalo nezilwanyana ngawo onke amaxesha amkelekileyo ukuba ngaba iSebe lifake isaziso kwiKomiti yeThutyana yoVimba weNdalo ePhilayo okanye iKomiti eLawulayo sokufuna ukujonga iingxelo zemali. 45
- (5) Ingxelo ebhaliweyo echazwe kumgaqwana (4)(a) kufuneka ibandakanye iinkcukacha ezifanelekileyo ngeprojekthi, ezibandakanya iingxelo zemali, amaxesha ahlaziyiweyo neziphumo ezihlaziyiweyo (apho oko kuyimfuneko), kunye neenkukacha ngolawulo lweprojekthi kunye nentatho-nxaxheba yamaqela anomdla nachaphazekayo kunye nendlela iprojekthi eqhuba ngayo. 50
- (6) Ukuba ngaba iKomiti yeThutyana yoVimba weNdalo ePhilayo okanye iKomiti eLawulayo njengokuba kuchazwe kumgaqwana (3) ayiqalisi ngeprojekthi, iprojekthi iza kuthathwa njengephelisiweyo ukusukela—
- (a) kwiinyanga ezintathu emva kokuba inikwe imali yaloo projekthi; okanye
 - (b) ngomhla wokugqibela ebekuvunyelwene ngawo phakathi kweKomiti yeThutyana yoVimba weNdalo ePhilayo okanye iKomiti eLawulayo noMphathiswa, 55
- nayo yonke imali ebisele inikezelwe njengenkxaso-mali phantsi kwecandelo 8(1) loMthetho kufuneka ibuyiselwe, kubandakanywa nenzala, yayo ebalwa ngezinga lenzala elibekwe yiBhanki enguVimba yoMzantsi Afrika, kuMphathiswa zingaphelanga iintsuku ezingama-30 ukususela kwixesha lokupheliswa kwalo projekthi. 60

(7) Imali ezinikezwe nguMphathiswa njengenkxaso-mali phantsi kwecandelo 8(1) loMthetho kunyaka-mali wovimba wendalo ephilayo kufuneka zisetyenziswe phambi kokuba uphele loo nyaka-mali, okanye ngaloo mhla kuvunyelwene ngawo ngesivumelwano esibhaliweyo esiphakathi kweKomiti yeThutyana yoVimba weNdalo ePhilayo okanye iKomiti eLawulayo noMphathiswa. 5

(8) Imali enikezelwe nguMphathiswa njengemali-nkxaso phantsi kwecandelo 8(1) loMthetho nengasetyenziswanga, ebandakanya inzala ebalwa ngezinga lenzala elibekwe yiBhanki enguVimba yoMzantsi Afrika, kufuneka ibuyiselwe kuMphathiswa ukugqitywa nje kwaloo projekthi.

(9) Noxa kukho umgaqwana (7) no-(8), uMphathiswa angathi avumele iKomiti yeThutyana yoVimba weNdalo ePhilayo okanye iKomiti eLawulayo ngesivumelwano esibhaliweyo ukuba idlulisele imali eshiyekileyo kunyaka-mali olandelayo ukuba isetyenziselwe ukwenza umsebenzi wemihla ngemihla okanye nayiphi na enye iprojekthi yovimba wendalo ephilayo, kodwa oko kufunisa ukuba kuphinde kuqale kwenziwe enye imemorandam entsha yesivumelwano phakathi kweKomiti yeThutyana yoVimba weNdalo ePhilayo okanye iKomiti eLawulayo noMphathiswa, ekufuneka ibandakanye isicwangciso sokusebenza kunye nohlahlo lwabiwo-mali olwamkelwe nguMphathiswa. 10

(10) IKomiti yeThutyana yoVimba weNdalo ePhilayo okanye iKomiti eLawulayo ingafumana inkxaso-mali kweminye imithombo ukuze ikwazi ukwenza umsebenzi wayo ngokwe-Man neNkqubo yoVimba weNdalo ePhileleyo. 15

Ukunikwa kwengxelo

10. (1) Kwingxelo yonyaka echazwe kwicandelo 5(4)(c) loMthetho, iKomiti eLawulayo kufuneka ibonelele ubuncinane ngezi zinto zilandelayo:

- (a) ubungakanani benkxaso-mali efunyenwe kurhulumente wephondo nowesizwe, inkcazelo yeprojekthi ezigqityiweyo kunye nohlahlo-wabiwo-mali lweprojekthi nganye; 25
- (b) ubungakanani benkxaso-mali efunyenwe koomasipala, inkcazelo yeprojekthi ezigqityiweyo kunye nohlahlo lwabiwo-mali lweprojekthi nganye; 30
- (c) ubungakanani benkxaso-mali efunyenwe kwimibutho engekho phantsi korhulumente kunye neyamalizo, inkcazelo yeprojekthi ezigqityiweyo kunye nohlahlo lwabiwo-mali lweprojekthi nganye;
- (d) inkcazelo ngamalungu eKomiti eLawulayo;
- (e) ishedyuli yeentlanganiso ezibanjiweyo nokuzinyaswa kwazo ngamalungu eKomiti eLawulayo; 35
- (f) abasebenzi abasebenzela iKomiti eLawulayo;
- (g) inani lemisebenzi edaliweyo ngenxa yokumiselwa kweprojekthi;
- (h) ummandla olapho kuvimba wendalo ephilayo ofakwe ngokusesikweni njengendawo yolondolozo; 40
- (i) iinkcukacha zokumiselwa kovimba wendalo ephilayo, isicwangciso sokusebenza neseziko kunye nesicwangciso sesikhokelo; kwakunye
- (j) nawuphi na omnye umba uMphathiswa anokucela iKomiti eLawulayo ukuba inike ingxelo ngawo.

(2) Xa kwenziwe utshintsho kumalungu eKomiti eLawulayo okanye kubantu abazingcali ababekwe kulandelwa umgaqo 4(3), kufuneka kuchazelweuMphathiswa zingaphelanga iintsuku ezingama-30 emva koloo tshintsho. 45

Ukubhena kuMphathiswa

11. (1) Umntu ofuna ukufaka isibheno kwisigqibo esithathiweyo ekubhekiswe kuso kwicandelo 9(5) loMthetho, kufuneka afake isaziso sokubhena kuMphathiswa zingaphelanga iintsuku ezingama-20 emva kokuba aziswe ngeso sigqibo, okanye ukuba akaziswanga, emva kokuba ethe wazi ngeso sigqibo. 50

(2) Isaziso sesibheno kufuneka ubuncinane sibe—

- (a) negama lombheni;
- (b) inkcazelo ngomba isibheno esibhekisa kuwo; 55
- (c) iinkcukacha zesigqibo isibheno esibhekisa kuso;
- (d) izizathu zokubhena; kunye
- (e) nesiswankathelo esifutshane semiba umbheni abhekisa kuyo.

(3) UMphathiswa angangqina, abeke bucala okanye asitshintshe isigqibo ekubhenelwa sona. 60

(4) UMphathiswa kufuneka enze isigqibo eso ekubhekiswe kuso kumgaqwana (3) zingaphelanga iintsuku ezingama-30 emva kokuba kufakwe isaziso sokubhena kulandelwa imiqathango yomgaqwana (1).

Ukurhoxiswa kwewonga lokuba nguvimba wendalo ephilayo

12. Ukuba ngaba kuthe xa kuphononongwa kulandelwa imiqathango yecandelo 5(5) loMthetho, kwafumaniseka ukuba uvimba wendalo ephilayo awusayithobeli iMiqathango eyabekwa yi-Man kunye noVimba weNdalo ePhilayo, uMphathiswa— 5

(a) unokuthi emva kokuba ebonisene neKomiti eLawulayo kunye nabantu abanomdla kunye nabo bachaphazelekayo, aphakamise ukuba kurhoxiswe iwonga lokuba nguvimba wendalo ephilayo; yaye 10

(b) kufuneka athumele eso siphakamiso kuMphathiswa wesizwe ukuze siye kungeniswa kwi-UNESCO.

Isihloko esifutshane

13. Le migaqo ibizwa ngokuba yiMigaqo yooVimba beNdalo ePhilayo yeNtshona Koloni, 2013. 15

