

PROVINCE OF THE WESTERN CAPE

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IZIQLATHO

(*Reprints are obtainable at Room M21, Provincial Legislature Building, 7 Wale Street, Cape Town 8001.)

(*Afskrifte is verkrygbaar by Kamer M21, Provinsiale Wetgewer-gebou, Waalstraat 7, Kaapstad 8001.)

(*Ushicilelo olutsha lufumaneka kwiGumbi M21, kwiSakhiwo sePhondo seNdlu yoWiso Mthetho, 7 Wale Street, eKapa 8001.)

Provincial Notice

Provinsiale Kennisgewing

ISaziso sePhondo

The following Draft Bill is published for comment:

Die volgende Konsepwetsontwerp word vir kommentaar gepubliseer:

Olu Qulunqo loMthetho osaYilwayo lupapashelwa ukufumana izimvo zoluntu:

60 Department of Environmental Affairs and Development Planning: Draft Western Cape Biodiversity Bill, 2019 2

60 Departement van Omgewingsake en Ontwikkellingsbeplanning: Wes-Kaapse Konsepwetsontwerp op Biodiversiteit, 2019 51

60 UQulunqo loMthetho osaYilwayo oLawula iiNtlobontlobo zeZityalo neZilwanyana weNtshona Koloni, 2019 102

Any person or organisation wishing to comment on the Draft Bill is requested to submit the comments in writing before or on 8 July 2019—

Enige persoon of organisasie wat op die Konsepwetsontwerp kommentaar wil lewer, word versoek om die kommentaar voor of op 8 Julie 2019 in te dien—

Nabani na okanye nawuphi na umbutho onqwenela ukuvakalisa izimvo ngolu qulunqo loMthetho osaYilwayo uyacelwa ukuba afake izimvo sakhe ezibhaliweyo phambi okanye ngomhla we-8 kweyeKhala 2019—

(a) by posting the comments to:
Ms M Laros
Department of Environmental Affairs and Development Planning
Private Bag X9086
Cape Town 8000;

(a) deur die kommentaar te pos aan:
Me M Laros
Departement van Omgewingsake en Ontwikkellingsbeplanning
Privaat Sak X9086
Kaapstad 8000;

(a) ngokuposela izimvo zakhe ku-:
Ms M Laros
Department of Environmental Affairs and Development Planning
Private Bag X9086
Cape Town 8000;

(b) by delivering the comments to:
Ms M Laros
Department of Environmental Affairs and Development Planning
4th Floor, Leeusig Building
1 Dorp Street
Cape Town 8001; or

(b) deur die kommentaar af te lewer aan:
Me M Laros
Departement van Omgewingsake en Ontwikkellingsbeplanning
4de Verdieping, Leeusig-gebou
Dorpstraat 1
Kaapstad 8001; of

(b) ngokuthumela izimvo ku-: Ms M Laros
Department of Environmental Affairs and Development Planning
4th Floor, Leeusig Building
1 Dorp Street
Cape Town 8001; ukanye

(c) by e-mailing the comments to:
Marlene.Laros@westerncape.gov.za.

(c) deur die kommentaar te e-pos na:
Marlene.Laros@westerncape.gov.za.

(c) ngokuthumela izimvo nge-imeyili ku-:
Marlene.Laros@westerncape.gov.za.

Queries can be made to Ms M Laros at tel.: 021 483 5126 or by e-mail: Marlene.Laros@westerncape.gov.za.

Navrae kan gerig word aan me M Laros by tel.: 021 483 5126 of per e-pos na: Marlene.Laros@westerncape.gov.za.

Imibuzo ingathunyelwa kuNks. M Laros, umnxeba: 021 483 5126 okanye nge-imeyili: Marlene.Laros@westerncape.gov.za.

PROVINCIAL NOTICE

The following Provincial Notice is published for comment.

ADV. B. GERBER,
DIRECTOR-GENERAL

Provincial Legislature Building,
Wale Street,
Cape Town.

PROVINSIALE KENNISGEWING

Die volgende Provinsiale Kennisgewing word vir kommentaar gepubliseer.

ADV. B. GERBER,
DIREKTEUR-GENERAAL

Provinsiale Wetgewer-gebou,
Waalstraat,
Kaapstad.

ISAZISO SEPHONDO

Esi saziso silandelayo sipapashelwe ukugaya izimvo.

ADV. B. GERBER,
UMLAWULI-JIKELELE

ISakhiwo sePhondo,
Wale Street,
eKapa.

PROVINCIAL NOTICE

P.N. 60/2019

7 May 2019

DRAFT WESTERN CAPE BIODIVERSITY BILL, 2019

To provide for the framework and institutions for nature conservation and the protection, management and sustainable use of biodiversity and ecosystems in the Province; and for matters incidental thereto.

PREAMBLE

WHEREAS section 24 of the Constitution of the Republic of South Africa, 1996, provides that everyone has the right to an environment that is not harmful to their health or well-being and to have the environment protected for the benefit of present and future generations through measures that promote conservation and secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development;

AND WHEREAS environment and nature conservation to the extent set out in Part A of Schedule 4 to the Constitution of the Republic of South Africa, 1996, are functional areas of concurrent national and provincial legislative competence;

AND WHEREAS the Constitution of the Western Cape 1997 (Act 1 of 1998), requires the Provincial Government to adopt and implement policies on, among other things, the protection of the environment in the Western Cape, including its unique fauna and flora, for the benefit of the present and future generations;

AND WHEREAS the different organs of state must act in accordance with the principles of cooperative government and intergovernmental relations and make decisions that affect the environment in a coordinated and holistic manner;

AND RECOGNISING the unique biodiversity in the Western Cape, the Republic's international obligations, the Province's dependence on ecosystem services, the need for access and benefit sharing and the need to ensure long term ecological resilience;

AND RECOGNISING the need for statutory revision to reform, integrate, harmonise and rationalise the existing legislative and institutional frameworks for implementing the provincial mandates for biodiversity and nature conservation;

AND RECOGNISING that it is desirable that the law develops a framework for integrating and coordinating environment and nature conservation considerations into planning and decision making by all organs of state to fulfil their obligations in terms of section 24 of the Constitution of the Republic of South Africa, 1996,

BE IT THEREFORE ENACTED by the Provincial Parliament of the Western Cape as follows:—

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CHAPTER 1 INTERPRETATION, OBJECTIVES AND APPLICATION

Definitions

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

“**adverse effect**” means any actual, potential or cumulative negative impact on biodiversity, ecosystem services or ecological infrastructure that is more than trivial;

“**access and benefit sharing**” means the fair and equitable sharing of benefits arising from the use of genetic resources;

“**aircraft**” means an airborne craft of any type, whether manned or unmanned and whether self-propelled or not;

“**alien**”, in relation to a specimen, means a specimen belonging to an alien species;

“**alien species**” means—

(a) a species that is not an indigenous species; or

(b) an indigenous species translocated or intended to be translocated to a place outside its natural distribution range in nature, but not an indigenous species that has extended its natural distribution range by natural means of migration or dispersal without human intervention;

“**aquifer**” means a geological formation which has structures or textures that hold water or permit an appreciable water movement through them;

“**authorisation**” means any registration, certificate, licence, permit or other written permission issued or granted in terms of this Act that authorises the person to whom it is issued or granted to do anything that would otherwise be prohibited, and includes an integrated authorisation contemplated in section 56;

“**biodiversity**” means the variability among living organisms from all sources, including terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part, and includes diversity within and between species, within and between populations, and of ecosystems;

“**Biodiversity Act**” means the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004);

“**biodiversity economy**” means the businesses and economic activities that either directly depend on biodiversity for their business or that contribute to conservation of biodiversity through their activities;

“**biodiversity offset**” means measures designed to counterbalance the residual adverse effects of any activity, or of the implementation of any plan, on biodiversity or ecological infrastructure after every effort has been made to avoid, minimise and rehabilitate such effects, and includes the outcome of such measures;

“**biodiversity priority area**” means an area in the landscape or seascape that is important for conserving a representative sample of ecosystems and species, maintaining ecological processes and ecological infrastructure or the provision of ecosystem services;

“**Biodiversity Spatial Plan**” means a plan contemplated in section 34;

“**biodiversity stewardship agreement**” means an agreement entered into between the Chief Executive Officer and a landowner which sets out the obligations of the parties to secure the conservation of a biodiversity priority area;

“**biodiversity stewardship area**” means an area of land which is subject to management requirements that are prescribed in regulations or specified in a biodiversity stewardship agreement to secure its conservation;

“biodiversity target” means the quantitative amount of any biodiversity feature, including biodiversity patterns or ecological processes, that should be prioritised for conservation in order to ensure the long-term survival and persistence of the biodiversity feature;

“biosphere reserve” means an area designated for inclusion in the World Network of Biosphere Reserves by the International Coordinating Council of UNESCO’s Man and the Biosphere Programme;

“Biosphere Reserve Framework Plan” means the spatial plan compiled for a biosphere reserve as contemplated in section 46;

“Board” means the governing board of CapeNature as contemplated in section 12;

“CapeNature” means the provincial public entity contemplated in section 9;

“captivity”, in relation to a wild animal, means the keeping within an enclosure by means of any fence, wall or obstruction of any kind in such a way that the wild animal is unable to maintain itself by natural means;

“Chairperson” means the Chairperson of the Board appointed in terms of section 16(1)(a);

“Chief Executive Officer” means the Chief Executive Officer of CapeNature appointed in terms of section 27;

“CITES” means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, Washington, 1973;

“client” means a person who is not a South African citizen and who, in any form or manner, rewards another person for or in connection with the hunting of wild animals or feral animals;

“climate change” means a change in the state of the climate that can be identified by changes in the variability of its properties and that persists for an extended period, typically decades or longer;

“coastal public property” has the same meaning as in the Integrated Coastal Management Act;

“conservation”, in relation to biodiversity and nature, means the protection, care, management, rehabilitation and maintenance of ecosystems, habitats, indigenous species and populations to safeguard the natural conditions for their long-term persistence and the ecosystem services that they may provide, and “conserve” has a corresponding meaning;

“Constitution” means the Constitution of the Republic of South Africa, 1996;

“Criminal Procedure Act” means the Criminal Procedure Act, 1977 (Act 51 of 1977);

“Department” means the provincial department responsible for environmental matters in the Province;

“derivative”, in relation to an animal, plant or other organism, means any part, tissue or extract of the animal, plant or other organism, whether fresh, preserved or processed, and includes any chemical compound derived from such part, tissue or extract;

“development” means any process initiated by a person to change the use, physical nature, appearance, form or function of a place, and includes—

- (a) the construction, erection, alteration, demolition, or removal of a structure or building;
- (b) any change to the existing or natural topography of the land;
- (c) the carrying out of any works on, over or under a site;
- (d) the destruction or removal of indigenous vegetation; and
- (e) a process to rezone, subdivide or consolidate land;

“Director of a Professional Hunting School” means a person who presents and conducts a course to instruct prospective professional hunters or hunting outfitters, or assesses the proficiency of professional hunters or hunting outfitters;

“domesticated species” means any species for which no equivalent population exists in the wild, and which have been influenced by humans to meet human needs, including species listed by the Provincial Minister in terms of section 50(2)(j);

“ecological infrastructure” means the naturally functioning ecosystems, including mountain catchments, water resources, coastal dunes, and nodes and corridors of natural habitat, which together form a network of interconnected structural elements in the landscape that delivers ecosystem services;

“ecosystem” means a dynamic complex of animal, plant and microorganism communities and their non-living environment interacting as a functional unit, which may be terrestrial, coastal or aquatic, or a combination thereof;

“ecosystem services” means the benefits humans derive from ecosystems, which benefits include—

- (a) provisioning services, such as the production of food and provisioning of water;
- (b) regulating services, such as the control of climate, air quality or disease and disaster risk reduction;
- (c) supporting services, such as nutrient cycling, soil formation and crop pollination; and
- (d) cultural services, such as spiritual and recreational benefits;

“endangered species” means a species listed in terms of section 50(2)(c);

“environment” means the surroundings within which humans exist and that are made up of—

- (a) the land, water and atmosphere of the earth;
- (b) microorganisms and plant and animal life;
- (c) any part or combination of the surroundings contemplated in paragraphs (a) and (b) and the interrelationships among and between them; and
- (d) the physical, chemical, aesthetic and cultural properties and conditions of the surroundings contemplated in paragraphs (a), (b) and (c) that influence human health and well-being;

“estuary” means a body of surface water—

- (a) that is permanently or periodically open to the sea;
- (b) in which a rise and fall of the water level as a result of the tides is measurable at spring tides when the body of surface water is open to the sea; or
- (c) in respect of which the salinity is higher than fresh water as a result of the influence of the sea, and where there is a salinity gradient between the tidal reach and the mouth of the body of surface water;

“export” means the transfer of any species or specimen, or any part or derivative of such species or specimen, from any position or place in the Province in any manner to another province of the Republic or to a country outside the borders of the Republic or to international waters;

“extra-limital” means a species contemplated in paragraph (b) of the definition of “alien species”;

“feral animal” means an animal of a domesticated species which has gone wild;

“habitat” means a place where a species or ecological community naturally occurs;

“Head of Department” means the head of the provincial department responsible for environmental matters in the Province;

- “heritage resource”** means any place or object of cultural significance;
- “honorary nature conservation officer”** means a person designated in terms of section 58(a)(iii);
- “hunt”**, in relation to a wild animal, means to—
- (a) search for;
 - (b) pursue, follow or drive;
 - (c) lie in wait for or wilfully disturb; or
 - (d) shoot at or poison,
- the animal by any means whatsoever for the purpose of killing, injuring or capturing or attempting to kill, injure or capture it;
- “hunting outfitter”** means a person who markets, assists with, offers, advertises or organises the hunting of a wild or feral animal, whether directly or through the use of an agent;
- “import”** means—
- (a) to land on, bring into or introduce into the Province, or attempt to land on, bring into or introduce into the Province; or
 - (b) to bring into the Province for re-export to a place outside the Province;
- “indigenous”**—
- (a) in relation to a species, means a species that occurs, or has historically occurred, naturally in a free state within the borders of the Republic, but excludes a species that has been introduced into the Republic as a result of human activity; and
 - (b) in relation to a specimen, means a plant or wild animal of a species referred to in paragraph (a);
- “indigenous biological resources”** means any resource consisting of—
- (a) any specimen of an indigenous species; or
 - (b) any genetic material of such specimen;
- “Integrated Coastal Management Act”** means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act 24 of 2008);
- “invasive species”** means any species whose establishment and spread outside of its natural distribution range—
- (a) threaten ecosystems, habitats, ecological infrastructure or other species or have the potential to threaten ecosystems, habitats, ecological infrastructure or other species; and
 - (b) may result in economic or environmental harm or harm to human health;
- “landowner”** means the registered owner of land, except that if—
- (a) the land is not occupied by the registered owner, it means the person—
 - (i) who lawfully occupies the land;
 - (ii) who exercises general control over the land;
 - (iii) who has any registered real right in the land, subject to any other law; or
 - (iv) who has been authorised in writing by the registered owner to fulfil his or her rights or duties in relation to the land;
 - (b) the land is owned by an association of persons, whether corporate or unincorporated, it means the person designated by the association in writing as the owner;
 - (c) the land is under the control or management of a municipality, it means the municipal manager;

- (d) the registered owner or the person who is defined as the owner in paragraph (a) or (b)—
- (i) is deceased;
 - (ii) is insolvent;
 - (iii) has assigned his or her estate for the benefit of his or her creditors;
 - (iv) has been placed under curatorship by order of court; or
 - (v) is a company being wound up or under judicial management,
- it means the person in whom the administration of the land is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be; or
- (e) the land is coastal public property, it means the national department responsible for the fulfilment of the obligations of the state as public trustee of coastal public property in terms of sections 11 and 12 of the Integrated Coastal Management Act;
- “listed species”** means a species included in a list prescribed in terms of section 50(2);
- “Local Government: Municipal Systems Act”** means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);
- “long-term”** means a period of 50 years or longer;
- “mitigation measure”** means a measure or sequence of measures aimed at avoiding, minimising, rehabilitating or remedying an adverse effect;
- “mountain catchment area”** means an area contemplated in section 40;
- “Mountain Catchment Areas Act”** means the Mountain Catchment Areas Act, 1970 (Act 63 of 1970);
- “National Minister”** means the member of the National Cabinet responsible for environmental affairs;
- “nature conservation officer”** means a person designated in terms of section 58(a)(i);
- “nature conservation ranger”** means a person designated in terms of section 58(a)(ii);
- “newspaper”** means a monthly, weekly or daily publication containing articles on the news, features, reviews and advertisements, including such a publication communicated and received via the internet;
- “Ordinance”** means the Nature Conservation Ordinance, 1974 (Ordinance 19 of 1974);
- “organ of state”** means—
- (a) any department of state or administration in the national, provincial or local sphere of government; or
 - (b) any other functionary or institution—
 - (i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
 - (ii) exercising a public power or performing a public function in terms of any legislation,
 but does not include a court or a judicial officer;
- “peace officer”** means a person declared a peace officer under section 334(1) of the Criminal Procedure Act;
- “person”** means a—
- (a) natural person; or
 - (b) juristic person, including—
 - (i) any body incorporated or unincorporated established in terms of any law; and
 - (ii) any partnership, trust or organ of state;

“poison” includes any preparation or substance that can be used to catch, immobilise, sterilise, kill or physically harm any animal, plant or other organism;

“Premier” means the Premier of the Province;

“premises” means any land, site, property, building, structure or any part of any land, site, property, building or structure, and includes any container and any vehicle, train, railway carriage, vessel, aircraft or other conveyance;

“prescribe” means prescribe by regulation;

“private nature reserve” means a nature reserve which is in communal ownership or privately owned by a single landowner or multiple landowners—

(a) that has been declared, or is regarded as having been declared, in terms of section 12, 23(1) and 23(5) of the Protected Areas Act as a nature reserve;

(b) that is designated as a private nature reserve in terms of section 25 of the Protected Areas Act; or

(c) contemplated in section 42;

“professional hunter” means any person who, for any form or manner of reward, offers or agrees to escort or escorts a client to enable the client to hunt a wild or feral animal;

“protected area” means a protected area referred to in section 9 of the Protected Areas Act;

“Protected Areas Act” means the National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003);

“protected species” means a species contemplated in section 50(2)(e);

“Province” means the Province of the Western Cape and **“provincial”** has a corresponding meaning;

“Provincial Minister” means the member of the Provincial Cabinet responsible for environmental affairs in the Province;

“provincial protected area” means a provincial protected area as defined in the Protected Areas Act, which may include a nature reserve in the Province declared in terms of section 23(1) of the Protected Areas Act or a nature reserve in the Province regarded as having been declared in terms of section 23(5) of that Act, excluding a private nature reserve;

“Provincial Protected Areas Expansion Strategy” means the strategy contemplated in section 39(1)(a);

“Public Finance Management Act” means the Public Finance Management Act, 1999 (Act 1 of 1999);

“regulation” means a regulation made under this Act;

“remote piloted aircraft” means an unmanned aircraft which is piloted from a remote pilot station, excluding model aircraft and toy aircraft;

“resilience”, in relation to an ecosystem or ecological infrastructure, means the ability of the ecosystem or ecological infrastructure to withstand disturbances thereto while retaining the same basic structure and functioning, the capacity for self-organisation and the capacity to adapt to stress or change;

“restricted activity” means an activity which has been prescribed as a restricted activity under section 50(1);

“restricted method” means a method which has been prescribed as a restricted method under section 50(1);

“species” means a kind of animal, plant or other organism that does not normally interbreed with individuals of another kind, and includes any subspecies, cultivar, variety, geographic race, strain, hybrid or geographically separate population;

“specimen” means—

- (a) any living or dead animal, plant or other organism;
- (b) a seed, egg, gamete or propagule or part of an animal, plant or other organism capable of propagation or reproduction or in any way transferring genetic traits;
- (c) any derivative of any animal, plant or other organism; or
- (d) any goods which—
 - (i) contain a derivative of an animal, plant or other organism; or
 - (ii) from an accompanying document, from the packaging or mark or label, or from any other indications, appear to be or to contain a derivative of an animal, plant or other organism;

“spouse” includes a person living with another person as if they were married to each other;

“subordinate legislation” means any—

- (a) regulation made; or
- (b) notice published in the *Provincial Gazette*, by the Provincial Minister in terms of this Act;

“sustainable” means the use of, or impact on, biodiversity or ecosystems or ecosystem services in a way and at a rate that—

- (a) will not lead to its long-term decline and which can be sustained indefinitely without causing adverse effects thereon;
- (b) will not disrupt its ecological integrity; and
- (c) ensures its continued persistence to meet the needs and aspirations of present and future generations of people;

“systematic biodiversity planning” means a planning method that identifies biodiversity priority areas, taking into account biodiversity patterns and the ecological and evolutionary processes that sustain them, based on quantitative biodiversity targets and thresholds for aquatic, terrestrial, coastal and marine biodiversity features in order to conserve a representative sample of biodiversity patterns and ecological processes;

“this Act”, except in section 4, includes subordinate legislation made or issued in terms of this Act;

“UNESCO” means the United Nations Educational, Scientific and Cultural Organisation, and includes the International Coordinating Council of the Man and the Biosphere Programme;

“watercourse” means—

- (a) a river or spring;
- (b) a natural channel in which water flows regularly or intermittently;
- (c) a wetland, lake or dam into which, or from which, water flows; and
- (d) any collection of water declared in terms of the National Water Act, 1998 (Act 36 of 1998), to be a watercourse,

and a reference to a watercourse includes, where relevant, its bed and banks;

“water resource” includes a watercourse, surface water, an estuary and an aquifer;

“weapon” means anything whatsoever that can be used in such a way that a wild animal is killed, injured, captured or immobilised thereby;

“Western Cape Constitution” means the Constitution of the Western Cape, 1997 (Act 1 of 1998);

“Western Cape Nature Conservation Board Act” means the Western Cape Nature Conservation Board Act, 1998 (Act 15 of 1998);

“wild animal” means an animal that is not a domesticated species or a microorganism, whether or not the animal is alive or dead, tame, bred or kept in captivity, and includes the eggs, spawn, gametes, genetic material, or any part of such an animal.

Objectives

2. The objectives of this Act are to—

- (a) give effect to the obligation of the state in terms of national legislation to act as trustee in relation to the environment;
- (b) give effect to section 81(m) of the Western Cape Constitution to protect and conserve the environment in the Province, including its unique biodiversity, for the benefit of present and future generations;
- (c) ensure the long-term ecological sustainability and resilience of biodiversity, ecosystems, ecosystem services and ecological infrastructure through implementation of the principles of ecological sustainability contemplated in section 6;
- (d) ensure human well-being and the long-term resilience of society and the economy through the conservation of protected areas, biodiversity, ecosystems, ecosystem services and ecological infrastructure;
- (e) enable reasonable and sustainable access to benefits and opportunities emanating from the conservation of protected areas, biodiversity, ecosystems, ecosystem services and ecological infrastructure;
- (f) establish institutional structures and organisational capacity for the effective discharging of the conservation and management of biodiversity and nature in the Province;
- (g) promote systematic biodiversity planning and the attainment of the biodiversity targets for conservation set in the Biodiversity Spatial Plan and the Provincial Protected Areas Expansion Strategy;
- (h) regulate certain activities to be undertaken in a manner that enhances and protects the integrity and health of the environment;
- (i) subject to section 231 of the Constitution, implement and give effect to international agreements and best practices pertaining to the environment and conservation of biodiversity;
- (j) enable the financial and economic sustainability of the relevant institutions responsible for the conservation and management of biodiversity and nature in the Province; and
- (k) enable and develop an equitable and sustainable biodiversity economy in the Province, including the promotion and development of eco-tourism in protected areas under the control of CapeNature.

Application

3. This Act binds the state and all persons.

Conflicts with other legislation

4. (1) If there is a conflict between a provision of this Act and—

- (a) national legislation, the conflict must be resolved in terms of section 146 of the Constitution;
- (b) another Provincial Act, the provision of this Act prevails to the extent that the conflict concerns provisions governing the conservation of biodiversity;

- (c) municipal legislation, the provision of this Act prevails to the extent that the conflict concerns provisions governing—
 - (i) matters referred to in either Part A of Schedule 4 or Part A of Schedule 5 to the Constitution; or
 - (ii) matters referred to in Part B of Schedule 4 or Part B of Schedule 5 to the Constitution and the provision is a legitimate exercise or performance of the powers and duties of the Province under section 155(6)(a) and (7) of the Constitution.
- (2) If there is a conflict between subordinate legislation made in terms of this Act and—
 - (a) national legislation, the conflict must be resolved in terms of section 146 of the Constitution;
 - (b) a Provincial Act, that Act prevails;
 - (c) other subordinate Provincial legislation, the subordinate legislation made in terms of this Act prevails to the extent that the conflict concerns provisions governing the conservation of biodiversity;
 - (d) municipal legislation, the subordinate legislation made in terms of this Act prevails to the extent that the conflict concerns the matters specified in subsection (1)(c).

CHAPTER 2 DUTIES AND PRINCIPLES

Duty of state

5. Every organ of state that is empowered or required by or in terms of any law to exercise a power or perform a duty that may have an adverse effect on the environment, must in exercising or performing that power or duty in respect of the Province—

- (a) take a long-term perspective of the likely effects of each action or decision on the environment; and
- (b) apply the principles of ecological sustainability contemplated in section 6.

Principles of ecological sustainability

6. Every organ of state whose decisions or actions may affect biodiversity or the environment in the Province must apply the principles of ecological sustainability, which are to—

- (a) take account of the benefits and intrinsic and use value of natural resources and ecosystems;
- (b) ensure that biodiversity and ecosystems are protected, maintained and rehabilitated in a manner that enables the attainment of biodiversity targets for conservation set by the Province;
- (c) promote the resilience of biodiversity, ecosystems and ecological infrastructure;
- (d) ensure that development does not undermine the long-term persistence and resilience of biodiversity, ecosystems and ecological infrastructure;
- (e) ensure that the conservation and resilience of biodiversity for the benefit of present and future generations are given priority over the interests of any member or members of any community;
- (f) avoid, or minimise and remedy, the disturbance of ecosystems and loss of biological diversity; and

- (g) ensure that a risk-averse and cautious approach is applied, so that where there is insufficient evidence that an activity will not cause a long-term adverse effect, it should be avoided.

CHAPTER 3 ADMINISTRATION

Functions of Provincial Minister

7. (1) The Provincial Minister must—
- (a) exercise oversight over the Head of Department, CapeNature and the Board in the performance of their functions;
 - (b) develop and implement provincial policy on biodiversity and related matters;
 - (c) when approving, reviewing or commenting on a statutory or policy plan, ensure that the plan is aligned with the Biodiversity Spatial Plan; and
 - (d) periodically evaluate the effectiveness of the implementation and enforcement of this Act.
- (2) The Provincial Minister may—
- (a) make subordinate legislation as provided for in this Act;
 - (b) establish provincial government business enterprises as contemplated in the Public Finance Management Act to achieve the objectives of this Act;
 - (c) issue directives to the Board to ensure it functions efficiently and effectively in the discharge of its mandate;
 - (d) appoint a board of inquiry to consider the conduct of a Board member or the Board and take appropriate measures as contemplated in section 21 or 32, respectively;
 - (e) attend Board meetings; and
 - (f) perform any other function assigned to the Provincial Minister by or under this Act.

Duties of Head of Department

8. The Head of Department must, subject to section 7(1)(a) and (b)—
- (a) advise the Provincial Minister, when requested by the Provincial Minister to do so and after consultation with CapeNature, on matters of law, subordinate legislation, and provincial policy regarding nature conservation, biodiversity and coastal and estuarine management;
 - (b) after consultation with CapeNature, coordinate provincial strategies and programmes as approved by the Provincial Minister for nature conservation, biodiversity, and coastal and estuarine management, and the promotion and development of the biodiversity economy;
 - (c) in accordance with the Public Finance Management Act, exercise the powers of accounting officer responsible for the funds transferred to CapeNature and other entities for the implementation of this Act;
 - (d) establish a system for—
 - (i) the alignment of strategic and annual plans and associated programme budgets for nature conservation, biodiversity, and coastal and estuarine management, and the promotion and development of the biodiversity economy in the Province; and
 - (ii) the monitoring and reporting on the effectiveness of the use of funds transferred as contemplated in paragraph (c) and as planned for in accordance with subparagraph (i);

- (e) consider and comment on statutory and policy plans prepared in terms of this Act;
- (f) when the Head of Department is responsible for preparing, reviewing or commenting on a statutory or policy plan, ensure that the plan is aligned with the Biodiversity Spatial Plan;
- (g) support CapeNature in the implementation of the Provincial Protected Areas Expansion Strategy; and
- (h) make recommendations to the Provincial Minister on how to improve the effectiveness of implementation and enforcement of this Act.

CHAPTER 4 CAPENATURE

Part 1

Establishment and functions of CapeNature

Establishment

9. The Western Cape Nature Conservation Board as established by the Western Cape Nature Conservation Board Act continues in existence as a juristic person and a provincial public entity responsible for the conservation of biodiversity in the Province, and is known as CapeNature.

Duties of CapeNature

10. (1) In relation to the conservation of biodiversity, and subject to section 7(1)(a), CapeNature must—

- (a) recommend to the Provincial Minister, areas to be declared as provincial protected areas, protected environments, private nature reserves, mountain catchment areas and biodiversity stewardship areas according to the Provincial Protected Areas Expansion Strategy;
- (b) manage provincial protected areas and other areas where it is designated as the management authority;
- (c) promote and enable biodiversity stewardship;
- (d) maintain a register of provincial protected areas, private nature reserves, mountain catchment areas and biodiversity stewardship areas;
- (e) make recommendations or comments to the Provincial Minister on written representations or objections received in terms of section 33 of the Protected Areas Act on the declaration or the withdrawal of the declaration of a protected area;
- (f) after consultation with the Head of Department, advise the Provincial Minister on—
 - (i) subordinate legislation and policy to be made by the Provincial Minister in respect of biodiversity related matters; and
 - (ii) the exercise of the Provincial Minister's powers in terms of section 7(1)(b), (c) and (d);
- (g) establish a system for monitoring and reporting on—
 - (i) the status of biodiversity in the Province;
 - (ii) the status of invasive species;
 - (iii) the sustainable use of indigenous biological resources;
 - (iv) the management of provincial protected areas, protected environments, private nature reserves, mountain catchment areas and biodiversity stewardship areas; and

- (v) compliance with authorisations issued under this Act, in order to—
 - (aa) enable the timely detection and mitigation of adverse effects; and
 - (bb) facilitate the evaluation of the effectiveness of this Act;
 - (h) prepare biodiversity management plans as contemplated in section 43 of the Biodiversity Act;
 - (i) provide advice to landowners to improve biodiversity or the conservation of the environment on their land or how to manage the interface between humans and indigenous biological resources;
 - (j) advise the Provincial Minister on the export of indigenous biological resources for research;
 - (k) make recommendations to the Provincial Minister on matters that require research;
 - (l) report to the Provincial Minister on the state of biodiversity in the Province within two years of this Act coming into effect and at intervals of not more than four years thereafter, as required by the Provincial Minister; and
 - (m) on land managed by CapeNature, manage, conserve and promote natural and related cultural heritage resources through best practice, access and benefit sharing, and sustainable use practices.
- (2) CapeNature must manage the development and promotion of eco-tourism activities and facilities on land managed by CapeNature.
- (3) CapeNature must facilitate research, monitoring and training on biodiversity conservation.
- (4) CapeNature must promote—
- (a) community-based conservation of biodiversity;
 - (b) conservation- and eco-tourism-related work generation, local economic development opportunities and the biodiversity economy;
 - (c) access to protected areas for recreational, educational, research, cultural, spiritual and traditional purposes; and
 - (d) environmental awareness, education and youth development.

Powers of CapeNature

- 11.** (1) CapeNature may generate income by any lawful means, including through—
- (a) entrance fees, authorisations, concessions, and leases;
 - (b) nature-based eco-tourism facilities, events and services;
 - (c) activities in the biodiversity economy;
 - (d) maintenance of ecosystem services;
 - (e) fees resulting from intellectual property rights; and
 - (f) conservation and other services.
- (2) CapeNature may for the purpose of performing its functions and to achieve the objectives of this Act—
- (a) appoint its own staff;
 - (b) subject to section 7(1)(a) and (b), enter into any agreement with any person;
 - (c) acquire, dispose of, hire or let any right in or to movable property;
 - (d) conduct experiments, undertake research, make surveys, and conduct investigations;
 - (e) negotiate and cooperate with educational institutions regarding the training of persons for careers in nature conservation;
 - (f) display or otherwise disseminate information relating to conservation which may serve to further the achievement of the objectives of this Act;

- (g) market and advertise its objectives, activities, services and facilities;
- (h) in areas under its control, take measures that are necessary or desirable for the conservation of biodiversity or the management of adverse effects thereon;
- (i) inspect and investigate non-compliance and offences in terms of this Act;
- (j) in areas under its control, take measures that are necessary for the safety of visitors and the conservation of biodiversity;
- (k) maintain, construct or erect infrastructure, works or amenities on areas under its control;
- (l) allow commercial and community activities to take place in any area under its control provided that those activities do not have an adverse effect on biodiversity or the ecological infrastructure in that area;
- (m) erect, re-erect, maintain and repair on any land or in any watercourse the beacons, buoys, notices, notice boards, signs or other marks that are necessary or desirable for the implementation of any provision of this Act;
- (n) establish one or more advisory committees to assist it with fulfilling any of its functions in terms of this Act;
- (o) open its own bank accounts, but only with an institution registered as a bank in terms of the Banks Act, 1990 (Act 94 of 1990);
- (p) invest funds, subject to Part 5 of this Chapter;
- (q) insure itself against any loss, damage or risk;
- (r) perform any act in accordance with its powers and duties; and
- (s) institute or defend any legal action.

(3) If CapeNature is satisfied on reasonable grounds that it is appropriate and necessary for it to take action for the conservation of biodiversity, an official or person designated by CapeNature may enter onto private land—

- (a) with the consent of the landowner; or
- (b) in a situation posing imminent risk to human life or biodiversity, without such consent.

(4) CapeNature may at any time, in relation to any specimen of any species, undertake or authorise any action, including a restricted activity or restricted method if the specimen—

- (a) poses an imminent threat of injury or death to humans or any domesticated species;
- (b) is wounded, diseased or injured;
- (c) is causing damage to crops or plants on cultivated land or other property;
- (d) has or may have an adverse effect on indigenous species, ecosystems or the environment;
- or
- (e) should be captured or killed in the interests of conservation.

(5) If a wild animal is captured or injured during a hunt, CapeNature may, if it is not able to establish the identity of the owner, kill the animal and destroy the carcass.

(6) Before exercising any power in terms of this section on land not under its control, CapeNature must, if reasonably possible—

- (a) consult with the landowner; and
- (b) give reasonable notice to the landowner of the time when, the place where and the manner in which CapeNature proposes to exercise that power.

Part 2
Governing Board of CapeNature

Functions of Board

12. (1) CapeNature is governed by a Board, which is its accounting authority and must comply with the requirements of the Public Finance Management Act.

(2) The Board must—

- (a) maintain effective governance of CapeNature;
- (b) ensure that CapeNature properly performs its functions in terms of this Act;
- (c) approve and monitor compliance with the policies and strategies of CapeNature;
- (d) provide strategic direction to CapeNature;
- (e) develop a Board Charter to provide for a Code of Conduct for Board members and for meeting procedures, and to further regulate matters relating to corporate governance;
- (f) identify and regularly monitor risk areas and performance in respect of CapeNature; and
- (g) advocate for the sufficient resourcing of CapeNature to perform its functions.

(3) The Board must perform its functions subject to any directives issued by the Provincial Minister.

Composition

13. (1) The Board consists of—

- (a) at least seven and not more than nine non-executive members, appointed in terms of section 15; and
- (b) as executive members—
 - (i) an official of the Department, designated by the Provincial Minister; and
 - (ii) the Chief Executive Officer.

(2) The Provincial Minister—

- (a) must determine the number of members to be appointed in terms of subsection (1)(a); and
- (b) may alter the number determined in terms of paragraph (a), but may reduce the number only when a vacancy in the Board occurs.

(3) Only non-executive members may vote in terms of section 25.

Disqualification as Board member

14. A person may not be appointed to the Board if he or she—

- (a) is a member of the national Parliament, a provincial legislature or a municipal council;
- (b) is an employee of CapeNature or an employee in terms of the Public Service Act, 1994 (Proclamation 103 of 1994), excluding a person contemplated in section 12(1)(b) of that Act;
- (c) has been convicted of a criminal offence involving dishonesty;
- (d) is an unrehabilitated insolvent; or
- (e) has been declared to be of unsound mind by a competent court.

Appointment to Board

15. (1) The Provincial Minister must appoint the non-executive Board members contemplated in section 13(1)(a).

(2) When the Provincial Minister appoints a non-executive Board member, the Provincial Minister must—

- (a) by means of a notice in the *Provincial Gazette* and notices in two newspapers circulated in the Province, in the official languages of the Province, call for nominations from the public of suitable persons to be appointed; and
- (b) consider all nominations received and, after consultation with the Head of Department and the Chief Executive Officer, appoint the required number of persons to the Board.

(3) When making an appointment to the Board in terms of subsection (1), the Provincial Minister must—

- (a) ensure that the person appointed is a fit and proper person for such appointment;
- (b) ensure that the person appointed has appropriate qualifications, knowledge and experience, as may be determined by the Provincial Minister; and
- (c) have regard to the need to appoint persons—
 - (i) who are broadly representative of the demographics of the Province; and
 - (ii) from appropriate community-based or representative organisations in the Province.

(4) No decision taken by the Board or action taken on the authority of the Board is invalid merely because a vacancy existed on the Board or because a person who was not entitled to sit as a Board member sat on the Board at the time when the decision was taken or the action authorised, if the decision was taken or the action authorised by a majority of the Board members who were then present and entitled to sit as members.

Chairperson of Board

16. (1) The Provincial Minister, after consultation with the Board members—

- (a) must appoint or reappoint a non-executive Board member as the Chairperson and another non-executive Board member as Vice-Chairperson;
- (b) may, on good cause shown, withdraw any such appointment.

(2) The Chairperson and Vice-Chairperson are appointed for a period determined by the Provincial Minister, which may not extend beyond the term as a member contemplated in section 17.

(3) The Provincial Minister may appoint any Board member as Acting Chairperson of the Board—

- (a) if there is a vacancy in the office of Chairperson and Vice-Chairperson, until a Chairperson or Vice-Chairperson is appointed; or
- (b) if the Chairperson and Vice-Chairperson are absent from two or more consecutive meetings of the Board.

Term of office of non-executive members of Board

17. (1) A non-executive Board member—

- (a) is appointed for a term of three years, subject to section 22(2);
- (b) on completion of the term contemplated in paragraph (a), is eligible for reappointment by the Provincial Minister, after consultation with the Head of Department and the Chief Executive Officer, for one additional term of three years.

(2) The Provincial Minister may extend the period of appointment of a non-executive member contemplated in subsection (1)(a) or (b) for a period not exceeding one year.

Conditions of appointment and remuneration

18. (1) The Provincial Minister must determine the terms and conditions of appointment of non-executive members of the Board, including payment of remuneration and allowances as may be determined by the National Treasury in terms of the Public Finance Management Act.

(2) CapeNature is responsible for the payment of remuneration and allowances to non-executive Board members.

Conduct of members

19. (1) A Board member—

- (a) must perform the functions of their office in good faith and without fear, favour or prejudice;
- (b) must adhere to the Code of Conduct contemplated in section 12(2)(e);
- (c) must disclose to the Board any financial or personal business interests that the member or his or her partner, spouse, or immediate family member, may have in any matter before the Board, and must withdraw from the proceedings of the Board when that matter is considered;
- (d) may not use confidential information obtained as a Board member or the position or privileges as a Board member for private gain or to benefit another person; and
- (e) may not act in any other way that compromises the credibility, impartiality, independence or integrity of CapeNature or the Board.

(2) A Board member who contravenes or fails to comply with subsection (1) is guilty of misconduct.

Termination of membership

20. A non-executive member ceases to be a Board member if—

- (a) the term of office of the non-executive member expires; or
- (b) the non-executive member—
 - (i) is no longer eligible in terms of section 14(a) to (e) to be a member;
 - (ii) tenders his or her written resignation at least three calendar months before the date on which the member wishes to vacate office, unless the Provincial Minister allows a shorter period in a specific case; or
 - (iii) is removed from office in terms of section 21.

Removal and suspension

21. (1) The Provincial Minister may remove a Board member from office on any of the following grounds:

- (a) misconduct, incapacity or incompetence;
- (b) the member being absent from two consecutive meetings of the Board without the prior permission of the Chairperson, unless good cause can be shown for failure to obtain prior permission;

- (c) insolvency; or
 - (d) conviction of a criminal offence involving dishonesty.
- (2) The Provincial Minister—
- (a) must remove the Board member from office as contemplated in subsection (1)(a) after a finding to that effect has been made by a board of inquiry appointed by the Provincial Minister as contemplated in section 7(2)(d); and
 - (b) may suspend a Board member who is the subject of an inquiry contemplated in paragraph (a).

Filling of vacancies

22. (1) A vacancy in the Board is filled—

- (a) in the case of the Chairperson or Vice-Chairperson, by appointing another Board member as the Chairperson or Vice-Chairperson, as the case may be, as contemplated in section 16(1)(a); and
- (b) in the case of a non-executive Board member, by following the procedure contemplated in section 15.

(2) A person appointed to fill a vacancy holds office for the unexpired portion of the term of office of his or her predecessor.

Part 3 **Operating procedures of Board**

Meetings

23. (1) The Board must meet at least four times during the financial year of CapeNature, and the Chairperson may, and at the request of a majority of the Board members must, convene a special meeting.

(2) The Chairperson must convene and preside at meetings of the Board, but if the Chairperson is absent from a meeting, the Vice-Chairperson must preside.

(3) If both the Chairperson and Vice-Chairperson are absent from a meeting, the members present must elect another member to preside at the meeting, subject to section 16(3).

Procedures

24. (1) The Board must determine its own procedure for conducting meetings, subject to section 12(2)(e).

(2) The Board must keep a record of proceedings at meetings and of all decisions taken at meetings.

(3) The Board may invite any member of the public to attend any meeting of the Board.

Quorum and decisions

25. (1) A majority of the non-executive Board members serving at the time constitutes a quorum for a meeting of the Board.

(2) A matter before the Board is decided by the votes of a majority of the non-executive Board members present at the meeting.

(3) If on any matter before the Board there is an equality of votes, the Board member presiding at the meeting must exercise a casting vote in addition to his or her deliberative vote as a member.

Committees

26. (1) The Board may establish committees, including an audit committee, to assist it in fulfilling its functions, comprising one or more of the following:

- (a) Board members;
- (b) employees of CapeNature;
- (c) other persons who in the Board's opinion have relevant experience or expertise.

(2) The Board—

- (a) must determine the functions of each committee established in terms of subsection (1);
- (b) must appoint the committee chairperson and other members of each committee;
- (c) may remove a member of a committee from office at any time; and
- (d) must determine the procedures for each committee.

(3) A committee may only recommend decisions for approval to the Board.

(4) The Board may at any time dissolve a committee, except the audit committee.

(5) Sections 18 and 19 apply, with the necessary changes, to committee members.

Part 4

Administration of CapeNature

Chief Executive Officer

27. (1) The Board, acting with the concurrence of the Provincial Minister, must appoint a person with appropriate qualifications and experience as the Chief Executive Officer of CapeNature.

(2) The Chief Executive Officer—

- (a) is appointed for a term of five years; and
- (b) may be reappointed by the Board with the concurrence of the Provincial Minister for a further term not exceeding five years.

(3) The Chief Executive Officer is employed subject to terms and conditions of employment which the Board must determine with the concurrence of the Provincial Minister.

(4) The Chief Executive Officer is responsible for the administrative and financial management of CapeNature and must—

- (a) assist the Board to fulfil its function as accounting authority of CapeNature and to comply with the Public Finance Management Act by ensuring that there are systems in place to provide the information and reports required by the Board;
- (b) perform the duties and exercise the powers assigned or delegated to him or her by the Board;
- (c) report to the Board on aspects of management, the performance of duties and the exercise of powers at the times and in the manner determined by the Board;
- (d) prepare draft versions of the plans, reports and statements contemplated in section 28;
- (e) appoint an appropriately qualified Chief Financial Officer;
- (f) appoint members of staff, within the financial limits set by the Board and in accordance with an employment policy determined by the Board;
- (g) manage the members of staff;
- (h) ensure that CapeNature complies with the provisions of this Act, the Public Finance Management Act and any other applicable legislation; and

- (i) in general, direct the affairs of CapeNature in order to achieve the objectives of this Act.
- (5) The Board, acting with the concurrence of the Provincial Minister, may appoint an employee of CapeNature as Acting Chief Executive Officer for a period not exceeding six months at a time when—
- (a) the Chief Executive Officer is for any reason absent or unable to perform his or her functions; or
 - (b) there is a vacancy in the office of the Chief Executive Officer.
- (6) An Acting Chief Executive Officer—
- (a) has the powers and duties of the Chief Executive Officer; and
 - (b) must be appointed subject to the same terms and conditions contemplated in subsection (3).

Part 5 ***Financial matters***

Financial accountability and reporting

28. The Board must ensure that strategic and annual performance plans, budgets, annual reports and audited financial statements are prepared, approved and submitted in accordance with the Public Finance Management Act.

Funds

- 29.** (1) The funds of CapeNature consist of—
- (a) income derived from the performance of its functions as contemplated in section 11(1);
 - (b) funds appropriated to it by the Provincial Parliament;
 - (c) grants and funds received from any person;
 - (d) voluntary contributions, donations and bequests;
 - (e) income derived from investments;
 - (f) fines received or recovered in respect of offences under this Act; and
 - (g) money derived from any other source, with approval of the Provincial Minister and the Board, subject to the Public Finance Management Act.
- (2) CapeNature must use its funds to perform its functions referred to in sections 10 and 11 and to cover its and the Board's operational, administrative and managerial expenses, including the payment of the remuneration, allowances, subsistence and travelling expenses of Board members, the Chief Executive Officer and the staff members of CapeNature.
- (3) The Chief Executive Officer must ensure that all funds received in terms of subsection (1) are deposited in CapeNature's bank account.

Reserve funds

- 30.** (1) The Board may, subject to the Public Finance Management Act, create financial reserves from the funds received in terms of section 29(1) in order to perform its functions.
- (2) Any transfers into and out of these financial reserves must be ratified by the Board.

Investments

31. The Board may invest any of the funds of CapeNature that are not immediately required, subject to any investment policy prescribed in terms of section 7(4) of the Public Finance Management Act.

Part 6 ***Dissolution of Board or CapeNature***

Dissolution of Board

32. (1) If the Provincial Minister suspects on reasonable grounds that the Board is not fulfilling its functions in terms of section 12, he or she must issue a directive contemplated in section 7(2)(c).

(2) If the Provincial Minister is not satisfied that the Board has complied with the directive contemplated in subsection (1) the Provincial Minister may dissolve the Board by notice in the *Provincial Gazette*.

(3) The Provincial Minister may perform the functions of the Board from the date of publication of the notice contemplated in subsection (2) until the appointment of a new Board contemplated in subsection (4).

(4) The Provincial Minister must within a reasonable timeframe after the dissolution of the Board appoint members to the Board as contemplated in section 15.

Dissolution of CapeNature

33. (1) CapeNature may not be wound up or dissolved except by an Act of the Provincial Parliament.

(2) Upon its winding up or dissolution CapeNature must transfer its remaining assets and the proceeds of those assets to the Department or to an equivalent provincial public entity as defined in the Public Finance Management Act, as determined by the Provincial Minister.

CHAPTER 5 **BIODIVERSITY PLANNING AND MONITORING**

Biodiversity Spatial Plan

34. (1) CapeNature, after consultation with the Head of Department, must prepare a draft Biodiversity Spatial Plan within one year of the commencement of this Act and submit it to the Provincial Minister for adoption.

(2) Before adopting the Biodiversity Spatial Plan, the Provincial Minister must—

(a) in the official languages of the Province, publish the reference to where the draft Biodiversity Spatial Plan may be accessed by the public—

(i) by notice in the *Provincial Gazette*; and

(ii) in two newspapers circulated within the Province, at least one of which must be in print format;

(b) make the draft Biodiversity Spatial Plan available and accessible to the public in a reasonable manner at the place specified in terms of paragraph (a); and

(c) allow a commenting period of at least 60 days from the date of publication of the notice in the *Provincial Gazette*.

- (3) The Provincial Minister must—
- (a) consider all comments received; and
 - (b) within 90 days of the expiry of the commenting period contemplated in subsection (2)(c), adopt the final Biodiversity Spatial Plan, and publish it by notice in the *Provincial Gazette*.

Purpose of Biodiversity Spatial Plan

35. The purpose of a Biodiversity Spatial Plan is to—
- (a) set biodiversity targets;
 - (b) spatially identify one or more categories of biodiversity priority areas that will ensure the continued existence and functioning of biodiversity and ecosystems, including the delivery of ecosystem services;
 - (c) provide guidelines which set out the desired management objectives for land and resource use in each category of biodiversity priority area;
 - (d) provide spatial planning and land use decision-making guidelines to ensure environmentally sustainable development, resource use and ecological and spatial resilience in the Province; and
 - (e) ensure that the ecological infrastructure in the Province is maintained, ecosystem fragmentation and loss is avoided, and the resilience of ecosystems and human communities to the impacts of climate change is strengthened.

Contents of Biodiversity Spatial Plan

36. A Biodiversity Spatial Plan must—
- (a) be developed using the principles and methods of systematic biodiversity planning and must be based on the best available science and data;
 - (b) set biodiversity targets that must inform the categories of biodiversity priority areas;
 - (c) identify biodiversity priority areas according to the categories and targets contemplated in paragraph (b);
 - (d) include a spatial representation and spatial data of biodiversity priority areas; and
 - (e) include guidelines for desired management objectives for each category of biodiversity priority area identified in terms of paragraph (c).

Use and application of Biodiversity Spatial Plan

37. (1) The Biodiversity Spatial Plan is a provincial plan as contemplated in—
- (a) sections 25(1)(e), 26(d), 27(2)(a) and 29(1)(c) of the Local Government: Municipal Systems Act;
 - (b) sections 12(4), 15(3)(b) and 16(c) of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013); and
 - (c) section 4(3)(c)(ii) and (iii) of the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014), that establishes the priorities, objectives and strategies for biodiversity, ecological resources and related climate change adaptation.
- (2) The Biodiversity Spatial Plan must inform—
- (a) the Provincial Protected Area Expansion Strategy and biodiversity stewardship;
 - (b) the identification of ecosystems and ecological infrastructure and the listing of species in terms of this Act and other environmental legislation;

- (c) land use planning and decision-making;
- (d) policies and guidelines developed in terms of environmental legislation;
- (e) any decision-support system, environmental management instrument or strategic environmental assessment developed or used in terms of environmental legislation;
- (f) decisions and actions by any organ of state whose policies and decisions impact on biodiversity in the Province; and
- (g) biodiversity offsets.

(3) When a municipality adopts or amends its spatial development framework in terms of the Local Government: Municipal Systems Act in respect of land use matters in areas identified in the Biodiversity Spatial Plan as biodiversity priority areas, it must indicate how the land use planning categories in the spatial development framework have taken into account the desired management objectives in the guidelines contemplated in section 36(e).

(4) For the purposes of any requirement for authorisation for an activity specified in terms of environmental legislation due to the impact of such activity on biodiversity within a specific area, the Biodiversity Spatial Plan identifies the biodiversity priority areas which trigger such requirement.

Review of Biodiversity Spatial Plan

38. (1) CapeNature, after consultation with the Head of Department, must review the Biodiversity Spatial Plan at least every five years or when directed to do so by the Provincial Minister.

(2) Section 34 applies, with the necessary changes, to the review and amendment of the Biodiversity Spatial Plan.

(3) The Provincial Minister must at least every 10 years assess the Biodiversity Spatial Plan to determine whether and the extent to which the objectives and targets of the plan have been met.

CHAPTER 6

PROTECTED AREAS, MOUNTAIN CATCHMENT AREAS, PRIVATE NATURE RESERVES, BIODIVERSITY STEWARDSHIP AND BIOSPHERE RESERVES

Part 1

Expansion of protected areas

Provincial Protected Areas Expansion Strategy

39. (1) In order to fulfil the objectives contemplated in section 2(g)—

- (a) the Provincial Minister may take any appropriate measure, including—
 - (i) adopting a provincial strategy for the expansion of the provincial protected area network, which sets quantitative targets and recommends mechanisms for such expansion; and
 - (ii) declaring protected areas in terms of the Protected Areas Act; and
- (b) the Chief Executive Officer may apply any appropriate biodiversity stewardship category contemplated in section 43(1)(a).

(2) CapeNature must, after consultation with the Head of Department, prepare a draft Provincial Protected Areas Expansion Strategy within two years of the commencement of this Act and submit it to the Provincial Minister for adoption.

- (3) Before adopting the Provincial Protected Areas Expansion Strategy, the Provincial Minister must—
- (a) in the official languages of the Province, publish the reference to where the draft Provincial Protected Areas Expansion Strategy may be accessed by the public—
 - (i) by notice in the *Provincial Gazette*; and
 - (ii) in two newspapers circulated in the Province, at least one of which must be in print format;
 - (b) make the draft Provincial Protected Areas Expansion Strategy available and accessible to the public in a reasonable manner at the place specified in terms of paragraph (a); and
 - (c) allow a commenting period of at least 60 days from the date of publication of the notice in the *Provincial Gazette*.
- (4) The Provincial Minister must—
- (a) consider all comments received; and
 - (b) within 90 days of the expiry of the commenting period contemplated in subsection (3)(c), adopt the final Provincial Protected Areas Expansion Strategy, and publish it by notice in the *Provincial Gazette*.

Part 2

Mountain catchment areas

Declaration of mountain catchment areas

- 40.** (1) The Provincial Minister may by notice in the *Provincial Gazette*—
- (a) declare an area to be—
 - (i) a mountain catchment area; or
 - (ii) part of an existing mountain catchment area; and
 - (b) assign a name to that mountain catchment area.
- (2) The Provincial Minister may make a declaration in terms of subsection (1)(a) if the control and management of activities and resources in the area concerned are required to—
- (a) maintain the biodiversity and ecosystems in the area;
 - (b) sustain the provision of ecosystem services, particularly water provisioning;
 - (c) ensure that the use of ecosystem services in the area is sustainable.
- (3) The Provincial Minister may make a declaration in terms of subsection (1) in respect of any land, including privately owned land.
- (4) If the Provincial Minister is satisfied on reasonable grounds that a mountain catchment area, or any part thereof, is no longer required as such, the Provincial Minister may, by notice in the *Provincial Gazette*, as the case may be—
- (a) withdraw the declaration of that mountain catchment area; or
 - (b) alter the boundaries of that mountain catchment area to exclude any part of it.
- (5) Before issuing a notice contemplated in subsection (1)(a), (3) or (4), the Provincial Minister must, in the prescribed manner, notify landowners of the intended notice and the consequences of the notice.
- (6) An area which, at the commencement of this Act, is a mountain catchment area by virtue of a declaration under section 2 of the Mountain Catchment Areas Act is regarded to have been declared a mountain catchment area under subsection (1).
- (7) An area ceases to be a mountain catchment area if that area is declared as, or included into, a special nature reserve, national park or nature reserve or part thereof, in terms of section 18, 20 or 23 of the Protected Areas Act.

Management of mountain catchment areas

41. The Provincial Minister may prescribe—
- (a) specific requirements for the management of mountain catchment areas; or
 - (b) specific activities that are prohibited in mountain catchment areas, having regard to the requirements of section 40(2).

Part 3

Private nature reserves

Declaration of private nature reserves

42. (1) A landowner may in the prescribed manner apply to the Provincial Minister to declare a private nature reserve on land owned by that landowner and to assign a name to the reserve.

- (2) The Provincial Minister must consider the application having regard to—
- (a) the contribution of the proposed private nature reserve to biodiversity conservation objectives and targets in the Province; and
 - (b) the capacity of the landowner to manage and maintain the private nature reserve to fulfil those objectives and targets.

(3) The Provincial Minister may approve the application, with or without conditions, or refuse it.

(4) If the Provincial Minister approves the application, the Provincial Minister must declare the private nature reserve by notice in the *Provincial Gazette*, together with the name of the nature reserve, the boundaries thereof, and the reference to where conditions, if any, subject to which approval has been granted can be accessed.

- (5) The owner of a private nature reserve may—
- (a) advertise the private nature reserve as a private nature reserve;
 - (b) apply to the Provincial Minister to—
 - (i) alter the boundaries or the name or the boundaries and the name of the private nature reserve; or
 - (ii) withdraw the declaration of the private nature reserve.

- (6) The Provincial Minister—
- (a) may approve an application contemplated in subsection (5)(b)(i) with or without conditions, or refuse it;
 - (b) must approve an application contemplated in subsection (5)(b)(ii).

- (7) The Provincial Minister must—
- (a) where an application contemplated in subsection (5)(b)(i) is approved, give notice in the *Provincial Gazette* of the new boundaries or the new name or the new boundaries and the new name of the private nature reserve and the reference to where conditions, if any, subject to which approval has been granted can be accessed; or
 - (b) in the case of the withdrawal of the declaration of the private nature reserve, give notice in the *Provincial Gazette* of the withdrawal.

(8) A person who advertises a private nature reserve must comply with any relevant conditions imposed in terms of subsection (3) or (6)(a), as the case may be.

(9) Any private nature reserve established in terms of the Ordinance is, notwithstanding its repeal by this Act, regarded to have been declared a private nature reserve in terms of subsection (4).

(10) The Provincial Minister may withdraw the declaration of a private nature reserve by notice in the *Provincial Gazette* if the Provincial Minister is satisfied on reasonable grounds that—

- (a) the private nature reserve no longer contributes effectively to biodiversity conservation objectives and targets in the Province; or
 - (b) the landowner concerned no longer has the capacity to manage and maintain the private nature reserve to fulfil those objectives and targets.
- (11) Before acting in terms of subsection (10), the Provincial Minister must give the landowner an opportunity to make representations.
- (12) The Provincial Minister may prescribe requirements for the management of private nature reserves.
- (13) Subsections (5)(b) and (10) apply only in respect of a private nature reserve declared in terms of subsection (4) or regarded to have been so declared by virtue of subsection (9).

Part 4

Biodiversity stewardship

Biodiversity stewardship

43. (1) In order to implement the Provincial Protected Areas Expansion Strategy, the Provincial Minister may prescribe—
- (a) different categories of biodiversity stewardship areas;
 - (b) criteria and conditions that apply to each category of biodiversity stewardship area;
 - (c) an application process for the registration, amendment of the boundary of, or withdrawal of the registration of a biodiversity stewardship area;
 - (d) the rights, duties and powers of landowners regarding biodiversity stewardship areas;
 - (e) the criteria and objectives for the management plans of biodiversity stewardship areas; and
 - (f) any other matter necessary for the proper management of biodiversity stewardship areas.
- (2) The Chief Executive Officer may enter into a biodiversity stewardship agreement with any landowner.
- (3) CapeNature must monitor the status of biodiversity stewardship agreements and biodiversity stewardship areas and report annually to the Provincial Minister thereon.
- (4) If a landowner who is party to a biodiversity stewardship agreement breaches that agreement, the Provincial Minister may impose an administrative penalty in terms of section 73.
- (5) The imposition of an administrative penalty as contemplated in subsection (4) does not affect any person's common law rights.

Part 5

Biosphere reserves

Application for UNESCO designation as biosphere reserve

44. (1) Any person or organ of state may request the Provincial Minister's approval to proceed with an application for UNESCO designation of a biosphere reserve.
- (2) A request contemplated in subsection (1) must—
- (a) be preceded by the prescribed public participation process;
 - (b) be in accordance with the prescribed format; and
 - (c) include the proposed composition of a biosphere reserve interim committee which is broadly representative of all interested persons, institutions and communities.

(3) The Provincial Minister may approve the request contemplated in subsection (2), with or without conditions, or refuse it.

(4) If the Provincial Minister approves the request, the biosphere reserve interim committee must—

- (a) be established in the prescribed manner;
- (b) prepare the application for UNESCO designation of the biosphere reserve in the format as determined by UNESCO Man and the Biosphere Programme;
- (c) submit the application to the Provincial Minister within the prescribed period or any extended period determined by the Provincial Minister; and
- (d) if the Provincial Minister so requests, amend the application in accordance with the Provincial Minister's instructions.

(5) If the Provincial Minister is satisfied that the application—

- (a) complies with the relevant UNESCO Man and the Biosphere Programme criteria;
- (b) is consistent with the objectives of this Act; and
- (c) if applicable, includes the amendments contemplated in subsection (4)(d),

the Provincial Minister may approve the application for UNESCO designation for forwarding to the National Minister for consideration before submitting it to UNESCO.

(6) If UNESCO designates the biosphere reserve, the Provincial Minister must publish a notice of the designation in the *Provincial Gazette* within 90 days of UNESCO's making the designation.

(7) The Provincial Minister must at least every 10 years, with effect from the designation of a biosphere reserve, review the status, functioning, effectiveness and framework plan of the biosphere reserve according to the relevant objectives, strategies and guidelines of the UNESCO Man and the Biosphere Programme.

(8) If the Provincial Minister is of the opinion, after consultation with the management committee contemplated in section 45 and interested and affected parties, that a biosphere reserve no longer complies with the core functions of the UNESCO Man and the Biosphere Programme, and does not have the prospect of so complying, the Provincial Minister may recommend to the National Minister to submit a request for the withdrawal of the designation of that biosphere reserve to UNESCO.

(9) A biosphere reserve established in the Province before the commencement of this Act is regarded as having been established in accordance with this Act.

Management of biosphere reserves

45. (1) After the publication of the designation of a biosphere reserve in the *Provincial Gazette*, the biosphere reserve interim committee must establish a management committee in the prescribed manner, after which the biosphere reserve interim committee dissolves.

(2) The management committee must—

- (a) ensure that the biosphere reserve fulfils its conservation, sustainable development and operational functions;
- (b) prepare a Biosphere Reserve Framework Plan as contemplated in section 46; and
- (c) report to the Provincial Minister annually, or at the shorter intervals determined by the Provincial Minister, on the achievement of the objectives and the operations of the biosphere reserve.

Biosphere Reserve Framework Plan

46. (1) A Biosphere Reserve Framework Plan must categorise all land within the biosphere reserve as core, buffer or transition areas, and may identify land uses that are appropriate within each category.

(2) A Biosphere Reserve Framework Plan must be consistent with—

- (a) the UNESCO Man and the Biosphere Programme;
- (b) if the biosphere reserve is located within a protected area, the management plan for that protected area in terms of the Protected Areas Act;
- (c) the Biodiversity Spatial Plan;
- (d) the Provincial Protected Areas Expansion Strategy;
- (e) the objectives of this Act; and
- (f) any other prescribed matter.

(3) The Provincial Minister may prescribe the contents of a Biosphere Reserve Framework Plan and the period within which the plan must be reviewed by the management committee of the biosphere reserve.

Funding of biosphere reserves

47. (1) The Provincial Minister may, in accordance with an appropriation by the Provincial Parliament, provide financial or other assistance in respect of the establishment, operation, management or extension of, or in respect of conservation within, a biosphere reserve.

(2) The assistance contemplated in subsection (1) may be made subject to conditions determined by the Provincial Minister.

CHAPTER 7

PROTECTION OF ECOSYSTEMS, ECOLOGICAL INFRASTRUCTURE AND SPECIES

Ecosystems or ecological infrastructure in need of special protection

48. (1) The Provincial Minister may by notice in the *Provincial Gazette* identify an ecosystem or part thereof or an area of ecological infrastructure as in need of special protection to ensure the maintenance of their ecological integrity or the delivery of ecosystem services.

(2) A notice contemplated in subsection (1) may provide for—

- (a) the prohibition or restriction of any activity; and
- (b) the establishment of management requirements for any landowner,

within the identified ecosystem or ecological infrastructure, permanently or for a specified period.

(3) Before issuing a notice contemplated in subsection (1), the Provincial Minister must, in the prescribed manner, notify the landowners concerned of the intended notice and the consequences thereof, and afford them reasonable opportunity to comment.

(4) The Provincial Minister may by notice in the *Provincial Gazette* amend or withdraw a notice contemplated in subsection (1), or any part of the notice, if the circumstances which caused the Provincial Minister to exercise his or her powers in terms of subsection (1) have changed.

(5) Despite any other applicable legislation, it is an offence not to comply with a notice contemplated in subsection (1) or amended as contemplated in subsection (4).

Biodiversity offsets and other mitigation measures

49. The Provincial Minister may prescribe requirements for biodiversity offsets or other mitigation measures in the Province in order to attain the biodiversity targets set in the Biodiversity Spatial Plan.

Species in need of protection or posing threat to environment

50. (1) The Provincial Minister may prescribe restricted activities or restricted methods in respect of any species or any category of species listed in terms of subsection (2).

(2) The Provincial Minister may prescribe lists of the following species or categories of species:

- (a) species which are extinct in the wild;
- (b) critically endangered species;
- (c) endangered species;
- (d) vulnerable species;
- (e) species that require protection and are not listed in terms of paragraph (a), (b), (c) or (d), including species listed—
 - (i) by the International Union for the Conservation of Nature as Near Threatened, Data Deficient or Not Evaluated; or
 - (ii) in appendices I, II and III of CITES;
- (f) any other indigenous species not listed in terms of paragraph (a), (b), (c), (d) or (e);
- (g) extra-limital species;
- (h) alien species;
- (i) invasive species;
- (j) species that require special management measures; and
- (k) domesticated species.

(3) The Provincial Minister may prescribe the special management measures required for species listed in terms of subsection (2)(j).

(4) No person may carry out a restricted activity or restricted method involving a listed species, unless authorised to do so in terms of section 53(1)(a).

(5) Subsection (4) does not apply to a listed species conveyed from outside the Province in transit through the Province to a destination outside the Province, provided that the transit through the Province takes place in terms of an applicable authorisation in terms of any law.

(6) The Provincial Minister may prescribe species in respect of which an authorisation may not be issued in terms of this Act for a restricted activity or restricted method involving that species.

CHAPTER 8 PROFESSIONAL HUNTING

Professional hunting

51. (1) No person may provide any service as a professional hunter, hunting outfitter or Director of a Professional Hunting School unless he or she is authorised to do so in terms of section 53(1)(a).

(2) No client may hunt unless accompanied by a professional hunter.

(3) A person who contravenes subsection (1) or (2) commits an offence.

CHAPTER 9 AUTHORISATION

Application for authorisation

52. An application for an authorisation that is required in terms of any provision of this Act must be made in writing to the Chief Executive Officer in the prescribed manner.

Decision on application for authorisation

53. (1) The Chief Executive Officer may—

- (a) grant an application for authorisation with or without conditions; or
- (b) refuse the application for authorisation.

(2) The Chief Executive Officer may request further information, including an independent risk assessment or expert evidence contemplated in section 54, before making the decision contemplated in subsection (1).

(3) The Chief Executive Officer must refuse an application if it is inconsistent with—

- (a) the principles of ecological sustainability contemplated in section 6 or any other provision of this Act;
- (b) any relevant strategies or plans adopted or approved in terms of this Act; or
- (c) subject to section 231 of the Constitution, any applicable international agreement.

Risk assessments and expert evidence

54. Before granting an application for authorisation, the Chief Executive Officer may require the applicant to furnish, at the applicant's expense, the independent risk assessment or expert evidence that—

- (a) is determined by the Chief Executive Officer as necessary in order to make a decision regarding the application; or
- (b) is prescribed.

Proof of legal possession

55. A person in possession of a specimen of a wild animal must be in possession of the prescribed documentation indicating proof of legal possession for the specimen.

Integrated authorisation

56. (1) If the Chief Executive Officer is empowered under another law to issue an authorisation in terms of that other law for an activity which also requires authorisation under this Act, the Chief Executive Officer may issue a single, integrated authorisation.

(2) An integrated authorisation may be issued only if the application concerned complies with the relevant provisions of this Act and the other law.

Review, suspension, withdrawal and amendment of authorisation

57. (1) The Chief Executive Officer may review an authorisation or any part thereof granted by him or her and may amend or withdraw the authorisation at any time if—

- (a) he or she is satisfied on reasonable grounds that the activity or activities authorised by the authorisation are causing an adverse effect, or may cause a significant negative impact on the environment, not foreseen at the time of authorisation;
 - (b) the holder of the authorisation—
 - (i) has submitted inaccurate, incorrect or misleading information in connection with any matter required to be submitted in terms of this Act;
 - (ii) fails to comply with any condition of the authorisation;
 - (iii) fails to comply with any provision of this Act or is under investigation for failure to comply with any other legislation governing or related to the authorised activity; or
 - (iv) has been convicted of an offence in terms of this Act or any other provincial or national legislation that relates to the authorised activity.
- (2) The Chief Executive Officer may suspend the authorisation or a part thereof before taking measures as contemplated in subsection (1).
- (3) An authorisation, or part thereof, that has been suspended remains suspended until the Chief Executive Officer—
- (a) lifts the suspension;
 - (b) amends the authorisation; or
 - (c) withdraws the authorisation.
- (4) The Chief Executive Officer may—
- (a) take any reasonable measures to remedy the situation which may arise as a result of the suspension or withdrawal of an authorisation or a part thereof due to non-compliance by the holder of the authorisation with the relevant legislation; and
 - (b) recover from the holder of the authorisation any reasonable costs incurred and necessitated by taking the measures contemplated in paragraph (a).

CHAPTER 10 COMPLIANCE AND ENFORCEMENT

Part 1

Compliance and enforcement officials and judicial matters

Designation of nature conservation officers, nature conservation rangers and honorary nature conservation officers

- 58.** The Chief Executive Officer—
- (a) may designate—
 - (i) a suitably qualified person employed by CapeNature as a nature conservation officer;
 - (ii) by agreement with the relevant employer, a suitably qualified person employed by a municipality or an organ of state as a nature conservation ranger; or
 - (iii) a suitably qualified person as an honorary nature conservation officer;
 - (b) must, when designating a person in terms of paragraph (a), specify the provisions of this Act or any other law which that person is designated to enforce;
 - (c) may at any time withdraw a designation contemplated in paragraph (a).

Declaration of nature conservation officers and nature conservation rangers as peace officers

59. The Chief Executive Officer may request the National Minister responsible for Justice to declare nature conservation officers and nature conservation rangers to be peace officers in terms of section 334 of the Criminal Procedure Act for the performance of their functions in terms of this Act and in respect of powers delegated or duties assigned to CapeNature under any other legislation.

Mandate of nature conservation officers and nature conservation rangers

60. A nature conservation officer or nature conservation ranger may enforce, within his or her area of jurisdiction—

- (a) compliance with this Act and authorisations issued in terms of this Act; and
- (b) compliance with any other law insofar as the implementation of that law has been delegated or assigned to CapeNature.

Honorary nature conservation officers

61. (1) An honorary nature conservation officer may exercise only the powers set out in subsections (2) and (3) and only within a geographical area specified in the designation contemplated in section 58(a)(iii).

(2) An honorary nature conservation officer may request any person performing, or whom he or she reasonably suspects of having performed, any act for the performance of which an authorisation, exemption or order, or the written permission of a landowner or of any other person is necessary under any provision of this Act to—

- (a) present such authorisation, exemption, order or permission; and
 - (b) provide his or her name and address.
- (3) An honorary nature conservation officer may assist CapeNature in—
- (a) the detection and reporting of offences in terms of this Act; and
 - (b) the performance of any conservation-related activity, as instructed by a nature conservation officer.

Functions of nature conservation officers and nature conservation rangers

62. A nature conservation officer or nature conservation ranger, subject to section 60—

- (a) must monitor and enforce compliance with the law for which he or she has been designated;
- (b) may investigate any act or omission that may constitute—
 - (i) an offence in terms of such a law;
 - (ii) a breach of such a law; or
 - (iii) a breach of a term or condition of an authorisation or other document issued or required in terms of this Act;
- (c) must perform his or her functions—
 - (i) in accordance with instructions issued by CapeNature; and
 - (ii) subject to any limitations and in accordance with any procedures that may be prescribed; and
- (d) may be accompanied by an interpreter or any other person whose assistance may reasonably be required.

Identity card and letter of designation

63. (1) The Chief Executive Officer must issue an identity card and a letter of designation to every person designated in terms of section 58.

(2) When exercising any power or performing any duty in terms of this Act, a person designated in terms of section 58 must produce the identity card when requested to do so by a member of the public.

(3) The Chief Executive Officer must indicate in the identity card and letter of designation the mandate and powers of the nature conservation officer, nature conservation ranger or honorary nature conservation officer concerned and any limitations in respect of that mandate or those powers.

(4) A designation in terms of section 58 terminates when—

- (a) in the case of a nature conservation officer, the officer leaves the employ of CapeNature;
- (b) in the case of a nature conservation ranger, the officer leaves the employ of the municipality or other organ of state which employed him or her at the time of designation in terms of section 58(a)(ii);
- (c) the designation is withdrawn as contemplated in section 58(c); or
- (d) the validity period specified in the identity card or letter of designation has expired.

General powers of nature conservation officers and nature conservation rangers

64. A nature conservation officer or nature conservation ranger, subject to sections 60, 62, 65, 66 and 67 and the terms of their designation under section 58, for the purpose of performing their functions, may—

- (a) examine any document, book or record or any written or electronic information which may be relevant for the purposes of an investigation in terms of section 62(b);
- (b) copy, or make extracts from, any document, book or record or any written or electronic information contemplated in paragraph (a), or remove such document, book, record or written or electronic information in order to make copies or extracts;
- (c) require a person to produce or deliver any document, book or record or any written or electronic information contemplated in paragraph (a) to a place for inspection;
- (d) examine and, if necessary, seize and remove any specimen, substance or other item which he or she reasonably suspects may have been used in committing an offence in terms of the law for which he or she has been designated;
- (e) take photographs or make audio-visual recordings by any means of anything or any person that is relevant for the purposes of an investigation or for an inspection;
- (f) subject to other relevant legislation, use a remote piloted aircraft for taking photographs or making audio-visual recordings that are relevant for the purposes of an investigation or for an inspection;
- (g) dig or bore into the soil;
- (h) take samples of any specimen or thing;
- (i) seize and remove any waste or other matter deposited or discharged in contravention of the law for which he or she has been designated;
- (j) instruct any person to assist him or her in the execution of an inspection or investigation;
- (k) seize and remove any trap, holding pen, poison or other device which is reasonably suspected to be used to hunt or capture a wild animal unlawfully or, if it cannot be seized and removed, destroy it or render it harmless;
- (l) seize and remove any livestock or other animal trespassing on land under the control of CapeNature;

- (m) instruct any person to cease with immediate effect any activity, action or process related to a contravention of the law for which he or she has been designated;
- (n) carry out any other action that is necessary for the purposes of enforcement of the law for which he or she has been designated.

Routine inspections

65. (1) Where an authorisation has been issued, a nature conservation officer—

- (a) may at any reasonable time conduct a routine inspection at the property to which the authorisation relates; and
- (b) may there, without a warrant, enter and inspect any premises or any bag, box, or other item,

for the purposes of ascertaining compliance with a term or condition of that authorisation or any other document issued or required in terms of this Act.

(2) When carrying out a routine inspection, a nature conservation officer may, if he or she on reasonable grounds suspects that an offence has been committed in terms of the law for which he or she has been designated—

- (a) seize and remove any specimen or item that may be used as evidence in the prosecution of any person for that offence;
- (b) if he or she is a peace officer, arrest any person reasonably suspected of committing that offence.

Warrants

66. (1) A nature conservation officer or nature conservation ranger—

- (a) must, before exercising any power in terms of section 64 to enter or search any premises or to seize anything, apply to a magistrate for a warrant, setting out under oath or affirmation why it is necessary to enter and search the specified premises or to seize the specified item; and
- (b) may execute such warrant.

(2) Sections 20 and 21 of the Criminal Procedure Act apply, with the necessary changes, in respect of any application or warrant contemplated in subsection (1).

(3) If a nature conservation officer or nature conservation ranger has reasonable grounds to suspect that an offence is being committed on or by means of any premises in contravention of the law for which he or she has been designated, he or she may enter and search those premises, without a warrant, but only if—

- (a) he or she explains the purpose of the investigation and the person in control of the premises consents to the entry and search, after being informed that there is no obligation to admit the officer or ranger in the absence of a warrant; or
- (b) there are reasonable grounds to believe that a warrant would on application be issued, but that the delay that may be caused by applying for a warrant would defeat the object of obtaining the warrant.

(4) If a nature conservation officer or nature conservation ranger has reasonable grounds to suspect that an item—

- (a) is concerned in the commission or suspected commission of an offence in contravention of the law for which he or she has been designated;
- (b) may afford evidence of the commission or suspected commission of such an offence; or

- (c) is intended to be used in the commission of such an offence, he or she may seize that item without a warrant authorising him or her to do so, but only if—
- (i) he or she explains the purpose of the seizure and the person in control of the item consents to the seizure, after being informed that there is no obligation to permit the seizure in the absence of a warrant; or
 - (ii) there are reasonable grounds to believe that such a warrant would on application be issued, but that the delay that may be caused by applying for a warrant would defeat the object of obtaining the warrant.

Powers to stop, enter and search vehicles, vessels, aircraft and other conveyance

67. (1) If a nature conservation officer has reasonable grounds to suspect that a vehicle, vessel, aircraft or other conveyance—

- (a) is being or has been used, or contains or conveys anything which is being or has been used, to commit—
 - (i) an offence in terms of the law for which he or she has been designated; or
 - (ii) a breach of a term or condition of an authorisation or document issued or required in terms of this Act;
 - (b) may afford evidence of the commission or suspected commission of such an offence;
 - (c) is intended to be used or is on reasonable grounds believed to be intended to be used in the commission of such an offence;
 - (d) is being used in a manner that is likely to cause an adverse effect on the environment; or
 - (e) contains or conveys a thing which may serve as evidence of such an offence or breach,
- he or she may—
- (i) instruct the on-board operator of the vehicle, vessel or other conveyance to stop, or the captain of the vessel to dock or the pilot of the aircraft to land; and
 - (ii) if necessary and possible, force the vehicle, vessel, aircraft or other conveyance to stop or dock or land, as the case may be.

(2) Section 66 applies, with the necessary changes, in respect of the entry and search of a vehicle, vessel, aircraft or other conveyance contemplated in subsection (1) and the seizure of any such vehicle, vessel, aircraft or other conveyance or anything contained in or on it.

Duty to produce documents

68. A person to whom an authorisation or any other document has been issued in terms of this Act, or who is required to be in possession of such an authorisation or document, must produce that authorisation or document at the request of a nature conservation officer, nature conservation ranger or honorary nature conservation officer.

Treatment of seized specimen or item

69. (1) When a nature conservation officer or nature conservation ranger seizes and removes a specimen or item, including a record or written or electronic information, in terms of this Act, he or she—

- (a) must provide a receipt for the specimen or item to the person who was in control of that specimen or item when so seized;
- (b) may—
 - (i) deliver the specimen or item to a member of the South African Police Service;

- (ii) retain the specimen or item; or
- (iii) instruct the person who was in control of the specimen or item when so seized to take it to a place specified by the nature conservation officer or nature conservation ranger.

(2) If no criminal proceedings are instituted in connection with a specimen or item contemplated in subsection (1), section 31 of the Criminal Procedure Act applies with the necessary changes.

(3) In order to safeguard a vehicle, vessel, aircraft or other conveyance that has been seized, a nature conservation officer or nature conservation ranger may immobilise it by removing any part thereof.

(4) An item seized and removed in terms of this Act, including a part of a vehicle, vessel, aircraft or other conveyance referred to in subsection (3), must be kept in such a way that it is as far as possible secured against damage.

Security for release of vehicles, vessels, aircraft or other conveyance

70. (1) If a vehicle, vessel, aircraft or other conveyance is seized in terms of this Act and is kept for the purposes of criminal prosecution, the owner or agent of the owner may at any time apply to a court for its release.

(2) The court may order the release of the vehicle, vessel, aircraft or other conveyance on the provision of security determined by the court.

(3) The amount of the security must at least be equal to the sum of—

- (a) the market value of the vehicle, vessel, aircraft or conveyance;
- (b) the maximum fine that a court may impose in terms of this Act for the alleged offence; and
- (c) costs and expenses incurred or reasonably foreseen to be incurred by the State in connection with prosecuting the offence and recoverable in terms of section 57(4)(b) and 72(b).

(4) If the court is satisfied that there are circumstances that warrant a lesser amount of security, it may order the release of the vehicle, vessel, aircraft or conveyance subject to the provision of security for such lesser amount.

Part 2

Administrative enforcement mechanisms and penalties

Administrative enforcement

71. (1) If the Provincial Minister is satisfied on reasonable grounds that any person is undertaking an activity in contravention of this Act, undertaking an activity causing an adverse effect on biodiversity or ecological infrastructure, or failing to comply with any instrument or authorisation issued in terms of this Act, the Provincial Minister may, after having afforded the person concerned a reasonable opportunity to comment, issue a directive to that person to—

- (a) cease the activity;
- (b) take specific mitigation measures to remedy such adverse effect within a specific timeframe;
- (c) comply with the relevant instrument or authorisation within a specific timeframe.

(2) In the circumstances contemplated in subsection (1), if urgent action is required for the protection of an area identified in terms of section 48(1), the Provincial Minister may issue the directive without affording the person issued with the directive the opportunity to comment and

provide an opportunity to comment as soon as is reasonably possible after the directive has been issued.

(3) If a directive issued to a person in terms of subsection (1) or (2) relates to something occurring or that may occur on land of which that person is not the owner, the Provincial Minister may also issue a directive to the landowner, in which case subsections (1) and (2) apply with the necessary changes.

Failure to comply with directive

72. If a person fails to comply with a directive contemplated in section 71, the Provincial Minister may—

- (a) where applicable, cancel or vary the relevant authorisation or other instrument which is the subject of the directive; and
- (b) take any measures specified in the directive and any other necessary measures to remedy adverse effects on biodiversity and ecological infrastructure arising from the failure to comply with the directive, and recover the costs of doing so from the person who failed to comply.

Administrative penalties

73. (1) The Provincial Minister may—

- (a) impose administrative penalties for—
 - (i) contravention of or non-compliance with this Act;
 - (ii) non-compliance with a directive issued in terms of section 71(1);
 - (iii) an offence listed in section 74; and
- (b) prescribe categories of administrative penalties and the procedure for imposing such penalties.

(2) Before imposing a penalty, the Provincial Minister must in writing—

- (a) inform the person on whom the penalty is intended to be imposed of the envisaged penalty;
- (b) specify the particulars of the alleged contravention, non-compliance or offence and the reasons for the penalty intended to be imposed;
- (c) specify the amount of the penalty intended to be imposed; and
- (d) provide an opportunity to the person contemplated in paragraph (a) to make representations within a period specified by the Provincial Minister.

(3) If a person on whom an administrative fine is imposed in terms of subsection (1) fails to pay the fine, the Provincial Minister may take a civil judgment against that person for the amount of the fine.

CHAPTER 11 OFFENCES AND PENALTIES

Offences

74. (1) A person is guilty of a category one offence if that person—

- (a) fails to comply with a notice issued in terms of section 48(1) or amended as contemplated in section 48(4);
- (b) contravenes or fails to comply with section 50(4) or 51;
- (c) fails to comply with a directive issued in terms of section 71(1), (2) or (3);

- (d) fails to comply with an instruction of a nature conservation officer, nature conservation ranger or honorary nature conservation officer given in terms of this Act or when executing their powers in terms of this Act;
 - (e) unlawfully commits any act or omission which causes or is likely to cause an adverse effect;
 - (f) alters, fabricates or forges—
 - (i) any authorisation or other document issued or required for the lawful performance of any act in terms of this Act;
 - (ii) on any document any official logo, letterhead, stamp, hallmark or date stamp of the Department or CapeNature, or the signature of any person in their capacity as an agent or employee of the Department or CapeNature;
 - (g) is in possession of any unlawfully altered or false document purporting to be an authorisation or an exemption issued under this Act, or attempts to pass off such a document as a valid authorisation or exemption issued under this Act;
 - (h) obtains or applies for any authorisation or document in terms of this Act—
 - (i) under a false name; or
 - (ii) while prohibited by an order of court from being the holder of such an authorisation or document;
 - (i) knowingly makes a false statement in any application made or document furnished in terms of this Act;
 - (j) conceals, removes from any premises, destroys or disposes of anything that could serve as evidence related to an offence under this Act, to prevent it being seized or detected, including any specimen, book, register, document, electronic record, vehicle, machinery, implement, container, firearm, weapon, explosive or poison;
 - (k) hinders or interferes with any official lawfully executing his or her mandate in terms of this Act or a device used lawfully by the official in executing his or her mandate; or
 - (l) falsely pretends to be a nature conservation officer, nature conservation ranger, or honorary nature conservation officer, or an employee or agent of the Department or CapeNature.
- (2) A person is guilty of a category two offence if that person—
- (a) trespasses on land on which there is, or is likely to be, any wild animal while in possession of a weapon, poison, or any means whatsoever that could be used to hunt, capture or kill wild animals;
 - (b) is found in possession of any specimen without proof of legal possession as contemplated in section 55;
 - (c) coerces any other person or allows any person to commit an act or omission in contravention of this Act;
 - (d) is the holder of an authorisation or exemption issued under this Act and—
 - (i) contravenes or fails to comply with a term or condition of that authorisation or exemption;
 - (ii) is not in possession of such an authorisation or exemption while performing an act that may only be performed while in possession of such an authorisation or exemption; or
 - (iii) permits or allows any other person to do, or to omit to do, anything which is an offence in terms of subparagraph (i) or (ii).
- (3) A person is guilty of a category three offence if that person—
- (a) fails to comply with an order by a nature conservation officer in terms of section 67(1)(e)(i);

- (b) fails to comply with subordinate legislation made in terms of this Act;
- (c) when requested by a nature conservation officer, nature conservation ranger or honorary nature conservation officer to furnish information, furnishes false or misleading information; or
- (d) without good cause refuses or fails on demand to furnish a nature conservation officer, nature conservation ranger or honorary nature conservation officer with his or her name and address or with any information or document required by that nature conservation officer, nature conservation ranger or honorary nature conservation officer for the purposes of performing their functions in terms of this Act.

Penalties

75. (1) A person convicted of a category one offence as contemplated in section 74(1) may be sentenced to—

- (a) a fine not exceeding R10 million;
- (b) imprisonment for a period not exceeding 10 years; or
- (c) both such fine and such imprisonment.

(2) A person convicted of a category two offence as contemplated in section 74(2) may be sentenced to—

- (a) a fine not exceeding R5 million;
- (b) imprisonment for a period not exceeding 5 years;
- (c) both such fine and such imprisonment; or
- (d) in the case of a second or subsequent conviction, to—
 - (i) a fine not exceeding R10 million;
 - (ii) imprisonment for a period not exceeding 10 years; or
 - (iii) both such fine and such imprisonment.

(3) A person convicted of a category three offence referred to in section 74(3) may be sentenced to—

- (a) a fine not exceeding R1 million;
- (b) imprisonment for a period not exceeding two years;
- (c) both such fine and such imprisonment; or
- (d) in the case of a second or subsequent conviction, to—
 - (i) a fine not exceeding R5 million;
 - (ii) imprisonment for a period not exceeding 5 years; or
 - (iii) both such fine and such imprisonment.

(4) If any offence involves the capture, killing, harvesting, possession, offering for sale, sale, import or export of a specimen, a court may, in addition to the penalties contemplated in subsections (1), (2) and (3), impose a fine that does not exceed three times the market value of that specimen.

(5) Subject to the Criminal Procedure Act, fines imposed by a court in terms of this Act may be made payable to and paid to CapeNature.

Cancellation of authorisations

76. The court convicting a person of an offence in terms of this Act may—

- (a) cancel any authorisation issued to that person;
- (b) disqualify that person from obtaining any authorisation for a period not exceeding five years;

- (c) issue an order that all competent authorities authorised to issue authorisations be notified of any disqualification in terms of paragraph (b).

Award of costs

77. If a person is convicted of an offence in terms of this Act and the act or omission constituting the offence—

(a) caused any organ of state to incur any costs in order to seize any item, to rehabilitate any land or to investigate and prosecute that offence;

(b) provided that person with a monetary advantage or a potential monetary advantage, the court convicting that person may, without pleadings, enquire into the monetary value of the costs incurred and advantage gained or likely to be gained by that person in consequence of that offence, and, in addition to any other punishment imposed in respect of that offence, may order an amount equivalent to that monetary value to be paid directly to CapeNature as an additional fine, award of damages or compensation, as part of the sentence.

Forfeiture

78. (1) A court convicting a person of an offence in terms of this Act may declare any item including any specimen, container, vehicle, vessel, aircraft, other conveyance or document, including an electronic document, involved in the offence, or that was used for the purpose of or in connection with the commission of the offence, and was seized under this Act, to be forfeited to CapeNature.

(2) If any specimen forfeited to CapeNature under subsection (1) is still alive, CapeNature must ensure that the specimen is—

(a) where appropriate, repatriated to the country of export or returned to the place of origin at the expense of the person convicted of the offence involving that specimen;

(b) placed in an appropriate institution, rescue centre or facility, or with an appropriate person, that is able and willing to house and properly care for the specimen; or

(c) otherwise disposed of in an appropriate manner.

(3) If any dead specimen or any other item is forfeited to CapeNature under subsection (1), CapeNature may—

(a) cause the specimen or item be deposited at an appropriate institution or museum; or

(b) dispose of the specimen or item in an appropriate manner.

CHAPTER 12 APPEALS

Appeal against decisions by CapeNature officials

79. (1) Any interested or affected person may appeal to the Chief Executive Officer against a decision taken by a nature conservation officer or any other staff member of CapeNature, excluding the Chief Executive Officer, in terms of this Act.

(2) An appeal in terms of subsection (1) must be lodged and dealt with in the prescribed manner, on payment of the prescribed fee and within the prescribed period.

(3) The Chief Executive Officer may consider and decide an appeal or appoint an appeal panel to consider, and advise the Chief Executive Officer on the appeal.

(4) The Chief Executive Officer may, after considering an appeal, confirm, set aside or vary the decision or make any other appropriate decision, including a decision that the prescribed fee paid by the appellant in terms of subsection (2), or any part thereof, be refunded.

(5) An appeal in terms of subsection (1) suspends any authorisation or condition attached thereto.

Appeal to Provincial Minister

80. (1) Any interested or affected person may appeal to the Provincial Minister against a decision taken by the Chief Executive Officer or a person acting under a power delegated by the Provincial Minister in terms of this Act.

(2) An appeal in terms of subsection (1) must be lodged and dealt with in the prescribed manner, on payment of the prescribed fee and within the prescribed period.

(3) The Provincial Minister may consider and decide an appeal or appoint an appeal panel to consider and advise the Provincial Minister on the appeal.

(4) The Provincial Minister may, after considering an appeal, confirm, set aside or vary the decision, including a decision that the prescribed fee paid by the appellant in terms of subsection (2), or any part thereof, be refunded.

(5) An appeal under this section suspends the implementation of the decision concerned and any authorisation or condition attached thereto but only where there is no threat of an adverse effect to the environment.

CHAPTER 13 GENERAL AND TRANSITIONAL PROVISIONS

Exemption

81. The Provincial Minister may prescribe the process to be followed for the lodging and processing of an application for exemption from a provision of this Act.

Delegation

82. (1) Subject to subsection (3), the Provincial Minister may delegate any power or duty vested in him or her in terms of this Act, to—

- (a) the Head of Department;
- (b) the Board;
- (c) the Chief Executive Officer;
- (d) CapeNature;
- (e) a municipality, subject to applicable legislation; or
- (f) any other organ of state.

(2) A delegation in terms of subsection (1)—

- (a) is subject to any limitations or conditions that the Provincial Minister may impose;
- (b) must be in writing;
- (c) may include the power to subdelegate; and
- (d) does not divest the Provincial Minister of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty.

(3) The Provincial Minister—

- (a) may not delegate a power or duty of the Provincial Minister to make subordinate legislation; and
- (b) may, in writing, withdraw any delegation.

(4) The Head of Department may, with the written consent of the Provincial Minister, delegate any of his or her powers or duties in terms of this Act to an official of the Department.

(5) The Board or the Chief Executive Officer may, with the written consent of the Provincial Minister, delegate any of their powers or duties in terms of this Act to a CapeNature official.

(6) The Board may not delegate its power to—

- (a) appoint or reappoint a person as the Chief Executive Officer;
- (b) determine the conditions of employment of the Chief Executive Officer;
- (c) determine an employment policy for CapeNature;
- (d) set financial limits as contemplated in section 27(4)(f);
- (e) approve the budget and annual financial statements of CapeNature.

(7) Subsections (2) and (3)(b) apply, with the necessary changes, to a delegation in terms of subsection (4) or (5).

Regulations

83. The Provincial Minister—

- (a) must make regulations where required in terms of this Act;
- (b) may make regulations on any matter which is necessary or expedient to prescribe in order to achieve the objectives of this Act.

Public notices

84. The Provincial Minister may publish a notice in the *Provincial Gazette*—

- (a) regarding any matter which in terms of this Act may or must be dealt with by way of a notice;
- (b) containing a reference to a plan, strategy or guideline for the implementation of this Act;
- (c) to announce any matter related to the administration of this Act.

Performance standards

85. The Provincial Minister may set performance standards for the performance of any function or requirement contemplated in this Act.

Consultation

86. (1) Before publishing any regulation or notice in terms of this Act, the Provincial Minister must—

- (a) publish the draft regulation or notice in the official languages of the Province in—
 - (i) the *Provincial Gazette*; and
 - (ii) two newspapers circulated in the Province, at least one of which must be in print format;
- (b) provide an opportunity for interested and affected parties to comment for a period of not less than 30 days from the date of publication in the *Provincial Gazette*, except where a different period is specified by this Act; and
- (c) consider any comments received.

(2) The Provincial Minister may, where appropriate, extend the commenting period in terms of subsection (1)(b) for a reasonable time.

Regulations, legal documents and steps valid under certain circumstances

87. (1) Subordinate legislation, or an authorisation or other document, made, issued or published in terms of this Act—

- (a) which does not comply with any procedural requirement, is nevertheless valid if the non-compliance is not material and does not prejudice any person;
- (b) may be amended or replaced without following a procedural requirement of this Act if—
 - (i) the purpose is to correct an error; and
 - (ii) the correction does not change the rights or duties of any person materially.

(2) The failure to take any steps required by this Act as a prerequisite for any decision or action does not invalidate the decision or action if the failure—

- (a) is not material;
- (b) does not prejudice any person; and
- (c) is not procedurally unfair.

Limitation of liability

88. The Provincial Minister, the Head of Department, the Board, the Chief Executive Officer, CapeNature or any person delegated in terms of this Act is not liable for any damage or loss caused by a person who, acting in a reasonable manner and in good faith—

- (a) exercises a power or performs a duty in terms of this Act;
- (b) does not exercise a power or perform a duty in terms of this Act; or
- (c) performs a duty outside of their mandate.

Repeal of laws

89. The laws referred to in the Schedule are repealed to the extent indicated in the third column of the Schedule.

Transitional provisions

90. (1) A person who was a nature conservation officer, nature conservation ranger or honorary nature conservation officer as defined in the Ordinance immediately before the commencement of this Act is regarded as having been designated as a nature conservation officer, nature conservation ranger or honorary nature conservation officer, as the case may be, in terms of this Act.

(2) A licence, permit, certificate, written authority, exemption or order issued in terms of the Ordinance and that was valid immediately before the commencement of this Act, is regarded as an authorisation, exemption, order or directive, as the case may be, issued in terms of this Act.

(3) The corporate identity and the rights and obligations of the provincial public entity referred to in section 9 are not affected by its change of name.

(4) A person who was a member of the Western Cape Nature Conservation Board immediately before the commencement of this Act is regarded as having been appointed as a Board member of CapeNature for the unexpired portion of his or her term of office.

(5) An area which was a nature conservation area as contemplated in section 9(2) of the Western Cape Nature Conservation Board Act immediately before the commencement of this Act continues in existence and is regarded as having been declared as a nature reserve in accordance with section 23(5) of the Protected Areas Act.

Short title and commencement

91. This Act is called the Western Cape Biodiversity Act, 2019, and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*.

SCHEDULE: REPEAL OF LAWS

Number and year	Title	Extent of repeal
21 of 1935	Sea Shore Act, 1935	The whole
63 of 1970	Mountain Catchment Areas Act, 1970	The whole in so far as it has been assigned to the Province by Proclamation R28 of 1995
19 of 1974	Nature Conservation Ordinance, 1974	The whole
3 of 1982	Nature Reserves Validation Ordinance, 1982	The whole
15 of 1998	Western Cape Nature Conservation Board Act, 1998	The whole
8 of 1999	Western Cape Nature and Environmental Conservation Ordinance Amendment Act, 1999	The whole
3 of 2000	Western Cape Conservation Laws Amendment Act, 2000	The whole
6 of 2011	Western Cape Biosphere Reserves Act, 2011	The whole

PROVINSIALE KENNISGEWING

P.K. 60/2019

7 Mei 2019

WES-KAAPSE KONSEPWETSONTWERP OP BIODIVERSITEIT, 2019

Om voorsiening te maak vir die raamwerk en instellings vir natuurbewaring en die beskerming, bestuur en volhoubare gebruik van biodiversiteit en ekosisteme in die Provinsie; en vir aangeleenthede wat daarmee in verband staan.

AANHEF

NADEMAAL artikel 24 van die Grondwet van die Republiek van Suid-Afrika, 1996, bepaal dat elkeen die reg het op 'n omgewing wat nie skadelik vir hul gesondheid of welsyn is nie en dat die omgewing beskerm word ter wille van huidige en toekomstige generasies deur maatreëls wat bewaring bevorder en die ekologies volhoubare ontwikkeling en gebruik van natuurlike hulpbronne verseker terwyl dit regverdigbare ekonomiese en maatskaplike ontwikkeling bevorder;

EN NADEMAAL omgewing en natuurbewaring in die mate uiteengesit in Deel A van Bylae 4 by die Grondwet van die Republiek van Suid-Afrika, 1996, funksionele gebiede is van konkurrente nasionale en provinsiale wetgewende bevoegdheid;

EN NADEMAAL die Grondwet van die Wes-Kaap, 1997 (Wet 1 van 1998), van die Provinsiale Regering vereis om beleid aan te neem en te implementeer oor, onder meer, die beskerming van die omgewing in die Wes-Kaap, insluitende sy unieke fauna and flora, ter wille van huidige en toekomstige generasies;

EN NADEMAAL die verskillende staatsorgane ooreenkomstig die beginsels van samewerkende regering en interregeringsbetrekkinge moet optree en besluite neem wat die omgewing op 'n gekoördineerde en holistiese wyse raak;

EN IN ERKENNING van die unieke biodiversiteit in die Wes-Kaap, die Republiek se internasionale verpligtinge, die Provinsie se afhanklikheid van ekosisteedienste, die behoefte aan toegang en die deel van voordele en die behoefte om lantermyn- ekologiese weerstandigheid te verseker;

EN IN ERKENNING van die behoefte aan wets hersiening om die bestaande wetgewende en institusionele raamwerke vir die implementering van die provinsiale mandate vir biodiversiteit en natuurbewaring te hervorm, integreer, harmoniseer en te rasionaliseer;

EN IN ERKENNING dat dit wenslik is dat die wet 'n raamwerk ontwikkel vir die integrasie en koördinasie van omgewings- en natuurbewaringsoorwegings met beplanning en besluitneming deur alle staatsorgane ten einde hul verpligtinge ingevolge artikel 24 van die Grondwet van die Republiek van Suid-Afrika, 1996, na te kom,

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

INDELING VAN ARTIKELS

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1. Woordomskrywing
2. Oogmerke
3. Toepassing
4. Teenstrydighede met ander wetgewing

HOOFSTUK 2 PLIGTE EN BEGINSELS

5. Plig van staat
6. Beginsels van ekologiese volhoubaarheid

HOOFSTUK 3 ADMINISTRASIE

7. Werkzaamhede van Provinsiale Minister
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HOOFSTUK 4 CAPENATURE

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9. Instelling
10. Pligte van CapeNature
11. Bevoegdhede van CapeNature

Deel 2

Beheerraad van CapeNature

12. Werkzaamhede van Raad
13. Samestelling
14. Onbevoegdheid as lid van Raad
15. Aanstelling in Raad
16. Voorsitter van Raad
17. Ampstermyn van nie-uitvoerende lede van Raad
18. Voorwaardes van aanstelling en vergoeding
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Deel 3
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- 23. Vergaderings
- 24. Prosedures
- 25. Kworum en besluite
- 26. Komitees

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Administrasie van CapeNature

- 27. Hoof- Uitvoerende Beampte

Deel 5
Finansiële aangeleenthede

- 28. Finansiële rekenpligtigheid en verslagdoening
- 29. Fondse
- 30. Reserwefondse
- 31. Beleggings

Deel 6
Ontbinding van Raad of CapeNature

- 32. Ontbinding van Raad
- 33. Ontbinding van CapeNature

HOOFSTUK 5
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- 35. Doel van Ruimtelike Plan vir Biodiversiteit
- 36. Inhoud van Ruimtelike Plan vir Biodiversiteit
- 37. Gebruik en toepassing van Ruimtelike Plan vir Biodiversiteit
- 38. Hersiening van Ruimtelike Plan vir Biodiversiteit

HOOFSTUK 6
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BIODIVERSITEITSOPSIGTERS KAP EN BIOSFEERRESERVATE

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- 39. Uitbreidingsstrategie vir Provinsiale Beskernde Gebiede

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- 40. Verklaring van bergopvangsgebiede
- 41. Bestuur van bergopvangsgebiede

Deel 3
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- 42. Verklaring van privaat natuurreservate

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Biodiversiteitsopsigterskap

- 43. Biodiversiteitsopsigterskap

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- 44. Aansoek om UNESCO-aanwysing as biosfeerreservaat
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BYLAE: HERROEPING

HOOFSTUK 1 UITLEG, OOGMERKE EN TOEPASSING

Woordomskrywing

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

- “**afstandsbeheerde lugvaartuig**” ’n onbemande lugvaartuig wat vanaf ’n afstandsloodsstasie geloods word, uitgesonderd ’n modelvliegtuig of speelgoedvliegtuig;
- “**bedreigde spesie**” ’n spesie gelys ingevolge artikel 50(2)(c);
- “**beperkte aktiwiteit**” ’n aktiwiteit wat kragtens artikel 50(1) as ’n beperkte aktiwiteit voorgeskryf is;
- “**beperkte metode**” ’n metode wat kragtens artikel 50(1) as ’n beperkte metode voorgeskryf is;
- “**bergopvangsgebied**” ’n gebied soos beoog in artikel 40;
- “**beroepsjagter**” enige persoon wat, vir enige vorm of wyse van beloning, aanbod of instem om ’n kliënt te begelei of ’n kliënt begelei om die kliënt in staat te stel om ’n wilde of verwilde dier te jag;
- “**beskermd gebied**” ’n beskermd gebied bedoel in artikel 9 van die Wet op Beskermd Gebiede;
- “**beskermd spesie**” ’n spesie beoog in artikel 50(2)(e);
- “**bewaring**”, met betrekking tot biodiversiteit en die natuur, die beskerming, versorging, bestuur, rehabilitasie en instandhouding van ekosisteme, habitats en inheemse spesies en bevolkings om die natuurlike toestande vir hul langtermynvoortbestaan en die ekosisteedienste wat hulle kan verskaf, te beveilig, en “**bewaar**” het ’n ooreenstemmende betekenis;
- “**biodiversiteit**” die verskeidenheid onder lewende organismes van alle bronne, insluitende aardse, mariene en ander akwatiese ekosisteme en die ekologiese samestel waarvan hulle deel is, en ook diversiteit binne en tussen spesies, binne en tussen bevolkings en van ekosisteme;

“biodiversiteitseconomie” die sakeondernemings en ekonomiese aktiwiteite wat óf direk van biodiversiteit afhanklik is vir hul besigheid, óf wat deur hul aktiwiteite tot die bewaring van biodiversiteit bydra;

“biodiversiteitsmikpunt” die kwantitatiewe hoeveelheid van enige biodiversiteitskenmerk, insluitende biodiversiteitspatrone of ekologiese prosesse, wat vir bewaring geprioritiseer behoort te word om die langtermynoorlewing en voortbestaan van die biodiversiteitskenmerk te verseker;

“biodiversiteitsopsigterskapsgebied” grond wat onderhewig is aan bestuursvereistes wat in regulasies voorgeskryf of in ’n biodiversiteitsopsigterskapsooreenkoms vermeld word om die bewaring daarvan te verseker;

“biodiversiteitsopsigterskapsooreenkoms” ’n ooreenkoms aangegaan tussen die Hoof-Uitvoerende Beampte en ’n grondeienaar wat die verpligtinge van die partye uiteensit om die bewaring van ’n biodiversiteitsprioriteitsgebied te verseker;

“biodiversiteitsprioriteitsgebied” ’n gebied in die landskap of seenskap wat van belang is vir die bewaring van ’n verteenwoordigende voorbeeld van ekosisteme en spesies, die instandhouding van ekologiese prosesse en ekologiese infrastruktuur of die verskaffing van ekosisteedienste;

“biodiversiteitsteëwig” die maatreëls wat ontwerp is om die oorblywende nadelige uitwerkings op biodiversiteit of ekologiese infrastruktuur van enige aktiwiteit of van die implementasie van enige plan teë te werk, nadat alle pogings aangewend is om sodanige uitwerkings te vermy, te minimeer en te rehabiliteer;

“Biodiversiteitswet” die “National Environmental Management: Biodiversity Act, 2004” (Wet 10 van 2004);

“biosfeerreservaat” ’n gebied aangewys vir insluiting by die Wêreldnetwerk van Biosfeerreservate deur die Internasionale Koördinerende Raad van UNESCO se Mens en die Biosfeer-program;

“Biosfeerreservaattraamwerkplan” die ruimtelike plan wat soos beoog in artikel 46 vir ’n biosfeerreservaat opgestel is;

“buite limiet” ’n spesie beoog in paragraaf (b) van die omskrywing van “uitheemse spesie”;

“CapeNature” die provinsiale openbare instelling beoog in artikel 9;

“CITES” die Konvensie oor Internasionale Handel in Bedreigde Spesies van Wilde Fauna en Flora, Washington, 1973;

“Departement” die provinsiale departement wat vir omgewingsaangeleenthede in die Provinsie verantwoordelik is;

“Departementshoof” die hoof van die provinsiale departement wat vir omgewingsaangeleenthede in die Provinsie verantwoordelik is;

“derivaat”, met betrekking tot ’n dier, plant of ander organisme, enige gedeelte, weefsel of ekstrak van die dier, plant of ander organisme, hetsy vars, gepreserveer of verwerk, en ook enige chemiese verbinding afkomstig van sodanige gedeelte, weefsel of ekstrak;

“Direkteur van ’n Professionele Jagskool” ’n persoon wat ’n kursus aanbied of bedryf om voornemende beroepsjagters of jagondernemers te onderrig, of wat die bekwaamheid van beroepsjagters of jagondernemers assesseer;

“ekologiese infrastruktuur” die natuurlik funksionerende ekosisteme, insluitende bergopvangsgebiede, waterhulpbronne, kusduine, en nodes en korridors van natuurlike habitat, wat saam ’n netwerk van onderling verbonde strukturele elemente in die landskap vorm wat ekosisteedienste lewer;

“ekosisteem” ’n dinamiese samestel van dier-, plant- en mikroorganismiese gemeenskappe en hul nielewendende omgewing wat as ’n funksionele eenheid op mekaar inwerk, wat aan land, aan die kus of in die water of ’n kombinasie daarvan kan wees;

“ekosisteemdienste” die voordele wat mense uit ekosisteme put, welke voordele die volgende insluit:

- (a) voorraaddienste, soos die produksie van voedsel en verskaffing van water;
- (b) reguleringsdienste, soos die beheer van die klimaat, luggehalte of siekte- en ramprisikovermindering;
- (c) ondersteuningsdienste, soos voedingstofsiklusse, grondformasie en gewasbestuiwing; en
- (d) kultuurdienste, soos geestelike en ontspanningsvoordele;

“eksemplaar”—

- (a) enige lewende of dooie dier, plant of ander organisme;
- (b) ’n saad, eier, gameet of voortbrengsel of gedeelte van ’n dier, plant of ander organisme wat tot propagasië of voortplanting of die oordrag op enige wyse van genetiese eienskappe in staat is;
- (c) enige derivaat van enige dier, plant of ander organisme; of
- (d) enige goedere wat—
 - (i) ’n derivaat van ’n dier, plant of ander organisme bevat; of
 - (ii) volgens ’n meegaande dokument, volgens die verpakking of merk of etiket of volgens enige ander aanduidings ’n derivaat van ’n dier, plant of ander organisme blyk te wees of te bevat;

“erenatuerbewaringsbeampte” ’n persoon wat ingevolge artikel 58(a)(iii) aangewys is;

“erfenishulpbron” enige plek of voorwerp van kulturele belang;

“gade” ook ’n persoon wat saam met ’n ander persoon woon asof hulle met mekaar getroud is;

“gelyste spesie” ’n spesie ingesluit in ’n lys wat ingevolge artikel 50(2) voorgeskryf is;

“gevangenskap”, met betrekking tot ’n wilde dier, die aanhouding in ’n kamp deur middel van ’n heining, muur of versperring van enige aard op so ’n wyse dat die wilde dier nie op ’n natuurlike wyse na homself kan omsien nie;

“gif” ook enige preparaat of stof wat gebruik kan word om enige dier, plant of ander organisme te vang, immobiliseer, steriliseer, vrek te maak of fisies skade aan te doen;

“grondeienaar” die geregistreerde eienaar van grond, behalwe dat indien—

- (a) die grond nie deur die geregistreerde eienaar bewoon word nie, beteken dit die persoon—
 - (i) wat die grond wettig okkupeer;
 - (ii) wat beheer oor die grond uitoefen;
 - (iii) wat enige geregistreerde saaklike reg op die grond het, behoudens enige ander wet; of
 - (iv) wat skriftelik deur die geregistreerde eienaar gemagtig is om sy of haar regte of pligte met betrekking tot die grond te volvoer;
- (b) die grond deur ’n assosiasie van persone besit word, hetsy geïnkorporeer of nie geïnkorporeer nie, beteken dit die persoon wat skriftelik deur die assosiasie as die eienaar aangewys is;
- (c) die grond onder die beheer of bestuur van ’n munisipaliteit is, beteken dit die munisipale bestuurder;

- (d) die geregistreerde eenaar of die persoon wat in paragraaf (a) of (b) as die eenaar omskryf word—
- (i) dood is;
 - (ii) insolvent is;
 - (iii) sy of haar boedel tot voordeel van sy of haar krediteure afgestaan het;
 - (iv) deur 'n hofbevel onder kuratorskap geplaas is;
 - (v) 'n maatskappy is wat gelikwieder word of onder geregtelike bestuur is, beteken dit die persoon by wie die administrasie van die grond berus as eksekuteur, administrateur, trustee, regverkrygende, kurator, likwidateur of geregtelike bestuurder, na gelang van die geval; of
- (e) die grond openbare kuseiendom is, beteken dit die nasionale departement wat ingevolge artikel 11 en 12 van die Wet op Geïntegreerde Kusbestuur vir die nakoming van die verpligtinge van die staat as openbare trustee van openbare kuseiendom verantwoordelik is;
- “Grondwet”** die Grondwet van die Republiek van Suid-Afrika, 1996;
- “habitat”** 'n plek waar 'n spesie of ekologiese gemeenskap natuurlik voorkom;
- “hierdie Wet”**, behalwe in artikel 4, ook ondergeskikte wetgewing wat ingevolge hierdie Wet gemaak of uitgereik is;
- “Hoof- Uitvoerende Beampte”** die Hoof- Uitvoerende Beampte van CapeNature wat ingevolge artikel 27 aangestel is;
- “indringerspesie”** enige spesie waarvan die vestiging en verspreiding buite sy natuurlike verspreidingsgebied—
- (a) ekosisteme, habitats, ekologiese infrastruktuur of ander spesies bedreig of die potensiaal het om ekosisteme, habitats, ekologiese infrastruktuur of ander spesies te bedreig; en
 - (b) tot ekonomiese of omgewingskade of skade aan mense se gesondheid kan lei;
- “inheems”**—
- (a) met betrekking tot 'n spesie, 'n spesie wat natuurlik en in 'n vrye toestand binne die grense van die Republiek voorkom, of in die verlede voorgekom het, maar nie ook 'n spesie wat as gevolg van menslike aktiwiteit in die Republiek bekendgestel is nie; en
 - (b) met betrekking tot 'n eksemplaar, 'n plant of wilde dier van 'n spesie bedoel in paragraaf (a);
- “inheemse biologiese hulpbronne”** enige hulpbron wat bestaan uit—
- (a) enige eksemplaar van 'n inheemse spesie; of
 - (b) enige genetiese materiaal van sodanige eksemplaar;
- “invoer”**—
- (a) om in die Provinsie te land of in te bring, of in die Provinsie bekend te stel, of om te poog om in die Provinsie te land of in te bring of in die Provinsie bekend te stel; of
 - (b) om in die Provinsie in te bring vir heruitvoer na 'n plek buite die Provinsie;
- “jag”**, met betrekking tot 'n wilde dier, om—
- (a) die dier te soek;
 - (b) die dier te agtervolg, volg of aan te jaag;
 - (c) die dier in te wag of met opset te versteur; of
 - (d) op die dier te skiet of die dier te vergiftig,
- op enige wyse hoegenaamd met die doel om dit vrek te maak, te beseer of te vang of te probeer vrekmaak, beseer of vang;

“jagondernemer” ’n persoon wat die jag van ’n wilde of verwilde dier bemark, bystand daarby verleen, dit aanbied, adverteer of organiseer, hetsy direk of deur die gebruik van ’n agent;

“kliënt” ’n persoon wat nie ’n Suid-Afrikaanse burger is nie en wat, in enige vorm of op enige wyse, ’n ander persoon beloon vir of in verband met die jag van wilde diere of verwilde diere;

“klimaatsverandering” ’n verandering in die toestand van die klimaat wat geïdentifiseer kan word deur veranderinge aan die veranderlikheid van sy eienskappe en wat vir ’n verlengde tydperk voortduur, tipies dekades of langer;

“koerant” ’n maandelikse, weeklikse of daaglikse publikasie wat nuusberigte, glansartikels, resensies en advertensies bevat, insluitende so ’n publikasie wat deur die internet gekommunikeer en ontvang word;

“langtermyn” ’n tydperk van 50 jaar of langer;

“lugvaartuig” ’n tuig van enige aard wat in die lug beweeg, hetsy beman of onbeman en hetsy selfgedrewe al dan nie;

“magtiging” enige registrasie, sertifikaat, lisensie, permit of ander skriftelike toestemming uitgereik of verleen ingevolge hierdie Wet wat die persoon aan wie dit uitgereik of verleen is, magtig om enigiets te doen wat andersins verbied sou wees, en ook ’n geïntegreerde magtiging beoog in artikel 56;

“mak spesie” enige spesie waarvoor daar geen ekwivalente bevolking in die natuur bestaan nie en wat deur mense beïnvloed is om in menslike behoeftes te voorsien, en ook spesies wat deur die Provinsiale Minister ingevolge artikel 50(2)(j) gelys word;

“munisipaliteit” ’n metropolitaanse munisipaliteit, ’n distriksmunisipaliteit of ’n plaaslike munisipaliteit soos beoog in artikel 155(1) van die Grondwet;

“nadelige uitwerking” enige werklike, potensiële of kumulatiewe negatiewe impak op biodiversiteit, ekosisteedienste of ekologiese infrastruktuur wat meer as onbeduidend is;

“Nasionale Minister” die lid van die Nasionale Kabinet verantwoordelik vir omgewingsake;

“natuurbewaringsbeampte” ’n persoon wat ingevolge artikel 58(a)(i) aangewys is;

“natuurbewaringsveldwagter” ’n persoon wat ingevolge artikel 58(a)(ii) aangewys is;

“omgewing” die omgewing waarbinne mense leef en wat bestaan uit—

(a) die grond, water en atmosfeer van die aarde;

(b) mikroörganismes en plant- en dierelewe;

(c) enige gedeelte of kombinasie van die omgewing beoog in paragrawe (a) en (b) en die onderlinge verhouding daartussen; en

(d) die fisiese, chemiese, estetiese en kulturele eienskappe en toestande van die omgewing beoog in paragrawe (a), (b) en (c) wat die gesondheid en welsyn van mense beïnvloed;

“ondergeskikte wetgewing” enige—

(a) regulasie gemaak; of

(b) kennisgewing gepubliseer in die *Provinsiale Koerant*, deur die Provinsiale Minister ingevolge hierdie Wet;

“ontwikkeling” enige proses wat deur ’n persoon begin is om die gebruik, fisiese aard, voorkoms, vorm of funksie van ’n plek te verander, en ook—

(a) die bou, oprigting, verandering, sloping of verwydering van ’n struktuur of gebou;

(b) enige verandering aan die bestaande of natuurlike topografie van die grond;

(c) die uitvoer van enige werke op, oor of onder ’n terrein;

- (d) die vernietiging of verwydering van inheemse plantegroei; en
- (e) ’n proses om grond te hersoneer, onderverdeel of te konsolideer;
- “openbare kuseiendom”** het dieselfde betekenis as “coastal public property” in die Wet op Geïntegreerde Kusbestuur;
- “Ordonnansie”** die Ordonnansie op Natuurbewaring, 1974 (Ordonnansie 19 van 1974);
- “perseel”** enige grond, terrein, eiendom, gebou, stuktuur of enige gedeelte van enige grond, terrein, eiendom, gebou of struktuur, en ook enige houer en enige voertuig, trein, treintrok, vaartuig, lugvaartuig of ander vervoermiddel;
- “persoon”** ’n—
- (a) natuurlike persoon; of
- (b) regspersoon, insluitende—
- (i) enige geïnkorporeerde of niegeïnkorporeerde liggaam wat ingevolge enige wet ingestel is; en
- (ii) enige vennootskap, trust of staatsorgaan;
- “Premier”** die Premier van die Provinsie;
- “privaat natuurreservaat”** ’n natuurreservaat wat in gemeenskapsbesit is of privaat besit word deur ’n enkele grondeienaar of veelvoudige grondeienaars—
- (a) wat ingevolge artikels 12 en 23(1) en (5) van die Wet op Beskermd Gebiede tot natuurreservaat verklaar is of geag word as sodanig verklaar te wees;
- (b) wat ingevolge artikel 25 van die Wet op Beskermd Gebiede as ’n privaat natuurreservaat aangewys is; of
- (c) beoog in artikel 42;
- “provinsiale beskermd gebied”** ’n “provincial protected area” soos omskryf in die Wet op Beskermd Gebiede, waarby ingesluit kan word ’n natuurreservaat in die Provinsie wat ingevolge artikel 23(1) van die Wet op Beskermd Gebiede verklaar is of ’n natuurreservaat in die Provinsie wat geag word ingevolge artikel 23(5) van daardie Wet verklaar te wees, uitgesonderd ’n privaat natuurreservaat;
- “Provinsiale Minister”** die lid van die Provinsiale Kabinet verantwoordelik vir omgewingsake in die Provinsie;
- “Provinsie”** die Provinsie Wes-Kaap, en **“provinsiaal”** het ’n ooreenstemmende betekenis;
- “Raad”** die beheerraad van CapeNature soos beoog in artikel 12;
- “regulasie”** ’n regulasie kragtens hierdie Wet gemaak;
- “riviermonding”** ’n liggaam boggrondse water—
- (a) wat permanent of van tyd tot tyd na die see oop is;
- (b) waarin ’n styging en daling van die watervlak as gevolg van die getye tydens springgetye meetbaar is wanneer die liggaam boggrondse water oop is na die see; of
- (c) ten opsigte waarvan die southeid hoër as vars water is as gevolg van die invloed van die see, en waar daar ’n southeidshelling tussen die getyloop en die mond van die liggaam boggrondse water is;
- “Ruimtelike Plan vir Biodiversiteit”** ’n plan beoog in artikel 34;
- “spesie”** ’n soort dier, plant of ander organisme wat nie gewoonlik met andersoortige individue kruisteel nie, en ook enige subspesie, kultivar, variëteit, geografiese ras, lyn, hibried of geografies aparte bevolking;
- “staatsorgaan”**—
- (a) enige staatsdepartement of administrasie in die nasionale, provinsiale of plaaslike regeringsfeer; of

(b) enige ander funksionaris of instelling—

- (i) wat ingevolge die Grondwet of 'n provinsiale grondwet 'n bevoegdheid uitoefen of 'n werksaamheid verrig; of
- (ii) wat ingevolge enige wetgewing 'n openbare bevoegdheid uitoefen of 'n openbare werksaamheid verrig,

maar nie ook 'n hof of 'n regterlike beampte nie;

“stelselmatige biodiversiteitsbeplanning” 'n beplanningsmetode wat biodiversiteits-prioriteitsgebiede identifiseer, met inagneming van biodiversiteitspatrone en die ekologiese en evolusionêre prosesse wat dit onderhou, gebaseer op kwantitatiewe biodiversiteitsmikpunte en -drempels vir akwatiese, land-, kus- en marinebiodiversiteits-kenmerke ten einde 'n verteenwoordigende voorbeeld van biodiversiteitspatrone en ekologiese prosesse te bewaar;

“Strafproseswet” die Strafproseswet, 1977 (Wet 51 van 1977);

“toegang en die deel van voordele” die regverdige en billike deel van voordele wat uit die gebruik van genetiese hulpbronne ontstaan;

“Uitbreidingsstrategie vir Provinsiale Beskermdede Gebiede” die strategie beoog in artikel 39(1)(a);

“uitheems”, met betrekking tot 'n eksemplaar, 'n eksemplaar wat aan 'n uitheemse spesie behoort;

“uitheemse spesie”—

- (a) 'n spesie wat nie 'n inheemse spesie is nie; of
- (b) 'n inheemse spesie wat verskuif is of beoog word om verskuif te word na 'n plek buite sy natuurlike verspreidingsgebied in die natuur, maar nie 'n inheemse spesie wat sy natuurlike verspreidingsgebied deur middel van natuurlike migrasie of verstrooiing sonder menslike ingryping uitgebrei het nie;

“uitsterwende spesie” 'n bedreigde spesie gelys ingevolge artikel 50(2)(b), (c) of (d);

“uitvoer” die verplasing van enige spesie of eksemplaar, of enige gedeelte of derivaat van sodanige spesie of eksemplaar, vanaf enige posisie of plek in die Provinsie op enige wyse na 'n ander provinsie van die Republiek of na 'n land buite die grense van die Republiek of na internasionale waters;

“UNESCO” die Verenigde Nasies se Opvoedkundige, Wetenskaplike en Kulturele Organisasie, en ook die Internasionale Koördinerende Raad van die Mens en die Biosfeer-program;

“versagtingsmaatreël” 'n maatreël of reeks maatreëls wat daarop gemik is om 'n nadelige uitwerking te vermy, minimeer, rehabiliteer of reg te stel;

“verwilde dier” 'n dier van 'n mak spesie wat wild geraak het;

“volhoubaar” die gebruik van of impak op biodiversiteit of ekosisteme of ekosisteedienste op 'n wyse en teen 'n koers wat—

- (a) nie tot die langtermynagteruitgang daarvan sal lei nie en wat vir 'n onbepaalde tyd volgehou kan word sonder om nadelige uitwerkings daarop te hê;
- (b) nie die ekologiese integriteit daarvan sal ontwig nie; en
- (c) die volgehoue voortbestaan daarvan verseker om aan die behoeftes en strewes van huidige en toekomstige generasies mense te voldoen;

“Voorsitter” die Voorsitter van die Raad aangestel ingevolge artikel 16(1)(a);

“voorskryf” voorskryf by regulasie;

“vredesbeampte” 'n persoon wat kragtens artikel 334(1) van die Strafproseswet tot vredesbeampte verklaar is;

“wapen” enigiets hoegenaamd wat op so ’n wyse gebruik kan word dat ’n wilde dier daardeur vreggemaak, beseer, gevang of geïmmobiliseer word;

“waterdraer” ’n geologiese formasie wat strukture of teksture het wat water hou of ’n aansienlike waterbeweging deurlaat;

“waterhulpbron” ook ’n waterloop, boggrondse water, ’n riviermonding en ’n waterdraer;

“waterloop”—

(a) ’n rivier of bron;

(b) ’n natuurlike kanaal waarin water gereeld of wisselvallig vloei;

(c) ’n vleiland, meer of dam waarin of waaruit water vloei; en

(d) enige versameling water wat ingevolge die Nasionale Waterwet, 1998 (Wet 36 of 1998), tot ’n waterloop verklaar is,

en ’n verwysing na ’n waterloop sluit ook, waar van toepassing, sy bedding en oevers in;

“weerstandigheid”, met betrekking tot ’n ekosisteem of ekologiese infrastruktuur, die vermoë van die ekosisteem of ekologiese infrastruktuur om ontwrigtings te weerstaan en terselfdertyd dieselfde basiese struktuur en funksionering, die kapasiteit vir selforganisasie en die kapasiteit om by stres of verandering aan te pas, te behou;

“Wes-Kaapse Grondwet” die Grondwet van die Wes-Kaap, 1997 (Wet 1 van 1998);

“Wet op Bergopvanggebiede” die Wet op Bergopvanggebiede, 1970 (Wet 63 van 1970);

“Wet op Beskernde Gebiede” die “National Environmental Management: Protected Areas Act, 2003” (Wet 57 van 2003);

“Wet op die Wes-Kaapse Natuurbewaringsraad” die Wet op die Wes-Kaapse Natuurbewaringsraad, 1998 (Wet 15 van 1998);

“Wet op Geïntegreerde Kusbestuur” die “National Environmental Management: Integrated Coastal Management Act, 2008” (Wet 24 van 2008);

“Wet op Openbare Finansiële Bestuur” die Wet op Openbare Finansiële Bestuur, 1999 (Wet 1 van 1999);

“Wet op Plaaslike Regering: Munisipale Stelsels” die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000);

“wilde dier” ’n dier wat nie ’n mak spesie of ’n mikroörganisme is nie, ongeag of die dier lewendig of vrek, mak of geteel is of gevange gehou word, en ook die eiers, kuit, gamete, genetiese materiaal of enige gedeelte van so ’n dier.

Oogmerke

2. Die oogmerke van hierdie Wet is om—

- (a) uitvoering te gee aan die verpligting van die staat ingevolge nasionale wetgewing om as trustee met betrekking tot die omgewing op te tree;
- (b) uitvoering te gee aan artikel 81(m) van die Wes-Kaapse Grondwet om die omgewing in die Provinsie, insluitende sy unieke biodiversiteit, tot voordeel van huidige en toekomstige generasies te beskerm en bewaar;
- (c) deur die implementering van die beginsels van ekologiese volhoubaarheid beoog in artikel 6 die langtermyn- ekologiese volhoubaarheid en weerstandigheid van biodiversiteit, ekosisteme, ekosisteemdienste en ekologiese infrastruktuur te verseker;
- (d) menslike welsyn en die langtermynweerstandigheid van die samelewing en die ekonomie te verseker deur die bewaring van beskernde gebiede, biodiversiteit, ekosisteme, ekosisteemdienste en ekologiese infrastruktuur;

- (e) redelike en volhoubare toegang moontlik te maak tot voordele en geleenthede wat uit die bewaring van beskernde gebiede, biodiversiteit, ekosisteme, ekosisteedienste en ekologiese infrastruktuur ontstaan;
- (f) institusionele strukture en organisatoriese vermoë daar te stel vir die doeltreffende uitoefening van die bewaring en bestuur van biodiversiteit en die natuur in die Provinsie;
- (g) stelselmatige biodiversiteitsbeplanning en die bereiking van die biodiversiteitsmikpunte vir bewaring wat in die Ruimtelike Plan vir Biodiversiteit en die Uitbreidingsstrategie vir Provinsiale Beskernde Gebiede uiteengesit word, te bevorder;
- (h) sekere aktiwiteite wat onderneem staan te word, te reguleer op 'n wyse wat die integriteit en gesondheid van die omgewing verbeter en beskerm;
- (i) behoudens artikel 231 van die Grondwet, internasionale ooreenkomste en beste praktyke rakende die omgewing en die bewaring van biodiversiteit te implementeer en daaraan uitvoering te gee;
- (j) die finansiële en ekonomiese volhoubaarheid van die betrokke instellings wat vir die bewaring en bestuur van biodiversiteit en die natuur in die Provinsie verantwoordelik is, moontlik te maak; en
- (k) 'n billike en volhoubare biodiversiteitseconomie in die Provinsie moontlik te maak en te ontwikkel, insluitende die bevordering en ontwikkeling van ekotoerisme in beskernde gebiede onder die beheer van CapeNature.

Toepassing

3. Hierdie Wet bind die staat en alle persone.

Teenstrydighede met ander wetgewing

4. (1) Indien daar 'n teenstrydigheid bestaan tussen 'n bepaling van hierdie Wet en—
- (a) nasionale wetgewing, moet die teenstrydigheid ingevolge artikel 146 van die Grondwet opgelos word;
 - (b) 'n ander Provinsiale Wet, geniet die bepaling van hierdie Wet voorrang vir sover die teenstrydigheid betrekking het op bepalings wat die bewaring van biodiversiteit reguleer;
 - (c) munisipale wetgewing, geniet die bepaling van hierdie Wet voorrang vir sover die teenstrydigheid betrekking het op bepalings wat die volgende reguleer:
 - (i) aangeleenthede bedoel in óf Deel A van Bylae 4, óf in Deel A van Bylae 5 by die Grondwet; of
 - (ii) aangeleenthede bedoel in Deel B van Bylae 4 of Deel B van Bylae 5 by die Grondwet en die bepaling 'n wettige uitoefening of verrigting van die bevoegdhede en pligte van die Provinsie kragtens artikel 155(6)(a) en (7) van die Grondwet is.
- (2) Indien daar 'n teenstrydigheid bestaan tussen ondergeskikte wetgewing wat ingevolge hierdie Wet gemaak is en—
- (a) nasionale wetgewing, moet die teenstrydigheid ingevolge artikel 146 van die Grondwet opgelos word;
 - (b) 'n Provinsiale Wet, geniet daardie Wet voorrang;
 - (c) ander ondergeskikte Provinsiale wetgewing, geniet die ondergeskikte wetgewing wat ingevolge hierdie Wet gemaak is, voorrang vir sover die teenstrydigheid verband hou met bepalings wat die bewaring van biodiversiteit reguleer;

- (d) munisipale wetgewing, geniet die ondergeskikte wetgewing wat ingevolge hierdie Wet gemaak is, voorrang vir sover die teenstrydigheid verband hou met die aangeleenthede bedoel in subartikel (1)(c).

HOOFSTUK 2 PLIGTE EN BEGINSELS

Plig van staat

5. Elke staatsorgaan wat by of ingevolge enige wet gemagtig of vereis word om 'n bevoegdheid uit te oefen of 'n plig te verrig wat moontlik 'n nadelige uitwerking op die omgewing kan hê, moet by die uitoefening of verrigting van daardie bevoegdheid of plig ten opsigte van die Provinsie—

- (a) 'n langtermynperspektief neem van die waarskynlike gevolge op die omgewing van elke handeling of besluit; en
- (b) die beginsels van ekologiese volhoubaarheid beoog in artikel 6 toepas.

Beginsels van ekologiese volhoubaarheid

6. Elke staatsorgaan wie se besluite of handeling biodiversiteit of die omgewing in die Provinsie moontlik kan raak, moet die beginsels van ekologiese volhoubaarheid toepas, naamlik om—

- (a) die voordele en inherente en gebruikswaarde van natuurlike hulpbronne en ekosisteme in aanmerking te neem;
- (b) verseker dat biodiversiteit en ekosisteme beskerm word, in stand gehou en gerehabiliteer word op 'n wyse wat die bereiking van biodiversiteitsmikpunte vir bewaring gestel deur die Provinsie moontlik maak;
- (c) die weerstandigheid van biodiversiteit, ekosisteme en ekologiese infrastruktuur te bevorder;
- (d) verseker dat ontwikkeling nie die langtermynvoortbestaan en -weerstandigheid van biodiversiteit, ekosisteme en ekologiese infrastruktuur ondermyn nie;
- (e) verseker dat die bewaring en weerstandigheid van biodiversiteit tot voordeel van huidige en toekomstige generasies voorrang geniet bo die belange van enige lid of lede van enige gemeenskap;
- (f) die ontwrigting van ekosisteme en verlies aan biologiese diversiteit te vermy, te minimeer en reg te stel; en
- (g) verseker dat 'n risikobestande en versigtige benadering toegepas word sodat, waar daar onvoldoende bewys is dat 'n aktiwiteit nie 'n langtermyn- nadelige uitwerking sal hê nie, dit vermy word.

HOOFSTUK 3 ADMINISTRASIE

Wersaamhede van Provinsiale Minister

7. (1) Die Provinsiale Minister moet—

- (a) oor die Departementshoof, CapeNature en die Raad by die verrigting van hul werksaamhede toesig hou;
- (b) provinsiale beleid oor biodiversiteit en verwante aangeleenthede ontwikkel en implementeer;

- (c) wanneer hy of sy 'n wets- of beleidsplan goedgekeur, hersien of daarop kommentaar lewer, verseker dat die plan met die Ruimtelike Plan vir Biodiversiteit in ooreenstemming is; en
 - (d) gereeld die doeltreffendheid van die implementering en afdwinging van hierdie Wet evalueer.
- (2) Die Provinsiale Minister kan—
- (a) ondergeskikte wetgewing maak soos voor voorsiening gemaak in hierdie Wet;
 - (b) provinsiale regeringsbesigheidsondernemings soos beoog in die Wet op Openbare Finansiële Bestuur instel om die oogmerke van hierdie Wet te bereik;
 - (c) voorskrifte aan die Raad uitreik om te verseker dat die Raad by die uitvoering van sy mandaat doeltreffend en doelmatig funksioneer;
 - (d) 'n raad van ondersoek aanstel om die gedrag van 'n lid van die Raad of die Raad te ondersoek, en kan gepaste maatreëls soos beoog in onderskeidelik artikel 21 of 32 tref;
 - (e) Raadsvergaderings bywoon; en
 - (f) enige ander werkzaamheid verrig wat by of kragtens hierdie Wet aan die Provinsiale Minister opgedra is.

Pligte van Departementshoof

8. Die Departementshoof moet, behoudens artikel 7(1)(a) en (b)—
- (a) die Provinsiale Minister adviseer, wanneer die Provinsiale Minister sy of haar raad versoek en ná oorleg met CapeNature, oor regsangeleenthede, ondergeskikte wetgewing en provinsiale beleid rakende natuurbewaring, biodiversiteit en kus- en riviermondingsbestuur;
 - (b) ná oorleg met CapeNature, provinsiale strategieë en programme soos goedgekeur deur die Provinsiale Minister vir natuurbewaring, biodiversiteit, kus- en riviermondingsbestuur en die bevordering en ontwikkeling van die biodiversiteitseconomie koördineer;
 - (c) ooreenkomstig die Wet op Openbare Finansiële Bestuur die bevoegdhede uitoefen van rekenpligtige beampte verantwoordelik vir die fondse wat na CapeNature en ander instellings oorgedra word, vir die implementering van hierdie Wet;
 - (d) 'n stelsel daarstel vir—
 - (i) die ooreenstemming van strategiese en jaarverslae en verbandhoudende programbegrotings vir natuurbewaring, biodiversiteit en kus- en riviermondingsbestuur, en die bevordering en ontwikkeling van die biodiversiteitseconomie in die Provinsie; en
 - (ii) die monitering en verslagdoening van die doeltreffendheid van die gebruik van fondse oorgedra soos beoog in paragraaf (c) en soos voor beplan ooreenkomstig subparagraaf (i);
 - (e) wets- en beleidsplanne wat ingevolge hierdie Wet opgestel word, oorweeg en daarop kommentaar lewer;
 - (f) wanneer die Departementshoof vir die opstel of hersiening van of kommentaarlewing op 'n wets- of beleidsplan verantwoordelik is, verseker dat die plan met die Ruimtelike Plan vir Biodiversiteit in ooreenstemming is;
 - (g) CapeNature met die implementering van die Uitbreidingstrategie vir Provinsiale Beskernde Gebiede ondersteun; en
 - (h) aanbevelings aan die Provinsiale Minister maak oor hoe om die doeltreffendheid van die implementering en afdwinging van hierdie Wet te verbeter.

HOOFSTUK 4 CAPENATURE

Deel 1

Instelling en werksaamhede van CapeNature

Instelling

9. Die Wes-Kaapse Natuurbewaringsraad soos ingestel by die Wet op die Wes-Kaapse Natuurbewaringsraad bly voortbestaan as 'n regspersoon en 'n provinsiale openbare instelling wat vir die bewaring van biodiversiteit in die Provinsie verantwoordelik is, en staan bekend as CapeNature.

Pligte van CapeNature

10. (1) Met betrekking tot die bewaring van biodiversiteit, en behoudens artikel 7(1)(a), moet CapeNature—

- (a) aan die Provinsiale Minister gebiede aanbeveel om volgens die Uitbreidingsstrategie vir Provinsiale Beskermdes Gebiede as provinsiale beskermdes gebiede, beskermdes gebiede, privaat natuurreservate, bergopvangsgebiede en biodiversiteitsopsigterskapsgebiede te verklaar;
- (b) provinsiale beskermdes gebiede en ander gebiede waarvoor hy as die bestuursowerheid aangewys is, bestuur;
- (c) biodiversiteitsopsigterskap bevorder en moontlik maak;
- (d) 'n register van provinsiale beskermdes gebiede, privaat natuurreservate, bergopvangsgebiede en biodiversiteitsopsigterskapsgebiede byhou;
- (e) aan die Provinsiale Minister aanbevelings maak en kommentaar lewer oor skriftelike verdoe of besware wat ingevolge artikel 33 van die Wet op Beskermdes Gebiede ontvang is oor die verklaring of intrekking van die verklaring van 'n beskermdes gebied;
- (f) ná oorleg met die Departementshoof, die Provinsiale Minister adviseer oor—
 - (i) ondergeskikte wetgewing en beleid wat die Provinsiale Minister ten opsigte van biodiversiteitsverwante aangeleenthede staan te maak; en
 - (ii) die uitoefening van die Provinsiale Minister se bevoegdhede ingevolge artikel 7(1)(b), (c) en (d);
- (g) 'n stelsel daarstel vir die monitering en verslagdoening van—
 - (i) die stand van biodiversiteit in die Provinsie;
 - (ii) die stand van indringerspesies;
 - (iii) die volhoubare gebruik van inheemse biologiese hulpbronne;
 - (iv) die bestuur van provinsiale beskermdes gebiede, privaat natuurreservate, bergopvangsgebiede en biodiversiteitsopsigterskapsgebiede; en
 - (v) voldoening aan magtigings uitgereik kragtens hierdie Wet,ten einde—
 - (aa) dit moontlik te maak om nadelige uitwerkings betyds te bespeur en te versag; en
 - (bb) die evaluasie van die doeltreffendheid van hierdie Wet te vergemaklik;
- (h) biodiversiteitsbestuursplanne soos beoog in artikel 43 van die Biodiversiteitswet opstel;
- (i) raad aan grondeienaars gee om biodiversiteit of die bewaring van die omgewing op hul grond te verbeter of hoe om die kontakgebied tussen mense en inheemse biologiese hulpbronne te bestuur;

- (j) die Provinsiale Minister adviseer oor die uitvoer van inheemse biologiese hulpbronne vir navorsing;
 - (k) aanbevelings aan die Provinsiale Minister maak oor aangeleenthede wat navorsing benodig;
 - (l) binne twee jaar vanaf die inwerkingtreding van hierdie Wet en daarna met tussenposes van hoogstens vier jaar soos vereis deur die Provinsiale Minister, verslag doen aan die Provinsiale Minister oor die stand van biodiversiteit in die Provinsie; en
 - (m) op grond wat CapeNature bestuur, natuurlike en verwante kulturele erfenishulpbronne bestuur, bewaar en bevorder deur beste praktyke, toegang en die deel van voordele, en volhoubare gebruikspraktyke.
- (2) CapeNature moet die ontwikkeling en bevordering bestuur van ekotoerisme-aktiwiteite en -fasiliteite op grond wat CapeNature bestuur.
- (3) CapeNature moet navorsing, monitering en opleiding in biodiversiteitsbewaring fasiliteer.
- (4) CapeNature moet die volgende bevorder:
- (a) gemeenskapsgebaseerde bewaring van biodiversiteit;
 - (b) werkskepping ten opsigte van bewaring en ekotoerisme, plaaslike ekonomiese ontwikkelingsgeleenthede en die biodiversiteitseconomie;
 - (c) toegang tot beskermde gebiede vir ontspannings-, opvoedkundige, navorsings-, kulturele, geestelike en tradisionele doeleindes; en
 - (d) bewusmaking, opvoeding en jeugontwikkeling oor die omgewing.

Bevoegdhede van CapeNature

- 11.** (1) CapeNature kan inkomste genereer op enige wettige wyse, insluitende deur—
- (a) toegangsfooie, magtigings, konsessies en huurkontrakte;
 - (b) natuurgebaseerde ekotoerismefasiliteite, byeenkomste en dienste;
 - (c) aktiwiteite in die biodiversiteitseconomie;
 - (d) instandhouding van ekosisteedienste;
 - (e) geld afkomstig van intellektuele eiendomsregte; en
 - (f) bewaring en ander dienste.
- (2) CapeNature kan, met die doel om sy werksaamhede te verrig en die oogmerke van hierdie Wet te bereik—
- (a) sy eie personeel aanstel;
 - (b) behoudens artikel 7(1)(a) en (b), enige ooreenkoms met enige persoon aangaan;
 - (c) enige reg op of tot roerende eiendom verkry, vervreem, huur of verhuur;
 - (d) eksperimente doen, navorsing onderneem, opnames maak en ondersoeke instel;
 - (e) met opvoedkundige instellings onderhandel en saamwerk ten opsigte van die opleiding van persone vir loopbane in natuurbewaring;
 - (f) inligting in verband met bewaring wat die bereiking van die oogmerke van hierdie Wet kan bevorder, vertoon of andersins versprei;
 - (g) sy oogmerke, aktiwiteite, dienste en fasiliteite bemark en adverteer;
 - (h) in gebiede onder sy beheer, maatreëls tref wat nodig of wenslik is vir die bewaring van biodiversiteit of die bestuur van nadelige uitwerkings daarop;
 - (i) inspeksies en ondersoeke doen ten opsigte van nievoldoening en misdrywe ingevolge hierdie Wet;
 - (j) in gebiede onder sy beheer, maatreëls tref wat nodig is vir die veiligheid van besoekers en die bewaring van biodiversiteit;
 - (k) infrastruktuur, werke of geriewe in gebiede onder sy beheer in stand hou, bou of oprig;

- (l) toelaat dat kommersiële en gemeenskapsaktiwiteite plaasvind in enige gebied onder sy beheer mits daardie aktiwiteite nie 'n nadelige uitwerking op biodiversiteit of die ekologiese infrastruktuur in daardie gebied het nie;
 - (m) op enige grond of in enige waterloop die bakens, drywende bakens, kennisgewings, kennisgewingborde, tekens of ander merke wat vir die implementasie van enige bepaling van hierdie Wet nodig of wenslik is, oprig, heroprig, in stand hou en herstel.
 - (n) een of meer advieskomitees instel om hom by te staan met die verrigting van enige van sy werksaamhede ingevolge hierdie Wet;
 - (o) sy eie bankrekeninge open, maar slegs by 'n instelling wat ingevolge die Bankwet, 1990 (Wet 94 van 1990), as 'n bank geregistreer is;
 - (p) fondse belê, behoudens Deel 5 van hierdie Hoofstuk;
 - (q) homself teen enige verlies, skade of risiko verseker;
 - (r) enige handeling ooreenkomstig sy bevoegdhede en pligte verrig; en
 - (s) enige regsgeding instel of verdedig.
- (3) Indien CapeNature op redelike gronde oortuig is dat dit gepas en nodig is om stappe te doen vir die bewaring van biodiversiteit, kan 'n beampte of persoon aangewys deur CapeNature privaat grond betree—
- (a) met die toestemming van die grondeienaar; of
 - (b) in 'n situasie wat 'n dreigende gevaar vir menseleuens of biodiversiteit inhou, sonder sodanige toestemming.
- (4) CapeNature kan te eniger tyd, met betrekking tot enige eksemplaar van enige spesie, enige stappe doen of magtig, insluitende 'n beperkte aktiwiteit of beperkte metode, indien die eksemplaar—
- (a) 'n dreigende gevaar van besering of dood vir mense of enige mak spesie inhou;
 - (b) gewond, siek of beseer is;
 - (c) skade aan gewasse of plante op bewerkte grond of ander eiendom aanrig;
 - (d) 'n nadelige uitwerking op inheemse spesies, ekosisteme of die omgewing het of kan hê; of
 - (e) in die belang van bewaring gevang of vreggemaak behoort te word.
- (5) Indien 'n wilde dier gedurende 'n jagtog gevang of gekwes is, kan CapeNature, indien hy nie die identiteit van die eienaar kan vasstel nie, die dier vrekmaak en die karkas vernietig.
- (6) Voordat enige bevoegdheid ingevolge hierdie artikel uitgeoefen word op grond wat nie onder sy beheer is nie, moet CapeNature, indien redelikerwys moontlik—
- (a) met die grondeienaar oorleg pleeg; en
 - (b) redelike kennis aan die grondeienaar gee van die tyd wanneer, die plek waar en die wyse waarop CapeNature van voorneme is om daardie bevoegdheid uit te oefen.

Deel 2

Beheerraad van CapeNature

Werksaamhede van Raad

12. (1) CapeNature word bestuur deur 'n Raad wat sy rekenpligtige owerheid is en wat aan die vereistes van die Wet op Openbare Finansiële Bestuur moet voldoen.

(2) Die Raad moet—

- (a) doeltreffende bestuurstoetsig van CapeNature handhaaf;
- (b) verseker dat CapeNature sy werksaamhede ingevolge hierdie Wet verrig;
- (c) voldoening aan die beleid en strategieë van CapeNature goedkeur en monitor;
- (d) strategiese rigting aan CapeNature verskaf;

- (e) 'n Raadshandves opstel om vir 'n Gedragskode vir Raadslede en vergaderingsprosedures voorsiening te maak en om aangeleenthede in verband met korporatiewe bestuurtoesig verder te reguleer;
 - (f) risikogebiede en prestasie ten opsigte van CapeNature identifiseer en gereeld monitor; en
 - (g) pleit vir genoeg hulpbronne vir CapeNature om sy werksaamhede te verrig.
- (3) Die Raad moet sy werksaamhede onderhewig aan enige voorskrifte uitgereik deur die Provinsiale Minister verrig.

Samestelling

13. (1) Die Raad bestaan uit—
- (a) minstens sewe en hoogstens nege nie-uitvoerende lede, aangestel ingevolge artikel 15; en
 - (b) as uitvoerende lede—
 - (i) 'n beamppte van die Departement, aangewys deur die Provinsiale Minister; en
 - (ii) die Hoof- Uitvoerende Beamppte.
- (2) Die Provinsiale Minister—
- (a) moet die getal lede bepaal wat ingevolge subartikel (1)(a) aangestel staan te word; en
 - (b) kan die getal wat ingevolge paragraaf (a) bepaal is, verander, maar mag die getal verminder slegs wanneer daar 'n vakature in die Raad is.
- (3) Slegs nie-uitvoerende lede kan ingevolge artikel 25 stem.

Onbevoegdheid as lid van Raad

14. 'n Persoon mag nie in die Raad aangestel word nie indien hy of sy—
- (a) 'n lid is van die nasionale Parlement, 'n provinsiale wetgewer of 'n munisipale raad;
 - (b) 'n werknemer is van CapeNature of 'n werknemer ingevolge die Staatsdienswet, 1994 (Proklamasie 103 van 1994), behalwe 'n persoon beoog in artikel 12(1)(b) van daardie Wet;
 - (c) aan 'n misdaad skuldig bevind is waarby oneerlikheid betrokke was;
 - (d) 'n ongerehabiliteerde insolvent is; of
 - (e) deur 'n bevoegde hof geestelik versteur verklaar is.

Aanstelling in Raad

15. (1) Die Provinsiale Minister moet die nie-uitvoerende Raadslede beoog in artikel 13(1)(a) aanstel.
- (2) Wanneer die Provinsiale Minister 'n nie-uitvoerende lid van die Raad aanstel, moet die Provinsiale Minister—
- (a) deur 'n kennisgewing in die *Provinsiale Koerant* en kennisgewings in twee koerante wat in die Provinsie sirkuleer, in die amptelike tale van die Provinsie, van die publiek benoemings aanvra van persone wat geskik is vir aanstelling; en
 - (b) alle benoemings wat ontvang is, oorweeg en, ná oorleg met die Departementshoof en die Hoof- Uitvoerende Beamppte, die vereiste getal persone in die Raad aanstel.
- (3) Wanneer die Provinsiale Minister 'n aanstelling in die Raad ingevolge subartikel (1) maak, moet die Provinsiale Minister—
- (a) verseker dat die persoon wat aangestel word, 'n geskikte en gepaste persoon vir sodanige aanstelling is;

- (b) verseker dat die aangestelde persoon gepaste kwalifikasies, kennis en ondervinding het, wat die Provinsiale Minister kan bepaal; en
- (c) in ag neem dat dit nodig is om persone aan te stel—
 - (i) wat oor die algemeen verteenwoordigend van die demografie van die Provinsie is; en
 - (ii) wat van gepaste gemeenskapsgebaseerde of verteenwoordigende organisasies in die Provinsie afkomstig is.

(4) Geen besluit geneem deur die Raad of handeling verrig op gesag van die Raad is ongeldig bloot omdat 'n vakature in die Raad bestaan het of omdat 'n persoon wat nie geregtig was om as 'n lid van die Raad te sit nie, in die Raad gesit het toe die besluit geneem of die handeling gemagtig is nie, indien die besluit geneem is of die handeling gemagtig is deur 'n meerderheid van die Raadslede wat toe teenwoordig en geregtig was om as lede te sit.

Voorsitter van Raad

16. (1) Die Provinsiale Minister, ná oorleg met die Raadslede—

- (a) moet 'n nie-uitvoerende lid van die Raad as die Voorsitter en 'n ander nie-uitvoerende lid van die Raad as Ondervoorsitter aanstel of heraanstel;
- (b) kan, by aanvoering van grondige redes, enige sodanige aanstelling intrek.

(2) Die Voorsitter en Ondervoorsitter word aangestel vir 'n tydperk bepaal deur die Provinsiale Minister, wat nie langer as die termyn van 'n lid beoog in artikel 17 mag strek nie.

(3) Die Provinsiale Minister kan enige lid van die Raad as Waarnemende Voorsitter van die Raad aanstel—

- (a) indien daar 'n vakature in die amp van Voorsitter en Ondervoorsitter is, totdat 'n Voorsitter of Ondervoorsitter aangestel is; of
- (b) indien die Voorsitter en Ondervoorsitter van twee of meer opeenvolgende vergaderings van die Raad afwesig is.

Ampstermyn van nie-uitvoerende lede van Raad

17. (1) 'n Nie-uitvoerende lid van die Raad—

- (a) word vir 'n termyn van drie jaar aangestel, behoudens artikel 22(2);
- (b) kom by die voltooiing van die termyn beoog in paragraaf (a) in aanmerking vir heraanstelling deur die Provinsiale Minister, ná oorleg met die Departementshoof en die Hoof- Uitvoerende Beampte, vir een bykomende termyn van drie jaar.

(2) Die Provinsiale Minister kan die tydperk van aanstelling van 'n nie-uitvoerende lid beoog in subartikel (1)(a) of (b) verleng vir 'n tydperk van hoogstens een jaar.

Voorwaardes van aanstelling en vergoeding

18. (1) Die Provinsiale Minister moet die bepalinge en voorwaardes van aanstelling van nie-uitvoerende lede van die Raad bepaal, insluitende betaling van vergoeding en toelaes soos deur die Nasionale Tesourie ingevolge die Wet op Openbare Finansiële Bestuur bepaal.

(2) CapeNature is verantwoordelik vir die betaling van vergoeding en toelaes aan nie-uitvoerende Raadslede.

Gedrag van lede

19. (1) 'n Lid van die Raad—

- (a) moet die werksaamhede van sy of haar amp te goeder trou en sonder vrees, begunstiging of vooroordeel verrig;
- (b) moet aan die Gedragskode beoog in artikel 12(2)(e) voldoen;
- (c) moet enige finansiële of persoonlike sakebelange verklaar wat die lid of sy of haar vennoot, gade of onmiddellike familielid by enige aangeleentheid wat voor die Raad dien, het, en moet hom of haar van die verrigtinge van die Raad onttrek wanneer daardie aangeleentheid oorweeg word;
- (d) mag nie vertroulike inligting wat as 'n lid van die Raad verkry is of die posisie of voorregte as 'n lid van die Raad vir eie gewin of tot voordeel van 'n ander persoon gebruik nie; en
- (e) mag nie op enige ander wyse optree wat die geloofwaardigheid, onpartydigheid, onafhanklikheid of integriteit van CapeNature of die Raad in verleentheid stel nie.

(2) 'n Lid van die Raad wat subartikel (1) oortree of versuim om daaraan te voldoen, is skuldig aan wangedrag.

Beëindiging van lidmaatskap

20. 'n Nie-uitvoerende lid hou op om 'n lid van die Raad te wees indien—

- (a) die ampstermyn van die nie-uitvoerende lid verstryk; of
- (b) die nie-uitvoerende lid—
 - (i) nie meer ingevolge artikel 14(a) tot (e) bevoeg is om 'n lid te wees nie;
 - (ii) hy of sy minstens drie kalendermaande voor die datum waarop die lid sy of haar amp wil ontruim, sy of haar skriftelike bedanking indien, tensy die Provinsiale Minister 'n korter tydperk in 'n spesifieke geval toelaat; of
 - (iii) ingevolge artikel 21 uit sy of haar amp verwyder word.

Verwydering en skorsing

21. (1) Die Provinsiale Minister kan 'n lid van die Raad uit sy of haar amp verwyder op enige van die volgende gronde:

- (a) wangedrag, onvermoë of onbekwaamheid;
- (b) waar die lid van twee opeenvolgende vergaderings van die Raad afwesig was sonder die vooraf verkreë toestemming van die Voorsitter, tensy goeie gronde aangevoer kan word vir die versuim om vooraf toestemming te kry;
- (c) insolvensie;
- (d) skuldigbevinding aan 'n strafregtelike oortreding waarby oneerlikheid betrokke was.

(2) Die Provinsiale Minister—

- (a) moet die lid van die Raad uit sy of haar amp verwyder soos beoog in subartikel (1)(a) nadat 'n bevinding te dien effekte gemaak is deur 'n raad van ondersoek wat soos beoog in artikel 7(2)(d) deur die Provinsiale Minister aangestel is; en
- (b) kan 'n lid van die Raad wat onderhewig aan 'n ondersoek beoog in paragraaf (a) is, skors.

Vul van vakatures

22. (1) 'n Vakature in die Raad word gevul—

- (a) in die geval van die Voorsitter of Ondervoorsitter, deur 'n ander lid van die Raad as die Voorsitter of Ondervoorsitter, na gelang van die geval, aan te stel soos beoog in artikel 16(1)(a); en
- (b) in die geval van 'n nie-uitvoerende lid van die Raad, deur die prosedure beoog in artikel 15 te volg.

(2) 'n Persoon wat aangestel is om 'n vakature te vul, beklee die amp vir die onverstreke gedeelte van die ampstermyn van sy of haar voorganger.

Deel 3

Bedryfsprosedures van Raad

Vergaderings

23. (1) Die Raad moet minstens vier keer gedurende die finansiële jaar van CapeNature vergader, en die Voorsitter kan, en moet op versoek van 'n meerderheid van die lede van die Raad, 'n spesiale vergadering belê.

(2) Die Voorsitter moet vergaderings van die Raad belê en voorsit, maar indien die Voorsitter van 'n vergadering afwesig is, moet die Ondervoorsitter voorsit.

(3) Indien beide die Voorsitter en Ondervoorsitter van 'n vergadering afwesig is, moet die teenwoordige lede 'n ander lid kies om die vergadering voor te sit, behoudens artikel 16(3).

Prosedures

24. (1) Die Raad moet sy eie prosedures vir die hou van vergaderings bepaal, behoudens artikel 12(2)(e).

(2) Die Raad moet 'n rekord van verrigtinge by vergaderings hou en van alle besluite wat by vergaderings geneem is.

(3) Die Raad kan enige lid van die publiek nooi om enige vergadering van die Raad by te woon.

Kworum en besluite

25. (1) 'n Meerderheid van die nie-uitvoerende lede van die Raad wat dan in die Raad dien, maak 'n kworum vir 'n vergadering van die Raad uit.

(2) 'n Aangeleentheid voor die Raad word beslis deur die stemme van 'n meerderheid van die nie-uitvoerende lede van die Raad wat by die vergadering teenwoordig is.

(3) Indien daar in enige saak voor die Raad 'n staking van stemme is, moet die lid van die Raad wat die vergadering voorsit, 'n beslissende stem uitbring benewens sy of haar beraadslagende stem as 'n lid.

Komitees

26. (1) Die Raad kan komitees instel, insluitende 'n ouditkomitee, om hom by te staan met die verrigting van sy werksaamhede, wat uit een of meer van die volgende bestaan:

- (a) lede van die Raad;
- (b) werknemers van CapeNature;

- (c) ander persone wat, na die mening van die Raad, relevante ondervinding of kundigheid het.
- (2) Die Raad—
 - (a) moet die werksaamhede van elke komitee wat ingevolge subartikel (1) ingestel is, bepaal;
 - (b) moet die komiteevoorsitter en ander lede van elke komitee aanstel;
 - (c) kan te eniger tyd 'n lid van 'n komitee uit sy of haar amp verwyder; en
 - (d) moet die prosedures vir elke komitee bepaal.
- (3) 'n Komitee mag besluite vir goedkeuring slegs aanbeveel aan die Raad.
- (4) Die Raad kan 'n komitee te eniger tyd ontbind, behalwe die ouditkomitee.
- (5) Artikels 18 en 19 is van toepassing, met die nodige veranderinge, op komiteelede.

Deel 4

Administrasie van CapeNature

Hoof- Uitvoerende Beampte

27. (1) Die Raad, handelend met die instemming van die Provinsiale Minister, moet 'n persoon met gepaste kwalifikasies en ondervinding as die Hoof- Uitvoerende Beampte van CapeNature aanstel.

(2) Die Hoof- Uitvoerende Beampte—

- (a) word vir 'n termyn van vyf jaar aangestel; en
- (b) kan met die instemming van die Provinsiale Minister vir 'n verdere termyn van hoogstens vyf jaar deur die Raad heraan gestel word.

(3) Die Hoof- Uitvoerende Beampte word behoudens bepalinge en voorwaardes van indiensneming aangestel wat die Raad met die instemming van die Provinsiale Minister moet bepaal.

(4) Die Hoof- Uitvoerende Beampte is vir die administratiewe en finansiële bestuur van CapeNature verantwoordelik en moet—

- (a) die Raad bystaan om sy werksaamheid as rekenpligtige owerheid van CapeNature uit te voer en aan die Wet op Openbare Finansiële Bestuur te voldoen deur toe te sien dat daar stelsels in plek is om die inligting en verslae wat die Raad vereis, te verskaf;
- (b) die pligte verrig en die bevoegdhede uitoefen wat die Raad aan hom of haar opdra of delegeer;
- (c) aan die Raad verslag doen oor aspekte van bestuur, die verrigting van pligte en die uitoefening van bevoegdhede, op die tye en die wyse bepaal deur die Raad;
- (d) konsepweergawes van die planne, verslae en state beoog in artikel 28 opstel;
- (e) 'n toepaslik gekwalifiseerde Hoof- Finansiële Beampte aanstel;
- (f) personeel aanstel, binne die finansiële perke gestel deur die Raad en ooreenkomstig 'n indiensnemingsbeleid bepaal deur die Raad;
- (g) die personeellede bestuur;
- (h) verseker dat CapeNature aan die bepalinge van hierdie Wet, die Wet op Openbare Finansiële Bestuur en enige ander toepaslike wetgewing voldoen; en
- (i) in die algemeen, die sake van CapeNature bestuur om die oogmerke van hierdie Wet te bereik.

(5) Die Raad kan, met die instemming van die Provinsiale Minister, 'n werknemer van CapeNature as Waarnemende Hoof- Uitvoerende Beampte vir 'n tydperk van hoogstens ses maande op 'n keer aanstel wanneer—

- (a) die Hoof- Uitvoerende Beampte om enige rede afwesig is of nie in staat is om sy of haar werksaamhede te verrig nie; of
 - (b) daar 'n vakature in die amp van die Hoof- Uitvoerende Beampte is.
- (6) 'n Waarnemende Hoof- Uitvoerende Beampte—
- (a) het die bevoegdhede en pligte van die Hoof- Uitvoerende Beampte; en
 - (b) moet behoudens dieselfde bepalinge en voorwaardes beoog in subartikel (3) aangestel word.

Deel 5

Finansiële aangeleenthede

Finansiële rekenpligtigheid en verslagdoening

28. Die Raad moet verseker dat strategiese en jaarlikse prestasieplanne, begrotings, jaarverslae en geouditeerde finansiële state ooreenkomstig die Wet op Openbare Finansiële Bestuur opgestel, goedgekeur en ingedien word.

Fondse

29. (1) Die fondse van CapeNature bestaan uit—
- (a) inkomste verkry van die verrigting van sy werksaamhede soos beoog in artikel 11(1);
 - (b) fondse wat deur die Provinsiale Parlement aan hom bewillig is;
 - (c) toelaes en fondse wat van enige persoon ontvang is;
 - (d) vrywillige bydraes, skenkings en bemakings;
 - (e) inkomste wat van beleggings verkry word;
 - (f) boetes ontvang of verhaal ten opsigte van misdrywe kragtens hierdie Wet; en
 - (g) geld afkomstig van enige ander bron, met die goedkeuring van die Provinsiale Minister en die Raad, behoudens die Wet op Openbare Finansiële Bestuur.

(2) CapeNature moet sy fondse aanwend om sy werksaamhede bedoel in artikels 10 en 11 te verrig en om sy en die Raad se bedryfs- administratiewe en bestuurskoste te dek, insluitende die betaling van die vergoeding, toelaes en reis- en verblyfuitgawes van lede van die Raad, die Hoof- Uitvoerende Beampte en die personeellede van CapeNature.

(3) Die Hoof- Uitvoerende Beampte moet verseker dat alle fondse wat ingevolge subartikel (1) ontvang is, in CapeNature se bankrekening gestort word.

Reserwefondse

30. (1) Die Raad kan, behoudens die Wet op Openbare Finansiële Bestuur, finansiële reserwes skep vanuit die fondse wat ingevolge artikel 29(1) ontvang is, ten einde sy werksaamhede te verrig.

(2) Enige oordragte na en van die finansiële reserwes moet deur die Raad bekragtig word.

Beleggings

31. Die Raad kan enige fondse van CapeNature wat nie onmiddellik benodig word nie, belê, behoudens enige beleggingsbeleid wat ingevolge artikel 7(4) van die Wet op Openbare Finansiële Bestuur voorgeskryf word.

Deel 6

Ontbinding van Raad van CapeNature

Ontbinding van Raad

32. (1) Indien die Provinsiale Minister op redelike gronde vermoed dat die Raad nie sy werksaamhede ingevolge artikel 12 verrig nie, moet hy of sy 'n voorskrif beoog in artikel 7(2)(c) uitreik.

(2) Indien die Provinsiale Minister nie oortuig is dat die Raad aan die voorskrif beoog in subartikel (1) voldoen het nie, kan die Provinsiale Minister die Raad by kennisgewing in die *Provinsiale Koerant* ontbind.

(3) Die Provinsiale Minister kan die werksaamhede van die Raad verrig vanaf die datum van publikasie van die kennisgewing beoog in subartikel (2) tot die aanstelling van 'n nuwe Raad beoog in subartikel (4).

(4) Die Provinsiale Minister moet binne 'n redelike tydsraamwerk ná die ontbinding van die Raad, lede in die Raad aanstel soos beoog in artikel 15.

Ontbinding van CapeNature

33. (1) CapeNature mag nie gelikwedeer of ontbind word nie behalwe deur 'n Wet van die Provinsiale Parlement.

(2) By sy ontbinding moet CapeNature sy oorblywende bates en die opbrengs van daardie bates oordra aan die Departement of aan 'n gelykwaardige openbare instelling soos omskryf in die Wet op Openbare Finansiële Bestuur, soos deur die Provinsiale Minister bepaal.

HOOFSTUK 5

BIODIVERSITEITSBEPLANNING EN -MONITERING

Ruimtelike Plan vir Biodiversiteit

34. (1) CapeNature moet binne een jaar vanaf die inwerkingtreding van hierdie Wet, ná oorleg met die Departementshoof, 'n konsep- Ruimtelike Plan vir Biodiversiteit opstel en dit aan die Provinsiale Minister voorlê vir aanneming.

(2) Voordat die Provinsiale Minister die Ruimtelike Plan vir Biodiversiteit aanneem, moet hy of sy—

- (a) in die amptelike tale van die Provinsie, 'n verwysing na waar die publiek toegang kan kry tot die konsep- Ruimtelike Plan vir Biodiversiteit publiseer—
 - (i) by kennisgewing in die *Provinsiale Koerant*; en
 - (ii) in twee koerante wat in die Provinsie sirkuleer, waarvan minstens een in gedrukte formaat moet wees;
- (b) die konsep- Ruimtelike Plan vir Biodiversiteit op 'n redelike wyse op die plek vermeld ingevolge paragraaf (a) aan die publiek beskikbaar stel en toeganklik maak; en
- (c) 'n tydperk van minstens 60 dae vir kommentaarlewering toelaat vanaf die publikasiedatum van die kennisgewing in die *Provinsiale Koerant*.

(3) Die Provinsiale Minister moet—

- (a) alle kommentaar wat ontvang is, oorweeg; en

- (b) binne 90 dae vanaf die verstryking van die kommentaartydperk beoog in subartikel (2)(c), die finale Ruimtelike Plan vir Biodiversiteit aanneem en dit by kennisgewing in die *Provinsiale Koerant* publiseer.

Doel van Ruimtelike Plan vir Biodiversiteit

35. Die doel van 'n Ruimtelike Plan vir Biodiversiteit is om—

- (a) biodiversiteitsmikpunte te stel;
- (b) ruimtelik een of meer kategorieë van biodiversiteitsprioriteitsgebiede te identifiseer wat die toekomstige bestaan en funksionering van biodiversiteit en ekosisteme, insluitende die lewering van ekosisteemdienste, sal verseker;
- (c) riglyne te verskaf wat die gewenste bestuursdoelwitte vir grond- en hulpbrongebruik in elke kategorie biodiversiteitsprioriteitsgebied uiteensit;
- (d) riglyne vir ruimtelike beplanning en grondgebruikbesluitneming te verskaf om omgewingsvolhoubare ontwikkeling en hulpbrongebruik en ekologiese en ruimtelike weerstandigheid in die Provinsie te verseker; en
- (e) verseker dat die ekologiese infrastruktuur in die Provinsie in stand gehou word, ekosisteemfragmentasie en -verlies vermy word en dat die weerstandigheid van ekosisteme en menslike gemeenskappe teen die impakte van klimaatsverandering versterk word.

Inhoud van Ruimtelike Plan vir Biodiversiteit

36. 'n Ruimtelike Plan vir Biodiversiteit moet—

- (a) met behulp van die beginsels en metodes van stelselmatige biodiversiteitsbeplanning ontwikkel word, en moet op die beste beskikbare wetenskap en data gebaseer wees;
- (b) biodiversiteitsmikpunte stel wat die kategorieë van biodiversiteitsprioriteitsgebiede moet onderlê;
- (c) biodiversiteitsprioriteitsgebiede identifiseer volgens die kategorieë en mikpunte beoog in paragraaf (b);
- (d) 'n ruimtelike voorstelling en ruimtelike data van biodiversiteitsprioriteitsgebiede bevat; en
- (e) riglyne vir gewenste bestuursdoelwitte bevat vir elke kategorie biodiversiteitsprioriteitsgebied wat ingevolge paragraaf (c) geïdentifiseer word.

Gebruik en toepassing van Ruimtelike Plan vir Biodiversiteit

37. (1) Die Ruimtelike Plan vir Biodiversiteit is 'n provinsiale plan soos beoog in—

- (a) artikels 25(1)(e), 26(d), 27(2)(a) en 29(1)(c) van die Wet op Plaaslike Regering: Munisipale Stelsels;
- (b) artikels 12(4), 15(3)(b) en 16(c) van die Wet op Ruimtelike Beplanning en Grondgebruikbestuur, 2013 (Wet 3 van 2013); en
- (c) artikel 4(3)(c)(ii) en (iii) van die Wes-Kaapse Wet op Grondgebruikbeplanning, 2014 (Wet 3 van 2014), wat die prioriteite, doelwitte en strategieë vir biodiversiteit, ekologiese hulpbronne en verwante klimaatsveranderingaanpassing daarstel.

(2) Die Ruimtelike Plan vir Biodiversiteit moet ten grondslag van die volgende lê:

- (a) die Uitbreidingsstrategie vir Provinsiale Beskermdede Gebiede en biodiversiteitsopsigterskap;

- (b) die identifisering van ekosisteme en ekologiese infrastruktuur en die lysing van spesies ingevolge hierdie Wet en ander omgewingswetgewing;
- (c) grondgebruikbeplanning en -besluitneming;
- (d) beleid en riglyne wat ingevolge omgewingswetgewing opgestel is;
- (e) enige besluitondersteuningstelsel, omgewingsbestuursdokument of strategiese omgewingsevaluering wat ingevolge omgewingswetgewing ontwikkel of gebruik word;
- (f) besluite en handeling deur enige staatsorgaan wie se beleid en besluite 'n impak op biodiversiteit in die Provinsie het; en
- (g) biodiversiteitsteëwigte.

(3) Wanneer 'n munisipaliteit sy ruimtelike ontwikkelingsraamwerk ingevolge die Wet op Plaaslike Regering: Munisipale Stelsels aanneem of wysig ten opsigte van grondgebruiks-aangeleenthede in gebiede wat in die Ruimtelike Plan vir Biodiversiteit as biodiversiteits-prioriteitsgebiede geïdentifiseer is, moet die munisipaliteit aandui hoe die grondgebruikbeplannings-kategorieë in die ruimtelike ontwikkelingsraamwerk die gewenste bestuursdoelwitte in die riglyne beoog in artikel 36(e) in aanmerking geneem het.

(4) Vir die doeleindes van enige magtigingsvereiste vir 'n aktiwiteit vermeld ingevolge omgewingswetgewing weens die impak van sodanige aktiwiteit op biodiversiteit in 'n bepaalde gebied, identifiseer die Ruimtelike Plan vir Biodiversiteit die biodiversiteitsprioriteitsgebiede wat tot sodanige vereiste aanleiding gee.

Hersiening van Ruimtelike Plan vir Biodiversiteit

38. (1) CapeNature moet, ná oorleg met die Departementshoof, die Ruimtelike Plan vir Biodiversiteit minstens elke vyf jaar hersien of wanneer die Provinsiale Minister hom opdrag gee om dit te doen.

(2) Artikel 34 is van toepassing, met die nodige veranderinge, op die hersiening en wysiging van die Ruimtelike Plan vir Biodiversiteit.

(3) Die Provinsiale Minister moet minstens elke 10 jaar die Ruimtelike Plan vir Biodiversiteit evalueer om te bepaal of en die mate waarin die doelwitte en mikpunte van die plan bereik is.

HOOFSTUK 6

BESKERMDE GEBIEDE, BERGOPVANGSGEBIEDE, PRIVAAT NATUURRESERVATE, BIODIVERSITEITSOPSIGTERS-KAP EN BIOSFEERRESERVATE

Deel 1

Uitbreiding van beskermde gebiede

Uitbreidingsstrategie vir Provinsiale Beskermde Gebiede

39. (1) Ten einde die doelwitte beoog in artikel 2(g) te bereik—

- (a) kan die Provinsiale Minister enige gepaste maatreël tref, insluitende—
 - (i) die aanneming van 'n provinsiale strategie vir die uitbreiding van die provinsiale beskermdegebiednetwerk, wat kwantitatiewe mikpunte stel en die meganismes vir sodanige uitbreiding aanbeveel; en
 - (ii) die verklaring van beskermde gebiede ingevolge die Wet op Beskermde Gebiede; en
- (b) kan die Hoof- Uitvoerende Beampte enige gepaste biodiversiteitsopsigterskapskategorie beoog in artikel 43(1)(a) toepas.

(2) CapeNature moet, ná oorleg met die Departementshoof, binne twee jaar vanaf die inwerkingtreding van hierdie Wet, 'n konsep- Uitbreidingstrategie vir Provinsiale Beskermdede Gebiede opstel en dit aan die Provinsiale Minister vir aanneming voorlê.

(3) Voordat die Provinsiale Minister die Uitbreidingstrategie vir Provinsiale Beskermdede Gebiede aanneem, moet hy of sy—

- (a) in die amptelike tale van die Provinsie, 'n verwysing na waar die publiek toegang tot die konsep- Uitbreidingstrategie vir Provinsiale Beskermdede Gebiede kan kry, publiseer—
 - (i) by kennisgewing in die *Provinsiale Koerant*; en
 - (ii) in twee koerante wat in die Provinsie sirkuleer, waarvan minstens een in gedrukte formaat moet wees;
 - (b) die konsep- Uitbreidingstrategie vir Provinsiale Beskermdede Gebiede op 'n redelike wyse op die plek vermeld ingevolge paragraaf (a) aan die publiek beskikbaar stel en toeganklik maak; en
 - (c) 'n kommentaartydperk van minstens 60 dae vanaf die datum van publikasie van die kennisgewing in die *Provinsiale Koerant* toelaat.
- (4) Die Provinsiale Minister moet—
- (a) alle kommentaar wat ontvang is, oorweeg; en
 - (b) binne 90 dae vanaf die verstryking van die kommentaartydperk beoog in subartikel (3)(c) die finale Uitbreidingstrategie vir Provinsiale Beskermdede Gebiede aanneem en dit by kennisgewing in die *Provinsiale Koerant* publiseer.

Deel 2

Bergopvangsgebiede

Verklaring van bergopvangsgebiede

40. (1) Die Provinsiale Minister kan by kennisgewing in die *Provinsiale Koerant*—

- (a) 'n gebied verklaar as—
 - (i) 'n bergopvangsgebied; of
 - (ii) deel van 'n bestaande bergopvangsgebied; en
 - (b) 'n naam aan daardie bergopvangsgebied toeken.
- (2) Die Provinsiale Minister kan ingevolge subartikel (1)(a) 'n verklaring maak indien die beheer en bestuur van aktiwiteite en hulpbronne in die betrokke gebied vereis word om—
- (a) die biodiversiteit en ekosisteme in die gebied in stand te hou;
 - (b) die verskaffing van ekosisteedienste, veral waterskaffing, te volhou;
 - (c) te verseker dat die gebruik van ekosisteedienste in die gebied volhoubaar is.
- (3) Die Provinsiale Minister kan 'n verklaring ingevolge subartikel (1) maak ten opsigte van enige grond, insluitende grond in privaat besit.
- (4) Indien die Provinsiale Minister op redelike gronde oortuig is dat 'n bergopvangsgebied, of enige gedeelte daarvan, nie meer as sodanig benodig word nie, kan die Provinsiale Minister, by kennisgewing in die *Provinsiale Koerant*, na gelang van die geval—
- (a) die verklaring van daardie bergopvangsgebied intrek; of
 - (b) die grense van daardie bergopvangsgebied verander om enige gedeelte daarvan uit te sluit.
- (5) Voordat die Provinsiale Minister 'n kennisgewing beoog in subartikel (1)(a), (3) of (4) uitreik, moet hy of sy, op die voorgeskrewe wyse, grondeienaars van die beoogde kennisgewing en die gevolge van die kennisgewing in kennis stel.

(6) 'n Gebied wat, by die inwerkingtreding van hierdie Wet, uit hoofde van 'n verklaring kragtens artikel 2 van die Wet op Bergopvanggebiede 'n bergopvanggebied is, word geag kragtens subartikel (1) tot 'n bergopvangsgebied verklaar te wees.

(7) 'n Gebied hou op om 'n bergopvangsgebied te wees indien daardie gebied verklaar word as, of ingesluit word by, 'n spesiale natuurreservaat, nasionale park of natuurreservaat of 'n gedeelte daarvan, ingevolge artikel 18, 20 of 23 van die Wet op Beskernde Gebiede.

Bestuur van bergopvangsgebiede

41. Die Provinsiale Minister kan—

- (a) spesifieke vereistes vir die bestuur van bergopvangsgebiede voorskryf; of
- (b) spesifieke aktiwiteite voorskryf wat in bergopvangsgebiede verbied word, met inagneming van die vereistes van artikel 40(2).

Deel 3

Privaat natuurreservate

Verklaring van privaat natuurreservate

42. (1) 'n Grondeienaar kan op die voorgeskrewe wyse by die Provinsiale Minister aansoek doen om 'n privaat natuurreservaat te verklaar op grond wat die grondeienaar besit en om 'n naam aan die reservaat toe te ken.

(2) Die Provinsiale Minister moet die aansoek oorweeg met inagneming van die volgende:

- (a) die bydrae van die voorgestelde privaat natuurreservaat tot biodiversiteits-bewaringsdoelwitte en -mikpunte in die Provinsie; en
- (b) die vermoë van die grondeienaar om die privaat natuurreservaat te bestuur en in stand te hou om daardie doelwitte en mikpunte te bereik.

(3) Die Provinsiale Minister kan die aansoek goedkeur, met of sonder voorwaardes, of dit weier.

(4) Indien die Provinsiale Minister die aansoek goedkeur, moet die Provinsiale Minister die privaat natuurreservaat by kennisgewing in die *Provinsiale Koerant* verklaar, tesame met die naam van die reservaat, die grense daarvan, en die verwysing na waar toegang gekry kan word tot die voorwaardes, indien enige, waaraan die goedkeuring onderhewig is.

(5) Die eienaar van 'n privaat natuurreservaat kan—

- (a) die privaat natuurreservaat as 'n privaat natuurreservaat adverteer;
- (b) by die Provinsiale Minister aansoek doen om—
 - (i) die grense of die naam, of die grense en die naam, van die privaat natuurreservaat te verander; of
 - (ii) die verklaring van die privaat natuurreservaat in te trek.

(6) Die Provinsiale Minister—

- (a) kan 'n aansoek beoog in subartikel (5)(b)(i) met of sonder voorwaardes goedkeur of dit weier;
- (b) moet 'n aansoek beoog in subartikel (5)(b)(ii) goedkeur.

(7) Die Provinsiale Minister moet—

- (a) waar 'n aansoek beoog in subartikel (5)(b)(i) goedgekeur is, kennis in die *Provinsiale Koerant* gee van die nuwe grense of die nuwe naam of die nuwe grense en die nuwe naam van die privaat natuurreservaat en die verwysing na waar toegang gekry kan word tot die voorwaardes, indien enige, waaraan die goedkeuring onderhewig is; of

- (b) in die geval van die intrekking van die verklaring van die privaat natuurreservaat, kennis van die intrekking in die *Provinsiale Koerant* gee.
- (8) 'n Persoon wat 'n privaat natuurreservaat adverteer, moet aan enige relevante voorwaardes wat ingevolge subartikel (3) of (6)(a), na gelang van die geval, opgelê is, voldoen.
- (9) Enige privaat natuurreservaat wat ingevolge die Ordonnansie ingestel is, word, ondanks die herroeping daarvan deur hierdie Wet, geag ingevolge subartikel (4) as 'n privaat natuurreservaat verklaar te wees.
- (10) Die Provinsiale Minister kan die verklaring van 'n privaat natuurreservaat by kennisgewing in die *Provinsiale Koerant* intrek indien die Provinsiale Minister op redelike gronde oortuig is dat—
- (a) die privaat natuurreservaat nie meer doeltreffend tot biodiversiteitsbewaringsdoelwitte en -mikpunte in die Provinsie bydra nie; of
- (b) die grondeienaar nie meer die kapasiteit het om die privaat natuurreservaat te bestuur en in stand te hou om daardie doelwitte en mikpunte te bereik nie.
- (11) Voordat die Provinsiale Minister ingevolge subartikel (10) handel, moet die Provinsiale Minister die grondeienaar 'n geleentheid gee om verhoë te rig.
- (12) Die Provinsiale Minister kan vereistes vir die bestuur van privaat natuurreservate voorskryf.
- (13) Subartikels (5)(b) en (10) is van toepassing slegs ten opsigte van 'n privaat natuurreservaat wat ingevolge subartikel (4) verklaar is of uit hoofde van subartikel (9) geag word aldus verklaar te wees.

Deel 4 ***Biodiversiteitsopsigterskap***

Biodiversiteitsopsigterskap

- 43.** (1) Ten einde die Uitbreidingsstrategie vir Provinsiale Beskermdes Gebiede te implementeer, kan die Provinsiale Minister die volgende voorskryf:
- (a) verskillende kategorieë van biodiversiteitsopsigterskapsgebiede;
- (b) maatstawwe en voorwaardes wat op elke kategorie van biodiversiteitsopsigterskapsgebied van toepassing is;
- (c) 'n aansoekproses vir die registrasie, wysiging van die grense van of intrekking van die registrasie van 'n biodiversiteitsopsigterskapsgebied;
- (d) die regte, pligte en bevoegdhede van grondeienaars ten opsigte van biodiversiteitsopsigterskapsgebiede;
- (e) die maatstawwe en doelwitte vir die bestuursplanne van biodiversiteitsopsigterskapsgebiede; en
- (f) enige ander aangeleentheid wat nodig is vir die behoorlike bestuur van biodiversiteitsopsigterskapsgebiede.
- (2) Die Hoof- Uitvoerende Beampte kan 'n biodiversiteitsopsigterskapsooreenkoms met enige grondeienaar aangaan.
- (3) CapeNature moet die status van biodiversiteitsopsigterskapsooreenkomste en biodiversiteitsopsigterskapsgebiede monitor en jaarliks aan die Provinsiale Minister daarvoor verslag doen.
- (4) Indien 'n grondeienaar wat 'n party is tot 'n biodiversiteitsopsigterskapsooreenkoms, daardie ooreenkoms verbreek, kan die Provinsiale Minister 'n administratiewe boete ingevolge artikel 73 oplê.
- (5) Die oplegging van 'n administratiewe boete soos beoog in subartikel (4) raak nie enige persoon se gemeenregtelike regte nie.

Deel 5
Biosfeerreservate

Aansoek om UNESCO-aanwysing as biosfeerreservaat

44. (1) Enige persoon of staatsorgaan kan die Provinsiale Minister se goedkeuring versoek om met 'n aansoek om UNESCO-aanwysing van 'n biosfeerreservaat voort te gaan.

(2) 'n Versoek beoog in subartikel (1) moet—

- (a) voorafgegaan word deur die voorgeskrewe openbaredeelnameproses;
- (b) ooreenkomstig die voorgeskrewe formaat wees; en
- (c) die voorgestelde samestelling van 'n tussentydse biosfeerreservaatkomitee insluit wat breedweg verteenwoordigend van alle belanghebbende persone, instellings en gemeenskappe is.

(3) Die Provinsiale Minister kan die versoek beoog in subartikel (2) met of sonder voorwaardes goedkeur of dit weier.

(4) Indien die Provinsiale Minister die versoek goedkeur, moet die tussentydse biosfeerreservaatkomitee—

- (a) op die voorgeskrewe wyse ingestel word;
- (b) die aansoek om UNESCO-aanwysing van die biosfeerreservaat in die formaat soos bepaal deur die UNESCO Mens en die Biosfeer-program opstel;
- (c) die aansoek aan die Provinsiale Minister voorlê binne die voorgeskrewe tydperk of enige verlengde tydperk bepaal deur die Provinsiale Minister; en
- (d) indien die Provinsiale Minister dit versoek, die aansoek ooreenkomstig die Provinsiale Minister se instruksies wysig.

(5) Indien die Provinsiale Minister oortuig is dat die aansoek—

- (a) aan die relevante maatstawwe van die UNESCO Mens en die Biosfeer-program voldoen;
- (b) bestaanbaar is met die oogmerke van hierdie Wet; en
- (c) indien van toepassing, die wysigings beoog in subartikel (4)(d) bevat,

kan die Provinsiale Minister goedkeur dat die aansoek om UNESCO-aanwysing aangestuur word na die Nasionale Minister vir oorweging voordat dit aan UNESCO voorgelê word.

(6) Indien UNESCO die biosfeerreservaat aanwys, moet die Provinsiale Minister binne 90 dae ná UNESCO se aanwysing 'n kennisgewing van die aanwysing in die *Provinsiale Koerant* publiseer.

(7) Die Provinsiale Minister moet minstens elke 10 jaar, met ingang van die aanwysing van 'n biosfeerreservaat, die status, funksionering, doeltreffendheid en raamwerkplan van die biosfeerreservaat volgens die betrokke doelwitte, strategieë en riglyne van die UNESCO Mens en die Biosfeer-program hersien.

(8) Indien die Provinsiale Minister van mening is, ná oorleg met die bestuurskomitee beoog in artikel 45 en belanghebbende en geraakte partye, dat 'n biosfeerreservaat nie meer aan die kernwerkzaamhede van die UNESCO Mens en die Biosfeer-program voldoen nie en nie meer die vooruitsig het om aldus te voldoen nie, kan die Provinsiale Minister aan die Nasionale Minister aanbeveel om 'n versoek aan UNESCO te rig vir die intrekking van die aanwysing van daardie biosfeerreservaat.

(9) 'n Biosfeerreservaat wat voor die inwerkingtreding van hierdie Wet in die Provinsie ingestel is, word geag ingevolge hierdie Wet ingestel te wees.

Bestuur van biosfeerreservate

45. (1) Ná die publikasie van die aanwysing van 'n biosfeerreservaat in die *Provinsiale Koerant* moet die tussentydse biosfeerreservaatkomitee 'n bestuurskomitee op die voorgeskrewe wyse instel, waarna die tussentydse biosfeerreservaatkomitee ontbind.

(2) Die bestuurskomitee moet—

- (a) verseker dat die biosfeerreservaat sy bewarings-, volhoubareontwikkelings- en bedryfs-werksaamhede uitvoer;
- (b) 'n Biosfeerreservaatraamwerkplan soos beoog in artikel 46 opstel; en
- (c) jaarliks aan die Provinsiale Minister verslag doen, of met korter tussenposes bepaal deur die Provinsiale Minister, van die bereiking van die doelwitte en die bedrywighe van die biosfeerreservaat.

Biosfeerreservaatraamwerkplan

46. (1) 'n Biosfeerreservaatraamwerkplan moet alle grond binne die biosfeerreservaat as kern-, buffer- of oorgangsgebiede kategoriseer en kan grondgebruike identifiseer wat in elke kategorie gepas is.

(2) 'n Biosfeerreservaatraamwerkplan moet bestaanbaar wees met—

- (a) die UNESCO Mens en die Biosfeer-program;
- (b) indien die biosfeerreservaat in 'n beskermde gebied geleë is, die bestuursplan vir daardie beskermde gebied ingevolge die Wet op Beskermde Gebiede;
- (c) die Ruimtelike Plan vir Biodiversiteit;
- (d) die Uitbreidingsstrategie vir Provinsiale Beskermde Gebiede;
- (e) die oogmerke van hierdie Wet; en
- (f) enige ander voorgeskrewe aangeleentheid.

(3) Die Provinsiale Minister kan die inhoud van 'n Biosfeerreservaatraamwerkplan voorskryf en die tydperk waarbinne die plan deur die bestuurskomitee van die biosfeerreservaat hersien moet word.

Befondsing van biosfeerreservate

47. (1) Die Provinsiale Minister kan, ooreenkomstig 'n bewilliging deur die Provinsiale Parlement, ten opsigte van die instelling, bedryf, bestuur of uitbreiding van, of ten opsigte van bewaring in, 'n biosfeerreservaat finansiële of ander bystand verleen.

(2) Die bystand beoog in subartikel (1) kan onderhewig gemaak word aan voorwaardes wat die Provinsiale Minister bepaal.

HOOFSTUK 7

BESKERMING VAN EKOSISTEME, EKOLOGIESE INFRASTRUKTUUR EN SPESIES

Ekosisteme of ekologiese infrastruktuur wat spesiale beskerming benodig

48. (1) Die Provinsiale Minister kan by kennisgewing in die *Provinsiale Koerant* 'n ekosisteem of 'n gedeelte daarvan of 'n gebied van ekologiese infrastruktuur identifiseer wat spesiale beskerming benodig om die instandhouding van die ekologiese integriteit daarvan of die lewering van ekosisteemdienste te verseker.

(2) 'n Kennisgewing beoog in subartikel (1) kan voorsiening maak vir—

- (a) die verbod op of beperking van enige aktiwiteit; en
- (b) die instelling van bestuursvereistes vir enige grondeienaar,

binne die geïdentifiseerde ekosisteem of ekologiese infrastruktuur, permanent of vir 'n vermelde tydperk.

(3) Voordat die Provinsiale Minister 'n kennisgewing beoog in subartikel (1) uitreik, moet hy of sy, op die voorgeskrewe wyse, die betrokke grondeienaars in kennis stel van die beoogde kennisgewing en die gevolge daarvan, en aan hulle 'n redelike geleentheid bied om kommentaar te lewer.

(4) Die Provinsiale Minister kan by kennisgewing in die *Provinsiale Koerant* 'n kennisgewing beoog in subartikel (1), of enige gedeelte van die kennisgewing, wysig of intrek indien die omstandighede wat veroorsaak het dat die Provinsiale Minister sy of haar bevoegdhede ingevolge subartikel (1) uitgeoefen het, verander het.

(5) Ondanks enige ander toepaslike wetgewing, is dit 'n misdryf om nie aan 'n kennisgewing beoog in subartikel (1), of gewysig soos beoog in subartikel (4), te voldoen nie.

Biodiversiteitsteëwigte en ander versagtingsmaatreëls

49. Die Provinsiale Minister kan vereistes vir biodiversiteitsteëwigte of ander versagtingsmaatreëls in die Provinsie voorskryf ten einde die biodiversiteitsmikpunte gestel in die Ruimtelike Plan vir Biodiversiteit te bereik.

Spesies wat beskerming benodig of bedreiging vir omgewing inhou

50. (1) Die Provinsiale Minister kan beperkte aktiwiteite of beperkte metodes voorskryf ten opsigte van enige spesie of enige kategorie spesie wat ingevolge subartikel (2) gelys word.

(2) Die Provinsiale Minister kan lyste van die volgende spesies of kategorieë van spesies voorskryf:

- (a) spesies wat in die natuur uitgesterf het;
- (b) kritiek bedreigde spesies;
- (c) bedreigde spesies;
- (d) kwesbare spesies;
- (e) spesies wat beskerming benodig en nie ingevolge paragraaf (a), (b), (c) of (d) gelys is nie, insluitende spesies gelys—
 - (i) deur die Internasionale Unie vir die Bewaring van die Natuur as Amper Bedreig, Ontoereikende Data of Nie Geëvalueer nie; of
 - (ii) in aanhangsels I, II en III van CITES;
- (f) enige ander inheemse spesies wat nie ingevolge paragraaf (a), (b), (c), (d) of (e) gelys is nie;
- (g) buitelimietspesies;
- (h) uitheemse spesies;
- (i) indringerspesies;
- (j) spesies wat spesiale bestuursmaatreëls vereis; en
- (k) mak spesies.

(3) Die Provinsiale Minister kan die spesiale bestuursmaatreëls wat vir spesies wat ingevolge subartikel (2)(j) gelys word, voorskryf.

(4) Geen persoon mag 'n beperkte aktiwiteit of beperkte metode waarby 'n gelyste spesie betrokke is, verrig nie, tensy die persoon ingevolge artikel 53(1)(a) gemagtig is om dit te doen.

(5) Subartikel (4) is nie van toepassing op 'n gelyste spesie wat van buite die Provinsie ingebring is en onderweg is deur die Provinsie na 'n bestemming buite die Provinsie nie, mits die deurgang deur die Provinsie met 'n toepaslike magtiging ingevolge enige wet geskied.

(6) Die Provinsiale Minister kan spesies voorskryf ten opsigte waarvan 'n magtiging ingevolge hierdie Wet nie uitgereik mag word nie, vir 'n beperkte aktiwiteit of beperkte metode ten opsigte van daardie spesie.

HOOFSTUK 8 JAG AS BEROEP

Professionele jag

51. (1) Geen persoon mag enige diens as 'n beroepsjagter, jagondernemer of Direkteur van 'n Professionele Jagskool verskaf nie, tensy hy of sy ingevolge artikel 53(1)(a) daartoe gemagtig is.

(2) Geen kliënt mag jag nie, tensy hy of sy deur 'n beroepsjagter vergesel word.

(3) 'n Persoon wat subartikel (1) of (2) oortree, pleeg 'n misdryf.

HOOFSTUK 9 MAGTIGING

Aansoek om magtiging

52. 'n Aansoek om 'n magtiging wat ingevolge enige bepaling van hierdie Wet vereis word, moet op die voorgeskrewe wyse skriftelik by die Hoof- Uitvoerende Beampte ingedien word.

Besluit oor aansoek om magtiging

53. (1) Die Hoof- Uitvoerende Beampte kan—

(a) 'n aansoek om magtiging met of sonder voorwaardes toestaan; of

(b) die aansoek om magtiging weier.

(2) Die Hoof- Uitvoerende Beampte kan verdere inligting versoek, insluitende 'n onafhanklike risiko-evaluasie of deskundige getuienis beoog in artikel 54, voordat hy of sy die besluit beoog in subartikel (1) neem.

(3) Die Hoof- Uitvoerende Beampte moet 'n aansoek weier indien dit onbestaanbaar is met—

(a) die beginsels van ekologiese volhoubaarheid beoog in artikel 6 of enige ander bepaling van hierdie Wet;

(b) enige relevante strategieë of planne wat ingevolge hierdie Wet aangeneem of goedgekeur is; of

(c) behoudens artikel 231 van die Grondwet, enige toepaslike internasionale ooreenkoms.

Risiko-evaluasies en deskundige getuienis

54. Voordat die Hoof- Uitvoerende Beampte 'n aansoek om magtiging toestaan, kan hy of sy van die aansoeker vereis om, op die aansoeker se onkoste, die onafhanklike risiko-evaluasie of deskundige getuienis te verskaf wat—

(a) die Hoof- Uitvoerende Beampte bepaal nodig is om 'n besluit oor die aansoek te neem; of

(b) voorgeskryf word.

Bewys van wettige besit

55. 'n Persoon in besit van 'n eksemplaar van 'n wilde dier moet in besit wees van die voorgeskrewe dokumentasie wat bewys lewer van die wettige besit vir die eksemplaar.

Geïntegreerde magtiging

56. (1) Indien die Hoof- Uitvoerende Beampte kragtens 'n ander wet bevoeg is om 'n magtiging ingevolge daardie ander wet uit te reik vir 'n aktiwiteit wat ook magtiging kragtens hierdie Wet vereis, kan die Hoof- Uitvoerende Beampte 'n enkele geïntegreerde magtiging uitreik.

(2) 'n Geïntegreerde magtiging mag uitgereik word slegs indien die betrokke aansoek aan die relevante bepalings van hierdie Wet en die ander wet voldoen.

Hersiening, opskorting, intrekking en wysiging van magtiging

57. (1) Die Hoof- Uitvoerende Beampte kan te eniger tyd 'n magtiging, of enige gedeelte daarvan, wat deur hom of haar toegestaan is, hersien en kan die magtiging te eniger tyd wysig of intrek indien—

- (a) hy of sy op redelike gronde oortuig is dat die aktiwiteit of aktiwiteite wat deur die magtiging gemagtig is, 'n nadelige uitwerking het of 'n aansienlike negatiewe impak op die omgewing kan veroorsaak wat nie ten tyde van die magtiging voorsien is nie;
- (b) die houer van die magtiging—
 - (i) onakkurate, foutiewe of misleidende inligting in verband met enige aangeleentheid ingedien het wat ingevolge hierdie Wet ingedien moet word;
 - (ii) versuim om aan enige voorwaarde van die magtiging te voldoen;
 - (iii) versuim om aan enige bepaling van hierdie Wet te voldoen of ondersoek word vir versuim om te voldoen aan enige ander wetgewing wat die gemagtigde aktiwiteit reguleer of daarmee verband hou; of
 - (iv) ingevolge hierdie Wet of enige ander provinsiale of nasionale wetgewing wat met die gemagtigde aktiwiteit verband hou, aan 'n misdryf skuldig bevind is.

(2) Die Hoof- Uitvoerende Beampte kan die magtiging of 'n gedeelte daarvan opskort voordat hy of sy maatreëls soos beoog in subartikel (1) tref.

(3) 'n Magtiging, of 'n gedeelte daarvan, wat opgeskort is, bly opgeskort totdat die Hoof- Uitvoerende Beampte—

- (a) die opskorting ophef;
- (b) die magtiging wysig; of
- (c) die magtiging intrek.

(4) Die Hoof- Uitvoerende Beampte kan—

- (a) enige redelike maatreëls tref om die situasie reg te stel wat kan ontstaan as gevolg van die opskorting of intrekking van 'n magtiging of 'n gedeelte daarvan weens nievoldoening deur die houer van die magtiging aan die toepaslike wetgewing; en
- (b) van die houer van die magtiging enige redelike koste verhaal wat aangegaan en genoodsaak is deur die maatreëls soos beoog in paragraaf (a) te tref.

HOOFSTUK 10 VOLDOENING EN AFDWINGING

Deel 1

Voldoenings- en wetstoepassingsbeamptes en regsangeleenthede

Aanwysing van natuurbewaringsbeamptes, natuurbewaringsveldwagters en erenatuurbewaringsbeamptes

58. Die Hoof- Uitvoerende Beampte—

- (a) kan 'n gepas gekwalifiseerde persoon—
 - (i) wat in diens is van CapeNature, as 'n natuurbewaringsbeampte aanwys;
 - (ii) wat in diens is van 'n munisipaliteit of staatsorgaan, by ooreenkoms met die betrokke werkgewer as 'n natuurbewaringsveldwagter aanwys; of
 - (iii) as 'n erenatuurbewaringsbeampte aanwys;
- (b) moet, wanneer 'n persoon ingevolge paragraaf (a) aangewys word, die bepalinge, van hierdie Wet of enige ander wet, wat daardie persoon aangewys is om af te dwing, vermeld;
- (c) kan te eniger tyd 'n aanwysing beoog in paragraaf (a) intrek.

Verklaring van natuurbewaringsbeamptes en natuurbewaringsveldwagters as vredesbeamptes

59. Die Hoof- Uitvoerende Beampte kan die Nasionale Minister verantwoordelik vir Justisie versoek om natuurbewaringsbeamptes en natuurbewaringsveldwagters ingevolge artikel 334 van die Strafproseswet as vredesbeamptes te verklaar vir die verrigting van hul werksaamhede ingevolge hierdie Wet en ten opsigte van bevoegdheid of pligte wat kragtens enige ander wetgewing aan CapeNature gedelegeer of opgedra is.

Mandaat van natuurbewaringsbeamptes en natuurbewaringsveldwagters

60. 'n Natuurbewaringsbeampte of natuurbewaringsveldwagter kan binne sy of haar regsgebied die volgende afdwing:

- (a) voldoening aan hierdie Wet en magtigings uitgereik ingevolge hierdie Wet; en
- (b) voldoening aan ander wetgewing in die mate waarin die implementasie van daardie wetgewing aan CapeNature gedelegeer of opgedra is.

Erenatuurbewaringsbeamptes

61. (1) 'n Erenatuurbewaringsbeampte mag slegs die bevoegdheid uiteengesit in subartikels (2) en (3) en slegs binne 'n geografiese gebied vermeld in die aanwysing beoog in artikel 58(a)(iii) uitoefen.

(2) 'n Erenatuurbewaringsbeampte kan enige persoon wat enige handeling verrig, of wat die erenatuurbewaringsbeampte redelikerwys vermoed enige handeling verrig het, waarvoor 'n magtiging, vrystelling of bevel of die skriftelike toestemming van 'n grondeienaar of van enige ander persoon kragtens enige bepaling van hierdie Wet nodig is, versoek om—

- (a) sodanige magtiging, vrystelling, bevel of toestemming te verskaf; en
- (b) sy of haar naam en adres te verskaf.

- (3) 'n Erenatuurbewaringsbeampte kan CapeNature bystaan met—
- (a) die opsporing en verslagdoening van misdrywe ingevolge hierdie Wet; en
 - (b) die verrigting van enige bewaringsverwante aktiwiteit, in opdrag van 'n natuur-bewaringsbeampte.

Werkzaamhede van natuurbewaringsbeamptes en natuurbewaringsveldwagters

62. 'n Natuurbewaringsbeampte of natuurbewaringsveldwagter, behoudens artikel 60—
- (a) moet voldoening aan die wet waarvoor hy of sy aangewys is, monitor en afdwing;
 - (b) kan enige handeling of versuim ondersoek wat—
 - (i) 'n misdryf is ingevolge so 'n wet;
 - (ii) 'n verbreking is van so 'n wet; of
 - (iii) 'n verbreking is van 'n bepaling of voorwaarde van 'n magtiging of ander dokument uitgereik of vereis ingevolge hierdie Wet;
 - (c) moet sy of haar werkzaamhede verrig—
 - (i) ooreenkomstig opdragte uitgereik deur CapeNature; en
 - (ii) onderhewig aan enige beperkings en ooreenkomstig enige prosedures wat voorgeskryf word; en
 - (d) kan vergesel word van 'n tolk of enige ander persoon wie se hulp redelikerwys benodig word.

Identiteitskaart en aanwysingsbrief

63. (1) Die Hoof- Uitvoerende Beampte moet 'n identiteitskaart en 'n aanwysingsbrief uitreik aan elke persoon wat ingevolge artikel 58 aangewys is.

(2) Wanneer 'n persoon aangewys ingevolge artikel 58 enige bevoegdheid uitoefen of plig verrig ingevolge hierdie Wet, moet hy of sy die identiteitskaart verskaf wanneer 'n lid van die publiek hom of haar vra om dit te doen.

(3) Die Hoof- Uitvoerende Beampte moet in die identiteitskaart en aanwysingsbrief die mandaat en bevoegdhede van die betrokke natuurbewaringsbeampte, natuurbewaringsveldwagter of erenatuurbewaringsbeampte en enige beperkings ten opsigte van daardie mandaat of daardie bevoegdhede aandui.

- (4) 'n Aanwysing ingevolge artikel 58 eindig wanneer—
- (a) in die geval van 'n natuurbewaringsbeampte, die beampte die diens van CapeNature verlaat;
 - (b) in die geval van 'n natuurbewaringsveldwagter, die beampte die diens van die munisipaliteit of ander staatsorgaan verlaat wat hom of haar ten tyde van die aanwysing ingevolge artikel 58(a)(ii) in diens gehad het;
 - (c) die aanwysing soos beoog in artikel 58(c) ingetrek word; of
 - (d) die geldigheidsydperk vermeld in die identiteitskaart of aanwysingsbrief verstryk het.

Algemene bevoegdhede van natuurbewaringsbeamptes en natuurbewaringsveldwagters

64. 'n Natuurbewaringsbeampte of natuurbewaringsveldwagter, behoudens artikels 60, 62, 65, 66 en 67 en die bepalings van hul aanwysing kragtens artikel 58, vir die doel van die verrigting van hul werkzaamhede, kan—

- (a) enige dokument, boek of rekord of enige skriftelike of elektroniese inligting wat vir die doeleindes van 'n ondersoek ingevolge artikel 62(b) moontlik relevant kan wees, ondersoek;
- (b) 'n afskrif van of uittreksels uit enige dokument, boek of rekord of enige skriftelike of elektroniese inligting beoog in paragraaf (a) maak, of sodanige dokument, boek, rekord of skriftelike of elektroniese inligting verwyder om afskrifte of uittreksels te maak;
- (c) van 'n persoon vereis om enige dokument, boek of rekord of enige skriftelike of elektroniese inligting beoog in paragraaf (a) vir inspeksie by 'n plek te verskaf of af te lewer;
- (d) enige eksemplaar, stof of ander item inspekteer wat hy of sy redelikerwys vermoed gebruik is om 'n misdryf te pleeg ingevolge die wet waarvoor hy of sy aangewys is en, indien nodig, daarop beslag lê en dit verwyder;
- (e) op enige wyse foto's neem of oudiovisuele opnames maak van enigiets of enige persoon wat relevant is vir die doeleindes van 'n ondersoek of vir 'n inspeksie;
- (f) behoudens ander toepaslike wetgewing, 'n afstandbeheerde lugvaartuig gebruik om foto's te neem of oudiovisuele opnames te maak wat relevant is vir die doeleindes van 'n ondersoek of vir 'n inspeksie;
- (g) in grond grawe of boor;
- (h) monsters van enige eksemplaar of ding neem;
- (i) op enige afval of ander stof wat strydig met die wet waarvoor hy of sy aangewys is, geplaas of vrygestel is, beslag lê en dit verwyder;
- (j) enige persoon opdrag gee om hom of haar by die uitvoering van 'n inspeksie of ondersoek by te staan;
- (k) beslag lê op enige strik, vangkraal, gif of ander toestel waar daar redelikerwys vermoed word dat dit gebruik word om 'n wilde dier wederegtelik te jag of te vang, en kan dit verwyder of, indien daar nie daarop beslag gelê kan word en dit verwyder kan word nie, dit vernietig of dit skadeloos stel;
- (l) op enige vee of ander dier wat grond onder die beheer of bestuur van CapeNature onregmatig betree, beslag lê en dit verwyder;
- (m) enige persoon opdrag gee om onmiddellik enige aktiwiteit, handeling of proses te staak wat verband hou met 'n oortreding van die wet waarvoor hy of sy aangewys is;
- (n) enige ander handeling verrig wat nodig is vir die doeleindes van die afdwinging van die wet waarvoor hy of sy aangewys is.

Roetine-inspeksies

65. (1) Waar 'n magtiging uitgereik is, kan 'n natuurbewaringsbeampte—

- (a) te eniger redelike tyd by die eiendom waarop die magtiging betrekking het, 'n roetine-inspeksie uitvoer; en
- (b) daar sonder 'n lasbrief enige perseel of enige sak, boks of ander item betree en inspekteer,

met die doel om vas te stel of daar voldoen word aan 'n bepaling of voorwaarde van daardie magtiging of aan enige ander dokument wat ingevolge hierdie Wet uitgereik is of vereis word.

(2) Wanneer 'n natuurbewaringsbeampte 'n roetine-inspeksie uitvoer, kan die natuurbewaringsbeampte, indien hy of sy redelike gronde het om te vermoed dat 'n misdryf gepleeg is ingevolge die wet waarvoor hy of sy aangewys is—

- (a) beslag lê op enige eksemplaar of item wat in die vervolging van enige persoon as bewys kan dien vir daardie misdryf, en dit verwyder;

- (b) indien hy of sy 'n vredesbeampte is, enige persoon wat redelikerwys verdink word van die pleging van daardie misdryf, in hegtenis neem.

Lasbriewe

66. (1) 'n Natuurbewaringsbeampte of natuurbewaringsveldwagter—

- (a) moet, voordat hy of sy enige bevoegdheid ingevolge artikel 64 uitoefen om enige perseel te betree of te deursoek of op enigiets beslag te lê, by 'n magistraat 'n lasbrief aanvra, deur onder eed of plegtige verklaring uiteen te sit waarom dit nodig is om die vermelde perseel te betree en te deursoek of om op die vermelde item beslag te lê; en
- (b) kan sodanige lasbrief uitvoer.

(2) Artikels 20 en 21 van die Strafproseswet is van toepassing, met die nodige veranderinge, ten opsigte van enige aansoek of lasbrief beoog in subartikel (1).

(3) Indien 'n natuurbewaringsbeampte of natuurbewaringsveldwagter redelike gronde het om te vermoed dat 'n misdryf op of deur middel van enige perseel gepleeg word strydig met die wet waarvoor hy of sy aangewys is, kan hy of sy die perseel betree en deursoek sonder 'n lasbrief, maar slegs indien—

- (a) hy of sy die doel van die ondersoek verduidelik en die persoon in beheer van die perseel instem tot die betreding en deursoeking, nadat die persoon ingelig is dat daar geen verpligting is om die beampte of veldwagter sonder 'n lasbrief toe te laat nie; of
- (b) daar redelike gronde is om te glo dat 'n lasbrief op aansoek uitgereik sou word, maar dat die vertraging wat die aansoek om 'n lasbrief kan veroorsaak, die doel van die verkryging van die lasbrief sal verydel.

(4) Indien 'n natuurbewaringsbeampte of natuurbewaringsveldwagter redelike gronde het om te vermoed dat 'n item—

- (a) verband hou met die pleging of vermoedelike pleging van 'n misdryf wat strydig is met die wet waarvoor hy of sy aangewys is;
- (b) as bewys kan dien van die pleging of vermoedelike pleging van so 'n misdryf; of
- (c) bestem is vir gebruik by die pleging van so 'n misdryf,

kan hy of sy op die item beslag lê sonder 'n lasbrief wat hom of haar magtig om dit te doen, maar slegs indien—

- (i) hy of sy die doel van die beslaglegging verduidelik en die persoon in beheer van die item instem tot die beslaglegging, nadat die persoon ingelig is dat daar geen verpligting is om die beslaglegging sonder 'n lasbrief toe te laat nie; of
- (ii) daar redelike gronde is om te glo dat so 'n lasbrief op aansoek uitgereik sou word, maar dat die vertraging wat die aansoek om 'n lasbrief kan veroorsaak, die doel van die verkryging van die lasbrief sal verydel.

Bevoegdheede om voertuie, vaartuie, lugvaartuie en ander vervoermiddele voor te keer, te betree en te deursoek

67. (1) Indien 'n natuurbewaringsbeampte redelike gronde het om te vermoed dat 'n voertuig, vaartuig, lugvaartuig of ander vervoermiddel—

- (a) gebruik word of gebruik is, of enigiets bevat of vervoer wat gebruik word of gebruik is om—
- (i) 'n misdryf ingevolge die wet waarvoor hy of sy aangewys is, te pleeg; of
- (ii) 'n bepaling of voorwaarde van 'n magtiging of dokument wat ingevolge hierdie Wet uitgereik is of vereis word, te verbreek;

- (b) as bewys kan dien van die pleging of vermoedelike pleging van so 'n misdryf;
- (c) bestem is om gebruik te word of op redelike gronde geglo word bestem te wees om gebruik te word by die pleging van so 'n misdryf;
- (d) gebruik word op 'n wyse wat waarskynlik 'n nadelige uitwerking op die omgewing sal hê; of
- (e) iets bevat of vervoer wat as bewys kan dien van so 'n misdryf of verbreking,

kan hy of sy—

- (i) die operateur aan boord van 'n voertuig, vaartuig of ander vervoermiddel opdrag gee om stil te hou, of aan die kaptein van 'n vaartuig om vas te meer of aan 'n loods van 'n vliegtuig om te land; en
- (ii) indien nodig en moontlik, die voertuig, vaartuig, lugvaartuig of ander vervoermiddel dwing om stil te hou, vas te meer of te land, na gelang van die geval.

(2) Artikel 66 is van toepassing, met die nodige veranderinge, ten opsigte van die betreding en deursoeking van 'n voertuig, vaartuig, lugvaartuig of ander vervoermiddel beoog in subartikel (1) en die beslaglegging op sodanige voertuig, vaartuig, lugvaartuig of ander vervoermiddel of enigiets daarin of daarop.

Plig om dokumente te verskaf

68. 'n Persoon aan wie 'n magtiging of enige ander dokument ingevolge hierdie Wet uitgereik is, of van wie vereis word om in besit te wees van so 'n magtiging of dokument, moet, op versoek van 'n natuurbewaringsbeampte, natuurbewaringsveldwagter of erenatuurbewaringsbeampte daardie magtiging of dokument verskaf.

Hantering van eksemplaar of item waarop beslag gelê is

69. (1) Wanneer 'n natuurbewaringsbeampte of natuurbewaringsveldwagter ingevolge hierdie Wet op 'n eksemplaar of item, insluitende 'n rekord of skriftelike of elektroniese inligting, beslag lê en dit verwyder—

- (a) moet die natuurbewaringsbeampte of natuurbewaringsveldwagter 'n bewys van ontvangs vir die eksemplaar of item aan die persoon wat in beheer was van daardie eksemplaar of item verskaf wanneer daar aldus daarop beslag gelê word; en
- (b) kan die natuurbewaringsbeampte of natuurbewaringsveldwagter—
 - (i) die eksemplaar of item aan 'n lid van die Suid-Afrikaanse Polisiediens oorhandig;
 - (ii) die eksemplaar of item behou; of
 - (iii) die persoon wat onmiddellik voor die beslaglegging in beheer daarvan was, opdrag gee om dit na 'n plek te neem wat die natuurbewaringsbeampte of natuurbewaringsveldwagter vermeld.

(2) Indien geen strafregtelike verrigtinge ingestel word in verband met 'n eksemplaar of item beoog in subartikel (1) nie, is artikel 31 van die Strafproseswet van toepassing, met die nodige veranderinge.

(3) Ten einde 'n voertuig, vaartuig, lugvaartuig of ander vervoermiddel waarop daar beslag gelê is, te beveilig, kan 'n natuurbewaringsbeampte of natuurbewaringsveldwagter dit immobiliseer deur enige onderdeel daarvan te verwyder.

(4) 'n Item waarop daar ingevolge hierdie Wet beslag gelê is, insluitende 'n gedeelte van 'n voertuig, vaartuig, lugvaartuig of ander vervoermiddel bedoel in subartikel (3), moet op so 'n wyse bewaar word dat dit so ver as moontlik teen skade beveilig is.

Sekuriteit vir teruggawe van voertuie, vaartuie, lugvaartuie of ander vervoermiddele

70. (1) Indien daar ingevolge hierdie Wet op 'n voertuig, vaartuig, lugvaartuig of ander vervoermiddel beslag gelê word en dit vir die doeleindes van strafregtelike vervolging bewaar word, kan die eienaar of agent van die eienaar te eniger tyd by 'n hof aansoek doen vir die teruggawe daarvan.

(2) Die hof kan beveel dat die voertuig, vaartuig, lugvaartuig of ander vervoermiddel by die verskaffing van sekuriteit bepaal deur die hof, teruggegee word.

(3) Die bedrag sekuriteit moet minstens gelyk wees aan die som van—

- (a) die markwaarde van die voertuig, vaartuig, lugvaartuig of ander vervoermiddel;
- (b) die maksimum boete wat 'n hof ingevolge hierdie Wet kan oplê vir die beweerde oortreding; en
- (c) die koste en uitgawes aangegaan deur die staat of wat redelikerwys verwag word deur die Staat aangegaan sal word in verband met die geregtelike vervolging van die misdryf en wat ingevolge artikel 57(4)(b) en 72(b) verhaalbaar is.

(4) Indien die hof oortuig is dat daar omstandighede is wat 'n kleiner bedrag sekuriteit regverdig, kan die hof 'n bevel uitreik dat die voertuig, vaartuig, lugvaartuig of ander vervoermiddel onderhewig aan die verskaffing van sekuriteit vir sodanige kleiner bedrag teruggegee word.

Deel 2

Administratiewe afdwingingsmeganismes en boetes

Administratiewe afdwinging

71. (1) Indien die Provinsiale Minister op redelike gronde oortuig is dat enige persoon 'n aktiwiteit strydig met hierdie Wet onderneem, 'n aktiwiteit onderneem wat 'n nadelige uitwerking op biodiversiteit of ekologiese infrastruktuur het of versuim om aan enige dokument of magtiging uitgereik ingevolge hierdie Wet te voldoen, kan die Provinsiale Minister, nadat die betrokke persoon 'n redelike geleentheid gegee is om kommentaar te lewer, 'n lasgewing aan daardie persoon uitreik om—

- (a) die aktiwiteit te staak;
- (b) spesifieke versagtingsmaatreëls te tref om sodanige nadelige uitwerking binne 'n bepaalde tydsraamwerk reg te stel;
- (c) binne 'n spesifieke tydsraamwerk aan die relevante dokument of magtiging te voldoen.

(2) In die omstandighede beoog in subartikel (1), indien dringende optrede nodig is vir die beskerming van 'n gebied wat ingevolge artikel 48(1) geïdentifiseer is, kan die Provinsiale Minister die lasgewing uitreik sonder om die persoon aan wie die lasgewing uitgereik word, die geleentheid te gee om kommentaar te lewer en, so gou as moontlik nadat die lasgewing uitgereik is, 'n geleentheid vir kommentaar aan die persoon gee.

(3) Indien 'n lasgewing uitgereik aan 'n persoon ingevolge subartikel (1) of (2) verband hou met iets wat plaasvind of moontlik plaasvind op grond waarvan daardie persoon die eienaar is, kan die Provinsiale Minister ook 'n lasgewing aan die grondeienaar uitreik, in welke geval subartikels (1) en (2) van toepassing is, met die nodige veranderinge.

Versuim om aan lasgewing te voldoen

72. Indien 'n persoon versuim om aan 'n lasgewing beoog in artikel 71 te voldoen, kan die Provinsiale Minister—

- (a) waar van toepassing, die betrokke magtiging of ander dokument wat die onderwerp van die lasgewing is, kanselleer of verander; en
- (b) enige nodige maatreëls vermeld in die lasgewing en enige ander nodige maatreëls tref om die nadelige uitwerkings op biodiversiteit en ekologiese infrastruktuur wat uit die versuim om aan die lasgewing te voldoen ontstaan, reg te stel en die koste daarvan van die persoon wat versuim het om aan die lasgewing te voldoen, verhaal.

Administratiewe boetes

73. (1) Die Provinsiale Minister kan—

- (a) administratiewe boetes oplê vir—
 - (i) die oortreding van of nievoldoening aan hierdie Wet;
 - (ii) die nievoldoening aan 'n lasgewing uitgereik ingevolge artikel 71(1);
 - (iii) 'n misdryf gelys in artikel 74; en
- (b) kategorieë van administratiewe boetes en die prosedure vir die oplegging van sodanige boetes voorskryf.

(2) Voordat die Provinsiale Minister 'n boete oplê, moet hy of sy skriftelik—

- (a) die persoon aan wie die boete beoog word om opgelê te word, in kennis stel van die beoogde boete;
- (b) die besonderhede van die beweerde oortreding, nievoldoening of misdryf en die redes vir die beoogde oplegging van die boete;
- (c) die bedrag van die boete wat beoog word om opgelê te word, vermeld; en
- (d) 'n geleentheid aan die persoon beoog in paragraaf (a) gee om binne 'n tydperk vermeld deur die Provinsiale Minister verhoë te rig.

(3) Indien 'n persoon aan wie 'n administratiewe boete ingevolge subartikel (1) opgelê is, versuim om die boete te betaal, kan die Provinsiale Minister 'n siviele uitspraak ten bedrae van die boete teen daardie persoon neem.

HOOFSTUK 11 MISDRYWE EN STRAWWE

Misdrywe

74. (1) 'n Persoon is aan 'n kategorie 1-misdryf skuldig indien daardie persoon—

- (a) versuim om aan 'n kennisgewing uitgereik ingevolge artikel 48(1), of gewysig soos beoog in artikel 48(4), te voldoen;
- (b) artikel 50(4) of 51 oortree of versuim om daaraan te voldoen;
- (c) versuim om aan 'n lasgewing uitgereik ingevolge artikel 71(1), (2) of (3) te voldoen;
- (d) versuim om te voldoen aan 'n opdrag van 'n natuurbewaringsbeampte, natuurbewaringsveldwagter of erenatuurbewaringsbeampte gegee ingevolge hierdie Wet of by die uitoefening van hul bevoegdhede ingevolge hierdie Wet;
- (e) wederregtelik enige handeling of versuim pleeg wat 'n nadelige uitwerking veroorsaak of waarskynlik sal veroorsaak;
- (f) die volgende verander, versin of vervals—
 - (i) enige magtiging of ander dokument wat uitgereik of vereis word vir die wettige verrigting van enige handeling ingevolge hierdie Wet;

- (ii) op enige dokument enige amptelike logo, briefhoof, stempel, waarmerk of datumstempel van die Departement of CapeNature, of die handtekening van enige persoon in hul hoedanigheid as 'n agent of werknemer van die Departement of CapeNature;
 - (g) in besit is van enige wederregtelik veranderde of vervalste dokument wat voorgee om 'n magtiging of 'n vrystelling uitgereik kragtens hierdie Wet te wees, of poog om voor te gee dat so 'n dokument 'n geldige magtiging of vrystelling uitgereik kragtens hierdie Wet is;
 - (h) enige magtiging of dokument ingevolge hierdie Wet verkry of daarvoor aansoek doen—
 - (i) onder 'n vals naam; of
 - (ii) terwyl die persoon deur 'n hofbevel verbied word om die houer van so 'n magtiging of dokument te wees;
 - (i) opsetlik 'n vals verklaring aflê in enige aansoek wat gemaak word of in 'n dokument wat ingevolge hierdie Wet verskaf word;
 - (j) enigiets wat as bewys kan dien in verband met 'n misdryf kragtens hierdie Wet versteek, verwyder van enige perseel, vernietig of daarvan ontslae raak om te verhoed dat daar daarop beslag gelê word of dat dit opgespoor word, insluitende enige eksemplaar, boek, register, dokument, elektroniese rekord, voertuig, masjinerie, werktuig, houer, vuurwapen, wapen, plofstof of gif;
 - (k) enige beampte wat wettiglik sy of haar mandaat ingevolge hierdie Wet uitvoer of 'n toestel wat wettiglik deur die beampte gebruik word by die uitvoering van sy of haar mandaat verhinder of belemmer; of
 - (l) voorgee om 'n natuurbewaringsbeampte, natuurbewaringsveldwagter, erenatuur-bewaringsbeampte of 'n werknemer of agent van die Departement of CapeNature te wees.
- (2) 'n Persoon is skuldig aan 'n kategorie 2-misdryf indien daardie persoon—
- (a) grond onregmatig betree waarop daar enige wilde dier is of waarskynlik sal wees terwyl die persoon in besit is van 'n wapen, gif of enige middel hoegenaamd wat gebruik kan word om wilde diere te jag, te vang of vrek te maak;
 - (b) in besit gevind word van enige eksemplaar sonder bewys van wettige besit soos beoog in artikel 55;
 - (c) enige ander persoon forseer of enige persoon toelaat om 'n handeling of versuim te pleeg wat strydig is met hierdie Wet;
 - (d) die houer is van 'n magtiging of vrystelling wat kragtens hierdie Wet uitgereik is en—
 - (i) 'n bepaling of voorwaarde van daardie magtiging of vrystelling oortree of versuim om daaraan te voldoen;
 - (ii) nie in besit is van so 'n magtiging of vrystelling nie terwyl die persoon 'n handeling verrig wat slegs uitgevoer mag word terwyl die persoon in besit van so 'n magtiging of vrystelling is; of
 - (iii) enige ander persoon toelaat om enigiets te doen, of om te versuim om enigiets te doen wat ingevolge subparagraaf (i) of (ii) 'n misdryf is.
- (3) 'n Persoon is skuldig aan 'n kategorie 3-misdryf indien daardie persoon—
- (a) versuim om aan 'n opdrag deur 'n natuurbewaringsbeampte of natuurbewaringsveldwagter ingevolge artikel 67(e)(i) te voldoen;
 - (b) versuim om aan ondergeskikte wetgewing wat ingevolge hierdie Wet gemaak is, te voldoen;

- (c) valse of misleidende inligting verskaf wanneer die persoon deur 'n natuurbewaringsbeampte, natuurbewaringsveldwagter of erenatuurbewaringsbeampte gevra word om inligting te verskaf;
- (d) sonder goeie rede weier of versuim om op versoek van 'n natuurbewaringsbeampte, natuurbewaringsveldwagter of erenatuurbewaringsbeampte sy of haar naam en adres of enige inligting of dokument te verskaf wat daardie natuurbewaringsbeampte, natuurbewaringsveldwagter of erenatuurbewaringsbeampte benodig ten einde hul werksaamhede kragtens hierdie Wet te verrig.

Strawwe

75. (1) 'n Persoon wat aan 'n kategorie 1-misdryf soos beoog in artikel 74(1) skuldig bevind is, kan gevonniss word tot—

- (a) 'n boete van hoogstens R10 miljoen;
- (b) gevangenisstraf vir 'n tydperk van hoogstens 10 jaar; of
- (c) beide sodanige boete en sodanige gevangenisstraf.

(2) 'n Persoon wat aan 'n kategorie 2-misdryf soos beoog in artikel 74(2) skuldig bevind is, kan gevonniss word tot—

- (a) 'n boete van hoogstens R5 miljoen;
- (b) gevangenisstraf vir 'n tydperk van hoogstens vyf jaar;
- (c) beide sodanige boete en sodanige gevangenisstraf; of
- (d) in die geval van 'n tweede of daaropvolgende skuldigbevinding—
 - (i) 'n boete van hoogstens R10 miljoen;
 - (ii) gevangenisstraf vir 'n tydperk van hoogstens 10 jaar; of
 - (iii) beide sodanige boete en sodanige gevangenisstraf.

(3) 'n Persoon wat aan 'n kategorie 3-misdryf bedoel in artikel 74(3) skuldig bevind is, kan gevonniss word tot—

- (a) 'n boete van hoogstens R1 miljoen;
- (b) gevangenisstraf vir 'n tydperk van hoogstens twee jaar;
- (c) beide sodanige boete en sodanige gevangenisstraf; of
- (d) in die geval van 'n tweede of daaropvolgende skuldigbevinding—
 - (i) 'n boete van hoogstens R5 miljoen;
 - (ii) gevangenisstraf vir 'n tydperk van hoogstens vyf jaar; of
 - (iii) beide sodanige boete en sodanige gevangenisstraf.

(4) Indien enige oortreding die vang, vrekmaak, oes, besit, te koop aanbied, verkoop, invoer of uitvoer van 'n eksemplaar behels, kan 'n hof, benewens die boetes beoog in subartikels (1), (2) en (3), 'n boete oplê wat hoogstens drie keer die markwaarde van daardie eksemplaar is.

(5) Behoudens die Strafproseswet kan boetes wat ingevolge hierdie Wet deur 'n hof opgelê word, aan CapeNature betaalbaar gemaak en betaal word.

Kansellasië van magtigings

76. Die hof wat ingevolge hierdie Wet 'n persoon aan 'n misdryf skuldig bevind, kan—

- (a) enige magtiging wat aan daardie persoon uitgereik is, kanselleer;
- (b) daardie persoon onbevoeg verklaar om enige magtiging te verkry vir 'n tydperk van hoogstens vyf jaar;
- (c) beveel dat alle bevoegde owerhede wat gemagtig is om magtigings uit te reik, van enige onbevoegdheid ingevolge paragraaf (b) in kennis gestel word.

Toekenning van koste

77. Indien 'n persoon ingevolge hierdie Wet aan 'n misdryf skuldig bevind is en die handeling of versuim wat die misdryf uitmaak—

- (a) veroorsaak het dat enige staatsorgaan enige koste aangegaan het om op enige item beslag te lê, enige grond te rehabiliteer of daardie misdryf te ondersoek en strafregtelik te vervolg;
 - (b) aan daardie persoon 'n geldelike voordeel of 'n moontlike geldelike voordeel verskaf het,
- kan die hof wat daardie persoon skuldig bevind, sonder pleitstukke, navraag doen oor die geldelike waarde van die koste aangegaan en die voordeel wat daardie persoon uit daardie misdryf getrek het of waarskynlik sal trek, en, benewens enige ander straf wat ten opsigte van daardie misdryf opgelê is, beveel dat 'n bedrag gelyk aan daardie geldelike waarde as bykomende boete direk aan CapeNature betaal word as 'n bykomende boete, toekenning van skade of vergoeding, as 'n deel van die vonnis.

Verbeuring

78. (1) 'n Hof wat 'n persoon aan 'n misdryf ingevolge hierdie Wet skuldig bevind, kan enige item, insluitende enige eksemplaar, houer, voertuig, vaartuig, lugvaartuig, ander vervoermiddel of dokument, insluitende 'n elektroniese dokument, wat by die misdryf betrokke was of gebruik is in verband met die misdryf of met die doel om die misdryf te pleeg, en waarop daar kragtens hierdie Wet beslag gelê is, aan CapeNature verbeur verklaar.

(2) Indien enige eksemplaar wat kragtens subartikel (1) aan CapeNature verbeur is, steeds lewe, moet CapeNature verseker dat die eksemplaar—

- (a) waar gepas, teruggeneem word na die land van uitvoer of die plek van oorsprong op die onkoste van die persoon wat aan die misdryf skuldig bevind is waarby daardie eksemplaar betrokke was;
- (b) in 'n toepaslike instelling, reddingsentrum of fasiliteit geplaas word, of by 'n gepaste persoon wat in staat en gewillig is om die eksemplaar te huisves en behoorlik te versorg; of
- (c) andersins op 'n geskikte wyse mee weggedoen word.

(3) Indien enige dooie eksemplaar of ander item kragtens subartikel (1) aan CapeNature verbeur is, kan CapeNature—

- (a) die eksemplaar of item by 'n geskikte instelling of museum laat deponeer; of
- (b) op 'n toepaslike wyse met die eksemplaar of item wegdoen.

HOOFSUK 12 APPÈLLE

Appèl teen besluite deur CapeNature-beamptes

79. (1) Enige belanghebbende of geraakte persoon kan by die Hoof- Uitvoerende Beampte appelleer teen 'n besluit geneem ingevolge hierdie Wet deur 'n natuurbewaringsbeampte of enige personeellid van CapeNature, behalwe die Hoof- Uitvoerende Beampte.

(2) 'n Appèl ingevolge subartikel (1) moet op die voorgeskrewe wyse ingedien en hanteer word, by betaling van die voorgeskrewe fooi en binne die voorgeskrewe tydperk.

(3) Die Hoof- Uitvoerende Beampte kan 'n appèl oorweeg en daaroor besluit of 'n appèlpaneel aanstel om die appèl te oorweeg en die Hoof- Uitvoerende Beampte oor die appèl te adviseer.

(4) Die Hoof- Uitvoerende Beampte kan, ná oorweging van 'n appèl, die besluit bevestig, ter syde stel of verander of enige ander gepaste besluit neem, insluitende 'n besluit dat die voorgeskrewe fooi wat die appellant ingevolge subartikel (2) betaal het, of enige gedeelte daarvan, terugbetaal word.

(5) 'n Appèl ingevolge subartikel (1) skort enige magtiging of voorwaarde wat daaraan geheg is, op.

Appèl na Provinsiale Minister

80. (1) Enige belanghebbende of geraakte persoon kan by die Provinsiale Minister appelleer teen 'n besluit geneem ingevolge hierdie Wet deur die Hoof- Uitvoerende Beampte of 'n persoon wat kragtens 'n bevoegdheid gedelegeer deur die Provinsiale Minister opgetree het.

(2) 'n Appèl ingevolge subartikel (1) moet op die voorgeskrewe wyse ingedien en hanteer word, by betaling van die voorgeskrewe fooi en binne die voorgeskrewe tydperk.

(3) Die Provinsiale Minister kan 'n appèl oorweeg en daarvoor besluit of 'n appèlpaneel aanstel om die appèl te oorweeg en die Provinsiale Minister oor die appèl te adviseer.

(4) Die Provinsiale Minister kan, ná oorweging van 'n appèl, die besluit bevestig, ter syde stel of verander, insluitende 'n besluit dat die voorgeskrewe fooi wat die appellant ingevolge subartikel (2) betaal het, of enige gedeelte daarvan, terugbetaal word.

(5) 'n Appèl kragtens hierdie artikel skort die implementasie van die betrokke besluit en enige magtiging of voorwaarde wat daaraan geheg is op, maar slegs waar daar geen gevaar van 'n nadelige uitwerking op die omgewing is nie.

HOOFSTUK 13 ALGEMENE EN OORGANGSBEPALINGS

Vrystelling

81. Die Provinsiale Minister kan die proses voorskryf wat vir die indiening en verwerking van 'n aansoek om vrystelling van 'n bepaling van hierdie Wet gevolg moet word.

Delegasie

82. (1) Behoudens subartikel (3) kan die Provinsiale Minister enige bevoegdheid of plig wat ingevolge hierdie Wet by hom of haar berus, delegeer aan—

- (a) die Departementshoof;
- (b) die Raad;
- (c) die Hoof- Uitvoerende Beampte;
- (d) CapeNature;
- (e) 'n munisipaliteit, behoudens die toepaslike wetgewing; of
- (f) enige ander staatsorgaan.

(2) 'n Delegasie ingevolge subartikel (1)—

- (a) is onderhewig aan enige beperkings of voorwaardes wat die Provinsiale Minister kan opleë;
- (b) moet op skrif wees;
- (c) kan die bevoegdheid om te subdelegeer insluit; en
- (d) ontdoen nie die Provinsiale Minister van die verantwoordelikheid rakende die uitoefening van die gedelegeerde bevoegdheid of die verrigting van die plig nie.

(3) Die Provinsiale Minister—

- (a) mag nie 'n bevoegdheid of plig van die Provinsiale Minister delegeer om ondergeskikte wetgewing te maak nie; en
- (b) kan enige delegasie skriftelik intrek.

(4) Die Departementshoof kan, met die skriftelike toestemming van die Provinsiale Minister, enige van sy of haar bevoegdhede of pligte ingevolge hierdie Wet aan 'n beampte van die Departement delegeer.

(5) Die Raad of die Hoof- Uitvoerende Beampte kan, met die skriftelike toestemming van die Provinsiale Minister, enige van sy of haar bevoegdhede of pligte ingevolge hierdie Wet aan 'n beampte van CapeNature delegeer.

(6) Die Raad mag nie die volgende van sy of haar bevoegdhede delegeer nie:

- (a) die aanstelling of heraanstelling van 'n persoon as die Hoof- Uitvoerende Beampte;
- (b) die bepaling van die diensvoorwaardes van die Hoof- Uitvoerende Beampte;
- (c) die bepaling van 'n indiensnemingsbeleid vir CapeNature;
- (d) die stel van finansiële perke beoog in artikel 27(4)(f); en
- (e) die goedkeuring van die begroting en finansiële jaarstate van CapeNature.

(7) Subartikels (2) en (3)(b) is van toepassing, met die nodige veranderinge, op 'n delegasie ingevolge subartikel (4) of (5).

Regulasies

83. Die Provinsiale Minister—

- (a) moet regulasies maak wat ingevolge hierdie Wet vereis word;
- (b) kan regulasies maak oor enige aangeleentheid wat nodig of dienstig is om voor te skryf ten einde die oogmerke ingevolge hierdie Wet te bereik.

Openbare kennisgewings

84. Die Provinsiale Minister kan 'n kennisgewing in die *Provinsiale Koerant* publiseer—

- (a) oor enige aangeleentheid wat ingevolge hierdie Wet deur middel van 'n kennisgewing gehanteer kan of moet word;
- (b) wat 'n verwysing bevat na 'n plan, strategie of riglyn vir die implementasie van hierdie Wet;
- (c) waar vereis, 'n afkondiging oor enige aangeleentheid wat met die administrasie van hierdie Wet verband hou.

Prestasiestandaarde

85. Die Provinsiale Minister kan prestasiestandaarde stel vir die verrigting van enige werksaamheid of vereiste beoog in hierdie Wet.

Oorlegpleging

86. (1) Voordat die Provinsiale Minister enige regulasie of kennisgewing ingevolge hierdie Wet publiseer, moet die Provinsiale Minister—

- (a) die konsepregulasie of kennisgewing, na gelang van die geval, in die amptelike tale van die Provinsie publiseer in—
 - (i) die *Provinsiale Koerant*; en
 - (ii) twee koerante wat in die Provinsie sirkuleer, waarvan minstens een in gedrukte formaat moet wees;
 - (b) 'n geleentheid vir belanghebbende en geraakte partye gee om kommentaar te lewer vir 'n tydperk van minstens 30 dae vanaf die datum van publikasie in die *Provinsiale Koerant*, behalwe waar 'n ander tydperk by hierdie Wet vermeld word; en
 - (c) enige kommentaar wat ontvang is, oorweeg.
- (2) Die Provinsiale Minister kan, waar gepas, die kommentaartydperk ingevolge subartikel (1)(b) vir 'n redelike tydperk verleng.

Regulasies, regsdokumente en stappe geldig in sekere omstandighede

- 87.** (1) Ondergeskikte wetgewing, of 'n magtiging of ander dokument, wat ingevolge hierdie Wet gemaak, uitgereik of gepubliseer is—
- (a) wat nie aan enige prosedurele vereiste voldoen nie, is nietemin geldig indien die nievoldoening nie wesenlik is en geen persoon benadeel nie;
 - (b) kan gewysig of vervang word sonder om 'n prosedurele vereiste van hierdie Wet te volg indien—
 - (i) die doel is om 'n fout reg te stel; en
 - (ii) die regstelling nie die regte of pligte van enige persoon wesenlik verander nie.
- (2) 'n Versuim om enige stappe vereis by hierdie Wet te doen as 'n voorvereiste vir enige besluit of handeling maak nie die besluit of handeling ongeldig indien die versuim—
- (a) nie wesenlik is nie;
 - (b) geen persoon benadeel nie; en
 - (c) nie prosedureel onregverdig is nie.

Beperking van aanspreeklikheid

- 88.** Die Provinsiale Minister, die Departementshoof, die Raad, die Hoof- Uitvoerende Beampte, CapeNature of enige persoon wat ingevolge hierdie Wet gedelegeer is, is nie aanspreeklik nie vir enige skade of verlies veroorsaak deur 'n persoon wat, handelend op 'n redelike wyse en te goeder trou—
- (a) ingevolge hierdie Wet 'n bevoegdheid uitoefen of 'n plig verrig;
 - (b) nie ingevolge hierdie Wet 'n bevoegdheid uitoefen of plig verrig nie; of
 - (c) 'n plig buite sy of haar mandaat verrig.

Herroeping van wette

- 89.** Die wette bedoel in die Bylae word herroep in die mate aangedui in die derde kolom van die Bylae.

Oorgangsbepalings

90. (1) 'n Persoon wat onmiddellik voor die inwerkingtreding van hierdie Wet 'n natuurbewaringsbeampte, natuurbewaringsveldwagter of erenatuurbewaringsbeampte soos omskryf in die Ordonnansie was, word geag 'n natuurbewaringsbeampte, natuurbewaringsveldwagter of erenatuurbewaringsbeampte aangewys ingevolge hierdie Wet te wees.

(2) 'n Lisensie, permit, sertifikaat, skriftelike magtiging, vrystelling of opdrag uitgereik ingevolge die Ordonnansie en wat onmiddellik voor die inwerkingtreding van hierdie Wet geldig was, word geag 'n magtiging, vrystelling, opdrag of lasgewing, na gelang van die geval, uitgereik ingevolge hierdie Wet te wees.

(3) Die korporatiewe identiteit en die regte en verpligtinge van die provinsiale openbare instelling bedoel in artikel 9 word nie deur sy naamverandering geraak nie.

(4) 'n Persoon wat onmiddellik voor die inwerkingtreding van hierdie Wet 'n lid van die Wes-Kaapse Natuurbewaringsraad was, word geag aangestel te wees as 'n lid van die Raad van CapeNature vir die onverstreke gedeelte van sy of haar ampstermyn.

(5) 'n Gebied wat onmiddellik voor die inwerkingtreding van hierdie Wet 'n natuurbewaringsgebied soos beoog in artikel 9(2) van die Wet op die Wes-Kaapse Natuurbewaringsraad was, bly voortbestaan en word geag ooreenkomstig artikel 23(5) van die Wet op Beskermdes Gebiede as 'n natuurreserveaat verklaar te wees.

Kort titel en inwerkingtreding

91. Hierdie Wet heet die Wes-Kaapse Wet op Biodiversiteit, 2019, en tree in werking op 'n datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal.

BYLAE: HERROEPING VAN WETTE

Nommer en jaar	Titel	Omvang van herroeping
21 van 1935	Strandwet, 1935	Die geheel
63 van 1970	Wet op Bergopvanggebiede, 1970	Die geheel, vir sover dit aan die Provinsie opgedra is by Proklamasie R28 van 1995
19 van 1974	Ordonnansie op Natuurbewaring, 1974	Die geheel
3 van 1982	Ordonnansie op die Geldigverklaring van Natuurreserve, 1982	Die geheel
15 van 1998	Wet op die Wes-Kaapse Natuurbewaringsraad, 1998	Die geheel
8 van 1999	Wes-Kaapse Ordonnansie op Natuur- en Omgewingsbewaring Wysigingswet, 1999	Die geheel
3 van 2000	Wes-Kaapse Wysigingswet op Natuurbewaringswette, 2000	Die geheel
6 van 2011	Wes-Kaapse Wet op Biosfeerreservate, 2011	Die geheel

ISAZISO SEPHONDO

I.S. 60/2019

7 uCanzibe 2019

**UQULUNQO LOMTHETHO OSAYILWAYO OLAWULA INTLOBONTLOBO
ZEZITYALO NEZILWANYANA ENTSHONA KOLONI, 2019**

Ukubonelela ngesikhokelo namaziko olondolozo lwendalo kunye nokhuseleko, ulawulo nosetyenziso oluzinzileyo lweentlobontlobo zezityalo nezilwanyana nothungelwano lwendalo kwiPhondo; nemicimbi ehambelana noko.

IMBULAMBETHE

NANJENGOKUBA icandelo 24 loMgaqosiseko weRiphabhliki yoMzantsi Afrika, 1996, libonelela ngokuba wonke umntu unelungelo kwindalo engenabungozi kwimpilo kwanokuba nendalo ekhuselweyo ukuze kuzuze uluntu olukhoyo ngoku kunye nezizukulwana ezizayo ngokuthi kuthathwe amanyathelo aphakamisa ulondolozo lwendalo naqinisekisa uphuhliso oluzinzileyo lolondolozo lwendalo nasebenzisa imithombo yendalo ngeli lixa ekhuthaza uphuhliso loqoqosho nolwentlalo olufanele ukwenzeka;

KUNYE NANJENGOKUBA ulondolozo lwendalo nokusingqongileyo njengoko luchaziwe kwiSahlulo A seShedyuli 4 kuMgaqosiseko weRiphabhliki yoMzantsi Afrika, 1996, iyimiba eqwalaselwayo nethathelwa ingqalelo kwimithetho yelizwe neyephondo;

KUNYE NANJENGOKUBA uMgaqosiseko waseNtshona Koloni ka-1997 (uMthetho 1 ka-1998) unika amagunya iPalamente yePhondo ukuba iphumeze ukhuseleko kunye nolondolozo lwendalo esingqongileyo, kubandakanywa izityalo nezilwanyana ezifumaneka kwingqingqi eziseNtshona Koloni ukuze kuzuze uluntu olukhoyo ngoku kunye nezizukulwana ezizayo;

KUNYE NANJENGOKUBA amaziko ahlukileyo karhulumente kufuneka elandele imithethosiseko yorhulumente wentsebenziswano nobudlelwane kumanqanaba karhulumente ze enze izigqibo ezichaphazela indalo ngendlela ehlangeneyo nechaphazela yonke imiba;

KWAYE NOKUTHATHELWA INGQALELO ukwahluka kweentlobontlobo zezityalo nezilwanyana eziseNtshona Koloni, izibophelelo zehlabathi zeRiphabhlikhi, ukuxhomekeka kwePhondo kwiinkonzo zothungelwano lwendalo, isidingo sofikeleleko nokwabelana ngeenzuzo kunye nesidingo sokuqinisekisa uzinzo nokomelela kwendalo;

KUNYE NOKUTHATHELA INGQALELO isidingo sohlaziyo lwemithetho ukutshintsha, ukuhlanganisa, nokudala intsebenziswano kwimithetho ekhoyo nezikhokelo zamaziko zokumisela imisebenzi yamaphondo yokuhoya iintlobontlobo zezityalo nezilwanyana neyolondolozo lwendalo;

KUNYE NOKUTHATHELA INGQALELO into yokuba kufuneka ukuba imithetho iphuhlise isikhokelo sokuhlanganisa iingqalelo zokusingqongileyo nolondolozo lwendalo ukuze zibe zizicwangcsio kunye nemiba yothathozigqibo ukuze amaziko onke aphumeze izinyanzeliso afanele ukuzihoya ngokwecandelo 24 loMgaqosiseko weRiphabhliki yoMzantsi Afrika, 1996;

MAWUMISELWE yiPalamente yePhondo yeNtshona Koloni ngolu hlobo lulandelayo:—

ULUNGELELWANISO LWAMACANDELO

Amacandelo

IZIQULATHO

ISAPHLUKO 1

UTOLIKO, IINJONGO NOMISELO LOMTHETHO

1. Iinkcazelo
2. Iinjongo
3. Umiselo
4. Ungqzulwano neminye imithetho

ISAPHLUKO 2

IMISEBENZI NEMITHETHOSISEKO ENGUNDOQO

5. Umsebenzi karhulumente
6. Imithethosiseko yozinziso lwendalo esingqongileyo

ISAPHLUKO 3

ULAWULO

7. Imisebenzi yomphathiswa wephondo
8. Imisebenzi yentloko yesebe

ISAPHLUKO 4

ICAPENATURE

Isahlulo 1

Umiselo nemisebenzi yeCapeNature

9. Umiselo
10. Imisebenzi yecapenature
11. Amagunya ecapenature

Isahlulo 2

Ibhodi yesigqeba solawulo yeCapeNature

12. Imisebenzi yebhodi
13. Amalungu
14. Izinto ezifunwa kwilungu lebhodi

15. Ukutyunjelwa kwibhodi
16. Usihlalo webhodi
17. Ixesha elisetyenzwa lilungu elingekho kwisigqeba sebhodi
18. Imiqathango yotyumbo neyentlawulo
19. Ukuziphatha kwamalungu
20. Ukupheliswa kobulungu
21. Ukususwa nokumiswa
22. Ukuzaliswa kwezithuba

Isahlulo 3

Iinkqubo zokusebenza zebhodi

23. Iintlanganiso
24. Iinkqubo
25. Ikhoram nezigqibo
26. Iikomiti

Isahlulo 4

Ulawulo of CapeNature

27. Ukuqeshwa kwegosa eliyintloko yesigqeba solawulo

Isahlulo 5

Imiba yezimali

28. Unikezonkcaza nonikezongxelo ngeemali
29. Iimali
30. Iimali ezibekiweyo
31. utyalomali

Isahlulo 6

Ukuchithwa kwebhodi okanye iCapeNature

32. Ukuchithwa kweBhodi
33. Ukuchithwa kweCapeNature

ISAHLUKO 5

UCWANGCISO NOBEKOLISO KWINTLOBONTLOBO ZEZITYALO NEZILWANYANA

34. Izicwangciso zeentlobontlobo zezityalo nezilwanyana nezicwangciso zemihlaba yeentlobontlobo zezityalo nezilwanyana
35. Injongo yesicwangciso somhlaba seentlobontlobo zezityalo nezilwanyana
36. Iziqulatho zesicwangciso somhlaba seentlobontlobo zezityalo nezilwanyana
37. Usetyenziso nomiselo lwesicwangciso somhlaba seentlobontlobo zezityalo nezilwanyana
38. Iinkqubo zobekoliso nophononongo lwesicwangciso somhlaba seentlobontlobo zezityalo nezilwanyana

ISAPHLUKO 6

IMIMANDLA EKHUSELWEYO, IMIMANDLA YOQOKELELO LWAMANZI ESEZINTABENI, AMATHALA ENDALO ABUCALA, INKQUBO YOLONDOLOZO LWEENTLOBONTLOBO ZEZITYALO NEZILWANYANA NAMATHALA ENDALO EZIDALWA EZIZODWA EKWENZIWA UPHANDO NGAZO

Isahlulo 1

Unatyiso lwemimandla ekhuselweyo

39. ISicwangciso soNatyiso lweMimandla eKhuselweyo yePhondo

Isahlulo 2

Imimandla yoqokelelo lwamanzi esezintabeni

40. Ubhengezo norhoxiso lobhengezo lwemimandla yoqokelelo lwamanzi esezintabeni
41. Ulawulo lwemimandla yoqokelelo lwamanzi esezintabeni

Isahlulo 3

Amathala endalo abucala

42. Ubhengezo lwamathala endalo abucala

Isahlulo 4

Inkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana

43. Inkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana

Isahlulo 5

Amathala endalo ezidalwa ezizodwa ekwenziwa uphando ngazo

44. Isicelo kwi-UNESCO ukuba ibhengeze ithala njengethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo
45. Ulawulo lwethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo
46. Isikhokelo sethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo
47. Ukuxhaswa ngezimali kwamathala endalo ezidalwa ezizodwa ekwenziwa uphando ngazo

ISAPHLUKO 7

UKHUSELO LOTHUNGELWANO LWENDALO, IZIBONELELO ZENDALO NEENTLOBO ZEZIDALWA

48. Uthungelwano lwendalo oluchongiweyo okanye izibonelelo zendalo ekufuneka zikhuselwe
49. Amanyathelo othintelo lwefuthe elibi kwiintlobontlobo zezityalo namanye amanyathelo okunqanda ifuthe elibi
50. Ukwenza uluhlu lweentlobo zezidalwa ekufuneka zikhuselwe okanye eziyingozi kwindalo

ISAPHLUKO 8
UKUZINGELA OKUFUNDELWEYO

51. Ukuzingela okufundelweyo

ISAPHLUKO 9
UGUNYAZISO

52. Isicelo sogunyaziso
53. Isigqibo ngesicelo
54. Uvavanyo lwemingcipheko nobungqina beengcali
55. Ubungqina bobunini obusemthethweni
56. Ungunyaziso oluhlanganelweyo
57. Uphononongo, uyekiso, urhoxiso notshintsho logunyaziso

ISAPHLUKO 10
UTHOTYELO NONYANZELISO

Isahlulo 1

Amagosa othotyelo nonyanzeliso nemiba yeenkundla zomthetho

58. Ukuchongwa kwegosa lolondolozo lwendalo, umnakekeli wendalo kunye nomncedisi wegosa lolondolozo lwendalo
59. Ubhengezo lwamagosa olondolozo lwendalo nabanakekeli bendalo njengamagosa ocwangco
60. Umsebenzi onikwe amagosa olondolozo lwendalo nabanakekeli bendalo
61. Abancedisi bamagosa olondolozo lwendalo
62. Imisebenzi yamagosa olondolozo lwendalo neyabanakekeli bendalo
63. Ikhadi lesazisi neleta yesikhundla
64. Amagunya egosa lolondolozo lwendalo nawomnakekeli wendalo
65. Uhlolo olwenziwa amaxesha ngamaxesha
66. Uphando
67. Amagunya okumisa, okungena nokusetsha izithuthi, izikhithshane neenqwelontaka
68. Isinyanzelo sokuveza amaxwebhu
69. Ukuphathwa kwezinto ezibanjiweyo
70. Isibambiso sokukhululwa kwezithuthi, izikhithshane neenqwelontaka

Isahlulo 2

Iinkqubo zonyanzeliso nezohlwayo

71. Iinkqubo zonyanzeliso
72. Isichaso kumyalelo
73. Ukusilela ekuthobeleni umyalelo

**ISAPHLUKO 11
AMATYALA NEZOHLWAYO**

- 74. Amatyala
- 75. Izohlwayo
- 76. Ukucinywa kogunyaziso
- 77. Ukugqiba komntu oza kuhlawula iindleko
- 78. Uphulukwano

**ISAPHLUKO 12
IZIBHENO**

- 79. Uubhena kwisigqibo seCapeNature
- 80. Uubhena kwisigqibo esenziwe ngumntu onikwe amagunya nguMphathiswa

**ISAPHLUKO 13
IMIQATHANGO-GABALALA NEMIQATHANGO YETHUTYANA**

- 81. Isaphulelo
- 82. Unikezogunya
- 83. Imigaqo
- 84. Izaziso zoluntu
- 85. Imigangatho yokusebenza
- 86. Ukubonisana
- 87. Imigaqo, amaxwebhu asemthethweni namanyathelo asebenza kwiimeko ezithile
- 88. Umda woxanduva
- 89. Utshitshiso lwemithetho nezinto ezikuyo ezingachaphazelekileyo
- 90. Imiqathango yethutyana
- 91. Isihloko esifutshane nokuqala ukusebenza

ISHEDYULI: UTSHITSHISO LWEMITHETHO

ISAHLUKO 1 UTOLIKO, IINJONGO NOMISELO LOMTHETHO

linkcazelo

1. Kulo Mthetho, ngaphandle kokuba imeko ekubhekiswa kuyo ithetha enye into—

“isiphumo esibi” sithetha ifuthe elibi elingqalileyo okanye elisenokuba khona okanye elikhulayo elichaphazela iintlobontlobo zezityalo nezilwanyana, iinkonzo zothungelwano lwendalo nezibonelelo zendalo elingencincanga;

“ufikelelo nolwabiwo lweenzuzo” luthetha ulwabiwo olunobulungisa emva kosetyenziso lwezibonelelo zendalo;

“inqwelontaka” ithetha isithuthi esihamba emoyeni esiqhutywa ngumntu okanye esingaqhutywayo;

“isidalwa esingesosendawo ethile” sithetha isidalwa esingesiso esaloo ndawo ngokwendalo—

(a) uhlobo lwesityalo okanye isilwanyana olungakhulelanga ukuba kuloo ndawo; okanye

(b) isidalwa semveli sisuswe kwindawo yaso sayokubekwa kwenye engeyiyo indawo yaso yemveli kodwa asibhekisi kwisidalwa esithe sazinabela ngokunokwaso de saya kufika kuloo ndawo singathuthwanga mntu;

“ilitye eligcina amanzi” yinto eyakhiwe yindalo ekwazi ukugcina amanzi okanye evumela ukuba amanzi akwazi ukudlula kuyo;

“ugunyaziso” luthetha naluphi na ubhaliso, isatifikethi, ilayisenisi, ipemethi okanye imvume ebhaliweyo ekhutshwe kulandelwa lo Mthetho olugunyazisa umntu olunikwayo okanye olunikezelelwa ukuba umntu enze into ebingavunyelwanga ukuba yenziwe, kubandakanywa ugunyaziso oluhlanganelweyo oluxelwe kwicandelo 56;

“ilitye eligcina amanzi” yinto eyakhiwe yindalo ekwazi ukugcina amanzi okanye evumela ukuba amanzi akwazi ukudlula kuyo;

“iintlobontlobo zezityalo nezilwanyana” zithetha izidalwa ezahlukehlekileyo zayo yonke imithombo kubandakanywa ezihlala ehlabathini nezihlala phantsi kwamanzi zothungelwano lwendalo, nako konke okuqhubekayo kuzo kwindalo okuxelwe kwiSahlulo A okubandakanya izidalwa ezahlukehlekileyo zohlobo olunye lweso sidalwa, nezidalwa ezingafaniyo ezihlala kwindawo enye nezothungelwano lwendalo;

“Umthetho iBiodiversity Act” ubhekisa kwiNational Environmental Management: Biodiversity Act, 2004 (uMthetho 10 ka-2004);

“uqoqosho lweentlobontlobo zezityalo nezilwanyana” luthetha amashishini nemisebenzi yezoqoqosho exhomekeke ngqo kwiintlobontlobo zezityalo nezilwanyana kushishino okanye lawo anegalelo kulondolozo lweentlobontlobo zezityalo nezilwanyana ngemisebenzi yawo;

“isithinteli sefuthe elibi kwiintlobontlobo zezityalo nezilwanyana” sithetha isiphumo namanyathelo athathiweyo okulwa iziphumo ezibi zayo nayiphi na into eyenziwayo, okanye somiselo lwaso nasiphi isicwangciso, kwiintlobontlobo zezityalo nezilwanyana okanye kwizibonelelo zendalo emva kokuba kwenziwe zonke iinzame zokuphepha, ukucutha okanye ukujika ezo ziphumo;

“ummandla ongundoqo wentlobontlobo zezityalo nezilwanyana” ngummandla osemhlabeni okanye elwandle obaluleke kakhulu kulondolozo lwesampula emele uthungelwano lwendalo nohlobo oluthile lwesidalwa, wokumenteyina iinkqubo zendalo nezibonelelo zendalo okanye ekubonelelwa kuwo iinkonzo zothungelwano lwendalo eziboniswe kwiSicwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana;

“iSicwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana” sithetha isicwangciso esichazwe kwicandelo 6;

“isivumelwano soququzelelo weentlobontlobo zezityalo nezilwanyana” sithetha isivumelwano ekungenwe kuso phakathi kweGosa eliyiNtloko leSigqeba kunye nomnini mhlaba esichaza imisebenzi nezibophelelo zala maqela ukukhusela iindawo eziphambili zolondolozo lweentlobontlobo zezityalo nezilwanyana;

“ummandla wenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana” uthetha ummandla womhlaba ofuna iimfuno zolawulo ezinokuchazwa kwimigaqo okanye kwisivumelwano esingqalileyo soququzelelo lweentlobontlobo zezityalo nezilwanyana ukukhusela ulondolozo lwendalo;

“ithagethi yenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana” ithetha ubungakanani bophawu bazo naziphi iintlobontlobo zezityalo nezilwanyana kubandakanywa iipatheni zeentlobontlobo zezityalo nezilwanyana okanye iinkqubo zendalo ekufuneka ulondolozo lwazo lubekwe phambili ukuze kuqinisekise ukuba izidalwa ezineempawu zeentlobontlobo zezityalo nezilwanyana ziphila ixesha elide;

“ithala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo” ngummandla ochongelwe ukubandakanya amathala endalo ezidalwa ezizodwa ekwenziwa uphando ngazo oThungelwano lweHlabathi yi-International Co-ordinating Council of the Man and the Biosphere Programme;

“Isikhokelo sethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo” sithetha isikhokelo semihlaba esiqulunqelwe ithala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo njengoko kuxeliwe kwicandelo 46;

“iBhodi” ithetha iBhodi yolawulo yeCapeNature njengoko kuxeliwe kwicandelo 12;

“iCapeNature” liziko eliphantsi koShedyuli 3C ngokoMthetho woLawulo lweZimali zikaRhulumente elinoxanduva lokujongana neentlobontlobo zezityalo nezilwanyana nolondolozo lwendalo kwiPhondo;

“uvalelo” lwezilwanyana zasendle kwindawo ebiyelweyo luthetha ukubiyelwa ngalo naluphi na ucingo okanye nanto esisindai-kuphuma ngendlela yokuba isilwanyana sasendle singakwazi ukuzihoya ngokwaso ngokwendalo;

“Usihlalo” uthetha uSihlalo weBhodi otyunjwe ngokwecandelo 16(1)(a);

“IGosa eliyiNtloko yeSigqeba soLawulo” lithetha iGosa eliyiNtloko yeSigqeba soLawulo seCapeNature eliqeshwe ngokwecandelo 27;

“uCITES” umele uConvention on International Trade in Endangered Species of Wild Fauna and Flora, Washington, 1973;

“iklayenti” ithetha umntu ongengommi woMzantsi Afrika othi avuze omnye ngokuzingela izilwanyana zasendle;

“utshintsho lwemozulu” luthetha utshintsho kubume bezulu obuthi bubonakale ngotshintsho kwimo yezulu oluthi luqhubeke ixeshana, iminyaka okanye ixesha elide;

“inkqubo yolawulo lwamanxweme” ithetha inkqubo yolawulo lwamanxweme exelwe kwiSahluko 6: kwiSahlulo sesi-2 seIntegrated Coastal Management Act;

“ipropati yoluntu ekumanxweme” inentsingiselo efanayo naleyo ichazwe kwi-Integrated Coastal Management Act;

“ulondolozo”, lweentlobontlobo zezityalo nezilwanyana nendalo, luthetha ukhuseleko, unakekelo, ulawulo, uhlaziyo nokumenteyinwa kothungelwano lwendalo, kweendawo zendalo, izityalo eziyinkulelane nezidalwa zonke ukuze kukhuselwe iimeko zazo zendalo ukuze zikwazi ukuhlala ixesha elide neenkonzozothungelwano lwendalo ezilubonelelayo, yaye **“ukulondolozwa”** kukwanentsingiselo efana nale;

“Umgqosiseko” uthetha uMgqosiseko weRiphabhliki yoMzantsi Afrika, 1996;

“iCriminal Procedure Act” ithetha iCriminal Procedure Act, 1977 (uMthetho 51 ka-1977);

“Isebe” lithetha isebe lephondo elijongene nemiba yokusingqongileyo kwiPhondo;

“ilungu lesinye isidalwa”, kwisilwanyana, isityalo okanye esinye isidalwa lithetha nayiphi inxenye, isihlunu okanye into ethathwe kuso, nokuba isefreshi, okanye igcinie okanye sele isetyenziswe, yaye libandakanya inxalenye ekhemikhali ethathwe kweso sityalo okanye isilwanyana okane isidalwa;

“uphuhliso” luthetha nayiphi inkqubo eqalwe ngumntu ukutshintsha usetyenziso, indalo, ubunjani benkangeleko yento, imilo okanye umsebenzi wendawo, yaye lubandakanya—

(a) Ulwakhiwo, umiso, utshintsho, udilizo okanye ukususwa kwesakhiwo;

(b) Naluphi utshintsho kubume bomhlaba;

(c) Nawuphi umsebenzi owenziwa phantsi okanye phezu kwesiza;

(d) utshatyalaliso okanye ukususwa kotyani bemveli; okanye

(e) inkqubo yokucana kwakhona, ukwahlulahlula okanye ukudibanis umhlaba;

“Umlawuli weSikolo soZingelo olufundelwayo” uthetha umntu ofundisa isifundo zokuzingela ngobungcali kwabo bafuna ukuba ngabazingeli abazingcaphephe okanye ukukwazi ukuzingela kwabazingeli abazingcali;

“izilwanyana eziqhelisiweyo” zithetha naluphi uhlobo lwesilwanyana olungasekho endle, osele luqheliswe luluntu ukuba luphile ngokwezidingo zoluntu yaye lubandakanya kodwa aluphelelanga kwezo zilwanyana zidweliswe nguMphathiswa ngokwecandelo 50(2)(j);

“uhlobo olukwindalo ethile” luthetha iqela elikummandla othile;

“izibonelelo zendalo” zindawo zothungelwano lwendalo ezizisebenzelayo, ezibandakanya kodwa ezingaphelelanga kwiindawo zamanzi ezisezintabeni, imilambo, imigxobhozo, iindawo ezinentlabathi ezingaselwandle neendawo ezizindawo ekuphila kuzo indalo, ezithi xa zidibene zenze uthungelwano lwezinto ezisemhlabeni ezinikeza iinkonzo zothungelwano lwendalo;

“uthungelwano lwendalo” sisixokelelwano sezilwanyana, izityalo nezidalwa ezincinci neendawo eziphila kuzo ezisebenza njengeyunithi esebenzisanayo esemhlabeni, elwandle okanye emanzini okanye zombini zidibene;

“iinkonzo zothungelwano lwendalo” zithetha iinzuzo ezifunyanwa luluntu kuthungelwano lwendalo, ezibandakanya kodwa ezingaphelelanga—

(a) iinkonzo zobonelelo, njengoveliso lokutya nolokunikezelwa kwamanzi;

(b) iinkonzo zolawulo, njengolawulo lemozulu, umgangatho womoya, izifo kunye nokucutha imingcipheko yeentlekele;

(c) inkono yenkxaso, njengemijikelo yeenutrienti, ukwenzeka komhlaba nomvumvuzelo lwezityalo; kunye

(d) neenkonzozothungelwano zomphefumlo nezolonwabo;

“uhlobo olusengozini” lubhekisa kuhlobo oludweliswe ngokwecandelo 50(2)(c);

“okusingqongileyo” kuthetha indawo esingqongileyo ekuphila kuyo abantu eyenziwe—

(a) ngumhlaba, amanzi neatmosferi yomhlaba;

(b) izidalwana, izityalo nezilwanyana;

(c) nayiphi inxalenye okanye indibanisela yemihlathi (a) no-(b) nobudlelwane obuphakathi kwezi zinto; kunye

(d) nezinto eziphathekayo, ezikhemikhali, ezibukekayo nezenkcubeko neemeko zazo ezichaphazela impilo nentlalontle yoluntu;

“ichweba” lithetha intlanganisela yamanzi—

(a) emana okanye ehlala ephokokela kulwandle;

(b) apho ukuphakama nokuhla kwezinga lamanzi ngenxa yamanzi kunokuthi kulinganiswe xa amanzi ephokokela elwandle; okanye

(c) apho ubutyuwa bawo buphezulu kunobo bamanzi afreshi ngenxa yefuthe lolwandle nalapho ubutyuwa bamanzi phakathi kwamaza nalapho aqala khona busenokungafani;

“ukuthumela kwamanye amazwe” kuthetha ukuhambisa naluphi uhlobo lwesidalwa, icuntsu laso okanye ilungu lesinye isidalwa njengoko kuxeliwe ngokwemiqathango yalo Mthetho ukusuka nakuyiphi indawo kwiPhondo nangayiphi indlela ukuya kwamanye amaphondo akwiRiphabhliki yoMzantsi Afrika okanye kwilizwe elingaphandle kwemida yoMzantsi Afrika okanye kumanzi ehlabathi;

“ukuya kwenye indawo” kwesidalwa, kuthetha ukuhanjiswa kwesidalwa esimvelaphi yaso ilapha eMzantsi Afrika sisiwe kwenye indawo esingakhulelanga kuyo okanye engeyondawo yaso yemveli, kodwa asibhekisi kwisidalwa semveli esithe sazinabela ngokunokwaso de saya kufika kuloo ndawo singathuthwanga mntu;

“isilwanyana esiphuncuke eluqhelisweni” kuthethwa isilwanyana esichazwe kumqolo (b) esiqhelisiweyo esithe sabuyela endle;

“isizinda” yindawo yohlobo oluthile lwesityalo okanye lwesilwanyana;

“INTloko yeSebe” ithetha intloko yesebe lephondo ejongene nemiba yokusingqongileyo kwiPhondo;

“izibonelelo zelifa lemveli” zithetha nayiphi indawo okanye into ebalulekileyo kwinkcubeko;

“umncedisi wegosa lolondolozo lwendalo” uthetha umntu ochongwe ngokwecandelo 58(a)(iii);

“ukuzingela”, isilwanyana sasendle kuthetha—

(a) ukukhangela;

(b) ukulandela okanye ukuqhuba;

(c) ukulalela okanye ukuphazamiseka ngeenjongo; okanye

(d) ukudubula okanye ukufaka ityhefu,

nangayiphi na indlela ngeenjongo zokubulala, ukwenzakalisa okanye ukubamba okanye ukuzama ukubulala, ukwenzakalisa okanye ukubamba isilwanyana sasendle;

“umntu oncedisa abazingeli” uthetha umntu omaketha, oncedisa, onikeza, owenza iintengiso zozingelo lwezilwanyana zasendle okanye ezo ziphuncukileyo, nokuba oko ukenza ngokwakhe okanye usebenzisa iarhente;

“ukuzisa kwiPhondo”, nasiphi na isidalwa, icuntsu laso okanye inxalenye yaso okanye ilungu lesinye isidalwa—

(a) ukuze sihlale, ukusizisa okanye ukusazisa kwiPhondo, okanye ukuzama ukusizisa okanye ukusazisa kwiPhondo; okanye

(b) ukuzisa kwiPhondo ukuze siphinde sithunyelwe ngaphandle kwePhondo;

“esemveli”—

- (a) kuhlobo lwesidalwa, kuthetha uhlobo lwesidalwa esikhoyo okanye ekukudala sikhona kwindawo esihleli kuyo ngokukhululeka ekwimida yeRiphabhliki, kodwa asibandakanyi uhlobo lwesidalwa esize kwiRiphabhliki ngumntu; yaye
- (b) kwisityalo esithile okanye isilwanyana sasendle, sithetha isityalo okanye isilwanyana sasendle sohlobo lwesidalwa ekubhekiswe kuso kumhlathi (a);

“imithombo yendalo yemveli” nayiphi na imithombo eyenziwa—

- (a) nasiphi na isilwanyana esiphilayo okanye esifileyo, isityalo okanye enye into eyinkulelane ephilayo
- (b) naluphi na uhlobo lwesilwanyana, lwesityalo okanye enye into ephilayo
- (c) nayiphi na into yemfuza yeso silwanyana, sityalo okanye enye into ephilayo;

“umthetho i-Integrated Coastal Management Act” uthetha iNational Environmental Management: Integrated Coastal Management Act, 2008 (uMthetho 24 ka-2008);**“uhlobo lwesidalwa esingeneleleyo”** luthetha naluphi uhlobo lwesidalwa umiselo lwaso nokunaba kwaso ngaphandle kwendawo yaso yendalo—

- (a) kuchaphazela uthungelwano lwendalo, izizinda zendalo nezibonelelo zendalo okanye olunye uhlobo lwesidalwa okanye kunokuchaphazla kakubi uthungelwano lwendalo, izizinda zendalo nezibonelelo zendalo okanye olunye uhlobo lwesidalwa; yaye
- (b) kunganobungozi kuqoqosho okanye kwindalo okanye kwimpilo yabantu;

“umninimhlaba” uthetha umnini womhlaba obhalisweyo, ngaphandle kokuba—

- (a) akuhlalwa kuwo umhlaba ngumnini mhlaba obhalisweyo, oko kuthetha ukuba umntu lowo—
 - (i) uhleli kuloo mhlaba ngokungekho mthethweni;
 - (ii) ulawulo umhlaba low nje jikelele;
 - (iii) unalo naliphi na ilungelo lokwenene elibhalisweyo kuloo mhlaba, ngokuxhomekeke nakowuphina umhlaba; okanye
 - (iv) ungumntu ogunyaziswe ngembalelwano ngumnini womhlaba ukuzalisekisa amalungelo okanye imisebenzi yakhe kuloo mhlaba;
- (b) umhlaba ophantsi kwentlangano yabantu, nokuba liqumrhu okanye asililo, uthetha umntu ochongwe yile ntlngano ngembalelwano njengomnini womhlaba;
- (c) umhlaba uphantsi kolawulo lukamasipala, kuthetha umphathi kamasipala;
- (d) umnini okanye umntu obhalisweyo ngumntu—
 - (i) ochazwa njengomnini kumqolo (a) okanye (b);
 - (ii) ungumfi;
 - (iii) ubhangile;
 - (iv) utyikitye ilifa ukwenzela ukuba kuzuze abantu obatyalayo;
 - (v) ubekwe phantsi umgcinimafa ngokomyalelo wenkundla; okanye
 - (vi) yinkampani eyonzakeleyo okanye iphantsi kolawulo lomthetho, kuthetha umntu obhaliswe njengomnini mhlaba njengeabi mafa, umlawuli, umthenjwa, umtyikityi, umabi mafa, umbhangisi okanye umpahthi womthetho, nokuba yeyiphi na imeko; okanye
- (e) ngokunxulumene nepropathi yoluntu oselunxwemeni, isebe likazwelonke elinoxanduva lokuzalisekisa izibophelelo zombuso njengomthenjwa woluntu kwipropathi yoluntu ngokwamacandelo 11 nele-12 lomthetho i-*Integrated Coastal Management Act*;

- “Izidalwa elidwelisiweyo”** zithetha izidalwa ezibandakanywe kuluhlu oluchazwe kwicandelo 50(2);
- “iLocal Government: Municipal Systems Act”** ithetha iLocal Government: Municipal Systems Act, 2000 (uMthetho 32 ka-2000);
- “ixesha elide”** lithetha isithuba seminyaka engama-50 okanye ngaphezulu;
- “UMphathiswa”** uthetha uMphathiswa kwiPhondo olilungu leKhabhinethi yePhondo onoxanduva lwemicimbi yokusingqongileyo kwiPhondo;
- “amanyathelo othothiso”** athetha inyathelo okanye amanyathelo anjongo yawo ikukuphepha, ukucutha, ukujika okanye ukulungisa isiphumo esibi;
- “ummandla woqokelelo lwamanzi osezintabeni”** uthetha ummandla oxelwe kwicandelo 40;
- “iMountain Catchment Areas Act”** ithetha iMountain Catchment Areas Act, 1970 (uMthetho 63 ka-1970);
- “uMphathiswa weSizwe”** uthetha ilungu leKhabhinethi kaZwelonke onoxanduva lwemicimbi yokusingqongileyo;
- “igosa lolondolozo lwendalo”** uthetha umntu ochongelwe oko ngokwecandelo 58(a)(i);
- “umnakekeli wendalo”** uthetha umntu ochongelwe oko ngokwecandelo 58(a)(ii);
- “iphephandaba”** lithetha upapasho lwenyanga, lweveki okanye lwantsuku zonke olunemihlathi yeendaba, imiba esematheni, uphononongo lwemiba neentengisokubandakanywa upapasho oluphuma nge-intanethi;
- “Ummiselo”** uthetha uMmiselo woLondolozo lweNdalo, 1974 (uMmiselo 19 ka-1974);
- “iziko likarhulumente”** lithetha—
- (a) naliphi isebe likarhulumente okanye icandelo lolawulo kwisizwe, kwiphondo okanye kumasipala wommandla; okanye
- (b) naliphi elinye iziko likarhulumente—
- (i) elisebenzisa igunya okanye elenza umsebenzi ngokoMgaqosiseko wesizwe okanye wephondo; okanye
- (ii) elisebenzisa igunya loburhulumente okanye elenza umsebenzi karhulumente lilandela nawuphi na umthetho, kodwa alibandakanyi inkundla okanye igosa lenkundla;
- “umntu”** uthetha—
- (a) umntu ophilayo; okanye
- (b) inkampani, ibandakanya iqumrhu okanye esililo, kubandakanywa inkampani yobuhlakani, itrasti, okanye iziko likarhulumente;
- “ityhefu”** ibandakanya naluphi ulungiso okanye into esetyenziselwa ukubamba, ukudoma, ukuphelisa inzala, ukubulala okanye ukwenzakala nasiphi na isilwanyana, izityalo okanye esinye isidalwa;
- “iNkulumbuso”** ithetha iNkulumbuso yePhondo;
- “umhlaba womntu”** uthetha ipropathi efudusekayo okanye engafudusekiyo esetyenziselwa okanye engasetyenziselwayo ushishino, okusesikweni, ukuhlala okanye injongo yabucala;
- “ukubeka njengomgaqo”** kuthetha ukubekwa ngumgaqo;
- “ithala lendalo elinomnini walo”** lithetha ithala lendalo eliphantsi kwabahlali okanye eliphantsi komntu omnye wabucala okanye abaninzi —
- (a) elibhengezwe, okanye elithathwa njengokuba libhengeziwe, ngokwamacandelo 12, 23(1) no-23(5) eProtected Areas Act njengethala lendalo;

(b) elichongwe njengethala lendalo elinomnini walo ngokwecandelo 25 leProtected Areas Act; okanye

(c) nelixelwe kwicandelo 42.

“umzingeli oqeqeshelwe ukuzingela” uthetha nawuphi na umntu othi, nangayiphi na indlela, avume ukukhapha iklayenti ukuze iklayenti leyo ikwazi ukuzingela isilwanyana sasendle okanye isilwanyana esiphuncule kuqheliso;

“ummandla okhuselweyo” uthetha nawuphi ummandla okhuselweyo ekubhekiswe kuwo kwicandelo 9 leProtected Areas Act;

“iProtected Areas Act” ithetha iNational Environmental Management: Protected Areas Act, 2003 (uMthetho 57 ka-2003);

“isidalwa esikhuselweyo” sithetha uhlobo lwesidalwa esidweliswe kwicandelo 50(2)(e);

“IPhondo” lithetha iPhondo leNtshona Koloni yaye **“u-yePhondo”** unentsingiselo efanayo;

“iGazethi yePhondo” ithetha iGazethi yePhondo;

“ummandla okhuselweyo wephondo” uthetha ummandla okhuselweyo wephondo njengoko kuchaziwe kumthetho iProtected Areas Act okanye kwithala lendalo elibhengezwe ngokwecandelo 23(1) leProtected Areas Act okanye ithala lendalo elithathwa ngokuba libhengezwe ngokwecandelo 23(5) leProtected Areas Act, ngaphandle kwethala lendalo labucala;

“Isicwangciso sonatyiso lweMimandla eKhuselweyo yePhondo” sithetha isicwangciso sephondo sonatyiso lothungelwano lommandla okhuselweyo oneethagethi ze senze izindululo zeenkqubo zonatyiso lommandla okhuselweyo;

“iPublic Finance Management Act” ithetha iPublic Finance Management Act, 1999 (uMthetho 1 ka-1999);

“umgaqo” uthetha umgaqo owenziwe phantsi kwalo Mthetho ngaphandle kokuba kukho enye into echaziweyo engenye;

“inqwelontaka ehanjiswa ngeRimowuthi” ithetha inqwelontaka engaphawulwanga eqhutywa kwisitishi esithile esikude, engabandakanyi inqwelontaka yesiqhelo nenqwelontaka eyithoyi;

“iRiphabhliki” ithetha iRiphabhliki yoMzantsi Afrika;

“ukuzingisa” ngokbhokiselele kwinkqubo yendalo okanye kwizibonelelo zendalo, kuthetha ukukwazi kothungelwano lwendalo okanye isibonelelo sendalo ukumela neziphazamiso kuso sibe sigcine ubume baso nokusebenza kwaso, ukuphinde sizilungise okanye ukukwazi ukumelana noxinzelelo okanye utshintsho;

“umsebenzi ononyino” uthetha umsebenzi onemiqathango ebekiweyo phantsi kecandelo 50(1);

“inkqubo enonyino” ithetha inkqubo enemiqathango ebekiweyo phantsi kecandelo 50(1);

“uhlobo lwesidalwa” luhlobo lwesilwanyana, isityalo okanye esinye isidalwa esingazalisani nezinye zolunye uhlobo, yaye lubandakanya izidalwa ezincinci, isityalo esixubeneyo, uhlobo oluthile lwendawo ethile, isityalo esenziweyo, esintlobombini okanye senye indawo;

“isampilu ethathwe kwisidalwa” lithetha—

(a) nasiphi isilwanyana isityalo okanye esinye isidalwa esiphilayo okanye esifileyo;

(b) imbewu, iqanda, ucontsulo okanye inxalenye yesilwanyana, isityalo okanye esinye isidalwa esinokuphinda sintshule okanye sivelise okanye sidlulisele iimpawu zendalo;

(c) naliphi ilungu lesinye isilwanyana, isityalo okanye esinye isidalwa; okanye

(d) naziphi izinto—

- (i) ezinelungu lesinye isilwanyana, isityalo okanye esinye isidalwa; okanye
- (ii) kwixwebhu elikhaphayo, kwipakethi, okanyee kuphawu, okanye nasiphi esinye isalathisi, kubonakala kukho ilungu lesinye isilwanyana, isityalo okanye esinye isidalwa;

“umthetho ongaphantsi” uthetha nawuphi na umgaqo okanye isaziso esenziwe ngokwalo Mthetho;

“ezinzileyo”, ithetha xa kubhekiswa kusetyenziso okanye kwifuthe kwimithombo yendalo, kwiintlobontlobo zezityalo nezilwanyana nakwiinkonzo zothungelwano lwendalo ngendlela nangezinga—

- (a) elingakhokeleli ekuhleni kwexesha elide nolunokugcinwa ixesha elide kungadalwanga iziphumo ezibi;
- (a) engaphazamisi uthungelwano lwendalo; kunye
- (b) neqinisekisa ukuzingisa ukuze kuphunyezwe izidingo neminqweno yoluntu olukhoyo ngoku nesizukulwana sexesha elizayo;

“ucwangciso lweentlobontlobo zezityalo nezilwanyana” luthetha inkqubo yokuplana echonga imimandla engundoqo yeentlobontlobo zezityalo nezilwanyana, ethathela ingqalelo iipatheni zeentlobontlobo zezityalo nezilwanyana neenkqubo zendalo nezotshintsho ezenza ukuba ezo zityalo nezilwanyana zihlale ziphila ezisekelwe kwiithagethi zenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana nemida ebekiweyo yeentlobo-ntlobo zezityalo nezilwanyana ezisemhlabeni nasemanzini ukuze kulondolozwe isampula emele ipatheni yeentlobontlobo zezityalo nezilwanyana neyeenkqubo zendalo;

“uhlobo lwesidalwa esisengozini” sithetha uhlobo lwesidalwa esisengozini esidweliswe ngokwecandelo 50(2)(b), (c) okanye (d);

“lo Mthetho” ngaphandle kwakwicandelo 4, ubandakanya imigaqo nezaziso ezenziwe ngokwalo Mthetho;

“i-UNESCO” ithetha iUnited Nations Educational, Scientific and Cultural Organisation, yaye ibandakanya i-International Co-ordinating Council of the Man neBiosphere Programme;

“isixhobo sokuhlasela” sithetha nantoni na enokusetyenziswa ukubulala, ukwenzakalisa, ukubamba okanye ukudoma isilwanyana sasendle;

“umzila wamanzi” uthetha—

- (a) umlambo okanye umthombo;
- (b) umjelo wendalo ohamba amanzi oko okanye ngamaxesha athile;
- (c) umgxobhozo, ichibi okanye idama elihamba amanzi; kunye
- (d) nayiphi ingqokelela yamanzi ebhengewe ngokweNational Water Act, 1998 ukuba ingumzila wamanzi,

yaye ubhekiso kumzila wamanzi lubandakanya, intsele nodonga lomlambo;

“uvimba wamanzi” ubandakanya umzila wamanzi, amanzi angaphezulu, ichweba, okanye amanzi aphakathi kwamatye;

“Umgaqosiseko weNtshona Koloni” uthetha uMgaqosiseko weNtshona Koloni, 1997 (uMthetho 1 ka-1998);

“iWestern Cape Land Use Planning Act” ithetha iWestern Cape Land Use Planning Act, 2014 (uMthetho 3 ka-2014);

“isilwanyana sasendle” sithetha isilwanyana esingolohlobo lwesidalwa esiqhelisiweyo okanye okanye esingesincincanga kakhulu, nokuba isilwanyana eso siyaphila okanye sifile, nokuba simbuna, sikhulisiwe okanye sigcinwe kuvalelo, yaye oku kubandakanya amaqanda kunye nayo nantoni eyinxalenye yomzimba weso silwanyana.

linjongo

2. Iinjongo zalo Mthetho kukwenza oku—

- (a) ukuphumeza nezinyanzeliso zombuso ngokubhekiselele kwimithetho yesizwe zokusebenzisana kunye nokuhoya indalo esingqongileyo;
- (b) ukuphumeza icandelo 81 loMgaqosiseko weNtshona Koloni Constitution lokukhusela nokulondoloza indalo esingqongileyo kwiPhondo, kubandakanywa iintlobontlobo zezityalo nezilwanyana ezizodwa, ukuze kuzuze uluntu olukhoyo ngoku nesizukulwana sexesha elizayo;
- (c) ukuqinisekisa uzinzo lwexesha elide lendalo nozingiso lweentlobontlobo zezityalo nezilwanyana, uthungelwano lwendalo, iinkonzo zothungelwano lwendalo nezibonelelo zendalo ngokumiselwa kweziseko zozinziso lwendalo esingqongileyo ezixelwe kwicandelo 6;
- (d) ukuqinisekisa intlalontle yoluntu nozingiso lwexesha elide loluntu noqoqosho ngokuthi kulondolozwe imimandla ekhuselweyo, iintlobontlobo zezityalo nezilwanyana, uthungelwano lwendalo, iinkonzo zothungelwano lwendalo nezibonelelo zendalo;
- (e) ukwenza ukuba abantu bakwazi ukufikelela kwiinzuzo namathuba azinzileyo olondolozo lwemimandla ekhuselweyo, iintlobontlobo zezityalo nezilwanyana neenkono zothungelwano lwendalo;
- (f) ukumisela amaziko olawulo ngempumelelo lweentlobontlobo zezityalo nezilwanyana nolondolozo lwendalo kwiPhondo;
- (g) ukuphakamisa ucwangciso olululo lweentlobontlobo zezityalo nezilwanyana nokufikelela kwiithagethi zenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana zolondolozo ezibekwe kwiSicwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana neethagethi zeSicwangciso sonatyiso lweMimandla eKhuselweyo yePhondo;
- (h) ukulawula imisebenzi ethile ngendlela ekhuthaza nekhuselela isidima nempilo yokusingqongileyo;
- (i) kulandelwa icandelo 231 loMgaqosiseko, ukumisela nokuphumeza izivumelwa zehlabathi nokusebenzisa iinkqubo ezisebenze ngempumelelo kwimiba yokusingqongileyo nakulondolozo lweentlobontlobo zezityalo nezilwanyana;
- (j) ukulungiselela uzinzo lwezimali noloqoqosho kumaziko achaphazelekayo ajongene nolondolozo lweentlobontlobo zezityalo nezilwanyana; kunye
- (k) nokulungiselela nokuphuhlisa uqoqosho olunobulungisa noluzinzileyo lweentlobo-ntlobo zezityalo nezilwanyana kwiPhondo.

Umiselo

3. Lo Mthetho ubophelela umbuso nabo bonke abantu.

Ungquzulwano neminye imithetho

4. (1) Ukuba kukho ungquzulwano phakathi kwemiqathango yalo Mthetho kunye—

- (a) nemithetho yesizwe, olo ngquzulwano kufuneka lusonjululwe ngokwecandelo 146 yoMgaqosiseko;

- (b) nomnye uMthetho wephondo, umqathango walo Mthetho nguwo osebenzayo xa ungquzulwano lunento yokwenza nemiqathango yolondolozo lweentlobontlobo zezityalo nezilwanyana neendawo ezinendalo;
- (c) nemithetho kamasipala, umqathango walo Mthetho xa ungquzulwano lunento yokwenza nemiqathango yolawulo—
- (i) lwemiba ekubhekiswe kuyo kwiSahlulo A seShedyuli 4 okanye kwiSahlulo A seShedyuli 5 yoMgaqosiseko; okanye
- (ii) kwimiba ekubhekiswe kuyo kwiSahlulo B seShedyuli 4 okanye kwiSahlulo B seShedyuli 5 yoMgaqosiseko yaye lo mqathango usebenzisa ngokukuko amagunya nemisebenzi yePhondo phantsi kwecandelo 155(6)(a) no-(7) loMgaqosiseko;
- (2) Ukuba kukho ungquzulwano phantsi komthetho ovele owenziwe ngokwalo Mthetho kunye—
- (a) noMthetho wePalamente, ungquzulwano kufuneka lusonjululwe ngokwecandelo 146 yoMgaqosiseko;
- (b) noMthetho wephondo, kulandelwa loo Mthetho;
- (c) umthetho wephondo ovele ngenxa yalo nguwo oya kusebenza, xa ungquzulwano lunento yokwenza nemiba exelwe kwicandelwana (1)(b);
- (d) nomthetho kamasipala, umthetho ovele ngenxa yalo nguwo oya kusebenza, xa ungquzulwano lunento yokwenza nemiba exelwe kwicandelwana (1)(b).

IS AHLUKO 2 IMISEBENZI NEMITHETHOSISEKO ENGUNDOQO

Umsebenzi karhulumente njengomnini trasti

5. Nawuphi na umntu okanye iziko likarhulumente eligunyaziswe ngumthetho karhulumente okanye ngurhulumente ukusebenzisa igunya elinokuba nesiphumo esibi kokusingqongileyo, kufuneka xa lisebenzisa loo magunya—

- (a) Ijongise iziphumo zexesha elide zesenzo ngasinye okanye isigqibo ngasinye oko okuya kuba naso kokusingqongileyo; yaye
- (b) lisebenzise iziseko zozinziso zokusingqongileyo ezixelwe kwicandelo 6.

Iziseko zozinziso lwendalo esingqongileyo

6. Naliphi iziko likarhulumente elinokuthi izigqibo zalo okanye izezo zalo zichaphazele iintlobontlobo zezilwanyana nezityalo okanye okusingqongileyo kwiPhondo kufuneka lisebenzise imithethosiseko yozinziso lwendalo esingqongileyo ezizezi—

- (a) ukuthathela ingqalelo iinzuzo nexabiso elibalulekileyo lezibonelelo zendalo nothungelwano lwendalo;
- (b) ukuqinisekisa ukuba iintlobo-ntlobo zezityalo nezilwanyana nothungelwano lwendalo ziyakhuselwa, ziyamenteyinwa, ziyahlaziywa ngendlela eyenza ukuba kufikelelwe kwiithagethi zenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana zolondolozo olwenziwa liPhondo;
- (c) ukukhuthaza ukuhlala ixesha elide kweentlobo-ntlobo zezityalo nezilwanyana, uthungelwano lwendalo nezibonelelo zendalo;
- (d) ukuqinisekisa ukuba uphuhliso alujongeli phantsi uzinzo lwexesha elide lweentlobontlobo zezityalo nezilwanyana, uthungelwano lwendalo nezibonelelo zendalo;

- (e) ukuqinisekisa ukuba ukuloondolozwa nokuzinziswa kweentlobontlobo zezilwanyana nezityalo ukuze kuzuze uluntu olukhoyo ngoku nesizukulwana sexesha elizayo kubekwa phambili ukulungiselela nawuphi na umntu okanye uluntu olusekuhlaleni;
- (f) ukuphepha, okanye ukuciutha nokulungisa uphazamiseko lothungelwano lwendalo nelahleko yeyantlukwano yendalo; kunye
- (g) nokuqinisekisa ukuba kusetyenziswa iinkqubo eziphepha imingcipheko nezisetyenziswa ngobulumko ze apho kukho ubungqina obunganelanga kuphetshwe ukwenziwa komsebenzi onokuba nesiphumo esibi sexesha elide.

ISAHLUKO 3 ULAWULO

Imisebenzi yoMphathiswa wePhondo

7. (1) UMphathiswa kufuneka—
- (a) abeke iliso kwiNtloko yeSebe, iCapeNature, kwiiBhodi xa besenza umsebenzi wabo;
 - (b) ukuphuhlisa nokuzalisekisa umgaqonkqubo kunye nemiba enxulumene noku;
 - (c) amane eqwalasela unikezogunya, uhlaziyo okanye enike izimvo zakhe ngomthetho okanye ngesicwangciso somgaqonkqubo, makuqinisekise ukuba eso sicwangciso sihambelana neSicwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana; yaye
 - (d) emana ehlola ukusebenza ngempumelelo komiselo nonyanzeliso lwalo Mthetho.
- (2) UMphathiswa angathi—
- (a) enze eminye imithethwana njengoko kuchaziwe kulo Mthetho;
 - (b) amisele amashishini orhulumente wephondo njengoko kuchaziwe kuMthethi woLawulo lweMali yoLuntu iPublic Financial Management Act ukuphumeza iinjongo zalo Mthetho;
 - (c) akhuphe imiyalelo kwiBhodi ukuqinisekisa ukuba isebenza ngempumelelo ekwenzeni umsebenzi wayo;
 - (d) atyumbe ibhodi yophando ukuqwalasela ukuziphatha kwamalungu eBhodi okanye iBhodi ze athathe amanyathelo afanelekileyo njengoko kuxeliwe kwicandelo 21(2) okanye 32(1)(a) ngokulandelelana; kunye
 - (e) azimase iintlanganiso zeBhodi; kwaye
 - (f) Enze nayiphi eminye imisebenzi enikwe nguMphathiswa wePhondo ngulo okanye phantsi kwalo Mthetho.

Imisebenzi yeNtloko yeSebe

8. INtloko yeSebe kufuneka ithobele icandelo 7(1)(a) no-(b)—
- (a) icebise uMphathiswa, xa kufuneka nasemva kokucebisana neCapeNature, ngemiba yomthetho, imigaqo, imigaqonkqubo yephondo, kwiintlobontlobo zezityalo nezilwanyana, nezolawulo lwamanxweme namachweba;
 - (b) emva kokucebisana neCapeNature, aququzelele izicwangciso neenkqubo zephondo njengoko zivunyiwe nguMphathiswa ukwenzela ulondolozo lwendalo, iintlobontlobo zezityalo nezilwanyana, nezolawulo lwamanxweme namachweba, nophakamiso nophuhliso loqoqosho lweentlobontlobo zezityalo nezilwanyana;
 - (c) ukusebenzisa Amandla wegosa lobalomali elijongene nokudluliselwa kwemali kwiCapeNature namanye amaqumrhu ngokwePublic Finance Management Act, ukwenzela ukuzalisekiswa kwalo Mthetho;

- (d) Ukusungulwa kwenkqubo ukwenzela—
- (i) ulungelelaniso lwezicwangciso zonyaka nezeqhinga kunye nohlahlomali lweenkqubo ezihambelana nazo ukwenzela ulondolozwa kwendalo, iintlobontlobo zezityalo nezilwanyana, nezolawulo lwamanxweme namachweba, nophakamiso nophuhliso loqoqosho kwiPhondo; kunye
 - (ii) nokubek' iliso kunye nokunik' ingxelo ekusebenzeni kokusetyenziswa kwenkxasomali edluliselwayo njengoko kuchaziwe kumhlathi (c) nanjengoko kucwangciswe ngokuhambelana nomhlathi (i);
- (e) ukuqwalasela nokunika uluvo kwizicwangciso zemigaqonkqubo eyenziwe kulandelwa lo Mthetho;
- (f) xa iNtloko yeSebe ilungiselela, iphonononga okanye inika uluvo ngomthetho okanye umgaqonkqubo, makaqinisekise ukuba eso sicwangciso sihambelana nesomhlaba wentlobontlobo zezityalo nezilwanyana;
- (g) ukuxhasa iCapeNature ekumiseleni iSicwangciso sonatyiso lweMimandla eKhuselweyo yePhondo; kunye
- (h) nokwenza izindululo kuMphathiswa ngendlela yokuphucula umiselo nonyanzeliso lwalo Mthetho.

ISAHLUKO 4 I-CAPENATURE

Isahlulo 1 Umiselo nemisebenzi yeCapeNature

Umiselo

9. IBhodi yoLondolozo lweNdalo yeNtshona Koloni emiselwe nguMthetho weBhodi yoLondolozo lwendalo yeNtshona Koloni iyaqhubeka ikhona njengeziko likarhulumente elijongene nolondolozo lweentlobo-ntlobo zezityalo nezilwanyana, yaye ibizwa ngokuba yiCapeNature.

Imisebenzi yeCapeNature

10. (1) Kulondolozo lweentlobontlobo zezityalo nezilwanyana yaye kulandelwa icandelo 7(1)(a), iCapeNature kufuneka—

- (a) icebise uMphathiswa wePhondo ukuba amisele, alawule ze anabise iQhinga leMimandla eKhuselweyo yePhondo ngokweSicwangciso sonatyiso lweMimandla eKhuselweyo yePhondo;
- (b) ukulawula iindawo zephondo ezikhuselweyo nezinye iindawo ezaziwa njengezesigqeba solawulo;
- (c) ukuphakamisa nokulungiselela inkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana;
- (d) ukumenteyina irejista yephondo yendalo ekhuselweyo njengoko kuxeliwe kwicandelo 10 leProtected Areas Act;
- (e) ukwenza izindululo okanye ukunika uluvo uMphathiswa ngezimvo okanye izichaso ezibhaliweyo ezifunyenwe ngokwecandelo 33 leProtected Areas Act ngesibhengezo okanye ngorhoxiso lwesibhengezo sommandla okhuselweyo;
- (f) isebenzisana neNtloko yeSebe, icebise uMphathiswa—

- (i) ngomthetho, imigaqo nemigaqonkqubo emayenziwe nguMphathiswa ngemiba yeentlobontlobo zezityalo nezilwanyana; kunye
 - (ii) nokusebenzisa amagunya woMphathiswa wePhondo ngokwecandelo 7(1)(b), (c) and (d);
 - (g) ukumisela inkqubo yokubeka iliso nokunika ingxelo—
 - (i) ngemo yeentlobontlobo zezityalo nezilwanyana kwiPhondo;
 - (ii) ngemo yohlobo lwesidalwa esingeneleleyo;
 - (iii) ukusetyenziswa ixesha elide kwemithombo yendalo yemveli;
 - (iv) ngolawulo lwemimandla ekhuselweyo nenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana; kunye
 - (v) nokubeka iliso kuthotyelo logunyaziso lwalo Mthetho,
 - (vi) ukuze—
 - (aa) kubonwe kwangethuba yaye kunqandwe izinto ezinokudala iziphumo ezibi; kunye
 - (bb) nokuququzelela uvavanyo lokusebenza ngempumelelo kwalo Mthetho;
 - (h) ukwenza izindululo kuMphathiswa ngemimandla emayibandakanywe njengemimandla ekhuselweyo, imimandla yenkqubo yolondolozo lweentlobo-ntlobo zezityalo nezilwanyana, iiWorld Heritage Sites okanye amathala endalo ezidalwa ezizodwa ekwenziwa uphando ngazo;
 - (i) xa kuyimfuneko, isebenzisana neNtloko yeSebe, ilungisa izicwangciso zolawulo lweentlobontlobo zezityalo nezilwanyana njengoko kuxeliwe kwicandelo 43 loMthetho iBiodiversity Act okanye izidingo zolawulo njengoko kuxelwe kumacandelo 48, 49 no-50;
 - (j) ukunika iingcebiso kubanini bomhlaba ngokuphucula iintlobontlobo zezityalo nezilwanyana okanye ngolondolozo lokusingqongileyo kuloo mhlaba okanye ngendlela yokulawula intsebenziswano phakathi koluntu nemithombo yendalo yemveli;
 - (k) ukucebisa uMphathiswa ngothumelo kwamanye amazwe kwemithombo yendalo yemveli yePhondo ukuze kwenziwe uphando;
 - (l) nokwenza izindululo kuMphathiswa ngemiba edinga uphando;
 - (m) anike ingxelo kuMphathiswa wePhondo ngemo yeentlobontlobo zezityalo nezilwanyana kwiPhondo kwiminyaka emibini yalo Mthetho oza kusebenza ixesha elingadlulanga kwiminyaka emihlanu, njengoko kufunwa nguMphathiswa wePhondo; kunye nolawulo olwenziwa yiCapeNature, ulawulo, ulondolozo nokuphakanyiswa kwezibonelelo zelifa lemveli zenkcubeko kulandelwa iinkqubo ezisebenzayo, ufikeleleko nolwabiwo lweenzuzo kunye nezinto ezenziwayo ezihlala ixesha elide.
- (2) ICapeNature kufuneka ilawule uphuhliso nophakamiso lwemisebenzi yokhenketho oluvelisa imali nezibonelelo ezisemhlabeni ezilawulwa yiCapeNature.
- (3) ICapeNature kufuneka yenze uphando, ibeke iliso ze iqeqeshe uluntu ukuba lulondolozo iintlobontlobo zezityalo nezilwanyana.
- (4) CapeNature kufuneka iphakamise—
- (a) ulondolozo olwenziwa luluntu;
 - (b) ulondolozo kunye nodala lwemisebenzi evela kukhenketho oluvelisa imali, amathuba ophuhliso loqoqosho noqoqosho lweentlobontlobo zezityalo nezilwanyana;
 - (c) ufikelelo kwimimandla ekhuselweyo ukulungiselela ulonwabo, ukufunsa, ukuphanda, inkcubeko, inkolo nesintu; kunye
 - (d) nokwazisa uluntu ngokusingqongileyo, imfundo nophuhliso lolutsha.

Amagunya eCapeNature

11. (1) ICapeNature ingazenzela ingeniso yemali ngokwenza ezi zinto, kodwa ingenza nezinye—

- (a) Iimali zamangeno, izivumelwano zogunyaziso, nangokurentisa;
- (b) Ngezibonelelo zokhenketho zendalo, iziganeko neenkonzoz;
- (c) Imisebenzi yoqoqosho yeentlobontlobo zezityalo;
- (d) Ukumenteyinwa kweenkonzo zothungelwano lwendalo;
- (e) Imirhumo yamalungelo okusetyenziswa kwezinto zayo; kunye
- (f) nolondolozo nezinye iinkonzoz,

(2) ICapeNature ingathi ngeenjongo zokwenza umsebenzi wayo kunye nokuphumeza imisebenzi yalo Mthetho—

- (a) iqeshe abasebenzi bayo;
- (b) ingene kwisivumelwano naye nawuphi na umntu;
- (c) iqeshe, inikezele, iqashise, ngelungelo okanye ngepropati ehambisekayo;
- (d) yenze uphando, okanye ifune izimvo zoluntu;
- (e) ithethane yaye isebenzisana namaziko emfundo malunga noqeqesho loluntu ngamakhono akulondolozo lwendalo;
- (f) ibonise okanye ihambise ulwazoi olumalunga nolondolozo olunokuncedisa ekuphumezeni iinjongo zalo Mthetho;
- (g) imakethe ze yazise ngeenjongo, izinto ezenziwayo, iinkonzoz nezibonelelo;
- (h) ithathe amanyathelo adingekayo olondolozo lweentlobo-ntlobo zezityalo nezilwanyana okanye olawulo lweziphumo ezibi ezinokuvela;
- (i) ihlole ze iphande ukungathobeli namatyala ngokwalo Mthetho;
- (j) ithathe amanyathelo adingekayo okhuseleko lweendwendwe nolondolozo lwendalo elawulwa yiyo;
- (k) ukumenteyina okanye ukwakha izibonelelo, okanye izinto ezidingekayo kwimimandla ephantsi kwayo;
- (l) ivumele izinto ezingenisa imali neziyunguma zoluntu ukuba ziqhutywe kwimimandla elawulwa yiyo ukuba ezo ziganeko azichaphazeli kakubi naluphi uhlobo lwesidalwa esikulo mmandla, okanye asichaphazeli indalo ekuloo mmandla;
- (m) ukwakha, ukwakha kwakhona, ukumenteyina nakuwuphi na umhlaba okanye nawuphi umzila wamanzi njengeebhikhoni, izinto zokudada, iibhodi zezaziso, iimpawu okanye ezinye iimpawu ezidingekayo ukumisela nawuphi umqathango walo Mthetho;
- (n) ingamisela iikomiti zeengcebiso ukuncedisa nokuzalisekisa imisebenzi yayo ngokwalo Mthetho;
- (o) ingavula ze isebenzise iakhawunti yayo yebhanki;
- (p) ityale iimali, kulandelwa icandelo 29;
- (q) ingavula i-inshorensi yokunced xa kukho ilahleko, umonakalo okanye ingozi;
- (r) yenze umsebenzi womthetho ohambelana namagunya ayo kunye nemisebenzi yayo isebenzisana nomnye umntu okanye elinye iziko likarhulumente;
- (s) ingaqala okanye ilwe umangalelo.

(3) Ukuba iCapeNature yanelisekile ngendlela efanelekileyo nefunekayo ukuze ikwazi ukuthatha amanyathelo malunga nolondolozo lweentlobontlobo zezityalo nezilwanyana, igosa okanye umntu ochongwe yiCapeNature angathi angene kumhlaba womntu wabucala—

- (a) ukuba umninihlaba uyavuma ukuba angene; okanye
- (b) ngexesha likaxakeka xa kukho ingozi echaphazela ubomi babantu okanye iintlobontlobo zezityalo nezilwanyana.

(4) Ukuba iCapeNature nanini na ibona kuyimfuneko, ingenza umsebenzi ongenziwayo, isebenzisa iinkqubo ezinemiqathango omalunga naluphi na uhlobo lwesidalwa phantsi kwalo Mthetho ukuba icuntsu elithathwe kwisidalwa esithile—

- (a) lidala ubungozi bomenzakalo okanye ukufa kwabantu okanye kohlobo lwesidalwa esiqhelisiweyo;
- (b) ukuba eso sidalwa senzakele okanye sinesifo;
- (c) simosha izityalo kumhlaba olinyiweyo okanye kwenye ipropati;
- (d) linganesiphumo esibi kwisidalwa semveli, uthungelwano lwendalo okanye okusingqongileyo; okanye
- (e) eso sidalwa kufuneka sibanjwe okanye sibulawe ngenxa yolondolozo.

(5) ICapeNature ingathi, apho uhlobo lwesidalwa isisilwanyana sasendle yaye asimazi umnini waso, isibulale nasiphi isilwanyana sasendle esibanjiweyo okanye esiye senzakala xa bekuzingelwa, okanye itshabalalise isidumbu saso.

(6) Phambi kokusebenzisa amagunya ngokwemiqathango yeli candelo, iCapeNature kufuneka, ngaphandle kwakwiimeko ezixelwe kwicandelwana (4)—

- (a) Ibonisane nomnini wawo nawuphi na umhlaba iCapeNature efuna ukusebenzisa amagunya ayo kuwo; yaye
- (b) Kufuneka inike isaziso sexesha elamkelekileyo kumnini esixela ngexesha, indawo nendlela iCapeNature eza kusebenzisa ngayo amagunya ayo.

Isahlulo 2

Amalungu kunye nobulungu kwiBhodi

Imisbenzi yeBhodi

12. (1) IBhodi ngugunyaziwe wonikongxelo weCapeNature yaye kufuneka ithobele iimfuno zePublic Finance Management Act.

(2) IBhodi kufuneka—

- (a) igcine ulawulo olululo lweCapeNature;
- (b) iqinisekise ukuba iCapeNature yenza imisebenzi yayo ngokuko;
- (c) ijonge uthobelo lwemigaqonkqubo nezicwangciso zeCapeNature;
- (d) inikeze isikhokelo esicwangcisiweyo kwiCapeNature;
- (e) yenze iTshata yeBhodi echaza ngeNdlela yokuZiphatha kwaMalungu eBhodi, iinkqubo zeentlanganiso nokugqiba ngemiba yolawulo lweziko;
- (f) ukuchonga nokubeka iliso kwimingcipheko nentsebenzo yeCapeNature; kunye
- (g) ilungiselele izibonelele ezaneleyo zokuba iCapeNature yenze imisebenzi yayo.

(3) IBhodi kufuneka isebenzise amagunya ayo ze yenze imisebenzi yayo ngokwemigangatho yokusebenza nemiyalelo ekhutshwe nguMphathiswa.

Okwenza iBhodi

13. (1) IBhodi yenziwa—

- (a) ngamalungu asixhenxe ubuncinane kwaye angagqithanga kumalungu asithoba esigqeba, atyunjwa ngokwecandelo 15; kunye
- (b) namalungu eqoqo lolawulo—

- (i) igosa leSebe, eligunyaziswe nguMphathiswa wePhondo; kunye
 - (ii) neGosa eliyiNtloko leSigqeba soLawulo.
- (2) UMphathiswa wePhondo—
- (a) umele afumanise inani lamalungu ekumele atyunjwe ngokwecandelwana (1)(a); kwaye
 - (b) unokulilungelelanisa inani elifunyaniswe ngokomhlathi (a), kodwa angalinciphisa kuphela inani xa kukho isithuba kwiBhodi.
- (3) Ngamalungu angekho kwisigqeba kuphela anokuvota ngokwecandelo 25.

Izinto ezifunwa kwiLungu leBhodi

- 14.** Umntu akanakutyunjelwa kwiBhodi ukuba—
- (a) lilungu lePalamente yesizwe, eyephondo okanye lebhunga likamasipala;
 - (b) ungumsebenzi wakwaCapeNature okanye ngokwePublic Service Act, 1994 (Umpoposho 103 ka-1994) ngaphandle kokuba utyunjwe ngokwecandelo 12(1)(b) laloo Mthetho;
 - (c) umntu okhe wabanjwa wagwetyelwa ityala;
 - (d) wakhe wabhengezwa njengontyumpantyumpeka ematyaleni; okanye
 - (e) ukhe wabhengezwa njengochaphazeleke engqondweni yinkundla yomthetho.

Ukutyunjelwa kwiBhodi

15. (1) UMphathiswa wePhondo kufuneka atyumbe amalungu angekho kwisigqeba seBhodi achazwe kwicandelo 13(1)(a).

(2) Xa uMphathiswa etyumba ilungu elingekho kwisigqeba solawulo lweBhodi, uMphathiswa kufuneka—

- (a) athi esebenzisa isaziso kwiGazethi yePhondo nakumajelo eendaba, ngeelwimi ezisemthethweni zePhondo, acele uluntu ukuba lutyumbe abantu abafanelekileyo; yaye
- (b) aqwalasele onke amagama atyunjiweyo afunyenweyo yaye emva kokubonisana neNtloko yeSebe neGosa eliyiNtloko yeSigqeba soLawulo, atyumbe inani elifunekayo lamalungu eBhodi ngokwecandelo 12(1)(a).

(3) Xa etyumbela abantu kwiBhodi njengoko kuxelwe kwicandelwana (1)(b), uMphathiswa kufuneka—

- (a) atyumbe umntu owufaneleyo lo msebenzi;
- (b) atyumbe umntu who has onezifundo, ulwazi namava abekwe nguMphathiswa; yaye
- (c) ajonge ukuba abanu abatyunjiweyo—
 - (i) bamele iintlobo zoluntu ezikhoyo kwiPhondo; yaye
 - (ii) kwimibutho yoluntu efanelekileyo ekwiPhondo.

(4) Akukho sigqibo sithathwe yiBhodi okanye intshukumo yeBhodi engasayi kwamkeleka kuba kukho isithuba esikhoyo kwiBhodi okanye kuba umntu kuye kwahlala kwiBhodi umntu ebengafanelanga kuhlala njengelungu leBhodi xa bekuthathwa isigqibo okanye kugunyaziswa intshukumo, ukuba isigqibo okanye intshukumo igunyaziswe ngamalungu angephezu kwehafu yamalungu eBhodi ebekhona ngamalungu eBhodi.

USihlalo weBhodi

- 16.** (1) UMphathiswa, emva kokubonisana namalungu eBhodi—

- (a) kufuneka atyumbe okanye aphinde atyumbe ilungu elinye elingelolungu lesigqeba esilawulayo kwiBhodi njengoSihlalo nelungu elinye elingelolungu lesigqeba esilawulayo kwiBhodi njengosekela-Sihlalo;
- (b) angathi xa kukho isizathu esivakalayo, arhoxise utyumbo oluxelwe kumhlathi (a).
- (2) USihlalo noSekela-Sihlalo batyunjelwa isithuba esigqitywe nguMphathiswa esingenokuba ngaphezulu kwexesha umntu alilungu ngalo esixelwe kwicandelo 17.
- (3) UMphathiswa angathi atyumbe ilungu leBhodi njengoSihlalo weBhodi oBambeleyo ukuba—
 - (a) ukutyunjwa koSihlalo noSekela Sihlalo akukenziwa;
 - (b) uSihlalo noSekela-Sihlalo abekho kwiintlanganiso zeBhodi ezimbini nangaphezulu ezilandelelanayo; okanye
 - (c) uMphathiswa ukurhoxisile ukutyunjwa koSihlalo noSekela Sihlalo njengoko kuxeliwe kwicandelwana (1)(b) okanye icandelo 21 yaye akakatyumbi omnye uSihlalo noSekela-Sihlalo.

Ixesha elisetyenzwa lilungu elingekho kwisigqeba seBhodi

- 17. (1) Ilungu elingekho kwisigqeba solawulo lweBhodi—
 - (a) kulandelwa icandelo 22(2), lityunjelwa isithuba seminyaka emithathu;
 - (b) ukuphela kwexesha elixelwe kumhlathi (a), lingaphinde lityunjwe nguMphathiswa, emva kokubonisana neNtloko yeSebe neGosa eliyiNtloko yeSigqeba soLawulo, lisebenze esinye isithuba esinye seminyaka emithathu;
- (2) UMphathiswa wePhondo angalandisa ixesha lokuqeshwa kwelungu elingekho kwisigqeba elichazwe kwicandelwana (1)(a) okanye (b) kangangexesha elingadluliyo kunyaka.

Imiqathango yotyumbo neyentlawulo

- 18. (1) UMphathiswa kufuneka agqibe ngemiqathango yokutyunjwa kwamalungu angengomalungu esigqeba esilawulayo ukuba abe ngamalungu eBhodi, kubandkanywa intalwulo yayo nezibonelelo zawo ngokugqitywa licandelo likaNondyebo weSizwe kulandelwa iPublic Finance Management Act.
- (2) ICapeNature inoxanduva lokuhlawula imali nezibonelelo zamalungu eBhodi angengomalungu esigqeba solawulo.

Ukuziphatha kwamalungu

- 19. (1) Ilungu leBhodi—
 - (a) kufuneka kufuneka lenze imisebenzi yalo ngokuthembeka nangokungoyiki, ngokungenamkhethe nangokungacaluliyo;
 - (b) kufuneka lithobele iMigaqo yokuZiphatha exelwe ku-12(2)(e);
 - (c) kufuneka lichaze kwiBhodi ngeemali okanye ngamashishini elinawo, okanye angawomlingane walo, ilungu losapho yaye kufuneka lingabi yinxalenye yeengxoxo zeBhodi xa kuqwalaselwa loo mba;
 - (d) alinakusebenzisa ulwazi olufihliweyo elilufumene njengelungu leBhodi okanye ngenxa yesikhundla salo nalungelo alo njengelungu leBhodi ukuze lifumana inzuzo yalo okanye ukuzuzisa omnye umntu; yaye
 - (e) alinakuziphatha nangayiphi enye indlela echaphazela isidima seBhodi, edala umkhethe nechaphazela inkululeko nentlonipheko yeCapeNature okanyeyeiBhodi.
- (2) Ilungu leBhodi elaphula okanye elingathobeli icandelwana (1) linetyala lokuziphatha kakubi.

Ukupheliswa kobulungu

20. Ilungu elingekho kwisigqeba solawulo elixelwe kwicandelo 12(1)(a) liyayeka ukuba lilungu leBhodi ukuba—

- (a) ixesha elisetyenzwa lilungu elingekho kwisigqeba solawulo liphelile; okanye
- (b) ilungu elingekho kwisigqeba solawulo—
 - (i) alisafanelanga ukuba lilungu ngokwecandelo 14(a) ukuya ku-(e);
 - (ii) lingenisa ileta yokuyeka kwiinyanga ezintathu phambi kokuba libeke phantsi iintambo, ngaphandle kokuba uMphathiswa uvumela isithuba esifutshane kwimeko ethile;
 - (iii) liyasuswa kwisikhundla ngokwecandelo 0.

Ukususwa nokumiswa

21. (1) UMphathiswa angalisusa ilungu leBhodi kwisikhundla phantsi kwaso nasiphi isizathu kwezi—

- (a) yokuziphatha kakubi, nokungakwazi ukusebenza; okanye
- (b) ilungu elingekhoyo kwiintlanganiso ezimbini ezilandelelanayo zeBhodi lingafumenanga mvume kuSihlalo, ngaphandle kokuba kunikwa izizathu ezivakalayo zokungafumani mvume phambi kokungabikho.
- (c) alikwazi ukuwahlawula amatyala walo; okanye
- (d) lagwetyelwa ulwaphulomthetho oluquka ukunganyaniseki.

(2) UMphathiswa—

- (a) kufuneka alisuse ilungu leBhodi kwisikhundla njengoko kuxeliwe kwicandelwana (1)(a) emva kweziphumo ezifunyaniswe yibhodi yophando etyunjwe nguMphathiswa njengoko kuxeliwe kwicandelo 7(2)(d); yaye
- (b) angalimisa ilungu leBhodi eliphandwayo njengoko kuxeliwe kumhlathi (a).

Ukuzaliswa kwezithuba

22. (1) Isithuba kwiBhodi siyazaliswa—

- (a) kwimeko kaSihlalo okanye kaSekela Sihlalo, ngokutyunjwa kwelinye ilungu leBhodi njengoSihlalo okanye uSekela Sihlalo, ngokwemeko leyo, njengoko kuxeliwe kwicandelo 16(1); yaye
- (b) kwimeko yelungu leBhodi elingekho kwisigqeba solawulo, ngokulandela iinkqubo exelwe kwicandelo 0.

(2) Umntu otyunjelwe ukuzalisa isithuba uba kweso sithuba egqibezela inxalenye ebingekapheli yesithuba ebesibanjwe ngobelilungu.

Isahlulo 3

Iinkqubo zokusebenza zeBhodi

Iintlanganiso

23. (1) IBhodi kufuneka ubuncinane ihlangane kane kunyakamali ngamnye weCapeNature yaye uSihlalo okanye uninzi lwamalungu lungacela ukubamba intlanganiso ekhethekileyo yokuxoxa umba othile.

(2) USihlalo kufuneka abize ze ahlalele iintlanganiso zeBhodi, kodwa ukuba akakho kwintlanganiso, uSekela Sihlalo kufuneka ibe nguye ohlalela intlanganiso.

(3) Ukuba bobabini uSihlalo noSekela-Sihlalo abekho entlanganisweni, uninzi lwamalungu akhoyo kufuneka akhethe elinye ilungu ukuba lichophele intlanganiso, kulandelwa icandelo 16(3).

Iinkqubo

24. (1) IBhodi kufuneka igqibe ngeenkqubo zayo zokuqhuba iintlanganiso kulandelwa icandelo 12(2)(f).

(2) IBhodi kufuneka iirekhodi zentlanganiso nezezigqibo ezithathwe kwiintlanganiso.

(3) IBhodi ingamema nawuphi umntu okanye abantu ukuba bazimase nayiphi intlanganiso yeBhodi.

Ikhoram nezigqibo

25. (1) Uninzi lwamalungu eBhodi angamalungu ngelo xesha enza ikhoram yentlanganiso yeBhodi.

(2) Umba oxoxwa yiBhodi ugqitywa ngeevoti zoninzi lwamalungu avotayo akhoyo kuloo ntlanganiso.

(3) Ukuba kumba oxoxwa yiBhodi iivoti ziyalingana, ilungu elinguSihlalo walo ntlanganiso kufuneka ibe lilo elinikeza enye ivoti yokunika isigqibo ngaphezu kokuba besele livotile njengelungu.

Iikomiti

26. (1) IBhodi ingasungula iikomiti, kuquka nekomiti yophicothozincwadi, ukuba incedise ekusebenzeni kwayo, yenziwe kokunye okanye ngaphazulu koku kulandelayo:

(a) ngamalungu eBhodi;

(b) ngabasebenzi beCapeNature

(c) ngabantu iBhodi ecinga ukuba banamava nezakhono ezifanelekileyo.

(2) IBhodi-

(a) kufuneka ichaze imisebenzi yekomiti nganye emiselwe ngokwecandelo (1);

(b) kufuneka ityambe usihlalo wekomiti namalungu ekomiti nganye;

(c) ingasusa ilungu layo nayiphi na ikomiti nanini na; yaye

(d) kufuneka igqibe ngeenkqubo zekomiti nganye.

(3) Iikomiti zenza kuphela izindululo emazankelwe yiBhodi.

(4) IBhodi ingayichitha nanini na ikomiti, ngaphandle kwekomiti yophicothozincwadi.

(4) Kusebenza icandelo 18 nezinto ezitshintshweyo kulo kutumbo lwamalungu ekomiti.

Isahlulo 4 Ulawulo lweCapeNature

Ukuqeshwa kweGosa eliyiNtloko yeSigqeba soLawulo

27. (1) IBhodi, isebenzisana noMphathiswa, kufuneka iqeshe umntu onezifundo ezifanelekileyo namava afanelekileyo njengeGosa eliyiNtloko yeSigqeba soLawulo leCapeNature.

(2) IGosa eliyiNtloko yeSigqeba soLawulo—

(a) liqeshwa isithuba seminyaka emihlanu; yaye

(b) linokuphiinda lhlaziyelwe ingqesho yiBhodi eminye iminyaka emihlanu.

(3) IGosa eliyiNtloko yeSigqeba soLawulo liqeshwa ngokwemiqathango yengqesho ebekwe yiBhodi emva kokuvumelana noMphathiswa.

(4) IGosa eliyiNtloko yeSigqeba soLawulo linoxanduva lolawulo lweziko nolwezimali zeCapeNature yaye kufuneka—

- (a) lancedise iBhodi ukuphumeza imisebenzi yayo njengogunyaziwe onika inkcaza weCapeNature nokuthobela iPublic Finance Management Act ngokuqinisekisa ukuba kukho iinkqubo zokubonelela ngeenkukacha neengxelo ezifunwa yiBhodi;
- (b) enze lo misebenzi yaye asebenzise loo magunya awanikwe yiBhodi;
- (c) anike ingxelo kwiBhodi ngemiba yolawulo, ukwenziwa kwemisebenzi nokusetyenziswa kwamagunya ngohlobo nangendlela iBhodi egqibe ngayo;
- (d) ukulungisa iidrafti zezicwangciso, zeenkcazelo neengxelo ezixelwe kwicandelo 28;
- (e) aqeshe iGosa leZimali eliyiNtloko elinezifundo zokwenza oko;
- (f) aqeshe abasebenzi, ejonga imali ekhoyo ebekwe yiBhodi nangokomgaqonkqubo wengqesho weCapeNature;
- (g) aphaathe abasebenzi ze akhokele imiba yeCapeNature ukuze kuphunyezwe iinjongo zoMthetho;
- (h) aqinisekise ukuba iCapeNature ithobela imiqathango yalo Mthetho, iPublic Finance Management Act kunye nawuphi omnye umthetho ofanelekileyo; kwaye.
- (i) ngokuthe gabalala, imicimbi engqalileyo yeCapeNature ukuze kuphunyelelwe iinjongo zalo Mthetho.

(5) IBhodi, isebenza ngokuhambelana nokufunwa nguMphathiswa wePhondo, ingatyumba umsebenzi weCapeNature njengeGosa eliyiNtloko yeSigqeba soLawulo kangangexesha elingadluliyo kwiinyanga ezintandathu ngexesha apho-

- (a) IGosa eliyiNtloko yeSigqeba soLawulo lingekhoyo ngenxa yaso nasiphi isizathu ukuba lenze umsebenzi walo; okanye
 - (b) kukho isithuba kwiofisi yeGosa eliyiNtloko yeSigqeba soLawulo.
- (6) IGosa eliyiNtloko yeSigqeba soLawulo eliBambeleyo—
- (a) linamagunya nemisebenzi yeGosa eliyiNtloko yeSigqeba soLawulo; yaye
 - (b) kufuneka liqeshwe ngokwemiqathango exelwe kwicandelwana (3).

Isahlulo 5 ***Imiba yezimali***

Unikezonkcaza nonikezongxelo ngeemali

28. IBhodi kufuneka iqinisekise ukuba kulungiswe izicwangciso neengxelo zonyaka, iibhajethi, iingxelo zonyaka neengxelo zemali eziphicothiweyo, ezamkelwe zaze zangeniswa ngokwePublic Finance Management Act.

Iimali

29. (1) Iimali zeCapeNature zingabandakanya—

- (a) ingeniso esuka ekwenzeni imisebenzi yayo;
- (b) iimali eyabiwe yiPalamente yePhondo;
- (c) iigranti neemali ezifunyenwe kumaziko karhulumente;
- (d) iimali ezivela kubantu nakwiinkampani, kubandakanywa nemibutho engekho phantsi korhulumente;
- (e) ingeniso esuka kutyalo-mali;

- (f) imidliwo efunyenweyo okanye ethathwe kumatyala enziwe phantsi kwalo Mthetho; kunye
- (g) ngemvume yoMphathiswa, nyiphi imali efunyenwe kweminye imithombo.

(2) ICapeNature kufuneka isebenzise iimali zayo ukwenza imisebenzi nokusebenzisa amagunya ayo njengoko kuxeliwe kumacandelo 10 no-11 okubandakanya kodwa okungaphelelanga kwintlawulo, inkxasomali neendleko zokuhambazamalungu eBhodi, zeGosa eliyiNtloko yeSigqeba soLawulo; kunyenabasebenzi beCapeNature.

(3) IGosa eliyiNtloko yeSigqeba soLawulo kufuneka liqinisekise ukuba yonke inkxasomali efunyenweyo ngokwecandelwano (1) idipozithwe kwiakhawunti yebhanki zeCapeNature.

Iimali ezibekiweyo

30. (1) IBhodi ingagcina, ngokuxhomekeke kwiPublic Finance Management Act, iimali koovimba kwiimali ezifunyenwe ngokwecandelo 29(1) ukuze yenze imisebenzi yayo.

(2) Nayiphi imali efakwe okanye ekhutshwe kwaba vimba beemali kufuneka ivunywe yiBhodi.

Utyalomali

31. IBhodi ingatyala naziphi iimali zeCapeNature ezingazi kusetyenziswa ngokukhawuleza ilandela umgaqonkqubo wotyalomali obekiweyo ngokwecandelo 7(4) lePublic Finance Management Act.

Isahlulo 6

Ukuchithwa kweBhodi okanye CapeNature

Ukuchithwa kweBhodi

32. (1) Ukuba uMphathiswa unezizathu ezivakalayo ezixhasa umbono wokuba iBhodi ayiwenzi umsebenzi wayo ngokwecandelo 12, uMphathiswa angakhupha umyalelo elandela imiqathango yecandelo 7(2)(c).

(2) Ukuba uMphathiswa akanelisekanga ukuba iBhodi iwuthobele umyalelo oxelwe kwicandelwana (1) uMphathiswa angayichitha iBhodi ngokukhupha isaziso *kwiGazethi yePhondo*.

(3) UMphathiswa angenza imisebenzi yeBhodi ukususela ngomhla wopapasho lwesaziso esixelwe kwicandelwana (2) de kutyunjwe iBhodi entsha exelwe kwicandelwana (4).

(4) UMphathiswa kufuneka ngexesha elamkelekileyo emva kokuchithwa atyumbe amalungu kwiBhodi njengoko kuxeliwe kwicandelo 15.

Ukuchithwa kweCapeNature

33. (1) ICapeNature ayinakuvalwa okanye ichithwe ngaphandle kokuba oko kwenziwe ngoMthetho wePalamente yePhondo.

(2) Emva kokuchithwa kwayo, iCapeNature kufuneka idlulisele zonke iiasethi zayo ezishiyekileyo kwiSebe okanye kwelinye iziko likarhulumente elixelwe kwiPublic Finance Management Act ngohlobo oluxelwe nguMphathiswa.

ISAHLUKO 5
UKWENZA IZICWANGCISO NOKUBEKA ILISO KWIINTLOBONTLOBO
ZEZITYALO NEZILWANYANA

Izicwangciso zeentlobontlobo zezityalo nezilwanyana nezicwangciso zemihlaba yeentlobontlobo zezityalo nezilwanyana

34. (1) ICapeNature, emva kokucebisana nentloko yeSebe, kufuneka ilungise uqulunqo lweSicwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana esiseluyilo kungaphelanga unyaka uqalile lo Mthetho ize ilungenise kuMphathiswa ukuze alwamkele.

(2) Phambi kokwamkela iSicwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana, uMphathiswa kufuneka—

- (a) athi ngelwimi ezisemthethweni zePhondo, apapashe isalathiso esikhomba kwiSicwangciso soMhlaba weentlobo-ntlobo zezityalo nezilwanyana ukuze uluntu lukwazi ukufikelela kuso—
 - (i) ngesaziso kwiGazethi yePhondo; kunye
 - (ii) n akumaphephandaba amabini afundwa kwiPhondo yaye elinye lawo kufuneka ibe liphephandaba eliprintiweyo;
- (b) enze iSicwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana esiseluyilo sifumaneke kuluntu ngendlela elula kwindawo echazwe kumhlathi (a); yaye
- (c) ivumele isithuba seentsuku ezingama-60 ukususela kumhla wopapasho lwesaziso kwiGazethi yePhondo.

(3) UMphathiswa wePhondo kufuneka—

- (a) athathele ingqalelo izimvo ezingenileyo ze;
- (b) kwiintsuku ezingama-90 zokuphelelwa kwexesha lezimvo elichazwe kwicandelwana (2)(c), amkele iSicwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana sokugqibela, asipapashe ngokukhupha isaziso kwiGazethi yePhondo.

Injongo yesicwangciso somhlaba seentlobontlobo zezityalo nezilwanyana

35. Injongo yesicwangciso somhlaba seentlobontlobo zezityalo nezilwanyana kukwenza oku—

- (a) kukubeka iithagethi zenkqubo yolondolozo lweentlobo-ntlobo zezityalo nezilwanyana;
- (b) ukuchonga ummandla okanye imimandla engundoqo yezintlu zeentlobontlobo zezityalo nezilwanyana priority areas eza kuqinisekisa zihlala zikhona yaye zisebenza iintlobontlobo zezityalo nezilwanyana nothungelwano lwendalo, kubandakanywa nokuhanjiswa kweenkonzo zothungelwano lwendalo;
- (c) ukubonelela ngezikhokelo ezibeka injongo zolawulo ezifunwayo zosetyenziso lomhlaba nolwezibonelelo kuluhlu ngalunye lommandla weentlobontlobo zezityalo nezilwanyana;
- (d) ukubonelela ngezikhokelo zocwangciso lomhlaba nezigqibo zosetyenzisomhlaba ukuqinisekisa uphuhliso olungazi kuchaphazdla indalo, usetyenziso lwezibonelelo nozinzno lwendalo nemihlaba kwiPhondo; kunye
- (e) nokuqinisekisa ukuba izibonelelo zendalo kwiPhondo ziyamenteyinwa, luyaphetshwa uqhekeko kuthungelwano lwendalo kuphetshwe nelahleko, ze kuqinise uthungelwano lwendalo, kuthinyelwe ifuthe lotshintsho lwemozulu kwindalo nakuluntu.

Iziqulelo zesicwangciso somhlaba seentlobontlobo zezityalo nezilwanyana

36. ISicwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana kufuneka—

- (a) senziwe kulandelwa iziseko neenkqubo zezicwangciso zeentlobontlobo zezityalo nezilwanyana yaye kufuneka zisekelwe kubunzululwazi nedatha;
- (b) sibeke iithagethi zenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana yaye kufuneka sichaze ngezindlu zemimandla ephambili yentlobontlobo zezityalo nezilwanyana;
- (c) solathe iindawo zeentlobontlobo zezityalo nezilwanyana ngokweendidi zazo nekumakufikelelwe kuko njengoko kuchaziwe kumhlathi (b);
- (d) sibandakanye iinkcukaacha ngemihlaba yemimandla yeentlobontlobo zezityalo nezilwanyana;
- (e) sibandakanye izikhokelo zeenjongo zolawulo olufunwayo zoluhlu ngalunye lommandla weentlobontlobo zezityalo nezilwanyana ochongwe kumhlathi (c).

Usetyenziso nomiselo lwesicwangciso somhlaba seentlobontlobo zezityalo nezilwanyana

37. (1) ISicwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana sisicwangciso sePhondo njengoko kuxeliwe—

- (a) kumacandelo 25(1)(e), 26(d), 27(2)(a) no-29(1)(c) eLocal Government: Municipal Systems Act;
- (b) amacandelo 12(4), 15(3)(b) no-16(c) eSpatial Planning and Land Use Management Act; kunye
- (c) necandelo 4(3)(c)(ii) no-(iii) eWestern Cape Land Use Planning Act elimisela izibonelelo zendalo zeentlobontlobo zezityalo nezilwanyana nezinto ezininto yokwenza nokulungiselela utshintsho lwemozulu, iinjongo zezicwangciso zoko.

(2) ISicwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana kufuneka sinike umkhombandlela—

- (a) kwiSicwangciso soNatyiso loMmandla oKhuselweyo wePhondo njengoko kuxeliwe kwicandelo 39 nakwinkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana njengoko kuxeliwe kwicandelo 43;
- (b) sichonge uthungelwano lwendalo nezibonelelo zendalo ze sidalise iintlobo zezidalwa njengoko oko kuyimfuneko ngokwalo Mthetho neminye imithetho yendalo;
- (c) kucwangciso losetyenzisomhlaba nokuthathwa kwezigqibo;
- (d) kwimigaqonkqubo nezikhokelo ezenziwe ngokwemithetho yendalo;
- (e) nayiphi inkqubo exhasa izigqibo, isixhobo solawulo lwendalo novavanyo olusetyenzisiweyo olucwangcisiweyo lwendalo ngokwemithetho yendalo;
- (f) izigqibo neentshukumo zalo naliphi na iziko likarhulumente ethi imigaqonkqubo nezigqibo zalo zibe nefuthe kwiintlobontlobo zezityalo nezilwanyana yePhondo; kunye
- (g) namanyathelo othintelo lwefuthe elibi kwiintlobontlobo zezityalo nezilwanyana.

(3) Xa umasipala esamkela okanye etshintsha isikhokelo sakhe sophuhliso lwemihlaba kusetyenzisomhlaba olunento yokwenza nemimandla echongwe kwiSicwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana njengemimandla engundoqo yeentlobontlobo zezityalo nezilwanyana, kufuneka achaze ukuba ingaba izintlu zocwangciso losetyenzisomhlaba ziyithathele ngaluphi uhlobo ingqalelo yeenjongo zolawulo lomhlaba kwizikhokelo eso njengoko kuxeliwe kwicandelo 36(e).

(4) Ngeenjongo zeemfuno zogunyaziso ukwenzela umsebenzi ochazwe ngokwemithetho yendalo zomsebenzi okuluhlu okanye oxeliweyo ngenxa yefuthe lawo kwiintlobontlobo zezityalo nezilwanyana, iSicwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana sichonga imimandla engundoqo yeentlobontlobo zezityalo nezilwanyana efunisa ezo zinyanzeliso.

Iinkqubo zobekoliso nophononongo lwesicwangciso somhlaba seentlobontlobo zezityalo nezilwanyana

38. (1) ICapeNature, emva kokuvumelana nentloko yeSebe, kufuneka iphonononge ze yenze izilungiso kwiSicwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana ubuncinane qho kwiminyaka emihlanu okanye xa iyalelwe ukuba yenze oko nguMphathiswa.

(2) Kusebenza icandelo 34, nezilungiso ezifanelekileyo, ukuze kuhlaziye kwaye kusenziwa izilungiso zeSicwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana.

(3) UMphathiswa kufuneka rhoqo ngeminyaka eli-10 avavanye ukuba kufikelelwe na kwiinjongo neethagethi zeSicwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana qho kwiminyaka elishumi ubuncinane.

ISAHLUKO 6

**IMIMANDLA EKHUSELWEYO, IMIMANDLA YOQOKELELO LWAMANZI
ESEZINTABENI, IINDAWO ZOLONDOLOZONDALE ZABUCALA, INKQUBO
YOLONDOLOZO LWEENTLOBONTLOBO ZEZITYALO NEZILWANYANA
NEENDAWO ZOLONDOLOZONDALE ZEZIDALWA EZIZODWA EKWENZIWA
UPHANDO NGAZO**

Isahlulo 1

Unatyiso lweMimandla ekhuselweyo

Isicwangciso sonatyiso lweMimandla ekhuselweyo yePhondo

39. (1) Ukuze kuphunyezwe iinjongo exelwe kwicandelo 2(g)—

(a) uMphathiswa angathatha amanyathelo afanelekileyo, abandakanya kodwa angaphelelanga—

- (i) ekwamkeleni iSicwangciso soNatyiso lweMimandla ekhuselweyo yePhondo; yaye
- (ii) ukubhengeza imimandla ekhuselweyo ngokweProtected Areas Act; yaye

(b) iGosa eliyiNtloko yeSigqeba soLawulo lingasebenzisa naluphi na udidi lwethala londolozo lweentlobontlobo zezityalo nezilwanyana nomnini womhlaba oluchazwe 43(1)(a).

(2) ICapeNature kufuneka, emva kokudibana neNtloko yeSebe, ilungiselele iQhinga loLwandiso lweMimandla ekhuselweyo yePhondo kwiminyaka emibini uqalile lo Mthetho ize ilifake kuMphathiswa ukuze alamkele.

(3) Phambi kokwamkela iQhinga loLwandiso lweMimandla ekhuselweyo yePhondo, uMphathiswa kufuneka—

(a) ngeelwimi ezisesikweni zePhondo, apapshe into echazayo ukuba uluntu lungafumana phi uqulunqo lweQhinga loLwandiso lweMimandla ekhuselweyo yePhondo—

- (i) akhuphe isaziso kwiGazethi yePhondo; kunye
- (ii) nakumaphephandaba amabini ajikeleza kwiPhondo, esinye sazo nook kufuneka sibe kwifomathi eprintiweyo;

- (b) enza lufumaneka kwaye lufikelele kuluntu uqulunqo lweQhinga loLwandiso lweMimandla eKhuselweyo yePhondo ngendlela efanelekileyo kwindawo echazwe kumhlathi (a); kwaye
 - (c) avumele ixesha lokunik' izimvo elingangeentsuku ezingama-60 ukusuka ngomhla wokupapashwa kwesaziso kwiGazethi yePhondo.
- (4) UMphathiswa kufuneka—
- (a) athathele ingqalelo zonke izimvo ezifunyenweyo; kwaye
 - (b) kwiintsuku ezingama-90 zexesha lokuphelelwa kwezimvo elichazwe kwicandelewana (3)(c), aamkele iQhinga loLwandiso lweMimandla eKhuselweyo yePhondo lokugqibela, aze alipapashe ngesaziso kwiGazethi yePhondo.

Isahlulo 2

Imimandla yoqokelelo lwamanzi esezintabeni

Ubhengezo norhoxiso lobhengezo lwemimandla yoqokelelo lwamanzi esezintabeni

40. (1) UMphathiswa angathi ngokukhupha isaziso kwiGazethi yePhondo—
- (a) abhengeze nawuphi ummandla ukuba ibe—
 - (i) ngummandla woqokelelo lwamanzi osezintabeni; okanye
 - (ii) inxalenye yommandla okhoyo woqokelelo lwamanzi osezintabeni; ze
 - (b) athiye igama loo mmandla woqokelelo lwamanzi osezintabeni.
- (2) UMphathiswa angenza isibhengezo ngokwecandelwana (1)(a), ukuba ngaba ulawulo lwezinto ezenziwayo apho nezibonelelo zidinga oko, ukuze—
- (a) kumenteyinwe iintlobontlobo zezityalo nezilwanyana nothungelwano lwendalo kummandla;
 - (b) kugcinwe imiqathango yeenkonzo zothungelwano lwendalo ezibandakanya kodwa ezingaphelelanga kumanzi,
 - (c) ukuqinisekisa ukuba usetyenziso lweenkonzo zothungelwano lwendalo kuloo mmandla zizinzile.
- (3) UMphathiswa angenza isibhengezo ngokwecandelwana (1) kumhlaba womntu, kuquka nomhlaba womntu wabucala.
- (4) Ukuba uMphathiswa wanelisekile ukuba kukho ubungqina bokuba ummandla woqokelelo lwamanzi osezintabeni, okanye inxalenye yawo, awudingeki, angathi, ngokukhupha isaziso kwiGazethi yePhondo—
- (a) arhoxise isibhengezo semimmandla yokuqokelela amanzi esezintabeni;
 - (b) atshintshe imida yemimmandla yokuqokelela amanzi esezintabeni ukukhuphela ngaphandle naziphi na iindawo zayo.
- (5) Phambi kokubhengeza esichazwe kwicandelelwana (1)(a), (3) okanye (4), uMphathiswa wePhondo kufuneka, ngokwendlela echaziweyo, azise abaninimhlaba esijolise kubo isaziso nangeziphumo zoko.
- (6) Nawuphi ummandla, ekuqaleni kokusebenza kwalo Mthetho, ibhengezwe njengommandla woqokelelo lwamanzi osezintabeni ngokwecandelo 2 loMthetho (weMimandla yoQokelelo lwaManzi aseziNtabeni) iMountain Catchment Areas Act, ithathwa njengommandla woqokelelo lwamanzi osezintabeni ngokwecandelo (1).
- (7) Ummandla uyayeka ukuba ngummandla woqokelelo lwamanzi osezintabeni ukuba loo mmandla ubhengezwe, okanye ubandakanywe kwipaki yesizwe okanye kwithala lendalo lesizwe okanye kwinxalenye yalo, ngokwecandelo 18, 20 nelama-23 ngokulandelana omthetho iProtected Areas Act.

Ulawulo lwemimandla yoqokelelo lwamanzi esezintabeni

41. (1) UMphathiswa unokunika umyalelo—

- (a) ngeemfuno ezingqalileyo zolawulo lwemimandla yoqokelelo lwamanzi esezintabeni; okanye
- (b) imisebenzi ethile engavumeleknga kwimimandla yoqokelelo lwamanzi esezintabeni ngokwenjongo yecandelo 40(2).

Isahlulo 3

Amathala endalo abucala

Ubhengezo lwamathala endalo abucala

42. (1) Nawuphi umnini womhlaba angafaka isicelo kuMphathiswa sokubhengeza ithala lendalo elinomnini walo ze alinike igama elo thala ngendlela exeliweyo.

(2) UMphathiswa angasala isicelo esixelwe kwicandelwana (1) okanye asamkele isicelo, sibe nemiqathango okanye singabi nayo, ngokusekelwe kule miba ingezantsi:

- (a) Igalelo lethala lendalo elinomnini walo kwiinjongo neethagethi zolondolozo lweentlobontlobo zezityalo nezilwanyana kwiPhondo;
- (b) Ukukwazi komnini ukulawula nokugcina ithala lendalo elinomnini walo ukuphumeza iinjongo nokujoliswe kuko.

(3) UMphathiswa usamkele isicelo, phantsi komqathango okanye hayi phantsi komqathango okanye asale

(4) Ukuba uMphathiswa uyasivuma isicelo, uMphathiswa kufuneka abhengeze ithala lendalo elinomnini walo ngokukhupha isaziso kwiGazethi yePhondo kunye negama lelo thala lichphazelekayo nemida yalo, nendawo ekufumaneka kuyo imiqathango, ukuba ikhona, yokwamkelwa kwalo.

(5) Umnini wethala lendalo elinomnini walo oxelwe kwicandelwana (3) angathi—

- (a) azise ithala lendalo elinomnini walo njengethala lendalo elinomnini walo;
- (b) afake isicelo kuMphathiswa—
 - (i) sokutshintsha imida okanye igama okanye igama nemida yethala lendalo elinomnini walo; okanye
 - (ii) sokurhoxisa ubhengezo lwethala lendalo elinomnini walo.

(6) UMphathiswa wePhondo—

- (a) angasamkela isicelo esixelwe kwicandelwana (5)(b)(i) ngaphandle kwemiqathango, okanye asikhabe;
- (b) asivume isicelo esixelwe kwicandelwana (5)(b)(ii).

(7) UMphathiswa wePhondo kufuneka—

- (a) apho kuyimfuneko khona njengoko kuxeliwe kwicandelwana (5)(b)(i) kuvunyiwe, anike isaziso kwiGazethi yePhondo semida emitsha okanye igama elitsha lemida okanye igama elitsha okanye imida emitsha negama elitsha lethala lendalo elinomnini walo nemiqathango, ukuba ikhona; okanye
- (b) urhoxiso lwesibhengezo sethala lendalo elinomnini walo, makanike isaziso solo rhoxiso kwiGazethi yePhondo.

(8) Umnini wethala lendalo elinomnini walo angazisa ithala kuphele ngokulandela imiqathango yecandelwana (3) okanye (6)(a) ngokwesibhengeszo nemiqathango.

(9) Naliphi ithala lendalo elinomnini walo omiselwe ngokoMgaqo, noxa litshitshisiwe ngulo Mthetho, liya kuthathwa ngokuba libhengezwe njengethala lendalo elinomnini walo ngokweenjongo zalo Mthetho.

(10) UMphathiswa angasirhoxisa isibhengezo sethala lendalo elinomnini walo ngesaziso esikwiGazethi yePhondo ukuba uMphathiswa wanelisekile yinto yokokuba-

(a) Ithala lendalo elinomnini walo alisenagalelo ngokubonakalayo kwiinjongo zolondolozo lweentlobontlobo zezilwanyana nezityalo kwiPhondo; okanye

(b) Umninimhlaba akasakwazi ukulawula nokugcina ithala lendalo labucala ukuzalisekisa iinjongo nokujoliswe kuko

(11) Phambi kokwenza into ngokwecandelo (10), uMphathiswa kufuneka anike umninimhlaba ithuba lokuvakalisa izimvo zakhe.

(12) UMphathiswa unokunika umyalelo ngeemfuno zolawulo lwamathala endalo abantu.

(13) Amacandelwana (5)(b) nele-(10) asebenza kuphela ngokubhekiselele nendawo yolondolozndalo yabucala exelwe ngokwecandelwana (4) okanye ethathwa njengebhengezwe ngokuzenze-kelayo ngokwecandelwana (9).

Isahlulo 4

Inkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana

Inkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana

43.(1) Ukuze kuzalisekiswe iQhinga loLwandiso lweMimandla eKhuselweyo yePhondo, uMphathiswa unokunika umyalelo—

(a) ngezintlu ezahlukileyo zenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana nenkqubo yemimandla yolondolozo lweentlobontlobo zezityalo nezilwanyana;

(b) ngenkqubo nemiqathango esebenza kuluhlu loomandla ngamnye wenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana;

(c) ngesicelo, ngenkqubo yobhaliso, utshintsho okanye urhoxiso lwenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana;

(d) ngamalunga imisebenzi namagunya amaqela angene kwisivumelwano malunga nenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana, kubandakanywa abalawuli;

(e) inkqubo neenjongo zezicwangciso zolawulo lwenkqubo yemimandla yolondolozo lweentlobontlobo zezityalo nezilwanyana; kunye

(f) nawuphi omnye umba ukwenzela ulawulo olululo lwemimandla yenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana.

(2) IGosa eliyiNtloko lesiGqeba lingangena kwisivumelwano seendawo zolondolozo lweentlobontlobo zezilwanyana nomnikazi wendawo.

(3) ICapeNature kufuneka ibeke iliso kwimo yezivumelwano zenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana nemimandla yenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana ze inike ingxelo qho ngonyaka kuMphathiswa wePhondo.

(4) Ukuba kukho iqela kwalwo enze isivumelwano elithe laphula eso sivumelwano, uMphathiswa wePhondo angalihlawulisa isohlwayo, ngokwecandelo 73.

(5) Ukukhutshwa kwesohlwayo njengoko kuxeliwe kwicandelwana (4) akuwachaphazeli amalungelo asemthethweni womntu.

Isahlulo 5

Amathala endalo ezidalwa ezizodwa ekwenziwa uphando ngazo

Isicelo kwi-UNESCO ukuba ibhengeze ithala njengethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo

44. (1) Nawuphi na umntu okanye iziko likarhulumente lingenza isicelo sokuvuma koMphathiswa ukuba amkele umiselo ukuqhubeka nesicelo soyilo lwe-UNESCO lwethala lendalo.

(2) Isicelo esixelwe kwicandelwana (1) kufuneka—

(a) kuqale kube khona iindibano zokubonisana nabantu, uMphathiswa anokunika umyalelo ngazo;

(b) sibe kwifomathi egqitywe ngendlela echaziweyo; yaye

(c) sibandakanye ubume bethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo ikomiti yethutyana emele ngokubanzi bonke abantu abanomdla, amaziko ngokunjalo noluntu.

(3) UMphathiswa kufuneka asamkele sinemiqathango okanye singenayo okanye okanye asikhabe anike izizathu zoko njengoko kuxelwe kwicandelwana (2).

(4) Ithala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo ikomiti yethutyana kufuneka—

(a) limiselwe ngendlela echaziweyo;

(b) lilungise isicelo esihambelana neemfuno ze-UNESCO ngefomathi ebekwe ngumntu we-UNESCO nayiNkqubo yeThala loLondolozo lwendalo;

(c) lingenise isicelo esixelwe kumhlathi (a) kuMphathiswa kwisithuba esibekiweyo okanye esongezwe nguMphathiswa; kananjalo

(d) lenze izilungiso kwisicelo esingenisiweyo njengoko kuxelwe kumhlathi (b) ngokwemiyalelo yoMphathiswa.

(5) Ukuba uMphathiswa wanelisekile ukuba—

(a) isicelo siyahambelana nenkqubo ye-UNESCO Man and the Biosphere Programme;

(b) siyahambelana neenjongo zalo Mthetho; yaye

(c) naziphi izilungiso ezixelwe kwicandelwana (4)(c) zenziwe ngokwemiyalelo yoMphathiswa,

angasamkela isicelo ngokuhambelana neemfuno ze-UNESCO ze asithumele kuMphathiswa weSizwe ukuze siqwalaselelwe ukuba sithunyelwe kwi-UNESCO.

(6) Ukuba i-UNESCO ichonga ithala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo, uMphathiswa kufuneka apapashe isaziso solo chongo kwiGazethi yePhondo kwiintsuku ezingama-90 emva kokuba i-UNESCO yenze olo chongo.

(7) UMphathiswa kufuneka athi qho kwiminyaka elishumi ubuncinane ukususela kwixesha lokuchongwa kwethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo, aphonononge imo, ukusebenza nesicwangciso sesikhokelo sethala ngalinye lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo ngokweenjongo nezikhokelo ze-UNESCO Man and the Biosphere Programme.

(8) Ukuba uMphathiswa ucinga ukubaithala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo alisathobeli owona msebenzi ungundoqo we-UNESCO Man and Biosphere programme; yaye angandulula ukuba uMphathiswa weSizwe afake isicelo sorhoxiso lweloo thala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo kwi-UNESCO.

(9) Amathala endalo ezidalwa ezizodwa ekwenziwa uphando ngazo amiselwe phambi kokuqala ukusebenza kwalo Mthetho athathwa njengokuba amiselwe ngokwalo Mthetho.

Ulawulo lwethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo

45. (1) Emva kopapasho lochongo lwethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo kwiGazethi yePhondo, kufuneka kumiselwe ikomiti yolawulo ngendlela exeliweyo ze emva koko ikomiti yethutyana yethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo ichithwe.

(2) Ikomiti yolawulo exelwe kufuneka—

- (a) iqinisekise ukuba ithala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo yena umsebenzi wayo wolondolozo, uphuhliso oluzinzileyo yaye iyasebenza; kananjalo
- (b) inike isicwangciso seSikhokelo seThala leNdalo leZidalwa eziZodwa njengoko kuxeliwe kwicandelo 46; kwaye
- (c) inike ingxelo qho ngonyaka, ngaphandle kokuba uMphathiswa wePhondo ufuna eyexeshana elifutshane, yokuphuzwa kweenjongo neyemisebenzi yethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo.

Isikhokelo sethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo

46. (1) Isikhokelo sethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo kufuneka sihlele wonke umhlaba okwithala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo njengommandla ongundoqo, owokhuselo lwendalo nowethutyana ze uchonge ukuba umhlaba nganye uza kusetyenziselwa ntoni okuluhlu ngalunye.

(2) Isikhokelo sethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo kufuneka sihambelane—

- (a) Ne-UNESCO Man and Biosphere Programme;
- (b) nesicwangciso solawulo sawo nawuphi ummandla okhuselweyo okwithala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo;
- (c) neSicwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana phantsi kwalo Mthetho;
- (d) iQhinga loLwandiso lweMimandla eKhuselweyo yePhondo;
- (e) Iinjongo zalo Mthetho; kunye
- (f) nawuphi omnye umba chaziweyo.

(3) UMphathiswa unokunika umyalelo ngezinto emaziquathwe sisikhokelo sethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo nesithuba efuneka eso sicwangciso siphononongwe ngaso.

Ukuxhaswa ngezimali kwamathala endalo ezidalwa ezizodwa ekwenziwa uphando ngazo

47. (1) UMphathiswa angathi ngolwabiwo lwePalamente yePhondo yeNtshona Koloni anike uncedo lwezimali okanye olunye uncedo lokumisela, lokusebenza, lolawulo okanye lonabiso, okanye lolondolozo lwethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo.

(2) Uncedo oluxelwe kwicandelwana (1) lungenziwa phantsi kwemiqathango ebekwe nguMphathiswa.

ISAHLUKO 7
UKHUSELO LOTHUNGELWANO LWENDALO, IZIBONELELO ZENDALO
NEENTLOBO ZEZIDALWA

Uthungelwano lwendalo oluchongiweyo okanye izibonelelo zendalo ekufuneka zikhuselwe

48. (1) UMphathiswa angathi ngokukhupha isaziso kwi*Gazethi yePhondo*; njengoko kuchaziwe kwicandelo 89, achonge naluphi uthungelwano lwendalo okanye izibonelelo zendalo ezidinga ukhuselelo olulodwa ukuqinisekisa ukuba kugcinwa isidima salo okanye ukuhanjiswa kweenkonzo zothungelwano lwendalo.

(2) UMphathiswa kufuneka kwisaziso esixelwe kwicandelwana (1)—

(a) athintele nawuphi umsebenzi onokwenziwa; kwaye

(b) asungule okufunekayo kulawulo ukwenzela umninimhlaba, esebenzisa naso nasiphi na isibonelelo seentlobo zesilwanyana nezityalo okwenzela ukuthembeka kweenkonzo zothungelwano lwendalo.

(3) Phambi kokkolatha uthungelwano lwendalo okanye inxalenye yalo okanye ummandla yesibonelelo sothungelwano lwendalo njengoko kuchaziwe kwicandelwana (1) uMphathiswa kufuneka, ngendlela echaziweyo, amazise umninimhlaba ngesaziso anenjongo yaso ngokunjalo nangeziphumo zoko.

(4) UMphathiswa angathi ngokukhupha isaziso kwi*Gazethi yePhondo* atshintshe okanye arhoxise isaziso esixelwe kwicandelwana (1) okanye inxalenye yaso, ukuba zitshintshile iimeko ebezenze ukuba uMphathiswa asebenzise amagunya akhe ngokwecandelwana (1)

(5) Noxa kusenokubakho eminye imithetho esebenzayo, kulityala ukungathobeli isaziso esixelwe kwicandelwana (1) okanye esenziwe izilungiso njengoko kuxelwe kwicandelwana (3).

Amanyathelo othintelo lwefuthe elibi kwiintlobontlobo zezityalo namanye amanyathelo okunqanda ifuthe elibi

49. UMphathiswa anganika umyalelo wamanyathelo othintelo lwefuthe elibi kwiintlobontlobo zezityalo nezilwanyana okanye amanye okunqanda ifuthe elibi kwiPhondo ukufikelela kwiithagethi zenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana ezibekwe kwiSicwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana.

Ukwenza uluhlu lweentlobo zezidalwa ekufuneka zikhuselwe okanye eziyingozi kwindalo

50. (1) UMphathiswa anganika umyalelo ngawo wezinto ezingavumelekanga neendlela ezinemiqathango kuhlobo lwesidalwa oludweliswe ngokwemiqathango yecandelwana (2).

(2) UMphathiswa unokunika umyalelo woludwe lwezidalwa okanye izintlu zezidalwa

(a) kuhlobo lwesidalwa elingasekhoyo endle;

(b) kuhlobo lwesidalwa olusemngciphekweni omkhulu;

(c) uhlobo lwesidalwa olusengozini;

(d) uhlobo lwesidalwa esibuthathaka;

(e) uhlobo lwesidalwa esikhuselweyo, esilulo naluphi uhlobo lwesidalwa olungadweliswanga kwimihlathi (a), (b), (c) okanye (d) kubandakanywa uhlobo lwesidalwa olufakwe kuluhlu—

- (i) yi-International Union for the Conservation of Nature njengeziseNgozini, ezingenaVimba wazo okanye ezingaHlolwanga;
 - (ii) kwizihomelo I, II, no-III ze-CITES;
 - (f) nasiphi esinye isidalwa semveli esingadweliswanga kumacandelwana (a), (b), (c), (d) okanye (e);
 - (g) izidalwa ezingezozaloo ndawo;
 - (h) isidalwa esingesosendawo ethile;
 - (i) uhlobo lwesidalwa esingeneleleyo;
 - (j) izidalwa ezifuna imilinganiselo yolawulo eyodwa; kunye
 - (k) nohlobo lwesidalwa esiqhelisiweyo.
- (3) UMphathiswa angachaza imilinganiselo yolawulo eyodwa efunekayo ukwenzela izidalwa ezidwelisiweyo ngokwecandelo (2)(j).
- (4) Akukho mntu unokwenza umsebenzi onemiqathango yokuwenza okanye ekufuneka wenziwe ngendlela ethile wohlobo lwesidalwa esithile, ngaphandle kokuba ugunyazisiwe ngokwecandelo 53(1)(a).
- (5) Icandelwana (4) alichaphazeli uhlobo lwesidalwa olukuhlu olusuka ngaphandle kwePhondo oludlula kwiPhondo oluya ngaphandle kwePhondo ngaphandle kokuba olo hambo ludlula kwiPhondo luhamba ngokogunyaziso oluxeliweyo.
- (6) UMphathiswa unokunika umyalelo ngohlobo lwesidalwa esingenakukhutshelwa lugunyaziso ngokwalo Mthetho, lomsebenzi okanye indlela yokusebenza enemiqathango ebandakanya olo hlobo lwesidalwa.

ISAPHLUKO 8 UKUZINGELA OKUFUNDELWEYO

Ukuzingela okufundelweyo

51. (1) Akukho mntu unokunikeza inkonzo njengomzingeli oqeqeshelwe ukuzingela, umncedisi wokuzingela okanye njengoMlawuli weSikolo sokuZingela ngaphandle kokuba unikwe igunya lokwenza oko ngokwecandelo 53(1)(a).
- (2) Akukho mntu unokuzingela ngaphandle kokuba ukhatshwa ngumzingeli oqeqeshelwe ukuzingela.
- (3) Umntu ongalithobeliyo icandelwana (1) okanye (2) wophula umthetho.

ISAPHLUKO 9 UGUNYAZISO

Isicelo sogunyaziso

52. Isicelo sogunyaziso esifunekayo okanye esikhutshwe ngokwalo Mthetho kufuneka sibe sibhaliwe sithunyelwe kwiGosa eliyiNtloko yeSigqeba soLawulo ngendlela exeliweyo.

Isigqibo ngesicelo

53. (1) IGosa eliyiNtloko yeSigqeba soLawulo lingathi—
- (a) linike imvume yesicelo sogunyaziso enemiqathango okanye engenayo; okanye
 - (b) asikhabe isicelo sogunyaziso.

(2) IGosa eliyiNtloko yeSigqeba soLawulo lingafuna ezinye iinkcukacha, kubandakanywa uvavanyo lwemingcipheko oluzimeleyo okanye ubungqina bengcali obuxelwe kwicandelo 54, phambi kokuthatha isigqibo esixelwe kwicandelwana (1).

(3) Xa liqwalasela isicelo sogunyaziso esixelwe kwicandelo 52, iGosa eliyiNtloko yeSigqeba soLawulo kufuneka lisikhabe isicelo ukuba asihambelani—

- (a) neziseko zozinziso lwendalo esingqongileyo ezixelwe kwicandelo 6 okanye nawuphi na onye umqathango walo Mthetho;
- (b) nazo naziphi izicwangciso ezifanelekileyo ezamkelwe ngokwalo Mthetho; kananjalo
- (c) kulandelwa icandelo 231 loMgaqosiseko, nazo ziphi izivumelwano zehlabathai ezifanelekileyo ezihambelana noku.

Uvavanyo lwemingcipheko nobungqina beengcali

54. Phambi kokukhupha ugunyaziso, iGosa eliyiNtloko yeSigqeba soLawulo lingathi ngembalelwano acele umfakisicelo ukuba anikeze, ngendleko zakhe, uvavanyo lwemingcipheko—

- (a) oluzimeleyo lobungqina bengcali ngokokucela kweGosa eliyiNtloko yeSigqeba soLawulo ukuze lenze isigqibo sesicelo; okanye
- (b) aziyalelweyo.

Ubungqina bobunini obusemthethweni

55. Umntu onecuntsu elithathwe kwisidalwa okanye ilungu lesinye isidalwa esisilwanyana sasendle kufuneka abe namaxwebhu anika ubungqina bobunini obusemthethweni belo cuntsu elithathwe kwisidalwa.

Ugunyaziso oluhlanganelweyo

56. (1) Ukuba iGosa eliyiNtloko yeSigqeba soLawulo ligunyaziswe ngomnye umthetho ukuba likhuphe ugunyaziso ngokwalo mthetho nodinga ugunyaziso phantsi kwalo Mthetho, angakhupha ugunyaziso olunye oluhlanganelweyo.

(2) Ugunyaziso oluhlanganelweyo lukhutshwa kuphela xa isicelo sithobela imiqathango efanelekileyo yalo Mthetho neyeminye imithetho.

Uphononongo, uyekiso, urhoxiso notshintsho logunyaziso

57. (1) IGosa eliyiNtloko yeSigqeba soLawulo lingaphonononga ugunyaziso okanye inxalenye yalo olukhutshwe nguye okanye angenza izilungiso kulo okanye alurhoxise ugunyaziso nanini na ukuba—

- (a) ufumana iinkcukacha ezimnika isizathu sokukholelwa ukuba izinto ezigunyaziselweyo ziza kuba neiphumo esibi kokusingqongileyo, nto leyo engalhangane ibonwe ngexesha logunyaziso;
- (b) ukuba umnini wolo gunyaziso—
 - (i) ufake iinkcukacha ezingachanekanga nezilahlekisayo kuwo nawuphi na umba ebekufuneka afake iinkcukacha ngawo ngokwalo Mthetho;
 - (ii) uyasilela ukuthobela imiqathango yogunyaziso;

- (iii) akathobeli nawuphi na umqathango walo Mthetho okanye uphantsi kophando ngenxa yokungathobeli nawuphi omnye umthetho olawula oko kugunyazisiweyo; okanye
- (iv) ebekhe wagwetyelwa ityala ngokwalo Mthetho okanye nawuphi omnye umthetho wephondo okanye imithetho yesizwe onento yokwenza nalo msebenzi awunikelwe isigunyaziso.

(2) IGosa eliyiNtloko yeSigqeba soLawulo lingalumisa ugunyaziso okanye inxalenye yalo phambi kokuthatha amanyathelo njengoko kuxelwe kwicandelwana (1).

(3) Ugunyaziso okanye inxalenye yalo olumisiweyo luhlala lumisiwe de iGosa eliyiNtloko yeSigqeba soLawulo—

- (a) liluphelise olo miso;
- (b) litshintshe ugunyaziso; okanye
- (c) lirhoxise ugunyaziso.

(4) IGosa eliyiNtloko yeSigqeba soLawulo lingathi—

- (a) lithathe nawuphi amanyathelo avakalayo ukulungisa imeko edaleke ngenxa yomiso okanye urhoxiso logunyaziso okanye inxalenye yalo ngenxa yosilelo lothobelo lomthetho ochaphazelekayo ngulowo unogunyaziso; yaye
- (b) angafuna naziphi iindleko ezichithiweyo nebeziyimfuneko xa bekuthathwa amanyathelo axelwe kumhlathi (a).

ISAHLUKO 10 UTHOTYELO NONYANZELISO

Isahlulo 1

Amagosa othotyelo nonyanzeliso nemiba yeenkundla zomthetho

Ukuchongwa kwegosa lolondolozo lwendalo, umnakekeli wendalo kunye nomncedisi wegosa lolondolozo lwendalo

58. IGosa eliyiNtloko yeSigqeba soLawulo lingathi—

- (a) lichonge umntu ofanelekileyo nonezakhono—
 - (i) oqeshwe yiCapeNature njengegosa lolondolozo lwendalo;
 - (ii) oqeshwe ngumasipala okanye iziko likarhulumente kwiPhondo nosetyenziswa nguloo masipala okanye lelo ziko likarhulumente njengomnakekeli wendalo; okanye
 - (iii) njengomncedisi wegosa lolondolozo lwendalo; yaye
- (b) kufanele, xa libeka umntu ngokomhlathi (a) liwacacise amandla anawo loo mntu ekumele awasebenzise ukunyanzelisa umthetho njngoko kuchaziwe kuMthetho.
- (c) nanini na lingarhoxisa uchongo oluxelwe kwicandelwana (a).

Ubhengezo lwamagosa olondolozo lwendalo nabanakekeli bendalo njengamagosa ocwangco

59. IGosa eliyiNtloko yeSigqeba soLawulo lingacela uMphathiswa wezoBulungisa ukuba abhengeze amagosa olondolozo lwendalo nabanakekeli bendalo ukuba ibe ngamagosa ocwangco ngokwecandelo 334 leCriminal Procedure Act ukuze basebenzise amagunya benze nemisebenzi abayinikiweyo ngulo Mthetho kunye nawuphi amanye amagunya abawanikiweyo okanye imisebenzi enikwe iCapeNature phantsi kwawo nawuphi omnye umthetho.

Umsebenzi onikwe amagosa olondolozo lwendalo nabanakekeli bendalo

- 60.** Igosa lolondolo lwendalo nabamkeli bendalo banganyanzelisa, ngokokubona kwakhe —
- (a) uthotyelo lwalo Mthetho nogunyaziso olukhutshweyo ngokwalo Mthetho; kunye
 - (b) nothotyelo lwawo nawuphi na umthetho njengozalisekiso lwaloo mthetho owabiwe okanye okhutshelwe yiCapeNature.

Abancedisi bamagosa olondolozo lwendalo

61. (1) Umncedisi wegosa lolondolozo lwendalo unyanzelisa amagunya axelwe kwicandela-lwana (2) kummandla achongelwe kuwo.

(2) Umncedisi wegosa lolondolozo lwendalo ochongelwe oko njengoko kuxeliwe kwicandelo 58(a)(iii) angathi—

- (a) acele nawuphi na umntu owenza okanye amkrokrela ukuba wenze nantoni na ukuba amnike ugunyaziso lwayo, isaphulelo, umyalelo okanye imvume ebhaliweyo yomnini womhlaba okanye yaye nawuphi omnye umntu onelo gunya ngokwalo Mthetho lokunikeza olo gunyaziso, isaphulelo, umyalelo okanye imvume; kunye
 - (b) angacela nawuphi na umntu oxelwe kumhlathi (1)(a) ukuba amnike igama lakhe nedilesi yakhe.
- (3) Umncedisi wegosa lolondolozo lwendalo angancedisa iCapeNature—
- (a) ekuchongeni nasekunikeni ingxelo ngamatyala ngokwalo Mthetho; kunye
 - (b) Nakuwuphi umsebenzi wolondolozo ngokuyalelwa ligosa lolondolozo lwendalo.

Imisebenzi yamagosa olondolozo lwendalo nabanakekeli bendalo

- 62.** (1) Igosa lolondolozo lwendalo nomnakekeli wendalo, kulandelwa icandelo 60—
- (a) kufuneka abeke iliso ze anyanzelise uthotyelo lomthetho awuchongelweyo;
 - (b) angaphanda nasiphi isenzo okanye into engenziwayo enokuthi ibe—
 - (i) lityala ngokwaloo mthetho;
 - (ii) ukophulwa komthetho; okanye
 - (iii) ukophulwa komqathango wogunyaziso okanye wolunye uxwebhu olukhutshwe ngokwalo Mthetho;
 - (c) kufuneka lenze imisebenzi okanye lisebenzise amagunya—
 - (i) ngokwemiyalelo ekhutshwe yiCapeNature; yaye
 - (ii) lilandele imiqathango ebekiweyo neenkqubo ezixeliweyo; yaye
 - (d) lingakhatshwa yitoliki okanye nawuphi omnye umntu adinga uncedo lwakhe.

Ikhadi lesazisi neleta yesikhundla

63. (1) IGosa eliyiNtloko yeSigqeba soLawulo kufuneka lenze ikhadi lesazisi neleta yesikhundla linike nawuphi na umntu ochongelwe ukuba ligosa lolondolozo nelonakekelo ngokwecandelo 58.

(2) Xa esebenzisa nawuphi amagunya okanye esenza nayiphi imisebenzi ngokwalo Mthetho, nawuphi na umntu ochongelwe oko ngokwecandelo 58 lalo Mthetho kufuneka, xa ecelwe nguye nawuphi umntu, akhuphe ikhadi lakhe lesazisi.

(3) IGosa eliyiNtloko yeSigqeba soLawulo kufuneka lichaze kwikhadi lesazisi neleta yesikhundla ukuba lifanele ukwenza ntoni yaye linawuphi amagunya igosa lolondolozo lwendalo

- (4) Esi sikhundla siyaphela ngokwecandelo 58 xa—
- (a) igosa lolondolozo lwendalo liwuyeka umsebenzi waseCapeNature;
 - (b) umnakekeli wendalo eyeka ukusebenzela umasipala, okanye elinye iziko likarhulumente ebelimqeshile ngenxesha enikwa eso sikhundla ngokwecandelo 58(a)(ii);
 - (c) xa umntu erhoxiswa kwesi sikhundla njengoko kuxeliwe kwicandelo 58(c); okanye
 - (d) xa kuphele ixesha lokwenza lo msebenzi elichazwe kwikhadi lesazisi okanye kwileta echaza ngesikhundla.

Amagunya gabalala egosa lolondolozo lwendalo nawomnakekeli wendalo

64. Igosa lolondolozo lwendalo nomnakekeli wendalo, kulandelwa amacandelo 60, 62, 65, 66 kunye nelama-67 nenjongo yokwenza imisebenzi yawo njengoko kuchaziwe phantsi kwecandelo 58, lingathi—

- (a) lihlole naluphi uxwebhu, incwadi okanye irekhodi okanye naluphi uxwebhu olubhaliweyo okanye iingcombolo ezikwikhompuyutha kwicandelo 62(b);
- (b) enze ikopi yalo okanye ucaphulo lwalo ze asuse olo xwebhu, loo ncwadi, elo rekhodi okanye iinkcukacha ezielektroniki ekubhekiswe kuzo kumhlathi (a), okanye asuse olo xwebhu, loo ncwadi, elo rekhodi okanye iinkcukacha ezielektroniki ukuze aye kwenza iikopi okanye ucaphulo;
- (c) afune loo mntu ukuba akhuphe okanye ase naluphi uxwebhu olubhaliweyo okanye olukwisixhobo esielektroniki, incwadi, irekhodi ekubhekiswe kulo kumhlathi (a) kwindawo eziza kuhlolwa kuyo;
- (d) lihlole, ze ukuba kuyimfuneko, lithathe naliphi icuntsu elithathwe kwisidalwa, umhlathi, into okanye nantoni na esetyenziswe ukwenza ityala ngokomthetho; okanye
- (e) lithathe iifoto okanye lirekhode nangayiphi na indlela okanye nawuphi na umntu ochaphazelekayo ngeenjongo zophando okanye zohlolo;
- (f) lilandela nawuphi na umthetho ofanelekileyo, lingasebenzisa inqwelontaka ezilawulwa ngerimowuthi ukuthatha imifanekiso okanye ukurekhoda imifanekiso nesandi ezichaphazelekayo ngeenjongo zophando okanye zohlolo;
- (g) lingagromba emhlabeni;
- (h) lingathatha iisampula zalo naliphi icuntsu elithathwe kwisidalwa okanye kwinto;
- (i) lingathatha nayiphi inkunkuma okanye nantoni na elahliweyo ngokungahambelani nomthetho;
- (j) likhuphe umyalelo oya kuye nawuphi na umntu ukuba amncedise ekwenzeni uhlolo okanye uphando;
- (k) lingathatha, okanye lenze ukuba kuthathwe nasiphi isigcayiseli okanye umgibe, ubuhlathana bokubambisa, ityhefu okanye esinye isixhobo okanye ekukrokrelwa ukuba besisetyenziselwa ukuzingela okanye ukubamba isilwanyana sasendle ngokungekho mthethweni okanye, ukuba asikwazi kuthathwa, okanye sisuswe, singatshatyalaliswa okanye senziwe ukuba singaphinde sisebenze okanye kususwe ubungozi baso;
- (l) kubanjwe ze kususwe imfuyo okanye nasiphi isilwanyana esinqumla ngokungekho mthethweni kumhlaba olawulwa yiCapeNature;
- (m) liyalele nawuphi na umntu ukuba ayeke ngoko nangoko, nayiphi into ayenzayo engqamne nolwaphulo lwalo Mthetho ekufuneka ewunyanzelisile;
- (n) lenze nayiphi enye intshukumo yokwenza uphando.

Uhlolo olwenziwa amaxesha ngamaxesha

65. (1) Apho kukhutshwe ugunyaziso khona, igosa lolondolozo lwendalo-
- (a) lingathi nangaliphi na ixesha elifanelekileyo, lihlole nayiphi ipropati ekugunyaziswe ukuba ihlolwe, yaye
 - (b) lingathi lingenaphepha lenkundla lokugqogqa, lingene kuso nasiphi isakhiwo okanye nayiphi na ibhegi, ibhokisi, okanye nayo nantoni na, ngeenjongo zokuqinisekisa uthotyelo lwalo mthetho okanye lwemiqathango yogunyaziso okanye amanye amaxwebhu akhutshwe kulandelwa lo Mthetho.
- (2) Ngeli lixa lenza uhlolo, igosa lolondolozo lwendalo lingathi ukuba liyakrokra ukuba kophulwe umthetho othile ngokomthetho eliwulandelelayo—
- (a) libambe ze lithathe naliphi icuntsu elithathwe kwisidalwa okanye nantoni na enokusetyenziswa njengobungqina kwisigwebo saye nawuphi na umntu onetyala ngokwalo Mthetho;
 - (b) ngokuxhomekeke kwindawo elibekwe kuyo njengegosa loxolo, libambe nawuphi umntu elimkrokrelayo ukuba wophula umthetho.

Umsila wengwe

66. (1) Ukuba igosa lolondolozo lwendalo—
- (a) limele, phambi kokusebenzisa nawaphi na amagunya walo njengoko kuchaziwe kwicandelo 64, okungena okanye ligqogqe umhlaba okanye ukuthimba nantoni na, lingathilifake isicelo sokufumana iphepha lenkundla lokugqogqa lichaze liphantsi kwesifungo ukuba kufanelekile ukungena kwaye ligqogqe kwisakhiwo eso; kwaye
 - (b) lingaqalisa ukusebenzisa loo msila wengwe
- (2) Amacandelo 20 nelama-21 omthetho iCriminal Procedure Act ayasebenza, neenguqu ezifanelekileyo, ngokubhekiselele kuso nasiphi na isicelo okanye umsila wengwe oxelwe kwicandelwana (1).
- (3) Ukuba igosa lolondolozo lwendalo linezizathu ezivakalayo zokukrokrela ulwaphulomthetho kwisakhiwo/okanye kumhlaba ngokuchasene nomthetho – lingangena kuloo mhlaba/kweso sakhiwo ngaphandle komsila wengwe, kodwa kuphela ukuba—
- (a) liyayichaza injongo yophando yaye umntu olawula eso sakhiwo uyavuma ukuba angangena enze uhlolo, emva kokuba azisiwe ukuba akanyanzelekanga ukuba alivumele lingene elo gosa lolondolozo lwendalo lingenalo iphepha lenkundla lokugqogqa; okanye
 - (b) kukho izizathu ezivakalayo zokukholelwa ukuba iphepha lenkundla lokugqogqa liza kukhutshwa xa liceliwe, kodwa oko kuya kudala ulibaziseko yaye kuza kuyiphelisa injongo yokungena kwenziwe uhlolo.
- (4) Ukuba igosa lolondolozo lwendalo linezizathu ezivakalayo zokukrokrela ukuba ikho into—
- (a) exhalabisayo ekuqhutyweni okanye ekwaphulweni komthetho ngokuchasene nomthetho, mthetho lowo eliqashelwe ukuqgcina;
 - (b) lingabuveza ubungqina bokukrokrela olo lwaphulomthetho; okanye
 - (c) bujoliswe ekusetyenzisweni ekwenzeni olo lwaphulomthetho,
- lingayithimba loo nto ngaphandle komsila wengwe, kodwa kuphela—
- (i) injongo yolo thinjo kunye nomntu waloo nto ithinjwayo, emva kokuba eyazisiwe into yokokuba akanyanzelekanga ukuba amvumele athimbe loo nto ungekho umsila wengwe; okanye
 - (ii) kukho izizathu ezivakalayo zokukholelwa ukwenza isicelo somsila wengwe kungacotha, kwaye oko kucotha kungangaziphumezi iinjongo zaloo msila wengwe.

Amagunya okumisa, okungena nokusetsha izithuthi, izikhitshane neenqwelontaka nezinye iintlobo zezithuthi

67. (1) Ukuba igosa lolondolozo lwendalo linezizathu ezivakalayo zokukrokra ukuba isithuthi, inqanawe okanye inqwelontaka okanye ngezinye iintlobo zezithuthi—

- (a) iyasetyenziwa okanye isetyenzisiwe, okanye iqulethe into esetyenziwe ukwenza—
 - (i) ityala ngokomthetho igosa eliwuchongelweyo; okanye
 - (ii) ukophulwa komqathango wogunyaziso okanye wolunye uxwebhu olukhutshwe ngokwalo Mthetho;
- (b) enokunika ubungqina bokwenziwa kwetyala okanye ulwaphulomthetho olukrokrelwayo;
- (c) eza kusetyenziselwa okanye ekukholelwa ukuba iza kusetyenziselwa ukophula umthetho;
- (d) esetyenziswa ngendlela enokuba nesiphumo esibi kwindalo esingqongileyo; okanye
- (e) equlethe into enokunika ubungqina bokwenziwa kwetyala—
 - (i) angayalela umqhubi wesithuthi, wenqanawe okanye wolunye uhlobo lwesithuthi ukuba amise, okanye amkhuphe ukhaptereyini wenqanawe okanye ipayilothi yenqwelomoya aze afaka isicelo somsila wengwe; kwaye
 - (ii) ukuba kuyimfuneko, asinyanzele isithuthi, inqanawe, inqwelomoya okanye enye into ukuba imise, ngokuxhomekeke kwimeko yelo xesha

(2) ICandelo 66 liyasebenza, neenguqu ezifanelekileyo, ngokubhekiselele ekungeneni nasekugqogqeni isithuthi, inqanawe, inqwelomoya okanye enye into exelwe kwicandelwana (1) nasekuthinjweni kweso sithuthi, inqanawe, inqwelomoya okanye enye into ekuyo

Isinyanzelo sokuveza amaxwebhu

68. Nawuphi na umntu okhutshelwe ugunyaziso okanye naluphi olunye uxwebhu okanye ekufuneka enze oko ngokwalo Mthetho, kufuneka aveze ugunyaziso okanye uxwebhu olo xa ecelwa ligosa lolondolozo lwendalo, umnakekeli wendalo okanye umncedisi wegosa lolondolozo lwendalo.

Ukuphathwa kwezinto ezibanjiweyo

69. (1) Xa icuntsu elithathwe kwisidalwa okanye into ibanjiwe yaze yathathwa ngokwalo Mthetho igosa lolondolozo lwendalo okanye umnakekeli wendalo—

- (a) kufuneka linikeze irisithi yazo zonke izinto okanye amacuntsu athathwe kwizidalwa abanjiweyo ayinike umntu ebezizezakhe ezo zinto okanye amacuntsu athathwe kwizidalwa, kuquka iinkcukacha okanye iingcombolo ezibhaliweyo ezikwikhompuyutha ezibanjiweyo nesisusiweyo; yaye
- (b) lingathi—
 - (i) lingasa icuntsu elithathwe kwisidalwa okanye into kwilungu leNkonzo yamaPoliseni oMzantsi Afrika;
 - (ii) ligcine icuntsu elithathwe kwisidalwa okanye into lide ligqitywe ityala; okanye
 - (iii) liyalele umntu obelawula into okanye icuntsu elithathwe kwisidalwa phambi kokuba lithathe, ukuba alise kwindawo echazwe ligosa elo yaye ukuba loo mntu uyala ukuyisa into okanye icuntsu elithathwe kwisidalwa kuloo ndawo ichaziweyo, igosa lolondolozo lwendalo lingakwenza ngkwalo oko.

(2) Ukuba akukho zinkqubo zolwaphulomthetho ezithe zaqhutywa ezichazwe kwicandelwana (1), icandelo 31 lomthetho iCriminal Procedure Act liyasebenza neenguqu ezifanelekileyo.

(3) Ukuze kukhuselwe isithuthi, inqanawe okanye inqwelontaka ebanjiweyo, igosa lolondolozo lwendalo lingayikhonkxa ingahambi ngokuthi lisuse inxalenye yaso.

(4) Into esusiweyo ngokwalo Mthetho, kuquka nayiphi na inxalenye yesithuthi, yenqanawe, yenqwelomoya okanye yenye into echazwe kwicandelwana (3), kufuneka igcinwe ikhuselekile kangangoko kunokwenzeka ukuze ingonakali.

Isibambiso sokukhululwa kwezithuthi, izikhitshane neenqwelontaka

70. (1) Ukuba isithuthi, inqanawe okanye inqwelontaka ibanjiwe ngokwalo Mthetho yaze yagcinwa ngeenjongo zokulinda ukuxoxwa kwetyala ezinkundleni, umnini okanye iarhente yomnini angafaka isicelo kwinkundla sokuba kukhululwe isithuthi, inqanawe okanye inqwelontaka.

(2) Inkundla ingayalela ukuba sikhululwe eso sithuthi, inqanawe okanye inqwelontaka ngokomqathango weendleko zobambiso ezigqitywe yinkundla.

(3) Iindleko zobambiso kufuneka zilingane nemali—

(a) lexabiso lemarike lesithuthi, inqanawe okanye inqwelontaka;

(b) ifayini exelwe yinkundla yeloo tyala; kunye

(c) neendleko ezichithiweyo okanye ekucingwa ukuba ziza kuchithwa nguRhulumente ekutshutshiseni elo tyala neendleko ekufuneka zibuyiswe ngokwecandelo 52(4) kunye nelama-72(b).

(4) Ukuba inkundla yanelisekile ukuba kukho iimeko ezifuna ukuba kubhatalwe imali engaphantsi kwezi zikhankanyiweyo, ingayalela ukuba sikhululwe eso sithuthi, inqanawe okanye inqwelontaka subject ngokomqathango weendleko zobambiso zaloo mali ingaphantsi kwexabiso laso.

Isahlulo 2

Iinkqubo zonyanzeliso nezohlwayo

Iinkqubo zonyanzeliso

71. (1) Ukuba uMphathiswa unombono wokuba nawuphi na umntu wenza into eyaphula lo Mthetho, wenza into eza kuba nesiphumo esibi kwiintlobo-ntlobo zezityalo nezilwanyana okanye kwindalo okanye akathobeli miqathango okanye ugunyaziso olukhutshwe ngokwalo Mthetho, emva kokuba enikwe ithuba lokuba azithethelele, angakhupha umyalelo oya kuloo mntu wokuba—

(a) ayeke loo nto ayenzayo;

(b) athathe amanyathelo okulungisa ezo ziphumo ezibi kungaphelanga ixesha elithile.

(c) athobele iarhente okanye ugunyaziso olufanelekileyo ngexesha elimiselweyo.

(2) Kwimeko exelwe kwicandelwana (1), ukuba kufuneka intshukumo ekhawulezileyo yokukhusela ummandla ochongwe kwicandelo 48(1), uMphathiswa angakhupha umyalelo engamnikanga loo mntu ithuba lokuziphendulela ze emva koko anikwe ithuba kodwa umyalelo sele ukhutshiwe

(3) Umyalelo okhutshiweyo oya kuye nawuphi na umntu ngokwecandelwana (1) okanye (2) ungakhutshelwa nomnini womhlaba, kwakhona uMphathiswa angakhupha umyalelo kumninimhlaba, apho ke kusebenza amacandelwana (1) okanye (2), neenguqu ezifanelekileyo

Ukusilela ekuthobeleni umyalelo

72. Ukuba umntu uyasilela ukuthobela umyalelo oxelwe kwicandelo 71, uMphathiswa wePhondo angathi—

- (a) apho kuyimfuneko, arhoxise okanye atshintshe ugunyaziso olo okanye omnye umba oyingxam yomyalelo; yaye
- (b) athathe nawaphi amanyathelo achazwe kwimiyalelo nayo nawaphi na aminye amanyathelo ukunceda isiphumo ezimbi zolondolozo lwendalo ngokunjalo nayo nantoni na ephazamisa indalo ngenxa yokusilela ukuthobela umyalelo, kunye nokubuyisa iindleko zokwenza oko kumntu osilela ukuthobela umyalelo.

Izohlwayo zolawulo

73. (1) UMphathiswa ePhondo—

- (a) anganyanzelisa izohlwayo zolawulo-
 - (i) zokungathobeli lo Mthetho;
 - (ii) zokungathobeli umyalelo okhutshwe ngokwecandelo 71(1);
 - (iii) ityala elixelwe kwicandelo 74; kunye
- (b) neendidi ezichaziweyo zezohlwayo zolawulo kunye nenkqubo yokunyanzela ezo zohlwayo.

(2) Phambi kokubeka isohlwayo, uMphathiswa kufuneka ngembalelwano—

- (a) azise umntu onikwa isohlwayo esixelwe kwicandelwana (1);
- (b) achaze iinkcukacha nezizathu zesohlwayo esiza kukhutshwa;
- (c) achaze imali eza kuhlawulwa yesohlwayo esiza kukhutshwa; yaye
- (d) anike ithuba umntu oxelwe kumhlathi (a) ngokufaka izimvo ezibhaliweyo kwisithuba esixelwe nguMphathiswa.

(3) Ukuba umntu ohlawuliswa imali yesohlwayo ngokwecandelwana (1) akayihlawuli, uMphathiswa angafaka ityala enkundleni.

ISAHLUKO 11 AMATYALA NEZOHLWAYOO

Amatyala

74. (1) Umntu unetyala loluhlu lokuqala lolwaphulomthetho ukuba loo mntu—

- (a) Uyasilela ukuthobela isaziso esikhutshwe ngokwecandelo 48(1) okanye kulungisiwe njengoko kuchaziwe kwicandelo 48 (4);
- (b) waphula okanye uyasilela ukuthobela icandelo 50(4) okanye 51;
- (c) uyasilela ukuthobela umyalelo okhutshwe ngokwecandelo 71(1), (2) no-(3);
- (d) uyasilela ukuthobela umyalelo wegosa lolondolozo lwendalo, umnakekeli wendalo okanye umncedisi wegosa lolondolozo lwendalo onikwe ngokwalo Mthetho okanye xa besebenzisa amagunya abo ngokwalo Mthetho;
- (e) wenza into engekho mthethweni okanye akenzi into eza kukhokelela kwisiphumo esibi kwindalo;

- (f) utshintsha, utokola okanye ufoja—
- (i) naluphi ugunyaziso okanye naluphi uxwebhu olukhutshwe okanye oludingekayo ukuzwe kwenziwwe umsebenzi ngokwalo Mthetho;
 - (ii) ilogo, iletahedi, istampu, uphawu olusemthethweni okanye umhla westampu seSebe okanye seCapeNature, okanye isignitsha yaye nawuphi na umntu oiyarhente okanye umsebenzi weSebe okanye weCapeNature;
- (g) unoxwebhu olufojiweyo okanye lobuxoki ekuthiwa lugunyaziso, okanye azame ukuhambisa olo xwebhu njengogunyaziso olufanelekileyo okanye isaphulelo esikhutshwe phantsi kwalo Mthetho;
- (h) ufumana okanye afake isicelo sogunyaziso okanye soxwebhu ngokwalo Mthetho—
- (i) phantsi kwegama lobuxoki; okanye
 - (ii) ngeli lixa athintelwe ngumyalelo wenjundla ukuba angabi ngomnini wolo gunyaziso okanye wolo xwebhu;
- (i) wenza ingxelo yobuxoki esazi kuso nasiphi isicelo esenziweyo okanye kuxwebhu olungenisiweyo ngokwalo Mthetho;
- (j) ufihla, ususa nakusiphi isakhiwo okanye isithuthi, inqanawe, inqwelomoya okanye naluphi uhlobo lwesithuthi, utshabalalisa okanye alahle nantoni na ebungqina ukuze ingathathwa okanye ibonwe kulo naluphi na ulwaphulomthetho phantsi kwalo Mthetho, kubandakanywa naliphi icuntsu elithathwe kwisidalwa okanye ilungu lesinye isidalwa, okanye nayiphi incwadi, irejista, uxwebhu, isithuthi, oomatshini, izixhobo, ikhonteyina, umpu isixhobo sokuhlasela, ibhombu, okanye ityhefu;
- (k) uthintela okanye uphazamisana nalo naliphi igosa elenza umsebenzi walo osemthethweni ngokwalo Mthetho okanye aphazamise isixhobo esisetyenziswa ligosa elenza umsebenzi walo; okanye
- (l) azenze ngathi uligosa lolondolozo lwendalo, umnakekeli wendalo, umncedisi wegosa lolondolozo lwendalo, umsebenzi okanye iarhente yeSebe okanye yeCapeNature.
- (2) Umntu unetyala loluhlu lwesibini lolwaphulo-mthetho ukuba loo mntu—
- (a) unqumla ngokungekho mthethweni kumhlaba ekunokubakh kuwo nasiphi isilwanyana sasendle abe ephethe isixhobo sokuhlasela, ityhefu, isixhobo esinokusetyenziswa ukuzingela, ukubamba okanye ukubulala isilwanyana sasendle;
 - (b) ufunyanwa enalo naliphi icuntsu elithathwe kwisidalwa ngaphandle kobungqina bobunini obusemthethweni njengoko kuxeliwe kwicandelo 55;
 - (c) uthuma nawuphi omnye umntu okanye uvumela nawuphi na umntu ukuba enze into okanye angenzi into eyaphula yalo Mthetho;
 - (d) unesigunyaziso okanye isaphulelo esikhutshwe phantsi kwalo Mthetho yaye—
 - (i) waphula okanye uyasilela ukuthobela umqathango weso sigunyaziso okanye isaphulelo;
 - (ii) akanasigunyaziso okanye isaphulelo ngeli lixa esena into enokwenziwa kuphela ngumntu onesigunyaziso okanye isaphulelo soko; okanye
 - (iii) uvumela nawuphi omnye umntu ukuba enze okanye angenzi nanto elityala ngokwemihlathana (i) okanye (ii).
- (3) Umntu unetyala loluhlu lwesithathu lolwaphulomthetho ukuba loo mntu—
- (a) uyasilela ukuthobela umyalelo ukuba eme xa emiswa ligosa lolondolozo lwendalo okanye umnakekeli wendalo;
 - (b) uyasilela ukuthobela umgaqo okanye izaziso ezenziwe ngokwalo Mthetho; okanye xa ephendula kwisicelo segosa lolondolozo lwendalo, umnakekeli wendalo okanye umncedisi wegosa lolondolozo lwendalounika iinkcukacha ezibubuxoki okanye ezilahlekisayo;

- (c) ngaphandle kwesizathu esivakalyo uyala okanye uyasilela ukunikeza ngegama nedilesi okanye ngeenkukacha okanye uxwebhu olufunwa ligosa lolondolozo lwendalo, umnakekeli wendalo okanye umncedisi wegosa lolondolozo lwendalo ngeenjongo zokwenza umsebenzi walo phantsi kwalo Mthetho.

Izohlwayo

75. (1) Umntu ogwetyelwe ityala elikuluhlu lokuqala njengoko kuxeliwe kwicandelo 74(1) angagwetywa—

- (a) isohlwayo esingekho ngaphezulu kwezigidi ezili-R10;
- (b) ukuvalelwa entolongweni isithuba esingekho ngaphezulu kweminyaka eli-10; okanye
- (c) zombini isohlwayo semali nokuvalelwa entolongweni.

(2) Umntu ogwetyelwe ityala elikuluhlu lwesibini njengoko kuxeliwe kwicandelo 74(2) angagwetywa—

- (a) isohlwayo esingekho ngaphezulu kwezigidi ezi-R5;
- (b) ukuvalelwa entolongweni isithuba esingekho ngaphezulu kweminyaka emi-5;
- (c) zombini isohlwayo semali nokuvalelwa entolongweni; okanye
- (d) ukuba ufunyaniswa enetyala okwesibini—
 - (i) isohlwayo esingekho ngaphezulu kwezigidi ezili-R10;
 - (ii) ukuvalelwa entolongweni isithuba esingekho ngaphezulu kweminyaka eli-10; okanye
 - (iii) zombini isohlwayo semali nokuvalelwa entolongweni.

(3) Umntu ogwetyelwe ityala elikuluhlu lwesithathu ekubhekiswe kulo kwicandelo 74(3) angagwetywa—

- (a) isohlwayo esingekho ngaphezulu kwezigidi ezili-R1;
- (b) ukuvalelwa entolongweni isithuba esingekho ngaphezulu kweminyaka emibini;
- (c) zombini isohlwayo semali nokuvalelwa entolongweni; okanye
- (d) ukuba ugwetywa okwesibini okanye uphinde wenza kwa eli tyala linye—
 - (i) isohlwayo esingekho ngaphezulu kwezigidi ezi-R5;
 - (ii) ukuvalelwa entolongweni isithuba esingekho ngaphezulu kweminyaka emi-5; okanye
 - (iii) zombini isohlwayo semali nokuvalelwa entolongweni.

(4) Ukuba naluphi ulwaphulomthetho lubandakanya ukubanjwa, ukubulala, ukuloba, ukufunyanwa unento ethile, ukuthengisa, ukuthumela okanye ukufumana icuntsu elithathwe kwisidalwa okanye kwilungu lesinye isidalwa inkundla ingathi, ngaphezu kwezohlwayo ezixelwe kumacandelwana (1), (2) no-(3), iphinde ikunike esinye isohlwayo xa unecuntsu elithathwe kwisidalwa, sentlawulo yemali enxabiso elingekho ngaphezulu kwesithathu sexabiso selo cuntsu lithathwe kwisidalwa.

(5) Kulandelwa iCriminal Procedure Act, izohlwayo zemali ezikhutshwe yinkundla ngokwalo Mthetho kungathwa mazihlawulwe kuCapeNature.

Ukucinywa kogunyaziso

76. Inkundla egwebe umntu ityala ngokwalo Mthetho lingathi—

- (a) irhoxise naluphi ugunyaziso olukhutshwe ngokwalo Mthetho ukuba amagunya anikwe loo ugunyaziso asetyenziswe ukwenza elo tyala;
- (b) ithintele loo mntu ukuba angafumani lugunyaziso isithuba esingekho ngaphezulu kweminyaka emihlanu;
- (c) ikhuphe umyalelo that bonke oogunyaziwe bakhuphe ugunyaziso lokuba loo mntu angaze anikwe lugunyaziso ngokomhlathi (b).

Ukugqiba ngomntu oza kuhlawula iindleko

77. Ukuba umntu ugwetyelwe ityala ngokwalo Mthetho—

- (a) elithe lenza ukuba naliphi iziko likarhulumente lichithe iindleko ukuze libambe nayiphi na into, lihlaziye nawuphi na umhlaba okanye liphande ze ligwebe isenzo solwaphulomthetho; okanye
- (b) loo mntu ufumene inzuzo yemali,

inkundla egweba loo mntu inokuthi, iphanda ngemali ezuzwe nguloo mntu okanye imali aza kuyifumana ngenxa yolo lwaphulomthetho, yaye ngaphezu kwaso nasiphi esinye isigwebo esikhutshelwe olo lwaphulomthetho, inkundla ingalela ukuba ezo mali zihlawulwe ngqo kwiCapeNature njengesohlwayo semali esongeziweyo, intlawulo yomonakalo okanye imbuyekezo, njengexalenye yesigwebo.

Uphulukwano

78. (1) Inkundla egwebe umntu ityala ngokwalo Mthetho ingabhengeza nayiphi na into, ebandakanya kodwa engaphelelanga kulo naliphi icuntsu elithathwe kwisidalwa, kwikhonteyina, isithuthi, inqanawe, inqwelontaka okanye uxwebhu kubandakanywa noxwebhu olu-elektroniki, obelusetyenziswe ngeenjongo zokwenza ulwaphulomthetho yaze loo nto yabanjwa phantsi kweimiqathango yalo Mthetho, ukuba ithinjiwe yiCapeNature.

(2) Ukuba kulahlwe nayiphi na isampuli kwiCape Nature phantsi kwecandelwana (1) isaphila, iCapeNature kufuneka iqinisekise ukuba iyaphila loo sampuli —

- (a) apho kufanelekileyo, abuyiselwa kwilizwe ebethathwa kulo okanye kwindawo avela kuyo ngeendleko zomntu ogwetyelwe olo lwaphulo-mthetho olubandakanya elo cuntsu lithathwe kwisidalwa;
- (b) elo cuntsu libekwa kwiziko elifanelekileyo, iziko lohlangulo okanye elinomntu oza kukwazi ukulikhathalela yaye aligcine kakuhle kwindawo efanelekileyo; okanye
- (c) lilahlwe ngendlela efanelekileyo.

(3) Kuba kulahlwe nayiphi na isampuli kwiCape Nature phantsi kwecandelwana (1), iCapeNature—

- (a) ingabonelela ngokuba isampuli okanye into ilahlwa kwiziko okanye kwimyuziyam efanelekileyo ukuba
- (b) kukulahla isampuli okanye into ngendlela efanelekileyo.

ISAHLUKO 12 IZIBHENO

Ukubhena kwisigqibo seCapeNature

79. (1) Nawuphi na umntu onomdla okanye ochaphazelekayo angabhena kwiGosa eliyiNtloko yeSigqeba soLawulo kwisigqibo esithathwe ligosa leCapeNature elisebenza phantsi konikezogunya ngokwalo Mthetho.

(2) Isibheno ngokwecandelwana (1) kufuneka kujongwane naso ngendlela exeliweyo, emva kokuhlawulwa kwentlawulo ebekiweyo nangexesha elibekiweyo.

(3) IGosa eliyiNtloko yeSigqeba soLawulo lingaqwalasela ze ligqibe ngesibheno okanye atyumbe iphaneli yokujongana nesibheno ukuqwalasela nokunika ingcebiso iGosa eliyiNtloko yeSigqeba soLawulo ngesibheno.

(4) IGosa eliyiNtloko yeSigqeba soLawulo lingathi, emva kokuqwalasela isibheno, liqinisekise, limise litshintshe isigqibo, ugunyaziso, umqathango okanye lenze nasiphi esinye isigqibo esifanelekileyo, kubandakanywa isigqibo intlawulo ebekiweyo ihlawulwe ngulowo ubhenayo okanye nayiphi inxalenye yalo, ibuyiswe.

(5) Isibheno esiphantsi kweli candelo simisa ugunyaziso, isaphulelo, okanye nasiphi esinye isigqibo esenziwe ngokwalo Mthetho, okanye nawuphi umqathango ohambelana nawo apho, ngaphandle komyalelo.

Ukubhena kwisigqibo esenziwe ngumntu onikwe amagunya nguMphathiswa

80. (1) Nawuphi na umntu onomdla okanye ochaphazelekayo angabhena kuMphathiswa wePhondo kwisigqibo esithathwe liGosa eliyiNtloko leSigqeba okanye nguye nawuphi umntu osenze ngokonikezognya alinikwe nguMphathiswa ngokwalo Mthetho.

(2) Isibheno esixelwe kwicandelwana (1) kufuneka singeniswe kwaye kujongwane naso ngendlela exeliweyo, emva kokuhlawulwa kwentlawulo ebekiweyo nangexesha elibekiweyo.

(3) UMphathiswa angaqwalasela ze agqibe ngesibheno okanye atyumbe iphaneli yokujongana nesibheno ukuqwalasela nokunika ingcebiso uMphathiswa ngesibheno.

(4) UMphathiswa wePhondo angathi, emva kokuqwalasela isibheno, aqinisekise, amise atshintshe isigqibo, kubandakanywa isigqibo intlawulo ebekiweyo ihlawulwe ngulowo ubhenayo okanye nayiphi inxalenye yalo, ibuyiswe.

(5) Isibheno esiphantsi kweli candelo simisa uzalisekiso lwesigqibo ekungaso kunye nogunyaziso, isaphulelo, okanye nasiphi esinye isigqibo esenziwe ngokwalo Mthetho, okanye nawuphi umqathango ohambelana nawo apho, ngaphandle komyalelo.

ISAHLUKO 13

IMIQATHANGO GABALALA NEMIQATHANGO YETHUTYANA

Isaphulelo

81. UMphathiswa unokunika umyalelo wokuba kulandelwe inkqubo yokufaka nokuprosesa isicelo sesaphulelo kumqathango walo Mthetho.

Unikezognya

82. (1) Kulandelwa icandelwana (3), uMphathiswa anganikeza igunya okanye umsebenzi wakhe awenza ngokwalo Mthetho—

- (a) kwiNtloko yeSebe;
- (b) kwiBhodi;
- (c) kwiGosa eliyiNtloko yeSigqeba soLawulo;
- (d) kwiCapeNature;
- (e) kumasipala, ngokomthetho ochaphazelekayo; okanye
- (f) kulo naliphi na elinye iziko likarhulumente.

(2) Unikezo-gunya ngokwecandelwana (1)—

- (a) luxhomekeke kwimiqathango ebekwe nguMphathiswa;
- (b) kufuneka lubhalwe phantsi;
- (c) lube namagunya okuba kunikezwe inxalenye yamagunya; yaye

- (d) alulususi uxanduva loMphathiswa lokusebenzisa igunya lakhe okanye lokwenza umsebenzi wakhe.
- (3) UMphathiswa wePhondo—
- (a) akanakunikeza ngegunya okanye umsebenzi woMphathiswa wePhondo ukwenza umthethwana; yaye
- (b) angathi ngembalelwano, alurhoxise unikezogunya.
- (4) INTloko yeSebe ingathi ngemvume ebhaliweyo yoMphathiswa wePhondo, angasebenzisa nawaphi amagunya wakhe okanye imisebenzi yakhe kwigosa leSebe ngokwalo Mthetho
- (5) iBhodi, iGosa eliyiNtloko yeSigqeba soLawulo lingathi, nangemvume yoMphathiswa wePhondo, linikeze igunya okanye umsebenzi wakhe kumagosa eCape Nature
- (6) Bhodi ayinakunikeza igunya okanye umsebenzi—
- (a) wokuqesha okanye okanye ukuqesha kwakhona umntu oza kuba liGosa eliyiNtloko yeSigqeba soLawulo;
- (b) wokugqiba ngemiqathango yokusebenza yeGosa eliyiNtloko yeSigqeba soLawulo;
- (c) wokugqiba ngomgaqonkqubo wengqesho;
- (d) wokubeka imida yezimali njengoko kuchaziwe kwicandelo 27(4)(f);
- (e) nowokwamkela ibhajethi neengxelo zemali zonyaka zeCapeNature.
- (7) Amacandelwana (2) nele-(3)(b) ayasebenza, ngeenguqu ezifanelekileyo, kunikezelo lwamagunya ngokwecandelwana (4) okanye (5).

Imigaqo

83. UMphathiswa wePhondo—

- (a) angenza imigaqo apho ifuneka khona ngokwalo Mthetho;
- (b) angenza imigaqo ejongene nawo nawuphi umba ekunokufuneka ibekwe ngokwemigaqo yalo Mthetho.

Izaziso zoluntu

84. UMphathiswa angapapasha isaziso kwiGazethi yePhondo—

- (a) malunga nawo nawuphi umba obonelelwa ngulo Mthetho ngesaziso;
- (b) isalathiso kwisicwangciso okanye kwisikhokelo somiselo lwalo Mthetho; kunye
- (c) nokwazisa ngawo nawuphi umba omalunga nokusebenza kwalo Mthetho, apho kuyimfuneko.

Imigangatho yokusebenza

85. UMphathiswa angabeka imigangatho yokusebenza yokwenziwa kwawo nawuphi umsebenzi okanye izinto ezifunekayo ezixelwe kulo Mthetho.

Ukubonisana

86. (1) Phambi kokupapasha nawuphi na umgaqo okanye isaziso ngokwalo Mthetho, uMphathiswa kufuneka—

- (a) apapashe umgaqo oseluyilo okanye isaziso okanye isalathisi esiseluyilo ngokuqulethwe kumgaqo okanye isaziso, ngokwemeko leyo, ngeelwimi ezisemthethweni zePhondo-
- (i) kwiGazethi yePhondo; yaye
- (ii) ubuncinane amaphephandaba amabini afundwa kwiPhondo yaye elinye lawo kufuneka ibe liphephandaba eliprintiweyo;

(b) anike ithuba lokuba amaqela anomdla nachaphazelekayo ukuba avakalise izimvo zawo isithuba seentsuku ezingekho ngaphantsi kweentsuku ezingama-30 ukususela ngomhla wopapasho kwiGazethi yePhondo ngaphandle kwaxa ezo ntsuku zibekwe kuMthetho; yaye

(c) aqwalasele naziphi izimvo ezifunyenweyo.

(2) UMphathiswa angathi apho kufanelekileyo, alongeze ithuba lokufaka izimvo ngokwecandlwana (1) ngethutyana elivakalyo ukuba iimeko zifunisa oko.

Imigaqo, amaxwebhu asemthethweni namanyathelo asebenza kwiimeko ezithile

87. (1) Umgaqo okanye isaziso, okanye ugunyaziso, okanye olunye uxwebhu, olwenziweyo, okhutshwe okanye opapashwe ngokwalo Mthetho—

(a) ongathobeli iimfuno zenkqubo amazilandelwe usasebenza ukuba oko kungathobeli akwenzi mahluko yaye akuchaphazeli nawuphi na umntu;

(b) ungenziwa izilungiso okanye utshintshwe kungalandelwanga iinkqubo zoMthetho ochaphazelekayo ukuba—

(i) injongo kukulungisa impazamo; yaye

(ii) isilungiso asitshintshi amalungelo nemisebenzi yaye nawuphi na umntu ngendlela ephathekayo.

(2) Ukusilela ukuthatha amanyathelo ngokwalo Mthetho njengento efanele ukwenza phambi kokuthatha nasiphi isigqibo akutshintshi sigqibo okanye ntshukumo ukuba usilelo—

(a) alwenzi mahluko;

(b) aluchaphazeli nawuphi na umntu; yaye

(c) alunamkhethe.

Umda woxanduva

88. UMphathiswa, iNtloko yeSebe, iBhodi yeCapeNature, iGosa eliyiNtloko yeSigqeba soLawulo, iCapeNature okanye nawuphi na umntu onikwe ingunyangokwalo Mthetho akanaluxanduva lwamonakalo okanye ilahleko eyenziwe ngumntu othe esenza umsebenzi ngendlela efanelekileyo nangentembeko—

(a) wasebenzisa igunya okanye wenza umsebenzi elandela lo Mthetho;

(b) ongasebenzi magunya ngokwalo Mthetho; okanye

(c) owenze umsebenzi ukugqithisa kulowo afanele ukuwenza.

Utshitshiso lwemithetho

89. Imithetho ekubhekiswe kuyo kwiShedyuli iyatshitshiswa ngendlela exelwe kwikholam yesithathu yeShedyuli.

Imiqathango yethutyana

90. (1) Nawuphi na umntu owayetyunjwe njengegosa lolondolozo lwendalo, umncedisi wegosa lolondolozo lwendalo okanye umnakekeli wendalo okanye ngokwecandelo 25A loMmiselo uthathwa njengochongelwe oko ngokwalo Mthetho.

(2) IBhodi yoLondolozo lweNdalo yeNtshona Koloni iyaqhubeka isebenza njengeziko likarhulumente lephondo, kodwa iya kwaziwa emva kokuqala ukusebenza kwalo Mthetho, njengeCapeNature.

(3) Inkangeleko namalungelo nemisebenzi yeziko likarhulumente lephondo ekubhekiswe kulo kwicandelwana (2) ayichatshazelwa kukutshintshwa kwegama.

(4) Umntu obelilungu leBhodi yoLondolozo lweNdalo yeNtshona Koloni phambi nje kokuqala ukusebenza kwalo Mthetho kufuneka athathwe njengotyunjwe njengelungu leBhodi yeCapeNature isithuba esingekapheli sobulungu bakhee.

(5) Ummandla obengummandla wolondolozo lwendalo phambi nje kokuqala ukusebenza kwalo Mthetho uthathwa njengobhengezwe njengommandla okhuselweyo ngokwecandelo 23(5) lomethetho iProtected Areas Act.

Isihloko esifutshane nokuqala ukusebenza

91. Lo Mthetho ubizwa ngokuba nguMthetho oLawula iiNtlobontlobo zeZityalo neZilwanyana weNtshona Koloni, 2019, yaye uya kuqala ukusebenza ngomhla ogqitywe yiNkulumbuso ngompoposho owenziwe kwiGazethi yePhondo.

ISHEDYULI: UTSHITSHISO LWEMITHETHO

Inombolo noNyaka	Isihloko	Ubungakanani botshitshiso
21 ka-1935	Sea Shore Act, 1935	Wonke
63 ka-1970	Mountain Catchment Areas Act, 1970	Wonke kangangoko usetyenziswa kwiPhondo nguMpoposho R28 ka-1995
19 ka-1974	Nature Conservation Ordinance, 1974	Wonke
3 ka-1982	Nature Reserves Validation Ordinance, 1982	Wonke
15 ka-1998	Western Cape Nature Conservation Board Act, 1998	Wonke
8 ka-1999	Western Cape Nature and Environmental Conservation Ordinance Amendment Act, 1999	Wonke
3 ka-2000	Western Cape Conservation Laws Amendment Act, 2000	Wonke
6 ka-2011	Western Cape Biosphere Reserves Act, 2011	Wonke