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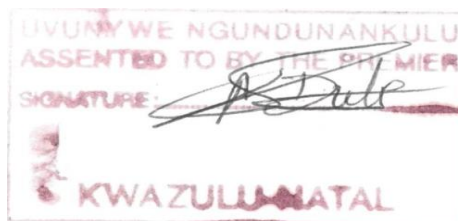
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ACTS • WETTE  
NOTICE 13 OF 2023

[English text signed by the Premier]

**KWAZULU-NATAL GROWTH FUND AGENCY ACT, 2024**  
**(Act No. 04 of 2024)**



Assent to on 09/04/2024

# ACT

To establish the KwaZulu-Natal Growth Fund Agency as a provincial public entity, responsible for the administration, control and management of investments from a dedicated project finance fund; to provide for its governing structures, powers, functions, finance and funding; to provide for the transfer of staff from The KZN Growth Fund Trust and the appointment of staff; to provide for transitional arrangements; and matters incidental thereto.

## PREAMBLE

### RECOGNISING THAT –

- (a) it is an objective of the Constitution to improve the quality of life of all citizens and free the potential of each person;
- (b) the Constitution provides that to promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken;
- (c) to give effect to the aforementioned provisions of the Constitution, the Provincial Government established The KZN Growth Fund Trust as a dedicated project finance trust fund to support economic activities and promote black economic empowerment in the Province; and
- (d) the Provincial Government subsequently resolved to disestablish The KZN Growth Fund Trust and to create a provincial public entity to continue with the mandate of the Trust;

**THE PROVINCIAL LEGISLATURE** of the Province of KwaZulu-Natal therefore enacts the following: -

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#### *Section*

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2. Objectives of Act

#### CHAPTER 2

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## CHAPTER 1

### DEFINITIONS AND OBJECTIVES

#### Definitions

1.(1) Words derived from the word or terms defined have corresponding meanings, unless the context indicates otherwise.

(2) Any reference to “**the Act**” or “**this Act**” includes any subordinate legislation issued in terms of a provision of this Act.

(3) Any term or provision of this Act must be reasonably interpreted in a manner that is consistent with the purpose and objectives of this Act.

(4) In this Act, unless the context indicates otherwise –

“**Accounting Authority**” means the Board of the KwaZulu-Natal Growth Fund Agency provided for in Chapter 3;

“**Agency**” means the KwaZulu-Natal Growth Fund Agency established in terms of section 3;

“**Auditor-General**” means the Auditor-General of South Africa established in terms of the Constitution of the Republic of South Africa, 1996 and the Public Audit Act, 2004 (Act No. 25 of 2004);

“**beneficiary**” means the owner or owners of a “**beneficiary project**”;

“**beneficiary project**” means a viable and sustainable project, approved by the Board to receive investment funding from the Fund; and “**beneficiary projects**” has a corresponding meaning;

“**Board**” means the Board of the Agency provided for in Chapter 3;

“**capital amount**” means monies –

(a) appropriated from time to time by the Provincial Legislature in terms of section 29(1)(a)(i);

(b) raised or received through any lawful means in terms of section 29(1)(b) to (g);  
and

(c) held in trust by the Trust, for the purpose of investing in beneficiary projects, on termination and winding-up as provided for in section 36(2),

and includes interest on the capital amount, but excludes any other form of funding of a non-capital nature appropriated for other specific purposes by the Provincial Legislature in terms of section 29(1)(a)(ii);

“**Chief Executive Officer**” means Chief Executive Officer of the Agency appointed in terms of section 25;

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

“**day**” means any day other than a Saturday, Sunday or official public holiday in the Republic of South Africa;

“**Department**” means the government department responsible for economic development in the Province;

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

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

“**Fund**” means the dedicated project finance fund, to be known as the Growth Fund, established in terms of section 4;

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

“**immediate family**” means a parent, sibling, spouse, child by blood, adoption or marriage; grandparent and grandchild;

“**investment**” means an investment in a beneficiary project from the capital amount available in the Fund, made by the Agency in accordance with the provisions of this Act;

“**MEC**” means the Member of the Executive Council responsible for economic development in the Province;

“**Member of the Executive Council responsible for finance**” means the Member of the Executive Council responsible for finance in the Province;

“**National Treasury**” means the National Treasury established in terms of section 5 of the Public Finance Management Act;

“**organ of state**” has the meaning assigned to it in section 239 of the Constitution;

“**person**” includes a natural or juristic person;

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

“**Promotion of Access to Information Act**” means the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000);

“**Protection of Personal Information Act**” means the Protection of Personal Information Act, 2013 (Act No. 4 of 2013);

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

“**Provincial Government**” means the government of the Province;

“**Provincial Legislature**” means the Legislature of the Province;

“**Provincial Treasury**” means the treasury established for the Province in terms of section 17 of the Public Finance Management Act;



“**Public Finance Management Act**” means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

“**regulations**” means regulations promulgated in terms of section 35;

“**Remuneration of Public Office Bearers Act**” means the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998);

“**staff**” of the Agency includes persons appointed in terms of section 27(2) and seconded or transferred in terms of section 27(4);

“**the Trust**” means The KZN Growth Fund Trust established in terms of the Amended and Restated Deed of Trust for The KZN Growth Fund Trust (Master’s Reference No. IT 1437/2007/PMB), established in accordance with the provisions of the Trust Property Control Act;

“**Trust Deed**” means the Amended and Restated Deed of Trust for The KZN Growth Fund Trust (Master’s Reference No. IT 1437/2007/PMB); and

“**Trust Property Control Act**” means the Trust Property Control Act, 1988 (Act No. 57 of 1988).

## **Objectives of Act**

2. The objectives of the Act are –

- (a) to establish the KwaZulu-Natal Growth Fund Agency as a provincial public entity, responsible for –
  - (i) creating an enabling environment in KwaZulu-Natal for inclusive economic growth through investment in sustainable projects in order to create employment and enhance social well-being; and
  - (ii) promoting black economic empowerment;
- (b) to establish a Growth Fund as a dedicated provincial project finance fund available for investment by the Agency pursuant to the objectives set out in subsection (a);
- (c) to provide for the administration, control and management of the Agency and the Fund; and
- (d) to create a regulatory framework for the implementation and enforcement of the

provisions of this Act.

## CHAPTER 2

### KWAZULU-NATAL GROWTH FUND AGENCY AND GROWTH FUND

#### **Establishment of KwaZulu-Natal Growth Fund Agency**

3.(1) A juristic person to be known as the KwaZulu-Natal Growth Fund Agency is hereby established as a provincial public entity as defined in the Public Finance Management Act.

(2) The Agency is the successor-in-law in respect of all rights, duties and obligations of the Trust.

#### **Establishment of Growth Fund**

4.(1) A dedicated provincial project finance fund, to be known as the Growth Fund, is hereby established.

(2) The Fund must be administered, controlled and managed by the Agency as directed by the Board, subject to the provisions of this Act and the Public Finance Management Act.

(3) Any capital amounts received by the Agency from time to time must –

- (a) be deposited into a separate bank account registered in the name of the Fund in accordance with the provisions of section 7 of the Public Finance Management Act; and
- (b) be used for the sole purpose of investing in beneficiary projects to give effect to the objectives of the Act set out in section 2(a).

(4) Immediately upon termination and winding up of the Trust in terms of section 36(1), the capital amounts held in trust by the Trust –

- (a) vest in the Agency in terms of section 36(2); and
- (b) must be deposited into the bank account of the Fund referred to in subsection (3)(a).

(5) Investments from the capital amount may only be made after such investment has been approved by the Board in accordance with the provisions of this Act.

#### **Functions and powers of Agency**

5.(1) The Agency is responsible for the administration, control and management of the Fund and for making investments in beneficiary projects from the capital amount, and must –

(a) perform its functions and exercise its powers to achieve the objectives of the Act, subject to the –

(i) Constitution and the Public Finance Management Act; and

(ii) provisions of this Act and any other applicable legislative and policy provisions;

(b) open and operate its own bank accounts, subject to the provisions of this Act and section 7 of the Public Finance Management Act;

(c) where necessary for the performance of its functions, the exercise of its powers and the achievement of the objectives of the Act, appoint its own staff in accordance with the provisions of Chapter 4;

(d) utilise the capital amount to make investments in projects in accordance with an investment policy adopted by the Board, for the sole purpose of giving effect to the objectives of the Act as set out in section 2(a);

(e) take all necessary steps prior to making an investment to determine the viability and long-term sustainability of a proposed project;

(f) once an investment is approved in principle by the Board but before making the investment, enter into an agreement with the beneficiary on the terms and conditions governing the investment as determined by the Board;

(g) monitor compliance with and enforce agreements entered into between the Agency and beneficiaries;

(h) take all steps necessary to ensure that beneficiary projects are managed and controlled in accordance with the law and the principles of good governance;

(i) subject to policies and guidelines adopted by the Board, provide ongoing support and mentorship to beneficiaries to ensure the sustainability of beneficiary projects;

(j) report quarterly to the MEC on the state of the beneficiary projects and the achievement of the objectives of the Act: Provided that the MEC may request additional reports from time to time; and

(k) establish and maintain an up-to-date official website with all information regarding its operations –

(i) required to be made public in terms of this Act or any other law, and

(ii) of relevance or interest to the public and its beneficiaries.

(2) The Agency may, where necessary for the performance of its functions, the exercise of its powers and the achievement of the objectives of the Act –

(a) procure, in accordance with applicable legal prescripts, the services of persons having technical or specialised knowledge of any matter related to the operations of the

- Agency or a beneficiary project, and determine the remuneration, including reimbursement for traveling, subsistence and other expenses of such persons;
- (b) provide training, skills development and education to its own staff and beneficiaries on any matter related to its functions and powers;
- (c) subject to the provisions of section 54(2) of the Public Finance Management Act –
- (i) establish or participate in the establishment of companies;
  - (ii) participate in associations, joint ventures and partnerships; and
  - (iii) acquire or dispose of any interest in a company, partnership or other legal persons,
- unless exempted by the MEC in terms of section 54(4) of the Public Finance Management Act;
- (d) enter into agreements with other organs of state and institutions;
- (e) hire, let, acquire or dispose of any right in, or to, immovable property, in accordance with applicable legal prescripts and the prior written approval of the Board after consultation with the MEC;
- (f) register immovable property and other assets in its name;
- (g) raise or receive funds through any lawful means, including but not limited to –
- (i) the receipt of additional funding from the Provincial Government to be utilised for specific purposes;
  - (ii) the acceptance of unconditional donations, bequests and sponsorships for the purpose of achieving the objectives of the Act; and
  - (iii) fees and charges levied for services rendered related to the performance of its functions and the exercise of its powers;
- (h) invest any of its funds not immediately required in the Fund;
- (i) transfer, at the end of a financial year, into the Fund such funds as may remain from any funds raised by it in terms of subsection (g): Provided that such funds may only be spent to realise the objectives of this Act as set out in section 2(a);
- (j) procure necessary goods and services, subject to its available budget and the applicable legal prescripts;
- (k) donate or otherwise dispose of its obsolete or useless equipment, subject to policies determined by the Board for the disposal of such movable property;
- (l) insure itself against –
- (i) any loss, damage or risk; or
  - (ii) any liability it may incur in respect of Board members, staff members or other persons contracted to them; and
- (m) institute legal proceedings or defend any legal proceedings against it;

(3) Any legal proceedings against the Agency must be instituted in accordance with the Institution of Legal Proceedings Against Certain Organs of State Act, 2002 (Act No. 40 of 2002).

### **Supervisory functions and powers of MEC**

6.(1) The MEC must monitor the Agency and its governing Board in the performance of its functions and the exercise of its powers.

(2) The MEC must annually enter into a Memorandum of Agreement with the governing Board of the Agency to regulate the relationship between the MEC and the Agency.

(3) Unless provided for in any applicable legislative or other prescript, the MEC must determine fees and other charges that may be levied by the Agency in terms of the categories provided for in Schedule 2.

## CHAPTER 3 GOVERNING BOARD OF AGENCY

### **Board**

7.(1) The Agency is governed by a Board, which directs the entity in the performance of its functions and the exercise of its powers in accordance with this Act, the Public Finance Management Act and the principles of good governance.

(2) The Board is the accounting authority of the Agency in terms of section 49(2)(a) of the Public Finance Management Act.

### **Composition of Board**

8.(1) The Board consists of –

- (a) not fewer than five and not more than seven members appointed by the MEC in terms of section 10; and
- (b) the Chief Executive Officer, who is an *ex officio* member of the Board, but does not have the right to vote at meetings.

(2) When appointing a member or members of the Board in terms of section 10, the MEC must ensure that the Board is collectively composed of persons with experience and a track record

of adhering to the principles of good governance: Provided that the Board must include –

- (a) at least three persons with financial qualifications and experience in –
  - (i) investment finance;
  - (ii) equity and development finance; or
  - (iii) financial management;
- (b) at least two persons with legal qualifications and experience in –
  - (i) corporate finance;
  - (ii) project finance; or
  - (iii) banking;
- (c) at least one person with qualifications and experience in –
  - (i) engineering;
  - (ii) infrastructure development; or
  - (iii) quantity surveying; and
- (d) at least one person with qualifications and experience in human resource management.

#### **General requirements for Board members**

9.(1) Board members must –

- (a) be fit and proper persons;
- (b) hold office in the best interest of the Agency and the Province;
- (c) have appropriate knowledge, experience and skills as provided for in section 8(2);  
and
- (d) be independent, impartial and fair.

(2) A person is disqualified from becoming or remaining a Board member if that person –

- (a) is an office bearer as defined in the Remuneration of Public Office Bearers Act;
- (b) is an official or employee in terms of the Public Service Act, 1994 (Proclamation No. 103 of 1994);
- (c) is an official or employee of a municipality established in terms of section 155(1) of the Constitution;
- (d) is or becomes an unrehabilitated insolvent;
- (e) is or has been declared by a competent court to be of unsound mind;
- (f) has a direct or indirect interest in any contract with the Agency and fails to declare his or her interest and the nature thereof in the manner required by this Act;
- (g) fails to disclose any other interest and the nature thereof in the manner required by this Act;

- (h) is a person under curatorship;
- (i) has at any time been removed from an office of trust on account of misconduct involving dishonesty, theft or fraud;
- (j) has been convicted of an offence –
  - (i) involving dishonesty, theft or fraud; or
  - (ii) not involving dishonesty, theft or fraud, and sentenced to more than three months imprisonment without the option of a fine: Provided that a disqualification in terms of this item ends five years after the sentence has been completed; or
- (k) has been removed from office in terms of section 17.

### **Appointment procedure for Board members**

- 10.(1)** Whenever it is necessary to appoint a Board member or members, the MEC must –
- (a) invite nominations for suitable persons to serve on the Board through advertisements in the *Gazette* and at least two Provincial newspapers, one in English and one in *isiZulu*, which must stipulate –
    - (i) the nomination procedure and the closing date by which nominations must be received;
    - (ii) the information, qualifications and experience required to be nominated; and
    - (iii) persons disqualified from being appointed as Board members in terms of section 9(2); and
  - (b) thereafter compile a list of the names of nominees and their nominators, setting out the required particulars of each individual nominee and his or her nominator.
- (2) Any nomination made pursuant to an advertisement in terms of subsection (1)(a) must be supported by –
- (a) the personal and contact details of the nominee;
  - (b) particulars of the nominee's qualifications and experience;
  - (c) contact details of the nominator;
  - (d) particulars of the relationship between the nominator and the nominee; and
  - (e) any other information that may be required.
- (3) A person who has been nominated to serve on the Board in terms of subsection (2) must, within ten days of being nominated, submit to the MEC his or her –
- (a) signed acceptance of the nomination; and
  - (b) statement declaring that he or she is not disqualified from appointment in terms of this Act or any other applicable legislation.

(4) Any failure by a nominee to comply with subsection (3)(a) and (b) disqualifies the nominee from being considered for the position of a Board member.

(5) The MEC may appoint an independent external selection panel to review and evaluate all the nominations and thereafter to shortlist the names of suitable nominees and make recommendations to the MEC in that regard.

(6) The MEC must make the appointments from the list of nominees referred to in subsection (1)(b).

(7) When making the appointments the MEC must –

- (a) comply with the provisions of section 8(1)(a);
- (b) adhere to the collective composition of the Board as provided for in section 8(2);
- (c) adhere to the general requirements for Board members as provided for in section 9;
- (d) consider gender and demographic representativity, as well as the conduct and track record of nominees in similar positions of trust; and
- (e) notify the persons appointed to the Board of their appointment in writing, and the date upon which the appointment to the Board takes effect.

(8) The MEC must, within a period not exceeding 60 days from the date of appointment of the Board –

- (a) inform the Executive Council and the portfolio committee of the Provincial Legislature responsible for economic development, in writing, of the names of the persons appointed to the Board; and
- (b) cause the names of the persons so appointed to be published in the *Gazette* and at least two Provincial newspapers, one in English and one in *isiZulu*.

(9) Where it is shown that any one or more Board members were not properly appointed, such circumstance does not invalidate or affect any resolution, decision, authority or action taken by the Board, unless a court considering the validity of a particular resolution, decision, authority or action decides that such resolution, decision, authority or action must be set aside.

### **Chairperson and Deputy-Chairperson of Board**

11.(1) The MEC must appoint a Chairperson and a Deputy-Chairperson from amongst the Board members.



(2) The MEC may withdraw or vary such appointments, subject to compliance with due process.

(3) The Deputy-Chairperson must exercise all the powers, functions and duties of the Chairperson if the Chairperson is absent, incapacitated, refuses or fails to act as Chairperson, or if the MEC withdraws the Chairperson's appointment.

(4) If both the Chairperson and Deputy Chairperson are absent, incapacitated, refuse or fail to undertake their duties, or if the MEC withdraws their appointments, the MEC must appoint another Board member as Acting Chairperson for a period not exceeding 60 days from the date of his or her appointment by the MEC.

### **Term of office and reappointment of Board members**

**12.(1)** Board members are –

- (a) appointed for a term of five years or such lesser period as the MEC may determine, or, if section 18(2) applies, for a term determined in terms of that section;
- (b) eligible for reappointment at the discretion of the MEC for one additional term not exceeding five years, subject to the provisions of section 9; and
- (c) after a break of at least three years after an additional term contemplated in paragraph (b) has ended, and subject to section 10, again eligible for appointment in terms of paragraph (a) and, if so appointed, again eligible for reappointment in terms of paragraph (b).

(2) Notwithstanding the provisions of subsection (1), the term of office of a Board member not eligible for reappointment may be extended by the MEC for a period not exceeding one year.

### **Terms and conditions of appointment of Board members**

**13.(1)(a)** The MEC must determine the conditions of appointment of Board members and must provide for the payment of remuneration and allowances determined by the MEC in consultation with the Member of the Executive Council responsible for finance;

(b) a Board member who receives remuneration, allowances or other benefits as a full-time employee of –

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

business enterprise as defined in section 1 of the Public Finance Management Act, and who continues to receive remuneration, allowances or other benefits from such employment, may only receive allowances as a Board member to the extent required to place such member in the financial position he or she would have been in were it not for serving as a Board member; and

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

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

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

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

(3) Any remuneration and allowances payable to Board members must be paid by the Agency.

(4) Board members are appointed part-time and in a non-executive capacity.

### **Conduct of Board members**

**14.** A Board member –

- (a) must perform the functions of office in good faith and without favour or prejudice;
- (b) may not use the position, privileges or knowledge of a member for private gain or to improperly benefit another person; and
- (c) may not act in any other way that compromises the credibility, impartiality, independence or integrity of the Agency.

### **Declaration of financial or other interests by Board members**

**15.(1)** A Board member must, within ten days of being appointed and annually thereafter, submit a financial disclosure to the MEC in a format substantially compliant with Form 1 of

#### Schedule 1.

(2) Where a Board member acquires an interest in any company, or other business interests after submission of any financial disclosure provided for in subsection (1) and before the next disclosure is due, he or she must, within ten days of the date of the acquisition of such an interest, submit an additional written declaration to the MEC in a format substantially compliant with Form 1 of Schedule 1.

(3) Any failure by a Board member to disclose any interests in terms of subsections (1) and (2) may result in the removal of the member, subject to compliance with the provisions of section 9(2).

(4) The MEC must keep an updated register of the interests of Board members disclosed in terms of this section.

#### **Termination of membership of Board members**

**16.**(1) A Board member's appointment is terminated when that person –

- (a) is no longer eligible in terms of section 12 to be a member;
- (b) exceeds the member's term of office where his or her term is not extended by the MEC as provided for in section 12(2);
- (c) resigns;
- (d) is unable to serve due to death or incapacity; or
- (e) is removed from office in terms of section 17.

(2) A Board member may resign by giving at least three months written notice to the MEC, but the MEC may accept a shorter period in a specific case.

(3) Unless subsequently appointed to a committee in terms of section 23(2), when a Board member ceases to be a member of the Board, he or she may no longer represent the Board in any structure or committee: Provided that a Board member removed from office in terms of section 17 is not eligible for any further appointment.

#### **Removal from office and suspension of Board members**

**17.**(1) The MEC may remove a Board member from office on the grounds of –

- (a) misconduct, dishonesty, incapacity or incompetence;
- (b) absence from three consecutive meetings of the Board without the prior permission of the Chairperson of the Board, except on good cause shown;
- (c) insolvency; or
- (d) conviction of a criminal offence without the option of a fine.

(2) A Board member may be removed from office on the ground of misconduct, dishonesty, incapacity or incompetence only after a finding to that effect has been made by the MEC, subject to compliance with due process.

(3) The MEC may suspend a Board member under investigation without remuneration, subject to compliance with due process.

#### **Filling of vacancies on Board**

**18.**(1) Any vacancy on the Board contemplated in –

- (a) section 10, in the case of an ordinary Board member; and
  - (b) section 11, in the case of the Chairperson or Deputy-Chairperson,
- must be filled within a period of 60 days.

(2) A person appointed to fill a vacancy holds office for the unexpired portion of the term of the vacating Board member or Chairperson or Deputy-Chairperson.

#### **Absence of functional Board**

**19.** In the absence of a functional Board, the powers, functions and duties of the accounting authority of the Agency vest in the Chief Executive Officer as provided for in section 49(2)(b) of the Public Finance Management Act: Provided that –

- (a) the MEC may designate another suitably qualified and experienced person to exercise the powers and perform the functions and duties of the accounting authority;
- (b) Provincial Treasury may, in exceptional circumstances, approve or instruct another functionary of a public entity to be the accounting authority of the Agency; and
- (c) the MEC must, as soon as reasonably possible, but in any event within a period not exceeding six months, take all necessary steps to ensure that the entity is governed by a functional Board.

### Meetings of Board

20. (1) The Chairperson of the Board decides where and when the Board meets: Provided that

–

- (a) the Board meets at least quarterly;
- (b) the MEC may, in writing, direct the Board to meet, and may direct the place and time of the meeting; and
- (c) the majority of the Board members in office at that time may request the Chairperson in writing to convene a meeting at a place and time set out in the request.

(2) The Chairperson, or in his or her absence, the Deputy-Chairperson presides at meetings of the Board, but if they are both absent from a meeting, the Board members present must elect another member to preside at the meeting.

(3) The Board may determine its own procedures subject to the other provisions of this Act.

(4) The Board may, in its discretion –

- (a) allow members of the public to attend any meeting of the Board; and
- (b) invite any member of staff or any other person to attend any of its meetings where it is deemed necessary or appropriate.

(5) A Board member must recuse himself or herself from a matter being considered or voted upon by the Board if he or she has a direct or indirect interest, or if there is a possibility that a direct or indirect interest might arise, unless the Board determines that the interest disclosed is trivial or not material.

(6) If, at any stage during the course of any proceedings before the Board it appears that a Board member present at that meeting has or may have an interest contemplated in subsection (5), such a member must forthwith disclose the nature of his or her interest and leave the meeting.

(7) Any disclosure made in terms of subsection (5) or (6) must be recorded in the minutes of the meeting in question.

(8) If it subsequently emerges that the Board took a decision on a matter in respect of which a Board member failed to disclose a material interest referred to in subsection (5) or (6), such decision by the Board must be reconsidered without the participation of the affected member as soon as reasonably possible after the Board becomes aware of the non-disclosure:

Provided that if such decision adversely affects the rights of any person and has a direct external legal effect, the Board must apply to a competent court to set aside such decision.

(9) For the purposes of this section “**indirect interest**” includes, but is not limited to, an interest held by any Board member’s –

- (a) immediate family; or
- (b) business partner, associate or employer, other than the State.

(10) A Board member who contravenes or fails to comply with subsections (5) and (6) is guilty of misconduct, and such contravention or failure may constitute good reason for the removal of such member.

(11) Any person may make an application, orally or in writing, for a Board member to recuse himself or herself where that person has reason to believe that the such member, his or her immediate family, or close associate has or could reasonably be expected to have a financial or other interest in the outcome of a decision of the Board: Provided that the person making such application must give clear reasons for his or her request.

(12) An application referred to in subsection (11) must be –

- (a) addressed to the Chairperson of the Board; or
- (b) addressed to the Deputy-Chairperson of the Board if the application concerns the Chairperson of the Board,

who must decide on the matter and report the decision to the Board.

### **Minutes of Board meetings**

**21.(1)** The Board must ensure that minutes of every meeting of the Board and its committees are compiled and circulated to all Board and committee members.

(2) All minutes of meetings referred to in subsection (1) must be –

- (a) tabled at the next Board or committee meeting for adoption and are, once adopted and signed by the Chairperson of the Board or a committee, deemed to be a correct record of the meeting and constitute *prima facie* evidence of the decisions taken by the Board or committee at such meetings; and
- (b) listed in a register and kept in hard copy and electronic format once adopted and signed.

(3) The minutes of all meetings of the Board and its committees are public documents to which members of the public may, subject to the provisions of the Promotion of Access to Information Act and any other applicable legislation, request access during office hours.

### **Quorum and decisions at Board meetings**

**22.**(1) A majority of the Board members appointed in terms of section 8(1) 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 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 vote as a member.

(4) No decision of the Board is invalid merely by reason of a vacancy in the Board, subject to the provisions of subsections (1) and (2).

### **Establishment of Board committees**

**23.**(1) The Board may establish no more than four committees to assist it in the exercise of its powers and performance of its functions, including but not limited to –

- (a) an Audit and Risk Committee;
- (b) an Investment and Project Oversight Committee; and
- (c) a Human Resource and Ethics Committee.

(2) When appointing members to a committee, the Board is not restricted to Board members: Provided that the majority of committee members must be Board members.

(3) The Board –

- (a) must determine the functions and terms of reference of a committee;
- (b) must appoint the chairperson of a committee, who must be a Board member, and other members of the committee;
- (c) may remove a committee member from office at any time on good cause shown;
- (d) may determine the meeting procedures of a committee; and
- (e) may dissolve a committee at any time.

(4) Sections 13 and 15 apply, with the necessary changes, to the conditions of appointment of committee members.

(5) Committees established by the Board do not have final decision-making powers on matters affecting the Agency and must –

- (a) make recommendations to the Board for discussion, amendment, rejection or adoption; and
- (b) regularly report to the Board on their work.

(6) A staff member of the Agency appointed to a committee, or invited by a committee to attend a meeting –

- (a) must attend and participate in, but may not vote at a meeting of that committee; and
- (b) serves on the committee, or attends a meeting of the committee, subject to the terms and conditions of that person's employment.

(7) Section 14 applies, with the necessary changes, to the conduct of committee members and staff of the Agency in attendance at committee meetings.

#### **Delegation of powers and assignment of duties by Board**

**24.(1)** When necessary for the proper performance of its functions, the Board may delegate any of its powers or assign any of its duties, excluding those mentioned in subsection (2), to –

- (a) a Board member;
- (b) a committee established in terms of section 23; or
- (c) an appropriate staff member of the Agency.

(2) The Board may not delegate or assign the following powers and functions –

- (a) the appointment or reappointment of the Chief Executive Officer and the determination of his or her conditions of service provided for in section 25;
- (b) the determination of employment policies, financial limits or terms and conditions on the employment of staff provided for in section 27;
- (c) the fiduciary duties and general responsibilities of the Board as the accounting authority of the Agency; and
- (d) the approval of the budget.

(3) A delegation or assignment in terms of subsection (1) –

- (a) must be in writing;



- (b) is subject to such limitations, conditions and directions as the Board may impose;
- (c) does not divest the Board of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty; and
- (d) does not prevent the exercise of the assigned power or the performance of the assigned duty by the Board.

(4) All delegations and assignments in terms of subsection (1) must be maintained in an updated register.

(5) The Board may confirm, vary or revoke any decision taken in consequence of a delegation or assignment in terms of this section, subject to any rights that may have accrued to a person as a result of the decision.

#### CHAPTER 4

#### CHIEF EXECUTIVE OFFICER AND STAFF OF AGENCY

##### **Chief Executive Officer**

**25.**(1) The Board, in consultation with the MEC, must appoint a suitably qualified, skilled and experienced person as the Chief Executive Officer of the Agency.

(2) The Chief Executive Officer –

- (a) is appointed for a term not exceeding five years; and
- (b) may, in consultation with the MEC, be reappointed by the Board, for additional terms not exceeding five years at a time.

(3) The Chief Executive Officer is employed on such terms and conditions of employment as the Board may determine, in consultation with the MEC, after he or she has consulted the Member of the Executive Council responsible for finance.

(4) The appointment of the Chief Executive Officer is subject to the conclusion of an annual written performance agreement between the Chief Executive Officer and the Board, which may be amended in writing and by agreement between the parties to the agreement.

(5) The provisions of section 15, with the necessary changes, apply to the Chief Executive Officer: Provided that the Chief Executive Officer must make his or her declaration of interests to the Board in a format substantially compliant with Form 2 of Schedule 1.

- (6) The Chief Executive Officer is responsible for –
- (a) the overall management of the Agency in order to achieve the objectives of this Act;
  - (b) the appointment of staff in accordance with the provisions of section 27(1) and (2);
  - (c) the management of staff members, including the maintenance of staff discipline;
  - (d) the determination, in consultation with the Board, of a code of conduct applicable to the Chief Executive Officer and all other staff members, which is justiciable for purposes of disciplinary proceedings, to ensure –
    - (i) compliance with applicable legal and policy prescripts, including this Act;
    - (ii) the effective, efficient and economical use of funds and resources of the Agency;
    - (iii) the promotion and maintenance of a high standard of professional ethics and conduct;
    - (iv) the prevention of conflicts of interest;
    - (v) the protection of confidential information held by the Board; and
    - (vi) professional, honest, impartial, fair, ethical and equitable service delivery.
  - (e) the keeping and maintenance of the register of interests declared by staff members; and
  - (f) ensuring that the Agency complies with the provisions of this Act, the Public Finance Management Act, and any other applicable legislative and policy prescripts.
- (7) The Chief Executive Officer –
- (a) is accountable to the Board for the exercise of his or her powers and the performance of his or her functions in terms of this Act, and must report to the Board on the activities, functions and management of the Agency at such frequency and in such manner as the Board may determine; and
  - (b) must perform such duties and exercise such powers as the Board may assign or delegate to him or her.
- (8) The Chairperson of the Board must –
- (a) appoint another suitable staff member as acting Chief Executive Officer if the Chief Executive Officer is absent or unable to perform his or her functions for any reason: Provided that any such appointment may not exceed a period of 60 days; and
  - (b) if the position of Chief Executive Officer is vacant, appoint another staff member as acting Chief Executive Officer in consultation with the Board and the MEC: Provided that any such acting appointment may not exceed a period of twelve calendar months.

(9) An acting Chief Executive Officer –

- (a) has all the powers and duties of the Chief Executive Officer; and
- (b) is employed subject to such terms and conditions of employment as the Chairperson of the Board may determine in accordance with subsection (3), subject to any limitations and conditions determined by the MEC.

### **Resignation and removal from office of Chief Executive Officer**

26.(1) The Chief Executive Officer vacates office –

- (a) in the case of resignation, when the resignation takes effect;
- (b) when he or she has become disqualified to be a director of a company in terms of the Companies Act, 2008 (Act No. 71 of 2008); or
- (c) upon having been removed from office in terms of subsection (2).

(2) The Board may, in consultation with the MEC, terminate the employment of the Chief Executive Officer in accordance with the applicable law and due process.

### **Employment of staff**

27.(1) The Chief Executive Officer, with the concurrence of and within the financial limits set by the Board, must –

- (a) determine a staff establishment necessary to enable the Agency to perform its functions and exercise its powers; and
- (b) determine the terms and conditions of service for employees of the Agency.

(2) The Chief Executive Officer may only appoint persons to funded posts on the staff establishment and in accordance with the applicable legislative and policy provisions.

(3) Employees of the Agency –

- (a) are employed subject to –
  - (i) the applicable terms and conditions of service;
  - (ii) the applicable policies determined by the Board;
  - (iii) the code of conduct provided for in section 25(6)(d); and
  - (iv) the financial limits set by the Board.
- (b) must perform their duties under the supervision of the Chief Executive Officer;
- (c) must, in a format substantially compliant with Form 2 of Schedule 1, declare their financial interests to the Chief Executive Officer, who must keep an updated register of

such interests: Provided that the provisions of section 15 apply, with the necessary changes, to the declaration of financial and other interests; and

(d) may, with the consent of that employee, be seconded to another organ of state by agreement between the Chief Executive Officer and such organ of state.

(4) A person in the service of another organ of state may, by agreement between the Chief Executive Officer and such organ of state and in accordance with the applicable legislative and policy prescripts, be seconded or transferred to the Agency: Provided that persons so seconded, perform their functions under the supervision of the Chief Executive Officer.

## CHAPTER 5 FINANCE AND FUNDING OF AGENCY

### **Financial accountability**

**28.** The Board must ensure that –

- (a) the Agency conducts and manages its financial affairs in an accountable and transparent manner;
- (b) complies with the provisions of the Public Finance Management Act and any other applicable legislative and policy prescripts; and
- (c) observes sound corporate governance principles and practices.

### **Funds**

**29.(1)** The funds of the Agency consist of –

- (a) money appropriated by the Provincial Legislature –
  - (i) as a contribution to the capital amount in the Fund for the purpose of investment in beneficiary projects in accordance with the provisions of this Act; and
  - (ii) for the purpose of the administration and daily operations of the Agency in accordance with the provisions of subsection (5);
- (b) income derived from the performance of its functions, including but not limited to income from fees, charges and the provision of services;
- (c) funding received from organs of state for specific purposes or projects;
- (d) voluntary contributions, donations and bequests;
- (e) income from any source identified in section 5(2)(g);
- (f) income from investments in accordance with section 5(2)(h); and
- (g) money lawfully derived from any other source.

(2) The Chief Executive Officer must promptly deposit all moneys received in terms of subsection (1)(a) into the appropriate bank accounts.

(3) With effect from the date when this Act comes into operation any bank accounts, funds, or investments held by the Trust, are deemed to be the bank accounts, funds or investments of the Agency.

(4) Any unexpended balance in the Fund at the end of a financial year is carried forward as a credit in the Fund.

(5) The Agency must utilise the funds appropriated by the Provincial Legislature in terms of subsection (1)(a)(ii) –

(a) for the payment of remuneration, allowances and subsistence and travelling expenses of its –

(i) Board members; and

(ii) Chief Executive Officer and staff members; and

(b) to cover the costs of the –

(i) day-to-day operations and administration of the Agency and the Board; and

(ii) performance of the duties and functions and the exercise of the powers of the Agency and the Board in terms of this Act, and matters related thereto.

### **Financial management**

**30.**(1) The Board must ensure that the Agency –

(a) maintains full and proper books of account and all the necessary records in relation to –

(i) moneys appropriated by the Provincial Legislature in terms of section 29(1)(a); and

(ii) any other funds of the Agency received in terms of section 29(1)(b) to (g);

(b) prepares and submits to the relevant authorities the necessary returns, notices, annual budgets, strategic and business plans, annual performance plans, annual and other reports, audited financial statements and any other documentation or information required to be submitted in terms of the Public Finance Management Act or any other applicable legislative and policy prescripts; and

(c) prepares and submits to the MEC within three months of the end of each financial year the annual financial statements and any other documentation or information reasonably required by the MEC in respect of the funds or finances of the Agency.

- (2) The Chief Executive Officer must submit to the Board for approval –
- (a) within three months before the end of each financial year, a business plan for the Agency, containing measurable objectives and other information reasonably required by the Board; and
  - (b) within six months before the beginning of each new financial year, a statement of the estimated income and expenditure of the Agency in respect of the following three financial years.
- (3) The Chief Executive Officer must submit quarterly to the Board up-to-date income and expenditure statements with projected expenditure per programme for that financial year.
- (4) The Agency may not enter into any financial commitment beyond its approved budget and its accumulated reserves.
- (5) Subject to an investment policy approved by the Board, the Chief Executive Officer must invest any surplus funds with the Corporation for Public Deposits, or any other institution with an investment grade rating.
- (6) The Chief Executive Officer may, with the approval of the Board, establish reserve funds and deposit into them such amounts as the Board approves: Provided that such deposits are disclosed to the Provincial Treasury and the Auditor-General within one month of the date of a deposit being made.

### **Audit and annual report**

**31.(1)** The Board must prepare and submit, within two months after the end of each financial year, the financial statements of the Agency and the Fund to the Auditor-General, who must audit the financial statements of the Agency and the Fund.

- (2) The Board must submit an annual report on the activities of the Agency, including investments from the Fund, during a financial year within –
- (a) three months after the end of each financial year to the MEC for tabling in the Provincial Legislature within five months after the end of that financial year; and
  - (b) five months after the end of each financial year to the Provincial Treasury.
- (3) The report must –

- (a) include a balance sheet and a statement of income and expenditure certified by the Auditor-General;
- (b) state the extent to which the Agency has, during the financial year concerned, achieved or advanced its objectives provided for in section 2 and the measurable objectives, as set out in its business plan provided for in section 30(2)(a); and
- (c) contain relevant performance information regarding the efficient, effective and economical application of resources and a comparison between planned and actual performance indicators as set out in the annual performance plan.

## CHAPTER 6 GENERAL PROVISIONS

### **Confidential information held by Agency**

**32.**(1) Subject to the Constitution, the Promotion of Access to Information Act, the Protection of Personal Information Act and any other applicable law, no person may disclose any information held by the Agency, unless –

- (a) he or she is ordered to do so by a court of law; or
- (b) the person to whom such information relates, consents thereto in writing.

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

### **Misrepresentation**

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

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

(3) No person may falsely claim that he or she is authorised to charge or collect fees, donations or contributions on behalf of, or by direction of, the Board.

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

### **Offences and penalties**

34.(1) Any person who commits an offence in terms of section 32 or 33 of this Act, must be charged accordingly and is liable to a fine or to imprisonment for a period not exceeding five years upon conviction by a competent court.

(2) Where an offence committed in terms of this Act also constitutes an offence provided for in any other law, a person committing such offence may be prosecuted in terms of either this Act, or the other law.

### **Regulations and Schedules**

35.(1) The MEC may, after consultation with the Board and by notice in the *Gazette* –

(a) make regulations not inconsistent with the provisions of this Act or any other applicable legislation, regarding –

(i) any matter permitted to be prescribed in terms of this Act; and

(ii) any administrative or procedural matter necessary to give effect to the provisions of this Act; and

(b) amend the Schedules to this Act.

(2) The absence of any regulations does not absolve any person from complying with the provisions of this Act or implementing any matter provided for in this Act.

### **Termination of Trust and transitional arrangements**

36.(1) The MEC must, within a period not exceeding 60 days after the coming into operation of this Act, and subject to the provisions of the Trust Property Control Act and directives issued by the Master of the High Court, terminate the Trust: Provided that during the period of termination and winding-up of the Trust, the Agency may access the funds of the Trust for administrative and operational purposes.

(2) Upon winding up of the Trust by the Trustees, all Trust assets, including the net income and capital of the Trust, vest in the Agency.

(3) The MEC must, within a period of 60 days after the coming into effect of this Act appoint a Board in compliance with the provisions of Chapter 3 of this Act: Provided that in the interim –

(a) the MEC must select a sufficient number of Trustees from the Trust as members of an interim Board; and

(b) appoint an interim Chairperson and Deputy-Chairperson from amongst the members



selected to the interim Board referred to in paragraph (a).

(4) All employees of the Trust are regarded as having been employed in terms of section 27 of this Act, on substantially the same terms and conditions as those that previously governed their employment: Provided that the Board may effect reasonable changes to work practices for the purpose of operational and administrative efficiency and uniformity.

(5) Employees referred to in subsection (4) –

(a) retain their vacation leave accrued up to the date immediately before the date of transfer to the Agency, adjusted in accordance with the conditions of employment of the Agency; and

(b) in relation to whom any enquiry or proceedings instituted or intended to be instituted in respect of alleged misconduct committed by, or incapacity of, an employee before the date of transfer, must be finalised or instituted by the Agency in accordance with the legislative and policy prescripts and conditions of employment applicable to such employee whilst he or she was still in the employ of the Trust.

(6) The termination of the Trust does not affect any right, privilege, obligation or liability acquired or accrued or incurred by the Trust prior to its termination, unless the contrary is provided for in terms of this Act.

#### **Short title**

**37.** This Act is called the KwaZulu-Natal Growth Fund Agency Act, 2024.

**SCHEDULE 1: FORMS***(Sections 15(1) and (2), 25(5) and 27(3)(c))*

## FORM 1:

ANNUAL AND AD HOC DECLARATION OF DIRECT OR INDIRECT INTERESTS OF  
BOARD MEMBERS AND COMMITTEE MEMBERS*(Section 15(1) and (2))***ANNUAL AND AD HOC DECLARATION OF DIRECT OR INDIRECT INTERESTS OF  
BOARD MEMBERS AND COMMITTEE MEMBERS IN TERMS OF SECTION 15(1) and (2)  
OF THE KWAZULU-NATAL GROWTH FUND AGENCY ACT, 2024**

TYPE OF DECLARATION	
<b>ANNUAL DECLARATION</b>	<b>AD HOC DECLARATION</b>
<i>Tick if appropriate</i>	<i>Tick if appropriate</i>

**DECLARATION PERTAINS TO FINANCIAL YEAR:** *Insert financial year***DATE OF DECLARATION:** *Insert date of declaration*

I, the undersigned with the following particulars:

**SURNAME:** *Insert surname***FULL NAMES:** *Insert full names***ID NUMBER:** *Insert ID number***RESIDENTIAL ADDRESS:** *Insert residential address***TELEPHONE NUMBER:** *Insert telephone number***CELL NUMBER:** *Insert cell number***EMAIL ADDRESS:** *Insert email address***DESIGNATION / POSITION:** *Insert either Board member or committee member if not a Board member*

hereby declare and certify that the following information is, with regard to myself and to any immediate family, business partner, associate or employer, other than the State, complete and correct to the best of my knowledge:

(a) Ownership of shares in companies or entities:

NO	NAME OF HOLDER	RELATIONSHIP	NAME OF COMPANY OR ENTITY	COMPANY REGISTRATION NUMBER	NATURE	NUMBER OF SHARES	NOMINAL VALUE (ZAR)	REMUNERATION / INCOME (ZAR)
1	<i>Insert name of</i>	<i>Insert relationship with</i>	<i>Insert name of</i>	<i>Insert company registration</i>	<i>Insert description</i>	<i>Insert number</i>	<i>Insert total</i>	<i>Insert detail of all remuneration,</i>

	<i>holder</i>	<i>holder, if not self</i>	<i>company or entity in which shares are held</i>	<i>number (if private company)</i>	<i>of nature of business</i>	<i>of shares held</i>	<i>nominal value of shares</i>	<i>income, dividends payable</i>
2								

(b) Interests in close corporations:

NO	NAME OF HOLDER	RELATIONSHIP	NAME OF CLOSE CORPORATION	CC REGISTRATION NUMBER	NATURE	INTEREST	NOMINAL VALUE (ZAR)	REMUNERATION / INCOME (ZAR)
1	<i>Insert name of holder</i>	<i>Insert relationship with holder, if not self</i>	<i>Insert name of company or entity in which shares are held</i>	<i>Insert close corporation registration number</i>	<i>Insert description of nature of business</i>	<i>Insert percentage interest held</i>	<i>Insert total nominal value of interest in South African Rand</i>	<i>Insert detail of all remuneration, income, dividends payable</i>
2								

(c) Interests in partnerships:

NO	NAME OF HOLDER	RELATIONSHIP	NAME OF PARTNERSHIP	INTEREST	NATURE	NOMINAL VALUE (ZAR)	REMUNERATION / INCOME (ZAR)
1	<i>Insert name of holder</i>	<i>Insert relationship with holder, if not self</i>	<i>Insert name of partnership in which interest is held</i>	<i>Insert percentage interest held</i>	<i>Insert description of nature of business</i>	<i>Insert total nominal value of interest in South African Rand</i>	<i>Insert detail of all remuneration / income payable</i>
2							

(d) Real or personal rights in property used by any company, corporation, trust, business or other legal entity:

NO	NAME OF HOLDER	RELATIONSHIP	NAME OF ENTITY	REGISTRATION NUMBER	NATURE	NOMINAL VALUE (ZAR)	REMUNERATION / INCOME (ZAR)
1	<i>Insert name of holder</i>	<i>Insert relationship with holder, if not self</i>	<i>Insert name of entity using property</i>	<i>Insert registration number of entity using property</i>	<i>Insert description of nature of right and property</i>	<i>Insert total nominal value of right in property used by entity</i>	<i>Insert detail of all remuneration, income, dividends payable</i>
2							

(e) Interests in trusts:

NO	NAME OF HOLDER	RELATIONSHIP	NAME OF TRUST	REGISTRATION NUMBER	NATURE	NOMINAL VALUE (ZAR)	REMUNERATION / INCOME (ZAR)
1	<i>Insert name of interest holder</i>	<i>Insert relationship with holder, if not self</i>	<i>Insert name of trust</i>	<i>Insert registration number of trust</i>	<i>Insert description of nature of involvement in trust</i>	<i>Insert total nominal value of interest in trust</i>	<i>Insert detail of all remuneration / income / interest payable</i>
2							

(f) In respect of any business, undertaking or other entity, with or without legal personality, any interest which enables the holder thereof to share in the profits and revenue of such business, undertaking or other entity (if not already declared in (a), (b), (c), (d) and (e) above):

NO	NAME OF HOLDER	RELATIONSHIP	NAME OF ENTITY	INTEREST	NATURE	NOMINAL VALUE (ZAR)	REMUNERATION / INCOME (ZAR)
1	<i>Insert name of holder</i>	<i>Insert relationship with holder, if not self</i>	<i>Insert name of entity in which interest is held</i>	<i>Insert percentage interest held</i>	<i>Insert description of nature of interest and business</i>	<i>Insert total nominal value of interest</i>	<i>Insert detail of all remuneration, income, dividends payable</i>
2							

(g) Remuneration, directorships, consultancies and retainerships:

NO	NAME OF PARTY	RELATIONSHIP	NAME OF ENTITY	NATURE	REMUNERATION / INCOME (ZAR)
1	<i>Insert name of party to the contract or agreement</i>	<i>Insert relationship with party, if not self</i>	<i>Insert name of entity</i>	<i>Insert description of nature of work performed</i>	<i>Insert detail of all remuneration, income, dividend payable</i>
2					

(h) Loan accounts (excluding bond, vehicle finance and retail accounts):

NO	NAME OF PARTY	RELATIONSHIP	NAME OF LENDER	NATURE	ORIGINAL LOAN AMOUNT (ZAR)	OUTSTANDING BALANCE (ZAR)
1	<i>Insert name of party to the loan account</i>	<i>Insert relationship with party, if not self</i>	<i>Insert name of lender</i>	<i>Insert description of nature of loan</i>	<i>Insert original loan amount</i>	<i>Insert outstanding loan amount including outstanding interest</i>
2						

(i) Remuneration, income, revenue, entitlements to revenue, shares, interests, donations, gifts or any other benefits accruing prior to or pursuant to the granting of a licence for the establishment, licensing or operationalisation of a liquor, gaming, horse racing or betting establishment:

NO	NAME OF BENEFICIARY	RELATIONSHIP	NAME OF ENTITY	NATURE	NOMINAL VALUE (ZAR)	REMUNERATION / INCOME (ZAR)
1	<i>Insert name of beneficiary</i>	<i>Insert relationship with beneficiary, if not self</i>	<i>Insert name of applicant, licensee or registrant</i>	<i>Insert description of nature of benefit and reasons therefor</i>	<i>Insert total nominal value of revenue, entitlements to revenue or any other benefits</i>	<i>Insert detail of all remuneration, income, revenue, entitlements to revenue, shares, interests, donations, gifts or any other benefits payable</i>
2						

(j) Conclusion or existence of any contracts or agreements with applicants for a licence, existing licence holders or registrants:

NO	NAME OF PARTY	RELATIONSHIP	NAME OF ENTITY	NATURE	NOMINAL VALUE (ZAR)	REMUNERATION / INCOME (ZAR)
1	<i>Insert name of party to the contract or agreement</i>	<i>Insert relationship with party, if not self</i>	<i>Insert name of applicant, licensee or registrant</i>	<i>Insert description of nature of contract or agreement</i>	<i>Insert total nominal value of contract or agreement</i>	<i>Insert detail of all remuneration, income, dividends payable</i>

2						
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(k) Any personal interests:

NO	NAME OF HOLDER	RELATIONSHIP	NAME OF ENTITY	NATURE	VALUE
1	<i>Insert name of holder</i>	<i>Insert relationship with holder, if not self</i>	<i>Insert name of entity or person with whom the personal interest exists</i>	<i>Insert description of nature personal interest</i>	<i>Insert description of value of personal interest, whether monetary or other</i>
2					

**SIGNATURE OF DECLARANT:** *Insert signature of declarant*

**SIGNATURE OF COMMISSIONER OF OATHS:** *Insert signature of Commissioner of Oaths*

**FULL NAME AND SURNAME:** *Insert full names and surname of Commissioner of Oaths*

**DESIGNATION:** *Insert designation of Commissioner of Oaths*

**STREET ADDRESS:** *Insert street address of Commissioner of Oaths*

**DATE:** *Insert date*

**PLACE:** *Insert place*

**DATE RECEIVED BY CHIEF EXECUTIVE OFFICER:** *Insert date*

**SIGNATURE OF CHIEF EXECUTIVE OFFICER:** *Insert signature of Chief Executive Officer*

## FORM 2:

ANNUAL AND AD HOC DECLARATION OF DIRECT OR INDIRECT INTERESTS OF  
CHIEF EXECUTIVE OFFICER AND STAFF  
(Section 25(5) and 27(3)(c))

ANNUAL AND AD HOC DECLARATION OF DIRECT OR INDIRECT INTERESTS  
OF CHIEF EXECUTIVE OFFICER AND STAFF IN TERMS OF SECTIONS 25(5) and  
27(3)(c) OF THE KWAZULU-NATAL GROWTH FUND AGENCY ACT, 2024

TYPE OF DECLARATION	
ANNUAL DECLARATION	AD HOC DECLARATION
<i>Tick if appropriate</i>	<i>Tick if appropriate</i>

**DECLARATION PERTAINS TO FINANCIAL YEAR:** *Insert financial year*

**DATE OF DECLARATION:** *Insert date of declaration*

I, the undersigned with the following particulars:

**SURNAME:** *Insert surname*

**FULL NAMES:** *Insert full names*

**ID NUMBER:** *Insert ID number*

**RESIDENTIAL ADDRESS:** *Insert residential address*

**TELEPHONE NUMBER:** *Insert telephone number*

**CELL NUMBER:** *Insert cell number*

**EMAIL ADDRESS:** *Insert email address*

**DESIGNATION / POSITION:** Chief Executive Officer

hereby declare and certify that the following information is, with regard to myself and to any immediate family, business partner, associate or employer, other than the State, complete and correct to the best of my knowledge:

(a) Ownership of shares in companies or entities:

NO	NAME OF HOLDER	RELATIONSHIP	NAME OF COMPANY OR ENTITY	COMPANY REGISTRATION NUMBER	NATURE	NUMBER OF SHARES	NOMINAL VALUE (ZAR)	REMUNERATION / INCOME (ZAR)
1	<i>Insert name of holder</i>	<i>Insert relationship with holder, if not self</i>	<i>Insert name of company or entity in which shares are held</i>	<i>Insert company registration number (if private company)</i>	<i>Insert description of nature of business</i>	<i>Insert number of shares held</i>	<i>Insert total nominal value of shares</i>	<i>Insert detail of all remuneration, income, dividends payable</i>

2								
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(b) Interests in close corporations:

NO	NAME OF HOLDER	RELATIONSHIP	NAME OF CLOSE CORPORATION	CC REGISTRATION NUMBER	NATURE	INTEREST	NOMINAL VALUE (ZAR)	REMUNERATION / INCOME (ZAR)
1	<i>Insert name of holder</i>	<i>Insert relationship with holder, if not self</i>	<i>Insert name of company or entity in which shares are held</i>	<i>Insert close corporation registration number</i>	<i>Insert description of nature of business</i>	<i>Insert percentage interest held</i>	<i>Insert total nominal value of interest in South African Rand</i>	<i>Insert detail of all remuneration, income, dividends payable</i>
2								

(c) Interests in partnerships:

NO	NAME OF HOLDER	RELATIONSHIP	NAME OF PARTNERSHIP	INTEREST	NATURE	NOMINAL VALUE (ZAR)	REMUNERATION / INCOME (ZAR)
1	<i>Insert name of holder</i>	<i>Insert relationship with holder, if not self</i>	<i>Insert name of partnership in which interest is held</i>	<i>Insert percentage interest held</i>	<i>Insert description of nature of business</i>	<i>Insert total nominal value of interest in South African Rand</i>	<i>Insert detail of all remuneration / income payable</i>
2							

(d) Real or personal rights in property used by any company, corporation, trust, business or other legal entity:

NO	NAME OF HOLDER	RELATIONSHIP	NAME OF ENTITY	REGISTRATION NUMBER	NATURE	NOMINAL VALUE (ZAR)	REMUNERATION / INCOME (ZAR)
1	<i>Insert name of holder</i>	<i>Insert relationship with holder, if not self</i>	<i>Insert name of entity using property</i>	<i>Insert registration number of entity using property</i>	<i>Insert description of nature of right and property</i>	<i>Insert total nominal value of right in property used by entity</i>	<i>Insert detail of all remuneration, income, dividends payable</i>
2							

(e) Interests in trusts:

NO	NAME OF HOLDER	RELATIONSHIP	NAME OF TRUST	REGISTRATION NUMBER	NATURE	NOMINAL VALUE (ZAR)	REMUNERATION / INCOME (ZAR)
1	<i>Insert name of interest holder</i>	<i>Insert relationship with holder, if not self</i>	<i>Insert name of trust</i>	<i>Insert registration number of trust</i>	<i>Insert description of nature of involvement in trust</i>	<i>Insert total nominal value of interest in trust</i>	<i>Insert detail of all remuneration / income / interest payable</i>
2							

(f) In respect of any business, undertaking or other entity, with or without legal personality, any interest which enables the holder thereof to share in the profits and revenue of such business, undertaking or other entity (if not already declared in (a), (b), (c), (d) and (e) above):

NO	NAME OF HOLDER	RELATIONSHIP	NAME OF ENTITY	INTEREST	NATURE	NOMINAL VALUE (ZAR)	REMUNERATION / INCOME (ZAR)
1	<i>Insert name of holder</i>	<i>Insert relationship with holder, if not self</i>	<i>Insert name of entity in which interest is held</i>	<i>Insert percentage interest held</i>	<i>Insert description of nature of interest and business</i>	<i>Insert total nominal value of interest</i>	<i>Insert detail of remuneration, income, dividends payable</i>
2							

(g) Remuneration, directorships, consultancies and retainerships:

NO	NAME OF PARTY	RELATIONSHIP	NAME OF ENTITY	NATURE	REMUNERATION / INCOME (ZAR)
1	<i>Insert name of party to the contract or agreement</i>	<i>Insert relationship with party, if not self</i>	<i>Insert name of entity</i>	<i>Insert description of nature of work performed</i>	<i>Insert detail of all remuneration, income, dividend payable</i>
2					

(h) Loan accounts (excluding bond, vehicle finance and retail accounts):

NO	NAME OF PARTY	RELATIONSHIP	NAME OF LENDER	NATURE	ORIGINAL LOAN AMOUNT (ZAR)	OUTSTANDING BALANCE (ZAR)
1	<i>Insert name of party to the loan account</i>	<i>Insert relationship with party, if not self</i>	<i>Insert name of lender</i>	<i>Insert description of nature of loan</i>	<i>Insert original loan amount</i>	<i>Insert outstanding loan amount including outstanding interest</i>
2						

(i) Remuneration, income, revenue, entitlements to revenue, shares, interests, donations, gifts or any other benefits accruing prior to or pursuant to the granting of a licence for the establishment, licensing or operationalisation of a liquor, gaming, horse racing or betting establishment:

NO	NAME OF BENEFICIARY	RELATIONSHIP	NAME OF ENTITY	NATURE	NOMINAL VALUE (ZAR)	REMUNERATION / INCOME (ZAR)
1	<i>Insert name of beneficiary</i>	<i>Insert relationship with beneficiary, if not self</i>	<i>Insert name of applicant, licensee or registrant</i>	<i>Insert description of nature of benefit and reasons therefore</i>	<i>Insert total nominal value of revenue, entitlements to revenue or any other benefits</i>	<i>Insert detail of all remuneration, income, revenue, entitlements to revenue, shares, interests, donations, gifts or any other benefits payable</i>
2						

(j) Conclusion or existence of any contracts or agreements with applicants for a licence, existing licence holders or registrants:

NO	NAME OF PARTY	RELATIONSHIP	NAME OF ENTITY	NATURE	NOMINAL VALUE (ZAR)	REMUNERATION / INCOME (ZAR)
1	<i>Insert name of party to the contract or agreement</i>	<i>Insert relationship with party, if not self</i>	<i>Insert name of applicant, licensee or registrant</i>	<i>Insert description of nature of contract or agreement</i>	<i>Insert total nominal value of contract or agreement</i>	<i>Insert detail of all remuneration, income, dividends payable</i>
2						

(k) Any personal interests:

NO	NAME OF HOLDER	RELATIONSHIP	NAME OF ENTITY	NATURE	VALUE
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1	<i>Insert name of holder</i>	<i>Insert relationship with holder, if not self</i>	<i>Insert name of entity or person with whom the personal interest exists</i>	<i>Insert description of nature personal interest</i>	<i>Insert description of value of personal interest, whether monetary or other</i>
2					

**SIGNATURE OF DECLARANT:** *Insert signature of declarant*

**SIGNATURE OF COMMISSIONER OF OATHS:** *Insert signature of Commissioner of Oaths*

**FULL NAME AND SURNAME:** *Insert full names and surname of Commissioner of Oaths*

**DESIGNATION:** *Insert designation of Commissioner of Oaths*

**STREET ADDRESS:** *Insert street address of Commissioner of Oaths*

**DATE:** *Insert date*

**PLACE:** *Insert place*

**DATE RECEIVED BY CHAIRPERSON OF THE BOARD:** *Insert date*

**SIGNATURE OF CHAIRPERSON OF THE BOARD:** *Insert signature of Chairperson of the Board*

**SCHEDULE 2: CATEGORIES OF FEES AND CHARGES***(Section 6(3))***CATEGORIES OF FEES AND OTHER CHARGES THAT MAY BE LEVIED BY THE  
AGENCY IN TERMS OF SECTION 6(3) OF THE KWAZULU-NATAL GROWTH FUND  
AGENCY ACT, 2024**

The Agency may levy the following fees and charges:

- (a) agent and agency fees;
- (b) arrangement fees;
- (c) breakage and damage charges;
- (d) commitment fees;
- (e) compulsory fees or charges required in terms of any applicable legislative or other prescripts;
- (f) default interest charges;
- (g) due diligence investigation fees;
- (h) engineering or any other technical project related specialist fees;
- (i) costs incurred in terms of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001);
- (j) forensic investigation fees;
- (k) the Johannesburg Interbank average rate of interest, plus a risk related margin;
- (l) legal and conveyancing fees;
- (m) project manager fees;
- (n) raising and transactional fees;
- (o) turnaround and restructuring specialist fees; and
- (p) valuation fees.

**KENNISGEWING 13 VAN 2023**

[Engelse teks deur die Premier geteken]

**KWAZULU-NATAL WET OP DIE GROEIFONDSAGENTSAP, 2024  
(Wet No. 04 van 2024)**

Goedgekeur op 09-04-2024

**WET**

Om die KwaZulu-Natal Groeifondsagentskap in te stel as 'n provinsiale openbare entiteit, verantwoordelik vir die administrasie, beheer en bestuur van beleggings vanuit 'n toegewysde projekfinansieringsfonds; om voorsiening te maak vir sy beheerstrukture, bevoegdhede, funksies, finansies en befondsing; om voorsiening te maak vir die oorplasing van personeel vanaf die KZN Groeifondstrust en die aanstelling van personeel; om voorsiening te maak vir oorgangsreëlings; en aangeleenthede wat daarmee verband hou.

## AANHEF

### AANGESIEN –

(a) dit 'n oogmerk van die Grondwet is om die lewensgehalte van alle burgers te verbeter en die potensiaal van elke persoon te ontsluit;

(b) die Grondwet bepaal dat ten einde die bereiking van gelykheid te bevorder, wetgewende en ander maatreëls getref kan word wat ontwerp is om persone, of kategorieë van persone, te beskerm of te laat vooruitgaan wat deur onbillike diskriminasie benadeel is;

(c) ten einde uitvoering aan die voorgenoemde bepalings van die Grondwet te gee, het die Provinsiale Regering die KZN Groeifondstrust ingestel as 'n toegewysde projekfinansieringstrustfonds om ekonomiese aktiwiteite te ondersteun en swart ekonomiese bemagtiging in die Provinsie te bevorder; en

(d) die Provinsiale Regering vervolgens besluit het om die KZN Groeifondstrust te ontbind en 'n provinsiale openbare entiteit te skep om die mandaat van die Trust voort te sit;

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

### INDELING VAN ARTIKELS

#### *Artikel*

#### HOOFSUK 1

#### WOORDOMSKRYWINGS EN OOGMERKE

1. Woordomsrywings
2. Oogmerke van Wet

#### HOOFSUK 2

#### KWAZULU-NATAL GROEIFONDSAGENTSAP EN GROEIFONDS

3. Instelling van KwaZulu-Natal Groeifondsagentskap

4. Instelling van Groeifonds
5. Funksies en bevoegdhede van Agentskap
6. Toesighoudende funksies en bevoegdhede van LUR

### HOOFSTUK 3 RAAD VAN AGENTSKAP

7. Raad
8. Samestelling van Raad
9. Algemene vereistes vir Raadslede
10. Aanstellingsprosedure vir Raadslede
11. Voorsitter en Ondervoorsitter van Raad
12. Ampstermyn en heraanstelling van Raadslede
13. Bepalings en voorwaardes van aanstelling van Raadslede
14. Gedrag van Raadslede
15. Verklaring van finansiële en ander belange deur Raadslede
16. Beëindiging van lidmaatskap van Raadslede
17. Ontslag uit amp en skorsing van Raadslede
18. Vul van vakatures op Raad
19. Afwesigheid van funksionele Raad
20. Raadsvergaderings
21. Notule van Raadsvergaderings
22. Kworum en besluite van Raadsvergaderings
23. Instelling van Raadskomitees
24. Delegering van bevoegdhede en toewysing van pligte deur Raad

### HOOFSTUK 4 HOOF UITVOERENDE BEAMPTTE EN PERSONEEL VAN AGENTSKAP

25. Hoof Uitvoerende Beampte
26. Bedanking en ontslag uit die amp van Hoof Uitvoerende Beampte
27. Indiensneming van personeel

### HOOFSTUK 5 FINANSIES EN FINANSIERING VAN AGENTSKAP

28. Finansiële aanspreeklikheid
29. Fondse
30. Finansiële bestuur
31. Oudit en jaarverslag

## HOOFSUK 6 ALGEMENE BEPALINGS

32. Vertroulike inligting wat deur Agentskap gehou word
33. Wanvoorstelling
34. Misdrywe en strawwe
35. Regulasies en Bylaes
36. Beëindiging van Trust en oorgangsbepalings
37. Kort titel

## BYLAES

Bylae 1: Vorms

Bylae 2: Gelde en heffings

## HOOFSUK 1 WOORDOMSKRYWINGS EN OOGMERKE

### Woordomskrywings

1.(1) Woorde afgelei van die woord of terme wat omskryf is, het ooreenstemmende betekenis, tensy uit die samehang anders blyk.

(2) Enige verwysing na "die Wet" of "hierdie Wet" sluit enige ondergeskikte wetgewing in wat ingevolge 'n bepaling van hierdie Wet uitgereik is.

(3) Enige uitdrukking of bepaling van hierdie Wet moet redelikerwys uitgelê word op 'n wyse wat ooreenstem met die doel en oogmerke van hierdie Wet.

(4) In hierdie Wet, tensy uit die samehang anders blyk, beteken –

**"Agentskap"** die KwaZulu-Natal Groeifondsagentskap wat ingevolge artikel 3 ingestel is;

**"begunstigde"** die eenaar of eenaars van 'n "begunstigde projek";

**"begunstigde projek"** 'n lewensvatbare en volhoubare projek wat deur die Raad goedgekeur is om beleggingsbefondsing van die Fonds te ontvang; en **"begunstigde"**

**projekte"** het 'n ooreenstemmende betekenis;

**"belegging"** 'n belegging in 'n begunstigde projek uit die kapitaalbedrag beskikbaar in die Fonds, gemaak deur die Agentskap ooreenkomstig die bepalings van hierdie Wet;

**"dag"** enige dag anders as 'n Saterdag, Sondag of amptelike openbare vakansiedag in die Republiek van Suid-Afrika;

**"Departement"** die staatsdepartement verantwoordelik vir ekonomiese ontwikkeling in die Provinsie;

**"die Trust"** die KZN Groeifondstrust ingestel ingevolge die Gewysigde en Herhalingstrustakte vir die KZN Groeifondstrust (Meesterverwysingsnr. IT 1437/2007/PMB), ingestel ooreenkomstig die bepalings van die Wet op die Beheer oor Trustgoed;

**"boekjaar"** die tydperk vanaf 1 April in enige jaar tot 31 Maart van die volgende jaar;

**"Fonds"** die toegewysde projekfinansieringsfonds, bekend as die Groeifonds, ingestel ingevolge artikel 4;

**"Grondwet"** die Grondwet van die Republiek van Suid-Afrika, 1996;

**"Hoof Uitvoerende Beampte"** Hoof Uitvoerende Beampte van die Agentskap wat ingevolge artikel 25 aangestel is;

**"kapitaalbedrag"** gelde –

- (a) van tyd tot tyd deur die Provinsiale Wetgewer bewillig ingevolge artikel 29(1)(a)(i);
- (b) ingesamel of ontvang op enige wettige wyse ingevolge artikel 29(1)(b) tot (g);
- en
- (c) in trust gehou deur die Trust, met die doel om in begunstigde projekte te belê, by beëindiging en likwidasië soos voorsien in artikel 36(2), en sluit rente op die kapitaalbedrag in, maar sluit enige ander vorm van befondsing van 'n nie-kapitale aard uit wat vir ander spesifieke doeleindes deur die Provinsiale Wetgewer ingevolge artikel 29(1)(a)(ii) bewillig is;

**"Koerant"** die amptelike *Provinsiale Koerant* van KwaZulu-Natal;

**"Lid van die Uitvoerende Raad verantwoordelik vir finansies"** die Lid van die Uitvoerende Raad verantwoordelik vir finansies in die Provinsie;

**"LUR"** die lid van die Uitvoerende Raad verantwoordelik vir ekonomiese ontwikkeling in die Provinsie;

**"Nasionale Tesourie"** die Nasionale Tesourie wat ingevolge artikel 5 van die Wet op Openbare Finansiële Bestuur ingestel is;

**"onmiddellike familie"** 'n ouer, broer of suster, gade, kind deur bloed, aanneming of huwelik; grootouer en kleinkind;

**"Ouditeur-generaal"** die Ouditeur-generaal van Suid-Afrika ingestel ingevolge die Grondwet van die Republiek van Suid-Afrika, 1996 en die Wet op Openbare Oudit, 2004 (Wet No. 25 van 2004);

**"personeel"** van die Agentskap sluit persone in wat ingevolge artikel 27(2) aangestel en ingevolge artikel 27(4) geseondeer of oorgeplaas is;

**"persoon"** sluit 'n natuurlike of regspersoon in;

**"Provinsiale Regering"** die regering van die Provinsie;

**"Provinsiale Tesourie"** die tesourie wat ingevolge artikel 17 van die Wet op Openbare Finansiële Bestuur vir die Provinsie ingestel is;

**"Provinsiale Wetgewer"** die Wetgewer van die Provinsie;

**"Provinsie"** die Provinsie KwaZulu-Natal;

**"Raad"** die Raad van die Agentskap waarvoor in Hoofstuk 3 voorsiening gemaak word;

**"regulasies"** regulasies verorden ingevolge artikel 35;

**"Rekeningkundige Gesag"** die Raad van die KwaZulu-Natal Groeifondsagentskap



waarvoor in Hoofstuk 3 voorsiening gemaak word;

**"staatsorgaan"** het die betekenis wat in artikel 239 van die Grondwet daaraan toegeken word;

**"Trustakte"** die Gewysigde en Herhalingstrustakte vir die KZN Groeifondstrust (Meesterverwysingsnommer IT 1437/2007/PMB);

**"Uitvoerende Raad"** die Uitvoerende Raad van die Provinsie KwaZulu-Natal;

**"voorgeskryf"** beteken by regulasie voorgeskryf ingevolge hierdie Wet en "voorskryf" het 'n ooreenstemmende betekenis;

**"Wet op die Beheer oor Trustgoed"** die Wet op die Beheer oor Trustgoed, 1988 (Wet No. 57 van 1988).

**"Wet op die Beskerming van Persoonlike Inligting"** die Wet op die Beskerming van Persoonlike Inligting, 2013 (Wet No. 4 van 2013);

**"Wet op die Bevordering van Toegang tot Inligting"** die Wet op die Bevordering van Toegang tot Inligting, 2000 (Wet No. 2 van 2000);

**"Wet op Openbare Finansiële Bestuur"** die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999);

**"Wet op Vergoeding van Openbare Ampsdraers"** die Wet op Vergoeding van Openbare Ampsdraers, 1998 (Wet No. 20 van 1998);

### **Oogmerke van Wet**

2. Die oogmerke van die Wet is –

(a) om die KwaZulu-Natal Groeifondsagentskap in te stel as 'n provinsiale openbare entiteit, verantwoordelik vir –

- (i) die skep van 'n bemagtigende omgewing in KwaZulu-Natal vir inklusiewe ekonomiese groei deur belegging in volhoubare projekte om werk te skep en maatskaplike welstand te bevorder; en
- (ii) die bevordering van swart ekonomiese bemagtiging;

- (b) om 'n Groeifonds in te stel as 'n toegewysde provinsiale projekfinansieringsfonds wat beskikbaar is vir belegging deur die Agentskap ooreenkomstig die oogmerke in subartikel (a) uiteengesit;
- (c) om voorsiening te maak vir die administrasie, beheer en bestuur van die Agentskap en die Fonds; en
- (d) om 'n regulatoriese raamwerk vir die implementering en afdwinging van die bepalings van hierdie Wet te skep.

## HOOFSUK 2

### KWAZULU-NATAL GROEIFONDSAGENTSAP EN GROEIFONDS

#### **Instelling van KwaZulu-Natal Groeifondsagentskap**

3.(1) 'n Regspersoon wat as die KwaZulu-Natal Groeifondsagentskap bekend sal staan, word hiermee ingestel as 'n provinsiale openbare entiteit soos omskryf in die Wet op Openbare Finansiële Bestuur.

(2) Die Agentskap is die regsopvolger van die Trust ten opsigte van alle regte, pligte en verpligtinge van die Trust.

#### **Instelling van Groeifonds**

4.(1) 'n Toegewysde provinsiale projekfinansieringsfonds, bekend as die Groeifonds, word hiermee ingestel.

(2) Die Fonds moet deur die Agentskap geadministreer, beheer en bestuur word soos deur die Raad gelas, onderhewig aan die bepalings van hierdie Wet en die Wet op Openbare Finansiële Bestuur.

(3) Enige kapitaalbedrae wat van tyd tot tyd deur die Agentskap ontvang word, moet –

- (a) gedeponeer word in 'n aparte bankrekening wat in die naam van die Fonds geregistreer is ooreenkomstig die bepalings van artikel 7 van die Wet op Openbare Finansiële Bestuur; en
- (b) gebruik word vir die uitsluitlike doel om in begunstigde projekte te belê ten einde uitvoering te gee aan die oogmerke van die Wet uiteengesit in artikel 2(a).

(4) Onmiddellik na beëindiging en likwidasie van die Trust ingevolge artikel 36(1), gaan die

kapitaalbedrae wat deur die Trust in trust gehou word –

- (a) oor op die Agentskap ingevolge artikel 36(2); en
- (b) moet dit in die bankrekening van die Fonds in subartikel (3)(a) bedoel, inbetaal word.

(5) Beleggings uit die kapitaalbedrag mag slegs gemaak word nadat sodanige belegging ooreenkomstig die bepalings van hierdie Wet deur die Raad goedgekeur is.

### **Funksies en bevoegdhede van Agentskap**

**5.(1)** Die Agentskap is verantwoordelik vir die administrasie, beheer en bestuur van die Fonds en vir die maak van beleggings in begunstigde projekte uit die kapitaalbedrag, en moet –

- (a) sy funksies uitvoer en sy bevoegdhede uitoefen om die oogmerk van die Wet te bereik, onderhewig aan die –
  - (i) Grondwet en die Wet op Openbare Finansiële Bestuur; en
  - (ii) bepalings van hierdie Wet en enige ander toepaslike wetgewende en beleidsbepalings;
- (b) sy eie bankrekeninge open en bedryf, onderhewig aan die bepalings van hierdie Wet en artikel 7 van die Wet op Openbare Finansiële Bestuur;
- (c) waar nodig vir die uitvoering van sy funksies, die uitoefening van sy bevoegdhede en die bereiking van die oogmerke van die Wet, sy eie personeel aanstel ooreenkomstig die bepalings van Hoofstuk 4;
- (d) die kapitaalbedrag aanwend om beleggings in projekte te maak ooreenkomstig 'n beleggingsbeleid wat deur die Raad aanvaar is, met die uitsluitlike doel om uitvoering te gee aan die oogmerke van die Wet soos uiteengesit in artikel 2(a);
- (e) alle nodige stappe neem voordat 'n belegging gemaak word om die lewensvatbaarheid en langtermyn volhoubaarheid van 'n voorgestelde projek te bepaal;
- (f) sodra 'n belegging in beginsel deur die Raad goedgekeur is, maar voordat die belegging gemaak word, 'n ooreenkoms met die begunstigde aangaan met betrekking tot die bepalings en voorwaardes wat die belegging beheer soos deur die Raad bepaal;
- (g) die ooreenkomste wat tussen die Agentskap en begunstigdes aangegaan is, monitor en afdwing;
- (h) alle stappe neem wat nodig is om te verseker dat begunstigde projekte beheer en bestuur word in ooreenstemming met die Wet en die beginsels van goeie bestuur;
- (i) onderhewig aan beleidsrigtings en -riglyne wat deur die Raad aanvaar is, deurlopende ondersteuning en mentorskap aan begunstigdes verskaf om die

volhoubaarheid van begunstigde projekte te verseker;

(j) kwartaalliks aan die LUR verslag doen oor die stand van die begunstigde projekte en die bereiking van die oogmerke van die Wet: Met dien verstande dat die LUR van tyd tot tyd bykomende verslae kan aanvra; en

(k) 'n bygewerkte amptelike webwerf met alle inligting rakende sy bedrywighede instel en in stand hou –

(i) wat ingevolge hierdie Wet of enige ander wet openbaar gemaak moet word, en

(ii) relevant of van belang is vir die publiek en sy begunstigdes.

(2) Die Agentskap kan, waar nodig vir die uitvoering van sy funksies, die uitoefening van sy bevoegdhede en die bereiking van die oogmerke van die Wet –

(a) ooreenkomstig toepaslike wetlike voorskrifte, die dienste van persone verkry wat tegniese of gespesialiseerde kennis het van enige aangeleentheid wat verband hou met die bedrywighede van die Agentskap of 'n begunstigde projek, en die vergoeding bepaal, insluitend vergoeding vir reis-, verblyf- en ander uitgawes van sodanige persone;

(b) opleiding, vaardigheidsontwikkeling en onderrig aan sy eie personeel en begunstigdes verskaf ten opsigte van enige aangeleentheid wat verband hou met sy funksies en bevoegdhede;

(c) onderhewig aan die bepalings van artikel 54(2) van die Wet op Openbare Finansiële Bestuur –

(i) maatskappye instel of deelneem aan die instelling daarvan;

(ii) deelneem aan verenigings, gesamentlike ondernemings en vennootskappe; en

(iii) enige belang in 'n maatskappy, vennootskap of ander regspersone verkry of vervreem,

tensy vrygestel deur die LUR ingevolge artikel 54(4) van die Wet op Openbare Finansiële Bestuur;

(d) ooreenkomste met ander staatsorgane en instellings aangaan;

(e) enige onroerende eiendom huur, verhuur, verkry of enige reg in, of op, die onroerende eiendom vervreem, ooreenkomstig toepaslike wetlike voorskrifte en die vooraf skriftelike goedkeuring van die Raad na oorleg met die LUR;

(f) onroerende eiendom en ander bates in sy naam registreer;

(g) fondse op enige wettige wyse insamel of ontvang, insluitend maar nie beperk nie tot

–

(i) die ontvangs van bykomende befondsing van die Provinsiale Regering om vir

- spesifieke doeleindes aangewend te word;
- (ii) die aanvaarding van onvoorwaardelike skenkings, bemakings en borgskappe met die doel om die oogmerke van die Wet te bereik; en
  - (iii) gelde en heffings gehef vir dienste gelewer wat verband hou met die uitvoering van sy funksies en die uitoefening van sy bevoegdhede;
- (h) enige van sy fondse wat nie onmiddellik benodig word nie in die Fonds belê;
- (i) aan die einde van 'n boekjaar die fondse wat oor is van enige fondse wat deur hom ingevolge subartikel (g) ingesamel is, na die Fonds oordra: Met dien verstande dat sodanige fondse slegs bestee mag word om oogmerke van hierdie Wet te verwesenlik. soos uiteengesit in artikel 2(a);
- (j) die nodige goedere en dienste verkry, onderhewig aan sy beskikbare begroting en die toepaslike wetlike voorskrifte;
- (k) sy verouderde of nuttelose toerusting skenk of andersins daarvoor beskik, onderhewig aan beleidsrigtings deur die Raad bepaal vir die vervreemding van sodanige roerende eiendom;
- (l) homself verseker teen –
- (i) enige verlies, skade of risiko; of
  - (ii) enige aanspreeklikheid wat dit mag aangaan ten opsigte van Raadslede, personeellede of ander persone wat met hulle gekontrakteer is; en
- (m) regstappe instel of enige regstappe teen hom verdedig;

3) Enige regstappe teen die Agentskap moet ingestel word ooreenkomstig die Wet op die Instelling van Regsprosedures teen Sekere Staatsorgane, 2002 (Wet No. 40 van 2002).

### **Toesighoudende funksies en bevoegdhede van LUR**

6.(1) Die LUR moet die Agentskap en sy Raad monitor in die uitvoering van hul funksies en die uitoefening van hul bevoegdhede.

(2) Die LUR moet jaarliks 'n Memorandum van Ooreenkoms met die Raad van die Agentskap aangaan om die verhouding tussen die LUR en die Agentskap te reguleer.

(3) Tensy daarvoor voorsiening gemaak word in enige toepaslike wetgewende of ander voorskrif, moet die LUR gelde en ander heffings bepaal wat deur die Agentskap gehef kan word ingevolge die kategorieë waarvoor in Bylae 2 voorsiening gemaak word.

### HOOFSUK 3 RAAD VAN AGENTSKAP

#### **Raad**

7.(1) Die Agentskap word beheer deur 'n Raad, wat die entiteit in die uitvoering van sy funksies en die uitoefening van sy bevoegdhede in ooreenstemming met hierdie Wet, die Wet op Openbare Finansiële Bestuur en die beginsels van goeie bestuur lei.

(2) Die Raad is die rekenpligtige gesag van die Agentskap ingevolge artikel 49(2)(a) van die Wet op Openbare Finansiële Bestuur.

#### **Samestelling van Raad**

8.(1) Die Raad bestaan uit –

- (a) nie minder nie as vyf en hoogstens sewe lede wat ingevolge artikel 10 deur die LUR aangestel is; en
- (b) die Hoof Uitvoerende Beampte, wat 'n *ex officio*-lid van die Raad is, maar nie die reg het om by vergaderings te stem nie.

(2) Wanneer 'n lid of lede van die Raad ingevolge artikel 10 aangestel word, moet die LUR verseker dat die Raad gesamentlik saamgestel is uit persone met ondervinding en 'n rekord van die nakoming van die beginsels van goeie bestuur: Met dien verstande dat die Raad moet insluit –

- (a) ten minste drie persone met finansiële kwalifikasies en ondervinding in –
  - (i) beleggingsfinansiering;
  - (ii) ekwiteit en ontwikkelingsfinansiering; of
  - (iii) finansiële bestuur;
- (b) ten minste twee persone met regs kwalifikasies en ondervinding in –
  - (i) korporatiewe finansies;
  - (ii) projekfinansiering; of
  - (iii) bankwese;
- (c) ten minste een persoon met kwalifikasies en ondervinding in –
  - (i) ingenieurswese;
  - (ii) infrastruktuurontwikkeling; of
  - (iii) bourekene; en
- (d) ten minste een persoon met kwalifikasies en ondervinding in menslike hulpbronbestuur.

**Algemene vereistes vir Raadslede**

9.(1) Raadslede moet –

- (a) geskikte en gepaste persone wees;
- (b) die amp beklee in die beste belang van die Agentskap en die Provinsie;
- (c) oor toepaslike kennis, ervaring en vaardighede beskik soos in artikel 8(2) bepaal word; en
- (d) onafhanklik, onpartydig en regverdig wees.

(2) 'n Persoon is gediskwalifiseer om 'n Raadslid te word of te bly indien daardie persoon –

- (a) 'n ampsdraer is soos omskryf in die Wet op die Besoldiging van Openbare Ampsbekleërs;
- (b) 'n amptenaar of werknemer is ingevolge die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994);
- (c) 'n amptenaar of werknemer is van 'n munisipaliteit wat ingevolge artikel 155(1) van die Grondwet ingestel is;
- (d) 'n ongerehabiliteerde insolvent is of word;
- (e) deur 'n bevoegde hof as swaksinnig verklaar word of is;
- (f) 'n direkte of indirekte belang in enige kontrak met die Agentskap het en versuim om sy of haar belang en die aard daarvan te verklaar op die wyse wat deur hierdie Wet vereis word;
- (g) versuim om enige ander belang en die aard daarvan te openbaar op die wyse wat deur hierdie Wet vereis word;
- (h) 'n persoon onder kuratorskap is;
- (i) te eniger tyd uit 'n vertrouensamp verwyder is weens wangedrag wat oneerlikheid, diefstal of bedrog behels het;
- (j) skuldig bevind is aan 'n misdryf –
  - (i) wat oneerlikheid, diefstal of bedrog behels; of
  - (ii) wat nie oneerlikheid, diefstal of bedrog behels nie, en tot meer as drie maande gevangenisstraf gevonnissen is sonder die keuse van 'n boete: Met dien verstande dat 'n diskwalifikasie ingevolge hierdie item vyf jaar na die voltrekking van die vonnis eindig; of
- (k) ingevolge artikel 17 uit sy amp ontslaan is.

**Aanstellingsprosedure vir Raadslede**

10.(1) Wanneer dit ook al nodig is om 'n Raadslid of lede aan te stel, moet die LUR –

(a) benoemings aanvra vir geskikte persone om op die Raad te dien deur advertensies in die *Koerant* en ten minste twee Provinsiale koerante, een in Engels en een in isiZulu, te plaas wat die volgende moet stipuleer –

- (i) die benoemingsprosedure en die sluitingsdatum waarteen benoemings ontvang moet word;
- (ii) die inligting, kwalifikasies en ondervinding wat vereis word om benoem te word; en
- (iii) persone wat ingevolge artikel 9(2) gediskwalifiseer is om as Raadslede aangestel te word; en

(b) daarna 'n lys van die name van benoemdes en hul benoemers saamstel, met die vereiste besonderhede van elke individuele benoemde en sy of haar benoemer.

(2) Enige benoeming gemaak ingevolge 'n advertensie ingevolge subartikel (1)(a) moet ondersteun word deur –

- (a) die persoonlike en kontakbesonderhede van die benoemde;
- (b) besonderhede van die benoemde se kwalifikasies en ondervinding;
- (c) kontakbesonderhede van die benoemer;
- (d) besonderhede van die verhouding tussen die benoemer en die benoemde; en
- (e) enige ander inligting wat vereis mag word.

(3) 'n Persoon wat ingevolge subartikel (2) benoem is om op die Raad te dien, moet binne tien dae nadat hy benoem is, aan die LUR sy of haar –

- (a) ondertekende aanvaarding van die benoeming; en
- (b) verklaring wat verklaar dat hy of sy nie gediskwalifiseer is vir aanstelling ingevolge hierdie Wet of enige ander toepaslike wetgewing nie, voorlê.

(4) Enige versuim deur 'n benoemde om aan subartikel (3)(a) en (b) te voldoen, diskwalifiseer die benoemde om vir die posisie van 'n Raadslid oorweeg te word.

(5) Die LUR kan 'n onafhanklike eksterne keuringspaneel aanstel om al die benoemings te hersien en te evalueer en daarna die name van geskikte benoemdes te kortlys en aanbevelings in daardie verband aan hom of haar te maak.

(6) Die LUR moet die aanstellings doen uit die lys van benoemdes bedoel in subartikel (1)(b).

(7) By die doen van die aanstellings moet die LUR –



- (a) voldoen aan die bepalings van artikel 8(1)(a);
- (b) voldoen aan die kollektiewe samestelling van die Raad soos bepaal in artikel 8(2);
- (c) voldoen aan die algemene vereistes vir Raadslede soos bepaal in artikel 9;
- (d) geslag en demografiese verteenwoordigendheid, sowel as die gedrag en prestasiegeskiedenis van benoemdes in soortgelyke vertrouensposisies in ag neem; en
- (e) die persone wat in die Raad aangestel is, skriftelik in kennis stel van hul aanstelling, en die datum waarop die aanstelling in die Raad in werking tree.

(8) Die LUR moet binne 'n tydperk van hoogstens 60 dae vanaf die datum van aanstelling van die Raad –

- (a) die Uitvoerende Raad en die portefeuljekomitee van die Provinsiale Wetgewer verantwoordelik vir ekonomiese ontwikkeling skriftelik in kennis stel van die name van die persone wat op die Raad aangestel is; en
- (b) toesien dat die name van die persone wat aldus aangestel is, in die *Koerant* en ten minste twee Provinsiale koerante gepubliseer word, een in Engels en een in isiZulu.

(9) Waar dit aangetoon word dat enige een of meer Raadslede nie behoorlik aangestel is nie, maak sodanige omstandigheid nie enige resoluëie, besluit, magtiging of aksie wat deur die Raad geneem word, ongeldig of word daardeur beïnvloed nie, tensy 'n hof wat die geldigheid oorweeg van 'n bepaalde resoluëie, besluit, magtiging of optrede besluit dat sodanige resoluëie, besluit, magtiging of optrede tersyde gestel moet word.

### **Voorsitter en Ondervoorsitter van die Raad**

11.(1) Die LUR moet 'n Voorsitter en 'n Ondervoorsitter uit die Raadslede aanstel.

(2) Die LUR kan sodanige aanstellings terugtrek of wysig, onderhewig aan die nakoming van regsvoorskrifte.

(3) Die Ondervoorsitter moet al die bevoegdhede, funksies en pligte van die Voorsitter uitoefen indien die Voorsitter afwesig, onbevoeg is, weier of versuim om as Voorsitter op te tree, of as die LUR die Voorsitter se aanstelling terugtrek.

(4) Indien beide die Voorsitter en Ondervoorsitter afwesig is, onbevoeg is, weier of versuim om hul pligte na te kom, of indien die LUR hul aanstellings terugtrek, moet die LUR 'n ander Raadslid as Waarnemende Voorsitter aanstel vir 'n tydperk van hoogstens 60 dae vanaf die

datum van sy of haar aanstelling deur die LUR.

### **Ampstermyn en heraanstelling van Raadslede**

**12.(1)** Raadslede is –

- (a) aangestel vir 'n termyn van vyf jaar of sodanige korter tydperk soos wat die LUR kan bepaal, of, indien artikel 18(2) van toepassing is, vir 'n termyn ingevolge daardie artikel bepaal;
- (b) verkiesbaar vir heraanstelling na goeddunke van die LUR vir een bykomende termyn van hoogstens vyf jaar, onderhewig aan die bepalings van artikel 9; en
- (c) na 'n onderbreking van minstens drie jaar nadat 'n bykomende termyn beoog in paragraaf (b) geëindig het, en onderhewig aan artikel 10, weer verkiesbaar vir aanstelling ingevolge paragraaf (a) en, indien aldus aangestel, weer verkiesbaar vir heraanstelling ingevolge paragraaf (b).

(2) Nieteenstaande die bepalings van subartikel (1), kan die ampstermyn van 'n Raadslid wat nie vir heraanstelling kwalifiseer nie, deur die LUR verleng word vir 'n tydperk van hoogstens een jaar.

### **Bepalings en voorwaardes van aanstelling van Raadslede**

**13.(1)(a)** Die LUR moet die voorwaardes vir aanstelling van Raadslede bepaal en moet voorsiening maak vir die betaling van vergoeding en toelaes wat deur die LUR in oorleg met die lid van die Uitvoerende Raad verantwoordelik vir finansies bepaal word;

(b) 'n Raadslid wat vergoeding, toelaes of ander voordele ontvang as 'n voltydse werknemer van –

(i) 'n korporasie, liggaam of instelling waarin die nasionale of 'n provinsiale regering 'n beherende belang het; of

(ii) 'n openbare entiteit, 'n nasionale of 'n provinsiale regeringsonderneming soos omskryf in artikel 1 van die Wet op Openbare Finansiële Bestuur,

en wat voortgaan om vergoeding, toelaes of ander voordele op grond van sodanige diens te ontvang, mag slegs toelaes as 'n Raadslid ontvang tot die mate wat nodig is om sodanige lid in die finansiële posisie te plaas waarin hy of sy sou gewees het as hy of sy nie as 'n Raadslid gedien het nie; en

(c) verskillende vergoeding en toelaes kan vir die volgende kategorieë Raadslede bepaal word –

(i) die Voorsitter;

- (ii) die Ondervoorsitter;
- (iii) die Voorsitter van 'n Komitee van die Raad; en
- (iv) die ander Raadslede.

(2)(a) 'n Raadslid kan, ten opsigte van sy of haar funksies as 'n lid, vergoeding ontvang vir redelike werklike verblyf- en reiskoste wat genoodsaak is deur die bywoning van 'n Raadsvergadering, 'n vergadering van 'n Raadskomitee of amptelike funksie of geleentheid bygewoon in sy of haar hoedanigheid as 'n Raadslid.

(b) Die lid van die Uitvoerende Raad verantwoordelik vir finansies moet prosedures, insluitend beheermaatreëls, bepaal vir die bestuur, hantering en verwerking van eise vir verblyf- en reiskoste bedoel in paragraaf (a).

(3) Enige vergoeding en toelaes betaalbaar aan Raadslede moet deur die Agentskap betaal word.

(4) Raadslede word deelyds en in 'n nie-uitvoerende hoedanigheid aangestel.

#### **Gedrag van Raadslede**

##### **14. 'n Raadslid –**

- (a) moet die funksies van die amp te goeder trou en sonder guns of vooroordeel uitvoer;
- (b) mag nie die posisie, voorregte of kennis van 'n lid gebruik vir private gewin of om 'n ander persoon onbehoorlik te bevoordeel nie; en
- (c) mag nie op enige ander manier optree wat die geloofwaardigheid, onpartydigheid, onafhanklikheid of integriteit van die Agentskap onder verdenking bring nie.

#### **Verklaring van finansiële of ander belange deur Raadslede**

**15.(1)** 'n Raadslid moet binne tien dae nadat hy aangestel is en jaarliks daarna 'n finansiële openbaarmaking by die LUR indien in 'n formaat wat weselik aan Vorm 1 van Bylae 1 voldoen.

(2) Waar 'n Raadslid 'n belang in enige maatskappy of ander besigheidsbelange verkry na indiening van enige finansiële openbaarmaking waarvoor in subartikel (1) voorsiening gemaak word en voordat die volgende openbaarmaking verskuldig is, moet hy of sy binne tien dae vanaf die datum van die verkryging van sodanige belang, 'n bykomende skriftelike

verklaring by die LUR indien in 'n formaat wat wesenlik aan Vorm 1 van Bylae 1 voldoen.

(3) Enige versuim deur 'n Raadslid om enige belange ingevolge subartikels (1) en (2) te openbaar, kan lei tot die verwydering van die lid, onderhewig aan voldoening aan die bepalings van artikel 9(2).

(4) Die LUR moet 'n bygewerkte register hou van die belange van Raadslede wat ingevolge hierdie artikel geopenbaar is.

### **Beëindiging van lidmaatskap van Raadslede**

**16.(1)** 'n Raadslid se aanstelling word beëindig wanneer daardie persoon –

- (a) nie meer ingevolge artikel 12 in aanmerking kom om 'n lid te wees nie;
- (b) die lid se ampstermyn oorskry word waar sy of haar termyn nie deur die LUR verleng word nie soos in artikel 12(2) bepaal word;
- (c) bedank;
- (d) weens dood of onbekwaamheid nie kan dien nie; of
- (e) ingevolge artikel 17 uit die amp ontslaan word.

(2) 'n Raadslid kan bedank deur ten minste drie maande skriftelike kennis aan die LUR te gee, maar die LUR kan 'n korter tydperk in 'n spesifieke geval aanvaar.

(3) Wanneer 'n Raadslid ophou om 'n lid van die Raad te wees, mag hy of sy nie meer die Raad in enige struktuur of komitee verteenwoordig nie, tensy hy of sy later in 'n komitee ingevolge artikel 23(2) aangestel is: Met dien verstande dat 'n Raadslid wat ingevolge artikel 17 uit sy amp verwyder is nie vir enige verdere aanstelling in aanmerking kom nie.

### **Ontslag uit amp en skorsing van Raadslede**

**17.(1)** Die LUR kan 'n Raadslid uit sy amp ontslaan op grond van –

- (a) wangedrag, oneerlikheid, onbekwaamheid of onbevoegdheid;
- (b) afwesigheid van drie opeenvolgende vergaderings van die Raad sonder die voorafgaande toestemming van die Voorsitter van die Raad, behalwe met gegronde redes;
- (c) insolvensie; of
- (d) skuldigbevinding aan 'n kriminele oortreding sonder die keuse van 'n boete.

(2) 'n Raadslid kan uit sy amp ontslaan word op grond van wangedrag, oneerlikheid, onbekwaamheid of onbevoegdheid slegs nadat 'n bevinding tot dien effek deur die LUR gemaak is, onderhewig aan die nakoming van regsvoorskrifte.

(3) Die LUR kan 'n Raadslid wat ondersoek word sonder vergoeding skors, onderhewig aan die nakoming van die regsvoorskrifte.

### **Vul van vakatures op Raad**

**18.**(1) Enige vakature op die Raad beoog in –

- (a) artikel 10, in die geval van 'n gewone Raadslid; en
- (b) artikel 11, in die geval van die Voorsitter of Ondervoorsitter, moet binne 'n tydperk van 60 dae gevul word.

(2) 'n Persoon wat aangestel is om 'n vakature te vul, beklee die amp vir die onverstreke tydperk van die termyn van die ontruimende Raadslid of Voorsitter of Ondervoorsitter.

### **Afwesigheid van funksionele Raad**

**19.** In die afwesigheid van 'n funksionele Raad, berus die bevoegdhede, funksies en pligte van die rekenpligtige gesag van die Agentskap by die Hoof Uitvoerende Beampte soos bepaal in artikel 49(2)(b) van die Wet op Openbare Finansiële Bestuur: Met dien verstande dat –

- (a) die LUR 'n ander toepaslik gekwalifiseerde en ervare persoon kan aanwys om die bevoegdhede uit te oefen en die funksies en pligte van die rekenpligtige gesag uit te voer;
- (b) die Provinsiale Tesourie, in buitengewone omstandighede, 'n ander funksionaris van 'n openbare entiteit kan goedkeur of opdrag gee om die rekenpligtige gesag van die Agentskap te wees; en
- (c) die LUR moet, so gou as wat redelikerwys moontlik is, maar in elk geval binne 'n tydperk van hoogstens ses maande, alle nodige stappe doen om te verseker dat die entiteit deur 'n funksionele Raad beheer word.

### **Raadsvergaderings**

**20.** (1) Die Voorsitter van die Raad besluit waar en wanneer die Raad vergader: Met dien verstande dat –

- (a) die Raad minstens kwartaalliks vergader;
- (b) die LUR die Raad skriftelik kan opdrag gee om te vergader, en die plek en tyd van die vergadering kan bepaal; en
- (c) die meerderheid van die Raadslede wat op daardie tydstip in diens is, kan die Voorsitter skriftelik versoek om 'n vergadering te belê op 'n plek en tyd soos uiteengesit in die versoek.

(2) Die Voorsitter, of in sy of haar afwesigheid, die Ondervoorsitter sit by vergaderings van die Raad voor, maar as hulle albei afwesig is van 'n vergadering, moet die aanwesige Raadslede 'n ander lid kies om die vergadering voor te sit.

(3) Die Raad kan sy eie prosedures bepaal onderhewig aan die ander bepalings van hierdie Wet.

(4) Die Raad kan na goeë dunnke –

- (a) lede van die publiek toelaat om enige vergadering van die Raad by te woon; en
- (b) enige personeellid of enige ander persoon nooi om enige van sy vergaderings by te woon waar dit nodig of toepaslik geag word.

(5) 'n Raadslid moet hom- of haarself onttrek van 'n aangeleentheid wat deur die Raad oorweeg of daarvoor gestem word indien hy of sy 'n direkte of indirekte belang het, of indien daar 'n moontlikheid is dat 'n direkte of indirekte belang kan ontstaan, tensy die Raad bepaal dat die belang wat geopenbaar is, onbenullig of nie wesenlik is nie.

(6) Indien dit in enige stadium tydens die verloop van enige verrigtinge voor die Raad blyk dat 'n Raadslid teenwoordig by daardie vergadering 'n belang het of kan hê soos beoog in subartikel (5), moet so 'n lid onverwyld die aard van sy of haar belang openbaar en die vergadering verlaat.

(7) Enige openbaarmaking wat ingevolge subartikel (5) of (6) gemaak word, moet in die notule van die betrokke vergadering aangeteken word.

(8) Indien dit later blyk dat die Raad 'n besluit geneem het oor 'n aangeleentheid ten opsigte waarvan 'n Raadslid versuim het om 'n wesenlike belang in subartikel (5) of (6) bedoel te openbaar, moet sodanige besluit deur die Raad heroorweeg word sonder die deelname van die geaffekteerde lid so gou as wat redelikerwys moontlik is nadat die Raad bewus geword het van die nie-openbaarmaking: Met dien verstande dat indien sodanige besluit die regte

van enige persoon nadelig raak en 'n direkte eksterne regsuitwerking het, die Raad by 'n bevoegde hof moet aansoek doen om sodanige besluit tersyde te stel.

(9) Vir die doeleindes van hierdie artikel sluit "**indirekte belang**" in, maar is nie beperk nie tot, 'n belang wat gehou word deur enige Raadslid se –

- (a) onmiddellike familie; of
- (b) sakevennoot, medewerker of werkgewer anders as die Staat.

(10) 'n Raadslid wat subartikels (5) en (6) oortree of versuim om daaraan te voldoen, is skuldig aan wangedrag, en sodanige oortreding of versuim kan goeie rede vir die verwydering van sodanige lid uitmaak.

(11) Enige persoon kan 'n aansoek doen, mondeling of skriftelik, dat 'n Raadslid hom- of haarself moet onttrek indien daardie persoon rede het om te glo dat sodanige lid, sy of haar onmiddellike familie of naaste metgesel 'n finansiële of ander belang by die uitkoms van 'n besluit van die Raad het of vermoed om te hê: Met dien verstande dat die persoon wat so aansoek doen duidelike redes vir sy of haar versoek moet gee.

(12) 'n Aansoek bedoel in subartikel (11) moet –

- (a) aan die Voorsitter van die Raad gerig; of
- (b) aan die Adjunkvoorsitter van die Raad gerig word indien die aansoek die Voorsitter van die Raad aangaan,

wat oor die aangeleentheid moet besluit en die besluit aan die Raad moet rapporteer.

### **Notule van Raadsvergaderings**

**21.(1)** Die Raad moet verseker dat notules van elke vergadering van die Raad en sy komitees saamgestel en aan alle Raad en komiteelede versprei word.

(2) Alle notules van vergaderings bedoel in subartikel (1) moet –

- (a) by die volgende Raads- of komiteevergadering ter tafel gelê word vir aanneming en word, sodra dit aangeneem en onderteken is deur die Voorsitter van die Raad of 'n komitee, geag 'n korrekte rekord van die vergadering te wees en as *prima facie* bewyse van die besluite uitmaak wat deur die Raad of komitee by sulke vergaderings geneem is; en
- (b) in 'n register gelys en in hardekopie en elektroniese formaat gehou word sodra dit aangeneem en onderteken is.

(3) Die notules van alle vergaderings van die Raad en sy komitees is openbare dokumente waartoe lede van die publiek, onderhewig aan die bepalings van die Wet op die Bevordering van Toegang tot Inligting en enige ander toepaslike wetgewing, toegang gedurende kantoorure kan versoek.

### **Kworum en besluite by Raadsvergaderings**

**22.**(1) 'n Meerderheid van die Raadslede wat ingevolge artikel 8(1) aangestel is, vorm 'n kworum vir 'n vergadering van die Raad.

(2) 'n Saak voor die Raad word beslis deur die stemme van 'n meerderheid van die Raadslede teenwoordig by die vergadering.

(3) Indien daar, oor enige aangeleentheid voor die Raad, 'n staking van stemme is, moet die Raadslid wat by die vergadering voorsit, 'n beslissende stem uitoefen bykomend tot sy of haar stem as 'n lid.

(4) Geen besluit van die Raad is ongeldig bloot weens 'n vakature in die Raad nie, onderhewig aan die bepalings van subartikels (1) en (2).

### **Instelling van Raadskomitees**

**23.**(1) Die Raad kan nie meer as vier komitees instel om hom by te staan in die uitoefening van sy bevoegdhede en uitvoering van sy funksies nie, insluitend maar nie beperk nie tot –

- (a) 'n Oudit- en Risikokomitee;
- (b) 'n Beleggings- en Projektoesigkomitee; en
- (c) 'n Menslike Hulpbron- en Etiekkomitee.

(2) Wanneer lede op 'n komitee aangestel word, is die Raad nie beperk tot Raadslede nie: Met dien verstande dat die meerderheid van die komiteelede Raadslede moet wees.

(3) Die Raad –

- (a) moet die funksies en opdrag van 'n komitee bepaal;
- (b) moet die voorsitter van 'n komitee, wat 'n Raadslid moet wees, en ander lede van die komitee aanstel;
- (c) kan 'n komiteelid te eniger tyd uit met gegronde redes uit sy amp ontslaan;



- (d) kan die vergaderingprosedures van 'n komitee bepaal; en
- (e) kan 'n komitee te eniger tyd ontbind.

(4) Artikels 13 en 15 is van toepassing, met die nodige veranderinge, op die voorwaardes vir die aanstelling van komiteelede.

(5) Komitees wat deur die Raad ingestel is, het nie finale besluitnemingsbevoegdhede oor aangeleenthede wat die Agentskap raak nie en moet –

- (a) aanbevelings aan die Raad doen vir bespreking, wysiging, verwerping of aanvaarding; en
- (b) gereeld aan die Raad verslag doen oor hul werk.

(6) 'n Personeellid van die Agentskap wat in 'n komitee aangestel is, of deur 'n komitee genooi is om 'n vergadering by te woon –

- (a) moet 'n vergadering van daardie komitee bywoon en daaraan deelneem, maar mag nie stem nie; en
- (b) dien op die komitee, of woon 'n vergadering van die komitee by, onderworpe aan die bepalings en voorwaardes van daardie persoon se diens.

(7) Artikel 14 is, met die nodige veranderinge, van toepassing op die gedrag van komiteelede en personeel van die Agentskap wat komiteevergaderings bywoon.

### **Delegering van bevoegdhede en toewysing van pligte deur die Raad**

**24.**(1) Wanneer dit nodig is vir die behoorlike uitvoering van sy funksies, kan die Raad enige van sy bevoegdhede deleger of enige van sy pligte toewys, uitgesonderd dié genoem in subartikel (2), aan –

- (a) 'n Raadslid;
- (b) 'n komitee ingestel ingevolge artikel 23; of
- (c) 'n geskikte personeellid van die Agentskap.

(2) Die Raad mag nie die volgende bevoegdhede en funksies deleger of toewys nie –

- (a) die aanstelling of heraanstelling van die Hoof Uitvoerende Beampte en die bepaling van sy of haar diensvoorwaardes in artikel 25 bepaal;
- (b) die bepaling van indiensnemingsbeleidsrigtings, finansiële beperkings of bepalings en voorwaardes rakende die indiensneming van personeel waarvoor in artikel 27 voorsiening gemaak word;

- (c) die fidusiêre pligte en algemene verantwoordelikhede van die Raad as die rekenpligtige gesag van die Agentskap; en
- (d) die goedkeuring van die begroting.

(3) 'n Deegasie of toewysing ingevolge subartikel (1) –

- (a) moet skriftelik wees;
- (b) is onderhewig aan sodanige beperkings, voorwaardes en voorskrifte wat die Raad kan oplê;
- (c) nie die Raad ontnem van die verantwoordelikheid rakende die uitoefening van die gedelegeerde bevoegdheid of die uitvoering van die toegewysde plig nie; en
- (d) verhoed nie die uitoefening van die toegewysde bevoegdheid of die uitvoering van die toegewysde plig deur die Raad nie.

(4) Alle delegasies en opdragte ingevolge subartikel (1) moet in 'n bygewerkte register bygehou word.

(5) Die Raad kan enige besluit wat geneem is na aanleiding van 'n delegasie of opdrag ingevolge hierdie artikel bevestig, verander of herroep, onderhewig aan enige regte wat 'n persoon as gevolg van die besluit mag toegeval het.

#### HOOFSTUK 4

#### HOOF UITVOERENDE BEAMPTTE EN PERSONEEL VAN AGENTSAP

##### **Hoof Uitvoerende Beampte**

**25.(1)** Die Raad, in oorleg met die LUR, moet 'n toepaslik gekwalifiseerde, vaardige en ervare persoon as die Hoof Uitvoerende Beampte van die Agentskap aanstel.

(2) Die Hoof Uitvoerende Beampte –

- (a) word vir 'n termyn van hoogstens vyf jaar aangestel; en
- (b) kan, in oorleg met die LUR, deur die Raad heraangestel word vir bykomende termyne van hoogstens vyf jaar op 'n slag.

(3) Die Hoof Uitvoerende Beampte word in diens geneem op sodanige diensvoorwaardes as wat die Raad, in oorleg met die LUR, kan bepaal nadat hy of sy die lid van die Uitvoerende Raad verantwoordelik vir finansies geraadpleeg het.

(4) Die aanstelling van die Hoof Uitvoerende Beampte is onderhewig aan die sluiting van 'n jaarlikse skriftelike prestasie-ooreenkoms tussen die Hoof Uitvoerende Beampte en die Raad, wat skriftelik en deur ooreenkoms tussen die partye by die ooreenkoms gewysig kan word.

(5) Die bepalings van artikel 15, met die nodige veranderinge, is van toepassing op die Hoof Uitvoerende Beampte: Met dien verstande dat die Hoof Uitvoerende Beampte sy of haar verklaring van belange aan die Raad moet doen in 'n formaat wat weselik aan Vorm 2 van Bylae 1 voldoen.

(6) Die Hoof Uitvoerende Beampte is verantwoordelik vir –

(a) die algehele bestuur van die Agentskap ten einde die oogmerke van hierdie Wet te bereik;

(b) die aanstelling van personeel ooreenkomstig die bepalings van artikel 27(1) en (2);

(c) die bestuur van personeellede, insluitend die handhawing van personeeldisipliene;

(d) die vasstelling, in oorleg met die Raad, van 'n gedragskode van toepassing op die Hoof Uitvoerende Beampte en alle ander personeellede, wat bereikbaar is vir doeleindes van dissiplinêre verrigtinge, ten einde die volgende te verseker –

(i) nakoming van toepaslike wetlike en beleidsvoorskrifte, insluitend hierdie Wet;

(ii) die doeltreffende, effektiewe en ekonomiese gebruik van fondse en hulpbronne van die Agentskap;

(iii) die bevordering en handhawing van 'n hoë standaard van professionele etiek en gedrag;

(iv) die voorkoming van botsing van belange;

(v) die beskerming van vertroulike inligting wat deur die Raad gehou word; en

(vi) professionele, eerlike, onpartydige, regverdige, etiese en billike dienslewering.

(e) die byhou en instandhouding van die register van belange wat deur personeellede verklaar is; en

(f) die versekering dat die Agentskap voldoen aan die bepalings van hierdie Wet, die Wet op Openbare Finansiële Bestuur, en enige ander toepaslike wetgewende en beleidsvoorskrifte.

(7) Die Hoof Uitvoerende Beampte –

(a) is teenoor die Raad aanspreeklik vir die uitoefening van sy of haar bevoegdhede en die uitvoering van sy of haar funksies ingevolge hierdie Wet, en moet aan die Raad verslag doen oor die aktiwiteite, funksies en bestuur van die Agentskap teen sodanige

frekwensie en op sodanige wyse soos wat die Raad kan bepaal; en  
(b) moet sodanige pligte uitvoer en sodanige bevoegdhede uitoefen soos wat die Raad aan hom of haar kan toewys of delegeer.

(8) Die Voorsitter van die Raad moet –

(a) 'n ander geskikte personeellid as waarnemende Hoof Uitvoerende Beampte aanstel indien die Hoof Uitvoerende Beampte om enige rede afwesig is of nie in staat is om sy of haar funksies uit te voer nie: Met dien verstande dat enige sodanige aanstelling nie 'n tydperk van 60 dae mag oorskry nie; en

(b) indien die pos van Hoof Uitvoerende Beampte vakant raak, 'n ander personeellid as waarnemende Hoof Uitvoerende Beampte in oorleg met die Raad en die LUR aanstel: Met dien verstande dat enige sodanige waarnemende aanstelling nie 'n tydperk van twaalf kalendermaande mag oorskry nie.

(9) 'n Waarnemende Hoof Uitvoerende Beampte –

(a) het al die bevoegdhede en pligte van die Hoof Uitvoerende Beampte; en

(b) word in diens geneem onderworpe aan sodanige diensbepalings en -voorwaardes soos wat die Voorsitter van die Raad kan bepaal ooreenkomstig subartikel (3), onderhewig aan enige beperkings en voorwaardes deur die LUR bepaal.

### **Bedanking en ontslag uit amp van Hoof Uitvoerende Beampte**

**26.(1)** Die Hoof Uitvoerende Beampte ontruim sy of haar amp –

(a) in die geval van bedanking, wanneer die bedanking in werking tree;

(b) wanneer hy of sy gediskwalifiseer word om 'n direkteur van 'n maatskappy te wees ingevolge die Maatskappywet, 2008 (Wet No. 71 van 2008); of

(c) nadat hy uit sy uit die amp ontslaan is ingevolge subartikel (2).

(2) Die Raad kan, in oorleg met die LUR, die diens van die Hoof Uitvoerende Beampte beëindig in ooreenstemming met die toepaslike wetgewing en regsvoorskrifte.

### **Indiensneming van personeel**

**27.(1)** Die Hoof Uitvoerende Beampte moet, met die instemming van en binne die finansiële perke wat deur die Raad gestel word, –

(a) 'n diensstaat bepaal wat nodig is om die Agentskap in staat te stel om sy funksies uit te voer en sy bevoegdhede uit te oefen; en

(b) die diensbepalings en -voorwaardes vir werknemers van die Agentskap bepaal.

(2) Die Hoof Uitvoerende Beampte mag slegs persone in befondsde poste op die personeeldiens aanstel en in ooreenstemming met die toepaslike wetgewende en beleidsbepalings.

(3) Werknemers van die Agentskap –

(a) word in diens geneem onderworpe aan –

- (i) die toepaslike diensbepalings en -voorwaardes;
- (ii) die toepaslike beleidsrigtings deur die Raad bepaal;
- (iii) die gedragskode waarvoor in artikel 25(6)(d) voorsiening gemaak word; en
- (iv) die finansiële perke wat deur die Raad gestel is.

(b) moet hul pligte onder die toesig van die Hoof Uitvoerende Beampte uitvoer;

(c) moet, in 'n formaat wat wesenlik aan Vorm 2 van Bylae 1 voldoen, hul finansiële belange aan die Hoof Uitvoerende Beampte verklaar, wat 'n bygewerkte register van sodanige belange moet hou: Met dien verstande dat die bepaling van artikel 15 van toepassing is, met die nodige veranderinge, op die verklaring van finansiële en ander belange; en

(d) kan, met die toestemming van daardie werknemer, na 'n ander staatsorgaan gesekondeer word deur ooreenkoms tussen die Hoof Uitvoerende Beampte en sodanige staatsorgaan.

(4) 'n Persoon in diens van 'n ander staatsorgaan kan, by ooreenkoms tussen die Hoof Uitvoerende Beampte en sodanige staatsorgaan en ooreenkomstig die toepaslike wetgewende en beleidsvoorskrifte, na die Agentskap gesekondeer of oorgeplaas word: Met dien verstande dat persone sodanig gesekondeer, hul funksies onder die toesig van die Hoof Uitvoerende Beampte uitvoer.

## HOOFSUK 5

### FINANSIES EN FINANSIERING VAN AGENTSKAP

#### **Finansiële aanspreeklikheid**

**28.** Die Raad moet verseker dat –

- (a) die Agentskap sy finansiële sake op 'n verantwoordbare en deursigtige wyse beheer en bestuur;
- (b) voldoen aan die bepaling van die Wet op Openbare Finansiële Bestuur en enige

ander toepaslike wetgewende en beleidsvoorskrifte; en  
(c) gesonde korporatiewe bestuursbeginsels en -praktyke nakom.

### **Fondse**

**29.(1)** Die fondse van die Agentskap bestaan uit –

(a) geld deur die Provinsiale Wetgewer bewillig –

(i) as 'n bydrae tot die kapitaalbedrag in die Fonds vir die doel van belegging in begunstigde projekte ooreenkomstig die bepalings van hierdie Wet; en

(ii) vir die doel van die administrasie en daaglikse bedrywighede van die Agentskap ooreenkomstig die bepalings van subartikel (5);

(b) inkomste verkry uit die uitvoering van sy funksies, insluitend maar nie beperk nie tot inkomste uit gelde, heffings en die verskaffing van dienste;

(c) befondsing ontvang van staatsorgane vir spesifieke doeleindes of projekte;

(d) vrywillige bydraes, skenkings en bemakings;

(e) inkomste uit enige bron geïdentifiseer in artikel 5(2)(g);

(f) inkomste uit beleggings ooreenkomstig artikel 5(2)(h); en

(g) geld wat wettiglik uit enige ander bron verkry is.

(2) Die Hoof Uitvoerende Beampte moet onmiddellik alle gelde ontvang ingevolge subartikel (1)(a) in die toepaslike bankrekening deponeer.

(3) Met ingang van die datum wanneer hierdie Wet in werking tree, word enige bankrekening, fondse of beleggings wat deur die Trust gehou word, geag die bankrekening, fondse of beleggings van die Agentskap te wees.

(4) Enige onbestede saldo in die Fonds aan die einde van 'n boekjaar word as 'n krediet na die Fonds oorgedra.

(5) Die Agentskap moet die fondse gebruik wat deur die Provinsiale Wetgewer ingevolge subartikel (1)(a)(ii) bewillig is –

(a) vir die betaling van besoldiging, toelaes en verblyf- en reiskoste van sy –

(i) Raadslede; en

(ii) Hoof Uitvoerende Beampte en personeellede; en

(b) om die koste te dra van die –

(i) daaglikse bedrywighede en administrasie van die Agentskap en die Raad; en

(ii) uitvoering van die pligte en funksies en die uitoefening van die bevoegdhede van die Agentskap en die Raad ingevolge hierdie Wet, en aangeleenthede wat

daarmee verband hou.

### **Finansiële bestuur**

**30.(1)** Die Raad moet verseker dat die Agentskap –

(a) volledige en behoorlike rekeningboeke en al die nodige rekords hou met betrekking tot –

(i) gelde bewillig deur die Provinsiale Wetgewer ingevolge artikel 29(1)(a); en

(ii) enige ander fondse van die Agentskap ontvang ingevolge artikel 29(1)(b) tot (g);

(b) die nodige opgawes, kennisgewings, jaarlikse begrotings, strategiese en sakeplanne, jaarlikse prestasieplanne, jaarlikse en ander verslae, geouditeerde finansiële state en enige ander dokumente of inligting wat vereis word om ingedien te word ingevolge die Wet op Openbare Finansiële Bestuur of enige ander toepaslike wetgewende en beleidsvoorskrifte voorberei; en

(c) binne drie maande na die einde van elke boekjaar die finansiële jaarstate en enige ander dokumente of inligting wat redelikerwys deur die LUR vereis word ten opsigte van die fondse of finansies van die Agentskap, voorberei en aan die LUR voorlê.

(2) Die Hoof Uitvoerende Beampte moet aan die Raad –

(a) binne drie maande voor die einde van elke boekjaar, 'n sakeplan vir die Agentskap, wat meetbare oogmerke en ander inligting bevat wat redelikerwys deur die Raad vereis word; en

(b) binne ses maande voor die begin van elke nuwe boekjaar, 'n staat van die beraamde inkomste en uitgawes van die Agentskap ten opsigte van die volgende drie boekjare jare, voorlê vir goedkeuring.

(3) Die Hoof Uitvoerende Beampte moet kwartaalliks bygewerkte inkomste- en uitgawestate met geprojekteerde uitgawes per program vir daardie finansiële jaar aan die Raad voorlê.

(4) Die Agentskap mag geen finansiële verbintenis buite sy goedgekeurde begroting en sy opgehoopde reserwes aangaan nie.

(5) Onderhewig aan 'n beleggingsbeleid wat deur die Raad goedgekeur is, moet die Hoof Uitvoerende Beampte enige surplusfondse by die Korporasie vir Openbare Deposito's, of enige ander instelling met 'n beleggingsgradering, belê.

(6) Die Hoof Uitvoerende Beampte kan, met die goedkeuring van die Raad, reserwefondse instel en die bedrae daarin deponeer soos wat die Raad goedkeur: Met dien verstande dat sodanige deposito's aan die Provinsiale Tesourie en die Ouditeur-generaal openbaar gemaak word binne een maand na die datum waarop 'n deposito gedoen word.

### **Oudit en jaarverslag**

**31.(1)** Die Raad moet binne twee maande na die einde van elke boekjaar die finansiële state van die Agentskap en die Fonds opstel en voorlê aan die Ouditeur-generaal, wat die finansiële state van die Agentskap en die Fonds moet oudit.

(2) Die Raad moet 'n jaarverslag oor die funksies van die Agentskap, insluitend beleggings van die Fonds, gedurende 'n boekjaar voorlê binne –

- (a) drie maande na die einde van elke boekjaar aan die LUR vir tertafellegging in die Provinsiale Wetgewer binne vyf maande na die einde van daardie boekjaar; en
- (b) vyf maande na die einde van elke boekjaar aan die Provinsiale Tesourie.

(3) Die verslag moet –

- (a) 'n balansstaat en 'n staat van inkomste en uitgawes wat deur die Ouditeur-generaal gesertifiseer is, insluit;
- (b) vermeld in watter mate die Agentskap gedurende die betrokke boekjaar sy oogmerke bereik of bevorder het wat in artikel 2 bepaal word en die meetbare oogmerke, soos uiteengesit in sy sakeplan waarvoor in artikel 30(2)(a) voorsiening gemaak word; en
- (c) relevante prestasie-inligting bevat rakende die doeltreffende, effektiewe en ekonomiese aanwending van hulpbronne en 'n vergelyking tussen beplande en werklike prestasie-aanwysers soos uiteengesit in die jaarlikse prestasieplan.

## HOOFSTUK 6 ALGEMENE BEPALINGS

### **Vertroulike inligting wat deur Agentskap gehou word**

**32.(1)** Onderhewig aan die Grondwet, die Wet op die Bevordering van Toegang tot Inligting, die Wet op die Beskerming van Persoonlike Inligting en enige ander toepaslike wet, mag



geen persoon enige inligting wat deur die Agentskap gehou word openbaar maak nie, tensy

–

- (a) hy of sy deur 'n geregshof beveel word om dit te doen; of
- (b) die persoon op wie sodanige inligting betrekking het, skriftelik daartoe instem.

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

### **Wanvoorstelling**

**33.**(1) Niemand mag, sonder die vooraf skriftelike magtiging van die Raad, op enige wyse die naam, akroniem, logo's, ontwerpe of enige ander materiaal of eiendom wat deur die Agentskap gebruik of besit word, aanbied of daarvan van gebruik maak nie.

(2) Geen persoon mag valslik beweer dat hy namens die Agentskap optree nie.

(3) Geen persoon mag valslik beweer dat hy of sy gemagtig is om gelde, skenkings of bydraes namens of in opdrag van die Raad te hef of in te vorder nie.

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

### **Oortredings en strawwe**

**34.**(1) Enige persoon wat 'n misdryf ingevolge artikel 32 of 33 van hierdie Wet pleeg, moet dienooreenkomstig aangekla word en is by skuldigbevinding deur 'n bevoegde hof strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens vyf jaar.

(2) Waar 'n misdryf gepleeg ingevolge hierdie Wet ook 'n misdryf uitmaak waarvoor in enige ander wet voorsiening gemaak word, kan 'n persoon wat sodanige misdryf pleeg ingevolge óf hierdie Wet óf die ander wet vervolg word.

### **Regulasies en Bylaes**

**35.**(1) Die LUR kan, na oorleg met die Raad en by kennisgewing in die *Koerant* –

- (a) regulasies uitvaardig wat nie teenstrydig is met die bepalings van hierdie Wet of enige ander toepaslike wetgewing nie, met betrekking tot –
  - (i) enige aangeleentheid wat toegelaat word om ingevolge hierdie Wet voorgeskryf te word; en
  - (ii) enige administratiewe of prosedurele aangeleentheid wat nodig is om

uitvoering te gee aan die bepalings van hierdie Wet; en  
(b) die Bylaes by hierdie Wet wysig.

(2) Die afwesigheid van enige regulasies onthef nie enige persoon van die nakoming van die bepalings van hierdie Wet of die implementering van enige aangeleentheid waarvoor in hierdie Wet voorsiening gemaak word nie.

### **Beëindiging van Trust en oorgangsmatreëls**

**36.**(1) Die LUR moet, binne 'n tydperk van hoogstens 60 dae na die inwerkingtreding van hierdie Wet, en onderhewig aan die bepalings van die Wet op die Beheer van Trustgoed en voorskrifte uitgereik deur die Meester van die Hooggeregshof, die Trust beëindig: Met dien verstande dat die Agentskap gedurende die tydperk van beëindiging en likwidasië van die Trust toegang kan verkry tot die fondse van die Trust vir administratiewe en operasionele doeleindes.

(2) By die likwidasië van die Trust deur die Trustees, gaan alle Trustbates, insluitend die netto inkomste en kapitaal van die Trust, oor op die Agentskap.

(3) Die LUR moet binne 'n tydperk van 60 dae na die inwerkingtreding van hierdie Wet 'n Raad aanstel in ooreenstemming met die bepalings van Hoofstuk 3 van hierdie Wet: Met dien verstande dat in die tussentyd –

(a) die LUR 'n voldoende aantal Trustees uit die Trust kies en aanstel as lede van 'n tussentydse Raad; en

(b) 'n tussentydse Voorsitter en Ondervoorsitter aanstel uit die lede wat op die tussentydse Raad bedoel in paragraaf (a) gekies is.

(4) Alle werknemers van die Trust word geag in diens geneem te wees ingevolge artikel 27 van hierdie Wet, volgens wesenlik dieselfde bepalings en voorwaardes as dié wat voorheen hul diens gereël het: Met dien verstande dat die Raad redelike veranderinge aan werkspraktyke kan maak vir die doel van operasionele en administratiewe doeltreffendheid en eenvormigheid.

(5) Werknemers bedoel in subartikel (4) –

(a) behou hul opgehoopde vakansieverlof tot op die datum onmiddellik voor die datum van oorplasing na die Agentskap, aangepas in ooreenstemming met die diensvoorwaardes van die Agentskap; en

(b) met betrekking tot wie enige ondersoek of verrigtinge wat ingestel is of bedoel is om ingestel te word ten opsigte van beweerde wangedrag gepleeg deur, of onbekwaamheid van, 'n werknemer voor die datum van oordrag, deur die Agentskap gefinaliseer of ingestel moet word ooreenkomstig die wetgewende en beleidsvoorskrifte en diensvoorwaardes van toepassing op sodanige werknemer terwyl hy of sy nog in diens van die Trust was.

(6) Die beëindiging van die Trust raak geen reg, voorreg, verpligting of aanspreeklikheid verkry of opgedoen of aangegaan deur die Trust voor sy beëindiging nie, tensy daar vir die teendeel ingevolge hierdie Wet voorsiening gemaak word.

**Kort titel**

**37.** Hierdie Wet staan bekend as die KwaZulu-Natal Wet op die Groeifondsagentskap, 2024.

**BYLAE 1: VORMS***(Artikel 15(1), 25(5) en 27(3)(c))***VORM 1:**

**JAARLIKSE EN AD HOC VERKLARING VAN DIREKTE OF INDIREKTE BELANGE  
VAN RAADS- EN KOMITEELEDE  
(Artikel 15(1) en (2))**

**JAARLIKSE EN AD HOC VERKLARING VAN DIREKTE OF INDIREKTE BELANGE VAN RAADS-  
EN KOMITEELEDE INGEVOLGE ARTIKEL 15(1) EN (2) VAN DIE KWAZULU-NATAL WET OP DIE  
GROEIFONDSAGENTSAP, 2024**

TIPE VERKLARING	
<b>JAARLIKSE VERKLARING</b>	<b>AD HOC VERKLARING</b>
<i>Merk indien toepaslik</i>	<i>Merk indien toepaslik</i>

**VERKLARING HET BETREKKING OP BOEKJAAR:** *Voeg boekjaar in***DATUM VAN VERKLARING:** *Voeg datum van verklaring in*

Ek, die ondergetekende met die volgende besonderhede:

**VAN:** *Voeg van in***VOLLE NAME:** *Voeg volle name in***ID-NOMMER:** *Voeg ID-nommer in***WOONADRES:** *Voeg woonadres in***TELEFOONNOMMER:** *Voeg telefoonnommer in***SELNOMMER:** *Voeg selnommer in***E-POSADRES:** *Voeg e-posadres in***BENAMING / POSISIE:** *Voeg óf Raadslid óf komiteelid in indien nie 'n Raadslid nie*

verklaar en sertifiseer hiermee dat die volgende inligting, met betrekking tot myself en enige familielid, sakevennoot, medewerker of werkgewer, behalwe die Staat, volledig en korrek is na die beste van my wete:

(a) Eienaarskap van aandele in maatskappye of entiteite:

NO.	NAAM VAN HOUER	VERHOUDING	NAAM VAN MAATSKAPPY OF ENTITEIT	MAATSKAPPY-REGISTRASIE-NOMMER	AARD	AANTAL AANDELE	NOMINALE WAARDE (ZAR)	VERGOEDING / INKOMSTE (ZAR)
1	<i>Voeg naam van aandeelhouer in</i>	<i>Voeg verhouding met houer in, indien nie self nie</i>	<i>Voeg naam van maatskappy of entiteit waarin</i>	<i>Voeg maatskappy-registrasienommer in (indien privaat maatskappy)</i>	<i>Voeg beskrywing van aard van</i>	<i>Voeg aantal aandele gehou in</i>	<i>Voeg totale nominale waarde van aandele in</i>	<i>Voeg totale nominale waarde van aandele in</i>

			<i>aandele gehou word in</i>		<i>besigheid in</i>			
2								

(b) Belange in beslote korporasies:

NO.	NAAM VAN HOUER	VERHOUDING	NAAM VAN BESLOTE KORPORASIE	BK REGISTRASIE-NOMMER	AARD	BELANG	NOMINALE WAARDE (ZAR)	VERGOEDING / INKOMSTE (ZAR)
1	<i>Voeg naam van belanghouer in</i>	<i>Voeg verhouding met houer in</i>	<i>Voeg naam van maatskappy of entiteit waarin aandele gehou word in</i>	<i>Voeg naam van maatskappy of entiteit waarin aandele gehou word in</i>	<i>Voeg beskrywing van aard van besigheid in</i>	<i>Voeg persentasie belang gehou in</i>	<i>Voeg totale nominale waarde van belang in Suid-Afrikaanse Rand in</i>	<i>Voeg besonderhede in van alle vergoeding, inkomste, dividende betaalbaar</i>
2								

(c) Belange in vennootskappe:

NO.	NAAM VAN HOUER	VERHOUDING	NAAM VAN VENNOOTSAP	BELANG	AARD	NOMINALE WAARDE (ZAR)	VERGOEDING / INKOMSTE (ZAR)
1	<i>Voeg naam van belanghouer in</i>	<i>Voeg verhouding met houer in, indien nie self nie</i>	<i>Voeg naam van vennootskap waarin belang gehou word in</i>	<i>Voeg persentasie belang gehou in</i>	<i>Voeg beskrywing van aard van besigheid in</i>	<i>Voeg totale nominale waarde van belang in Suid-Afrikaanse Rand in</i>	<i>Voeg detail van alle vergoeding / inkomste betaalbaar in</i>
2							

(d) Werklike of persoonlike regte in eiendom wat deur enige maatskappy, korporasie, trust, besigheid of ander regsenteit gebruik word:

NO.	NAAM VAN HOUER	VERHOUDING	NAAM VAN ENTITEIT	REGISTRASIE-NOMMER	AARD	NOMINALE WAARDE (ZAR)	VERGOEDING / INKOMSTE (ZAR)
1	<i>Voeg naam van houer van regte in</i>	<i>Voeg verhouding met houer in, indien nie self nie</i>	<i>Voeg naam van entiteit in wat eiendom gebruik</i>	<i>Voeg registrasie-nommer van entiteit wat eiendom gebruik in</i>	<i>Voeg beskrywing van aard van reg en eiendom in</i>	<i>Voeg totale nominale waarde van reg in eiendom wat deur entiteit gebruik word in</i>	<i>Voeg besonderhede in van alle vergoeding, inkomste, dividende betaalbaar</i>
2							

(e) Belange in trusts:

NO.	NAAM VAN HOUER	VERHOUDING	NAAM VAN TRUST	REGISTRASIE-NOMMER	AARD	NOMINALE WAARDE (ZAR)	VERGOEDING / INKOMSTE (ZAR)
1	<i>Voeg naam van belanghouer in</i>	<i>Voeg verhouding met houer in, indien nie self nie</i>	<i>Voeg naam van trust in</i>	<i>Voeg registrasie-nommer van trust in</i>	<i>Voeg beskrywing van aard van betrokkenheid by trust in</i>	<i>Voeg totale nominale waarde van belang in trust in</i>	<i>Voeg besonderhede van alle vergoeding / inkomste / rente betaalbaar in</i>
2							

(f) Ten opsigte van enige besigheid, onderneming of ander entiteit, met of sonder regspersoonlikheid, enige belang wat die houer daarvan in staat stel om te deel in die winste en inkomste van sodanige besigheid, onderneming of ander entiteit (indien nie reeds in (a), (b), (c), (d) en (e) hierbo verklaar nie):

NO.	NAAM VAN HOUER	VERHOUDING	NAAM VAN ENTITEIT	BELANG	AARD	NOMINALE WAARDE (ZAR)	VERGOEDING / INKOMSTE (ZAR)
1	Voeg naam van belangehouer in	Voeg verhouding met houer in, indien nie self nie	Voeg naam in van entiteit waarin belang gehou word	Voeg persentasie belang gehou in	Voeg beskrywing van aard van belang en besigheid in	Voeg totale nominale waarde van belang in	Voeg besonderhede in van alle vergoeding, inkomste, dividende betaalbaar
2							

(g) Vergoeding, direkteurskappe, konsultante en retensieskappe:

NO.	NAAM VAN PARTY	VERHOUDING	NAAM VAN ENTITEIT	AARD	VERGOEDING / INKOMSTE (ZAR)
1	Voeg naam van party by die kontrak of ooreenkoms in	Voeg verhouding met party in, indien nie self nie	Voeg naam van entiteit in	Voeg beskrywing van aard van werk wat verrig is in	Voeg besonderhede in van alle vergoeding, inkomste, dividend betaalbaar
2					

(h) Leningsrekeninge (uitgesluit verband-, voertuigfinansierings- en kleinhandelrekeninge):

NO.	NAAM VAN PARTY	VERHOUDING	NAAM VAN LENER	AARD	OORSPRONKLIKE LENINGSBEDRAG (ZAR)	UITSTAANDE BALANS (ZAR)
1	Voeg naam van leningsrekening in	Voeg verhouding met party in, indien nie self nie	Voeg naam van lener in	Voeg beskrywing van aard van lening in	Voeg oorspronklike leningsbedrag in	Voeg uitstaande leningsbedrag in, insluitend uitstaande rente
2						

(i) Vergoeding, inkomste, besoldiging, regte op inkomste, aandele, belange, skenkings, geskenke of enige ander voordele wat toeval voor of ingevolge die toekenning van 'n lisensie vir die instelling, lisensiering of operasionalisering van 'n drank-, dobbel-, perdewedren- of weddery-instelling:

NO.	NAAM VAN BEGUNSTIGDE	VERHOUDING	NAAM VAN ENTITEIT	AARD	NOMINALE WAARDE (ZAR)	VERGOEDING / INKOMSTE (ZAR)
1	Voeg naam van begunstigde in	Voeg verhouding met begunstigde in, indien nie self nie	Voeg naam van aansoeker, lisensiehouer of geregistreerde in	Voeg beskrywing van aard van voordeel en redes daarvoor in	Voeg totale nominale waarde van inkomste, aansprake op inkomste of enige ander voordeel in	Voeg besonderhede in van alle vergoeding, inkomste, aansprake op inkomste, aandele, rente, skenkings, geskenke of enige ander voordele betaalbaar
2						

(j) Sluiting of bestaan van enige kontrakte of ooreenkoms met aansoekers vir 'n lisensie, bestaande liseniehouers of geregistreerdes:

NO.	NAAM VAN PARTY	VERHOUDING	NAAM VAN ENTITEIT	AARD	NOMINALE WAARDE (ZAR)	VERGOEDING / INKOMSTE (ZAR)
1	Voeg naam van party by die kontrak of ooreenkoms in	Voeg verhouding met party in, indien nie self nie	Voeg naam van aansoeker, lisensiehouer of geregistreerde in	Voeg beskrywing van aard van kontrak of ooreenkoms in	Voeg totale nominale waarde van kontrak of ooreenkoms in	Voeg besonderhede in van alle vergoeding, inkomste, dividende betaalbaar
2						

(k) Enige persoonlike belange:

NO.	NAAM VAN HOUER	VERHOUDING	NAAM VAN ENTITEIT	AARD	WAARDE
1	<i>Voeg naam van belanghouer in</i>	<i>Voeg verhouding met houer in, indien nie self</i>	<i>Voeg naam van entiteit of persoon in by wie die persoonlike belang bestaan</i>	<i>Voeg beskrywing van aard van persoonlike belang in</i>	<i>Voeg beskrywing van waarde van persoonlike belang in, hetsy geldelik of ander</i>
2					

**HANDTEKENING VAN VERKLAARDER:** *Voeg handtekening van verklaarder in*

**HANDTEKENING VAN KOMMISSARIS VAN EDE:** *Voeg handtekening van Kommissaris van Ede in*

**VOLLE NAAM EN VAN:** *Voeg volle name en van van Kommissaris van Ede in*

**BENAMING:** *Voeg benaming van Kommissaris van Ede in*

**STRAATADRES:** *Voeg straatadres van Kommissaris van Ede in*

**DATUM:** *Voeg datum in*

**PLEK:** *Voeg plek in*

**DATUM ONTVANG DEUR HOOF UITVOERENDE BEAMPTE:** *Voeg datum in*

**HANDTEKENING VAN HOOF UITVOERENDE BEAMPTE:** *Voeg handtekening van Hoof*

*Uitvoerende Beampete in*

## VORM 2:

JAARLIKSE EN AD HOC VERKLARING VAN DIREKTE OF INDIREKTE BELANGE  
VAN HOOF UITVOERENDE BEAMPTTE EN PERSONEELLID  
(Artikel 25(5) en artikel 27(3)(c))

**JAARLIKSE EN AD HOC VERKLARING VAN DIREKTE OF INDIREKTE  
BELANGE VAN HOOF UITVOERENDE BEAMPTTE EN PERSONEELLID  
INGEVOLGE ARTIKEL 17(4) EN 20(3)(c) VAN DIE KWAZULU-NATAL WET OP  
DIE GROEIFONDSAGENTSAP, 2024**

TIPE VERKLARING	
<b>JAARLIKSE VERKLARING</b>	<b>AD HOC VERKLARING</b>
<i>Merk indien toepaslik</i>	<i>Merk indien toepaslik</i>

**VERKLARING HET BETREKKING OP BOEKJAAR:** *Voeg boekjaar in*

**DATUM VAN VERKLARING:** *Voeg datum van verklaring in*

Ek, die ondergetekende met die volgende besonderhede:

**VAN:** *Voeg van in*

**VOLLE NAME:** *Voeg volle name in*

**ID-NOMMER:** *Voeg ID-nommer in*

**WOONADRES:** *Voeg woonadres in*

**TELEFOONNOMMER:** *Voeg telefoonnommer in*

**SELNOMMER:** *Voeg selnommer in*

**E-POSADRES:** *Voeg e-posadres in*

**BENAMING / POSISIE:** *Hoof Uitvoerende Beampte*

verklaar en sertifiseer hiermee dat die volgende inligting, met betrekking tot myself en enige familielid, sakevenoot, medewerker of werkgewer, behalwe die Staat, volledig en korrek is na die beste van my wete:

(a) Eienaarskap van aandele in maatskappye of entiteite:

NO.	NAAM VAN HOUER	VERHOUDING	NAAM VAN MAATSKAPPY OF ENTITEIT	MAATSKAPPY-REGISTRASIE-NOMMER	AARD	ANTAL AANDELE	NOMINALE WAARDE (ZAR)	VERGOEDING / INKOMSTE (ZAR)
1	<i>Voeg naam van aandeelhouer in</i>	<i>Voeg verhouding met houer in, indien nie self</i>	<i>Voeg naam van maatskappy of entiteit waarin aandele gehou word in</i>	<i>Voeg maatskappy registrasie-nommer in (indien privaat maatskappy)</i>	<i>Voeg beskrywing van aard van besigheid in</i>	<i>Voeg aantal aandele gehou in</i>	<i>Insert total nominal value of shares</i>	<i>Voeg besonderhede in van alle vergoeding, inkomste, dividende betaalbaar</i>
2								



(b) Belange in beslote korporasies:

NO.	NAAM VAN HOUER	VERHOUDING	NAAM VAN BESLOTE KORPORASIE	BK REGISTRASIE-NOMMER	AARD	BELANG	NOMINALE WAARDE (ZAR)	VERGOEDING / INKOMSTE (ZAR)
1	<i>Voeg naam van belanghouer in</i>	<i>Voeg verhouding met houer in, indien nie self nie</i>	<i>Voeg naam van maatskappy of entiteit waarin aandele gehou word in</i>	<i>Voeg naam van maatskappy of entiteit waarin aandele gehou word in</i>	<i>Voeg beskrywing van aard van besigheid in</i>	<i>Voeg persentasie belang gehou in</i>	<i>Voeg totale nominale waarde van belang in Suid-Afrikaanse Rand in</i>	<i>Voeg besonderhede in van alle vergoeding, inkomste, dividende betaalbaar</i>
2								

(c) Belange in vennootskappe:

NO.	NAAM VAN HOUER	VERHOUDING	NAAM VAN VENNOOTSKAP	BELANG	AARD	NOMINALE WAARDE (ZAR)	VERGOEDING / INKOMSTE (ZAR)
1	<i>Voeg naam van belanghouer by</i>	<i>Voeg verhouding met houer in, indien nie self nie</i>	<i>Voeg naam van vennootskap waarin belang gehou word in</i>	<i>Voeg persentasie belang gehou in</i>	<i>Voeg beskrywing van aard van besigheid in</i>	<i>Voeg totale nominale waarde van belang in Suid-Afrikaanse Rand in</i>	<i>Voeg detail van alle vergoeding / inkomste betaalbaar in</i>
2							

(d) Werklike of persoonlike regte in eiendom wat deur enige maatskappy, korporasie, trust, besigheid of ander regsenteit gebruik word:

NO.	NAAM VAN HOUER	VERHOUDING	NAAM VAN ENTITEIT	REGISTRASIE-NOMMER	AARD	NOMINALE WAARDE (ZAR)	VERGOEDING / INKOMSTE (ZAR)
1	<i>Voeg naam van houer regte in</i>	<i>Voeg verhouding met houer in, indien nie self nie</i>	<i>Voeg naam van entiteit in wat eiendom gebruik</i>	<i>Voeg registrasie-nommer van entiteit wat eiendom gebruik in</i>	<i>Voeg beskrywing van aard van reg en eiendom in</i>	<i>Voeg totale nominale waarde van reg in eiendom wat deur entiteit gebruik word in</i>	<i>Voeg besonderhede in van alle vergoeding, inkomste, dividende betaalbaar</i>
2							

(e) Belange in trusts:

NO.	NAAM VAN HOUER	VERHOUDING	NAAM VAN TRUST	REGISTRASIE-NOMMER	AARD	NOMINALE WAARDE (ZAR)	VERGOEDING / INKOMSTE (ZAR)
1	<i>Voeg naam van belanghouer in</i>	<i>Voeg verhouding met houer in, indien nie self nie</i>	<i>Voeg naam van trust in</i>	<i>Voeg registrasie-nommer van trust in</i>	<i>Voeg beskrywing van aard van betrokkenheid by trust in</i>	<i>Voeg totale nominale waarde van belang in trust in</i>	<i>Voeg besonderhede van alle vergoeding / inkomste / rente betaalbaar in</i>
2							

(f) Ten opsigte van enige besigheid, onderneming of ander entiteit, met of sonder regspersoonlikheid, enige belang wat die houer daarvan in staat stel om te deel in die winste en inkomste van sodanige besigheid, onderneming of ander entiteit (indien nie reeds in (a), (b), (c), (d) en (e) hierbo verklaar nie):

NO.	NAAM VAN HOUER	VERHOUDING	NAAM VAN ENTITEIT	BELANG	AARD	NOMINALE WAARDE (ZAR)	VERGOEDING / INKOMSTE (ZAR)

1	Voeg naam van belangehouer in	Voeg verhouding met houer in, indien nie self nie	Voeg naam in van entiteit waarin belang gehou word	Voeg persentasie belang gehou in	Voeg beskrywing van aard van belang en besigheid in	Voeg totale nominale waarde van belang in	Voeg besonderhede in van alle vergoeding, inkomste, dividende betaalbaar
2							

## (g) Vergoeding, direkteurskappe, konsultante en retensieskappe:

NO.	NAAM VAN PARTY	VERHOUDING	NAAM VAN ENTITEIT	AARD	VERGOEDING / INKOMSTE (ZAR)
1	Voeg naam van party by die kontrak of ooreenkoms in	Voeg verhouding met party in, indien nie self nie	Voeg naam van entiteit in	Voeg beskrywing van aard van werk wat verrig is in	Voeg besonderhede in van alle vergoeding, inkomste, dividend betaalbaar
2					

## (h) Leningsrekeninge (uitgesluit verband-, voertuigfinansierings- en kleinhandelrekeninge):

NO.	NAAM VAN PARTY	VERHOUDING	NAAM VAN LENER	AARD	OORSPRONKLIKE LENINGSBEDRAG (ZAR)	UITSTAANDE BALANS (ZAR)
1	Voeg naam van party by die leningsrekening in	Voeg verhouding met party in, indien nie self nie	Voeg naam van lener in	Voeg beskrywing van aard van lening in	Voeg oorspronklike leningsbedrag in	Voeg uitstaande leningsbedrag in, insluitend uitstaande rente
2						

## (i) Vergoeding, inkomste, besoldiging, regte op inkomste, aandele, belange, skenkings, geskenke of enige ander voordele wat toeval voor of ingevolge die toekenning van 'n lisensie vir die instelling, lisensiering of operasionalisering van 'n drank-, dobbel-, perdewedren- of weddery-instelling:

NO.	NAAM VAN BEGUNSTIGDE	VERHOUDING	NAAM VAN ENTITEIT	AARD	NOMINALE WAARDE (ZAR)	VERGOEDING / INKOMSTE (ZAR)
1	Voeg naam van begunstigde in	Voeg verhouding met begunstigde in, indien nie self nie	Voeg naam van aansoeker, lisensiehouer of geregistreerde in	Voeg beskrywing van aard van voordeel en redes daarvoor in	Voeg totale nominale waarde van inkomste, aansprake op inkomste of enige ander voordeel in	Voeg besonderhede in van alle vergoeding, inkomste, aansprake op inkomste, aandele, rente, skenkings, geskenke of enige ander voordele betaalbaar
2						

## (j) Sluiting of bestaan van enige kontrakte of ooreenkoms met aansoekers om 'n lisensie, bestaande liseniehouers of geregistreerders:

NO.	NAAM VAN PARTY	VERHOUDING	NAAM VAN ENTITEIT	AARD	NOMINALE WAARDE (ZAR)	VERGOEDING / INKOMSTE (ZAR)
1	Voeg naam van party by die kontrak of ooreenkoms in	Voeg verhouding met party in, indien nie self nie	Voeg naam van aansoeker, lisensiehouer of geregistreerde in	Voeg beskrywing van aard van kontrak of ooreenkoms in	Voeg totale nominale waarde van kontrak of ooreenkoms in	Voeg besonderhede in van alle vergoeding, inkomste, dividende betaalbaar
2						

## (k) Enige persoonlike belange

NO.	NAAM VAN HOUER	VERHOUDING	NAAM VAN ENTITEIT	AARD	WAARDE
-----	----------------	------------	-------------------	------	--------

1	Voeg naam van belangehouer in	Voeg verhouding met houer in, indien nie self nie	Voeg naam van entiteit of persoon in by wie die persoonlike belang bestaan	Voeg beskrywing van aard van persoonlike belang in	Voeg beskrywing van waarde van persoonlike belang in, hetsy geldelik of ander
2					

**HANDTEKENING VAN VERKLAARDER:** Voeg handtekening van verklaarder in

**HANDTEKENING VAN KOMMISSARIS VAN EDE:** Voeg handtekening van Kommissaris van Ede in

**VOLLE NAAM EN VAN:** Voeg volle name en van van Kommissaris van Ede in

**BENAMING:** Voeg benaming van Kommissaris van Ede in

**STRAATADRES:** Voeg straatadres van Kommissaris van Ede in

**DATUM:** Voeg datum in

**PLEK:** Voeg plek in

**DATUM ONTVANG DEUR VOORSITTER VAN DIE RAAD:** Voeg datum in

**HANDTEKENING VAN VOORSITTER VAN DIE RAAD:** Voeg handtekening van Voorsitter van die Raad in

**BYLAE 2: KATEGORIEË VAN GELDE EN KOSTE***(Artikel 6(3))***KATEGORIEË VAN GELDE EN ANDER HEFFINGS WAT DEUR DIE AGENTSKAP  
GEHEF KAN WORD INGEVOLGE ARTIKEL 6(3) VAN DIE KWAZULU-NATAL WET OP  
DIE GROEIFONDSAGENTSKAP, 2024**

Die Agentskap kan die volgende gelde en heffings hef:

- (a) agent- en agentskapgelde;
- (b) reëlingsgelde;
- (c) breek- en skadekoste;
- (d) verbintenisgelde;
- (e) verpligte gelde of heffings wat ingevolge enige toepaslike wetgewende of ander voorskrifte vereis word;
- (f) wanbetalingsrentekoste;
- (g) omsigtigheidsondersoekgelde;
- (h) ingenieurs- of enige ander tegniese projekverwante spesialisgelde;
- (i) koste aangegaan ingevolge die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001);
- (j) forensiese ondersoekgelde;
- (k) die Johannesburg Interbank gemiddelde rentekoers, plus 'n risikoverwante marge;
- (l) regs- en aktegelde;
- (m) projekbestuurdergelde;
- (n) verhoging en transaksiegelde;
- (o) omkeer- en herstruktureringsspesialisgelde; en
- (p) waardasiegelde.

[Umbhalo wesiNgisi unyathelwe nguNdunankulu]

**UMTHETHO WE-EJENSI  
YESIKHWAMA SENTUTHUKO WAKWAZULU-NATALI, 2024  
(Umthetho Na. 04 ka 2024)**

Uvunywe mhlaka 09-04-2024 |

## UMTHETHO

Wokusungula i-Ejensi yesiKhwama seNtuthuko yaKwaZulu-Natali njengebhizinisi likahulumeni wesifundazwe, elibhekele ukuphathwa nokulawulwa kotshalomali esikhwameni esisungelelwe ukuxhasa imiklamo ngezimali; wokuhlinzekela izinhlelo zayo ezilawulayo, amandla ayo, imisebenzi yayo, izimali zayo kanye nezimali exhaswe ngazo; wokuhlinzekela ukudluliselwa kwabasebenzi besuka kwiThrasti yesiKhwama seNtuthuko yaKwaZulu-Natali kanye nokuqokwa kwabasebenzi; wokuhlinzekela izinhlelo zoguquko; kanye nokunye okuphathelele nalokho.

**ISENDLALELO****NJENGOBA –**

(a) kuyinhloso yoMthethosisekelo ukuphucula izinga lempilo yazo zonke izakhamizi nokuthi wonke umuntu anikwe ithuba lokuba yilokho afisa ukuba yikho;

(b) uMthethosisekelo uhlinzekela ukuthi ukugqugquzela ukulingana, kungathathwa izinyathelo ngokomthetho nangenye indlela ezihlose ukuvikela nokuphucula abantu noma izigaba zabantu, ababencishwe amathuba ngokubandlululwa;

(c) siqalisa izinhlinzeko zoMthethosisekelo ezibalulwe ngenhla, uHulumeni wesiFundazwe usungule iThrasti yesiKhwama seNtuthuko yaKwaZulu-Natali njengesikhwama esisungelelwe ukuxhasa imiklamo ngezimali nokugqugquzela ukuthuthukiswa kwabantu abamnyama kwezomnotho esiFundazweni; futhi

(d) uHulumeni wesiFundazwe usunqume ukuhlakaza iThrasti yesiKhwama seNtuthuko yaKwaZulu-Natali ebese esungula ibhizinisi likahulumeni wesifundazwe ukuqhubeka nomgomo weThrasti;

**ISISHAYAMTHETHO SESIFUNDAZWE** saKwaZulu-Natali ngakho-ke simisa umthetho kanje:-

**UKUHLELWA KWEZIGABA**

*Isigaba*

**ISAPHLUKO 1  
IZINCAZELO NEZINHLOSO**

1. Izincazelo
2. Izinhloso zoMthetho

**ISAPHLUKO 2  
I-EJENSI YESIKHWAMA SENTUTHUKO YAKWAZULU-NATALI KANYE NESIKHWAMA  
SENTUTHUKO**

3. Ukusungulwa kwe-Ejensi yesiKhwama seNtuthuko yaKwaZulu-Natali
4. Ukusungulwa kwesiKhwama seNtuthuko
5. Imisebenzi namandla e-Ejensi
6. Imisebenzi yokuphatha kanye namandla kwaNgqongqoshe

**ISAPHLUKO 3  
IBHODI ELILAWULAYO YE-EJENSI**

7. IBhodi
8. Ukubunjwa kweBhodi
9. Okujwayelekile okudingekayo kumalungu eBhodi
10. Inqubo yokuqokwa kwamalungu eBhodi
11. USihlalo kanye noSekela Sihlalo weBhodi
12. Isikhathi sokuba sesikhundleni kanye nokuqokelwa elinye ihlandla kwamalungu eBhodi
13. Imigomo nemibandela yokuqokwa kwamalungu eBhodi
14. Ukuziphatha kwamalungu eBhodi
15. Ukudalulwa kokuhlomula ngokwezezimali nangenye indlela kwamalungu eBhodi
16. Ukumiswa kobulungu kwamalungu eBhodi
17. Ukususwa kanye nokumiswa esikhundleni kwamalungu eBhodi
18. Ukugcwaliswa kwezikhala kwiBhodi
19. Ukungabibikho kweBhodi elisebenza ngendlela efanele
20. Imihlangano yeBhodi
21. Amaminithi emihlangano yeBhodi
22. Ikhoramukanye nezinqumo emihlanganweni yeBhodi

23. Ukusungulwa kwamakomidi eBhodi  
24. Ukudluliselwa kwamandla kanye nokwabiwa kwemisebenzi yiBhodi

## ISAHLUKO 4

## ISIKHULU ESIPHEZULU KANYE NABASEBENZI BE-EJENSI

25. IsiKhulu esiPhezulu  
26. Ukusula kanye nokususwa esikhundleni kwesiKhulu esiPhezulu  
27. Ukuqashwa kwabasebenzi

## ISAHLUKO 5

## IZIMALI ZE-EJENSI KANYE NOKUXHASWA NGEZIMALI KWE-EJENSI

28. Isibopho sokubika ngezezimali  
29. Izimali  
30. Ukuphathwa kwezimali  
31. Ucwaningomabhuku kanye nombiko wonyaka

## ISAHLUKO 6

## IZINHLINZEKO EZIJWAYELEKILE

32. Ulwazi oluyimfihlo olugodlwe yi-Ejensi  
33. Ukusebenzisa igama le-Ejensi ngokungemthetho  
34. Amacala kanye nezinhlawulo  
35. Imithethonqubo kanye neziNhlelo  
36. Ukuhlakazwa kweThrasti kanye nezinhlelo zoguquko  
37. Isihloko esifingqiwe

## UHLELO

- UHlelo 1: Amafomu  
UHlelo 2: Izimali nezinhlawulo

## ISAHLUKO 1

## IZINCAZELO NEZINHLOSO

**Izincazelo**

1.(1) Amagama asuselwe egameni noma kumatemu achaziwe anencazelo efanayo, ngaphandle uma ungqikithi isho okwehlukile.

(2) Uma kukhulunywa “**ngoMthetho**” noma “**ngalo Mthetho**” kubandakanya noma yimuphi umthetho ongaphansi kwawo okhishwe ngokwenhlinzeko yalo Mthetho.

(3) Noma yiliphi itemu noma inhlinzeko kwalo Mthetho kumele kuhunyushwe ngendlela ehambisana nenhloso kanye nezinhloso zalo Mthetho.

(4) Kulo Mthetho, ngaphandle uma ingqikithi isho okwehlukile –

“**uHlaka olunesibopho sokubika**” kushiwo iBhodi le-Ejensi yesiKhwama seNtuthuko yaKwaZulu-Natali ehlinzekelwe kwiSahluko 3;

“**i-Ejensi**” kushiwo i-Ejensi yesiKhwama seNtuthuko yaKwaZulu-Natali esungulwe ngokwesigaba 3;

“**uMcwangingimabhuku Jikelele**” kushiwo uMcwangingimabhuku Jikelele waseNingizimu Afrika owasungulwa ngokoMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996 kanye noMthetho wokuCwangingwa kwamaBhuku kaHulumeni, 2004 (uMthetho No. 25 ka 20004);

“**umhlomuli**” kushiwo umnikazi noma abanikazi “**womklamo noma bomklamo ohlomulayo**”;

“**umklamo ohlomulayo**” kushiwo umklamo othembisayo nosimeme, ogunyazwe yiBhodi ukuthi uthole utshalomali esiKhwameni, kanti “**imiklamo ehlomulayo**” inencazelo efanayo;

“**iBhodi**” kushiwo iBhodi le-Ejensi ehlinzekelwe kwiSahluko 3;

**“isamba sekhephithali”** kushiwo izimali –  
(a) ezabiwe yisiShayamthetho sesiFundazwe ngezikhathi ezithile ngokwesigaba 29(1)(a)(i);  
(b) ezifunwe noma ezitholakale ngezindlela ezisemthethweni ngokwesigaba 29(1)(b) kuya ku (g); kanye  
(c) ebeziginwe yiThrasti, ngenhloso yokuzitshala emiklamweni ehlomulayo, ngesikhathi ihlakazwa igoqwa njengoba kuhlinzekelwe esigabeni 36(2), futhi zibandakanya nenzalo yesamba sekhephithali, kodwa azibandakanyi nanoma yiluphi olunye uhlobo loxhaso olungeyona ikhephithali olwabelwe ezinye izinhloso yisiShayamthetho sesiFundazwe ngokwesigaba 29(1)(a)(ii);

**“isiKhulu esiPhezulu”** kushiwo isiKhulu esiPhezulu se-Ejensi esiqokwe ngokwesigaba 25;

**“uMthethosisekelo”** uMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996;

**“usuku”** kushiwo noma yiluphi olunye usuku ngaphandle koMgqibelo, iSonto noma iholide elisemthethweni kwiRiphabhulikhi yaseNingizimu Afrika;

**“uMnyango”** kushiwo umnyango kahulumeni obhekele ezokuthuthukiswa komnotho esiFundazweni;

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

**“unyaka wezimali”** kushiwo isikhathi esisukela kumhla lu-1 kuMbasa kunoma yimuphi unyaka kuya kumhla zingama-31 kuNdasa wonyaka olandelayo;

**“isiKhwama”** kushiwo isikhwama esisungulelwe ukuxhasa imiklamo, esizobizwa ngesiKhwama seNtuthuko, esisungulwe ngokwesigaba 4;

**“iGazethi”** kushiwo iGazethi esemthethweni yesiFundazwe saKwaZulu-Natali;

**“ilungu lomndeni elisondele”** kushiwo umzali, ozalwa naye, oshade naye, ingane oyizalayo, owayi-adopta noma ingane yomuntu oshade naye, ugogo noma umkhulu kanye nomzukululu;

**“utshalomali”** kushiwo ukutshalwa kwemali emiklamweni ohlomulayo kwisamba esiyikhephithali esikhona esiKhwameni, okwenziwa yi-Ejensi ngokuhambisana nezinhlinzeko zalo Mthetho;

**“uNgqongqoshe”** kushiwo uNgqongqoshe obhekele ezokuthuthukiswa komnotho



esiFundazweni;

**“uNgqongqoshe wezeziMali”** kushiwo uNgqongqoshe obhekele ezezimali esiFundazweni;

**“uMnyango woMgcinimafa kaZwelonke”** kushiwo uMnyango woMgcinimafa kaZwelonke osungulwe ngokwesigaba 5 soMthetho wokuPhathwa kweziMali zikaHulumeni;

**“uhlaka lukahulumeni”** lunencazelo oluyinikwe esigabeni 239 soMthethosisekelo;

**“umuntu”** kushiwo umuntu ngokomthetho;

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

**“uMthetho wokuGqugquzela ukuTholakala koLwazi”** kushiwo uMthetho wokuGqugquzela ukuTholakala koLwazi, 2000 (uMthetho No. 2 ka 2000);

**“uMthetho wokuVikelwa kweMininingwane yaBantu”** kushiwo uMthetho wokuVikelwa kweMininingwane yaBantu, 2013 (uMthetho No. 4 ka 2013);

**“isiFundazwe”** kushiwo isiFundazwe saKwaZulu-Natali;

**“uHulumeni wesiFundazwe”** kushiwo uHulumeni wesiFundazwe;

**“isiShayamthetho sesiFundazwe”** kushiwo isiShayamthetho sesiFundazwe;

**“uMnyango woMgcinimafa wesiFundazwe”** kushiwo uMnyango woMgcinimafa wesiFundazwe osungulwe ngokwesigaba 17 soMthetho wokuPhathwa kweziMali zikaHulumeni;

**“uMthetho wokuPhathwa kweziMali zikaHulumeni”** kushiwo uMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999);

**“imithethonqubo”** kushiwo imithethonqubo emenywezelwe ngokwesigaba 35;

**“uMthetho wamaHolo eziPhathimandla zikaHulumeni”** kushiwo uMthetho wamaHolo eziPhathimandla zikaHulumeni, 1998 (uMthetho No. 20 ka 1998);

**“abasebenzi”** i-Ejensi ihlanganisa nabantu abaqokwe ngokwesigaba 27(2) kanye nabasiswe noma abadluliselwe ngokwesigaba 27(4);

**“iThrasti”** kushiwo iThrasti yesiKhwama seNtuthuko yaKwaZulu-Natali eyasungulwa ngokweTayitela leThrasti elachitshiyelwa laqanjwa kabusha leThrasti yesiKhwama seNtuthuko yaKwaZulu-Natali (Inkomba yakwaMasta No. IT 1437/2007/PMB), esungulwe ngokuhambisana nezinhlinzeko zoMthetho wokuLawula iPahla yeThrasti;

**“iTayitela leThrasti”** kushiwo itayitela lethrasti elachitshiyelwa laqanjwa kabusha leThrasti yesiKhwama seNtuthuko yaKwaZulu-Natali (Inkomba yakwaMasta No. IT 1437/2007/PMB);

**“uMthetho wokuLawula iPahla yeThrasti”** kushiwo uMthetho wokuLawula iPahla yeThrasti, 1998 (uMthetho No. 57 ka 1998).

## Izinhloso zoMthetho

### 2. Izinhloso zoMthetho –

- (a) ukusungula i-Ejensi yesiKhwama seNtuthuko yaKwaZulu-Natali njengebhizinisi likahulumeni wesifundazwe, ezobhekela –
- (i) ukuqinisekisa isimo somnotho esibandakanya wonke umuntu KwaZulu-Natali ngokutshala izimali emiklamweni esimeme ukuze kudaleke amathuba emisebenzi kuphuculwe nesimo sempilo sabantu; kanye
  - (ii) nokugqugquzela ukuthuthukiswa kwabantu abamnyama kwezomnotho;
- (b) ukusungula isikhwama seNtuthuko njengesikhwama esisungulelwe ukuxhasa imiklamo ngezimali ezikhona ukuze zitshalwe yi-Ejensi ngokuhambisana nezinhloso ezibekwe esigatshaneni (a);
- (c) ukuhlinzekela ukuphatha nokulawula i-Ejensi kanye nesikhwama;
- (d) nokwakha uhlaka lokulawula ukuqaliswa nolokuqinisekiswa kokulandelwa kwezinhlinzeko zalo Mthetho.

## ISAPHEKULO 2

### I-EJENSI YESIKHWAMA SENTUTHUKO YAKWAZULU-NATALI KANYE NESIKHWAMA SENTUTHUKO

#### Ukusungulwa kwe-Ejensi

3.(1) Umuntu ngokomthetho ozokwaziwa nge-Ejensi yesiKhwama seNtuthuko yaKwaZulu-Natali ngalokhu uyasungulwa njengebhizinisi likahulumeni wesifundazwe njengoba kuchazwe eMthethweni wokuPhathwa kweziMali zikaHulumeni.

(2) I-Ejensi ingelandelayo esikhundleni ngokomthetho maqondana namalungelo, nemisebenzi kanye namajoka kweThrasti.

**Ukusungulwa kwesiKhwama seNtuthuko**

4.(1) Isikhwama esisungulelwe ukuxhasa imiklamo ngezimali, esizokwaziwa ngesiKhwama seNtuthuko, ngalokhu siyasungulwa.

(2) IsiKhwama kumele siphathwe futhi silawulwe yi-Ejensi njengokuyalela kweBhodi, kuncike kwizinhlinzeko zalo Mthetho kanye noMthetho wokuPhathwa kweziMali zikaHulumeni.

(3) Noma yiziphi izamba eziyikhephithali ezitholwe yi-Ejensi ngezikhathi ezithile kumele –

(a) zifakwe kwi-akhawunti yasebhangwe eseceleni ebhaliswe ngegama lesiKhwama ngokuhambisana nezinhlinzeko zesigaba 7 soMthetho wokuPhathwa kweziMali zikaHulumeni; futhi

(b) zisetshenziselwe inhloso eyodwa yokutshala emiklamweni ehlozulayo ukuqalisa izinhloso zomthetho ezibekwe esigabeni 2(a).

(4) Ngokushesha ngemva kokuhlakazwa nokugoqwa kweThrasti ngokwesigaba 36(1), izamba zekhephithali ezigcinwe yiThrasti kumele –

(a) zidluliselwe uHulumeni wesiFundazwe kwi-Ejensi ngokwesigaba 36(2);

(b) zifakwe kwi-akhawunti yasebhangwe yesiKhwama eshiwo esigatshaneni (3)(a).

(5) Utshalomali oluvela ezambeni zekhephithali lungenziwa kuphela ngemva kokuthi lolu tshalomali lugunyazwe yiBhodi ngokuhambisana nezinhlinzeko zalo Mthetho.

**Imisebenzi kanye namandla e-Ejensi**

5.(1) I-Ejensi inesibopho sokuphatha nokulawula isiKhwama nokutshala izimali emiklamweni ehlozulayo esambeni sekhephithali, futhi kumele –

(a) yenze imisebenzi yayo futhi isebenzise amandla ayo ukufeza izinhloso zoMthetho, kuncike –

(i) kuMthethosisekelo noMthetho wokuPhathwa kweziMali zikaHulumeni; kanye

(ii) nakwizinhlinzeko zalo Mthetho nanoma yiziphi ezinye izinhlinzeko zomthetho kanye nenqubomgomo;

(b) ivule futhi isebenzise ama-akhawunti ayo, kuncike kwizinhlinzeko zalo Mthetho kanye nesigaba 7 soMthetho wokuPhathwa kweziMali zikaHulumeni;

(c) uma kunesidingo ekwenzeni imisebenzi yayo, ekusebenziseni amandla ayo nasekufezeni izinhloso zoMthetho, iqoke abasebenzi bayo ngokuhambisana nezinhlinzeko zeSahluko 4;

(d) isebenzise isamba sekhephithali ukutshala izimali emiklamweni ngokuhambisana nenqubomgomo eyamukelwe yiBhodi, ngenhloso yokuqalisa izinhloso zoMthetho njengoba zibekwe esigabeni 2(a);

- (e) ithathe zonke izinyathelo ngaphambi kokutshala imali ukunquma ukuthembisa kanye nokusimama isikhathi eside komklamo ohlongozwayo;
- (f) uma utshalomali selugunyaziwe kodwa kukhona esakuhlola ngaphambi kokutshala imali, ingene esivumelwaneni nomhlo muli ngemigomo nemibandela elawula utshalomali njengoba kunqume iBhodi;
- (g) iqaphe ukulandela umthetho futhi iqinise izivumelwano i-Ejensi engene kuzo kanye nabahlomuli;
- (h) ithathe zonke izinyathelo ezidingekayo ukuqinisekisa ukuthi imiklamo ehlo mulayo iphathwa futhi ilawulwa ngokuhambisana nomthetho kanye nemigomo yokubusa okuhle;
- (i) kuncike kwizinqubomgomo kanye nemihlahlandlela eyamukelwe yiBhodi, yeseke njalo futhi yeluleke abahlomuli ukuqinisekisa ukusimama kwemiklamo yabahlomuli;
- (j) ibike njalo ngekota kuNgqongqoshe ngesimo semiklamo ehlo mulayo kanye nokufeza izinhloso zoMthetho: Kuncike ekutheni kuNgqongqoshe angacela eminye imibiko ngezikhathi ezithile; futhi
- (k) isungule iphinde igcine isizindalwazi esivuselelwe esinayo yonke imininingwane ephathelene nemisebenzi yayo –
- (i) okudingeka ukuthi yaziwe umphakathi ngokwalo Mthetho nanoma yimuphi omunye umthetho;
  - (ii) nebalulekile noma umphakathi onentshisekelo ngayo kanye nabahlomuli bayo.

(2) I-Ejensi, uma kunesidingo ekwenzeni imisebenzi yayo, ekusebenziseni amandla ayo nasekufezeni izinhloso zayo zoMthetho –

- (a) ingafuna, ngokuhambisana nomthetho osebenzayo, abantu abanolwazi lobuchwepheshe kunoma yiluphi udaba oluphathelene nomsebenzi we-Ejensi noma womklamo ohlo mulayo, futhi inqume amaholo, kubandakanya ukukhokhwa kwezindleko zokuhamba ngomsebenzi kanye nezinye izindleko zalabo bantu;
- (b) iqeqeshe, ithuthukise amakhono kanye nemfundo yabasebenzi bayo kanye neyabahlomuli kunoma yiluphi udaba oluphathelene nemisebenzi yayo kanye namandla ayo;
- (c) kuncike kwizinhlinzeko zesigaba 54(2) soMthetho wokuPhathwa kweziMali zikaHulumeni –
  - (i) isungule noma ibambe iqhaza ekusungulweni kwezinkampani;
  - (ii) ibambe iqhaza ezinhlanganweni; futhi
  - (iii) izibandakanye noma ingazibandakanyi nanoma yikuphi ukuhlomula enkampanini, ubudlelwane noma nabanye abantu ngokomthetho,
 ngaphandle kokukhululwa uNgqongqoshe ngokwesigaba 54(4) soMthetho wokuPhathwa kweziMali zikaHulumeni;
- (d) ingene ezivumelwaneni nezinye izinhloso zomthetho kanye nezinye izikhungo;
- (e) iqashe, iqashise, ithole noma ichithe noma yiliphi ilungelo, empahleni engenakususwa, ngokuhambisana nomthetho osebenzayo kanye nemvume ebhaliwe yeBhodi ngemva

kokubonisana noNgqongqoshe;

(f) ibhalise impahla engenakususwa kanye nezinye izimpahla ezisegameni layo;

(g) ifune noma ithole izimali ngezindlela ezisemthethweni, kubandakanya kodwa kungagcini nje

–

(i) ngokuthola ezinye izimali kuhulumeni wesiFundazwe ezizosetshenziselwa izinhloso ezithile;

(ii) ngokwamukelwa kweminikelo engenamibandela, ifa kanye nezimali zoxhaso ngenhloso yokufeza izinhloso zoMthetho; kanye

(iii) ngezimali nangezinhlawulo ezikhokhelwa imisebenzi eyenziwe ephathelene nokwenziwa kwemisebenzi yayo kanye nokusebenzisa amandla ayo;

(h) itshale noma yiziphi izimali zayo isiKhwama esingeke sizidinge ngokushesha;

(i) ekupheleni konyaka wezimali idlulisele esiKhwameni lezo zimali ezingasala kunoma yiziphi izimali ezitholakale ngokwesigatshana (g): Kuncike ekutheni lezo zimali zingasetshenziselwa ukufeza izinhloso zalo Mthetho kuphela njengoba kubekwe esigabeni 2(a);

(j) ithenge izimpahla ezidingekayo noma ikhokhele imisebenzi efanele, kuncike ekutheni inaso yini isabelomali salokho kuphinde kuncike nasemthethweni osebenzayo;

(k) inganikela noma ingachitha impahla endala noma engasasebenzi, kuncike kwizinqubomgomo ezinqunywe yiBhodi zokuchitha leyo mpahla enokususwa;

(l) ibe nomshwalense –

(i) wanoma yikuphi ukulahlekelwa, umonakalo noma ingcuphe engavela;

(ii) wanoma yiziphi izindleko engangena kuzo maqondana namalungu eBhodi, nabasebenzi nanoma yimuphi omunye umuntu oyisebenzelayo; futhi

(m) ingamangalela noma izivikele kunoma yiziphi izimangalo ezibhekiswe kuyona.

(3) Noma yikuphi ukumangalelwa kwe-Ejensi kumele kwenziwe ngokuhambisana noMthetho wokuMangalelwa kweziNhlaka eziThile zikaHulumeni, 2002 (uMthetho No. 40 ka 2002).

### **Imisebenzi yokuphatha kanye namandla kaNgqongqoshe**

6.(1) UNgqongqoshe kumele aqaphe i-Ejensi kanye neBhodi layo elilawulayo ekwenzeni imisebenzi yayo kanye nasekusebenziseni amandla ayo.

(2) UNgqongqoshe njalo ngonyaka angangena esiVumelwaneni sokuSebenzisana neBhodi elilawula i-Ejensi ukulawula ubudlelwane phakathi kukaNgqongqoshe kanye neBhodi.

(3) Ngaphandle uma kuhlinzekelwe kunoma yimuphi umthetho, uNgqongqoshe anganquma izimali nezinye izinhlawulo ezikhokhiswa yi-Ejensi ngokwezigaba ezihlinzekelwe oHlelweni 2.

### ISAHLUKO 3

## IBHODI ELILAWULAYO YE-EJENSI

**IBhodi**

7.(1) I-Ejensi ilawulwa yiBhodi, elilawula ibhizinisi ekwenzeni imisebenzi yayo nasekusebenziseni amandla ayo ngokuhambisana nalo Mthetho, noMthetho wokuPhathwa kweziMali zikaHulumeni kanye nemigomo yokubusa okuhle.

(2) IBhodi liwuhlaka olunesibopho sokubika ngokwesigaba 49(2)(a) soMthetho wokuPhathwa kweziMali zikaHulumeni.

**Ukubunjwa kweBhodi**

8.(1) IBhodi liqukethe –

(a) amalungu okungenani amahlanu kodwa angeqile kwayisikhombisa aqokwe uNgqongqoshe ngokwesigaba 10; futhi

(b) isiKhulu esiPhezulu ngokwesikhundla saso siyilungu leBhodi, kodwa asinalo ilungelo lokuvota emihlanganweni.

(2) Uma kuqokwa ilungu noma amalungu eBhodi ngokwesigaba 10, uNgqongqoshe kumele aqinisekise ukuthi iBhodi lihlalengene libunjwe abantu abanesipiliyoni nomlando wokulandela imigomo yokubusa okuhle: Kuncike ekutheni iBhodi kumele libe –

(a) okungenani nabantu abathathu abaneziqo kwezezimali futhi abanesipiliyoni –

(i) kwezokutshalwa kwezimali;

(ii) kuma-ikhwithi kanye nokwezokuthuthukisa ezezimali; noma

(iii) nokuphathwa kwezimali;

(b) okungenani nabantu ababili abaneziqo zomthetho kanye nesipiliyoni –

(i) kwezokuphathwa kwezimali zamabhizinisi;

(ii) kwezezimali zemiklamo; noma

(iii) kwezamabhange;

(c) okungenani nomuntu oyedwa oneziqo kanye nesipiliyoni –

(i) kwezobunjiniyela;

(ii) kwezokuthuthukiswa kwengqalasizinda;

(iii) kwezobuklamobungako;

(d) okungenani nelungu elilodwa elineziqo kanye nesipiliyoni kwezokuphathwa kwabasebenzi.

**Okudingekayo kumalungu eBhodi**

9.(1) Amalungu eBhodi kumele –

(a) abe ngabantu abafanelekile;

(b) abe ngabakhathalele izinhloso ze-Ejensi kanye nesiFundazwe;

- (c) abe nolwazi, nesipiliyoni kanye namakhono okufanele njengoba kuhlinzekelwe esigabeni 8(2); futhi
- (d) azimele, angachemi futhi asebenze ngobulungiswa.

- (2) Umuntu akafaneleki ukuba yilungu noma ukuqhubeka nokuba yilungu leBhodi uma lowo muntu –
- (a) eyisiphathimandla njengoba kuchazwe eMthethweni wamaHolo eziPhathimandla;
  - (b) ewumsebenzi kahulumeni noma eqashwe ngokoMthetho wabaSebenzi bakaHulumeni, 1994 (isiMemezelo No. 103 sika 1994);
  - (c) ewumsebenzi kamasipala osungulwe ngokwesigaba 155(1) soMthethosisekelo;
  - (d) ecwile ezikweletini ngokungenakuhlengeka;
  - (e) emenyazelwe yinkantolo njengomuntu ongaphilile ngokwengqondo;
  - (f) ehlomula ngokwezimali noma ngenye indlela kwinkontileka ye-Ejensi futhi ehluleka ukudalula ukuhlomula ngokwezezimali noma ngenye indlela nangendlela ahlomula ngayo ngendlela edingwa yilo Mthetho;
  - (g) ehluleka ukudalula noma yikuphi okunye ukuhlomula nangendlela ahlomula ngayo ngendlela edingwa yilo Mthetho;
  - (h) ewumuntu ophathelwe ifa lakhe;
  - (i) noma yingasiphi isikhathi eke wasuswa esikhundleni ngenxa yokungathembeki okubandakanya ukweba nokukhwabanisa;
  - (j) eke wagwetshelwa icala –
    - (i) elibandakanya ukungathembeki, ukweba nokukhwabanisa; noma
    - (ii) elingabandakanya ukungathembeki, ukweba nokukhwabanisa kodwa eke wagwetshwa izinyanga ezintathu ngaphandle kokunikezwa ithuba lokukhokha inhlawulo: Kuncike ekutheni ukungafaneleki ngokwalesi sigatshana kuphela eminyakeni emihlanu ngemuva kokudonsa isigwebo; noma
  - (k) esuswe esikhundleni ngokwesigaba 17.

### **Inqubo yokuqokwa kwamalungu eBhodi**

- 10.(1) Noma yinini uma kunesidingo ilungu leBhodi noma amalungu eBhodi kumele –
- (a) ameme iziphakamiso zabantu abafanelekile ukusebenza kwiBhodi ngokukhangisa kwiGazethi nasemaphephandabeni okungenani amabili akulesi siFundazwe, kwelilodwa lesiNgisi nakwelilodwa lesiZulu, okumele zicacise –
    - (i) inqubo yokwenza iziphakamiso kanye nosuku lokuvala okumele iziphakamiso zilethwe ngalo; kanye
    - (ii) nolwazi, neziqo kanye nesipiliyoni okudingekayo ukuze umuntu aphakanyiswe; ebese kuthi
  - (b) ngemva kwalokho yenze uhlu lwamagama abantu abaphakanyisiwe kanye nawalabo ababaphakamisile, oluveza imininingwane edingekayo kumuntu ophakanyisiwe ngamunye kanye neyalowo omphakamisile.

(2) Noma yisiphi isiphakamiso esenziwe ngemva kwesikhangiso ngokwesigatshana (1)(a) kumele sisekwe –

- (a) imininingwane yomuntu ophakanyisiwe kanye neyokuxhumana naye;
- (b) imininingwane yeziqo nesipiliyoni komuntu ophakanyisiwe;
- (c) imininingwane yokuxhumana yomuntu ophakamisa ophakanyisiwe;
- (d) imininingwane yobudlelwane phakathi komuntu ophakanyisiwe nomphakamisile; kanye
- (e) nanoma yimiphi eminye imininingwane engadingeka.

(3) Umuntu ophakanyiselwe ukusebenza kwiBhodi ngokwesigatshana (2) kumele, ezinsukwini eziyishumi ephakanyisiwe, athumele kuNgqongqoshe –

- (a) incwadi ayisayinile yokwamukela isiphakamiso; kanye
- (b) nesitatimende esiqinisekisa ukuthi akayena umuntu ongafanelekile ukuqokwa ngokwalo Mthetho nanoma yimuphi omunye umthetho.

(4) Noma yikuphi ukwehluleka komuntu ophakanyisiwe ukulandela isigatshana (3)(a) no (b) kumenza angafaneleki ukuqokelwa esikhundleni sokuba yilungu leBhodi.

(5) UNgqongqoshe angaqoka ithimba langaphandle elizimele ukucubungula futhi lihlole zonke iziphakamiso ebese kuthi ngemva kwalokho lenze uhlu lwamagama abantu abaphakanyisiwe abafanelekile ebese lenza iziphakamiso kuNgqongqoshe mayelana nalokho.

(6) UNgqongqoshe kumele aqoke abantu ohlwini lwabantu abaphakanyisiwe olushiwo esigatshaneni (1)(b).

(7) Uma uNgqongqoshe eseqoka abantu kumele –

- (a) alandele izinhlinzeko zesigatshana 8(1)(a);
- (b) alandele indlela yokubunjwa kweBhodi lihlangene njengoba kuhlinzekelwe esigabeni 8(2);
- (c) alandele lokho okudingekayo kumalungu eBhodi njengoba kuhlinzekelwe esigabeni 9;
- (d) abhekelele ukumeleleka ngokobulili, ngokobuhlanga, nangokuziphatha nomlando wabantu abaphakanyisiwe abasezikhundleni ezifanayo; futhi
- (e) azise abantu abaqokelwe kwiBhodi ngokuqokwa kwabo ngokubhalwe phansi, nangosuku ukuqokelwa kwabo kwiBhodi okuyoqala ngalo ukusebenza.

(8) UNgqongqoshe kumele, esikhathini esingeqile ezinsukwini ezingamashumi ayisithupha kusukela ngosuku lokuqokwa kweBhodi –

- (a) azise uMkhandlu oPhethe kanye nekomidi lemisebenzi lesiShayamthetho sesiFundazwe elibhekelele ukuthuthukiswa komnotho ngokubhalwe phansi ngamagama abantu abaqokelwe kwiBhodi; futhi
- (b) aqinisekise ukuthi amagama alabo bantu abaqokiwe ashicilelwa kwiGazethi



nasemaphephandabeni okungenani amabili akulesi siFundazwe, kwelilodwa elesiNgisi nakwelilodwa lesiZulu.

(9) Lapho kubonakala khona ukuthi ilungu leBhodi elilodwa noma ngaphezulu awaqokwanga ngendlela efanele, lesi simo asithikamezi noma yisiphi isixazululo esathathwa, isinqumo esathathwa, igunya elakhishwa noma isenzo esenziwa yiBhodi, ngaphandle uma inkantolo ecubungula lesi sinqumo, lesi sixazululo, lelo gunya noma lesi senzo inquma ukuthi kumele sichithwe.

#### **USihlalo kanye noSekela Sihlalo weBhodi**

11.(1) UNgqongqoshe kumele aqoke uSihlalo kanye noSekela Sihlalo phakathi kwamalungu eBhodi.

(2) UNgqongqoshe angahoxisa lokho kuqokwa, kuncike ekulandelweni kwemigomo efanele.

(3) USekela Sihlalo kumele asebenzise wonke amandla, enze yonke imisebenzi kaSihlalo uma uSihlalo engekho, egula, enqaba noma ehluleka ukusebenza njengoSihlalo, noma uma uNgqongqoshe ehoxisa ukuqokwa kukaSihlalo.

(4) Uma bobabili uSihlalo noSekela Sihlalo bengekho, begula, benqaba noma behluleka ukwenza umsebenzi wabo, noma uma uNgqongqoshe ehoxisa ukuqokwa kwabo, uNgqongqoshe kumele aqoke elinye ilungu leBhodi njengeBamba likaSihlalo isikhathi esingeqile ezinsukwini ezingama-60 kusukela ngosuku eliqokwe ngalo uNgqongqoshe.

#### **Isikhathi sokuba sesikhundleni kwamalungu eBhodi**

12.(1) Amalungu eBhodi –

(a) aqokelwa ihlandla eliyiminyaka emihlanu noma lesi sikhathi esingaphansi kwalokho njengoba uNgqongqoshe enganquma, noma, uma kusebenza isigaba 18(2), isikhathi esinqunywe ngokwaleso sigaba;

(b) efanelekile ukuqokelwa elinye ihlandla ngokubona kukaNgqongqoshe elingeqile eminyakeni emihlanu, kuncike kwizinhlinzeko zesigaba 9;

(c) nangemva kokuphela kwekhefu leminyaka okungenani emithathu ngemva kokuphela kwelinye ihlandla elishiwo kwindima (b), futhi kuncike esigabeni 10, angaphinde aqokwe ngokwendima (a) futhi, uma eqokwe kanjalo, angaphinde aqokelwe elinye ihlandla ngokwendima (b).

(2) Naphezu kwezinhlinzeko zesigatshana (1), isikhathi sokuba sesikhundleni selungu leBhodi elingafanelekile ukuqokelwa elinye ihlandla lingelulwa uNgqongqoshe ngesikhathi esingeqile onyakeni owodwa.

**Imigomo nemibandela yokuqokwa kwamalungu eBhodi**

13.(1)(a) UNgqongqoshe kumele anqume imigomo yokuqokwa kwamalungu eBhodi futhi kumele ahlinzekele ukukhokhwa kwamaholo nezibonelelo okunqunywe uNgqongqoshe ngokubonisana noNgqongqoshe wezezimali.

(b) Ilungu leBhodi elithola iholo, izibonelelo noma eminye imihlomulo njengomsebenzi oqashwe ngokugcwele –

(i) enkampanini, emgwamandeni noma esikhungweni okulawulwa uhulumeni kazwelonke noma wesifundazwe; noma

(ii) ebhizinisini likahulumeni wesifundazwe, kwibhizinisi likahulumeni kazwelonke noma wesifundazwe njengoba lichazwe esigabeni 1 soMthetho wokuPhathwa kweziMali zikaHulumeni,

eliqhubekayo nokuthola iholo, izibonelelo noma eminye imihlomulo kulowo msebenzi, lingathola lezo zibonelelo kuphela njengelungu leBhodi ngendlela eyokwenza ukuthi lelo lungu libe kuleso simo ebelingaba kusona ukube belingelona ilungu leBhodi.

(c) Amaholo nezibonelelo okuhlukene kunganqunyelwa lezi zigaba ezilandelayo zamalungu eBhodi –

(i) uSihlalo;

(ii) uSekela Sihlalo;

(iii) uSihlalo weKomidi leBhodi; kanye

(iv) namanye amalungu eBhodi.

(2)(a) Ilungu leBhodi, maqondana nemisebenzi yalo njengelungu, lingakhokhelwa imali efanele yezindleko zokuhamba ezidalwe ukwethamela imihlangano yekomidi yeBhodi, noma umcimbi wasemsebenzini noma umcimbi eliwethamele ngokwesikhundla salo njengelungu leBhodi.

(b) UNgqongqoshe wezeziMali kumele anqume izinqubo kubandakanya nezindlela zokulawula, nezokuphatha kanye nezokukhokha izimali okumele zikhokhelwe ukuhamba ngomsebenzi ezishiwo kwindima (a).

(3) Noma yiliphi iholo nanoma yiziphi izibonelelo ezikhokhelwa amalungu eBhodi kumele zikhokhwe yi-Ejensi.

(4) Amalungu eBhodi awaqashiwe ngokugcwele futhi awenzi imisebenzi yansukuzonke yeBhodi.

**Ukuziphatha kwamalungu eBhodi**

14. Ilungu leBhodi –

(a) kumele lenze imisebenzi yalo ngokwethembeka nangaphandle kokwenzelela noma kokucwasa;

(b) angeke lisebenzise isikhundla salo, amalungelo alo noma ulwazi lalo ukuzihlomulisa noma ukuhlomulisa omunye umuntu ngokungafanele; futhi

(c) angeke lenze noma yini engabeka engcupheni ukwethembeka, ukungachemi, ukuzimela noma ubuqotho be-Ejensi.

#### **Ukudalulula ukuhlomula ngokwezezimali nangenye indlela kwamalungu eBhodi**

**15.(1)** Ilungu leBhodi kumele, ezinsukwini eziyishumi liqokiwe, ngemva kwalokho njalo ngonyaka, kumele lidalule ukuhlomula ngokwezezimali kuNgqongqoshe ngendlela ehambisana neFomu 1 loHlelo 1.

(2) Uma ilungu leBhodi selihlomula kunoma iyiphi enye inkampani noma kwelinye ibhizinisi ngemva kokuhambisa ifomu lokudalula noma yikuphi ukuhlomula ngokwezezimali okuhlinzekelwe esigatshaneni (1) singakashayi isikhathi sokudalula ukuhlomula ngokwezezimali konyaka olandelayo, ezinsukwini eziyishumi kusukela ngosuku eliqale ngalo ukuhlomula, kumele lidalule lokho ukuhlomula ngokwezezimali kuNgqongqoshe ngendlela ehambisana neFomu 1 loHlelo 1.

(3) Noma yikuphi ukuhluleka kwelungu leBhodi ukudalula noma yikuphi ukuhlomula kwalo ngokwezigatshana (1) no (2) kungaholela ekutheni ilungu lisuswe esikhundleni, kuncike ekulandelweni kwezinhlinzeko zesigaba 9(2).

(4) UNgqongqoshe kumele agcine irejista evuselewe yokuhlomula kwamalungu eBhodi okudalulwe ngokwalesi sigaba.

#### **Ukumiswa kobulungu kwamalungu eBhodi**

**16.(1)** Ukuqokwa kwelungu leBhodi kuyamiswa uma lowo muntu –

- (a) engasafanelekile ukuba yilungu ngokwesigaba 12;
- (b) eseqe isikhathi sokuba sesikhundleni selungu uma isikhathi sakhe sokuqhubeka nokubamba leso sikhundla uNgqongqoshe engaselulanga njengoba kuhlinzekelwe esigabeni 12(2);
- (c) esula;
- (d) engakwazi ukusebenza ngenxa yokufa noma yokugula; noma
- (e) esuswa esikhundleni ngokwesigaba 17.

(2) Ilungu leBhodi lingasula ngokunikeza uNgqongqoshe inothisi okungenani kusasele izinyanga ezintathu ukuba lishiye esikhundleni, kodwa uNgqongqoshe angayamukela leyo nothisi ngesikhathi esingaphansi kwaleso esimweni esithile.

(3) Ngaphandle uma ilungu leBhodi liphinde laqokelwa kwikomidi ngokwesigaba 23(2), uma lingaselona ilungu leBhodi, angeke limele iBhodi kunoma yiluphi uhlaka noma kunoma yiliphi ikomidi: Kuncike ekutheni ilungu leBhodi elisusiwe esikhundleni ngokwesigaba 17 alifanelekile ukuthi liphinde liqokwe.

**Ukususwa kanye nokumiswa esikhundleni kwamalungu eBhodi**

17.(1) UNgqongqoshe angasusa ilungu leBhodi esikhundleni ngenxa –

- (a) yokungaziphathi kahle, yokungathembeki, yokugula noma yokuhlulwa umsebenzi;
- (b) yokuphutha emihlanganweni emithathu elandelanayo yeBhodi ngaphandle kokuthola imvume kaSihlalo weBhodi, ngaphandle uma kunesizathu esizwakalayo;
- (c) yokucwila ezikweletini; noma
- (d) yokuboshelwa icala ngaphandle kokunikezwa ithuba lokukhokha inhlawulo.

(2) Ilungu leBhodi lingasuswa esikhundleni ngenxa yokungaziphathi kahle, yokungathembeki, yokugula noma yokuhlulwa umsebenzi ngemva kokuthi lokho sekutholwe uNgqongqoshe, kuncike ekulandelweni kwezinqubo ezifanele.

(3) UNgqongqoshe angamisa ilungu leBhodi eliphenywayo ngaphandle komholo, kuncike ekulandelweni kwezinqubo ezifanele.

**Ukugcwaliswa kwezikhala kwiBhodi**

18.(1) Noma yisiphi isikhala kwiBhodi kumele sigcwaliswe ezinyangeni ezintathu, kuncike ekulandelweni kwezinhlinzeko –

- (a) zesigaba 10 uma kuyilungu elijwayelekile leBhodi;
- (b) nezesigaba 11 uma kuwusihlalo noma uSekela Sihlalo.

(2) Umuntu oqokelwe ukugcwalisa isikhala uba kuleso sikhundla ingxenye yesikhathi engakapheli yelungu leBhodi elishiyile noma kaSihlalo noma kaSekela Sihlalo oshiyile.

**Ukungabibikho kweBhodi elisebenza ngendlela efanele**

19. Uma lingekho iBhodi elisebenza ngendlela efanele, amandla kanye nemisebenzi yohlaka olunesibopho sokubika lwe-Ejensi kunikezwa isiKhulu esiPhezulu njengoba kuhlinzekelwe esigabeni 49(2)(b) soMthetho wokuPhathwa kweziMali zikaHulumeni: Kuncike ekutheni –

- (a) uNgqongqoshe angaqoka omunye umuntu oneziqo nesipiliyoni ozosebenzisa amandla futhi enze imisebenzi yohlaka olunesibopho sokubika;
- (b) uMnyango woMgcinimafa, ezimweni ezikhethekile, ungagunyaza noma ungayalela omunye umsebenzi webhizinisi likahulumeni ukuthi ayokuba umsebenzi wohlaka olunesibopho sokubika lwe-Ejensi; futhi
- (c) uNgqongqoshe kumele, ngokushesha uma kungenzeka, noma esikhathini esingeqile ezinyangeni eziyisithupha, angathatha izinyathelo ezifanele ukuqinisekisa ukuthi i-Ejensi ilawulwa yiBhodi elisebenza ngendlela efanele.

**Imihlangano yeBhodi**

**20.(1)** USihlalo weBhodi uyena onquma ukuthi iBhodi lihlanga nini nakuyiphi indawo: Kuncike ekutheni –

- (a) iBhodi lihlanga okungenani njalo ngekota;
- (b) uNgqongqoshe, ngokubhalwe phansi, angayalela iBhodi ukuthi lihlanga, futhi angakhetha indawo nesikhathi somhlangano; futhi
- (c) iningi lamalungu eBhodi akhona ngaleso sikhathi angacela uSihlalo ngokubhalwe phansi ukuthi abize umhlangano endaweni ebekwe nangesikhathi esibekwe kuleso sicelo.

(2) USihlalo, noma uma engekho, uSekela Sihlalo angaba uSihlalo emihlanganweni yeBhodi kodwa uma bengekho bobabili emhlanganweni weBhodi, amalungu akhona kumele aqoke elinye ilungu ukuthi lengamele umhlangano.

(3) IBhodi linganquma izinqubo zayo kuncike kwizinhlinzeko zalo Mthetho.

(4) IBhodi, ngokubona kwalo –

- (a) lingavumela amalungu omphakathi ukuthi athamele umhlangano weBhodi; futhi
- (b) lingamema noma yimuphi umsebenzi nanoma yimuphi omunye umuntu ukuthi athamele noma yimuphi umhlangano uma kunesidingo noma kufanele.

(5) Ilungu leBhodi kumele lihoxe odabeni olusezithebeni noma oluvotelwa yiBhodi uma lihlomula ngqo noma ngandlela thile, noma uma kungenzeka lihlomule ngqo noma ngandlela thile, ngaphandle uma iBhodi libona ukuthi lokho kuhlomula kwalo kuyinto engenamkhuba noma kungeke kube namthelela.

(6) Uma, noma yinini ngesikhathi kudingidwa izindaba ezisezithebeni zeBhodi kubonakala ukuthi ilungu elikhona kulowo mhlangano liyahlomula njengoba kushiwo esigatshaneni (5), lelo lungu kumele liphumele obala lidalule ukuthi lihlomula kanjani ebese liyaphuma emhlanganweni.

(7) Noma yini edalulwe ngokwesigatshana (5) noma (6) kumele iqoshwe kumaminithi alowo mhlangano,

(8) Uma kamuva kuvela ukuthi iBhodi lathatha isinqumo maqondana nokuhluleka kwelungu leBhodi ukudalula ukuhlomula okushiwo esigatshaneni (5) noma (6), leso sinqumo seBhodi kumele sicutshungulisiswe ngokushesha ngemva kokuthi iBhodi lazile ngalokho kuhluleka ukudalula ukuhlomula kwalo ngaphandle kokuthi ilungu elithintekayo libambe iqhaza: Kuncike ekutheni uma leso sinqumo sihlukumeza amalungelo anoma yimuphi umuntu futhi sinomthelela ngokomthetho, iBhodi kumele lifake isicelo enkantolo sokuthi leso sinqumo isichithe.

(9) Ngokwezinhloso zalesi sigaba **“ukuhlomula ngandlela thile”** kubandakanya, kodwa akugcini nje, ngokuhlomula kwanoma –

(a) yiliphi ilungu lomndeni elisondele lelungu leBhodi; noma

(b) yimuphi umlingani kwezamabhezini noma umqashi welungu leBhodi, ngaphandle kukaHulumeni,

(10) Ilungu leBhodi eliphula noma elihluleka ukulandela izigatshana (5) no (6) linecala lokungaziphathi kahle, futhi lokho kuphula umthetho kungaba yisizathu esizwakalayo sokususa lelo lungu esikhundleni.

(11) Noma yimuphi umuntu ofaka isicelo, ngomlomo noma ngokubhalwe phansi, sokuthi ilungu leBhodi lihoxe uma lowo muntu enesizathu sokukholwa ukuthi lelo lungu, ilungu lomndeni walo elisondele noma elisondelene naye bahlomula noma kungenzeka bahlomule ngokwezezimali noma ngenye indlela esinqumweni seBhodi: Kuncike ekutheni lowo muntu ofaka leso sicelo kumele ahlinzeke izizathu ezizwakalayo zesicelo sakhe.

(12) Isicelo esishiwo esigatshaneni (11) kumele –

(a) siqondiswe kuSihlalo weBhodi; noma

(b) siqondiswe kuSekela Sihlalo weBhodi uma isicelo sithinta uSihlalo weBhodi,

okumele anqume ngodaba ebese ebika ngesinqumo kwiBhodi.

#### **Amaminithi emihlangano yeBhodi**

**21.(1)** IBhodi kumele liqinisekise ukuthi amaminithi omhlangano ngamunye weBhodi kanye nawamakomidi enziwe futhi athunyelwa kuwo wonke amalungu eBhodi nawamakomidi.

(2) Wonke amaminithi emihlangano ashiwo kwisigatshana (1) kumele –

(a) abekwe ezithebeni emhlanganweni weBhodi noma wekomidi olandelayo ukuze amukelwe futhi, uma esamukelwe asayinwa uSihlalo weBhodi noma wekomidi, athathwa njengerekhodi eliyiqiniso lomhlangano futhi athathwa njengobufakazi obuyibonabona bezinqumo ezithathwe yiBhodi noma yikomidi kulowo mhlango; futhi

(b) abhalwe kwirejista ebese kugcinwa ikhophi kwifayela nakwikhompuyutha uma esamukelwe futhi asayinwa.

(3) Amaminithi ayo yonke imihlangano yeBhodi kanye nawamakomidi ayo ayimibhalo evulelekile emphakathini, amalungu omphakathi angawacela ngamahora okusebenza, kuncike kwizinhlizeko zoMthetho wokuGqugquzela ukuTholakala koLwazi kanye nanoma yimuphi omunye umthetho osebenzayo.

#### **Ikhoram kanye nezinqumo emihlanganweni yeBhodi**

**22.(1)** Iningi lamalungu eBhodi eliqokwe ngokwesigaba 8(1) lenza ikhoramu emhlanganweni weBhodi.

(2) Udaba olusezithebeni zeBhodi lunqunywa ngamavoti eningi lamalungu eBhodi akhona

emhlanganweni.

(3) Uma, kunoma yiluphi udaba, kunokulingana kwamavoti ilungu leBhodi elengamele lowo mhlango kumele lisebenzise ivoti lalo eliwujuqu ngaphezu kwevoti lalo njengelungu.

(4) Asikho isinqumo seBhodi esithathwa njengesingekho emthethweni ngenxa yesizathu sokuba khona kwesikhala kwiBhodi, kuncike kwizinhlinzeko zesigatshana (1) no (2).

### **Ukusungulwa kwamakomidi eBhodi**

**23.(1)** IBhodi lingasungula amakomidi angeqile kwamane azoyisiza ekusebenziseni amandla ayo nasekwenzeni imisebenzi yayo, kubandakanya kodwa kungacini nje –

- (a) ngeKomidi lokuCwaningwa kwamabhuku ezimali nokungaba yingozi;
- (b) ngeKomidi loTshalomali kanye nokuPhathwa kweMiklamo;
- (c) ngeKomidi elibhekele iziNdaba zabaSebenzi neMigomo yokuziPhatha.

(2) Uma kuqokwa amalungu ekomidi, iBhodi alinasibopho sokuqoka abantu abangamalungu eBhodi kuphela: Kuncike ekutheni iningi lamalungu ekomidi kumele kube amalungu eBhodi.

(3) IBhodi –

- (a) kumele linqume imisebenzi kanye namaphuzu ikomidi elizosebenzela phezu kwawo;
- (b) kumele liqoke usihlalo wekomidi, okumele abe yilungu leBhodi, kanye namanye amalungu ekomidi;
- (c) lingasusa ilungu lekomidi esikhundleni nganoma yisiphi isikhathi uma inezizathu ezizwakalayo;
- (d) linganquma izinqubo zomhlangano wekomidi; futhi
- (e) lingahlakaza ikomidi noma yingasiphi isikhathi.

(4) Izigaba 13 no 15, ngezinguquko ezidingekayo, ziyasebenza kwimibandela yokuqokwa kwamalungu ekomidi.

(5) Amakomidi asungulwe yiBhodi awanawo amandla okuthatha isinqumo esiwujuqu ngezindaba ezithinta i-Ejensi futhi kumele –

- (a) enze izincomo kwiBhodi ezizodingidwa, ezizochitshiyelwa, ezizochithwa noma ezizokwamukelwa; ebese kuthi
- (b) njalo ngezikhathi ezithile abike kwiBhodi ngemisebenzi yawo.

(6) Umsebenzi we-Ejensi oqokwe yikomidi, noma omenywe yikomidi ukuthi athamele umhlangano –

- (a) kumele athamele umhlangano futhi abambe iqhaza emhlanganweni walelo komidi kodwa angeke avota;

(b) usebenza kwikomidi, noma uthamela imihlangano yekomidi, kuncike kwimigomo nemibandela yokuqashwa kwalowo muntu.

(7) Isigaba 14, ngezinguquko ezidingekayo, siyasebenza kumalungu eBhodi nakubasebenzi be-Ejensi abathamele imihlangano yamakomidi.

#### **Ukudluliselwa kwamandla kanye nokwabiwa kwemisebenzi**

**24.(1)** Uma kunesidingo ukuze ikwazi ukwenza umsebenzi wayo ngendlela efanele, iBhodi lingadlulisela noma yimaphi amandla ayo, ngaphandle kwaleyo misebenzi ebalulwe esigatshaneni (2), –

- (a) kwilungu leBhodi;
- (b) kwikomidi elisungulwe ngokwesigatshana 23; noma
- (c) kunoma yimuphi umsebenzi ofanelekile we-Ejensi.

(2) IBhodi angeke lidlulisele lamandla noma yabe lemisebenzi elandelayo –

- (a) ukuqokwa noma ukuqokelwa elinye ihlandla kwesiKhulu esiPhezulu nokunquma imigomo yokuqashwa kwakhe okuhlinzekelwe esigabeni 25;
- (b) ukunquma izinqubomgomo zokuqasha, zemikhawulo yezezimali noma imigomo kanye nemibandela yokuqasha abasebenzi okuhlinzekelwe esigabeni 27;
- (c) namajoka okwethembeka najwayelekile eBhodi njengohlaka olunesibopho sokubika lwe-Ejensi; kanye
- (d) nokugunyazwa kwesabelomali.

(3) Ukudluliselwa kwamandla noma ukwabiwa komsebenzi ngokwesigatshana (1) –

- (a) kumele kubhalwe phansi;
- (b) kuncike kuleyo mikhawulo, nakuleyo mibandela kanye nakuleyo miyalelo engabekwa yiBhodi;
- (c) akuliphuci iBhodi igunya lokwenza umsebenzi othinta ukusebenzisa amandla adluliselwe noma ukwenza umsebenzi owabiwe; futhi
- (d) akulivimbi iBhodi ukuthi lisebenzise amandla adluliselwe noma lenze umsebenzi owabiwe.

(4) Konke ukudluliselwa kwamandla nokwabiwa kwemisebenzi ngokwesigatshana (1) kumele kugcinwe kwirejista elivuselelwe.

(5) IBhodi lingaqinisekisa, lingashintsha noma lingahoxisa noma yisiphi isinqumo esithathwe ngenxa yokudluliselwa kwamandla noma yokwabiwa komsebenzi ngokwalesi sigaba, kuncike kunoma yimaphi amalungelo atholwe yilowo muntu ngenxa yaleso sinqumo.

#### ISAHLUKO 4



**ISIKHULU ESIPHEZULU KANYE NABASEBENZI BE-EJENSI**

**IsiKhulu esiPhezulu**

**25.(1)** IBhodi, ngokubonisana noNgqongqoshe, kumele liqoke umuntu oneziqu, namakhono nesipiliyoni esifanele njengesikhulu esiPhezulu se-Ejensi.

(2) IsiKhulu esiPhezulu –

- (a) siqokelwa isikhathi esingeqile eminyakeni emihlanu; futhi
- (b) ngokubonisana, noNgqongqoshe, iBhodi lingasiqokela amanye amahlandla angeqile eminyakeni emihlanu, ihlandla ngalinye.

(3) IsiKhulu esiPhezulu siqashwe ngokwemigomo yokuqashwa enganqunywa yiBhodi, ngokubonisana noNgqongqoshe, ngemva kokuba esebonisene noNgqongqoshe wezezimali.

(4) Ukuqokwa kwesiKhulu esiPhezulu kuncike ekuphuthulweni kwesivumelwano somsebenzi esibhalwe phansi phakathi kwesiKhulu esiPhezulu neBhodi, esingachitshiyelwa ngokubhalwe phansi nangesivumelwano phakathi kwezinhlangothi ezithintekayo.

(5) Izinghlizeko zesigaba 15, ngezinguquko ezidingekayo, ziyasebenza kwisiKhulu esiPhezulu: Kuncike ekutheni isiKhulu esiPhezulu kumele sidalule ukuhlomula kwaso kwiBhodi ngendlela ehambisana neFomu 2 loHlelo 1.

(6) IsiKhulu esiPhezulu sinesibopho –

- (a) sokuphatha i-Ejensi ukuze kufezeke izinhloso zalo Mthetho;
- (b) sokuqoka abasebenzi ngokuhambisana nezinhlinzeko zesigaba 27(1) no (2);
- (c) sokuphatha abasebenzi, kubandakanya nokuqinisekisa ukuziphatha kwabasebenzi ngendlela efanele;
- (d) sokunquma, ngokubonisana neBhodi, umgomo wokuziphatha ozosebenza kwisiKhulu esiPhezulu nakubo bonke abanye abasebenzi, onobulungiswa ngokwezinhloso zokuthatha izinyathelo zokuqondisa izigwegwe, ukuqinisekisa –
  - (i) ukuhambisana nemithetho nezinqubomgomo okusebenzayo, kubandakanya nalo Mthetho;
  - (ii) ukusetshenziswa kweziMali ze-Ejensi ngokonga nangendlela enemiphumela ebonakalayo neseqophelweni elifanele;
  - (iii) ukugqugquzela nokugcina iqophelo eliphezulu lemigomo yokusebenza neyokuziphatha;
  - (iv) ukuvikela ukushayisana kwezintshisekelo;
  - (v) ukuvikela ulwazi oluyimfihlo olugodlwe yiBhodi; kanye
  - (vi) nokuhlinzekwa kwemisebenzi ngendlela eseqophelweni, enobuqotho, enobulungiswa nenokulingana;
- (e) nokugcinwa nokuvuselelwa kwerejista lokuhlomula okudalulwe abasebenzi; kanye

(f) nokuqinisekisa ukuthi i-Ejensi ihambisana nezinhlinzeko zalo Mthetho, zoMthetho wokuPhathwa kweziMali zikaHulumeni, kanye nanoma yimiphi eminye imithetho nezinqubomgomo okusebenzayo.

(7) IsiKhulu esiPhezulu –

(a) sinesibopho sokubika kwiBhodi ngokusebenzisa amandla aso nangokwenza imisebenzi yaso ngokwalo Mthetho, futhi kumele sibike kwiBhodi ngemisebenzi kanye nokuphathwa kwe-Ejensi ngesikhathi nangendlela eyonqunywa yiBhodi; futhi

(b) kumele senze leyo misebenzi iBhodi elabele sona futhi sisebenzise lawo mandla njengoba iBhodi lingawadlulisela kusona.

(8) USihlalo weBhodi kumele –

(a) aqoke omunye umsebenzi ofanelekile njengebamba lesiKhulu esiPhezulu uma isiKhulu esiPhezulu singekho noma singakwazi ukwenza imisebenzi yaso ngenxa yanoma yisiphi isizathu: Kuncike ekutheni noma yikuphi lokho kuqokwa angeke kweqe ezinsukwini ezingama-60; futhi

(b) uma isikhundla sesiKhulu esiPhezulu singagcwalisiwe, angaqoka omunye umsebenzi ofanelekile njengebamba lesiKhulu esiPhezulu ngokubonisana neBhodi kanye noNgqongqoshe: Kuncike ekutheni noma yikuphi lokho kuqokwa angeke kweqe esikhathini esiyizinyanga eziyishumi nambili.

(9) IBamba lesiKhulu esiPhezulu –

(a) linawo wonke amandla kanye namajoka esiKhulu esiPhezulu; futhi

(b) liqashwe ngaphansi kwaleyo migomo nemibandela yokuqashwa enganqunywa uSihlalo weBhodi ngokuhambisana nesigatshana (3), kuncike kunoma yimiphi imikhawulo nemigomo enqunywe uNgqongqoshe.

**Ukusula kanye nokususwa esikhundleni kwesiKhulu esiPhezulu esikhundleni**

**26.(1) IsiKhulu esiPhezulu siyashiya esikhundleni –**

(a) uma sisula, uma kufika lolo suku elalithe lizocina ngalo;

(b) uma singasafanelekile ukuba umqondisi wenkampani ngokoMthetho weziNkampani, 2008 (uMthetho No. 71 ka 2008); noma

(c) uma sisuswa esikhundleni ngokwesigatshana (2).

(2) IBhodi, ngokubonisana noNgqongqoshe, lingasusa isiKhulu esiPhezulu esikhundleni ngokuhambisana nemithetho esebenzayo nangokulandela imigomo efanele.

**Ukuqashwa kwabasebenzi**

27.(1) IsiKhulu esiPhezulu, ngokuvumelana neBhodi nangemikhawulo yezezimali ebekwe yiBhodi, kumele –

- (a) sinqume uhlaka oludingekayo oluzosiza i-Ejensi ukuthi yenze imisebenzi yayo futhi isebenzise namandla ayo; futhi
- (b) sinqume imigomo nemibandela yokuqashwa kwabasebenzi be-Ejensi.

(2) IsiKhulu esiPhezulu singaqoka kuphela abantu ezikhundleni ezabelwe izimali kumumohlaka wesikhungo nangokuhambisana nemithetho esebenzayo kanye nezinhlinzeko zenqubomgomo.

(3) Abasebenzi be-Ejensi –

(a) baqashwe ngaphansi –

- (i) kwemigomo nemibandela yokuqashwa esebenzayo;
- (ii) kwezinqubomgomo ezisebenzayo ezinqunywe yiBhodi;
- (iii) komgomo wokuziphatha ohlinzekelwe esigabeni 25(6)(d);
- (iv) kwemikhawulo ebekwe yiBhodi;

(b) kumele benze imisebenzi ngaphansi kweso lesiKhulu esiPhezulu;

(c) kumele badalule ukuhlomula ngokwezezimali kwisiKhulu esiPhezulu, okumele sigcine irejista elivuselelwe lalokho kuhlomula ngokwezezimali: Kuncike ekutheni izinhlinzeko zesigaba 15 ziyasebenza, ngezinguquko ezidingekayo, uma kudalulwa ukuhlomula ngokwezezimali noma ngenye indlela;

(d) nangemvume yalabo basebenzi, bangasiswa kolunye uhlaka lukahulumeni ngesivumelwano phakathi kwesiKhulu esiPhezulu kanye nalolo hlaka lukahulumeni.

(4) Umuntu oqashwe kolunye uhlaka lukahulumeni, ngesivumelwano phakathi kwesiKhulu esiPhezulu kanye nalolo hlaka lukahulumeni nangokuhambisana nemithetho esebenzayo kanye nezinhlinzeko zenqubomgomo, uyosiswa noma adluliselwe kwi-Ejensi: Kuncike ekutheni abantu abasisiwe, bayokwenza imisebenzi yabo ngaphansi kweso lesiKhulu esiPhezulu.

## ISAHLUKO 5

### IZIMALI NOKUXHASWA NGEZIMALI KWE-EJENSI

#### Isibopho sokubika ngezezimali

28. IBhodi kumele liqinisekise ukuthi –

- (a) i-Ejensi ilawula futhi iphatha izimali zayo ngendlela efanele nengenabumfihlo;
- (b) lihambisana nezinhlinzeko zoMthetho wokuPhathwa kweziMali zikaHulumeni kanye nanoma yimiphi eminye imithetho nezinqubomgomo okusebenzayo; futhi
- (c) lihlonipha imigomo nezinqubo ezilawula ukuphathwa ngendlela efanele kwezinkampani.

**Izimali****29.(1)** Izimali ze-Ejensi ziqukethe –

(a) imali eyabiwe yisiShayamthetho sesiFundazwe –

- (i) njengemali efakwe kwisamba sekhephithali esiKhwameni ngokwezinhloso zokuyitshala emiklamweni ehlomulayo ngokuhambisana nezinhlinzeko zalo Mthetho;
- (ii) nangezinhloso zokuphatha kanye nezokwenza imisebenzi yansukuzonke ye-Ejensi ngokuhambisana nezinhlinzeko zendima (5);

(b) ingeniso eyithole ngokwenza imisebenzi yayo, kubandakanya kodwa kungagcini nje ngengeniso yezimali, yezinhlawulo neyokuhlinzekwa kwemisebenzi;

(c) imali etholakele ezinhlakeni zikahulumeni yezinhloso ezithile noma yemiklamo ethile;

(d) iminikelo kanye nemali eyiphiwe noma eyifa;

(e) ingeniso etholakele kunoma yimuphi umthombo ohlonzwe esigabeni 5(2)(g);

(f) ingeniso notshalomali ngokuhambisana nesigaba 5(2)(h); kanye

(g) nemali etholakele ngokusemthethweni kunoma yimuphi omunye umthombo.

(2) Isikhulu esiPhezulu kumele ngokushesha sifake zonke izimali ezitholakale ngokwesigatshana (1)(a) kuma-akhawunti asebhange afanele.

(3) Kusukela ngosuku loMthetho oyoqala ngalo ukusebenza noma iyiphi i-akhawunti yasebhange, izimali noma utshalomali okugcinwe yiThrasti, kuthathwa njengama-akhawunti asebhange, nezimali noma notshalomali kwe-Ejensi.

(4) Noma iyiphi imali esele engasetshenziswa esesiKhwameni uma kuphela unyaka wezimali idluliselwa njengekhredithi.

(5) I-Ejensi kumele isebenzise izimali ezabelwe yisiShayamthetho sesiFundazwe ngokwesigatshana (1)(a)(ii) –

(a) ukukhokha amaholo, izibonelelo kanye nezindleko zokuhamba ngomsebenzi –

(i) kwamalungu ayo eBhodi;

(ii) kwesiKhulu esiPhezulu sayo kanye nokwabasebenzi bayo;

(b) nokukhokhela izindleko –

(i) zemisebenzi yansukuzonke kanye nokuphathwa kwe-Ejensi kanye neBhodi; kanye

(ii) nezokufezwa kwamajoka e-Ejensi naweBhodi, nezokwenziwa kwemisebenzi ye-Ejensi neyeBhodi nokusetshenziswa kwamandla e-Ejensi naweBhodi, kanye nokunye okuhambisana nalokho.

**Ukuphathwa kwezimali****30.(1)** IBhodi kumele liqinisekise ukuthi i-Ejensi –

(a) ligcina amabhuku ama-akhawunti aphelele kanye nawo wonke amarekhodi maqondana –

- (i) nezimali ezabiwe yisiShayamthetho sesiFundazwe ngokwesigaba 29(1)(a);
- (ii) nanoma yiziphi ezinye izimali ze-Ejensi ezitholakele ngokwesigaba 29(1)(b) kuya ku (g);

(b) lenza futhi lihambisa kwiziphathimandla ezifanele izimbuyiselo, izaziso, izabelomali zonyaka, izinhlelo namasu zokwenza umsebenzi, izinhlelo ngendlela umsebenzi ozokwenziwa ngayo, imibiko yonyaka neminye imibiko nanoma yimiphi eminye imibhalo noma eminye imininingwane engadingeka ukuthi kulethwe ngokoMthetho wokuPhathwa kweziMali zikaHulumeni nanoma yimiphi eminye imithetho nezinqubomgomo okusebenzayo; futhi

(c) ezinyangeni ezintathu ekupheleni konyaka wezimali ngamunye, lenze futhi lihambise kuNgqongqoshe izitatimende zezimali zonyaka kanye nanoma yimiphi eminye imibhalo noma olunye ulwazi olungadingwa uNgqongqoshe maqondana nezimali ze-Ejensi.

(2) Isikhulu esiPhezulu kumele sithumele kwiBhodi imvume –

(a) ezinyangeni ezintathu ngaphambi kokuphela konyaka wezimali ngamunye, uhlelo lokwenza umsebenzi lwe-Ejensi, oluqukethe izinhloso ezikalekayo kanye nolunye ulwazi olungadingwa yiBhodi;

(b) ezinyangeni eziyisithupha ngaphambi kokuqala konyaka wezimali omusha, isitatimende esikanekisiwe sengeniso kanye nesezimali ezichithiwe kwe-Ejensi maqondana neminyaka yezimali elandelayo.

(3) Isikhulu esiPhezulu kumele njalo ngekota kumele njalo ngekota sithumele kwiBhodi izitatimende zengeniso kanye nezezimali ezichithiwe nezimali ezizosetshenziselwa uhlelo ngalunye kulowo nyaka wezimali.

(4) I-Ejensi angeke izibophezele ngokwezezimali ngokungaphezu kwesabelomali esigunyaziwe nangaphezu kwezimali zayo eziqongelelwe.

(5) Kuncike kunoma iyiphi inqubomgomo yotshalomali egunyazwe yiBhodi, isikhulu esiPhezulu kumele sitshale noma yiziphi izimali ezevile kwi-*Corporation for Public Deposits*, nakunoma yisiphi esinye isikhungo esigunyaziwe ukuthi kutshalwe kusona izimali.

(6) Isikhulu esiPhezulu, ngemvume yeBhodi, singasungula izikhwama zokuqongelela izimali ebese sifaka kuzona lezo zamba zemali ezingagunyazwa yiBhodi: Kuncike ekutheni lezo zimali ezifakwayo ziyadalulwa eMnyangweni woMgcinimafa wesiFundazwe nakuMgcinimabhuku Jikelele esikhathini esingangenyanga zifakiwe.

#### **Ucwaningomabhuku kanye nombiko wonyaka**

**31.(1)** IBhodi kumele lenze futhi lithumele izitatimende zezimali ze-Ejensi kanye nezeseKhwama kuMcwaningimabhuku Jikelele ezinyangeni ezimbili kuphele unyaka wezimali, okumele acwaninge

izitatimende zezimali ze-Ejensi kanye nezesiKhwama.

(2) IBhodi kumele lithumele umbiko wonyaka wemisebenzi ye-Ejensi, kubandakanya nezimali ezitshaliwe ezithathwe esiKhwameni, ngonyaka wezimali –

(a) ezinyangeni ezintathu ngemva kokuphela konyaka wezimali ngamunye, kuNgqongqoshe ukuze wethulwe kwisiShayamthetho sesiFundazwe ngemva kwezinyanga ezinhlanu kuphele unyaka wezimali;

(b) ezinyangeni ezinhlanu ngemva kokuphela konyaka wezimali, eMnyangweni woMgcinimafa wesiFundazwe.

(3) Umbiko kumele –

(a) ube nesitatimende sengeniso nesemali echithiwe esiqinisekiswa uMcowaningimabhuku Jikelele;

(b) uchaze ngendlela i-Ejensi efeze ngayo izinhloso zayo ezihlinzekelwe esigabeni 2 kanye nezinhloso zayo ezikalekayo, njengoba kubekwe ohlelweni lwayo lokwenza umsebenzi oluhlinzekelwe esigabeni 30(2)(a) ngalowo nyaka wezimali othintekayo; futhi

(c) uqukathe iminingwane yokwenziwa komsebenzi ngendlela eyongayo, eseqophelweni elifanele nenemiphumela ebonakalayo, futhi kuqhathaniswe obekuhleliwe nokwenziwe njengoba kubekiwe ohlelweni lokwenza umsebenzi.

## ISAHLUKO 6

### IZINHLINZEKO EZIJWAYELEKILE

#### **Ulwazi oluyimfihlo olugodlwe yi-Ejensi**

**32.**(1) Kuncike kuMthethosisekelo, eMthethweni wokuGqugquzela ukuTholakala koLwazi, eMthethweni wokuVikela iMininingwane yaBantu nanoma yimuphi omunye umthetho osebenzayo, akekho umuntu ongalalula noma yiluphi ulwazi olugodlwe yi-Ejensi, ngaphandle uma –

(a) eyalelwe yinkantolo ukuthi enze njalo; noma

(b) umuntu lolo lwazi oluphathelele naye, emvumela ngokubhalwe phansi.

(2) Noma yimuphi umuntu ophula isigatshana (1) uyothwesa icala.

#### **Ukusebenzisa igama le-Ejensi ngokungemthetho**

**33.**(1) Akukho muntu, ngaphandle kwemvume ebhalwe yiBhodi, nganoma iyiphi indlela ongamela noma ongasebenzisa igama, isifinyezo, amalogo, imidwebo nanoma iyiphi enye impahla esetshenziswa yi-Ejensi noma okungeye-Ejensi.

(2) Akukho muntu ongashaya sengathi wenza okuthile egameni le-Ejensi.

(3) Akukho muntu ongaqamba amanga athi uganyazwe ukukhokhisa noma ukuqoqa izimali noma iminikelo egameni leBhodi noma ngomyalelo weBhodi.

(4) Noma yimuphi umuntu ophula izigatshana (1), (2) noma (3), uyothweswa icala.

#### **Amacala nezinhlawulo**

**34.(1)** Noma yimuphi umuntu ophula umthetho ngokwesigaba 32 noma 33 salo Mthetho, kumele ajeziswe ngendlela efanele futhi uyokhokhiswa inhlawulo noma aboshwe isikhathi esingeqile eminyakeni emihlanu uma egwetshwa yinkantolo yomthetho.

(2) Uma icala lenziwe ngokwalo Mthetho lithathwa njengecala elihlinzekelwe kunoma yimuphi omunye umthetho, umuntu owenze lelo cala angajeziswa ngokwalo Mthetho, noma omunye uMthetho.

#### **Imithethonqubo kanye neziNhlelo**

**35.(1)** UNgqongoshe, ngemva kokubonisana neBhodi nangesaziso kwiGazethi –

(a) angenza imithethonqubo engaphikisani nezinhlizeko zalo Mthetho nanoma yimuphi omunye umthetho osebenzayo, mayelana –

(i) nanoma yiluphi udaba okudingeka ukuthi lunqunywe ngokwalo Mthetho; kanye

(ii) nanoma yiluphi udaba lwezokuphatha noma lokulandelwa kwenqubo oludingekayo ukuqalisa izinhlizeko zalo Mthetho;

(b) nokuchibiyela lo Mthetho.

(2) Ukungabibikho kwanoma yimiphi imithethonqubo akukhululi noma yimuphi umuntu ukuthi ahambisane nezinhlizeko zalo Mthetho noma ukuthi aqalise noma yiluphi udaba oluhlinzekelwe kulo Mthetho.

#### **Ukuhlakazwa kweThrasti kanye nezinhlelo zoguquko**

**36.(1)** UNgqongoshe kumele, esikhathini esingeqile ezinsukwini ezingama-60 ngemva kokuqala kokusebenza kwalo Mthetho futhi kuncike kwizinhlizeko zoMthetho wokuLawulwa kweMpahla yeThrasti kanye nemiyalelo ekhishwe uMasta weNkantolo ePhakeme, ahlakaze iThrasti: Kuncike ekutheni ngesikhathi kuhlakazwa futhi kugoqwa iThrasti, i-Ejensi ingasebenzisa izimali zeThrasti ukwenza imisebenzi yayo.

(2) Uma iThrasti isigoqwe abaPhathi bayo, zonke izimpahla zeThrasti, kubandakanya nengeniso esele kanye nekhephithali yeThrasti, kunikezwa i-Ejensi.

(3) UNgqongqoshe kumele, ezinsukwini ezingama-60 ngemva kokuqala kokusebenza kwalo Mthetho, aqoke iBhodi ngokuhambisana nezinhlinzeko zeSahluko 3 salo Mthetho: Kuncike ekutheni okwesikhashana –

(a) aqoke isibalo esanele sabaPhathi beThrasti kumalungu eThrasti njengamalungu eBhodi lesiKhashana; futhi

(b) aqoke uSihlalo noSekela Sihlalo besiKhashana phakathi kwamalungu aqokelwe kwiBhodi lesiKhashana eshiwo endimeni (a).

(4) Bonke abasebenzi beThrasti bathathwa njengabaqashwe ngokwesigaba 27 salo Mthetho, ngaphansi kwemigomo nemibandela efanayo naleyo abebeqashwe ngaphansi kwayo: Kuncike ekutheni iBhodi lingashintsha indlela yokusebenza ngenhloso yokwenza umsebenzi ngendlela efanale nefanayo.

(5) Abasebenzi abashiwo kwisigatshana (4) –

(a) bagcina izinsuku zabo zekhefu eziqongelelwe kuze kube usuku olungaphambi kosuku abadluliselwa ngalo kwi-Ejensi, zihlelwa ngokuhambisana nemigomo yokuqashwa ye-Ejensi;

(b) mayelana nanoma yiluphi uphenyo oluzoqalwa noma okuhloswe ukuthi luqalwe maqondana nezinsolo zokungaziphathi ngendlela efanele komsebenzi ngaphambi kosuku lokudluliselwa kwakhe, kumele luphothulwe noma lwenziwe yi-Ejensi ngokuhambisana nemithetho nezinqubomgomo kanye nemigomo yokuqashwa eyayisebenza kulowo msebenzi ngesikhathi esaqashwe yiThrasti.

(6) Ukuhlakazwa kweThrasti akuthikamezi noma yiliphi ilungelo, igunya, isibopho noma isikweletu kweThrasti ngaphambi kokuhlakazwa kwayo, ngaphandle uma kuhlinzekwe ngokwehlukile ngokwalo Mthetho.

### **Isihloko esifingqiwe**

**37.** Lo Mthetho ubizwa ngoMthetho we-Ejensi yesiKhwama seNtuthuko waKwaZulu-Natali, 2024.



**UHLELO 1: AMAFOMU***(Izigaba 15(1) no (2), 25(5) no 27(3)(c))***IFOMU 1:**

UKUDALULA UKUHLUMULA NGQO NOMA NGANDLELA THILE KWAMALUNGU EBHODI  
 NAWAMAKOMIDI OKWENZIWA NJALO NGONYAKA NANOMA YININI UMA KUNESIDINGO  
*(Isigaba 15(1) no (2))*

**UKUDALULA UKUHLUMULA NGQO NOMA NGANDLELA THILE KWAMALUNGU EBHODI  
 NAWAMAKOMIDI OKWENZIWA NJALO NGONYAKA  
 NANOMA YININI UMA KUBA NESIDINGO NGOKWESIGABA 15(1) NO (2) SOMTHETHO WE-  
 EJENSI YESIKHWAMA SENTUTHUKO, 2024**

<b>UHLOBO LOKUDALULA</b>	
<b>UKUDALULA OKWENZIWA NJALO NGONYAKA</b>	<b>UKUDALULA OKWENZIWA NOMA YININI UMA KUBA NESIDINGO</b>
<i>Thikha uma kufanele</i>	<i>Thikha uma kufanele</i>

**UKUDALULA KUQONDENE NONYAKA WEZIMALI:** *Bhala unyaka wezimali*

**USUKU LOKUDALULA:** *Bhala usuku odalula ngalo*

Mina, osayine la ngezansi ngale mininingwane elandelayo:

**ISIBONGO:** *Bhala isibongo*

**AMAGAMA APHELELE:** *Bhala amagama aphelele*

**INOMBOLO KAMAZISI:** *Bhala inombolo kamazisi*

**IKHELI LALAPHO UHLALA KHONA:** *Bhala ikheli lalapho uhlala khona*

**INOMBOLO YOCINGO:** *Bhala inombolo yocingo*

**INOMBOLO YESELULA:** *Bhala inombolo yeselula*

**IKHELI LE-IMEYLI:** *Bhala ikheli le-imeyli*

**ISIKHUNDLA:** *Bhala ukuthi uyilungu leBhodi noma uyilungu lekomidi uma ungelona ilungu leBhodi ngalokhu ngidalula futhi ngiqinisekisa ukuthi le mininingwane elandelayo, maqondana nami nomndeni wami, nengibambisene naye ebhizinisini noma nomqashi, ngaphandle koMbuso, iphelele futhi iyiqiniso ngokwazi kwami:*

(a) Ubunikazi bamasheya ezinkampanini noma emabhizinisini:

NO	IGAMA LONAMA-SHEYA	UBUDLE-LWANE	IGAMA LENKAMPANI NOMA LEBHIZINISI	INOMBOLO YOKUBHALISWA YENKAMPANI	UHLOBO	ISIBALO SAMASHEYA	INANI ELIPHANSI LAMA-SHEYA (NGAMA-RANDI)	IHOLO / INGENISO (NGAMA-RANDI)
1	<i>Bhala igama lonamasheya</i>	<i>Bhala ubudlelwane nonamasheya, uma kungewena</i>	<i>Bhala igama lenkampani noma lebhizinisi onamasheya kuyona noma kulona</i>	<i>Bhala inombolo yokubhaliswa yenkampani</i>	<i>Bhala incazelo yohlobo lwebhizinisi</i>	<i>Bhala isibalo samasheya onawo</i>	<i>Bhala isamba senani eliphansi lamasheya</i>	<i>Bhala imininingwane yawo wonke amaholo, yengeniso, neyemivuzo ekhokhwayo</i>
2								

## (b) Ukuhlomula ezinkampanini eziyimifelandawonye

NO	IGAMA LOHLO-MULAYO	UBUDLE-LWANE	IGAMA LENKAMPANI NOMA LEBHIZINISI	INOMBOLO YOKUBHALISWA YENKAMPANI EWUMFELANDAWONYE	UHLOBO	OKUHLO-MULAYO	INANI ELIPHANSI LOKUHLO-MULAYO (NGAMA-RANDI)	IHOLO / INGENISO (NGAMA-RANDI)
1	<i>Bhala igama lohlomulayo</i>	<i>Bhala ubudlelwane nohlomulayo, uma kungewena</i>	<i>Bhala igama lenkampani noma lebhizinisi ohlomula kulona noma kuyona</i>	<i>Bhala inombolo yokubhaliswa yenkampani ewumfelandawonye</i>	<i>Bhala incazelo yohlobo lwebhizinisi</i>	<i>Bhala iphesenti olihlomulayo</i>	<i>Bhala isamba senani eliphansi lokuhlomulayo ngamalandi aseNingizimu Afrika</i>	<i>Bhala imininingwane yawo wonke amaholo, yengeniso-mali, neyemivuzo ekhokhwayo</i>
2								

## (c) Ukuhlomula kumfelandawonye:

NO	IGAMA LOHLO-MULAYO	UBUDLE-LWANE	IGAMA LOMFELANDAWONYE	OKUHLO-MULAYO	UHLOBO	INANI ELIPHANSI LOKUHLO-MULAYO (NGAMA-RANDI)	IHOLO / INGENISO (NGAMA-RANDI)
1	<i>Bhala igama lohlomulayo</i>	<i>Bhala ubudlelwane nohlomulayo, uma kungewena</i>	<i>Bhala igama lenkampani noma lebhizinisi ohlomula kulona noma kuyona</i>	<i>Bhala iphesenti olihlomulayo</i>	<i>Bhala incazelo yohlobo lwebhizinisi</i>	<i>Bhala isamba senani eliphansi lokuhlomulayo ngamalandi aseNingizimu Afrika</i>	<i>Bhala imininingwane yawo wonke amaholo, yengeniso ekhokhwayo</i>
2							

## (d) Ilungelo lendawo noma lomuntu endaweni esetshenziswa yinoma iyiphi inkampani, inhlango, ithrasti, nanoma yiliphi elinye ibhizinisi elisemthethweni:

NO	IGAMA LOMNIKAZI	UBUDLE-LWANE	IGAMA LEBHIZINISI	INOMBOLO YOKUBHALISWA YEBHIZINISI	UHLOBO	INANI ELIPHANSI (NGAMA-RANDI)	IHOLO / INGENISO (NGAMA-RANDI)
1	<i>Bhala igama lomnikazi</i>	<i>Bhala ubudlelwane nomnikazi,</i>	<i>Bhala igama lebhizinisi elisebenzisa</i>	<i>Bhala inombolo yokubhaliswa yebhizinisi</i>	<i>Bhala incazelo yohlobo</i>	<i>Bhala isamba senani eliphansi</i>	<i>Bhala imininingwane yawo wonke amaholo,</i>

		<i>uma kungewena</i>	<i>indawo</i>		<i>Iwelungelo nolwendawo</i>	<i>lelungelo lendawo esetshenziswa yibhizinisi</i>	<i>yengeniso, neyemivuzo ekhokhwayo</i>
2							

(e) Ukuhlomula kumathrasti:

NO	IGAMA LOHLO-MULAYO	UBUDLE-LWANE	IGAMA LETHRASTI	INOMBOLO YOKUBHALISWA	UHLOBO	INANI ELIPHANSI (NGAMA-RANDI)	IHOLO / INGENISO (NGAMA-RANDI)
1	<i>Bhala igama lohlo-mulayo</i>	<i>Bhala ubudlelwane nohlomulayo uma kungewena</i>	<i>Bhala igama lethrasti elisebenzisa indawo</i>	<i>Bhala inombolo yokubhaliswa yethrasti</i>	<i>Bhala incazelo yohlobo lokuzibandakanya nethrasti</i>	<i>Bhala isamba senani eliphansi lokuhlomulayo kwithrasti</i>	<i>Bhala imininingwane yawo wonke amaholo, yengeniso, neyemivuzo ekhokhwayo</i>
2							

(f) Maqondana nanoma yiliphi ibhizinisi eliwumuntu ngokomthetho noma elingeyena umuntu ngokomthetho, nanoma yikuphi ukuhlomula okwenza ohlomulayo ukuthi athole inzuzo nengeniso kwalelo bhizinisi (uma lokho kungadaluliwe ku (a), (b), (c), (d) no (e) ngenhla):

NO	IGAMA LOHLO-MULAYO	UBUDLE-LWANE	IGAMA LEBHIZINISI	OKUHLO-MULAYO	UHLOBO	INANI ELIPHANSI LOKUHLO-MULAYO	IHOLO / INGENISO (NGAMA-RANDI)
1	<i>Bhala igama lohlo-mulayo</i>	<i>Bhala ubudlelwane nonebhizinisi uma kungewena</i>	<i>Bhala igama lebhizinisi okuhlonyulwa kulona</i>	<i>Bhala iphesenti olihlomulayo</i>	<i>Bhala incazelo yohlobo lwebhizinisi nokuhlonyulwayo</i>	<i>Bhala isamba senani eliphansi lokuhlomulayo</i>	<i>Bhala imininingwane yawo wonke amaholo, yengeniso, neyemivuzo ekhokhwayo</i>
2							

(g) Amaholo, izikhundla zobuqondisi, izinkampani zabeluleki abasebenza isikhashana kanye nabasebenza isikhathi eside:

NO	IGAMA LOHLANGOTHI	UBUDLE-LWANE	IGAMA LEBHIZINISI	UHLOBO	IHOLO / INGENISO (NGAMA-RANDI)
1	<i>Bhala igama lohlangothi kwinkontileka noma esivumelwaneni</i>	<i>Bhala ubudlelwane nohlomulayo uma kungewena</i>	<i>Bhala igama lebhizinisi</i>	<i>Bhala incazelo yomsebenzi owenziwe</i>	<i>Bhala imininingwane yawo wonke amaholo, yengeniso-mali, neyemivuzo ekhokhwayo</i>
2					

(h) Ama-akhawunti emalimboleko (ngaphandle kwebhondi, kwesikweletu semoto kanye nama-akhawunti asezitolo):

NO	IGAMA LOHLANGOTHI	UBUDLE-LWANE	IGAMA LOMBOLEKISI	UHLOBO	ISAMBA SESIKWELETU ESENZIWE (NGAMA-RANDI)	ISIKWELETU ESISASELE (NGAMA-RANDI)
1	<i>Bhala igama lohlangothi olune-akhawunti yemalimboleko</i>	<i>Bhala ubudlelwane nohlomulayo uma kungewena</i>	<i>Bhala igama lombolekisi</i>	<i>Bhala incazelo yohlobo lwemalimboleko</i>	<i>Bhala isamba sesikweletu esenziwe</i>	<i>Bhala inani lemali-malimboleko elisasele kubandakanya nenzalo okusamele ikhokhwe</i>

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(i) Amaholo, ingeniso, ingenisonzuzo, amagunya kwingenisonzuzo, amasheya, inzalo, iminikelo, izipho nanoma yimiphi eminye imihlomulo eqongelelwe ngaphambi noma ngemva kokuhlinzekwa kwelayisensi yebhizinisi, ukuhlinzekwa kwelayisensi noma ukusebenza kwebhizinisi lotshwala, lemidlalo yemali, lemijaho yamahashi nokubheja:

NO	IGAMA LOHLANGOTHI	UBUDLE-LWANE	IGAMA LEBHIZINISI	UHLOBO	INANI ELIPHANSI (NGAMA-RANDI)	IHOLO / INGENISO (NGAMA-RANDI)
1	<i>Bhala igama lomhlomuli</i>	<i>Bhala ubudlelwane nomhlomuli uma kungewena</i>	<i>Bhala incazelo lomfakisicelo, lomnikazi welayisensi noma lomuntu obhalisile</i>	<i>Bhala incazelo yohlobo lokuhlonyulwayo kanye nezizathu zalokho</i>	<i>Bhala isamba senani eliphansi semali eqoqiwe, amagunya emalini eqoqiwe nanoma yimiphi eminye imihlomulo</i>	<i>Bhala iminini-ngwane yawo wonke amaholo, yengeniso, yemali eqoqiwe, yamasheya, yenzalo, yeminikelo, yezipho nanoma yimiphi eminye imihlomulo ekhokhwayo</i>
2						

(j) Ukwamukelwa noma ubukhona banoma yiziphi izivumelwano nabafakizicelo, nabanikazi bamalayisensi noma nabantu ababhalisiwe:

NO	IGAMA LOHLANGOTHI	UBUDLE-LWANE	IGAMA LEBHIZINISI	UHLOBO	INANI ELIPHANSI (NGAMA-RANDI)	IHOLO / INGENISO (NGAMA-RANDI)
1	<i>Bhala igama lohlangothi olunenkontileka noma nesivumelwano</i>	<i>Bhala ubudlelwane nalolo hlangothi, uma kungewena</i>	<i>Bhala igama lomfakisicelo, lomnikazi welayisensi noma lomuntu obhalisile</i>	<i>Bhala incazelo yohlobo lwenkontileka noma lwesivumelwano</i>	<i>Bhala isamba senani eliphansi senkontileka noma sesivumelwano</i>	<i>Bhala iminini-ngwane yawo wonke amaholo, yengeniso, neyemivuzo ekhokhwayo</i>
2						

(k) Nanoma yikuphi okunye ukuhlomula:

NO	IGAMA LOHLO-MULAYO	UBUDLELWANE	IGAMA LEBHIZINISI	UHLOBO	INANI
1	<i>Bhala igama lohlo mulayo</i>	<i>Bhala ubudlelwane nohlo mulayo uma kungewena</i>	<i>Bhala igama lebhizinisi noma lomuntu ohlomula kulona noma kuyena</i>	<i>Bhala incazelo yohlobo lokuhlomula</i>	<i>Bhala incazelo yenani lokuhlonyulwayo, noma ngabe yimali noma okunye</i>
2					

**ISIGNESHA YODALULAYO:** *Isignesha yodalulayo*

**ISIGNESHA KAKHOMISHANA OFUNGISAYO:** *Isignesha kaKhomishana oFungisayo*

**AMAGAMA APHELELE NESIBONGO:** *Bhala amagama aphelele nesibongo kukaKhomishana oFungisayo*

**ISIKHUNDLA:** *Bhala isikhundla sikaKhomishana oFungisayo*

**IKHELI LOMGWAQO:** *Bhala ikheli lomgwaqo likaKhomishana oFungisayo*

**USUKU:** *Bhala usuku*

**INDAWO:** *Bhala indawo*

**USUKU ELITHOLWE NGALO YISIKHULU ESIKHULU:** *Bhala usuku*

**ISIGNESHA YESIKHULU ESIPHEZULU:** *Isignesha yesiKhulu esiPhezulu*

## IFOMU 2:

UKUDALULA UKUHLOMULA NGQO NOMA NGANDLELA THILE KWESIKHULU ESIPHEZULU  
NABASEBENZI OKWENZIWA NJALO NGONYAKA NANOMA YININI UMA KUNESIDINGO  
(Isigaba 25(5) no 27(3)(c))

**UKUDALULA UKUHLOMULA NGQO NOMA NGANDLELA THILE KWESIKHULU ESIPHEZULU  
NABASEBENZI OKWENZIWA NJALO NGONYAKA  
NANOMA YININI UMA KUBA NESIDINGO NGOKWESIGABA 25(5) NO 27(3)(c) SOMTHETHO WE-  
EJENSI YESIKHWAMA SENTUTHUKO, 2024**

UHLOBO LOKUDALULA	
UKUDALULA OKWENZIWA NJALO NGONYAKA	UKUDALULA OKWENZIWA NOMA YININI UMA KUBA NESIDINGO
<i>Thikha uma kufanele</i>	<i>Thikha uma kufanele</i>

**UKUDALULA OKUQONDENE NONYAKA WEZIMALI:** *Bhala unyaka wezimali*

**USUKU LOKUDALULA:** *Bhala usuku odalula ngalo*

Mina, osayine la ngezansi ngale mininingwane elandelayo:

**ISIBONGO:** *Bhala isibongo*

**AMAGAMA APHELELE:** *Bhala amagama aphelele*

**INOMBOLO KAMAZISI:** *Bhala inombolo kamazisi*

**IKHELI LALAPHO UHLALA KHONA:** *Bhala ikheli lalapho uhlala khona*

**INOMBOLO YOCINGO:** *Bhala inombolo yocingo*

**INOMBOLO YESELULA:** *Bhala inombolo yeselula*

**IKHELI LE-IMEYLI:** *Bhala ikheli le-imeyli*

**ISIKHUNDLA:** *IsiKhulu esiPhezulu*

ngalokhu ngidalula futhi ngiqinisekisa ukuthi le mininingwane elandelayo, maqondana nami nomndeni wami, nengibambisene naye ebhizinisini noma nomqashi, ngaphandle koMbuso, iphelele futhi iyiqiniso ngokwazi kwami:

(a) Ubunikazi bamasheya ezinkampanini noma emabhizinisini:

NO	IGAMA LONAMA-SHEYA	UBUDLE-LWANE	IGAMA LENKAMPANI NOMA LEBHIZINISI	INOMBOLO YOKUBHALISWA YENKAMPANI	UHLOBO	ISIBALO SAMASHEYA	INANI ELIPHANSI LAMA-SHEYA (NGAMARANDI)	IHOLO / INGENISO (NGAMARANDI)
1	<i>Bhala igama lonamasheya</i>	<i>Bhala ubudlelwane nonamasheya, uma kungewena</i>	<i>Bhala igama lenkampani noma lebhizinisi onamasheya kuyona noma kulona</i>	<i>Bhala inombolo yokubhaliswa yenkampani</i>	<i>Bhala incazelo yohlobo lwebhizinisi</i>	<i>Bhala isibalo samasheya onawo</i>	<i>Bhala isamba senani eliphansi lamasheya</i>	<i>Bhala imininingwane yawo wonke amaholo, yengeniso, neyemivuzo ekhokhwayo</i>
2								

(b) Ukuhlomula ezinkampanini eziyimifelandawonye

NO	IGAMA LOHLO-MULAYO	UBUDLE-LWANE	IGAMA LENKAMPANI NOMA LEBHIZINISI	INOMBOLO YOKUBHALISWA YENKAMPANI EWUMFELANDAWONYE	UHLOBO	OKUHLO-MULAYO	INANI ELIPHANSI LOKUHLO-MULAYO (NGAMA-RANDI)	IHOLO / INGENISO (NGAMA-RANDI)
1	<i>Bhala igama lohlo-mulayo</i>	<i>Bhala ubudlelwane nohlomulayo, uma kungewena</i>	<i>Bhala igama lenkampani noma lebhizinisi ohlomula kulona noma kuyona</i>	<i>Bhala inombolo yokubhaliswa yenkampani ewumfelandawonye</i>	<i>Bhala incazelo yohlobo lwebhizinisi</i>	<i>Bhala iphesenti olihlomulayo</i>	<i>Bhala isamba senani eliphansi lokuhlo-mulayo ngamalandi aseNingizimu Afrika</i>	<i>Bhala imininingwane yawo wonke amaholo, yengeniso-mali, neyemivuzo ekhokhwayo</i>
2								

(c) Ukuhlomula kumfelandawonye:

NO	IGAMA LOHLO-MULAYO	UBUDLE-LWANE	IGAMA LOMFELANDAWONYE	OKUHLO-MULAYO	UHLOBO	INANI ELIPHANSI LOKUHLO-MULAYO (NGAMA-RANDI)	IHOLO / INGENISO (NGAMA-RANDI)
1	<i>Bhala igama lohlo-mulayo</i>	<i>Bhala ubudlelwane nohlomulayo, uma kungewena</i>	<i>Bhala igama lenkampani noma lebhizinisi ohlomula kulona noma kuyona</i>	<i>Bhala iphesenti olihlomulayo</i>	<i>Bhala incazelo yohlobo lwebhizinisi</i>	<i>Bhala isamba senani eliphansi lokuhlo-mulayo ngamalandi aseNingizimu Afrika</i>	<i>Bhala imininingwane yawo wonke amaholo, yengeniso ekhokhwayo</i>
2							

(d) Ilungelo lendawo noma lomuntu endaweni esetshenziswa yinoma iyiphi inkampani, inhlango, ithrasti, nanoma yiliphi elinye ibhizinisi elisemthethweni:

NO	IGAMA LOMNIKAZI	UBUDLE-LWANE	IGAMA LEBHIZINISI	INOMBOLO YOKUBHALISWA YEBHIZINISI	UHLOBO	INANI ELIPHANSI (NGAMA-RANDI)	IHOLO / INGENISO (NGAMA-RANDI)
1	<i>Bhala igama lomnikazi</i>	<i>Bhala ubudlelwane nomnikazi, uma kungewena</i>	<i>Bhala igama lebhizinisi elisebenzisa indawo</i>	<i>Bhala inombolo yokubhaliswa yebhizinisi</i>	<i>Bhala incazelo yohlobo lwelungelo nolwendawo</i>	<i>Bhala isamba senani eliphansi lelungelo lendawo esetshenziswa yibhizinisi</i>	<i>Bhala imininingwane yawo wonke amaholo, yengeniso, neyemivuzo ekhokhwayo</i>
2							

(e) Ukuhlomula kumathrasti:

NO	IGAMA LOHLO-MULAYO	UBUDLE-LWANE	IGAMA LETHRASTI	INOMBOLO YOKUBHALISWA YETHRASTI	UHLOBO	INANI ELIPHANSI (NGAMA-RANDI)	IHOLO / INGENISO (NGAMA-RANDI)
1	<i>Bhala igama lohlo-mulayo</i>	<i>Bhala ubudlelwane nohlomulayo uma</i>	<i>Bhala igama lethrasti elisebenzisa indawo</i>	<i>Bhala inombolo yokubhaliswa yethrasti</i>	<i>Bhala incazelo yohlobo lokuzibandakanya</i>	<i>Bhala isamba senani eliphansi</i>	<i>Bhala imininingwane yawo wonke amaholo, yengeniso,</i>

		<i>kungewena</i>			<i>nethrasti</i>	<i>lokuhlomulayo kwithrasti</i>	<i>neyemivuzo ekhokhwayo</i>
2							

(f) Maqondana nanoma yiliphi ibhizinisi eliwumuntu ngokomthetho noma elingeyena umuntu ngokomthetho, nanoma yikuphi ukuhlomula okwenza ohlomulayo ukuthi athole inzuzo nengeniso kwalelo bhizinisi (uma lokho kungadaluliwe ku (a), (b), (c), (d) no (e) ngenhla):

NO	IGAMA LOHLOMULAYO	UBUDLELWANE	IGAMA LEBHIZINISI	OKUHLOMULAYO	UHLOBO	INANI ELIPHANSI LOKUHLOMULAYO	IHOLO / INGENISO (NGAMA-RANDI)
1	<i>Bhala igama lohlomulayo</i>	<i>Bhala ubudlelwane nonebhizinisi uma kungewena</i>	<i>Bhala igama lebhizinisi okuhlonyulwa kulona</i>	<i>Bhala iphesenti olihlomulayo</i>	<i>Bhala incazelo yohlobo lwebhizinisi nokuhlonyulwayo</i>	<i>Bhala isamba senani eliphansi lokuhlomulayo</i>	<i>Bhala iminini-ngwane yawo wonke amaholo, yengeniso, neyemivuzo ekhokhwayo</i>
2							

(g) Amaholo, izikhundla zobuqondisi, izinkampani zabeluleki abasebenza isikhashana kanye nabasebenza isikhathi eside:

NO	IGAMA LOHLANGOTHI	UBUDLELWANE	IGAMA LEBHIZINISI	UHLOBO	IHOLO / INGENISO (NGAMA-RANDI)
1	<i>Bhala igama lohlangothi kwinkontileka noma esivumelwaneni</i>	<i>Bhala ubudlelwane nohlomulayo uma kungewena</i>	<i>Bhala igama lebhizinisi</i>	<i>Bhala incazelo yomsebenzi owenziwe</i>	<i>Bhala iminini-ngwane yawo wonke amaholo, yengeniso-mali, neyemivuzo ekhokhwayo</i>
2					

(h) Ama-akhawunti emalimboleko (ngaphandle kwebhondi, kwesikweletu semoto kanye nama-akhawunti asezitolo):

NO	IGAMA LOHLANGOTHI	UBUDLELWANE	IGAMA LOMBOLEKISI	UHLOBO	ISAMBA SESIKWELETU ESENZIWE (NGAMA-RANDI)	ISIKWELETU ESISASELE (NGAMA-RANDI)
1	<i>Bhala igama lohlangothi olune-akhawunti yemalimboleko</i>	<i>Bhala ubudlelwane nohlomulayo uma kungewena</i>	<i>Bhala igama lombolekisi</i>	<i>Bhala incazelo yohlobo lwemalimboleko</i>	<i>Bhala isamba sesikweletu esenziwe</i>	<i>Bhala inani lemali-mboleko elisasele kubandakanya nenzalo okusamele ikhokhwe</i>
2						

(i) Amaholo, ingeniso, ingenisonzuzo, amagunya kwingenisonzuzo, amasheya, inzalo, iminikelo, izipho nanoma yimiphi eminye imihlomulo eqongelelwe ngaphambi noma ngemva kokuhlinzekwa kwelayisensi yebhizinisi, ukuhlinzekwa kwelayisensi noma ukusebenza kwebhizinisi lotshwala, lemidlalo yemali, lemijaho yamahashi nokubheja:

NO	IGAMA LOHLANGOTHI	UBUDLELWANE	IGAMA LEBHIZINISI	UHLOBO	INANI ELIPHANSI (NGAMA-RANDI)	IHOLO / INGENISO (NGAMA-RANDI)
1	<i>Bhala igama</i>	<i>Bhala</i>	<i>Bhala incazelo</i>	<i>Bhala incazelo</i>	<i>Bhala isamba</i>	<i>Bhala iminini-</i>



	<i>lomhlomuli</i>	<i>ubudlelwane nomhlomuli uma kungewena</i>	<i>lomfakisicelo, lomnikazi welayisensi noma lomuntu obhalisile</i>	<i>yohlobo lokuhlonyulwayo kanye nezizathu zalokho</i>	<i>senani eliphansi semali eqoqiwe, amagunya emalini eqoqiwe nanoma yimiphi eminye imihlomulo</i>	<i>ngwane yawo wonke amaholo, yengeniso, yemali eqoqiwe, yamasheya, yenzalo, yeminikelo, yezipho nanoma yimiphi eminye imihlomulo ekhokhwayo</i>
2						

(j) Ukwamukelwa noma ubukhona banoma yiziphi izivumelwano nabafakizicelo, nabanikazi bamalayisensi noma nabantu ababhalisiwe:

NO	IGAMA LOHLANGOTHI	UBUDLE-LWANE	IGAMA LEBHIZINISI	UHLOBO	INANI ELIPHANSI (NGAMA-RANDI)	IHOLO / INGENISO (NGAMA-RANDI)
1	<i>Bhala igama lohlangothi olunenkontileka noma nesivumelwano</i>	<i>Bhala ubudlelwane nalolo hlangothi, uma kungewena</i>	<i>Bhala igama lomfakisicelo, lomnikazi welayisensi noma lomuntu obhalisile</i>	<i>Bhala incazelo yohlobo lwenkontileka noma lwesivumelwano</i>	<i>Bhala isamba senani eliphansi senkontileka noma sesivumelwano</i>	<i>Bhala iminini-ngwane yawo wonke amaholo, yengeniso, neyemivuzo ekhokhwayo</i>
2						

(k) Nanoma yikuphi okunye ukuhlomula:

NO	IGAMA LOHLO-MULAYO	UBUDLELWANE	IGAMA LEBHIZINISI	UHLOBO	INANI
1	<i>Bhala igama lohlo mulayo</i>	<i>Bhala ubudlelwane nohlomulayo uma kungewena</i>	<i>Bhala igama lebhizinisi noma lomuntu ohlomula kulona noma kuyena</i>	<i>Bhala incazelo yohlobo lokuhlomula</i>	<i>Bhala incazelo yenani lokuhlonyulwayo, noma ngabe yimali noma okunye</i>
2					

**ISIGNESHA YODALULAYO:** *Isignesha yodalulayo*

**ISIGNESHA KAKHOMISHANA OFUNGISAYO:** *Isignesha kaKhomishana oFungisayo*

**AMAGAMA APHELELE NESIBONGO:** *Bhala amagama aphelele nesibongo kwaKhomishana oFungisayo*

**ISIKHUNDLA:** *Bhala isikhundla sikaKhomishana oFungisayo*

**IKHELI LOMGWAQO:** *Bhala ikheli lomgwaqo likaKhomishana oFungisayo*

**USUKU:** *Bhala usuku*

**INDAWO:** *Bhala indawo*

**USUKU ELITHOLWE NGALO USIHLALO WEBHODI:** *Bhala usuku*

**ISIGNESHA KASIHLOLO WEBHODI:** *Isignesha yesiKhulu esiPhezulu*

**UHLELO 2: IZIMALI NEZINHLAWULO***(Isigaba 6(3))***IZIMALI NEZINYE IZINHLAWULO EZINGAKHOKHISWA YI-EJENSI NGOKWESIGABA 6(3)  
SOMTHETHO WE-EJENSI YESIKHWAMA SENTUTHUKO, 2024**

I-Ejensi ingakhokhisa lezi mali nalezi zinhlawulo ezilandelayo:

- (a) izimali zama-ejenti kanye neze-ejensi;
- (b) izimali ezikhokhwa umbolekwa;
- (c) izinhlawulo zomonakalo odalekile noma zokuphuka kokuthile;
- (d) izimali ezikhokhelwa umbolekisi;
- (e) izimali okuyimpoqo ukuthi zikhokhwe ngokwanoma yimuphi umthetho osebenzayo noma eminye imithetho enqunyiwe;
- (f) izinhlawulo zenzalo yokungakhokhi ngesikhathi;
- (g) izimali zokwenza uphenyo;
- (h) izimali zongoti bemiklamo ephathelene nezobunjiniyela kanye nezobuchwepheshe;
- (i) izindleko ezidalwe ngokoMthetho wezobuNhloli kwezeziMali, 2001 (uMthetho No. 38 ka 2001);
- (j) izimali ezikhokhelwa ukwenza uphenyo ngokusemthethweni;
- (k) ireyithi ephakathi nendawo yenzalo ye-*Johannesburg Interbank*, kanye nemajini yokubhekelela ingcuphe;
- (m) izimali zabaphathi bemiklamo;
- (n) izimali zokusetshenziswa kwe-akhawunti;
- (o) izimali zongoti abahlela kabusha izindlela zokusebenza;
- (p) izimali zokuhlonzwa kwamanani.



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