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PRESIDENT'S OFFICE

No. 562.

11 April 1997

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 9 of 1997: KwaZulu-Natal Ingonyama Trust Amendment Act, 1997.

KANTOOR VAN DIE PRESIDENT

No. 562.

11 April 1997

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 9 van 1997: Wysigingswet op die KwaZulu-Natal Ingonyama Trust, 1997.

GENERAL EXPLANATORY NOTE:

[Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the KwaZulu Ingonyama Trust Act, 1994, enacted by the KwaZulu Legislative Assembly, so as to redefine "Ingonyama" and "Registrar" and to include certain additional definitions; to redefine and extend the categories of beneficiaries of the Trust; to create a board to administer the Trust and its assets in conjunction with the Ingonyama and in view thereof to repeal the Ingonyama's power to delegate; to provide that Trust land shall be subject to national land programmes; to prohibit the infringement of existing rights; to re-assign functions in respect of certain land; to provide that the Act shall not apply to land in a township, in private ownership or intended for State domestic purposes; to provide for the vesting and transfer of land so excluded; to validate certain transactions in respect of Trust land prior to the amendment of the Act; and to provide for matters connected therewith.

(English text signed by the President.)
(Assented to 5 April 1997.)

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 3 of 1994 (KwaZulu)

1. Section 1 of the KwaZulu Ingonyama Trust Act, 1994 (Act No. 3 of 1994), enacted by the KwaZulu Legislative Assembly (hereinafter referred to as the principal Act), is hereby amended—

(a) by the insertion before the definition of 'Ingonyama' of the following definition:

" 'Amendment Act, 1997,' means the KwaZulu-Natal Ingonyama Trust Amendment Act, 1997;";

(b) by the substitution for the definition of 'Ingonyama' of the following definition:

" 'Ingonyama' means a person referred to in section 13 of the KwaZulu Amakhosi and Iziphakanyiswa Act, 1990 (Act No. 9 of 1990), or a person who acts on behalf of the Ingonyama in terms of Zulu indigenous law [and "the King of the Zulus" has a corresponding meaning], and for the purposes of this Act excluding sections 2(3), 2(6), 2A(3), 3(1), 3(3) and 3(4), means the board established by section 2A;";

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die KwaZulu Ingonyama Trust Wet, 1994, wat deur die KwaZulu Wetgewende Vergadering aangeneem is, ten einde "Ingonyama" en "Registrateur" te heromskryf en om sekere bykomende omskrywings in te voeg; die kategorieë begunstigdes ingevolge die Trust te heromskryf en uit te brei; 'n raad in te stel om die Trust en sy bates in samewerking met die Ingonyama te administreer en in die lig daarvan die bevoegdheid van die Ingonyama om te delegeer, te herroep; om voorsiening te maak dat Trustgrond onderworpe sal wees aan nasionale grondprogramme; die aantasting van bestaande regte en belange te verbied; werksaamhede met betrekking tot sekere grond opnuut op te dra; om te bepaal dat die Wet nie op grond in 'n dorpsgebied, privaat eiendom of bedoel vir Staatshuishoudelike doeleindes, van toepassing is nie; om voorsiening te maak vir die vestiging en oordrag van grond sodanig uitgesluit; om sekere transaksies met betrekking tot Trustgrond voor die wysiging van die Wet te wettig; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die President geteken.)
(Goedgekeur op 5 April 1997.)*

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 3 van 1994 (KwaZulu)

1. Artikel 1 van die KwaZulu Ingonyama Trust Wet, 1994 (Wet No. 3 van 1994), wat deur die KwaZulu Wetgewende Vergadering aangeneem is (hierna die Hoofwet genoem), word hierby gewysig—

(a) deur die volgende omskrywing voor die omskrywing van "Ingonyama" in te voeg:

10 "‘dorp’ enige dorp ingevolge enige wet as sodanig gevestig en goedgekeur of geproklameer.”;

(b) deur die omskrywing van "Ingonyama" deur die volgende omskrywing te vervang:

15 "‘Ingonyama’ ’n persoon bedoel in artikel 13 van die KwaZulu Amakhosi en Iziphakanyiswa Wet, 1990 (Wet No. 9 van 1990), of ’n persoon wat ten behoeve van die Ingonyama handel ingevolge die Zoeloe [Inheemsereg] inheemse reg [en het "die Koning van die Zoeloes" ’n ooreenstemmende betekenis], en vir doeleindes van hierdie Wet, met die uitsluiting van artikels 2(3), 2(6), 2A(3), 3(1), 3(3) en 3(4), ook die raad deur artikel 2A ingestel.”;

- (c) by the insertion after the definition of 'Ingonyama' of the following definitions:

" 'Minister' means the Minister for Agriculture and Land Affairs of the National Government, or another Minister designated by the President;

" 'Premier' means the Premier acting in consultation with the other members of the Executive Council of KwaZulu-Natal;";

- (d) by the substitution for the definition of 'Registrar' of the following definition:

" 'Registrar' means **[the Registrar of Deeds (Pietermaritzburg) appointed in terms]** a registrar as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937);"; and

- (e) by the insertion after the definition of 'Registrar' of the following definition:

" 'township' means any township established and approved or proclaimed as such in terms of any law."

Amendment of section 2 of Act 3 of 1994

2. Section 2 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

"(1) A corporate body, to be called the Ingonyama Trust, hereafter referred to as the Trust, is hereby established with perpetual succession and power to sue and be sued **[in its corporate name]** and, subject to the provisions of this Act, to do all such acts and things as bodies corporate may lawfully do.";

- (b) by the substitution for subsection (2) of the following subsection:

"(2) The Trust shall, in a manner not inconsistent with the provisions of this Act, be administered for the benefit, material welfare and social well-being of the members of the tribes and communities as contemplated in the KwaZulu Amakhosi and Iziphakanyiswa Act, 1990 (Act No. 9 of 1990), referred to in the second column of the Schedule, established in a district referred to in the first column of the [said] Schedule [as well as the subjects of the Ingonyama] and the residents of such a district.";

- (c) by the substitution for subsection (3) of the following subsection:

"(3) The Ingonyama shall be the **[only]** trustee of the Trust **[, who shall administer the affairs of the Trust,]** which shall be administered subject to the provisions of this Act **[with the power to delegate any of his powers and functions as trustee to any other individual or an executive authority in KwaZulu or Natal established by law, as he may deem expedient]** by the Ingonyama and the board established by section 2A of this Act.";

- (d) by the substitution for subsection (4) of the following subsection:

"(4) The Ingonyama **[, as trustee,]** may, subject to the provisions of this Act and any other law, deal with the land referred to in section 3(1) in accordance with Zulu indigenous law or any other applicable law.";

- (e) by the substitution for subsection (5) of the following subsection:

" (5) The Ingonyama shall **[, as trustee,]** not encumber, pledge, lease, alienate or otherwise dispose of any of the said land or any interest or real right in the land, unless he has obtained the prior written consent of the traditional authority [of the tribe] or community authority concerned, [or of any other person who holds or has a right in or over that land] and otherwise than in accordance with the provisions of any applicable law.";

- (f) by the substitution for subsection (6) of the following subsection:

"(6) In dealing with any trust property the Ingonyama, as trustee, shall be exempted from furnishing any form of security and the provisions of the Trust Moneys Protection Act, 1934 (Act No. 34 of 1934), and the Trust Property Control Act, 1988 (Act No. 57 of 1988), shall not apply to the Ingonyama as trustee or to the Ingonyama Trust established by section 2(1)."; and

- (c) deur die volgende omskrywings na die omskrywing van "Ingonyama" in te voeg:
- 5 "Minister" die Minister vir Landbou en Grondsake van die Nasionale Regering of 'n ander Minister deur die President aangewys;
- "Premier" die Premier handelende in oorleg met die ander lede van die Uitvoerende Raad van KwaZulu-Natal;"
- (d) deur die omskrywing van "Registrateur" deur die volgende omskrywing te vervang:
- 10 "Registrateur" [die Registrateur van Aktes (Pietermaritzburg) aangestel ingevolge] 'n registrateur soos omskryf in artikel 102 van die Registrasie van Aktes Wet, 1937 (Wet No. 47 van 1937);" en
- (e) deur die volgende omskrywing na die omskrywing van 'Registrateur' in te voeg:
- 15 "Wysigingswet, 1997," die Wysigingswet op die KwaZulu-Natal Ingonyama Trust, 1997;"

Wysiging van artikel 2 van Wet 3 van 1994

2. Artikel 2 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang:
- 20 "(1) 'n Liggaam met regspersoonlikheid, wat heet die Ingonyama Trust, hierna die Trust genoem, word hierby ingestel met ewigdurende opvolging en bevoegdheid om [as regspersoon] sowel as eiser en as verweerder in die reg op te tree, en om, behoudens die bepalings van hierdie Wet, alles te doen waartoe regspersone regtens bevoeg is;"
- (b) deur subartikel (2) deur die volgende subartikel te vervang:
- 25 "(2) Die Trust word op 'n wyse nie in stryd met die bepalings van hierdie Wet nie, geadminestreer vir die voordeel, materiële welvaart sowel as sosiale welsyn van die lede van die stamme en gemeenskappe bedoel in die KwaZulu Amakhosi en Iziphakanyiswa Wet, 1990 (Wet No. 9 van 1990), en waarna in die tweede kolom van die Bylae verwys word, ingestel in 'n distrik waarna in die eerste kolom van die [genoemde] Bylae verwys word, [asook van die onderdane van die Ingonyama] en die inwoners van sodanige distrik;"
- (c) deur subartikel (3) deur die volgende subartikel te vervang:
- 35 "(3) Die Ingonyama is die [enigste] trustee van die Trust, wat behoudens die bepalings van hierdie Wet [die sake van die Trust moet administreer, met die bevoegdheid om enige van sy bevoegdhede en funksies as trustee aan enige ander individu of 'n uitvoerende gesag kragtens wet ingestel in KwaZulu of Natal, na sy goedgee] deur die Ingonyama en die raad by artikel 2A van hierdie Wet ingestel, administreer moet word;"
- (d) deur subartikel (4) deur die volgende subartikel te vervang:
- 40 "(4) Die Ingonyama kan, [as trustee,] behoudens die bepalings van hierdie Wet en enige ander wet met die grond in artikel 3(1) bedoel ooreenkomstig Zoeloe [Inheemsereg] inheemse reg of enige ander toepaslike wet handel;"
- (e) deur subartikel (5) deur die volgende subartikel te vervang:
- 45 "(5) Die Ingonyama [as trustee] mag nie die bedoelde grond of enige belang daarin of saaklike reg daaroor beswaar, verpand, verhuur, vervreem of op 'n ander wyse daaroor beskik nie, tensy hy die geskrewe toestemming van die [tradisionele gesag van die betrokke stam of gemeenskap of van enige ander persoon wat 'n reg in of oor daardie grond hou of het, vooraf verkry het nie] betrokke tradisionele of gemeenskapsowerheid vooraf verkry het, en behalwe ooreenkomstig die bepalings van enige toepaslike wet;"
- (f) deur subartikel (6) deur die volgende subartikel te vervang:
- 55 "(6) Die Ingonyama, as trustee, word vrygestel van enige vorm van sekuriteitstelling in 'n transaksie met enige trusteeendom en die bepalings van die Trustgelde Beskermingswet, 1934 (Wet No. 34 van 1934), en die Wet op die Beheer oor Trustgoed, 1988 (Wet No. 57 van 1988), is nie van toepassing op die Ingonyama as trustee of op die Ingonyama Trust ingestel by artikel 2(1) nie;" en
- 60

(g) by the addition of the following subsections:

“(7) Notwithstanding the provisions of this Act, any national land reform programme established and implemented in terms of any law shall apply to the land referred to in section 3(1): Provided that the implementation of any such programme on the land referred to in section 3(1) shall be undertaken after consultation with the Ingonyama. 5

(8) In the execution of his or her functions in terms of this section the Ingonyama shall not infringe upon any existing rights or interests.”.

Insertion of section 2A in Act 3 of 1994

3. The following section is hereby inserted after section 2 of the principal Act: 10

“KwaZulu-Natal Ingonyama Trust Board

2A. (1) There is hereby established a board to be known as the KwaZulu-Natal Ingonyama Trust Board.

(2) The Board shall administer the affairs of the Trust and the trust land and without detracting from the generality of the foregoing the Board may decide on and implement any encumbrance, pledge, lease, alienation or other disposal of any trust land, or of any interest or real right in such land. 15

(3) The Board shall consist of—

- (a) the Ingonyama or his or her nominee who shall be the chairperson of the Board; and 20
- (b) four members appointed by the Minister after consultation with the Ingonyama, the Premier and the chairperson of the House of Traditional leaders of KwaZulu-Natal; and
- (c) four members appointed by the Minister, with due regard to regional interests, in consultation with the Premier, who shall consult with the Ingonyama and the chairperson of the House of Traditional Leaders in this regard: 25

Provided that if a vacancy exists in respect of a member referred to in paragraph (b) or (c), this shall not prevent the Board from carrying out its functions: Provided further that the members appointed in terms of paragraphs (b) and (c) shall be appointed from amongst officers in the employ of the governments of the Republic of South Africa or the province of KwaZulu-Natal or from other persons who do not hold office in or on behalf of a political party or have a high political profile, who have knowledge and experience relevant to the administration of the trust land. 30 35

(4) The Minister shall designate one of the members of the Board appointed in terms of subsection (3)(b) as vice-chairperson of the Board.

(5) The Board may appoint one or more advisory committees to advise it regarding the performance of any of its functions.

(6) The Board may delegate or assign, subject to such conditions as the Board may determine, any of its powers generally or in a specific case, to a committee of the Board or a member of the Board or to an official in the public service, a local authority, or an official in the service of a local authority, or to a traditional authority. 40

(7) The Minister may make regulations as to— 45

- (a) the circumstances under which a member of the Board, appointed under subsection (3)(b) or (c), shall vacate his or her office;
- (b) the manner in which meetings of the Board shall be convened;
- (c) the powers and duties of the chairperson, vice-chairperson and acting chairperson at meetings of the Board; 50
- (d) the quorum and procedures for meetings of the Board;
- (e) the keeping of minutes, registers and records of the Board;
- (f) such other matters as are necessary or useful to be prescribed for the attainment of the objects of this Act, the generality of this provision not being limited by the provisions of the preceding paragraphs.”. 55

(g) deur die volgende subartikels by te voeg:

“(7) Ondanks die bepalings van hierdie Wet, is enige nasionale grondhervormingsprogram wat ingestel en uitgevoer word ingevolge enige wet, op die grond bedoel in artikel 3(1) van toepassing: Met dien verstande dat die uitvoering van enige sodanige program op die grond bedoel in artikel 3(1) na oorlegpleging met die Ingonyama geskied.

“(8) In die uitvoering van sy werksaamhede ingevolge hierdie artikel maak die Ingonyama nie inbreuk op enige bestaande regte of belange nie.”.

10 Invoeging van artikel 2A in Wet 3 van 1994

3. Die volgende artikel word hierby na artikel 2 van die Hoofwet ingevoeg:

“KwaZulu-Natal Ingonyama Trust Raad

2A. (1) Daar word hierby 'n raad wat die KwaZulu-Natal Ingonyama Trust Raad heet, ingestel.

(2) Die Raad moet die sake van die Trust en die trustgrond administreer en sonder om afbreuk te doen aan die algemeenheid van die voorafgaande, kan die Raad besluit oor en enige beswaring, verpanding, verhuring, vervreemding of ander beskikking oor enige trustgrond, of van enige belang of saaklike reg in sodanige grond, implementeer.

(3) Die Raad bestaan uit—

(a) die Ingonyama of sy of haar genomineerde wat die voorsitter van die Raad is; en

(b) vier lede deur die Minister aangestel, na oorleg met die Ingonyama, die Premier en die voorsitter van die Huis van Tradisionele Leiers van KwaZulu-Natal; en

(c) vier lede deur die Minister aangestel met behoorlike inagneming van streekbelange, in oorleg met die Premier, wat met die Ingonyama en die voorsitter van die Huis van Tradisionele Leiers in hierdie verband sal konsulteer:

Met dien verstande dat indien 'n vakature ten opsigte van 'n lid in paragraaf (b) of (c) bedoel, bestaan, dit nie die Raad verhoed om sy funksies uit te voer nie: Met dien verstande verder dat die lede ingevolge paragrawe (b) en (c) aangestel, vanuit beamptes in die diens van die regering van die Republiek van Suid-Afrika of die provinsie van KwaZulu-Natal, of vanuit ander persone wat nie ampsdraers van of ten behoeve van 'n politieke party is of 'n hoë politieke profiel het nie, aangestel word wat na sy of haar mening kennis en ondervinding het wat op die administrasie van die trustgrond toepaslik is.

(4) Die Minister wys een van die lede ingevolge subartikel (3)(b) aangestel as ondervoorsitter van die Raad aan.

(5) Die Raad kan een of meer raadgewende komitees instel om dit met betrekking tot die uitvoering van enige van sy funksies met raad te bedien.

(6) Die Raad kan behoudens die voorwaardes wat die Raad mag bepaal, enige van sy bevoegdhede of in die algemeen of in 'n spesifieke geval aan 'n komitee van die Raad of 'n lid van die Raad, of 'n beampte in diens van die Staat, 'n plaaslike owerheid, of 'n beampte in diens van 'n plaaslike owerheid, of aan 'n tradisionele owerheid, deleger of opdra.

(7) Die Minister kan regulasies uitvaardig betreffende—

(a) die omstandighede waaronder 'n lid van die Raad ingevolge artikel 3(b) of (c) aangestel, sy of haar amp moet neerlê;

(b) die wyse waarop vergaderings van die Raad byeengeroep word;

(c) die bevoegdhede en pligte van die voorsitter, ondervoorsitter en waarnemende voorsitter by vergaderings van die Raad;

(d) die kworum en prosedures vir vergaderings van die Raad;

(e) die byhou van notules, registers en oorkondes van die Raad;

(f) sodanige ander aangeleenthede wat nodig of nuttig is om voorgeskryf te word vir die bereiking van die oogmerke van hierdie Wet, sonder dat die algemeenheid van hierdie bepaling deur die voorafgaande paragrawe beperk word.”.

Amendment of section 3 of Act 3 of 1994**4. Section 3 of the principal Act is hereby amended—****(a) by the substitution for subsection (1) of the following subsection:**

“(1) Notwithstanding the provisions of section 2 of the KwaZulu Land Affairs Act, 1992 (Act No. 11 of 1992), or any other law—

(a) any land or real right therein of which the ownership immediately prior to the date of commencement of this Act vested in or had been acquired by the Government of KwaZulu shall hereby vest in and be transferred to and shall be held in trust by the Ingonyama as trustee of the Ingonyama Trust referred to in section 2(1) for and on behalf of the members of the tribes and communities and the residents referred to in section 2(2);

(b) **[any land or real right therein of which the control immediately prior to the date of commencement of this Act vested in the Government of KwaZulu shall hereby be under the control of the Ingonyama and shall be held as such in trust by the Ingonyama as trustee of the Ingonyama Trust referred to in section 2(1) for and on behalf of the said tribes and communities]** any functions which, in respect of land or any real right therein, were performed by a department of the Government of KwaZulu in terms of any law immediately before the date of commencement of this Act, shall be performed by the national or provincial government department succeeding such KwaZulu department in terms of the Constitution.”;

(b) by the substitution for subsection (3) of the following subsection:

“(3) All land and real rights referred to in subsection (1) shall be transferred to the Ingonyama as trustee of the Ingonyama Trust referred to in section 2(1) for and on behalf of the members of the said tribes and communities and the said residents, without payment of transfer duty, stamp duty or any other fee or charge, but subject to any existing right or obligation on or over such land and subject also to the provisions of this Act.”; and

(c) by the substitution for subsection (4) of the following subsection:

“(4) The Registrar shall endorse the title deed to any land referred to in subsection (1) to the effect that the land referred to therein shall vest in the Ingonyama as trustee of the Ingonyama Trust referred to in section 2(1) for and on behalf of the members of the said tribes and communities and the said residents, and shall, in accordance with the provisions of the Deeds Registries Act, 1937 (Act No. 47 of 1937), make the necessary entries in his or her registers, and thereupon the said title deed shall serve and avail for all purposes as proof of the title of the Ingonyama in trust to the said land.”.

Amendment of section 4 of Act 3 of 1994**5. The following section is hereby substituted for section 4 of the principal Act:****“Administrative costs**

4. The [Government of KwaZulu-Natal and its successors in-law shall out of funds in an annual budget voted for by its legislature provide for financial assistance to the Ingonyama as trustee] Department of Land Affairs shall bear the cost of the administration of the [Ingonyama Trust to administer the Trust] Board.”.

Insertion of section 4A in Act 3 of 1994**6. The following section is hereby inserted after section 4 of the principal Act:**

Wysiging van artikel 3 van Wet 3 van 1994

4. Artikel 3 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

5 “(1) Ondanks die bepalings van artikel 2 van die KwaZulu Wet op Grondsake, 1992 (Wet No. 11 van 1992), of enige ander wet—

10 (a) berus hiermee enige grond of saaklike reg daarin, waarvan die eiendomsreg onmiddellik voor die datum van inwerkingtreding van hierdie Wet berus het, by of verkry is deur die Regering van KwaZulu, by en word oorgedra aan, en deur die Ingonyama as trustee van die Ingonyama Trust in artikel 2(1) bedoel in trust gehou vir en ten behoeve van die lede van die stamme en gemeenskappe en die inwoners bedoel in artikel 2(2);

15 (b) [kom hierkragtens die beheer in grond of 'n saaklike reg daarin wat onmiddellik voor die datum van inwerkingtreding van hierdie Wet by die Regering van KwaZulu berus het, onder die beheer van die Ingonyama en word as sodanig deur die Ingonyama as trustee van die Ingonyama Trust in artikel 2(1) bedoel in trust gehou vir en ten behoeve van die bedoelde stamme en gemeenskappe] enige werksaamhede wat, met betrek-

20 king tot grond of enige saaklike reg daarin, uitgevoer is deur 'n departement van die Regering van KwaZulu ingevolge enige wet onmiddellik voor die datum van inwerkingtreding van hierdie Wet, word uitgevoer deur die nasionale of provinsiale regeringsdepartement wat sodanige KwaZulu-departement ingevolge die Grondwet opvolg.”;

25 (b) deur subartikel (3) deur die volgende subartikel te vervang:

30 “(3) Alle grond en saaklike regte in subartikel (1) bedoel word aan die Ingonyama as trustee van die Ingonyama Trust in artikel 2(1) bedoel oorgedra vir en ten behoeve van die lede van die bedoelde stamme en gemeenskappe en die bedoelde inwoners, sonder betaling van oordragskoste, seëlregte of enige ander fooi of heffing, maar behoudens enige bestaande reg of verpligting op of oor sodanige grond en behoudens die bepalings van hierdie Wet.”; en

35 (c) deur subartikel (4) deur die volgende subartikel te vervang:

40 “(4) Die Registrateur endosseer die titel van enige grond bedoel in subartikel (1) tot dien effekte dat die grond daarin beoog in die Ingonyama as trustee van die Ingonyama trust in artikel 2(1) bedoel, berus vir en ten behoeve van die lede van die bedoelde stamme en gemeenskappe en die bedoelde inwoners, en moet ooreenkomstig die bepalings van die Registrasie van Aktes Wet, 1937 (Wet No. 47 van 1937), die nodige inskrywings in sy of haar registers maak, waarna die bedoelde titelakte vir alle doeleindes as bewys sal dien van die titel van die Ingonyama in trust van die betrokke grond.”.

Wysiging van artikel 4 van Wet 3 van 1994

45 5. Artikel 4 van die Hoofwet word hierby deur die volgende artikel vervang:

“Administratiewe kostes

50 4. Die [Regering van KwaZulu en sy opvolgers in reg moet uit gelde in die jaarlikse begroting wat deur sy wetgewer voor begroot is voorsiening maak vir finansiële bystand aan die Ingonyama as trustee] Departement van Grondsake dra die koste van die administrasie van die [Ingonyama Trust om die trust te administreer] Raad.”.

Invoeging van artikel 4A in Wet 3 van 1994

6. Die volgende artikel word hierby na artikel 4 van die Hoofwet ingevoeg:

"Application of Act, Savings and Validation

4A. (1) This Act shall not apply to land in a township or to private land or to land used for State domestic purposes before 24 April 1994.

(2) If any group of pieces of land, or of subdivisions of a piece of land, which vests in the Trust, is combined with public places and used mainly for residential, industrial, business or similar purposes, the Ingonyama may after consultation with the Premier request the competent provincial authority to declare or proclaim such land a township.

(3) Any allocation, transfer, alienation, mortgage or other transaction in respect of tenure rights relating to land referred to in section 3(2) which was effected during the period 24 April 1994 to the date of commencement of the Amendment Act, 1997, by any person or authority in good faith and purportedly in terms of—

- (a) the Regulations for the Administration and Control of Townships in Black Areas (Proclamation R.293 of 1962);
- (b) the KwaZulu Land Affairs Act, 1992 (Act No. 11 of 1992);
- (c) a regulation issued in terms of that Act; or
- (d) any other law,

shall be deemed to have been effected by the Ingonyama in terms of section 2(4) and (5).

(4) Any land or real right in such land which, prior to the Amendment Act, 1997, vested in the Ingonyama in terms of section 3(1) and which has not been registered in private ownership, shall hereby—

- (a) if the land is situated in a township, vest in the local authority having jurisdiction over such township; and
- (b) if the land was used for State domestic purposes before 24 April 1994, be deemed to have vested in the national government or in the provincial government of KwaZulu-Natal in accordance with section 239 of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993).

(5) Any land in a township or any real right in such land shall vest in the local authority having jurisdiction over such township—

- (a) if the township exists as such on the date of commencement of the Amendment Act, 1997, on such date of commencement; and
- (b) if the township is established and approved or proclaimed as such after the date of commencement of the Amendment Act, 1997, upon such establishment and approval or proclamation.

(6) The land or real rights referred to in subsections (3) and (4) shall be transferred or ceded from the Ingonyama Trust to the local authority or government concerned in accordance with the provisions of the Deeds Registries Act, 1937 (Act No. 47 of 1937), without payment of transfer duty, stamp duty or any other fee, but subject to any existing right or obligation on or over such land.

(7) Where the township referred to in subsection (3) or (4) comprises all the land held under a particular title deed, the Registrar of Deeds shall, notwithstanding the provisions of subsection (5), on application by the local authority or government and on production of the title deed—

- (a) endorse the relevant title deed to the effect that the land or real right in such township vests in such local authority or government: Provided that where the applicant is unable to produce such title deed such applicant shall produce to the Registrar an affidavit to his or her satisfaction that possession of the title deed could not be obtained and the Registrar shall thereupon endorse such vesting on the registry duplicate of such title deed, and if the original title deed is at any time lodged in his or her office for any purpose he or she shall make a similar endorsement thereon;

“Toepassing van Wet, Voorbehoud en Wettiging

4A. (1) Hierdie Wet is nie van toepassing op grond in 'n dorps-
gebied of op privaatgrond of op grond wat voor 24 April 1994 vir
Staatshuishoudelike doeleindes gebruik is nie.

(2) Indien enige groepering van stukke grond, of van onderverdelings
van 'n stuk grond, wat by die Trust berus, verbind word met openbare
plekke en hoofsaaklik vir woon-, nywerheids-, besigheids- of soortgelyke
doeleindes gebruik word, kan die Ingonyama na oorleg met die Premier
die bevoegde provinsiale gesag versoek om sodanige grond as 'n dorp te
verklaar of te proklameer.

(3) Enige toewysing, oordrag, vervreemding, verhipotekering of ander
transaksie met betrekking tot besitregte wat verband hou met grond bedoel
in artikel 3(2) wat gedurende die tydperk 24 April 1994 tot die datum van
inwerkingtreding van die Wysigingswet, 1997, deur enige persoon of
gesag te goeder trou gedoen is en wat voorgegee gedoen te gewees het
ingevolge—

- (a) die Regulasies vir die Administrasie en Beheer van Dorpe in Swart
Gebiede (Proklamasie No. R.293 van 1962);
 - (b) die KwaZulu Wet op Grondsake, 1992 (Wet No. 11 van 1992);
 - (c) 'n regulasie ingevolge daardie Wet uitgevaardig; of
 - (d) enige ander wet,
- word geag deur die Ingonyama gedoen te gewees het ingevolge artikel 2(4)
en (5).

(4) Enige grond of saaklike reg in sodanige grond wat voor die
inwerkingtreding van die Wysigingswet, 1997, ingevolge artikel 3(1) in
die Ingonyama gesetel het en wat nie as privaat eiendom geregistreer is
nie—

- (a) setel, indien die grond in 'n dorp geleë is, in die plaaslike owerheid
wat jurisdiksie het oor sodanige dorp; en
- (b) word, indien die grond voor 24 April 1994 vir Staatshuishoudelike
doeleindes gebruik is, geag in die nasionale regering of in die
provinsiale regering van KwaZulu-Natal ooreenkomstig artikel 239
van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No.
200 van 1993), te setel.

(5) Enige grond in 'n dorp of enige saaklike reg in sodanige grond setel
in die plaaslike owerheid wat jurisdiksie het oor sodanige dorp—

- (a) as die dorp as sodanig bestaan op die datum van inwerkingtreding van
die Wysigingswet, 1997, op sodanige datum van inwerkingtreding; en
- (b) as die dorp na die datum van inwerkingtreding van die Wysigingswet,
1997, gevestig en goedgekeur of geproklameer word, by sodanige
vestiging en goedkeuring of proklamering.

(6) Die in subartikels (3) en (4) bedoelde grond of saaklike regte moet
vanaf die Ingonyama Trust aan die betrokke plaaslike owerheid of regering
oorgedra of gesedeer word ooreenkomstig die bepalings van die Regis-
trasie van Aktes Wet, 1937 (Wet No. 47 van 1937), sonder betaling van
hereregte, seëlregte of enige ander gelde, maar onderworpe aan enige
bestaande reg of verpligting op of in sodanige grond.

(7) Waar die dorp in subartikel (3) of (4) bedoel al die grond uitmaak
wat onder 'n spesifieke transportakte gehou word, moet die Registrateur
van Aktes, ondanks die bepalings van subartikel (5), op aansoek van die
plaaslike owerheid of regering en by voorlegging van die transportakte—

- (a) die betrokke transportakte endosseer sodat die grond of saaklike reg
in sodanige dorp in sodanige plaaslike owerheid of regering setel:
Met dien verstande dat waar die applikant nie die transportakte kan
voorlê nie sodanige applikant 'n eedsverklaring aan die Registrateur
tot sy of haar bevrediging moet voorlê dat besit van die transportakte
nie verkry kon word nie en die Registrateur moet daarna sodanige
vestiging op die registrasieduplikaat van sodanige transportakte
endosseer, en as die oorspronklike transportakte vir enige doel op
enige tydstip in sy of haar kantoor ingedien word, moet hy of sy 'n
ooreenkomstige endossement daarop maak;

(b) make the necessary entries in respect of the land or real right in such township in his or her registers in accordance with the provisions of the Deeds Registries Act, 1937 (Act No. 47 of 1937).

(8) Anything validly done in terms of a provision of this Act before the amendment or substitution of such provision by the Amendment Act, 1996, shall remain valid notwithstanding such amendment or substitution, and any rights acquired thereby shall not be extinguished by such amendment or substitution.”. 5

Substitution of section 5 of Act 3 of 1994

7. The following section is hereby substituted for section 5 of the principal Act: 10

“Short title

5. This Act shall be called the [KwaZulu] KwaZulu-Natal Ingonyama Trust Act, 1994.”.

Short title

8. This Act shall be called the KwaZulu-Natal Ingonyama Trust Amendment Act, 1997, and shall come into operation on a date to be determined by proclamation by the President in the Gazette. 15

- (b) die nodige inskrywings met betrekking tot die grond of saaklike reg in sodanige dorp in sy of haar registers ooreenkomstig die bepalings van die Registrasie van Aktes Wet, 1937 (Wet No. 47 van 1937), maak.
- 5 (8) Enigiets wat op 'n geldige wyse ingevolge 'n bepaling van hierdie Wet gedoen is voor die wysiging of vervanging van sodanige bepaling deur die Wysigingswet, 1996, bly ondanks sodanige wysiging of vervanging geldig en enige regte wat daardeur verkry is, word nie deur sodanige wysiging of vervanging uitgewis nie.”.

10 Vervanging van artikel 5 van Wet 3 van 1994

7. Artikel 5 van die Hoofwet word hierby deur die volgende artikel vervang:

“Kort titel

5. Hierdie Wet heet die [KwaZulu] KwaZulu-Natal Ingonyama Trust Wet, 1994.”.

15 Kort titel

8. Hierdie Wet heet die Wysigingswet op die KwaZulu-Natal Ingonyama Trust, 1997, en tree in werking op 'n datum by proklamasie deur die President in die Staatskoerant bepaal.

