

No. 5

21 October 2010

[English text signed by the Premier]

KWAZULU-NATAL FILM COMMISSION ACT, 2010
(Act No. 03 of 2010)

Assented to on 09-09-2010

ACT

To provide for the establishment of the KwaZulu-Natal Film Commission; to determine the objects, powers, duties and functions of the KwaZulu-Natal Film Commission; to determine the manner in which the KwaZulu-Natal Film Commission is to be managed, governed, staffed and financed; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the Province of KwaZulu-Natal, as follows:-

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CHAPTER 1
DEFINITIONS

Definitions

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

"**Board**" means the Board of the Commission appointed in terms of section 5;

"**Chief Executive Officer**" means the Chief Executive Officer of the Commission, appointed in terms of section 16;

"**Commission**" means the KwaZulu-Natal Film Commission established in terms of section 2;

"Company" means the association incorporated under section 21 of the Companies Act, 1973 (Act No. 61 of 1973), bearing registration number 2003/028677/08, and known as the KwaZulu-Natal Film Commission;

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"Department" means the Department in the Provincial Government of KwaZulu-Natal responsible for economic development and tourism;

"Executive Council" means the Executive Council of the Province of KwaZulu-Natal contemplated in section 132 of the Constitution;

"film" means any sequence of visual images recorded in such a manner that by using such recording such images will be capable of being seen as a moving picture, and includes any picture intended for exhibition through any medium or device;

"film production" means the act or instance of producing a film;

"film producer" means a natural or juristic person engaged in film production;

"film products" mean the outcome of film production;

"Gazette" means the official *Provincial Gazette* of KwaZulu-Natal;

"Head of Department" means the person appointed as Head of the Department in terms of the Public Service Act, as amended;

"Industrial Development Corporation" means the public corporation established under section 2 of the Industrial Development Corporation Act, 1940 (Act No. 22 of 1940);

"member" means a member of the Board of the Commission appointed in terms of section 5;

"Member of the Executive Council responsible for finance" means the member of the Executive Council of the Province of KwaZulu-Natal responsible for finance;

"organised local government" means the KwaZulu-Natal Local Government Association being that organization in the Province of KwaZulu-Natal recognised in terms of section 2 of the Organised Local Government Act, 1997 (Act No. 52 of 1997), as representing the majority of municipalities in the Province;

"Portfolio Committee" means the Portfolio Committee of the Provincial Legislature responsible for economic development and tourism;

"prescribed" means prescribed by regulation under section 33 and **"prescribe"** has a corresponding meaning;

"Province" means the Province of KwaZulu-Natal contemplated in section 103 of the Constitution and **"provincial"** has a corresponding meaning;

"Provincial Government" means the government of the Province of KwaZulu-Natal;

"Provincial Legislature" means the Legislature of the Province of KwaZulu-Natal as contemplated in section 105 of the Constitution, and having the legislative authority for the Province as contemplated in section 104(1) of the Constitution;

"regulations" means regulations made in terms of section 33;

"responsible Member of the Executive Council" means the Member of the Executive Council of the Province of KwaZulu-Natal responsible for economic development and tourism or that member of the Executive Council of the Province of KwaZulu-Natal to whom the Premier has assigned the administration of this Act;

"the film industry" means the film, television, video and related multimedia industry;

"**this Act**" includes the regulations;

"**Trade and Investment KwaZulu-Natal**" means –

- (a) the association incorporated under section 21 of the Companies Act, 1973 (Act No. 61 of 1973), bearing Company Registration Number 98/11946/08; or
- (b) the successor in law of, and the successor in title to, such association.

CHAPTER 2 KWAZULU-NATAL FILM COMMISSION

Establishment of the KwaZulu-Natal Film Commission

2. (1) There is hereby established a Commission for the promotion of the film industry in the Province, to be known as the KwaZulu-Natal Film Commission.

(2) The Commission is a juristic person which acts through the Board.

(3) The Commission is a provincial public entity subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(4) The Board is the accounting authority of the Commission as contemplated in section 49(2)(a) of the Public Finance Management Act.

Objects of the Commission

3. The objects of the Commission are –

- (a) to promote and market the Province as a global destination for film production;
- (b) to develop, promote and market, locally, nationally and internationally, the film industry in the Province;
- (c) to facilitate investment in the film industry in the Province;
- (d) to provide and encourage the provision of opportunities for persons, especially from disadvantaged communities, to enter and participate in the film

industry in the Province;

(e) to address historical imbalances in the infrastructure and in the distribution of skills and resources in the film industry in the Province; and

(f) to contribute to an enabling environment for job creation in the film industry in the Province.

Powers, duties and functions of the Commission

4. (1) The Commission must –

(a) administer funds appropriated by the Provincial Legislature;

(b) initiate and administer the funding from sources other than appropriations from the Provincial Legislature;

(c) attract international film productions to the Province;

(d) facilitate the establishment, development and growth of infrastructure and facilities for the film industry in the Province;

(e) attract foreign and local investment and funding for the establishment, development and growth of infrastructure and facilities for the manufacturing of film products in the Province;

(f) co-ordinate and facilitate human resource and human intellectual development in the film industry in the Province;

(g) provide advice, support and access to provincial funding for film producers in the Province;

(h) promote film productions reflecting the cultural diversity of the Province;

(i) conduct research and development into all areas of film production in the Province;

(j) promote the Province as a location for film productions, locally, nationally and internationally;

(k) attract film producers and facilitate their initiatives to carry out film productions in the Province;

(l) encourage film producers to employ provincial personnel and facilities for film productions;

(m) establish relationships with local and international persons, organisations and film commissions, to encourage and facilitate the transfer of knowledge and skills to the film industry in the Province;

- (n) compile a database of, and provide information with regard to –
 - (i) provincial film producers, audio-visual technicians, actors, performers and musicians; and
 - (ii) accommodation, catering, transportation and other related facilities in the Province;
- (o) advise film-makers on any aspect of film production including, but not limited to, municipal by-laws, traffic ordinances, environmental legislation and employment legislation and practices; and
- (p) advise the Provincial Government on policy and legislation including regulations required or appropriate for the promotion of the film industry in the Province.

(2) In order to promote uniformity and co-operation by all organs of state in the provincial and local spheres of government on matters related to the film industry, the Commission must –

- (a) at least once a year, convene meetings between organs of state in the provincial and local spheres that have an interest in any matter related to the film industry;
- (b) act as a link between organs of state in both the provincial and local spheres and stakeholders in the film industry in the Province; and
- (c) liaise and interact with any organisation, structure or body that has an interest in any matter related to the film industry.

(3) The Commission may –

- (a) enter into agreements with any person with expert knowledge in a particular field, so as to assist or advise the Commission in connection with any matter relating to its objects, powers, duties and functions; and
- (b) generally, do everything that is necessary to achieve its objectives.

(4) In order to contribute to the development of human capacity in the film industry in the Province, the Commission may provide bursaries and scholarships to students studying or intending to study in the field of film production.

CHAPTER 3
BOARD OF THE COMMISSION

Composition of the Board

5. (1) The Board consists of –

- (a) at least five, but not more than 20, members appointed by the responsible Member of the Executive Council; and
- (b) the Chief Executive Officer, *ex officio*, as contemplated in section 16(5).

(2) Members of the Board must be fit and proper persons to serve the best interests of the Province, collectively possessing –

- (a) appropriate knowledge, experience and skills in the film industry, and
- (b) the following skills and expertise –
 - (i) legal skills, experience and qualifications;
 - (ii) financial skills, experience and qualifications;
 - (iii) print or electronic media skills;
 - (iv) community development skills and experience; and
 - (v) entertainment industry experience.

(3) In appointing members to the Board, the responsible Member of the Executive Council must ensure –

- (a) that historic imbalances are addressed; and
- (b) that a balance of interest between persons representing –
 - (i) the Department;
 - (ii) the Department of Arts[,]and Culture;
 - (iii) the KwaZulu-Natal Tourism Authority;
 - (iv) stakeholders in the film industry;
 - (v) Trade and Investment, KwaZulu-Natal;
 - (vi) organised local government;
 - (vii) tertiary [I]institutions;
 - (viii) local film offices; and
 - (ix) the Industrial Development Corporation,is maintained.

(4) The responsible Member of the Executive Council must designate –

- (a) one of the members of the Board as the Chairperson of the Board; and
 - (b) one of the members of the Board as the Deputy Chairperson of the Board.
- (5) The member of the Board referred to in subsection 3(b)(i) –
- (a) must facilitate liaison between the responsible Member of the Executive Council and the Board;
 - (b) must report to the responsible Member of the Executive Council from time to time regarding matters which are considered relevant; and
 - (c) may attend meetings of the Board and participate in discussions, but does not have the right to vote when a decision of the Board is being taken.
- (6) The responsible Member of the Executive Council must, by notice in the *Gazette* invite any interested parties within the Province to nominate candidates for appointment to the Board.
- (7) The invitation for nominations must specify –
- (a) the nomination procedure;
 - (b) the requirements for nominations; and
 - (c) the closing date for the nominations.
- (8) The responsible Member of the Executive Council must consider all nominations submitted in response to the notice, and may appoint a selection panel consisting of senior departmental officials to review all the nominations and make recommendations to the responsible Member of the Executive Council on the nominees.
- (9) The responsible Member of the Executive Council must cause the names of the persons appointed to the Board to be published in the *Gazette* and in at least two newspapers circulating in the Province, immediately after such persons have been notified, in writing, of their appointment to the Board.
- (10) The responsible Member of the Executive Council must, within two months after the appointment of members of the Board in terms of subsection (1), inform the Executive Council and the Portfolio Committee of the names of the appointed members including the term of their appointment.

(11) This section applies, with the necessary changes, to the filling of a vacancy on the Board.

Disqualification from being appointed to Board

6. A person is disqualified from being appointed to the Board or from remaining on the Board, by reason that he or she --

- (a) is or becomes an unrehabilitated insolvent;
- (b) is or has been declared by a competent court to be of unsound mind;
- (c) is directly or indirectly interested in any contract with the Commission and fails to declare his or her interest and the nature thereof in the manner required by this Act;
- (d) is a person under curatorship;
- (e) has at any time been removed from an office of trust on account of misconduct involving theft or fraud;
- (f) has been convicted and sentenced to a term of imprisonment without the option of a fine, except that the responsible Member of the Executive Council may, upon receipt of an affidavit disclosing full details of an offence by a person nominated for appointment, condone a conviction in a manner that is consistent with section 106(1)(e) of the Constitution: Provided that a disqualification in terms of this subsection ends five years after the sentence has been completed; or
- (g) fails to disclose an interest in accordance with section 7 or attended or participated in the proceedings of the Board while having an interest contemplated in the said section.

Declaration of financial or other interests of a member of the Board

7.(1) A person who has been nominated to serve on the Board in terms of section 5(6) must, within 10 days of being nominated, submit a written declaration to the responsible Member of the Executive Council of all direct or indirect interests in any company and of any other business interests.

(2) Any failure by the nominee to disclose financial and other interests in terms of subsection (1) disqualifies such nominee in terms of section 6 from being appointed to the Board.

(3) Every member of the Board must, upon assuming office and at the beginning of every financial year of the Commission, submit a written declaration of his or her direct or indirect interest in any company or other business interest in the manner provided for in section 234(3)(a) of the Companies Act, 1973 (Act No. 61 of 1973).

(4) Where a member of the Board acquires an interest in any company, or any other business interest, at any time during his or her tenure as a member of the Board, he or she must, within 10 days of the date of the acquisition of such an interest, submit a written declaration to the responsible Member of the Executive Council of such an interest.

(5) Any failure on the part of the member to disclose his or her interest as contemplated in subsections (3) and (4), constitutes justifiable reason for the termination of appointment of such member in terms of section 9(2).

(6) The responsible Member of the Executive Council must keep an updated register of the interests of members of the Board disclosed in terms of this section.

Term of office and reappointment of a member of the Board

8. The person[s] appointed to the Board holds office for a period of five years or such lesser period as the responsible Member of the Executive Council may determine and is, subject to section 5, eligible for re-appointment at the expiry of such period: Provided that no person may be re-appointed after having served on the Board for a continuous period of 10 years.

Vacancies, removal and resignation from office of a member of the Board

9. (1) A member of the Board must vacate office if he or she becomes subject to a disqualification contemplated in section 6.

(2) The responsible Member of the Executive Council may, after having afforded a member the opportunity to state his or her case, at any time terminate the term of office of such member if, in his or her opinion, there are justifiable and cogent reasons for doing so.

(3) A member must vacate office if he or she is absent, without a leave of absence having first been granted by the Board, from two consecutive meetings of the Board for which reasonable notice was given to that member personally or by post.

(4) A member may resign from office by giving not less than 30 days written notice to the responsible Member of the Executive Council: Provided that the responsible Member of the Executive Council waives the notice period.

(5) Whenever a vacancy occurs on the Board, the responsible Member of the Executive Council must, subject to section 5, appoint a person to fill such vacancy for the unexpired portion of the period of office of the member in whose place such person is appointed.

(6) In the event that the responsible Member of the Executive Council exercises his or her powers in terms of subsection (2), he or she may, notwithstanding the procedure for the appointment of the members of the Board set out in section 5, subject to sections 5(2) and 5(3), appoint persons to serve as members of the Board on an interim basis: Provided that –

- (a) the persons appointed in terms of this subsection may not remain on the Board for a period of more than 90 days from the date of their appointment; and
- (b) the responsible Member of the Executive Council must, subject to section 5, appoint the permanent members of the Board within 90 days of the appointment contemplated in this subsection.

Temporary suspension of a member of the Board

10. The responsible Member of the Executive Council may suspend a member of the Board whilst the responsible Member of the Executive Council is investigating

allegations which, if found to be correct, may result in the member's appointment being terminated in terms of section 9(2).

Meetings and procedures at meetings of the Board

11. (1) The first meeting of the Board must be held on a date and at a time and venue determined by the responsible Member of the Executive Council, whereafter all future meetings must be as determined by the Chairperson.

(2) The *quorum* for a meeting of the Board is a majority of the members of the Board.

(3) The proceedings at a meeting of the Board must, subject to the provisions of this section, be determined by the chairperson including the right to decide that any matter under discussion may be withdrawn before it is put to the vote.

(4) The Chairperson must preside at all meetings of the Board. If the Chairperson is absent, the deputy chairperson must preside and in the event that neither the chairperson nor the deputy chairperson are present at a meeting of the Board, the members then present may elect, from their own number, a person to act as chairperson for the duration of that particular meeting.

(5) A decision of the Board must be taken by a majority of the votes of the members present at a meeting and, in the event of an equality of votes on any matter; the Chairperson has a casting vote in addition to his or her deliberative vote.

(6) The Board must keep minutes of its meetings.

(7) No decision of the Board is invalid merely by reason of a vacancy in the Board: Provided that the decision is taken by the required majority of the members of the Board then present and entitled to sit as members of the Board.

(8) The chairperson, or a majority of the members of the Board, may call an extraordinary meeting of the Board in which event the provisions of this section apply with the necessary changes.

(9) The Board may, in its discretion, allow members of the public to attend any meeting of the Board.

Recusal of a member from meetings and proceedings of the Board

12.(1) A member of the Board must recuse himself or herself from a matter being investigated, considered or voted upon by the Board if one or more of the following occur

–

- (a) if he or she has a direct or indirect interest in the matter; or
- (b) if there is a possibility that a direct or indirect interest in the matter might arise.

(2) If at any stage during the course of any proceedings before the Board it appears that a member who is present at that meeting has or may have an interest contemplated in subsection (1), such member must forthwith disclose the nature of his or her interest and leave the meeting.

(3) Any disclosure made in terms of subsection (1) must be recorded in the minutes of the meeting in question.

(4) If it subsequently emerges that the Board took a decision on a matter in respect of which a member has failed to disclose an interest contemplated in subsection (1), such decision by the Board is invalid.

(5) For the purposes of this section "**indirect interest**" includes, but is not limited to, an interest held by any member's –

- (a) business partner, associate or employer, other than the State;
- (b) spouse, partner in a customary marriage, or person with whom such member cohabits or lives as though they are married; or
- (c) child, parent or sibling.

Remuneration of members of the Board

13.(1)(a) Subject to subsection 2(a), a member of the Board may be paid from the funds of the Commission such remuneration and allowances as may be determined by the responsible Member of the Executive Council in consultation with the Member of the Executive Council responsible for finance ; and

(b) a member of the Board who receives remuneration, allowances or other benefits by virtue of his or her post or employment in –

(i) the national government;

(ii) a provincial government;

(iii) a municipality; or

(iv) a corporation, body or institution in which the national or a provincial government has a controlling interest, and

who continues to receive such remuneration, allowances or other benefits while serving as a member of the Board, may only receive remuneration and allowances referred to in paragraph (a) to the extent required to place such member in the financial position he or she would have been were it not for such post or employment.

(2)(a) A member of the Board and a person who has been co-opted to the Board may, in respect of his or her functions as a member or co-opted member, receive reimbursement from the funds of the Commission for reasonable actual subsistence and travelling expenses necessitated by the actual attendance of a meeting of the Board ; and

(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 traveling expenses contemplated in paragraph (a).

Establishment of Committees to assist the Board

14. (1) The Board may establish committees consisting of one or more of its members to –

(a) assist the Board in the performance of any of the powers, duties or functions of the Commission contemplated in section 4; or

(b) enquire or conduct research into any matter falling within the mandate of the Board in terms of this Act.

- (2) When establishing a committee contemplated in subsection (1), the Board must –
- (a) determine the terms of reference of such committee including, but not limited to, whether or not such committee ceases to exist once it has completed the task or tasks allocated to it by the Board;
 - (b) appoint a Chairperson of such committee who must be a member of the Board; and
 - (c) determine whether or not such committee may co-opt persons who are not members of the Board and, if so, on what terms and conditions.

(3) The Board may, at any time, terminate the existence of a committee or any mandate given to a committee, irrespective of whether or not such committee has completed the task or tasks allocated to it by the Board.

- (4)(a) The Chief Executive Officer may attend and take part in, but may not vote at, a meeting of a committee; and
- (b) a member of staff of the Board may, on invitation by the relevant committee, attend a meeting of that committee.

Co-opting of persons to the Board or committees of the Board

15. (1) The Board may, if it is of the opinion that a particular person is able to assist it in regard to any of its functions and powers, co-opt such person for that purpose.

(2) A person co-opted in terms of subsection (1) is not entitled to vote at any meeting of the Board or a committee.

(3) A person co-opted in terms of subsection (1) may be paid such remuneration and allowances out of the funds of the Commission as may be determined in terms of section 13(2)(a) by the Board in consultation with the Member of the Executive Council responsible for finance.

CHAPTER 4
CHIEF EXECUTIVE OFFICER AND STAFF OF THE COMMISSION

Chief Executive Officer of the Commission

16. (1) The Board must, in consultation with the responsible Member of the Executive Council, appoint a suitably qualified, skilled and experienced person as Chief Executive Officer of the Commission.

(2)(a) The Chief Executive Officer is appointed for a period not exceeding five years; and
(b) the Chief Executive Officer may be re-appointed for one additional term of office not exceeding five years.

(3)(a) The appointment of the Chief Executive Officer is subject to the conclusion of a written performance agreement entered into between that person and the Board; and
(b) the Board and the Chief Executive Officer may, in writing and by agreement, amend the performance agreement.

(4) For purposes of the declaration of financial or other interests, the provisions of section 7 apply with the necessary changes to the Chief Executive Officer except that the Chief Executive Officer must declare his or her interests to the Board.

(5) The Chief Executive Officer is an *ex officio* member of the Board but does not have the right to vote at its meetings.

Functions of the Chief Executive Officer

17. (1) The Chief Executive Officer is responsible for –

- (a) the administrative and financial management of the Board in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999), and the direction of the Board;
- (b) the appointment of members of staff of the Commission contemplated in section 19(1), in consultation with the Board;
- (c) the determination in consultation with the Board of a code of conduct, applicable to the Chief Executive Officer, all staff of the Commission and justiciable for purposes of disciplinary proceedings, to ensure –
 - (i) compliance with applicable law, including this Act;

- (ii) the effective, efficient and economical use of the Commission's funds and resources;
 - (iii) the promotion and maintenance of a high standard of professional ethics;
 - (iv) the prevention of conflicts of interest;
 - (v) the protection of confidential information held by the Commission; and
 - (vi) professional, honest, impartial, fair, ethical and equitable service;
- (d) the maintenance of discipline over the staff appointed in terms of paragraph (b) and must, for those purposes, be accountable to the Board;
- (e) the keeping and maintenance of the register of interests declared by members of staff of the Commission; and
- (f) ensuring compliance by the Board with the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999), and any other applicable legislation.

(2) If the Chief Executive Officer is for any reason unable to perform any of his or her functions, the Board must, in writing, and in consultation with the responsible Member of the Executive Council, appoint another person as Acting Chief Executive Officer until the Chief Executive Officer is able to resume those functions.

Resignation and removal from office of the Chief Executive Officer

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

- (a) in the case of resignation, when the resignation takes effect;
- (b) when, in terms of the Companies Act, 1973 (Act No. 61 of 1973), the person holding that office has become disqualified to serve as director of a company; and
- (c) upon having been removed from office in terms of subsection (2).

(2) The Board may, in consultation with the Member of the Executive Council, terminate the Chief Executive Officer's employment in accordance with applicable employment and labour law.

Staff of the Commission

19.(1) The Chief Executive Officer must, subject to subsection (2), employ members of staff of the Commission as may be reasonably necessary –

- (a) to assist him or her in fulfilling his or her functions in terms of this Act; and
- (b) to assist the Board with the work incidental to the performance by the Board of its functions.

(2) The Board must, subject to section 23(4), determine a human resources policy for staff members of the Commission, including the Chief Executive Officer.

(3) For purposes of the declaration of financial or other interests, and subject to section 17(1)(e), the provisions of section 7(3), (4) and (5) apply with the necessary changes to staff members of the Commission.

(4) The Chief Executive Officer must keep an updated register of the interests of staff members of the Commission disclosed in terms of this subsection (3).

Secondment or transfer of staff to the Commission

20. The Commission may utilise the services of persons seconded or transferred from the public service in accordance with the provisions of the Public Service Act, 1994 (Proclamation No. 103 of 1994).

CHAPTER 5**DETERMINATION OF PROVINCIAL CODE OF CONDUCT FOR FILM PRODUCERS****Provincial Code of Conduct for Film Producers**

21. (1) The responsible Member of the Executive Council after consultation with the Board, must determine a Provincial Code of Conduct for Film Producers.

(2) The Provincial Code of Conduct for Film Producers takes effect upon the publication of the notice in the Gazette.

(3) The responsible Member of the Executive Council may, by notice in the *Gazette* and after consultation with the Board –

- (a) amend;
- (b) substitute; or
- (c) withdraw,

the Provincial Code of Conduct for Film Producers.

Policy directives

22. The responsible Member of the Executive Council may –

- (a) set strategic guidelines for the pursuit of the Commission's objectives;
- (b) issue policy directives to the Board; and
- (c) withdraw or amend any strategic guideline or policy directive issued in terms of paragraph (a).

CHAPTER 6 FUNDING AND FINANCIAL MANAGEMENT OF THE COMMISSION

Funds of the Commission

23. (1) The funds of the Commission consist of –

- (a) money appropriated by the Provincial Legislature;
- (b) interest on investments of the Commission; and
- (c) income lawfully derived from any other source.

(2) The Commission must utilise its funds –

- (a) for the payment of remuneration, allowances and subsistence and travelling expenses of –
 - (i) the members of the Board;
 - (ii) the Chief Executive Officer; and
 - (iii) the members of staff of the Commission; and
- (b) to cover costs in connection with –
 - (i) the day to day operation and administration of the Commission; and
 - (ii) the performance of the duties and functions of the Commission and the exercise of its powers in terms of this Act.

- (3) The Chief Executive Officer must with the concurrence of the Board –
- (a) open an account in the name of the Commission with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990); and
 - (b) deposit therein all money received in terms of subsection (1).
- (4) The Board, in consultation with the responsible Member of the Executive Council, must determine –
- (a) the remuneration and conditions of service; and
 - (b) the pension and retirement benefits,
- of the Chief Executive Officer and the other members of staff of the Commission.
- (5) The Commission may invest monies deposited into its account which are not required for immediate use: Provided that the Board takes reasonable steps to ensure that the investment is not of a speculative nature.
- (6) The Commission may not borrow money or issue guarantees, indemnities or securities or enter into any other transactions that bind it, unless such borrowing, guarantee, indemnity, security or other transaction is authorised in terms of this Act and not in conflict with the Public Finance Management Act, 1999 (Act No. 1 of 1999).

Financial management

24.(1) The Chief Executive Officer must cause full and proper books of account and all the necessary records in relation thereto to be kept.

(2) The Chief Executive Officer must ensure that the Commission's annual budgets, corporate plans, annual reports and audited financial statements are prepared and submitted in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(3) The Chief Executive Officer must, within three months before the end of each financial year, submit to the Board for approval –

- (a) a business plan for the Commission, containing measurable objectives and the other information contemplated in section 25(3)(b) and (c); and
- (b) a statement of the estimated income and expenditure of the Commission, in respect of the following three financial years.

(4) In any financial year the Chief Executive Officer may submit to the Board for approval adjusted or supplementary statements of the estimated income and expenditure of the Commission for that financial year.

(5) The Commission may not enter into any financial commitment beyond its approved budget and accumulated reserves.

(6) The Chief Executive Officer may with the approval of the Board –

- (a) invest any unexpended portion of its funds with the Corporation for Public Deposits or any other institution categorised or listed from time to time by the National Treasury as a Category “A1” financial institution; or
- (b) dispose of that portion in any other manner.

(7) The Chief Executive Officer may, with the approval of the Board, establish reserve funds and deposit therein such amounts as the Board approves.

Audit and annual report

25. (1) The Auditor-General must audit the financial statements of the Commission.

(2)(a) The Board must table a report on the activities of the Commission during a financial year, in the Provincial Legislature, within five months after the end of that financial year; and

(b) within five months after the report has been tabled, a delegation consisting of the Chairperson of the Board and at least two other members of the Board must brief the relevant Portfolio Committee on the annual report.

(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 Commission has achieved or advanced its objects referred to in section 3 and the measurable objectives as set out in its business plan as contemplated in section 24(3)(a) during the financial year concerned; and
- (c) contain relevant performance information regarding the economic, efficient and effective application of resources and specifically a comparison between planned and actual performance indicators as set out in that business plan.

Financial year of the Commission

26. The financial year of the Commission commences on 1 April of a particular year and ends on 31 March of the following year.

Immovable property

27. The Commission may, in terms of a policy and procedures determined by the Board and with the approval of the responsible Member of the Executive Council, acquire, hold or dispose of immovable property in the course of its business.

Legal proceedings against the Commission

28.(1) Any legal proceedings against the Commission must be instituted in accordance with the Institution of Legal Proceedings against certain Organs of State Act, 2002 (Act No. 40 of 2002).

(2) The Commission is, for purposes of subsection (1), regarded as an organ of state contemplated in paragraph (c) of the definition thereof in section 1 of the said Act.

CHAPTER 7 GENERAL PROVISIONS

Security of confidential information held by the Commission

29.(1) Subject to the Constitution and the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), no person may disclose any information submitted to the Commission in connection with any legal brief or instruction, unless –

- (a) he or she is ordered to do so by a court of law; or
- (b) the person who gave such brief or instruction consents thereto in writing.

(2) No person may disclose any information kept in the register contemplated in sections 7, 16(4) and 19(4) unless such disclosure is –

- (a) in terms of any law that compels or authorises such disclosure;
- (b) materially necessary for the proper functioning of the Commission; or
- (c) made for purposes of monitoring, evaluating, investigating or considering any activity relating to the Commission, or any member of staff of the Commission.

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

Dissolution of the Commission

30. The Commission may only be dissolved in terms of an Act of the Provincial Legislature.

Use of name of the Commission

31.(1) No person may, without the prior written authorisation of the Commission, in any way represent or make use of the name, acronym, logos, designs or material used or owned by the Commission.

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

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

Delegations

32. (1) The responsible Member of the Executive Council may delegate to the Board –

- (a) any power conferred on the responsible Member of the Executive Council by this Act, except the power to make regulations referred to in section 33; or
- (b) any duty imposed on the responsible Member of the Executive Council by this Act, except any duty regarding the appointment, and termination of office, of the members of the Board contemplated in sections 5(1)(a), 6 and 9(2).

(2) The Board may, by a special resolution, delegate to the Chief Executive Officer or staff member of the Commission, any power or duty conferred or imposed on the Board by this Act.

(3) The Chief Executive Officer may delegate to any member of staff of the Commission any power or duty conferred or imposed on the Chief Executive Officer by this Act, except any power or duty as accounting officer of the Commission.

(4) Any power or duty delegated in terms of subsection (1), (2) or (3) must be exercised or performed subject to such conditions as the person or body that made the delegation considers necessary.

(5) A delegation referred to in subsection (1), (2) or (3) –

- (a) must be in writing;
- (b) does not prohibit the person or body that made the delegation from exercising that power or performing that duty; and
- (c) may at any time be withdrawn or amended in writing by that person or body.

Regulations

33. The responsible Member of the Executive Council may, in consultation with the Board and by notice in the *Gazette*, make regulations regarding –

- (a) any matter that may be prescribed in terms of this Act; or
- (b) any administrative or procedural matter necessary to give effect to the provisions of this Act.

Winding-up of Company and transitional provisions incidental thereto

34.(1)(a) The Company, KwaZulu-Natal Film Commission, bearing Company Registration Number 2003/028677/08, established in terms of the Companies Act, 1973 (Act No. 61 of 1973), must be voluntarily wound up and deregistered; and

(b) the members of the Company must, in winding-up the Company referred to in paragraph (a), act with due speed and diligence and must, amongst other things, comply with sections 349 and 350 of the Companies Act, 1973 (Act No. 61 of 1973).

(2) On the date of the winding-up of the Company contemplated in subsection (1), all assets, liabilities, rights, duties and obligations, including any unspent portion of any funds accrued or received by the Company are transferred to, and vest in, the KwaZulu-Natal Film Commission established in terms of section 2.

(3) The Commission is, in respect of the assets, liabilities, rights, duties and obligations and funds referred to in subsection (2), for all purposes the successor-in-law of, and the successor-in-title to, the Company.

(4) The members of the Board of the Company must act as duly authorised and empowered members of the Board of the Commission until such time as the responsible Member of the Executive Council has in terms of section 5(1)(a) appointed the Board in terms of this Act.

(5) All members of staff of the Company must, within six months of the commencement of this Act, be made an employment offer by the responsible Member of the Executive Council for transfer to the Commission on a date determined by the responsible Member of the Executive Council.

(6) The remuneration, benefits and privileges offered by the responsible Member of the Executive Council, in accordance with subsection (5), may not be less favourable than those payable to the staff member by the Company, immediately prior to his or her transfer.

(7) For the purposes of the Income Tax Act, 1962 (Act No. 58 of 1962), no change of employer is deemed to have taken place in respect of a staff member who accepts an employment offer contemplated in subsection (5).

(8) When a person becomes a staff member of the Commission in terms of subsection (5) –

(a) he or she retains all vacation leave which accrued to his or her credit up to the date immediately before the date of transfer, adjusted in accordance with the conditions of employment of the Commission; and

(b) any inquiry instituted or intended to be instituted in respect of alleged misconduct committed by such person before the date of transfer must be disposed of or instituted by the Commission and the Commission must take appropriate steps against the person concerned in accordance with the laws, policy and conditions of employment or service applicable to him or her immediately prior to the date of transfer.

General offences

35. (1) A member of the Board, a member of staff, an adviser, agent or any other person employed or acting on behalf of the Commission is guilty of an offence if he or she directly or indirectly accepts any bribe and or receives any unauthorised fee or reward from any person in connection with anything done or offered by the Commission.

(2) Any person is guilty of an offence if he or she, in respect of or in connection with anything done or offered by the Commission induces or attempts to influence a member of the Board, a member of staff, an adviser, agent or any other person employed by, or acting on behalf of the Commission to commit a criminal offence.

(3) Any person who falsely claims that he or she is authorised to charge or collect fees, donations or contributions on behalf of, or by direction of the Commission, is guilty of an offence.

Penalties

36. Any person convicted of an offence in terms of this Act is liable to a fine or to imprisonment for a period not exceeding 5 years or to both such fine and imprisonment.

Short title

37. This Act is called the KwaZulu-Natal Film Commission Act, 2010.

No. 5

21 Oktober 2010

[Engelse teks deur die Premier geteken]

KWAZULU-NATAL
WET OP DIE ROLPRENTKOMMISSIE, 2010
(No. 03 van 2010)

Goedgekeur op 09-09-2010

WET

Om voorsiening te maak vir die instelling van die KwaZulu-Natal Rolprentkommissie; om die oogmerke, bevoegdhede, pligte en funksies van die KwaZulu-Natal Rolprentkommissie te bepaal; om die wyse waarop die KwaZulu-Natal Rolprentkommissie bestuur, gereël, van personeel voorsien en gefinansier moet word, te bepaal en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

WORD DAAR DERHALWE deur die Provinsiale Wetgewer van die provinsie KwaZulu-Natal soos volg bepaal:—

RANGSKIKKING VAN ARTIKELS

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HOOFSUK 1 OMSKRYWINGS

Omskrywings

1. In hierdie Wet, tensy uit die konteks anders blyk, beteken –

"Departement" die Departement in die provinsiale regering van KwaZulu-Natal verantwoordelik vir ekonomiese ontwikkeling en toerisme;

"die rolprentbedryf" die rolprent-, TV-, video- en verwante multimediebedryf;

"georganiseerde plaaslike regering" die KwaZulu-Natal Vereniging vir Plaaslike Regerings daardie organisasie in die provinsie van KwaZulu-Natal wat ingevolge artikel 2 van die Wet op Georganiseerde Plaaslike Regering, 1997 (Wet No. 52 van 1997) erken word as verteenwoordigend van die meerderheid munisipaliteite in die provinsie;

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

"Handel en Belegging KwaZulu-Natal" –

(a) die vereniging ingelyf kragtens artikel 21 van die Maatskappywet, 1973 (Wet No. 61 van 1973), met Maatskappyregistrasienuommer 98/11946/08; of

(b) die regsopvolger en opvolger in titel van sodanige vereniging.

"hierdie Wet" insluitend die regulasies;

"Hoof- Uitvoerende Beampte" die Hoof- Uitvoerende Beampte van die Kommissie, aangestel ingevolge artikel 16;

"Hoof van Departement" die persoon wat aangestel is as Hoof van die Departement ingevolge die Staatsdienswet, soos gewysig;

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

"Kommissie" die KwaZulu-Natal Rolprentkommissie ingestel ingevolge artikel 2;

"lid" 'n lid van die Raad van die Kommissie aangestel ingevolge artikel 5;

"lid van die Uitvoerende Raad verantwoordelik vir finansies" die lid van die Uitvoerende Raad van die provinsie KwaZulu-Natal verantwoordelik vir finansies;

"Maatskappy" die vereniging ingelyf kragtens artikel 21 van die Maatskappywet, 1973 (Wet No. 61 van 1973), met registrasienommer 2003/028677/08 en bekend as die KwaZulu-Natal Rolprentkommissie;

"Nywerheid-ontwikkelingskorporasie" die openbare korporasie ingestel kragtens artikel 2 van die Wet op die Nywerheid-ontwikkelingskorporasie, 1940 (Wet No. 22 van 1940);

"Portefeuljekomitee" die Portefeuljekomitee van die Provinsiale Wetgewer verantwoordelik vir ekonomiese ontwikkeling en toerisme;

"Provinsiale regering" die regering van die provinsie van KwaZulu-Natal;

"Provinsiale Wetgewer" die Wetgewer van die provinsie van KwaZulu-Natal soos bedoel in artikel 105 van die Grondwet, met die wetgewende gesag vir die provinsie soos bedoel in artikel 104(1) van die Grondwet;

"provinsie" die provinsie van KwaZulu-Natal bedoel in artikel 103 van die Grondwet en **"provinsiale"** het 'n ooreenstemmende betekenis;

"Raad" die Raad van die Kommissie aangestel ingevolge artikel 5;

"regulasies" regulasies uitgevaardig ingevolge artikel 33;

"rolprent" enige reeks visuele beelde wat op so 'n wyse opgeneem word dat met die gebruik van sodanige opname, sodanige beelde beskou sal word as 'n bewegende prent, insluitend enige prent wat vir vertoning bestem is deur enige medium of toestel;

"rolprentproduksie" die aksie of geval van die produksie van 'n rolprent;

"produksieleier" 'n natuurlike of regspersoon gemoeid met rolprentproduksie ;

"rolprentprodukte" die resultaat van rolprentproduksie;

"Uitvoerende Raad" die Uitvoerende Raad van die provinsie van KwaZulu-Natal bedoel in artikel 132 van die Grondwet;

"verantwoordelike lid van die Uitvoerende Raad" die lid van die Uitvoerende Raad van die provinsie van KwaZulu-Natal verantwoordelik vir ekonomiese ontwikkeling en toerisme of enige ander lid van die Uitvoerende Raad wat deur die Premier toegewys is;

"voorgeskryf" voorgeskryf deur regulasie kragtens artikel 33, en "voorskryf" het 'n ooreenstemmende betekenis.

HOOFSTUK 2

KWAZULU-NATAL ROLPRENTKOMMISSIE

Instelling van die KwaZulu-Natal Rolprentkommissie

2.(1) 'n Kommissie word hierby ingestel vir die bevordering van die rolprentbedryf in die provisie en sal bekend staan as die KwaZulu-Natal Rolprentkommissie.

(2) Die Kommissie is 'n regspersoon wat deur die Raad werk.

(3) Die Kommissie is 'n 'n provinsiale openbare entiteit onderhewig aan die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

(4) Die Raad is die rekenpligtige gesag van die Kommissie, soos bedoel in artikel 49(2)(a) van die Wet op Openbare Finansiële Bestuur.

Oogmerke van Kommissie

3. Die oogmerke van die Kommissie is om –

- (a) die provinsie as 'n globale bestemming vir rolprentproduksie te bevorder en te bemark;
- (b) die rolprentbedryf in die provinsie plaaslik, nasionaal en internasionaal te ontwikkel, bevorder en bemark;
- (c) belegging in die rolprentbedryf in die provinsie moontlik te maak;
- (d) geleenthede aan persone, veral uit voorheen benadeelde gemeenskappe, te verskaf en om hulle aan te moedig om by die rolprentbedryf in die provinsie in te skakel en daaraan deel te neem;
- (e) historiese ongelykhede in die infrastruktuur en in die verspreiding van vaardighede en hulpbronne in die rolprentbedryf in die provinsie aan te spreek; en
- (f) by te dra tot 'n magtigingsomgewing vir werkskepping in die rolprentbedryf in die provinsie.

Bevoegdhede, pligte en funksies van die Kommissie

4.(1) Die Kommissie moet –

- (a) fondse wat deur die Provinsiale Wetgewer bewillig is, administreer;
- (b) befondsing uit ander bronne as bewilligings van die Provinsiale Wetgewer inisieer en administreer;
- (c) internasionale rolprentproduksies na die provinsie lok;
- (d) die instelling, ontwikkeling en groei van infrastruktuur en fasiliteite vir die rolprentbedryf in die provinsie moontlik maak;
- (e) buitelandse en plaaslike belegging en befondsing lok vir die instelling, ontwikkeling en groei van infrastruktuur en fasiliteite vir die vervaardiging van rolprentprodukte in die provinsie;

- (f) menslike hulpbron- en menslike intellektuele ontwikkeling in die rolprentbedryf in die provinsie koördineer en moontlik maak;
- (g) raad, bystand en toegang tot provinsiale befondsing vir rolprentprodusente in die provinsie verskaf;
- (h) rolprentproduksies wat die kulturele diversiteit van die provinsie weerspieël, bevorder;
- (i) navorsing doen en ontwikkeling op alle terreine van rolprentproduksie in die provinsie bewerkstellig;
- (j) die provinsie bevorder as 'n ligging vir rolprentproduksies, plaaslik, nasionaal en internasionaal;
- (k) produksieleiers lok en hul inisiatiewe moontlik maak om rolprentproduksies in die provinsie uit te voer;
- (l) produksieleiers aanmoedig om provinsiale personeel en fasiliteite vir rolprentproduksies aan te wend;
- (m) verhoudings met plaaslike en internasionale persone, organisasies en rolprentkommissies vestig, om die oordrag van kennis en vaardighede aan die rolprentbedryf in die provinsie aan te moedig en moontlik te maak;
- (n) 'n databasis saamstel van, en inligting verskaf met betrekking tot –
 - (i) provinsiale produksieleiers, oudio-visuele tegnisi, akteurs, uitvoerende kunstenaars en musikante; en
 - (ii) akkommodasie, spyseniering, vervoer en ander verwante fasiliteite in die provinsie;
- (o) rolprentmakers adviseer oor enige aspek van rolprentproduksie insluitend, maar nie beperk nie tot, munisipale verordeninge, verkeersordonnansies, omgewingswetgewing en indiensnemingswetgewing en -praktyke; en
- (p) die provinsiale regering adviseer aangaande beleid en wetgewing, insluitend regulasies wat vereis word of toepaslik is vir die bevordering van die rolprentbedryf in die provinsie.

(2) Ten einde eenvormigheid en samewerking by alle staatsorgane in die provinsiale en plaaslike regeringsfeer te bevorder aangaande aangeleenthede met betrekking tot die rolprentbedryf, moet die Kommissie –

- (a) ten minste een maal per jaar, vergaderings tussen staatsorgane in die provinsiale en plaaslike sfere byeenroep wat 'n belang het in enige aangeleentheid met betrekking tot die rolprentbedryf;
 - (b) optree as 'n skakel tussen staatsorgane in beide provinsiale en plaaslike sfere en belanghebbendes in die rolprentbedryf in die provinsie; en
 - (c) met enige organisasie of struktuur of liggaam wat 'n belang in enige aangeleentheid met betrekking tot die rolprentbedryf het, skakel en in wisselwerking tree.
- (3) Ten einde sy verpligtinge uit te voer, kan die Kommissie –
- (a) 'n ooreenkoms met enige persoon met spesialis kennis op 'n spesifieke terrein aangaan, om sodoende die Kommissie by te staan of te adviseer aangaande enige aangeleentheid met betrekking tot sy oogmerke en funksies; en
 - (b) oor die algemeen alles doen wat nodig is om sy doelwitte te bereik.
- (4) Ten einde by te dra tot die ontwikkeling van menslike kapasiteit in die rolprentbedryf in die provinsie, kan die Kommissie beurse en studiebeurse gee aan studente wat in rolprentproduksie studeer of van voorneme is om daarin te studeer.

HOOFSTUK 3 RAAD VAN DIE KOMMISSIE

Samestelling van die Raad

5.(1) Die Raad bestaan uit –

- (a) ten minste vyf, maar nie meer as 20, lede aangestel deur die verantwoordelike lid van die Uitvoerende Raad; en
- (b) die Hoof- Uitvoerende Beampste, *ex officio*, soos bedoel in artikel 16(5).

(2) Lede van die Raad moet bekwame en geskikte persone wees en gesamentlik beskik oor –

- (a) toepaslike kennis, ondervinding en vaardighede in die rolprentbedryf, en
- (b) die volgende vaardighede en kundigheid –
 - (i) regsvaardighede, -ondervinding en -kwalifikasies;
 - (ii) finansiële vaardighede, ondervinding en kwalifikasies;
 - (iii) vaardighede in die gedrukte of elektroniese media;
 - (iv) vaardighede en ondervinding in gemeenskapsontwikkeling; en
 - (v) ondervinding in die vermaakbedryf.

(3) By aanstelling van lede op die Raad, moet die verantwoordelike lid van die Uitvoerende Raad verseker dat –

- (a) historiese ongelykhede aangespreek word; en
- (b) daar 'n balans van belange gehandhaaf word tussen persone wat –
 - (i) die Departement;
 - (ii) die Departement van Kuns en Kultuur;
 - (iii) die KwaZulu-Natal Toerisme-owerheid;
 - (iv) belanghebbendes in die rolprentbedryf;
 - (v) Handel en Belegging, KwaZulu-Natal;
 - (vi) georganiseerde plaaslike regering;
 - (vii) tersiêre instellings;
 - (viii) plaaslike rolprentkantore; en
 - (ix) die Nywerheid-ontwikkelingskorporasie,

verteenwoordig.

(4) Die verantwoordelike lid van die Uitvoerende Raad moet –

- (a) een van die lede van die Raad as die voorsitter van die Raad; en
- (b) een van die lede van die Raad as die adjunkvoorsitter van die Raad,

aanwys.

(5) Die lid van die Raad vermeld in subartikel 3(b)(i) –

- (a) moet skakeling tussen die verantwoordelike lid van die Uitvoerende Raad en die Raad moontlik maak;

- (b) moet van tyd tot tyd aan die verantwoordelike lid van die Uitvoerende Raad verslag doen met betrekking tot aangeleenthede wat tersaaklik geag word; en
- (c) kan vergaderings van die Raad bywoon en deelneem aan besprekings, maar het nie die reg om te stem wanneer 'n besluit van die Raad geneem word nie.

(6) Die verantwoordelike lid van die Uitvoerende Raad moet, deur middel van kennisgewing in die *Koerant* enige belanghebbende partye binne die provinsie uitnooi om kandidate vir aanstelling op die Raad te benoem.

(7) Die uitnodiging vir benoemings moet –

- (a) die benoemingsprosedure;
- (b) die vereistes vir benoemings; en
- (c) die sluitingsdatum vir die benoemings,

spesifiseer.

(8) Die verantwoordelike lid van die Uitvoerende Raad moet alle benoemings voorgelê in reaksie op die kennisgewing oorweeg, en kan 'n keuringspaneel aanstel bestaande uit senior departementele beamptes om al die benoemings te hersien en aanbevelings by die verantwoordelike lid van die Uitvoerende Raad te maak aangaande die kandidate.

(9) Die verantwoordelike lid van die Uitvoerende Raad moet die name van die persone aangestel op die Raad in die *Koerant* laat publiseer en in ten minste twee koerante met wye sirkulasie in die provinsie, onmiddellik nadat sodanige persone skriftelik in kennis gestel is van hul aanstelling op die Raad.

(10) Die verantwoordelike lid van die Uitvoerende Raad moet, binne twee maande na die aanstelling van lede van die Raad ingevolge subartikel (1), die Uitvoerende Raad en die Portefeuljekomitee inlig oor die name van die aangestelde lede asook die termyn van hul aanstelling.

(11) Hierdie artikel is, met die nodige veranderings, van toepassing op die vul van 'n vakature op die Raad.

Onbevoegdheid vir aanstelling op die Raad

6. 'n Persoon is onbevoeg om op die Raad aangestel te word of om op die Raad te bly, indien hy of sy –

- (a) 'n ongerehabiliteerde insolvent is of word;
- (b) deur 'n bevoegde hof as ontoerekeningsvatbaar verklaar is;
- (c) direk of indirek belang het by enige kontrak met die Kommissie en versuim om sy of haar belang en die aard daarvan te verklaar op die wyse wat deur hierdie Wet vereis word;
- (d) onder kuratorskap is;
- (e) te eniger tyd uit sy of haar vertrouensamp ontslaan is op grond van wangedrag wat diefstal of bedrog insluit;
- (f) skuldig bevind en gevonnissen is tot 'n termyn van gevangenisstraf sonder die keuse van 'n boete, buiten dat die verantwoordelike lid van die Uitvoerende Raad by die volle openbaarmaking van die misdryf in 'n plegtige verklaring deur sodanige benoemde 'n skuldigbevinding kan kondoneer op 'n wyse wat ooreenstem met artikel 106(1)(e) van die Grondwet. Met dien verstande dat onbevoegdheid ingevolge hierdie subartikel vyf jaar nadat die vonnis voltooi is, tot 'n einde kom; of
- (g) versuim om 'n belang te verklaar in ooreenstemming met artikel 7 of die verrigtinge van die Raad bygewoon of daaraan deelgeneem het terwyl hy of sy 'n belang het soos bedoel in die vermelde artikel.

Verklaring van finansiële of ander belange van lid van die Raad

7.(1) 'n Persoon wat benoem is om op die Raad te dien ingevolge subartikel 5(6) moet, binne 10 dae nadat hy of sy benoem is, 'n skriftelike verklaring voorlê aan die verantwoordelike lid van die Uitvoerende Raad van alle direkte of indirekte belange in enige maatskappy en van enige ander sakebelange.

(2) Enige versuim deur 'n benoemde om finansiële en ander belange te verklaar ingevolge subartikel (1) maak sodanige benoemde ingevolge artikel 6 onbevoeg vir aanstelling op die Raad.

(3) Elke lid van die Raad moet, by aanvaarding van 'n amp en aan die begin van elke finansiële jaar van die Kommissie, 'n skriftelike verklaring voorlê van sy of haar direkte of indirekte belang in enige maatskappy of ander sakebelange op die wyse soos bepaal in artikel 234(3)(a) van die Maatskappywet, 1973 (Wet No. 61 van 1973).

(4) Waar 'n lid van die Raad, te eniger tyd gedurende sy of haar ampsbekleding as 'n lid van die Raad, 'n belang in enige maatskappy of ander sakebelange verkry, moet hy of sy, binne 10 dae vanaf die datum van die verkryging van sodanige belang, 'n skriftelike verklaring aan die verantwoordelike lid van die Uitvoerende Raad van sodanige belang voorlê.

(5) Enige versuim deur die lid om sy of haar belange te verklaar soos bedoel in subartikel (3) en (4) sal die beëindiging van die aanstelling van sodanige lid tot gevolg hê ingevolge artikel 9(2).

(6) Die verantwoordelike lid van die Uitvoerende Raad moet 'n opgedateerde register byhou van die belange van lede van die Raad soos verklaar ingevolge hierdie artikel.

Ampstermyn en heraanstelling van lid van die Raad

8. Die persoon wat op die Raad aangestel word, behou die amp vir 'n tydperk van vyf jaar of sodanige korter tydperk soos die verantwoordelike lid van die Uitvoerende Raad mag bepaal en is, onderhewig aan artikel 5, benoembaar vir heraanstelling by die verstryking van sodanige tydperk: Met dien verstande dat geen persoon heraangestel mag word nadat hy of sy vir 'n aaneenlopende tydperk van 10 jaar op die Raad gedien het nie.

Vakatures, ontslag en bedanking uit amp van lid van die Raad

9.(1) 'n Lid van die Raad moet sy of haar amp ontruim indien hy of sy onbevoeg raak soos bedoel in artikel 6.

(2) Die verantwoordelike lid van die Uitvoerende Raad kan, nadat hy of sy aan 'n lid die geleentheid gebied het om sy of haar saak te stel, te eniger tyd die ampstermyn van sodanige lid beëindig indien daar, na sy of haar mening, goeie, afdoende en regverdigbare redes daarvoor is.

(3) 'n Lid moet sy of haar amp ontruim indien hy of sy afwesig is, sonder dat verlof tot afwesigheid deur die Raad vooraf toegestaan is, van twee opeenvolgende vergaderings van die Raad waarvoor redelike kennis persoonlik of per pos aan daardie lid gegee is.

(4) 'n Lid mag uit sy of haar amp bedank deur nie minder nie as 30 dae skriftelike kennis te gee aan die verantwoordelike lid van die Uitvoerende Raad: Met dien verstande dat die verantwoordelike lid van die Uitvoerende Raad afsien van die kennisgewingtydperk.

(5) Wanneer 'n vakature op die Raad ontstaan, moet die verantwoordelike lid van die Uitvoerende Raad, onderhewig aan artikel 5, 'n persoon aanstel om sodanige vakature te vul vir die onverstrykte gedeelte van die ampstydperk van die lid in wie se plek sodanige persoon aangestel is.

(6) In die geval dat die verantwoordelike lid van die Uitvoerende Raad sy of haar bevoegdhede ingevolge subartikel (6) uitvoer, kan hy of sy, niesteenstaande die prosedure vir die aanstelling van lede van die Raad soos uiteengesit in artikel 5, onderhewig aan subartikel 5(2) en 5(3) persone aanstel om op tussentydse grondslag as lede van die Raad te dien: Met dien verstande dat –

- (a) die persone aangestel ingevolge hierdie subartikel nie op die Raad mag aanbly vir 'n tydperk van meer as 90 dae na die datum van hul aanstelling nie; en
- (b) die verantwoordelike lid van die Uitvoerende Raad, onderhewig aan artikel 5, die permanente lede van die Raad binne 90 dae na die aanstelling bedoel in hierdie subartikel moet aanstel.

Tydlike skorsing van lid van die Raad

10. Die verantwoordelike lid van die Uitvoerende Raad mag 'n lid van die Raad skors terwyl die verantwoordelike lid van die Uitvoerende Raad bewerings ondersoek wat,

indien daar gevind word dat dit korrek is, kan lei tot beëindiging van die lid se aanstelling ingevolge artikel 9(2).

Vergaderings en prosedures by vergaderings van die Raad

11.(1) Die eerste vergadering van die Raad moet gehou word op 'n datum, tyd en plek bepaal deur die verantwoordelike lid van die Uitvoerende Raad, waarna alle toekomstige vergaderings moet plaasvind soos deur die voorsitter bepaal.

(2) Die kworum vir 'n vergadering van die Raad is 'n meerderheid van die lede van die Raad.

(3) Die verrigtinge by 'n vergadering van die Raad moet, onderhewig aan die bepalings van hierdie artikel, bepaal word deur die voorsitter insluitend die reg om te besluit dat enige aangeleentheid onder bespreking onttrek mag word voordat daarvoor gestem word.

(4) Die voorsitter moet voorsit op alle vergaderings van die Raad. Indien die voorsitter afwesig is, moet die adjunkvoorsitter voorsit en in die geval dat beide die voorsitter en die adjunkvoorsitter afwesig is van 'n vergadering van die Raad, kan die lede wat dan teenwoordig is, uit hul eie geledere 'n persoon kies om op te tree as voorsitter vir die duur van daardie spesifieke vergadering.

(5) 'n Besluit van die Raad moet geneem word deur 'n meerderheid van die stemme van die lede teenwoordig by 'n vergadering en, in die geval van 'n staking van stemme aangaande enige aangeleentheid, het die voorsitter 'n beslissende stem buiten sy of haar gewone stem.

(6) Die Raad moet notule hou van sy vergaderings.

(7) Geen besluit van die Raad is ongeldig bloot op gronde van 'n vakature in die Raad nie: Met dien verstande dat die besluit geneem word deur die vereiste meerderheid van die lede van die Raad dan teenwoordig en geregtig daarop om as lede van die Raad te sit.

(8) Die voorsitter, of 'n meerderheid van lede van die Raad, kan 'n buitengewone vergadering van die Raad byeenroep in welke geval die bepalings van hierdie artikel van toepassing is met die nodige veranderings.

(9) Die Raad mag, volgens sy diskresie, lede van die publiek toelaat om enige vergadering van die Raad by te woon.

Onttrekking van 'n lid van vergaderings en verrigtinge van die Raad

12.(1) 'n Lid van die Raad moet hom- of haarself onttrek van 'n aangeleentheid wat deur die Raad ondersoek of oorweeg of waaroor gestem word indien een of meer van die volgende plaasvind –

- (a) indien hy of sy 'n direkte of indirekte belang in die aangeleentheid het; of
- (b) indien daar 'n moontlikheid is dat 'n direkte of indirekte belang in die aangeleentheid mag opduik.

(2) Indien dit, te eniger tyd gedurende die loop van enige verrigtinge voor die Raad, blyk dat 'n lid wat by daardie vergadering teenwoordig is, 'n belang bedoel in subartikel (1) het of mag hê, moet sodanige lid onverwyld die aard van sy of haar belang verklaar en die vergadering verlaat.

(3) Enige verklaring gemaak ingevolge subartikel (1) moet in die notule van die betrokke vergadering opgeneem word.

(4) Indien dit blyk dat die Raad 'n besluit geneem het aangaande 'n aangeleentheid met betrekking waartoe 'n lid versuim het om 'n belang bedoel in subartikel (1) te verklaar, is sodanige besluit deur die Raad ongeldig.

(5) Vir die doeleindes van hierdie artikel sluit "indirekte belang" in, maar is nie beperk nie tot, 'n belang gehou deur enige lid se –

- (a) sakevennoot, medewerker of werkgewer, buiten die staat;
- (b) eggenoot, gade in 'n gewoontehuwelik, of persoon saam met wie sodanige lid woon of leef asof hul getroud is; of
- (c) kind, ouer, broer of suster.

Besoldiging van lede van die Raad

13.(1)(a) Onderhewig aan subartikel 2(a), kan 'n lid van die Raad betaal word uit die fondse van die Kommissie sodanige besoldiging en toelaes soos bepaal deur die verantwoordelike lid van die Uitvoerende Raad in oorleg met die Lid van die Uitvoerende Raad verantwoordelik vir finansies; en

(b) 'n Lid van die Raad wat besoldiging, toelaes of ander voordele ontvang uit hoofde van sy of haar pos of aanstelling in –

(i) die nasionale regering;

(ii) 'n provinsiale regering;

(iii) 'n munisipaliteit; of

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

wat voortgaan om sodanige besoldiging, toelaes of ander voordele te ontvang terwyl hy of sy as 'n lid van die Raad dien, mag slegs besoldiging en toelaes vermeld in paragraaf (a) ontvang tot die omvang vereis om sodanige lid in die finansiële posisie te plaas waarin hy of sy sou wees as dit nie vir sodanige pos of aanstelling was nie.

(2)(a) 'n Lid van die Raad en 'n persoon wat tot die Raad gekoöpteer is mag, met betrekking tot sy of haar funksies as 'n lid of gekoöpteerde lid, terugbetaling ontvang uit die fondse van die Kommissie vir redelike werklike reis- en verblyfuitgawes wat genoodsaak is deur die werklike bywoning van 'n vergadering van die Raad; en

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

Instelling van komitees om die Raad by te staan

14.(1) Die Raad kan komitees instel wat uit een of meer van sy lede bestaan om –

(a) die Raad by te staan in die uitoefening van enige van die bevoegdhede, pligte of funksies van die Kommissie bedoel in artikel 4; of

(b) navraag of navorsing doen aangaande enige aangeleentheid wat binne die mandaat van die Raad ingevolge hierdie Wet val.

(2) Wanneer 'n komitee bedoel in subartikel (1) ingestel moet word, moet die Raad –

(a) die opdrag van sodanige komitee bepaal of insluitend, maar nie beperk nie tot, sodanige Komitee ophou voortbestaan wanneer hy die taak of take voltooi het wat deur die Raad daaraan toegewys is of nie;

(b) 'n voorsitter of sodanige komitee aanstel wat 'n lid van die Raad moet wees; en

(c) bepaal of sodanige komitee persone kan koöpteer wat nie lede van die Raad is nie en, indien wel, op watter terme en voorwaardes.

(3) Die Raad kan, te eniger tyd, die bestaan van 'n komitee of enige mandaat wat aan 'n komitee gegee word, beëindig, ongeag of sodanige komitee die taak of take wat deur die Raad daaraan toegewys is, voltooi het.

4(a) Die Hoof- Uitvoerende Beampte kan vergaderings van die Raad bywoon en daaraan deelneem, maar het nie die reg om te stem nie.

(b) 'n Personeellid van die Raad kan, op uitnodiging van die tersaaklike komitee, 'n vergadering van daardie komitee bywoon.

Koöptering van persone op die Raad of komitees van die Raad

15.(1) Die Raad kan, indien hy van mening is dat 'n spesifieke persoon in staat is om bystand te verleen ten opsigte van enige van die Raad se funksies en bevoegdhede, sodanige persoon vir daardie doel koöpteer.

(2) 'n Persoon wat gekoöpteer is ingevolge subartikel (1) is nie daarop geregtig om by enige vergadering van die Raad of 'n komitee te stem nie.

(3) 'n Persoon wat gekoöpteer is ingevolge subartikel (1) kan sodanige besoldiging en toelaes uit die fondse van die Kommissie ontvang soos deur die Raad bepaal ooreenkomstig artikel 13(2)(a) in oorleg met die lid van die Uitvoerende Raad verantwoordelik vir finansies.

HOOFSTUK 4

HOOF- UITVOERENDE BEAMPTE EN PERSONEEL VAN DIE KOMMISSIE

Hoof- Uitvoerende Beampte van die Kommissie

16.(1) Die Raad moet, in oorleg met die verantwoordelike lid van die Uitvoerende Raad, 'n toepaslik gekwalifiseerde, vaardige en ervare persoon aanstel as Hoof- Uitvoerende Beampte van die Kommissie; en

(2)(a) Die Hoof- Uitvoerende Beampte is aangestel vir 'n tydperk wat nie vyf jaar oorskry nie.

(b) Die Hoof- Uitvoerende Beampte kan heraangestel word vir een verdere tydperk wat nie vyf jaar oorskry nie.

(3)(a) Die aanstelling van die Hoof- Uitvoerende Beampte is onderhewig aan die sluiting van 'n skriftelike prestasie-ooreenkoms aangegaan tussen daardie persoon en die Raad; en

(b) Die Raad en die Hoof- Uitvoerende Beampte kan, skriftelik en by ooreenkoms, die prestasie-ooreenkoms wysig.

(4) Vir doeleindes van die verklaring van finansiële of ander belange, is die bepalings van artikel 7 met die nodige veranderings van toepassing op die Hoof- Uitvoerende Beampte buiten dat die Hoof- Uitvoerende Beampte sy of haar belange aan die Raad moet verklaar.

(5) Die Hoof- Uitvoerende Beampte is 'n *ex officio*-lid van die Raad maar het nie die reg om te stem by vergaderings van die Raad nie.

Funksies van die Hoof- Uitvoerende Beampte

17.(1) Die Hoof- Uitvoerende Beampte is verantwoordelik vir –

(a) die administratiewe en finansiële bestuur van die Raad in ooreenstemming met die Wet op die Bestuur van Openbare Finansies, 1999 (Wet No. 1 van 1999), en die opdrag van die Raad;

(b) in oorleg met die Raad, die aanstelling van personeellede van die Kommissie bedoel in artikel 19(1) in oorleg met die Raad;

(c) in oorleg met die Raad, die bepaling van 'n gedragskode in oorleg met die Raad, van toepassing op die Hoof- Uitvoerende Beampte, alle personeel van die Kommissie en bereikbaar vir doeleindes van dissiplinêre verrigtinge, om –

(i) voldoening aan toepaslike reg, insluitend hierdie Wet;

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

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

(iv) die voorkoming van konflik van belang;

(v) die beskerming van vertroulike inligting gehou deur die Kommissie; en

(vi) professionele, eerlike, onpartydige, regverdige, etiese en billike diens,

te verseker;

(d) die handhawing van dissipline oor die personeel aangestel ingevolge paragraaf (b) en moet, vir daardie doeleindes, teenoor die Raad aanspreeklik wees;

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

(f) versekering van nakoming deur die Raad van die bepalings van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), en enige ander toepaslike wetgewing.

(2) Indien die Hoof- Uitvoerende Beampte om enige rede nie in staat is om enige van sy of haar funksies uit te voer nie, moet die Raad, skriftelik, en in oorleg met die verantwoordelike lid van die Uitvoerende Raad, 'n ander persoon aanstel as Waarnemende Hoof- Uitvoerende Beampte totdat die Hoof- Uitvoerende Beampte in staat is om daardie funksies te hervat.

Bedanking en ontslag uit amp van die Hoof- Uitvoerende Beampte

18.(1) Die Hoof- Uitvoerende Beampte ontruim sy of haar amp –

- (a) in die geval van bedanking, wanneer die bedanking van krag word;
- (b) wanneer, ingevolge die Maatskappywet, 1973 (Wet No. 61 van 1973), die persoon wat daardie amp beklee, onbevoeg raak om te dien as direkteur van 'n maatskappy; en
- (c) by ontslag uit sy of haar amp ingevolge subartikel (2).

(2) Die Raad kan, in oorleg met die lid van die Uitvoerende Raad, die Hoof- Uitvoerende Beampte se diens beëindig in ooreenstemming met toepaslike diens- en arbeidswetgewing.

Personeel van die Kommissie

19.(1) Die Hoof- Uitvoerende Beampte moet, onderhewig aan subartikel (2), personeellede van die Kommissie aanwend soos redelikerwys nodig mag wees om –

- (a) hom of haar by te staan in die verrigting van sy of haar funksies ingevolge hierdie Wet; en
- (b) die Raad by te staan met die werk verbonde aan die Raad se verrigting van sy funksies.

(2) Die Raad moet, onderhewig aan artikel 23(4), 'n menslike hulpbronne-beleid vir personeellede van die Kommissie, insluitend die Hoof- Uitvoerende Beampte, bepaal.

(3) Vir doeleindes van die verklaring van finansiële of ander belange, en onderhewig aan artikel 17(1)(e), is die bepalings van artikel 7(3), (4) en (5) met die nodige veranderings van toepassing op personeellede van die Kommissie.

(4) Die Hoof- Uitvoerende Beampte moet 'n opgedateerde register byhou van die belange van personeellede van die Kommissie soos verklaar ingevolge hierdie subartikel (3).

Sekondering of oorpasing van personeel na die Kommissie

20. Die Kommissie kan die dienste aanwend van persone wat vanaf die staatsdiens gesekondeer of oorgeplaas is in ooreenstemming met die bepalings van die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994).

HOOFSTUK 5

BEPALING VAN PROVINSIALE GEDRAGSKODE VIR ROLPRENTPRODUSENTE

Provinsiale gedragskode vir rolprentprodusente

21.(1) Die verantwoordelike lid van die Uitvoerende Raad moet na oorleg met die Raad 'n provinsiale gedragskode vir rolprentprodusente bepaal.

(2) Die provinsiale gedragskode vir rolprentprodusente tree in werking by die publikasie van die kennisgewing in die *Koerant*.

(3) Die verantwoordelike lid van die Uitvoerende Raad kan, deur middel van kennisgewing in die *Koerant* en na oorleg met die Raad, die provinsiale gedragskode vir rolprentprodusente –

- (a) wysig;
- (b) vervang; of
- (c) onttrek.

Beleidsvoorskrifte

22.(a) Die verantwoordelike lid van die Uitvoerende Raad kan –

- (a) Strategiese riglyne vir die strewe na die Kommissie se doelwitte stel en kan beleidsvoorskrifte aan die Raad uitreik; en
- (b) Enige strategiese riglyn of beleidsopdrag wat ingevolge paragraaf (a) uitgereik is, onttrek of wysig.

HOOFSTUK 6

BEFONDSING EN FINANSIËLE BESTUUR VAN DIE KOMMISSIE

Fondse van die Kommissie

23.(1) Die fondse van die Kommissie bestaan uit –

- (a) geld bewillig deur die Provinsiale Wetgewer;
- (b) rente op beleggings van die Kommissie; en
- (c) inkomste wettig bekom uit enige ander bron.

(2) Die Kommissie moet sy fondse benut –

- (a) vir die betaling van besoldiging, toelaes en reis- en verblyfuitgawes van –
 - (i) die lede van die Raad;
 - (ii) die Hoof- Uitvoerende Beampte;
 - (iii) die personeellede van die Kommissie; en
- (b) om kostes te dek met betrekking tot –
 - (i) die dag-tot-dag werking en administrasie van die Kommissie; en
 - (ii) die verrigting van die pligte en funksies van die Kommissie en die uitoefening van sy bevoegdhede ingevolge hierdie Wet.

(3) Die Hoof- Uitvoerende Beampte moet, met die meewerking van die Raad –

- (a) 'n rekening oopmaak in die naam van die Kommissie by 'n instelling wat as 'n bank geregistreer is ingevolge die Bankwet, 1990 (Wet No. 94 van 1990); en
- (b) alle geld ontvang ingevolge subartikel (1) daarin deponeer.

(4) Die Raad, in oorleg met die verantwoordelike lid van die Uitvoerende Raad, moet –

- (a) die besoldiging en diensvoorwaardes; en
- (b) die pensioen- en aftreevoordele,

van die Hoof- Uitvoerende Beampte en die ander personeellede van die Kommissie bepaal.

(5) Die Kommissie kan gelde wat in sy rekening gedeponeer is, wat nie vir onmiddellike gebruik vereis word nie, belê: Met dien verstande dat die Raad redelike stappe doen om te verseker dat die belegging nie spekulatief van aard is nie.

(6) Die Kommissie word beperk van die leen van geld of uitreiking van waarborge, kwytskeldings of sekuriteite of die aangaan van enige ander transaksies wat die Kommissie bind, tensy sodanige leen, waarborg, kwytskelding, sekuriteit of ander transaksie gemagtig word ingevolge hierdie Wet en nie teenstrydig is nie met die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

Finansiële bestuur

24.(1) Die Hoof- Uitvoerende Beampte moet volledige en behoorlike boeke van die rekening en al die nodige verbandhoudende rekords laat hou.

(2) Die Hoof- Uitvoerende Beampte moet verseker dat die Kommissie se jaarlikse begrotings, korporatiewe planne, jaarverslae en geouditeerde finansiële state voorberei en voorgelê word ooreenkomstig die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

(3) Die Hoof- Uitvoerende Beampte moet, binne drie maande voor die einde van elke finansiële jaar –

(a) 'n besigheidsplan vir die Kommissie, wat meetbare doelwitte en die ander inligting bedoel in artikel 25(3)(b) en (c) bevat; en

(b) 'n staat van die berekende inkomste en uitgawes van die Kommissie, aan die Raad voorlê vir goedkeuring met betrekking tot die volgende drie finansiële jaar.

(4) In enige finansiële jaar kan die Hoof- Uitvoerende Beampte aangepaste of aanvullende state van die beraamde inkomste en uitgawe van die Kommissie vir daardie finansiële jaar aan die Raad voorlê vir goedkeuring.

(5) Die Kommissie mag geen finansiële verbintenis buiten sy goedgekeurde begroting en opgelope reserwes aangaan nie.

(6) Die Hoof- Uitvoerende Beampte kan met die Raad se goedkeuring –

(a) enige onbestede gedeelte van sy fondse belê by die Korporasie vir Openbare Deposito's of enige ander instelling van tyd tot tyd deur die Nasionale Tesourie gekategoriseer of gelys as 'n Kategorie "A1"- finansiële instelling; of

(b) op enige ander wyse oor daardie gedeelte beskik.

(7) Die Hoof- Uitvoerende Beampte kan, met die Raad se goedkeuring, reserwefondse stig en sodanige bedrae as wat die Raad goedkeur, daarin deponeer.

Oudit en jaarverslag

25.(1) Die Ouditeur-generaal moet die finansiële state van die Kommissie oudit.

(2)(a) Die Raad moet 'n verslag by die Provinsiale Wetgewer ter tafel lê oor die werksaamhede van die Kommissie gedurende 'n finansiële jaar, binne vyf maande na die einde van daardie finansiële jaar; en

(b) Binne vyf maande nadat die verslag ter tafel gelê is, moet 'n afvaardiging bestaande uit die voorsitter van die Raad en ten minste twee ander lede van die Raad die tersaaklike Portefeuljekomitee oor die jaarverslag inlig.

(3) Die verslag moet –

(a) 'n balansstaat en 'n staat van inkomste en uitgawes gesertifiseer deur die Ouditeur-generaal insluit;

(b) die omvang meld waartoe die Kommissie sy oogmerke vermeld in artikel 3 en die meetbare doelwitte soos in sy besigheidsplan uiteengesit soos bedoel in artikel 24(3)(a) gedurende die betrokke finansiële jaar bereik of bevorder het; en

(c) tersaaklike prestasie-inligting bevat aangaande die ekonomiese, effektiewe en doeltreffende toepassing van hulpbronne en in besonder 'n vergelyking tussen beplande en werklike prestasie-aanduiders soos uiteengesit in daardie besigheidsplan.

Finansiële jaar van die Kommissie

26. Die finansiële jaar van die Kommissie begin op 1 April van 'n spesifieke jaar en eindig op 31 Maart van die volgende jaar.

Vaste eiendom

27. Die Kommissie kan in die loop van sy besigheid, ingevolge 'n beleid en prosedures bepaal deur die Raad en met die goedkeuring van die verantwoordelike Lid van die Uitvoerende Raad, vaste eiendom verkry, hou of daarvoor beskik.

Regstappe teen die Kommissie

28.(1) Enige regstappe teen die Kommissie moet ingestel word in ooreenstemming met die Wet op die Instel van Regsgedinge teen sekere Staatsorgane, 2002 (Wet No. 40 van 2002).

(2) Die Kommissie word, vir doeleindes van subartikel (1), beskou as 'n staatsorgaan bedoel in paragraaf (c) van die omskrywing daarvan in artikel 1 van die vermelde Wet.

HOOFSTUK 7
ALGEMENE BEPALINGS

Sekerheid van vertroulike inligting wat deur die Kommissie gehou word

29.(1) Onderhewig aan die Grondwet en die Wet op die Bevordering van Toegang tot Inligting, 2000 (Wet No. 2 van 2000), mag geen persoon enige inligting wat aan die Kommissie voorgelê word in ooreenstemming met enige regsopdrag of -instruksie, verklaar nie tensy –

- (a) hy of sy deur 'n geregshof daartoe gelas word; of
- (b) die persoon wat sodanige regsopdrag of -instruksie gegee het, skriftelik daartoe instem.

(2) Geen persoon mag enige inligting gehou in die register bedoel in artikel 7, 16(4) en 19(4) verklaar nie tensy sodanige verklaring –

- (a) gemaak is ingevolge enige wet wat sodanige verklaring afdwing of magtig;
- (b) wesenlik nodig is vir die behoorlike funksionering van die Kommissie; of
- (c) gemaak is vir doeleindes van monitering, evaluering, ondersoek of oorweging van enige werksaamheid wat met die Kommissie of enige personeellid van die Kommissie verband hou.

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

Ontbinding van die Kommissie

30. Die Kommissie kan slegs ontbind word ingevolge 'n Wet van die Provinsiale Wetgewer.

Gebruik van naam van die Kommissie

31.(1) Geen persoon mag, sonder vooraf skriftelike magtiging van die Kommissie, op enige wyse die naam, akroniem, logo's, ontwerpe of materiaal wat deur die Kommissie gebruik of besit word, verteenwoordig of gebruik nie.

(2) Geen persoon mag valslik beweer dat hy of sy namens die Kommissie optree nie.

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

Delegering

32.(1) Die verantwoordelike lid van die Uitvoerende Raad kan aan die Raad –

(a) enige bevoegdheid verleen aan die verantwoordelike lid van die Uitvoerende Raad deur hierdie Wet deleger, buiten die bevoegdheid om regulasies vermeld in artikel 33 uit te vaardig; of

(b) enige plig wat aan die verantwoordelike lid van die Uitvoerende Raad opgelê is deur hierdie Wet deleger, behalwe enige plig aangaande die aanstelling en beëindiging van amp van die lede van die Raad bedoel in artikel 5(1)(a) en 9(2).

(2) Die Raad kan, deur 'n spesiale beslissing, enige bevoegdheid of plig wat deur die Raad verleen of opgelê word deur hierdie Wet aan die Hoof- Uitvoerende Beampte of personeellid van die Kommissie deleger.

(3) Die Hoof- Uitvoerende Beampte kan aan enige personeellid van die Kommissie enige bevoegdheid of plig deleger wat aan die Hoof- Uitvoerende Beampte deur hierdie

Wet gedeleger of opgelê is, buiten enige bevoegdheid of plig as rekenpligtige beampte van die Kommissie.

(4) Enige bevoegdheid of plig gedeleger ingevolge subartikel (1), (2) of (3) moet uitgeoefen of uitgevoer word onderhewig aan sodanige voorwaardes as wat die persoon of liggaam wat die delegasie gemaak het, nodig ag.

(5) 'n Delegasie vermeld in subartikel (1), (2) of (3) –

(a) moet skriftelik wees;

(b) verbied nie die persoon of liggaam wat die delegasie gemaak het om daardie bevoegdheid uit te oefen of daardie plig uit te voer nie; en

(c) kan te eniger tyd skriftelik deur daardie persoon of liggaam onttrek of gewysig word.

Regulasies

33. Die verantwoordelike lid van die Uitvoerende Raad kan, in oorleg met die Raad en deur middel van kennisgewing in die *Koerant*, regulasies uitvaardig aangaande –

(a) enige aangeleentheid wat voorgeskryf mag word ingevolge hierdie Wet; of

(b) enige administratiewe of prosedurele aangeleentheid nodig om uitvoering te gee aan die bepalings van hierdie Wet.

Likwidering van Maatskappy en oorgangsbepalings wat daarmee verband hou

34.(1)(a) Die Maatskappy, KwaZulu-Natal Rolprentkommissie, met Maatskappyregistrasienuommer 2003/028677/08, ingestel ingevolge die Maatskappywet, 1973 (Wet No. 61 van 1973), moet vrywillig gelikwideer en geskrap word; en

(b) Die lede van die Maatskappy moet, by likwidasië van die Maatskappy vermeld in paragraaf (a), onder andere voldoen aan artikel 349 en 350 van die Maatskappywet, 1973 (Wet No. 61 van 1973).

(2) Op die datum van die likwidasië van die Maatskappy bedoel in subartikel (1), word alle bates, aanspreeklikhede, regte, pligte en verpligtinge, insluitend enige onbestede gedeelte van enige opgelope fondse of fondse ontvang deur die Maatskappy,

oorgeplaas na, en is onder berusting van, die KwaZulu-Natal Rolprentkommissie ingestel ingevolge artikel 2.

(3) Die Kommissie is, met betrekking tot die bates, aanspreeklikhede, regte, pligte en verpligtinge en fondse vermeld in subartikel (2), vir alle doeleindes die regsopvolger en opvolger in titel van die Maatskappy.

(4) Die lede van die Raad van die Maatskappy moet optree as behoorlik gemagtigde en bemaagtigde lede van die Raad van die Kommissie tot sodanige tyd as wanneer die verantwoordelike lid van die Uitvoerende Raad ingevolge artikel 5(1) die Raad ingevolge hierdie Wet aangestel het.

(5) Alle personeellede van die Maatskappy moet, binne ses maande na die inwerkingtrede van hierdie Wet, 'n werksaanbod ontvang van die verantwoordelike lid van die Uitvoerende Raad vir oorplasing na die Kommissie op 'n datum bepaal deur die verantwoordelike lid van die Uitvoerende Raad.

(6) Die besoldiging, voordele en voorregte wat deur die verantwoordelike lid van die Uitvoerende Raad gebied word, in ooreenstemming met subartikel (5), mag nie minder wees as daardie betaalbaar aan die personeellid deur die Maatskappy, onmiddellik voor sy of haar oorplasing nie.

(7) Vir die doeleindes van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), word dit beskou as geen verandering van werkgewer met betrekking tot 'n personeellid wat 'n werksaanbod bedoel in subartikel (5) aanvaar nie.

(8) Wanneer 'n persoon 'n personeellid van die Kommissie word ingevolge subartikel

(5) –

(a) behou hy of sy alle vakansieverlof wat tot sy of haar krediet opgehoop het tot die datum onmiddellik voor die oorplasingdatum, aangepas in ooreenstemming met die diensvoorwaardes van die Kommissie; en

(b) moet die Kommissie beskik oor of enige ondersoek instel wat ingestel is of beoog was om ingestel te word met betrekking tot beweerde wangedrag wat deur sodanige persoon gepleeg is voor die datum van oorplasing en die

Kommissie moet toepaslike stappe teen die betrokke persoon doen in ooreenstemming met die wette, beleid en diensvoorwaardes of diens van toepassing op hom of haar onmiddellik voor die oorplasingdatum.

Algemene misdrywe

35.(1) 'n Lid van die Raad, 'n personeellid, adviseur, agent of enige ander persoon in diens by of wat namens die Kommissie optree, is skuldig aan 'n misdryf indien hy of sy direk of indirek enige omkoperij aanvaar en of enige ongemagtigde geld of beloning ontvang van enige persoon in ooreenstemming met enigiets wat deur die Kommissie gedoen of aangebied word.

(2) Enige persoon is skuldig aan 'n misdryf indien hy of sy ten opsigte van of met betrekking tot enigiets wat deur die Kommissie gedoen of aangebied word, enige personeellid of enige adviseur, agent of ander persoon in diens van of wat namens die Kommissie optree, oorreed of probeer beïnvloed om 'n krimenele oortreding te began.

(3) Enige persoon wat valslik beweert dat hy of sy gemagtig is om geld te eis of in te samel namens of in opdrag van die Kommissie, is skuldig aan 'n misdryf.

Strawwe

36. Enige persoon wat skuldig bevind is aan 'n misdryf ingevolge hierdie Wet stel hom- of haarself bloot aan 'n boete of gevangenisstraf vir 'n tydperk wat nie vyf jaar oorskry nie of beide.

Kort titel

37. Hierdie Wet heet die KwaZulu-Natal Wet op die Rolprentkommissie, 2010.

No. 5

21 kuMfumfu 2010

[Umbhalo wesiNgisi unyathelwe ngNdunankulu]

**UMTHETHO WEKHOMISHANA YEZAMAFILIMU
WAKWAZULU-NATALI, 2010**
(Umthetho Na. 03 ka 2010)

Uvunywe ngomhlaka 09-09-2010

UMTHETHO

Wokuhlinzekela ukusungulwa kweKhomishana Yezamafilimu YaKwaZulu-Natali; wokunquma izinhloso, amandla, izibopho kanye nemisebenzi yeKhomishana Yezamafilimu YaKwaZulu-Natali; wokunquma indlela iKhomishana yezamaFilimu yaKwaZulu-Natali ezophathwa ngayo, ezohlinzekwa ngayo ngabasebenzi kanye nangezimali; nokuhlinzekela okunye okuphathelene nalokho.

MAKUMISWE UMTHETHO yisiShayamthetho sesiFundazwe saKwaZulu-Natali, kanje:-

UKUHLELWA KWEZIGABA

Isigaba

ISAPHLUKO 1

IZINCAZELO

1. Izincazelo

ISAPHLUKO 2

IKHOMISHANA YEZAMAFILIMU YAKWAZULU-NATALI

2. Ukusungulwa kweKhomishana Yezamafilimu YaKwaZulu-Natali
3. Izinhloso zeKhomishana
4. Amandla, izibopho kanye nemisebenzi yeKhomishana

ISAPHLUKO 3

IBHODI YEKHOMISHANA

5. Ukubunjwa kweBhodi
6. Ukungafaneleki ukuqokelwa eBhodini
7. Ukudalulwa kokuhlomula ngokwezezimali noma ngokunye kwamalungu eBhodi
8. Isikhathi sokuba sesikhundleni kanye nokuqokwa kabusha kwelungu leBhodi
9. Izikhala, ukususwa kanye nokusula esikhundleni kwamalungu eBhodi
10. Ukumiswa okwesikhashana kwelungu leBhodi
11. Imihlangano kanye nezinqubo emihlanganweni yeBhodi
12. Ukuhoxa kwelungu emihlanganweni kanye nasezinqutsheni zeBhodi
13. Amaholo amalungu eBhodi
14. Ukusungulwa kwamakomidi azosiza iBhodi
15. Ukukhethwa kwabantu kwiBhodi noma emaKomidini eBhodi

ISAPHLUKO 4

ISIKHULU ESIPHEZULU KANYE NABASEBENZI BEKHOMISHANA

16. Isikhulu esiPhezulu seKhomishana

17. Imisebenzi yesiKhulu esiPhezulu
18. Ukwesula nokususwa esikhundleni kwesiKhulu esiPhezulu
19. Abasebenzi beKhomishana
20. Ukusiswa noma ukudluliselwa kwabasebenzi kwiKhomishana

ISAHLUKO 5

UKUNQUNYWA KOMGOMO WOKUZIPHATHA WABAQAMBI BAMAFILIMU WESIFUNDAZWE

21. Umgomo wokuziPhatha wabaQambi bamaFilimu wesiFundazwe
22. Imiyalelo yenqubomgomo

ISAHLUKO 6

UKUHLINZEKWA NGEZIMALI KANYE NOKUPHATHWA KWEZIMALI ZEKHOMISHANA

23. Izimali zeKhomishana
24. Ukuphathwa kwezimali
25. Ucwangingo kanye nombiko wonyaka
26. Unyaka wezimali weKhomishana
27. Impahla engenakususwa
28. Ukuthathelwa izinyathelo zomthetho kweKhomishana

ISAHLUKO 7

IZINHLINZEKO EZIJWAYELEKILE

29. Ukuvikelwa kolwazi oluyimfihlo olugodlwe yiKhomishana
30. Ukuhlakazwa kweKhomishana
31. Ukusetshenziswa kwegama leKhomishana
32. Ukudluliselwa kwamandla
33. Imithethonqubo
34. Ukuvalwa kweNkampani kanye nezinhlelo zesikhashana eziphathelele nalokho
35. Amacala ajwayelekile
36. Izinhlawulo
37. Isihloko esifingqiwe

ISAHLUKO 1
IZINCAZELO

Izincazelo

1. Kulo Mthetho, ngaphandle uma ingqikithi isho okwehlukile -

“**iBhodi**” kusho iBhodi yeKhomishana eqokwe ngaphansi kwesigaba 5;

“**isiKhulu esiPhezulu**” kusho isiKhulu esiPhezulu seKhomishana, esiqokwe ngokwesigaba 16;

“**iKhomishana**” kusho iKhomishana yezamaFilimu yaKwaZulu-Natali, eqokwe ngokwesigaba 2;

“**iNkampani**” kusho inhlangotho esungulwe ngokusemthethweni ngaphansi kwesigaba 21 soMthetho weziNkampani, 1973 (uMthetho No. 61 ka 1973), enenombolo yokubhalisa engu-2003/028677/08 futhi eyaziwa njengeKhomishana yezamaFilimu yaKwaZulu-Natali;

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

“**uMnyango**” kusho uMnyango okuHulumeni wesiFundazwe saKwaZulu-Natali obhekele ukuthuthukiswa komnotho nezokuvakasha;

“**uMkhandlu Ophethe**” kusho uMkhandlu oPhethe wesiFundazwe saKwaZulu-Natali ohlongozwe esigabeni 132 soMthethosisekelo;

“**ifilimu**” kusho noma iluphi uchungechunge lwemifanekiso oluqoshwe ngale ndlela yokuthi izokwazi ukubukwa njengesithombe esihambayo, futhi kubandakanya noma yisiphi isithombe okuhloswe ukuba siboniswe ngonoma iyiphi indlela noma umshini;

“**ukukhiqiza ifilimu**” kusho ukwenza ifilimu, kanti “ **umqambi wamafilimu**” kusho umuntu phaqa noma isakhiwo esimiswe ngokomthetho esikhiqiza amafilimu futhi “**imikhiqizo yamafilimu**” kusho okungumphumela wokukhiqiza ifilimu;

“iGazethi” kusho iGazethi esemthethweni yesiFundazwe saKwaZulu-Natali;

“iNhloko yoMnyango” kusho umuntu oqokwe njengeNhloko yoMnyango ngokwesigaba 12 soMthetho Wemisebenzi Kahulumeni, 1994 nezichibiyelo zawo;

“iNhlango yokuThuthukiswa kweziMboni” kusho inhlango kahulumeni esungulwe ngaphansi kwesigaba 12 soMthetho weziNhlango zokuThuthukiswa kweziMboni, 1940 (uMthetho No. 22 ka 1940);

“ilungu” kusho ilungu leBhodi yeKhomishana eliqokwe ngokwesigaba 5;

“iLungu loMkhandlu oPhethe elibhekele ezezimali” kusho ilungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali elibhekele ezezimali;

“ohulumeni basekhaya abahlelekile” kusho iNhlango youHulumeni baseKhaya yaKwaZulu-Natali okuyileyo nhlango esiFundazweni saKwaZulu-Natali ethathwa ngokwesigaba 2 soMthetho woHulumeni baseKhaya abahlelekile, 1997 (uMthetho No. 52 ka 1997), njengemele iningi lomasipala esiFundazweni;

“iKomidi lemiSebenzi kaHulumeni l esiShayamthetho” kusho iKomidi lemiSebenzi kaHulumeni lesiShayamthetho sesiFundazwe elibhekele ukuthuthukiswa komnotho nezokuvakasha;

“okunqunyiwe” kusho okunqunywe ngumthethonqubo ngaphansi kwesigaba 33, kanti **“ukunquma”** kunencazelo efanayo;

“isiFundazwe” kusho isiFundazwe saKwaZulu-Natali esihlongozwe esigabeni 103 soMthethosisekelo kanti **“okwesifundazwe”** kunencazelo efanayo;

“uHulumeni wesiFundazwe” kusho uhulumeni wesiFundazwe saKwaZulu-Natali;

“isiShayamthetho sesiFundazwe” kusho isiShayamthetho sesiFundazwe saKwaZulu-Natali njengoba kubekwe esigabeni 105 soMthethosisekelo, futhi esinegunya lokushaya imithetho esiFundazweni njengoba kubekwe esigabeni 104(1) soMthethosisekelo;

“imithethonqubo” kusho imithethonqubo eyenziwe ngokwesigaba 33;

“iLungu eliqondene loMkhandlu Ophethe” kusho iLungu loMkhandlu Ophethe wesiFundazwe saKwaZulu-Natali elibhekele ukuthuthukiswa komnotho nezokuvakasha noma lelo Lungu loMkhandlu oPhethe eliphathiswe ukubhekela ukusebenza kwalo Mthetho nguNdunankulu;

“imboni yezamafilimu” kusho imboni yezamafilimu, kamabonakude, yevidiyo kanye neyeminye imithombo yokusakaza;

“lo Mthetho” kubandakanya imithethonqubo;

“Trade and Investment KwaZulu-Natal” kusho –

(a) inkampani e bunjwe ngaphansi kwesigaba 21 soMthetho weziNkampani, 1973 (uMthetho No. 61 ka 1973), eneNombolo yokuBhaliswa kweNkampani engu-98/11946/08; noma

(b) abayilandela ngokomthetho, kanye nabayilandela ngokwesikhundla, leyo nkampani.

ISAHLUKO 2

IKHOMISHANA YEZAMAFILIMU YAKWAZULU-NATALI

Ukusungulwa kweKhomishana Yezamafilimu YaKwaZulu-Natali

2.(1) Ngalokhu kusungulwa iKhomishana ezoqhakambisa imboni yezamafilimu esifundazweni, ezokwaziwa njengeKhomishana Yezamafilimu YaKwaZulu-Natali.

(2) IKhomishana iyisakhiwo esimiswe ngokomthetho esisebenza ngeBhodi..

(3) IKhomishana iwuhlaka lukahulumeni wesifundazwe olulawulwa uMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999).

- (4) IBhodi yilona elingumgwamanda onesibopho sokubika ngeKhomishana njengoba kuhlangozwa esigabeni 49(2)(a) soMthetho Wokuphathwa Kwezimali Zikahulumeni

Izinhloso zeKhomishana

3. Izinhloso seKhomishana –

- (a) ukugqugquzela kanye nokuqhakambisa isiFundazwe njengendawo engathakaselwa umhlaba wonke yokuqamba amafilimu;
- (b) ukuthuthukisa, ukugqugquzela kanye nokuqhakambisa, ekhaya nasemazweni aphesheya imboni yezamafilimu esesiFundazweni;
- (c) ukugqugquzela ukutshalwa kwezimali embonini yezamafilimu esesiFundazweni;
- (d) ukuhlinzeka kanye nokukhuthaza ukuhlinzekwa kwabantu ngamathuba, ikakhulu labo ababencishwe amathuba phambilini, ukuthi bangene futhi babambe iqhaza embonini yezamafilimu esesiFundazweni;
- (e) ukulungisa ukungalingani maqondana nengqalasizinda nokusatshalaliswa kwamakhono nezinsiza embonini yezamafilimu esesiFundazweni; kanye
- (f) nokuba negalelo ekuvuleni amathuba emisebenzi embonini yezamafilimu esiFundazweni.

Amandla kanye nemisebenzi yeKhomishana

4.(1) IKhomishana kumele –

- (a) iphathe izimali ezabiwe yisiShayamthetho sesiFundazwe;
- (b) ihlongoze futhi iphathe izimali ezithokale kweminye imithombo ngaphandle kwezimali ezabiwe yisiShayamthetho sesiFundazwe;
- (c) ihehe ukuqanjwa kwamafilimu aphesheya esiFundazweni;
- (d) igqugquzele ukusungulwa, ukuthuthukiswa kanye nokukhuliswa kwengqalasizinda kanye nezindawo zembali yezamafilimu esiFundazweni;
- (e) ihehe ukutshalwa kwezimali ngamazwe angaphandle nawasekhaya kanye nezimali zokusungula, zokuthuthukisa kanye nezokukhulisa ingqalasizinda kanye nezindawo ezikhiqiza imikhiqizo yezamafilimu esiFundazweni;

- (f) isize futhi yenze kube lula ukuthuthukiswa kwabasebenzi kanye nobuchule babo embonini yezamafilimu esiFundazweni;
- (g) ihlinzeke izeluleko, uxhaso kanye nokuthola izimali zokuqamba amafilimu esiFundazweni;
- (h) igqugquzele ukuqanjwa kwamafilimu akhombisa amasiko ahlukene esiFundazweni;
- (i) yenze ucwaningo kanye nezinhlelo zentuthuko kuyo yonke imikhakha yokuqanjwa kwamafilimu esiFundazweni;
- (j) ikhangise isiFundazwe njengendawo yokuqamba amafilimu, ekhaya, kuzwelonke nasemhlabeni wonke jikelele;
- (k) ihehe abaqambi bamafilimu futhi iqalise amasu okuqamba amafilimu esiFundazweni;
- (l) ikhuthaze abaqambi bamafilimu ukuthi basebenzise izakhamizi zasesiFundazweni kanye nezindawo zokuqamba amafilimu;
- (m) yakhe amaxhama nabantu, nezinhlangano kanye namakhomishana amafilimu asekhaya nawasemazweni omhlaba, ukugqugquzela ukucobelelana ngolwazi kanye namakhono embonini yezamafilimu esiFundazweni;
- (n) yenze uhlu lwekhompuyutha, futhi ihlinzeke ulwazi mayelana –
- (i) nabaqambi bamafilimu besifundazwe, nochwepheshe bezithombe, abalingisi kanye nabaculi; kanye
- (ii) nendawo yokuhlala, nokudla, nezithuthi kanye nokunye okuhambisana nakho esiFundazweni;
- (o) iluleke abaqambi bamafilimu nganoma iluphi udaba lokuqanjwa kwamafilimu kubandakanya, kodwa kungacini nje, ngemithetho kamasipala, ngama-odinensi ezokuthutha, ngomthetho wezemvelo nangomthetho wokuqasha kanye nezinqubo; futhi
- (p) iluleke uHulumeni wesiFundazwe ngenqubomgomo nomthetho kubandakanya nemithethonqubo edingekayo ukukhangisa ngemboni yezamafilimu esiFundazweni.

(2) Ukuze kugqugquzelwe ukusebenza ngendlela efanayo kanye nobambiswano kuzona zonke izinhlaka zikahulumeni ezingeni likahulumeni wesifundazwe nabasekhaya ngezindaba eziphathelene nembali yezamafilimu, iKhomishana kumele –

- (a) okungenani kanye ngonyaka, ibize imihlangano phakathi kwezinhlaka zikahulumeni wesifundazwe nabasekhaya ezinentshisekelo kunoma iluphi udaba oluphathele nembali yezamafilimu;
- (b) ibe ngumxhumanisi phakathi kwezinhlaka zikahulumeni wesifundazwe nabasekhaya kanye nababambiqhaza embonini yezamafilimu esiFundazweni; futhi

(c) ixhumanise futhi ixoxisane nanoma iyiphi inhlangotho noma uhlaka noma umgwamanda onentshisekelo kunoma iluphi udaba oluphathelele nembali yezamafilimu.

(3) Ukuze iqalise izibopho zayo, iKhomishana –

(a) ingangena esivumelwaneni nanoma imuphi umuntu onolwazi lobuchwepheshe emkhakheni othile, ukuze kusizwe noma kululekwe iKhomishana maqondana nanoma iluphi udaba oluphathelele nezinhloso zayo kanye nemisebenzi yayo; futhi

(b) ngokujwayelekile, yenze konke okudingekayo ukufeza izinhloso zayo.

(4) Ukuze ifake isandla ekuthuthukiseni abantu abasembonini yezamafilimu esiFundazweni, iKhomishana ingahlinzeka imifundaze kubafundi noma kwabahlose ukwenza izifundo zokuqamba amafilimu.

ISAPHEKULO 3

IBHODI YEKHOMISHANA

Ukubunjwa kweBhodi

5.(1) IBhodi iba –

(a) okungenani namalungu amahlanu, kodwa angeqile kwangamashumi amabili, aqokwe yiLungu eliqondene loMkhandlu Ophethe; kanye

(b) nesiKhulu esiPhezulu, ngokwesikhundla saso, njengoba kubekiwe esigabeni 16(5).

(2) Amalungu eBhodi kumele abe ngabantu abafanelekile abanolwazi, isipiliyoni kanye namakhono okufanele embonini yezamafilimu, bebonke babe –

(a) nolwazi, isipiliyoni kanye namakhono adingekayo embonini yezamafilimu; kanye

(b) nala makhono nobungcweti okulandelayo -

(i) amakhono kw ezomthetho, isipiliyoni kanye noqeqesho;

(ii) amakhono okuphathwa kwezimali, isipiliyoni kanye noqeqesho;

(iii) amakhono okusebenza ngemithombo yezindaba, umabonakude kanye namaphephandaba;

(iv) amakhono okuthuthukisa umphakathi kanye nesipiliyoni; kanye

(v) nesipiliyoni sokusebenza embonini yezikaqedizisizungu.

(3) Ekuqokeleni amalungu kwiBhodi, iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele liqinisekise –

(a) ukuthi kulungiswa ukungalingani kwaphambilini; kanye

(b) nokuba nentshisekelo efanayo phakathi kwabantu abamele –

(i) uMnyango;

(ii) uMnyango Wezobuciko Namasiko ;

(iii) i-KwaZulu-Natal Tourism Authority;

(iv) ababambiqhaza embonini yezamafilimu;

(v) i-Trade and Investment KwaZulu-Natal;

(vi) ohulumeni basekhaya abahlelekile;

(vii) izikhungo zemfundo ephakeme;

(viii) amahhovisi asekhaya amafilimu; kanye

(ix) neNhlango yokuThuthukiswa kweziMboni.

(4) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele liqoke –

(a) ilungu elilodwa leBhodi njengoSihlalo weBhodi; kanye

(b) nelungu elilodwa leBhodi njengeSekela likaSihlalo weBhodi.

(5) ILungu leBhodi okukhulunywe ngalo kwisigatshana 3(b)(i) –

(a) kumele lixhumanise iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kanye neBhodi;

(b) kumele libike kwiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngezikhathi ezithile mayelana nezindaba elizibona zifanele; futhi

(c) lingethamela imihlangano yeBhodi futhi libambe iqhaza ezingxoxweni, kodwa lingabi nalo ilungelo lokuvota uma kuthathwa isinqumo seBhodi.

(6) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele, ngesaziso kwiGazethi limeme noma yimaphi amaqembu anentshisekelo asesiFundazweni ukuba aphakamise abantu abangaqokelwa kwiBhodi.

(7) Isimemo seziphakamiso kumele sibalule –

(a) indlela yokwenza isiphakamiso;

(b) okudingekayo uma kwenziwa iziphakamiso; kanye

(c) nosuku lokuvalwa kweziphakamiso.

(8) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele licubungule zonke iziphakamsio ezilethwe njengezimpendulo zesaziso, futhi lingaqoka ithimba elizohlunga elibunjwe yiziphathimandla zomnyango ezisezikhundleni eziphezulu ukuthi zibukeze iziphakamiso bese zenza izincomo kwiLungu loMkhandlu oPhethe may elana nabantu abaqokwe kwiBhodi.

(9) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele lishicilele amagama abantu abaqokwe kwiBhodi kwiGazethi kanye nasemaphephandebeni amabili afundwa kakhulu esiFundazweni, ngokushesha emva kokuthi labo bantu sebazisiwe, ngokubhalwe phansi, ngokuqokelwa kwabo kwiBhodi.

(10) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele ezinyangeni ezimbili emva kokuqokwa kwamalungu eBhodi ngokwesigatshana (2), lazise uMkhandlu oPhethe kanye neKomidi leziKhundla amagama amalungu aqokiwe kubandakanya nesikhathi aqokelwe sona.

(11) Lesi sigaba sisebenza, ngezinguquko ezidingekayo, ekugcwaliseni isikhala kwiBhodi.

Ukungafaneleki ukuqokelwa eBhodini

6. Umuntu akafaneleki ukuqokelwa eBhodini noma ukuqhubeka asebenze kwiBhodi, ngenxa yokuthi –

(a) ucwile ezikweletini ngokunakuhlengeka;

(b) ngokwenkantolo yomthetho uthathwa njengomuntu ongaphilile ngokomqondo;

(c) ehlomula ngandlela thile kunoma iyiphi inkontileka neKhomishana kodwa ehluleke ukukudalula lokho ngendlela edingwa yilo Mthetho;

(d) ewumuntu ongaphansi kwesandla somnakekeli;

(e) noma yingasiphi isikhathi eke wasuswa esikhundleni sokuphatha ngenxa yokungaziphathi kahle okubandakanya ukweba noma ukukhwabanisa;

- (f) eke walahlwa yicala futhi wagwetshwa ngaphandle kokunikezwa ithuba lokukhetha phakathi kokuboshwa nokukhokha inhlawulo, ngaphandle uma iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, uma lowo ophakanyisiwe edalula yonke imininingwane yecala esitatimendeni esifungelwe, limvuna ngokuhambisana nesigaba 106(1)(e) soMthethosisekelo: Kuncike ekutheni ukungafaneleki ngokwalesi sigatshana kuphela eminyakeni emihlanu emva kokuphela kwesigwebo; noma
- (g) ehluleka ukudalula ukuhlomula ngokuhambisana nesigaba 7 noma ebe yingxenywe noma ebambe iqhaza ezinqutsheni zeBhodi ngesikhathi ehlohlomula njengoba kuhrongozwe esigabeni okukhulunywe ngaso.

Ukudalulwa kokuhlomula ngokwezezimali noma ngenye indlela kwelungu eBhodi

7.(1) Umuntu ophakanyiselwe ukuba asebenze kwiBhodi ngokwesigatshana 5(6) kumele, ezinsukwini eziyishumi emva kokuphakanyiswa, alethe incwadi adalule kwiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngakho konke ukuhlomula ngqo noma ngandlela thile kunoma iyiphi inkampani noma kwelinye ibhizinisi.

(2) Noma yikuphi ukwehluleka kophakanyisiwe ukudalula ukuhlomula ngokwezezimali noma ngandlela thile ngokwesigatshana (1) kuvimbela lowo ophakanyisiwe ngokwesigaba 6 ukuba aqokelwe eBhodini.

(3) Ilungu leBhodi ngalinye kumele, uma liqala ukusebenza kanye nasekuqaleni konyaka wezimali weKhomishana, lidalule ngokubhalwe phansi ngokuhlomula kwalo ngqo noma ngandlela thile kunoma iyiphi inkampani noma kwelinye ibhizinisi ngandlela ehlinzekelwe esigabeni 234(3)(a) soMthetho weziNkampani, 1973 (uMthetho No. 61 ka 1973).

(4) Uma ilungu leBhodi liqala ukuhlomula kunoma iyiphi inkampani noma kwelinye ibhizinisi, noma yinini ngesikhathi lisesesikhundleni njengelungu leBhodi kumele, ezinsukwini eziyishumi kusukela ngosuku eliqale ngalo ukuhlomula, lidalule ngokubhalwe phansi kwiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho mayelana nalokho kuhlomula.

(5) Noma yikuphi ukwehluleka ngasohlangothini lelungu ukudalula ukuhlomula kwalo njengoba kuhrongozwe ezigatshaneni (3) no (4) kuyoholela ekutheni lelo lungu lingaqokwa ngokwesigaba 9(2).

(6) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele ligcine irejista eneminingwane yakamuva yokuhlomula kwamalungu eBhodi edalulwe ngokwalesi sigaba.

Isikhathi sokuba sesikhundleni kanye nokuqokwa kabusha kwelungu leBhodi

8.(1) Umuntu oqokelwe eBhodini uba sesikhundleni isikhathi esiyiminyaka emihlanu noma isikhathi esingaphansi kunalokho njengoba iLungu eliqondene loMkhandlu Ophethe linganquma futhi, kuye ngokuhambisana nesigaba 5, lingaphindwe liqokwe uma kuphela leso sikhathi: Inqobo nje uma engeke abe khona umuntu ongaphinde aqokwe emva kokusebenza eBhodini iminyaka eyishumi elandelayo.

Izikhala, ukuxoshwa kanye nokusula esikhundleni kwelungu leBhodi

9.(1) ILungu leBhodi kumele lishiye esikhundleni uma lingasafaneleki njengoba kuhrongozwe esigabeni 6.

(2) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, emva kokunikeza ilungu ithuba lokubeka uhrangothi lwalo, noma yingasiphi isikhathi lingaxosha lelo lungu uma, ngokubona kwalo, kunezizathu ezizwakalayo zokwenze njalo.

(3) ILungu kumele lishiye isikhundla uma liphuthe, ngaphandle kokunikezwa imvume yokuthatha ilivu yiBhodi, emihlanganweni emibili elandelayo yeBhodi libe lalinikezwe esandleni noma lithunyelwe ngeposi isaziso kusenesikhathi.

(4) ILungu lingasula esikhundleni ngokunikeza iLungu eliqondene loMkhandlu Ophethe isaziso esibhaliwe sezinsuku ezingamashumi amathathu: Inqobo nje uma iLungu eliqondene loMkhandlu Ophethe lingasilandeli isikhathi sesaziso..

(5) Noma yinini uma kuvela izikhala kwiBhodi, iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele, kuncike esigabeni 5, liqoke umuntu ozogcwalisa leso

sikhala leyo ngxenye yesikhathi esisele salelo lungu lowo muntu angena esikhundleni salo.

(6) Uma iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho lisebenzisa amandla alo ngokwesigatshana (2), lingahoxisa inqubo yokuqokwa kwamalungu eBhodi ebekwe esigabeni 5, kuncike ezigabeni 5(2) no 5(3), liqoka abantu ukuthi basebenze njengamalungu eBhodi okwesikhashana: Kuncike ekutheni –

(a) abantu abaqokwe ngokwalesi sigatshana angeke baqhubeke nokusebenza kwiBhodi isikhathi esingaphezu kwezinsuku ezingama-90 kusukela ngosuku abaqashwe ngalo; futhi

(b) iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho kumele, kuncike esigabeni 5, liqoke amalungu eBhodi asebenza ngokugcwele ezinsukwini ezingama-90 emva kokuqokwa okuhlongozwe kulesi sigatshana.

Ukumiswa okwesikhashana kwelungu leBhodi

10. ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho lingamisa ilungu leBhodi ngesikhathi lisaphenya izinsolo okuyothi, uma kutholakala ukuthi ziyiqiniso ziholele ekuxoshweni kwelungu ngokwesigaba 9(2).

Imihlangano kanye nezinqubo zemihlangano yeBhodi

11.(1) Umhlangano wokuqala weBhodi kumele ubanjwe ngosuku, ngesikhathi kanye nasendaweni enqunywe yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, emva kwalokho yon ke imihlangano kumele inqunywe uSihlalo.

(2) Ikhoramamu yomhlangano weBhodi yiningi lamalungu eBhodi.

(3) Izinqubo zomhlangano kumele, kuncike ezinhlinzekweni zalesi sigaba, zinqunywe usihlalo kubandakanya nelungelo lokunquma ukuthi noma iluphi udaba oludingidwayo lungahoxiswa ngaphambi kokuba kuvotwe.

(4) USihlalo kufanele ahole yonke imihlangano yeBhodi. Uma uSihlalo engekho iSekela likaSihlalo kumele lihole umhlangano kanti uma uSihlalo neSekela likaSihlalo bengekho

bobabili emhlanganweni weBhodi, amalungu akhona angaqoka, phakathi kwawo umuntu ozobamba njengosihlalo kuze kuphele lowo mhlango.

(5) Isinqumo seBhodi kumele sithathwe yiningi lamavoti amalungu akhona emhlanganweni, uma kwenzeka amavoti elingana kunoma iluphi udaba, uSihlalo unevoti eliwujuqu ngaphezu kwevoti lakhe elijwayelekile.

(6) IBhodi kumele iqinisekise ukuthi amaminithi emihlangano yayo ayagcinwa.

(7) Akukho sinqumo seBhodi esingasebenzi ngenxa yokuba khona kwesikhala kwiBhodi: Kuncike ekutheni isinqumo sithathwa yiningi lamalungu eBhodi akhona futhi anegunya lokuhlala njengamalungu eBhodi.

(8) USihlalo, noma iningi lamalungu eBhodi, lingabiza umhlangano weBhodi oyisipesheli lapho izinhlinzeko zalesi sigaba zisebenza ngezinguqoko ezidingekayo.

(9) IBhodi, ngokubona kwayo, ingavumela wonke amalungu omphakathi ukuba ethamele umhlangano weBhodi.

Ukuhoxa kwelungu emihlanganweni nasezinqubeni zeBhodi

12.(1) Ilungu leBhodi kumele lihoxe odabeni oluphenywa, olucutshungulwa noma oluvotelwa yiBhodi uma kunesinye sale zimo ezilandelayo –

(a) uma lihlomula ngandlela thile kulolo daba; noma

(b) uma kunokwenzeka ukuthi liyabandakanyeka ngandlela thile kulolo daba.

(2) Uma noma yingasiphi isikhathi uma kunodaba olusezithebeni zeBhodi kubonakala ukuthi ilungu elisemhlanganweni liyahlomula ngendlela ehlongozwe kwisigatshana (1), lelo lungu kumele lidalule ukuthi lihlomula ngayiphi indlela bese lishiya umhlangano.

(3) Noma yikuphi ukudalula okwenziwe ngokwesigatshana (1) kumele kuqoshwe emaminithini omhlangano othintekayo.

(4) Uma emva kwesikhathi kuvela ukuthi iBhodi ithathe isinqumo ngodaba oluphathelele nelungu elihlulekile ukudalula ukuhlomula okukhulunywe ngayo kwisigatshana (1), leso sinqumo seBhodi angeke sisebenze.

(5) Ngokwenhloso yalesi sigaba **“ukuhlomula ngandlela thile”** kubandakanya kodwa akugcini nje, ngokuhlomula kwanoma –

(a) imuphi umlingani welungu kwezamabhizinisi, umuntu elisebenza naye noma umqashi, ngaphandle kukaHulumeni;

(b) imuphi umuntu oshade nelungu, umlingani ilungu elishade naye ngokomthetho wesintu, noma umasihlalisane welungu; noma

(c) iyiphi ngane yalo, imuphi umzali noma umfowabo noma udadewabo.

Amaholo amalungu eBhodi

13.(1)(a) Kuncike kwisigatshana 2(a), ilungu leBhodi lingakhokhelwa ezimalini zeKhomishana lelo holo kanye nalezo zibonelelo ezinganqunywa yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngokubonisana neLungu loMkhandlu oPhethe elibhekele ezezimali; futhi

(b) ilungu leBhodi elithola iholo, izibonelelo noma eminye imivuzo ngokwesikhundla salo noma ngenxa yokuqashwa –

(i) kuhulumeni kazwelonke;

(ii) kuhulumeni wesifundazwe;

(iii) kumasipala; noma

(iv) enhlanganweni, emgwamandeni noma esikhungweni esilawulwa uhulumeni wesifundazwe noma kazwelonke; futhi

liqhubeka nokuthola lelo holo, lezo zibonelelo noma eminye imivuzo ngesikhathi lisebenza njengelungu leBhodi, lingathola kuphela iholo kanye nezibonelelo okukhulunywe ngakho endimeni (a) ngendlela edingekayo ukuze lelo lungu lihole ngendlela ebelizohola ngayo ukuba belingekho kuleso kuleso sikhundla.

(2)(a) Ilungu leBhodi kanye nomuntu oqokelwe kwiBhodi, maqondana nemisebenzi yakhe njengelungu noma njengomuntu oqokiwe, lingakhokhelwa ezimalini zeKhomishana izindleko elingene kuzona ngenxa yokwethamela imihlangano yeBhodi; kanye

(b) neLungu loMkhandlu Ophethe elibhekele ezezimali kumele linqume izindlela, kubandakanya nezindlela zokulawula, zokuphatha kanye nezokulungiselela ukukhokhwa kwezimali zokuhamba ngomsebenzi okukhulunywe ngakho endimeni (a).

Ukusungulwa kwamakomidi azosiza iBhodi

14.(1) IBhodi ingasungula amakomidi anelungu elilodwa noma ngaphezulu –

(a) ukuyisiza ekusebenziseni nanoma yimaphi amandla noma ekwenzeni imisebenzi yeKhomishana okukhulunywe ngayo esigabeni 4; noma

(b) ukwenza ucwaningo mayelana nanoma iluphi udaba oluyingxenye yemisebenzi yeBhodi ngokwalo Mthetho.

(2) Uma kusungulwa ikomidi elihlongozwe kwisigatshana (1), iBhodi kumele –

(a) inqume amaphuzu okuzosetshenzelwa phezu kwawo kulelo komidi kubandakanya, kodwa kungacini nje, ngokuthi ngabe lelo komidi lizoshatshalaliswa noma cha uma seliqede umsebenzi noma imisebenzi iBhodi ebeliyijubele yona;

(b) iqoke uSihlalo walelo komidi okumele abe yilungu leBhodi; futhi

(c) inqume ukuthi ngabe lelo komidi lingaqoka abantu abangewona amalungu eBhodi, uma kunjalo, ngaphansi kwamiphi imigomo nemibandela.

(3) IBhodi, noma yingasiphi isikhathi, ingamisa ikomidi nan oma imuphi umyalelo onikezwe ikomidi, noma ngabe lelo komidi seliwuqedile noma lingakawuqedi umsebenzi.

(4)(a) IsiKhulu esiPhezulu singethamela noma sibe yingxenye yomhlangano wekomidi, kodwa singavoti; kanye

(b) nomsebenzi weBhodi, uma emenywe yikomidi elithintekayo, angethamela lowo mhlango wekomidi.

Ukuqokwa kwabantu eBhodini noma emakomidini eBhodi

15.(1) IBhodi, uma ibona ukuthi umuntu othile angakwazi ukusiza maqondana nanoma imuphi umsebenzi nanoma ikuphi ukusetshenziswa kwamandla, ingamqoka lowo muntu.

(2) Noma imuphi umuntu oqokwe ngokwesigatshana (1) akanalo ilungelo lokuvota emihlanganweni yeBhodi noma yekomidi.

(3) Umuntu oqokwe ngokwesigatshana (1) angakhokhelwa iholo kanye nezibonelelo ezimalini zeKhomishana njengoba kunganquma iBhodi ngokuhambisana nesigaba 13(2)(a) emva kokubonisana neLungu loMkhandlu oPhethe elibhekele ezezimali.

ISAHLUKO 4

ISIKHULU ESIPHEZULU KANYE NABASEBENZI BEKHOMISHANA

IsiKhulu esiPhezulu seKhomishana

16.(1) IBhodi kumele, ngokubonisana neLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, iqoke umuntu oqeqeshwe ngokufanele, onekhono kanye nonesipiliyoni njengesikhulu esiPhezulu seKhomishana.

(2)(a) IsiKhulu esiPhezulu singaqokelwa isikhathi esingeqile eminyakeni emihlanu; futhi

(b) IsiKhulu esiPhezulu singaphinde siqokelwe elinye ihlandla elingeqile eminyakeni emihlanu.

(3)(a) Ukuqokwa kwesiKhulu esiPhezulu kuncike ekusayinweni kwesivumelwano somsebenzi esibhalwe phansi phakathi kwalowo muntu kanye neBhodi; futhi

(b) IBhodi kanye nesiKhulu esiPhezulu, ngokubhalwe phansi kanye nangesivumelwano, ingachibiyela isivumelwano sokusebenza.

(4) Ngokwezinhloso zokudalula ukuhlomula ngokwezezimali nokunye, izinhlinzeko sezigaba 7 zisebenza ngezinguquko ezidingekayo kwisiKhulu esiPhezulu ngaphandle kokuthi isiKhulu esiPhezulu kumele sidalule ukuhlomula kwaso kwiBhodi.

(5) IsiKhulu esiPhezulu siyilungu leBhodi ngokwesikhundla salo kodwa asinalo ilungelo lokuvota emihlanganweni yayo.

Imisebenzi yesiKhulu esiPhezulu

17.(1) IsiKhulu esiPhezulu sinomthwalo –

(a) wokwengamela konke okuphathelene nokwenziwa komsebenzi kanye nezimali zeBhodi ngokuhambisana noMthetho wokuPhathwa kweziMali, 1999 (uMthetho No. 1 ka 1999), kanye nokulawulwa kweBhodi;

(b) emva kokubonisana neBhodi, wokuqokwa kwabasebenzi beKhomishana okukhulunywe ngabo esigabeni 19 (1);

(c) emva kokubonisana neBhodi, wokunquma umgomo wokuziphatha, osebenza kwisiKhulu esiPhezulu, kubo bonke abasebenzi beKhomishana kanye nalapho kuqondiswa izigwegwe, ukuqinisekisa –

(i) ukuhambisana nomthetho osebenzayo, kubandakanya lo Mthetho;

(ii) ukusetshenziswa ngendlela efanele neyongayo kwezimali kanye nezimpahla zeKhomishana;

(iii) ukugqugquzelwa kanye nokugcinwa kwezinga eliphezulu lokuziphatha emsebenzini;

(iv) ukuvimbela ukushayisana kwezintshisekelo;

(v) ukuvikela ulwazi oluyimfihlo olugodlwe yiKhomishana; kanye

(vi) nokusebenza ngendlela, ngokuthembeka, ngokungachemi nangendlela enobulungiswa;

(d) ukuziphatha kahle kwabasebenzi abaqokwe ngokwendima (b) futhi kumele, ngalezo zinhloso, sibe nesibopho sokubika kwiBhodi;

(e) ukugcinwa kwerejista lokudalulwa kwemihlomulo ngabasebenzi beKhomishana; kanye

(f) nokuthi iBhodi iqinisekise ukuhambisana nezinhlinzeko zoMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999), kanye nanoma imuphi omunye umthetho.

(2) Uma isiKhulu esiPhezulu noma yingasiphi isikhathi singakwazi ukwenza imisebenzi yaso, iBhodi kumele, ngokubhalwe phansi, nangokubonisana neLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, liqoke omunye umuntu njengeBamba lesiKhulu esiPhezulu kuze kube isiKhulu esiPhezulu sibuyela emsebenzini.

Ukusula kanye nokuxoshwa kwesiKhulu esiPhezulu

18.(1) IsiKhulu esiPhezulu sishiya esikhundleni –

(a) uma sisula, noma uma sesisulile;

(b) uma, ngokoMthetho weziNkampani, 1973 (uMthetho No. 61 ka 1973), umuntu okuleso sikhundla engasafanelekile ukusebenza njengomqondisi wenkampani;

(c) noma exoshiwe ngokwesigatshana (2).

(2) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho lingaxosha isiKhulu esiPhezulu ngokuhambisana nanoma imuphi umthetho wokuqasha nowezabasebenzi.

Abasebenzi beKhomishana

19.(1) IsiKhulu esiPhezulu kumele, kuncike kwisigatshana (2), siqashe abasebenzi beKhomishana njengoba singabona kufanele –

(a) ukusiza ekwenzeni imisebenzi yaso ngokwalo Mthetho; kanye

(b) nokusiza iBhodi ngomsebenzi ohambisana nemisebenzi yeBhodi.

(2) IBhodi kumele, kuncike ezinhlinzekweni zesigaba 23(4), inqume inqubomgomo yezabasebenzi yabasebenzi beKhomishana, kubandakanya nesiKhulu esiPhezulu.

(3) Ngokwezinhloso zokudalula ukuhlomula ngokwezezimali noma ngokunye, futhi kuncike esigabeni 17(1)(e), izinhlinzeko zesigaba 7(3), (4) no (5) ziyosebenza ngezinguquko ezidingekayo kubasebenzi beKhomishana.

(4) IsiKhulu esiPhezulu kumele sigcine irejista elinolwazi olusha lokuhlomula kwamalungu eKhomishana okudalulwe ngokwesigatshana (3).

Ukusiswa noma ukudluliselwa kwabasebenzi kwiKhomishana

20. IKhomishana ingasebenzisa abantu abasiswe noma abadluliselwe kuhulumeni ngokuhambisana nezihlinzeko zoMthetho wemiSebenzi kaHulumeni, 1994 (iSimemezero No. 103 sika 1994).

ISAHLUKO 5
UKUNQUNYWA KOMGOMO WOKUZIPHATHA WABAQAMBI BAMAFILIMU
WESIFUNDAZWE

Umgomo wokuziPhatha wabaQambi bamaFilimu wesiFundazwe

21.(1) ILungu eliqondene loMkhandlu Ophethe kumele ngemva kokubonisana neBhodi lingume uMgomo Wesifundazwe Wokuziphatha Wabaqambi Bamafilimu.

(2) UMgomo wokuziPhatha wabaQambi bamaFilimu wesiFundazwe uqala ukusebenza ngosuku okushicilelwe ngalo isaziso kwiGazethi

(3) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, ngesaziso kwiGazethi nangemva kokubonisana neBhodi –

- (a) lingachibiyela;
- (b) lingashintsha; noma
- (c) lingahoxisa,

uMgomo wokuziPhatha wabaQambi bamaFilimu wesiFundazwe.

Inqubomgomo

22.(a) ILungu eliqondene loMkhandlu Ophethe

- (a) lingabeka imihlahlandlela ethile yokufeza izinhloso zeKhomishana;
- (b) linganikeza iBhodi iziqondiso zenqubomgomo; futhi
- (c) lingahoxisa noma lichibiyele noma imuphi umhlahlandlela wamasu okusebenza noma isiqondiso senqubomgomo ngokwendima (a).

ISAHLUKO 6
UKUXHASWA NGEZIMALI KANYE NOKUPHATHWA KWEZIMALI ZEKHOMISHANA

Izimali zeKhomishana

23.(1) Izimali zeKhomishana ziqukethe –

- (a) imali eyabiwe yisiShayamthetho sesiFundazwe;

- (b) inzalo yezimali ezitshaliwe zeKhomishana; kanye
- (c) nemali engenayo evela kunoma imuphi umthombo owamukelekile.
- (2) IKhomishana kumele isebenzise izimali zayo –
- (a) ukukhokha amaholo, izibonelelo kanye nezindleko zokuhamba ngomsebenzi –
- (i) kwamalungu eBhodi;
- (ii) kwesiKhulu esiPhezulu;
- (iii) nabasebenzi beKhomishana; kanye
- (b) nokukhokhela izindleko eziphathelene –
- (i) nemisebenzi yansukuzonke yeKhomishana; kanye
- (ii) nokwenziwa kwemisebenzi yeKhomishana kanye nokusebenzisa kwayo amandla ngokwalo Mthetho.
- (3) Isikhulu esiPhezulu kumele, ngokuvumelana neBhodi –
- (a) sivule i-akhawunti egameni leKhomishana nesikhungo esibhaliswe njengebhange ngokoMthetho wamaBhange, 1990 (uMthetho No. 94 ka 1990); futhi
- (b) sifake kuyona yonke imali etholakale ngokwesigatshana (1).
- (4) IBhodi, emva kokubonisana neLungu loMkhandlu oPhethe libhekele ukuthuthukiswa komnotho, kumele inqume –
- (a) amaholo kanye nemigomo yokusebenza; kanye
- (b) nemali yempesheni kanye nemivuzo yomhlalaphansi, yesiKhulu esiPhezulu kanye nabanye abasebenzi beKhomishana.
- (5) IKhomishana ingatshala izimali ezifakwe kuma-akhawunti ayo ezingeke zidinge ukusetshenziswa ngo kushesha: Kuncike ekutheni iBhodi lithatha izinyathelo ezifanele ukuqinisekisa ukuthi ukutshalwa kwalezo zimali akuqagelwa.
- (6) IKhomishana ayivumelekile ukuboleka imali noma ukukhipha iziqinisekiso noma izibambiso noma ukungena ezivumelwaneni ezibophezela iKhomishana ngaphandle uma lokho kuboleka, lesi siqinisekiso noma lesi sibambiso nanoma yisiphi isivumelwano kugunyaziwe ngokwalo Mthetho futhi kungaphikisani noMthetho wokuPhathwa kweziMali zikaHulumeni.

Ukuphathwa kwezimali

24.(1) IsiKhulu esiPhezulu kumele siqinisekise ukuthi amabhuku ama-akhawunti kanye nawo wonke amanye amarekhodi aphantselane nawo ayagcinwa.

(2) IsiKhulu esiPhezulu kumele siqinisekise ukuthi izabelozimali zonyaka zeKhomishana, izinhloko zokusebenza, imibiko yonyaka kanye nezitatimende zezimali ezicutshunguliwe kuyalungiswa nokuthi kulethwa ngokuhambisana noMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999).

(3) IsiKhulu esiPhezulu kumele, ezinyangeni ezintathu ngaphambi kokuphela konyaka wezimali, silethe kwiBhodi –

(a) uhlaka lokusebenza lweKhomishana, oluqukethe izinhloso ezikalekayo; kanye nolunye ulwazi oluhlongozwa ezigabeni 25(3)(b) no (c) kanye

(b) nesitatimende semali ekanekisiwe ezongena kanye nemali ezizosetshenziswa yiKhomishana, maqondana neminyaka emithathu yezimali ezayo.

(4) Kunoma imuphi unyaka wezimali isiKhulu esiPhezulu singaletha kwiBhodi izitatimende ezilungisiwe zemali ezongena noma zemali ezochithwa yiKhomishana zalowo nyaka wezimali.

(5) IKhomishana angeke isebenzise imali engaphezu kwaleyo eyabelwe yona naleyo ebekwe eceleni.

(6) IsiKhulu esiPhezulu, ngemvume yeBhodi –

(a) singathatha noma iyiphi ingxenye yezimali engasetshenziswanga siyitshale esiKhungweni Sokugcinwa Kwezimali Zomphakathi okanye kunoma isiphi isikhungo esibekwe noma sakleliswa nguMnyango Kamgcinimafa Kazwelonke njengesikhungo sezimali esisoHlwini "A1"; noma

(b) singasebenzisa leyo ngxenye nganoma iyiphi enye indlela.

- (7) IsiKhulu Esiphezulu, ngemvume yeBhodi, singasungula isikhwama sokulondoloza esiseceleni bese sibeka kusona lezo zamba zemali ezivunywa yiBhodi.

Ucwaningo kanye nombiko wonyaka

25.(1) UMcwaningimabhuku-Jikelele kumele acwaninge izitatimende zeKhomishana.

(2)(a) IBhodi kumele ilethe umbiko ngemisebenzi yeKhomishana ngonyaka wezimali, kusiShayamthetho, ezinyangeni ezinhlanu emva kokuphela kwalowo nyaka wezimali; futhi

(b) Ezinyangeni ezinhlanu emva kokwethulwa kombiko wonyaka, ithimba elinosihlalo weBhodi kanye namanye amalungu amabili eBhodi kumele ethule umbiko wonyaka kwiKomidi leMisebenzi.

(3) Umbiko kumele –

(a) kubandakanya isitatimende semali engenayo kanye nesemali echithwayo esiqinisekisiwe nguMcwaningimabhuku-Jikelele;

(b) uchaze ngendlela iKhomishana efeze ngayo izinhloso zayo okukhulunywe ngazo esigabeni 3 kanye nezinhloso ezikalekayo njengoba kubekiwe ohlakeni lokusebenza njengoba kuhlongozwe esigabeni 24(3)(a) ngonyaka wezimali othintekayo; futhi

(c) uqukathe imininingwane yokusebenza efanele ephathelene nokusetshenziswa kwezinsiza ngendlela enokonga, esheshayo nenemiphumela ebonakalayo kanye nokuqhathaniswa phakathi kokuhleliwe nokwenziwe njengoba kubekiwe kulolo hlaka lokusebenza.

Unyaka wezimali weKhomishana

26. Unyaka wezimali weKhomishana uqala mhla lu-1 kuMbasa wonyaka othile uphele mhla zingama-31 kuNdasa wonyaka olandelayo.

Impahla engenakususwa

27. IKhomishana, ngokwenqubomgomo kanye nezinqubo okunqunywe yiBhodi nangemvume yeLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, ingathola, igcine noma ichithe impahla engenakususwa ngesikhathi isasebenza.

Ukuthathelwa izinyathelo zomthetho kweKhomishana

28.(1) Noma iziphi izinyathelo zomthetho ezithathelwe iKhomishana kumele zithathwe ngokuhambisana noMthetho wokuThathela iziNyathelo zoMthetho iziNhlaka ezithile zikaHulumeni, 2002 (uMthetho No. 40 ka 2002).

(2) IKhomishana, ngokwezinhloso zesigatshana (1), ithathwa njengohlaka lukahulumeni okukhulunywe ngalo endimeni (c) ngokwenzazelo enikezwe yona esigabeni 1 soMthetho okukhulunywe ngawo.

ISAHLUKO 7**IZINHLINZEKO EZIJWAYELEKILE****Ukuvikelwa kolwazi oluyimfihlo olugodlwe yiKhomishana**

29.(1) Kuncike kuMthethosisekelo kanye noMthetho wokuGqugquzela ukuThola uLwazi, 2000 (uMthetho No. 2 ka 2000), akukho muntu ongadalula noma iluphi ulwazi olulethwe kwiKhomishana maqondana nanoma imuphi umyalelo womthetho, ngaphandle uma –

- (a) eyalelwe ukuthi enze njalo yinkantolo yomthetho; noma
- (b) umuntu okhiphe lowo myalelo evuma ngokubhalwe phansi.

(2) Akukho muntu ongadalula ulwazi olugcinwe kwirejista okukhulunywe ngalo ezigabeni 7, 16(4) no 19(4) ngaphandle uma lokho kudalula –

- (a) kuhambisana nanoma imuphi umthetho ophoqa noma ogunyaza lokho kudalula;
- (b) kudingeka ukuze iKhomishana isebenze kahle; noma
- (c) kungenziwa ngenhloso yokuqapha, yokuhlola, yokuphenya noma yokucubungula noma imuphi okuphathelene neKhomishana, nanoma yiliphi ilungu labasebenzi beKhomishana.

(3) Noma imuphi umuntu ophula esigatshana (1) noma (2) uyothweswa icala.

Ukuhlakazwa yeKhomishana

30. IKhomishana ingahlakazwa kuphela ngokoMthetho wesiShayamthetho sesiFundazwe.

Ukusetshenziswa kwegama leKhomishana

31.(1) Akukho muntu, ngaphandle kwemvume ebhalwe phansi yeKhomishana, nganoma iyiphi indlela oyosebenzisa igama, isifinyezo, ilogo, izimpawu noma impahla esetshenziswa yiKhomishana noma okungeyeKhomishana.

(2) Akukho muntu ongaqamba amanga athi wenza okuthile egameni leKhomishana.

(3) Noma imuphi umuntu ophula izigatshana (1) no (2) uyothweswa icala.

Ukudluliselwa kwamandla

32.(1) ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho lingadlulisela eBhodini –

(a) noma yimaphi amandla anikezwe iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho yilo Mthetho, ngaphandle kwamandla okwenza imithethonqubo okukhulunywe ngayo esigabeni 33 ; noma

(b) noma imuphi umsebenzi onikezwe iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho yilo Mthetho, ngaphandle kwanoma imuphi umthetho ophathelene nokuqokwa, kanye nokuxoshwa, kwamalungu eBhodi okukhulunywe ngakho ezigabeni 5 no 9(2).

(2) IBhodi, ngesixazululo esikhethekile, ingadlulisela amandla kwisiKhulu esiPhezulu noma kumsebenzi weKhomishana, noma yimaphi amandla noma umsebenzi onikezwe iBhodi yilo Mthetho.

(3) Isikhulu esiPhezulu singadlulisela kunoma imuphi umsebenzi weKhomishana amandla noma umsebenzi onikezwe isikhulu esiPhezulu yilo Mthetho, ngaphandle

kwanoma yimaphi amandla noma umsebenzi wesiphathimandla sezimali seKhomishana.

(4) Noma imaphi amandla noma umsebenzi okudluliselwe ngokwesigatshana (1), (2) noma (3) kumele asetshenziswe noma wenziwe ngaphansi kwaleyo migomo njengoba umuntu noma umgwamanda odluliselile njengoba ungabona kufanele.

(5) Ukudluliselwa kwamandla okukhulunywe ngakho kwisigatshana (1), (2) noma (3) –

(a) kumele kubhalwe phansi;

(b) akuvimbeli umuntu noma umgwamanda odlulisele amandla noma umsebenzi ukuthi asebenzise lawo mandla noma enze lowo msebenzi; futhi

(c) noma yingasiphi isikhathi kungahoxiswa noma kuchitshiyelwe ngokubhalwe phansi yilowo muntu noma yilowo mgwamanda.

Imithethonqubo

33. ILungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, ngokubonisana neBhodi nangesaziso kwiGazethi, lingenza imithethonqubo ephathelene –

(a) nanoma iluphi udaba olunganqunywa noma okumele lunqunywe ngokwalo Mthetho; noma

(b) nanoma iluphi udaba lokuphatha oludingekayo ukuqalisa izinhlinzeko zalo Mthetho.

Ukuvalwa kweNkampani kanye nezinhlalo zesikhashana eziphathelene nalokho

34.(1)(a) INkampani, iKhomishana yezamaFilimu yaKwaZulu-Natali, enenombolo yokuBhaliswa kweNkampani engu-2003/028677/08, esungulwe ngokoMthetho weziNkampani, 1973 (uMthetho No. 61 ka 1973), kumele ivalwe ngokuzikhethela futhi icishwe lapho ibhaliswe khona; futhi

(b) Amalungu eNkampani kumele, uma kuvalwa iNkampani okukhulunywe ngayo endimeni (a), phakathi kokunye, ahambisane nezigaba 349 no 350 woMthetho weziNkampani, 1973 (uMthetho No. 61 ka-1973).

(2) Ngosuku lokuvalwa kweNkampani okuhlongozwe kwisigatshana (1), zonke izimpahla, izikweletu, wonke amalungelo, yonke imisebenzi kanye nezibopho,

kubandakanya noma iyiphi ingxenye yezimali engasetshenziswanga eqongelelwe noma etholwe yiNkampani kudluliselwa, futhi, kuba ngokweKhomishana yezamaFilimu yaKwaZulu-Natali eyasungulwa ngokwesigaba 2.

(3) IKhomishana, maqondana nezimpahla, nezikweletu, namalungelo, nayo yonke imisebenzi kanye nezibopho kubandakanya noma iyiphi ingxenye engasetshenziswanga yezimali eziqongelelwe okukhulunywe ngakho kwisigatshana (2), ngazo zonke izinhloso zabazoyilandela ngokusemthethweni, kanye nabazoyilandela ngokwesikhundla, iNkampani.

(4) Amalungu eBhodi yeNkampani kumele asebenze njengamalungu eBhodi yeKhomishana agunyaziwe noma anikwe amandla kuze kube iLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngokwesigaba 5(1)(a) seliqoke iBhodi ngokwalo Mthetho.

(5) Bonke abasebenzi beNkampani kumele, ezinyangeni eziyisithupha kuqaliswe lo Mthetho, badluliselwe kwiKhomishana yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho ngosuku oluyonqunywa yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho.

(6) Amaholo, imivuzo kanye namalungelo okuhlinzekwa yiLungu loMkhandlu oPhethe elibhekele ukuthuthukiswa komnotho, ngokuhambisana nesigatshana (5), angeke kwaba ngaphansi kwalokho okuholelwa umsebenzi weNkampani ngaphambi kokuthi adluliselwe.

(7) Ngokwezinhloso zoMthetho weNtela, 1962 (uMthetho No. 58 ka 1962), akukho kushintshwa komqashi okuyothathwa ngokuthi kwenzekile maqondana nomsebenzi ovuma ukuqashwa njengoba kuhlangoziwe kwisigatshana (5).

(8) Uma umuntu eba umsebenzi weKhomishana ngokwesigatshana (5) –

(a) ugcina izinsuku zakhe zelivu aziqongelele kuze kube usuku noma ngaphambi kosuku lokudluliselwa, uzihlela ngokuhambisana nemigomo yokuqashwa kwiKhomishana; futhi

(b) noma iluphi uphenyo olwenziwe noma okuhloswe ukuthi lwenziwe maqondana nezinsolo zokungaziphathi kahle okwenziwe yilowo muntu ngaphambi kosuku

lokudluliselwa kumele luchithwe noma lwenziwe yiKhomishana futhi iKhomishana kumele imthathele izinyathelo ezifanele lowo muntu othintekayo ngokuhambisana nemithetho, inqubomgomo kanye nemigomo yokuqashwa noma yokusebenza anayo ngokushesha ngaphambi kosuku lokudluliselwa.

Amacala ajwayelekile

35.(1) Ilungu leBhodi, umsebenzi, umeluleki, i-ejenti nanoma imuphi omunye umuntu oqashwe noma osebenza egameni leKhomishana unecala uma egwazelwa ngandlela thile noma ethola imali engagunyaziwe noma umvuzo kunoma imuphi umuntu maqondana nanoma yini eyenziwa noma ehlinzekwa yiKhomishana.

(2) Noma imuphi umuntu unecala uma, maqondana nanoma yini eyenziwe noma ehlinzekwa yiKhomishana, efaka umoya othile noma ezama ukufaka umoya ilungu leBhodi, umsebenzi, umeluleki, i-ejenti nanoma imuphi umuntu oqashwe yiKhomishana noma osebenza egameni leKhomishana wokuba enze ubugebengu.

(3) Noma imuphi umuntu oqamba amanga athi ugunyaziwe ukukhokhisa noma ukuqoqa izimali noma iminikelo egameni leKhomishana, noma ngomyalelo weKhomishana unecala.

Izinhlawulo

36. Noma imuphi umuntu olahlwe yicala ngokwalo Mthetho uyokhokha inhlawulo noma aboshwe isikhathi esingeqile eminyakeni emihlanu noma aboshwe phezu kwalokho akhokhe nenhlawulo.

Isihloko esifushane

37. Lo Mthetho ubizwa ngoMthetho WeKhomishana Yezamafilimu WaKwaZulu-Natali, 2010.

No. 6**21 October 2010**

[English text signed by the Premier]

**KWAZULU-NATAL
UNAUTHORISED EXPENDITURE AUTHORISATION ACT, 2010
(Act No. 04 of 2010)**

Assented to on 09-09-2010

ACT

To provide for the approval and authorisation of unauthorised expenditure referred to in the Schedule as a direct charge against the Provincial Revenue Fund; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the Province of KwaZulu-Natal, as follows:-

Interpretation of Act

1. In this Act, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Public Finance Management Act, 1999 (Act No.1 of 1999), has the meaning assigned to it in that Act.