

No. 3

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[English text signed by the Premier]

KWAZULU-NATAL
ITHALA DEVELOPMENT FINANCE CORPORATION ACT, 2013
(Act No. 05 of 2013)

Assented to on 23- 01 -2014

ACT

To provide for the continued existence of the KwaZulu-Natal Ithala Development Finance Corporation Limited, formerly known as KwaZulu Finance and Investment Corporation Limited, with the primary purpose of promoting, supporting and facilitating sustainable socio-economic development in the Province of KwaZulu-Natal, in accordance with the growth and development strategy of the Province; to determine the objectives, powers, duties and functions of the KwaZulu-Natal Ithala Development Finance Corporation Limited; to determine the manner in which the KwaZulu-Natal Ithala Development Finance Corporation Limited is to be managed, staffed and financed; and to provide for matters incidental thereto.

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 indicates otherwise –

“**Banks Act**” means the Banks Act, 1990 (Act No. 94 of 1990), and any word or expression to which a meaning has been assigned in the Banks Act or the Regulations relating to Banks, bears the meaning so assigned thereto;

“**Board**” means the Board of the Corporation appointed in terms of section 6;

“**Chief Executive Officer**” means the Chief Executive Officer of the Corporation, appointed in terms of section 17;

“**Companies Act**” means the Companies Act, 2008 (Act No. 71 of 2008);

“**Company**” means the Ithala State-owned Company Limited, a subsidiary of the Ithala Development Finance Corporation Limited, being a state-owned company incorporated in terms of the Companies Act, 2008 (Act No. 71 of 2008);

“**Constitution**” means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

“**Corporation**” means the Ithala Development Finance Corporation Limited referred to in section 2;

“**Department**” means the department in the Provincial Government of KwaZulu-Natal responsible for Economic Development;

“**deposit**” means a deposit as defined in section 1 of the Banks Act;

“**Executive Council**” means the Executive Council of the Province of KwaZulu-Natal contemplated in section 132 of the Constitution;

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

“Head of Department” means the person appointed as Head of the Department in terms of section 12 of the Public Service Act, 1994 (Proclamation No. 103 of 1994);

“indirect interest” includes, but is not limited to, a personal financial interest as defined in section 1 of the Companies Act, of a related or interrelated person as contemplated in section 2 of the Companies Act;

“interest” includes, but is not limited to, a personal financial interest as defined in section 1 of the Companies Act;

“liquid asset” means a liquid asset as defined in section 1 of the Banks Act;

“member” means a member of the Board of the Corporation appointed in terms of section 6;

“Member of the Executive Council for Finance” means the Member of the Executive Council of the Province of KwaZulu-Natal responsible for Finance;

“member of the public” includes a juristic person;

“National Treasury” means the National Treasury established by section 5 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

“Portfolio Committee” means the Portfolio Committee of the Provincial Legislature responsible for Economic Development;

“Premier” means the Premier of the Province of KwaZulu-Natal referred to in section 125(1) of the Constitution;

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

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“Provincial Government” means the Provincial Government of the Province of KwaZulu-Natal and, unless the context indicates otherwise, includes every Department in the Provincial Government;

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

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

“Registrar of Banks” means the Registrar of Banks designated under section 4 of the Banks Act;

“regulations” means regulations made in terms of section 33;

“regulations relating to Banks” means the regulations in terms of section 90 of the Banks Act;

“responsible Member of the Executive Council” means the Member of the Executive Council of the Province of KwaZulu-Natal responsible for Economic Development;

“shares” means shares in the company contemplated in chapter 7;

“share capital” means funds raised by issuing shares in return for cash or other considerations; and

“this Act” includes the regulations.

CHAPTER 2
ITHALA DEVELOPMENT FINANCE CORPORATION

Ithala Development Finance Corporation

2.(1) The KwaZulu Finance and Investment Corporation Limited, established by Proclamation R. 73 of 1978, and subsequently renamed by the KwaZulu-Natal Ithala Development Corporation Act, 1999 (Act No. 2 of 1999), as Ithala Development Finance Corporation Limited, continues to exist and is to be known as the Ithala Development Finance Corporation Limited.

(2) The Corporation, referred to in subsection (1), continues to be a juristic person.

(3) The Corporation is a provincial public entity subject to the Public Finance Management Act.

(4) Any reference in any other law or document to –

- (a) the Black Investment Corporation of South Africa Limited;
- (b) the Corporation for Economic Development and Tourism Limited;
- (c) the KwaZulu Development Corporation Limited; or
- (d) the KwaZulu Finance and Investment Corporation Limited,

must be construed as a reference to the Ithala Development Finance Corporation Limited.

Objects and area of operation of Corporation

3. The objects of the Corporation are to promote, support and facilitate social and economic development in the Province by –

- (a) mobilising financial resources and providing financial and related support services to persons domiciled, ordinarily resident or carrying on business, within the Province;
- (b) planning, executing, financing and monitoring the implementation of development projects and programmes in the Province;
- (c) promoting, assisting and encouraging the development of the human resources and social, economic, financial and physical infrastructure of the Province;
- (d) promoting, encouraging and facilitating private sector investment in the Province and the participation of the private sector and community organisations in development projects and programmes and in contributing to economic growth and development generally; and
- (e) acting as the agent of the Provincial Government for performing any development-related functions and responsibilities which, in the opinion of the Provincial Government, may be more efficiently or effectively performed by a corporate entity.

Powers, duties and functions of Corporation

4. In attaining the objects contemplated in section 3 and subject to sections 54(2), 66 and 68 of the Public Finance Management Act, 1999, the Corporation may –

(a) raise funds and other resources from the public and private sectors by securing loans, soliciting and receiving grants and donations on such conditions as may be agreed upon and subject to any conditions that may be determined or prescribed by the responsible Member of the Executive Council;

(b) plan, facilitate, promote, carry out, finance, invest in, or underwrite any project, programme or enterprise aimed at furthering the social or economic development and tourism of the Province;

(c) furnish technical and other advice, training, information, guidance and generally offer such support and assistance as may be required for any project, programme, or enterprise contemplated in paragraph (b);

(d) through the Company, lend or advance money, with or without security, on such conditions as it deems fit, take such security as it deems fit in connection therewith, including –

- (i) mortgage bonds;
- (ii) notarial bonds;
- (iii) pledges;
- (iv) cessions;
- (v) liens;
- (vi) hypothecs;
- (vii) guarantees;
- (viii) deeds of suretyship; or
- (ix) any other form of cover or security,

and take such steps as it deems necessary for the recovery of any debt and the protection and enforcement of any right in connection therewith;

(e) guarantee, underwrite, or stand surety for the debts or contractual obligations of any person, indemnify any person against any loss, damage and costs arising from the debts or other obligations of any other person and, for that purpose, enter into security bonds or furnish any other required form of security;

(f) acquire, hold, develop, improve, manage, deal with, hire, let, sell, transfer, donate, cede, hypothecate, or otherwise encumber or alienate movable or immovable property,

whether corporeal or incorporeal;

(g) establish juristic persons or associations of persons capable of carrying out any object, power, function, or duty that the Corporation may carry out in terms of this Act, acquire an interest in any such juristic person and alienate any such interest, or subscribe to membership of any such association and terminate such membership;

(h) hold shares in the Company contemplated in Chapter 7;

(i) act as director, trustee, administrator, manager, executor, judicial manager, liquidator, agent or representative of any person, public body, estate or business and designate any representative to act for such purpose;

(j) charge and accept remuneration for any service rendered to, or on behalf of, any person, including the Provincial Government;

(k) pay all expenses in connection with its administration, open, operate and close banking accounts, overdraw such accounts, make, draw, accept, or endorse negotiable instruments, invest funds not immediately required for its affairs;

(l) create reserve funds, take all such steps as it considers necessary for the protection and preservation of its –

(i) investments; or

(ii) financial interests,

and generally do all things necessary for the management and administration of its financial affairs; and

(m) pay all expenses in connection with the protection, preservation and maintenance of its rights and assets;

(n) take all steps it considers necessary for –

(i) the recovery of any liability; or

(ii) the enforcement of any obligation owing to it by any person,

including the institution of such legal proceedings as it considers necessary; and

(o) employ, suspend, discharge, remunerate, train and house the staff members of the Corporation;

(p) provide the staff members of the Corporation with pension benefits, sick leave benefits, or other benefits of employment and generally do all things necessary to develop and maintain an adequate staff complement within the Corporation;

(q) have an official seal and use such seal for any purpose in the Province;

(r) generally, do all things necessary for –

(i) the attainment of its objects;

- (ii) the exercise of its powers; or
- (iii) the management and administration of its affairs; and
- (s) do any other thing or attend to any other matter that the responsible Member of the Executive Council considers necessary for the proper implementation of this Act; and
- (t) authorise the Company to accept, hold and invest deposits offered by any person, on such conditions as the Minister of Finance or the Registrar of Banks may determine.

Shares, share capital and shareholding

5.(1) At the date of commencement of this Act, the authorised share capital of the Corporation is its issued share capital as held by the Corporation in the Company.

(2) Subject to such conditions as the responsible Member of the Executive Council may prescribe, the Corporation may transfer all or part of the issued shares to any –

- (a) juristic person;
- (b) association of persons; or
- (c) public or private sector body,

whose objects are not inconsistent with those of the Corporation: Provided that individual natural persons may not become shareholders of the Corporation.

(3) The Board, with the approval of –

- (a) the responsible Member of the Executive Council; and
- (b) where shares have been transferred to shareholders as contemplated in subsection (2), the shareholders voting in general meeting,

may, from time to time –

- (a) increase the share capital of the Corporation, to the extent the Board considers expedient, by the creation of –
 - (i) ordinary or preference shares; or
 - (ii) shares of any other type or class it may decide upon,and issue such shares on agreed terms; and
- (b) change –
 - (i) the authorisation and classification of shares;
 - (ii) the numbers of authorised shares of each class; and
 - (iii) the preferences, rights, limitations and other terms associated with each class of shares.

(4) Any share in the Company may be issued with such preferred, deferred or other special rights, or subject to such restrictions as the Board may decide, whether in regard to dividends, voting, return of share capital, or otherwise.

(5) In the case of preference shares, the Board may decide –

- (a) that the shareholders are not entitled to vote; or
- (b) that such shares may be redeemed.

(6) Each issued share, regardless of its class, has associated with it one general voting right.

(7) Despite anything to the contrary in this Act, every share issued has associated with it an irrevocable right of the shareholder to vote on any proposal to amend the preferences, rights, limitations and other terms associated with that share.

CHAPTER 3 BOARD OF CORPORATION

Composition of Board

6.(1) The Board consists of –

- (a) at least seven, but not more than thirteen, members appointed by the responsible Member of the Executive Council; and
- (b) the Chief Executive Officer, *ex officio*, as contemplated in section 17(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 or experience in organised constituencies within the business industry; and
- (b) the following skills, expertise and qualifications –
 - (i) legal skills, experience and qualifications;
 - (ii) financial skills, experience and qualifications;
 - (iii) investment experience or qualifications;

- (iv) marketing experience or qualifications;
- (v) human resource or labour experience or qualifications; and
- (vi) planning or development skills and experience.

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

- (a) historic imbalances are addressed;
- (b) the Board, collectively, possesses the necessary and appropriate skills and expertise;
- (c) the Board is representative of persons employed or involved in the import, trade and investment business enterprises in the Province; and
- (d) municipal interests are represented on the Board in such a manner that equitable spatial representation of municipalities is achieved: Provided that no more than four persons may be appointed to the Board to give effect to the provisions of this subsection.

(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 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.

(6) The invitation for nomination must specify –

- (a) the nomination procedure;
- (b) the requirements for nomination; and
- (c) the closing date for the nomination.

(7) The responsible Member of the Executive Council must appoint a nomination committee to make recommendations to the Responsible Member of the Executive Council for the members of the Board.

(8) 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, immediately after such persons have been notified, in writing, of their appointment to the Board.

(9) 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.

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

Disqualification from being appointed to Board

7.(1) A person is disqualified from being appointed to the Board or from remaining on the Board, by reason that he or she –

- (a) is a member of Parliament, any provincial legislature or any municipal council;
- (b) is or becomes an unrehabilitated insolvent;
- (c) is or has been declared by a competent court to be of unsound mind;
- (d) is directly or indirectly involved in any contract with the Corporation and fails to declare his or her involvement in such a contract and the nature thereof in the manner required by this Act;
- (e) is a person under curatorship;
- (f) has, at any time, been removed from an office of trust on account of misconduct involving theft or fraud;
- (g) 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; and
- (h) fails to disclose an interest contemplated in paragraph (d), or attended or participated in the proceedings of the Board while having an interest contemplated in the said paragraph.

(2) A person who is subjected to a disqualification contemplated in subsection (1)(a), (1)(b) or (1)(g) may be nominated for appointment as a member but may only be appointed, if at the time of such appointment, he or she is no longer subjected to that disqualification.

Declaration of financial or other interests of members of Board

8.(1) A person who has been nominated to serve on the Board in terms of section 6(5) must, within ten 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 or 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 7(1)(h) to be considered for the position of the member of the Board.

(3) Every member of the Board must, upon assuming office and at the beginning of every financial year of the Corporation, submit a written declaration to the responsible Member of the Executive Council of his or her direct or indirect interest in any company or other business.

(4) Where a member 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 ten 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 a justifiable reason for the termination of appointment of such member in terms of section 10(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 member of Board

9. The persons appointed to the Board hold office for a term of three years, or such shorter period as the responsible Member of the Executive Council may determine, and are, subject to section 6, eligible for re-appointment at the expiry of such term: Provided that no person may be re-appointed after having served on the Board for three consecutive terms.

Vacancies, removal and resignation from office of members of Board

10.(1) A member ceases to be a member immediately upon becoming disqualified in terms of section 7.

(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 in person or by post.

(4) A member may resign from office in writing by giving not less than 30 days' notice to the responsible Member of the Executive Council: Provided that the responsible Member of the Executive Council may waive the resignation notice.

(5) Whenever a vacancy occurs on the Board and, other than a vacancy arising by virtue of the responsible Member of the Executive Council exercising his or her powers in terms of subsection (2), the responsible Member of the Executive Council must, subject to section 6, 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 6, but subject to sections 6(2) and 6(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 60 days from the date of their appointment; and

(b) the responsible Member of the Executive Council must, within 60 days of the appointment contemplated in this subsection and subject to section 6, appoint the members of the Board for a term as contemplated in section 9.

Temporary suspension of member of Board

11. 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, could result in the appointment of the member being terminated in terms of section 10(2).

Meetings and procedures at meetings of Board

12.(1) Any meeting of the Board must be held at a venue, on a date and at a time determined by the chairperson of the Board.

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

(3) The proceedings at a meeting of the Board must, subject to the provisions of this section, be determined by the chairperson of the Board.

(4) The chairperson of the Board must preside at all meetings of the Board: Provided that in his or her absence the deputy chairperson of the Board must preside and, in the event that neither the chairperson nor the deputy chairperson is present at a meeting of the Board, the members then present may elect, from their own number, a person to act as the chairperson of the Board 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 of the Board 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 on 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.

(8) A majority of the Board may call an extraordinary meeting of the Board.

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

Recusal of member from meetings and proceedings of Board

13.(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 prevail –

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

(2)(a) 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 a member must forthwith disclose the nature of his or her interest and leave the meeting.

(b) The member contemplated in subsection (2)(a) may not participate in any voting connected with a matter in which he or she has or may have an interest contemplated in subsection (1).

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

(4) Where it emerges that the Board took a decision on a matter in respect of which a member has an undisclosed interest and voted, such decision is voidable.

(5) The decision contemplated in subsection (4) may –

- (a) subject to approval by the responsible Member of the Executive Council, be ratified by a resolution of the Board following disclosure of such interest; or
- (b) be declared to be valid by a court of law.

Remuneration of members of Board

14.(1)(a) A member of the Board may be paid from the funds of the Corporation 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 for Finance.

(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 subsection (1)(a) to the extent required to place such member in the financial position in which he or she would have been were it not for such post or employment.

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

(b) The Member of the Executive Council for Finance must determine procedures, including control measures, for the management, handling and processing of claims for subsistence and travelling expenses contemplated in subsection (2)(a).

Establishment of committees to assist Board

15.(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 Corporation 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) The Board must establish –

- (a) an audit committee, in accordance with the provisions of the Public Finance Management Act; and
- (b) a remuneration committee, which is responsible for –
 - (i) making recommendations regarding remuneration allowances and other benefits of the persons contemplated in section 25(2)(a); and
 - (ii) determining procedures, including control measures for the management,

handling and processing of claims for subsistence and travelling expenses.

- (3) 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.
- (4) 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.
- (5)(a) The Chief Executive Officer may attend and take part in, but may not vote, at a meeting of a committee contemplated in subsections (1) and (2).
- (b) A staff member of the Corporation may, by invitation from the relevant committee, attend a meeting of that committee, but may not vote.

Co-opting of persons to Board or committees of Board

16.(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 of the Board.

(3) A person co-opted in terms of subsection (1) may be paid such remuneration and allowances from the funds of the Corporation as may be determined by the Board, in consultation with the Member of the Executive Council for Finance.

CHAPTER 4 CHIEF EXECUTIVE OFFICER AND STAFF OF CORPORATION

Chief Executive Officer of Corporation

17.(1) The Board must, in consultation with the responsible Member of the Executive Council, appoint the Chief Executive Officer of the Corporation.

(2)(a) The Chief Executive Officer is appointed for a period not exceeding five years.

(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 Corporation.

(b) The Corporation and the Chief Executive Officer may, in writing and by agreement, amend the performance agreement contemplated in subsection (3)(a).

(4) For purposes of the declaration of financial or other interests, the provisions of section 8 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 Chief Executive Officer

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

(a) the administrative and financial management of the Corporation in accordance with the Public Finance Management Act, under the direction of the Board;

(b) the appointment of members of staff of the Corporation contemplated in section 20(1), after consultation with the Board;

(c) the determination of a code of conduct applicable to the Chief Executive Officer and all members of staff of the Corporation, with the approval of the Board, to ensure –

(i) compliance with applicable law, including this Act;

(ii) the effective, efficient and economical use of the funds of the Corporation 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 Corporation; and
 - (vi) professional, honest, impartial, fair, ethical and equitable service; and
- (d) the maintenance of discipline of the members of staff of the Corporation appointed in terms of subsection (1)(b);
- (e) the keeping and maintenance of the register of interests declared by members of staff of the Corporation; and
- (f) ensuring compliance with the provisions of the Public Finance Management Act, and any other applicable legislation by the Board.

(2) If the Chief Executive Officer is, for any reason, unable to perform any of his or her functions, the Board must, in consultation with the responsible Member of the Executive Council, appoint any suitable candidate from the staff members of the Corporation as Acting Chief Executive Officer until the Chief Executive Officer is able to resume his or her functions.

Resignation and removal from office of Chief Executive Officer

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

- (a) in the case of resignation, when the resignation takes effect;
- (b) when he or she becomes disqualified in terms of section 7; and
- (c) upon having been removed from office in terms of subsection (2).

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

Staff of Corporation

20.(1) The Chief Executive Officer must, subject to section 18(1)(b) and subsection (2), employ members of staff of the Corporation 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 work incidental to the performance of its functions.

(2) The Board must, subject to section 25(4), determine a human resources policy for members

of staff of the Corporation, including the Chief Executive Officer.

(3) For purposes of the declaration of financial or other interests, and subject to section 18(1)(e), the provisions of section 8(3), (4) and (5) apply, with the necessary changes, to members of staff of the Corporation.

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

Secondment or transfer of staff to Corporation

21. The Corporation 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 POLICY DIRECTIVES AND CORPORATE PLAN

Policy directives to Board

22.(1) The Responsible Member of the Executive Council, after consultation with the Board and the Portfolio Committee, and in consultation with the Premier in Executive Council, may set strategic guidelines for the pursuit of the Corporation's objects by issuing policy directives to the Board.

(2) The responsible Member of the Executive Council may, similarly, withdraw or amend any policy directive contemplated in subsection (1).

(3) The responsible Member of the Executive Council may not issue any policy directive inconsistent with the provisions of this Act or any other law binding on the Corporation.

(4) A policy directive contemplated in subsection (1) must be –

- (a) in writing;
- (b) signed by the Member of the Executive Council; and
- (c) addressed to the Chairperson of the Board.

(5) The Board must ensure –

- (a) that a record is kept of all current policy directives; and
- (b) that members of the public have the right of access to this record.

(6) The Board must report to the responsible Member of the Executive Council on the extent of its compliance or non-compliance with all existing policy directives in its annual report.

Corporate Plan of Corporation

23. The Board must ensure that a corporate plan is developed and implemented in accordance with the provisions of the Public Finance Management Act.

Prohibitions and restrictions on distribution of Corporation's profits

24. The Member of the Executive Council may, by notice in the *Gazette*, impose such prohibitions and restrictions on –

- (a) the distribution of the profits of the Corporation; and
- (b) the disposal of the major assets of the Corporation,

as he or she considers necessary for the good governance of the Corporation.

CHAPTER 6 FUNDING AND FINANCIAL MANAGEMENT OF CORPORATION

Funds of Corporation

25.(1) The funds of the Corporation consist of –

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

(2) The Corporation must utilise its funds –

- (a) for the payment of remuneration, allowances and subsistence and travelling expenses of –
 - (i) the members;

- (ii) the co-opted members of the Board or the members of the committees of the Board;
 - (iii) the Chief Executive Officer; and
 - (iv) the members of staff of the Corporation; and
- (b) to cover costs in connection with –
- (i) the day to day operation and administration of the Corporation; and
 - (ii) the performance of the duties and functions of the Corporation 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 Corporation with a company or an institution registered as a bank in terms of the Banks Act; and
 - (b) deposit therein all moneys received in terms of subsection (1).
- (4) The Board, after 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 all members of staff of the Corporation.
- (5) The Corporation may invest moneys deposited into its account which are not required for immediate use: Provided that the Board must take reasonable steps to ensure that the investment is not of a speculative nature.

Financial management

- 26.(1) The Chief Executive Officer must cause full and proper books of account of the Corporation and all the necessary records of the Corporation in relation thereto to be kept.
- (2) The Chief Executive Officer must ensure that the annual budgets, corporate plans, annual reports and audited financial statements of the Corporation are prepared and submitted in accordance with the Public Finance Management Act.
- (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 Corporation: containing measurable objectives and the other information contemplated in section 27(3)(b) and (c); and

(b) a statement of the estimated income and expenditure of the Corporation,

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 Corporation for that financial year.

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

(6) The Chief Executive Officer may –

(a) with the approval of the Board, invest any unexpended portion of the Corporation 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) with the approval of the Board, 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

27.(1) The Auditor-General must audit the financial statements of the Corporation.

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

(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 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 Corporation 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 26(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.

Establishment and administration of special funds

28.(1) The Corporation may, in consultation with the responsible Member of the Executive Council, establish and maintain special funds, including a fund for the bringing into the mainstream of investment the previously disadvantaged groups.

(2) The Corporation must administer such funds in the manner determined by the responsible Member of the Executive Council.

CHAPTER 7 ITHALA STATE-OWNED COMPANY LIMITED

Ithala State-owned Company Limited

29. At the commencement of this Act, the Corporation is the sole shareholder of the Company.

Powers of Company

30.(1) The Company has all the powers and capacity of a juristic person, except to the extent that the Banks Act, the Companies Act, or its Memorandum of Incorporation provides otherwise.

(2) Notwithstanding anything to the contrary contained in this Act, the Company has the power to accept, hold and invest deposits offered by any person on such conditions as the Minister of Finance or the Registrar of Banks may determine in terms of the Banks Act.

Compliance with requirements of Banks Act

31. For as long as the Company accepts deposits from the public, it must comply with any requirement or condition imposed by the Minister of Finance or the Registrar of Banks in terms of the Banks Act.

Winding-up of Company

32.(1) Where the Company operates as contemplated in section 31, the relevant provisions of the Banks Act apply in respect of the winding-up or deregistration of the Company.

(2) Subject to subsection (1), the Company may be wound up or deregistered in terms the Companies Act.

(3) On the date of the winding-up of the Company contemplated in subsection (2), 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 Corporation established in terms of section 3.

(4) Notwithstanding the disestablishment of the Corporation, the Company continues to exist as a separate legal entity registered in terms of the Companies Act.

(5) The winding up of any juristic person that is a shareholder in the Company does not affect the status of the Company.

CHAPTER 8 GENERAL PROVISIONS

Security of confidential information held by Corporation

33.(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 Corporation, unless –

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

(2) No person may disclose any information kept in the registers contemplated in sections 8(6) and 20(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 Corporation; or
- (c) made for purposes of monitoring, evaluating, investigating or considering any activity relating to the Corporation, or any member of staff of the Corporation.

(3) No person may disclose or use, for personal gain or otherwise, any information of a confidential nature relating to the business of the Corporation, without the prior consent of the Corporation.

Dissolution of Corporation

34. The Corporation may not be wound-up except in terms of an Act of the Provincial Legislature.

Use of name of Corporation

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

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

Delegations

36.(1) The responsible Member of the Executive Council may delegate to the Head of Department –

- (a) any power conferred on the responsible Member of the Executive by this Act, except the power to make regulations in terms section 37; 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 contemplated in sections 6(3) and 10(2).

(2) The Chief Executive Officer may delegate to any member of staff of the Corporation any power or duty conferred or imposed on the Chief Executive Officer by this Act, except any duty

as an *ex officio* member of the Board or accounting officer of the Corporation.

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

(4) Any delegation referred to in subsection (1) or (2) –

- (a) must be in writing;
- (b) does not prohibit the person 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.

Regulations

37.(1) The responsible Member of the Executive Council may, after consultation with the Board, the Portfolio Committee and any shareholders, who either solely or jointly hold twenty-five percent or more of the shares in the Company, make regulations regarding –

- (a) the circumstances under which and conditions upon which the Corporation may borrow funds;
- (b) the circumstances under which and conditions upon which the Corporation may dispose of any major assets;
- (c) the circumstances under which and conditions upon which the Corporation may distribute any surplus funds;
- (d) the voting rights of shareholders in the Company; or
- (e) the holding of, and procedure at, meetings of shareholders and the taking of decisions by shareholders without holding a meeting.

(2) In addition to matters contemplated in subregulation (1), the responsible Member of the Executive Council may regulate on –

- (a) the keeping of registers and records by the Board and right of the public to access any such register or record;
- (b) the form and contents of the annual report of the Corporation;
- (c) the location of the public office of the Corporation;
- (d) the giving and receiving of notices by the Corporation;

- (e) any other matter that the responsible Member of the Executive Council considers necessary for the proper implementation or the administration of this Act; or
- (f) any administrative or procedural matter necessary to give effect to the provisions of this Act.

(3) Any regulation with financial implications must be made in consultation with the Member of the Executive Council responsible for Finance.

General offences

38.(1) Any member who wilfully or in a grossly negligent manner fails to comply with section 8(3), (4) or 13(2), or any former member who failed to comply with, or contravened, any of the sections contemplated in this subsection, while being a member, is guilty of an offence.

(2) Any person who wilfully or in a grossly negligent manner fails to comply with section 20(3) is guilty of an offence.

(3) Any person who wilfully or in a grossly negligent manner contravenes section 35 is guilty of an offence.

(4) Any person who wilfully or in a grossly negligent manner contravenes section 26(1), (2) and (3), is guilty of an offence.

(5) A person is guilty of an offence if he or she directly or indirectly accepts any bribe or corruptly receives any fee or reward from any person in connection with anything done or offered by the Corporation.

(6) A person is guilty of an offence if he or she, in respect of, or in connection with, anything done or offered by the Corporation, bribes or attempts to bribe or corruptly influence or attempts to corruptly influence any person employed by, or acting on behalf of, the Corporation.

(7) Any person who wilfully or in a grossly negligent way falsely claims that he or she is authorised to charge or collect fees, donations or contributions on behalf of, or by direction of, the Corporation, is guilty of an offence.

Penalties

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

Repeal of law

40. The KwaZulu-Natal Ithala Development Corporation Act, 1999 (Act No. 2 of 1999), is hereby repealed.

Transitional arrangements and savings

41. Any act purported to have been done or performed in terms of a law repealed by this Act by the responsible Member of the Executive Council, the Corporation, a member or any employee of the Corporation before the commencement of this Act, and which may be done or performed in terms of this Act, must be regarded as having been done or performed in accordance with this Act.

Short title

42. This Act is called the KwaZulu-Natal Ithala Development Finance Corporation Act, 2013, and comes into operation on a date to be determined by the responsible Member of the Executive Council by notice in the *Gazette*.

No. 3

13 Februarie 2014

[Engelse teks deur die Premier geteken]

KWAZULU-NATAL
WET OP ITHALA ONTWIKKELINGSFINANSIERINGSKORPORASIE,
2013
(No. 05 van 2013)

Goedgeteken op 23-01-2014

WET

Om voorsiening te maak vir die voorgesette bestaan van die KwaZulu-Natal Ithala Ontwikkelingsfinansieringskorporasie Beperk, voorheen bekend as KwaZulu Finansierings- en Beleggingskorporasie Beperk, met die hoofdoel om volhoubare sosio-ekonomiese ontwikkeling in die Provinsie van KwaZulu-Natal te bevorder, ondersteun en fasiliteer in ooreenstemming met die groei- en ontwikkelingstrategie van die Provinsie; om die oogmerke, bevoegdhede, pligte en werksaamhede van die KwaZulu-Natal Ithala Ontwikkelingsfinansieringskorporasie Beperk te bepaal; om die wyse te bepaal waarop die KwaZulu-Natal Ontwikkelingsfinansieringskorporasie Beperk bestuur, beman en

gefinansier sal word; en om vir aangeleenthede wat daarmee verband hou voorsiening te maak.

DAAR WORD soos volg deur die Provinsiale Wetgewer van die Provinsie van KwaZulu-Natal bepaal:-

RANGSKIKKING VAN ARTIKELS

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HOOFSTUK 1 OMSKRYWINGS

Omskrywings

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

“**aandele**” aandele in die maatskappy bedoel in artikel 7;

“**aandelekapitaal**” fondse ingesamel deur die uitreiking van aandele in ruil vir kontant of ander oorwegings;

“**Bankewet**” die Bankewet, 1990 (Wet No. 94 van 1990), en enige woord of uitdrukking waaraan ‘n betekenis toegewys is in die Bankewet of die Regulasies betreffende Banke, dra die betekenis daaraan toegewys;

“**belang**” sluit in, maar is nie beperk nie tot, ‘n persoonlike finansiële belang soos omskryf in artikel 1 van die Maatskappywet;

“**Departement**” die departement in die Provinsiale Regering van KwaZulu-Natal verantwoordelik vir Ekonomiese Ontwikkeling;

“**Departementshoof**” die persoon aangestel as Departementshoof ingevolge artikel 12 van die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994);

“**deposito**” ‘n deposito soos omskryf in artikel 1 van die Bankewet;

“**Grondwet**” die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet 108 van 1996);

“**hierdie Wet**” sluit die regulasies in;

“**Hoof- Uitvoerende Beamppte**” die Hoof- Uitvoerende Beamppte van die Korporasie aangestel ingevolge artikel 17;

“**Koerant**” die amptelike *Provinsiale Koerant* van KwaZulu-Natal;

“Korporasie” die Ithala Ontwikkelingsfinansieringskorporasie Beperk verwys na in artikel 2;

“lid” ‘n Raadslid van die Korporasie aangestel ingevolge artikel 6;

“lid van die publiek” sluit in ‘n regspersoon;

“Lid van die Uitvoerende Raad vir Finansies” die Lid van die Uitvoerende Raad van die Provinsie van KwaZulu-Natal verantwoordelik vir Finansies;

“Maatskappy” Ithala Beperk, ‘n Maatskappy in Staatsbesit, ‘n filiaal van die Ithala Ontwikkelingsfinansieringskorporasie Beperk, synde ‘n Maatskappy in Staatsbesit geïnkorporeer ingevolge die Maatskappywet, 2008 (Wet No. 71 van 2008);

“Maatskappywet” die Maatskappywet, 2008 (Wet No. 71 van 2008);

“Nasionale Tesourie” die Nasionale Tesourie ingestel deur artikel 5 van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999);

“onregstreekse belang” sluit in, maar is nie beperk nie tot, ‘n persoonlike finansiële belang soos omskryf in artikel 1 van die Maatskappywet, van ‘n verwante of onderling verwante persoon soos bedoel in artikel 2 van die Maatskappywet;

“Portefeuljekomitee” die Portefeuljekomitee van die Provinsiale Wetgewer verantwoordelik vir Ekonomiese Ontwikkeling;

“Premier” die Premier van die Provinsie van KwaZulu-Natal verwys na in artikel 125(1) van die Grondwet;

“Provinsiale Regering” die Provinsiale Regering van die Provinsie van KwaZulu-Natal en, tensy die samehang anders aandui, sluit elke Departement in die Provinsiale Regering in;

6

“**Provinsiale Wetgewer**” die Wetgewer van die Provinsie van KwaZulu-Natal verwys na in artikel 105 van die Grondwet en wat beskik oor 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 “**provinsiaal**” het ‘n ooreenstemmende betekenis;

“**Raad**” die Raad van die Korporasie aangestel ingevolge artikel 6;

“**Registrateur van Banke**” die Registrateur van Banke toegewys kragtens artikel 4 van die Bankewet;

“**regulasies**” regulasies gemaak ingevolge artikel 33;

“**regulasies betreffende Banke**” die regulasies ingevolge artikel 90 van die Bankewet;

“**roerende bate**” ‘n roerende bate soos omskryf in artikel 1 van die Bankewet;

“**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

“**Wet op Openbare Finansiële Bestuur**” Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999);

HOOFSUK 2 ITHALA ONTWIKKELINGSFINANSIERINGSKORPORASIE

Ithala Ontwikkelingsfinansieringskorporasie

2.(1) Die KwaZulu Finansierings- en Beleggingskorporasie Beperk, ingestel deur Proklamasie R. 73 van 1978, en vervolgens hernoem deur die KwaZulu-Natal Wet op Ithala Ontwikkelingsfinansieringskorporasie, 1999 (Wet No. 2 van 1999), as Ithala

Ontwikkelingsfinansieringskorporasie Beperk, gaan voort om te bestaan en sal bekend staan as die Ithala Ontwikkelingsfinansieringskorporasie Beperk.

(2) Die Korporasie, verwys na in subartikel (1), bly 'n regs persoon.

(3) Die Korporasie is 'n provinsiale openbare entiteit behoudens die Wet op Openbare Finansiële Bestuur.

(4) Enige verwysing in enige ander wet of dokument na –

- (a) die Bantoebeleggingskorporasie van Suid-Afrika Beperk;
- (b) Ekonomiese Ontwikkelingskorporasie en Toerisme Beperk;
- (c) die KwaZulu Ontwikkelingskorporasie Beperk; of
- (d) die KwaZulu Finansies- en Beleggingskorporasie Beperk,

moet geag word as 'n verwysing na die Ithala Ontwikkelingsfinansieringskorporasie Beperk.

Oogmerke en bedryfsgebied van Korporasie

3. Die oogmerke van die Korporasie is om sosiale en ekonomiese ontwikkeling in die Provinsie te bevorder, ondersteun en fasiliteer deur –

- (a) finansiële hulpbronne te mobiliseer en finansiële en verwante ondersteuningsdienste te voorsien aan persone wat in die Provinsie domisilieer, gewoonlik woonagtig is of wat voortgaan om sake te bedryf binne die Provinsie;
- (b) beplanning, uitvoering, finansiering en monitering van die inwerkingstelling van ontwikkelingsprojekte en -programme in die Provinsie;
- (c) bevordering van, hulpverlening aan en aanmoediging van die ontwikkeling van die Provinsie se menslike hulpbronne en sosiale, ekonomiese, finansiële en fisiese infrastruktuur;
- (d) bevordering, aanmoediging en fasilitering van privaatsektorbelegging in die Provinsie en die deelname van die privaatsektor- en gemeenskapsorganisasies aan ontwikkelingsprojekte en -programme en bydrae tot ekonomiese groei en ontwikkeling in die algemeen te bevorder; en
- (e) op te tree as die Provinsiale Regeringsagent vir die verrigting van enige take en verantwoordelikhede wat met ontwikkeling verband hou wat, na die mening van die

Provinsiale Regering, meer doeltreffend en doelmatig verrig kan word deur 'n korporatiewe entiteit.

Bevoegdhede, pligte en werksaamhede van Korporasie

4. Met die verwesenliking van die oogmerke bedoel in artikel 3 en behoudens artikels 54(2), 66 en 68 van die Wet op Openbare Finansiële Bestuur, kan die Korporasie –

(a) fondse en ander hulpbronne vanaf die openbare en private sektore insamel deur lenings te waarborg, toekennings en skenkings aan te vra en te ontvang op sodanige voorwaardes waarvoor ooreengekom mag word en behoudens enige voorwaardes wat deur die verantwoordelike Lid van die Uitvoerende Raad bepaal of voorgeskryf kan word;

(b) enige projek, program of onderneming beplan, fasiliteer, bevorder, uitvoer, finansier, belê in, of onderskryf, gemik op die bevordering van sosiale en ekonomiese ontwikkeling en toerisme in die Provinsie;

(c) tegniese en ander advies, opleiding, inligting en leiding voorsien en in die algemeen sodanige ondersteuning en bystand aanbied wat vir enige projek, program of onderneming benodig word, soos bedoel in paragraaf (b);

(d) deur die Maatskappy, geld leen of voorskiet, met of sonder sekuriteit, op sodanige voorwaardes soos hy mag goeddink, sodanige sekuriteit in verband daarmee neem soos hy mag goeddink, met inbegrip van –

(i) verbande;

(ii) notariële verbande;

(iii) pande;

(iv) sessies;

(v) retensieregte;

(vi) hipoteke;

(vii) waarborge;

(viii) sekuriteitsaktes; of

(ix) enige ander vorm van dekking of sekuriteit,

en sodanige stappe neem soos hy mag goeddink vir die verhaling van enige skuld en die beskerming en afdwinging van enige reg in verband daarmee; en

(e) waarborg, onderskryf of borg staan vir die skulde of kontraktoelike verpligtinge van enige persoon, enige persoon vrywaar van enige verlies, skade en kostes voortspruitend

uit die skulde of ander verpligtinge van enige ander persoon en, vir daardie doel, sekuriteitsaktes aangaan of enige ander vereiste vorm van sekuriteit voorsien;

(f) roerende of vaste eiendom, hetsy liggaamlik of onliggaamlik, verkry, hou, ontwikkel, verbeter, bestuur, daarmee handel, huur, verhuur, verkoop, oordra, skenk, sedeer, verhipotekeer, of andersins beswaar of vervreem;

(g) regspersone of verenigings van persone instel wat in staat is om uitvoering te gee aan enige oogmerk, bevoegdheid, werksaamheid of plig wat die Korporasie kan uitvoer ingevolge hierdie Wet, 'n belang by enige sodanige regspersoon verkry en enige sodanige belang vervreem, of om 'n lid van enige sodanige vereniging te word en sodanige lidmaatskap te beëindig;

(h) aandele behou in die Maatskappy bedoel in Hoofstuk 7;

(i) optree as direkteur, trustee, administrateur, bestuurder, eksekuteur, geregtelike bestuurder, likwidateur, agent of verteenwoordiger van enige persoon, openbare liggaam, boedel of besigheid en enige verteenwoordiger aan te wys om op te tree vir sodanige doel;

(j) besoldiging vir enige diens wat vir, of namens, enige persoon, met inbegrip van die Provinsiale Regering, te eis en te aanvaar;

(k) alle uitgawes in verband met sy administrasie betaal, bankrekeninge open, bedryf en sluit, sodanige rekeninge oortrek, om verhandelbare dokumente op te stel, aanvaar of endosseer en fondse wat nie onmiddellik vir sy sake benodig word nie, belê;

(l) reserwefondse skep, alle sodanige stappe neem soos wat hy nodig ag vir die beskerming en bewaring van sy –

(i) beleggings; of

(ii) finansiële belange,

en in die algemeen alle dinge doen wat nodig is vir die bestuur en administrasie van sy finansiële sake; en

(m) alle uitgawes in verband met die beskerming, bewaring en instandhouding van sy regte en bates betaal;

(n) alle stappe neem wat hy nodig ag vir –

(i) die verhaling van enige skuld; of

(ii) die afdwinging van enige verpligting wat aan hom verskuldig is deur enige persoon,

ingesluit die instelling van sodanige regstappe wat hy as dienstig ag; en

(o) personeellede van die Korporasie aanstel, skors, ontslaan, besoldig, oplei en huisves;

- (p) personeellede van die Korporasie voorsien van pensioenvoordele, siekteverlofvoordele of ander diensvoordele en in die algemeen alles doen wat nodig is om 'n toereikende personeelsterkte te ontwikkel en in stand te hou binne die Korporasie;
- (q) 'n amptelike seël hê en sodanige seël vir enige doel in die Provinsie gebruik;
- (r) in die algemeen, alle dinge doen wat nodig is vir –
 - (i) die verwesenliking van sy oogmerke;
 - (ii) die uitoefening van sy bevoegdhede; of
 - (iii) die bestuur en administrasie van sy sake; en
- (s) enige ander ding doen of aandag skenk aan enige ander aangeleentheid wat die verantwoordelike Lid van die Uitvoerende Raad nodig ag vir die behoorlike inwerkingstelling van hierdie Wet; en
- (t) die Maatskappy bemaatig om deposito's wat aangebied word deur enige persoon te aanvaar, hou en belê, op sodanige voorwaardes soos die Minister van Finansies of Registrateur van Banke kan bepaal.

Aandele, aandelekapitaal en aandeelhouing

5.(1) Die gemagtigde aandelekapitaal van die Korporasie is sy uitgereikte aandelekapitaal op die inwerkingtreddingsdatum van hierdie Wet, soos gehou deur die Korporasie in die Maatskappy.

(2) Behoudens sodanige voorwaardes wat die verantwoordelike Lid van die Uitvoerende Raad kan voorskryf, kan die Korporasie alle uitgereikte aandele of 'n gedeelte daarvan oordra aan enige –

- (a) regspersoon;
- (b) vereniging van persone; of
- (c) openbare of privaatsektorliggaam,

wie se oogmerke nie met dié van die Korporasie strydig is nie: Met dien verstande dat individuele natuurlike persone nie aandeelhouers van die Korporasie kan word nie.

(3) Die Raad, met die goedkeuring van –

- (a) die verantwoordelike Lid van die Uitvoerende Raad; en
- (b) die aandeelhouers wat stem op 'n algemene vergadering, waar aandele oorgedra is aan aandeelhouers soos bedoel in subartikel (2),

kan, van tyd tot tyd –

(a) die aandeelkapitaal van die Korporasie verhoog in die mate wat die Raad dienstig ag, deur die skep van –

(i) gewone of voorkeuraandele; of

(ii) aandele van enige ander tipe of klas waarop hy kan besluit,

en sodanige aandele op ooreengekome voorwaardes uitreik; en

(b) die volgende verander –

(i) die bemagtiging en klassifikasie van aandele;

(ii) die getal gematigde aandele van elke klas; en

(iii) die voorkeure, regte, beperkings en ander voorwaardes gekoppel aan elke klas aandele.

(4) Enige aandeel in die Maatskappy kan uitgereik word met sodanige preferente, uitgestelde of ander spesiale regte, of behoudens sodanige beperkings waarop die Raad kan besluit, hetsy met betrekking tot dividende, stemming, teruggawe van aandeelkapitaal, of andersins.

(5) In die geval van voorkeuraandele, kan die Raad besluit –

(a) dat die aandeelhouers nie daarop geregtig is om te stem nie; of

(b) dat sodanige aandele afgelos kan word.

(6) Elke uitgereikte aandeel, ongeag sy klas, het een algemene stemreg daaraan gekoppel.

(7) Ten spyte van enigiets strydig met hierdie Wet, is elke uitgereikte aandeel gekoppel aan 'n onherroeplike reg van die aandeelhouer om te stem oor enige voorstel ten einde die voorkeure, regte, beperkings en ander voorwaardes gekoppel aan daardie aandeel te wysig.

HOOFSTUK 3 RAAD VAN KORPORASIE

Samestelling van Raad

6.(1) Die Raad bestaan uit –

(a) minstens sewe en hoogstens dertien lede aangestel deur die verantwoordelike Lid van die Uitvoerende Raad; en

(b) die Hoof- Uitvoerende Beampste, *ex officio*, soos bedoel in artikel 17(5).

(2) Lede van die Raad moet geskikte en gepaste persone wees om te dien in die belange van die Provinsie, en moet gesamentlik die volgende besit –

(a) toepaslike kennis of ondervinding in georganiseerde konstituerende dele binne die sakebedryf; en

(b) die volgende vaardighede, kundigheid en kwalifikasies –

(i) regsvaardighede, ondervinding en kwalifikasies;

(ii) finansiële vaardighede, ondervinding en kwalifikasies;

(iii) beleggingsondervinding of kwalifikasies;

(iv) bemarkingsondervinding of kwalifikasies;

(v) menslike hulpbron- of arbeidsondervinding of kwalifikasies; en

(vi) beplanning- of ontwikkelingsvaardighede en ondervinding.

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

(a) historiese wanbalanse aangespreek word;

(b) die Raad gesamentlik die nodige en toepaslike vaardighede en kundigheid besit;

(c) die Raad verteenwoordigend is van persone in diens van of betrokke by die invoer, handel- en beleggingsakeondernemings in die Provinsie; en

(d) munisipale belange verteenwoordig word in die Raad op sodanige wyse dat billike ruimtelike verteenwoordiging van munisipaliteite behaal word: Met dien verstande dat hoogstens vier persone aangestel kan word op die Raad ten einde uitwerking te gee aan die bepalings van hierdie subartikel.

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

(a) een van die lede van die Raad as Voorsitter van die Raad; en

(b) een van die lede van die Raad as Ondervoorsitter van die Raad,

aanwys.

(5) Die verantwoordelike Lid van die Uitvoerende Raad moet, by kennisgewing in die *Koerant*, enige belanghebbende partye binne die Provinsie uitnooi om kandidate te benoem vir aanstelling in die Raad.

(6) Die uitnodiging vir benoeming moet die volgende spesifiseer –

- (a) die benoemingsprosedure;
- (b) die benoemingsvereistes; en
- (c) die sluitingsdatum vir die benoeming.

(7) Die verantwoordelike Lid van die Uitvoerende Raad moet 'n benoemingskomitee aanstel om aanbevelings te maak aan die verantwoordelike Lid van die Uitvoerende Raad vir lede van die Raad.

(8) Die verantwoordelike Lid van die Uitvoerende Raad moet teweegbring dat die name van die persone aangestel in die Raad gepubliseer word in die *Koerant* en in minstens twee koerante, onmiddelik nadat sodanige persone skriftelik in kennis gestel is van hul aanstelling in die Raad.

(9) Die verantwoordelike Lid van die Uitvoerende Raad moet, binne twee maande na die aanstelling van lede in die Raad ingevolge subartikel (1), die Uitvoerende Raad en die Portefeuljekomitee inlig van die name van die aangestelde lede, insluitend die ampstermyn van hul aanstelling.

(10) Die artikel is van toepassing, met die nodige veranderings, op die vul van 'n vakature in die Raad.

Onbevoegdheid om in Raad aangestel te word

7.(1) 'n Persoon is onbevoeg om aangestel te word in die Raad of om in die Raad aan te bly, uit hoofde van die feit dat hy of sy –

- (a) 'n Parlements lid, lid van enige provinsiale wetgewer of enige munisipale raad is;
- (b) 'n ongerehabiliteerde insolvent is of word;
- (c) deur 'n bevoegde hof as geestelik siek verklaar is of word;
- (d) regstreeks of onregstreeks betrokke is by enige kontrak met die Korporasie en versuim om sy of haar betrokkenheid by so 'n kontrak en die aard daarvan te verklaar op die wyse vereis deur hierdie Wet;
- (e) 'n persoon onder kuratorskap is;
- (f) te eniger tyd uit 'n posisie van vertrouwe verwyder is as gevolg van wangedrag wat diefstal of bedrog insluit;

(g) skuldig bevind en gevangenisstraf opgelê is sonder die keuse van 'n boete, buiten dat die verantwoordelike lid van die Uitvoerende Raad 'n vonnis kan kondoneer by ontvangs van 'n beëdigde verklaring waarin volle besonderhede van 'n misdryf, deur 'n persoon benoem vir aanstelling, verklaar word 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, eindig; en

(h) versuim om 'n belang bedoel in paragraaf (d) openbaar te maak, of aan die verrigtinge van die Raad deelgeneem het of dit bygewoon het, terwyl 'n belang besit is soos bedoel in vermelde paragraaf.

(2) 'n Persoon wat onderhewig is aan 'n onbevoegdheid bedoel in subartikel (1)(a), (1)(b) of (1)(g) kan benoem word vir aanstelling as 'n lid maar kan slegs aangestel word indien hy of sy, ten tye van sodanige aanstelling, nie meer onderhewig is aan daardie onbevoegdheid nie.

Verklaring van finansiële of ander belange van Raadslede

8.(1) 'n Persoon wat benoem is om in die Raad te dien ingevolge artikel 6(5) moet, binne tien dae na die benoeming, 'n skriftelike verklaring van alle regstreekse of onregstreekse belange in enige maatskappy of ander sakebelange by die verantwoordelike Lid van die Uitvoerende Raad indien.

(2) Enige versuim deur die benoemde om finansiële of ander belange bekend te maak ingevolge subartikel (1) diskwalifiseer sodanige benoemde, ingevolge artikel 7(1)(h), van ooreweging vir die posisie as Raadslid.

(3) Elke Raadslid moet, by aanvaarding van die ampstermyn en aan die begin van elke boekjaar van die Korporasie, 'n skriftelike verklaring indien by die verantwoordelike Lid van die Uitvoerende Raad van sy of haar regstreekse of onregstreekse belang in enige maatskappy of ander sakebelang.

(4) Waar 'n lid 'n belang in enige maatskappy of enige ander sakebelang verkry te eniger tyd tydens sy of haar ampstermyn as 'n Raadslid, moet hy of sy, binne tien dae vanaf die datum van die verkryging van sodanige belang, 'n skriftelike verklaring van sodanige belang by die verantwoordelike Lid van die Uitvoerende Raad indien.

(5) Enige versuim aan die kant van die lid om sy of haar belang bekend te maak, soos bedoel in subartikels (3) en (4), maak 'n grondige rede uit vir die beëindiging van die aanstelling van sodanige lid ingevolge artikel 10(2).

(6) Die verantwoordelike Lid van die Uitvoerende Raad moet 'n opgedateerde register van die belange van Raadslede, wat bekend gemaak is ingevolge hierdie artikel, byhou.

Ampstermyn en heraanstelling van Raadslede

9. Die persone aangestel in die Raad beklee die amp vir 'n tydperk van drie jaar, of sodanige korter tydperk soos deur die verantwoordelike Lid van die Uitvoerende Raad bepaal en is, behoudens artikel 6, verkiesbaar vir heraanstelling by die verstryking van sodanige tydperk: Met dien verstande dat geen persoon heraangestel kan word nadat hy of sy vir meer as drie opeenvolgende termyne op die Raad gedien het nie.

Vakatures, ontslag en bedanking uit amp van Raadslede

10.(1) 'n Lid wat onbevoeg raak ingevolge artikel 7, hou onmiddelik op om 'n lid te wees.

(2) Die verantwoordelike Lid van die Uitvoerende Raad kan, nadat die lid 'n geleentheid gebied is om sy of haar saak te stel, die ampstermyn van sodanige lid te eniger tyd beëindig indien, na sy of haar mening, daar grondige en afdoende redes is om dit te doen.

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

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

(5) Wanneer 'n vakature op die Raad ontstaan, en buiten 'n vakature wat ontstaan uit hoofde van die verantwoordelike Lid van die Uitvoerende Raad wat sy of haar bevoegdhede uitoefen

ingevolge subartikel (2), moet die verantwoordelike Lid van die Uitvoerende Raad, behoudens artikel 6, 'n persoon aanstel om sodanige vakature te vul vir die onverstreke gedeelte van die ampstermyn van die lid in wie se plek sodanige persoon aangestel is.

(6) Sou dit gebeur dat die verantwoordelike Lid van die Uitvoerende Raad sy of haar bevoegdhede uitoefen ingevolge subartikel (2), kan hy of sy, nieeenstaande die prosedure vir die aanstelling van die Raadslede uiteengesit in artikel 6, maar behoudens artikels 6(2) en 6(3), persone aanstel om te dien as Raadslede op 'n tussentydse basis: Met dien verstande dat –

- (a) die persone aangestel ingevolge hierdie subartikel nie op die Raad kan aanbly vir 'n tydperk van meer as 60 dae vanaf hul aanstellingsdatum nie; en
- (b) die verantwoordelike Lid van die Uitvoerende Raad, onderhewig aan artikel 6, binne 60 dae vanaf die aanstelling bedoel in hierdie subartikel, die Raadslede moet aanstel vir 'n termyn soos bedoel in artikel 9.

Tydlike skorsing van Raadslid

11. Die verantwoordelike Lid van die Uitvoerende Raad kan 'n Raadslid skors terwyl die verantwoordelike Lid van die Uitvoerende Raad bewerings ondersoek wat, indien gevind word om juis te wees, kan lei tot die beëindiging van die lid se aanstelling ingevolge artikel 10(2).

Vergaderings en vergaderingsprosedures van Raad

12.(1) Enige vergadering van die Raad moet gehou word op 'n tyd, datum en 'n plek bepaal deur die voorsitter van die Raad.

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

(3) Die verrigtinge by 'n vergadering van die Raad moet behoudens die bepalings van hierdie artikel deur die voorsitter van die Raad bepaal word.

(4) Die voorsitter van die Raad moet voorsit by alle vergaderings van die Raad: Met dien verstande dat in sy of haar afwesigheid die ondervoorsitter van die Raad moet voorsit en, in die geval dat beide die voorsitter en ondervoorsitter nie teenwoordig is by 'n vergadering van die

Raad nie, die aanwesige lede uit hul eie geledere 'n persoon kan verkies om as voorsitter van die Raad waar te neem vir die duur van daardie bepaalde vergadering.

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

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

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

(8) 'n Meerderheid van die Raad kan 'n buitengewone vergadering van die Raad roep.

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

Onttrekking van lid van vergaderings en verrigtinge van Raad

13.(1) 'n Raadslid moet hom- of haarself van 'n saak onttrek wat deur die Raad ondersoek, oorweeg of oor gestem word indien een of meer van die volgende geld –

- (a) indien hy of sy 'n regstreekse of onregstreekse belang het; of
- (b) indien daar 'n moontlikheid bestaan dat 'n regstreekse of onregstreekse belang mag ontstaan.

(2)(a) Indien dit in enige stadium tydens die verloop van enige verrigtinge voor die Raad blyk dat 'n lid wat by daardie vergadering teenwoordig is, 'n belang soos bedoel in subartikel (1) het of kan hê, moet sodanige lid onverwyld die aard van sy of haar belang verklaar en die vergadering verlaat.

(b) Die lid bedoel in subartikel (2)(a) kan nie deelneem aan enige stemming verbonde aan 'n aangeleentheid waarin hy of sy 'n belang, bedoel in subartikel (1), kan hê nie.

(3) Enige bekendmaking ingevolge subartikel (1) moet aangeteken word in die notules van die betrokke vergadering.

(4) Indien dit daarna blyk dat die Raad 'n besluit geneem het oor 'n saak ten opsigte waarvan 'n lid versuim het om 'n belang bedoel in subartikel (1) te verklaar, is sodanige besluit deur die Raad ongeldig.

(5) Die besluit bedoel in subartikel (4) kan –

- (a) behoudens die goedkeuring van die verantwoordelike Lid van die Uitvoerende Raad, bekragtig word deur 'n resoluëie van die Raad na die bekendmaking van sodanige belang; of
- (b) deur 'n gehof as geldig verklaar word.

Besoldiging van Raadslede

14.(1)(a) 'n Raadslid kan sodanige besoldiging en toelaes betaal word uit die fondse van die Korporasie, soos bepaal kan word deur die verantwoordelike Lid van die Uitvoerende Raad in oorlegpleging met die Lid van die Uitvoerende Raad vir Finansies.

(b) 'n Raadslid, wat besoldiging, toelaes en ander voordele ontvang uit hoofde van sy of haar pos of indiensneming 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 Raadslid dien, kan slegs vergoeding en toelaes ontvang soos vermeld in subartikel (1)(a) tot die omvang wat vereis word om sodanige lid in die finansiële posisie te plaas waarin hy of sy sou gewees het indien dit nie vir sodanige pos of diens was nie.

(2)(a) 'n Raadslid kan, ten opsigte van sy of haar werksaamhede as 'n lid of gekoöpteerde lid, vergoeding ontvang uit die fondse van die Korporasie vir redelike werklike reis-en-verblyfuitgawes genoodsaak deur die werklike bywoning van 'n vergadering van die Raad.

(b) Die Lid van die Uitvoerende Raad verantwoordelik vir Finansies moet prosedures, insluitende beheermaatreëls, bepaal vir die bestuur, hantering en verwerking van eise vir reis-en-verblyfuitgawes bedoel in subartikel (2)(a).

Instelling van komitees om Raad by te staan

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

- (a) die Raad by te staan in die verrigting van enige van die bevoegdhede, pligte of werksaamhede van die Korporasie bedoel in artikel 4; of
- (b) navraag of navorsing te doen oor enige aangeleentheid wat binne die mandaat van die Raad ingevolge hierdie Wet val.

(2) Die Raad moet die volgende instel –

- (a) 'n ouditkomitee, in ooreenstemming met die bepalings van die Wet op Openbare Finansiële Bestuur; en
- (b) 'n besoldigingskomitee wat verantwoordelik is vir –
 - (i) die maak van aanbevelings betreffende besoldigingstoelaes en ander voordele van die persone bedoel in artikel 25(2)(a); en
 - (ii) die bepaling van prosedures, insluitend beheermaatreëls vir die bestuur, hantering en verwerking van eise vir reis-en-verblyfuitgawes.

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

- (a) die verwysingsterme van sodanige komitee bepaal, insluitend, maar nie beperk nie tot, hetsy of nie sodanige komitee ophou om te bestaan wanneer die taak of take toegeken daaraan deur die Raad voltooi is;
- (b) 'n voorsitter van sodanige komitee aanstel, wat 'n Raadslid moet wees; en
- (c) bepaal hetsy of nie sodanige komitee persone wat nie Raadslede is nie kan koöpteer en, indien wel, op watter terme en voorwaardes.

(4) Die Raad kan, te eniger tyd, die bestaan van 'n komitee, of enige mandaat aan 'n komitee gegee, beëindig, hetsy sodanige komitee die taak of take toegeken daaraan deur die Raad voltooi het aldan nie.

(5)(a) Die Hoof- Uitvoerende Beamppte kan 'n vergadering van 'n komitee bedoel in subartikels (1) en (2) bywoon en deelneem daaraan, maar kan nie stem nie.

(b) 'n Personeellid van die Korporasie kan, by uitnodiging van die betrokke komitee, 'n vergadering van daardie komitee bywoon, maar kan nie stem nie.

Koöptering van persone tot Raad of komitees van Raad

16.(1) Die Raad kan, indien hy van mening is dat 'n bepaalde persoon in staat is om die Raad by te staan met betrekking tot enige van sy werksaamhede en bevoegdhede, sodanige persoon koöpteer vir daardie doel.

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

(3) 'n Persoon gekoöpteer ingevolge subartikel (1) kan sodanige besoldiging en toelaes betaal word uit die fondse van die Korporasie soos deur die Raad bepaal kan word, in oorleg met die Lid van die Uitvoerende Raad vir Finansies.

HOOFSTUK 4

HOOF- UITVOERENDE BEAMPTTE EN PERSONEEL VAN KORPORASIE

Hoof- Uitvoerende Beamppte van Korporasie

17.(1) Die Raad moet, in oorleg met die verantwoordelike Lid van die Uitvoerende Raad, die Hoof- Uitvoerende Beamppte van die Korporasie aanstel.

(2)(a) Die Hoof- Uitvoerende Beamppte word aangestel vir 'n tydperk van hoogstens vyf jaar.

(b) Die Hoof- Uitvoerende Beamppte kan heraangestel word vir een bykomende ampstermyn van hoogstens vyf jaar.

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

(b) Die Korporasie en die Hoof- Uitvoerende Beamppte kan, skriftelik en volgens ooreenkoms, die prestasie-ooreenkoms bedoel in subartikel (3)(a) wysig.

(4) Vir die doeleindes van die verklaring van finansiële of ander belange, is die bepalings van artikel 8 van toepassing, met die nodige veranderings, 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* Raadslid maar het nie die reg om by die Raad se vergaderings te stem nie.

Wersaamhede van Hoof- Uitvoerende Beampte

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

- (a) die administratiewe en finansiële bestuur van die Korporasie in ooreenstemming met die Wet op Openbare Finansiële Bestuur, kragtens die opdrag van die Raad;
- (b) die aanstelling van personeellede van die Korporasie, na oorlegpleging met die Raad, bedoel in artikel 20(1);
- (c) met die goedkeuring van die Raad, die bepaling van 'n gedragskode van toepassing op die Hoof- Uitvoerende Beampte en alle personeellede van die Korporasie ten einde –
 - (i) nakoming van toepaslike wetgewing, met inbegrip van hierdie Wet;
 - (ii) die doeltreffende, doelmatige en ekonomiese gebruik van die Korporasie se fondse en hulpbronne;
 - (iii) die bevordering en handhawing van 'n hoë standaard van professionele etiek;
 - (iv) die voorkoming van botsende belange;
 - (v) die beskerming van vertroulike inligting gehou deur die Korporasie; en
 - (vi) professionele, eerlike, onpartydige, regverdige, etiese en billike diens, te verseker; en
- (d) die handhawing van dissipline van die personeellede van die Korporasie aangestel ingevolge subartikel (1)(b);
- (e) die byhou en instandhouding van die register van belange verklaar deur personeellede van die Korporasie; en
- (f) die versekering van nakoming van die bepalings van die Wet op Openbare Finansiële Bestuur deur die Raad, en enige ander toepaslike wetgewing.

(2) Indien die Hoof- Uitvoerende Beampte, om enige rede, nie in staat is om enige van sy of haar wersaamhede te verrig nie, moet die Raad, in oorleg met die verantwoordelike Lid van die Uitvoerende Raad, enige geskikte kandidaat uit die personeellede van die Korporasie aanstel

as Waarnemende Hoof- Uitvoerende Beampte totdat die Hoof- Uitvoerende Beampte in staat is om sy of haar werksaamhede te hervat.

Bedanking en ontslag uit amp van Hoof- Uitvoerende Beampte

19.(1) Die Hoof- Uitvoerende Beampte ontruim amp –

- (a) in die geval van bedanking, wanneer die bedanking van krag word;
- (b) wanneer hy of sy onbevoeg raak ingevolge artikel 7; en
- (c) by ontslag uit 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 indiensnemings- en arbeidsreg.

Personeel van Korporasie

20.(1) Die Hoof- Uitvoerende Beampte moet, behoudens artikel 18(1)(b) en subartikel (2), personeellede van die Korporasie in diens neem soos wat redelikerwys nodig blyk te wees –

- (a) om hom of haar by te staan in die verrigting van sy of haar werksaamhede ingevolge hierdie Wet; en
- (b) om die Raad by te staan met werk bykomstig tot die verrigting van sy werksaamhede.

(2) Die Raad moet, behoudens artikel 25(4), 'n menslike hulpbronbeleid bepaal vir personeellede, insluitend die Hoof- Uitvoerende Beampte, van die Korporasie.

(3) Vir doeleindes van die verklaring van finansiële of ander belange, en behoudens artikel 18(1)(e), is die bepalings van artikel 8(3), (4) en (5) van toepassing, met die nodige veranderings, op personeellede van die Korporasie.

(4) Die Hoof- Uitvoerende Beampte moet 'n opgedateerde register, van die belange van personeellede van die Korporasie wat ingevolge subartikel (3) verklaar is, byhou.

Afstaan aan of oorplasing van personeel na Korporasie

21. Die Korporasie kan die dienste aanwend van persone wat afgestaan is of oorgeplaas is vanaf die staatsdiens, in ooreenstemming met die bepalings van die Staatsdienswet, 1994 (Proklamasie No. 103 van 1993).

HOOFSUK 5 BELEIDSRIGLYNE EN KORPORATIEWE PLAN

Beleidsriglyne aan Raad

22.(1) Die verantwoordelike Lid van die Uitvoerende Raad, na oorlegpleging met die Raad en die Portefeuljekomitee, en in oorleg met die Premier in Uitvoerende Raad, kan strategiese riglyne stel vir die nastrewing van die Korporasie se oogmerke deur beleidsriglyne aan die Raad uit te reik.

(2) Die verantwoordelike Lid van die Uitvoerende Raad kan, eweneens, enige beleidsriglyn bedoel in subartikel (1) onttrek of wysig.

(3) Die verantwoordelike Lid van die Uitvoerende Raad kan nie enige beleidsriglyn uitreik wat teenstrydig met die bepalings van hierdie Wet of enige ander wet wat bindend op die Korporasie is nie.

(4) 'n Beleidsriglyn bedoel in subartikel (1) moet –

- (a) skriftelik wees;
- (b) deur die Lid van die Uitvoerende Raad onderteken wees; en
- (c) geadresseer word aan die Voorsitter van die Raad.

(5) Die Raad moet verseker –

- (a) dat 'n rekord gehou word van alle huidige beleidsriglyne; en
- (b) dat lede van die publiek toegangsreg tot hierdie rekord het.

(6) Die Raad moet aan die verantwoordelike Lid van die Uitvoerende Raad, in sy jaarverslag, verslag lewer oor die mate waarin hy alle geldende beleidsriglyne nagekom of nie nagekom het nie.

Korporatiewe Plan van Korporasie

23. Die Raad moet die ontwikkeling en inwerkingstelling van 'n korporatiewe plan in ooreenstemming met die bepalings van die Wet op Openbare Finansiële Bestuur verseker.

Verbiedinge en beperkings op verspreiding van Korporasiewinste

24. Die Lid van die Uitvoerende Raad kan, by kennisgewing in die *Koerant*, sodanige verbiedinge en beperkings op –

- (a) die verdeling van die Korporasiewinste; en
- (b) die vervreemding van die Korporasie se groot bates,

oplê wat hy of sy vir goeie bestuur van die Korporasie nodig mag ag.

HOOFSTUK 6
BEFONDSING EN FINANSIËLE BESTUUR VAN KORPORASIE

Fondse van Korporasie

25.(1) Die fondse van die Korporasie bestaan uit –

- (a) geld bewillig deur die Provinsiale Wetgewer;
- (b) rente op beleggings van die Korporasie; en
- (c) inkomste wat wettig van enige ander bron afkomstig is.

(2) Die Korporasie moet sy fondse aanwend –

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

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