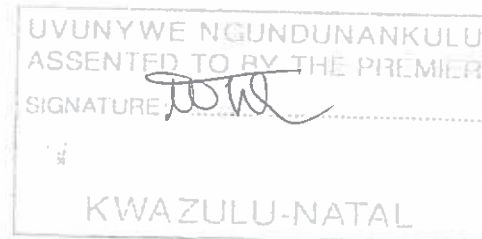


NOTICE 4 OF 2018

[English text signed by the Premier]

**KWAZULU-NATAL JOINT MUNICIPAL
PROVIDENT FUND ACT, 2017
(Act No. 08 of 2017)**

Assented to on 07/12/2017

ACT

To provide for the continued existence of, and the continuation of both membership of and association with, the KwaZulu-Natal Joint Municipal Provident Fund; for the power of the responsible Member of the Executive Council to make regulations; for transitional arrangements; for the repeal of laws and savings; for the validation of certain actions; for the retrospective validation of the establishment and operation of the Natal Joint Municipal Pension Fund Staff Provident Fund; and for matters incidental thereto.

PREAMBLE

WHEREAS it is necessary to replace the current KwaZulu-Natal Joint Municipal Provident Fund framework with a framework that is solely regulated by, aligned to, and compliant with the Constitution of the Republic of South Africa, 1996, the nationally applicable Pension Funds Act, 1956 (Act No. 24 of 1956), and the principles of good governance,

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

Definitions

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

“**actuary**” means a person who is –

(a) a fellow of an institute, faculty, society or chapter of actuaries registered as such in accordance with the applicable legislation; and

(b) appointed by the –

(i) Registrar; and

(ii) Board of Trustees,

as a valuator as contemplated in section 9A of the Pension Funds Act, 1956 (Act No. 24 of 1956);

“**auditor**” means a public accountant and auditor who is –

(a) registered as such in accordance with the Public Accountants’ and Auditors’ Act, 1991 (Act No. 80 of 1991); and

(b) appointed by the Board of Trustees;

“**benefit**” means any benefit granted or other amount due, in accordance with the regulations to a member, dependant or other person;

“**Board of Trustees**” means the Board of Trustees contemplated in section 7A of the Pension Funds Act, 1956 (Act No. 24 of 1956), and established as prescribed;

“**committee of management**” means the committee of management elected in accordance with the provisions of the Rules;

“**employee**” means an employee as contemplated in sections 8(2) and (3);

“Financial Services Board” means the Financial Services Board established in accordance with section 2 of the Financial Services Board Act, 1990 (Act No. 97 of 1990);

“Fund” means the KwaZulu-Natal Joint Municipal Provident Fund;

“general committee” means the general committee elected in accordance with the provisions of the rules;

“KwaZulu-Natal Joint Municipal Provident Fund” means the KwaZulu-Natal Joint Municipal Provident Fund established by section 2 of the KwaZulu-Natal Joint Municipal Provident Fund Act, 1995 (Act No. 4 of 1995);

“member” unless the context determines otherwise, means a natural person who –

(a) at any stage prior to the commencement date of this Act contributed to the Fund, and from the commencement date of this Act continues to contribute to the Fund; or

(b) on any date subsequent to the commencement date of this Act starts to contribute to the Fund;

“municipality” –

(a) includes a metropolitan municipality, a district municipality or a local municipality as contemplated in section 155(6) of the Constitution of the Republic of South Africa, 1996;

(b) means a municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

(c) when contemplated as an entity or a corporate body, means a municipality as described in section 2 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and

(d) when contemplated as a geographic area, means a municipal area determined as contemplated in the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998);

“notice” means a notice issued in terms of a regulation;

“Pension Funds Act” means the Pension Funds Act, 1956 (Act No. 24 of 1956);

“prescribed” means prescribed by the responsible Member of the Executive Council by regulation made or notice issued in accordance with section 7;

“principles of good governance” means the principles as set out in the King Code and Report on Governance in South Africa, 2009, and any amendments thereto, or revision thereof;

“promulgation” means promulgation in the *Provincial Gazette*;

“Province” means the Province of KwaZulu-Natal;

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

“regulation” means a regulation made under this Act, and includes any Schedule to such regulations;

“Regulations governing the KwaZulu-Natal Joint Municipal Provident Fund” means the Regulations governing the KwaZulu-Natal Joint Municipal Provident Fund published in Provincial Notice No. 135 of 1996 on 4 April 1996;

“responsible Member of the Executive Council” means the Member of the Executive Council responsible for local government;

“Rules” for purposes of the Pension Funds Act, means –

(a) the Rules for the Management and Administration of the Natal Joint Municipal Pension Fund (Superannuation), the Natal Joint Municipal Pension Fund (Retirement), and the KwaZulu-Natal Joint Municipal Provident Fund, issued in accordance with the regulations made under the –

(i) Local Government Superannuation Ordinance, 1973 (Ordinance No. 24 of 1973);

(ii) Natal Joint Municipal Pension Fund (Retirement) Ordinance, 1974 (Ordinance No. 27 of 1974); and

(iii) KwaZulu-Natal Joint Municipal Provident Fund Act, 1995 (Act No. 4 of 1995); and

(b) any further Schedules made in accordance with section 7, after the date of commencement of this Act; and

“**this Act**” includes the regulations made and notices issued in terms of such regulations.

Objects of Act

2. The objects of this Act are to replace the current Fund framework with a framework that is solely regulated by, aligned to, and compliant with the –

- (a) Constitution of the Republic of South Africa, 1996;
- (b) Pension Funds Act; and
- (c) principles of good governance.

Application of Act

3.(1) This Act applies to all municipalities associated with, and members of, the Fund.

(2) The provisions of the Pension Funds Act apply to this Act, and the Pension Funds Act prevails in the event of an irreconcilable conflict between the application of the Pension Funds Act and the provisions of this Act.

Continuation and operation of Fund

4.(1) The Fund –

- (a) continues to exist with all the associated rights, powers, duties, responsibilities, assets and liabilities as they were immediately prior to the commencement date of this Act; and
- (b) operates in accordance with the provisions of this Act, subject to the provisions of section 3(2).

(2) The regulations governing the KwaZulu-Natal Joint Municipal Provident Fund and the rules apply to the Fund.

Continuation of membership of Fund

5. Subject to the provisions of this Act or any other law, a person who, immediately prior to the date of commencement of this Act, was a member of the Fund, continues to be a member of the Fund.

Continuation of association with Fund

6. Every municipality that, immediately prior to the commencement of this Act, was associated with the Fund, continues to be associated with the Fund.

Powers of responsible Member of Executive Council

7.(1) The responsible Member of the Executive Council, after consultation with the Fund, may –

- (a) appoint an –
 - (i) actuary to conduct an actuarial valuation of the Fund; and
 - (ii) auditor to audit financial statements of the Fund; and
- (b) by regulation, repeal, amend or substitute any existing Regulations governing the KwaZulu-Natal Joint Municipal Provident Fund;
- (c) by regulation, make, repeal, amend or substitute any regulations –
 - (i) in respect of the asset base, investments and financial and other sources of income of the Fund; and
 - (ii) not inconsistent with this Act, for any matter that he or she considers necessary or expedient to facilitate the application of this Act: Provided that the generality of this power is not limited by any of the provisions of paragraph (a), (b) or (c); and
- (d) issue notices pertaining to this Act or the Regulations by publication in the *Provincial Gazette*.

(2) Any regulation made or notice issued by the responsible Member of the Executive Council in accordance with subsection (1), may be made or issued with effect from any date whether prior or subsequent to the date of promulgation thereof.

Transitional arrangements

8.(1) Subject to the protection of existing rights contemplated in sections 4(1) and 9(2) the –

- (a) Committee of Management established in accordance with Regulation 5 of the Regulations governing the KwaZulu-Natal Joint Municipal Provident Fund continues, for all purposes, to operate, without interruption, as the Board of Trustees of the Fund with all the powers, functions, duties and roles that, prior to the commencement of this Act, vested in the Committee of Management of the Fund;

(b) General Committee established in accordance with Regulation 5 of the Regulations governing the KwaZulu-Natal Joint Municipal Provident Fund continues, for all purposes, to operate, without interruption, as the General Committee of the Fund with all the powers, functions, duties and roles that, prior to the commencement of this Act, vested in the General Committee of the Fund; and

(c) Fund continues to be governed, managed and operated, with the necessary changes, in compliance with the provisions of every –

(i) law; and

(ii) administrative and financial procedure,

that applied to the Fund prior to the date of commencement of this Act.

(2) Subject to subsection (3), an employee is any person in the service of an associated municipality, who –

(a) is employed in a full-time capacity in the said municipality; and

(b) has attained the age of 17 years, but had not at the time of joining the said municipality reached an age 8 years less than the pension age.

(3) For the purposes of this Act –

(a) any person who is employed by an associated municipality and whose services are terminated on completion of the purpose for which he or she is employed, within a maximum period of three years, may be regarded by such municipality not to be an employee;

(b) a person joining the service of an associated municipality after having reached an age eight years less than the pension age may elect, with the consent of the employing municipality, to be regarded as an employee; and

(c) subject to the approval of the Board of Trustees, a person joining the service of an associated municipality in a part-time capacity may elect, with the consent of the employing municipality, to be regarded as an employee.

(4) A special general meeting, consisting of all associated municipalities and employee members of the Fund, must be held within a period not exceeding 12 months after the date of commencement of this Act.

Repeal of law and savings

9.(1) The law mentioned in the first and second columns of the Schedule to this Act is hereby repealed to the extent set out in the third column of the said Schedule.

(2) All regulations made under the KwaZulu-Natal Joint Municipal Provident Fund Act, 1995 (Act No. 4 of 1995), and the Rules, to the extent that they apply to the Fund, remain in full force and effect as if the said Act has not been repealed as contemplated in subsection (1), until such time as they are amended, repealed or replaced by a Regulation or a Rule, as the case may be, made in accordance with section 7.

Short title

10. This Act is called the KwaZulu-Natal Joint Municipal Provident Fund Act, 2017.

SCHEDULE
LAW REPEALED
(Section 9(1))

<i>Number and year of law</i>	<i>Title</i>	<i>Extent of repeal</i>
Act No. 4 of 1995	KwaZulu-Natal Joint Municipal Provident Fund Act, 1995	The whole

KENNISGEWING 4 VAN 2018

[Engelse teks deur die Premier geteken]

**WETSONTWERP OP DIE
KWAZULU-NATAL GEMEENSKAPLIKE MUNISIPALE
VOORSORGFONDS, 2017
(No. 08 van 2017)**

Goedgekeur op 07-12-2017

WET

Om voorsiening te maak vir die voortgesette bestaan van, en voortsetting van beide lidmaatskap van en assosiasie met, die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds; vir die bevoegdheid van die verantwoordelike Lid van die Uitvoerende Raad om regulasies te maak; vir oorgangsreëlings; vir die herroeping van wette en behoud; vir die bekragtiging van sekere handeling; vir die retrospektiewe bekragtiging van die instelling en bedryf van die Natal Gemeenskaplike Munisipale Personeelvoorsorgfonds; en vir aangeleenthede wat daarmee verband hou.

AANHEF

AANGESIEN dit nodig is om die huidige raamwerk vir die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds te vervang met 'n raamwerk wat uitsluitlik gereguleer word deur, berig word met, en voldoen aan die Grondwet van die Republiek van Suid-Afrika, 1996, die nasionaal toepaslike Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), en die beginsels van goeie regering,

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

Omskrywings

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

“**aktuaris**” 'n persoon wat –

(a) 'n genoot is van 'n instituut, fakulteit, vereniging of kapittel van aktuarisse as sodanig geregistreer ooreenkomstig toepaslike wetgewing; en

(b) aangestel is deur die –

(i) Registrateur; en

(ii) Raad van Trustees,

as 'n waardeerder soos bedoel in artikel 9A van die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956);

“**algemene komitee**” die algemene komitee verkies ooreenkomstig die bepalings van die Reëls;

“**beginsels van goeie regering**” die beginsels soos uiteengesit in die King-verslag oor Bestuur in Suid-Afrika, 2009, en enige wysigings daaraan, of hersiening daarvan;

“**bestuurskomitee**” die bestuurskomitee verkies in ooreenstemming met die bepalings van die Reëls;

“**Fonds**” die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds;

“**hierdie Wet**” ingesluit die regulasies gemaak en kennisgewings uitgereik ingevolge sodanige regulasies;

“kennisgewing” ’n kennisgewing uitgereik ingevolge ’n regulasie;

“KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds” die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds ingestel deur artikel 2 van die Wet op die KwaZulu-Natal Wet op die Gemeenskaplike Munisipale Voorsorgfonds, 1995 (Wet No. 4 van 1995);

“lid”, tensy dit uit die samehang anders blyk, ’n natuurlike persoon wie –

- (a) op enige stadium voor die inwerkingtreddingsdatum van hierdie Wet tot die Fonds bygedra het en vanaf die inwerkingtreddingsdatum van hierdie Wet voortgaan om tot die fonds by te dra; of
- (b) op enige datum wat volg op die inwerkingtreddingsdatum van hierdie Wet begin om tot die Fonds by te dra;

“munisipaliteit” –

- (a) ingesluit ’n metropolitaanse munisipaliteit, ’n distriksmunisipaliteit of ’n plaaslike munisipaliteit soos bedoel in artikel 155(6) van die Grondwet van die Republiek van Suid-Afrika, 1996;
- (b) ’n munisipaliteit ingestel ingevolge die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998);
- (c) ’n munisipaliteit, wanneer bedoel as ’n entiteit of korporatiewe liggaam, soos omskryf in artikel 2 van die Wet op Plaaslike Regering: Munisipale Stelsel, 2000 (Wet No. 32 van 2000); en
- (d) ’n munisipale gebied, wanneer bedoel as ’n geografiese gebied, bepaal soos bedoel in die Wet op Plaaslike Regering: Munisipale Afbakening, 1998 (Wet No. 27 van 1998);

“ouditeur” ’n openbare rekenmeester en ouditeur wie –

- (a) as sodanig geregistreer is ooreenkomstig die Wet op Openbare Rekenmeesters en Ouditeurs, 1991 (Wet No. 80 van 1991); en
- (b) aangestel is deur die Raad van Trusteas;

“Pensioenfondswet” die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956);

“proklamasie” die proklamasie in die Provinsiale *Koerant*;

“Provinsie” die Provinsie van KwaZulu-Natal;

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

“Raad op Finansiële Dienste” die Raad op Finansiële Dienste ingestel ooreenkomstig artikel 2 van die Wet op die Raad van Finansiële Dienste, 1990 (Wet No. 97 van 1990);

“Raad van Trusteers” die Raad van Trusteers bedoel in artikel 7A van die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), en ingestel soos voorgeskryf;

“Reëls” vir doeleindes van die Pensioenfondswet, –

(a) die Reëls vir die Bestuur en Administrasie van die Natal Gemeenskaplike Munisipale Pensioenfonds (Superannuasie), die Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), en die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds, uitgereik ooreenkomstig die Regulasies uitgevaardig kragtens die –

(i) Ordonnansie op Plaaslike Regering Superannuasie, 1973 (Ordonnansie No. 24 van 1973);

(ii) Ordonnansie op Natal Gemeenskaplike Munisipale Pensioenfonds (Aftreding), 1974 (Ordonnansie No. 27 van 1974); en

(iii) KwaZulu-Natal Wet op Gemeenskaplike Munisipale Voorsorgfonds, 1995 (Wet No. 4 van 1995); en

(b) enige verdere Bylaes gemaak ooreenkomstig artikel 7, na die inwerkingtreddingsdatum van hierdie Wet;

“regulasie” ’n regulasie gemaak kragtens hierdie Wet, ingesluit enige Bylae tot sodanige regulasies;

“Regulasies wat die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds beheer” die Regulasies wat die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds, gepubliseer in Provinsiale Kennisgewing No. 135 van 1996 op 4 April 1996, beheer;

“verantwoordelike Lid van die Uitvoerende Raad” die Lid van die Uitvoerende Raad verantwoordelik vir plaaslike regering;

“voordeel” enige voordeel toegeken of ander bedrag verskuldig ooreenkomstig die regulasies aan ’n lid, afhanklike of ander persoon;

“voorgeskryf” deur die verantwoordelike Lid van die Uitvoerende Raad voorgeskryf deur regulasie gemaak of kennisgewing uitgereik ooreenkomstig artikel 7; en

“werknemer” ’n werknemer soos bedoel in artikels 8(2) en (3).

Oogmerke van Wet

2. Die oogmerke van die Wet is om die huidige raamwerk van die Fonds te vervang met ’n raamwerk wat uitsluitlik gereguleer word deur, berig is met, en voldoen aan die –

- (a) Grondwet van die Republiek van Suid-Afrika, 1996;
- (b) Pensioenfondswet; en
- (c) beginsels van goeie regering.

Toepassing van Wet

3.(1) Die Wet is van toepassing op alle munisipaliteite in assosiasie met, en lede van, die Fonds.

(2) Die bepalings van die Pensioenfondswet is van toepassing op hierdie Wet, en die Pensioenfondswet geld in die geval van ’n onvereenigbare konflik tussen die toepassing van die Pensioenfondswet en die bepalings van hierdie Wet.

Voortsetting en bedryf van Fonds

4.(1) Die Fonds –

- (a) gaan voort om te bestaan met alle geassosieerde regte, bevoegdhede, pligte, verantwoordelikhede, bates en laste soos dit was onmiddellik voor die inwerkingtreddingsdatum van hierdie Wet; en
- (b) word bedryf ooreenkomstig die bepalings van hierdie Wet, onderhewig aan die bepalings van artikel 3(2).

(2) Die Regulasies wat die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds beheer en die Reëls is van toepassing op die Fonds.

Voortgesette Fondslidmaatskap

5. Behoudens die bepalings van hierdie Wet of enige ander wet gaan 'n persoon wie, onmiddellik voor die inwerkingtreddingsdatum van hierdie Wet, 'n lid was van die Fonds, voort om 'n lid van die Fonds te wees.

Voortgesette assosiasie met Fonds

6. Elke munisipaliteit wat, onmiddellik voor die inwerkingtreding van hierdie Wet, in assosiasie was met die Fonds se assosiasie met die Fonds duur voort.

Bevoegdhede van verantwoordelike Lid van Uitvoerende Raad

7.(1) Die verantwoordelike Lid van die Uitvoerende Raad kan, na oorlegpleging met die Fonds, –

(a) 'n –

(i) aktuaris aanstel, ten einde 'n aktuariële waardasie van die Fonds uit te voer; en

(ii) ouditeur aanstel ten einde finansiële verslae van die Fonds te audit;

(b) deur regulasie, enige bestaande Regulasies wat die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds beheer herroep, wysig of vervang;

(c) deur regulasies, enige Regulasies maak, herroep, wysig of vervang –

(i) ten opsigte van die batebasis, beleggings en finansiële en ander inkomstebronne van die Fonds; en

(ii) wat nie onverenigbaar met hierdie Wet is nie, vir enige aangeleentheid wat hy of sy nodig of wenslik beskou ten einde die toepassing van hierdie Wet te fasiliteer: Met dien verstande dat die algemeenheid van hierdie bevoegdheid nie beperk word deur enige van die bepalings van paragraaf (a), (b), of (c) nie; en

(d) kennisgewings uitreik betreffende hierdie Wet of die Regulasies gemaak deur publikasie in die *Provinsiale Koerant*.

(2) Enige Regulasie gemaak of kennisgewing uitgereik deur die verantwoordelike Lid van die Uitvoerende Raad ooreenkomstig subartikel (1) kan gemaak of uitgereik word met inwerkingtreding vanaf enige datum hetsy voor of volgende op die proklamasiedatum daarvan.

Oorgangsreëlings

8.(1) Behoudens die beskerming van bestaande regte bedoel in artikels 4(1) en 9(2) –

(a) gaan die Bestuurskomitee, ingestel ooreenkomstig regulasie 5 van die Regulasies wat die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds beheer, voort, vir

alle doeleindes, om werksaam te wees, sonder onderbreking, as die Raad van Trustees van die Fonds met al die bevoegdhede, werksaamhede, pligte en rolle wat, voor die inwerkingtreding van hierdie Wet, in die Bestuurskomitee van die Fonds gesetel was;

(b) gaan Algemene Komitee, ingestel ooreenkomstig regulasie 5 van die Regulasies wat die KwaZulu-Natal Gemeenskaplike Munisipale Voorsorgfonds beheer, voort, vir alle doeleindes, om werksaam te wees, sonder onderbreking, om te funksioneer as die Algemene Komitee van die Fonds met al die bevoegdhede, werksaamhede, pligte en rolle wat, voor die inwerkingtreding van hierdie Wet, in die Algemene Komitee van die Fonds gesetel was; en

(c) gaan die Fonds voort om beheer, bestuur en bedryf te word, met die nodige veranderinge, ooreenkomstig die bepalings van elke –

(i) wet; en

(ii) administratiewe en finansiële prosedure,

wat van toepassing was op die Fonds voor die inwerkingtredingsdatum van hierdie Wet.

(2) Behoudens subartikel (3), is 'n werknemer enige persoon in die diens van 'n geassosieerde munisipaliteit, wie –

(a) in 'n voltydse hoedanigheid in diens geneem is deur die vermelde munisipaliteit ; en

(b) die ouderdom van 17 jaar bereik het, maar nie, ten tye van aansluiting by die vermelde munisipaliteit, 'n ouderdom van agt jaar minder as die pensioenouderdom bereik het nie.

(3) Vir die doeleindes van hierdie Wet –

(a) kan enige persoon, wat in diens geneem is deur 'n geassosieerde munisipaliteit en wie se dienste beëindig sal word by voltooiing van die doel vir sy of haar indiensneming, binne 'n tydperk van hoogstens drie jaar, deur die munisipaliteit beskou word om nie 'n werknemer te wees nie;

(b) kan 'n persoon wat in die diens van 'n geassosieerde munisipaliteit aansluit nadat 'n ouderdom van agt jaar minder as die pensioenouderdom bereik is, met die instemming van die indiensnemingsmunisipaliteit, kies om as 'n werknemer beskou te word; en

(c) behoudens die goedkeuring van die Raad van Trustees, kan 'n persoon wat in diens van 'n geassosieerde munisipaliteit aansluit in 'n deeltydse hoedanigheid, met die instemming van die indiensnemingsmunisipaliteit, kies om as 'n werknemer beskou te word.

(4) 'n Spesiale algemene vergadering, bestaande uit alle munisipaliteite in assosiasie met, en werknemerslede van, die Fonds moet binne 'n tydperk wat nie 12 maande na die inwerkingtredingsdatum van hierdie Wet oorskry nie, gehou word.

Herroeping van wet en behoud

9.(1) Die wet vermeld in die eerste en tweede kolom van die Bylae tot hierdie Wet word hiermee herroep tot in die omvang uiteengesit in die derde kolom van die vermelde Bylae.

(2) Alle regulasies gemaak kragtens die KwaZulu-Natal Wet op Gemeenskaplike Munisipale Voorsorgfonds, 1995 (Wet No. 4 van 1995), en die Reëls, tot in die omvang wat dit van toepassing is op die Fonds, bly van krag en afdwingbaar asof die vermelde Wet nie herroep is nie, soos bedoel in subartikel (1), tot sodanige tyd wat dit gewysig, herroep of vervang word deur 'n Regulasie of 'n Reël, na gelang van die geval, gemaak ooreenkomstig artikel 7.

Kort titel

10. Hierdie Wet word die KwaZulu-Natal Wet op Gemeenskaplike Munisipale Voorsorgfonds, 2017 genoem.

BYLAE
WET HERROEP
(Artikel 9(1))

Nommer en jaar van wet	Titel	Omvang van herroeping
Wet No. 4 van 1995	KwaZulu-Natal Wet op Gemeenskaplike Voorsorgfonds, 1995	Die geheel

[Umbhalo weSingisi unyathelwe nguNdunankulu]

**UMTHETHOSIVIVINYO WESIHWAMA SEMPESHENI
ESIHLANGANYELE SOMASIPALA SAKWAZULU-NATALI
(SE-PROVIDENT FUND), 2016
(Umthetho Na. 08 ka 2017)**

Uvunywe mhlaka 07-12-2017

UMTHETHO

Wokuhlinzekela ukuqhubeka kokuba khona, nokuqhubeka nobulungu nokuzibandakanya esiKhwameni seMpesheni esiHlanganyele soMasipala saseNatali (*se-Provident Fund*); wokuhlinzekela amandla eLungu loMkhandlu oPhethe okusungula imithethonqubo; wokuhlinzekela izinhlinzeko zezikhashana; wokuhlinzekela ukuchithwa kwemithetho nezingxenye zemithetho ezishiywa zinjalo; wokuhlinzekela ukuqinisekiswa kokuthathwa kwezinyathelo ezithile; wokuhlinzekela ukucutshungulwa kabusha kokuqinisekiswa kokusungulwa nokusebenza kwesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (*se-Provident Fund*) sabasebenzi; nokuhlinzekela okunye okuphathelene nalokho.

ISENDLALELO

NJENGOBA kunesidingo sokuthi kushintshwe uhlaka esiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*) olukhona esikhundleni sazo kufakwe uhlaka olulawulwa kuphela futhi oluhambisana noMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996, uMthetho weziKhwama zeMpesheni, 1956 (uMthetho No. 24 ka 1956), osebenza kuzwelonke Kanye nemigomo yokubusa ngokuhle.

NGAKHO-KE MAWUMISWE yisiShayamthetho sesiFundazwe saKwaZulu-Natali, kanje:–

Izincazelo

1. Kulo Mthetho, ngaphandle uma ingqikithi isho okwehlukile –

“**ungoti wezezimali**” kushiwo umuntu –

(a) oyingxenye yesikhungo, yophiko, yenhlangano noma yeqembu longoti bezezimali obhalisiwe ngokuhambisana nemithetho ekhona; kanye

(b) noqokwe –

(i) uMbhalisi; kanye

(ii) neBhodi labaPhathi,

njengobhekele izilinganiso njengoba kuhlangozwe esigabeni 9A soMthetho weziKhwama zeMpesheni, 1956 (uMthetho No. 24 ka 1956);

“**umcwaningi mabhuku**” kushiwo umbali wezimali zomphakathi kanye nomcwaningimabhuku –

(a) obhaliselwe lokhu ngokuhambisana noMthetho wabaBali beziMali zoMphakathi kanye nabaCwaningi maBhuku, 1991 (uMthetho No. 80 ka 1991); futhi

(b) noqokwe yiBhodi labaPhathi;

“**umhlomulo**” kushiwo noma yimuphi umhlomulo wempesheni ophumayo noma wezinye izimali okumele zikhokhelwe ilungu, isihlobo noma omunye umuntu ongaphansi kwakhe ngokuhambisana nemithethonqubo;

“**iBhodi labaPhathi**” kushiwo iBhodi labaPhathi elihlongozwe esigabeni 7A soMthetho weziKhwama zeMpesheni, 1956 (uMthetho No. 24 ka 1956), futhi elisungulwe ngendlela enqunyiwe;

“**ikomidi labaphathi**” kushiwo ikomidi labaphathi eliqokwe ngokuhambisana nezinhlinzeko zeMithetho;

“umsebenzi” kushiwo umsebenzi njengoba kuhlangozwe esigabeni 8(2) no (3);

“IBhodi lezeziMali” kushiwo iBhodi lezeziMali elisungulwe ngokuhambisana nesigaba 2 soMthetho weBhodi lezeziMali, 1990 (uMthetho No. 97 ka 1990);

“isiKhwama” kushiwo isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (*se-Provident Fund*);

“ikomidi eliKhulu” kushiwo ikomidi eliKhulu eliqokwe ngokuhambisana nezinhlizwe zeMithetho;

“isiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (se-Provident Fund)” kushiwo isiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*) esisungulwe ngokuhambisana nesigaba 2 soMthetho wesiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*Provident Fund*), 1995 (uMthetho No. 4 ka 1995);

“ilungu” ngaphandle uma inqikithi isho okwehlukile, kushiwo umuntu –

(a) ngaphambi kosuku lokuqala ukusebenza kwalo Mthetho obefaka izimali esiKhwameni, futhi kusukela ngosuku lokuqala ukusebenza kwalo Mthetho ophinde aqhubeke nokufaka izimali esiKhwameni; noma

(b) kusukela kunoma yyiluphi usuku olwandulela usuku loqala kokusebenza kwalo Mthetho oqalisa ukufaka imali esiKhwameni;

“umasipala” –

(a) kubandakanya umasipala wodolobha eliKhulu, umasipala wesifunda noma umasipala wendawo njengoba kuhlangozwe esigabeni 155(6) soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika;

(b) kushiwo umasipala osungulwe ngokomthetho weziNhlaka zoMasipala, 1998 (uMthetho No. 117 ka 1998);

(c) uma uhlangozwe njengebhizinisi, kushiwo umasipala njengoba uchazwe esigabeni 2 soMthetho weziNhlelo zoMasipala, 2000 (uMthetho No. 32 ka 2000); kanti

(d) uma uchazwe njengendawo ngokomumo wezwe noma njengenhlango, kushiwo indawo kamasipala enqunywe njengoba kuhlangozwe eMthethweni wokuKlanywa kweMingcele yoMasipala woHulumeni baseKhaya, 1998 (uMthetho No. 27 ka 1998);

“isaziso” kushiwo isaziso esikhishwe ngokomthethonqubo;

“uMthetho weziKhwama zeMpesheni” kushiwo uMthetho weziKhwama zeMpesheni, 1956, (uMthetho No. 24 ka 1956);

“okunqunyiwe” kushiwo okunqunywe yiLungu loMkhandlu oPhethe ngokwenqubomgomo esungulwe noma ngokwesaziso esikhishwe ngokuhambisana nesigaba 7;

“imigomo yokubusa okuhle” kushiwo imigomo njengoba ibekwe kwi-*King Code and Report on Governance in South Africa, 2009*, nanoma yiziphi izichibiyelo zayo, noma ukubuyekezwa kwayo;

“isimemezelo” kushiwo isimemezelo esikhishwe kwiGazethi yesiFundazwe;

“isiFundazwe” kushiwo isiFundazwe saKwaZulu-Natali;

“iGazethi yesiFundazwe” kushiwo iGazethi yesiFundazwe saKwaZulu-Natali;

“umthethonqubo” kushiwo umthethonqubo osungulwe ngokwalo Mthetho, futhi kubandakanya noma yiluphi uHlelo olukuleyo Mithethonqubo;

“iMithethonqubo elawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (se-Provident Fund)” kushiwo iMithethonqubo elawula isiKhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (se-Provident Fund) eyashicilelwa kwiSaziso sesiFundazwe No. 135 sika 1996 mhla zi-4 kuMbaso 1996;

“iLungu loMkhandlu oPhethe” kushiwo iLungu loMkhandlu oPhethe elibhekele ohulumeni basekhaya;

“iMithetho” ngokwezinhloso zoMthetho weziKhwama zeMpesheni, kushiwo –

(a) iMithetho yokuPhatha nokuLawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (seziMali eziBanjwa eMholweni), isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), kanye nesiKhwama soMhlalaphansi esiHlanganyele soMasipala saKwaZulu-Natali (se-Provident Fund), ekhishwe ngokwemithethonqubo esungulwe –

(i) ngokwe-Odinensi yeziMali eziBanjwa eMholweni yoHulumeni baseKhaya, 1973 (i-Odinensi No. 24 ka 1973);

(ii) ngokwe-Odinensi yesiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (soMhlalaphansi), 1974 (i-Odinensi No. 27 ka 1974); kanye

(iii) nangokoMthetho wesikhwama soMhlalaphansi esiHlanganyele soMasipala saKwaZulu-Natali (se-*Provident Fund*), 1995 (uMthetho No. 4 ka 1995); kanye

(b) nayo yonke imithethonqubo esungulwe nezaziso ezikhishwe ngokwaleyo mithethonqubo.

“**Io Mthetho**” kubandakanya imithethonqubo nezaziso ezikhishwe ngokwaleyo mithethonqubo.

Izinhloso zoMthetho

2. Izinhloso zoMthetho ukushintsha uhlaka olusemthethweni lwesikhwama olusebenzayo kufakwe uhlaka oluwalwa kuphela, nolulandela, noluhambisana, –

(i) noMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika;

(ii) noMthetho wezikhwama zeMpesheni; kanye

(iii) nemigomo yokubusa okuhle.

Ukusebenza koMthetho

3.(1) Lo Mthetho usebenza kubona bonke omasipala abayingxenye futhi abangamalungu esikhwama.

(2) Izinhlinzeko zoMthetho wezikhwama zeMpesheni, 1956 ziyasebenza kulo Mthetho, 1956 futhi uMthetho wezikhwama zeMpesheni yiwona oyosebenza uma kwenzeka kuba nokushayisana phakathi kwezinhlinzeko zoMthetho wezikhwama zeMpesheni nezinhlinzeko zalo Mthetho.

Ukuqhubeka kokusebenza kwesikhwama

4.(1) Isikhwama –

(a) siyaqhubeka nokusebenza nawo wonke amalungelo, amandla, amajoka, nayo yonke imisebenzi, impahla nazo zonke izikweletu zaso njengoba bekunjalo, kusukela ngosuku lokuqala kokusebenza kwalo Mthetho.

(b) sisebenza ngokuhambisana nezinhlinzeko zalo Mthetho, kuncike kwizinhlinzeko zesigaba 3(2) zalo Mthetho.

(2) IMithethonqubo elawula isikhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (se-*Provident Fund*) kanye neMithetho iyasebenza esikhwameni.

Ukuqhubeka nokuba yilungu lesiKhwama seMpesheni

5. Kuncike ezihlinzekweni zalo Mthetho nanoma yimuphi omunye umthetho, umuntu ngaphambi kosuku lokuqala kokusebenza kwalo Mthetho, obekade eyilungu lesiKhwama, uyoqhubeka nokuba yilungu lesiKhwama seMpesheni.

Ukuqhubeka nokuzibandakanya nesiKhwama seMpesheni

6. Bonke omasipala, ngaphambi kokuqala kokusebenza kwalo Mthetho, abebeyingxenye yesiKhwama seMpesheni, bathathwa njengabayingxenye yesiKhwama seMpesheni.

Amandla eLungu loMkhandlu oPhethe

7.(1) ILungu loMkhandlu oPhethe, ngemva kokubonisana nabesiKhwama seMpesheni –

(a) lingaqoka –

(i) ungoti wezezimali ozohlola ezezimali esiKhwameni seMpesheni; kanye

(ii) nomcwaningimabhuku ozocwaninga izitatimende zezimali zesiKhwama seMpesheni; futhi

(b) ngomthethonqubo, lingachitha, lingachibiyela noma lingashintsha noma yimiphi iMithethonqubo ekhona elawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (se-*Provident Fund*) neMithetho;

(c) ngomthethonqubo, lingachitha, lingachibiyela noma lingashintsha noma yimiphi iMithethonqubo –

(i) emayelana nempahla, notshalomali kanye nezimali kanjalo neminye imithombo yengeniso yesiKhwama seMpesheni; futhi

(ii) engashayisani nalo Mthetho, mayelana nanoma yiluphi udaba elilubona lunesidingo noma luwusizo ukuze kuhlinzekelwe ukusebenza kwalo Mthetho: Kuncike ekutheni ukusetshenziswa kwala mandla akuvinjelwa nanoma yiziphi izinhlinzeko zendima (a), (b) noma (c); futhi

(d) lingakhipha izaziso eziphathelene nalo Mthetho noma iMithethonqubo ngokuhambisana nalo Mthetho ngokusishicilela kwiGazethi yesiFundazwe.

(2) Noma yimuphi umthethonqubo osungulwe noma isaziso esikhishwe yiLungu loMkhandlu oPhethe ngokuhambisana nesigatshana (1), singashicilelwa noma singakhishwa, siyoqala ukusebenza ngosuku olungaphambi noma ngemuva kosuku lokumenyenzelwa kwaso.

Izinhlinzeko zesikhashana

8.(1) Kuncike ekuvikelweni kwamalungelo akhona ahlangozwe ezigabeni 4(1) kanye no 9(2)

–

(a) iKomidi labaPhathi elisungulwe ngokuhambisana noMthethonqubo 5 weMithethonqubo elawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (*se-Provident Fund*) liyaqhubeka, ngazo zonke izinjongo, nokusebenza, ngaphandle kokuphazamiseka, njengeBhodi labaPhathi besiKhwama seMpesheni elinawo wonke amandla, imisebenzi, amajoka namaqhaza, ngaphambi kokuqala kokusebenza kwalo Mthetho, abekade enikezwe iKomidi labaPhathi besiKhwama seMpesheni;

(b) iKomidi eliKhulu elasungulwa ngokuhambisana nomthethonqubo 7 weMithethonqubo elawula isiKhwama seMpesheni esiHlanganyele soMasipala saseNatali (*se-Provident Fund*) liyaqhubeka, ngazo zonke izinjongo, nokusebenza, ngaphandle kokuphazamiseka, njengeKomidi eliKhulu lesiKhwama seMpesheni elinawo wonke amandla, imisebenzi, amajoka namaqhaza, ngaphambi kokuqala kokusebenza kwalo Mthetho, abekade enikezwe iKomidi eliKhulu zesiKhwama seMpesheni; futhi

(c) isiKhwama seMpesheni siyaqhubeka nokubuswa, nokuphathwa kanye nokulawulwa, ngezinguquko ezidingekayo, ngokuhambisana nezinhlinzeko zayo yonke –

(i) imithetho; kanye

(ii) nezinqubo zezokuphatha nezezimali,

ebezisebenza esiKhwameni seMpesheni ngaphambi kosuku lokuqala kokusebenza kwalo Mthetho.

(2) Kuncike kwisigatshana (3), umsebenzi yinoma yimuphi umuntu osebenzela umasipala, –

(a) osebenza ngokugcwele kulowo masipala; futhi

(b) oneminyaka engaphezu kweyi-17 ubudala, kodwa ngenkathi ejoyina umasipala obeneminyaka engaphezu kweyi-8 emsalele ngaphambi kokuthola impesheni.

(3) Ngokwezinjongo zalo Mthetho –

(a) noma yimuphi umuntu oqashwe umasipala futhi ozoyeka ukusebenza ngemva kokuphela komsebenzi othile abeqashelwe wona, ingakapheli iminyaka emithathu, angeke athathwe njengomsebenzi kamasipala;

(b) umuntu oqashwa umasipala esesalelwe iminyaka engaphansi kweyi-8 ukuthi athole impesheni yokuguga angakhetha, ngemvume yalowo masipala omqashayo, ukuthi athathwe njengomsebenzi; futhi

(c) kuncike ekugunyazweni yiBhodi labaPhathi, umuntu oqashwa umasipala ezosebenza ngezikhathi ezithile angakhetha, ngemvume kamasipala omqashayo, ukuthi athathwe njengomsebenzi.

(4) Kumele kubanjwe umhlangano okhethekile, obandakanya wonke amalungu abasebenzi nomasipala abayingxenywe yesiKhwama seMpesheni, zingakadluli izinyanga eziyi-12 ngemva kokushicilelwa kwalo Mthetho kwiGazethi yesiFundazwe.

Ukuchithwa komthetho nezingxenywe zomthetho ezishiywa zinjalo

9.(1) Umthetho obalulwe ohlwini lokuqala nolwesibili loHlelo olukulo Mthetho ngalokhu uyachithwa ngendlela ebekwe ohlwini lwesithathu lwalolu Hlelo.

(2) Yonke imithethonqubo esungulwe ngaphansi kwesiKhwama seMpesheni esiHlanganyele, (*se-Provident Fund*), 1995 neMithetho, ngendlela esebenza ngayo esiKhwameni seMpesheni, siyoqhubeka nokusebenza sengathi uMthetho okukhulunywa ngawo awuzange uchithwe njengoba kuhlangezwe esigatshaneni (1), kuze kube iyachitshiyelwa, iyachithwa noma iyashintshwa esikhundleni sayo kufakwa uMthethonqubo noma uMthetho, njengoba kungaba njalo, kwenziwa ngokuhambisana nesigaba 7.

Isihloko esifingqiwe

10. Lo Mthetho ubizwa ngoMthetho wesikhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (*se-Provident Fund*), 2017.

UHLELO
UMTHETHO OCHITHWAYO
(Isigaba 9(1))

<i>Inombolo nonyaka womthetho</i>	<i>Isihloko</i>	<i>Okuchithwayo</i>
UMthetho No. 4 ka 1995	UMthetho wesikhwama seMpesheni esiHlanganyele soMasipala saKwaZulu-Natali (<i>se-Provident Fund</i>), 1995	<i>Wonke</i>