
OFFICE OF THE PREMIER

No. 7

18 March 2009

It is hereby notified that the Premier has assented to the following Act which is hereby published for general information. This Act comes **into operation on a date fixed** by the Premier by Proclamation in the *Provincial Gazette*.

No. 5 of 2008 : Northern Cape Tourism Entity Act, 2008

NORTHERN CAPE TOURISM ENTITY ACT, 2008

ACT

To provide for the establishment of a tourism marketing and promotion entity for the Northern Cape Province and for the management thereof by a Board; to provide for the functioning, financial control and reporting on the activities of the Entity; to provide for the founding of the Entity; to provide for a consultative and provincial tourism forum; to repeal the Northern Cape Tourism Act, 1998 (Act No. 5 of 1998); and to provide for matters connected therewith.

PREAMBLE

WHEREAS a need exists within the Northern Cape Province for the sustained utilization of tourism marketing and promotion opportunities;

AND WHEREAS the establishment of a statutory tourism marketing and promotion entity for the Northern Cape Province is a response to the challenge to further market and promote the Province as a preferred tourism destination;

BE IT THEREFORE ENACTED by the Northern Cape Provincial Legislature, as follows:-

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CHAPTER I INTERPRETATION

Interpretation

1. (1) In this Act, unless the context otherwise indicates -

“**Board**” means the Board of the Entity established in terms of section 5;

“**chairperson**” means a person appointed as chairperson or acting chairperson in terms of section 6;

“**chief executive officer**” means the chief executive officer appointed in terms of section 19;

“**committee**” means a committee of the Board established in terms of section 15;

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

“**Department**” means the Department responsible for tourism in the Province;

“**district municipality**” means a category C municipality envisaged in section 155(1)(c) of the Constitution;

“**Entity**” means the entity established in terms of section 2;

“**Executive Council**” means the Executive Council of the Province as referred to in section 132 of the Constitution;

“**family member**” means a person’s –

- (a) spouse; or
- (b) child, parent, brother or sister, whether such a relationship results from birth, marriage or adoption;

“**financial year**” means the period commencing on the first day of April in any year to the thirty-first day of March in the ensuing year, both days inclusive;

“**municipality**” means any municipality in the Province established in terms of the Structures Act;

“**organ of state**” has the meaning set out in section 239 of the Constitution;

“**political office-bearer**” means –

- (a) a member of the National Assembly or the National Council of Provinces or the Cabinet;
- (b) a member of a provincial legislature;
- (c) a diplomatic representative of the Republic who is not a member of the public service;
- (d) a member of a house or council of traditional leaders;
- (e) a member of a municipal council; or
- (f) a national or provincial office-bearer of any political party;

“Premier” means the Premier of the Province referred to in section 125 of the Constitution;

“product owner” means a person who is directly involved, invests in and benefits from tourism as a business;

“Province” means the Northern Cape Province referred to in section 103(1)(g) of the Constitution, or any part thereof;

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

“Provincial Legislature” means the Provincial Legislature of the Province referred to in section 104 of the Constitution;

“Republic” means the Republic of South Africa referred to in section 1 of the Constitution;

“responsible Member” means the Member of the Executive Council responsible for the portfolio of tourism in the Province;

“spouse” means a person’s –

- (a) partner in a marriage or civil union;
- (b) partner in a customary union according to indigenous law; or
- (c) partner in a relationship in which the parties live together in a manner resembling a marital partnership or customary union;

“Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“the Company” means the Northern Cape Tourism Authority, an association incorporated under section 21 of the Companies Act, 1973 (Act No. 61 of 1973), with registration number 1997/16953/08; and

“this Act” includes a regulation made under this Act.

- (2) Where in this Act any functionary is required to take a decision in consultation with another functionary, the decision requires the concurrence of the other functionary.

CHAPTER II ESTABLISHMENT OF THE ENTITY AND THE BOARD

Establishment of the Entity

- 2. (1) A tourism Entity for the Northern Cape Province is hereby established as a juristic person.

- (2) The Premier must, before the coming into operation of this Act, by proclamation in the *Provincial Gazette*, -
 - (a) name the Entity; and
 - (b) proclaim a brand for the Entity.

Objectives of the Entity

3. (1) Without infringing on the rights of municipalities regarding local tourism, the Entity must market and promote the Province as a tourist destination and in order to do so must pursue the following objectives:
 - (a) the managing, planning and directing of the marketing activities of all sectors of the Province's tourism industry, namely meetings, incentives, conventions, exhibitions, events and leisure marketing, and visitor and support services;
 - (b) the facilitation of the development of new tourism products and destinations throughout the Province;
 - (c) co-operation with other bodies involved in the marketing of trade and investment in the Province;
 - (d) providing a vehicle which facilitates public and private sector co-operation, participation, decision-making and funding in the context of marketing the Province as a tourism destination;
 - (e) aligning marketing activities in all sectors of tourism in the Province, in collaboration with existing entities;
 - (f) facilitating the pursuit of transformation and empowerment goals within all sectors of the Province's tourism industry;
 - (g) fostering relations and entering into agreements with organizations of all kinds, both public and private, for the purpose of promoting the objectives of the Entity; and
 - (h) fostering close co-operation between the public and private sectors in the pursuit of tourism growth for the benefit of all the people of the Province.
- (2) In achieving its objects, the Entity must endeavour to progressively increase its own revenue generation and collection.

Powers and functions of the Board

4. (1) In order to achieve the objectives of the Entity, the Board may -

- (a) in consultation with the responsible Member and the Member of the Executive Council responsible for Finance, lease, purchase or otherwise acquire, let, sell, exchange or alienate, mortgage, burden with a servitude or confer any real right in immovable property;
- (b) rent, purchase or acquire, rent out, sell, exchange or alienate, pledge or confer any other real right in movable property;
- (c) negotiate or, in consultation with the responsible Member, cooperate with any government, provincial administration or local government, or any other board or person, in the Republic or elsewhere, with regard to any matter which is directly or indirectly aimed at the achievement of the objectives of the Board;
- (d) in consultation with the responsible Member, enter into agreements with a similar body, within the Republic or elsewhere, for the promotion of tourism in the respective areas for which the Entity and that body have been established, and for that purpose the Board, or a member or members of the Board, may undertake journeys inside and outside the Republic;
- (e) in consultation with the responsible Member, open and administer offices which may be necessary or advisable for the effective and proper exercise of its powers, the performance of its functions and the carrying out of its duties;
- (f) acquire insurance cover –
 - (i) against any loss, damage, risk or liability which it may suffer or incur; and
 - (ii) for the members of the Board and committees and employees in respect of bodily injury, disablement or death resulting solely and directly from an accident occurring when performing their duties as such members or employees;
- (g) open and maintain an account in the name of the Entity with a registered Bank in the Republic;
- (h) draw up, make, publish and sell or make available free of charge, books, guides, maps, publications, photographs, films, videos and similar matter intended to inform persons, in the Republic or elsewhere, of tourist attractions and services in the Province;
- (i) gather, evaluate and process information relating to tourism in

the Province and make such information available to persons who are engaged in the tourism industry;

- (j) give marketing advice and guidance to persons who are engaged in the tourism industry in the Province;
 - (k) with a view to the effective marketing of, and the provision of information relating to any service, facility or product offered in connection with tourism, determine, publish and regulate the use of such distinguishing signs and wording as the Board may deem fit;
 - (l) in consultation with the responsible Member and the Member of the Executive Council responsible for Finance, establish, manage and administer any pension or provident fund or medical aid scheme for the benefit of the Entity's employees, or have such fund or scheme administered by another person or body;
 - (m) negotiate and co-operate with any educational institution regarding the institution, continuation or expansion of courses for the training of persons for careers in the tourism industry;
 - (n) approve the use of trading names by the Entity for specific tourism marketing projects; and
 - (o) perform any other activities which may contribute towards the achievement of the objectives of the Entity.
- (2) In order to achieve the objectives of the Entity, the Board must –
- (a) work with the Department and municipalities to implement the tourism development and marketing strategies of the Province and municipalities;
 - (b) integrate transformation objectives into the operational activities of the Entity;
 - (c) work with other national and provincial public entities, particularly those tasked with tourism, trade and investment promotion; and
 - (d) work with sector-specific bodies which contribute to the growth of the tourism industry in the Province.
- (3) The Board must exercise and perform its powers and functions with due regard to section 104, read with section 125 of the Constitution, section 230 of the Constitution, the Borrowing Powers of Provincial Governments Act, 1996 (Act No. 48 of 1996), the Public Finance

Management Act, 1999 (Act No. 1 of 1999) and the provisions of all national legislation and all national policies, guidelines and directives pertaining to tourism, trade, industry, sector development and investment, with specific reference to policies, guidelines and directives pertaining to the transformation of the tourism and business sectors.

- (4) The Board must exercise and perform its powers and functions, as far as financial and personnel matters are concerned, by -
- (a) developing and implementing all policies and programmes of the Entity pertaining to financial and personnel matters, within six months after the coming into operation of this Act, and subsequently amending such policies and programmes as and when necessary;
 - (b) ensuring that the Entity adheres to sound financial management, effective and equitable human resource development and efficient office administration in a responsible, accountable and transparent manner; and
 - (c) employing, disciplining, suspending or dismissing any employee of the Entity, with due regard to the provisions of the Labour Relations Act, 1995 (Act No. 66 of 1995).

Establishment of the Board

5. A Board for the Entity is hereby established -
- (a) to manage and control the affairs of the Entity;
 - (b) to be the accounting authority for the Entity as contemplated in section 49(2)(a) of the Public Finance Management Act, 1999 (Act No. 1 of 1999); and
 - (c) to exercise the powers and perform the functions conferred or imposed upon the Entity by this Act or any other law.

Composition of the Board

6. (1) The Board consists of 7 members eligible to vote at meetings of the Board, appointed by the responsible Member by virtue of their proven acumen, knowledge or experience of tourism or with related professional skills, having regard to -
- (a) women;
 - (b) disabled persons;
 - (c) young persons;
 - (d) persons from the different regions of the Province; and
 - (e) persons with a labour background.

- (2) The chief executive officer and Head of Department, or an officer designated by the Head of Department, are entitled to be present and take part in the discussions at meetings of the Board, but are not members of the Board and may not vote at such meetings.
- (3) A member contemplated in subsection (1) may be appointed only after the responsible Member has, by notice in the *Provincial Gazette* and in not less than two newspapers circulating in the Province, invited interested parties to nominate persons suitable for appointment as members of the Board.
- (4) Members appointed in terms of subsection (1) are non-executive members of the Board.
- (5) The responsible Member appoints a member of the Board as chairperson and another member as deputy chairperson.
- (6) The chairperson presides at all meetings of the Board and the deputy chairperson presides at meetings in the absence of the chairperson.
- (7) Before being appointed as member of the Board, the candidate must submit to the responsible Member an affidavit in which such candidate declares that he or she -
 - (a) is eligible for such appointment; and
 - (b) is not disqualified in terms of this Act from such appointment.
- (8) The responsible Member is at any time entitled to call for proof to his or her satisfaction of the continued eligibility of any member or prospective member of the Board, or to undertake or cause to be undertaken any investigation or enquiry in that regard.

Term of office of members of the Board

7. (1) The responsible Member appoints the members of the Board for a period 5 years.
- (2) A member may be reappointed after serving his or her initial term, but not for a period of more than 10 years in total.

Eligibility to serve on the Board

8. (1) To be eligible to serve as a member of the Board, and to continue to hold that office, a person must -
 - (a) be a fit and proper person;

- (b) not be subject to any disqualification set out in subsection (2);
 - (c) have submitted to the responsible Member the affidavit referred to in section 6(7); and
 - (d) be a citizen of the Republic and ordinarily residing in the Province.
- (2) A person may not be a member of the Board if that person -
- (a) is a political office-bearer;
 - (b) is an unrehabilitated insolvent, or becomes insolvent and the insolvency results in the sequestration of his or her estate;
 - (c) was once, or is removed from an office of trust on account of misconduct;
 - (d) is subject to an order of a competent court holding that person to be mentally deranged;
 - (e) has been convicted in the preceding 10 years in the Republic or elsewhere of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), an offence under Chapter 2 or 3 of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998), an offence under the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001) or an offence involving dishonesty;
 - (f) has been convicted of any other offence committed after the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), took effect, and sentenced to imprisonment without the option of a fine; or
 - (g) is younger than 18 years of age.

Conflicting interests

9. (1) A member of the Board must not -
- (a) engage in any activity that may undermine the integrity of the Board;
 - (b) attend, participate in or influence the proceedings during a meeting of the Board if, in relation to the matter before the Board, that member has an interest that precludes the member from performing the duties of a member of the Board in a fair, unbiased and proper manner;

- (c) vote at any meeting of the Board in connection with a matter contemplated in paragraph (b);
 - (d) make private use of, or profit from, any confidential information obtained as a result of performing duties as a member of the Board; or
 - (e) divulge any information referred to in paragraph (d) to any third party, except as required as part of that person's official functions as a member of the Board.
- (2) If, at any time, it appears to a member of the Board that a matter before the Board concerns an interest of that member referred to in subsection (1)(b), the member must -
- (a) immediately and fully disclose the nature of that interest to the meeting; and
 - (b) withdraw from the meeting to allow the remaining members to discuss the matter and determine whether the member should be prohibited from participating in any further proceedings concerning that matter.

Removal from office

10. (1) The responsible Member may, by written notice, remove any member of the Board from office -
- (a) on the grounds of misconduct or incompetence;
 - (b) if the member becomes subject to a disqualification contemplated in section 8(2);
 - (c) if the member is absent for more than two meetings of the Board in one year without sound reason, or, in the case of absence due to medical reasons, without presenting a valid medical certificate.
- (2) A decision to remove a member of the Board on the grounds of misconduct or incompetence must be based on a finding to that effect by an investigating tribunal appointed by the responsible Member.
- (3) A notice contemplated in subsection (1) must state the reasons for removal of the member.
- (4) The responsible Member may at any time disband the Board if he or she is, on reasonable grounds, convinced that the Board is not functioning properly or that it will be in the public interest to do so.

Meetings of the Board

11. (1) The chairperson must determine the date, time and place for the first meeting of the Board, and the chairperson, in consultation with the Board, must determine the date, time and place for each subsequent meeting.
- (2) The chairperson, in consultation with the Board, must determine procedures at meetings of the Board, after due consideration of the principles of openness and transparency.
- (3) A majority of the members of the Board contemplated in section 6(1) is a quorum for a meeting of the Board.
- (4) The Board must attempt to reach its decision by consensus.
- (5) If the Board is unable to reach a consensual decision in any matter before it, the Board may resolve the matter by a simple majority vote on a motion.
- (6) In the event of an equality of votes regarding any matter put to the vote, the chairperson has a casting vote in addition to his or her deliberative vote.
- (7) Subject to subsections (4), (5) and (6), the Board may establish rules for its own proceedings.
- (8) The chief executive officer must take minutes or cause minutes to be taken at meetings of the Board.
- (9) Minutes of the proceedings of meetings of the Board must be retained at the offices of the Board and must be open to the public for inspection.
- (10) No person who has access to any information classified by the Board as confidential, may, without permission of the Board, divulge such information.
- (11) If a particular person is able to assist the Board in the consideration of a particular matter, the Board may co-opt that person for that purpose.
- (12) A person so co-opted is not entitled to vote at any meeting of the Board or a committee of the Board.
- (13) The Board must meet at least once every 3 months to, amongst other things, consider the report referred to in (24)(3).
- (14) The responsible Member may call a meeting of the Board if the Board fails to comply with subsection (13).

- (15) The chairperson must call an extraordinary meeting of the Board, if so requested by the chief executive officer.
- (16) Whenever any matter to be dealt with by the Board is of such a nature that it requires the immediate and urgent attention of the Board and it is not possible for the Board to meet in order to attend to the matter, all relevant documentation pertaining to such matter must forthwith be made available to each member by the chief executive officer for consideration.
- (17) A matter referred to in subsection (16) and agreed upon in writing by a simple majority of the Board members will, subject to subsection (18), be a resolution of the Board.
- (18) A resolution contemplated in subsection (17), must be reported to the Board by the chief executive officer at its next ensuing meeting and must be so recorded in the minutes of that meeting.

Remuneration of members of the Board

12. (1) A member of the Board must be paid such reasonable remuneration and allowances out of the funds of the Board as the responsible Member, in consultation with the Member of the Executive Council responsible for finance in the Province, may from time to time determine.
- (2) A member of the Board, who is in the full-time employ of any organ of state, may not receive remuneration in terms of subsection (1).
- (3) Remuneration determined in terms of subsection (1) must be published in the *Provincial Gazette* by the responsible Member before it becomes effective.
- (4) Members of the Board are entitled to be reimbursed for any traveling and subsistence expenses reasonably incurred by them for the performance of their functions as members of the Board.

Certain loans prohibited

13. No loan may be made out of the funds of the Entity, or from any other funds administered or held in trust by the Entity, to a member of the Board, or a member of the staff of the Entity, or to a family member of such member of the Board or member of the staff of the Entity.

Delegation

14. (1) The Board may, subject to subsections (2), (3) and (4), in writing, delegate any of the powers, functions or duties of the Entity in terms of this Act, to the chief executive officer or a committee of the Board.
- (2) The chief executive officer may, with the written permission of the Board, sub-delegate any power, function or duty delegated to him or her in terms of subsection (1), to any member of the staff of the Entity.
- (3) A delegation or sub-delegation, as the case may be, may be withdrawn by the Board or the chief executive officer with the concurrence of the Board, respectively.
- (4) The Entity may not delegate any power to be exercised, function to be performed or duty to be carried out by it -
 - (a) in terms of any other law;
 - (b) in or after consultation with the responsible Member; or
 - (c) with the approval or consent of the responsible Member.

Committees of the Board

15. (1) The Board may establish committees, with the power to co-opt other persons, for the purpose of assisting it with the due and proper exercise and performance of any of its powers and functions in terms of this Act, and may likewise dissolve, extend, enlarge or limit any committee so established.
- (2) (a) A committee established under subsection (1), consists of no fewer than three members designated by the Board being suitable and appropriately qualified or experienced regarding matters relating to the functions of the committee in question.
- (b) The Board must designate a Board member serving on a committee as the chairperson of such committee.
- (3) A co-opted member of a committee serves in an advisory capacity, and may not vote at any meeting of such committee.

CHAPTER III

Consultative tourism forum

16. (1) A consultative forum, to deliberate on any matter pertaining to tourism growth in the Province and to make recommendations to the responsible Member on any such matter, is hereby established.
- (2) The consultative tourism forum must meet at least once in every 6 months under the chairpersonship of the responsible Member, and consists of -
- (a) all the members of the Economic Cluster of the Executive Council of the Province; and
- (b) the executive mayors of the 5 regional municipalities in the Province, or their nominees.

Provincial tourism forum

17. (1) A provincial tourism forum is hereby established to make recommendations to the Entity regarding matters pertaining to tourism at a regional or local level.
- (2) The provincial tourism forum consists of -
- (a) the chief executive officer who is the chairperson of the provincial tourism forum; and
- (b) one person nominated by each of the district tourism

associations contemplated in subsection (3).

- (3) To participate in the activities of the provincial tourism forum, the municipal manager of each district municipality in the Province must –
 - (a) establish a district tourism association to consist of –
 - (i) a representative of each local municipality;
 - (ii) product owners; and
 - (iii) other stakeholders,in the area of jurisdiction of the district municipality;
 - (b) call regular meetings of the association and act as chairperson at those meetings;
 - (c) provide the chief executive officer with a copy of the constitution of the association.
- (4) The provincial tourism forum must meet at least once every 3 months at a venue and time determined by the chief executive officer to deliberate on and make recommendations to the Entity regarding matters pertaining to tourism at a regional or local level.
- (5) All matters relating to meetings and the functioning of the provincial tourism forum contemplated in subsection (1), must be attended to by the chief executive officer or a member of the staff of the Board designated by the chief executive officer.
- (6) The provisions of sections 7, 8, 9, 10 and 11, read with the changes required by the context, apply to members of the provincial tourism forum contemplated in subsection (1).

Implementation of recommendations of the provincial tourism forum

18. (1) Recommendations made by the provincial tourism forum must be put onto the agenda of the next ensuing meeting of the Board for consideration and decision.
- (2) Recommendations accepted by the Board must forthwith be implemented by the Entity, while recommendations rejected by the Board must be reported to the responsible Member by the chief executive officer, accompanied by the reasons for such rejection.
- (3) The responsible Member must consider the matter and may –
 - (a) direct the Entity to implement, with or without amendments, the

recommendation made by the provincial tourism forum; or

- (b) endorse the rejection by the Board of the recommendation made by the provincial tourism forum.

CHAPTER IV STAFF OF THE ENTITY

Staff of Entity and remuneration

19. (1) The Board -
- (a) must, subject to sections 20, 21 and 22, appoint a suitably qualified, knowledgeable and experienced person as chief executive officer, who -
 - (i) subject to the direction and control of the Board, is responsible for all financial and administrative responsibilities pertaining to the functions of the Entity; and
 - (ii) is accountable to the Board;
 - (b) must determine a staff establishment for the Entity; and
 - (c) may, on the establishment contemplated in paragraph (b), appoint any staff as may be necessary to enable the Board to perform its functions.
- (2) Section 8(1) and (2) and section 9, read with the changes required by the context, apply to the chief executive officer and each staff member to be appointed in terms of this Act.
- (3) The Board, with the concurrence of the Provincial Treasury and subject to section 28(1)(b), may determine the remuneration, allowances, employment benefits and other terms and conditions of appointment of a person appointed in terms of subsection (1).
- (4) The Board may delegate its powers in terms of subsection (1)(c) to the chief executive officer.

Chief executive officer

20. (1) The chief executive officer, appointed in terms of section 19(1), must be a person who has appropriate qualifications, knowledge or experience regarding the business and operations of the Entity.
- (2) The chief executive officer is the chief administration and accounting officer of the Entity, subject to the control of the Board.

- (3) The Board must, when appointing a chief executive officer, through public invitation, request applications for that position, to be submitted to the Board within 21 days after such request.
- (4) The chief executive officer is appointed for such period and on such terms and conditions of service, as the Board may determine, but -
 - (a) may not be so appointed for a period exceeding 5 years;
 - (b) upon the expiration of the term of office of the chief executive officer, he or she is eligible for reappointment for one further term of 5 years only;
 - (c) the chief executive officer may not undertake any other remunerative work, without the prior written consent of the Board.
- (5) The chief executive officer may, on 3 months' written notice tendered to the Board, resign from his or her office.
- (6) Whenever the office of chief executive officer is vacant or the chief executive officer is absent or incapacitated or refuses or fails to act, the powers and functions of the chief executive officer may be exercised and performed by any person designated as the acting chief executive officer by the responsible Member, but no such person may be the acting chief executive officer for a period exceeding 6 months in total.
- (7) While a person appointed as contemplated in subsection (6) so acts, he or she may exercise the powers and perform the functions of the chief executive officer.
- (8) Notwithstanding the provisions of this section and section 19(1), the chief executive officer of the Company, as on the date on which this Act comes into operation, is deemed to be the duly appointed chief executive officer of the Entity for the unexpired term of the chief executive officer's employment agreement with the Company.

Removal of chief executive officer from office

21. (1) The Board may remove the chief executive officer from office –
- (a) on account of his or her improper conduct;
 - (b) for unfitness to perform the functions of his or her office;
 - (c) on the ground of a permanent infirmity of mind or body which renders him or her incapable of performing the functions of his or her office or performing them properly;
 - (d) on the ground that he or she is or has become subject to a disqualification envisaged in section 8(2).
- (2) The Board may, in order to determine whether there exists sufficient cause for the removal of the chief executive officer from office as contemplated in subsection (1), initiate an inquiry or investigation for that purpose.
- (3) Whenever any inquiry or investigation is initiated as contemplated in subsection (2), or is being undertaken, the Board may, with due regard to the provisions of the Labour Relations Act, 1995 (Act No. 66 of 1995), suspend the chief executive officer from his or her office pending the outcome of such an inquiry or investigation.
- (4) For the purposes of subsection (1)(a), non-compliance by the chief executive officer with any provision of this Act or the Public Finance Management Act, 1999 (Act No. 1 of 1999), amongst other things, constitutes improper conduct.

Employment contract and performance agreement of chief executive officer

22. (1) The appointment of the chief executive officer by the Board as contemplated in section 19(1) becomes effective from the date of entering into a written employment contract with the Board, which employment contract must be for the duration of his or her term of office as chief executive officer.
- (2) The employment contract contemplated in subsection (1) must, as a minimum, contain the chief executive officer's personal particulars, term of office, conditions of service, powers, functions, responsibilities, duties as well as his or her remuneration, allowances and benefits.
- (3) In addition to the employment contract as contemplated in subsection (1), the chief executive officer must annually, prior to the commencement of the financial year concerned, conclude a performance agreement with the Board which performance agreement's term of operation must coincide with the financial year of

the Entity.

- (4) The performance agreement contemplated in subsection (3) must, as a minimum, contain a reference to the financial year to which such performance agreement pertains, the purpose of the chief executive officer's job, the key result areas, financial and management criteria, performance guidelines and targets of such job, as well as the standards for measuring the performance of the chief executive officer, by the Board, on at least a bi-annual basis.

CHAPTER V FINANCIAL MATTERS

Finances

23. (1) The Entity is financed from -
 - (a) money appropriated by the Provincial Legislature;
 - (b) any money payable to the Entity in terms of this Act;
 - (c) income derived by the Entity from its investment and deposit of surplus money in terms of subsection (6);
 - (d) all monies accruing to the Entity from any source; and
 - (e) any revenue generated by the Entity.
- (2) The financial year of the Entity is the period from 1 April in any year to 31 March of the following year.
- (3) Each year, at a time determined by the responsible Member, but no later than 30 June of that year, the Entity must submit to the responsible Member a statement of the Entity's estimated income and expenditure, and requested appropriation from the Provincial Legislature, in respect of the next ensuing financial year.
- (4) The Board must open and maintain an account in the name of the Entity with a registered bank in the Republic and -
 - (a) any money received by the Entity must be deposited into that account; and
 - (b) every payment on behalf of the Entity must be made from that account.
- (5) Cheques drawn on the account of the Entity must be signed on its behalf by two persons authorized for that purpose by resolution of the Board.

- (6) The Board may invest or deposit money of the Entity that is not immediately required for contingencies or to meet current expenditures -
- (a) on a call account or short-term fixed deposit with any registered bank or financial institution in the Republic; or
 - (b) in an investment account with the Corporation for Public Deposits established in terms of section 2 of the Corporation for Public Deposits Act, 1984 (Act No. 46 of 1984).
- (7) Any money standing to the credit of the Entity at the end of any financial year of the Entity, excluding such money as has been approved by the responsible Member, being necessary for the reasonable immediate running expenses of the Entity, must be paid into the Provincial Revenue Fund.

Accountability, audits and reports

24. (1) The Entity must -
- (a) account for state monies and other money received by, or paid for, or on account of the Board; and
 - (b) cause the necessary accounting and related records to be kept, in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999).
- (2) The records referred to in subsection (1)(b) must be audited by the Auditor General.
- (3) The Entity must, through the Head of Department, report at least quarterly in writing to the responsible Member on its activities.
- (4) The Entity must submit the report and statements referred to in section 55(1) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), to the responsible Member in the way required by section 55(3) of that Act.
- (5) The responsible Member must, as soon as practicable after receiving the report and statements referred to in subsection (4), table it in the Provincial Legislature.
- (6) The Entity must, in the report contemplated in subsection (4), as far as the exercise and performance of its powers and functions during the year being reported on, are concerned, also include reference to -
- (a) its achievements;

- (b) its failures;
 - (c) the financial implications of all such achievements and failures;
 - (d) any recommendations pertaining to its objects, for consideration.
- (7) The Board must establish an audit committee for the Entity consisting of at least three persons in accordance with Treasury Regulation 27.
- (8) The audit committee must prepare, sign and submit to the Board, within 15 days of the end of each quarter, a report in respect of the operations, including the income and expenditure of the Entity in respect of the preceding quarter.
- (9) The Entity must, when requested, in accordance with section 115(b) of the Constitution, report to the Provincial Legislature or any of its committees on any matter pertaining to its functions.

Appropriation of income and property

25. The moneys appropriated by the Provincial Legislature to the Entity as contemplated in section 23, must be utilized in accordance with such appropriation and all other income, property and profits of the Entity must be utilized exclusively for the achievement of its objects and in accordance with the provisions of this Act.

Procurement

26. (1) When procuring any supply or service, or hiring or letting anything or acquiring or granting any right or acquiring or disposing of any asset for or on behalf of the Entity as contemplated in section 4, the Board must ensure that such procurement is effected in accordance with, and duly complies with -
- (a) the regulations made or instructions issued by the National Treasury in respect of an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective as contemplated in section 76(4)(c) of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
 - (b) the instructions issued by the Provincial Treasury as contemplated in section 18(2)(a) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), in respect of an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;

- (c) the appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective as established by the Board, as contemplated in section 51(1)(a)(iii) of the Public Finance Management Act, 1999 (Act No. 1 of 1999); and
 - (d) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).
- (2) The Board must adopt, within six months after the coming into operation of this Act, a procurement system consistent with subsection (1), which procurement system must be utilized for the procurement of all supplies, goods and services, as well as the disposal of supplies and goods by the Entity.

CHAPTER VI GENERAL MATTERS

Prohibition of use of name and brand of the Entity

27. No person, company or association of persons may carry on business under a name or use the brand that is the same as or so closely resembles that of the Entity that it is reasonably likely to deceive.

Regulations

28. (1) The responsible Member may make regulations regarding -
- (a) any matter pertaining to the Board;
 - (b) conditions of service of staff of the Entity;
 - (c) the limitation of any power or function of the Entity referred to in section 4;
 - (d) any fee payable in terms of this Act; and
 - (e) in general, any matter in respect of which it is necessary or expedient to make regulations in order to achieve the objects of this Act, but any regulation with financial implications may only be made with the concurrence of the Member of the Executive Council responsible for finance.
- (2) Before making regulations in terms of subsection (1), the responsible Member must publish the draft regulations for public comment in the *Provincial Gazette*.

Offences and penalties

29. Any person who contravenes any provision of this Act is guilty of an offence and on conviction liable to a fine or imprisonment for a period not exceeding two years or to both such fine and imprisonment.

Transitional and founding arrangements

30. (1) With effect from the date on which this Act comes into operation, subject to the approval of the members of the Company first being obtained, the staff, assets, liabilities and records of the Company are transferred from the Company to the Entity and the Entity becomes the successor-in-law of the Company.
- (2) The transfer of staff must take place in accordance with the Labour Relations Act, 1995 (Act No. 66 of 1995).
- (3) The responsible Member may, for a period not exceeding 12 months after the coming into operation of this Act, second any officer on the establishment of the Department to the Entity to be of assistance in founding the Entity.

Repeal of law

31. The Northern Cape Tourism Act, 1998 (Act No. 5 of 1998), is hereby repealed.

Short title and commencement

32. This Act is called the Northern Cape Tourism Entity Act, 2008, and comes into operation on a date fixed by the Premier by proclamation in the *Provincial Gazette*.

WET OP DIE NOORD-KAAPSE TOERISME-ENTITEIT, 2008**WET**

Om voorsiening te maak vir die instelling van 'n toerismebemarkings- en bevorderingsentiteit vir die Provinsie Noord-Kaap en vir die bestuur daarvan deur 'n Raad; om voorsiening te maak vir die werking, finansiële beheer en verslagdoening oor die werksaamhede van die Entiteit; om voorsiening te maak vir die oprigting van die Entiteit; om voorsiening te maak vir 'n raadgewende en provinsiale toerisforum; om die "Northern Cape Tourism Act, 1998" (Wet No. 5 van 1998) te herroep; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

AANHEF

AANGESIEN daar in die Provinsie Noord-Kaap 'n behoefte bestaan vir die volgehoue benutting van toerismebemarkings- en -bevorderingsgeleenthede;

EN AANGESIEN die instelling van 'n statutêre toerismebemarkings- en -bevorderingsentiteit vir die Provinsie Noord-Kaap 'n antwoord is op die uitdaging om die Provinsie verder as 'n voorkeurtoerismebestemming te bemark en te bevorder;

DAAROM WORD DAAR deur die Provinsiale Wetgewer van die Provinsie Noord-Kaap soos volg bepaal:-

INDELING VAN ARTIKELS**HOOFSTUK I****UITLEG****Artikel**

1. Uitleg

HOOFSTUK II**INSTELLING VAN DIE ENTITEIT EN DIE RAAD**

2. Instelling van die Entiteit
3. Oogmerke van die Entiteit
4. Bevoegdhede en werksaamhede van die Raad
5. Instelling van die Raad
6. Samestelling van die Raad
7. Ampstermyn van lede van die Raad
8. Geskiktheid om in die Raad te dien
9. Botsende belange
10. Verwydering uit die amp
11. Vergaderings van die Raad
12. Vergoeding van lede van die Raad
13. Sekere lenings verbode
14. Delegasie
15. Komitees van Raad

HOOFSTUK III TOERISME FORUMS

16. Raadgewende Toerismeforum
17. Provinsiale Toerismeforum
18. Implementering van aanbevelings van die provinsiale toerismeforum

HOOFSTUK IV PERSONEEL VAN DIE ENTITEIT

19. Personeel van die Entiteit en vergoeding
20. Hoof uitvoerende beampte
21. Verwydering van hoof uitvoerende beampte uit die amp
22. Indiensnemingskontrak en prestasie-ooreenkoms van hoof uitvoerende beampte

HOOFSTUK V FINANSIËLE AANGELEENTHEDE

23. Finansies
24. Rekenpligtigheid, oudits en verslae
25. Bewilliging van inkomste en eiendom
26. Verkrygingsadministrasie

HOOFSTUK VI ALGEMENE AANGELEENTHEDE

27. Verbod op gebruik van naam en handelsmerk van die Entiteit
28. Regulasies
29. Misdrywe en strawwe
30. Oorgangs- en oprigtingsmaatreëls
31. Herroeping van wet
32. Kort titel en inwerkingtreding

HOOFSTUK I UITLEG

Uitleg

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

“**boekjaar**” die periode wat op die eerste dag van April in enige jaar begin tot op die een-en-dertigste dag van Maart in die daaropvolgende jaar, met inbegrip van albei dae;

“**Departement**” die Departement verantwoordelik vir toerisme in die Provinsie;

“**die Maatskappy**” die Noord-Kaapse Toerisme-owerheid, ‘n genootskap ingelyf ingevolge artikel 21 van die Maatskappywet, 1973 (Wet No. 61 van 1973), met die registrasienuommer 1997/16953/08;

“**distriksmunisipaliteit**” ‘n kategorie-C munisipaliteit in artikel 155(1)(c) van die Grondwet beoog;

“**Entiteit**” die entiteit kragtens artikel 2 ingestel;

“**familielid**” iemand se –

- (a) gade; of
- (b) kind, ouer, broer of suster, hetsy van geboorte, deur huwelik of by aanneming;

“**gade**” iemand se –

- (a) genoot in ‘n huwelik of siviele verbintenis;
- (b) genoot in ‘n gewoonteregtelike verbintenis volgens inheemse reg; of
- (c) genoot in ‘n verhouding waarin die partye op ‘n wyse soortgelyk aan ‘n huweliksgenootskap of gewoonteregtelike verbintenis saamleef;

“**Grondwet**” die Grondwet van die Republiek van Suid-Afrika, 1996;

“**hierdie Wet**” ook enige regulasie ingevolge hierdie Wet gemaak;

“**hoof uitvoerende beampte**” die hoof uitvoerende beampte kragtens artikel 19 aangestel;

“**komitee**” ‘n komitee van die Raad kragtens artikel 15 ingestel;

“**munisipaliteit**” enige munisipaliteit in die Provinsie kragtens die Strukturewet ingestel;

“**politieke ampsbekleër**” –

- (a) ‘n lid van die Nasionale Vergadering of die Nasionale Raad van Provinsies of die Kabinet;
- (b) ‘n lid van ‘n provinsiale wetgewer;
- (c) ‘n diplomatieke verteenwoordiger van die Republiek wat nie ‘n lid van die staatsdiens is nie;
- (d) ‘n lid van ‘n huis of raad van tradisionele leiers;
- (e) ‘n lid van ‘n munisipale raad; of
- (f) ‘n nasionale of provinsiale ampsbekleër van ‘n politieke party;

“**Premier**” die Premier van die Provinsie in artikel 125 van die Grondwet genoem;

“**produkteenaar**” iemand wat regstreeks betrokke is by, belê in en voordeel trek uit toerisme as ‘n besigheid;

“**Provinsiale Koerant**” die *Provinsiale Koerant* van die Provinsie;

“**Provinsiale Wetgewer**” die Provinsiale Wetgewer van die Provinsie in artikel 104 van die Grondwet genoem;

“**Provinsie**” die Provinsie Noord-Kaap in artikel 103(1)(g) van die Grondwet genoem, of enige gedeelte daarvan;

“**Raad**” die Raad van die Entiteit kragtens artikel 5 ingestel;

“**Republiek**” die Republiek van Suid-Afrika in artikel 1 van die Grondwet genoem;

“**staatsorgaan**” ‘n staatsorgaan soos in artikel 239 van die Grondwet omskryf;

“**Strukturewet**” die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998);

“**Uitvoerende Raad**” die Uitvoerende Raad van die Provinsie in artikel 132 van die Grondwet genoem;

“**verantwoordelike Lid**” die Lid van die Uitvoerende Raad verantwoordelik vir die portefeulje van toerisme in die Provinsie; en

“**voorsitter**” iemand kragtens artikel 6 as voorsitter of waarnemende voorsitter aangestel;

- (2) Waar ‘n ampsbekleër in hierdie Wet ‘n besluit in oorleg met ‘n ander ampsbekleër moet neem, vereis die besluit die instemming van die ander ampsbekleër.

HOOFSTUK II INSTELLING VAN DIE ENTITEIT EN DIE RAAD

Instelling van die Entiteit

2. (1) ‘n Toerisme-entiteit vir die Provinsie Noord-Kaap word hierby ingestel as ‘n regs persoon.
- (2) Die Premier moet, by proklamasie in die *Provinsiale Koerant*, vóór inwerkingtreding van hierdie Wet –
- (a) ‘n naam aan die Entiteit gee; en
- (b) ‘n handelsmerk vir die Entiteit verklaar.

Oogmerke van die Entiteit

3. (1) Sonder om inbreuk te maak op die regte van munisipaliteite met betrekking tot plaaslike toerisme, bemark en bevorder die Entiteit die Provinsie as ‘n toeristebestemming en streef daarom na die volgende oogmerke:
- (a) die bestuur, beplanning en leiding van die bemarkingsaktiwiteite van alle sektore van die Provinsie se toerisme-industrie, naamlik vergaderings, aansporings, kongresse, tentoonstellings, bemarking

- van geleenthede en ontspanning, en besoekers- en ondersteuningsdienste;
- (b) fasilitering van die ontwikkeling van nuwe toerismeprodukte en -bestemmings oral in die Provinsie;
 - (c) samewerking met ander liggame betrokke by die bemarking van handel en belegging in die Provinsie;
 - (d) voorsiening van 'n medium wat samewerking, deelname, besluitneming en bevonding tussen die openbare en privaat sektor fasiliteer, binne die konteks van die bemarking van die Provinsie as 'n toerismebestemming.
 - (e) inskakeling van bemarkingsaktiwiteite in alle sektore van toerisme in die Provinsie, in samewerking met bestaande entiteite;
 - (f) fasilitering van die strewe na transformasie- en bemagtigingsdoelwitte in alle sektore van die Provinsie se toerisme-industrie;
 - (g) bevordering van verhoudinge en aangaan van ooreenkomste met alle soorte organisasies, openbaar sowel as privaat, met die doel om die doelstellings van die Entiteit te bevorder; en
 - (h) bevordering van noue samewerking tussen die openbare en privaat sektore in die strewe na toerismegroei tot voordeel van al die mense van die Provinsie.
- (2) In die verwesenliking van sy oogmerke streef die Entiteit daarna om sy eie inkomsteskepping en -invordering voordurend te verhoog.

Bevoegdheids- en werksaamhede van die Raad

4. (1) Om die doelstellings van die Entiteit te verwesenlik, kan die Raad –
- (a) in oorleg met die verantwoordelike Lid en die Lid van die Uitvoerende Raad verantwoordelik vir finansies, vaste eiendom huur, aankoop of andersins verkry, verhuur, verkoop, ruil of vervreem, onder verband bring, met 'n serwituut beswaar, of enige saaklike reg daarin oordra;
 - (b) roerende eiendom huur, aankoop of verkry, uithuur, verkoop, ruil of vervreem, verpand, of enige ander saaklike reg daarin oordra;
 - (c) onderhandel of, in oorleg met die verantwoordelike Lid, saamwerk met enige regering, provinsiale adminstrasie of plaaslike regering, of enige ander raad of persoon in die Republiek of elders ten opsigte van enige aangeleentheid wat regstreeks of onregstreeks gerig is op die verwesenliking van die doelstellings van die Raad;
 - (d) in oorleg met die verantwoordelike Lid, ooreenkomste aangaan

met 'n soortgelyke liggaam in die Republiek of elders vir die bevordering van toerisme in die onderskeie gebiede waarvoor die Entiteit en daardie liggaam ingestel is, en die Raad of 'n lid of lede van die Raad kan vir dié doel reise in en buite die Republiek onderneem;

- (e) in oorleg met die verantwoordelike Lid, kantore open en administreer wat nodig of wenslik mag wees vir die doeltreffende en behoorlike uitoefening van sy bevoegdhede, die verrigting van sy werksaamhede en die uitvoering van sy pligte;
- (f) versekeringsdekking verkry –
 - (i) teen enige verlies, skade, risiko of aanspreeklikheid wat hy mag ly of op die hals haal; en
 - (ii) vir die lede van die Raad en komitees en werknemers ten opsigte van liggaamlike besering, verminking of dood wat uitsluitlik en regstreeks spruit uit 'n ongeluk wat gebeur ten tyde van die uitvoering van hul pligte as sodanige lede of werknemers;
- (g) by 'n geregistreerde bank in die Republiek 'n rekening in die naam van die Entiteit open en onderhou;
- (h) boeke, gidse, kaarte, publikasies, foto's, films, videos en soortgelyke stof wat bedoel is om persone in die Republiek of elders oor toeriste-aantreklikhede en -dienste in die Provinsie in te lig, opstel, maak, publiseer en verkoop of gratis beskikbaar stel;
- (i) inligting met betrekking tot toerisme in die Provinsie inwin, evalueer en verwerk en sodanige inligting beskikbaar stel aan persone wat in die toerisme-industrie betrokke is;
- (j) bemarkingsadvies en -voorligting gee aan persone wat in die toerisme-industrie in die Provinsie betrokke is;
- (k) met die oog op die doeltreffende bemarking van, en die verskaffing van inligting oor, enige diens, fasiliteit of produk wat met betrekking tot toerisme aangebied word, die gebruik van kenmerkende tekens en bewoording wat die Raad geskik mag ag, bepaal, publiseer en reguleer;
- (l) in oorleg met die verantwoordelike Lid en die Lid van die Uitvoerende Raad verantwoordelik vir finansies, enige pensioen-, voorsorg- of siekefonds tot voordeel van die Entiteit se werknemers instel, bestuur en administreer of sodanige fondse deur 'n ander persoon of liggaam laat administreer;
- (m) onderhandel of saamwerk met enige opvoedkundige instansie aangaande die instelling, voortsetting of uitbreiding van kursusse vir die opleiding van persone vir loopbane in die toerisme-industrie;

- (n) die gebruik van handelsname deur die Entiteit vir bepaalde toerismebemarkingsprojekte goedkeur; en
 - (o) enige ander werksaamhede verrig wat kan bydra tot die verwesenliking van die doelstellings van die Entiteit.
- (2) Ten einde die doelstellings van die Entiteit te verwesenlik, moet die Raad –
- (a) met die Departement en munisipaliteite saamwerk om die toerisme-ontwikkeling- en -bemarkingstrategieë van die Provinsie en munisipaliteite te implementeer;
 - (b) transformasiedoelstellings by die bedryfsaktiwiteite van die Entiteit inskakel;
 - (c) met ander nasionale en provinsiale openbare entiteite, in die besonder dié wat met toerisme, handels- en beleggingsbevordering belas is, saamwerk; en
 - (d) met sektor-spesifieke liggame wat tot die groei van die toerisme-industrie in die Provinsie bydra, saamwerk.
- (3) Die Raad oefen sy bevoegdhede uit en verrig sy werksaamhede met behoorlike inagneming van artikel 104, gelees met artikel 125 van die Grondwet, artikel 230 van die Grondwet, die Wet op Leenbevoegdhede van Provinsiale Regerings, 1996 (Wet No. 48 van 1996), die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), en die bepalinge van alle nasionale wetgewing en alle nasionale beleide, riglyne en voorskrifte wat betrekking het op toerisme, handel, nywerheid, sektorontwikkeling en belegging, met spesifieke verwysing na beleide, riglyne en voorskrifte wat betrekking het op die transformasie van die toerisme- en sakesektore.
- (4) Die Raad oefen sy bevoegdhede uit en verrig sy werksaamhede wat finansiële en personeelaangeleenthede betref deur –
- (a) die ontwikkeling en implementering van alle beleide en programme van die Entiteit wat betrekking het op finansiële en personeelaangeleenthede, binne ses maande ná die inwerkingtreding van hierdie Wet, en latere wysiging van sodanige beleide en programme soos en wanneer nodig;
 - (b) te sorg dat die Entiteit gesonde finansiële bestuur, doeltreffende en billike menslike hulpbron-ontwikkeling en doeltreffende kantooradministrasie op 'n verantwoordelike, verantwoordbare en deursigtige wyse navolg; en
 - (c) enige werknemer van die Entiteit met behoorlike inagneming van die bepalinge van die Wet op Arbeidsverhoudinge, 1995 (Wet No. 66 van 1995), in diens te neem, te dissiplineer, te skors of af te dank.

Instelling van die Raad

5. 'n Raad vir die Entiteit word hiermee ingestel –
- (a) om die sake van die Entiteit te bestuur en te beheer;
 - (b) as rekenpligtige gesag vir die Entiteit soos bedoel in artikel 49(2)(a) van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999); en
 - (c) om die bevoegdhede uit te oefen en die werksaamhede te verrig wat deur hierdie Wet of enige ander wet aan die Entiteit toegeken of opgedra word.

Samestelling van die Raad

6. (1) Die Raad bestaan uit 7 lede wat geregtig is om by vergaderings van die Raad te stem, aangestel deur die verantwoordelike Lid op grond van hul bewese vernuf, kennis of ondervinding van toerisme, of met verwante professionele vaardighede, met inagneming van –
- (a) vroue;
 - (b) gestremdes;
 - (c) jongmense;
 - (d) persone uit die onderskeie streke van die Provinsie; en
 - (e) persone met 'n arbeids-agtergrond.
- (2) Die hoof uitvoerende beampte en die Departementshoof, of 'n beampte deur die Departementshoof aangewys, kan teenwoordig wees en deelneem aan besprekings by vergaderings van die Raad, maar is nie lede van die Raad nie en kan nie by vergaderings stem nie.
- (3) 'n Lid in subartikel (1) bedoel, word aangestel slegs nadat die verantwoordelike Lid by kennisgewing in die *Provinsiale Koerant* en in minstens twee koerante wat in die Provinsie in omloop is, belanghebbendes genooi het om persone te nomineer wat geskik is vir aanstelling as lede van die Raad.
- (4) Lede kragtens subartikel (1) aangestel, is nie-uitvoerende lede van die Raad.
- (5) Die verantwoordelike Lid stel 'n lid van die Raad as voorsitter en 'n ander lid as ondervoorsitter aan.
- (6) Die voorsitter lei al die vergaderings van die Raad en die ondervoorsitter lei vergaderings in die afwesigheid van die voorsitter.
- (7) Vóór aanstelling as lid van die Raad lê die kandidaat 'n beëdigde verklaring aan die verantwoordelike Lid voor, waarin die kandidaat verklaar dat hy of sy –
- (a) beskikbaar is vir die aanstelling; en

- (b) nie kragtens hierdie Wet ongeskik is vir sodanige aanstelling nie.
- (8) Die verantwoordelike Lid kan te eniger tyd daarop aandrang dat bevredigende bewys aan hom of haar gelewer word van die volgehoue geskiktheid van enige lid of voornemende lid van die Raad, of om enige ondersoek of navrae in dié verband te onderneem of te laat onderneem.

Ampstermyn van lede van die Raad

7. (1) Die verantwoordelike Lid stel die lede van die Raad vir 'n tydperk van 5 jaar aan.
- (2) 'n Lid kan heraangestel word ná voltooiing van sy of haar aanvanklike termyn, maar nie vir 'n tydperk van meer as 10 jaar altesaam nie.

Geskiktheid om in die Raad te dien

8. (1) Om geskik te wees om as lid van die Raad te dien en om in daardie amp voort te gaan, moet so iemand –
- (a) 'n geskikte en gepaste persoon wees;
 - (b) nie onderworpe wees aan 'n diskwalifisering in subartikel (2) uiteengesit nie;
 - (c) die beëdigde verklaring in artikel 6(7) genoem by die verantwoordelike Lid indien; en
 - (d) 'n burger van die Republiek wees en gewoonlik in die Provinsie woon.
- (2) Niemand dien as lid van die Raad as hy of sy –
- (a) 'n politieke ampsbekleër is nie;
 - (b) 'n ongerehabiliteerde insolvent is, of insolvent word en die insolvensie tot die sekwestrasie van sy of haar boedel lei nie;
 - (c) ooit op grond van wangedrag uit 'n vertrouensamp ontslaan is, of ontslaan word nie;
 - (d) aan 'n bevel van 'n hof met regsbevoegdheid wat hom of haar geestelik versteurd bevind het, onderworpe is nie;
 - (e) binne die voorafgaande 10 jaar in die Republiek of elders aan diefstal, bedrog, vervalsing of uitgee van 'n vervalste stuk, meened, 'n misdryf ingevolge die Wet op Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004), 'n misdryf ingevolge Hoofstuk 2 of 3 van die Voorkoming van Georganiseerde Misdadwet, 1998 (Wet No. 121 van 1998), 'n misdryf ingevolge die Finansiële Intelligensiesentrumwet, 2001 (Wet No. 38 van 2001), of 'n misdryf wat oneerlikheid behels, skuldig bevind is, of skuldig bevind word nie;

- (f) aan enige ander misdryf begaan ná die inwerkingtreding van die Grondwet van Suid-Afrika, 1993 (Wet No. 200 van 1993), skuldig bevind is en tot gevangenisstraf sonder die keuse van 'n boete gevonnissen is; of
- (g) jonger as 18 jaar is nie.

Botsende belange

9. (1) 'n Lid van die Raad –
- (a) doen nie mee aan enige aktiwiteit wat die integriteit van die Raad kan ondermyn nie;
 - (b) woon nie die verrigtinge van 'n vergadering by, neem nie daaraan deel of oefen nie 'n invloed daarop uit nie as die betrokke lid ten opsigte van die aangeleentheid wat voor die Raad dien, 'n belang het wat hom of haar verhinder om die pligte van 'n lid van die Raad op 'n regverdige, onbevooroordeelde en behoorlike wyse na te kom;
 - (c) stem nie by enige vergadering van die Raad oor 'n aangeleentheid bedoel in paragraaf (b) nie;
 - (d) maak nie privaat gebruik van of trek nie voordeel uit enige vertroulike inligting verkry in die nakoming van sy of haar pligte as 'n lid van die Raad nie; of
 - (e) maak nie enige inligting in paragraaf (d) genoem aan enige derde party bekend nie, tensy dit as deel van sy of haar amptelike werksaamhede as lid van die Raad vereis word.
- (2) Indien dit te eniger tyd vir 'n lid van die Raad lyk of 'n aangeleentheid wat voor die Raad dien, betrekking het op 'n belang van daardie lid in subartikel (1)(b) genoem –
- (a) onthul die aard van daardie belang onmiddellik en volledig aan die vergadering; en
 - (b) onttrek die lid van die vergadering, sodat die oorblywende lede die aangeleentheid kan bespreek en bepaal of die lid verbied behoort te word om aan enige verdere verrigtinge aangaande die aangeleentheid deel te neem.

Verwydering uit die amp

10. (1) Die verantwoordelike Lid kan, by skriftelike kennisgewing, 'n lid van die Raad uit die amp verwyder –
- (a) op grond van wangedrag of onbekwaamheid;
 - (b) as die lid onderworpe raak aan 'n diskwalifisering in artikel 8(2) bedoel;

- (c) indien die lid in een jaar sonder geldige rede van meer as twee vergaderings van die Raad afwesig is of, in die geval van afwesigheid om mediese redes, versuim om 'n geldige mediese sertifikaat te toon.
- (2) 'n Besluit om 'n lid van die Raad op grond van wangedrag of onbekwaamheid te verwyder, word gegrond op 'n bevinding te dien effekte deur 'n ondersoektribunaal wat deur die verantwoordelike Lid aangestel is.
- (3) 'n Kennisgewing in subartikel (1) bedoel, gee die redes vir die verwydering van die lid aan.
- (4) Die verantwoordelike Lid kan te eniger tyd die Raad ontbind as hy of sy op redelike gronde oortuig is dat die Raad nie behoorlik funksioneer nie of dat dit in die belang van die publiek sal wees om dit te ontbind.

Vergaderings van die Raad

11. (1) Die voorsitter bepaal die datum, tyd en plek vir die eerste vergadering van die Raad en bepaal in oorleg met die Raad die datum, tyd en plek vir elke daaropvolgende vergadering.
- (2) Die voorsitter bepaal, in oorleg met die Raad, prosedures by vergaderings van die Raad, met behoorlike inagneming van die beginsels van openlikheid en deursigtigheid.
- (3) 'n Meerderheid van die lede van die Raad bedoel in artikel 6(1) vorm 'n kworum vir 'n vergadering van die Raad.
- (4) Die Raad moet probeer om sy besluite deur middel van konsensus te neem.
- (5) As die Raad nie konsensus kan bereik oor enige aangeleentheid wat voor hom dien nie, kan hy die aangeleentheid deur 'n gewone meerderheidstem op 'n mosie beslis.
- (6) In die geval van 'n staking van stemme rakende enige aangeleentheid waarvoor gestem word, het die voorsitter 'n beslissende stem bykomend tot sy of haar gewone stem.
- (7) Die Raad kan behoudens subartikels (4), (5) en (6) reëls vir sy eie verrigtinge maak.
- (8) Die hoof uitvoerende beamppte hou notule of laat notule van die vergaderings van die Raad hou.
- (9) Notules van die verrigtinge van die vergaderings van die Raad word by die kantore van die Raad gehou en is toeganklik vir die publiek.
- (10) Niemand wat toegang het tot inligting wat die Raad as vertroulik klassifiseer, mag die inligting sonder toestemming van die Raad openbaar

maak nie.

- (11) Indien 'n bepaalde persoon in staat is om die Raad by die oorweging van 'n bepaalde aangeleentheid behulpsaam te wees, kan die Raad die persoon vir die doel koöpteer.
- (12) Sodanige gekoöpteerde persoon het nie die reg om by 'n vergadering van die Raad of 'n komitee van die Raad te stem nie.
- (13) Die Raad vergader ten minste een keer elke 3 maaande om onder andere die verslag in artikel 24(3) genoem, te oorweeg.
- (14) Die verantwoordelike Lid kan 'n vergadering van die Raad belê as die Raad versuim om aan artikel (13) te voldoen.
- (15) Die voorsitter belê 'n buitengewone vergadering van die Raad as die hoof uitvoerende beampte daarvoor vra.
- (16) Wanneer 'n aangeleentheid wat voor die Raad moet dien uiteraard die onmiddellike en dringende aandag van die Raad verg en dit nie vir die Raad moontlik is om te vergader om daaraan aandag te gee nie, word alle tersaaklike dokumentasie met betrekking tot sodanige aangeleentheid sonder verwyl deur die hoof uitvoerende beampte aan alle lede vir oorweging beskikbaar gestel.
- (17) Behoudens subartikel (18) is 'n aangeleentheid genoem in subartikel (16), waarop skriftelik deur 'n gewone meerderheid van die Raadslede ooreengekom word, 'n besluit van die Raad.
- (18) 'n Besluit in subartikel (17) bedoel, word deur die hoof uitvoerende beampte aan die Raad oorgedra by die Raad se volgende vergadering en as sulks in die notule van daardie vergadering aangeteken.

Vergoeding van lede van die Raad

12. (1) 'n Lid van die Raad word sodanige redelike vergoeding en toelaes uit die fondse van die Raad betaal soos wat die verantwoordelike Lid, in oorleg met die Lid van die Uitvoerende Raad belas met finansies in die Provinsie, van tyd tot tyd mag bepaal.
- (2) 'n Lid van die Raad wat voltyds in diens van 'n staatsorgaan is, ontvang nie kragtens subartikel (1) vergoeding nie.
- (3) Vergoeding kragtens subartikel (1) bepaal, word deur die verantwoordelike Lid in die *Provinsiale Koerant* gepubliseer voordat dit in werking tree.
- (4) Lede van die Raad is geregtig op vergoeding vir enige redelike reis- en verblyfuitgawes wat hulle in die verrigting van hul werksaamhede as lede van die Raad aangaan.

Sekere lenings verbode

13. Geen lening word aan 'n lid van die Raad of 'n lid van die personeel van die Entiteit of aan 'n familielid van sodanige lid van die Raad of lid van die personeel van die Entiteit uit die fondse van die Entiteit of uit enige ander fondse wat deur die Entiteit geadministreer of in trust gehou word, gemaak nie.

Delegasie

14. (1) Behoudens subartikels (2), (3) en (4) kan die Raad enige van die bevoegdhede, werksaamhede of pligte van die Entiteit kragtens hierdie Wet skriftelik aan die hoof uitvoerende beampte of 'n komitee van die Raad delegeer.
- (2) Die hoof uitvoerende beampte kan met die skriftelike toestemming van die Raad enige bevoegdheid, werksaamheid of plig wat kragtens subartikel (1) aan hom of haar gedelegeer is, subdelegeer aan enige lid van die personeel van die Entiteit.
- (3) 'n Delegasie of subdelegasie, na gelang van die geval, kan onderskeidelik deur die Raad of die hoof uitvoerende beampte, met instemming van die Raad, teruggetrek word.
- (4) Die Entiteit kan nie enige bevoegdheid wat hy moet uitoefen, 'n werksaamheid wat hy moet verrig of plig wat hy moet uitvoer –
- (a) kragtens enige ander wet;
 - (b) in of ná oorleg met die verantwoordelike Lid; of
 - (c) met die goedkeuring of toestemming van die verantwoordelike Lid,
- delegeer nie.

Komitees van die Raad

15. (1) Die Raad kan komitees instel, met die bevoegdheid om ander persone te koöpteer, om hom by te staan met die behoorlike en korrekte uitoefening en verrigting van sy bevoegdhede en werksaamhede kragtens hierdie Wet en kan ook enige komitee wat op hierdie wyse ingestel is, ontbind, uitbrei, vergroot of beperk.
- (2) (a) 'n Komitee wat ingevolge subartikel (1) ingestel is, bestaan uit minstens drie lede aangewys deur die Raad as geskik en behoorlik gekwalifiseer of ervare aangaande aangeleenthede wat op die werksaamhede van die betrokke komitee betrekking het.
- (b) Die Raad benoem 'n Raadslid wat in 'n komitee dien as die voorsitter van sodanige komitee.
- (3) 'n Gekoöpteerde lid van 'n komitee dien in 'n raadgewende hoedanigheid en kan nie by enige vergadering van sodanige komitee stem nie.

HOOFSTUK III

Raadgewende Toerismeforum

16. (1) 'n Raadgewende forum word hiermee ingestel om aangeleenthede wat op toerismegroei in die Provinsie betrekking het, te oorweeg en om aanbevelings oor enige sodanige aangeleentheid aan die verantwoordelike Lid te maak.
- (2) Die raadgewende toerismeforum vergader minstens een keer elke 6 maande onder voorsitterskap van die verantwoordelike Lid en bestaan uit –
- (a) al die lede van die Ekonomiese Groep van die Uitvoerende Raad van die Provinsie; en
- (b) die uitvoerende burgemeesters van die 5 streeksmunisipaliteite van die Provinsie, of hul benoemdes.

Provinsiale Toerismeforum

- 17 (1) 'n Provinsiale toerismeforum word hiermee ingestel om aanbevelings aan die Entiteit te maak wat betrekking het op toerisme op 'n streeks- of plaaslike vlak.
- (2) Die provinsiale toerismeforum bestaan uit –
- (a) die hoof uitvoerende beampte, wat die voorsitter van die provinsiale toerismeforum is; en
- (b) een persoon genomineer deur elkeen van die distrikstoerismeverenigings in subartikel (3) bedoel.
- (3) Ten einde deel te neem aan die aktiwiteite van die provinsiale toerismeforum, moet die munisipale bestuurder van elke distriksmunisipaliteit in die Provinsie –
- (a) 'n distrikstoerismevereniging instel, wat bestaan uit –
- (i) 'n verteenwoordiger van elke plaaslike munisipaliteit;
- (ii) produkeienaars; en
- (iii) ander insethouers,
- binne die regsgebied van die distriksmunisipaliteit;
- (b) gereelde vergaderings van die vereniging byeenroep en as voorsitter by die vergaderings optree;
- (c) die hoof uitvoerende beampte van 'n afskrif van die grondwet van die vereniging voorsien.

- (4) Die provinsiale toerismeforum vergader minstens een keer elke 3 maande op 'n plek en tyd wat deur die hoof uitvoerende beampte bepaal word, om oorweging te skenk aan en aanbevelings aan die Entiteit te maak aangaande aangeleenthede wat betrekking het op toerisme op 'n streeks- of plaaslike vlak.
- (5) Alle aangeleenthede in verband met vergaderings en die werking van die provinsiale toerismeforum in subartikel (1) bedoel, word behartig deur die hoof uitvoerende beampte of 'n lid van die personeel van die Entiteit aangewys deur die hoof uitvoerende beampte.
- (6) Die bepalings van artikels 7, 8, 9, 10 en 11, gelees in samehang met die veranderings vereis deur die konteks, is van toepassing op lede van die provinsiale toerismeforum in subartikel (1) bedoel.

Implementering van aanbevelings van die provinsiale toerismeforum

18. (1) Aanbevelings van die provinsiale toerismeforum word op die agenda van die daaropvolgende vergadering van die Raad geplaas, vir oorweging en besluitneming.
- (2) Aanbevelings wat die Raad aanvaar, word sonder verwyl deur die Entiteit geïmplementeer, terwyl aanbevelings wat die Raad verwerp saam met die redes vir sodanige verwerping deur die hoof uitvoerende beampte aan die verantwoordelike Lid gerapporteer word.
- (3) Die verantwoordelike Lid oorweeg die aangeleentheid en –
 - (a) kan die Entiteit gelas om die aanbeveling van die provinsiale toerismeforum met of sonder wysigings te implementeer; of
 - (b) bevestig die Raad se afkeuring van die aanbeveling van die provinsiale toerismeforum.

HOOFSTUK IV PERSONEEL VAN DIE ENTITEIT

Personeel van Entiteit en vergoeding

19. (1) Die Raad –
 - (a) stel behoudens artikels 20, 21 en 22 'n paslik gekwalifiseerde, belese en ervare persoon as hoof uitvoerende beampte aan, wat –
 - (i) behoudens die voorskrifte en beheer van die Raad, vir alle finansiële en administratiewe verantwoordelikhede wat op die werksaamhede van die Entiteit betrekking het, verantwoordelik is; en
 - (ii) aan die Raad verantwoording doen;
 - (b) bepaal 'n personeeldiensstaat vir die Entiteit; en