

## **4.1**

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ACT, 1999  
(ACT 25 OF 1999):**

**ESTABLISHMENT OF PROVINCIAL  
HERITAGE RESOURCES AUTHORITY**

P.N. 336

25 October 2002

By virtue of the powers vested in me by section 23 of the National Heritage Resources Act, 1999 (Act 25 of 1999), I hereby establish Heritage Western Cape as the provincial heritage resources authority of the Western Cape and by virtue of the powers vested in me by sections 23, 26 and 49 promulgate the regulations contained in the Schedule hereto.

Dated this 25th day of October 2002.

**P. McKENZIE**  
*Provincial Minister of Cultural Affairs and Sport*

As 'n Nuusblad by die Poskantoor Geregistreer

## INHOUD

**DIE WET OP NASIONALE  
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(WET 25 VAN 1999):**

**VESTIGING VAN PROVINSIALE  
ERFENISHULPBRONOWERHEID**

P.K. 336

25 Oktober 2002

Uit hoofde van die gesag aan my verleen kragtens artikel 23 van die Wet op Nasionale Erfenishulpbronne, 1999 (Wet 25 van 1999), vestig ek hiermee Erfenis Wes-Kaap as die provinsiale erfenishulpbronowerheid van die Wes-Kaap en uit hoofde van die gesag aan my verleen kragtens artikels 23, 26 en 49 promulgeer die ek die regulasies in die aangehegte Bylae.

Gedateer hierdie 25ste dag van Oktober 2002.

**P. McKENZIE**  
*Provinsiale Minister van Kultuursake en Sport*

Ibhaliswe ePosini njengephephandaba

## IZIQULATHO

**UMTHETHO WOBUTYEBI BELIFA  
LEMVELI KAZWELONKE, KA-1999  
(UMTHETHO 25 KA-1999):**

**UKUSEKWA KOLAWULOLOBUTYEBI  
BELIFA LEMVELI LWEPHONDO**

P.N. 336

25 ka-Oktobha 2002

Ngokwegunya endilinkwa licandelo 23 loMthetho wobutyebi beLifa leMveli kaZwelonke, we-1999 (uMthetho 25 we-1999), ndiseka iLifa leMveli leNtshona Koloni njengolawulo lobutyebi belifa lemveli lwephondo leNtshona Koloni. kwakhona ngokwegunya endilinkwa licandelo 23,26 nele-49 elimisa umthetho ngokwemi-gathango yoludwe lwale nkqubo.

Walo mhla 25 ka-Oktobha 2002.

**P. McKENZIE**  
*UMphathiswa wePhondo weMicimbi yeNkcubelo neMidlalo*

**EXPLANATORY NOTES**

These regulations are promulgated in terms of the National Heritage Resources Act, 1999 (Act 25 of 1999).

The purpose of the Act is, *inter alia*, to—

- (a) introduce an integrated and interactive management system for national, provincial and local heritage resources in South Africa;
- (b) promote good governance at all levels in relation to heritage resources management;
- (c) empower civil society to nurture and conserve the heritage resources of South Africa;
- (d) lay down general principles for governing heritage resources management in South Africa;
- (e) introduce an integrated system for the identification, assessment and management of the heritage resources of South Africa;
- (f) set norms and maintain essential national and provincial standards for the management of heritage resources in South Africa and to protect heritage resources of provincial and local significance, and
- (g) provide for co-operation between the South African Heritage Resources Agency, provincial heritage resources authorities and local authorities in the identification and management of heritage resources situated in South Africa.

Taking into account —

- (a) the fact that the protection and conservation of the natural historical, cultural historical, archaeological and architectural heritage of the Western Cape for the benefit of present and future generations has been laid down as a directive principle of provincial policy in the Constitution of the Western Cape, 1997 (Act 1 of 1998) and recognising that these directive principles must guide the Provincial Government of the Western Cape in making and applying laws;
- (b) the diverse nature of the heritage and heritage resources of the Western Cape, and
- (c) the fact that the heritage and heritage resources of the Western Cape should be conserved, promoted and managed in a sustainable manner for the benefit of both present and future inhabitants of and visitors to the Western Cape,

these regulations are promulgated to establish an integrated heritage resources management system in the Western Cape and to—

- (a) establish Heritage Western Cape (*Erfenis Wes-Kaap* in Afrikaans and *iLifa leMveli leNtshona Koloni* in Xhosa) as the provincial heritage resources authority in terms of Act 25 of 1999 to co-ordinate and promote the management of heritage resources in the province of Western Cape, and
- (b) provide for—
  - (i) the constitution of the Council of Heritage Western Cape;
  - (ii) the appointment of a chairperson for the Council of Heritage Western Cape and of chairpersons for its committees;
  - (iii) the declaration of interest of members of the Council of Heritage Western Cape and its committees;
  - (iv) matters relating to the meetings of the Council of Heritage Western Cape and its committees;
  - (v) the reimbursement of expenses incurred by and the payment of allowances to members of the Council of Heritage Western Cape and its committees;
  - (vi) the appointment of an accounting authority for Heritage Western Cape;
  - (vii) the execution and delegation of functions and powers of Heritage Western Cape, and
  - (viii) a system of appeal.

## ESTABLISHMENT OF THE PROVINCIAL HERITAGE RESOURCES AUTHORITY AND PROMULGATION OF REGULATIONS THERE TO

The provincial Minister of Cultural Affairs and Sport of the Province of Western Cape, by virtue of the powers vested in him by section 23 of the National Heritage Resources Act, 1999 (Act 25 of 1999), hereby establishes a body corporate, to be known as Heritage Western Cape (*Erfenis Wes-Kaap* in Afrikaans and *iLifa leMveli leNtshona Koloni* in Xhosa) and capable of suing and being sued in its corporate name, as the provincial heritage resources authority.

Heritage Western Cape shall be responsible for the management of heritage resources within the Western Cape and shall be governed by a Council constituted in terms of these regulations.

The provincial Minister of Cultural Affairs and Sport of the Province of Western Cape, by virtue of the powers vested in him by sections 23, 26 and 49 of the Act promulgates the regulations contained in the Schedule hereto.

### SCHEDULE

#### ARRANGEMENT OF REGULATIONS

1. Definitions
2. Constitution of Council of Heritage Western Cape
3. Finances
4. Chairperson of Council of Heritage Western Cape
5. Declaration of interest of members of Council of Heritage Western Cape and its committees
6. Meetings of Council of Heritage Western Cape and its committees
7. Committees of Council of Heritage Western Cape
8. Reimbursement of expenses incurred by and payment of allowances to members of Council and its committees
9. Appointment of accounting authority for Heritage Western Cape
10. Executive and administrative functions of Council of Heritage Western Cape
11. Delegation of functions and powers of Heritage Western Cape
12. System of appeal in terms of section 49 of the Act

#### 1. Definitions

In these regulations, unless the context indicates otherwise—

“provincial department” means the provincial department in the Western Cape responsible for cultural matters;

“provincial Minister” means MEC as defined in the Act;

“Public Finance Management Act” means the Public Finance Management Act, 1999 (Act 1 of 1999), as amended from time to time and the regulations, instructions or directives issued in terms thereof;

“Standing Committee” means the Standing Committee of the Western Cape Provincial Parliament responsible for cultural affairs, and

“the Act” means the National Heritage Resources Act, 1999 (Act 25 of 1999), and a word or expression which is defined in the Act has the same meaning in these regulations.

#### 2. Constitution of Council of Heritage Western Cape

- (1) The affairs of Heritage Western Cape are under the management and direction of the Council of Heritage Western Cape.
- (2) The provincial Minister must invite the general public to nominate persons for appointment as members of the Council of Heritage Western Cape.
- (3) Once such nominations have been received, the provincial Minister must refer the nominations to the Standing Committee.
- (4) The Standing Committee must compile a short list of candidates from the nominations received and submit it to the provincial Minister, with due consideration of the requirements for nominees as contained in subregulation (6) and (7).
- (5) The provincial Minister must appoint members of the Council of Heritage Western Cape from the short list of candidates submitted to him or her in accordance with the principles of transparency and representivity and with due consideration of the requirements as contained in subregulation (6) and (7).
- (6) Members of the Council of Heritage Western Cape must—
  - (a) be South African citizens;
  - (b) be permanently resident in the Western Cape, and
  - (c) have knowledge of and qualifications, experience or interest in subjects related to heritage resources management.

- (7) In appointing the members, the provincial Minister must take into account the following—
- (a) cost-effectiveness and efficiency;
  - (b) effective administration and service rendering;
  - (c) capacity in the specific categories of heritage resources to be managed in the Western Cape, and
  - (d) cultural, geographical and demographical considerations.
- (8) The Council of Heritage Western Cape will consist of at least four, but not more than fourteen, members as determined by the provincial Minister.
- (9) A member of the Council of Heritage Western Cape must vacate office if the member —
- (a) resigns in writing;
  - (b) has been absent from three consecutive meetings of the Council of Heritage Western Cape or its committees, as the case may be, without its leave;
  - (c) has been declared an unrehabilitated insolvent by a court of law;
  - (d) is found to be of unsound mind by a court of law; or
  - (e) is convicted of an offence involving dishonesty or the intent to do grievous bodily harm and is sentenced to a term of imprisonment without the option of a fine.
- (10) The provincial Minister must appoint new members to serve on the Council of Heritage Western Cape from the date on which the term of office of existing members of the Council of Heritage Western Cape expires.
- (11) The provincial Minister may remove a member of the Council of Heritage Western Cape from office if, in the opinion of the provincial Minister, there are reasonable grounds to do so.
- (12) The term of office of a member of the Council of Heritage Western Cape is for a period of three years and, subject to the provisions of subregulation (13), a member may be reappointed.
- (13) No member may serve more than two consecutive terms.
- (14) If a member of the Council of Heritage Western Cape dies or vacates office before the expiry of the period for which the member has been appointed, another person may be appointed to fill the vacancy for the unexpired portion of the period for which the member was appointed.

### 3. Finances

- (1) The provincial department shall provide funds to Heritage Western Cape from moneys appropriated by the Western Cape Provincial Parliament for heritage resources management in the Western Cape to enable the Council of Heritage Western Cape to perform its functions and duties and exercise its powers prescribed in the Act.
- (2) All financial arrangements of Heritage Western Cape must comply with the requirements of the Public Finance Management Act.

### 4. Chairperson of Council of Heritage Western Cape

- (1) The provincial Minister shall appoint the chairperson of the Council of Heritage Western Cape from amongst the members that he or she appointed to the Council.
- (2) The chairperson holds office for the period or the unexpired portion of the period for which he or she has been appointed a member of the Council of Heritage Western Cape, unless the provincial Minister otherwise determines.
- (3) If, for whatever reason, the chairperson of the Council of Heritage Western Cape vacates the office of chairperson before the expiry of the period for which he or she was appointed, the provincial Minister shall appoint another member of the Council of Heritage Western Cape as Chairperson for the unexpired portion of the period.
- (4) If the chairperson of the Council of Heritage Western Cape is absent from a meeting of the Council of Heritage Western Cape or not able to preside at that meeting, the members present must elect one of the members present to preside at that meeting.

### 5. Declaration of interest of members of Council of Heritage Western Cape and its committees

- (1) Should a member of the Council of Heritage Western Cape or of any of its committees have an interest in any matter being considered by the Council of Heritage Western Cape or its committees, he or she must declare such interest and may not participate in the discussion of and recommendations or decisions concerning that matter.
- (2) Members are obliged to reveal any other conflict of interest regarding any matter before the Council of Heritage Western Cape or its committees.

### 6. Meetings of Council of Heritage Western Cape and its committees

- (1) The Council of Heritage Western Cape must determine its own internal arrangements, proceedings and procedures and those of its committees by drafting rules for—
  - (a) the convening of meetings;

- (b) the procedure at meetings, and
- (c) the frequency of meetings, subject to subregulation (2).

- (2) The Council of Heritage Western Cape must meet at least four times a year.
- (3) A quorum for a meeting of the Council of Heritage Western Cape or its committees is an simple majority of its appointed members.
- (4) Decisions of the Council of Heritage Western Cape are taken by resolution of a majority of all the members present at a meeting of the Council of Heritage Western Cape, and in the event of an equality of votes on any matter, the person presiding at the meeting in question will have a deciding vote in addition to his or her deliberative vote as a member of the Council of Heritage Western Cape.

#### 7. Committees of Council of Heritage Western Cape

- (1) The Council of Heritage Western Cape may establish committees to assist it in the performance of its functions, and in addition to any members, it may appoint to such committees persons whom the Council of Heritage Western Cape considers competent or who possess specific skills and expertise.
- (2) Every committee established by the Council of Heritage Western Cape will be chaired by a person appointed by the Council of Heritage Western Cape.
- (3) A person appointed in terms of subregulation (1) must vacate his or her office if that person has been absent from three consecutive meetings without leave.
- (4) In the case of an appeal committee, the members of the Council of Heritage Western Cape serving on an appeal committee may appoint additional persons on the basis of their qualifications and experience in, or knowledge of, heritage resources management, to assist it in considering appeals.

#### 8. Reimbursement of expenses incurred by and payment of allowances to members of Council of Heritage Western Cape and its committees

- (1) Any member of the Council of Heritage Western Cape and of its committees who is not in the full-time employ of the State shall be paid from funds of the provincial department such meeting allowances as are determined by the provincial Minister after consultation with the provincial Minister responsible for finance in the Western Cape.
- (2) A member referred to in subregulation (1) may, from funds of the provincial department, be reimbursed in respect of expenses incurred by him or her in the performance of the functions of the Council of Heritage Western Cape, as determined by the provincial Minister.

#### 9. Appointment of accounting authority for Heritage Western Cape

The provincial Minister, in consultation with the Head of the provincial department must appoint for Heritage Western Cape an accounting authority in terms of the Public Finance Management Act, who must be a senior staff member of the provincial department employed in terms of the Public Service Act, 1994 (Proclamation 103 of 1994).

#### 10. Executive and administrative functions of Council of Heritage Western Cape

- (1) All executive and administrative functions of the Council of Heritage Western Cape will be performed by designated officials in the employ of the provincial department, as mutually agreed to between the Council of Heritage Western Cape and the provincial Minister.
- (2) The functions referred to in subregulation (1) include but are not limited to—
  - (a) the identification of and research into heritage and heritage resources;
  - (b) strategic management;
  - (c) the protection and management of heritage resources;
  - (d) financial and administrative support;
  - (e) secretarial services to the Council of Heritage Western Cape and its committees, and
  - (f) the establishment and maintenance of data bases and other resources.

#### 11. Delegation of functions and powers of Heritage Western Cape

- (1) To enable Heritage Western Cape to perform its functions and exercise its powers under the Act, it may, by resolution of the Council of Heritage Western Cape, delegate any of its functions or powers to any or all of the following—
  - (a) any member of the Council of Heritage Western Cape;
  - (b) a committee or any member of a committee;
  - (c) a designated staff member employed in the provincial department;
  - (d) a heritage inspector as envisaged in section 50 of the Act;
  - (e) a local authority which is competent to perform such functions, by agreement with such local authority, and
  - (f) specified office bearers or members of a conservation body registered with Heritage Western Cape in terms of section 25(1)(b) and which are competent to perform such functions.

- (2) The delegation referred to in subregulation (1)—
  - (a) must be in writing and must clearly state the functions and powers delegated in terms of the regulations, any conditions attached to the delegation, and the period of the delegation, and
  - (b) may only be revoked in writing.
- (3) Heritage Western Cape may, by written agreement, provide financial or other resources to a person or body so delegated to allow such person or body to perform the delegated function or power.

## 12. System of appeal in terms of section 49 of the Act

- (1) Persons and bodies with a bona fide interest in or, are affected by, a decision of a committee or other delegated representative of Heritage Western Cape to grant or refuse a permit, consent or authority, may lodge an appeal with the Council of Heritage Western Cape against such decision. Such appeal must —
  - (a) set out the grounds of appeal and refer to such decision;
  - (b) be lodged with the Council of Heritage Western Cape in writing within 14 working days of the date on which the decision was made known in writing to the applicant, and
  - (c) be considered by the Council of Heritage Western Cape, or an appeal committee appointed by the Council of Heritage Western Cape, within 21 working days of receiving the appeal.
- (2) A decision taken to grant or refuse a permit, consent or authority against which an appeal may be lodged in terms of the regulations, does not come into effect —
  - (a) until the expiry of the time period within which such an appeal may be lodged; or
  - (b) until an appeal lodged is finally upheld, amended or dismissed.
- (3) The Council of Heritage Western Cape may appoint an appeal committee to consider appeals.
- (4) The appeal committee will consist of—
  - (a) at least two members of the Council of Heritage Western Cape, who were not present when the original decision was made and who shall be members of the appeal committee for the term of office for which the Council of Heritage Western Cape was appointed, and
  - (b) not more than three additional persons.
- (5) In considering an appeal, the appeal committee must have due regard to—
  - (a) the significance of the heritage resource in question;
  - (b) the principles set out in section 5 and prescribed under sections 6(1) and (2) of the Act, and
  - (c) any other relevant factor which is brought to the attention of the appeal committee by the appellant, Heritage Western Cape or any other person or body directly affected by the decision.
- (6) When persons or bodies referred to in subregulation (1) wish to appeal against a decision of the Council of Heritage Western Cape or its appeal committee to grant or refuse a permit, consent or authority, an appeal, stating the grounds of appeal, must be lodged with the provincial Minister in writing within 21 working days of the date on which the decision of the Council of Heritage Western Cape or its appeal committee was made known in writing to the appellant.
- (7) When persons or bodies referred to in subregulation (1) wish to appeal against the failure of the Council of Heritage Western Cape or its appeal committee to consider the appeal within the prescribed time, an appeal, stating the grounds of appeal, must be lodged with the provincial Minister in writing within 21 working days of the last date on which the appeal had to be considered by the Council of Heritage Western Cape or appeal committee, as the case may be.
- (8) The date on which the decision was made known to the applicant or appellant will be deemed to be the date on which the decision was posted by registered mail.



## VERKLARENDE OPMERKINGS

Hierdie regulasies word uitgevaardig ingevolge die Wet op Nasionale Erfenishulpbronne, 1999 (Wet 25 van 1999).

Die doel van die Wet is onder meer om—

- (a) 'n geïntegreerde en interaktiewe bestuurstelsel vir nasionale, provinsiale en plaaslike erfenishulpbronne in Suid-Afrika te vestig;
- (b) goeie regering met betrekking tot erfenishulpbronbestuur op alle vlakke te bevorder;
- (c) die burgerlike samelewing te bemagtig om die erfenishulpbronne van Suid-Afrika te koester en te bewaar;
- (d) algemene beginsels vir die beheer van erfenishulpbronbestuur in Suid-Afrika te bepaal;
- (e) 'n geïntegreerde stelsel vir die identifisering, evaluering en bestuur van die erfenishulpbronne van Suid-Afrika in te stel;
- (f) norme te stel en essensiële nasionale en provinsiale standaarde vir die bestuur van erfenishulpbronne in Suid-Afrika te handhaaf en om erfenishulpbronne van provinsiale en plaaslike belang te beskerm, en
- (g) voorsiening te maak vir samewerking tussen die Suid-Afrikaanse Erfenishulpbronagentskap, provinsiale erfenishulpbronowerhede en plaaslike owerhede by die identifisering en bestuur van erfenishulpbronne wat in Suid-Afrika geleë is.

Met inagneming van—

- (a) die feit dat die beskerming en bewaring van die natuurhistoriese, kultuurhistoriese, argeologiese en argitektoniese erfenis van die Wes-Kaap tot voordeel van huidige en toekomstige geslagte as 'n rigtinggewende beginsel van provinsiale beleid bepaal word in die Grondwet van die Wes-Kaap, 1997 (Wet 1 van 1998), en ter erkenning daarvan dat hierdie rigtinggewende beginsels die Provinsiale Regering van die Wes-Kaap moet rig wanneer hy wette maak en toepas;
- (b) die diverse aard van die erfenis en erfenishulpbronne van die Wes-Kaap, en
- (c) die feit dat die erfenis en erfenishulpbronne van die Wes-Kaap op 'n volhoubare wyse bewaar, bevorder en bestuur moet word tot voordeel van huidige sowel as toekomstige inwoners van en besoekers aan die Wes-Kaap,

word hierdie regulasies uitgevaardig om 'n geïntegreerde stelsel van erfenishulpbronbestuur in die Wes-Kaap te vestig en—

- (a) om Erfenis Wes-Kaap (*Heritage Western Cape* in Engels en *iLifa leMveli leNtshona Koloni* in Xhosa) in te stel as die provinsiale erfenishulpbronowerheid ingevolge Wet 25 van 1999 vir die koördinerende en bevordering van die bestuur van erfenishulpbronne in die provinsie Wes-Kaap, en
- (b) om voorsiening te maak vir —
  - (i) die samestelling van die Raad van Erfenis Wes-Kaap;
  - (ii) die kies van 'n voorsitter vir die Raad van Erfenis Wes-Kaap en die aanstelling van voorsitters vir sy komitees;
  - (iii) die verklaring van belange van lede van die Raad van Erfenis Wes-Kaap en sy komitees;
  - (iv) sake betreffende die vergaderings van die Raad van Erfenis Wes-Kaap en sy komitees;
  - (v) die terugbetaling van uitgawes aangegaan deur en die betaling van toelaes aan lede van die Raad van Erfenis Wes-Kaap en sy komitees;
  - (vi) die aanstelling van 'n rekenpligtige beampte vir Erfenis Wes-Kaap;
  - (vii) die uitvoering en delegasie van funksies en bevoegdhede van Erfenis Wes-Kaap, en
  - (viii) 'n appèlstelsel.



**DIE VESTIGING VAN DIE PROVINSIALE ERFENISHULPBRONOWERHEID EN PROMULGEER VAN REGULASIES DAARVOOR**

Die provinsiale Minister van Kultuursake en Sport van die Provinsie Wes-Kaap uit hoofde van die gesag aan hom verleen kragtens artikel 23 van die Wet op Nasionale Erfenishulpbronne, 1999 (Wet 25 van 1999), stel hierby 'n regs persoon aan wat bekend sal staan as Erfenis Wes-Kaap (*Heritage Western Cape* in Engels en *iLifa leMveli leNishona Koloni* in Xhosa) en bevoeg sal wees om as eiser en verweerder in sy korporatiewe naam op te tree, as die provinsiale erfenishulpbronne owerheid.

Erfenis Wes-Kaap is verantwoordelik vir die bestuur van erfenishulpbronne binne die Wes-Kaap en word beheer deur 'n Raad wat saamgestel word ingevolge hierdie regulasies.

Die provinsiale Minister van Kultuursake en Sport in die provinsie Wes-Kaap, uit hoofde van die gesag aan hom verleen deur artikels 23, 26 en 49 van die Wet, promulgeer die regulasies in die aangehegte Bylae.

**BYLAE****RANGSKIKKING VAN REGULASIES**

1. Woordomsrywings
2. Instelling en samestelling van Raad van Erfenis Wes-Kaap
3. Finansies
4. Voorsitter van Raad van Erfenis Wes-Kaap
5. Verklaring van belange van lede van Raad van Erfenis Wes-Kaap en sy komitees
6. Vergaderings van Raad van Erfenis Wes-Kaap en sy komitees
7. Komitees van Raad van Erfenis Wes-Kaap
8. Terugbetaling van uitgawes aangegaan deur en betaling van toelaes aan lede van Raad van Erfenis Wes-Kaap en sy komitees
9. Aanstelling van rekenpligtige gesag vir Erfenis Wes-Kaap
10. Uitvoerende en administratiewe funksies van Raad van Erfenis Wes-Kaap
11. Delegasie van funksies en bevoegdhede van Erfenis Wes-Kaap
12. Appèlstelsel ingevolge artikel 49 van die Wet

**1. Woordomsrywings**

Vir die toepassing van hierdie regulasies, tensy uit die samehang anders blyk, beteken—

“provinsiale departement” die provinsiale departement in die Wes-Kaap verantwoordelik vir Kultuursake

“provinsiale Minister” LUR soos gedefinieer in die Wet;

“Wet op Openbare Finansiële Bestuur” die Wet op Openbare Finansiële Bestuur, 1999 (Wet 1 van 1999), soos van tyd tot tyd gewysig en die regulasies, instuksies of direktiewe uitgereik ingevolge daarvan.

“Staande Komitee” die Staande Komitee van die Wes-Kaapse Provinsiale Parlement verantwoordelik vir kultuursake, en

“die Wet” die Wet op Nasionale Erfenishulpbronne, 1999 (Wet 25 van 1999), en 'n woord of uitdrukking wat in die Wet gedefinieer is het dieselfde betekenis in hierdie regulasies;

**2. Samestelling van Raad van Erfenis Wes-Kaap**

- (1) Die sake van Erfenis Wes-Kaap is onder die bestuur en leiding van die Raad van Erfenis Wes-Kaap.
- (2) Die provinsiale Minister moet die algemene publiek uitnooi om persone te nomineer vir aanstelling as lede van die Raad van Erfenis Wes-Kaap.
- (3) By ontvangs van die nominasies moet die provinsiale Minister die nominasies na die Staande Komitee verwys.
- (4) Die Staande Komitee moet 'n kortlys van kandidate opstel vanuit die nominasies ontvang en aan die provinsiale Minister voorlê, met inagneming van die vereistes van genomineerdes soos vervat in subregulasie (6) en (7).
- (5) Die provinsiale Minister moet lede van die Raad van Erfenis Wes-Kaap ooreenkomstig die beginsels van deursigtigheid en verteenwoordigendheid en met inagneming van die vereistes soos vervat in subregulasie (6) en (7) aanstel uit die kortlys van die kandidate aan hom of haar verskaf.
- (6) Lede van die Raad van Erfenis Wes-Kaap moet —
  - (a) Suid-Afrikaanse burgers wees;
  - (b) permanent in die Wes-Kaap woon, en
  - (c) oor kennis, kwalifikasies, ondervinding of belangstelling beskik op vakgebiede wat met erfenishulpbronbestuur verband hou.

- (7) Wanneer die provinsiale Minister die lede aanstel, moet hy of sy die volgende in aanmerking neem —
- koste-effektiwiteit en doeltreffendheid;
  - effektiewe administrasie en dienslewering;
  - bevoegdheid in die spesifieke kategorieë van erfenishulpbronne wat in die Wes-Kaap bestuur moet word, en
  - kulturele, geografiese en demografiese oorwegings.
- (8) Die Raad van Erfenis Wes-Kaap sal uit minstens vier, maar hoogstens veertien, lede bestaan, soos bepaal deur die provinsiale Minister.
- (9) 'n Lid van die Raad van Erfenis Wes-Kaap moet sy of haar amp ontruim indien hy of sy—
- skriftelik bedank;
  - sonder die verlof van die Raad van Erfenis Wes-Kaap van drie agtereenvolgende vergaderings van die Raad van Erfenis Wes-Kaap of sy komitees, na gelang van die geval, afwesig was;
  - deur 'n geregshof tot ongerehabiliteerde insolvent verklaar is;
  - deur 'n geregshof geestesongesteld bevind word; of
  - skuldig bevind word aan 'n misdryf waarby oneerlikheid of die bedoeling om ernstige fisiese leed te berokken betrokke is en gevonnissen word tot 'n termyn van gevangenisstraf sonder die keuse van 'n boete.
- (10) Die provinsiale Minister moet nuwe lede aanstel om in die Raad van Erfenis Wes-Kaap te dien vanaf die datum waarop die ampstermyn van bestaande lede van die Raad van Erfenis Wes-Kaap verstryk.
- (11) Die provinsiale Minister kan 'n lid van die Raad van Erfenis Wes-Kaap uit sy of haar amp ontslaan indien daar na die mening van die provinsiale Minister redelike gronde is om dit te doen.
- (12) Die ampstermyn van 'n lid van die Raad van Erfenis Wes-Kaap is 'n tydperk van drie jaar en, behoudens die bepalinge van subregulasie (13), kan 'n lid weer aangestel word.
- (13) Geen lid mag meer as twee opeenvolgende termyne dien nie.
- (14) Indien 'n lid van die Raad van Erfenis Wes-Kaap sterf of sy of haar amp ontruim voor die verstryking van die termyn waarvoor die lid aangestel is, kan 'n ander persoon aangestel word om die vakature te vul vir die onverstreke gedeelte van die termyn waarvoor die lid aangestel is.

### 3. Finansies

- Die provinsiale departement sal fondse aan Erfenis van Wes-Kaap voorsien deur gelde wat bewillig is deur die Wes-Kaapse Provinsiale Parlement vir erfenishulpbronbestuur in die Wes-Kaap om die Raad van Erfenis Wes-Kaap in staat te stel om sy funksies te verrig en sy bevoegdhede uit te oefen volgens die voorskrifte in die Wet.
- Alle finansiële reëlings van Erfenis Wes-Kaap moet voldoen aan die vereistes van die Wet op Openbare Finansiële Bestuur.

### 4. Voorsitter van Raad van Erfenis Wes-Kaap

- Die provinsiale Minister sal die voorsitter van die Raad van Erfenis Wes-Kaap aanstel uit die lede wat hy/sy tot die raad aangestel het.
- Die voorsitter beklee die amp vir die termyn of die onverstreke gedeelte van die termyn waarvoor hy of sy as lid van die Raad van Erfenis Wes-Kaap aangestel is, tensy die provinsiale Minister anders bepaal.
- Indien die voorsitter van die Raad van Erfenis Wes-Kaap, om watter rede ook al, die amp van voorsitter ontruim voor die verstryking van die termyn waarvoor hy of sy aangestel is, moet 'n ander lid van die Raad van Erfenis Wes-Kaap deur die Raad van Erfenis Wes-Kaap by wyse van 'n gewone meerderheid as voorsitter aangestel word vir die onverstreke gedeelte van die termyn.
- Indien die voorsitter van die Raad van Erfenis Wes-Kaap afwesig is van 'n vergadering van die Raad van Erfenis Wes-Kaap of nie op daardie vergadering kan voorsit nie, moet die lede wat aanwesig is, een van die lede wat aanwesig is, kies om op daardie vergadering voor te sit.

### 5. Verklaring van belange van lede van Raad van Erfenis Wes-Kaap en sy komitees

- Indien 'n lid van die Raad van Erfenis Wes-Kaap of enige van sy komitees belang het by enige saak wat die Raad van Erfenis Wes-Kaap of sy komitees oorweeg, moet hy of sy dié belang verklaar en mag hy of sy nie deelneem aan die bespreking van en aanbevelings of besluite ten opsigte van dié saak nie.
- Lede is verplig om enige ander botsing van belange aangaande enige saak voor die Raad van Erfenis Wes-Kaap of sy komitees openbaar te maak.

### 6. Vergaderings van Raad van Erfenis Wes-Kaap en sy komitees

- Die Raad van Erfenis Wes-Kaap moet sy eie interne reëlings, verrigtinge en prosedures en dié van sy komitees bepaal deur reëls op te stel vir—
  - die byeenroep van vergaderings;
  - die prosedure op vergaderings;

(c) die frekwensie van vergaderings, behoudens subregulasie (2).

(2) Die Raad van Erfenis Wes-Kaap moet minstens vier maal per jaar vergader.

(3) 'n Kworum vir 'n vergadering van die Raad van Erfenis Wes-Kaap of sy komitees is 'n gewone meerderheid van sy aangestelde lede.

(4) Besluite van die Raad van Erfenis Wes-Kaap word geneem by besluit van 'n meerderheid van al die lede aanwesig op 'n vergadering van die Raad van Erfenis Wes-Kaap, en in die geval van 'n staking van stemme oor enige aangeleentheid, het die persoon wat op 'n spesifieke vergadering voorsit, 'n beslissende stem benewens sy of haar beraadslagende stem as 'n lid van die Raad van Erfenis Wes-Kaap.

#### 7. Komitees van Raad van Erfenis Wes-Kaap

(1) Die Raad van Erfenis Wes-Kaap kan komitees instel om behulpsaam te wees by die verrigting van sy funksies, en benewens enige lede, kan hy persone in sulke komitees aanstel wat na die Raad van Erfenis Wes-Kaap se mening bevoeg is of oor spesifieke vaardighede en kundigheid beskik.

(2) Elke komitee deur die Raad van Erfenis Wes-Kaap ingestel, sal 'n persoon wat deur die Raad van Erfenis Wes-Kaap aangestel is, as voorsitter hê.

(3) 'n Persoon aangestel ingevolge subregulasie (1), behalwe in die geval van 'n appèlkomitee, moet sy of haar amp ontruim indien daardie persoon sonder verlof van die komitee van drie agtereenvolgende vergaderings afwesig was.

(4) In die geval van 'n appèlkomitee kan die lede van die Raad van Erfenis Wes-Kaap wat in 'n appèlkomitee dien, addisionele persone op grond van hul kwalifikasies en ondervinding in, of kennis van, erfenishulpbronbestuur aanstel om hom behulpsaam te wees met die oorweging van appèlle.

#### 8. Terugbetaling van uitgawes aangegaan deur en betaling van toelaes aan lede van Raad van Erfenis Wes-Kaap en sy komitees

(1) Enige lid van die Raad van Erfenis Wes-Kaap en sy komitees wat nie in die heelytse diens van die Staat is nie, word dié vergaderingtoelaes uit die fondse van Erfenis Wes-Kaap betaal wat die provinsiale Minister, na oorleg met die provinsiale Minister verantwoordelik vir finansies in die Wes-Kaap, bepaal.

(2) Die uitgawes aangegaan by die verrigting van die Raad van Erfenis Wes-Kaap se funksies deur 'n lid in subregulasie (1) genoem, kan aan hom of haar terugbetaal word uit fondse van Erfenis Wes-Kaap, soos bepaal deur die provinsiale Minister.

#### 9. Aanstelling van rekenpligtige gesag vir Erfenis Wes-Kaap

Die provinsiale Minister, in konsultasie met die Hoof van die provinsiale departement verantwoordelik vir kultuursake in die Wes-Kaap, moet 'n hoof uitvoerende beamppte vir Erfenis Wes-Kaap aanstel kragtens die Wet op Openbare Finansiële Bestuur, 1999 (Wet 1 van 1999) wat 'n senior personeellid van die sodanige provinsiale departement moet wees wat ingevolge die Staatsdienswet, 1994 (Proklamasie 103 van 1994) in diens geneem is.

#### 10. Uitvoerende en administratiewe funksies van Raad van Erfenis Wes-Kaap

(1) Alle uitvoerende en administratiewe funksies van die Raad van Erfenis Wes-Kaap sal uitgevoer word deur aangewese beampptes in diens van die provinsiale departement verantwoordelik vir kultuursake in die Wes-Kaap, soos onderling ooreengekom tussen die Raad van Erfenis Wes-Kaap en die provinsiale Minister.

(2) Die funksies bedoel in subregulasie (1) sluit in, sonder om beperk te wees tot—

- (a) die identifisering van en navorsing oor erfenis en erfenishulpbronne;
- (b) strategiese bestuur;
- (c) die beskerming en bestuur van erfenishulpbronne;
- (d) finansiële en administratiewe ondersteuning;
- (e) sekretariële dienste aan die Raad van Erfenis Wes-Kaap en sy komitees, en
- (f) die vestiging en byhou van databasisse en ander bronne.

#### 11. Delegasie van funksies en bevoegdhede van Erfenis Wes-Kaap

(1) Ten einde Erfenis Wes-Kaap in staat te stel om sy funksies en bevoegdhede kragtens die Wet te verrig of uit te oefen, kan hy, by besluit van die Raad van Erfenis Wes-Kaap, enige van sy funksies of bevoegdhede aan enige van of al die volgende deleger—

- (a) enige lid van die Raad van Erfenis Wes-Kaap;
- (b) 'n komitee of enige lid van 'n komitee;
- (c) 'n benoemde personeellid van die provinsiale departement
- (d) 'n erfenisinspekteur soos in artikel 50 van die Wet beoog;
- (e) 'n plaaslike owerheid wat bevoeg is om dié funksies te verrig, by ooreenkoms met die plaaslike owerheid, en
- (f) enige vermelde ampsdraers of lede van 'n bewaringsliggaam wat ingevolge artikel 25(1)(b) van die Wet by Erfenis Wes-Kaap geregistreer is en wat bevoeg is om dié funksies te verrig.

## (2) Die delegasie in subregulasie (1) bedoel —

- (a) moet skriftelik wees en die funksies en bevoegdhede ingevolge die regulasies gedelegeer, enige voorwaardes verbonde aan die delegasie en die tydperk van die delegasie duidelik stel, en
  - (b) mag slegs skriftelik ingetrek word.
- (3) Erfenis Wes-Kaap kan, by skriftelike ooreenkoms, finansiële middele of ander hulpmiddele aan die gedelegeerde verskaf om 'n gedelegeerde in staat te stel om die gedelegeerde funksie of bevoegdheid te verrig.

**12. Appèlstelsel ingevolge artikel 49 van die Wet**

- (1) Persone en liggame met 'n bona fide-belang by, of wat geraak word deur, 'n besluit van 'n komitee of ander gedelegeerde verteenwoordiger van Erfenis Wes-Kaap om 'n permit, toestemming of magtiging toe te staan of te weier, kan by die Raad van Erfenis Wes-Kaap appèl aanteken teen daardie besluit. Die appèl moet—
  - (a) die appèlgronde, met vermelding van die besluit waarteen geappelleer word, uiteensit;
  - (b) skriftelik by die Raad van Erfenis Wes-Kaap aangeteken word binne 14 werksdae vanaf die datum waarop die besluit skriftelik aan die aansoeker bekend gemaak is, en
  - (c) binne 21 werksdae vanaf ontvangs van die appèl oorweeg word deur die Raad van Erfenis Wes-Kaap of 'n appèlkomitee deur die Raad van Erfenis Wes-Kaap aangestel.
- (2) 'n Besluit om 'n permit, toestemming of magtiging toe te staan of te weier en waarteen daar ingevolge die regulasies geappelleer kan word, tree nie in werking—
  - (a) alvorens die tydperk waarin so 'n appèl aangeteken kan word, verstryk nie; of
  - (b) alvorens 'n appèl wat aangeteken is, finaal gehandhaaf, gewysig of van die hand gewys gestel word nie.
- (3) Die Raad van Erfenis Wes-Kaap kan 'n appèlkomitee aanstel om appèlle te oorweeg.
- (4) Die appèlkomitee sal bestaan uit—
  - (a) minstens twee lede van die Raad van Erfenis Wes-Kaap, wat nie aanwesig was toe die oorspronklike besluit geneem is nie en wat lede van die appèlkomitee moet wees vir die ampstermyn waarvoor die Raad van Erfenis Wes-Kaap aangestel is, en
  - (b) hoogstens drie bykomende persone.
- (5) By oorweging van 'n appèl, moet die appèlkomitee behoorlik rekening hou met —
  - (a) die belang van die betrokke erfenishulpbron;
  - (b) die beginsels in artikel 5 van die Wet uiteengesit en kragtens artikels 6(1) en (2) van die Wet voorgeskryf, en
  - (c) enige ander tersaaklike faktor wat onder die aandag van die appèlkomitee gebring word deur die appellant, Erfenis Wes-Kaap of enige ander persoon of liggaam wat regstreeks deur die besluit geraak word.
- (6) Wanneer persone of liggame in subregulasie (1) bedoel, wil appelleer teen 'n besluit van die Raad van Erfenis Wes-Kaap of sy appèlkomitee om 'n permit, toestemming of magtiging toe te staan of te weier, moet appèl binne 21 werksdae vanaf die datum waarop die besluit van die Raad van Erfenis Wes-Kaap of sy appèlkomitee skriftelik aan die appellant bekend gemaak is, skriftelik by die provinsiale Minister aangeteken word, met vermelding van die gronde vir appèl.
- (7) Wanneer persone of liggame bedoel in subregulasie (1) wil appelleer teen die nalate van die Raad van Erfenis Wes-Kaap of sy appèlkomitee om 'n appèl binne die voorgeskrewe tyd te oorweeg, moet appèl, met 'n uiteensetting van die gronde vir appèl, skriftelik binne 21 werksdae vanaf die laaste datum waarop die appèl aangehoor moes word deur die Raad van Erfenis Wes-Kaap of sy appèlkomitee, na gelang van die geval, by die provinsiale Minister aangeteken word.
- (8) Die datum waarop 'n besluit aan die aansoeker of appellant bekend gemaak is, sal geag word die datum te wees waarop die besluit per geregistreerde pos versend is.

### INKCAZELO

Le migaqo iqulunqwe phantsi kwemiqathango yoMthetho *oyiNational Heritage Resources Act, 1999* (uMthetho 25 ka-1999).

Kwezinye zeenjongo zalo Mthetho kukho nezi zilandelayo:

- (a) ukuqalisa ngenkqubo emanyanisiweyo neyenza uqhagamshelwano yolawulo lobutyebi belifa lemveli nendalo kwinkalo yesizwe, eyephondo neyolawulo lweedolophu eMzantsi Afrika;
- (b) ukukhuthaza ulawulo olufanelekileyo kuzo zonke iinkalo ngokuphathelele kubutyebi belifa lemveli nendalo;
- (c) ukuxhobisa uluntu ngolwazi nobuchule bokulondoloza ubutyebi belifa lemveli nendalo loMzantsi Afrika;
- (d) ukubeka imigaqo-nkqubo yokulawulwa kobutyebi belifa lemveli nendalo eMzantsi Afrika;
- (e) ukuqalisa ngenkqubo emanyanisiweyo yokutyumba, nokuvandlakanya kwakunye nokulawula ubutyebi belifa lemveli nendalo boMzantsi Afrika;
- (f) ukubeka imiqathango nokugcina umgangatho owamkelekileyo wolawulo lobutyebi belifa lemveli nendalo kwinqanaba lesizwe nelamaphondo eMzantsi Afrika nokukhusela ubutyebi bemveli nendalo obunexabiso kumaphondo nakulawulo lweedolophu;
- (g) ukubeka isiseko sentsebenziswano phakathi kweziko eligosisiweyo eliyi-*South African Resources Agency* kunye neziphathamandla ezisingathe ubutyebi bemveli nendalo kumaphondo nakulawulo lweedolophu kwinkalo yokutyunjwa neyokulawulwa kobutyebi belifa lemveli nendalo obufumaneka eMzantsi Afrika;

Kuthathelwe ingqalelo—

- (a) into yokuba kuMgaqo-siseko weNtshona Koloni ka-1997 (uMthetho 1 ka-1998) umba wokukhuselwa nokulondolozwa kwezinto ezililifa lemveli, ezendalo, ezeembali, ezenkcubeko, nezamanxiwa (amagquba) eNtshona Koloni ngeenjongo zokuba zikwazi ukuba lulutho kwizizukulwana ezikhoyo nakwezisezayo, ngumba owabekwa njengesikhokelo sokumisela umgaqo-nkqubo, kwaye uyithathela ingqalelo nento yokuba esi sikhokelo kufuneka silandelwe nguRhulumente wePhondo leNtshona Koloni ekuwisweni nasekusetyenzisweni kwemithetho;
- (b) into yokwahluka kwelifa lemveli nendalo nobutyebi balo apha eNtshona Koloni;
- (c) into yokuba ilifa lemveli nendalo nobutyebi balo eNtshona Koloni;
- (d) into yokuba ilifa lemveli nendalo nobutyebi balo eNtshona Koloni kufuneka ukuba lilondolozwe, likhuthazwe kunjalo nje lilawulwe ngendlela engahexiyo khona ukuze libe lulutho kubahlali baseNtshona Koloni abakhoyo ngoku nabezayo, ngokunjalo nakubatyeleli;

Le migaqo iqulunqwe ngeenjongo zokumisela inkqubo emanyanisiweyo yokulawula ubutyebi belifa lemveli nendalo eNtshona Koloni, nangezi zilandelayo—

- (a) eyokumisela iLifa leMveli leNtshona Koloni (*Heritage Western Cape/ Erfenis Wes-Kaap*) njengogunyaziwe wephondo eli wobutyebi belifa lemveli nendalo ngokwemiqathango yoMthetho 25 ka-1999 ukuze anxibelelanise, akhuthaze ulawulo lobutyebi belifa lemveli nendalo kweli phondo leNtshona Koloni;
- (b) neyokulungiselela—
  - (i) umgaqo-siseko weKhansile yeLifa leMveli leNtshona Koloni;
  - (ii) ukunyulwa kukasihlalo weKhansile yeLifa leMveli leNtshona Koloni noosihlalo beekomiti zayo;
  - (iii) ukudizwa kongqzulwano lweenjongo ngamalungu eKhansile yeLifa leMveli leNtshona Koloni nangamalungu eekomiti zayo;
  - (iv) imiba ephathelele kwiintlanganiso zeKhansile yeLifa leMveli leNtshona Koloni nakwezeekomiti zayo;
  - (v) imbuyekezo ngeendleko ekungenwe kuzo ngamalungu eKhansile naweekomiti zayo nokuhlululwa kwawo izithabathaba;
  - (vi) ukuqeshwa kwegosa elilawulayo eliyintloko leLifa leMveli leNtshona Koloni neliya kuthi libe sisiphatha-mandla esinegunya noxanduva lokunika ingcaciso;
  - (vii) ukuqhutywa kwemisebenzi nokunikezelwa kwamagunya okuqhutywa kwemisebenzi yeLifa leMveli leNtshona Koloni;
  - (viii) nenkqubo yokufakwa kwezibheni.



### IMIGAQO YOKULAWULWA KUKAGUNYAZIWE WOBUTYEBI BELIFA LEMVELI NENDALO WEPHONDO

Phantsi kwamagunya awanikwa kwicandelo 23 loMthetho, oyiNational Heritage Resources Act ka-1999 (uMthetho 25 ka-1999) uMphathiswa wePhondo leNtshona Koloni weMicimbi yeNkcubeko neMidlalo, apha umisela isigqeba esiya kwaziwa ngokuba liLifa leMveli leNtshona Koloni (*Erferis Wes-Kaap/ Heritage Western Cape*) esiya kuthi sikwazi ukufaka amatyala eembambano nokubekwa amatyala eembambano ngegama laso, nesiya kuthi sibe ngugunyaziwe asingathe ubutyebi belifa lemveli nendalo.

ILifa leMveli leNtshona Koloni liya kuba noxanduva lokulawula ubutyebi belifa lemveli nendalo apha eNtshona Koloni kwaye liya kuba phantsi kolawulo lweKhansile emiselwe ngokwemiqathango yale migaqo.

UMphathiswa weMicimbi yeNkcubeko neMidlalo wePhondo leNtshona Koloni, phantsi kwamagunya awanikwa kumacandelo 23, 26 nele-49 oMthetho lo, apha umisela le migaqo ilandela ngezantsi apha.

#### UKULANDELELANISWA KWEMIGAQO

1. Inkcazo-magama
2. Ukusekwa kweKhansile yeLifa leMveli leNtshona Koloni nomgaqo-siseko wayo
3. USihlalo weKhansile yeLifa leMveli leNtshona Koloni
4. Ukudizwa kongqzulwano lweenjongo ngamalungu eKhansile yeLifa leMveli leNtshona Koloni naweekomiti zayo
5. Iintlanganiso zeKhansile yeLifa leMveli leNtshona Koloni nezeekomiti zayo
6. Iikomiti zeKhansile yeLifa leMveli leNtshona Koloni
7. Imbuyekezo yeendleko ekungenwe kuzo ngamalungu eKhansile yeLifa leMveli leNtshona Koloni naweekomiti zayo neentlawulo zezithabathaba zawo
8. Ukuqeshwa kwegosa elilawulayo eliyintloko leLifa leMveli leNtshona Koloni nelisisiphatha-mandla esinegunya noxanduva lokunika ingcaciso
9. Imisebenzi yeKhansile yeLifa leMveli leNtshona Koloni
10. Imisebenzi nemisebenzi yeBhunga leLifa leMveli leNtshona Koloni.
11. Ukunikezelwa kwemisebenzi yolawulo namagunya eLifa leMveli leNtshona Koloni
12. Inkqubo yokufakwa kwezibheni ngokwemiqathango yecandelo 49 loMthetho lo

#### 1. Inkcazo-magama

Kule migaqo, ngaphandle kwaxa indlela elisetyenziswe ngayo igama ilinika enye intsingiselo—

“isebe lephondo” ubhekiselekwisebe lephondo leNtshona Koloni elijongene nemicimbi yenkcubeko;

“uMphathiswa wePhondo” ubhekisele kwiLungu leKhansile eLawulayo, njengoko lichazwa kuMthetho lo;

“uMthetho oyiPublic Finance Management Act” ubhekisele kuMthetho 1 ka-1999, nezilungiso owenziwe zona kwakunye nemigaqo nemiyalelo nezikhokelo ezithe zakhutshwa phantsi kwawo;

“iKomiti eMileyo” ibhekisele kwiKomiti eMileyo yePalamente yePhondo leNtshona Koloni ejongene nemicimbi yenkcubeko;

“uMthetho lo” ubhekisele kuMthetho oyiNational Heritage Resources Act ka-1999 (uMthetho 25 ka-1999), kwaye ke igama okanye ibinzana lamagama elichazwe kuMthetho nalo linaloo ntsingiselo ichaziweyo xa lisetyenziswe kule migaqo.

#### 2. Umgano-siseko weKhansile yeLifa leMveli leNtshona Koloni

- (1) Imicimbi yeLifa leMveli leNtshona Koloni iphantsi kolawulo nezikhokelo zeKhansile yeLifa leMveli leNtshona Koloni.
- (2) UMphathiswa wePhondo kufuneka ameme uluntu ukuba lutyumbe abantu abaya kubekwa njengamalungu eKhansile yeLifa leMveli leNtshona Koloni.
- (3) Makathi akuba engeniswe amagama abatyunjwa abo uMphathiswa wePhondo awadlulisele kwiKomiti eMileyo.
- (4) IKomiti eMileyo kufuneka iqulunqe uluhlu lwabo kuya kukhethwa kubo abangadlulanga kubantu abangamashumi amabini, ize ke loo magama iwangenise kuMphathiswa wePhondo; kambe ke ibe iyithathele ingqalelo imiqathango ebhekisele kubatyunjwa equkathwe kwimihlathi (6) nowe-(7).
- (5) UMphathiswa wePhondo kufuneka anyule kolo luhlu abo baya kuba ngamalungu eKhansile yeLifa leMveli leNtshona Koloni, ehamba ngokweemfuno zokwenziwa kwezinto elubala neyokumelwa komntu wonke, nangemiqathango equkathwe kwimihlathi (6) nowe-(7).
- (6) Amalungu eKhansile yeLifa leMveli leNtshona Koloni kufuneka:
  - (a) abe ngabemi baseMzantsi Afrika;
  - (b) abe ngabahlali abasisigxina baseNtshona Koloni, kananjalo;
  - (c) abe nolwazi noqeqesho, namava kwakunye nomdla kwizifundo eziphathelele kulawulo lobutyebi belifa lemveli nendalo.

- (7) Xa enyula abo baya kuba ngamalungu uMphathiswa wePhondo kufuneka athathele ingqalelo ezi ndawo zilandelayo:
- ubuphantsi beendleko nocikizeko emsebenzini;
  - impumelelo kulawulo kunye nokunikwa kwenkonzo;
  - ulwazi nobuchule kwezo nkalo zobutyebi belifa lemveli nendalo ziza kulawulwa eNtshona Koloni;
  - umba wenkcubeko, oweendawo ekuhlalwa kuzo namanani oluntu.
- (8) IKhansile yeLifa leMveli leNtshona Koloni iya kuba namalungu amane ubuncinane, kodwa ke ayisayi kudlula kwishumi elinesine, ngokokubona koMphathiswa wePhondo.
- (9) Ilungu leKhansile yeLifa leMveli leNtshona Koloni kufuneka liphume kwisikhundla salo sobulungu ukuba
- lithe labhala lizicelela ukuphuma ebulungwini;
  - lithe aleza ezintlanganisweni zeKhansile yeLifa leMveli leNtshona Koloni okanye zeekomiti zayo, zide zibe ntathu zilandelelana, ngaphandle kwemvume;
  - laziswa yinkundla yamatyala njengomntu otshone ematyaleni akavela nangonwele;
  - lafunyaniswa yinkundla yamatyala njengomntu ongqondo zingaphelelanga;
  - okanye lithe labanjwa lagwetywa ngenxa yetyala lobuqhetsaba okanye lokuhlasela ngeenjongo zokwenzakalisa, saza isigwebo saba sesokuvalelwa ixesha elithile entolongweni alanikwa nafayini.
- (10) UMphathiswa wePhondo kufuneka anyule amalungu amatsha eKhansile yeLifa leMveli leNtshona Koloni aya kuthi angene ezikhundleni zawo zobulungu ngalaa mhla wokuphelelwa kwalawa madala amalungu eKhansile yeLifa leMveli leNtshona Koloni.
- (11) UMphathiswa wePhondo usenokulikhupha ilungu leKhansile yeLifa leMveli leNtshona Koloni ebulungwini balo ukuba, ngokokubona kwakhe, zikhona izizathu eziphathekayo zokuba akwenze oko.
- (12) Ubude besithuba sobulungu kwiKhansile yeLifa leMveli leNtshona Koloni yiminyaka emithathu, kwaye ke ilungu lisenokuphinda linyulwe, kambe ke kuhanjwa ngokwemiqathango yomhlathi (13).
- (13) Akukho lungu liya kunyulwa ngaphezu kwezihlandlo ezibini zilandelelana.
- (14) Xa lithe ilungu leKhansile yeLifa leMveli leNtshona Koloni labhubha okanye lasishiya isikhundla salo sobulungu, phambi kokuba liphele eliya xesha limiselweyo lobulungu, kusenokunyulwa omnye umntu wokuvala eso sikhewu, agqibezele elo xesha belisasele.

### 3. Ezemali

- Isebe lephondo liya kunika iLifa leMveli leNtshona Koloni imali eyabelwe ulawulo lobutyebi belifa lemveli yiPalamente yePhondo leNtshona Koloni ukwenzela ukuba iBhunga leLifa leMveli leNtshona Koloni likwazi ukwenza imisebenzi kwaye likwazi nokufeza igunya leimiswa nguMthetho.
- Onke amalungiselelo emali eLifa leMveli leNtshona Koloni mayilandele imiqathango neemfuno zoMthetho woLawulo lweMali yoLuntu.

### 4. USihlalo weKhansile yeLifa leMveli leNtshona Koloni

- UMphathiswa wephondo uya konyula elinye ilungu ukuba libe ngusihlalo weKhansile yeLifa leMveli leNtshona Koloni
- Usihlalo uhlala kwisikhundla sakhe ithuba elingangelo ebenyulelwe lona ebulungwini, okanye elingangenxenywe yethuba elo elisasaleleyo ebulungwini beKhansile yeLifa leMveli leNtshona Koloni.
- Xa kunokuthi kwenzeke, ngenxa yaso nasiphi na izizathu, ukuba usihlalo weKhansile yeLifa leMveli leNtshona Koloni asishiye isikhundla sakhe lingekapheli eliya xesha ebenyulelwe lona, kufuneka kunyulwe elinye ilungu leKhansile yeLifa leMveli leNtshona Koloni njengosihlalo kweli thuba lisaseleyo linyulwa ngesininzi.
- Ukuba ngaba usihlalo weKhansile yeLifa leMveli leNtshona Koloni akakho entlanganisweni yeKhansile yeLifa leMveli leNtshona Koloni okanye akakwazi ukuyichophela loo ntlanganiso, kufuneka ukuba loo malungu akhoyo akhethe elinye lawo ukuba liyichophele loo ntlanganiso.

### 5. Ukudziswa kongqzulwano lweenjongo ngamalungu eKhansile yeLifa leMveli leNtshona Koloni naweekomiti zayo

- Xa kunokwenzeka ukuba ilungu leKhansile yeLifa leMveli leNtshona Koloni okanye elenye yeekomiti zayo, libe nokuchaphazeleka okuthile ngokweenjongo kumba othile ophethweyo, kufuneka likudize oko kungqzulwana kweenjongo, lize ke lingathabathi nxaxheba kwiingxoxo ezo nezindululo okanye izigqibo eziphathelele kumcimbi lowo.
- Kunyanzelekile ukuba amalungu akudize ukungqzulwana kweenjongo okunokuthi kubekho kuwo nawuphi na umcimbi ophethwe yiKhansile yeLifa leMveli leNtshona Koloni okanye ziikomiti zayo.

### 6. Iintlanganiso zeKhansile yeLifa leMveli leNtshona Koloni

- IKhansile yeLifa leMveli leNtshona Koloni kufuneka izibekele ngokwayo iinkqubo zayo nezicwangciso zayo kunye nezeekomiti zayo, ngokuthi iqulunge imithetho ephathelele:
  - kwindlela yokubizwa kweentlanganiso;



- (b) kwindlela yokuhutywa kweentlanganiso;
- (c) ekubeni zihlala kangakanani na iintlanganiso, kunikwe ingqalelo kumhlathi (2);
- (d) nakwindlela yokunyulwa kukasihlalo
- (2) IKhansile yeLifa leMveli leNtshona Koloni kufuneka ibe neentlanganiso ezine ngonyaka ubuncinane.
- (3) Inani lamalungu anokuqhuba intlanganiso yeKhansile yeLifa leMveli leNtshona Koloni okanye yeekomiti zayo, lelo nani lamalungu anyuliweyo akhoyo lingaphezulu kwelo lalawo angekhoyo.
- (4) Izigqibo zeKhansile yeLifa leMveli leNtshona Koloni zithathwa ngemvumelwano yesininzi sawo onke loo malungu akhoyo entlanganisweni yeKhansile yeLifa leMveli leNtshona Koloni, kwaye ke xa kunokuthi kwenzeke ukuba iivoti zilingane kuwo nawuphi na umcimbi obuvotelwa, lowo mntu uchophele loo ntlanganiso uya kuba nevoti yokuhawula ulingano, phezu kwale anayo kakade njengelungu leKhansile yeLifa leMveli leNtshona Koloni.
- 7. Iikomiti zeKhansile yeLifa leMveli leNtshona Koloni**
- (1) IKhansile yeLifa leMveli leNtshona Koloni isenokuthi iseke iikomiti zokuyincedisisa ekuqhubeni umsebenzi wayo, kwaye ke isenokuthi phezu kwala malungu ayo ibandakanye nabanye abantu kwezi komiti zayo, xa iKhansile yeLifa leMveli leNtshona Koloni ibabona befanelekile ukubandakanya ngenxa yezakhono abanazo okanye ngenxa yobungcali babo kwiinkalo ezithile.
- (2) Nayiphi na iikomiti emiselwe yiKhansile yeLifa leMveli leNtshona Koloni iya kuchotshelwa ngumntu obekwe yiKhansile yeLifa leMveli leNtshona Koloni.
- (3) Umntu onyulelwe iikomiti ethi ngokomhlathi (1) kufuneka asishiye isikhundla sakhe ukuba uthe akabikho ezintlanganisweni zade zantathu zilandelelana ngaphandle kwemvume, ngaphandle kokukwikomiti yezibheni.
- (4) Ngokuphathelwe kwikomiti yezibheni amalungu eKhansile yeLifa leMveli leNtshona Koloni akule komiti yezibheni anokuthi abandakanye nabanye abantu kule komiti ngokolwazi okanye amava abanawo okanye uqeqesho abanalo kumba wolawulo lobutyebi belifa lemveli nendalo, ukuba bancedise ekuqwalaselweni kwezibheni.
- 8. Imbuyekezo ngeendleko ekungenwe kuzo ngamalungu eKhansile yeLifa leMveli leNtshona Koloni naweekomiti zayo, kunye nezithabathaba ezihlawulwayo**
- (1) Naliphi na ilungu leKhansile yeLifa leMveli leNtshona Koloni neleekomiti zayo elingaqeshwanga isigxina nguRhulumente liya kuthi libe nesithabathaba elisihlawulwayo esiphuma kwingxowa yeKhansile yeLifa leMveli leNtshona Koloni ngokuza entlanganisweni, kwaye ke isithabathaba eso siya kubekwa nguMphathiswa wePhondo asakuba ebonisene noMphathiswa wezeMali waseNtshona Koloni.
- (2) Eli lungu likhankanywe kumhlathi (1) lisenokuthi linikwe imbuyekezo ngeendleko elithe langena kuzo xa belisenza umsebenzi weKhansile yeLifa leMveli leNtshona Koloni iphuma kwingxowa yeKhansile yeLifa leMveli leNtshona Koloni kwaye ke loo mbuyekezo iya kubekwa nguMphathiswa wePhondo asakuba ebonisene noMphathiswa wezeMali wePhondo leNtshona Koloni.
- 9. Ukuqeshwa kwegosa elilawulayo eliyintloko elinegunya noxanduva lokwenza ingcaciso yeLifa leMveli leNtshona Koloni**
- UMphathiswa wePhondo, ngokubonisana nentloko yesebe elijongene nemicimbi yenkcubeko, kufuneka aqeshele iLifa leMveli leNtshona Koloni igosa elilawulayo eliyintloko ekufuneka ibe ngumsebenzi ophezulu kwelo sebe eqeshwe ngokwemiqathango yoMthetho *oyiPublic Service Act 1994* (uMpoposho 103 ka-1994).
- 10. Umsebenzi weKhansile yeLifa leMveli leNtshona Koloni**
- (1) Yonke imisebenzi yolawulo iya kwenziwa liBhunga leLifa leMveli leNtshona Koloni. Kweli bhunga oku kuya kwenziwa ngamagosa aya kuqeshwa lisebe lephondo, njengoko kusisigqibo soMphathiswa nelifa leMveli leNtshona Koloni.
- (2) Le misebenzi ikhankanywe kumhlathi (1) ibandakanya ezi zinto zilandelayo, nangona ingaphelelanga kuzo phofu—
- (a) ukutyunjwa kwezinto ezililifa lemveli nendalo nezibubutyebi balo, nokwenza uphando ngazo;
- (b) ulawulo oluzinzileyo;
- (c) ukhuselo nolawulo lobutyebi belifa lemveli nendalo;
- (d) inkxaso ngemali nomsebenzi we-ofisi;
- (e) ukunika iKhansile yeLifa leMveli leNtshona Koloni neekomiti zayo inkonzo yoomabhalana;
- (f) nokuseka nokulondoloza oovimba benkcukacha nezinye izinto ezinxabiso.
- 11. Ukunikezelwa kwemisebenzi namagunya eLifa leMveli leNtshona Koloni**
- (1) Ngeenjongo zokuqinisekisa ukuba iLifa leMveli leNtshona Koloni liyenza ngokufezekileyo imisebenzi yalo namagunya alo liwasebenzisa ngempumelelo phantsi kwalo Mthetho iKhansile yeLifa leMveli leNtshona Koloni isenokuthatha isigqibo sokunikezela nayo nayiphi na imisebenzi okanye nawo nawaphi na amagunya, kubo nabaphi na kwaba balandelayo—
- (a) naliphi na ilungu leKhansile yeLifa leMveli leNtshona Koloni;
- (b) iikomiti okanye naliphi na ilungu lekomiti;
- (c) ilungu elilawulayo eliyintloko leLifa leMveli leNtshona Koloni;

- (d) umhlali wezelifa lemveli nendalo njengoko echazwa kwicandelo 50 loMthetho lo;
  - (e) umasipala okwaziyo ukuwenza umsebenzi lowo, ngemvano naye umasipala lowo;
  - (f) amagosa athile akhethiweyo okanye amalungu ombutho wolondolozo abhalisiweyo kwiLifa leMveli leNtshona Koloni ngokwemiqathango yecandelo 25(1)(b), akwaziyo ukuwenza umsebenzi lowo.
- (2) Olu nikezelo lukhankanywe kumhlathi (1) —
- (a) kufuneka lwenziwe ngento ebhaliweyo, kunjalo nje kufuneka luyicacise kakuhle le misebenzi okanye la magunya anikezelwayo, nobude bexesha lwalo;
  - (b) kananjalo naxa lupheliswa kufuneka lupheliswe ngento ebhaliweyo.
- (3) ILifa leMveli leNtshona Koloni linokuthi, ngemvumelwano ebhaliweyo, linike loo mntu okanye loo mbutho unikwe umsebenzi okanye igunya, inkxaso yemali okanye yezinye izibonelelo, khona ukuze umntu lowo okanye umbutho lowo ukwazi ukwenza loo msebenzi uwunikiweyo okanye ukusebenzisa elo gunya ulinikiweyo.

## 12. Inkqubo yokufakwa kwezibheno ngokwemiqathango yecandelo 49 loMthetho lo

- (1) Abantu nemibutho abanomdla oselungelweni okanye abathi babe nokuchatshazelwa sisigqibo sekomiti okanye somnye nje ummeli obenikwe igunya leLifa leMveli leNtshona Koloni sokunikwa okanye sokwaliwa kwemvume, okanye kwegunya, bangafaka isibheno kwiKhansile yeLifa leMveli leNtshona Koloni, bekhalela eso sigqibo. Eso sibheno kufuneka —
- (a) sicacise izizathu zoko kubhena;
  - (b) singeniswe kwiKhansile yeLifa leMveli leNtshona Koloni zingaphelanga iintsuku ezili-14 emva komhla wokusifumana isigqibo eso ngento ebhaliweyo;
  - (c) siqwalaselwe yiKhansile yeLifa leMveli leNtshona Koloni okanye yikomiti yezibheno enyulwe yiKhansile yeLifa leMveli leNtshona Koloni, zingadlulanga iintsuku zomsebenzi ezingama-21 emva kokuba singeniswe isibheno eso.
- (2) Isigqibo esithathiweyo sokunikwa okanye sokwaliwa kwemvume okanye kwegunya nesinokuthi sifakelwe isibheno phantsi kwemiqathango yale migaqo, asiqalisi ukusebenza—
- (a) de kudlule eliya xesha lisikelwe ukungeniswa kwezibheno, okanye;
  - (b) de isibheno eso siphumelele, okanye senziwe izilungiso okanye sikhatywe.
- (3) IKhansile yeLifa leMveli leNtshona Koloni isenokuthi imisele ikomiti yezibheno yokuba iqwalasele izibheno.
- (4) Le komiti yezibheno iya kuba—
- (a) namalungu amabini ubuncinane, avela kumalungu eKhansile yeLifa leMveli leNtshona Koloni, kodwa babe ngabantu ababengekho ngeliya xesha kwakuthathwa ngalo esi sigqibo sibhenelwayo, nabaya kuba bengamalungu ekomiti yezibheno ngesi sithuba yanyulelwa sona iKhansile yeLifa leMveli leNtshona Koloni.
  - (b) nabantu abangengomalungu, koko becelwe nje, abangadlulanga kwisithathu.
- (5) Xa iqwalasela isibheno ikomiti yezibheno kufuneka ithathele ingqalelo ezi ndawo—
- (a) ukubaluleka kwaloo nto ibubutyebi belifa lemveli nendalo ibandakanyeka kwesi sibheno;
  - (b) izimiselo ezichakwe kwicandelo 5 nezimiselwe kumacandelo 6(1) no-(2) oMthetho lo,
  - (c) nayo nayiphi na enye ingongoma engenayo kulo mcimbi ethe yandlalwa phambi kwekomiti yezibheno ngulowo ubhenayo okanye liLifa leMveli leNtshona Koloni okanye nguye nawuphi na umntu okanye umbutho ochatshazelwayo sesi sigqibo.
- (6) Xa ngaba aba bantu okanye le mibutho ikhankanywe kumhlathi (1) banomnqweno wokubhena ngesigqibo esithe sathathwa yeKhansile yeLifa leMveli leNtshona Koloni okanye yikomiti yezibheno yayo, isigqibo eso isesokunikwa okanye sokwaliwa kwemvume okanye kwegunya, kufuneka bafake isibheno kuMphathiswa wePhondo ngento ebhaliweyo benika izizathu zokuba babhene, zingaphelanga iintsuku zomsebenzi ezingama-21 emva kwalaa mhla wokwaziswa kwabo ngento ebhaliweyo ngesigqibo seKhansile yeLifa leMveli leNtshona Koloni okanye sekomiti yezibheno yayo.
- (7) Xa ngaba aba bantu okanye le mibutho ikhankanywe kumhlathi (1) anomnqweno wokubhena ngenxa yokuba iKhansile yeLifa leMveli leNtshona Koloni okanye ikomiti yezibheno yayo iye yasilela ukuqwalasela isibheno sabo lada laphela eliya xesha libekiweyo, kufuneka bafake isibheno kuMphathiswa wePhondo ngento ebhaliweyo benika izizathu zokuba babhene, zingaphelanga iintsuku zomsebenzi ezingama-21 emva kwalaa mhla wokugqibela wexesha ebekufanele ukuba kuqwalaselwa isibheno sabo yiKhansile yeLifa leMveli leNtshona Koloni okanye yikomiti yezibheno yayo, nokuba sesiphi na kwezizigqeba ebefanele ukwenza oku.
- (8) Umhla wokwaziswa komfaki-sicelo okanye kombheni ngesigqibo uya kuthathwa ukuba ngulowa wokuposwa kwaso ngerejista.