

PROVINCE OF THE WESTERN CAPE

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**WESTERN CAPE  
BIODIVERSITY BILL**

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*(As introduced)*

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(MINISTER OF LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING)

[B 2—2021]

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PROVINSIE WES-KAAP

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**WES-KAAPSE  
WETSONTWERP OP  
BIODIVERSITEIT**

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*(Soos ingedien)*

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(MINISTER VAN PLAASLIKE REGERING, OMGEWINGSAKE EN ONTWIKKELINGSBEPLANNING)

[W 2—2021]

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IPHONDO LENTSHONA KOLONI

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**UMTHETHO OSAYILWAYO  
WEENTLOBO-NTLOBO ZENDALO  
WENTSHONA KOLONI**

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*(Njengoko wazisiwe)*

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(NGUMPHATHISWA WORHULUMENTECAL WOMMANDLA IMICIMBI YEZOKUSINGQONGILEYO  
NOCWANGCISO LO PHUHLISO)

[B 2—2021]

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# BILL

**To provide for the framework and institutions for nature conservation and the protection, management and sustainable use of biodiversity and ecosystems in the Province; and for matters incidental thereto.**

## PREAMBLE

**WHEREAS** section 24 of the Constitution of the Republic of South Africa, 1996, provides that everyone has the right to an environment that is not harmful to their health or well-being and to have the environment protected for the benefit of present and future generations through measures that promote conservation and secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development;

**AND WHEREAS** environment and nature conservation to the extent set out in Part A of Schedule 4 to the Constitution of the Republic of South Africa, 1996, are functional areas of concurrent national and provincial legislative competence;

**AND WHEREAS** the Constitution of the Western Cape 1997 (Act 1 of 1998), requires the provincial government to adopt and implement policies on, among other things, the protection of the environment in the Western Cape, including its unique fauna and flora, for the benefit of the present and future generations;

**AND WHEREAS** the different organs of state must act in accordance with the principles of cooperative government and intergovernmental relations and make decisions that affect the environment in a coordinated and holistic manner;

**AND RECOGNISING** the unique biodiversity in the Western Cape, the Republic's international obligations, the Province's dependence on ecosystem services, the need for access and benefit sharing and the need to ensure long-term ecological resilience;

**AND RECOGNISING** the need for statutory revision to reform, integrate, harmonise and rationalise the existing legislative and institutional frameworks for implementing the provincial mandates for biodiversity and nature conservation;

**AND RECOGNISING** that it is desirable that the law develops a framework for integrating and coordinating environment and nature conservation considerations into planning and decision making by all organs of state to fulfil their obligations in terms of section 24 of the Constitution of the Republic of South Africa, 1996,

**BE IT THEREFORE ENACTED** by the Provincial Parliament of the Western Cape as follows:—

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## CHAPTER 1

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### INTERPRETATION, OBJECTIVES AND APPLICATION

#### Definitions

1. In this Act, unless the context indicates otherwise—
- “**adverse effect**” means any actual, potential or cumulative negative impact on biodiversity, ecosystem services or ecological infrastructure that is more than 25 trivial;
- “**access and benefit sharing**” means the fair and equitable sharing of benefits arising from the use of indigenous biological resources;
- “**aircraft**” means an airborne craft of any type, whether manned or unmanned and whether self-propelled or not; 30
- “**alien species**” means—
- (a) a species that is not an indigenous species;
- (b) an indigenous species translocated or intended to be translocated to a place outside its natural distribution range in nature through human intervention, but not an indigenous species that has extended its natural distribution range 35 by natural means of migration or dispersal without human intervention;
- (c) a species listed by the Provincial Minister in terms of section 49(2)(h);
- “**aquifer**” means a geological formation which has structures or textures that hold water or permit an appreciable water movement through them;
- “**authorisation**” means any registration, certificate, licence, permit or other 40 written permission issued or granted in terms of this Act that authorises the person to whom it is issued or granted to do anything that would otherwise be prohibited, and includes an integrated authorisation contemplated in section 54;
- “**biodiversity**” means the variability among living organisms from all sources, including terrestrial, marine and other aquatic ecosystems and the ecological 45 complexes of which they are part, and includes diversity within and between species, within and between populations, and of ecosystems;
- “**Biodiversity Act**” means the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004);
- “**biodiversity economy**” means the businesses and economic activities that either 50 directly depend on biodiversity for their business or that contribute to conservation of biodiversity through their activities;

- “**biodiversity offset**” means measurable conservation actions designed to counterbalance the residual adverse effects of any activity, or of the implementation of any plan, on biodiversity or ecological infrastructure after every effort has been made sequentially to avoid and minimise such effects, and to rehabilitate or restore damage, and includes the outcome of such measures; 5
- “**biodiversity priority area**” means an area in the landscape or seascape that is important for conserving a representative sample of ecosystems and species, maintaining ecological processes and ecological infrastructure or the provision of ecosystem services; 5
- “**Biodiversity Spatial Plan**” means a plan contemplated in section 34; 10
- “**biodiversity stewardship agreement**” means an agreement entered into between the Chief Executive Officer and a landowner which sets out the obligations of the parties to secure the conservation of a biodiversity priority area; 10
- “**biodiversity stewardship area**” means an area of land contemplated in section 42; 15
- “**biodiversity target**” means the quantitative amount of any biodiversity feature, including biodiversity patterns or ecological processes, that should be prioritised for conservation in order to ensure the long-term survival and persistence of the biodiversity feature; 15
- “**biosphere reserve**” means an area designated for inclusion in the World Network of Biosphere Reserves by the International Coordinating Council of UNESCO’s Man and the Biosphere Programme; 20
- “**Biosphere Reserve Framework Plan**” means the spatial plan compiled for a biosphere reserve as contemplated in section 45; 20
- “**Board**” means the governing board of CapeNature as contemplated in section 12; 25
- “**CapeNature**” means the provincial public entity contemplated in section 9; 25
- “**captivity**”, in relation to a wild animal, means the keeping within an enclosure by means of any fence, wall or obstruction of any kind or the implementation of any method in such a way that the wild animal is unable to maintain itself by natural means; 30
- “**Chairperson**” means the Chairperson of the Board appointed in terms of section 16(1)(a); 30
- “**Chief Executive Officer**” means the Chief Executive Officer of CapeNature appointed in terms of section 27; 30
- “**CITES**” means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, Washington, D.C., United States of America, 1973; 35
- “**climate change**” means a change in climate that is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and that is in addition to natural climate variability observed over comparable time periods; 40
- “**coastal public property**” has the same meaning as in the Integrated Coastal Management Act; 40
- “**conservation**”, in relation to biodiversity and nature, means the protection, care, management, rehabilitation and maintenance of ecosystems, habitats and indigenous species and populations, including the genetic variability within ecosystems and species, to safeguard the natural conditions for their long-term persistence and the ecosystem services that they may provide, and “**conserve**” has a corresponding meaning; 45
- “**Constitution**” means the Constitution of the Republic of South Africa, 1996; 50
- “**Criminal Procedure Act**” means the Criminal Procedure Act, 1977 (Act 51 of 1977); 50
- “**critically endangered species**” means an indigenous species that is listed by the IUCN as a critically endangered species, and includes a species listed by the Provincial Minister in terms of section 49(2)(b); 50
- “**Department**” means the provincial department responsible for environmental matters in the Province; 55
- “**derivative**”, in relation to an animal, plant or other organism, means any part, tissue or extract of the animal, plant or other organism, whether fresh, preserved or processed, and includes any genetic material or chemical compound derived from such part, tissue or extract; 60
- “**development**” means any process initiated by a person to change the use, physical nature, appearance, form or function of a place, and includes— 60

- (a) the construction, erection, alteration, demolition, or removal of a structure or building;
- (b) any change to the existing or natural topography of the land;
- (c) the carrying out of any works on, over or under a site;
- (d) the destruction or removal of indigenous vegetation; and 5
- (e) a process to rezone, subdivide or consolidate land;
- “domesticated species”** means any species for which no equivalent population exists in the wild, and which has been influenced by humans to meet human needs, and includes a species listed by the Provincial Minister in terms of section 49(2)(j);
- “ecological infrastructure”** means the naturally functioning ecosystems, including mountain catchments, water resources, coastal dunes, wetlands and nodes and corridors of natural habitat that together form networks of interconnected structural elements in the landscape that generate or deliver valuable ecosystem services to people; 10
- “ecosystem”** means a dynamic complex of animal, plant and microorganism communities and their non-living environment interacting as a functional unit, which may be terrestrial, coastal, inland aquatic, estuarine or marine, or a combination thereof; 15
- “ecosystem services”** means the benefits humans derive from ecosystems, which benefits include— 20
- (a) provisioning services, such as the production of food and provisioning of water;
- (b) regulating services, such as the control of climate, air quality or disease and disaster risk reduction;
- (c) supporting services, such as nutrient cycling, soil formation and crop pollination; and 25
- (d) cultural services, such as spiritual and recreational benefits;
- “endangered species”** means an indigenous species that is listed by the IUCN as an endangered species, and includes a species listed by the Provincial Minister in terms of section 49(2)(c); 30
- “environment”** means the surroundings within which humans exist and that are made up of—
- (a) the land, water and atmosphere of the earth;
- (b) microorganisms and plant and animal life;
- (c) any part or combination of the surroundings contemplated in paragraphs (a) and (b) and the interrelationships among and between them; and 35
- (d) the physical, chemical, aesthetic and cultural properties and conditions of the surroundings contemplated in paragraphs (a), (b) and (c) that influence human health and well-being;
- “environmental legislation”** means— 40
- (a) the Environment Conservation Act, 1989 (Act 73 of 1989);
- (b) the National Water Act, 1998 (Act 36 of 1998);
- (c) the National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004);
- (d) the National Environmental Management: Waste Act, 2008 (Act 59 of 2008); 45
- (e) the Protected Areas Act;
- (f) the Biodiversity Act;
- (g) the Integrated Coastal Management Act; and
- (h) the World Heritage Convention Act, 1999 (Act 49 of 1999);
- “estuary”** means a body of surface water— 50
- (a) that is permanently or periodically open to the sea;
- (b) in which a rise and fall of the water level as a result of the tides is measurable at spring tides when the body of surface water is open to the sea; or
- (c) in respect of which the salinity is higher than fresh water as a result of the influence of the sea, and where there is a salinity gradient between the tidal reach and the mouth of the body of surface water, and **“estuarine”** has a corresponding meaning; 55
- “export”** means the transfer of any species or specimen, or any part or derivative of such species or specimen, from any position or place in the Province in any manner to another province of the Republic or to a country outside the borders of the Republic or to international waters; 60

- “**extra-limital species**” means a species contemplated in paragraph (b) of the definition of “alien species”, and includes a species listed by the Provincial Minister in terms of section 49(2)(g);
- “**feral animal**” means an animal of a domesticated species which has gone wild;
- “**genetic material**” means any material of animal, plant, microbial or other biological origin containing functional units of heredity; 5
- “**habitat**” means a place where a species or ecological community naturally occurs;
- “**Head of Department**” means the head of the provincial department responsible for environmental matters in the Province; 10
- “**heritage resource**” means any place or object of cultural significance;
- “**honorary nature conservation officer**” means a person designated in terms of section 56(a)(iii);
- “**hunt**”, in relation to a wild animal, an animal belonging to a non-indigenous species or a feral animal, means to— 15
- (a) search for;
- (b) pursue, follow or drive;
- (c) lie in wait for or wilfully disturb; or
- (d) shoot at or poison,
- the animal by any means whatsoever for the purpose of killing, injuring or capturing or attempting to kill, injure or capture it; 20
- “**import**” means to—
- (a) land on, bring into or introduce into the Province, or attempt to land on, bring into or introduce into the Province; or
- (b) bring into the Province for re-export to a place outside the Province; 25
- “**indigenous**”—
- (a) in relation to a species, means a species that occurs, or has historically occurred, naturally in a free state within the borders of the Republic, but excludes a species that has been introduced into the Republic as a result of human activity; and 30
- (b) in relation to a specimen, means an indigenous plant or wild animal of a species contemplated in paragraph (a);
- “**indigenous biological resources**” means any resource consisting of—
- (a) any specimen of an indigenous species; or
- (b) any genetic material of such specimen; 35
- “**Integrated Coastal Management Act**” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act 24 of 2008);
- “**invasive species**” means any species whose establishment and spread outside of its natural distribution range—
- (a) threaten ecosystems, habitats, ecological infrastructure or other species or have the potential to threaten ecosystems, habitats, ecological infrastructure or other species; and 40
- (b) may result in economic or environmental harm or harm to human health;
- “**IUCN**” means the International Union for the Conservation of Nature, established in Fontainebleau, France, 1948; 45
- “**landowner**” means the registered owner of land, except that if—
- (a) the land is not occupied by the registered owner, it means the person—
- (i) who lawfully occupies the land;
- (ii) who exercises general control over the land;
- (iii) who has any registered real right in the land, subject to any other law; or 50
- (iv) who has been authorised in writing by the registered owner to fulfil his or her rights or duties in relation to the land;
- (b) the land is owned by an association of persons, whether corporate or unincorporated, it means the person designated by the association in writing as the owner; 55
- (c) the land is under the control or management of a municipality, it means the municipal manager;
- (d) the registered owner or the person who is defined as the owner in paragraph (a) or (b)— 60
- (i) is deceased;
- (ii) is insolvent;
- (iii) has assigned his or her estate for the benefit of his or her creditors;
- (iv) has been placed under curatorship by order of court; or

- (v) is a company being wound up or under judicial management, it means the person in whom the administration of the land is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be; or
- (e) the land is coastal public property, it means the national department responsible for the fulfilment of the obligations of the state as public trustee of coastal public property in terms of sections 11 and 12 of the Integrated Coastal Management Act; 5
- “listed species”** means a species included in a list contemplated in section 49(2);
- “Local Government: Municipal Systems Act”** means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000); 10
- “long term”** means a period of 50 years or longer;
- “mitigation measure”** means a measure or sequence of measures aimed at avoiding, minimising, rehabilitating, restoring or remedying, including by means of biodiversity offsets, an adverse effect; 15
- “mountain catchment area”** means an area contemplated in section 40;
- “Mountain Catchment Areas Act”** means the Mountain Catchment Areas Act, 1970 (Act 63 of 1970);
- “National Minister”** means the member of the National Cabinet responsible for environmental affairs; 20
- “nature conservation officer”** means a person designated in terms of section 56(a)(i);
- “nature conservation ranger”** means a person designated in terms of section 56(a)(ii);
- “newspaper”** means a monthly, weekly or daily publication containing articles on the news, features, reviews and advertisements, including such a publication communicated and received through the internet; 25
- “Ordinance”** means the Nature Conservation Ordinance, 1974 (Ordinance 19 of 1974);
- “organ of state”** means— 30
- (a) any department of state or administration in the national, provincial or local sphere of government; or
- (b) any other functionary or institution—
- (i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or 35
- (ii) exercising a public power or performing a public function in terms of any legislation,
- but does not include a court or a judicial officer;
- “peace officer”** means a person declared a peace officer under section 334(1) of the Criminal Procedure Act; 40
- “person”** means a—
- (a) natural person; or
- (b) juristic person, including any—
- (i) body incorporated or unincorporated established in terms of any law; 45
- (ii) partnership or trust; or
- (iii) organ of state that has been established as a juristic person;
- “poison”** includes any preparation or substance that can be used to catch, immobilise, sterilise, kill or physically harm any animal, plant or other organism;
- “Premier”** means the Premier of the Province;
- “premises”** means any land, site, property, building, structure or any part of any land, site, property, building or structure, and includes any container and any vehicle, train, railway carriage, vessel, aircraft or other conveyance; 50
- “prescribe”** means prescribe by regulation;
- “protected area”** means a protected area contemplated in section 9 of the Protected Areas Act; 55
- “Protected Areas Act”** means the National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003);
- “protected environment”** has the same meaning as in the Protected Areas Act;
- “protected species”** means a species listed by the Provincial Minister in terms of section 49(2)(e); 60
- “Province”** means the Province of the Western Cape and **“provincial”** has a corresponding meaning;

- “Provincial Minister”** means the member of the Provincial Cabinet responsible for environmental affairs in the Province;
- “provincial protected area”** means a provincial protected area as defined in the Protected Areas Act, which may include a nature reserve in the Province declared in terms of section 23(1) of the Protected Areas Act or a nature reserve in the Province regarded as having been declared in terms of section 23(5) of that Act; 5
- “Provincial Protected Areas Expansion Strategy”** means the strategy contemplated in section 39(1)(a);
- “Public Finance Management Act”** means the Public Finance Management Act, 1999 (Act 1 of 1999); 10
- “regulation”** means a regulation made under this Act;
- “resilience”**, in relation to an ecosystem or ecological infrastructure, means the ability of the ecosystem or ecological infrastructure to withstand disturbances thereto while retaining the same basic structure and functioning, the capacity for self-organisation and the capacity to adapt to stress or change; 15
- “restricted activity”** means an activity which has been listed as a restricted activity under section 49(1) or (7);
- “restricted method”** means a method which has been listed as a restricted method under section 49(1) or (7);
- “species”** means a kind of animal, plant or other organism that does not normally interbreed with individuals of another kind, and includes any subspecies, cultivar, variety, geographic race, strain, hybrid or geographically separate population; 20
- “specimen”** means—
- (a) any living or dead animal, plant or other organism;
  - (b) a seed, egg, gamete or propagule or part of an animal, plant or other organism capable of propagation or reproduction or in any way transferring genetic traits; 25
  - (c) any derivative of any animal, plant or other organism; or
  - (d) any goods which—
    - (i) contain a derivative of an animal, plant or other organism; or 30
    - (ii) from an accompanying document, from the packaging or mark or label, or from any other indications, appear to be or to contain a derivative of an animal, plant or other organism;
- “subordinate legislation”** means any— 35
- (a) regulation made; or
  - (b) notice published in the *Provincial Gazette*, by the Provincial Minister in terms of this Act;
- “sustainable”** means the use of or impact on biodiversity, ecosystems or ecosystem services in a way and at a rate that— 40
- (a) will not lead to its long-term decline and which can be sustained indefinitely without causing adverse effects thereon;
  - (b) will not compromise or disrupt its ecological integrity; and
  - (c) ensures its continued persistence to meet the needs and aspirations of present and future generations of people;
- “systematic biodiversity planning”** means a planning method that identifies 45 biodiversity priority areas, taking into account biodiversity patterns and the ecological and evolutionary processes that sustain them, based on quantitative biodiversity targets and thresholds for aquatic, terrestrial, coastal and marine biodiversity features in order to conserve a representative sample of biodiversity patterns and ecological processes; 50
- “this Act”**, except in section 4, includes subordinate legislation made or issued in terms of this Act;
- “UNESCO”** means the United Nations Educational, Scientific and Cultural Organisation, and includes the International Coordinating Council of the Man and the Biosphere Programme; 55
- “vulnerable species”** means an indigenous species that is listed by the IUCN as a vulnerable species, and includes a species listed by the Provincial Minister in terms of section 49(2)(d);
- “watercourse”** means— 60
- (a) a river or spring;
  - (b) a natural channel in which water flows regularly or intermittently;
  - (c) a wetland, lake or dam into which, or from which, water flows; and

- (d) any collection of water declared in terms of the National Water Act, 1998, to be a watercourse,  
and a reference to a watercourse includes, where relevant, its bed and banks;  
**“water resource”** includes a watercourse, surface water, an estuary and an aquifer; 5  
**“weapon”** means anything whatsoever that can be used in such a way that a wild animal is killed, injured, captured or immobilised thereby;  
**“Western Cape Constitution”** means the Constitution of the Western Cape, 1997 (Act 1 of 1998);  
**“Western Cape Nature Conservation Board Act”** means the Western Cape 10 Nature Conservation Board Act, 1998 (Act 15 of 1998);  
**“well-being”** means a state where the living conditions of a faunal biological resource are conducive to its health;  
**“wild animal”** means an animal, excluding a domesticated species and a microorganism, whether or not the animal is alive or dead, tame, bred or kept in 15 captivity, and includes the eggs, spawn, gametes, genetic material, or any part of such an animal.

## Objectives

2. The objectives of this Act are to—
- (a) give effect to the obligation of the state in terms of national legislation to act 20 as trustee in relation to the environment;
- (b) give effect to section 81(m) of the Western Cape Constitution to protect and conserve the environment in the Province, including its unique biodiversity, for the benefit of present and future generations;
- (c) ensure the long-term ecological sustainability and resilience of biodiversity, 25 ecosystems, ecosystem services and ecological infrastructure through implementation of the principles of ecological sustainability contemplated in section 6 and the protection of priority biodiversity and ecological infrastructure;
- (d) ensure human well-being and the long-term resilience of society and the 30 economy through the conservation of protected areas, biodiversity, ecosystems, ecosystem services and ecological infrastructure;
- (e) enable reasonable and sustainable access to benefits and opportunities emanating from the conservation of protected areas, biodiversity, ecosystems, ecosystem services and ecological infrastructure; 35
- (f) establish institutional structures and organisational capacity for the effective discharging of the conservation and management of biodiversity and nature in the Province;
- (g) promote consultation, cooperation, integrated planning, decision-making and 40 management in support of the conservation and sustainable use of biodiversity and ecosystem services in the Province;
- (h) promote systematic biodiversity planning and the attainment of the biodiversity targets for conservation set in the Biodiversity Spatial Plan and the Provincial Protected Areas Expansion Strategy;
- (i) regulate certain activities to be undertaken in a manner that enhances and 45 protects the integrity and health of the environment;
- (j) subject to section 231 of the Constitution, implement and give effect to international agreements and best practices pertaining to the environment and conservation of biodiversity;
- (k) enable the financial and economic sustainability of the relevant institutions 50 responsible for the conservation and management of biodiversity and nature in the Province; and
- (l) enable and develop an equitable and sustainable biodiversity economy in the Province, including the promotion and development of eco-tourism in areas 55 under the control of CapeNature.

## Application

3. This Act binds the state and all persons.

**Conflicts with other legislation**

- 4.** (1) If there is a conflict between a provision of this Act and—
- (a) national legislation, the conflict must be resolved in terms of section 146 of the Constitution;
  - (b) another provincial Act, the provision of this Act prevails to the extent that the conflict concerns provisions governing the conservation of biodiversity; 5
  - (c) municipal legislation, the provision of this Act prevails to the extent that the conflict concerns provisions governing—
    - (i) matters contemplated in either Part A of Schedule 4 or Part A of Schedule 5 to the Constitution; or 10
    - (ii) matters contemplated in Part B of Schedule 4 or Part B of Schedule 5 to the Constitution and the provision is a legitimate exercise or performance of the powers and duties of the Province under section 155(6)(a) and (7) of the Constitution.
- (2) If there is a conflict between subordinate legislation made in terms of this Act and— 15
- (a) national legislation, the conflict must be resolved in terms of section 146 of the Constitution;
  - (b) a provincial Act, that Act prevails;
  - (c) other subordinate provincial legislation, the subordinate legislation made in terms of this Act prevails to the extent that the conflict concerns provisions governing the conservation of biodiversity; 20
  - (d) municipal legislation, the subordinate legislation made in terms of this Act prevails to the extent that the conflict concerns the matters specified in subsection (1)(c). 25

**CHAPTER 2****DUTIES AND PRINCIPLES****Duty of state**

- 5.** Every organ of state that is empowered or required by or in terms of any law to exercise a power or perform a duty that may have an adverse effect on the environment, must in exercising or performing that power or duty in respect of the Province— 30
- (a) take a long-term perspective of the likely effects of each action or decision on the environment; and
  - (b) apply the principles of ecological sustainability contemplated in section 6.

**Principles of ecological sustainability** 35

- 6.** Every organ of state whose decisions or actions may affect biodiversity or the environment in the Province must apply the principles of ecological sustainability, which are to—
- (a) take account of the benefits and intrinsic and use value of natural resources and ecosystems; 40
  - (b) ensure that biodiversity and ecosystems are protected, maintained and rehabilitated in a manner that enables the attainment of biodiversity targets for conservation set by the Province;
  - (c) promote the resilience of biodiversity, ecosystems and ecological infrastructure; 45
  - (d) ensure that development does not undermine the long-term persistence and resilience of biodiversity, ecosystems and ecological infrastructure;
  - (e) ensure that the conservation and resilience of biodiversity for the benefit of present and future generations are given priority over the interests of any member or members of any community; 50
  - (f) avoid or, where they cannot altogether be avoided, minimise and remedy the disturbance of ecosystems and loss of biological diversity;
  - (g) ensure that indigenous biological resources are used in a manner that is ecologically sustainable, and takes into account the well-being of any faunal biological resource involved; and 55

- (h) ensure that a risk-averse and cautious approach is applied, so that where there is insufficient evidence that an activity will not cause a long-term adverse effect, it should be avoided.

### CHAPTER 3 ADMINISTRATION

5

#### Functions of Provincial Minister

7. (1) The Provincial Minister must—
- (a) exercise oversight over the Head of Department, CapeNature and the Board in the performance of their functions;
  - (b) develop and implement provincial policy on biodiversity and related matters; 10
  - (c) adopt a Biodiversity Spatial Plan and a Provincial Protected Areas Expansion Strategy for the Province as contemplated in sections 34 and 39, respectively;
  - (d) when approving, reviewing or commenting on a statutory or policy plan, ensure that the plan is aligned with the Biodiversity Spatial Plan; and
  - (e) periodically evaluate the effectiveness of the implementation and enforcement of this Act. 15
- (2) The Provincial Minister may—
- (a) make subordinate legislation as provided for in this Act;
  - (b) establish, with the concurrence of the Provincial Minister responsible for finance, provincial government business enterprises as contemplated in the Public Finance Management Act to achieve the objectives of this Act; 20
  - (c) issue directives to the Board to ensure it functions efficiently and effectively in the discharge of its mandate;
  - (d) appoint a board of inquiry to consider the conduct of a Board member or the Board and take appropriate measures as contemplated in section 21 or 32, 25 respectively; and
  - (e) perform any other function assigned to the Provincial Minister by or under this Act.

#### Duties of Head of Department

8. The Head of Department must, subject to section 7(1)(a) and (b)— 30
- (a) advise the Provincial Minister, when requested by the Provincial Minister to do so and after consultation with CapeNature, on matters of law, subordinate legislation and provincial policy regarding nature conservation, biodiversity and coastal and estuarine management;
  - (b) after consultation with CapeNature, coordinate provincial strategies and programmes as approved by the Provincial Minister for nature conservation, biodiversity, coastal and estuarine management and the promotion and development of the biodiversity economy; 35
  - (c) in accordance with the Public Finance Management Act, exercise the powers of accounting officer responsible for the funds transferred to CapeNature and other entities for the implementation of this Act; 40
  - (d) establish a system for—
    - (i) the alignment of strategic and annual plans and associated programme budgets for nature conservation, biodiversity, and coastal and estuarine management, and the promotion and development of the biodiversity economy in the Province; and 45
    - (ii) the monitoring and reporting on the effectiveness of the use of funds transferred as contemplated in paragraph (c) and as planned for in accordance with subparagraph (i);
  - (e) consider and comment on statutory and policy plans prepared in terms of this Act; 50
  - (f) when the Head of Department is responsible for preparing, reviewing or commenting on a statutory or policy plan, ensure that the plan is aligned with the Biodiversity Spatial Plan;
  - (g) support CapeNature in the implementation of the Provincial Protected Areas Expansion Strategy; and 55
  - (h) make recommendations to the Provincial Minister on how to improve the effectiveness of the implementation and enforcement of this Act.

**CHAPTER 4**  
**CAPENATURE**

*Part 1*

*Establishment and functions of CapeNature*

<b>Establishment</b>	5
<p><b>9.</b> The Western Cape Nature Conservation Board as established by the Western Cape Nature Conservation Board Act continues in existence as a juristic person and a provincial public entity responsible for the conservation of biodiversity in the Province, and is known as CapeNature.</p>	
<b>Duties of CapeNature</b>	10
<p><b>10.</b> (1) In relation to the conservation of biodiversity, and subject to section 7(1)(a), CapeNature must—</p>	
(a) recommend to the Provincial Minister, areas to be declared as provincial protected areas, protected environments, mountain catchment areas and biodiversity stewardship areas according to the Provincial Protected Areas Expansion Strategy;	15
(b) manage provincial protected areas and other areas where it is designated as the management authority;	
(c) promote and enable biodiversity stewardship;	
(d) maintain a register of provincial protected areas, protected environments, mountain catchment areas and biodiversity stewardship areas;	20
(e) after undertaking an assessment and verification, make recommendations or comments to the Provincial Minister on written representations or objections received in terms of section 33 of the Protected Areas Act on the declaration or the withdrawal of the declaration of a protected area;	25
(f) after consultation with the Head of Department, advise the Provincial Minister on—	
(i) subordinate legislation and policy to be made by the Provincial Minister in respect of biodiversity related matters; and	
(ii) the exercise of the Provincial Minister’s powers in terms of section 7(1)(b), (c), (d) and (e);	30
(g) establish a system for monitoring and reporting on—	
(i) the status of biodiversity in the Province;	
(ii) the status of invasive species;	
(iii) the sustainable use of indigenous biological resources;	35
(iv) the management of provincial protected areas, protected environments, world heritage sites, mountain catchment areas and biodiversity stewardship areas; and	
(v) compliance with authorisations issued under this Act, in order to—	40
(aa) enable the timely detection and mitigation of adverse effects; and	
(bb) facilitate the evaluation of the effectiveness of this Act;	
(h) prepare biodiversity management plans as contemplated in section 43 of the Biodiversity Act, when requested to do so by the Provincial Minister;	
(i) provide advice to landowners to improve biodiversity or the conservation of the environment on their land or how to manage the interface between humans and indigenous biological resources;	45
(j) advise the Provincial Minister on the export of indigenous biological resources for research;	
(k) make recommendations to the Provincial Minister on matters that require research;	50
(l) report to the Provincial Minister on the state of biodiversity in the Province within two years of this Act coming into effect and at intervals of not more than four years thereafter, as required by the Provincial Minister;	
(m) on land managed by CapeNature, manage, conserve and promote natural and related cultural heritage resources through best practice, access and benefit sharing, and sustainable use practices;	55

- (n) review and comment on the consistency of spatial development frameworks and applications for environmental, water, agricultural and mining authorisations with the objectives of the Biodiversity Spatial Plan;
  - (o) in areas under its control, take measures that are necessary or desirable for the conservation of biodiversity or the management of adverse effects thereon; 5
  - (p) inspect and investigate non-compliance and offences in terms of this Act; and
  - (q) in areas under its control, take measures that are necessary for the safety of visitors.
- (2) CapeNature must—
- (a) manage the development and promotion of eco-tourism activities and facilities on land managed by CapeNature; 10
  - (b) facilitate research, monitoring and training on biodiversity conservation; and
  - (c) in relation to land under its control, promote—
    - (i) community-based conservation of biodiversity;
    - (ii) conservation- and ecotourism-related work generation, local economic development opportunities and the biodiversity economy; 15
    - (iii) access to protected areas for recreational, educational, research, cultural, spiritual and traditional purposes; and
    - (iv) environmental awareness, education and youth development.

## **Powers of CapeNature** 20

- 11.** (1) CapeNature may, subject to the Public Finance Management Act, generate income by any lawful means, including through—
- (a) entrance fees, authorisations, concessions and leases;
  - (b) nature-based eco-tourism facilities, events and services;
  - (c) activities in the biodiversity economy; 25
  - (d) maintenance of ecosystem services;
  - (e) fees resulting from intellectual property rights; and
  - (f) conservation and other services.
- (2) CapeNature may for the purpose of performing its functions and to achieve the objectives of this Act— 30
- (a) subject to section 27(1), appoint its own staff;
  - (b) subject to any provincial policy contemplated in section 7(1)(b), enter into any written agreement with any person;
  - (c) subject to the approval of the Provincial Minister and the Provincial Minister responsible for finance, lease, purchase or otherwise acquire immovable property or any real right or mineral right in immovable property; 35
  - (d) acquire, dispose of, hire or let any right in or to movable property;
  - (e) conduct experiments, undertake research, make surveys, and conduct investigations;
  - (f) negotiate and cooperate with educational institutions regarding the training of persons for careers in nature conservation; 40
  - (g) display or otherwise disseminate information relating to conservation which may serve to further the achievement of the objectives of this Act;
  - (h) market and advertise its objectives, activities, services and facilities;
  - (i) maintain, construct, erect, demolish or remove infrastructure, works or amenities on areas under its control; 45
  - (j) allow commercial and community activities to take place in any area under its control provided that those activities do not have an adverse effect on biodiversity or the ecological infrastructure in that area;
  - (k) erect, re-erect, maintain and repair on any land or in any watercourse the beacons, buoys, notices, notice boards, signs or other marks that are necessary or desirable for the implementation of any provision of this Act; 50
  - (l) establish one or more advisory committees to assist it with fulfilling any of its functions in terms of this Act;
  - (m) open its own bank accounts, but only with an institution registered as a bank in terms of the Banks Act, 1990 (Act 94 of 1990); 55
  - (n) invest funds, subject to Part 5 of this Chapter;
  - (o) subject to the Public Finance Management Act, insure itself against any loss, damage or risk;
  - (p) perform any act in accordance with its powers and duties; and 60
  - (q) institute or defend any legal action.

- (3) If CapeNature is satisfied on reasonable grounds that it is appropriate and necessary for it to take action for the conservation of biodiversity, an official or person designated by CapeNature may enter onto private land—
- (a) with the consent of the landowner; or
  - (b) in a situation posing imminent risk to human life or biodiversity, without such consent. 5
- (4) CapeNature may at any time, in relation to any specimen of any species, undertake or authorise any action, including a restricted activity or restricted method, if the specimen—
- (a) poses an imminent threat of injury or death to humans or any domesticated species; 10
  - (b) is wounded, diseased or injured;
  - (c) is causing damage to crops or plants on cultivated land or other property;
  - (d) has or may have an adverse effect on indigenous species, ecosystems or the environment; or 15
  - (e) should be captured or killed in the interests of conservation.
- (5) If a wild animal is captured or injured during a hunt, CapeNature may, if it is not able to establish the identity of the owner, kill the animal and destroy the carcass.
- (6) Before exercising any power in terms of this section on land not under its control, CapeNature must, if reasonably possible— 20
- (a) consult with the landowner; and
  - (b) give reasonable notice to the landowner of the time when, the place where and the manner in which CapeNature proposes to exercise that power.

## *Part 2*

### *Governing Board of CapeNature* 25

#### **Functions of Board**

- 12.** (1) CapeNature is governed by a Board, which is its accounting authority and must comply with the requirements of the Public Finance Management Act.
- (2) The Board must— 30
- (a) maintain effective governance of CapeNature;
  - (b) ensure that CapeNature properly performs its functions in terms of this Act;
  - (c) approve and monitor compliance with the policies and strategies of CapeNature;
  - (d) provide strategic direction to CapeNature;
  - (e) develop a board charter to provide for a code of conduct for Board members and for meeting procedures, and to regulate matters further relating to corporate governance; 35
  - (f) identify and regularly monitor risk areas and performance in respect of CapeNature; and
  - (g) advocate for the sufficient resourcing of CapeNature to perform its functions. 40
- (3) The Board must perform its functions subject to any directives issued by the Provincial Minister.

#### **Composition**

- 13.** (1) The Board consists of—
- (a) at least seven and not more than nine non-executive members, appointed in terms of section 15; and 45
  - (b) as executive members—
    - (i) an official of the Department, designated by the Provincial Minister; and
    - (ii) the Chief Executive Officer. 50
- (2) The Provincial Minister—
- (a) must determine the number of members to be appointed in terms of subsection (1)(a); and
  - (b) may alter the number determined in terms of paragraph (a), but may reduce the number only when a vacancy in the Board occurs. 55
- (3) Only non-executive members may vote in terms of section 25.

### Disqualification as Board member

14. A person may not be appointed to the Board if he or she—
- (a) is a member of the national Parliament, a provincial legislature or a municipal council;
  - (b) is an employee— 5
    - (i) of CapeNature;
    - (ii) of a municipality; or
    - (iii) in terms of the Public Service Act, 1994 (Proclamation 103 of 1994), excluding a person contemplated in section 13(1)(b) of this Act;
  - (c) has been convicted of a criminal offence involving dishonesty; 10
  - (d) is an unrehabilitated insolvent; or
  - (e) has been declared to be of unsound mind by a competent court.

### Appointment to Board

15. (1) The Provincial Minister must appoint the non-executive Board members contemplated in section 13(1)(a). 15
- (2) When the Provincial Minister appoints a non-executive Board member, the Provincial Minister must—
- (a) by means of a notice in the *Provincial Gazette* and notices in two newspapers circulating in the Province, at least one of which must be in print format, in the official languages of the Province, call for nominations from the public of suitable persons to be appointed; and 20
  - (b) consider all nominations received and, after consultation with the Head of Department and the Chief Executive Officer, appoint the required number of persons to the Board.
- (3) When making an appointment to the Board in terms of subsection (1), the Provincial Minister must— 25
- (a) ensure that the person appointed is a fit and proper person for such appointment;
  - (b) ensure that the person appointed has appropriate qualifications, knowledge and experience, as may be determined by the Provincial Minister; and 30
  - (c) have regard to the need to appoint persons—
    - (i) who are broadly representative of the demographics of the Province; and
    - (ii) from appropriate community-based or representative organisations in the Province. 35
- (4) No decision taken by the Board or action taken on the authority of the Board is invalid merely because a vacancy existed on the Board or because a person who was not entitled to sit as a Board member sat on the Board at the time when the decision was taken or the action authorised, if the decision was taken or the action authorised by a majority of the Board members who were then present and entitled to sit as members. 40

### Chairperson of Board

16. (1) The Provincial Minister, after consultation with the Board members—
- (a) must appoint or reappoint a non-executive Board member as the Chairperson and another non-executive Board member as Vice-Chairperson;
  - (b) may, on good cause shown, withdraw any such appointment. 45
- (2) The Chairperson and Vice-Chairperson are appointed for a period determined by the Provincial Minister, which may not extend beyond the term as a member contemplated in section 17.
- (3) The Provincial Minister may appoint any Board member as Acting Chairperson of the Board— 50
- (a) if there is a vacancy in the office of Chairperson and Vice-Chairperson, until a Chairperson or Vice-Chairperson is appointed; or
  - (b) if the Chairperson and Vice-Chairperson are absent from two or more consecutive meetings of the Board.

### Term of office of non-executive members of Board 55

17. (1) A non-executive Board member—
- (a) is appointed for a term of three years, subject to section 22(2);

- (b) on completion of the term contemplated in paragraph (a), is eligible for reappointment by the Provincial Minister, after consultation with the Head of Department and the Chief Executive Officer, for one additional term of three years.

(2) The Provincial Minister may extend the period of appointment of a non-executive member contemplated in subsection (1)(a) or (b) for a period not exceeding one year. 5

### Conditions of appointment and remuneration

18. (1) The Provincial Minister, with the concurrence of the Provincial Minister responsible for finance, must determine the terms and conditions of appointment of non-executive members of the Board, including payment of remuneration and allowances as may be determined by the National Treasury in terms of the Public Finance Management Act. 10

(2) CapeNature is responsible for the payment of remuneration and allowances to non-executive Board members.

### Conduct of members 15

19. (1) A Board member—

- (a) must perform the functions of his or her office in good faith and without fear, favour or prejudice;
- (b) must adhere to the code of conduct contemplated in section 12(2)(e);
- (c) must disclose to the Board any financial or personal business interests that the member or his or her life partner, spouse or immediate family member may have in any matter before the Board, and must withdraw from the proceedings of the Board when that matter is considered; 20
- (d) may not use confidential information obtained as a Board member or the position or privileges as a Board member for private gain or to benefit another person; and 25
- (e) may not act in any other way that compromises the credibility, impartiality, independence or integrity of CapeNature or the Board.

(2) A Board member who contravenes or fails to comply with subsection (1) is guilty of misconduct. 30

### Termination of membership

20. A non-executive member ceases to be a Board member if—

- (a) the term of office of the non-executive member expires; or
- (b) the non-executive member— 35
  - (i) is no longer eligible in terms of section 14(a) to (e) to be a member;
  - (ii) tenders his or her written resignation at least three calendar months before the date on which the member wishes to vacate office, unless the Provincial Minister allows a shorter period in a specific case; or
  - (iii) is removed from office in terms of section 21.

### Removal and suspension 40

21. (1) The Provincial Minister may remove a Board member from office on any of the following grounds:

- (a) misconduct, incapacity or incompetence;
- (b) the member being absent from two consecutive meetings of the Board without the prior permission of the Chairperson, unless good cause can be shown for failure to obtain prior permission; 45
- (c) insolvency; or
- (d) conviction of a criminal offence involving dishonesty.

(2) The Provincial Minister—

- (a) must remove the Board member from office as contemplated in subsection (1)(a) after a finding to that effect has been made by a board of inquiry appointed by the Provincial Minister as contemplated in section 7(2)(d); and 50
- (b) may suspend a Board member who is the subject of an inquiry contemplated in paragraph (a).

**Filling of vacancies**

- 22.** (1) A vacancy on the Board is filled—
- (a) in the case of the Chairperson or Vice-Chairperson, by appointing another Board member as the Chairperson or Vice-Chairperson, as the case may be, as contemplated in section 16(1)(a); and 5
  - (b) in the case of a non-executive Board member, by following the procedure contemplated in section 15.
- (2) A person appointed to fill a vacancy holds office for the unexpired portion of the term of office of his or her predecessor.

**Part 3** 10**Operating procedures of Board****Meetings**

- 23.** (1) The Board must meet at least four times during the financial year of CapeNature, and the Chairperson may, and at the request of a majority of the Board members must, convene a special meeting. 15
- (2) The Chairperson must convene and preside at meetings of the Board, but if the Chairperson is absent from a meeting, the Vice-Chairperson must preside.
- (3) If both the Chairperson and Vice-Chairperson are absent from a meeting, the members present must elect another member to preside at the meeting, subject to section 16(3). 20

**Procedures**

- 24.** (1) The Board must determine its own procedure for conducting meetings, subject to section 12(2)(e).
- (2) The Board must keep a record of proceedings at meetings and of all decisions taken at meetings. 25
- (3) The Board may invite any member of the public to attend any meeting of the Board.

**Quorum and decisions**

- 25.** (1) A majority of the non-executive Board members constitutes a quorum for a meeting of the Board. 30
- (2) A matter before the Board is decided by the votes of a majority of the non-executive Board members present at the meeting.
- (3) If on any matter before the Board there is an equality of votes, the Board member presiding at the meeting must exercise a casting vote in addition to his or her deliberative vote as a member. 35

**Committees**

- 26.** (1) The Board may establish committees, including an audit committee, to assist it in fulfilling its functions, comprising one or more of the following:
- (a) Board members;
  - (b) employees of CapeNature; 40
  - (c) other persons who in the Board's opinion have relevant experience or expertise.
- (2) The Board—
- (a) must determine the functions of each committee established in terms of subsection (1); 45
  - (b) must appoint the committee chairperson and other members of each committee;
  - (c) may remove a member of a committee from the committee at any time; and
  - (d) must determine the procedures for each committee.
- (3) A committee may only recommend decisions for approval to the Board. 50
- (4) The Board may at any time dissolve a committee, except the audit committee.
- (5) Sections 18 and 19 apply, with the necessary changes, to committee members.

**Part 4****Administration of CapeNature****Chief Executive Officer**

27. (1) The Board, acting with the concurrence of the Provincial Minister, must appoint a person with appropriate qualifications and experience as the Chief Executive Officer of CapeNature. 5
- (2) The Chief Executive Officer—
- (a) is appointed for a term of five years; and
  - (b) may be reappointed by the Board with the concurrence of the Provincial Minister for a further term not exceeding five years. 10
- (3) The Chief Executive Officer is employed subject to terms and conditions of employment which the Board must determine with the concurrence of the Provincial Minister.
- (4) The Chief Executive Officer is responsible for the administrative and financial management of CapeNature and must— 15
- (a) assist the Board to fulfil its function as accounting authority of CapeNature and to comply with the Public Finance Management Act by ensuring that there are systems in place to provide the information and reports required by the Board;
  - (b) perform the duties and exercise the powers assigned or delegated to him or her by the Board; 20
  - (c) report to the Board on aspects of management, the performance of duties and the exercise of powers at the times and in the manner determined by the Board;
  - (d) prepare draft versions of the plans, reports and statements contemplated in section 28; 25
  - (e) appoint an appropriately qualified Chief Financial Officer;
  - (f) appoint members of staff, within the financial limits set by the Board and in accordance with an employment policy determined by the Board;
  - (g) manage the members of staff; 30
  - (h) ensure that CapeNature complies with the provisions of this Act, the Public Finance Management Act and any other applicable legislation; and
  - (i) in general, direct the affairs of CapeNature in order to achieve the objectives of this Act.
- (5) The Board, acting with the concurrence of the Provincial Minister, may appoint an employee of CapeNature as Acting Chief Executive Officer for a period not exceeding six months at a time when— 35
- (a) the Chief Executive Officer is for any reason absent or unable to perform his or her functions; or
  - (b) there is a vacancy in the office of the Chief Executive Officer. 40
- (6) An Acting Chief Executive Officer—
- (a) has the powers and duties of the Chief Executive Officer; and
  - (b) must be appointed subject to the same terms and conditions contemplated in subsection (3).

**Part 5****Financial matters****Financial accountability and reporting**

28. The Board must ensure that strategic and annual performance plans, budgets, annual reports and audited financial statements are prepared, approved and submitted in accordance with the Public Finance Management Act. 50

**Funds**

29. (1) The funds of CapeNature consist of—
- (a) income derived from the performance of its functions as contemplated in section 11(1);
  - (b) funds appropriated to it by the Provincial Parliament; 55

- (c) grants and funds received from any person;
  - (d) voluntary contributions, donations and bequests;
  - (e) income derived from investments;
  - (f) fines received or recovered in respect of offences under this Act; and
  - (g) money derived from any other source, with approval of the Provincial Minister and the Board, subject to the Public Finance Management Act. 5
- (2) CapeNature must use its funds to perform its functions contemplated in sections 10 and 11 and to—
- (a) cover its and the Board’s operational, administrative and managerial costs; and 10
  - (b) contribute to the funding of its capital and maintenance costs.
- (3) The Chief Executive Officer must ensure that all funds received in terms of subsection (1) are deposited in CapeNature’s bank account.

### **Reserve funds**

- 30.** (1) The Board may, subject to the Public Finance Management Act and with the concurrence of the Provincial Minister responsible for finance, create financial reserves from the funds received in terms of section 29(1) in order to perform its functions. 15
- (2) Any transfers into and out of these financial reserves must be ratified by the Board.

### **Investments**

- 31.** The Board may invest any of the funds of CapeNature that are not immediately required, subject to any investment policy prescribed in terms of section 7(4) of the Public Finance Management Act and with the concurrence of the Provincial Minister responsible for finance. 20

## **Part 6**

### ***Dissolution of Board or CapeNature*** 25

#### **Dissolution of Board**

- 32.** (1) If the Provincial Minister suspects on reasonable grounds that the Board is not fulfilling its functions in terms of section 12, he or she must issue a directive contemplated in section 7(2)(c).
- (2) If the Provincial Minister is not satisfied that the Board has complied with the directive contemplated in subsection (1), the Provincial Minister may dissolve the Board by notice in the *Provincial Gazette*. 30
- (3) The Provincial Minister may perform the functions of the Board from the date of publication of the notice contemplated in subsection (2) until the appointment of a new Board contemplated in subsection (4). 35
- (4) The Provincial Minister must within a reasonable time frame after the dissolution of the Board appoint members to the Board as contemplated in section 15.

#### **Dissolution of CapeNature**

- 33.** (1) CapeNature may not be wound up or dissolved except by an Act of the Provincial Parliament. 40
- (2) Upon its winding up or dissolution CapeNature must transfer its remaining assets and the proceeds of those assets to the Department or to an equivalent provincial public entity as defined in the Public Finance Management Act, as determined by the Provincial Minister.

## **CHAPTER 5** 45

### **BIODIVERSITY PLANNING AND MONITORING**

#### **Biodiversity Spatial Plan**

- 34.** (1) CapeNature, after consultation with the Head of Department, must prepare a draft Biodiversity Spatial Plan within one year of the commencement of this Act and submit it to the Provincial Minister for adoption. 50

- (2) Before adopting the Biodiversity Spatial Plan, the Provincial Minister must—
- (a) in the official languages of the Province, publish the reference to where the draft Biodiversity Spatial Plan may be accessed by the public—
    - (i) by notice in the *Provincial Gazette*; and
    - (ii) in two newspapers circulating in the Province, at least one of which must be in print format; 5
  - (b) make the draft Biodiversity Spatial Plan available and accessible to the public in a reasonable manner at the place specified in terms of paragraph (a); and
  - (c) allow a commenting period of at least 60 days from the date of publication of the notice in the *Provincial Gazette*. 10
- (3) The Provincial Minister must—
- (a) consider all comments received;
  - (b) consult with the National Minister on the final Biodiversity Spatial Plan; and
  - (c) within 150 days of the expiry of the commenting period contemplated in subsection (2)(c), adopt the final Biodiversity Spatial Plan and publish it by notice in the *Provincial Gazette*. 15

### **Purpose of Biodiversity Spatial Plan**

- 35.** The purpose of a Biodiversity Spatial Plan is to—
- (a) set biodiversity targets;
  - (b) spatially identify one or more categories of biodiversity priority areas that will ensure the continued existence and functioning of biodiversity and ecosystems, including the delivery of ecosystem services; 20
  - (c) provide guidelines that set out the desired management objectives for land and resource use in each category of biodiversity priority area;
  - (d) provide spatial planning and land use decision-making guidelines to ensure environmentally sustainable development and resource use and ecological and spatial resilience in the Province; and 25
  - (e) ensure that the ecological infrastructure in the Province is maintained, ecosystem fragmentation and loss are avoided, and the resilience of ecosystems and human communities to the impacts of climate change is strengthened. 30

### **Contents of Biodiversity Spatial Plan**

- 36.** A Biodiversity Spatial Plan must—
- (a) be developed using the principles and methods of systematic biodiversity planning and must be based on the best available science and data;
  - (b) set biodiversity targets that must inform the categories of biodiversity priority areas; 35
  - (c) identify biodiversity priority areas according to the categories and targets contemplated in paragraph (b);
  - (d) include a spatial representation and spatial data of biodiversity priority areas; and 40
  - (e) include guidelines for desired management objectives for each category of biodiversity priority area identified in terms of paragraph (c).

### **Use and application of Biodiversity Spatial Plan**

- 37.** (1) The Biodiversity Spatial Plan is a provincial plan as contemplated in—
- (a) sections 25(1)(e), 26(d), 27(2)(a) and 29(1)(c) of the Local Government: Municipal Systems Act; 45
  - (b) sections 12(4), 15(3)(b) and 16(c) of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013); and
  - (c) section 4(3)(c)(ii) and (iii) of the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014), 50
- that establishes the priorities, objectives and strategies for biodiversity, ecological resources and related climate change adaptation.
- (2) The Biodiversity Spatial Plan must inform—
- (a) the Provincial Protected Area Expansion Strategy and biodiversity stewardship; 55
  - (b) the identification of ecosystems and ecological infrastructure and the listing of species in terms of this Act and other environmental legislation;

- (c) land use planning and decision-making;
- (d) policies and guidelines developed in terms of environmental legislation;
- (e) any decision-support system, environmental management instrument or strategic environmental assessment developed or used in terms of environmental legislation; 5
- (f) decisions and actions by any organ of state whose policies and decisions have an impact on biodiversity in the Province; and
- (g) biodiversity offsets.

(3) When a municipality adopts or amends its spatial development framework in terms of the Local Government: Municipal Systems Act in respect of land use matters in areas identified in the Biodiversity Spatial Plan as biodiversity priority areas, it must indicate how the land use planning categories in the spatial development framework have taken into account the desired management objectives in the guidelines contemplated in section 36(e). 10

(4) For the purposes of any requirement for authorisation for an activity specified in terms of environmental legislation due to the impact of such activity on biodiversity within a specific area, the Biodiversity Spatial Plan identifies the biodiversity priority areas which trigger such requirement. 15

### **Review of Biodiversity Spatial Plan**

**38.** (1) CapeNature, after consultation with the Head of Department, must review the Biodiversity Spatial Plan at least every five years or when directed to do so by the Provincial Minister. 20

(2) Section 34 applies, with the necessary changes, to the review and amendment of the Biodiversity Spatial Plan.

(3) The Provincial Minister must at least every five years assess the Biodiversity Spatial Plan to determine whether and the extent to which the objectives and targets of the plan have been met. 25

## **CHAPTER 6**

### **PROTECTED AREAS, MOUNTAIN CATCHMENT AREAS, BIODIVERSITY STEWARDSHIP AND BIOSPHERE RESERVES** 30

#### *Part 1*

#### *Expansion of protected areas*

### **Provincial Protected Areas Expansion Strategy**

**39.** (1) In order to fulfil the objectives contemplated in section 2(g)—

- (a) the Provincial Minister must take any appropriate measure, including— 35
  - (i) adopting a provincial strategy for the expansion of the provincial protected area network, which sets quantitative targets and recommends mechanisms for such expansion; and
  - (ii) declaring protected areas in terms of the Protected Areas Act; and

(b) the Chief Executive Officer may apply any appropriate biodiversity stewardship category contemplated in section 42(1)(a). 40

(2) CapeNature must, after consultation with the Head of Department, prepare a draft Provincial Protected Areas Expansion Strategy within two years of the commencement of this Act and submit it to the Provincial Minister for adoption.

(3) Before adopting the Provincial Protected Areas Expansion Strategy, the Provincial Minister must— 45

- (a) in the official languages of the Province, publish the reference to where the draft Provincial Protected Areas Expansion Strategy may be accessed by the public—
  - (i) by notice in the *Provincial Gazette*; and 50
  - (ii) in two newspapers circulating in the Province, at least one of which must be in print format;

(b) make the draft Provincial Protected Areas Expansion Strategy available and accessible to the public in a reasonable manner at the place specified in terms of paragraph (a); and 55

- (c) allow a commenting period of at least 60 days from the date of publication of the notice in the *Provincial Gazette*.
- (4) The Provincial Minister must—
  - (a) consider all comments received; and
  - (b) within 90 days of the expiry of the commenting period contemplated in subsection (3)(c), adopt the final Provincial Protected Areas Expansion Strategy, and publish it by notice in the *Provincial Gazette*. 5

## **Part 2**

### ***Mountain catchment areas***

#### **Declaration of mountain catchment areas** 10

- 40. (1) The Provincial Minister may by notice in the *Provincial Gazette*—
  - (a) declare an area to be—
    - (i) a mountain catchment area; or
    - (ii) part of an existing mountain catchment area; and
  - (b) assign a name to that mountain catchment area. 15
- (2) The Provincial Minister may make a declaration in terms of subsection (1)(a) if the control and management of activities and resources in the area concerned are required to—
  - (a) maintain the biodiversity and ecosystems in the area;
  - (b) sustain the ecological infrastructure and provision of ecosystem services, particularly water provisioning; 20
  - (c) ensure that the use of biodiversity and ecosystems in the area is sustainable.
- (3) The Provincial Minister may make a declaration in terms of subsection (1) in respect of any land, including privately owned land.
- (4) If the Provincial Minister is satisfied on reasonable grounds that a mountain catchment area, or any part thereof, is no longer required as such, the Provincial Minister may, by notice in the *Provincial Gazette*, as the case may be—
  - (a) withdraw the declaration of that mountain catchment area; or
  - (b) alter the boundaries of that mountain catchment area to exclude any part of it. 25
- (5) Before issuing a notice contemplated in subsection (1)(a), (3) or (4), the Provincial Minister must, in the prescribed manner, notify the landowners concerned of the intended notice and the consequences of the notice. 30
- (6) An area which, at the commencement of this Act, is a mountain catchment area by virtue of a declaration under section 2 of the Mountain Catchment Areas Act is regarded to have been declared a mountain catchment area under subsection (1). 35
- (7) An area ceases to be a mountain catchment area if that area is declared as, or included into, a special nature reserve, national park or nature reserve or part thereof, in terms of section 18, 20 or 23 of the Protected Areas Act.

#### **Management of mountain catchment areas**

- 41. The Provincial Minister may prescribe—
  - (a) specific requirements for the management of mountain catchment areas; or
  - (b) specific activities that are prohibited in mountain catchment areas, having regard to the requirements of section 40(2). 40

## **Part 3**

### ***Biodiversity stewardship*** 45

#### **Biodiversity stewardship**

- 42. (1) In order to implement the Provincial Protected Areas Expansion Strategy, the Provincial Minister may prescribe—
  - (a) different categories of biodiversity stewardship areas;
  - (b) criteria and conditions that apply to each category of biodiversity stewardship area; 50
  - (c) an application process for the registration, amendment of the boundary of, or withdrawal of the registration of a biodiversity stewardship area;

- (d) the rights, duties and powers of landowners regarding biodiversity stewardship areas;
  - (e) the criteria and objectives for the management plans of biodiversity stewardship areas; and
  - (f) any other matter necessary for the proper management of biodiversity stewardship areas. 5
- (2) The Chief Executive Officer may enter into a biodiversity stewardship agreement with any landowner.
- (3) CapeNature must monitor the status of biodiversity stewardship agreements and biodiversity stewardship areas and report annually to the Provincial Minister thereon. 10
- (4) If a landowner who is party to a biodiversity stewardship agreement breaches that agreement, the Provincial Minister may impose an administrative penalty in terms of section 71.
- (5) The imposition of an administrative penalty as contemplated in subsection (4) does not affect any person's common-law rights. 15

#### **Part 4**

#### ***Biosphere reserves***

#### **Application for UNESCO designation as biosphere reserve**

- 43.** (1) Any person or organ of state may request the Provincial Minister's approval to proceed with an application for UNESCO designation of a biosphere reserve. 20
- (2) A request contemplated in subsection (1) must—
- (a) be preceded by the prescribed public participation process;
  - (b) be in accordance with the prescribed format; and
  - (c) include the proposed composition of a biosphere reserve interim committee which is broadly representative of all interested persons, institutions and communities. 25
- (3) The Provincial Minister may approve the request contemplated in subsection (2), with or without conditions, or refuse it.
- (4) If the Provincial Minister approves the request, the biosphere reserve interim committee must— 30
- (a) be established in the prescribed manner;
  - (b) prepare the application for UNESCO designation of the biosphere reserve in the format as determined by the UNESCO Man and the Biosphere Programme;
  - (c) submit the application to the Provincial Minister within the prescribed period or any extended period determined by the Provincial Minister; and 35
  - (d) if the Provincial Minister so requests, amend the application in accordance with the Provincial Minister's instructions.
- (5) If the Provincial Minister is satisfied that the application— 40
- (a) complies with the relevant UNESCO Man and the Biosphere Programme criteria;
  - (b) is consistent with the objectives of this Act; and
  - (c) if applicable, includes the amendments contemplated in subsection (4)(d),
- the Provincial Minister may approve the application for UNESCO designation for forwarding to the National Minister for consideration before submitting it to UNESCO. 45
- (6) If UNESCO designates the biosphere reserve, the Provincial Minister must publish a notice of the designation in the *Provincial Gazette* within 90 days of UNESCO's making the designation.
- (7) The Provincial Minister must at least every 10 years, with effect from the designation of a biosphere reserve, review the status, functioning, effectiveness and framework plan of the biosphere reserve according to the relevant objectives, strategies and guidelines of the UNESCO Man and the Biosphere Programme. 50
- (8) If the Provincial Minister is of the opinion, after consultation with the management committee contemplated in section 44 and interested and affected parties, that a biosphere reserve no longer complies with the core functions of the UNESCO Man and the Biosphere Programme, and does not have the prospect of so complying, the Provincial Minister may recommend to the National Minister to submit a request for the withdrawal of the designation of that biosphere reserve to UNESCO. 55
- (9) A biosphere reserve established in the Province before the commencement of this Act is regarded as having been established in accordance with this Act. 60

### Management of biosphere reserves

44. (1) After the publication of the designation of a biosphere reserve in the *Provincial Gazette*, the biosphere reserve interim committee must establish a management committee in the prescribed manner, after which the biosphere reserve interim committee dissolves. 5

(2) The management committee must—

- (a) ensure that the biosphere reserve fulfils its conservation, sustainable development and operational functions;
- (b) prepare a Biosphere Reserve Framework Plan as contemplated in section 45; 10  
and
- (c) report to the Provincial Minister annually, or at the shorter intervals determined by the Provincial Minister, on the achievement of the objectives and the operations of the biosphere reserve.

### Biosphere Reserve Framework Plan

45. (1) A Biosphere Reserve Framework Plan must categorise all land within the biosphere reserve as core, buffer or transition areas, and may identify land uses that are appropriate within each category. 15

(2) A Biosphere Reserve Framework Plan must be consistent with—

- (a) the UNESCO Man and the Biosphere Programme;
- (b) the management plans for protected areas within the biosphere reserve in terms of the Protected Areas Act; 20
- (c) the Biodiversity Spatial Plan;
- (d) the Provincial Protected Areas Expansion Strategy;
- (e) the objectives of this Act; and
- (f) any other prescribed matter. 25

(3) The Provincial Minister may prescribe the contents of a Biosphere Reserve Framework Plan and the period within which the plan must be reviewed by the management committee of a biosphere reserve.

### Funding of biosphere reserves

46. (1) The Provincial Minister may, in accordance with an appropriation by the Provincial Parliament, provide financial or other assistance in respect of the establishment, operation, management or extension of, or in respect of conservation within, a biosphere reserve. 30

(2) The assistance contemplated in subsection (1) may be made subject to conditions determined by the Provincial Minister. 35

## CHAPTER 7

### PROTECTION OF ECOSYSTEMS, ECOLOGICAL INFRASTRUCTURE AND SPECIES

#### Ecosystems or ecological infrastructure in need of special protection

47. (1) The Provincial Minister, with the concurrence of the National Minister, may by notice in the *Provincial Gazette* identify an ecosystem or part thereof or an area of ecological infrastructure as in need of special protection to ensure the maintenance of their ecological integrity or the delivery of ecosystem services. 40

(2) A notice contemplated in subsection (1) may provide for—

- (a) the prohibition or restriction of any activity; and 45
- (b) the establishment of management requirements for any landowner, within the identified ecosystem or ecological infrastructure, permanently or for a specified period.

(3) Before issuing a notice contemplated in subsection (1), the Provincial Minister must, in the prescribed manner, notify the landowners concerned of the intended notice and the consequences thereof, and afford them reasonable opportunity to comment. 50

(4) The Provincial Minister, with the concurrence of the National Minister, may by notice in the *Provincial Gazette* amend or withdraw a notice contemplated in subsection (1), or any part of the notice, if the circumstances which caused the Provincial Minister to exercise his or her powers in terms of subsection (1) have changed. 55

(5) Despite any other applicable legislation, it is an offence not to comply with a notice contemplated in subsection (1) or amended as contemplated in subsection (4).

### **Biodiversity offsets and other mitigation measures**

48. The Provincial Minister may prescribe requirements and publish guidelines for biodiversity offsets or other mitigation measures in the Province in order to attain the biodiversity targets set in the Biodiversity Spatial Plan and remedy residual adverse effects on biodiversity as a result of development. 5

### **Species in need of protection or posing threat to environment**

49. (1) The Provincial Minister may, by notice in the *Provincial Gazette*, publish a list of restricted activities or restricted methods in respect of any species or any category of species listed in terms of subsection (2). 10

(2) The Provincial Minister may, by notice in the *Provincial Gazette*, publish lists of the following species or categories of species:

- (a) species which are extinct in the wild;
- (b) critically endangered species; 15
- (c) endangered species;
- (d) vulnerable species;
- (e) species that require protection and are not listed in terms of paragraph (a), (b), (c) or (d), including species listed—
  - (i) by the IUCN as Near Threatened, Data Deficient or Not Evaluated; or 20
  - (ii) in appendices I, II and III of CITES;
- (f) any other indigenous species not listed in terms of paragraph (a), (b), (c), (d) or (e);
- (g) extra-limital species;
- (h) alien species other than extra-limital species; 25
- (i) species that require special management measures; and
- (j) domesticated species.

(3) The Provincial Minister must at least every five years review the lists contemplated in subsections (1), (2) and (7).

(4) The Provincial Minister must prescribe the special management measures required for species listed in terms of subsection (2)(i). 30

(5) No person may carry out a restricted activity or restricted method involving a species listed in terms of subsection (2), unless authorised to do so in terms of section 51(1)(a).

(6) Subsection (5) does not apply to a listed species conveyed from outside the Province in transit through the Province to a destination outside the Province, provided that the transit through the Province takes place in terms of an applicable authorisation in terms of any law. 35

(7) The Provincial Minister may, by notice in the *Provincial Gazette*, publish—

- (a) a list of species; and 40
- (b) the list of restricted activities or restricted methods contemplated in subsection (1) involving a species contemplated in paragraph (a), in respect of which an authorisation may not be issued in terms of this Act.

(8) No person may carry out a restricted activity or restricted method involving a species listed in terms of subsection (7). 45

## **CHAPTER 8 AUTHORISATION**

### **Application for authorisation**

50. An application for an authorisation that is required in terms of any provision of this Act must be made in writing to the Chief Executive Officer in the prescribed manner. 50

### **Decision on application for authorisation**

51. (1) The Chief Executive Officer may, subject to section 79—

- (a) approve an application for authorisation with or without conditions; or
- (b) refuse an application for authorisation.

- (2) The Chief Executive Officer may request further information, including an independent risk assessment or expert evidence contemplated in section 52, before making the decision contemplated in subsection (1).
- (3) The Chief Executive Officer must refuse an application if it is inconsistent with—
- (a) the principles of ecological sustainability contemplated in section 6 or any other provision of this Act; 5
  - (b) any relevant strategies or plans adopted or approved in terms of this Act; or
  - (c) subject to section 231 of the Constitution, any applicable international agreement.

#### **Risk assessments and expert evidence** 10

- 52.** Before granting an application for authorisation, the Chief Executive Officer may require the applicant to furnish, at the applicant's expense, the independent risk assessment or expert evidence that—
- (a) is determined by the Chief Executive Officer as necessary in order to make a decision regarding the application; or 15
  - (b) is prescribed.

#### **Proof of legal possession**

**53.** No person may be in possession of a specimen unless also in possession of the prescribed documentation indicating proof of legal possession for the specimen.

#### **Integrated authorisation** 20

- 54.** (1) If the Chief Executive Officer is empowered under another law to issue an authorisation in terms of that other law for an activity which also requires authorisation under this Act, the Chief Executive Officer may issue a single, integrated authorisation.
- (2) An integrated authorisation may be issued only if the application concerned complies with the relevant provisions of this Act and the other law. 25

#### **Review, suspension, withdrawal and amendment of authorisation**

- 55.** (1) The Chief Executive Officer may review an authorisation or any part thereof granted by him or her and may in the prescribed manner amend or withdraw the authorisation at any time if—
- (a) he or she is satisfied on reasonable grounds that the activity or activities authorised by the authorisation are causing an adverse effect, or may cause a significant negative impact on the environment, not foreseen at the time of authorisation; 30
  - (b) the holder of the authorisation—
    - (i) has submitted inaccurate, incorrect or misleading information in connection with any matter required to be submitted in terms of this Act and that would have materially affected the decision or action taken by the Chief Executive Officer; 35
    - (ii) fails to comply with any condition of the authorisation;
    - (iii) fails to comply with any provision of this Act or is under investigation for failure to comply with any other legislation governing or related to the authorised activity; or 40
    - (iv) has been convicted of an offence in terms of this Act or any other provincial or national legislation that relates to the authorised activity.
- (2) The Chief Executive Officer may in the prescribed manner suspend the authorisation or a part thereof before taking measures as contemplated in subsection (1). 45
- (3) An authorisation or part thereof that has been suspended remains suspended until the Chief Executive Officer—
- (a) lifts the suspension;
  - (b) amends the authorisation; or 50
  - (c) withdraws the authorisation.
- (4) The Chief Executive Officer may—
- (a) take any reasonable measures to remedy the situation that may arise as a result of the suspension or withdrawal of an authorisation or a part thereof due to

- non-compliance by the holder of the authorisation with the relevant legislation; and
- (b) recover from the holder of the authorisation any reasonable costs incurred and necessitated by taking the measures contemplated in paragraph (a).

## CHAPTER 9

5

### COMPLIANCE AND ENFORCEMENT

#### *Part 1*

#### *Compliance and enforcement officials and judicial matters*

#### **Designation of nature conservation officers, nature conservation rangers and honorary nature conservation officers** 10

- 56.** The Chief Executive Officer—
- (a) may designate—
- (i) a suitably qualified person employed by CapeNature as a nature conservation officer;
- (ii) by agreement with the relevant employer, a suitably qualified person employed by a municipality or an organ of state as a nature conservation ranger; or
- (iii) a suitably qualified person as an honorary nature conservation officer;
- (b) must, when designating a person in terms of paragraph (a), specify the provisions of this Act or any other law which that person is designated to enforce;
- (c) may at any time withdraw a designation contemplated in paragraph (a).

#### **Declaration of nature conservation officers and nature conservation rangers as peace officers**

**57.** The Chief Executive Officer may request the National Minister responsible for justice to declare nature conservation officers and nature conservation rangers to be peace officers in terms of section 334 of the Criminal Procedure Act for the performance of their functions in terms of this Act and in respect of powers delegated or duties assigned to CapeNature under any other legislation. 25

#### **Mandate of nature conservation officers and nature conservation rangers**

- 58.** A nature conservation officer or nature conservation ranger is mandated to enforce, within his or her area of jurisdiction, compliance with— 30
- (a) this Act and authorisations issued in terms of this Act; and
- (b) any other law for which that nature conservation officer or nature conservation ranger has been designated to enforce.

#### **Honorary nature conservation officers** 35

- 59.** (1) An honorary nature conservation officer may exercise only the powers set out in subsections (2) and (3) and only within a geographical area specified in the designation contemplated in section 56(a)(iii).
- (2) An honorary nature conservation officer may request any person performing, or whom he or she reasonably suspects of having performed, any act for the performance of which an authorisation, exemption or order, or the written permission of a landowner or of any other person is necessary under any provision of this Act to— 40
- (a) present such authorisation, exemption, order or permission; and
- (b) provide his or her name and address.
- (3) An honorary nature conservation officer may assist CapeNature in— 45
- (a) the detection and reporting of offences in terms of this Act; and
- (b) the performance of any conservation-related activity, as instructed by a nature conservation officer.

### Functions of nature conservation officers and nature conservation rangers

- 60.** A nature conservation officer or nature conservation ranger, subject to section 58—
- (a) must monitor and enforce compliance with the law for which he or she has been designated; 5
  - (b) may investigate any act or omission that may constitute—
    - (i) an offence in terms of such a law;
    - (ii) a breach of such a law; or
    - (iii) a breach of a term or condition of an authorisation or other document issued or required in terms of this Act; 10
  - (c) must perform his or her functions—
    - (i) in accordance with instructions issued by the Chief Executive Officer; and
    - (ii) subject to any limitations and in accordance with any procedures that may be prescribed; and 15
  - (d) may be accompanied by an interpreter or any other person whose assistance may reasonably be required.

### Identity card and letter of designation

- 61.** (1) The Chief Executive Officer must issue an identity card and a letter of designation to every person designated in terms of section 56. 20
- (2) When exercising any power or performing any duty in terms of this Act, a person designated in terms of section 56 must produce the identity card when requested to do so by a member of the public.
- (3) The Chief Executive Officer must indicate in the identity card and letter of designation the mandate and powers of the nature conservation officer, nature conservation ranger or honorary nature conservation officer concerned and any limitations in respect of that mandate or those powers. 25
- (4) A designation in terms of section 56 terminates when—
- (a) in the case of a nature conservation officer, the officer leaves the employ of CapeNature; 30
  - (b) in the case of a nature conservation ranger, the officer leaves the employ of the municipality or other organ of state which employed him or her at the time of designation in terms of section 56(a)(ii);
  - (c) the designation is withdrawn as contemplated in section 56(c); or
  - (d) the validity period specified in the identity card or letter of designation has expired. 35

### General powers of nature conservation officers and nature conservation rangers

- 62.** A nature conservation officer or nature conservation ranger, subject to sections 58, 60, 63, 64 and 65 and the terms of their designation under section 56, for the purpose of performing their functions, may— 40
- (a) examine any document, book or record or any written or electronic information which may be relevant for the purposes of an investigation in terms of section 60(b);
  - (b) copy, or make extracts from, any document, book or record or any written or electronic information contemplated in paragraph (a), or remove such document, book, record or written or electronic information in order to make copies or extracts; 45
  - (c) require a person to produce or deliver any document, book or record or any written or electronic information contemplated in paragraph (a) to a place for inspection; 50
  - (d) demand from any person whom he or she reasonably suspects—
    - (i) of having performed a restricted activity for which an authorisation or documentation as prescribed under section 53 is required in terms of this Act or any other law which he or she is designated to enforce;
    - (ii) of having committed an offence under this Act or any other law which he or she is designated to enforce; or 55

- (iii) will be able to furnish evidence in connection with an offence committed or alleged to have been committed under this Act or any other law which he or she is designated to enforce, the name and address and any other information necessary for the identification of that person; 5
- (e) request from any person any information relevant to the commission of an offence or suspected offence, including, the name and address of a person suspected of committing such an offence;
- (f) examine and, if necessary, seize and remove any specimen, substance or other item which he or she reasonably suspects may have been used in committing an offence in terms of the law for which he or she has been designated; 10
- (g) take photographs or make audio-visual recordings by any means of anything or any person that is relevant for the purposes of an investigation or for an inspection;
- (h) subject to other relevant legislation, use a remote piloted aircraft for taking photographs or making audio-visual recordings that are relevant for the purposes of an investigation or for an inspection; 15
- (i) dig or bore into the soil;
- (j) take samples of any specimen or thing;
- (k) seize and remove any waste or other matter deposited or discharged in contravention of the law for which he or she has been designated; 20
- (l) instruct any person to assist him or her in the execution of an investigation or inspection;
- (m) seize and remove any trap, holding pen, poison or other device which is reasonably suspected to be used to hunt or capture a wild animal unlawfully or, if it cannot be seized and removed, destroy it or render it harmless; 25
- (n) seize and remove any livestock or other animal trespassing on land under the control of CapeNature;
- (o) instruct any person to cease with immediate effect any activity, action or process related to a contravention of the law for which he or she has been designated; 30
- (p) carry out any other action that is necessary for the purposes of enforcement of the law for which he or she has been designated.

### **Routine inspections**

- 63.** (1) A nature conservation officer, subject to section 58, may at any reasonable time conduct a routine inspection and, without a warrant, enter and inspect any premises or search any bag, box or other item for the purposes of ascertaining compliance with— 35
- (a) the legislation for which that nature conservation officer was designated in terms of section 58; or
- (b) this Act and a term or condition of an authorisation issued in terms of this Act. 40
- (2) When carrying out a routine inspection, a nature conservation officer may, if he or she on reasonable grounds suspects that an offence has been committed in terms of the law for which he or she has been designated—
- (a) seize and remove any specimen or item that may be used as evidence in the prosecution of any person for that offence; 45
- (b) if he or she is a peace officer, arrest any person reasonably suspected of committing that offence.

### **Warrants**

- 64.** (1) A nature conservation officer or nature conservation ranger—
- (a) must, before exercising any power in terms of section 62 to enter or search any premises or to seize anything, apply to a magistrate for a warrant, setting out under oath or affirmation why it is necessary to enter and search the specified premises or to seize the specified item; and 50
- (b) may execute such warrant.
- (2) Sections 20 and 21 of the Criminal Procedure Act apply, with the necessary changes, in respect of any application or warrant contemplated in subsection (1). 55
- (3) If a nature conservation officer or nature conservation ranger has reasonable grounds to suspect that an offence is being committed on or by means of any premises

in contravention of the law for which he or she has been designated, he or she may enter and search those premises, without a warrant, but only if—

- (a) he or she explains the purpose of the investigation and the person in control of the premises consents to the entry and search, after being informed that there is no obligation to admit the officer or ranger in the absence of a warrant; or 5
- (b) there are reasonable grounds to believe that a warrant would on application be issued, but that the delay that may be caused by applying for a warrant would defeat the object of obtaining the warrant.

(4) If a nature conservation officer or nature conservation ranger has reasonable grounds to suspect that an item— 10

- (a) is concerned in the commission or suspected commission of an offence in contravention of the law for which he or she has been designated;
- (b) may afford evidence of the commission or suspected commission of such an offence; or
- (c) is intended to be used in the commission of such an offence, 15

he or she may seize that item without a warrant authorising him or her to do so, but only if—

- (i) he or she explains the purpose of the seizure and the person in control of the item consents to the seizure, after being informed that there is no obligation to permit the seizure in the absence of a warrant; or 20
- (ii) there are reasonable grounds to believe that such a warrant would on application be issued, but that the delay that may be caused by applying for a warrant would defeat the object of obtaining the warrant.

#### **Powers to stop, enter and search vehicles, vessels, aircraft and other conveyance**

**65.** (1) If a nature conservation officer has reasonable grounds to suspect that a vehicle, vessel, aircraft or other conveyance— 25

- (a) is being or has been used, or contains or conveys anything which is being or has been used, to commit—
  - (i) an offence in terms of the law for which he or she has been designated; or 30
  - (ii) a breach of a term or condition of an authorisation or document issued or required in terms of this Act;
- (b) may afford evidence of the commission or suspected commission of such an offence;
- (c) transports persons who may be able to furnish information about the commission or suspected commission of such an offence; 35
- (d) is intended to be used or is on reasonable grounds believed to be intended to be used in the commission of such an offence;
- (e) is being used in a manner that is likely to cause an adverse effect on the environment; or 40
- (f) contains or conveys a thing which may serve as evidence of such an offence or breach,

he or she may—

- (i) instruct the on-board operator of the vehicle, vessel or other conveyance to stop, or the captain of the vessel to dock or the pilot of the aircraft to land; and 45
- (ii) if necessary and possible, force the vehicle, vessel, aircraft or other conveyance to stop or dock or land, as the case may be.

(2) Section 64 applies, with the necessary changes, in respect of the entry and search of a vehicle, vessel, aircraft or other conveyance contemplated in subsection (1) and the seizure of any such vehicle, vessel, aircraft or other conveyance or anything contained in or on it. 50

#### **Duty to produce documents**

**66.** A person to whom an authorisation or any other document has been issued in terms of this Act, or who is required to be in possession of such an authorisation or document, must produce that authorisation or document at the request of a nature conservation officer, nature conservation ranger or honorary nature conservation officer. 55

### Treatment of seized specimen or item

- 67.** (1) When a nature conservation officer or nature conservation ranger seizes and removes a specimen or item, including a record or written or electronic information, in terms of this Act, he or she—
- (a) must provide a receipt for the specimen or item to the person who was in control of that specimen or item when so seized; 5
  - (b) may—
    - (i) deliver the specimen or item to a member of the South African Police Service; 10
    - (ii) retain the specimen or item; or
    - (iii) instruct the person who was in control of the specimen or item when so seized to take it to a place specified by the nature conservation officer or nature conservation ranger.
- (2) If no criminal proceedings are instituted in connection with a specimen or item contemplated in subsection (1), section 31 of the Criminal Procedure Act applies, with the necessary changes. 15
- (3) In order to safeguard a vehicle, vessel, aircraft or other conveyance that has been seized, a nature conservation officer or nature conservation ranger may immobilise it by removing any part thereof.
- (4) An item seized and removed in terms of this Act, including a part of a vehicle, vessel, aircraft or other conveyance contemplated in subsection (3), must be kept in such a way that it is as far as possible secured against damage. 20

### Security for release of vehicles, vessels, aircraft or other conveyance

- 68.** (1) If a vehicle, vessel, aircraft or other conveyance is seized in terms of this Act and is kept for the purposes of criminal prosecution, the owner or agent of the owner may at any time apply to a court for its release. 25
- (2) The court may order the release of the vehicle, vessel, aircraft or other conveyance on the provision of security determined by the court.
- (3) The amount of the security must at least be equal to the sum of—
- (a) the market value of the vehicle, vessel, aircraft or conveyance; 30
  - (b) the maximum fine that a court may impose in terms of this Act for the alleged offence; and
  - (c) costs and expenses incurred or reasonably foreseen to be incurred by the State in connection with prosecuting the offence and recoverable in terms of section 55(4)(b) and 70(b). 35
- (4) If the court is satisfied that there are circumstances that warrant a lesser amount of security, it may order the release of the vehicle, vessel, aircraft or conveyance subject to the provision of security for such lesser amount.

## Part 2

### *Administrative enforcement mechanisms and penalties* 40

#### Administrative enforcement

- 69.** (1) If the Provincial Minister is satisfied on reasonable grounds that any person is undertaking an activity in contravention of this Act, undertaking an activity causing an adverse effect on biodiversity or ecological infrastructure, or failing to comply with any instrument or authorisation issued in terms of this Act, the Provincial Minister may, after having afforded the person concerned a reasonable opportunity to comment, issue a directive to that person to— 45
- (a) cease the activity;
  - (b) take specific mitigation measures to remedy such adverse effect within a specific time frame; 50
  - (c) comply with the relevant instrument or authorisation within a specific time frame.
- (2) In the circumstances contemplated in subsection (1), if urgent action is required for the protection of an area identified in terms of section 47(1), the Provincial Minister may issue the directive without affording the person issued with the directive the opportunity to comment and provide an opportunity to comment as soon as is reasonably possible after the directive has been issued. 55

(3) If a directive issued to a person in terms of subsection (1) or (2) relates to something occurring or that may occur on land of which that person is not the owner, the Provincial Minister may also issue a directive to the landowner, in which case subsections (1) and (2) apply, with the necessary changes.

#### **Failure to comply with directive** 5

**70.** If a person fails to comply with a directive contemplated in section 69, the Provincial Minister may—

- (a) where applicable, cancel or vary the relevant authorisation or other instrument which is the subject of the directive; and
- (b) take any measures specified in the directive and any other necessary measures to remedy adverse effects on biodiversity and ecological infrastructure arising from the failure to comply with the directive, and recover the costs of doing so from the person who failed to comply. 10

#### **Administrative penalties**

**71.** (1) The Provincial Minister may— 15

- (a) impose administrative penalties for—
  - (i) contravention of or non-compliance with this Act;
  - (ii) a breach of a biodiversity stewardship agreement contemplated in section 42(4);
  - (iii) non-compliance with a directive issued in terms of section 69(1); 20
  - (iv) an offence listed in section 72; and
- (b) prescribe categories of administrative penalties and the procedure for imposing such penalties.

(2) Before imposing a penalty, the Provincial Minister must in writing—

- (a) inform the person on whom the penalty is intended to be imposed of the envisaged penalty; 25
- (b) specify the particulars of the alleged contravention, non-compliance or offence and the reasons for the penalty intended to be imposed;
- (c) specify the amount of the penalty intended to be imposed; and
- (d) provide an opportunity to the person contemplated in paragraph (a) to make representations within a period specified by the Provincial Minister. 30

(3) If a person on whom an administrative fine is imposed in terms of subsection (1) fails to pay the fine, the Provincial Minister may take a civil judgment against that person for the amount of the fine.

### **CHAPTER 10** 35

#### **OFFENCES AND PENALTIES**

##### **Offences**

**72.** (1) A person is guilty of a category 1 offence if that person—

- (a) fails to comply with a notice issued in terms of section 47(1) or amended as contemplated in section 47(4); 40
- (b) contravenes or fails to comply with section 49(5) or (8);
- (c) fails to comply with a directive issued in terms of section 69(1), (2) or (3);
- (d) unlawfully commits any act or omission which causes or is likely to cause an adverse effect;
- (e) alters, fabricates or forges— 45
  - (i) any authorisation or other document issued or required for the lawful performance of any act in terms of this Act;
  - (ii) on any document any official logo, letterhead, stamp, hallmark or date stamp of the Department or CapeNature, or the signature of any person in their capacity as an agent or employee of the Department or CapeNature; 50
- (f) is in possession of any unlawfully altered or false document purporting to be an authorisation or an exemption issued under this Act, or attempts to pass off such a document as a valid authorisation or exemption issued under this Act;
- (g) obtains or applies for any authorisation or document in terms of this Act— 55
  - (i) under a false name; or

- (ii) while prohibited by an order of court from being the holder of such an authorisation or document;
  - (h) makes a false statement in any application made or document furnished in terms of this Act;
  - (i) conceals, removes from any premises, destroys or disposes of anything that could serve as evidence related to an offence under this Act, to prevent it being seized or detected, including any specimen, book, register, document, electronic record, vehicle, machinery, implement, container, firearm, weapon, explosive or poison; 5
  - (j) hinders or interferes with any official lawfully executing his or her mandate in terms of this Act or a device used lawfully by the official in executing his or her mandate; or 10
  - (k) falsely pretends to be a nature conservation officer, nature conservation ranger, honorary nature conservation officer or an employee or agent of the Department or CapeNature. 15
- (2) A person is guilty of a category 2 offence if that person—
- (a) trespasses on land on which there is, or is likely to be, any wild animal while in possession of a weapon, poison, or any means whatsoever that could be used to hunt, capture or kill wild animals;
  - (b) is found in possession of any specimen without proof of legal possession as contemplated in section 53; 20
  - (c) coerces any other person or allows any person to commit an act or omission in contravention of this Act; or
  - (d) is the holder of an authorisation or exemption issued under this Act and—
    - (i) contravenes or fails to comply with a term or condition of that authorisation or exemption;
    - (ii) is not in possession of such an authorisation or exemption while performing an act that may only be performed while in possession of such an authorisation or exemption; or
    - (iii) permits or allows any other person to do, or to omit to do, anything which is an offence in terms of subparagraph (i) or (ii). 30
- (3) A person is guilty of a category 3 offence if that person—
- (a) fails to comply with an instruction of a nature conservation officer, nature conservation ranger or honorary nature conservation officer given in terms of this Act or when executing their powers in terms of this Act; 35
  - (b) fails to comply with subordinate legislation made in terms of this Act;
  - (c) when requested by a nature conservation officer, nature conservation ranger or honorary nature conservation officer in the execution of an investigation or inspection to furnish information, furnishes false or misleading information; or 40
  - (d) without good cause refuses or fails on demand to furnish a nature conservation officer, nature conservation ranger or honorary nature conservation officer with his or her name and address or with any information or document required by that nature conservation officer, nature conservation ranger or honorary nature conservation officer for the purposes of performing his or her functions in terms of this Act. 45

### Penalties

- 73.** (1) A person convicted of a category 1 offence contemplated in section 72(1) is liable to a fine or imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment. 50
- (2) A person convicted of a category 2 offence contemplated in section 72(2) is liable to a fine or imprisonment for a period not exceeding five years, and in the case of a second or subsequent conviction, to a fine or imprisonment for a period not exceeding 10 years, or in both instances, to both such fines and such imprisonment.
- (3) A person convicted of a category 3 offence contemplated in section 72(3) is liable to a fine or imprisonment for a period not exceeding two years, and in the case of a second or subsequent conviction, to a fine or imprisonment for a period not exceeding five years, or in both instances, to both such fines and such imprisonment. 55
- (4) If any offence involves the capture, killing, harvesting, possession, offering for sale, sale, import or export of a specimen, a court may, in addition to the penalties 60

contemplated in subsections (1), (2) and (3), impose a fine that does not exceed three times the market value of that specimen.

(5) Subject to the Criminal Procedure Act, fines imposed by a court in terms of this Act must be made payable to and paid to CapeNature.

#### **Cancellation of authorisations** 5

- 74.** The court convicting a person of an offence in terms of this Act may—
- (a) cancel any authorisation issued to that person;
  - (b) disqualify that person from obtaining any authorisation for a period not exceeding five years;
  - (c) issue an order that all competent authorities authorised to issue authorisations 10 be notified of any disqualification in terms of paragraph (b).

#### **Award of costs**

**75.** If a person is convicted of an offence in terms of this Act and the act or omission constituting the offence—

- (a) caused any organ of state to incur any costs in order to seize any item, to 15 rehabilitate any land or to investigate and prosecute that offence;
- (b) provided that person with a monetary advantage or a potential monetary advantage,

the court convicting that person may, without pleadings, enquire into the monetary value of the costs incurred and advantage gained or likely to be gained by that person in 20 consequence of that offence, and, in addition to any other punishment imposed in respect of that offence, may order an amount equivalent to that monetary value to be paid directly to CapeNature as an additional fine, award of damages or compensation, as part of the sentence.

#### **Forfeiture** 25

**76.** (1) A court convicting a person of an offence in terms of this Act—

- (a) must declare any specimen;
- (b) may declare any item including any container, vehicle, vessel, aircraft, other conveyance or document, including an electronic document,

involved in the offence, or that was used for the purpose of or in connection with the 30 commission of the offence, and was seized under this Act, to be forfeited to CapeNature.

(2) If any specimen forfeited to CapeNature under subsection (1) is still alive, CapeNature must ensure that the specimen is—

- (a) where appropriate, repatriated to the country of export or returned to the place 35 of origin at the expense of the person convicted of the offence involving that specimen;
- (b) placed in an appropriate institution, rescue centre or facility, or with an appropriate person, that is able and willing to house and properly care for the specimen; or
- (c) otherwise disposed of in an appropriate manner. 40

(3) If any dead specimen or any other item is forfeited to CapeNature under subsection (1), CapeNature may—

- (a) cause the specimen or item be deposited at an appropriate institution or 45 museum; or
- (b) dispose of the specimen or item in an appropriate manner.

## **CHAPTER 11**

### **APPEALS**

#### **Appeal against decisions by CapeNature officials**

**77.** (1) Any interested or affected person may appeal to the Chief Executive Officer against a decision taken by a nature conservation officer or any other staff member of 50 CapeNature, excluding the Chief Executive Officer, in terms of this Act.

(2) An appeal in terms of subsection (1) must be lodged and dealt with in the prescribed manner, on payment of the prescribed fee and within the prescribed period.

(3) The Chief Executive Officer may consider and decide an appeal or appoint an appeal panel to consider and advise the Chief Executive Officer on the appeal.

(4) The Chief Executive Officer may, after considering an appeal, confirm, set aside or vary the decision or make any other appropriate decision, including a decision that the prescribed fee paid by the appellant in terms of subsection (2), or any part thereof, be refunded. 5

(5) An appeal in terms of subsection (1) suspends the authorisation or condition attached thereto, but only where there is no threat of an adverse effect to the environment.

### **Appeal to Provincial Minister** 10

**78.** (1) Any interested or affected person may appeal to the Provincial Minister against a decision taken by the Chief Executive Officer or a person acting under a power delegated by the Provincial Minister in terms of this Act.

(2) An appeal in terms of subsection (1) must be lodged and dealt with in the prescribed manner, on payment of the prescribed fee and within the prescribed period. 15

(3) The Provincial Minister may consider and decide an appeal or appoint an appeal panel to consider and advise the Provincial Minister on the appeal.

(4) The Provincial Minister may, after considering an appeal, confirm, set aside or vary the decision and determine that the prescribed fee paid by the appellant in terms of subsection (2), or any part thereof, be refunded. 20

(5) An appeal under this section suspends the implementation of the decision concerned and any authorisation or condition attached thereto, but only where there is no threat of an adverse effect to the environment.

## **CHAPTER 12**

### **GENERAL AND TRANSITIONAL PROVISIONS** 25

#### **Exemption**

**79.** (1) The Chief Executive Officer may, subject to any conditions as the Chief Executive Officer may specify, exempt any person from the requirement in terms of this Act for—

(a) an authorisation; or 30

(b) a condition of an authorisation.

(2) The Provincial Minister may prescribe the process to be followed for the lodging and processing of an application for exemption to the Chief Executive Officer as contemplated in subsection (1).

#### **Delegation** 35

**80.** (1) Subject to subsection (3), the Provincial Minister may delegate any power or assign any duty vested in him or her in terms of this Act, to—

(a) the Head of Department;

(b) the Board;

(c) the Chief Executive Officer; 40

(d) CapeNature;

(e) a municipality, subject to applicable legislation; or

(f) any other organ of state.

(2) A delegation in terms of subsection (1)—

(a) is subject to any limitations or conditions that the Provincial Minister may impose; 45

(b) must be in writing;

(c) may include the power to subdelegate; and

(d) does not divest the Provincial Minister of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty. 50

(3) The Provincial Minister—

(a) may not delegate a power or duty of the Provincial Minister to make subordinate legislation; and

(b) may, in writing, withdraw any delegation.

(4) The Head of Department may, with the written consent of the Provincial Minister, delegate any of his or her powers or duties in terms of this Act to an official of the Department.

(5) The Board or the Chief Executive Officer may, with the written consent of the Provincial Minister, delegate any of their powers or duties in terms of this Act to a CapeNature official. 5

(6) The Board may not delegate its power to—

- (a) appoint or reappoint a person as the Chief Executive Officer;
- (b) determine the conditions of employment of the Chief Executive Officer;
- (c) determine an employment policy for CapeNature; 10
- (d) set financial limits as contemplated in section 27(4)(f);
- (e) approve the budget and annual financial statements of CapeNature.

(7) Subsections (2) and (3)(b) apply, with the necessary changes, to a delegation in terms of subsection (4) or (5).

## **Regulations** 15

**81.** The Provincial Minister—

- (a) must make regulations where required in terms of this Act;
- (b) may make regulations on any matter which is necessary or expedient to prescribe in order to achieve the objectives of this Act.

## **Public notices** 20

**82.** The Provincial Minister may publish a notice in the *Provincial Gazette*—

- (a) regarding any matter which in terms of this Act may or must be dealt with by way of a notice;
- (b) containing a reference to a plan, strategy or guideline for the implementation of this Act; 25
- (c) to announce any matter related to the administration of this Act.

## **Performance standards**

**83.** The Provincial Minister may set performance standards for the performance of any function or requirement contemplated in this Act.

## **Consultation** 30

**84.** (1) Before publishing any regulations or notice in terms of this Act, the Provincial Minister must—

- (a) publish the draft regulations or notice in the official languages of the Province in—
  - (i) the *Provincial Gazette*; and 35
  - (ii) two newspapers circulating in the Province, at least one of which must be in print format;
- (b) provide an opportunity for interested and affected parties to comment for a period of not less than 30 days from the date of publication in the *Provincial Gazette*, except where a different period is specified by this Act; and 40
- (c) consider any comments received.

(2) The Provincial Minister may, where appropriate, extend the commenting period in terms of subsection (1)(b) for a reasonable time.

(3) When in terms of this Act the Provincial Minister is required to consult any person or organ of state, such consultation is regarded as having been satisfied if a formal written notification of intention to act has been made to that person or organ of state and no response has been received within the time frame specified in the notification. 45

## **Notices, legal documents and steps valid under certain circumstances**

**85.** (1) A notice, authorisation or other document issued or published in terms of this Act— 50

- (a) which does not comply with any procedural requirement, is nevertheless valid if the non-compliance is not material and does not prejudice any person;

- (b) may be amended or replaced without following a procedural requirement of this Act if—
- (i) the purpose is to correct an error; and
  - (ii) the correction does not change the rights or duties of any person materially. 5
- (2) The failure to take any steps required by this Act as a prerequisite for any decision or action does not invalidate the decision or action if the failure—
- (a) is not material;
  - (b) does not prejudice any person; and
  - (c) is not procedurally unfair. 10

### **Limitation of liability**

- 86.** The Provincial Minister, the Head of Department, the Board, the Chief Executive Officer, CapeNature or any person delegated in terms of this Act is not liable for any damage or loss caused by a person who, acting in a reasonable manner and in good faith— 15
- (a) exercises a power or performs a duty in terms of this Act;
  - (b) does not exercise a power or perform a duty in terms of this Act; or
  - (c) performs a duty outside of their mandate.

### **Repeal of laws**

- 87.** The laws contemplated in the Schedule are repealed to the extent indicated in the third column of the Schedule. 20

### **Transitional provisions**

- 88.** (1) A person who was a nature conservation officer, nature conservation ranger or honorary nature conservation officer as defined in the Ordinance immediately before the commencement of this Act is regarded as having been designated as a nature conservation officer, nature conservation ranger or honorary nature conservation officer, as the case may be, in terms of this Act. 25
- (2) A licence, permit, certificate, written authority, exemption, order or other authorisation issued in terms of the Ordinance and that was valid immediately before the commencement of this Act, is regarded as an authorisation, exemption, order or directive, as the case may be, issued in terms of this Act. 30
- (3) An application for a licence, permit, certificate, written authority, exemption, order or other authorisation submitted in terms of the Ordinance which has not been finalised when this Act takes effect, must, despite the repeal of the Ordinance by section 87 of this Act, be dispensed with in terms of the Ordinance, and a decision taken in terms of the Ordinance is deemed to be a decision taken in terms of this Act. 35
- (4) The corporate identity and the assets, liabilities, finances, rights and obligations of the provincial public entity contemplated in section 9 are not affected by its change of name.
- (5) A person who was a member of the Western Cape Nature Conservation Board immediately before the commencement of this Act is regarded as having been appointed as a Board member of CapeNature for the unexpired portion of his or her term of office. 40
- (6) The Chairperson of the Western Cape Nature Conservation Board immediately before the commencement of this Act is regarded as having been appointed as the Chairperson of CapeNature for the unexpired portion of his or her term of office. 45
- (7) All persons employed by the Western Cape Nature Conservation Board are regarded as having been appointed in terms of section 27(4)(f) as members of staff of CapeNature subject to the same conditions of service which applied to them immediately before the repeal of the Western Cape Nature Conservation Board Act.
- (8) Subsection (7) does not affect pension, leave and other benefits which accrued to employees contemplated in that subsection before the repeal of the Western Cape Nature Conservation Board Act. 50
- (9) An area which was established as a nature reserve in terms of section 6, 7 or 12 of the Ordinance at any time before the commencement of this Act and which is regarded— 55

- (a) in terms of section 23(5) of the Protected Areas Act as having been declared as a nature reserve in terms of section 23 of that Act, continues in existence as a nature reserve in terms of that Act; or
- (b) in terms of section 28(7) of the Protected Areas Act as having been declared as a protected environment in terms of section 28 of that Act, continues in existence as a protected environment in terms of that Act. 5

**Short title and commencement**

**89.** This Act is called the Western Cape Biodiversity Act, 2021, and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*. 10

**SCHEDULE: REPEAL OF LAWS**

<b>Number and year</b>	<b>Title</b>	<b>Extent of repeal</b>
21 of 1935	Sea Shore Act, 1935	The whole
63 of 1970	Mountain Catchment Areas Act, 1970	The whole in so far as it has been assigned to the Province by Proclamation R28 of 1995
19 of 1974	Nature Conservation Ordinance, 1974	The whole
3 of 1982	Nature Reserves Validation Ordinance, 1982	The whole
15 of 1998	Western Cape Nature Conservation Board Act, 1998	The whole
8 of 1999	Western Cape Nature and Environmental Conservation Ordinance Amendment Act, 1999	The whole
3 of 2000	Western Cape Nature Conservation Laws Amendment Act, 2000	The whole, excluding section 2 and Schedule 2
6 of 2011	Western Cape Biosphere Reserves Act, 2011	The whole

## MEMORANDUM ON THE OBJECTS OF THE WESTERN CAPE BIODIVERSITY BILL

### 1. BACKGROUND

- 1.1 Biodiversity and protected areas in the Western Cape Province are currently regulated in terms of the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004), the National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003), the Western Cape Nature Conservation Board Act, 1998 (Act 15 of 1998), and the Nature Conservation Ordinance, 1974 (Ordinance 19 of 1974) (the Ordinance).
- 1.2 In order to seek alignment with national legislative frameworks and to rationalise and modernise provincial legislative frameworks for biodiversity management, a process of legislative reform has been ongoing since 2012.
- 1.3 In April 2014 the Provincial Cabinet granted approval to amalgamate the Draft Western Cape Nature Conservation Board Amendment Bill, 2012, and the Draft Western Cape Environment Conservation Bill, 2013, into one consolidated Bill.

### 2. OBJECTS OF BILL

- 2.1 The Western Cape Biodiversity Bill (the Bill) is primarily intended to replace the Western Cape Nature Conservation Board Act, 1998, and the Ordinance. Both statutes predate the Constitution of the Republic of South Africa, 1996 (the Constitution), and they do not adequately provide mechanisms which can conserve and manage biodiversity and ecological infrastructure to ensure that ecosystem services support an inclusive and resilient economy.
- 2.2 The Bill incorporates a rationalised approach to the Western Cape Biosphere Reserves Act, 2011 (Act 6 of 2011), and its proposed amendments, which will also enable the repeal of this legislation.
- 2.3 The Bill will also repeal the assigned provisions of the Mountain Catchment Areas Act, 1970 (Act 63 of 1970), and thereby modernise the protection of mountain catchment areas, which themselves house important ecosystems and deliver essential water provisioning services to the Province.
- 2.4 The objectives of the Bill are to—
  - 2.4.1 give effect to the obligation of the state in terms of national legislation to act as trustee in relation to the environment;
  - 2.4.2 give effect to section 81(*m*) of the Western Cape Constitution, 1997 (Act 1 of 1998), to protect and conserve the environment in the Province, including its unique biodiversity, for the benefit of present and future generations;
  - 2.4.3 ensure the long-term ecological sustainability and resilience of biodiversity, ecosystems, ecosystem services and ecological infrastructure through implementation of the principles of ecological sustainability contemplated in clause 6 of the Bill and the protection of priority biodiversity and ecological infrastructure;
  - 2.4.4 ensure human well-being and the long-term resilience of society and the economy through the conservation of protected areas, biodiversity, ecosystems, ecosystem services and ecological infrastructure;

- 2.4.5 enable reasonable and sustainable access to benefits and opportunities emanating from the conservation of protected areas, biodiversity, ecosystems, ecosystem services and ecological infrastructure;
- 2.4.6 establish institutional structures and organisational capacity for the effective discharging of the conservation and management of biodiversity and nature in the Province;
- 2.4.7 promote consultation, cooperation, integrated planning, decision-making and management in support of the conservation and sustainable use of biodiversity and ecosystem services in the Province;
- 2.4.8 promote systematic biodiversity planning and the attainment of the biodiversity targets for conservation set in the Biodiversity Spatial Plan and the Provincial Protected Areas Expansion Strategy;
- 2.4.9 regulate certain activities to be undertaken in a manner that enhances and protects the integrity and health of the environment;
- 2.4.10 subject to section 231 of the Constitution, implement and give effect to international agreements and best practices pertaining to the environment and conservation of biodiversity;
- 2.4.11 enable the financial and economic sustainability of the relevant institutions responsible for the conservation and management of biodiversity and nature in the Province; and
- 2.4.12 enable and develop an equitable and sustainable biodiversity economy in the Province, including the promotion and development of eco-tourism in areas under the control of CapeNature.

### **3. CONTENTS OF BILL**

#### **3.1 CHAPTER 1: INTERPRETATION, OBJECTIVES AND APPLICATION OF ACT**

- 3.1.1 Clause 1 provides for definitions of words and terms used in the Bill.
- 3.1.2 Clause 2 provides for the objectives of the Bill.
- 3.1.3 Clause 3 provides for the application of the Bill.
- 3.1.4 Clause 4 provides for provisions to resolve conflict between the provisions of the Bill and other legislation.

#### **3.2 CHAPTER 2: DUTIES AND PRINCIPLES**

- 3.2.1 Clause 5 provides for the duties of the state in managing biodiversity.
- 3.2.2 Clause 6 provides for principles of ecological sustainability that must be applied by organs of state when making decisions or taking actions that may affect biodiversity within the Province.

#### **3.3 CHAPTER 3: ADMINISTRATION**

- 3.3.1 Clause 7 provides for the functions of the Provincial Minister, which include exercising oversight over the Head of Department, CapeNature and the Board of CapeNature; developing and implementing provincial policy; and periodically evaluating the effectiveness of the implementation and enforcement of the Bill.

- 3.3.2 Clause 8 provides for the duties of the Head of Department, which include advising the Provincial Minister, after consultation with CapeNature, on matters of law, subordinate legislation and provincial policy regarding nature conservation, biodiversity, and coastal and estuarine management; coordinating provincial strategies as approved by the Provincial Minister for nature conservation, biodiversity, and coastal and estuarine management; and promoting and developing the biodiversity economy. Furthermore, the Head of Department has duties that he or she must fulfil in terms of clause 8 that are consistent with his or her duties as the accounting officer of the Department.

### **3.4 CHAPTER 4: CAPENATURE**

This chapter is divided into the following six parts:

- 3.4.1 Part 1: Establishment, functions and powers of CapeNature (clauses 9 to 11), clause 9 providing for the continued existence of the current Western Cape Nature Conservation Board and for it to be known as “CapeNature”.
- 3.4.2 Part 2: Composition and membership of the Board (clauses 12 to 22).
- 3.4.3 Part 3: Operating procedures of the Board (clauses 23 to 26).
- 3.4.4 Part 4: Administration of CapeNature (clause 27).
- 3.4.5 Part 5: Financial matters (clauses 28 to 31).
- 3.4.6 Part 6: Dissolution of the Board or CapeNature (clauses 32 to 33).

### **3.5 CHAPTER 5: BIODIVERSITY PLANNING AND MONITORING**

- 3.5.1 Clause 34 provides for the publication of the Biodiversity Spatial Plan.
- 3.5.2 Clause 35 provides for the purpose of the Biodiversity Spatial Plan, including the identification of biodiversity priority areas.
- 3.5.3 Clause 36 provides for the contents of the Biodiversity Spatial Plan.
- 3.5.4 Clause 37 provides for the use and application of the Biodiversity Spatial Plan, including its alignment with other plans provided for in national and provincial legislation.
- 3.5.5 Clause 38 provides for a review of the Biodiversity Spatial Plan every five years.

### **3.6 CHAPTER 6: PROTECTED AREAS, MOUNTAIN CATCHMENT AREAS, BIODIVERSITY STEWARDSHIP AND BIOSPHERE RESERVES**

- 3.6.1 Chapter 6 is divided into four parts, which cover four mechanisms that may provide protection to various areas. In this chapter provisions of outdated legislation, which this Bill will repeal, are incorporated into the Bill, namely the Mountain Catchment Areas Act, 1970, and the Western Cape Biosphere Reserves Act, 2011.

- 3.6.2 Part 1: Expansion of protected areas

Clause 39 provides for the Provincial Protected Areas Expansion Strategy, which is the strategy that will be drafted, adopted and published in order to promote systematic biodiversity planning and the attainment of the biodiversity targets for conservation set out in the

Biodiversity Spatial Plan and the Provincial Protected Areas Expansion Strategy.

### 3.6.3 Part 2: Mountain catchment areas

Clauses 40 and 41 provide for the declaration and management of mountain catchment areas where such declaration is required for sustaining the provision of ecosystem services, particularly water provisioning.

### 3.6.4 Part 3: Biodiversity stewardship

Clause 42 provides for biodiversity stewardship, whereby a landowner may enter into a biodiversity stewardship agreement, which serves to further the objectives of the Provincial Protected Areas Expansion Strategy.

### 3.6.5 Part 4: Biosphere reserves

Clauses 43 to 46 provide for the application for UNESCO designation of biosphere reserves, the management of biosphere reserves, the Biosphere Reserve Framework Plan and the funding of such biosphere reserves.

## 3.7 CHAPTER 7: PROTECTION OF ECOSYSTEMS, ECOLOGICAL INFRASTRUCTURE AND SPECIES

3.7.1 Clause 47 empowers the Provincial Minister to identify an ecosystem or part thereof or area of ecological infrastructure as in need of special protection to ensure the maintenance of its ecological integrity or the delivery of ecosystem services.

3.7.2 Clause 48 empowers the Provincial Minister to prescribe requirements and publish guidelines for biodiversity offsets or other mitigation measures in the Province.

3.7.3 Clause 49 provides for the publication of restricted activities or restricted methods in respect of any listed species or any category of listed species.

## 3.8 CHAPTER 8: AUTHORISATION

Clauses 50 to 55 provide for the application for authorisation, the decisions on such application and the review, suspension, withdrawal and amendment of an authorisation.

## 3.9 CHAPTER 9: COMPLIANCE AND ENFORCEMENT

Chapter 9 is divided into two parts.

### 3.9.1 Part 1: Compliance and enforcement officials and judicial matters

Clauses 56 to 68 provide for the designation of nature conservation officers, nature conservation rangers and honorary nature conservation officers and sets out their respective mandates, functions and powers. The powers provided in this chapter are both necessary and appropriate for the effective combating of crimes relating to biodiversity.

### 3.9.2 Part 2: Administrative enforcement mechanisms and penalties

Clauses 69 to 71 contain an administrative enforcement tool to supplement the criminal enforcement tools which may be used in terms of this Bill.

## 3.10 CHAPTER 10: OFFENCES AND PENALTIES

3.10.1 Clause 72 provides for offences that are categorised according to degree of severity.

3.10.2 Clause 73 provides for maximum penalties for each category of offence, which will enable a court to impose an appropriate sentence on offenders in terms of the Bill.

3.10.3 Clause 74 provides for the cancellation of an authorisation if a person is convicted of an offence.

3.10.4 Clause 75 provides for the award of costs.

3.10.5 Clause 76 provides for the forfeiture of any specimen or item involved in an offence and that was seized in terms of the Bill.

## 3.11 CHAPTER 11: APPEALS

3.11.1 Clause 77 provides for appeals against decisions by CapeNature officials.

3.11.2 Clause 78 provides for appeals against decisions made by the Chief Executive Officer of CapeNature or a person acting under delegation by the Provincial Minister.

## 3.12 CHAPTER 12: GENERAL AND TRANSITIONAL PROVISIONS

3.12.1 Clauses 79 to 89 provide for general and transitional provisions for the effective implementation of the Bill.

3.12.2 Clause 81 provides for regulations to be made by the Provincial Minister to enable the practical implementation of the Bill.

## 3.13 SCHEDULE: REPEALS

The Schedule provides for the repeal of legislation that is outdated.

## 4. CONSULTATION

In the compilation of this Bill, the following role players were consulted:

- (a) Department of Environmental Affairs and Development Planning;
- (b) Department of the Premier: Legal Services; and
- (c) CapeNature.

## 5. PERSONNEL IMPLICATIONS

None

## 6. FINANCIAL IMPLICATIONS

As the Bill represents an alignment and rationalisation of the existing legal framework, there are no additional financial implications as a direct result of the Bill. The financial implications are thus as the approved Vote 9 budget allocations for Programme 5 in terms of the relevant environmental sector subprogramme budget structure.

**7. LEGISLATIVE COMPETENCE**

The Provincial Minister responsible for environmental affairs and development planning is satisfied that all the provisions in the Bill fall within the Province's legislative competence.

# WETSONTWERP

**Om voorsiening te maak vir die raamwerk en instellings vir natuurbewaring en die beskerming, bestuur en volhoubare gebruik van biodiversiteit en ekosisteme in die Provinsie; en vir aangeleenthede wat daarmee in verband staan.**

## AANHEF

**NADEMAAL** artikel 24 van die Grondwet van die Republiek van Suid-Afrika, 1996, bepaal dat elkeen die reg het tot 'n omgewing wat nie skadelik vir hul gesondheid of welsyn is nie en dat die omgewing beskerm word ter wille van huidige en toekomstige generasies deur maatreëls wat bewaring bevorder en die ekologies volhoubare ontwikkeling en gebruik van natuurlike hulpbronne verseker terwyl dit regverdige ekonomiese en maatskaplike ontwikkeling bevorder;

**EN NADEMAAL** omgewing en natuurbewaring in die mate uiteengesit in Deel A van Bylae 4 by die Grondwet van die Republiek van Suid-Afrika, 1996, funksionele gebiede van konkurrente nasionale en provinsiale wetgewende bevoegdheid is;

**EN NADEMAAL** die Grondwet van die Wes-Kaap, 1997 (Wet 1 van 1998), van die provinsiale regering vereis om beleid aan te neem en te implementeer oor, onder meer, die beskerming van die omgewing in die Wes-Kaap, insluitende sy unieke fauna en flora, ter wille van huidige en toekomstige generasies;

**EN NADEMAAL** die verskillende staatsorgane ooreenkomstig die beginsels van samewerkende regering en interregeringsbetrekkinge moet optree en besluite moet neem wat die omgewing op 'n gekoördineerde en holistiese wyse raak;

**EN IN ERKENNING** van die unieke biodiversiteit in die Wes-Kaap, die Republiek se internasionale verpligtinge, die Provinsie se afhanklikheid van ekosisteedienste, die behoefte aan toegang en die deel van voordele en die behoefte om langtermyn- ekologiese veerkragtigheid te verseker;

**EN IN ERKENNING** van die behoefte aan wets hersiening om die bestaande wetgewende en institusionele raamwerke vir die implementering van die provinsiale mandate vir biodiversiteit en natuurbewaring te hervorm, integreer, harmoniseer en te rasionaliseer;

**EN IN ERKENNING** dat dit wenslik is dat die reg 'n raamwerk ontwikkel vir die integrasie en koördinasie van omgewings- en natuurbewaringsoorwegings met beplanning en besluitneming deur alle staatsorgane ten einde hul verpligtinge ingevolge artikel 24 van die Grondwet van die Republiek van Suid-Afrika, 1996, na te kom,

**W**ORD DAAR DERHALWE BEPAAL deur die Provinsiale Parlement van die Wes-Kaap, soos volg:—

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**UITLEG, OOGMERKE EN TOEPASSING****Woordomskrywing**

1. In hierdie Wet, tensy dit uit die samehang anders blyk, beteken—
- “**bedreigde spesie**” ’n inheemse spesie wat deur die IUCN gelys word as ’n bedreigde spesie, en ook ’n spesie wat ingevolge artikel 49(2)(c) deur die Provinsiale Minister gelys word; 25
- “**beperkte aktiwiteit**” ’n aktiwiteit wat kragtens artikel 49(1) of (7) as ’n beperkte aktiwiteit gelys word;
- “**beperkte metode**” ’n metode wat kragtens artikel 49(1) of (7) as ’n beperkte metode gelys word; 30
- “**bergopvangsgebied**” ’n gebied beoog in artikel 40;
- “**beskermd gebied**” ’n beskermd gebied beoog in artikel 9 van die Wet op Beskermd Gebiede;
- “**beskermd omgewing**” dieselfde as wat “protected environment” in die Wet op Beskermd Gebiede beteken; 35
- “**beskermd spesie**” ’n spesie wat ingevolge artikel 49(2)(e) deur die Provinsiale Minister gelys word;
- “**bewaring**”, met betrekking tot biodiversiteit en die natuur, die beskerming, versorging, bestuur, rehabilitasie en instandhouding van ekosisteme, habitats en inheemse spesies en bevolkings, insluitende genetiese veranderlikheid binne ekosisteme en spesies, om die natuurlike toestande vir hul langtermynvoortbestaan en die ekosisteedienste wat hulle verskaf, te beveilig, en “**bewaar**” het ’n ooreenstemmende betekenis; 40
- “**biodiversiteit**” die verskeidenheid onder lewende organismes van alle bronne, insluitende aardse, mariene en ander akwatiese ekosisteme en die ekologiese samestel waarvan hulle deel is, en ook diversiteit binne en tussen spesies, binne en tussen bevolkings, en van ekosisteme; 45
- “**biodiversiteitseconomie**” die sakeondernemings en ekonomiese aktiwiteite wat óf direk van biodiversiteit afhanklik is vir hul besigheid óf wat deur hul aktiwiteite tot die bewaring van biodiversiteit bydra; 50
- “**biodiversiteitsmikpunt**” die kwantitatiewe hoeveelheid van enige biodiversiteitskenmerk, insluitende biodiversiteitspatrone of ekologiese prosesse, wat

- vir bewaring geprioritiseer behoort te word om die langtermynoorlewing en -voortbestaan van die biodiversiteitskenmerk te verseker;
- “biodiversiteitsopsigterskapsgebied”** ’n stuk grond beoog in artikel 42;
- “biodiversiteitsopsigterskapsoreenkoms”** ’n ooreenkoms aangegaan tussen die Hoof- Uitvoerende Beampte en ’n grondeienaar wat die verpligtinge van die partye uiteensit om die bewaring van ’n biodiversiteitsprioriteitsgebied te verseker; 5
- “biodiversiteitsprioriteitsgebied”** ’n gebied in die landskap of seenskap wat van belang is vir die bewaring van ’n verteenwoordigende voorbeeld van ekosisteme en spesies, die instandhouding van ekologiese prosesse en ekologiese infrastruktuur of die verskaffing van ekosisteemdienste; 10
- “biodiversiteitsteëwig”** meetbare bewaringshandelinge wat ontwerp is om die oorblywende nadelige uitwerkings van enige aktiwiteit, of die implementering van enige plan, op biodiversiteit of ekologiese infrastruktuur teë te werk nadat alle pogings opeenvolgend aangewend is om sodanige uitwerkings te vermy en te minimeer en om die skade te rehabiliteer of reg te stel, en ook die uitkomste van sodanige maatreëls; 15
- “Biodiversiteitswet”** die “National Environmental Management: Biodiversity Act, 2004” (Wet 10 van 2004);
- “biosfeerreservaat”** ’n gebied aangewys vir insluiting by die Wêreldnetwerk van Biosfeerreservate deur die Internasionale Koördinerende Raad van UNESCO se Mens en die Biosfeer-program; 20
- “Biosfeerreservaatraamwerkplan”** die ruimtelike plan wat soos beoog in artikel 45 vir ’n biosfeerreservaat opgestel is;
- “buitelimietspesie”** ’n spesie beoog in paragraaf (b) van die omskrywing van “uithemse spesie”, en ook ’n spesie wat ingevolge artikel 49(2)(g) deur die Provinsiale Minister gelys word; 25
- “CapeNature”** die provinsiale openbare instelling beoog in artikel 9;
- “CITES”** die Konvensie oor Internasionale Handel in Bedreigde Spesies van Wilde Fauna en Flora, Washington, D.C., Verenigde State van Amerika, 1973;
- “Departement”** die provinsiale departement wat vir omgewingsake in die Provinsie verantwoordelik is; 30
- “Departementshoof”** die hoof van die provinsiale departement wat vir omgewingsake in die Provinsie verantwoordelik is;
- “derivaat”**, met betrekking tot ’n dier, plant of ander organisme, enige gedeelte, weefsel of ekstrak van die dier, plant of ander organisme, hetsy vars, gepreserveer of verwerk, en ook enige genetiese materiaal of chemiese verbinding afkomstig van sodanige gedeelte, weefsel of ekstrak; 35
- “ekologiese infrastruktuur”** die natuurlik funksionerende ekosisteme, insluitende bergopvangsgebiede, waterhulpbronne, kusduine, vleilande en nodes en korridors van natuurlike habitat, wat saam netwerke van onderling verbonde strukturele elemente in die landskap vorm wat waardevolle ekosisteemdienste vir mense skep of lewer; 40
- “ekosisteem”** ’n dinamiese samestel van dier-, plant- en mikroörganismiese gemeenskappe en hul nielewendende omgewing wat as ’n funksionele eenheid op mekaar inwerk, wat aan land, aan die kus, binnelands akwaties, estuaries of marien of ’n kombinasie daarvan kan wees; 45
- “ekosisteemdienste”** die voordele wat mense uit ekosisteme put, welke voordele die volgende insluit:
- (a) voorraaddienste, soos die produksie van voedsel en verskaffing van water;
- (b) reguleringsdienste, soos die beheer van die klimaat, luggehalte of siekte- en ramprisikovermindering; 50
- (c) ondersteuningsdienste, soos voedingstofsiklusse, grondformasie en gewasbestuiwing; en
- (d) kultuurdienste, soos geestelike en ontspanningsvoordele;
- “eksemplaar”**— 55
- (a) enige lewende of dooie dier, plant of ander organisme;
- (b) ’n saad, eier, gameet of voortbrengsel of gedeelte van ’n dier, plant of ander organisme wat tot propagasie of voortplanting of die oordrag op enige wyse van genetiese eienskappe in staat is;
- (c) enige derivaat van enige dier, plant of ander organisme; of 60
- (d) enige goedere wat—
- (i) ’n derivaat van ’n dier, plant of ander organisme bevat; of

- (ii) volgens 'n meegaande dokument, volgens die verpakking of merk of etiket of volgens enige ander aanduidings 'n derivaat van 'n dier, plant of ander organisme blyk te wees of te bevat;
- “erenatueurbewaringsbeampte”** 'n persoon wat ingevolge artikel 56(a)(iii) aangewys is; 5
- “erfenishulpbron”** enige plek of voorwerp met kulturele betekenis;
- “gelyste spesie”** 'n spesie wat in 'n lys beoog in artikel 49(2) ingesluit is;
- “genetiese materiaal”** enige materiaal van dierlike, plantaardige, mikrobiële of ander biologiese oorsprong wat funksionele eenhede van oorerflikheid bevat;
- “gevangenskap”**, met betrekking tot 'n wilde dier, die aanhouding in 'n kamp deur middel van 'n heining, muur of versperring van enige aard of die implementering van enige metode op so 'n wyse dat die wilde dier nie op 'n natuurlike wyse na homself kan omsien nie;
- “gif”** ook enige preparaat of stof wat gebruik kan word om enige dier, plant of ander organisme te vang, immobiliseer, steriliseer, vrek te maak of fisies skade aan te doen; 15
- “grondeienaar”** die geregistreerde eienaar van grond, behalwe dat indien—
- (a) die grond nie deur die geregistreerde eienaar bewoon word nie, beteken dit die persoon—
- (i) wat die grond wettig okkupeer; 20
- (ii) wat algemene beheer oor die grond uitoefen;
- (iii) wat enige geregistreerde saaklike reg tot die grond het, onderhewig aan enige ander wet; of
- (iv) wat skriftelik deur die geregistreerde eienaar gemagtig is om sy of haar regte of pligte met betrekking tot die grond te volvoer; 25
- (b) die grond deur 'n assosiasie van persone besit word, hetsy geïnkorporeer of nie geïnkorporeer nie, beteken dit die persoon wat skriftelik deur die assosiasie as die eienaar aangewys is;
- (c) die grond onder die beheer of bestuur van 'n munisipaliteit is, beteken dit die munisipale bestuurder; 30
- (d) die geregistreerde eienaar of die persoon wat in paragraaf (a) of (b) as die eienaar omskryf word—
- (i) dood is;
- (ii) insolvent is;
- (iii) sy of haar boedel tot voordeel van sy of haar krediteure afgestaan het; 35
- (iv) deur 'n hofbevel onder kuratorskap geplaas is; of
- (v) 'n maatskappy is wat gelikwieder word of onder geregtelike bestuur is, beteken dit die persoon by wie die administrasie van die grond berus as ekskuteur, administrateur, trustee, regverkrygende, kurator, likwidateur of geregtelike bestuurder, na gelang van die geval; of 40
- (e) die grond openbare kuseiendom is, beteken dit die nasionale departement wat ingevolge artikel 11 en 12 van die Wet op Geïntegreerde Kusbestuur vir die nakoming van die verpligtinge van die staat as openbare trustee van openbare kuseiendom verantwoordelik is;
- “Grondwet”** die Grondwet van die Republiek van Suid-Afrika, 1996; 45
- “habitat”** 'n plek waar 'n spesie of ekologiese gemeenskap natuurlik voorkom;
- “hierdie Wet”**, behalwe in artikel 4, ook ondergeskikte wetgewing wat ingevolge hierdie Wet gemaak of uitgereik is;
- “Hoof- Uitvoerende Beampte”** die Hoof- Uitvoerende Beampte van CapeNature wat ingevolge artikel 27 aangestel is; 50
- “indringerspesie”** enige spesie waarvan die vestiging en verspreiding buite sy natuurlike verspreidingsgebied—
- (a) ekosisteme, habitats, ekologiese infrastruktuur of ander spesies bedreig of die potensiaal het om ekosisteme, habitats, ekologiese infrastruktuur of ander spesies te bedreig; en 55
- (b) tot ekonomiese of omgewingskade of skade aan mense se gesondheid kan lei;
- “inheems”**—
- (a) met betrekking tot 'n spesie, 'n spesie wat natuurlik en in 'n vrye toestand binne die grense van die Republiek voorkom, of in die verlede voorgekom het, maar nie ook 'n spesie wat as gevolg van menslike aktiwiteit in die Republiek bekendgestel is nie; en 60
- (b) met betrekking tot 'n eksemplaar, 'n inheemse plant of wilde dier van 'n spesie beoog in paragraaf (a);

- “inheemse biologiese hulpbronne”** enige hulpbron wat bestaan uit—
- (a) enige eksemplaar van ’n inheemse spesie; of
- (b) enige genetiese materiaal van sodanige eksemplaar;
- “invoer”** om—
- (a) in die Provinsie te land of in te bring, of in die Provinsie bekend te stel, of om te poog om in die Provinsie te land of in te bring of in die Provinsie bekend te stel; of 5
- (b) in die Provinsie in te bring vir heruitvoer na ’n plek buite die Provinsie;
- “IUCN”** die Internasionale Unie vir die Bewaring van die Natuur, ingestel in Fontainebleau, Frankryk, 1948; 10
- “jag”**, met betrekking tot ’n wilde dier, ’n dier wat aan ’n nie-inheemse spesie behoort of ’n verwilde dier, om—
- (a) die dier te soek;
- (b) die dier te agtervolg, volg of aan te jaag;
- (c) die dier in te wag of met opset te versteur; of 15
- (d) op die dier te skiet of die dier te vergiftig,
- op enige wyse hoegenaamd met die doel om dit vrek te maak, te beseer of te vang of te probeer vrekmaak, beseer of vang;
- “klimaatsverandering”** ’n verandering in klimaat wat direk of indirek toegeskryf word aan menslike aktiwiteit wat die samestelling van die wêreld se atmosfeer verander en wat bykomend is tot natuurlike klimaatsveranderlikheid waargeneem oor vergelykbare tydperke; 20
- “koerant”** ’n maandelikse, weeklikse of daaglikse publikasie wat nuusberigte, glansartikels, resensies en advertensies bevat, insluitende so ’n publikasie wat deur die internet gekommunikeer en ontvang word; 25
- “kritiek bedreigde spesie”** ’n inheemse spesie wat deur die IUCN gelys word as ’n kritiek bedreigde spesie, en ook spesies wat ingevolge artikel 49(2)(b) deur die Provinsiale Minister gelys word;
- “kwesbare spesie”** ’n inheemse spesie wat deur die IUCN gelys word as ’n kwesbare spesie, en ook ’n spesie wat ingevolge artikel 49(2)(d) deur die Provinsiale Minister gelys word; 30
- “lang termyn”** ’n tydperk van 50 jaar of langer;
- “lugvaartuig”** ’n tuig van enige aard wat in die lug beweeg, hetsy beman of onbeman en hetsy selfgedrewe al dan nie;
- “magtiging”** enige registrasie, sertifikaat, lisensie, permit of ander skriftelike toestemming uitgereik of verleen ingevolge hierdie Wet wat die persoon aan wie dit uitgereik of verleen is, magtig om enigiets te doen wat andersins verbied sou wees, en ook ’n geïntegreerde magtiging beoog in artikel 54; 35
- “mak spesie”** enige spesie waarvoor daar geen ekwivalente bevolking in die natuur bestaan nie en wat deur mense beïnvloed is om in menslike behoeftes te voorsien, en ook ’n spesie wat ingevolge artikel 49(2)(j) deur die Provinsiale Minister gelys word; 40
- “nadelige uitwerking”** enige werklike, potensiële of kumulatiewe negatiewe impak op biodiversiteit, ekosisteedienste of ekologiese infrastruktuur wat meer as onbeduidend is; 45
- “Nasionale Minister”** die lid van die Nasionale Kabinet verantwoordelik vir omgewingsake;
- “natuurbewaringsbeampte”** ’n persoon wat ingevolge artikel 56(a)(i) aangewys is;
- “natuurbewaringsveldwagter”** ’n persoon wat ingevolge artikel 56(a)(ii) aangewys is; 50
- “omgewing”** die omgewing waarbinne mense leef en wat bestaan uit—
- (a) die grond, water en atmosfeer van die aarde;
- (b) mikroorganismes en plant- en dierelewe;
- (c) enige gedeelte of kombinasie van die omgewings beoog in paragrafe (a) en (b) en die onderlinge verhouding onder en tussen mekaar; en 55
- (d) die fisiese, chemiese, estetiese en kulturele eienskappe en toestande van die omgewings beoog in paragrafe (a), (b) en (c) wat die gesondheid en welsyn van mense beïnvloed;
- “omgewingswetgewing”**— 60
- (a) die Wet op Omgewingsbewaring, 1989 (Wet 73 van 1989);
- (b) die Nasionale Waterwet, 1998 (Wet 36 van 1998);

- (c) die National Environmental Management: Air Quality Act, 2004 (Wet 39 van 2004);
- (d) die National Environmental Management: Waste Act, 2008 (Wet 59 van 2008);
- (e) die Wet op Beskernde Gebiede; 5
- (f) die Biodiversiteitswet;
- (g) die Wet op Geïntegreerde Kusbestuur; en
- (h) die Wet op die Wêrelderfeniskonvensie, 1999 (Wet 49 van 1999);
- “ondergeskikte wetgewing”** enige—
- (a) regulasie gemaak; of 10
- (b) kennisgewing gepubliseer in die *Provinsiale Koerant*, deur die Provinsiale Minister ingevolge hierdie Wet;
- “ontwikkeling”** enige proses wat deur ’n persoon begin is om die gebruik, fisiese aard, voorkoms, vorm of funksie van ’n plek te verander, en ook—
- (a) die bou, oprigting, verandering, sloping of verwydering van ’n struktuur of gebou; 15
- (b) enige verandering aan die bestaande of natuurlike topografie van die grond;
- (c) die uitvoer van enige werke op, oor of onder ’n terrein;
- (d) die vernietiging of verwydering van inheemse plantegroei; en
- (e) ’n proses om grond te hersoneer, onderverdeel of te konsolideer; 20
- “openbare kuseiendom”** dieselfde as wat “coastal public property” in die Wet op Geïntegreerde Kusbestuur beteken;
- “Ordonnansie”** die Ordonnansie op Natuurbewaring, 1974 (Ordonnansie 19 van 1974);
- “perseel”** enige grond, terrein, eiendom, gebou, struktuur of enige gedeelte van enige grond, terrein, eiendom, gebou of struktuur, en ook enige houer en enige voertuig, trein, treintrok, vaartuig, lugvaartuig of ander vervoermiddel; 25
- “persoon”** ’n—
- (a) natuurlike persoon; of
- (b) regspersoon, insluitende enige— 30
- (i) geïnkorporeerde of niegeïnkorporeerde liggaam wat ingevolge enige wet ingestel is;
- (ii) vennootskap of trust; of
- (iii) staatsorgaan wat as ’n regspersoon ingestel is;
- “Premier”** die Premier van die Provinsie; 35
- “provinsiale beskernde gebied”** ’n “provincial protected area” soos omskryf in die Wet op Beskernde Gebiede, waarby ingesluit kan word ’n natuurreservaat in die Provinsie wat ingevolge artikel 23(1) van die Wet op Beskernde Gebiede verklaar is of ’n natuurreservaat in die Provinsie wat geag word ingevolge artikel 23(5) van daardie Wet verklaar te wees; 40
- “Provinsiale Minister”** die lid van die Provinsiale Kabinet verantwoordelik vir omgewingsake in die Provinsie;
- “Provinsie”** die Provinsie Wes-Kaap, en **“provinsiaal”** het ’n ooreenstemmende betekenis;
- “Raad”** die beheerraad van CapeNature soos beoog in artikel 12; 45
- “regulasie”** ’n regulasie kragtens hierdie Wet gemaak;
- “riviermonding”** ’n liggaam bogrondse water—
- (a) wat permanent of van tyd tot tyd na die see oop is;
- (b) waarin ’n styging en daling van die watervlak as gevolg van die getye tydens springgetye meetbaar is wanneer die liggaam bogrondse water oop is na die see; of 50
- (c) ten opsigte waarvan die southeid hoër as vars water is as gevolg van die invloed van die see, en waar daar ’n southeidshelling tussen die getyloop en die mond van die liggaam bogrondse water is,
- en **“estuaries”** het ’n ooreenstemmende betekenis; 55
- “Ruimtelike Biodiversiteitsplan”** ’n plan beoog in artikel 34;
- “spesie”** ’n soort dier, plant of ander organisme wat nie gewoonlik met andersoortige individue kruisteel nie, en ook enige subspesie, kultivar, variëteit, geografiese ras, lyn, hibried of geografies aparte bevolking;
- “staatsorgaan”**— 60
- (a) enige staatsdepartement of administrasie in die nasionale, provinsiale of plaaslike regeringsfeer; of

- (b) enige ander funksionaris of instelling—
- (i) wat ingevolge die Grondwet of 'n provinsiale grondwet 'n bevoegdheid uitoefen of 'n werksaamheid verrig; of
  - (ii) wat ingevolge enige wetgewing 'n openbare bevoegdheid uitoefen of 'n openbare werksaamheid verrig, 5
- maar nie ook 'n hof of 'n regterlike beampte nie;
- “stelselmatige biodiversiteitsbeplanning”** 'n beplanningsmetode wat biodiversiteitsprioriteitsgebiede identifiseer, met inagneming van biodiversiteitspatrone en die ekologiese en evolusionêre prosesse wat dit onderhou, gebaseer op kwantitatiewe biodiversiteitsmikpunte en -drempels vir akwatiese, land-, kus- en marine biodiversiteitskenmerke ten einde 'n verteenwoordigende voorbeeld van biodiversiteitspatrone en ekologiese prosesse te bewaar; 10
- “Strafproseswet”** die Strafproseswet, 1977 (Wet 51 van 1977);
- “toegang en die deel van voordele”** die regverdige en billike deel van voordele wat uit die gebruik van inheemse biologiese hulpbronne ontstaan; 15
- “Uitbreidingsstrategie vir Provinsiale Beskermdede Gebiede”** die strategie beoog in artikel 39(1)(a);
- “uitheemse spesie”**—
- (a) 'n spesie wat nie 'n inheemse spesie is nie;
  - (b) 'n inheemse spesie wat deur menslike tussenkoms verskuif is of beoog word om verskuif te word na 'n plek buite sy natuurlike verspreidingsgebied in die natuur, maar nie 'n inheemse spesie wat sy natuurlike verspreidingsgebied deur middel van natuurlike migrasie of verstrooiing sonder menslike tussenkoms uitgebrei het nie; 20
  - (c) 'n spesie wat ingevolge artikel 49(2)(h) deur die Provinsiale Minister gelys word; 25
- “uitvoer”** die verplasing van enige spesie of eksemplaar, of enige gedeelte of derivaat van sodanige spesie of eksemplaar, vanaf enige posisie of plek in die Provinsie op enige wyse na 'n ander provinsie van die Republiek of na 'n land buite die grense van die Republiek of na internasionale waters; 30
- “UNESCO”** die Verenigde Nasies se Opvoedkundige, Wetenskaplike en Kulturele Organisasie, en ook die Internasionale Koördinerende Raad van die Mens en die Biosfeer-program;
- “veerkragtigheid”**, met betrekking tot 'n ekosisteem of ekologiese infrastruktuur, die vermoë van die ekosisteem of ekologiese infrastruktuur om ontwrigtings te weerstaan en terselfdertyd dieselfde basiese struktuur en funksionering, die kapasiteit vir selforganisasie en die kapasiteit om by stres of verandering aan te pas, te behou; 35
- “versagtingsmaatreël”** 'n maatreël of reeks maatreëls wat daarop gemik is om 'n nadelige uitwerking te vermy, minimeer, rehabiliteer, herstel of reg te stel, ook deur middel van biodiversiteitsteëwigte; 40
- “verwilde dier”** 'n dier van 'n mak spesie wat wild geraak het;
- “volhoubaar”** die gebruik van of impak op biodiversiteit, ekosisteme of ekosisteedienste op 'n wyse en teen 'n koers wat—
- (a) nie tot die langtermynagteruitgang daarvan sal lei nie en wat vir 'n onbepaalde tyd volgehou kan word sonder om nadelige uitwerkings daarop te hê; 45
  - (b) nie die ekologiese integriteit daarvan in gevaar sal stel of ontwig nie; en
  - (c) die volgehoue voortbestaan daarvan verseker om aan die behoeftes en strewes van huidige en toekomstige generasies mense te voldoen;
- “Voorsitter”** die Voorsitter van die Raad aangestel ingevolge artikel 16(1)(a); 50
- “voorskryf”** voorskryf by regulasie;
- “vredesbeampte”** 'n persoon wat kragtens artikel 334(1) van die Strafproseswet tot vredesbeampte verklaar is;
- “wapen”** enigiets hoegenaamd wat op so 'n wyse gebruik kan word dat 'n wilde dier daardeur vreggemaak, beseer, gevang of geïmmobiliseer word; 55
- “waterdraer”** 'n geologiese formasie wat strukture of teksture het wat water hou of 'n aansienlike waterbeweging deurlaat;
- “waterhulpbron”** ook 'n waterloop, bogrondse water, 'n riviermonding en 'n waterdraer;
- “waterloop”**— 60
- (a) 'n rivier of bron;
  - (b) 'n natuurlike kanaal waarin water gereeld of wisselvallig vloei;
  - (c) 'n vleiland, meer of dam waarin of waaruit water vloei; en

- (d) enige versameling water wat ingevolge die Nasionale Waterwet, 1998, tot 'n waterloop verklaar is, en 'n verwysing na 'n waterloop sluit ook, waar van toepassing, sy bedding en oewers in;
- “welstand”** 'n toestand waar die lewenstoestand van 'n dierlike biologiese hulpbron bevorderlik is vir die dier se gesondheid; 5
- “Wes-Kaapse Grondwet”** die Grondwet van die Wes-Kaap, 1997 (Wet 1 van 1998);
- “Wet op Bergopvanggebiede”** die Wet op Bergopvanggebiede, 1970 (Wet 63 van 1970); 10
- “Wet op Beskermd Gebiede”** die “National Environmental Management: Protected Areas Act, 2003” (Wet 57 van 2003);
- “Wet op die Wes-Kaapse Natuurbewaringsraad”** die Wet op die Wes-Kaapse Natuurbewaringsraad, 1998 (Wet 15 van 1998);
- “Wet op Geïntegreerde Kusbestuur”** die “National Environmental Management: Integrated Coastal Management Act, 2008” (Wet 24 van 2008); 15
- “Wet op Openbare Finansiële Bestuur”** die Wet op Openbare Finansiële Bestuur, 1999 (Wet 1 van 1999);
- “Wet op Plaaslike Regering: Munisipale Stelsels”** die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000); 20
- “wilde dier”** 'n dier, uitgesluit 'n mak spesie en 'n mikroörganisme, ongeag of die dier lewendig of vrek, mak of geteel is of gevange gehou word, en ook die eiers, kuit, gamete, genetiese materiaal of enige gedeelte van so 'n dier.

## Oogmerke

2. Die oogmerke van hierdie Wet is om— 25
- (a) uitvoering te gee aan die verpligting van die staat ingevolge nasionale wetgewing om as trustee met betrekking tot die omgewing op te tree;
- (b) uitvoering te gee aan artikel 81(m) van die Wes-Kaapse Grondwet om die omgewing in die Provinsie, insluitende die unieke biodiversiteit daarvan, tot voordeel van huidige en toekomstige generasies te beskerm en bewaar; 30
- (c) die langtermyn- ekologiese volhoubaarheid en veerkragtigheid van biodiversiteit, ekosisteme, ekosisteedienste en ekologiese infrastruktuur te verseker deur die implementering van die beginsels van ekologiese volhoubaarheid beoog in artikel 6 en die beskerming van prioriteitsbiodiversiteit en ekologiese infrastruktuur; 35
- (d) menslike welsyn en die langtermynveerkragtigheid van die samelewing en die ekonomie te verseker deur die bewaring van beskermd gebiede, biodiversiteit, ekosisteme, ekosisteedienste en ekologiese infrastruktuur;
- (e) redelike en volhoubare toegang moontlik te maak tot voordele en geleenthede wat uit die bewaring van beskermd gebiede, biodiversiteit, ekosisteme, ekosisteedienste en ekologiese infrastruktuur ontstaan; 40
- (f) institusionele strukture en organisatoriese vermoë daar te stel vir die doeltreffende uitoefening van die bewaring en bestuur van biodiversiteit en die natuur in die Provinsie;
- (g) oorlegpleging, samewerking, geïntegreerde beplanning, besluitneming en bestuur ter ondersteuning van die bewaring en volhoubare gebruik van biodiversiteit en ekosisteedienste in die Provinsie te bevorder; 45
- (h) stelselmatige biodiversiteitsbeplanning en die bereiking van die biodiversiteitsmikpunte vir bewaring soos uiteengesit in die Ruimtelike Biodiversiteitsplan en die Uitbreidingsstrategie vir Provinsiale Beskermd Gebiede te bevorder; 50
- (i) sekere aktiwiteite wat onderneem staan te word, te reguleer op 'n wyse wat die integriteit en gesondheid van die omgewing verbeter en beskerm;
- (j) onderhewig aan artikel 231 van die Grondwet, internasionale ooreenkomste en beste praktyke rakende die omgewing en die bewaring van biodiversiteit te implementeer en daaraan uitvoering te gee; 55
- (k) die finansiële en ekonomiese volhoubaarheid van die betrokke instellings wat vir die bewaring en bestuur van biodiversiteit en die natuur in die Provinsie verantwoordelik is, moontlik te maak; en

- (l) 'n billike en volhoubare biodiversiteitseconomie in die Provinsie moontlik te maak en te ontwikkel, insluitende die bevordering en ontwikkeling van ekotoerisme in gebiede onder die beheer van CapeNature.

### **Toepassing**

3. Hierdie Wet bind die staat en alle persone. 5

### **Teenstrydighede met ander wetgewing**

4. (1) Indien daar 'n teenstrydigheid bestaan tussen 'n bepaling van hierdie Wet en—
- (a) nasionale wetgewing, moet die teenstrydigheid ingevolge artikel 146 van die Grondwet opgelos word;
  - (b) 'n ander provinsiale Wet, geniet die bepaling van hierdie Wet voorrang vir sover die teenstrydigheid betrekking het op bepalings wat die bewaring van biodiversiteit reguleer; 15
  - (c) munisipale wetgewing, geniet die bepaling van hierdie Wet voorrang vir sover die teenstrydigheid betrekking het op bepalings wat die volgende reguleer:
    - (i) aangeleenthede beoog in óf Deel A van Bylae 4 óf Deel A van Bylae 5 by die Grondwet; of 15
    - (ii) aangeleenthede beoog in Deel B van Bylae 4 of Deel B van Bylae 5 by die Grondwet en die bepaling 'n wettige uitoefening of verrigting van die bevoegdhede en pligte van die Provinsie kragtens artikel 155(6)(a) en (7) van die Grondwet is. 20
- (2) Indien daar 'n teenstrydigheid bestaan tussen ondergeskikte wetgewing wat ingevolge hierdie Wet gemaak is en—
- (a) nasionale wetgewing, moet die teenstrydigheid ingevolge artikel 146 van die Grondwet opgelos word;
  - (b) 'n provinsiale Wet, geniet daardie Wet voorrang; 25
  - (c) ander ondergeskikte provinsiale wetgewing, geniet die ondergeskikte wetgewing wat ingevolge hierdie Wet gemaak is, voorrang vir sover die teenstrydigheid verband hou met bepalings wat die bewaring van biodiversiteit reguleer;
  - (d) munisipale wetgewing, geniet die ondergeskikte wetgewing wat ingevolge hierdie Wet gemaak is, voorrang vir sover die teenstrydigheid verband hou met die aangeleenthede bedoel in subartikel (1)(c). 30

## **HOOFSTUK 2**

### **PLIGTE EN BEGINSELS**

#### **Plig van staat** 35

5. Elke staatsorgaan wat by of ingevolge enige wet gemagtig of vereis word om 'n bevoegdheid uit te oefen of 'n plig te verrig wat moontlik 'n nadelige uitwerking op die omgewing kan hê, moet by die uitoefening of verrigting van daardie bevoegdheid of plig ten opsigte van die Provinsie—
- (a) 'n langtermynperspektief neem van die waarskynlike uitwerking van elke handeling of besluit op die omgewing; en 40
  - (b) die beginsels van ekologiese volhoubaarheid beoog in artikel 6 toepas.

#### **Beginsels van ekologiese volhoubaarheid**

6. Elke staatsorgaan wie se besluite of handelinge biodiversiteit of die omgewing in die Provinsie moontlik kan raak, moet die beginsels van ekologiese volhoubaarheid toepas, naamlik om— 45
- (a) die voordele en inherente en gebruikswaarde van natuurlike hulpbronne en ekosisteme in aanmerking te neem;
  - (b) te verseker dat biodiversiteit en ekosisteme beskerm word, in stand gehou en gerehabiliteer word op 'n wyse wat die bereiking van biodiversiteitsmikpunte gestel deur die Provinsie vir bewaring moontlik maak; 50
  - (c) die veerkragtigheid van biodiversiteit, ekosisteme en ekologiese infrastruktuur te bevorder;

- (d) te verseker dat ontwikkeling nie die langtermynvoortbestaan en -veerkragtigheid van biodiversiteit, ekosisteme en ekologiese infrastruktuur ondermyn nie;
- (e) te verseker dat die bewaring en veerkragtigheid van biodiversiteit tot voordeel van huidige en toekomstige generasies voorrang geniet bo die belange van enige lid of lede van enige gemeenskap; 5
- (f) die ontwrigting van ekosisteme en verlies aan biologiese diversiteit te vermy of, waar dit nie volkome vermy kan word nie, te minimeer en reg te stel;
- (g) te verseker dat inheemse biologiese hulpbronne op 'n wyse gebruik word wat ekologies volhoubaar is en die welstand van enige betrokke dierlike biologiese hulpbron in ag neem; en 10
- (h) te verseker dat 'n risikobestande en versigtige benadering toegepas word sodat, waar daar onvoldoende bewys is dat 'n aktiwiteit nie 'n langtermyn-nadelige uitwerking sal hê nie, dit vermy behoort te word.

### HOOFSTUK 3

15

#### ADMINISTRASIE

##### Werkzaamhede van Provinsiale Minister

7. (1) Die Provinsiale Minister moet—
- (a) oor die Departementshoof, CapeNature en die Raad by die verrigting van hul werkzaamhede toesig hou; 20
  - (b) provinsiale beleid oor biodiversiteit en verwante aangeleenthede ontwikkel en implementeer;
  - (c) 'n Ruimtelike Biodiversiteitsplan en 'n Uitbreidingsstrategie vir Provinsiale Beskermdede Gebiede, soos beoog in artikels 34 en 39 onderskeidelik, aanneem; 25
  - (d) wanneer hy of sy 'n wets- of beleidsplan goedkeur, hersien of daarop kommentaar lewer, verseker dat die plan met die Ruimtelike Biodiversiteitsplan in ooreenstemming is; en
  - (e) gereeld die doeltreffendheid van die implementering en afdwinging van hierdie Wet evalueer. 30
- (2) Die Provinsiale Minister kan—
- (a) ondergeskikte wetgewing maak soos voor voorsiening gemaak in hierdie Wet;
  - (b) met die instemming van die Provinsiale Minister verantwoordelik vir finansies, provinsiale regeringsbesigheidsondernemings soos beoog in die Wet op Openbare Finansiële Bestuur instel om die oogmerke van hierdie Wet te bereik; 35
  - (c) voorskrifte aan die Raad uitreik om te verseker dat die Raad by die uitvoering van sy mandaat doeltreffend en doelmatig funksioneer;
  - (d) 'n raad van ondersoek aanstel om die gedrag van 'n lid van die Raad of die Raad te ondersoek, en gepaste maatreëls, soos beoog in artikel 21 of 32 40 onderskeidelik, tref; en
  - (e) enige ander werkzaamheid verrig wat by of kragtens hierdie Wet aan die Provinsiale Minister opgedra is.

##### Pligte van Departementshoof

8. Die Departementshoof moet, onderhewig aan artikel 7(1)(a) en (b)— 45
- (a) die Provinsiale Minister adviseer, wanneer die Provinsiale Minister sy of haar raad versoek en ná oorleg met CapeNature, oor regsangeleenthede, ondergeskikte wetgewing en provinsiale beleid rakende natuurbewaring, biodiversiteit en kus- en riviermondingsbestuur;
  - (b) ná oorleg met CapeNature, provinsiale strategieë en programme soos goedgekeur deur die Provinsiale Minister vir natuurbewaring, biodiversiteit, kus- en riviermondingsbestuur en die bevordering en ontwikkeling van die biodiversiteitseconomie koördineer; 50
  - (c) ooreenkomstig die Wet op Openbare Finansiële Bestuur die bevoegdhede uitoefen van rekenpligtige beampte verantwoordelik vir die fondse wat vir die implementering van hierdie Wet na CapeNature en ander instellings oorgedra word; 55

- (d) 'n stelsel daarstel—
- (i) om strategiese en jaarplanne en verbandhoudende programbegrotings vir natuurbewaring, biodiversiteit en kus- en riviermondingsbestuur, en die bevordering en ontwikkeling van die biodiversiteitseconomie in die Provinsie in ooreenstemming te bring; en 5
  - (ii) vir die monitering en verslagdoening van die doeltreffendheid van die gebruik van fondse oorgedra soos beoog in paragraaf (c) en soos voor beplan ooreenkomstig subparagraaf (i);
- (e) wets- en beleidsplanne wat ingevolge hierdie Wet opgestel word, oorweeg en daarop kommentaar lewer; 10
- (f) wanneer die Departementshoof vir die opstel of hersiening van of kommentaarlewing op 'n wets- of beleidsplan verantwoordelik is, verseker dat die plan met die Ruimtelike Biodiversiteitsplan in ooreenstemming is;
- (g) CapeNature met die implementering van die Uitbreidingsstrategie vir Provinsiale Beskermdede Gebiede ondersteun; en 15
- (h) aanbevelings aan die Provinsiale Minister maak oor hoe om die doeltreffendheid van die implementering en afdwinging van hierdie Wet te verbeter.

## HOOFSTUK 4

### CAPENATURE 20

#### *Deel 1*

#### *Instelling en werksaamhede van CapeNature*

##### **Instelling**

**9.** Die Wes-Kaapse Natuurbewaringsraad soos ingestel by die Wet op die Wes-Kaapse Natuurbewaringsraad bly voortbestaan as 'n regs persoon en 'n provinsiale openbare instelling wat vir die bewaring van biodiversiteit in die Provinsie verantwoordelik is, en staan bekend as CapeNature. 25

##### **Pligte van CapeNature**

- 10.** (1) Met betrekking tot die bewaring van biodiversiteit, en onderhewig aan artikel 7(1)(a), moet CapeNature— 30
- (a) aan die Provinsiale Minister gebiede aanbeveel om volgens die Uitbreidingsstrategie vir Provinsiale Beskermdede Gebiede as provinsiale beskermdede gebiede, beskermdede omgewings, bergopvangsgebiede en biodiversiteitsopsigterskapsgebiede te verklaar;
  - (b) provinsiale beskermdede gebiede en ander gebiede waarvoor hy as die 35 bestuursowerheid aangewys is, bestuur;
  - (c) biodiversiteitsopsigterskap bevorder en moontlik maak;
  - (d) 'n register van provinsiale beskermdede gebiede, beskermdede omgewings, bergopvangsgebiede en biodiversiteitsopsigterskapsgebiede byhou;
  - (e) nadat 'n evaluasie en verifikasie onderneem is, aan die Provinsiale Minister 40 aanbevelings maak en kommentaar lewer oor skriftelike verstoë of besware wat ingevolge artikel 33 van die Wet op Beskermdede Gebiede ontvang is oor die verklaring of intrekking van die verklaring van 'n beskermdede gebied;
  - (f) ná oorleg met die Departementshoof, die Provinsiale Minister adviseer oor— 45
    - (i) ondergeskikte wetgewing en beleid wat die Provinsiale Minister ten opsigte van biodiversiteitsverwante aangeleenthede staan te maak; en
    - (ii) die uitoefening van die Provinsiale Minister se bevoegdhede ingevolge artikel 7(1)(b), (c), (d) en (e);
  - (g) 'n stelsel daarstel vir die monitering en verslagdoening van— 50
    - (i) die stand van biodiversiteit in die Provinsie;
    - (ii) die stand van indringerspesies;
    - (iii) die volhoubare gebruik van inheemse biologiese hulpbronne;
    - (iv) die bestuur van provinsiale beskermdede gebiede, beskermdede omgewings, wêrelderfenisgebiede, bergopvangsgebiede en 55 biodiversiteitsopsigterskapsgebiede; en

- (v) voldoening aan magtigings uitgereik kragtens hierdie Wet, ten einde—
- (aa) dit moontlik te maak om nadelige uitwerkings betyds te bespeur en versag; en
- (bb) die evaluasie van die doeltreffendheid van hierdie Wet te fasiliteer; 5
- (h) biodiversiteitsbestuursplanne soos beoog in artikel 43 van die Biodiversiteitswet opstel wanneer die Provinsiale Minister dit versoek;
- (i) raad aan grondeienaars gee om biodiversiteit of die bewaring van die omgewing op hul grond te verbeter of hoe om die kontakgebied tussen mense en inheemse biologiese hulpbronne te bestuur; 10
- (j) die Provinsiale Minister adviseer oor die uitvoer van inheemse biologiese hulpbronne vir navorsing;
- (k) aanbevelings aan die Provinsiale Minister maak oor aangeleenthede wat navorsing benodig;
- (l) binne twee jaar vanaf die inwerkingtreding van hierdie Wet en daarna met tussenposes van hoogstens vier jaar, soos vereis deur die Provinsiale Minister, verslag doen aan die Provinsiale Minister oor die stand van biodiversiteit in die Provinsie; 15
- (m) op grond wat CapeNature bestuur, natuurlike en verwante kulturele erfenishulpbronne bestuur, bewaar en bevorder deur beste praktyke, toegang en die deel van voordele, en volhoubare gebruikspraktyke; 20
- (n) ruimtelike ontwikkelingsraamwerke en aansoeke om omgewings-, water-, landbou- en myn magtigings nagaan en op die bestaanbaarheid daarvan met die oogmerke van die Ruimtelike Biodiversiteitsplan kommentaar lewer;
- (o) in gebiede onder sy beheer, maatreëls tref wat nodig of wenslik is vir die bewaring van biodiversiteit of die bestuur van nadelige uitwerkings daarop; 25
- (p) nievoldoening en misdrywe ingevolge hierdie Wet inspekteer en ondersoek; en
- (q) in gebiede onder sy beheer, maatreëls tref wat nodig is vir die veiligheid van besoekers. 30
- (2) CapeNature moet—
- (a) die ontwikkeling en bevordering van ekotoerisme-aktiwiteite en -fasiliteite bestuur op grond wat CapeNature bestuur;
- (b) navorsing, monitering en opleiding in biodiversiteitsbewaring vergemaklik; en 35
- (c) met betrekking tot grond onder sy beheer, die volgende bevorder:
  - (i) gemeenskapsgebaseerde bewaring van biodiversiteit;
  - (ii) werkskepping ten opsigte van bewaring en ekotoerisme, plaaslike ekonomiese ontwikkelingsgeleenthede en die biodiversiteitseconomie; 40
  - (iii) toegang tot beskermde gebiede vir ontspannings-, opvoedkundige, navorsings-, kulturele, geestelike en tradisionele doeleindes; en
  - (iv) omgewingsbewusmaking, opvoeding en jeugontwikkeling.

### Bevoegdhede van CapeNature

- 11.** (1) CapeNature kan, onderhewig aan die Wet op Openbare Finansiële Bestuur, inkomste op enige wettige wyse genereer, insluitende deur— 45
  - (a) toegangsgelde, magtigings, konsessies en huurkontrakte;
  - (b) natuurgebaseerde ekotoerismefasiliteite, byeenkomste en dienste;
  - (c) aktiwiteite in die biodiversiteitseconomie;
  - (d) instandhouding van ekosisteedienste;
  - (e) geld afkomstig van intellektuele eiendomsregte; en 50
  - (f) bewaring en ander dienste.
- (2) CapeNature kan, met die doel om sy werksaamhede te verrig en die oogmerke van hierdie Wet te bereik—
  - (a) onderhewig aan artikel 27(1), sy eie personeel aanstel;
  - (b) onderhewig aan enige provinsiale beleid beoog in artikel 7(1)(b), enige skriftelike ooreenkoms met enige persoon aangaan; 55
  - (c) onderhewig aan die goedkeuring van die Provinsiale Minister en die Provinsiale Minister verantwoordelik vir finansies, onroerende eiendom of enige saaklike reg of minerale reg in onroerende eiendom huur, koop of andersins verkry; 60
  - (d) enige reg op of tot roerende eiendom verkry, vervreem, huur of verhuur;

- (e) eksperimente doen, navorsing onderneem, opnames doen en ondersoek uitvoer;
- (f) met opvoedkundige instellings onderhandel en saamwerk ten opsigte van die opleiding van persone vir loopbane in natuurbewaring;
- (g) inligting in verband met bewaring wat die bereiking van die oogmerke van hierdie Wet kan bevorder, vertoon of andersins versprei; 5
- (h) sy oogmerke, aktiwiteite, dienste en fasiliteite bemark en adverteer;
- (i) infrastruktuur, werke of geriewe in gebiede onder sy beheer in stand hou, bou, oprig, sloop of verwyder;
- (j) toelaat dat kommersiële en gemeenskapsaktiwiteite plaasvind in enige gebied onder sy beheer mits daardie aktiwiteite nie 'n nadelige uitwerking op biodiversiteit of die ekologiese infrastruktuur in daardie gebied het nie; 10
- (k) op enige grond of in enige waterloop die bakens, drywende bakens, kennisgewings, kennisgewingborde, tekens of ander merke wat vir die implementering van enige bepaling van hierdie Wet nodig of wenslik is, oprig, heroprig, in stand hou en herstel; 15
- (l) een of meer advieskomitees instel om hom by te staan met die verrigting van enige van sy werksaamhede ingevolge hierdie Wet;
- (m) sy eie bankrekening open, maar slegs by 'n instelling wat ingevolge die Bankwet, 1990 (Wet 94 van 1990), as 'n bank geregistreer is; 20
- (n) fondse belê, onderhewig aan Deel 5 van hierdie Hoofstuk;
- (o) onderhewig aan die Wet op Openbare Finansiële Bestuur, homself teen enige verlies, skade of risiko verseker;
- (p) enige handeling ooreenkomstig sy bevoegdheid en pligte verrig; en
- (q) enige regsgeeding instel of verdedig. 25
- (3) Indien CapeNature op redelike gronde tevrede is dat dit gepas en nodig is om stappe te doen vir die bewaring van biodiversiteit, kan 'n beampde of persoon aangewys deur CapeNature privaat grond betree—
- (a) met die toestemming van die grondeienaar; of
- (b) in 'n situasie wat 'n dreigende gevaar vir menselewe of biodiversiteit inhou, sonder sodanige toestemming. 30
- (4) CapeNature kan te eniger tyd, met betrekking tot enige eksemplaar van enige spesie, enige stappe doen of magtig, insluitende 'n beperkte aktiwiteit of beperkte metode, indien die eksemplaar—
- (a) 'n dreigende gevaar van besering of dood vir mense of enige mak spesie inhou; 35
- (b) gewond, siek of beseer is;
- (c) skade aan gewasse of plante op bewerkte grond of ander eiendom aanrig;
- (d) 'n nadelige uitwerking op inheemse spesies, ekosisteme of die omgewing het of kan hê; of 40
- (e) in die belang van bewaring gevang of vrekmaak behoort te word.
- (5) Indien 'n wilde dier gedurende 'n jagtog gevang of gekwes is, kan CapeNature, indien hy nie die identiteit van die eienaar kan vasstel nie, die dier vrekmaak en die karkas vernietig.
- (6) Voordat enige bevoegdheid ingevolge hierdie artikel uitgeoefen word op grond wat nie onder sy beheer is nie, moet CapeNature, indien redelikerwys moontlik— 45
- (a) met die grondeienaar oorleg pleeg; en
- (b) redelike kennis aan die grondeienaar gee van die tyd wanneer, die plek waar en die wyse waarop CapeNature van voorneme is om daardie bevoegdheid uit te oefen. 50

## Deel 2

### Beheerraad van CapeNature

#### Werksaamhede van Raad

12. (1) CapeNature word bestuur deur 'n Raad wat sy rekenpligtige owerheid is en aan die vereistes van die Wet op Openbare Finansiële Bestuur moet voldoen. 55
- (2) Die Raad moet—
- (a) doeltreffende bestuurtoesig van CapeNature handhaaf;
- (b) verseker dat CapeNature sy werksaamhede ingevolge hierdie Wet verrig;
- (c) voldoening aan die beleid en strategieë van CapeNature goedkeur en monitor;
- (d) strategiese rigting aan CapeNature verskaf; 60

- (e) 'n raadshandves opstel om vir 'n gedragskode vir raadslede en vergaderingsprosedures voorsiening te maak en om aangeleenthede in verband met korporatiewe bestuurtoesig verder te reguleer;
  - (f) risikogebiede en prestasie ten opsigte van CapeNature identifiseer en gereeld monitor; en 5
  - (g) pleit vir genoeg hulpbronne vir CapeNature om sy werksaamhede te verrig.
- (3) Die Raad moet sy werksaamhede onderhewig aan enige voorskrifte uitgereik deur die Provinsiale Minister verrig.

### Samestelling

- 13.** (1) Die Raad bestaan uit— 10
- (a) minstens sewe en hoogstens nege nie-uitvoerende lede, aangestel ingevolge artikel 15; en
  - (b) as uitvoerende lede—
    - (i) 'n beampte van die Departement, aangewys deur die Provinsiale Minister; en 15
    - (ii) die Hoof- Uitvoerende Beampte.
- (2) Die Provinsiale Minister—
- (a) moet die getal lede bepaal wat ingevolge subartikel (1)(a) aangestel staan te word; en
  - (b) kan die getal wat ingevolge paragraaf (a) bepaal is, verander, maar mag die 20 getal verminder slegs wanneer daar 'n vakature in die Raad is.
- (3) Slegs nie-uitvoerende lede kan ingevolge artikel 25 stem.

### Onbevoegdheid as lid van Raad

- 14.** 'n Persoon mag nie in die Raad aangestel word nie indien hy of sy—
- (a) 'n lid is van die nasionale Parlement, 'n provinsiale wetgewer of 'n munisipale 25 raad;
  - (b) 'n werknemer is—
    - (i) van CapeNature;
    - (ii) van 'n munisipaliteit; of
    - (iii) ingevolge die Staatsdienswet, 1994 (Proklamasie 103 van 1994), 30 uitgesonderd 'n persoon beoog in artikel 13(1)(b) van hierdie Wet;
  - (c) aan 'n misdaad skuldig bevind is waarby oneerlikheid betrokke was;
  - (d) 'n ongerehabiliteerde insolvent is; of
  - (e) deur 'n bevoegde hof geestelik versteur verklaar is.

### Aanstelling in Raad 35

- 15.** (1) Die Provinsiale Minister moet die nie-uitvoerende raadslede beoog in artikel 13(1)(a) aanstel.
- (2) Wanneer die Provinsiale Minister 'n nie-uitvoerende raadslid aanstel, moet die Provinsiale Minister—
- (a) deur middel van 'n kennisgewing in die *Provinsiale Koerant* en kennisgewings in twee koerante wat in die Provinsie sirkuleer, waarvan minstens een in gedrukte formaat moet wees, in die amptelike tale van die Provinsie, van die publiek benoemings aanvra van persone wat vir aanstelling geskik is; en
  - (b) alle benoemings wat ontvang is, oorweeg en, ná oorleg met die Departementshoof en die Hoof- Uitvoerende Beampte, die vereiste getal persone in die 45 Raad aanstel.
- (3) Wanneer die Provinsiale Minister 'n aanstelling in die Raad ingevolge subartikel (1) maak, moet die Provinsiale Minister—
- (a) verseker dat die persoon wat aangestel word, 'n geskikte en gepaste persoon vir sodanige aanstelling is; 50
  - (b) verseker dat die aangestelde persoon gepaste kwalifikasies, kennis en ondervinding het, wat die Provinsiale Minister kan bepaal; en
  - (c) in ag neem dat dit nodig is om persone aan te stel—
    - (i) wat oor die algemeen verteenwoordigend van die demografie van die Provinsie is; en 55
    - (ii) wat van gepaste gemeenskapsgebaseerde of verteenwoordigende organisasies in die Provinsie afkomstig is.

(4) Geen besluit geneem deur die Raad of handeling verrig op gesag van die Raad is ongeldig bloot omdat 'n vakature in die Raad bestaan het of omdat 'n persoon wat nie geregtig was om as 'n lid van die Raad te sit nie, in die Raad gesit het toe die besluit geneem of die handeling gemagtig is nie, indien die besluit geneem is of die handeling gemagtig is deur 'n meerderheid van die raadslede wat toe teenwoordig en geregtig was om as lede te sit. 5

### **Voorsitter van Raad**

**16.** (1) Die Provinsiale Minister, ná oorleg met die raadslede—

- (a) moet 'n nie-uitvoerende lid van die Raad as die Voorsitter en 'n ander nie-uitvoerende lid van die Raad as Ondervoorsitter aanstel of heraanstel; 10
- (b) kan, by aanvoering van grondige redes, enige sodanige aanstelling intrek.

(2) Die Voorsitter en Ondervoorsitter word aangestel vir 'n tydperk bepaal deur die Provinsiale Minister, wat nie langer as die termyn van 'n lid beoog in artikel 17 mag strek nie.

(3) Die Provinsiale Minister kan enige lid van die Raad as Waarnemende Voorsitter 15 van die Raad aanstel—

- (a) indien daar 'n vakature in die amp van Voorsitter en Ondervoorsitter is, totdat 'n Voorsitter of Ondervoorsitter aangestel is; of
- (b) indien die Voorsitter en Ondervoorsitter van twee of meer opeenvolgende vergaderings van die Raad afwesig is. 20

### **Ampstermyn van nie-uitvoerende lede van Raad**

**17.** (1) 'n Nie-uitvoerende lid van die Raad—

- (a) word vir 'n termyn van drie jaar aangestel, onderhewig aan artikel 22(2);
- (b) kom by die voltooiing van die termyn beoog in paragraaf (a) in aanmerking vir heraanstelling deur die Provinsiale Minister, ná oorleg met die Departementshoof en die Hoof- Uitvoerende Beampte, vir een bykomende termyn van drie jaar. 25

(2) Die Provinsiale Minister kan die tydperk van aanstelling van 'n nie-uitvoerende lid beoog in subartikel (1)(a) of (b) verleng vir 'n tydperk van hoogstens een jaar.

### **Voorwaardes van aanstelling en vergoeding 30**

**18.** (1) Die Provinsiale Minister, met die instemming van die Provinsiale Minister verantwoordelik vir finansies, moet die bepalings en voorwaardes van aanstelling van nie-uitvoerende lede van die Raad bepaal, insluitende betaling van vergoeding en toelaes soos deur die Nasionale Tesourie ingevolge die Wet op Openbare Finansiële Bestuur bepaal. 35

(2) CapeNature is verantwoordelik vir die betaling van vergoeding en toelaes aan nie-uitvoerende raadslede.

### **Gedrag van lede**

**19.** (1) 'n Lid van die Raad—

- (a) moet die werksaamhede van sy of haar amp te goeder trou en sonder vrees, 40 begunstiging of vooroordeel verrig;
- (b) moet aan die gedragskode beoog in artikel 12(2)(e) voldoen;
- (c) moet enige finansiële of persoonlike sakebelange verklaar wat die lid of sy of haar lewensmaat, gade of onmiddellike familielid het by enige aangeleentheid wat voor die Raad dien, en moet hom of haar van die verrigtinge van die Raad 45 onttrek wanneer daardie aangeleentheid oorweeg word;
- (d) mag nie vertroulike inligting wat as 'n lid van die Raad verkry is of die posisie of voorregte as 'n lid van die Raad vir eie gewin of tot voordeel van 'n ander persoon gebruik nie; en
- (e) mag nie op enige ander wyse optree wat die geloofwaardigheid, onpartydigheid, 50 onafhanklikheid of integriteit van CapeNature of die Raad oneer aandoen nie.

(2) 'n Lid van die Raad wat subartikel (1) oortree of versuim om daaraan te voldoen, is skuldig aan wangedrag.

**Beëindiging van lidmaatskap**

- 20.** 'n Nie-uitvoerende lid hou op om 'n lid van die Raad te wees indien—
- (a) die ampstermyn van die nie-uitvoerende lid verstryk; of
  - (b) die nie-uitvoerende lid—
    - (i) nie meer ingevolge artikel 14(a) tot (e) bevoeg is om 'n lid te wees nie; 5
    - (ii) minstens drie kalendermaande voor die datum waarop die lid sy of haar amp wil ontruim, sy of haar skriftelike bedanking indien, tensy die Provinsiale Minister 'n korter tydperk in 'n spesifieke geval toelaat; of
    - (iii) ingevolge artikel 21 uit sy of haar amp verwyder word.

**Verwydering en skorsing** 10

- 21.** (1) Die Provinsiale Minister kan 'n lid van die Raad uit sy of haar amp verwyder op enige van die volgende gronde:
- (a) wangedrag, onvermoë of onbekwaamheid;
  - (b) waar die lid van twee opeenvolgende vergaderings van die Raad afwesig was sonder die vooraf verkreë toestemming van die Voorsitter, tensy goeie gronde aangevoer kan word vir die versuim om vooraf toestemming te kry; 15
  - (c) insolvensie; of
  - (d) skuldigbevinding aan 'n strafregtelike oortreding waarby oneerlikheid betrokke was.
- (2) Die Provinsiale Minister— 20
- (a) moet die lid van die Raad uit sy of haar amp verwyder soos beoog in subartikel (1)(a) nadat 'n bevinding te dien effekte gemaak is deur 'n raad van ondersoek wat soos beoog in artikel 7(2)(d) deur die Provinsiale Minister aangestel is; en
  - (b) kan 'n lid van die Raad wat onderhewig is aan 'n ondersoek beoog in 25 paragraaf (a), skors.

**Vul van vakatures**

- 22.** (1) 'n Vakature in die Raad word gevul—
- (a) in die geval van die Voorsitter of Ondervoorsitter, deur 'n ander lid van die Raad as die Voorsitter of Ondervoorsitter, na gelang van die geval, aan te stel 30 soos beoog in artikel 16(1)(a); en
  - (b) in die geval van 'n nie-uitvoerende lid van die Raad, deur die prosedure beoog in artikel 15 te volg.
- (2) 'n Persoon wat aangestel is om 'n vakature te vul, beklee die amp vir die onverstreke gedeelte van die ampstermyn van sy of haar voorganger. 35

**Deel 3*****Bedryfsprosedures van Raad*****Vergaderings**

- 23.** (1) Die Raad moet minstens vier keer gedurende die finansiële jaar van CapeNature vergader, en die Voorsitter kan, en moet op versoek van 'n meerderheid van die lede van die Raad, 'n spesiale vergadering belê. 40
- (2) Die Voorsitter moet vergaderings van die Raad belê en voorsit, maar indien die Voorsitter van 'n vergadering afwesig is, moet die Ondervoorsitter voorsit.
- (3) Indien beide die Voorsitter en Ondervoorsitter van 'n vergadering afwesig is, moet die teenwoordige lede 'n ander lid kies om die vergadering voor te sit, onderhewig aan 45 artikel 16(3).

**Prosedures**

- 24.** (1) Die Raad moet sy eie prosedures vir die hou van vergaderings bepaal, onderhewig aan artikel 12(2)(e).
- (2) Die Raad moet 'n rekord van verrigtinge by vergaderings hou en van alle besluite 50 wat by vergaderings geneem is.
- (3) Die Raad kan enige lid van die publiek nooi om enige vergadering van die Raad by te woon.

### Kworum en besluite

25. (1) 'n Meerderheid van die nie-uitvoerende lede van die Raad maak 'n kworum vir 'n vergadering van die Raad uit.
- (2) 'n Aangeleentheid voor die Raad word beslis deur die stemme van 'n meerderheid van die nie-uitvoerende lede van die Raad wat by die vergadering teenwoordig is. 5
- (3) Indien daar in enige saak voor die Raad 'n staking van stemme is, moet die lid van die Raad wat die vergadering voorsit, 'n beslissende stem uitbring benewens sy of haar beraadslagende stem as 'n lid.

### Komitees

26. (1) Die Raad kan komitees instel, insluitende 'n ouditkomitee, om hom by te staan met die verrigting van sy werksaamhede, wat uit een of meer van die volgende bestaan: 10
- (a) lede van die Raad;
- (b) werknemers van CapeNature;
- (c) ander persone wat, na die mening van die Raad, toepaslike ondervinding of kundigheid het. 15
- (2) Die Raad—
- (a) moet die werksaamhede van elke komitee wat ingevolge subartikel (1) ingestel is, bepaal;
- (b) moet die komiteevoorsitter en ander lede van elke komitee aanstel;
- (c) kan te eniger tyd 'n lid van 'n komitee uit die komitee verwyder; en 20
- (d) moet die prosedures vir elke komitee bepaal.
- (3) 'n Komitee mag besluite slegs aanbeveel vir goedkeuring deur die Raad.
- (4) Die Raad kan 'n komitee te eniger tyd ontbind, behalwe die ouditkomitee.
- (5) Artikels 18 en 19 is van toepassing, met die nodige veranderinge, op komiteeledede.

## *Deel 4* 25

### *Administrasie van CapeNature*

#### Hoof- Uitvoerende Beampte

27. (1) Die Raad, handelend met die instemming van die Provinsiale Minister, moet 'n persoon met gepaste kwalifikasies en ondervinding as die Hoof- Uitvoerende Beampte van CapeNature aanstel. 30
- (2) Die Hoof- Uitvoerende Beampte—
- (a) word vir 'n termyn van vyf jaar aangestel; en
- (b) kan met die instemming van die Provinsiale Minister vir 'n verdere termyn van hoogstens vyf jaar deur die Raad heraangestel word.
- (3) Die Hoof- Uitvoerende Beampte word onderhewig aan bepalings en voorwaardes van indiensneming aangestel wat die Raad met die instemming van die Provinsiale Minister moet bepaal. 35
- (4) Die Hoof- Uitvoerende Beampte is vir die administratiewe en finansiële bestuur van CapeNature verantwoordelik en moet—
- (a) die Raad bystaan om sy werksaamheid as rekenpligtige owerheid van CapeNature uit te voer en aan die Wet op Openbare Finansiële Bestuur te voldoen deur te verseker dat daar stelsels in plek is om die inligting en verslae wat die Raad vereis, te verskaf; 40
- (b) die pligte verrig en die bevoegdhede uitoefen wat die Raad aan hom of haar opdra of delegeer; 45
- (c) aan die Raad verslag doen oor aspekte van bestuur, die verrigting van pligte en die uitoefening van bevoegdhede, op die tye en die wyse bepaal deur die Raad;
- (d) konsepweergawes van die planne, verslae en state beoog in artikel 28 opstel;
- (e) 'n toepaslik gekwalifiseerde Hoof- Finansiële Beampte aanstel; 50
- (f) personeel aanstel, binne die finansiële perke gestel deur die Raad en ooreenkomstig 'n indiensnemingsbeleid bepaal deur die Raad;
- (g) die personeellede bestuur;
- (h) verseker dat CapeNature aan die bepalings van hierdie Wet, die Wet op Openbare Finansiële Bestuur en enige ander toepaslike wetgewing voldoen; 55
- en

- (i) in die algemeen, die sake van CapeNature bestuur om die oogmerke van hierdie Wet te bereik.
- (5) Die Raad kan, met die instemming van die Provinsiale Minister, 'n werknemer van CapeNature as Waarnemende Hoof- Uitvoerende Beampte vir 'n tydperk van hoogstens ses maande op 'n keer aanstel wanneer— 5
- (a) die Hoof- Uitvoerende Beampte om enige rede afwesig is of nie in staat is om sy of haar werksaamhede te verrig nie; of
- (b) daar 'n vakature in die amp van die Hoof- Uitvoerende Beampte is.
- (6) 'n Waarnemende Hoof- Uitvoerende Beampte— 10
- (a) het die bevoegdhede en pligte van die Hoof- Uitvoerende Beampte; en
- (b) moet onderhewig aan dieselfde bepalinge en voorwaardes beoog in subartikel (3) aangestel word.

## *Deel 5*

### *Finansiële aangeleenthede*

#### **Finansiële rekenpligtigheid en verslagdoening** 15

**28.** Die Raad moet verseker dat strategiese en jaarlikse prestasieplanne, begrotings, jaarverslae en geouditeerde finansiële state ooreenkomstig die Wet op Openbare Finansiële Bestuur opgestel, goedgekeur en ingedien word.

#### **Fondse**

- 29.** (1) Die fondse van CapeNature bestaan uit— 20
- (a) inkomste verkry van die verrigting van sy werksaamhede soos beoog in artikel 11(1);
- (b) fondse wat deur die Provinsiale Parlement aan hom bewillig is;
- (c) toelaes en fondse wat van enige persoon ontvang is;
- (d) vrywillige bydraes, skenkings en bemakings; 25
- (e) inkomste wat van beleggings verkry word;
- (f) boetes ontvang of verhaal ten opsigte van misdrywe kragtens hierdie Wet; en
- (g) geld afkomstig van enige ander bron, met die goedkeuring van die Provinsiale Minister en die Raad, onderhewig aan die Wet op Openbare Finansiële Bestuur. 30
- (2) CapeNature moet sy fondse aanwend om sy werksaamhede beoog in artikels 10 en 11 te verrig en om—
- (a) sy en die Raad se bedryfs-, administratiewe en bestuurskoste te dek; en
- (b) by te dra tot die befondsing van sy kapitaal- en instandhoudingskoste.
- (3) Die Hoof- Uitvoerende Beampte moet verseker dat alle fondse wat ingevolge subartikel (1) ontvang is, in CapeNature se bankrekening gestort word. 35

#### **Reserwefondse**

**30.** (1) Die Raad kan, onderhewig aan die Wet op Openbare Finansiële Bestuur en met die instemming van die Provinsiale Minister verantwoordelik vir finansies, finansiële reserwes skep vanuit die fondse wat ingevolge artikel 29(1) ontvang is, ten einde sy werksaamhede te verrig. 40

(2) Enige oordragte na en van die finansiële reserwes moet deur die Raad bekragtig word.

#### **Beleggings**

**31.** Die Raad kan enige van die fondse van CapeNature wat nie onmiddellik benodig word nie, belê, onderhewig aan enige beleggingsbeleid wat ingevolge artikel 7(4) van die Wet op Openbare Finansiële Bestuur voorgeskryf word en met die instemming van die Provinsiale Minister verantwoordelik vir finansies. 45

**Deel 6****Ontbinding van Raad of CapeNature****Ontbinding van Raad**

**32.** (1) Indien die Provinsiale Minister op redelike gronde vermoed dat die Raad nie sy werksaamhede ingevolge artikel 12 verrig nie, moet hy of sy 'n voorskrif beoog in artikel 7(2)(c) uitreik. 5

(2) Indien die Provinsiale Minister nie tevrede is dat die Raad aan die voorskrif beoog in subartikel (1) voldoen het nie, kan die Provinsiale Minister die Raad by kennisgewing in die *Provinsiale Koerant* ontbind.

(3) Die Provinsiale Minister kan die werksaamhede van die Raad vanaf die datum van publikasie van die kennisgewing beoog in subartikel (2) tot die aanstelling van 'n nuwe Raad beoog in subartikel (4) verrig. 10

(4) Die Provinsiale Minister moet binne 'n redelike tydsraamwerk ná die ontbinding van die Raad lede in die Raad aanstel soos beoog in artikel 15.

**Ontbinding van CapeNature** 15

**33.** (1) CapeNature mag nie gelikwedeer of ontbind word nie behalwe by 'n Wet van die Provinsiale Parlement.

(2) By sy ontbinding moet CapeNature sy oorblywende bates en die opbrengs van daardie bates oordra aan die Departement of aan 'n gelykwaardige openbare instelling soos omskryf in die Wet op Openbare Finansiële Bestuur, soos deur die Provinsiale Minister bepaal. 20

**HOOFSTUK 5****BIODIVERSITEITSBEPLANNING EN -MONTERING****Ruimtelike Biodiversiteitsplan**

**34.** (1) CapeNature moet binne een jaar vanaf die inwerkingtreding van hierdie Wet, ná oorleg met die Departementshoof, 'n konsep- Ruimtelike Biodiversiteitsplan opstel en dit aan die Provinsiale Minister vir aanneming voorlê. 25

(2) Voordat die Provinsiale Minister die Ruimtelike Biodiversiteitsplan aanneem, moet hy of sy—

(a) in die amptelike tale van die Provinsie, 'n verwysing na waar die publiek tot die konsep- Ruimtelike Biodiversiteitsplan toegang kan kry, publiseer— 30

(i) by kennisgewing in die *Provinsiale Koerant*; en

(ii) in twee koerante wat in die Provinsie sirkuleer, waarvan minstens een in gedrukte formaat moet wees;

(b) die konsep- Ruimtelike Biodiversiteitsplan op 'n redelike wyse op die plek vermeld ingevolge paragraaf (a) aan die publiek beskikbaar stel en toeganklik maak; en 35

(c) 'n tydperk van minstens 60 dae vanaf die publikasiedatum van die kennisgewing in die *Provinsiale Koerant* vir kommentaarlewering toelaat.

(3) Die Provinsiale Minister moet— 40

(a) alle kommentaar wat ontvang is, oorweeg;

(b) met die Nasionale Minister oor die finale Ruimtelike Biodiversiteitsplan oorleg pleeg; en

(c) binne 150 dae vanaf die verstryking van die kommentaartydperk beoog in subartikel (2)(c) die finale Ruimtelike Biodiversiteitsplan aanneem en dit by kennisgewing in die *Provinsiale Koerant* publiseer. 45

**Doel van Ruimtelike Biodiversiteitsplan**

**35.** Die doel van 'n Ruimtelike Biodiversiteitsplan is om—

(a) biodiversiteitsmikpunte te stel;

(b) ruimtelik een of meer kategorieë van biodiversiteitsprioriteitsgebiede te identifiseer wat die voortgesette bestaan en funksionering van biodiversiteit en ekosisteme, insluitende die lewering van ekosisteedienste, sal verseker; 50

- (c) riglyne te verskaf wat die gewenste bestuursdoelwitte vir grond- en hulpbrongebruik in elke kategorie biodiversiteitsprioriteitsgebied uiteensit;
- (d) riglyne vir ruimtelike beplanning en grondgebruikbesluitneming te verskaf om omgewingsvolhoubare ontwikkeling en hulpbrongebruik en ekologiese en ruimtelike veerkragtigheid in die Provinsie te verseker; en 5
- (e) verseker dat die ekologiese infrastruktuur in die Provinsie in stand gehou word, ekosisteemfragmentasie en -verlies vermy word en dat die veerkragtigheid van ekosisteme en menslike gemeenskappe teen die impakte van klimaatsverandering versterk word.

### **Inhoud van Ruimtelike Biodiversiteitsplan** 10

- 36.** 'n Ruimtelike Biodiversiteitsplan moet—
- (a) met behulp van die beginsels en metodes van stelselmatige biodiversiteitsbeplanning ontwikkel word, en moet op die beste beskikbare wetenskap en data gebaseer wees;
  - (b) biodiversiteitsmikpunte stel wat die kategorieë van biodiversiteitsprioriteitsgebiede moet onderlê; 15
  - (c) biodiversiteitsprioriteitsgebiede identifiseer volgens die kategorieë en mikpunte beoog in paragraaf (b);
  - (d) 'n ruimtelike voorstelling en ruimtelike data van biodiversiteitsprioriteitsgebiede bevat; en 20
  - (e) riglyne vir gewenste bestuursdoelwitte bevat vir elke kategorie biodiversiteitsprioriteitsgebied wat ingevolge paragraaf (c) geïdentifiseer word.

### **Gebruik en toepassing van Ruimtelike Biodiversiteitsplan**

- 37.** (1) Die Ruimtelike Biodiversiteitsplan is 'n provinsiale plan soos beoog in—
- (a) artikels 25(1)(e), 26(d), 27(2)(a) en 29(1)(c) van die Wet op Plaaslike Regering: Munisipale Stelsels; 25
  - (b) artikels 12(4), 15(3)(b) en 16(c) van die Wet op Ruimtelike Beplanning en Grondgebruikbestuur, 2013 (Wet 16 van 2013); en
  - (c) artikel 4(3)(c)(ii) en (iii) van die Wes-Kaapse Wet op Grondgebruikbeplanning, 2014 (Wet 3 van 2014), wat die prioriteite, doelwitte en strategieë vir biodiversiteit, ekologiese hulpbronne en verwante klimaatsveranderingsaanpassing daarstel. 30
- (2) Die Ruimtelike Biodiversiteitsplan moet ten grondslag van die volgende lê:
- (a) die Uitbreidingsstrategie vir Provinsiale Beskermdede Gebiede en biodiversiteitsopsigterskap; 35
  - (b) die identifisering van ekosisteme en ekologiese infrastruktuur en die lysing van spesies ingevolge hierdie Wet en ander omgewingswetgewing;
  - (c) grondgebruikbeplanning en -besluitneming;
  - (d) beleid en riglyne wat ingevolge omgewingswetgewing opgestel is;
  - (e) enige besluitondersteuningstelsel, omgewingsbestuursdokument of strategiese omgewingsevaluasie wat ingevolge omgewingswetgewing ontwikkel of gebruik word; 40
  - (f) besluite en handelingde deur enige staatsorgaan wie se beleid en besluite 'n impak op biodiversiteit in die Provinsie het; en
  - (g) biodiversiteitsteëwigte. 45
- (3) Wanneer 'n munisipaliteit sy ruimtelike ontwikkelingsraamwerk ingevolge die Wet op Plaaslike Regering: Munisipale Stelsels aanneem of wysig ten opsigte van grondgebruiksangeleenthede in gebiede wat in die Ruimtelike Biodiversiteitsplan as biodiversiteitsprioriteitsgebiede geïdentifiseer is, moet die munisipaliteit aandui hoe die grondgebruikbeplanningskategorieë in die ruimtelike ontwikkelingsraamwerk die gewenste bestuursdoelwitte in die riglyne beoog in artikel 36(e) in aanmerking geneem het. 50
- (4) Vir die doeleindes van enige magtigingsvereiste vir 'n aktiwiteit vermeld ingevolge omgewingswetgewing weens die impak van sodanige aktiwiteit op biodiversiteit in 'n bepaalde gebied, identifiseer die Ruimtelike Biodiversiteitsplan die biodiversiteitsprioriteitsgebiede wat tot sodanige vereiste aanleiding gee. 55

## Hersiening van Ruimtelike Biodiversiteitsplan

38. (1) CapeNature moet, ná oorleg met die Departementshoof, die Ruimtelike Biodiversiteitsplan minstens elke vyf jaar hersien of wanneer die Provinsiale Minister hom opdrag gee om dit te doen.
- (2) Artikel 34 is van toepassing, met die nodige veranderinge, op die hersiening en wysiging van die Ruimtelike Biodiversiteitsplan. 5
- (3) Die Provinsiale Minister moet minstens elke vyf jaar die Ruimtelike Biodiversiteitsplan evalueer om te bepaal of en die mate waarin die doelwitte en mikkpunte van die plan bereik is.

## HOOFSTUK 6 10

### BESKERMDE GEBIEDE, BERGOPVANGSGEBIEDE, BIODIVERSITEITSOPSIGTERS KAP EN BIOSFEERRESERVATE

#### Deel 1

#### *Uitbreiding van beskermde gebiede*

#### Uitbreidingstrategie vir Provinsiale Beskermde Gebiede 15

39. (1) Ten einde die doelwitte beoog in artikel 2(g) te bereik—
- (a) moet die Provinsiale Minister enige gepaste maatreël tref, insluitende—
- (i) die aanneming van 'n provinsiale strategie vir die uitbreiding van die provinsiale beskermdegebiednetwerk, wat kwantitatiewe mikkpunte stel en die meganismes vir sodanige uitbreiding aanbeveel; en 20
- (ii) die verklaring van beskermde gebiede ingevolge die Wet op Beskermde Gebiede; en
- (b) kan die Hoof- Uitvoerende Beampte enige gepaste biodiversiteitsopsigterskapskategorie beoog in artikel 42(1)(a) toepas.
- (2) CapeNature moet, ná oorleg met die Departementshoof, binne twee jaar vanaf die inwerkingtreding van hierdie Wet, 'n konsep-Uitbreidingstrategie vir Provinsiale Beskermde Gebiede opstel en dit aan die Provinsiale Minister vir aanneming voorlê. 25
- (3) Voordat die Provinsiale Minister die Uitbreidingstrategie vir Provinsiale Beskermde Gebiede aanneem, moet hy of sy—
- (a) in die amptelike tale van die Provinsie, 'n verwysing na waar die publiek toegang tot die konsep-Uitbreidingstrategie vir Provinsiale Beskermde Gebiede kan kry, publiseer—
- (i) by kennisgewing in die *Provinsiale Koerant*; en
- (ii) in twee koerante wat in die Provinsie sirkuleer, waarvan minstens een in gedrukte formaat moet wees; 35
- (b) die konsep-Uitbreidingstrategie vir Provinsiale Beskermde Gebiede op 'n redelike wyse op die plek vermeld ingevolge paragraaf (a) aan die publiek beskikbaar stel en toeganklik maak; en
- (c) 'n kommentaartydperk van minstens 60 dae vanaf die datum van publikasie van die kennisgewing in die *Provinsiale Koerant* toelaat. 40
- (4) Die Provinsiale Minister moet—
- (a) alle kommentaar wat ontvang is, oorweeg; en
- (b) binne 90 dae vanaf die verstryking van die kommentaartydperk beoog in subartikel (3)(c) die finale Uitbreidingstrategie vir Provinsiale Beskermde Gebiede aanneem en dit by kennisgewing in die *Provinsiale Koerant* publiseer. 45

#### Deel 2

#### *Bergopvangsgebiede*

#### Verklaring van bergopvangsgebiede

40. (1) Die Provinsiale Minister kan by kennisgewing in die *Provinsiale Koerant*— 50
- (a) 'n gebied verklaar as—
- (i) 'n bergopvangsgebied; of
- (ii) deel van 'n bestaande bergopvangsgebied; en

- (b) 'n naam aan daardie bergopvangsgebied toeken.
- (2) Die Provinsiale Minister kan ingevolge subartikel (1)(a) 'n verklaring maak indien die beheer en bestuur van aktiwiteite en hulpbronne in die betrokke gebied vereis word om—
- (a) die biodiversiteit en ekosisteme in die gebied in stand te hou; 5
  - (b) die ekologiese infrastruktuur en die verskaffing van ekosisteedienste, veral waterverskaffing, in stand te hou;
  - (c) te verseker dat die gebruik van ekosisteedienste in die gebied volhoubaar is.
- (3) Die Provinsiale Minister kan 'n verklaring ingevolge subartikel (1) maak ten opsigte van enige grond, insluitende grond in privaat besit. 10
- (4) Indien die Provinsiale Minister op redelike gronde tevrede is dat 'n bergopvangsgebied, of enige gedeelte daarvan, nie meer as sodanig benodig word nie, kan die Provinsiale Minister, by kennisgewing in die *Provinsiale Koerant*, na gelang van die geval—
- (a) die verklaring van daardie bergopvangsgebied intrek; of 15
  - (b) die grense van daardie bergopvangsgebied verander om enige gedeelte daarvan uit te sluit.
- (5) Voordat die Provinsiale Minister 'n kennisgewing beoog in subartikel (1)(a), (3) of (4) uitreik, moet hy of sy, op die voorgeskrewe wyse, die betrokke grondeienaars van die beoogde kennisgewing en die gevolge van die kennisgewing in kennis stel. 20
- (6) 'n Gebied wat, by die inwerkingtreding van hierdie Wet, uit hoofde van 'n verklaring kragtens artikel 2 van die Wet op Bergopvanggebiede 'n bergopvanggebied is, word geag kragtens subartikel (1) tot 'n bergopvangsgebied verklaar te wees.
- (7) 'n Gebied hou op om 'n bergopvangsgebied te wees indien daardie gebied ingevolge artikel 18, 20 of 23 van die Wet op Beskermdede Gebiede verklaar word as, of ingesluit word by, 'n spesiale natuurreservaat, nasionale park of natuurreservaat of 'n gedeelte daarvan. 25

#### **Bestuur van bergopvangsgebiede**

41. Die Provinsiale Minister kan—
- (a) spesifieke vereistes vir die bestuur van bergopvangsgebiede voorskryf; of 30
  - (b) spesifieke aktiwiteite voorskryf wat in bergopvangsgebiede verbied word, met inagneming van die vereistes van artikel 40(2).

### ***Deel 3***

#### ***Biodiversiteitsopsigterskap***

- Biodiversiteitsopsigterskap** 35
42. (1) Ten einde die Uitbreidingstrategie vir Provinsiale Beskermdede Gebiede te implementeer, kan die Provinsiale Minister die volgende voorskryf:
- (a) verskillende kategorieë van biodiversiteitsopsigterskapsgebiede;
  - (b) maatstawwe en voorwaardes wat op elke kategorie van biodiversiteitsopsigterskapsgebied van toepassing is; 40
  - (c) 'n aansoekproses vir die registrasie, wysiging van die grense van, of intrekking van die registrasie van 'n biodiversiteitsopsigterskapsgebied;
  - (d) die regte, pligte en bevoegdhede van grondeienaars ten opsigte van biodiversiteitsopsigterskapsgebiede;
  - (e) die maatstawwe en doelwitte vir die bestuursplanne van biodiversiteitsopsigterskapsgebiede; en 45
  - (f) enige ander aangeleentheid wat nodig is vir die behoorlike bestuur van biodiversiteitsopsigterskapsgebiede.
- (2) Die Hoof- Uitvoerende Beampte kan 'n biodiversiteitsopsigterskapsoreenkoms met enige grondeenaar aangaan. 50
- (3) CapeNature moet die status van biodiversiteitsopsigterskapsoreenkoms en biodiversiteitsopsigterskapsgebiede monitor en jaarliks aan die Provinsiale Minister daarvan verslag doen.
- (4) Indien 'n grondeenaar wat 'n party is tot 'n biodiversiteitsopsigterskapsoreenkoms, daardie ooreenkoms verbreek, kan die Provinsiale Minister 55 ingevolge artikel 71 'n administratiewe boete oplê.
- (5) Die oplegging van 'n administratiewe boete soos beoog in subartikel (4) raak nie enige persoon se gemeenregtelike regte nie.

*Deel 4**Biosfeerreservate***Aansoek om UNESCO-aanwysing as biosfeerreservaat**

43. (1) Enige persoon of staatsorgaan kan die Provinsiale Minister se goedkeuring versoek om met 'n aansoek om UNESCO-aanwysing van 'n biosfeerreservaat voort te gaan. 5
- (2) 'n Versoek beoog in subartikel (1) moet—
- (a) voorafgegaan word deur die voorgeskrewe openbaredeelnameproses;
  - (b) ooreenkomstig die voorgeskrewe formaat wees; en
  - (c) die voorgestelde samestelling van 'n tussentydse biosfeerreservaatkomitee 10 insluit wat breedweg verteenwoordigend van alle belanghebbende persone, instellings en gemeenskappe is.
- (3) Die Provinsiale Minister kan die versoek beoog in subartikel (2) met of sonder voorwaardes goedkeur of dit weier.
- (4) Indien die Provinsiale Minister die versoek goedkeur, moet die tussentydse biosfeerreservaatkomitee— 15
- (a) op die voorgeskrewe wyse ingestel word;
  - (b) die aansoek om UNESCO-aanwysing van die biosfeerreservaat opstel in die formaat wat die UNESCO-Mens en die Biosfeer-program bepaal;
  - (c) die aansoek aan die Provinsiale Minister voorlê binne die voorgeskrewe 20 tydperk of enige verlengde tydperk bepaal deur die Provinsiale Minister; en
  - (d) indien die Provinsiale Minister dit versoek, die aansoek ooreenkomstig die Provinsiale Minister se instruksies wysig.
- (5) Indien die Provinsiale Minister tevrede is dat die aansoek— 25
- (a) aan die tersaaklike maatstawwe van die UNESCO-Mens en die Biosfeer-program voldoen;
  - (b) bestaanbaar is met die oogmerke van hierdie Wet; en
  - (c) indien van toepassing, die wysigings beoog in subartikel (4)(d) bevat,
- kan die Provinsiale Minister goedkeur dat die aansoek om UNESCO-aanwysing aangestuur word na die Nasionale Minister vir oorweging voordat dit aan UNESCO 30 voorgelê word.
- (6) Indien UNESCO die biosfeerreservaat aanwys, moet die Provinsiale Minister binne 90 dae vanaf UNESCO se aanwysing 'n kennisgewing van die aanwysing in die *Provinsiale Koerant* publiseer.
- (7) Die Provinsiale Minister moet minstens elke 10 jaar, met ingang van die 35 aanwysing van 'n biosfeerreservaat, die status, funksionering, doeltreffendheid en raamwerkplan van die biosfeerreservaat volgens die toepaslike doelwitte, strategieë en riglyne van die UNESCO-Mens en die Biosfeer-program hersien.
- (8) Indien die Provinsiale Minister van mening is, ná oorleg met die bestuurskomitee beoog in artikel 44 en belanghebbende en geraakte partye, dat 'n biosfeerreservaat nie 40 meer aan die kernwerkzaamhede van die UNESCO-Mens en die Biosfeer-program voldoen nie en nie meer die vooruitsig het om aldus te voldoen nie, kan die Provinsiale Minister aan die Nasionale Minister aanbeveel om 'n versoek aan UNESCO te rig vir die intrekking van die aanwysing van daardie biosfeerreservaat.
- (9) 'n Biosfeerreservaat wat voor die inwerkingtreding van hierdie Wet in die 45 Provinsie ingestel is, word geag ingevolge hierdie Wet ingestel te wees.

**Bestuur van biosfeerreservate**

44. (1) Ná die publikasie van die aanwysing van 'n biosfeerreservaat in die *Provinsiale Koerant* moet die tussentydse biosfeerreservaatkomitee 'n bestuurskomitee 50 op die voorgeskrewe wyse instel, waarna die tussentydse biosfeerreservaatkomitee ontbind.
- (2) Die bestuurskomitee moet—
- (a) verseker dat die biosfeerreservaat sy bewarings-, volhoubareontwikkelings- en bedryfswerkzaamhede uitvoer;
  - (b) 'n Biosfeerreservaatraamwerkplan soos beoog in artikel 45 opstel; en 55
  - (c) jaarliks aan die Provinsiale Minister verslag doen, of met korter tussenposes bepaal deur die Provinsiale Minister, van die bereiking van die doelwitte en die bedrywighede van die biosfeerreservaat.

### Biosfeerreservaatraamwerkplan

45. (1) 'n Biosfeerreservaatraamwerkplan moet alle grond binne die biosfeerreservaat as kern-, buffer- of oorgangsgebiede kategoriseer en kan grondgebruike identifiseer wat in elke kategorie gepas is.
- (2) 'n Biosfeerreservaatraamwerkplan moet bestaanbaar wees met— 5
- (a) die UNESCO-Mens en die Biosfeer-program;
  - (b) die bestuursplanne vir beskermde gebiede binne die biosfeerreservaat ingevolge die Wet op Beskermde Gebiede;
  - (c) die Ruimtelike Biodiversiteitsplan;
  - (d) die Uitbreidingsstrategie vir Provinsiale Beskermde Gebiede; 10
  - (e) die oogmerke van hierdie Wet; en
  - (f) enige ander voorgeskrewe aangeleentheid.
- (3) Die Provinsiale Minister kan die inhoud van 'n Biosfeerreservaatraamwerkplan en die tydperk waarbinne die plan deur die bestuurskomitee van 'n biosfeerreservaat hersien moet word, voorskryf. 15

### Befondsing van biosfeerreservate

46. (1) Die Provinsiale Minister kan, ooreenkomstig 'n bewilling deur die Provinsiale Parlement, ten opsigte van die instelling, bedryf, bestuur of uitbreiding van, of ten opsigte van bewaring in, 'n biosfeerreservaat finansiële of ander bystand verleen.
- (2) Die bystand beoog in subartikel (1) kan onderhewig gemaak word aan voorwaardes wat die Provinsiale Minister bepaal. 20

## HOOFSTUK 7

### BESKERMING VAN EKOSISTEME, EKOLOGIESE INFRASTRUKTUUR EN SPESIES

#### Ekosisteme of ekologiese infrastruktuur wat spesiale beskerming benodig 25

47. (1) Die Provinsiale Minister, met die instemming van die Nasionale Minister, kan by kennisgewing in die *Provinsiale Koerant* 'n ekosisteem of 'n gedeelte daarvan of 'n gebied van ekologiese infrastruktuur identifiseer wat spesiale beskerming benodig om die instandhouding van die ekologiese integriteit daarvan of die lewering van ekosisteemdienste te verseker. 30
- (2) 'n Kennisgewing beoog in subartikel (1) kan voorsiening maak vir—
- (a) die verbod op of beperking van enige aktiwiteit; en
  - (b) die instelling van bestuursvereistes vir enige grondeienaar,
- binne die geïdentifiseerde ekosisteem of ekologiese infrastruktuur, hetsy permanent of vir 'n vermelde tydperk. 35
- (3) Voordat die Provinsiale Minister 'n kennisgewing beoog in subartikel (1) uitreik, moet hy of sy, op die voorgeskrewe wyse, die betrokke grondeienaars in kennis stel van die beoogde kennisgewing en die gevolge daarvan, en aan hulle 'n redelike geleentheid bied om kommentaar te lewer.
- (4) Die Provinsiale Minister, met die instemming van die Nasionale Minister, kan by kennisgewing in die *Provinsiale Koerant* 'n kennisgewing beoog in subartikel (1), of enige gedeelte van die kennisgewing, wysig of intrek indien die omstandighede wat veroorsaak het dat die Provinsiale Minister sy of haar bevoegdhede ingevolge subartikel (1) uitgeoefen het, verander het. 40
- (5) Ondanks enige ander toepaslike wetgewing, is dit 'n misdryf om nie aan 'n kennisgewing beoog in subartikel (1), of gewysig soos beoog in subartikel (4), te voldoen nie. 45

#### Biodiversiteitsteëwigte en ander versagtingsmaatreëls

48. Die Provinsiale Minister kan vereistes vir biodiversiteitsteëwigte of ander versagtingsmaatreëls in die Provinsie voorskryf en riglyne daarvoor publiseer, ten einde die biodiversiteitsmikpunte gestel in die Ruimtelike Biodiversiteitsplan te bereik en oorblywende nadelige uitwerkings op biodiversiteit as gevolg van ontwikkeling reg te stel. 50

## Spesies wat beskerming benodig of bedreiging vir omgewing inhou

- 49.** (1) Die Provinsiale Minister kan, by kennisgewing in die *Provinsiale Koerant*, 'n lys van beperkte aktiwiteite of beperkte metodes ten opsigte van enige spesie of enige kategorie spesie wat ingevolge subartikel (2) gelys word, publiseer.
- (2) Die Provinsiale Minister kan, by kennisgewing in die *Provinsiale Koerant*, lyste van die volgende spesies of kategorieë spesies publiseer:
- (a) spesies wat in die natuur uitgesterf het;
  - (b) kritiek bedreigde spesies;
  - (c) bedreigde spesies;
  - (d) kwesbare spesies;
  - (e) spesies wat beskerming benodig en nie ingevolge paragraaf (a), (b), (c) of (d) gelys is nie, insluitende spesies gelys—
    - (i) deur die IUCN as Amper Bedreig, Ontoereikende Data of Nie Geëvalueer nie; of
    - (ii) in aanhangsels I, II en III van CITES;
  - (f) enige ander inheemse spesies wat nie ingevolge paragraaf (a), (b), (c), (d) of (e) gelys is nie;
  - (g) buitelimietspesies;
  - (h) uitheemse spesies behalwe buitelimietspesies;
  - (i) spesies wat spesiale bestuursmaatreëls benodig; en
  - (j) mak spesies.
- (3) Die Provinsiale Minister moet minstens elke vyf jaar die lyste beoog in subartikels (1), (2) en (7) hersien.
- (4) Die Provinsiale Minister moet die spesiale bestuursmaatreëls vir spesies wat ingevolge subartikel (2)(i) gelys word, voorskryf.
- (5) Geen persoon mag 'n beperkte aktiwiteit of beperkte metode verrig waarby 'n spesie gelys ingevolge subartikel (2) betrokke is nie, tensy die persoon ingevolge artikel 51(1)(a) gemagtig is om dit te doen.
- (6) Subartikel (5) is nie van toepassing op 'n gelyste spesie wat van buite die Provinsie ingebring is en onderweg is deur die Provinsie na 'n bestemming buite die Provinsie nie, mits die deurgang deur die Provinsie met 'n toepaslike magtiging ingevolge enige wet geskied.
- (7) Die Provinsiale Minister kan, by kennisgewing in die *Provinsiale Koerant*, die volgende publiseer—
- (a) 'n lys van spesies; en
  - (b) die lys van beperkte aktiwiteite of beperkte metodes beoog in subartikel (1) met betrekking tot 'n spesie beoog in paragraaf (a),
- ten opsigte waarvan 'n magtiging nie ingevolge hierdie Wet uitgereik mag word nie.
- (8) Geen persoon mag 'n beperkte aktiwiteit of beperkte metode met betrekking tot 'n spesie gelys ingevolge subartikel (7) uitvoer nie.

## HOOFSTUK 8

### MAGTIGING

#### Aansoek om magtiging

**50.** 'n Aansoek om 'n magtiging wat ingevolge enige bepaling van hierdie Wet vereis word, moet op die voorgeskrewe wyse skriftelik by die Hoof- Uitvoerende Beampte ingedien word.

#### Besluit oor aansoek om magtiging

- 51.** (1) Die Hoof- Uitvoerende Beampte kan, onderhewig aan artikel 79—
- (a) 'n aansoek om magtiging met of sonder voorwaardes goedkeur; of
  - (b) 'n aansoek om magtiging weier.
- (2) Die Hoof- Uitvoerende Beampte kan verdere inligting versoek, insluitende 'n onafhanklike risiko-evaluasie of deskundige getuienis beoog in artikel 52, voordat hy of sy die besluit beoog in subartikel (1) neem.
- (3) Die Hoof- Uitvoerende Beampte moet 'n aansoek weier indien dit onbestaanbaar is met—
- (a) die beginsels van ekologiese volhoubaarheid beoog in artikel 6 of enige ander bepaling van hierdie Wet;

- (b) enige tersaaklike strategieë of planne wat ingevolge hierdie Wet aangeneem of goedgekeur is; of
- (c) onderhewig aan artikel 231 van die Grondwet, enige toepaslike internasionale ooreenkoms.

### **Risiko-evaluasies en deskundige getuienis** 5

**52.** Voordat die Hoof- Uitvoerende Beampte 'n aansoek om magtiging toestaan, kan hy of sy van die aansoeker vereis om, op die aansoeker se onkoste, die onafhanklike risiko-evaluasie of deskundige getuienis te verskaf wat—

- (a) die Hoof- Uitvoerende Beampte bepaal nodig is om 'n besluit oor die aansoek te neem; of 10
- (b) voorgeskryf word.

### **Bewys van wettige besit**

**53.** Geen persoon mag in besit wees van 'n eksemplaar nie tensy hy of sy ook in besit is van die voorgeskrewe dokumentasie wat bewys lewer van die wettige besit vir die eksemplaar. 15

### **Geïntegreerde magtiging**

**54.** (1) Indien die Hoof- Uitvoerende Beampte kragtens 'n ander wet bevoeg is om 'n magtiging ingevolge daardie ander wet uit te reik vir 'n aktiwiteit wat ook magtiging kragtens hierdie Wet vereis, kan die Hoof- Uitvoerende Beampte 'n enkele geïntegreerde magtiging uitreik. 20

(2) 'n Geïntegreerde magtiging mag uitgereik word slegs indien die betrokke aansoek aan die tersaaklike bepalings van hierdie Wet en die ander wet voldoen.

### **Hersiening, opskorting, intrekking en wysiging van magtiging**

**55.** (1) Die Hoof- Uitvoerende Beampte kan te eniger tyd 'n magtiging of enige gedeelte daarvan wat deur hom of haar toegestaan is, op die voorgeskrewe wyse wysig of intrek indien— 25

- (a) hy of sy op redelike gronde tevrede is dat die aktiwiteit of aktiwiteite wat deur die magtiging gemagtig is, 'n nadelige uitwerking veroorsaak of 'n aansienlike negatiewe impak op die omgewing kan hê wat nie ten tyde van die magtiging voorsien is nie; 30
- (b) die houër van die magtiging—
  - (i) onakkurate, foutiewe of misleidende inligting in verband met enige aangeleentheid ingedien het wat ingevolge hierdie Wet ingedien moet word en wat die besluit of optrede van die Hoof- Uitvoerende Beampte wesenlik sou beïnvloed het; 35
  - (ii) versuim om aan enige voorwaarde van die magtiging te voldoen;
  - (iii) versuim om aan enige bepaling van hierdie Wet te voldoen of ondersoek word vir versuim om te voldoen aan enige ander wetgewing wat die gemagtigde aktiwiteit reguleer of daarmee verband hou; of
  - (iv) ingevolge hierdie Wet of enige ander provinsiale of nasionale wetgewing wat met die gemagtigde aktiwiteit verband hou, aan 'n misdryf skuldig bevind is. 40

(2) Die Hoof- Uitvoerende Beampte kan op die voorgeskrewe wyse die magtiging of 'n gedeelte daarvan opskort voordat hy of sy maatreëls soos beoog in subartikel (1) tref.

(3) 'n Magtiging, of 'n gedeelte daarvan, wat opgeskort is, bly opgeskort totdat die Hoof- Uitvoerende Beampte— 45

- (a) die opskorting ophef;
- (b) die magtiging wysig; of
- (c) die magtiging intrek.

(4) Die Hoof- Uitvoerende Beampte kan— 50

- (a) enige redelike maatreëls tref om die situasie reg te stel wat kan ontstaan as gevolg van die opskorting of intrekking van 'n magtiging of 'n gedeelte daarvan weens nievoldoening deur die houër van die magtiging aan die toepaslike wetgewing; en

- (b) van die houer van die magtiging enige redelike koste verhaal wat aangegaan en genoodsaak is deur die maatreëls soos beoog in paragraaf (a) te tref.

## HOOFSTUK 9

### VOLDOENING EN AFDWINGING

#### Deel 1

5

#### *Voldoenings- en afdwingingsbeamptes en regsangeleenthede*

#### **Aanwysing van natuurbewaringsbeamptes, natuurbewaringsveldwagters en erenatuurbewaringsbeamptes**

##### **56. Die Hoof- Uitvoerende Beampte—**

- (a) kan 'n gepas gekwalifiseerde persoon— 10
- (i) wat in diens is van CapeNature, as 'n natuurbewaringsbeampte aanwys;
- (ii) wat in diens is van 'n munisipaliteit of staatsorgaan, by ooreenkoms met die betrokke werkgewer as 'n natuurbewaringsveldwagter aanwys; 15
- of
- (iii) as 'n erenatuurbewaringsbeampte aanwys;
- (b) moet, wanneer 'n persoon ingevolge paragraaf (a) aangewys word, die bepalings, van hierdie Wet of enige ander wet wat daardie persoon aangewys is om af te dwing, vermeld;
- (c) kan te eniger tyd 'n aanwysing beoog in paragraaf (a) intrek. 20

#### **Verklaring van natuurbewaringsbeamptes en natuurbewaringsveldwagters as vredesbeamptes**

57. Die Hoof- Uitvoerende Beampte kan die Nasionale Minister verantwoordelik vir justisie versoek om natuurbewaringsbeamptes en natuurbewaringsveldwagters ingevolge artikel 334 van die Strafproseswet as vredesbeamptes te verklaar vir die verrigting van hul werksaamhede ingevolge hierdie Wet en ten opsigte van bevoegdheids- of pligte wat kragtens enige ander wetgewing aan CapeNature gedelegeer of opgedra is. 25

#### **Mandaat van natuurbewaringsbeamptes en natuurbewaringsveldwagters**

58. 'n Natuurbewaringsbeampte of natuurbewaringsveldwagter het die mandaat om, binne sy of haar regsgebied, voldoening aan die volgende af te dwing: 30

(a) hierdie Wet en magtigings uitgereik ingevolge hierdie Wet; en

(b) enige ander wet waarvoor daardie natuurbewaringsbeampte of natuurbewaringsveldwagter aangewys is om af te dwing.

#### **Erenatuurbewaringsbeamptes**

59. (1) 'n Erenatuurbewaringsbeampte mag slegs die bevoegdheids- uiteengesit in subartikels (2) en (3) uitoefen en slegs binne 'n geografiese gebied vermeld in die aanwysing beoog in artikel 56(a)(iii). 35

(2) 'n Erenatuurbewaringsbeampte kan enige persoon wat enige handeling verrig, of wat die erenatuurbewaringsbeampte redelikerwys vermoed enige handeling verrig het, waarvoor 'n magtiging, vrystelling of bevel of die skriftelike toestemming van 'n grondeienaar of van enige ander persoon kragtens enige bepaling van hierdie Wet nodig is, versoek om— 40

- (a) sodanige magtiging, vrystelling, bevel of toestemming te verskaf; en
- (b) sy of haar naam en adres te verskaf.

(3) 'n Erenatuurbewaringsbeampte kan CapeNature bystaan met— 45

- (a) die opsporing en verslagdoening van misdrywe ingevolge hierdie Wet; en
- (b) die verrigting van enige bewaringsverwante aktiwiteit, in opdrag van 'n natuurbewaringsbeampte.

### Werkzaamhede van natuurbewaringsbeamptes en natuurbewaringsveldwagters

- 60.** 'n Natuurbewaringsbeampte of natuurbewaringsveldwagter, onderhewig aan artikel 58—
- (a) moet voldoening aan die wet waarvoor hy of sy aangewys is, monitor en afdwing; 5
  - (b) kan enige handeling of versuim ondersoek wat—
    - (i) 'n misdryf is ingevolge so 'n wet;
    - (ii) 'n verbreking is van so 'n wet; of
    - (iii) 'n verbreking is van 'n bepaling of voorwaarde van 'n magtiging of ander dokument uitgereik of vereis ingevolge hierdie Wet; 10
  - (c) moet sy of haar werkzaamhede verrig—
    - (i) ooreenkomstig opdragte uitgereik deur die Hoof- Uitvoerende Beampte; en
    - (ii) onderhewig aan enige beperkings en ooreenkomstig enige prosedures wat voorgeskryf word; en 15
  - (d) kan vergesel word van 'n tolk of enige ander persoon wie se hulp redelikerwys benodig word.

### Identiteitskaart en aanwysingsbrief

- 61.** (1) Die Hoof- Uitvoerende Beampte moet 'n identiteitskaart en 'n aanwysingsbrief uitreik aan elke persoon wat ingevolge artikel 56 aangewys is. 20
- (2) Wanneer 'n persoon aangewys ingevolge artikel 56 enige bevoegdheid uitoefen of plig verrig ingevolge hierdie Wet, moet hy of sy die identiteitskaart verskaf wanneer 'n lid van die publiek hom of haar vra om dit te doen.
- (3) Die Hoof- Uitvoerende Beampte moet in die identiteitskaart en aanwysingsbrief die mandaat en bevoegdhede van die betrokke natuurbewaringsbeampte, natuurbewaringsveldwagter of erenatuurbewaringsbeampte en enige beperkings ten opsigte van daardie mandaat of daardie bevoegdhede aandui. 25
- (4) 'n Aanwysing ingevolge artikel 56 eindig wanneer—
- (a) in die geval van 'n natuurbewaringsbeampte, die beampte die diens van CapeNature verlaat; 30
  - (b) in die geval van 'n natuurbewaringsveldwagter, die beampte die diens van die munisipaliteit of ander staatsorgaan verlaat wat hom of haar ten tyde van die aanwysing ingevolge artikel 56(a)(ii) in diens gehad het;
  - (c) die aanwysing soos beoog in artikel 56(c) ingetrek word; of
  - (d) die geldigheidstydperk vermeld in die identiteitskaart of aanwysingsbrief 35 verstryk het.

### Algemene bevoegdhede van natuurbewaringsbeamptes en natuurbewaringsveldwagters

- 62.** 'n Natuurbewaringsbeampte of natuurbewaringsveldwagter, onderhewig aan artikels 58, 60, 63, 64 en 65 en die belyngs van hul aanwysing kragtens artikel 56, vir die doel van die verrigting van hul werkzaamhede, kan— 40
- (a) enige dokument, boek of rekord of enige skriftelike of elektroniese inligting wat vir die doeleindes van 'n ondersoek ingevolge artikel 60(b) moontlik relevant kan wees, ondersoek;
  - (b) 'n afskrif van of uittreksels uit enige dokument, boek of rekord of enige skriftelike of elektroniese inligting beoog in paragraaf (a) maak, of sodanige dokument, boek, rekord of skriftelike of elektroniese inligting verwyder om afskrifte of uittreksels te maak; 45
  - (c) van 'n persoon vereis om enige dokument, boek of rekord of enige skriftelike of elektroniese inligting beoog in paragraaf (a) vir inspeksie na 'n plek te bring of daar af te lewer; 50
  - (d) van enige persoon wat hy of sy redelikerwys vermoed—
    - (i) 'n beperkte aktiwiteit uitgeoefen het waarvoor 'n magtiging of dokumentasie benodig word soos voorgeskryf kragtens artikel 53 of soos vereis ingevolge hierdie Wet of enige ander wet wat hy of sy aangewys is om af te dwing; 55
    - (ii) 'n misdryf gepleeg het kragtens hierdie Wet of enige ander wet wat hy of sy aangewys is om af te dwing; of

- (iii) aan hom of haar bewyse sal kan verskaf in verband met 'n misdryf wat gepleeg of na bewering gepleeg is kragtens hierdie Wet of enige ander Wet wat hy of sy aangewys is om af te dwing, die naam en adres en enige ander inligting wat nodig is om daardie persoon te identifiseer, van daardie persoon eis; 5
- (e) van enige persoon enige inligting met betrekking tot die pleging van 'n misdryf of vermoedelike misdryf aanvra, insluitende die naam en adres van 'n persoon wat verdink word van die pleging van so 'n misdryf;
- (f) enige eksemplaar, stof of ander item ondersoek wat hy of sy redelikerwys vermoed gebruik is om 'n misdryf te pleeg ingevolge die wet waarvoor hy of sy aangewys is en, indien nodig, daarop beslag lê en dit verwyder; 10
- (g) op enige wyse foto's neem of oudiovisuele opnames maak van enigiets of enige persoon wat tersaaklik is vir die doeleindes van 'n ondersoek of 'n inspeksie;
- (h) onderhewig aan ander toepaslike wetgewing, 'n afstandsbeheerde lugvaartuig gebruik om foto's te neem of oudiovisuele opnames te maak wat tersaaklik is vir die doeleindes van 'n ondersoek of vir 'n inspeksie; 15
- (i) in grond grawe of boor;
- (j) monsters van enige eksemplaar of ding neem;
- (k) beslag lê op enige afval of ander materiaal wat strydig met die wet waarvoor hy of sy aangewys is, geplaas of vrygestel is, en dit verwyder; 20
- (l) enige persoon opdrag gee om hom of haar by die uitvoering van 'n ondersoek of inspeksie by te staan;
- (m) beslag lê op enige strik, vangkraal, gif of ander toestel wat redelikerwys vermoed word dat dit gebruik word om 'n wilde dier wederregtelik te jag of te vang, en kan dit verwyder of, indien daar nie daarop beslag gelê kan word en dit verwyder kan word nie, dit vernietig of skadeloos stel; 25
- (n) op enige vee of ander dier wat grond onder die beheer van CapeNature onregmatig betree, beslag lê en dit verwyder;
- (o) enige persoon opdrag gee om onmiddellik enige aktiwiteit, handeling of proses te staak wat verband hou met 'n oortreding van die wet waarvoor hy of sy aangewys is; 30
- (p) enige ander handeling verrig wat nodig is vir die doeleindes van die afdwinging van die wet waarvoor hy of sy aangewys is.

### Roetine-inspeksies 35

**63.** (1) 'n Natuurbewaringsbeampte, onderhewig aan artikel 58, kan te eniger redelike tyd 'n roetine-inspeksie uitvoer en, sonder 'n lasbrief, enige perseel betree en inspekteer of enige sak, boks of ander item deursoek vir die doel om voldoening aan die volgende vas te stel:

- (a) die wetgewing waarvoor die natuurbewaringsbeampte aangewys is ingevolge artikel 58; of 40
- (b) hierdie Wet en 'n bepaling of voorwaarde uitgereik ingevolge hierdie Wet.
- (2) Wanneer 'n natuurbewaringsbeampte 'n roetine-inspeksie uitvoer, kan die natuurbewaringsbeampte, indien hy of sy redelike gronde het om te vermoed dat 'n misdryf gepleeg is ingevolge die wet waarvoor hy of sy aangewys is— 45
- (a) beslag lê op enige eksemplaar of item wat in die vervolging van enige persoon as bewys kan dien vir daardie misdryf, en dit verwyder;
- (b) indien hy of sy 'n vredesbeampte is, enige persoon wat redelikerwys verdink word van die pleging van daardie misdryf, in hegtenis neem.

### Lasbriewe 50

**64.** (1) 'n Natuurbewaringsbeampte of natuurbewaringsveldwagter—

- (a) moet, voordat hy of sy enige bevoegdheid ingevolge artikel 62 uitoefen om enige perseel te betree of te deursoek of op enigiets beslag te lê, by 'n magistraat 'n lasbrief aanvra, deur onder eed of plegtige verklaring uiteen te sit waarom dit nodig is om die vermelde perseel te betree en te deursoek of om op die vermelde item beslag te lê; en 55
- (b) kan sodanige lasbrief uitvoer.

(2) Artikels 20 en 21 van die Strafproseswet is van toepassing, met die nodige veranderinge, ten opsigte van enige aansoek of lasbrief beoog in subartikel (1).

- (3) Indien 'n natuurbewaringsbeampte of natuurbewaringsveldwagter redelike gronde het om te vermoed dat 'n misdryf op of deur middel van enige perseel gepleeg word strydig met die wet waarvoor hy of sy aangewys is, kan hy of sy daardie perseel betree en deursoek sonder 'n lasbrief, maar slegs indien—
- (a) hy of sy die doel van die ondersoek verduidelik en die persoon in beheer van die perseel instem tot die betreding en deursoeking, nadat die persoon ingelig is dat daar geen verpligting is om die beampte of veldwagter sonder 'n lasbrief toe te laat nie; of 5
  - (b) daar redelike gronde is om te glo dat 'n lasbrief op aansoek uitgereik sou word, maar dat die vertraging wat die aansoek om 'n lasbrief kan veroorsaak, die doel van die verkryging van die lasbrief sal verydel. 10
- (4) Indien 'n natuurbewaringsbeampte of natuurbewaringsveldwagter redelike gronde het om te vermoed dat 'n item—
- (a) verband hou met die pleging of vermoedelike pleging van 'n misdryf wat strydig is met die wet waarvoor hy of sy aangewys is; 15
  - (b) as bewys kan dien van die pleging of vermoedelike pleging van so 'n misdryf; of
  - (c) bestem is vir gebruik by die pleging van so 'n misdryf,
- kan hy of sy op die item beslag lê sonder 'n lasbrief wat hom of haar magtig om dit te doen, maar slegs indien— 20
- (i) hy of sy die doel van die beslaglegging verduidelik en die persoon in beheer van die item instem tot die beslaglegging, nadat die persoon ingelig is dat daar geen verpligting is om die beslaglegging sonder 'n lasbrief toe te laat nie; of
  - (ii) daar redelike gronde is om te glo dat so 'n lasbrief op aansoek uitgereik sou word, maar dat die vertraging wat die aansoek om 'n lasbrief kan veroorsaak, die doel van die verkryging van die lasbrief sal verydel. 25

#### **Bevoegdheids om voertuie, vaartuie, lugvaartuie en ander vervoermiddele voor te keer, te betree en te deursoek**

- 65.** (1) Indien 'n natuurbewaringsbeampte redelike gronde het om te vermoed dat 'n voertuig, vaartuig, lugvaartuig of ander vervoermiddel— 30
- (a) gebruik word of gebruik is, of enigiets bevat of vervoer wat gebruik word of gebruik is, om—
    - (i) 'n misdryf ingevolge die wet waarvoor hy of sy aangewys is, te pleeg; of
    - (ii) 'n bepaling of voorwaarde van 'n magtiging of dokument wat ingevolge hierdie Wet uitgereik is of vereis word, te verbreek; 35
  - (b) as bewys kan dien van die pleging of vermoedelike pleging van so 'n misdryf;
  - (c) mense vervoer wat moontlik inligting kan verskaf oor die pleging of vermoedelike pleging van so 'n misdryf;
  - (d) bestem is om gebruik te word of op redelike gronde geglo word bestem te wees om gebruik te word by die pleging van so 'n misdryf; 40
  - (e) gebruik word op 'n wyse wat waarskynlik 'n nadelige uitwerking op die omgewing sal hê; of
  - (f) iets bevat of vervoer wat as bewys kan dien van so 'n misdryf of verbreking, kan hy of sy— 45
  - (i) die operateur aan boord van die voertuig, vaartuig of ander vervoermiddel opdrag gee om stil te hou, of aan die kaptein van die vaartuig om vas te meer of aan die loods van die vliegtuig om te land; en
  - (ii) indien nodig en moontlik, die voertuig, vaartuig, lugvaartuig of ander vervoermiddel dwing om stil te hou, vas te meer of te land, na gelang van die geval. 50
- (2) Artikel 64 is van toepassing, met die nodige veranderinge, ten opsigte van die betreding en deursoeking van 'n voertuig, vaartuig, lugvaartuig of ander vervoermiddel beoog in subartikel (1) en die beslaglegging op enige sodanige voertuig, vaartuig, lugvaartuig of ander vervoermiddel of enigiets daarin of daarop. 55

#### **Plig om dokumente te verskaf**

- 66.** 'n Persoon aan wie 'n magtiging of enige ander dokument ingevolge hierdie Wet uitgereik is, of van wie vereis word om in besit te wees van so 'n magtiging of dokument, moet, op versoek van 'n natuurbewaringsbeampte, natuurbewaringsveldwagter of erenatuurbewaringsbeampte daardie magtiging of dokument verskaf. 60

### Hantering van eksemplaar of item waarop beslag gelê is

- 67.** (1) Wanneer 'n natuurbewaringsbeampte of natuurbewaringsveldwagter ingevolge hierdie Wet op 'n eksemplaar of item, insluitende 'n rekord of skriftelike of elektroniese inligting, beslag lê en dit verwyder—
- (a) moet hy of sy 'n bewys van ontvangs vir die eksemplaar of item aan die persoon wat in beheer was van daardie eksemplaar of item verskaf wanneer daar aldus daarop beslag gelê word; 5
  - (b) kan hy of sy—
    - (i) die eksemplaar of item aan 'n lid van die Suid-Afrikaanse Polisie diens oorhandig; 10
    - (ii) die eksemplaar of item behou; of
    - (iii) die persoon wat onmiddellik voor die beslaglegging in beheer van die eksemplaar of item was, opdrag gee om dit na 'n plek te neem wat die natuurbewaringsbeampte of natuurbewaringsveldwagter vermeld.
- (2) Indien geen strafregtelike verrigtinge ingestel word in verband met 'n eksemplaar of item beoog in subartikel (1) nie, is artikel 31 van die Strafproseswet van toepassing, met die nodige veranderinge. 15
- (3) Ten einde 'n voertuig, vaartuig, lugvaartuig of ander vervoermiddel waarop daar beslag gelê is, te beveilig, kan 'n natuurbewaringsbeampte of natuurbewaringsveldwagter dit immobiliseer deur enige onderdeel daarvan te verwyder. 20
- (4) 'n Item waarop daar ingevolge hierdie Wet beslag gelê is, insluitende 'n gedeelte van 'n voertuig, vaartuig, lugvaartuig of ander vervoermiddel beoog in subartikel (3), moet op so 'n wyse bewaar word dat dit so ver as moontlik teen skade beveilig is.

### Sekuriteit vir teruggawe van voertuie, vaartuie, lugvaartuie of ander vervoermiddele 25

- 68.** (1) Indien daar ingevolge hierdie Wet op 'n voertuig, vaartuig, lugvaartuig of ander vervoermiddel beslag gelê word en dit vir die doeleindes van strafregtelike vervolging gehou word, kan die eienaar of agent van die eienaar te eniger tyd by 'n hof aansoek doen vir die teruggawe daarvan.
- (2) Die hof kan beveel dat die voertuig, vaartuig, lugvaartuig of ander vervoermiddel by die verskaffing van sekuriteit bepaal deur die hof, teruggegee word. 30
- (3) Die bedrag sekuriteit moet minstens gelyk wees aan die som van—
- (a) die markwaarde van die voertuig, vaartuig, lugvaartuig of ander vervoermiddel;
  - (b) die maksimum boete wat 'n hof ingevolge hierdie Wet kan oplê vir die beweerde oortreding; en 35
  - (c) die koste en uitgawes aangegaan deur die staat of wat redelikerwys vermag word deur die staat aangegaan sal word in verband met die geregtelike vervolging van die misdryf en wat ingevolge artikel 55(4)(b) en 70(b) verhaalbaar is. 40
- (4) Indien die hof tevrede is dat daar omstandighede is wat 'n kleiner bedrag sekuriteit regverdig, kan die hof 'n bevel uitreik dat die voertuig, vaartuig, lugvaartuig of ander vervoermiddel onderhewig aan die verskaffing van sekuriteit vir sodanige kleiner bedrag teruggegee word.

## Deel 2 45

### Administratiewe afdwingingsmeganismes en boetes

#### Administratiewe afdwinging

- 69.** (1) Indien die Provinsiale Minister op redelike gronde tevrede is dat enige persoon 'n aktiwiteit strydig met hierdie Wet onderneem, 'n aktiwiteit onderneem wat 'n nadelige uitwerking op biodiversiteit of ekologiese infrastruktuur het of versuim om aan enige dokument of magtiging uitgereik ingevolge hierdie Wet te voldoen, kan die Provinsiale Minister, nadat die betrokke persoon 'n redelike geleentheid gegee is om kommentaar te lewer, 'n lasgewing aan daardie persoon uitreik om—
- (a) die aktiwiteit te staak;
  - (b) spesifieke versagtingsmaatreëls te tref om sodanige nadelige uitwerking binne 'n bepaalde tydsraamwerk reg te stel; 55

(c) binne 'n spesifieke tydsraamwerk aan die tersaaklike dokument of magtiging te voldoen.

(2) In die omstandighede beoog in subartikel (1), indien dringende optrede nodig is vir die beskerming van 'n gebied wat ingevolge artikel 47(1) geïdentifiseer is, kan die Provinsiale Minister die lasgewing uitreik sonder om die persoon aan wie die lasgewing uitgereik word, die geleentheid te gee om kommentaar te lewer en, so gou as redelikerwys moontlik nadat die lasgewing uitgereik is, 'n geleentheid vir kommentaar aan die persoon gee. 5

(3) Indien 'n lasgewing uitgereik aan 'n persoon ingevolge subartikel (1) of (2) verband hou met iets wat plaasvind of moontlik plaasvind op grond waarvan daardie persoon nie die eienaar is nie, kan die Provinsiale Minister ook 'n lasgewing aan die grondeienaar uitreik, in welke geval subartikels (1) en (2) van toepassing is, met die nodige veranderinge. 10

#### **Versuim om aan lasgewing te voldoen**

**70.** Indien 'n persoon versuim om aan 'n lasgewing beoog in artikel 69 te voldoen, kan die Provinsiale Minister— 15

- (a) waar van toepassing, die betrokke magtiging of ander dokument wat die onderwerp van die lasgewing is, kanselleer of verander; en
- (b) enige nodige maatreëls vermeld in die lasgewing en enige ander nodige maatreëls tref om die nadelige uitwerkings op biodiversiteit en ekologiese infrastruktuur wat uit die versuim om aan die lasgewing te voldoen ontstaan, reg te stel en die koste daarvan verhaal van die persoon wat versuim het om aan die lasgewing te voldoen. 20

#### **Administratiewe boetes**

**71.** (1) Die Provinsiale Minister kan— 25

- (a) administratiewe boetes oplê vir—
  - (i) die oortreding van of nievoldoening aan hierdie Wet;
  - (ii) die verbreking van 'n biodiversiteitsopsigterskapsoreenkoms beoog in artikel 42(4);
  - (iii) die nievoldoening aan 'n lasgewing uitgereik ingevolge artikel 69(1);
  - (iv) 'n misdryf gelys in artikel 72; en
- (b) kategorieë van administratiewe boetes en die prosedure vir die oplegging van sodanige boetes voorskryf. 30

(2) Voordat die Provinsiale Minister 'n boete oplê, moet hy of sy skriftelik—

- (a) die persoon aan wie die boete beoog word om opgelê te word, in kennis stel van die beoogde boete; 35
- (b) die besonderhede van die beweerde oortreding, nievoldoening of misdryf en die redes vir die beoogde oplegging van die boete;
- (c) die bedrag van die boete wat beoog word om opgelê te word, vermeld; en
- (d) 'n geleentheid aan die persoon beoog in paragraaf (a) gee om binne 'n tydperk 40 vermeld deur die Provinsiale Minister vertoë te rig.

(3) Indien 'n persoon aan wie 'n administratiewe boete ingevolge subartikel (1) opgelê is, versuim om die boete te betaal, kan die Provinsiale Minister 'n siviele uitspraak ten bedrae van die boete teen daardie persoon neem.

### **HOOFSTUK 10** 45

#### **MISDRYWE EN STRAWWE**

##### **Misdrywe**

**72.** (1) 'n Persoon is aan 'n kategorie 1-misdryf skuldig indien daardie persoon—

- (a) versuim om aan 'n kennisgewing uitgereik ingevolge artikel 47(1), of gewysig soos beoog in artikel 47(4), te voldoen; 50
- (b) artikel 49(5) of (8) oortree of versuim om daaraan te voldoen;
- (c) versuim om aan 'n lasgewing uitgereik ingevolge artikel 69(1), (2) of (3) te voldoen;
- (d) wederregtelik enige handeling of versuim pleeg wat 'n nadelige uitwerking veroorsaak of waarskynlik sal veroorsaak; 55

- (e) die volgende verander, versin of vervals—
- (i) enige magtiging of ander dokument wat uitgereik of vereis word vir die wettige verrigting van enige handeling ingevolge hierdie Wet;
  - (ii) op enige dokument enige amptelike logo, briefhoof, stempel, waarmerk of datumstempel van die Departement of CapeNature, of die handtekening van enige persoon in hul hoedanigheid as 'n agent of werknemer van die Departement of CapeNature; 5
- (f) in besit is van enige wederregtelik veranderde of vervalste dokument wat voorgee om 'n magtiging of 'n vrystelling uitgereik kragtens hierdie Wet te wees, of poog om voor te gee dat so 'n dokument 'n geldige magtiging of vrystelling uitgereik kragtens hierdie Wet is; 10
- (g) enige magtiging of dokument ingevolge hierdie Wet verkry of daarvoor aansoek doen—
- (i) onder 'n vals naam; of
  - (ii) terwyl die persoon deur 'n hofbevel verbied word om die houër van so 'n magtiging of dokument te wees; 15
- (h) 'n vals verklaring aflê in enige aansoek wat gemaak word of in 'n dokument wat ingevolge hierdie Wet verskaf word;
- (i) enigiets wat as bewys kan dien in verband met 'n misdryf kragtens hierdie Wet versteek, verwyder van enige perseel, vernietig of daarvan ontslae raak om te verhoed dat daar daarop beslag gelê word of dat dit opgespoor word, insluitende enige eksemplaar, boek, register, dokument, elektroniese rekord, voertuig, masjinerie, werktuig, houër, vuurwapen, wapen, ploffstof of gif; 20
- (j) enige beamppte wat wettiglik sy of haar mandaat ingevolge hierdie Wet uitvoer of 'n toestel wat wettiglik deur die beamppte gebruik word by die uitvoering van sy of haar mandaat verhinder of belemmer; of 25
- (k) voorgee om 'n natuurbewaringsbeamppte, natuurbewaringsveldwagter, erenatuurbewaringsbeamppte of 'n werknemer of agent van die Departement of CapeNature te wees.
- (2) 'n Persoon is skuldig aan 'n kategorie 2-misdryf indien daardie persoon— 30
- (a) grond onregmatig betree waarop daar enige wilde dier is of waarskynlik sal wees terwyl die persoon in besit is van 'n wapen, gif of enige middel hoegenaamd wat gebruik kan word om wilde diere te jag, te vang of vrek te maak;
  - (b) in besit gevind word van enige eksemplaar sonder bewys soos beoog in artikel 53 van wettige besit; 35
  - (c) enige ander persoon forseer of enige persoon toelaat om 'n handeling of versuim te pleeg wat strydig is met hierdie Wet; of
  - (d) die houër is van 'n magtiging of vrystelling wat kragtens hierdie Wet uitgereik is en— 40
    - (i) 'n bepaling of voorwaarde van daardie magtiging of vrystelling oortree of versuim om daaraan te voldoen;
    - (ii) nie in besit is van so 'n magtiging of vrystelling nie terwyl die persoon 'n handeling verrig wat slegs uitgevoer mag word terwyl die persoon in besit van so 'n magtiging of vrystelling is; of 45
    - (iii) enige ander persoon toelaat om enigiets te doen, of om te versuim om enigiets te doen, wat ingevolge subparagraaf (i) of (ii) 'n misdryf is.
- (3) 'n Persoon is skuldig aan 'n kategorie 3-misdryf indien daardie persoon—
- (a) versuim om aan 'n instruksie van 'n natuurbewaringsbeamppte, natuurbewaringsveldwagter of erenatuurbewaringsbeamppte te voldoen wat ingevolge hierdie Wet of by die uitvoering van sy of haar bevoegdhede ingevolge hierdie Wet gegee word; 50
  - (b) versuim om aan ondergeskikte wetgewing wat ingevolge hierdie Wet gemaak is, te voldoen;
  - (c) wanneer die persoon deur 'n natuurbewaringsbeamppte, natuurbewaringsveldwagter of erenatuurbewaringsbeamppte by die uitvoering van 'n ondersoek of 'n inspeksie gevra word om inligting te verskaf, valse of misleidende inligting verskaf; of 55
  - (d) sonder goeie rede weier of versuim om op versoek van 'n natuurbewaringsbeamppte, natuurbewaringsveldwagter of erenatuurbewaringsbeamppte sy of haar naam en adres of enige inligting of dokument te verskaf wat daardie 60

natuurbehearingsbeampte, natuurbehearingsveldwagter of erenatuurbehearings-beampte benodig ten einde sy of haar werksaamhede ingevolge hierdie Wet te verrig.

### Strawwe

73. (1) 'n Persoon wat aan 'n kategorie 1-misdryf beoog in artikel 72(1) skuldig bevind word, is strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens 10 jaar, of met beide sodanige boete en sodanige gevangenisstraf. 5

(2) 'n Persoon wat aan 'n kategorie 2-misdryf beoog in artikel 72(2) skuldig bevind word, is strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens vyf jaar, en in die geval van 'n tweede of daaropvolgende skuldigbevinding, met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens 10 jaar, of in beide gevalle, met sodanige boetes en sodanige gevangenisstraf. 10

(3) 'n Persoon wat aan 'n kategorie 3-misdryf beoog in artikel 72(3) skuldig bevind word, is strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens twee jaar, en in die geval van 'n tweede of daaropvolgende skuldigbevinding, met 'n boete of gevangenisstraf vir hoogstens vyf jaar, of in beide gevalle, met sodanige boetes en sodanige gevangenisstraf. 15

(4) Indien enige oortreding die vang, vrekmaak, oes, besit, te koop aanbied, verkoop, invoer of uitvoer van 'n eksemplaar behels, kan 'n hof, benewens die boetes beoog in subartikels (1), (2) en (3), 'n boete oplê wat hoogstens drie keer die markwaarde van daardie eksemplaar is. 20

(5) Onderhewig aan die Strafproseswet moet boetes wat ingevolge hierdie Wet deur 'n hof opgelê word, aan CapeNature betaalbaar gemaak en betaal word.

### Kansellasië van magtigings

74. Die hof wat ingevolge hierdie Wet 'n persoon aan 'n misdryf skuldig bevind, kan— 25

- (a) enige magtiging wat aan daardie persoon uitgereik is, kanselleer;
- (b) daardie persoon onbevoeg verklaar om enige magtiging te verkry vir 'n tydperk van hoogstens vyf jaar;
- (c) beveel dat alle bevoegde owerhede wat gemagtig is om magtigings uit te reik, van enige onbevoegdheid ingevolge paragraaf (b) in kennis gestel word. 30

### Toekenning van koste

75. Indien 'n persoon ingevolge hierdie Wet aan 'n misdryf skuldig bevind is en die handeling of versuim wat die misdryf uitmaak—

- (a) veroorsaak het dat enige staatsorgaan enige koste aangegaan het om op enige item beslag te lê, enige grond te rehabiliteer of daardie misdryf te ondersoek en strafregtelik te vervolg; 35
- (b) aan daardie persoon 'n geldelike voordeel of 'n moontlike geldelike voordeel verskaf het,

kan die hof wat daardie persoon skuldig bevind, sonder pleitstukke, navraag doen oor die geldelike waarde van die koste aangegaan en die voordeel wat daardie persoon uit daardie misdryf getrek het of waarskynlik sal trek en, benewens enige ander straf wat ten opsigte van daardie misdryf opgelê is, beveel dat 'n bedrag gelyk aan daardie geldelike waarde direk aan CapeNature betaal word as 'n bykomende boete, toekenning van skade of vergoeding, as 'n deel van die vonnis. 45

### Verbeuring

76. (1) 'n Hof wat 'n persoon aan 'n misdryf ingevolge hierdie Wet skuldig bevind—

- (a) moet enige eksemplaar;
- (b) kan enige item, insluitende enige houër, voertuig, vaartuig, lugvaartuig, ander vervoermiddel of dokument, insluitende 'n elektroniese dokument, 50

wat by die misdryf betrokke was of gebruik is vir of in verband met die pleging van die misdryf en waarop daar kragtens hierdie Wet beslag gelê is, aan CapeNature verbeur verklaar.

(2) Indien enige eksemplaar wat kragtens subartikel (1) aan CapeNature verbeur is, steeds lewe, moet CapeNature verseker dat die eksemplaar— 55

- (a) waar gepas, teruggeneem word na die land van uitvoer of die plek van oorsprong op die onkoste van die persoon wat aan die misdryf skuldig bevind is waarby daardie eksemplaar betrokke was;
- (b) in 'n toepaslike instelling, reddingsentrum of fasiliteit geplaas word, of by 'n gepaste persoon wat in staat en gewillig is om die eksemplaar te huisves en behoorlik te versorg; of 5
- (c) andersins op 'n geskikte wyse mee weggedoen word.
- (3) Indien enige dooie eksemplaar of ander item kragtens subartikel (1) aan CapeNature verbeur is, kan CapeNature—
- (a) die eksemplaar of item by 'n geskikte instelling of museum laat deponeer; of 10
- (b) op 'n toepaslike wyse met die eksemplaar of item wegdoen.

## HOOFSTUK 11

### APPÈLLE

#### Appèl teen besluite deur CapeNature-beamptes

77. (1) Enige belanghebbende of geraakte persoon kan by die Hoof- Uitvoerende Beampte appelleer teen 'n besluit geneem ingevolge hierdie Wet deur 'n natuurbewaringsbeampte of enige personeellid van CapeNature, behalwe die Hoof-Uitvoerende Beampte. 15

(2) 'n Appèl ingevolge subartikel (1) moet op die voorgeskrewe wyse ingedien en hanteer word, by betaling van die voorgeskrewe gelde en binne die voorgeskrewe tydperk. 20

(3) Die Hoof- Uitvoerende Beampte kan 'n appèl oorweeg en daarvoor besluit of 'n appèlpaneel aanstel om die appèl te oorweeg en die Hoof- Uitvoerende Beampte oor die appèl te adviseer.

(4) Die Hoof- Uitvoerende Beampte kan, ná oorweging van 'n appèl, die besluit bevestig, ter syde stel of verander of enige ander gepaste besluit neem, insluitende 'n besluit dat die voorgeskrewe gelde wat die appellant ingevolge subartikel (2) betaal het, of enige gedeelte daarvan, terugbetaal word. 25

(5) 'n Appèl ingevolge subartikel (1) skort die magtiging of voorwaarde wat daaraan geheg is, op, maar slegs indien daar geen bedreiging van 'n nadelige uitwerking op die omgewing is nie. 30

#### Appèl na Provinsiale Minister

78. (1) Enige belanghebbende of geraakte persoon kan by die Provinsiale Minister appelleer teen 'n besluit geneem deur die Hoof- Uitvoerende Beampte of deur 'n persoon wat kragtens 'n bevoegdheid gedelegeer deur die Provinsiale Minister ingevolge hierdie Wet opgetree het. 35

(2) 'n Appèl ingevolge subartikel (1) moet op die voorgeskrewe wyse ingedien en hanteer word, by betaling van die voorgeskrewe gelde en binne die voorgeskrewe tydperk.

(3) Die Provinsiale Minister kan 'n appèl oorweeg en daarvoor besluit of 'n appèlpaneel aanstel om die appèl te oorweeg en die Provinsiale Minister oor die appèl te adviseer. 40

(4) Die Provinsiale Minister kan, ná oorweging van 'n appèl, die besluit bevestig, ter syde stel of verander en bepaal dat die voorgeskrewe gelde wat die appellant ingevolge subartikel (2) betaal het, of enige gedeelte daarvan, terugbetaal word. 45

(5) 'n Appèl kragtens hierdie artikel skort die implementering van die betrokke besluit en enige magtiging of voorwaarde wat daaraan geheg is, op, maar slegs waar daar geen gevaar van 'n nadelige uitwerking op die omgewing is nie.

## HOOFSTUK 12

### ALGEMENE EN OORGANGSBEPALINGS

50

#### Vrystelling

79. (1) Die Hoof- Uitvoerende Beampte kan, onderhewig aan enige voorwaardes wat die Hoof- Uitvoerende Beampte kan vermeld, enige persoon vrystel van die vereiste ingevolge hierdie Wet vir—

- (a) 'n magtiging; of
- (b) 'n voorwaarde van 'n magtiging.

(2) Die Provinsiale Minister kan die proses voorskryf wat gevolg moet word vir die indiening en verwerking van 'n aansoek om vrystelling aan die Hoof- Uitvoerende Beampte soos beoog in subartikel (1). 5

### Delegasie

**80.** (1) Onderhewig aan subartikel (3) kan die Provinsiale Minister enige bevoegdheid of enige plig wat ingevolge hierdie Wet by hom of haar berus, delegeer of opdra aan—

- (a) die Departementshoof; 10
- (b) die Raad;
- (c) die Hoof- Uitvoerende Beampte;
- (d) CapeNature;
- (e) 'n munisipaliteit, onderhewig aan die toepaslike wetgewing; of
- (f) enige ander staatsorgaan. 15

(2) 'n Delegasie ingevolge subartikel (1)—

- (a) is onderhewig aan enige beperkings of voorwaardes wat die Provinsiale Minister kan oplê;
- (b) moet op skrif wees;
- (c) kan die bevoegdheid om te subdelegeer insluit; en 20
- (d) ontdoen nie die Provinsiale Minister van die verantwoordelikheid rakende die uitoefening van die gedelegerde bevoegdheid of die verrigting van die gedelegerde plig nie.

(3) Die Provinsiale Minister—

- (a) mag nie 'n bevoegdheid of plig van die Provinsiale Minister om ondergeskikte wetgewing te maak, delegeer nie; en 25
- (b) kan enige delegasie skriftelik intrek.

(4) Die Departementshoof kan, met die skriftelike toestemming van die Provinsiale Minister, enige van sy of haar bevoegdhede of pligte ingevolge hierdie Wet aan 'n beampte van die Departement delegeer. 30

(5) Die Raad of die Hoof- Uitvoerende Beampte kan, met die skriftelike toestemming van die Provinsiale Minister, enige van hul bevoegdhede of pligte ingevolge hierdie Wet aan 'n beampte van CapeNature delegeer.

(6) Die Raad mag nie die volgende van sy bevoegdhede delegeer nie:

- (a) die aanstelling of heraanstelling van 'n persoon as die Hoof- Uitvoerende Beampte; 35
- (b) die bepaling van die diensvoorwaardes van die Hoof- Uitvoerende Beampte;
- (c) die bepaling van 'n indiensnemingsbeleid vir CapeNature;
- (d) die stel van finansiële perke beoog in artikel 27(4)(f);
- (e) die goedkeuring van die begroting en finansiële jaarstate van CapeNature. 40

(7) Subartikels (2) en (3)(b) is van toepassing, met die nodige veranderinge, op 'n delegasie ingevolge subartikel (4) of (5).

### Regulasies

**81.** Die Provinsiale Minister—

- (a) moet regulasies maak wat ingevolge hierdie Wet vereis word; 45
- (b) kan regulasies maak oor enige aangeleentheid wat nodig of dienstig is om voor te skryf ten einde die oogmerke van hierdie Wet te bereik.

### Openbare kennisgewings

**82.** Die Provinsiale Minister kan 'n kennisgewing in die *Provinsiale Koerant* publiseer— 50

- (a) oor enige aangeleentheid wat ingevolge hierdie Wet deur middel van 'n kennisgewing gehanteer kan of moet word;
- (b) wat 'n verwysing bevat na 'n plan, strategie of riglyn vir die implementering van hierdie Wet;
- (c) om enige aangeleentheid wat met die administrasie van hierdie Wet verband hou, af te kondig. 55

### Prestasiestandaarde

83. Die Provinsiale Minister kan prestasiestandaarde stel vir die verrigting van enige werksaamheid of vereiste beoog in hierdie Wet.

### Oorlegpleging

84. (1) Voordat die Provinsiale Minister enige regulasies of kennisgewing ingevolge hierdie Wet publiseer, moet die Provinsiale Minister— 5

- (a) die konsepregulasies of -kennisgewing in die amptelike tale van die Provinsie publiseer in—
  - (i) die *Provinsiale Koerant*; en
  - (ii) twee koerante wat in die Provinsie sirkuleer, waarvan minstens een in gedrukte formaat moet wees; 10
- (b) 'n geleentheid vir belanghebbende en geraakte partye gee om kommentaar te lewer vir 'n tydperk van minstens 30 dae vanaf die datum van publikasie in die *Provinsiale Koerant*, behalwe waar 'n ander tydperk by hierdie Wet vermeld word; en 15
- (c) enige kommentaar wat ontvang is, oorweeg.

(2) Die Provinsiale Minister kan, waar gepas, die kommentaar tydperk ingevolge subartikel (1)(b) vir 'n redelike tydperk verleng.

(3) Wanneer die Provinsiale Minister ingevolge hierdie Wet vereis word om met enige persoon of staatsorgaan oorleg te pleeg, word sodanige oorlegpleging geag volbring te wees indien 'n formele skriftelike kennisgewing van die voorneme om op te tree aan daardie persoon of staatsorgaan gemaak is en geen antwoord daarop binne die tydperk vermeld in die kennisgewing ontvang is nie. 20

### Kennisgewings, regsdokumente en stappe geldig in sekere omstandighede

85. (1) 'n Kennisgewing, magtiging of ander dokument, wat ingevolge hierdie Wet uitgereik of gepubliseer is— 25

- (a) wat nie aan enige prosedurele vereiste voldoen nie, is nietemin geldig indien die nievoldoening nie wesenlik is en geen persoon benadeel nie;
- (b) kan gewysig of vervang word sonder om 'n prosedurele vereiste van hierdie Wet te volg indien— 30
  - (i) die doel is om 'n fout reg te stel; en
  - (ii) die regstelling nie die regte of pligte van enige persoon wesenlik verander nie.

(2) Die versuim om enige stappe vereis by hierdie Wet te doen as 'n voorvereiste vir enige besluit of handeling maak nie die besluit of handeling ongeldig indien die versuim— 35

- (a) nie wesenlik is nie;
- (b) geen persoon benadeel nie; en
- (c) nie prosedureel onregverdig is nie.

### Beperking van aanspreeklikheid 40

86. Die Provinsiale Minister, die Departementshoof, die Raad, die Hoof- Uitvoerende Beampte, CapeNature of enige persoon wat ingevolge hierdie Wet gedelegeer is, is nie aanspreeklik nie vir enige skade of verlies veroorsaak deur 'n persoon wat, handelend op 'n redelike wyse en te goeder trou—

- (a) ingevolge hierdie Wet 'n bevoegdheid uitoefen of 'n plig verrig; 45
- (b) nie ingevolge hierdie Wet 'n bevoegdheid uitoefen of plig verrig nie; of
- (c) 'n plig buite sy of haar mandaat verrig.

### Herroeping van wette

87. Die wette beoog in die Bylae word herroep in die mate aangedui in die derde kolom van die Bylae. 50

## Oorgangsbepalings

**88.** (1) 'n Persoon wat onmiddellik voor die inwerkingtreding van hierdie Wet 'n natuurbewaringsbeampte, natuurbewaringsveldwagter of erenatuurbewaringsbeampte soos omskryf in die Ordonnansie was, word geag 'n natuurbewaringsbeampte, natuurbewaringsveldwagter of erenatuurbewaringsbeampte, na gelang van die geval, 5  
ingevolge hierdie Wet aangewys te wees.

(2) 'n Lisensie, permit, sertifikaat, skriftelike magtiging, vrystelling, opdrag of ander magtiging uitgereik ingevolge die Ordonnansie en wat onmiddellik voor die inwerkingtreding van hierdie Wet geldig was, word geag 'n magtiging, vrystelling, 10  
opdrag of lasgewing, na gelang van die geval, uitgereik ingevolge hierdie Wet te wees.

(3) 'n Aansoek om 'n lisensie, permit, sertifikaat, skriftelike magtiging, vrystelling, bevel of ander magtiging ingedien ingevolge die Ordonnansie wat nog nie gefinaliseer is wanneer hierdie Wet in werking tree nie, moet, ondanks die herroeping van die Ordonnansie by artikel 87 van hierdie Wet, afgehandel word ingevolge die 15  
Ordonnansie, en 'n besluit geneem ingevolge die Ordonnansie word geag 'n besluit geneem ingevolge hierdie Wet te wees.

(4) Die korporatiewe identiteit en die bates, laste, finansies, regte en verpligtinge van die provinsiale openbare instelling beoog in artikel 9 word nie deur sy naamverandering geraak nie.

(5) 'n Persoon wat onmiddellik voor die inwerkingtreding van hierdie Wet 'n lid van die Wes-Kaapse Natuurbewaringsraad was, word vir die onverstreke gedeelte van sy of 20  
haar ampstermyn geag aangestel te wees as 'n lid van die Raad van CapeNature.

(6) Die Voorsitter van die Wes-Kaapse Natuurbewaringsraad onmiddellik voor die inwerkingtreding van hierdie Wet word vir die onverstreke gedeelte van sy of haar 25  
ampstermyn geag aangestel as die Voorsitter van CapeNature te wees.

(7) Alle persone aangestel deur die Wes-Kaapse Natuurbewaringsraad word geag aangestel te wees ingevolge artikel 27(4)(f) as personeellede van CapeNature, 30  
onderhewig aan dieselfde diensvoorwaardes wat onmiddellik voor die herroeping van die Wet op die Wes-Kaapse Natuurbewaringsraad op hulle van toepassing was.

(8) Subartikel (7) raak nie die pensioen, verlof en ander voordele wat werknemers 30  
beoog in daardie subartikel toegeval het voor die herroeping van die Wet op die Wes-Kaapse Natuurbewaringsraad nie.

(9) 'n Gebied wat te eniger tyd voor die inwerkingtreding van hierdie Wet ingevolge artikel 6, 7 of 12 van die Ordonnansie as 'n natuurreservaat ingestel is, en wat geag 35  
word—

(a) ingevolge artikel 23(5) van die Wet op Beskermdede Gebiede as 'n natuurreservaat verklaar te wees, bly voortbestaan as 'n natuurreservaat 40  
ingevolge daardie Wet; of

(b) ingevolge artikel 28(7) van die Wet op Beskermdede Gebiede as 'n beskermdede 40  
omgewing verklaar te wees, bly voortbestaan as 'n beskermdede gebied ingevolge daardie Wet.

## Kort titel en inwerkingtreding

**89.** Hierdie Wet heet die Wes-Kaapse Wet op Biodiversiteit, 2021, en tree in werking op 'n datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal.

**BYLAE: HERROEPING VAN WETTE**

<b>Nommer en jaar</b>	<b>Titel</b>	<b>Omvang van herroeping</b>
21 van 1935	Strandwet, 1935	Die geheel
63 van 1970	Wet op Bergopvanggebiede, 1970	Die geheel, vir sover dit by Proklamasie R28 van 1995 aan die Provinsie opgedra is
19 van 1974	Ordonnansie op Natuurbewaring, 1974	Die geheel
3 van 1982	Ordonnansie op die Geldigverklaring van Natuurreservate, 1982	Die geheel
15 van 1998	Wet op die Wes-Kaapse Natuurbewaringsraad, 1998	Die geheel
8 van 1999	Wes-Kaapse Ordonnansie op Natuur- en Omgewingsbewaring Wysigingswet, 1999	Die geheel
3 van 2000	Wes-Kaapse Wysigingswet op Natuurbewaringswette, 2000	Die geheel, behalwe artikel 2 en Bylae 2
6 van 2011	Wes-Kaapse Wet op Biosfeerreservate, 2011	Die geheel

## **MEMORANDUM OOR DIE OOGMERKE VAN DIE WES-KAAPSE WETSONTWERP OP BIODIVERSITEIT**

### **1. AGTERGROND**

- 1.1 Biodiversiteit en beskermde gebiede in die Wes-Kaap word tans ingevolge die “National Environmental Management: Biodiversity Act, 2004” (Wet 10 van 2004), die “National Environmental Management: Protected Areas Act, 2003” (Wet 57 van 2003), die Wet op die Wes-Kaapse Natuurbewaringsraad, 1998 (Wet 15 van 1998), en die Ordonnansie op Natuurbewaring, 1974 (Ordonnansie 19 van 1974) (die Ordonnansie), gereguleer.
- 1.2 Ten einde ooreenstemming met nasionale wetgewingsraamwerke te bereik en provinsiale wetgewende raamwerke vir biodiversiteitsbestuur te rasionaliseer en te moderniseer, is ’n proses van wetgewende hervorming sedert 2012 aan die gang.
- 1.3 In April 2014 het die Provinsiale Kabinet goedkeuring verleen om die “Draft Western Cape Nature Conservation Board Amendment Bill, 2012” en die “Draft Western Cape Environment Conservation Bill, 2013”, in ’n enkele Wetsontwerp te konsolideer.

### **2. OOGMERKE VAN WETSONTWERP**

- 2.1 Die Wes-Kaapse Wetsontwerp op Biodiversiteit (die Wetsontwerp) het hoofsaaklik ten doel om die Wet op die Wes-Kaapse Natuurbewaringsraad, 1998, en die Ordonnansie te vervang. Beide statute gaan die Grondwet van die Republiek van Suid-Afrika, 1996 (die Grondwet), vooraf en maak nie voldoende voorsiening vir meganismes wat biodiversiteit en ekologiese infrastruktuur kan bewaar en bestuur om te verseker dat ekosisteedienste ’n inklusiewe en veerkragtige ekonomie ondersteun nie.
- 2.2 Die Wetsontwerp omvat ’n gerasionaliseerde benadering tot die Wes-Kaapse Wet op Biosfeerreservate, 2011 (Wet 6 van 2011), en die voorgestelde wysigings daarvan, wat ook die herroeping van hierdie wetgewing sal moontlik maak.
- 2.3 Die Wetsontwerp sal ook daardie bepalings van die Wet op Bergopvanggebiede, 1970 (Wet 63 van 1970), wat aan die Provinsie opgedra is, herroep en daardeur die beskerming van bergopvanggebiede, wat sigself belangrike ekosisteme huisves en noodsaaklike waterskaffingsdienste in die Provinsie lewer, moderniseer.
- 2.4 Die oogmerke van die Wetsontwerp is om—
  - 2.4.1 uitvoering te gee aan die verpligting van die staat ingevolge nasionale wetgewing om as trustee met betrekking tot die omgewing op te tree;
  - 2.4.2 uitvoering te gee aan artikel 81(m) van die Wes-Kaapse Grondwet, 1997 (Wet 1 van 1998), om die omgewing in die Provinsie, insluitende die unieke biodiversiteit daarvan, tot voordeel van die huidige geslag en die nageslag te beskerm en te bewaar;
  - 2.4.3 die langtermyn- ekologiese volhoubaarheid en veerkragtigheid van biodiversiteit, ekosisteme, ekosisteedienste en ekologiese infrastruktuur te verseker deur die implementering van die beginsels van ekologiese volhoubaarheid beoog in klousule 6 van die Wetsontwerp en die beskerming van prioriteitsbiodiversiteit en ekologiese infrastruktuur;

- 2.4.4 menslike welsyn en die langtermynveerkragtigheid van die samelewing en die ekonomie te verseker deur die bewaring van beskermdede gebiede, biodiversiteit, ekosisteme, ekosisteemdienste en ekologiese infrastruktuur;
- 2.4.5 redelike en volhoubare toegang moontlik te maak tot voordele en geleenthede wat uit die bewaring van beskermdede gebiede, biodiversiteit, ekosisteme, ekosisteemdienste en ekologiese infrastruktuur ontstaan;
- 2.4.6 institusionele strukture en organisatoriese kapasiteit daar te stel vir die doeltreffende uitoefening van die bewaring en bestuur van biodiversiteit en die natuur in die Provinsie;
- 2.4.7 oorlegpleging, samewerking, geïntegreerde beplanning, besluitneming en bestuur ter ondersteuning van die bewaring en volhoubare gebruik van biodiversiteit en ekosisteemdienste in die Provinsie te bevorder;
- 2.4.8 stelselmatige biodiversiteitsbeplanning en die bereiking van biodiversiteitsmikpunte vir bewaring wat in die Ruimtelike Biodiversiteitsplan en die Uitbreidingsstrategie vir Provinsiale Beskermdede Gebiede uiteengesit word, te bevorder;
- 2.4.9 sekere aktiwiteite wat onderneem word, te reguleer op 'n wyse wat die integriteit en gesondheid van die omgewing verbeter en beskerm;
- 2.4.10 behoudens artikel 231 van die Grondwet, internasionale ooreenkomste en beste praktyke rakende die omgewing en die bewaring van biodiversiteit te implementeer en daaraan uitvoering te gee;
- 2.4.11 die finansiële en ekonomiese volhoubaarheid van die betrokke instellings wat vir die bewaring en bestuur van biodiversiteit en die natuur in die Provinsie verantwoordelik is, moontlik te maak; en
- 2.4.12 'n billike en volhoubare biodiversiteitseconomie in die Provinsie moontlik te maak en te ontwikkel, insluitende die bevordering en ontwikkeling van ekotoerisme in gebiede onder die beheer van CapeNature.

### **3. INHOUD VAN WETSONTWERP**

#### **3.1 HOOFSTUK 1: UITLEG, OOGMERKE EN TOEPASSING VAN WET**

- 3.1.1 Klousule 1 maak voorsiening vir die omskrywing van woorde en terme wat in die Wetsontwerp gebruik word.
- 3.1.2 Klousule 2 maak voorsiening vir die oogmerke van die Wetsontwerp.
- 3.1.3 Klousule 3 maak voorsiening vir die toepassing van die Wetsontwerp.
- 3.1.4 Klousule 4 maak voorsiening vir bepalinge om teenstrydighede tussen die bepalinge van die Wetsontwerp en ander wetgewing op te los.

#### **3.2 HOOFSTUK 2: PLIGTE EN BEGINSELS**

- 3.2.1 Klousule 5 maak voorsiening vir die pligte van die staat by die bestuur van biodiversiteit.
- 3.2.2 Klousule 6 maak voorsiening vir beginsels van ekologiese volhoubaarheid wat staatsorgane moet toepas by die neem van besluite of doen van aktiwiteite wat biodiversiteit in die Provinsie kan raak.

### 3.3 HOOFSTUK 3: ADMINISTRASIE

- 3.3.1 Klousule 7 maak voorsiening vir die werksaamhede van die Provinsiale Minister, insluitende die uitoefening van oorsig oor die Departementshoof, CapeNature en die Raad van CapeNature; die ontwikkeling en implementering van provinsiale beleid; en die periodieke evaluering van die doeltreffendheid van die implementering en afdwinging van die Wetsontwerp.
- 3.3.2 Klousule 8 maak voorsiening vir die pligte van die Departementshoof, insluitende raadgewing aan die Provinsiale Minister, ná oorleg met CapeNature, oor aangeleenthede met betrekking tot die reg, ondergeskikte wetgewing en provinsiale beleid rakende natuurbewaring, biodiversiteit, en kus- en riviermondingbestuur; die koördinerende van provinsiale strategieë soos goedgekeur deur die Provinsiale Minister vir natuurbewaring, biodiversiteit en kus- en riviermondingbestuur; en die bevordering en ontwikkeling van die biodiversiteitseconomie. Voorts het die Departementshoof pligte wat hy of sy ingevolge klousule 8 moet vervul, wat bestaanbaar is met sy of haar pligte as rekenpligtige beampte van die Departement.

### 3.4 HOOFSTUK 4: CAPENATURE

Hierdie hoofstuk word in die volgende ses dele verdeel:

- 3.4.1 Deel 1: Instelling, werksaamhede en bevoegdhede van CapeNature (klousules 9 tot 11), waar klousule 9 voorsiening maak vir die volgehoue bestaan van die huidige Wes-Kaapse Natuurbewaringsraad en bepaal dat dit as “CapeNature” bekend staan.
- 3.4.2 Deel 2: Samestelling en lidmaatskap van die Raad (klousules 12 tot 22).
- 3.4.3 Deel 3: Bedryfsprosedures van die Raad (klousules 23 tot 26).
- 3.4.4 Deel 4: Administrasie van CapeNature (klousule 27).
- 3.4.5 Deel 5: Finansiële aangeleenthede (klousules 28 tot 31).
- 3.4.6 Deel 6: Ontbinding van die Raad of CapeNature (klousules 32 tot 33).

### 3.5 HOOFSTUK 5: BIODIVERSITEITSBEPLANNING EN -MONITERING

- 3.5.1 Klousule 34 maak voorsiening vir die publikasie van die Ruimtelike Biodiversiteitsplan.
- 3.5.2 Klousule 35 maak voorsiening vir die doel van die Ruimtelike Biodiversiteitsplan, insluitende die identifisering van biodiversiteitsprioriteitsgebiede.
- 3.5.3 Klousule 36 maak voorsiening vir die inhoud van die Ruimtelike Biodiversiteitsplan.
- 3.5.4 Klousule 37 maak voorsiening vir die aanwending en toepassing van die Ruimtelike Biodiversiteitsplan, insluitende die ooreenstemming daarvan met ander planne waarvoor nasionale en provinsiale wetgewing voorsiening maak.
- 3.5.5 Klousule 38 maak voorsiening vir die hersiening van die Ruimtelike Biodiversiteitsplan elke vyf jaar.

### **3.6 HOOFSTUK 6: BESKERMDE GEBIEDE, BERGOPVANGSGEBIEDE, BIODIVERSITEITSOPSIGTERSskap EN BIOSFEERRESERVATE**

3.6.1 Hoofstuk 6 word in vier dele verdeel, wat vier meganismes dek wat beskerming aan verskeie gebiede kan bied. In hierdie hoofstuk word bepalings van verouderde wetgewing, wat hierdie Wetsontwerp sal herroep, ingewerk in die Wetsontwerp, naamlik die Wet op Bergopvanggebiede, 1970, en die Wes-Kaapse Wet op Biosfeerreservate, 2011.

3.6.2 Deel 1: Uitbreiding van beskermde gebiede

Klousule 39 maak voorsiening vir die Uitbreidingsstrategie vir Provinsiale Beskermde Gebiede, wat die strategie is wat opgestel, aangeneem en gepubliseer sal word ten einde stelselmatige biodiversiteitsbeplanning en die bereiking van die biodiversiteitsmik-punte vir bewaring, uiteengesit in die Ruimtelike Biodiversiteitsplan en die Uitbreidingsstrategie vir Provinsiale Beskermde Gebiede, te bevorder.

3.6.3 Deel 2: Bergopvangsgebiede

Klousules 40 en 41 maak voorsiening vir die verklaring en bestuur van bergopvangsgebiede waar sodanige verklaring nodig is om die verskaffing van ekosisteemdienste, spesifiek watervoorsiening, te volhou.

3.6.4 Deel 3: Biodiversiteitsopsigterskap

Klousule 42 maak voorsiening vir biodiversiteitsopsigterskap, waardeur 'n grondeienaar 'n biodiversiteitsopsigterskapsoreenkoms kan aangaan, wat ten doel het om die oogmerke van die Uitbreidingsstrategie vir Provinsiale Beskermde Gebiede te bevorder.

3.6.5 Deel 4: Biosfeerreservate

Klousules 43 tot 46 maak voorsiening vir die aansoek om UNESCO-aanwysing van biosfeerreservate, die bestuur van biosfeerreservate, die Biosfeerreservaatraamwerkplan en die befondsing van sodanige reservate.

### **3.7 HOOFSTUK 7: BESKERMING VAN EKOSISTEME, EKOLOGIESE INFRASTRUKTUUR EN SPESIES**

3.7.1 Klousule 47 verleen aan die Provinsiale Minister die bevoegdheid om 'n ekosisteem of gedeelte daarvan of 'n gebied van ekologiese infrastruktuur as behoeftig te identifiseer aan spesiale beskerming om die instandhouding van die ekologiese integriteit of die lewering van ekosisteemdienste te verseker.

3.7.2 Klousule 48 verleen aan die Provinsiale Minister die bevoegdheid om vereistes voor te skryf en riglyne te publiseer vir biodiversiteits-teëwigte of ander versagtingmaatreëls in die Provinsie.

3.7.3 Klousule 49 maak voorsiening vir die publikasie van beperkte aktiwiteite of beperkte metodes ten opsigte van enige gelyste spesie of enige kategorie gelyste spesie.

### **3.8 HOOFSTUK 8: MAGTIGING**

Klousules 50 tot 55 maak voorsiening vir die aansoek om magtiging, die besluitneming oor sodanige aansoek en die hersiening, opskorting, intrekking en wysiging van 'n magtiging.

### **3.9 HOOFSTUK 9: VOLDOENING EN AFDWINGING**

Hoofstuk 9 word in twee dele verdeel.

#### **3.9.1 Deel 1: Voldoenings- en afdwingingsbeamptes en regsaaengeleenthede**

Klousules 56 tot 68 maak voorsiening vir die aanwysing van natuur-bewaringsbeamptes, natuurbewaringsveldwagters en erenatuurbewaringsbeamptes en sit hul onderskeie mandate, werksaamhede en bevoegdhede uiteen. Die bevoegdhede waarvoor daar in hierdie hoofstuk voorsiening gemaak word, is beide noodsaaklik en gepas vir die doeltreffende bekamping van misdade met betrekking tot biodiversiteit.

#### **3.9.2 Deel 2: Administratiewe afdwingingsmeganismes en strawwe**

Klousules 69 tot 71 bevat 'n administratiewe afdwingingsinstrument om die kriminele afdwingingsinstrumente wat ingevolge hierdie Wetsontwerp gebruik kan word, aan te vul.

### **3.10 HOOFSTUK 10: MISDRYWE EN STRAWWE**

3.10.1 Klousule 72 maak voorsiening vir misdrywe wat volgens grade van hewigheid gekategoriseer word.

3.10.2 Klousule 73 maak voorsiening vir maksimum strawwe vir elke kategorie misdryf, wat 'n hof in staat sal stel om 'n gepaste vonnis aan oortreders ingevolge die Wetsontwerp op te lê.

3.10.3 Klousule 74 maak voorsiening vir die kansellasië van 'n magtiging indien 'n persoon aan 'n misdryf skuldig bevind word.

3.10.4 Klousule 75 maak voorsiening vir die toekenning van koste.

3.10.5 Klousule 76 maak voorsiening vir die verbeuring van enige eksemplaar of item betrokke by 'n misdryf en waarop daar ingevolge die Wetsontwerp beslag gelê is.

### **3.11 HOOFSTUK 11: APPELLE**

3.11.1 Klousule 77 maak voorsiening vir appèlle teen besluite van CapeNature-beamptes.

3.11.2 Klousule 78 maak voorsiening vir appèlle teen besluite geneem deur die Hoof- Uitvoerende Beampte van CapeNature of deur 'n persoon wat kragtens 'n delegasie deur die Provinsiale Minister handel.

### **3.12 HOOFSTUK 12: ALGEMENE EN OORGANGSBEPALINGS**

3.12.1 Klousules 79 tot 89 maak voorsiening vir algemene en oorgangsbepalings vir die doeltreffende implementering van die Wetsontwerp.

3.12.2 Klousule 81 maak voorsiening vir regulasies gemaak deur die Provinsiale Minister om die praktiese implementering van die Wetsontwerp moontlik te maak.

### **3.13 BYLAE: HERROEPING**

Die Bylae maak voorsiening vir die herroeping van wetgewing wat verouderd is.

#### **4. OORLEGPLEGING**

By die saamstel van hierdie Wetsontwerp is daar met die volgende rolspelers oorleg gepleeg:

- (a) Departement van Omgewingsake en Ontwikkelingsbeplanning;
- (b) Departement van die Premier: Regsdienste; en
- (c) CapeNature.

#### **5. PERSONEELIMPLIKASIES**

Geen

#### **6. FINANSIËLE IMPLIKASIES**

Aangesien die Wetsontwerp 'n ooreenstemming en rasionalisering van die bestaande regsraamwerk verteenwoordig, is daar geen bykomende finansiële implikasies as 'n direkte gevolg van die Wetsontwerp nie. Die finansiële implikasies is dus soos die goedgekeurde Begrotingspos 9-begrotingsbewilligings vir Program 5 ingevolge die betrokke omgewingsektorsubprogrambegrotingstruktuur.

#### **7. WETGEWENDE BEVOEGDHEID**

Die Provinsiale Minister verantwoordelik vir omgewingsake en ontwikkelingsbeplanning is tevrede dat al die bepalings in die Wetsontwerp binne die wetgewende bevoegdheid van die Provinsie ressorteer.

# UMTHETHO OSAYILWAYO

**Ukubonelela ngesikhokelo namaziko olondolozo lwendalo kunye nokhuseleko, ulawulo nosetyenziso oluzinzileyo lweentlobontlobo zezityalo nezilwanyana nothungelwano lwendalo kwiPhondo, ukwenzela imicimbi ehambelana noko.**

## IMBULAMBETHE

**NJENGOKUBA** icandelo 24 loMgaqosiseko weRiphabliki yoMzantsi Afrika, 1996, libonelela ngokuba wonke umntu unelungelo kwindalo engenabungozi kwimpilo kwanokuba nendalo ekhuselweyo ukuze kuzuze uluntu olukhoyo ngoku kunye nezizukulwana ezizayo ngokuthi kuthathwe amanyathelo aphakamisa ulondolozo lwendalo naqinisekisa uphuhliso oluzinzileyo lolondolozo lwendalo nasebenzisa imithombo yendalo ngeli lixa ekhuthaza uphuhliso loqoqosho nolwentlalo olufanele ukwenzeka;

**NANJENGOKUBA** ulondolozo lwendalo nokusingqongileyo njengoko luchaziwe kwiSahlulo A soLudwe lweNkqubo 4 kuMgaqosiseko weRiphabliki yoMzantsi Afrika, 1996, iyimiba eqwalaselwayo nethathelwa ingqalelo kwimithetho yelizwe neyephondo;

**NANJENGOKUBA** uMgaqo-siseko weNtshona Koloni, 1997 (UMthetho 1 ka-1998), ufuna amagunya kaRhulumente wePhondo ukuba wamkele kwaye uphumeze inkqubo, phakathi kwezinye ukhuseleko kunye nolondolozo lwendalo esingqongileyo eNtshona Koloni, kuquka izityalo nezilwanyana ukuze kuzuze uluntu olukhoyo ngoku kunye nezizukulwana ezizayo;

**NANJENGOKUBA** amaziko ahlukileyo karhulumente kufuneka elandele imithethosiseko yorhulumente wentsebenziswano nobudlelwane kumanqanaba karhulumente ze enze izigqibo ezichaphazela indalo ngendlela ehlangeneyo nechaphazela yonke imiba;

**NOKUTHATHELWA INGQALELO** ukwahluka kweentlobontlobo zezityalo nezilwanyana eziseNtshona Koloni, izibophelelo zehlabathi zeRiphabliki, ukuxhomekeka kwePhondo kwiinkonzo zothungelwano lwendalo, isidingo sofikeleleko nokwabelana ngeenzuzo kunye nesidingo sokuqinisekisa uzinzo lwexesha elide lokomelela kwendalo;

**NOKUTHATHELWA INGQALELO** isidingo sohlaziyo lwemithetho ukutshintsha, ukuhlanganisa, nokudala intsebenziswano kwimithetho ekhoyo nezikhokelo zamaziko zokumisela imisebenzi yamaphondo yokuhoya iintlobontlobo zezityalo nezilwanyana neyolondolozo lwendalo,

**NOKUTHATHELWA INGQALELO** ukuba kufuneka imithetho iphuhlise isikhokelo sokuhlanganisa iingqalelo zokusingqongileyo nolondolozo lwendalo ukuze zibe zizicwangcsio kunye nemiba yothathozigqibo ukuze amaziko onke aphumeze izinyanzeliso afanele ukuzihoya ngokwecandelo 24 loMgaqosiseko weRiphabliki yoMzantsi Afrika, 1996;

**M**AWUMISELWE yiPalamente yePhondo yeNtshona Koloni ngolu hlobo lulandelayo:—

## UKULUNGISA AMACANDELO

*Amacandelo*

### ISAPHLUKO 1

#### UTOLIKO, IINJONGO KUNYE NOSETYENZISO

- |    |                                 |   |
|----|---------------------------------|---|
| 1. | Iingcaciso                      | 5 |
| 2. | Iinjongo                        |   |
| 3. | Ukusetyenziswa                  |   |
| 4. | Iimpixano kunye nezinye imigaqo |   |

### ISAPHLUKO 2

#### IMISEBENZI KUNYE NEMITHETHO SISEKO

- |    |   |    |
|----|---|----|
|    |   | 10 |
| 5. | Umsebenzi karhulumente                      |    |
| 6. | Umthetho siseko wokugcinwa nozinzo lwemvelo |    |

### ISAPHLUKO 3

#### ULAWULO

- |    |                                  |    |
|----|----------------------------------|----|
|    |                                  | 15 |
| 7. | Imisebenzi yoMphathiswa wePhondo |    |
| 8. | Imisebenzi yeNtloko yeSebe       |    |

### ISAPHLUKO 4

#### I-CAPENATURE

##### *Isahlulo 1*

#### *Ukusekwa kunye nemisebenzi yeCapeNature*

- |     |                         |    |
|-----|-------------------------|----|
|     |                         | 20 |
| 9.  | Ukusekwa                |    |
| 10. | Imisebenzi yeCapeNature |    |
| 11. | Amandla eCapeNature     |    |

##### *Isahlulo 2*

#### *IBhodi eLawulayo yeCapeNature*

- |     |   |    |
|-----|---|----|
|     |   | 25 |
| 12. | Imisebenzi yeBhodi  |    |
| 13. | Ukwakhiwa   |    |
| 14. | Ukuyekiswa njengelungu leBhodi                                  |    |
| 15. | Ukunyulwa kwiBhodi  |    |
| 16. | USihlalo weBhodi  | 30 |
| 17. | Ixesha elimisiweyo lamalungu eBhodi angekho kwisigqeba solawulo |    |
| 18. | Imeko yengqesho kunye nenzuzo                                   |    |
| 19. | Ukuziphatha kwamalungu  |    |
| 20. | Ukupheliswa kobulungu   |    |
| 21. | Ukususwa kunye nokunqunyanyiswa                                 | 35 |
| 22. | Ukugcwalisa izithuba zomsebenzi                                 |    |

##### *Isahlulo 3*

#### *Iinkqubo zokusebenza zeBhodi*

- |     |                                   |    |
|-----|-----------------------------------|----|
|     |                                   | 40 |
| 23. | Imihlangano                       |    |
| 24. | Iinkqubo                          | 40 |
| 25. | Inani elifunekayo kunye nezigqibo |    |
| 26. | Iikomiti                          |    |

**Isahlulo 4****Ulawulo lweCapeNature**

27. IGosa eliyiNtloko eliLawulayo

**Isahlulo 5****Imiba yemali 5**

28. Uxanduva kunye nengxelo yezemali  
29. IMali  
30. Imali ekuvimba  
31. Iimali ezizalisiweyo

**Isahlulo 6 10****Ukuchithwa kweBhodi okanye iCapeNature**

32. Ukuchithwa kweBhodi  
33. Ukuchithwa kweCapeNature

**ISAPHLUKO 5****UCWANGCISO LWENTLOBONTLOBO ZEZILWANYANA KUNYE NEZITYALO KUNYE NOKUZIHLOLA 15**

34. Isicwangciso seMihlaba eyahlukeneyo seNdalo  
35. Injongo yesiCwangciso seNdawo esingqongileyo seNdalo  
36. Imixholo yesiCwangciso seNdawo yeNdalo  
37. Ukusetyenziswa nokusetyenziswa kwesiCwangciso seNdawo 20  
38. Uphengululo lwesiCwangciso seNdawo yeNdalo

**ISAPHLUKO 6****IMIMANDLA EKHUSELWEYO, IMIMANDLA YOQOKELELO LWAMANZI EZINTABENI, ULUNGISELELO LONDOLOZONDALO KUNYE NEENDAWO ZENTLOBO-NTLOBO ZEZITYALO ZEZILWANYANA, 25****Isahlulo 1****Ukwandiswa kweendawo ezikhuselweyo**

39. Isicwangcisobuchule soLwandiso lweMimandla eKhuselweyo yePhondo

**Isahlulo 2****Imimandla yoqokelelo lwamanzi ezintabeni 30**

40. Isibhengezo semimandla yoqokelelo lwamanzi ezintabeni  
41. Ulawulo lwemimandla yokuqokelelo lwamanzi ezintabeni

**Isahlulo 3****Ulungiselelo lweentlobontlobo zezityalo nezilwanyana**

42. Ubugosa bezityalo nezilwanyana ezohlukeneyo 35

**Isahlulo 4****Iindawo zolondolozondalo**

43. Isicelo sokuchongwa kwe-UNESCO njengendawo yokugcina izinto eziphilayo  
44. Ulawulo loovimba bendalo 40  
45. Isicwangciso seNkqubosikhokelo yoGcino lweeNdalo  
46. Inkxasomali yoovimba bendalo

**ISAPHLUKO 7****UKHUSELEKO LWEZINTO EZIPHILAYO, IZIBONELELO ZENDALO  
NEENKCUKACHA**

- |     |  |   |
|-----|--|---|
| 47. | Imixokomelwano yokuphilisana kwendalo okanye izibonelelo zezinto eziphilayo zifuna ukhuseleko olulodwa | 5 |
| 48. | Izinto ezahlulayo kunye namanye amanyathelo okunciphisa  |   |
| 49. | Iintlobo ezidinga ukhuseleko okanye ezenza isoyikiso kwindalo esingqongileyo                           |   |

**ISAPHLUKO 8****UGUNYAZISO** 10

- |     |  |    |
|-----|--|----|
| 50. | Isicelo sokugunyaziswa   |    |
| 51. | Isigqibo ngesicelo sokugunyaziswa  |    |
| 52. | Uvavanyo lomngcipheko kunye nobungqina beengcali                           |    |
| 53. | Ubungqina bokuba nezinto ngokusemthethweni                                 |    |
| 54. | Ugunyaziso olumanyanisiweyo  | 15 |
| 55. | Ukuphonononga, ukunqunyanyiswa, ukurhoxiswa kunye nokulungiswa kogunyaziso |    |

**ISAPHLUKO 9****UTHOTYELO NOKUNYANZELISWA*****Isahlulo 1*** 20***Ukuthobela nokunyanzeliswa kwamagosa kunye nemicimbi yezomthetho***

- |     |  |    |
|-----|--|----|
| 56. | Ukuchongwa kwamagosa olondolozo lwendalo, abagcini bolondolozo lwendalo kunye namagosa olondolozo lwendalo ahloniphekileyo |    |
| 57. | Isibhengezo samagosa olondolozo lwendalo kunye nabalondolozisi bendalo njengamagosa oxolo                                  | 25 |
| 58. | Igunya lamagosa olondolozo lwendalo kunye nabagcini bolondolozo lwendalo   |    |
| 59. | Amagosa olondolozo lwendalo ahloniphekileyo  |    |
| 60. | Imisebenzi yamagosa olondolozo lwendalo kunye nabagcini bolondolozo lwendalo   |    |
| 61. | Isazisi kunye neleta yokuchongwa   | 30 |
| 62. | Amandla ngokubanzi amagosa olondolozo lwendalo kunye nabagcini bolondolozo lwendalo  |    |
| 63. | Uhlolo olwenziwa rhoqo   |    |
| 64. | Iziqinisekiso  |    |
| 65. | Amagunya okumisa, ukungena nokukhangela izithuthi, iinqanawa, iinqwelomoya nezinye izinto zokuhambisa                      | 35 |
| 66. | Umsebenzi wokuvelisa amaxwebhu   |    |
| 67. | Impatho yomboniso obanjweyo okanye into ethile   |    |
| 68. | Ukhuseleko lokukhutshwa kwezithuthi, iinqanawa, iinqwelomoya okanye enye into yokuhambisa                                  | 40 |

***Isahlulo 2******Iinkqubo zonyanzeliso lolawulo nezohlwayo***

- |     |                                 |    |
|-----|---------------------------------|----|
| 69. | Ulawulo lonyanzeliso            |    |
| 70. | Ukusilela ekuthobeleni umyalelo |    |
| 71. | Isohlwayo solawulo              | 45 |

**ISAPHLUKO 10****AMATYALA KUNYE NEZOHLWAYO**

- |     |                          |    |
|-----|--------------------------|----|
| 72. | Amatyala                 |    |
| 73. | Izohlwayo                |    |
| 74. | Ukucinywa kwezigunyaziso | 50 |

75. Ukunikezelwa kweendleko  
76. Ukuhluthwa

## ISAHLUKO 11

### IZIBHENO

77. Ukubhena kwizigqibo ezenziwe ngamagosa eCapeNature 5  
78. Ukubhena kuMphathiswa wePhondo

## ISAHLUKO 12

### AMALUNGISELELO JIKELELE NAGQITHAYO

79. Ukukhululwa  
80. Ukuthuma 10  
81. Imimiselo  
82. Izaziso zoluntu  
83. Imigangatho yokusebenza  
84. Ukucebisana  
85. Izaziso, amaxwebhu asemthethweni kunye namanyathelo asemthethweni phantsi kweemeko ezithile 15  
86. Umda woxanduva  
87. Ukurhoxiswa kwemithetho  
88. Izibonelelo zethutyana  
89. Isihloko esifutshane nokuqalisa 20

### ISHEDYULI: UKURHOXISWA KWEMITHETHO

## ISAHLUKO 1

### UTOLIKO, IINJONGO NOMISELO

#### Inkcazelo 25

1. Kulo Mthetho, ngaphandle kokuba imeko ekubhekiswa kuyo ithetha enye into—  
**“amanyathelo othothiso”** athetha inyathelo okanye amanyathelo anjongo yawo ikukuphepha, ukucutha, ukujika okanye ukulungisa isiphumo esibi;  
**“esemveli”**—  
 (a) kuhlobo lwesidalwa, kuthetha uhlobo lwesidalwa esikhoyo okanye ekudala sikhona kwindawo esihleli kuyo ngokukhululeka ekwimida yeRiphabliki, kodwa asibandakanyi uhlobo lwesidalwa esize kwiRiphabliki ngumntu; yaye 30  
 (b) ngokubhekisele kumizekelo, oko kuthetha ukuthi isityalo okanye isilwanyana sasendle sohlobo lwesidalwa ekubhekiswe kuso kumhlathi (a);  
**“ezinzileyo”**, xa kubhekiswa kusetyenziso okanye kwifuthe kwiintlobontlobo zezityalo nezilwanyana nakwiinkonzo zothungelwano lwendalo ngendlela nangezininga— 35  
 (a) ayiyi kukhokelela ekuhleni kwixesha elide kwaye elinokugcinwa ngonaphakade ngaphandle kokubangela iziphumo ezibi;  
 (b) akuyi kuphazamisa uthungelwano lwendalo; kunye 40  
 (c) neqinisekisa ukuzingisa ukuze kuphunyezwe izidingo neminqweno yoluntu olukhoyo ngoku nesizukulwana sexesha elizayo;  
**“iBhodi”** ithetha iBhodi yolawulo yeCapeNature nje ngento ehlaziyiweyo kwisigaba 12;  
**“iCapeNature”** ithetha ilungu lephondo likarhulumente elikhankanyiwe kwicandelo 9; 45  
**“ichweba”** lithetha intlanganisela yamanzi—  
 (a) emana okanye ehlala ephokokela kulwandle;  
 (b) apho ukuphakama nokuhla kwezinga lamanzi ngenxa yamanzi kunokuthi kulinganiswe xa amanzi ephokokela elwandle; okanye 50

- (c) apho ubutyuwa bawo buphezulu kunobo bamanzi afreshi ngenxa yefuthe lolwandle nalapho ubutyuwa bamanzi phakathi kwamaza nalapho aqala khona busenokungafani;
- “icuntsu elithathwe kwisidalwa”** lithetha—
- (a) nasiphi isilwanyana isityalo okanye esinye isidalwa esiphilayo okanye esifileyo; 5
- (b) imbewu, iqanda, ucontsulo okanye inxalenye yesilwanyana, isityalo okanye esinye isidalwa esinokuphinda sintshule okanye sivelise okanye sidlulisele iimpawu zendalo;
- (c) naliphi ilungu lesinye isilwanyana, isityalo okanye esinye isidalwa; okanye 10
- (d) naziphi izinto—
- (i) ezinelungu lesinye isilwanyana, isityalo okanye esinye isidalwa; okanye
- (ii) kwixwebhu elikhaphayo, kwipakethi, okanyee kuphawu, okanye nasiphi esinye isalathisi, kubonakala kukho ilungu lesinye isilwanyana, isityalo okanye esinye isidalwa; 15
- “iGosa eliyiNtloko yeSigqeba soLawulo”** lithetha iGosa eliyiNtloko yeSigqeba soLawulo seCapeNature eliqeshwe ngokwecandelo 27;
- “igosa lolondolozo lwendalo”** uthetha umntu ochongelwe ngokwecandelo 56(a)(i); 20
- “igosa loxolo”** umntu obhengezwe nje ngegosa loxolo phantsi kwecandelo lama-334(1) loMthetho weNkqubo yoLwaphulo-mthetho;
- “iindawo”** ithetha nawuphi na umhlaba, indawo, isakhiwo, ubume, okanye nayiphi inxalenye yomhlaba, indawo, isakhiwo, ubume, kunye nayiphina inkonkxa kunye naluphi na uhlobo lwemoto, uloliwe, ikhareji lomzila kaloliwe, iveseli, inqwelomoya okanye okunye ukuhanjiswa; 25
- “iinkonzo zothungelwano lwendalo”** zithetha iinzuzo ezifunyanwa luluntu kuthungelwano lwendalo, ezibandakanya—
- (a) iinkonzo zobonelelo, njengoveliso lokutya nezibonelelo zamanzi;
- (b) iinkonzo zolawulo, njengolawulo lemozulu, umgangatho womoya, okanye izifo kunye nokucutha imingcipheko yeentlekele; 30
- (c) inkono iinkxaso, njengemijikelo yeenutrienti, ukwenzeka komhlaba nomvumvuzelo lwezityalo; kunye
- (d) neenkonzo zenkcubeko, ezinjengeenzuzo zomphefumlo nezolonwabo;
- “iintlobo ezikhuselweyo”** ithetha uhlobo oludweliswe nguMphathiswa wePhondo ngokwecandelo lama-49(2)(e); 35
- “iklayenti”** ithetha umntu ongengommi woMzantsi Afrika othi avuze omnye ngokuzingela izilwanyana zasendle;
- “iLocal Government: Municipal Systems Act”** ithetha iLocal Government: Municipal Systems Act, 2000 (uMthetho wama-32 wama-2000); 40
- “ilungu lesinye isidalwa”**, kwisilwanyana, isityalo okanye esinye isidalwa lithetha nayiphi inxenyane, isihlunu okanye into ethathwe kuso, nokuba isefreshi, okanye igcinie okanye sele isetyenziswe, yaye libandakanya inxalenye ekhemikhali ethathwe kweso sityalo okanye isilwanyana okanye isidalwa;
- “Ingingqi engundoqo wentlobontlobo zezityalo nezilwanyana”** buthetha ububanzi bendawo okanye ulwandle obaluleke kakhulu kulondolozo lwesampula emele uthungelwano lwendalo nohlobo oluthile lwesidalwa, wokumenteyina iinkqubo zendalo nezibonelelo zendalo okanye ekubonelelwa kuwo iinkonzo zothungelwano lwendalo; 45
- isithuthi, ikhareji, inqanawa, inqwelo moya okanye enye into ehambayo;** 50
- “indawo yokuhlala”** ithetha indawo apho uhlobo okanye indalo yoluntu ivela khona;
- “inkqubo encitshisiweyo”** ithetha inkqubo ebekiweyo, nje ngenkqubo encitshisiweyo phantsi kwecandelo 50(1);
- “iNkulumbuso”** ithetha iNkulumbuso yePhondo; 55
- “iintlobo zezilwanyana ezisemngciphekweni”** zithetha uhlobo lwemveli oludweliswe yi-IUCN njengohlobo olusengozini, kwaye luquka uhlobo oludweliswe nguMphathiswa wePhondo ngokwecandelo lama-49(2)(c);
- “iintlobo zezilwanyana ezisemngciphekweni wokutshabalala”** zithetha uhlobo lwemveli oludweliswe yi-IUCN njengohlobo olusengozini, kwaye luquka uhlobo oludweliswe nguMphathiswa wePhondo ngokwecandelo 49(2)(b); 60

- “iintlobo zezilwanyana ezongezelelekileyo”** zithetha uhlobo olucamngcwe kumhlathi (b) wenkcazo “yezilwanyana zaselunxwemeni”, kwaye luquka uhlobo oludweliswe nguMphathiswa wePhondo ngokwecandelo lama-49(2)(g);
- “iintlobontlobo zezityalo nezilwanyana”** zithetha izidalwa ezahlukahlukileyo zayo yonke imithombo kubandakanywa ezihlala ehlabathini nezihlala phantsi kwamanzi zothungelwano lwendalo, nako konke okuqhubekayo kuzo kwindalo okuxelwe kwiSiqendu A okubandakanya izidalwa ezahlukileyo zohlobo olunye lweso sidalwa, nezidalwa ezingafaniyo ezihlala kwindawo enye nezothungelwano lwendalo;
- “INTloko yeSebe”** ithetha intloko yesebe lephondo elijongene nemicimbi yezendalo kwiPhondo;
- “imithombo yendalo yemveli”** kuthetha naziphina izixhobo equka le—
- (a) nayiphina imizekelo yezityalo zemveli; okanye
- (b) nayiphina imfuzo yezinto ezifana nemizekelo yezilwanyana;
- “inqwelontaka”** ithetha isithuthi esihamba emoyeni esiqhutywa ngumntu okanye esingaqhutywayo;
- “Inqwelontaka ehanjiswa ngeRimowuthi”** ithetha inqwelontaka engaphawulwanga eqhutywa kwisitishi esithile esikude, engabandakanyi inqwelontaka yesiqhelo nenqwelontaka eyithoyi;
- “iphephandaba”** lithetha upapasho lwenyanga, lweveki okanye lwantsuku zonke olunemihlathi yeendaba, imiba esematheni, uphononongo lwemiba neentengiso kubandakanywa izinto ezinje ngopapasho wothungelwano oluphuma nge-intanethi;
- “IPhondo”** lithetha iPhondo leNtshona Koloni kwaye **“iphondo”** linentsingiselo efanayo;
- “ipropati yoluntu ekumanxweme”** inentsingiselo efanayo naleyo ichazwe kwiIntegrated Coastal Management Act;
- “Isebe”** lithetha isebe kwiphondo likarhulumente elijongene nemicimbi yokusingqongileyo kwiPhondo;
- “IsiCwangciso seSikhokelo soLungiselelo soLondolozondalo”** sithetha isicwangciso semihlaba esiqulunqelwe ulungiselelo lolondolozondalo njengoko kuchaziwe kwicandelo 45;
- “IsiCwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana”** sithetha isicwangciso echazwe kwicandelo 34;
- “IsiCwangciso sonatyiso lweMimandla eKhuselweyo yePhondo”** sithetha isicwangciso esinatyiswe sachazwe kwicandelo 39(1)(a);
- “isibonelelo selifa lemveli”** zithetha nayiphi indawo okanye into ebalulekileyo kwinkcubeko;
- “isidalwa esikhuselweyo”** sithetha uhlobo lwesidalwa esidweliswe kwicandelo 50(2)(e);
- “isidalwa esingesosendawo ethile”** sithetha—
- (a) uhlobo lwesityalo okanye isilwanyana olungakhulelanga kuloo ndawo;
- (b) isidalwa semveli sisuswe kwindawo yaso sayokubekwa kwenye engeyiyo indawo yaso yemveli kodwa asibhekisi kwisidalwa esithe sazinabela ngokunokwaso de saya kufika kuloo ndawo singathuthwanga mntu; okanye
- (c) uhlobo lwesityalo oludweliswe ngMphathiswa wePhondo ngokwecandelo 49(2)(h);
- “Isikhali”** sithetha nayiphi na into engasetyenziswa ngendlela eye yenze isilwanyana sasendle sibulawe, sonzakaliswe, sithunjwe okanye ngokunjalo sichithachithwe;
- “isilwanyana esiphuncuke eluqhelisweni”** kuthethwa isilwanyana sasendlini esiye sajika safana nesilwanyane sasendle;
- “isilwanyana sasendle”** sithetha isilwanyana esingolohlobo lwesidalwa esiqhelisiweyo okanye okanye esingesincincanga kakhulu, nokuba isilwanyana eso siyaphila okanye sifile, nokuba simbuna, sikhulisiwe okanye sigcinwe kuvalelo, yaye oku kubandakanya amaqanda kunye nayo nantoni eyinxalenye yomzimba weso silwanyana;
- “isiphumo esibi”** sithetha ifuthe elibi elingqalileyo okanye elisenokuba khona okanye elikhulayo elichaphazela iintlobontlobo zezityalo nezilwanyana, iinkonzo zothungelwano lwendalookanye izibonelelo zendalo elingesincincanga;
- “isithinteli sefuthe elibi kwiintlobontlobo zezityalo nezilwanyana”** sithetha amanyathelo athathiweyo okulwa iziphumo ezibi zayo nayiphi na into eyenziwayo, okanye isimiselo lwaso nasiphi isicwangciso, kwiintlobontlobo zezityalo

- nezilwanyana okanye kwizibonelelo zendalo emva kokuba kwenziwe zonke iinzame zokuphepha, ukucutha okanye ukujika ezo ziphumo, kwaye iquka imiphumelo yamanyathelo anje;
- “Isivumelwano solondolozo lweentlobontlobo zezityalo nezilwanyana”** ithetha isivumelwano ekungenwe kuso phakathi kweGosa eyiNtloko lesiGqeba soLawulo kunye nomnini mhlaba esichaza uxanduva lwabo lokukhusela ulondolozo lwendawo ephambili yentlobontlobo zezityalo nezilwanyana; 5
- “ityhefu”** ibandakanya naluphi ulungiselelo okanye into enokusetyenziselwa ukubamba, ukudoma, ukuphelisa inzala, ukubulala okanye ukwenzakala nasiphina isilwanyana, isityalo nezinye izinto eziphilayo; 10
- “IUCN”** ithetha uManyano lwaMazwe ngaMazwe loLondolozo lweNdalo, olwasekwa eFontainebleau, eFrance, ngowe-1948;
- “iUNESCO”** ithetha iUnited Nations Educational, Scientific and Cultural Organisation, yaye ibandakanya i-International Co-ordinating Council of the Man neBiosphere Programme; 15
- “ixesha elide”** lithetha isithuba seminyaka engama-50 okanye ngaphezulu;
- “izilwanyana zasendlini”** zithetha naluphi uhlobo lwesilwanyana olungasekho endle, osele luqheliswe luluntu ukuba luphile ngokwezidingo zoluntu yaye lubandakanya kwezo zilwanyana zidweliswe nguMphathiswa wePhondo ngokwalo Mthetho wecandelo 49(2)(j); 20
- “izinto zemvelo”** zithetha nasiphina isixhobo sezilwanyana, isityalo, iintsholongwane okanye enye imvelaphi yebhayoloji eneeyunithi ezisebenzayo zofuzo;
- “iziko likarhulumente”** lithetha—
- (a) naliphi isebe likarhulumente okanye icandelo lolawulo kwisizwe, kwiphondo okanye kumasipala wommandla; okanye 25
- (b) naliphi elinye iziko likarhulumente—
- (i) elisebenzisa igunya okanye elenza umsebenzi ngokoMgaqosiseko wesizwe okanye wephondo; okanye
- (ii) elisebenzisa igunya loburhulumente okanye elenza umsebenzi karhulumente lilandela nawuphi na umthetho, 30
- kodwa alibandakanyi igosa lenkundla okanye igosa lezomthetho;
- “iziseko zendalo”** ithetha indlela yokusebenza yendalo, kuquka iindawo zokuqokelel’ amanzi ezisezintabeni, izixhobo zamanzi, iinduduma zonxweme ezingaselwandle, iindawo ekuphila kuzo indalo, ezithi xa zidibene zenze uthungelwano lwezinto ezisemhlabeni ezinikeza iinkonzo zothungelwano lwendalo; 35
- “lo mthetho”**, ngaphandle kwicandelo 4 ubandakanya umthetho wabangezantsi ezenziwe okanye ikhutshwe kulandelwa wona;
- “okujoliswe kuko kwintlobontlobo zezityalo nezilwanyana”** kuthetha ubungakanani bophawu bazo naziphi iintlobontlobo zezityalo nezilwanyana kubandakanywa iipatheni zeentlobontlobo zezityalo nezilwanyana okanye iinkqubo zendalo ekufuneka zibe zezokuqala kulondolozo ukuze kuqinisekise ukuba izidalwa ziphila ixesha elide; 40
- “okusingqongileyo”** kuthetha indawo esingqongileyo ekuphila kuyo abantu eyenziwe— 45
- (a) ngumhlaba, amanzi neatmosferi yomhlaba;
- (b) izidalwana, izityalo nezilwanyana;
- (c) nayiphi inxalenye yendawo ezingqonge iingcinga ezibekwe kwimihlathi (a) no-(b) nobudlelwane obuphakathi kwezi zinto; kunye 50
- (d) nezinto eziphathekayo, ezikhemikhali, ezibukekayo nezenkcubeko neemeko zazo ezingqonge iingcinga ezibekwe kwimihlathi (a), (b) and (c) ezichaphazela impilo nentlalontle yoluntu;
- “okusingqongileyo okukhuselweyo”** inentsingiselo efanayo noMthetho weMimandla eKhuselweyo; 55
- “uCITES”** umele uConvention on International Trade in Endangered Species of Wild Fauna and Flora, Washington, 1973;
- “ucwangciso lweentlobontlobo zezityalo nezilwanyana”** luthetha inkqubo yokuplana echonga imimandla engundoqo yeentlobontlobo zezityalo nezilwanyana, ethathela ingqalelo iipatheni zeentlobontlobo zezityalo nezilwanyana neenkqubo zendalo nezotshintsho ezenza ukuba ezo zityalo nezilwanyana zihlale ziphila ezisekelwe kwiithagethi zenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana nemida ebekiweyo yeentlobontlobo 60

- zezityalo nezilwanyana ezisemhlabeni nasemanzini ukuze kulondolozwe isampula emele ipatheni yeentlobontlobo zezityalo nezilwanyana neyeenkqubo zendalo;
- “ufikelelo nolwabiwo lweenzuzo”** luthetha ulwabiwo olunobulungisa emva kosetyenziso lwezibonelelo zendalo;
- “ugunyaziso”** luthetha naluphi na ubhaliso, isatifikethi, ilayisenisi, ipemethi okanye imvume ebhaliweyo ekhutshwe okanye yanikiswa ngokwa lo Mthetho ogunyazisa umntu owunikiweyo okanye olunikezelelwa ukuba umntu enze into ebingavunyelwanga ukuba yenziwe, kubandakanywa ugunyaziso oluhlanganelweyo oluxelwe kwicandelo 54; 5
- “uhlobo lwesidalwa”** luhlobo lwesilwanyana, isityalo okanye esinye isidalwa esingazalisani nezinye zolunye uhlobo, yaye lubandakanya izidalwa ezincinci, isityalo esixubeneyo, uhlobo oluthile lwendawo ethile, isityalo esenziweyo, esintlobombini okanye senye indawo; 10
- “uhlobo lwesidalwa esingeneleleyo”** luthetha naluphi uhlobo lwesidalwa umiselo lwaso nokunaba kwaso ngaphandle kwendawo yaso yendalo— 15
- (a) kuchaphazela uthungelwano lwendalo, izizinda zendalo nezibonelelo zendalo okanye olunye uhlobo lwesidalwa okanye ezikunokuchaphazla kakubi uthungelwano lwendalo, izizinda zendalo nezibonelelo zendalo okanye olunye uhlobo lwesidalwa; yaye
- (a) kunganobungozi kuqoqosho okanye kwindalo okanye kwimpilo yabantu; 20
- “ukubeka njengomgaqo”** ukubeka umgaqo ngoko mthetho;
- “ukungenisa elizweni”** kuthetha—
- (a) ukuze sihlale, ukusizisa okanye ukusazisa kwiPhondo, okanye ukuzama ukusizisa okanye ukusazisa kwiPhondo; okanye
- (b) ukuzisa kwiPhondo ukuze siphinde sithunyelwe ngaphandle kwePhondo; 25
- “ukuthumela kwamanye amazwe”** kuthetha ukuhambisa naluphi uhlobo lwesidalwa, okanye icuntsu okanye ilungu lesinye isidalwa esisuka nakuyiphi indawo kwiPhondo nangayiphi indlela ukuya kwamanye amaphondo eRiphabliki okanye kwilizwe elingaphandle kwemida yeRiphabliki okanye ukuya kumazwe ngamzazwe okanye ngapha kwelwandle; 30
- “ukuzingela”**, isilwanyana sasendle kuthetha—
- (a) ukukhangela;
- (b) ukulandela okanye ukuqhuba;
- (c) ukulalela okanye ukuphazamiseka ngeenjongo; okanye
- (d) ukudubula okanye ukufaka ityhefu, 35
- isilwanyana nangayiphi na indlela ngeenjongo zokubulala, ukwenzakalisa okanye ukubamba okanye ukuzama ukubulala, ukwenzakalisa okanye ukubamba
- ukuzingisa** ngokubhekisele kwizinto eziphilayo okanye izibonelelo zendalo, kuthetha ukukwazi kothungelwano lwendalo okanye isibonelelo sendalo ukumela neziphazamiso kuso sibe sigcine ubume baso nokusebenza kwaso, ukuphinde sizilungise okanye ukukwazi ukumelana noxinzelelo okanye utshintsho; 40
- “ulondolozo”**, lweentlobontlobo zezityalo nezilwanyana kunye nemvelo, luthetha ukhuseleko, unakekelo, ulawulo, uhlaziyo nokumenteyinwa kothungelwano lwendalo, izityalo zemvelo kunye nabemi bendawo zendalo, izityalo nezilwanyana zasendle nezidalwa zonke ukuze kukhuselwe iimeko zazo zendalo ukuze zikwazi ukuhlala ixesha elide neenkonzo zothungelwano lwendalo ezilubonelelayo, yaye 45
- “ukulondolozwa”** kukwanentsingiselo efana nale;
- “uluhlu lwentlobontlobo zezilwanyane”** kuthetha iintlobo ntlobo zezilwanyane ezifakwe kwiluhlu olumiselwe ngokwecandelo 50(2);
- “ulungiselelo lolondolozondalo”** luthetha ummandla ochongelwe ukubandakanya iNethiwekhi yeHlabathi yoLungiselelo loLondolozondalo olwenziwe liBhunga leInternational Co-ordinating Council of the UNESCO’s kunye neNkqubo yoLungiselelo lolondolozo; 50
- “umfokazi”**, ngokubhekisele kumzekelo, ofumaneka kwezinye intlobo zentlobozezilwanyana ezingaqhelekanga; 55
- “umgaqo”** uthetha umgaqo owenziwe phantsi kwalo Mthetho;
- “Umlingane”** uquka umntu ohlala nomnye umntu njengokuthi batshate omnye nomnye;
- “Umgaqosiseko”** uthetha uMgaqosiseko weRiphabliki yoMzantsi Afrika, 1996;
- “Umgaqo siseko wentshona Koloni”** uthetha uMgaqosiseko weNtshona Koloni, 1997 (uMthetho 1 ka-1998); 60
- “ummandla okhuselweyo”** uthetha ummandla okhuselweyo ekubhekiswe kuwo kwicandelo lesi-9 loMthetho weMimandla eKhuselweyo;

- “ummandla wolondolozo lweentlobontlobo zezityalo nezilwanyana”** uthetha ummandla womhlaba ochazwe kwicandelo 42;
- “umnakekeli wendalo”** uthetha umntu ochongelwe oko ngokwecandelo 56(a) (ii);
- “umncedisi wegosa lolondolozo lwendalo”** uthetha umntu ochongwe 5 ngokwecandelo lama-56(a) (iii);
- “Ummiselo”** uthetha Nature Conservation Ordinance, 1974 (uMmiselo we-19 ka-1974);
- “umnini mhlaba”** uthetha umnikazi womhlaba onelungelo kulomhlaba 10 ngokwasemthethweni, ngaphandle ukuba—
- (a) lo mhlaba awuhlali umnikazi wawo obhalisiweyo ngokwasemthethweni, kuthetha ukuba lo mntu—
- (i) uhlala kulo mhlaba ngokwasemthethweni;
- (ii) usebenzisa uluwulo olubanzi phezu kulo mhlaba; 15
- (iii) ubani onelungelo lokwenyani olusemthethwini kumhlaba, uxhomekeke nakowuphina omnye umthetho; okanye
- (iv) ubani ovumelekileyo ngokubhaliweyo okusemthethweni ukuzalisekisa amalungelo akhe okanye imisebenzi yakhe malunga nomhlaba;
- (b) umhlaba ulawulwa ngumbutho wabantu, nokuba ngababambiseneyo okanye 20 abangabambisananga, kuthetha umntu otyunjwe ngumbutho ngokubhaliweyo njengomnini;
- (c) umhlaba uphantsi kolawulo okanye ukuawulo lomasipala, uthetha umphathi kamasipala;
- (d) umnini obhalisiweyo okanye umntu ochazwe njengomnini kumhlathi (a) 25 okanye (b)—
- (i) uswelekile;
- (ii) ukungakwazi uhlawula amatyala;
- (iii) unikezele ngelifa lakhe ukuze kuzuze umntu obolekisileyo;
- (iv) osekiweyo yinkundla wanikwa umyalelo njengomphathi apha; 30
- (v) yinkampani exhatshaziweyo okanye ephantsi kolawulo lwenkundla, ithetha umntu apho ulalwulo lo mhlaba lunikwe yena, unikwe ugunya nje ngomphathiswa, umgcini, ummeli okanye umphathi wenkundla, njengoko kunjalo; okanye
- (e) umhlaba uphantsi kwipropati kawonkewonke, uthetha isebe likazwelonke 35 elijongene nokuzaliseka kweembopheleleko zorhulumente njengomphathiswa womntu woluntu wonxweme ngokwemigaqo yamacandelo 11 ne-12 woMthetho woLawulo loNxweme oluHlangeneyo (Integrated Coastal Management Act);
- “umntu oncedisa abazingeli”** uthetha umntu omaketha, oncedisa, onikeza, 40 owenza iintengiso zozingelo lwezilwanyana zasendle okanye ezo ziphuncukileyo, nokuba oko ukenza ngokwakhe okanye usebenzisa iarhente;
- “umququ”** kuthetha ukwakheka komhlaba okunezakheko okanye imixube egcina amanzi okanye evumela ukuhamba kwamanzi okuxabisekileyo ngayo;
- “umsebenzi oncitshisiweyo”** kuthetha umsebenzi ebekiweyo, nje ngendlela 45 ephantsi kwecandelo 50(1);
- “Umthetho weBhodi yoLondolozo lweNdalo yeNtshona Koloni”** uthetha uMgaqo siseko weNtshona Koloni, 1997 (uMthetho 1 ka 1998);
- “UMthetho weMimandla eKhuselweyo”** ithetha uLawulo lweNdalo kaZwelonke: uMthetho weMimandla eKhuselweyo, wama-2003 (uMthetho 50 wama-57 wama-2003);
- “UMthetho weNtlobontlobo zezityalo nezilwanyana”** ubhekisa kuLawulo lweNdalokuZwelonke: uMthetho weNtlobontlobo zezityalo nezilwanyana, 2004 (uMthetho 10 ka-2004);
- “UMthetho weNkqubo yoLwaphulomthetho”** ithetha uMthetho weNkqubo 55 yoLwaphulomthetho, 1977 (uMthetho 51 we-1977);
- UMthetho woLawulo lweMali kaRhulumente”** uthetha umthetho woLawulo lweMali kaRhulumente, we-1999 (uMthetho woku-1 we-1999);
- “UMthetho woLawulo oluDibeneyo loNxweme”** uthetha uLawulo lokusiNgqongileyo kweSizwe: UMthetho woLawulo oluDibeneyo lweeNxweme, 60 wama-2008 (uMthetho wama-24 wama-2008);
- “Umthetho wezendalo”** uthetha—

- (a) *iEnvironment Conservation Act, 1989* (uMthetho woLondolozo lweNdalo, we-1989) (uMthetho wama-73 we-1989);
- (b) *iNational Water Act, 1998* (uMthetho waManzi weSizwe, we-1998) (uMthetho wama-36 we-1998);
- (c) *iNational Environmental Management: Air Quality Act, 2004* (uLawulo lokusiNgqongileyo kuZwelonke: UMthetho woMgangatho woMoya, wama-2004) (uMthetho wama-39 wama-2004); 5
- (d) *iNational Environmental Management: Waste Act, 2008* (uLawulo lokusiNgqongileyo kuZwelonke: uMthetho weNkunkuma, wama-2008) (uMthetho wama-59 ka-2008); 10
- (e) UMthetho weMimandla eKhuselweyo, 2003 (uMthetho 57 ka-2003);
- (f) *iBiodiversity Act, 2004* (iMthetho weNtlobontlobo zezilwanyana nezityalo) (uMthetho 10 ka 2004);
- (g) *iIntegrated Coastal Management Act, 2008* (uMthetho oHlanganisiweyo woLawulo lwaManxweme) (uMthetho 24 ka-2008); kunye 15
- (h) *iWorld Heritage Convention Act, 1999* (uMthetho weNgqungquthela yeLifa leMveli yeHlabathi, we-1999) (uMthetho wama-49 we-1999);
- “umzila wamanzi”** uthetha—
- (a) umlambo okanye umthombo;
- (b) umjelo wendalo ohamba amanzi oko okanye ngamaxesha athile; 20
- (c) umgxobhozo, ichibi okanye idama elihamba amanzi; kunye
- (d) nayiphi ingqokelela yamanzi ebhengewe ngokweNational Water Act, 1998 (UMthetho 36 ka 1998) ukuba ingumzila wamanzi, yaye ubhekiso kumzila wamanzi lubandakanya, intsele nodonga lomlambo;
- “umzingeli oqeqeshelwe ukuzingel”** kuthetha nawuphi na umntu othi, nangayiphi na indlela, avume ukukhapha iklayenti ukuze iklayenti leyo ikwazi ukuzingela isilwanyana sasendle okanye isilwanyana esiphuncule kuqheliso; 25
- “uphuhliso”** luthetha nayiphi inkqubo eqalwe ngumntu ukutshintsha usetyenziso, indalo, ubunjani benkangeleko yento, imilo okanye umsebenzi wendawo, yaye lubandakanya— 30
- (a) Ulwakhiwo, umiso, utshintsho, udilizo okanye ukususwa kwesakhiwo;
- (b) Naluphi utshintsho kubume bomhlaba;
- (c) Nawuphi umsebenzi owenziwa phantsi okanye phezu kwesiza;
- (d) utshatyalaliso okanye ukususwa kotyani bemveli; kunye
- (e) inkqubo yokucana kwakhona, ukwahlulahlula okanye ukudibanis umhlaba; 35
- “uqoqosho lweentlobontlobo zezityalo nezilwanyana”** luthetha amashishini noshishino oluxhomekeke ngqo kwiintlobontlobo zezityalo nezilwanyana kushishino okanye lawo anegalelo kulondolozo lweentlobontlobo zezityalo nezilwanyana ngemisebenzi yawo;
- “Usihlalo”** uthetha uSihlalo weBhodi otyunjwe ngokwecandelo 16(1)(a); 40
- “uthungelwano lwendalo”** sisixokelelwano sezilwanyana, izityalo nezidalwa ezincinci neendawo eziphila kuzo ezisebenza njengeyunithi esebenzisanayo esemhlabeni, elwandle okanye emanzini; okanye intlangano yayo;
- “utshintsho lwemozulu”** luthetha utshintsho kubume bezulu obuthi bubonakale ngotshintsho kwimo yezulu oluthi luqhubeka ixeshana, iminyaka okanye ixesha elide; 45
- “uvalelo”** lwezilwanyana zasendle kwindawo ebiyelweyo luthetha ukubiyelwa ngalo naluphi na ucingo okanye nanto esisinda kuphuma ngendlela yokuba isilwanyana sasendle singakwazi ukuzihoya ngokwaso ngokwendalo
- “uvimba wamanzi”** ubandakanya umzila wamanzi, amanzi angaphezulu, 50 ichweba, okanye amanzi aphakathi kwamatye;
- “Uwiso mthetho lwabangezantsi”** luthetha naluphi na—
- (a) ummiselo olwenziweyo; okanye
- (b) isaziso esikhutshwe kwiGazethi yePhondo, ngokoMphathiswa wePhondo ngokwemiqathango yalo Mthetho; 55
- “ummandla woqokelelo lwamanzi osezintabeni”** uthetha ummandla oxelwe kwicandelo 40;
- “umntu”** uthetha ukuthi—
- (a) umntu wemvelo, kunye
- (b) umntu womthetho, kubandakanya nayiphi na— 60
- (i) ibhodi ebandakanyiweyo okanye engabandakanywanga esekwe ngokomthetho
- (ii) uthelelwano okanye ukuthembana; okanye

- (iii) icandelo likarhulumente elisekwe njengolungu lezomthetho;  
**“UMphathiswa kaZwelonke”** ithetha ilungu leSigqeba sombuso kaZwelonke elinoxanduva kwimicimbi yezendalo;  
**“UMphathiswa wePhondo”** kuthetha ilungu lePhondo, iSigqeba sombuso esijongene nemicimbi yendalo kwiphondo; 5  
**“Mountain Catchment Areas Act, 1970”** ithetha uMthetho weMimandla yoQokelelo lwaManzi eziNtabeni, we-1970 (uMthetho wama-63 we-1970);  
**“ummandla okhuselweyo wephondo”** lithetha ummandla okhuselweyo wePhondo njengoko lichazwe kuMthetho weMimandla eKhuselweyo, ezibandakanya indawo yolondolozo lwendalo kwiPhondo lichazwe ngokwemigaqo yecandelo lama-23(1) loMthetho weMimandla eKhuselweyo okanye ulondolozo lwendalo ePhondweni elithathwa ngokuba libhengezwe ngokwecandelo lama-23(5) lwalo Mthetho. 10

## Iinjongo

2. Iinjongo zalo Mthetho kukwenza oku— 15
- (a) ukuphumelela kumbopheleleko karhulumente ngokomthetho wesizwe ukuba ube ngumphathiswa ngokumalunga nokusingqongileyo;
- (b) ukuphumeza icandelo 81(m) loMgaqosiseko weNtshona Koloni Constitution lokukhusela nokulondolozwa indalo esingqongileyo kwiPhondo, kubandakanywa iintlobontlobo zezityalo nezilwanyana ezizodwa, ukuze kuzuze uluntu olukhoyo ngoku nesizukulwana sexesha elizayo; 20
- (c) ukuqinisekisa uzinzo lwexesha elide lendalo nozingiso lweentlobontlobo zezityalo nezilwanyana, uthungelwano lwendalo, iinkonzo zothungelwano lwendalo nezibonelelo zendalo ngokumiselwa kweziseko zozinziso lwendalo esingqongileyo ezixelwe kwicandelo lwesi-6; 25
- (d) ukuqinisekisa intlalontle yoluntu nozingiso lwexesha elide loluntu noqoqosho ngokuthi kukhuselwe kulondolozwe indawo zentlobontlobo zezityalo nezilwanyana, uthungelwano lwendalo, iinkonzo zothungelwano lwendalo nezibonelelo zendalo;
- (e) ukwenza ukuba abantu bakwazi ukufikelela kwiinzuzo namathuba aphuma kuzinzo olondolozo lwemimandla ekhuselweyo, iintlobontlobo zezityalo, indalo, nezilwanyana neenkono zothungelwano lwendalo kunye nasikhiwo sendalo; 30
- (f) ukumisela amaziko olawulo ngempumelelo lweentlobontlobo zezityalo nezilwanyana nolondolozo lwendalo kwiPhondo; 35
- (g) ukuphakamisa ucwangciso olululo lweentlobontlobo zezityalo nezilwanyana nokufikelela kwiithagethi zenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana zolondolozo ePhondweni;
- (h) ukukhuthaza iinkqubo ezibekwe kwiSicwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana yeSicwangciso sonatyiso lweMimandla eKhuselweyo; 40
- (i) ukulawula imisebenzi ethile ngendlela ekhuthaza nekhusele isidima nempilo yokusingqongileyo;
- (j) kulandelwa icandelo lama-231 loMgaqosiseko, ukumisela nokuphumeza izivumelwa zehlabathi nokusebenzisa iinkqubo ezisebenze ngempumelelo kwimiba yokusingqongileyo nakulondolozo lweentlobontlobo zezityalo nezilwanyana; 45
- (k) ukulungiselela uzinzo lwezimali noloqoqosho kumaziko achaphazelekayo ajongene nolondolozo lweentlobontlobo zezityalo nezilwanyana; kunye
- (l) nokulungiselela nokuphuhlisa uqoqosho olunobulungisa noluzinzileyo lweentlobontlobo zezityalo nezilwanyana kwiPhondo. 50

## Umiselo

3. Lo Mthetho ubophelela urhulumente kunye nabantu bonke.

## Ungquzulwano neminye imithetho

4. (1) Ukuba kukho ungquzulwano phakathi kwemiqathango yalo Mthetho kunye— 55
- (a) nemithetho yesizwe, olo ngquzulwano kufuneka lusonjululwe ngokwecandelo 146 yoMgaqosiseko;

- (b) nomnye uMthetho Wephondo, umqathango walo Mthetho nguwo osebenzayo xa ungquzulwano lunento yokwenza nemiqathango yolondolozo lweentlobontlobo zezityalo nezilwanyana
- (c) umthetho kamasipala, imiqathango walo Mthetho xa ungquzulwano lunento yokwenza nemiqathango yolawulo— 5
- (i) lwemiba ekubhekiswe kuyo kwiSiqendu A seShedyuli 4 okanye kwiSiqendu A seShedyuli 5 kuMgaqosiseko; okanye
- (ii) kwimiba ekubhekiswe kuyo kwiSiqendu B seShedyuli 4 okanye kwiSiqendu B seShedyuli 5 kuMgaqosiseko yaye lo mqathango usebenzisa ngokukuko amagunya okanye imisebenzi yePhondo 10 phantsi kwecandelo 155(6)(a) no-(7) oMgaqosiseko
- (2) Ukuba kukho ungquzulwano phantsi komthetho ovele owenziwe ngokwalo Mthetho kunye—
- (a) uviso mthetho lukaZwelonke, ungquzulwano kufuneka lusonjululwe ngokwecandelo 146 yoMgaqosiseko; 15
- (b) noMthetho wephondo, eso senzo siyaqhubeka;
- (c) owunye umthetho wephondo ovele ngenxa yalo nguwo oya kusebenza, xa ungquzulwano lunento yokwenza nemibandela elawula ulondolozo lwezinto eziphilayo;
- (d) nomthetho kamasipala, umthetho ovele ngenxa yalo nguwo oya kusebenza, xa ungquzulwano lunento yokwenza nemiba exelwe kwicandelwana (1)(c). 20

## ISAHLUKO 2

### IMISEBENZI NEMITHETHOSISEKO ENGUNDOQO

#### Umsebenzi karhulumente

5. Naliphi iziko likarhulumente eligunyaziswe ngumthetho karhulumente okanye nangowuphina umthetho ukusebenzisa igunya elinokuba nesiphumo esibi kokusingqongileyo, kufuneka xa lisebenzisa loo magunya eSebe—
- (a) lijongise iziphumo zexesha elide zesenzo ngasinye okanye isigqibo ngasinye oko okuya kuba naso kokusingqongileyo; yaye
- (b) lisebenzise iziseko zozinziso zokusingqongileyo ezixelwe kwicandelo 6. 30

#### Iziseko zozinziso lwendalo esingqongileyo

6. Naliphi iziko likarhulumente ezinokuthi izigqibo zalo okanye izezo zalo zichaphazele okusingqongileyo kwiPhondo kufuneka lisebenzise iziseko zozinziso lwendalo esingqongileyo ezizezi—
- (a) ukuthathela ingqalelo iinzuzo nexabiso elibalulekileyo lezibonelelo zendalo nothungelwano lwendalo; 35
- (b) ukuqinisekisa ukuba iintlobontlobo zezityalo nezilwanyana nothungelwano lwendalo ziyakhuselwa, ziyamenteyinwa, ziyahlaziywa ngendlela eyenza ukuba kufikelelwe kwiithagethi zenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana zolondolozo olwenziwa liPhondo; 40
- (c) ukukhuthaza ukuhlala ixesha elide kweentlobontlobo zezityalo nezilwanyana, uthungelwano lwendalo nezibonelelo zendalo;
- (d) ukuqinisekisa ukuba uphuhliso alujongeli phantsi uzinzo lwexesha elide lweentlobontlobo zezityalo nezilwanyana, uthungelwano lwendalo nezibonelelo zendalo; 45
- (e) ukuqinisekisa ukuba ukuzinza kwendalo kunye nokuqina kwezinto eziphilayo ukuze kuzuze uluntu olukhoyo ngoku nesizukulwana sexesha elizayo kubekwa phambili ukulungiselela nawuphi na umntu okanye ulunti u olusekuhlaleni;
- (f) ukuphepha, okanye ukucutha nokulungisa uphazamiseko lothungelwano lwendalo nelahleko yeyantlukwano yendalo; kunye 50
- (g) ukuqinisekisa ukuba izibonelelo zebhayoloji zemeveli zisetyenziswa ngendlela ezinzileyo kwindalo, kwaye zithathela ingqalelo impilo yaso nasiphi na isibonelelo sebhayoloji yendalo esibandakanyekayo; kwaye
- (h) nokuqinisekisa ukuba kusetyenziswa iinkqubo eziphepha imingcipheko nezisetyenziswa ngobulumko ze apho kukho ubungqina obunganelanga kuphetshwe ukwenziwa komsebenzi onokuba nesiphumo esibi sexesha elide. 55

### ISAHLUKO 3

#### ULAWULO

#### Imisebenzi yoMphathiswa wePhondo

7. (1) UMphathiswa wePhondo kufuneka—
- (a) abeke iliso kwiNtloko yeSebe, iCapeNature, kunye nebhodi xa besenza imisebenzi yabo 5
  - (b) ukuphuhlisa nokuphunyezwa komgaqonkqubo wephondo kwizinto eziphilayo kunye nemicimbi ehambelana nayo;
  - (c) xa esamkela, ephonononga okanye enika uluvo lwakhe kwisicwangciso somthetho okanye somgaqonkqubo, makuqinisekise ukuba eso sicwangciso sihambelana neSicwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana; yaye 10
  - (d) emana ehlola ukusebenza ngempumelelo komiselo nonyanzeliso lwalo Mthetho.
- (2) UMphathiswa wePhondo unako— 15
- (a) enze eminye imithethwana ephantsi kwalo enikezwe kulo Mthetho;
  - (b) ukuseka, ngokuvumelana noMphathiswa wePhondo onoxanduva lwezemali, amashishini asemthethweni karhulumente njengoko achazwe kuMthetho woLawulo lweMali kaRhulumente ukufezekisa iinjongo zalo Mthetho;
  - (c) akhuphe imiyalelo kwiBhodi ukuqinisekisa ukuba isebenza ngempumelelo ekwenzeni umsebenzi wayo; 20
  - (d) ukumisela ibhodi yophando ukuqwalasela ukuziphatha kwelungu leBhodi okanye iBhodi kwaye kuthathe amanyathelo afanelekileyo njengoko kucatshangelwe kwicandelo 21 okanye 32, ngokulandelayo; kunye
  - (e) Nokwenza nayiphi na enye imisebenzi eyabelwe Umphathiswa wePhondo okanye phantsi kwalo Mthetho. 25

#### Imisebenzi yeNtloko yeSebe

8. INtloko yeSebe kufuneka kuxhomekeke kwicandelo 7(1)(a) kunye (b)—
- (a) Ukucebisa uMphathiswa wePhondo, xa kucelwa nguMphathiswa wePhondo ukuba enze njalo emva kokubonisana neCapeNature, kwimicimbi yomthetho, umthetho ongaphantsi, kunye nomgaqonkqubo wephondo ngokubhekisele kwendalo, ulwahlulo lwezinto eziphilayo, kunye nolawulo lwamanxweme kunye nolawulo lwe-estuarine; 30
  - (b) emva kokubonisana ngokuvumelana neCapeNature, uququzelele umgaqonkqubo wephondo, izicwangciso kunye neenkqubo ezivunyiweyo nguMphathiswa wePhondo lokulondolozwa kwendalo, ukusetyenziswa kwezinto eziphilayo kunye nolawulo lwamanxweme kunye nokuhlaziywa kwezilwanyana, kunye nokukhuthazwa nokuphuhlisa koqoqosho lwezinto eziphilayo; 35
  - (c) ngokuhambelana noMthetho woLawulo lwezeMali zikaRhulumente; sebenzisa amagunya egosa elijongene neengxowamali ezihanjiswe kwiCapeNature nakwamanye amashishini ekuphunyezweni kwalo Mthetho; 40
  - (d) ukumisela inkqubo—
    - (i) ukulungelelaniswa kwezicwangciso zesicwangcisoqhingha kunye nonyaka kunye nohlahlolwabiwo lwenkqubo oludibeneyo lokulondolozwa kwendalo, ulwahlulo lwezinto eziphilayo kunye nolawulo lwamanxweme kunye nokuhlaziywa kwezilwanyana, kunye nokukhuthazwa nokuphuhlisa koqoqosho lwezinto eziphilayo kwiPhondo; kwaye 45
    - (ii) ukubeka iliso kunye nokunika ingxelo malunga nokusebenza kweemali ezihanjiswe njengoko kuchaziwe kumhlathi (c) kwaye njengoko kucetywayo ngokuhambelana nomhlathi (i); 50
  - (e) ukuqwalasela nokubeka izimvo kwiiplani ezisemthethweni kunye nezicwangciso ezilungiselelwe ngokwalo Mthetho; 55
  - (f) xa iNtloko yeSebe ilungiselela, iphonononga okanye inika uluvo ngomthetho okanye umgaqonkqubo, makaqinisekise ukuba eso sicwangciso sihambelana nesomhlaba weentlobontlobo zezityalo nezilwanyana;
  - (g) ukuxhasa iCapeNature ekumiseleni iSicwangciso sonatyiso lweMimandla eKhuselweyo yePhondo; kunye

- (h) nokwenza izindululo kuMphathiswa wePhondo ngendlela yokuphucula umiselo nonyanzeliso lwalo Mthetho.

#### ISAHLUKO 4

#### ICAPENATURE

##### *Isiqendu 1*

5

##### *Umiselo nemisebenzi yeCapeNature*

#### **Umiselo**

9. IBhodi yokuLondolozwa iNdalo yeNtshona Koloni njengoko isungulwe nguMthetho weBhodi yeNtshona Koloni yokuLondolozwa kweNdalo, yoLondolozo lweMvelo iyaqhubeka ikhona njengomntu onomthetho kunye nephondo loluntu elijongene nokulondolozwa kwezinto eziphilayo kwiPhondo, kwaye liyaziwa njengeCapeNature. 10

#### **Imisebenzi yeCapeNature**

10. (1) Kulondolozo lweentlobontlobo zezityalo nezilwanyana yaye kulandelwa icandelo 7(1)(a), iCapeNature kufuneka— 15
- (a) ukucebisa uMphathiswa wePhondo, indawo eziza kubhengezwa njengeendawo ezikhuselekile zephondo, indawo ekhuselekileyo, iindawo zokugcina izinto ezizimeleyo, iindawo zokuqokelel' amanzi ezintabeni kunye neendawo eziphathekayo eziphathekayo ngokubhekiselele kwiCandelo loPhuhliso lweNdawo eziPhezulu; 20
- (b) lawula imimandla ekhuselweyo yephondo kunye nezinye iindawo apho zikhethwe njengegunya lolawulo;
- (c) ukuphakamisa nokulungiselela inkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana;
- (d) ukugcina irejista yephondo, yendalo ekhuselweyo, indawo ezizimeleyo, indawo yokuqokelel' amanzi entabeni kunye neendawo eziphathekayo zolawulo lweengingqi; 25
- (e) ukwenza izindululo okanye ukunika uluvo uMphathiswa ngezimvo okanye izichaso ezibhaliweyo ezifunyenwe ngokwecandelo 33 loMthetho weNdawo eZikhuselekileyo ngesibhengezo okanye ngorhoxiso lwesibhengezo sommandla okhuselweyo; 30
- (f) emveni kokubonisana kunye neNtloko yeSebe, ucebise uMphathiswa kwezi
- (i) umthetho ongezantsi kunye nemigaqo nemigaqonkqubo emayenziwe nguMphathiswa wePhondo ngemiba yeentlobontlobo zezityalo nezilwanyana; kunye 35
- (ii) nokusebenzisa amgunya woMphathiswa wePhondo ngokwecandelo lesi-7(1)(b), (c), (d) no-(e);
- (g) ukumisela inkqubo yokubeka iliso nokunika ingxelo—
- (i) ngemo yeentlobontlobo zezityalo nezilwanyana kwiPhondo;
- (ii) ngemo yohlobo lwesidalwa esingeneleleyo; 40
- (iii) ukusetyenziswa ixesha elide kwemithombo yendalo yemveli;
- (iv) ngolawulo lwemimandla ekhuselweyo nenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana, iindawo zokuqokelel' amanzi ezintabeni; kunye
- (v) nokubeka iliso kuthotyelo logunyaziso lwalo Mthetho, 45
- ukuze—
- (aa) kubonwe kwangethuba yaye kunqandwe izinto ezinokudala iziphumo ezibi; kunye
- (bb) nokuququzelela uvavanyo lokusebenza ngempumelelo kwalo Mthetho;
- (h) lungisa izicwangciso zolawulo lweentlobontlobo zezityalo nezilwanyana njengoko kuxeliwe kwicandelo lama-43 kuMthetho wezinto eziphilayo; 50
- (i) ukunika iingcebiso kubanini bomhlaba ngokuphucula iintlobontlobo zezityalo nezilwanyana okanye ngolondolozo lokusingqongileyo kuloo kwimihlaba yabo okanye ngendlela yokulawula intsebenziswano phakathi koluntu nemithombo yendalo yemveli; 55

- (j) ukucebisa uMphathiswa ngothumelo kwamanye amazwe kwemithombo yendalo yemveli yePhondo ukuze kwenziwe uphando ngayo;
- (k) nokwenza izindululo kuMphathiswa ngemiba edinga uphando;
- (l) yenza ingxelo kuMphathiswa wephondo kwiimeko zezilwanyana ezahlukeneyo kwiPhondo ngaphantsi kweminyaka emibini yalo Mthetho 5  
uqala ukusebenza kunye nexesha elingekho ngaphezu kweminyaka emine emva koko, njengoko kufunwa nguMphathiswa wePhondo;
- (m) kumhlaba ulawulwa yiCapeNature nolawulo, ulondolozo nokuphakanyiswa kwezibonelelo zelifa lemveli zenkcubeko kulandelwa iinkqubo ezisebenzayo, ufikeleleko nolwabiwo lweenzuzo kunye nezinto ezenziwayo ezihlala ixesha 10 elide.
- (n) uphonononge kwaye enze izimvo ngokuhambelana kwezakhelo zophuhliso lomhlaba kunye nezicelo zokusingqongileyo, amanzi, ezolimo kunye nokugunyaziswa kwemigodi ngeenjongo zesiCwangciso seNdawo seNdawo;
- (o) kwimimandla ephantsi kolawulo lwayo, mayithathe amanyathelo ayimfuneko 15 okanye anqwenelekayo kulondolozo lweentlobo-ntlobo zezinto eziphilayo okanye ulawulo lweziphumo ezibi apho;
- (p) ahlole kwaye aphande ukungathobeli kunye namatyala ngokwalo Mthetho; kwaye
- (q) kwiindawo ezipantsi kolawulo lwayo, thatha amanyathelo ayimfuneko 20 kukhuseleko lweendwendwe.
- (2) ICapeNature kufuneka—
- (a) ilawule uphuhliso nophakamiso lwemisebenzi yokhenketho oluvelisa imali nezibonelelo ezisemhlabeni ezilawulwa yiCapeNature.
- (b) iququzelele uphando, ibeke iliso ze iqeqeshe uluntu ukuba lulondoloze 25 iintlobontlobo zezityalo nezilwanyana; kwaye
- (c) ngokunxulumene nomhlaba ophantsi kolawulo lwayo, khuthaza—
- (i) ulondolozo olusisiseko loluntu lwentlobontlobo zezityalo nezilwanyana
- (ii) ulondolozo kunye nodala lwemisebenzi evela kukhenketho oluvelisa 30 imali, amathuba ophuhliso loqoqosho noqoqosho lweentlobontlobo zezityalo nezilwanyana;
- (iii) ufikelelo kwimimandla ekhuselweyo ukulungiselela ulonwabo, ukufunsa, ukuphanda, inkcubeko, inkolo nesintu; kunye
- (iv) nokwazisa uluntu ngokusingqongileyo, imfundo nophuhliso lolutsha. 35

### Amagunya eCapeNature

- 11.** (1) ICapeNature ingazenzela ingeniso, ngokuxhomekeke kuMthetho woLawulo lweMali kaRhulumente, nangayiphi indlela esemthethweni, kubandakanywa—
- (a) iimali zamangeno, izivumelwano zogunyaziso, nangokurentisa;
- (b) ngezibonelelo zokhenketho zendalo, iziganeko neenkonzu; 40
- (c) imisebenzi yoqoqosho yeentlobontlobo zezityalo;
- (d) ukumenteyinwa kweenkonzo zothungelwano lwendalo;
- (e) imirhumo yamalungelo okusetyenziswa kwezinto zayo; kunye
- (f) nolondolozo nezinye iinkonzo.
- (2) ICapeNature ingathi ngeenjongo zokwenza umsebenzi wayo kunye 45 nokufezekiswa iinjongo zalomthetho—
- (a) ngokuxhomekeke kwicandelo 27(1), iqeshe abasebenzi bayo;
- (b) ngokuxhomekeke kuwo nawuphi na umgaqonkqubo ochazwe kwicandelo 7(1)(b), ukungene kwisivumelwano naye nawuphi na umntu;
- (c) ngokuxhomekeke ekuphonyezweni nguMphathiswa wePhondo kunye 50 noMphathiswa wePhondo onoxanduva lwezemali, lokuqashisa, lokunikezela, lokuthenga okanye lokufumana ipropathi engafudusekiyo okanye ilungelo lepropathi yezimbiwa elingafudusekiyo;
- (d) iqeshe, inikezele, iqashise, ngelungelo okanye ngepropati ehambisekayo;
- (e) yenze uphando, okanye ifune izimvo zoluntu; 55
- (f) ithethane yaye isebenzisana namaziko emfundo malunga noqeqesho loluntu ngamakhono akulondolozo lwendalo;
- (g) ibonise okanye ihambise ulwazi olumalunga nolondolozo olunokuncedisa ekuphumezeni iinjongo zalo Mthetho;
- (h) imakethe ze yazise ngeenjongo, izinto ezenziwayo, iinkonzo nezibonelelo; 60

- (i) ukumenteyina okanye ukwakha izibonelelo, okanye izinto ezidingekayo kwimimandla ephantsi kwayo;
- (j) vumela imisebenzi yezintengiso kunye noluntu ukuba zenzeke kuyo nayiphi na indawo phantsi kolawulo lwayo, ukuba loo mi sebenzi ayinayo impembelelo embi kwizinto eziphilayo okanye izibonelelo zendalo kwindawo leyo; 5
- (k) ukwakha, ukwakha kwakhona, ukumenteyina nakuwuphi na umhlaba okanye nawuphi umzila wamanzi njengeebhikhoni, izinto zokudada, iibhodi zezaziso, iimpawu okanye ezinye iimpawu ezidingekayo ukumisela nawuphi umqathango walo Mthetho; 10
- (l) ingamisela iikomiti zeengebiso ukuncedisa nokuzalisekisa imisebenzi yayo ngokwalo Mthetho;
- (m) ukuvula iiakhawunti zebhanka zayo; kodwa kunye neziko kuphela elibhaliswe njengebhanki ngokwemiqathango yeBhanki, 1990 (uMthetho wama-94 ka-1990); 15
- (n) ityale iimali, kulandelwa iCandelo 5 kwesi Sahluko;
- (o) ngokuxhomekeke kuMthetho woLawulo lweMali kaRhulumente, ingavula i-inshorensi yokunceda xa kukho ilahleko, umonakalo okanye ingozi;
- (p) enze nasiphi na isenzo ngokuhambelana namagunya kunye nemisebenzi yayo; kwaye 20
- (q) ingqala okanye ilwe umangalelo.
- (3) Ukuba iCapeNature iyaneliseka ngezizathu ezifanelekileyo ukuba kuyimfuneko kwaye kuyimfuneko ukuba ithathe inyathelo lokongamela iintlobo zezinto eziphilayo, igosa okanye umntu ogunyazisiweyo yiCapeNature, angangena kumhlaba wabucala 25
- (a) ngemvume yomnini-mhlaba; okanye
- (b) kwimiba ebangela ingozi ebomini bumntu okanye kwiindindi ezahlukeneyo zezinto eziphilayo ngaphandle kwemvume
- (4) I-CapeNature inako nanina, ngokumalunga nanoma yiyiphi na intlobo, yenza okanye igunyaze naluphi na unyathelo, olubandakanywa nomsebenzi onqandayo okanye indlela ekhuselekile— 30
- (a) lidala ubungozi bomenzakalo okanye ukufa kwabantu okanye kohlobo lwesidalwa esiqhelisiweyo;
- (b) ukuba eso sidalwa senzakele okanye sinesifo;
- (c) simosha izityalo kumhlaba olinyiweyo okanye kwenye ipropati; 35
- (d) linganesiphumo esibi kwisidalwa semveli, uthungelwano lwendalo okanye okusingqongileyo; okanye
- (e) eso sidalwa kufuneka sibanjwe okanye sibulawe ngenxa yolondolozo.
- (5) Ukuba isilwanyana sasendle sithunjwe okanye ngexesha lokuzingela, iCapeNature inako ukuthi asikwazi ukusungula ubunikazi bomnini, libulale isilwanyane kwaye litshabalalise isidumbu. 40
- (6) Phambi kokusebenzisa amagunya ngokwemiqathango yeli candelo, iCapeNature kufuneka, ukuba kuyenzeka—
- (a) ibonisane nomnini womhlaba; kwaye
- (b) kufuneka inike isaziso sexesha elamkelekileyo kumnini womhlaba esixela ngexesha, indawo nendlela iCapeNature eza kusebenzisa ngayo amagunya ayo. 45

## *Isiqendu 2*

### *Ibhunga Lolawulo*

#### **Imisebenzi yeBhodi** 50

- 12.** (1) I-CapeNature ilawulwa yiBhodi, eliyigunya layo lokuphendula ingxelo kwaye kufuneka lihambisane neemfuno zoMthetho woLawulo lweMali kaRhulumente.
- (2) IBhodi kufuneka—
- (a) igcine ulawulo olufanelekileyo lweCapeNature;
- (b) iqinisekisa ukuba iCapeNature isebenzise ngokufanelekileyo imisebenzi yayo ngokwemigaqo yalo Mthetho; 55
- (c) ivumele kwaye alandele ukuthotyelwa kwemigaqo kunye nezicwangciso zeCapeNature
- (d) inikele isikhokelo esicwangcisiweo kwiCapeNature;
- (e) iphuhlise i-Charter yeBhodi ukubonelela iMigaqo yokuPhatha kwamalungu 60

eBhodi, kunye neenkqubo zokudibana, kunye nokulawula imiba enxulumene nolawulo lwenkampani.

- (f) ichonge nokubeka iliso indawo kunye nokusebenza ngokubhekiselele kwiCapeNature; kwaye  
(g) ikhuthaza ukubonelela okwaneleyo kweCapeNature ukwenza imisebenzi 5  
yaya.

(3) IBhodi kufuneka yenze imisebenzi yayo phantsi nayiphi na imiyalelo ekhutshiweyo nemiyalelo ekhutshwe nguMphathiswa.

### Isakhiwo

13. (1) Ibhodi iquka— 10  
(a) ubuncinane ngamalungu asixhenxe angadluli kwithoba aqashwe nje ngamalungu angagunyazwanga aye aqeshwa ngokwemigaqo yecandelo, kwaye  
(b) nje ngamalungu alawulayo— 15  
(i) iGosa leSebe elichongwe nguMphathiswa wePhondo; kwaye  
(ii) iGosa eliLawulayo leOfisi.
- (2) uMphathiswa wePhondo—  
(a) kufuneka inqume inani lamalungu ayo kuqeshwa ngokwecandelwana (1)(a); kwaye  
(b) inokutshintsha inani elinqunywe ngokwemiqathango yomhlathi (a), kodwa 20 inganciphisa inani kuphela xa isithuba seBhodi senzeka.
- (3) Amalungu angewona alawulayo angavota ngokwecandelo 25.

### Okungavumelekanga njeLungu leBhodi

14. Umntu akanakutyunjelwa kwiBhodi ukuba—  
(a) lilungu lePalamente yesizwe, wephondo lomthetho okanye lebhunga 25 likamasipala;  
(b) lingumsebenzi—  
(i) we CapeNature;  
(ii) kamasipala; okanye  
(iii) umsebenzi ngokwePublic Service Act, 1994 (Isibhengezo 103 ka- 30 1994), ngaphandle kokuba ochazwe kwicandelo 12(1)(b) lalo Mthetho;  
(c) lingumntu okhe wabanjwa wagwetyelwa ityala; bandakanye ubuxoki ukungathembeki;  
(d) linto engena kulungiswa njengontyumpantyumpeka ematyaleni; okanye  
(e) likhe wabhengezwa njengochaphazeleke engqondweni yinkundla yomthetho. 35

### Ukutyunjelwa kwiBhodi

15. (1) UMphathiswa wePhondo kufuneka akhethe amalungu eBhodi angagunyazisiyo achazwe kwicandelo 13(1)(a).  
(2) Xa uMphathiswa wePhondo etyumba ilungu elingekho kwisigqeba solawulo lweBhodi, uMphathiswa Phondo kufuneka— 40  
(a) athi esebenzisa isaziso *kwiGazethi yePhondo* nakumaphepha ndaba asasazwa kweliphondo, ngeelwimi ezisemthethweni zePhondo, acele uluntu ukuba lutyumbe abantu abafanelekileyo; yaye  
(b) aqwalasele onke amagama atyunjiweyo afunyenweyo consider yaye emva kokubonisana neNtloko yeSebe neGosa eliyiNtloko yeSigqeba soLawulo, 45 atyumbe inani elifunekayo lamalungu eBhodi.
- (3) Xa esenza idinga neBhodi ngokwecandelwana (1), uMphathiswa wePhondo kufuneka—  
(a) aqinisekise ukuba umntu owonyuliweyo ukulungele kwaye ukulungele ukuqeshwa; 50  
(b) aqinisekise ukuba umntu owonyuliweyo uneziqinisekiso ezifanelekileyo, ulwazi namava, njengoko kunokugqitywa nguMphathiswa wePhondo; kwaye  
(c) bayithathele ingqalelo imfuneko yokuqesha abantu—  
(i) abamele ngokubanzi ubume bePhondo; kwaye  
(ii) kwimibutho efanelekileyo esekwe kuluntu okanye emele iPhondo. 55
- (4) Akukho sigqibo sithathwe yiBhodi okanye intshukumo yeBhodi engasayi kwamkeleka kuba kukho isithuba esikhoyo kwiBhodi okanye kuba umntu kuye

kwahlala kwiBhodi umntu ebengafanelanga kuhlala njengelungu leBhodi xa bekuthathwa isigqibo okanye kugunyaziswa intshukumo, ukuba isigqibo okanye intshukumo igunyaziswe ngamalungu angephezu kwehafu yamalungu eBhodi ebekhona nangamalungu eBhodi.

### USihlalo weBhodi

5

- 16.** (1) UMphathiswa wePhondo, emva kokubonisana namalungu eBhodi—
- (a) kufuneka atyumbe okanye aphinde atyumbe ilungu lebhodi elingelolungu lesigqeba esilawulayo kwiBhodi njengoSihlalo nelinye ilungu elingelolungu lesigqeba esilawulayo kwiBhodi njengoSekela-Sihlalo;
  - (b) angathi xa kukho isizathu esivakalayo, arhoxise naluphina unyulo. 10
- (2) USihlalo noSekela-Sihlalo batyunjelwa isithuba esigqitywe simiselwe nguMphathiswa wePhondo esingenokuba ngaphezulu kwexesha umntu alilungu ngalo esixelwe kwicandelo 17.
- (3) UMphathiswa wePhondo angatyumba naliphina ilungu leBhodi njengoSihlalo weBhodi oBambeleyo ukuba— 15
- (a) xa kunokwenzeka kubekho isithuba kwiofisi kasihlalo nesekele lakhe kungeka tyunjwa uSihlalo noSekela-Sihlalo; okanye
  - (b) ukuba uSihlalo noSekela-Sihlalo abekho kwiintlanganiso zeBhodi ezimbini nangaphezulu ezilandelelanayo.

### Ixesha elisetyenzwa ngalungu angekho kwisigqeba seBhodi

20

- 17.** (1) Ilungu elingekho kwiBhodi—
- (a) lityunjelwa isithuba seminyaka emithathu; kuxhomekeke kwicandelo 22(2);
  - (b) ukuphela kwexesha elixelwe kumhlathi (a), lingaphinde lityunjwe nguMphathiswa wePhondo, emva kokubonisana neNtloko yeSebe neGosa eliyiNtloko yeSigqeba soLawulo, lisebenze esinye isithuba esinye seminyaka emithathu. 25
- (2) UMphathiswa wePhondo angakwandisa ixesha lokuqeshwa kwelungu elingenagunya elichazwe kwicandelwana (1)(a) okanye (b) ixesha elingadluli unyaka omnye.

### Imiqathango yotyumbo neyentlawulo

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- 18.** (1) UMphathiswa wePhondo, ngokuvumelana noMphathiswa wePhondo onoxanduva lwezemali, kufuneka agqibe ngemiqathango yokutyunjwa kwamalungu angengomalungu esigqeba esilawulayo ukuba abe ngamalungu eBhodi, kubandkanywa intlawulo yayo nezibonelelo zawo ngokugqitywa licandelo likaNondyebo weSizwe kulandelwa iPublic Finance Management Act. 35
- (2) ICapeNature inoxanduva lokuhlawula imali nezibonelelo zamalungu eBhodi angengomalungu esigqeba solawulo.

### Ukuziphatha kwamalungu

- 19.** (1) Ilungu leBhodi—
- (a) kufuneka lenze imisebenzi yalo ngokuthembeka nangokungoyiki, ngokungenamkhethe nangokungacaluliyo; 40
  - (b) kufuneka lithobele iMigaqo yokuZiphatha exelwe ku-12(2)(e);
  - (c) kufuneka lichaze kwiBhodi ngeemali okanye ngamashishini elinawo, okanye angawomlingane walo, ilungu losapho yaye kufuneka lingabi yinxalenye yeengxoxo zeBhodi xa kuqwalaselwa loo mba; 45
  - (d) alinakusebenzisa ulwazi olufihliweyo elilufumene njengelungu leBhodi okanye ngenxa yesikhundla salo nalungelo alo njengelungu leBhodi ukuze lifumana inzuzo yalo okanye ukuzuzisa omnye umntu; yaye
  - (e) alinakuziphatha nangayiphi enye indlela echaphazela isidima seBhodi, edala umkhethe nechaphazela inkululeko nentlonipheko yeCapeNature okanye yeiBhodi. 50
- (2) Ilungu leBhodi elaphula okanye elingathobeli icandelwana (1) linetyala lokuziphatha kakubi.

**Ukupheliswa kobulungu**

- 20.** Ilungu elingekho kwisigqeba solawulo liyayeka ukuba lilungu leBhodi ukuba—
- (a) ixesha elisetyenzwa lilungu elingekho kwisigqeba solawulo liphelile; okanye
  - (b) ilungu elingekho kwisigqeba solawulo—
    - (i) alisafanelanga ukuba lilungu ngokwecandelo 14(a) ukuya ku(e); 5
    - (ii) lingenisa ileta yokuyeka kwiinyanga ezintathu phambi kokuba libeke phantsi iintambo, ngaphandle kokuba uMphathiswa wePhondo uvumela isithuba esifutshane kwimeko ethile;
    - (iii) liyasuswa kwisikhundla ngokwecandelo 21.

**Ukususwa nokumiswa** 10

- 21.** (1) UMphathiswa wePhondo angalisusa ilungu leBhodi kwisikhundla ngenxa yezizathu zilandelayo—
- (a) yokuziphatha kakubi, nokungakwazi ukusebenza;
  - (b) ilungu elingekhoyo kwiintlanganiso ezimbini ezilandelelanayo zeBhodi lingafumenanga mvume kuSihlalo, ngaphandle kokuba kunikwa izizathu ezivakalayo zokungafumani mvume phambi kokungabikho; 15
  - (c) ukungabinako ukuhlawula amatyala; okanye
  - (d) isigwebo solwaphulo mthetho olubandekanya ukunganyaniseki.
- (2) UMphathiswa wePhondo—
- (a) kufuneka alisuse ilungu leBhodi kwisikhundla njengoko kucacisiwe kwicandelwana (1) emva kweziphumo ezifunyaniswe yibhodi yophando etyunjwe nguMphathiswa njengoko kuxeliwe kwicandelo 7(2)(d); kwaye 20
  - (b) unokumisa ilungu leBhodi eliphandwayo njengoko kuxeliwe kumhlathi (a).

**Ukuzaliswa kwezithuba**

- 22.** (1) Isithuba kwiBhodi siyazaliswa— 25
- (a) sikaSihlalo okanye uSekela-Sihlalo, ngokutyunjwa kwelinye ilungu leBhodi njengoSihlalo okanye uSekela-Sihlalo, ngokwemeko leyo, njengoko kuxeliwe kwicandelo 16(1)(a); yaye
  - (b) kwimeko yelungu leBhodi elingekho kwisigqeba solawulo, ngokulandela iinkqubo exelwe kwicandelo 15. 30
- (2) Umntu otyunjelwe ukuzalisa isithuba uba kweso sithuba egqibezela inxalenye ebingekapheli yesithuba ebesibanjwe ngobelilungu.

**Isiqendu 3****Iinkqubo zokusebenza zeBhodi****Iintlanganiso** 35

- 23.** (1) IBhodi kufuneka ubuncinane ihlangane kane kunyakamali ngamnye weCapeNature yaye uSihlalo unokwenza isicelo sesininzi lwamalungu eBhodi funekile lubambe iintlanganiso ekhethekileyo yokuxoxa umba othile.
- (2) USihlalo kufuneka abize ze ahlalele iintlanganiso zeBhodi, kodwa ukuba akakho uSihlalo kwintlanganiso, uSekela-Sihlalo kufuneka ibe nguye ohlalele iintlanganiso. 40
- (3) Ukuba bobabini uSihlalo kunye noSekela Sihlalo abekho kwintlangano amalungu akhoyo kufuneka akhethe elinye ilungu ukuba lichophele iintlanganiso, kulandelwa icandelo 16(3).

**Iinkqubo**

- 24.** (1) IBhodi kufuneka igqibe ngeenkqubo zayo zokuqhuba iintlanganiso kulandelwa icandelo 12(2)(e). 45
- (2) IBhodi kufuneka iirekhodi zentlanganiso nezezigqibo ezithathwe kwiintlanganiso.
- (3) IBhodi ingamema nawuphi umntu ukuba bazimase nayiphi iintlanganiso yeBhodi.

**Ikhoram nezigqibo**

25. (1) Uninzi lwamalungu eBhodi angamalungu ngelo xesha enza ikhoram yentlanganiso yeBhodi.

(2) Umba oxoxwa yiBhodi ugqitywa ngeevoti zoninzi lwamalungu avotayo akhoyo kuloo ntlanganiso. 5

(3) Ukuba kumba oxoxwa yiBhodi iivoti ziyalingana, ilungu leBhodi walo ntlanganiso kufuneka ibe lilo elinikeza enye ivoti yokunika isigqibo ngaphezu kokuba besele livotile njengelungu.

**Ikomiti**

26. (1) IBhodi inokuseka iikomiti, kubandakanye ikomidi lokuphicothwa, 10 ukukunceda ekufezeni imisebenzi yalo, equka enye okanye ngaphezulu kwezi zinto zilandelayo:

(a) amalungu eBhodi;

(b) abasebenzi beCapeNature;

(c) abanye abantu ngokweBhodi banamava asondeleyo okanye ubuchule. 15

(2) IBhodi—

(a) kufuneka ichaze imisebenzi yekomiti nganye emiselwe kwicandelwana (1);

(b) kufuneka ityumbe usihlalo wekomiti namalungu ekomiti nganye;

(c) ingasusa ilungu layo nayiphi na ikomiti kwiofisi nanini na; yaye

(d) kufuneka igqibe ngeenkqubo zekomiti nganye. 20

(3) Iikomiti zenza kuphela izindululo emazamkelwe yiBhodi.

(4) IBhodi ingayichitha nanini na ikomitingaphandle kwekomiti yopichotho.

(5) Kusebenza icandelo 18 kunye no 19 nezinto ezitshintshiweyo kumalungu ekomiti.

**Isiqendu 4**

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**Ulawulo lweCapeNature****Ukuqeshwa kweGosa eliyiNtloko yeSigqeba soLawulo**

27. (1) IBhodi, isebenzisana noMphathiswa, kufuneka iqeshe umntu onezifundo ezifanelekileyo namava afanelekileyo njengeGosa eliyiNtloko yeSigqeba soLawulo leCapeNature. 30

(2) IGosa eliyiNtloko yeSigqeba soLawulo—

(a) liqeshwa isithuba seminyaka emihlanu; yaye

(b) linokuphinda lihlaziyelwe ingqesho yiBhodi eminye iminyaka emihlanu.

(3) IGosa eliyiNtloko yeSigqeba soLawulo liqeshwa ngokwemiqathango yengqesho ebekwe yiBhodi emva kokuvumelana noMphathiswa wePhondo. 35

(4) IGosa eliyiNtloko yeSigqeba soLawulo linoxanduva lolawulo lweziko nolwezimali zeCapeNature yaye kufuneka—

(a) lincedise iBhodi ukuphumeza imisebenzi yayo njengogunyaziwe onika inkcaza weCapeNature nokuthobela iPublic Finance Management Act ngokuqinisekisa ukuba kukho iinkqubo zokubonelela ngeenkukacha neengxelo ezifunwa yiBhodi; 40

(b) enze lo misebenzi yaye asebenzise loo magunya awanikwe yiBhodi; okanye thunyelwe kuye yiBhodi;

(c) anike ingxelo kwiBhodi ngemiba yolawulo, ukwenziwa kwemisebenzi nokusetyenziswa kwamagunya ngohlobo nangendlela iBhodi egqibe ngayo; 45

(d) ukulungisa iidrafti zezicwangciso, zeenkcazelo neengxelo ezixelwe kwicandelo 28;

(e) aqeshe iGosa leZimali eliyiNtloko elinezifundo zokwenza oko;

(f) aqeshe abasebenzi, ejonga imali ekhoyo ebekwe yiBhodi nangokomgaqonkqubo wengqesho weBhodi; 50

(g) aphaathe abasebenzi;

(h) aqinisekise ukuba iCapeNature ithobela imiqathango yalo Mthetho, iPublic Finance Management Act kunye nawuphi omnye umthetho ofanelekileyo; kunye

(i) ngukubanzi uqondise imicimbi yeCapeNature ukwenzela ukufezekisa 55 iinjongo zalo Mthetho.

- (5) Ukuba iGosa eliyiNtloko yeSigqeba soLawulo alikho okanye alikwazi kwenza umsebenzi walo, okanye kukho isithuba sesikhundla seGosa eliyiNtloko yeSigqeba soLawulo, iBhodi ingathi, ngemvumelwano noMphathiswa, iqeshe umsebenzi weCapeNature njengeGosa eliyiNtloko yeSigqeba soLawulo eliBambeleyo isithuba esingekho ngaphezulu kweenyanga ezintandathu ngexesha— 5
- (a) iGosa eliPhezulu eliPhezulu ngaliphi na isizathu esingekho okanye engakwazi ukwenza imisebenzi yakhe; okanye
- (b) kukho isithuba kwiofisi yeGosa eliLawulayo eliLawulayo.
- (6) IGosa eliyiNtloko yeSigqeba soLawulo eliBambeleyo— 10
- (a) linamagunya nemisebenzi yeGosa eliyiNtloko yeSigqeba soLawulo; yaye
- (b) kufuneka liqeshwe ngokwemiqathango exelwe kwicandelwana (3).

### *Isiqendu 5*

#### *Imiba yezimali*

#### **Unikezonkcaza nonikezongxelo ngeemali**

**28.** IBhodi kufuneka iqinisekise ukuba kulungiswe izicwangciso neengxelo zonyaka, iibhajethi, iingxelo zonyaka neengxelo zemali eziphicothiweyo, ezamkelwe zaze zangeniswa ngokwePublic Finance Management Act. 15

#### **Iimali**

- 29.** (1) Iimali zeCapeNature zibandakanya—
- (a) ingeniso esuka ekwenzeni imisebenzi yayo; njegoko ichazwe kwicandelo 11(1); 20
- (b) iimali eyabiwe yiPalamente yePhondo;
- (c) iigranti neemali ezifunyenwe nakubanina;
- (d) amalizo namafa ashiselwe yona;
- (e) ingeniso esuka kutyalomali; 25
- (f) imidliwo efunyenweyo okanye ethathwe kumatyala phantsi kwalo Mthetho; kunye
- (g) nayiphi imali efunyenwe kweminye imithombo. Ngemvume yomPhathiswa wePhondo kunye neBhodi phantsi komthetho wolawulo lwemali kaRhulumente. 30
- (2) ICapeNature kufuneka isebenzise iimali zayo ukwenza imisebenzi yayo ecamngcwe kwicandelo le-10 nele-11 kunye-
- (a) igubungele iindleko zayo zokusebenza, iBhodi nezokulawula; kwaye
- (b) enze igalelo ekuxhasweni kwemali yenkunzi yakhe kunye neendleko zokugcina. 35
- (3) IGosa eliyiNtloko yeSigqeba soLawulo kufuneka liqinisekise ukuba zonke iimali ezifunyenwe ngokwecandelwana (1) zidiphozithwe kwi-akhawunti yebhanka yakwaCapeNature.

#### **Iimali ezibekiweyo**

- 30.** (1) IBhodi ingagcina iimali koovimba phantsi koMthetho woLawulo lweMali kaRhulumente kwaye nangokuvumelana noMphathiswa wePhondo onoxanduva lwezemali, ezifunyenwe ngokwecandelo 29(1) ukuze yenze imisebenzi yayo nokusebenzisa amagunya ayo. 40
- (2) Nayiphi imali efakwe okanye ekhutshwe kwaba vimba beemali kufuneka ivunywe yiBhodi. 45

#### **Utyalomali**

**31.** IBhodi ingatyala naziphi iimali zeCapeNature ezingazi kusetyenziswa ngokukhawuleza ilandela umgaqonkqubo wotyalomali obekiweyo ngokwecandelo 7(4) loMthetho woLawulo lweMali kaRhulumente, kwaye nangokuvumelana noMphathiswa wePhondo onoxanduva lwezemali. 50

**Isiqendu 6****Ukuchithwa kweBhodi okanye CapeNature****Ukuchithwa kweBhodi**

**32.** (1) Ukuba uMphathiswa wePhondo unezizathu ezivakalayo wokuba iBhodi ayiwenzi umsebenzi wayo ngokwecandelo 12, kufuneka ukhuphe umyalelo okhankanywe kwicandelo 7(2)(c)— 5

(2) Ukuba uMphathiswa akanelisekanga ukuba iBhodi iwuthobeke umyalelo oxelwe kwicandelwana (1) uMphathiswa wePhondo angayichitha iBhodi ngokukhupha isaziso *kwiGazethi yePhondo*.

(3) Mphathiswa wePhondo unokwenza imisebenzi yeBhodi ukusukela kumhla wopapasho lwesaziso esixelwe kwicandelwana (2) de kube kumiselwa iBhodi entsha exelwe kwisiqendwana (4). 10

(4) UMphathiswa kufuneka ngexesha elamkelekileyo emva kokuchithwa kweBhodi ayumbe amalungu kwiBhodi njengoko kuxeliwe kwicandelo 15.

**Ukuchithwa kweCapeNature**

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**33.** (1) CapeNature ayinakuvalwa okanye ichithwe ngaphandle kokuba oko kwenziwe ngoMthetho wePalamente yePhondo

(2) Emva kokuchithwa kwayo, iCapeNature kufuneka idlulisele zonke iiasethi zayo ezishiyekileyo kwiSebe okanye kwelinye iziko lephondo elixelwe kumthetho woLawulo Lwezimali zikaWonke wonke ngohlobo oluxelwe nguMphathiswa wePhondo. 20

**ISIAHLUKO 5****UKWENZA IZICWANGCISO NOKUBEKA ILISO KWIINTLOBONTLOBO ZEZITYALO NEZILWANYANA****IsiCwangciso soMhlaba sentlobontlo zezityalo nezilwanyana**

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**34.** (1) ICapeNature, emva kothethathethwano neNtloko yeSebe, kufuneka iqulunqe uyilo lwesiCwangciso soMhlaba seNtlobontlobo zezityalo nezilwanyana kwisithuba sonyaka omnye wokuqaliswa kwalo Mthetho ize iwungenise kuMphathiswa wePhondo ukuze awamkele.

(2) Phambi kokuba amkele isiCwangciso seNdawo yeNdalo, uMphathiswa wePhondo kufuneka— 30

(a) kwiilwimi ezisemthethweni zePhondo, upapashe isalathiso apho isiCwangciso seNdawo seNdawo esingafaniyo sinokufikelelwa luluntu—

(i) ngesaziso *kwiGazethi yePhondo*; kwaye

(ii) kumaphephandaba amabini asasazwa kwiPhondo eli, elinye lawo ubuncinci kufuneka libe lishicilelwe; 35

(b) yenza ukuba uyilo oluyiliweyo lweSicwangciso soMhlaba seNtlobontlobo zezityalo nezilwanyana lufumaneka kwaye lufikeleleke kuluntu ngendlela efanelekileyo kwindawo echaziweyo ngokomhlathi (a); kwaye

(c) livumele ithuba lokunika ingxelo ubuncinane iintsuku ezingama-60 ukusukela kumhla wopapasho lwesaziso *kwiGazethi yePhondo*. 40

(3) UMphathiswa wePhondo kufuneka—

(a) ziqwalasele zonke izimvo ezithe zafunyanwa;

(b) abonisane noMphathiswa kaZwelonke ngesiCwangciso sokuGqibela soMhlaba weNtlobontlobo zezityalo nezilwanyana eyahlukeneyo yeNdalo; kunye 45

(c) zingaphelanga iintsuku ezili-150 zokuphela kwexesha lokukhankanya njengoko kuxelwe kwisiqendwana sesi-(2)(c), amkele isiCwangciso sokugqibela soMhlaba weNtlobontlobo zezityalo nezilwanyana, aze asipapashe ngesaziso *kwiGazethi yePhondo*. 50

### Injongo yesiCwangciso soMhlaba seNtlobontlobo zezityalo nezilwanyana yeNdalo

35. Injongo yesiCwangciso seMihlaba yeNtlobontlobo zezityalo nezilwanyana kukuba—

- (a) misela iithagethi zezinto eziphilayo;
- (b) ichonge ngokwendawo enye okanye ezinye iindidi zemimandla ephambili yezendalo eya kuqinisekisa ubukho obuqhubekayo kunye nokusebenza kwendalo kunye neenkqubo zezinto eziphilayo, kubandakanya ukuhanjiswa kweenkonzo zendalo; 5
- (c) inike isikhokelo esichaza iinjongo zolawulo ezinqwenelekayo zokusetyenziswa komhlaba kunye nezixhobo kwicandelo ngalinye lendawo ephambili yezendalo; 10
- (d) ukubonelela ngocwangciso lomhlaba kunye nezikhokelo zokwenza izigqibo ngokusetyenziswa komhlaba ukuqinisekisa uphuhliso oluzinzileyo lokusingqongileyo kunye nokusetyenziswa kobutyebi kunye nokomelela kwendalo kunye nephondo kwiPhondo; kwaye 15
- (e) iqinisekise ukuba iziseko zoncendo zendalo kwiPhondo zigcinwa, ukwahlulwa kwendalo kunye nelahleko kuthintelwe, kunye nokomelela kwendalo kunye noluntu loluntu kwiimpembelelo zotshintsho lwemozulu.

### Umxholo wesiCwangciso soMhlaba weNtlobontlobo zezityalo nezityaloye

36. IsiCwangciso soMhlaba seNtlobontlobo zezityalo nezilwanyanaNdawo seNdalo kufuneka— 20

- (a) kufuneka ipuhliswe kusetyenziswa imigaqo-nkqubo kunye neendlela zokucwangciswa kwendalo eyahlukeneyo kwaye kufuneka isekwe kwesona sayensi kunye nedatha efumanekayo;
- (b) usete iinjongo ekujoliswe kuzo zezinto eziphilayo ekufuneka zenze iindidi zemimandla ephambili yezendalo; 25
- (c) ichonge iindawo ezahluka-hlukeneyo ngokubaluleka kwamacandelo kunye neethagethi ezichazwe kumhlathi (b);
- (d) ibandakanye ukumelwa komhlaba kunye nedatha yendawo yemimandla ephambili yezendalo; kwaye 30
- (e) ibandakanye izikhokelo zeenjongo zolawulo ezinqwenelekayo zodidi ngalinye lwenkalo ephambili yezendalo echongiweyo ngokomhlathi (c).

### Ukusetyenziswa nosetyenziso kwesiCwangciso soMhlaba weNtlobontlobo zezityalo nezilwanyana seNdawo

37. (1) IsiCwangciso soMhlaba seNtlobontlobo zezityalo nezilwanyana sisicwangciso sephondo njengoko kuchaziwe— 35

- (a) amacandelo elama-25(1)(e), 26(d), 27(2)(a) nelama-29(1)(c) kaLocal Government: Municipal Systems Act;
- (b) amacandelo ele-12(4), 15(3)(b) nele-16(c) oMthetho woCwangciso lweNdawo noLawulo lokuSetyenziswa koMhlaba, 2013 (uMthetho we-16 wama-2013); kwaye 40
- (c) icandelo lesi-4(3)(c) (ii) kunye (iii) noMthetho wokuCwangciswa kokuSetyenziswa koMhlaba weNtshona Koloni, 2014 (uMthetho wesi-3 wama-2014), othi umisele izinto eziphambili ngokubaluleka, iinjongo nezicwangciso-qhinga zezinto ezohlukeneyo eziphilayo, izibonelelo zendalo kunye nezinye ezinxulumene noko. Utshintsho lwemozulu. 45

(2) IsiCwangciso soMhlaba seNtlobontlobo zezityalo nezilwanyana kufuneka sazise—

- (a) iSicwangciso-buchule soLwandiso lweeNdawo eziKhuselweyo zePhondo kunye nolawulo lwendalo; 50
- (b) ukuchongwa kwendalo kunye nolwakhiwo lwendalo kunye nokudweliswa kweentlobo ngokwemiqathango yalo Mthetho kunye neminye imithetho yendalo esingqongileyo;
- (c) ucwangciso lokusetyenziswa komhlaba kunye nokwenza izigqibo;
- (d) imigaqo-nkqubo nezikhokelo eziqulunqwe ngokwemigaqo yemithetho yendalo esingqongileyo; 55
- (e) nayiphi na inkqubo yenkxaso yezigqibo, isixhobo solawulo lokusingqongileyo okanye uvavanyo lobuchule lokusingqongileyo

oluphuhlisiweyo okanye olusetyenzisiweyo ngokomthetho wendalo esingqongileyo;

(f) iziqqibo namanyathelo alo naliphi na iziko likarhulumente elinemigaqo-  
nkqubo neziziqqibo ezinefute kwiyantlukwano kwiPhondo; kwaye

(g) izinto eziphilayo ezahlulayo. 5

(3) Xa umasipala esamkela okanye esenza izilungiso kumgaqo-sikhokelo wophuhliso lomhlaba ngokwemigaqo yeLocal Government: Municipal Systems Act: iindidi ezikwisakhelo sophuhliso lomhlaba zithathele ingqalelo iinjongo zolawulo ezinqwenelekayo kwizikhokelo ezichazwe kwicandelo lama-36(e).

(4) Ngeenjongo zayo nayiphi na imfuneko yesigunyaziso somsetyenzana ochaziweyo ngokomthetho wezendalo ngenxa yefute lokwenza okunjalo kwiyantlukwano yendawo ethile, isiCwangciso seNdawo yeNdalo sichonga iinkalo eziphambili zebhayoloji ezibanga ezo mfuno. 10

### **Uphengululo lwesiCwangciso soMhlaba weNtlobontlobo zezityalo nezilwanyana yeNdalo** 15

**38.** (1) ICapeNature, emva kothethathethwano neNtloko yeSebe, kufuneka isijonge kwakhona isiCwangciso seNdawo yeNdawo eyahlukeneyo seNdalo ubuncinci rhoqo emva kweminyaka emihlanu okanye xa iyalelwa njalo nguMphathiswa wePhondo.

(2) Icandelo 34 liyasebenza, kunye notshintsho oluyimfuneko, kuphononongo nakwisilungiso soCwangciso lweNdawo yeNdalo. 20

(3) UMphathiswa wePhondo kufuneka ukuba avavanye isiCwangciso seMihlaba eyahlukeneyo seNdalo ukuze aqinisekise ukuba ingaba iinjongo zomfezeko ziye zafikelelwa kubungakanani na.

## **ISAHLUKO 6**

### **IMIMANDLA EKHUSELWEYO, IMIMANDLA YOQOKELELO LWAMANZI ESEZINTABENI, AMATHALA ENDALO ABUCALA, INKQUBO YOLONDOLOZO LWEENTLOBONTLOBO ZEZITYALO NEZILWANYANA NAMATHALA ENDALO EZIDALWA EZIZODWA EKWENZIWA UPHANDO NGAZO** 25

#### ***Isahlulo 1*** 30

##### *Unatyiso lweMimandla ekhuselweyo*

#### **Isicwangciso sonatyiso lweMimandla eKhuselweyo yePhondo**

**39.** (1) Ukuze kuphunyezwe iinjongo exelwe kwicandelo 2(g)—

(a) uMphathiswa wePhondo angathatha amanyathelo afanelekileyo, abandakanya kodwa angaphelelanga— 35

(i) ekwamkeleni iSicwangciso soNatyiso lweMimandla eKhuselweyo sePhondo; sokwandiswa kwenethiwekhi yommandla okhuselweyo wephondo obeka ithagethi iindlela zokwandisa; kwaye

(ii) ukubhengeza imimandla ekhuselweyo ngokoMthetho weMimandla eKhuselweyo; kwaye 40

(b) iGosa eliyiNtloko seSigqeba soLawulo lingathatha amanyathelo afanelekileyo, kulondolozo lweentlobontlobo zezityalo udidi oluchazwe kwicandelo lama-42(1)(a).

(2) ICapeNature, funeka emva konxibelelwano neNtloko yeSebe, kufuneka ilungiselele iSicwangciso soNatyiso lweMimandla eKhuselweyo kwiPhondo eliphakathi kweminyaka emibini kokuqaliswa kwalo Mthetho; yaye uthunyelwe kuMphathiswa ozowamkela wenziwe. 45

(3) Ngaphambi kokuba kaqaliswe ukusetyenziswa iSicwangciso soKwandiso lweNdawo eziKhuselekilyo zePhondo uMphathiswa kufuneka—

(a) athi ngelwimi ezisemthethweni zePhondo, apapashe isalathiso esikhomba apho kufumaneka khona iSicwangciso soNatyiso lweMimandla eKhuselweyo yePhondo esiseluyilo— 50

(i) ngesaziso *kwiGazethi yePhondo*; kunye

(ii) kumaphephandaba amabini afundwa kwiPhondo yaye elinye lawo kufuneka ibe liphephandaba elikwifomti eprintiweyo; 55

- (b) wenze isicwangciso soLungiso lweNdawo zoLondolozo lwePhondo ezifumanekayo kwaye zifikeleleke kuluntu ngendlela efanelekileyo kwindawo echazwe ngokwemihlathi (a); kwaye
- (c) avumele isithuba seentsuku ezingama-60 ukususela kumhla wokupapashwa kwesaziso *kwiGazethi yePhondo*. 5
- (4) UMphathiswa wePhondo funeka—
- (a) athathele ingqalelo zonke izimvo ezifunyenweyo; yaye
- (b) kwiintsuku ezingama-90 zokuphelelwa kwexesha lokunika izimvo ezixelwe kumhlathana (4)(c), amkele iSicwangciso soNatyiso lweMimandla eKhuselweyo yePhondo kwaye asipapashe ngokukhupha isaziso *kwiGazethi yePhondo*. 10

## Isahlulo 2

### Imimandla yoqokelelo lwamanzi esezintabeni

#### Isibhengezo semimandla yoqokelelo lwamanzi esezintabeni

40. (1) UMphathiswa wePhondo angathi ngokukhupha isaziso *kwiGazethi yePhondo*— 15
- (a) abhengeze ummandla ukuba ibe—
- (i) ngummandla woqokelelo lwamanzi esezintabeni; okanye
- (ii) inxalenye yommandla okhoyo woqokelelo lwamanzi esezintabeni; ze 20
- (b) athiye igama loo mmandla woqokelelo lwamanzi esezintabeni.
- (2) UMphathiswa wePhondo angenza isibhengezo ngokwecandelwana (1)(a), ukuba ulawulo lwezinto ezenziwayo apho nezibonelelo zidinga oko, ukuze—
- (a) kumenteyinwe iintlobontlobo zezityalo nezilwanyana nothungelwano lwendalo kummandla;
- (b) kugcinwe imiqathango yeenkonzo zothungelwano lwendalo ingakumbi 25 amanzi; nezibonelelo
- (c) ukuqinisekisa ukuba usetyenziso lweenkonzo zothungelwano lwendalo kuloo mmandla zizinzile.
- (3) UMphathiswa wePhondo angenza isibhengezo ngokwecandelwana (1) malunga nowuphi na umhlaba kunye nomhlaba womntu. 30
- (4) Ukuba uMphathiswa wanelisekile ukuba kukho ubungqina bokuba ummandla woqokelelo lwamanzi esezintabeni, okanye inxalenye yawo, awudingeki, angathi, ngokukhupha isaziso *kwiGazethi yePhondo*, njengoko kunjalo mhlawumbi—
- (a) ukurhoxisa isimemezelo saloo ndawo yoqokelelo lwamanzi esezintabeni, okanye utshintshe imida yaloo ntaba; 35
- (b) ukunqaquki nayiphi na indawo yoqokelelo lwamanzi esezintabeni.
- (5) Ngaphambi kokuba kukhutshwe isaziso esichazwe kwicandelwana (1)(a), (3) okanye (4), Umphathiswa wePhondo kufuneka, ngokuchanekileyo, achazele abanini bomhlaba isaziso esicetywayo kunye nemiphumo yesaziso.
- (6) Indawo apho ekuqaleni kwalo Mthetho, yindawo yemimandla yoqokelelo lwamanzi esezintabeni ngexa yesibhengezo phantsi kwecandelo 2 leMountain Catchment Areas Act yendawo ithathwa njengokuba ibhengezwe njengendawo yoqokelelo lwamanzi esezintabeni phantsi kwecandelwana (1). 40
- (7) Ummandla uyayeka ukuba ngummandla woqokelelo lwamanzi esezintabeni ukuba loo mmandla ubhengezwe, okanye ubandakanywe nolondolozo lwendalo olukhethekileyo, ipaki yesizwe okanye ithala lendalo lesizwe okanye kwinxalenye yalo ngokwemigaqo yecandelo 18, 20 okanye 23 woMthetho weNdawo eZikhuselekileyo. 45

#### Ulawulo lwemimandla yoqokelelo lwamanzi esezintabeni

41. UMphathiswa wePhondo unokunika umyalelo—
- (a) ngeemfuno ezingqalileyo zolawulo lwemimandla yoqokelelo lwamanzi esezintabeni; okanye 50
- (b) imisebenzi ethile engavumeleknga kwimimandla yoqokelelo lwamanzi esezintabeni ngokwenjongo yecandelo 40(2).

**Isahlulo 3*****Amathala endalo abucala*****Inkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana**

42. (1) Ukuze kuphunyezwe iSicwangciso Sokwandiso lweeNdawo eZikhuselekileyo zePhondo uMphathiswa unokunika umyalelo— 5
- (a) ngezindlu ezahlukileyo zenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana;
  - (b) inkqubo nemiqathango esebenza kuluhlu loomandla ngamnye wenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana;
  - (c) isicelo, inkqubo yokubhalisa, utshintsho okanye urhoxiso lwenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana; 10
  - (d) ngamalunga imisebenzi namagunya malunga nenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana;
  - (e) inkqubo neenjongo zezicwangciso zolawulo lwenkqubo yemimandla yolondolozo lweentlobontlobo zezityalo nezilwanyana; kunye 15
  - (f) nawuphi omnye umba oyimfuneko ekulawuleni kakuhle imimandla yolawulo lwezinto eziphilayo.
- (2) iGosa leOfisi Elingumphathi ingangena kwisivumelwano salawulo lwezinto eziphilayo kunye nabani na ongumnini Mhlaba.
- (3) ICapeNature kufuneka ike iliso kwimo yezivumelwano zenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana nemimandla yenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana ze inike ingxelo qho ngonyaka kuMphathiswa wePhondo. 20
- (4) Ukuba umnini Mhlaba uyinxalenye kwisivumelwano sokuphatha izinto eziphilayo ezizintlobontlo nezilwanyane. uye waphula eso sivumelwano, uMphathiswa wePhondo angalihlawulisa, ngokwecandelo 73. 25
- (5) Ukumiselwa kwesohlwayo sokulawula njengoko kuchazwe kwicandelwana (4) akuchaphazeli amalungelo omntu nawuphina oqhelekileyo.

**Isahlulo 4*****Inkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana*** 30**Isicelo kwiUNESCO ukuba ibhengeze ithala njengethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo**

43. (1) Nawuphi na umntu okanye iziko likarhulumente lingenza isicelo kuMphathiswa wePhondo ukuba aqhube nesicelo se-UNESCO sokubaluleka kwe-biosphere. 35
- (2) Isicelo esixelwe kwicandelwana (1) kufuneka—
- (a) kuqale kube khona iindibano zokubonisana nabantu,
  - (b) sibe kwifomathi ebekiweyo kunye;
  - (c) sibandakanye ubume bethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo ikomiti yethutyana emele ngokubanzi bonke abantu abanomdla, amaziko kunye noluntu. 40
- (3) UMphathiswa wePhondo angasivuma isicelo anike izizathu zoko njengoko kuxelwe kwicandelwana (2). Kunye okanye ngaphandle kwezizathu, okanye angasivumi.
- (4) Ukuba uMphathiswa wePhondo uvuma isicelo, ithala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo ikomiti yethutyana kufuneka— 45
- (a) kusekwe ngendlela echanekileyo
  - (b) ukulungiselela isicelo esihambelana neemfuno zeUNESCO ngokuchongwa kwe-biosphere egcinwe kwifomati njengoko ichazwe yiUNESCO, inkqubo yeMan and Biosphere Reserve; 50
  - (c) lingenise isicelo kuMphathiswa wePhondo kwisithuba esibekiweyo okanye esongezwe nguMphathiswa; kananjalo;
  - (d) lenze izilungiso kwisicelo esingenisiweyo njengoko kuxelwe kumhlathi (b) ngokwemiyalelo yoMphathiswa wePhondo.
- (5) Ukuba uMphathiswa wephondo wanelisekile ukuba— 55
- (a) isicelo siyahambelana ngokuphathalele nenkqubo yeUNESCO Man and the Biosphere Programme;

- (b) siyahambelana neenjongo zalo Mthetho; yaye
- (c) ukuba kubandakanya, izilungiso ezixelwe kwicandelwana (4)(d), uMphathiswa wePhondo angasamkela isicelo ngokuhambelana neemfuno zeUNESCO ze asithumele kuMphathiswa weSizwe ukuze siqwalaselelwe ukuba sithunyelwe kwiUNESCO. 5
- (6) Ukuba iUNESCO ichonga ithala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo, uMphathiswa wePhondo kufuneka apapashe isaziso solo chongo *kwiGazethi yePhondo* kwiintsuku ezingama-90 emva kokuba iUNESCO yenze olo chongo.
- (7) UMphathiswa wePhondo kufuneka athi qho kwiminyaka 10 ubuncinane ukususela kwixesha lokuchongwa kwethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo, aphonononge imo, ukusebenza nesicwangciso sesikhokelo sethala ngalinye lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo ngokweenjongo nezikhokelo zeUNESCO Man and the Biosphere Programme. 10
- (8) Ukuba uMphathiswa wePhondo ucinga ukuba emva kokubonisana nekomiti yolawulo echazwe kwicandelo 45 kunye namaqela anomdla kunye nabathintekayo, ukuba ibiosphere igcinwe ayihabelani nemisebenzi ephambili ye-UNESCO yoLuntu neBiosphere Programme, kwaye ayinayo Ithemba lokuthobela, uMphathiswa wePhondo unokucebisa uMphathiswa kaZwelonke ukuba angenise isicelo sokurhoxiswa kokutyunjwa kwaloo ndawo yokugcina indawo yebiosphere kwi-UNESCO. 15 20
- (9) Indawo yokugcinwa kwezinto eziphilayo kwezinto eziphilayo ezimiselwe kwiPhondo ngaphambi kokuqaliswa kwalo Mthetho kuthathwa njengokuba isungulwe ngokuhambelana nalo Mthetho.

#### **Ulawulo lwethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo**

44. (1) Emva kopapasho lochongo lwethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo *kwiGazethi yePhondo*, kufuneka kumiselwe ikomiti yolawulo ngendlela exeliweyo ze emva koko ikomiti yethutyana yethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo ichithwe. 25
- (2) Ikomiti yolawulo kufuneka—
- (a) iqinisekise ukuba ithala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo yena umsebenzi wayo wolondolozo, uphuhliso oluzinzileyo yaye iyasebenza; yenze isikhokelo sethala lendalo lezidalwa ezizodwa; 30
- (b) njengoko kuchazwe kwicandelo 46; kwaye
- (c) ingxelo kuNgqogqoshe wephondo ngonyaka, okanye ngexesha elifutshane elimiselwe nguMphathiswa wephondo, ekufezekiseni iinjongo kunye nokusebenza kwe-biosphere reserve. 35

#### **Isikhokelo sethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo**

45. (1) Isikhokelo sethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo kufuneka sihlele wonke umhlaba okwithala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo njengommandla ongundoqo, owokhuselo lwendalo nowethutyana ze uchonge ukuba umhlaba ngamnye uza kusetyenziselwa ntoni okuluhlu ngalunye. 40
- (2) Isikhokelo sethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo kufuneka sihambelane—
- (a) neUNESCO Man and Biosphere Programme;
- (b) ukuba i-biosphere igcinwe kwindawo ekhuselekileyo icebo lolawulo kuloo ndawo ekhuselekile ngokwemiqathango yoMthetho weNdawo eziViweyo; 45
- (c) neSicwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana;
- (d) Isicwangciso soKwandiso lweeNdawo eziPhezulu zePhondo;
- (e) neenjongo zalo Mthetho; kunye
- (f) nayiphi na enye emiselweyo. 50
- (3) UMphathiswa wePhondo unokunika umyalelo ngezinto emaziqukathwe sisikhokelo sethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo nesithuba efuneka eso sicwangciso siphononongwe ngaso yikomiti yolawulo ye-biosphere reserve.

**Ukuxhaswa ngezimali kwamathala endalo ezidalwa ezizodwa ekwenziwa uphando ngazo**

46. (1) UMphathiswa wePhondo angathi ngolwabiwo lwePalamente yePhondo anike uncedo lwezimali okanye olunye uncedo lokumisela, lokusebenza, lolawulo okanye lonabiso, okanye lolondolozo lwethala lendalo lezidalwa ezizodwa ekwenziwa uphando ngazo. 5

(2) Uncedo oluxelwe kwicandelwana (1) lungenziwa phantsi kwemiqathango ebekwe nguMphathiswa wePhondo.

**ISAHLUKO 7**

**UKHUSELO LOTHUNGELWANO LWENDALO, IZIBONELELO ZENDALO NEENTLOBO ZEZIDALWA** 10

**Uthungelwano lwendalo oluchongiweyo okanye izibonelelo zendalo ekufuneka zikhuselwe**

47. (1) UMphathiswa wePhondo angathi, ngokukhupha isaziso *kwiGazethi yePhondo* achonge naluphi uthungelwano lwendalo okanye inxalenye yoko okanye indawo izibonelelo zendalo ezidinga ukhuselo olulodwa ukuqinisekisa ukuba kumenteyinwa isidima salo okanye ukuhanjiswa kweenkonzo zothungelwano lwendalo. 15

(2) Isaziwo esichazwe kwicandelwane (1) sinokubonelela—

(a) ukungavumeli okanye ukuthintela nayiphi na imisebenzi; kunye

(b) ukusekwa kwemimiselo yolawulo kuyo nawuphi na umninimhlaba kwisithuba sezinto eziphilayo ezichongiweyo okanye izibonelelo zendalo, ngokusisigxina okanye ngexeshe elithile. 20

(3) Ngaphambi kokukhupha isaziso esihlongozwe kwicandelwana (1), umphathiswa wephondo kufuneka, ngendlela echanekileyo azise abanini mhlaba abachazekileyo ngesaziso esicetywayo kunye nemiphumo yoko, kwaye baxoxe nabo ithuba lokuphendula. 25

(4) UMphathiswa wePhondo angathi ngokukhupha isaziso *kwiGazethi yePhondo* atshintshe okanye arhoxise isaziso esixelwe kwicandelwana (1) okanye inxalenye yaso, ukuba zitshintshile iimeko ebezenze ukuba uMphathiswa wePhondo asebenzise amagunya akhe ngokwecandelwana (1). 30

(5) Noxa kusenokubakho eminye imithetho esebenzayo, kulityala ukungathobeli isaziso esixelwe kwicandelwana (1) okanye esenziwe izilungiso njengoko kuxelwe kwicandelwana (4).

**Amanyathelo othintelo lwefuthe elibi kwiintlobontlobo zezityalo namanye amanyathelo okunqanda ifuthe elibi** 35

48. UMphathiswa wePhondo anganika umyalelo wamanyathelo othintelo lwefuthe elibi kwiintlobontlobo zezityalo nezilwanyana okanye amanye okunqanda ifuthe elibi kwiPhondo ukufikelela kwiithagethi zenkqubo yolondolozo lweentlobontlobo zezityalo nezilwanyana ezibekwe kwiSicwangciso soMhlaba weentlobontlobo zezityalo nezilwanyana. 40

**Iintlobo zezidalwa ekufuneka zikhuselwe okanye eziyingozi kwindalo**

49. (1) UMphathiswa wePhondo usenokuthi, ngesaziso *kwiGazethi yePhondo*, apapashe uluhlu lwemisebenzi ethinteleweyo okanye iindlela ezinesithintelo ngokubhekiselele kulo naluphi na uhlobo lwendidi okanye naluphi na udidi lweentlobo ezidweliswe ngokwecandelwana (2). 45

(2) UMphathiswa wePhondo unokuthi, ngesaziso *kwiGazethi yePhondo*, apapashe uluhlu lweentlobo okanye iindidi zezilwanyana:

(a) kuhlobo lwesidalwa elingasekhoyo endle;

(b) kuhlobo lwesidalwa olusemngciphekweni omkhulu;

(c) uhlobo lwesidalwa olusengozini; 50

(d) uhlobo lwesidalwa esibuthathaka;

(e) uhlobo lwesidalwa ezifuna ukukhuselwa kwaye azidweliswanga ngokwemihlathi, (a), (b), (c); okanye

- (d) kubandakanywa uhlobo lwesidalwa olufakwe kuluhlu—  
 (i) lweIUCN njengeziseNgozini, ezingenaVimba wazo okanye ezingaHlolwanga; okanye  
 (ii) esifakwe kwizihlomelo I, II, no-III zeCITES;
- (f) nasiphi esinye isidalwa semveli esingadweliswanga kumacandelwana (a), (b), (c), (d) okanye (e); 5
- (g) izidalwa ezingezozaloo ndawo;
- (h) uhlobo lwesidalwa esingeneleleyo;
- (i) intlobo ezifuna amanyathelo okulawula okukhethekileyo; kwaye
- (j) nohlobo lwesidalwa zasekhayeni. 10
- (3) UMphathiswa wePhondo kufuneka qho emva kweminyaka emihlanu aphonononge uluhlu olucamngcwe kwicandelwana (1), (2) nele-(7).
- (4) UMphathiswa wePhondo unokumisela amanyathelo okulawula okukhethekileyo okufunekaya kwiintlobo ezidweliswe kwicandelwana (2)(i).
- (5) Akukho mntu unokwenza umsebenzi onemiqathango yokuwenza okanye ekufuneka wenziwe ngendlela ethile wohlobo lwesidalwa esithile, ngaphandle kokuba ugunyazisiwe ukwenza njalo ngokwalo Mthetho kwicandelo 51(1)(a). 15
- (6) Icandelwana (5) alichaphazeli uhlobo lwesidalwa olukuhlu olusuka ngaphandle kwePhondo oludlula kwiPhondo oluya ngaphandle kwePhondo ngaphandle kokuba olo hambo ludlula kwiPhondo luhamba ngokogunyaziso oluxeliweyo. 20
- (7) UMphathiswa wePhondo unokuthi, ngesaziso *kwiGazethi yePhondo*, apapashe-  
 (a) uluhlu lwezinto eziphilayo; kwaye  
 (b) uluhlu lwemisebenzi ethintelweyo okanye iindlela ezinesithintelo ezichazwe kwicandelwana (1) ezibandakanya iintlobo ezichazwe kumhlathi (a), ekungagunyaziselwa ugunyaziso ngokwalo Mthetho. 25
- (8) Akukho mntu uvumelekileyo ukuba enze umsebenzi othintelweyo obandakanya uhlobo oludweliswe ngokwecandelwana (7).

## ISAHLUKO 8

### UGUNYAZISO

#### Isicelo sogunyaziso 30

**50.** Isicelo sogunyaziso esifunekayo okanye esikhutshwe ngokwalo Mthetho kufuneka sibe sibhaliwe sithunyelwe kwiGosa eliyiNtloko yeSigqeba soLawulo ngendlela exeliweyo.

#### Isigqibo ngesicelo sokugunyazwa

- 51.** (1) IGosa eliyiNtloko yeSigqeba soLawulo ngokwecandelo lama-79— 35  
 (a) linike imvume yesicelo sogunyaziso enemiqathango okanye engenayo; okanye  
 (b) asikhabe isicelo sogunyaziso.
- (2) IGosa eliyiNtloko yeSigqeba soLawulo lingafuna ezinye iinkcukacha, kubandakanywa uvavanyo lwemingcipheko oluzimeleyo okanye ubungqina bengcali obuxelwe kwicandelo 52, phambi kokuthatha isigqibo esixelwe kwicandelwana (1). 40
- (3) IGosa eliyiNtloko yeSigqeba soLawulo kufuneka lisikhabe isicelo ukuba asihambelani—  
 (a) neziseko zozinziso lwendalo esingqongileyo ezixelwe kwicandelo 6 okanye nawuphi na omnye umqathango walo Mthetho; 45  
 (b) nazo naziphi izicwangciso ezifanelekileyo ezamkelwe ngokwalo Mthetho; okanye  
 (c) kulandelwa icandelo 231 loMgaqosiseko, nazo ziphi izivumelwano zehlabathi ezifanelekileyo ezihambelana noku.

#### Uvavanyo lwemingcipheko nobungqina beengcali 50

**52.** Phambi kokukhupha unike isicelo sogunyaziso, iGosa eliyiNtloko yeSigqeba soLawulo angathi ngembalelwano acele umfakisicelo ukuba anikeze, ngendleko zakhe, uvavanyo lwemingcipheko oluzimeleyo okanye ubungqina bengcali ngokokucela kweGosa eliyiNtloko yeSigqeba soLawulo ukuze lenze isigqibo sesicelo oko—

- (a) lichongwe liGosa eliyiNtloko yeSigqeba soLawulo liyimfuneko ukuze kwenziwe isigqibo malunga nesicelo; okanye  
 (b) emiselwe.

### Ubungqina bobunini obusemthethweni

53. Umntu onecuntsu elithathwe kwisidalwa lesinye isidalwa esisilwanyana sasendle kufuneka abe nexwebhu elichanekileyo elinika ubungqina bobunini obusemthethweni belo cuntsu elithathwe kwisidalwa 5

### Ugunyaziso oluhlanganelweyo

54. (1) Ukuba iGosa eliyiNtloko yeSigqeba soLawulo ligunyaziswe ngomnye umthetho ukuba likhuphe ugunyaziso ngokwaloo mthetho umsebenzi onodinga ugunyaziso phantsi kwalo Mthetho, iGosa eliyiNtloko yeSigqeba angakhupha ugunyaziso olunye oluhlanganelweyo. 10

(2) Ugunyaziso oluhlanganelweyo lukhutshwa kuphela xa isicelo esicaphazelekayo sithobela imiqathango efanelekileyo yalo Mthetho neyeminye imithetho.

### Uphononongo, uyekiso, urhoxiso notshintsho logunyaziso 15

55. (1) IGosa eliyiNtloko yeSigqeba soLawulo lingaphonononga ugunyaziso okanye inxalenye yalo olukhutshwe nguye okanye angenza izilungiso kulo okanye alurhoxise ugunyaziso nanini na ukuba—

- (a) unelisekile ngezizathu ezifanelekileyo ukuba umsebenzi okanye imisebenzi engunyazisiwe ngokugunyazwa kubangela umphumo ongathintekiyo. Okanye kungabangela impembelelo ebalulekileyo kwimimandla engabonakaliyo ngexesha okanye ukugunyazwa ufumana iinkcukacha ezimnika isizathu sokukholelwa ukuba izinto ezigunyaziselweyo ziza kuba nesiphumo esibi kokusingqongileyo, nto leyo engakhange ibonwe ngexesha logunyaziso; 20 25

(b) umnini wogunyaziso—

- (i) ufake iinkcukacha ezingachanekanga nezilahlekisayo kuwo nawuphi na umba ebekufuneka afake iinkcukacha ngawo ngokwalo Mthetho;  
 (ii) uyasilela ukuthobela imiqathango yogunyaziso;  
 (iii) akathobeli nawuphi na umqathango walo Mthetho okanye uphantsi kophando ngenxa yokungathobeli nawuphi omnye umthetho olawula oko kugunyazisiweyo; okanye  
 (iv) ebekhe wagwetyelwa ityala ngokwalo Mthetho okanye nawuphi omnye umthetho wephondo okanye imithetho yesizwe onento yokwenza nalo msebenzi awunikelwe isigunyaziso. 30 35

(2) IGosa eliyiNtloko yeSigqeba soLawulo lingalumisa ugunyaziso okanye inxalenye yalo phambi kokuthatha amanyathelo njengoko kuxelwe kwicandelwana (1).

(3) Ugunyaziso okanye inxalenye yalo olumisiweyo luhlala lumisiwe de iGosa eliyiNtloko yeSigqeba soLawulo—

- (a) liluphelise olo miso; 40  
 (b) litshintshe ugunyaziso; okanye  
 (c) lirhoxise ugunyaziso.

(4) IGosa eliyiNtloko yeSigqeba soLawulo lingathi—

- (a) Lithathe nawuphi amanyathelo avakalayo ukulungisa imeko edaleke ngenxa yomiso okanye urhoxiso logunyaziso okanye inxalenye yalo ngenxa yosilelo lothobelo lomthetho ochaphazelekayo ngulowo unogunyaziso; yaye 45  
 (b) ukubuyisela kumnini naziphi na iindleko ezichithiweyo nebeziyimfuneko xa bekuthathwa amanyathelo axelwe kumhlathi (a).

**ISAHLUKO 9**  
**UTHOTYELO NONYANZELISO**

*Isiqendu 1*

*Amagosa othotyelo nonyanzeliso nemiba yeenkundla zomthetho*

**Ukuchongwa kwegosa lolondolozo lwendalo, umnakekeli wendalo kunye 5**  
**nomncedisi wegosa lolondolozo lwendalo**

**56. IGosa eliyiNtloko yeSigqeba soLawulo—**

- (a) lingachonga umntu ofanelekileyo nonezakhono—
  - (i) oqeshwe yiCapeNature njengegosa lolondolozo lwendalo;
  - (ii) ngokuvumelana nomqeshi ochapazelekayo, ukuba umntu 10 oqeqeshiweyo onesakhono sesisikhundla aqeshwe ngumasipala okanye iziko likarhulumente njengomnakekeli wendalo; okanye
  - (iii) umntu oqeqeshiweyo onesakhono sesisikhundla njengomncedisi wegosa lolondolozo lwendalo;
- (b) kufuneka, xa ukhetha umntu ngokomhlathi (a) uchaza amalungiselelo alesi 15 senzo okanye nawuphi na omnye umthetho utyunjwe njengesinyanzeliso;
- (c) kunokwenzeka nanini na lingarhoxisa uchongo oluxelwe kumhlathi (a).

**Ubhengezo lwamagosa olondolozo lwendalo nabanakekeli bendalo njengamagosa 20**  
**ocwangco**

**57. IGosa eliyiNtloko yeSigqeba soLawulo lingacela uMphathiswa wePhondo 20**  
onoxanduva lwezoBulungisa ukuba abhengeze amagosa olondolozo lwendalo nabanakekeli bendalo ukuba ibe ngamagosa ocwangco ngokwecandelo 334 leCriminal Procedure Act ukuze anikezelweyo okanye benze nemisebenzi abayinikiweyo ngokwalo Mthetho kunye nawuphi amanye ngokwamagunya abawanikiweyo okanye imisebenzi enikwe iCapeNature phantsi kwawo nawuphi omnye umthetho. 25

**Umsebenzi onikwe amagosa olondolozo lwendalo nabanakekeli bendalo**

**58. IGosa lolondolozo lwendalo okanye igosa elingumgcini lolondolozo 30**  
unokunyanzeliswa kwindawo yakhe yolawulo—

- (a) ukuthotyelwa kwalo Mthetho kunye nokugunyaziswa okukutshwe 30 ngokwemiqathanga yalo; kwaye
- (b) lowo uMthetho uthenyelwe okanye or okanye unikezelwe kwiCapeNature.

**Abancedisi bamagosa olondolozo lwendalo**

**59. (1) IGosa lokulondolozwa kwemvelo lingahlonipha kuphela amgunya asekwé 35**  
kumacandelwana (2) kunye (3) kwaye kuphela kwindawo yendawo ekuchazwe ngayo kwicandelo 56(a)(iii).

(2) IGosa lokulondolozwa kwendalo angacela nawuphi na umntu osebenzayo okanye amcengela ukuba ebeke wenza umsebenzi apho bekye kwafunwa imvume, okanye umyalelo okanye imvume ebhaliweyo yomnini womhlaba okanye nayiphi na enye umntu imfuneko phantsi kwalo naluphi na umqathanga walo Mthetho—

- (a) unika imvum isigunyaziso, imvume, umyalelo okanye imvume; kwaye 40
- (b) anikise ngegama lakhe kunye nedilesi.

(3) IGosa lokulondolozwa indalo lingayinceda iCapeNature—

- (a) ekuchongeni nasekunikeni ingxelo ngamatyala ngokwalo Mthetho; kunye
- (b) ukusebenza nakuwuphi umsebenzi wolondolozo ngokuyalelwa ligosa 45 lolondolozo lwendalo.

**Imisebenzi yamagosa olondolozo lwendalo nabanakekeli bendalo**

**60. IGosa lolondolozo lwendalo okanye umnakekeli wendalo, ngenxa yecandelo 58—**

- (a) kufuneka abeke iliso ze anyanzelise uthotyelo lomthetho awuchongelweyo;
- (b) angaphanda nasiphi isenzo okanye into engenziwayo enokuthi ibe— 50
  - (i) lityala ngokwaloo mthetho;
  - (ii) ukophulwa komthetho; okanye

- (iii) ukophulwa komqathango wogunyaziso okanye wolunye uxwebhu olukhutshwe ngokwalo Mthetho;
- (c) kufuneka lenze imisebenzi yayo—
  - (i) ngokwemiyalelo ekhutshwe yiCapeNature; yaye
  - (ii) lilandele imiqathango ebekiweyo neenkqubo ezixeliweyo; yaye 5
- (d) lingakhatshwa yitoliki okanye nawuphi omnye umntu adinga uncedo lwakhe.

#### **Ikhadi lesazisi neleta yesikhundla**

- 61.** (1) IGosa eliyiNtloko yeSigqeba soLawulo kufuneka lenze ikhadi lesazisi neleta yesikhundla linike wonke umntu ochongelwe ukuba ligosa lolondolozo nelonakekelo ngokwecandelo 56. 10
- (2) Xa esebenzisa nawuphi amagunya okanye esenza nawuphi umsebenzi ngokwalo Mthetho, umntu ochongelwe oko ngokwecandelo 56 kufuneka, aveze ikhadi lakhe lesazisi xa ecelwe nguye nawuphi umntu.
- (3) IGosa eliyiNtloko yeSigqeba soLawulo kufuneka lichaze kwikhadi lesazisi neleta yesikhundla linawuphi amagunya kunye negosa lolondolozo lwendalo, umnakekeli wendalo okanye umncedisi wegosa lolondolozo lwendalo yaye elo khadi kufuneka— 15
- (4) isikhundla siyaphela ngokwecandelo 56 xa—
- (a) xa kunothi igosa lolondolozo lwendalo liwuyeka umsebenzi waseCapeNature;
  - (b) xa kunothi umnakekeli wendalo eyeka ukusebenzela umasipala, okanye elinye iziko likarhulumente ebelimqeshile ngenxesha enikwa eso sikhundla ngokwecandelo 56(a) (ii); 20
  - (c) xa umntu erhoxiswa kwesi sikhundla njengoko kuxeliwe kwicandelo 56(c); okanye
  - (d) xa kuphele ixesha lokwenza lo msebenzi elichazwe kwikhadi lesazisi okanye kwileta echaza ngesikhundla. 25

#### **Amagunya jikelele egosa lolondolozo lwendalo nawomnakekeli wendalo**

- 62.** (1) Igosa lolondolozo lwendalo nomnakekeli wendalo, kulandelwa icandelo 58, 60, 63, 64 kunye 65 kunye nemigaqo ebekiweyo ngokwengqesho phantsi kwecandelo 56 ngenjongo yokwenza imisebenzi yabo, lingathi— 30
- (a) luhlolisise naluphi na uxwebhu, incwadi okanye irekhodi okanye naluphi uxwebhu olubhaliweyo okanye olukwisixhobo esi-elektroniki oluhambelana noluphando ngokwecandelo 60(b);
  - (b) enze ikopi yalo okanye ucaphulo lwalo ze asuse olo xwebhu, loo ncwadi, elo rekhodi okanye iinkcukacha ezielektroniki ezichazwe kumhlathi (a), okanye asuse olo xwebhu, loo ncwadi, elo rekhodi okanye iinkcukacha ezielektroniki ukuze aye kwenza iikopi okanye ucaphulo; 35
  - (c) afune loo mntu ukuba akhuphe okanye ase naluphi uxwebhu olubhaliweyo okanye olukwisixhobo esielektroniki, incwadi, irekhodi echazwe kumhlathi (a) kwindawo eziza kuhlolwa kuyo; 40
  - (d) afune kuye nawuphina umntu arhanele kamnqa ngokufanelekileyo—
    - (i) sokwenza umsebenzi othintelweyo othi ugunyaziso okanye amaxwebhu njengoko kumiselwe phantsi kwecandelo 53, afunekayo ngokwemigqaliselo yalo Mthetho okanye nawuphi na omnye umthetho anyanzelwe ukuba awunyanzelise; 45
    - (ii) ngokwaphula umthetho phantsi kwalo Mthetho okanye nawuphina omnye umthetho abekelwe ukuba uwunyanzelise; okanye
    - (iii) uya kuba nakho ukunika ubungqina ngokunxulumene netyala elenziweyo okanye ekutyholwa ukuba lenziwe phantsi kwalo Mthetho okanye nawuphi na omnye umthetho anyanzelwe ukuba awunyanzelise, 50
  - (e) igama nedilesi kunye nayo nayiphi na enye ingcaciso eyimfuneko ukuze kuchongwe loo mntu;
  - (f) ukucela kuye nawuphina umntu nayiphi na ingcaciso enxulumene nokwenziwa kwetyala okanye isenzo esikrokrelwayo, kubandakanya igama neadresi yomntu orhanelwa ngokwenza olo lwaphulo-mthetho; 55
  - (g) aphonononge kwaye, ukuba kukho imfuneko, athabathe asuse nasiphi na isizekelo, isiyobisi okanye enye into athi akrokre ukuba isetyenziselwe ukwaphula umthetho ngokomthetho abekelwe wona;

- (g) athathe iifoto okanye enze ushicilelo olubukelwayo olubonakalayo nangayiphi na indlela yayo nayiphi na into okanye nawuphi na umntu ofanelekileyo ukulungiselela iinjongo zophando okanye uhlolo;
- (h) ngokuxhomekeke kweminye imithetho efanelekileyo, sebenzisa inqwelomoya ekude ekuqhutywa kuyo iinqwelo-moya ekude ngokuthatha iifoto okanye ukurekhoda izinto ezirekhodwayo nezibonwayo ezifanelekileyo ngenjongo yophando okanye yokuhlola; 5
- (i) ukumba okanye ukugqobhoza emhlabeni;
- (j) athathe iisampulu zalo naluphi na uhlobo okanye into;
- (k) athabathe asuse nayiphi na inkunkuma okanye nayiphi na into ebekiweyo okanye ekhutshiweyo ngokuchasene nomthetho abekelwe wona; 10
- (l) ayalele nabani na ukuba amncede ekwenzeni uphando okanye ukuhlola;
- (m) angabamba asuse nawuphi na umgibe, ipeni yokubamba, ityhefu okanye nasiphi na isixhobo ekurhanelwa ukuba sisetyenziselwa ukuzingela okanye ukubamba isilwanyana sasendle ngokungekho mthethweni okanye, ukuba asinakubanjwa sisuswe, sisitshabalalise okanye singabinabungozi; 15
- (n) athimbe asuse nayiphi na imfuyo okanye nasiphi na isilwanyana esingena ngokungekho mthethweni emhlabeni ophantsi kolawulo lweCapeNature;
- (o) ayalele nawuphi na umntu ukuba ayeke kwangoko nawuphi na umsebenzi, isenzo okanye inkqubo enxulumene nokwaphula umthetho abekelwe wona; 20
- (p) enze naliphi na elinye inyathelo eliyimfuneko ngenjongo yokunyanzeliswa komthetho abekelwe wona.

### Ukuhlolwa rhoqo

- 63.** (1) Igosa lolondolozo lwendalo, phantsi kwecandelo lama-58, linokuthi ngalo naliphi na ixesha elifanelekileyo lenze uhlolo oluqhelekileyo kwaye, ngaphandle kwesigunyaziso, lingene lihlole nasiphi na isakhiwo okanye lisetye nasiphi na isikhwama, ibhokisi okanye enye into ngenjongo yokuqinisekisa ukuthotyelwa— 25
- (a) ngomthetho elo igosa lolondolozo lwendalo lalinyulelwe lona ngokwesiqendu sama-58; okanye
- (b) lo Mthetho kunye nexesha okanye imeko yesigunyaziso esikhutshwe ngokwalo Mthetho. 30
- (2) Xa lisenza uhlolo oluqhelekileyo, igosa lolondolozo lwendalo linokuthi, ukuba, ngezizathu ezivakalayo, likrokrele ukuba ityala lenziwe ngokomthetho elonyulelwe wona—
- (a) athabathe kwaye asuse nawuphi na umzekelo okanye into enokusetyenziswa njengobungqina ekutshutshiseni kwakhe nawuphi na umntu; 35
- (b) ukuba uligosa loxolo, ubamba nawuphi na umntu orhanelwa ngokufanelekileyo ngokwenza oko.

### Iziqinisekiso

- 64.** (1) Igosa lolondolozo lwendalo okanye umlondolozo wendalo— 40
- (a) phambi kokuba asebenzise naliphi na igunya ngokwemigaqo yecandelo 62 lokungena nokusetsha nayiphi na indawo okanye yokuthimba nantoni na, enze isicelo kumantyi sokufumana isigunyaziso, echaza ngesifungo okanye isiqinisekiso sokuba kutheni kufanelekile ukungena nokukhangela izakhiwo ezichaziweyo okanye ukuthatha into ekhankanyiweyo; kwaye 45
- (b) angayenza loo mvume.
- (2) Amacandelo elama-20 nelama-21 oMthetho weNkqubo yoLwaphulo-mthetho ayasebenza, kunye notshintsho oluyimfuneko, ngokubhekisele kuso nasiphi na isicelo okanye isiqinisekiso esichazwe kwicandelwana soku-(1).
- (3) Ukuba igosa lolondolozo lwendalo okanye umqeshi wolondolozo lwendalo unezizathu ezifanelekileyo zokurhanela ukuba kwenziwe ityala okanye ngayo nayiphi na indawo ngokuchasene nomthetho awonyulelwe wona, unokungena kwaye khangelwa kula maziko, ngaphandle kwemvume, kodwa kuphela ukuba— 50
- (a) uchaza injongo yophando kwaye umntu ophetheyo kuloo ndawo uyavuma ukungena nokugqogqa, emva kokwaziswa ukuba akukho sinyanzelo sokwamkela igosa okanye umlondolozo xa kungekho sigunyaziso; okanye 55
- (b) kukho izizathu ezisengqiqweni zokukholelwa ekubeni isicelo siya kukhutshwa, kodwa ukulibaziseka okunokubangelwa kukufaka isicelo sokugunyazisa kungoyisa into yokufumana isigunyaziso.

- (4) Ukuba igosa lolondolozo lwendalo okanye umlondolozo wendalo unezizathu ezifanelekileyo zokurhanela into leyo—
- (a) uchaphazelekayo ekomishini okanye ekurhanelwa ukuba ulwaphulo mthetho ngokuchasene nomthetho abekelwe wona; 5
  - (b) anganika ubungqina bekhomishini okanye ekrokrelwa ukuba unetyala; okanye
  - (c) kujongwe ukuba usetyenziswe xa kusenziwa ulwaphulo mthetho, angathimba loo nto ngaphandle kwemvume egunyazisa oko, kodwa kuphela ukuba—
    - (i) ucacisa injongo yokuhlutha umntu kwaye umntu ophetheyo uyavuma ukuthathwa, emva kokwaziswa ukuba akukho sibophelelo sokuvumela ukuthimba xa kungekho sigunyaziso; okanye 10
    - (ii) kukho izizathu ezivakalayo zokukholelwa ukuba eso sigunyaziso siya kuthi sikhutshwe ngesicelo, kodwa ukulibaziseka okunokubangelwa kukufaka isicelo semvume kuya koyisa into yokufumana isigunyaziso. 15

#### **Amagunya okumisa, okungena nokusetsha izithuthi, izikhitshane neenqwelontaka kunye nezinye izinto zokuthutha**

- 65.** (1) Ukuba igosa lolondolozo lwendalo linezizathu ezivakalayo zokukrokra ukuba isithuthi, inqanawe okanye inqwelontaka okanye nezinye into zokuthutha—
- (a) iyasetyenziwa okanye isetyenzisiwe, okanye iqulethe into esetyenziwe ukwenza—
    - (i) ityala ngokomthetho igosa eliwuchongelweyo; okanye
    - (ii) ukophulwa komqathango wogunyaziso okanye wolunye uxwebhu olukhutshwe ngokwalo Mthetho; 25
  - (b) enokunika ubungqina bokwenziwa kwetyala okanye ulwaphulomthetho olukrokrelwayo; 25
  - (c) eza kusetyenziselwa okanye ekukholelwa ukuba iza kusetyenziselwa ukophula umthetho;
  - (d) esetyenziswa ngendlela enokuba nesiphumo esibi kwindalo esingqongileyo; okanye 30
  - (e) isetyenziswa ngendlela enokubangela ifuthe elibi kwindalo esingqongileyo; okanye
  - (f) iqulathe okanye idlulise into enokuthi ibonakalise njengobungqina bolwaphulo mthetho usenoku—
    - (i) ayalele umqhubi webhodi yesithuthi, inqanawa okanye enye into yokuthutha ukuba ime, okanye umphathi wenqanawe amise ezibukweni okanye umqhubi wenqwelo-moya aye emhlabeni; kwaye 35
    - (ii) ukuba kufanelekile kwaye kunokwenzeka, anyanzele isithuthi, inqanawa, inqwelo-moya okanye esinye isithuthi ukuba simise okanye simise idolophu okanye sihle, njengoko kunokuba njalo. 40
- (2) Icandelo lama-64 liyasebenza, kunye notshintsho oluyimfuneko, mayela nokungena nokugqogqwa kwesithuthi, inqanawa, inqwelo-moya okanye esinye isithuthi esixelwe kwicandelwana (1) nokuhluthwa kwaso nasiphi na isithuthi, inqanawa, inqwelo-moya okanye esinye isithuthi okanye nantoni na equlethwe kuyo okanye kuyo. 45

#### **Isinyanzelo sokuveza amaxwebhu**

- 66.** Nawuphi na umntu okhutshelwe ugunyaziso okanye naluphi olunye uxwebhu okanye ekufuneka enze oku ngokwalo mthetho okanye ngubani lo funekile abe negunya okanye umqulu aveze ugunyaziso okanye uxwebhu olo xa ecelwa ligosa lolondolozo lwendalo, umnakekeli wendalo okanye umncedisi wegosa lolondolozo lwendalo. 50

#### **Ukuphathwa kwezinto ezibanjiweyo**

- 67.** (1) Xa igosa lokulondolozisa indalo okanye umgcini wolondolozo lwendalo lithathwa kwaye lisusa icuntsu elithathwe kwisidalwa okanye into ibibanjiwe yaze yathathwa ngumntu obengumphathi igosa lolondolozo lwendalo okanye umnakekeli wendalo—
- (a) kufuneka linikeze irisithi yazo kumntu ebezizakhe lo macuntsu athathwe kwizidalwa; 55

(b) lingathi—

- (i) lingasa icuntsu elithathwe kwisidalwa okanye into emapoliseni;
- (ii) ligcine icuntsu elithathwe kwisidalwa okanye into; okanye
- (iii) liyalele umntu obelawula icuntsu a ukuba alise kwindawo echazwe ligosa lolondolozo lwendalo okanye umgcini mlondolosi wendalo

(2) Ukuba akukho nkundla yezobugebengu isungulwe ngokubhekiselele kumboniso okanye into echazwe kwicandelwana (1), icandelo 31 loMthetho weNkqubo yoLwaphulomthetho isebenza ngeenguqu ezifunekayo.

(3) Ukukhusela isithuthi, inqanawe inqwelontaka okanye ezinye izithuthi ebanjiweyo, igosa lolondolozo lwendalo okanye umgcini mlondolosi wendalo lingayikhonkxa ingahambi ngokuthi lisuse inxalenye yaso.

(4) Into ebanjiweyo yasuswa ngokwalo Mthetho, kubandakanywa inxalenye yesithuthi, inqanawe okanye inqwelontaka kunye nezinye izithuthi ekubhekiswe kuyo kwicandelwana (3), kufuneka igcinwe ngendlela apha eza kuqinisekisa ukuba ayimoshakali.

### **Isibambiso sokukhululwa kwezithuthi, izikhitshane neenqwelontaka nezinye izithuthi**

**68.** (1) Ukuba isithuthi, inqanawe okanye inqwelontaka okanye ezinye izithuthi ibanjiwe ngokwalo Mthetho yaze yagcinwa ngeenjongo zokulinda ukuxoxwa kwetyala ezinkundleni, umnini okanye iarhente yomnini angafaka isicelo kwinkundla sokuba sikhululwe isithuthi.

(2) Inkundla ingayalela ukuba sikhululwe eso sithuthi, inqanawe inqwelontaka okanye ezinye izithuthu ngokomqathango weendleko zobambiso ezigqitywe yinkundla.

(3) Iindleko zobambiso kufuneka zilingane nemali—

- (a) lexabiso lemarike lesithuthi, inqanawe, inqwelontaka okanye ezinye izithuthi;
- (b) eyona fayini exelwe yinkundla yeloo tyala ngokwalo Mthetho; ngenxa yetyala lolwaphulo kunye
- (c) neendleko ezichithiweyo okanye ekucingwa ukuba ziza kuchithwa nguRhulumente ekutshutshiseni elo tyala neendleko ekufuneka zibuyiswe ngokwe candela 55(4)(b) kunye 70(b).

(4) Ukuba inkundla yanelisekile ukuba kukho iimeko ezifuna ukuba kubhatalwe imali engaphantsi kwezi zikhankanyiweyo, ingayalela ukuba sikhululwe eso sithuthi, inqanawe, inqwelontaka okanye ezinye izithuthu ngokomqathango weendleko zobambiso zaloo mali ingaphantsi kwexabiso laso.

## **Isahlulo 2**

### ***Iinkqubo zonyanzeliso nezohlwayo***

#### **Iinkqubo zonyanzeliso**

**69.** (1) Ukuba uMphathiswa wePhondo wanelisekile ngezizathu ezithile zokuba nawuphi na umntu wenza into eyaphula lo Mthetho, uMphathiswa wePhondo wenza into eza kuba nesiphumo esibi kwiintlobontlobo zezityalo nezilwanyana okanye kwindalo okanye akathobeli miqathango okanye ugunyaziso olukhutshwe ngokwalo Mthetho, emva kokuba enikwe ithuba lokuba azithethelele, angakhupha umyalelo oya kuloo mntu wokuba—

- (a) ayeke loo nto ayenzayo;
- (b) athathe amanyathelo okulungisa ezo ziphumo ezibi kungaphelanga ixesha elithile; yaye
- (c) ukuthobela isixhobo esifanelekileyo okanye ugunyaziso ngaphakathi kwixesha elithile.

(2) Kwimeko exelwe kwicandelwana (1), ukuba kufuneka intshukumo ekhawulezileyo yokukhusela ummandla ochongwe ngokwecandelo 47(1), uMphathiswa wePhondo angakhupha umyalelo engamnikanga loo mntu ithuba lokuziphendulela ze emva koko anikwe ithuba kodwa umyalelo sele ukhutshiwe.

(3) Ukuba ngaba umyalelo okhutshelwe umntu ngokwecandelwana (1) okanye (2) unxulumene nento eyenzekayo okanye enokwenzeka kumhlaba lowo ingenguye umnini wawo, uMphathiswa wePhondo angakhupha nomyalelo umnini-mhlaba, kwimeko apho amacandelwana (1) kunye (2) asebenza kunye notshintsho olufunekayo.

**Ukusilela ekuthobeleni umyalelo**

- 70.** Ukuba umntu uyasilela ukuthobela umyalelo ochazwe kwicandelo 69, uMphathiswa wePhondo angathi—
- (a) apho kusebenza khona atshintshe ugunyaziso olo okanye omnye umba oyingxam yomyalelo; yaye 5
  - (b) athathe nawaphi amanyathelo uchazwe kumyalelo kunye nawaphi na amanyathelo afanelekileyo okulungisa iimpembelelo ezimbi kwizinto eziphilayo ezivela ngenxa yokungaphumeleli ukuthobela umyalelo, nokubuyisela iindleko zokwenza njalo kumntu ongenakuthobela.

**Izohlwayo 10**

- 71.** (1) UMphathiswa wePhondo—
- (a) ukunyanzelisa izigwebo zolawulo—
    - (i) ukuchasana okanye ukungathobeli umyalelo okhutshwe ngokwalo Mthetho;
    - (ii) ukungathobeli umyalelo okhutshwe ngokwecandelo 42(4); 15
    - (iii) ukungathotyelwa komyalelo okhutshwe ngokwecandelo 69(1);
    - (iv) ityala elidweliswe kwicandelo lama-72; kwaye
  - (b) imisele iindidi zezohlwayo zolawulo nenkqubo yokuwisa ezohlwayo.
- (2) Phambi kokubeka isohlwayo, uMphathiswa wePhondo kufuneka ngembalelwano— 20
- (a) achazela umntu onikwe isigwebo ukuba uzakubekwa isigwebo;
  - (b) achazela umntu onikwe isigwebo ukuba ubekwe isigweboesiza kukhutshwa;
  - (c) achaze imali eza kuhlawulwa yesohlwayo esiza kukhutshwa; yaye
  - (d) anike ithuba umntu oxelwe kumhlathi (a) ngokufaka izimvo ezibhaliweyo kwisithuba esixelwe nguMphathiswa wePhondo. 25
- (3) Ukuba umntu onomlinganiselo wokuphatha ohlawuliswa imali yesohlwayo ngokwecandelwana (1) akayihlawuli, uMphathiswa wePhondo angafaka ityala enkundleni kumntu lowo.

**ISAHLUKO 10****AMATYALA NEZOHLWAYOO 30****Amatyala**

- 72.** (1) Umntu unetyala lolwaphulo-mthetho lodidi 1 ukuba loo mntu—
- (a) uyasilela ukuthobela isaziso esikhutshwe ngokwecandelo 47(1) okanye isilungiso njengoko kuchaziwe kwicandelo 47(4);
  - (b) wophula okanye usilela ekuthobeleni icandelo lama-49(5) okanye (8); 35
  - (c) uyasilela ekuthobeleni umyalelo okhutshwe ngokwecandelo 69(1), (2) okanye (3);
  - (d) wenza ngokungekho mthethweni nasiphi na isenzo okanye into engenziwanga ebangela okanye enokubangela iziphumo ezingalunganga;
  - (e) ukutshintsha, ukwenza okanye ukuqamba— 40
    - (i) naluphi ugunyaziso okanye naluphi uxwebhu olukhutshwe okanye oludingekayo ukuzwe kwenziwwe umsebenzi ngokwalo Mthetho;
    - (ii) nawuphina umqulu ilogo, iletahedi, istampu, uphawu olusemthethweni okanye umhla westampu seSebe okanye seCapeNature, okanye isignitsha yaye nawuphi na umntu oyiarihente okanye umsebenzi weSebe okanye weCapeNature; 45
  - (f) unoxwebhu olufojiweyo okanye lobuxoki ekuthiwa lugunyaziso, okanye azame ukuhambisa olo xwebhu njengogunyaziso olufanelekileyo phantsi kwalo Mthetho okanye isaphulelo esikhutshwe phantsi kwalo Mthetho;
  - (g) ufumana okanye afake isicelo sogunyaziso okanye soxwebhu ngokwalo Mthetho— 50
    - (i) phantsi kwegama lobuxoki; okanye
    - (ii) ngeli lixa athintelwe ngumyalelo wenjundla ukuba angabi ngomnini wolo gunyaziso okanye wolo xwebhu;
  - (h) wenza ingxelo yobuxoki esazi kuso nasiphi isicelo esenziweyo okanye kuxwebhu olungenisiweyo ngokwalo Mthetho; 55

- (i) ufihla, ususa nakusiphi isakhiwo, utshabalalisa okanye alahle nantoni na ebubungqina ukuze ingathathwa okanye ibonwe kulo naluphi na ulwaphulomthetho phantsi kwalo Mthetho, kubandakanywa naliphi icuntsu elithathwe kwisidalwa okanye ilungu lesinye isidalwa, okanye nayiphi incwadi, irejista, uxwebhu, isithuthi, oomatshini, izixhobo, ikhonteyina, umpu isixhobo sokuhlasela, ibhombu, okanye ityhefu; 5
- (j) uthintela okanye uphazamisana nalo naliphi igosa elenza umsebenzi walo osemthethweni ngokwalo Mthetho okanye aphazamise isixhobo esisetyenziswa ligosa elenza umsebenzi walo; okanye
- (k) ngobuxoki azenze ngathi uligosa lolondolozo lwendalo, umnakekeli wendalo, umncedisi wegosa lolondolozo lwendalo, umsebenzi okanye iarhente yeSebe okanye yeCapeNature. 10
- (2) Umntu unetyala lodidi lwe-2 lolwaphulomthetho ukuba loo mntu—
- (a) unqumla ngokungekho mthethweni kumhlaba ekunokubakh kuwo nasiphi isilwanyana sasendle abe ephethe isixhobo sokuhlasela, ityhefu, isixhobo esinokusetyenziswa ukuzingela, naphina eziphi izinto zokubamba okanye ukubulala isilwanyana sasendle; 15
- (b) ufunyanwa enalo naliphi icuntsu elithathwe kwisidalwa ngaphandle kobungqina bobunini obusemthethweni njengoko kuxeliwe kwicandelo 53;
- (c) uthuma nawuphi omnye umntu okanye uvumela nawuphi na umntu ukuba enze into okanye angenzi into eyaphula yalo Mthetho; 20
- (d) unesigunyaziso okanye isaphulelo esikhutshwe phantsi kwalo Mthetho yaye—
- (i) waphula okanye uyasilela ukuthobela umqathango weso sigunyaziso okanye isaphulelo; 25
- (ii) akanasigunyaziso okanye isaphulelo ngeli lixa esena into enokwenziwa kuphela ngumntu onesigunyaziso okanye isaphulelo soko; okanye
- (iii) uvumela nawuphi omnye umntu ukuba enze okanye angenzi nantoni na elityala ngokwemihlathi (i) okanye (ii). 30
- (3) Umntu unetyala lolwaphulo-mthetho lodidi lwe-3 ukuba loo mntu—
- (a) uyasilela ekuthobeleni umyalelo wegosa lolondolozo lwendalo, umlondolozo wendalo okanye igosa elihloniphekileyo lolondolozo lwendalo elinikwe ngokwalo Mthetho okanye xa besenza amagunya abo ngokwalo Mthetho; 35
- (b) uyasilela ekuthobeleni uwise-mthetho oluthile olwenziwe ngokwalo Mthetho;
- (c) xa ecelwe ligosa lolondolozo lwendalo, umlondolozo wendalo okanye igosa elihloniphekileyo lolondolozo lwendalo xa kusenziwa uphando okanye kuhlolwa ukunika ulwazi, linikezela ngolwazi olungeyonyani okanye olulahlekisayo; okanye 40
- (d) ngaphandle kwesizathu esivumayo uyala okanye usilele kwimfuno yokunikezela ngegosa lolondolozo lwendalo, umlondolozo wendalo okanye igosa elihloniphekileyo lolondolozo lwendalo ngegama lakhe nedilesi okanye ngalo naluphi na ulwazi okanye uxwebhu olufunwa ligosa lolondolozo lwendalo, umlondolozo wendalo okanye Igosa elihloniphekileyo lolondolozo lwendalo ngeenjongo zokwenza imisebenzi yalo ngokwalo Mthetho. 45

### Izohlwayo

73. (1) Umntu ofunyenwe enetyala lolwaphulo-mthetho lodidi 1 oluchazwe kwicandelo 72(1) unoxanduva lokuhlawuliswa okanye ukuvalelwa entolongweni ixesha elingagqithiyo kwiminyaka eli-10, okanye zombini isohlwayo kunye nokuvalelwa entolongweni. 50

(2) Umntu ofunyaniswe enetyala lolwaphulo-mthetho lodidi 2 oluxelwe kwisiqendu 72(2) usenokuhlawuliswa okanye avalelwe entolongweni kangangesithuba esingagqithiyo kwiminyaka emihlanu, kwaye kwimeko yesibini okanye elandelayo isigwebo, isohlwayo okanye ukuvalelwa entolongweni ixesha ngaphezulu kweminyaka eli-10, okanye kuzo zombini ezi meko, kuzo zozibini ezo zohlwayo kunye nokuvalelwa entolongweni. 55

(3) Umntu ofunyaniswe enetyala lolwaphulo-mthetho lodidi 3 oluxelwe kwisiqendu 72(3) unoxanduva lokuhlawuliswa imali okanye ukuvalelwa entolongweni ixesha elingagqithiyo kwiminyaka emibini, kwaye kwimeko yesibini okanye elandelayo ukugwetywa, isohlwayo okanye ukuvalelwa entolongweni ixesha ngaphezulu 60

kweminyaka emihlanu, okanye kuwo omabini la matyala, kuzo zozibini ezo zohlwayo kunye nokuvalelwa entolongweni.

(4) Ukuba naluphi ulwaphulomthetho lubandakanya ukubanjwa, ukubulala, ukuloba, ukufunyanwa unento ethile, ukuthengisa, ukuthumela okanye ukufumana icuntsu elithathwe kwisidalwa okanye kwilungu lesinye isidalwa inkundla ingathi, ngaphezu kwezohlwayo ezixelwe kumacandelwana (1), (2) no (3), iphinde ikunike esinye isohlwayo, sentlawulo yemali enxabiso elingekho ngaphezulu kwesithathu sexabiso selo cuntsu lithathwe kwisidalwa. 5

(5) Kulandelwa iCriminal Procedure Act, izohlwayo zemali ezikhutshwe yinkundla ngokwalo Mthetho kungathwa mazihlawulwe kuCapeNature. 10

### Ukucinywa kogunyaziso

74. Inkundla egwebe umntu ityala ngokwalo Mthetho lingathi—

- (a) irhoxise naluphi ugunyaziso olukhutshwele lo mntu;
- (b) ithintele loo mntu ukuba angafumani naluphi na ugunyaziso kwisithuba esingekho ngaphezulu kweminyaka emihlanu; 15
- (c) ikhuphe umyalelo that bonke oogunyaziwe bakhuphe ugunyaziso lokuba loo mntu angaze anikwe lugunyaziso ngokomhlathi (b).

### Ukugqiba ngomntu oza kuhlawula iindleko

75. Ukuba umntu ugwetyelwe ityala ngokwalo Mthetho ngokwemigaqo yalo Mthetho kunye nesenzo okanye ukungaphumeleli— 20

- (a) elithe lenza ukuba naliphi iziko likarhulumente lichithe iindleko ukuze libambe nayiphi na into, lihlaziye nawuphi na umhlaba okanye liphande ze ligwebe eso senzo solwaphulomthetho;
- (b) ukuba loo mntu ufumene inzuzo yemali, okanye uzofumana inzuzo yemali, inkundla inokugweba loo mntu ngaphandle kokucenga inokuthi, iphanda ngemali ezuzwe nguloo mntu okanye imali aza kuyifumana ngenxa yolo lwaphulomthetho, yaye ngaphezu kwaso nasiphi esinye isigwebo esikhutshelwe olo lwaphulomthetho, ingalela ukuba ezo mali zihlawulwe ngqo kwiCapeNature njengesohlwayo semali esongeziweyo, intlawulo yomonakalo okanye imbuyekezo, njengexalenye yesigwebo esfikelelayo kwinani la lomali. 30

### Uphulukwano

76. (1) Inkundla inokugweba umntu olwaphulo mthetho ngokwemigaqo yalo Mthetho-

- (a) inokumemezela nayiphi na into equka naluphi na umzekelo;
- (b) ingabhengeza nayiphi na into kuquka isikhongozeli, isithuthi, isitya, iinqwelomoya, enye idluliselo okanye umqulu, kubandakanywa nomqulu wecomputer, ochaphazelekayo, okanye owenziwe injongo okanye malunga nokuthunyelwa kwecala, kwaye ithathwe phantsi kwalo Mthetho, ukuba ilahlekelwe kwiCapeNature. 35
- (2) Ukuba nasiphina isidalwa esiye salahlekelwa kwiCapeNature kofuneka siqinisekiswa, ngokwecandelwana (1) naliphi icuntsu elithathwe yiCapeNature kufuneka siqinisekise ukuba siso si— 40
  - (a) apho kufanelekileyo, abuyiselwa kwilizwe ebethathwa kulo okanye kwindawo avela kuyo ngeendleko zomntu ogwetyelwe olo lwaphulomthetho olubandakanya elo cuntsu lithathwe kwisidalwa; 45
  - (b) elo cuntsu libekwa kwiziko elifanelekileyo, iziko lohlangulo okanye elinomntu oza kukwazi ukulikhathalela yaye aligcine kakuhle kwindawo efanelekileyo; okanye
  - (c) lilahlwe ngendlela efanelekileyo.
- (3) Ukuba kukho isampulu efileyo okanye nayiphi na enye into ilahlekelwe yi-CapeNature phantsi kwecandelwana (1), iCapeNature inokuthi— 50
  - (a) yenza ukuba isampuli okanye into ibekwe kwindawo efanelekileyo okanye kwimyuziyam okanye
  - (b) alahle isampulu okanye into ngendlela efanelekileyo.

**ISAHLUKO 11****IZIBHENO****Ukubhena kwizigqibo ezenziwe ngamagosa eCapeNature**

**77.** (1) Nawuphi na umntu onomdla okanyeochaphazelekayo unokufaka isibheno kwiGosa eliyiNtloko yeSigqeba soLawulo kwisigqibo esithathwe ligosa lokulondoloza ulunti okanye nawuphi na umsebenzi leCapeNature ngaphandle kweGosa eliyiNtloko yeSigqeba soLawulo elisebenza phantsi konikezongunya ngokwalo Mthetho. 5

(2) Isibheno ngokwecandelwana (1) kufuneka sifakwe kwaye sigcinwe ngendlela echanekileyo, ngokuhlawula kwemirhumo emiselweyo kunye nexesha ekimiselweyo.

(3) IGosa eliyiNtloko yeSigqeba soLawulo lingaqwalasela ze liggibe ngesibheno okanye atyumbe iphaneli yokujongana nesibheno ukuqwalasela nokunika ingcebiso iGosa eliyiNtloko yeSigqeba soLawulo ngesibheno. 10

(4) IGosa eliyiNtloko yeSigqeba soLawulo lingathi, emva kokuqwalasela isibheno, liqinisekise, liyekise litshintshe isigqibo, ugunyaziso, umqathango okanye lenze nasiphi esinye isigqibo esifanelekileyo, okanye enze nasiphi esinye isigqibo esifanelekileyo, kubandakanywa isigqibo intlawulo ebekiweyo ihlawulwe ngulowo ubhenayo ngokwecandelwana (2) okanye nayiphi inxalenye yalo, ibuyiswe. 15

(5) Isibheno esiphantsi kweli candelwana (1) simisa nawuphi na ugunyaziso, okanye imeko enxulumene nayo.

**Isibheno kuMphathiswa wePhondo 20**

**78.** (1) Nawuphina umntu onomdla okanye ochaphazelekayo unokubhenela kuMphathiswa wePhondo malunga nesigqibo esithathwe liGosa eliyiNtloko yeSigqeba soLawulo okanye umntu osebenza phantsi kwamandla anikwe nguMphathiswa wePhondo ngokwemiqathango yalo Mthetho.

(2) Isibheno kwicandelwana (1) kufuneka sifakwe sigcinwe ngendlela echanekileyo, ngokuhlawula kwemirhumo emiselweyo kunye nexesha elimisiweyo. 25

(3) uMphathiswa wephondo unokuqwalasela nokugqiba isibheno okanye aqeshe iphaneli yesibheno ukuze acinge kwaye acebise uPhathiswa wePhondo kwisibheno.

(4) uPhathiswa wePhondo emveni kokuqwalasela isibheno, aqinisekise abeke ecaleni okanye ahlule isigqibo ngokubandakanywa nesigqibo sokuba imirhumo emiselweyo ihlawulwe ngummangali ngokubhekiselele kwicandelwana (2), okanye nayiphi na inxalenye yayo, iya kubuyiselwa. 30

(5) Isibheno phantsi kweli candela lixhoma ukuphunyezwa kwesigqibo esichaphazelekayo kunye nasiphi na isigunyaziso okanye imeko ehambelana nayo kodwa kuphela apho kungekho nengozi yempembelelo embi kwimeko. 35

**ISAHLUKO 12****AMALUNGISELELO JIKELELE NAWETHUTYANA****Ukukhululwa**

**79.** (1) IGosa eliyiNtloko lesiGqeba sokuLawula linokuthi, ngokuxhomekeke kuyo nayiphi na imiqathango njengoko iGosa eliyiNtloko lesiGqeba linokucacisa, likhulule nawuphi na umntu kwiimfuno ngokwalo Mthetho— 40

(a) isigunyaziso; okanye

(b) imeko yesigunyaziso.

(2) UMphathiswa wePhondo usenokuyalela inkqubo eza kulandelwa xa kusenziwa isicelo sokuxolelwa kwiGosa eliyiNtloko lesiGqeba njengoko kuchaziwe kwicandelwana loku-(1). 45

**Ukunikezela**

**80.** (1) Ngokuxhomekeke kwicandelwana (3), uMphathiswa wePhondo usenokuthi abeke naliphi na igunya okanye uxanduva anikwe lona ngokwalo Mthetho, ukuba— 50

(a) kwiNtloko yeSebe;

(b) iBhodi;

(c) iGosa eliyiNtloko lesiGqeba sokuLawula;

(d) ICapeNature;

- (e) umasipala, ngokulawulwa yimithetho esebenzayo; okanye  
 (f) naliphi na elinye icandelo likarhulumente.
- (2) Unikezelo ngokwecandelwana (1)—
- (a) uphantsi kwayo nayiphi na imiqobo okanye imiqathango enokubekwa nguMphathiswa wePhondo; 5
- (b) kufuneka ibhalwe phantsi;
- (c) inokubandakanya igunya lokunikezela ezinye; kwaye
- (d) akamsusi uMphathiswa wePhondo uxanduva olumalunga nokusetyenziswa kwegunya elinikezelweyo okanye ukwenziwa koxanduva olunikezelweyo.
- (3) UMphathiswa wePhondo— 10
- (a) akanakho ukudlulisela igunya okanye umsebenzi woMphathiswa wePhondo wokuba awise umthetho ongaphantsi; kwaye
- (b) ngencwadi ebhaliweyo, angarhoxisa naluphi na ugunyaziso.
- (4) INTloko yeSebe isenokuthi, ngemvume ebhaliweyo yoMphathiswa wePhondo, igqithisele naliphi na kumagunya okanye nemisebenzi ngokwalo Mthetho kwigosa leSebe. 15
- (5) IBhodi okanye iGosa eliyiNtloko lesiGqeba sokuLawula linokuthi, ngemvume ebhaliweyo yoMphathiswa wePhondo, lidlulisele nawaphi na amagunya okanye imisebenzi ngokwalo Mthetho kwigosa leCapeNature.
- (6) IBhodi ayinakulinikezela igunya layo— 20
- (a) onyule okanye abeke umntu njengeGosa eliyiNtloko lesiGqeba sokuLawula;
- (b) ichonge iimeko zengqesho yeGosa eliyiNtloko lesiGqeba sokuLawula;
- (c) ukumisela umgaqo-nkqubo wengqesho weCapeNature;
- (d) abeke imida yezemali njengoko kucamngcwe kwicandelo 27(4)(f);
- (e) aphumeze uhlahlo-lwabiwo mali neenkcazo zemali zonyaka zeCapeNature. 25
- (7) Amacandelwana (2) nele (3)(b) asebenza, kunye notshintsho oluyimfuneko, kubathunywa ngokwecandelwana (4) okanye (5).

### Imigaqo

- 81.** UMphathiswa wePhondo—
- (a) kufuneka enze imigaqo apho kufuneka khona ngokwalo Mthetho; 30
- (b) unokwenza imigaqo kuwo nawuphi na umcimbi oyimfuneko okanye okhawulezileyo ukumiselwa ukuze kuphunyezwe iinjongo zalo Mthetho.

### Izaziso zoluntu

- 82.** UMphathiswa wePhondo angasipapasha izaziso *kwiGazethi yePhondo*—
- (a) ngokubhekiselele kuwo nawuphi na umcimbi ngokwalo Mthetho onokuthi okanye ekusetyenzwe ngawo ngendlela yesaziso; 35
- (b) equlathe isalathiso kwisicwangciso, ubuchule okanye isikhokelo sokuphunyezwa kwalo Mthetho;
- (c) ukwazisa nawuphi na umcimbi onxulumene nokulawulwa kwalo Mthetho.

### Imigangatho yokusebenza 40

- 83.** UMphathiswa wePhondo angabeka imilinganiselo yokwenziwa komsebenzi wawo nawuphi na umsebenzi okanye imfuneko ecamngcwe kulo Mthetho.

### Ukubonisana

- 84.** (1) Phambi kokupapasha nayiphi na imimiselo okanye izaziso ngokwalo Mthetho, uMphathiswa wePhondo kufuneka— 45
- (a) apapashe umgaqo oyilwayo okanye izaziso ngeelwimi ezisemthethweni zePhondo kwi—
- (i) *iGazethi yePhondo*; kwaye
- (ii) amaphephandaba amabini asasazwa kwiPhondo eli, elinye kuwo ubuncinci kufuneka libe lishicilelwe; 50
- (b) inike ithuba kumaqela anomdla nachaphazelekayo ukuba anike izimvo zawo kangangesithuba seentsuku ezingama-30 ukususela kumhla wopapasho *kwiGazethi yePhondo*, ngaphandle kwaxa kuchazwe ixesha elahlukileyo ngulo Mthetho; kwaye
- (c) makaqwalasele naziphi na izimvo azifumeneyo. 55

(2) UMphathiswa wePhondo usenokuthi, apho kufanelekileyo, andise ixesha lokunika ingxelo ngokwesiqendwana (1)(b)

kangangexesha elifanelekileyo.

(3) Xa ngaba ngokwalo Mthetho uMphathiswa wePhondo kufuneka ukuba abonisane naye nawuphi na umntu okanye icandelo likarhulumente, olo thethwano luthathwa njengolwanelisekileyo ukuba isaziso esibhaliweyo esichaziweyo ngenjongo yokuthatha isenzo senziwe kuloo mntu okanye kwiziko likarhulumente. kwaye akukho mpendulo ifunyenweyo ngexesha elibekiweyo kwisaziso. 5

### **Izaziso, amaxwebhu asemthethweni kunye namanyathelo asemthethweni phantsi kweemeko ezithile** 10

**85.** (1) Isaziso, ugunyaziso okanye olunye uxwebhu olukhutshiweyo okanye olupapashwe ngokwalo Mthetho—

(a) engathobeli nayiphi na inkqubo efunekayo, nangona kunjalo iyasebenza ukuba ukungathobeli akukho bungqina kwaye akucalucaluli nawuphi na umntu; 15

(b) linokulungiswa okanye lithatyathelwe indawo ngaphandle kokulandela imfuneko yenkqubo yalo Mthetho ukuba—

(i) injongo kukulungisa impazamo; kwaye

(ii) ulungiso aluwatshintshi amalungelo okanye uxanduva lomntu nawuphi na umntu. 20

(2) Ukusilela ekuthatheni nawuphi na amanyathelo afunwa ngulo Mthetho njengemfuneko egqithileyo kuso nasiphi na isigqibo okanye isenzo akusenzi singasebenzi isigqibo okanye isenzo ukuba ukusilela—

(a) ayisiyonto;

(b) akacalucaluli nawuphi na umntu; kwaye 25

(c) ayichanekanga ngokwenkqubo.

### **Umda woxanduva**

**86.** UMphathiswa wePhondo, iNtloko yeSebe, iBhodi, iGosa eliyiNtloko lesiGqeba, iCapeNature okanye nawuphina umntu othunye ngokwalo Mthetho akanabutyala ngomonakalo okanye ilahleko ebangelwe ngumntu othe wasebenza ngendlela efanelekileyo ukholo olungileyo— 30

(a) lisebenzisa igunya okanye lenza umsebenzi ngokwalo Mthetho;

(b) akasebenzisi gunya okanye enze uxanduva ngokwalo Mthetho; okanye

(c) wenza umsebenzi ngaphandle kwegunya labo.

### **Ukurhoxiswa kwemithetho** 35

**87.** Imithetho ekhankanywe kwiShedyuli iyabhangiswa ukuya kuthi ga kwinqanaba eliboniswe kwikholamu yesithathu yeShedyuli.

### **Izibonelelo zenguqu**

**88.** (1) Umntu owayeligosa lolondolozo lwendalo, umlondolozo wendalo okanye umphathi ohloniphekileyo wolondolozo lwendalo njengoko kuchaziwe kuMmiselo kwangoko phambi kokuqalisa kwalo Mthetho uthathwa njengonyulwe njengegosa lolondolozo lwendalo, umlondolozo wendalo okanye Igosa lolondolozo lwendalo, njengoko kunokuba njalo, ngokwalo Mthetho. 40

(2) Ilayisenisi, iphephamvume, isatifikethi, igunya elibhaliweyo, ukukhululwa, umyalelo okanye nolunye ugunyaziso olukhutshwe ngokwemiqathango yoMmiselo nesasebenza ngokusemthethweni phambi kokuqalisa kwalo Mthetho, luthathwa njengogunyaziso, uxolelo, umyalelo okanye umyalelo ityala linokubakho, likhutshwe ngokwalo Mthetho. 45

(3) Isicelo selayisenisi, imvume, isatifikethi, igunya elibhaliweyo, ukukhululwa, umyalelo okanye olunye ugunyaziso olungeniswe ngokwemiqathango yoMmiselo ongagqitywanga xa lo Mthetho uqalisa ukusebenza, kufuneka, ngaphandle kokurhoxiswa koMmiselo licandelo 87 yalo Mthetho, unikezelwe ngokwemiqathango yoMmiselo kwaye isigqibo esithathiweyo ngokwemiqathango yoMmiselo sithathwa njengesigqibo esithathiweyo ngokwalo Mthetho. 50

- (4) Isazisi esidibeneyo kunye neeasethi, amatyala, iimali, amalungelo kunye noxanduva lwequmrhu likarhulumente lephondo elixelwe kwicandelo 9 alichaphazeleki kukutshintsha kwegama.
- (5) Umntu owayelilungu leBhodi yoLondolozo lweNdalo yeNtshona Koloni kwangoko phambi kokuqalisa kwalo Mthetho uthathwa njengonyulwe njengelungu leBhodi leCapeNature ngesiqingatha esingaphelelwanga sesikhundla sakhe. 5
- (6) USihlalo weBhodi yoLondolozo lweNdalo yeNtshona Koloni phambi nje kokuqalisa kwalo Mthetho uthathwa njengonyulwe njengoSihlalo weCapeNature ngenxalenye engaphelelwanga yexesha lakhe le-ofisi.
- (7) Bonke abantu abaqeshwe yiBhodi yoLondolozo lweNdalo yeNtshona Koloni bathathwa njengabanyulwe ngokwemiqathango yecandelo 27(4)(f) njengabasebenzi beCapeNature ngokuxhomekeke kwimiqathango efanayo yokusebenza ebisebenza kubo ngokukhawuleza phambi kokuba ukutshitshiswa koMthetho weBhodi yoLondolozo lweNdalo yeNtshona Koloni. 10
- (8) Icandelwana (7) alichaphazeli ipenshini, ikhefu kunye nezinye izibonelelo ezifumaneke kubasebenzi ekuthethwe ngazo kweli candelwana ngaphambi kokurhoxiswa koMthetho weBhodi yoLondolozo lweNdalo yeNtshona Koloni. 15
- (9) Ummandla owamiselwa njengendawo yolondolozo lwendalo ngokwecandelo lesi-6, 7 okanye le-12 loMmiselo nangaliphi na ixesha phambi kokuqala kwalo Mthetho kwaye uthathwa njenge— 20
- (a) ngokwemiqathango yecandelo lama-23(5) loMthetho weMimandla eKhuselweyo njengoko ubhengeziwe njengolondolozo lwendalo ngokwecandelo 23 lalo Mthetho, uyaqhubeka nokubakho njengendawo yokugcina izilwanyana ngokwalo Mthetho; okanye
- (b) ngokwecandelo lama-28(7) loMthetho weeNgingqi eziKhuselweyo njengoko ubhengeziwe njengommandla okhuselweyo ngokwecandelo lama-28 lalo Mthetho, uyaqhubeka ubukho njengommandla okhuselweyo ngokwalo Mthetho. 25

#### **Isihloko esifutshane nokuqalisa**

- 89.** Lo Mthetho ubizwa ngokuba nguMthetho weNtshona Koloni weNdalo, 2021, kwaye uza kuqala ukusebenza ngomhla esiya kumiswa yiNkulumbuso ngompoposho kwi*Gazethi yePhondo*. 30

**ULUDWE LWENKQUBO: UKURHOXISWA KWEMITHETHO**

<b>Inombolo noNyaka</b>	<b>Isihloko itle</b>	<b>Ubungakanani bokurhoxiswa</b>
21 we-1935	Sea Shore Act, 1935	Wonke
63 we-1970	Mountain Catchment Areas Act, 1970	Wonke njengoko unikezelwe kwiPhondo ngeSibhengezo u-R28 we-1995
19 we-1974	Nature Conservation Ordinance, 1974	Wonke
3 we-1982	Nature Reserves Validation Ordinance, 1982	Wonke
15 we-1998	UMthetho weBhodi yoLondolozo lweNdalo yeNtshona Koloni, 1998	Wonke
8 we-1999	Western Cape Nature and Environmental Conservation Ordinance Amendment Act, 1999	Wonke
3 wama-2000	Western Cape Nature Conservation Laws Amendment Act, 2000	Wonke, ngaphandle kwecandelo lesi-2 noLudwe lwenkqubo lwesi-2.
6 wama-2011	UMthetho weNtshona Koloni woGcino lweNdalo, 2011	Wonke

## **IMEMORANDAM NGEENJONGO ZOMTHETHO OSAYILWAYO WEENTLOBO-NTLOBO ZENDALO WENTSHONA KOLONI**

### **1. IMVELAPHI**

- 1.1 Intlobo- ntlobo zendalo neendawo ezikhuselweyo kwiPhondo laseNtshona Koloni zilawulwa ngokoMthetho National Environmental Management: Biodiversity Act, 2004 (uMthetho we-10 wama-2004), uLawulo lokusiNgqongileyo kweSizwe: uMthetho weeNdawo eziKhuselweyo, wama-2003 (uMthetho wama-57 wama-2003), (uMthetho we-15 we-1998), (Ummiselo we-19 we-1974) (Ummiselo).
- 1.2 Ukulungiselela ulungelelwaniso nezakhelo zomthetho wesizwe kunye nokuhlengahlengisa kunye nokuphucula ubume bemithetho yephondo kulawulo lwentlobo-ntlobo zendalo, inkqubo yohlaziyo lomthetho ibiqhubeka ukusukela ngowama-2012.
- 1.3 KuTshazimpunzi kowama-2014 iKhabhinethi yePhondo yanika imvume yokudibanisa uMthetho-sihlomelo oYilwayo weBhodi yoLondolozo lweNdalo eNtshona Koloni, wama-2012, kunye noMthetho osaYilwayo woLondolozo lweNdalo eNtshona Koloni, wama-2013, ukuba ube nguMthetho osaYilwayo omnye.

### **2. IINJONGO ZOMTHETHO OSAYILWAYO**

- 2.1 UMthetho oYilwayo weNtlobo-ntlobo zendalo eNtshona Koloni (uMthetho oYilwayo) ujlise ikakhulu endaweni yoMthetho weBhodi yoLondolozo lweNdalo yeNtshona Koloni, we-1998, kunye noMmiselo. Yomibini le mithetho yandulela uMgaqo-siseko weRiphabliki yoMzantsi Afrika, we-1996 (uMgaqo-siseko), kwaye ke ayiniki zindululo zaneleyo ezinokuthi zilondolozwe zize zilawule intlobo-ntlobo zendalo kunye neziseko zezinto eziphilayo neendawo eziphila kuzo ukuze kuqinisekiswa ukuba iinkonzo zendalo kwindawo ethile zixhasa uqoqosho oluquka konke nolomeleleyo.
- 2.2 Lo Mthetho uYilwayo ubandakanya indlela ehlengahlengisiweyo kuMthetho weNtshona Koloni weNdalo enguVimba weNdalo, wama-2011 (uMthetho wesi-6 wama-2011), kunye nezilungiso ezicetywayo, eziya kuthi zikwenze ukurhoxiswa kwalo mthetho.
- 2.3 Lo Mthetho uYilwayo uza kuwurhoxisa amalungiselelo owabelweyo (uMthetho wama-63 we-1970), kuze ke kuthi ngaloo ndlela kuphuculwe ukukhuselwa imimandla eqokelela iintaba, yona ngokwazo igcina izixokelelwano ezibalulekileyo zezinto eziphilayo nehambisa iinkonzo ezibalulekileyo zokubonelela ngamanzi kwiPhondo.
- 2.4 Iinjongo zalo Mthetho uYilwayo zezi—
  - 2.4.1 kusebenze kuxanduva lukarhulumente ngokomthetho wendlu yowiso-mthetho kazwelonke ukuba asebenze njengomphathiswa ngokunxulumene nokusingqongileyo;
  - 2.4.2 isebenze kwicandelo lama-81(m) loMgaqo-siseko weNtshona Koloni, we-1997 (uMthetho woku-1 we-1998), ukukhusela nokulondolozwa okusingqongileyo kwiPhondo, kuquka nentlobo-ntlobo yendalo eyahlukileyo, ukuze kuzuze isizukulwana sangoku nesizayo;
  - 2.4.3 kuqinisekisa uzinzo lwendalo ixesha elide kunye nokomelela kwentlobo-ntlobo yendalo, izixokelelwano zendalo, iinkonzo zendalo kunye neziseko zoncendo ngendalo ngokuphunyezwa kwemithetho-siseko yozinzo lwendalo ekhankanywe kwisolotya lesi-6 loMthetho oYilwayo kunye nokukhuselwa kwentlobo-ntlobo yendalo ephambili kunye nezibonelelo zendalo;

- 2.4.4 kuqinisekisa intlalontle yabantu kunye nokomelela kwexesha elide koluntu kunye noqoqosho ngokulondolozwa kweendawo ezikhuselweyo, intlobo-ntlobo zendalo, iinkqubo zendalo, iinkonzo zendalo kunye nezibonelelo zendalo;
- 2.4.5 eyenza ufikeleleko olufanelekileyo noluzinzileyo kwizibonelelo namathuba avela kulondolozo lweendawo ezikhuselweyo, intlobo-ntlobo zendalo, izixokelelwano zendalo, iinkonzo zendalo kunye nezibonelelo zendalo;
- 2.4.6 ukuseka amaziko kunye namandla emibutho ukulungiselela ukwenziwa ngempumelelo kolondolozo kunye nolawulo lwentlobo-ntlobo lendalo kwiPhondo;
- 2.4.7 ukukhuthaza ukubonisana, intsebenziswano, ucwangciso olumanyanisiweyo, ukwenziwa kwezinqubo nolawulo ukuxhasa ulondolozo nokusetyenziswa okuzinzileyo kwentlobo-ntlobo yendalo kunye neenkonzozo zezinto eziphilayo kwiPhondo;
- 2.4.8 ikhuthaze ukucwangciswa kwentlobo-ntlobo yendalo kunye noku-fikelela kokujoliswe kuko kwintlobo-ntlobo yendalo kulondolozo olubekwe kwisiCwangciso seNdawo yeNtlobo-ntlobo yeNdalo kunye nesiCwangciso-qhinga sePhondo sokuKhulisa iiNdawo eziKhuselweyo;
- 2.4.9 ulawule imisebenzi ethile ekufuneka yenziwe ngendlela eyomeleza ikhusele ukuthembeka nempilo yendalo esingqongileyo;
- 2.4.10 ngokulawulwa licandelo lama-231 loMgaqo-siseko, siphumeze kwaye siphumeze izivumelwano zamazwe ngamazwe kunye neendlela ezilungileyo eziphathelele nokusingqongileyo nolondolozo lweentlobo-ntlobo yendalo;
- 2.4.11 ikwazi ukugcina uzinzo kwezemali nakwezoqoqosho kumaziko achaphazelekayo anoxanduva lokulondolozwa nokulawulwa kwe-ntlobo-ntlobo yendalo nezendalo kwiPhondo; kwaye
- 2.4.12 yenza kwaye iphuhlise uqoqosho olulinganayo noluzinzileyo lwentlobo-ntlobo yendalo kwiPhondo, kubandakanywa uku-khuthazwa nokuphuhlisa kokhenketho lwezendalo kwiindawo eziphantsi kolawulo lweCapeNature.

### **3. IZIQULATHO ZOMTHETHO OSAYILWAYO**

#### **3.1 ISAHLUKO SOKU-1: INKCAZELO, IINJONGO NOKUSETYENZISWA KOMTHETHO**

- 3.1.1 Isoloty loku-1 libonelela ngeenkcazo zamagama kunye namagama asetyenzisiweyo kulo Mthetho uYilwayo.
- 3.1.2 Isoloty lesi-2 lichaza iinjongo zalo Mthetho uYilwayo.
- 3.1.3 Isoloty lesi-3 libonelela ngokusetyenziswa koMthetho oYilwayo.
- 3.1.4 Isoloty lesi-4 libonelela ngemiqathango yokusombulula ukungavisisani phakathi kwezibonelelo zoMthetho oSayilwayo kunye neminye imithetho.

#### **3.2 ISAHLUKO SESI-2: IMISEBENZI NEENKQUBO**

- 3.2.1 Isoloty lesi-5 linika uxanduva lukarhulumente ekulawuleni intlobo-ntlobo yendalo.

- 3.2.2 Isoloty lesi-6 libonelela ngemithetho-siseko yozinzo lwendalo ekufuneka isetyenziswe yimibutho yaseburhulumenteni xa isenza izigqibo okanye ithatha amanyathelo anokuchaphazela intlobo-ntlobo yendalo kwiPhondo.

### 3.3 ISAHLUKO SESI-3: ULAWULO

- 3.3.1 Isoloty lesi-7 limisela imisebenzi yoMphathiswa wePhondo, ebandakanya ukongamela iNtloko yeSebe, iCapeNature neBhodi yeCapeNature; ukuphuhlisa nokumilisela umgaqo-nkqubo wephondo; kwaye sivavanye amaxesha ngamaxesha impumelelo yokufezekiswa nokunyanzeliswa koMthetho oYilwayo.
- 3.3.2 Isoloty lesi-8 libonelela ngemisebenzi yeNtloko yeSebe, ebandakanya ukucebisa uMphathiswa wePhondo, emva kothethathethwano neCapeNature, kwimiba yomthetho, imithetho engaphantsi kunye nomgaqo-nkqubo wephondo malunga nolondolozo lwendalo, intlobo-ntlobo yendalo, nolawulo lwamanxweme namachweba; ukulungelelanisa amaqhinga ephondo njengoko kwamkelwe nguMphathiswa wePhondo wolondolozo lwendalo, izityalo nezilwanyana, kunye nolawulo lwamanxweme namachweba; ukulungelelanisa amaqhinga ephondo njengoko kwamkelwe nguMphathiswa wePhondo wolondolozo lwendalo, intlobo-ntlobo yendalo, kunye nolawulo lwamanxweme namachweba; nokukhuthaza nokuphuhlisa uqoqosho lwentlobo-ntlobo yendalo. Ngaphaya koko, iNtloko yeSebe inemisebenzi ekufuneka iyenzile ngokwegatya lesi-8, ehambelana nomsebenzi wayo njengegosa elinika ingxelo leSebe.

### 3.4 ISAHLUKO SESI-4: ICAPENATURE

Esi sahluko sahlulwe sangamacandelo amathandathu alandelayo:

- 3.4.1 Icandelo loku-1: Ukusekwa, imisebenzi kunye namagunya eCapeNature (isoloty lesi-9 ukuya kwele-11), isoloty lesi-9 elibonelela ngobukho obuqhubekayo beBhodi yoLondolozo lweNdalo yeNtshona Koloni nokuba yaziwe njenge- ôCapeNatureô.
- 3.4.2 Icandelo lesi-2: Ukwakhiwa nobulungu beBhodi (isoloty le-12 ukuya kwelama-22).
- 3.4.3 Icandelo lesi-3: Iinkqubo zokusebenza zeBhodi (isoloty lama-23 ukuya kwelama-26).
- 3.4.4 Icandelo lesi-4: Ulawulo lweCapeNature (isoloty lama-27).
- 3.4.5 Icandelo lesi-5: Imicimbi yemali (isoloty lama-28 ukuya kwelama-31).
- 3.4.6 Icandelo lesi-6: Ukuchithwa kweBhodi okanye kweCapeNature (amasoloty elama-32 ukuya kweyama- 33).

### 3.5 ISAHLUKO SESI-5: UCWANGCISO NOKUBEKA ESWENI KWENTLOBO-NTLOBO ZENDALO

- 3.5.1 Isoloty lama-34 lilungiselela ukupapashwa kwesiCwangciso seNdawo yeNtlobo-ntlobo yeNdalo.
- 3.5.2 Isoloty lama-35 limisela injongo yesiCwangciso seMihlaba yeNtlobo-ntlobo yeNdalo, kuquka nokuchongwa kweendawo eziphambili ngokubaluleka kwintlobo-ntlobo yendalo.

- 3.5.3 Isoloty lama-36 linika okuqulethwe sisiCwangciso seMihlaba yeNtlobo-ntlobo yeNdalo.
- 3.5.4 Isoloty lama-37 linikezela ngokusetyenziswa kunye nokusetyenziswa kwesiCwangciso seNdawo seNtlobo-ntlobo yeNdalo, kubandakanya nokulungelelaniswa kwazo nezinye izicwangciso ezibonelelwe kumthetho wesizwe nowephondo.
- 3.5.5 Isoloty lama-38 linika uphononongo lwesiCwangciso esi-Khethekileyo seNtlobo-ntlobo seNdalo rhoqo emva kweminyaka emihlanu.

### **3.6 ISAHLUKO SESI-6: IINDAWO EZIKHUSELWEYO, IINDAWO ZOKUQOKELELA IINTABA, UBUGOSA BENTLOBO-NTLOBO YENDALO KUNYE NOKUGCINWA KWEZINTO EZIPHILAYO**

- 3.6.1 Isahluko sesi-6 sahlulwe saziinxalenye ezine, esigubungela iindlela ezine ezinokukhusela imimandla eyahlukeneyo. Kwesi sahluko izibonelelo zemithetho ephelwe lixesha, eza kuwutshitshisa lo Mthetho uYilwayo, zibandakanyiwe kulo Mthetho uYilwayo, ongulo Mthetho weNdawo zokuQokelelwa kweNtaba, we-1970, kunye noMthetho weNtshona Koloni weNdalo enguVimba, ngowama-2011.
- 3.6.2 Icandelo loku-1: Ukwandiswa kweendawo ezikhuselweyo
- Isoloty lama-39 libonelela ngesiCwangciso soKwandiswa kweMimandla eKhuselweyo yePhondo, esi sisicwangciso esiya kuthi siyilwe, samkelwe kwaye sipapashwe ukuze kukhuthazwe ukucwangciswa kwentlobo-ntlobo yendalo kunye nokufezekiswa kwezinto okujoliswe kuzo zentlobo-ntlobo yendalo yolondolozo ezichazwe kwisiCwangciso seNdawo yeNtlobo-ntlobo yendalo kunye nesiCwangciso soKwandiswa kweMimandla eKhuselweyo yePhondo.
- 3.6.3 Icandelo lesi-2: Iindawo ezinamanzi amakhulu asezintabeni
- Amasoloty elama-40 nelama-41 libonelela ngesibhengezo nolawulo lweendawo ezigcina imithombo yeentaba apho olo bhengezo luyafuneka ukugcina ulungiselelo lweenkonzo zendalo, ingakumbi ubonelelo lwamanzi.
- 3.6.4 Icandelo lesi-3: Ubugosa beNtlobo-ntlobo zendalo
- Isoloty lama-42 libonelela ngobugosa bentlobo-ntlobo yendalo, apho umnini-mhlaba anokuthi angene kwisivumelwano sobugosa bentlobo-ntlobo yendalo, esisebenza ukuqhubela phambili iinjongo zesiCwangciso-qhinga soKwandiswa kweNdawo eziKhuselweyo zePhondo.
- 3.6.5 Icandelo lesi-4: Oovimba bendalo
- Amasoloty elama-43 ukuya kwelama-46 anikezela ngesicelo sokuchongwa kwe-UNESCO yoovimba bendalo, ulawulo loovimba bendalo, isiCwangciso seNkqubo-sikhokelo yooVimba bendalo kunye nenkxaso-mali yaba vimba bendalo.

### **3.7 ISAHLUKO SESI-7: UKHUSELEKO LWENDALO, IZIBONELELO ZEZINTO EZIPHILAYO KUNYE NEENTLOBO**

- 3.7.1 Isoloty lama-47 ligunyazisa uMphathiswa wePhondo ukuba abonakalise indalo okanye inxenye yayo okanye ummandla weziseko zezinto eziphilayo njengoko kufuna ukhuseleko olulodwa

ukuqinisekisa ukugcinwa kwemfezeko yezinto eziphilayo okanye unikezelo lweenkonzo zendalo.

- 3.7.2 Isoloty lama-48 ligunyazisa uMphathiswa wePhondo ukuba abeke iimfuno kwaye apapashe izikhokelo zentlobo-ntlobo zendalo okanye amanye amanyathelo okunciphisa kwiPhondo.
- 3.7.3 Isoloty lama-49 limisela ukupapashwa kwemisebenzi ethintelweyo okanye iindlela ezinesithintelo ngokubhekisele kulo naluphi na uhlobo oludwelisiweyo okanye naluphi na udidi lweentlobo ezidwelisiweyo.

### **3.8 ISAHLUKO SESI-8: UGUNYAZISO**

Amasoloty elama-50 ukuya kwelama-55 abonelela ngesicelo sokugunyaziswa, izigqibo zesicelo esinjalo, uphononongo, ukunqunyanyiswa, ukurhoxiswa kunye nokulungiswa kogunyaziso.

### **3.9 ISAHLUKO SESI-9: UTHOTYELO NONYANZELISO**

Isahluko sesi-9 sahlulwe sangamacandelo amabini.

- 3.9.1 Icandelo loku-1: Amagosa okuthobela nokunyanzelisa nemicimbi yezomthetho

Amasoloty elama-56 ukuya kwelama-68 abonelela ngokuchongwa kwamagosa olondolozo lwendalo, abagcini bolondolozo lwendalo kunye namagosa olondolozo lwendalo ahloniphekileyo kwaye ichaza ugunyaziso, imisebenzi kunye namagunya namandla. Amandla ekubonelelwe ngawo kwesi sahluko ayimfuneko kwaye afanelekile ekulweni ngempumelelo ulwaphulo-mthetho olunxulumene nentlobo-ntlobo yendalo.

- 3.9.2 Icandelo lesi-2: Inkqubo zonyanzeliso lolawulo nezohlwayo

Amasoloty elama-69 ukuya kwelama-71 anezixhobo sonyanzeliso lolawulo esincedisa izixhobo zokunyanzelisa ulwaphulo-mthetho ezinokusetyenziswa ngokwalo Mthetho uYilwayo.

### **3.10 ISAHLUKO SE-10: AMATYALA KUNYE NEZOHLWAYO**

- 3.10.1 Isoloty lama-72 libonelela ngezenzo zolwaphulo-mthetho ezahlulwe ngokobungakanani bobungqongqo bazo.
- 3.10.2 Isoloty lama-73 libonelela ezona zohlwayo ziphezulu kudidi ngalunye lolwaphulo-mthetho oluya kwenza ukuba inkundla ikwazi ukuwisa isigwebo esifanelekileyo kubaphuli-mthetho ngokwemiqathango yalo Mthetho uYilwayo.
- 3.10.3 Isoloty lama-74 libonelela ngokurhoxiswa kwesigunyaziso ukuba umntu ubanjelwe ityala.
- 3.10.4 Isoloty lama-75 libonelela ngonikezelo lweendleko.
- 3.10.5 Isoloty lama-76 libonelela ngokuhluthwa kwawo nawuphi na umzekelo okanye into ebandakanyekileyo kulwaphulo-mthetho neyathi yabanjwa ngokoMthetho oYilwayo.

**3.11.ISAHLUKO SE-11: IZIBHENO**

3.11.1 Isolotyama-77 libonelela ngezibheno ezichasene nezigqibo ngamagosa eCapeNature.

3.11.2 Isolotyama-78 libonelela ngezibheno ezichasene nezigqibo ezenziwe liGosa loLawulo eliyiNtloko leCapeNature okanye umntu obambele phantsi kokuthunywanguMphathiswa wePhondo.

**3.12.ISAHLUKO SE-12: AMALUNGISELELO JIKELELE NENGUQUKO**

3.12.1 Amasolotyama-79 ukuya kwelama-89 libonelela ngemiqathango ngokubanzi nangotshintsho ekuphunyezweni kakuhle koMthetho oYilwayo.

3.12.2 Isolotyama-81 libonelela ngemigaqo emayenziwe nguMphathiswa wePhondo ukulungiselela ukwenziwa ngempumelelo koMthetho oYilwayo.

**3.13 ULUDWE LWENKQUBO: UKURHOXISWA**

Uludwe lwenkqubo libonelela ngokurhoxiswa kowiso mthetho oludlulelwe lixesha.

**4. UKUCEBISANA**

Ekuqulunqweni kwalo Mthetho uSayilwayo, kwaboniswa naba bathathi-nxaxheba balandelayo:

- (a) ISebe leMicimbi yeNdalo noCwangciso loPhuhliso;
- (b) ISebe leNkulumbuso: IiNkonzo zezoMthetho; kunye
- (c) neCapeNature.

**5. UKUCHAPHAZELEKA KWABASEBENZI**

Akukho nanye

**6. UCHAPHAZELEKO KWEZEMALI**

Njengokokuba lo Mthetho oSayilwayo umele ulungelelwaniso nokunik'ingqiqo yesikhokelo sezomthetho esikhoyo, kukho olunye uchaphazeleko lwezemali olubangelwe ngqo ngulo Mthetho oSayilwayo. Ngoko ke, uchaphazeleko lwezemali lululwabiwo lohlahlomali lweVoti 9 oluphunyeziweyo ukwenzela iNkqubo 5 ngokobume bohahlomali lwenkqutyana yecandelo lokusingqongileyo.

**7. UKUSEBENZA KWEZOMTHETHO**

UMphathiswa wePhondo ojongene nemicimbi yendalo esingqongileyo kunye nocwangciso loPhuhliso wanelisekile ukuba onke amasolotyama lo Mthetho uYilwayo awela phantsi kokusebenza kwezomthetho kwePhondo.



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