

PROVINCE OF THE WESTERN CAPE

**WESTERN CAPE BIOSPHERE
RESERVES BILL**

(As introduced)

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

[B 5—2011]

PROVINSIE WES-KAAP

**WES-KAAPSE WETSONTWERP OP
BIOSFEERRESERVATE**

(Soos ingedien)

(MINISTER VAN PLAASLIKE REGERING, OMGEWINGSAKE EN ONTWIKKELINGSBEPLANNING)

[W 5—2011]

IPHONDO LENTSHONA KOLONI

**UMTHETHO OSAYILWAYO WOOVIMBA
BENDALO EPHILAYO WENTSHONA
KOLONI**

(Njengoko wazisiwe)

(UMPHATHISWA WORHULUMENTE WOMMANDLA, IMICIMBI YEZOKUSINGQONGILEYO NOCWANGCISO
LOPHUHLISO)

[B 5—2011]

BILL

To facilitate the designation and management of biosphere reserves in the province of the Western Cape; to regulate land use in such reserves through the compilation of framework plans; and to provide for matters incidental thereto.

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

Definitions

1. In this Act, unless the context indicates otherwise—
 - “**biosphere reserve**” means an area designated for inclusion in the World Network of Biosphere Reserves by the International Coordinating Council of the Man and the Biosphere Programme; 5
 - “**Biosphere Reserve Interim Committee**” means a committee established in terms of section 3(4);
 - “**Department**” means the provincial department responsible for land use planning in the Province; 10
 - “**framework plan**” means the spatial plan compiled for a biosphere reserve in accordance with section 6;
 - “**higher level**”, with regard to a framework plan or other relevant plan, means a larger area of planning, and usually a smaller scale of planning, than the area and scale of such framework plan or other relevant plan; 15
 - “**Land Use Planning Ordinance**” means the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985);
 - “**lower level**”, with regard to a framework plan or other relevant plan, means a smaller area of planning, and usually a larger scale of planning, than the area and scale of such framework plan or other relevant plan. 20
 - “**Management Committee**” means a committee established in terms of section 5(2);
 - “**Man and the Biosphere criteria**” means the general criteria for an area to qualify for designation as a biosphere reserve, as determined by the Man and the Biosphere Programme; 25
 - “**Man and the Biosphere Programme**” means the programme in terms of which biosphere reserves are established by UNESCO;
 - “**Minister**” means the member of the provincial Cabinet of the Western Cape responsible for land use planning; 30
 - “**national Minister**” means the Minister in the national Government responsible for environmental management;
 - “**organ of state**” means an organ of state as defined in section 239 of the Constitution of the Republic of South Africa, 1996;
 - “**prescribed**” means prescribed by regulation in terms of this Act; 35
 - “**process principle of planning**” means the principle in terms of which a plan is compiled in phases through the method of—
 - (a) drafting two or more documents in sequence, identifying relevant goals, objectives, problems, issues, policies and strategies, while progressing from the more general in the first document to the more specific in the last; and 40
 - (b) submitting each document for roleplayer input and decision maker review before compiling a draft plan for advertisement;

“Province” means the Province of the Western Cape;
“this Act” includes regulations made under this Act; and
“UNESCO” means the United Nations Educational, Scientific and Cultural Organisation, and includes the International Coordinating Council of the Man and the Biosphere Programme.

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Purpose of Act

2. The purpose of this Act is to—
- (a) promote the protection of areas of high biodiversity value and ecological importance in the Province as biosphere reserves designated in terms of the Man and the Biosphere Programme; 10
 - (b) make provision for protection by law of biosphere reserves or proposed biosphere reserves;
 - (c) ensure that any development in biosphere reserves is undertaken and managed in a sustainable manner taking into account the purpose of a biosphere reserve; 15
 - (d) ensure that any development within a biosphere reserve is managed in accordance with the principle of sustainability through the development, application and enforcement of the requisite framework plan; and
 - (e) ensure that the need for and purpose of biosphere reserves, and the type of development to be allowed in and around biosphere reserves, are taken into account when any spatial development decision which may potentially impact on the biosphere reserves is taken. 20

Preliminary approval to establish biosphere reserve

3. (1) Any person, group of persons or organ of state may request the Minister to preliminarily approve the establishment of a biosphere reserve in the Province. 25
- (2) The request must be in the format determined by the Man and the Biosphere Programme and must include the proposed composition of the Biosphere Reserve Interim Committee.
- (3) Before submission of the request to the Minister, the prescribed public participation process must be undertaken. 30
- (4) If the Minister preliminarily approves the request, a Biosphere Reserve Interim Committee must be established in the prescribed manner and subject to the conditions determined by the Minister.
- (5) The Biosphere Reserve Interim Committee must be broadly representative of all relevant interested persons, institutions and communities. 35

Application for UNESCO designation as biosphere reserve

4. (1) The Biosphere Reserve Interim Committee must compile an application for UNESCO designation of the biosphere reserve, in the format determined by the Man and the Biosphere Programme.
- (2) The Biosphere Reserve Interim Committee must, within 12 months after its establishment in terms of section 3(4) or a longer period as approved by the Minister, submit the application to the Minister for consideration. 40
- (3) If the Minister refuses the application or does not receive it within the period or extended period referred to in subsection (2), the application as well as the preliminary approval of the establishment of the biosphere reserve lapse. 45
- (4) If the Minister is satisfied that the application complies with the relevant Man and the Biosphere criteria, the Minister must forward the application to the national Minister for submission to UNESCO.
- (5) If UNESCO designates the biosphere reserve, the Minister must give notice in the *Provincial Gazette* of the designation and add that sections 5 and 6 become applicable. 50

Management of biosphere reserve

5. (1) The Minister must ensure that a biosphere reserve is properly managed in accordance with management principles determined by the Minister and which must be published simultaneously with the notice referred to in section 4(5) or as soon as possible thereafter. 55

- (2) After designation of a biosphere reserve, a Management Committee must be established in the prescribed manner to replace the Biosphere Reserve Interim Committee.
- (3) Upon establishment of the Management Committee the functions of the Biosphere Reserve Interim Committee are automatically transferred to the Management Committee. 5
- (4) The Management Committee—
- (a) is responsible for the management of the biosphere reserve, subject to this Act and the management principles referred to in subsection (1);
 - (b) must compile a constitution for the biosphere reserve in the prescribed manner and containing the prescribed particulars; 10
 - (c) must provide an annual report on its activities to the Minister, municipalities in whose areas of jurisdiction the biosphere reserve is located and adjacent municipalities; and
 - (d) must compile a framework plan for the biosphere reserve. 15
- (5) The Minister must periodically, and 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 Man and the Biosphere Programme, and report thereon to the national Minister. 20

Framework plan for biosphere reserve

6. (1) The Management Committee must, as soon as possible after its appointment, prepare a spatial plan (in this Act referred to as a framework plan) for the biosphere reserve in accordance with the process principle of planning and the prescribed approval procedure. 25
- (2) The Minister may determine conditions, in accordance with the process principle of planning, as to the manner in which the framework plan is to be drafted, and draft products and the approved plan are to be made known, which must include conditions with regard to inspection of draft products and representations by any interested and affected parties, including inhabitants of the area concerned, in the course of the preparation of the framework plan. 30
- (3) Subject to subsection (4), the framework plan must comply and be consistent with any spatial framework or plan in terms of any legislation, including any—
- (a) environmental implementation plan or environmental management plan referred to in Chapter 3 of the National Environmental Management Act, 1998 (Act 107 of 1998); 35
 - (b) integrated management plan referred to in Chapter IV of the World Heritage Convention Act, 1999 (Act 49 of 1999);
 - (c) integrated development plan referred to in section 25 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000); 40
 - (d) management plan referred to in Chapter 4 of the National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003), insofar as the biosphere reserve may include an existing special nature reserve, national park, nature reserve or protected environment as defined in that Act;
 - (e) national biodiversity framework, bioregional plan or biodiversity management plan referred to in Chapter 3 of the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004); 45
 - (f) plan under the National Environmental Management: Integrated Coastal Management Act, 2008 (Act 24 of 2008);
 - (g) plan under the Physical Planning Act, 1991 (Act 125 of 1991); and 50
 - (h) plan under Chapter 1 of the Land Use Planning Ordinance.
- (4) Notwithstanding subsections (3) and (6), a framework plan which is inconsistent with a framework or plan referred to in that subsection can be approved insofar as it is more restrictive than that framework or plan.
- (5) The Management Committee must within 12 months after designation of the biosphere reserve, or the longer period approved by the Minister, submit the framework plan to the Minister for approval. 55
- (6) If the Minister approves the framework plan, it is regarded as a plan approved in terms of section 4(6) of the Land Use Planning Ordinance.
- (7) The Minister may amend a framework plan in the prescribed manner. 60

(8) Other than the appointment of the Management Committee and the preparation of the framework plan, no further steps may be taken to implement the designation conditions of the biosphere reserve before the approval of the framework plan.

(9) All land uses and land use plans within a biosphere reserve must comply or be consistent with the framework plan concerned: Provided that— 5

- (a) the provisions of the framework plan do not take away current land use rights;
- (b) should an existing legal land use not comply with or be inconsistent with a framework plan at the time of the approval of the plan, that land use may continue to be exercised until interrupted for at least two years or until further building plan approval may be required, whichever is the earlier; 10

- (c) should a land use referred to in paragraph (b)—
 - (i) be interrupted for at least two years; or
 - (ii) require further building plan approval,
 the use of the land concerned must be caused to comply or be consistent with the framework plan; and 15

- (d) where subparagraph (ii) of paragraph (c) would apply, but additional building plan approval is in the opinion of the municipal manager concerned not required for the purpose of land use or building expansion, that municipal manager may approve that building plan without requiring compliance with paragraph (c). 20

(10) Questions relating to compliance, consistency and conformity in respect of land use in relation to a framework plan, or in respect of a framework plan in relation to plans or frameworks under other legislation, must be dealt with as follows:

(a) In relation to a framework plan existing in terms of this Act—

- (i) a land use complies with the framework plan if the designation on the framework plan explicitly provides for the land use concerned; 25
- (ii) a land use is consistent with the framework plan if the designation on the framework plan does not explicitly provide for the land use concerned, but the land use in the particular location would not conflict with the goals of the designation; and 30
- (iii) a proposed land use which does not comply with or is inconsistent with the framework plan may not be approved, unless the framework plan is appropriately amended, either before the approval concerned or simultaneously therewith.

(b) In relation to a framework plan being approved, revised or amended in terms of this Act— 35

- (i) the framework plan complies with a higher level framework or plan existing under other legislation and functioning at a higher level in relation to the framework plan, if the designations of the higher level framework or plan explicitly provide for the proposals of the lower level framework plan; 40
- (ii) the framework plan is consistent with a higher level framework or plan existing under other legislation and functioning at a higher level in relation to the framework plan, if the designations of the higher level framework or plan do not explicitly provide for the proposals of the particular locations would not conflict with the goals of the designations concerned; and 45

- (iii) the framework plan must comply or be consistent with a higher level framework or plan existing under other legislation and functioning at a higher level in relation to the framework plan, and may not be approved, revised or amended in a way that does not comply with or is inconsistent with a higher level framework or plan existing under other legislation and functioning at a higher level in relation to the framework plan unless the higher level framework or plan is appropriately amended under the legislation concerned, either before the approval, revision or amendment concerned or simultaneously therewith. 50 55

(c) In relation to a framework plan existing in terms of this Act—

- (i) a framework or plan existing under other legislation and functioning at a lower level in relation to the framework plan, complies with the framework plan if the designations of the framework plan explicitly provide for the proposals of the lower level framework or plan; 60

- (ii) a framework or plan existing under other legislation and functioning at a lower level in relation to the framework plan, is consistent with the framework plan if the designations of the framework plan do not explicitly provide for the proposals of the lower level framework or plan, but those proposals in the particular locations would not conflict with the goals of the designations concerned; 5
- (iii) a framework or plan contemplated under other legislation and intended to function at a lower level in relation to the framework plan must comply or be consistent with the framework plan, and may not be approved unless the framework plan is appropriately amended, either before the approval concerned or simultaneously therewith; and 10
- (iv) a framework or plan existing under other legislation and functioning at a lower level in relation to the framework plan must comply or be consistent with the framework plan, and may not be revised or amended in a way which does not comply with or is inconsistent with the framework plan, unless the framework plan is appropriately amended, either before the revision or amendment concerned or simultaneously therewith. 15

(11) When a dispute arises concerning consistency, the matter must be referred to the Minister for a ruling. 20

Extension of biosphere reserve

7. (1) The Management Committee of a biosphere reserve may at any time apply for the extension of the reserve.

(2) An application for the extension of a biosphere reserve follows the same procedure as described in section 4 for new designations. 25

(3) For the purposes of subsection (2) the Management Committee must perform the functions assigned to the Biosphere Reserve Interim Committee by section 4.

Funding of biosphere reserve

8. (1) The Minister may, in accordance with an appropriation by the Provincial Parliament of the Western Cape, give 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 may be made subject to conditions determined by the Minister with the concurrence of the member of the provincial Cabinet responsible for finance.

Delegation 35

9. (1) The Minister may, subject to subsection (7), delegate any power or function to an official in the Department to exercise or perform on his or her behalf.

(2) Any delegation referred to in subsection (1) may be made subject to such terms, conditions and restrictions as the Minister may determine.

(3) The Minister is not divested of any power delegated by him or her. 40

(4) A delegation in terms of this section may authorise an official in the Department to sub-delegate all or any of the delegated powers or functions.

(5) Any person aggrieved by a decision taken in terms of a delegated power or function referred to in subsection (1), has a right of appeal to the Minister against the decision in the manner and within the period prescribed. 45

(6) The Minister may amend or withdraw any delegation.

(7) The Minister may not delegate his or her powers in terms of section 5(1) or section 10.

Regulations

10. (1) The Minister may make regulations regarding— 50

(a) any matter which must or may be prescribed in terms of this Act;

(b) principles for the management of biosphere reserves; and

(c) any matter which it is necessary or expedient to prescribe for the implementation of this Act.

(2) Regulations with financial implications for the Province may only be made with the concurrence of the member of the provincial Cabinet responsible for finance.

Existing biosphere reserves

11. (1) The management of a biosphere reserve existing in the Province on the date of commencement of this Act must within three months after that date— 5

(a) appoint a Management Committee in the prescribed manner; and

(b) transfer its functions to the Management Committee.

(2) The Management Committee must within 12 months after its appointment, or a longer period approved by the Minister, submit a framework plan for the biosphere reserve to the Minister in accordance with section 6. 10

Short title and commencement

12. This Act is called the Western Cape Biosphere Reserves Act, 2011, and takes effect on a date to be determined by the Premier by proclamation in the *Provincial Gazette*.

**MEMORANDUM ON THE OBJECTS OF THE WESTERN CAPE
BIOSPHERE RESERVES BILL , 2011**

1. INTRODUCTION

The Western Cape Biosphere Reserve Bill (the Bill) provides for the preliminary establishment, approval and protection of biosphere reserves in the Western Cape. It further provides for the management of declared biosphere reserves in the Western Cape through the development of framework plans and for ensuring that any development in the declared biosphere reserves is undertaken and managed in a sustainable manner taking into account the purpose of a biosphere reserve. It also provides for matters incidental thereto.

2. AIMS AND OBJECTIVES OF BILL

Clause 1

This clause refers to the following definitions:

- “biosphere reserve”;
- “Biosphere Reserve Interim Committee”;
- “Department”;
- “framework plan”;
- “higher level”;
- “Land Use Planning Ordinance”;
- “lower level”;
- “Management Committee”;
- “Man and the Biosphere criteria”;
- “Man and the Biosphere Programme”;
- “Minister”;
- “national Minister”;
- “organ of state”;
- “prescribed”;
- “process principle of planning”;
- “Province”;
- “this Act”; and
- “UNESCO”.

Clause 2

This clause describes the purpose of the Bill and covers the following aspects:

- (a) The protection of areas of high biodiversity value and ecological importance in the Western Cape as biosphere reserves;
- (b) provision for provincial statutory protection of biosphere reserves in the Western Cape;

- (c) the management of development within the biosphere reserves in accordance with the principles of sustainable development through the development, application and enforcement of the requisite framework plan; and
- (d) the incorporation of the need for and purpose of biosphere reserves, and the type of development to be allowed in and around such biosphere reserves, into any spatial development decision in the Western Cape.

Clause 3

This clause describes the process for the preliminary approval to establish a biosphere reserve and covers the following aspects:

- (a) Who can apply for the establishment of a biosphere reserve;
- (b) the format for an application;
- (c) public participation; and
- (d) the establishment and composition of the Biosphere Reserve Interim Committee (BRIC).

Clause 4

This clause sets out the procedure for the compilation of an application for United Nations Educational, Scientific and Cultural Organisation (UNESCO) designation as a biosphere reserve and addresses the following:

- (a) The prescribed UNESCO format;
- (b) the time period set for the submission of an application to the Minister;
- (c) the provisions for extension of time for submitting the application;
- (d) the forwarding of the application to the national Minister for submission to UNESCO; and
- (e) the publishing of a notice in the *Provincial Gazette* on the designation of the biosphere reserve by UNESCO.

Clause 5

This clause addresses the management of a biosphere reserve and covers the following:

- (a) The proper management of a biosphere reserve in accordance with prescribed management principles;
- (b) the establishment of a Management Committee (MC) to replace the BRIC;
- (c) the transfer of functions from the BRIC to the MC;
- (d) the functions of the MC;
- (e) the compilation of a constitution for the biosphere reserve in the prescribed manner;
- (f) the submission of an annual report on its activities to the Minister and municipalities;
- (g) the compilation of a framework plan for the Biosphere Reserve; and
- (h) the review of the activities and framework plan of a biosphere reserve.

Clause 6

This clause addresses the compilation of a framework plan for a biosphere reserve and covers the following:

- (a) The requirement for the MC to compile a framework plan for the biosphere reserve soon after its appointment;
- (b) the conditions for the preparation of the framework plan, with reference to public participation, advertising, alignment with other spatial development frameworks or other spatial plans;
- (c) the timeframe in which a framework plan has to be submitted to the Minister for approval;
- (d) the approval or amendment of the framework plan;
- (e) the priority of the framework plan above other activities of the MC; and
- (f) the various aspects of consistency and compliance between framework plans and other spatial plans.

Clause 7

This clause addresses aspects pertaining to the extension of a biosphere reserve and covers the following:

- (a) The application for the extension of the biosphere reserve;
- (b) the application procedure; and
- (c) the functions of the MC.

Clause 8

This clause addresses the funding of a biosphere reserve and provides for the granting of financial assistance by the Provincial Government to a biosphere reserve for various purposes, as well as the determination of conditions attached to the grant.

Clause 9

In terms of this clause the Minister may, subject to subsection (7), delegate any power or function to an official in the Department to exercise or perform on his or her behalf.

Clause 10

In terms of this clause the Minister may make regulations pertaining to any matter which must or may be prescribed in terms of this Act as well as principles for the management of biosphere reserves.

Clause 11

In terms of this clause existing biosphere reserves must appoint a MC within three months of commencement of this Act in accordance with the prescribed manner, transfer its functions to the MC, as well as submit a framework plan to the Minister.

3. CONSULTATION

The draft Bill was published for comment on 11 September 2009, with 27 November 2009 as the closing date for comments. Ten sets of comments were received. In the compilation of this draft Bill, the Department of Environmental Affairs and Development Planning consulted with the following role players:

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

4. FINANCIAL IMPLICATIONS FOR THE STATE

The financial implications of the Bill are covered by the existing operational departmental budget.

5. LEGISLATIVE COMPETENCE

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

WETSONTWERP

Om die aanwysing en bestuur van biosfeerreservate in die provinsie Wes-Kaap te fasiliteer; om grondgebruik in sodanige reservate te reguleer deur die opstel van raamwerkplanne; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Provinsiale Parlement van die Provinsie Wes-Kaap, soos volg:—

Woordomskrywing

1. In hierdie Wet, tensy dit uit die samehang anders blyk, beteken—
 - “**Bestuurskomitee**” ’n komitee ingevolge artikel 5(2) ingestel; 5
 - “**biosfeerreservaat**” ’n gebied wat deur die Internasionale Koördinerende Raad van die Mens en die Biosfeer-program vir insluiting in die Wêreldnetwerk van Biosfeerreservate aangewys is;
 - “**Departement**” die provinsiale departement verantwoordelik vir grondgebruikbeplanning in die Provinsie; 10
 - “**hierdie Wet**” ook regulasies kragtens hierdie Wet uitgevaardig;
 - “**hoër vlak**”, met betrekking tot ’n raamwerkplan of ander tersaaklike plan, ’n groter gebied van beplanning, en gewoonlik ’n kleiner skaal van beplanning, as die gebied en skaal van sodanige raamwerkplan of ander tersaaklike plan;
 - “**laer vlak**”, met betrekking tot ’n raamwerkplan of ander tersaaklike plan, ’n 15 kleiner gebied van beplanning, en gewoonlik ’n groter skaal van beplanning, as die gebied en skaal van sodanige raamwerkplan of ander tersaaklike plan;
 - “**Mens en die Biosfeer-kriteria**” die algemene kriteria waarvolgens ’n gebied kwalifiseer vir aanwysing as ’n biosfeerreservaat, soos deur die Mens en die Biosfeer-program bepaal; 20
 - “**Mens en die Biosfeer-program**”¹ die program ingevolge waarvan biosfeerreservate deur UNESCO ingestel word;
 - “**Minister**” die lid van die provinsiale Kabinet van die Wes-Kaap verantwoordelik vir grondgebruikbeplanning;
 - “**nasionale Minister**” die Minister in die nasionale Regering verantwoordelik vir 25 omgewingsbestuur;
 - “**Ordonnansie op Grondgebruikbeplanning**” die Ordonnansie op Grondgebruikbeplanning, 1985 (Ordonnansie 15 van 1985);
 - “**prosesbeginsel van beplanning**” die beginsel ingevolge waarvan ’n plan in fases opgestel word deur die metode van— 30
 - (a) die opstel van twee of meer dokumente opeenvolgend, met identifisering van tersaaklike mikpunte, oogmerke, probleme, kwessies, beleide en strategieë, terwyl daar gevorder word van die meer algemene in die eerste dokument na die meer spesifieke in die laaste dokument; en
 - (b) die voorlegging van elke dokument vir insette deur rolspelers en hersiening 35 deur besluitnemers voordat ’n konsepplan opgestel word vir advertering;

1. Vertaling van “*Man and the Biosphere Programme*”. Hierdie dokument is nie in Afrikaans vertaal nie.

“Provinsie” die Provinsie Wes-Kaap;
“raamwerkplan” die ruimtelike plan ooreenkomstig artikel 6 vir ’n biosfeerreservaat opgestel;
“staatsorgaan” ’n staatsorgaan soos omskryf in artikel 239 van die Grondwet van die Republiek van Suid-Afrika, 1996; 5
“Tussentydse Biosfeerreservaatkomitee” ’n komitee ingevolge artikel 3(4) ingestel;
“UNESCO” die Verenigde Nasies se Opvoedkundige, Wetenskaplike en Kulturele Organisasie, en ook die Internasionale Koördinerende Raad van die Mens en die Biosfeer-program; en 10
“voorgeskrif” of **“voorgeskrewe”** voorgeskryf by regulasie ingevolge hierdie Wet.

Doel van Wet

2. Die doel van hierdie Wet is om—
- die beskerming van gebiede van hoë biodiversiteitswaarde en ekologiese belang in die Provinsie te bevorder as biosfeerreservate wat ingevolge die Mens en die Biosfeer-program aangewys is; 15
 - voorsiening te maak vir wetlike beskerming van biosfeerreservate of voorgestelde biosfeerreservate; 20
 - te verseker dat enige ontwikkeling in biosfeerreservate op ’n volhoubare manier gedoen en bestuur word met inagneming van die doel van ’n biosfeerreservaat; 25
 - te verseker dat enige ontwikkeling in ’n biosfeerreservaat in ooreenstemming met die beginsel van volhoubaarheid bestuur word deur die ontwikkeling, toepassing en afdwinging van die vereiste raamwerkplan; en 30
 - te verseker dat die behoefte aan en doel van biosfeerreservate, en die tipe ontwikkeling wat in en rondom biosfeerreservate toegelaat moet word, in aanmerking geneem word wanneer enige besluit oor ruimtelike ontwikkeling geneem word wat potensieel ’n impak op die biosfeerreservate kan hê. 35

Voorlopige goedkeuring om biosfeerreservaat in te stel 30

3. (1) Enige persoon, groep persone of staatsorgaan kan die Minister versoek om die instelling van ’n biosfeerreservaat in die Provinsie voorlopig goed te keur.
- (2) Die versoek moet in die formaat wees wat deur die Mens en die Biosfeer-program bepaal word en moet die voorgestelde samestelling van die Tussentydse Biosfeerreservaatkomitee insluit. 35
- (3) Voordat die versoek aan die Minister voorgelê word, moet die voorgeskrewe proses van openbare deelname gevolg word.
- (4) Indien die Minister die versoek voorlopig goedkeur, moet ’n Tussentydse Biosfeerreservaatkomitee ingestel word op die voorgeskrewe wyse en behoudens die voorwaardes wat die Minister bepaal. 40
- (5) Die Tussentydse Biosfeerreservaatkomitee moet breedweg verteenwoordigend wees van alle tersaaklike belanghebbende persone, instellings en gemeenskappe.

Aansoek om UNESCO-aanwysing as biosfeerreservaat

4. (1) Die Tussentydse Biosfeerreservaatkomitee moet ’n aansoek vir UNESCO-aanwysing van die biosfeerreservaat saamstel in die formaat wat deur die Mens en die Biosfeer-program bepaal word. 45
- (2) Die Tussentydse Biosfeerreservaatkomitee moet, binne 12 maande na sy instelling ingevolge artikel 3(4) of ’n langer tydperk soos deur die Minister goedgekeur, die aansoek aan die Minister voorlê vir oorweging.
- (3) Indien die Minister die aansoek weier of dit nie binne die tydperk of verlengde tydperk in subartikel (2) bedoel ontvang nie, vervel die aansoek asook die voorlopige goedkeuring van die instelling van die biosfeerreservaat. 50
- (4) Indien die Minister oortuig is dat die aansoek aan die tersaaklike kriteria van die Mens en die Biosfeer-program voldoen, moet die Minister die aansoek na die nasionale Minister deurstuur vir voorlegging aan UNESCO. 55

(5) Indien UNESCO die biosfeerreservaat aanwys, moet die Minister in die *Provinsiale Koerant* kennis gee van die aanwysing en byvoeg dat artikels 5 en 6 van toepassing word.

Bestuur van biosfeerreservaat

5. (1) Die Minister moet verseker dat 'n biosfeerreservaat behoorlik bestuur word in ooreenstemming met bestuursbeginsels wat deur die Minister bepaal word en wat gepubliseer moet word gelyktydig met die kennisgewing in artikel 4(5) bedoel of so gou moontlik daarna.

(2) Na aanwysing van 'n biosfeerreservaat moet 'n Bestuurskomitee op die voorgeskrewe wyse ingestel word om die Tussentydse Biosfeerreservaatkomitee te vervang.

(3) Met die instelling van die Bestuurskomitee word die funksies van die Tussentydse Biosfeerreservaatkomitee outomaties na die Bestuurskomitee oorgedra.

(4) Die Bestuurskomitee—

(a) is verantwoordelik vir die bestuur van die biosfeerreservaat, behoudens hierdie Wet en die bestuursbeginsels in subartikel (1) bedoel; 15

(b) moet op die voorgeskrewe wyse 'n grondwet vir die biosfeerreservaat opstel wat die voorgeskrewe besonderhede bevat;

(c) moet 'n jaarverslag oor sy aktiwiteite aan die Minister, munisipaliteite in wie se regsgebied die biosfeerreservaat geleë is en aangrensende munisipaliteite voorlê; en 20

(d) moet 'n raamwerkplan vir die biosfeerreservaat opstel.

(5) Die Minister moet van tyd tot tyd, en ten minste elke 10 jaar, met ingang van die aanwysing van 'n biosfeerreservaat die status, funksionering, doeltreffendheid en raamwerkplan van die biosfeerreservaat hersien volgens die tersaaklike oogmerke, strategieë en riglyne van die Mens en die Biosfeer-program en daaroor aan die nasionale Minister verslag doen. 25

Raamwerkplan vir biosfeerreservaat

6. (1) Die Bestuurskomitee moet so gou moontlik na sy aanstelling 'n ruimtelike plan (in hierdie Wet 'n raamwerkplan genoem) vir die biosfeerreservaat opstel in ooreenstemming met die prosesbeginsel van beplanning en die voorgeskrewe goedkeuringsprosedure. 30

(2) Die Minister kan voorwaardes bepaal, in ooreenstemming met die prosesbeginsel van beplanning, vir die wyse waarop die raamwerkplan opgestel moet word en konsepprodukte en die goedgekeurde plan bekend gemaak moet word, wat moet insluit voorwaardes met betrekking tot insae in konsepprodukte en vertoë deur enige belanghebbende en geaffekteerde partye, insluitende inwoners van die betrokke gebied, in die loop van die opstel van die raamwerkplan. 35

(3) Behoudens subartikel (4) moet die raamwerkplan voldoen aan en bestaanbaar wees met enige ruimtelike raamwerk of plan ingevolge enige wetgewing, insluitende enige— 40

(a) omgewingsimplementeringsplan of omgewingsbestuursplan bedoel in Hoofstuk 3 van die Wet op Nasionale Omgewingsbestuur, 1998 (Wet 107 van 1998);

(b) geïntegreerde bestuursplan bedoel in Hoofstuk IV van die Wet op die Wêrelderfeniskonvensie, 1999 (Wet 49 van 1999); 45

(c) geïntegreerde ontwikkelingsplan bedoel in artikel 25 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000);

(d) bestuursplan bedoel in Hoofstuk 4 van die Wet op Nasionale Omgewingsbestuur: Beskermdes Gebiede, 2003 (Wet 57 van 2003)², in soverre die biosfeerreservaat 'n bestaande spesiale natuurreservaat, nasionale park, natuurreservaat of beskermdes omgewing insluit soos in daardie Wet omskryf; 50

2. Vertaling van "National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003)". Hierdie Wet is nie in Afrikaans afgekondig nie.

- (e) nasionale biodiversiteitsraamwerk, biostreekplan of biodiversiteitsbestuursplan bedoel in Hoofstuk 3 van die Wet op Nasionale Omgewingsbestuur: Biodiversiteit, 2004 (Wet 10 van 2004)³;
- (f) plan ingevolge die Wet op Nasionale Omgewingsbestuur: Geïntegreerde Kusbestuur, 2008 (Wet 24 van 2008)⁴; 5
- (g) plan ingevolge die Wet op Fisiese Beplanning, 1991 (Wet 125 van 1991); en
- (h) plan ingevolge Hoofstuk 1 van die Ordonnansie op Grondgebruikbeplanning.
- (4) Nieteenstaande subartikels (3) en (6) kan 'n raamwerkplan wat onbestaanbaar is met 'n raamwerk of plan in daardie subartikel bedoel, goedgekeur word in soverre dit meer beperkend as daardie raamwerk of plan is. 10
- (5) Die Bestuurskomitee moet binne 12 maande na aanwysing van die biosfeerreservaat, of die langer tydperk wat die Minister goedkeur, die raamwerkplan aan die Minister voorlê vir goedkeuring.
- (6) Indien die Minister die raamwerkplan goedkeur, word dit beskou as 'n plan wat ingevolge artikel 4(6) van die Ordonnansie op Grondgebruikbeplanning goedgekeur is. 15
- (7) Die Minister kan 'n raamwerkplan op die voorgeskrewe wyse wysig.
- (8) Afgesien van die aanstelling van die Bestuurskomitee en die opstel van die raamwerkplan mag geen verdere stappe voor die goedkeuring van die raamwerkplan gedoen word om die aanwysingsvoorwaardes van die biosfeerreservaat te implementeer nie. 20
- (9) Alle grondgebruike en grondgebruikplanne in 'n biosfeerreservaat moet voldoen aan of bestaanbaar wees met die betrokke raamwerkplan: Met dien verstande dat—
- (a) die bepalings van die raamwerkplan geen huidige grondgebruikregte wegneem nie;
- (b) indien 'n bestaande wettige grondgebruik nie voldoen nie aan of 25 onbestaanbaar is met 'n raamwerkplan ten tyde van die goedkeuring van die plan, daardie grondgebruik steeds beoefen kan word totdat dit vir ten minste twee jaar onderbreek word of totdat verdere bouplangoedkeuring vereis word, wat ook al die vroegste gebeur;
- (c) indien 'n grondgebruik in paragraaf (b) bedoel— 30
- (i) vir ten minste twee jaar onderbreek word; of
- (ii) verdere bouplangoedkeuring vereis, daar toegesien moet word dat die gebruik van die betrokke grond aan die raamwerkplan voldoen of daarmee bestaanbaar is; en
- (d) waar subparagraaf (ii) van paragraaf (c) van toepassing is, maar bykomende 35 bouplangoedkeuring na die mening van die betrokke munisipale bestuurder nie vir die doel van grondgebruik of gebou-uitbreiding vereis word nie, kan die munisipale bestuurder daardie bouplan goedkeur sonder om nakoming van paragraaf (c) te vereis.
- (10) Vrae rakende voldoening, bestaanbaarheid en ooreenstemming ten opsigte van 40 grondgebruik met betrekking tot 'n raamwerkplan, of ten opsigte van 'n raamwerkplan met betrekking tot planne of raamwerke ingevolge ander wetgewing, moet soos volg hanteer word:
- (a) Met betrekking tot 'n raamwerkplan wat ingevolge hierdie Wet bestaan—
- (i) voldoen 'n grondgebruik aan die raamwerkplan indien die aanwysing op 45 die raamwerkplan uitdruklik vir die betrokke grondgebruik voorsiening maak;
- (ii) is 'n grondgebruik met die raamwerkplan bestaanbaar indien die aanwysing op die raamwerkplan nie uitdruklik vir die betrokke grondgebruik voorsiening maak nie, maar die grondgebruik op die 50 bepaalde plek nie met die oogmerke van die aanwysing sal bots nie; en
- (iii) mag 'n voorgestelde grondgebruik wat nie aan die raamwerkplan voldoen nie of onbestaanbaar daarmee is, nie goedgekeur word nie, tensy die raamwerkplan gepas gewysig word, hetsy voor die betrokke goedgekeuring of gelyktydig daarmee. 55
- (b) Met betrekking tot 'n raamwerkplan wat ingevolge hierdie Wet goedgekeur, hersien of gewysig word—

3. Vertaling van “*National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004)*”. Hierdie Wet is nie in Afrikaans afgekondig nie.

4. Vertaling van “*National Environmental Management: Integrated Coastal Management Act, 2008 (Act 24 of 2008)*”. Hierdie Wet is nie in Afrikaans afgekondig nie.

- (i) voldoen die raamwerkplan aan 'n hoërvlak-raamwerk of plan wat ingevolge ander wetgewing bestaan en op 'n hoër vlak funksioneer met betrekking tot die raamwerkplan, indien die aanwysings van die hoërvlak-raamwerk of plan uitdruklik vir die voorstelle van die laervlak-raamwerkplan voorsiening maak; 5
- (ii) is die raamwerkplan bestaanbaar met 'n hoërvlak-raamwerk of plan wat ingevolge ander wetgewing bestaan en op 'n hoër vlak funksioneer met betrekking tot die raamwerkplan, indien die aanwysings van die hoërvlak-raamwerk of plan nie uitdruklik vir die voorstelle van die laervlak-raamwerkplan voorsiening maak nie, maar daardie voorstelle op die bepaalde plekke nie met die oogmerke van die betrokke aanwysings sal bots nie; en 10
- (iii) moet die raamwerkplan voldoen aan of bestaanbaar wees met 'n hoërvlak-raamwerk of plan wat ingevolge ander wetgewing bestaan en op 'n hoër vlak funksioneer met betrekking tot die raamwerkplan, en mag dit nie goedgekeur, hersien of gewysig word nie op 'n manier wat nie voldoen nie aan of onbestaanbaar is met 'n hoërvlak-raamwerk of plan wat ingevolge ander wetgewing bestaan en op 'n hoër vlak funksioneer met betrekking tot die raamwerkplan, tensy die hoërvlak-raamwerk of plan, gepas gewysig word ingevolge die betrokke wetgewing, hetsy voor die betrokke goedkeuring, hersiening of wysiging of gelyktydig daarmee. 15
- (c) Met betrekking tot 'n raamwerkplan wat ingevolge hierdie Wet bestaan— 20
- (i) voldoen 'n raamwerk of plan wat ingevolge ander wetgewing bestaan en op 'n laer vlak funksioneer met betrekking tot die raamwerkplan, aan die raamwerkplan indien die aanwysings van die raamwerkplan uitdruklik voorsiening maak vir die voorstelle van die laervlak-raamwerk of plan; 25
- (ii) is 'n raamwerk of plan wat ingevolge ander wetgewing bestaan en op 'n laer vlak funksioneer met betrekking tot die raamwerkplan, bestaanbaar met die raamwerkplan indien die aanwysings van die raamwerkplan nie uitdruklik voorsiening maak nie vir die voorstelle van die laervlak-raamwerk of plan, maar daardie voorstelle op die bepaalde plekke nie met die oogmerke van die betrokke aanwysings sal bots nie; 30
- (iii) moet 'n raamwerk of plan wat ingevolge ander wetgewing beoog word en bedoel is om op 'n laer vlak te funksioneer met betrekking tot die raamwerkplan, voldoen aan of bestaanbaar wees met die raamwerkplan, en mag dit nie goedgekeur word nie tensy die raamwerkplan gepas gewysig word, hetsy voor die betrokke goedkeuring of gelyktydig daarmee; en 35
- (iv) moet 'n raamwerk of plan wat ingevolge ander wetgewing bestaan en op 'n laer vlak funksioneer met betrekking tot die raamwerkplan, voldoen aan of bestaanbaar wees met die raamwerkplan, en mag dit nie hersien of gewysig word nie op 'n manier wat nie voldoen nie aan of onbestaanbaar is met die raamwerkplan, tensy die raamwerkplan gepas gewysig word, hetsy voor die betrokke hersiening of wysiging of gelyktydig daarmee. 40 45
- (11) Wanneer daar 'n geskil ontstaan oor bestaanbaarheid, moet die aangeleentheid na die Minister verwys word vir 'n beslissing.

Uitbreiding van biosfeerreservaat

7. (1) Die Bestuurskomitee van 'n biosfeerreservaat kan te eniger tyd aansoek doen vir die uitbreiding van die reservaat. 50
- (2) 'n Aansoek vir die uitbreiding van 'n biosfeerreservaat volg dieselfde prosedure as wat in artikel 4 vir nuwe aanwysings voorgeskryf word.
- (3) Vir doeleindes van subartikel (2) verrig die Bestuurskomitee die funksies wat by artikel 4 aan die Tussentydse Biosfeerreservaatkomitee opgedra is.

Befondsing van biosfeerreservaat

8. (1) Die Minister kan, in ooreenstemming met 'n bewilliging deur die Provinsiale Parlement van die Wes-Kaap, finansiële of ander bystand verleen ten opsigte van die instelling, bedryf, bestuur of uitbreiding van, of ten opsigte van bewaring binne, 'n biosfeerreservaat. 55

(2) Die bystand kan onderhewig gestel word aan voorwaardes wat deur die Minister bepaal word met instemming van die lid van die provinsiale Kabinet verantwoordelik vir finansies.

Delegering

9. (1) Die Minister kan behoudens subartikel (7) enige bevoegdheid of funksie aan 'n beampte in die Departement delegeer om dit namens hom of haar uit te oefen of te verrig. 5

(2) Enige delegasie in subartikel (1) bedoel, kan onderhewig gestel word aan sodanige bepalinge, voorwaardes en beperkings wat die Minister kan bepaal.

(3) Die Minister word nie ontnem van enige bevoegdheid wat deur hom of haar gedelegeer word nie. 10

(4) 'n Delegasie ingevolge hierdie artikel kan 'n beampte in die Departement magtig om al of enige van die gedelegeerde bevoegdhede of funksies verder te delegeer.

(5) Enige persoon wat gegrief voel deur 'n besluit wat kragtens 'n gedelegeerde bevoegdheid of funksie in subartikel (1) bedoel geneem is, het 'n reg tot appèl na die Minister teen die besluit op die voorgeskrewe wyse en binne die voorgeskrewe tydperk. 15

(6) Die Minister kan enige delegasie wysig of intrek.

(7) Die Minister mag nie sy of haar bevoegdhede ingevolge artikel 5(1) of artikel 10 delegeer nie.

Regulasies

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10. (1) Die Minister kan regulasies uitvaardig betreffende—

(a) enige aangeleentheid wat ingevolge hierdie Wet voorgeskryf kan of moet word;

(b) beginsels vir die bestuur van biosfeerreservate; en

(c) enige aangeleentheid wat nodig of wenslik is om voorgeskryf te word vir die implementering van hierdie Wet. 25

Bestaande biosfeerreservate

11. (1) Die bestuur van 'n biosfeerreservaat wat op die datum van inwerkingtreding van hierdie Wet in die Provinsie bestaan, moet binne drie maande na daardie datum—

(a) 'n Bestuurskomitee op die voorgeskrewe wyse aanstel; en 30

(b) sy funksies na die Bestuurskomitee oordra.

(2) Die Bestuurskomitee moet binne 12 maande na sy aanstelling, of 'n langer tydperk deur die Minister goedgekeur, 'n raamwerkplan vir die biosfeerreservaat aan die Minister voorlê ooreenkomstig artikel 6.

Kort titel en inwerkingtreding

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12. Hierdie Wet heet die Wes-Kaapse Wet op Biosfeerreservate, 2011, en tree in werking op 'n datum deur die Premier by proklamasie in die *Provinsiale Koerant* bepaal.

MEMORANDUM OOR OOGMERKE VAN DIE WES-KAAPSE WETSONTWERP OP BIOSFEERRESERVATE, 2011

1. INLEIDING

Die Wes-Kaapse Wetsontwerp op Biosfeerreservate (die Wetsontwerp) maak voorsiening vir die voorlopige vestiging, goedkeuring en beskerming van biosfeerreservate in die Wes-Kaap. Dit maak ook voorsiening vir die bestuur van verklaarde biosfeerreservate deur middel van die ontwikkeling van raamwerkplanne en om te verseker dat enige ontwikkeling in die verklaarde biosfeerreservaat op 'n volhoubare wyse bestuur en onderneem word in ag genome die doel van 'n biosfeerreservaat. Dit maak ook voorsiening vir verbandhoudende aangeleenthede.

2. OOGMERKE EN DOELWITTE VAN WETSONTWERP

Klousule 1

Hierdie klousule verwys na die volgende definisies:

- “Bestuurskomitee”;
- “biosfeerreservaat”;
- “Departement”;
- “hierdie Wet”;
- “hoër vlak”;
- “laer vlak”;
- “Mens en die Biosfeer-kriteria”;
- “Mens en die Biosfeer-program”;
- “Minister”;
- “nasionale Minister”;
- “Ordonnansie op Grondgebruikbeplanning”;
- “prosesbeginsel van beplanning”;
- “Provinsie”;
- “raamwerkplan”;
- “staatsorgaan”;
- “Tussentydse Biosfeerreservaatkomitee”;
- “UNESCO”; en
- “voorgeskryf” of “voorgeskrewe”.

Klousule 2

Hierdie klousule beskryf die doel van die Wetsontwerp en dek die volgende aspekte:

- (a) Die beskerming van gebiede van hoë biodiversiteitswaarde en ekologiese belangrikheid in die Wes-Kaap as biosfeerreservate;

- (b) voorsiening vir provinsiale statutêre beskerming van biosfeerreservate in die Wes-Kaap;
- (c) die bestuur van ontwikkeling in biosfeerreservate ingevolge die beginsels van volhoubare ontwikkeling deur die ontwikkeling, toepassing en afdwinging van die vereiste raamwerkplan; en
- (d) die insluiting van die behoefte aan en doel van biosfeerreservate en die tipe toelaatbare ontwikkeling in en om sulke biosfeerreservate, in enige ruimtelike ontwikkelingsbesluit in die Wes-Kaap.

Klousule 3

Hierdie klousule beskryf die proses vir die voorlopige goedkeuring vir die vestiging van 'n biosfeerreservaat en dek die volgende aspekte:

- (a) Wie aansoek vir die vestiging van 'n biosfeerreservaat kan doen;
- (b) die formaat vir 'n aansoek;
- (c) openbare deelname;
- (d) die vestiging van 'n Tussentydse Biosfeerreservaatkomitee; en
- (e) die samestelling van die Tussentydse Biosfeerreservaatkomitee.

Klousule 4

Hierdie klousule sit die prosedure uiteen vir die opstel van 'n aansoek vir United Nations Educational, Scientific and Cultural Organisation (UNESCO) aanwysing as 'n biosfeerreservaat en spreek die volgende aan:

- (a) Die voorgeskrewe UNESCO formaat;
- (b) die tydsraamwerk vir die indiening van 'n aansoek by die Minister;
- (c) die voorsiening wat gemaak word vir die verlenging van tyd om die aansoek in te dien;
- (d) die aanstuur van die aansoek na die nasionale Minister vir indiening by UNESCO; en
- (e) die plasing van 'n kennisgewing in die *Provinsiale Koerant* ten opsigte van die aanwysing van die biosfeerreservaat deur UNESCO.

Klousule 5

Hierdie klousule spreek die bestuur van biosfeerreservate aan en dek die volgende:

- (a) Die behoorlike bestuur van 'n biosfeerreservaat in ooreenstemming met die voorgeskrewe bestuursbeginsels;
- (b) die instelling van 'n bestuurskomitee (BK) om die Tussentydse Biosfeerreservaatkomitee te vervang;
- (c) die oordra van funksies van die Tussentydse Biosfeerreservaatkomitee na die BK;
- (d) die funksies van die BK;
- (e) die opstel van 'n grondwet vir die biosfeerreservaat op die voorgeskrewe wyse;
- (f) die voorlegging van 'n jaarverslag oor die biosfeerreservaat se aktiwiteite aan die Minister en munisipaliteite;
- (g) die opstel van 'n raamwerkplan vir die biosfeerreservaat; en
- (h) die hersiening van die aktiwiteite en raamwerkplan van 'n biosfeerreservaat.

Klousule 6

Hierdie klousule spreek die opstel van 'n raamwerkplan vir 'n biosfeerreservaat aan en dek die volgende:

- (a) Die vereiste vir die BK om, kort na aanstelling, 'n raamwerkplan vir die biosfeerreservaat op te stel;
- (b) die voorwaardes vir die opstel van 'n raamwerkplan, met verwysing na openbare deelname, advertering, die inlynbringing met ander ruimtelike ontwikkelingsraamwerke en ander ruimtelike planne;
- (c) die tydsraamwerk waarbinne 'n raamwerkplan aan die Minister vir goedkeuring voorgelê moet word;
- (d) die goedkeuring of wysiging van die raamwerkplan;
- (e) die prioriteit van die raamwerkplan bo ander aktiwiteite van die BK; en

- (f) die verskeie aspekte van bestaanbaarheid en voldoening tussen raamwerkplanne en ander ruimtelike planne.

Klousule 7

Hierdie klousule spreek aspekte ten opsigte van die uitbreiding van biosfeerreservate aan en dek die volgende:

- (a) Die aansoek vir die uitbreiding van die biosfeerreservaat;
- (b) die aansoekprosedure; en
- (c) die funksies van die BK.

Klousule 8

Hierdie klousule spreek die befondsing van 'n biosfeerreservaat aan en maak voorsiening vir die verlening van finansiële bystand deur die Provinsiale Regering aan 'n biosfeerreservaat vir verskeie doeleindes, asook die bepaling van voorwaardes gekoppel aan die toekenning.

Klousule 9

Ingevolge hierdie klousule mag die Minister, behoudens subartikel (7), enige mag of funksie aan 'n beampte in die Departement delegeer, om namens hom of haar uit te voer.

Klousule 10

Ingevolge hierdie klousule mag die Minister regulasies opstel betreffende enige aangeleentheid wat voorgeskryf moet of mag word ingevolge die Wet, asook beginsels vir die bestuur van biosfeerreservate.

Klousule 11

Ingevolge hierdie klousule moet bestaande biosfeerreservate binne drie maande na inwerkingtreding van hierdie Wet 'n BK in ooreenstemming met die voorgeskrewe wyse aanstel, funksies aan die BK oordra, asook 'n raamwerkplan aan die Minister voorlê.

3. RAADPLEGING

Die publikasiedatum van die Konsepwetsontwerp was 11 September 2009, met 27 November 2009 as die sluitingsdatum vir kommentaar. 'n Totaal van 10 stelle skriftelike kommentaar is ontvang. In die opstel van die Konsepwetsontwerp het die Departement van Omgewingsake en Ontwikkelingsbeplanning die volgende rolspelers geraadpleeg:

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

4. FINANSIËLE IMPLIKASIES VIR STAAT

Die finansiële implikasies van die Wetsontwerp word deur die bestaande operasionele begroting van die Departement gedek.

5. REGSBEVOEGDHEID

Die provinsiale minister verantwoordelik vir omgewingsake en ontwikkelingsbeplanning in die Wes-Kaap is tevrede dat al die bepalings in die Wetsontwerp binne die Provinsie se wetlike bevoegdheid val.

UMTHETHO OYILWAYO

Ukwenza lula ukumiselwa nokulawulwa Koovimba bendalo ephilayo kwiPhondo laseNtshona Koloni; ukulawula ukusetyenziswa komhlaba koovimba ngokuhlanganisela kubhalwe phantsi izicwangciso nkqubo; nokubonelela ngemicimbi ehamba noku.

KUWISWA UMTHETHO yiPalamente yePhondo kwiPhondo laseNtshona Koloni, ngolu hlobo:—

Inkcazelo

1. Kulo Mthetho, ngaphandle kokuba umxholo ubonisa okunye—
 - “**emiselweyo**” kuthetha emiselwe ngummiselo ngokumalunga nalo Mthetho; 5
 - “**iKomiti eLawulayo**” ithetha ikomiti esekwe ngokumalunga necandelo 5(2);
 - “**iKomiti yeThutyana yooVimba beNdalo ePhilayo**” ithetha ikomiti esekwe ngokumalunga necandelo 3(4);
 - “**inkqubo yokucwangcisa umthetho**” ithetha umthetho-siseko ekuthi malunga nawo kuhlanganiswe kubhalwe isicwangciso ngezigaba ngale ndlela ilandelayo— 10
 - (a) ngokuyila amaxwebhu amabini okanye ngaphezulu ngokulandelelana kwawo, kuxelwa iinjongo ezifanelekileyo, iingxaki, imicimbi, imigaqo-nkqubo kunye neendlela zokwenza, ngeli xa kuqhutyelwa phambili kusukwa kwebhalwe ngokubanzi kuxwebhu lokuqala ukuya kolucacisiweyo lokugqibela; kunye 15
 - (b) nokungenisa uxwebhu ngalunye ukuze abathathi nxaxheba bafake amanqaku ukuze nomenzi sigqibo aphinde alujonge phambi kokuhlanganisa ebhala isicwangciso esiyilwayo esiza kubhengezwa.
 - “**iPhondo**” lithetha iPhondo laseNtshona Koloni ;
 - “**iSebe**” ithetha isebe lephondo elinoxanduva lokucwangcisa ukusetyenziswa 20 komhlaba kwiPhondo;
 - “**isicwangciso-nkqubo**” sithetha isicwangciso sendawo esihlanganiswe sabhalelwa uvimba wendalo ephilayo ngokungqinelana necandelo 6;
 - “**iUNESCO**” ithetha uMbutho weZizwe eziManyeneyo weMfundo, ezoBugqi neNkcubeko, kwaye ibandakanya iQumrhu eliQuquzelelayo lamazwe ngamazwe 25 kunye neNkqubo yoMntu nendalo ephilayo.
 - “**lo Mthetho**” ubandakanya imimiselo eyenziwe phantsi kwalo Mthetho; kwaye “**umbutho karhulumente**” uthetha umbutho karhulumente njengoko uchazwe kwicandelo 239 loMgaqosiseko weRiphabliki yoMzantsi Afrika, 1996;
 - “**inqandaba eliphezulu**” ngokuphathelele kwisicwangciso nkqubo okanye 30 isicwangciso esisesinye esifanelekileyo, uthetha ummandla omkhulu oza kucwangciswa, kwaye udla ngokuba lucwangciso oluncinane kunolo lommandla wesicwangciso nkqubo okanye olunye ucwangciso olufanelekileyo;
 - “**inqanaba elisezantsi**” ngokumalunga nesicwangciso nkqubo okanye esinye isicwangciso esifanelekileyo esesinye kuthetha indawo encinane ecwangciswayo, 35 kwaye idla ngokuba yindawo ecwangcisayo enkulu kunaloo mmandla nesikali seso sicwangciso nkqubo okanye esinye isicwangciso esifanelekileyo.
 - “**Oovimba bendalo ephilayo**” kuthetha indawo emiselwe ukuba ibandakanywe liQumrhu eliQuquzelelayo lamazwe ngamazwe loMntu neNkqubo yendalo ephilayo kuMnatha weHlabathi wovimba wendalo ephilayo; 40

- “uMntu neenqobo zokuchaza uvimba wendalo ephilayo” kuthetha iinqobo zokuchaza eziqhelekileyo ezenza ummandla ufaneleke ukumiselwa njengovimba wendalo ephilayo, njengoko umiselwa nguMntu nenkqubo yendalo ephilayo;
- “Umntu neNkqubo yendalo ephilayo” kuthetha inkqubo ekuthi malunga novimba wendalo ephilayo isekwe yiUNESCO; 5
- “uMphathiswa” kuthetha ilungu leKhabhinethi yephondo laseNtshona Koloni elinoxanduva lokucwangcisa ukusetyenziswa komhlaba;
- “UMphathiswa wesizwe” uthetha uMphathiswa kurhulumente wesizwe onoxanduva lokulawula okusingqongileyo;
- “UMmiselo wokuCwangcisa ukuSetyenziswa koMhlaba” uthetha uMmiselo 10 wokuCwangciswa kokuSetyenziswa koMhlaba, 1985 (uMmiselo 15 wowe 1985);

Injongo yoMthetho

2. Injongo yoMthetho yile—

- (a) ukukhuthaza ukhuseleko lweendawo ezinezinto ezininzi ezahlukileyo eziphilayo nokubaluleka kwezinto eziphilayo neendawo eziphila kuzo kwiPhondo njengovimba wendalo ephilayo emiselweyo ngokumalunga neNkqubo yoMntu noVimba weNdalo ePhilayo; 15
- (b) ukubonelela ngokhuseleko lomthetho woovimba bendalo ephilayo, okanye oovimba bendalo ephilayo abacetywayo;
- (c) ukuqinisekisa ukuba naluphi na uphuhliso koovimba bendalo ephilayo luyenziwa kwaye kulawulwe ngendlela eqhubekayo kuthathelwa ingqalelo injongo yovimba bendalo ephilayo; 20
- (d) ukuqinisekisa ukuba naluphi na uphuhliso kuvimba wendalo ephilayo lulawulwa ngokuphathelele kumthetho siseko wokuhlala kuqhubeka, kophuhliso, ukwenziwa kwesicelo kunye nokwenziwa kusebenze isicwangciso nkqubo esifunekayo; kunye 25
- (e) nokuqinisekisa ukuba imfuneko nenjongo kaVimba wendalo ephilayo, kunye nohlobo lophuhliso ekufanele luvunyelwe kuvimba wendalo ephilayo nakufutshane nayo kufuneka ziqatshelwe xa kuthathwa nasiphi na isigqibo sophuhliso lwendawo esinokuchaphazela oovimba bendalo ephilayo. 30

Ukumphunyezwa kokuqala kokusekwa kovimba wendalo ephilayo

3. (1) Nawuphi na umntu, iqela labantu okanye umbutho karhulumente ungacela uMphathiswa ukuba aqale aphumeze ukusekwa kovimba wendalo ephilayo kwiPhondo.
- (2) Isicelo kufuneka sibhalwe ngendlela emiselwe nguMntu neNkqubo yoVimba weNdalo ephilayo kwaye kufuneka ibandakanye ukwakheka okucetywayo kweKomiti yeThutyana yovimba wendalo ephilayo ezihleli kuyo. 35
- (3) Phambi kokuba kungeniswe isicelo kuMphathiswa, kufuneka kwenziwe inkqubo yokuthatha inxaxheba koluntu okumiselweyo.
- (4) Ukuba uMphathiswa uyaphumeza isicelo kuqala, iKomiti yethutyana yoVimba weNdalo ephilayo kufuneka isekwe ngendlela emiselweyo kwaye phantsi kweemeko ezimiselwe nguMphathiswa. 40
- (5) IKomiti yethutyana yovimba wendalo ephilayo kufuneka imelwe ngokubanzi ngabo bonke abafanelekileyo abanomdla, ngamaziko nebandla liphela.

Ukwenza isicelo sokumiselwa yiUNESCO njengovimba wendalo ephilayo

4. (1) IKomiti yeThutyana yovimba wendalo ephilayo kufuneka ihlanganise yenze isicelo sokumiselwa koVimba wendalo ephilayo yi-UNESCO, ngendlela emiselwe yiNkqubo yoMntu noVimba wendalo ephilayo. 45
- (2) IKomiti yeThutyana yovimba wendalo ephilayo kufuneka, ingenise zingaphelanga iinyanga ezili 12 emva kokusekwa kwawo ngokumalunga necandelo 3(4) okanye ithuba elide eliphunyezwe nguMphathiswa kuMphathiswa ukuze siqwalaselwe. 50
- (3) Ukuba uMphathiswa akasivumi isicelo okanye akasifumani kwisithuba okanye kwithuba elandisiweyo ngokwecandelwana (2), isicelo kunye nokumphunyezwa okokuqala kokusekwa koVimba wendalo ephilayo kuyaphelelwa lixesha.
- (4) Ukuba uMphathiswa wanelisekile ukuba isicelo siyavumelana neenqobo zoMntu noVimba wendalo ephilayo ezifanelekileyo, uMphathiswa kufuneka isicelo asingenise kuMphathiswa weSizwe ukuze singeniswe kwi UNESCO. 55

(5) Ukuba iUNESCO imisela uvimba wendalo ephilayo, uMphathiswa kufuneka enze isaziso kwi*Gazethi yePhondo* malunga nokumiselwa aze ongeze ukuba amacandelo 5 nele 6 aya kusebenza.

Ulawulo lovimba wendalo ephilayo

5. (1) UMphathiswa kufuneka aqinisekise ukuba uvimba wendalo ephilayo ulawulwa kakuhle ngokuxhomekeke kwimithetho siseko emiselweyo nguMphathiswa nekufuneka ipapashwe kunye nesaziso esixelwa kwicandelo 4(5) okanye kufutshane nje emva koku. 5

(2) Emva kokumiselwa kovimba wendalo ephilayo, iKomiti eLawulayo kufuneka isekwe ngendlela emiselweyo ukuze ibesendaweni yeKomiti yeThutyana yovimba wendalo ephilayo. 10

(3) Emva kokusekwa kweKomiti eLawulayo, imisebenzi yeKomiti yeThutyana yovimba wendalo ephilayo inikezelwa kwiKomiti yokuLawula.

(4) Ikomiti eLawulayo—

(a) inoxanduva lokulawula uvimba wendalo ephilayo, ngokuxhomekeke kulo Mthetho kunye nemithetho siseko yokulawula ekuthethwa ngayo kwicandelwana (1); 15

(b) kufuneka bahlanganise umgaqo siseko wovimba wendalo ephilayo ngendlela emiselweyo kwaye eneenkcukacha ezimiselweyo;

(c) kufuneka ibonelele ngexelo yonyaka malunga nemisebenzi yayo kuMphathiswa, koomasipala ekuthe kwiindawo ezilawulwa ngabo kwabekwa uvimba wendalo ephilayo kunye noomasipala abakufutshane; kwaye 20

(d) ahlanganise abhale isicwangciso nkqubo sovimba wendalo ephilayo.

(5) UMphathiswa kufuneka ngamaxesha athile kwaye ubuncinane emva kweminyaka eli 10, ukususela ekumiselweni kovimba wendalo ephilayo, aphinde ajonge ubume, ukusebenza nokusebenza kakuhle nesicwangciso sovimba wendalo ephilayo ngokweenjongo ezifanelekileyo, iindlela zokusebenza kunye nezikhokelo zoMntu neNkqubo yovimba wendalo ephilayo, kwaye enze ingxelo kuMphathiswa wesizwe. 25

Isicwangciso-nkqubo sovimba wendalo ephilayo

6. (1) IKomiti eLawulayo kufuneka, ngokufutshane emva kokunyulwa kwayo, silungise isicwangciso sendawo yokuhlala (kulo Mthetho ekuthiwa sisicwangciso nkqubo) sovimba wendalo ephilayo ngokumalunga nesicwangciso senkqubo yomthetho siseko kunye nendlela yokuphumeza izicelo emiselweyo.

(2) UMphathiswa angamisela iimeko, ngokumalunga nenkqubo yokucwangcisa umthetho siseko, ngendlela ekuthi ngayo isicwangciso nkqubo siyilwe, kwaye imveliso yoyilo yaziswe, ekufuneka ibandakanye iimeko ezimalunga nokuhlolwa kwemveliso yoyilo kunye nomelo naziziphi iziphathamandla ezinomdla nezichaphazelekayo kubandakanywa abemi bendawo leyo echaphazelekayo, ngexesha kulungiselelwa isicwangciso-nkqubo. 35

(3) Ngokuxhomekeke kwicandelwana (4), isicwangciso nkqubo kufuneka singqinelane kwaye sivumelane nasiphi na isakhelo sendawo okanye isicwangciso ngokumalunga nawo nawuphi na umthetho, kubandakanywa nasiphi na isicwangciso— 40

(a) isicwangciso sokusebenza Sezokusingqongileyo okanye isicwangciso sokulawula okusingqongileyo ekuthethwa ngaso kwiSahluko 3 soMthetho weSizwe wokuLawula okusiNgqongileyo, 1998 (uMthetho 107 wowe 1998); 45

(b) isicwangciso sokulawula esihlangeneyo esixelwe kwiSahluko IV soMthetho weNgqungquthela yeLifa leHlabathi, 1999 (uMthetho 49 wowe 1999);

(c) isicwangciso sophuhliso esihlangeneyo ekuthethwa ngaso kwicandelo 25 loMthetho kaRhulumente wamaPhandle: Iinkqubo zooMasipala, 2000 (UMthetho 32 wowe 2000); 50

(d) isicwangciso sokulawula ekuthethwa ngaso kwiSahluko 4 soMthetho weSizwe wokuLawulwa kokusiNgqongileyo: iiNdawo ezikhuselekileyo, 2003 (UMthetho 57 wowe 2003), njengoko uvimba wendalo ephilayo unokubandakanya ummandla wendalo owodwa okhoyo, kwipaka yesizwe, ummandla wendalo okanye indawo ekhuselekileyo njengoko ichazwe kuloo Mthetho; 55

- (e) isakhelo sesizwe sendawo zezinto eziphilayo ezahlukileyo okanye isicwangciso sokulawula iindawo zezinto eziphilayo ezahlukileyo ezikhankanywe kwiSahluko 3 soMthetho weSizwe wokuLawula okusiNgqongileyo: uMthetho wezinto eziphilayo ezahlukileyo (uMthetho 10 wowe 2004); 5
- (f) ukucwangcisa phantsi koMthetho woLawulo lokusiNgqongileyo: uMthetho Wolawulo Olumanyeneyo Lonxweme, 2008 (uMthetho 24 wowe 2008);
- (g) ukucwangcisa phantsi koMthetho wokuCwangciswa kweNkangeleko yoMhlaba, 1991 (uMthetho 125 wowe 1991); kwakunye
- (h) nokucwangcisa phantsi kweSahluko 1 soMthetho wokuCwangcisa ukuSetyenziswa koMhlaba. 10
- (4) Nangona amacandelwana (3) nele (6), isicwangciso-nkqubo esiguquguqukayo esi sakhelo okanye isicwangciso-nkqubo esixelwe kwicandelwana singaphunyezwa kangangoko sithintela isicwangciso-nkqubo okanye sicwangciso.
- (5) IKomiti yoLawulo kufuneka zingaphelanga inyanga ezili 12 emva kokumiselwa kovimba wendalo ephilayo, okanye emva kwexesha elide eliphunyezwe nguMphathiswa, ingenise isicwangciso-nkqubo kuMphathiswa asiphumeze. 15
- (6) Ukuba uMphathiswa uyasiphumeza isicwangciso-nkqubo, sithathwa ngokuba sisicwangciso nkqubo esiphunyezwe ngokumalunga necandelo 4(6) noMmiselo wokuCwangcisa ukuSetyenziswa koMhlaba (7) UMphathiswa unokufakela imibandela kwisicwangciso-nkqubo ngendlela emiselweyo. 20
- (8) Ngaphandle kokunyulwa kweKomiti yokuLawula nokulungiselelwa kwesicwangciso-nkqubo, akukho manyathelo wambi aya kuthathwa ukwenza kusebenze iimeko zokumisela uvimba wendalo ephilayo phambi kokuba kuphunyezwe isicwangciso. 25
- (9) Konke ukusetyenziswa komhlaba nezicwangciso zokusetyenziswa komhlaba kuvimba wendalo ephilayo kufuneka kuvumelane okanye kungqinelane nesicwangciso nkqubo: Ukuba—
- (a) izibonelelo zesicwangciso-nkqubo azisusi la malungelo akhoyo okusetyenziswa komhlaba; 30
- (b) ukusetyenziswa komhlaba okusemthethweni kuvumelana okanye kungqinelana nesicwangciso-nkqubo ngexesha lokuphunyezwa kwesicwangciso, ukuba ukusetyenziswa komhlaba kungaqhubeka de kuphazanyiswe ubuncinane iminyaka emibini okanye de kufunike ukuba kuphunyezwe esinye isicwangciso sesakhiwo, nayiphi na eyenzeka kuqala; 35
- (c) xa ukusetyenziswa komhlaba okukhankanywe kumhlathi (b)—
- (i) kunokuphazanyiswa ubuncinane iminyaka emibini; okanye
- (ii) kufuna kuphunyezwe isicwangciso sokwakha esisesinye, Ukusetyenziswa kwaloo mhlaba kuthethwa ngawo kufuneka kwenziwe kuvumelane nesicwangciso nkqubo; kwaye 40
- (d) apho umhlathana (ii) womhlathi (c) usebenza khona, kodwa ngokoluvo lomphathi kamasipala ochaphazelekayo ukuphunyezwa kwesicwangciso sokwakha esongezelelweyo singafuneki nganto kwinjongo yokusetyenziswa komhlaba okanye yokwandisa isakhiwo, esinesicwangciso sokwakha esinokuphunyezwa ngumphathi kamasipala ngaphandle kokufuna ukuvumelana nomhlathi (c). 45
- (10) Imibuzo enxulumene nokungqinelana, nokulungelelana nokuvumelana ngokumalunga nokusetyenziswa komhlaba ngokunxulumene nesicwangciso-nkqubo, okanye ngokumalunga nesicwangciso-nkqubo ngokunxulumene nezicwangciso okanye izakhelo phantsi komnye umthetho, kufuneka zisetyenzwe ngolu hlobo: 50
- (a) Ngokuphathelele kwisicwangciso senkqubo esikhoyo ngokumalunga nalo Mthetho—
- (i) ukusetyenziswa komhlaba kuvumelana nesicwangciso-nkqubo ukuba ukumiselwa kwisicwangciso nkqubo kokusetyenziswa komhlaba ochaphazelekayo kubonelelwa ngokucacileyo; 55
- (ii) ukusetyenziswa komhlaba kungqinelana nesicwangciso-nkqubo ukuba ukumiselwa okukwisicwangciso nkqubo akuboneleli ngokucacileyo ukusetyenziswa komhlaba ochaphazelekayo, kodwa ukusetyenziswa komhlaba kwindawo ethile akuphazamisani neenjongo zokumiselwa; kwaye 60

- (iii) ukusetyenziswa komhlaba okucetywayo okungavumelani okanye okungangqinelani nesciwangciso nkqubo kungangaphunyezwa, ngaphandle kokuba isicwangciso nkqubo sifakelwe imibandela ngokufanelekileyo, nokuba kuphambi kokuphunyezwa okuchaphazelekayo okanye ngaxeshanye noko. 5
- (b) Ngokuphathelele kwisicwangciso esiphunyezwayo, esiphinda sisetyenzwe okanye esifakelwa imibandela kulo Mthetho—
- (i) isicwangciso-nkqubo sivumelana nesakhelo somgangatho ophezulu okanye isicwangciso esikhoyo phantsi komnye umthetho kwaye esisebenza kumgangatho ophezulu ngokunxulumene nesciwangciso nkqubo, ukuba izikhundla zomgangatho ophezulu okanye isicwangciso sibonelela ngokucacileyo kwizindululo zomgangatho osezantsi kwisicwangciso-nkqubo; 10
- (ii) isicwangciso-nkqubo sihambelana nesciwangciso-nkqubo somgangatho ongasentla okanye isicwangciso esikhoyo phantsi komnye umthetho kwaye sisebenza kumgangatho ophezulu ngokunxulumene nesciwangciso nkqubo, ukuba izikhundla ezikhoyo zesakhelo somgangatho ophezulu okanye zesciwangciso aziboneleli ngokucacileyo izindululo zesciwangciso nkqubo somgangatho osezantsi, kodwa ezo zindululo kwiindawo ezithile zingasayi kuthintela iinjongo zezikhundla ezichaphazelekayo; kwaye 15 20
- (iii) isicwangciso-nkqubo kufuneka sivumelane okanye silungelelane nesciwangciso nkqubo somgangatho ophezulu okanye isicwangciso esikhoyo phantsi komthetho ongomnye kwaye usebenza kumgangatho ophezulu ngokunxulumene nesciwangciso-nkqubo, kwaye unokungaphunyezwa, ungaphindi ujongwe okanye ufakelwe imibandela ngendlela engavumelani okanye engangqinelani nesciwangciso nkqubo somgangatho ophezulu okanye isicwangciso esikhoyo phantsi komnye umthetho kwaye sisebenza ngokunxulumene nesciwangciso nkqubo ngaphandle kokuba isakhelo somgangatho ophezulu okanye isicwangciso sifakelwe imibandela ngokufanelekileyo phantsi komthetho ochaphazelekayo, phambi kokuba siphunyezwe, siphinde silungiswe okanye sifakelwe imibandela echaphazelekayo okanye ngaxeshanye kuyo. 25 30
- (c) Ngokuphathelele kwisicwangciso nkqubo esikhoyo ngokumalunga nalo Mthetho— 35
- (i) Isicwangciso nkqubo okanye isicwangciso esikhoyo phantsi komnye umthetho kwaye usebenza kumgangatho osezantsi ngokunxulumene nesciwangciso nkqubo, uvumelana nesciwangciso-nkqubo ukuba imimiselo yesicwangciso nkqubo ibonelela ngokucacileyo ngezindululo ezikumgangatho osezantsi wesakhelo okanye isicwangciso; 40
- (ii) isakhelo okanye isicwangciso esikhoyo phantsi komnye umthetho kwaye sisebenza kumgangatho osezantsi ngokunxulumene nesciwangciso nkqubo, siyafana nesciwangciso-nkqubo ukuba izikhundla zesciwangciso nkqubo aziboneleli ngokucacileyo ngezindululo zomgangatho osezantsi wesicwangciso-nkqubo, kodwa ezo zindululo kwiindawo ezithile zingathintelani neenjongo zezikhundla ezichaphazelekayo; 45
- (iii) isakhelo okanye isicwangciso esikhoyo phantsi komnye umthetho kwaye sisebenza kumgangatho osezantsi ngokunxulumene nesciwangciso nkqubo kufuneka sivumelane okanye silungelelane nesciwangciso nkqubo, kwaye asinakuphunyezwa ngaphandle kokuba isicwangciso nkqubo sifakelwa imibandela ngokufanelekileyo, phambi kokuphunyezwa okuchaphazelekayo okanye ngaxeshanye noko; kunye 50
- (iv) isakhelo okanye isicwangciso esikhoyo phantsi komnye umthetho kwaye sisebenza kumgangatho osezantsi ngokunxulumene nesciwangciso nkqubo kufuneka zivumelane okanye zilungelelane nesciwangciso nkqubo kwaye azinakuphinda zilungiswe okanye zifakelwe imibandela ngendlela engavumelani okanye engangqinelani nesciwangciso-nkqubo ngaphandle kokuba isicwangciso nkqubo sifakelwe imibandela ngokufanelekileyo, phambi kokuphunyezwa okuchaphazelekayo okanye ngaxeshanye noko; kwakunye. 55 60

(11) Xa kuvela imbambano emalunga nokungaguququkiyo, umcimbi kufuneka uthunyelwe kuMphathiswa ukuba uye kugqitywa khona.

Ukwandiswa kovimba wendalo ephilayo

7. (1) IKomiti eLawulayo yovimba wendalo ephilayo ingathi nangaliphi na ixesha yenze isicelo sommandla. 5

(2) Isicelo sokwandiswa kovimba wendalo ephilayo silandela kwale ndlela njengoko ichazwe kwicandelo 4 xa kusenzelwa unyulo olutsha.

(3) Ukulungiselela iinjongo zecandelwana (2), iKomiti eLawulayo kufuneka yenze imisebenzi eyabelwa iKomiti yeThutyana yovimba wendalo ephilayo ngokweCandelo 4. 10

Ukwabelwa ingxowamali kovimba wendalo ephilayo

8. (1) UMphathiswa angathi, ngokungqinelana nolwabiwo mali lwePalamente yePhondo laseNtshona Koloni, anike uncedo lwemali ngokumalunga nokuseka, nokusebenza, nokuphathwa okanye ukwandiswa okanye ngokumalunga nolondolozo lovimba wendalo ephilayo. 15

(2) Uncedo lungenziwa phantsi kweemeko ezimiselwe nguMphathiswa ngokuvumelana nelungu leKhabhineth yePhondo elinoxanduva ngezemali.

Ukugunyazisa/ukuthuma

9. (1) UMphathiswa ngokuxhomekeke kwicandelwana (7), angathuma naliphi na igunya okanye umsebenzi igosa elikwiSebe ukuba lenze okanye lisebenze endaweni yakhe. 20

(2) Naluphi na ugunyaziso ekuthethwa ngalo kwicandelwana (1) lungenziwa ngokuxhomekeke kwezo zigqibo, meko nezithintelo njengoko uMphathiswa enokumisela.

(3) UMphathiswa akanakho ukuhluthwa naliphi na igunya eligunyaziswe nguye. 25

(4) Ugunyaziso ngokumalunga neli candelo lungagunyazisa igosa kwiSebe ukuba lithume/ligunyazise nalo onke nawaphi na amagunya okanye imisebenzi.

(5) Nawuphi na umntu ohlungiswe sisigqibo esithathwe malunga negunya elinikweyo okanye ngumsebenzi ekuthethwa ngawo kwicandelwana (1), unelungelo lokubhena kuMphathiswa echasa isigqibo ngendlela kwaye kwithuba elimiselweyo. 30

(6) UMphathiswa angafakela imibandela okanye arhoxise naluphi na unyulo.

(7) UMphathiswa angangawanikeli amagunya akhe ngokumalunga necandelo 5(1) okanye icandelo 10.

Imimiselo

10. (1) UMphathiswa angenza imimiselo ngokuphathelele— 35

(a) nakuwuphi na umcimbi ekufuneka okanye onokumiselwa ngokumalunga nalo Mthetho;

(b) kwimigaqo yokuphathwa koovimba bendalo ephilayo; kunye

(c) nawuphi na umcimbi ofunekayo okanye ekufuneka umiselwe ngokukhawuleza ukuze kwenziwe kusebenze lo Mthetho. 40

(2) Imimiselo enokuba neendleko kwiPhondo inokwenziwa kuphela ngokuvumelana nelungu leKhabhinethi yePhondo enoxanduva lwezeMali.

Oovimba bendalo ephilayo abakhoyo

11. (1) Ukulawulwa kovimba wendalo ephilayo ekhoyo kwiPhondo ngomhla wokuqalisa ukusebenza kwalo Mthetho kufuneka zingaphelanga iinyanga ezintathu emva kwalo mhla— 45

(a) anyule iKomiti yokuLawula ngendlela emiselweyo; aze

(b) agqithisele imisebenzi yayo kwiKomiti yoLawulo.

(2) IKomiti eLawulayo kufuneka zingaphelanga iinyanga ezili 12 emva kokunyulwa kwayo okanye ithuba elide eliphunyezwe nguMphathiswa, ingenise isicwangciso-nkqubo sovimba wendalo ephilayo kuMphathiswa ngokuphathelele kwicandelo 6. 50

Isihloko esifutshane nomhla wokuqala ukusebenza

12. Lo Mthetho ubizwa ngokuba nguMthetho wooVimba weNdalo ePhilayo weNtshona Koloni, 2011, kwaye uya kuqala ukusebenza ngomhla omiselwe yiNkulumbuso ngesibhengezo *kwiGazethi yePhondo*.

**IMEMORANDAM ECACISA NGEENJONGO ZOMTHETHO
OSAYILWAYO WOOVIMBA BENDALO EPHILAYO WENTSHONA
KOLONI, 2011**

1. INTSHAYELELO

Umthetho oYilwayo wooVimba beNdalo ePhilayo weNtshona Koloni (uMthetho oYilwayo) uyalela ukuba kusekwe, kuphunyezwe yaye kukhuselwe kwangaphambili oovimba bendalo ephilayo eNtshona Koloni. Ukwayalela nolawulo lweendawo ezalathwe njengoovimba bendalo ephilayo eNtshona Koloni ngokuthi kuphuhlise izicwangciso zezicwangciso-nkqubo; ukuqinisekisa ukuba uphuhliso kiindawo ezalathwe njengoovimba bendalo ephilayo luthi lwenziwe yaye lulawulwe ngendlela ezinzileyo kuthathelwa ingqalelo injongo yovimba wendalo ephilayo. Ukwalungiselela neminye imiba eyongezelela koko.

2. IINJONGO ZAMACANDELO

Isiqendu 1

Eli candelo libhekiselele kwezi nkcazelo zilandelayo:

- “uvimba wendalo ephilayo”;
- “Ikomiti yeThutyana yoVimba weNdalo ePhilayo”;
- “Isebe”;
- “isicwangciso sesicwangciso-nkqubo”;
- “inqanaba eliphezulu”;
- “Umthetho wePhondo woCwangciso loSetyenziso loMhlaba”;
- “inqanaba elisezantsi”;
- “IKomiti yoLawulo”;
- “Abantu nokuphambili kwiNdalo ephilayo”;
- “UMphathiswa”;
- “UMphathiswa wesizwe”;
- “Isiseko sombuso”;
- “okumiselweyo”;
- “indlela yenkqubo yocwangciso”;
- “IPhondo”;
- “Lo Mthetho”; kunye
- “neUNESCO”.

Isiqendu 2

Esi siqendu sichaza injongo yomthetho oYilwayo yaye siqwalasela le miba ilandelayo:

- (a) Ukhuselo lweendawo ezinexabiso eliphezulu lendalo ephilayo nenabileyo nolwazi ngezinto eziphilileyo neendawo eziphila kuzo kwiNtshona Koloni njengoovimba bendalo ephilayo;
- (b) isibonelelo sokhuseleko loovimba bendalo ephilayo ngokusemthethweni wephondo eNtshona Koloni;

- (c) ulawulo lophuhliso koovimba bendalo ephilayo ngokwemigaqo yophuhliso oluzinzileyo ngophuhliso, umiliseliso nonyanzeliso lwesicwangciso sesicwangciso-nkqubo esifunekayo, kunye
- (d) nokudityaniswa kwemfuno nenjongo yoovimba bendalo ephilayo, nohlobo lophuhliso olunokuvunyelwa kwaba vimba nakufuphi nabo, kuso nasiphi na isigqibo somhlaba olibala eNtshona Koloni.

Isiqendu 3

Esi siqendu sichaza inkqubo yokuphunyezwa kwethutyana ukusekwa kovimba wendalo ephilayo yaye siqwalasela le miba ilandelayo:

- (a) Ngubani na onokwenza isicelo sokusekwa kovimba wendalo ephilayo;
- (b) isakheko sesicelo;
- (c) intatho-nxaxheba yoluntu;
- (d) ukusekwa kweKomiti yeThutyana yoVimba weNdalo ePhilayo (BRIC), kunye
- (e) nesakheko seKomiti yeThutyana yoVimba weNdalo ePhilayo.

Isiqendu 4

Esi siqendu sidandalazisa indlela ekuqulunqwa ngayo isicelo soMbutho weMfundo, iNzululwazi neNkcubeko weZizwe eziManyeneyo (UNESCO) esekwe njengovimba wendalo ephilayo yaye siqwalasela oku kulandelayo:

- (a) Isakheko esimiselweyo se- UNESCO;
- (b) ixesha elibekiweyo lokufakwa kwesicelo kuMphathiswa;
- (c) isibonelelo sokongezelelwa kwexesha lokufakwa kwesicelo;
- (d) ukugqithiselwa kwesicelo kuMphathiswa weSizwe ukuze asifake kwi-UNESCO, kunye
- (e) nokupapashwa kwesaziso kwiGazethi yePhondo sokumiselwa kovimba wendalo ephilayo yi-UNESCO.

Isiqendu 5

Esi siqendu siqwalasela ulawulo lovimba wendalo ephilayo yaye sichaphazela oku kulandelayo:

- (a) Ulawulo olululo lovimba wendalo ephilayo ngokwemiqathango emiselweyo yolawulo;
- (b) ukusekwa kweKomiti yoLawulo (MC) endaweni (yeKomiti yeThutyana yoVimba weNdalo ePhilayo) ye (BRIC);
- (c) ukunikezelwa kwemisebenzi ukusuka kwi-BRIC ukuya kwi-MC;
- (d) umsebenzi we-MC;
- (e) ukuqulunqwa komgaqo-siseko wovimba wendalo ephilayo ngendlela emiselweyo;
- (f) ukufakwa kwengxelo yonyaka ngemisebenzi yayo kuMphathiswa nakoomasipala;
- (g) ukuqulunqwa kwesicwangciso sesicwangciso-nkqubo soVimba weNdalo ePhilayo, kunye
- (h) nohlaziyo lwemisebenzi nesicwangciso sesicwangciso-nkqubo sovimba wendalo ephilayo.

Isiqendu 6

Esi siqendu siqwalasela ukuqulunqwa kwesicwangciso sesicwangciso-nkqubo sovimba wendalo ephilayo yaye sichaphazela oku kulandelayo:

- (a) Imfuno yokuqulunqa kwe-MC isicwangciso sesicwangciso-nkqubo sovimba wendalo ephilayo kamsinya emva kokubekwa;
- (b) iimeko zokulungiselelwa kwesicwangciso sesicwangciso-nkqubo, ngokumalunga nentatho-nxaxheba yoluntu, ukwaziswa, ulungelelaniso nezinye izicwangciso-nkqubo zophuhliso lwemihlaba engamabala okanye ezinye izicwangcizozemihlaba engamabala;
- (c) ixesha elibekiweyo lokufakwa kwesicwangciso sesicwangciso-nkqubo kuMphathiswa ukuze asiphumeze;

- (d) ukuphunyezwa okanye ukulungiswa kwesicwangciso sesicwangciso-nkqubo;
- (e) okona kuphambili kwisicwangciso sesicwangciso-nkqubo ngaphezu kweminye imisebenzi yeKomiti yoLawulo; kunye
- (f) nemiba eyahlukeneyo yokungaphambuki nokuthobela phakathi kwezicwangciso zezicwangciso-nkqubo nezinye izicwangciso zemihlaba engamabala.

Isiqendu 7

Esi siqendu siqwalasela imiba emalunga nokwandiswa kovimba wendalo ephilayo yaye siqwalasela oku kulandelayo:

- (a) Isicelo sokwandiswa kovimba wendalo ephilayo;
- (b) inkqubo yesicelo; kunye
- (c) nemisebenzi yeKomiti yoLawulo.

Isiqendu 8

Esi siqendu siqwalasela ukuxhaswa ngezimali kovimba wendalo ephilayo yaye sigunyazisa ukunikezelwa kwesibonelelo sezimali nguRhulumente wePhondo kuvimba wendalo ephilayo ngenxa yezizathu eziliqela, kunye nokumiselwa kwemiqathango esikhutshwa phantsi kwayo isibonelelo eso.

Isiqendu 9

Ngokwesi siqendu uMphathiswa anganikezela ngokuxhomekeke kwicandelwana (7), ngamagunya okanye uxanduva kwigosa elikwiSebe ukuba lisebenze endaweni yakhe.

Isiqendu 10

Ngokwesi siqendu uMphathiswa angabeka imiqathango malunga nawo nawuphi na umba oya kuthi okanye onokuthi umiselwe ngokwalo Mthetho kunye nemigaqo yolawulo loovimba bendalo ephilayo.

Isiqendu 11

Ngokwesi siqendu, oovimba abakhoyo bendalo ephilayo kufuneka babeke iKomiti yoLawulo kwisithuba seenyanga ezintathu uqalile ukusebenza lo Mthetho; ngokwendlela emiselweyo, banikezele imisebenzi yabo kwiKomiti yoLawulo yaye bafake isicwangciso sesicwangciso-nkqubo kuMphathiswa.

3. UKUBONISANA

Umthetho osaYilwayo wapapashwa ukuze kuphawulwe ngawo ngomhla we-11 kweyoMsintsi 2009, kwabekwa umhla wama-27 kweyeNkanga 2009 njengomhla wokuvalwa kokuphawula. Kwafunyanwa iiseti ezilishumi zeentetho. Ekuyileni lo Mthetho usaYilwayo, iSebe leMicimbi yeNdalo esiNgqongileyo noCwangciso loPhuhliso laye labonisana naba banini-zabelo balandelayo:

- (a) ISebe lezeMicimbi yeNdalo esiNgqongileyo;
- (b) CapeNature;
- (c) IiNkonzo zoMthetho kwiSebe leNkulumbuso (uWiso-mthetho).

4. iFUTHE LEZEZIMALI KUMBUSO

Ifuthe lezezimali loMthetho oyilwayo liqwalaselwa kuhlalo-lwabiwo mali olukhoyo lokusebenza lwesebe.

5. ISAKHONO SOWISO-MITHEETHO

UMphathiswa wePhondo ojongene neMicimbi yeNdalo esiNgqongileyo noCwangciso loPhuhliso eNtshona Koloni wanellisekile ukuba imiqathango ekuMthetho oYilwayo ihambelana nogqibelelo ngokwasemthethweni wePhondo.

