Mpumalanga, South Africa

Mpumalanga Tourism and Parks Agency Act, 2005

Act 5 of 2005

Legislation as at 17 March 2006

FRBR URI: /akn/za-mp/act/2005/5/eng@2006-03-17

There may have been updates since this file was created.

PDF created on 28 March 2024 at 12:40.

Collection last checked for updates: 7 March 2024.

Check for updates

About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from LawLibrary and is presented in collaboration with the African Legal Information Institute, the Judicial Institute for Africa and the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

www.lawlibrary.org.za | info@lawlibrary.org.za

www.laws.africa | info@laws.africa

There is no copyright on the legislative content of this document.
This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

Mpumalanga Tourism and Parks Agency Act, 2005
Contents

1. Definitions 1
2. Establishment 3
3. Objects of the Agency 4
4. Powers and functions of the Agency 4
5. Establishment and composition of Board 8
6. Qualifications for Membership of Board 9
7. Procedure for appointment 9
8. Disqualification 9
9. Resignation and removal from office 10
10. Vacancies on Board 10
11. Chairperson and deputy Chairperson 10
12. Terms and conditions of office of Member 11
13. Chief Executive Officer 11
14. Removal of Chief Executive Officer from office 12
15. Employment contract and performance agreement of Chief Executive Officer 13
16. Meetings of Board 13
17. Decisions of Board and voting powers of Chairperson 14
18. Duty of Members to disclose interest 14
19. Delegation of powers 15
20. Funding of the Agency 15
21. Revenue of the Agency 15
22. Appropriation of income and property 16
23. Procurement 16
24. Committees of Board 17
25. Power of Board to make rules and determine procedures 17
26. Bookkeeping and auditing 17
27. Quarterly reports 17
28. Annual report and financial statements 18
29. Prohibition of use of name of Mpumalanga Tourism and Parks Agency 18
30. Appointment of Registrar and designated officers 18
31. Register for registration of certain persons and entities 18
32. Publication of requirements for registration 19
33. Certain persons and entities to be registered 19
34. Withdrawal of registration 20

35. Issuing of certificates 20
36. Publication of list of certain persons and entities 21
37. Appeal against decision of Registrar 21
38. Inspection of premises 21
39. Payment of levy 22
40. Regulations 22
41. Offences and penalties 22
42. Repeal of laws 22
43. Transitional arrangements 22
44. Short title and commencement 23

Mpumalanga
South Africa

Mpumalanga Tourism and Parks Agency Act, 2005
Act 5 of 2005

Published in Mpumalanga Provincial Gazette 1319 on 17 March 2006

Assented to on 13 January 2006

Commenced on 1 April 2006 by Mpumalanga Tourism and Parks Agency Act, 2005: Commencement

[This is the version of this document from 17 March 2006 and includes any amendments published up to 7 March 2024.]

To provide for the establishment of the Wlpumalanga Tourism and Parks Agency and for the management thereof by a Board; to provide for the sustainable development and improvement of the tourism industry in Wlpumalanga; to provide for conservation management of the natural resources of Wlpumalanga; to confer powers and functions upon the Agency; to provide for the registration of certain persons and entities directly involved in tourism; to provide for transitional arrangements; and to provide for matters incidental thereto.

WHEREAS it is generally recognized that the tourism industry has the potential of being a catalyst for significant economic growth and development within the Province of Mpumalanga;

AND WHEREAS it is a priority of the Mpumalanga Provincial Government to develop the tourism sector within the Province of Mpumalanga in a sustainable and acceptable manner so as to ensure that the development of the true potential of the tourism sector will significantly contribute to economic growth and development within the Province in order to improve the quality of life of every inhabitant of the Province;

AND WHEREAS everyone has the right to have the environment protected, through reasonable legislative and other measures that promotes conservation and secures ecologically sustainable development and the use of natural resources while promoting justifiable economic and social development;

AND WHEREAS the development of the tourism industry in Mpumalanga will greatly increase entrepreneurial and employment opportunities in the industry and specifically contribute to the development of entrepreneurial opportunities for previously disadvantaged individuals and communities within the Province of Mpumalanga;

AND WHEREAS conservation management of the natural resources of Mpumalanga will greatly increase entrepreneurial and employment opportunities and specifically contribute to the development of entrepreneurial opportunities and the broadening of participation in conservation management by previously disadvantaged individuals and communities within the Province of Mpumalanga;

AND WHEREAS such development of the tourism industry and conservation management of the natural resources will greatly contribute to, and enhance the uniqueness of the Mpumalanga Province as a tourist destination;

NOW THEREFORE, BE IT ENACTED by the Provincial Legislature of Mpumalanga, as follows:

1. Definitions

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

"**activity operators**" means persons conducting business to provide recreational facilities, equipment or training to tourists in relation to tourist related activities;

"**Agency**" means the entity established in terms of section 2;

"**Board**" means the Mpumalanga Tourism and Parks Agency Board referred to in section 5;

"**carrier**" means a person or business providing carriage for tourists, including non-scheduled air flight services;

"**Chairperson**" means a person appointed as Chairperson or acting Chairperson in terms of section 11;

"**Chief Executive Officer**" means the Chief Executive Officer appointed in terms of section 13;

"**committee**" means a committee of the Board appointed in terms of section 24;

"**community**" means any group of persons or a part of such a group who share common interests and who regard themselves as a community and "communities" has a corresponding meaning;

"**conference centres**" means establishments in the business of providing facilities for the hosting of conferences, congresses, conventions, symposia, seminars and exhibitions, not forming part of a hotel or other accommodation establishments;

"**Constitution**" means the Constitution of the Republic of South Africa, 1996;

"**Department**" means the Department responsible for tourism and conservation matters in the Province;

"**designated officer**" means a person appointed in terms of section 30(1)(b) of this Act;

"**designated tourist amenity**" means a place, service, initiative, activity, venture or entity which the Member of the Executive Council has declared to be a designated tourist amenity in terms of section 31;

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

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

"**Government**" means the Mpumalanga Provincial Government;

"**hotel**" means any premises, wherein or whereon the business of supplying lodging and meals for a fee is or is intended to be conducted, and includes a motel, inn or boatei;

"**hunting operators**" means persons conducting business by providing services and facilities to tourists for the hunting of game, including trophy hunting;

"**Member**" means a Member of the Board and includes a temporary Member as contemplated in section 7(3);

"**Member of the Executive Council**" means the Member of the Executive Council responsible for tourism and conservation matters in the Province;

"**natural resources**" means supplies, stock or assets produced by nature;

"**officer or employee of the Board**" means any person employed by the Board and includes any person seconded to the Board;

"**other accommodation establishment**" means any premises other than a hotel, offering sleeping accommodation to the public for a fee, whether with or without meals and includes a boat or house boat, bed and breakfast, caravan and camping park, farmhouse, guest house, hostel and lodge;

"**Premier**" means the Premier of the Province referred to in section 125 of the Constitution;

"**prescribed**" means prescribed by regulation in terms of this Act;

"**previously disadvantaged individuals**" means persons who were previously disadvantaged by unfair discrimination and who, in terms of section 9(2) of the Constitution of the Republic of South

Africa, 1996, may be protected and advanced to achieve equality and, for the purposes of this Act, includes the following designated groups:

(a) Men of African, Asian or Coloured descent;

(b) women, irrespective of descent; and

(c) disabled persons, irrespective of descent;

"**protected area**" means a National protected area, a Provincial protected area or a Local protected area as defined in the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003), to the extent that such protected area falls within the province's legislative competence;

"**Province**" means the Province of Mpumalanga as referred to in section 103(1)(e) of the Constitution, or any part thereof;

"***Provincial Gazette***" means the *Provincial Gazette* of the Province;

"**Provincial Legislature**" means the Provincial Legislature of the Province as referred to in section 104 of the Constitution;

"**public service**" means the public service contemplated in Chapter III of the Public Service Act, 1994 (Proclamation No. 103 of 1994);

"**region**" means the area comprising the Member states of the Southern African Development Community and "regional" has a corresponding meaning;

"**Registrar**" means a person appointed to be the Registrar in terms of section 30(1)(a);

"**Republic**" means the Republic of South Africa referred to in section 1 of the Constitution;

"**restaurant**" means a premises which is structurally adapted and used for the purpose of supplying meals as prescribed, for a fee, to the public for consumption on the premises;

"**stakeholder**" means an organisation, body or person with a direct and continuing interest in the Provincial tourism sector or industry;

"**this Act**" also means a regulation made under this Act;

"**tourist guide**" means any person who for a reward, whether monetary or otherwise, accompanies any person or persons who travels within or visits any place within the Province and who furnishes such person or persons with information or comment with regard to any matter;

"**tour operator**" means any person who carries on the business of providing tours of any description by utilising their own or other operators' approved vehicles, aircraft and other facilities;

"**tourism industry**" means the businesses, enterprises and activities which provide services and facilities and cater for, attract and meet the needs of international and domestic tourists;

"**tourist**" means any person who, away from his or her home, travels within the Province and who visits or who intends visiting any place within the Province;

"**training provider**" means any person, organisation or institution providing training, guidance or education within the tourism industry in the Province; and

"**vehicle rental operators**" means persons conducting business by providing services to tourists for the hiring of motor vehicles.

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

2. Establishment

The Mpumalanga Tourism and Parks Agency is hereby established as a juristic person,

3. Objects of the Agency

(1) The objects of the Agency shall be to provide for the sustainable management and promotion of tourism and nature conservation in the Province and to ensure the sustainable utilisation of natural resources.

(2) In pursuing its objects, the Agency shall-

(a) provide for effective management and conservation of bio-diversity and eco-systems within the Province;

(b) develop and ensure effective management of protected areas;

(c) foster, promote and sustainably develop and market tourism; and

(d) promote and create socio-economic growth and transformation within the tourism and conservation industry, thereby creating economic and employment opportunities for previously disadvantaged individuals and local communities in the Province.

(3) In achieving its objects, the Agency shall endeavour to progressively increase its own revenue generation and collection.

4. Powers and functions of the Agency

(1) Subject to section 3, the general powers and functions of the Agency are as set out in subsection (2) to subsection (7), the powers and functions pertaining specifically to tourism in the Province are as set out in subsection (8) to subsection (13), and the powers and functions pertaining specifically to conservation management of the natural resources of the Province are as set out in subsection (14) and subsection (15),

(2) The Agency shall exercise and perform its powers and functions, as far as financial and personnel matters are concerned, by-

(a) developing and implementing, within six months after the coming into operation of this Act, comprehensive policies and programmes regarding all financial and all personnel matters, and subsequently amending such policies and programmes, as and when necessary;

(b) ensuring that the Agency adheres to sound financial management, effective and equitable human resource development and efficient office administration in a responsible, accountable and transparent manner; and

(c) disciplining, suspending and dismissing officers and employees of the Agency, with due regard to the provisions of the Labour Relations Act, 1995 (Act No. 66 of 1995).

(3) The Agency shall, in the exercise and performance of its powers and functions, liaise and consult with all relevant stakeholders, including but not necessarily limited to-

(a) individuals and communities;

(b) traditional leaders;

(c) owners of existing or potential tourist attractions;

(d) owners of natural resources and which natural resources may benefit from conservation management;

(e) organs of state as contemplated in section 239 of the Constitution;

(f) statutory bodies;

(g) organized labour; and

(h) organized business:

Provided that the Agency shall involve the Department in complying with its obligation to liaise and consult with all relevant stakeholders.

(4) In performing its powers and functions, the Agency may enter into agreements, and in consultation with the Member of the Executive Council, enter into public private partnerships.

(5) In furthering its objects, the Agency may raise funds in accordance with detailed written funding proposals: Provided that each such funding proposal shall, prior to the raising of funds in accordance therewith, be approved in writing by the Member of the Executive Council.

(6) The Agency shall, when acquiring, hiring, leasing, selling, letting, burdening or alienating any goods, supplies or services, duly comply with the provisions of section 23: Provided that the acquisition or disposal of immovable property shall require the prior written approval of the Member of the Executive Council

(7) The Agency shall exercise and perform its powers and functions with due regard to section 104, read with section 125 of the Constitution, section 230 of the Constitution, the Borrowing Powers of Provincial Governments Act, 1996 (Act No. 48 of 1996), the Public Finance Management Act, 1999 (Act No. 1 of 1999), and the provisions of all National Legislation and all National policies, guidelines and directives pertaining to tourism and conservation management of natural resources, with specific reference to policies, guidelines and directives pertaining to the transformation of the tourism industry and conservation management of natural resources.

(8) The powers and functions of the Agency in respect of tourism in the Province are, in addition to any other power or function provided for in this Act, the marketing, promotion, fostering, and development of tourism within the Province and with specific emphasis on broadening the participation in tourism of previously disadvantaged individuals and communities.

(9) The Agency shall exercise and perform its powers and functions, as far as the marketing of tourism is concerned, by-

(a) implementing all relevant Provincial policies, programmes and regulations pertaining to the marketing of tourism;

(b) monitoring, evaluating and ensuring the implementation of, and compliance with, all tourism marketing policies, programmes and regulations by those tourism stakeholders to which such policies, programmes and regulations are applicable;

(c) developing and implementing a focused international marketing strategy;

(d) developing and implementing a focused regional marketing strategy;

(e) developing and implementing a focused domestic marketing strategy; and

(f) co-ordinating and facilitating Provincial tourism marketing initiatives and strategies.

(10) The Agency shall exercise and perform its powers and functions, as far as tourism development and training within the Province are concerned, by-

(a) implementing all relevant Provincial policies, programmes and regulations pertaining to tourism development and training to the extent that such policies, programmes and regulations apply specifically to the Agency;

(b) identifying tourism development opportunities and submitting recommendations to the Department in respect of the development and implementation of such identified opportunity, including the appropriate entity to develop such opportunity;

(c) taking appropriate and effective steps in order to enhance the level and standard of service in the tourism industry;

(d) assisting with and participating in the development and implementation of a National system of standards, classification and grading for tourist accommodation, establishments, products and services;

(e) promoting regional co-operation in tourism;

(f) encouraging, with due regard to subsection (11)fcj and iifej(iii), the development and functioning of tourism organizations;

(g) identifying tourism training needs; and

(h) facilitating and co-ordinating, in consultation with the relevant Provincial Department, appropriate tourism training initiatives.

(11) The Agency shall exercise and perform its powers and functions, as far as research and the compilation, of information pertaining to tourism are concerned, by-

(a) implementing all relevant Provincial policies, programmes and regulations pertaining to tourism research and information;

(b) monitoring, evaluating and ensuring the implementation of, and compliance with, all tourism research and information compilation policies, programmes and regulations by those tourism stakeholders to which such policies, programmes and regulations are applicable;

(c) conducting cost-effective and focused research pertaining to tourism in the Province;

(d) co-ordinating integrated tourism research;

(e) establishing and maintaining a comprehensive database consisting of information pertaining to, *inter alia*,

(i) existing tourism attractions, infrastructure, facilities, services and the location thereof and access thereto, within the Province;

(ii) natural and cultural attractions that could potentially be developed as tourism attractions within the Province;

(iii) new areas of tourism activity and potential sites where these activities could be carried out within the Province:

Provided that such a database shall be established within one year after the coming into operation of this Act; and

(f) developing a tourism information service and by disseminating information to tourists and relevant tourism stakeholders,

(12) The Agency shall exercise and perform its powers and functions, as far as communication strategies pertaining to tourism in the Province are concerned, by-

(a) implementing all relevant Provincial policies, programmes and regulations pertaining to tourism related communication;

(b) monitoring and evaluating the implementation of, and compliance with, all tourism related communication policies, programmes and regulations by those tourism stakeholders to which such policies, programmes and regulations are applicable; and

(c) developing and implementing public relations initiatives and communication programmes, to, *inter alia*, promote a tourism culture and tourism awareness among inhabitants of the Province.

(13) faj

(a) The Agency shall, when requested by the Member of the Executive Council, enquire into, and advise the Member of the Executive Council on any of its powers or functions as specified in subsections (9) to (12): Provided that the Agency shall, at least annually, advise the Member of the Executive Council in writing, on each of its powers and functions as specified in subsections (9) to (12), which advice shall, in each instance, at least include, but not necessarily be limited to-

(i) new tourism trends;

(ii) new tourism initiatives or strategies for consideration;

(iii) specific measures to be considered in order to promote, foster and develop tourism, for the benefit of previously disadvantaged individuals and communities within the Province and how participation in tourism may be broadened to include previously disadvantaged individuals and communities;

(iv) policy matters for consideration;

(v) the envisaged environmental, socio-economic and developmental impact of such new tourism trends, initiatives, strategies, measures or policies;

(vi) the recommended degree of consultation necessary for new tourism, trends, initiatives, strategies, measures or policies; and

(vii) envisaged financial implications of new tourism trends, initiatives, strategies, measures or policies:

Provided that, in those instances where the Agency is unable to provide meaningful or viable advice in addition to, advice already submitted to the Member of the Executive Council in accordance with this subsection, such fact should be confirmed in writing in lieu of such advice.

(b) The Agency shall, at least annually, advise the Member of the Executive Council in writing, on matters, pertaining to tourism safety and security and tourist protection.

(c) The annual advice contemplated in paragraphs (a) and (b) shall be submitted to the Member of the Executive Council before or on 30 September of every year

(14) The powers and functions of the Agency, in respect of conservation management of the natural resources of the Province include, in addition to any other power or function provided for in this Act, and with specific emphasis on broadening the participation in conservation management of previously disadvantaged individuals and communities, the—

(a) inventorying, assessing, monitoring and protection of the natural resources in the Province, including natural systems, biodiversity and ecological functions and processes, and the carrying out of such research and other scientific activities as may be necessary;

(b) administration of the Mpumalanga Nature Conservation Act, 1998, and any other law, or any part thereof, the administration of which it becomes responsible for in respect of conservation so as to-

(i) determine and enforce limits, to sustainable utilisation of natural resources;

(ii) design and implement appropriate management and harvesting strategies and techniques;

(iii) ensure the protection and survival of rare and endangered species;

(iv) manage and control the spread and numbers of invasive alien species, as well as the spread, numbers and activities of problem animals;

(v) establish and develop a representative network of protected areas and to manage and utilise such areas on a sustainable basis; and

(vi) ensure that natural systems, bio-diversity and ecological functions and processes, in the Province are maintained;

(c) co-operation with responsible governmental authorities in order to-

(i) contribute to land use planning and the evaluation of development proposals;

(ii) assist with the formulation and implementation of eco-tourism and outdoor recreation policies, strategies and programmes, in so far as such policies, strategies, and programmes relate to conservation management;

(d) promotion of public awareness and education regarding the environment, and particularly conservation management of natural resources;

(e) furnishing of information and the extension of services to the public in respect of conservation management, problem species, legal aspects of conservation management, and other conservation management matters;

(f) advancement of scientific knowledge and the facilitation of technology transfer to and from the Agency and the Province, in respect of conservation management.

(15) The Agency shall-

(a) implement all relevant Provincial policies, programmes and regulations pertaining to conservation management of the natural resources of the Province;

(b) annually, before or on 30 September of every year, advise the Member of the Executive Council, in writing, on the most appropriate policy, strategy and legislative, administrative and financial framework for the achievement of effective conservation management of the natural resources of the Province: Provided that the such advice in terms of this paragraph, shall be submitted to the Member of the Executive Council as and when requested;

(c) at the request of the Member of the Executive Council, enquire into any matter relating to conservation management of the natural resources of the Province; and

(d) initiate, plan, finance, promote, co-ordinate or carry out, or render assistance with the planning, financing, promotion, co-ordination or carrying out of any project pertaining to conservation management of the natural resources of the Province.

5. Establishment and composition of Board

(1) The affairs of the Agency shall be managed and controlled by a Board to be known as the Mpumalanga Tourism and Parks Agency Board and which Board shall be the accounting authority for the Agency as contemplated in section 49(2)(a) of the Public Finance Management Act, 1999, and which Board shall exercise and perform the powers and functions conferred or imposed upon the Agency by this Act or any other law.

(2) The Board shall, in respect of the exercise and performance of its powers and functions, including the corporate governance of the Agency, be accountable to the Member of the Executive Council.

(3) The Board shall consist of not fewer than nine and not more than eleven Members eligible to vote at Board meetings.

(4) The Head of the Department or any other official of the Department so designated by the Head of Department, shall be a Member of the Board, *ex officio*, without voting powers.

6. Qualifications for Membership of Board

The Members shall be-

(a) fit and proper persons;

(b) South African citizens;

(c) broadly representative of the population of the Province; and

(d) persons who have sufficient knowledge of, or experience in tourism or conservation management of natural resources.

7. Procedure for appointment

(1) The Member of the Executive Council, in consultation, with the Executive Council shall, subject to the provisions of subsection (2) and the provisions of section 8, determine and appoint the Members of the Board.

(2) The Member of the Executive Council shall invite, through public invitation, applications for appointment as Member of the Board, within 21 days of the publication of the said advertisement.

(3) The Member of the Executive Council may, in the event of a vacancy on the Board, and with due regard to section 6, appoint a temporary Member of the Board until such vacancy has been duly filled as contemplated in subsection (2): Provided that the term of office of any such temporary Member may not exceed a period of three months in respect of any specific vacancy on the Board.

(4) The Member of the Executive Council may, in the event of all the positions on the Board being vacant, and with due regard to section 6, appoint persons as temporary Members to constitute an interim Board until such vacancies have been duly filled as contemplated in subsection (2): Provided that the term of office of such interim Board may not exceed a period of six months.

8. Disqualification

Notwithstanding the provisions of section 5, 6 or 7, a person is disqualified from being appointed or remaining, a Member of the Board if such person-

(a) is or becomes a Member of the National Assembly or National Council of Provinces, any provincial legislature, municipality or is in the full-time employ of an organ of State, other than the Agency;

(b) is or becomes subject to a final order of court whereby his or her estate is sequestrated under the Insolvency Act, 1936 (Act No. 24 of 1936), or if his or her estate is sequestrated in terms of the laws of any other country or territory by a competent court or agency of such country or territory, or if he or she has assigned his or her estate for the benefit of his or her creditors;

(c) is or becomes subject to an order of a competent court declaring him or her to be of unsound mind or mentally disordered or defective;

(d) has been convicted of any offence under this Act, or of any other offence which does not involve dishonesty in respect of which he or she was sentenced to imprisonment without the option of a fine for a period of not less than three months, irrespective of whether such imprisonment was wholly or partly suspended or not, unless he or she has received a grant of amnesty or a free pardon, or unless the period of such imprisonment or suspension has expired at least ten years before the date of his or her appointment as Member; or

(e) has been convicted of an offence involving dishonesty in respect of which he or she was sentenced to imprisonment without the option of a fine for a period of not less than three months, irrespective of whether such imprisonment was wholly or partly suspended or not, unless he or she has received a grant of amnesty or a free pardon, or unless the period of such imprisonment or suspension has expired at least ten years before the date of his or her appointment as Member.

9. Resignation and removal from office

(1) A Member may at any time resign from the Board upon one month's written notice tendered to the Member of the Executive Council who shall forthwith inform, the Executive Council and the Board accordingly.

(2) Notwithstanding the provisions of section 12, but subject to the provisions of subsection (3) of this section, the appointment of any Member may, before the expiration of a Member's term of office, be terminated by the Member of the Executive Council, in consultation with the Executive Council-

(a) on account of his or her improper conduct;

(b) on account of unfitness for the functions of his or her office;

(c) on the ground of a permanent infirmity of mind or body which renders him or her incapable of discharging the functions of his or her office or discharging them properly; or

(d) that he or she is or has become disqualified in terms of section 8.

(3) Notwithstanding the provisions of section 5, 6 or 7 and subsection (2) of this section, a person's appointment as Member of the Board may be terminated by the Member of the Executive Council, in consultation with the Executive Council, if such person has been absent from two consecutive meetings of the Board without prior consent of the Board.

(4) The Member of the Executive Council may not terminate the appointment of a Member in terms of subsection (2) or (3) unless the Member of the Executive Council, after having afforded the relevant person an opportunity to state his or her case and having duly considered the matter, including any representations made, explanations given or evidence tendered by such person, is satisfied that the termination of his or her appointment is justified in the circumstances.

(5) For the purposes of subsection (2)(a) the non-compliance by a Member with any provision of this Act, *inter alia*, constitutes improper conduct.

10. Vacancies on Board

(1) The office of an appointed Member becomes vacant-

(a) when he or she dies;

(b) when his or her written resignation tendered to the Member of the Executive Council or the Board in terms of section 9(1) or 13(6), as the case may be, becomes effective;

(c) when his or her appointment is terminated in terms of section 9 or 14; or

(d) if he or she is absent from three consecutive meetings of the Board without the prior consent of the Chairperson, or, in the case of the Chairperson being absent from three consecutive meetings of the Board, without the prior consent of the Board.

(2) Subject to section 5(3), a vacancy on the Board shall be filled in accordance with sections 5, 6 and 7 by the appointment of another Member as soon as may be reasonably practicable after the occurrence of such vacancy, and any Member so appointed remains in office for the unexpired portion of his or her predecessor's term of office.

11. Chairperson and deputy Chairperson

(1) The Member of the Executive Council shall, in consultation with the Executive Council and subject to the provisions of section 8, appoint any Member eligible to vote at Board meetings, as non-executive Chairperson and another Member as non-executive Deputy Chairperson of the Board.

(2) The Chairperson shall exercise and perform the powers and functions assigned to him or her by this Act.

(3) The Chairperson shall preside at all meetings of the Board.

(4) Whenever the Chairperson is absent, the powers, rights and functions of the Chairperson shall be exercised and performed by the Deputy Chairperson and in the absence of both the Chairperson and the Deputy Chairperson, by a Member designated for that purpose, from among its number, by the Board: Provided that if the office of Chairperson is vacant or the Chairperson refuses or fails to act, the Deputy Chairperson shall perform the powers, rights and functions of the Chairperson until a new Chairperson has been appointed as contemplated in subsection (1).

12. Terms and conditions of office of Member

(1) The term of office of a Member eligible to vote at Board meetings shall be for a period not exceeding, four years.

(2) Upon the expiration of the term of office of an appointed Member as contemplated in subsection (1), he or she is eligible for re-appointment: Provided that no term of office of a Member may be extended or a Member be reappointed without fully complying with the procedure for appointment as contemplated in section 7: Provided further that the total period of such terms of office of a Member may not exceed eight years.

(3) A Member holds office on such conditions as to the remuneration, allowances and benefits as the Member of the Executive Council, in consultation with the Executive Council, may from time to time determine, by prior notice in the *Provincial Gazette*.

(4) The appointed Members are entitled to be reimbursed for any travelling and subsistence expenses reasonably incurred by them in connection with the performance of their functions as such Members and may for that purpose be paid such allowances as determined by the Member of the Executive Council as contemplated in subsection (3).

13. Chief Executive Officer

(1) The Chief Executive Officer, appointed in terms of subsection (3), shall be a person who-

(a) has appropriate qualifications, knowledge or experience regarding the business and operations of the Agency;

(b) is not subject to a final order of court whereby his or her estate is sequestrated under the Insolvency Act, 1936 (Act No. 24 of 1936), or if his or her estate is sequestrated in terms of the laws of any other country or territory by a competent court or agency of such country or territory, or if he or she has assigned his or her estate for the benefit of his or her creditors;

(c) is not subject to an order of a competent court declaring him or her to be of unsound mind or mentally disordered or defective;

(d) has not been convicted of any offence under this Act or of any other offence which does not involve dishonesty, in respect of which he or she was sentenced to imprisonment without the option of a fine for a period of not less than three months, irrespective of whether such imprisonment was wholly or partly suspended or not, unless he or she has received a grant of amnesty or a free pardon, or unless the period of such imprisonment or suspension has expired at least ten years before the date of his or her appointment as Chief Executive Officer; and

(e) has not been convicted of an offence involving dishonesty in respect of which he or she was sentenced to imprisonment without the option of a fine for a period of not less than three months, irrespective of whether such imprisonment was wholly or partly suspended or not, unless he or she has received a grant of amnesty or a free pardon, or unless the period of such imprisonment or suspension has expired at least ten years before the date of his or her appointment as Chief Executive Officer.

(2) The Chief Executive Officer is the chief administration and accounting officer of the Agency, subject to the control of the Board,

(3) The Board shall, subject to the provisions of subsection (4) and the provisions of section 8, determine and appoint, in consultation with the Member of the Executive Council, the Chief Executive Officer of the Agency.

(4) The Board shall, after consultation with the Member of the Executive Council invite, through public invitation, applications for appointment as Chief Executive Officer of the Agency, within 21 days of the publication of the said advertisement.

(5) The Chief Executive Officer is appointed for such period and on such terms and conditions of service, as the Board may determine: Provided that-

(a) the Chief Executive Officer may be so appointed for a period not exceeding five years;

(b) upon the expiration of the term of office of the Chief Executive Officer, he or she is eligible for re-appointment: Provided that the total period of such terms of office of the Chief Executive Officer may not exceed ten years;

(c) such terms and conditions relating to the remuneration, allowances and benefits of the Chief Executive Officer shall in each instance be determined by the Member of the Executive Council in consultation with the Executive Council, after consultation with the Board, by prior notice in the *Provincial Gazette*; and

(d) the Chief Executive Officer may not perform any other remunerative work, without the prior written consent of the Board,

(6) The Chief Executive Officer may, on three months' written notice tendered to the Board, resign from his or her office.

(7) Whenever the office of Chief Executive Officer is vacant or the Chief Executive Officer is absent or incapacitated or refuses or fails to act, the powers, rights and functions of the Chief Executive Officer shall be exercised and performed, by any person designated as the acting Chief Executive Officer by the Member of the Executive Council: Provided that no such person shall be the acting Chief Executive Officer for a period exceeding six months.

(8) While a person appointed as contemplated in subsection (7), so acts, he or she shall have the powers and discharge the functions of the Chief Executive Officer.

(9) The Chief Executive Officer shall be a Member of the Board, *ex officio*, without voting powers.

14. Removal of Chief Executive Officer from office

(1) The Board may, in consultation with the Member of the Executive Council, remove the Chief Executive Officer from office-

(a) on account of his or her improper conduct;

(b) for unfitness for the functions, of his or her office;

(c) on the ground of a permanent infirmity of mind or body which renders him or her incapable of discharging the functions of his or her office or discharging them properly; or

(d) on the ground that he or she is or has become subject to a disqualification envisaged in section 8.

(2) The Board may, in order to determine whether there exists sufficient cause for the removal of the Chief Executive Officer from office as contemplated in subsection (1), initiate an inquiry or investigation for that purpose.

(3) Whenever any inquiry or investigation is initiated as contemplated in subsection (2) is being undertaken, the Board may, in consultation with the Member of the Executive Council, and with

due regard to the provisions of the Labour Relations Act, 1995 (Act No. 66 of 1995), suspend the Chief Executive Officer from his or her office pending the outcome of such an inquiry or investigation.

(4) For the purposes of subsection (i)(a), non-compliance by the Chief Executive Officer with any provision of this Act or the Public Finance Management Act, 1999 (Act No. 1 of 1999), *inter alia*, constitutes improper conduct.

15. Employment contract and performance agreement of Chief Executive Officer

(1) The appointment of the Chief Executive Officer by the Board as contemplated in section 13(3) shall be effective from the date of the entering into of a written employment contract with the Board, which employment contract shall be for the duration of his or her term of office as Chief Executive Officer.

(2) The employment contract contemplated in subsection (1) shall, as a minimum, contain the Chief Executive Officer's personal particulars, term of office, conditions of service, powers, functions, responsibilities, duties as well as his or her remuneration, allowances and benefits.

(3) In addition to the employment contract as contemplated in subsection (1), the Chief Executive Officer shall annually conclude a performance agreement with the Board, which performance agreement's term of operation shall coincide with the financial year of the Agency: Provided that such performance agreement shall annually be concluded prior to the commencement of the financial year concerned.

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

16. Meetings of Board

(1) The first meeting of the Board shall be held at a place and time determined by the Chairperson, and subsequent meetings of the Board shall be held on such dates and at such times and places as may be determined by resolution of the Board or, failing, such, a resolution, as may be determined by the Chairperson.

(2) The Chairperson-

(a) may at any time call for a special meeting of the Board if it is justified under the circumstances; and

(b) shall, upon having been presented with a request for that purpose signed by at least three Members, or signed by the Member of the Executive Council, and stating the purpose for which a special meeting is to be convened, forthwith call for a special meeting of the Board, and if the Chairperson fails to convene a special meeting, within seven days as from the date of such request, such three Members, or a Member on behalf of the Member of the Executive Council may, on the expiration of such seven days, convene a special meeting of the Board.

(3) Notice of every meeting of the Board shall state the business to be addressed at such a meeting and shall be given to all the Members in such reasonable manner and form as the Board day from time to time determine.

(4) The quorum of the Board at a Board meeting shall be at least 51 per cent of the total number of Members.

17. Decisions of Board and voting powers of Chairperson

(1) A decision agreed upon by the majority of the Members eligible to vote at Board meetings present at any meeting of the Board, subject to section 5(2), constitutes a decision of the Board to be known as a resolution.

(2) In the event of an equality of votes regarding any matter put to the vote, the Chairperson has a casting vote in addition to his or her deliberative vote.

(3) No decision of the Board or an act on the authority of the Board, is invalid merely due to a vacancy in the Board or because any person who is not entitled to take a seat as Member, took a seat as a Member when the decision was taken or the act was authorised, if such decision was taken or the act was authorised by the required majority of the Members eligible to vote at Board meetings who were then present and who were entitled to take seats as Members.

(4) The Board shall cause a record to be kept of the proceedings of any meeting thereof and the Member of the Executive Council may at any reasonable time require that such record be submitted to him or her, for perusal.

(5) Whenever any matter to be dealt with by the Board is of such a nature, that it requires the immediate and urgent attention of the Board and it is not possible for the Board to meet in order to attend to such matter, all relevant documentation pertaining to such matter shall forthwith be made available to each Member for consideration.

(6) Any matter as referred to in subsection (5) and agreed upon in writing by a simple majority of the Board Members will, subject to subsection (7), be a resolution of the Board.

(7) Any resolution as contemplated in subsection (6) shall be ratified by the Board at Its next ensuing meeting and shall be so recorded.

18. Duty of Members to disclose interest

(1) A Member who has or acquires any direct or indirect financial interest in tourism or conservation management of natural resources, shall forthwith disclose to the Board, in writing, full particulars relating to the nature and extent of his or her interest in tourism or conservation management of natural resources, and such Member shall further recuse himself or herself from any deliberation during a meeting of the Board from which he or she may potentially derive any direct or indirect financial benefit and he or she may not vote as a Member of the Board on any such matter.

(2) A Member who is interested in a proposed contract which the Board considers entering into or becomes interested in a contract after it has been entered into by the Agency, shall disclose to the Board full particulars, relating to the nature and extent of his or her interest in accordance with the provisions of subsection (3) or (5), as the case may be.

(3) A Member referred to in subsection (2) who is interested in such a proposed contract shall-

(a) if the proposed contract is or is to be considered at a meeting of the Board, disclose his or her interest prior to such meeting by way of a written notice to the Board or otherwise, table such a notice at the meeting; or

(b) if the proposed contract is not to be considered at a meeting referred to in paragraph (a), disclose his or her interest by way of a written notice to the Board within seven days as from the day on which he or she first became aware of the proposed contract or, if it has already been entered into, of the contract:

Provided that a written notice given by a Member to the Board thereof to the effect that he or she has an interest in a particular undertaking and is to be regarded as interested in every contract which may be entered into with such undertaking during a period specified in the notice, is for the purposes of this subsection deemed to be sufficient disclosure of interest with respect to all

contracts entered into by the Agency with such undertaking during the specified period, provided further that-

(i) full particulars relating to the nature and extent of such a Member's interest in such undertaking are set out in the notice; and

(ii) the extent of such a Member's interest in such undertaking is at the time when a contract is entered into by the Agency with the undertaking; not greater than is set out in the notice.

(4) A Member referred to in subsection (2) shall recuse himself or herself from the meeting of the Board during the discussion of the contract in which he or she has an interest and may not take part in any vote in connection with any such discussion or contract or influence or seek to influence any Member as regards such Member's vote or participation in discussions in respect of such contract.

(5) A Member who becomes interested in a contract after it has been entered into by the Agency shall disclose his or her interest by way of a written notice to the Board within seven days as from the day on which he or she became so interested.

(6) A contract as referred to in subsection (2), (3), (4) or (5), which was entered into by the Board and in respect of which a Member did not comply with any of the provisions of subsection (2), (3), (4) or (5) may, by resolution of the Board and on good cause shown, be declared null and void, either partially or in full, and the Board may hold such Member personally liable for any losses or damage suffered by the Board, resulting from such Member's non-compliance with subsection (2), (3), (4) or (5).

(7) A disclosure of interest referred to in subsection (1), (2) or (3) shall, as soon as possible be recorded in the minutes of the appropriate meeting of the Board.

(8) Any disclosure as contemplated in either subsection (i), (2) or (3) shall forthwith be reported by the Chairperson to the Member of the Executive Council, in writing;

19. Delegation of powers

(1) The Board may, subject to such conditions as it may determine, in writing delegate any power or function conferred or imposed upon it under this Act, except the powers or functions conferred or imposed upon it under section 17 or this section, to-

(a) the Chief Executive Officer;

(b) the Chairperson;

(c) a committee of Members; or

(d) a committee of Members and personnel.

(2) A delegation under subsection (1) shall not prevent the Board itself from exercising the power or performing the function concerned.

20. Funding of the Agency

The Agency shall be funded by the Government with such moneys as may be appropriated by the Provincial Legislature, after consideration of strategic, corporate and business plans and a proposed budget of estimated, revenue and expenditure, duly submitted by the Agency to the Member of the Executive Council, before or on 30 September of every year in respect of the ensuing financial year, as contemplated in section 53 (1) of the Public Finance Management Act, 1999.

21. Revenue of the Agency

(1) For the purposes of achieving its objects, exercising its powers and performing its functions, the Agency shall utilise as its revenue-

(a) fees, levies and other moneys received or raised by it under the provisions of this Act or any other law;

(b) penalties, fines, and proceeds from sales of forfeited items received or recovered and allocated to the Agency under the provisions of this Act or any other law;

(c) such moneys as may be appropriated by the Provincial Legislature for the exercise of the powers and the performance of the functions conferred or imposed upon the Agency in terms of this Act or any other law;

(d) donations, grants and bequests, received by it from the public: Provided that conditional donations, grants or bequests shall be accepted by the Board, only after having obtained prior written approval from the Member of the Executive Council;

(e) any other money which may accrue or be appropriated to it, or which may be placed at its disposal from any other source whatsoever.

(2) The Board shall, subject to section 7 of the Public Finance Management Act, 1999, open and maintain, with a bank registered in South Africa in terms of the Banks Act, 1990 (Act No. 94 of 1990), an account to be known as the Mpumalanga Tourism and Parks Agency Account, into which account shall be deposited all the moneys received by the Agency as contemplated in subsection (1), read with section 22(5) of the Public Finance Management Act, 1999.

(3) The Board may, subject to any other law-

(a) solicit donations, grants or bequests referred to in subsection (1)(d); and

(b) subject to the terms and conditions relating to such donations, grants and bequests, utilise the moneys concerned in such manner as it may determine.

(4) Any surplus funds which, at any time, stand to the credit of the Mpumalanga Tourism and Parks Agency Account must, in accordance with the investment policy of the Agency, be invested with the Corporation for Public Deposits, as contemplated in Treasury Regulation 31.3.

22. Appropriation of income and property

The moneys appropriated by the Provincial Legislature to the Agency as contemplated in section 20, shall be utilized in accordance with such appropriation and all other income, property and profits of the Agency, shall be utilised exclusively for the achievement of its objects and in accordance with the provisions of this Act.

23. Procurement

(1) When procurinQ any supply or service, or hiring or letting anything or acquiring or granting any right or acquiring or disposing of any asset for or on behalf of the Agency as contemplated in section 4, the Board shall ensure that such procurement is effected in accordance with, and duly complies with-

(a) the regulations made or instructions issued by the National Treasury in respect of an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective as contemplated in section 76(4)(c) of the Public Finance Management Act, 1999;

(b) the instructions issued by the Provincial Treasury as contemplated in section 18(2)(a) of the Public Finance Management Act, 1999, in respect of an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;

(c) the appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective as established by the Board, as contemplated, in section 51(1)(a)(iii) of the Public Finance Management Act, 1999; and

(d) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

(2) The Board shall adopt, within six months after the coming into operation of this Act, a procurement system consistent with subsection (1), which procurement system shall be utilised for the procurement of all-supplies, goods and services, as well as the disposal of supplies and goods, by the Agency.

24. Committees of Board

(1) The Board may establish committees, with the power to co-opt other persons, for the purpose of assisting it with the due and proper exercise and performance of any of its powers and functions in terms of this Act, and may likewise dissolve, extend, enlarge or limit any committee so established.

(2) (a) A committee established under subsection (1), consists of no fewer than three Members designated by the Board being suitable and appropriately qualified or experienced regarding matters relating to the functions of the committee in question.

(b) The Board shall designate a Member serving on a committee as the chairperson of such committee.

(3) A co-opted member of a committee serves in an advisory capacity, and may not vote at any meeting of such committee.

25. Power of Board to make rules and determine procedures

The Board shall make internal rules and determine procedures regarding the holding of meetings of the Board and the holding of meetings of committees of the Board and the keeping of minutes of such meetings.

26. Bookkeeping and auditing

(1) The Board shall cause proper records to be kept of all moneys received or expended by the Agency, of all its assets and liabilities and of all financial transactions entered into by the Agency, in accordance with generally accepted accounting practices.

(2) The Board shall establish an Audit Committee for the Agency consisting of at least three persons in accordance with Treasury Regulation 27,

(3) The Audit Committee shall prepare, sign and submit to the Board, within 15 days of the end of each quarter, a report in respect of the operations, including the income and expenditure, of the Agency in respect of the preceding, quarter.

27. Quarterly reports

(1) The Board shall submit to the Member of the Executive Council quarterly reports, in strict compliance with the relevant provisions of the Public Finance Management Act, 1999 and the Treasury Regulations, and which reports shall deal with the state of affairs, the activities, the operations, and the financial position of the Agency, including-

(a) the extent to which the Agency has achieved or advanced its objects during the financial quarter concerned;

(b) the relevant performance information regarding the economic, efficient and effective utilisation of resources;

(c) the amount of money, if any, received from the Government or any other source and any other financial commitment furnished to the Agency; and

(d) the detailed personnel establishment and composition of the Agency.

(2) The Member of the Executive Council shall cause copies of the quarterly report submitted to him or her in terms of subsection (1), to be tabled in the Provincial Legislature within 20 days of receipt

thereof if the Provincial Legislature is in session, or if the Provincial Legislature is not in session, within 14 days after commencement of its ensuing session.

(3) Notwithstanding the provisions of subsection (1), the Member of the Executive Council may, at any time, request the Board to submit to him or her, an interim report pertaining to the state of affairs, the activities, the operations, and the financial position of the Agency or pertaining to any specific matter identified by the Member of the Executive Council, and shall be submitted to the Member of the Executive Council within 14 days after such request.

28. Annual report and financial statements

(1) The Board shall ensure that, in preparing, and submitting its annual report and financial statements, it complies, fully with section 55 of the Public Finance Management Act, 1999 and the Treasury Regulations.

(2) The Board shall, in its annual report, as far as the exercise and performance of its powers and functions during the year being reported on, are concerned, also include reference to-

(a) its achievements;

(b) its failures;

(c) the financial implications of all such achievements and failures;

(d) any recommendations pertaining to tourism in the Province and conservation management of the natural resources of the Province, for consideration.

29. Prohibition of use of name of Mpumalanga Tourism and Parks Agency

No person, company or association of persons may carry on business under a name that is the same as or so closely resembles that of the Mpumalanga Tourism and Parks Agency that is calculated to or is reasonably likely to deceive.

30. Appointment of Registrar and designated officers

(1) The Board-

(a) shall, in consultation with the Member of the Executive Council, appoint a person to be the Registrar of all persons and entities as contemplated in section 31; and

(b) may appoint such other person or persons as designated officer or officers as may be.

(2) The Registrar and designated officers shall on appointment, be issued with a certificate signed by the Chairperson of the Board, stating that the holder of such certificate has been duly appointed as such in terms of this Act.

(3) The Registrar shall in the exercise and performance of his or her powers and functions, report to the Chief Executive Officer.

31. Register for registration of certain persons and entities

(1) For the purpose of establishing a comprehensive database of the tourism industry in the Province as contemplated in section 4(11)(e), the Registrar shall keep and maintain a register for the registration of all-

(a) travel agents;

(b) tourist guides;

(c) tour operators;

(d) carriers;

(e) tourism training providers;

(f) hotels and other accommodation establishments;

(g) restaurants;

(h) conference centres;

(i) vehicle rental operators;

(j) activity operators;

(k) hunting operators; and

(l) other tourist amenities, entities and organisations designated as such by the Member of the Executive Council by notice in the *Provincial Gazette*, operating or conducting such business or concern, or any aspect of such business or concern, within the Province.

(2) No person may operate or conduct any business or concern as contemplated in subsection (1) within the Province, without being duly registered as such in terms of this Act.

32. Publication of requirements for registration

(1) The Member of the Executive Council shall publish, not later than six months after the coming into operation of this Act, the requirements for registration as contemplated in section 33, by notice in the *Provincial Gazette*: Provided that compliance with the Tourism Act, 1993 (Act No. 72 of 1993), shall be one of the requirements for registration so published.

(2) The requirements published in terms of subsection (1) may, as and when necessary, be amended by the Member of the Executive Council by notice in the *Provincial Gazette*.

33. Certain persons and entities to be registered

(1) All persons and entities as contemplated in section 31, shall apply for registration by the Agency.

(2) Subject to the provisions of subsections (3) and (4) the Registrar shall, if all the requirements for registration-

(a) have been complied with, on application of arty person or entity as contemplated in section 31, so register such person or entity; or

(b) have not been complied with by any person or entity as contemplated in section 31, refuse to register such person or entity: Provided that the Registrar may postpone the registration of such person or entity for a period not exceeding 30 days, in order to afford such person or entity the opportunity to comply fully with all the requirements for registration,

(3) Before registering any person or entity as contemplated in section 31 in accordance with subsection (2) the Registrar shall ensure that such registration is consistent with all National policies, guidelines and directives pertaining to the tourism industry, with specific reference to policies, guidelines and directives pertaining to the transformation of the tourism industry and also take into consideration whether or not the person or entity applying for registration, has previously been found guilty of an offence in terms of this Act,

(4) Before registering any person or entity as contemplated in section 31 in accordance with subsection (2), the Registrar shall have due regard to the registration of any such person or entity in terms of any other legislation, and may-

(a) inspect, interview, analyse or examine any person or entity as contemplated in section 31 or cause such person or entity to be inspected, interviewed, analysed or examined by a designated officer, as the case may be;

(b) call for a report from a health officer; and

(c) conduct any further investigation as may be necessary regarding such application.

(5) The Registrar shall, not later than one month after receipt of an application for registration as contemplated in subsection (1), duly register such person or entity, if such person or entity complies with all the prescribed requirements.

(6) No person or entity as contemplated in section 31 may, after the expiry of 12 months after the coming into operation of this section, operate or conduct such business or concern, or any aspect of such business or concern, within the Province, unless such person or entity is registered as contemplated in subsection (2).

(7) An application referred to in subsection (1), any subsequent application or an application for the renewal of registration, shall be-

(a) made in the prescribed manner;

(b) made not less than 90 days before the date on which the applicant intends commencing, re-commencing or continuing with the operation or conducting of the business or concern; and

(c) accompanied by the prescribed fee.

(8) The Registrar shall forthwith provide, written reasons to every person or entity applying for registration in terms of subsection (1), if such application is unsuccessful.

34. Withdrawal of registration

(1) If any person or entity registered in terms of section 33 does not comply with the requirements of such registration, the Registrar shall give notice to such person or entity to comply with such requirements within one month from the date of such notice.

(2) Any person or entity contemplated in section 31, shall, upon receipt of a notice referred to in subsection (1), forthwith acknowledge receipt of such notice in writing and-

(a) confirm in writing whether or not such person or entity intends complying with the requirements for such registration, including a clear reference to applicable timeframes; or

(b) make representations in writing to the Registrar regarding the non-compliance with the requirements for registration as referred to in the notice by the Registrar issued in terms of subsection (1).

(3) Upon receipt of any submission in terms of subsection (2)(a) or (b), the Registrar may withdraw or amend the notice issued by the Registrar in terms of subsection (1), which amendment may include the extension of the period concerned.

(4) If, upon the expiry of the period of one month referred to in the notice by the Registrar issued in terms of subsection (1), or such extended period granted by the Registrar in terms of subsection (3), the person or entity concerned has still not complied with the requirements for registration, the Registrar shall withdraw the registration of such person or entity and inform such person or entity of such withdrawal

(5) The Registrar shall forthwith provide written reasons to the person or entity concerned in all instances where such person or entity's registration is withdrawn in terms of subsection (4).

35. Issuing of certificates

(1) The Registrar shall forthwith issue, in the prescribed format, to every person or entity registered as contemplated in section 33, a certificate of registration.

(2) Any certificate issued in terms of subsection (1), shall be valid for a period not exceeding 12 months from the date of issue thereof.

(3) Upon the withdrawal in terms of section 34(4), of the registration of any person, or entity as contemplated in section 31, such person or entity shall forthwith return the certificate of registration to the Registrar.

36. Publication of list of certain persons and entities

The Agency shall, during May and November of each year publish, in such manner as it may determine, a comprehensive list of all registered persons and entities as contemplated in section 31, together with such additional information as it may determine.

37. Appeal against decision of Registrar

(1) Any person or entity as contemplated in section 31 that feels aggrieved by any decision of the Registrar taken in terms of either section 33(2)(b) or section 34(4) pertaining to such person or entity's business or concern may, within 28 days after being notified of such decision, appeal in writing against such decision to the Board,

(2) The Board may require the Registrar to furnish it with the written reasons for his or her decision, and a record of the proceedings.

(3) When an appeal has been duly lodged in terms of subsection (1), the decision of the Registrar shall be suspended until the Board has made an appropriate order: Provided that such order shall be made within one month after such appeal was lodged.

(4) Any person or entity as contemplated in section 31 that feels aggrieved by any order of the Board made in terms of subsection (3), may within 14 days after being notified of such order, appeal in writing against such order, to the Member of the Executive Council.

(5) The Member of the Executive Council may require the Chairperson of the Board, to furnish him or her with the written reasons for the Board's order, and a record of the proceedings.

(6) When an appeal has been duly lodged in terms of subsection (4), the order of the Board shall be suspended until the Member of the Executive Council has made an appropriate order: Provided that such order shall be made within one month after such appeal was lodged.

38. Inspection of premises

(1) The Registrar or designated officer may, for the purposes of this Act and at any reasonable time, enter any premises of any person or entity registered in terms of this Act, or the premises of any person or entity that professes or purports to be registered in terms of this Act in order to-

(a) inspect the validity of any certificate of such person or entity, issued in terms of section 35(1); and

(b) ascertain whether such person or entity complies with the prescribed requirements for registration in terms of this Act.

(2) Any person in charge of the relevant business or concern being inspected in terms of subsection (1), any person purporting to be in charge of such business or concern, any holder of a certificate issued in terms of section 35(1) regarding such business or concern, or any person purporting to be the holder of such certificate, shall reasonably assist the Registrar or designated officer conducting such inspection, therewith.

(3) Any person contemplated in subsection (2), shall forthwith comply fully with all reasonable requests by the Registrar or the designated officer conducting the inspection in terms of subsection (1), by producing any books, notices, records, or other documents which are or have been on the premises or in possession or custody of such person if the examination of such books, notices, records, or other documents is necessary for the purposes of such inspection.

(4) The Registrar or designated officer may, in the course of conducting the inspection in terms of subsection (1), examine any such book, notice, record or document as contemplated in subsection (3) and may make extracts therefrom and copies thereof for the purposes of such inspection,

(5) The Registrar or designated officer concerned shall, on demand by any person, affected by an inspection conducted in terms of subsection (1), produce his or her certificate of appointment issued in terms of section 30(2).

39. Payment of levy

All levies payable in respect of tourism in the Province or conservation management of the natural resources of the Province, shall be as determined by applicable legislation.

40. Regulations

(1) The Member of the Executive Council may, after consultation with the Agency and in consultation with the Executive Council, make regulations regarding any requirements to be complied with and any other matter in respect of which the Member of the Executive Council may make regulations, in terms of this Act.

(2) The Member of the Executive Council shall, within six months after the coming into operation of this Act, make regulations pertaining to all matters that shall be prescribed, in terms of this Act.

(3) Regulations made in terms of subsection (1) may provide for penalties for any contravention thereof.

(4) Regulations made in terms of subsection (1), will be effective from the date of publication thereof in the *Provincial Gazette*, by the Member of the Executive Council.

41. Offences and penalties

Any person who-

(a) publishes or causes or allows to be published in any manner, false or misleading information relating to any person or entity contemplated in section 31; or

(b) publishes or causes or allows to be published in any manner, false or misleading information relating to any person or entity who purports to be a person or entity contemplated in section 31; or

(c) hinders or obstructs the Registrar or a designated officer in the exercise or performance of his or her powers or functions; or

(d) wilfully furnishes to the Registrar or designated officer false or misleading information; or

(e) contravenes any provision of this Act, is guilty of an offence and liable to a fine as may be determined from time to time or imprisonment for a period not exceeding two years or to both such fine and imprisonment.

42. Repeal of laws

The Mpumalanga Parks Board Act, 1995 (Act No. 6 of 1995), and the Mpumalanga Tourism Act, 2001 (Act No. 7 of 2001), are hereby repealed.

43. Transitional arrangements

(1) The Premier shall stipulate, by notice in the *Provincial Gazette*, a date upon which the Agency shall, subject to section 21 (2)(b) of the Companies Act, 1973 (Act No. 61 of 1973), take transfer of the personnel and the assets, and further assume the liabilities, rights and obligations, of the Mpumalanga Tourism Authority.

(2) The Premier shall stipulate, by notice in the *Provincial Gazette*, a date upon which the Agency shall take transfer of the personnel and the assets, and further assume the liabilities, rights and obligations, of the Mpumalanga Parks Board established by the Mpumalanga Parks Board Act, 1995 (Act No. 6 of 1995).

(3) All persons employed by the Mpumalanga Tourism Authority and the Mpumalanga Parks Board are, from the applicable dates stipulated by the Premier in terms of either subsection (1) or subsection (2), and with due regard to section 197 of the Labour Relations Act, 1995, deemed to be employed by the Agency at the same salary and salary scale and on the same terms and conditions of employment than those which governed such person's previous employment with either the Mpumalanga Tourism Authority or the Mpumalanga Parks Board, as the case may be.

(4) No appointment in terms of this Act shall be made or employment be effected for a period of six months after the coming into operation of this section, without the prior written approval of the Member of the Executive Council first having been obtained in each instance.

(5) Arising out of and subject to the provisions of subsections (1) and (2), the Agency shall become the successor-in-title to the Mpumalanga Tourism Authority and the Mpumalanga Parks Board and-

(a) becomes the owner of all movable and immovable property allocated to it in terms of section 2(2)(b) of the Companies Act, 1973 and all movable and immovable property of the Mpumalanga Parks Board;

(b) is substituted as litigating party for the Mpumalanga Tourism Authority and the Mpumalanga Parks Board, in all pending litigation, including arbitrations, labour disputes and mediation, as if the Agency had been the litigant at the time the cause of action arose;

(c) is substituted as contracting party for the Mpumalanga Tourism Authority and the Mpumalanga Parks Board, in all contracts as if the Agency had been the contracting party at the time of contracting; and

(d) is deemed to have issued all financial instruments of the Mpumalanga Tourism Authority and the Mpumalanga Parks Board.

(6) Anything done by or in respect of the Mpumalanga Tourism Authority or the Mpumalanga Parks Board, is deemed to have been done under this Act, by the Agency, if applicable,

(7) The Members of the Board of the Mpumalanga Tourism Authority, the Chief Executive Officer and the other personnel of the Mpumalanga Tourism Authority, the Members of the Mpumalanga Parks Board and the Chief Executive Officer and the other personnel of the Mpumalanga Parks Board shall forthwith, upon request, fully and duly assist the Board of the Agency in the exercise and performance of any of its powers and functions in terms of this Act.

44. Short title and commencement

(1) This Act is called the Mpumalanga Tourism and Parks Agency Act, 2005, and comes into operation on a date fixed by the Premier by notice in the *Provincial Gazette*.

(2) Different dates may be so fixed in respect of different provisions of this Act.