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20 July 2004
20 Julie 2004

No. 26590

THE PRESIDENCY

No. 861

20 July 2004

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 11 of 2004: Communal Land Rights Act, 2004.

IHHOVISI LIKAMONGAMELI

Ino. 861

20 July 2004

Ngalokhu kwaziswa ukuthi uMongameli usewuvumile loMthetho nosewuzoshicilelwa umphakathi:—

Ino 11 ka 2004: Umthetho Wamalungelo Omhlaba Womphakathi, ka 2004.



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GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

*(English text signed by the President.)
(Assented to 14 July 2004.)*

ACT

To provide for legal security of tenure by transferring communal land, including KwaZulu-Natal Ingonyama land, to communities, or by awarding comparable redress; to provide for the conduct of a land rights enquiry to determine the transition from old order rights to new order rights; to provide for the democratic administration of communal land by communities; to provide for Land Rights Boards; to provide for the co-operative performance of municipal functions on communal land; to amend or repeal certain laws; and to provide for matters incidental thereto.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

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Sections

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2. Application of Act

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3. Juristic personality of community
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TRANSFER AND REGISTRATION OF COMMUNAL LAND

5. Registration of communal land and new order rights
6. Transfer of communal land

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UMTHETHO WAMALUNGELO
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INCAZELO NGENDLELA YOKUBHALA:

- [] Amagama abhalwe ngokucindezela akubakaki abayisikwele ayinkomba yokungafakwanga kumithetho evele inhona.
- Amagama adwetshelwe ngomugqa owodwa ohlangene ayinkomba yokushuthekiwe kwimithetho evele ikhona.

(English text signed by the President.)
(Assented to 14 July 2004.)

UMTHETHO

Ukuhlinzeka ukuvikeleka okusemthethweni kokusetshenziswa komhlaba ngokuba kudluliselwe kwimiphakathi imihlaba yemiphakathi, ebandakanya nalowo weNgonyama yakwaZulu-Natali, noma ngokukhipha isinxephezelo esithi masibe seqophelweni eliqhathanisekayo; ukuhlinzekela ukuqhutshwa kophenyo ngamalungelo omhlaba ukuze kunqunywe ngendlela yoguquko kusukwa kwindlela elandela uhlelo lwakudala kuwelelwe kwelandela uhlelo olusha lwamalungelo; ukuhlinzekela ukusingatha ngokwentando yeningi umhlaba womphakathi; ukuhlinzekela ukuba khona kwama-Bhodi amaLungelo oMhlaba; ukuhlinzekela ubambiswano lapho omasipala besebenza ngezemihlaba yemiphakathi; ukuchibiyela nokuchitha imithetho ethize; nokuhlinzekela okunye okuhambisana nalokho.

MAKUMISWE yiPhalamende laseRiphabhuliki yaseNingizimu Afrika, ngokulandelayo:—

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DEFINITIONS AND APPLICATION OF ACT 20

Definitions

1. In this Act, unless the context indicates otherwise—
 - “**beneficial occupation**” means the occupation of land by a person for a continuous period of not less than five years prior to 31 December 1997 as if that person was the owner, without force, openly and without the permission of the owner, and “**beneficially occupied**” has a corresponding meaning; 25
 - “**Board**” except in Chapter 9, means a Land Rights Board established in terms of section 25;
 - “**communal land**” means land contemplated in section 2 which is, or is to be, occupied or used by members of a community subject to the rules or custom of that community; 30
 - “**community**” means a group of persons whose rights to land are derived from shared rules determining access to land held in common by such group;
 - “**community rules**” means the rules registered in terms of section 19(1);
 - “**comparable redress**” means the redress contemplated in Chapter 4; 35
 - “**Constitution**” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);
 - “**Deed of Communal Land Right**” means a deed in terms of which a new order right is registered in the name of a person as contemplated in section 6;
 - “**Deeds Registries Act**” means the Deeds Registries Act, 1937 (Act No. 47 of 1937); 40
 - “**Department**” means the Department of Land Affairs;
 - “**Director-General**” means the Director-General of Land Affairs;
 - “**land administration committee**” means a land administration committee established in terms of section 21; 45
 - “**land rights enquirer**” means a land rights enquirer designated or appointed in terms of section 15;
 - “**Minister**” means the Minister responsible for Land Affairs;

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34. Amandla nemisebenzi yeBhodi malungana nomhlaba ongaphansi kweNgonyama
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ISAHLUKO 1

IZINCAZELO NOKUSEBENZA KOMTHETHO

Izincazelo

1. KuloMthetho, ngaphandle uma ingqikithi isho okunye—
“**ukuzinza okuyinzuzo**” kusho ukuhlala komuntu kumhlaba okuyisikhathi 25
esingengaphansi kweminyaka emihlanu ngaphambi komhlaka 31 kuDisemba
1997, umuntu ezinze sengathi ungumnikazi, ngaphandle kwendlovuyangena,
ngokuphumele obala nangaphandle kwemvume yomnikazi, kanti
“**ukuzinza ngokuyinzuzo**” nako kunencazelo efanayo;
“**iBhodi**” ngaphandle kwaseSahlukweni 9, kusho iBhodi lamaLungelo oMhlaba 30
elimiswe ngokwesigaba 25;
“**umhlaba womphakathi**” kusho umhlaba, njengokubekiwe kusigaba 2, okuzinze
kuwona, kumbe okuzozinza kuwo, noma ozokusetshenziswa amalungu
omphakathi ngokuhambisana nemithetho-nqubo kumbe usiko lwalowo mphakathi;
“**umphakathi**” kusho iqembu labantu abamalungelo abo maqondana nomhlaba 35
eqhamuka kwimithetho-nqubo yomphakathi ehlanganyele elawula ukutholakala
nokusetshenziswa komhlaba okuhlala kuwona labo bantu;
“**imithetho-nqubo yomphakathi**” isho imithetho-nqubo erejistiwe
ngokwesigaba 19(1);
“**isinxephezelo esiqhathanisekayo**” kusho isinxephezela njengokubekiwe 40
kwisaHluko 4;
“**uMthetho-sisekelo**” kusho uMthetho-sisekelo waseNingizimu Afrika, ka 1996
(uMthetho onguNombolo 108 ka 1996);
“**iTayitele lamaLungelo omHlaba woMphakathi**” lisho itayitele okurejistwe
ngalo ilungelo elingaphansi kohlelo olusha egameni lomuntu, njengalo kubekiwe 45
kusigaba 6;
“**uMthetho wokuRejistwa kwamaTayitele**” kusho ‘Deeds Registries Act’, ka
1937 (uMthetho onguNombolo 47 ka 1937);
“**uMnyango**” kusho uMnyango wezeMihlaba;
“**uMqondisi-Jikelele**” kusho uMqondisi-Jikelele woMnyango wezeMihlaba; 50
“**ikomidi eliphethe ezemihlaba**” kusho ikomidi lokusingathwa komhlaba
elimiswe ngokwesigaba 21;
“**umcubunguli ngamalungelo omhlaba**” kusho osingethe ukucubungula
ngamalungelo omhlaba obekwe kumbe oqokwe ngokwesigaba 15;
“**uNgqongqoshe**” kusho uNgqongqoshe obhekele ezeMihlaba; 55

“**new order right**” means a tenure or other right in communal or other land which has been confirmed, converted, conferred or validated by the Minister in terms of section 18;

“**old order right**” means a tenure or other right in or to communal land which—

- (a) is formal or informal; 5
- (b) is registered or unregistered;
- (c) derives from or is recognised by law, including customary law, practice or usage; and
- (d) exists immediately prior to a determination by the Minister in terms of section 18, but does not include— 10
 - (i) any right or interest of a tenant, labour tenant, sharecropper or employee if such right or interest is purely of a contractual nature; and
 - (ii) any right or interest based purely on temporary permission granted by the owner or lawful occupier of the land in question, on the basis that such permission may at any time be withdrawn by such owner or lawful 15 occupier;

“**prescribed**” means prescribed by regulation in terms of this Act;

“**this Act**” includes any regulations made under this Act; and

“**traditional council**” means a traditional council as defined in section 1 of the Traditional Leadership and Governance Framework Act, 2003. 20

Application of Act

2. (1) This Act applies to—

- (a) State land which is beneficially occupied and State land which—
 - (i) at any time vested in a government contemplated in the Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971), before its repeal 25 or of the former Republics of Transkei, Bophuthatswana, Venda or Ciskei, or in the South African Development Trust established by section 4 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), but not land which vested in the former South African Development Trust and which has been disposed of in terms of the State Land Disposal Act, 1961 (Act No. 48 of 1961); 30
 - (ii) was listed in the schedules to the Black Land Act, 1913 (Act No. 27 of 1913), before its repeal or the schedule of released areas in terms of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), before its 35 repeal;
- (b) land to which the KwaZulu-Natal Ingonyama Trust Act, 1994 (Act No. 3 KZ of 1994), applies, to the extent provided for in Chapter 9 of this Act;
- (c) land acquired by or for a community whether registered in its name or not; and
- (d) any other land, including land which provides equitable access to land to a community as contemplated in section 25(5) of the Constitution. 40

(2) The Minister may, by notice in the *Gazette*, determine land contemplated in subsection (1)(d) and may in such notice specify which provisions of this Act apply to such land.

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“ilungelo kuhlelo olusha” kusho ilungelo lokusebenzisa noma elinye ilungelo kumhlaba womphakathi kumbe omunye umhlaba, eliqinisekisiwe laguqulwa kumbe lavunyelwa nguNgqongqoshe ngokwesigaba 18;

“ilungelo kuhlelo oludala” kusho ilungelo lokusebenzisa umhlaba kumbe elinye ilungelo lomhlaba emphakathini—

(a) elimisiwe noma elingamisiwe;

(b) elirejistiwe noma elingarejistiwe;

(c) eliqhamuka noma elamukelekile ngokusemthethweni lokho kumbandakanya uMthetho wosiko, kwinqubo kumbe ekusetshenzisweni; futhi

(d) ebelikhona kafushane ngaphambi kwesinqumo sikaNgqongqoshe ngokwesigaba 18, kodwa alibandakanyi—

(i) noma iliphi ilungelo kumbe intshisekelo yomqashi, umqashi ongumsebenzi, ohlanganyele ngokulima noma umqashwa uma lelo lungelo noma intshisekelo lingenxa yesivumelwano; futhi

(ii) nanoma yiliphi ilungelo noma intshisekelo yemvume yesikhashana yomnikazi noma ozinze ngokusemthethweni kumhlaba lowo, uma kunombandela wokuthi lelo lungelo lingahoxiswa noma nini yilowo ongumnikazi kumbe umzinzi osemthethweni;

“okuyalelwe” kusho okuyalelwe nguMthetho-mgomo ngokwaloMthetho;

“loMthetho” umbandakanya noma imuphi uMthetho-mgomo ngaphansi kwaloMthetho; futhi

“umkhandlu wendabuko” kusho umkhandlu wendabuko njengalo kuchaziwe kusigaba 1 soMthetho woHlaka Lobuholi nobuPhathi beNdabuko (Traditional Leadership and Governance Framework Act), ka 2003.

Ukusebenza koMthetho**2. (1) LoMthetho usebenza—**

(a) kumhlaba womBuso okuzinzwe kuwona ngokwenzuzo kanye nomhlaba womBuso—

(i) owake nganoma isiphi isikhathi, waba ngaphansi kukahulumeni okukhulunywa ngaye kuMthetho wokwakheka koHulumeni abangoMaziphathe (Self-Governing Territories Constitution Act), ka 1971 (uMthetho onguNombolo 21 ka 1971), ngaphambi kokuchithwa kwawo noma amaRiphabhuliki aphambilini ase-Transkei, Bophuthatswana, Venda noma Ciskei, noma ayengaphansi kwenhlangano engumBhekeli weNtuthuko yaseNingizimu Afrika (South African Development Trust) eyamiswa ngokwesigaba 4 soMthetho woMbhekeli weNtuthuko kanye noMhlaba, (Development Trust and Land Act), ka 1936 (uMthetho onguNombolo 18 ka 1936) kodwa hhayi umhlaba obungaphansi kukaMbhekeli waphambilini weNtuthuko waseNingizimu Afrika (South African Development Trust) owachithwa ngokoMthetho wokuChithwa koMhlaba womBuso (State Land Disposal Act,) ka 1961 (uMthetho onguNombolo 48 ka 1961);

(ii) owabe ufakwe ohlwini lwamasheduli oMthetho woMhlaba wabaNsundu (Black Land Act) ka 1913 (uMthetho onguNombolo 27 ka 1913), ngaphambi kokuchithwa kwawo noma isheduli yezindawo ezidedelwe ngokoMthetho womBhekeli weNtuthuko nomHlaba (Development Trust and Land Act), ka 1936 (uMthetho onguNombolo 18 ka 1936), ngaphambi kokuchithwa kwawo;

(b) kumhlaba okusebenza kuwo uMthetho owengamele umHlaba ongaPhansi kweNgonyama kwaZulu-Natali (KwaZulu-Natal Ingonyama Trust Act), ka 1994 (uMthetho onguNombolo 3 KZ ka 1994) kangangoba kuhlinzekiwe kuSahluko 9 saloMthetho;

(c) kumhlaba owatholwa umphakathi kumbe watholelwa umphakathi noma ngabe ubhalisiwe noma awubhaliswanga ngegama lomphakathi; kanye

(d) kunanoma imuphi omunye umhlaba, lokho kumbandakanya lowo ovumela ukuba usetshenziswe umphakathi thizeni ngokobulungiswa, njengokubekiwe kusigaba 25(5) soMthetho-sisekelo.

(2) UNgqongqoshe angakwazi, ngokukhipha isaziso kwiGazethi, ukuthi anqume mayelana nomhlaba okukhulunywa ngawo kusigatshana (1)(d) futhi unokuba kulesi saiziso achaze ukuthi yiziphi izingxenye zaloMthetho ezisebenza kulowo mhlaba.

CHAPTER 2

JURISTIC PERSONALITY AND LEGAL SECURITY OF TENURE

Juristic personality of community

3. Upon the registration of its rules in terms of section 19(1), a community acquires juristic personality with perpetual succession regardless of changes in its membership and it may, subject to such rules, this Act and any other law, in its own name— 5
- (a) acquire and hold rights and incur obligations; and
 - (b) own, encumber by mortgage, servitude or otherwise and dispose of movable and immovable property and otherwise deal with such property subject to any title or other conditions. 10

Security of tenure

4. (1) A community or person is entitled to the extent and in the manner provided for in this Act and within the available resources of the State, either to tenure which is legally secure or to comparable redress if the tenure of land of such community or person is legally insecure as a result of past racially discriminatory laws or practices. 15
- (2) An old order right held by a married person is, despite any law, practice, usage or registration to the contrary, deemed to be held by all spouses in a marriage in which such person is a spouse, jointly in undivided shares irrespective of the matrimonial property regime applicable to such marriage and must, on confirmation or conversion in terms of section 18(3), be registered in the names of all such spouses. 20
- (3) A woman is entitled to the same legally secure tenure, rights in or to land and benefits from land as is a man, and no law, community or other rule, practice or usage may discriminate against any person on the ground of the gender of such person.

CHAPTER 3

TRANSFER AND REGISTRATION OF COMMUNAL LAND

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Registration of communal land and new order rights

5. (1) Communal land and new order rights are capable of being and must be registered in the name of the community or person, including a woman, entitled to such land or right in terms of this Act and the relevant community rules.
- (2) Despite any other law— 30
- (a) on the making of a determination by the Minister in terms of section 18, the ownership of communal land which is not State land but which is registered in the name of—
 - (i) a person;
 - (ii) a traditional leader or traditional leadership whether recognised in terms of law or not; 35
 - (iii) a communal property association contemplated in the Communal Property Associations Act, 1996 (Act No. 28 of 1996); or

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ISAHLUKO 2

**UKUBA SAMUNTU NGAPHANSI KOMTHETHO NOKUVIKELEKA
NGOKOMTHETHO KWELUNGELO LOKUSEBENZISA UMHLABA**

Ukuba samuntu komphakathi ngaphansi komthetho

3. Lapho umphakathi usurejiste imithetho-nqubo yawo ngokwesigaba 19(1), ube usuthabatha isimo sobuntu okuzoba ngobezizukulwane ngezizukulwane emehlweni omthetho okungunaphakade, noma kungaba nezinguquko kumalungu awo, futhi unakho ukuthi ngokwaleyo mithetho-nqubo, nangokwaloMthetho, nangokwanoma imuphi omunye umthetho egameni lawo—

- (a) uzitholele futhi uzigcinele amalungelo nezibophezelo; futhi
- (b) ube ngumnikazi, uthole ngokukwenetisa ngesibambiso ngendawo kumbe ngelungelo lokusetshenziswa kwendawo nangezinye izindlela, impahla kumbe umhlaba, noma wenze noma yini ngalowo mhlaba ngokuhambisana nanoma iliphi itayiteli kumbe eminye imibandela.

Ukuvikeleka kwelungelo lokusebenzisa umhlaba

4. (1) Umphakathi kumbe umuntu, ungunya kangangokuvunyelwa nangendlela ehlinzekelwe yiloMthetho nangokungangemithombo uMbuso onayo, lokuba asebenzise umhlaba ovikelekile emthethweni kumbe lokunxeshezela ngokuqhathanisekayo uma ukusetshenziswa komhlaba yilowo mphakathi noma ngumuntu kungesikhona okuvikelekile emthethweni ngenxa yemithetho noma inqubo yakudala ebikade ibandlulula ngokobuhlanga.

(2) Ilungelo elingaphansi kohlelo lwakudala okungeloshadileyo, noma ngabe kukhona umthetho, inqubo, ukusetshenziswa kumbe okubhalisiwe okuphikisayo, lithathwa njengelingelabo bobabili ngokuhlanganyele kulowo mshado okushade kuwona lowo muntu, noma ngabe beshade ngaphansi kwamiphi imigomo ephathelene nempahla yabo futhi kufanele, kuthi lapho liqinisekiswa kumbe liguqulwa ngokwesigaba 18(3), lirejistwe ngamagama abo bonke labo bashadi.

(3) Owesifazane unelungelo elilinganayo nelwesilisa elivikelekile lokusebenzisa umhlaba, amalungelo kanye nezinzuzo eziqondene nomhlaba, kanti kakukho mthetho, mphakathi kumbe namuphi omunye umthetho, inqubo kumbe ukusebenzisa kumbandlulule umuntu ngenxa yobulili bakhe.

ISAHLUKO 3

UKUDLULISWA NOKUREJISTWA KOMHLABA WOMPHEKATHI

Ukurejistwa kwamalungelo omhlaba womphakathi kanye nalawo angaphansi kohlelo olusha

5. (1) Amalungelo omhlaba womphakathi kanye nalawo angaphansi kohlelo olusha ayakwazi futhi kufanele arejistwe ngegama lomphakathi noma lomuntu kumbandakanya nongowesifazane ongunya kulowo mhlaba kumbe ilungelo, ngokwaloMthetho nangokweMithetho-nqubo eqondene yomphakathi.

(2) Noma ngabe uthini omunye umthetho—

- (a) uma uNgqongqoshe esesithathile isinqumo ngokwesigaba 18, ubumnini bomhlaba womphakathi ongesiwona owoMbuso kodwa ube urejistwe egameni—
 - (i) lomuntu;
 - (ii) lomholi wendabuko noma lobukhosi obuthize obemukelwe kumbe bungemukelwe ngokoMthetho;
 - (iii) likasoseshani womhlaba womphakathi njengokubekiwe ngawo kuMthetho weziNhlangothi zoMhlaba woMphakathi (iCommunal Property Associations Act), ka 1996 (uMthetho onguNombolo 28 ka 1996); noma

- (iv) a trust or other legal entity,
vests in the community on whose behalf such land is held or in whose interest
such registration was effected, and such land remains subject to limitations
and restrictions in relation to and rights or entitlements to such land;
 - (b) the community referred to in paragraph (a) succeeds in all respects as the 5
successor in title to such person, traditional leader or traditional leadership,
communal property association, trust or other legal entity;
 - (c) the title deed relating to land contemplated in paragraph (a) and any mortgage
bond or other deed registered in respect of such land must, in the prescribed
manner, be endorsed by the Registrar of Deeds to reflect the community as the 10
registered owner of such land; and
 - (d) the provisions of this Act must apply with the necessary changes to land
contemplated in paragraph (a).
- (3) (a) A document evidencing an old order right which is cancelled or replaced by a
new order right in terms of this Act, must be lodged with the Registrar of Deeds, who 15
must endorse such document as having been cancelled.
- (b) If a document contemplated in paragraph (a) cannot be lodged, the Registrar must
accept an appropriate affidavit to that effect by the holder of such right or the Minister.

Transfer of communal land

6. After making a determination in terms of section 18, the Minister must— 20
- (a) transfer the entire communal land determined by her or him to be the land to
which a community is entitled, to such community subject to the conditions
contemplated in section 18(4) which are applicable to such land;
 - (b) despite any other law to the contrary, on behalf of such community and in
respect of such land— 25
 - (i) have a communal general plan prepared and approved in terms of the
Land Survey Act, 1997 (Act No. 8 of 1997);
 - (ii) have such plan registered and have a communal land register opened in
terms of the Deeds Registries Act;
 - (iii) transfer, by means of a Deed of Communal Land Right or other 30
appropriate deed, the new order rights to the person or persons entitled to
such rights; and
 - (c) do any other things necessary to give effect to that determination and this
section.

Functions of conveyancer

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7. A suitably qualified official of the Department may perform the functions of a
conveyancer required in terms of the Deeds Registries Act.

Registration of subsequent transactions

8. Registrable transactions in respect of communal land, including new allocations of
rights in such land, arising after the opening of a communal land register, must be 40
registered in terms of this Act and the Deeds Registries Act.

Conversion of registered new order right into freehold ownership

9. (1) The holder of a registered new order right may apply to the community owning
the land to which such right relates for the conversion of such right into freehold
ownership. 45

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- (iv) itrasti kumbe olunye uhlaka olusemthethweni, buba ngobomphakathi lowo mhlaba ophathelwe wona noma obhaliselwe inzuzo yawo, futhi lowo mhlaba uhlala ulawulwa yimikhawulo nemigomo eqondane namalungelo kumbe amagunya kulowo mhlaba.
- (b) umphakathi okukhulunywa ngawo kundima (a) yiwona ophumelela nhlangothi zonke ukuba yindlafa kwitayiteli lalowo muntu, inkosi noma ubukhosi, usoseshani womhlaba womphakathi, umbhekeli noma olunye uhlaka olusemthethweni; 5
- (c) itayiteli lomhlaba njengokubekiwe kundima (a) nanoma yisiphi isikwenetu sokuthenga umhlaba okubanjiswe kuso ngalo noma elinye itayiteli elirejistiwe kulowo mhlaba kufanele, ngokulandela indlela eyalelwe, kubhaliswe nguMbhalisi wamaTayiteli (Registrar) ukuveza ukuthi umphakathi ungumnini wendawo leyo; futhi 10
- (d) imigomo yaloMthetho kufanele isetshenziswe, ngokuhambisana nezinguquko ezifanelekile, kwezomhlaba njengokubekiwe kwindima (a). 15
- (3) (a) Umqulu oveza ilungelo lohlelo lwakudala esesuliwe noma kwafakwa esikhundleni salo ilungelo lohlelo olusha ngokwaloMthetho, kufanele wethulwe kuMbhalisi maTayiteli okufanele afake isigxivizo sokwesulwa kwalowo mbhalo.
- (b) Uma umqulu okukhulunywa ngawo kwindima (a) ungethulwe, uMbhalisi kufanele emukele ubufakazi obubhaliwe obufungelwe nobufanele ngalokho obuphuma kumnini lungelo kumbe kuNgqongqoshe. 20

Ukudluliswa komhlaba womphakathi

- 6. Emveni kokuthatha isinqumo ngokwesigaba 18, uNgqongqoshe kufanele—
- (a) awudlulise wonke umhlaba womphakathi awunqumele ube ngumhlaba lowo mphakathi onelungelo kuwona, lokho kuhambisane nemibandela nje ngokubekiwe kusigaba 18(4) emaqondana nalowo mhlaba; 25
- (b) noma kungaba khona uMthetho oshayisanayo nalona, egameni lomphakathi namaqondana nalowo mhlaba—
- (i) aqinisekise ukuthi kudwetshwe amapulani futhi agunyazwa ngokoMthetho wokuDatshulwa kwemihlaba (Land Survey Act), ka 1997 (uMthetho onguNombolo 8 ka 1997); 30
- (ii) abheke ukuthi lawo mapulani arejistiwe futhi kuvulwe nerejista yomhlaba womphakathi ngokoMthetho wokuRejistwa kwamaTayiteli (Deeds Registries Act);
- (iii) adlulisele, ngeTayiteli leLungelo loMphakathi loMhlaba (Deed of Communal Land Right) noma ngelinye itayiteli, amalungelo ohlelo olusha kumuntu noma kubantu abafanelelwe yilawo malungelo; futhi 35
- (c) enze noma yini enye okudingeka mayenziwe ukufezekisa leso sinqumo nalesi sigaba.

Imisebenzi yommeli wokudluliswa kwemihlaba

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7. Umphathi hhovisi woMnyango oqeqeshwe ngokufanele angayenza imisebenzi yommeli wokudluliswa kwemihlaba edingakalayo ngokoMthetho wokuRejistwa kwamaTayiteli (Deeds Registries Act).

Ukurejistwa kokunye futhi ukuthengiselana okulandelayo

8. Ukuthengiselana okuhambisana nokuRejista umhlaba womphakathi, okubandakanya nokwabiwa okusha kwamalungelo kulowo mhlaba, okulandela emveni kokuvulwa kwerejista yomphakathi, kufanele kurejistwe ngokwaloMthetho nangoMthetho wokuRejistwa kwamaTayiteli (Deeds Registries Act). 45

Ukuguqulwa kwamalungelo arejistiwe ohlelo olusha abe ubunikazi obuphelele

9. (1) Umnikazi welungelo lohlelo olusha elirejistiwe angasifaka isicelo kumphakathi ongumnini womhlaba oqondene nalelo lungelo ukuthi maliguqulwe libe yilungelo lobunikazi obuphelele. 50

(2) After considering an application referred to in subsection (1), such community must, subject to its community rules and any applicable title conditions, approve or reject such application.

(3) If a community approves an application in terms of subsection (2), it may impose any condition or reserve any right in favour of the community. 5

(4) On application by the holder referred to in subsection (1), the Registrar of Deeds must in the prescribed manner record the conversion contemplated in this section.

Transfer costs and stamp duties

10. Transfer duty, value-added tax, stamp duty and deeds registration fees of office are not payable in respect of any registration required to give effect to sections 5 and 6. 10

Surveying and registration costs

11. The Minister may, from money appropriated by Parliament for this purpose, pay the costs of surveying and registration required to give effect to sections 5 and 6.

CHAPTER 4

PROVISION OF COMPARABLE REDRESS WHERE TENURE CANNOT BE LEGALLY SECURED 15

Award of comparable redress

12. (1) The Minister may, on application by the holder of an old order right which is insecure as contemplated in section 25(6) of the Constitution and which cannot be made legally secure, determine an award of comparable redress to such holder. 20

(2) An award in terms of subsection (1) may comprise—

- (a) land other than the land to which the applicable old order right relates or a right in such other land;
- (b) compensation in money or in any other form; or
- (c) a combination of land or a right in land contemplated in paragraph (a) and compensation contemplated in paragraph (b). 25

(3) The provisions of section 18, read with the necessary changes, apply to a determination in terms of this section.

Cancellation of old order right

13. For the purposes of this Act the Minister may, with the written agreement of the holder of an old order right and on such conditions as may be agreed to, cancel such right. 30

CHAPTER 5

THE CONDUCT OF LAND RIGHTS ENQUIRY

Land rights enquiry

14. (1) Prior to securing an old order right in terms of section 4 or transferring communal land to a community or person in terms of section 6 or determining comparable redress in terms of section 12, the Minister must institute a land rights enquiry. 35

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(2) Emveni kokucubungula isicelo okukhulunywa ngaso kusigatshana (1), lowo mphakathi kufanele, ngokuhambisana nemithetho-nqubo yomphakathi kanjalo nemibandela yetayiteli efanelekile, isamukele noma isichithe isicelo.

(3) Uma umphakathi usamukela isicelo ngokwesigatshana (2) ungabeka noma imuphi umbandela noma ugodle ilungelo elithize ngokubhekela inzuzo yomphakathi. 5

(4) Ekufakweni kwesicelo ngonelungelo njengokubekiwe kusigatshana (1), umBhalisi wamaTayiteli kufanele lokho kuguqula akuqophe emabhukwini njengokubekiwe kulesi sigaba.

Izindleko zokudlulisela egameni kanye nentela yezitembu

10. Izimali eziyintela yokudlulisa, intela yentengo, intela yezitembu kanye nenkokhelo yokurejista azidingeki uma ukurejista kumaqondana nokufeza izidingo zezigaba 5 no 6. 10

Izindleko zokucwaninga nokudatshulwa komhlaba nokurejista

11. UNgqongqoshe angakwazi ukusebenzisa izimali ezabiwe yiPhalamende maqondana nalokhu, ukuba azisebenzisele ukukhokhela ukudatshulwa komhlaba nokurejista okudingakalayo ukufezekisa izigaba 5 no 6. 15

ISAPHLUKO 4

UKUHLINZEKA ISINXEPHEZELO LAPHO UKUSEBENZISA UMHLABA KUNGEKE KWAVIKELEKA NGOKUSEMTHETHWENI

Ukukhishwa kwesinxephezelo esiqhathanisekayo 20

12. (1) UNgqongqoshe angakwazi ukuthi lapho kunesicelo esiqhamuka konelungelo sohlelo oludala elingavikelekile njengokulandisa kwesigaba 25(6) soMthetho-sisekelo, futhi elingeke likwazi ukwenziwa livikeleke ngokomthetho, anqume ngesinxephezelo esiqhathanisekayo okuyovuzwa ngaso lowo mnini lungelo.

(2) Umvuzo ngokwesigatshana (1)— 25

(a) kungaba umhlaba ongenabudlelwano nomhlaba ohambisana nelungelo lohlelo oludala kumbe ilungelo lalowo mhlaba;

(b) isinxephezelo esiyimali kumbe esiyinoma yiluphi olunye uhlelo; noma

(c) inhlanganisela yomhlaba kumbe ilungelo kumhlaba okulandiswa ngalo kundima (a) kanye nesinxephezelo okulandiswa ngaso kundima (b). 30

(3) Izihlinzeko zesigaba 18, zifundwa kanye nezinguquko ezidingakalayo, ziphathelene nesinqumo ngaphansi kwalesi sigaba.

Ukwesulwa kwelungelo lohlelo lwakudala

13. Ngokwezinhloso zaloMthetho, uNgqongqoshe unakho ukuthi ngesivumelwano esibhalwe phansi ngumnikazi welungelo lohlelo oludala nangokuhambisanayo nangokwemibandela okuyovunyelwana ngayo, alesule lelo lungelo. 35

ISAPHLUKO 5

UKUQHUTSHWA KWESIGCAWU SOKUPHENYA NGAMALUNGELO OMHLABA

Isigcawu sokuphenya ngamalungelo omhlaba 40

14. (1) Ngaphambi kokuba uNgqongqoshe aqinisekise ukutholakala kwelungelo lohlelo oludala ngokwesigaba 4 noma adlulisele umphakathi womhlaba kumphakathi noma kumuntu ngokwesigaba 6, noma ngaphambi kokuba anqume ngesinxephezelo esiqhathanisekayo ngokwesigaba 12, kufanele ukuba uNgqongqoshe aqale ngokumisa isigcawu esizocubungula ngamalungelo omhlaba. 45

- (2) A land rights enquiry must enquire into—
- (a) the nature and extent of all—
 - (i) constitutional and human;
 - (ii) old order and other land and tenure; and
 - (iii) competing or conflicting,
- rights, interests and tenure of land, whether legally secure or not which are or may be affected by such enquiry; 5
- (b) the interests of the State;
 - (c) the options available for legally securing any legally insecure rights;
 - (d) the provision of access to land on an equitable basis; 10
 - (e) spatial planning and land use management, land development, and the necessity for conducting a development or a de-densification or other land reform programme, and the nature of such programme;
 - (f) the need for comparable redress and the nature and extent of such redress;
 - (g) the measures required to ensure compliance with section 4 and to promote gender equality in the allocation, registration and exercise of new order rights; 15
 - (h) any matter relevant to a determination to be made by the Minister in terms of section 18;
 - (i) any other matter as prescribed or as instructed by the Minister,
- and must endeavour to resolve any dispute relating to land and rights in, or to, land and a report on such matters must be submitted to the Minister. 20

Designation or appointment of land rights enquirer

15. (1) The Minister may in the prescribed manner designate an officer of the Department or appoint a suitable person who is not such an officer to conduct a land rights enquiry. 25
- (2) The Minister may, with the concurrence of the Minister of Finance, remunerate and pay allowances to a land rights enquirer who is not a State official.

Notice of land rights enquiry

16. The Minister must, in the appropriate national, regional and local media and in the prescribed manner, publish— 30
- (a) a notice of an enquiry inviting interested parties to participate in such enquiry; and
 - (b) a notice regarding the determinations made consequent upon a completed land rights enquiry.

Powers and duties of land rights enquirer 35

17. (1) A land rights enquirer must conduct a land rights enquiry in the prescribed manner, which must be open and transparent and must afford the communities and persons who may be affected by such enquiry an opportunity to participate in such enquiry.
- (2) A land rights enquirer must adopt measures to ensure that decisions made by a community are in general the informed and democratic decisions of the majority of the members of such community who are 18 years of age or older and are present or represented by a proxy at a community meeting of which adequate notice of not less than 21 days was given. 40
- (3) A land rights enquiry report contemplated in section 14(2) must— 45
- (a) include recommendations in respect of the matters which require determinations to be made by the Minister;

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- (2) Isigcawu esiphenya ngamalungelo omhlaba kufanele ukuba sicubungule—
- (a) ngobunjalo nobubanzi bawo onke amalungelo—
 - (i) omthetho-sisekelo nawobuntu;
 - (ii) angaphansi kohlelo lwakudala namanye omhlaba nawokuwusebenzisa; 5
 - (iii) naqhudelanayo nashayisanayo amalungelo, intshisekelo nokusetshenziswa komhlaba, kuvikelekile noma kungavikelekile emthethweni okuthintekayo nokungahle kuthintwe yilolu cubungulo;
 - (b) ngezintshisekelo zomBuso;
 - (c) ngamathuba nezindlela ezikhona ezingasetshenziselwa ukuvikela 10 ngokusemthethweni noma imaphi amalungelo angavikelekile ngokomthetho;
 - (d) ngokuhlinzeka nokwaba umhlaba ngokulinganayo nangobulungiswa;
 - (e) ngokuhlela ngendawo nokulawula ngokusetshenziswa, ukuthuthukisa, kanjalo nesidingo sokuqala uhlelo lokuthuthukisa, ukuphungula ukuminyana noma ezinye izinhlelo zezingquko kwezomhlaba, nohlobo lwalezo zinhlelo; 15
 - (f) ngesidingo sesinxephezelo esiqhathanisekayo nohlobo nobubanzi baleso sinxephezelo;
 - (g) ngezinyathelo ezidingekayo ukuqinisekisa ukuhambisana nesigaba 4 kanye nokukhuthaza ukulingana kwezobulili lapho kwabiwa, kurejistwa futhi kusetshenziswa amalungelo angaphansi kohlelo olusha; 20
 - (h) nanganoma yiluphi udaba oluhambisana nesinqumo esizokuthathwa uNgqongqoshe ngokwesigaba 18;
 - (i) nanganoma yiluphi udaba njengokuyalela noma ngokumisa kukaNgqongqoshe, 25
- futhi kufanele sizame ukuxazulula noma yikuphi ukungezwani maqondana nomhlaba namalungelo omhlaba, kumbe kumhlaba, futhi kufanele kukhishwe umbiko oyokwethulwa kuNgqongqoshe malungana nakho konke lokhu.

Ukubekwa noma ukuqokwa komphenyi ngamalungelo omhlaba

15. (1) Ngokulandela imigomo emisiwe, uNgqongqoshe angabeka umphathi hhovisi womNyango noma aqoke umuntu ofanele ongekho emnyangweni ukuba asingathe 30 ukucutshungulwa kwamalungelo omhlaba.
- (2) UNgqongqoshe, ngokuvumelana noNgqongqoshe wezeZimali, angahlela, akhokhe nezimali zesibonelelo kulowo osingethe umsebenzi wesigcawu sokucubungula ngamalungelo ebe engesisona isiPhathimandla soMbuso.

Isaziso ngesigcawu esiphenya ngamalungelo omhlaba

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16. UNgqongqoshe kufanele, kumigudu yokusakaza izindaba efanelekile kazwelonke, yezifunda nezindawo, futhi nangendlela eyalelwe, ashicilele—
- (a) isaziso ngophenyo esimema bonke abanentshisekelo ukuze babambe iqhaza kuleso sigcawu; kanye
 - (b) nesaziso maqondana nezinqumo ezithathiwe kulandela ukuphuthulwa 40 kwesigcawu esicubungula ngamalungelo omhlaba.

Amandla nemisebenzi esemahlombe omcubunguli ngamalungelo omhlaba

17. (1) Umcubunguli ngamalungelo omhlaba kufanele acubungule ngamalungelo omhlaba ngendlela eyalelwe, okufanele kube ngevulekile nesobala futhi kufanele ukuba ivulele imiphakathi nabantu abanokuthinteka ngocubungulo lolo ithuba lokuba 45 babambe iqhaza kuphenyo lolo.
- (2) Umcubunguli ngamalungelo omhlaba kufanele athabathe amanyathelo okuqinisekisa ukuthi izinqumo ezithathiwe umphakathi ngokuvamile zingezazisekile futhi zithathiwe ngokwentando yeningi lamalungu omphakathi aneminyaka engu 18 nangaphezulu futhi akhona kumbe anababambeli emhlanganweni womphakathi 50 obikezeliwe kusasele isikhathi esingengaphansi kwezinsuku ezingama 21.
- (3) Umbiko ngophenyo lwamalungelo omhlaba njengokubekiwe kusigaba 14(2) kufanele—
- (a) ubandakanye izincomo maqondana nezihloko ezidinga ukuthathelwa 55 izinqumo nguNgqongqoshe;

- (b) prior to being submitted to the Minister, be made available on adequate notice for inspection by any interested community or person who must be afforded an opportunity to make representations in relation to any matter relevant to such enquiry; and
- (c) be submitted to the Minister together with any such representations and supporting documents for his or her consideration. 5
- (4) Whenever relevant to an enquiry, a land rights enquirer and any person assisting such enquirer, may in the prescribed manner and having regard to the constitutional rights of affected persons— 10
 - (a) compel the provision of written and verbal evidence;
 - (b) enter and search premises and take possession of documents and articles; and
 - (c) convene and attend meetings of interested persons.
- (5) A land rights enquirer has all other powers and duties which the Minister determines are necessary for the effective conduct of such enquiry.

Determination by Minister

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18. (1) If the Minister, having received a report by a land rights enquirer, is satisfied that the requirements of this Act have been met, he or she must, subject to subsections (4) and (5) and having regard to—
- (a) such report;
 - (b) all relevant law, including customary law and law governing spatial planning, local government and agriculture; 20
 - (c) the old order rights of all affected right holders;
 - (d) the need to provide access to land on an equitable basis; and
 - (e) the need to promote gender equality in respect of land,
- make a determination as contemplated in subsections (2) and (3). 25
- (2) The Minister must, where applicable, determine the location and extent of the land to be transferred to a community or person.
- (3) The Minister must, subject to subsections (4) and (5), determine that—
- (a) the whole of an area of communal land which is, or is to be, surveyed must be registered or remain registered in the name of a specified community; 30
 - (b) the whole of an area contemplated in paragraph (a) is to be subdivided into portions of land, each of which must be registered in the name of a person and not a community;
 - (c) a part of an area contemplated in paragraph (a)—
 - (i) must be registered or remain registered in the name of a specified community, and part of such land must be subdivided and registered as contemplated in paragraph (b); and 35
 - (ii) is reserved to the State; and
 - (d) an old order right is to be— 40
 - (i) confirmed;
 - (ii) converted into ownership or into a comparable new order right, and the Minister must determine the nature and extent of such right; or
 - (iii) cancelled in accordance with Chapter 4 and—
 - (aa) the land to which such right relates must be incorporated into land held or to be held by a community; and 45
 - (bb) the holder of such right must be awarded specified comparable redress as contemplated in Chapter 4.
- (4) In making a determination in terms of this section, the Minister must take into account the Integrated Development Plan of each municipality having jurisdiction and, after consultation with the Minister responsible for local government, each municipality and other land-use regulator having jurisdiction may— 50
- (a) reserve a right to the State, including a municipality, and stipulate any land-use or other condition which in her or his opinion is necessary—
 - (i) for a public purpose or which is in the public interest;

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- (b) ngaphambi kokuba wethulwe kuNgqongqoshe, ukhishwe uvulelwe umphakathi kumbe umuntu onentshisekelo, sekukhishwe isaziso esenele, ukuba uhlolwe ukuze wonke umuntu abe nethuba lokubeka uvo lwakhe maqondana nanoma yiluphi udaba oluqondene nophenyo; futhi
- (c) wethulwe kuNgqongqoshe usuhambisana nalezo zimvo kanye nemiqulu eyesekayo ukuze awucubungule. 5
- (4) Uma kunesidingo ngesikhathi kuqhutshwa uphenyo, umcubunguli ngamalungelo omhlaba nomelekeleli wakhe, bangathi ngokulandela imigomo eyalelwe nangokubhekelela amalungelo oMthetho-sisekelo kulabo abathintekayo—
- (a) babaphoqe ukuba bakhiphe ubufakazi obubhaliwe noma bukhoma; 10
- (b) bangene emagcekeni bapeketule futhi bathathe imiqulu nemibhalo; futhi
- (c) babize babuye bethamele imihlangano yabantu abanentshisekelo.
- (5) Umcubunguli ngamalungelo omhlaba unamandla onke nemisebenzi uNgqongqoshe anqume ukuthi kuyadingeka ukuze uphenyo lwenziwe ngempumelelo.

Isinqumo sikaNgqongqoshe

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- 18.** (1) Uma uNgqongqoshe, emveni kokuba esethole umbiko womcubunguli ngamalungelo omhlaba, weneliseka ukuthi izidingo-ngqangi zaloMthetho zigcinwe zonke, kufanele ngokuhambisanayo nezigatshana (4) no (5) nokubhekela—
- (a) lowo mbiko;
- (b) yonke imithetho eqondene, kubandakanya umthetho wamasiko endabuko kanye nomthetho owengamele ukuhlelelwa kwezindawo, ohulumeni basekhaya kanye nezolimo; 20
- (c) amalungelo ohlelo lwakudala abo bonke abanini malungelo abathintekayo;
- (d) isidingo sokuhlinzeka ukutholakala komhlaba ngendlela elinganayo nenobulungiswa; kanye 25
- (e) nesidingo sokukhuthaza ukulinganiswa ngokobulili maqondana nomhlaba, akhiphe isinqubo ngokubekiwe kwizigatshana (2) ne (3).
- (2) UNgqongqoshe, kufanele lapho kufanele, akhiphe isinqumo mayelana nesizinda nobubanzi bendawo okumele idluliselwe kumphakathi noma kumuntu.
- (3) UNgqongqoshe kufanele, ngokuhambisana nezigatshana (4) no (5) anqume ukuthi— 30
- (a) indawo yomphakathi yonkana edatshulwayo noma ezokudatshulwa kube erejistiwe kumbe ihlale irejistiwe egameni lomphakathi othize obaluliwe;
- (b) indawo yonkana ngokubekiwe kwindima (a) izokuhlukaniswa iziqephu zomhlaba, kanti lesi naleso siqephu kufanele sirejistiwe egameni lomuntu hhayi elomphakathi; 35
- (c) ingxenye yendawo okukhulunywa ngayo kwindima (a)—
- (i) kufanele irejistiwe noma ihlale irejistiwe egameni lomphakathi ochaziwe, kanti ingxenye yalowo mhlaba kufanele yehlukaniswe iziqephu futhi zirejistiwe njengalo kubekiwe kwindima (b); futhi 40
- (ii) igodlwele uMbuso; futhi
- (d) ilungelo lohlelo lwakudala—
- (i) lizoqinisekiswa
- (ii) lizogqulwa libe ubunikazi noma libe ilungelo eliqhathanisekayo lohlelo olusha, futhi uNgqongqoshe kufanele anqume nangohlobo nobubanzi balelo lungelo; noma 45
- (iii) lizokwesulwa ngokuhambisanayo neSahluko 4 kanti—
- (aa) umhlaba oqondene nalelo lungelo kufanele uhlanganiswe nomhlaba womphakathi noma ozoba ngowomphakathi; futhi
- (bb) umnini lungelo lelo kufanele anikezwe isinxephezelo esiqhathanisekayo njengalo kubekiwe kuSahluko 4. 50
- (4) Lapho ekhipha isinqumo ngokwalesi sigaba, uNgqongqoshe kufanele abhekelele uHlelo Oluhlanganyele lokuThuthukisa lalowo nalowo masipala onegunya namandla endaweni futhi, emveni kokubonisana noNgqongqoshe oqondene nawohulumeni basekhaya, yilowo nalowo masipala kanye nomunye umlawuli wokusetshenziswa komhlaba onamandla negunya kuleyo ndawo— 55
- (a) unokugodla ilungelo loMbuso, lokho kumbandakanya umasipala, bese eshaya umthetho nganoma ikuphi ukusetshenziswa komhlaba noma umbandela akubona kufanelekile ngokombono wakhe—
- (i) ngokwezinhloso kumbe izinzuzo zomphakathi; 60

- (ii) to protect the affected land, rights in such land, an owner of such land and a holder of such rights; or
 - (iii) to give effect to this Act;
 - (b) confer a new order right on a woman—
 - (i) who is a spouse of a male holder of an old order right, to be held jointly with her spouse;
 - (ii) who is the widow of a male holder of an old order right, or who otherwise succeeds to such right, to be held solely by such woman; or
 - (iii) in her own right; and
 - (c) validate a putative old order right which was acquired in good faith and declare invalid such a right which was not acquired in good faith, and must determine the holder or holders of a new order right.
- (5) The Minister may not make a determination in terms of this section which relates to land and a right in, or to, land which is directly affected by a dispute until such dispute is resolved by mediation, other alternative traditional or non-traditional dispute resolution mechanism or by a court, and must adopt measures to ensure that such dispute is resolved.

CHAPTER 6

CONTENT, MAKING AND REGISTRATION OF COMMUNITY RULES

Content, making and registration of community rules 20

19. (1) A community whose communal land is, or is to be, registered in its name must in the prescribed manner, to which the provisions of section 17(1) and (2) read with the necessary changes apply, make and adopt its community rules and have them registered.

(2) Community rules must, subject to any other applicable laws, regulate—

- (a) the administration and use of communal land by the community as land owner within the framework of law governing spatial planning and local government;
- (b) such matters as may be prescribed; and
- (c) any matter considered by the community to be necessary.

(3) Community rules are binding on the community and its members and must be accessible to the public and are on registration deemed to be a matter of public knowledge.

(4) (a) A community must apply to the Director-General for the registration of its adopted rules and he or she must refer such application to the Board having jurisdiction in the area for a report on the suitability of such rules.

(b) The Director-General must consider the adopted community rules, any information submitted and the report of the Land Rights Board having jurisdiction in the area.

(c) If the Director-General is satisfied that the adopted community rules comply with the requirements of the Constitution and this Act, a Registration Officer in the Department designated by her or him for that purpose must, in the prescribed manner, register such rules.

(d) If the Director-General is not satisfied that community rules comply with the requirements and intention of the Constitution and this Act, she or he must notify the community of the steps to be taken to make such rules so comply.

(5) Should a community fail to adopt and have community rules registered, the standard rules prescribed by regulation as adapted by the Minister to such community, are deemed to be the rules of such community and must be registered as the rules of such community.

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- (ii) ukuvikela umhlaba othintekayo, amalungelo kulowo mhlaba kanjalo nomnikazi kanye nomnini wamalungelo anjalo; noma
 - (iii) ukufezekisa loMthetho;
 - (b) angathatha anikeze ilungelo lohlelo olusha kowesifazane—
 - (i) oshade nowesilisa ongumnikazi welungelo lohlelo oludala, ukuba bahlanganyele ubunikazi baleli lungelo;
 - (ii) ongumfelokazi kamufi obengumnikazi welungelo lohlelo oludala, noma oyindlalifa yalelo lifa, kube ngelalowo wesifazane kuphela; noma
 - (iii) amnikeze egameni lakhe ngqo; futhi
 - (c) agunyaze ilungelo lohlelo oludala elatholakala ngokwenkolelo yokuthi lifanelekile bese elichitha ilungelo elingatholakalanga ngaphansi ngokwaleyo nkolelo, futhi kufanele anqume ukuthi ngubani noma ngobani abazukuba abanikazi belungelo lohlelo olusha.
- (5) UNGqongqoshe akanakho ukuthi akhiphe isinqumo, ngokwalesi sigaba, esimaqondana nomhlaba nelungelo lomhlaba othinteka ngqo kunqubuzano kuze kube lokho kungqubuzana kuyaxazululwa ngokohlelo lwabalamuli, ngezinye izindlela zosiko kumbe ngenqubo okungesiyona eyosiko kumbe yinkantolo, futhi kufanele athabathe amanyathelo azoqinisekisa ukuthi ingxabano leyo iyaxazululeka.

ISAPHLUKO 6

OKUQUKETHWE, UKWENZIWA NOKUREJISTWA
KWEMITHETHO-NQUBO YOMPHAKATHI

Okuqukethwe, ukwenziwa nokurejistwa kwemithetho-nqubo yomphakathi

19. (1) Umphakathi omhlaba wawo urejistiwe, kumbe uzorejistwa, egameni lawo kufanele ngokuhambisana nenqubo ebekiwe, nangokuhambisanayo nemigomo yesigaba 17(1) no (2) lapho ifundwa kanye kanye nezinguquko ezifanele, wenze futhi uthabathe imithetho-nqubo yawo bese uyirejista.
- (2) Imithetho yomphakathi kufanele, ngokuhambisana nanoma imiphi eminye imithetho ethintekayo, ilawule—
- (a) ubuphathiswa nokusetshenziswa komhlaba womphakathi ngumphakathi njengomnini-mhlaba ngaphansi kohlaka lomthetho osingethe ukuhlelelwa kwezindawo kanye nohulumeni basekhaya;
 - (b) lezo zinhlelo okuyokuyalelwa ngazo; futhi
 - (c) nanoma yiluphi olunye udaba umphakathi olubonela isidingo salokho.
- (3) Imithetho-nqubo inesibopho kumphakathi namalungu awo futhi kufanele ivuleleke kumphakathi uyazi futhi kuthi lapho irejistwa ithathwe njengodaba lomphakathi.
- (4) (a) Umphakathi kufanele ufake isicelo kumQondisi-Jikelele sokurejista imithetho-nqubo yawo eqokiwe bese yena esidlulisela kwiBhodi elinamandla negunya endaweni ukuze likhiphe umbiko ngokufaneleka kwaleyo mithetho-nqubo.
- (b) UmQondisi-Jikelele kufanele ayicubungule imithetho-nqubo yomphakathi eqokiwe, nanoma imiphi eminye imininingwane ethuliwe kanjalo nombiko weBhodi lamaLungelo Omhlaba elinegunya kuleyo ndawo.
- (c) Uma umQondisi-Jikelele eneliseka ukuthi imithetho-nqubo eyamukeliwe iyahambisana nezimfuno zoMthetho-sisekelo nezaloMthetho, kufanele umPhathi Hhovisi wokuBhalisa wasemNyangweni amjubele leyo nhloso, kuthi ngokwenqubo ebekiwe, ayibhalise leyo mithetho-nqubo.
- (d) Uma umQondisi-Jikelele engenelisekile ukuthi imithetho-nqubo yomphakathi iyahambisana nezidingongqangi kanye nenjongo yoMthetho-sisekelo neyaloMthetho, kufanele azise umphakathi ngezinyathelo okufanele mazithathwe ukuze imithetho-nqubo lena izenelise lezi zimfuno.
- (5) Uma umphakathi wehluleka ukuqoka nokurejista imithetho-nqubo yawo, imithetho-nqubo eyengamele yomphakathi ebekwe ngokoMthetho-mgomo njengoba iguqulwe uNgqongqoshe ukuze ifanelane nalowo mphakathi, ithathwa njengeyalowo mphakathi futhi kufanele ibhaliswe njengemithetho-nqubo yalowo mphakathi.

Amendment of community rules

20. (1) A community may, in a general meeting and in the manner applicable to the adoption of community rules, amend or revoke any community rule.

(2) An amendment or revocation contemplated in subsection (1) must be registered and only becomes effective on registration.

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CHAPTER 7**LAND ADMINISTRATION COMMITTEE****Establishment of land administration committee**

21. (1) A community must establish a land administration committee which may only be disestablished if its existence is no longer required in terms of this Act.

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(2) If a community has a recognised traditional council, the powers and duties of the land administration committee of such community may be exercised and performed by such council.

(3) In the exercise of the powers and the performance of the duties of a land administration committee as contemplated in subsection (2), a traditional council must ensure that the composition of its membership satisfies the requirements of section 22(4) and (5).

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(4) When a traditional council acts as a land administration committee as contemplated in this section, its functional area of competence is the administration of land affairs and not traditional leadership as contemplated in Schedule 4 to the Constitution.

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(5) Any provision in this Act which refers, or is applicable, to a traditional council is intended to establish norms and standards and a national policy with regard to communal land rights, to effect uniformity across the nation.

Composition

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22. (1) A land administration committee must consist of a total number of members as determined by the applicable community rules and must comply with this section.

(2) Subject to section 21(2), the members of a land administration committee must be persons not holding any traditional leadership position and must be elected by the community in the prescribed manner.

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(3) At least one third of the total membership of a land administration committee must be women.

(4) One member of a land administration committee must represent the interests of vulnerable community members, including women, children and the youth, the elderly and the disabled.

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(5) Each of—

(a) the Minister, in respect of the Department;

(b) the chairperson of the relevant Land Rights Board;

(c) the relevant provincial Member of the Executive Council responsible for agriculture;

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(d) the relevant provincial Member of the Executive Council responsible for local government matters; and

(e) every municipality in whose area of jurisdiction a land administration committee functions,

may designate a person to be a non-voting member of a land administration committee.

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Term of office

23. The term of office of the members of a land administration committee is determined by community rules but may not exceed a period of five years.

Ukuchitshiyelwa kwemithetho-nqubo yomphakathi

20. (1) Umphakathi unakho ukuthi, emhlanganweni kawonkewonke nangendlela futhi esetshenziswayo lapho kuqokwa imithetho-nqubo yomphakathi, uchibiyele kumbe uchithe noma yimuphi umthetho-nqubo womphakathi.

(2) Isichibiyelo noma ukuchithwa okukhulunywa ngakho kusigatshana (1) kufanele kubhaliswe futhi amandla alolo luchibiyelo aqala ukusebenza kuphela emveni kwalokho kurejistwa. 5

ISAHLUKO 7**IKOMIDI LOKUSINGATHWA KWEZOMHLABA****Ukumiswa kwekomidi elisingethe ezomhlaba**

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21. (1) Umphakathi kufanele usungule ikomidi elizosingatha ezomhlaba elinokuhlakazwa kuphela uma ubukhona balo bungasadingeki ngokwaloMthetho.

(2) Uma umphakathi unomkhandlu womdabu owemukelekile, amandla nomsebenzi osemahlombe ekomidi lokusingathwa komhlaba kulowo mphakathi angaba sezandleni zalowo mkhandlu. 15

(3) Lapho usebenzisa lawo mandla futhi wenza nomsebenzi wekomidi elisingethe ezomhlaba, njengokulandisa kwesigatshana (2), umkhandlu wendabuko kufanele uqinisekise ukuthi ukwakheka kwawo ngokobulungu kwenelisa izimfuno zezigaba 22(4) no (5).

(4) Uma umkhandlu wendabuko kuyiwo owenza umsebenzi wekomidi elengamele ezomhlaba, njengokulandisa kwalesi sigaba, umsebenzi wawo osemqoka ukwengamela ezomhlaba kodwa hhayi owobuholi bendabuko njengoba kubekiwe kwiSheduli 4 yoMthetho-sisekelo. 20

(5) Noma yimuphi umgomo waloMthetho, okhuluma, noma obhekise kumkhandlu wendabuko kuhloswe ngawo ukuba kusungulwe inqubo namazinga, kanjalo nenqubomgomo kazwelonke maqondana namalungelo omphakathi kwezomhlaba, ukuze kube nokufanana kwinqubo ezweni lonke. 25

Ukwakheka kwalo

22. (1) Ikomidi lokusingathwa kwezomhlaba kufanele libe nenani eliphelele lamalungu, njengokumiswe yimithetho-nqubo yomphakathi, kanti futhi kufanele lihambisane nalesi sigaba. 30

(2) Ngokuhambisana nesigaba 21(2), amalungu ekomidi elisingethe ezomhlaba kufanele kube ngabantu abangenazo izikhundla zobukhosi futhi kufanele bakhethwe umphakathi ngendlela eyalelwe.

(3) Kufanele okungenani ingxenye eyodwa kwezintathu kumalungu ewonke kube abantu besimame. 35

(4) Kufanele ilungu elilodwa kwikomidi lokusingathwa komhlaba kube umuntu omele izidingo zabantu ababuthaka emphakathini, kumbandakanya abesifazane, izingane nentsha, abadala kanye nabakhubazekile.

(5) Oyedwa— 40

(a) kuNgqongqoshe, maqondana nomNyango;

(b) uSihlalo weBhodi elifanelekile lamaLungelo Omhlaba;

(c) Ilungu elifanelekile lomKhandlu Omkhulu elibhekele ezolimo;

(d) Ilungu elifanelekile lomKhandlu Omkhulu elibhekele izindaba zikahulumeni kamasipala; futhi 45

(e) lowo nalowo masipala endaweni yakhe okusebenza ikomidi elisingethe umhlaba,

angabeka umuntu ukuthi abe lilungu lekomidi elisingethe umhlaba, elingenalo ilungelo lokuvota.

Ubude besikhathi sokuba sesikhundleni

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23. Ubude besikhathi sokuba sesikhundleni kumalungu ekomidi elisingethe ezomhlaba sinqunywa ngokwemithetho-nqubo yomphakathi kodwa akufanele seve eminyakeni emihlanu.

Powers and duties

24. (1) To the extent provided by this Act and subject to any other applicable law, a land administration committee represents a community owning communal land and has the powers and duties conferred on it by this Act and the rules of such community.

(2) A decision by a land administration committee which has the effect of disposing of communal land or a right in communal land to any person, including a community member, does not have force and effect until ratified in writing by the Board having jurisdiction. 5

(3) In the exercise of its powers and the performance of its duties a land administration committee must— 10

- (a) take measures towards ensuring—
 - (i) the allocation by such committee, after a determination by the Minister in terms of section 18, of new order rights to persons, including women, the disabled and the youth, in accordance with the law; and
 - (ii) the registration of communal land and of new order rights; 15
- (b) establish and maintain registers and records of all new order rights and transactions affecting such rights as may be prescribed or as may be required by the rules;
- (c) promote and safeguard the interests of the community and its members in their land; 20
- (d) endeavour to promote co-operation among community members and with any other person in dealing with matters pertaining to land;
- (e) assist in the resolution of land disputes;
- (f) continuously liaise with the relevant municipality, Board and any other institution concerning the provision of services and the planning and development of the communal land of the community; 25
- (g) perform any other duty prescribed by or under this Act or any other law; and
- (h) generally deal with all matters necessary for or incidental to the exercise of its powers and the performance of its duties.

CHAPTER 8 30**LAND RIGHTS BOARD****Establishment of Land Rights Board**

25. The Minister may, by notice in the *Gazette*—

- (a) establish one or more Land Rights Boards having jurisdiction in such areas as she or he may determine; and 35
- (b) disestablish a Board or amend its area of jurisdiction.

Composition

26. (1) Members of a Board must be appointed by the Minister in accordance with the prescribed nomination and selection processes.

(2) A Board consists of— 40

- (a) one representative from each of the organs of State determined by the Minister;
- (b) two members nominated by each Provincial House of Traditional Leaders contemplated in section 212(2)(a) of the Constitution having jurisdiction in the area of that Board; 45
- (c) one member nominated by institutions or persons in the commercial or industrial sector;
- (d) seven members from the affected communities, of whom at least—
 - (i) one must represent the interests of child-headed households;
 - (ii) one must represent the interests of persons with disabilities; 50

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Amandla nemisebenzi

24. (1) Ngokwezimiso ezihlizekwe yiloMthetho nangokuhambisanayo nanoma imuphi omunye umthetho oqondene, ikomidi lokusingathiwa komhlaba limele umphakathi futhi linamandla nomsebenzi elikunikezwe yiloMthetho nemithetho-nqubo yalowo mphakathi.

(2) Isinqumo esithathwe yikomidi elisingethe umhlaba esinomphumela wokuba umhlaba womphakathi kumbe ilungelo kumhlaba womphakathi, kunikezwe noma imuphi umuntu, okubandakanya oyilungu lomphakathi, asinaso isigqi namandla okusebenza kuze kube semukelwe sagunyazwa yiBhodi elinamandla okusebenza kuleyo ndawo.

(3) Ngesikhathi lisebenzisa amandla alo futhi ligcina nemisebenzi yalo, ikomidi elengamele ezemihlaba kufanele—

(a) lithathe izinyathelo zokuqinisekisa—

(i) ukunikezwa yilelikomidi, emveni kwesinqumo sikaNgqongqoshe njengokwesigaba 18, kwamalungelo ohlelo olusha kubantu ababandakanya abesifazane, abakhubazekile nentsha ngokuhambisana nomthetho; futhi

(ii) nokurejistwa komhlaba womphakathi namalungelo ohlelo olusha;

(b) lisungule futhi ligcine amarejista namarekhodi awo onke amalungelo ohlelo olusha nemigidingo ethinta lawo malungelo njengokungabe kuyalelwe noma kungokwezimfuno zezinqubo-mithetho;

(c) likhuthaze futhi livikele amalungelo nezintshisekelo zomphakathi namalungu awo ngomhlaba wawo;

(d) lizame ukukhuthaza ubambiswano phakathi kwamalungu omphakathi kanye nanoma yimuphi omunye umuntu kwizindaba eziphathelele nomhlaba;

(e) lelekelele ukuxazulula izingxabano ngomhlaba;

(f) lihlale linokuxhumana nomasipala oqondene, iBhodi kanye nanoma isiphi esinye isikhungo esimaqondana nokuhlizekwa kwezinsizakalo nokuhlela nokuthuthukisa umhlaba womphakathi;

(g) lenze noma yimuphi omunye umsebenzi oyalelwe yiloMthetho noma ngaphansi kwawo nanoma yimuphi omunye umthetho; bese

(h) ngemvama, libhekane nanoma yiluphi olunye udaba oludingekayo kumbe oluhambisana nokusetshenziswa kwamandla nokwenziwa kwemisebenzi yekomidi.

ISAPHLUKO 8**IBHODI LAMALUNGELO OMHLABA****Ukusungulwa kweBhodi lamaLungelo oMhlaba**

25. UNgqongqoshe, ngesaziso kwiGazethi—

(a) angasungula iBhodi lamaLungelo oMhlaba libe linye noma ngaphezulu elizokuba namandla okusebenza kulezo zindawo ezizokunqunywa uye; futhi

(b) ahlakaze iBhodi noma achibiyele amandla alo okwengamela.

Ukwakheka kwalo

26. (1) Amalungu eBhodi kufanele akhethwe nguNgqongqoshe ngokuhambisanayo nenqubo yokuqoka nokukhetha.

(2) IBhodi libumbeke ngokulandelayo—

(a) oyedwa omele lolo nalolo hlaka loMbuso njengokunquma kukaNgqongqoshe;

(b) amalungu amabili akhethwe yileyo naleyo Ndlu yaBaholi beNdabuko kusiFundazwe njengokubekiwe kusigaba 212(2)(a) soMthetho-sisekelo ngokwamandla okwengamela kusizinda salelo Bhodi;

(c) ilungu elilodwa elikhethwe yizizinda noma abantu abakumikhakha yokuhweba noma yezimbongi;

(d) amalungu ayisikhombisa avela kumphakathi othintekayo, kubekhona okungenani—

(i) oyedwa omele imizi eyenganyelwe yizingane;

(ii) oyedwa omele izidingo zabantu abakhubazekile;

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- (iii) one must represent the interests of the youth as defined in section 1 of the National Youth Commission Act, 1996 (Act No. 19 of 1996); and
- (iv) one must represent the interests of female-headed households.
- (3) In appointing members of a Board, the Minister must—
 - (a) have due regard to the required knowledge of land, land tenure, old and new order rights and the required capabilities, including relevant skills, expertise and experience; and 5
 - (b) ensure that at least a third of the Board members are women.
- (4) A member of a Board is appointed for a period of five years but the Minister may in her or his discretion extend such term of office by a further period not exceeding six months until a new Board member has been appointed. 10
- (5) (a) The Minister must, after consultation with the appointed Board members, appoint a chairperson and a deputy chairperson from among such members.
- (b) When a chairperson is unable to perform her or his duties, the deputy chairperson must perform such duties. 15
- (6) The Minister must publish in the *Gazette* the names of, and position held by, each appointee to a Board, the date on which each appointment takes effect and such other information as may be prescribed.
- (7) If a member of a Board dies or vacates her or his office before the expiry of her or his term of office, the Minister may appoint a person to fill the vacancy for the remaining portion of such term. 20

Disqualification as Board member

- 27. (1) The Minister must not appoint as a member of a Board a person who—
 - (a) is not a South African citizen or a permanent resident and is not ordinarily resident in the Republic; 25
 - (b) is an unrehabilitated insolvent;
 - (c) is declared by a court of law to be mentally incompetent or is detained under the Mental Health Act, 1973 (Act No. 18 of 1973), or any other applicable law;
 - (d) has been removed from an office of trust on account of improper conduct; 30
 - (e) has had his or her name removed from any professional register on account of misconduct and who has not been reinstated;
 - (f) has been determined by a court, tribunal or forum as contemplated by the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000), to have contravened section 7 or any other provision of that Act; or 35
 - (g) is an elected political representative in the national, provincial or local sphere of government.
- (2) A member of a Board must vacate her or his office if she or he—
 - (a) becomes disqualified in terms of subsection (1) from being appointed as a member of a Board; 40
 - (b) resigns by written notice addressed to the Minister;
 - (c) is removed from office by the Minister on reasonable grounds, after consultation with the Board; or
 - (d) has, without the leave of the Board, been absent from two or more meetings of the Board during a continuous twelve-month period. 45

Powers and duties of Board

- 28. (1) A Board must, in the prescribed manner and in respect of any matter contemplated by or incidental to this Act—
 - (a) advise the Minister and advise and assist a community generally and in particular with regard to matters concerning sustainable land ownership and use, the development of land and the provision of access to land on an equitable basis; 50
 - (b) liaise with all spheres of government, civil institutions and other institutions;

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- (iii) oyedwa omele izidingo zentsha njengokuchaziwe kusigaba 1 soMthetho kaZwelonke weKhomishani Yentsha (National Youth Commission Act), ka 1996 (uMthetho onguNombolo 19 ka 1996); futhi
- (iv) oyedwa kufanele amele amalungelo alawo makhaya aphethwe abesifazane. 5
- (3) Lapho eqoka amalungu eBhodi, uNgqongqoshe kufanele—
- (a) abhekelele isidingo solwazi ngezemihlaba, ukusetshenziswa komhlaba, amalungelo ohlelo oludala nawohlelo olusha kanye namakhono adingekayo, okumbandakanya amakhono afanele, ubungoti nolwazi lomsebenzi; futhi
- (b) aqinisekise ukuthi ingxenye eyodwa kwezintathu kumalunga eBhodi ngabantu besifazane. 10
- (4) Ilungu leBhodi likhethwa ukuba libe sesikhundleni isikhathi esiyiminyaka emihlanu kodwa uNgqongqoshe ngokubona kwakhe, angaselula isikhathi sokuba sesikhundleni kodwa kungevi ezinyangeni eyisithupha kuze kukhethwe ilungu elisha leBhodi. 15
- (5) (a) UNgqongqoshe kufanele, kuthi emveni kokubonisana namalungu eBhodi akhethiwe, akhethhe phakathi kwalawo malunga, usihlalo nephini likasihlalo.
- (b) Uma usihlalo engakwazi ukwenza umsebenzi wakhe, kufanele wenziwe yiphini lakhe.
- (6) UNgqongqoshe kufanele ashicilele kwiGazethi amagama, izikhundla eziphethwe yilowo nalowo muntu oqokelwe kwiBhodi, nosuku okuqala ngalo ukusebenza kwaleso sikhundla kufakwe neminye imininingwane njengokungayalelwa. 20
- (7) Uma ilungu leBhodi lifa noma lisuka esikhundleni kepha isikhathi ingakapheli, UNgqongqoshe angaqoka omunye umuntu ozongena kuleso sikhundla kuze kuphele isikhathi esisasele. 25

Ukukhishwa esikhundleni kwamalungu eBhodi

27. (1) UNgqongqoshe akufanele akhethhe umuntu abe yilungu leBhodi uma—
- (a) engesona isakhamuzi esiphelele saseNingizimu Afrika futhi uma engazinzile eRiphabhuliki;
- (b) uma enezikwentu ezingaphezulu komnotho anawo; 30
- (c) uma inkantolo ikhiphe isinqumo sokuthi unomqondo ongaphelele noma evalelwe ngaphansi koMthetho wokuphila kwengqondo (Mental Health Act), ka 1973 (uMthetho onguNombolo 18 ka 1973), nangenxa yanoma yimuphi omunye umthetho;
- (d) esake wasuswa esikhundleni sokwethembeka ngenxa yokungaziphathi kahle; 35
- (e) uma igama lakhe lisusiwe kwirejista yawochwepheshe ngenxa yokungaziphathi kahle futhi lingakabuyiselwa;
- (f) uma kunqume inkantolo, isigcawu noma inkundla ethize ngokubekiwe ngokoMthetho Olwa noBandlululo (Promotion of Equality and Prevention of Unfair Discrimination Act), ka 2000 (uMthetho onguNombolo 4 ka 2000), ukuthi wephule isigaba 7 noma omunye umgomo kulowo Mthetho; noma 40
- (g) engokhethelwe isikhundla kwezombusazwe kuhlaka lukahulumeni lukazwelonke, lwesifundazwe noma lukahulumeni wasekhaya.
- (2) Ilungu leBhodi kufanele lisishiye isikhundla salo uma—
- (a) litholakala lingasafanelekile ngokwesigatshana (1) ukuba yilungu leBhodi; 45
- (b) lizesulela ngokufaka isaziso esibhaliwe lisiqondise kuNgqongqoshe;
- (c) lisuswa esikhundleni uNgqongqoshe ngezizathu ezizwakalayo, emveni kokubonisana neBhodi; noma
- (d) ngaphandle kwemvume yeBhodi, esephuthe imihlangano yeBhodi emibili nangaphezulu, esithubeni esiyizinyanga eziyishumi nambili zilandelana. 50

Amandla nemisebenzi esemahlombe eBhodi

28. (1) IBhodi kufanele, ngokwenqubo ebekiwe namaqondana nanoma yiluphi udaba njengokubekiwe noma ngokuhambisana naloMthetho—
- (a) laluleke uNgqongqoshe futhi leluleke lilekelele umphakathi ngo-kwejwayelekile nangokumaqondana nokuphathelene nobunikazi nokusebenzisa umhlaba ngokusimeme, ukuthuthukiswa komhlaba noku-hlinzekela ukutholakala komhlaba ngendlela enobulungiswa bukulinganiswa; 55
- (b) lixhumane nayo yonke imikhakha kahulumeni, izinhlangano zomphakathi nezinye izikhungo;

- (c) monitor compliance with the Constitution and this Act; and
- (d) exercise any other power and perform any other duty in terms of this Act or assigned to such Board by the Minister.
- (2) A Board and any Board member acting in her or his official capacity may, in the exercise of a power or in the performance of a duty of a Board— 5
 - (a) at any time enter upon any communal land;
 - (b) enquire into any relevant matter;
 - (c) inspect any document in the possession of any land administration committee or any rights holder concerning old and new order rights and make copies of such document; and 10
 - (d) convene and attend meetings of a community or land administration committee.
- (3) A Board has all powers necessary or incidental to the performance of its duties.

Resources of Board

29. The Department must, from monies appropriated by Parliament for this purpose, provide a Board with the staff, accommodation and financial and other resources required by such Board. 15

Service conditions of Board members

30. The Minister must, in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999), determine — 20

- (a) the conditions of service of Board members; and
- (b) with the concurrence of the Minister of Finance, the remuneration and allowances payable to Board members who are not employed by the State from monies appropriated by Parliament for this purpose.

CHAPTER 9

25

KWAZULU-NATAL INGONYAMA TRUST LAND

Laws governing KwaZulu-Natal Ingonyama Trust Land

31. Communal land to which the KwaZulu-Natal Ingonyama Trust Act, 1994 (Act No. 3 KZ of 1994), applies is, from the date of commencement of this Act, governed by the provisions of that Act as amended by this Act and, to the extent provided for in this Chapter, by the provisions of this Act. 30

Ingonyama Land Rights Board for KwaZulu-Natal

32. From the date of commencement of this Act, the KwaZulu-Natal Ingonyama Trust Board established by section 2A of the KwaZulu-Natal Ingonyama Trust Act, 1994 (Act No. 3 KZ of 1994)— 35

- (a) is known as the Ingonyama Land Rights Board for KwaZulu-Natal;
- (b) constitutes both the Board so established by that Act and, despite the provisions of sections 25, 26 and 27 of this Act, the Land Rights Board for KwaZulu-Natal as contemplated in Chapter 8, with all the powers and duties provided for in both the KwaZulu-Natal Ingonyama Trust Act, 1994, and in this Act; 40
- (c) is headed in perpetuity by the Ingonyama referred to in section 13 of the KwaZulu Amakhosi and Iziphakanyiswa Act, 1990 (Act No. 9 KZ of 1990), or its successors in title or nominee as the chairperson and member of the Ingonyama Land Rights Board; and 45

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- (c) liqaphe ukulandelwa koMthetho-sisekelo nokwaloMthetho; futhi
- (d) lisebenzise noma yimaphi amandla lenze noma yimiphi imisebenzi esemahlombe alo ngokwaloMthetho noma eliwunikezwe nguNgqongqoshe.
- (2) IBhodi noma yiliphi ilungu leBhodi elenza umsebenzi eliwuqokelwe, kungathi lapho lisebenzisa amandla noma lenza umsebenzi weBhodi— 5
 - (a) noma ngasiphi isikhathi lingene kunoma imuphi umhlaba womphakathi;
 - (b) liphenye maqondana nanoma yiluphi udaba;
 - (c) lihlole noma yimuphi umbhalo osezandleni zanoma yiliphi ikomidi labaphathiswa bezomhlaba noma mayelana namalungelo ohlelo oludala noma olusha futhi lenze namakhophi aleyo miquku; futhi 10
 - (d) libize futhi lethamele imihlangano yomphakathi noma yekomidi lobuphathiswa bomhlaba.
- (3) IBhodi linawo onke amandla adingekayo noma ahambisana nokuqhutshwa komsebenzi walo.

Imithombo yokokusetshenziswa yiBhodi

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29. UMnyango kufanele usebenzise izimali ozabelwe yiPhalamende maqondana nalokhu, uhlinzeke iBhodi ngabasebenzi, ngendawo yokusebenzela, ngemali nangeminye imithombo iBhodi eliyidingayo.

Imibandela yokusebenza kwamalungu eBhodi

30. UNgqongqoshe kufanele, ngokulandela uMthetho wokuLawulwa kwezeZimali zikaHulumeni (Public Finance Management Act), ka 1999 (uMthetho onguNombolo 1 ka 1999), anqume— 20

- (a) imibandela yokusebenza kwamalungu eBhodi; futhi
- (b) ngokuvumelana noNgqongqoshe wezeZimali, umholo nezibonelelo ezizokhokhelwa lawo malungu eBhodi angaqashiwe nguHulumeni futhi 25 ekhokhelwa ngezimali ezabelwe lenhloso yiPhalamende.

ISAPHLUKO 9**UMHLABA OSEGAMENI LENGONYAMA KWAZULU-NATALI****Imithetho esingethe umhlaba osegameni leNgonyama kwaZulu-Natali**

31. Umhlaba womphakathi, ongaphansi koMthetho woMhlaba oseGameni leNgonyama kwaZulu-Natali (KwaZulu-Natal Ingonyama Trust Act), ka 1994 (uMthetho onguNombolo 3 KZ ka 1994), ukusukela osukwini lokuqala kokusebenza kwaloMthetho, uzoba ngaphansi kwemigomo yalowo Mthetho njengoba uchitshiyelwe yiloMthetho futhi, kangangoba uhlinzekwe yilesi Sahluko, ngaphansi kwemigomo yaloMthetho. 35

IBhodi lamaLungelo oMhlaba oseGameni leNgonyama KwaZulu-Natali

32. Ukusukela osukwini lokuqala ukusebenza kwaloMthetho, iBhodi loMhlaba oseGameni leNgonyama KwaZulu-Natali, elisungulwe yisigaba 2A soMthetho woMhlaba oseGameni leNgonyama kwaZulu-Natali, ka 1994 (uMthetho onguNombolo 3 KZ ka 1994)— 40

- (a) laziwa njengeBhodi lamaLungelo oMhlaba oseGameni leNgonyama kwaZulu-Natali;
- (b) liyiBhodi elisungulwe yilowo Mthetho futhi, nakuba kunemigomo yesigaba 25, 26 no 27 kuloMthetho, libuye libe yiBhodi lamaLungelo oMhlaba KwaZulu-Natali, njengokubekiwe kwiSahluko 8, nawo onke amandla nemisebenzi esemahlombe alo ngokoMthetho woMhlaba oseGameni leNgonyama KwaZulu-Natali, ka 1994, nangokwaloMthetho; 45
- (c) linganyelwe ungunaphakade yiNgonyama njengokubekiwe kusigaba 13 soMthetho wamaKhosi neziPhakanyiswa zakwaZulu (KwaZulu Amakhosi and Iziphakanyiswa Act), ka 1990 (uMthetho onguNombolo 9 KZ ka 1990), noma abayizindlalifa zayo noma okhethwe njengosihlalo nelunga leBhodi loMhlaba oseGameni leNgonyama; futhi 50

- (d) continues to be constituted by the Ingonyama and the members appointed by the Minister in terms of section 2A of the KwaZulu-Natal Ingonyama Trust Act, 1994, until it is reconstituted in terms of section 33 of this Act.

Reconstitution of KwaZulu-Natal Land Rights Board

33. (1) Upon the termination of the term of office of the appointed members of the KwaZulu-Natal Ingonyama Land Rights Board immediately after the date of commencement of this Act, the Board must be reconstituted in terms of sections 26 and 27. 5

(2) From the date of such termination all the provisions of Chapter 8, with the exception of section 25(a), apply to such Board.

Powers and duties in relation to Ingonyama land

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34. From the date of commencement of this Act, the powers and duties provided for in relation to land to which the KwaZulu-Natal Ingonyama Trust Act, 1994 (Act No. 3 KZ of 1994), applies, must be exercised or performed by—

- (a) such Board, when communal land is transferred to a community or person in terms of section 6; 15
- (b) the Minister, after consultation with such Board, when cancelling an old order right in terms of section 13;
- (c) the Minister or such Board, when a land rights enquiry is instituted in terms of section 14(1);
- (d) the Minister, in relation to the designation of an officer of the Department or such Board in relation to the appointment of a suitable person who is not such an officer, when a land rights enquirer is designated or appointed in terms of section 15; and 20
- (e) the Minister or such Board, when a notice of a land rights enquiry or a determination is published in terms of section 16. 25

Inconsistency in laws

35. In the event of any inconsistency between this Act and the KwaZulu-Natal Ingonyama Trust Act, 1994 (Act No. 3 KZ of 1994), this Act prevails.

CHAPTER 10

GENERAL PROVISIONS

30

Provision of assistance to community

36. The Minister may designate an officer of the Department to assist a community or person to give effect to the implementation of this Act.

Provision of municipal services and development infrastructure on communal land

37. Despite the other provisions of this Act and the provisions of any other law, no law must prohibit a municipality from providing services and development infrastructure and from performing its constitutional functions on communal land however held or owned. 35

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- (d) liba yilokhu lakhiwe yiNgonyama kanye namalungu akhethwe ngu-Ngqongqoshe ngokwesigaba 2A soMthetho woMhlaba ongaphansi kweNgonyama KwaZulu-Natali, ka 1994, kuze kube lakhiwa kabusha ngokwesigaba 33 saloMthetho.

Ukwakhiwa kabusha kweBhodi lamaLungelo kwaZulu-Natali

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33. (1) Lapho kuphela isikhathi sokuba sesikhundleni kumalunga eBhodi lomHlaba Ongaphansi kweNgonyama KwaZulu-Natali maduzane emva kosuku okuyoqala ngalo ukusebenza kwaloMthetho, iBhodi kufanele libuye lakhiwe kabusha ngokwesigaba 26 no 27.

(2) Ukusukela osukwini lalokho kuqedwa, kosebenza yonke imibandela ekwisahluko 10 8, ngaphandle kwesigaba 25(a), kulelo Bhodi.

Amandla nemisebenzi eqondene nomhlaba weNgonyama

34. Ukusukela osukwini lokuqala kokusebenza kwaloMthetho, amandla nemisebenzi esemahlombe eBhodi nehlinzekelwe maqondana nomhlaba okusebenza kuwona uMthetho woMphathiswa woMhlaba oseGameni leNgonyama kwaZulu-Natali 15 (KwaZulu-Natal Ingonyama Trust Act), ka 1994 (uMthetho onguNombolo 3 KZ ka 1994), kufanele yenziwe—

- (a) yileli Bhodi, lapho kudluliselwa umhlaba kumphakathi noma kumuntu ngokwesigaba 6;
- (b) nguNgqongqoshe, emveni kokubonisana naleli Bhodi, lapho esula ilungelo 20 lohlelo oludala ngokwesigaba 13;
- (c) nguNgqongqoshe noma iBhodi lelo, lapho kuqalwa ucubungulo lwamalungelo omhlaba ngokwesigaba 14(1);
- (d) nguNgqongqoshe, maqondana nokujutshwa komuntu ofanelekile ongumphathi-hhovisi kuMnyango noma kwiBhodi maqondana nokukhethwa 25 komuntu ofanelekile ongesiyena umphathi-hhovisi onjalo, lapho kukhethwa noma kujutshwa umphenyi ngamalungelo omhlaba ngokwesigaba 15; kanye
- (e) noNgqongqoshe noma leli Bhodi, lapho kushicilelwa isaziso sesigcawu sokucutshungulwa kwamalungelo omhlaba noma ukuthathwa kwesinqumo ngokwesigaba 16. 30

Ukungahambisani kwemithetho

35. Lapho kukhona ukungahambisani phakathi kwaloMthetho noMthetho woMphathiswa woMhlaba Ongaphansi kweNgonyama kwaZulu-Natali, ka 1994 (uMthetho onguNombolo 3 KZ ka 1994), kuzosebenza loMthetho.

ISAPHEKULO 10

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IMITHETHO EYENGAMELE JIKELELE**Imigomo yokwelekelela umphakathi**

36. UNgqongqoshe angabeka umphathi-hhovisi womNyango ukuba elekelele umphakathi noma umuntu ukuze kufezake izinjongo zaloMthetho.

Ukuhlinzekwa kwezinsizakalo zomasipala nengqala-sizinda yokuthuthukisa umhlaba womphakathi

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37. Nakuba kuneminye imigomo yaloMthetho kanye nemigomo yanoma yimuphi omunye uMthetho, awukho uMthetho ongenqabela umasipala ukuba ahlinzeke izinsizakalo futhi athuthukise ingqala-sizinda noma futhi afeze umsebenzi wakhe awabelwe nguMthetho-sisekelo emhlabeni womphakathi noma ngabe kuzinzwe 45 nhloboni kuwo kumbe unahlobo luni lobunini.

Acquisition of land by Minister

38. (1) The Minister may, for the purposes of this Act, purchase, acquire in any other manner or, consistent with section 3 of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), expropriate land, a portion of land or a right in land.

(2) The Expropriation Act, 1975 (Act No. 63 of 1975), must, with the necessary changes, apply to an expropriation under this Act, and any reference to the Minister of Public Works in that Act must be construed as a reference to the Minister for the purpose of such expropriation. 5

(3) Where the Minister expropriates land, a portion of land or a right in land under this Act, the amount of compensation and the time and manner of payment must be determined either by agreement or by a court in accordance with section 25(3) of the Constitution. 10

Application of Act to other land-reform beneficiaries

39. This Act, read with the necessary changes, applies to beneficiaries of communal land or land tenure rights in terms of other land-reform laws. 15

Extension of access to courts

40. The Minister and a Board, in their capacities as such and on behalf of any community or person, each has the legal capacity to institute or intervene in any legal proceedings arising from, or related to, this Act.

Offences

41. (1) A person who—

- (a) hinders, obstructs or unduly influences any other person in the exercise of the powers or the performance of the duties conferred on or vested in such other person in terms of this Act;
- (b) unlawfully requires any other person to refrain from exercising a right in terms of this Act; or
- (c) in any manner prevents any other person from exercising such a right, is guilty of an offence. 25

(2) Any person who grants or purports to grant to any other person, other than a member of a community, a new order right in communal land— 30

- (a) in contravention of, or without complying with, a community rule;
- (b) without the prior consent of the community or its land administration committee or, in the case of State land, the consent of the Minister, is guilty of an offence.

(3) A person who, without good cause— 35

- (a) having been subpoenaed to appear before a land rights enquirer, does not attend at the time and place stated in the subpoena;
 - (b) having appeared in response to a subpoena by a land rights enquirer, fails to remain in attendance until excused;
 - (c) refuses to take an oath or affirmation as a witness when a land rights enquirer so requires; 40
 - (d) refuses to answer any question fully and to the best of her or his knowledge and belief;
 - (e) fails to produce any book, document or object when required to do so; or
 - (f) does or says anything in relation to a land rights enquirer which if said or done in relation to a court of law, would be contempt of court, 45
- is guilty of an offence.

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Ukuthabatha kukaNgqongqoshe umhlaba

38. (1) UNgqongqoshe unakho ukuthi, ngokwezinhloso zaloMthetho, athenge, athathe noma ngayiphi indlela, noma ngokuhambisana nesigaba 3 soMthetho wokuKhuthaza ubuLungiswa kubuPhathiswa (Promotion of Administrative Justice Act), ka 2000 (uMthetho onguNombolo 3 ka 2000), adle umhlaba, isiqephu noma ilungelo lomhlaba. 5

(2) UMthetho wokuDliwa koMhlaba (Expropriation Act), ka 1975 (uMthetho onguNombolo 63 ka 1975) kufanele, uhambisana nezinguquko ezifanele, usebenze ekudliweni komhlaba ngaphansi kwaloMthetho, kanti noma yini ekhomba uNgqongqoshe wezokuSebenza (Public Works) kulowo Mthetho kufanele kuthathwe njengencazelo eqondise kuNgqongqoshe ngokwezinhloso zalokho kudliwa komhlaba. 10

(3) Lapho uNgqongqoshe edla umhlaba, isiqinti somhlaba noma ilungelo komhlaba ngaphansi kwaloMthetho, inani lesinxephezelo kanjalo nesikhathi nendlela yokukhokha kufanele inqunywe ngesivumelwano noma yinkantolo ngokuhambisana nesigaba 25(3) soMthetho-sisekelo. 15

Ukusebenza koMthetho kwabanye abazuze ngezinguquko kwezemihlaba

39. LoMthetho, lapho ufundwa kanye nezinguquko ezifanele, usebenza kwabazuze umhlaba womphakathi kumbe ilungelo lokusebenzisa umhlaba ngokweminye imithetho yokubuyekizwa nezinguquko kubunikazi kwezemihlaba.

Ukwandiswa kwezindlela zokuletha udaba enkantolo

40. UNgqongqoshe kanye neBhodi, ngokwamandla abo, kungathi egameni lanoma yimuphi umphakathi noma umuntu, bakwazi ukuqala izinyathelo zomthetho kumbe bangenelele odabeni oselusezandleni zoMthetho olusuka, noma oluxhumene naloMthetho.

Ukwephulwa kwemithetho

41. (1) Umuntu—

- (a) ovimbezela, othikameza noma ofaka umoya noma ubani osebenzisa amandla akhe noma enza umsebenzi awuthunyiwe, noma awethweswe yiloMthetho;
- (b) ophoqa ngokungeMthetho ukuba omunye umuntu ayeke ukusebenzisa ilungelo ngokwaloMthetho; noma
- (c) noma ngandlelani uma evimba noma ubani ukuba asebenzise lelo lungelo, wephula umthetho ngakho unecala. 30

(2) Noma ubani onikeza noma ozama ukunikeza noma ubani ongesilona ilungu lomphakathi, ilungelo lohlelo olusha lomhlaba womphakathi—

- (a) ngendlela ephambanayo noma engalandeli uMthetho-nqubo womphakathi;
- (b) ngaphandle kokuqala athole invume yomphakathi noma ikomidi esingethe ezalowo mhlaba, noma uma kungumhlaba woMbuso, invume ka Ngqongqoshe, 35

unecala.

(3) Umuntu, uma, ngaphandle kwesizathu esizwakalayo—

- (a) ethe lapho ebizwe ukuba azovela phambi kwesigcawu esicubungula ngamalungelo omhlaba yena angaveli ngesikhathi nakwindawo ebekiwe;
- (b) kuthi lapho evelile esigcawini njengokubizwa kwakhe ngumcubunguli kodwa angahlali kuze kube uyadedelwa;
- (c) enqaba ukufunga njengofakazi lapho umcubunguli ngamalungelo omhlaba ethi makafunge;
- (d) enqaba ukuphendula ngokuphelele nangako konke akwaziyo nakukholelwayo lapho ebuzwa umbuzo;
- (e) engayikhiphi incwadi, umqulu, noma into lapho edingwa ukuthi makenze njalo;
- (f) enza noma esho noma yini kumcubunguli okumaqondana nelungelo lomhlaba obekungathi uma eyisho enkantolo, kube ukweya iNkantolo, 50

unecala.

Penalties

42. A person convicted of an offence in terms of this Act is liable on conviction—
- (a) in the case of an offence referred to in section 41(1) or (2), to a fine or imprisonment for a period not exceeding two years, or to both a fine and such imprisonment; and
 - (b) in the case of an offence referred to in section 41(3), to the penalty applicable to a similar offence in a magistrate's court.

Delegation of powers

43. The Minister and the Director-General may delegate any power, except the power to expropriate land, a portion of land or a right in land, which has been conferred upon the Minister or the Director-General, respectively, in terms of this Act.

Regulations

44. (1) The Minister may make any regulation with regard to any matter which is governed by or incidental to the objects or implementation of this Act.
- (2) Any regulations made under this section must be tabled in Parliament.

Act binds State

45. This Act binds the State.

Amendment and repeal of laws

46. (1) The laws mentioned in the Schedule are amended or repealed to the extent set out in the third column of the Schedule.
- (2) Any law which regulates an old order right and which—
- (a) is not mentioned in the Schedule; and
 - (b) is not in conflict with this Act,
- remains in force until repealed by a competent authority.

Short title and commencement

47. This Act is called the Communal Land Rights Act, 2004, and comes into operation on a date to be determined by the President by proclamation in the *Gazette*.

Izigwebo

42. Umuntu oboshwe ngokwaloMthehto, lapho etholakala enecala uyogwetshwa—
- (a) uma ephule uMthetho okukhulunywa ngawo kusigaba 41(1) noma (2), inhlawulo yemali noma abhadle ejele isikhathi esingevile eminyakeni emibili, noma kokubili inhlawulo nokudonsa ejele; futhi 5
 - (b) uma ephule uMthetho okukhulunywa ngawo kusigaba 41(3), kube yisigwebo esihambisana nesecala elifanayo enkantolo kamantshi.

Ukudlulisela kwabanye amandla

43. UNgqongqoshe nomQondisi-Jikelele, bangadlulisela kwabanye noma imaphi amandla abawanikezwe yiloMthetho, ngaphandle kwamandla okudla komhlaba, 10 isiqephu somhlaba noma ilungelo kumhlaba.

Imithetho-migomo

44. (1) UNgqongqoshe angamisa noma iyiphi imithetho-migomo maqondana nanoma yiluphi udaba olungaphansi noma oluqondene nokusebenza kwaloMthetho.
- (2) Noma yimiphi imithetho-migomo eyenziwe ngaphansi kwalesi sigaba kufanele 15 yethulwe ePhalamende.

UMthetho uyisibophezelo kuMbuso

45. LoMthetho unesibophezelo kuMbuso.

Ukuchitshiyelwa nokwesulwa kwemithetho

46. (1) Imithetho okukhulunywa ngayo kwiSheduli iyachitshiyelwa noma iyesulwa 20 kangangoba kubekiwe kuluhlu lwesithathu kulelo Sheduli.
- (2) Noma yimuphi uMthetho olawula ilungelo lohlelo oludala futhi—
- (a) ongaphathwanga kwiSheduli; futhi
 - (b) ongashayisani naloMthetho, 25
- uyaqhubeka nokusebenza kuze kube uqedwa uhlaka olunamandla olufanele.

Isihloko esifushane nokuqala ukusebenza

47. LoMthetho ubizwa ngoMthetho wamaLungelo oMhlaba woMphakathi, ka 2004, futhi uyoqala ukusebenza ngalolo suku oluyonqunywa nguMmongameli ngesi-Memezelo kwi*Gazethi*.

Schedule

Amendment or repeal of laws

(Section 46)

Part 1: Laws enacted by Parliament

No. and year of law	Short title	Extent of amendment or repeal	5
Act No. 38 of 1927	Black Administration Act, 1927	Repeal of sections 6 and 7.	
Act No. 47 of 1937	Deeds Registries Act, 1937	1. Amendment of section 3 by the insertion in subsection (1) after paragraph (d)bis of the following paragraphs: “(d)ter register deeds of communal land rights as contemplated in the Communal Land Rights Act, 2004; (d)ter(1A) register the conversion to full ownership of old and new order rights as contemplated in the Communal Land Rights Act, 2004; (d)ter(1B) register the cancellation of old order rights as contemplated in the Communal Land Rights Act, 2004.” 2. Insertion after section 16B of the following section: “Registration of new order rights 16C. New order rights shall be transferred by means of a Deed of Communal Land Right as contemplated in the Communal Land Rights Act, 2004.” 3. Amendment of section 102— (a) by the insertion after the definition of “court” of the following definition: “‘Deed of Communal Land Right’ means a deed of communal land right as defined in section 1 of the Communal Land Rights Act, 2004;” (b) by the substitution for the definition of “general plan” of the following definition: “‘general plan’ means a plan which represents the relative positions and dimensions of two or more pieces of land and has been signed by a person recognized by law as a land surveyor, and which has been approved, provisionally approved or certified as a general plan by a surveyor-general or other officer empowered under any law so to approve, provisionally approve or certify a general plan, and includes a general plan or copy thereof prepared in a surveyor-general’s office and approved, provisionally approved or certified as aforesaid, or a general plan which has at any time, prior to the commencement of this Act, been accepted for registration in a deeds registry or surveyor-general’s office, and includes a communal general plan as contemplated in the Communal Land Rights Act, 2004;” (c) by the addition to the definition of “immovable property” of the following paragraph: “(e) new order rights as contemplated in the Communal Land Rights Act, 2004;” and (d) by the substitution for the definition of “person” of the following definition: “‘person’, for the purpose of [the registration of immovable trust property only] any registration in terms of this Act, includes a trust and, for the purpose of the Communal Land Rights Act, 2004, includes a community;”	10 15 20 25 30 35 40 45 50 55 60

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ISheduli

Izichibiyelo noma ukwesulwa kwemithetho

(Isigaba 46)

Ingxenye 1: Imithetho eshaywe yiPhalamende

Inombolo nonyaka woMthetho	IsiHloko esiFushane	Ububanzi bokuchibiyela nokuchithwa
UMthetho onguNombolo 38 ka 1927	Black Administration Act, 1927	uKuchithwa kwezigaba 6 no 7.
UMthetho onguNombolo 47 ka 1937	Deeds Registries Act, 1937	1. Ukuchibiyela isigaba 3 ngokushutheka isigatshana (1) emva kwendima (d)/bis kwizindima ezilandelayo: “(d)(ter) aktes van gemeenskaplike grondregte soos beoog in die ‘Communal Land Rights Act’, 2004, registreer; (d)(ter)(1A) die verandering na volle eiendomsreg van oubestel- en nuwebestelregte soos beoog in die ‘Communal Land Rights Act’, 2004, registreer; (d)(ter)(1B) die rojering van oubestelregte soos beoog in die ‘Communal Land Rights Act’, 2004, registreer.” 2. Ukufaka emva kwesigaba 16B lesisigaba esilandelayo: “Registrasie van nuwebestelregte 16C. Nuwebestelregte moet oorgedra word deur middel van ’n Akte van Gemeenskaplike Grondreg soos beoog in die ‘Communal Land Rights Act’, 2004.” 3. Isichibiyelo sesigaba 102: (a) ngoufakela emva kwencazelo inkantolo “hof” kwincazelo elandelayo: “ ‘Akte van Gemeenskaplike Grondreg’ beteken ’n akte van gemeenskaplike grondreg soos omskryf in artikel 1 van die ‘Communal Land Rights Act’, 2004;” (b) ngokukhipha incazelo “algemene plan” ngencazelo elandelayo: “ ‘algemene plan’ beteken ’n plan wat die relatiewe liggings en afmetings van twee of meer stukke grond aangee en wat onderteken is deur iemand wat by wet as landmeter erken is, en wat as ’n algemene plan goedgekeur, voorlopig goedgekeur of gesertifiseer is deur ’n landmeter-generaal of ander amptenaar wat regtens bevoeg is om ’n algemene plan aldus goed te keur, voorlopig goed te keur of te sertifiseer, en omvat ’n algemene plan of kopie daarvan in ’n landmeter-generaalskantoor opgestel soos voormeld goedgekeur, voorlopig goedgekeur of gesertifiseer, of ’n algemene plan wat te eniger tyd voor die inwerkingtreding van hierdie Wet in ’n registrasiekantoor of landmeter-generaalskantoor ter registrasie aangeneem is, en ook ’n gemeenskaplike algemene plan soos beoog in die ‘Communal Land Rights Act’, 2004;” (c) ngokwengeza kwincazelo “onroerende goed” kwindima elandelayo: “(e) nuwebestelregte soos beoog in die ‘Communal Land Rights Act’, 2004;” futhi (d) ngokuququla incazelo yegama “persoon” kufakwe lencazelo elandelayo: “ ‘persoon’ sluit vir die doeleindes van [die registrasie van onroerende trustgoed alleen] enige registrasie ingevolge hierdie Wet ’n trust in en, vir die doeleindes van die ‘Communal Land Rights Act’, 2004, ’n gemeenskap in;”

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COMMUNAL LAND RIGHTS ACT, 2004

No. and year of law	Short title	Extent of amendment or repeal	
Act No. 112 of 1991	Upgrading of Land Tenure Rights Act, 1991	1. Repeal of section 20. 2. Substitution for section 25A of the following section: <u>"25A. As from the coming into operation of the Communal Land Rights Act, 2004, this Act shall apply throughout the Republic."</u> 3. Amendment of Schedule 1 by the insertion of the following items before item 1, items 1 to 6 becoming items 3 to 8: <u>"1. Any quitrent title referred to in Proclamation 196 of 1920.</u> <u>2. Any quitrent title referred to in Proclamation 170 of 1922."</u>	5 10 15
Act No. 31 of 1996	Interim Protection of Informal Land Rights Act, 1996	Amendment of section 5 by the deletion of subsection (2).	
Act No. 8 of 1997	Land Survey Act, 1997	Amendment of section 1 by the substitution for the definition of "general plan" of the following definition: <u>"'general plan' means a plan which, representing the relative positions and dimensions of two or more pieces of land, has been signed by a person recognised under any law then in force as a land surveyor, or which has been approved or certified as a general plan by a Surveyor-General and includes a general plan or a copy thereof prepared in a Surveyor-General's office and approved or certified as such or a general plan which has, prior to the commencement of this Act, been lodged for registration in a deeds registry or Surveyor-General's office in the Republic or any area which became part of the Republic at the commencement of the Constitution, 1993 and, for the purposes of the Communal Land Rights Act, 2004, includes a communal general plan contemplated in that Act;"</u>	20 25 30 35

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Inombolo nonyaka woMthetho	IsiHloko esiFushane	Ububanzi bokuchibiyela nokuchithwa
UMthetho onguNombolo 112 ka 1991	Upgrading of Land Tenure Rights Act, 1991 (Wet op die Opgradering van Grondbesitregte, 1991)	1. Ukwesulwa kwesigaba 20. 2. Ukuchibiyela isigaba 25A ngokufaka isigaba 25A sesigaba esilandelayo: <u>"25A. Vanaf die datum van inwerkingtreding van die 'Communal Land Rights Act', 2004, is hierdie Wet van toepassing regdeur die Republiek."</u> 3. Ukuchibiyela iSheduli 1 ngokufaka lokhu okulandelayo ngaphambi kokufaka uhlamvu 1, izinhlamvu 1 kuya 6 bese ziba yizinhlamvu 3 kuya 8: <u>"1. Enige erfpagtitel vermeld in Proklamasie 196 van 1920.</u> <u>2. Enige erfpagtitel vermeld in Proklamasie 170 van 1922."</u>
UMthetho onguNombolo 31 ka 1996	Interim Protection of Informal Land Rights Act, 1996 (Wet op die Tussentydse Beskerming van Informele Grondregte, 1996)	Isichibiyelo sesigaba 5 ngokususa isigatshana (2).
UMthetho onguNombolo 8 ka 1997	Land Survey Act, 1997 (Grondopmetingswet, 1997)	Isichibiyelo sesigaba 1(a) (a) ngokuchibiyela incazelo "algemene plan" kwincazelo elandelayo: <u>" 'algemene plan' 'n plan wat die relatiewe ligging en die afmetings van twee of meer stukke grond aangee en wat onderteken is deur 'n persoon wat kragtens 'n dan geldende wet as 'n landmeter erken is of wat as 'n algemene plan goedgekeur of gesertifiseer is deur 'n Landmeter-generaal, en ook 'n algemene plan of afskrif daarvan vervaardig in 'n Landmeter-generaalkantoor en as sodanig goedgekeur of gesertifiseer, of 'n algemene plan wat voor die inwerkingtreding van hierdie Wet in 'n registrasiekantoor of Landmeter-generaalkantoor in die Republiek of enige gebied wat by die inwerkingtreding van die Grondwet, 1993, deel van die Republiek geword het, vir registrasie ingedien is en, vir die doeleindes van die 'Communal Land Rights Act', 2004, ook 'n gemeenskaplike algemene plan beoog in daardie Wet;"</u>

Part 2 : Laws of the former KwaZulu

No. and year of law	Short title	Extent of amendment or repeal	
Act No. 3 KZ of 1994	KwaZulu-Natal Ingonyama Trust Act, 1994	1. Amendment of section 2 — (a) by the substitution for subsection (2) of the following subsection: “(2) The Trust shall, in a manner not inconsistent with the provisions of this Act, be administered for the benefit, material welfare and social well-being of the members of the tribes and communities as contemplated in the KwaZulu Amakhosi and Iziphakanyiswa Act, 1990 (Act No. 9 KZ of 1990), referred to in the second column of the Schedule, established in a district referred to in the first column of the Schedule, and the residents of such a district to whom the land referred to in section 3 and the real rights and other rights in such land must, subject to this Act and any other law, be transferred.” (b) by the substitution for subsection (5) of the following subsection: “(5) The Ingonyama shall not encumber, pledge, lease, alienate or otherwise dispose of any of the said land or any interest or real right in the land, unless he has obtained the prior written consent of the [traditional authority or community authority,] community concerned, and otherwise than in accordance with the provisions of any applicable law.”	5 10 15 20 25 30

Part 3: Laws of the former Bophuthatswana

No. and year of law	Short title	Extent of amendment or repeal	
Act No. 39 of 1979	Bophuthatswana Land Control Act, 1979	Repeal of the whole.	35

Part 4: Laws of the former Venda

No. and year of law	Short title	Extent of amendment or repeal	
Act No. 16 of 1986	Venda Land Control Act, 1986	Repeal of the whole.	40
Proclamation 45 of 1990	Venda Land Affairs Proclamation, 1990	Repeal of sections 1 to 5, 8 to 13, 20 to 43 and so much of sections 6, 7 and 14 to 19 as has not been assigned to the government of Limpopo province under section 235(8) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993).	45

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Ingxenye 2: Imithetho yakudala yakwaZulu

Inombolo nonyaka woMthetho	Isihloko kafushane	Ububanzi bokuchibiyela nokwesulwa
UMthetho 3 KZ ka 1994	KwaZulu-Natal Ingonyama Trust Act, 1994	1. Isichibiyelo sesigaba 2— (a) nokufaka kusigatshana (2) isigatshana esilandelayo: “(2) The Trust shall, in a manner not inconsistent with the provisions of this Act, be administered for the benefit, material welfare and social well-being of the members of the tribes and communities as contemplated in the KwaZulu Amakhosi and Iziphakanyiswa Act, 1990 (Act No. 9 KZ of 1990), referred to in the second column of the Schedule, established in a district referred to in the first column of the Schedule, and the residents of such a district to whom the land referred to in section 3 and the <u>real rights and other rights in such land must, subject to this Act and any other law, be transferred.</u>”. (b) ngokufaka kusigatshana (5) le sigatshana esilandelayo: “(5) The Ingonyama shall not encumber, pledge, lease, alienate or otherwise dispose of any of the said land or any interest or real right in the land, unless he has obtained the prior written consent of the [traditional authority or community authority] community concerned, and otherwise than in accordance with the provisions of any applicable law.”.

Ingxenye 3: imiThetho kahulumeni wakudala waseBophuthatswana

Inombolo nonyaka woMthetho	IsiHloko esiFushane	Ububanzi bokuchibiyela nokuqeda
UMthetho onguNombolo 39 ka 1979	Bophuthatswana Land Control Act, 1979	Ukuchithwa kwawo wonke.

Ingxenye 4: ImiThetho kahulumeni wakudala waseVenda

Inombolo nonyaka woMthetho	IsiHloko esiFushane	Ububanzi bokuchibiyela nokuqeda
UMthetho onguNombolo 16 ka 1986	Venda Land Control Act, 1986	Ukuchithwa kwawo wonke.
Isimemezelo 45 sika 1990	Venda Land Affairs Proclamation, 1990	Ukuchithwa kwezigaba 1 kuya ku 5, 8 kuya 13, 20 kuya 43 nengxenye enkulu yezigaba 6, 7 no 14 kuya 19 njengoba bezingazange zanikezelwa kuhulumeni wesiFundazwe saseLimpopo ngaphansi kwesigaba 235(8) soMthetho-sisekelo weRiphabhulikhi yaseNingizimu Afrika, ka 1993 (uMthetho onguNombolo 200 ka 1993).

Part 5: Laws of the former Ciskei

No. and year of law	Short title	Extent of amendment or repeal	
Act No. 14 of 1982	Ciskei Land Regulation Act, 1982	Repeal of the whole with effect from the date of registration of a community's community rules under section 19(1) of "this Act", but only within the area comprised of that community's communal land and with effect from the date on which Proclamation No. R. 188 of 1969 is repealed in that area.	5 10

Part 6: Laws of the former Qwaqwa

No. and year of law	Short title	Extent of amendment or repeal	
Act No. 15 of 1989	Qwaqwa Land Act, 1989	Repeal of the whole with effect from the date of registration of a community's community rules under section 19(1) of "this Act", but only within the area comprised of that community's communal land.	15

Part 7: Laws of the former KwaNdebele

No. and year of law	Short title	Extent of amendment or repeal	
Act No. 11 of 1992	KwaNdebele Land Tenure Act, 1992	So much as has not been repealed.	20

Part 8: Other laws

No. and year of law	Short title or description	Extent of amendment or repeal	
Proclamation 26 of 1936	Administrative Area Regulations — Unsurveyed Districts: Transkeian Territories	Repeal of the whole with effect from the date of registration of a community's community rules under section 19(1) of "this Act", but only within the area comprised of that community's communal land.	25 30

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Ingxenywe 5: ImiThetho kahulumeni wakudala waseCiskei

Inombolo nonyaka woMthetho	IsiHloko esiFushane	Ububanzi bokuchibiyela nokuchithwa
Umthetho onguNombolo 14 ka 1982	Ciskei Land Regulation Act, 1982	Uchithwa wonke kusukela ngosuku lokurejistwa kwemithetho-nqubo yomphakathi ngokwesigaba 19(1) "saloMthetho", kodwa kwindawo kuphela enalowo mhlaba womphakathi kusukela kusuku okuchithwa ngalo isiMemezelo No. R. 188 sika 1969, kuleyo ndawo.

Ingxenywe 6: ImiThetho kahulumeni wakudala waseQwaqwa

Inombolo nonyaka woMthetho	IsiHloko esiFushane	Ububanzi bokuchibiyela nokuchithwa
UMthetho onguNombolo 15 ka 1989	Qwaqwa Land Act, 1989	Uchithwa wonke kusukela kusuku lokurejistwa kwemithetho-nqubo yomphakathi ngokwesigaba 19(1) saloMthetho, kodwa kuphela kwindawo yomhlaba womphakathi.

Ingxenywe 7 ImiThetho kahulumeni wakudala waKwaNdebele

Inombolo nonyaka woMthetho	IsiHloko esiFushane	Ububanzi bokuchibiyela nokuchithwa
UMthetho onguNombolo 11 ka 1992	KwaNdebele Land Tenure Act, 1992	Konke obekungakachithwa.

Ingxenywe 8: Eminye imithetho

Inombolo nonyaka woMthetho	IsiHloko esiFushane	Ububanzi bokuchibiyela nokuchithwa
Isimemezelo 26 sika 1936	Administrative Area Regulations — Unsurveyed Districts: Transkeian Territories	Sichithwa sonke kusukela kusuku lokurejistwa kwemithetho-nqubo yomphakathi ngokwesigaba 19(1) saloMthetho, kodwa kwindawo kuphela enalowo mhlaba wophakathi.

