

PROVINCE OF THE WESTERN CAPE

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**WESTERN CAPE INVESTMENT AND  
TRADE PROMOTION AGENCY  
AMENDMENT BILL**

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*(As introduced)*

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(MINISTER OF FINANCE, ECONOMIC DEVELOPMENT AND TOURISM)

[B 1—2013]

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PROVINSIE WES-KAAP

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**WES-KAAPSE  
WYSIGINGSWETSONTWERP OP DIE  
INVESTERINGS- EN  
HANDELSBEVORDERINGSAGENTSAP**

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*(Soos ingedien)*

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(MINISTER VAN FINANSIES, EKONOMIESE ONTWIKKELING EN TOERISME)

[W 1—2013]

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IPHONDO LENTSHONA KOLONI

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**UMTHETHO OSAYILWAYO WOLUNGISO  
WEARHENTE YOPHAKANYISO LOTYALOMALI  
NEZORHWEBO WENTSHONA KOLONI**

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*(Njengoko wazisiwe)*

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(NGUMPHATHISWA WEZEMALI, UPHUHLISO LWEZOQOQOSHO NEZOKHENKETHO)

[B 1—2013]

## 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.

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# AMENDMENT BILL

To amend the Western Cape Investment and Trade Promotion Agency Act, 1996, so as to extend the objects, powers and functions of the Western Cape Investment and Trade Promotion Agency and the powers and duties of directors of the Board of the Agency (the Board) and the chief executive officer to include tourism promotion; to delete certain obsolete definitions and provisions relating to the members of the Agency; to make provision for the determination of a trading name for the Agency; to amend the constitution of the Board by removing representatives from members of the Agency and to make provision for representation from organised local government; to require knowledge of tourism, trade or investment promotion and experience therein of directors of the Board and the chief executive officer; to provide for the Minister to designate the chairperson and vice chairperson of the Board; to allow for a three year term of appointment of the directors of the Board; to amend the powers of the Board relating to the appointment of committees and to provide for the Board to appoint a chairperson for each committee; to amend the name of the Agency; to disestablish the Destination Marketing Organisation; to repeal the Western Cape Tourism Act, 2004; and to provide for matters incidental thereto.

**B**E IT ENACTED by the Provincial Parliament of the Western Cape, as follows:—

### Substitution of preamble to Act 3 of 1996, as substituted by section 1 of Act 1 of 2005

1. The following preamble is substituted for the preamble of the Western Cape Investment and Trade Promotion Agency Act, 1996 (Act 3 of 1996), (the principal Act): 5  
“**WHEREAS** the government of the province of the Western Cape holds responsibility for the promotion of tourism, trade and investment in the province, and whereas it believes that the promotion of these objects is best achieved in partnership with the private sector and local government, and whereas government 10  
is desirous of establishing by provincial statute, a provincial public entity to promote environmentally sustainable and socially responsible **[investment in and] tourism**, trade **[within]** and investment in the provincial economy, now therefore[.].”

**Amendment of section 1 of Act 3 of 1996, as amended by section 2 of Act 1 of 2005**

2. Section 1 of the principal Act is amended—
- (a) by the deletion of the definition of “locate”; and
  - (b) by the deletion of the definition of “member”.

**Amendment of section 2 of Act 3 of 1996, as amended by section 4 of Act 1 of 2005** 5

3. Section 2 of the principal Act is amended—
- (a) by the substitution for subsection (2) of the following subsection:
    - “(2) The Agency shall be a juristic person with limited liability, capable of suing and being sued in its own name and of performing all such acts as are necessary for or incidental to the attainment of its objects and the exercise of its powers in terms of this Act and no [member or] director of the Agency shall be liable for any debts or losses of the Agency.”; and
  - (b) by the addition of the following subsection after subsection (3):
    - “(4) The Board may, after consultation with the Minister, determine a trading name for the Agency.”

**Amendment of section 3 of Act 3 of 1996, as substituted by section 5 of Act 1 of 2005**

4. Section 3 of the principal Act is amended—
- (a) by the substitution for paragraph (d) of subsection (2) of the following paragraph:
    - “(d) **[subject to subsection (4), no more than]** two directors nominated by organised local government, one representing category B municipalities and one representing category C municipalities [from amongst the members]; and”;
  - (b) by the substitution in subsection (3) for the expression “Board of Directors” of the expression “Board of directors”;
  - (c) by the substitution for subsection (4) of the following subsection:
    - “(4)**[(a) Directors of the Board contemplated in subsection (2)(d), may only be appointed by the Minister after an internal election process conforming to such directions as may be issued by the Board from time to time, has been followed.**
    - (b)]** The **[Directors]** directors of the Board **[referred to in paragraph (a)]** must, in addition to meeting the criteria contemplated by subsection (5), occupy a leadership position and have proven leadership abilities.”;
  - (d) by the substitution for paragraph (a) of subsection (5) of the following paragraph:
    - “(a) have knowledge of tourism, trade [and] or investment;”;
  - (e) by the substitution for paragraph (b) of subsection (5) of the following paragraph:
    - “(b) have experience in the promotion of tourism, trade [and] or investment;”;
  - (f) by the addition of the following subsection after subsection (6):
    - “(7) The Minister, after consultation with the executive Mayor, must designate a chairperson and vice chairperson for the Board from amongst the directors of the Board for a period as determined by the Minister at the time of their designation.”

**Amendment of section 3A of Act 3 of 1996, as inserted by section 6 of Act 1 of 2005**

5. Section 3A of the principal Act is amended—
- (a) by the substitution for subsection (1) of the following subsection:
    - “(1) Directors of the Board contemplated in section 3(2)(a)**[(b) and (c)] to (d)** are appointed for a period determined at the time of their appointment, but not exceeding **[two] three** years.”; and
  - (b) by the deletion of subsection (2).

**Amendment of section 4 of Act 3 of 1996, as substituted by section 7 of Act 1 of 2005**

6. Section 4 of the principal Act is amended by the substitution for paragraph (a) of the following paragraph:

“(a) to promote **[investment in and]** tourism, trade **[within]** and investment in the Province; and”.

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**Amendment of section 5 of Act 3 of 1996, as amended by section 8 of Act 1 of 2005**

7. Section 5 of the principal Act is amended—

(a) by the substitution for paragraph (f) of the following paragraph:

“(f) to furnish tourism, trade and investment marketing assistance and expert and specialised advice, information and guidance to any business, company or association of persons who so request it from the Agency **[and/or]** or would assist the Agency in achieving its **[Objects]** objects;”;

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(b) by the substitution for paragraph (h) of the following paragraph:

“(h) to act as a tourism, trade and investment promotion agent on behalf of the Province, **any local authority or other tier of government or any other person or body who, in the opinion of the Board, is a stakeholder in the economy of]** and to facilitate co-ordinated destination marketing activities for the Western Cape;”;

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(c) by the substitution for paragraph (j) of the following paragraph:

“(j) to solicit and accept donations and to receive any monies offered or due to the Agency for the sole purpose of promoting tourism, trade and investment in the Western Cape;”;

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(d) by the substitution for paragraph (l) of the following paragraph:

“(l) to **[plan and]** develop, implement and promote a provincial tourism, trade and investment marketing strategy and implement any project [or enterprise] that [would enhance investment and trade] realises growth in the economy of the Western Cape;”;

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(e) by the substitution for paragraph (m) of the following paragraph:

“(m) to invest any funds or monies not immediately required for its affairs, **and];**”;

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(f) by the substitution of paragraph (n) of the following paragraph:

“(n) to exercise such other powers which, in the opinion of the Minister are necessary for the achievement of its objects and which the Minister, in consultation with the Board, may confer upon the Agency by notice in the *Provincial Gazette*.”;

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(g) by the addition of the following paragraphs after paragraph (n):

“(o) to promote the Province as a tourism destination;

(p) to promote leisure and business tourism and events; and

(q) to promote the alignment of provincial marketing activities in all tourism sectors in the Province in collaboration with private and public entities.”.

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**Repeal of section 6 of Act 3 of 1996, as substituted by section 9 of Act 1 of 2005**

8. Section 6 of the principal Act is repealed.

**Amendment of section 7 of Act 3 of 1996, as substituted by section 10 of Act 1 of 2005**

9. Section 7 of the principal Act is amended—

(a) by the deletion of subsection (5);

(b) by the substitution for paragraph (a) of subsection (7) of the following paragraph:

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“(a) Ex-officio **[members]** directors of the Board appointed in terms of section **[3(5)(a)]** 3(2)(a), (b) and (e) have no voting rights, but have the right to enter into discussion of all the matters before the Board.”; and

(c) by the substitution for subsection (9) of the following subsection:

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- “(9) A decision taken by the Board at a time when there was a vacancy on the Board, when any person who was not entitled to sit as a **[member] director** of the Board sat as such a **[member] director**, is not invalid if—
- (a) the decision was taken by a majority of all the **[members] directors** of the Board; and
  - (b) the **[members] directors** comprising that majority were entitled to sit as **[members] directors**.”.

**Amendment of section 8 of Act 3 of 1996, as amended by section 11 of Act 1 of 2005**

- 10.** Section 8 of the principal Act is amended—
- (a) by the substitution for paragraph (a) of subsection (2) of the following paragraph:
    - “(a) The Board may establish committees comprising of members with the necessary expertise to assist the Board with the exercise of its powers, the performance of its functions and the carrying out of its duties.”;
  - (b) by the deletion of paragraphs (a) and (b) of subsection (3);
  - (c) by the substitution for paragraph (c) of subsection (3) of the following paragraph:
    - “(c) A committee contemplated in **[paragraph (a)(iii) or (iv)] subsection (2)(a)** must not consist of more than ten members, **[one of whom must be a director and the rest of the members as contemplated in section 6]** as determined by the Board.”; and
  - (d) by the substitution for subsection (4) of the following subsection:
    - “(4) The Board must from the directors of the Board appoint a chairperson for each committee.”.

**Amendment of section 10 of Act 3 of 1996, as substituted by section 13 of Act 1 of 2005**

- 11.** Section 10 of the principal Act is amended by the substitution for subsection (1) of the following subsection:
- “(1) The Board, in consultation with the Minister and the executive Mayor and after following a public advertising process, must appoint a fit and proper person with knowledge of and experience in **[investment and] tourism, trade or investment promotion** as the chief executive officer of the Board.”.

**Amendment of section 11 of Act 3 of 1996, as substituted by section 14 of Act 1 of 2005**

- 12.** Section 11 of the principal Act is amended by the substitution for paragraph (g) of the following paragraph:
- “(g) ensure that the Agency complies with and performs in terms of all contractual agreements and implements **[investment and] tourism, trade and investment marketing policies.**”.

**Amendment of section 12 of Act 3 of 1996, as substituted by section 15 of Act 1 of 2005**

- 13.** Section 12 of the principal Act is amended—
- (a) by the substitution for paragraph (c) of subsection (1) of the following paragraph:
    - “(c) money donated to the Agency by any person or institution; and”; and
  - (b) by the deletion of paragraph (d) of subsection (1).

**Substitution of expression**

- 14.** The principal Act, except for section 20 thereof, is amended by the substitution for the expression “Western Cape Investment and Trade Promotion Agency”, wherever it occurs, of the expression “Western Cape Tourism, Trade and Investment Promotion Agency”.

## Disestablishment of Destination Marketing Organisation

15. The Destination Marketing Organisation established by section 2(1) of the Western Cape Tourism Act, 2004 (Act 1 of 2004), is disestablished.

## Repeal of Western Cape Tourism Act

16. The Western Cape Tourism Act, 2004, is repealed. 5

## Transitional and savings provisions

17. (1) In this section—

“**accounting officer**” means the head of the provincial department responsible for economic development and tourism;

“**Destination Marketing Organisation**” means the Destination Marketing Organisation established by section 2(1) of the Western Cape Tourism Act, 2004, before its repeal by this Act; 10

“**effective date**” means 1 April 2012 being the date on which staff, assets and liabilities of the Destination Marketing Organisation were transferred to the Agency in terms of the agreement between the Agency and the Destination Marketing Organisation of 26 March 2012; 15

“**responsible Minister**” means the member of the provincial Cabinet responsible for economic development and tourism;

“**the Agency**” means the Western Cape Investment and Trade Promotion Agency established by section 2 of the Western Cape Investment and Trade Promotion Agency Act, 1996 (Act 3 of 1996), before the amendment of that Act by this Act, and which is listed as a provincial public entity in Schedule 3 to the Public Finance Management Act, 1999 (Act 1 of 1999). 20

(2) The Agency is the successor-in-law of the Destination Marketing Organisation.

(3) As from the effective date, the staff employed by the Destination Marketing Organisation upon the effective date, are transferred to the Agency in accordance with the Labour Relations Act, 1995 (Act 66 of 1995). 25

(4) With effect from the commencement of this Act—

(a) the assets, liabilities and records of the Destination Marketing Organisation held immediately before the commencement of this Act, are transferred to the Agency; and 30

(b) the term of appointment of members of the Board of the Destination Marketing Organisation which has not expired immediately before the commencement of this Act, ends.

(5) The Board of directors of the Agency is, in respect of the 2012/13, and if applicable 2013/14, financial years responsible for— 35

(a) the preparation and submission of financial statements and annual reports of the Destination Marketing Organisation; and

(b) the finalisation of all outstanding matters of the Destination Marketing Organisation, 40

in accordance with the Public Finance Management Act, 1999.

(6) The responsible Minister, or the accounting officer if so authorised by the responsible Minister, may issue directives to give effect to this section.

(7) The Agency continues in existence as a provincial public entity, but is to be known, after the commencement of this Act, as the Western Cape Tourism, Trade and Investment Promotion Agency. 45

(8) A reference in any law or document to the Western Cape Investment and Trade Promotion Agency must be construed as a reference to Western Cape Tourism, Trade and Investment Promotion Agency.

(9) The juristic identity and the rights and obligations of the provincial public entity referred to in subsection (7) are not affected by its change of name. 50

(10) Despite sections 4, 5, 10, 11 and 15 of this Act, any person holding an office, immediately before the commencement of this Act, in terms of section 3, 7(5) or 10 of the principal Act, before its amendment by this Act, continues in office for the term of that person’s appointment and is regarded as duly appointed for the unexpired portion of his or her term of office. 55

**Short title**

**18.** This Act is called the Western Cape Investment and Trade Promotion Agency Amendment Act, 2013.

**MEMORANDUM ON THE OBJECTS OF THE WESTERN CAPE  
INVESTMENT AND TRADE PROMOTION AGENCY AMENDMENT  
BILL, 2013**

**1. BACKGROUND**

- 1.1 The functions relating to the promotion of trade, investment and tourism in the Province are being performed by two separate public entities, namely the Destination Marketing Organisation established in terms of the Western Cape Tourism Act, 2004 (Act 1 of 2004), and the Western Cape Investment and Trade Promotion Agency (Wesgro) established in terms of the Western Cape Investment and Trade Promotion Agency Act, 1996 (Act 3 of 1996), (“the principal Act”).
- 1.2 In order to implement an integrated strategic approach towards the promotion of trade, investment and tourism and streamlined delivery of services, one delivery mechanism and agent is required. This will ensure a holistic approach to the economic development portfolio that includes tourism destination marketing and promotion as a source of economic empowerment. One delivery mechanism will also ensure cost effective utilisation of public resources.
- 1.3 The principal Act provides Wesgro with a broad mandate for economic development that can easily be expanded to include tourism promotion. Appropriate legislative amendments are therefore proposed to expand Wesgro’s functions to include tourism promotion in order to provide for one delivery mechanism for tourism, trade and investment promotion. Local tourism organisations will no longer be accredited on a provincial level as the funding and structures of these organisations resort with municipalities.
- 1.4 The expansion of the functions of Wesgro to perform tourism promotion allows for:
  - 1.4.1 an integrated strategic approach with regard to the marketing of the Western Cape as a destination for trade and investment promotion and tourism; and
  - 1.4.2 the stabilisation of one delivery mechanism for the promotion of trade, investment and tourism.
- 1.5 Wesgro is therefore recognised as the appropriate entity to function as the provincial delivery mechanism for tourism, trade and investment promotion. Wesgro is therefore required to serve as the economic development delivery agent for the Province.
- 1.6 The modernisation of Wesgro is a priority and as part of this, the application to Wesgro for membership of Wesgro will fall away. Currently Wesgro has no members. Wesgro members do not receive any preferential treatment over non-members and there is no benefit for obtaining membership. All of Wesgro’s services, functions, workshops and other events are offered to all businesses in the Western Cape, free of charge, in fulfillment of Wesgro’s vision of serving all business development in the Western Cape. Consequential amendments relating to these proposals include the nomination of directors of the Board of Wesgro (“the Board”) from representatives from the public and organised local government, instead of nominating two of the directors from the members of Wesgro.
- 1.7 The Amendment Bill further provides for the appointment of the chairperson and vice chairperson of the Board by the Provincial Minister responsible for economic development, (“the Minister”), bringing the legislation in line with other legislation, such as the Western Cape Liquor Authority Act, 2008 (Act 4 of 2008), currently being administered by the Minister. It is also proposed to



amend the term for which directors of the Board may be appointed from a term not exceeding two years to a term not exceeding three years.

## **2. PURPOSE OF THE BILL**

2.1 The purpose of the Amendment Bill is to repeal the Western Cape Tourism Act, 2004, and to provide for the amendment of the principal Act to allow Wesgro to promote tourism in the Province.

2.2 The Amendment Bill also provides for amendment of the constitution of the Board and the deletion of provisions relating to membership of Wesgro.

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

### **Clause 1**

This clause amends the preamble of the principal Act to include a reference to tourism.

### **Clause 2**

This clause deletes the definitions of “member” and “locate”.

### **Clause 3**

This clause deletes the reference to “member” and provides for the determination of a trading name for Wesgro.

### **Clause 4**

This clause provides for amendment of the constitution of the Board by removing the requirement to nominate directors from members of Wesgro and by providing for the nomination by organised local government of representatives. This clause also amends the qualification requirements of directors to include knowledge and experience in tourism, trade or investment and for all directors to occupy leadership positions and to have proven leadership abilities. The Minister is also empowered, after consultation with the executive Mayor, to designate a chairperson and vice chairperson for the Board from the directors.

### **Clause 5**

This clause amends the term for which directors of the Board may be appointed from a term not exceeding two years to a term not exceeding three years. Provisions relating to directors appointed from members of Wesgro are deleted.

### **Clause 6**

This clause amends the objects of Wesgro to include the promotion of tourism.

### **Clause 7**

This clause amends the powers of Wesgro to include powers—

- relating to tourism marketing;
- to act as a tourism promotion agent;
- to facilitate co-ordinated destination marketing activities;
- to accept donations for tourism promotion;
- to promote the Province as a tourism destination and to promote leisure tourism, business tourism and events; and

- to promote the alignment of tourism marketing activities.

#### **Clause 8**

This clause repeals the provisions relating to members of Wesgro.

#### **Clause 9**

This clause deletes obsolete references to members of Wesgro and removes the power of the Board to designate a chairperson.

#### **Clause 10**

This clause provides that the Board may establish any committee that it deems necessary for the exercise of its powers and the performance of its functions: provided that the members of those committees must have the necessary expertise. This clause further deletes obsolete references to members of Wesgro.

#### **Clause 11 and 12**

These clauses amend the required qualifications and functions of the chief executive officer to also include tourism.

#### **Clause 13**

This clause deletes an obsolete reference to membership fees.

#### **Clause 14**

This clause replaces the name “Western Cape Investment and Trade Promotion Agency” with a new name namely, the “Western Cape Tourism, Trade and Investment Promotion Agency” in the text of the principal Act and amends the short title of the principal Act to also reflect the new description.

#### **Clause 15**

This clause disestablishes the Destination Marketing Organisation established in terms of the Western Cape Tourism Act, 2004.

#### **Clause 16**

This clause repeals the Western Cape Tourism Act, 2004.

#### **Clause 17**

This clause provides for Wesgro to be the successor-in-law of the Destination Marketing Organisation and to be responsible for all staff, assets and liabilities and outstanding reporting and financial matters of the Destination Marketing Organisation. The Minister may make directives in respect of these matters.

This clause further confirms that Wesgro continues in existence despite the change of its name and for the chief executive officer, chairperson, directors and committee members to continue in office.

#### **Clause 18**

This clause contains the Amendment Bill’s short title.

### **4. FINANCIAL IMPLICATIONS**

Appropriations in respect of tourism functions have been budgeted for in the current budget.

**5. CONSULTATION**

A draft Amendment Bill was published in the *Provincial Gazette* for public comments and was also submitted to:

Wesgro's Board  
Destination Marketing Organisation's Board  
Municipalities

Tourism industry role-players represented in the Tourism, Arts and Entertainment Partnership

**6. LEGISLATIVE COMPETENCE**

The Provincial Minister of Finance, Economic Development and Tourism, is satisfied that all the provisions of the Amendment Bill fall within the legislative competence of the Province.

**ALGEMENE VERDUIDELIKENDE NOTA:**

[ ]      Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

\_\_\_\_\_      Woorde met 'n volstreep daaronder dui invoegings in bestaande verordenings aan.

## WYSIGINGSWETSONTWERP

Tot wysiging van die Wet op die Wes-Kaapse Investerings- en Handelsbevorderingsagentskap, 1996, ten einde die doelstellings, bevoegdhede en werksaamhede van die Wes-Kaapse Investerings- en Handelsbevorderingsagentskap en die bevoegdhede en pligte van direkteure van die Raad van die Agentskap (die Raad) en die hoof uitvoerende beamppte uit te brei om toerismebevordering in te sluit; om sekere uitgediende woordskrywings en bepalings rakende die lede van die Agentskap te skrap; om voorsiening te maak vir die bepaling van 'n handelsnaam vir die Agentskap; om die samestelling van die Raad te wysig deur verteenwoordigers van lede van die Agentskap te verwyder en deur voorsiening te maak vir verteenwoordiging van georganiseerde plaaslike regering; om toerisme-, handels- of investeringsbemarkingskennis en ondervinding daarin van direkteure van die Raad en die hoof uitvoerende beamppte te vereis; om te bepaal dat die Minister die voorsitter en die ondervoorsitter van die Raad aanwys; om voorsiening te maak vir 'n driejaartermyn van aanstelling van die direkteure van die Raad; om die bevoegdhede van die Raad rakende die aanstelling van komitees te wysig en om te bepaal dat die Raad 'n voorsitter vir elke komitee van die Raad moet aanstel; om die naam van die Agentskap te wysig; om die Bestemmingbemarkingsorganisasie af te skaf; om die Wes-Kaapse Wet op Toerisme, 2004, te herroep; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

**D**AAR WORD BEPAAL deur die Provinsiale Parlement van die Wes-Kaap, soos volg:—

### Vervanging van aanhef tot Wet 3 van 1996, soos vervang by artikel 1 van Wet 1 van 2005

1. Die aanhef tot die Wet op die Wes-Kaapse Investerings- en Handelsbevorderingsagentskap, 1996 (Wet 3 van 1996), (die Hoofwet), word deur die volgende aanhef vervang:

“[**Nademaal**] **NADEMAAL** die regering van die provinsie Wes-Kaap verantwoordelik is vir die bevordering van toerisme, handel en investering in die provinsie en nademaal die regering glo dat die bevordering van hierdie doelstellings ten beste bereik kan word in vennootskap met die privaat sektor en plaaslike regering, en nademaal die regering begerig is om by wyse van provinsiale wet 'n provinsiale openbare entiteit in te stel om omgewingsvolhoubare en maatskaplik verantwoordelike [**investering in en**] toerisme, handel [**binne**] en investering in die provinsiale ekonomie te bevorder, derhalwe[:];”.

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**Wysiging van artikel 1 van Wet 3 van 1996, soos gewysig by artikel 2 van Wet 1 van 2005**

2. Artikel 1 van die Hoofwet word gewysig—
- (a) deur die omskrywing van “lid” te skrap; en
  - (b) deur die omskrywing van “vestig” te skrap. 5

**Wysiging van artikel 2 van Wet 3 van 1996, soos gewysig by artikel 4 van Wet 1 van 2005**

3. Artikel 2 van die Hoofwet word gewysig—
- (a) deur subartikel (2) deur die volgende subartikel te vervang:
    - “(2) Die Agentskap is ’n regs persoon, bekleed met beperkte aanspreeklikheid, by magte om in eie naam te dagvaar en gedagvaar te word en om al daardie handelingte te verrig wat noodsaaklik is vir en verband hou met die verwesenliking van sy doelstellings en die uitoefening van sy bevoegdhede ingevolge hierdie Wet en geen [lid of] direkteur van die Agentskap is aanspreeklik vir enige skulde of verliese van die Agentskap nie.”; en 10
  - (b) deur die volgende subartikel na subartikel (3) in te voeg:
    - “(4) Die Raad kan, na oorleg met die Minister, ’n handelsnaam vir die Agentskap bepaal.” 15

**Wysiging van artikel 3 van Wet 3 van 1996, soos vervang by artikel 5 van Wet 1 van 2005** 20

4. Artikel 3 van die Hoofwet word gewysig—
- (a) deur paragraaf (d) van subartikel (2) deur die volgende paragraaf te vervang:
    - “(d) [**behoudens subartikel (4), hoogstens**] twee direkteure wat [**uit die geledere van die lede**] deur georganiseerde plaaslike regering benoem word, van wie een kategorie B-munisipaliteite en een kategorie C-munisipaliteite verteenwoordig; en”; 25
  - (b) deur in die Engelse teks die uitdrukking “Board of Directors” in subartikel (3) deur die uitdrukking “Board of directors” te vervang;
  - (c) deur subartikel (4) deur die volgende subartikel te vervang: 30
    - “(4)(a) **Direkteure van die Raad in subartikel (2)(d) beoog, mag slegs deur die Minister aangestel word nadat ’n interne verkiesingsproses gevolg is wat voldoen aan voorskrifte, van tyd tot tyd deur die Raad uitgereik.**
    - (b) Die direkteure van die Raad [**in paragraaf (a) bedoel,**] moet benewens voldoening aan die kriteria in subartikel (5) beoog, ’n leierskapposisie bekleed en oor bewese leierskapvermoëns beskik.”;
  - (d) deur paragraaf (a) van subartikel (5) deur die volgende paragraaf te vervang:
    - “(a) oor kennis van toerisme, handel [en] of investering beskik;”; 35
  - (e) deur paragraaf (b) van subartikel (5) deur die volgende paragraaf te vervang: 40
    - “(b) oor ondervinding in die bevordering van toerisme, handel [en] of investering beskik;”; en
  - (f) deur die volgende subartikel na subartikel (6) by te voeg:
    - “(7) Die Minister, na oorleg met die uitvoerende Burgemeester, moet ’n voorsitter en ’n ondervoorsitter vir die Raad uit die geledere van die direkteure van die Raad aanwys vir ’n tydperk soos deur die Minister bepaal ten tyde van hulle aanwysing.” 45

**Wysiging van artikel 3A van Wet 3 van 1996, soos ingevoeg by artikel 6 van Wet 1 van 2005**

5. Artikel 3A van die Hoofwet word gewysig—
- (a) deur subartikel (1) deur die volgende subartikel te vervang: 50

- “(1) Direkteure van die Raad in artikel 3(2)(a)[, **(b) en (c)**] tot **(d)** beoog, word aangestel vir ’n tydperk wat ten tyde van hul aanstelling bepaal word, maar hoogstens [ **twee**] drie jaar.”; en  
 (b) deur subartikel (2) te skrap.

**Wysiging van artikel 4 van Wet 3 van 1996, soos vervang by artikel 7 van Wet 1 van 2005** 5

6. Artikel 4 van die Hoofwet word gewysig deur paragraaf (a) deur die volgende paragraaf te vervang:

- “(a) om [**investering in en**] toerisme, handel [**binne**] en investering in die Provinsie te bevorder; en”.

**Wysiging van artikel 5 van Wet 3 van 1996, soos gewysig by artikel 8 van Wet 1 van 2005**

7. Artikel 5 van die Hoofwet word gewysig—

- (a) deur paragraaf (f) deur die volgende paragraaf te vervang:  
 “(f) om aan enige besigheid, maatskappy of vereniging van persone wat die Agentskap aldus daarom versoek [**en/of**] of die Agentskap sal help om sy doelstellings te bereik, toerisme-, handels- en investeringbemarkingsbystand en deskundige en gespesialiseerde raad, informasie en leiding te verleen en te verstrek;”;
- (b) deur paragraaf (h) deur die volgende paragraaf te vervang:  
 “(h) om op te tree as toerisme-, handels- en investeringbevorderingsagent namens die Provinsie[, **enige plaaslike bestuur of ander regeringsvlak of enige ander persoon of liggaam wat, na die mening van die Raad, ’n insethouer in die ekonomie van die Wes-Kaap is**] en om gekoördineerde bestemmingbemarkingsaktiwiteite vir die Wes-Kaap te fasiliteer;”;
- (c) deur paragraaf (j) deur die volgende paragraaf te vervang:  
 “(j) om skenkings te vra en te aanvaar en om enige gelde wat aan die Agentskap gebied of verskuldig is, te ontvang vir die uitsluitlike doel om toerisme, handel en investering in die Wes-Kaap te bevorder;”;
- (d) deur paragraaf (l) deur die volgende paragraaf te vervang:  
 “(l) om ’n provinsiale toerisme-, handels- en investeringbemarkingsstrategie te ontwikkel, uit te voer en te bevorder en om enige projek [**of onderneming**] wat [**investering en handel**] groei in die ekonomie van die Wes-Kaap [sal bevorder, te beplan en] verwesenlik, uit te voer;”;
- (e) deur paragraaf (m) deur die volgende paragraaf te vervang:  
 “(m) om enige fondse of gelde wat nie dadelik benodig word vir sy sake nie te investeer [, **en**];”;
- (f) deur paragraaf (n) deur die volgende paragraaf te vervang:  
 “(n) om sodanige ander bevoegdhede uit te oefen, wat na die mening van die Minister, noodsaaklik is vir die bereiking van sy doelwitte en wat die Minister, in oorleg met die Raad, aan die Agentskap kan oplê by kennisgewing in die *Provinsiale Koerant*[.];”;
- (g) deur die volgende paragrawe na paragraaf (n) by te voeg:  
 “(o) om die Provinsie as ’n toerismebestemming te bevorder;  
 (p) om ontspannings- en saketoerisme en gebeurtenisse te bevorder; en  
 (q) om die koördinering van provinsiale bemarkingsaktiwiteite in alle toerisme-sektore in die Provinsie te bevorder in samewerking met privaat en openbare entiteite.”.

**Herroeping van artikel 6 van Wet 3 van 1996, soos vervang by artikel 9 van Wet 1 van 2005**

8. Artikel 6 van die Hoofwet word herroep.

**Wysiging van artikel 7 van Wet 3 van 1996, soos vervang by artikel 10 van Wet 1 van 2005**

9. Artikel 7 van die Hoofwet word gewysig—
- (a) deur subartikel (5) te skrap;
  - (b) deur paragraaf (a) van subartikel (7) deur die volgende paragraaf te vervang: 5  
 “(a) [**Ex officio-lede**] Ex officio-direkteure van die Raad wat ingevolge artikel [3(5)(a)] 3(2)(a), (b) en (e) aangestel is, is nie stemgeregtig nie, maar is geregtig om deel te neem aan die bespreking van al die sake voor die Raad.”; en
  - (c) deur subartikel (9) deur die volgende subartikel te vervang: 10  
 “(9) ’n Besluit wat deur die Raad geneem is op ’n tyd toe daar ’n vakature in die Raad was, toe enige persoon wat nie geregtig was om as [**lid**] direkteur van die Raad sitting te hê nie, as [**lid**] direkteur gesit het, is nie ongeldig nie indien—  
 (a) die besluit deur ’n meerderheid van al die [**lede**] direkteure van die Raad geneem is; en 15  
 (b) die [**lede**] direkteure wat daardie meerderheid uitgemaak het, geregtig was om as [**lede**] direkteure te sit.”.

**Wysiging van artikel 8 van Wet 3 van 1996, soos gewysig by artikel 11 van Wet 1 van 2005** 20

10. Artikel 8 van die Hoofwet word gewysig—
- (a) deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang: 25  
 “(a) Die Raad kan komitees instel wat uit lede bestaan met die nodige kundigheid om die Raad te help met die uitoefening van sy bevoegdhede, die vervulling van sy funksies en die uitvoering van sy pligte.”;  
 (b) deur die skraping van paragrawe (a) en (b) van subartikel (3);  
 (c) deur paragraaf (c) van subartikel (3) deur die volgende paragraaf te vervang: 30  
 “(c) ’n Komitee beoog in [**paragraaf (a)(iii) of (iv)**] subartikel (2)(a) moet nie uit meer as tien lede bestaan nie, [**van wie een ’n direkteur moet wees en die ander lede soos in artikel 6 beoog**] soos deur die Raad bepaal.”; en  
 (d) deur subartikel (4) deur die volgende subartikel te vervang: 35  
 “(4) Die Raad moet uit die direkteure van die Raad ’n voorsitter vir elke komitee aanstel.”.

**Wysiging van artikel 10 van Wet 3 van 1996, soos vervang by artikel 13 van Wet 1 van 2005**

11. Artikel 10 van die Hoofwet word gewysig deur subartikel (1) met die volgende subartikel te vervang: 40  
 “(1) Die Raad moet in oorleg met die Minister en die uitvoerende Burgemeester en nadat ’n openbare advertensieproses gevolg is, ’n geskikte en gepaste persoon met kennis van en ondervinding in [**investerings- en handelsbevordering**] toerisme, handels- of investeringsbevordering aanstel as die hoof uitvoerende beampte van die Raad.”.

**Wysiging van Artikel 11 van Wet 3 van 1996, soos vervang by artikel 14 van Wet 1 van 2005** 45

12. Artikel 11 van die Hoofwet word gewysig deur paragraaf (g) met die volgende paragraaf te vervang: 50  
 “(g) toesien dat die Agentskap voldoen aan en presteer ingevolge alle kontraktuele ooreenkomste, en [**investerings- en handelsbemarkingsbeleide**] toerisme, handels- en investeringbemarkingsbeleide implementeer.”.

**Wysiging van artikel 12 van Wet 3 van 1996, soos vervang by artikel 15 van Wet 1 van 2005**

13. Artikel 12 van die Hoofwet word gewysig—

- (a) deur paragraaf (c) van subartikel (1) deur die volgende paragraaf te vervang:  
“(c) geld deur enige persoon of instelling aan die Agentskap geskenk;  
en”; en
- (b) deur paragraaf (d) van subartikel (1) te skrap.

#### Vervanging van uitdrukking 5

14. Die Hoofwet, buiten artikel 20 daarvan, word gewysig deur die uitdrukking “Wes-Kaapse Investerings- en Handelsbevorderingsagentskap” en “Wes-Kaapse Investerings- en Handelsbevorderingsagentskap” waar dit ook al voorkom, te vervang deur die uitdrukking “Wes-Kaapse Toerisme-, Handels- en Investeringsbevorderingsagentskap”. 10

#### Afskaffing van Bestemmingbemarkingsorganisasie

15. Die Bestemmingbemarkingsorganisasie ingestel by artikel 2(1) van die Wes-Kaapse Wet op Toerisme, 2004 (Wet 1 van 2004), word afgeskaf.

#### Herroeping van Wes-Kaapse Wet op Toerisme

16. Die Wes-Kaapse Wet op Toerisme, 2004, word herroep. 15

#### Oorgangs- en voorbehoudsbepalings

17. (1) In hierdie artikel beteken—

“**Bestemmingbemarkingsorganisasie**” die Bestemmingbemarkingsorganisasie ingestel by artikel 2(1) van die Wes-Kaapse Wet op Toerisme, 2004, voor die herroeping daarvan by hierdie Wet; 20

“**die Agentskap**” die Wes-Kaapse Investerings- en Handelsbevorderingsagentskap ingestel by artikel 2 van die Wet op die Wes-Kaapse Investerings- en Handelsbevorderingsagentskap, 1996 (Wet 3 van 1996), voor die wysiging van daardie Wet by hierdie Wet, en wat in Bylae 3 van die Wet op Openbare Finansiële Bestuur, 1999 (Wet 1 van 1999), as ’n provinsiale openbare entiteit gelys is; 25

“**effektiewe datum**” 1 April 2012, synde die datum waarop personeel, bates en laste van die Bestemmingbemarkingsorganisasie na die Agentskap oorgeplaas is ingevolge die ooreenkoms tussen die Agentskap en die Bestemmingbemarkingsorganisasie van 26 Maart 2012;

“**rekenpligtige beampte**” die hoof van die provinsiale departement verantwoordelik vir ekonomiese ontwikkeling en toerisme; 30

“**verantwoordelike Minister**” die lid van die provinsiale Kabinet verantwoordelik vir ekonomiese ontwikkeling en toerisme;

(2) Die Agentskap is die regsopvolger van die Bestemmingbemarkingsorganisasie.

(3) Met ingang van die effektiewe datum word die personeel wat op die effektiewe datum in diens van die Bestemmingbemarkingsorganisasie is, na die Agentskap oorgeplaas in ooreenstemming met die Wet op Arbeidsverhoudinge, 1995 (Wet 66 van 1995). 35

(4) Met ingang van die inwerkingtreding van hierdie Wet—

(a) word die bates, laste en rekords van die Bestemmingbemarkingsorganisasie wat onmiddellik voor die inwerkingtreding van hierdie Wet gehou is, na die Agentskap oorgedra; en 40

(b) eindig die termyn van aanstelling van lede van die Raad van die Bestemmingbemarkingsorganisasie wat nie onmiddellik voor die inwerkingtreding van hierdie Wet verstryk het nie. 45

(5) Die Raad van direkteure van die Agentskap is, ten opsigte van die 2012/2013, en indien van toepassing 2013/2014, finansiële jare verantwoordelik vir—

(a) die opstel en voorlegging van finansiële state en jaarverslae van die Bestemmingbemarkingsorganisasie; en

(b) die finalisering van alle uitstaande aangeleenthede van die Bestemmingbemarkingsorganisasie, 50

in ooreenstemming met die Wet op Openbare Finansiële Bestuur, 1999.

(6) Die verantwoordelike Minister, of die rekenpligtige beampte indien daartoe gemagtig deur die verantwoordelike Minister, kan voorskrifte uitreik om aan hierdie artikel uitvoering te gee. 55



(7) Die Agentskap gaan voort om as 'n provinsiale openbare entiteit te bestaan maar staan na die inwerkingtreding van hierdie Wet bekend as die Wes-Kaapse Toerisme-, Handels- en Investeringsbevorderingsagentskap.

(8) 'n Verwysing in enige wet of dokument na die Wes-Kaapse Investerings- en Handelsbevorderingsagentskap of die Wes-Kaapse Investerings- en Handelsbevorderingsagentskap word uitgelê as 'n verwysing na die Wes-Kaapse Toerisme-, Handels- en Investeringsbevorderingsagentskap. 5

(9) Die regsidentiteit en die regte en verpligtinge van die provinsiale openbare entiteit in subartikel (7) bedoel, word nie deur sy naamsverandering geraak nie.

(10) Ondanks artikels 4, 5, 10, 11 en 15 van hierdie Wet bly enige persoon wat onmiddellik voor die inwerkingtreding van hierdie Wet 'n amp beklee ingevolge artikel 3, 7(5) of 10 van die Hoofwet, voor wysiging by hierdie Wet, in die amp aan vir die termyn van daardie persoon se aanstelling en word sodanige persoon geag behoorlik aangestel te wees vir die onverstreke gedeelte van sy of haar ampstermyn. 10

#### **Kort titel**

15

**18.** Hierdie Wet heet die Wes-Kaapse Wysigingswet op die Investerings- en Handelsbevorderingsagentskap, 2013.

**MEMORANDUM OOR DIE OOGMERKE VAN DIE WES-KAAPSE  
WYSIGINGSWETSONTWERP OP DIE INVESTERINGS- EN  
HANDELSBEVORDERINGSAGENTSAP, 2013**

**1. AGTERGROND**

- 1.1 Die funksies betreffende die bevordering van handel, investering en toerisme in die Provinsie word deur twee afsonderlike openbare entiteite verrig, naamlik die Bestemmingbemarkingsorganisasie wat ingestel is ingevolge die Wes-Kaapse Wet op Toerisme, 2004 (Wet 1 van 2004), en die Wes-Kaapse Investerings- en Handelsbevorderingsagentskap (Wesgro), wat ingevolge die Wet op die Wes-Kaapse Investerings- en Handelsbevorderingsagentskap, 1996 (Wet 3 van 1996) (die “Hoofwet”), ingestel is.
- 1.2 Om ’n geïntegreerde strategiese benadering tot die bevordering van handel, investering en toerisme en vereenvoudigde dienslewering te implementeer, is een leweringmeganisme en agent nodig. Dit sal ’n holistiese benadering tot die ekonomiese ontwikkelingsportefeulje verseker, wat toerismebestemming-bemarking en -bevordering as ’n bron van ekonomiese bemagtiging insluit. Een leweringmeganisme sal ook kostedoeltreffende benutting van openbare hulpbronne verseker.
- 1.3 Die Hoofwet bied aan Wesgro ’n breë mandaat vir ekonomiese ontwikkeling wat maklik uitgebrei kan word om toerismebevordering in te sluit. Gepaste wetswysigings word dus voorgestel om Wesgro se funksies uit te brei om toerismebevordering in te sluit ten einde voorsiening te maak vir een leweringmeganisme vir toerisme-, handels- en investeringsbevordering. Plaaslike toerisme-organisasies sal nie meer geakkrediteer word op ’n provinsiale vlak nie aangesien die befondsing en strukture van hierdie organisasies onder munisipaliteite tuishoort.
- 1.4 Die uitbreiding van Wesgro se funksies om toerismebevordering in te sluit, maak voorsiening vir:
  - 1.4.1 ’n geïntegreerde strategiese benadering met betrekking tot die bemarking van die Wes-Kaap as ’n bestemming vir handels- en investeringsbevordering en toerisme; en
  - 1.4.2 die stabilisering van een leweringmeganisme vir die bevordering van handel, investering en toerisme.
- 1.5 Wesgro word dus erken as die gepaste entiteit om as die provinsiale leweringmeganisme vir toerisme-, handels- en investeringsbevordering te funksioneer. Wesgro moet dus optree as die leweringagent vir ekonomiese ontwikkeling in die Provinsie.
- 1.6 Die modernisering van Wesgro is ’n prioriteit, en as deel hiervan sal die aansoek aan Wesgro vir lidmaatskap tot Wesgro wegval. Tans het Wesgro geen lede nie. Wesgro-lede kry nie voorkeurbehandeling bo nie-lede nie en daar is geen voordeel verbonde aan lidmaatskap nie. Al Wesgro se dienste, funksies, werkwinkels en ander gebeure word kosteloos aangebied vir alle sakeondernemings in die Wes-Kaap, ter uitlewing van Wesgro se visie om alle sakeontwikkeling in die Wes-Kaap te dien. Gevolglike wysigings rakende hierdie voorstelle sluit in die benoeming van direkteure van die Raad van Wesgro (“die Raad”) uit verteenwoordigers van die publiek en georganiseerde plaaslike regering, in plaas daarvan om twee van die direkteure uit die lede van Wesgro te benoem.
- 1.7 Die Wysigingswetsontwerp maak voorts voorsiening vir die aanstelling van die voorsitter en ondervoorsitter van die Raad deur die Provinsiale Minister verantwoordelik vir ekonomiese ontwikkeling, (“die Minister”), wat die wetgewing in ooreenstemming bring met ander wetgewing, soos die Wet op die Wes-Kaapse Drankowerheid, 2008 (Wet 4 van 2008), wat tans deur die

Minister geadministreer word. Daar word ook beoog om die termyn waarvoor direkteure van die Raad aangestel kan word, te wysig van 'n termyn van hoogstens twee jaar tot 'n termyn van hoogstens drie jaar.

## 2. DOEL VAN DIE WETSONTWERP

- 2.1 Die doel van die Wysigingswetsontwerp is om die Wes-Kaapse Wet op Toerisme, 2004, te herroep en om voorsiening te maak vir die wysiging van die Hoofwet om Wesgro in staat te stel om toerisme in die Provinsie te bevorder.
- 2.2 Die Wysigingswetsontwerp maak ook voorsiening vir die wysiging van die samestelling van die Raad en die skraping van bepalinge rakende lidmaatskap van Wesgro.

## 3. INHOUD VAN DIE WETSONTWERP

### Klousule 1

Hierdie klousule wysig die aanhef tot die Hoofwet om 'n verwysing na toerisme in te sluit.

### Klousule 2

Hierdie klousule skrap die omskrywings van “lid” en “vestig”.

### Klousule 3

Hierdie klousule skrap die verwysing na “lid” en maak voorsiening vir die bepaling van 'n handelsnaam vir Wesgro.

### Klousule 4

Hierdie klousule maak voorsiening vir die wysiging van die samestelling van die Raad deur die weglating van die vereiste om direkteure uit lede van Wesgro te benoem en deur voorsiening te maak vir die benoeming van verteenwoordigers deur georganiseerde plaaslike regering. Hierdie klousule wysig ook die kwalifikasievereistes van direkteure om kennis en ondervinding in toerisme, handel of investering in te sluit en dat alle direkteure leiersposisies moet beklee en bewese leierskapvermoëns moet hê. Die Minister word ook bemaagtig, na oorleg met die uitvoerende Burgemeester, om 'n voorsitter en 'n ondervoorsitter vir die Raad uit die geledere van die direkteure aan te wys.

### Klousule 5

Hierdie klousule wysig die termyn waarvoor direkteure van die Raad aangestel kan word, van 'n termyn van hoogstens twee jaar tot 'n termyn van hoogstens drie jaar. Bepalinge rakende die aanstelling van direkteure uit lede van Wesgro word geskrap.

### Klousule 6

Hierdie klousule wysig die oogmerke van Wesgro om die bevordering van toerisme in te sluit.

### Klousule 7

Hierdie klousule wysig die bevoegdhede van Wesgro om in te sluit bevoegdhede —

- betreffende toerismebemarking;
- om as 'n toerismebevorderingsagent op te tree;

- om gekoördineerde bestemmingbemarkingsaktiwiteite te fasiliteer;
- om skenkings vir toerismebevordering te aanvaar;
- om die Provinsie as 'n toerismebestemming te bevorder en om ontspannings-toerisme, saketoerisme en gebeurtenisse te bevorder; en
- om die koördinerings van toerismebemarkingsaktiwiteite te bevorder.

#### **Klousule 8**

Hierdie klousule herroep die bepalings betreffende lede van Wesgro.

#### **Klousule 9**

Hierdie klousule skrap uitgediende verwysings na lede van Wesgro en verwyder die bevoegdheid van die Raad om 'n voorsitter aan te wys.

#### **Klousule 10**

Hierdie klousule bepaal dat die Raad enige komitee kan instel wat hy nodig ag vir die uitoefening van sy bevoegdhede en die verrigting van sy werksaamhede: met dien verstande dat die lede van daardie komitees die nodige kundigheid moet hê. Hierdie klousule skrap voorts uitgediende verwysings na lede van Wesgro.

#### **Klousules 11 en 12**

Hierdie klousules wysig die vereiste kwalifikasies en funksies van die hoof uitvoerende beampte om ook toerisme in te sluit.

#### **Klousule 13**

Hierdie klousule skrap 'n uitgediende verwysing na lidmaatskapsgeelde.

#### **Klousule 14**

Hierdie klousule vervang die name “Wes-Kaapse Investerings- en Handelsbevorderingsagentskap” en “Wes-Kaapse Investerings- en Handelsbevorderingsagentskap” deur 'n nuwe naam, naamlik die “Wes-Kaapse Toerisme-, Handels- en Investeringsbevorderingsagentskap”, in die teks van die Hoofwet en wysig die kort titel van die Hoofwet om ook die nuwe beskrywing te weerspieël.

#### **Klousule 15**

Hierdie klousule skaf die Bestemmingbemarkingsorganisasie af wat ingevolge die Wes-Kaapse Wet op Toerisme, 2004, ingestel is.

#### **Klousule 16**

Hierdie klousule herroep die Wes-Kaapse Wet op Toerisme, 2004.

#### **Klousule 17**

Hierdie klousule bepaal dat Wesgro die regsopvolger van die Bestemmingbemarkingsorganisasie is en verantwoordelik is vir alle personeel, bates en laste en uitstaande verslagdoening en finansiële aangeleenthede van die Bestemmingbemarkingsorganisasie. Die Minister kan voorskrifte ten opsigte van hierdie aangeleenthede uitreik.

Hierdie klousule bevestig verder dat Wesgro voortbestaan ten spyte van die verandering van sy naam en dat die hoof uitvoerende beampte, voorsitter, direkteure en komiteelede in hulle amp aanbly.

**Klousule 18**

Hierdie klousule bevat die Wysigingswetsontwerp se kort titel.

**4. FINANSIELE IMPLIKASIES**

Daar is in die huidige begroting begroot vir bewilligings ten opsigte van toerismefunksies.

**5. OORLEGPLERING**

'n Konsepwysigingswetsontwerp is in die *Provinsiale Koerant* vir openbare kommentaar gepubliseer en was ook voorgelê aan:

Wesgro se Raad  
Bestemmingbemarkingsorganisasie se Raad  
Munisipaliteite

Rolspelers in die toerismebedryf verteenwoordig in die Toerisme-, Kuns- en Vermaakvennootskap

**6. WETGEWENDE BEVOEGDHEID**

Die Provinsiale Minister van Finansies, Ekonomiese Ontwikkeling en Toerisme is tevrede dat al die bepalings van die Wysigingswetsontwerp binne die wetgewende bevoegdheid van die Provinsie val.

**INQAKWANA LOKUCACISA NGOKUBANZI:**

[ ] Amagama abhalwe ngqindilili kwizibiyeli ezisisikwere abonisa loo magama ashiiweyo kwimithetho ekhoyo ngoku .

\_\_\_\_\_ Amagama akwelwe ngaphantsi ngomgca ongqindilili abonisa oko kuye kwafakelwa kwimithetho ekhoyo ngoku.

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## ULUNGISO LOMTHETHO OYILWAYO

Owenza izilungiso kuMthetho weNtshona Koloni weArhente yoKhuthazo loTyalo-mali noRhwebo, 1996; ngenjongo zokwandisa iinjongo, amagunya kunye nomsebenzi we-Arhente yeNtshona Koloni yoKhuthazo loTyalo-mali noRhwebo namagunya nemisebenzi yabalawuli beBhodi yeArhente (iBhodi) negosa lolawulo eliyintloko kuquka nokukhuthaza ezokhenketho, osusa iinkcazo-magama eziphelelwe lixesha kunye neemfuno ezingqamene namalungu eArhente; omisela igama lorhwebo lweArhente; owenza izilungiso kumgaqo-siseko weBhodi ngokususa abameli kumalungu eArhente novumela ukumelwa kwabantu abasuka kurhulumente wommandla; ofuna ulwazi kwimicimbi yezokhenketho, urhwebo, nokhuthazo lotyalo-mali kunye namava abalawuli beBhodi nawegosa elilawulayo eliyintloko; onikeza uMphathiswa igunya lokuba amisele usihlalo kunye nosekelasihlalo weBhodi; ovuma isithuba seminyaka emithathu sokonyulwa kwabalawuli beBhodi; owenza izilungiso kumagunya eBhodi okonyula iikomiti kunye nokuvumela iBhodi ukuba imisele usihlalo weKomiti nganye, owenza izilungiso kwigama leArhente, oyekisa uMbutho wokuMaketha iNdawo yokuFikela, olungiselela utshitshiso lweWestern Cape Tourism Act; 2004; nolungiselela neminye imiba enxulumene nale.

**K**UWISWA UMTHEETHO ke yiPalamente yePhondo leNtshona Koloni ngolu hlobo lulandelayo:—

**Ukufakelwa kwembulambethe kuMthetho 3 ka-1996, njengoko ufakelwe ngokweCandelo 1 loMthetho 1 ka-2005**

1. Le mbulambethe ilandelayo ifakwe endaweni yembulambethe yoMthetho weNtshona Koloni woKhuthazo loTyalo-mali noRhwebo, 1996 (uMthetho 3 ka-1996) 5  
10 (uMthetho wanqangi):

“**NJENGOKO** urhulumente wephondo leNtshona Koloni enoxanduva lokukhuthaza urhwebo ukhenketho notyalo-mali kweli phondo, nanjengoko ekholelwa ukuba ukufezekiseka kwezi njongo kungenzeka ngocikizeko 10 ngokusebenzisana ngobuhlakani necandelo labucala nolawulo lweedolophu nezithili, nanjengoko urhulumente enqwenela ukuseka ngomthetho wephondo eli, isigqeba esizimeleyo esiliziko likarhulumente wephondo sokukhuthaza utyalo-mali norhwebo olunozinzo ngokwakokusingqongileyo nolunika inkxaso kwintlalo

yoluntu kukhenketho, urhwebo, [neli]notyalo-mali kuqoqosho lweli phondo, ngoko ke ngoku[:],”.

**Ukwenziwa kwezilungiso kwicandelo 1 loMthetho 3 ka-1996, njengoko ulungisiwe kwicandelo 2 loMthetho 1 ka-2005**

2. Icandelo 1 loMthetho wanqangi lenziwa izilungiso— 5  
 (a) ngokuthi kususwe inkcazo-gama “lungu”, kananjalo—  
 (b) nangokuthi kususwe inkcazo-gama “ndawo yokusebenzela”.

**Ukwenziwa kwezilungiso kwicandelo 2 loMthetho 3 ka-1996, njengoko ufakelwe kwicandelo 4 loMthetho 1 ka-2005**

3. Icandelo 2 loMthetho wanqangi lenziwa izilungiso— 10  
 (a) ngokuthi endaweni yecandelwana (2) kufakwe eli candelwana lilandelayo:  
 “(2) Le Arhente iza kuba sisigqeba esinokubambisa nesinokubanjiswa nesikwaziyo ukwenza yonke loo misebenzi iyimfuneko okanye iphathelele ekufezekisweni kweenjongo zaso nasekusetyenzisweni kwamagunya aso ngokwakulo Mthetho, kwaye akukho [lungu okanye] mlawuli wesi sigqeba uya kuthi athwale naliphi na ityala okanye naziphi na iilahleko zaso, kunye  
 (b) nangokuthi kongezwe eli candelwana lilandelayo emva kwecandelwana (3):  
 “(4) IBhodi ingakwazi, emva kokudibana noMphathiswa, ukumisela igama loshishino lweArhente.” 20

**Ukwenziwa kwezilungiso kwicandelo 3 loMthetho 3 ka-1996, njengoko ufakelwe kwicandelo 5 loMthetho 1 ka-2005**

4. Icandelo 3 loMthetho wanqangi lenziwa izilungiso—  
 (a) ngokuthi kufakelwe endaweni yomhlathi (d) wecandelwana (2) lo mhlathi ulandelayo: 25  
 (d) [kuthathelwe icandelwana (4) ingqalelo, abalawuli abangadlulanga] kwababini abanyulwe ngurhulumente wommandla olungisiweyo, omnye uza kumela uluhlu B loomasipala ukuze omnye amele uluhlu C loomasipala [kula malungu]; kunye  
 (b) nokuthi kufakelwe endaweni yeli binzana kwicandelwana (3) “iBhodi yaBalawuli” eli ibinzana “iBhodi yabalawuli”;  
 (c) ngokuthi kufakelwe endaweni yecandelwana (4) eli candelwana lilandelayo: 35  
 “(4)(a) Aba Balawuli beBhodi bakhankanywe kwicandelwana (2)(d), banokuthi banyulwe nguMphathiswa kuphela emva kokuba kuye kwalandelwa inkqubo yonyulo yangaphakathi ngokwezo zikhokelo zinokumana zikhutshwa yiBhodi.  
 (b) Aba [Balawuli] [bakhankanywe kumhlathi (a)] kufuneka ukuba, phezu kokuba bethe bayifezekisa le miqathango ikhankanywe kwicandelwana (5), babe ngabantu abakwizihlalo zobunkokeli nabanezakhono zobunkokeli ezivunyiweyo.”; 40  
 (d) ngokufakela endaweni yomhlathi (a) wecandelwana (5) umhlathi  
 (a) weli candelwana lilandelayo:  
 (e) makabe nolwazi ngokhenketho urhwebo [kunye] okanye notyalo-mali;  
 (b) ngokufakela endaweni yomhlathi (b) wecandelwana (5) lo mhlathi ulandelayo (b) abe namava kukhuthazo ngokhenketho, urhwebo 45  
 [kunye] okanye notyalo-mali; kananjalo  
 (f) ngokuthi kufakelwe eli candelwana lilandelayo emva kwecandelwana (6):  
 “(7) UMphathiswa, emva kokuba edibene noSodolophu olawulayo, makakhethe usihlalo nosekela-sihlalo weBhodi kubalawuli beBhodi abakhoyo njengoko kumiselwe nguMphathiswa ngexesha lokukhethwa kwabo.” 50

**Ukwenziwa kwezilungiso kwicandelo 3A loMthetho 3 ka-1996, njengoko ufakiwe licandelo 6 loMthetho 1 ka-2005**

5. Icandelo 3A loMthetho wanqangi lilungisiwe—  
 (a) ngokuthi kufakelwe endaweni yecandelwana (1) eli candelwana lilandelayo: 55

- “(1) Aba Balawuli beBhodi bakhankanywe kwicandelo 3(2)(a) **[,(b)kanye no(c)]** ukuya ku-(d), banyulelwa eso sithuba sithe sabekwa ngexesha lokunyulwa kwabo, kodwa ke singasayi kudlula kwiminyaka **[emibini]** emithathu.”; kananjalo  
 (b) ngokuthi kususwe icandelwana (2). 5

**Ukwenziwa kwezilungiso kwicandelo 4 loMthetho 3 ka-1996, njengoko ufakelwe kwicandelo 7 loMthetho 1 ka-2005**

6. Icandelo 4 loMthetho wanqangi lenziwa izilungiso ngokuthi kufakelwe endaweni yomhlathi (a) lo mhlathi ulandelayo:  
 “(a) ukukhuthaza **[utyalo-mali kanye no]** ukhenketho, urhwebo **[phakathi]** 10  
 kananjalo notyalo-mali kwiPhondo eli; kananjalo”.

**Ukwenziwa kwezilungiso kwicandelo 5 loMthetho 3 ka-1996, njengoko ulungisiwe kwicandelo 8 loMthetho 1 ka-2005**

7. Icandelo 5 loMthetho wanqangi lenziwa izilungiso—
- (a) ngokuthi kufakelwe endaweni yomhlathi (f) lo mhlathi ulandelayo: 15  
 “(f) lokunika naliphi na ishishini, inkampani okanye imbumba yabantu uncedo lokubhengeza ukhenketho, urhwebo notyalo-mali neengcebiso zobungcali, iinkcukacha nezikhokelo, ethe yayicela njalo iArhentele **[kananjalo/okanye]** okanye nenokuthi iyincedise iArhente le ekufezekiseni **[iinjongo]** iinjongo zayo;”; 20
- (b) ngokuthi kufakelwe endaweni yomhlathi (h) lo mhlathi ulandelayo:  
 “(h) lokusebenza njengearhente yokhuthazo lokhenketho, urhwebo notyalo-mali egameni lePhondo eli, **[elakhe nawuphi na umasipala okanye naliphi na inqanaba loburhulumente okanye nawuphi na umntu okanye umbutho othathwa yiBhodi njengomnye kumaqela achaphazelekayo kuqoqosho]** nokuququzelelela imisebenzi ecwangcisiweyo yoshishino oluya kwindawo ngeendawo lweNtshona Koloni;”; 25
- (c) ngokuthi kufakelwe endaweni yomhlathi (j) lo mhlathi ulandelayo: 30  
 “(j) lokufuna nokwamkela amalizo okanye nelokuthatha naziphi na iimali ezinikwayo okanye efanele kuzifumana ngeenjongo zokukhuthaza ukhenketho, urhwebo notyalo-mali eNtshona Koloni;”;
- (d) ngokuthi kufakelwe endaweni yomhlathi (l) lo mhlathi ulandelayo: 35  
 “(l) ukuphuhlisa, ukuqulunqa nokukhuthaza ukhenketho, urhwebo notyalo-mali lwephondo kanye [nokucwangcisa kananjalo] nokuqulunqa nayiphi na iprowujekthi **[okanye urhwebo]** oluya kuthi **[luphucule utyalo-mali norhwebo]** luthathele ingqalelo uqoqosho lweNtshona Koloni;”;
- (e) ngokufakela endaweni yomhlathi (m) lo mhlathi ulandelayo: 40  
 “(m) lokufaka kutyalo-mali naziphi na iimali ekungangxamelekanga ukusetyenziswa kwazo kwimicimbi yayo **[,kanye]**;”;
- (f) ngokufaka endaweni yomhlathi (n) lo mhlathi ulandelayo:  
 “(n) nelokusebenzisa nawaphi na amanye amagunya anokuthi abe yimfuneko ekufezekisweni kweenjongo zayo, ngokokubona 45  
 koMphathiswa nalapho uMphathiswa, ngothethwano neBhodi, anokuthi anikwe iArhente ngesaziso esikhutshwe kwiGazethi yePhondo[,];”; ngokunjalo
- (g) ngokuthi kongezwe le mhlathi ilandelayo emva komhlathi (n): 50  
 “(o) ukukhuthaza iPhondo ngenjendawo yokhenketho;  
 (p) ukukhuthaza iiholide nokhenketho loshishino nemisebenzi, kananjalo  
 (q) ukukhuthaza ulungelelwano lwemisebenzi yoshishino yephondo kumacandelo onke okhenketho kwiPhondo lisebenzisana namashishini karhulumente nawabucala.” 55



**Ukutshitshiswa kwecandelo 6 loMthetho 3 ka-1996, njengoko lifakwe kwicandelo 9 loMthetho 1 ka-2005**

8. Icandelo 6 loMthetho wanqangi liyatshitshiswa.

**Ukwenziwa kwezilungiso kwicandelo 7 loMthetho 3 ka-1996, njengoko lifakwe kwicandelo 10 loMthetho 1 ka-2005**

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9. Icandelo 7 loMthetho wanqangi lenziwa izilungiso—

- (a) ngokuthi kususwe icandelwana(5);
- (b) ngokuthi kufakelwe endaweni yomhlathi (a) wecandelwana (7) lomhlathi ulandelayo:  
 “(a) [**Amalungu**] abalawuli beBhodi abangene ngokwezikhundla zabo ngokwemiqathango yecandelo [**3(5)(a)**] 3(2)(a), (b) no-(e) 40 akanamalungelo okuvota, kodwa ke analo ilungelo lokungena ezingxoxweni zayo yonke imiba ephambi kweBhodi.”; kanaanjalo
- (c) ngokuthi kufakelwe endaweni yecandelwana (9) eli candelwana lilandelayo:  
 “(9) Isigqibo esithe sathathwa yiBhodi ngexesha ebekukho isikhewu kumalungu ayo, xa bekukho nawuphi na umntu owayengafanelanga kuhlala njengo [**elungu**] mlawuli leBhodi owathi wahlala njengo [**elungu**] mlawuli, asisisigqibo singekho mthethweni ukuba—  
 (a) isigqibo eso sathathwa sisininzi sabo bonke [**amalungu**] abalawuli beBhodi; kwaye  
 (b) babe abo [**malungu**] balawuli bebeseso sininzi ingabalawuli ababenelungelo lokuhlala njenga [**amalungu**] balawuli.”.

**Ukwenziwa kwezilungiso kwicandelo 8 loMthetho 3 ka-1996, njengoko ulungisiwe kwicandelo 11 loMthetho 1 ka-2005**

10. Icandelo 8 loMthetho wanqangi lenziwa izilungiso— 25

- (a) ngokuthi kufakwe endaweni yomhlathi (a) yecandelwana (2) lo mhlathi ulandelayo:  
 “(a) IBhodi isenokuthi iseke iikomiti esiquka amalungu anezakhono ezifanelekileyo ukuncedisa iBhodi ekusebenziseni kwayo amagunya ayo, nasekwenzeni kwayo imisebenzi yayo. 30
- (b) ngokususa imihlathi (a) no (b) wecandelwana (3);
- (c) ngokuthi kufakwe endaweni yomhlathi (c) kwicandelo (3) lo mhlathi ulandelayo:  
 “(c) Le komiti ikhankanywe [**kumhlathi (a)(iii) okanye (iv)**] kwicandelwana (2)(a) kufuneka ingabi namalungu adlulileyo kumalungu alishumi, [nekufuneka elinye lawo libe ngumlawuli, aze onke amanye ibe ngala akhankanywe kwicandelo 6] njengoko kumiselwe yiBhodi.”; kanaanjalo
- (d) ngokuthi kufakwe endaweni yecandelwana (4) eli candelwana lilandelayo:  
 “(4) IBhodi mayonyule usihlalo wekomiti nganye kubalawuli bebhodi.” 40

**Ukwenziwa kwezilungiso kwicandelo 10 loMthetho 3 ka-1996, njengoko ufakwe kwicandelo 13 loMthetho 1 ka-2005**

11. Icandelo 10 loMthetho wanqangi lenziwa izilungiso ngokuthi kufakwe endaweni yecandelo (1) eli candelwa lilandelayo: 45

- “(1) IBhodi, ngothethwano noMphathiswa noSodolophu olawulayo nasemva kokuba kuye kwaqhutywa iphulo lobhengezo, kufuneka inyule umntu ofanelekileyo onolwazi namava ngokhuthazo [**lotyalo-mali kunye**] lokhenketho urhwebo notyalo-mali njengegosa elilawulayo eliyintloko leBhodi”.

**Ukwenziwa kwezilungiso kwicandelo 11 loMthetho 3 ka-1996, njengoko ufakwe kwicandelo 14 loMthetho 1 ka-2005**

12. Icandelo 11 loMthetho wanqangi lenziwa izilungiso ngokuthi kufakwe endaweni yomhlathi (g) lo mhlathi ulandelayo:

“(g) liqinisekise ukuba iArhente le iyazilandela ekusebenzeni kwayo zonke izivumelwano zeekhontrakthi nokuba iyayisebenzisa imigaqo-nkqubo [yotyalo-mali kunye] yokhenketho, urhwebo, kunye notyalo-mali norhwebo.”

**Ukwenziwa kwezilungiso kwicandelo 12 loMthetho 3 ka-1996, njengoko kufakwe kwicandelo 15 loMthetho 1 ka-2005** 5

13. Icandelo 12 loMthetho wanqangi lenziwa izilungiso—

(a) ngokuthi kufakelwe endaweni yomhlathi (c) wecandelo (1) lo mhlathi ulandelayo

“(c) imali enikwe iArhente le njengelizo nguye nawuphi na umntu okanye lilo naliphi na iziko; kunye; kananjalo

(b) kususwe umhlathi (d) wecandelwana (1).

**Ukufakelwa endaweni yebinzana**

14. UMthetho wanqangi, ngaphandle kwecandelo 20, wenziwe izilungiso ngokuthi kufakelwe endaweni yebinzana i“Arhente yoTyalo-mali noRhwebo”, naphi na apho livela khona, eli binzana i“Arhente yoKhuthazo lokhenketho, uTyalo-mali noRhwebo”. 15

**Ukutshitshiswa koMbutho wokuMaketha iNdawo yokuFikela**

15. UMbutho wokuMaketha iNdawo yokuFikela osekwe phantsi kwecandelo 2(1) lweWestern Cape Tourism Act, 2004 (uMthetho 1 ka2004, uyatshitshiswa.

**Ukurhoxiswa koMthetho iWestern Cape Tourism Act** 20

16. UMthetho iWestern Cape Tourism Act, 2004, uyarhoxiswa.

**Amanyathelo exeshana nalawo aza kugcinwa**

17. (1) Kweli candelo—

“igosa elinika inkcazo” lithetha intloko yesebe kwiphondo eyongamele uphuhliso loqoqosho nokhenketho; 25

“UMbutho wokuMaketha iNdawo yokuFikela” lithetha iqumrhu UMbutho wokuMaketha iNdawo yokuFikela eyamiselwa ngokwecandelo 2(1) loMthetho iWestern Cape Tourism Act, 2004, phambi kokuba litshitshiswe ngulo Mthetho;

“umhla ofanelekileyo” lithetha umhla woku-1 Epreli 2012 ongumhla wokukhutshelwa kwabasebenzi kunye neempahla zoMbutho wokuMaketha iNdawo yokuFikela zisiya kwiArhente ngokwemiqathango yesivumelwano phakathi kweArhente noMbutho wokuMaketha iNdawo yokuFikela sangomhla wama-26 Matshi 2012;

“UMphathiswa owongameleyo” lithetha ilungu leKhabhinethi yePhondo elongamele uphuhliso loqoqosho nokhenketho; 35

“iArhente” lithetha iArhente yeNtshona Koloni yoKhuliso loTyalo-mali noRhwebo esekwe ngokwemiqathango yecandelo 2 loMthetho iArhente yeNtshona Koloni yoKhuliso loTyalo-malinoRhwebo, ka-1996 (uMthetho 3 ka-1996) njengoko ulungisiwe kulo Mthetho.

(2) Le Arhente ingene ngokusemthethweni endaweni yoMbutho wokuMaketha indawo yokuFikela. 40

(3) Ukusuka ngomhla wokusebenza kwayo, abo basebenzi bebeqeshwe nguMbutho wokuMaketha iNdawo yokuFikela ngalo mhla, bakhutshelwa kwiArhente ngesivumelwano soMthetho weMicimbi yezaBasebenzi, ka-1995 (uMthetho 66 ka-1995). 45

(4) Xa uqalisa ukusebenza lo Mthetho—

(a) ii-asethi, amatyala, namarekhodi oMbutho wokuMaketha iNdawo yokuFikela ebebenazophambi kokuqala kwalo Mthetho, zikhutshelwa kwiArhente, kwaye

(b) ixesha elingekapheli lamalungu akhethiweyo eBhodi yoMbutho wokuMaketha iNdawo yokuFikela liyaphela, phambi kokuqalisa kwalo. 50

(5) IBhodi yabalawuli beArhente, kunyaka-mali ka-2012/13, no-2013/14 ukuba kufanelekile inoxanduva—

- (a) okucwangcisa nokufaka ingxelo-mali ngengxelo yonyaka yoMbutho wokuMaketha iNdawo yokuFikela,; kunye
- (b) nokugqityezelwa kwayo yonke imiba ebishiyekile yoMbutho wokuMaketha iNdawo yokuFikela ngokwemiqathango yoMthetho iPublic Finance Management Act,1999 (uMthetho 1 ka-1999). 5
- (6) UMphathiswa owongameleyo okanye igosa elinika inkcazo, ukuba linikiwe igunya nguMphathiswa owongameleyo, banganika umkhombandlela ekusebenzeni kweli candelo.
- (7) iqhubeka isebenza njengeziko likarhulumente elizimeleyo, kodwa iza kwaziwa emva kokuqala ukusebenza kwalo Mthetho njengokuba yiArhente yeNtshona Koloni yoKhuthazo loKhenketho, uTyalo- mali noRhwebo. 10
- (8) Umba ekubhekiswe kuwo, kuwo nawuphi na umthetho okanye uxwebhu omalunga neArhente yeNtshona Koloni yoKhuthazo loTyalo-mali noRhwebo mawufundwe njengomba obhekisa kwiArhente yeNtshona Koloni yoKhuthazo loKhenketho, uTyalomali noRhwebo. 15
- (9) Isigqeba somthetho, amalungelo noxanduva lweli ziko likarhulumente elizimeleyo lephondo njengoko kubhekiselelwe kwicandelwana (7) azichatshazelwa lutshintsho lwegama.
- (10) Ngaphandle kwamacandelo 4, 5, 10, 11 no-15 alo Mthetho, naye nawuphi na umntu onesikhundla, ngokwecandelo 3, 7(5) loMthetho wanqangi, phambi kokwenziwa kwezilungiso kulo Mthetho, uyaqhubeka kwisikhundla sakhe kangangexesha ebemiselwe lona kwaye uthathwa njengonyulwe ngokufanelekileyo, ngeli thuba lingekaphelelwa ixesha labo kwezo zikhundla. 20

#### **Isihlokwana esifutshane**

- 18.** Lo Mthetho uya kubizwa ngokuba nguMthetho weNtshona Koloni weArhente yoKhuthazo loKhenketho, uTyalo-mali noRhwebo ka-2013. 25

**IMEMORANDAM YEENJONGO ZOMTHETHO OYILWAYO  
WOLUNGISO WENTSHONA KOLONI WOKHUTHAZO  
LOKHENKETHO, URHWEBO NOTYALO-MALI, 2013**

**1. IMVELAPHI**

- 1.1 Imisebenzi enxulumene nokhuthazo lorhwebo, utyalo-mali nokhenketho kwiPhondo yenziwe ngamaziko azimeleyo kaRhulumente amabini, abizwa ngokuba nguMbutho wokuMaketha iNdawo yokuFikela emiselwe ngokwemiqathango yoMthetho iWestern Cape Tourism Act, 2004 (uMthetho 1 ka-2004) neArhente yeNtshona Koloni yoKhuthazo loTyalo-mali noRhwebo (Wesgro) emiselwe ngokwemiqathango yoMthetho weNtshona Koloni woKhuthazo loTyalo-mali noRhwebo, 1996 (uMthetho 3 ka-1996), (“uMthetho wanqangi”).
- 1.2 Ukuze kuphunyezwe ucwangciso lwenkqubo ehlanganisiweyo kukhuthazo lorhwebo, utyalo-mali nokhenketho kananjalo nonikezelo lwenkonzo olusebenzayo, kufuneka inkqubo enye yokuhanjiswa kweenkonzo nearhente. Oku kuza kuqinisekisa indlela epheleleyo kuhlobo lophuhliso loqoqosho oluquka urhwebo noshishino lokhenketho kwiindawo ngeendawo njengonobangela wokhuthazo loqoqosho. Inkqubo enye yokuhanjiswa kweenkonzo iza kuqinisekisa ukusetyenziswa okukuko kumaxabiso ezibonelelo zikaRhulumente.
- 1.3 UMthetho wanqangi unika igunya elipheleleyo iWesgro kuphuhliso loqoqosho olunokwandiswa lula ukuze luquke ukhuthazo lokhenketho. Ngenxa yoko kwenziwa izindululo kwizilungiso zomthetho ezifanelekileyo ukuze zandise imisebenzi yeWesgro kuquka ukhuthazo lokhenketho ukuze inike inkqubo enye yokuhanjiswa kweenkonzo kukhuthazo lokhenketho, urhwebo notyalo-mali Imibutho yokhenketho yengingqi ayisayi kugunyaziswa ngokusesikweni liphondo njengoko ubonelelo ngemali nobume bale mibutho buququzelelwa ngoomasipala.
- 1.4 Ukwandiswa kwemisebenzi yeWesgro ukuze yenze ukhuthazo lokhenketho kuvuma oku:
  - 1.4.1 ucwangciso lwenkqubo ehlanganisiweyo ngokubhekiselele ekumaketheni iNtshona Koloni njengendawo yokhuthazo lorhwebo notyalo-mali nokhenketho; kananjalo
  - 1.4.2 nokuzinzisa inkqubo enye yokuhanjiswa kweenkonzo ukukhuthaza urhwebo, utyalo-mali nokhenketho.
- 1.5 IWesgro yamkelwe ke ngoko njengeziko elifanelekileyo elisebenza njenge-inkqubo enye yonikezelo ngeenkonzo zokhuthazo lokhenketho, urhwebo notyalo-mali. IWesgro ke ngoko kufuneka isebenze njengearhente yePhondo yonikezelo ngophuhliso loqoqosho.
- 1.6 Ukuphuculwa kweWesgro yeyona nto ibalulekileyo kwaye njengenxalenye yoku, isicelo esifakwa kwiWesgro sokuba lilungu leWesgro siza kupheliswa. Ngoku iWesgro ayinawo amalungu. Amalungu eWesgro akanikwa mpatho ikhethekileyo kwabo bangengomalungu kwaye akukho nto ifunyanwayo ngokuba lilungu. Zonke iinkonzo, imisebenzi, ucweyo kunye neminye imisitho yeWesgro zinikezelwa simahla kubo bonke oosomashishini balapha eNtshona Koloni, ukuze kuzalisekise umbono weWesgro wokunceda lonke uphuhliso lwamashishini eNtshonaKoloni. Izilungiso ezibalulekileyo ezibhekiselele kwezi zindululo ziquka ukonyulwa kwabalawuli beBhodi yeWesgro (“iWesgro”) kubameli abasuka kurhulumente ocwangcisiweyo wommandla nowoluntu, endaweni yokonyulwa kwabalawuli ababini kumalungu eWesgro.
- 1.7 Lo Mthetho oYilwayo woLungiso ubonelela nangokonyulwa kosihlalo nosekela-sihlalo nguMphathiswa wePhondo woPhuhliso loQoqosho ,

(“uMphathiswa“) besizisa umthetho ohambelana nomnye umthetho, onjengoMthetho oLawulayo woTywala eNtshona Koloni (uMthetho 4 ka-2008) olawulwa nguMphathiswa. Kwenziwa isindululo kanaanjalo sokwenziwa kwezilungiso kwithuba lexesha abalawuli beBhodi amabonyulwe ngalo lisuka kwithuba elingadlulanga kwiminyaka emibini lisiya kwithuba elingadlulanga kwiminyaka emithathu.

## **2. IINJONGO ZOMTHETHO OYILWAYO**

2.1 Iinjongo zoMthetho oYilwayo woLungiso kukutshitshisa iWestern Cape Tourism Act, 2004, nokwenza izilungiso kuMthetho wanqangi ukuvumela iWesgro kukhuthazo lokhenketho kwiPhondo.

2.2 UMthetho oYilwayo woLungiso wenza izilungiso kanaanjalo kumgaqo-siseko weBhodi nasekususweni kwamasoloty abhekiselele kubulungu beWesgro.

## **3. ISIQULATHO SOMTHETHO OYILWAYO.**

### **Isoloty 1**

Eli soloty lenza izilungiso kwimbulambethe yoMthetho wanqangi kuquka okubhekiselele kwezokhenketho.

### **Isoloty 2**

Eli soloty lisusa inkcazo-magama “ilungu” no“indawo yokusebenzela”.

### **Isoloty 3**

Eli soloty lisusa okubhekiselele kwi“lungu” ze linike injongo yegama iWesgro.

### **Isoloty 4**

Eli soloty lenza izilungiso kumgaqo-siseko weBhodi ngokususa okufunwayo xa kusonyulwa abalawuli kumalungu eWesgro nangokunika ulonyulo ngabameli bakarhulumente wommandla. Eli soloty likwalungisa okufunwayo njenge-singqiniso sabalawuli ukuze kuquke ulwazi kunye namava kukhenketho, urhwebo notyalo-mali kanaanjalo nokuba bonke abalawuli mababe kwizikhundla zobunkokheli kwaye babe nesakhono sokukhokhela. UMphathiswa uyakhuthazwa kanaanjalo, ukuba emva kothethwano noSodolophu olawulayo, akhethe usihlalo nosekelasihlalo weBhodi kubalawuli.

### **Isoloty 5**

Eli soloty lenza izilungiso kwithuba lokonyulwa kwabalawuli beBhodi kusuka kwithuba elingadlulanga kwiminyaka emibini ukuya kwithuba elingadlulanga. Amalungiselelo anxulumene nokunyulwa kwabalawuli kumalungu eWesgro isusiwe.

### **Isoloty 6**

Eli soloty lenza izilungiso kwiinjongo zeWesgro ukuze ziquke nokhuthazo lokhenketho.

### **Isoloty 7**

Eli soloty lenza izilungiso kumagunya eWesgro ukuze iquke la magunya—

- ukusebenza njengearhente yokhuthazo lokhenketho;
- ukuququzelela imisebenzi ecwangcisiweyo yokumaketha indawo zokufikela;

- ukwamkela izipho zokhuthazo lokhenketho;
- ukukhuthaza iPhondo njengendawo yokufikela yokhenketho kunye noku-khuthaza iiholide zokhenketho, imisitho noshishino lokhenketho; kananjalo nokukhuthaza ukuhambelana kwemisebenzi yokumaketha ukhenketho.

### **Isoloty 8**

Eli soloty litshitshisa iimfuno ezibhekiselele kumalungu eWesgro.

### **Isoloty 9**

Eli soloty lisusa izingqiniso eziphelelwe lixesha kumalungu eWesgro kwaye lisusa negunya leBhodi lokukhetha usihlalo.

### **Isoloty 10**

Eli soloty linika iBhodi ukuba ingamisela nayiphi na ikomiti eyibona iyimfuneko ekusebenziseni amagunya nasekwenzeni umsebenzi wayo, ukuba loo malungu ezo komiti anezakhono ezifanelekileyo. Eli soloty likwasusa izingqiniso eziphelelwe lixesha zamalungu eWesgro.

### **Isoloty 11 no 12**

La masoloty enza izilungiso kwiziqinisekiso ezifanelekileyo nakwimisebenzi yegosa eli elilawulayo eyiNtloko ukuze iquke nokhenketho.

### **Isoloty 13**

Eli soloty lisusa yonke imiba ephelwe lixesha ebhekisa kwiintlawulo zobulungu.

### **Isoloty 14**

Eli soloty lifaka endaweni yegama elithi iArhente yoTyalomali noKhuthazo loRhwebo yeNtshona Koloni, igama elitsha elithi, iArhente yeNtshona Koloni yoKhuthazo loKhenketho, uRhwebo noTyalo-mali kuxwebhu lo Mthetho wanqangi kwaye lenza izilungiso kwisihloko esifutshane soMthetho waNqangi ukuze uhambelane nenkcazelo entsha.

### **Isoloty 15**

Eli soloty liphelisa uMbutho wokuMaketha iNdawo yokuFikela owawumiselwe ngokwemiqathango yoMthetho iWestern Cape Tourism Act, 2004.

### **Isoloty 16**

Eli soloty litshitshisa umthetho iWestern Cape Tourism Act, 2004.

### **Isoloty 17**

Eli soloty linika iWesgro igunya lokuba ithathe isikhundla ngokusemthethweni soMbutho wokuMaketha iNdawo yokuFikela kwaye ibe noxanduva kubo bonke abasebenzi, ii-asethi namatyala kananjalo neengxelo nemiba yemali eshiyekileyo yoMbutho wokuMaketha iNdawo yokuFikela. UMphathiswa anganika umkhomba-ndlela ngale miba.

Eli soloty likwanika igunya iWesgro ukuba iqhubeke nokusebenza nangona itshintshe igama layo kunye nokuba igosa lolawulo eliyintloko, usihlalo, abalawuli namalungu ekomiti baqhubeke kwizikhundla zabo.

**Isoloty 18**

Eli soloty liqulathe isihloko esifutshane soMthetho oYilwayo woLungiso.

**4. IMIPHUMELA NGOKWEZIMALI**

Ulwabelo olunxumene nemisebenzi yokhenketho lubekelwe bucala imali kolu hlahlo-lwabiwo mali lwangoku.

**5. UTHETHWANO**

Kuye kwapapashwa uMthetho oSayilwayo woLungiso osisiqukunqo *kwiGazethi yePhondo* ukuze uluntu luvakalise izimvo zalo waze wangeniswa nakula maziko:

IBhodi yeWesgro  
IBhodi yeCTRU  
OoMasipala

Abadlale indima kushishino loKhenketho abamelwe kuBambiswano loKhenketho, ubuGcisa noLonwabo.

**6. AMAGUNYA OMTHETHO**

UMphathiswa wePhondo olawula iziMali, uPhuhliso loQoqosho noKhenketho, wanelisekile kukuba onke amalungiselelo woMthetho oYilwayo woLungiso athobela amagunya omthetho ePhondo.

