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THE PRESIDENCY

No. 388 19 May 2014

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

Act No. 16 of 2014: Special Economic Zones Act, 2014

IHHOVISI LIKAMONGAMELI

No. 388 19 May 2014

Ngalokhu kwaziswa ukuthi uMongameli usewuvumile loMthetho nosewuzoshicilelwa umphakathi:—

Ino.16-Ka 2014: Umthetho weziNdawo zoMnotho eziKhethekile, 2014



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*(English text signed by the President)
(Assented to 16 May 2014)*

ACT

To provide for the designation, promotion, development, operation and management of Special Economic Zones; to provide for the establishment, appointment of members and functioning of the Special Economic Zones Advisory Board; to provide for the establishment of the Special Economic Zones Fund; to regulate the application, issuing, suspension, withdrawal and transfer of Special Economic Zones operator permits; to provide for functions of the Special Economic Zones operator; to provide for transitional arrangements; and to provide for matters connected therewith.

PREAMBLE

WHEREAS South African policies for economic growth and development recognise that responding to challenging global and domestic economic conditions demand a focus on new sources of competitiveness that lie in innovation and productivity, with an entrenched base in skills, infrastructure and efficient, responsive state action;

AND RECOGNISING that measures must be implemented to enhance domestic and regional demand, increase foreign direct investment and extend export promotion strategically to rapidly growing economies, while at the same time strengthening the South African industrial base and promoting a labour-absorbing industrialisation path;

AND REALISING the impact of Special Economic Zones in driving industrial and economic growth, the Government has identified Special Economic Zones as a mechanism that will contribute towards the realisation of these economic growth and development goals and is committed to support and facilitate the designation, regulation and development of Special Economic Zones in South Africa;

AND SINCE Special Economic Zones will be designated areas to promote targeted economic activities, supported through special arrangements and support systems including incentives, business support services, streamlined approval processes and infrastructure,

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

*(English text signed by the President)
(Assented to 16 May 2014)*

UMTHETHO

Ukuhlinzekela ngokuqoka, ukukhuthaza, ukuthuthukisa, ukusebenza nokusi-ngatha iziNdawo zoMnotho eziKhethekile; ukuhlinzekela ngokusungula, ukuqoka amalungu nokusebenza kweBhodi Eliluleka iziNdawo zoMnotho eziKhethekile; ukugqugquzela uNgqongqoshe ukuba asungule isiKhwama seziNdawo zoMnotho eziKhethekile; ukulawula izicelo, ukukhishwa, ukumiswa, ukuhoxiswa nokudluliswa kwezimvume zeziNdawo zoMnotho eziKhethekile; ukuhlinzekela ngemisebenzi yabasebenzela iziNdawo zoMnotho eziKhethekile; ukuhlinzekela ngamalungiselelo esikhashana; kanye nokuhlinzekela ngezindaba ezihambisana nawo.

ISENDLALELO

NJENGOBA inqubomgomo yaseNingizimu Afrika yokudlondlobalisa nokuthuthukisa umnotho ibeka ukuthi ukubhekana nezinsalelo zomhlaba wonkana nesimo somnotho wasekhaya kudinga ukuba kubhekwe imigudu emisha yokuqhudelana enqike kwezobuciko nasemikhiqizweni, amakhono anzulu, ingqalasizinda, nokusebenza ngokuzikhandla nokubhekelela kuhulumeni;

FUTHI IBEKA ukuthi izinyathelo kufanele zisetshenziswe ukuqhakambisa izidingo zasekhaya nezezifunda, kwandiswe nokutshwalwa komnotho kwezangaphandle futhi kukhushulwe nokukhuthazwa kokudayiselana namazwe angaphandle futhi kudlondlobaliswe ukudayiselana ekhaya ukuze umnotho udlondlobale ngesivini, futhi ngokunjalo kuqhakanjise umsuka wezimboni zaseNingizimu Afrika futhi kukhuthazwe umgudu ozodonsa izimboni nemisebenzi yezimboni nemisebenzi;

FUTHI NOKUBONA umthelela weziNdawo zoMnotho eziKhethekile ekuthuthukiseni ukukhula komnotho nezimboni, uHulumeni uveze iziNdawo zoMnotho eziKhethekile njengezindawo ezizobamba iqhaza ekudlondlobaliseni umnotho nokuzuza okuphokophelwe futhi uzinikele ukuseka nokusiza ukuqoka, ukulawula nokuthuthukisa iziNdawo zoMnotho eziKhethekile eNingizimu Afrika;

FUTHI NJENGOBA iziNdawo zoMnotho eziKhethekile kuzoba izindawo eziqokiwe ukuthuthukisa imisebenzi yezomnotho ephokophelwe, ezizosekwa ngamalungiselelo akhethekile nangezinhlelo zokusiza kubandakanya izinzuzo, usizo oluzosiza amabhizinisi, izinhlelo ezigunyaziwe nengqalasizinda,

NGAKHO-KE UZOMISWA iPhalamende laseRiphabhuliki yaseNingizimu Afrika, ngale ndlela elandelayo:—

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CHAPTER 1

DEFINITIONS, OBJECTS AND APPLICATION

Definitions

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| 1. In this Act, unless the context indicates otherwise— | 20 |
| “ Advisory Board ” means the Special Economic Zones Advisory Board established by section 7; | |
| “ company ” means a company as defined in section 1 of the Companies Act, 2008 (Act No. 71 of 2008); | |
| “ Department ” means the Department of Trade and Industry; | 25 |
| “ Director-General ” means the Director-General of the Department or his or her authorised representative; | |
| “ industrial development zone ” means a purpose built industrial estate that leverages domestic and foreign fixed direct investment in value-added and export-oriented manufacturing industries and services; | 30 |
| “ licensee ” means the holder of a Special Economic Zone licence issued in terms of section 23(6); | |
| “ Minister ” means the Minister responsible for trade and industry; | |
| “ municipal entity ” means a municipal entity as defined in section 1 of the Municipal Systems Act; | 35 |
| “ Municipal Finance Management Act ” means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003); | |
| “ Municipal Systems Act ” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); | |
| “ operator ” means the holder of a Special Economic Zone operator permit issued in terms of section 32(4); | 40 |
| “ operator permit ” means an operator permit issued in terms of section 32(4); | |
| “ prescribed ” means prescribed by regulation made in terms of section 41; | |
| “ public entity ” means a public entity as defined in section 1 of the Public Finance Management Act and listed in Schedules 2 and 3 to that Act; | 45 |
| “ Public Finance Management Act ” means the Public Finance Management Act, 1999 (Act No. 1 of 1999); | |
| “ public-private partnership ” means a public-private partnership contemplated in regulation 16 of the Treasury Regulations issued in terms of the Public Finance Management Act or section 120 of the Municipal Finance Management Act and any regulations issued in terms of the last-mentioned Act; | 50 |

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ISAPHLUKO 1

IZINCAZELO, IZINJONGO NOKUSEBENZA KOMTHETHO 20

Izincazelo

1. Kulo Mthetho, ngaphandle uma ingqikithi ibeka ngenye indlela—
 - “iBhodi Elilulekayo” lichaza iBhodi Eliluleka ngeziNdawo zoMnotho eziKhethekile elisungulwe ngesigaba sesi-7;
 - “inkampani” inencazelo eqondiswe kuyona esigabeni soku-1 se-*Companies Act, 2008 (Act No. 71 of 2008)*; 25
 - “uMnyango” uchaza uMnyango wezoHwebo neziMboni;
 - “uMqondisi-Jikelele” uchaza uMqondisi-Jikelele woMnyango noma abamumele ngegunya;
 - “indawo yokuthuthukisa izimboni” indawo yezimboni eyakhelwe ukulawula ukutshwalwa kwezimali ekhaya nangaphandle efaka inzuzo futhi yokuhwebelana ngemikhiqizo nangosizo ezimbonini; 30
 - “umnikazi welayisensi” uchaza umnikazi welayisensi yeNdawo yoMnotho eKhethekile ngokwemigomo yesigaba sama-23(6);
 - “uNgqongqoshe” uchaza uNgqongqoshe obhekele ezokuhwebelana nezimboni; 35
 - “igatsha likamasipala” linencazelo eqondiswe kulona esigabeni soku-1 se-*Municipal Systems Act*;
 - “i-Municipal Finance Management Act” ichaza i-*Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003)*;
 - “i-Municipal Systems Act” ichaza i-*Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000)*; 40
 - “umsebenzi” uchaza umnikazi wemvume yokusebenza eziNdaweni zoMnotho eziKhethekile ekhishwe ngokwemigomo yesigaba sama-32(4);
 - “imvume yomsebenzi” ichaza imvume yomsebenzi ekhishwe ngokwemigomo yesigaba sama-32(4); 45
 - “okunqunywe” kuchaza okunqunywe ngezimiso zomthetho ezimiswe ngemigomo yesigaba sama-41;
 - “igatsha likahulumeni” linencazelo eqondene nalo esigabeni soku-1 futhi lisohlwini lesiThasiselo sesi-2 neses-3 se-*Public Finance Management Act*;
 - “i-Public Finance Management Act” ichaza i-*Public Finance Management Act, 1999 (Act No. 1 of 1999)*; 50
 - “ukusebenzisana phakathi kukahulumeni nabazimele” kuchaza ukusebenzisana phakathi kukahulumeni nabazimele okuvezwe esimisweni zomthetho ze-16 zezimiso zoMthetho zesiKhawama sezimali zikaHulumeni ezimiswe

“**Special Economic Zone**” means an area designated as the Special Economic Zone in terms of section 23(6);
“**Special Economic Zone Board**” means the board of directors of an individual Special Economic Zone entity appointed in terms of section 25(5);
“**this Act**” includes any regulation made in terms of section 41; 5
“**value adding**” or “**value added**” includes the enhancement of, packaging or re-packaging of and beneficiation added to a product before the product is offered to the end-user.

Objects of Act

2. The objects of this Act are to provide for— 10
- (a) the determination of Special Economic Zones policy and strategy;
 - (b) the establishment of the Advisory Board;
 - (c) the establishment of the Special Economic Zones Fund to support the development of Special Economic Zones;
 - (d) the designation, promotion, development, operation and management of Special Economic Zones; 15
 - (e) regulatory measures and incentives for Special Economic Zones in order to attract domestic and foreign direct investment; and
 - (f) the establishment of a single point of contact or one stop shop that delivers the required government services to businesses operating in Special Economic Zones in order to lodge applications to various government authorities and agencies and to receive information on regulatory requirements from such authorities and agencies. 20

Application of Act

3. This Act applies to Special Economic Zones established in the Republic in terms of this Act. 25

CHAPTER 2

PURPOSE, POLICY AND STRATEGY OF SPECIAL ECONOMIC ZONES

Purpose of Special Economic Zones

4. (1) A Special Economic Zone is an economic development tool to promote national economic growth and export by using support measures in order to attract targeted foreign and domestic investments and technology. 30
- (2) The purpose of establishing Special Economic Zones includes—
- (a) facilitating the creation of an industrial complex, having strategic national economic advantage for targeted investments and industries in the manufacturing sector and tradable services; 35
 - (b) developing infrastructure required to support the development of targeted industrial activities;
 - (c) attracting foreign and domestic direct investment;
 - (d) providing the location for the establishment of targeted investments; 40
 - (e) enabling the beneficiation of mineral and natural resources;
 - (f) taking advantage of existing industrial and technological capacity, promoting integration with local industry and increasing value-added production;
 - (g) promoting regional development;
 - (h) creating decent work and other economic and social benefits in the region in which it is located, including the broadening of economic participation by 45

ngokwemigomo ye-*Public Finance Management Act* noma ngesigaba se-120 se-*Municipal Finance Management Act* nezinye izimiso zomthetho ezimiswe ngokwemigomo yalo Mthetho ovezwe ekugcineni;

“iNdawo yoMnotho eKhethekile” ichaza indawo eqokwe njengeNdawo yoMnotho eKhethekile ngokwemigomo yesigaba sama-23(6); 5

“iBhodi leziNdawo zoMnotho eziKhethekile” lichaza ibhodi labaqondisi labanikazi abathile beziNdawo zoMnotho eziKhethekile eliqokwe ngokwemigomo yesigaba sama-25(5);

“lo Mthetho” ubandakanya ezinye izimiso zomthetho ezimiswe ngemigomo yesigaba sama-41; 10

“ukuqhakambisa” kubandakanya ukwenza ngocono, ukupakisha noma ukupakisha kabusha nokufakwa kumkhqizo ngaphambi kokuba umkhqizo unikezwe abazowusebenzisa.

Izinjongo zoMthetho

2. Izinjongo zalo Mthetho ukuhlinzekela ngoku— 15

- (a) nquma inqubomgomo namasu eziNdawo zoMnotho eziKhethekile;
- (b) ukusungula iBhodi Eluleka ngeziNdawo zoMnotho eziKhethekile;
- (c) sungula isiKhwama seziNdawo zoMnotho eziKhethekile ukweseka ukuthuthukiswa kweziNdawo zoMnotho eziKhethekile;
- (d) qoka, ukuthuthukisa, ukudlondlobalisa, ukusebenza nokusingatha iziNdawo zoMnotho eziKhethekile; 20
- (e) lawula izinyathelo nezinzuzo zeziNdawo zoMnotho eziKhethekile ukuze kuhehwe abatshali zimali basekhaya nabangaphandle; kanye
- (f) nokusungula isizinda esisodwa sokuhlanganyela noma intuba eyodwa enikezela ngalo lonke usizo lukahulumeni kwezamabhizinisi asebenza eziNdaweni zoMnotho eziKhethekile ukuze kufakwe izicelo kumagunya ahlukene kuhulumeni nasezinhlakeni kanye nokuthola imininingwane yezimfanelo zokulawula kulawo magunya nakulezo zinhla. 25

Ukusebenza koMthetho

3. Lo Mthetho usebenza eziNdaweni zoMnotho eziKhethekile ezisungulwe eRiphabhuliki ngokwemigomo yalo Mthetho. 30

ISAHLUKO 2

INJONGO, INQUBOMGOMO NAMASU EZINDAWO ZOMNOTHO EZIKHETHEKILE

Injongo yeziNdawo zoMnotho eziKhethekile 35

4. (1) IziNdawo zomnotho eziKhethekile ziwuhlaka lokuthuthukisa umnotho okuhloswe ngalo ukudlondlobalisa umnotho nokuhwebelana nabangaphandle ngokusebenzisa izinhlelo zosizo ukuze kuhehwe abatshali zimali abaphokophelwe basekhaya nabangaphandle nezobuchwepheshe.

(2) Injongo yokusungula iziNdawo zoMnotho eziKhethekile ibandakanya— 40

- (a) ukulekelela ukwakha indawo yezimboni enamasu ezomnotho eqondiswe kubatshalizimali nasezimbonini emkhakheni wokukhiqiza nokuhwebelana ngezinsiza;
- (b) ukuthuthukisa ingqalasizinda edingekayo ukweseka ukudlondlobala kwemisebenzi yezimboni ezilindelekile; 45
- (c) ukuheha abatshalizimali basekhaya nabangaphandle;
- (d) ukuhlinzekela ngendawo yokuthola abatshalizimali abalindelekile;
- (e) ukusiza ngenzuzo kwezezimali nasemcebweni wemvelo;
- (f) ukusebenzisa amandla ezobuchwepheshe nawezimboni akhona, ukuthuthukisa ukusebenzisana nezimboni zasekhaya nokwandisa umkhqizo; 50
- (g) ukuthuthukisa ukudlondlobala ezifundeni;
- (h) ukwakha umsebenzi ongcono nezinye izinzuzo zomnotho nezenhlalakahle esifundeni lapho itholakala khona, kubalwa nokudlondlobalisa ukuzibandakanya kwezomnotho ngokukhuthaza izimboni ezincane, ezincanyana

10

- promoting small, micro and medium enterprises and co-operatives, and promoting skills and technology transfer; and
- (i) the generation of new and innovative economic activities.
- (3) For the purpose of this section—
- (a) **“regional development”** means linkages to, or integration with, the host province’s growth strategies, local economic development of the host municipality and any other relevant cross-provincial economic initiatives; and
- (b) **“targeted investments”** includes investments in support of government’s economic and industrial development policies.

Special Economic Zones policy 10

5. The Minister may determine policy for the designation, promotion, development, operation and management of Special Economic Zones after consultation with the Advisory Board and may, when necessary, review such policy.

Special Economic Zones strategy

6. (1) The Minister must determine a Special Economic Zones strategy after consultation with the Advisory Board and may, when necessary, review such strategy. 15
- (2) The strategy contemplated in subsection (1) must address the designation of Special Economic Zones that will best support industrialisation and economic growth strategies.

CHAPTER 3 20

SPECIAL ECONOMIC ZONES ADVISORY BOARD

Establishment of Special Economic Zones Advisory Board

7. (1) The Special Economic Zones Advisory Board is hereby established.
- (2) The Minister must appoint not more than 15 persons as members of the Advisory Board, consisting of— 25
- (a) one representative of the Department;
- (b) one representative of the South African Revenue Services;
- (c) one representative of the National Treasury;
- (d) one representative of the department responsible for public enterprises;
- (e) one representative of Transnet SOC Limited; 30
- (f) one representative of Eskom SOC Limited;
- (g) one representative of the Industrial Development Corporation;
- (h) three persons, each representing organised business, labour and civil society appointed on the basis of their knowledge and experience relevant to, and involvement in, Special Economic Zones; and 35
- (i) five independent persons appointed on the basis of their knowledge, experience and expertise relevant to Special Economic Zones.
- (3) For the purposes of appointing the persons contemplated in subsection (2)(h) and (i), the Minister must, by notice in the *Gazette* and in two newspapers published and circulating nationally, invite nominations for membership of the Advisory Board. 40
- (4) The notice contemplated in subsection (3) must specify a period of at least 30 days for nominations to be submitted to the Minister.
- (5) The Minister must—
- (a) appoint the persons contemplated in subsection (2)(h) and (i) as members of the Advisory Board from nominations submitted in response to the notice; 45
- (b) strive to ensure that the composition of the Advisory Board is broadly representative, with due regard to race, gender and regional representation, experience and expertise; and
- (c) publish the names of persons appointed as members of the Advisory Board and the dates of commencement of their terms of office in the newspapers 50 contemplated in subsection (3).

nezinkudlwana nezokusebenzisana, nokukhuthaza amakhono nokucobelelana ngamakhono; kanye

- (i) ukusungula imisebenzi emisha yezobuchule neyemabhizinisi.
- (3) Ngokwalesi sigaba—
 - (a) **“ukuthuthukisa izifunda”** kuchaza ukuxhumanisa, noma ukudidiyela, namaqhinga esifundazwe esingamele ukudlondlobalisa, ukuthuthukisa umnotho wendawo kuleyo ndawo kamasipala nezinye izinhlelo zezifundazwe ezihlukene; futhi
 - (b) **“ukutshalwa kwezimali okuphokophelwe”** kubandakanya ukutshalwa kwezimali ukweseka umnotho kuhulumeni nokuthuthukisa inqubomgomo yezimbono.

Inqubomgomo yeziNdawo zoMnotho eziKhethekile

5. UNgqongqoshe anganquma inqubomgomo yokuqoka, ukukhuthaza, ukuthuthukisa, ukusebenza nokusingatha iziNdawo zoMnotho eziKhethekile ngemuva kokuxoxisana neBhodi futhi, uma kunesidingo angabuyekeza leyo nqubomgomo.

Amaqhingana eziNdawo zoMnotho eziKhethekile

- 6. (1) UNgqongqoshe kufanele anqume amasu eziNdawo zoMnotho eziKhethekile ngemuva kokuxoxisana neBhodi, futhi uma kunesidingo, abuyekeze lelo lisu.
- (2) Isu elivezwe esigatshaneni soku-(1) kufanele lidingide ngokuqokwa kweziNdawo zoMnotho eziKhethekile ezizokwazi ukuseka ezezimboni nokudlondlobalisa ukukhula komnotho.

ISAHLUKO 3

IBHODI ELILULEKA NGEZINDAWO ZOMNOTHO EZIKHETHEKILE

Ukusungulwa kweBhodi Eliluleka ngeziNdawo zoMnotho eziKhethekile

- 7. (1) Ngakho-ke sekusungulwe iBhodi Eliluleka ngeziNdawo zoMnotho eziKhethekile.
- (2) UNgqongqoshe kufanele aqoke abantu abangadlulile kwabayi-15 ukuba babe amalungu eBhodi Elilulekayo, okuhlanganisa—
 - (a) omele uMnyango;
 - (b) omele iSikhungo esiQoqa iNtela eNingizimu Afrika;
 - (c) omele isiKhwama seziMali zikaZwelonke;
 - (d) omele umnyango obhekele izimboni zikahulumeni;
 - (e) omele abakwa-Transnet SOC Limited;
 - (f) omele abakwa-Eskom SOC Limited;
 - (g) omele iNhlangano yezeNtuthuko yeziMboni;
 - (h) abantu abathathu, ngamunye omele amabhizinisi ahleliwe, ezabasebenzi nomphakathi abaqokwe ngolwazi lwabo nolwazi lomsebenzi oluhambisana futhi oluphathelene neziNdawo zoMnotho eziKhethekile; kanye
 - (i) nabantu abahlanu abazimele abaqokwe ngoba benolwazi, ulwazi lomsebenzi namakhono ahambisana neziNdawo zoMnotho eziKhethekile.
- (3) Ukuze kuqokwe abantu abavezwe esigatshaneni sesi-(2)(h) no-(i), uNgqongqoshe kufanele asebenzise isaziso kuSomqulu nakumaphephandaba amabili ashicilelwe futhi ahamba kazwelonke akhiphe isimemo sokuqoka amalungu eBhodi Elilulekayo.
- (4) Isaziso esivezwe esigatshaneni sesi-(3) kufanele siveze isikhathi esingangezinsuku ezingama-30 sokuqokwa kwabantu abazothunyelwa kuNgqongqoshe.
- (5) UNgqongqoshe kufanele—
 - (a) aqoke abantu abavezwe esigatshaneni sesi-(2)(h) no-(i) ukuba babe amalungu eBhodi Elilulekayo kulabo abaphakanyisiwe abathunyelwe ngemuva kokuthola isaziso;
 - (b) aqikelele ukuthi inhlanguanisela yeBhodi Elilulekayo imele ngokubanzi, ubuhlanga, ubulili nezifunda, ulwazi lomsebenzi namakhono; futhi
 - (c) ashicilele amagama abantu abaqokiwe ukuba babe amalungu eBhodi Elilulekayo nosuku azoqala ngalo ukusebenza kumaphephandaba ayezwe esigatshaneni sesi-(3).

(6) No person below the position of Director-General or, where appropriate, Deputy Director-General or an equivalent position may be appointed as a member of the Advisory Board in terms of subsection (2)(a) to (g).

(7) (a) The Minister must appoint an alternate member for each of the members contemplated in subsection (2)(a) to (h), to attend a meeting of the Advisory Board in the event that a member concerned is unable to attend the meeting. 5

(b) In case of a member contemplated in subsection (2)(a) to (g), the alternate member may not be below the position of Deputy Director-General or an equivalent position.

(8) The Minister must appoint a chairperson of the Advisory Board from one of the members contemplated in subsection (2)(i). 10

Terms of office of Advisory Board members

8. (1) Members of the Advisory Board contemplated in section 7(2)(h) and (i)—

- (a) hold office for a period of five years from the date of their appointment by the Minister; and
- (b) may be eligible for reappointment on expiry of their term of office for one additional term of office only. 15

(2) Members of the Advisory Board contemplated in section 7(2)(a) to (g) are appointed to office by virtue of their offices.

(3) Despite subsection (1), the Minister may by notice in the *Gazette* extend the period of office of such members of the Advisory Board for a maximum period of 12 months. 20

Disqualification from membership of Advisory Board

9. A person may not be a member of the Advisory Board if that person—

- (a) is an unrehabilitated insolvent;
- (b) has been declared by a High Court with jurisdiction to be mentally ill;
- (c) has been convicted of an offence in the Republic or elsewhere, other than an offence committed prior to 27 April 1994 associated with a political objective, and sentenced to imprisonment without the option of a fine or, in the case of fraud or any other offence involving dishonesty, to a fine or imprisonment or both a fine and imprisonment; 25
- (d) has at any time been removed from an office of trust on account of breach of fiduciary duties; or 30
- (e) is otherwise disqualified in terms of section 69 of the Companies Act, 2008 (Act No.71 of 2008). 35

Vacation of office and filling of vacancies on Advisory Board

10. (1) A member of the Advisory Board vacates office if the member— 35

- (a) resigns in writing to the Minister;
- (b) ceases to qualify for membership of the Advisory Board in terms of section 9;
- (c) is removed from office by the Minister—
 - (i) in the public interest and for just cause;
 - (ii) after consulting the Advisory Board; and 40
 - (iii) after a fair hearing. 45

(2) A vacancy arising from the death of a member or from circumstances referred to in subsection (1) must, within three months of the vacancy occurring, be filled for the unexpired portion of that member's term of office by a suitable person appointed by the Minister in terms of a procedure contemplated in section 7, with the changes required by the context.

(6) Akekho umuntu ongaphansi kwesikhundla soMqondisi-Jikelele noma, sePhini loMqondisi-Jikelele noma esilingana naso okufanele aqokwe ukuba abe ilungu leBhodi Elilulekayo ngokwemigomo yesigatshana sesi-(2)(a) ukuya ku-(g).

(7) (a) UNgqongqoshe kufanele aqoke elinye ilungu kumalungu avezwe esigatshaneni sesi-(2)(a) ukuya ku-(h), ukuba lithamele umhlangotho weBhodi Elilulekayo uma ilungu eliqondene lingeki likwazi ukuthamela umhlangotho. 5

(b) Uma kuyilungu elivezwe esigatshaneni sesi-(2)(a) ukuya ku-(g), elinye ilungu ngeke kube ilungu elinesikhundla esingaphansi kwePhini likaMqondisi-Jikelele noma osesikhundleni esilingana nalo.

(8) UNgqongqoshe kufanele aqoke usihlalo weBhodi Elilulekayo kumalungu avezwe esigatshaneni sesi-(2)(i). 10

Isikhathi sokusebenza kwamalungu eBhodi Elilulekayo

8. (1) Amalungu eBhodi Elilulekayo avezwe esigabeni sesi-7(2)(h) no-(i)—

(a) azosebenza isikhathi esiyiminyaka eyisihlanu kusukela ngosuku aqokwa ngalo uNgqongqoshe; futhi 15

(b) angaphinda aqokwe uma sekuphele isikhathi sokusebenza omunye umkhawulo owodwa ukwengeza kuleso sikhathi sokusebenza.

(2) Amalungu eBhodi Elilulekayo avezwe esigabeni sesi-7(2)(a) ukuya ku-(g) aqokwa ezikhundleni ngokomsebenzi wezikhundla zawo.

(3) Nakuba kunesigatshana soku-(1), uNgqongqoshe angasebenzisa isaziso kuSomqulu ukungeza isikhathi sokusebenza kwamalungu eBhodi Elilulekayo isikhathi esiyizinyanga eziyi-12. 20

Abangafanele ukuba amalungu eBhodi Elilulekayo

9. Umuntu akufanele aqokwe ukuba abe ilungu leBhodi Elilulekayo uma lowo muntu— 25

(a) engumuntu osewamenezelwa ngokomthetho njengowahlulwa izikweleti;
(b) emenezelwe iNkantolo ePhakeme enegunya njengomuntu ongaphilile ekhanda;

(c) walahlwa icala eRiphabhuliki noma kwenye indawo, okungelona icala elenziwa ngaphambi komhlaka 27 Epreli 1994 elihambisana nepolitiki, waboshwa wanganikezwa inhlawulo noma, uma kuyicala eliphathelene nenkohlakalo noma elinye icala elihambisana nokungathembeki, wakhokha inhlawulo noma waboshwa noma waboshwa futhi wakhokha nenhlawulo; 30

(d) wake wakhishwa esikhundleni sokwengamela ngoba engawenzanga ngendlela efanele umsebenzi; noma 35

(e) kungumuntu ongafanele ngokwemigomo yesigaba sama-69 soMthetho weziNkampani, wezi-2008 (uMthetho wama-71 wezi-2008)

Ukushiya isikhundla nokugcwalisa izikhala zamalungu eBhodi Elilulekayo

10. (1) Amalungu eBhodi ayashiya esikhundleni uma—

(a) esula ngencwadi abhalele uNgqongqoshe; 40

(b) engasafanele ukuqokwa njengelungu leBhodi Elilulekayo ngokwemigomo yesigaba se-9;

(c) ekhishwa uNgqongqoshe esikhundleni—

(i) ukuze kuzuze uhulumeni futhi kufanele; 45

(ii) ngemuva kokuxoxisana neBhodi Elilulekayo; futhi

(iii) ngemuva kokulalelwa kodaba ngendlela engachemile.

(2) Isikhala esivelayo ngoba kudlule emhlabeni kwelungu noma uma kunezimo esivezwe esigatshaneni soku-(1), kufanele zingakapheli izinyanga ezintathu kuvele leso sikhala, sigcwaliselwe leso sikhathi sokusebenza ebesisalele ilungu sigcwaliswe umuntu ofanele oqokwe uNgqongqoshe ngokwemigomo yenqubo evezwe esigabeni sesi-7, ngokuhambisana nezinguquko ezihambisana nengqikithi. 50

Functions of Advisory Board

- 11.** (1) The Advisory Board must—
- (a) advise the Minister on policy and strategy in order to promote, develop, operate and manage Special Economic Zones;
 - (b) monitor the implementation of the Special Economic Zones policy and strategy and report to the Minister on an annual basis on the implementation of such policy and strategy; 5
 - (c) consider an application for designation as a Special Economic Zone and recommend to the Minister whether or not to approve the application and grant a Special Economic Zone licence to the applicant; 10
 - (d) consider an application for an operator permit and recommend to the Minister whether or not to approve the application;
 - (e) consider an application for the transfer of an operator permit and recommend to the Minister whether or not to approve such application with or without any condition; 15
 - (f) liaise with a Special Economic Zone Board and an operator on the implementation of the Special Economic Zone strategic plans;
 - (g) report in the prescribed manner to the Minister on progress relating to the development of Special Economic Zones;
 - (h) advise the Minister on minimum norms and standards required for the provision of a one stop shop in a Special Economic Zone; 20
 - (i) advise the Minister on initiatives to market Special Economic Zones; and
 - (j) assess and review the success of Special Economic Zones in achieving the purpose referred to in section 4.
- (2) The Advisory Board may— 25
- (a) conduct investigations on any matter arising out of the application of this Act; and
 - (b) perform such other functions consistent with the objectives of the Act as determined by the Minister.

Fiduciary duties of Advisory Board members 30

- 12.** A member of the Advisory Board—
- (a) must comply with the code of conduct and disclosure obligations contemplated in section 13;
 - (b) may not act in a way that is inconsistent with the functions of the Advisory Board in terms of this Act; and 35
 - (c) may not use the position or privileges of, or confidential information obtained as, a member of the Advisory Board for personal gain or to improperly benefit another person.

Code of good conduct and disclosure of interests by Advisory Board members

- 13.** (1) The Minister must approve a code of conduct for the members of the Advisory Board. 40
- (2) Members of the Advisory Board—
- (a) must make full disclosure to the Advisory Board of any conflict of interest, including any potential conflict of interest;
 - (b) may not vote, attend or participate in any proceedings of the Advisory Board in relation to any matter before the Advisory Board in respect of which they have a conflict or potential conflict of interest; and 45
 - (c) must comply with any decision of the Advisory Board as to whether or not they are entitled to participate in any particular proceedings of the Advisory Board. 50
- (3) For the purposes of this section, a member has a conflict of interest if—
- (a) the member, or a family member, partner or business associate of the member—
 - (i) is applying for a license to develop, operate and manage a Special Economic Zone, a Special Economic Zone operator permit, or the transfer of an operator permit; or 55

Imisebenzi yeBhodi Elilulekayo

11. (1) IBhodi Elilulekayo kufanele—

- (a) liluleke uNgqongqoshe ngenqubomgomo nangamaqhinga ukuze kuthuthukiswe, kukhuthazwe, kusetshenzwe futhi kusingathwe iziNdawo zoMnotho eziKhethekile; 5
- (b) liqaphe ukusetshenziswa kwenqubomgomo namaqhinga eziNdawo zoMnotho eziKhethekile futhi libikele uNgqongqoshe njalo ngonyaka ngokusetshenziswa kwale nqubomgomo namaqhinga;
- (c) libheke isicelo sokuqoka iziNdawo zoMnotho eziKhethekile futhi lenze izincomo kuNgqongqoshe zokuthi ngabe kufanele agunyaze noma angasigunyazi isicelo sokunikeza ofake isicelo ilayisensi yeziNdawo zoMnotho eziKhethekile; 10
- (d) libheke isicelo semvume yomsebenzi futhi lenze izincomo kuNgqongqoshe zokuthi ngabe kufanele agunyaze noma angasigunyazi isicelo;
- (e) libheke isicelo sokudlulisa imvume yomsebenzi futhi lenze izincomo kuNgqongqoshe zokuthi ngabe kufanele noma akufanele agunyaze isicelo ngombandela othile noma ungekho umbandela; 15
- (f) lixoxisane nabanikazi bamalayisensi nabasebenzi ngokusebenzisa amaqhinga nenqubomgomo eziNdawo zoMnotho eziKhethekile;
- (g) libike ngendlela enqunyiwe kuNgqongqoshe ngenqubekela phambili ehambisana nokuthuthukiswa kweziNdawo zoMnotho eziKhethekile; 20
- (h) liluleke uNgqongqoshe ngenkambiso efanele nangamazinga adingekayo okuhlinzekela ngesikhungo esisodwa seziNdawo zoMnotho eziKhethekile;
- (i) liluleke uNgqongqoshe ngemizamo yokukhangisa ngeziNdawo zoMnotho eziKhethekile; futhi 25
- (j) lihlale futhi libuyekeza impumelelo yeziNdawo zoMnotho eziKhethekile ekuzuzeni izinjongo ezivezwe esigabeni sesi-4.

(2) IBhodi Elilulekayo—

- (a) lingenza uphenyo ngezindaba ezibangelwe ukusetshenziswa kwalo Mthetho; futhi 30
- (b) lingenza eminye imisebenzi ehambisana nezinjongo zalo Mthetho ezinywe uNgqongqoshe.

Imisebenzi yamalungu eBhodi Elilulekayo yokungamela

12. Ilungu leBhodi Elilulekayo—

- (a) kufanele lilandele indlela yokuziphatha futhi nokudalula okuyisibophezelo okuvezwe esigabeni se-13; 35
- (b) akufanele lisebenze ngendlela engahambisani nemisebenzi yeBhodi Elilulekayo ngokwemigomo yalo Mthetho; futhi
- (c) ngeke lisebenzise isikhundla noma amalungelo, noma imininingwane eyimfihlo eliyithole ngoba liyilungu leBhodi Elilulekayo ukuzuza okuthile noma ukuze kuzuze ngendlela engafanele omunye umuntu. 40

Indlela yokuziphatha nokudalula inzuzo yamalungu eBhodi Elilulekayo

13. (1) UNgqongqoshe kufanele agunyaze indlela yokuziphatha kumalungu eBhodi Elilulekayo.

(2) Amalungu eBhodi Elilulekayo—

- (a) kufanele adalulele iBhodi Elilulekayo ngokugcwele mayelana nokushayisana kwemibono okungase kube khona; 45
 - (b) akufanele avote, athamele noma abe ingxenye yokuqhutshwa iBhodi Elilulekayo okuhambisana nodaba oludingidwa iBhodi uma lokhu kuzoshayisana nemibono noma kungashayisana ngemibono yalo; futhi 50
 - (c) kufanele alandele isinqumo seBhodi Elilulekayo noma ngabe ayingxenye noma akayona ingxenye yokuqhutshwa iBhodi Elilulekayo.
- (3) Ngokwalesi sigaba, kunokushayisana kwemibono nelungu uma—
- (a) ilungu, noma ilungu lomndeni, umlingani noma osebenzisana nelungu—
 - (i) efaka isicelo selayisensi yokuthuthukisa, ukusebenza nokusingatha iziNdawo zoMnotho eziKhethekile, imvume yokusebenza eziNdaweni zoMnotho eziKhethekile, ukudlulisa imvume yokusebenza noma ukuthola abatshalizimali abasha eziNdaweni zoMnotho eziKhethekile; noma 55

- (ii) has a financial or other interest in an entity that is involved with a Special Economic Zone; or
- (b) the member has any other interest that may preclude, or may reasonably be perceived as precluding, the member from performing the functions of a member of the Advisory Board in a fair, unbiased and proper manner. 5
- (4) Any disclosure in terms of subsection (2)(a) and any decision of the Advisory Board in terms of subsection (2)(c) must be recorded in the minutes of the Advisory Board.
- (5) For the purposes of this section, “**family member**”, in relation to a member of the Advisory Board, means his or her parent, sibling, child, including an adopted child, or spouse, and includes a person living with that member as if they were married to each other, and any person separated from the member by no more than two degrees of natural or adopted consanguinity or affinity. 10

Meetings of Advisory Board

- 14.** (1) The Advisory Board must hold at least four ordinary meetings each year at times and places determined by the chairperson of the Advisory Board. 15
- (2) The chairperson of the Advisory Board—
- (a) may convene special meetings of the Advisory Board; and
 - (b) must convene a special meeting within 14 days of receiving a written request to do so, signed by a majority of Advisory Board members. 20
- (3) The request referred to in subsection (2)(b) must clearly state the reason for the request and only a stated matter may be discussed at the special meeting in question.
- (4) The Minister may request that a meeting of the Advisory Board be convened at any time, should the need arise.
- (5) If the chairperson is not present at a meeting of the Advisory Board, the members present must appoint another member to preside at the meeting. 25
- (6) At any meeting, a majority of the members of the Advisory Board constitutes a quorum.
- (7) A decision of the majority of members present at any quorate meeting constitutes a decision of the Advisory Board and, in the event of an equality of votes, the chairperson of the meeting has a casting vote in addition to a deliberative vote. 30
- (8) Minutes of the proceedings of every meeting of the Advisory Board must be—
- (a) recorded and must be kept in a manner that cannot be altered or tampered with; and
 - (b) submitted to the next meeting of the Advisory Board for consideration and, if adopted, signed by the chairperson. 35
- (9) The Advisory Board may—
- (a) permit members to participate in a particular meeting by telephone or via audio-visual technology and any member who participates in this manner is regarded as being present at the meeting; and 40
 - (b) invite any person to attend a meeting for the purpose of advising or informing the Advisory Board on any matter.
- (10) The Advisory Board may, with the approval of the Minister, by resolution, make rules to further regulate its meetings.

Resolution of Advisory Board without meeting

- 15.** (1) The Advisory Board may adopt a resolution without a meeting if at least a majority of the members indicate their support for the resolution in a manner and in accordance with a procedure determined by the Advisory Board. 45
- (2) Section 14(8) applies with the changes required by the context in respect of subsection (1). 50

- (ii) kunenzuzo noma kunentshisekelo kulelo gatsha elithintekayo eziNdaweni zoMnotho eziKhethekile; noma
- (b) ilungu linokunye okungase kuvimbele, noma okungathathwa ngokuthi kuvimbela, ilungu ekuqhubeni imisebenzi yamalungu eBhodi Elilulekayo ngendlela engachemile, engacwasi futhi efanele. 5
- (4) Okudalulwayo ngokwemigomo yesigatshana sesi-(2)(a) nesinye isinqumo seBhodi Elilulekayo ngokwemigomo yesigatshana sesi-(2)(c) kufanele kubhalwe kumaminithi eBhodi Elilulekayo.
- (5) Ngokwalesi sigaba, “**ilungu lomndeni**”, mayelana nelungu leBhodi Elilulekayo, lichaza umzali welungu, ingane, kubandakanye nengaphansi kwesandla salo, noma umlingani, kubandakanya umuntu ohlala nalelo lungu njengabantu abashadile, nomuntu osewahlukana nelungu. 10

Imihlangano yeBhodi Elilulekayo

- 14.** (1) IBhodi Elilulekayo okungenani kufanele libambe imihlangano emine ejwayelekile njalo ngonyaka ngesikhathi nasezindaweni ezinqunywe ngusihlalo weBhodi Elilulekayo. 15
- (2) Usihlalo weBhodi Elilulekayo—
- (a) angabamba imihlangano ekhethekile yeBhodi Elilulekayo; futhi
 - (b) kufanele abambe umhlangano okhethekile zingakapheli izinsuku eziyi-14 ngemuva kokuthola isicelo esibhaliwe sokwenza lokho, esisayindwe inani lamalungu eBhodi Elilulekayo amaningi. 20
- (3) Isicelo esivezwe esigatshaneni sesi-(2)(b) kufanele sibeke ngokusobala isizathu sesicelo futhi udaba olubaluliwe kuphela okufanele ludingidwe kulowo mhlangano okhethekile.
- (4) UNgqongqoshe angacela ukuba kubanjwe umhlangano weBhodi Elilulekayo noma nini uma kunesidingo. 25
- (5) Uma usihlalo engekho emhlanganweni weBhodi Elilulekayo, amalungu akhona kufanele aqoke elinye ilungu ukuba lingamele umhlangano.
- (6) Kunoma omuphi umhlangano, iningi lamalungu akhona lenza inani elingaqala umhlangano weBhodi Elilulekayo. 30
- (7) Isinqumo samalungu amaningi akhona emhlanganweni kuzoba isona isinqumo seBhodi Elilulekayofuthi, uma amavoti elingana, usihlalo womhlangano unevoti elizoba ngunqamulajuqu ukwengeza emavotini afakiwe.
- (8) Amaminithi okuqhubekayo emhlanganweni weBhodi Elilulekayo kufanele—
- (a) arekhodwe futhi agcinwe ngendlela angeke aguqulwe ngayo noma ashintshwe; futhi 35
 - (b) athunyelwe emhlanganweni olandelayo weBhodi Elilulekayo ukuba abhekwe futhi, uma amukelwe, asayinwe usihlalo.
- (9) IBhodi Elilulekayo linga—
- (a) vumela amalungu ukuba abe ingxenye yomhlangano othile obanjwe ocingweni noma ngemifanekiso yezobuchwepheshe futhi ilungu elibambe iqhaza kulokhu lizothathwa njengelikhona emhlanganweni; futhi 40
 - (b) mema noma ubani ukuba athamele umhlangano ngenjongo yokululeka noma yokwazisa iBhodi Elilulekayo ngodaba oluthile.
- (10) Ngokugunyazwa uNgqongqoshe, iBhodi Elilulekayo lingasebenzisa isinqumo ukubeka imithetho ezolawula imihlangano. 45

Izinqumo zeBhodi Elilulekayo ezithathwa ngaphandle kokubamba umhlangano

- 15.** (1) IBhodi Elilulekayo lingavumelana ngesinqumo ngaphandle kokubamba umhlangano uma amalungu amaningi ebonisa ukusiseka leso sinqumo ngendlela futhi ngokulandela inqubo enqunywe iBhodi Elilulekayo. 50
- (2) Isigaba se-14(8) sisebenza nezinguquko ezidingekayo ngokwengqikithi mayelana nesigatshana soku-(1).

Committees of Advisory Board

16. (1) The Advisory Board may establish committees to assist the Advisory Board in the performance of its functions and may determine their composition, terms of reference, procedures and duration.

(2) The Advisory Board may appoint suitably qualified persons to serve on a committee, including persons in the full-time employment of the State. 5

(3) Any committee established in terms of subsection (1) must be chaired by a member of the Advisory Board.

Secretariat of Advisory Board

17. The Director-General must— 10

(a) establish a dedicated secretariat in the Department to support and assist the Advisory Board in the performance of its functions in terms of this Act; and

(b) provide the secretariat with the human resources, financial and other resources necessary to enable the secretariat to effectively render the support and assistance contemplated in paragraph (a). 15

Expenditure, remuneration and allowances paid to members of Advisory Board and committees

18. (1) Expenditure incidental to the performance of the functions of the Advisory Board must be defrayed from money voted by Parliament as part of the appropriation of the Department. 20

(2) A member of the Advisory Board or a member of any committee of the Advisory Board, who is not in the full-time employment of the State, may be paid such remuneration and allowances as determined by the Minister with the concurrence of the Minister of Finance.

Dissolution of Advisory Board 25

19. (1) The Minister may, after consultation with the Advisory Board, dissolve the Advisory Board on any reasonable ground.

(2) Within 30 days of the dissolution of the Advisory Board, the Minister must appoint an interim Advisory Board consisting of at least four persons contemplated in section 7(2)(a) to (g). 30

(3) The interim Advisory Board assumes, and must perform, the functions of the Advisory Board in terms of this Act.

(4) The Minister must, within six months of the appointment of the interim Advisory Board, appoint the members of the newly constituted Advisory Board.

CHAPTER 4 35

FINANCING AND SUPPORT MEASURES

Special Economic Zones Fund

20. (1) The Minister may, with the concurrence of the Minister of Finance, from money voted by Parliament as part of the appropriation of the Department, establish a Special Economic Zones Fund to support the promotion and development of Special Economic Zones. 40

(2) The Minister may, with the concurrence of the Minister of Finance, make regulations regarding the additional source of money for the fund, and the administration, management and criteria for distribution of money from the Fund.

Support measures 45

21. (1) The Minister may determine and implement support measures, including incentive schemes, for operators and businesses operating within Special Economic Zones.

(2) The Minister may, with the concurrence of the Minister of any relevant government department, design and administer support measures or other support programmes necessary, including incentive schemes, to support the development and operation of different categories of Special Economic Zones. 50

Amakomidi eBhodi Elilulekayo

16. (1) IBhodi Elilulekayo lingasungula amakomidi azosiza iBhodi Elilulekayo ukuqhuba imisebenzi yalo futhi linganquma ngokwakhela kwalabo abazolisiza, umsebenzi wabo, inqubo nesikhathi sokusebenza.

(2) IBhodi Elilulekayo lingaqoka umuntu ofanele ukuba asebenze ekomidini, kubandakanya nabantu abaqashwe ngokugcwele uMbuso. 5

(3) Ikomidi elisungulwe ngokwemigomo yesigatshana soku-(1) kufanele linganyelwe ilungu leBhodi Elilulekayo.

Ihhovisi likaNobhala weBhodi Elilulekayo

17. UMqondisi-Jikelele kufanele— 10

(a) asungule ihhovisi lonobhala elizinikele eMnyangweni elizoseka futhi lisize iBhodi Elilulekayo ukuqhuba imisebenzi yalo ngokwemigomo yalo Mthetho; futhi

(b) lihlinzekele lelo hhovisi lomabhalane ngamakhono, imali nangezinye izinsiza ezidingekayo ukusiza ihhovisi lomabhalane ukuba liseke futhi lisize ngempumelelo njengoba kuvezwe endimeni (a). 15

Izindleko, inkokhelo nezibonelelo ezikhokhelwa amalungu eBhodi Elilulekayo

18. (1) Izindleko ezihambisana nokuqhuba imisebenzi yeBhodi Elilulekayo kufanele zikhokhwe ngemali eyabiwe iPhalamende eyingxenywe yesabelomali soMnyango.

(2) Ilungu leBhodi Elilulekayo noma ilungu lekomidi leBhodi Elilulekayo, elingaqashiwe ngokugcwele uMbuso, kufanele likhokhelwe umholo nezibonelelo ezinqunywe uNgqongqoshe ngokuvumelana noNgqongqoshe wezeziMali. 20

Ukuhlakazwa kweBhodi Elilulekayo

19. (1) Uma kunesidingo, uNgqongqoshe ngemuva kokuxoxisana neBhodi Elilulekayo, bangachitha iBhodi Elilulekayo uma kunezizathu ezizwakalayo. 25

(2) Zingakapheli izinsuku ezingama-30 kuhlakazwe iBhodi Elilulekayo, uNgqongqoshe kufanele aqoke iBhodi Elilulekayo lesikhashana libe nabantu abane abavezwe esigabeni sesi-7(2)(a) ukuya ku-(g).

(3) IBhodi Elilulekayo lesikhashana liqala, futhi kufanele liqhube, imisebenzi yeBhodi Elilulekayo ngokwemigomo yalo Mthetho. 30

(4) UNgqongqoshe kufanele, zingakapheli izinyanga eziyisithupha kuqokwe iBhodi Elilulekayo lesikhashana, aqoke amalungu eBhodi Elilulekayo elisanda kwakhiwa.

ISAHLUKO 4

IZIMALI NEZINYATHELO ZOKUSEKA

IsiKhwama seziNdawo zoMnotho eziKhethekile 35

20. (1) Ngokuvumelana noNgqongqoshe wezeziMali, uNgqongqoshe angasebenzisa imali eyabiwe iPhalamende njengengxenywe yesabelomali soMnyango, ukusungula isiKhwama seziNdawo zoMnotho eziKhethekile ukuze kusekwe ukuthuthukiswa nokukhuthazwa kweziNdawo zoMnotho eziKhethekile.

(2) Ngokuvumelana noNgqongqoshe wezeziMali, uNgqongqoshe angamisa izimiso zomthetho ezimayelana nokwengeza izinsiza, ukusingatha, ukuphatha kanye nenqubo yokwaba imali yesiKhwama. 40

Izinyathelo zokuseka

21. (1) UNgqongqoshe anganquma izinyathelo zokweseka, kubandakanya nezinhlelo zenzuzo, zabasebenzi namabhizinisi asebenza eziNdaweni zoMnotho eziKhethekile. 45

(2) UNgqongqoshe ngokuvumelana noNgqongqoshe womnyango oqondene kahulumeni, angasungula noma alawule izinyathelo zokuseka noma ezinye izinhlelo zokuseka ezifanele, kubandakanya izinhlelo zenzuzo, ukuseka ukuthuthukiswa nokusebenza kwemikhakha ehlukene yeziNdawo zoMnotho eziKhethekile.

(3) Nothing in this section precludes a municipality, provincial government or public entity from designing their own support measures and incentive schemes to support the development and operation of Special Economic Zones.

Implementation protocol

- 22.** (1) The Minister may, in terms of section 35 of the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005), enter into an implementation protocol with any organ of state that the Minister may deem appropriate, including— 5
- (a) the Minister responsible for environmental affairs;
 - (b) the Minister responsible for home affairs;
 - (c) the Minister responsible for labour; or 10
 - (d) the Minister responsible for finance.
- (2) The implementation protocol may deal with—
- (a) implementation and operation of a one stop shop; or
 - (b) any other matter requiring the co-ordination of the functions of organs of state that may be appropriate or required for the proper regulation and development 15 of Special Economic Zones.
- (3) The Minister must, in the annual report of the Department referred to in section 40(1)(d) of the Public Finance Management Act, include a report on the conclusion and implementation of the protocols contemplated in subsection (1), if any, and the implementation of one stop shops in Special Economic Zones. 20

CHAPTER 5

DESIGNATION OF SPECIAL ECONOMIC ZONES

Application for designation

- 23.** (1) National government, a provincial government, a municipality, a public entity, a municipal entity or a public-private partnership, acting alone or jointly, may apply to the Minister in the form and manner prescribed for a specified area to be designated as a Special Economic Zone. 25
- (2) In its application, the applicant must demonstrate that the designation of the area as a Special Economic Zone will further national government's industrial development objectives and must specify the extent to which the designation seeks to— 30
- (a) achieve the provisions of section 4(2);
 - (b) be consistent with any applicable national policies and laws; and
 - (c) comply with any other prescribed criteria.
- (3) The applicant must—
- (a) have sufficient access to financial resources and expertise for the develop- 35 ment, operation, management and administration of a Special Economic Zone;
 - (b) submit to the Minister a comprehensive feasibility study;
 - (c) indicate the extent to which it owns or controls the area to be considered for designation as a Special Economic Zone; and 40
 - (d) in the case of a public-private partnership, indicate its ownership structure through the submission of a shareholders' agreement, indicating shareholding, percentages of shareholding, requirements for transfer of shares and requirements for the distribution of assets upon liquidation or deregistration.
- (4) The Advisory Board must— 45
- (a) consider the application; and
 - (b) recommend to the Minister whether or not the area is suited to be designated as a Special Economic Zone.
- (5) The Advisory Board may request further information and documents from the applicant for the purposes of considering the application. 50
- (6) The Minister, after considering the recommendation of the Advisory Board and after consultation with the Minister of Finance—
- (a) may designate an area as a Special Economic Zone by notice in the *Gazette* with or without conditions; and

(3) Akukho kulesi sigaba okuvimbela umasipala, uhulumeni wesifundazwe noma igatsha likahulumeni ukuba lisungule ezalo izinyathelo zokuseka nezinhlalo zenzuzo ukuseka intuthuko nokusebenza kweziNdawo zoMnotho eziKhethekile.

Ukuqhutshwa kwenqubo

22. (1) UNggongqoshe ngokwemigomo yesigaba sama-35 se-*Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005)*, angaqhuba inqubo yokusebenza negatsha lombuso uNggongqoshe abona ukuthi ifanele, kubalwa— 5
- (a) uNggongqoshe obhekele izindaba zezemvelo;
 - (b) uNggongqoshe obhekele izindaba zasekhaya;
 - (c) uNggongqoshe obhekele ezemisebenzi; noma 10
 - (d) uNggongqoshe obhekele ezezimali.
- (2) Ukuqhutshwa kwenqubo kungabhekana—
- (a) nokusungulwa nokusebenza kwesikhungo esisodwa; noma
 - (b) noma oluphi udaba oludinga ukuhlalelwa kwemisebenzi yamagatsha ombuso olufanele noma oludingekayo ukuze kulawulwe ngendlela efanele futhi 15 kuthuthukiswe iziNdawo zoMnotho Ezikhethekile.
- (3) UNggongqoshe kufanele, embikweni wonyaka woMnyango ovezwe esigabeni sama-40(1)(d) se-*Public Finance Management Act*, afake nombiko wokuphuthulwa nokuqhutshwa kwenqubo evezwe esigatshaneni soku-(1), uma ikhona, kanye nokusungulwa kwesikhungo esisodwa seziNdawo zoMnotho Ezikhethekile. 20

ISAHLUKO 5

UKUQOKWA KWEZINDAWO ZOMNOTHO EZIKHETHEKILE

Ukufaka isicelo sokuqoka indawo

23. (1) Uhulumeni kazwelonke, uhulumeni wesifundazwe, umasipala, igatsha lombuso, igatsha likamasipala noma ukusebenzisana kohulumeni nabazimele, 25 abasebenza ngokuzimela noma ngokubambisana, bangafaka isicelo kuNggongqoshe ngendlela nangesimo esichazelwe indawo ethile okufanele iqokwe njengeNdawo yoMnotho eKhethekile.
- (2) Uma efaka isicelo, ofake isicelo kufanele aveze ukuthi ukuqokwa komkhakha weziNdawo zoMnotho eziKhethekile kuzoqhakambisa izinjongo zikahulumeni 30 zokuthuthukisa izimboni futhi kufanele siveze indlela lokho kuqokwa okuhlose ngayo—
- (a) ukuhlangabezana nemibandela yesigaba sesi-4(2);
 - (b) ukuhambisana nenqubomgomo kazwelonke esebenzayo nemithetho; futhi
 - (c) nokuhambisana nenye inqubo enqunyiwe. 35
- (3) Ofake isicelo kufanele—
- (a) athole usizo lwemali olwanele namakhono okuthuthukisa, ukusebenza, ukusingatha nokuphatha iziNdawo zoMnotho eziKhethekile;
 - (b) athumele kuNggongqoshe umqulu ogcwele wokuzokwenzeka;
 - (c) aveze indlela lowo mqulu ophethe futhi olawula ngayo indawo okufanele 40 ithathwe njengeNdawo yoMnotho eKhethekile; futhi
 - (d) uma kusebenzisana abazimele nohulumeni, kuvezwe uhlelo lwabaphethe ngokuthumela isivumelwano sabanikazi bamasheya, esiveza ubunikazi bamasheya, izimfanelo zokudlulisa amasheya nezimfanelo zokwaba impahla uma ivalwa ngokusemthethweni noma isulwa. 45
- (4) IBhodi Elilulekayo kufanele—
- (a) libheke isicelo; futhi
 - (b) lenze izincomo kuNggongqoshe zokuba ngabe leyo ndawo ifanele ukuqokwa njengeNdawo yoMnotho eKhethekile.
- (5) IBhodi Elilulekayo lingacela eminye imiqulu kofake isicelo ngenjongo 50 yokubheka isicelo.
- (6) Ngemuva kokubheka iziphakamiso zeBhodi Elilulekayo, uNggongqoshe futhi ngemuva kokuxoxisana noNggongqoshe wezeziMali—
- (a) angaqoka umkhakha owordwa weziNdawo zoMnotho eziKhethekile ngesa- ziso kuSomqulu esihambisana nemibandela noma esingenayo imibandela; 55 futhi

- (b) must issue the applicant with a Special Economic Zone licence if the area is so designated.
- (7) Before designating an area as a Special Economic Zone, the Minister must—
 - (a) publish his or her intention to do so in the *Gazette* for public comments; and
 - (b) give the public 30 days to make written comments on his or her intention to designate. 5

Designation of Special Economic Zones

24. (1) Despite section 23, the Minister may, on his or her own accord, designate an area as a Special Economic Zone in pursuance of strategic national interests.
- (2) The Minister may prescribe different categories of Special Economic Zones, which may include— 10
- (a) a free port;
 - (b) a free trade zone;
 - (c) an industrial development zone; and
 - (d) a sector development zone. 15
- (3) The Minister may prescribe—
- (a) criteria and guidelines for the designation of each category of Special Economic Zones; and
 - (b) conditions that may be imposed on each category of Special Economic Zones.
- (4) The Minister may, after consultation with the Minister of Finance, prescribe the type of service and business that may be located in a Special Economic Zone in order to achieve the purpose of Special Economic Zones set out in section 4. 20
- (5) For the purposes of this section—
- (a) **“free port”** means a duty free area adjacent to a port of entry where imported goods may be unloaded for value-adding activities within the Special Economic Zone for storage, repackaging or processing, subject to customs procedures; 25
 - (b) **“free trade zone”** means a duty free area offering storage and distribution facilities for value-adding activities within the Special Economic Zone for subsequent export; 30
 - (c) **“port of entry”** means a place designated as a place of entry for the control of vessels, aircraft, trains, vehicles, goods and persons entering the Republic; and
 - (d) **“sector development zone”** means a zone focused on the development of a specific sector or industry through the facilitation of general or specific industrial infrastructure, incentives, technical and business services primarily for the export market. 35

Governance and management of Special Economic Zone

25. (1) Upon designation of an area as a Special Economic Zone, the licensee must— 40
- (a) establish an entity to manage the Special Economic Zone; and
 - (b) provide the entity with the resources and means necessary to manage and operate the Special Economic Zone, including the transfer of ownership or control of the land comprising the area designated as a Special Economic Zone.
- (2) In the case of a national or provincial government or a public entity licensee, the entity must be established as a national government business enterprise or a provincial government business enterprise contemplated in section 1 of the Public Finance Management Act. 45
- (3) In the case of a municipality or municipal entity licensee, the entity must be established as a municipal entity contemplated in section 1 of the Municipal Systems Act. 50

- (b) kufanele akhiphele iziNdawo zoMnotho eziKhethekile ilayisensi uma lowo mkhakha uqokiwe.
- (7) Ngaphambi kokuba kuqokwe iNdawo yoMnotho eKhethekile, uNgqongqoshe kufanele—
- (a) ashicilele ingongo yakhe wokwenza lokhi kuSomqulu ukuze umphakathi uphawule; futhi 5
- (b) anikeze umphakathi izinsuku ezingama-30 ukuba uphawule ngenjongo yakho yokuqoka.

Ukuqoka iziNdawo zoMnotho eziKhethekile

24. (1) Nakuba kunesigaba sama-23, uNgqongqoshe, ngokubona kwakhe, angaqoka indawo njengeNdawo yoMnotho eKhethekile ngokulandela amaqhinga enzuzo kazwelonke. 10
- (2) UNgqongqoshe anganquma imikhakha ehlukeneyi yeziNdawo zoMnotho eziKhethekile, engabandakanya—
- (a) intuba yamahhala; 15
- (b) indawo yokuhwebelana mahhala;
- (c) indawo yokuthuthukisa izimboni; kanye
- (d) nomkhakha wokuthuthukisa indawo.
- (3) UNgqongqoshe anganquma—
- (a) inqubo nemihlahlendlela yokuqokwa komkhakha ngamunye weziNdawo zoMnotho eziKhethekile; kanye 20
- (b) nemibandela engathweswa umkhakha ngamunye weziNdawo zoMnotho eziKhethekile.
- (4) UNgqongqoshe, ngemuva kokuxoxisana noNgqongqoshe wezeziMali, anganquma umkhakha wosizo nebhizinisi okungabekwa eNdaweni yoMnotho eKhethekile ukuze kuzuzwe injongo yeziNdawo zoMnotho eziKhethekile ebekwe esigabeni sesi-4. 25
- (5) Ngokwalesi sigaba—
- (a) “**intuba yamahhala**” ichaza indawo engakhokhelwa ebhekene nentuba yokungena lapho impahla ingafakwa khona ukuze kutholokale inzuzo eNdaweni yoMnotho eKhethekile ukuze kuthuthwe, kugcinwe, kupakishwe kabusha noma kucutshungulwe, ngokulandela inqubo yasekhaya yokuhwebelana; 30
- (b) “**indawo yokuhweba mahhala**” ichaza indawo yokuhwebelana mahhala enikezela ngezinsiza zokugcina nezokwabelana ngemisebenzi yokuzidlo-ndlobalisa eNdaweni yoMnotho eKhethekile ethile ukuze kuthuthwe noma kuhwebelwane futhi nabangaphandle; 35
- (c) “**intuba yokungena**” ichaza indawo eqokiwe ukuba kube indawo yokungena ukuze kulawulwe izitsha, amabhanoyi, izitimela izimoto, impahla nabantu abangena eRiphabhuliki; futhi
- (d) “**umkhakha wokuthuthukisa indawo**” uchaza indawo egxile ukuthuthukisa umkhakha othile ngokulawula ingqalasizinda ethile yezimboni, izibonelelo, nosizongqangi lwezobuchwepheshe nolwezamabhizinisi ezimakethe zokuhwebelana ngaphandle. 40

Ukusingatha nokuphatha iziNdawo zoMnotho eziKhethekile

25. (1) Uma sekuqokwe indawo njengeNdawo yoMnotho eKhethekile, umnikazi welayisensi kufanele— 45
- (a) asungule igatsha elizongamela iNdawo yoMnotho eKhethekile; futhi
- (b) ahlincekele igatsha ngezinsiza ezifanele nangosizo lokusingatha nokusebenza eNdaweni yoMnotho eKhethekile, kubalwa nokudluliswa kobunikazi noma ukulawula indawo ehlanganisa indawo eqokwe njengeNdawo yoMnotho eKhethekile. 50
- (2) Uma kuwuhulumeni kazwelonke noma wesifundazwe noma igatsha likahulumeni, asungule leyo Ndawo yoMnotho eKhethekile njengomboni yezamabhizinisi kahulumeni kazwelonke noma njengomboni yezamabhizinisi kahulumeni esifundazweni njengoba kuveziwe esigabeni soku-1 se-*Public Finance Management Act*. 55
- (3) Uma kungumasipala noma kuyigatsha likamasipala, asungule leyo Ndawo yoMnotho eKhethekile njengegatsha likamasipala elivezwe esigabeni soku-1 se-*Municipal Systems Act*.

(4) In the case of a public-private partnership licensee, the entity must be established as a company.

(5) A licensee must appoint a Special Economic Zone Board which must be responsible for the efficient governance and management of the business affairs of that Special Economic Zone entity. 5

(6) The Special Economic Zone Board must manage that Special Economic Zone entity—

- (a) in accordance with the Public Finance Management Act, if the licensee is national or provincial government or a public entity;
- (b) in accordance with the Municipal Systems Act and the Municipal Finance Management Act, if the licensee is a municipality or municipal entity; or 10
- (c) if the licensee is a public-private partnership—
 - (i) at national or provincial government level, in accordance with regulation 16 of the National Treasury Regulations issued under the Public Finance Management Act and the Companies Act, 2008 (Act No. 71 of 2008); or 15
 - (ii) at municipal level, in accordance with the provisions of section 120 of the Municipal Finance Management Act and any relevant regulations issued in terms of that Act.

(7) The Minister must make regulations regarding the governance principles that must be complied with when an entity is established as envisaged in subsections (2), (3) and (4) respectively, including— 20

- (a) the constitution of Special Economic Zone Boards;
- (b) the term of Office of Special Economic Zone Board members;
- (c) codes of conduct for Special Economic Zone Boards; and
- (d) disclosure of interest by Special Economic Zone Board members. 25

Strategic plan for Special Economic Zone

26. (1) The Special Economic Zone Board must develop and implement a strategic plan within the framework of the Special Economic Zones strategy contemplated in section 6 in order to achieve the mandate of, perform the functions of and comply with the conditions for that Special Economic Zone. 30

(2) The strategic plan contemplated in subsection (1) must be reviewed on an annual basis and submitted to the Minister at least three months before the end of each financial year or at a later date determined by the Minister.

(3) The Special Economic Zone Board must provide the Minister with such information and documentation as the Minister may reasonably require in connection with the affairs of that Special Economic Zone entity. 35

Business and financial plan of Special Economic Zone

27. A Special Economic Zone Board must, at least two months before the end of each financial year or at a later date determined by the Minister, submit to the Minister for approval a business and financial plan— 40

- (a) containing a projection of the revenue and expenditure of that Special Economic Zone entity in respect of the ensuing financial year; and
- (b) covering the affairs of that Special Economic Zone entity for each of the two immediately following financial years.

Reporting and financial statements of Special Economic Zone 45

28. (1) A Special Economic Zone Board must—

- (a) keep full and proper records of the financial affairs of the Special Economic Zone entity contemplated in section 25;
- (b) prepare financial statements for each financial year in accordance with generally accepted accounting practice; 50

(4) uma kuyibhizinisi likahulumeni nabazimele, asungule leyo Ndawo yoMnotho eKhethekile njengenkampani.

(5) Umnikazi welayisensi kufanele aqoke iBhodi leNdawo yoMnotho eKhethekile okufanele libhekele ukungamela nokusingatha ibhizinisi nezindaba zegatsha leNdawo yoMnotho eKhethekile.

(6) IBhodi leNdawo yoMnotho eKhethekile kufanele lisingathe igatsha leNdawo yoMnotho eKhethekile—

(a) ngokulandela i-*Public Finance Management Act*, uma umnikazi welayisensi kuwuhulumeni kazwelonke noma wesifundazwe noma kuyigatsha likahulumeni;

(b) ngokulandela i-*Municipal Systems Act* ne-*Municipal Finance Management Act*, uma umnikazi welayisensi kuyigatsha likamasipala; noma

(c) uma umnikazi welayisensi kungabezamabhizinisi kahulumeni nazimele—

(i) ezingeni likahulumeni kazwelonke noma wesifundazwe, ngokulandela izimiso zomthetho 16 ze-*National Treasury Regulations* ezikhishwe ngaphansi kwe-*Public Finance Management Act* ne-*Companies Act, 2008 (Act No. 71 of 2008)*; noma

(ii) ezingeni likamasipala, ngokulandela imibandela yesigaba se-120 se-*Municipal Finance Management Act* nezinye izimiso zomthetho eziqondene ezikhishwe ngokwemigomo yalowo Mthetho.

(7) UNgqongqoshe kufanele amise izimiso zoMthetho ezimayelana nemigomo yokungamela okufanele zilandelwe uma kusungulwa igatsha njengoba kubekiwe esigatshaneni sesi-(2), (3) nsesi-(4) ngokulandelana, kubandakanya—

(a) ukwakheka kweBhodi leziNdawo zoMnotho eziKhethekile;

(b) Isikhathi sokusebenza kwamalungu eBhodi leziNdawo zoMnotho eziKhethekile;

(c) inqubo yokuziphatha yeBhodi leziNdawo zoMnotho eziKhethekile; kanye

(d) nokudalula inzuzo yamalungu eBhodi leziNdawo zoMnotho eziKhethekile.

Amasu obuchule eziNdaweni zoMnotho eziKhethekile

26. (1) IBhodi leNdawo yoMnotho eKhethekile kufanele enze futhi liqale uhlelo lwesu lohlaka lwesu lweNdawo yoMnotho eKhethekile oluvezwe esigabeni sesi-6 ukuze kuzuzwe injongo, kuqhutshwe imisebenzi futhi kulandelwe imibandela yeziNdawo zoMnotho eziKhethekile.

(2) Uhlelo lwesu oluvezwe esigatshaneni soku-(1) kufanele lubuyekwezwe njalo ngonyaka futhi luthunyelwe kuNgqongqoshe okungenani kusasele izinyanga ezintathu ngaphambi kokuba kuphele unyaka wezimali ngamunye noma ngesinye isikhathi esinqunywe uNgqongqoshe.

(3) IBhodi leNdawo yoMnotho eKhethekile kufanele lnikezele ngale mininingwane nangemiqulu kuNgqongqoshe uma uNgqongqoshe eyicela mayelana nezindaba zeziNdawo zoMnotho eziKhethekile.

Uhlelo lwebhizinisi nolwezimali zeNdaweni yoMnotho eKhethekile

27. IBhodi leNdawo yoMnotho eKhethekile kufanele, okungenani kusasele izinyanga ezimbili ngaphambi kokuba kuphele unyaka wezimali noma ngesinye isikhathi esizayo esinqunywe uNgqongqoshe, lithumele kuNgqongqoshe uhlelo olugunyaziwe lwebhizinisi noma lwezimali—

(a) oluqukethe imali ezongena eqaguliwe nezindleko zeNdawo yoMnotho eKhethekile zonyaka wezimali ozayo; futhi

(b) olufaka nezindaba zeNdawo yoMnotho eKhethekile zeminyaka emibili elandelayo ngamunye.

Ukubika nezitatimende zezimali zeziNdawo zoMnotho eziKhethekile

28. (1) IBhodi leNdawo yoMnotho eKhethekile kufanele—

(a) ligcine amarekhodi agcwele futhi afanele ezindaba zemali zegatsha leNdawo yoMnotho eKhethekile evezwe esigabeni sama-25;

(b) lihlanganise izitatimende zemali zonyaka wezimali ngokulandela inqubo efanele yokusebenza;

- (c) submit those financial statements within three months after the end of the financial year to the Auditor-General for auditing; and
- (d) submit within five months of the end of the financial year to the Minister—
 - (i) an annual report on the activities of that Special Economic Zone entity during that financial year; 5
 - (ii) audited financial statements of that Special Economic Zone entity for the previous financial year; and
 - (iii) the report of the Auditor-General on those statements.
- (2) The annual report and financial statements referred to in subsection (1) must—
 - (a) fairly present the state of affairs of that Special Economic Zone entity and its performance against predetermined objectives for the financial year concerned; and 10
 - (b) include particulars of—
 - (i) any material losses through criminal conduct and any irregular expenditure and fruitless and wasteful expenditure that occurred during the financial year concerned; 15
 - (ii) any criminal or disciplinary steps taken as a consequence of such losses or irregular expenditure or fruitless and wasteful expenditure;
 - (iii) any losses recovered or written off; and
 - (iv) any other matter that may be prescribed. 20

Taking over administration of Special Economic Zone

- 29.** (1) The Minister may, after consultation with the Advisory Board, the Special Economic Zone Board and the licensee concerned, appoint an administrator to take over the administration or to perform the functions of a Special Economic Zone Board if—
 - (a) the Special Economic Zone Board has failed to comply with any condition prescribed by the Minister in terms of section 24(3)(b); 25
 - (b) the Special Economic Zone Board fails or is unable to perform its functions; or
 - (c) there is mismanagement of the finances of that Special Economic Zone entity.
- (2) The Minister must publish a notice in the *Gazette* appointing an administrator and in that notice the Minister must determine the powers, duties and the term of appointment of the administrator. 30
- (3) The Minister may act in terms of subsection (1) without consulting the Advisory Board, the Special Economic Zone Board and the licensee concerned if there is financial mismanagement of that Special Economic Zone entity and the delay caused by the consultation would be detrimental to the functioning of that Special Economic Zone entity. 35
- (4) Where the Minister acts in terms of subsection (3), the Minister must review the appointment of the administrator within 90 days of the appointment and after consultation with the Advisory Board, the Special Economic Zone Board and the licensee concerned. 40
- (5) The costs associated with the appointment of the administrator in terms of this section will be for the Special Economic Zone entity concerned.

Withdrawal of designation

- 30.** (1) Notwithstanding section 29, the Minister may, after considering a recommendation of the Advisory Board and by notice in the *Gazette*, withdraw any designation of an area as a Special Economic Zone which does not further the purpose set out in section 4, on such terms and conditions as the Minister may determine. 45
- (2) Before withdrawing a designation in terms of subsection (1), the Minister must—
 - (a) inform the affected licensee, Special Economic Zone Board, operator and businesses located in the affected Special Economic Zone of the intention 50

- (c) lithumele lezo zititimende zemali zingakapheli izinyanga ezintathu ngemuva kokuphela konyaka wezimali kuMcwaningimabhuku-Jikelele ukuze zicwani-ngwe; futhi
 - (d) zingakapheli izinyanga ezintathu zokuphela konyaka wezimali lithumele kuNgqongqoshe—
 - (i) umbiko wonyaka ngokuqhubekayo eNdaweni yoMnotho eKhethekile ngaleso sikhathi sonyaka;
 - (ii) acwaninge izitatimende zemali zeNdawo yoMnotho eKhethekile zonyaka odlule; kanye
 - (iii) nombiko woMcwaningimabhuku-Jikelele mayelana nalezo zititimende.
- (2) Umbiko wonyaka wezitatimende zemali ovezwe esigatshaneni soku-(1) kufanele—
- (a) uveze ngokuphelele isimo sezindaba zeNdawo yoMnotho eKhethekile nendlela eqhuba ngayo izinjongo zayo ezisemqoka kulowo nyaka wezimali; futhi
 - (b) ubandakanye imininingwane—
 - (i) nokulahlekile ngesizathu sobulelesi nezindleko ezingajwayelekile nalezo ezingenamthelela futhi ezichithe imali ngesikhathi salowo nyaka wezimali;
 - (ii) yezinyathelo ezilwisana nobulelesi noma zokuqondisa izigwegwe ezithathiwe ngesizathu sokulahlekelwa noma ngesizathu sezindleko ezingajwayelekile noma ezingenamthelela ophusile noma ezibangele izindleko;
 - (iii) ukulahlekelwa noma okushatshalalisiwe; kanye
 - (iv) nolunye udaba olunganqunywa.

Ukulawula iziNdawo zoMnotho eziKhethekile

29. (1) Ngemuva kokuxoxisana neBhodi Elilulekayo, iBhodi leNdawo yoMnotho eKhethekile nomnikazi welayisensi oqondene, uNgqongqoshe angaqoka umlawuli ukuba alawule noma aqhube imisebenzi yeBhodi leNdawo eKhethekile uma—
- (a) iBhodi leNdawo yoMnotho eKhethekile lihlulekile ukulandela imibandela enqunywe uNgqongqoshe ngokwemigomo yesigaba sama-24(3)(b);
 - (b) iBhodi leNdawo yoMnotho eKhethekile lihluleka noma lingakwazi ukuqhuba imisebenzi; noma
 - (c) kunokungaphathwa ngendlela efanele izimali zegatsha leNdawo yoMnotho eKhethekile.
- (2) UNgqongqoshe kufanele ashicilele isaziso kuSomqulu sokuqoka umlawuli futhi kuleso saziyo uNgqongqoshe kufanele anqume amandla nemisebenzi nesikhathi esizosetshenzwa umlawuli.
- (3) UNgqongqoshe angasebenza ngokulandela isigatshana soku-(1) ngaphandle kokuxoxisana neBhodi Elilulekayo, iBhodi leNdawo yoMnotho eKhethekile nomnikazi welayisensi oqondene uma kunokuphathwa kwezimali ngendlela engafanele egatshenu leNdawo yoMnotho eKhethekile futhi ukubambezeleka okudalwe ukuxoxisana kuzophazamisa ukusebenza kwegatsha leNdawo yoMnotho eKhethekile.
- (4) Uma uNgqongqoshe esebenza ngokwemigomo yesigatshana sesi-(3), uNgqongqoshe kufanele abuyekeze ukuqokwa komlawuli zingakapheli izinsuku ezingama-90 eqokiwe futhi ngemuva kokuxoxisana neBhodi Elilulekayo, iBhodi leNdawo yoMnotho eKhethekile nomnikazi welayisensi oqondene.
- (5) Izindleko ezihambisana nokuqokwa komlawuli ngokwemigomo yalesi sigaba kuzoba ezaleyo Ndawo yoMnotho eKhethekile eqondene.

Ukuhoxisa ukuqoka indawo

30. (1) Nakuba kunesigaba sama-29, ngemuva kokubheka izincomo zeBhodi Elilulekayo futhi ngesaziso kuSomqulu, uNgqongqoshe angahoxisa ukuqokwa kwendawo njengeNdawo yoMnotho eKhethekile engakhuthazi izinjongo ezivezwe esigabeni sesi-4, ngemigomo nangemibandela uNgqongqoshe angayinquma.
- (2) Ngaphambi kokuba ahoxise ukuqokwa kwendawo ngokwemigomo yesigatshana soku-(1), uNgqongqoshe kufanele—
- (a) azise umnikazi welayisensi othintekayo, iBhodi leNdawo yoMnotho eKhethekile, umsebenzi nabezamabhizinisi abakuleyo Ndawo yoMnotho

- to withdraw the designation and the reasons for the intended withdrawal;
and
- (b) give the affected licensee, Special Economic Zone Board, operator and businesses 30 days to submit written comments to the Minister.
- (3) The lawful activities of any business located within a Special Economic Zone that has entered into a written agreement with the operator are not affected by the withdrawal of the designation of that Special Economic Zone in terms of this section. 5
- (4) Nothing contained in this Act precludes the Minister from re-designating an area whose designation as a Special Economic Zone has been withdrawn.

CHAPTER 6

10

SPECIAL ECONOMIC ZONE OPERATOR

Special Economic Zone operator

- 31.** (1) A Special Economic Zone Board must follow a fair, equitable, transparent, competitive and cost-effective procurement process, when appointing an operator to develop, operate and manage that Special Economic Zone on behalf of the Special Economic Zone Board. 15
- (2) Notwithstanding subsection (1), only a Special Economic Zone entity established by a public-private partnership licensee may also develop, operate and manage the Special Economic Zone concerned.

Application for Special Economic Zone operator permit

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- 32.** (1) A Special Economic Zone may only be developed, operated and managed by a person who holds a Special Economic Zone operator permit issued in terms of this section.
- (2) Any person appointed by a Special Economic Zone Board to develop, operate and manage a Special Economic Zone in terms of section 31 must apply to the Minister for a Special Economic Zone operator permit in the form and manner prescribed. 25
- (3) The Advisory Board—
- (a) must consider the application;
- (b) may require an applicant to supply additional information necessary to consider the application; 30
- (c) may request an applicant to appear before it for the purpose of making an oral submission at the applicant's expense;
- (d) may require any interested party, including an organ of state, affected by such application to comment on the application in writing; and
- (e) must recommend to the Minister whether or not the applicant is eligible for an operator permit. 35
- (4) The Minister may, after considering the recommendation of the Advisory Board, issue a person with an operator permit, with or without conditions.
- (5) The Minister may make regulations regarding—
- (a) the procedure and time periods applicable to applications for operator permits; 40
- and
- (b) the information that must be provided in any application for an operator permit.

Requirements for application for Special Economic Zone operator permit

- 33.** (1) An applicant for an operator permit must— 45
- (a) be a person appointed by a Special Economic Zone Board to develop, operate and manage that Special Economic Zone in terms of section 31;
- (b) be a person registered as a company in the Republic;
- (c) have sufficient financial resources and expertise to develop, operate and manage a Special Economic Zone; and 50
- (d) comply with such other criteria and requirements as may be prescribed.

- eKhethekile mayelana nenjongo yakhe yokuhoxisa ukuqokwa kwendawo nezizathu zolakho kuhoxiswa okuhlongozwayo; futhi
- (b) anikeze umnikazi welayisensi othintekayo, iBhodi leNdawo eKhethekile, umsebenzi nabezamabhizinisi izinsuku ezingama-30 zokuba bathumele imibono ebhaliwe kuNgqongqoshe. 5
- (3) Okwenziwayo okusemthethweni ebhizinisini eliseNdaweni yoMnotho eKhethekile eyenze isivumelwane esibhaliwe nomsebenzi akuchaphazelwa ukuhoxiswa kokuqokwa kwaleyo Ndawo yoMnotho eKhethekile ngokwemigomo yalesi sigaba.
- (4) Akukho okuqokethwe ngalo Mthetho okuvimbela uNgqongqoshe ukuba aphinde aqoke kabusha indawo eyahoxiswa ukuqokwa njengeNdawo yoMnotho eKhethekile. 10

ISIAHLUKO 6

UMSEBENZI WENDAWO YOMNOTHO EKHETHEKILE

Umsebenzi weNdawo yoMnotho eKhethekile

31. (1) IBhodi leNdawo yoMnotho eKhethekile kufanele lilandele uhlelo olufanele, olufanayo, oluvulelekile, lokuqhudelana futhi olungabizi, uma liqoka umsebenzi ozothuthukisa, asebenze futhi aphaathe iNdawo yoMnotho eKhethekile omele iBhodi leNdawo yoMnotho eKhethekile. 15
- (2) Nakuba kunesigatshana soku-(1), igatsha leNdawo yoMnotho eKhethekile kuphela elisungulwe abanikazi bamalayisenzi abasebenzisanayo kuhulumeni nabazimele angabathuthukisa, basebenze futhi baphathe leyo Ndawo yoMnotho eKhethekile. 20

Isicelo semvume yomsebenzi weNdawo yoMnotho eKhethekile

32. (1) INdawo yoMnotho eKhethekile ingathuthukiswa kuphela, isetshenziswe futhi iphathwe umuntu onemvume yokusebenza eNdaweni yoMnotho eKhethekile ekhishwe ngokwemigomo yalesi sigaba.
- (2) Noma ubani oqokwe iBhodi leNdawo yoMnotho eKhethekile ukuba athuthukise, asebenze futhi aphaathe iNdawo yoMnotho eKhethekile ngokwemigomo yesigaba sama-31 kufanele afake isicelo kuNgqongqoshe sokuthola imvume yokusebenza eNdaweni yoMnotho eKhethekile ngendlela nangesimo esinqunyiwe. 25
- (3) IBhodi Elilulekayo—
- (a) kufanele ibheke isicelo; 30
- (b) ingacela ofake isicelo ukuba athumele eminye imininingwane edingekayo ukuze kubhekwe isicelo;
- (c) ingacela ofake isicelo ukuba evele ngaphambi kwalo ukuze azokwenza izethulo ngokwakhe futhi azikhokhele ngokwakhe;
- (d) ingacele igatsha elinentshisekelo, kubandakanya igatsha likahulumeni elichashazelwa ileso sicelo ukuba lifake imibono esicelweni ngokubhalwe phansi; futhi 35
- (e) kufanele lenze izincomo kuNgqongqoshe ukuthi ngabe ofake isicelo ufanele yini ukuthola imvume yokusebenza.
- (4) Ngemuva kokubheka izincomo zeBhodi Elilulekayo, uNgqongqoshe angakhi-phela umsebenzi imvume, enemibandela noma engenayo imibandela. 40
- (5) UNgqongqoshe angamisa izimiso zomthetho ezimayelana—
- (a) nenqubo nesikhathi sokufaka izicelo zemvume yomsebenzi; kanye
- (b) nemininingwane okufanele ihanjiswa nesicelo semvume yokusebenza. 50

Izimfanelo zokufaka isicelo semvume yokusebenza eNdaweni yoMnotho eKhethekile 45

33. (1) Ofake isicelo semvume kufanele—
- (a) kube umuntu oqokwe iBhodi leNdawo yoMnotho eKhethekile ukuba athuthukise, asebenze futhi aphaathe iNdawo yoMnotho eKhethekile ngokwemigomo yesigaba sama-31; 50
- (b) kube umuntu obhaliswe njengenkampani eRiphabhuliki;
- (c) abe nemali eyanele kanye namakhono okuthuthukisa, ukusebenza nokuphatha iNdawo yoMnotho eKhethekile; futhi
- (d) alandele inqubo nezimfanelo ezinganqunywa.

- (2) The Minister may make regulations regarding—
- (a) additional criteria for applications for operator permits;
 - (b) any condition that may be imposed on operator permits, including conditions relating to businesses that may be operated in Special Economic Zones;
 - (c) any measure to promote the effective monitoring of the conditions contained in operator permits; and
 - (d) any other matter necessary to facilitate the issuing of an operator permit.

Special Economic Zone operator permit

34. (1) Before issuing an operator permit in terms of section 32(4), the Minister must, on the recommendation of the Advisory Board, be satisfied that the written agreement between the Special Economic Zone Board and the operator adequately provides for the duties, terms and conditions for the development, operation and management of that Special Economic Zone by the operator, including—

- (a) the requirements and timetable for the planning, construction, supply of infrastructure and utilities within that Special Economic Zone;
- (b) the security measures that the operator must take and maintain in or around a customs controlled area defined in section 21A(1) of the Customs and Excise Act, 1964 (Act No. 91 of 1964);
- (c) the facilities that the operator must provide in order to enable the Advisory Board or a Special Economic Zone Board, as the case may be, to exercise its functions within that Special Economic Zone; and
- (d) the construction timetable and milestone schedule for that Special Economic Zone.

(2) The Minister must determine the duration of an operator permit.

(3) The Minister may prescribe any other requirement or condition in respect of an operator permit.

Functions of Special Economic Zone operator

35. The operator must, on behalf of the Special Economic Zone Board—

- (a) implement the strategic plan for that Special Economic Zone within the framework of the Special Economic Zones strategy;
- (b) make improvements to that Special Economic Zone and its facilities according to the written agreement contemplated in section 34(1);
- (c) provide or facilitate provision of infrastructure and other services required for that Special Economic Zone to achieve its strategic and operational goals;
- (d) provide adequate demarcation of the Special Economic Zone from any applicable customs territory for the protection of revenue together with suitable provision for the movement of conveyances, vessels and goods entering or leaving that Special Economic Zone;
- (e) provide adequate security for all facilities in the Special Economic Zone;
- (f) adopt rules and regulations for businesses within the Special Economic Zone in order to promote their safe and efficient operation;
- (g) maintain adequate and proper accounts and other records in relation to its business and report in the manner prescribed or required on the activities, performance and development of the Special Economic Zone to the Minister and as required under any other legislation;
- (h) promote the Special Economic Zone as a foreign and domestic direct investment destination, in consultation with the Advisory Board;
- (i) recommend to the Special Economic Zone Board whether or not to approve an application by a business to locate within the Special Economic Zone in terms of section 38;
- (j) apply to the Minister for finance and support measures contemplated in section 21 in the form and manner prescribed;
- (k) facilitate a single point of contact or one stop shop that delivers the required government services to businesses operating in the Special Economic Zone in order to provide simplified procedures for the development and operation of

- (2) UNgqongqoshe angamisa izimiso zomthetho ezimayelana—
- (a) nenye inqubo yezicelo zemvume yomsebenzi;
 - (b) nombandela ongathweswa kwimvume yomsebenzi, kubandakanya nemibandela ehambisana namabhizinisi angaqhutshwa eziNdaweni zoMnotho eziKhethekile;
 - (c) izinyathelo zokuthuthukisa ukuqashwa ngendlela eyimpumelelo imibandela equkethwe imvume yomsebenzi; kanye
 - (d) nezinye izindaba ezifanele ukusiza ukukhishwa kwezimvume zabasebenzi.

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Imvume yomsebenzi yeNdawo yoMnotho eKhethekile

34. (1) Ngaphambi kokukhishwa kwemvume yomsebenzi ngokwemigomo yesigaba sama-32(4), ngezincomo ezenziwe iBhodi Elilulekayo, uNgqongqoshe kufanele agculiseke ukuthi isivumelwano esibhaliwe esiphakathi kweBhodi leNdawo yoMnotho eKhethekile nomsebenzi sihlizenzekela ngokugcwele ngemisebenzi, imigomo nemibandela yokuthuthukisa, ukusebenza nokuphatha iNdawo yoMnotho eKhethekile, kubandakanya—

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- (a) izimfanelo nesikhathi sokuhlela, ukwakha, ukuthumela ingqalasizinda nezinsiza eNdaweni yoMnotho eKhethekile;
- (b) izinyathelo zokuvikela okufanele umsebenzi azithathe futhi azigcine endaweni noma eduze kwendawo elawulwe ngenkambiso echazwe esigabeni sama-21A(1) se-*Customs and Excise Act, 1964 (Act No. 91 of 1964)*;
- (c) izinsiza okufanele umsebenzi ahlinzekele ngazo ukusiza iBhodi Elilulekayo noma iBhodi leNdawo yoMnotho eKhethekile, noma elinye lawo, ukuze liqhube imisebenzi yalo kuleyo Ndawo yoMnotho eKhethekile; kanye
- (d) nohlelo lokwakha nokuphokophelwe kuleyo Ndawo yoMnotho eKhethekile.

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(2) UNgqongqoshe kufanele anqume isikhathi semvume yomsebenzi.

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(3) UNgqongqoshe anganquma ezinye izimfanelo noma imibandela ephathelene nemvume yomsebenzi.

Imisebenzi yomsebenzi weNdawo yoMnotho eKhethekile

35. Umsebenzi osebenzela iBhodi leNdawo yoMnotho eKhethekile kufanele—

- (a) aqale uhlelo lwamasu lwaleyo Ndawo yoMnotho eKhethekile ngaphansi kohlaka lwamasu eNdawo yoMnotho eKhethekile;
- (b) enze ngcono leyo Ndawo yoMnotho eKhethekile kanye nezinsiza zayo ngokulandela isivumelwane esibhaliwe esivezwe esigabeni sama-34(1);
- (c) ahlinzekele noma asize ngombandela wengqalasizinda nolunye usizo kuleyo Ndawo yomnotho eKhethekile ukuze ihlangabezane nezinhloso namasu ayo;
- (d) ahlinzekele ngokuklama okwanele iNdawo yoMnotho eKhethekile kwezinye izindawo ukuze kuvikelwe imali eyenziwayo nemibandela efanele yokuhamba kwezokuthutha, izinto zokuphatha nezimpahla ezingenayo noma eziphumayo eNdaweni yoMnotho eKhethekile;
- (e) ahlinzekele ngezokuphepha okwanele kuzona zonke izinsiza zeNdawo yoMnotho eKhethekile;
- (f) amukele imithetho nezimiso zomthetho zamabhizinisi aseNdaweni yoMnotho eKhethekile ukuze kuthuthukiswe inhlalakahle yawo nokusebenza ngendlela efanele kwawo;
- (g) agcine ama-akhawunti anele futhi afanele namanye amarekhodi ahambisana nebhizinisi nombiko ngendlela enqunyelwe noma edingekayo emisebenzini, kokuqhutshwayo noma ukuthuthukiswa kweNdawo yoMnotho eKhethekile kuNgqongqoshe futhi uma kufanele ngaphansi komthetho;
- (h) athuthukise iNdawo yoMnotho eKhethekile njengendawo yokutshala izimali kwabangaphandle nabasekhaya, ngokuxoxisana neBhodi Elilulekayo;
- (i) enze izincomo eBhodini leNdawo yoMnotho eKhethekile zokuthi ngabe kufanele kugunyazwe noma singagunyazwa isicelo sebhizinisi sokungena ngaphakathi kweNdawo yoMnotho eKhethekile ngokwemigomo yesigaba sama-38;
- (j) afake isicelo kuNgqongqoshe sezimali nosizo oluvezwe esigabeni sama-21 ngesimo nangendlela enqunyiwe;
- (k) enze lula indawo yokuhlanganyela noma indawo yokuhwebelana ethumela ngosizo oludingekayo lukahulumeni kumabhizinisi asebenza eNdaweni yoMnotho eKhethekile ukuze kuhlinzekelwe ngenqubo elula yokuthuthukisa

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that Special Economic Zone and for setting up and conducting business in that Special Economic Zone; and

- (l) undertake any other activity within the scope of this Act to promote the effective functioning of the Special Economic Zone.

Suspension or withdrawal of Special Economic Zone operator permit 5

- 36.** (1) The Minister may withdraw or suspend an operator permit if the operator—
- (a) fails to comply with the terms and conditions of the operator permit;
 - (b) contravenes any provision of this Act or any other law of the Republic;
 - (c) contravenes or fails to comply with the customs and excise rules and procedures that are applicable to that operator and the Commissioner of the South African Revenue Services notifies the Minister accordingly; or
 - (d) requests the Minister to withdraw the operator permit.
- (2) Before suspending or withdrawing an operator permit in terms of subsection (1)(a), (b) or (c), the Minister must—
- (a) inform the affected operator of the intention to withdraw or suspend the operator permit and the reasons for the intended withdrawal or suspension; and
 - (b) give the affected operator 30 days to submit written comments to the Minister.
- (3) The Minister must inform the Special Economic Zone Board in writing of the decision to suspend or withdraw an operator permit in terms of this section.
- (4) The Minister may make regulations regarding—
- (a) the procedure to suspend or withdraw an operator permit; and
 - (b) any other matter necessary in order to ensure the effective suspension or withdrawal of an operator permit.

Transfer of Special Economic Zone operator permit 25

- 37.** (1) An operator may, subject to section 31(1), transfer an operator permit to another person, if such other person—
- (a) applies to the Minister for a transfer in terms of the provisions of this section; and
 - (b) satisfies the requirements for an operator permit in terms of this Chapter.
- (2) The transferee must in its application clearly stipulate any changes to the original development, business and operating plan of the Special Economic Zone in question.
- (3) The Minister may, after considering the recommendations of the Advisory Board, transfer an operator permit from one operator to another.
- (4) Upon the transfer of an operator permit, the new operator must comply with all the obligations placed on an operator in terms of this Act, and the new operator has all the rights and obligations conferred or imposed on the operator in terms of this Act and the operator permit in question.
- (5) The Minister may make regulations regarding—
- (a) the procedure to transfer an operator permit; and
 - (b) any other matter necessary in order to ensure the effective transfer of an operator permit.

Application to locate in Special Economic Zone

- 38.** (1) Any person who intends to conduct a business in a Special Economic Zone must apply to the Special Economic Zone Board, in the manner and form prescribed, to locate the business in the Special Economic Zone.
- (2) In the application the applicant must—
- (a) provide information to show that the applicant conducts a business or renders a service prescribed by the Minister in terms of section 24(4);

nokusebenza kwaleyo Ndawo yoMnotho eKhethekile nokusungula kanye nokuqhuba ibhizinisi kuleyo Ndawo yoMnotho eKhethekile; futhi

- (l) aqhube omunye umsebenzi ohambisana nalo Mthetho ukukhuthaza ukusebenza ngendlela efanele kweNdawo yoMnotho eKhethekile.

Ukumiswa noma ukuhoxiswa kwemvume yomsebenzi weNdawo yoMnotho eKhethekile 5

36. (1) UNgqongqoshe angamisa noma ahoxise imvume yomsebenzi uma umsebenzi—

- (a) ehluleka ukulandela imigomo nemibandela yemvume yokusebenza;
(b) aphula omunye umbandela walo Mthetho noma omunye umthetho waseRiphabhuliki;
(c) aphula noma ehluleka ukulandela inqubo nokusebenzisa imithetho nenqubo esebenzayo kulowo msebenzi futhi noKhomishana wesiKingo esiQoqa iNtela eNingizimu Afrika azisa uNgqongqoshe ngendlela efanele; noma
(d) ecela uNgqongqoshe ukuba ahoxise imvume yomsebenzi. 15

(2) Ngaphambi kokuba kuhoxiswe noma kumiswe imvume yomsebenzi ngokwemigomo yesigatshina soku-(1)(a), (b) noma (c), uNgqongqoshe kufanele—

- (a) azise umsebenzi othintekayo ngenjongo yokuhoxisa noma yokumisa imvume yomsebenzi nezizathu zalokho kuhoxisa noma zokumiswa; futhi
(b) anikeze umuntu othintekayo izinsuku ezingama-30 zokwenza izethulo kuNgqongqoshe. 20

(3) UNgqongqoshe kufanele azise iBhodi leNdawo yoMnotho eKhethekile ngencwadi mayelana nesinqumo sokumisa noma sokuhoxisa imvume yomsebenzi ngokwemigomo yalesi sigaba.

(4) UNgqongqoshe kufanele amise izimiso zomthetho eziphathele— 25

- (a) nenqubo yokumisa noma yokuhoxisa imvume yomsebenzi; kanye
(b) nolunye udaba olufanele ukuze kuqikelelwe ukumiswa noma ukuhoxiswa kwemvume yokusebenza.

Ukudluliswa kwemvume yomsebenzi eNdaweni yoMnotho eKhethekile

37. (1) Ngokulandela isigaba sama-31(1) umsebenzi angadlulisa imvume yokusebenza komunye umuntu, uma lowo muntu— 30

- (a) efaka isicelo kuNgqongqoshe sokuyidlulisa ngokwemigomo nemibandela yalesi sigaba; futhi
(b) ehambisana nezimfanelo zemvume yomsebenzi ngokwemigomo yalesi saHluko. 35

(2) Odulisele imvume uma isisebenza aveze ngokucacile izinguquko kulezo zokuqala, ibhizinisi kanye nasohlelweni lokusebenza kwaleyo Ndawo yoMnotho eKhethekile.

(3) Ngemuva kokubheka izincomo zeBhodi Elilulekayo, uNgqongqoshe angadlulisa imvume yomsebenzi ayidlulisele komunye umsebenzi. 40

(4) Uma sekudluliswe imvume yomsebenzi, lowo osezosebenzisa imvume kufanele alandele zonke izibophezelo ezithweswe kumsebenzi ngokwemigomo yalo Mthetho, futhi umsebenzi omusha unamalungelo nezibophezelo ezithweswe noma adluliselwe zona ngokwemigomo yalo Mthetho kanye nawemvume yalowo msebenzi.

(5) UNgqongqoshe angamisa izimiso zomthetho eziphathele— 45

- (a) nenqubo yokudlulisa imvume yomsebenzi; kanye
(b) nolunye udaba olufanele ukuqikelela ukudluliswa ngendlela efanele imvume yomsebenzi.

Isicelo sokuhlala eNdaweni yoMnotho eKhethekile

38. (1) Noma ubani ohlose ukuqhuba ibhizinisi eNdaweni yoMnotho eKhethekile kufanele afake isicelo eBhodini leNdawo yoMnotho eKhethekile, ngendlela nangesimo esinqunyiwe, sokubeka ibhizinisi eNdaweni yoMnotho eKhethekile. 50

(2) Esicelweni ofake isicelo kufanele—

- (a) ahlinzekele ngemininingwane ebonisa ukuthi ofake isicelo uqhuba ibhizinisi noma unikezela ngosizo olunqunywe uNgqongqoshe ngokwemigomo yesigaba sama-24(4); 55

- (b) indicate the extent to which the applicant's business achieves the purpose of Special Economic Zones set out in section 4; and
 - (c) comply with any other criteria that the Minister may prescribe.
- (3) The Special Economic Zone Board may, after considering the recommendations of the operator, approve the application of a business to locate within that Special Economic Zone, with or without conditions. 5

CHAPTER 7

GENERAL PROVISIONS

Transitional provisions and savings

39. (1) In this section, "IDZ Regulations" means the Industrial Development Zone Programme Regulations published under Government Notice R1224 in Government Gazette 21803 of 1 December 2000, as amended. 10

(2) Any designation of an industrial development zone under the IDZ Regulations which is in force immediately before this Act comes into operation, remains in force and must be regarded as a designation of a Special Economic Zone under this Act. 15

(3) Any industrial development zone operator permit issued under the IDZ Regulations which is in force immediately before this Act comes into operation, remains in force and must be regarded as a Special Economic Zone operator permit issued under this Act.

(4) Any industrial development zone enterprise approved to be located in an industrial development zone under the IDZ Regulations before this Act comes into operation, must be regarded as a business approved to be located in a Special Economic Zone in terms of this Act: Provided that such a business must comply with the criteria in section 24(4) and section 38(3). 20

(5) Notwithstanding subsections (2), (3) and (4), any industrial development zone operator must ensure that the industrial development zone complies with the framework regulating Special Economic Zones in terms of this Act, within three years of commencement of this Act. 25

(6) Any application for the designation of an industrial development zone or for the issuing of an operator permit made under the IDZ Regulations which is not finalised immediately before this Act comes into operation, must be dealt with as an application for designation as a Special Economic Zone or an application for an operator permit, as the case may be, in terms of this Act. 30

Guidelines

40. (1) The Minister may, after consultation with the Advisory Board, issue guidelines regarding any matter in respect of which the Minister deems it necessary or expedient in order to achieve the objects or purpose of this Act. 35

(2) The guidelines—

- (a) may not be inconsistent with the provisions of this Act;
- (b) must be published in the *Gazette*; and 40
- (c) are not binding on the Minister.

Regulations

41. (1) The Minister may, after consultation with the Advisory Board, make regulations regarding—

- (a) any matter which in terms of this Act is required or permitted to be prescribed; 45
- (b) any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act.

(2) Before making any regulation contemplated in subsection (1), the Minister must— 50

- (a) publish the draft regulations in the *Gazette*;
- (b) grant the public a period of at least 30 days to submit written comments to the Minister on the draft regulations; and
- (c) consider the written comments contemplated in paragraph (b).

- (b) aveze indlela ibhizinisi lofake isicelo elizuza ngayo izinjongo zeNdawo yoMnotho eKhethekile ezibalulwe esigabeni sesi-4; futhi
- (c) alandele inqubo enganqunywa uNgqongqoshe.
- (3) Ngemuva kokubheka izincomo zomsebenzi, iBhodi leNdawo yoMnotho eKhethekile lingagunyaza isicelo sebhizinisi sokulibeka eNdaweni yoMnotho eKhethekile, ngokulandela imibandela noma ngaphandle kwemibandela. 5

ISIAHLUKO 7

IMIBANDELA EJWAYELEKILE

Imibandela yesikhashana nemvume

- 39.** (1) Kulesi sigaba, “izimiso zomthetho ze-IDZ” zichaza i-*Industrial Development Zone Programme Regulations* ezishicilelwe ngaphansi kweSaziso sikaHulumeni R1224 kuSomqulu kaHulumeni 21803 mhlaka 1 Disemba 2000, njengoba zichitshiyelwe. 10
- (2) Ukuqokwa kwendawo yezimboni zokuthuthukiswa ngaphansi kwezimiso zoMthetho ze-IDZ ezisebenzayo ngaphambi kokuba lo Mthetho uqale ukusebenza, zizoqhubeka nokusebenza futhi kufanele zithathwe ngokuthi ziqokwe njengeziNdawo zoMnotho eziKhethekile ngaphansi kwalo Mthetho. 15
- (3) Imvume yomsebenzi ye-IDZ ekhishwe ngaphansi kwezimiso zoMthetho ze-IDZ esebenzayo ngaphambi kokuqala ukusebenza kwalo Mthetho, zizoqhubeka nokusebenza futhi kufanele ithathwe njengemvume yomsebenzi weNdawo yoMnotho eKhethekile ekhishwe ngaphansi kwalo Mthetho. 20
- (4) Indawo yokuthuthukisa izimboni egunyaziwe ukuba endaweni yokuthuthukisa izimboni ngaphansi kwezimiso zomthetho ze-IDZ ngaphambi kokuba lo Mthetho uqale ukusebenza, kufanele zithathwe ngokuthi ziyibhizinisi eligunyaziwe ukuba seNdaweni yoMnotho eKhethekile ngokwemigomo yalo Mthetho: Inqobo nje uma lelo bhizinisi lizolandela inqubo yesigaba sama-24(4) nesigaba sama-38(3). 25
- (5) Nakuba kunesigatshana sesi-(2), (3) nesesi-(4), umsebenzi wezindawo zentuthuko yezimboni kufanele aqikelele ukuthi indawo yentuthuko yezimboni ilandela uhlaka olulawula iziNdawo zoMnotho eziKhethekile ngokwemigomo yalo Mthetho, ingakapheli iminyaka emithathu lo Mthetho uqalile ukusebenza.
- (6) Isicelo sokuqoka indawo yokuthuthukisa izimboni noma ukukhishwa kwemvume yomsebenzi okwenziwe ngaphansi kwezimiso zoMthetho ze-IDZ okungakaphothulwa ngaphambi kokuba lo Mthetho uqale ukusebenza, kufanele kudingidwe njengesicelo sokuqoka iNdawo yoMnotho eKhethekile noma isicelo semvume yomsebenzi, noma okunye kwakho, ngokwemigomo yalo Mthetho. 30

Imihlahlandlela

- 40.** (1) Ngemuva kokuxoxisana neBhodi Elilulekayo, uNgqongqoshe angakhipha imihlahlandlela emayelana nodaba uNgqongqoshe abona ukuthi lunesidingo noma lufanele ukuze kuzuzwe izinjongo noma inhloso yalo Mthetho. 35
- (2) Imihlahlandlela—
- (a) akufanele ishayisane nemibandela yalo Mthetho; 40
 - (b) kufanele ishicilelwe kuSomqulu; futhi
 - (c) ayibophezeli uNgqongqoshe.

Izimiso zomthetho

- 41.** (1) Ngemuva kokuxoxisana neBhodi Elilulekayo, uNgqongqoshe angamisa izimiso zomthetho ezimayelana— 45
- (a) nodaba ngokwemigomo yalo Mthetho olufanele noma okufanele lunqunywe;
 - (b) udaba oluhambisana noma olungaphansi kwezindaba zokuphatha noma zenqubo okufanele lunqunywe ukuze kusingathwe ngendlela efanele lo Mthetho.
- (2) Ngaphambi kokumisa izimiso zomthetho ezivezwe esigatshaneni soku-(1), uNgqongqoshe kufanele— 50
- (a) ashicilele izimiso zomthetho ezihlongozwayo kuSomqulu;
 - (b) anikeze umphakathi isikhathi esiyizinsuku ezingama-30 sokuthumela izethulo ezibhaliwe kuNgqongqoshe ezimayelana nezimiso zomthetho ezihlongozwayo; futhi 55
 - (c) abheke izethulo ezibhaliwe ezivezwe endimeni (b).

Short title and commencement

42. This Act is called the Special Economic Zones Act, 2014, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

Isihloko esifingqiwe nokuqala kwawo ukusebenza

42. Lo Mthetho ubizwa ngokuthi uMthetho weziNdawo zoMnotho eziKhethekile, wezi-2014, futhi uzoqala ukusebenza ngosuku oluzonqunywa uMongameli ngesime-mezelo kuSomqulu.

