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THE PRESIDENCY

No. 333 4 June 2021

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

Act No. 2 of 2021: Customary Initiation Act, 2021

OFISI KAMONGAMELI

No. 333 4 June 2021

Esi sisaziso sokuba uMongameli uwamkele lo mthetho ulandelayo nonikezelwa kuluntu jikelelele kolu xwebhu:—

Ino. 2 ka 2021: Umthetho Wolwaluko, 2021

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*(English text signed by the President)
(Assented to 1 June 2021)*

ACT

To provide for the effective regulation of customary initiation practices; to provide for the establishment of a National Initiation Oversight Committee and Provincial Initiation Coordinating Committees and their functions; to provide for the responsibilities, roles and functions of the various role-players involved in initiation practices as such or in the governance aspects thereof; to provide for the effective regulation of initiation schools; to provide for regulatory powers of the Minister and Premiers; to provide for the monitoring of the implementation of this Act; to provide for provincial peculiarities; and to provide for matters connected therewith.

PREAMBLE

WHEREAS the Constitution recognises—

- the right to life;
- the right to bodily and psychological integrity;
- the rights of persons to enjoy their culture;
- the rights of persons to form, join and maintain cultural associations; and
- the rights of children to be protected from maltreatment, neglect, abuse or degradation;

AND WHEREAS customary initiation is practiced by many communities in South Africa as a sacred and respected practice, and in some instances is regarded as a rite of passage to adulthood;

AND WHEREAS initiation is an embodiment of ideals, values and aspirations of both the individual and the community, reflected in the transfer of teachings about culture, tradition and respect (especially for women and the elderly);

AND WHEREAS—

- the customary practice of initiation has been subject to abuse which in many instances has resulted in serious injuries to, and even the death of, initiates;
- initiation schools have not been effectively regulated;
- existing relevant laws only deal with certain aspects of initiation and not with initiation in general; and
- some initiation schools operate for personal financial gain only with little or no concern for the well-being of initiates;

AND WHEREAS—

- government has a duty to protect the lives of initiates;
- government has a duty to set norms and standards within which the customary practice of initiation must take place;
- all role-players involved in initiation must be accountable for their respective responsibilities, duties, roles and functions;

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(English text signed by the President)
(Assented to 1 June 2021)
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UMTHETHO

Injongo kukululawula ngokukuko ulwaluko; kukuba kusekwe iKomiti Eyongamele Ulwaluko Elizweni neeKomiti Zokunxibelelanisa Zolwaluko Zamaphondo nokuxela imisebenzi yazo; kukuxela imisebenzi yabathabathi-nxaxheba ababandakanyekileyo kulwaluko okanye ekusingathweni kwalo; kukwenzela ukuba alawulwe ngempumelelo amabhuma; kukunika uMphathiswa neeNkulumbuso amagunya okululawula; kukukubek' esweni ukusetyenziswa kwalo Mthetho; kukulungiselela ukungafani kweendlela zokwenza kumaphondo ngamaphondo; nokulungiselela imibandela ehlobene nale.

INTSHAYELELO

NJENGOKO uMgaqo-siseko uvuma ukuba—

- umntu unelungelo lokuphila;
- umntu unelungelo lokungenziwa nto embi emzimbeni nasengqondweni;
- abantu banelungelo lokuphila ngokwezithethe zabo;
- abantu banelungelo lokuba basungule imibutho yezithethe zabo, bazimanye nayo kwaye bayilondoloze;
- nabantwana banelungelo lokukhuselwa kwimpatho-mbi, kwintswela-nkathalo, ekuxhatshazweni okanye ekuthotyweni isidima;

NJENGOKO kusalukwa ngabantu bemimandla emininzi eMzantsi-Afrika kwaye kususithethe esixatyisiweyo, kunjalonje kweminye imimandla kuthathwa njengendlela yokudlulela ebudodeni;

NJENGOKO ulwaluko luziingcamango neminqweno yomntu lowo owalukayo neyoluntu, efundiswa ngezithethe nokuhlonipha (ingakumbi ukuhlonipha abantu abangoomama nabantu abakhulileyo);

NJENGOKO—

- isiko lolwaluko liye lasetyenziswa gwenxa laza kumaxesha amaninzi labangela ukwenzakala okukhulu nkqu nokufa kwabo baluswayo;
- amabhuma ebengalawulwa ngokukuko;
- imithetho ekhoyo ilawula kuphela izinto ezithile kulwaluko, ingalulawuli lonke ulwaluko; abe
- namabhuma athile ekholo nje ukuzizuzisa imali, incinane inkathalo anayo ngabakhwetha okanye engenankathalo ngabo konke-konke;

NJENGOKO

- urhulumente enoxanduva lokukhusela ubomi babakhwetha;
- urhulumente enoxanduva lokumisela imigqaliselo emayithotyelwe xa kusaluswa;
- bonke abanxaxheba kulwaluko befanele baphendule ngendima yabo nangemisebenzi yabo;

- the customary practice of initiation must, where necessary, be transformed to reflect the Constitutional principles, especially the principles contained in the Bill of Rights; and
- all role-players have an obligation to restore the integrity and legitimacy of the customary practice of initiation;

AND WHEREAS the Constitution provides that national or provincial legislation may provide for cultural matters,

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

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- ukuqhutywa kolwaluko kufanele, apho kuyimfuneko khona, kutshintshwe ukuze kuhambisane nemigaqo ekuMgaqo-siseko, ngakumbi imigaqo ekuMqulu Wamalungelo; kwaye
- nabathabathi-nxaxheba benyanzelekile ukuba babuyise isidima solwaluko;

NANJENGOKO uMgaqo-siseko usithi kunokuqulunqwa imithetho yepalamente yelizwe okanye imithetho yeepalamente zamaphondo,

NGOKO KE KUQULUNQWA UMTHETHO yiPalamente yeRiphabliki yoMzantsi-Afrika ngale ndlela ilandelayo:—

ULANDELELWANO LWEZIQENDU

Iziqendu

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UKUCHAZWA KWAMAGAMA, UKUSETYENZISWA KWALO MTHETHO, IINJONGO ZAWO NEMIGAQO

1. Ukuchazwa kwamagama
2. Ukusetyenziswa kwawo, iinjongo zawo, ukuchazwa kwentsingiselo nezithintelo 10
3. Imigaqo esisikhokelo

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4. Ukusekwa kwayo, indlela eyakhiwe ngayo nexesha layo
5. Usihlalo nosekela-sihlalo
6. Izinto ezimenza angafaneleki umntu
7. Izithuba
8. Iintlanganiso 20
9. Imisebenzi
10. Ukuncediswa kwayo ngomsebenzi nangemali

ICandelo 2

IiKomiti Zokunxibelelanisa Zolwaluko Zamaphondo

11. Ukusekwa kwazo, indlela ezakhiwe ngayo nexesha lazo 25
12. Usihlalo nosekela-sihlalo
13. Izithuba
14. Iintlanganiso
15. Imisebenzi
16. Amaqela okuncedisa 30
17. Ukuncediswa ngomsebenzi nangemali

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20. Iinkokeli zomthonyama
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CHAPTER 1

25

INTERPRETATION, APPLICATION, OBJECTIVES AND PRINCIPLES

Definitions

1. In this Act, unless the context indicates otherwise—
 - “**abduction**” means the unlawful removal of a child from the control of his or her parents or customary or legal guardian, as the case may be, or unlawful retention of such child, for the purposes of attending an initiation school, whether registered or not; 30
 - “**abuse**” includes but is not limited to physical or mental abuse, sexual abuse, any form of gender-based violence and any harmful practice that an initiate may be subjected to; 35
 - “**area of jurisdiction**” means the area of jurisdiction of a traditional council, kingship or queenship council, or principal traditional council as contemplated in sections 3, 3A and 3B of the Framework Act prior to the repeal of that Act by the TKLA or section 16(5)(a) of the TKLA once it commences;
 - “**care-giver**” means any person other than a parent or the customary or legal guardian of an initiate who takes care of such initiate during initiation in accordance with the provisions of this Act; 40
 - “**child**” means a person under the age of 18 years as defined in section 1 of the Children’s Act and any reference to ‘children’ has a corresponding meaning;
 - “**Child Justice Act**” means the Child Justice Act, 2008 (Act No. 75 of 2008); 45
 - “**Children’s Act**” means the Children’s Act, 2005 (Act No. 38 of 2005);
 - “**circumcision**”, in relation to a female child, means the removal of the clitoris by any means and, in relation to a male child, means the surgical removal of the foreskin, whether partially or wholly, as part of a customary initiation process;
 - “**Criminal Procedure Act**” means the Criminal Procedure Act, 1977 (Act No. 51 of 1977); 50
 - “**CRL Rights Commission**” means the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities as contemplated in section 181(1)(c) of the Constitution and the Promotion and

23. Ingcibi
24. Oogqirha
25. Amapolisa oMzantsi-Afrika neGunya Elitshutshisayo

ISAHLUKO 4

AMABHUMA

5

26. Ukubhaliswa kwawo
27. Amaxesha okwaluka
28. Imvume, izithintelo, iminyaka yobudala nokwaluswa
29. Ingqeqesho neemfundiso
30. Amanzi, ucoceko, ukutya, ukunonophelwa kwempilo, utywala nezizobisi 10
31. Ukubhubha komkhwetha

ISAHLUKO 5

OKUTSHIWO NGULO MTHETHO GABALALA

32. Iimalana nenkcitho
33. Izenzo ezikukona 15
34. Izibheni
35. Imimiselo
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37. Ukungafani kweendlela zokwenza kumaphondo ngamaphondo
38. Imithetho yeepalamente zamaphondo ethetha ngeeKomiti Zokunxibelelanisa Zolwaluko Zamaphondo 20
39. Iziphathi-mandla zasekuhlaleni zolwaluko noomasipala
40. Ukwenziwa kwalo Mthetho usebenze
41. Amalungiselelo ethutyana
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ISAHLUKO 1

UKUCHAZWA KWAMAGAMA, UKUSETYENZISWA KWALO MTHETHO, IINJONGO ZAWO NEMIGAQO

Ukuchazwa kwamagama

1. Kulo Mthetho, ngaphandle kokuba okanye okubhaliweyo kuwo kubonisa ngenye indlela— 30

“**ukuxhwilwa**” kukuthathwa komntwana ngokungekho mthethweni esuswa phantsi kwegunya labazali bakhe okanye lomntu omkhulisileyo, okanye ukumgcina ngokungekho mthethweni, ngenjongo yokumsa ebhumeni, noba libhalisiwe okanye alibhaliswanga; 35

“**impatho-mbi**” iquka, kodwa kungaphelelanga apho, iquka impatho-mbi ngokwasemzimbeni nangokwasengqondweni, impatho-mbi ngokwesondo, naluphi na uhlobo lokugonyamelwa ngumntu wesinye isini kunye nawuphi na umkhwa onobungozi onokwenziwa kumkhwetha; 40

“**ummandla apethe kuwo**” ngummandla ekuphetha kuwo amaphakathi, ikumkani okanye ikumkanikazi, okanye inkosi njengoko kuxelwe kwisiqendu 3, 3A nese-3B se*Framework Act* ngaphambi kokutshutshiswa kwaloo Mthetho yiTKLA okanye sisiqendu 1 seTKLA sakuba siqalile ukusebenza; 45

“**umnonopheli**” ngumntu ongenguye umzali nongenguye umntu okhulise umkhwetha ononophela umkhwetha ngexesha lokuba sesuthwini ngokokutsho kwalo Mthetho; 45

“**umntwana**” ngumntu ominyaka ingaphantsi kwe-18 ngendlela ekuchazwe ngayo kwisiqendu 1 se*Children's Act*, lize elithi ‘abantwana’ libe nentsingiselo ekwanye; 50

“**iChild Justice Act**” yi*Child Justice Act* 75 ka-2008;

“**iChildren's Act**” yi*Children's Act* 38 ka-2005;

- Protection of the Rights of Cultural, Religious and Linguistic Communities Act, 2002 (Act No. 19 of 2002);
- “curriculum”** means a set of learning content for initiation and includes any customary or cultural practice that forms part of the initiation process;
- “customary guardian”** means any person other than a parent or legal guardian who, in terms of the customs of a particular community, accepts parental responsibility for a child, including the responsibilities referred to in section 18 of the Children’s Act; 5
- “Department”** means the national department responsible for traditional affairs;
- “Director-General”** means the Director-General of the Department; 10
- “district municipality”** means a district municipality as defined in section 1 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
- “Drugs and Drug Trafficking Act”** means the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992);
- “emergency services”** means any services needed as a response to an urgent, impending or recurrent situation for which knowledgeable and expert intervention is required to ensure the welfare of initiates and any other person present at an initiation school, including but not limited to emergency medical services, ambulance services, fire-fighting services and disaster management services; 15
- “Framework Act”** means the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003); 20
- “General Regulations Regarding Children”** means the General Regulations Regarding Children, 2010, published under Government Notice R.261 in Government *Gazette* No. 33076 of 1 April 2010;
- “genital mutilation”**, in relation to a female child, means the partial or complete removal of any part of the genitals, and includes circumcision of female children; 25
- “Health Professions Act”** means the Health Professions Act, 1974 (Act No. 56 of 1974);
- “initiate”** means any person who attends an initiation school for the purposes of undergoing customary or cultural practices, rituals or ceremonies in accordance with the customs and traditions of the community concerned; 30
- “initiation”** means any customary or cultural practices, rituals or ceremonies taking place at an initiation school in accordance with the customs and traditions of the community concerned, and may include teachings relating to ideals, values, aspirations and respect; 35
- “initiation school”** means any place where initiation takes place and which is registered as an initiation school as contemplated in section 26 of this Act, irrespective of whether such place is located within or outside the area of jurisdiction of a kingship or queenship council, principal traditional council or traditional council; 40
- “kidnapping”** means the unlawful and intentional deprivation of the freedom of movement of any person for the purposes of attending an initiation school, whether registered or not;
- “kingship or queenship council”** means a kingship or queenship council as defined in section 1 of the Framework Act prior to the repeal of that Act by the TKLA or section 1 of the TKLA once it commences; 45
- “Liquor Act”** means the Liquor Act, 2003 (Act No. 59 of 2003);
- “local house”** means a local house of traditional leaders established in accordance with the provisions of section 17 of the Framework Act prior to the repeal of that Act by the TKLA, section 50 of the TKLA or any applicable provincial legislation; 50
- “local municipality”** means a local municipality as defined in section 1 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
- “MEC”** means a member of the Executive Council of a province;
- “medical practitioner”** means a general practitioner or family physician in medicine who, in accordance with the provisions of the Regulations Relating to the Registration of Persons as General Practitioners and Family Physicians in Medicine, as published under Government Notice No. R1200 of 28 November 2000, is registered with the Medical and Dental Professional Board established by Government Notice No. R.75 of 16 January 1998; 55
- “metropolitan municipality”** means a metropolitan municipality as defined in section 1 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); 60
- “Minister”** means the national Minister responsible for traditional affairs;

- “**ukwaluswa**”, xa kungumntwana oyintombazana, kukususwa kokhozo lwelungu langasese nokuba lususwa ngantoni; xa kungumntwana oyinkwenkwe, kukususwa kwejwabu, noba lisuswa lonke okanye inxenywe, kusenziwa isiko lolwaluko;
- “**iCriminal Procedure Act**” yi*Criminal Procedure Act* 51 ka-1977;
- “**iKomishoni Yamalungelo**” yiKomishoni Yokukhuthazwa Nokukhuselwa Kwamalungelo Abantu Abaphila Ngokwezithethe Nangokwenkolo Nangokweelwimi Zabo ekuthethwe ngayo kwisiqendu 181(1)(c) soMgaqo-siseko nakwi*Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities Act* 19 ka-2002; 5
- “**izifundo**” zizinto ezifundwa kulwaluko kwaye ziquka nasiphi na isenzo esisisithethe esiyinxalenye yolwaluko; 10
- “**umntu okhulise umntwana**” nguye nawuphi na umntu ongenguye umzali nongenguye umntu oliliso kuye ngokomthetho wesilungu othi, ngokwezithethe zoluntu lommandla othile, athwale imbopheleleko yobuzali ngomntwana, kuquka neembopheleleko ezixelwe kwisiqendu 18 se*Children’s Act*; 15
- “**iSebe**” lisebe lelizwe eliphathiswe imicimbi yakwantu;
- “**uMlawuli-Jikelele**” nguMlawuli-Jikelele weSebe;
- “**umasipala wesithili**” ngumasipala ngendlela achazwe ngayo kwisiqendu 1 se*Local Government: Municipal Structures Act* 117 ka-1998;
- “**iDrugs and Drug Trafficking Act**” yi*Drugs and Trafficking Act* 140 ka-1992; 20
- “**iinkonzo zemeko yequbuliso**” zizo naziphi na iinkonzo ezifuneka ukusabela kwimeko engxamisekileyo, esondeleyo okanye ebeth’ ibuyelela efuna ungenelelo lomntu onolwazi nobungcali ukuqinisekisa impilo-ntle yabakhwetha kwakunye nawuphi na omnye umntu okhoyo esuthwini equka, kodwa kungaphelelanga apho, iinkonzo zonyango zequbuliso, iinkonzo zee-ambulensi, iinkonzo zokucima umlilo, neenkonzozokulawula intlekele; 25
- “**iFramework Act**” yi*Traditional Leadership and Governance Framework Act* 41 ka-2003;
- “**iGeneral Regulations Regarding Children**” yiGeneral Regulations Regarding Children ka-2010 eyapapashwa kwiSihlokomiso SikaRhulumente esingu-R.261 kuShicilelo-Mithetho LukaRhulumente olungunombolo 33076 lomhla woku-1 kuApril 2010; 30
- “**ukuhluntsulwa ilungu esini**”, xa kungumntwana oyintombazana, kukususwa kwenxalenye yelungu lesini okanye lonke, yaye kuquka ukwaluswa kwabantwana abangamantombazana; 35
- “**iHealth Professions Act**” yi*Health Professions Act* 56 ka-1974;
- “**umkhwetha**” ngumntu oya esuthwini ngenjongo yokwenziwa izinto zesintu okanye zesithethe, okanye isiko ngokwendlela yakwantu;
- “**ulwaluko**” zizinto zesintu okanye zesithethe okanye zesiko ezenziwa esuthwini ngokwamasiko nezithethe zoluntu, kwaye zisengaquka iimfundiso ngeendlela zokuphila nentlonipho; 40
- “**ibhuma**” yindawo oluqhutyelwa kuyo ulwaluko ebhalisiweyo njengebhuma njengoko kuxelwe kwisiqendu 26 salo Mthetho, kungakhathaliseki ukuba ummandla elikuwo uphantsi kwekumkani okanye ikumkanikazi okanye phantsi kwenkosi;
- “**ukuthimba**” kukwenza umntu angabi nayo inkululeko yokuya apho afuna ukuya khona ngenjongo yokuba abe sesuthwini, noba libhalisiwe ibhuma okanye alibhaliswanga; 45
- “**amaphakathi ekumkani okanye ekumkanikazi**” ngamaphakathi ekumkani okanye ekumkanikazi ngendlela achazwe ngayo kwisiqendu 1 se*Framework Act* ngaphambi kokutshitshiswa kwaloo Mthetho yiTKLA okanye sisiqendu 1 seTKLA sakuba siqalile ukusebenza; 50
- “**iLiquor Act**” yi*Liquor Act* 59 ka-2003;
- “**indlu yasekuhlaleni**” yindlu yasekuhlaleni yeenkokeli zomthonyama esekwe ngokwesiqendu 17 se*Framework Act* ngaphambi kokutshitshiswa kwaloo Mthetho yiTKLA, sisiqendu 50 seTKLA okanye omnye umthetho wepalamente yephondo; 55
- “**umasipala wasekuhlaleni**” ngumasipala wasekuhlaleni ngendlela achazwe ngayo kwisiqendu 1 se*Local Government: Municipal Structures Act* 117 ka-1998;
- “**iMEC**” nguMphathiswa wephondo;
- “**ugqirha**” ngugqirha wezigulo zonke okanye ugqirha wosapho lonke obhaliswe kwiMedical and Dental Professional Board eyathi yabakho ngokweSihlokomiso SikaRhulumente esinguNombolo R.75 somhla we-16 kuJanuwari 1998, ngokokutsho kweeRegulations Relating to the Registration of Persons as General 60

- “**National Health Act**” means the National Health Act, 2003 (Act No. 61 of 2003);
- “**National House**” means the National House of Traditional Leaders established in terms of section 2 of the National House of Traditional Leaders Act, 2009 (Act No. 22 of 2009) prior to the repeal of that Act by the TKLA or in terms of section 27 of the TKLA; 5
- “**NIOC**” means the National Initiation Oversight Committee established in accordance with the provisions of section 4 of this Act;
- “**NPA**” means the National Prosecuting Authority established in terms of the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998); 10
- “**organised local government in the province**” means a provincial organisation recognised in terms of section 2(1)(b) of the Organised Local Government Act, 1997 (Act No. 52 of 1997);
- “**PICC**” means a Provincial Initiation Coordinating Committee established in accordance with the provisions of section 11 of this Act; 15
- “**principal**” means the person who has permission to hold an initiation school and who is to be held accountable for the operations and management of such a school;
- “**prescribe**” means prescribe by regulation made in terms of section 35 of this Act;
- “**principal traditional council**” means a principal traditional council as defined in section 1 of the Framework Act prior to the repeal of that Act by the TKLA or section 1 of the TKLA once it commences; 20
- “**provincial house**” means a provincial house of traditional leaders established in accordance with the provisions of section 16 of the Framework Act prior to the repeal of that Act by the TKLA, section 49 of the TKLA or any applicable provincial legislation; 25
- “**sacred and secret**” means traditional and religious customs and rituals which are performed and taught before, during and after initiation, and which for traditional or religious reasons are not to be made public;
- “**SAPS**” means the South African Police Service established in terms of the South African Police Service Act, 1995 (Act No. 68 of 1995); 30
- “**standards for initiation school premises**” means the standards for initiation school premises published under General Notice No. 1229 of 2015 in *Government Gazette* No. 39561 of 24 December 2015 as part of the National Health Norms and Standards for Premises, as may be amended from time to time;
- “**this Act**” includes any regulations made in terms of any relevant provision of this Act; 35
- “**TKLA**” means the Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019);
- “**traditional community**” means a community recognised as such in terms of section 2 of the Framework Act prior to the repeal of that Act by the TKLA, section 3 of the TKLA or any applicable provincial legislation; 40
- “**traditional council**” means a traditional council as defined in section 1 of the Framework Act prior to the repeal of that Act by the TKLA or section 1 of the TKLA once it commences;
- “**traditional health practitioner**” means a traditional health practitioner as defined in section 1 of the Traditional Health Practitioners Act; 45
- “**Traditional Health Practitioners Act**” means the Traditional Health Practitioners Act, 2007 (Act No. 22 of 2007);
- “**traditional leader**” means a person who, in terms of customary law of the traditional community concerned, holds a traditional leadership position and has been recognised in terms of the Framework Act prior to the repeal of that Act by the TKLA, the TKLA or any applicable provincial legislation; 50
- “**traditional leadership**” means the customary institutions or structures, or customary systems or procedures of governance, which are recognised, used or practiced by traditional communities; and 55
- “**traditional surgeon**” means a person who, subject to section 41, is registered as a traditional surgeon in terms of the Traditional Health Practitioners Act.

Practitioners and Family Physicians in Medicine, ezapapashwa kwiSihlokomiso SikaRhulumente esinguNombolo R1200 somhla wama-28 kuNovemba 2000;

“umasipala ombaxa” ngumasipala ombaxa ngendlela achazwe ngayo kwisiqendu 1 se*Local Government: Municipal Structures Act* 117 ka-1998;

“uMphathiswa” nguMphathiswa ophathiswe imicimbi yakwantu; 5

“iNational Health Act” yi*National Health Act* 61 ka-2003;

“iNdlu Yezwelonke” yiNdlu Yezwelonke Yeenkokeli Zomthonyama eyasekwa sisiqendu 2 se*National House of Traditional Leaders Act* 22 ka-2009 ngaphambi kokutshitshiswa kwaloo Mthetho yiTKLA okanye ngokwecandelo 27 leTKLA;

“iKomiti Eyongameleyo” yiKomiti Eyongamele Ulwaluko Elizweni esekwe ngokwesiqendu 4 salo Mthetho; 10

“iGunya Elitshutshisayo” liGunya Elitshutshisayo elasekwa ngokwe*National Prosecuting Authority Act* 32 ka-1998;

“urhulumente wasekuhlaleni olungelelanisiweyo kwiphondo” ngumbutho wephondo ovunyiweyo ngokwesiqendu 2(1)(b) se*Organised Local Government Act* 52 ka-1997; 15

“iKomiti Yephondo” yiKomiti Yokunxibelelanisa Yolwaluko Yephondo esekwe ngokwesiqendu 11 salo Mthetho;

“umnini-bhuma” ngumntu onikwe imvume yokwalukisa nekunguye oya kuphendula ngezinto ezenziwayo apho esuthwini; 20

“ukumisela” kukumisela ngommiselo owenziwe ngokwesiqendu 35 salo Mthetho;

“amaphakathi enkosi” ngamaphakathi enkosi ngendlela achazwe ngayo kwisiqendu 1 se*Framework Act* ngaphambi kokutshitshiswa kwaloo Mthetho yiTKLA okanye sisiqendu 1 seTKLA sakuba siqalile ukusebenza;

“indlu yephondo” yindlu yephondo yeenkokeli zomthonyama eyasekwa ngokwesiqendu 16 se*Framework Act* ngaphambi kokutshitshiswa kwaloo Mthetho yiTKLA, sisiqendu 49 seTKLA okanye omnye umthetho wepalamente yephondo; 25

“imfihlo” zizinto zesintu ezenziwa ngaphambi kokwaluka, okanye ngexesha lokwaluka, okanye emva kokwaluka, ezingafanelanga zithethwe;

“amapolisa” ngamapolisa oMzantsi-Afrika ngokwe*South African Police Service Act* 68 ka-1995; 30

“imilinganiselo yendawo ekukho kuyo ibhuma” yimilinganiselo yendawo ekukho kuyo ibhuma epapashwe phantsi kweSihlokomiso-Jikelele esinguNombolo 1229 sika-2015 kuShicilelo-Mithetho LukaRhulumente olunguNombolo 39561 lukaDisemba 24, 2015 njengenxalenye yeMiqqaliselo neMilinganiselo yeMpilo Zwenibanzi kwiiNdawo Zamabhuma, enokuthi iman’ ukwenziwa utshintsho; 35

elithi “lo Mthetho” liquka imimiselo eyenziwe ngokwalo Mthetho;

“iTKLA” yi*Traditional and Khoi-San Leadership Act* 3 ka-2019;

“uluntu oluphila ngokwakwantu” luluntu oluvunywe njengoluntu oluphila ngokwakwantu ngokwesiqendu 2 se*Framework Act* ngaphambi kokutshitshiswa kwaloo Mthetho yiTKLA, sisiqendu 3 seTKLA okanye omnye umthetho wepalamente yephondo; 40

“amaphakathi” ngamaphakathi ngendlela achazwe ngayo kwisiqendu 1 se*Framework Act* ngaphambi kokutshitshiswa kwaloo Mthetho yiTKLA okanye sisiqendu 1 seTKLA sakuba siqalile ukusebenza; 45

“ixhwele” lixhwele ngendlela elichazwe ngayo kwisiqendu 1 se*Traditional Health Practitioners Act*;

“iTraditional Health Practitioners Act” yi*Traditional Health Practitioners Act* 22 ka-2007;

“inkokeli yomthonyama” ngumntu, ngokommthetho wesintu woluntu oluphila ngokwakwantu, okwisihlalo sokuba yinkokeli yomthonyama kwaye evunyiwe ngokwe*Framework Act* ngaphambi kokutshitshiswa kwaloo Mthetho yiTKLA, yiTKLA okanye omnye umthetho wepalamente yephondo;

“ubunkokeli bomthonyama” ziziphathi-mandla zakwantu okanye iindlela zakwantu zokwenza izinto okanye iindlela zakwantu zokuphatha, ezivunyiweyo okanye ezisetyenziswayo luluntu oluphila ngokwakwantu; lize elithi 55

“ingcibi” lithethe umntu othe, ngokulawulwa sisiqendu 41, wabhaliswa njengengcibi ngokwe*Traditional Health Practitioners Act*.

Application, objectives, interpretation and prohibitions

2. (1) This Act applies to—
- (a) the customary initiation practices in respect of both male and female initiates;
 - (b) all initiation schools; and
 - (c) all role-players involved in initiation practices. 5
- (2) The main objectives of this Act are—
- (a) to protect, promote and regulate initiation and for this purpose—
 - (i) to provide acceptable norms and standards; and
 - (ii) to provide for initiation oversight and coordinating structures at the national and provincial spheres of government with a view to ensure that initiation takes place in a controlled environment; 10
 - (b) to provide for the protection of life, the prevention of injuries and the prevention of all forms of abuse that initiates may be subjected to as a result of initiation practices;
 - (c) to address the governance aspects of initiation and the roles of all relevant role-players; and 15
 - (d) to protect the customary practice of initiation and ensure that it is practiced within the Constitutional and other legal prescripts.
- (3) Any provision of this Act that requires the consultation or involvement of a provincial or local house of traditional leaders has to be complied with only in instances where such a house has been lawfully established: Provided that in instances where such a house has not been established, such requirement does not apply and has no effect on any action or decision taken in terms of the relevant provision: Provided further that in instances where such a house has not been established, the relevant Premier or PICC, as the case may be, may, for the purposes of sections 35(4), 37(1) and (4), and 39(5), consult any other relevant body or institution. 20 25
- (4)(a) Any principal, care-giver, traditional surgeon or traditional health practitioner who is involved in initiation practices or any aspect of such practice, must, subject to section 37(3) and (4), be at least 40 years old and must have undergone initiation himself or herself. 30
- (b) A principal must have prior and proven experience as a care-giver for a minimum of five initiation seasons.
- (c) A care-giver, traditional surgeon or traditional health practitioner may only be involved in initiation practices or any aspect of such practice, after a period of 10 years has lapsed since he or she graduated from an initiation school. 35
- (5) No person may participate in any aspect of initiation if that person is unsuitable to work with children in terms of a finding contemplated in section 120 of the Children's Act or if that person's name is listed—
- (a) in Part B of the National Child Protection Register as contemplated in section 111 of the Children's Act, read with section 118 thereof; 40
 - (b) in the National Register for Sex Offenders as contemplated in section 42 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007); or
 - (c) in the database of a PICC as contemplated in section 33(10) of this Act.
- (6) Nothing contained in this Act may be construed as precluding any person from referring to any principal, care-giver, traditional surgeon or traditional health practitioner in the vernacular of a specific area. 45
- (7) No role-player who is involved in initiation practices may unfairly discriminate directly or indirectly against an initiate or prospective initiate on the grounds of disability, gender or sexual orientation. 50
- (8)(a) Every initiate has the right to confidentiality regarding his or her health status.
- (b) A medical certificate required in terms of the provisions of this Act is confidential and must be treated as such by the medical practitioner issuing the certificate and by any person or body to whom such certificate must be submitted in terms of this Act.
- (c) Notwithstanding paragraphs (a) and (b), the confidential status of a medical certificate may not be used as a reason for non-compliance with section 22(1)(c) to (f) or (2). 55

Ukusetyenziswa kwawo, iinjongo zawo, ukuchazwa kwentsingiselo nezithintelo

2. (1) Lo Mthetho usebenza—
- (a) kulwaluko lwamakhwenkwe nakolwamantombazana;
 - (b) kuwo onke amabhuma;
 - (c) nakubo bonke ababandakanyekileyo kulwaluko. 5
- (2) Iinjongo eziphambili zalo Mthetho—
- (a) kukukhusela ulwaluko, ukulukhuthaza nokululawula; ukuze ke kwenzekwe oko—
 - (i) kunikwa imigqaliselo eyamkelekileyo; kwaye
 - (ii) kuza konganyelwa ulwaluko, kubekho neekomiti zokunxibelelanisa kurhulumente welizwe nakoorkhulumente bamaphondo ukwenzela ukuba ulwaluko luqhutywe phantsi kolawulo; 10
 - (b) kukwenzela ukuba kukhuselwe ubomi babo balukayo, kuthintelwe iingozi nazo zonke iintlobo zempatho-mbi abathi abakhwetha bayifumane ekwalukeni; 15
 - (c) kukulungisa izinto-yinto ezimalunga nokulawulwa kolwaluko neendima zababandakanyekileyo;
 - (d) nokukhusela isiko lokwaluka, nokuqinisekisa ukuba lenziwa kuthotyelwa uMgaqo-siseko neminye imithetho.
- (3) Nayiphi na indawo kulo Mthetho efunisa ukuba kubandakanywe okanye kuboniswa nendlu yephondo yeenkokeli zomthonyama okanye eyasekuhlaleni, kufuneka ithotyelwe xa loo ndlu isekwe ngokusemthethweni, kodwa ke xa indlu ingasekwanga ngokusemthethweni, akukho nto efunisa oko yaye okutshiwo ngulo Mthetho akusichaphazeli nasiphi na isenzo okanye isigqibo esithatyathwe ngokutsho kwalo Mthetho, kodwa ke kwakhona, xa indlu ingasekwanga, iNkulumbuso okanye iKomiti Yephondo inokuthi ibonisane nelineye iqumrhu okanye iziko elifanelekileyo, ukufeza oko kufunwa sisiqendu 35(4), 37(1) nese-4, nese-39(5). 25
- (4) (a) Nawuphi na umntu ongumnini-bhuma, okanye ongumnopheli, okanye oyingcibi, okanye olixhwele, onenxaxheba kulwaluko okanye kwinto enento yokwenza nalo, ubuncinane makabe minyaka ingama-40 ubudala, kodwa ke kuxhomekeke kwisiqendu 37(3) nese-4, kwaye makabe walukile naye ngokwakhe. 30
- (b) Umnini-bhuma makabe namava angaphambili nangqiniweyo okuba ngumnopheli ubuncinane kumaxesha olwaluko angekho ngaphantsi kwesihlanu.
- (c) Umnonopheli, ingcibi, okanye ixhwele linokubandakanyeka kwizinto zolwaluko okanye kwinxalenye ethile yolwaluko emva kokuba egqibe iminyaka eli-10 waphumayo yena esuthwini. 35
- (5) Akukho mntu ovumelekileyo ukuba abe nenxaxheba nakweyiphi na into enento yokwenza nolwaluko ukuba akafaneleki ukusebenza nabantwana ngokwesigqibo esixelwe kwisiqendu 120 se*Children's Act* ukuba igama laloo mntu lidweliswe—
- (a) kwiNxalenye B yeNational Child Protection Register exelwe kwisiqendu 111 se*Children's Act* nesiqendu 118; 40
 - (b) kwiNational Register for Sex Offenders exelwe kwisiqendu 42 se*Criminal Law (Sexual Offences and Related Matters) Amendment Act* 32 ka-2007; okanye
 - (c) kuvimba wengcombolo weKomiti Yephondo oxelwe kwisiqendu 33(10) salo Mthetho. 45
- (6) Amagama asetyenzisiweyo kulo Mthetho anjengengcibi okanye ixhwele anokusetyenziswa ngolwimi lommandla ahlala kuwo umntu.
- (7) Nawuphi na umntu onenxaxheba kulwaluko akavumelekanga ukuba acalule umkhwetha okanye umntu oza kuba ngumkhwetha ngenxa yokugokeka okanye isiphene anaso, ngenxa yesini sakhe okanye ngenxa yokuthi uthandana nabantu basiphi isini. 50
- (8)(a) Wonke umkhwetha unelungelo lokuba ayigcine iyimfihlo imeko yempilo yakhe.
- (b) Incwadi kagqirha efunekayo ngokokutsho kwalo Mthetho iyimfihlo kwaye kufuneka ithathwe njengeyimfihlo ngugqirha oyikhuphayo, kanjalo ithathwe njengeyimfihlo nguye nawuphi na umntu okanye iqumrhu labantu ekufuneka inikwe yena okanye inikwe bona ngokwalo Mthetho. 55
 - (c) Nangona sisitsho oku sikutshoyo isiqendu (a) no-(b), ukuba yimfihlo kwencwadi kagqirha akunakusetyenziswa njengesizathu sokungakwenzi okufunwa sisiqendu 22(1)(c) ukuya ku-(f) okanye (2). 60

Guiding principles

3. The customary practice of initiation is subject to the Constitution and must be transformed and adapted so as to comply with the relevant principles contained in the Bill of Rights in the Constitution, in particular by—

- (a) protecting the lives and dignity of initiates as referred to in sections 10 and 11 of the Constitution; 5
- (b) providing initiates with access to sufficient food and water, health care services and, where necessary, emergency medical treatment as referred to in section 27 of the Constitution; and
- (c) protecting and promoting the rights of children as referred to in section 28 of the Constitution. 10

CHAPTER 2**OVERSIGHT AND COORDINATING STRUCTURES***Part 1**National Initiation Oversight Committee*

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Establishment, composition and term of office

4. (1) The Minister must, by notice in the *Gazette* and subject to the provisions of subsection (3) and section 6, establish a National Initiation Oversight Committee consisting of—

- (a) three members of the National House, designated by the members of the National House from amongst themselves; 20
- (b) one Commissioner from the CRL Rights Commission, designated by the Commission;
- (c) one member from the Interim Traditional Health Practitioners Council of South Africa, designated by the Council from amongst the members contemplated in section 7(a), (b) and (i) of the Traditional Health Practitioners Act; 25
- (d) one senior official from the Department, designated by the Minister;
- (e) one senior official from the Department of Health, designated by the Minister responsible for health; 30
- (f) one senior official from the Department of Women, Youth and Persons with Disabilities, designated by the Minister responsible for women, youth and persons with disabilities;
- (g) one senior official from the NPA, designated by the National Director of Public Prosecutions; 35
- (h) one senior official from the SAPS, designated by the National Commissioner of the South African Police Service;
- (i) one senior official from the Department of Sports, Arts and Culture who has knowledge of cultural customs, designated by the Minister responsible for Sports, Arts and Culture; and 40
- (j) if deemed necessary by the Minister and subject to subsection (4), not more than two other persons designated by the Minister which persons must have a qualification or experience in or knowledge appropriate to—
 - (i) anthropology; and
 - (ii) customary law and customs. 45

(2) The term of office of the NIOC is five years and must be aligned to the term of office of the National House.

(3) At least three members of the NIOC must be women.

(4) A person contemplated in subsection (1)(j) may, subject to subsection (2), be designated at any stage during the term of the NIOC for the period indicated in such designation. 50

Imigaqo esisikhokelo

3 Ulwaluko luphantsi kokulawulwa nguMgaqo-siseko yaye kufuneka lutshintshwe ukuze luvisisane nemigaqo equlethwe kuMqulu Wamalungelo okuMgaqo-siseko, ingakumbi—

- (a) ngokukhusela ubomi babakhwetha nesidima sabo njengoko kuxelwe kwisiqendu 10 nese-11 soMgaqo-siseko; 5
- (b) ngokunika abakhwetha ukutya okwaneleyo namanzi, kunonophelwe impilo yabo, kananjalo xa kuyimfuneko banikwe unyango olungxamisekileyo ekuthethwe ngalo kwisiqendu 27 soMgaqo-siseko;
- (c) nangokukhusela amalungelo abantwana ekuthethwe ngawo kwisiqendu 28 soMgaqo-siseko. 10

ISIAHLUKO 2**UKONGAMELA NEEKOMITI ZOKUNXIBELELANISA*****ICandelo 1******IKomiti Eyongamele Ulwaluko Elizweni***

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Ukusekwa kwayo, indlela eyakhiwe ngayo nexesha layo

4. (1) Ngokukhuph' isihlokomiso kuShicilelo-Mithetho nangokulawulwa sisiqendwana (3) nese-(6), uMphathiswa makaseke iKomiti Eyongamele Ulwaluko Elizweni (iKomiti Eyongameleyo)—

- (a) enamalungu amathathu eNdlu Yezwelonke, achongwe ngamalungu eNdlu Yezwelonke; 20
- (b) enomKomishinala omnye weKomiti Yamalungelo, ochongwe yiKomishoni;
- (c) enelungu elinye leBhunga Lethutyana Lamaxhwele LoMzantsi-Afrika, elichongwe liBhunga njengoko kuxelwe kwisiqendu 7(a), (b) no-(i) se*Traditional Health Practitioners Act*; 25
- (d) enegosa elinye elikwisikhundla esiphezulu elivela kwiSebe, elichongwe nguMphathiswa;
- (e) enegosa elinye elikwisikhundla esiphezulu elivela kwiSebe leMpilo, elichongwe nguMphathiswa ophathiswe impilo;
- (f) enegosa elinye elikwisikhundla esiphezulu elivela kwiSebe Labasetyhini, Nolutsha Nabaneziphene, elichongwe nguMphathiswa ophathiswe imicimbi yabasetyhini, yolutsha neyabantu abaneziphene; 30
- (g) enegosa elinye elikwisikhundla esiphezulu elivela kwiGunya Elitshutshisayo, elichongwe nguMlawuli-zwenilonke Wotshutshiso;
- (h) enegosa elinye elikwisikhundla esiphezulu elivela emapoliseni, elichongwe nguMkomishinala-zwenilonke wamapolisa oMzantsi-Afrika; 35
- (i) igosa elinye elingumakhwekhwetha elivela kwiSebe leMidlalo, uBuchule neNkcubeko elinolwazi ngamasiko enkcubeko elichongwe nguMphathiswa ophathiswe iMidlalo, uBuchule neNkcubeko; kananjalo
- (j) ukuba kubonwa kufanelekile nguMphathiswa, kuxhomekeke nakwisiqendwana (4), ibe nabanye abantu abangekho ngaphezu kwesibini abachongwe nguMphathiswa amababe nemfundo okanye amava okanye ulwazi olufanelekileyo— 40
 - (i) ngobunjani bezidalwa ezingabantu;
 - (ii) nangomthetho wesintu namasiko. 45

(2) Ixesha leKomiti Eyongameleyo yiminyaka emihlanu yaye kufuneka ixesha layo lihambisane nexesha leNdlu Yezwelonke.

(3) Ubuncinane amalungu amathathu eKomiti Eyongameleyo makube ngabafazi.

(4) Umntu oxelwe kwisiqendwana (1)(j) unokuthi, ngokulawulwa sisiqendwana (2), achongwe nanini na ngexesha leKomiti Eyongameleyo, kube bubude bexesha obuxeliweyo xa echongwa. 50

Chairperson and deputy chairperson

5. (1) The NIOC must, at its first meeting after it has been established, which meeting must be convened and chaired by the Minister or by the Director-General if so directed by the Minister, elect—
- (a) a chairperson from amongst the members referred to in section 4(1)(a), (b) and (c); and 5
 - (b) a deputy chairperson from amongst themselves.
- (2) The chairperson presides over meetings of the NIOC.
- (3) If the chairperson is absent or for any reason unable to exercise or perform the powers or functions contemplated in this Act, or when the office of the chairperson is vacant, the deputy chairperson must act as chairperson during the chairperson's absence or inability, or until a chairperson is elected. 10

Disqualifications

6. A person is not eligible to be designated as a member of the NIOC if that person—
- (a) is not a South African citizen; 15
 - (b) is under 18 years of age;
 - (c) has been convicted of an offence in respect of which he or she was sentenced to imprisonment for more than 12 months without the option of a fine;
 - (d) is an unrehabilitated insolvent or has entered into a compromise with his or her creditors; 20
 - (e) is of unsound mind and has been so declared by a competent court;
 - (f) is or becomes a full-time member of a municipal council;
 - (g) is elected as a member of a provincial legislature;
 - (h) is elected as a member of the National Assembly;
 - (i) is appointed as a permanent delegate in the National Council of Provinces; or 25
 - (j) is prohibited in terms of the provisions of section 2(5).

Vacancies

7. Whenever a vacancy occurs in the NIOC, such a vacancy must, within 30 calendar days of the vacancy having arisen, be filled with a person designated in accordance with the provisions of section 4(1), for the unexpired term of his or her predecessor. 30

Meetings

8. (1) The NIOC must meet at least four times per annum.
- (2) (a) Meetings of the NIOC must be held at a place, on a date and at a time to be determined by the chairperson of the NIOC.
- (b) The chairperson of the NIOC must give notice of any such meeting to the members of the NIOC at least seven calendar days prior to such meeting. 35
- (c) The chairperson of the NIOC may, on request of the Minister or the Director-General, convene a special meeting of which notice must be given to the members of the NIOC at least two calendar days prior to such meeting.
- (3) Five members of the NIOC constitute a quorum. 40
- (4) (a) Minutes and records of the meetings of the NIOC must be kept and filed by the secretariat envisaged in section 10(2).
- (b) The minutes of any meeting must be endorsed by the NIOC at its next meeting and within two weeks of such meeting, be submitted to the Minister and Director-General for their information. 45

Functions

9. (1) (a) The NIOC must—
- (i) monitor the implementation of this Act;

Usihlalo nosekela-sihlalo

5. (1) Kwintlanganiso yayo yokuqala emva kokuba isekiwe, ntlanganiso leyo emayibizwe ngusihlalo ize ichotshelwe nguye okanye nguMlawuli-Jikelele ukuba uyalelwe nguMphathiswa, iKomiti Eyongameleyo—
- (a) mayinyule usihlalo kumalungu ekuthethwe ngawo kwisiqendu 4(1)(a), (b) no-(c); kunye 5
- (b) nosekela-sihlalo, imnyula kumalungu ayo.
- (2) Kongamela usihlalo kwiintlanganiso zeKomiti Eyongameleyo.
- (3) Ukuba usihlalo akekho okanye nangasiphi na isizathu akangebi nako ukwenza imisebenzi yakhe okanye ukusebenzisa amagunya akhe axelwe kulo Mthetho, okanye xa isithuba sikasihlalo singenamntu, usekela-sihlalo makabambeke njengosihlalo ngexesha lokungabikho kukasihlalo okanye ngexesha lokungabi nako kwakhe ukusebenza, de kube kunyulwe usihlalo. 10

Izinto ezimenza angafaneleki umntu

6. Umntu akafaneleki ukuba abe lilungu leKomiti Eyongameleyo ukuba— 15
- (a) akanguye ummi waseMzantsi-Afrika;
- (b) ungaphantsi kweminyaka eli-18 ubudala;
- (c) ufunyaniswe enetyala waza wagwetywa ukuvalelwa entolongweni ixesha elingaphezu kweenyanga ezili-12 engakhethiswanga fayini;
- (d) ufunyaniswe yinkundla enamatyala angaphezu kwemali anayo okanye ungene kwisivumelwano nabo abatyalayo; 20
- (e) akaphilanga ngengqondo kwaye uvakaliswe yinkundla engumntu onjalo;
- (f) ulilungu okanye uthi abe lilungu ngokupheleleyo lebhunga likamasipala;
- (g) unyulelwe ukuba lilungu lepalamente yephondo;
- (h) unyulelwe ukuba lilungu lePalamente Yelizwe; 25
- (i) umiselwe ukuba abe ngumthunywa osisigxina kwiBhunga Lamaphondo Lelizwe; okanye
- (j) walelwe ukuba lilungu ngokwesiqendu 2(5).

Izithuba

7. Nanini na xa kubakho isithuba kwiKomiti Eyongameleyo, eso sithuba masivalwe zingekapheli iintsuku ezingama-30 sidalekile, sivalwe ngomntu ochongwe ngokwesiqendu 4(1), ukuze agqibezele ixesha ebelisasele lalowo omkileyo. 30

Iintlanganiso

8. (1) IKomiti Eyongameleyo mayihlanganisane ubuncinane kane ngonyaka.
- (2) (a) Iintlanganiso zeKomiti Eyongameleyo mazibe kwindawo egqitywe, ngomhla ogqitywe, nangexesha eligqitywe ngusihlalo weKomiti Eyongameleyo. 35
- (b) Usihlalo weKomiti Eyongameleyo makawazise amalungu eKomiti Eyongameleyo ubuncinane kusasele iintsuku ezisixhenxe ngaphambi kwentlanganiso leyo.
- (c) Usihlalo weKomiti Eyongameleyo unokuthi, esakucelwa nguMphathiswa okanye nguMlawuli-Jikelele, abize intlanganiso ekhethekileyo ekufuneka ukuba xa kunjalo awazise amalungu eKomiti Eyongameleyo kusasele ubuncinane iintsuku ezimbini ngaphambi kwaloo ntlanganiso. 40
- (3) Kufuneka kubekho amalungu eKomiti Eyongameleyo amahlanu ukuze ziqhubeke iintlanganiso zayo. 45
- (4) (a) Makugcinwe amanqaku namaxwebhu eentlanganiso zeKomiti Eyongameleyo aze afayilwe ngabasebenzi abaxelwe kwisiqendu 10(2).
- (b) Amanqaku entlanganiso makavunywe yiKomiti Eyongameleyo kwintlanganiso yayo elandelayo aze zingekapheli iiveki ezimbini ukususela kuloo ntlanganiso athunyelwe kuMphathiswa nakuMlawuli-Jikelele ukuze bazi. 50

Imisebenzi

9. (1) (a) IKomiti Eyongameleyo—
- (i) mayikubek' esweni ukusetyenziswa kwalo Mthetho;

- (ii) promote compliance with the provisions of this Act amongst all role-players who are involved in initiation practices and initiation schools;
 - (iii) guide the PICCs on the implementation of this Act and initiation practices in general;
 - (iv) make recommendations to the relevant PICC in respect of the closing of any non-registered initiation school or the deregistration of any initiation school that does not comply with or meet the requirements of this Act; 5
 - (v) subject to any applicable legislation, consider and resolve any dispute referred to it by a PICC in terms of section 15(5)(b) or (c), within five calendar days from the date of receipt of the referral of a dispute, and the decision of the NIOC in respect of any such dispute is final; 10
 - (vi) subject to subsection (3), keep comprehensive statistics on initiation; and
 - (vii) perform any other task relating to initiation as may be directed by the Minister.
- (b) The NIOC may—
- (i) inspect any initiation school to establish whether such a school meets the requirements set out in this Act; 15
 - (ii) investigate any alleged abuse of initiates;
 - (iii) conduct initiation awareness campaigns which must include information on the rights and responsibilities of initiates and their parents or legal or customary guardians as provided for in the Constitution, this Act and any other relevant law; 20
 - (iv) oversee initiation awareness campaigns as may be conducted by a PICC;
 - (v) operate a hotline where any alleged contravention of the provisions of this Act may be reported;
 - (vi) investigate any alleged contravention reported to the hotline contemplated in subparagraph (v); and 25
 - (vii) in consultation with the Department of Health and the Health Professions Council of South Africa established in terms of section 2 of the Health Professions Act, develop guidelines to be used by medical practitioners for the purposes of determining whether a person is fit to participate in initiation practices as contemplated in section 22(1)(c): 30

Provided that the NIOC must, prior to any inspection or investigation contemplated in subparagraphs (i), (ii) and (vi), inform the relevant PICC of its intention to conduct such an inspection or investigation which PICC must designate one of its members to assist the NIOC: Provided further that if the NIOC is not in a position to investigate any alleged abuse as contemplated in subparagraph (ii) or any alleged contravention reported to the hotline contemplated in subparagraph (vi), the NIOC must refer the matter to the relevant PICC for investigation and request such PICC to submit a report to the NIOC. 35

(2) (a) The NIOC must, within seven calendar days from the completion of any inspection or investigation contemplated in subsection (1)(b)(i), (ii) and (vi), prepare and submit a report to the Minister, the relevant Premier, relevant MECs, PICC and, for the purpose of subsection (1)(b)(ii), SAPS. 40

(b) (i) Before the end of March and September of each year, the NIOC must, in respect of the preceding six months, prepare a report on the performance of its functions contemplated in subsection (1) and submit such report to the Minister. 45

(ii) A report contemplated in subparagraph (i) must, with the approval of the Minister, be submitted to all Premiers, relevant MECs and all PICCs within 14 calendar days from the date of approval by the Minister.

(c) A report of the NIOC contemplated in paragraph (a) or (b) may contain recommendations to be implemented by a PICC. 50

(3) (a) For the purposes of keeping the statistics contemplated in subsection (1)(a)(vi), the NIOC must develop and maintain a database.

(b) The database must include—

- (ii) mayikhuthaze ukuba bonke abanenxaxheba kulwaluko nasemabhumeni bakwenze okufunwa ngulo Mthetho;
- (iii) mayinqwanqwade iiKomiti Zamaphondo ekusebenziseni lo Mthetho nakwizinto zolwaluko ngokubanzi;
- (iv) mayicebise iKomiti Yephondo echaphazelekayo ngokuvalwa kwalo naliphi na ibhuma elingabhaliswanga okanye icebise ngokucinywa kwebhuma ebelibhalisiwe xa lingakwenzi okufunwa ngulo Mthetho; 5
- (v) kuxhomekeke kumthetho wepalamente osebenzayo kule meko, mayiqwalasele nayiphi na imbambano ize iyisombulule xa kuyimbambano edluliselwe kuyo yiKomiti Yephondo ngokwesiqendu 15(5)(b) okanye (c), iyiqwalasele kwaye iyisombulula imbambano leyo zingekapheli iintsuku ezintlanu ukususela kumhla eyifumene ngawo imbambano edluliselwe kuyo, ekuya kuthi ke isigqibo seKomiti Eyongameleyo ngaloo mbambano sibe sesingenakuphikiswa; 10
- (vi) kuxhomekeke kwisiqendwana (3), mayigcine iinkcukacha-manani ezipheleleyo ngolwaluko; ize 15
- (vii) yenze nawuphi na omnye umsebenzi ongolwaluko onokuthi uyalelwe nguMphathiswa.
- (b) iKomiti Eyongameleyo inokuthi—
- (i) ihlole naliphi na ibhuma ngenjongo yokufumanisa ukuba elo bhuma liyazenza na izinto ezifunwa ngulo Mthetho; 20
- (ii) iphande ngempatho-mpi yabakhwetha ebikwayo;
- (iii) iqhube amaphulo okwenza abantu babe nolwazi ngamalungelo nangeembopheleleko zabakhwetha nabazali babo okanye abantu ababakhulisileyo ngendlela exelwe kuMgaqo-siseko, okanye kulo Mthetho okanye omnye umthetho othetha ngalo mbandela; 25
- (iv) yongamele amaphulo okwenziwa kwabantu babe nolwazi ngolwaluko, maphulo lawo anokuthi aqhutywe yiKomiti Yephondo;
- (v) ivule inombolo yomnxeba apho nakuphi na ukwaphulwa kwalo Mthetho kunokuthi kubikwe khona;
- (vi) iphande ukwaphulwa kwalo Mthetho okubikiweyo kuloo nombolo yomnxeba ekuthethwe ngawo kwisiqendwana (v); 30
- (vii) ibonisana neSebe Lempilo neHealth Professions Council of South Africa elasekwa ngokwesiqendu 2 se*Health Professions Act*, inokuthi gqi nezikhokelo emazisetyenziswe ngoogqirha ngenjongo yokuqonda ukuba umntu ukulungele kusini na empilweni ukungena esuthwini njengoko kuxelwe kwisiqendu 22(1)(c), 35
- kodwa ke ngaphambi kokuba iKomiti Eyongameleyo ihlole okanye iphande njengoko kuxelwe kwisiqendwana (i), (ii) nese-(vi), mayazise iKomiti Yephondo ngenjongo yayo yokuhlola okanye yokuphanda, ekuya kuthi kufuneke iKomiti Yephondo ichonge elinye lamalungu ayo ancedise iKomiti Eyongameleyo, kodwa ke kwakhona, ukuba iKomiti Eyongameleyo ayikwazi ukuphanda impatho-mpi ebikiweyo njengoko kuxelwe kwisiqendwana (ii) okanye ukwaphulwa komthetho okubikwe kumnxeba wokubika ukwaphulwa komthetho ekuthethwe ngawo kwisiqendwana (vi), iKomiti Eyongameleyo mayiwubhekise umcimbi kwiKomiti Yephondo kube yiyo ephandayo ize icele loo Komiti Yephondo ithumele ingxelo kwiKomiti Eyongameleyo. 45
- (2) (a) iKomiti Eyongameleyo mayithi zingekapheli iintsuku ezisixhenxe igqibile ukuhlola okanye ukuphanda okuxelwe kwisiqendwana (1)(b)(i), (ii) no-(vi), iqulunqe ingxelo ize iyithumele kuMphathiswa, nakwiNkulumbuso yelo phondo, nakumphathiswa wephondo ochaphazelekayo, nasemapoliseni ngokwesiqendwana (1)(b)(ii). 50
- (b) (i) Engekapheli uMatshi noSeptemba wonyaka ngamnye, iKomiti Eyongameleyo mayiqulunqe ingxelo yeenyanga ezintandathu ezidlulileyo, kuyingxelo ngendlela eyenze ngayo imisebenzi yayo exelwe kwisiqendwana (1), ize iyithumele kuMphathiswa. 55
- (ii) Ingxelo exelwe kwisiqendwana (i) mayithi, ngemvume yoMphathiswa, ithunyelwe kuzo zonke iiNkulumbuso, kubaphathiswa bamaphondo abachaphazelekayo, nakuzo zonke iiKomiti Zamaphondo, zingekapheli iintsuku ezili-14 evumile uMphathiswa.
- (c) Ingxelo yeKomiti Eyongameleyo exelwe kwisiqendu (a) okanye (b) isengaqulatha iziphakamiso emazisetyenziswe yiKomiti Yephondo. 60
- (3) (a) Ukuze kugcinwe iinkcukacha-manani ezixelwe kwisiqendwana (1)(a)(vi), iKomiti Eyongameleyo mayibe novimba wengcombolo kwaye ihlale inawo.
- (b) Kuvimba wengcombolo makubekho—

- (i) copies of the reports contemplated in section 15(1)(p), (2)(a) and (6)(a), which copies must be provided to the NIOC by the PICCs;
 - (ii) any report contemplated in subsection (2);
 - (iii) any statistics and copies of registers or records contemplated in section 15 and any information contemplated in section 15(2)(k) which, upon request of the NIOC, must be submitted by the relevant PICC to the NIOC; and 5
 - (iv) any other information as may be deemed necessary by the NIOC or as may be requested by the Minister.
- (4) If, during any inspection or investigation contemplated in this section, the NIOC becomes aware of any possible or alleged criminal conduct, the NIOC must immediately report such conduct to the SAPS for investigation. 10

Administrative and financial support

- 10.** (1) The Department must provide such administrative and financial support to the NIOC as may be required to enable the NIOC to perform the functions assigned to it by this Act. 15
- (2) The Director-General must designate officials from the Department to provide specified administrative support, including secretariat support, to the NIOC for the period indicated in such designation.
- (3) For the purposes of providing financial support to the NIOC, the chairperson of the NIOC must, before a date determined by the Director-General, submit annual estimates of expenditure for the next financial year to the Director-General. 20

Part 2

Provincial Initiation Coordinating Committees

Establishment, composition and term of office

- 11.** (1) In a province where a provincial house has been established and initiation takes place within such province, the Premier of such province must, subject to subsections (4) and (6) and sections 16(4) and 38, and after consultation with the provincial house, by notice in the *Provincial Gazette* establish a Provincial Initiation Coordinating Committee consisting of— 25
- (a) four members of the provincial house, designated by the members of the provincial house from amongst themselves; 30
 - (b) two officials from the provincial government, designated by the MEC responsible for initiation in the province;
 - (c) not more than two persons representing the metropolitan, district and local municipalities in whose areas of jurisdiction initiation schools are held, designated by the organised local government in the province; 35
 - (d) not more than two persons representing the emergency services within the province, designated by the MEC or MECs responsible for the respective emergency services within the province; and
 - (e) the traditional health practitioner of the particular province who, in terms of section 7(c) of the Traditional Health Practitioners Act, is a member of the Interim Traditional Health Practitioners Council of South Africa. 40
- (2) In a province where a provincial house has not been established but where traditional leaders have been recognised and initiation takes place within such province, the Premier of such province must, subject to subsections (4) and (6) and sections 16(4) and 38, and after consultation with the National House, by notice in the *Provincial Gazette* establish a PICC consisting of— 45
- (a) two members of the National House, designated by the members of the National House from amongst themselves: Provided that the members of the National House so designated must be conversant with the customary practices of the communities in the province; 50
 - (b) two traditional leaders designated by the recognised traditional leaders within such province from amongst themselves: Provided that if there are only one or two recognised traditional leaders within such province, such traditional leader or leaders must be regarded as so designated; 55

- (i) neekopi zeengxelo ezixelwe kwisiqendu 15(1)(p), (2)(a) no-(6)(a), kopi ezo emazinikwe iKomiti Eyongameleyo ziiKomiti Zamaphondo;
 - (ii) nayiphi na ingxelo exelwe kwisiqendwana (2);
 - (iii) naziphi na iinkcukacha-manani neekopi zeerejista okanye amaxwebhu ekuthethwe ngazo kwisiqendu 15 kunye nengcombolo ekuthethwe ngayo kwisiqendu 15(2)(k) amazithi zisakucelwa yiKomiti Eyongameleyo zithunyelwe kuyo iKomiti Eyongameleyo yiKomiti Yephondo echaphazelekayo; kwakunye 5
 - (iv) nayiphi na enye ingcombolo enokuthi ibonwe iyimfuneko yiKomiti Eyongameleyo okanye enokuthi icelwe nguMphathiswa. 10
- (4) Xa kunokuthi kwenzeka xa iKomiti Eyongameleyo ihlola okanye iphanda njengoko kuxelwe kwesi siqendu, ifumanise ukuba kunokwenzeka kukho isenzo solwaphulo-mthetho, iKomiti Eyongameleyo mayisibike eso senzo ngoko nangoko emapoliseni ukuze siphandwe.

Ukuncediswa kwayo ngomsebenzi nangemali 15

- 10.** (1) ISebe malincedise iKomiti Eyongameleyo ngomsebenzi nangemali ngokwemfuneko ekhoyo ukuze iKomiti Eyongameleyo yenze imisebenzi eyinikwe ngulo Mthetho.
- (2) UMlawuli-Jikelele makachonge amagosa kwiSebe aza kuncedisa iKomiti Eyongameleyo ngomsebenzi kube bubude bexesha obuxeliweyo xa echongwa. 20
- (3) Ekuncediseni iKomiti Eyongameleyo ngemali, usihlalo weKomiti Eyongameleyo makathumele kuMlawuli-Jikelele uqikelelo lwenkcitho qho ngonyaka ilolonyaka olandelayo, ekwenza oko ngaphambi komhla oqitywe nguMlawuli-Jikelele.

ICandelo 2

IiKomiti Zokunxibelelanisa Zolwaluko Zamaphondo 25

Ukusekwa kwazo, indlela ezakhiwe ngayo nexesha lazo

- 11.** (1) Kwiphondo ekukho kulo indlu yephondo, kube kusalukwa nokwaluka kwelo phondo, iNkulumbuso yelo phondo mayithi, ngokulawulwa sisiqendwana (4) nese-(6) nasisiqendu 16(4) nesama-38, emva kokubonisana nendlu yephondo, ngokukhuph' isihlokomiso kuShicilelo-Mithetho, iseke iKomiti Yokunxibelelanisa Yolwaluko Yephondo— 30
- (a) enamalungu amane endlu yephondo, achongwe ngamalungu endlu yephondo kumalungu ayo;
 - (b) enamagosa amabini avela kurhulumente wephondo, achongwe ngumphathiswa wephondo ophathiswe ulwaluko kwiphondo; 35
 - (c) enabantu abangengaphezulu kwesibini abamela oomasipala abambaxa nabesithili nabasekuhlaleni ekwalukwayo kummandla wabo, abachongwe ngurhulumente wasekuhlaleni olungelelanisiweyo kwiphondo;
 - (d) enabantu abangengaphezulu kwesibini abamela iinkonzo zequbuliso kwiphondo, abachongwe ngumphathiswa wephondo okanye ngabaphathiswa bamaphondo abamsebenzi wabo uziinkonzo zequbuliso kwiphondo; kunye 40
 - (e) nexhwele lakwelo phondo elililungu leBhunga Lethutyana Lamaxhwele oMzantsi-Afrika, ngokwesiqendu 7(c) se*Traditional Health Practitioners Act*.
- (2) Kwiphondo apho ingekhoyo indlu yephondo, kodwa zibe iinkokeli zomthonyama ziziinkokeli ezivunyiweyo kwaye kusalukwa nokwaluka kwiphondo, iNkulumbuso yelo phondo mayithi, ngokulawulwa sisiqendwana (4) nese-(6) nasisiqendu 16(4) nese-38, emva kokubonisana neNdlu Yezwelonke, ngokukhuph' isihlokomiso kuShicilelo-Mithetho, iseke iKomiti Yokunxibelelanisa Yolwaluko Yephondo— 50
- (a) enamalungu amabini eNdlu Yezwelonke, achongwe ngamalungu eNdlu Yezwelonke kumalungu ayo, kodwa ke amalungu eNdlu Yezwelonke achongiweyo makube ngabantu abawaqhelileyo amasiko oluntu lwephondo;
 - (b) eneenkokeli ezimbini zomthonyama ezichongwe ziinkokeli zomthonyama ezivunyiweyo kwiphondo, zichongwa kwalapha kuzo, kodwa ke ukuba inye kuphela okanye zimbini kuphela iinkokeli zomthonyama ezivunyiweyo kwiphondo, ezo zinkokeli zomthonyama mazithathwe njengezichongiweyo; 55

- (c) not more than two officials from the provincial government, designated by the Premier after consultation with the MEC responsible for initiation in the province and the MEC responsible for cultural matters in the province;
- (d) not more than two persons representing the metropolitan, district and local municipalities in whose areas of jurisdiction initiation schools are held, designated by the organised local government in the province; 5
- (e) not more than two persons representing the emergency services within the province, designated by the MEC or MECs responsible for the respective emergency services within the province; and
- (f) the traditional health practitioner of the particular province who, in terms of section 7(c) of the Traditional Health Practitioners Act, is a member of the Interim Traditional Health Practitioners Council of South Africa. 10
- (3) In a province where a provincial house has not been established and where no traditional leaders have been recognised but initiation takes place within the province, the Premier of such province must, subject to subsections (4) and (6) and sections 16(4) and 38, and after consultation with the National House, by notice in the Provincial Gazette establish a PICC consisting of— 15
- (a) two members of the National House, designated by the members of the National House from amongst themselves: Provided that the members of the National House so designated must be conversant with the customary practices of the communities in the province; 20
- (b) not more than two officials from the provincial government, designated by the Premier after consultation with the MEC responsible for cultural matters in the province and any other MEC as deemed necessary by the Premier;
- (c) not more than two persons representing the metropolitan, district and local municipalities in whose areas of jurisdiction initiation schools are held, designated by the organised local government in the province; 25
- (d) not more than two persons representing the emergency services within the province, designated by the MEC or MECs responsible for the respective emergency services within the province; and 30
- (e) the traditional health practitioner of the particular province who, in terms of section 7(c) of the Traditional Health Practitioners Act, is a member of the Interim Traditional Health Practitioners Council of South Africa.
- (4) At least three members of a PICC must be women.
- (5) The term of office of a PICC is five years and must, in the case of a PICC contemplated in subsection (1), be aligned to the term of office of the provincial house and must, in the case of a PICC contemplated in subsections (2) and (3), be aligned to the term of office of the National House. 35
- (6) A person is not eligible to be designated as a member of a PICC if any of the disqualifications referred to in section 6 applies to such a person. 40

Chairperson and deputy chairperson

12. (1) The members of a PICC contemplated in—
- (a) section 11(1) must, at the first meeting of the PICC, elect a chairperson from amongst the members referred to in section 11(1)(a) and a deputy chairperson, from amongst themselves; 45
- (b) section 11(2) must, at the first meeting of the PICC, elect a chairperson from amongst the members referred to in section 11(2)(a) or (b) and a deputy chairperson, from amongst themselves; and
- (c) section 11(3) must, at the first meeting of the PICC, elect a chairperson and a deputy chairperson from amongst themselves. 50
- (2) The provisions of section 5(2) and (3) apply with the necessary changes to a PICC.

Vacancies

13. Whenever a vacancy occurs in a PICC, such a vacancy must, within 30 calendar days of the vacancy having arisen, be filled with a person designated in accordance with the provisions of section 11(1), (2) or (3), as the case may be, for the unexpired term of his or her predecessor. 55

- (c) enamagosa angengaphezulu kwesibini avela kurhulumente wephondo, achongwe yiNkulumbuso emva kokubonisana nomphathiswa wephondo ophathiswe ulwaluko kwiphondo kwakunye nomphathiswa wephondo ophathiswe imicimbi yezithethe kwiphondo;
- (d) enabantu abangengaphezulu kwesibini abamela oomasipala abambaxa nabesithili nabasekuhlaleni ekwalukwayo kummandla wabo, abachongwe ngurhulumente wasekuhlaleni olungelelanisiweyo kwiphondo; 5
- (e) enabantu abangengaphezulu kwesibini abamela iinkonzo zequbuliso kwiphondo, abachongwe ngumphathiswa wephondo okanye ngabaphathiswa bamaphondo abamsebenzi wabo uziinkonzo zequbuliso kwiphondo; 10 kwakunye
- (f) nexhwele lakwelo phondo elililungu leBhunga Lethutyana Lamaxhwele oMzantsi-Afrika, ngokwesiqendu 7(c) se*Traditional Health Practitioners Council of South Africa*.
- (3) Kwiphondo apho ingekhoyo indlu yephondo, kube kungekho nazinkokeli zomthonyama zivunyiweyo, kodwa kube kusalukwa kwiphondo, iNkulumbuso yelo phondo mayithi, ngokulawulwa sisiqendwana (4) nese-(6) nasisiqendu 16(4) nese-38, emva kokubonisana neNdlu Yezwelonke, ngokukhuph' isihlokomiso kuShicilelo-Mithetho, iseke iKomiti Yokunxibelelanisa Yolwaluko Yephondo— 15
- (a) enamalungu amabini eNdlu Yezwelonke, achongwe ngamalungu eNdlu Yezwelonke, kodwa ke amalungu eNdlu Yezwelonke achongiweyo makube ngabantu abawaqhelileyo amasiko oluntu lwephondo; 20
- (b) enamagosa angengaphezulu kwesibini avela kurhulumente wephondo, achongwe yiNkulumbuso emva kokubonisana nomphathiswa wephondo ophathiswe imicimbi yezithethe kwiphondo kwakunye nawuphi na omnye umphathiswa wephondo obonwa efanelekile yiNkulumbuso; 25
- (c) enabantu abangengaphezulu kwesibini abamela oomasipala abambaxa nabesithili nabasekuhlaleni ekwalukwayo kummandla wabo, abachongwe ngurhulumente wasekuhlaleni olungelelanisiweyo kwiphondo;
- (d) enabantu abangengaphezulu kwesibini abamela iinkonzo zequbuliso kwiphondo, abachongwe ngumphathiswa wephondo okanye ngabaphathiswa bamaphondo abaphathiswe iinkonzo zequbuliso kwiphondo; 30
- (e) nexhwele lakwelo phondo elililungu leBhunga Lethutyana Lamaxhwele oMzantsi-Afrika, ngokwesiqendu 7(c) se*Traditional Health Practitioners Act*. 35
- (4) Ubuncinane amalungu amathathu eKomiti Yephondo makube ngabafazi.
- (5) Ixesha leKomiti Yephondo yiminyaka emihlanu, kwaye, xa kuyiKomiti Yephondo exelwe kwisiqendwana (1), malihambisane nexesha lendlu yephondo, kuze kuthi xa kuyiKomiti Yephondo exelwe kwisiqendwana (2) nese-(3), lihambisane nexesha leNdlu Yezwelonke. 40
- (6) Umntu akafaneleki ukuba achongelwe ukuba lilungu leKomiti Yephondo ukuba enye yezinto ezizenza angafaneleki umntu ezixelwe kwisiqendu 6 ziyasebenza kuye.

Usihlalo nosekela-sihlalo

12. (1) Amalungu eKomiti Yephondo axelwe—
- (a) kwisiqendu 11(1) makathi kwintlanganiso yokuqala yeKomiti Yephondo anyule usihlalo kumalungu ekuthethwe ngawo kwisiqendu 11(1)(a) nosekela-sihlalo, emnyula phakathi kwawo; 45
- (b) kwisiqendu 11(2) makathi kwintlanganiso yokuqala yeKomiti Yephondo anyule usihlalo kumalungu ekuthethwe ngawo kwisiqendu 11(2)(a) okanye (b) kunye nosekela-sihlalo, emnyula phakathi kwawo; 50
- (c) nakwisiqendu 11(3) makathi kwintlanganiso yokuqala yeKomiti Yephondo anyule usihlalo nosekela-sihlalo phakathi kwawo.
- (2) Okutshiwo sisiqendu 5(2) nese-(3) kuyasebenza kwiKomiti Yephondo, kubekho nje utshintsho olunokuthi lufuneka.

Izithuba

13. Nanini na xa kubakho isithuba kwiKomiti Yephondo, eso sithuba masithi zingaphelanga iintsuku ezingama-30 sithe sabakho, sivalwe ngomntu ochongwe ngokwesiqendu 11(1) okanye (2) okanye (3), egqibezela ixesha elingaphelanga elishiywe ngulowo obengaphambi kwakhe.

Meetings

- 14.** (1) A PICC must meet at least four times per annum.
- (2) (a) Meetings of a PICC must be held within the particular province on a date and at a time and place to be determined by the chairperson of the PICC.
- (b) The chairperson of a PICC must give notice of any such meeting to the members of the PICC at least seven calendar days prior to such meeting. 5
- (c) The chairperson of a PICC may, on request of the Premier or the MEC responsible for initiation in the province, convene a special meeting of which notice must be given to the members of the PICC at least two calendar days prior to such meeting.
- (3) The quorum for any meeting of a PICC is 50 percent plus one of the total number of filled positions of the PICC. 10
- (4) (a) Minutes and records of the meetings of a PICC must be kept and filed by the secretariat envisaged in section 17(3).
- (b) The minutes of any meeting must be endorsed by the PICC at its next meeting and within two weeks of such meeting, be submitted to the Premier, any relevant MEC of the province, the Director-General and the chairperson of the NIOC for their information. 15

Functions

- 15.** (1) A PICC must coordinate all initiation schools, practices and activities within the particular province and must, for this purpose—
- (a) promote cooperation between traditional leadership, government and any other role-players in respect of initiation schools and practices; 20
- (b) receive and consider an application by a principal to open and hold an initiation school;
- (c) register any initiation school whose application has been approved and issue a letter confirming such registration to the principal; 25
- (d) keep a register of all registered initiation schools and screened principals as contemplated in section 20(2);
- (e) determine the number of initiation schools to be allowed within a particular municipal area in the province taking into account criteria as may be determined by the PICC, including the proximity of the schools to one another, the number of available traditional surgeons in the municipal area, the availability of sufficient and appropriate space and land, the availability of proper habitable structures conducive to initiation practices, the provision of municipal services at such initiation schools and accessibility of the schools; 30
- (f) determine the maximum number of initiates that may be admitted to a specific initiation school; 35
- (g) develop criteria and requirements with which prospective initiation schools must comply prior to such schools being registered and opened, including health, water, sanitation and safety requirements, and taking into account the standards for initiation school premises insofar as such standards are not inconsistent with this Act, to ensure that the overall objectives and directives of this Act are met; 40
- (h) determine the process to be followed by prospective initiation schools for the purposes of the registration of such schools;
- (i) consider the curriculum of any prospective initiation school with a view to ensure that— 45
- (i) the provisions of section 29(3) are complied with;
- (ii) where applicable, male circumcision will be performed in accordance with the provisions of this Act; and
- (iii) no illegal activities form part of the initiation practices: 50
- Provided that a principal must present the curriculum of the particular initiation school to the PICC, excluding any initiation activities which are deemed to be sacred and secret by the relevant community: Provided further that the principal must declare to the PICC that no such sacred and secret activities are illegal or harmful; 55
- (j) subject to subsection (11), investigate any alleged abuse of initiates at any initiation school;

Iintlanganiso

14. (1) IKomiti Yephondo mayihlanganisane ubuncinane kane ngonyaka.

(2) (a) Iintlanganiso zeKomiti Yephondo maziqhutyelwe ngaphakathi kwiphondo laloo komiti, ngomhla nangexesha nakwindawo egqitywe ngusihlalo weKomiti Yephondo. 5

(b) Usihlalo weKomiti Yephondo makawazise ngentlanganiso amalungu ekomiti kusasele ubuncinane iintsuku ezisixhenxe ngaphambi kokuba ibekho intlanganiso.

(c) Usihlalo weKomiti Yephondo unokuthi esakucelwa yiNkulumbuso okanye ngumphathiswa wephondo ophathiswe ulwaluko kwiphondo, abize intlanganiso ekhethekileyo, ntlanganiso leyo ekufuneka azisiwe ngayo amalungu kusasele 10 ubuncinane iintsuku ezimbini ngaphambi kokuba ibekho.

(3) Inani elifunekayo ukuze iqhubeke nayiphi na intlanganiso yeKomiti Yephondo ngama-50 ekhulwini kunye nomntu omnye ngaphezulu kwinqanaba lilonke lezithuba ezizalisweyo zeKomiti Yephondo.

(4) (a) Makugcinwe amanqaku namaxwebhu eentlanganiso zeKomiti Yephondo 15 egcinwa ngabasebenzi ekuthethwe ngabo kwisiqendu 17(3).

(b) Amanqaku ayo nayiphi na intlanganiso makavunywe yiKomiti Yephondo kwintlanganiso yayo elandelayo, aze zingekapheli iiveki ezimbini ibikho intlanganiso athunyelwe kwiNkulumbuso, nakumphathiswa wephondo ochaphazelekayo, nakuMlawuli-Jikelele, nakusihlalo weKomiti Yezwelonke, ukuze bazi. 20

Imisebenzi

15. (1) IKomiti Yephondo mayinxibelelanise onke amabhuma nezinto ezininto yokwenza nawo ngaphakathi kwiphondo, yaye ukuze kwenzeke oko—

(a) mayikhuthaze intsebenziswano phakathi kweenkokeli zomthonyama norhulumente nabanye abathabathi-nxaxheba mayela namabhuma nezinto ezenziwayo ezininto yokwenza nawo; 25

(b) yamkela isicelo esivela kumntu ofuna ukuba ngumnini-bhuma ize isiqwalasele;

(c) mayibhalise ibhuma elisicelo sivunyiweyo ize ikhuphe incwadi eqinisekisa ukubhaliswa kwaso iyinike umntu ofuna ukuba ngumnini-bhuma; 30

(d) mayigcine irejista yawo onke amabhuma abhalisiweyo nabanini-mabhuma abaye bahlolwa njengoko kuxelwe kwisiqendu 20(2);

(e) mayenze isigqibo ngenani lamabhuma amakavunyelwe kummandla othile kamasipala kwiphondo icingela iimfuneko ezigqitywe yiKomiti Yephondo, eziquka umgama amakagqagqane ngawo amabhuma, nenani leengcibi ezifumanekayo kummandla kamasipala, ukufumaneka kwendawo eyaneleyo nomhlaba, nokufumaneka kwamanqungwala afanelekileyo anokuhlalwa alufaneleyo ulwaluko nokufumaneka kweenkonzo zikamasipala kuloo mabhuma nokufikeleleka kwezikolo; 35

(f) mayenze isigqibo ngenani labakhwetha amabamkelwe ebhumeni; 40

(g) mayiqulunqe iimfuneko ekufuneka amabhuma ahlangebazane nazo ngaphambi kokuba abhaliswe aze avulwe, eziquka impilo, amanzi, ucoceko nokhuseleko, kucingelwe nemilinganiselo yeendawo amakabe kuzo amabhuma ukuba nje loo milinganiselo ayingqubani nokutshiwo ngulo Mthetho, ukwenzela ukuba zifezeke iinjongo zalo Mthetho; 45

(h) mayenze isigqibo ngenkqubo emayilandelwe ngabantu abafuna ukuba ngabanini-mabhuma, ukuze abhaliswe loo mabhuma;

(i) mayiqwalasele izinto eziza kufundiswa abakhwetha, ukwenzela ukuba—
(i) okutshiwo sisiqendu 29(3) kwenziwe; 50
(ii) xa kunokwenzeka, ukwaluswa kwamakhwenkwe kwenziwe ngokuvumelana nalo Mthetho; nokuze

(iii) kungabikho zenzo ezichasene nomthetho ezenziwayo kulwaluko;

kodwa ke umnini-bhuma makanike iKomiti Yephondo uludwe lwezinto eziza kufundiswa abakhwetha, ngaphandle ke kwezo zinto ezithathwa ngokuthi ziyimfihlo engenakutyhilwa, kodwa ke kananjalo umnini-bhuma makavakalise kwiKomiti Yephondo into yokuba kwezo zinto ziyimfihlo azikho ezichasene nomthetho okanye eziyingozi; 55

(j) ngokulawulwa sisiqendwana (11), mayiphande ngempatho-mpi yabakhwethwa ekubikwa ukuba iyenzeka ebhumeni;

- (k) receive and keep record of medical certificates contemplated in sections 22(1)(c) and 28(1)(c), that has been issued to potential initiates declaring them fit to undergo initiation;
- (l) receive and keep record of all required consent documents contemplated in section 28; 5
- (m) monitor and evaluate the general functioning of initiation schools during the initiation period;
- (n) conduct awareness campaigns on initiation within the province, which must include information on the rights and responsibilities of initiates and their parents or legal or customary guardians as provided for in the Constitution, this Act and any other relevant law; 10
- (o) coordinate the flow of information between different role-players, including information relating to interventions in initiation schools; and
- (p) investigate any matter referred to it by the NIOC in accordance with the provisions of section 9(1)(b) and upon conclusion of such investigation, submit a report to the NIOC. 15
- (2) A PICC must keep a comprehensive database of each initiation school which must at least include—
- (a) any reports relating to initiation as conducted at such schools;
- (b) the daily visitor records of such schools; 20
- (c) financial reports containing details of all income and expenditure;
- (d) detailed information on all initiates, including their full names, identity numbers, age, gender, race, ethnic group and residential address;
- (e) the full names and contact details, including residential address, of the parents or customary or legal guardians of the initiates; 25
- (f) the full names, identity number, age, gender, qualifications and contact details, including residential address, of any medical practitioner or traditional surgeon who is involved in initiation at the particular initiation school;
- (g) detailed information on any principal, care-giver, traditional health practitioner or any other person involved in initiation at the particular initiation school, including their full names, identity numbers, age, gender and contact details, including residential address; 30
- (h) where applicable, the date on which circumcision was done, the time at which it was done and, in respect of each relevant initiate and notwithstanding paragraph (f), the name and identity number of the medical practitioner or traditional surgeon who performed circumcision on such initiate; 35
- (i) any specific health problems being experienced by an initiate;
- (j) any register and records referred to in subsection (1);
- (k) information relating to the nature and cause of the hospitalisation and any loss of life of an initiate; and 40
- (l) information relating to offences contemplated in section 33(10).
- (3) A PICC—
- (a) may develop a manual relating to the responsibilities, roles and functions of principals, traditional surgeons, care-givers and traditional health practitioners in respect of initiation practices, schools and activities, which must include provisions relating to educational, health and safety aspects; 45
- (b) must arrange for the training of principals, traditional surgeons, care-givers and traditional health practitioners on any manual developed in accordance with paragraph (a) or, in collaboration with the provincial department responsible for health or any other relevant department, arrange for their training on any matter which would enable them to perform their responsibilities, duties, roles and functions in respect of initiation in general and as contemplated in this Act; 50
- (c) may develop an appropriate code of conduct for all persons involved in initiation; 55
- (d) may, subject to section 28(9), develop appropriate forms; and
- (e) may inspect any initiation school to establish whether such a school meets the requirements set out in this Act or any criteria developed by the relevant PICC.
- (4) Any criteria, requirements, process, manual, code of conduct and forms as contemplated in subsection (1)(g) or (h) or subsection (3)(a), (c) or (d), must be approved by the PICC and published in the Provincial *Gazette*. 60

- (k) mayamkele iziqinisekiso zoogqirha ezixelwe kwisiqendu 22(1)(c) no-28(1)(c) ize izigcine, ziqinisekiso ezo ezikhutshelwe amakhwenkwe aza kwaluka, zisithi asempilweni entle ukuba angaluka;
- (l) mayamkele onke amaxwebhu afunekayo emvume axelwe kwisiqendu 28 ize iwagcine; 5
- (m) mayikubek' esweni kwaye ikuphonononge ukusebenza kwamabhuma ngexesha lokwaluka;
- (n) mayiqhube amaphulo okwenza abantu bazi ngolwaluko kwiphondo, amaphulo aquka ukwazisa abantu ngamalungelo nangeembopheleleko zabakhwetha nabazali babo okanye abantu ababakhulisileyo, njengoko zixelwe kuMgaqo-siseko nakulo Mthetho nakweminye imithetho ehlobene nale; 10
- (o) mayinxibelelanise ukugeleza kwengcombolo phakathi kwabathabathi-nxaxheba abahlukeneyo, kuquka ingcombolo engokungenelela okunokwenziwa emabhumeni; kanaanjalo 15
- (p) mayiphande ngalo naluphi na udaba oludluliselwe kuyo yiKomiti Eyongameleyo ngokuvumelana noko kutshiwo sisiqendu 9(1)(b), ize lwakuba lugqityiwe olo phando ithumele ingxelo kwiKomiti Eyongameleyo.
- (2) IKomiti Yephondo mayigcine uvimba wengcombolo opheleleyo webhuma ngalinye, omawuquke— 20
- (a) iingxelo ezingolwaluko emabhumeni;
- (b) iingxelo zokutyelwa imihla ngemihla emabhumeni;
- (c) iingxelo zemali ezineenkukacha zayo yonke ingeniso nenkcitho;
- (d) ingcombolo ephangaleleyo emalunga nabo bonke abakhwetha, kuquka amagama abo apheleleyo, iinombolo zabo zezazisi, ubudala, isini, ubuzwe, namakhaya abo; 25
- (e) amagama apheleleyo neenombolo zoqhagamshelwano zabazali babakhwetha okanye abakhulise umkhwetha, kuquka namakhaya abo;
- (f) amagama apheleleyo kagqirha okanye ingcibi, inombolo yakhe yesazisi, ubudala, isini, imfundo, iinombolo zoqhagamshelwano, nekhaya lakhe; 30
- (g) ingcombolo ephangaleleyo ngomnini-bhuma, ngomnonopheli, ngexhwele okanye omnye umntu obandakanyekileyo kulwaluko kwibhuma elithile, kuquka amagama apheleleyo, inombolo yesazisi, ubudala, isini, iinombolo zoqhagamshelwano nekhaya lakhe;
- (h) apho kunokwenzeka khona, umhla wokwalusa, ixesha ewotshini ekwaluswa ngalo, negama nenombolo yesazisi kagqirha okanye ingcibi eyaluse umkhwetha, kungakhathaliseki ukuba sithini na isiqendu (f), igama kunye nenombolo yesazisi sikagqirha wezonyango okanye ingcibi eyoluse umkhwetha; 35
- (i) naziphi na iingxaki zempilo athi abe nazo umkhwetha; 40
- (j) nayiphi na irejista namaxwebhu ekuthethwe ngawo kwisiqendwana (1);
- (k) ingcombolo ngonobangela wokungeniswa esibhedlele nokuphulukana nobomi komkhwetha;
- (l) nengcombolo emalunga nezenzo ezikukona ezixelwe kwisiqendu 33(10).
- (3) IKomiti Yephondo— 45
- (a) inokuthi iqulunqe incwadana ethetha ngemisebenzi yabanini-mabhuma, iingcibi, abanonopheli namaxhwele, ncwadana leyo emayiquke izinto ezinjengemfundo, impilo nokhuseleko;
- (b) mayenze ukuba baqeqeshwe abanini-mabhuma, iingcibi, abanonopheli namaxhwele, kusetyenziswa incwadana equlunqwe ngokwisiqendu (a), okanye, isebenzisana nesebe lephondo eliphathiswe impilo okanye ke nokuba leliph na isebe elichaphazelekayo, mayenze ukuba baqeqeshwe nakweyiphi na into enokubenza ukuba bayenze imisebenzi yabo ngokufanelekileyo ngokwalo Mthetho; 50
- (c) inokuthi iqulunqe imigqaliselo yokuziphatha efanelekileyo yabo bonke abantu ababandakanyekileyo kulwaluko; 55
- (d) inokuthi, ngokulawulwa sisiqendu 28(9), yenze amaxwebhu amakazaliswe; kanaanjalo
- (e) inokuthi ihlole naluphi na ibhuma ukuze ibone ukuba kwelo bhuma kuyenziwa na okufunwa ngulo Mthetho okanye okunye okufunwa yiKomiti Yephondo. 60
- (4) Naziphi na iimfuneko, okanye inkqubo, okanye incwadana, okanye imigqaliselo yokuziphatha, namaxwebhu okuzaliswa njengoko kuxelwe kwisiqendwana (1)(g) okanye (h) okanye kwisiqendwana (3)(a), (c) okanye (d), mazivunye yiKomiti Yephondo zize zipapashwe kuShicilelo-Mithetho Lwephondo.

(5) (a) A PICC must, subject to any applicable legislation and within five calendar days from receiving a dispute, consider and resolve any dispute relating to initiation arising amongst principals, traditional surgeons, care-givers, initiates, families of initiates, traditional leaders, traditional health practitioners, service providers and the parents or legal or customary guardians of initiates. 5

(b) If a PICC is unable to resolve any dispute referred to in paragraph (a), such dispute must be referred to the NIOC within two days of the expiry of the five calendar days referred to in paragraph (a).

(c) In any instance where a PICC is or becomes a party to any dispute referred to in paragraph (a), such dispute must be referred to the NIOC. 10

(6) (a) If, following an investigation contemplated in subsection (1)(j), a PICC finds evidence of the abuse of any initiate, the PICC must, within one day of such investigation, prepare a comprehensive report in this regard and report such abuse to the SAPS.

(b) A PICC must, within one day of becoming aware of any non-registered initiation school operating in the province, investigate the matter, close the school and, where necessary, submit a report to the SAPS to investigate any possible abduction or kidnapping as contemplated in section 25(1)(b). 15

(c) (i) A PICC must, within one day of becoming aware that any registered initiation school no longer meets the requirements of this Act, submit a report in this regard to the relevant principal and request the principal to, within two calendar days, rectify the shortcomings of the initiation school as reflected in the report. 20

(ii) If the relevant initiation school still does not meet the requirements of this Act after the two days referred to in subparagraph (i), the PICC must deregister such initiation school and close it. 25

(7) (a) If an initiation school is closed or deregistered in accordance with the provisions of this Act, the relevant PICC must, where possible and taking into account the customs of the particular community or communities, arrange for the initiates who attended such an initiation school to be transferred to another registered initiation school. 30

(b) Before any initiates are transferred as contemplated in paragraph (a), the relevant PICC must arrange for such initiates to be examined by a medical practitioner to establish—

- (i) whether they are fit to continue with initiation; and
- (ii) whether any medical certificate that was previously issued as contemplated in sections 22(1)(c) and 28(1)(c) is still appropriate. 35

(c) The relevant PICC must arrange for the transportation of initiates contemplated in paragraph (a).

(8) A PICC may, on conditions as may be determined by the PICC, delegate any of the responsibilities, roles and functions contemplated in this section, except the responsibilities, roles and functions referred to in subsections (1)(b), (e), (f), (g), (h) and (i), (3)(d), (4), (5), (6) and section 41(2), to any member of the PICC or a member of a technical support team as contemplated in section 16. 40

(9) For the purposes of subsection (1)(e) to (h), the PICC may consult any knowledgeable person. 45

(10) (a) A PICC may, with due regard to the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), determine the process to be followed when any alleged abuse of initiates is investigated as contemplated in section 15(1)(j) and such process must at least provide for—

- (i) the period within which a specific investigation must be concluded; 50
- (ii) the manner in which interviews must be conducted and recorded; and
- (iii) the manner in which evidence must be collected, including medical reports and photographic evidence.

(b) A PICC may determine the format in which an investigative report must be prepared, including the minimum information to be included in such report and the manner in which any confidential information must be collected and reported on. 55

(11) (a) If any of the persons referred to in subsection (2)(f) and (g) is substituted prior to the opening or during the holding of an initiation school, the principal of such school must inform the relevant PICC accordingly.

(b) Any substitute contemplated in paragraph (a) must comply with the relevant requirements of this Act. 60

(5) (a) IKomiti Yephondo mayithi, ngokulawulwa nguwo nawuphi na umthetho wepalamente osebenza kuloo meko, kwaye zingekapheli iintsuku ezintlanu iyifumene imbambano, iyiqwalasele imbambano ize iyisombulule, kuyimbambano engolwaluko ephakathi kwabanini-mabhuma, iingcibi, abanonopheli, abakhwetha, iintsapho zabakhwetha, iinkokeli zomthonyama, amaxhwele, abaniki-nkonzo, nabazali okanye abantu abakhulise umntwana. 5

(b) Ukuba iKomiti Yephondo iyoyisakala ukusombulula imbambano ekuthethwe ngayo kwisiqendu (a), loo mbambano mayidluliselwe kwiKomiti Eyongameleyo zingekapheli iintsuku ezimbini liphelile ixesha eliziintsuku ezintlanu ekuthethwe ngazo kwisiqendu (a). 10

(c) Nanini na xa omnye wababambeneyo kuyiKomiti Yephondo kwimbambano ekuthethwe ngayo kwisiqendu (a), loo mbambano mayidluliselwe kwiKomiti Eyongameleyo.

(6) (a) Ukuba, emva kophandlo oluxelwe kwisiqendwana (1)(j), iKomiti Yephondo ifumana ubungqina bokuphathwa kakubi komkhwetha, iKomiti Yephondo mayithi, lungekapheli usuku olunye kuphandiwe, iqulunqe ingxelo enazo zonke iinkcukacha ize iyibike loo mpatho-mbi emapoliseni. 15

(b) IKomiti Yephondo mayithi, lungekapheli usuku olunye yazile ngebhuma elingabhaliswanga kwiphondo, iphande ngalo, ilivale elo bhuma ize, xa kuyimfuneko, ithumele ingxelo emapoliseni ukuze aphande ukuba akuxhwilwanga nkwenkwe na njengoko kuxelwe kwisiqendu 25(1)(b). 20

(c) (i) IKomiti Yephondo mayithi, lungekapheli usuku olunye yazile ukuba ibhuma elibhalisiweyo alisakwenzi okufunwa ngulo Mthetho, ithumele ingxelo kumnini-bhuma ize imcele ukuba zingekapheli iintsuku ezimbini ayilungise loo nto ingalunganga ebhumeni njengoko ichaziwe kwingxelo. 25

(ii) Ukuba elo bhuma alikakwenzi okufunwa ngulo Mthetho nasemva kweentsuku ezimbini ekuthethwe ngazo kwisiqendwana (i), iKomiti Yephondo mayilicime ekubhalisweni elo bhuma ize ilivale.

(7) (a) Ukuba ibhuma livaliwe okanye ukubhaliswa kwalo kucinyiwe ngokokutsho kwalo Mthetho, iKomiti Yephondo mayithi, ukuba kunokwenzeka, kucingelwa kanaanjalo amasiko abantu baloo mmandla, yenze ukuba abakhwetha abebekwelo bhuma bafuduselwe kwelinye ibhuma elibhalisiweyo. 30

(b) Ngaphambi kokuba abakhwetha bafuduswe njengoko kuxelwe kwisiqendu (a), iKomiti Yephondo mayenze ukuba abo bakhwetha baxilongwe ngugqirha ukuze kuqondakale ukuba— 35

(i) bakulungele kusini na empilweni ukuqhubeka nolwaluko; nokuthi

(ii) isiqinisekiso sempilo sikagqirha esasikhutshiwe njengoko kuxelwe kwisiqendu 22(1)(c) no-28(1)(c) sisafanelekile kusini na.

(c) IKomiti Yephondo mayenze ukuba bathuthwe abakhwetha njengoko kuxelwe kwisiqendu (a). 40

(8) IKomiti Yephondo inokuthi, ngemiqathango equlunqwe yiyo, iyiphathise omnye umntu imisebenzi exelwe kwesi siqendu, ngaphandle kwemisebenzi ekuthethwe ngayo kwisiqendwana (1)(b), (e), (f), (g), (h) no-(i), (3)(d), (4), (5) (6) nakwisiqendu 41(2), iyiphathisa naliphi na ilungu leKomiti Yephondo okanye umntu okwiqela elincedisayo njengoko kuxelwe kwisahluko 16. 45

(9) Ngokumayelana nesiqendwana (1)(e) ukuya ku-(h), iKomiti Yephondo ingabonisana naye nawuphi na umntu onolwazi.

(10) (a) IKomiti Yephondo inokuthi, ingakulibalanga oko kutshiwo yi*Promotion of Administrative Justice Act* 3 ka-2000, yenze isigqibo ngenkqubo emayilandelwe xa kuphandwa ngempatho-mbi yabakhwetha njengoko kuxelwe kwisiqendu 15(1)(j), loo nkqubo ke ubuncinane mayixele— 50

(i) ubude bexesha emalingapheli lungekagqitywa uphando olo;

(ii) indlela emaluqhutywe ngayo uphando;

(iii) nendlela emabuqokelelwe ngayo ubungqina, neengxelo zoogqirha nobungqina obuziifoto. 55

(b) IKomiti Yephondo inokwenza isigqibo ngemo emayibe kuyo ingxelo yophando, yenze isigqibo nangengcombolo emayibe kuloo ngxelo ubuncinane, nangendlela emayiqokelelwe ngayo ingcombolo eyimfihlo kuze kubikwe ngayo.

(11) (a) Ukuba omnye wabantu abakhankanywe kwisiqendwana (2)(f) no-(g) indawo yakhe ithatyathwa ngomnye ngaphambi kokuqalisa kolwaluko okanye ngalo ixesha lolwaluko, umnini-bhuma makazise iKomiti Yephondo ngaloo nto. 60

(b) Nawuphi na umntu othabatha indawo yomnye ngokwisiqendu (a) makahlangabezane nazo iimfuneko ezimchaphazelayo zalo Mthetho.

(12) If, during any inspection or investigation contemplated in this section, a PICC becomes aware of any possible or alleged criminal conduct, the PICC must immediately report such conduct to the SAPS for investigation.

Technical support teams

16. (1) (a) The PICC contemplated in section 11(1) may, after consultation with the head of each of the provincial government departments, traditional leadership councils or institutions referred to in subparagraphs (i) to (xi), establish a technical support team consisting of not more than two representatives each of any or all of—

- (i) the provincial department responsible for health;
- (ii) the provincial department responsible for traditional affairs; 10
- (iii) the provincial department responsible for basic education;
- (iv) the provincial department responsible for arts and culture;
- (v) the provincial department responsible for social development;
- (vi) the provincial department responsible for safety and security;
- (vii) the relevant kingship or queenship councils, principal traditional councils or traditional councils; 15
- (viii) the relevant metropolitan, district and local municipalities;
- (ix) the emergency services within the particular area;
- (x) the SAPS; and
- (xi) any other interested body as identified by the PICC. 20

(b) The PICC may, when necessary and after consultation with the head of each of the national government departments or institutions referred to in subparagraphs (i) to (vii), co-opt to the technical support team not more than two representatives each from any or all of—

- (i) the CRL Rights Commission; 25
- (ii) the Department of Justice;
- (iii) the Department of Women;
- (iv) the Department of Health;
- (v) the Department of Social Development;
- (vi) the Department of Home Affairs; and 30
- (vii) the NPA.

(2) (a) The PICC contemplated in section 11(2) and (3) may, in consultation with the Premier, determine whether it is necessary to establish a technical support team.

(b) If such a technical support team is to be established, the provisions of subsection (1) apply in so far as it is relevant in the particular province. 35

(3) A technical support team must perform the functions delegated to it by the PICC, as contemplated in section 15(8).

(4) A Premier may, after consultation with the MEC responsible for initiation and the MEC responsible for health in the relevant province, include a representative of the provincial department of health contemplated in subsection (1)(a)(i) as a member of the PICC. 40

Administrative and financial support

17. (1) The administrative and financial support to a PICC and its technical support team, including the conditions and requirements relevant to such support, must be provided for by the provincial departments as determined by the Premier after consultation with the relevant MECs. 45

(2) The heads of the provincial departments contemplated in subsection (1) must, after consultation with each other, designate officials from their respective departments to provide specified administrative support to the PICC or its technical support team for the period indicated in such designation. 50

(3) The administrative support contemplated in subsection (2) must include secretariat support.

(12) Ukuba ngexesha lokuhlola okanye lokuphanda okuxelwe kwesi siqendu, iKomiti Yephondo ithi ibe nolwazi ngesenzo solwaphulo-mthetho esinokwenzeka okanye esibikwayo, mayisibike ngoko nangoko emapoliseni ukuze siphandwe.

Amaqela okuncedisa

16. (1) (a) IKomiti Yephondo exelwe kwisiqendu 11(1) inokuthi, emva kokuba ibonisene nentloko yesebe ngalinye lorhulumente wephondo, yabonisana kanaanjalo namaphakathi okanye yabonisana namaziko ekuthethwe ngawo kwisiqendwana (i) ukuya kwese-(xi), imisele iqela labancedisi elinabameli abangangaphezulu kwesibini lilinye—

- (i) kwisebe okanye kuwo onke amasebe ephondo aphathiswe impilo; 10
- (ii) kwisebe okanye kuwo onke amasebe ephondo aphathiswe imicimbi yakwantu; 10
- (iii) kwisebe okanye kuwo onke amasebe ephondo aphathiswe imfundo esisiseko; 10
- (iv) kwisebe okanye kuwo onke amasebe ephondo aphathiswe ubugcisa nezithethe; 10
- (v) kwisebe okanye kuwo onke amasebe ephondo aphathiswe ukuphuculwa koluntu; 15
- (vi) kwisebe okanye kuwo onke amasebe ephondo aphathiswe ukhuseleko; 15
- (vii) kumaphakathi ekumkani okanye ekumkanikazi, kumaphakathi eenkosi okanye kumaphakathi; 15
- (viii) kumasipala ombaxa ochaphazelekayo, okanye kumasipala wesithili okanye wasekuhlaleni; 20
- (ix) kwiinkonzo zequbulusio ezikummandla othile; 20
- (x) emapoliseni; 20
- (xi) nakulo naliphi na iqumrhu elinomdla elibonwe yiKomiti Yephondo. 20

(b) IKomiti Yephondo inokuthi xa kuyimfuneko nasemva kokuba ibonisene nentloko yesebe ngalinye okanye iziko ngalinye kurhulumente welizwe ekuthethwe ngalo kwisiqendwana (i) ukuya kwese-(vii), inike iqela labancedisi abameli abangangaphezulu kwesibini ngamnye ethatyathwe—

- (i) kwiKomishoni Yamalungelo Abantu Abaphila Ngokwezithethe Nangokwenkolo Nangokweelwimi Zabo; 25
- (ii) kwiSebe Lobulungisa; 30
- (iii) kwiSebe Labafazi; 30
- (iv) kwiSebe Lempilo; 30
- (v) kwiSebe Lokuphuculwa Koluntu; 30
- (vi) kwiSebe Lemicimbi Yasekhaya 30
- (vii) nakwiGunya Elitshutshisayo. 35

(2) (a) IKomiti Yephondo exelwe kwisiqendu 11(2) nese-(3) inokuthi, ngokubonisana neNkulumbuso, igqibe kwelokuba kuyimfuneko kusini na ukumisela iqela labancedisi.

(b) Ukuba liyamiselwa iqela labancedisi, okutshiwo sisiqendwana (1) kuyasebenza ukuba kunento efunisa oko kwelo phondo.

(3) Iqela labancedisi malenze imisebenzi eliphathiswe yona yiKomiti Yephondo, njengoko kuxelwe kwisiqendu 15(8). 40

(4) INkulumbuso inokuthi emva kokuba ibonisene nomphathiswa wephondo ophathiswe ulwaluko nomphathiswa ophathiswe impilo kwiphondo, iquke nommeli wesebe lempilo lephondo elixelwe kwisiqendwana (1)(a)(i), limquka ukuba abe lilungu leKomiti Yephondo. 45

Ukuncediswa ngomsebenzi nangemali

17. (1) Ukuncediswa kweKomiti Yephondo neqela layo labancedisi, bencediswa ngomsebenzi nangemali, kuquka nemiqathango neemfuneko zolo ncedo, makuvele kumasebe ephondo njengoko kugqitywe yiNkulumbuso emva kokubonisana nabaphathiswa bamaphondo abachaphazelekayo. 50

(2) Iintloko zamasebe amaphondo ezixelwe kwisiqendwana (1) mazithi emva kokubonisana kwazo zichonge amagosa kumasebe azo ukuba ancedise ngomsebenzi kwiKomiti Yephondo okanye kwiqela layo labancedisi kude kube lixesha elixelwe xa bebechongwa.

(3) Ukuncediswa ngomsebenzi okuxelwe kwisiqendwana (2) makuquke nokuncediswa ngomsebenzi wobunobhala. 55

CHAPTER 3

ROLE-PLAYERS

Government

18. (1) (a) National and provincial departments and municipal councils may, in respect of initiation practices in general and initiation schools in particular, enter into partnerships with each other and with— 5

- (i) the principal of an initiation school or principals of initiation schools jointly within the province; and
- (ii) the kingship or queenship council, principal traditional council or traditional council in whose area of jurisdiction an initiation school is held or such councils jointly within the province. 10

(b) Any partnership contemplated in paragraph (a) must be in writing and—

- (i) must, in addition to any other provisions, contain clear provisions on the responsibilities of each party and the termination of such partnership; and
- (ii) may not bind any person, body or institution who is not a party to such partnership. 15

(c) The NIOC, in the case of a partnership where a national department is a party thereto, and a PICC, in the case of any other partnership, must monitor such partnership and may take the necessary steps to ensure the effective and efficient implementation or termination thereof. 20

(2) (a) A metropolitan, district or local municipality may, upon request of the principal of a prospective initiation school, in relevant municipal plans or by any other means applicable within such municipality, and after consultation with a kingship or queenship council, principal traditional council or traditional council falling within the municipal area, if any, make provision for the designation of appropriate and accessible land for the purpose of conducting initiation schools. 25

(b) A metropolitan, district or local municipality may, subject to section 21(11), enter into a partnership or agreement with a principal for the provision of municipal services at the relevant initiation school.

(3) (a) The Minister may, by notice in the *Gazette* and after consultation with all Premiers, the National House, provincial houses and, for the purposes of subparagraph (iii), the Minister responsible for health, determine the fees to be paid— 30

- (i) by any prospective initiate to a principal for the purposes of attending such a school;
- (ii) by the principal to the PICC in respect of the registration of such school; and 35
- (iii) by the parents or legal or customary guardian of an initiate to a medical practitioner for his or her services rendered during initiation.

(b) Before making a final determination of the fees, the Minister must by notice in the *Gazette*, publish the proposed fees for public comment.

(c) Fees determined in accordance with this subsection must be revised on advice and at the request of the NIOC after the NIOC has consulted with all PICCs. 40

Houses of traditional leaders

19. (1) The National House and provincial houses must, in respect of initiation, promote—

- (a) the customary practice and the legal obligations pertaining thereto; 45
- (b) compliance with Constitutional principles, the provisions of this Act and any other legal prescripts pertaining to customary initiation, including the relevant provisions of the Children's Act;
- (c) good and safe practices; and
- (d) accountability amongst all role-players. 50

ISAPHLUKO 3

ABATHABATHI-NXAXHEBA

Urhulumente

18. (1) (a) Amasebe elizwe nawephondo namabhunga oomasipala anokuthi, malunga nolwaluko ngokubanzi namalunga namabhuma ikakhulu, angene kwizivumelwano njengamaqabane kwakunye— 5

- (i) nomnini-bhuma okanye abanini-mabhuma kunye nephondo; kwakunye
- (ii) namaphakathi ekumkani okanye ekumkanikazi, okanye amaphakathi enkosi okanye amaphakathi ekwalukwayo kummandla wabo, okanye loo maphakathi ekunye nephondo. 10

(b) Nasiphi na isivumelwano sokuba ngamaqabane esixelwe kwisiqendu (a) masibhalwe phantsi, kwaye—

- (i) ukongezelela kwezinye izinto esizitshoyo, kufuneka sibe sithethe cacileyo ngeembopheleleko zomntu ngamnye nangokupheliswa kweso sivumelwano sobuqabane; kwaye 15
- (ii) asivumelekanga ukuba sinkqamangele omnye umntu okanye iqumrhu okanye umbutho ongekhoyo kweso sivumelwano sobuqabane.

(c) IKomiti Eyongameleyo, xa kusisivumelwano sobuqabane ekukho kuso isebe likarhulumente welizwe, neKomiti Yephondo, xa kusisivumelwano nesinjani na, ezo komiti mazisibek' esweni eso sivumelwano sobuqabane kwaye zinokuthi zithabathe amanyathelo afanelekileyo okwenza ukuba sisebenze ngempumelelo okanye siphelise. 20

(2) (a) Umasipala ombaxa okanye owesithili okanye owasekuhlaleni unokwenza ukuba kwalathwe umhlaba ofanelekileyo nofikelekayo wokuba kwakhiwe amabhuma kuwo, ekwenza oko xa kucelwe ngumnini-bhuma okanye ngumntu ofuna ukuba ngumnini-bhuma, ekwenza ngeepiani zikamasipala okanye ngezinye iindlela ezifanelekileyo kuloo masipala, kwaye ekwenza oko emva kokubonisana namaphakathi ekumkani okanye ekumkanikazi, okanye namaphakathi enkosi, okanye amaphakathi akummandla waloo masipala. 25

(b) Umasipala ombaxa okanye owesithili okanye owasekuhlaleni unokuthi, elawulwa sisiqendu 21(11), angene kwisivumelwano sobuqabane okanye kwisivumelwano esiqhelekileyo nomntu ongumnini-bhuma isesokuba kusiwe iinkonzo zikamasipala ebhumeni. 30

(3) (a) UMphathiswa unokuthi ngokukhuph' isihlokomiso kuShicilelo-Mithetho nasemva kokubonisana nazo zonke iiNkulumbuso neNdlu Yezwelonke nendlu yephondo noMphathiswa ophathiswe impilo njengoko kufuna isiqendwana (iii), enze isigqibo ngemirhumo emayihlawulwe— 35

- (i) yiyo nayiphi na inkwenkwe eza kwaluka iyihlawula kumnini-bhuma ukuze yalukele kwibhuma lakhe;
- (ii) ngumnini-bhuma kwiKomiti Yephondo iyeyokubhaliswa kwelo bhuma; nemayihlawulwe 40
- (iii) ngabazali okanye ngumntu okhulise inkwenkwe eyalukayo beyihlawula kugqirha ngomsebenzi wakhe kulwaluko.

(b) Ngaphambi kokuba enze isigqibo sokugqibela ngeemali emazihlawulwe, uMphathiswa makaqale azipapashe iimali azicebayo kuShicilelo-Mithetho ukuze uluntu luvakalise izimvo ngazo. 45

(c) Iimali emazihlawulwe ngokwesi siqendwana mazitshintshwe xa kucebise okanye kucele iKomiti Eyongameleyo emva kokuba iKomiti Eyongameleyo ibonisene nazo zonke iiKomiti Zamaphondo.

Izindlu zeenkokeli zomthonyama 50

19. (1) Malunga nolwaluko, iNdlu Yezwelonke nezindlu zamaphondo mazikhuthaze—

- (a) ulwaluko nemithetho emayihlonitshwe ehambisana nalo;
- (b) ukwenza izinto ngokoMgaqo-siseko nangokwalo Mithetho nangokweminye imithetho engolwaluko, kuquka ne*Children's Act*; 55
- (c) ukwenza izinto kakuhle nangendlela engenabungozi;
- (d) nokuphendula kwabo bonke ababandakanyekileyo.

- (2) The National House must, after consultation with the provincial houses and in any instance where a provincial house has not been established, after consultation with the Premier or any MEC designated by the Premier for this purpose, develop—
- (a) criteria to be used for the purposes of the screening of principals, traditional surgeons, care-givers and traditional health practitioners as contemplated in section 20(2); 5
 - (b) the minimum requirements for the registration of traditional surgeons, subject to the provisions of section 41(3);
 - (c) educational material for the purposes of educating all role-players in initiation on the rights, responsibilities, roles and functions of such role-players and the rights of initiates; and 10
 - (d) acceptable standards relating to discipline at initiation schools.
- (3) The National House may, on request of the NIOC or any PICC and after consultation with the relevant role-players, develop a manual as contemplated in section 15(3)(a). 15

Traditional leaders

- 20.** (1) Traditional leaders are overall responsible for initiation practices taking place within the areas of jurisdiction of their kingship or queenship councils, principal traditional councils or traditional councils and must, in this regard—
- (a) promote the customary practice amongst the traditional communities in the particular area; 20
 - (b) promote compliance with Constitutional principles, the provisions of this Act and any other legal prescripts pertaining to customary initiation, including the relevant provisions of the Children's Act;
 - (c) promote good and safe practices, with specific emphasis on the protection of the lives, health and safety of initiates; 25
 - (d) promote compliance with any code of conduct contemplated in section 15(3)(c);
 - (e) assist the NIOC or a PICC, upon their request, to perform their functions provided for in this Act; and 30
 - (f) conduct regular inspections at initiation schools within their areas and report any abuse of initiates and non-compliance with the provisions of this Act or any other relevant law to the relevant PICC.
- (2) The traditional leaders contemplated in subsection (1) must screen principals, traditional surgeons, care-givers and traditional health practitioners in accordance with the criteria developed by the National House in terms of section 19(2)(a) and submit a report to the relevant PICC, in the format as may be determined by such PICC— 35
- (a) indicating whether a specific principal or care-giver meets the requirements provided for in this Act and is suitable to perform the duties of a principal or care-giver, as the case may be; 40
 - (b) indicating, subject to the provisions of section 22(1)(h), for which initiate or initiates each such care-giver will be responsible;
 - (c) containing details, other than the information contemplated in section 15(2)(g), in respect of a principal, traditional surgeon or care-giver as may be required by the relevant PICC; and 45
 - (d) indicating whether a specific traditional surgeon— 45
 - (i) is registered;
 - (ii) meets the requirements of section 23; and
 - (iii) is suitable to perform the duties of a traditional surgeon contemplated in this Act. 50
- (3) If, in respect of the functions contemplated in subsection (2)—
- (a) any traditional leader is unable to perform such functions;
 - (b) a specific traditional leader is also the principal of an initiation school;
 - (c) there are no recognised traditional leaders in a particular province but initiation takes place within such province; or 55
 - (d) initiation takes place in an area where there are no traditional leaders, the PICC must assign such functions to any member of the PICC or its technical support team.

- (2) INdlu Yezwelonke mayithi emva kokubonisana nezindlu zamaphondo, kuze kuthi ukuba akukho ndlu yephondo, emva kokubonisana neNkulumbuso okanye umphathiswa wephondo ochongwe yiNkulumbuso, iqulunqe—
- (a) iimfuneko emazisetyenziswe zokuhlola abantu abafuna ukuba ngabanini-mabhuma, iingcibi, abanonopheli namaxhwele njengoko kuxelwe kwisiqendu 20(2); 5
 - (b) iimfuneko ezisisiseko zokubhaliswwa kweengcibi, phantsi kokulawulwa sisiqendu 41(3);
 - (c) iincwadi emazifundwe zokufundisa bonke abanexaxheba befundiswa ngamalungelo anawo umntu kulwaluko, imisebenzi yakhe, namalungelo abakhwetha; 10
 - (d) nemigqaliselo eyamkelekileyo emalunga nokwenza izinto ngendlela efanelekileyo emabhumeni.
- (3) INdlu Yezwelonke inokuthi isakucelwa yiKomiti Eyongameleyo okanye yiyo nayiphi na iKomiti Yephondo, emva kokubonisana nababandakanyekileyo, iqulunqe incwadana njengoko kuxelwe kwisiqendu 15(3)(a). 15

Iinkokeli zomthonyama

20. (1) Iinkokeli zomthonyama zinomthwalo wokuba liliso kulwaluko kwimimandla ephantsi kwazo, kwaye—
- (a) mazilukhuthaze kwiilali zazo; 20
 - (b) mazikhuthaze ukwenza izinto ngokoMgaqo-siseko nangokwalo Mthetho nangokweminye imithetho emalunga nolwaluko, kuquka ne*Children's Act*;
 - (c) mazikhuthaze ukwenziwa kwezinto ngendlela eyiyo nengenabungozi, zigxininisa ikakhulu ekukhuselweni kobomi nempilo yabakhwetha;
 - (d) mazikhuthaze ukwenziwa kwezinto ngokwemigqaliselo yokuziphatha ekwisiqendu 15(3)(c); 25
 - (e) mazincedise iKomiti Eyongameleyo okanye iKomiti Yephondo xa icelile, ekwenzeni imisebenzi yayo engokwalo Mthetho; kwaye
 - (f) maziwahle qho amabhuma akummandla wazo zize zibike nayiphi na impatho-mbi nokungenziwa kokufunwa ngulo Mthetho okanye omnye umthetho, zikubika kwiKomiti Yephondo lazo. 30
- (2) Iinkokeli zomthonyama ekuthethwe ngazo kwisiqendwana (1) mazikugocagocwe ukufaneleka kwabanini-mabhuma, iingcibi, abanonopheli namaxhwele, ngokweemfuneko eziqulunqwe yiNdlu Yezwelonke ngokwesiqendu 19(2)(a) zize zithumele ingxelo kwiKomiti Yephondo lazo, ingxelo leyo ibe kwimo enokuthi igqitywe yiKomiti Yephondo— 35
- (a) ibonise ukuba umnini-bhuma othile okanye umnonopheli uyazifikelela na iimfuneko ezixelwe kulo Mthetho kwaye ukufanele ukwenza imisebenzi yomnini-bhuma okanye yomnonopheli;
 - (b) kuxhomekeke kwisiqendu 22(1)(h), ibonise ukuba loo mnonopheli uza kunonophela owuphi umkhwetha okanye abaphi abakhwetha; 40
 - (c) ibe neenkukacha ezingaphandle kwezo zixelwe kwisiqendu 15(2)(g), ezimalunga nomnini-bhuma okanye ingcibi okanye umnonopheli, ezinokuthi zifunwe yiKomiti Yephondo; kwaye
 - (d) ibonise ukuba ingcibi ethile— 45
 - (i) ibhalisiwe;
 - (ii) iyazifikelela iimfuneko zesiqendu 23; kwaye
 - (iii) iyakufanelekela ukwenza imisebenzi yengcibi exelwe kulo Mthetho.
- (3) Malunga nemisebenzi exelwe kwisiqendwana (2), ukuba— 50
- (a) inkokeli yomthonyama ayikwazi ukuyenza loo misebenzi;
 - (b) inkokeli yomthonyama ethile ikwangumnini-bhuma;
 - (c) akukho zinkokeli zomthonyama zivunyiweyo kwiphondo elithile, kodwa kuyalukiswa kwelo phondo; okanye
 - (d) kuyalukiswa kummandla ongenazinkokeli zomthonyama, iKomiti Yephondo mayiyinike loo misebenzi naliphi na ilungu leKomiti Yephondo okanye iqela layo labancedisi. 55

Principals and care-givers

21. (1) Principals and care-givers have the responsibilities, roles and functions assigned to them by this Act and are subject to the screening contemplated in section 20(2).
- (2) Principals and care-givers must— 5
- (a) have no history or criminal record related to the abuse of children, violent actions or conduct against any person or any substance abuse; and
- (b) subject to the provisions of section 29, instil discipline amongst the initiates under their guardianship.
- (3) Care-givers must provide the parent or, where applicable, the customary or legal guardian of the initiate with health reports within the timeframes to be agreed upon between such care-giver and the relevant parent or guardian. 10
- (4) In the case of male initiation practices where circumcision is part of the initiation process, the care-givers must, subject to subsection (2), be males who themselves have been subjected to initiation and circumcision and must— 15
- (a) subject to subsection (5), take precautionary measures to ensure the speedy recovery of initiates after circumcision; and
- (b) take care of the relevant initiate or initiates until the completion of the initiation practices.
- (5) (a) Care-givers are responsible for the monitoring of initiates and must, if any initiate displays any symptoms of ill-health, serious injury, infection or excessive, recurring or continuous bleeding, whether as a result of circumcision or not, immediately inform the principal and the parents or legal or customary guardian of such initiate. 20
- (b) Immediately upon being informed of any of the conditions referred to in paragraph (a) by the care-giver or by a traditional surgeon as contemplated in section 23(3)(a), the principal must arrange for the initiate to receive medical attention. 25
- (c) If the principal is not available, the care-giver must immediately arrange for the initiate to receive medical attention.
- (6) In the case of female initiation practices the care-givers must, subject to subsection (2), be females who themselves have been subjected to initiation. 30
- (7) A principal must designate a specific area where sick initiates may be attended to, taking into account the provisions of section 22(4)(a).
- (8) A principal must ensure that all provisions of section 28, with the exception of section 28(9)(b), (10) and (11) are complied with. 35
- (9) A principal must provide the relevant PICC with the information contemplated in section 15(2)(f) and (g).
- (10) A principal must, subject to section 22(1)(f), inform all role-players involved in initiation practices at the particular initiation school of any special needs of initiates who have disabilities, and must ensure that such needs are taken care of, including the provision of sign language practitioners and braille services where applicable. 40
- (11) (a) For the purposes of a partnership or agreement contemplated in section 18(2)(b), a principal must engage the relevant municipality at least three months prior to the commencement of the specific initiation season.
- (b) A principal is responsible for the payment of municipal services provided by a municipality at an initiation school. 45
- (c) The relevant municipality may exempt a principal from the payment contemplated in paragraph (b) and such exemption must be stipulated in the partnership or agreement contemplated in section 18(2)(b).

Parents or legal or customary guardian 50

22. (1) The parents or, where applicable, the legal or customary guardian of an initiate, must—
- (a) decide, together with the child concerned and subject to the provisions of section 28, whether such child should attend an initiation school or not;
- (b) in the case where male circumcision forms part of the initiation process, decide together with the child whether he should be circumcised medically or traditionally or not at all; 55

Abanini-mabhuma nabanonopheli

21. (1) Imisebenzi yabanini-mabhuma nabanonopheli yileyo bayinikwe ngulo Mthetho kwaye kufuneka behloliwe njengoko kuxelwe kwisiqendu 20(2).
- (2) Abanini-mabhuma nabanonopheli—
- (a) makube ngabantu abangazange bakhe benze ulwaphulo-mthetho oluyelele kwimpatho-mbi yabantwana, abangazange benze izenzo zogonyamelo kuye nawuphi na umntu kwaye bengazange bakhe basebenzise kakubi ulutho oluyobisayo; kwaye 5
- (b) kuxhomekeke koko kutshiwo sisiqendu 29, mababafundise ukuziphatha abakhwetha. 10
- (3) Abanonopheli mabanike abazali okanye abantu abakhulise umntwana ingxelo ngempilo yenkwenkwe lingekapheli ixesha ekuvunyelwene ngalo nguloo mnonopheli nomzali okanye umntu okhulise umntwana.
- (4) Xa kululwaluko lwamakhwenkwe apho ukusikwa kuyinxalenye yokwaluka, abanonopheli makube ngabantu kwabona abalukileyo, kuxhomekeke kwisiqendwana (2), kwaye— 15
- (a) kuxhomekeke kwisiqendwana (5), mabathabathe amanyathelo okuthintel' into engekehli okuqinisekisa ukuba abakhwetha baphola ngokukhawuleza emva kokwaluswa; kwaye
- (b) bamnyamekele umkhwetha okanye abakhwetha ade abe uyaphuma okanye bade babe bayaphuma. 20
- (5) (a) Abanonopheli banomsebenzi wokusoloko bebabek' esweni abakhwetha, kwaye ukuba kukho umkhwetha obonisa iimpawu zokungaphili, okanye ukwenzakala okuxhomis' amehlo, okanye ukubhidla, okanye ukopha okugqithisileyo, okanye ukopha okuman' ukubuyelela okanye okunganqamkiyo, noba kubangelwa kukusikwa okanye akubangelwa kuko, makazise ngoko nangoko umnini-bhuma nabazali bomkhwetha okanye umntu omkhulisileyo. 25
- (b) Kwaoko esakwaziswa ngayo nayiphi na kwiimeko ezixelwe kwisiqendu (a) esaziswa ngumnonopheli okanye yingcibi njengoko kuxelwe kwisiqendu 23(3)(a), umnini-bhuma makenze ukuba umkhwetha afumane unyango. 30
- (c) Ukuba umnini-bhuma akafumaneki, umnonopheli makenze ukuba umkhwetha afumane unyango ngoko nangoko.
- (6) Xa kululwako lwamantombazana, kuxhomekeke kwisiqendwana (2), abanonopheli makube ngabafazi abagqithe kulwaluko lwamantombazana nabo ngokwabo. 35
- (7) Umnini-bhuma makalathe indawo apho abakhwetha abagulayo banokuhoyelwa khona, ecingela oko kutshiwo sisiqendu 22(4)(a).
- (8) Umnini-bhuma makaqinisekise ukuba konke okutshiwo sisiqendu 28 kuyenziwa, ngaphandle kwisiqendu 28(9)(b), (10) nese-11.
- (9) Umnini-bhuma makanike iKomiti Yephondo ingcombolo exelwe kwisiqendu 15(2)(f) no-(g). 40
- (10) Kuxhomekeke kwisiqendu 22(1)(f), umnini-bhuma makazise bonke ababandakanyekileyo kulwaluko kwibhuma lakhe abazise ngazo naziphi na iimfuno ezikhethekileyo zabakhwetha abagokekileyo okanye abaneziphene, aqinisekise ukuba ezo mfuno ziyahoywa, kuquka ukwenza ukuba kufumaneke abakwazi ukuthetha ulwimi lwezandla neencwadi zebreyile apho zithi zifuneke khona. 45
- (11) (a) Malunga nesivumelwano okanye isivumelwano sokuba ngamaqabane ekuthethwe ngaso kwisiqendu 18(2)(b), umnini-bhuma makathethe nomasipala wakhe ubuncinane kusasele iinyanga ezintathu ngaphambi kokuba liqale ixesha lokwaluka.
- (b) Ngumnini-bhuma omakahlawulele iinkonzo zikamasipala ezinikwa ngumasipala ebhumeni. 50
- (c) Umasipala usengamhlawulisi umnini-bhuma njengoko kuxelwe kwisiqendu (b), kwaye xa engamhlawulisi, oko makuvele kwisivumelwano okanye kwisivumelwano sokuba ngamaqabane esixelwe kwisiqendu 18(2)(b).

Abazali okanye umntu okhulise umntwana 55

22. (1) Abazali, okanye xa kungengomzali, umntu okhulise umntwana—
- (a) mabagqibe kunye nomntwana lowo, ngokulawulwa sisiqendu 28, kwelokuba makaye kusini na esuthwini okanye angayi;
- (b) xa kuyinkwenkwe emayaluke, mabagqibe kwelokuba umntwana makaluswe ngugqirha okanye makaluswe entabeni; 60

- (c) subject to subsection (2), obtain a certificate from a medical practitioner who is practicing within the province where the relevant initiation school is located, indicating whether a prospective initiate is fit to participate in the initiation practices and that he or she has no medical, physical or psychological condition that may cause complications during or after initiation; 5
- (d) disclose to the relevant principal and care-giver whether the prospective initiate is on medication in order for the specific care-giver to administer such medication to such initiate;
- (e) disclose to the relevant principal and care-giver whether the prospective initiate has any other health condition that may impact on such initiate's participation in any initiation practice; 10
- (f) disclose to the relevant principal and care-giver whether the prospective initiate has any disability, including the special needs of such disabled initiate, and whether such disability may limit his or her participation in initiation activities; 15
- (g) satisfy themselves that—
- (i) the initiation school to be attended by the prospective initiate is registered with the relevant PICC in accordance with the provisions of this Act; and 20
 - (ii) the principal of the relevant initiation school, the care-giver who will be responsible for the prospective initiate, any relevant traditional health practitioner and, where applicable, the traditional surgeon who will be performing male circumcision, have been screened and found suitable in accordance with the provisions of this Act; and 25
- (h) designate a care-giver for the prospective initiate, subject to the screening of care-givers as contemplated in section 20(2).
- (2) A certificate contemplated in subsection (1)(c), must—
- (a) be obtained within 21 calendar days prior to the day on which an initiation school is to commence; 30
 - (b) specifically indicate whether the child has any bleeding or breathing disorder, congenital abnormalities or any disability; and
 - (c) be submitted to the principal of the particular initiation school and the relevant care-giver by the parents or legal or customary guardian of the initiate, as the case may be. 35
- (3) The parents or, where applicable, the legal or customary guardian of an initiate, must ensure that the academic education of an initiate, subject to the provisions of section 27, is not compromised as a result of his or her attendance of an initiation school.
- (4) The parents or, where applicable, the legal or customary guardian of an initiate, have the right— 40
- (a) to attend to such initiate who falls sick during initiation; and
 - (b) to remove such initiate from an initiation school in any instance where—
 - (i) the initiate requires medical attention;
 - (ii) the initiate requests to be removed from the initiation school;
 - (iii) the initiate is attending an initiation school without the necessary consent contemplated in section 28; 45
 - (iv) the initiate is or has been subjected to any abuse at the school;
 - (v) a family emergency or natural disaster warrants such removal; or
 - (vi) such parents, legal or customary guardian are of the opinion that the relevant initiation school, the principal of such school or any traditional surgeon, traditional health practitioner or care-giver involved in any initiation practices at such initiation school does not meet or no longer meets the requirements of this Act. 50

Traditional surgeons

23. (1) (a) A traditional surgeon may, subject to section 2(4) and (5), only participate in initiation practices if such surgeon— 55
- (i) is registered; and
 - (ii) has been provided with all required consent forms contemplated in section 28 and medical certificates contemplated in section 22(1)(c).

- (c) ngokulawulwa sisiqendwana (2), mabafumane isiqinisekiso esivela kugqirha osebenzela kwiphondo ekukho kulo ibhuma esibonisa ukuba inkwenkwe eza kungena ikulungele kusini na ukwenziwa izinto ezenziwa esuthwini nokuthi ayinameko yokugula engokwasemzimbeni okanye engokwasengqondweni enokuthi ibangele iziphumo ezingathandekiyo ngexesha lokwaluka okanye ngemva kwalo; 5
- (d) mabangamfihleli umnini-bhuma nomnonopheli ukuba inkwenkwe eza kwaluka iphantsi konyango ukuze umnonopheli wempilo ayinike inkwenkwe leyo olo nyango;
- (e) mabangamfihleli umnini-bhuma nomnonopheli ukuba inkwenkwe eza kwaluka inengulo enokuthi ichaphazele ukwenziwa kwayo izinto ezenziwa esuthwini; 10
- (f) mabangamfihleli umnini-bhuma nomnonopheli ukuba inkwenkwe eza kwaluka igogekile okanye inesiphene, bangazifihli neemfuno ezikhethekileyo zaloo nkwenkwe egogekileyo okanye enesiphene, nokuthi oko kugogeka okanye eso siphene siza kuyenza ingabi nako kusini na ukuthabath'inxaxheba kwizinto ezenziwa esuthwini; 15
- (g) mabazanelise kwinto yokuba—
- (i) ibhuma eza kuya kulo inkwenkwe libhalisiwe kwiKomiti Yephondo ngokokutsho kwalo Mthetho; nokuthi 20
- (ii) umnini-bhuma, nomnonopheli oza kunonophela abakhwetha, nexhwele, nengcibi, bahloliwe kusini na baza bafunyanwa befanelekile ngokokutsho kwalo Mthetho; kananjalo
- (h) mabachonge umnonopheli wenkwenkwe eza kwaluka, eqale wahlolwa ngendlela yokuhlolwa kwabanonopheli njengoko kuxelwe kwisiqendu 20(2). 25
- (2) Isiqinisekiso ekuthethwe ngaso kwisiqendwana (1)(c)—
- (a) masifunyanwe zingekapheli iintsuku ezingama-21 ngaphambi kokwakhiwa kwebhuma;
- (b) masibonise ngokucacileyo ukuba umntwana unayo kusini na ingxaki yokopha okanye yokuphefumla, okanye iziphene zasekuzalweni okanye ukugogeka; kwaye 30
- (c) masinikwe umnini-bhuma nomnonopheli ngabazali okanye ngumntu okhulise inkwenkwe eza kwaluka.
- (3) Abazali okanye umntu okhulise umntwana makaqinisekise ukuba ukuya esikolweni kwenkwenkwe eyalukiswayo akuphazamiseki ngenxa yokuya kwayo esuthwini, kodwa ke kucingelwa oko kutshiwo sisiqendu 27. 35
- (4) Abazali okanye umntu okhulise umntwana banelungelo—
- (a) lokumkhathalela umkhwetha othi agule esesuthwini;
- (b) nelokumsusa apho esuthwini nanini na xa—
- (i) imeko yakhe ifunisa unyango lukagqirha; 40
- (ii) umkhwetha ngokwakhe ezicelela ukuba asuswe apho esuthwini;
- (iii) umkhwetha esesuthwini engenayo imvume ekuthethwe ngayo kwisiqendu 28;
- (iv) umkhwetha ephathwa kakubi okanye ethe waphathwa kakubi apho esuthwini; 45
- (v) imeko yequbuliso evelileyo emva ekhaya okanye intlekele eziswa yindalo ifunisa ukuba asuswe; okanye
- (vi) abazali bakhe okanye umntu omkhulisileyo ebona ukuba elo bhuma okanye umnini-bhuma okanye ingcibi okanye ixhwele okanye umnonopheli osebenza kwelo bhuma akazenzi okanye akazenzi izinto ezifunwa ngulo Mthetho. 50

Iingcibi

23. (1) (a) Ingcibi, ngokulawulwa sisiqendu 2(4) nese-(5), inokuba yingcibi kuphela ukuba—
- (i) ibhalisiwe; kwaye 55
- (ii) inikwe onke amaxwebhu emvume afunekayo ekuthethwe ngawo kwisiqendu 28 kunye neziqinisekiso zikagqirha ekuthethwe ngazo kwisiqendu 22(1)(c).

(b) A traditional surgeon must, at all times during his or her participation in initiation practices, be in possession of the letter confirming his or her registration as contemplated in section 41(2)(b).

(2) In the case of initiation where male circumcision forms part of the initiation process—

(a) a registered male traditional surgeon may only perform such circumcision under the conditions provided for in section 28(6) and subject to the provisions of sections 22(1)(c) and 27 and subsection (1)(a)(ii) of this section;

(b) the traditional surgeon must observe due care and diligence, and maintain appropriate health and hygienic standards as provided for in the General Regulations Regarding Children and as may be prescribed in terms of the Traditional Health Practitioners Act; and

(c) the traditional surgeon is, together with the relevant care-giver as contemplated in section 21(4)(b) and subject to subsection (3), responsible for the treatment and care of the initiates during the circumcision process and any treatment that may be required following the circumcision.

(3) (a) In any instance where any initiate displays any symptoms of ill-health, serious injury, infection or excessive, recurring or continuous bleeding, whether as a result of circumcision or not, and the relevant care-giver is not available, the traditional surgeon must inform the principal and the parents or legal or customary guardian of such initiate as contemplated in section 21(5)(a).

(b) If neither the principal nor the care-giver is available, the traditional surgeon must immediately arrange for the initiate to receive medical attention as contemplated in section 21(5)(b).

Medical practitioners

24. (1) A male medical practitioner may—

(a) subject to section 28(6), perform male circumcisions or supervise the performance of such circumcisions;

(b) only perform male circumcisions or supervise the performance of such circumcisions if he has been provided with all required consent forms contemplated in section 28; and

(c) if he deems it necessary for medical reasons based on the medical certificate contemplated in section 22(1)(c), refer an initiate to a hospital for the purposes of circumcision.

(2) (a) For the purposes of subsection (1), the parents or legal or customary guardian of an initiate, as the case may be, may, after consultation with the principal of the particular initiation school, invite a male medical practitioner to perform circumcision on the relevant male initiate or to supervise the performance of such circumcision as contemplated in section 28(6) within the confines of the customs and traditions of the particular community.

(b) If the parents or legal or customary guardian does not invite a medical practitioner as contemplated in paragraph (a), the principal of the particular initiation school must arrange for a medical practitioner to perform circumcision or supervise the performance of such circumcision as contemplated in section 28(6).

(3) For the purposes of issuing the certificate contemplated in section 22(1)(c), a medical practitioner must take into account any guidelines as may be developed in terms of section 9(1)(b)(vii).

South African Police Service and National Prosecuting Authority

25. (1) (a) The SAPS must, upon receipt of a report contemplated in section 15(12) investigate the matter and after investigation, submit the docket to the NPA for a decision whether to prosecute or not.

(b) The SAPS must, for the purpose of section 15(6)(b) also investigate whether the initiates who were attending the non-registered initiation school could be regarded as abducted or kidnapped, and submit the docket to the NPA for a decision whether anyone should be prosecuted for abduction or kidnapping.

(2) (a) The SAPS must, upon receipt of a report contemplated in sections 9(2)(a) and 15(6)(a), forthwith comply with the provisions of section 110(4) of the Children's Act, investigate the matter and after investigation, submit the docket to the NPA for a decision whether to prosecute or not.

(b) Ingcibi mayithi ngamaxesha onke ikumsebenzi wayo wasesuthwini ibe soloko iyigcine kuyo incwadi eqinisekisa ukuba ibhalisiwe njengoko kuxelwe kwisiqu 41(2)(b).

(2) Xa kululwaluko lwamakhwenkwe—

(a) ingcibi ebhalisiweyo ivumeleke ukuba yaluse kuphela kwiimeko ezixelwe kwisiqu 28(6) nangokulawulwa koko kutshiwo sisiqendu 22(1)(c) nese- 5
(27) nasisiqendwana (1)(a)(ii) sesi siqendu;

(b) ingcibi mayibe nenkathalo kwaye igcine imithetho yempilo neyococeko njengoko ifumaneka kwiMimiselo Ngokubanzi Mayela Nabantwana naleyo enokuthi iqulunqwe ngokwe*Traditional Health Practitioners Act*; kwaye 10

(c) ingcibi imele inyange kwaye ikhathalele abakhwetha ngexesha lokuba sesuthwini nasemva kokwaluswa xa kunokuthi kufuneka, ikwenza oko nomnonopheli njengoko kuxelwe kwisiqu 21(4)(b), nangokulawulwa sisiqendwana (3).

(3) (a) Nanini na xa umkhwetha eba neempawu zokungaphili, okanye ukwenzakala okuxhomis' amehlo, okanye ukubhidla, okanye ukopha okugqithisileyo, okanye okuman' ukubuyelela okanye okunganqamkiyo, noba kubangelwa kukusikwa okanye akubangelwanga kuko, ingcibi mayazise umnini-bhuma nabazali bomntwana okanye umntu omkhulisileyo njengoko kuxelwe kwisiqu 21(5)(a). 15

(b) Ukuba akafumaneki umnini-bhuma nomnonopheli, ngoko nangoko ingcibi mayenze ukuba umkhwetha lowo afumane unyango lukagqirha njengoko kuxelwe kwisiqu 21(5)(b). 20

Oogqirha

24. (1) Ugqirha oyindoda unokuthi—

(a) awaluse ngokwakhe amakhwenkwe okanye abe liliso xa kusenziwa oko, kodwa ke ngokulawulwa sisiqendu 28(6); 25

(b) awaluse amakhwenkwe okanye abe liliso ekwalusweni kwawo kuphela ukuba unikwe onke amaxwebhu emvume afunekayo ekuthethwe ngawo kwisiqu 28; kwaye

(c) ukuba ukubona kuyimfuneko ngezizathu zonyango ngokusekelwe kwisiqinisekiso sempilo sikagqirha ekuthethwe ngaso kwisiqu 22(1)(c), unokuthi amthumele esibhedlele umkhwetha aye kwaluswa khona. 30

(2) (a) Ngokumayela nesisqendwana (1), abazali bomkhwetha okanye umntu omkhulisileyo banokuthi emva kokubonisana nomnini-bhuma bacele ugqirha oyindoda ukuba aluse inkwenkwe eyeyabo okanye abe liliso ekwalusweni kwayo njengoko kuxelwe kwisiqu 28(6), ekwenza oko ngokwesiko nesithethe soluntu lwaloo mmandla. 35

(b) Ukuba abazali okanye umntu okhulise umntwana akaceli ugqirha njengoko kuxelwe kwisiqu (a), umnini-bhuma makenze ukuba ugqirha enze umsebenzi wokwalusa okanye abe liliso ekwenziweni kwawo njengoko kuxelwe kwisiqu 28(6). 40

(3) Ngenjongo yokukhupha isiqinisekiso ekuthethwe ngaso kwisiqu 22(1)(c), ugqirha makakhumbule izikhokelo ezinokuthi zibekho ngokwesiqu 9(1)(b)(vii).

Amapolisa oMzantsi-Afrika neGunya Elitshutshisayo

25. (1) (a) Esakufumana ingxelo ekuthethwe ngayo kwisiqu 15(12), amapolisa makaphande, aze emva kokuba ephandle, adlulisele idokethi kwiGunya Elitshutshisayo ukuze lenze isigqibo sokuba liyatshutshisa kusini na okanye alitshutshisi. 45

(b) Ngokwenjongo yesiqu 15(6)(b), amapolisa makaphande nento yokuba abakhwetha abasebhumeni elingabhaliswanga bangathathwa ngokuthi baxhwiliwe kusini na, aze adlulisele idokethi kwiGunya Elitshutshisayo ukuze lenze isigqibo sokuba kukho mntu omakatshutshiselwe ukuxhwila kusini na. 50

(2) (a) Esakufumana ingxelo ekuthethwe ngayo kwisiqu 9(2)(a) nese-15(6)(a), ngoko nangoko amapolisa makenze okufunwa sisiqendu 110(4) se*Children's Act*, aphande ngodaba aze emva kokuba ephandle, adlulisele idokethi kwiGunya Elitshutshisayo ukuze lenze isigqibo sokuba liyatshutshisa na okanye alitshutshisi.

(b) Whenever the death of an initiate is reported to the SAPS in accordance with the provisions of section 31, the SAPS must forthwith investigate such death and after investigation, submit the docket to the NPA for a decision whether to prosecute or not.

(c) If any investigation conducted by the SAPS as contemplated in paragraphs (a) and (b) *prima facie* reveals that the abuse or the death of an initiate was as a result of negligence or intention by any person involved in initiation at the particular initiation school, the PICC must close that initiation school. 5

(3) If any initiate is forced to attend an initiation school without complying with all the consent requirements contemplated in section 28, the SAPS must investigate whether such initiate could be regarded as abducted or kidnapped, and submit the docket to the NPA for a decision whether anyone should be prosecuted for abduction, kidnapping or any other applicable offence. 10

(4) If it is reported to the SAPS that any sacred or secret initiation activity as contemplated in the proviso to section 15(1)(i) may be illegal, the SAPS must investigate such activity and submit the docket to the NPA for a decision whether, subject to section 33(9), any person must be prosecuted or not. 15

(5) No person may interfere with the exercising of any duty by a member of the SAPS or NPA in terms of this Act on any grounds, including customary grounds.

CHAPTER 4

INITIATION SCHOOLS

20

Registration

26. (1) (a) An initiation school must be registered in accordance with the provisions of section 15(1)(c) and must meet the criteria and requirements for registration as contemplated in section 15(1)(g).

(b) The provisions of section 15(6) apply to the closing and deregistration of an initiation school. 25

(2) An initiation school must be registered at least three months prior to the commencement of an initiation season and such registration is valid only for a specific initiation season indicated on the registration certificate.

(3) (a) A PICC must, prior to the commencement of an initiation season and by notice in the relevant Provincial *Gazette* and any local newspaper circulating in any area where initiation is practiced, publish a list, in the format as may be determined by the PICC, containing details of all registered initiation schools. 30

(b) A PICC must, by notice in the relevant Provincial *Gazette* and any local newspaper circulating in any area where initiation is practiced, publish a list, in the format as may be determined by the PICC, containing details of all initiation schools that have been deregistered or closed and the reasons for such deregistration or closure. 35

(4) (a) In instances where an initiation school is to be held on land within the area of jurisdiction of a traditional council, including state land which is lawfully occupied by a traditional community in terms of any relevant legislation, the principal of such school must obtain written approval from the traditional council to use the specific land for the purposes of holding such initiation school. 40

(b) In instances where an initiation school is to be held outside the area of jurisdiction of a traditional council, the principal of such school must—

(i) in the case of privately-owned land, obtain written approval from the owner or lawful occupier of such land; or 45

(ii) in the case of state land other than state land contemplated in paragraph (a), obtain written approval from the relevant organ of state responsible for the management of such state land,

to hold such initiation school on such privately-owned or state land, as the case may be. 50

Initiation seasons

27. (1) Initiation seasons must be held during the relevant provincial school holidays and may not interfere or overlap with official school terms.

(b) Nanini na xa ukubhubha komkhwetha kubikwe emapoliseni ngokwesiqendu 31, amapolisa makakuphande ngoko nangoko oko kufa aze emva kokuba ekuphandile adlulisele idokethi kwiGunya Elitshutshisayo ukuze lenze isigqibo sokuba liyatshutshisa na okanye alitshutshisi.

(c) Ukuba uphando olwenziwe ngamapolisa njengoko kuxelwe kwisiqendu (a) 5 no-(b) lunendawana ebonisayo ukuba ukuphathwa kakubi komkhwetha okanye ukufa kwakhe kubangelwe yintswela-nkathalo okanye kube ngenjongo yomntu othile obandakanyekileyo kwelo bhuma, iKomiti Yephondo mayilivale elo bhuma.

(3) Ukuba inkwenkwe iyanyanzelwa ukuba iye ebhumeni kungahlangatyezwananga nazo zonke iimfuneko zemvume ekuthethwe ngazo kwisiqendu 28, amapolisa 10 makaphande ukuba loo nkwenkwe ingathathwa na njengomntu oxhwiliweyo, aze adlulisele idokethi kwiGunya Elitshutshisayo ukuze lenze isigqibo sokuba kukho mntu onokutshutshiselwa ukuxhwila kusini na okanye esinye isenzo solwaphulo-mthetho.

(4) Ukuba kubikwe emapoliseni ukuba isenzo esithile esiyimfihlo ngokwesiko lolwaluko njengoko kuxelwe kwimeko yoxhomekeke ekwisiqendu 15(1)(i) sisenokuba 15 nxamnye nomthetho, amapolisa makasiphande eso senzo aze adlulisele idokethi kwiGunya Elitshutshisayo ukuze lenze isigqibo sokuba kukho mntu onokuthi atshutshiswe kusini na, kodwa ke kuxhomekeke kwisiqendu 33(9).

(5) Akukho mntu ovumelekileyo ukuba aphazamise ukusebenza kwepolisa okanye komshutshisi ngokwalo Mthetho, noba uphazamisa ngasiphi na isizathu, noba sisizathu 20 esingenxa yesiko.

ISAHLUKO 4

AMABHUMA

Ukubhaliswa kwawo

26. (1) (a) Ibhuma malibhaliswe ngokwesiqendu 15(1)(c) kwaye malihlangabezane 25 neemfuneko zokubhaliswa njengoko zixelwe kwisiqendu 15(1)(g).

(b) Okutshiwo sisiqendu 15(6) kuyasebenza ekuvalweni kwebhuma nasekucinyweni kwalo belibhalisiwe.

(2) Ibhuma malibhaliswe ubuncinane kusasele iinyanga ezintathu ngaphambi kokuba liqalise ixesha lolwaluko, ekuya kuthi ke oko kubhaliswa kwalo kube kokwelo xesha 30 lolwaluko elibhalwe kwisiqinisekiso kuphela.

(3) (a) IKomiti Yephondo mayipapashe uludwe oluneenkukacha zawo onke amabhuma, ilupapasha ngaphambi kokuba kuqale ixesha lolwaluko, ngokukhuph' isihlokomiso kuShicilelo-Mithetho Lwephondo nakwiphaphandaba laloo mmandla ekwalukwa kuwo, ilupapasha lube kwimo enokuthi igqitywe yiKomiti Yephondo. 35

(b) IKomiti Yephondo mayipapashe uludwe oluneenkukacha zawo onke amabhuma acinyiweyo ebebhalisiwe okanye avalwa, ipapashe nezizathu zokucinywa kwawo ebebhalisiwe okanye izizathu zokuvalwa kwawo, ikwenza oko ngokukhuph' isihlokomiso kuShicilelo-Mithetho Lwephondo nakwiphaphandaba laloo mmandla ekwalukwa kuwo, ilupapasha lube kwimo enokuthi igqitywe yiKomiti Yephondo. 40

(4) (a) Xa kuza kwalukiselwa kummandla wenkosi, kuquka nomhlaba karhulumente omiwe ngokusemthethweni ngabantu abaphila ngokwakwantu ngokomthetho wepalamente, umnini welo bhuma makafumane imvume ebhaliweyo enkosini yokusebenzisa indawo ethile ngenjongo yokuba nebhuma.

(b) Xa kuza kwalukiselwa kummandla ongaphandle kommandla wenkosi, umnini 45 welo bhuma—

(i) xa kungumhlaba ongowomntu othile, makafumane imvume ebhaliweyo kumnini womhlaba okanye kumntu ohlala kuloo mhlaba; okanye

(ii) xa kungumhlaba karhulumente ongenguwo umhlaba karhulumente ekuthethwe ngawo kwisiqendu (a), makafumane imvume ebhaliweyo kwicandelo 50 likarhulumente eliphethayo kuloo mhlaba,

ukuze akhe ibhuma kuloo mhlaba ongowomntu othile okanye ongarhulumente.

Amaxesha okwaluka

27. (1) Amaxesha okwaluka makabe ngexesha lokuvalwa kwezikolo kwiphondo kwaye makangaphazamisani nokufunda okanye makangabi ngaxeshanye namaxesha 55 ezivulileyo ngawo izikolo.

(2) If an initiation school commences before a school holiday or continues beyond a school holiday, or is held outside the period for initiation submitted to the PICC as part of the application process, the relevant principal is, in addition to the provisions of section 33(4), also liable to suspension from holding initiation schools for a period as may be determined by the PICC. 5

(3) (a) If the principal is suspended as contemplated in subsection (2), the relevant PICC must, subject to subsection (1), replace such suspended principal with a person who meets the requirements of this Act and may, in appointing the replacement principal, give preference to a principal of another initiation school being held in the relevant area. 10

(b) Any initiation school that—

- (i) commences prior to the relevant provincial school holidays as contemplated in subsection (2), must be closed and may be reopened once the school holidays commences; or
- (ii) continues beyond the relevant school holiday, must forthwith be closed. 15

(4) The provisions of this section do not apply to an initiation school that is attended exclusively by initiates who have already completed secondary education.

Consent, prohibitions, age and circumcision

28. (1) (a) Initiation is a voluntary customary practice and no person may be forced or coerced into attending any initiation school or undergo any initiation practices. 20

(b) No person may attend an initiation school unless all the relevant consent requirements of this section have been complied with and a medical certificate contemplated in section 22(1)(c) has been issued in respect of such person.

(c) Any initiate who is 18 or older, is responsible for obtaining the medical certificate contemplated in section 22(1)(c) and (2), and must submit such certificate to the relevant principal and care-giver. 25

(2) Subject to section 37(3) and (4), no person under the age of 16 may attend an initiation school for the purposes of being initiated.

(3) (a) A child between the ages of 16 and 18 may not attend an initiation school for the purposes of being initiated, unless such child and his or her parents or customary or legal guardian, as the case may be, give written consent for him or her to undergo initiation. 30

(b) A person who is 18 or older may not attend an initiation school for the purposes of being initiated, unless such person gives written consent to undergo initiation.

(c) All written consents referred to in paragraphs (a) and (b) must be submitted to the principal of the particular initiation school prior to the commencement of such school, and such principal must submit copies thereof to the relevant PICC. 35

(4) In terms of section 12(3) of the Children's Act, genital mutilation or circumcision of female children is prohibited and therefore the consent contemplated in this section may not include consent to such mutilation or circumcision and may not form part of any initiation practice. 40

(5) (a) In terms of section 12(4) of the Children's Act, virginity testing of children under the age of 16 is prohibited and therefore the consent contemplated in this section may not include consent to such virginity testing in the case of children under the age of 16. 45

(b) Virginity testing of children who are between the ages of 16 and 18 is subject to the provisions of section 12(5), (6) and (7) of the Children's Act and regulations 3 and 4 of the General Regulations Regarding Children, and may only form part of an initiation process if the provisions of that section and regulations have been complied with. 50

(c) Virginity testing of any person who is 18 or older may only be performed as part of an initiation process if such person has given written consent for such virginity testing.

(d) No child or any other person may be forced or coerced to undergo virginity testing as part of an initiation process. 55

(6) (a) In terms of section 12(8) of the Children's Act the circumcision of male children under the age of 16 is prohibited except if such circumcision is performed for religious or medical purposes and therefore the consent contemplated in this section may not, in the case of male children under the age of 16, include consent to any

- (2) Ukuba ukwaluka kuqalisa ngaphambi kokuvalwa kwezikolo okanye ukwaluka kuqhubeka kudlulele ngaphaya kwexesha lokuvalwa kwezikolo, okanye kwalukiswa ngexesha elingelilo elokwaluka exelelwe lona iKomiti Yephondo xa bekusenziwa isicelo, umnini welo bhuma uya kuthi, ukongezelela koko kutshiwo sisiqendu 33(4), avalwe ekwalukisweni ixesha eliya kuthi ligqitywe yiKomiti Yephondo. 5
- (3) (a) Ukuba umnini-bhuma uvaliwe njengoko kuxelwe kwisiqendwana (2), iKomiti Yephondo, ilawulwa sisiqendwana (1), endaweni yaloo mnini-bhuma mayivumele omnye umntu ohlangabezanyayo yena neemfuneko zalo Mthetho, kwaye inokuthi xa ivumela omnye umntu abe ngumnini-bhuma ikhethe umnini welinye ibhuma elikhoyo kuloo mmandla. 10
- (b) Naliphi na ibhuma—
- (i) elivulwa ngaphambi kokuvalwa kwezikolo kwiphondo njengoko kuxelwe kwisiqendwana (2), malivalwe lize liphinde livulwe kuphela zakuba zivaliwe izikolo; okanye
- (ii) eliqhubeka livuliwe kude kudlulele ngaphaya kwexesha lokuvalwa kwezikolo, malivalwe ngoko nangoko. 15
- (4) Okutshiwo sesi siqendu akusebenzi kwibhuma ekukho kulo kuphela abakhwetha asebegqibile esikolweni.

Imvume, izithintelo, iminyaka yobudala nokwaluswa

28. (1) (a) Ukwaluka yinto umntu aya kuyo ngokuzithandela kwaye akukho mntu omakanyanzelwe ukuba aluke. 20
- (b) Akukho mntu ovumelekileyo ukuba aye esuthwini ngaphandle kokuba zonke iimfuneko ezimalunga nemvume zesi siqendu kuyahlangatyezwana nazo kwaza kwakhutshwa nesiqinisekiso sikagqirha ekuthethwe ngaso kwisiqendu 22(1)(c) ngaloo mntu oya esuthwini. 25
- (c) Nawuphi na umkhwetha ominyaka ili-18 nangaphezulu kungumsebenzi wakhe ukuba azifumanele isiqinisekiso sempilo sikagqirha ekuthethwe ngaso kwisiqendu 22(1)(c) no-(2), kwaye eso siqinisekiso makasinike umnini-bhuma nomnonopheli.
- (2) Ngokulawulwa sisiqendu 37(3) no-(4), akukho mntu ongaphantsi kweminyaka eli-16 ovumelekileyo ukuba aye esuthwini. 30
- (3) (a) Umntwana ominyaka iphakathi kwe-16 ne-18 akavumelekanga ukuba aye esuthwini ngaphandle kokuba loo mntwana nabazali bakhe okanye umntu omkhulisileyo bakhupha imvume ebhaliweyo yokuba aye esuthwini.
- (b) Umntu ominyaka ili-18 nangaphezulu akavumelekanga ukuba aye esuthwini ngaphandle kokuba kuvume yena ngemvume ebhalwe nguye yokuba aye esuthwini. 35
- (c) Zonke iimvume ezibhaliweyo ekuthethwe ngazo kwisiqendu (a) no-(b) mazinikwe umnini-bhuma ngaphambi kokuba livulwe ibhuma, aze loo mnini-bhuma athumele iikopi zazo kwiKomiti Yephondo.
- (4) Ngokwesiqendu 12(3) se*Children's Act*, ukuhluntsula amalungu angasese abantwana abangamantombazana okanye ukubalusa akuvumelekanga; ngoko ke imvume ekuthethwa ngayo kwesi siqendu ayiquki imvume yokuhluntsulwa okanye ukwaluswa kwabantwana abangamantombazana, kwaye akunakuba yinxalenye yokwaluka. 40
- (5) (a) Ngokwesiqendu 12(4) se*Children's Act*, ukuhlolwa kwamantombazana angaphantsi kweminyaka eli-16 ehlolwa ukuba aseziintombi ezinyulu akuvumelekanga; ngoko ke imvume ekuthethwe ngayo kwesi siqendu ayiquki imvume yokuhlolwa ubuntombi xa intombazana ingaphantsi kweminyaka eli-16. 45
- (b) Ukuhlolwa ubuntombi kwamantombazana aphakathi kweminyaka eli-16 neli-18 kulawulwa koko kutshiwo sisiqendu 12(5), (6) nese-(7) se*Children's Act* nangummiselo 3 nowesi-4 kwiGeneral Regulations Regarding Children, kwaye kunokuba yinxalenye yokwaluka kuphela ukuba okutshiwo seso siqendu nayimimiselo kwenziwe. 50
- (c) Ukuhlolwa ubuntombi bentombazana eminyaka eli-18 nangaphezulu kunokwenziwa njengexalenye yokwaluka kuphela ukuba loo ntombazana ikhuphe imvume ebhaliweyo yokuba ihlolwe.
- (d) Akukho mntwana okanye nawuphi na omnye umntu onokunyanzelwa okanye anyakathiswe ukuba ahlolwe ubunyulu bokungazani nesondo njengexalenye yesiko lokwaluka. 55
- (6) (a) Ngokwesiqendu 12(8) se*Children's Act*, ukwaluswa kwamakhwenkwe angaphantsi kweminyaka eli-16 akuvumelekanga ngaphandle kokuba inkwenkwe yaluswa ngezizathu zenkolo okanye ngezizathu zonyango olucetyiswe ngugqirha; ngoko ke imvume ekuthethwe ngayo kwesi siqendu ayinakuthi, xa kungabantwana 60

circumcision other than circumcision that is allowed in terms of the said section 12(8).

(b) The circumcision of male children between the ages of 16 and 18 is subject to the provisions of section 12(9) and (10) of the Children's Act and regulations 5 and 6 of the General Regulations Regarding Children, and may only form part of an initiation process if the provisions of that section and regulations have been complied with: 5
Provided that in addition to the consent required by section 12(9)(a) of the Children's Act, the consent referred to in subsection (3)(a) and (b) of this section must include consent to be circumcised where such circumcision forms part of the initiation process.

(c) The circumcision of male initiates who are 18 or older is subject to paragraph (d)(i) and (ii) of this subsection, regulation 5(2) of the General Regulations Regarding Children and any conditions as may be prescribed under section 43(3)(a) of the National Health Act, and may only form part of the initiation process if the initiate gives written consent to be circumcised. 10

(d) The circumcision of male initiates contemplated in paragraph (b) is subject to regulations 5 and 6 of the General Regulations Regarding Children and any conditions as may be prescribed under section 43(3)(a) of the National Health Act and may, subject to sections 23 and 24, only be performed by— 15

- (i) a registered medical practitioner; or
- (ii) a registered traditional surgeon— 20
 - (aa) who is also a registered medical practitioner; or
 - (bb) under the supervision of a registered medical practitioner if such traditional surgeon is not a registered medical practitioner.

(7) Except for male circumcision in accordance with the provisions of subsection (6), no initiate may be subjected to any physical harmful activities during initiation, including the cutting of the skin or any other manner of permanent marking the skin, and therefore the consent contemplated in this section may not include consent to such physical harmful activities. 25

(8) If any written consent is lawfully given for virginity testing or male circumcision, such consent must be submitted to the principal of the particular initiation school prior to the commencement of such school and such principal must submit copies thereof to the relevant PICC, care-giver, medical practitioner, traditional surgeon, traditional health practitioner and the person who performs a virginity test. 30

(9) (a) If any consent or other forms as contemplated in this section or any other provision of this Act are prescribed in terms of the Children's Act or the General Regulations Regarding Children, such prescribed forms must be used for the purposes of this Act. 35

(b) If any consent or other forms have not been prescribed as contemplated in paragraph (a), a PICC may, subject to section 15(4), develop appropriate forms.

(10) No consent may be given by any initiate or any other person contemplated in subsection (3)(a) and (b), for such an initiate to attend a non-registered initiation school. 40

Discipline and teachings

29. (1) (a) The principal of an initiation school and the relevant care-givers must ensure discipline amongst initiates at all times and must ensure that the teachings at such initiation school discourage misconduct. 45

(b) If an initiate is guilty of misconduct, the principal must, subject to the provisions of section 28(7), take corrective steps in accordance with the customs of the particular community.

(c) Notwithstanding the provisions of paragraphs (a) and (b), an initiate may under no circumstances be abused or assaulted under the guise of discipline.

(2) Any discipline imposed at an initiation school is subject to the standards contemplated in section 19(2)(d). 50

(3) (a) Initiation teachings may include cultural and religious elements and should be aimed at teaching the initiates about their ancestry, belief systems, the challenges and responsibilities of adulthood, family values, national identity, nation building and social cohesion. 55

abangamakhwenkwe abangaphantsi kweminyaka eli-16 abaluswayo, iquke imvume yokwalusa ngaphandle kokwalusa okuvunyelweyo ngokwesiqendu esixeliweyo se-12(8).

(b) Ukusikwa kwamakhwenkwe aminyaka iphakathi kwe-16 ne-18 kulawulwa koko kutshiwo sisiqendu 12(9) nese-(10) se*Children's Act* nangummiselo 5 nowesi-6 weGeneral Regulations Regarding Children, yaye kunokuba yinxalenye yokuba sesuthwini kuphela ukuba okutshiwo seso siqendu nayimimiselo kwenziwe, kodwa ke ukongezelela kwimvume efunwa sisiqendu 12(9)(a) se*Children's Act*, imvume ekuthethwe ngayo kwisiqendwana (3)(a) no-(b) kwesi siqendu mayiquke nemvume yokusikwa ukuba ukusikwa kuyinxalenye yokuba sesuthwini.

(c) Ukusikwa kwamakhwenkwe aminyaka ili-18 nangaphezulu kulawulwa sisiqendu (d)(i) no-(ii) kwesi siqendwana nangummiselo 5(2) weGeneral Regulations Regarding Children nayimiqathango enokuthi ibekwe ngokwesiqendu 43(3)(a) se*National Health Act*, yaye kunokuba yinxalenye yokuba sesuthwini kuphela ukuba umkhwetha ukhuphe imvume ebhaliweyo yokusikwa.

(d) Ukusikwa kwamakhwenkwe ekuthethwe ngako kwisiqendu (b) kulawulwa ngummiselo 5 nowesi-6 weGeneral Regulations Regarding Children nayimiqathango enokuthi ibekwe ngokwesiqendu 43(3)(a) se*National Health Act* yaye, ngokulawulwa sisiqendu 23 nesama-24, kunokwenziwa kuphela—

(i) ngugqirha obhalisiweyo; okanye

(ii) yingcibi ebhalisiweyo—

(aa) ekwangugqirha obhalisiweyo; okanye

(bb) phantsi kweliso likagqirha obhalisiweyo ukuba loo ngcibi ayingogqirha obhalisiweyo.

(7) Ngaphandle kokusikwa kwejwabu lenkwenkwe ngokwesiqendwana (6), akukho mkhwetha onokuthi enziwe izinto eziyingozi emzimbeni ngexesha lokuba sesuthwini, kuquka nokusikwa kwesikhumba somzimba wakhe okanye ukwenza uphawu olungasoze luphele esikhumbeni sakhe; ngoko ke imvume ekuthethwe ngayo kwesi siqendu ayiquki imvume yokwenziwa izinto eziyingozi emzimbeni.

(8) Ukuba ikhutshiwe ngokusemthethweni imvume ebhaliweyo yokuhlolwa ubuntombi okanye yolwaluko lwenkwenkwe, loo mvume mayinikwe umnini-bhuma ngaphambi kokuba liqalise ukusebenza elo bhuma, aze umnini-bhuma athumele iikopi zayo kwiKomiti Yephondo, nakumnonopheli, nakugqirha, nakwingcibi, nakwixhwele, nakumntu ohlola ubuntombi.

(9) (a) Ukuba kukho amaxwebhu okunik' imvume okanye amanye amaxwebhu axelwe kwesi siqendu okanye kwezinye iinxalenye zalo Mthetho amiselweyo ukuba kusetyenziswe wona ngokwe*Children's Act* okanye ngokweGeneral Regulations Regarding Children, makusetyenziswe loo maxwebhu amiselweyo ke xa kusetyenziswa lo Mthetho.

(b) Ukuba akukho maxwebhu okunik' imvume okanye awenye injongo amiselweyo ukuba kusetyenziswe wona njengoko kuxelwe kwisiqendu (a), iKomiti Yephondo inokuthi yenze amaxwebhu afanelekileyo, kodwa ngokulawulwa sisiqendu 15(4).

(10) Akukho mvume enokunikwa yinkwenkwe okanye ngomnye umntu oxelwe kwisiqendwana (3)(a) no-(b) yokuba loo nkwenkwe iye ebhumeni elingabhaliswanga.

Ingqeqesho neemfundiso

29. (1) (a) Umnini-bhuma nabanonopheli mababaqeqeshe abakhwetha ngamaxesha onke kwaye mabenze ukuba iimfundiso kwelo bhuma zikunqande ukuziphatha kakubi.

(b) Ukuba umkhwetha wenza okungafanelekileyo, umnini-bhuma makathabathe amanyathelo okumlungis' isimilo ngokwesiko laloo ndawo, kodwa ngokulawulwa koko kutshiwo sisiqendu 28(7).

(c) Nangona sisitsho oku sikutshoyo isiqendu (a) no-(b), akuvumelekanga naphantsi kwayiphi na imeko ukuba umkhwetha aphathwe kakubi okanye abethwe kusithelwa ngelithi uyaqeqeshwa.

(2) Naluphi na uqeqesho abaqeqeshwa ngalo abakhwetha ebhumeni lulawulwa yimigaqo exelwe kwisiqendu 19(2)(d).

(3) (a) Kwiimfundiso zasesuthwini kungabakho nezinto zesithethe nezenkolo, kwaye iinjongo yazo makube kukufundisa abakhwetha ngeminombo yabo, ngeenkolelo esikholelwa kuzo isizwe, ngamanzithinzithi okuba ngumntu omkhulu, ngendlela emaziphile ngayo iintsapho, ngobuzwe bethu, ngokwakhiwa kwesizwe nangemvisiswano entlalweni.

(b) Initiation teachings must be included in the curriculum to be submitted to a PICC as contemplated in section 15(1)(i).

(c) Initiation teachings may not be prejudicial, biased or discriminatory.

Water, sanitation, food, health care, liquor and drugs

30. (1) The principal of an initiation school and the relevant care-givers, must, subject to any criteria as may be developed in terms of section 15(1)(g), ensure that initiates at all times have access to clean water, appropriate sanitation facilities and are provided with food. 5

(2) (a) The food referred to in subsection (1) must be provided by the parents or families of initiates or, where applicable, by the legal or customary guardians. 10

(b) In any instance where the parents, family or legal or customary guardians are not in a position to provide such food, such parents, family or legal or customary guardians must inform the relevant principal and he or she may provide reasonable assistance in respect of the provisioning of food to the relevant initiates.

(3) A principal must, notwithstanding sections 21(4)(b) and 23(2)(c), ensure that initiates have access to health care facilities whenever the need arises, taking into account any requirements as may be contained in a manual contemplated in section 15(3)(a). 15

(4) (a) Subject to paragraph (b), no initiate or any person involved in initiation may, at an initiation school, use, possess, deal in, supply or manufacture any liquor as defined in section 1 of the Liquor Act. 20

(b) In any instance where a moderate quantity of liquor is to be supplied for purposes of a religious sacrament which forms part of an initiation practice, it may only be provided to initiates to whom such sacrament applies and only in the presence and under the supervision of any of the persons referred to in section 10(2) of the Liquor Act. 25

(5) No initiate or any person involved in initiation may, at an initiation school, use, possess, deal in, supply or manufacture any drug as contemplated in the Drugs and Drug Trafficking Act.

Death of initiate

31. (1) In the event that an initiate dies while attending an initiation school, the principal of such school must immediately inform— 30

(a) the parents or legal or customary guardian of such initiate, as the case may be;

(b) the SAPS;

(c) the relevant PICC;

(d) the relevant traditional surgeon and, where applicable, medical practitioner; and 35

(e) where applicable, the relevant senior traditional leader.

(2) Upon being informed of the death of an initiate, the PICC—

(a) may, subject to subsection (3), assist the parents or legal or customary guardian of the initiate, as the case may be, with the funeral arrangements, taking into account any relevant customs; and 40

(b) must arrange for a qualified counsellor, who has undergone initiation himself or herself, to provide counselling to the remaining initiates and, if requested by them, to the parents or legal or customary guardian of the deceased initiate.

(3) The assistance provided by a PICC as contemplated in subsection (2)(a) may not include any financial contribution. 45

CHAPTER 5

GENERAL PROVISIONS

Allowances and expenditure

32. (1) A member of the NIOC referred to in section 4(1)(j) who is not a government official, an office bearer as referred to in section 1 of the Independent Commission for the Remuneration of Public Office-bearers Act, 1997 (Act No. 92 of 1997) or a member of any institution referred to in Chapter 9 of the Constitution, may receive an allowance 50

(b) Kuluhlu lwezifundo oluthunyelwa kwiKomiti Yephondo njengoko kuxelwe kwisiqendu 15(1)(i) makubekho neemfundiso zasesuthwini.

(c) Iimfundiso zasesuthwini akuvumelekanga ukuba zifundise ukubukula abanye abantu okanye ukucalula.

Amanzi, ucoceko, ukutya, ukunonophelwa kwempilo, utywala neziyobisi 5

30. (1) Umnini-bhuma nabanonopheli mabathi, ngokulawulwa ziimfuneko ezisenokuqulunqwa ngokwisiqendu 15(1)(g), benze unakonako wokuba ngamaxesha onke abakhwetha bawafumane amanzi acocekileyo, nezindlu zangasese ezifanelekileyo, banikwe nokutya.

(2) (a) Ukutya ekuthethwe ngako kwisiqendwana (1) mabakulungiselelwe ngabazali okanye ziintsapho zabakhwetha okanye ngabantu abakhulise abakhwetha. 10

(b) Xa abazali okanye iintsapho zabakhwetha okanye abantu ababakhulisileyo bengenawo amandla okubalungiselela ukutya, mabazise umnini-bhuma onokuthi yena ancedise ekutyiseni abakhwetha.

(3) Nangona sisitsho oku sikutshoyo isiqendu 21(4)(b) nese-23(2)(c), umnini-bhuma makenze unakonako wokuba abakhwetha baye kwiindawo zempilo xa kuthi kube yimfuneko, ecingela iimfuneko ezinokuthi zibe kwincwadana exelwe kwisiqendu 15(3)(a). 15

(4) (a) Ngokulawulwa sisiqendu (b), akukho mkhwetha okanye nawuphi na umntu obandakanyekileyo kulwaluko onokuthi, ebhumeni, asebenzise utywala, okanye abe nabo kuye, abuthengise, abunike abanye okanye abenze, ibutywala ngendlela obuchazwe ngayo kwisiqendu 1 *seLiquor Act*. 20

(b) Nanini na xa kusezwa intwana yotywala ngenjongo yomthendeleko owenzelwa esuthwini, mabunike kuphela abakhwetha abanelungelo lokutya umthendeleko, kunjalonje kwenziwe oko phantsi kweliso labantu abaxelwe kwisiqendu 10(2) *seLiquor Act*. 25

(5) Akukho mkhwetha okanye nawuphi na umntu obandakanyekileyo kulwaluko onokuthi, ebhumeni, asebenzise isiyobisi, okanye abe naso kuye, okanye asithengise, okanye asinike omnye okanye abe ngumenzi waso, isisiyobisi esixelwe kwi*Drugs and Drug Trafficking Act*. 30

Ukubhubha komkhwetha

31. (1) Xa umkhwetha ethe wabhubha esesuthwini, umnini-bhuma ngoko nangoko makazise—

- (a) abazali okanye umntu okhulise loo mkhwetha;
- (b) amapolisa; 35
- (c) iKomiti Yephondo;
- (d) ingcibi, nogqirha kwimeko efunisa ugqirha;
- (e) nenkosi, ukuba kufuneka yazisiwe.

(2) Isakwaziswa ngokubhubha komkhwetha, iKomiti Yephondo—

- (a) inokuthi, ngokulawulwa sisiqendwana (3), incedise abazali okanye umntu okhulise umkhwetha ngamalungiselelo omngcwabo, kucingelwa amasiko aloo mmandla; kwaye 40
- (b) mayifune umthuthuzeli okufundeleyo oko, owalukileyo naye ngokwakhe, ukuba athuthuzele abakhwetha abaseleyo, kwaye ukuba uceliwe ngabo, athuthuzele nabazali okanye umntu omdala okhulise umkhwetha oswelekileyo. 45

(3) Uncedo oluvela kwiKomiti Yephondo njengoko kuxelwe kwisiqendwana (2)(a) alunakuquka umnikelo wemali.

ISAHLUKO 5

OKUTSHIWO NGULO MTHETHO GABALALA 50

Iimalana nenkcitho

32. (1) Ilungu leKomiti Eyongameleyo ekuthethwe ngalo kwisiqendu 4(1)(j) elingelogosa likarhulumente, nelingengomntu onesikhundla ekuthethwe ngaye kwisiqendu 1 *seIndependent Commission for the Remuneration of Public Office-bearers Act* 92 ka-1997, nelingelilo ilungu lamaqumrhu ekuthethwe ngawo kwiSahluko 9 55

as may be determined by the Minister by notice in the *Gazette* after consultation with the Minister responsible for finance.

(2) The NIOC is responsible for the travel and accommodation expenditure related to the work of the NIOC of any member referred to in section 4(1)(j), except if such a member is a government official.

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Offences

33. (1) Any person who—

(a) holds a non-registered initiation school or is involved in any initiation practices at such non-registered initiation school;

(b) accepts at any initiation school, whether registered or not, an initiate who is under the age of 16; or

(c) accepts an initiate at an initiation school or is involved in any initiation practices at such initiation school without having received the required medical certificate or consent contemplated in section 28(1) and (3),

is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 15 years or to both a fine and such imprisonment.

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(2) A person who forces any person to attend an initiation school or who forges any consent or consent form as contemplated in section 28 or obtains such consent by means of duress, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment.

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(3) Any traditional surgeon who is not registered, whether in accordance with the provisions of section 41 of this Act or in terms of the Traditional Health Practitioners Act, but performs duties at an initiation school, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment, or to any relevant fine or imprisonment as may be provided for in terms of the Traditional Health Practitioners Act.

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(4) Any—

(a) principal, care-giver, traditional health practitioner or, subject to subsection (3), traditional surgeon, including any substitute contemplated in section 15(11), who does not meet any requirements provided for in this Act or determined in terms of this Act, or falsely pretends to meet such requirements; or

(b) principal who contravenes section 27(2),

is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding three years or to both a fine and such imprisonment.

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(5) Any person who is involved in any initiation practices or any of the structures provided for in this Act and fails to disclose the information referred to in section 2(5)(a) and (b), is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding three years or to both a fine and such imprisonment.

(6) Any alleged offences relating to—

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(a) the death of an initiate;

(b) the abduction or kidnapping of an initiate;

(c) male or female circumcision, genital mutilation or virginity testing as part of initiation practices;

(d) the abuse of initiates;

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(e) the use, possession, supply or manufacturing of liquor or drugs or dealing in liquor or drugs by an initiate or any other person involved in initiation; or

(f) the involvement of a medical practitioner at an initiation school,

must be dealt with in terms of the offence clauses provided for in the Criminal Procedure Act, the Children's Act, the Health Professions Act, the Drugs and Drug Trafficking Act or the Liquor Act, as the case may be.

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soMgaqo-siseko, linokufumana imalana enokuthi igqitywe nguMphathiswa ngokukhuph' isihlokomiso kuShicilelo-Mithetho emva kokubonisana noMphathiswa ophathiswe izimali.

(2) YiKomiti Eyongameleyo emayihlawule inkcitho yohambo neyendawo yokuhlala ekungenwe kuyo kusenziwa umsebenzi weKomiti Eyongameleyo lilungu ekuthethwe ngalo kwisiqu 4(1)(j), ngaphandle kokuba elo lungu liligosa likarhulumente. 5

Izenzo ezikukona

33. (1) Nawuphi na umntu—

(a) onebhuma elingabhaliswanga okanye obandakanyeke kulwaluko kwibhuma elingabhaliswanga; 10

(b) othi amkele ebhumeni inkwenkwe engaphantsi kweminyaka eli-16, noba libhalisiwe elo bhuma okanye alibhaliswanga; okanye

(c) othi amkele inkwenkwe ebhumeni okanye abandakanyeke kulwaluko ebhumeni engasifumananga isiqinisekiso sempilo sikagqirha okanye imvume ekuthethwe ngayo kwisiqu 28(1) no-(3), 15

waphul' umthetho kwaye esakufunyaniswa enetyala uya kugwetywa ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kwiminyaka eli-15 okanye agwetywe kokubini ifayini nokuvalelwa entolongweni.

(2) Nawuphi na umntu onyanzela omnye ukuba aye esuthwini okanye owenza inkohliso kwimvume okanye kuxwebhu lwemvume njengoko kuxelwe kwisiqu 28 okanye oyifumana imvume ngokunyanzelisa, waphul' umthetho kwaye esakufunyaniswa enetyala uya kugwetywa ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kwiminyaka eli-10 okanye agwetywe kokubini ifayini nokuvalelwa entolongweni. 20

(3) Nayiphi na incibi engabhaliswanga, noba kukubhaliswa ngokwesiqu 41 salo Mthetho okanye ngokwe*Traditional Health Practitioners Act*, kodwa isebenze ebhumeni, yaphul' umthetho kwaye isakufunyaniswa inetyala iya kugwetywa ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kwiminyaka emihlanu okanye igwetywe kokubini ifayini nokuvalelwa entolongweni, okanye igwetywe ifayini efanelekileyo okanye ukuvalelwa entolongweni okufanelekileyo ngokwe*Traditional Health Practitioners Act*. 25 30

(4) Nawuphi na—

(a) umnini-bhuma, umnonopheli, ixhwele okanye, ngokulawulwa sisiqendwana (3), incibi, kuquka nomntu othath' indawo yomnye ekuthethwe ngaye kwisiqu 15(11), ongahlangabezaniyo neemfuneko ezikulo Mthetho okanye owenza ngathi uyahlangabezana neemfuneko zalo Mthetho kanti uyakhohlisa; okanye 35

(b) umnini-bhuma owaphula isiqu 27(2), waphul' umthetho kwaye esakufunyaniswa enetyala uya kugwetywa ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kwiminyaka emithathu okanye agwetywe kokubini ifayini nokuvalelwa entolongweni. 40

(5) Nawuphi na umntu obandakanyekileyo kulwaluko okanye kwiikomiti ekuthethwe ngazo kulo Mthetho aze angayityhili ingcombolo ekuthethwe ngayo kwisiqu 2(5)(a) no-(b), waphul' umthetho kwaye esakufunyaniswa enetyala uya kugwetywa ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kwiminyaka emithathu okanye agwetywe kokubini ifayini nokuvalelwa entolongweni. 45

(6) Naziphi na izenzo ezikukona ekuthiwa zenziwe ezimalunga—

(a) nokubhubha komkhwetha;

(b) nokuxhwilwa kwenkwenkwe;

(c) ukusikwa kwenkwenkwe okanye kwentombazana, ukuhluntsulwa kwelungu lesini okanye ukuhlolwa ubuntombi njengenxalenye yolwaluko; 50

(d) nokuphathwa kakubi kwabakhwetha;

(e) nokusetyenziswa kotywala okanye iziyobisi, okanye ukuba umntu abe nazo kuye, okanye azinike omnye okanye abe ngumenzi wazo, zisenziwa ezi zinto ngumkhwetha okanye nguye nawuphi na umntu obandakanyekileyo kulwaluko; okanye 55

(f) nokubandakanyeka kukagqirha esuthwini, makusingathwe ngokweziqu ezithetha ngezenzo ezikukona ezikwi*Criminal Procedure Act*, kwi*Health Professions Act*, kwi*Drugs and Drug Trafficking Act*, okanye kwi*Liquor Act*. 60

(7) Subject to subsection (6), if any principal, care-giver or traditional surgeon does not arrange medical attention for an initiate as contemplated in section 21(5) or 23(3), such principal, care-giver or traditional surgeon is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding three years, or to both a fine and such imprisonment. 5

(8) If—

- (a) any principal does not comply with the provisions of section 21(9) and (10), section 26(4) or section 29(3)(c);
- (b) any parents or legal or customary guardian of an initiate fails to disclose the information contemplated in section 22(1)(d), (e) or (f); or 10
- (c) any traditional surgeon fails to comply with the provisions of section 23(1)(b), such principal, parents, legal or customary guardian, or traditional surgeon, as the case may be, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one year or to both a fine and such imprisonment.

(9) If any initiation activity was declared not to be illegal as contemplated in the proviso to section 15(1)(i), but found to be illegal following the investigation by the SAPS, the principal who made the declaration and any other person who authorised, arranged or supervised such illegal activity may be prosecuted in terms of the provisions of the relevant law. 15

(10) A PICC must, in respect of any principal, care-giver, traditional surgeon or any other person involved in initiation who has been convicted of an offence as contemplated in this section, enter the details of such conviction in the database referred to in section 15(2). 20

Appeals

34. (1) Any person who is aggrieved by a decision of a traditional council or a PICC may lodge an appeal to the relevant Premier. 25

(2) Any person who is aggrieved by a decision of the NIOC may lodge an appeal to the Minister.

(3) An appeal contemplated in subsections (1) and (2) must be lodged—

- (a) within 30 calendar days after the aggrieved person has been informed of the specific decision; and 30
- (b) in the manner as may be prescribed by the relevant Premier or the Minister, as the case may be.

(4) The relevant Premier or the Minister, as the case may be—

- (a) may dismiss the appeal against a decision of a traditional council, a PICC or the NIOC, as the case may be, and confirm the relevant decision; or 35
- (b) may uphold an appeal and set aside or vary the specific decision, wholly or in part; and
- (c) must, in writing, inform the person who lodged the appeal and the relevant traditional council, the relevant PICC or the NIOC, as the case may be, of his or her decision and the reasons for such decision. 40

(5) Any appeal lodged in terms of this section must be dealt with by the relevant Premier or the Minister, as the case may be, within 30 calendar days from the date on which the appeal was lodged.

Regulations

45

35. (1) The Minister may, by notice in the *Gazette*, make regulations regarding—

- (a) any matter that must or may be prescribed in terms of this Act;
- (b) in respect of initiation, any matter relating to the responsibilities, roles and functions of—
 - (i) the NIOC; 50
 - (ii) a PICC;

(7) Ngokulawulwa sisiqendwana (6), ukuba umnini-bhuma okanye umnonopheli okanye ingcibi ayenzi mzamo wokuba umkhwetha afumane unyango

lukagqirha njengoko kuxelwe kwisiqu 21(5) okanye 23(3), loo mnini-bhuma okanye umnonopheli okanye ingcibi waphul' umthetho kwaye esakufunyaniswa enetyala uya kugwetywa ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kwiminyaka emithathu okanye agwetywe kokubini ifayini nokuvalelwa entolongweni. 5

(8) Ukuba—

(a) umnini-bhuma akakwenzi okufunwa sisiqendu 21(9) no-(10), nasisiqendu 26(4) okanye isiqendu 29(3)(c);

(b) abazali okanye umntu okhulise umkhwetha akayidandalazisi ingcombolo exelwe kwisiqu 22(1)(d), (e) okanye (f); okanye 10

(c) ingcibi ayikwenzi okufunwa sisiqendu 23(1)(b), loo mnini-bhuma okanye abo bazali okanye loo mntu okhulise umkhwetha okanye loo ngcibi, baphul' umthetho kwaye besakufunyaniswa benetyala baya kugwetywa ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kunyaka okanye bagwetywe kokubini ifayini nokuvalelwa entolongweni. 15

(9) Ukuba isenzo esithile esinento yokwenza nolwaluko sichazwe singesingawaphuliyo umthetho njengoko kuxelwe kwisiqu 15(1)(i), kodwa size sifunyanwe siwaphul' umthetho emva kokuphandwa ngamapolisa, umnini-bhuma osichaze njengesingawaphuliyo umthetho kwakunye nawuphi na omnye umntu oye wagunyaza eso senzo okanye wasiquzelela okanye waba liliso ekuquzelelweni kwaso, unokuthi atshutshiswe ngokomthetho aya kube ewaphulile. 20

(10) Malunga nomnini-bhuma okanye umnonopheli okanye ingcibi okanye umnye umntu obandakanyekileyo kulwaluko ofunyaniswe enetyala lokona njengoko kuxelwe kwesi siqendu, iKomiti Yephondo mayibhale iinkcukacha zoko kufunyaniswa enetyala kuvimba wengcombolo ekuthethwe ngawo kwisiqu 15(2). 25

Izibhenzo

34. (1) Nawuphi na umntu okhwiniswayo sisigqibo samaphakathi okanye seKomiti Yephondo angafak' isibhenzo kwiNkulumbuso yephondo lakhe.

(2) Nawuphi na umntu okhwiniswayo sisigqibo seKomiti Eyongameleyo angafak' isibhenzo kuMphathiswa. 30

(3) Isibhenzo ekuthethwe ngaso kwisiquendwana (1) no-(2) masifakwe—

(a) zingaphelanga iintsuku ezingama-30 umntu okhwinayo azisiwe ngesigqibo; kwaye

(b) masifakwe ngendlela enokuthi ixelwe yiNkulumbuso yalapho okanye nguMphathiswa. 35

(4) INkulumbuso okanye uMphathiswa—

(a) unokuthi asikhabe isibhenzo ekubhenwa kuso nxamnye nesigqibo samaphakathi okanye seKomiti Yephondo okanye seKomiti Eyongameleyo, aze avumelane nesigqibo esenziweyo; okanye 40

(b) unokuthi avumelane nesibhenzo aze asikhabe isigqibo esenziweyo okanye enze utshintsho kuso sonke okanye kwinxalenye yaso; kwaye

(c) makabhale emazisa umntu ofake isibhenzo okanye amaphakathi okanye iKomiti Yephondo okanye iKomiti Eyongameleyo, emazisa ngesigqibo sakhe nezizathu zokufikelela kweso sigqibo. 45

(5) Nasiphi na isibhenzo esifakwe ngokwesi siqendu masisingathwe yiNkulumbuso okanye nguMphathiswa zingekapheli iintsuku ezingama-30 ukususela kumhla esafakwa ngawo isibhenzo.

Imimiselo

35. (1) UMphathiswa unokwenza imimiselo ayikhuphe kuShicilelo-Mithetho— 50

(a) ngawo nawuphi na umbandela emakwenziwe imimiselo ngawo okanye ekunokuthi kwenziwe imimiselo ngawo ngokwalo Mithetho;

(b) malunga nolwaluko, unokwenza imimiselo ngawo nawuphi na umbandela ongemisebenzi—

(i) yeKomiti Eyongameleyo; 55

(ii) yeKomiti Yephondo;

- (iii) any sphere of government, houses of traditional leaders, traditional leaders, principals, care-givers, parents or legal or customary guardians of initiates; or
- (iv) traditional surgeons or traditional health practitioners: Provided that regulations in respect of traditional surgeons or traditional health practitioners may not be in contradiction with the provisions of the Traditional Health Practitioners Act; 5
- (c) any matter relating to initiation schools; and
- (d) any ancillary or administrative matter that is necessary to prescribe for the proper implementation or administration of this Act. 10
- (2) Before any regulations are made under subsection (1), the Minister must—
 - (a) in respect of any regulations as contemplated in subsection (1), consult the Premiers of all provinces, the National House and all provincial houses;
 - (b) in respect of regulations as contemplated in subsection (1)(b)(iv), consult the Minister responsible for health; and 15
 - (c) publish any draft regulations in the *Gazette* for public comment.
- (3) Subject to subsections (4) and (5), a Premier may, by notice in the Provincial *Gazette*, make regulations regarding—
 - (a) in respect of initiation, the responsibilities, roles and functions of—
 - (i) the relevant PICC; 20
 - (ii) the traditional leaders, principals and care-givers involved in initiation within the province; and
 - (iii) the parents or legal or customary guardians of initiates attending initiation schools within the province; and
 - (b) any matter relating to initiation schools within the province. 25
- (4) Before any regulations are made under subsection (3), the Premier must—
 - (a) consult the MEC responsible for initiation in the province, the MEC responsible for health in the province, the provincial house, the PICC and organised local government within the province; and
 - (b) publish the draft regulations in the Provincial *Gazette* for public comment. 30
- (5) Regulations made by a Premier under subsection (3) may not be inconsistent with any provisions of this Act or any regulations made by the Minister under subsection (1).
- (6) Any regulations made by the Minister or a Premier under this section must be tabled in Parliament or the relevant provincial legislature, as the case may be, for noting.

Monitoring 35

36. (1) The Department may monitor the implementation of this Act and any regulations made in terms of this Act, and may submit reports in this regard and make recommendations on such implementation to the Minister, the Premiers and the NIOC or any PICC.

(2) The Minister may, after having received a report or recommendations contemplated in subsection (1) and after consultation with any relevant Premier, the NIOC or any relevant PICC, take the necessary steps to ensure that the provisions of this Act are implemented. 40

(3) (a) The Department responsible for initiation within a province may, together with any other department designated by the Premier, monitor the implementation of this Act and any regulations made in terms of this Act within such province, and may submit reports in this regard and make recommendations on such implementation to the Premier, any relevant MEC and the relevant PICC. 45

(b) Upon receipt of a report contemplated in paragraph (a), the Premier of a province may, after consultation with the Minister, take the necessary steps to ensure that the provisions of this Act and any regulations made in terms of this Act are implemented within the province. 50

- (iii) karhulumente walo naliphi na inqwaqwa, okanye ngemisebenzi yezindlu zeenkokeli zomthonyama, yeenkokeli zomthonyama, yabanini-mabhuma, yabanonopheli bempilo, yabazali okanye abantu abakhulise abakhwetha; okanye
- (iv) yeengcibi okanye yamaxhwele, kodwa ke imimiselo emalunga neengcibi okanye amaxhwele ayimele iphikisane noko kutshiwo kwi*Traditional Health Practitioners Act*; 5
- (c) ngawo nawuphi na umbadenla umalunga namabhuma;
- (d) nangawo nawuphi na oyelele kule ekuyimfuneko ukuba kwenziwe ummiselo ngawo ukuze wenziwe usebenze kakuhle lo Mthetho. 10
- (2) Ngaphambi kokuba enze imimiselo ngokwesiqendwana (1), uMphathiswa—
- (a) mayela nemimiselo ekuthethwe ngayo kwisiqendwana (1), makabonisane neeNkulumbuso zawo onke amaphondo, neNdlu Yezwelonke kwakunye nazo zonke izindlu zamaphondo;
- (b) mayela nemimiselo ekuthethwe ngayo kwisiqendwana (1)(b)(iv), makabonisane noMphathiswa ophathiswe impilo; aze 15
- (c) ayipapashe loo mimiselo eseluvavanyo kuShicilelo-Mithetho ukuze uluntu luvakalise izimvo.
- (3) Ngokulawulwa sisiqendwana (4) neses-(5), iNkulumbuso inokwenza imimiselo iyikhuphe kuShicilelo-Mithetho Lwephondo— 20
- (a) mayela nolwaluko, kube yimimiselo emalunga nemisebenzi—
- (i) yeKomiti Yephondo;
- (ii) yeenkokeli zomthonyama, nabanini-mabhuma nabanonopheli ababandakanyeke kulwaluko kwiphondo;
- (iii) yabazali okanye abantu abakhulise abakhwetha abasebhumeni kwiphondo; nemimiselo 25
- (b) emalunga nawo nawuphi na umbandela omayela namabhuma kwiphondo.
- (4) Ngaphambi kokuba kwenziwe imimiselo ngokwesiqendwana (3), iNkulumbuso—
- (a) mayibonisane nomphathiswa wephondo ophathiswe ulwaluko kwiphondo, nomphathiswa wephondo ophathiswe impilo kwiphondo, kwakunye nendlu yephondo, neKomiti Yephondo, kwakunye norhulumente olungelelanisiweyo wasekuhlaleni kwiphondo; aze 30
- (b) ayipapashe loo mimiselo eseluvavanyo kuShicilelo-Mithetho Lwephondo ukuze uluntu luvakalise izimvo. 35
- (5) Imimiselo eyenziwe yiNkulumbuso ngokwesiqendwana (3) ayimele ingqubane noko kutshiwo ngulo Mthetho kwakunye noko kutshiwo yimimiselo eyenziwe nguMphathiswa ngokwesiqendwana (1).
- (6) Nayiphi na imimiselo eyenziwe nguMphathiswa okanye yiNkulumbuso ngokwesi siqendu mayithiwe thaca ePalamente okanye kwindlu yowiso-mthetho yephondo laloo Nkulumbuso ukuze yaziwe. 40

Ukubekw' esweni

- 36.** (1) ISebe lisengakubek' esweni ukusetyenziswa kwalo Mthetho nemimiselo eyenziwe ngokwalo Mthetho, kwaye lisengathumela iingxelo, lenze nezindululo ngokusetyenziswa kwawo, lizibhekise izindululo kuMphathiswa, nakwiNkulumbuso, nakwiKomiti Eyongameleyo, nakwiKomiti Yephondo. 45
- (2) UMphathiswa usengathabatha amanyathelo ayimfuneko okwenza ukuba nakanjani okutshiwo ngulo Mthetho kwenziwe, ewathabatha loo manyathelo emva kokuba efumene ingxelo okanye izindululo ekuthethwe ngazo kwisiqendwana (1) nasemva kokubonisana neNkulumbuso echaphazelekayo, neKomiti Eyongameleyo okanye neKomiti Yephondo echaphazelekayo. 50
- (3) (a) Isebe eliphathiswe ulwaluko kwiphondo lisenokuthi, likunye nelinye isebe elichongwe yiNkulumbuso, likubek' esweni ukusetyenziswa kwalo Mthetho kwakunye nemimiselo eyenziwe ngokwalo Mthetho kwiphondo, kwaye lingathumela iingxelo ngako oku, lenze nezindululo ngokusetyenziswa kwawo, lizibhekise kwiNkulumbuso, nakumphathiswa wephondo ochaphazelekayo, nakwiKomiti Yephondo. 55
- (b) Isakuyifumana ingxelo ekuthethwe ngayo kwisiqendu (a), iNkulumbuso yephondo ingathabatha amanyathelo ayimfuneko okwenza ukuba nakanjani okutshiwo ngulo Mthetho nemimiselo eyenziwe ngokwalo Mthetho kusetyenziswe kwiphondo, iwathabatha loo manyathelo emva kokubonisana noMphathiswa. 60

Provincial peculiarities

37. (1) To accommodate any specific provincial area or community peculiarities, a Premier may, after consultation with the Minister, any relevant MEC, the provincial house and the PICC, by notice in the Provincial *Gazette* determine that the provisions of this Act relating to principals, care-givers or traditional surgeons apply to and must be complied with by the persons or bodies indicated in such notice and to the extent specified in such notice. 5

(2) A Premier must inform the Minister, any relevant MEC, the NIOC, the provincial house and the PICC of any determination made in terms of subsection (1).

(3) Provincial legislation may determine a higher minimum age than the minimum age provided for in sections 2(4) and 28(2). 10

(4) In the absence of provincial legislation contemplated in subsection (3), a Premier may, after consultation with the Minister, any relevant MEC, the provincial house and the PICC, by notice in the Provincial *Gazette* determine a higher minimum age than the minimum age provided for in sections 2(4) and 28(2). 15

Provincial legislation providing for a PICC

38. (1) If, at the commencement of this Act, any provincial legislation already makes provision for a PICC as contemplated in section 11, for a technical support team as contemplated in section 16 or a similar structure, and for other initiation structures, such as PICC, technical support team or similar structure and other initiation structures, irrespective of whether their composition in terms of the provincial legislation corresponds with the relevant provisions of section 11 or 16 of this Act, but subject to subsections (2), (3), (4) and (5), continue to exist and function in terms of such provincial legislation. 20

(2) (a) If any of the responsibilities, roles or functions of a PICC as provided for in section 15 or any other section of this Act is not included in the provincial legislation referred to in subsection (1), such responsibilities, roles and functions must, at the commencement of this Act, be deemed as having been assigned to the PICC established in terms of the provincial legislation and such PICC may, in writing and subject to section 15(8), delegate such responsibilities, roles and functions to any of the structures provided for in the provincial legislation. 25 30

(b) If any of the responsibilities, roles or functions provided for in this Act in respect of any role-player contemplated in Chapter 3 of this Act is not included in the provincial legislation referred to in subsection (1), such responsibilities, roles and functions must, at the commencement of this Act, be deemed as having been assigned to such role-player if such role-player has been provided for in the provincial legislation or to any corresponding role-player provided for in the provincial legislation. 35

(3) The provisions of section 39(2)(c), (d), (e) and (f), (3) and (4) apply with the necessary changes to any delegation made under subsection (2)(a). 40

(4) Any provision of this Act that is not provided for in the provincial legislation referred to in subsection (1), must apply in the relevant province in addition to the provisions of such provincial legislation. 40

(5) In the event of any conflict between a provision of the provincial legislation referred to in subsection (1) and sections 26, 27, 28 and 33 of this Act, the relevant provisions of this Act prevail. 45

Local initiation structures and municipalities

39. (1) (a) In addition to the structures provided for in this Act, provincial legislation may provide for the establishment of local initiation structures to perform the responsibilities, roles and functions as provided for in such provincial legislation or as may be delegated to such structures in terms of subsection (2). 50

Ukungafani kweendlela zokwenza kumaphondo ngamaphondo

37. (1) Ukulungiselela ukungafani kweendlela zokwenza kummandla othile wephondo okanye kuluntu oluthile kwiphondo, iNkulumbuso isenokuthi, emva kokubonisana noMphathiswa, nomphathiswa wephondo ochaphazelekayo, nendlu yephondo, neKomiti Yephondo, ngokukhuph' isihlokomiso kuShicilelo-Mithetho Lwephondo, igqibe kwelokuba okutshiwo ngulo Mthetho malunga nabanini-mabhuma okanye abanonopheli okanye iingcibi kusebenza kubantu okanye kumaqumrhu aboniswe kweso sihlokomiso kwaye bamele bakwenze, ixele nokuba kusebenza kangakanani okanye kufuneka bakwenze kangakanani.

(2) INkulumbuso mayazise uMphathiswa, nomphathiswa wephondo ochaphazelekayo, neKomiti Eyongameleyo, nendlu yephondo, neKomiti Yephondo, ibazisa ngaso nasiphi na isigqibo esenze ngokwesiqendwana (1).

(3) Umthetho wendlu yowiso-mthetho yephondo usengayinyusa iminyaka yobudala ibe ngaphezu kweminyaka yobudala exelwe kwisiqendu 2(4) nese-28(2).

(4) Xa ungekho umthetho wendlu yowiso-mthetho yephondo ekuthethwe ngawo kwisiqendwana (3), iNkulumbuso inokuyinyusa iminyaka yobudala ibe ngaphezu kweminyaka yobudala exelwe kwisiqendu 2(4) nese-28(2), ikwenza oko emva kokubonisana noMphathiswa, nomphathiswa wephondo ochaphazelekayo, nendlu yephondo, neKomiti Yephondo, ngokukhuph' isihlokomiso kuShicilelo-Mithetho Lwephondo.

Imithetho yeepalamente zamaphondo ethetha ngeKomiti Zokunxibelelanisa Zolwaluko Zamaphondo

38. (1) Ukuba xa uqalisa ukusebenza lo Mthetho kukho umthetho wephondo osel' uthetha ngeKomiti Yephondo njengoko kuxelwe kwisiqendu 11, osel' uthetha nangeqela labancedisi okanye into enjengaleyo njengoko kuxelwe kwisiqendu 16, osel' uthetha nangezinye iziphathi-mandla zolwaluko, loo Komiti Yephondo ebisel' ikho, nelo qela labancedisi, nezinye iziphathi-mandla zolwaluko ebesezikho ziyaqhubeka zikho kwaye zisebenza ngokwaloo mthetho wephondo, kungakhathaliseki ukuba indlela ezakhiwe ngayo ngokomthetho wephondo ivumelana noko kutshiwo kwisiqendu 11 nese-16 salo Mthetho, kodwa ke kuxhomekeke kwisiqendwana (2), (3), (4), no-(5).

(2) (a) Ukuba imisebenzi yeKomiti Yephondo exelwe kwisiqendu 15 okanye kwesinye isiqendu salo Mthetho ayiqukwanga kumthetho wephondo ekuthethwe ngawo kwisiqendwana (1), loo misebenzi mayithi ekuqaleni kwalo Mthetho ukusebenza ithathwe njengeyabelwe iKomiti Yephondo esekwe ngokomthetho wephondo, kwaye loo Komiti Yephondo inokuyiphathisa esinye isiphathi-mandla ekuthethwe ngawo kumthetho wephondo, ikwenza oko ngokubhala nangokulawulwa sisiqendu 15(8).

(b) Ukuba imisebenzi ekuthethwe ngayo kulo Mthetho ekuyimisebenzi yomthabathi-nxaxheba oxelwe kwiSahluko 3 salo Mthetho ayiqukwanga kumthetho wephondo ekuthethwe ngawo kwisiqendwana (1), loo misebenzi mayithi ekuqaleni kwalo Mthetho ukusebenza ithathwe njengeyabelwe loo mthabathi-nxaxheba ukuba loo mthabathi-nxaxheba kuthethiwe ngaye kumthetho wephondo okanye ithathwe njengeyabelwe omnye umthabathi-nxaxheba ekuthethwe ngaye kumthetho wephondo.

(3) Okutshiwo sisiqendu 39(2)(c), (d), (e) no-(f), no-(3) no-(4), kuyasebenza xa kuphathiswa ngokwesiqendwana (2)(a), kubekho nje utshintsho olunokuthi lufuneka.

(4) Nayiphi na inxalenye yalo Mthetho engekho kumthetho wephondo ekuthethwe ngawo kwisiqendwana (1) mayisebenze kwiphondo ukongezelela koko kutshiwo ngumthetho welo phondo.

(5) Xa kukho ukungqubana phakathi kokutshiwo ngumthetho wephondo ekuthethwe ngawo kwisiqendwana (1) noko kutshiwo kwisiqendu 26, 27, 28 nese-33 salo Mthetho, okutshiwo ngulo Mthetho kuko okuya kusebenza.

Iziphathi-mandla zasekuhlaleni zolwaluko noomasipala

39. (1) (a) Ukongezelela kwiziphathi-mandla ekuthethwe ngazo kulo Mthetho, umthetho wephondo ungavumela ukumiselwa kweziphathi-mandla zasekuhlaleni zolwaluko ukuze zenze imisebenzi njengoko ixelwe kuloo mthetho wephondo okanye njengoko iphathiswe ezo ziphathi-mandla ngokwesiqendwana (2).

(b) The provisions of section 17 apply with the necessary changes in respect of the administrative and financial support to be provided to the local initiation structures in so far as such support is not provided for in the provincial legislation contemplated in paragraph (a).

(2) (a) A PICC may, subject to paragraph (b) and any conditions as the PICC may determine, in writing, delegate any of its responsibilities, roles and functions to any local initiation structure contemplated in subsection (1)(a). 5

(b) For the purposes of a delegation contemplated in paragraph (a), the provisions of sections 15(8) and 20(3) apply with the necessary changes.

(c) The delegation in terms of paragraph (a) does not prevent the exercise of the relevant responsibility, role or function by the PICC: Provided that the PICC must give prior notice of its intention to exercise the responsibility, role or function to the relevant local initiation structure. 10

(d) A PICC may at any time, in writing, withdraw or amend a delegation.

(e) A local initiation structure to which a responsibility, role or function is delegated, may not further delegate it. 15

(f) Notice must be given in the Provincial *Gazette* of any responsibility, role or function delegated in terms of this subsection.

(3) A PICC must monitor the execution of any delegated responsibilities, roles and functions contemplated in subsection (2) and submit reports in this regard to the department responsible for initiation in the province which reports must be dealt with in accordance with the provisions of section 36(3). 20

(4) A PICC must inform the Premier, any relevant MEC, the provincial house, the NIOC and organised local government within the province of any delegation made in terms of subsection (2). 25

(5) (a) In the absence of provincial legislation contemplated in subsection (1)(a), a PICC may, after consultation with the Premier, any relevant MEC, the provincial house and organised local government within the province, in writing and subject to any conditions as the PICC may determine, delegate any of the responsibilities, roles or functions contemplated in subsection (2)(a) to a specific metropolitan, district or local municipality or to such municipalities in general within the province: Provided that such a municipality must, prior to a delegation being made, agree thereto. 30

(b) The delegation contemplated in paragraph (a) may be included in an implementation protocol contemplated in section 35 of the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005). 35

(c) Subsections (2)(b) to (f), (3) and (4) apply with the necessary changes to any delegation made under paragraph (a).

(d) The delegation or implementation protocol contemplated in paragraphs (a) and (b), must include the provision of financial support to the relevant municipality by the provincial departments as contemplated in section 17(1). 40

(6) In the event of any conflict between a provision of the provincial legislation referred to in subsection (1)(a) and any provision of this Act, the relevant provision of this Act prevails.

Implementation of Act

40. (1) The NIOC and a PICC, excluding a PICC contemplated in section 38, must be established within three months from the date of commencement of this Act. 45

(2) The criteria and process required in terms of section 15(1)(g) and (h) respectively, must be developed by a PICC within three months from the date of establishment of such PICC or, in the case of a PICC contemplated in section 38, within three months from the date of commencement of this Act. 50

Interim arrangements

41. (1) A traditional surgeon must apply to the relevant PICC for registration.

(2) A PICC must, taking into account the requirements developed by the National House contemplated in section 19(2)(b),—

(a) receive and consider an application for the registration of a traditional surgeon; 55

(b) Okutshiwo sisiqendu 17 kuyasebenza kuncedo lolawulo nolwemali omalunikwe iziphathi-mandla zasekuhlaleni, kubekho nje utshintsho olunokuthi lufuneke, ukuba olo ncedo akuthethwanga ngalo kumthetho wephondo ekuthethwe ngawo kwisiqendu (a).

(2) (a) IKomiti Yephondo inokuthi imisebenzi yayo iyiphathise nasiphi na isiphathi-mandla sasekuhlaleni solwaluko ekuthethwe ngaso kwisiqendwana (1)(a), ikwenza oko ilawulwa sisiqendu (b) nayimiqathango enokuthi ibekwe yiKomiti Yephondo, ikwenza oko ngokubhala. 5

(b) Malunga nokuphathisa ekuthethwe ngako kwisiqendu (a), okutshiwo sisiqendu 15(8) no-20(3) kuyasebenza, kubekho nje utshintsho olunokuthi lufuneke.

(c) Ukuphathisa ngokwesiqendu (a) akuyithinteli iKomiti Yephondo ukuba izenzele ngokwayo imisebenzi, kodwa ke ukuba ifuna ukwenza njalo mayiqale isazise eso siphathi-mandla into yokuba ifuna ukuzenzela ngokwawo umsebenzi ebiphathise sona. 10

(d) IKomiti Yephondo inokuthi nangaliphi na ixesha ikurhoxise ukuphathisa okanye yenze utshintsho kuko, ikwenza oko ngokubhala. 15

(e) Isiphathi-mandla sasekuhlaleni solwaluko esiphathiswe umsebenzi othile asivumelekanga ukuba sona siphathise omnye umntu.

(f) Makukhutshwe isihlokomiso kuShicilelo-Mithetho Lwephondo ngomsebenzi ophathiswe isiphathi-mandla sasekuhlaleni solwaluko ngokwesi qendwana.

(3) IKomiti Yephondo mayiyibek' esweni indlela eyenziwa ngayo imisebenzi eyiphathisileyo njengoko kuxelwe kwisiqendwana (2) ize yenze ingxelo ngako eya kwisebe eliphathiswe ulwaluko kwiphondo, ngxelo leyo emayisingathwe ngokwesiqendu 36(3). 20

(4) IKomiti Yephondo mayiyazise iNkulumbuso, nomphathiswa wephondo ochaphazelekayo, neKomiti Eyongameleyo, norhulumente wasekuhlaleni olungelelanisiweyo kwiphondo, ibazisa ngokuphathisa ekwenze ngokwesiqendwana (2). 25

(5) (a) Xa ungekho umthetho wephondo ekuthethwe ngawo kwisiqendwana (1)(a), iKomiti Yephondo inokuthi imisebenzi yayo ekuthethwe ngayo kwisiqendwana (2)(a) iyiphathise umasipala ombaxa othile, okanye umasipala wesithili okanye wasekuhlaleni, okanye oomasipala abakwiphondo, ikwenza oko ngokubhala nangokulandela imiqathango enokuthi ibekwe yiKomiti Yephondo, kodwa ke ngaphambi kokuba aphathiswe loo masipala kufuneka abe uvumile. 30

(b) Ukuphathisa ekuthethwe ngako kwisiqendu (a) kunokuthi kuqukwe kwisicwangciso sokusebenza ekuthethwe ngaso kwisiqendu 35 se*Intergovernmental Relations Framework Act* 13 ka-2005. 35

(c) Isiqendwana (2)(b) ukuya ku-(f), (3) no-(4) ziyasebenza ekuphathiseni okwenziwe ngokwesiqendu (a), kubekho nje utshintsho olunokuthi lufuneke.

(d) Ukuphathisa okanye isicwangciso sokusebenza ekuthethwe ngaso kwisiqendu (a) no-(b) masiquke ukunikwa uncedo lwemali, lunikwa umasipala ochaphazelekayo, elunikwa ngamasebe ephondo njengoko kuxelwe kwisiqendu 17(1). 40

(6) Xa kuthi kubekho ukungqubana phakathi koko kutshiwo ngumthetho wephondo ekuthethwe ngawo kwisiqendwana (1)(a) noko kutshiwo ngulo Mthetho, okutshiwo ngulo Mthetho kuko okuya kusebenza.

Ukwenziwa kwalo Mthetho usebenze 45

40. (1) IKomiti Eyongameleyo neKomiti Yephondo, ngaphandle kweKomiti Yephondo ekuthethwe ngayo kwisiqendu 38, mazisekwe zingekapheli iinyanga ezintathu uqalile ukusebenza lo Mthetho.

(2) Iimfuneko emakuhlangatyezwane nazo nenkqubo efunekayo ngokwesiqendu 15(1)(g) no-(h) maziqulunqwe yiKomiti Yephondo zingekapheli iinyanga ezintathu isekiwe iKomiti Yephondo, okanye ke xa kuyiKomiti Yephondo ekuthethwe ngayo kwisiqendu 38, ziqulunqwe zingekapheli iinyanga ezintathu uqalile ukusebenza lo Mthetho. 50

Amalungiselelo ethutyana

41. (1) Ingcibi mayenz' isicelo sokubhaliswa isibhekise kwiKomiti Yephondo. 55

(2) IKomiti Yephondo, icingela iimfuneko eziqulunqwe yiNdlu Yezwelonke ekuthethwe ngazo kwisiqendu 19(2)(b),—

(a) mayisamkele isicelo sokubhaliswa kwengcibi ize isiqwalasele;

(b) register any traditional surgeon whose application has been approved and issue a letter confirming such registration to the traditional surgeon; and

(c) keep a register of all registered traditional surgeons.

(3) The provisions of subsections (1) and (2) only apply until the provisions of the Traditional Health Practitioners Act which regulate the registration of traditional surgeons come into operation. 5

(4) (a) The Minister may, by notice in the *Gazette* and after consultation with all Premiers, the National House, provincial houses and the Minister responsible for health, determine the fees to be paid, subject to subsection (5)—

(i) by a traditional surgeon to the PICC, in respect of the registration of such a surgeon; and 10

(ii) to a traditional surgeon for his or her services rendered during initiation.

(b) Before making a final determination of the fees, the Minister must, by notice in the *Gazette*, publish the proposed fees for public comment.

(c) Fees determined in accordance with this subsection must be revised on advice and at the request of the NIOC, after the NIOC has consulted with all PICCs. 15

(5) The provisions of subsection (4) only apply until such time as fees are determined or prescribed in terms of the Traditional Health Practitioners Act.

Short title and commencement

42. This Act is called the Customary Initiation Act, 2021, and takes effect on a date determined by the President by proclamation in the *Gazette*. 20

- (b) mayiyibhalise ingcibi esicelo sayo siphumeleleyo ize ikhuphe incwadi eqinisekisa ukubhaliswa iyinike ingcibi leyo; ize
- (c) igcine irejista yazo zonke iingcibi ezibhalisiweyo.
- (3) Okutshiwo sisiqendwana (1) nesesi-(2) kusebenza kuphela de okutshiwo yi*Traditional Health Practitioners Act* okulawula ukubhaliswa kweengcibi kuqalise ukusebenza. 5
- (4) (a) UMphathiswa unokwenza isigqibo ngeemali emazihlawulwe, ekwenza oko ngokukhuph' isihlokomiso kuShicilelo-Mithetho, emva kokubonisana nazo zonke iiNkulumbuso, neNdlu Yezwelonke, nezindlu zamaphondo, noMphathiswa ophathiswe impilo, kodwa ngokulawulwa sisiqendwana (5), kuziimali emazihlawulwe— 10
- (i) yingcibi kwiKomiti Yephondo ngokubhaliswa kwayo ingcibi leyo; nemazihlawulwe
- (ii) kwingcibi ngomsebenzi wayo wokwalusa.
- (b) Ngaphambi kokuba enze isigqibo sokugqibela ngeemali emazihlawulwe makaqale azipapashe kuShicilelo-Mithetho ukuze uluntu luvakalise izimvo. 15
- (c) Iimali emazihlawulwe ezigqitywe ngokwesi siqendwana mazitshintshwe xa kucebise kwaye kucele iKomiti Eyongameleyo, emva kokuba iKomiti Eyongameleyo ibonisene nazo zonke iiKomiti Zamaphondo.
- (5) Okutshiwo sisiqendwana (4) kusebenza kuphela de kube lelo xesha ekuya kube kwenziwe isigqibo ngeemali emazihlawulwe ngokwe*Traditional Health Practitioners Act*. 20

Igama lawo nokuqalisa kwawo ukusebenza

42. Lo Mthetho ubizwa ngokuba nguMthetho Wolwaluko ka-2021, kwaye uqalisa ukusebenza ngomhla ogqitywe nguMongameli ngokukhuph' isihlokomiso kuShicilelo-Mithetho. 25

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