

OFFICE OF THE PREMIER	KANTOOR VAN DIE PREMIER
<p>No. 3 02 September 2005</p> <p>It is hereby notified that the Premier has assented to the following Act which is hereby published for general information:-</p> <p>No. 3 of 2005 : Free State Tourism Authority Act, 2005</p>	<p>No. 3 02 September 2005</p> <p>Hierby word bekend gemaak dat die Premier die onderstaande Wet bekragtig het, wat hierby ter algemene inligting gepubliseer word:-</p> <p>No. 3 van 2005: Vrystaat Wet op Toerisme Owerheid 2005</p>

ACT

To provide for the sustainable development and improvement of the tourism industry in the Free State; for the establishment of the Free State Tourism Authority; to confer powers and functions upon the Tourism Authority; and to provide for matters incidental thereto.

BE IT ENACTED by the Provincial Legislature of the Free State, as follows:

Definitions

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| 1. | In this Act, unless the context otherwise indicates – | 5 |
| | “ Board ” means the Board established by section 5; | |
| | “ community ” means any group of persons or a part of such a group who share common interests and who regard themselves as a community and “ communities ” has a corresponding meaning; | 10 |
| | “ Constitution ” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996); | 15 |
| | “ Department ” means the Department responsible for tourism matters in the Province; | |
| | “ Executive Council ” means the Executive Council of the Province as referred to in section 132 of the Constitution; | 20 |
| | “ Member of the Executive Council ” means the Member of the Executive Council responsible for tourism in the Province; | |
| | “ prescribed ” means prescribed by regulation in terms of this Act; | 25 |
| | “ Province ” means the Province of Free State as referred to in section 103(1)(b) of the Constitution, or any part thereof; | |
| | “ <i>Provincial Gazette</i> ” means the <i>Provincial Gazette</i> of the Province; | 30 |

WET

Om voorsiening te maak vir die volhoubare ontwikkeling en verbetering van die toerismebedryf in die Vrystaat; vir die totstandbrenging van die Vrystaatse Toerisme Owerheid; om magte en funksies te verleen aan die Toerisme Owerheid; en om voorsiening te maak vir sake wat daarmee gepaard gaan.

DAAR WORD BEPAAL deur die Provinsiale Wetgewer van die Provinsie Vrystaat, soos volg:-

Woordomsrywings

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1. In hierdie Wet, tensy die konteks anders bepaal, beteken -

“belanghebbende” ‘n organisasie, liggaam of persoon met ‘n regstreekse en voortdurende belang in die Provinsiale toerisme sektor of bedryf;

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“Departement” die Departement verantwoordelik vir toerisme aangeleenthede in die Provinsie;

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“gemeenskap” enige groep persone of deel van sodanige groep met gemeenskaplike belange wat hulleself as ‘n gemeenskap beskou en “gemeenskappe” het ‘n ooreenstemmende betekenis;

“Grondwet” die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996);

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“hierdie Wet” ook ‘n regulasie kragtens hierdie Wet;

“Lid van die Uitvoerende Raad” die Lid van die Uitvoerende Raad verantwoordelik vir toerisme in die Provinsie;

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“Provinsiale Koerant” die *Provinsiale Koerant* van die Provinsie;

“Provinsie” die Provinsie Vrystaat soos na verwys in artikel 103(1)(b) van die Grondwet, of enige gedeelte daarvan;

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“Raad” die Raad ingestel deur artikel 5;

“streek” die gebied wat bestaan uit die lidlande van die Suider-Afrikaanse Ontwikkelingsgemeenskap en “streeks” het ‘n ooreenstemmende betekenis;

“region” means the area comprising the member states of the Southern African Development Community and “regional” has a corresponding meaning;

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

“this Act” also means a regulation made under this Act; and

“Tourism Authority” means the Free State Tourism Authority established by section 2.

Establishment

2. A juristic person to be known as the Free State Tourism Authority is hereby established.

Objectives of Tourism Authority

3. (1) The objectives of the Tourism Authority must be to ensure the effective and efficient –
- (i) marketing of tourism;
 - (ii) promotion of tourism; and
 - (iii) development of sustainable tourism within the Province.
- (2) The objectives must be attained by the Tourism Authority with specific emphasis on broadening the participation in tourism of previously disadvantaged communities and persons in order to contribute to the improvement of the quality of life of every inhabitant of the Province.

Powers and functions of Tourism Authority

4. (1) In order to achieve its objectives, the Tourism Authority must exercise and perform its powers and functions,
- (a) relating to developing and marketing of tourism, by –
 - (i) monitoring, evaluating and ensuring the implementation of, and compliance with, all tourism marketing policies, programmes and regulations by those tourism stakeholders to which such policies, programmes and regulations are applicable;

“Toerisme Owerheid” die Vrystaatse Toerisme Owerheid soos deur artikel 2 ingestel;

“Uitvoerende Raad” die Uitvoerende Raad van die Provinsie soos na verwys word in artikel 132 van die Grondwet; en

“voorgeskryf” voorgeskryf deur regulasie ingevolge hierdie Wet.

Instelling

2. ‘n Regspersoon wat as die Vrystaatse Toerisme Owerheid bekend staan word hiermee ingestel.

Doelwitte van Toerisme Owerheid

3. (1) Die doelwitte van die Toerisme Owerheid is om te sorg vir die doelmatige en doeltreffende –
- (i) bemarking van toerisme;
 - (ii) bevordering van toerisme; en
 - (iii) ontwikkeling van volhoubare toerisme binne die Provinsie.
- (2) Die doelwitte moet deur die Toerisme Owerheid verwesenlik word met bepaalde klem op die verbreding van deelname aan toerisme deur voorheen benadeelde gemeenskappe en persone ten einde by te dra tot die verbetering van die lewensgehalte van elke inwoner van die Provinsie.

Bevoegdhede en funksies van die Toerisme Owerheid

4. (1) Ten einde sy doelwitte te verwesenlik, moet die Toerisme Owerheid sy bevoegdhede en funksies uitoefen en uitvoer;
- (a) met betrekking tot die ontwikkeling en bemarking van toerisme, deur -
 - (i) alle bemarkingsbeleide, programme en regulasies te monitor, te evalueer en te sorg vir die implementering en nakoming daarvan deur daardie belanghebbendes in toerisme op wie sodanige beleide, programme en regulasies van toepassing is;

- (ii) developing and implementing a focused international, regional and domestic marketing strategy in collaboration with the South African Tourism Board; and
 - (iii) co-ordinating and facilitating Provincial tourism marketing initiatives and strategies, 5
- (b) relating to research and the compilation of information pertaining to tourism, by – 10
 - (i) monitoring, evaluating and ensuring the implementation of, and compliance with, all tourism research and information compilation policies, programmes and regulations by those tourism stakeholders to which such policies, programmes and regulations are applicable; 15
 - (ii) conducting cost-effective and focused research pertaining to tourism in the Province;
 - (iii) co-ordinating integrated tourism research; 20
 - (iv) within one year of coming into effect of this Act, establish and maintain a comprehensive database consisting of information pertaining to, *inter alia*, - 25
 - (aa) existing tourism attractions, infrastructure, facilities, services and the location thereof and access thereto, within the Province;
 - (bb) natural and cultural attractions that could potentially be developed as tourism attractions within the Province; 30
 - (cc) new areas of tourism activity and potential sites where these activities could be carried out within the Province; 35
 - (v) developing a tourism information service and disseminating information to tourists and relevant tourism stakeholders,

- (ii) ontwikkeling en implementering van 'n samevattende internasionale, streeks en binnelandse bemarkingstrategie in samewerking met die Suid-Afrikaanse Toerismeraad; en
- 5 (iii) koördinerings- en fasilitering van bemarkingsinisiatiewe en strategieë vir Provinsiale toerisme,
- (b) wat verband hou met navorsing en die samestelling van inligting oor toerisme, deur
- 10 (i) alle toerismenavorsing- en inligtingsamestellingsbeleide, programme en regulasies te monitor, te evalueer en te sorg vir die implementering en nakoming daarvan deur daardie belanghebbendes in toerisme op wie sodanige beleide, programme en regulasies van toepassing is;
- 15 (ii) lonende en gekonsentreerde navorsing uit te voer wat verband hou met toerisme in die Provinsie;
- 20 (iii) geïntegreerde toerisme navorsing te koördineer;
- (iv) binne een jaar van die inwerkingtreding van hierdie Wet 'n omvattende databasis te vestig en onderhou wat bestaan uit inligting wat verband hou met, *onder andere*,
- 25 (aa) bestaande toerisme aantreklikhede, infrastruktuur, geriewe, dienste en die ligging en toegang dartoe, binne die Provinsie;
- 30 (bb) natuurlike en kulturele aantreklikhede wat die potensiaal het om as toerisme aantreklikhede binne die Provinsie ontwikkel te word;
- 35 (cc) nuwe gebiede van toerismebedrywighede en moontlike terreine binne die Provinsie waar hierdie bedrywighede uitgevoer kan word;
- (v) 'n toerisme inligtingsdiens te ontwikkel en inligting te versprei onder toeriste en die betrokke toerisme belanghebbendes,
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- (c) relating to financial and personnel matters, by –
 - (i) ensuring that it adheres to sound financial management, effective and equitable human resource development and efficient office administration in a responsible, accountable and transparent manner; 5
 - (ii) appointing, subject to section 15, personnel of the Tourism Authority; 10
 - (iii) monitoring, evaluating and ensuring the implementation of, and compliance with, all financial and personnel related tourism policies, programmes and regulations; 15
 - (iv) raising funds in accordance with detailed written funding proposals approved by the Member of the Executive Council in writing; and 20
 - (v) encouraging investment in Provincial tourism, 25
- (d) relating to communication strategies by –
 - (i) monitoring and evaluating the implementation of, and compliance with, all tourism related communication policies; and 30
 - (ii) developing and implementing public relations initiatives and communication programmes to, *inter alia*, promote a tourism culture and tourism awareness among inhabitants of the Province. 35
- (2) (a) The Tourism Authority must annually or more frequently when requested by the Member of the Executive Council, or as and when necessary, advise the Member of the Executive Council on any of its objectives as contemplated in subsection (1)(a) to (d), which advice must, at least include, but not necessarily be limited to – 40
 - (i) new tourism trends; 40
 - (ii) new tourism initiatives or strategies for consideration; 40

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- (c) wat verband hou met finansiële en personeelaangeleenthede, deur
- (i) te sorg dat dit trou bly aan gesonde finansiële bestuur, doelmattige en billike menslike hulpbronontwikkeling en doeltreffende kantooradministrasie op 'n verantwoordelike, verantwoordbare en deursigtige wyse;
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- (ii) aanstelling, behoudens artikel 15, van personeel van die Toerisme Owerheid;
- (iii) alle finansiële- en personeelverwante toerisme beleideprogramme en regulasies te monitor en te sorg vir die implementering en nakoming daarvan;
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- (iv) fondse in te samel in ooreenstemming met uitvoerige skriftelike voorstelle vir befondsing wat skriftelik deur die Lid van die Uitvoerende Raad goedgekeur is, en
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- (v) beleggings in Provinsiale toerisme aan te moedig,
- (d) kommunikasiestrategieë in verband te bring deur
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- (i) alle kommunikasiebeleide wat met toerisme verband hou te monitor en die implementering en nakoming daarvan te evalueer; en
- (ii) openbare skakelinisiatiewe en kommunikasieprogramme te ontwikkel en te implementeer om, onder andere, 'n toerismekultuur en toerismebewustheid onder inwoners van die Provinsie te bevorder.
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- (2) (a) Die Toerisme Owerheid moet jaarliks of meer gereeld wanneer versoek word deur die Lid van die Uitvoerende Raad, of soos en wanneer nodig, die Lid van die Uitvoerende Raad adviseer oor enige van sy doelwitte soos beoog in subartikel (1)(a) tot (d), welke advies, ten minste met inbegrip van, maar nie noodwendig beperk tot
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- (i) nuwe toerisme neigings;
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- (ii) nuwe toerisme inisiatiewe of strategieë vir oorweging;

- (iii) specific measures to be considered in order to promote, foster and develop tourism for the benefit of previously disadvantaged communities within the Province and how participation in tourism may be broadened to include previously disadvantaged communities; 5
 - (iv) policy matters for consideration;
 - (v) the envisaged environmental, socio-economic and developmental impact of such new tourism trends, initiatives, strategies, measures or policies; 10
 - (vi) the recommended degree of consultation necessary for new tourism trends, initiatives, strategies, measures or policies; and 15
 - (vii) envisaged financial implications of new tourism trends, initiatives, strategies, measures or policies;
 - (b) The Tourism Authority must, as and when necessary or as requested by the Member of the Executive Council, but at least annually, advise the Member of the Executive Council in writing, on matters pertaining to tourism safety and security and tourism protection. 20
 - (c) The Tourism Authority must, as and when necessary, also advise the Member of the Executive Council in writing, on the need and advantages to establish specialised tourism bodies. 25
 - (d) The annual advice contemplated in paragraphs (a) and (b) must be submitted to the Member of the Executive Council on or before 31 October of every year. 30
- (3) The Tourism Authority must, in the exercise and performance of its powers and functions, liaise and consult with all relevant stakeholders, including, but not limited to – 35
 - (i) communities;
 - (ii) owners of existing or potential tourist attractions; 40
 - (iii) organs of state;
 - (iv) traditional leaders;

- 5 (iii) bepaalde stappe wat oorweeg moet word ten einde toerisme te bevorder, aan te wakker tot voordeel van voorheen benadeelde gemeenskappe binne die Provinsie en hoe deelname aan toerisme verbreed kan word om voorheen benadeelde gemeenskappe daarby te betrek;
- 10 (iv) beleidsaangeleenthede vir oorweging;
- 15 (v) die beoogde omgewings-, sosio-ekonomiese en ontwikkelingsimpak van sodanige nuwe toerisme neigings, inisiatiewe, strategieë, maatreëls of beleide;
- 20 (vi) die aanbevole mate van raadpleging wat nodig is vir nuwe toerisme neigings, inisiatiewe, strategieë, maatreëls of beleide; en
- 25 (vii) beoogde finansiële implikasies van nuwe toerisme neigings, inisiatiewe, strategieë of beleide:
- 30 (b) Die Toerisme Owerheid moet, soos en wanneer nodig of soos deur die Lid van die Uitvoerende Raad versoek word, maar ten minste jaarliks, die Lid van die Uitvoerende Raad skriftelik adviseer oor sake wat verband hou met veiligheid en sekuriteit in toerisme en toeriste beskerming.
- 35 (c) Die Owerheid moet, soos en wanneer nodig, ook die Lid van die Uitvoerende Raad skriftelik adviseer oor die behoefte om gespesialiseerde liggame vir toerisme te stig en die voordele wat dit inhou.
- 40 (d) Die jaarlikse advies soos in paragrafe (a) en (b) beoog moet by die Lid van die Uitvoerende Raad voor of op 31 Oktober van elke jaar ingedien word.
- 45 (3) Die Toerisme Owerheid moet, in die uitoefening en uitvoering van sy bevoegdhede en funksies, met alle betrokke belanghebbendes skakel en beraadslag, met inbegrip van maar nie beperk tot –
- (i) gemeenskappe;
- (ii) eienaars van bestaande of moontlike toerisme aantreklikhede;
- (iii) staatsorgane;
- (iv) tradisionele leiers;

- (v) statutory bodies;
- (vi) organised labour;
- (vii) organised business; and 5
- (viii) academic institutions.

Establishment and composition of Board

- 5. (1) A Board is hereby established, which is responsible to manage and control the affairs of the Tourism Authority and must exercise and perform the powers and functions conferred or imposed upon the Tourism Authority by this Act or any other law. 10
- (2) The Board must consist of not less than 7 and not more than 9 members eligible to vote at Board meetings, of whom more than half constitute a quorum. 15
- (3) The Member of the Executive Council must nominate one officer employed by the Department as a member of the Board, *ex officio*, without voting rights. 20
- (4) The Board must be broadly representative of the population of the Province. 25

Persons who are disqualified from being members of Board

- 6. No person shall be appointed as a member of the Board – 30
 - (a) if he or she is an unrehabilitated insolvent;
 - (b) if he or she was at any time, within the Republic or elsewhere, convicted of an offence and was sentenced to imprisonment without the option of a fine, other than an offence committed prior to 27 April 1994 associated with political motives; 35
 - (c) if he or she is not a South African citizen and is not permanently resident within the Republic; or 40
 - (d) if he or she holds any office of profit under the Republic or is an employee of a municipality or the public service: Provided that this paragraph must not apply to the person referred to in section 5(3).

- (v) statutêre liggame;
- (vi) die georganiseerde arbeid;
- 5 (vii) georganiseerde sakesektor; en
- (viii) akademiese inrigtings.

Instelling en samestelling van Raad

- 10 5. (1) 'n Raad word hiermee ingestel wat verantwoordelik is vir die beheer en bestuur van die sake van die Toerisme Owerheid en die bevoegdhede en funksies uitoefen en uitvoer wat aan die Toerisme Owerheid verleen of opgelê word deur hierdie Wet of enige ander wet.
- 15 (2) Die Raad moet uit minstens 7 en hoogstens 9 lede bestaan wat stemgeregtig is by Raadsvergaderings, waarvan meer as die helfte 'n kworum uitmaak.
- 20 (3) Die Lid van die Uitvoerende Raad moet een beampte wat by die Departement in diens is, as lid van die Raad, *ex officio*, sonder enige stemreg, benoem.
- (4) Die Raad moet in die algemeen verteenwoordigend wees van die bevolking van die Provinsie.

Persone wat onbevoeg is om as lede van die Raad te dien

6. Niemand mag as lid van die Raad aangestel word nie -
- 30 (a) indien hy of sy 'n ongerehabiliteerde insolvent is;
- (b) indien hy of sy te eniger tyd in die Republiek of elders skuldig bevind is aan 'n oortreding en gevonnissen is tot tronkstraf sonder die keuse van 'n boete, behalwe 'n misdryf wat verband hou met politieke oogmerke en wat voor
- 35 27 April 1994 gepleeg is;
- (c) indien hy of sy nie 'n Suid-Afrikaanse burger is en nie permanent in die Republiek woonagtig is nie; of
- 40 (d) indien hy of sy 'n winsgewende amp onder die Republiek beklee of werknemer van 'n munisipaliteit of die staatsdiens is: Met dien verstande dat hierdie paragraaf nie van toepassing is op iemand genoem in artikel 5(3) nie.

Procedure for appointment

7. (1) The Member of the Executive Council, in consultation with the Executive Council must, subject to subsection (2) and section 8, determine and appoint the members of the Board. 5
- (2) The Member of the Executive Council must invite interested parties by notice in the *Provincial Gazette* and other media to nominate candidates for his or her consideration within 14 days of the publication of the notice. 10

Vacation of office by members

8. (1) A member must vacate his or her office if –
- (a) he or she is or becomes a member of the National Assembly or National Council of Provinces, provincial legislature, municipal council or an officer or employee of a municipality or the public service; 15
- (b) he or she is or becomes subject to a final order of court whereby his or her estate is sequestrated under the Insolvency Act, 1936 (Act No. 24 of 1936), or if his or her estate is sequestrated in terms of the laws of any other country or territory by a competent court or authority of such country or territory, or if he or she has assigned his or her estate for the benefit of his or her creditors; 20 25
- (c) he or she is or becomes mentally ill as defined in the Mental Health Act, 1973 (Act No 18 of 1973) or any legislation replacing it;
- (d) he or she was at any time, within the Republic or elsewhere, convicted of an offence and was sentenced to imprisonment without the option of a fine, other than an offence committed prior to 27 April 1994 associated with political objectives; 30
- (e) he or she resigns in writing as a member; 35

Prosedure vir aanstelling

7. (1) Die Lid van die Uitvoerende Raad moet, in raadpleging met die Uitvoerende Raad, behoudens subartikel (2) en artikel 8, die lede van die Raad bepaal en aanstel.
- (2) Die Lid van die Uitvoerende Raad moet belangstellende partye by wyse van kennisgewing in die *Provinsiale Koerant* en ander media uitnoui om kandidate te benoem vir sy of haar oorweging binne 14 dae van die publikasie van die kennisgewing.

Neerlegging van amp deur lede

8. (1) 'n Lid moet sy of haar amp neerlê indien -
- (a) hy of sy 'n lid is of word van die Nasionale Vergadering of Nasionale Raad van Provinsies, provinsiale wetgewer, munisipale raad of 'n beampte of werknemer word van die munisipaliteit of staatsdiens;
- (b) hy of sy onderwerp is of word aan 'n finale hofbevel waardeur sy of haar boedel kragtens die Insolvensiewet, 1936 (Wet Nr. 24 van 1936), gesekwestreer word, of indien sy of haar boedel ingevolge die wette van enige ander land of gebied deur 'n bevoegde hof of owerheid van sodanige land of gebied gesekwestreer word, of indien hy of sy sy of haarboedel afstaan tot voordeel van sy of haar skuldeisers;
- (c) hy of sy geestesongesteld raak soos omskryf in die Wet op Geestegesondheid, 1973 (Wet Nr. 18 van 1973) of enige ander wetgewing ter vervanging daarvan;
- (d) hy of sy te eniger tyd in die Republiek of elders skuldig bevind is aan 'n oortreding en gevonnissen is tot tronkstraf sonder die keuse van 'n boete, behalwe 'n misdryf wat verband hou met politieke oogmerke en wat voor 27 April 1994 gepleeg is;
- (e) hy of sy skriftelik as lid bedank;

- (f) he or she is absent from three consecutive meetings of the Board without the consent of the chairperson;
 - (g) he or she is removed from office in terms of subsection (2);
 - (h) if he or she is guilty of misconduct.
- (2) A member may, at any time, be removed from office by the Member of the Executive Council –
 - (a) on account of his or her improper conduct;
 - (b) on account of unfitness for the functions of his or her office; or
 - (c) if, in the opinion of the Member of the Executive Council, there are sufficient reasons for doing so.
- (3) The Member of the Executive Council must before removing a member from office, give the member an opportunity to make representations and must consider any representation made.
- (4) A vacancy on the Board must be filled subject to section 6 and in accordance with section 7 as soon as may be practicable after the occurrence of a vacancy, and any member so appointed remains in office for the unexpired portion of his or her predecessor's term of office.

Chairperson

- 9. (1) The Member of the Executive Council must, in consultation with the Executive Council, appoint a chairperson and a deputy chairperson from the members of the Board.
- (2) The chairperson must preside at all meetings of the Board.
- (3) Whenever the chairperson is absent or unable to perform his or her functions as chairperson the deputy chairperson must act as chairperson during the absence or incapacity of the chairperson.

Terms and conditions of office of member

- 10. (1) The term of office of a member, excluding *ex officio* members, must be for a period not exceeding three years.
- (2) Upon the expiration of the term of office of an appointed member, he or she is eligible for re-appointment: Provided that the total period of the term of office of a member may not exceed six years.

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- (f) hy of sy vir drie agtereenvolgende vergaderings van die Raad sonder die toestemming van die voorsitter afwesig was;
- (g) hy of sy ingevolge subartikel (2) verwyder word;
- (h) indien hy of sy skuldig bevind word aan wangedrag.
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- (2) 'n Lid kan, te eniger tyd, deur die Lid van die Uitvoerende Raad uit die amp verwyder word -
- (a) op grond van sy of haar onbetaamlike gedrag;
- (b) op grond van onbekwaamheid vir die pligte van sy of haar amp; of
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- (c) as, daar na die mening van die Lid van die Uitvoerende Raad, voldoende redes bestaan daarvoor.
- (3) Die Lid van die Uitvoerende Raad moet voordat 'n lid uit die amp verwyder word, die lid 'n geleentheid gee om verhoë te rig en moet enige verhoë oorweeg.
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- (4) 'n Vakature op die Raad moet so gou as doenlik nadat dit ontstaan onderhewig aan artikel 6 en ooreenkomstig met artikel 7 gevul word, en enige lid wat so aangestel word bly in die amp vir die onverstrykte gedeelte van sy of haar voorganger se ampstermyn.
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Voorsitter

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9. (1) Die Lid van die Uitvoerende Raad moet, in raadpleging met die Uitvoerende Raad, 'n voorsitter en 'n ondervoorsitter uit die lede van die Raad aanstel.
- (2) Die voorsitter moet die voorsitterstoel inneem by alle vergaderings van die Raad.
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- (3) Wanneer die voorsitter afwesig of nie in staat is om sy of haar funksies as voorsitter waar te neem nie moet die ondervoorsitter gedurende die voorsitter se afwesigheid of onvermoë as voorsitter optree.

Bepalinge en voorwaardes van amp van lid

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10. (1) Die ampstermyn van 'n lid, met uitsluiting van *ex officio* lede, is vir 'n tydperk van hoogstens drie jaar.
- (2) By die verstryking van 'n aangestelde lid se ampstermyn, is hy of sy benoembaar vir her-aanstelling: Met dien verstande dat die totale tydperk van die lid nie ses jaar oorskry nie.
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- (3) A member holds office on such conditions as to the remuneration, allowances and benefits as the Member of the Executive Council, in consultation with the Member of the Executive Council responsible for Finance, may from time to time determine. 5
- (4) The members are entitled to be reimbursed for any travelling and subsistence expenses reasonably incurred by them in connection with the performance of their functions as members and may for that purpose be paid such allowances as the Member of the Executive Council, in consultation with the Executive Council, may determine. 10

Chief Executive Officer

11. (1) The Chief Executive Officer, appointed in terms of subsection (3), must be a person who – 15
- (a) has appropriate qualifications, knowledge or experience regarding the business and operations of the Tourism Authority under this Act; 20
- (b) is not a member of the National Assembly, National Council of Provinces, any provincial legislature or municipal council; 25
- (c) is not subject to a final order of court whereby his or her estate is sequestrated under the Insolvency Act, 1936 (Act No. 24 of 1936), or if his or her estate is sequestrated in terms of the laws of any other country or territory by a competent court or Authority of such country or territory, or if he or she has assigned his or her estate for the benefit of his or her creditors; 30
- (d) is not subject to an order of a competent court declaring him or her to be of unsound mind or mentally disordered or defective; and 35
- (e) has not been convicted of any offence under this Act, or of any other offence whatsoever in respect of which he or she was sentenced to imprisonment without the option of a fine for a period of not less than three months, irrespective of whether such imprisonment was wholly or partly suspended or not, unless he or she has received a grant of amnesty or a free pardon, or unless the period of such imprisonment or suspension has expired at least ten years before the date of his or her appointment as Chief Executive Officer. 40
- (2) The Chief Executive Officer is subject to the control of the Board. 45

- (3) 'n Lid beklee sy amp op sodanige voorwaardes wat betref die vergoeding, toelaes en voordele as wat die Lid van die Uitvoerende Raad, in raadpleging met die Lid van die Uitvoerende Raad verantwoordelik vir Finansies, van tyd tot tyd mag bepaal.

- (4) Die lede is daarop geregtig om vergoed te word vir enige uitgawes vir reis en verblyf wat redelikerwys deur hulle aangegaan word in verband met die uitvoering van hul funksies as lede en kan vir daardie doel sodanige toelaes betaal word soos wat die Lid van die Uitvoerende Raad in raadpleging met die Uitvoerende Raad, mag bepaal.

Hoof Uitvoerende Beampte

11. (1) Die Hoof Uitvoerende beampte, wat ingevolge subartikel (3) aangestel word, moet 'n persoon wees wat -

- (a) oor toepaslike kwalifikasies, kennis of ondervinding beskik rakende die sake en werksaamhede van die Toerisme Owerheid kragtens hierdie Wet;

- (b) nie 'n lid is nie van die Nasionale Vergadering of die Nasionale Raad van Provinsies, enige provinsiale wetgewer of munisipale raad;

- (c) nie onderworpe is aan 'n finale hofbevel waardeur sy of haar boedel kragtens die Insolvensiewet, 1936 (Wet Nr. 24 van 1936), gesekwestreer word, of indien sy of haar boedel ingevolge die wette van enige ander land of gebied deur 'n bevoegde hof of owerheid van sodanige land of gebied gesekwestreer word, of indien hy of sy sy of haar boedel afstaan tot voordeel van sy of haar skuldeisers;

- (d) nie onderworpe is aan die bevel van 'n bevoegde hof wat hom of haar verklaar as kranksinnig of geestelik verstoord of swaksinnig; en

- (e) wat nie skuldig bevind is aan enige oortreding kragtens hierdie Wet, of aan enige ander oortreding ook al ten opsigte waarvan hy of sy gevangenisstraf sonder die keuse van 'n boete opgelê is vir 'n tydperk van misstens drie maande, ongeag of sodanige gevangenisstraf in geheel of gedeeltelik opgeskort is of nie, tensy hy of sy amnestie of 'n algehele kwytskelding ontvang het, of tensy die tydperk van sodanige gevangenisstraf of opskorting ten minste tien jaar voor die datum van sy of haar aanstelling as Hoof Uitvoerende Beampte verval het;

- (2) Die Hoof Uitvoerende Beampte is onderhewig aan die beheer van die Raad.

- (3) The MEC must, subject to subsection (4), determine and appoint, after consultation with the Board, the Chief Executive Officer of the Board.
- (4) The Chief Executive Officer is appointed for such period and on such terms and conditions as the Board may determine: Provided that – 5
- (a) the Chief Executive Officer may be appointed for a period not exceeding three years;
- (b) upon the expiration of the term of office of the Chief Executive Officer, he or she is eligible for re-appointment: Provided that the total period of such terms of office of the Chief Executive Officer may not exceed six years; 10
- (c) such terms and conditions relating to the remuneration, allowances and benefits of the Chief Executive Officer must in each case be determined by the Member of the Executive Council in consultation with the Member of the Executive Council responsible for Finance; 15
- (d) the Chief Executive Officer is entitled to be reimbursed for any travelling and subsistence expenses reasonably incurred by him or her in connection with the performance of his or her functions as Chief Executive Officer and may for that purpose be paid such allowances as the Member of the Executive Council may from time to time determine in consultation with the Executive Council; and 20
- (e) the Chief Executive Officer may not perform any other remunerative work, without the prior written consent of the Board. 25
- (5) The Chief Executive Officer may, on one month's written notice tendered to the Board, resign from his or her office. 30
- (6) Whenever the office of Chief Executive Officer is vacant or the Chief Executive Officer is absent or incapacitated or refuses or fails to act, the powers, rights and functions of the Chief Executive Officer must be exercised and performed by any officer, appointed for that purpose by the Board, in consultation with the Member of the Executive Council. 35
- (7) The acting Chief Executive Officer contemplated in subsection (6) has the powers and discharges the functions of the Chief Executive Officer. 40

- (3) Die Lid van die Uitvoerende Raad moet, behoudens subartikel (4), na raadpleging met die Raad, die Hoof Uitvoerende Beampte van die Raad bepaal en aanstel.
- 5 (4) Die Hoof Uitvoerende Beampte word aangestel vir sodanige tydperk en op sodanige bepalinge en voorwaardes as wat die Raad mag vasstel: Met dien verstande dat -
- 10 (a) die Hoof Uitvoerende Beampte aangestel mag word vir 'n tydperk van hoogstens drie jaar;
- (b) by die verstryking van 'n aangestelde lid se ampstermyn, hy of sy benoembaar is vir her-aanstelling: Met dien verstande dat die totale tydperk van die lid nie ses jaar oorskry nie;
- 15 (c) sodanige bepalinge en voorwaardes met betrekking tot die vergoeding, toelaes en voordele van die Hoof Uitvoerende Beampte in elke geval vasgestel moet word deur die Lid van die Uitvoerende Raad in raadpleging met die Lid van die Uitvoerende Raad verantwoordelik vir Finansies;
- 20 (d) die Hoof Uitvoerende Beampte daarop geregtig is om vergoeding te ontvang vir enige reis- en verblyfuitgawes wat redelikerwys deur hom of haar aangegaan is in verband met die uitvoering van sy of haar funksies as Hoof Uitvoerende Beampte en kan vir daardie doel sodanige toelaes betaal word soos wat die Lid van die Uitvoerende Raad in raadpleging met die Uitvoerende Raad van tyd tot tyd mag bepaal; en
- 25 (e) die Hoof Uitvoerende beampte nie enige ander lonende werk mag doen nie, sonder die voorafverkreë skriftelike toestemming van die Raad nie.
- 30 (5) Die Hoof Uitvoerende Beampte kan, deur die indiening van een maand se skriftelike kennisgewing aan die Raad, uit sy of haar amp bedank.
- 35 (6) Wanneer die amp van Hoof Uitvoerende Beampte vakant is of die Hoof Uitvoerende Beampte afwesig is of nie in staat of weier of in gebreke bly om op te tree, moet die bevoegdhede, regte en funksies van die Hoof Uitvoerende Beampte uitgeoefen en uitgevoer word deur enige ander beampte, wat in raadpleging met die Lid van die Uitvoerende Raad vir hierdie doel deur die Raad aangestel word.
- 40 (7) Die waarnemende Hoof Uitvoerende Beampte beskik oor die bevoegdhede en vervul die funksies van die Hoof Uitvoerende Beampte.
- 45

- (8) The Chief Executive Officer must be a member of the Board, *ex officio*, without voting powers.
- (9) Notwithstanding the provisions of this section, the Chief Executive Officer's conditions of service must be regulated in terms of the Public Service Act, 1994 (Proclamation 103 of 1994) and all the prescripts applicable to public servants. 5

Removal of Chief Executive Officer from office

- 12. (1) The Board may, in consultation with the Member of the Executive Council, remove the Chief Executive Officer from office – 10
 - (a) on account of his or her improper conduct; 15
 - (b) for unfitness for the functions of his or her office;
 - (c) if there are sufficient reasons for doing so; or
 - (d) on the ground of a permanent infirmity of mind or body which renders him or her incapable of discharging the functions of his or her office or discharging them properly. 20
- (2) Whenever any inquiry or investigation for the purpose of establishing whether or not there exists sufficient cause for the removal of the Chief Executive Officer from office in terms of subsection (1), is being undertaken, the Board, in consultation with the Member of the Executive Council, may, with due regard to the provisions of the Labour Relations Act, 1995 (Act No. 66 of 1995) and the Public Service Disciplinary Code and Procedures, suspend the Chief Executive Officer from his or her office pending the outcome of such an inquiry or investigation. 25
- (3) For the purposes of subsection (1)(a) the non-compliance by the Chief Executive Officer with any provision of this Act or the Public Finance Management Act, 1999 (Act No. 1 of 1999), constitutes improper conduct. 30

Personnel of the Tourism Authority

- 13. (1) The Board may, subject to its guidelines and the Public Service Act, 1994 (Proclamation 103 of 1994) and all the prescripts applicable to public servants, appoint such personnel which is expedient for the proper and efficient conduct of the business and functions of the Tourism Authority on such terms and conditions it may, determine. 40
- (2) The Board may discipline, suspend and dismiss personnel in the employ of the Tourism Authority. 45

(8) Die Hoof Uitvoerende Beampte moet 'n lid wees van die Raad, *ex officio*, sonder stemreg.

(9) Ondanks die bepalinge van hierdie artikel, moet die Hoof Uitvoerende Beampte se diensvoorwaardes geregleer word ingevolge die Staatsdienswet, 1994 (Proklamasie 103 van 1994) en al die voorskrifte wat op staatsampptenare van toepassing is.

Verwydering van die Hoof Uitvoerende Beampte uit sy amp

12. (1) Die Raad kan, in raadpleging met die Lid van die Uitvoerende Raad, die Hoof Uitvoerende Beampte uit sy amp verwyder –

(a) op grond van sy of haar onbetaamlike gedrag;

(b) weens onbekwaamheid vir die pligte van sy of haar amp;

(c) indien daar voldoende redes daarvoor bestaan; of

(d) op grond van permanente geestelike of liggaamlike siekte wat hom of haar onbekwaam laat om die funksies van sy of haar amp te vervul of behoorlik te vervul.

(2) Wanneer enige ondersoek onderneem word met die doel om te bepaal of daar genoegsame rede bestaan vir die verwydering van die Hoof Uitvoerende Beampte uit sy amp ingevolge subartikel (1), kan die Raad in raadpleging met die Lid van die Uitvoerende Raad met inagneming van die bepalinge van die Wet op Arbeidsverhoudinge, 1995 (Wet No. 66 van 1995) die Hoof Uitvoerende Beampte uit sy amp skors hangende die uitslag van sodanige ondersoek.

(3) Vir die doeleindes van subartikel (1)(a) is die nie-nakoming deur die Hoof Uitvoerende Beampte van enige bepaling van hierdie Wet of die Wet op Openbare Finansiële Bestuur, 1999 (Wet Nr. 1 van 1999), onbehoorlike gedrag.

Personeel van die Toerisme Owerheid

13. (1) Die Raad kan, behoudens sy riglyne en die Staatsdienswet, 1994 (Proklamasie 103 van 1994) en alle voorskrifte wat op staatsampptenare van toepassing is, sodanige personeel aanstel wat dienstig is vir die behoorlike en doeltreffende bedryf van sy sake en die funksies van die Toerisme Owerheid, op sodanige voorwaardes soos wat hy mag bepaal.

(2) Die Raad kan personeel in diens van die Toerisme Owerheid dissiplineer, skors en ontslaan.

- (3) Public servants may be seconded to the Tourism Authority for a particular service or for a stated period not exceeding 12 months subject to the Public Service Act, 1994 (Proclamation 103 of 1994).

- (4) For the purposes of this Act, the Board must, within three months after the coming into operation of this Act, adopt a set of comprehensive rules pertaining to all personnel matters of the Tourism Authority.

Meetings of Board

14. (1) The first meeting of the Board must be held on a date, place and time determined by the Member of the Executive Council, and subsequent meetings of the Board must be held on such dates and at such times and places as may be determined by resolution of the Board or, failing such a resolution, as may be determined by the Chairperson: Provided that the Board must meet at least once every quarter.
- (2) The Chairperson –
- (a) may at any time call for a special meeting of the Board if it is justified under the circumstances; and
- (b) must, upon receiving a requisition for a special meeting, signed by at least two members, or signed by the Member of the Executive Council, and stating the purpose for which a special meeting is to be convened, forthwith call a special meeting of the Board, and if the Chairperson fails to convene a special meeting within seven days as from the date of receiving the requisition, the two members, or the Member of the Executive Council may, on the expiration of such seven days, convene a special meeting.
- (3) Notice of every meeting of the Board must state the business to be discussed and must be given to all the members in a manner and form as the Board may determine.

Decisions of Board

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

- (3) Staatsamptenare kan na die Toerisme Owerheid gesekondeer word vir 'n bepaalde diens of vir 'n vasgestelde tydperk van hoogstens 12 maande onderhewig aan die Staatsdienswet, 1994 (Proklamasie 103 van 1994).

- 5 (4) Vir die doeleindes van hierdie Wet, moet die Raad binne drie maande van die inwerkingtreding van hierdie Wet, 'n stel omvattende reëls aanneem wat op alle personeelaangeleenthede van die Toerisme Owerheid betrekking het.

Vergaderings van die Raad

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14. (1) Die eerste vergadering van die Raad moet gehou word op 'n datum, plek en op 'n tyd wat deur die Lid van die Uitvoerende Raad bepaal word, en daaropvolgende vergaderings van die Raad moet gehou word op sodanige datums en op sodanige tye en plekke wat vasgestel kan word deur 'n besluit van die Raad of, in gebreke van so 'n besluit, soos deur die Voorsitter bepaal: Met dien verstande dat die Raad minstens een keer per kwartaal byeenkom.

15

- (2) Die Voorsitter –

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- (a) kan te eniger tyd 'n spesiale vergadering van die Raad byeenroep indien dit deur omstandighede geregverdig word; en

25

- (b) moet, wanneer 'n spesiale versoek vir 'n vergadering ontvang word, wat deur minstens twee lede onderteken is, of deur die Lid van die Uitvoerende Raad onderteken is, en waarin die doel van die vergadering vermeld word, onmiddellik 'n spesiale Raadsvergadering byeenroep, en indien die Voorsitter in gebreke bly om 'n spesiale vergadering te belê binne sewe dae na die datum van ontvangs van die versoek, kan twee lede, of die Lid van die Uitvoerende Raad, na afloop van sodanige sewe dae, 'n spesiale vergadering belê.

30

- (3) 'n Kennisgewing vir elke Raadsvergadering moet melding maak van die sake wat sal dien op die vergadering en moet aan die lede voorsien word op 'n wyse en vorm wat die Raad mag bepaal.

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Besluite van die Raad

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15. (1) 'n Besluit waarop ooreengekom word deur die meerderheid van die stemgeretigde lede teenwoordig by Raadsvergaderings, maak 'n besluit van die Raad uit, onderhewig aan artikel 5(2).

- (2) In the event of an equality of votes in regard to any matter put to the vote, the Chairperson has a casting vote in addition to his or her deliberative vote.
- (3) No decision of the Board or an act on the authority of the Board, is invalid merely due to a vacancy in the Board or because any person who is not entitled to take a seat as member, took a seat as a member when the decision was taken or the act was authorised, if such decision was taken or the act was authorised by the required majority of the members eligible to vote at Board meetings who were then present and who were entitled to take seats as members. 5
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- (4) The Board must cause a record to be kept of the proceedings of its meetings and the Member of the Executive Council must be provided with the record for perusal. 15
- (5) The Board may make rules with regard to the holding of, and procedure at, meetings.

Duty of members to disclose interest

- 16. (1) A member who, in a capacity other than that of member of the Board, has any direct or indirect financial interest in tourism, must forthwith disclose to the Board, in writing, full particulars of the nature and extent of his or her interest in tourism and such member must further recuse himself or herself from any deliberation during a meeting of the Board from which he or she may potentially derive any direct or indirect financial benefit and he or she may not vote as a member of the Board on any such matter. 20
25
- (2) A member who, in a capacity other than that of member of the Board, is interested in a proposed contract which the Board considers entering into or becomes interested in a contract after it has been entered into by the Tourism Authority, must disclose to the Board full particulars relating to the nature and extent of his or her interest in accordance with the provisions of subsection (3) or (5), as the case may be. 30
35
- (3) A member referred to in subsection (2) who is interested in such a proposed contract must –

- (2) In die geval van staking van stemme met betrekking tot enige saak waaroor gestem word, kry die Voorsitter 'n tweede stem bykomend tot sy of haar beraadslagende stem.

- 5 (3) Geen besluit van die Raad of optrede op gesag van die Raad, is ongeldig bloot weens 'n vakature op die Raad of omdat enige persoon wat nie geregtig is op sitting as raadslid, sitting as raadslid opneem wanneer die besluit geneem word of die optrede gemagtig word nie, indien sodanige besluit geneem word of die optrede gemagtig word deur die vereiste
10 meerderheid van stemgeregtigde lede by Raadsvergaderings wat toe teenwoordig was en wat geregtig was om hul sitting as lede op te neem nie.

- (4) Die Raad moet toesien dat rekord gehou word van verrigtinge by sy vergaderings en die rekord moet aan die Lid van die Uitvoerende Raad voosien word ter insae.
15

- (5) Die Raad kan reëls opstel met betrekking tot die hou van en prosedure by vergaderings.

20 **Plig van lede om belange te verklaar**

16. (1) 'n Lid wat, in 'n hoedanigheid anders as lid van die Raad enige regstreekse of onregstreekse finansiële belang in toerisme het, moet onmiddellik skriftelik aan die Raad volle besonderhede van die aard en omvang van sy of
25 haar belang by toerisme verklaar en verder moet sodanige lid hom of haarself onttrek van enige beraadslaging gedurende 'n vergadering van die Raad vanwaar hy of sy moontlik enige regstreekse of onregstreekse finansiële voordeel kan verkry en mag hy of sy as lid van die Raad nie stem op enige sodanige saak nie.

- 30 (2) 'n Lid wat, in 'n hoedanigheid anders as lid van die Raad, belangstel in 'n voorgestelde kontrak wat die Raad oorweeg om te sluit of begin belangstel in 'n kontrak nadat dit deur die Toerisme Owerheid aangegaan is, moet volle besonderhede aan die Raad verklaar betreffende die aard en omvang van sy of haar belang ooreenkomstig die bepalinge van subartikel (3) of (5),
35 na gelang van die geval.

- (3) 'n Lid waarna in subartikel (2) verwys word wat belangstel in sodanige voorgestelde kontrak moet –

- (a) if the proposed contract is or is to be considered at a meeting of the Board, disclose his or her interest prior to such meeting by way of a written notice to the Board or otherwise at such meeting, or, if for any reason it is not possible for him or her to disclose his or her interest at or prior to such meeting, he or she must do so at the first meeting of the Board held thereafter at which it is possible for him or her to do so, irrespective of whether the contract has been entered into or not; or 5
- (b) if the proposed contract is not to be considered at a meeting referred to in paragraph (a), disclose his or her interest by way of a written notice to the Board within seven days as from the day on which he or she first became aware of the proposed contract: 10
- Provided that a written notice given by a member to the Board to the effect that he or she has an interest in a particular undertaking and is to be regarded as interested in every contract which may be entered into with such undertaking during a period specified in the notice, is for the purposes of this subsection, deemed to be sufficient disclosure of interest with respect to all contracts entered into by the Tourism Authority with such undertaking during the specified period: Provided further that – 15
- (i) full particulars relating to the nature and extent of such a member's interest in such undertaking are set out in the notice; and 20
- (ii) the extent of such a member's interest in such undertaking is at the time when a contract is entered into by the Tourism Authority with the undertaking, not greater than is set out in the notice. 25
- (4) A member referred to in subsection (2) must recuse himself or herself from the meeting of the Board during the discussion of the contract in which he or she has an interest and may not take part in any vote in connection with any such discussion or contract or influence or seek to influence any member as regards such member's vote or participation in discussions in respect of such contract. 30
- (5) A member who becomes interested in a contract after it has been entered into by the Tourism Authority must disclose his or her interest by way of a written notice to the Board within seven days as from the day on which he or she became so interested. 35 40

5 (a) indien die voorgestelde kontrak op 'n Raadsvergadering oorweeg of oorweeg gaan word, sy belang vóór sodanige vergadering by wyse van skriftelike kennisgewing aan die Raad verklaar of andersins by sodanige vergadering, of, indien dit om enige rede nie moontlik is vir hom of haar om sy of haar belang verklaar by of vóór sodanige vergadering nie, moet hy of sy dit doen by die eerste vergadering van die Raad wat daarna gehou word waar dit vir hom of haar moontlik is om dit te doen, afgesien daarvan of die kontrak gesluit word of nie; of

10 (b) indien die voorgestelde kontrak nie by 'n vergadering soos na verwys in paragraaf (a) oorweeg word nie, sy of haar belang verklaar by wyse van 'n skriftelike kennisgewing aan die Raad binne sewe dae vanaf die dag waarop hy of sy bewus geword het van die voorgestelde kontrak:

20 Met dien verstande dat 'n geskrewe kennisgewing deur die lid aan die Raad dat hy of sy 'n belang het in 'n bepaalde onderneming en beskou moet word as dat hy of sy belang sou stel in in elke kontrak wat met sodanige onderneming aangegaan sou word tydens 'n tydperk wat in die kennisgewing gespesifiseer word, word vir die doel van hierdie subartikel, geag as voldoende bekendmaking van belang ten opsigte van alle kontrakte wat deur die Toerisme Owerheid met sodanige onderneming gedurende die gespesifiseerde tydperk aangegaan word: Met dien verstande verder dat –

25 (i) volle besonderhede betreffende die aard en omvang van so 'n lid se belang in sodanige onderneming in die kennisgewing uiteengesit word; en

30 (ii) die omvang van so 'n lid se belang in sodanige onderneming ten tye van die sluiting van die kontrak deur die Toerisme Owerheid met die onderneming, nie groter is as wat in die kennisgewing uiteengesit word nie.

35 (4) 'n Lid waarna verwys word in subartikel (2) moet hom- of haarself van die Raadsvergadering onttrek gedurende die bespreking van die kontrak waarin hy of sy 'n belang het en mag nie deelneem aan enige stemmery in verband met enige sodanige bespreking of kontrak of om enige lid te beïnvloed of probeer beïnvloed wat betref sodanige lid se stem of deelname aan besprekings ten opsigte van sodanige kontrak nie.

40 (5) 'n Lid wat begin belang stel in 'n kontrak nadat dit deur die Toerisme Owerheid gesluit is, moet sy of haar belang verklaar by wyse van 'n skriftelike kennisgewing aan die Raad binne sewe dae vanaf die dag waarop hy of sy as sodanig belang begin stel het.

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- (6) A contract as referred to in subsection (2), (3), (4) or (5), which was entered into by the Board and in respect of which a member did not comply with any of the provisions of subsection (2), (3), (4) or (5) may, by resolution of the Board and on good cause shown, be declared null and void, either partially or in full, and the Board may hold such member personally liable for any losses or damage suffered by the Board, resulting from such member's non-compliance with subsection (2), (3), (4) or (5). 5
- (7) A disclosure of interest referred to in subsection (1), (2) or (3) must be recorded in the minutes of the relevant meeting of the Board. 10
- (8) Any disclosure as contemplated in either subsection (1), (2) or (3) must forthwith be reported by the Chairperson to the Member of the Executive Council, in writing. 15

Duty of personnel to disclose interest

17. The provisions of section 16, with the necessary changes are applicable to personnel of the Tourism Authority. 20

Delegation of powers

18. (1) The Board may, subject to such conditions as it may determine, in writing delegate or assign any power or function conferred or imposed upon it under this Act, except the powers or functions conferred or imposed upon it under this section, to – 25
- (a) the Chief Executive Officer; 30
- (b) the Chairperson.
- (2) A delegation or assignment under subsection (1) does not prevent the Board itself from exercising the power or performing the function concerned. 35

Funding of Tourism Authority

19. (1) The Tourism Authority must be funded from the money appropriated by the Provincial Legislature for such purpose after the Member of the Executive Council has considered the strategic business plan and proposed budget, subject to section 52 of the Public Finance Management Act, 1999 (Act No. 1 of 1999). 40

- 5 (6) 'n Kontrak soos waarna verwys word in subartikel (2), (3), (4) of (5) kan, deur 'n besluit van die Raad en met aanvoer van goeie gronde, nietig verklaar word, gedeeltelik of ten volle, en die Raad kan sodanige lid persoonlik aanspreeklik hou vir enige verliese of skade gely deur die Raad, wat spruit uit sodanige lid se nie-nakoming van subartikel (2), (3), (4) of (5).
- (7) 'n Bekendmaking van belang waarna in subartikel (1), (2) of (3) verwys word moet in die notule van die betrokke Raadsvergadering aangeteken word.
- 10 (8) Enige bekendmaking soos beoog in enige van subartikel (1), (2) of (3) moet onverwyld skriftelik deur die Voorsitter aan die Lid van die Uitvoerende Raad gerapporteer word.

Plig van lede om belange te verklaar

- 15 17. Die bepalinge van artikel 16, met die nodige veranderings is van toepassing op die personeel van die Toerisme Owerheid.

Delegering van bevoegdhede

- 20 18. (1) Die Raad kan, onderhewig aan sodanige voorwaardes as wat dit mag bepaal, skriftelik enige bevoegdhede of funksie deleger of oordra wat deur hierdie Wet aan hom verleen of opgelê word, behalwe die bevoegdhede en funksies verleen of opgelê kragtens hierdie artikel, aan
- 25 (a) Hoof Uitvoerende Beampte
- (b) die Voorsitter
- 30 (2) 'n Delegering of oordrag kragtens subartikel (1) verhinder nie die Raad om self die betrokke bevoegdheid of funksies uit te oefen of uit te voer nie.

Befondsing van Toerisme Owerheid

- 35 19. (1) Die Toerisme Owerheid moet befonds word uit die geld wat deur die Provinsiale Wetgewer vir sodanige doel bewillig word nadat die Lid van die Uitvoerende Raad die strategiese sakeplan en voorgestelde begroting oorweeg het, onderhewig aan artikel 52 van die Wet op Openbare Finansiële Bestuur, 1999 (Wet Nr. 1 van 1999).

- (2) The transfer of the funds to the Tourism Authority must be on conditions set out in an agreement between the Tourism Authority and the Department.
- (3) Subject to subsection (1), the Tourism Authority is prohibited from collecting or accepting money from any other source. 5

Bank account

20. (1) The Board must, in consultation with the Member of the Executive Council responsible for Finance, open and maintain, with a bank as contemplated in the Banks Act, 1990 (Act No. 94 of 1990), an account in which must be deposited all the moneys received by the Tourism Authority. 10
- (2) The moneys which, at any time, stand to the credit of the Tourism Authority and are not required for immediate use or for current commitments and expenditure may, by resolution of the Board and after prior written approval by the Executive Council, be invested on call or short-term deposit at any bank or other financial institution registered in the Republic. 15
20

Appropriation of income and property

21. Save as expressly otherwise provided for in this Act, all income, property and profits of the Tourism Authority, must be utilised exclusively for the promotion and attainment of its objectives. 25

Procurement

22. (1) The Board must have a tender committee, which committee must exercise and perform its powers and functions in strict compliance with and subject to section 51(1)(a)(iii) of the Public Finance Management Act, 1999 and the Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000) and which tender committee must consist of not more than five members, appointed by the Board from the personnel of the Tourism Authority. 30
35
- (2) On the recommendation of the Tender Committee, the Board may –
- (a) with the prior written approval of the Member of the Executive Council, acquire or hire immovable property for the Tourism Authority; 40

(2) Die oordrag van fondse aan die Toerisme Owerheid moet geskied op voorwaardes soos uiteengesit in 'n ooreenkoms tussen die Toerisme Owerheid en die Departement.

5 (3) Behoudens subartikel (1), word die Toerisme Owerheid verbied om geld van enige ander bron in te samel of te ontvang.

Bankrekening

10 20. (1) Die Raad moet, in raadpleging met die Lid van die Uitvoerende Raad verantwoordelik vir Finansies, met 'n bank soos beoog in die Bankwet, 1990 (Wet Nr. 94 van 1990), 'n rekening open en in stand hou waarin alle gelde wat ontvang word deur die Toerisme Owerheid, gedeponeer word.

15 (2) Die gelde wat, te eniger tyd, tot krediet van die Toerisme Owerheid is en nie benodig word vir onmiddellike gebruik of vir lopende verpligtinge of uitgawes nie kan, deur 'n Raadsbesluit en na geskrewe voorafverkreë goedkeuring deur die Uitvoerende Raad, belê word vir onmiddellike opvraging of korttermyn deposito by enige bank of finansiële instelling wat
20 in die Republiek geregistreer is.

Bewilliging van inkomste en eiendom

25 21. Behalwe soos uitdruklik of anders in hierdie Wet bepaal word, moet alle inkomste, eiendom en winste van die Toerisme Owerheid, uitsluitlik aangewend word vir die bevordering van en verwesenliking van sy doelwitte.

Verkryging

30 22. (1) Die Raad moet beskik oor 'n tenderkomitee, welke komitee sy bevoegdhede en funksies moet uitoefen en uitvoer streng ooreenkomstig en onderworpe aan artikel 51(1)(a)(iii) van die Wet op Openbare Finansiële Bestuur, 1999 en die Wet op die Raamwerk vir Voorkeurverkrygingsbeleid, 2000 (Wet Nr. 5 van 2000) en welke tenderkomitee uit hoogstens vyf lede moet bestaan wat deur die Raad uit die personeel van die Toerisme Owerheid aangestel
35 moet word.

(2) Op die aanbeveling van die Tendekomitee, kan die Raad

40 (a) met die geskrewe voorafverkreë goedkeuring van die Lid van die Uitvoerende Raad, vaste eiendom bekom of huur vir die Toerisme Owerheid;

- (b) with the prior written approval of the Member of the Executive Council let, sell or otherwise dispose of immovable property which the Tourism Authority has acquired;
 - (c) procure supplies and services for the Tourism Authority; and 5
 - (d) dispose of movable property of the Tourism Authority.
- (3) Subject to the provisions of subsection (4) no agreement for the procurement of supplies or services for the Tourism Authority or for the hiring or letting of anything or the acquisition or granting of any right for or on behalf of the Tourism Authority, or the disposal of movable property of the Tourism Authority, contemplated in subsection (2), exceeding a value as determined by resolution by the Board, must be concluded without the recommendation of the Tender Committee first having been obtained. 10
15
- (4) Notwithstanding the provisions of subsection (3), the Board may determine that –
 - (a) a specific agreement, irrespective of its value, must require recommendation of the Tender Committee; 20
 - (b) a specific agreement or any agreement in excess of a certain value must –
 - (i) require the approval of the Board; or 25
 - (ii) require, in addition to the recommendation of the Tender Committee, the ratification of the Board: 30

Provided that the Board's approval or ratification must be required for any agreement to the value as prescribed by the Member of the Executive Council, by notice in the *Provincial Gazette*.
- Committees of the Board** 35
- 23. (1) The Board may appoint committees, with the power to co-opt other persons, for the purpose of assisting it with the due and proper exercise and performance of any of its powers and functions in terms of this Act, and may likewise dissolve, extend, enlarge or limit any committee so appointed. 40

- 5 (b) met die geskrewe voorafverkreë goedkeuring van die Lid van die Uitvoerende Raad, vaste eiendom wat die Toerisme Owerheid bekom het, verhuur, verkoop of anders van die hand sit;
- (c) voorrade en dienste vir die Toerisme Owerheid verkry; en
- (d) roerende eiendom van die Toerisme Owerheid verhandel.
- 10 (3) Behoudens die bepalings van subartikel (4) mag geen ooreenkoms gesluit word vir die verkryging van voorrade of dienste vir die Toerisme Owerheid of vir die huur of verhuring van enigiets of vir die verkryging of toekenning van enige reg vir of namens die Toerisme Owerheid, of die verhandeling van roerende eiendom van die Toerisme Owerheid, beoog in subartikel (2), wat 'n waarde oorskry soos deur 'n Raadsbesuit vasgestel, sonder dat 'n
- 15 aanbeveling van die Tenderkomitee eers verkry word nie.
- (4) Ondanks die bepalinge van subartikel (3), kan die Raad bepaal dat -
- 20 (a) 'n spesifieke ooreenkoms, afgesien van die waarde daarvan, die aanbeveling van die Tenderkomitee benodig;
- (b) 'n spesifieke ooreenkoms of enige ooreenkoms wat 'n sekere waarde oorskry moet -
- 25 (i) die goedkeuring van die Raad kry; of
- (ii) bykomend tot die aanbeveling van die Tenderkomitee, die bekragtiging van die Raad benodig;
- 30 Met dien verstande dat die Raad se goedkeuring of bekragtiging benodig moet word vir enige ooreenkoms met 'n waarde soos voorgeskryf deur die Lid van die Uitvoerende Raad, by wyse van kennisgewing in die *Provinsiale Koerant*.

35 Komitees van die Raad

23. (1) Die Raad kan komitees aanstel, met die bevoegdheid om ander persone te koöpteer, met die doel om hom by te staan met die behoorlike uitoefening en uitvoering van enige van sy bevoegdhede en funksies ingevolge hierdie
- 40 Wet, en kan eweneens enige komitee wat so aangestel word, uitbrei, vergroot of beperk.

- (2) (a) A committee appointed under subsection (1), consists of no fewer than 3 members appointed by the Board in view of being suitable and appropriately qualified or experienced in regard to matters relating to the objects and functions of the committee in question. 5
- (b) The Board must designate one of its members on a committee as its chairperson.
- (3) A co-opted member serves in an advisory capacity, and may not vote at any meeting of the committee. 10

Bookkeeping and auditing

- 24. (1) The Board must cause proper records to be kept of all moneys received or expended by the Tourism Authority, of all its assets and liabilities and of all financial transactions entered into by the Tourism Authority. 15
- (2) The Board must appoint an Audit Committee for the Tourism Authority consisting of at least three persons in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999) and Treasury Regulations. 20
- (3) The Tourism Authority must have an internal audit function.
- (4) The Auditor General must audit the books of the Tourism Authority. 25

Expenditure

- 25. The expenditure incurred by or on behalf of the Tourism Authority, including expenditure relating to members of the Board and personnel employed by the Tourism Authority, must be defrayed from the funds of the Tourism Authority. 30

Quarterly reports

- 26. (1) The Board must submit to the Member of the Executive Council quarterly reports, in strict compliance with the relevant provisions of the Public Finance Management Act, 1999 and the Treasury Regulations, and these reports must deal with the state of affairs, the activities, the operations, and the financial position of the Tourism Authority, including – 35
- (a) the extent to which the Tourism Authority has achieved or advanced its objectives during the financial quarter concerned; 40

- (2) (a) 'n Komitee wat kragtens subartikel (1) aangestel word, bestaan uit minstens 3 lede wat deur die Raad aangestel word in die lig daarvan dat hulle paslik en behoorlik gekwalifiseerd of ervare is met betrekking tot aangeleenthede wat verband hou met doelstellings en funksies van die die betrokke komitee.

- (b) Die Raad moet een van sy lede as voorsitter van 'n komitee aanwys.

- (3) 'n Gekoöpteerde lid dien in 'n adviserende hoedanigheid, en mag nie stem by enige vergadering van die komitee nie.

Boekhouding en ouditering

24. (1) Die Raad moet toesien dat behoorlike rekord gehou word van alle gelde ontvang of uitgegee deur die Toerisme Owerheid, van al sy bates en laste en van alle finansiële transaksies aangegaan deur die Toerisme Owerheid.

- (2) Die Raad moet 'n Ouditkomitee aanstel vir die Toerisme Owerheid bestaande uit minstens drie persone in ooreenstemming met die Wet op Openbare Finansiële Bestuur, 1999 (Wet Nr. 1 van 1999) en Tesourie Regulasies.

- (3) Die Toerisme Owerheid moet beskik oor 'n interne ouditfunksie.

- (4) Die Ouditeur-generaal moet die boeke van die Toerisme Owerheid audit.

Uitgawes

25. Uitgawes aangegaan deur of namens die Toerisme Owerheid, met inbegrip van uitgawes wat betrekking het op lede van die Raad en die personeel in diens van die Toerisme Owerheid, moet gedek word deur fondse van die Toerisme Owerheid.

Kwartaalverslae

26. (1) Die Raad moet kwartaalverslae by die Lid van die Uitvoerende Raad indien, ter noue nakoming van die toepaslike bepalings van die Wet op Openbare Finansiële Bestuur, 1999 en die Tesourie Regulasies, en hierdie verslae moet handel oor die stand van sake, die bedrywighede, die werksaamhede, en die finansiële posisie van die Toerisme Owerheid, met inbegrip van -

- (a) die mate waarin die Toerisme Owerheid gedurende die betrokke finansiële kwartaal sy doelwitte bereik of bevorder het;

- (b) the relevant performance information regarding the economic, efficient and effective utilisation of resources.
- (2) Notwithstanding the provisions of subsection (1), the Member of the Executive Council may, at any time, request the Board to submit to him or her, an interim report pertaining to the state of affairs, the activities, the operations, and the financial position of the Tourism Authority or pertaining to any specific matter identified by the Member of the Executive Council, and must be submitted to the Member of the Executive Council within fourteen days after such request. 5 10

Annual report and financial statements

- 27. (1) The Board must ensure that, in preparing and submitting its annual report and financial statements, it complies with the Public Finance Management Act, 1999 and the Treasury Regulations. 15
- (2) The Board must in its annual report refer to –
 - (i) its achievements; 20
 - (ii) its failures;
 - (iii) the financial implications of all such achievements and failures; 25
 - (iv) any recommendations pertaining to tourism, for consideration; and
 - (v) all the specific measures taken by the Tourism Authority to promote and develop tourism in the Province for the benefit of previously disadvantaged communities within the Province by broadening the participation of such communities in the Provincial tourism industry. 30

Prohibition of use of name of Tourism Authority

- 28. No person, company or association of persons may carry on business under a name which is the same as or so closely resembles that of the Tourism Authority that is calculated to or is reasonably likely to deceive. 35

Regulations

- 29. (1) The Member of the Executive Council may, after consultation with the Tourism Authority, make regulations in respect of any matter which in his or her opinion may be conducive to the effective application of the provisions of this Act. 40 45
- (2) Regulations made in terms of subsection (1) may provide for penalties for any contravention thereof.

- (b) die toepaslike werkverrigtingsinligting betreffende die ekonomiese, doeltreffende en doelmatige aanwending van hulpbronne.

- 5 (2) Ondanks die bepalings van subartikel (1), kan die Lid van die Uitvoerende Raad, te eniger tyd, die Raad vra om 'n interimverslag by hom of haar indien wat betrekking het op stand van sake, die bedrywigheide, die werksaamhede, en die finansiële posisie van die Toerisme Owerheid of wat betrekking het op enige spesifieke aangeleentheid wat deur die Lid van die Uitvoerende Raad geïdentifiseer word, en moet binne 14 dae na sodanige versoek by die Lid van die Uitvoerende Raad ingedien word.

Jaarverslag en finansiële state

- 15 27. (1) Die Raad moet sorg dat, wanneer hy sy jaarverslag en finansiële state voorberei en indien, dit voldoen aan die Wet op Openbare Finansiële Bestuur, 1999 en die Tesourie Regulasies.
- (2) Die Raad moet in sy jaarverslag verwys na
- 20 (i) sy prestasies;
- (ii) sy mislukkings;
- (iii) die finansiële implikasies van al sodanige prestasies en mislukkings;
- 25 (iv) enige aanbevelings wat betrekking het op toerisme, vir oorweging; en
- (v) alle spesifieke maatreëls wat deur die Toerisme Owerheid getref is om toerisme in die Provinsie te bevorder en te ontwikkel ten
- 30 behoeve van voorheen benadeelde gemeenskappe binne die Provinsie deur die deelname van sodanige gemeenskappe in die Provinsiale toerismebedryf te verbreed.

35 Verbod op die gebruik van die naam van Toerisme Owerheid

28. Geen persoon, maatskappy of vereniging mag sake bedryf onder 'n naam wat dieselfde is of ooreenkom met dié van die Toerisme Owerheid wat daarop gemik is om of redelikerwys die moontlikheid inhou om te kan mislei.

40

Regulasies

- 45 29. (1) Die Lid van die Uitvoerende Raad kan, na raadpleging met die Toerisme Owerheid, regulasies uitvaardig ten opsigte van enige aangeleentheid wat na sy of haar mening bevorderlik kan wees vir die doelmatige toepassing van die bepalings van hierdie Wet.
- (2) Regulasies wat ingevolge subartikel (1) uitgevaardig word kan voorsiening maak vir strawwe vir enige oortreding daarvan.

Repeal of laws

30. The Free State Tourism Marketing Board Act, 1997 (Act No. 7 of 1997) is repealed.

Short title

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31. This Act is called the Free State Tourism Authority Act, 2005.

Herroeping van wette

30. Die Wet op die Vrystaatse Toerisme Bemarkingsraad, 1997 (Wet Nr. 7 van 1997) word herroep.

5

Kort titel

31. Hierdie Wet heet die Vrystaatse Wet op Toerisme Owerheid, 2005.