



OFFICIAL GAZETTE

AMPTELIKE KOERANT

IGAZETHI KA HULUMENI
KWAZULU

GOVERNMENT SERVICE - UHULUMENI - REGERINGSDIENS

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UMNYANGO
KANDUNANKULU

DEPARTMENT OF
THE CHIEF MINISTER

DEPARTEMENT VAN
DIE HOOFMINISTER

ISAZISO SIKAHULUMENI WAKWAZULU UNOMBOLO 16 KA 1994
UMKHANDLU WAKWAZULU OSHAYA UMTHETHO
UMTHETHO 19 KA 1993

UMTHETHOSICHIBIYELO WESIBILI WAKWAZULU WAMAKHOSI NEZIPHAKANYISWA, 1993.

UMongameli weZwe uyathokoza ngaphansi nangegunya lamandla anikezwe wona yisigaba 31 (2) soMthethosisekelo wemiBuso eziBusayo, 1971 (uMthetho 21 ka 1971) ukuba avume loMthetho olandelayo. (umbhalo wesiNgisi usayinwe nguMongameli weZwe. Kuvunywe mhlaka 07-02-94)

UMTHETHO

Wokuchibiyela uMthetho waKwaZulu waMakhosi neZiphakanyiswa, 1990, ukuze kuqhutshekwe nokuchaza izisho ezithile; ukulungisa amaphutha athile; ukuhlinzekela inkokhelo yesifo; ukuhlinzeka ukuthi iKhabhinethi ingalawulwa ukuba uNgqongqoshe athwese inkosi noma isiphakanyiswa icala lokungaziphathi kahle; ukuqhubeka nokuhambisa kahle amacala angathethwa yinkosi noma isiphakanyiswa; ukufaka esikhundleni soHlu lokuQala; kanye nokuhlinzekela izindaba eziphathelele nalokho.

MAKUMISWE UMTHETHO nguMkhandlu waKwaZulu oShaya uMthetho, kanje:

Ukuchitshiyelwa kwesigaba 1 soMthetho 9 ka 1990

1. Isigaba 1 soMthetho waKwaZulu waMakhosi neZiphakanyiswa, 1990 (okuthi emva kwalokhu ubizwe ngoMthetho omkhulu), siyachitshiyelwa—
 - (a) ngokufaka esikhundleni sencazelo u "Ngqongqoshe" lencazelo elandelayo:
"uNgqongqoshe" kusho uNdunankulu futhi kuyobandakanya nanoma yimuphi omunye uNgqongqoshe ogunyazwe kulokho nguye;;
 - (b) ngokufaka esikhundleni sencazelo u "Nobhala" lencazelo elandelayo:
"uNobhala" kusho uNobhala Jikelele woMnyango kaNdunankulu;"; kanye
 - (c) nangokufaka esikhundleni sencazelo i "zinkokhelo zokuvalelisa" lencazelo elandelayo:
"i[z]inkokhelo yokuvalelisa" kusho i[z]inkokhelo ekhokhwa ngumuntu enkosini yesizwe ngokuhambisana nosiko yilowomuntu ofisa ukushiya kulesosizwe;";

Ukuchitshiyelwa kwephuzu sihloko lesigaba 2 soMthetho 5 ka 1990

2. Leliphuzu sihloko elilandelayo ngalokhu lifakwa esikhundleni sephuzu sihloko 2 soMthetho omkhulu:
"Ukuklanywa kwezindawo kanye nokwakhiwa, ukwahlukaniswa, ukuhlanganiswa kanye nokwamukelwa [noma] kw zizwe noma imiphakathi."

Ukuchitshiyelwa kwesigaba 4 soMthetho 9 ka 1990

3. Isigaba 4 soMthetho omkhulu ngalokhu siyachitshiyelwa ngokufaka esikhundleni sendima (a) isigatshana (1) salendima elandelayo:
"(a) oyozinza ngokugcwele endaweni yesizwe noma yomphakathi engelona ilungu lawo[:]; [ngaphandle] kuhlinzekelwe

ukuthi kuqale ngokutholwa imvume yeNkosi yesizwe sakhe noma isiphakanyiswa somphakathi wakhe njengoba kungase kwenzekwe kanye nemvume yeNkosi yesizwe azimisele ukuzinza ngokugcwele kuyo [futhi akhokhe inkokhelo yokuvalelisa enkosini noma isiphakanyiswa asuka kusona] : Kuhlinzekelwe ukuthi uyaqhubeka akhokhe inkokhelo yokukhonza enkosini noma isiphakanyiswa sendawo azimisele ukuzinza ngokugcwele kuyo kanye nenkokhelo yokuvalelisa kwinkosi noma isiphakanyiswa sendawo ayishiyayo.

Ukuchitshiyelwa kwesigaba 5 soMthetho 9 ka 1990

4. Isigaba 5 soMthetho omkhulu ngalokhu siyachitshiyelwa ngokufaka esikhundleni sesigatshana (4) lesisigatshana esilandelayo:
- "(4) Ukumiswa kukamaziphathe wesizwe, womphakathi nomawesifunda nendawo noma nezindawo omiselwe zona, nokuguqulwa kwanoma iyiphi yalendawo noma izindawo, kuyokwaziswa ngesaziso kwiGazethi kaHulumeni, futhi ikhophi yaso iyothi ngokuvezwa kunoma iyiphi inqubo yamacala ibe ngubufakazi bokuqala, ukuthi umaziphathe oshiwo kwisaziso umiswe ngokomthetho endaweni noma ezindaweni ezishiwo kanjalo ngokuhambisana nezimiso zaloMthetho, noma odabeni lokuguqulwa kwanoma iyiphi indawo noma izindawo, ukuthi ukuguqulwa osekushiwo kanjalo kwenziwe [kube] ngokusemthethweni ngokuhambisana nezihlinzeko zaloMthetho."

Ukuchitshiyelwa kwesigaba 7 soMthetho 9 ka 1990

5. Isigaba 7 soMthetho omkhulu ngalokhu siyachitshiyelwa ngokufakela esigatshaneni (2) esikhundleni samagama andulela indima (a) lamagama alandelayo:
- "Ngaphansi kwezihlinzeko [noma] zanoma, yimuphi umtheshwana."

Ukuchitshiyelwa kwephuzusihloko lesigaba 8 soMthetho 9 ka 1990.

6. Leliphuzusihloko elilandelayo ngalokhu lifakwa esikhundleni sephuzusihloko lesigaba 8 soMthetho omkhulu:
- "Amandla, izibopho kanye nemisebenzi [noma] yomaziphathe bezifunda."

Ukuchitshiyelwa kwesigaba 8 soMthetho 9 ka 1990

7. Isigaba 8 soMthetho omkhulu ngalokhu siyachitshiyelwa ngokufakela esikhundleni sesigatshana (b) lokhu okulandelayo:
- "(6) Umaziphathe wesifunda uyakuba namandla okuthola nokubamba umhlaba nanoma liphi ilungelo lomhlaba njengoba ungabona kufanele ngezinjongo zokwenza imisebenzi nezibopho zawo."

Ukuchitshiyelwa kwesigaba 15 soMthetho 9 ka 1990

8. Isigaba 15 soMthetho omkhulu ngalokhu siyachitshiyelwa ngokufaka esikhundleni sesigatshana (1) lesisigatshana esilandelayo:
- "(1) Ukubekwa kwamaKhansela kuyokwenziwa ngokuhambisana nemithetho kanye namasiko esizwe noma omphakathi futhi lapho ingekho leyo mithetho namasiko okunjalo, lokho kubekwa kuyokwenziwa ngaleyondlela njengoba uNgqongqoshe engayala ngokubhala phansi : Kuqikelelwe ukuthi noma iyiphi iNduna, ngokwesikhundla sayo iyokuba liKhansela."

Ukuchitshiyelwa kwesigaba 19 soMthetho 9 ka 1990

9. Isigaba 19 soMthetho omkhulu ngalokhu siyachitshiyelwangokwengezelela endimeni (b) yesigatshana (1) lesihlinzeko esilandelayo:
- Kuhlinzekelwe lapho inkosi noma isiphakanyiswa ifa ngaphambi kokuthatha umhlalaphansi, inkokhelo yesifo elingana nesamba ebizosikhokhelwa njengenkokhelo yomhlalaphansi iyakukhokhwa ukuhlangabeza izindleko zomngcwabo zaleyonkosi noma isiphakanyiswa : Kuqhubeka kuhlinzekelwe ukuthi noma iyiphi imali esalayo ngemuva kokukhokhwa kwezindleko zalowomngcwabo ikhokhelwe emhlabeni waleyo nkosi noma isiphakanyiswa eshonile.

Ukuchitshiyelwa kwesigaba 24 soMthetho 9 ka 1990

10. Isigaba 24 soMthetho omkhulu ngalokhu siyachitshiyelwa ngokufaka esikhundleni sesigatshana (2) lesisigatshana esilandelayo:
- "(2) Uma inkosi noma isiphakanyiswa esibekwe icala sifahlwa icala njengokusho kwesigatshana (1) isikhulu esiphethe uphenyo siyothumela irekhodi lenqubo kuKhabhinethi, isitatimende salokho esikutholile kanye nezizathu zalokho, nanoma yikuphi esikuqaphelile esingafisa ukukusho."

Ukuchitshiyelwa kwesigaba 25 soMthetho 9 ka 1990

11. Isigaba 25 sombhalo wesiNgisi woMthetho omkhulu ngalokhu siyachitshiyelwa ngokwengezelela kwisigatshana (2) lendima elandelayo:
- "(b) yala uNgqongqoshe ukuba ethwese inkosi noma isiphakanyiswa icala ngokwezimiso zesigaba 23 noma yinini lapho kunesizathu sokukhokhelwa ukuthi inkosi noma isiphakanyiswa inecala lokungaziphathi kahle."

Ukuchitshiyelwa kwephuzusihloko lesigaba 26 soMthetho 9 ka 1990

12. Leliphuzusihloko elilandelayo ngalokhu lifakwa esikhundleni sephuzusihloko lesigaba 26 soMthetho omkhulu:
- "Ukubopheleka kwesizwe noma umphakathi, ngamacala ombango, okwephula umthetho, izivumelwano noma ezinye izibopho zenkosi noma isiphakanyiswa."

Ukuchitshiyelwa kwesigaba 29 soMthetho 9 ka 1990 njengoba sichitshiyelwe yisigaba 1 soMthetho 3 ka 1992

13. Isigaba 29 soMthetho omkhulu ngalokhu siyachitshiyelwa ngokufaka esikhundleni sesigatshana (1) kanye no (2) walezizigatshana ezilandelayo:
- "(1) UNgqongqoshe wezoMthetho angathi ngokubhalwe phansi anikeze inkosi noma isiphakanyiswa, esivunyiwe ngaphansi kwesigaba 12, noma lisekela lenkosi laleyoNkosi noma isiphakanyiswa ngokwesicelo saleyoNkosi noma isiphakanyiswa amandla okuthetha amacala nokujezisa noma isiphi isakhamuzi endaweni ephethwe iNkosi

noma isiphakanyiswa esithintekayo noma iliphi icala njengokusho koMthetho wamaZulu noma yinoma yikuphi ukwephulwa komthetho kahulumeni obalulwe nguNgqongqoshe ngaphandle kwecala okubhekiswe kulo kuSheduli yokuQala kuloMthetho.

- (2) Inqubo kunoma ikuphi ukuthethwa kwecala inkosi, isiphakanyiswa noma isekela lenkosi ngaphansi kwalesisigaba, ukujeziswa, indlela yokufezwa kwanoma yisiphi isigwebo esinikezwe iyohambisana nomthetho wamaZulu namasiko. Kuqikelelwe ukuthi ekusebenziseni amandla omthetho enikezwe wona lona ngaphansi kwesigatshana (1) inkosi, isiphakanyiswa noma isekela lenkosi akuyikuthi—
- (a) mayelana namacala enziwe ngaphansi komthetho nosiko lwesiZulu lwesiZulu ijizise ngesigwebo esihlanganisa kubulala, ukususwa kwezitho zomzimba, ukulinyazwa kabi komzimba noma ukuboshwa noma inhlawulo engaphezulu —
- [a]i) kwe - R1 000 noma okukodwa kwempahla enkulu; noma
- [b]ii) kwe - R600 noma okukodwa kwempahla encane.
- (b) mayelana namacala asemthethweni wombuso abalulwe nguNgqongqoshe yethwese inhlawulo engeqile e - R100.”

Ukuchitshiyelwa kweSahluko IV soMthetho 9 ka 1990

14. Isahluko IV soMthetho omkhulu ngalokhu kungena esikhundleni saso lokhu okulandelayo:
“Isahluko [IV] 4.”

Ukuchitshiyelwa kwephuzusihloko lesahluko 32 soMthetho 9 ka 1990

15. Leliphuzusihloko elilandelayo ngalokhu lifakwa esikhundleni sephuzusihloko lesigaba 32 soMthetho omkhulu:
“Ukwedlulisa icala emacaleni egazi.”

Ukuchitshiyelwa kwesigaba 38 soMthetho 9 ka 1990

16. Isigaba 38 soMthetho omkhulu ngalokhu siyachitshiyelwa ngokufaka esikhundleni sesigatshana (1) lesisigatshana esilandelayo:
“LoMthetho uyobizwa ngokuthi uMthetho waKwaZulu wamaKhosi ne[siphakanyiswa]ziPhakanyiswa, 1990, futhi uyoqala ukusebenza ngosuku oluyomiswa nguNgqongqoshe ngesaziso kwiGazethi kaHulumeni.”

Ukuchitshiyelwa koHlu loMthetho 9 ka 1990

17. LoluHlelo lokuQala olulandelayo ngalokhu lufakwa esikhundleni soHlu lokuQala loMthetho omkhulu:

“UHLU LOKUQALA

AMACALA [ANGEZE] ANGEKE ATHETHWA YINKOSI NOMA YISIPHAKANYISWA NGAPHANSI KWESIGABA [17(1)] 29(1):

Ukuvukela umbuso ngenhloso.

Ukwenza izezo zokuthatha amandla namalungelo kuHulumeni ngaphandle kwenhloso yokuvukela uHulumeni.

Izenzo ezenziwa ngenhloso yokudunga ukuthula emphakathini.

Ukuhlanguka kwabantu ngenhloso yokuphonsa inselelo, ukudelela noma ukumelana namandla kaHulumeni.

Ukubulala ngenhloso.

Ukubulala kungekho inhloso.

Ukudlwengula.

Ukuphanga.

Ukuhlaselela umuntu ngenjongo yokumlimaza kabi emzimbeni.

Ukuhlaselela ngenhloso yokubulala, yokudlwengula noma yokuphanga.

Ukunukubeza.

Ukushisa isakhiwo esiyindlu noma esisandlu.

Ukushada okwesibili owokuqala umshado ungaqediwe noma usemi.

Ukuhlukumeza isithunzi noma ilungelo langasese lomunye umuntu.

Ukukhipha isisu.

Ukuthatha ezandleni zabazali owesifazane osemncane ngenhloso yokuyomganisa noma ukulala naye.

Amacala phansi kwanoma yimuphi umthetho ophathelene nokwebiwa kwemfuyo.

Ukulalana kwabesilisa.

Ukulala isilwane.

Ukugwazisa.

Ukugqokeza noma ukungena kunoma imaphi amagceke ngenhloso yokwenza icala phansi komthetho owakhelwe emasikweni nezinqumo esezathathwa zamacala noma ukwephula noma imuphi umthetho oshaywe uMkhandlu oShaya uMthetho.

Ukwemukela noma iyiphi impahla eyebiwe ngokwazi ukuthi yebiwe.

Ukukhwabanisa.

Ukuzakhela okungekho emthethweni noma ukuveza incwadi engekho emthethweni kube kunolwazi lokuthi ayikho emthethweni.

Yinoma yikuphi ukwephulwa komthetho ngaphansi kwanoma yimuphi umthetho okuhambisana nobunikazi noma nokuhweba ngensimbi noma ngamatshe aligugu.

Yinoma yikuphi ukwepfulwa komthetho ngaphansi kwanoma yimuphi umthetho okuhambisana nokwedluliselwa, ubunikazi noma ukunikeza nganoma yiluphi uhlobo lwesidakamizwa noma uphuzo oludakayo olubanga isijwayezi.
Yinoma iliphi icala eliphathelene nobuqola.
Ukukhuluma amanga phansi kwesifungo.
Okusabukhunkuli.
Izimpi zombango.
Ukuhlobonga.
Ukweba umuntu.
Ukuduna.
Ukuqonela noma ukuphazamisa ukusebenza kobulungiswa.
Yinoma yikuphi ukuhlanganyela noma ukugququzela noma ukuzama ukwenza noma yikuphi ukwepfulwa komthetho okubalulwe ngaphezulu.

Isihloko esifingqiwe

18. LoMthetho uyakubizwa ngokuthi nguMthethosichibiyelo wesiBili waKwaZulu wamaKhosi neziPhakanyiswa, 1993.

KWAZULU GOVERNMENT NOTICE NO. 16 OF 1994

KWAZULU LEGISLATIVE ASSEMBLY

ACT 19 OF 1993

KWAZULU AMAKHOSI AND IZIPHAKANYISWA SECOND AMENDMENT ACT, 1993

The State President has been pleased under and by virtue of the powers vested in him by section 31 (2) of the self-governing Territories Constitution Act, 1971 (Act 21 of 1971) to approve the following Act. (English text signed by the State President. Assented to on 07-02-94).

ACT

To amend the KwaZulu Amakhosi and Iziphakanyiswa Act, 1990, so as to further define certain expressions; to rectify certain errors; to provide for a death gratuity; to provide that the Cabinet may direct the Minister to charge inkosi or isiphakanyiswa with misconduct; to further regulate the offences which may be heard by inkosi or isiphakanyiswa; to substitute the First Schedule; and to provide for matters incidental thereto.

BE IT ENACTED by the KwaZulu Legislative Assembly, as follows:—

Amendment of section 1 of Act 9 of 1990

1. Section 1 of the KwaZulu Amakhosi and Iziphakanyiswa Act, 1990 (Act No. 9 of 1990) (hereinafter referred to as the principal Act), is hereby amended—
 - (a) by the substitution for the definition of "Minister" of the following definition:
" 'Minister' means the Chief Minister and shall include any other Minister authorised thereto by him;";
 - (b) by the substitution for the definition "Secretary" for the following definition:
" 'Secretary' means the Secretary General for the Department of the Chief Minister;"; and
 - (c) by the substitution for the definition of "Valelisa fees" of the following definition:
" 'Valelisa [fees] fee' means a [fees] fee payable by a person to an inkosi or isiphakanyiswa of a tribe or community in accordance with custom by a person who wishes to leave such tribe or community;".

Amendment of marginal note to section 2 of Act 5 of 1990

2. The following marginal note is hereby substituted for the marginal note to section 2 of the principal Act:
"Definition of areas and constitution, division, amalgamation and recognition [or] of tribes or communities."

Amendment of section 4 of Act 9 of 1990

3. Section 4 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:
"(a) settle permanently in the area of a tribe community of which he is not a member [,] : [unless] Provided that a prior permission is obtained from the inkosi of his tribe or the isiphakanyiswa of his community, as the case may be, as well as the permission of inkosi of the tribe or the isiphakanyiswa of the community in whose area he intends settle permanently [and pays valelisa fees to the latter inkosi or isiphakanyiswa]: Provided further he pays khonza fee to the inkosi or isiphakanyiswa of the area he intends settling permanently and also a valelisa fee to the inkosi or isiphakanyiswa of whose area he is leaving;".

Amendment of section 5 of Act 9 of 1990

4. Section 5 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:
"(4) The establishment of a tribal, community or regional authority and the area or areas in respect of which it has

been established, and any modification of such area or areas, shall be made known by notice in the **Official Gazette**, and a copy thereof shall on its mere production in any legal proceedings be **prima facie** proof, that the authority mentioned in the notice has been lawfully established for the area or areas so mentioned in accordance with the provisions of this Act, or in the case of a modification of any area or areas, that the modification so mentioned has been lawfully [effect] effected in accordance with the provisions of this Act."

Amendment of section 7 of Act 9 of 1990

5. Section 7 of the principal Act is hereby amended by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:
"Subject to the provisions [or] of any regulation-".

Amendment of marginal note to section 8 of Act 9 of 1990

6. The following marginal note is hereby substituted for the marginal note to section 8 of the principal Act:
"Powers, functions and duties [or] of regional authorities."

Amendment of section 8 of Act 9 of 1990

7. Section 8 of the principal Act is hereby amended by the substitution for subsection (6) of the following:
"(6) A regional authority shall have power to [acquire] ~~acquire~~ and hold land or any interest in land as it may deem necessary for the purpose [or] of performing its functions and duties."

Amendment of section 15 of Act 9 of 1990

8. Section 15 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:
"(1) The appointment of councillors shall be made in accordance with the law and custom of the tribe or community and in the absence of any such law and custom, such [appointmenet] ~~appointment~~ shall be made in such manner as the Minister may direct in writing: Provided that every Induna shall, by virtue of his office be a councillor."

Amendment of section 19 of Act 9 of 1990

9. Section 19 of the principal Act is hereby amended by the addition in paragraph (b) of subsection (1) of the following proviso:
"Provided that where an inkosi or isiphakanyiswa dies before retirement, a death gratuity equal to the amount which he would have been paid as a retirement allowance had he retired shall be paid out to meet the funeral expenses of such inkosi or isiphakanyiswa: Provided further that any balance remaining after the payment of such funeral expenses shall be paid into the estate of such deceased inkosi or isiphakanyiswa."

Amendment of section 24 of Act 9 of 1990

10. Section 24 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:
"(2) If the inkosi or isiphakanyiswa charged is found guilty in terms of subsection (1), the officer or allocated officer holding the inquiry shall forward to the Cabinet the record of the proceedings, a statement of his findings and the reasons thereof, as well as any observations which he might wish to make."

Amendment of section 25 of Act 9 of 1990

11. Section 25 of the principal Act is hereby amended by the addition in subsection (2) of the following paragraph:
"(b) instruct the Minister to charge the inkosi or isiphakanyiswa in terms of section 23 whenever there is a reason to believe that such inkosi or isiphakanyiswa is guilty of misconduct."

Amendment of marginal note to section 26 of Act 9 of 1990

12. The following marginal note is substituted for the marginal note to section 26 of the principal Act:
"Liability of tribe or community for delictual, contractual or other obligations of the inkosi and isiphakanyiswa."

Amendment of section 29 of Act 9 of 1990 as amended by section 1 of Act 3 of 1992

13. Section 29 of the principal Act is hereby amended by the substitution for subsection (1) and (2) of the following subsections:
(1) The Minister of Justice may in writing confer upon any inkosi or isiphakanyiswa, recognized under section 12, or the isekela lenkosi of such inkosi or isiphakanyiswa at the request of such inkosi or isiphakanyiswa jurisdiction to try and punish any citizen who has committed, in the area under the control of such inkosi or isiphakanyiswa, any offence in terms of Zulu law and custom or statutory law as may be specified by the Minister other than an offence referred to in the First Schedule to this Act.
(2) The procedure at any trial by an inkosi, isiphakanyiswa or isekela lenkosi under this section, the punishment, the manner of execution of any sentence imposed shall be in accordance with Zulu law and custom: Provided that in the exercise of the jurisdiction conferred upon him under subsection [(2)] (1) an inkosi, isiphakanyiswa or isekela lenkosi shall not—
(a) in respect of offences committed under Zulu Law and custom impose any punishment involving death, mutilation, grievous bodily harm or imprisonment or impose a fine not exceeding —
[a](i) R1000 or one head of large stock; or
[b](ii) R600 or six head of small stock; or
(b) in respect of statutory law offences specified by the Minister impose a fine not exceeding R100."

Amendment of Chapter IV of Act 9 of 1990

14. Chapter IV of the principal Act is hereby substituted for the following:
"Chapter [IV] 4".

Amendment of marginal note to section 32 of Act 9 of 1990

15. The following marginal note is hereby substituted for the marginal note to section 32 of the principal Act:
"Appeals in Criminal cases."

Amendment of section 38 of Act 9 of 1990

16. Section 38 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:
"This Act shall be called KwaZulu Amakhosi and [Isiphakanyiswa] Iziphakanyiswa Act, 1990, and shall come into operation on a date fixed by the Minister by a notice in the Official Gazette."

Amendment of the Schedule to Act 9 of 1990

17. The First Schedule to the principal Act is hereby substituted for the following Schedule:

"FIRST SCHEDULE

OFFENCES WHICH [MAY] SHALL NOT BE TRIED BY AN INKOSI OR ISIPHAKANYISWA UNDER SECTION [17 (1)] 29 (1):

Treason.
Crimen laesae majestatis.
Public violence.
Sedition.
Murder.
Culpable homicide.
Rape.
Robbery.
Assault with intent to do grievous bodily harm.
Assault with intent to commit murder, rape or robbery.
Indecent assault.
Arson.
Bigamy.
Crimen injuria.
Abortion.
Abduction.
Offences under any law relating to stock theft.
Sodomy.
Bestiality.
Bribery.
Breaking or entering any premises with intent to commit an offence either at common law or in contravention of any statute.
Receiving any stolen property knowing that it has been stolen.
Fraud.
Forgery or uttering a forged document knowing it to be forged.
Any offence under any law relating to illicit possession of or dealing in precious metals or precious stones.
Any offence under any law relating to conveyance, possession or supply of any habit forming drugs or intoxicating liquor.
Any offence relating to the coinage.
Perjury.
Pretended witchcraft.
Faction fighting.
Incest.
Man stealing.
Extortion.
Defeating or obstructing the course of justice.
Any conspiracy, incitement or attempt to commit any of abovementioned offences."

Short title

18. This Act shall be called the KWAZULU AMAKHOSI AND IZIPHAKANYISWA SECOND AMENDMENT ACT, 1993.

KWAZULU GOEWERMENTS KENNISGEWING NR. 16 VAN 1994
KWAZULU - WETGEWENDE VERGADERING
WET 19 VAN 1993

KWAZULU - TWEDE WYSIGINGSWET OP AMAKHOSI EN IZIPHAKANYISWA, 1993

Dit het die Staatspresident behaag kragtens die bevoegheid hom verleen by artikel 31 (2) van die Grondwet van die Self Regerende Gebiede, 1971 (Wet 21 van 1971), om sy goedkeuring aan onderstaande Wet te heg. (Engelse teks deur die Staatspresident geteken. Goedgekeur op 07-02-94).

WET

Tot wysiging van die KwaZulu-Wet op Amakhosi en Iziphakanyiswa, 1990, ten einde sekere uitdrukkings verder te omskryf; sekere foute reg te stel; voorsiening te maak vir 'n sterfte-gratifikasie; om voorsiening te maak daarvoor dat die Kabinet die Minister die taak kan oplê om 'n inkosi of isiphakanyiswa van wangedrag aan te kla; om verder die misdrywe wat 'n inkosi mag aanhoor, te reël; om die Eerste Bylae te vervang; en om vir bykomstige aangeleenthede voorsiening te maak.

DAAR WORD BEPAAL deur die KwaZulu-Wetgewende Vergadering, soos volg:—

Wysiging van artikel 1 van Wet 9 van 1990

1. Artikel 1 van die KwaZulu-Wet op Amakhosi en Iziphakanyiswa, 1990 (Wet No. 9 van of 1990) (hierna die Hoofwet genoem), word hierby gewysig—

(a) deur die omskrywing van "Minister" deur die volgende omskrywing te vervang:

"'Minister' die Hoofminister asook enige ander Minister deur hom daartoe gemagtig:"

(b) deur die omskrywing van "Sekretaris" deur die volgende omskrywing te vervang:

"'Sekretaris' die Sekretaris-Generaal van die Departement van die Hoofminister;" en

(c) deur die omskrywing van "valelisa fooie" deur die volgende omskrywing te vervang:

"'valelisa [fooie] fooi' [fooie] 'n fooi betaalbaar volgens gebruik aan 'n inkosi of isiphakanyiswa van 'n stam of gemeenskap deur 'n persoon wat sodanige stam of gemeenskap wil verlaat;"

Wysiging van die kantskrif tot artikel 2 van Wet 9 van 1990

2. Die kantskrif tot artikel 2 van die Hoofwet word hierby in die Engelse teks deur die volgende kantskrif vervang:

"Definition of areas and constitution, division, amalgamation and recognition [or] of tribes or communities."

Wysiging van artikel 4 van Wet 9 van 1990

3. Artikel 4 van die Hoofwet word hierby gewysig deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

"(a) vestig hom permanent binne die gebied van 'n stam of gemeenskap waarvan hy nie lid is nie [,] : [tensy] Met dien verstande dat hy vooraf toestemming van die inkosi van sy stam of die isiphakanyiswa van sy gemeenskap, na gelang van die geval, asook die toestemming van die inkosi van die stam of die isiphakanyiswa van die gemeenskap waar hy van voorneme is om hom permanent te vestig verkry [en valelisa fooie aan laasgenoemde inkosi of isiphakanyiswa betaal]; Met dien verstande voorts dat hy 'n khonza fooi aan die inkosi of isiphakanyiswa in wie se gebied hy van voorneme is om hom permanent te vestig moet betaal sowel as 'n valelisa fooi aan die inkosi of isiphakanyiswa van die gebied wat hy verlaat moet betaal;"

Wysiging van artikel 5 van Wet 9 van 1990

4. Artikel 5 van die Hoofwet word hierby gewysig deur in die Engelse teks subartikel (4) deur die volgende subartikel te vervang:

"(4) The establishment of a tribal, community or regional authority and the area or areas in respect of which it has been established, and any modification of such area or areas, shall be made known by notice in the **Official Gazette**, and a copy thereof shall on its mere production in any legal proceedings be **prima facie** proof, that the authority mentioned in the notice has been lawfully established for the area or areas so mentioned in accordance with the provisions of this Act, or in the case of a modification of any area or areas, that the modification so mentioned has been lawfully [effect] effected in accordance with the provisions of this Act."

Wysiging van artikel 7 van Wet 9 van 1990

5. Artikel 7 van die Hoofwet word hierby gewysig deur in die Engelse teks die woorde wat paragraaf (a) in subartikel (2) voorafgaan deur die volgende woorde te vervang:

"Subject to the provisions [or] of any regulation."

Wysiging van die kantskrif tot artikel 8 van Wet 9 van 1990

6. Die kantskrif tot artikel 8 van die Hoofwet word hierby in die Engelse teks deur die volgende kantskrif vervang:

"Powers, functions and duties [or] of regional authorities."

Wysiging van artikel 8 van Wet 9 van 1990

7. Artikel 8 van die Hoofwet word hierby gewysig deur in die Engelse teks subartikel (6) deur die volgende subartikel te vervang:

"(6) A regional authority shall have power to [acquire] acquire and hold land or any interest in land as it may deem necessary for the purpose [or] of performing its functions and duties."

Wysiging van artikel 15 van Wet 9 van 1990

8. Artikel 15 van die Hoofwet word hierby gewysig deur in Engelse teks subartikel (1) deur die volgende subartikel te vervang:

"(1) The appointment of councillors shall be made in accordance with the law and custom of the tribe or community and in the absence of any such law and custom, such [appointment] appointment shall be made in such manner as the Minister may direct in writing: Provided that every Induna shall, by virtue of his office be a councillor."

Wysiging van artikel 19 van Wet 9 van 1990

9. Artikel 19 van die Hoofwet word hierby gewysig deur die volgende voorbehoudsbepaling tot paragraaf (6) van subartikel (1) toe te voeg:

"Met dien verstande dat waar 'n inkosi of isiphakanyiswa voor aftrede sterf, 'n sterfte-gratifikasie, gelykstaande aan die bedrag wat aan hom betaal sou gewees het as 'n aftrede-toelae indien hy sou afgetree het, uitbetaal word ter betaling van die begrafniskoste van so 'n inkosi of isiphakanyiswa: Met dien verstande voorts dat enige balans wat sou oorbly na vereffening van sodanige begrafniskoste die boedel van sodanige inkosi op isiphakanyiswa toeval."

Wysiging van artikel 24 van Wet 9 van 1990

10. Artikel 24 van die Hoofwet word hierby gewysig deur in die Engelse teks subartikel (2) deur die volgende subartikel te vervang:

"(2) If the inkosi or isiphakanyiswa charged is found guilty in terms of subsection (1), the officer or allocated officer holding the inquiry shall forward to the Cabinet the record of the proceedings, a statement of his findings and the reasons thereof, as well as any observations which he might wish to make."

Wysiging van artikel 25 van Wet 9 van 1990

11. Artikel 25 van die Hoofwet word hierby gewysig deur in die Engelse teks die volgende paragraaf tot subartikel (2) toe te voeg:

"(b) instruct the Minister to charge the inkosi or isiphakanyiswa in terms of section 23 whenever there is a reason to believe that such inkosi or isiphakanyiswa is guilty of misconduct."

Wysiging van die kantskrif tot artikel 26 van Wet 9 van 1990

12. Die kantskrif tot artikel 26 van die Hoofwet word hierby deur die volgende kantskrif vervang:

"Aanspreeklikheid van stam of gemeenskap vir deliktuele, kontraktuele of ander verpligtinge van die inkosi en isiphakanyiswa."

Wysiging van artikel 29 van Wet 9 van 1990 soos gewysig deur artikel 1 van Wet 3 van 1992

13. Artikel 29 van die Hoofwet word hierby gewysig deur subartikels (1) en (2) deur die volgende subartikels te vervang:

"(1) Die Minister van Justisie kan skriftelik aan 'n inkosi of isiphakanyiswa, wat erken is kragtens artikel 12, of 'n isekela lenkosi van so 'n inkosi of isiphakanyiswa, jurisdiksie verleen om 'n burger te verhoor en te straf weens die pleging van enige misdryf in die regsgebied van sodanige inkosi of isiphakanyiswa ingevolge die Zulureg en-gewoonte of statutêre reg wat deur die Minister aangedui kan word met die uitsondering van 'n misdryf vermeld in die Eerste Bylae van hierdie Wet.

(2) Die prosedure by 'n verhoor deur 'n inkosi, isiphakanyiswa of isekela lenkosi kragtens hierdie artikel, die straf, die wyse van tenuitvoerlegging van 'n vonnis geskied ooreenkomstig Zulureg en-gewoonte: Met dien verstande dat by die uitoefening van die jurisdiksie wat ingevolge subartikel [(2)] (1) aan hom verleen is 'n inkosi, isiphakanyiswa of isekela lenkosi nie—

(a) ten opsigte van misdrywe ingevolge Zulureg en-gewoonte 'n straf mag oplê wat die dood, verminking, ernstige liggaamlike letsel of gevangenisstraf meebring nie of 'n boete oplê wat—

[a](i) R1000 of een stuks grootvee; of

[b](ii) R600 of ses stuks kleinvee,

te bowe gaan nie; of

(b) ten opsigte van statutêre misdrywe deur die Minister bepaal, 'n boete oplê wat R100 te bowe gaan nie."

Wysiging van Hoofstuk IV van Wet 9 van 1990

14. Hoofstuk IV van die Hoofwet word hierby in die Engelse teks deur die volgende vervang:

"Chapter [IV] 4".

Wysiging van kantskrif tot artikel 32 van Wet 9 van 1990

15. Die kantskrif tot artikel 32 van die Hoofwet word hierby in die Engelse teks deur die volgende kantskrif vervang:

"Appeals in criminal cases."

Wysiging van artikel 38 van Wet 9 van 1990

16. Artikel 38 van die Hoofwet word hierby gewysig deur in die Engelse teks subartikel (1) deur die volgende subartikel te vervang:

"This Act shall be called the KwaZulu Amakhosi and [Isiphakanyiswa] Iziphakanyiswa Act, 1990, and shall come into operation on a date fixed by the Minister by a notice in the Official Gazette."

Wysiging van die Eerste Bylae tot Wet 9 van 1990

17. Die Eerste Bylae tot die Hoofwet word hierby deur die volgende Bylae vervang:

"EERSTE BYLAE

MISDRYWE WAT KRAGTENS ARTIKEL [17 (1)] 29 (1) DEUR 'N INKOSI OF ISIPHAKANYISWA VERHOOR MAG WORD NIE:

Hoogverraad.

Crimen laesae majestatis.

Oproer.

Sedisie.

Moord.

Strafbare mandslag.

Verkragting.

Roof.

Aanranding met die opset om ernstig te beseer.

Aanranding met die opset om te moor, te verkrag of te roof.

Onsedelike aanrandig.

Brandstigting.

Bigamie.

Crimen injuria.

Vrugafdrywing.

Ontvoering.

Misdrywe ingevolge enige wet op veediefstal.

Sodomie.

Bestialiteit.

Omkopery.

Inbraak of betreding van 'n perseel met die opset om 'n misdryf te pleeg hetsy ingevolge die gemeneereg of van enige wet.

Ontvangs van gesteelde eiendom wetende dat dit gesteel is.

Bedrog.

Vervalsing of uitgifte van 'n vervalste dokument wetende dat dit vervals is.

Enige misdryf kragtens enige wet met betrekking tot die onwettige besit van of handel dryf kosbare metale of edelgesteentes.

Enige misdryf kragtens enige wet met betrekking tot die vervoer, besit of verskaffing van enige afhanklikheidsvormende dwelmmiddels en bedwelvende drank.

Enige muntmisdryf.

Meineed.

Voorgedoende toordery.

Faksie-gevegte.

Bloedskande.

Menseroof.

Afpersing.

Dwarsboming van die gereg of regsverdeling.

Enige sameswering, aanhitsing of poging om enige van bovermelde misdrywe te pleeg."

Kort titel

18. Hierdie Wet heet die KWAZULU-TWEEDE WYSIGINGSWET OP AMAKHOSI EN IZIPHAKANYISWA, 1993.

IZIMEMEZELO

ISAZISO KWABAMEMEZELOYO NABAKHOKHAYO IMALI

IZIMEMEZELO: Ngesentimitha noma ingxenye (Kuhlanganisa 13 milimitha ngenhla nangezansi kwesihloko nesiginesha.)

(a) Izicelo zamalayisense okuhweba: ngolwimi: inkokhelo elingayo engu R5.

(b) Ezinye izimemezele: ngolwimi:-

Uhlu olulodwa - R0,60/isentimitha - ukuphinda - R0,30/isentimitha.

Izinhlal ezimbili - R1,20/isentimitha - ukuphinda - R0,60/isentimitha.

Izinhlal ezintathu - R1,80/isentimitha - ukuphinda - R0,90/isentimitha.

Ukulinganisa ubungako bohlu, linganisa amagama awu 6 ngomugqa ohlwini olulodwa; 14 izinhlal ezimbili, 21 izinhlal ezintathuezinemigqa emithathu kwisentimitha.

Umbhalo (olotshwe ngesandla) ubhalwe ecaleni elilodwa kuphela. Amabizo oqobo NGAMAGAMA AMAKHULU.

Akukhocala elokwamukelwa ngokulahlekelwa okubangwa ukushiyeka kwamagama athile noma amaphutha okushicilela.

ZONKE IZINKOKHELO ZEZIMEMEZELO NEZIMALI EZIKHISHWAYO ZIKHOKHWA KUQALA

IZICELO ZAMALAYISENSE AMABHIZINISI/EMISEBENZI

Abenza izicelo zamalayisense amabhizinisi/emisebenzi mabaqaphele uhlelo 4 lwengxenye 1 yemithetho ephathelene namabhizinisi nokuhweba KwaZulu njengokusho koMthetho wakwaZulu wamaBhizinisi

IZICELO ZAMALAYISENSE OPHUZO

Abenza izicelo zamalayisense ophuzo mabaqaphele isijobelelo emithethweni ephathelene nophuzo njengokusho koMthetho wophuzo wakwaZulu ka 1980 okuyiyona-yona fomu yesaziso sesicelo selayisense yoPhuzo okufanele sikhishwe ngayo kule Gazethi kaHulumeni.

Izincwadi mazithunyelwe ku Nobhala weZangaphakathi,
Isikhwama sePosi X02, Ulundi 3838.

ADVERTISEMENTS

NOTICE TO ADVERTISERS AND SUBSCRIBERS

ADVERTISEMENTS: Per cm, or part (including 13 mm at top and bottom of heading and signature):-

(a) Applications for trading licences per language - A flat rate of R5,00

(b) Other advertisements per language:-

Single column - - - - R0,60/cm Repeat - - - R0,30/cm

Double Column - - - - R1,20/cm Repeat - - - R0,60/cm

Triple Column - - - - R1,80/cm Repeat - - - R0,90/cm

To Calculate approximate space, allow 6 words per line single Column, 14 Double Column, 21 Triple Column, with 3 lines to a cm. Manuscript to be written on one side only; proper names in BLOCK LETTERS. NO responsibility is accepted for losses arising from omissions or typographical errors.

ALL ADVERTISEMENTS AND SUBSCRIPTION PAYMENTS STRICTLY IN ADVANCE

BUSINESS/OCCUPATIONAL AND LICENCE APPLICATIONS

The attention of applicants for Business/Occupational licences is drawn to Schedule 4 of Part I of the regulations relating to Business and Trading Undertakings in KwaZulu in terms of the KwaZulu Business and Trading Undertakings Act 1974, which is the correct form of a Notice of Application for a Business Licence for publication in this Official Gazette.

LIQUOR LICENCE APPLICATIONS

The attention of applicants for Liquor Licences is drawn to the Annexure of the Regulations relating to Liquor Licences in terms of the KwaZulu Liquor Act 1980, which is the correct form of a Notice of Application for a Liquor Licence for publication in this Official Gazette.

Communications to be addressed to: -

The Secretary for Interior, Private Bag X02, Ulundi 3838

ADVERTENSIES

KENNISGEWING AAN ADVERTEERDERS EN INTEKENAARS

ADVERTENSIES: Per cm. of deel (insl. 13 mm bo en onder vir opskrif en handtekening): -

(a) Aansoeke om Handellisensie per taal - 'n Vaste tarief van R5.00

(b) Ander advertensies per taal:

Enkel kolom R0.60/cm Herhaling ... R0.30/cm

Dubbele kolom R1.20/cm Herhaling ... R0.60/cm

Driedubbele kolom... .. R1.80/cm Herhaling ... R0.90/cm

Vir berekening van benaderde ruimte moet 6 woorde per reël enkele kolom, 14 per reël dubbele kolom, 21 per reël driedubbele kolom, en 3 reël per cm toegelaat word. Manuskripte moet duidelik op een kant en eiename met BLOKLETTERS geskryf word. Geen aanspreeklikheid word vir verliese as gevolg van weglatings of drukfoute aanvaar nie.

ALLE ADVERTENSIE - EN INTEKENGELDE STRENG VOORUITBETAALBAAR

AANSOEKE OM BESIGHEIDS/BEROEPSLISENSIES

Die aandag van applikante om Besigheids/beroepslisensies word gevestig op bylae 4 van Deel 1 van die Regulasies betreffende Besigheids/Beroepslisensies in KwaZulu ingevolge die KwaZulu-wet op Sake - en Beroepsondernemings, 1974, wat die juiste vorm is waarin 'n Kennisgewing van Aansoek om 'n Besigheidslisensie in hierdie Amptelike Koerant gepubliseer moet word.

AANSOEK OM DRANKLISENSIES

Die aandag van applikante om Dranklisensies word gevestig op die aanhangsel van die Regulasies betreffende Dranklisensies kragtens die KwaZulu Drankwet, 1980, wat die juiste vorm is waarin 'n Kennisgewing van Aansoek om 'n Dranklisensie in hierdie Amptelike Koerant gepubliseer moet word.

Mededelings moet gerig word aan: -

**Die Sekretaris van Binnelandse Sake,
Privaatsaak X02 Ulundi 3838**