

# KWAZULU-NATAL TOURISM ACT, 1996

(as amended, including No. 2 of 2002)

To provide for the establishment of bodies to develop, promote and market tourism in KwaZulu-Natal within the framework of government policy, and to provide for matters incidental thereto.

BE IT ENACTED by the Parliament of the Province of KwaZulu-Natal, as follows:-

## Definitions

1. In this Act, unless the context otherwise indicates –

"Authority"	means the KwaZulu-Natal Tourism Authority established in section 2;
"Cabinet"	means the Executive Council of the KwaZulu-Natal Province contemplated in section 132 of the Constitution;
"Constitution"	means the Constitution of the Republic of South Africa Act, No. 108 of 1996;
"Department"	means the Department of Economic Development and Tourism or any successor provincial department whose functions include that of the promotion, development, marketing and regulation of tourism in KwaZulu-Natal;
"District Municipality"	means a municipality that shares municipal executive and legislative authority in an area that includes more than one local municipality, described in section 155 (1) of the Constitution as a category C municipality, and which has been established through the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
"Domestic Tourist"	means any person resident in the Republic of South Africa traveling to any

	place within the Republic other than to his or her usual environment;
"Gazette"	means the KwaZulu-Natal Provincial Government Gazette;
"Foreign Tourist"	means any visitor to the Republic of South Africa;
"KwaZulu-Natal"	means the province of KwaZulu-Natal contemplated in Section 103 (1) (d) of the Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996);
"Local Municipality"	means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls, which is described in section 155 (1) of the Constitution as a category B municipality and which has been established through the Local Government: Municipal Structures act, 1998 (Act No. 117 of 1998);
"Metropolitan Municipality"	means a municipality that has exclusive executive and legislative authority in its area, described in section 155 (1) of the Constitution as a category A municipality and which has been established through the Local Government: Municipal Structures Act, 1998, (Act No. 117 of 1998);
"Minister"	means the Member of the Executive Council of KwaZulu-Natal whose portfolio includes responsibility for the promotion, development and regulation of tourism within KwaZulu-Natal;
"Minister of Finance"	means the Minister of the Executive Council of KwaZulu-Natal whose portfolio includes responsibility for the finances of the government of KwaZulu-Natal;

“Municipality”	means a municipality referred to in section 155 (6) of the Constitution;
“municipal tourism functions”	means those tourism functions contemplated in section 38 of this act which are to be performed at municipal level;
“municipal tourism policies”	means the policies developed by municipalities in accordance with section 33;
"organised business"	means that body or those bodies which together are representative of a substantial proportion of the commercial and business enterprises in KwaZulu-Natal which are or are likely to be directly or indirectly involved in the development, promotion and marketing of tourism in KwaZulu-Natal;
"organised labour"	means that body or those bodies which together are representative of a substantial proportion of the labour force in KwaZulu-Natal which is or is likely to be directly or indirectly involved in the development, promotion and marketing of tourism in KwaZulu-Natal;
“organised local government”	means the KwaZulu-Natal Provincial organisation representing municipalities, recognised in terms of section 163 of the Constitution and section 2 of the Organised Local Government Act, 1997 (Act No. 52 of 1997);
"parliament"	means the Legislature of the Province as contemplated in section 105 of the Constitution and having the legislative authority of the KwaZulu-Natal contemplated in section 104 (1) of the Constitution;

"portfolio committee"	means the Portfolio Committee of Parliament responsible for Tourism;
"prescribed"	means prescribed by regulations;
"Province"	means the KwaZulu-Natal Province contemplated in section 103 (1) (d) of the Constitution;
"provincial tourism action plan"	means the plan developed by the KwaZulu-Natal Tourism Authority in accordance with section 27;
"Provincial Tourism Committee"	means the committee established in terms of section 34 to coordinate the formulation of provincial tourism policy with municipalities and to assist municipalities develop municipal tourism policies;
"provincial tourism functions"	means those tourism functions contemplated in section 30;
"provincial tourism policy"	means the policy developed by the Minister in accordance with this Act;
"Secretary"	means the Secretary for the Department;
"this Act"	includes the regulations:
"tourism establishment"	means any establishment, including a facility or service, within the tourism industry in the Province;
"tourism industry"	means the industry within the Province which focuses on and aims to attract domestic or international tourists to the Province, and includes the provision of public and private services and facilities;
"tourism operator"	means any natural or juristic person within the tourism industry in the Province;

“tourism stakeholders”

include tourism operators, tourism establishments and any other private or public sector person or institution with an interest in the tourism industry in the Province.

## **CHAPTER 1: THE KWAZULU-NATAL TOURISM AUTHORITY**

### **Establishment of the KwaZulu-Natal Tourism Authority**

2. (1) There is hereby established the KwaZulu-Natal Tourism Authority which shall consist of not less than nine and not more than fifteen members.  
  
(2) The Authority shall be a juristic person.  
  
(3) The objectives of the Authority are to work with the Minister, Provincial Tourism Committee, department, municipalities and tourism stakeholders in the Province in order to implement and advance national and provincial tourism policies.

### **Powers, duties and functions of the Authority**

3. The Authority shall have the power –
  - (a) to investigate and make recommendations to the Cabinet, through the Minister, on any matter relating directly or indirectly to the promotion, development or marketing of tourism for KwaZulu-Natal;
  - (b) to be solely responsible for marketing and promoting the Province as a whole, to international and domestic tourism markets in competition and cooperation with other provinces in the Republic, and in cooperation with Municipalities;
  - (c) within the framework of national and provincial tourism policies to co-ordinate with, advise and guide municipalities, tourism operators, tourism establishments and organisations or institutions whose activities or aims have an impact on and relate to the promotion, development or marketing of tourism in KwaZulu-Natal;
  - (d) to employ or use the services of agents, contractors and consultants;
  - (e) to employ the services of professional, technical, administrative or other categories of staff on a full-time or part-time basis;
  - (f) to provide for staff medical aid, retirement or any other employment benefits the Authority deems necessary, whether by –
    - i. establishing and operating schemes or funds to provide such employment benefits, as the case may be, or

- ii. providing facilities for staff to have access to such schemes or funds,
  - iii. or a combination of both of these
- (g) for the purposes of implementing provincial tourism policy, promoting, developing and marketing tourism for KwaZulu-Natal -
- i with the prior approval of the Minister:
    - (aa) to establish and operate one or more companies, closed corporations or other similar bodies, and to buy and sell shares in such companies, closed corporations or other such similar bodies;
    - (bb) to enter into joint ventures with other institutions, organisations, bodies or persons;
    - (cc) to become partners or shareholders in companies, closed corporations or other bodies and to sell all or part of such shares or interests;
    - (dd) to raise funds through donations and sponsorships;
  - ii to enter into agreements and contracts with any institution, body, organisation or person anywhere in South Africa;
  - iii to enter into international agreements and contracts, with the approval of the Minister, provided that the approval of the Minister may not be unreasonably withheld and must be given within a reasonable time;
  - iv to register, accredit, classify, grade and certify tourism operators and establishments in the Province;
  - v to implement levies and other charges on tourism operators and establishments in the Province, in accordance with regulations prescribed by the Minister and subject to:
    - (aa) the quantum in respect of levies and charges contemplated in this subsection being determined after consultation with the tourism industry;
    - (bb) the levies and other charges on tourism operators and establishments being utilised for the promotion of tourism in the Province; and

- (cc) the income derived from the levies and other charges accruing to the Department to be utilised for promoting tourism in the Province.
  - vi to undertake research for the effective implementation and development of provincial tourism policy;
  - vii to maintain a database of tourism operators and establishments within the Province;
  - viii to formulate and implement processes to increase public access to information about provincial tourism operators, establishments and other tourism resources in the Province;
- (h) to perform any other function or activity as prescribed or directed by the Minister in relation to the implementation, development, marketing and promotion of provincial tourism policy;
- (i) to take any other action necessary for or ancillary to the powers, duties and functions specified in this section;
- (j) to determine its own procedures including, but not limited to, procedures at meetings, administrative systems, codes of conduct for members and duties of members
- (k) to develop the action plan described in section 27 relating to the development, promotion and marketing of tourism in the Province; and
- (l) to perform any other function assigned by this Act and regulations or policy directives issued in terms of this Act.

#### **Invitation of nominations for members of the Authority**

4. (1) The Minister shall from time to time and using that method or those methods which will in his or her opinion reach the greatest number of residents of KwaZulu-Natal, invite the submission to him or her of the names of persons who could be taken into consideration when appointing members to the Authority.
- (2) The invitation shall specify the method of submission and a date by which such nominations are to reach the Minister.



## **Appointment of Chief Executive Officer, Chairperson, Deputy Chairperson and members of the Authority**

5. (1) (a) The Authority must on behalf of the Minister using a method which will in the Minister's opinion reach the greatest number of residents of KwaZulu-Natal, invite applications for the position of Chief Executive Officer;
  - (b) The Minister and the Authority must short list and interview candidates for the position of Chief Executive Officer;
  - (c) The Authority must, with the approval of the Minister, appoint the Chief Executive Officer who shall be an ex officio member of the Authority without voting powers.
  - (d) The Chief Executive Officer must occupy the office for a period of five (5) years, or such lesser period as the Minister and the Authority may approve from the date of his appointment.
- (2) The Minister must appoint
- (a) a chairperson and a deputy chairperson of the Authority: provided that these persons shall not be in the employ of or be publicly elected members of national, provincial or local government;
  - (b) not less than none persons as members of the Authority: provided that when making the appointments, the Minister must secure a balance of interests between persons representing the following categories:
    - (i) organised local government: provided that these persons may not be elected representatives of local government and provided further that urban and rural local government must be equitably represented;
    - (ii) the Department;
    - (iii) organised constituencies within the tourism industry;and persons with the following:
    - (iv) legal skills, experience and qualifications;
    - (v) financial skills, experience and qualifications;
    - (vi) tourism marketing experience and/or qualifications;

- (vii) labour market experience and/or qualifications;
  - (viii) human resource or educational experience and/or qualifications;
  - (ix) community development skills and experience; and
  - (x) planning or development skills and experience.
- (c) such other persons as the Minister deems fit to appoint in order to redress imbalances in or provide expertise to the Authority;
- (3) In appointing members to the Authority, the Minister must ensure that:
- (a) at least seventy percent of the members of the Authority are employed in or by the tourism industry; and
  - (b) the total number of members appointed to the Authority does not exceed fifteen at any time.

#### **Disqualification of appointment to membership of the Authority**

6. No person shall be appointed as a member of the Authority or if so appointed, shall immediately cease to be a member if he or she-
- (a) is or becomes an unrehabilitated insolvent;
  - (b) is or has been declared by a competent court to be of unsound mind;
  - (c) anyone who, after section 106 (1) (e) of the Constitution took effect, is convicted of an offence and sentenced to more than 12 months' imprisonment without the option of a fine, either in the Republic, or outside the Republic if the conduct constituting the offence would have been an offence in the Republic, but no one may be regarded as having been sentenced until an appeal against the conviction or sentence has been determined, or until the time for an appeal has expired. A disqualification under this paragraph ends five years after the sentence has been completed.

#### **Appointments may be full-time or part-time**

7. (1) Appointments may be full-time or part time. An appointment contemplated in section 5 may, at the discretion of the Minister, be made on a full-time or part-time basis: Provided that:

- (a) where the chairperson or a member is appointed on a full-time basis, he or she shall not, without the prior written permission of the Minister, perform or engage himself or herself to perform any remunerative work outside the duties of his or her office.
- (b) where the chairperson or a member is appointed on a part-time basis, he or she may perform or engage himself or herself to perform remunerative work outside the duties of his or her office provided that such work does not interfere with, derogate from or result in a conflict of interest with his or her duties as the chairperson or a member.

(2) Status of members and recusal of members:

- (a) All members of the Authority shall be non-executive members;
- (b) The Chairperson and members of the Authority must disclose their interest in the Tourism Trade in KwaZulu-Natal and recuse themselves from matters where potential prejudice and/or conflict of interest is likely to arise.

### **Period of office**

- 8. (1) A member is appointed to the Authority for a period of three years or such lesser period as the Minister may determine.
- (2) Different periods of office may be determined for different appointments.
- (3) A member may be eligible for reappointment upon the expiry of his or her term of office.

### **Chairperson and Deputy Chairperson**

- 9. (1) The event of the office of chairperson being vacant or the chairperson is absent, incapacitated or refuses or fails to act as chairperson of the Authority, the deputy chairperson shall be empowered to exercise all of the powers, rights, functions and duties of the chairperson during the period of such vacancy, absence, incapacity, refusal or failure.
- (2) If -
  - (a) the offices of both chairperson and deputy chairperson are temporarily vacant as a result of the delay in filling the vacancy, or

- (b) both the chairperson and deputy chairperson are absent or incapacitated or refusing or failing to undertake their duties,

the members then present must appoint another member to act as chairperson during the period of the temporary vacancy, absence, incapacity, refusal or failure.

### **Filling of vacancies**

- 10. In the event of a vacancy in the office of chairperson or in the ranks of the members occurring for any reason, the Minister may, subject to the provisions of section 6, appoint a person or persons to fill such vacancy or vacancies for a period of office determined by the Minister when making such appointment.

### **Appointments to be made after consultation with the portfolio committee**

- 11. Any appointment to the Authority, including the filling of vacancies, must be made by the Minister after consultation with the portfolio committee.

### **Publication of appointments**

- 12. Whenever appointing the chairperson, deputy chairperson or a member of the Authority, the Minister must cause a notice to be published in the Gazette as soon as is practical after the appointment notifying the name of the appointee, the office held, the date of effect and period of appointment.

### **Resignation of appointment**

- 13. A chairperson, deputy chairperson or a member may at any time and upon giving not less than thirty days written notice to the Minister, resign his or her appointment.

### **Termination of appointment**

- 14. Notwithstanding the provisions of sections 6 and 13, the Minister may terminate a member's appointment to the Authority on one or more of the following grounds:-
  - (a) infirmity of mind or body which prevents him or her from the proper discharge of the duties of his or her office;

- (b) conduct which, in the opinion of the Minister, brings the activities of the Authority into disrepute;
- (c) failure, refusal or neglect to carry out the duties and functions of a member to the best of his or her ability;
- (d) failure to disclose actual or potential conflicts of interests as required in section 20;
- (e) The Minister must, upon termination of appointments as contemplated in this section, advise the Portfolio Committee of the termination.

### **Temporary suspension of a chairperson or member**

- 15. The Minister may suspend a member of the Authority whilst the Minister is investigating allegations which, if found to be correct or substantially correct, could result in the member's appointment being terminated in terms of section 14.

### **Remuneration and conditions of appointment**

- 16. The Minister must, in consultation with the Minister of Finance, from time to time determine the remuneration, if any, and conditions of appointment of members of the Authority.

### **Meetings of the Authority**

- 17. (1) The meetings of the Authority shall be held on such dates and at such times and places as may from time to time be determined by resolution of the Authority: Provided that the first meeting of the Authority shall be held at such time and place as the chairperson may determine: Provided further that the Authority shall meet at least three times in every calendar year;
- (2) The quorum for a meeting of the Authority shall be a simple majority of the total number of members appointed at that time.
- (3) A decision of the majority of the members present at a meeting of the Authority shall be a decision of the Authority, and in the event of an equality of votes the chairperson shall have a casting vote in addition to a deliberative vote.

- (4) The Authority may, in its discretion, allow members of the public to attend any meeting of the Authority.

### **Establishment of committees**

18. (1) The Authority may from time to time establish committees from within the ranks of the members to which specific matters or classes of matters may be referred for investigation and report to the Authority.
- (2) When establishing a committee contemplated above, the Authority shall-
  - (a) determine the terms of reference of such committee including but not limited to whether or not such committee shall cease to exist once it has completed the task or tasks allocated to it by the Authority;
  - (b) appoint a chairperson of such committee who shall be a member of the Authority;
  - (c) determine whether or not that committee may co-opt persons who are not members of the Authority, and if so, on what terms and conditions.
- (3) The Authority may at any time terminate the existence of any mandate given to a committee, irrespective of whether or not it has completed the task or tasks allocated to such committee by the Authority.

### **Minutes of proceedings**

19. (1) The Authority shall cause minutes to be compiled of the proceedings of every meeting of the Authority and of any committee established by the Authority and cause copies of such minutes to be circulated to all the members.
- (2) The minutes prepared in terms of the above paragraph when signed at a subsequent meeting of the Authority by the chairperson, shall in the absence of proof of error therein be deemed to be a true and correct record of the proceedings which they purport to minute and shall, at any proceedings in terms of this Act or before a court of law, tribunal or commission of inquiry, constitute prima facie evidence of the proceedings of the Authority and the matters they purport to minute.

### **Disclosure of conflicting interests**

20. (1) Subject to the provisions of subsection (2), where, in relation to a matter being investigated, considered or voted upon by the Authority, a member has any interest which precludes or could preclude that member from performing his or her functions in a fair, unbiased and proper manner, he or she must not participate in the investigation, consideration or vote and must recuse himself or herself from the investigation, consideration or vote.
- (2) (a) If at any stage during the course of any proceedings before the Authority it appears that a member who is present at that meeting has or may have an interest contemplated in subsection the above paragraph, such a member shall forthwith disclose the nature of his or her interest and leave the meeting so as to enable the remaining members to discuss the matter and determine whether such member must comply with subsection the above paragraph.
- (b) Any disclosure and determination contemplated in the above paragraphs shall be recorded in the minutes of the meeting in question.

## **Reports**

21. (1) The Authority must, not later than 31 Julyne of each year, submit a report to the Minister on the activities of the Authority for the twelve month period ending on the preceding 31 March, which report must be tabled in Parliament by the Minister not later than 31 August of each year.
- (2) The annual report must:
- (a) fairly present the state of affairs of the Authority, its business, its financial results, its performance against predetermined objectives and its financial position as at the end of the financial year concerned;
  - (b) include the report of auditors on those statements;
  - (c) include the Annual Financial Statement contemplated in section 24; and
  - (d) include such other information as the Minister may in writing require or prescribe.

## **Administrative support to the Authority**

22. The Minister and department may upon the request of the Authority provide professional, technical or administrative support to the Authority

## **Funds of the Authority**

23. The activities of the Authority shall be funded by means of-
- (a) funds voted for that purpose by Parliament, or
  - (b) funds raised by the Authority from sources other than funds controlled by Parliament, or
  - (c) any other source approved by the Minister in consultation with the Minister of Finance, or
  - (d) any combination of the sources of funding contemplated in paragraphs (a), (b) or (c).

## **Annual financial statements**

24. (1) The books of account and other financial records of the Authority must be audited annually by the Auditor-General or by a firm of auditors approved of by the Auditor-General.
- (2) When submitting the annual report contemplated in section 21, the Authority must also submit the audited Annual Financial Statement in subsection (1), for the relevant financial year; and
- (3) The financial year of the Authority commences on 1 April of a particular year and ends on 31 March of the next year.
- (4) The annual financial statement must comply with any applicable national and provincial legislative requirements for financial reporting and accounting practices, including the Public Finance Management Act, 1999 (Act No. 29 of 1999).

## **Relationship between the Authority and Municipalities**

25. (1) The Authority must establish a forum with municipalities in the Province to facilitate cooperation between the Authority and municipalities.
- (2) The aim of the forum is to achieve the objectives of the Authority and to promote efficiency by eliminating duplication of tourism functions and activities in the Province.



- (3) The forum may establish sub-committees to deal with areas of joint implementation and the sub-committees must report to the authority and the Provincial Tourism Committee established in section 34.
- (4) The forum must meet at least four times a year.

### **Relationship between the Authority, government departments, public entities and the Provincial Tourism Committee**

26. (1) The Authority may establish formal cooperation agreements with other departments and public entities whose activities have an impact upon the development, promotion and marketing of tourism within KwaZulu-Natal.
- (2) The Authority and Provincial Tourism Committee must ensure that they cooperate with each other for the benefit of the promotion of tourism in KwaZulu-Natal.

### **Development of a Provincial Tourism Action Plan**

26. (1) The Authority must develop an annual tourism promotion, marketing and development action plan for the Province after consultation with the Minister, Provincial Tourism Committee and other tourism stakeholders;
- (2) The plan contemplated in subsection (1) must be tabled annually before parliament at a period determined by the Minister.
- (3) The action plan must be finalized at least two calendar weeks prior to the beginning of any new financial year;
- (4) The action plan must provide clear indications of goals and objectives for the planning period, intended programmes and strategies and opportunities for and parameters of municipal and private sector participation.
- (5) The action plan must include an outline of responsibilities, time frames, financial requirements, targets and monitoring mechanisms within the Province.

## **CHAPTER 2: MINISTER OF ECONOMIC DEVELOPMENT AND TOURISM**

### **Provincial Tourism Policy**

28. (1) The Minister must develop provincial tourism policy after consultation with the Authority and the Provincial Tourism Committee and in accordance with provincial constitutional powers and within the framework of national tourism policy or legislation.
- (2) Members of the Executive Council of the Province, whose portfolios affect provincial tourism policy, must, for the purpose of ensuring the integration of provincial tourism policy and legislation, obtain and consider the Minister's comments in the development of their policies and legislation.

### **Provincial Tourism Policy Directives**

29. (1) The Minister may, subject to subsection (2), by notice in the Gazette, issue Ministerial policy directives to codify and implement provincial tourism policy.
- (2) Prior to publication of the notice referred to in subsection (1), the Minister must table the proposed directives with the Authority and with the Provincial Tourism Committee.
- (3) If the Authority or the Provincial Tourism Committee object to the policy directives, the Minister must respond to those objections in writing.

### **Functions of Provincial Tourism**

30. The functions of Provincial Tourism must be specified in provincial tourism policy including but not limited to the following core areas –
- (a) international tourism marketing for the Province;
  - (b) national tourism marketing for the Province;
  - (c) planning, development and promotion of tourism products for the Province;
  - (d) implementation of national and provincial tourism policies;
  - (e) integrated marketing and development of the tourism industry in the Province;

- (f) enhancing quality control in the provincial tourism industry by establishing and regulating norms and standards for tourism operators and tourism establishments, including but not limited to the registration, classification, accreditation, grading, licensing and levying of the provincial tourism industry; and
- (g) any other functions identified in national legislation of provincial policies.

### **Formulation of Provincial and Municipal Tourism Policies**

- 31. The Provincial Tourism Committee established in terms of section 34 must, after consultation with the Authority, develop a municipal tourism policy for the Province.

### **Ministerial Regulatory Power**

- 32. The Minister may, after consultation with the Portfolio Committee, and by notice in the Gazette, make regulations on matters relating to –
  - (a) invitation for nominations for appointments to the KwaZulu-Natal Tourism Authority;
  - (b) terms and conditions of appointment of members of the Authority;
  - (c) fees and allowances payable to the chairperson, deputy chairperson and members of the Authority;
  - (d) terms and conditions of use of agents, contractors and consultants by the Authority;
  - (e) powers, duties and functions of public servants seconded to the Authority;
  - (f) the payment to the Authority of fees and charges arising directly or indirectly from any of the services provided or recognitions granted by the Authority;
  - (g) processes and methods to evaluate the performance of the Authority;
  - (h) any matter necessary for or incidental to the powers, duties or functions of the Authority;

- (i) schemes relating to registration, classification, accreditation, grading, licensing and levying of tourism operators, tourism establishments and other tourism stakeholders in the province, including sanctions for non-compliance;
- (j) identification of standards and quality control processes for tourism operators, tourism establishments and the general tourism industry in the Province;
- (k) after consultation with the Provincial Tourism Committee and the Authority, the establishment of metropolitan, local and district tourism structures to secure implementation of municipal tourism policy within the framework of national and provincial tourism policies and legislation'
- (l) after consultation with the Provincial Tourism Committee and the Authority, any municipal planning and reporting requirements to ensure that municipal tourism policies are developed and implemented within the framework of national and provincial tourism policies and legislation;
- (m) policy frameworks for the allocation and adjustment of municipal tourism functions between local and district municipalities;
- (n) cooperation agreements with other governmental departments of public entities;
- (o) measures to facilitate public access to information on provincial tourism policies, tourism operators and establishments and other tourism initiatives in the province;
- (p) any duty, function or process stipulated in national tourism legislation for implementation at provincial level;
- (q) meetings and manner of operation of the Provincial Tourism Committee established in section 34;
- (r) any other matter necessary for or ancillary to the development, integration and implementation of national and provincial tourism policies in the province or the objectives of the Act; and
- (s) any other matter which is necessary to implement the provisions of this Act.

## **CHAPTER 3: MUNICIPALITIES**

### **Establishment of the KwaZulu-Natal Tourism Authority**

33. Municipalities are responsible for developing and implementing municipal tourism policies in their jurisdictions within the framework of the Constitution, Municipal Structures Act, 1998, (Act No. 117 of 1998) and national and provincial tourism policies and legislation.

### **Establishment of a Provincial Tourism Committee**

34. The Minister may, by notice in the Gazette, establish a Provincial Tourism Committee comprising municipal representatives of metropolitan, local and district municipalities in the province.

### **Composition of the Provincial Tourism Committee**

35. (1) The Provincial Tourism Committee comprises –
- (a) one elected public representative from each metropolitan and district municipality in the Province to be selected from the Economic Development and Planning Committee of equivalent municipal of councilors responsible for tourism within each metropolitan or district municipal area;
  - (b) municipal managers of each district and metropolitan municipality in the Province;
  - (c) Chief Executive Officer of the Authority;
  - (d) Chairperson or deputy-chairperson of the Authority; and
  - (e) The Head of the Department.
- (2) The Minister may, after consultation with the Provincial Tourism Committee, invite interested parties to attend the meeting of the Provincial Tourism Committee on an ad hoc basis.

### **Objectives and Responsibilities of the Provincial Tourism Committee**

36. The Objectives and responsibilities of the Provincial Tourism Committee are to:

- (a) coordinate the formulation of provincial tourism policy with municipalities;
- (b) assist municipalities to develop municipal tourism policies within the framework of national and provincial tourism policies and legislation;
- (c) formulate methods and processes to evaluate the implementation of provincial tourism policy at a municipal level; and
- (d) any other function or activity assigned in this Act.

### **Meetings of the Provincial Tourism Committee**

37. The Minister must convene meetings of the Provincial Tourism Committee no less than four times a year.

### **Functions of Municipal Tourism**

38. (1) A municipality within the Province is responsible for local tourism within its areas of jurisdiction.
- (2) Municipal tourism functions include, but are not limited to, the following core areas-
- (a) monitoring local tourism operators and establishments for compliance with provincial policies and legislation;
  - (b) promotion, marketing and development of local tourism within the metropolitan or district municipal area;
  - (c) alignment of local tourism marketing initiatives with provincial tourism marketing strategies;
  - (d) facilitation of the participation of local communities in the tourism industry;
  - (e) securing equitable distribution of local tourism resources within the area of the metropolitan, local or district municipality;
  - (f) adopting measures and programmes to transform the local tourism industry, including granting preferences to women and small, medium and micro-enterprises;

- (g) implementing provincial tourism policy in conjunction with the Authority;  
and
  - (h) any other functions specified in national or provincial policies or  
legislation.
- (3) Municipalities within the Province must ensure that local tourism policies are developed and implemented within the frameworks of and are consistent with national and provincial tourism policies and legislation.
- (4) Municipalities may not develop or implement local tourism policies in a manner that is prejudicial to the interests of another municipality in the Province or to the Province.
- (5) Municipalities must comply with planning and reporting requirements specified in national and provincial tourism legislation or policies.

## **CHAPTER 4: TOURISM OPERATORS, TOURISM ESTABLISHMENTS AND OTHER TOURISM STAKEHOLDERS**

### **Duties of Tourism Operators, Establishments and Other Stakeholders**

39. (1) Every public or private sector tourism operator, tourism establishment or other stakeholder in the tourism industry in the Province must comply with-
- (a) national and provincial legislation and policies regulating conditions for and standards of their operations;
  - (b) provincial tourism policy; and
  - (c) provincial tourism policy directives issued by the Minister in terms of this Act, provided that such directives may not infringe on the rights of private sector tourism operators and establishments to engage in economic activity as envisaged in the Constitution.
- (2) Public or private sector tourism operators, tourism establishments and any other tourism stakeholder in the Province may not conduct its activities in a manner prejudicial to the tourism industry in the Province.

### **Short Title and Commencement**

40. (1) This Act is the KwaZulu-Natal Tourism Authority Amendment Act, 2002, and comes into operation on a date determined by the Minister in the Gazette.
- (2) The Minister may set different dates for the commencement of different sections of this Act.