

REPUBLIEK VAN SUID-AFRIKA

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**WETSONTWERP OP DIE  
GESAMENTLIKE  
UITVOERENDE OWERHEID  
VIR KWAZULU EN NATAL**

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*(Soos ingedien)*

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(MINISTER VAN STAATKUNDIGE ONTWIKKELING EN BEPLANNING)

[W 98—86 (AS)]

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REPUBLIC OF SOUTH AFRICA

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**JOINT EXECUTIVE  
AUTHORITY FOR KWAZULU  
AND NATAL BILL**

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*(As introduced)*

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(MINISTER OF CONSTITUTIONAL DEVELOPMENT AND PLANNING)

[B 98—86 (GA)]

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# BILL

To provide for the joint and co-ordinated exercise of powers and performance of functions by the Government of KwaZulu and the provincial executive authority of the province of Natal, for the establishment for this purpose of a joint executive authority and for incidental matters.

**BE IT ENACTED** by the State President and the Parliament of the Republic of South Africa, as follows:—

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

Definitions.

- 5 (i) "Administrator" means the person appointed under section 7 (1) (a) of the Provincial Government Act, 1986, as the Administrator of the province of Natal, acting in consultation with the other members of the Executive Committee of that province, of which he is a member; (i)
- 10 (ii) "Chief Minister" means the Chief Minister of KwaZulu acting in consultation with the other Ministers in the Cabinet of KwaZulu; (iv)
- (iii) "joint authority" means the joint executive authority contemplated in section 5; (iii)
- 15 (iv) "joint revenue fund" means the revenue fund contemplated in section 9 (1); (ii)
- (v) "provincial government of Natal" means the provincial executive authority of the province of Natal. (v)

2. (1) The State President may, on the written recommendation of the Administrator and the Chief Minister, request the Minister of Constitutional Development and Planning to draw up, in consultation with the Administrator and the Chief Minister, and to submit to him, proposals, in the form of a set of rules complying with the provisions of this Act, providing for the joint and co-ordinated exercise of powers and performance of functions by the provincial government of Natal and the Government of KwaZulu in the area comprising the province of Natal and that part of KwaZulu falling outside that province, or in such portion of that area as may be determined by the State President.

Drawing up of proposals for joint executive action.

(2) The State President may—

- (a) approve any proposals submitted to him in pursuance of a request under subsection (1);
- (b) reject any such proposals; or
- 35 (c) refer any such proposals back to the Minister of Constitutional Development and Planning and request that Minister in consultation with the Administrator and the Chief Minister to modify the proposals in accordance

with the requirements of the State President and to submit to him a modified version of such proposals.

(3) The provisions of subsection (2) shall *mutatis mutandis* apply in respect of modified proposals submitted to him in pursuance of a request under paragraph (c) of that subsection.

(4) If the State President approves the said proposals or modified proposals he shall forthwith publish the provisions contained in the proposals or modified proposals by proclamation in the *Gazette* and declare them to be binding as from a date specified in the proclamation.

3. (1) The Minister of Constitutional Development and Planning may at the written request of and in consultation with the Administrator and the Chief Minister draw up and submit to the State President a proposed amendment to a proclamation published under section 2 (4).

Amendment of proclamation.

(2) The provisions of section 2 (2), (3) and (4) shall *mutatis mutandis* apply in respect of a proposed amendment of such a proclamation.

4. (1) The State President shall, at the written request of either the Administrator or the Chief Minister or both, by proclamation in the *Gazette* and with effect from a date specified in the proclamation repeal any proclamation issued under section 2 (4).

Repeal of proclamation.

(2) A proclamation contemplated in subsection (1) may provide for the disposal of any moneys in the joint revenue fund and any assets under the control of the joint authority.

5. (1) A proclamation referred to in section 2 (4) shall provide for the establishment, under a name set out in the proclamation, of a joint executive authority to administer the provisions of the proclamation subject to this Act.

Establishment of joint executive authority.

(2) The joint authority shall consist of such number of members representing the Government of KwaZulu and the provincial government of Natal as may be determined in such proclamation, and shall be constituted in such a way that the Government of KwaZulu and the provincial government of Natal have equal representation.

(3) Such proclamation shall contain provisions relating to—

- (a) the manner in which, and the institution or authority by which, representatives of the Government of KwaZulu and representatives of the provincial government of Natal shall be designated and be appointed as members of the joint authority;
- (b) the qualifications with which persons shall be required to comply to be eligible for appointment as members of the joint authority;
- (c) the period of office of the members of the joint authority;
- (d) the reappointment of persons whose period of office as members of the joint authority has expired;
- (e) the circumstances under which a member of the joint authority shall vacate his office as a member and the filling of casual vacancies in the joint authority;
- (f) the appointment or election of a chairman, a vice-chairman and an acting chairman of the joint authority;
- (g) the manner in which, and the person by whom, meetings of the joint authority shall be convened;
- (h) the quorum for such meetings;
- (i) the manner in which resolutions shall be adopted by the joint authority;
- (j) the manner in which disputes in the joint authority between the representatives of the Government of KwaZulu and the representatives of the provincial government of Natal shall be settled, the person or persons by whom such disputes shall be settled and the circum-

stances in which decisions by such person or persons may be deemed to be decisions of the joint authority; and

5 (4) the place where the seat of the joint authority shall be located.

(4) Such proclamation may authorize the joint authority—

10 (a) to appoint from among its members one or more committees and to delegate, subject to such conditions as the joint authority may determine or as may be specified in the proclamation, any of its powers to any such committee;

(b) to appoint one or more advisory committees to advise it regarding the performance by it of any of its functions; and

15 (c) to make rules and orders, not inconsistent with the provisions of the proclamation, in connection with the order and conduct of its meetings, of meetings of its committees and of its other internal affairs.

(5) Such proclamation may provide for—

20 (a) the allocation or making available to the joint authority of offices and other accommodation and equipment, stores, facilities and other requisites by the Natal Provincial Administration or the KwaZulu Government Service; and

25 (b) the payment of remuneration and allowances out of the joint revenue fund to the chairman, vice-chairman, acting chairman and members of the joint authority or of any committee thereof.

6. (1) A joint authority shall be competent—

30 (a) to exercise any power or to perform any duty or other function which is assigned to it under section 7 or which it is under that section authorized to exercise or to perform;

35 (b) to make recommendations to the Administrator or the Chief Minister;

(c) to act in a co-ordinating capacity between the Natal Provincial Administration and the KwaZulu Government Service in connection with any matter in which the said Administration or Government Service has an interest;

40 (d) to act as the agent or mandatory of the KwaZulu Government or the Administrator;

45 (e) to collaborate with any person or body (including the Natal Provincial Administration and the KwaZulu Government Service) in the performance of an act which the joint authority is competent to perform; or

(f) to perform any other function or to render any other service determined in the proclamation referred to in section 2 (4).

50 (2) When the joint authority performs any function which requires a notice to be published in the *Official Gazette* of the province of Natal or in the *Official Gazette* of KwaZulu, such notice shall, notwithstanding the provisions of any law to the contrary, be published in both those official gazettes.

55 7. (1) The State President may, subject to subsection (2)—

(a) assign the administration of any law, or any provision in a law, which entrusts to the Administrator or to a Minister of KwaZulu any power, duty or other function, to the joint authority; or

60 (b) authorize the joint authority to exercise any power or to perform any duty or other function entrusted by any law, or any provision in a law, to the Administrator or a Minister of KwaZulu,

65 either generally or for a particular purpose or with respect to a particular matter or area specified in the assignment or authorization.

Functions of joint authority.

Transfer of powers, duties and functions to joint authority.

(2) The State President shall not issue any assignment or authorization under subsection (1) except at the written request, lodged with the Minister of Constitutional Development and Planning, of—

- 5 (a) the Administrator, in the case of a law or provision entrusting to the Administrator any power, duty or other function; or  
 (b) the Chief Minister, in the case of a law or provision entrusting to a Minister of KwaZulu any power, duty or  
 10 other function.

(3) When issuing any assignment or authorization under subsection (1) the State President may regulate any matter necessary, in his opinion, to enable the joint authority to do what it is by virtue of the assignment or authorization permitted or re-  
 15 quired to do, including—

- (a) the allocation or making available to the joint authority of any equipment, facilities and other requisites used and funds appropriated; and  
 20 (b) the transfer to the joint authority as a charge against the joint revenue fund of any liabilities which arose before the date of such assignment or authorization, in connection with the administration of the law or provision which is the subject of such assignment or authorization.

(4) (a) Whenever, and for as long as, the administration of any law or any provision which confers a power or imposes a duty upon or entrusts another function to the Administrator or to a Minister of KwaZulu has under subsection (1) (a) been assigned by the State President to the joint authority, that power may be exercised by the joint authority and that duty shall and that function  
 25 may be performed by it, and—

- (i) any reference in that law or provision to the Natal Provincial Administration, or to a department of the KwaZulu Government Service, in which that law or provision was administered, shall be construed as a reference to the administration of the joint authority;  
 35 (ii) any reference in that law or provision to an officer or employee in the public service attached to the Natal Provincial Administration or to an officer or employee in a department of the KwaZulu Government Service, or to any such officer or employee holding a specified office in that Administration or in a department of the KwaZulu Government Service, shall be construed as a reference to an officer or employee in the administration of the joint authority or, as the case may be, as a reference to an officer or employee holding a corresponding office in that administration; and  
 40 (iii) any action taken under that law or provision prior to the date on which the administration thereof was so assigned, shall remain in full force and effect as if it had been taken by the person who on that date was, by virtue of the assignment of the administration of that law or provision or the provisions of this subsection, competent to take such  
 45 action.

(b) The provisions of paragraph (a) shall apply in so far as the State President does not determine otherwise in the assignment concerned and, if the administration of a law or provision has not been assigned to the joint authority generally, but for a particular purpose or in relation to any particular matter or area specified in the assignment, the provisions of that paragraph shall apply  
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only to the extent to which the administration of the law or provision was assigned.

(5) Whenever the joint authority is authorized under subsection (1) (b) to exercise any power or to perform any duty or other function entrusted by any law or provision to the Administrator or to a Minister of KwaZulu, the Administrator or such Minister shall not be divested of or exempted from such power, duty or function, and he may exercise such power or shall perform such duty or may perform such function in such circumstances as may be specified in the authorization.

(6) (a) The State President may at any time on the written request of the Administrator or the Chief Minister withdraw an assignment or authorization issued under subsection (1): Provided that if an assignment under subsection (1) (a) of the administration of a law or provision to the joint authority is withdrawn, the administration of such law or provision shall revert to the authority in which it vested before the assignment.

(b) When withdrawing any assignment or authorization under paragraph (a) the State President may regulate any matter which, in his opinion, is necessary to enable the Administrator or the Minister concerned to readminister the law or provision which was the subject of such assignment or authorization.

(c) The withdrawal of an assignment or authorization under paragraph (a) shall not invalidate anything validly done by virtue of such assignment or authorization.

(7) Any assignment or authorization under subsection (1) and any withdrawal of an assignment or authorization under subsection (6) shall be published in the *Gazette*.

8. (1) The work incidental to the carrying out of the functions of the joint authority shall be performed by—

(a) officers or employees in the public service placed at the disposal of the joint authority under section 14 (3) of the Public Service Act, 1984 (Act No. 111 of 1984);

(b) officers or employees in the KwaZulu Government Service placed at the disposal of the joint authority under a corresponding provision of a law of KwaZulu;

(c) the Natal Provincial Administration or the KwaZulu Government Service in accordance with any arrangement between the joint authority and that Administration or Government Service for the performance of any particular work;

(d) employees of any statutory body placed at the disposal of the joint authority in accordance with any arrangement between the joint authority and such statutory body; and

(e) persons with whom the joint authority has entered into contracts (excluding contracts of employment) for the performance of any particular work.

(2) An officer or employee referred to in paragraph (a) or (b) of subsection (1) shall, while he is placed at the disposal of the joint authority, remain subject to the laws applicable to him as a member of the public service or the said Government Service, as the case may be.

(3) (a) The joint authority shall designate one of the officers or employees referred to in subsection (1) (a) or (b) as its chief executive officer.

(b) The chief executive officer shall, subject to the control and directions of the joint authority, be responsible for the execution of the joint authority's resolutions and the administration of the joint authority's affairs.

(6) The joint authority may delegate any of its powers to its chief executive officer or any other officer or employee referred

Performance of work incidental to functions of joint authority

to in subsection (1) (a), (b) or (d), but such a delegation shall not prevent the exercise of the relevant power by the joint authority itself.

9. (1) A proclamation referred to in section 2 (4) shall provide for the establishment of a joint revenue fund for the joint authority, into which shall be paid —

- (a) any contribution which, subject to section 81 (2) of the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983), is made from the State Revenue Fund to the joint authority as a charge to the Account for Provincial Services: Natal;
- (b) any contribution which, subject to section 8 of the National States Constitution Act, 1971 (Act No. 21 of 1971), is made from the Revenue Fund for KwaZulu to the joint authority;
- (c) any funds allocated to the joint authority under section 7 (3);
- (d) interest earned on any investments in terms of subsection (4); and
- (e) any other moneys accruing to the joint authority in consequence of the performance of its functions or which may be mentioned in such proclamation,

and from which shall be defrayed all expenditure incurred by the joint authority in the exercise of its powers or the performance of its duties or other functions.

(2) The joint authority—

- (a) shall in each financial year draw up, in the format and in the manner prescribed in such proclamation, and submit to the Administrator and the Chief Minister, a statement of its estimated revenue and expenditure in respect of the next succeeding financial year; and
- (b) may from time to time, either before the commencement of or during a financial year, amend the statement of its estimated revenue and expenditure for that financial year drawn up in terms of paragraph (a), and shall submit such amended statement to the Administrator and the Chief Minister.

(3) No moneys shall be withdrawn from the joint revenue fund save under the authority of a resolution of the joint authority and in accordance with a budget of expenditure approved by Parliament and the KwaZulu Legislative Assembly: Provided that this subsection shall not prevent the joint authority from applying funds referred to in subsection (1) (c) for the purpose for which such funds were appropriated before the allocation thereof to the joint authority.

(4) Moneys in the joint revenue fund which are not required for immediate use or as a reasonable working balance, shall be invested in accordance with the Public Investment Commissioners Act, 1984 (Act No. 45 of 1984), and the Corporation for Public Deposits Act, 1984 (Act No. 46 of 1984), as if those Acts were applicable to the moneys in the joint revenue fund.

(5) Any balance in the joint revenue fund at the end of any financial year shall be carried forward to the ensuing financial year.

10. (1) The chief executive officer of the joint authority, or any person acting in that capacity, shall be the accounting officer with respect to the joint revenue fund, and shall as such be charged with the responsibility of accounting for all the moneys paid into the joint revenue fund and for all the moneys paid out of the fund.

(2) The accounting officer shall keep in one of the official languages of the Republic such accounting records and other records as are necessary to reflect the transactions in respect of, and the financial state of affairs in, the joint revenue fund.

(3) The provisions of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975), and the regulations and instructions issued thereunder shall apply *mutatis mutandis* in respect of the joint

revenue fund save to the extent to which they are inconsistent with a provision of this Act or a proclamation under section 2 (4) or are excluded by the said proclamation.

11. (1) The accounting records referred to in section 10 shall be audited by the Auditor-General. Auditing.

(2) Notwithstanding anything to the contrary in any law contained, the Auditor-General shall report on his audit to—

- (a) the joint authority;
- 10 (b) the Chief Minister, who shall cause the report to be tabled in the KwaZulu Legislative Assembly within 21 days after receipt thereof if the Assembly is then in ordinary session or, if the Assembly is not then in ordinary session, within 21 days after the commencement of its next ensuing ordinary session; and
- 15 (c) to the Administrator, who shall within seven days transmit the report to the Minister of Constitutional Development and Planning, who shall table it in Parliament within 14 days after receipt thereof if Parliament is then in ordinary session or, if Parliament is not then in ordinary session, within 14 days after the commencement of its next ensuing ordinary session.
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12. The State Liability Act, 1957 (Act No. 20 of 1957), shall *mutatis mutandis* apply in respect of the joint authority, and in such application any reference in that Act to— Legal proceedings against joint authority.

- 25 (a) a Minister of a department shall be construed as a reference to the chairman of the joint authority; and
- (b) the Consolidated Revenue Fund shall be construed as a reference to the joint revenue fund.

13. (1) No member of the joint authority or person referred to in section 8 shall disclose confidential information obtained by him in carrying out his functions, except— Preservation of secrecy.

- (a) to the extent to which it may be necessary for the proper administration of a provision of this Act, the proclamation referred to in section 2 (4) or a law or provision referred to in section 7; or
- 35 (b) with the consent of the joint authority.
- (2) Any person who contravenes a provision of subsection (1) shall be guilty of an offence and on conviction be liable to a fine not exceeding R2 000 or to imprisonment for a period not exceeding 12 months or to both that fine and that imprisonment.
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14. (1) No provision of this Act shall be construed as authorizing the assignment to the joint authority of any power, duty or function— Application of Act

- 45 (a) relating to a matter referred to in section 14 of the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983); or
- (b) permitting the issuing of proclamations, regulations, rules or other legislative acts.

(2) This Act shall apply notwithstanding the National States Constitution Act, 1971 (Act No. 21 of 1971).

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15. This Act shall be called the Joint Executive Authority for KwaZulu and Natal Act, 1986. Short title.