

## REGULATIONS

### GNR.1236 of 2 October 1998: Financial Regulations

DEPARTMENT OF LAND AFFAIRS

as amended by

Notice  
R.908

Government Gazette  
28012

Date  
16 September 2005

#### GENERAL NOTE

In terms of GNR.908 of 2005, the words "Accounting Officer", wherever it occurs, are substituted by the word "official"; and, the word "Board, wherever it occurs, but excluding the definition of "accounting authority" in regulation 1, is substituted by the words "accounting authority".

Under section 2A (7) of the KwaZulu-Natal Ingonyama Trust Act, 1994 (Act No. 3 of 1994), I, Derek André Hanekom, Minister of Land Affairs, hereby make the regulations set out in the Schedule.

#### SCHEDULE

KWAZULU-NATAL INGONYAMA TRUST ACT, 1994 (ACT NO. 3 of 1994): FINANCIAL REGULATIONS

##### ARRANGEMENT OF REGULATIONS

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**1. Definitions.**—In these Regulations, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Act, bears that meaning and—

"accounting authority" means the Board; and

[Definition of "accounting authority", previously "Accounting Officer" inserted by GNR.908 of 2005.]

**"Auditor General"** means the person referred in [section 1](#) of the Auditor-General Act, 1995 (Act [No 12 of 1995](#));

**"Act"** means the KwaZulu-Natal Ingonyama Trust Act, 1994 (Act [No. 3 of 1994](#));

**"bank account"** means an account opened at a bank which is registered as such in terms of the Banks Act, 1990 (Act [No. 94 of 1990](#));

**"Board"** means the KwaZulu-Natal Ingonyama Trust Board established in terms of section 2A of the Act;

**"Chairperson"** means the Ingonyama or his or her nominee;

**"Department"** means the Department of Land Affairs in the national government;

**"Director-General"** means the Director-General of the Department;

**"estimates"** shall also mean budget;

**"official"** means the person to whom any powers have been entrusted or delegated or who has been instructed to perform any duties, in terms of [section 56 \(1\)](#) of the Public Finance Management Act, 1999 (Act [No. 1 of 1999](#));

[Definition of ["official"](#) inserted by GNR.908 of 2005.]

**"Secretariat"** means the Secretariat established in terms of [Regulation 5](#) of the Ingonyama Trust Administrative Regulations, 1998; and

**"Trust"** means the corporate body established in terms of section 2 of the Act.

**2. Application of Regulations.**—These regulations shall apply to the financial administration of all income earned or accrued to the Trust and are subject to the provisions of the Public Finance Management Act, 1999 (Act [No. 1 of 1999](#)).

[[R. 2](#) substituted by GNR.908 of 2005.]

**3. Accounting authority.**—(1) . . . . .

[[Sub-r. \(1\)](#) deleted by GNR.908 of 2005.]

(2) The official is responsible for—

[Words preceding [para. \(a\)](#) substituted by GNR.908 of 2005.]

- (a) ensuring efficient effective and transparent financial management and expenditure control of the Trust;
- (b) ensuring that the resources of the Trust are used economically and in the most efficient and effective way;
- (c) taking effective and appropriate steps to ensure that the Trust does not incur expenditure that is not in accordance with its approved budget;
- (d) implementing an effective and efficient internal system of financial control that safeguards all the assets of the Trust and assets under the control of the Trust, promoting operational efficiency, and ensuring compliance with legislation;
- (e) ensuring that the Trust complies with the provisions of the Act; and
- ( f ) carrying out the instructions of the accounting authority.

(3) The official shall submit to the accounting authority all information, explanations and documentation that the accounting authority requires.

[Heading substituted by GNR.908 of 2005.]

**4. Accounting records.**—(1) The Account Officer shall keep, in conformity with generally accepted accounting practice appropriate to the business of the Trust, accounting records which fairly present in the state of affairs of the Trust as at the end of the financial year concerned and the results of its operations for that year, including—

- (a) records showing its assets and liabilities;
- (b) a register of fixed assets showing in respect thereof the respective dates of any acquisition and the cost thereof depreciation (if any), and where assets have been re-valued, the date of the revaluation and the re-valued amount thereof, the respective dates of any disposals and the consideration received in respect thereof;
- (c) records containing entries from day-to-day of all cash received and paid out, in sufficient detail to enable the nature of the transactions and, except in the case of cash sales, the names of the parties to the transaction to be identified;
- (d) records of all purchases and sales on credit, including services, in sufficient detail to enable the nature of the purchase and sale and the parties to the transactions to be identified; and
- (e) vouchers supporting entries in accounting records.

(2) The accounting records referred to in [sub regulation \(1\)](#) shall be kept in such a manner as to provide adequate precautions against falsification and to facilitate the discovery of any falsification.

(3) The accounting records shall be kept at the place of business or registered office of the Trust, and shall, wherever kept, be open at all reasonable times for inspection by any trustee, the Auditor-General and the Director-General or his or her nominee.

**5. Financial year of Trust.**—(1) The financial year of the Trust shall end on 31 March of each year.

(2) The duration of each financial year of the Trust shall be 12 months ending on the date referred to in [sub regulation \(1\)](#).

**6. Annual financial statements.**—(1) The official shall within a period set by the accounting authority, cause annual financial statements in respect of the financial year to be prepared.

(2) The annual financial statements of the Trust shall—

- (a) consist of—
  - (i) a balance sheet and any notes thereon;
  - (ii) an income statement and any notes thereon;
  - (iii) report of the trustees; and
  - (iv) report of the auditor;
- (b)

in conformity with generally accepted accounting practice, appropriate to the business of the Trust, fairly present the state of affairs of the Trust as at the end of the financial year concerned and the results of its operations for that year; and

- (c) be approved by the accounting authority and signed by the Chairperson on behalf of the accounting authority of the Trust.

**7. Estimates and budgets.**—(1) The official shall, in consultation with the accounting authority, prepare—

- (a) revised capital and operating estimates for the current financial year;
- (b) draft capital and operating estimates for the ensuing financial year; and
- (c) a draft capital programme for the following two or more financial years.

(2) The budget shall be prepared in a format similar to the Medium Term Expenditure Framework inputs of the Department and be completed on a date as determined by the Director-General.

(3) The official shall summarise the draft capital and operating estimates and capital programme and shall thereafter submit such summaries with his comments, including his proposals for the funding thereof to the accounting authority for approval.

(4) The draft operating estimates submitted to the accounting authority for approval shall not reflect a deficit. Where the aggregate operating income is less than the aggregate operating expenditure, the estimates must contain proposals to meet such deficit.

(5) The accounting authority shall, prior to the start of the financial year, approve the estimates.

(6) The approved estimates may be amended by the accounting authority during the year, provided that the total estimates are not exceeded. Where expenditure in excess of the approved estimates is required any necessary external approval shall be obtained.

**8. Capital expenditure.**—(1) Any report submitted by the official in which authority is sought to incur capital expenditure shall include—

- (a) the estimated total capital cost of the project;
- (b) the effect on the current and future operating income and expenditure; and
- (c) such other information as the accounting authority may direct.

(2) No capital expenditure shall be incurred unless—

- (a) provision therefor has been made in the approved capital estimates;
- (b) the accounting authority has specifically approved such expenditure; and
- (c) all approval required by law has been obtained and all other requirements have been complied with.

(3) No under-expenditure on any capital project may be applied to meet additional expenditure on any other approved capital project without the approval of the accounting authority.

(4) Whenever an approved capital estimate is, or is expected to be exceeded, the official is required to obtain authority from the accounting authority for the additional amount.

(5) The official shall advise the accounting authority immediately he becomes aware of any amounts on his capital estimates which will no longer be required.

**9. Operating estimates.**—(1) Should the official have reason to believe that any estimate provision is, or will be insufficient—

- (a) he or she shall forthwith report the matter to the accounting authority;
- (b) he or she shall state the reason for the excess expenditure and indicate any reductions in other expenditure that can be effect in order to meet the excess expenditure; and
- (c)

the matter shall be considered by the accounting authority with a view to meeting

**10. Shortfall in income.**—(1) Where estimated income is unlikely to be realised, the official shall forthwith report the matter to the accounting authority indicating how the shortfall will be met.

(2) An amount not exceeding 10 percent of the Trust income may be utilised for the operational costs of the accounting authority, being costs reasonably incurred by the accounting authority, including ordinary administrative costs, to achieve the objectives of the Act.

[Sub-r. (2) substituted by GNR.908 of 2005.]

the excess expenditure by a decrease in expenditure or an increase in income.

**11. Income.**—(1) The official is responsible for the collection of all moneys due to the Trust and such moneys must be paid to the Trust or where the accounting authority so directs, to the Trust's Bankers.

[Sub-r. (1) substituted by GNR.908 of 2005.]

(2) All moneys received must be banked daily or at such regular intervals as the accounting authority may determine.

[Sub-r. (2) substituted by GNR.908 of 2005.]

(3) No amount due to the Trust shall be written off as irrecoverable without the approval of the accounting authority.

**12. Receipts.**—(1) All moneys received shall be recorded at once by means of a numbered official receipt.

(2) Every cancelled receipt shall be re-affixed in its proper place in the receipt book, or, in the absence of a receipt book, filed in accordance with instructions issued by the accounting authority.

[Sub-r. (2) substituted by GNR.908 of 2005.]

**13. Control of payments.**—(1) Every payment from the funds of the Trust other than imprest moneys, shall be made by the official through the Trusts bankers.

(2) The signatures of at least two persons duly authorised by the accounting authority shall appear on all cheques drawn by the Trust.

(3) The head of the Secretariat must establish and maintain a register of persons to whom authority has been delegated to sign official documents, and such register must indicate the nature of the documents to which such signing authority applies, and must include specimen signatures.

[Sub-r. (3) substituted by GNR.908 of 2005.]

(Editorial Note: Numbering as per original *Government Gazette*.)

(4) A copy of the register referred to in [subregulation \(3\)](#) shall be made available to the accounting authority, who shall be notified immediately of any changes thereto.

(5) Every voucher submitted or payment must be the form prescribed by the accounting authority and must be certified by the person requesting the payment, and when submitted to the official, be accompanied by supporting documents, where applicable, and have indicated thereon:

[Words preceding [para. \(a\)](#) substituted by GNR.908 of 2005.]

- (a) the account number from which it is to be paid:
- (b) that sufficient estimate provision exists;
- (c) the authority for the expenditure;
- (d) that the goods have been received or the services rendered;
- (e) the statutory authority where relevant; and
- (f) such other information as the accounting authority may require.

[[Para. \(f\)](#) substituted by GNR.908 of 2005.]

**14. Petty disbursements.**—(1) Imprest accounts for the making of petty disbursements may only be established with the approval of the accounting authority, which must prescribe the amount of such accounts and the nature and extent of payments to be made therefrom.

[[Sub-para. \(1\)](#) substituted by GNR.908 of 2005.]

(2) Every voucher submitted for the refund of petty disbursements must be accompanied by supporting documents for all such payments and a proper record must be kept in a form approved by the accounting authority.

[[Sub-r. \(2\)](#) substituted by GNR.908 of 2005.]

**15. . . . .**

[[R. 15](#) repealed by GNR.908 of 2005.]

**16. Prohibition of loans and furnishing of security to trustees and others by the Trust.**—(1) The Trust shall only, directly or indirectly, make loans to or provide security for any person or institution if it is pursuant to the objectives of the Trust as stated in the Act.

(2) The provisions of [subregulation \(1\)](#) shall not apply in respect of the making of any particular loan or the provision of any particular security with the express previously obtained consent in writing of the Minister.

**17. . . . .**

[[R. 17](#) repealed by GNR.908 of 2005.]

**18. Investments.**—The accounting authority is responsible for the investment of the funds of the Trust on such terms and conditions as may be prescribed by law and in accordance with a policy determined by the accounting authority and is in respect of such investments, be empowered to purchase or sell any securities.

[[R. 18](#) substituted by GNR.908 of 2005.]

**19. Borrowing.**—(1) The trust may raise loans for capital expenditure only—

- (a) on a resolution adopted by a majority of the members of the accounting authority; and

- (b) if the loan complies with the provisions of the Act and the Public Finance Management Act, 1999 (Act [No. 1 of 1999](#)), and if such loan is in pursuance of the objectives of the Act.  
[Para. (b) substituted by GNR.908 of 2005.]
- (2) The official shall be responsible for—
  - (a) ensuring that any necessary borrowing powers are available for the purpose of financing capital expenditure from external sources; and
  - (b) the raising of such loans as may be required on such terms and conditions and from such sources as may be approved by the accounting authority.

**20. Audit.**—(1) The financial statements and records of the Trust shall be audited annually by the Auditor-General.

- (2) The Auditor-General must submit a report on the Trust's financial statements to—
  - (a) the accounting authority;
  - (b) the official;
  - (c) the KwaZulu-Natal Provincial Legislature;
  - (d) the national Parliament;
  - (e) the House of Traditional Leaders of KwaZulu-Natal;
  - (f) the Minister of Land Affairs; and
  - (g) the Premier of the Province of KwaZulu-Natal.

(3) The Trust must pay the Auditor-General for auditing its financial statements.

(4) The Auditor-General's report must be discussed at the first meeting of the accounting authority after the report is received by the accounting authority. The official must be present at the meeting to respond to questions put to him or her in his or her capacity as manager.

**21. Annual Report.**—(1) The accounting authority shall annually submit to the Minister a written report on the activities of the Trust during a financial year.

(2) The report shall be submitted within a period to be set by the Minister, and shall include audited financial statements, reflecting the Trust's financial affairs during the year, consisting of at least—

- (a) a balance sheet;
- (b) an income statement; and
- (c) report of the auditors.

(3) To the extent that it is practicable, the accounting authority shall establish and maintain an independent internal appraisal system, including internal audits and internal audit committees.

**22. Meetings, agendas and minutes.**—(1) Notice of all meetings of the accounting authority must be sent to the head of the Secretariat, together with full agendas and reports.

[Sub-r. (1) substituted by GNR.908 of 2005.]

(2) The head of the Secretariat and the official have authority to attend all such meetings and take part in discussions.

[Sub-r. (2) substituted by GNR.908 of 2005.]

**23. Short title.**—These Regulations shall be known as the KwaZulu-Natal Ingonyama Trust Financial Regulations, 1998.