

**KWAZULU-NATAL INGONYAMA TRUST ACT
NO. 3KZ OF 1994**

[View Regulation]

[ASSENTED TO 25 APRIL, 1994]

[DATE OF COMMENCEMENT: 24 APRIL, 1994]

(English text signed by the President)

This Act has been updated to <i>Government Gazette</i> 26590 dated 20 July, 2004.

as amended by

KwaZulu Ingonyama Trust Amendment Act, No. 9 of 1997

proposed amendment by

Communal Land Rights Act, No. 11 of 2004

EDITORIAL NOTE

Act No. 3KZ of 1994, formerly an Act of the KwaZulu Legislative Assembly, has now been given the status of a National Act, due to the fact that it is now administered by the Minister for Agriculture and Land Affairs of the National Government, or any other Minister designated by the President.

ACT

To provide for the establishment of the Ingonyama Trust and for certain land to be held in trust; and to provide for matters incidental thereto.

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

“Amendment Act, 1997”, means the KwaZulu-Natal Ingonyama Trust Amendment Act, 1997;

[Definition of “Amendment Act, 1997” inserted by s. 1 (a) of Act No. 9 of 1997.]

“Ingonyama” means a person referred to in section 13 of the KwaZulu Amakhosi and Iziphakanyiswa Act, 1990 (Act No. 9 of 1990), or a person who acts on behalf of the Ingonyama in terms of Zulu indigenous law, and for the purposes of this Act excluding sections 2 (3), 2 (6), 2A (3), 3 (1), 3 (3) and 3 (4), means the board established by section 2A;

[Definition of “Ingonyama” substituted by s. 1 (b) of Act No. 9 of 1997.]

“Minister” means the Minister for Agriculture and Land Affairs of the National Government, or another Minister designated by the President;

[Definition of “Minister” inserted by s. 1 (c) of Act No. 9 of 1997.]

“Premier” means the Premier acting in consultation with the other members of the Executive Council of KwaZulu-Natal;

[Definition of “Premier” inserted by s. 1 (c) of Act No. 9 of 1997.]

“Registrar” means a registrar as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937);

[Definition of “Registrar” substituted by s. 1 (d) of Act No. 9 of 1997.]

“township” means any township established and approved or proclaimed as such in terms of any law.

[Definition of “township” inserted by s. 1 (e) of Act No. 9 of 1997.]

2. Establishment of the Ingonyama Trust.—(1) A corporate body, to be called the Ingonyama Trust, hereafter referred to as the Trust, is hereby established with perpetual succession and power to sue and be sued and, subject to the provisions of this Act, to do all such acts and things as bodies corporate may lawfully do.

[Sub-s. (1) substituted by s. 2 (a) of Act No. 9 of 1997.]

(2) The Trust shall, in a manner not inconsistent with the provisions of this Act, be administered for the benefit, material welfare and social well-being of the members of the tribes and communities as contemplated in the KwaZulu Amakhosi and Iziphakanyiswa Act, 1990 (Act No. 9 of 1990), referred to in the second column of the Schedule, established in a district referred to in the first column of the Schedule and the residents of such a district.

[Sub-s. (2) substituted by s. 2 (b) of Act No. 9 of 1997.]

(3) The Ingonyama shall be the trustee of the Trust which shall be administered subject to the provisions of this Act by the Ingonyama and the board established by section 2A of this Act.

[Sub-s. (3) substituted by s. 2 (c) of Act No. 9 of 1997.]

(4) The Ingonyama may, subject to the provisions of this Act and any other law, deal with the land referred to in section 3 (1) in accordance with Zulu indigenous law or any other applicable law.

[Sub-s. (4) substituted by s. 2 (d) of Act No. 9 of 1997.]

(5) The Ingonyama shall not encumber, pledge, lease, alienate or otherwise dispose of any of the said land or any interest or real right in the land, unless he has obtained the prior written consent of the traditional authority or community authority concerned, and otherwise than in accordance with the provisions of any applicable law.

[Sub-s. (5) substituted by s. 2 (e) of Act No. 9 of 1997.]

(6) In dealing with any trust property the Ingonyama, as trustee, shall be exempted from furnishing any form of security and the provisions of the Trust Moneys Protection Act, 1934 (), and the Trust Property Control Act, 1988 (Act No. 57 of 1988), shall not apply to the Ingonyama as trustee or to the Ingonyama Trust established by section 2 (1).

[Sub-s. (6) substituted by s. 2 (f) of Act No. 9 of 1997.]

(7) Notwithstanding the provisions of this Act, any national land reform programme established and implemented in terms of any law shall apply to the land referred to in section 3 (1): Provided that the implementation of any such programme on the land referred to in section 3 (1) shall be undertaken after consultation with the Ingonyama.

[Sub-s. (7) added by s. 2 (g) of Act No. 9 of 1997.]

(8) In the execution of his or her functions in terms of this section the Ingonyama shall not infringe upon any existing rights or interests.

[Sub-s. (8) added by s. 2 (g) of Act No. 9 of 1997.]

2A. KwaZulu-Natal Ingonyama Trust Board.—(1) There is hereby established a board to be known as the KwaZulu-Natal Ingonyama Trust Board.

(2) The Board shall administer the affairs of the Trust and the trust land and without detracting from the generality of the foregoing the Board may decide on and implement any encumbrance, pledge, lease, alienation or other disposal of any trust land, or of any interest or real right in such land.

(3) The Board shall consist of—

- (a) the Ingonyama or his or her nominee who shall be the chairperson of the Board; and
- (b) four members appointed by the Minister after consultation with the Ingonyama, the Premier and the chairperson of the House of Traditional leaders of KwaZulu-Natal; and
- (c) four members appointed by the Minister, with due regard to regional interests, in consultation with the Premier, who shall consult with the Ingonyama and the chairperson of the House of Traditional Leaders in this regard:

Provided that if a vacancy exists in respect of a member referred to in paragraph (b) or (c), this shall not prevent the Board from carrying out its functions: Provided further that the members appointed in terms of paragraphs (b) and (c) shall be appointed from amongst officers in the employ of the governments of the Republic of South Africa or the province of KwaZulu-Natal or from other persons who do not hold office in or on behalf of a political party or have a high political profile, who have knowledge and experience relevant to the administration of the trust land.

(4) The Minister shall designate one of the members of the Board appointed in terms of subsection (3) (b) as vice-chairperson of the Board.

(5) The Board may appoint one or more advisory committees to advise it regarding the performance of any of its functions.

(6) The Board may delegate or assign, subject to such conditions as the Board may determine, any of its powers generally or in a specific case, to a committee of the Board or a member of the Board or to an official in the public service, a local authority, or an official in the service of a local authority, or to a traditional authority.

(7) The Minister may make regulations as to—

- (a) the circumstances under which a member of the Board, appointed under subsection (3) (b) or (c), shall vacate his or her office;
- (b) the manner in which meetings of the Board shall be convened;
- (c) the powers and duties of the chairperson, vice-chairperson and acting chairperson at meetings of the Board;
- (d) the quorum and procedures for meetings of the Board;
- (e) the keeping of minutes, registers and records of the Board;
- (f) such other matters as are necessary or useful to be prescribed for the attainment of the objects of this Act, the generality of this provision not being limited by the provisions of the preceding paragraphs.

[S. 2A inserted by s. 3 of Act No. 9 of 1997.]

3. Transfer of land to the Ingonyama in trust.—(1) Notwithstanding the provisions of the KwaZulu Land Affairs Act, 1992 (), or any other law—

(a) any land or real right therein of which the ownership immediately prior to the date of commencement of this Act vested in or had been acquired by the Government of KwaZulu shall hereby vest in and be transferred to and shall be held in trust by the Ingonyama as trustee of the Ingonyama Trust referred to in section 2 (1) for and on behalf of the members of the tribes and communities and the residents referred to in section 2 (2);

(b) any functions which, in respect of land or any real right therein, were performed by a department of the Government of KwaZulu in terms of any law immediately before the date of commencement of this Act, shall be performed by the national or provincial government department succeeding such KwaZulu department in terms of the Constitution.

[Sub-s. (1) substituted by s. 4 (a) of Act No. 9 of 1997.]

(2) The land contemplated in subsection (1) shall be—

(a) land situated in the area for which the Legislative Assembly of KwaZulu has been established as contemplated in the Self-Governing Territories Constitution Act, 1971 (); and

(b) land acquired under Proclamation R232 of 1986 (published in the *Government Gazette* No. 10560 of 24 December 1986) and in Proclamation R28 of 1992 (published in the *Government Gazette* No. 13906 of 31 March 1992), or any other law.

(3) All land and real rights referred to in subsection (1) shall be transferred to the Ingonyama as trustee of the Ingonyama Trust referred to in section 2 (1) for and on behalf of the members of the said tribes and communities and the said residents, without payment of transfer duty, stamp duty or any other fee or charge, but subject to any existing right or obligation on or over such land and subject also to the provisions of this Act.

[Sub-s. (3) substituted by s. 4 (b) of Act No. 9 of 1997.]

(4) The Registrar shall endorse the title deed to any land referred to in subsection (1) to the effect that the land referred to therein shall vest in the Ingonyama as trustee of the Ingonyama Trust referred to in section 2 (1) for and on behalf of the members of the said tribes and communities and the said residents, and shall, in accordance with the provisions of the Deeds Registries Act, 1937 (Act No. 47 of 1937), make the necessary entries in his or her registers, and thereupon the said title deed shall serve and avail for all purposes as proof of the title of the Ingonyama in trust to the said land.

[Sub-s. (4) substituted by s. 4 (c) of Act No. 9 of 1997.]

4. Administrative costs.—The Department of Land Affairs shall bear the cost of the administration of the Board.

[S. 4 substituted by s. 5 of Act No. 9 of 1997.]

4A. Application of Act, Savings and Validation.—(1) This Act shall not apply to land in a township or to private land or to land used for State domestic purposes before 24 April 1994.

(2) If any group of pieces of land, or of subdivisions of a piece of land, which vests in the Trust, is combined with public places and used mainly for residential., industrial, business or

similar purposes, the Ingonyama may after consultation with the Premier request the competent provincial authority to declare or proclaim such land a township.

(3) Any allocation, transfer, alienation, mortgage or other transaction in respect of tenure rights relating to land referred to in section 3 (2) which was effected during the period 24 April 1994 to the date of commencement of the Amendment Act, 1997, by any person or authority in good faith and purportedly in terms of—

- (a) the Regulations for the Administration and Control of Townships in Black Areas (Proclamation R.293 of 1962);
- (b) the KwaZulu Land Affairs Act, 1992 ();
- (c) a regulation issued in terms of that Act; or
- (d) any other law,

shall be deemed to have been effected by the Ingonyama in terms of section 2 (4) and (5).

(4) Any land or real right in such land which, prior to the Amendment Act, 1997, vested in the Ingonyama in terms of section 3 (1) and which has not been registered in private ownership, shall hereby—

- (a) if the land is situated in a township, vest in the local authority having jurisdiction over such township; and
- (b) if the land was used for State domestic purposes before 24 April 1994, be deemed to have vested in the national government or in the provincial government of KwaZulu-Natal in accordance with section 239 of the Constitution of the Republic of South Africa, 1993 ().

(5) Any land in a township or any real right in such land shall vest in the local authority having jurisdiction over such township—

- (a) if the township exists as such on the date of commencement of the Amendment Act, 1997, on such date of commencement; and
- (b) if the township is established and approved or proclaimed as such after the date of commencement of the Amendment Act, 1997, upon such establishment and approval or proclamation.

(6) The land or real rights referred to in subsections (3) and (4) shall be transferred or ceded from the Ingonyama Trust to the local authority or government concerned in accordance with the provisions of the Deeds Registries Act, 1937 (Act No. 47 of 1937), without payment of transfer duty, stamp duty or any other fee, but subject to any existing right or obligation on or over such land.

(7) Where the township referred to in subsection (3) or (4) comprises all the land held under a particular title deed, the Registrar of Deeds shall, notwithstanding the provisions of subsection (5), on application by the local authority or government and on production of the title deed—

- (a) endorse the relevant title deed to the effect that the land or real right in such township vests in such local authority or government: Provided that where the applicant is unable to produce such title deed such applicant shall produce to the Registrar an affidavit to his or her satisfaction that possession of the title deed

could not be obtained and the Registrar shall thereupon endorse such vesting on the registry duplicate of such title deed, and if the original title deed is at any time lodged in his or her office for any purpose he or she shall make a similar endorsement thereon;

(b)

make the necessary entries in respect of the land or real right in such township in his or her registers in accordance with the provisions of the Deeds Registries Act, 1937 (Act No. 47 of 1937).

(8) Anything validly done in terms of a provision of this Act before the amendment or substitution of such provision by the Amendment Act, 1996, shall remain valid notwithstanding such amendment or substitution, and any rights acquired thereby shall not be extinguished by such amendment or substitution.

[S. 4A inserted by s. 6 of Act No. 9 of 1997.]

5. Short title.—This Act shall be called the KwaZulu-Natal Ingonyama Trust Act, 1994.

[S. 5 substituted by s. 7 of Act No. 9 of 1997.]

Schedule

Matters referred to Section 2 (2)

Column 1	Column 2
District known as	Name of Tribe/Community
Emnambithi	Cunu/Mchunu
	Ingwe
	Kunene
	Mabaso
	Mbhense
	Mthembu
	Nxumalo
	Sithole
Emzumbhe	Bhekani
	Cele M.
	Cele P.
	Dlamini/Vusathinamazulu
	Dunge/Amadunge
	Embo/Sizwe Hlanganani
	Hlongwa
	Hlubi

Kholwa/Sizwe Hlanganani
Lushaba
Madlala
Madzikane/Sizwe Hlanganani
Mbhele
Mjoli / Sizwe
Ndelu
Nhlangwini
Nyavini
Qoloqolo
Qwabe P
Qwabe Z
Thulini
Zizi-Sizwe / Hlanganani

Enseleni
Biyela / Kwayanguye
Biyela / Obuka
Cebekhulu / Obizo
Khoza
Mbonambi (Maxwell)
Mthembu / Somopho
Mthetwa / Mhlana
Ndlazini / Mambuka
Zulu / Ntembeni
Zungu / Madlebe

Ezingolweni
Cele
Dlamini / KwaFodo
Duma / Thokozani Madumisa
Jali / Nhlangano
Maci / Isibonda

	Mavundla / Mvundla
	Mbotho / Mambotho
	Mthimude
	Nsimbini
	Nyuswa / Qiniselani Manyuswa
	Nzimakwe
	Shwawu / Jabulani Beshwayo
	Xolo
Hlabisa	Abakwa Hlabisa
	Mdletshe
	Mpembeni
	Mpukuyoni / Mhkwanazi
Hlanganani	Batlokoa / Basotho
	Bomvu / Zashuke
	Dlamini / Bidla
	Dlamini / Esiphahleni
	Dumisa / Maguswana
	Kholwa / Isibonelo Esihle
	Kholwa / Vumindaba
	Kuzeni / Amakuze
	Madzikane / Bhaca
	Memela / Sizanani
	Mkhulisi / Vezokhuhle
	Molife / Isiminzi
	Ndlovu / Vukani
	Ngwane / Amangwane
	Nxamalala
	Pepeta / Umacala Gwala
Ingwavuma	Mathenjwa

	Mngomezulu
	Tembe
	Nyawo
Inkanyezi	Bangindoda Zulu
	Bhekeshowe Zulu
	Biyela / Mombeni
	Biyela / Mvuzane
	Biyela / Ndlangubo
	Kholweni
	Khoza
	KwaMondi
	Mathonsi
	Mpungose
	Ntuli
	Shange
	Sikhonyane
Madadeni	Gule / Nyanyadu
	Hlubi / Buhle-Bomzinyathi Community Authority
	Mangweni / Buhle-Bomzinyathi Community Authority
	Kubheka / Buhle-Bomzinyathi Community Authority
	Nkosi / Buhle-Bomzinyathi Community Authority
Mahlabatini	Buthelezi
	Buthelezi-Empithimpithini
	Mbatha
	Mpungose
	Ndebele
	Nobamba Community Authority
	Ximba
	Zungu

Maphumulo

AbakwaCele
AbakwaZubane
Amambedu / Mbedu
Bomvu A
Bomvu W
Embo
Gcwensa
Hlongwa
Khabela
Luthuli
Mabomvini
Mlamula / Nyuswa
Mthembu / Sithole
Ntuli / Mtulini
Ndlovu / Masihambisane
Ngcolosi
Ntanzi
Ndlovu / Hohoza / Mkonto
Qadi
Qwabe
Sithole / Mthembu
Zulu / Nodunga

Mpumalanga

Dassenhoek Community Authority
Embo
Fredville Community Authority
Ilanga Community Authority
Gcumisa
Maphumulo
Mdluli / Manyavu

	Shangase
	Ximba
Msinga	Baso
	Bomvu
	Chunu
	Mthembu
	Ngome
	Qamu
Ndwedwe	Chili
	Cibane
	Emalangeneni / Langa
	Embo / KwaKhabazela
	Inkumba / Nyuswa
	Hlophe
	Khumalo
	Manganga
	Mthembu
	Ngcolosi
	Ngongoma / Mavela
	Nodwengu
	Phephetha
	Qadi
	Qiniselani Mayuswa
	Qwabe
	Shangase
	Wosiyane
Nkandla	Amakhabela
	Biyela / Amahlayizeni
	Biyela / Mangidini

Cube
Cunu
Izigqoza
Khabela
Khanyile / Ekukhanyeni
Khanyile / Izindlozi
Magwaza
Mbhele / Amaputo
Mpungose
Ntuli / Godide
Ntuli / Ingono
Nxamalala
Sibisi / Cwezi
Xulu
Zondi
Nongoma Zulu / Khambi
Zulu / Mandlakazi
Zulu / Matheni
Zulu / Usuthu
Nqutu Hlatshwayo
Jama
Mdlalalose / Hlahlindlela
Mncube / Mbokodwebomvu
Molefe
Ngobese / Khiphinkunzi
Ngwe / Mangwe-Buthanani
Ntombela
Sithole / Vulindlela
Zondi

	Zondo
	Zulu / Emandleni
Okhahlamba	Amazizi
	Dlamini
	Hlubi
	Embo
	Mabaso
	Mhulungwini
	Ngwane / Amangwane
	Ngwe / Amangwe
Ongoye	Dube
	Mkhwanazi
	Mzimela
	Cambini
	Nzuza
	Zulu
Simdlangentsha	Dlamini
	Dlamini M
	Mavuso–Masidla Community Authority
	Mtungwa–Masidla Community Authority
	Msimbi
	Mthethwa
	Ntshangase
	Sibiya–Masidla Community Authority
	Simelane
Ubombo	Mabaso
	Manukuza / Jobe
	Mashabane
	Mnqobokazi

	Myeni / Ngwenya
	Myeni / Nsinde
	Nibela
	Siqakatha
	Qwabe/Makasa
	Zikhali/Mbila
Umbumbulu	Cele/Vumangazi
	Embo/Nkasa Isimahla
	Embo/Timuni
	Embo/Vumakwenza
	Luthuli/Umnini Trust
	Makhanya/Sobonakhona
	Mangangeni/Vumazonke
	Maphumulo
	Toyana
Vulamehlo	Bele/Qiko
	Cele
	Dumisa M.
	Dumisa N.
	Embo/Ikhwezi Lokusa
	Embo/Ukuthula
	Mbhele/Kwalembe
	Nhlangwini/Shiyabanye
	Nyuswa
	Zembeni/Zembe
Vulindlela	Fuze
	Nxamalala
	Ximba
	Zondi/Inadi

Zondi/Mpumuza