

(16 May 2011 – to date)

[This is the current version and applies as from **16 May 2011**, i.e. the date of commencement of the Rural Development and Land Reform General Amendment Act 4 of 2011 – **to date**]

KWAZULU-NATAL INGONYAMA TRUST ACT 3KZ OF 1994

*(Notice 26 in KwaZulu-Natal Provincial Gazette dated 25 April 1994. Commencement date:
24 April 1994)*

as amended by:

Kwazulu-Natal Ingonyama Trust Amendment Act 9 of 1997 – Government Notice 562 in Government Gazette 17916, dated 11 April 1997. Commencement date: 2 October 1998 [Proc R96, Gazette 19300 dated 2 October 1998]

Rural Development and Land Reform General Amendment Act 4 of 2011– Government Notice 427 in Government Gazette 34300, dated 16 May 2011. Commencement date: 16 May 2011

*(English text signed by the State President.)
(Assented to 25 April 1994.)*

KWAZULU LEGISLATIVE ASSEMBLY

The State President has been pleased under and by virtue of the powers vested in him by section 31(2) of the Self-Governing Territories Constitution Act, 1971 (Act 21 of 1971) to approve the following Act.

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.

BE IT ENACTED by the KwaZulu Legislative Assembly as follows:

ARRANGEMENT OF SECTIONS

1. Definition
2. Establishment of the Ingonyama Trust
- 2A. KwaZulu-Natal Ingonyama Trust Board

Prepared by:

3. Transfer of land to the Ingonyama in trust
4. Administrative costs
- 4A. Application of Act, Savings and Validation
5. Short Title

SCHEDULE

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 section 1(a) of Act 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 section 1(b) of Act 9 of 1997)

"Minister" means the Minister of Rural Development and Land Reform of the National Government, or another Minister designated by the President;

(Definition of "Minister" inserted by section 1(c) of Act 9 of 1997)

(Definition of "Minister" substituted by section 19 of Act 4 of 2011)

Publisher's Note:

The administration, powers and functions have been transferred to the Minister of Agriculture, Land Reform and Rural Development – See Proclamation 49 in Government Gazette 42657 dated 23 August 2019

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

(Definition of "Premier" inserted by section 1(c) of Act 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 section 1(d) of Act 9 of 1997)

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

(Definition of "township" inserted by section 1(e) of Act 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.

(Section 2(1) substituted by section 2(a) of Act 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.

(Section 2(2) substituted by section 2(b) of Act 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.

(Section 2(3) substituted by section 2(c) of Act 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.

(Section 2(4) substituted by section 2(d) of Act 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.

(Section 2(5) substituted by section 2(e) of Act 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 (Act No. 34 of 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).

(Section 2(6) substituted by section 2(f) of Act 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.

(Section 2(7) added by section 2(g) of Act 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.

(Section 2(8) added by section 2(g) of Act 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.

(Section 2A inserted by section 3 of Act 9 of 1997)

3. Transfer of land to the Ingonyama in trust

- (1) Notwithstanding the provisions of section 2 of the KwaZulu Land Affairs Act, 1992 (Act No 11 of 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.

(Section 3(1) substituted by section 4(a) of Act 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 (Act No 21 of 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.

(Section 3(3) substituted by section 4(b) of Act 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.

(Section 3(4) substituted by section 4(c) of Act 9 of 1997)

4. Administrative costs

The Department of Land Affairs shall bear the cost of the administration of the Board.

(Section 4 substituted by section 5 of Act 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 (Act No. 11 of 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 (Act No. 200 of 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 [*sic*], shall remain valid notwithstanding such amendment or substitution, and any rights acquired thereby shall not be extinguished by such amendment or substitution.

(Section 4A inserted by section 6 of Act 9 of 1997)

5. Short Title

This Act shall be called the KwaZulu-Natal Ingonyama Trust Act, 1994.

(Section 5 substituted by section 7 of Act 9 of 1997)

SCHEDULE**MATTERS REFERRED TO IN SECTION 2(2)****COLUMN 1**

DISTRICT KNOWN AS
EMNAMBITHI

EMZUMBE

ENSELENI

COLUMN 2

NAME OF TRIBE/COMMUNITY
CUNU/MCHUNU
INGWE
KUNENE
MABASO
MBHENSE
MTHEMBU
NXUMALO
SITHOLE

BHEKANI
CELE M.
CELE P.
DLAMINI/VUSATHINA MAZULU
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

BIYELA/KWAYANGUYE
BIYELA/OBUKA
CEBEKHULU/OBIZO

KHOZA
MBONAMBI (MAXWELL)
MTHEMBU/SOMOPHO
MTHETHWA/MHLANA
NDHLAZI/MAMBUKA
ZULU/NTEMBENI
ZUNGU/MADLEBE

EZINGOLWENI

CELE
DLAMINI/KWAFODO
DUMA/THOKOZANI MADUMISA
JALI/NHLANGANO
MACI/ISIBONDA
MAVUNDLA/MVUNDLA
MBOTHOMAMBO
MTHIMUDE
NSIMBINI
NYUSWA/QINISELANI MANYUSWA
NZIMAKWE
SHWAWU/JABULANI BESHWAYO
XOLO

HLABISA

ABAKWA HLABISA
MDLETSHE
MPEMBENI
MPUKUNYONI/MKHWANAZI

HLANGANANI

BATLOKOA/BASOTHO
BOMVU/ZASHUKE
DLAMINI/BIDLA
DLAMINI/ESIPHAHLANI
DUMISA/MAGUSWANA
KHOLWA/ISIBONELO ESIHLE
KHOLWA/VUMINDABA
KUZENI/AMAKUZE
MADZIKANE/BHACA
MEMELA/SIZANANI
MKHULISI/VEZOKUHLE
MOLIFE/ISIMINZI
NDLOVU/VUKANI
NGWANE/AMANGWANE
NXAMALALA

PEPETA/UMACALA GWALA

INGWAVUMA

MA THENJWA
MNGOMEZULU
NYAWO
TEMBE

INKANYEZI

BANGINDODA ZULU
BHEKESHOWE ZULU
BIYELA/MOMBENI
BIYELA/MVUZANE
BIYELA/NDLANGUBO
KHOLWENI
KHOZA
KWAMONDI
MATHONSI
MPUNGOSE
NTULI

MADADENI

GULE/NYANYADU
HLUBI/BUHLE-BOMZINYATHI COMMUNITY AUTHORITY
INGWE TRIBE/BUHLE-BOMZINYATHI COMMUNITY AUTHORITY
KUBHEKA/BUHLE-BOMZINYATHI COMMUNITY AUTHORITY
NKOSI/BUHLE-BOMZINYATHI COMMUNITY AUTHORITY

MAHLABATHINI

BUTHELEZI
BUTHELEZI-EMPI THIMPI THINI
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
MTULI/MTULINI
NDLOVU/MASIHAMBISANE
NGCOLOSI
NTANZI
NTULI/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
EMALANGENI/LANGA
EMBO/KWAKHABAZELA
INKUMBA/NYUSWA
HLOPHE
KHUMALO
MANGANGA
MTHEMBU
NGCOLOSI

NGONGOMA/MAVELA
NODWENGU
PHEPHETHA
QADI
QINISELANI MANYUSWA
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
MDLALOSE/HLAHLINDLELA
MNCUBE/MBOKODWEBOMVU
MOLEFE
NGOBESE/KHIPHINKUNZI
NGWE/MANGWE-BUTHANANI
NTOMBELA
SITHOLE/VULINDLELA

	ZONDI ZONDO ZULU/EMANDLENI
OKHAHLAMBA	AMAZIZI DLAMINI HLUBI EMBO MABASO MHLUNGWINI NGWANE/AMANGWANE NGWE/AMANGWE
ONGOYE	DUBE MKHWANAZI MZIMELA CAMBINI NZUZA ZULU
SIMDLANGENTSHA	DLAMINI DLAMINI M. MAVUSO-MASIDLA COMMUNITY AUTHORITY MNTUNGWA-MASIDLA COMMUNITY AUTHORITY MSIBI MTHETHWA NTSHANGASE SIBIYA-MASIDLA COMMUNITY AUTHORITY SIMELANE
UBOMBO	MABASO MANUKUZA/JOBE MASHABANE MNQOBOKAZI MYENI/NGWENYA MYENI/NSINDE NIBELA QWABE/MAKASA SIQAKATHA 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