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PROVINCIAL NOTICE

The following Bill is hereby published for general information:

Western Cape Petitions Bill [B7—2005]

P.N. 243/2005 29 July 2005

Any person or organisation wishing to comment on the said Bill is requested to lodge such comment in writing before or on 19 August 2005:

- (a) by posting it to:
The Acting Secretary:
Western Cape
Provincial Parliament
(Attention: Mr J. Nkabinde)
P.O. Box 648
Cape Town
8000
- (b) by e-mail to:
jnkabinde@wcpp.gov.za
- (c) by fax to:
J. Nkabinde
(021) 487-1685

R. G. Hindley
Acting Secretary to Parliament

As 'n Nuusblad by die Poskantoor Geregistreer

INHOUD

PROVINSIALE KENNISGEWING

Die volgende Wetsontwerp word hierby vir algemene inligting gepubliseer:

Wes-Kaapse Wetsontwerp op Petisies [W7—2005]

P.K. 243/2005 29 Julie 2005

Enige persoon of organisasie wat kommentaar oor die genoemde Wetsontwerp wens te lewer, word versoek om sodanige kommentaar skriftelik te lewer voor of op 19 Augustus 2005:

- (a) deur dit te pos aan:
Die Waarnemende Sekretaris:
Wes-Kaapse
Provinsiale Parlement
(Aandag: Mnr. J. Nkabinde)
Posbus 648
Kaaipstad
8000
- (b) deur dit te e-pos aan:
jnkabinde@wcpp.gov.za
- (c) deur dit te faks aan:
J. Nkabinde
(021) 487-1685

R. G. Hindley
Waarnemende Sekretaris van die Parlement

Ibhaliswe ePosini njengePhephandaba

IZIQULATHO

ISAZISO SEPHONDO

Lo Mthetho uSayilwayo upapashelwe ulwazi gabalala:

UMthetho oSayilwayo weZikhalazo [B7—2005]

P.N. 243/2005 29 Julayi 2005

Nabani na okanye nawuphi na umbutho ofuna ukuphefumla ngalo Mthetho uSayilwayo kufuneka angenise uluvo lwakhe elubhale phantsi phambi komhla we-19 Agasti 2005:

- (a) ngokuluposela ku:
Nobhala oBambeleyo:
Western Cape
Provincial Parliament
(Iya ku: J. Nkabinde)
P.O. Box 648
Cape Town
8000
- (b) nge-imeyile ku:
jnkabinde@wcpp.gov.za
- (c) ngefeksi ku:
Mnu J. Nkabinde
(021) 487-1685

R. G. Hindley
UNobhala oBambeleyo wePalamente

BILL

To provide for the right to petition the Provincial Parliament; to regulate the submission and consideration of petitions; and to provide for incidental matters.

BE IT ENACTED by the Provincial Parliament of the Province of the Western Cape, as follows:—

Definitions

1. In this Act, unless the context indicates otherwise—
 - “**Committee**” means the standing committee of the Provincial Parliament appointed to deal with public petitions; 5
 - “**National Constitution**” means the Constitution of the Republic of South Africa, 1996;
 - “**Petitioner**” means a person who has submitted a petition to the Provincial Parliament; 10
 - “**Provincial Executive**” means the provincial executive authority referred to in section 35 of the Constitution of the Western Cape;
 - “**Provincial Parliament**” means the Provincial Parliament of the Province of the Western Cape;
 - “**Secretary**” means the Secretary to the Provincial Parliament; 15
 - “**Speaker**” means the Speaker of the Provincial Parliament;
 - “**Standing Rules**” means the rules made by the Provincial Parliament in terms of section 23(3)(b) of the Constitution of the Western Cape;
 - “**this Act**” includes the regulations made under section 8.

Right to petition 20

2. (1) Any person, group of persons, institution or association has the right to submit a petition to the Provincial Parliament.
 - (2) The right to petition must be exercised in accordance with this Act.
 - (3) Subsection (1) does not apply to a member of the national executive authority or of the Provincial Executive. 25
 - (4) A member of the Provincial Parliament may not submit a petition to the Parliament requesting redress for the member.

Formal requirements for petitions

3. (1) A petition must be—
 - (a) in the form prescribed by regulation; 30
 - (b) in one of the official languages of the Province;
 - (c) signed by every Petitioner or, if so requested or authorised by the Petitioner, by another person on behalf of the Petitioner; and
 - (d) lodged with the Secretary.
- (2) A petition must state— 35
 - (a) the name and address of every Petitioner;
 - (b) in whose interest the Petitioner is acting; and

- (c) what avenues, if any, the Petitioner has used to try and resolve the matter concerned.

Contents of petitions

4. (1) Subject to subsection (2), a petition may consist of any request, complaint, representation or submission relating to the functions of the Provincial Parliament or the Provincial Executive, including any matter— 5
- (a) on which the Provincial Parliament can pass legislation;
 - (b) falling within the area of responsibility of any member of the Provincial Executive;
 - (c) assigned to a member of the Provincial Executive in terms of section 99 of the National Constitution; 10
 - (d) relating to the conduct of a member of the Provincial Executive or any of its employees or agents; or
 - (e) relating to provincial supervision and monitoring of local government in terms of section 49 and Chapter 5 of the Constitution of the Western Cape. 15
- (2) A petition is not acceptable if it—
- (a) falls outside the scope of the matters referred to in subsection (1);
 - (b) interferes with the judicial authority of the Republic;
 - (c) concerns a matter in respect of which legal proceedings are pending; or
 - (d) concerns a matter that is being investigated by a commission of inquiry appointed by the President of the Republic or the Premier of the Province. 20

Consideration of petitions by Committee

5. (1) All petitions received by the Provincial Parliament must be referred to the Committee.
- (2) The Committee must— 25
- (a) protect and promote the rights of Petitioners provided for in this Act; and
 - (b) subject to subsections (5) and (6), consider every petition referred to it.
- (3) The Committee must report to the Provincial Parliament on each petition. In its report, the Committee may make any appropriate recommendation, including that— 30
- (a) in so far as a matter falls within the competence of the Provincial Parliament, the Parliament itself should take steps to address the concerns of the Petitioner;
 - (b) the matter be referred to another committee of the Provincial Parliament;
 - (c) the matter be referred to the Provincial Executive or to a municipal council in the Province for attention; 35
 - (d) the matter be referred to any other body or authority, including the National Prosecuting Authority or an institution established by Chapter 9 of the National Constitution;
 - (e) a recommendation be made to a person or body with a view to resolving the matter forming the subject of the petition; or 40
 - (f) no further steps be taken regarding the petition.
- (4) The Chairperson of the Committee must ensure that every Petitioner is timeously and, where applicable, regularly informed of developments regarding the petition concerned, including proceedings of the Committee on the petition and any relevant resolution of the Provincial Parliament. 45
- (5) The Committee must reject a petition referred to in section 4(2).
- (6) The Committee may reject a petition if—
- (a) the petition does not comply fully with section 3(1) or (2);
 - (b) the petition contains offensive language;
 - (c) the petition reflects on the proceedings of the Parliament or any of its committees or otherwise offends against the Standing Rules or the practice of the Provincial Parliament; or 50
 - (d) the Petitioner has not exhausted all other available remedies, including, where applicable, legal proceedings.

- (7) When the Committee rejects a petition in terms of subsection (5) or (6)—
- (a) the Committee must provide reasons for its decision; and
 - (b) the Secretary must inform the Petitioner of the rejection of the petition and the reasons therefor.
- (8) The procedure of the Committee is as prescribed by the Standing Rules. 5

Reports by Provincial Executive

6. When the Provincial Parliament has referred a matter to the Provincial Executive as contemplated in section 5(3)(c), the Premier or the responsible Minister must, within four weeks from the date of the relevant resolution, table a report in the Provincial Parliament on the position of the Provincial Executive regarding the matter and any steps taken or to be taken to address the concerns of the Petitioner. 10

Administrative support

7. The Secretary must ensure that adequate administrative assistance is provided to—
- (a) prospective petitioners to enable them to submit petitions complying with the requirements of this Act; and 15
 - (b) the Committee to enable it to perform its functions.

Regulations

8. (1) The Speaker, after consultation with the Committee—
- (a) must make regulations prescribing the petition form referred to in section 3(1)(a); and 20
 - (b) may make regulations, not inconsistent with this Act or the Standing Rules, regarding—
 - (i) the process and procedures for the submission of and dealing with petitions; and
 - (ii) in general, any matter necessary or convenient to be prescribed in order to achieve or promote the objects of this Act. 25
- (2) The Secretary must—
- (a) as soon as practicable after regulations have been made under subsection (1), publish the regulations in the *Provincial Gazette*;
 - (b) whenever the regulations are amended, prepare a consolidated version; and 30
 - (c) provide a copy of the regulations or the consolidated version thereof, as the case may be, together with a copy of any relevant provisions of the Standing Rules relating to petitions, to any member of the public requesting such a copy.

Short title and commencement 35

9. This Act is called the Western Cape Petitions Act, 2005, and comes into effect on a date set by the Speaker by proclamation in the *Provincial Gazette*.

MEMORANDUM ON THE OBJECTS OF THE WESTERN CAPE PETITIONS BILL, 2005

Introduction

1. A well-established principle of our parliamentary common law is that any member of the public has the right to petition Parliament, amongst others for the alteration of the general law, the reconsideration of a general administrative decision, or redress of local or personal grievances.
2. With respect to the Provincial Parliament, this right is acknowledged by implication in the provisions of section 115(d) of the Constitution of the Republic of South Africa, 1996 (the National Constitution), and section 25(d) of the Constitution of the Western Cape. Those provisions entitle the Provincial Parliament to “receive petitions, representations or submissions from any interested persons or institution”. Furthermore, section 23(4)(f) of the Constitution of the Western Cape requires the Provincial Parliament to provide in its rules and orders for “the receipt of petitions, representations, or submissions from any interested person or institution”. Rules 184 to 190 of the Standing Rules of the Provincial Parliament regulate certain aspects concerning such petitions.
3. Section 17 of the National Constitution provides for a general right to “present petitions”. However, there is no provision in either the National Constitution or the Constitution of the Western Cape specifically authorising members of the public to petition the legislative authority.

Main object of Bill

4. The main object of the Bill is to give more meaningful effect to the abovementioned constitutional provisions by spelling out the right of members of the public to submit petitions to the Provincial Parliament. It is hoped that the legislation will facilitate public participation in the activities of the Provincial Parliament as envisaged by section 28(3) of the Constitution of the Western Cape.

Summary of respective provisions of Bill

5. In summary the Bill provides as follows:

Clause 1 contains definitions.

Clause 2 sets out the right of members of the public to petition the Provincial Parliament.

Clause 3 lists the formal requirements for petitions.

Clause 4 provides guidance relating to the contents and subject matter of petitions.

Clause 5 makes provision for petitions to be considered by a parliamentary standing committee charged specifically with that task. The Committee is authorised to reject petitions which do not comply with certain specified criteria. The Committee will be required to report to the House with respect to each petition, thereby leaving it for the House to take the final decision as to appropriate action. The Committee will function in accordance with provisions of the Standing Rules relating to committees generally, except in so far as special rules might be made for this Committee.

Clause 6 deals with the case where the House refers a matter concerning a petition to the executive authority of the Province. The Executive is required to table a report on the matter within four weeks after the referral.

Clause 7 seeks to ensure administrative support for prospective petitioners as well as the relevant committee.

Clause 8 authorises the Speaker to make certain regulations relating to petitions.

Clause 9 contains the short title. Provision is also made that the Act will come into operation on a date determined by the Speaker.

Financial implications

6. Depending on the number of petitions received, there could be some minor additional expenses arising from the employment of support staff.

WETSONTWERP

Om voorsiening te maak vir die reg om die Provinsiale Parlement te petisioneer; om die voorlegging en oorweging van petisies te reël; en om vir bykomstige aangeleenthede voorsiening te maak.

DAAR WORD BEPAAL deur die Provinsiale Parlement van die Wes-Kaap Provinsie, soos volg:—

Woordomskrywing

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken_
- “**hierdie Wet**” ook die regulasies kragtens artikel 8 gemaak; 5
 - “**Komitee**” die staande komitee van die Provinsiale Parlement wat aangestel is om met petisies te handel;
 - “**Nasionale Grondwet**” die Grondwet van die Republiek van Suid-Afrika, 1996;
 - “**Petisionaris**” iemand wat ’n petisie aan die Provinsiale Parlement voorgelê het;
 - “**Provinsiale Parlement**” die Provinsiale Parlement van die Wes-Kaap Provinsie; 10
 - “**Provinsiale Uitvoerende Gesag**” die provinsiale uitvoerende gesag bedoel in artikel 35 van die Grondwet van die Wes-Kaap;
 - “**Sekretaris**” die Sekretaris van die Provinsiale Parlement;
 - “**Speaker**” die Speaker van die Provinsiale Parlement;
 - “**Staande Reëls**” die reëls gemaak deur die Provinsiale Parlement ingevolge 15 artikel 23(3)(b) van die Grondwet van die Wes-Kaap.

Reg om petisie voor te lê

2. (1) Enige persoon, groep persone, instelling of vereniging het die reg om ’n petisie aan die Provinsiale Parlement voor te lê.
- (2) Die reg om te petisioneer moet ooreenkomstig hierdie Wet uitgeoefen word. 20
- (3) Subartikel (1) is nie op ’n lid van die nasionale uitvoerende gesag of van die Provinsiale Uitvoerende Gesag van toepassing nie.
- (4) ’n Lid van die Provinsiale Parlement mag nie ’n petisie indien waarin om verhaal vir die lid self gevra word nie.

Formele vereistes vir petisies 25

3. (1) ’n Petisie moet—
- (a) in die vorm wees wat by regulasie voorgeskryf is;
 - (b) in een van die amptelike tale van die Provinsie wees;
 - (c) onderteken word deur elke Petisionaris of, indien aldus versoek of gemagtig deur die Petisionaris, deur iemand anders namens die Petisionaris; en 30
 - (d) by die Sekretaris ingedien word.
- (2) Die volgende moet in ’n petisie vermeld word, naamlik—
- (a) die naam en adres van elke Petisionaris;
 - (b) in wie se belang die Petisionaris optree; en
 - (c) watter kanale, as daar is, die Petisionaris benut het om die betrokke 35 aangeleentheid te probeer oplos.

Inhoud van petisies

4. (1) Behoudens subartikel (2) kan 'n petisie bestaan uit enige versoek, klagte, vertoë of voorlegging met betrekking tot die funksies van die Provinsiale Parlement of die Provinsiale Uitvoerende Gesag, met inbegrip van enige aangeleentheid—
- (a) waaroor die Provinsiale Parlement wetgewing kan aanneem; 5
 - (b) wat in die verantwoordelike gebied van enige lid van die Provinsiale Uitvoerende Gesag val;
 - (c) wat ingevolge artikel 99 van die Nasionale Grondwet aan 'n lid van die Provinsiale Uitvoerende Gesag opgedra is;
 - (d) met betrekking tot die optrede van 'n lid van die Provinsiale Uitvoerende Gesag of enige werknemers of agente van die Provinsiale Uitvoerende Gesag; of 10
 - (e) met betrekking tot provinsiale toesig oor en monitor van plaaslike regering ingevolge artikel 49 en Hoofstuk 5 van die Grondwet van die Wes- Kaap.
- (2) 'n Petisie is nie aanvaarbaar nie indien dit— 15
- (a) buite die omvang van die aangeleentheid bedoel in subartikel (1) val;
 - (b) inbreuk maak op die regsprekende gesag van die Republiek;
 - (c) betrekking het op 'n aangeleentheid ten opsigte waarvan geregtelike verrigtinge hangende is; of
 - (d) betrekking het op 'n aangeleentheid wat ondersoek word deur 'n kommissie van ondersoek wat deur die President van die Republiek of die Premier van die Provinsie aangestel is. 20

Oorweging van petisies deur Komitee

5. (1) Alle petisies wat deur die Provinsiale Parlement ontvang word moet na die Komitee verwys word. 25
- (2) Die Komitee moet—
- (a) die regte van Petisionarisse waarvoor in hierdie Wet voorsiening gemaak word, beskerm en bevorder;
 - (b) behoudens subartikels (5) en (6), elke petisie oorweeg wat na hom verwys word. 30
- (3) Die Komitee moet oor elke petisie aan die Provinsiale Parlement verslag doen. In sy verslag kan die Komitee enige toepaslike aanbeveling maak, insluitende dat—
- (a) vir sover 'n aangeleentheid binne die bevoegdheid van die Provinsiale Parlement val, die Parlement self stappe doen om die saak wat die Petisionaris geopper het op te los; 35
 - (b) die aangeleentheid na 'n ander komitee van die Provinsiale Parlement verwys word;
 - (c) die aangeleentheid vir aandag verwys word na die Provinsiale Uitvoerende Gesag of na 'n munisipale raad in die Provinsie;
 - (d) die aangeleentheid verwys word na enige ander liggaam of gesag, insluitende die Nasionale Vervolgingsgesag of 'n instelling wat deur Hoofstuk 9 van die Nasionale Grondwet ingestel is; 40
 - (e) 'n aanbeveling gemaak word aan 'n persoon of liggaam met die oog daarop om 'n oplossing te vind vir die aangeleentheid die onderwerp van die petisie uitmaak; of 45
 - (f) geen verdere stappe aangaande die petisie gedoen word nie.
- (4) Die Voorsitter van die Komitee moet toesien dat elke Petisionaris betyds en, waar van toepassing, gereeld ingelig word oor verwickelinge aangaande die betrokke petisie, insluitende verrigtinge van die Komitee oor die petisie en enige tersaaklike besluit van die Provinsiale Parlement. 50
- (5) Die Komitee moet 'n petisie bedoel in artikel 4(2) verwerp.
- (6) Die Komitee kan 'n petisie verwerp indien—
- (a) die petisie nie ten volle voldoen aan artikel 3(1) of (2) nie;
 - (b) die petisie onbetaamlike taal bevat;
 - (c) die petisie die verrigtinge van die Parlement of enige van sy komitees in 'n ongunstige lig stel of andersins die Staande Reëls of die gebruike van die Provinsiale Parlement oortree; of 55
 - (d) die Petisionaris nie alle ander beskikbare regsmiddele, insluitende, waar toepaslik, geregtelike verrigtinge, uitgeput het nie.
- (7) Wanneer die Komitee 'n petisie ingevolge subartikel (5) of (6) verwerp— 60
- (a) moet die Komitee redes vir sy besluit verstrek; en

- (b) moet die Sekretaris die Petisionaris in kennis stel van die verwerping van die petisie en die redes daarvoor.
- (8) Die prosedure van die Komitee is soos voorgeskryf deur die Staande Reëls.

Verslae deur Provinsiale Uitvoerende Gesag

6. Wanneer die Provinsiale Parlement 'n aangeleentheid na die Provinsiale Uitvoerende Gesag verwys het soos beoog in artikel 5(3)(c), moet die Premier of die verantwoordelike Minister, binne vier weke vanaf die datum van die betrokke besluit, 'n verslag in die Provinsiale Parlement ter tafel lê oor die standpunt van die Provinsiale Uitvoerende Gesag oor die aangeleentheid en enige stappe wat gedoen is of gedoen staan te word om die sake op te los wat die Petisionaris geopper het. 5 10

Administratiewe steun

7. Die Sekretaris moet verseker dat voldoende administratiewe hulp voorsien word—
- (a) aan voornemende petisionarisse om hulle in staat te stel om petisies voor te lê wat aan die vereistes van hierdie Wet voldoen; en
 - (b) aan die Komitee, om hom in staat te stel om sy funksies te verrig. 15

Regulasies

8. (1) Die Speaker, na oorlegpleging met die Komitee—
- (a) moet regulasies maak om die petisieform bedoel in artikel 3(1)(a) voor te skryf; en
 - (b) kan regulasies maak, wat nie met hierdie Wet of die Staande Reëls onbestaanbaar is nie, aangaande—
 - (i) die proses en prosedures vir die voorlegging en hantering van petisies; en
 - (ii) in die algemeen, enige aangeleentheid wat nodig of dienstig is om voor te skryf ten einde die oogmerke van hierdie Wet te bereik of te bevorder. 20
- (2) Die Sekretaris moet— 25
- (a) so gou doenlik nadat regulasies kragtens subartikel (1) gemaak is, die regulasies in die *Provinsiale Koerant* publiseer;
 - (b) wanneer die regulasies gewysig word, 'n gekonsolideerde weergawe voorberei; en
 - (c) 'n kopie van die regulasies of die gekonsolideerde weergawe daarvan, na gelang van die geval, tesame met 'n kopie van die betrokke bepalings van die Staande Reëls met betrekking tot petisies voorsien aan enige lid van die publiek wat daarvoor vra. 30

Kort titel en inwerkingtreding

9. Hierdie Wet staan bekend as die Wes-Kaapse Wet op Petisies, 2005, en tree in werking op 'n datum wat die Speaker by Proklamasie in die *Provinsiale Koerant* bepaal. 35

MEMORANDUM OOR DIE OOGMERKE VAN DIE WES-KAAPSE WETSONTWERP OP PETISIËS, 2005

Inleiding

1. Dit is 'n gevestigde beginsel van ons parlementêre gemenebeginsel dat enige lid van die publiek die reg het om die Parlement te petisioneer, onder andere vir die verandering van die algemene reg, die heroorweging van 'n algemene administratiewe besluit of verhaal vir plaaslike of persoonlike griewe.
2. Ten opsigte van die Provinsiale Parlement word hierdie reg by implikasie erken in die bepalings van artikel 115(d) van die Grondwet van die Republiek van Suid-Afrika, 1996 (die Nasionale Grondwet), en artikel 25(d) van die Wes-Kaapse Grondwet. Daardie bepalings magtig die Provinsiale Parlement om van enige belanghebbende persoon of instelling petisies, versoë of voorleggings te ontvang. Voorts vereis artikel 23(4)(f) van die Grondwet van die Wes-Kaap dat die Provinsiale Parlement in sy reëls en orders voorsiening maak vir “die ontvangs van petisies, versoë of voorleggings deur enige belanghebbende persoon of instelling”. Reëls 184—190 van die Staande Reëls van die Provinsiale Parlement reël sekere aspekte betreffende sodanige petisies.
3. Artikel 17 van die Nasionale Grondwet maak voorsiening vir 'n algemene reg om “petisies voor te lê”. Daar is egter geen bepaling in óf die Nasionale Grondwet óf die Grondwet van die Wes-Kaap wat uitdruklik lede van die publiek magtig om die wetgewende gesag te petisioneer nie.

Hoofdoogmerk van Wetsontwerp

4. Die hoofdoogmerk van die Wetsontwerp is om meer betekenisvolle gevolg te gee aan bogenoemde grondwetlike bepalings deur uitdruklik voorsiening te maak vir die reg van lede van die publiek om petisies aan die Provinsiale Parlement voor te lê. Hopelik sal die wetgewing openbare deelname aan die aktiwiteite van die Provinsiale Parlement vergemaklik soos in die vooruitsig gestel deur artikel 28(3) van die Grondwet van die Wes-Kaap.

Opsomming van onderskeie bepalings van Wetsontwerp

5. Kortliks bepaal die Wetsontwerp soos volg: **Klousule 1** bevat woordomskrywings.

Klousule 2 bepaal die reg van lede van die publiek om petisies aan die Provinsiale Parlement voor te lê.

Klousule 3 sit die formele vereistes vir petisies uiteen.

Klousule 4 verskaf leiding oor die inhoud en onderwerpe van petisies.

Klousule 5 maak voorsiening dat petisies oorweeg word deur 'n parlementêre staande komitee wat spesifiek met dié taak belas is. Die Komitee word gemagtig om petisies te verwerp wat nie aan sekere voorgeskrewe vereistes voldoen nie. Die Komitee sal aan die Huis verslag doen ten opsigte van elke petisie, wat dit aan die Huis oorlaat om die finale besluit oor toepaslike optrede te neem. Die Komitee sal funksioneer ingevolge bepalings van die Staande Reëls met betrekking tot komitees in die algemeen, behalwe vir sover spesiale reëls vir dié Komitee gemaak sou word.

Klousule 6 gaan oor die geval waar die Huis 'n aangeleentheid rakende 'n petisie na die uitvoerende gesag van die Provinsie verwys. Daar word van die uitvoerende gesag verwag om binne vier weke na die verwysing 'n verslag oor die aangeleentheid ter tafel te lê.

Klousule 7 beoog die voorsiening van administratiewe steun vir voornemende petisionarisse en die betrokke komitee.

Klousule 8 magtig die Speaker om sekere regulasies met betrekking to petisies te maak.

Klousule 9 bevat die kort titel. Voorsiening word gemaak dat die Wet in werking sal tree op 'n datum wat deur die Speaker bepaal word.

Finansiële implikasies

6. Afhangende van die getal petisies wat ontvang word, kan daar dalk geringe bykomstige uitgawes wees wat voortvloei uit die aanstel van personeel.

UMTHETHO OSAYILWAYO

Ukubonelela ngelungelo lokufaka uxwebhu lwezikhhalazo kwiPalamente yePhondo; ukulawula ngomthetho ukungeniswa nokuqwalaselwa kwamaxwebhu ezikhhalazo; kunye nokubonelela kwimicimbi equphayo.

UZA KWENZIWA USEBENZE yiPalamente yePhondo leNtshona Koloni, ngolu hlobo:-

Iinkcaza

1. Kulo Mthetho, ngaphandle kokuba umxholo uthetha okunye—
“**IKomiti**” ithetha ikomiti esisigxina yePalamente yePhondo eyonyulelwe ukujongana nezikhhalazo zoluntu; 5
“**UMgaqo-siseko kaZwelonke**” uthetha uMgaqo-siseko weRiphabliki yoMzantsi Afrika, 1996;
“**umfaki-sikhhalazo**” uthetha umntu ongenise isikhhalazo kwiPalamente yePhondo;
“**ISigqeba sePhondo**” sithetha igunya lesigqeba lephondo ekubhekiswe kulo kwicandelo 35 loMgaqo-siseko weNtshona Koloni; 10
“**IPalamente yePhondo**” ithetha iPalamente yePhondo leNtshona Koloni;
“**UNobhala**” uthetha uNobhala wePalamente yePhondo;
“**USomlomo**” uthetha uSomlomo wePalamente yePhondo;
“**IMithetho eSisigxina**” ithetha imithetho eyenziwa yiPalamente yePhondo ngokwemigaqo yecandelo 23(3)(b) loMgaqo-siseko weNtshona Koloni; 15
“**lo Mthetho**” uquka imigaqo eyenziwe phantsi kwecandelo 8.

Ilungelo lokufaka isikhhalazo

2. (1) Nawuphi na umntu, iqela labantu, iziko okanye umbutho unelungelo lokungenisa uxwebhu lwesikhhalazo kwiPalamente yePhondo. 20
(2) Ilungelo lokufaka uxwebhu lwesikhhalazo malisetenziswe ngokuhambelana nalo Mthetho.
(3) Icandelwana (1) alisebenzi kwilungu likagunyaziwe wesigqeba sikazwelonke okanye iSigqeba sePhondo.
(4) Ilungu lePalamente yePhondo alinakho ukungenisa uxwebhu lwezikhhalazo kwiPalamente licela ulungiso lwento ethile licelela ilungu. 25

Iimfuno ezisesikweni zamaxwebhu ezikhhalazo

3. (1) Uxwebhu lwezikhhalazo—
(a) malube luhlobo oluchazwe ngumgaqo;
(b) malube kolunye lweelwimi ezisemthethweni zePhondo; 30
(c) malutyikitywe ngumfaki-sikhhalazo ngamnye okanye, xa kucelwe njalo okanye kugunyaziswe ngumfaki-sikhhalazo, ngomnye umntu egameni lomfaki-sikhhalazo; kwaye
(d) lungeniswe kuNobhala.
(2) Uxwebhu lwezikhhalazo maluxele— 35
(a) igama nedilesi yomfaki-sikhhalazo ngamnye;
(b) ukuba umfaki-zikhhalazo oku ukwenza ngeemfuno zikabani na; kwaye
(c) zeziphi na iindlela, ukuba zikho, umfaki-zikhhalazo azisebenzisileyo ukuzama ukusombulula lo mba utshisa ibunzi.

Iziqulatho zamaxwebhu ezikhalazo

4. (1) Ngokwecandelwana (2), uxwebhu lwezikhalazo lunganesicelo, isikhalazo, umelo okanye intetho ebhaliweyo enxulumene nemisebenzi yePalamente yePhondo okanye iSigqeba sePhondo, kuquka nawuphi na umba—
- (a) apho iPalamente yePhondo inokuphumeza umthetho; 5
 - (b) owela kwindawo yoxanduva lwalo naliphi na ilungu leSigqeba sePhondo;
 - (c) onikelwe kwilungu leSigqeba sePhondo ngokwemigaqo yecandelo 99 loMgaqo-siseko kaZwelonke;
 - (d) onxulumene nokuziphatha kwelungu leSigqeba sePhondo okanye nawuphi na umqeshwa okanye i-arhente yaso; okanye 10
 - (e) onxulumene nolawulo lwephondo kunye nokuhlolwa korhulumente wommandla ngokwemigaqo yecandelo 49 neSahluko 5 soMgaqo-siseko weNtshona Koloni.
- (2) Uxwebhu lwezikhalazo alwamkelekanga ukuba—
- (a) imiba ekubhekiswe kuyo ayikho ngaphantsi kwecandelwana (1); 15
 - (b) lungenelela kwigunya lezobulungisa leRiphabliki;
 - (c) lunxulumene nombamba osesezinkundleni zomthetho; okanye
 - (d) unxulumene nombamba osaphandwa yikomishoni yophando eyenyulwe nguMongameli weRiphabliki okanye iNkulumbuso yePhondo.

Uqwalaselo lwezikhalazo yiKomiti 20

5. (1) Onke amaxwebhu ezikhalazo afunyenwe yiPalamente yePhondo makathunyelwe kwiKomiti.
- (2) IKomiti—
- (a) mayikhusele yaye ikhuthaze amalungelo abafaki-zikhalazo abonelelwe kulo Mthetho; 25
 - (b) kwanangokwecandelwana (5) nele (6), mayiqwalasele onke amaxwebhu ezikhalazo athunyelwe kuyo.
- (3) IKomiti mayinike ingxelo kwiPalamente yePhondo ngawo onke amaxwebhu ezikhalazo. Kule ngxelo, iKomiti ingenza isiphakamiso esifanelekileyo, kuquka ukuba— 30
- (a) nanjengokuba umba uchaphazela umsebenzi wePalamente, iPalamente ngokwayo mayithathe amanyathelo okujongana neenkxalabo zomfaki-zikhalazo;
 - (b) umba uthunyelwe kwenye ikomiti yePalamente yePhondo;
 - (c) umba uthunyelwe kwiSigqeba sePhondo okanye kwibhunga likamasipala kwiPhondo ukuba lilwuqwalasele; 35
 - (d) umba mawuthunyelwe kulo naliphi na iqumrhu okanye ugunyaziwe, kuquka uGunyaziwe woTshutshiso kaZwelonke okanye iziko elisekwe siSahluko 9 soMgaqo-siseko kaZwelonke;
 - (e) kwenziwe isindululo kumntu okanye iqumrhu ngenjongo yokusombulula umba oyinxalenye yoxwebhu lwezikhalazo; okanye 40
 - (f) akukho manyathelo angamanye aza kuthatyathwa malunga noxwebhu lwezikhalazo.
- (4) USihlalo weKomiti makaqinisekise ukuba wonke ofake uxwebhu lwezikhalazo waziswa kwangexesha nalapho kuyimfuneko rhoqo malunga nokwenzekayo ngoxwebhu lwezikhalazo ekuthethwa ngalo, kuquka iinkqubo zeKomiti ngoxwebhu lwezikhalazo nangaso nasiphi na isisombululo esifanelekileyo sePalamente yePhondo. 45
- (5) IKomiti mayilukhabe uxwebhu lwezikhalazo ekubhekiswe kulo kwicandelo 4(2).
- (6) IKomiti ingalukhaba uxwebhu lwezikhalazo xa—
- (a) uxwebhu lwezikhalazo lungahambelani ngokupheleleyo necandelo 3(1) okanye ele (2); 50
 - (b) uxwebhu lwezikhalazo lunolwimi oluthukayo;
 - (c) uxwebhu lwezikhalazo luphefumla ngeenkqubo zePalamente okanye enye yeekomiti zayo okanye mhlawumbi luthuka iKomiti eSisigxina okanye ukusebenza kwePalamente; okanye 55
 - (d) umfaki-zikhalazo akakhange azisebenzise zonke iindlela zolungiso, kuquka, apho kusebenza khona, iinkqubo zezomthetho.

- (7) Xa iKomiti ikhaba uxwebhu lwezikhalazo ngokwemigaqo yecandelwana (5) okanye (6)—
- (a) iKomiti mayibonelelwe ngezizathu zesigqibo sayo; kwaye
 - (b) uNobhala makazise umfaki-zikhalazo ngokukhatywa koxwebhu lwezikhalazo kwanezizathu ke ngoko. 5
- (8) Umgaqo weKomiti uyachazwa yiMithetho eSisigxina.

IiNngxelo zeSigqeba sePhondo

6. Xa iPalamente yePhondo ithe yathumela umba kwiSigqeba sePhondo njengoko kucingeleka kwicandelo 5(3)(c), iNkulumbuso okanye uMphathiswa onoxanduva makathi, zingadlulanga iiveki ezine ukusuka kumhla wesigqibo esifanelekileyo, andlale ingxelo kwiPalamente ngesigqibo seSigqeba sePhondo malunga nalo mba kwakunye namanyathelo athatyathiweyo okanye aza kuthatyathwa ukuhoyana neenkxalabo zomfaki-zikhalazo. 10

Inkxaso yezolawulo

7. UNobhala makaqinisekise ukuba uncedo olwaneleyo lwezolawulo lubonelelwe— 15
- (a) kubafaki-zikhalazo ukwenzela ukuba bakwazi ukufaka amaxwebhu ahambelana neemfuno zalo Mthetho; kwanokuba
 - (b) kwiKomoti ukuze ikwazi ukwenza imisebenzi yayo.

Imigaqo

8. (1) USomlomo, emva kokubonisana neKomiti— 20
- (a) makenze imigaqo echaza uhlobo loxwebhu lwezikhalazo ekubhekiswe kulo kwicandelo 3(1)(a); yaye
 - (b) angayenza imigaqo, engakhabaniyo nalo Mthetho okanye iMithetho eSisigxina, malunga—
 - (i) nenkqubo nemigaqo yokungenisa nejongene namaxwebhu ezikhalazo; 25 kwaye
 - (ii) ngokubanzi, nawuphi na umba oyimfuneko okanye ofaneleke ukuba uchazwe ukuze kuphunyezwe okanye kukhuthazwe lo Mthetho.
- (2) UNobhala makathi—
- (a) nje ukuba kukwazi ukwenzeka emva kokuba imigaqo yenziwe phantsi kwecandelwana (1), apapashe imigaqo kwi*Gazethi yePhondo*; 30
 - (b) nanini na imigaqo ilungiswa, alungise ingxelo equlunqiweyo; kwaye
 - (c) makabonelele ngekopi yemigaqo okanye ingxelo equlunqiweyo ke ngoko, ngokwemeko, kunye nekopi yazo naziphi na izibonelelo ezifanelekileyo zeKomiti eSisigxina ezinxulumene namaxwebhu ezikhalazo, kulo naliphi na 35 ilungu loluntu elicela ikopi enjalo.

Isihloko esifutshane nokuqalisa

9. Lo Mthetho waziwa ngokuba nguMthetho waMaxwebhu eZikhalazo wase-Ntshona Koloni, 2005, kwaye uqala ukusebenza ngomhla obekwe nguSomlomo ngesibhengezo kwi*Gazethi yePhondo*. 40

**IMEMORANDAM NGENEMIBA YOMTHETHO OSAYILWAYO
WOXWEBHU LWEZIKHALAZO WENTSHONA KOLONI, 2005**

Intshayelelo

1. Umgaqo owaziwayo womthetho oqhelekileyo wepalamente yethu kukuba naliphi na ilungu loluntu linelungelo lokufaka uxwebhu lwesikhalazo kwiPalamente, phakathi kwezinye izinto ecela ukutshintshwa komthetho jikelele, ukuphinda kuqwalaselwe kwakhona isigqibo solawulo ngokubanzi, okanye ulungelelaniso lwezikhalazo zommandla okanye ezabantu.
2. Ngokubhekiselele kwiPalamente yePhondo, eli lungelo linakanwa ngeziphumo kwizibonelelo zecandelo 115(d) loMgaqo-siseko weRiphabliki yoMzantsi Afrika, 1996 (uMgaqo-siseko kaZwelonke), necandelo 25(d) loMgaqo-siseko weNtshona Koloni. Ezo zibonelelo zinika ilungelo iPalamente yePhondo lokuba “yamkele amaxwebhu ezikhalazo, umelo okanye iintetho ezibhaliweyo kubo nabaphi abantu okanye iziko elinomdla”. Kwakhona, icandelo 23(4)(f) loMgaqo-siseko weNtshona Koloni lifuna ukuba iPalamente yePhondo ukuba ibonelele kwimithetho nemiyalelo yayo “ulwamkelo lwamaxwebhu ezikhalazo, umelo, okanye iintetho ezibhaliweyo kunye nawuphi na umntu okanye iziko elinomdla”. IMithetho 184 ukuya kowe-190 yeMithetho eSisigxina yePalamente yePhondo inika imigaqo kwimiba ethile emayela namaxwebhu ezikhalazo anjalo.
3. ICandelo 17 loMgaqo-siseko kaZwelonke libonelela ilungelo jikelele “lokunikezela amaxwebhu ezikhalazo”. Nangona kunjalo, akukho sibonelelo kuMgaqo-siseko kaZwelonke okanye kuMgaqo-siseko weNtshona Koloni esinika igunya ngqo kumalungu oluntu ukuba afake uxwebhu lwezikhalazo kugunyaziwe wowiso-mthetho.

Injongo ephambili yoMthetho oSayilwayo

4. Injongo ephambili yoMthetho oSayilwayo kukunika intsingiselo esebenzayo kwezi zibonelelo zomgaqo-siseko zikhankanywe ngentla apha ngokucacisa gca ilungelo lamalungu oluntu lokungenisa amaxwebhu ezikhalazo kwiPalamente yePhondo. Kuyathenjwa ukuba lo mthetho uza kuququzelela intathoxaxheba yoluntu kwimisebenzi yePalamente yePhondo njengoko oku kubonelelwa licandelo 28(3) loMgaqo-siseko weNtshona Koloni.

Isishwankathelo sezibonelelo ezahlukeneyo zoMthetho oSayilwayo

5. Ngokwesishwankathelo lo Mthetho uSayilwayo ubonelela ngolu hlobo:
 - ISoloty 1** lineenkcaza.
 - ISoloty 2** libeka ilungelo lamalungu oluntu lokufaka uxwebhu lwezikhalazo kwiPalamente yePhondo.
 - ISoloty 3** lidwelisa iimfuno ezisesikweni zamaxwebhu ezikhalazo.
 - ISoloty 4** libonelela ngesikhokelo ngokunxulumene neziqulatho nombamba ophambili wamaxwebhu ezikhalazo.
 - ISoloty 5** linika isibonelelo sokuba amaxwebhu ezikhalazo aqwalaselwe yikomiti esisigxina yepalamente enikwe ngqo lo msebenzi. IKomiti inikwa igunya lokukhaba amaxwebhu ezikhalazo angahambelaniyo neendlela ezithile ezibekiweyo. IKomiti kuza kufuneka inike ingxelo kwiNdlu ngokubhekiselele kuxwebhu lwezikhalazo ngalunye, ngokwenza njalo ishiyela iNdlu ukuba ithabathe isigqibo sokugqibela malunga nenyathelo elifanelekileyo. IKomiti iza kusebenza ngokuhambelana nezibonelelo zeMithetho eSisigxina enxulumene neekomiti ngokubanzi, ngaphandle kokuba imithetho eyodwa isenokwenzelwa le Komiti.

ISoloty 6 lijongana nemeko apho iNdlu ithumela umba omayela noxwebhu lwesikhalazo kugunyaziwe wesigqeba sePhondo. ISigqeba kufuneka sandlale ingxelo ngomba zingadlulanga iiveki ezine emva kokuthunyelwa.

ISoloty 7 lifuna ukuqinisekisa inkxaso yezolawulo kwabo basenokuba ngabafakizikhalazo kananjalo nekomiti efanelekileyo.

ISoloty 8 linika igunya uSomlomo ukuba enze imigaqo ethile ngokunxulumene namaxwebhu ezikhalazo.

ISoloty 9 linesihloko esifutshane. Kwenziwe nesibonelelo sokuba uMthetho uqale ukusebenza ngomhla omiselwe nguSomlomo.

Ifuthe kwezezimali

6. Ngokuxhomekeke kwinani lamaxwebhu ezikhalazo afunyenweyo, kungakho iindleko ezincinane ezongezelelekileyo eziya kwenziwa yingqesho yabasebenzi abanika inkxaso.