

**Provincial Gazette
Extraordinary**

**Buitengewone
Provinsiale Koerant**

**Izongezelelo
kwiGazethi yePhondo**

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Tuesday, 18 December 2007

Dinsdag, 18 Desember 2007

ulwesiBini, 18 Disemba 2007

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Ibhaliswe ePosini njengePhephandaba

OFFICE OF THE PREMIER
OF THE PROVINCE OF
WESTERN CAPE

KANTOOR VAN DIE PREMIER
VAN DIE PROVINSIE
WES-KAAP

IOFISI YENKULUMBUSO
YEPHONDO LENTSHONA
KOLONI

P.N. 369/2007 18 December 2007

P.K. 369/2007 18 Desember 2007

P.N. 369/2007 18 Disemba 2007

It is hereby notified that the Premier of the Province of Western Cape has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die Premier van die Provinsie Wes-Kaap die onderstaande Wet wat hierby ter algemene inligting gepubliseer word, bekragtig het:—

Kwenziwa isaziso apha sokuba iNkulumbuso yePalamente yePhondo leNtshona Koloni iwamkele ngokusemthethweni lo Mthetho ulandelayo opapashelwe ulwazi gabalala apha:—

No. 7 of 2007: Western Cape Health Care Waste Management Act, 2007.

Nr. 7 van 2007: Wes-Kaapse Wet op die Bestuur van Gesondheidsorgafval, 2007.

Nomb 7 ka-2007: UMthetho woLawulo lweNkathalelo yokunge funekiyo kwezeMpilo weNtshona Koloni, 2007.

(Afrikaans text signed by the Premier)
(Assented to 14 December 2007)

ACT

To provide for the effective handling, storage, collection, transportation, treatment and disposal of health care waste by all persons in the Province of the Western Cape; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS, in terms of section 24 of the Constitution, everyone has the right—

- (a) to an environment that is not harmful to their health or well-being; and
- (b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that—
 - (i) prevent pollution and ecological degradation;
 - (ii) promote conservation; and
 - (iii) secure the ecologically sustainable development and use of natural resources while promoting justifiable economic and social development;

AND WHEREAS Government desires to progressively realise environmental rights by providing for the effective management (handling, storage, collection, transportation, treatment and disposal) of health care waste by all persons in the Province of the Western Cape;

AND WHEREAS all generators, transporters, treaters and disposers of health care waste have a constitutional responsibility to manage their health care waste in a responsible manner, and to ensure that the management of their health care waste has no adverse effects on human health and the environment;

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

Definitions

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

“**audit**” means the examination of the environmental management practices of a person by a municipality or the Department, or internally by such person, to determine whether such environmental practices are compliant with the provisions of this Act; 5

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**Department**” means the department responsible for environmental affairs in the Province; 10

“**disposal**” means the intentional release or discharge, or burial, deposit, or placing of any waste material into air or water or onto land; and the words “dispose”, “disposes” and “disposed” have corresponding meanings;

“**disposal site**”, means a permitted site in terms of section 20 of the Environment Conservation Act, 1989 (Act 73 of 1989), used for the accumulation of waste with the purpose of treating or disposing of such waste; 15

“**disposer**” means any person or any agent acting on behalf of a person, involved in the disposal of health care waste;

“**dump**”, in relation to health care waste, means to deposit or discharge, or cause or allow to be deposited or discharged, in any manner or at any place other than is set out in terms of this Act, or permitted in terms of section 20 of the Environment Conservation Act, and the words “dumps”, “dumped” and “dumping” have corresponding meanings; 5

“**generator**” means any person or any agent of a person that generates health care waste, but does not include a household generator of health care waste;

“**hazardous**”, in relation to a substance or a combination of substances, means potentially harmful to human health or the environment;

“**Head of Department**” means the head of the department responsible for environmental affairs in the Province; 10

“**health care waste**” means—

(1) any waste—

(a) generated by or derived from medical care or medical research; or

(b) that has been in contact with blood, bodily fluids or tissues from humans, or infected animals from veterinary practices; 15

(2) any waste under subparagraph (a), including but not limited to, the following categories of waste:

Infectious waste: Waste that is suspected to contain pathogens in a sufficient concentration or quantity to cause disease in susceptible hosts. This category includes cultures and stocks of infectious agents from laboratory work; waste from surgery and autopsies on corpses with infectious diseases; waste from infected patients in isolation wards; waste that has been in contact with infected patients undergoing haemodialysis; infected animals from laboratories; sanitary waste materials and tissues (including swabs) and any other instruments or materials that have been in contact with infected persons or materials. 20 25

Pathological waste: Includes all human tissues, organs, body parts, foetuses, blood and body fluids and those of infected animals.

Sharp waste: Includes items that could cause cuts or puncture wounds and includes, but is not limited to, needles, hypodermic needles, scalpels and other blades, knives, infusion sets, saws, broken glass and nails, and the word “sharp” has a corresponding meaning. 30

Pharmaceutical waste: Includes expired, unused, spilt and contaminated pharmaceutical products, drugs, vaccines and sera that are no longer required and that need to be disposed of appropriately. 35

Genotoxic waste: Is highly hazardous waste that may have mutagenic, teratogenic or carcinogenic properties. This waste type includes certain cytostatic drugs as well as vomit, urine or faeces from patients treated with cytostatic drugs, chemicals and radioactive material.

Chemical waste: Includes discarded solid, liquid and gaseous chemicals. 40

Waste with heavy metals: Includes, but is not limited to, mercury waste from thermometers, blood-pressure gauges, residues from dentistry; cadmium waste from discarded batteries, reinforced wood panels used in radiation proofing, and drugs containing arsenic.

Pressurised container waste: Includes pressurised cylinders and cartridges used in health care facilities to store gases. 45

Radioactive waste: Includes solid, liquid and gaseous materials contaminated with radionuclides, including waste produced as a result of procedures such as *in vitro* analysis of body tissue and fluid, *in vivo* organ imaging and tumour localisation, and various investigative and therapeutic practices. 50

General waste: Is a generic term for waste that, because of its composition and characteristics, does not pose a significant risk to public health or the environment if managed properly. This waste type typically consists of plastics, paper, food and liquids not considered to be infectious or contaminated with hazardous chemicals or radioactivity. 55

“**health care risk waste**” means that portion of health care waste that is hazardous and includes infectious waste, pathological waste, sharp waste, pharmaceutical waste, genotoxic waste, chemical waste, waste with heavy metals, radioactive waste, and any other health care waste which is defined as hazardous in terms of the Waste Management Series: Document 1: *Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste*, as published by the Department of Water Affairs and Forestry; 60

- “health care waste management”** means the environmentally safe handling, storage, collection, transportation, treatment and disposal of health care waste, and the words “manage” and “managed” have corresponding meanings;
- “health care waste mismanagement”** means the unsafe or negligent handling, storage, collection, transportation, treatment or disposal of health care waste that has the potential to harm the environment or compromise human health, and the word “mismanage” has a corresponding meaning; 5
- “household generator”** means a person who generates health care waste at home as a result of domestic health care treatment, but excludes registered non-governmental organisations and community-based organisations; 10
- “municipality”** means a municipality as defined in the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);
- “National Minister”** means the Member of the National Cabinet responsible for environmental affairs in South Africa;
- “nuclide”** means an atom of a specified atomic number and mass number; 15
- “Occupational Health and Safety Act”** means the Occupational Health and Safety Act, 1993 (Act 85 of 1993);
- “organ of state”** means—
- (a) any department of state or administration in the national, provincial or local sphere of government; or 20
- (b) any other functionary or institution—
- (i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
- (ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer; 25
- “other waste”** means waste other than health care waste;
- “person”** means a natural or juristic person, any organ of state, a trust, an unincorporated body or an association, an organisation, or any other institution;
- “Province”** means the Province of the Western Cape;
- “Provincial Minister”** means the Member of the Provincial Cabinet responsible for environmental affairs in the Province; 30
- “radionuclide”** means a nuclide that exhibits properties of spontaneous disintegration, liberating energy that generally results in the formation of new nuclides and is accompanied by the emission of one or more types of radiation;
- “spill”** means the accidental release of health care waste into the environment, and the word “spillage” has a corresponding meaning; 35
- “secure area”** means a protected area demarcated specifically for the storage, transfer, treatment or disposal of health care waste;
- “this Act”** includes the regulations made thereunder;
- “transport”** means the movement of health care risk waste from the point of generation to a temporary or permanent point of storage, treatment or disposal; 40
- “transporter”** means any person or any agent acting on behalf of a person that transports health care risk waste from the point of generation to a temporary or permanent point of storage, treatment or disposal;
- “treater”** means any person or any agent acting on behalf of a person or an institution, involved in the treatment of health care risk waste prior to the final disposal of such health care risk waste; 45
- “treatment facility”** means a facility permitted in terms of section 20 of the Environmental Conservation Act for the treatment of health care risk waste;
- “treatment”** means the manipulation of health care risk waste to completely eliminate all infection risk or potential and to render the waste non-recognisable as health care risk waste, and the words “treat” and “treated” have corresponding meanings; 50
- “waste”** means any matter, whether gaseous, liquid or solid or any combination thereof, which is from time to time designated by the National Minister by notice in the *Government Gazette* as an undesirable or superfluous by-product, emission, residue or remainder of any process or activity as defined in the Environmental Conservation Act and amended in Government Notice 292 of 28 February 2003. 55

Object of Act

2. The object of this Act is to promote integrated health care waste management, thereby—

- (a) reducing the risks of health care waste to human health;
- (b) preventing the degradation of the environment; 5
- (c) preventing the illegal dumping of health care waste;
- (d) promoting sustainable development, and
- (e) ensuring responsible management of health care waste in the Province.

Principles of interpretation

3. This Act must be interpreted and applied in accordance with the principles set out in section 2 of the National Environmental Management Act, 1998 (Act 107 of 1998). 10

Application

4. (1) This Act applies throughout the province to all persons involved in the generation, storage, transportation, treatment or disposal of health care waste, but does not apply to household generators of health care waste. 15

(2) A municipality may, by means of a by-law, manage and regulate the matters dealt with in this Act.

(3) Where a municipality passes a by-law that regulates matters dealt with in this Act, that municipality is exempted from the provisions of this Act, with the exception of sections 7, 12 and 14: Provided that the obligations imposed by the by-law are in accordance with those imposed by this Act and are not less stringent. 20

Prohibition of dumping and mismanagement of health care waste

5. A person may not dump or otherwise mismanage health care waste.

Responsibilities of generator, transporter, treater or disposer of health care waste

6. (1) A generator, transporter, treater or disposer of health care risk waste has a duty of care to implement reasonable measures to ensure, in accordance with this Act and any other relevant legislation, that all health care risk waste is minimised, separated at source, packaged, stored, transported, treated and disposed of, where applicable, in a safe manner that poses no threat to human health or the environment. 25

(2) Without limiting the generality of the responsibility imposed by subsection (1), a generator, transporter, treater or disposer of health care waste must comply with the following requirements, where applicable: 30

- (a) A generator of health care waste must ensure that the generation of health care waste is as far as possible minimised at source.
- (b) A generator must segregate different categories of health care waste at the point of generation and put reasonable measures in place to maintain this segregation at all times thereafter. 35
- (c) Only a generator, treater, transporter or disposer registered in terms of section 6(2)(n) may store health care risk waste.
- (d) A generator, transporter, treater or disposer of health care risk waste must at all times store health care risk waste in appropriate, clearly labelled containers, as prescribed by the Provincial Minister. 40
- (e) A generator, transporter, treater or disposer of health care risk waste must prevent public access to health care risk waste containers and storage facilities. 45
- (f) A generator, transporter, treater or disposer of health care risk waste must ensure that his or her storage area for health care risk waste is clearly demarcated and includes appropriate signage.
- (g) A generator, transporter, treater or disposer of health care risk waste must ensure that all health care risk waste is treated at a treatment facility before disposal. 50
- (h) A generator, transporter, treater or disposer of health care waste must ensure that all health care waste is disposed of at a disposal site.

- (i) A generator, transporter, treater or disposer of health care risk waste must ensure that radioactive waste for which he or she is responsible is managed in terms of the provisions of the Hazardous Substances Act, 1973 (Act 15 of 1973).
- (j) A generator, transporter, treater or disposer of health care risk waste must maintain up-to-date written or electronic records of the health care risk waste that he, she or it generated, treated, transported or disposed of. 5
- (k) A generator, transporter, treater and disposer of health care risk waste must keep the written or electronic records referred to in subsection (2)(j) for a period prescribed by the Provincial Minister. 10
- (l) A generator, transporter, treater or disposer of health care risk waste must make these records available to the public, if requested, in terms of the Promotion of Access to Information Act, 2000 (Act 2 of 2000).
- (m) A generator, transporter, treater or disposer of health care risk waste must submit all the information contemplated in subsection (2)(j) to the Department at a frequency to be prescribed by the Provincial Minister, and the Provincial Minister may stipulate the format and the specific dates for submission of such information. 15
- (n) A generator, transporter, treater or disposer of health care risk waste must, within a prescribed period after the promulgation of this Act, register with the Department by submitting to the Department a duly completed registration form that is available from the Department. 20
- (o) A generator, transporter, treater or disposer of health care risk waste must perform and record internal audits at a frequency to be prescribed by the Provincial Minister, and must make them available to inspectors on request. 25

Spillage and dumping of health care risk waste

7. (1) A person who spills health care risk waste and a person who is in control of health care risk waste at the time that it is spilt, other than health care risk waste spilt on the premises of hospitals, clinics and surgeries, must—

- (a) immediately notify the municipality concerned that such waste has been spilled; 30
- (b) immediately take steps to make the area safe for the public;
- (c) rehabilitate the place at which the spillage has occurred;
- (d) ensure that the health care risk waste spilt is treated, transported and disposed of in accordance with this Act; and 35
- (e) take measures to avoid the recurrence of a spill.

(2) Where the dumping of health care risk waste occurs, the municipality concerned may—

- (a) take any steps it deems necessary in order to ensure the safety of the public, and to ensure that the area at which the dumping has occurred is rehabilitated; 40
- (b) instruct whoever has dumped the health care risk waste to take whatever steps the municipality deems necessary to ensure the safety of the public, and to rehabilitate the area at which the dumping has occurred;
- (c) ensure that the health care risk waste is treated or disposed of in accordance with this Act, whether the dumping occurs on the premises of the generator or during the transportation, treatment or disposal of the health care risk waste; 45
- (d) recover from whoever has dumped the health care risk waste, any costs which the municipality incurs in cleaning up the health care risk waste and in rehabilitating the area at which the dumping has occurred, and any other costs directly associated with the dumping of the health care risk waste, whether the dumping has occurred on the premises of the generator or during the transportation, treatment or disposal of the health care risk waste; and 50
- (e) lay criminal charges against the person or persons responsible for the dumping of health care risk waste.

Staff safety and training

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8. A generator, transporter, treater or disposer of health care waste must comply with the Occupational Health and Safety Act, 1993 (Act 85 of 1993), in respect of staff safety and training regarding health care waste, and as prescribed by the Provincial Minister.

Appointment of inspectors

9. (1) The Head of Department, in the case of paragraph (a) or a municipal manager in the case of paragraph (b), may appoint the following persons in writing as inspectors to act in terms of this Act:

- (a) any person employed by the Department; or 5
- (b) any person employed by the municipality as health practitioner, environmental officer or law enforcement officer.

(2) A person appointed as health officer for the Province in terms of section 80(1)(b) of the National Health Act, 2003 (Act 61 of 2003), is regarded as an inspector in terms of this Act. 10

Powers of inspectors

10. (1) Any inspector appointed in terms of section 9 may—

- (a) at a reasonable time enter premises and sites of a generator, transporter, treater or disposer where health care waste is being generated, handled, stored, treated or disposed of, or on which he or she reasonably suspects that health care waste is being generated, handled, stored, treated or disposed of; 15
- (b) at a reasonable time gain access to vehicles on or in which health care waste is being contained or transported, or in which he or she reasonably suspects that health care waste is being contained or transported.

(2) Where an inspector enters premises or a site or gains access to a vehicle in terms of subsection (1), he or she may, for the purpose of administering this Act, undertake any inspection or enquiry, including but not limited to— 20

- (a) inspecting and searching the premises, site or vehicle for the presence of health care waste;
- (b) inspecting the processes whereby health care waste is handled, stored, treated, transported and disposed of; 25
- (c) requesting information regarding the health care risk waste from the person who is in control of the health care waste, or from the owner or the person in charge of the premises, site or vehicle;
- (d) examine and make copies of or take extracts from any written record kept in terms of section 6(2)(j) and request an explanation of any entry in the written or electronic record from the person who is in control of the written or electronic record, or from the owner or the person in charge of the premises, site or vehicle. 30

(3) An inspector may issue a compliance notice, as prescribed in the regulations, to the person in charge of the premises or site if a provision of this act has not been complied with. 35

(4) A compliance notice remains in force until the relevant provision of the Act had been complied with and the inspector has issue a compliance certificate in respect of that notice. 40

Offences and penalties and consequences of criminal conviction

11. (1) A person who contravenes or fails to comply with—

- (a) any provision of section 5, 6 or 7(1); or
- (b) a compliance notice issued in terms of section 10(3), is guilty of an offence and upon conviction is liable to a fine or imprisonment for a period not exceeding five years, or to both a fine and imprisonment not exceeding five years. 45

(2) In the event of a continuing or repeated offence, an additional fine or imprisonment for a period not exceeding ten years for every subsequent occasion on which the offence is so continued or repeated may be imposed. 50

Duties of municipalities

12. (1) A municipality must—

- (a) enforce the relevant provisions of this Act within its area of jurisdiction;
- (b) notify the Department of any incident of spillage or illegal dumping;
- (c) perform audits of generators, transporters, treaters and disposers of health care waste within its area of jurisdiction to ensure compliance with the provisions of this Act; 55

- (d) report annually to the Provincial Minister:
 - (i) the number of incidents of dumping and spillage of health care waste within its area of jurisdiction;
 - (ii) the number of incidents of dumping of health care risk waste pursued in a court of law; and
 - (iii) the number of incidents of health care waste successfully prosecuted in a court of law.

(2) The Provincial Minister may request a municipality to provide additional reports or information relevant to this Act.

Duties of Head of Department

13. (1) The Head of Department must monitor the performance of the management of health care waste in the Province by—

- (a) administering the relevant provisions of this Act,
- (b) developing and maintaining a database which—
 - (i) allows for the reporting of all the information requested in section 6(2)(k) and (n); and
 - (ii) enables restricted access to the information recorded in terms of subsection 6(2)(k) and (n), on request.

(2) The Head of Department may perform audits on any generator, transporter, treater or disposer of health care waste in the Province.

Regulations

14. The Provincial Minister may after consultation with the standing committee of the Provincial Parliament responsible for Environmental Affairs—

- (a) make regulations regarding any aspect related to the management of health care waste; and
- (b) set targets for waste minimisation in general for a specific institution or sector of generators, transporters, treaters or disposers,

by notice in the *Provincial Gazette*.

Short title and commencement

15. This Act is called the Western Cape Health Care Waste Management Act, 2007, and comes into operation on a date to be determined by the Premier by proclamation in the *Provincial Gazette*.

(Afrikaanse teks deur die Premier geteken)
(Bekragtig op 14 Desember 2007)

WET

Om voorsiening te maak vir die effektiewe hantering, berging, versameling, vervoer, behandeling en beskikking van gesondheidsorgafval deur alle persone in die Provinsie Wes-Kaap, en om voorsiening te maak vir sake wat daarmee in verband staan.

AANHEF

AANGESIEN ingevolge artikel 24 van die Grondwet elkeen die reg het—

- (a) op 'n omgewing wat nie skadelik vir hul gesondheid of welsyn is nie; en
- (b) op die beskerming van die omgewing ter wille van huidige en toekomstige geslagte, deur middel van redelike wetgewende en ander maatreëls wat—
 - (i) besoedeling en ekologiese agteruitgang voorkom;
 - (ii) bewaring bevorder; en
 - (iii) die ekologies volhoubare ontwikkeling en aanwending van natuurlike hulpbronne verseker terwyl dit regverdigbare ekonomiese en maatskaplike ontwikkeling bevorder;

EN AANGESIEN die Regering omgewingsregte progressief wil verwesenlik deur voorsiening te maak vir die effektiewe bestuur (hantering, berging, versameling, vervoer, behandeling en beskikking) van gesondheidsorgafval deur alle persone in die Provinsie Wes-Kaap;

EN AANGESIEN alle genereerders, vervoerders, behandelaars en beskikkers van gesondheidsorgafval 'n grondwetlike verantwoordelikheid het om hul gesondheidsorgafval op 'n verantwoordelike wyse te bestuur, en om te verseker dat die bestuur van hul gesondheidsorgafval geen nadelige uitwerking op menslike gesondheid en die omgewing het nie;

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

Woordomsrywings

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
 - “afval” enige stof, hetsy gasagtig, 'n vloeistof of 'n vaste stof of enige kombinasie daarvan, wat die Nasionale Minister van tyd tot tyd by kennisgewing in die *Staatskoerant* aanwys as 'n onwenslike of oortollige neweproduk, uitlating, res of oorblyfsel of enige proses of aktiwiteit soos omskryf in die Wet op Omgewingsbewaring en gewysig in Regeringskennisgewing 292 van 28 Februarie 2003; 5
 - “ander afval” afval uitgesonderd gesondheidsorgafval; 10
 - “behandelaar” enige persoon of enige agent handelende namens 'n persoon of instelling, wat betrokke is by die behandeling van gesondheidsorgafval voordat daardie gesondheidsorgafval finaal beskik word;
 - “behandeling” die manipulering van gesondheidsorgafval om alle risiko of potensiaal van infeksie uit te skakel en die afval onherkenbaar te maak as gesondheidsorgafval; en het die woord “behandel” 'n ooreenstemmende betekenis; 15

- “**behandelingsfasiliteit**” ’n fasiliteit waar gesondheidsorgrisikoafval behandel word, soos toegelaat ingevolge artikel 20 van die Wet op Omgewingsbewaring, 1989 (Wet 73 van 1989);
- “**beskikker**” enige persoon of enige agent handelende namens ’n persoon wat betrokke is by die beskikking van gesondheidsorgafval; 5
- “**beskikking**” die opsetlike uitlating of afvoer, of die begrawe, aflaai of plasing, van enige afvalmateriaal in die lug of water of op die grond, en die woord “beskik” het ’n ooreenstemmende betekenis;
- “**beskikkingsterrein**”, ’n gepermiteerde terrein ingevolge artikel 20 van die Wet op Omgewingsbewaring, 1989 (Wet 73 van 1989), wat gebruik word vir die opgarig van afval met die doel om dit te behandel of daarvoor te beskik; 10
- “**Departement**” die departement verantwoordelik vir omgewingsake in die Provinsie;
- “**Departementshoof**” die hoof van die departement verantwoordelik vir omgewingsake in die Provinsie; 15
- “**genereerder**” enige persoon of enige agent van ’n persoon wat gesondheidsorgafval genereer, maar sluit dit nie ’n huishoudelike genereerder van gesondheidsorgafval in nie;
- “**gesondheidsorgafval**”—
- (1) enige afval— 20
- (a) wat gegenereer word deur of ontstaan uit mediese sorg of mediese navorsing; of
- (b) wat in aanraking was met menslike bloed, liggaamsvloeistowwe of weefsels, of besmette diere van veerartsenykundige praktyke;
- (2) enige afval onder subparagraaf (a), insluitende, maar nie beperk nie tot, die volgende kategorieë afval: 25
- Aansteeklike afval: Afval wat vermoedelik patogene in ’n voldoende konsentrasie of hoeveelheid bevat om siekte by vatbare gashere te veroorsaak. Hierdie kategorie sluit in kulture en voorrade van aansteeklike agente van laboratoriumwerk; afval van spreekkamers en nadoodse ondersoeke van lyke met aansteeklike siektes; afval van besmette pasiënte in afsonderingsale; afval wat in aanraking was met besmette pasiënte wat hemodialise ondergaan; besmette diere van laboratoria; sanitêre afvalmateriaal en weefsels (insluitende deppers) en enige ander instrumente of materiale wat met besmette persone of materiale in aanraking was. 30 35
- Patologiese afval: Sluit in alle weefsels, organe, liggaamsdele, fetusse, bloed en liggaamsvloeistowwe van mense en van besmette diere.
- Skerp afval: Sluit in items wat snye of steekwonde kan veroorsaak, en sluit in, maar is nie beperk nie tot naalde, hipodermiese naalde, skalpels en ander lemme, messe, infusiestelle, sae, gebreekte glas en spykers, en die woord “skerp” het ’n ooreenstemmende betekenis. 40
- Farmaseutiese afval: Sluit in vervalte, ongebruikte, uitgemorste en besmette farmaseutiese produkte, middels, entstowwe en serums wat nie meer benodig word nie en op geskikte wyse beskik moet word.
- Genotoksiese afval: Is hoogs gevaarlike afval wat mutageniese, teratogeniese of karsinogeniese kenmerke kan hê. Hierdie tipe afval sluit sekere sitostatiese middels in, asook vomeersel, urine of ontlasting van pasiënte wat behandel word met sitostatiese middels, chemikalieë en radioaktiewe materiaal.
- Chemiese afval: Sluit in chemikalieë in vaste, vloeibare en gasagtige vorm wat weggegooi is. 50
- Afval met swaar metale: Sluit in, maar is nie beperk nie tot, kwikafval van termometers, bloeddrukmeters, tandheelkundige reste, kadmiumafval van ou batterye, versterkte houtpanele wat vir bestralingsafdigting gebruik word en middels wat arseen bevat.
- Drukhouerafval: Sluit in druksilinders en -patrone wat in gesondheidsorgfasiliteite gebruik word om gasse te stoor. 55
- Radioaktiewe afval: Sluit in vaste, vloeibare en gasagtige materiaal wat met radionuklide besoedel is, insluitende afval wat ontstaan uit prosedures soos *in vitro*-ontleding van liggaamsweefsel en -vloeistof, *in vitro*-orgaanafbeelding en gewaslokalisering, en verskeie ondersoekende en terapeutiese praktyke. 60
- Algemene afval: Is ’n generiese term vir afval wat op grond van die samestelling en kenmerke daarvan nie ’n beduidende risiko vir die openbare gesondheid of die omgewing inhou indien dit behoorlik bestuur word nie. Hierdie soort afval

- bestaan tipies uit plastiek, papier, voedsel en vloeistowwe wat nie as aansteeklik of met gevaarlike chemikalieë of radioaktiwiteit besoedel beskou word nie.
- “gesondheidsorgafvalbestuur”** die omgewingsveilige hantering, berging, versameling, vervoer, behandeling en beskikking van gesondheidsorgafval, en het die woord “bestuur” as werkwoord ’n ooreenstemmende betekenis; 5
- “gesondheidsorgafvalwanbestuur”** die onveilige of nalatige hantering, berging, versameling, vervoer, behandeling of beskikking van gesondheidsorgafval wat die potensiaal het om die omgewing te benadeel of menslike gesondheid in gevaar te stel, en het die woord “wanbestuur” as werkwoord ’n ooreenstemmende betekenis;
- “gesondheidsorgrisiko-afval”** daardie deel van gesondheidsorgafval wat gevaarlik is en sluit dit in aansteeklike afval, patologiese afval, skerp afval, farmaseutiese afval, genotoksiese afval, chemiese afval, afval met swaar metale, radioaktiewe afval, en enige ander gesondheidsorgafval wat as gevaarlik omskryf is ingevolge die Afvalbestuurreeks: Dokument 1: *Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste*, soos deur die Departement van Waterwese en Bosbou gepubliseer; 10
- “gevaarlik”**, met betrekking tot ’n stof of ’n kombinasie van stowwe, potensieel skadelik vir die menslike gesondheid of die omgewing;
- “Grondwet”** die Grondwet van die Republiek van Suid-Afrika, 1996;
- “hierdie Wet”** sluit in die regulasies daaronder uitgevaardig; 20
- “huishoudelike genereerder”** ’n persoon wat gesondheidsorgafval tuis genereer as gevolg van tuisgebaseerde gesondheidsorgbehandeling, maar uitgesonderd geregistreerde nie-regeringsorganisasies en gemeenskapsgebaseerde organisasies;
- “munisipaliteit”** ’n munisipaliteit soos omskryf in die Plaaslike Regering: Wet op Munisipale Strukture, 1998 (Wet 117 van 1998); 25
- “Nasionale Minister”** die Lid van die Nasionale Kabinet verantwoordelik vir omgewingsake in Suid-Afrika;
- “nuklid”** ’n atoom met ’n gespesifiseerde atoomgetal en massagetal;
- “oudit”** die ondersoek van ’n persoon se omgewingsbestuurspraktyke deur ’n munisipaliteit of die Departement, of intern deur daardie persoon, om vas te stel of dié omgewingspraktyke voldoen aan die bepalings van hierdie Wet; 30
- “persoon”** ’n natuurlike of regs persoon, enige staatsorgaan, ’n trust, ’n liggaam sonder regspersoonlikheid of ’n vereniging, of enige ander organisasie of instelling;
- “Provinsiale Minister”** die Lid van die Provinsiale Kabinet verantwoordelik vir omgewingsake in die Provinsie; 35
- “Provinsie”** die Provinsie Wes-Kaap;
- “radionuklid”** ’n nuklid wat eienskappe van spontane disintegrasië vertoon, energie vrystel wat gewoonlik tot die vorming van nuwe nuklide lei, en met die uitlating van een of meer tipes bestraling gepaard gaan; 40
- “staatsorgaan”** —
- (a) enige staatsdepartement of administrasie in die nasionale, provinsiale of plaaslike regeringsfeer; of
- (b) enige ander funksionaris of instelling—
- (i) wat ’n bevoegdheid uitoefen of ’n funksie verrig ingevolge die Grondwet of ’n provinsiale grondwet; of 45
- (ii) wat ’n openbare bevoegdheid uitoefen of ’n openbare funksie verrig ingevolge enige wetgewing, maar sluit dit nie ’n hof of ’n regterlike amptenaar in nie;
- “stort”**, met betrekking tot gesondheidsorgafval, om af te laai of af te voer, of om te veroorsaak of toe te laat dat dit afgelaai of afgevoer word, op enige manier of op enige plek behalwe soos ingevolge hierdie Wet uiteengesit, of toegelaat ingevolge artikel 20 van die Wet op Omgewingsbewaring, en die woorde “gestort” en “storting” het ooreenstemmende betekenisse; 50
- “uitmors”** die onopsetlike uitlaat van gesondheidsorgafval in die omgewing, en het die woord “uitmorsing” ’n ooreenstemmende betekenis; 55
- “veilige gebied”** ’n beskermde gebied wat spesifiek vir die berging, oordrag, behandeling of beskikking van gesondheidsorgafval afgebaken is;
- “vervoer”** die verwydering van gesondheidsorgafval van die punt waar dit genereer word na ’n punt waar dit tydelik of permanent geberg-, behandel of 60 beskik word;

“vervoerder” enige persoon of enige agent handelende namens ’n persoon wat gesondheidsorgafval verwyder van die punt waar dit gegeneer word na ’n punt waar dit tydelik of permanent geberg, behandel of beskik word;
“Wet op Beroepsgeondheid en Veiligheid” die Wet op Beroepsgeondheid en Veiligheid, 1993 (Wet 85 van 1993).

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Doel van Wet

2. Die doel van hierdie Wet is om geïntegreerde gesondheidsorgafvalbestuur te bevorder en daardeur—

- (a) die risiko’s van gesondheidsorgafval vir menslike gesondheid te verminder;
- (b) die agteruitgang van die omgewing te voorkom;
- (c) die onwettige storting van gesondheidsorgafval te voorkom;
- (d) volhoubare ontwikkeling te bevorder; en
- (e) verantwoordelike bestuur van gesondheidsorgafval in die Provinsie te verseker.

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Beginsels van vertolking

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3. Hierdie Wet moet vertolk en toegepas word in ooreenstemming met die beginsels uiteengesit in artikel 2 van die Wet op Nasionale Omgewingsbestuur, 1998 (Wet 107 van 1998).

Toepassing

4. (1) Hierdie Wet is oor die hele Provinsie van toepassing op alle persone wat betrokke is by die generering, berging, vervoer, behandeling of beskikking van gesondheidsorgafval, maar is nie op huishoudelike genereerders van gesondheidsorgafval van toepassing nie.

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(2) ’n Munisipaliteit kan die sake wat in hierdie Wet behandel word, by wyse van ’n verordening bestuur en reguleer.

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(3) Waar ’n munisipaliteit ’n verordening goedkeur wat sake reguleer wat in hierdie Wet behandel word, word daardie munisipaliteit vrygestel van die bepalings van hierdie Wet, uitgesonderd artikels 7, 12 en 14: Met dien verstande dat die verpligtinge wat deur die verordening opgelê word, in ooreenstemming is met dié wat deur hierdie Wet opgelê word en nie minder streng is nie.

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Verbod op storting en wanbestuur van gesondheidsorgafval

5. ’n Persoon mag nie gesondheidsorgafval stort of anders wanbestuur nie.

Verantwoordelikhede van genereerder, vervoerder, behandelaar of beskikker van gesondheidsorgafval

6. (1) ’n Genereerder, vervoerder, behandelaar of beskikker van gesondheidsorgafval het ’n sorgplig om in ooreenstemming met hierdie Wet en enige ander toepaslike wetgewing redelike maatreëls te tref om te verseker dat alle gesondheidsorgafval tot die minimum beperk, by die bron geskei, verpak, geberg, vervoer, behandel en beskik word, waar van toepassing, op ’n veilige manier wat geen bedreiging vir menslike gesondheid of die omgewing inhou nie.

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(2) Sonder om die wye omvang van die verantwoordelikheid by subparagraaf (1) opgelê, in te kort, moet ’n genereerder, vervoerder, behandelaar of beskikker van gesondheidsorgafval, waar toepaslik, aan die volgende vereistes voldoen:

- (a) ’n Genereerder van gesondheidsorgafval moet toesien dat die generering van gesondheidsorgafval sover moontlik tot die minimum beperk word by die bron.
- (b) ’n Genereerder moet verskillende kategorieë gesondheidsorgafval by die punt waar dit gegeneer word, skei en redelike maatreëls in plek sit om hierdie skeiding te alle tye daarna te handhaaf.
- (c) Slegs ’n genereerder, vervoerder, behandelaar of beskikker ingevolge artikel 6(2)(n) geregistreer mag gesondheidsorgafval berg.
- (d) ’n Genereerder, vervoerder, behandelaar of beskikker van gesondheidsorgafval moet gesondheidsorgafval te alle tye in geskikte,

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- duidelik geëtiketteerde houers berg, soos deur die Provinsiale Minister voorgeskryf.
- (e) 'n Genereerder, vervoerder, behandelaar of besikker van gesondheidsorgnisiko-afval moet openbare toegang tot houers en bergfasiliteite van gesondheidsorgnisiko-afval voorkom. 5
- (f) 'n Genereerder, vervoerder, behandelaar of besikker van gesondheidsorgnisiko-afval moet verseker dat sy of haar berggebied duidelik afgebaken is en daar geskikte inligtingstekens is.
- (g) 'n Genereerder, vervoerder, behandelaar of besikker van gesondheidsorgnisiko-afval moet verseker dat alle gesondheidsorgnisiko-afval by 'n 10 behandelingsfasiliteit behandel word vóór beskikking.
- (h) 'n Genereerder, vervoerder, behandelaar of besikker van gesondheidsorgafval moet verseker dat alle gesondheidsorgafval by 'n wegdoenterrein beskik word.
- (i) 'n Genereerder, vervoerder, behandelaar of besikker van gesondheidsorgnisiko-afval moet verseker dat radioaktiewe afval waarvoor hy of sy verantwoordelik is, bestuur word ingevolge die bepalings van die Wet op Gevaarhoudende Stowwe, 1973 (Wet 15 van 1973). 15
- (j) 'n Genereerder, vervoerder, behandelaar of besikker van gesondheidsorgnisiko-afval moet bygewerkte skriftelike of elektroniese rekords hou van 20 die gesondheidsorgnisiko-afval wat hy of sy gegeneer, behandel, vervoer of beskik het.
- (k) 'n Genereerder, vervoerder, behandelaar en besikker van gesondheidsorgnisiko-afval moet die skriftelike of elektroniese rekords in subparagraaf (2)(j) genoem, hou vir 'n tydperk deur die Provinsiale Minister voorgeskryf. 25
- (l) 'n Genereerder, vervoerder, behandelaar of besikker van gesondheidsorgnisiko-afval moet dié rekords op versoek aan die publiek beskikbaar stel ingevolge die Wet op die Bevordering van Toegang tot Inligting, 2000 (Wet 2 van 2000).
- (m) 'n Genereerder, vervoerder, behandelaar of besikker van gesondheidsorgnisiko-afval moet al die inligting in subparagraaf (2)(j) beoog, met tussenpose soos deur die Provinsiale Minister voorgeskryf, aan die Departement voorlê en die Provinsiale Minister kan die formaat en die spesifieke datums vir die voorlegging van dié inligting bepaal. 30
- (n) 'n Genereerder, vervoerder, behandelaar of besikker van gesondheidsorgnisiko-afval moet, binne 'n voorgeskrewe tydperk na die afkondiging van hierdie Wet, by die Departement registreer deur 'n behoorlik ingevulde registrasievorm, wat by die Departement beskikbaar is, by die Departement in te dien. 35
- (o) 'n Genereerder, vervoerder, behandelaar of besikker van gesondheidsorgnisiko-afval moet interne oudits uitvoer en opteken met tussenpose soos deur die Provinsiale Minister voorgeskryf, en moet dit op versoek aan inspekteurs beskikbaar stel. 40

Uitmorsing en storting van gesondheidsorgnisiko-afval

7. (1) 'n Persoon wat gesondheidsorgnisiko-afval uitmors en 'n persoon wat in beheer 45 van gesondheidsorgnisiko-afval is wanneer dit uitgemors word, uitgesonderd gesondheidsorgnisiko-afval wat op die persele van hospitale, klinieke en spreekkamers uitgemors word, moet—
- (a) onmiddellik die betrokke munisipaliteit in kennis stel dat die afval uitgemors is; 50
- (b) onmiddellik stappe doen om die gebied veilig te maak vir die publiek;
- (c) die plek waar die uitmorsing plaasgevind het, rehabiliteer;
- (d) verseker dat die gesondheidsorgnisiko-afval wat uitgemors is, behandel, vervoer en beskik word in ooreenstemming met hierdie Wet; en
- (e) maatreëls tref om te voorkom dat uitmorsing weer plaasvind. 55
- (2) Waar gesondheidsorgnisiko-afval gestort word, kan die betrokke munisipaliteit—
- (a) enige stappe doen wat hy nodig ag om die veiligheid van die publiek te verseker, en om te verseker dat die gebied waar die storting plaasgevind het, gerehabiliteer word;

- (b) wie ook al die gesondheidsorgrisiko-afval gestort het, gelas om die stappe te doen wat die munisipaliteit nodig ag om die veiligheid van die publiek te verseker en om die gebied waar die storting plaasgevind het, te rehabiliteer;
- (c) verseker dat die gesondheidsorgrisiko-afval in ooreenstemming met hierdie Wet behandel of beskik word, ongeag of die storting op die perseel van die 5
genereerder of tydens die vervoer, behandeling of beskikking van die gesondheidsorgrisiko-afval plaasvind;
- (d) enige koste wat die munisipaliteit aangaan om die gesondheidsorgrisiko-afval op te ruim en om die gebied waar die storting plaasgevind het, te rehabiliteer, 10
verhaal van wie ook al die gesondheidsorgrisiko-afval gestort het, asook enige ander koste wat regstreeks in verband staan met die storting van die gesondheidsorgrisiko-afval, ongeag of die storting op die perseel van die genereerder of tydens die vervoer, behandeling of beskikking van die gesondheidsorgrisiko-afval plaasgevind het; en
- (e) kriminele klagtes aanhangig maak teen die persoon of persone wat vir die 15
storting van gesondheidsorgrisiko-afval verantwoordelik is.

Veiligheid en opleiding van personeel

8. 'n Genereerder, vervoerder, behandelaar of beskikker van gesondheidsorgafval moet voldoen aan die Wet op Beroepsgeondheid en Veiligheid, 1993 (Wet 85 van 1993) ten opsigte van die veiligheid en opleiding van personeel wat gesondheidsorgafval 20
hanteer, en soos deur die Provinsiale Minister voorgeskryf.

Aanstelling van inspekteurs

9. (1) Die Departementshoof in die geval van paragraaf (a), of 'n munisipale bestuurder in die geval van paragraaf (b), kan die volgende persone skriftelik as 25
inspekteurs aanstel om ingevolge hierdie Wet op te tree:

- (a) enige persoon in diens van die Departement; of
- (b) enige persoon in diens van die munisipaliteit as gesondheidpraktisyn, omgewingsbeampte of wetstoepassingsbeampte.

(2) 'n Persoon wat as gesondheidsbeampte vir die Provinsie aangestel word ingevolge artikel 80(1)(b) van die Wet op Nasionale Gesondheid, 2003 (Wet 61 van 2003), word 30
as 'n inspekteur beskou ingevolge hierdie Wet.

Bevoegdhede van inspekteurs

10. (1) Enige inspekteur wat ingevolge artikel 9 aangestel is, kan—

- (a) op 'n redelike tyd persele en terreine van 'n genereerder, behandelaar, vervoerder of beskikker betree waarop gesondheidsorgafval gegeneer, 35
hanteer, geberg, behandel of beskik word, of waarop hy of sy redelikerwys vermoed dat gesondheidsorgafval gegeneer, hanteer, geberg, behandel of beskik word;
- (b) op 'n redelike tyd toegang verkry tot voertuie waarin of waarop gesondheidsorgafval gehou of vervoer word, of waarin hy of sy redelikerwys vermoed dat 40
gesondheidsorgafval gehou of vervoer word.

(2) Waar 'n inspekteur 'n perseel of terrein betree of toegang verkry tot 'n voertuig ingevolge subparagraaf (1), kan hy of sy, met die doel om hierdie Wet toe te pas, enige inspeksie of navrae doen, insluitende maar nie beperk nie tot—

- (a) inspeksie en deursoeking van die perseel, terrein of voertuig vir die 45
teenwoordigheid van gesondheidsorgafval;
- (b) inspeksie van die prosesse waardeur gesondheidsorgafval hanteer, geberg, behandel, vervoer en beskik word;
- (c) aanvra van inligting betreffende die gesondheidsorgrisiko-afval van die persoon wat in beheer van die gesondheidsorgafval is, of van die eienaar of die 50
persoon in beheer van die perseel, terrein of voertuig;

- (d) ondersoek en maak van kopieë van of uittreksels uit enige skriftelike rekord wat ingevolge artikel 6(2)(j) gehou word, en versoek vir 'n verklaring van enige inskrywing in die skriftelike of elektroniese rekord van die persoon wat in beheer van die skriftelike of elektroniese rekord is, of van die eenaar of die persoon in beheer van die perseel, terrein of voertuig. 5
- (3) 'n Inspekteur kan 'n nakomingskennisgewing, soos voorgeskryf in die regulasies, aan die persoon in bevel van die perseel of terrein uitreik indien 'n bepaling van hierdie Wet nie nagekom is nie.
- (4) 'n Nakomingskennisgewing bly van krag totdat die betrokke bepaling van die Wet nagekom is en die inspekteur 'n nakomingsertifikaat ten opsigte van daardie kennisgewing uitgereik het. 10

Misdrywe, strawwe en gevolge van strafregtelike skuldigbevinding

- 11.** (1) 'n Persoon wat strydig is met of weier om—
- (a) enige bepaling van artikel 5, 6 of 7(1); of
- (b) 'n nakomingskennisgewing uitgereik ingevolge artikel 10(3), oortree of versuim om daaraan te voldoen, begaan 'n misdryf en is by skuldigbevinding strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens vyf jaar, of sowel met 'n boete as gevangenisstraf van hoogstens vyf jaar.
- (2) In die geval van 'n voortdurende of herhaalde misdryf kan 'n bykomende boete of gevangenisstraf vir 'n tydperk van hoogstens tien jaar opgelê word vir elke daaropvolgende voorval waar die misdryf aldus voortgesit of herhaal word. 20

Pligte van munisipaliteite

- 12.** (1) 'n Munisipaliteit moet—
- (a) die toepaslike bepalings van hierdie Wet binne sy regsgebied toepas;
- (b) die Departement in kennis stel van enige voorval van uitmorsing of onwettige storting; 25
- (c) oudits van genereerders, vervoerders, behandelars en beskikers van gesondheidsorgafval binne sy regsgebied doen om nakoming van die bepalings van hierdie Wet te verseker;
- (d) jaarliks aan die Provinsiale Minister verslag doen oor— 30
- (i) die aantal voorvalle van storting en uitmorsing van gesondheidsorgafval binne sy regsgebied;
- (ii) die aantal voorvalle van storting van gesondheidsorgafval wat in 'n geregshof vervol is; en
- (iii) die aantal voorvalle van storting van gesondheidsorgafval wat met wetslae in 'n geregshof vervol is. 35
- (2) Die Provinsiale Minister kan 'n munisipaliteit versoek om bykomende verslae of inligting wat betrekking op hierdie Wet het, te verskaf.

Pligte van Departementshoof

- 13.** (1) Die Departementshoof moet die uitvoering van gesondheidsorgafvalbestuur in die Provinsie monitor deur— 40
- (a) die tersaaklike bepalings van hierdie Wet toe te pas;
- (b) 'n databasis op te bou en in stand te hou wat dit moontlik maak—
- (i) om al die inligting in artikel 6(2)(k) en (n) versoek, te rapporteer; en
- (ii) om op versoek beperkte toegang te verkry tot die inligting ingevolge artikel 6(2)(k) en (n) opgeteken. 45
- (2) Die Departementshoof kan oudits uitvoer van enige genereerder, vervoerder, behandelar of beskikker van gesondheidsorgafval in die Provinsie.

Regulasies

14. Die Provinsiale Minister kan na oorleg met die Staande Komitee van die Provinsiale Parlement verantwoordelik vir omgewingsake—

- (a) regulasies uitvaardig oor enige aspek van die bestuur van gesondheidsorgafval;
- (b) teikens stel om afval in die algemeen tot die minimum te beperk vir 'n spesifieke instelling of sektor genereerders, vervoerders, behandelars of besitters,

by kennisgewing in die *Provinsiale Koerant*.

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Kort title en inwerkingtreding

15. Hierdie Wet heet die Wes-Kaapse Wet op die Bestuur van Gesondheidsorgafval, 2007, en tree in werking op 'n datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal.

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(Uxwebhu lwesiBhulu lusayinwe yiNkulumbuso)
(Lwamkelwe ngowe-14 Disemba 2007)

UMTHETHO

Kulungiselela ukuphathwa, ukugcinwa, ukuqokelelwa, ukuthuthwa, ulondolozo nokuchithwa kwezinto ezingafunwayo lwezempilo ngumntu wonke kwiPhondo leNtshona Koloni; nangokulungiselela imicimbi neziganeko ezinokubakho.

INTSHAYELELO

NAKUBENI, ngokubhekiselele kwicandelo 24 loMgaqo-siseko, nabani na unelungelo—

- (a) Lokungqongwa yindalo engenabungozi empilweni okanye kwintlalontle, yaye
- (b) Indalo emngqongileyo mayikhuseleke ukuze kuncedakale izizukulwana zeli xesha sikulo nezelizayo ngokusetyenziswa kwemithetho efanelekileyo kunye nezinye iindlela zokuphila—
 - (i) ezikhusela ungcoliseko nokuhlaziswa kwendalo eziphilelayo;
 - (ii) ezikhuthaza ulondolozo, yaye
 - (iii) Ezigcina uphuhliso lwendalo eziphilelayo, ukusetyenziswa kobutyebi bemvelo ukanti kwangelo xesha kukhuthazwa uphuhliso olusemthethweni kwezoqoqosho nakwezoluntu.

YAYE NAKUBENI enxanelwe ukuwaqaphela ngokwenkqubela phambili amalungelo endalo esingqongileyo ngokuzisa ulawulo olusebenzayo (ekubambisaneni, ekugcineni, ekuqokeleleni, ekuthutheni, ekuphatheni nasekulahleni) okungafunekiyo okuvela kumchiza, oko kusenziwa ngumntu wonke okwiPhondo leNtshona Koloni;

YAYE NAKUBENI bonke abenzi, abathuthi bemithwalo, abaphathi nabalahli bokungafunwayo lunonophelo lwezempilo bejongene noxanduva loMgaqo-siseko ekulawuleni okungafunwayo lunonophelo lwezempilo ngendlela yokumela naziphi na izezo zabo, nokuqinisekisa ukuba ulawulo lokungafunwayo okuvela ekusetyenziswe komchiza akunaziphumo zibi empilweni yoluntu nakwindalo esingqongileyo;

NGOKO KE MAKUMISWE uMthetho yiPalamente yePhondo kwiPhondo leNtshona Koloni ngale ndlela ilandelayo:—

INKcazelo

1. Kulo Mthetho, ngaphandle kokuba imeko ijolise kolunye uhlobo—
 - “**uphicotho-zincwadi zemali**” luthetha ukuhlolwa kweendlela zolawulo lwendalo esingqongileyo ngumntu, uhlobo lungenziwa ngumasipala okanye liSebe, okanye kuhlolwe ngaphakathi ngumntu lowo, injongo kukuqinisekisa ukuba olo lawulo lwendalo esingqongileyo luyahambelana na namagatya alo Mthetho;
 - “**uMgaqo-siseko**” uthetha uMgaqo-siseko weRiphabhlikhi yoMzantsi Afrika ka-1996;
 - “**iSebe**” lithetha isebe elithwele uxanduva lonke lemicimbi yendalo esingqongileyo kweli Phondo;
 - “**ukulahlwa**” kuthetha ukungcwatywa ngabom, ukugalela, ukukhupha, ukubeka, okanye ukunikezelwa kwayo nayiphi na imfungumfingu engafunwayo emoyeni okanye emanzini okanye emhlabeni; yaye namagama athi lahla, uyachitha yaye walahla nawo anentsingiselo engqinelanayo;

“isiza senkunkuma” sithetha isiza esinephepha-mvume ngokubhekiselele kwicandelo 20 loMthetho wokuLondolozwa kweNdalo esiNgqongileyo ka-1989, (uNthetho 73 ka-1989) esisetyenziswa ukufumba inkunkuma ngenjongo zokuyisebenza okanye ukuyilahla;

“umlahli” uthetha nawuphi na umntu okanye nayiphi na i-arhente okanye umenzeli osebenza egameni lomntu, obandakanyekayo ekulahlweni kwezinto ezingafunwayo lunonophelo lwezempilo;

“ukushiya”, malunga nokungafunwayo ngumthetho wezempilo, kuthetha ukugalela okanye ukukhululela, okanye unobangela wokudinjelwa, okanye ukuvunyelwa kokulahlwa okanye kokuchithwa, nangayiphi na indlela okanye nakuyiphi na indawo ngaphandle kwale ixelwe ngokubhekiselele kulo Mthetho, okanye evunyelweyo ngokubhekiselele kwicandelo 20 loMthetho wokuLondolozwa kweNdalo esiNgqongileyo, yaye amagama athi “ushiya”, “washiya” nelithi “uyashiya” akwanentsingiselo engqinelanayo;

“umdali” uthetha nawuphi na umntu okanye nayiphi na i-arhente yomntu edala okungafunekiyo kulondolozo lwempilo, kodwa oko akubandakanyi usapho lomzi oludale okungafunekiyo kulondolozo lwezempilo;

“ukuba nobungozi” kuthetha amandla ento ekuzuzeni, okanye intlanganisela yezinto ezingunobangela wengozi empilweni yomntu okanye yendalo esingqongileyo;

“INTloko yeSebe” ithetha umphathi wesebe elinoxanduva lokujongana nemicimbi yendalo esingqongileyo kwiPhondo eli;

“okungafunekiyo emva kophando okanye uphithikezo lwamayeza”

(1) kuthetha nantoni na elahlwayo—

(a) edaliweyo okanye enentsukaphi kulondolozo lwamachiza okanye kuphando ngamachiza okanye;

(b) Loo nto ibidibene negazi, nolwelo oluphuma emzimbeni okanye izicwili zezihlunwana eziphuma ebantwini, okanye kwizilwanyana ezisulelweyo xa bekuxakiwe zinyangwa ligosa elifanele loo msebenzi.

(2) (Imfungumfungu ephantsi komhlathana 1) ibandakanya oku, kodwa ayiphelanga kwezi ndidi zilandelayo zemfungumfungu—

Imfungumfungu esulelayo: Imfungumfungu ekurhaneleka ukuba iqulathe inkumbula yeentsholongwane ezibangela izifo okanye ubungakanani bazo bungabangela izifo kumalungu okanye kwiindawo ezinobuntununtunu. Olu didi lubandakanya izithethe nentaphane yee-arhente ezisulelayo emva kokuba bekusetyenzwa elebhu; okungafunwayo kuvela ekutyandweni kwabantu nakwingxilongo yezidumbu ezinezifo ezisulelayo; okungafunekiyo kuvela kwizigulana ezisulelweyo kumagumbi apho elowo abekwa yedwa; okungafunekiyo obekudibene nezigulana ezisulelweyo xa bekusahlulwahlulwa amasuntswana akulwelo olugqitha esikhumbeni; izilwanyana ezisulelweyo zivela kwiilebhu; izinto ezilahlwayo zidibene neenyama zomzimba (kudibene namalaphu okusula) nezixhobo ezizezinye okanye naziphi na izixhobo okanye izinto ebezidibene nabantu kunye nezinto ezisulelweyo;

Okulahliweyo kuvela kwizifo: Kubandakanya iinyama eziphuma ebantwini, kumalungu omzimba, izidalwa ezingekazalwa, egazini, kulwelo lomzimba nakulwelo lwezilwanyana ezisulelweyo.

Izinto ezilahliweyo ezibukhali: Zona zibandakanya izixhobo ezinakho ukusika okanye ezinokuwakrazula amanxeba, yaye oko kubandakanya, noxa kunjalo aziphelanga lwiinaliti, ezo zihlatywa ngaphantsi kwesikhumba, ingadla yogqirha nezinye iibhleyidi, iimela, izixhobo zokufaka ulwelo, iisarha, iiglas ezaphukileyo neenzipho; yaye negama elithi ezibukhali linentsingiselo engqinelanayo.

Okulahliweyo kuphuma kuphithikezo lwamayeza: Kubandakanya lawo aphelelwe lixesha, angasetyenziswanga, asuke aphalala, iimveliso zamayeza ezingcolisekileyo, iziyobisi, ugonyo nezinto ezingasafunekiyo nekufanele ukuba zilahlwe ngendlela echanekileyo.

- Okungafunekiyo kuba kunetyhefu: Ezi zizinto ezinobungozi kakhulu ekunokwenzeka ukuba zinganenguqulelo kwimisipha zibangele nomhlaza. Olu hlobo lwezinto ezingasafunekiyo lubandakanya iziyobisi ezithile ezibangela ukungasebenzi kweeseli, ukugabha, umchamo okanye ilindle lezigulana ezineeseli ezingasebenziyo ngenxa yeziyobisi, iikhemikhali okanye umchiza nezinto ezihambelana nemitha yelanga. 5
- Okungafunekiyo komchiza: Kubandakanya umchiza olahliweyo ozezi ndidi: oqinileyo, olulwelo nongumoya.
- Okungafunekiyo kuqulathe isinyithi esinobunzima: Kubandakanya nangona kungaphelelanga kokungafunwayo kwemetyhuri ephuma kwiithermometha, kwimilinganiselo yoxinzelelo lwegazi, isiqalelo esithambileyo nesimhlophe esivela kwiibhetri ezingafunwayo, intsalela evela kumsebenzi woogqirha bamazinyo, amaplanga asetyenziselwe ukuthintela imitha yelanga kunye neziyobisi ezinesiqalelo esiyityhefu. 10
- Okungafunekiyo lukuxinzelelo olunkonkxiweyo: Kubandakanya imibhobho neekhatriji ebezisetyenziselwa uncedo ekulondolozweni kwempilo kugcinwa iindidi zomoya ophefumlwayo. 15
- Okungafunwayo kuselangen: Kubandakanya izinto eziqinileyo, ulwelo nomoya, ezo zinto sukube zidyojwe zijulelwe luhlobo oluthile lwe-atom ebangwa lilanga, kudibane nokungafunekiyo okuvela kucalu-calulo ngobuglasi bezihlunu zomzimba kunye nolwelo, kuzekeliso ngamalungu, ukujonga indawo elikuyo ithumba, neminye imisebenzi yophando yoibuchule ngamayeza nokunyanga. 20
- Okungafunwayo okuqhelekileyo: Olu luhlobo oluthile lokungafunekiyo ngenxa yeziqulatho neempawu zoko kulahlwayo, impilo yoluntu ayibi semngciphekweni omkhulu okanye indalo esingqongileyo xa oko kungafunekiyo kulawulwa ngendlela eyiyo. Olu hlobo lungafunwayo lubandakanya iiplastikhi, amaphepha, ukutya nolwelo oluthathwa ngokuba alusuleli okanye aludyojwanga ngumchiza oyingozi okanye kukuchanabeka elangeni. 25
- “Okungafunwayo okungumngcipheko emva kophithikezo-mayeza”** Oku kuthetha okulahlwayo nokuyingozi okuvela kuphithikezo lwamayeza. Oko kubandakanya okulahlwayo okusulelayo, izinto ezibukhali, okuvela kuphithikezo-mayeza, kwizifo, kumchiza, kwizintop ezichanabeke elangeni, kwisinyithi esinobunzima, kwityhefu nakwezaphi na izinto ezilahlwayo ziphuma kumchiza ezichazwa njengezinobungozi ngokubhekiselele kuChungechunge loLawulo lokungafunwayo: 30
- UXwebhu 1: Ubuncinane obufunekayo ekuPhathweni, ekuCalulweni nasekuLahlweni kokungafunwayo okunobuNgozi, njengoko kupapashiwe liSebe lemiCimbi yezaManzi namaHlathi.
- “Ulawulo lokungafunwayo emva kophithikezo-mayeza nophando”** ngokwendalo esingqongileyo luthetha ukuphathwa ngokukhuselekileyo, ukugcinwa, ukuqokelelwa, ukuthuthwa, ukucalucalulwa nokulahlwa kwezinto ezingafunwayo emva kophando nophithikezo-mayeza; amagana athi ukulawula nokuthi kwalawulwa anentsingiselo ehambelana noko; 35
- “Ulawulo olugwenxa lokungafunekiyo emva kophithikezo-mayeza”** luthetha indlela engakhuselekanga okanye yokuphatha ngokungakhathali, nasekungakhathalini xa kugcinwa, kuqokelelwa, kuthuthwa, kucalulwa izinto ezingafunwayo emva kophithikezo-mayeza okanye emva kophando; yaye isiphumo saloo nto ingakukwenzakalisa indalo esingqongileyo okanye ukubeka esichengeni impilo yoluntu, negama elithi ukuphatha gwenxa kuyahambelana naloo ntsingiselo; 50
- “usapho lwendlu olungabenzi”** oko kuthetha nabani na okuphuma kuye okungafunekiyo emva kophithikezo-mayeza ekhaya ngenxa yokuba bekukho unyango kwelo khaya. Noxa kunjalo oko akuyibandakanyi imibutho ebhalisiweyo nengeyiyo ekaRhulumente kunye nemibutho yeendawo ekuhlalwa kuzo;
- “umasipala”** uthetha umasipala njengoko kunikwe inkcazelo kumThetho woBume booMasipala ka-1988 (uMthetho 117 ka-1998); 55
- “UMphathiswa kaZwelonke”** uthetha iLungu leKhabhinethi kaZwelonke elijongene noxanduva kwimicimbi yendalo esingqongileyo eMzantsi Afrika;
- “inuclide okanye inyuklayidi”** ithetha i-atom enenombolo nobunzima obukhethekileyo; 60

- “UMthetho woKhuseleko neMpilo emSebenzini”** uthetha umThetho ka-1993 woKhuseleko neMpilo emSebenzini (UMthetho 85 ka-1993);
- “ilungu lesizwe”** lithetha—
- (a) Naliphi na isebe lesizwe okanye lolawulo kwisizwe, kwiphondo nakummandla weedolophu zikaRhulumente, okanye 5
- (b) Naliphi na iziko okanye igosa likaRhulumente okanye umPhathiswa—
- (i) Onamagunya okanye owenza umsebenzi ngokubhekiselele kumGaqo-siseko okanye kumgaqo-siseko wephondo; okanye
- (ii) Onamagunya eluntwini okanye owenza umsebenzi ochaphazela uluntu ngokubhekiselele kulo naluphi na uwiso-mthetho, kodwa loo nto ayifaki nkundla yamatyala okanye gosa lezomthetho; 10
- “ezinye izinto ezingafunekiyo okanye ezilahlwayo”**, oko kuthetha izinto ezilahlwayo ngaphandle kwezo zibekho ngenxa yophithikezo-mayeza;
- “umntu”**, kuthethwa ngomntu odaliweyo okanye wasemthethweni, naliphi na isebe lesizwe, itrasti, umntu okanye umbutho ongabandakanyekanga umbutho okanye naliphi na iziko elilelinye; 15
- “iPhondo”**, oko kuthetha iPhondo leNtshona Koloni;
- “UMphathiswa wePhondo”** uthetha iLungu leKhabhinethi yePhondo elijongene noxanduva lwemicimbi yendalo esingqongileyo kwiPhondo;
- “iradionuclide”** ithetha inyuklayidi eveza iimpawu ezizenzekelayo zokusasaza, kukhulula amandla, isiphumo soko esiqhelekileyo kukwenziwa kweenyuklayidi ezintsha, yaye ngokukhatshwa luhlobo olunye okanye ziintlobo ezininzi zokukhutshwa kwemitha yelanga; 20
- “ukuchitheka”** kuthetha ukukhululwa ngempazamo okanye ngengozi kwezinto ezingafunekiyo emva kophithikezo-mayeza ukuze ziye kwindalo esingqongileyo, igama elithi ukuphalazeka linentsingiselo ehambisana noku; 25
- “indawo ekhuselweyo”** ithetha indawo ekhuselekileyo nebekelwe kuphela ukugcina, ukugqithisela, ukucalulwa okanye ukulahlwa kwezinto ezingafunekiyo emva kophithikezo lwamayeza;
- “Indawo yokusebenza inkukuma”** lithetha indawo yokusetyezwa kwenkukuma yezempilo engafunwayo emva kophithikezo lwamayeza, ngokwepepha-mvume elibhekisilele kwicandelo 20 loMthetho ka-1989 woLondolozo lweNdalo esiNgqongileyo, (UMthetho 73 ka-1989); 30
- “loMthetho”** uquka nemimiselo enenziwe phantsi kwawo;
- “umenzeli”** uthetha nabani na okanye nayiphi na i-arhente esebenza egameni lomntu okanye eleziko, elibandakanyekayo ekulawulweni kwezinto ezingafunekiyo nezibeka ubomi emngciphekweni ngoba zivela kuphithikezo lwamayeza, ngaphambi kwezigqibo zokulahlwa ngokupheleleyo kwezo zinto; 35
- “ukuphathwa nokucalulwa”** kuthetha ukuphathwa ngononophelo kwezinto ezingafunekiyo kuqinisekiswa ukuba ubungozi bosulelo buyapheliswa kwaphela okanye kuthetha amandla okuguqula izinto ezilahlwayo zingabonakali njengezingafunekiyo empilweni yoluntu; yaye namagama athi “ukuphatha” nelithi “kwaphathwa” anentsingiselo ehambisana noku; 40
- “uthutho”** kuthetha ukushukunyiswa nokufuduswa kwezinto ezingafunekiyo emva kophithikezo lwamayeza ukususela apho ibiqaleke khona loo mfungumfengu ide isiwe ekugcinweni, ekuphathweni nasekulahlweni okwexeshana okanye kwanaphakade; 45
- “umthuthi”** uthetha nawuphi na umntu okanye nayiphi na i-arhente esebenza egameni lomntu othutha izinto ezilahlwayo ziphuma kumchiza zisuka apho beziqaleke khona zide ziye ekugcinweni, ekuphathweni nasekulahlweni okwexeshana okanye kwanaphakade; 50
- “okungafunekiyo”** kuthetha nantoni na, nokuba ingangumoya, ingalulwelo okanye izinto eziqinileyo, okanye nantoni na equlathe ezo zinto, nesoloko amaxesha ngamaxesha, ngegunya loMphathiswa kaZwelonke oyibhengezayo kwiGazethi kaRhulumente njengeemveliso ezilisoloty engasafunekiyo okanye ezininzi kakhulu, impuphuma, intsalelo yayo nantoni na ebisenziwa njengoko kuchaziwe kuMthetho woLondolozo lweNdalo esiNgqongileyo nanjengoko kulungisiwe kwisibhengeselo sikarhulumente esingunombolo 292 somhla wama-28 kuFebhruwari ka-2003. 55

Injongo yalo mThetho

2. Injongo yalo mthetho kukukhuthaza ulawulo lwezinto ezilahlwayo ezisasaziweyo ngolu hlobo—

- (a) Ukunciphisa ubungozi bezinto ezilahlwayo emva kophithikezo lwamayeza, ezo ziziyingozi empilweni yoluntu; 5
- (b) Ukuthintela ukuthotywa komgangatho wendalo esingqongileyo;
- (c) Ukunqanda ukulahlwa ngokungekho mthethweni kwemfungumfumu emva kophithikezo lwamayeza;
- (d) Ukukhuthaza uphuhliso lokuzimela geqe kwinto yonke, kunye
- (e) nokuqinisekisa ngokuluthwala uxanduva kulawulo nakwimpatho yezinto ezingasafunekiyo apha kwiPhondo. 10

IMigaqo-nkqubo yokuTolika

3. Lo mThetho mawutolikwe ukuze usetyenziswe ngokubhekiselele kwimithetho-sisekelo ekhutshwe kwicandelo 2 loMthetho kaZwelonke woLawulo lweNdalo esiNgqongileyo ka-1998 (uMthetho 107 ka-1998). 15

Ukusetyenziswa kwawo

4. (1) Lo Mthetho usebenza kwiPhondo lonke, kubo bonke abantu abandakanyekayo ekudaleni, ekugcinweni, ekuthuthweni, ekuphathweni nasekulahlweni kwemfungumfumu evela kuphithikezo lwamayeza. Noxa kunjalo awusebenzi kusapho oluyintsusa okanye oluyimvelaphi yezinto ezilahlwayo ezingafunekiyo eziphuma kumchiza. 20

(2) Ngokusebenzisa umthetho okanye ummiselo wedolophu, umasipala angayilawula ayiqhubele phambili imicimbi evandlakanyiweyo kulo Mthetho.

(3) Xa umasipala epasisa umthetho okanye ummiselo wedolophu omisa kakuhle imicimbi evandlakanyiweyo kulo Mthetho, loo masipala ukhutshiwe kumagatya alo Mthetho ngaphandle kwecandelo 7, 12 nele-14: Ngaphandle kokuba izinyanzelo ezibekwayo ngumthetho wedolophu ziyahambelana nezo zinyanzeliswe ngulo Mthetho yaye zingqongqo. 25

Isithintelo sokulahlwa nokuphathwa gwenxa kwemfungumfumu evela kuphithikezo lwamayeza

5. Umntu akufuneki alahle okanye achithe okanye ayiphathe ngokungekho mthethweni imfungumfumu evela kuphithikezo lwamayeza. 30

Uxanduva olujongene nomvelisi wemfungumfumu, umthuthi, umlawuli okanye umlahli wemfungumfumu evela kuphithikezo lwamayeza (oonobmba abafutshane)

6. (1) Umvelisi, umthuthi, umphathi okanye umlahli wemfungumfumu ephuma emayezeno inoxanduva lokunonophela ukuze asebenze ngendlela elindelekileyo eqinisekisa, ngokumalunga nalo Mthetho nalo naluphi na uwiso-mthetho oluhambelana noko, wokuba iyancitshiswa yonke imfungumfumu enobungozi evela kumchiza, iyacalulwa okanye iyahlulwahlulwa kwalapho ivela khona, iyafunjwa, iyagcinwa, iyathuthwa, iyaphathwa okanye ilahlwe, aphokufanelekileyo, ngendlela ekhuselekileyo engesiso isoyikiso empilweni yoluntu okanye kwindalo esingqongileyo. 40

(2) Kunganqongophaliswanga ukuqheleka koxanduva olunyanzeliswayo ligatyana (1), umvelisi, umthuthi, umphathi okanye umlahli wemfungumfumu ephuma kumchiza makathobebe ezi mfuneko zilandelayo, apho kunokwenzeka:

- (a) Umvelisi wemfungumfumu evela kumchiza makaqinisekise ukuba ukuveliswa kwezinto ezingafunekiyo ezivela kumchiza kuncitshiswa kangangoko kunokwenzeka apho emthonjeni okanye apho kuveliswa khona inkunkuma. 45
- (b) Umvelisi makazicalule ngokwahlukeneyo iindidi zokungafunekiyo okuvela kumchiza kwalapho zivela khona, makalawule ngokumandla ukuze kugcinakale olu calu-calulo maxa onke emva koko. 50
- (c) Kuphela ngobhalisiweyo ngokubhekiselele kwigatyana 6(2)(n) umvelisi, umlawuli, umthuthi okanye umlahli onelungelo lokugcina imfungumfumu evela kuphithikezo lwamayeza olunobungozi.

- (d) Maxa onke umvelisi, umthuthi, umlawuli okanye umlahli wokungasafunekiyo okubela kumchiza, makayigcine yonke le mfunqumfunqum ezinkonkxeni ezinemibhalo ecacileyo njengoko kuvunyelwa ngumPhathiswa wePhondo.
- (e) Umvelisi, umthuthi, umlawuli okanye umlahli wemfunqumfunqum evela kumchiza makaluthintele uluntu lungafikeleli kwezo nkonkxa zayo zinobungozi nasezindaweni egcinwa kuzo imfunqumfunqum leyo. 5
- (f) Umvelisi, umthuthi, umlawuli okanye umlahli wemfunqumfunqum enobungozi evela emayezeni makaqinisekise ukuba indawo agcina kuyo yonke loo nto yahlulwe ngomda othile nocacileyo yaye nezilathisi ezisingise khona ziyabonakala kakuhle. 10
- (g) Umvelisi, umthuthi, umlawuli okanye umlahli wenkunkuma evela emayezeni makaqinisekise ukuba yonke loo mfunqumfunqum iphathwa ngobuchule phambi kokuba ilahlwe.
- (h) Umvelisi, umthuthi, umlawuli okanye umlahli wemfunqumfunqum makaqinisekise ukuba ichithwa kwindawo efanele yona nekhuselekileyo. 15
- (i) Umvelisi, umthuthi, umphathi okanye umlahli wemfunqumfunqum ephuma emayezeni makaqinisekise ukuba iphathwa ngobuchule leyo ichanabeke elangeni inkunkuma najongene nokuluthwala uxanduva lwayo ngokubhekiselele kumagatya oMthetho ka-1973 ezinto ezinobuNgozi (uMthetho onguNombolo 15 ka-1973). 20
- (j) Umvelisi, umthuthi, umphathi okanye umlahli wemfunqumfunqum evela kumchiza makagcine iirekhodi ezibhaliweyo okanye ezikwiikhompyutha zamaxesha anamhlanje zenkunkuma ayivelisileyo, wayiphatha, wayithutha okanye ayilahlileyo. 25
- (k) Umvelisi, umthuthi, umphathi okanye umlahli wemfunqumfunqum ezi rekhodi zibhaliweyo okanye zikwiikhompyutha kuthethwa ngazo makazigcine kwicandelwana 2(j) kangangexesha elivunyelweyo nguMphathiswa wePhondo.
- (l) Umvelisi, umthuthi, umlawuli okanye umlahli wenkunkuma ephuma kumchiza ezi rekhodi makaqinisekise ukuba uluntu luyafikelela kuzo, xa ziceliwe, ngokubhekiselele kuMthetho ka-2000 oKhuthaza ukuFikelela kwiiNkcukacha (uMthetho onguNombolo 2 ka-2000). 30
- (m) Umvelisi, umthuthi, umlawuli okanye umlahli wenkunkuma ephuma kumchiza zonke iinkcukacha ezicangcwayo makazithumele kwicandelwana 2(j) qho ngalo lonke ixesha zifunwa nguMphathiswa wePhondo yaye nomPhathiswa angaxininisa kwindlela afuna zibhalwe ngayo, neentsuku emazithunyelwe ngazo kuye iinkcukacha ezo. 35
- (n) Umvelisi, umthuthi, umlawuli okanye umlahli wenkunkuma ephuma kumchiza kufuneka ngexesha elithile elikhankanyiweyo emva kokundululwa kwalo Mthetho, abhalise kwiSebe ngokuthumela kwiSebe elo ifomu eneenkcukacha zonke efulanekeyo kwiSebe eli. 40
- (o) Umvelisi, umthuthi, umlawuli okanye umlahli wenkunkuma ephuma kumchiza kufuneka enze uphicotho-zincwadi zemali lwangaphakathi qho ngexesha elikhankanyiweyo nguMphathiswa wePhondo, kwakhona ezo ncwadi mazifumaneka xa zifunwayo ngabahloli. 45

Ukuchithwa nokulahlwa kwemfunqumfunqum ephuma kumchiza

7. (1) Umntu ochitha imfunqumfunqum ephuma kumchiza nalowo ulawula yonke loo nkunkuma ngelo xesha ichithwayo, ngaphandle kwenkunkuma yomchiza echithwa ezindaweni ezisezibhedlele, kwiiklinikhi nakwiindawo zoqhaqho lwezigulana, kufuneka— 50
- (a) Kwangoko axelele umasipala amele ukumazisa ngokuba inkunkuma leyo iphalaziwe;
- (b) Kwangoko makuthathwe amanyathelo kuqinisekiswa ukuba loo ngingqi ikhuselekile, oko kukuthi ayinabungozi eluntwini; 55
- (c) Laa ndawo bekuchithwe kuyo mayicocwe ibuyele kwimeko yayo yakuqala ngokukhuselekileyo;
- (d) Makuqinisekise ukuba laa mfunqumfunqum ivela kumchiza iphethwe ngobuchule, ithuthiwe yaza yahlalwa ngokweemfuno zalo Mthetho; yaye
- (e) Makuqinisekise ukuba akusayi kuphinda kuphalazwe nkunkuma injalo. 60

- (2) Apho kuchithwe khona imfungumfungu ephuma kumchiza, umasipala onxulumene naloo nkqubo—
- (a) Angathatha amanyathelo awabonayo ukuba afanelekile eqinisekisa ngokukhuseleka koluntu, kwakhona eqinisekisa ingingqi leyo bekulahlwe kuyo icociwe yabuyela kwimo ebiyiyo kuqala; 5
 - (b) Nokuba ngubani na ochithe imfungumfungu ephuma kumchiza, makathathe naliphi na inyathelo elifunwayo ngumasipala eliqinisekisa ngokukhuseleka kwabantu, yaye nendawo leyo bekugalelwe kuyo inkunkuma, mayicocwe ukuze ibuyele kwimo yayo yakuqala; 10
 - (c) Makuqinisekise ngokuphathwa ngobuchule kwenkunkuma evela kumchiza okanye mayilahlwe ngokumalunga neemfuno zalo Mthetho, nokuba iphalazwe kwindawo yomvelisi okanye iphalale xa ibithuthwa, ngexesha ibiphethwe okanye ibilahlwa; 10
 - (d) Zonke iindleko angene kuzo umasipala obelahlwa imfungumfungu evela ekusetyenzisweni komchiza, iindleko zokucoca kukamasipala nokubuyisela ingingqi kwimeko ebikuyo kuqala, nezinye iindleko ezinxulumene nokuchithwa kwenkunkuma, nokuba ichithwe endaweni yomvelisi, okanye ngexesha ibithuthwa, ngexesha ibiphethwe okanye ibilahlwa ngalo, zonke ezo ndleko mazifunwe kulowo uyichithileyo loo nkunkuma; yaye 15
 - (e) Makamangalelwe ngokusemthethweni lowo umele ukuluthwala uxanduva lwenkunkuma echithiweyo emva kokusetyenziswa komchiza. 20

UKhuseleko noQeqesho lwaBasebenzi

8. Umvelisi, umthuthi, umphathi okanye umlahli wemfungumfungu evela ekusetyenzisweni komchiza makathobele uMthetho weKhuseleko neMpilo yaseMsebenzini, ngokumalunga nokhuseleko kunye noqeqesho lwabaqeshwa, mayela nemfungumfungu evela kuphithikezo lwamayeza ngokwendlela evunyelwayo nguMphathiswa wePhondo. 25

Ukunyulwa kwaBahloli

9. (1) INtloko yeSebe ngokomhlathi (a), okanye umanejala kamasipala ngokomhlathi (b), anganyula aba balandelayo ngembalelwano babe ngabahloli abaza kusebenza ngokubhekiselele kulo Mthetho— 30
- (a) inganguye nabani na oqeshiweyo liSebe; okanye
 - (b) nawuphi umntu oqeshiweyo ngumasipala njengengcali kwezempilo, njengegosa lokusingqongileyo okanye njengegosa lokunyanzeliswa komthetho. 35
- (2) Umntu oqeshwe njengegosa lezempilo esebenzela iPhondo ngokubhekiselele kwichandelo 80(1)(b) loMthetho ka-2003 weCandelo lezeMpilo kuZwelonke, (uMthetho 61 ka-2003), uthathwa njengomhloli ngokubhekiselele kulo Mthetho.

Amagunya abaHloli

10. (1) Nawuphi na umhloli onyulwe ngokubhekiselele kwicandelo 9— 40
- (a) ngalo naliphi na ixesha elifanelekileyo angangena kwezo ofisi nakwindawo yomvelisi, yomthuthi, yomlawuli okanye yomlahli apho inkunkuma ephuma kumchiza iveliswa, igcinwayo, iphathwayo okanye ilahlwayo, okanye apho umhloli arhanelayo ukuba inkunkuma ephuma kumchiza iyaveliswa, iyagcinwa, iyaphathwa okanye iyalahlwa; 45
 - (b) Ngexesha elifanelekileyo umhloli angafikelela kwizithuthi ezithwele inkunkuma, okanye apho arhanelayo ukuba imfungumfungu evela ekusetyenzisweni komchiza ithwelwe okanye iyathuthwa.
- (2) Apho umhloli angenayo okanye efikelelayo kwizithuthi ngokubhekiselele kwicandelwana (1), ngeenjongo zokuwusebenzisa lo Mthetho, angahlola okanye abuzise yaye oko kubandakanya, kodwa akupheleli ekubeni— 50
- (a) Ekuhloleni nasekuphononogeni indawo, isiza eso okanye isithuthi ngenxa yobukho bemfungumfungu evela ekusetyenzisweni komchiza;
 - (b) Ekuhloleni inkqubo yokuphathwa, yokugcinwa, yokuthuthwa nokulahlwa kwenkunkuma; 55

- (c) Ekuceleni iinkcukacha ezimalunga nemfungumfungu evela kumchiza, zicelwa kumntu olawula loo nkqubo, okanye kumnini-ndawo okanye umlondolozisi waloo ndawo, weso siza okanye weso sithuthi;
- (d) Ekujongisiseni nasekwenzeni iikopi okanye ekuthatheni izicatshulwa nakweyiphi na irekhodi ebhaliweyo ngokubhekiselele kwicandelo 6(2)(j), nasekuceleni inkcazelo yayo nayiphi na into ebhaliweyo okanye ekwikhompyutha kulowo ulawulo ubhalo lwezo nkcukacha zonke, okanye kumnini-ndawo okanye umlondolozisi wendawo, wesiza okanye wesithuthi. 5
- (3) Nawuphi na umhloli njengoko kumiselwe kwimiqathango angakhuphela isaziso sokuvumela okanye sokuthobela emntwini olawula indawo okanye isiza ukuba alikavunyelwa igatya lalo mthetho. 10
- (4) Isaziso sokuthobela sisoloko sinyanzelisa kude kuvunyelwe/kubekho igatya elihambelana nomThetho yaye umhloli usikhuphile isinqinisekiso okanye isatifikethi sokusivumela isaziso eso.

Amatyala, izohlwayo neziphumo zokugwetyelwa ulwaphulo-mthetho 15

- 11.** (1) Nawuphi na umntu owaphulayo/osilelayo kuthobela oku—
- (a) naliphi na igatya lecandelo lesi-5, lesi-6 okanye elesi-7(1); okanye
- (b) isaziso sokuthobela esikhutshiweyo ngokubhekiselele kwicandelo 10(3), yena unetyala yaya xa ebanjiwe umele ukuhlawula imali okanye avelwe kangangexesha elingagqithanga eminyakeni emihlanu, okanye imali aze aphinde avelwe etrongweni iminyaka engagqithanga kwemihlanu. 20
- (2) Ukuba umntu usoloko esaphula umthetho intlawulo iyongezwa okanye angavalelwa etrongweni ixesha elingagqithanga eminyakeni elishumi ngesiganeko ngasinye asoloko esaphula umthetho ngaso.

Imisebenzi yooMasipala 25

- 12.** (1) UMasipala kufuneka—
- (a) Anyanzelise ngamatya afunekayo kulo Mthetho kwindawo zonke eziphantsi kolawulo lwakhe;
- (b) Makaxelele iSebe ngesiganeko ngasinye sokuchithwa okanye sokuphalazwa kwemfungumfungu naxa oko kusenziwa ngokungekho mthethweni; 30
- (c) Makubanjwe uphicotho-zincwadi zemali zabavelisi benkunkuma, zabathuthi, zabaphathi benkunkuma nezabalahlali bayo beendawo zonke eziphantsi kolawulo lwakhe kuqinisekiswa ukuba oko kwenziwa ngokuthobela amatya alo mThetho;
- (d) nikezela ngengxelo qho ngonyaka kuMphathiswa wePhondo: 35
- (i) ngenani leziganeko zokulahlwa nokugalelwa kwemfungumfungu yezinto zempilo emmandleni alawulayo kwo;
- (ii) ngenani leziganeko zokulahlwa kwemfungumfungu yezinto zempilo nezilandelwayo yinkundla yamatyala; kunye
- (iii) ngenani leziganeko zokulahlwa kwenkunkuma yezinto zempilo nezitshutshiswe ngempumelelo enkundleni yamatyala. 40
- (e) UMphathiswa wePhondo angacela uMasipala ukuba makazise iingxelo ezizezinye okanye iinkcukacha ezihambelana nalo Mthetho.

Imisebenzi ejongene neNtloko yeSebe

- 13.** (1) INtloko yeSebe mayiphonononge lo msebenzi wolawulo lwemfungumfungu evela kumchiza apha kwiPhondo ngale ndlela— 45
- (a) Ngokuqwalasela nokuthobela amatya ahambelana nalo Mthetho;
- (b) Ngokuqulunqa nokugcina uvimba weenkukacha, ukuze—
- (i) Uvumele ukunikezelwa kwengxelo yeenkcukacha zonke eziceliweyo kwicandelo 6(2)(k) naku (n) kanti naku; 50
- (ii) Makuvunyelwe kodwa ngokungqongqo ukufikelela kwiinkcukacha ezibhaliweyo ngokubhekiselele kwicandelwana 6(2)(k) naku-(n), xa kuceliwe.
- (2) INtloko yeSebe ingalubamba uphicotho-zincwadi zemali nakuwuphi na umvelisi wenkunkuma, umthuthi, umlawuli okanye umlahli wenkunkuma apha kwiPhondo. 55

Imiqathango

14. UMphathiswa wePhondo emva kokucebisana neKomiti ehlala ikho yePalamente yePhondo ejongene nemicimbi yokusingqongileyo.

- (a) Angabeka imiqathango ejongene nantoni na enxulumene nolawulo lokulahlwa kwemfungumfungu ephuma kumchiza; kwaye 5
- (b) angajolisa kwiindawo nasebantwini abathile ngelithi makuncitshiswe ukubakho kwemfungumfungu kwalathwe iziko elithile okanye icandelo elithile labavelisi bemfungumfungu, abathuthi, abalawuli nabalahl benkunkuma ngokubhengeza isaziso kwi*Gazethi yePhondo*.

Itayitile emfutshane okanye iSihloko esifutshane noqaliso 10

15. Lo Mthetho ubizwa ngokuba ngumThetho weNtshona Koloni ka-2007 uMthetho oSayilwayo woLawulo lweZempilo Lwezinto ezilahlwayo weNtshona Koloni, uza kusebenza ngomhla wokwenza izigqibo kweNkulumbuso ngokuwupapasha kwi*Gazethi yePhondo*.

