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PROVINCIAL NOTICE

The following Draft Bill is hereby published for general information:

Draft Western Cape Road Traffic Bill, 2006.

P.N. 395/2006 24 November 2006

You are invited to comment on the Draft Western Cape Road Traffic Bill, 2006. This Provincial Bill is intended to revise and consolidate the provisions of the Western Cape Road Traffic Act, 1998 (Act 12 of 1998), and will operate in conjunction with the National Road Traffic Act, 1996 (Act 93 of 1996).

Comment or representations should be submitted in writing on or before Friday, 16 March 2007 by fax, e-mail or by posting to:

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Department of Transport and Public Works
Provincial Administration: Western Cape
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As 'n Nuusblad by die Poskantoor Geregistreer

INHOUD

PROVINSIALE KENNISGEWING

Die volgende Konsepwetsontwerp word hierby vir algemene inligting gepubliseer:

Wes-Kaapse Konsepwetsontwerp op Padverkeer, 2006.

P.K. 395/2006 24 November 2006

Die publiek word genooi om kommentaar te lewer op die Wes-Kaapse Konsepwetsontwerp op Padverkeer, 2006. Hierdie Provinsiale Wetsontwerp het ten doel om die bepalings van die Wes-Kaapse Wet op Padverkeer, 1998 (Wet 12 van 1998), te hersien en te konsolideer en sal saam met die Nasionale Padverkeerswet, 1996 (Wet 93 van 1996), gebruik word.

Kommentaar of vertoë moet voor of op Vrydag, 16 Maart 2007 skriftelik per faks, e-pos of pos gestuur word aan:

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IZIQULATHO

ISAZISO SEPHONDO

Lo Mthetho uSayilwayo ulandelayo upapashwa apha ukunika ulwazi ngokubanzi:

UMthetho oYilwayo Osesisiqukunqo Ohlaziyayo Weendlela Entshona Koloni ka-2006

P.N. 395/2006 24 Novemba 2006

Niyacelwa ukuba nivakalise izimvo zenu ngalo Mthetho uYilwayo uyiDraft Western Cape Road Traffic Revision Bill ka-2002. Lo Mthetho uYilwayo wePhondo ujolisewe ekuhlaziyeni nasekuqiniseni iziqulatho nemiqathango yoMthetho oyiWestern Cape Road Traffic Act ka-1998 (uMthetho 12 ka-1998), kwaye uya kusebenza kunye noMthetho weSizwe woThutho eziNdleleni, 1996 (uMthetho 93 ka-1996).

Ezo zimvo kufuneka zibhalwe phantsi zize ke zingeniswe ngoLwesihlanu umhla we-16 Matshi 2007 okanye phambi kwawo, zithunyelwe ngefekisi, nge-email (iposi yekhompuyutha) okanye ziposelwe ku:

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DRAFT WESTERN CAPE ROAD TRAFFIC BILL, 2006

To consolidate and revise the provisions relating to road traffic in the Province; to replace the Western Cape Road Traffic Act, 1998; and to provide for matters related thereto.

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

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Definitions

- 1.** (1) In this Act, unless the context indicates otherwise—
- “by-law” means a by-law contemplated in section 7;
 - “Constitution” means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);
 - “direction sign” means a sign indicating directions on a public road;

“goods vehicle” means a motor vehicle which is used for the conveyance of goods as defined in the National Road Traffic Regulations;

“Head of Department” means the Head of the Department of the Provincial Government of the Western Cape responsible for road traffic administration or enforcement;

“local street” means a street under the control of a municipality in an area that is primarily urban in character;

“Minister” means the Provincial Minister of the Provincial Cabinet of the Province to whom the administration of the particular provision of this Act has been assigned;

“municipality” means a municipality referred to in section 155(6) of the Constitution, and includes all categories of municipalities contemplated in section 155(1) thereof;

“National Road Traffic Act” means the National Road Traffic Act, 1996 (Act 93 of 1996), and includes the regulations made under that Act;

“Premier” means the Premier of the Province elected in terms of section 125 of the Constitution;

“prescribed” means prescribed by regulation by the Minister by notice in the *Provincial Gazette*;

“Province” means the Province of Western Cape;

“road traffic sign” means a road traffic sign prescribed under section 56 of the National Road Traffic Act;

“this Act” includes any regulations made under this Act.

(2) Any word or expression defined in the National Road Traffic Act, but not defined in subsection (1), shall, unless the context indicates otherwise, bear the meaning assigned to it by the National Road Traffic Act.

Power of municipality to collect parking fees for parking bays and ranks or stands

2. (1) A municipality may, by resolution and for the purposes mentioned in subsection (3)(a), charge fees in respect of the parking of vehicles on any public road or section thereof within its area and under its jurisdiction.

(2) The fees referred to in subsection (1) may differ in respect of different public roads or different sections of the same public road.

(3) (a) If a parking meter is installed for the purpose of collecting fees or with a view to controlling traffic it must be installed in conjunction with a demarcated parking bay or bays and bear thereon a legend indicating the days and hours when payment must be made for parking and the amount payable for a specific period of parking.

(b) If any method other than a parking meter is used to collect the fees referred to in subsection (1), provision must be made for a sign to be displayed at the parking area concerned indicating the days and hours when payment must be made for parking, the amount payable for a specific period of parking and the manner of payment for a specific period of parking.

(4) (a) The time for which a vehicle may be lawfully parked in a parking bay referred to in subsection (3)(a), shall, unless the contrary is proved, be as measured by the parking meter for such bay.

(b) If any method other than a parking meter is used to collect the fees referred to in subsection (1), the time for which a vehicle may be lawfully parked in a parking area referred to in subsection (3)(b), shall, unless the contrary is proved, be as measured by means of the method concerned in respect of the vehicle concerned.

(5) Any municipality may establish upon a public road within its area and under its jurisdiction ranks or stands (to be known as special parking places) for the parking of passenger-carrying motor vehicles or any class of such vehicles as prescribed, and may make by-laws for the regulation and control of the use of those special parking places—

(a) to provide for the issue of permits allocating particular special parking places or subdivisions thereof to particular persons or vehicles for their exclusive use;

(b) to prohibit the use by any other person or vehicle of any special parking place or subdivision so allocated;

(c) to charge fees in respect of the use of special parking places; and

(d) to provide for matters incidental thereto:

Provided that provision may be made in any permit or in any renewal thereof for the limitation of the hours during which the holder shall have the exclusive use of a

particular special parking place and during which the use thereof by any other person or vehicle is prohibited.

(6) In the first allocation of any special parking place or subdivision referred to in subsection (5), the municipality must as far as possible have regard to the length of time during which the applicant therefor has been engaged in the business of transporting passengers for reward by the class of vehicle concerned. 5

(7) By-laws under subsection (5) may provide for the annual renewal, subject to the good conduct of the applicant, of the right to use any such special parking place or subdivision thereof.

(8) The exercise by a municipality of its powers under this section shall not render it subject to any liability in respect of the loss of or damage to any vehicle or the contents or fittings of any such vehicle while the vehicle is in a parking bay, parking area or special parking place. 10

Presumption regarding public road, freeway and public road in urban area

3. (1) Where in any prosecution under this Act it is alleged that an offence was committed on a public road, the road concerned shall, until the contrary is proved, be presumed to be a public road. 15

(2) Where in any prosecution under this Act it is alleged that an offence was committed on a freeway, the road concerned shall, until the contrary is proved, be deemed to be a freeway. 20

(3) Where in any prosecution under this Act it is alleged that an offence was committed on a public road in an urban area, the road concerned shall, until the contrary is proved, be presumed to be a public road in an urban area.

Presumption that owner drove or parked vehicle

4. (1) Where in any prosecution under this Act, it is material to prove who was the driver of a vehicle, it shall be presumed, until the contrary is proved, that such vehicle was driven by the owner thereof. 25

(2) Whenever a vehicle is parked in contravention of this Act or a by-law made thereunder, it shall be presumed, until the contrary is proved, that such vehicle was parked by the owner thereof. 30

(3) For the purposes of subsections (1) and (2) it shall be presumed, until the contrary is proved, that, where the owner of the vehicle concerned is a corporate body, such vehicle was driven or parked, as contemplated in those subsections, by a director or servant of the corporate body in the exercise of his or her powers or in the performance of his or her duties as such director or servant or in furthering or endeavouring to further the interests of the corporate body. 35

Presumption regarding officers

5. In any prosecution under this Act, the fact that any person purports to act or has purported to act as a traffic officer or an inspector of licences, examiner of vehicles or examiner for driving licences, shall be *prima facie* evidence of his or her appointment and authority so to act: Provided that this section shall not apply to a prosecution on a charge relating to impersonation. 40

Power of Minister to make regulations

6. (1) The Minister may make regulations, not inconsistent with this Act and the National Road Traffic Act, in respect of any matter contemplated, required or permitted to be prescribed under this Act and generally for the better carrying out of the provisions or objects of this Act or the National Road Traffic Act, and in particular, but without prejudice to the generality of the foregoing, with respect to— 45

(a) subject to regulations made under the National Road Traffic Act, the stopping and parking of vehicles on public roads; 50

(b) the method of determining any fact which is required for the purposes of this Act;

(c) any form, process or token which the Minister may deem expedient for the purposes of this Act and the nature and extent of any information to be furnished for the purpose of any such form; 55

- (d) the issue of a duplicate certificate, licence or other documentation or token issued in terms of this Act if the original has been lost, destroyed or defaced or any particulars thereon have become illegible;
- (e) the dress, including insignia, of traffic officers and of traffic wardens appointed in terms of the National Road Traffic Act; 5
- (f) the fees that may or are to be charged for any purpose under this Act, or in respect of any registration, application, authorisation or examination, or the issue of any document or copy of such document, referred to in the National Road Traffic Act or the regulations issued under that Act;
- (g) the fees that may or are to be charged in respect of the registration and licensing of motor vehicles as contemplated in the National Road Traffic Act; 10
- (h) the manner in which official languages must be used on signs as contemplated in section 19;
- (i) roads that constitute part of certain public roads for the purposes of section 19(3); 15
- (j) the Minister of the Province to which provisions of this Act have been assigned.

(2) The power to make regulations for any purpose referred to in subsection (1) shall include the power to restrict or prohibit any matter or thing in relation to that purpose either absolutely or conditionally. 20

(3) Any regulation under this section may be made to apply generally throughout the Province or within any specified part thereof or to any specified category of vehicle or person.

(4) A regulation made under subsection (1) may provide for penalties for a contravention thereof and also for different penalties in the case of successive or continuous contraventions, but no penalty shall exceed a fine or imprisonment for a period of one year. 25

(5) Before the Minister makes any regulation under this section, the Minister may if he or she deems it expedient, cause a draft of the proposed regulation to be published in the *Provincial Gazette* together with a notice calling upon interested persons to lodge in writing, and within a period stated in the notice, but not less than four weeks as from the date of publication of the notice, any objections or representations with the Head of Department: Provided that, if the Minister thereafter decides to alter the draft regulations as a result of any objections or representations submitted, it shall not be necessary so to publish such alterations before making the regulations. 35

Power of municipality to make by-laws

7. (1) Subject to any law in relation to the procedure to be followed in the making, approval and promulgation of any by-law by a municipality, any municipality may with the concurrence of the Minister make by-laws not inconsistent with this Act or the National Road Traffic Act, in respect of— 40

- (a) the safety of traffic on any public road, the duty of any user of such road and the use of any such road by any vehicle;
- (b) the stopping with and parking of any vehicle on any public road or portion thereof, including by-laws relating to the installation, regulation, supervision, maintenance and control of parking meters and parking places subject to the provisions of the Businesses Act, 1991 (Act 71 of 1991) and any regulation or by-law made thereunder in relation to the restriction, regulation or control of the carrying on of the business of street vendor, peddler or hawker; 45
- (c) the appointment and licensing of parking attendants and the withdrawal of any such licence; 50
- (d) the driver or conductor of, or other person employed in connection with, a vehicle plying for hire or accepting passengers for hire;
- (e) any public road which is not to be used by any vehicle, either generally or at specific times subject to the provisions of the Businesses Act 1991 (Act 71 of 1991) and any regulation or by-law made thereunder in relation to the restriction, regulation or control of the carrying on of the business of street vendor, peddler or hawker; 55
- (f) the relative position on the public road of traffic of differing speeds and classes;

- (g) the place where and time when a vehicle may not turn so as to face in the opposite direction to that in which it was proceeding or where it may only so turn under specified conditions;
- (h) the loading and off-loading of any vehicle on a public road;
- (i) the rules as to priority of entry of certain motor vehicles into a main thoroughfare; 5
- (j) the use of a hooter, bell or other warning device and the conditions under which any such warning device may be used within any specified area, whether at all times or during specified periods;
- (k) the appointment of an advisory traffic control board consisting of not fewer than three members to advise the municipality on all questions of traffic control; 10
- (l) the use of any public road by traffic in general;
- (m) the limitation of the age of drivers of vehicles drawn by animals;
- (n) any form or token which a municipality may deem expedient for the purposes of any by-law, and the nature and extent of any information to be furnished for the purpose of any such form; 15
- (o) the enabling of any municipality in the event of any person failing to do anything required of him or her under any by-law to do such act and to recover the expenses thereof from the person so in default; 20
- (p) the mass of any goods which or the number of passengers who or animals which may be conveyed on a pedal cycle;
- (q) the regulation, restriction, prohibition or control of the parking on public roads of vehicles owned, kept or used by dealers or which have been placed in their custody or under their control in the course of any dealer's business carried on by them; and 25
- (r) any other matter in regard to which a municipality may make by-laws under this Act.

(2) The power to make by-laws for any purpose referred to in subsection (1), shall include the power to restrict or prohibit any matter or thing in relation to that purpose, either absolutely or conditionally. 30

(3) Any by-law under subsection (1) may be made to apply generally throughout the area of the municipality or within any specified part thereof or to any specified category of vehicle or person.

(4) In so far as any by-law of a municipality, whether made under this Act or any other law, may be inconsistent with any regulation under this Act or the National Road Traffic Act, the regulation shall prevail. 35

(5) Any by-law made under this section may provide for penalties for a contravention thereof, and may also provide for different penalties in case of successive or continuous breaches, but no penalty shall exceed a fine or imprisonment for a period of six months. 40

Municipality may determine fees

8. A municipality may, by resolution, determine the fees to be charged for any purpose contemplated in section 7.

Registers and records

9. (1) The registers or records as may be prescribed must be kept by— 45
- (a) a registering authority;
 - (b) any municipality; and
 - (c) any person determined by the Minister by notice in the *Provincial Gazette*.

(2) The prescribed particulars must be recorded in the prescribed manner in registers and records referred to in subsection (1). 50

(3) Any authority referred to in subsection (1) shall in the manner and at such intervals as are prescribed furnish the Minister or any person or body designated by the Minister with information recorded in a register or record of such authority, and the Minister must from the information so furnished compile or cause to be compiled such register as he or she may deem fit. 55

(4) The Minister may prescribe that any authority must keep such additional registers or records as the Minister may deem expedient.

Copy of entry in register or record to be evidence

10. (1) A document purporting to be an extract from, or a copy of, any register or record kept in terms of this Act and purporting to be certified as such, shall in any court and upon all occasions whatsoever be admissible as evidence and shall be *prima facie* evidence of the truth of the matters stated in such document without the production of the original register or record or any certificate, licence, other document, microfiche, microfilm or computerised record from or of which such extract or copy was made. 5

(2) The information contained in a register or record kept for the purposes of this Act must be furnished to—

- (a) a traffic officer or inspector of licences who requires it for the performance of his or her duties; 10
- (b) any person authorised thereto by the Minister to demand such furnishing;
- (c) any department of State; or
- (d) a municipality:

Provided that the consent of the Minister or any person authorised thereto by him or her must be obtained before such information is furnished to an authority referred to in paragraph (d). 15

(3) Any authority keeping a register or record in terms of section 9 must at the request of any person and upon payment of the prescribed fees—

- (a) confirm whether or not certain information corresponds to the information contained in such register or record, if in the opinion of such authority that person, on reasonable grounds requires confirmation of such information; or 20
- (b) furnish the information mentioned in paragraph (a) to that person if in the opinion of such authority he or she, on reasonable grounds, requires that such information be furnished to him or her. 25

(4) This section is subject to the Promotion of Access to Information Act, 2000 (Act 2 of 2000).

Cognisance may be taken of information in register or record

11. The Minister may, in exercising a discretion or taking a decision in terms of this Act, take cognisance of the information contained in a register or record contemplated in section 9. 30

Special provisions relating to parking

12. (1) Notwithstanding anything to the contrary in any law, a municipality may exempt in the prescribed circumstances and subject to the prescribed conditions—

- (a) any person who, in the opinion of such municipality, has a prescribed physical disability; or 35
- (b) any person who is conveying or assisting a person contemplated in paragraph (a); or
- (c) a registered nurse or midwife as defined in section 1 of the Nursing Act, 1978 (Act 50 of 1978); or 40
- (d) a medical practitioner,

from any law relating to the parking of a motor vehicle within its area of jurisdiction.

(2) A municipality may, and shall in the prescribed circumstances, provide special parking places for the exclusive parking of vehicles driven by persons referred to in subsection (1), and such parking places shall be identified by a road traffic sign. 45

(3) A municipality shall control the use of the parking places referred to in subsection (2) in the prescribed manner.

(4) The municipality concerned shall issue to a person mentioned in subsection (1) proof of such exemption.

Minister may authorise refunds 50

13. (1) The Minister may, if he or she is satisfied that any amount paid by a person was in excess of the amount properly chargeable under this Act, authorise a refund of such amount or of any part thereof to such person.

(2) The Minister shall not authorise any refund under this section unless the claim therefor is received by the registering authority or the Provincial Administration within three years after the date of the payment concerned. 55

Registering authority subject to inspection by Auditor-General

14. The Auditor-General may at any time cause an inspection to be made of the records of a registering authority, and the revenues collected by such authority under this Act.

Inspections to ensure compliance with Act 5

15. (1) The Minister may authorise any person to carry out any inspection which the Minister deems necessary to ensure that the provisions of this Act are being complied with.

(2) No person shall obstruct or hinder any person in the carrying out of any inspection referred to in subsection (1). 10

Variation of prescribed form

16. The Minister may, in such circumstances as he or she deems expedient, authorise a registering or other authority to use, in substitution for a form prescribed by the Minister under this Act or an Act repealed by section 25, for a particular purpose, a form which varies from such prescribed form, and in respect of such authority such varied form shall be deemed to be the prescribed form for that purpose. 15

Signature on documents

17. Any person who is unable to sign his or her name must, whenever his or her signature is required upon any document in terms of this Act, impress in place thereof his or her left thumb print upon the space within which he or she would otherwise have been required to sign his or her name, and if his or her left thumb print is not available, he or she must substitute therefor another of his or her fingerprints, and in such latter event the document so marked must then be endorsed by the officer in whose presence the print was made, identifying the finger used. 20

Service of notices 25

18. (1) Whenever in terms of this Act any notice is authorised or required to be served upon or issued to any person, such notice shall either be served personally upon the person to whom it is addressed or be sent to him or her by registered post to his or her last known address: Provided that the address furnished by the holder of a driving licence at the time of his or her application for such licence or recorded against his or her name in a register of driving licences, or the address recorded against the registration of a vehicle in a register of motor vehicles as the address of the owner of such vehicle, shall serve as his or her domicile of summons and execution for all purposes arising from or for the purposes of this Act, for the service of notices, post or processes on such person. 30

(2) Service by registered post in terms of subsection (1) shall be deemed to have been effected on the tenth day after the date stamped upon the receipt for registration issued by the post office which accepted the notice. 35

(3) A certificate by the officer who issued the notice referred to in subsection (1), or by a person subordinate to such officer, stating the time, place and manner of issuing such notice, shall be evidence that such notice was duly issued, unless and until the contrary is proved. 40

Usage of official languages

19. (1) One or more of the three official languages of the Province must be used on road traffic signs, direction signs and street name signs on local streets, in the manner prescribed, subject to this section. 45

(2) Consideration may be given to the language use and preferences of local communities in determining which official language or languages to use on direction signs and street name signs on local streets.

(3) The official language or languages to be used on signs on certain public roads shall be as prescribed. 50

Offences and penalties

20. (1) Any person who contravenes or fails to comply with any provision of this Act or with any direction, condition, demand, determination, requirement, term or request thereunder, shall be guilty of an offence.

(2) Any person convicted of an offence in terms of this Act shall be liable to a fine or to imprisonment for a period not exceeding one year, or both. 5

(3) Despite anything to the contrary in any law, a magistrate's court shall be competent to impose any penalty provided for in this Act.

Apportionment of fees

21. All fees paid in terms of this Act, excluding fees paid to a testing station which is not a registering authority, and excluding fees that have been set in terms of a municipal by-law, shall be paid into the Provincial Revenue Fund. 10

Apportionment of fines

22. (1) All fines imposed or monies estreated as bail in respect of any offence in terms of this Act or the National Road Traffic Act, shall be administered in terms of sections 6 and 8 of the Finance and Finance Adjustments Acts Consolidation Act, 1977. 15

(2) All fines imposed and moneys estreated as bail in respect of any offence under any by-law made in terms of this Act must be paid to the authority to which any such by-law is applicable.

Delegation 20

23. (1) The Minister may—

(a) delegate to any other person any power conferred upon him or her by or under this Act; and

(b) authorise any other person to perform any duty assigned to the Minister by or under this Act, 25

and may effect such delegation or grant such authorisation subject to such conditions as he or she may deem fit.

(2) The Minister may at any time withdraw a delegation effected or authorisation granted under subsection (1).

Transitional provisions 30

24. Any proclamation, regulation, by-law, notice, order, prohibition, authority, appointment, permission, information or document made, issued, imposed, granted or given and any other action taken under any law repealed by the National Road Traffic Act, shall be deemed to have been made, issued, imposed, granted, given or taken under the corresponding provision (if any) of this Act. 35

Repeal of laws

25. The Western Cape Road Traffic Act, 1998 (Act 12 of 1998) is hereby repealed.

State bound

26. This Act binds the State and any person in the service of the State: Provided that the Minister may, by notice in the *Provincial Gazette*, exempt the State or any department thereof or any such person from any provision of this Act, subject to such conditions as the Minister may determine. 40

Short title and commencement

27. (1) This Act is called the Western Cape Road Traffic Act, 2006 and comes into operation on a date fixed by the Premier by proclamation in the *Provincial Gazette*. 45

(2) Different dates may be so fixed in respect of different provisions of this Act, and dates so fixed may differ in respect of different—

- (a) persons or goods or categories of persons or goods transported by means of a motor vehicle;
- (b) kinds or classes of motor vehicles used in the transportation of persons or goods;
- (c) persons or categories of persons; or
- (d) areas in the Province.

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(3) More than one of the elements referred to in paragraphs (a) to (d), inclusive, of subsection (2) may be combined for the purposes of that subsection.

MEMORANDUM ON THE OBJECTS OF THE DRAFT WESTERN CAPE ROAD TRAFFIC BILL, 2006

The process of advertising the draft Western Cape Road Traffic Bill, 2006 is intended to elicit public comment and to incorporate such comments as are received into the final Bill prior to it being introduced to the Provincial Legislature. It should be noted that the comments received from the earlier process of advertising the draft Western Cape Road Traffic Bill, 2002 (Provincial Gazette 5918 dated 2 August 2002) have been incorporated where appropriate into this new version.

The draft Western Cape Road Traffic Bill, 2006 (the Bill) is designed to revise and consolidate the provisions of the Western Cape Road Traffic Act, 1998 (Act 12 of 1998) in response to developments relating to national road traffic legislation.

The Western Cape Road Traffic Act, 1998 ("the Provincial Act"), was designed to be read in conjunction with the National Road Traffic Act, 1996 (Act 93 of 1996) ("the National Act") as part of a package of road traffic legislation agreed to by MINCOM (the Ministerial Committee of Ministers of Transport). According to this agreement, each province would pass a provincial road traffic act to supplement the National Act and to deal with road traffic issues of provincial concern.

Before either of these Acts was brought into operation, the National Parliament passed the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act 46 of 1998) ("the AARTO Act") and the Road Traffic Management Corporation Act, 1999 (Act 20 of 1999) ("the RTMC Act"). These Acts necessitated amendment of the National Act.

Pursuant to the AARTO Act and the RTMC Act, the decision was taken to excise many of the issues dealt with in the provincial acts and to introduce them into the National Act. Accordingly, the National Road Traffic Amendment Act, 1999 (Act 21 of 1999) was passed to amend the 1996 Act by also incorporating the following issues, among others, which were previously seen as issues of provincial concern:

- Appointment of registering authorities
- Appointment of officers
- Registration and grading of officers
- Powers and duties of officers
- Registration and licensing of motor vehicles
- Registration of driving licence testing centres and instructors
- Registration of testing stations
- Powers of local authorities to make by-laws on road traffic issues.

In response to this, only limited sections of the Provincial Act were brought into operation on 14 December 2000 (Proclamation No. 118 of 2000). The remaining provisions, which are now in the National Act, need never be brought into operation, and will be repealed by the Bill. The Bill also consolidates the provisions of the Provincial Act into a condensed form and brings about limited revisions. In summary, the Bill mainly repeats and consolidates road traffic laws that are already in force.

Clause 1 of the Bill provides necessary definitions.

Clause 2 empowers municipalities to collect parking fees for parking bays and ranks and stands.

Clause 3 deals with presumptions relating to types of roads in prosecutions under the Act. For example, roads are presumed to be public roads unless the contrary is proved.

Clause 4 similarly provides that in prosecutions under the Act, it is presumed that the owner of a vehicle was driving it until the contrary is proved. Under clause 5, persons acting as traffic officers are presumed to be properly appointed.

Clause 6 allows the Provincial Minister to make regulations on certain issues relating to road traffic that are not covered by the National Act.

Clause 7 empowers municipalities to make by-laws on similar issues. This duplicates Section 80(a) of the National Act (Act 93 of 1996) because that section is not yet in operation.

Clause 8 empowers municipalities to determine fees for the purposes of such by-laws.

In terms of clause 9 the Provincial Minister may make regulations requiring persons to keep registers and records relating to road traffic matters.

Clause 10 allows entries in records and registers to be used as evidence in matters such as court proceedings. Clause 11 allows the Provincial Minister to take cognisance of information in such registers and records.

Clause 12 allows municipalities to exempt medical personnel and persons with disabilities from parking laws and to provide special parking places for those persons.

In terms of clause 13 the Provincial Minister may authorise refunds of fees that have been overpaid.

Clause 14 allows the Auditor-General to inspect records of registering authorities. Similarly, under clause 15 the Provincial Minister may authorise inspections to ensure that the provisions of the Act are being carried out. Clause 16 allows the Provincial Minister to authorise a registering authority or other authority to use forms which vary from the prescribed forms.

Clause 17 provides that persons who are unable to sign their names for purposes of the Act may use thumb prints or fingerprints. Clause 18 deals with the service or delivery of notices under the Act.

Clause 19 deals with the use of the three official languages of the Province on road traffic signs, direction signs and street name signs. In the case of direction signs and street name signs on local streets, the language use and preferences of local communities will be considered. The Bill empowers the Provincial Minister to make regulations on language use on various categories of roads. Clause 20 provides for offences and penalties.

Clause 21 requires that fees paid in terms of the Act must be paid into the Provincial Revenue Fund, except in the case where fees are paid to a testing station which is not a registering authority, and where fees are set in terms of a municipal bylaw. Clause 22 deals with the apportionment of fines, subject to applicable national legislation.

Clause 23 deals with the delegation of the Provincial Minister's powers and duties.

Clause 24 provides for transitional provisions.

Clause 25 repeals the Provincial Act. Clause 26 provides that the Act binds the State, but that the Provincial Minister may exempt the State or any of its departments from the provisions of the Act.

Clause 27 deals with the short title and commencement of the Bill.

WES-KAAPSE KONSEPWETS- ONTWERP OP PADVERKER, 2006

Om die bepalings met betrekking tot padverkeer in die Provinsie te konsolideer en te hersien; om die Wes-Kaapse Wet op Padverkeer, 1998, te vervang; en om vir aangeleenthede in verband daarmee voorsiening te maak. 5

DAAR WORD soos volg deur die Provinsiale Wetgewer van die Provinsie Wes-Kaap bepaal:—

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Woordomsrywings

- (1) In hierdie Wet, tensy dit uit die samehang anders blyk, beteken—
 “Departementshoof” die Hoof van die Departement van die Provinsiale Regering 35
 van die Wes-Kaap verantwoordelik vir padverkeersadministrasie of -toepassing;
 “goederevoertuig” ’n motorvoertuig wat vir die vervoer van goedere soos in die
 Nasionale Padverkeersregulasies omskryf, gebruik word;

“Grondwet” die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet 108 van 1996);
 “hierdie Wet” dat dit enige regulasies uitgevaardig kragtens hierdie Wet insluit;
 “Minister” die Provinsiale Minister van die Provinsiale Kabinet van die Provinsie
 aan wie die administrasie van die besondere bepaling van hierdie Wet opgedra is; 5
 “munisipaliteit” ’n munisipaliteit soos in artikel 155(6) van die Grondwet genoem,
 en sluit alle kategorieë munisipaliteite in wat in artikel 155(1) daarvan bedoel
 word;
 “Nasionale Padverkeerswet” die Nasionale Padverkeerswet, 1996 (Wet 93 van
 1996), en sluit die regulasies uitgevaardig kragtens daardie Wet in; 10
 “padverkeersteken” ’n padverkeersteken soos ingevolge artikel 56 van die
 Nasionale Padverkeerswet;
 “plaaslike straat” ’n straat onder die beheer van ’n munisipaliteit in ’n gebied wat
 hoofsaaklik stedelik van aard is;
 “Premier” die Premier van die Provinsie wat ingevolge artikel 125 van die 15
 Grondwet verkies is;
 “Provinsie” die Provinsie Wes-Kaap;
 “rigtingwyser” ’n teken wat rigting op ’n openbare pad aandui;
 “verordening” ’n verordening soos in artikel 7 bedoel;
 “voorgeskryf” voorgeskryf by regulasie deur die Minister by kennisgewing in die 20
Provinsiale Koerant.

(2) Enige woord of uitdrukking wat in die Nasionale Padverkeerswet omskryf word
 maar wat nie in subartikel (1) omskryf word nie, moet, tensy dit uit die samehang anders
 blyk, die betekenis dra wat die Nasionale Padverkeerswet daaraan verleen.

Bevoegdheid van munisipaliteit om parkeergelde vir parkeervakke en staanplekke of standplase in te vorder 25

2. (1) ’n Munisipaliteit kan, by besluit en vir die doeleindes vermeld in subartikel
 (3)(a), gelde vorder ten opsigte van die parkering van voertuie op enige openbare pad of
 gedeelte daarvan binne sy gebied en onder sy jurisdiksie.

(2) Die gelde genoem in subartikel (1) kan verskil ten opsigte van verskillende 30
 openbare paaie of verskillende gedeeltes van dieselfde openbare pad.

(3) (a) Indien ’n parkeermeter geïnstalleer word vir die doel om gelde in te vorder met
 die oog op die beheer van verkeer, moet dit geïnstalleer word gepaard met ’n afgemerkte
 parkeervak of parkeervakke en moet dit ’n inskripsie daarop hê wat die dae en ure
 aandui wanneer vir parkering betaal moet word en vir die bedrag betaalbaar vir 35
 spesifieke parkeertydperk.

(b) Indien ’n ander metode as ’n parkeermeter gebruik word om die gelde bedoel in
 subartikel (1) in te vorder, moet voorsiening gemaak word vir ’n teken wat vertoon word
 by die betrokke parkeerarea en wat die dae en ure aandui wanneer vir parkering betaal
 moet word, die bedrag betaalbaar vir ’n spesifieke parkeertydperk en die wyse waarop 40
 betaling vir ’n spesifieke parkeertydperk gemaak moet word.

(4) (a) Die tydperk wat ’n voertuig wettig in ’n parkeervak genoem in subartikel
 (3)(a) geparkeer mag word, is, tensy die teendeel bewys word, soos deur die
 parkeermeter vir sodanige parkeervak gemeet.

(b) Indien ’n ander metode as ’n parkeermeter gebruik word om die gelde bedoel in 45
 subartikel (1) in te vorder, is die tydperk wat ’n voertuig wettig in ’n parkeerarea genoem
 in subartikel (3)(b) geparkeer mag word, tensy die teendeel bewys word, soos gemeet
 deur middel van die betrokke metode ten opsigte van die betrokke voertuig.

(5) Enige munisipaliteit kan op ’n openbare pad binne sy gebied en onder sy
 jurisdiksie staanplekke of standplase (wat as spesiale parkeerplekke bekend staan) 50
 inruim vir die parkering van passasierdraende motorvoertuie of enige klas daarvan, soos
 voorgeskryf, en kan verordeninge vir die reël en beheer van die gebruik van daardie
 spesiale parkeerplekke uitvaardig—

(a) om voorsiening te maak vir die uitreiking van permitte waarvolgens bepaalde
 spesiale parkeerplekke of onderverdelings daarvan aan sekere persone of 55
 voertuie toegeken word vir hul uitsluitlike gebruik;

(b) om die gebruik deur enige ander persoon of voertuig van enige spesiale
 parkeerplek of onderverdeling aldus toegeken te verbied;

(c) om gelde ten opsigte van die gebruik van spesiale parkeerplekke te vorder; en

(d) om voorsiening te maak vir sake wat daarmee in verband staan: 60

Met dien verstande dat in enige permit of enige hernuwing daarvan voorsiening gemaak kan word vir die beperking van die ure waartydens die houër die uitsluitlike gebruik van 'n bepaalde spesiale parkeerplek het en waartydens die gebruik daarvan deur enige ander persoon of voertuig verbied word.

(6) By die eerste toekenning van enige spesiale parkeerplek of onderverdeling wat in subartikel (5) bedoel word, moet die plaaslike owerheid so ver moontlik die tydperk in ag neem wat die aansoeker daarom reeds besig is om passasiers met die betrokke klas voertuig teen betaling te vervoer. 5

(7) Verordeninge ingevolge subartikel (5) kan voorsiening maak vir die jaarlikse hernuwing van die reg om so 'n spesiale parkeerplek of onderverdeling daarvan te gebruik, onderworpe aan die aansoeker se goeie gedrag. 10

(8) Die uitoefening deur 'n munisipaliteit van sy bevoegdhede ingevolge hierdie artikel stel die owerheid nie aanspreeklik ten opsigte van die verlies of beskadiging van enige voertuig of die inhoud of toebehore van so 'n voertuig terwyl die voertuig in 'n parkeervak, parkeerarea of spesiale parkeerplek is nie. 15

Vermoede ten opsigte van openbare pad, deurpad en openbare pad in stedelike gebied

3. (1) Indien daar in enige vervolging ingevolge hierdie Wet beweer word dat 'n misdryf op 'n openbare pad gepleeg is, word daar vermoed, totdat die teendeel bewys word, dat die betrokke pad 'n openbare pad is. 20

(2) Indien daar by enige vervolging ingevolge hierdie Wet beweer word dat 'n misdryf op 'n deurpad gepleeg is, word daar vermoed, totdat die teendeel bewys word, dat die betrokke pad 'n deurpad is.

(3) Indien daar by enige vervolging ingevolge hierdie Wet beweer word dat 'n misdryf op 'n openbare pad in 'n stedelike gebied gepleeg is, word daar vermoed, totdat die teendeel bewys word, dat die betrokke pad 'n openbare pad in 'n stedelike gebied is. 25

Vermoede dat eienaar voertuig bestuur of geparkeer het

4. (1) Indien dit by enige vervolging ingevolge hierdie Wet belangrik is om te bewys wie die bestuurder van 'n voertuig was, word daar vermoed, totdat die teendeel bewys word, dat daardie voertuig deur die eienaar daarvan bestuur is. 30

(2) Wanneer ook al 'n voertuig geparkeer word in stryd met enige bepaling van hierdie Wet of 'n verordening wat daarkragtens uitgevaardig is, word daar vermoed, totdat die teendeel bewys word, dat daardie voertuig deur die eienaar daarvan geparkeer is.

(3) Vir die doeleindes van subartikels (1) en (2) word daar vermoed, totdat die teendeel bewys word, dat, indien die eienaar van die betrokke voertuig 'n regspersoon is, daardie voertuig deur 'n direkteur of dienaar van die regspersoon bestuur of geparkeer is, soos in daardie subartikels bedoel, by die uitoefening van sy of haar bevoegdhede of die uitvoering van sy of haar pligte as sodanige direkteur of dienaar, of ter bevordering of gepoogde bevordering van die belange van die regspersoon. 35 40

Vermoede ten opsigte van amptenare

5. By enige vervolging ingevolge hierdie Wet is die feit dat 'n persoon voorgee om op te tree of voorgee het om op te getree het as 'n verkeersbeampte of inspekteur van lisensies, 'n ondersoeker van voertuie of 'n toetsbeampte vir bestuurslisensies, *prima facie*-getuienis van sy of haar aanstelling en magtiging om aldus op te tree: Met dien verstande dat hierdie artikel nie van toepassing is met betrekking tot 'n vervolging op 'n aanklag wat op identiteitbedrog betrekking het nie. 45

Bevoegdheid van Minister om regulasies uit te vaardig

6. (1) Die Minister kan regulasies uitvaardig wat nie onbestaanbaar met die bepalings van die Wet en die Nasionale Padverkeerswet is nie, en in die besonder, maar sonder inkorting van die algemeenheid van die voorafgaande bepalings, betreffende— 50

(a) behoudens regulasies uitgevaardig ingevolge die Nasionale Padverkeerswet, die stilhou met en parkering van voertuie op openbare paaie;

(b) die metode om enige feit vas te stel wat vir die doeleindes van hierdie Wet vereis word; 55

- (c) enige vorm, prosesstuk of teken wat die Minister dienstig ag vir die doeleindes van hierdie Wet en die aard en omvang van enige inligting wat vir die doeleindes van enige sodanig vorm verstrek moet word;
- (d) die uitvaardiging van 'n duplikaat van 'n sertifikaat, lisensie of ander dokumentasie of teken wat ingevolge hierdie Wet uitgevaardig is indien die oorspronklike daarvan verlore, vernietig of ontsier is of enige besonderhede daarop onleesbaar geword het; 5
- (e) die drag, met inbegrip van onderskeidingstekens, van verkeersbeamptes en van verkeersopsigters wat ingevolge die Nasionale Padverkeerswet aangestel is; 10
- (f) die gelde wat gevorder kan of moet word vir enige doel ingevolge hierdie Wet, of ten opsigte van enige registrasie, aansoek, magtiging of ondersoek, of die uitreiking van enige dokument of afskrif van sodanige dokument, bedoel in die Nasionale Padverkeerswet, 1996, of die regulasies uitgevaardig kragtens daardie Wet; 15
- (g) die gelde wat gevorder kan of moet word ten opsigte van die registrasie en lisensiering van motorvoertuie soos bedoel in die Nasionale Padverkeerswet;
- (h) die wyse waarop amptelike tale gebruik moet word op tekens soos in artikel 19 bedoel;
- (i) paaie wat deel uitmaak van sekere openbare paaie, vir die doeleindes van artikel 19(3); 20
- (j) die Minister van die Provinsie aan wie bepalings van hierdie Wet opgedra is.
- (2) Die bevoegdheid om regulasies uit te vaardig vir enige doel waarna in subartikel (1) verwys word, omvat die bevoegdheid om enige aangeleentheid of saak met betrekking tot daardie doel volstrek of voorwaardelik te beperk of te verbied. 25
- (3) Enige regulasie kragtens hierdie artikel kan uitgevaardig word om oor die algemene regdeur die Provinsie of binne enige bepaalde deel daarvan of op enige gespesifiseerde kategorie voertuig of persoon van toepassing te wees.
- (4) 'n Regulasie uitgevaardig kragtens subartikel (1) kan voorsiening maak vir strawwe vir 'n oortreding daarvan en ook verskillende strawwe in die geval van agtereenvolgende of voortdurende oortredings, maar geen straf mag 'n boete of gevangenisstraf vir 'n tydperk van een jaar oorskry nie. 30
- (5) Voordat die Minister enige regulasie kragtens hierdie artikel uitgevaardig, kan die Minister, indien hy of sy dit dienstig ag, 'n konsep van die voorgestelde regulasie in die *Provinsiale Koerant* laat publiseer, tesame met 'n kennisgewing waarby die belanghebbende persone uitgenooi word om enige besware of verhoë wat hulle wil opper of wil rig binne 'n tydperk vermeld in die kennisgewing, maar nie minder nie as vier weke vanaf die datum van publikasie van die kennisgewing, skriftelik by die Departementshoof in te dien: Met dien verstande dat indien die Minister daarna besluit om die konsepregulasies te verander na aanleiding van enige besware of verhoë wat ingedien is, dit nie nodig is om daardie veranderings aldus te publiseer voordat die regulasies uitgevaardig word nie. 35 40

Bevoegdheid van munisipaliteit om verordeninge uit te vaardig

7. (1) Behoudens enige wet met betrekking tot die prosedure wat gevolg moet word by die opstel, goedkeuring en afkondiging van enige verordening deur 'n munisipaliteit, kan 'n plaaslike owerheid met die instemming van die Minister verordeninge uitgevaardig wat nie onbestaanbaar met hierdie Wet of die Nasionale Padverkeerswet is nie, betreffende— 45
- (a) die veiligheid van verkeer op enige openbare pad, die plig van enige gebruiker van sodanige pad en die gebruik van enige sodanige pad deur enige voertuig; 50
- (b) die stilhou met en parkering van enige voertuig op 'n openbare pad of gedeelte daarvan, met inbegrip van verordeninge betreffende die installering, reëling, toesig oor, instandhouding en beheer van parkeermeters en parkeerplekke, behoudens die bepalings van die Wet op Besighede, 1991 (Wet 71 van 1991), en enige regulasie of verordening daarkragtens uitgevaardig met betrekking tot die beperking, reëling of beheer van die dryf van die besigheid van 'n straathandelaar, venter of smous; 55
- (c) die aanstelling en lisensiering van parkeeropsigters en die intrekking van sodanige lisensie;
- (d) die bestuurder of kondukteur van, of ander persoon aangestel in verband met, 'n voertuig wat te huur is of passasiers vir huur aanvaar; 60

- (e) enige openbare pad wat nie deur enige voertuig gebruik mag word nie, hetsy oor die algemeen of op gespesifiseerde tye, behoudens die bepalinge van die Wet op Besighede, 1991 (Wet 71 van 1991), en enige regulasie of verordening daarkragtens uitgevaardig met betrekking tot die beperking, reëling of beheer van die dryf van die besigheid van 'n straathandelaar, venter of smous; 5
- (f) die relatiewe posisie op 'n openbare pad van verkeer van verskillende snelhede en klasse;
- (g) die plek waar en tyd wanneer 'n voertuig nie mag draai sodat dit met die voorkant gekeer is in die rigting waaruit die gekom het nie of waar dit net onder bepaalde omstandighede aldus mag draai; 10
- (h) die op- en aflaai van enige voertuig op enige openbare pad;
- (i) die reëls met betrekking tot voorrang van sekere motorvoertuie wanneer hulle 'n hoofdeurgang binnegaan;
- (j) die gebruik van 'n toeter, klok of ander waarskuwingstoestel en die omstandighede waaronder enige sodanige waarskuwingstoestel binne 'n bepaalde gebied gebruik mag word, hetsy te alle tye of gedurende gespesifiseerde tydperke; 15
- (k) die aanstelling van 'n adviserende verkeersbeheerraad bestaande uit minstens drie lede om die munisipaliteit te adviseer oor alle vraagstukke betreffende verkeersbeheer; 20
- (l) die gebruik van enige openbare pad deur verkeer oor die algemeen;
- (m) die beperking van die ouderdom van bestuurders van voertuie wat deur diere getrek word;
- (n) enige vorm of teken wat 'n munisipaliteit dienstig ag by die toepassing by enige verordening, en die aard en omvang van enige inligting wat vir die doel van sodanige vorm verstrek moet word; 25
- (o) die verlening van bevoegdheid aan enige munisipaliteit om, indien enige persoon versuim om enigiets te doen wat deur enige verordening van hom of haar vereis word, daardie handeling te verrig en die uitgawes daaraan verbonde van die persoon wat aldus versuim het, te verhaal; 30
- (p) die massa van enige goedere of die getal passasiers of diere wat op 'n trapfiets vervoer mag word;
- (q) die reëling, beperking, verbied of beheer van parkering op openbare paaie van voertuie wat deur handelaars besit, gehou of gebruik word of wat in hul bewaring of onder hul beheer geplaas is in die loop van sake wat deur enige handelaar bedryf word; en 35
- (r) enige ander aangeleentheid met betrekking waartoe 'n munisipaliteit verordeninge kragtens hierdie Wet kan uitvaardig.
- (2) Die bevoegdheid om verordeninge uit te vaardig vir enige doel genoem in subartikel (1) sluit die bevoegdheid in om enige aangeleentheid of saak met betrekking tot daardie doel volstrek of voorwaardelik te beperk of te verbied. 40
- (3) Enige verordening ingevolge subartikel (1) kan uitgevaardig word om in die algemeen op die hele gebied van die munisipaliteit of binne enige gespesifiseerde deel daarvan of op enige gespesifiseerde kategorie voertuig of persoon van toepassing te wees. 45
- (4) Vir sover enige verordening van 'n munisipaliteit, ongeag of dit kragtens hierdie wet of 'n ander wet uitgevaardig is, onbestaanbaar is met enige regulasie kragtens hierdie Wet of die Nasionale Padverkeerswet, moet die regulasie van krag wees.
- (5) Enige verordening uitgevaardig kragtens hierdie artikel kan voorsiening maak vir strawwe vir 'n oortreding daarvan, en kan ook voorsiening maak vir verskillende strawwe in die geval van opeenvolgende of voortdurende oortredings, maar geen straf mag 'n boete of gevangenisstraf vir 'n tydperk van ses maande oorskry nie. 50

Munisipaliteit mag gelde vasstel

8. 'n Munisipaliteit mag, by besluit, die gelde vasstel wat vir enige doel beoog in artikel 7 gevorder mag word. 55

Registers en rekords

9. (1) Die registers of rekords wat voorgeskryf word, moet gehou word deur—
- (a) 'n registrasie-owerheid;
 - (b) enige munisipaliteit; en

(c) enige persoon wat die Minister by kennisgewing in die *Provinsiale Koerant* bepaal.

(2) Die voorgeskrewe besonderhede moet op die voorgeskrewe wyse in registers en rekords genoem in subartikel (1) aangebring word.

(3) Enige owerheid in subartikel (1) genoem, moet op die voorgeskrewe wyse en met die voorgeskrewe tussenpose aan die Minister of enige persoon of liggaam deur die Minister aangewys die inligting verstrek wat in 'n register of rekord van sodanige owerheid aangeteken is, en die Minister moet uit die inligting aldus verstrek die register wat hy of sy goedvind, saamstel of laat saamstel.

(4) Die Minister kan voorskryf dat enige owerheid die bykomende registers of rekords wat die Minister dienstig ag, moet hou.

Afskrif van inskrywing in register of rekord is getuienis

10. (1) 'n Dokument wat voorgee 'n uittreksel te wees uit of 'n afskrif te wees van enige register of aantekening ingevolge hierdie Wet gehou word en wat voorgee as sodanig gesertifiseer te wees, is by enige hof en by alle geleenthede wat ook al toelaatbaar as getuienis en is *prima facie*-getuienis van die waarheid van die aangeleenthede wat in sodanige dokument verklaar word, sonder die voorlegging van die oorspronklike register of rekord of enige sertifikaat, lisensie, ander dokument, mikrofilm of gerekenariseerde rekord waaruit of waarvan sodanige uittreksel of afskrif gemaak is.

(2) Die inligting vervat in 'n register of rekord wat vir die doeleindes van hierdie Wet gehou word, moet verstrek word aan—

(a) 'n verkeersbeampte of inspekteur van lisensies wat dit in die uitvoering van sy of haar pligte nodig het;

(b) enige persoon wat deur die Minister daartoe gemagtig is om sodanige verstrekking te eis;

(c) enige Staatsdepartement; of

(d) 'n munisipaliteit:

Met dien verstande dat die toestemming van die Minister of enige persoon deur hom of haar daartoe gemagtig verkry moet word voordat sodanige inligting aan 'n owerheid bedoel in paragraaf (d) verstrek word.

(3) Enige owerheid wat 'n register of rekord ingevolge artikel 9 hou, moet op versoek van enige persoon en by betaling van die voorgeskrewe gelde—

(a) bevestig of sekere inligting ooreenstem met die inligting wat in sodanige register of rekord vervat is al dan nie, indien, na die mening van sodanige owerheid, daardie persoon op redelike gronde bevestiging van sodanige inligting nodig het; of

(b) die inligting waarna in paragraaf (a) verwys word aan daardie persoon verstrek indien na die mening van sodanige owerheid hy of sy op redelike gronde versoek het dat sodanige inligting aan hom of haar verstrek moet word.

(4) Hierdie artikel is onderhewig aan die Wet op die Bevordering van Toegang tot Inligting, 2000 (Wet 2 van 2000).

Kennis kan geneem word van inligting vervat in register of rekord

11. Die Minister kan, by die uitoefening van goeddunke of die neem van 'n besluit ingevolge hierdie Wet, kennis neem van die inligting vervat in 'n register of rekord soos in artikel 9 bedoel.

Spesiale bepalings met betrekking tot parkering

12. (1) Ondanks andersluidende wetsbepalings kan 'n munisipaliteit in die voorgeskrewe omstandighede en onderworpe aan die voorgeskrewe voorwaardes—

(a) enige persoon wat, na die mening van sodanige munisipaliteit, 'n voorgeskrewe liggaamlike gebrek het; of

(b) enige persoon wat 'n persoon in paragraaf (a) bedoel, vervoer of bystaan; of

(c) 'n geregistreerde verpleegkundige of vroedvrou soos omskryf in artikel 1 van die Wet op Verpleging, 1978 (Wet 50 van 1978); of

(d) 'n mediese praktisyn, van enige wet betreffende die parkering van 'n motorvoertuig binne sy regsgebied vrystel.

(2) 'n Munisipaliteit mag, en moet in die voorgeskrewe omstandighede, spesiale parkeerplekke voorsien vir die uitsluitlike parkering van voertuie wat bestuur word deur persone in subartikel (1) genoem, en sodanige parkeerplekke moet met 'n padverkeerstekens geïdentifiseer word.

(3) 'n Munisipaliteit moet die gebruik van die parkeerplekke in subartikel (2) genoem op die voorgeskrewe wyse beheer. 5

(4) Die betrokke munisipaliteit moet aan 'n persoon in subartikel (1) genoem bewys van sodanige vrystelling uitreik.

Minister kan terugbetalings magtig

13. (1) Die Minister kan, indien hy of sy hom of haar daarvan vergewis het dat enige bedrag betaalbaar deur 'n persoon meer was as die bedrag wat behoorlik ingevolge hierdie wet vorderbaar is, 'n terugbetaling van daardie bedrag of van 'n gedeelte daarvan aan sodanige persoon magtig. 10

(2) Die Minister mag nie enige terugbetaling kragtens hierdie afdeling magtig nie, tensy die eis daarvoor binne drie jaar van die datum van die betrokke betaling deur die registrasie-owerheid of Provinsiale Administrasie ontvang is. 15

Registrasie-owerheid aan inspeksie deur Ouditeur-generaal onderworpe

14. Die Ouditeur-generaal kan te eniger tyd 'n inspeksie laat uitvoer van die rekords van 'n registrasie-owerheid en die inkomste wat deur sodanige owerheid kragtens hierdie Wet gevorder is. 20

Inspeksies ten einde nakoming van die Wet te verseker

15. (1) Die Minister kan enige persoon magtig om enige inspeksie uit te voer wat die Minister nodig ag ten einde te verseker dat die bepalings van hierdie Wet nagekom word.

(2) Niemand mag 'n persoon in die uitvoering van 'n inspeksie soos in subartikel (1) genoem, dwarsboom of hinder nie. 25

Afwyking van voorgeskrewe vorm

16. Die Minister mag, in die omstandighede wat hy of sy dienstig ag, 'n registrasie-owerheid of ander owerheid magtig om, in die plek van 'n vorm wat deur die Minister kragtens hierdie Wet of 'n Wet wat deur artikel 25 herroep is vir 'n besondere doel voorgeskryf word, 'n vorm te gebruik wat afwyk van die voorgeskrewe vorm, en ten opsigte van sodanige owerheid word sodanige afwykende vorm geag die voorgeskrewe vorm vir daardie doel te wees. 30

Handtekening op dokumente

17. Enige persoon wat nie sy of haar naam kan teken nie, moet, indien sy of haar handtekening op enige dokument ingevolge hierdie Wet vereis word, in die plek daarvan die afdruk van sy of haar linkerduim druk in die ruimte waarin hy of sy andersins sy of haar naam sou moes geteken het, en indien sy of haar linkerduim nie beskikbaar is nie, moet hy of sy in die plek daarvan enigeen van sy of haar vingerafdrukke druk, en in laasgenoemde geval moet die dokument aldus gemerk deur die beampte in wie se teenwoordigheid die afdruk gemaak is, geëndosseer word om aan te dui watter vinger gebruik is. 40

Betekening van kennisgewings

18. (1) Wanneer ook al ingevolge hierdie wet magtiging verleen word of daar vereis word dat enige kennisgewing aan 'n persoon beteken of uitgereik moet word, moet sodanige kennisgewing hetsy persoonlik aan die persoon aan wie dit gerig is, beteken word of per aangetekende pos aan sy of haar jongste bekende adres gestuur word: Met dien verstande dat die adres wat deur die houër van 'n bestuurslisensie tydens sy of haar aansoek om so 'n lisensie verskaf is, of wat teenoor sy of haar naam in 'n register van bestuurslisensies aangeteken is, of die adres wat teenoor die registrasie van 'n voertuig in 'n register van motorvoertuie as die adres van die eienaar van daardie voertuig aangeteken is, as sy of haar domisilie van dagvaarding en eksekusie dien vir alle 50

doeleindes wat voortspruit uit of vir die doeleindes van hierdie Wet, vir die betekening van kennisgewings, pos of prosesstukke aan daardie persoon.

(2) Betekening per aangetekende pos ingevolge subartikel (1) word geag uitgevoer te wees op die tiende dag na die datum gestempel op die bewys van registrasie uitgereik deur die poskantoor wat die kennisgewing aangeneem het. 5

(3) 'n Sertifikaat deur die beampte wat die kennisgewing genoem in subartikel (1) uitgereik het, of deur 'n persoon wat aan daardie beampte ondergeskik is, waarin die tyd, plek en wyse waarop die kennisgewing uitgereik is, vermeld word, is bewys dat die kennisgewing behoorlik uitgereik is, tensy en totdat die teendeel bewys word.

Gebruik van amptelike tale 10

19. (1) Een of meer van die drie amptelike tale van die Provinsie moet, op die voorgeskrewe wyse, behoudens hierdie artikel, op padverkeerstekens, rigtingwysers en straatnaamtekens by plaaslike strate gebruik word.

(2) Oorweging kan geskenk word aan die taalgebruik en -voorkeure van plaaslike gemeenskappe by die bepaling van watter amptelike taal of tale op rigtingwysers en straatnaamtekens by plaaslike strate gebruik moet word. 15

(3) Die amptelike taal of tale wat op tekens op sekere openbare paaie gebruik moet word, moet wees soos voorgeskryf.

Misdrywe en strawwe

20. (1) Iemand wat 'n bepaling van hierdie Wet of 'n aanwysing, bevel, voorwaarde, vereiste, bepaling of versoek daarkragtens oortree of versuim om daaraan te voldoen, is aan 'n misdryf skuldig. 20

(2) Iemand wat skuldig bevind word aan 'n misdryf ingevolge hierdie Wet is strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens een jaar, of albei.

(3) Ondanks andersluidende bepalings in enige wet is 'n landdroshof bevoeg om enige straf op te lê waarvoor hierdie Wet voorsiening maak. 25

Verdeling van gelde

21. Alle gelde wat kragtens hierdie Wet betaal word, uitgesonderd gelde wat betaal word aan 'n toetsstasie wat nie 'n registrasie-owerheid is nie, en uitgesonderd gelde wat ingevolge 'n munisipale verordening bepaal is, moet in die Provinsiale Inkomstefonds inbetaal word. 30

Verdeling van boetes

22. (1) Alle boetes opgelê of gelde ten opsigte van verbeurende borgtog ten opsigte van enige oortreding ingevolge hierdie Wet of die Nasionale Padverkeerswet, moet geadministreer word ingevolge artikels 6 en 8 van die Konsolidasiewet op Finansie- en Finansiële Reëlinswette, 1977. 35

(2) Alle boetes opgelê en gelde ten opsigte van verbeurde borgtog met betrekking tot 'n oortreding ingevolge enige verordening wat ingevolge hierdie Wet uitgevaardig is, moet aan die owerheid betaal word waarop sodanige verordening van toepassing is.

Delegering 40

23. (1) Die Minister kan—

- (a) enige bevoegdheid wat by of kragtens hierdie Wet aan hom of haar verleen is aan enige ander persoon delegeer; en
- (b) enige ander persoon magtig om enige plig by of kragtens hierdie Wet aan die Minister opgedra, te verrig en kan sodanige delegering doen of magtiging verleen behoudens die voorwaardes wat hy of sy goedvind. 45

(2) Die Minister kan te eniger tyd 'n delegering gedoen of magtiging verleen kragtens subartikel (1) intrek.

Oorgangsbepalings

24. Enige proklamasie, regulasie, verordening, kennisgewing, bevel, verbod, magtiging, aanstelling, toestemming, inligting of dokument uitgevaardig, uitgereik,

opgelê, gedoen, verleen, verstrekk of gegee of enige ander stappe gedoen ingevolge enige bepaling van 'n wet wat deur die Nasionale Padverkeerswet, herroep word, word geag ingevolge die ooreenstemmende bepaling (indien daar is) van hierdie Wet uitgevaardig, uitgereik, opgelê, gedoen, verleen, verstrekk of gegee te wees.

Herroeping van wette

5

25. Die Wes-Kaapse Wet op Padverkeer, 1998 (Wet 12 van 1998) word hiermee herroep.

Staat word gebind

26. Hierdie Wet bind die Staat en enige persoon in diens van die Staat: Met dien verstande dat die Minister, by kennisgewing in die *Provinsiale Koerant*, die staat of enige departement daarvan of enige sodanige persoon van enige bepaling of hierdie Wet kan vrystel behoudens sodanige voorwaardes as wat die Minister kan bepaal. 10

Kort titel en inwerkingtreding

27. (1) Hierdie Wet heet die Wes-Kaapse Wet op Padverkeer, 2006, en tree in werking op 'n datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal. 15

(2) Verskillende datums kan aldus ten opsigte van verskillende bepalings van hierdie Wet bepaal word, en datums aldus bepaal, kan verskil ten opsigte van verskillende—

- (a) persone of goedere of kategorieë persone of goedere wat deur middel van 'n motorvoertuig vervoer word;
- (b) soorte of klasse motorvoertuie wat by die vervoer van persone of goedere gebruik word; 20
- (c) persone of kategorieë persone; of
- (d) gebiede in die Provinsie.

(3) Meer as een van die elemente vermeld in paragrafe (a) tot en met (d) van subartikel (2) kan by die toepassing van daardie subartikel saamgevoeg word. 25

MEMORANDUM OOR DIE DOELWITTE VAN DIE WES-KAAPSE KONSEPWETSONTWERP OP PADVERKEER, 2006

Die proses om die Wes-Kaapse Konsepwetsontwerp op Padverkeer, 2006, te adverteer, is daarop gemik om kommentaar van die publiek in te win en om die kommentaar wat ontvang word, in die finale Wetsontwerp op te neem voordat dit by die Provinsiale Wetgewer ingedien word. Daar dien daarop gelet te word dat die kommentaar wat ontvang is na aanleiding van die vroeëre proses van advertensie van die Wes-Kaapse Konsepwetsontwerp op Padverkeer, 2002 (*Provinsiale Koerant* 5918 van 2 Augustus 2002), in hierdie nuwe weergawe opgeneem is, waar gepas.

Die Wes-Kaapse Konsepwetsontwerp op Padverkeer, 2006 (“die Wetsontwerp”) is opgestel om die bepalings van die Wes-Kaapse Wet op Padverkeer, 1998 (Wet 12 van 1998), te hersien en te konsolideer in reaksie op verwickelinge ten opsigte van nasionale padverkeerswetgewing.

Die Wes-Kaapse Wet op Padverkeer, 1998 (“die Provinsiale Wet”) is opgestel om saam met die nasionale Padverkeerswet, 1996 (Wet 93 van 1996) (“die Nasionale Wet”) gelees te word as deel van ’n pakket van padverkeerswetgewing waarop MINKOM (die Ministeriële Komitee van Ministers van Vervoer) ooreengekom het. Ingevolge hierdie ooreenkoms moet elke provinsie ’n provinsiale padverkeerswet aanneem om die nasionale Wet aan te vul en om provinsiale padverkeersaangeleenthede te hanteer.

Voordat enigeen van hierdie Wette in werking gestel is, het die Nasionale Parlement die Wet op die Administratiewe Beregting van Padverkeersmisdrywe, 1998 (Wet 46 van 1998) (“die ABP-wet”) en die Wet op die Padverkeersbestuurskorporasie, 1999 (Wet 20 van 1999) (“die PBK-wet”), aangeneem. Hierdie Wette het wysigings aan die Nasionale Wet genoodsaak.

Ooreenkomstig die APB-wet en die PBK-wet is daar besluit om verskeie aangeleenthede wat in die provinsiale wette hanteer is, te skrap en dit in die Nasionale Wet op te neem. Gevolglik is die Nasionale Padverkeerswysigingswet, 1999 (Wet 21 van 1999), aangeneem om die 1996-wet te wysig deur onder meer ook die volgende aangeleenthede wat voorheen as provinsiale aangeleenthede beskou is, te inkorporeer:

- Aanstelling van registrasie-owerhede — Aanstelling van beamptes
- Registrasie en gradering van beamptes
- Bevoegdheid en pligte van beamptes
- Registrasie en lisensiëring van motorvoertuie
- Registrasie van bestuurlisensietoetsentrums en -instrukteurs
- Registrasie van toetsstasies
- Bevoegdheid van plaaslike owerhede om verordeninge oor padverkeersaangeleenthede uit te vaardig.

In reaksie hierop is slegs beperkte artikels van die Provinsiale Wet op 14 Desember 2000 in werking gestel (Proklamasie No. 118 van 2000). Die oorblywende bepalings wat nou deel van die Nasionale Wet uitmaak, hoef nooit in werking gestel te word nie en sal deur die Wetsontwerp herroep word. Die Wetsontwerp konsolideer ook die bepalings van die Provinsiale Wet in ’n verkorte vorm en bring geringe wysigings mee. Opsommenderwys herhaal en konsolideer die Wetsontwerp hoofsaaklik padverkeerswette wat reeds toegepas word.

Klousule 1 van die Wetsontwerp verskaf die nodige woordomskrywings.

Klousule 2 bemagtig munisipaliteite om parkeergelde vir parkeervakke en staanplekke en standplase in te vorder.

Klousule 3 handel oor vermoedens aangaande die soorte paaie in vervolgingskragens die Wet. Daar word byvoorbeeld vermoed dat ’n pad ’n openbare pad is tensy die teendeel bewys word.

Klousule 4 maak op soortgelyke wyse voorsiening daarvoor dat by vervolgings ingevolge die Wet, daar vermoed word dat die eienaar van ’n voertuig dit bestuur het totdat die teendeel bewys word.

Ingevolge klousule 5 word daar aangeneem dat persone wat as verkeersbeamptes optree, behoorlik aangestel is.

Ingevolge klousule 6 kan die Provinsiale Minister regulasies oor sekere aangeleenthede rondom padverkeer wat nie deur die Nasionale Wet gedek word nie, uitvaardig.

Klousule 7 bemagtig munisipaliteite om verordeninge oor gelyksoortige aangeleenthede uit te vaardig. Dit dupliseer artikel 80(a) van die Nasionale Wet (Wet 93 van 1996) aangesien daardie artikel nog nie in werking gestel is nie.

Klousule 8 bemaatig munisipaliteite om gelde vas te stel vir die doeleindes van sodanige verordeninge.

Ingevolge klousule 9 kan die Provinsiale Minister regulasies uitvaardig wat van persone vereis om registers en rekords rakende padverkeersaangeleenthede te hou.

Klousule 10 maak voorsiening vir inskrywings in rekords en registers om te dien as bewyse in sake soos hofverrigtinge.

Klousule 11 laat die Provinsiale Minister toe om kennis te neem van inligting in sodanige registers en rekords.

Klousule 12 laat munisipaliteite toe om mediese personeel en gestremde persone vry te stel van parkeerwette en om spesiale parkeerplekke vir daardie persone te voorsien.

Ingevolge klousule 13 kan die Provinsiale Minister die terugbetaling van gelde wat oorbetaal is, magtig.

Ingevolge klousule 14 kan die Ouditeur-generaal rekords van registrasie-owerhede inspekteer. Eweneens kan die Provinsiale Minister kragtens klousule 15 inspeksies magtig om te verseker dat die bepalings van die Wet nagekom word.

Ingevolge klousule 16 kan die Provinsiale Minister 'n registrasie-owerheid of ander owerheid magtig om vorms te gebruik wat verskil van die voorgeskrewe vorms.

Klousule 17 maak voorsiening daarvoor dat persone wat nie in staat is om hul name te teken nie, vir die doeleindes van die Wet duim- of vingerafdrukke mag gebruik.

Klousule 18 handel oor die betekening van kennisgewings kragtens die Wet.

Klousule 19 handel oor die gebruik van die drie amptelike tale van die Provinsie op padverkeerstekens, rigtingwysers en straatnaamborde. In die geval van rigtingwysers en straatnaamborde op plaaslike strate sal die taalgebruik en -voorkeure van plaaslike gemeenskappe in oorweging geneem word. Die Wetsontwerp bemaatig die Provinsiale Minister om regulasies uit te vaardig oor taalgebruik op verskeie kategorieë paaie.

Klousule 20 maak voorsiening vir misdrywe en strawwe.

Klousule 21 vereis dat gelde wat ingeolge die Wet betaal word, in die Provinsiale Inkomstefonds inbetaal moet word, behalwe in gevalle waar gelde aan 'n toetsstasie betaal word wat nie 'n registrasie owerheid is nie en waar gelde in terme van 'n munisipale verordening bepaal word.

Klousule 22 handel oor die verdeling van boetes, onderhewig aan toepaslike nasionale wetgewing.

Klousule 23 handel oor die delegering van die Provinsiale Minister se bevoegdhede en pligte.

Klousule 24 maak voorsiening vir oorgangsbepalings.

Klousule 25 herroep die Provinsiale Wet.

Klousule 26 maak voorsiening daarvoor dat die Wet die Staat bind, maar dat die Provinsiale Minister die Staat of enige van sy departemente van die bepalings van die Wet mag vrystel.

Klousule 27 handel oor die kort titel en die inwerkingtreding van die Wet.

UYILO LOMTHETHO OYILWAYO WENTSHONA KOLONI WEZITHU- THI EZIHAMBA NGENDLELA, 2006

Uqulunqelwa ukulungelelanisa nokuhlaziya imimiselo enxulumene nezithuthi ezihamba ngendlela kweli Phondo; ukungena esikhundleni soMthetho weNtshona Koloni weZithuthi eziHamba ngeNdlela, 1998; nokulungiselela imicimbi eyayemene nalo nto.

KE NGOKO INDLU yoWiso-mthetho yePhondo leNtshona Koloni iwisa umthetho ngolu hlobo:—

ISIQULATHO

1. IiNkcazelo
2. Amagunya kamasipala okuqokelela imirhumo yokupakisha kwiindawo zokupakisha ezirenkini nasezitudini 5
3. Izigqibo ngokunxulumene neendlela zikawonke-wonke, ezikayivulele/friweyi neendlela zikawonke-wonke ezikwimimandla esezidolophini
4. Izigqibo ezithi umnini-sithuthi nguye obeqhuba okanye opakishe isithuthi
5. Izigqibo ngokubhekiselele kumagosa 10
6. Igunya loMphathiswa lokuqulunqa imigaqo
7. Igunya likamasipala lokuwisa imithetho yoomasipala
8. Umasipala angamisela imirhumo
9. Irejistara neerekhodi
10. Ikopi yokubhalwe kwirejistara okanye ikopi yerekhodi ingasetyenziswa njengobungqina 15
11. Ingcaciso ekwirejistara nekwiirekhodi kufuneka ithathelwe ingqalelo
12. Imimiselo eyodwa enxulumene nokupakisha
13. UMphathiswa angagunyazisa inkxaso-mali
14. Amaziko obhaliso anokuhlwa nguMphicothi-Jikelele 20
15. Uhlobo kufuneka luqinisekise ukuthotyelwa kwalo Mthetho
16. Ukuguqulwa kwefom emiselweyo
17. Umsayino kumaxwebu
18. Ukuthunyelwa kwezaziso
19. Ukusetyenziswa kweelwimi zaseburhulumenteni 25
20. Ulwaphulo-mthetho nezohlwayo
21. Ulwabiwo lwemirhumo
22. Ulwabiwo lweefayini
23. Ugunyaziso
24. Imimiselo yethutyana 30
25. Ukutshitshiswa kwemithetho
26. Ukubopheleleka koMbuso
27. ISihloko esifutshane nomhla wokusungulwa

IiNkcazelo

1. (1) Kulo Mthetho, ngaphandle kokuba oko kubhaliweyo kuchaza nto yimbi—
 “umthetho kamasipala” libinzana lamagama elichaza okuthethwa kwicandelo 7;
 “Umgaqo-siseko” ligama elithetha uMgaqo-siseko weRiphabliki yoMzantsi
 Afrika (UMthetho 108 ka 1996); 5
 “uphawu olwalatha indlela” libinzana lamagama elichaza uphawu olwalatha
 indlela kwindlela kawonkewonke;
 “isithuthi seempahla” libinzana lamagama elichaza isithuthi esisetyenziselwa
 ukuthutha iimpahla njengoko kuchazwe kwiMiqathango kaZwelonke yeThutho
 eziNdleleni; 10
 “INTloko yeSebe” libinzana lamagama elibhekisa kwiNTloko yeSebe
 likaRhulumente wePhondo iNtshona Koloni elijongene nolawulo lweendlela
 nonyanzeliso;
 “isitalato sommandla” libinzana lamagama elichaza isitalato esiphantsi
 komasipala kummandla ongowasezidolophini, ikakhulu ngokobume bawo; 15
 “UMphathiswa” ligama elibhekisa kuMphathiswa wePhondo kwiNdlu yePhondo
 nothwaliswe uxanduva lokusebenzisa ummiselo othile walo Mthetho;
 “umasipala” ligama elithetha umasipala ekubhekiswe kuye kwicandelo 155(6)
 loMgaqo-siseko, kwaye elo gama libandakanya zonke iindidi zoomasipala
 ekuthethwa ngazo kwicandelo 155(1) loMgaqo-siseko; 20
 “UMthetho weSizwe weziThuthi eziHamba ngeNdelela” libinzana lamagama
 achaza uMthetho weSizwe weziThuthi eziHamba ngeNdelela, 1996 (UMthetho 93
 ka 1996), kwaye likwabhekisa nakwimigaqo eyenziwe phantsi kwaloo Mthetho;
 “INKulumbuso” ligama elibhekisa kwiNkulumbuso yePhondo eyonyulwe
 ngokwemiqathango yecandelo 125 loMgaqo-siseko; 25
 “-miselweyo” ligama elithetha ukumiselwa ngokomgaqo nguMphathiswa
 ngesaziso esifakwe *kwiGazethi yePhondo*;
 “iPhondo” ligama elithetha iPhondo leNtshona Koloni;
 “uphawu lwendlela” ligama elichaza uphawu lwendlela olumiselwe
 ngokwecandelo 56 loMthetho weSizwe weziThuthi eziHamba ngeNdelela; 30
 “UMthetho” ligama elibandakanya nawuphi na umgaqo oqulunqwe phantsi kwaloo
 Mthetho;
- (2) Naliphi na igama okanye ibinzana lamagama elicacisiweyo kuMthetho weSizwe
 weziThuthi eziHamba ngeNdelela, kodwa libe lingacaciswanga kwicandelwana (1), liya
 kuba nentsingiselo efanayo naleyo liyinikwe kuMthetho weSizwe weziThuthi 35
 eziHamba ngeNdelela, ngaphandle kokuba intsingiselo yalo ichaza nto yimbi.

Amagunya kamasipala okuqokelela imirhumo yokupakisha kwiindawo zokupakisha ezirekeni nasezitandini

2. (1) Umasipala unako, ngokwesigqibo esithatyathiweyo nangeenjongo
 ezikhankanywe kwicandelwana (3)(a), ukubiza imirhumo ethile yokupakishwa 40
 kwezithuthi kuyo nayiphi na indlela kawonke-wonke okanye kwicandelo elithile layo,
 ndlela leyo iphantsi kolawulo lwakhe.
- (2) Imirhumo ekubhekiswe kuyo phantsi kwecandelwana (1) isenokwahluka
 ngokubhekiselele kwiintlobo ezithile zeendlela zikawonke-wonke okanye kumacandelo 45
 athile aloo ndlela kawonke-wonke.
- (3) (a) Ukuba kufakelwe umatshini wokubala ubude bexesha lokupakisha ngenjongo
 yokuqokelela imirhumo okanye ngenjongo yokulawula ubuninzi bezithuthi loo
 matshini kufuneka afakelwe kunye nesithuba sokupakisha esiphawuliweyo okanye
 kunye nezithuba zokupakisha eziphawuliweyo kananjalo kubekho nengcaciso echaza
 iintsuku neeyure oluhlawulelwa ngazo upakisho nemali efanele ukuhlawulwa ngexesha 50
 elithile lopakisho.
- (b) Ukuba kusetyenziswa enye indlela yokuqokelela imirhumo, ndlela leyo ingeyiyo
 eyomatshini wokubala ubude bexesha lopakisho ekubhekiswe kuyo kwicandelwana (1),
 kuya kufuneka kwenziwe amalungiselelo okuba kuxhonywe uphawu kuloo ndawo
 yokupakisha, phawu olo luchaza iintsuku neeyure ekuhlawulelwa ngazo upakisho, imali 55
 ehlawulelwa ixesha elithile lopakisho nendlela olo pakisho olufanele ukuhlawulelwa
 ngayo.
- (4) (a) Ithuba isithuthi esinokupakishwa ngaso ngokusemthethweni kwindawo
 yokupakisha ekubhekiswe kuyo kwicandelwana (3)(a), kuya kufuneka ukuba libe
 lelibhalwe ngokomlinganiselo obhalwe kumatshini wokubala ubude bexesha 60

ekupakishwe ngalo kuloo ndawo yokupakisha, ngaphandle kokuba kubekho bungqina bumbi obuphikasana naloo nto.

(b) Ukuba kusetyenziswe ndlela yimbi yokuqokelela imirhumo, ndlela leyo engeyiyo eyomatshini wokubala ubude bexesha ekubhekiswe kuyo kwicandelwana (1), ithuba isithuthi esinokupakishwa ngalo ngokusemthethweni kwindawo ekupakishwa kuyo ekubhekiswe kuyo kwicandelwana (3)(b) kuya kuya kufuneka ukuba libe leli ngokwaloo ndlela elibalwe ngayo ngokunxulumene neso sithuthi, ngaphandle kokuba kubekho bungqina bumbi obuphikasana naloo nto. 5

(5) Nawuphi na umasipala unako ukwakha iirenki okanye izitandi kwindlela kawonke-wonke ephantsi kolawulo lwakhe (eziyakwaziwa njengeendawo ezizodwa zokupakisha, ngenjongo yokupakisha izithuthi ezithutha abantu okanye naluphi na uhlobo lwesithuthi nolufana nolo lumiselweyo, kwaye unako ukuwisa imithetho kamasipala yokulawula ukusetyenziswa kwezo ndawo zizodwa— 10

- (a) ukulungiselela ukukhutshwa kwamaphepha-mvume okunikela ngeendawo zokupakisha ezizodwa okanye amacandelwana ezo ndawo kubantu abathile, okanye kwizithuthi ezithile, ngenjongo yokuba bazisebenzisele bona kuphela; 15
- (b) ukuthintela ukusetyenziswa kwayo nayiphi na indawo eyodwa yokupakisha okanye icandelwana layo nguye nawuphi na omnye umntu okanye siso nasiphi na esinye isithuthi; 20
- (c) ukumisela imirhumo yokuhlawulela iindawo ezizodwa zokupakisha; kunye 20
- (d) nokulungiselela imiba enxulumene nezo zinto:

Kambe kunokwenziwa sibonelelo sithile kulo naliphi na iphepha-mvume okanye kuko nakuphi na ukuvuselelwa kwalo ngenjongo yokumisela iiyure umnini-phepha mvume anelungelo elilodwa ngazo lokusebenzisa indawo ethile eyodwa yokupakisha kananjalo kusenokwenziwa sibonelelo sithile sokuthintela ukusetyenziswa kwaloo ndawo nguye nabani na ongomnye okanye siso nasiphi na isithuthi esisesinye. 25

(6) Xa kusabiwa indawo yokuqala eyodwa yokupakisha okanye icandelwana ekubhekiswe kulo kwicandelwana (5), umasipala kufuneka anike ingqwalaselo kangangoko anako ubude bethuba umenzi-sicelo athe wabandakanyeka ngalo kushishino lokuthutha abantu ngenjongo yokufumana ingeniso ngolo hlobo lwesithuthi. 30

(7) Imithetho yoomasipala equlunqwe phantsi kwecandelwana (5) kufuneka imisele ukuvuselelwa kwephepha-mvume qho ngonyaka, phofu ngokuxhomekeke kwindlela entle umenzi-sicelo alisebenzise ngayo ilungelo lokusebenzisa loo ndawo iyodwa yokupakisha okanye icandelwana layo.

(8) Ukusebenzisa kukamasipala amagunya akhe phantsi kwelo candelo akuyi kwenza ukuba abenobutyala ngokubhekiselele kwilahleko okanye umonakalo onokwenzeka kuso nasiphi na isithuthi okanye koko kuthwelwe seso sithuthi okanye kwizinto ezifakelwe kuso ngeli xesha eso sithuthi sikwindawo yokupakisha okanye kwindawo eyodwa yokupakisha. 35

Izigqibo ngokunxulumene neendlela zikawonke-wonke, ezikayivulele neendlela zikawonke-wonke ezikwimimandla esezidolophini 40

3. (1) Xa kunokuthi, nakuluphi na utshutshiso phantsi kwalo Mthetho, kubekho isityholo sokwaphulwa komthetho endleleni kawonke-wonke, ngaphandle kokuba kubekho bungqina bumbi obuphikasana naloo nto, kuya kugqitywa ekubeni loo ndlela ithatyathwe njengendlela kawonke-wonke. 45

(2) Xa kunokuthi nakuluphi na utshutshiso phantsi kwalo Mthetho kubekho isityholo sokwaphulwa komthetho kwindlela kayivulele, ngaphandle kokuba kubekho bungqina bumbi obuphikasana naloo nto, kuya kugqitywa ekubeni loo ndlela ithatyathwe njengendlela kayivulelele.

(3) Xa kunokuthi nakuluphi na utshutshiso phantsi kwalo Mthetho kubekho isityholo sokwaphulwa komthetho kwindlela kawonke-wonke kummandla wasezidolophini, ngaphandle kokuba kubekho bungqina bumbi obuphikasana naloo nto, kuya kugqitywa ekubeni loo ndlela ithatyathwe njengendlela ekummandla wasezidolophini. 50

Isigqibo esithi umnini-sithuthi nguye obeqhuba okanye omise isithuthi

4. (1) Nanini na, kutshutshiso oluqhutywa phantsi kwalo Mthetho, xa kubalulekile ukuba kubonakaliswe ukuba ibi ngubani umqhubi wesithuthi, ngaphandle kokuba kubekho bungqina bumbi obuphikasana naloo nto, kuya kugqitywa ngelokuba umnini-sithuthi nguye othatyathwa njengomntu obe qhuba eso sothuthi. 55

(2) Nanini na xa isithuthi esithile sithe sapakishwa ngendlela eyaphula lo Mthetho okanye umthetho kamasipala oqulunqwe phantsi kwawo, ngaphandle kokuba kubekho bungqina bumbi obuphikisana naloo nto, kuya kugqitywa ngelokuba umnini-sithuthi nguye othatyathwa njengomntu opakishe eso sothuthi.

(3) Ukulungiselela icandelwana (1) necandelwana (2), ngaphandle kokuba kubekho bungqina bumbi obuphikisana naloo nto, kuya kugqitywa ngelokuba, xa umnini-sithuthi eliqumrhu, eso sithuthi besiqhutywa okanye besipakishwe, njengoko kuchazwe kuloo macandelwana, ngumlawuli okanye ngumsebenzi welo qumrhu ngokusebenzisa amagunya akhe okanye ngokuqhuba umsebenzi wakhe njengomlawuli okanye njengomsebenzi okanye ngenjongo yokufuna ukwanelisa iminqweno yelo qumrhu. 5 10

Izigqibo ngokubhekiselele kumagosa

5. Kulo naluphi na utshutshiso phantsi kwalo Mthetho, into yokuba nawuphi na umntu azenze oqhuba umsebenzi okanye azenze oqhuba umsebenzi wokubaligosa lendlela okanye azenze umhloli wezendlela, umvavanyi-zithuthi okanye umvavanyi wabafunda ukuqhuba, iya kuba bubungina obu-*prima facie* bokutyunjwa kwakhe nokunikwa kwakhe igunya lokuqhuba loo msebenzi: Phofu eli candelo aliya kusebenza xa umntu etshutshiselwa ukuzenza ezo zinto. 15

Igunya loMphathiswa lokuqulunqa imigaqo

6. (1) UMphathiswa unako ukwenza imigaqo, phofu engakhabaniyo nalo Mthetho kunye noMthetho weSizwe weziThuthi eziHamba ngeNdlela, ngokubhekiselele nakuwuphi na umba ekuthethwe ngawo, eyimfuneko okanye ekuvumelekileyo ukuba imiselwe phantsi kwalo Mthetho kananjalo khona ukuze kube nokuzalisekiswa ngcono iinjongo zalo Mthetho ngokubanzi okanye uMthetho weSizwe weziThuthi eziHamba Ndlela, ngakumbi, kungajongelwanga phantsi oko kuchazwe ngentla apha, ngokubhekiselele— 20 25

- (a) kwimigaqo equlunqwe phantsi koMthetho weSizwe weziThuthi eziHamba ngeNdlela, ukumiswa nokupakishwa kwezithuthi kwiindlela zikawonkewonke;
- (b) kwindlela yokumisela nayiphi na into eyimfuneko ngenjongo yalo Mthetho;
- (c) kuyo nayiphi na ifom, itokeni uMphathiswa anokuyithatha njengeyimfuneko ngenjongo yalo Mthetho kunye nohlobo nobungakanani bengcaciso ekufuneka iveliselwe nayiphi na kwezo fom;
- (d) ekukhutshweni kwesatifiketi esiyikopi, ilayisenisi okanye naluphi na olunye uxwebhu okanye itokeni ekhutshwe ngokwalo Mthetho xa ikopi yokuqala ilahlekile, itshatyalalisiwe okanye yonakalisiwe okanye xa naziphi na iinkcukacha ezikuyo zingabonakali kakuhle;
- (e) kwisinxibo, kubandakanywa nokubhalwe kuso, samagosa ezendlela okanye sabagadi beendlela abatyunjwe ngokoMthetho weSizwe weziThuthi eziHamba ngeNdlela;
- (f) kwimirhumo enokuhlawuliswa okanye eza kuhlawuliswa ngokwalo Mthetho, okanye ngokubhekiselele kulo naluphi na ubhaliso okanye isicelo, ugunyazio okanye uvavanyo, okanye ukukhutshwa koxwebhu okanye ikopi yolo xwebhu, ekubhekiswe kuyo kuMthetho weSizwe weziThuthi eziHamba ngeNdlela okanye imigaqo ekhutshwe phantsi kwaloo Mthetho;
- (g) kwimirhumo enokuhlawulwa okanye eza kuhlawulwa ngokubhekiselele kubhaliso nolayiseniso lwezithuthi ekuthethwa ngazo kuMthetho weSizwe weziThuthi eziHamba ngeNdlela;
- (h) kwindlela iilwimi zaseburhulumenteni ekufuneka zisetyenziswe ngayo kwiimpawu njengoko kuchazwe kwicandelo 19;
- (i) kwiindlela eziyinxalenye yeendlela ezithile zikawonkewonke 19(3);
- (j) kuMphathiswa wePhondo elisingethe imicimbi emiselwe kulo Mthetho. 30 35 40 45 50

(2) Igunya lokuqulunqa imigaqo ngaso nasiphi na isizathu ekubhekiswe kuso kwicandelwana (1) liya kubandakanya igunya lokuthintela ngokupheleleyo okanye ngokwemiqathango ethile nawuphi na umba okanye nayiphi na into enxulumene naloo mcimbi. 55

(3) Nawuphi na umgaqo, phantsi kweli candelo, ungenziwa ukuba usebenze ngokubanzi kulo lonke eli Phondo okanye kummandla othile okulo okanye kulo naluphi na udidi lwesithuthi okanye lomntu.

(4) Umgaqo oqulunqwe phantsi kwecandelwana (1) unokumisela izohlwayo zokwaphulwa kwaloo mgaqo kunye nezohlwayo ezahlukileyo xa kuthe kwabakho ulwaphulo-mthetho olulandelelanayo okanye oluqhubekayo kodwa akukho sohlwayo siya kudlula kwifayini okanye ukuvalelwa entolongweni isithuba esilingana nonyaka omnye. 5

(5) Ngaphambi kokuba uMphathiswa abe nokuqulunqa nawuphi na umgaqo phantsi kweli candelo, uMphathiswa unako xa ekubona kufanelekile oko ukwenza ukuba idrafti yaloo mgaqo ucetywayo upapashwe *kwiGazethi yePhondo* kunye nesaziso esicela abachaphazelekayo ukuba bafake ngencwadi nayiphi na inkcaso okanye ukuzithethelela kwiNtloko yeSetyana, oko bakwenze kwisithuba sexesha elichaziweyo kweso saziso, 10 kodwa kwixesha elingekho nganeno kweeveki ezine ukususela kumhla wokupapashwa kweso saziso: nayiphi na inkcaso okanye izibonakaliso zeNtloko yeSebe. Noxa kunjalo, xa uMphathiswa emva koko athe wagqiba ngelokuba ayitshintshe loo drafti yemigaqo ngenxa yenkcaso okanye ngenxa yokuzithethelela okuzisiweyo, akuyi kubakho mfuneko yokuba olo tshintsho lupapashwe ngaphambi kokuqulunqwa kwaloo migaqo. 15

Igunya likamasipala lokwenza imithetho yoomasipala

7. (1) Ngokokwawo nawuphi na umthetho onxulumene nendlela efanele ukulandelwa kuqulunqo, kuvunyo nokubhengezwa kwawo nawuphi na umthetho kamasipala; nawuphi na umasipala angenza imithetho kamasipala, evumelene noMphathiswa, 20 ongakhabaniyo nalo Mthetho okanye uMthetho weSizwe weziThuthi eziHamba ngeNdlela, ngokubhekiselele—

- (a) kukhuseleko lwezithuthi kuyo nayiphi na indlela kawonke-wonke, uxanduva lakhe nabani na osebenzisa loo ndlela nokusetyenziswa kwaloo ndlela siso nasiphi na isithuthi; 25
- (b) ukumisa ngesithuthi salo naluphi na uhlobo nokuyisiya simi kwindlela kawonke-wonke okanye kwicandelo layo elithile, kubandakanywa nemithetho kamasipala emalunga nokufakelwa, ukulawulwa, ukuphathwa nokulungiswa koomatshini bokubala ubude bexesha lokupakisha kunye neendawo zokumisa izithuthi kuxhomekeke kwimiqathango yoMthetho woShishino (uMthetho 71 ka-1991) nawo nawuphi na ummiselo okanye ummiselo wedolophu owenziwe phantsi kwawo ngokomqathango, ummiselo okanye ulawulo lokuqhutywa koshishino ngumthengisi wasesitalatweni okanye umathenga ethengisa; 30
- (c) ukutyunjwa nokulayiseniswa kwabasebenzi abagada izithuthi kwiindawo zokupakisha nokurhoxiswa kwezo layisenisi; 35
- (d) umqhubi okanye umbexeshi; okanye omnye umntu oqeshwe ngokunxulumene naloo nto, wesithuthi esifuna ukuqeshwa okanye ukwamkela abahambi ngengqesho;
- (e) nayiphi na indlela kawonke-wonke ekungafanelanga isetyenziswe siso nasiphi na isithuthi, nanini na okanye ngamaxesha achaziweyo, kuxhomekeke kwimimiselo yoMthetho woShishino, (uMthetho 71 ka-1991) nawuphi umqathango okanye ummiselo wedolophu owenziwe phantsi kwawo ngokomqathango, ummiselo okanye ummiselo wedolophu okanye ulawulo loshishino lomthengisi wasesitalatweni okanye umathenga ethengisa; 40 45
- (f) indawo efanelekileyo ekwindlela kawonke-wonke ehamba izithuthi ezihamba ngezantya ezahlukeneyo nezithuthi zohlobo oluthile;
- (g) indawo nexesha apho isithuthi singavumelekanga ukuba sijike kangangokuba sibe nokujongana nezithuthi eziza ngaphambili okanye apho sinokujika khona kuphela phantsi kwemiqathango ethile; 50
- (h) ukukhweliswa nokuhliswa kwezinto kwizithuthi kwindlela kawonke-wonke;
- (i) imigaqo emalunga nokuba sisiphi isithuthi esivumeleke ukuba singene kuqala kwindlela enkulu yokudlula;
- (j) ukusetyenziswa kwehutara, intsimbi okanye nasiphi na esinye isixhobo sokulumkisa kunye nemiqathango eso sixhobo sokulumkisa esinokusetyenziswa phantsi kwayo kwindawo echaziweyo nokuba kungalo lonke ixesha okanye ngamaxesha athile amiselweyo; 55
- (k) ukutyunjwa kwebhodi ecebisayo yolawulo lwezithuthi nenamalungu angekho ngaphantsi kwesithathu ngenjongo yokuba icebise umasipala ngayo yonke imiba emalunga nokulawulwa kwezithuthi; 60

- (l) ukusetyenziswa zizithuthi ngokubanzi kwayo nayiphi na indlela kawonke-wonke;
- (m) ukumiselwa kweminyaka yobudala yabaqhubi abanokuqhuba izithuthi ezirhuqwa zizilwanyana;
- (n) nayiphi na ifom, itokeni umasipala anokuyithatha njengeyimfuneko ngenjongo yawo nawuphi na umthetho kamasipala kunye nohlobo nobungakanani bengcaciso ekufuneka iveliselwe nayiphi na kwezo fom; 5
- (o) ukwenza ukuba nawuphi na umasipala, xa nawuphi na umntu athe akakwenza oko ekufuneka ukuba akwenze phantsi kwawo nawuphi na umthetho kamasipala, akwazi ukuthatha nawuphi na amanyathelo kananjalo abenako nokufumana ukubuyiselwa iindleko zakhe nguloo mntu ungakwenzanga oko afanele ukukwenza; 10
- (p) ubungakanani bayo nayiphi na impahla okanye inani labo nabaphi na abantu okanye inani lazo naziphi na izilwanyana ezinokukhweliswa kwibhayisikili;
- (q) ukubekwa kwemigaqo nezithintelo okanye ukulawulwa kopakisho lwezithuthi ezizezabathengisi bezithuthi okanye ezisetyenziswa okanye eziphantsi kwegunya labo ngexesha lokuqhuba kwakhe, nawuphi na umthengisi, ishishini lakhe; kananjalo 15
- (r) nawuphi na omnye umba umasipala anako ukuwuwisela umthetho kamasipala phantsi kwalo Mthetho. 20
- (2) Igunya lokuqulunqa imithetho kamasipala ngaso nasiphi na isizathu ekubhekiswe kuso kwicandelwana (1) liya kubandakanya igunya lokuthintela ngokupheleleyo okanye ngokwemiqathango ethile nawuphi na umba okanye nayiphi na into enxulumene naloo mcimbi.
- (3) Nawuphi na umgaqo phantsi kweli candelo ungenziwa ukuba usebenze ngokubanzi kulo lonke eli Phondo okanye kummandla othile okulo okanye kulo naluphi na udidi lwesithuthi okanye lomntu. 25
- (4) Xa, nawuphi na umthetho kamasipala, nokuba wenziwe phantsi kwalo Mthetho okanye nawuphi na omnye umthetho; unokukhabana nawuphi na umgaqo oqulunqwe phantsi kwalo Mthetho okanye uMthetho weSizwe weziThuthi eziHamba ngeNdelela, loo mgaqo nguwo oya kukhonya. 30
- (5) Umgaqo oqulunqwe phantsi kweli candelo unokumisela izohlwayo zokwaphulwa kwaloo mgaqo kunye nezohlwayo ezahlukileyo xa kuthe kwabakho ulwaphulo-mthetho olulandelelanayo okanye oluqhubekayo kodwa akukho sohlwayo siya kudlula kwifayini okanye ukuvalelwa entolongweni isithuba esilingana neenyanga ezintandathu. 35

Umasipala angamisela imirhumo

8. Umasipala unako, ngesigqibo, ukuqingqa imirhumo efanele ukuhlawulelwa nasiphi na isizathu ekuthethwa ngaso kwicandelo 7.

Lirejistara neerekhodi

9. (1) Iirejistara neerekhodi eziya kumiselwa kuya kufuneka ukuba zigcinwe— 40
- (a) igunyabantu elibhalisayo;
- (b) nguye nawuphi na umasipala; kunye
- (c) nabani na othe wamiselwa nguMphathiswa ngesaziso *kwiGazethi yePhondo*.
- (2) Iinkcukacha ezimiselweyo zifanele ukurekhodisha ngendlela emiselweyo kwiirejistara neerekhodi ekubhekiswe kuzo kwicandelwana (1). 45
- (3) Naliphi na iziko eligunyazisiweyo ekubhekiswe kulo kwicandelwana (1) kuya kufuneka ukuba linike uMphathiswa okanye nawuphi na omnye umntu okanye naliphi na iqumrhu eligunyaziswe nguMphathiswa ingcaciso ebhalwe kwirejistara okanye kwirekhodi yelo ziko, oko likwenza ngendlela emiselweyo okanye ngamaxesha athile amiselweyo, ze yena uMphathiswa kuloo ngcaciso aqulunqe okanye enze ukuba kuqulunqwe irejistara ayibona njengefanelekileyo. 50
- (4) UMphathiswa angamisela ukuba naliphi na iziko eligunyazisiweyo libe nezinye iirejistara okanye iirekhodi uMphathiswa anakuzibona njengeziyimfuneko.

Ikopi yokubhalwe kwirejistara okanye ikopi yerekhodi ingasetyenziswa njengobungqina

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10. (1) Uxwebhu ekuthiwa lucatshulwe, okanye liyikopi yayo nayiphi na irejistara okanye irekhodi ekhoyo ngokwalo Mthetho nekuthiwa iqinisekise njengekopi, luya

kvamkeleka kuyo nayiphi na inkundla nangawo wonke amaxesha njengobungqina kwaye luya kuba bubungqina obu-*prima facie* bobunyaniso bemiba echazwe kolo xwebhu ingakhange ivezwe irejistrara okanye irekhodi ngokwayo okanye nasiphi na isatifiketi, ilayisenisi okanye olunye uxwebhu, *imicrofiche*, *imicrofilm* okanye irekhodi ebhalwe ngekhompyuta okanye uxwebhu olo kufumaneka kulo loo kopi. 5

(2) Ingcaciso ekwirejistara okanye kwirekhodi ebekho ngenxa yalo Mthetho kufuneka inikwe—

- (a) igosa lezendlela okanye umhloli weelayisenisi oyifunela ukuqhuba umsebenzi wakhe;
- (b) nabani na onikwe nguMphathiswa igunya lokuyifumana; 10
- (c) naliphi na iSebe loMbuso; okanye
- (d) umasipala;

Kambe oko kunokwenzeka kuphela xa uMphathiswa okanye umntu ogunyaziswe nguye ethe wakuvuma oko phambi kokuba loo ngcaciso inikwe naliphi na iziko eligunyazisiweyo ekubhekiswe kulo kumhlathi (d). 15

(3) Naliphi na iziko eligunyazisiweyo elineregistara okanye irekodi ngokwecandelo 9 kufuneka lakucelwa nguye nabani na naxa loo mceli athe wayihlawula imirhumo emiselweyo—

- (a) lingqine ukuba ingcaciso leyo iyangqinelana kusini na nengcaciso ekuloo registara okanye kuloo rekhodi xa ngokokubona kwelo ziko ligunyazisiweyo loo mntu, ngezizathu ezivakalayo, uyakufuna ukungqinwa kwaloo ngcaciso; okanye 20
- (b) loo ngcaciso ayinike (a) loo mntu ukuba elo ziko ligunyazisiweyo ngokokubona kwalo loo mntu unezizathu ezivakalayo zokuba ainikwe loo ngcaciso. 25

(4) Eli candelo lixhomekeke kuMthetho wokuKhuthazwa koFikeleleko lweNgcaciso, 2000 (UMthetho 2 ka 2000).

Ingcaciso ekwirejistara nekwirekhodi kufuneka ithathelwe ingqalelo

11. UMphathiswa unako, ngokusebenzisa uluvo lwakhe okanye ngokuthatha isigqibo ngokwalo Mthetho, ukuyithathela ingqalelo ingcaciso ekwirejistara okanye kwirekhodi ekuthethwa ngayo kwicandelo 9. 30

Imimiselo eyodwa enxulumene nokupakisha

12. (1) Nangaphandle kwayo nantoni na eyenye esemthethweni, umasipala unako ukuxolela, phantsi kweemeko ezimiselweyo nangokuxhomekeke kwimiqathango emiselweyo— 35

- (a) nabani na, ngokokubona kwaloo masipala, onokhubazeko lomzimba olumiselweyo; okanye
- (b) nabani na othutha okanye oncedisa umntu ekuthethwa ngaye kumhlathi (a); okanye
- (c) umongikazi osemthethweni okanye umbelekisi njengoko echazwe kwisiqendu 1 soMthetho woKonga, 1978 (uMthetho 50 ka-78); okanye 40
- (d) ingcali yamachiza.

(2) Umasipala uya kuthi, kwaye oko kuyimfuneko kwiimeko ezimiselweyo, ukubonelela ngeendawo zokupakisha ngokukodwa izithuthi eziqhutywa ngabantu ekubhekiswe kubo kwicandelwana (1), kwaye ezo ndawo zokupakisha kufuneka zichazwe ngophawu lwendlela. 45

(3) Umasipala uya kuthi, alawule ngendlela emiselweyo ukusetyenziswa kwezo ndawo zokumisa izithuthi zichazwe kwicandelwana (2).

(4) Loo masipala uya kuthi akhuphele loo mntu ukhankanywe kwicandelwana (1) ubungqina bolo xolelo. 50

UMphathiswa angagunyazisa inkxaso-mali

13. (1) UMphathiswa unako, ukuba ufumanise ukuba nayiphi na imali ehlawulwe ngumntu othile kuthe kanti ingaphezulu kwemali emiselwe ngokufanelekileyo phantsi kwalo Mthetho, ukugunyazisa ukubuyiselwa kwaloo mali okanye inxalenye yayo kuloo mntu. 55

(2) UMphathiswa akayi kukugunyazisa ukubuyiselwa kwalo mali phantsi kweli candelo ngaphandle kokuba ukubangwa kwayo kufunyenwe liziko lobhaliso

eligunyazisiweyo okanye luLawulo lwePhondo kwiminyaka emithathu emva komhla wokwenziwa kwaloo ntlawulo.

Amaziko obhaliso agunyazisiweyo anokuhlowa nguMphicothi-Jikelele

14. UMphicothi-Jikelele unako nanini na ukwenza ukuba kuhlolwe iirekhodi zamaziko obhaliso agunyazisiweyo kunye nokuhlolwa kwemali eqokelelwe ngaloo maziko agunyazisiweyo phantsi kwalo Mthetho. 5

Uhlolo kufuneka luqinisekise ukuthotyelwa kwalo Mthetho

15. (1) UMphathiswa unako ukugunyazisa nabani na ukuba aqhube uhlolo uMphathiswa alubona luyimfuneko ukuze kuqinisekise ukuthotyelwa kwemimiselo yalo Mthetho. 10

(2) Akukho mntu uvumeleke ukuba athintele okanye aphazamise nabani na ekuqhubeni uhlolo ekubhekiswe kulo kwicandelwana (1).

Ukuguqulwa kwefomu emiselweyo

16. UMPhathiswa unako, kwiimeko azibona njengeziyimfuneko, ukugunyazisa iziko lobhaliso eligunyazisiweyo okanye elinye iziko eligunyazisiweyo ukuba lisebenzise, endaweni yefom emiselwe nguMphathiswa phantsi kwalo Mthetho okanye phantsi koMthetho otshitshiswe licandelo 25, ngenjongo ethile, ifom eyahlukileyo kuleyo imiselweyo, kwaye ngokubhekiselele kwelo ziko ligunyazisiweyo loo fom iya kuthatyathwa njengefom emiselwe loo mcimbi. 15

Umsayino namaxwebu

17. Nabani na ongakwaziyo ukulisayina igama lakhe kufuneka, nanini na xa kufuneka umsayino wakhe kulo naluphi na uxwebhu anyathelise ubhontsi wakhe wasekhohlo endaweni yokusayina emnyathelisa kwindawo ebekunokufuneka ukuba asayine kuyo kwaye ukuba ushicilelo laloo mnwe wakhe luthe alwabonakala kakuhle kuya kufuneka anyathelise omnye umnwe kwaye kwimeko efana nale ichazwe mva nje olo xwebhu kuya kufuneka ukuba luphawulwe ngaloo ndlela kananjalo lungqinwe ngokuthi libhalwe ligosa ebelikhona ngeli xesha kunyatheliswa loo mnwe kananjalo elo gosa kuya kufuneka ukuba liwuchaze umnwe lowo usetyenzisiweyo. 25

Ukuthunyelwa kwezaziso

18. (1) Nanini na xa kuthe ngokwalo Mthetho kwagunyaziswa ukukhutshwa kwesaziso okanye xa kuthe kwafuneka ukuba kukhutshelwe nabani na isaziso, eso saziso kuya kufuneka ukuba sinikwe umntu lowo sibhalelwe yena okanye sithunyelwe kuye ngeregistara ethunyelwa kwidilesi yakhe yokugqibela eyaziwayo: Xa idilesi enikelwe ngumnini layisenisi yokuqhuba ngexeha lokwenza kwakhe isicelo saloo layisenisi okanye ebhalwe ecaleni kwegama lakhe kwirejistara yokubhaliswa kweelayisenisi zokuqhuba, okanye kwidilesi ebhalwe nobhaliso lwesithuthi kwirejistara yokubhaliswa kwezithuthi njengedilesi yomnini-sithuthi eso, loo dilesi iya kuthathwa njengedilesi ahlala kuyo nekunokuthunyelwa kuyo isamani nekunokuzalisekiswa kuyo nantoni na ebekho ngenxa yalo Mthetho, ngenjongo yokuthumela izaziso, iposi okanye amaxwebhu athunyelwa kuloo mntu. 35

(2) Ukuthunyelwa kwamaxwebhu ngeregistara ngokwecandelwana (1) kuya kuthatyathwa njengento eyenziwe ngosuku lweshumi emva komhla obhalwe ngesitampu kwisilipu seregistara esikhutshwe yiposi eyamkele eso saziso. 40

(3) Ubungqina obukhutshwe ligosa elikhuphe eso saziso esichazwe kwicandelo (1), okanye obukhutshwe ngumntu osebenza phantsi kwelo gosa, nobuchaza ixesha, indawo nendlela isaziso esikhutshwe ngayo buya kuba bubungqina bokuba eso saziso sikhutshwe ngokufanelekileyo, ngaphandle kokuba kubekho bungqina bumbi obuphikisana naloo nto. 45

Ukusetyenziswa kweelwimi zaseburhulumenteni

19. (1) Kuya kufuneka ukuba kusetyenziswe ulwimi olunye okanye iilwimi ezingaphezulu koko kwiilwimi ezintathu zaseburhulumenteni beli Phondo kwiimpawu

zendlela, iimpawu zokwalatha nakwiimpawu zamagama ezitalato kwizitalato zalapha ngendlela emiselweyo, phantsi kweli candelo.

(2) Kusenokunikwa ingqwalaselo efanelekileyo usetyenziso nokuthandwa kweelwimi ezithile kwiindawo ezithile xa kukhethwa ulwimi lwaseburhulumenteni okanye iilwimi zaseburhulumenteni eziya kusetyenziswa kwiimpawu zokwalatha nakwiimpawu zamagama ezitalato kwizitalato zalapha. 5

(3) Ulwimi lwaseburhulumenteni okanye iilwimi zaseburhulumenteni eziya kusetyenziswa kwiimpawu ezikwiindlela ezithile zikawonkewonke ziya kuba zezo zimiselweyo.

Ulwaphulo-mthetho nezohlwayo 10

20. (1) Nabani na owaphula okanye ongayithobeliyo imimiselo yalo Mthetho okanye ongawamkeliyo umyalelo, umqathango, imfuno, ummiselo okanye okucelwa phantsi kwalo Mthetho uya kubekwa ityala lokwaphula umthetho.

(2) Nabani na ofunyenwe enetyala phantsi kwalo Mthetho uya kuhlawuliswa ifayini okanye avalelwe entolongweni ithuba elingadlulanga kunyaka omnye okanye zombini. 15

(3) Nangaphandle kwayo nantoni na enokuphikisana nawo nawuphi na umthetho, inkundla kamantyi iya kuba nako ukuwisa nasiphi na isohlwayo esimiselwe ngulo Mthetho.

Ulwabiwo lwemirhumo

21. Yonke imirhumo erhunywe ngokwalo Mthetho, ingabandakanywanga imirhumo ehlawulwe kwisitishi sohlolo esingesiso esobhaliso, kuya kufuneka ukuba ifakwe kwiNngxowa-mali yeNgeniso yePhondo. 20

Ulwabiwo lweefayini

22. (1) Yonke imidliwo enikiweyo okanye iimali ezikhutshelwe ibheyile ngaso nasiphi isikreko ngokwalo Mthetho okanye uMthetho kaZwelonke woThutho eziNdloleni, uya kusetyenziswa ngokweziqendu 6 no-8 zeMithetho yezeMali noHlengahlengiso lweMali oWomeleziweyo, 1977. 25

(2) Naziphi na iifayini okanye iimali zebheyili edliweyo ngokwayamene nalo naluphi na ulwaphulo-mthetho phantsi kwawo nawuphi na umthetho kamasipala, ngokwalo Mthetho kuya kufuneka ukuba zifakwe kwiziko eligunyazisiweyo nelichatshazelwa nguloo mthetho kamasipala. 30

Ugunyaziso

23. (1) UMphathiswa unako—

(a) ukunika nabani na ongomnye igunya alinikiweyo ngokwalo Mthetho okanye phantsi kwalo Mthetho; kwaye 35

(b) unako ukugunyazisa nabani na ongomnye ngelithi angenza nawuphi na umsebenzi onikwe uMphathiswa ngokwalo Mthetho okanye phantsi kwalo Mthetho,

kananjalo ukukusebenzisa oko kugunyaziswa okanye ukunikela ngelo gunya ngokuxhomekeke kwimiqathango ayibona njengefanelekileyo. 40

(2) UMphathiswa unako nanini na ukulirhoxisa elo gunya alikhuphileyo okanye elo gunya anikele ngalo phantsi kwecandelwana (1).

Imimiselo yethutyana

24. Nasiphi na isibhengezo, umqathango, umthetho kamasipala, isaziso, umyalelo, isithintelo, igunya, utyumbo, invume, ingcaciso okanye uxwebhu olwenziwe, olukhutshwe, oluwiswe, olubonelelweyo okanye olunikelweyo ndawonye naso nasiphi na isenzo esenziwe phantsi kwawo nawuphi na umthetho otshitshiswe ngenxa yoMthetho weSizwe weziThuthi eziHamba ngeNdlala, zonke ezo zinto, ziya kuthatyathwa njengezenziwe, ezikhutshwe, ezewiswe, ezibonelelwe, ezinikelwe okanye ezithatyathwe phantsi kommiselo walo Mthetho ohambelana naloo nto (ukuba ukho). 50

Ukutshitshiswa kwemithetho

25. UMthetho weNtshona Koloni weziThuthi eziHamba ngeNdlela (UMthetho 12 ka 1998) uyatshitshiswa ngalo mthetho.

Ukubopheleleka koMbuso

26. Lo Mthetho ubophelela uMbuso kunye naye nabani na ophantsi kwenkonzo yoMbuso. Kambe uMphathiswa unako, ngesaziso esifakwe *kwiGazethi yePhondo*, ukuwuxolela uMbuso okanye naliphi na isebe lawo okanye nabani na kwimimiselo yalo Mthetho, ngokuxhomekeke kwimiqathango enokumiselwa nguMphathiswa. 5

Isihloko esifutshane nomhla wokusungulwa

27. (1) Lo Mthetho kuthiwa nguMthetho weNtshona Koloni weziThuthi eziHamba ngeNdlela, 2006 kwaye uya kuqalisa ukusebenza ngomhla oya kumiselwa yiNkulumbuso ngesibhengezo esifakwe *kwiGazethi yePhondo*. 10

(2) Kusenokumiselwa imihla eyahlukileyo ngokubhekiselele kwimimiselo eyahlukeneyo yalo Mthetho, kwaye loo mihla imiselweyo inokwahluka ngokubhekiselele— 15

(a) kubantu abahlukeneyo, kwimpahla okanye kwiindidi zabantu okanye zempahla ethuthwa ngesithuthi;

(b) kwiintlobo neendidi zezithuthi ezisetyenziswa ekuthutheni abantu okanye impahla;

(c) kubantu okanye kwiindidi zabantu; okanye 20

(d) kwimimandla ekweli Phondo.

(3) Imiba engaphezulu kwesinye ekubhekiswe kuyo kumhlathi (a) ukuya kumhlathi (d), ngokudibeneyo, yecandelwana (2) inokudityaniswa ukulungiselela elo candelwana.

**IMEMORANDAM MALUNGA NEENJONGO ZEDRAFTI
YOMTHETHO OYILWAYO WENTSHONA KOLONI WEZENDELELA,
2006**

Indlela yokwazisa uyilo loMthetho oYilwayo weNtshona Koloni wezeNdlela, 2006 ijoliswe ekuveni izimvo zoluntu nokufakela ezo zimvo zifunyenweyo kuMthetho ogqityiweyo phambi kokuba waziswe kwiPalamente yePhondo. Qaphela ukuba izimvo ezafunyanwa kwinkqubo yangaphambili yokwazisa uyilo loMthetho oYilwayo wezeNdlela wePhondo iNtshona Koloni, 2002 (iGazethi yePhondo 5918 yomhla wesi-2 Agasti 2002) zifakelwe kulo mqulu mtsha apho kufanelekileyo. Uyilo loMthetho oYilwayo wezeNdlela wePhondo iNtshona Koloni, 2006 (uMthetho oYilwayo) lulungiselelwe ukuhlaziya nokulungelelanisa imiqathango yoMthetho weNtshona Koloni wezeNdlela, 1998 (Umthetho 12 ka 1998), kananjalo ukwahlangabezana noko kwenzekayo ngokubhekiselele kwimithetho yesizwe yezendlela.

Umthetho weNtshona Koloni wezeNdlela, 1998 (“uMthetho wePhondo”) walungiselelwa ukuba ufundwe noMthetho weSizwe wezeNdlela, 1996 (uMthetho 93 ka 1996) (“uMthetho weSizwe”) njengexalenye yeminye imithetho ekuvunyelwene ngayo yi-MINCOM (Ministerial Committee of Ministers of Transport—ikomiti yabaphathiswa bezendlela). Ngokweso sivumelwano iphondo ngalinye liya kuwisa umthetho wephondo wezendlela oza kuxhasa uMthetho weSizwe noza kujongana nemiba yezendlela echaphazela iphondo.

Kwathi ngaphambi kokuba ukusebenza kwawo nawuphi na kuloo mithetho kube nokusungulwa, iPalamente yeSizwe yawisa uMthetho wokuChotshelwa kwaMatyala oLwaphulo-mthetho eziNdleleni, 1998 (uMthetho 46 ka 1998), iAdministration of Road Traffic Offences Act, 1998 (“uMthetho weAARTO”) kunye noMthetho woKopolotyeni boLawulo lwezeNdlela, 1999 (uMthetho 20 ka 1999), Road Traffic Management Corporation Act, 1999 (“uMthetho weRTMC”). Loo mithetho idala imfuneko yokuba kuhlonyelwe uMthetho weSizwe.

Emva kokuwisa koMthetho weAARTO noMthetho weRTMC, kwathatyathwa isigqibo sokuba kucatshulwe imiba emininzi ephaya kwimithetho yephondo ifakwe kuMthetho weSizwe. Ngako oko kwawisa uMthetho-sihlomelo weSizwe wezeNdlela, 1999 (uMthetho 21 ka 1999), iNational Road Traffic Amendment Act, mthetho lowo wawuhlomela laa Mthetho ka 1996 ngokuthi ubandakanye nale miba ilandelayo, phakathi kweminye, miba leyo ebisakuthatyathwa njengemiba enxulumene nophondo:

- Ukutyunjwa kweziphathamandla zobhaliso
- Ukutyunjwa kwamagosa
- Ukubhaliswa nokugreyidishwa kwamagosa
- Amagunya nemisebenzi yamagosa — Ukubhaliswa nokulayiseniswa kwezithuthi
- Ukubhaliswa kwamaziko akhupha iilayisenisi zokuqhuba nokubhaliswa kwamagosa afundisa ukuqhuba
- Ukubhaliswa kwezitishi zobhaliso
- Amagunya oomasipala okwenza imithetho yoomasipala enxulumene nemicimbi yezendlela.

Ukuhlangabezana naloo mba, yaba ngamacandelo ambalwa oMthetho wephondo awathi aqaliswa ukusungulwa ngomhla we-14 kuDisemba 2000 (iSibhengezo 118 sika 2000). Imiqathango eseleyo ekungoku nje nekuMthetho weSizwe akusayi kubakho mfuneko yokuba iqalise ukusetyenziswa kwaye iya kutshitshiswa ngulo Mthetho uYilwayo. Lo Mthetho uYilwayo ukwalungelelanisa imiqathango yoMthetho wePhondo ngendlela apha eyakwenza ukuba ibe yinto enye kwaye ukwazisa uhlaziyo olungephi. Ngamafutshane, lo Mthetho uYilwayo uphinda imithetho yezendlela esele isebenza, uyilungelelanise ngokunjalo.

IGatya 1 lo Mthetho oYilwayo liqulethe inkcazelo eyimfuneko.

IGatya 2 ligunyazisa oomasipala ngelokuba babe nokuqokelela imirhumo yokupakisha kwiindawo zokupakisha nakwiirenki nezitandi.

IGatya 3 liqulethe umcimbi onxulumene neentlobo zeendlela xa kutshutshiswa phantsi koMthetho. Umzekelo, iindlela zithatyathwa njengeendlela zikawonke-wonke ngaphandle kokuba kungeziwa nobungqina obuphikisana noko.

IGatya 4 nalo ngokufanayo lichaza ukuba xa kutshutshiswa phantsi kwalo Mthetho umini-sithuthi nguye obe qhuba eso sithuthi de kube kuziwe nobungqina obuphikisana noko.

Phantsi kwegatya 5, abantu abaqhuba umsebenzi wobugosa bezendlela bathatyathwa njengabantu abatyunjwe ngokufanelekileyo.

IGatya 6 livumela ukuba uMphathiswa wePhondo aqulunqe imigaqo ngokubhekiselele kwimiba ethile enxulumene neendlela, miba leyo ingabandakanywanga kuMthetho weSizwe.

IGatya 7 ligunyazisa oomasipala ukuba benze imithetho yoomasipala ngokubhekiselele kwimiba efanayo. Oku kuphinda-phinda oko kuqulethwe kwicandelo 80(a) loMthetho weSizwe (uMthetho 93 ka 1996) kuba elo candelo lingekaqalisi ukusebenza.

IGatya 8 ligunyazisa oomasipala ekubeni bamisele imirhumo enxulumene naloo mithetho kamasipala.

NgokweGatya 9 uMphathiswa wePhondo unako ukuqulunqa imigaqo efuna ukuba abantu babe neerejistara neerekodi ezinxulumene nemiba yezendlela.

IGatya 10 lilungiselela ukubhalwa kweenkcukacha ezithile kwiirekodi nakwiirejistara ngenjongo yokuba zisetyenziswe njengobungqina kwimicimbi efana neengxoxo zenkundla.

IGatya 11 lona livumela uMphathiswa wePhondo ukuba ayithathele ingqalelo ingcaciso ekwezo rejistara nakwezo rekodi.

IGatya 12 livumela oomasipala ukuba bawaxolele amagosa ezonyango nabantu abakhubazekileyo ngokubhekiselele kwimithetho yokumisa izithuthi nokuba abo bantu babonelelwe ngeendawo ezizodwa zokumisa izithuthi.

NgokweGatya 13 uMphathiswa wePhondo unako ukugunyazisa ukubuyiselwa kwimirhumo egqithisileyo. IGatya 14 livumela uMphicothi-Jikelele ukuba ahlole iirekodi zeziphathamandla zobhaliso. Ngokunjalo, phantsi kwecandelo 15 uMphathiswa unako ukugunyazisa ukuhlola ngenjongo yokuqinisekisa ukuzalisekiswa kwemiqathango yalo Mthetho.

IGatya 16 livumela uMphathiswa wePhondo ukuba agunyazise iziphathamandla zobhaliso okanye ezinye iziphathamandla ukuba zisebenzise iifom ezahlukeyo kwezo zimiselweyo.

IGatya 17 livumela ukuba abantu abangakwaziyo ukusayina amagama abo ngeenjongo zalo Mthetho basebenzise unyatheliso lobhontsi okanye lweminwe.

IGatya 18 limalunga nomcimbi wokukhutshwa kwezaziso phantsi kwalo Mthetho.

IGatya 19 liphathelele kusetyenziso lweelwimi ezintathu zaseburhulumenteni beli Phondo kwiimpawu zendlela, kwiimpawu zokwalatha nakumagama ezitalato. Ngokubhekiselele kwiimpawu zokwalatha namagama ezitalato kwizitalato zeziphaluka kuya kunikwa ingqwalaselo iilwimi ezithandwe luluntu lwalapho. Lo Mthetho uYilwayo unika uMphathiswa wePhondo igunya lokuqulunqa imigaqo emalunga nokusetyenziswa kweelwimi kwiintlobo ezithile zeendlela nakwiindlela.

IGatya 20 limisela imiba emalunga nolwaphulo-mthetho kunye nezohlwayo.

IGatya 21 lithi imirhumo ehlawulwe ngokwalo Mthetho kufuneka ifakwe kwiNgxowamali yeNgeniso yePhondo.

IGatya 22 limisela indlela yokwabiwa kweefayini ngokoMthetho weSizwe onxulumene noko.

IGatya 23 liqulethe imiba enxulumene nokunikwa koMphathiswa wePhondo amagunya nemisebenzi.

IGatya 24 liqulethe imiba yethutyana.

IGatya 25 litshitshisa uMthetho wePhondo.

IGatya 26 lithi lo Mthetho ubophelela uMbuso, kodwa likwathi uMphathiswa wePhondo unako ukuwuxolela uMbuso okanye naliphi na isebe lawo kwimiqathango yalo Mthetho.

IGatya 27 liqulethe isihloko esifutshane nokusungulwa kwalo Mthetho.

