

PROVINCE OF THE WESTERN CAPE

**WESTERN CAPE
LAWS REPEAL BILL**

(As introduced)

(PREMIER)

[B 1—2012]

PROVINSIE WES-KAAP

**WES-KAAPSE
WETSONTWERP OP DIE
HERROEPING VAN WETTE**

(Soos ingedien)

(PREMIER)

[W 1—2012]

IPHONDO LENTSHONA KOLONI

**UMTHETHO OSAYILWAYO WOBHANGISO
LWEMITHETHO WENTSHONA KOLONI**

(Njengoko wazisiwe)

(iNKULUMBUSO)

[B 1—2012]

BILL

To repeal the Provincial Restaurant Ordinance, 1964 (Ordinance 23 of 1964); the Recovery of Payments by Statutory Bodies Ordinance, 1977 (Ordinance 15 of 1977); and the Western Cape Provincial Public Protector Law, 1994 (Act 6 of 1994); and to provide for matters incidental thereto.

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

Repeal of Laws

1. The laws listed in the Schedule, in so far as they have been assigned to the Province of the Western Cape, are repealed. 5

Transfer of funds and liabilities held in terms of Ordinance 23 of 1964

2. (1) All the moneys held in bank accounts that were opened in terms of the Provincial Restaurant Ordinance, 1964 (Ordinance 23 of 1964), must be transferred to the Provincial Revenue Fund and all assets held by a restaurant that was established in terms of Ordinance 23 of 1964 become the assets of the Western Cape Provincial Government. 10

(2) All outstanding liabilities of a restaurant that was established in terms of Ordinance 23 of 1964 and for which the restaurant is liable immediately before this Act comes into operation, must, subject to the Public Finance Management Act, 1999 (Act 1 of 1999), be settled by the Western Cape Provincial Government. 15

Short title

3. This Act is called the Western Cape Laws Repeal Act, 2012.

SCHEDULE

No. and year of law	Short title
Ordinance 23 of 1964	Provincial Restaurant Ordinance, 1964
Ordinance 15 of 1977	Recovery of Payments by Statutory Bodies Ordinance, 1977
Act 6 of 1994	Western Cape Provincial Public Protector Law, 1994

**MEMORANDUM ON THE OBJECTS OF THE
WESTERN CAPE LAWS REPEAL BILL, 2012**

1. BACKGROUND

The legislation administered by the Department of the Premier was reviewed as part of the Legislative Review Project. As a result it is recommended that the following legislation be repealed for the reasons given below:

1.1 The Provincial Restaurant Ordinance, 1964

The Ordinance provides for the “Administrator” to establish, manage and maintain restaurants in provincial buildings throughout the Province. The Ordinance is no longer being administered by the Department of the Premier as the current contracted caterers of the restaurants in the provincial buildings are operating for their own account. The Ordinance is obsolete as the restaurant framework envisaged by the Ordinance has ceased to exist.

1.2 Recovery of Payments by Statutory Bodies Ordinance, 1977

The Ordinance provides for the recovery of certain payments made by statutory bodies. The Ordinance no longer has practical application as it has been replaced by the Public Finance Management Act, 1999.

1.3 Western Cape Provincial Public Protector Law, 1994

This Act was passed in terms of the interim Constitution, which envisaged Provincial Public Protectors. Section 181 of the Constitution of the Republic of South Africa, 1996 creates the Office of the Public Protector and section 182 provides for national legislation to further elaborate on the powers and functions of this entity. Provinces therefore do not have the legislative competency to provide for a provincial entity of this nature. The Constitution provides for a National Office of the Public Protector, with provincial branches, thereby making the provincial Act redundant.

2. PURPOSE OF BILL

The purpose of the Bill is to repeal the laws identified in the schedule because they are obsolete, no longer of practical application and their objects are being met by alternative means.

3. CONTENTS OF BILL

Clause 1

Clause 1 repeals the legislation listed in the schedule to the Bill.

Clause 2

Clause 2.1 provides for the transfer of monies held in bank accounts that were opened in terms of the Provincial Restaurant Ordinance, 1964 to the Provincial Revenue Fund, and for all assets to become the assets of the Western Cape Provincial Government.

Clause 2.2 provides for all outstanding liabilities incurred in terms of the Provincial Restaurant Ordinance, 1964 to be settled by the Western Cape Provincial Government subject to the Public Finance Management Act, 1999.

Clause 3

Clause 3 provides for the short title.

4. CONSULTATION

Provincial Treasury

Directorate: Departmental Finance and Administration

The draft Bill has not been published for public comment as it deals with internal arrangements and obsolete legislation.

5. FINANCIAL IMPLICATIONS

The surplus revenue, if any, of the restaurants must be paid into the Provincial Revenue Fund. Additional administrative costs pertaining to the implementation of this legislation once enacted are envisaged to be minimal, and will be covered by current budgets.

6. PERSONNEL IMPLICATIONS

None.

7. LEGISLATIVE COMPETENCE

The Premier is satisfied that all the provisions in the Bill fall within the Province's legislative competence.

WETSONTWERP

Om die Ordonnansie op Provinsiale Restaurante, 1964 (Ordonnansie 23 van 1964); die Ordonnansie op die Verhaal van Betalings deur Statutêre Liggame, 1977 (Ordonnansie 15 van 1977); en die Wes-Kaapse Wet op die Provinsiale Openbare Beskermer, 1994 (Wet 6 van 1994); te herroep; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

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

Herroeping van Wette

1. Die wette wat in die Bylae gelys word, in sover hulle opgedra is na die Provinsie van die Wes-Kaap, word herroep. 5

Oorplaas van fondse wat gehou word ingevolge Ordonnansie 23 van 1964

2. (1) Alle gelde in bankrekeninge wat geopen is ingevolge die Ordonnansie op Provinsiale Restaurante, 1964 (Ordonnansie 23 van 1964), moet oorgedra word na die Provinsiale Inkomstefonds en alle bates van 'n restaurant wat ingevolge Ordonnansie 23 van 1964 tot stand gekom het, word die bates van die Provinsiale Regering van die Wes-Kaap. 10

(2) Alle uitstaande laste van 'n restaurant wat ingevolge Ordonnansie 23 van 1964 tot stand gekom het, en waarvoor die restaurant onmiddellik voor die inwerkingtrede van hierdie Wet aanspreeklik is, moet, onderworpe aan die Wet op Openbare Finansiële Bestuur, 1999 (Wet 1 van 1999), deur die Provinsiale Regering van die Wes-Kaap 15 vereffen word.

Kort titel

3. Hierdie Wet heet die Wes-Kaapse Wet op die Herroeping van Wette, 2012.

BYLAE

No. en jaar van wet	Kort titel
Ordonnansie 23 van 1964	Ordonnansie op Provinsiale Restaurante, 1964
Ordonnansie 15 van 1977	Ordonnansie op die Verhaal van Betalings deur Statutêre Liggame, 1977
Wet 6 van 1994	Wes-Kaapse Wet op die Provinsiale Openbare Beskermer, 1994

MEMORANDUM OOR DIE OOGMERKE VAN DIE WES-KAAPSE WETSONTWERP OP DIE HERROEPING VAN WETTE, 2012

1. AGTERGROND

Die wetgewing wat deur die Departement van die Premier geadministreer word, is as deel van die Wetgewinghersienningsprojek hersien. Op grond hiervan word aanbeveel dat die volgende wetgewing vir die redes hieronder genoem, herroep word:

1.1 Ordonnansie op Provinsiale Restaurante, 1964

Die Ordonnansie maak voorsiening vir die “Administrateur” om restaurante by provinsiale geboue in die provinsie in te stel, te bestuur en in stand te hou. Die Ordonnansie word nie meer deur die Departement van die Premier geadministreer nie en tans bedryf ’n kontrakspysenier die restaurante by die provinsiale geboue vir hulle eie rekening. Die Ordonnansie is verouderd aangesien die restaurantstruktuur wat die Ordonnansie voorsien het nie meer bestaan nie.

1.2 Ordonnansie op die Verhaal van Betalings deur Statutêre Liggame, 1977

Die Ordonnansie maak voorsiening vir die verhaling van sekere betalings gedoen deur statutêre liggame. Die Ordonnansie is nie meer prakties toepaslik nie omdat dit deur die Wet op Openbare Finansiële Bestuur, 1999 vervang is.

1.3 Wes-Kaapse Wet op die Provinsiale Openbare Beskermer, 1994

Hierdie Wet is aangeneem ingevolge die tussentydse Grondwet wat vir Provinsiale Openbare Beskermers voorsiening gemaak het. Artikel 181 van die Grondwet van die Republiek van Suid-Afrika, 1996 bring die Kantoor van die Openbare Beskermer tot stand en artikel 182 maak voorsiening vir nasionale wetgewing om die magte en funksies van hierdie entiteit verder te omskryf. Provinsies het daarom nie die wetgewende bevoegdheid om ’n provinsiale entiteit van hierdie aard tot stand te bring nie. Die Grondwet maak voorsiening vir die Nasionale Kantoor van die Openbare Beskermer met provinsiale takke en daarom is hierdie provinsiale Wet oorbodig.

2. DOEL VAN DIE WETSONTWERP

Die doel van die Wetsontwerp is om die wette wat in die bylae gelys is, wat as verouderd geïdentifiseer is, nie meer prakties toepaslik is nie en waarvan die oogmerke op ander maniere behaal word, te herroep.

3. INHOUD VAN DIE WETSONTWERP

Klousule 1

Klousule 1 herroep die wetgewing wat in die bylae van die Wetsontwerp gelys is.

Klousule 2

Klousule 2.1 maak voorsiening daarvoor dat geld in bankrekening wat ingevolge die Ordonnansie op Provinsiale Restaurante, 1964 geopen is, oorgedra word na die Provinsiale Inkomstefonds en dat alle bates die eiendom van die Provinsiale Regering van die Wes-Kaap word.

Klousule 2.2 maak voorsiening daarvoor dat alle laste wat ingevolge die Ordonnansie op Provinsiale Restaurante, 1964 aangegaan is, deur die Provinsiale Regering van die Wes-Kaap vereffen word onderworpe aan die Wet op Openbare Finansiële Bestuur, 1999.

Klousule 3

Klousule 3 maak voorsiening vir die kort titel.

4. OORLEGPLEGING

Provinsiale Tesourie

Direktoraat: Departement van Finansies en Administrasie

Die konsepwetsontwerp is nie vir openbare kommentaar gepubliseer nie omdat dit op interne reëlins en verouderde wetgewing betrekking het.

5. FINANSIËLE IMPLIKASIES

Surplusfondse van die restaurant, indien enige bestaan, moet na die Provinsiale Inkomstefonds oorgedra word. Daar word voorsien dat die bykomende administrasiekoste wat verband hou met die implementering van hierdie wetgewing na inwerkingtreding minimaal sal wees en dat dit deur huidige begrotings gedek sal word.

6. PERSONEELIMPLIKASIES

Geen.

7. WETGEWENDE BEVOEGDHEID

Die Premier is tevrede dat al die bepalings van die wetsontwerp binne die Provinsiese wetgewende bevoegdheid val.

UMTHETHO OYILWAYO

Ukuze kubhangiswe iProvincial Restaurant Ordinance, 1964 (Ordinance 23 of 1964); iRecovery of Payments by Statutory Bodies Ordinance, 1977 (Ordinance 15 of 1977); neWestern Cape Provincial Public Protector Law, 1994 (Act 6 of 1994); nokulungiselela imibandela ehamba noko.

NNGOKO KE KUWISWA UMTHETHO yiPalamente yePhondo leNtshona Koloni ngolu hlobo:—

UBhangiso lweMithetho

1. Imithetho edwelisiweyo kwiShedyuli, okwangoku ejoliswe kwiPhondo leNtshona Koloni, iyabhangiswa. 5

Ukudluliselwa kwenkxaso-mali neemfanelo zokuhlawula ebezibanjiwe ngokubhekiselele kwi-Ordinance 23 of 1964

2. (1) Zonke izimali ebezibanjwe kwii-akhawunti zebhanka nebezivuliwe ngokubhekiselele kwiProvincial Restaurant Ordinance, 1964 (Ordinance 23 of 1964), kufuneka zidluliselwe kwiNgxowa-mali yeNgeniso yePhondo kwaye zonke ii-asethi ebezibanjiwe yindawo yokutyela eyazinziswayo ngokubhekiselele kwi-Ordinance 23 of 1964 ziba zii-asethi zikaRhulumente wePhondo leNtshona Koloni. 10

(2) Zonke iimfanelo ezingekakhutshwa zendawo yokutyela eyazinziswayo ngokubhekiselele kwi-Ordinance 23 of 1964 yeNdawo yokuTyela kwiPhondo, ezibe yimfanelo yale ndawo yokutyela kwamsinyane phambi kokusebenza kwalo Mthetho, kufuneka, ngokubhekiselele kwiPublic Finance Management Act, 1999 (Act 1 of 1999), mazihlawulwe nguRhulumente wePhondo leNtshona Koloni. 15

Isihloko esifutshane

3. Lo Mthetho ubizwa njengo-Mthetho woBhangiso lweMithetho weNtshona Koloni, 2012.

ISHEDYULI

INombolo nonyaka womthetho	Isihloko esifutshane
Ordinance 23 of 1964	Provincial Restaurant Ordinance, 1964
Ordinance 15 of 1977	Recovery of Payments by Statutory Bodies Ordinance, 1977
Act 6 of 1994	Western Cape Provincial Public Protector Law, 1994

IMEMORANDUM NGEENJONGO ZOMTHETHO OSAYILWAYO WOBHANGISO LWEMITHETHO WENTSHONA KOLONI, 2012

1. IMVELAPHI

Uwiso-mthetho olwalusetyenziswa liSebe leNkulumbuso lwahloliswa njengenxalenye yeProjekthi yokuHloliswa koWiso-mthetho. Ngenxa yoko kukhuthazwa ukuba olu wiso-mthetho lulandelayo malubhangiswe ngenxa yezi zizathu zixeliweyo apha ngezantsi:

1.1 I-Provincial Restaurant Ordinance, 1964

Le Ordinance ibalula ukuba “umLawuli” makamisele, apha aze azixhase ngezimali iindawo zokutyela ezikwizakhiwo zephondo kulo lonke eli Phondo. Le Ordinance ayisasetyenziswa liSebe leNkulumbuso njengoko abakhoyo ngeli ixesha abaquzeleli bezidlo zale ndawo yokutyela isesakhiweni sephondo sebesenza izinto ngokwenkqubo yabo. Le Ordinance seyiphelwe lixesha njengoko bungasekho ngoku ubume bendawo yokutyela ngokwenkqubo eyayijolise kuyo le Ordinance.

1.2 I-Recovery of Payments by Statutory Bodies Ordinance, 1977

Le Ordinance iyabonelela ngokufumaneka kwakhona kwentlawulo ethile eyayivela kumagqiza amiswe ngokomthetho. Le Ordinance akusekho msebenzi wayo njengoko indawo yawo seyithathwe yi-Public Finance Management Act, 1999.

1.3 I-Western Cape Provincial Public Protector Law, 1994

Lo Mthetho wapasiswa ngokubhekiselele kumGaqo-siseko wexesha eliphakathi owawujoliswe kwabePhondo abaKhuseli boLuntu. ICandelo 181 lomGaqo-siseko weRiphabhlikhi kwabePhondo oMzantsi-Afrika ka-1996 iseka i-Ofisi yomKhuseli woLuntu kwaye icandelo 182 libalula ukuba uwiso-mthetho lukazwelonke maluchaze ngokubanzi ngamagunya kunye nemisebenzi yeli qumrhu. Lilonke amaphondo awanabo ubuqili bowiso-mthetho olunokubonelela amaphondo ngequmrhu elilolu hlobo. UmGaqo-siseko ubonelela nge-Ofisi kaZwelonke yomKhuseli woLuntu, enamasebe kuwo onke amaphondo ngokuwenza ukuba ube ngongasafunekayo lo Mthetho wephondo.

2. INJONGO YOMTHETHO OYILWAYO

Injongo yoMthetho oYilwayo kukubhangisa imimiselo echongiweyo kwishedyuli ngenxa yokuba seyiphelwe lixesha, akusekho nto inokusetyenziswa kuyo kwaye iinjongo zale mimiselo sezihlangabeziwe zezinye iindlela zobuqili bokusebenza.

3. IZIQULATHO ZOMTHETHO OYILWAYO

Igaty 1

Igaty 1 liyalubhangisa uwiso-mthetho oludwelisiweyo kwishedyuli ehamba noMthetho oYilwayo.

Igaty 2

Igaty 2.1 libalula ukuba makudluliselwe izimali ebezibanjiwe kwii-akhawunti zebhanka ebezivuliwe ngokubhekiselele kwi-Provincial Restaurant Ordinance, 1964 kwiNgxowa-mali yeNgeniso yePhondo, kwaye zonke ii-asethi mazibe zii-asethi zikaRhulumente wePhondo leNtshona Koloni.

Igaty 2.2 libalula ukuba iimfanelo zonke ezingekakhutshwa nezingamatyala ekungenwe kuwo ngokubhekiselele kwi-Provincial Restaurant Ordinance, 1964 mawahlawulwe ngokupheleleyo nguRhulumente wePhondo leNtshona Koloni ngokwenkqubo ye-Public Finance Management Act, 1999.

Igaty 3

Igaty 3 libalula isihloko esifutshane.

4. UKUCEBISANA

I-Ofisi kaNondyebo wePhondo

I-Ofisi yomLawuli: kwiSebe leziMali noLawulo

UMthetho oYilwayo awukapashelwa ukuba uluntu lwenze amagqabantshintshi njengoko kusaxakekiwe ngamalungiselelo angaphakathi nangolu wiso-mthetho seluphelelwe lixesha.

5. IZIMALI EZIZA KUFUNeka

Ingeniso eyintshiyekela, ukuba ikhona, indawo yokutyela mayifakwe kwiNgxowamali yeNgeniso yePhondo. Iindleko zolawulo ezongezelelweyo malunga nokusetyenziswa kolu wiso-mthetho, lwakuba luwisiwe ngokomthetho, kujoliswe ekubeni mazibe ncinane, kwaye zakuhlalulwa ngolu lukhoyo uhlahlo lwabiwomali.

6. ABASEBENZI ABAZA KUFUNeka

Abakho.

7. ISAKHONO KWEZOMTHETHO

INkulumbuso yePhondo yanelisekile kukuba zonke izibonelelo kuMthetho oYilwayo ziwela phakathi kwisakhono sowiso-mthetho sePhondo.

