PROVINCE OF WESTERN CAPE

WESTERN CAPE DISTRICT HEALTH COUNCILS BILL

(As introduced)

(MINISTER OF HEALTH)

[B 6—2010]

PROVINSIE WES-KAAP

WES-KAAPSE WETSONTWERP OP DISTRIKSGESONDHEIDSRADE

(Soos ingedien)

(MINISTER VAN GESONDHEID)

[W 6—2010]

IPHONDO LENTSHONA KOLONI

UMTHETHO OSAYILWAYO WAMABHUNGA EZEMPILO EZITHILI WENTSHONA KOLONI

(Njengoko wazisiwe)

(nguMPHATHISWA wezeMPILO)

[B 6—2010]

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BILL

To provide for certain matters relating to district health councils so as to give effect to section 31 of the National Health Act, 2003; and to provide for matters connected therewith.

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

Definitions

1. In this Act, a word or expression which is defined in the National Health Act has the meaning ascribed to it in that Act, and unless the context indicates otherwise —

"chairperson" means the chairperson of a district health council;

"Department" means the provincial department responsible for health in the Province;

"district health council" means a district health council established by the Provincial Minister in terms of section 31(1) of the National Health Act;

"district health manager" means a person appointed as district health manager by the Provincial Minister in terms of section 7(1);

"member" means a member of a district health council;

"National Health Act" means the National Health Act, 2003 (Act 61 of 2003);

"prescribe" means prescribe by regulation;

"Province" means the Province of the Western Cape;

"Provincial Health Council" means the Council established in the Province by section 26(1) of the National Health Act;

"Provincial Minister" means the Provincial Minister responsible for health services in the Province;

"this Act" includes any regulation made in terms of section 11.

Term of office of members of district health councils

2. (1) A member of a district health council holds office for a term of three years, and may be reappointed.

(2) When the term of office of a member expires, the member may remain in office for a period not exceeding six months until his or her successor has been appointed or he or she is reappointed.

Removal from office

3. The Provincial Minister must remove a member of a district health council from office if the member —

(a) is declared insolvent by a court of the Republic;

(b) is declared to be of unsound mind by a court of the Republic;

(c) is convicted during his or her term of office of any offence and sentenced to imprisonment without the option of a fine, either in the Republic, or outside the Republic, if the conduct constituting the offence would have been an offence in the Republic;

(d) is voluntarily absent, without leave of the district health council, from three consecutive ordinary meetings of the district health council;

(*e*) in the case of a member referred to in section 31(2)*(a)*(i) or (iii) of the National Health Act, ceases to hold an office by virtue of which that member was appointed to the district health council or is replaced by the municipal council concerned; or

(*f*) is incapable to perform his or her duties.

Vacancies

4. (1) A vacancy in a district health council occurs if—

(*a*) a member tenders his or her resignation to the Provincial Minister in writing;

(*b*) a member is removed from office in terms of section 3;

(*c*) in the case of a member appointed in terms of section 31(2)*(a)*(ii) of the National Health Act, the Provincial Minister withdraws the appointment; or

(*d*) a member dies.

(2) When a vacancy in a district health council occurs as a result of the death of a member, the chairperson must inform the Provincial Minister in writing within seven days thereof.

(3) A vacancy in a district health council must be filled by the nomination or appointment of a person in accordance with the relevant provision of section 31(2) of the National Health Act for the unexpired period of the term of office of the previous member.

(4) A decision of the district health council is not invalid because of a vacancy in the district health council when the decision was taken.

Functions of district health councils

5. A district health council—

(*a*) may consult with or receive representations from any person, organisation, institution or authority on any matter regarding health or health services;

(*b*) must act in accordance with relevant and applicable laws and policies of the national or provincial government and the municipal council concerned;

(*c*) must at least annually provide reports as prescribed on its activities to the Provincial Minister; and

(*d*) must ensure that appropriate and comprehensive information is disseminated to the local communities on the health services in the health district.

Meetings of district health councils

6. (1) A district health council may make rules of order for its proceedings, but those rules must be consistent with this Act and the National Health Act.

(2) The municipal council referred to in section 31(2)*(a)*(i) of the National Health Act must nominate a member of that council as an alternate to act in the chairperson's place when the chairperson is absent from a meeting.

(3) A district health council must meet at least once per quarter.

(4) A quorum for a meeting of a district health council is at least half of the members plus one.

(5) A district health council must strive to reach its decisions by consensus, but if a decision cannot be reached by consensus, the decision of the majority of the members of the district health council present at a meeting is the decision of the district health council.

(6) When there is an equality of votes, the person presiding at the meeting must cast a deciding vote in addition to his or her deliberative vote.

(7) A district health council may invite any person to a meeting of the district health council to serve in an advisory capacity.

(8) The Provincial Minister or his or her nominee must convene the first meeting of a district health council within 90 days of the commencement of this Act.

(9) The chairperson must—

(*a*) convene the other meetings of the district health council; and

(*b*) report to the Provincial Health Council when required to do so by the Provincial Minister.

District health manager

7. (1) The Provincial Minister must appoint a district health manager for every health district in terms of the Public Service Act, 1994 (Proclamation 103 of 1994).

(2) A district health manager—

(a) must, with the concurrence of the chairperson, compile the agenda for a meeting of the district health council;

(b) must keep a proper record of attendance at, minutes of and resolutions adopted at, every meeting of the district health council;

(c) must ensure that a copy of a record referred to in paragraph *(b)* is signed by the chairperson and sent to the Provincial Minister after each meeting; and

(d) must perform the other functions assigned to the district health manager by the Provincial Minister or the Head of the Department.

General support

8. The Department must provide technical and logistical support to a district health council.

District health plans

9. (1) A district health manager must develop a district health plan in accordance with section 33 of the National Health Act after consultation with the district health council, the Head of the Department and the district or metropolitan municipality concerned.

(2) The district health plan must—

(a) set out a detailed budget and performance targets for health services in the health district, including services to which both the Provincial Government and the municipal council of the district or metropolitan municipality concerned contribute; and

(b) include a communication plan for the dissemination of information and reporting to local communities on those health services.

(3) The municipal council of a district or metropolitan municipality must ensure that the district health manager is provided with the necessary assistance to develop the district health plan relating to the health services rendered by that municipality.

(4) The Provincial Minister must, after consultation with the district health council, approve the budget and performance targets in respect of health services rendered by the Department.

(5) The municipal council of the district or metropolitan municipality must, after consultation with the district health council, approve the budget and performance targets in respect of municipal health services.

Disputes

10. If—

(a) the Provincial Minister and the municipal council of a district or metropolitan municipality cannot reach agreement within the prescribed period on the budget or performance targets for health services in a health district to which both the Provincial Government and the municipality must contribute; or

(b) there is a breach of an agreement between the Provincial Minister and the municipal council pertaining to the budget or performance targets,

the intergovernmental dispute-settlement mechanism provided for in Chapter 4 of the Intergovernmental Relations Framework Act, 2005 (Act 13 of 2005), must be utilised to resolve the dispute.

Regulations

11. The Provincial Minister may make regulations regarding any matter which —

(a) may or must be prescribed in terms of this Act;

(b) is reasonably necessary for or incidental to the development and approval of district health plans; and

(c) the Provincial Minister considers necessary and appropriate to prescribe in order to achieve the purposes of this Act.

Short title and commencement

12. This Act is called the Western Cape District Health Councils Act, 2010, and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*.

MEMORANDUM ON THE OBJECTS OF THE WESTERN CAPE DISTRICT HEALTH COUNCILS BILL

BACKGROUND

The main object of the Western Cape District Health Councils Bill (hereinafter referred to as "the Bill") is to enact legislation envisaged in section 31 of the National Health Act, 2003 (Act 61 of 2003), thereby establishing and regulating the functioning of the various district health councils.

LEGISLATIVE COMPETENCE

The Provincial Minister responsible for health is satisfied that the provisions of the Bill fall within the legislative competence of the Province.

PERSONS / BODIES / INSTITUTIONS CONSULTED

Department of the Premier: Legal Services.
The Draft Bill was published for public comment on 30 January 2009 in *Provincial Gazette* 6597 under Provincial Notice 25/2009.

FINANCIAL IMPLICATIONS

None, except publication costs.

COSTS OF IMPLEMENTATION

The provincial Department of Health through its Deputy Director-General: District Health Services and Programmes, who is also the accountable Programme 2 manager, will administer and carry the costs of implementing the envisaged legislation. Provision has been made in the budget for the appointment of a district health manager in terms of section 7(1).

CONTENTS OF THE BILL

Clause 1

This clause contains definitions.

Clause 2

This clause provides for council members to serve a term of three years, whereafter they may be reappointed.

Clause 3

This clause empowers the Provincial Minister to remove a member from office in certain instances, for example, if a member is absent without leave of the district health council from three consecutive ordinary meetings of the council.

Clause 4

This clause describes what constitutes a vacancy and sets out the procedure to be followed where a vacancy occurs.

Clause 5

This clause sets out the functions of the district health council, which include *inter alia* to —

(a) receive representations from any person, organisation, institution or authority;
(b) provide reports as prescribed on its activities to the Provincial Minister; and
(c) ensure that appropriate and comprehensive information is disseminated to local communities.

Clause 6

This clause enables the district health council to determine rules of order for its meetings and seeks to regulate incidental matters thereto such as the casting of a deciding vote, the constitution of a quorum and how the Provincial Minister or his or her nominee must convene the first meeting. It furthermore sets out the functions of the chairperson.

Clause 7

This clause sets out how the Provincial Minister must appoint a district health manager. It further prescribes the functions of the district health manager which are, *inter alia,* to compile the agenda for meetings of the district health council and perform other functions assigned by the Provincial Minister or Head of the Department.

Clause 8

This clause provides that the Department must provide technical and logistical support to the district health council.

Clause 9

This clause determines that a district health manager must develop a district health plan that sets out the budget and performance targets, including services to which both the Provincial Government and the municipal council of the district or metropolitan municipality concerned contribute. It further determines that the municipal council of a district or metropolitan municipality must ensure that the district health manager is provided with necessary assistance to develop a district health plan. It also provides for the approval of the budget and performance targets in respect of health services by the municipal council and Provincial Minister respectively.

Clause 10

This clause provides for a dispute-resolution mechanism between the Provincial Minister and the municipal council in instances where —

(a) agreement cannot be reached within the prescribed period on the budget and performance targets; and

(b) a breach of an agreement has occurred.

Clause 11

This clause provides that the Provincial Minister may make regulations on any matter that is necessary and appropriate in order to achieve the purpose of the Act.

Clause 12

This clause contains the short title and commencement.

WETSONTWERP

Om voorsiening te maak vir sekere aangeleenthede met betrekking tot distriksgesondheidsrade ten einde uitvoering te gee aan artikel 31 van die Wet op Nasionale Gesondheid, 2003; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

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

Woordomskrywings

1. In hierdie Wet het 'n woord of uitdrukking wat in die Wet op Nasionale Gesondheid omskryf word, die betekenis wat in daardie Wet daaraan geheg word, en tensy dit uit die samehang anders blyk, beteken —

"Departement" die provinsiale departement verantwoordelik vir gesondheid in die Provinsie;

"distriksgesondheidsbestuurder" 'n persoon ingevolge artikel 7(1) as distriksgesondheidsbestuurder deur die Provinsiale Minister aangestel;

"distriksgesondheidsraad" 'n distriksgesondheidsraad ingevolge artikel 31(1) van die Wet op Nasionale Gesondheid deur die Provinsiale Minister ingestel;

"hierdie Wet" ook enige regulasie ingevolge artikel 11 uitgevaardig;

"lid" 'n lid van 'n distriksgesondheidsraad;

"Provinsiale Gesondheidsraad" die Raad wat by artikel 26(1) van die Wet op Nasionale Gesondheid in die Provinsie ingestel is;

"Provinsiale Minister" die Provinsiale Minister verantwoordelik vir gesondheidsdienste in die Provinsie;

"Provinsie" die Provinsie Wes-Kaap;

"voorsitter" die voorsitter van 'n distriksgesondheidsraad;

"voorskryf" by regulasie voorskryf;

"Wet op Nasionale Gesondheid" die *National Health Act,* 2003 (Wet 61 van 2003).

Ampstermyn van lede van distriksgesondheidsrade

2. (1) 'n Lid van 'n distriksgesondheidsraad dien vir 'n termyn van drie jaar, en kan heraangestel word.

(2) By verstryking van die ampstermyn van 'n lid kan die lid in die amp aanbly vir 'n tydperk van hoogstens ses maande tot die aanstelling van sy of haar opvolger of sy of haar heraanstelling.

Ampsontheffing

3. Die Provinsiale Minister moet 'n lid van 'n distriksgesondheidsraad uit die amp onthef indien die lid—

(a) insolvent verklaar word deur 'n hof van die Republiek;

(b) geestelik versteurd verklaar word deur 'n hof van die Republiek;

(c) gedurende sy of haar ampstermyn skuldig bevind word aan 'n misdryf en tot gevangenisstraf sonder die keuse van 'n boete gevonnis word, hetsy in die Republiek, of buite die Republiek indien die gedrag wat die misdryf uitmaak 'n misdryf in die Republiek sou wees;

(*d*) uit vrye wil, en sonder toestemming van die distriksgesondheidsraad, afwesig is van drie opeenvolgende gewone vergaderings van die distriksgesondheidsraad;
(*e*) in die geval van 'n lid bedoel in artikel 31(2)*(a)*(i) of (iii) van die Wet op Nasionale Gesondheid, ophou om 'n amp te beklee op grond waarvan daardie lid in die distriksgesondheidsraad aangestel is, of indien daardie lid deur die betrokke munisipale raad vervang word; of
(*f*) nie in staat is om sy of haar pligte uit te voer nie.

Vakatures

4. (1) 'n Vakature in 'n distriksgesondheidsraad ontstaan indien —
(*a*) 'n lid sy of haar bedanking skriftelik aan die Provinsiale Minister voorlê;
(*b*) 'n lid ingevolge artikel 3 uit die amp onthef word;
(*c*) in die geval van 'n lid wat ingevolge artikel 31(2)*(a)*(ii) van die Wet op Nasionale Gesondheid aangestel is, die Provinsiale Minister die aanstelling terugtrek; of
(*d*) 'n lid te sterwe kom.

(2) Binne sewe dae nadat 'n vakature in 'n distriksgesondheidsraad ontstaan as gevolg van die afsterwe van 'n lid, moet die voorsitter die Provinsiale Minister skriftelik van die vakature in kennis stel daarvan.

(3) 'n Vakature in 'n distriksgesondheidsraad moet gevul word deur die benoeming of aanstelling van 'n persoon ooreenkomstig die toepaslike bepaling van artikel 31(2) van die Wet op Nasionale Gesondheid vir die onverstreke gedeelte van die ampstermyn van die vorige lid.

(4) 'n Besluit van die distriksgesondheidsraad is nie ongeldig as gevolg van 'n vakature wat in die distriksgesondheidsraad bestaan het op die tydstip waarop die besluit geneem is nie.

Werksaamhede van distriksgesondheidsrade

5. 'n Distriksgesondheidsraad —
(*a*) kan oorleg pleeg met of vertoë ontvang van enige persoon, organisasie, instelling of owerheid op enige aangeleentheid met betrekking tot gesondheid of gesondheidsdienste;
(*b*) moet optree ooreenkomstig die tersaaklike en toepaslike wette en beleidsrigtings van die nasionale of provinsiale regering en die betrokke munisipale raad;
(*c*) moet ten minste elke jaar verslae aangaande sy bedrywighede aan die Provinsiale Minister voorlê; en
(*d*) moet toesien dat toepaslike en volledige inligting ten opsigte van die gesondheidsdienste binne die gesondheidsdistrik onder die plaaslike gemeenskappe versprei word.

Vergaderings van distriksgesondheidsrade

6. (1) 'n Distriksgesondheidsraad kan ordereëls maak vir sy verrigtinge, maar daardie reëls moet bestaanbaar wees met hierdie Wet en die Wet op Nasionale Gesondheid.

(2) Die munisipale raad bedoel in artikel 31(2)*(a)*(i) van die Wet op Nasionale Gesondheid moet 'n lid van daardie raad as plaasvervanger benoem om in die voorsitter se plek op te tree wanneer die voorsitter van 'n vergadering afwesig is.

(3) 'n Distriksgesondheidsraad moet minstens een keer per kwartaal vergader.

(4) 'n Kworum vir 'n vergadering van 'n distriksgesondheidsraad is minstens die helfte van die lede plus een.

(5) Die distriksgesondheidsraad moet poog om sy besluite by wyse van konsensus te neem, maar indien 'n besluit nie by wyse van konsensus geneem kan word nie, is die besluit van die meerderheid van die lede van die distriksgesondheidsraad teenwoordig by 'n vergadering, die besluit van die distriksgesondheidsraad.

(6) In die geval van 'n staking van stemme moet die persoon wat op die vergadering voorsit, 'n beslissende stem uitbring benewens sy of haar beraadslagende stem.

(7) 'n Distriksgesondheidsraad kan enige persoon uitnooi na 'n vergadering van die distriksgesondheidsraad om in 'n raadgewende hoedanigheid te dien.

(8) Die Provinsiale Minister of sy of haar verteenwoordiger moet die eerste vergadering van ’n distriksgesondheidsraad belê binne 90 dae nadat hierdie Wet in werking getree het.

(9) Die voorsitter moet —

(a) die ander vergaderings van die distriksgesondheidsraad belê; en

(b) aan die Provinsiale Gesondheidsraad verslag doen wanneer die Minister dit verlang.

Distriksgesondheidsbestuurder

7. (1) Die Provinsiale Minister moet ’n distriksgesondheidsbestuurder vir elke gesondheidsdistrik aanstel ingevolge die Staatsdienswet, 1994 (Proklamasie 103 van 1994).

(2) ’n Distriksgesondheidsbestuurder —

(a) moet, met die instemming van die voorsitter, die sakelys opstel vir ’n vergadering van die distriksgesondheidsraad;

(b) moet ’n behoorlike rekord hou van die bywoning van, die notules van en die besluite aanvaar op, elke vergadering van die distriksgesondheidsraad;

(c) moet verseker dat ’n afskrif van ’n rekord bedoel in paragraaf *(b)* deur die voorsitter onderteken word en ná elke vergadering aan die Provinsiale Minister gestuur word; en

(d) moet die ander werksaamhede verrig wat deur die Provinsiale Minister of die Departementshoof aan die distriksgesondheidsbestuurder opgedra word.

Algemene steun

8. Die Departement moet tegniese en logistieke steun aan ’n distriksgesondheidsraad verleen.

Distriksgesondheidsplanne

9. (1) ’n Distriksgesondheidsbestuurder moet, ná oorlegpleging met die distriksgesondheidsraad, die Departementshoof en die betrokke distriks- of metropolitaanse munisipaliteit, ’n distriksgesondheidsplan opstel ooreenkomstig artikel 33 van die Wet op Nasionale Gesondheid.

(2) Die distriksgesondheidsplan moet —

(a) ’n gedetailleerde begroting en prestasieteikens vir gesondheidsdienste in die gesondheidsdistrik stel, met inbegrip van dienste waartoe sowel die Provinsiale Regering as die munisipale raad van die betrokke distriks- of metropolitaanse munisipaliteit bydra; en

(b) ’n kommunikasieplan vir die verspreiding van inligting en verslagdoening oor daardie gesondheidsdienste aan plaaslike gemeenskappe insluit.

(3) Die munisipale raad van ’n distriks- of metropolitaanse munisipaliteit moet toesien dat die distriksgesondheidsbestuurder voorsien word van die nodige bystand ten einde die distriksgesondheidsplan met betrekking tot gesondheidsdienste wat deur daardie munisipaliteit gelewer word, op te stel.

(4) Die Provinsiale Minister moet, ná oorlegpleging met die distriksgesondheidsraad, die begroting en prestasieteikens met betrekking tot gesondheidsdienste wat deur die Departement gelewer word, goedkeur.

(5) Die munisipale raad van die distriks- of metropolitaanse munisipaliteit moet, ná oorlegpleging met die distriksgesondheidsraad, die begroting en prestasieteikens ten opsigte van munisipale gesondheidsdienste goedkeur.

Geskille

10. Indien—

(a) die Provinsiale Minister en die munisipale raad van ’n distriks- of metropolitaanse munisipaliteit nie binne die voorgeskrewe tydperk eenstemmigheid kan bereik oor die begroting of prestasieteikens vir gesondheidsdienste in ’n gesondheidsdistrik waartoe sowel die Provinsiale Regering as die munisipaliteit moet bydra nie; of

(b) daar ’n skending is van ’n ooreenkoms tussen die Provinsiale Minister en die munisipale raad rakende die begroting of prestasieteikens,

moet die interregeringsgeskilbeslegtingsmeganisme waarvoor in Hoofstuk 4 van die *Intergovernmental Relations Framework Act*, 2005 (Wet 13 van 2005), voorsiening gemaak word, gebruik word om die geskil te besleg.

Regulasies

11. Die Provinsiale Minister kan regulasies uitvaardig betreffende enige aangeleentheid wat—

(a) ingevolge hierdie Wet voorgeskryf kan of moet word;

(b) redelikerwys nodig is vir of gepaard gaan met die opstel en goedkeuring van distriksgesondheidsplanne; en

(c) die Provinsiale Minister nodig en gepas ag om voor te skryf ten einde die oogmerke van hierdie Wet te bereik.

Kort titel en inwerkingtreding

12. Hierdie Wet heet die Wes-Kaapse Wet op Distriksgesondheidsrade, 2010, en tree in werking op ’n datum wat by proklamasie in die *Provinsiale Koerant* deur die Premier bepaal word.

MEMORANDUM OOR DIE OOGMERKE VAN DIE WES-KAAPSE WETSONTWERP OP DISTRIKSGESONDHEIDSRADE

AGTERGROND

Die hoofoogmerk van die Wes-Kaapse Wetsontwerp op Distriksgesondheidsrade (hierna verwys word as ''die Wetsontwerp'') is om wetgewing te verorden wat in artikel 31 van die *National Health Act*, 2003 (Wet 61 van 2003), beoog word, ten einde die onderskeie distriksgesondheidsrade in te stel en hulle funksionering te reël.

WETGEWENDE BEVOEGDHEID

Die Provinsiale Minister verantwoordelik vir gesondheid is tevrede dat die bepalings van die Wetsontwerp binne die wetgewende bevoegdheid van die Provinsie val.

PERSONE / LIGGAME / INSTELLINGS WAT GERAADPLEEG IS

Departement van die Premier: Regsdienste.
Die Konsepwetsontwerp is op 30 Januarie 2009 in *Provinsiale Koerant* 6597 onder Provinsiale Kennisgewing 25/2009 vir openbare kommentaar gepubliseer.

FINANSIELE IMPLIKASIES

Geen, buiten publikasiekoste.

IMPLEMENTERINGSKOSTE

Die provinsiale Departement van Gesondheid sal, by wyse van sy Adjunk-direkteur-generaal: Distriksgesondheidsdienste en -programme, wat ook die verantwoordingspligtige bestuurder van Program 2 is, die beoogde wetgewing administreer en die koste verbonde aan die implementering daarvan dra. Daar is binne die begroting voorsiening gemaak vir die aanstelling van 'n distriksgesondheidsbestuurder ingevolge artikel 7(1).

INHOUD VAN WETSONTWERP

Klousule 1

Hierdie klousule bevat woordomskrywings.

Klousule 2

Hierdie klousule bepaal dat raadslede vir 'n termyn van drie jaar dien, waarna hulle heraangestel kan word.

Klousule 3

Hierdie klousule verleen die bevoegdheid aan die Provinsiale Minister om 'n lid in sekere omstandighede van sy of haar amp te onthef, byvoorbeeld indien 'n lid sonder verlof van drie opeenvolgende gewone vergaderings van die distriksgesondheidsraad afwesig is.

Klousule 4

Hierdie klousule beskryf wat 'n vakature uitmaak en sit die prosedure uiteen wat gevolg moet word waar 'n vakature ontstaan.

Klousule 5

Hierdie klousule gee 'n uiteensetting van die werksaamhede van die distriksgesondheidsraad, wat onder meer insluit om —

(a) vertoë van enige persoon, organisasie, instelling of owerheid te ontvang;
(b) soos voorgeskryf, verslae oor sy bedrywighede aan die Provinsiale Minister voor te lê; en

(*c*) toe te sien dat toepaslike en volledige inligting onder plaaslike gemeenskappe versprei word.

Klousule 6

Hierdie klousule stel die raad in staat om ordereëls vir sy vergaderings op te stel en poog om aangeleenthede te reël wat daarmee in verband staan, soos die uitbring van 'n beslissende stem, die vorming van 'n kworum en die gee van 'n aanduiding van die wyse waarop die Provinsiale Minister of sy of haar verteenwoordiger die eerste vergadering moet belê. Dit bepaal voorts ook die funksies van die voorsitter.

Klousule 7

Hierdie klousule bepaal hoe die Provinsiale Minister 'n distriksgesondheidsbestuurder moet aanstel. Dit bepaal voorts die funksies van die distriksgesondheidsbestuurder wat onder meer behels om die sakelys vir vergaderings van die distriksgesondheidsraad op te stel en om ander wersaamhede te verrig wat deur die Provinsiale Minister of Hoof van die Departement aan dié bestuurder opgedra word.

Klousule 8

Hierdie klousule bepaal dat die Departement tegniese en logistieke steun aan die distriksgesondheidsraad moet bied.

Klousule 9

Hierdie klousule bepaal dat 'n distriksgesondheidsbestuurder 'n distriksgesondheidsplan moet opstel wat die begroting en prestasieteikens uiteensit, met inbegrip van dienste waartoe sowel die Provinsiale Regering as die munisipale raad van die betrokke distriks- of metropolitaanse munisipaliteit bydra. Dit bepaal voorts dat die munisipale raad van 'n distriks- of metropolitaanse munisipaliteit moet toesien dat die distriksgesondheidsbestuurder voorsien word van die nodige bystand ten einde 'n distriksgesondheidsplan op te stel. Dit maak ook voorsiening vir die goedkeuring van die begroting en prestasieteikens ten opsigte van gesondheidsdienste deur onderskeidelik die munisipale raad en die Provinsiale Minister.

Klousule 10

Hierdie klousule maak voorsiening vir 'n geskilbeslegtingsmeganisme tussen die Provinsiale Minister en die munisipale raad in gevalle waar —

(*a*) daar nie oor die begroting en prestasieteikens ooreengekom kan word nie; en
(*b*) 'n skending van 'n ooreenkoms plaasgevind het.

Klousule 11

Hierdie klousule bepaal dat die Provinsiale Minister regulasies kan uitvaardig oor enige aangeleentheid wat nodig en gepas is ten einde die doeleindes van die Wet te verwesenlik.

Klousule 12

Hierdie klousule bevat die kort titel en inwerkingtreding.

UMTHETHO OSAYILWAYO

Lo mthetho ulungiselela imibandela ethile ephathelele kumabhunga ezempilo ezithili, ukuze kufezekiswe icandelo 31 lomthetho oyi-National Health Act, 2003, kwanokulungiselelwa imibandela ehambelana nawo.

XA UTHE LOMTHETHO WAPHUNYEZWA yipalamente yephondo leNtshona Koloni, ngokwale ndlela ilandelayo:—

Inkcazelo

1. Kulo Mthetho, igama okanye ibinzana elicacisiweyo kumthetho oyi-National Health Act libhekiselele kuloo nto ithethwayo kula Mthetho, ngaphandle kokuba okuqulathiweyo kuchaza nto yimbi —

"IBhunga lezeMpilo lePhondo" lithetha iBhunga elasekwa kwiPhondo ngokwecandelo 26(1) lomthetho oyi-National Health Act;

"Ibhunga lezempilo lesithili" lithetha ibhunga lezempilo lesithili elasekwa nguMphathiswa wePhondo ngokwecandelo 31(1), lomthetho oyi-National Health Act;

"ilungu" lithetha ilungu lebhunga lesithili;

"I-National Health Act" ithetha umthetho oyi-National Health Act, 2003 (Act 1 of 2003);

"iPhondo" lithetha iPhondo leNtshona Koloni;

"iSebe" lithetha isebe lephondo elijongene nezempilo kwiPhondo;

"lo Mthetho" ubandakanya nawuphi na ummiselo owaqulunqwa ngokwecandelo 11;

"ukuyalela" kuthetha okuyalelwa ngumgaqo;

"umphathi wezempilo wesithili" uthetha umntu oqeshwe njengomanejala wezempilo wesithili nguMphathiswa ngokwecandelo 7 (1);

"UMphathiswa wePhondo "uthetha uMphathiswa wePhondo ojongene neenkonzo zempilo kwiPhondo;

"usihlalo" uthetha usihlalo webhunga lezempilo lesithili.

Ixesha lokuba sezikhundleni kwamalungu

2. (1) Ilungu lebhunga lezempilo lesithili liya kusebenza ixesha elingayi kudlula kwiminyaka emithathu kwaye lisengaphinda lityunjwe.

(2) Ekupheleni kwexesha lokuba sesikhundleni kwelungu, ilungu liya kuhlala likweso sikhundla isithuba esingayi kudlula kwiinyang ezintandathu, kude konyulwe umntu oza kungena kweso sikhundla okanye libe ilungu elo liphinde lonyulwa.

Ukususwa esikhundleni

3. UMphathiswa wePhondo kufuneka alisuse ilungu kwisikhundla sebhunga lezempilo lesithili ukuba ilungu elo —

(a) lifunyaniswe lisematyaleni angahlawulekiyo yinkundla yomthetho yeRiphablikhi;

(b) inkundla yeRiphablikhi ilifumanise linengxaki yengqondo;

(c) lithe lafunyaniswa linetyala ngexesha lisesikhundleni lize ligwetyelwe intolongo linganikwanga sohlwayo, kwiRiphabliki okanye ngaphandle

kwiRiphablikhi ukuba oku kuziphatha kwenza ityala bekuya kuba lityala kwiRiphablikhi;

(d) alibangakho ngokuzithandela, kwiintlanganiso ezintathu ngokulandelelana, libe lingekho kwikhefu elimiselwe libhunga lezempilo lesithili, zebhunga lomasipala;

(e) kwimeko apho ilingu ekubhekiselelwa kwicandelo 31(2)*(a)*(i) okanye (iii) lomthetho oyi-National Health Act, liyayeka esikhundleni elalityunjelwe sona kwibhunga lezempilo lesithili, okanye liyakhutshwa libhunga lomasipala elichaphazelekayo kungene omnye umtyunjwa; okanye

(f) aliwenzi ngendlela eyanelisayo umsebenzi walo.

Izithuba

4. (1) Isithuba esikwibhunga lezempilo lesithili sivela xa ilungu lithe—

(a) lakwazisa ukurhoxa kwalo kuMphathiswa wePhondo ngembalelwano;

(b) lasuswa esikhundleni ngokwecandelo 3;

(c) kwimeko apho ilungu latyunjwa ngokwecandelo 31(2)*(a)*(ii), loMthetho oyi-National Act, uMphathiswa wePhondo uya kurhoxisa ukutyunjwa kwelo lungu; okanye

(d) lasweleka.

(2) Ukuba kuvuleka isithuba kwibhunga lezempilo lesithili ngenxa yokufa kwelungu, usihlalo uya kumazisa ngembalelwano uMphathiswa kwisithuba seentsuku ezisixhenxe ngoko ke.

(3) Isithuba esikwibhunga lezempilo lesithili kufuneka sizaliswe ngokutyunjwa okanye ngokuqeshwa komntu ngokuhambelana nommiselo ekubhekiselelwa kuwo licandelo 31(2) lomthetho oyi-National Health Act oya kuba sesikhundleni selungu elimkileyo ixesha elingayi kuphelelwa.

(4) Isigqibo esaye sathatyathwa kwibhunga lezempilo lesithili, asiyi kuyeka ukusebenza kuba ngelo xesha sasithatyathwa ngalo kwakukho isithuba kwibhunga lezempilo lesithili.

Imisebenzi namagunya amabhunga ezempilo ezithili

5. Ibhunga lezempilo lesithili—

(a) lingabonisana okanye lamkele ingxelo evela kuye nawuphi na umntu, umbutho, iziko okanye igunya nakweziphi na izinto ezinxulumene neeNkonzo zeMpilo okanye ezeMpilo;

(b) kufuneka liyenze ngokuhambelana nemithetho kwanemigaqo-nkqubo echaphazelekayo nesetyenziswayo yorhulumente wesizwe okanye owephondo kunye nebhunga likamasipala ochaphazelekayo;

(c) kufuneka lithi rhoqho ngonyaka landlale ingxelo njengoko kuyalelweyo nguMphathiswa wePhondo; kwaye

(d) liqinisekise ukuba kunatyiswa iingcombolo zolwazi ezifanelekileyo, ezaneleyo nezibanzi koomasipala beenqila ngeenkonzo zempilo kwesa sithili sezempilo.

Iintlanganiso zamabhunga ezempilo ezithili

6. (1) Ibhunga lezempilo lesithili liyakwenza imithetho yeendlela eziya kuhamba ngazo iinkqubo zalo, kodwa loo mithetho kufuneka ihambelane nalo Mthetho kunye nomthetho, oyi-National Health Act.

(2) Ibhunga lomasipala ekubhekiselelwa kulo kwicandelo 31(2)(i) lomthetho oyi-National Health Act kufuneka lityumbe ilungu lebhunga elo njengomntu oya kusebenza njengosihlalo xa ethe akabikho usihlalo entlanganisweni.

(3) Kufuneka ibhunga lezempilo lesithili lihlangane kube kanye ngekota ubuncinane.

(4) Umyinge wabantu abakhoyo entlanganisweni yebhunga lezempilo lesithili iba sisiqingatha samalungu esinelinye ilungu ngaphezulu ubuncinane.

(5) Ibhunga lezempilo lesithili kufuneka lizame kangangoko ukufikelela kwizigqibo ngokwemvumelwano, kodwa apho sithe isigqibo asathathwa ngokwemvumelwano, iya kuba sisigqibo sesininzi samalungu ebhunga lezempilo lesithili akhoyo entlanganisweni siya kuba sesona sigqibo sebhunga lezempilo lesithili.

(6) Xa zithe zalingana iivoti, umntu okhokele intlanganiso usengavota naye ukongeza kwelo cala afuna ukulivotela.

(7) Ibhunga lezempilo lesithili liya kumema nawuphi na umntu ukuba aye entlanganisweni yebhunga lezempilo asebenze njengomntu onika iingcebiso.

(8) UMphathiswa okanye lowo amtyumbileyo kufuneka abize intlanganiso yokuqala yebhunga lezempilo lesithili kwisithuba seentsuku ezingama 90 uqalile usebenza lo Mthetho.

(9) USihlalo wezeMpilo wesithili kufuneka—

(a) abize ezinye iintlanganiso zebhunga lezempilo lesithili; kwaye

(b) enze ingxelo kwiBhunga lezeMpilo lePhondo xa kukho imfuneko yoko eyalelwe nguMphathiswa wePhondo.

UMphathi wezempilo wesithili

7. (1) UMphathiswa wePhondo uya kuqesha umphathi wezempilo kwizithili oya kusebenza kuzo zonke izithili ngokomthetho oyi-Public Service Act, 1994 (I-Proclamation 103 of 1994).

(2) Umphathi wezempilo wesithili—

(a) uya kuthi ngokuvumelana nosihlalo, enze i-ajenda yentlanganiso yebhunga lezempilo lesithili;

(b) uya kugcina irekhodi echanekileyo yobukho bamalungu entlanganisweni, amanqaku entlanganiso kunye nezisombululo ekuvunyelenwe ngazo, kuzo zonke iintlanganiso zebhunga lezempilo lesithili;

(c) uya kuqinisekisa ukuba ikopi yerekhodi ekubhekiselelwa kuyo kumhlathi *(b)* ityikityiwe ngusihlalo aze ayithumele kuMphathiswa wePhondo emva kwentlanganiso nganye; kwaye

(d) uyakwenza eminye imisebenzi ayabelweyo nguMphathiswa wePhondo, yiNtloko yeSebe okanye libhunga lezempilo lesithili.

Inkxaso ngokubanzi

8. ISebe kufuneka lize nenkxaso enobungcali necwangcisekileyo kwibhunga lezempilo lesithili.

Izicwangciso sezempilo sezithili

9. (1) Umphathi wesithili sezempilo uya kuqulunqa isicwangciso sezempilo sesithili, ngokuhambelana necandelo 33 lomthetho oyi-National Health Act emva kokuba ebonisene nebhunga lezempilo lesithili, iNtloko yeSebe kunye nomasipala ochaphazelekayo wesithili okanye owemetropolitan.

(2) Isicwangciso sezempilo sesithili—

(a) siya kumisela izinto ekujoliswe kuzo ngohlahlo lwabiwo-mali nangomsebenzi weenkonzo zempilo kwisithili sezempilo; kwaye

(b) kubandakanywe nesicwangciso sonxibelelwano esimalunga nokunatyiswa kweengcombolo zolwazi nokunika ingxelo kwiindawo ezihlala abantu kwinqila, malunga nezo nkonzo zempilo.

(3) Ibhunga lomasipala wesithili okanye umasipala wemetropolitan kufuneka aqinisekise ukuba umphathi wezempilo wesithili uxhotyiswa ngoncedo olufanelekileyo ukuze aqulunqe isicwangciso sezempilo sesithili kwiinkonzo zempilo abonelela ngazo umasipala lowo.

(4) UMphathiswa wePhondo kufuneka athi emva kokubonisana nebhunga lezempilo lesithili, anike imvume yohlahlo lwabiwo-mali nezinto ekujoliswe kuzo ngomsebenzi ngokubhekiselele kwiinkonzo ezenziwa liSebe.

(5) Ibhunga. lomasipala wesithili okanye umasipala wemetropolitan kufuneka emva kokubonisana nebhunga lezempilo lesithili anike imvume kuhlahlo lwabiwo-mali nezinto ekujoliswe kuzo ngomsebenzi ngokubhekiselele kwiinkonzo zempilo zikamasipala.

IiMbambano

10. Ukuba —

(a) uMphathiswa wePhondo kunye nebhunga lomasipala lesithili okanye umasipala wemetropolitan engenakufikelela kwisigqibo ngokwexesha elimiselweyo lohlahlo lwabiwo-mali okanye izinto ekujoliswe kuzo

ngomsebenzi weenkonzo zempilo apho uRhulumente wePhondo kunye nomasipala kufuneka ukuba babenegalelo; okanye

(b) kophulwe isigqibo phakathi koMphathiswa wePhondo nebhunga lomasipala ngokuphathelele kuhlahlo lwabiwo-mali okanye izinto ekujoliswe kuzo ngomsebenzi,

makusetyenziswe iindlela zokusombulula imbambano ephakathi koorhulumente njengoko kuchaziwe kwiSahluko 4 somthetho i- Intergovernmental Relations Framework Act, 2005 (Act 13 of 2005).

IMimiselo

11. UMphathiswa wePhondo uya kwenza imimiselo ephathelele kuwo nawuphi na umbandela

(a) osenokumiselwa okanye ekufuneka umiselwe ngokwalo Mthetho;

(b) nawuphi na umbandela awubona ufanelekile okanye ungabalulekanga kuphuhliso nasekwamkelweni kwezicwangciso zempilo zesithili; kwaye

(c) nawo nawuphi na umbandela awuthatha njengofanelekileyo nolungele ukuba ungayalela ukuze kuphunyezwe injongo yalo Mthetho.

Isihloko esifutshane nokuqala kokusebenza komthetho

12. Lo Mthetho ubizwa ngokuba yi-Western Cape District Health Councils Act, 2010, noya kuqalisa ukusebenza ngomhla oya kumiselwa yiNkulumbuso ngokuwubhengeza kwi*Gazethi yePhondo.*

IMEMORANDAM YENJONGO YOMTHETHO OSAYILWAYO UMTHETHO OSAYILWAYO WENTSHONA KOLONI WAMABHUNGA EZEMPILO

INGCACISO

Injongo ephambili yalo Mthetho osaYilwayo wamaBhunga ezeMpilo eZithili weNtshona koloni kukuphunyezwa komthetho njengoko kubonakala ngokwecandelo 31 lomthetho oyi-National Health Act, 2003 (Act 61 of 2003) ngokuseka nokulawula ukusebenza kwamabhunga ohluka-hlukeneyo empilo ezithili.

AMAGUNYA OKUWISA UMTHETHO

UMphathiswa wePhondo ophethe isebe lezempilo wanelisekile ukuba imimiselo yoMthetho osaYilwayo, iPhondo linegunya lokuba liwise umthetho ngokwemimiselo le.

ABANTU / AMAZIKO / AMASEBE EKUBONISWENE NAWO

ISebe leNkulumbuso: IiNkonzo zoMthetho.
UMthetho osaYilwayo wapapashwa ngomhla wama-30 kuJanywari 2009 kwiGazethi ye-Phondo engu-6597 ngaphantsi kweNotice yePhondo yama-25/2009 ukuze nawuphi na umntu ahlomle.

IMALI EZA KUSETYENZISWA

Ayikho, ngaphandle kweendleko zokupapasha.

IINDLEKO ZOKUMISELWA KOMTHETHO

ISebe lezeMpilo liya kuthi lidibene neSekela Mlawuli-Jikelele weeNkonzo neeNkqubo zeMpilo zeSithili, onguMphathi ophendulayo weNkqubo 2, lilawule lize lizithathele kulo iindleko zokumisela lo mthetho osayilwayo. Enziwe amalungiselelo ohlahlo lwabiwo-mali ngokubhekiselele ekuqeshweni komphathi wezempilo wesithili ngokwecandelo 7 (1).

OKUQULATHWE NGUMTHETHO OSAYILWAYO

Igatya 1

Eli gatya liqulathe inkcazelo.

Igatya 2

Eli gatya lenza ukuba amalungu ebhunga asebenze isithuba seminyaka emithathu, ze ukuphela kwayo baphinde batyunjwe kwakhona.

Igatya 3

Eli gatya linika uMphathiswa wePhondo igunya lokususa ilungu esikhundleni kwiimeko ezithile, umzekelo, ukuba ilungu lingekho khefini lingabikho kwiintlanganiso ezintathu zebhunga zilandelelana.

Igatya 4

Eli gatya licacisa ngesikhundla likwachaza nangemigaqo eya kulandelwa kuloo ndawo kuvuleka isithuba kuyo.

Igatya 5

Eli gatya limisela imisebenzi yebhunga lezempilo lesithili, eliquka kuzo —

(a) ukwamkela abameli bakhe nawuphi na umntu, umbutho, iziko okanye igunya;

(b) ukunika ingxelo kuMphathiswa wePhondo njengoko kuchaziwe kwimisebenzi yalo; kwaye

(c) nokuqinisekisa ngenkcukacha ezichanekileyo nezibanzi ukuba ziyahanjiswa zifikelele ekuhlaleni.

Igatya 6

Eli gatya lenza likwazi ibhunga lezeMpilo leZithili ukumisela imithetho yeendlela eziya kuhamba ngazo iinkqubo zalo zeentlanganiso kwaye nolawulo lwemibandela emayela neemeko zokungalingani kweevoti apho kwenziwa ivoti eyongezelelayo, nendlela uMphathiswa okanye umtyunjwa wakhe ekufuneka ayichophele ngayo intalnganiso yokuqala. Ikwalilo elimisela imisebenzi namagunya kasihlalo.

Igatya 7

Eli gatya limisela indlela ekufuneka uMphathiswa wePhondo amqeshe ngayo umphathi wezempilo wesithili. Likwamisela imisebenzi yomphathi wezempilo wesithili, ekukho phakathi kwayo, ukuqulunqa i-ajenda yeentlanganiso zebhunga lezempilo lesithili kananjalo enze eminye imisebenzi eliyinikwe nguMphathiswa wePhondo okanye yiNtloko yeSebe.

Igatya 8

Eli gatya lichaza ukuba uMphathiswa weSebe kufuneka anike inkxaso enobungcali necwangcisekileyo kwibhunga lezempilo lesithili.

Igatya 9

Eli gatya limisela ukuba umphathi wezempilo wesithili kulindeleke ukuba aqulunqe isicwangciso sezempilo sesithili esichaza ngohlahlo lwabiwo-mali nangezinto ekujoliswe kuzo ngomsebenzi, kuqukwa neenkonzo ezenziwa nguRhulumente wePhondo kunye nebhunga lomasipala wesithili okanye umasipala wemetropolitan ochaphazelekayo. Ikwalilo elimisela, ukuba ibhunga lomasipala lesithili okanye lomasipala wemetropolitan kufuneka aqinisekise ukuba umphathi wezempilo wesithili uxhotyiswa ngoncedo olufanelekileyo ukuze aqulunqe isicwangciso sezempilo sesithili. Likwalungiselela nokunika imvume yohlahlo lwabiwo-mali nezinto ekujoliswe kuzo ngomsebenzi ngokubhekiselele kwiinkonzo zempilo libhunga lomasipala noMphathiswa wePhondo.

Igatya 10

Eli gatya licacisa ngesisombululo sembambano phakathi koMphathiswa kunye nebhunga lomasipala kwiimeko apho —

(a) kuthe akwafikelelwa kwisigqibo ngethuba eliqingqiweyo malunga nohlahlo lwabiwo-mali nakwiinkalo zemisebenzi ekujoliswe kuzo; kwaye

(b) naxa kophulwe isigqibo.

Igatya 11

Eli gatya lichaza uMphathiswa wePhondo ukuba angenza imimiselo ngawo nawuphi na umbandela ofunekayo nofanelekileyo ukuze kuphunyezwe iinjongo zalo Mthetho.

Igatya 12

Eli gatya linesihloko esifutshane nesiqalo.