

PROVINCE OF WESTERN CAPE

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**WESTERN CAPE  
PROBLEM ANIMAL CONTROL  
ORDINANCE REPEAL BILL**

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*(As introduced)*

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(MINISTER OF LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS AND ECONOMIC DEVELOPMENT)

[B 9—2008]

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PROVINSIE WES-KAAP

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**WES-KAAPSE WETSONTWERP  
TOT HERROEPING VAN DIE  
ORDONNANSIE OP DIE BEHEER  
VAN PROBLEEMDIERE**

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*(Soos ingedien)*

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(MINISTER VAN PLAASLIKE REGERING, OMGEWINGSAKE EN ONTWIKKELINGSBEPLANNING)

[W 9—2008]

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IPHONDO LENTSHONA KOLONI

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**UMTHETHO OSAYILWAYO  
WENTSHONA KOLONI  
WOBHANGISO NOMMISELO  
WOKULAWULA IZILWANYANA  
EZIYINGXAKI**

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*(Njengoko wazisiwe)*

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(NGUMPHATHISWA WECANDELO LORHULUMENTE WOMMANDLA; OKUSINGQONGILEYO NOPHULISO  
LOLUNTU)

[B 9—2008]

# BILL

**To repeal the Problem Animal Control Ordinance, 1957; and to provide for matters incidental thereto.**

**B**E IT ENACTED by the Provincial Parliament of the Western Cape, as follows:—

## **Repeal of Ordinance 26 of 1957 and laws amending it**

1. The laws listed in the Schedule are repealed.

### **Short title**

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2. This Act is called the Problem Animal Control Ordinance Repeal Act, 2008.

## **SCHEDULE**

### **LAWS REPEALED**

<b>No. and year of law</b>	<b>Short title</b>	
Ordinance 26 of 1957	Problem Animal Control Ordinance, 1957	10
Ordinance 21 of 1959	Vermin Extermination Amendment Ordinance, 1959	
Ordinance 5 of 1961	Vermin Extermination Amendment Ordinance, 1961	
Ordinance 30 of 1964	Vermin Extermination Amendment Ordinance, 1964	
Ordinance 25 of 1965	Vermin Extermination Amendment Ordinance, 1965	15
Ordinance 22 of 1968	Vermin Extermination Amendment Ordinance, 1968	
Ordinance 19 of 1984	Problem Animal Control Amendment Ordinance, 1984	

## **EXPLANATORY MEMORANDUM**

### **1. OBJECT OF BILL**

The object of the Bill is to repeal the Problem Animal Control Ordinance 26 of 1957 (“the Ordinance”) and laws amending it.

### **2. BACKGROUND**

- 2.1 The Ordinance was assigned to the Province in terms of Proclamation No. 115 of 1994 published in Government Gazette No. 15813 of 17 June 1994.
- 2.2 The Ordinance provides for the establishment and registration of hunt clubs for the combating of problem animals. It also provides local government (former Divisional Council) with executive power to deal with problem animal control, which is contrary to the Constitution of South Africa.
- 2.3 Currently, matters relating to problem animal control are regulated by the Nature Conservation Ordinance 19 of 1974 and not by the Ordinance. The Western Cape Nature Conservation Board, established in terms of section 2 of the Western Cape Nature Conservation Board Act of 1998 (Act 15 of 1998), is empowered to deal with any matter relating to problem animal control in terms of the Nature Conservation Ordinance 19 of 1974.
- 2.4 Furthermore, the mechanism to control problem animals as contained in the Ordinance, that is, hunt clubs, is defunct and as a consequence thereof, this Ordinance is now obsolete.
- 2.5. The Ordinance also contains discriminatory provisions which is unconstitutional.

### **3. PERSONNEL IMPLICATIONS**

None

### **4. FINANCIAL IMPLICATIONS**

None

### **5. DEPARTMENTS/INSTITUTIONS CONSULTED**

- 5.1 The Bill was published for public comment in Provincial Gazette 6496 of 28 January 2008. No comment was received in response thereof.
- 5.2 Chief Directorate: Legal Services has also been consulted.
- 5.3 The Western Cape Nature Conservation Board.

# WETSONTWERP

**Om die Ordonnansie op die Beheer van Probleemdiere, 1957, te herroep; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.**

**D**AAR WORD BEPAAL deur die Provinsiale Parlement van die Wes-Kaap, soos volg:—

## **Herroeping van Ordonnansie 26 van 1957 en wette wat dit wysig**

1. Die wette wat in die Bylae vermeld word, word herroep.

### **Kort titel**

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2. Hierdie Wet heet die Wet tot Herroeping van die Ordonnansie op die Beheer van Probleemdiere, 2008.

## **BYLAE**

### **HERROEPE WETTE**

<b>No. en jaar van wet</b>	<b>Kort titel</b>	
Ordonnansie 26 van 1957	Ordonnansie op die Beheer van Probleemdiere, 1957	10
Ordonnansie 21 van 1959	Wysigingsordonnansie op die Uitwissing van Ongediertes, 1959	
Ordonnansie 5 van 1961	Wysigingsordonnansie op die Uitwissing van Ongediertes, 1961	
Ordonnansie 30 van 1964	Wysigingsordonnansie op die Uitwissing van Ongediertes, 1964	15
Ordonnansie 25 van 1965	Wysigingsordonnansie op die Uitwissing van Ongediertes, 1965	
Ordonnansie 22 van 1968	Wysigingsordonnansie op die Uitwissing van Ongediertes, 1968	
Ordonnansie 19 van 1984	Wysigingsordonnansie op die Beheer van Probleemdiere, 1984	

## VERDUIDELIKENDE MEMORANDUM

### 1. DOEL VAN WETSONTWERP

Die doel van die Wetsontwerp is om die Ordonnansie op die Beheer van Probleemdiere 26 van 1957 (“die Ordonnansie”), en wette wat dit wysig, te herroep.

### 2. AGTERGROND

- 2.1 Die Ordonnansie is aan die Provinsie toegewys kragtens Proklamasie Nr. 115 van 1994, gepubliseer in die Staatskoerant Nr. 15813 van 17 Junie 1994.
- 2.2 Die Ordonnansie maak voorsiening vir die stigting en registrasie van jagklubs ter bestryding van probleemdiere. Dit voorsien ook die plaaslike regering (voormalige Streeksrade) met uitvoerende gesag om die beheer van probleemdiere te hanteer, wat strydig is met die Grondwet van Suid-Afrika.
- 2.3 Tans word aangeleenthede wat verband hou met die beheer van probleemdiere deur die Natuurbewaringsordonnansie 19 van 1974 geregleer en nie deur die Ordonnansie nie. Die Wes-Kaap Natuurbewaringsraad, gestig kragtens artikel 2 van die Wet op die Wes-Kaapse Natuurbewaringsraad van 1998 (Wet 15 van 1998), is gevlmagtig om enige aangeleentheid met betrekking tot die beheer van probleemdiere te hanteer kragtens die Natuurbewaringsordonnansie 19 van 1974.
- 2.4 Verder is die meganisme om probleemdiere te beheer soos vervat in die Ordonnansie, dit is by wyse van jagklubs, in onbruik en as gevolg hiervan is hierdie Ordonnansie nou uitgedien.
- 2.5 Die Ordonnansie bevat ook diskriminerende bepalings wat onkonstitusioneel is.

### 3. IMPLIKASIES VIR PERSONEEL

Geen

### 4. FINANSIËLE IMPLIKASIES

Geen

### 5. DEPARTEMENTE/INSTELLINGS GERAADPLEEG

- 5.1 Die Wetsontwerp is vir openbare kommentaar in die Provinsiale Koerant 6496 van 28 Januarie 2008 gepubliseer. Geen kommentaar is in reaksie daarop ontvang nie.
- 5.2 Hoofdirektoraat: Regsdienste is ook geraadpleeg.
- 5.3 Die Wes-Kaap Natuurbewaringsraad.

# UMTHETHO OYILWAYO

Ukurhoxisa uMthetho wokulawulwa kwezilwanyana eziyingxaki wango-1957, nokubonelela imicimbi ehamba nayo.

**N**OKUBA UWISELWA UMTHETHO yiPalamente yePhondo yaseNtshona Koloni, ngolu hlobo lulandelayo:—

Ukurhoxiswa koMthetho wama-26 ka 1957 nemithetho eyilungisayo

1. Imithetho edwelisiweyo kuludwe lwenkqubo iyakurhoxiswa.

**Isihloko esifutshane**

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2. Lo Mthetho ubizwa ngokuba nguMthetho oSayilwayo woBhangiso noMmiselo wokulawula izilwanyana eziyingxaki, ka 2008.

## ULUDWE LWENKQUBO

### IMITHETHO ERHOXISWAYO

Inombolo nonyaka womthetho	Igama elifutshane	
UMthetho 26 ka-1957	UMthetho wokulawulwa kwezilwanyana eziyingxaki, ka 1957	10
UMthetho 21 ka-1959	UMthetho wokulungisa kokutshatyalaliswa kweZilwanyana ezikhathazayo, ka-1959	15
UMthetho 5 ka-1961	UMthetho wokulungisa kokutshatyalaliswa kweZilwanyana ezikhathazayo, ka-1961	
UMthetho 30 ka-1964	UMthetho wokulungisa kokutshatyalaliswa kweZilwanyana ezikhathazayo, ka-1964	
UMthetho 25 ka 1965	UMthetho wokulungisa kokutshatyalaliswa kweZilwanyana ezikhathazayo, ka-1965	20
UMthetho 22 ka 1968	UMthetho wokulungisa kokutshatyalaliswa kweZilwanyana ezikhathazayo, ka-1968	
UMthetho 19 ka-1984	UMthetho wokulawulwa kwezilwanyana eziyingxaki ka 1984	

## **IMEMORANDAM ECACISAYO**

### **1. INJONGO YOMTHETHO OYILWAYO**

Injongo yoMthetho oyilwayo kukurhoxisa ukulawulwa kwezilwanyana eziyingxaki 26 yowe-1957 (“uMthetho”) nemithetho eyilungisayo.

### **2. IMVELAPHI**

- 2.1 Lo Mthetho wayilwa liPhondo ngokweSaziso esinguNombolo 115 sowe-1994 esapapashwa kwiGazette kaRhulumente enguNombolo 15813 yowe-17 kuJuni wowe-1994.
- 2.2 Lo mthetho unikezela ngokuveliswa nokubhaliswa kweklabhu zokuzingela ekulweni izilwanyana eziyingxaki. Ukwatika urhulumente wommandla (iBhunga langaphambili lamaCandelo) amagunya amakhulu ukuba enze into ngolawulo lwezilwanyana eziyingxaki, nto leyo ichaseneyo noMgaqo-siseko woMzantsi Afrika.
- 2.3 Ngokwangoku imiba enento yokwenza nolawulo lwezilwanyana eziyingxaki ilawulwa nguMmiselo woLondolozo lweNdalo 19 ka-1974 ayilawulwa ngulo Mthetho. Ibhodi yaseNtshona-Koloni yoLondolozo LweNdalo, eyasekwa ngokwecandelo lesi-2 loMthetho woLondolozo lweNdalo weBhodi yeNtshona Koloni (uMthetho we-15 ka-1998), igunyaziswe ekubeni isebenze ngawo nawuphi na umba onento yokwenza nokulawulwa kwezilwanyana eziyingxaki ngokoMmiselo wolondolozo lwendalo 19 ka-1974.
- 2.4 Ukongeza koku, indlela yokulawula izilwanyana eziyingxaki njengoko kuchaziwe nguMthetho, ukutsho oko, iiklabhu zokuzingela, ayisasebenzi kwaye njengento enomphumela, lo Mthetho kungoku nje uphelelwe lixesha.
- 2.5. Lo Mthetho uquka nesibonelelo socalu-calulo nto leyo ingekho mthethweni.

### **3. UKUCHAPHAZELEKA KWABASEBENZI**

Akukho

### **4. UKUCHAPHAZELEKA KWEMALI**

Akukho

### **5. AMASEBE/AMAZIKO EKUQHAGAMSHELWANE NAWO**

- 5.1 Lo Mthetho uyilwayo wapapashwa kusenzelwa izimvo zoluntu kwiGazette yePhondo engunombolo 6496 yowama-28 kuJanywari ka-2008. Akuzange kubekho luvo lwafunyanwayo ukuphendula ngoko.
- 5.2 Icandelo eliKhulu: Iinkonzo zoMthetho kwaqhagamshelwana nazo.
- 5.3 Ibhodi yeleNtshona-Koloni yoLondolozo lweNdalo.

