PROVINCE OF WESTERN CAPE

WESTERN CAPE REMOVAL OF RESTRICTIONS AMENDMENT BILL, 2007

(As introduced)

(MINISTER OF ENVIRONMENT, PLANNING AND ECONOMIC DEVELOPMENT)

[B 6—2007]

PROVINSIE WES-KAAP

WES-KAAPSE WYSIGINGSWETSONTWERP OP OPHEFFING VAN BEPERKINGS, 2007

(Soos ingedien)

(MINISTER VAN OMGEWING, BEPLANNING EN EKONOMIESE ONTWIKKELING)

[W 6—2007]

IPHONDO LENTSHONA KOLONI

NGUMTHETHO WOKUSUSA IZITHINTELO WENTSHONA KOLONI, 2007

(Njengoko wazisiwe)

(uMPHATHISWA WEZOKUSINGQOHGILEYO, uCWANGCISO NOPHUHLISO LWEZOQOQOSHO)

[B 6—2007]

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GENERAL EXPLANATORY NOTE:

[ ] Words in bold type in square brackets indicate omissions from existing enactments.

______ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Removal of Restrictions Act, 1967, in so far as it applies in the Province, so as to amend certain definitions; to insert certain new definitions; to make further provision regarding the languages in which certain notices have to be published; to provide for the delegation of certain powers and duties; and to substitute certain words and expressions; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 84 of 1967, as amended by section 11 of Act 108 of 1993 and Proclamation 160 of 31 October 1994

1. Section 1 of the Removal of Restrictions Act, 1967 (hereinafter referred to as the ''principal Act''), is amended—

(a) by the insertion after the definition of ''Director-General'' of the following definition:

''**'Head of Department'** means the Head of the Department responsible for the administration of this Act in the province;'';

(b) by the substitution for the definition of ''local authority'' of the following definition:

''**'local authority'** means a municipality in the province established in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);'';

(c) by the substitution for the definition of ''Minister'' of the following definition:

''**'Minister'** means the National Minister **[of Regional and Land Affairs]** responsible for land affairs;'';

(d) by the substitution for the definition of ''province'' of the following definition:

''**'province'** means the province of the Western Cape;''; and

(e) by the insertion after the definition of ''provincial administration'' of the following definition:

''**'Provincial Minister'** means the Provincial Minister responsible for the administration of this Act in the province;''.

Amendment of section 2 of Act 84 of 1967, as amended by section 61 of Act 70 of 1968, section 7 of Act 96 of 1969, section 2 of Act 18 of 1984, section 12 of Act 108 of 1993 and Proclamation R160 of 31 October 1994

2. Section 2 of the principal Act is amended—

(a) by the substitution, in subsection (1), for the words preceding paragraph *(a)* of the following words:

"Whenever the **[Administrator of a province in which the land in question is situate]** Provincial Minister is satisfied—"; and

(b) by the substitution for paragraph *(b)* of subsection (4) of the following paragraph:

"*(b)* cause a notice **[in both official languages]** to be published—

(i) once in the *Provincial Gazette* of the province, in all three official languages of the province; and

(ii) twice with an interval of one week in a newspaper circulating in the area in which the land is situate, in at least one of the official languages of the province that is most prevalent in that area,

of the proposed alteration, suspension or removal, as the case may be, of the restriction or obligation specified in such notice and calling for objections against the proposal to be lodged with him or her within a period of twenty-one days after the date of the last publication of such notice, and he or she shall also cause, where possible, a copy of such notice to be served on every owner of land who in his or her opinion is directly affected by the proposal, such service to be effected by registered post addressed to such owner at his or her last known address; and".

Amendment of section 3 of Act 84 of 1967, as amended by section 3 of Act 18 of 1984 and Proclamation R160 of 31 October 1994

3. Section 3 of the principal Act is amended—

(a) by the substitution for subsections (1), (2) and (3) of the following subsections, respectively:

"(1) Any person who wishes to apply to **[an Administrator]** the Provincial Minister for the alteration, suspension or removal of a restriction or obligation referred to in section 2(1), shall submit his or her application in the form prescribed by the **[Administrator]** Provincial Minister, and the application shall be accompanied by such documents and particulars as the **[Administrator]** Provincial Minister may require.

(2) If the land concerned is situate in the area of a local authority, the application shall be lodged with such local authority and the applicant shall simultaneously forward a copy of such application to the **[Director-General of the province wherein the land is situate]** Head of Department. The local authority shall transmit the application to the **[Director-General]** Head of Department together with its comments and recommendation thereon.

(3) If the land concerned is not situate in the area of a local authority, or if the application is made by a local authority, the application shall be lodged with the **[Director-General of the province wherein such land is situate]** Head of Department."; and

(b) by the substitution for subsection (6) of the following subsection:

"(6) On receipt of an application the **[Director-General]** Head of Department shall cause a notice in **[both official languages]** to be published—

(a) once in the *Provincial Gazette* of the province, in all three official languages of the province; and

(b) twice with an interval of one week in a newspaper circulating in the area in which the land is situate, in at least one of the official languages of the province that is most prevalent in that area,

stating that such an application has been made, that it is open to inspection at the office of the **[Director-General]** Head of Department and at any other place or places, if any, mentioned in the notice, and that objections against the application may be lodged with the **[Director-General]** Head of Department on or before a specified date which shall not be less than twenty-one days after the date of the last publication of the notice, and the **[Director-General]** Head of Department shall also cause, where possible, a copy of the notice to be served on every owner of land who in his or her opinion is directly affected by the application, such service to be effected by registered post addressed to such owner at his or her last known address.''.

Insertion of section 6A in Act 84 of 1967

4. The following section is inserted in the principal Act after section 6:

''**Delegation of powers and duties**

6A. (1) The Provincial Minister may delegate the exercise or performance of any of his or her powers or duties in terms of this Act to the Head of Department or the holder of a post in the Department.

(2) The Head of Department may delegate the exercise or performance of any of his or her powers or duties in terms of this Act to the holder of a post in the Department.

(3) The Provincial Minister or the Head of Department, as the case may be, may permit a person to whom a power or duty has been delegated, to delegate that power or duty further.

(4) A delegation in terms of subsection (1) or (2) and the permission referred to in subsection (3)—

(a) must be in writing;
(b) may be subject to conditions;
(c) shall specify the period for which it is valid; and
(d) shall not prevent the exercise of the power or the performance of the duty by the Provincial Minister or Head of Department himself or herself.

(5) The Provincial Minister or the Head of Department, as the case may be, may amend or withdraw any delegation.''.

Insertion of section 8B in Act 84 of 1967

5. The following section is inserted in the principal Act after section 8A:

''**Validation of certain actions**

8B. (1) Anything done or purporting to have been done by any person in terms of this Act before the commencement of the Western Cape Removal of Restrictions Amendment Act, 2007, and which is invalid for any reason, but which would have been valid if it had been done by the Administrator, the Provincial Minister, the Director-General or the Head of Department, is hereby validated.

(2) Subsection (1) does not affect legal proceedings which have been disposed of before or which are pending at the commencement of the said Amendment Act.''

Substitution of certain words and expressions in Act 84 of 1967

6. The principal Act is amended—

(a) by the substitution for the word ''Administrator'', wherever it occurs, of the words ''Provincial Minister'', except in sections 1, 5, 8 and 8A; and
(b) by the substitution for the expression ''Director-General'', wherever it occurs, of the words ''Head of Department'', except in sections 1 and 5.

Short title and commencement

7. This Act is called the Western Cape Removal of Restrictions Amendment Act, 2007, and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*.

EXPLANATORY MEMORANDUM

WESTERN CAPE REMOVAL OF RESTRICTIONS AMENDMENT BILL, 2007

1. Introduction

The purpose of the Bill is to amend the Removal of Restrictions Act, 1967, in so far as it applies to the Province by—

1.1 amending certain definitions and inserting new definitions
1.2 replacing outdated terminology
1.3 providing for the delegation of certain powers by the Provincial Minister and the Head of Department, and
1.4 validating certain actions.

2. Comments on individual clauses

2.1 Clause 1

Clause 1 inserts definitions for the terms ''Head of Department'' and ''Provincial Minister'' and amends the definitions of the terms ''local authority'', ''Minister'' and ''province''.

2.2 Clause 2

Clause 2 substitutes the expression ''Administrator of a province in which the land in question is situate'' with the term ''Provincial Minister''. It further provides for the official language requirements when notices in terms of the Act are to be published.

2.3 Clause 3

Clause 3 substitutes the term ''Administrator'' with the term ''Provincial Minister'' and the expression ''Director-General of a province in which the land in question is situate'' with the term ''Head of Department''. It further provides for the official language requirements when applications in terms of the Act are to be advertised.

2.4 Clause 4

Clause 4 provides for the delegation of powers and duties by the Provincial Minister and Head of Department.

2.5 Clause 5

Clause 5 provides for the validation of certain actions in terms of the Act.

2.6 Clause 6

Clause 6 provides for the substitution of the term ''Administrator'' with the term ''Provincial Minister'', and the term ''Director-General'' with the term ''Head of Department'', in respect of certain provisions.

2.7 Clause 7

Clause 7 provides for the short title of the Act.

3. Consultations

The Department of the Premier, Chief Directorate: Legal Services was consulted.

4. Financial implications

There are no financial implications.

ALGEMENE VERDUIDELIKENDE NOTA:

[ ]	Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
________	Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WETSONTWERP

Tot wysiging van die Wet op Opheffing van Beperkings, 1967, vir sover dit in die Provinsie geld; ten einde sekere woordomskrywings te wysig; sekere nuwe woordomskrywings in te voeg; verdere voorsiening te maak aangaande die tale waarin sekere kennisgewings gepubliseer moet word; voorsiening te maak vir die delegering van sekere bevoegdhede en pligte; en sekere woorde en uitdrukkings te vervang; 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:—

Wysiging van artikel 1 van Wet 84 van 1967, soos gewysig deur artikel 11 van Wet 108 van 1993 en Proklamasie 160 van 31 Oktober 1994

1. Artikel 1 van die Wet op Opheffing van Beperkings, 1967 (hierna die ''Hoofwet'' genoem), word gewysig—

(a) deur die volgende omskrywing na die omskrywing van ''dorperaad'' in te voeg:

''**'Hoof van Departement'** die Hoof van die Departement verantwoordelik vir die uitvoering van hierdie Wet in die provinsie;'';

(b) deur die omskrywing van ''plaaslike owerheid'' deur die volgende omskrywing te vervang:

''**'plaaslike owerheid'** 'n munisipaliteit in die provinsie wat ingevolge die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998), ingestel is;'';

(c) deur die omskrywing van ''Minister'' deur die volgende omskrywing te vervang:

''**'Minister'** die Nasionale Minister **[van Streek- en Grondsake]** wat vir grondsake verantwoordelik is;'';

(d) deur die omskrywing van ''provinsie'' deur die volgende omskrywing te vervang:

''**'provinsie'** die provinsie Wes-Kaap;''; en

(e) deur die volgende omskrywing na die omskrywing van ''provinsiale administrasie'' in te voeg:

''**'Provinsiale Minister'** die Provinsiale Minister verantwoordelik vir die uitvoering van hierdie Wet in die provinsie;''.

Wysiging van artikel 2 van Wet 84 van 1967, soos gewysig deur artikel 61 van Wet 70 van 1968, artikel 7 van Wet 96 van 1969, artikel 2 van Wet 18 van 1984, artikel 12 van Wet 108 van 1993 en Proklamasie R160 van 31 Oktober 1994

2. Artikel 2 van die Hoofwet word gewysig—

(a) deur in subartikel (1) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

“Wanneer die **[Administrateur van ’n provinsie waarin die betrokke grond geleë is]** Provinsiale Minister oortuig is—”; en

(b) deur paragraaf *(b)* van subartikel (4) deur die volgende paragraaf te vervang:

“*(b)* ’n kennisgewing **[in albei amptelike tale]** laat publiseer—

(i) een keer in die *Provinsiale Koerant* van die provinsie, in al drie amptelike tale van die provinsie; en

(ii) twee keer met ’n tussenpoos van ’n week in ’n nuusblad wat in die gebied waarin die grond geleë is, in omloop is, in ten minste een van die amptelike tale van die provinsie wat die meeste in daardie gebied voorkom, **[laat publiseer]**

waarin die voorgestelde wysiging, opskorting of opheffing, na gelang van die geval, van die beperking of verpligting in sodanige kennisgewing vermeld word, en waarin versoek word dat besware teen die voorstel by hom of haar ingedien moet word binne ’n tydperk van een-en-twintig dae na die datum van die laaste publikasie van sodanige kennisgewing, en moet hy of sy ook, waar moontlik, ’n afskrif van sodanige kennisgewing laat bestel aan elke eienaar van grond wat na sy of haar oordeel regstreeks deur die voorstel geraak word, sodanige bestelling te geskied per aangetekende pos geadresseer aan sodanige eienaar by sy of haar laaste bekende adres; en”.

Wysiging van artikel 3 van Wet 84 van 1967, soos gewysig deur artikel 3 van Wet 18 van 1984 en Proklamasie R160 van 31 Oktober 1994

3. Artikel 3 van die Hoofwet word gewysig—

(a) deur subartikels (1), (2) en (3) deur onderskeidelik die volgende subartikels te vervang:

“(1) Iemand wat by **[’n Administrateur]** die Provinsiale Minister aansoek wil doen vir die wysiging, opskorting of opheffing van ’n beperking of verpligting in artikel 2(1) bedoel, moet sy of haar aansoek doen in die vorm wat die **[Administrateur]** Provinsiale Minister voorskryf, en die aansoek moet vergesel gaan van die dokumente en besonderhede wat die **[Administrateur]** Provinsiale Minister verlang.

(2) Indien die betrokke grond in die gebied van ’n plaaslike owerheid geleë is, moet die aansoek by daardie plaaslike owerheid ingedien word en moet die aansoeker gelyktydig ’n afskrif van sodanige aansoek aan die **[Direkteur-generaal van die provinsie waarin die grond geleë is]** Hoof van Departement stuur. Die plaaslike bestuur moet die aansoek met sy kommentaar daarop en aanbeveling daaroor aan die **[Direkteur-generaal]** Hoof van Departement deurstuur.

(3) Indien die betrokke grond nie in die gebied van ’n plaaslike owerheid geleë is nie of indien die aansoek deur ’n plaaslike owerheid gedoen word, moet die aansoek by die **[Direkteur-generaal van die provinsie waarin die grond geleë is]** Hoof van Departement ingedien word.”; en

(b) deur subartikel (6) deur die volgende subartikel te vervang:

“(6) By ontvangs van ’n aansoek laat die **[Direkteur-generaal]** Hoof van Departement ’n kennisgewing publiseer—

(a) een keer in die *Provinsiale Koerant* van die provinsie, in al drie amptelike tale van die provinsie; en

(b) twee keer met ’n tussenpoos van ’n week in ’n nuusblad wat in die gebied waarin die grond geleë is, in omloop is, in ten minste een van die amptelike tale van die provinsie wat die meeste in daardie gebied voorkom, **[’n kennisgewing in albei amptelike tale publiseer]**

waarin vermeld word dat so ’n aansoek gedoen is, dat dit ter insae lê by die kantoor van die **[Direkteur-generaal]** Hoof van Departement en die ander plek of plekke, indien daar is, wat in die kennisgewing genoem word, en dat besware teen die aansoek by die **[Direkteur-generaal]** Hoof van Departement ingedien kan word op of voor ’n bepaalde datum, wat minstens een-en-twintig dae na die datum van die laaste publikasie van die kennisgewing moet wees, en laat die **[Direkteur-generaal]** Hoof van Departement ook, waar moontlik, ’n afskrif van die kennisgewing bestel aan elke eienaar van grond wat na sy of haar mening regstreeks deur die aansoek geraak word, sodanige bestelling te geskied per aangetekende pos geadresseer aan sodanige eienaar by sy of haar laaste bekende adres.’’.

Invoeging van artikel 6A in Wet 84 van 1967

4. Die volgende artikel word na artikel 6 van die Hoofwet ingevoeg:

‘‘**Delegering van bevoegdhede en pligte**

6A. (1) Die Provinsiale Minister kan die uitoefening of verrigting van enige van sy of haar bevoegdhede of pligte ingevolge hierdie Wet aan die Hoof van Departement of die bekleër van ’n pos in die Departement delegeer.

(2) Die Hoof van Departement kan die uitoefening of verrigting van enige van sy of haar bevoegdhede of pligte ingevolge hierdie Wet aan die bekleër van ’n pos in die Departement delegeer.

(3) Die Provinsiale Minister of die Hoof van Departement, na gelang van die geval, kan toestemming verleen dat ’n persoon aan wie ’n bevoegdheid of plig gedelegeer is, daardie bevoegdheid of plig verder delegeer.

(4) ’n Delegasie in subartikel (1) of (2) bedoel en die toestemming in subartikel (3) bedoel—

(a) moet op skrif wees;
(b) kan onderhewig wees aan voorwaardes;
(c) moet die tydperk vermeld waarvoor dit geldig is; en
(d) verhoed nie die uitoefening van die bevoegdheid of die verrigting van die plig deur die Provinsiale Minister of Hoof van Departement self nie.

(5) Die Provinsiale Minister of die Hoof van Departement, na gelang van die geval, kan enige delegasie wysig of terugtrek.’’.

Invoeging van artikel 8B in Wet 84 van 1967

5. Die volgende artikel word na artikel 8A van die Hoofwet ingevoeg:

‘‘**Geldigverklaring van sekere handelinge**

8B. (1) Enigiets wat voor die inwerkingtreding van die Wes-Kaapse Wysigingswet op Opheffing van Beperkings, 2007, deur enigiemand ingevolge hierdie Wet gedoen is of heet gedoen te wees en wat om die een of ander rede ongeldig is, maar geldig sou gewees het as dit deur die Administrateur, die Provinsiale Minister, die Direkteur-generaal of die Hoof van Departement gedoen was, word hierby geldig verklaar.

(2) Subartikel (1) raak nie geregtelike verrigtinge wat voor die inwerkingtreding van genoemde Wysigingswet afgehandel is of by sodanige inwerkingtreding hangende is nie.’’

Vervanging van sekere woorde en uitdrukkings in Wet 84 van 1967

6. Die Hoofwet word gewysig—

(a) deur die woord, ‘‘Administrateur’’, waar dit ook al voorkom, deur die woorde ‘‘Provinsiale Minister’’ te vervang, behalwe in artikels 1, 5, 8 en 8A; en
(b) deur die uitdrukking ‘‘Direkteur-generaal’’, waar dit ook al voorkom, deur die woorde, ‘‘Hoof van Departement’’, te vervang, behalwe in artikels 1 en 5.

Kort titel en inwerkingtreding

7. Hierdie Wet heet die Wes-Kaapse Wysigingswet op Opheffing van Beperkings, 2007, en tree in werking op 'n datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal.

VERKLARENDE MEMORANDUM

WES-KAAPSE WYSIGINGSWETSONTWERP OP OPHEFFING VAN BEPERKINGS, 2007

1. Inleiding

Die doel van die Wetsontwerp is om die Wet op Opheffing van Beperkings, 1967 te wysig in soverre dit die Provinsie raak deur—

1.1 sekere omskrywings te wysig en nuwe omskrywings in te voeg

1.2 verouderde terminologie te vervang

1.3 voorsiening te maak vir die delegasie van sekere magte van die Provinsiale Minister en die Hoof van Departement, en

1.4 geldigverklaring van sekere handelinge.

2. Kommentaar oor individuele klousules

2.1 Klousule 1

Klousule 1 voeg omskrywings by vir die terme ''Hoof van Departement'' en ''Provinsiale Minister'' en wysig die omskrywings van die terme ''plaaslike owerheid'', ''Minister'' en ''provinsie''.

2.2 Klousule 2

Klousule 2 vervang die uitdrukking ''Administrateur van 'n provinsie waarin die betrokke grond geleë is'' met die term ''Provinsiale Minister''. Dit maak ook voorsiening vir die amptelike taalvereistes wanneer kennisgewings ingevolge die Wet gepubliseer word.

2.3 Klousule 3

Klousule 3 vervang die term ''Administrateur'' met die term ''Provinsiale Minister'' en die uitdrukking ''Direkteur-generaal van die provinsie waarin die grond geleë is'' met die term ''Hoof van Departement''. Dit maak ook voorsiening vir die amptelike taalvereistes wanneer aansoeke ingevolge die Wet geadverteer word.

2.4 Klousule 4

Klousule 4 maak voorsiening vir die delegasie van magte en pligte deur die Provinsiale Minister en die Hoof van Departement.

2.5 Klousule 5

Klousule 5 maak voorsiening vir die geldigverklaring van sekere handelinge ingevolge die Wet.

2.6 Klousule 6

Klousule 6 maak voorsiening vir die vervanging van die term ''Administrateur'' met die term ''Provinsiale Minister'' en die term ''Direkteur-generaal'' met die term ''Hoof van Departement'' ingevolge sekere bepalinge.

2.7 Klousule 7

Klousule 7 maak voorsiening vir die kort titel van die Wet.

3. Raadpleging

Die Departement van die Premier, Hoofdirektoraat: Regsdienste is geraadpleeg.

4. Finansiële implikasies

Daar is geen finansiële implikasies nie.

INQAKU JIKELELE ELICACISAYO:

[ ]	Amagama abhalwe ngqindilili kwizibiyeli ezisisikwere achaza okushiyiweyo kwimithetho ekhoyo.
______	Amagama akrwelwe umgca ongahlulwa-hlulwanga ngaphantsi achaza okufakiweyo kwimithetho ekhoyo.

UMTHETHO OYILWAYO

Ohlomela uMthetho wokuSusa iZithintelo, 1967, ngokokusebenza kwawo kwiPhondo; ukuze kuhlonyelwe iinkcazelo ezithile; kufakwe iinkcazelo ezintsha; kwenziwe eminye imimiselo malunga neelwimi izaziso ezithile ekufuneka zipapashwe ngazo, kumiselwe indlela yokunikezela ngamagunya nemisebenzi ethile; kananjalo kutshintshwe amagama namabinzana amagama athile, kananjalo kumiselwe nemiba engqamene noko.

KUWISWA UMTHETHO KE NGOKO yiNdlu yoWiso-mthetho yePhondo leNtshona Koloni ngale ndlelal ilandelayo:—

Ukuhlonyelwa kwecandelo 1 loMthetho 84 ka-1967, ngokokuhlonyelwa kwalo licandelo 11 loMthetho 108 ka-1993 noMpoposho 160 womhla wama-31 ku-Oktobha 1994

1. ICandelo 1 loMthetho wokuSusa iZithintelo, ka-1967 (othi apha ubizwe njengo-‘‘Mthetho oyintloko’’), uhlonyelwe—

(a) ngokufakela emva kwenkcazelo ‘‘yoMlawuli-Jikelele’’ le nkcazelo ilandelayo:

‘‘**‘INtloko yeSebe’**, ithetha iNtloko yeSebe ejongene nolawulo lwalo Mthetho kwiphondo’’;

(b) ngokufakela le nkcazelo ilandelayo endaweni yenkcazelo yamagama athi ‘‘ulawulo lwasekuhlaleni’’:

‘‘**‘ulawulo lwasekuhlaleni’**, luthetha umasipala okwiphondo ophunyezwe nguMthetho woBume bukaMasipala kaRhulumente waMakhaya, 1998 (uMthetho we-117 ka-1998);’’;

(c) ngokufakela le nkcazelo ilandelayo endaweni yenkcazelo yegama elithi ‘‘uMphathiswa’’:

‘‘**‘uMphathiswa’**, uthetha uMphathiswa kaZwelonke **[weMcimbi yaMaphondo kunye neMihlaba]** ojongene nemicimbi yemihlaba;’’;

(d) ngokufakela le nkcazelo ilandelayo endaweni yenkcazelo yegama elithi ‘‘iphondo’’:

‘‘**‘iPhondo’**, lithetha iphondo leNtshona Koloni;’’;

(e) ngokufakela emva kwenkcazelo yamagama athi ‘‘ulawulo lwephondo’’ le nkcazelo ilandelayo:

‘‘**‘uMphathiswa wePhondo’**, uthetha uMphathiswa wePhondo ojongene nolawulo lwalo Mthetho kwiphondo;’’

Ukuhlonyelwa kwecandelo 2 loMthetho 84 ka-1967 ngokuhlonyelwa licandelo 61 loMthetho 70 ka-1968, icandelo 7 loMthetho 96 ka-1969, icandelo 2 loMthetho 18 ka-1984, icandelo 12 loMthetho 108 ka-1993 noMpoposho R160 womhla wama-31 ku-Oktobha 1994

2. ICandelo 2 loMthetho oyintloko uhlonyelwe—

(a) ngokufakelwa, kwicandelwana (1), endaweni yamagama andulela umhlathi *(a)* la magama alandelayo:

''Nanini na xa **[uMlawuli we phondo apho kukho khona loo mhlaba uchaphazelekayo]** uMphathiswa wePhondo athe woneliseka—''; kananjalo

(b) ngokufakela endaweni yomhlathi *(b)* wecandelwana (4) lo mhlathi ulandelayo:

''*(b)* kuyalelwe ukuba kupapashwe isaziso **[ngazo zombini ilwimi ezisemthethweni]**

(i) kanye *kwiGazethi yePhondo* yeli phondo, ngazo zontathu iilwimi ezisemthethweni zeli phondo;

(ii) nakabini, kudluliswe iveki enye emva kopapasho lokuqala, oko kusenziwa kwiphephandaba elijikeleziswa kummandla apho loo mhlaba umi khona, ubuncinane ngolwimi olunye olusemthethweni lwephondo olusetyenziswa kakhulu kuloo mmandla, ekucetywa ukuba kuguqulwe, kunqunyanyiswe okanye kususwe kuwo, nokuba yiyiphi na kwezo zinto, isithintelo okanye isinyanzeliso esichazwe kweso saziso nokumemezela ukuba kuziswe kuye izaziso zokungahambelani nesiphakamiso eso siza kwenziwa, oko kwenziwe kwithuba leentsuku ezingamashumi amabini ananye emva komhla wopapasho lokugqibela lweso saziso, nalapho aya kuthi, apho kufanelekileyo, athumele ikopi yeso saziso kumnini-mhlaba acinga ukuba uchatshazelwa ngqo seso siphakamiso, oko kuthunyelwa kwesaziso kuya kwenziwa ngeleta yerejistara ebhalelwe loo mnini-mhlaba yaza yathunyelwa kwidilise yakhe yokugqibela eyaziwayo; kananjalo''.

Ukuhlonyelwa kwecandelo 3 loMthetho 84 ka-1967, ngokokuhlonyelwa kwawo licandelo 3 loMthetho 18 ka-1994, noMpoposho R160 wonhla wama-31 ku-Oktobha 1994

3. Icandelo 3 loMthetho oyintloko lihlonyelwe—

(a) ngokufakela la macandelwana alandelayo endaweni yecandelwana (1), (2), necandelwana (3) ngokokulandelelana kwawo:

''(1) Nawuphi na umntu onqwenela ukufaka isicelo **[kuMlawuli]** kuMphathiswa wePhondo sokuguqulwa, sokunqunyanyiswa okanye sokususwa kwesithintelo okanye kwesinyanzeliso ekubhekiswe kuso kwicandelo 2(1), isicelo sakhe uya kusifaka ngendlela emiselwe **[nguMlawuli]** nguMphathiswa wePhondo, kwaye isicelo eso siya kuphelekwa ngamaxwebhu neenkcukacha eziya kufunwa nguMphathiswa wePhondo.

(2) Ukuba loo mhlaba uchaphazelekayo ukummandla wolawulo lwasekuhlaleni, isicelo siya kufakwa kolo lawulo kwaye umenzi-sicelo uya kuthumela ngaxeshanye ikopi yeso sicelo **[kuMlawuli-Jikelele wephondo elo kukho kulo loo mhlaba]** kwiNtloko yeSebe. Ulawulo lwasekuhlaleni luya kudlulisela isicelo eso **[kuMlawuli-Jikelele]** kwiNtloko yeSebe ndawonye nezimvo zalo neengcebiso zalo ngeso sicelo.

(3) Ukuba umhlaba lowo uchaphazelekayo awukho kummandla wolawulo lwasekuhlaleni, okanye ukuba isicelo senziwe lulawulo lwasekuhlaleni, isicelo eso siya kufakwa **[kuMlawuli-Jikelele wephondo elo ekukho kulo loo mhlaba]** kwiNtloko yeSebe.''; kwaye kananjalo

(b) ngokufaka endaweni yecandelwana (6) eli candelwana lilandelayo:

"(6) **[uMlawuli-Jikelele uya]** iNtloko yeSebe iya kuyalela ukuba kupapashwe isaziso **[ngazo zombini iilwimi ezisemthethweni]**—

(a) kanye *kwiGazethi yePhondo* yeli phondo, ngazo zontathu iilwimi ezisemthethweni zeli phondo;

(b) nakabini, kudluliswe iveki enye emva kopapasho lokuqala, oko kusenziwa kwiphephandaba elijikeleziswa kummandla apho loo mhlaba umi khona, ubuncinane ngolwimi olunye olusemthethweni lwephondo olusetyenziswa kakhulu kuloo mmandla, kambe kuchazwe ukuba senziwe eso sicelo kwaye singahlolwa kwiofisi **[yoMlawuli-Jikelele]** yeNtloko yeSebe kanti nakuyo nayiphi na enye indawo okanye nakuzo naziphi na ezinye iindawo, ukuba zikho, ezikhankanywe kwisicelo, kananjalo kuchazwe ukuba izaziso zokuchasa isicelo zingafakwa **[kuMlawuli-Jikelele]** kwiNtloko yeSebe ngomhla okanye ngaphambi komhla omiselweyo, mhla lowo ungayi kubangaphambi kweentsuku ezingamashumi amabini nanye emva komhla wokugqibela wokupapashwa kwesi saziso, kananjalo **[uMlawuli-Jikelele]** iNtloko yeSebe iya kuyalela, apho kulungayo, ukuba kuthunyelwe ikopi yesaziso kumnini-mhlaba ngamnye ecinga ukuba uchatshazelwa ngqo sesi sicelo, eso saziso sithunyelwe ngeleta yerejistara kuloo mnini-mhlaba kwidilesi yakhe eyaziwayo yokugqibela.".

Ukufakwa kwecandelo 6A kuMthetho 84 ka-1967

4. Eli candelo lilandelayo lifakwe kuMthetho oyintloko emva kwecandelo 6:

"**Ukunikezwa kwamagunya nomsebenzi**

6A. (1) uMlawuli wePhondo anganikeza ukusetyenziswa okanye ukuqhutywa kwawo nawaphi na amagunya okanye imisebenzi ngokwalo Mthetho kwiNtloko yeSebe okanye kumntu osesikhundleni esithile kwiSebe.

(2) INtloko yeSebe inganikeza ukusetyenziswa nokuqhutywa kwawo nawaphi na amagunya okanye imisebenzi ngokwalo Mthetho kwiNtloko yeSebe okanye kumntu osesikhundleni esithile kwiSebe.

(3) uMphathiswa wePhondo okanye iNtloko yeSebe, nokuba nguwuphi na phakathi kwabo, angavumela umntu onikwe igunya okanye umsebenzi ukuba alidlulisele elo gunya okanye lomsebenzi komnye umntu.

(4) Unikezelo ngokwecandelwana (1) okanye (2) nemvume ekubhekiswe kuyo kwicandelwana (3)—

(a) malube lolubhaliweyo;

(b) lunokumiselwa imiqathango;

(c) luya kuchaza ixesha oluphelelwa ngalo; kananjalo

(d) aluyi kuthintela ukusetyenziswa kwamagunya okanye ukuqhutywa komsebenzi nguMphathiswa wephondo okanye yiNtloko yeSebe ngokwayo.

(5) uMphathiswa wePhondo okanye iNtloko yeSebe, nokuba nguwuphi na kubo, unako ukuhlomela okanye ukurhoxisa naluphi na unikezelo."

Ukufakwa kwecandelo 8B kuMthetho 84 ka-1967

5. Eli candelo lilandelayo lifakwe kumThetho oyintloko emva kwecandelo 8A:

"**Ukuqinisekiswa kwezenzo ezithile**

8B. (1) Nantoni eyenziweyo okanye ekuthiwa yenziwe nguye nawuphi na umntu ngokwalo Mthetho ngaphambi kokusungulwa koMthetho wokuSusa iZithintelo weNtshona Koloni, 2007, nephelelwe lixesha nokuba kungasiphi na isizathu, kodwa ibe kanti ibiya kuba yengaphelelwanga lixesha ukuba yayenziwe nguMlawuli, nguMphathiswa wePhondo,

nguMlawuli-Jikelele okanye yiNtloko yeSebe, iyaqinisekiswa ke ngoko ngolu xwebhu.

(2) ICandelwana (1) alizichaphazeli iinkqubo zenkundla eziqukunjelwe ngaphambi kokusungulwa okanye ebezingekaqukunjelwa xeshikweni kusungulwa loo Mthetho-sihlomelo.''

Ukufakwa kwamagama athile namabinzana amagama endaweni yamanye kuMthetho 85 ka-1967

6. UMthetho oyintloko uhlonyelwa—

(a) ngokufakwa kwamagama athi ''uMphathiswa wePhondo'' endaweni yegama elithi ''Mlawuli'' naphi na apho libhalwe khona, ngaphandle kwakwicandelo 1, 5, 8 necandelo 8A; kananjalo

(b) ngokufaka igama elithi ''uMlawuli-Jikelele'' endaweni yamagama athi ''iNtloko yeSebe'' naphi na apho abhalwe khona ngaphandle kwakwicandelo 1 necandelo 5.

Isihloko esifutshane nokuqala kokusebenza koMthetho

7. Lo Mthetho kuza kuthiwa nguMthetho woLungiso wokuSusa iZithintelo weNtshona Koloni, 2007, kwaye uza kuqala ukusebenza ngomhla omiselwe yiNkulumbuso ngompoposho *kwiGazethi yePhondo*.

IMEMORANDAM ECACISAYO

UMTHETHO-SIHLOMELO OYILWAYO WOKUSUSWA KWEZITHINTELO WENTSHONA KOLONI, 2007

1. Intshayelelo

Injongo yalo Mthetho uYilwayo kukuhlomela uMthetho wokuSuswa kweZithintelo, 1967, ngokokusetyenziswa kwawo kwiPhondo, ngokuthi—

1.1 kuhlonyelwe iinkcazelo ezithile kananjalo kufakwe iinkcazelo ezintsha
1.2 kutshintshwe isigama esiphelelwe lixesha
1.3 kumiselwe indlela yokunikezelwa kwamagunya athile nguMphathiswa wePhondo kunye neNtloko yeSebe, kananjalo
1.4 kuqinisekiswe izenzo ezithile.

2. Izimvo ngamagatya ngamagatya

2.1 Isolotya 1

Isolotya 1 lifaka iinkcazelo zamagama athi ''iNtloko yeSebe'' nathi ''uMphathiswa wePhondo'', ukuze kuhlonyelwe inkcazelo yamagama athi ''ulawulo lwasekuhlaleni'', ''uMphathiswa'' nelithi ''iphondo''.

2.2 Isolotya 2

Isolotya 2 lifaka igama elithi ''uMphathiswa wePhondo'' endaweni yebinzana lamagama athi ''uMlawuli wephondo ekukho kulo umhlaba lowo uchaphazelekayo''. Kananjalo limisela imiqathango emalunga neelwimi zasemthethweni emazisetyenziswe xa kupapashwa izaziso ngokwalo Mthetho.

2.3 Isolotya 3

Isolotya 3 lifaka igama elithi ''uMphathiswa wePhondo'' endaweni yegama elithi ''uMlawuli'' negama elithi ''iNtloko yeSebe'' endaweni yebinzana lamagama athi ''uMlawuli-Jikelele wephondo ekukho kulo umhlaba lowo uchaphazelekayo''. Kananjalo limisela imiqathango emalunga neelwimi zasemthethweni emazisetyenziswe xa kupapashwa izicelo ngokwalo Mthetho.

2.4 Isolotya 4

Isolotya 4 limisela indlela yokumiselwa kwamagunya nemisebenzi nguMphathiswa wePhondo neNtloko yeSebe.

2.5 Isolotya 5

Isolotya 5 limisela indlela yokuqinisekisa izenzo ezithile ngokwalo Mthetho.

2.6 Isolotya 6

Isolotya 6 limisela ukufakwa kwamagama athi ''uMphathiswa wePhondo'' endaweni yegama elithi ''uMlawuli'', namagama athi ''iNtloko yeSebe'' endaweni yegama elithi ''uMlawuli-Jikelele'', ngokubhekiselele kwimimiselo ethile.

2.7 Isolotya 7

Isolotya 7 limisela isihloko esifutshane salo Mthetho.

3. Iingcebiso

Iingcebiso zifunyenwe kwiSebe leNkulumbuso, iCandelo loLawulo eliyiNtloko nakwiiNkonzo zoMthetho.

4. Ukuchaphazeleka ngokwezezimali

Akukho kuchaphazeleka ngokwezezimali.

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