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Extraordinary**

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Thursday, 27 November 2008

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Lwesine, 27 Novemba 2008

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The following Bill is hereby published for general information:

Western Cape Problem Animal Control Ordinance Repeal Bill [B 9—2008]

P.N. 461/2008 27 November 2008

Any person or organization wishing to comment on the said Bill is requested to lodge such comment in writing before or on 17 December 2008:

- (a) by posting it to:
The Secretary
Western Cape Provincial Parliament
(Attention: Ms N Manjezi)
P.O. Box 648
Cape Town
8000
- (b) by e-mail to:
nmanjezi@wcpp.gov.za
- (c) by fax to:
N Manjezi
(021) 487-1685

P. G. Williams
Secretary to Parliament

INHOUD**PROVINSIALE KENNISGEWING**

Die volgende Wetsontwerp word hierby vir algemene inligting gepubliseer:

Wes-Kaapse Wetsontwerp tot Herroeping van die Ordonnansie op die Beheer van Probleemdiere [W 9—2008]

P.N. 461/2008 27 November 2008

Enige persoon of organisasie wat kommentaar oor die genoemde Wetsontwerp wens te lewer, word versoek om sodanige kommentaar skriftelik te lewer voor of op 17 Desember 2008:

- (a) deur dit te pos aan:
Die Sekretaris:
Wes-Kaapse Provinsiale Parlement
(Aandag: Me N Manjezi)
Posbus 648
Kaapectad
8000
- (b) deur dit te e-pos aan:
nmanjezi@wcpp.gov.za
- (c) deur dit te faks aan:
N Manjezi
(021) 487-1685

P. G. Williams
Sekretaris van die Parlement

IZIQUATHO**ISAZISO SEPHONDO**

Lo Mthetho uSayilwayo ulandelayo upapashwe apha ukunika ulwazi ngokubanzi:

UMthetho oSayilwayo weNtshona Koloni woBhangiso noMmiselo woku-lawula izilwanyana eziyingxaki [B 9—2008]

P.N. 461/2008 27 Novemba 2008

Nabani na okanye nawuphi na umbutho onqwenela ukuphawula ngalo Mthetho uSayilwayo kuthethwa ngawo uyacelwa ukuba afake izimvo zakhe phambi okanye ngomhla wama-17 Disemba 2008:

- (a) ngokuwuposela ku:
Nobhala:
IPalamente yePhondo leNtshona Koloni
(Iya ku: N Manjezi)
P.O. Box 648
EKapa
8000
- (b) nge-imeyile ku:
nmanjezi@wcpp.gov.za
- (c) ngefeksi ku:
N Manjezi
(021) 487-1685

P. G. Williams
UNabhala wePalamente



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 The laws listed in the Schedule are repealed.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

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

SCHEDULE

LAWS REPEALED

No. and year of law	Short title
Ordinance 26 of 1957	Problem Animal Control Ordinance, 1957
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
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.

DAAR 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

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

BYLAE

HERROEPE WETTE

No. en jaar van wet	Kort titel
Ordonnansie 26 van 1957	Ordonnansie op die Beheer van Probleemdiere, 1957
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
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.

NOKUBA 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

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
UMthetho 21 ka-1959	UMthetho wokulungisa kokutshatyalaliswa kweZilwanyana ezikhathazayo, ka-1959
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
UMthetho 22 ka 1968	UMthetho wokulungisa kokutshatyalaliswa kweZilwanyana ezikhathazayo, ka-1968
UMthetho 19 ka-1984	UMthetho wokulawulwa kwezilwanyana eziyingxaki ka 1984

MEMORANDAM 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. Ukwanika 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 EKHAGAMSHELWANE 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.

