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Monday, 5 October 2009

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PROVINCIAL NOTICE

The following Bill is hereby published for general information:

Western Cape Health Care Waste Management Bill

P.N. 361/2009 5 October 2009

Any person or organization wishing to comment on the said Bill is requested to lodge such comment in writing before or on 2 November 2009:

- (a) by posting it to:
E. Hanekom
Private Bag X9086
Cape Town
8001
- (b) by e-mail to:
ehanekom@pgwc.gov.za
- (c) by fax to:
E. Hanekom
(021) 483-2979

INHOUD

PROVINSIALE KENNISGEWING

Die volgende Wetsontwerp word hierby vir algemene inligting gepubliseer:

Wes-Kaapse Wetsontwerp op die Bestuur van Gesondheidsorgafval

P.N. 361/2009 5 Oktober 2009

Enige persoon of organisasie wat kommentaar oor die genoemde Wetsontwerp wens te lewer, word versoek om sodanige kommentaar skriftelik te lewer voor of op 2 November 2009:

- (a) deur dit te pos aan:
E. Hanekom
Privaatsak X9086
Kaapstad
8001
- (b) deur dit te e-pos aan:
ehanekom@pgwc.gov.za
- (c) deur dit te faks aan:
E. Hanekom
(021) 483-2979

IZIQULATHO

ISAZISO SEPHONDO

Lo Mthetho uSayilwayo ulandelayo upapashwe apha ukunika ulwazi ngokubanzi:

UMthetho oYilwayo enTshona Koloni wolawulo lweZinto ezilahlwayo emva kophando nophithikezo lwaMayeza

P.N. 361/2009 5 Oktobha 2009

Nabani na okanye nawuphi na umbutho onqwenela ukuphawula ngalo Mthetho uSayilwayo kuthethwa ngawo uyacelwa ukuba afake izimvo zakhe phambi okanye ngomhla wama-2 Novemba 2009:

- (a) ngokuwuposela ku:
E. Hanekom
Private Bag X9086
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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.

DRAFT WESTERN CAPE HEALTH CARE WASTE MANAGEMENT AMENDMENT BILL, 2009

To amend the Western Cape Health Care Waste Management Act, 2007, so as to align the terminology with that used in the National Environmental Management: Waste Act, 2008; to define or redefine certain expressions; to delete certain unnecessary definitions; to provide for the issuing of compliance notices; to amend the provisions relating to offences and penalties; to make further provision regarding regulations; to effect certain textual changes; and to provide for matters incidental thereto.

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

Amendment of section 1 of Act 7 of 2007

1. Section 1 of Western Cape Health Care Waste Management Act, 2007 (the principle Act), is amended—

- (a) by the insertion after the definition of “audit” of the following definition: 5
 “**by-product**’ means a substance that is produced as part of a process that is primarily intended to produce another substance or product and that has the characteristics of an equivalent virgin product or material;”;
- (b) by the substitution for the definition of “disposal” of the following definition: 10
 “**disposal**’ means the burial, deposit, discharge, placing or release of any waste into or onto any land;”;
- (c) by the substitution for the definition of “disposal site” of the following definition: 15
 “**disposal site**’ means any site or premises—
 (a) used for the accumulation of waste with the purpose of disposing of that waste at that site or on those premises; and
 (b) permitted so to be used by virtue of section 80(4) or 81 of the National Environmental Management: Waste Act or in terms of a waste management licence under section 49 of that Act”; 20
- (d) by the substitution for the definition of “dump” of the following definition: 25
 “**dump**’, in relation to health care waste, means to deposit or discharge or abandon, or cause or allow to be deposited or discharged or abandoned, in any manner or at any place other than is [set out] permitted by or in terms of this Act [or permitted in terms of section 20

- of the Environment Conservation Act, and the words “dumps”,
“dumped” and “dumping” have corresponding meanings];”;**
- (e) by the substitution in the definition of “health care waste” for the expression “subparagraph (a)” of the expression “paragraph (1)(a)”;
- (f) by the insertion after the definition of “National Minister” of the following definition: 5
“‘National Environmental Management: Waste Act’ means the National Environmental Management: Waste Act, 2008 (Act 59 of 2008);”;
- (g) by the deletion of the definition of “other waste”; 10
- (h) by the insertion after the definition of “person” of the following definition:
“‘prescribe’ means prescribe by regulation;”;
- (i) by the deletion of the definition of “secure area”;
- (j) by the substitution for the definition of “treatment facility” of the following definition: 15
“‘treatment facility’ means any site or premises—
 (a) used to accumulate health care risk waste for the purpose of storage, recovery, treatment, reprocessing, recycling or sorting of that waste; and
 (b) permitted so to be used by virtue of section 80(4) or 81 of the National Environmental Management: Waste Act or in terms of a waste management licence under section 49 of that Act”;
 and 20
- (k) by the substitution for the definition of “waste” of the following definition: 25
“‘waste’—means any substance, whether or not that substance can be reduced, re-used, recycled and recovered—
 (a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;
 (b) for which the generator has no further use of for the purposes of production;
 (c) that must be treated or disposed of; or
 (d) that is identified as a waste by the National Minister by notice in the Gazette, and includes waste generated by the mining, medical or any other sector, but excludes any by-product and any portion of waste that has been re-used, recycled or recovered.”. 30 35

Amendment of section 6 of Act 7 of 2007

2. Section 6 of the principal is amended by the substitution for paragraph (n) of subsection (2) for the following paragraph:

- “(n) A generator, transporter, treater or disposer of health care risk waste must, within [a] the prescribed period after the [promulgation] commencement of this Act, or within the prescribed period after starting to operate as such a generator, transporter, treater or disposer, as the case may be, register with the Department by submitting to the Department a duly completed registration form that is available from the Department.”. 40 45

Amendment of section 10 of Act 7 of 2007

3. Section 10 of the principal Act is amended—

- (a) by the addition of the word “and” at the end of paragraph (a) of subsection (1);
- (b) by the substitution for paragraphs (c) and (d) of subsection (2) of the following paragraphs: 50
 “(c) requesting information regarding [the] health care [risk] waste from the person who is in control of the health care waste, or from the owner or the person in charge of the premises, site or vehicle;

- (d) **[examine and make]** examining and making copies of or **[take]** taking extracts from any written record kept in terms of section 6(2)(j) and **[request]** requesting an explanation of any entry in the written or electronic record from the person who is in control of the written or electronic record, or from the owner or the person in charge of the premises, site or vehicle.”; and 5
- (c) by the deletion of subsections (3) and (4).

Insertion of section 10A in Act 7 of 2007

4. The following section is inserted in the principal Act after section 10:

“Compliance notices 10

10A. (1) An inspector may issue and serve a compliance notice as prescribed on a person in charge or control of any site or premises where health care waste has been or is being generated, handled, stored, treated or disposed of, calling upon that person to comply with the provisions of this Act or a condition of any applicable licence or permit relating to waste management. 15

- (2) A compliance notice must stipulate—
 - (a) the provision of the Act or condition of the licence or permit concerned which must be complied with;
 - (b) the act or omission constituting non-compliance;
 - (c) the measures which must be taken to comply;
 - (d) the date by which compliance must be completed; and
 - (e) the possible consequences of non-compliance. 20

(3) An inspector may, at the request of the person served with a compliance notice extend the period for compliance, upon good cause shown, by issuing an amended compliance notice. 25

(4) A compliance notice remains in force until the date for compliance or any extension thereof, or the issue by the inspector of a certificate of compliance as prescribed, whichever is the earlier.

(5) If a person served with a compliance notice has complied therewith, the inspector must issue a compliance certificate as prescribed as soon as reasonably possible. 30

(6) A person served with a compliance notice may, within the prescribed period, lodge with the inspector a statement disputing the notice and stating the grounds upon which it is disputed. 35

(7) The Provincial Minister may at the request of the person referred to in subsection (6), on good cause shown, in writing extend the period within which that person must lodge the statement.

(8) An inspector receiving a statement in terms of in subsection (6) must, within the prescribed period, submit the compliance notice, the statement and any other document which he or she regards relevant to the Provincial Minister, who must decide whether or not the act or omission referred to in subsection (2)(b) justified the issuing of the compliance notice. 40

(9) The Provincial Minister must, within the prescribed period, if he or she finds that the issuing of the compliance notice— 45

- (a) was unjustified, set it aside; or
- (b) was justified, order that the compliance notice be complied with by the date contemplated in subsection (2)(d) or the later date determined by the Provincial Minister.

(10) The Provincial Minister may delegate the functions referred to in subsections (7) and (9) to an official in the Department.”. 50

Substitution of section 11 of Act 7 of 2007

5. The following section is substituted for section 11 of the principal Act:

“Offences and penalties

11. (1) A person who contravenes, or fails to comply with— 55

(a) any provision of section 5, 6 or 7(1); or
 (b) a compliance notice issued in terms of section ~~10(3)~~ 10A(1),
 is guilty of an offence and upon conviction is liable to a fine or
 imprisonment for a period not exceeding ~~five~~ ten years, or to both a fine
 and imprisonment not exceeding ~~five~~ ten years. 5

(2) A person who is convicted of an offence referred to in subsection (1)
 and who persists after conviction in the act or omission that constituted the
 offence commits a continuing offence and is liable on conviction to a fine
 not exceeding R1 000 or to imprisonment for a period not exceeding 20
 days, or to both a fine and imprisonment not exceeding 20 days, in respect 10
 of each day that person persists with that act or omission.”

Substitution of section 14 of Act 7 of 2007

6. The following section is substituted for section 14 of the principal Act:

“Regulations and notices

14. (1) The Provincial Minister, ~~may~~ after consultation with the 15
 standing committee of the Provincial Parliament responsible for environ-
 mental affairs—
 (a) must make regulations regarding matters that must be prescribed in
terms of this Act; and
 (b) may make regulations regarding any other aspect related to the 20
management of health care waste.
 (2) The Provincial Minister may, after consultation with the standing
committee of the Provincial Parliament responsible for environmental
affairs, by notice in the *Provincial Gazette* set targets for waste
minimisation in general or for a specific institution or sector of generators, 25
transporters, treaters or disposers [by notice in the *Provincial Gazette*].”

Short title and commencement

7. This Act is called the Western Cape Health Care Waste Management Amendment Act, 2009, and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*. 30

EXPLANATORY MEMORANDUM

DRAFT HEALTH CARE WASTE MANAGEMENT AMENDMENT BILL

1. INTRODUCTION

The Draft Amendment Bill amends the Western Cape Health Care Waste Management Act, 2007 (Act 7 of 2007), so as to align the terminology with those used in the National Environmental Management: Waste Act, 2008 (Act 59 of 2008); to correct certain inconsistencies in the Act and to provide for the issuing of a compliance notice.

COMMENT ON INDIVIDUAL CLAUSES

Clause 1

Refers to definitions that are amended.

Clause 2

Amends section 6 and it provides for the registration of generators, transporters, treaters or disposers of health care risk waste.

Clause 3

Amends section 10 and it provides for powers of inspectors.

Clause 4

New insertion as section, it provides for the issuing of compliance notices.

Clause 5

Substitution of section 11 to align offences and penalties.

Clause 6

Substitution of section 14 which provides for regulations and the setting of targets for waste minimisation.

Clause 7

Provides for the short title and commencement

2. FINANCIAL IMPLICATIONS FOR STATE

The financial implications of the amendment of the Act are covered by the existing operational departmental budget.

3. DEPARTMENTS/INSTITUTIONS/BODIES CONSULTED

In drafting of this Draft Amendment Bill, the Department of Environmental Affairs and Development Planning has consulted with stakeholders. The publishing of the Draft Amendment Bill for public comment will allow for further stakeholder consultation. The following stakeholders have been consulted at this stage:

National Department:

Environmental Affairs and Tourism

Provincial Departments:

Premier: Legal Services

Policy Coordination

Health

Environmental Affairs and Development Planning

Other Stakeholders:

Western Cape municipalities

Academic institution

ALGEMENE VERDUIDELIKENDE NOTA:

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

WES-KAAPSE KONSEPWYSIGINGS- WETSONTWERP OP DIE BESTUUR VAN GESONDHEIDSORGAFVAL

Tot wysiging van die Wes-Kaapse Wet op die Bestuur van Gesondheidsorgafval, 2007, om die terminologie in ooreenstemming te bring met dié wat in die National Environmental Management: Waste Act, 2008, gebruik word; om sekere uitdrukkings te omskryf of te heromskryf; om sekere onnodige omskrywings te skrap; om voorsiening te maak vir die uitreiking van nakomingskennisgewings; om die bepalinge rakende misdrywe en strawwe te wysig; om verder voorsiening te maak betreffende regulasies; om sekere teksveranderinge aan te bring; 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 7 van 2007

1. Artikel 1 van die Wes-Kaapse Wet op die Bestuur van Gesondheidsorgafval, 2007 (die Hoofwet), word gewysig—

- (a) deur die omskrywing van “afval” deur die volgende omskrywing te vervang: 5
- “**afval**” enige stof, hetsy daardie stof gereduseer, hergebruik, hersikleer of herwin kan word—
- (a) wat oortollig, ongewens, verwerp, weggegooi, verlaat of 10
beskik is;

(b) waarvoor die genereerder geen verdere gebruik het nie vir die
doel van produksie;

(c) wat behandel of beskik moet word; of

(d) wat deur die Nasionale Minister by kennisgewing in die 15
Staatskoerant as ‘n afval geïdentifiseer is,

en ook afval gegeneer deur die mynbou-, mediese of enige ander
sektor, maar nie enige neweproduk en enige deel van afval wat
hergebruik, hersikleer of herwin is nie.”.
- (b) deur die omskrywing van “ander afval” te skrap;
- (c) deur die omskrywing van “behandelingsfasiliteit” deur die volgende 20
omskrywing te vervang:

“**behandelingsfasiliteit**” ’n terrein of perseel—

- (a) wat gebruik word om gesondheidsrisiko-afval op te gaar met die doel om daardie afval te berg, te herwin, te behandel, te herprosesseer, te hersikler of te sorteer; en 5
- (b) wat toegelaat word om aldus gebruik te word kragtens artikel 80(4) of 81 van die National Environmental Management: Waste Act, 2008, of ingevolge ’n afvalbestuurslisensie ingevolge artikel 49 van daardie Wet;”.
- (d) deur die omskrywing van “beskikking” deur die volgende omskrywing te vervang: 10
 “**beskikking**’ die begrawe, aflaai, afvoer, plasing of uitlating van enige afval in of op enige grond;”;
- (e) deur die omskrywing van “beskikkingsterrein” deur die volgende omskrywing te vervang: 15
 “**beskikkingsterrein**’ enige terrein of perseel—
- (a) wat gebruik word vir die opgaring van afval met die doel om op daardie terrein of perseel oor daardie afval te beskik;
- (b) wat aldus gebruik kan word ingevolge artikel 80(4) of 81 van die National Environmental Management: Waste Act, 2008, of ingevolge ’n afvalbestuurslisensie ingevolge artikel 49 van daardie Wet;” en 20
- (f) deur in die omskrywing van “gesondheidsorgafval” die uitdrukking “subparagraaf (a)” deur die uitdrukking “paragraaf (1)(a)” te vervang;
- (g) deur die volgende omskrywings na die omskrywing van “Nasionale Minister” in te voeg: 25
 “**National Environmental Management: Waste Act**’ die National Environmental Management: Waste Act, 2008 (Wet No. 59 van 2008);”;
 en
 “**neweproduk**’ ’n stof wat voortgebring word as deel van ’n proses wat primêr bedoel is om ’n ander stof of produk te produseer en wat die eienskappe van ’n ekwivalente onverwerkte produk of materiaal het;”;
- (h) deur die omskrywing van “stort” deur die volgende omskrywing te vervang: 30
 “**stort**’, met betrekking tot gesondheidsorgafval, om af te laai of af te voer, of om te veroorsaak of toe te laat dat dit afgelaai of afgevoer word, op enige manier of op enige plek behalwe soos by of ingevolge hierdie Wet [uiteengesit] toegelaat [, of toegelaat ingevolge artikel 20 van die Wet op Omgewingsbewaring, en die woorde “gestort” en “storting” het ooreenstemmende betekenis];”;
- (i) deur die omskrywing van “veilige gebied” te skrap; en 40
- (j) deur die volgende omskrywing na die omskrywing van “vervoerder” in te voeg:
 “**voorskryf**” by regulasie voorskryf;”.

Wysiging van artikel 6 van Wet 7 van 2007

2. Artikel 6 van die Hoofwet word gewysig deur paragraaf (n) van subartikel (2) deur die volgende paragraaf te vervang: 45

- “(n) ’n Genereerder, vervoerder, behandelaar of beskikker van gesondheids-
 orgrisiko-afval moet, binne [’n] die voorgeskrewe tydperk na die
 [afkondiging] inwerkingtreding van hierdie Wet, of binne die voorgeskrewe
 tydperk na die aanvang van bedrywighede as so ’n genereerder, vervoerder,
 behandelaar of beskikker, na gelang van die geval, by die Departement 50
 registreer deur ’n behoorlik ingevulde registrasievorm, wat by die
 Departement beskikbaar is, by die Departement in te dien.”.

Wysiging van artikel 10 van Wet 7 van 2007

3. Artikel 10 van die Hoofwet word gewysig— 55

- (a) deur die woord “en” aan die einde van paragraaf (a) van subartikel (1) by te voeg;
- (b) deur paragraaf (c) van subartikel (2) deur die volgende paragrawe te vervang:

- “(c) aanvra van inligting betreffende [**die gesondheidsorgafval**] gesondheidsorgafval van die persoon wat in beheer van die gesondheidsorgafval is, of van die eienaar of die persoon in beheer van die perseel, terrein of voertuig;” en
 (c) deur subartikels (3) en (4) te skrap.

5

Invoeging van artikel 10A in Wet 7 van 2007

4. Die volgende artikel word na artikel 10 van die Hoofwet ingevoeg:

“Nakomingskennisgewings

- 10A.** (1) 'n Inspekteur kan 'n nakomingskennisgewing soos voorgeskryf uitreik en beteken aan 'n persoon in bevel of beheer van enige terrein of perseel waar gesondheidsorgafval gegenerceer, hanteer, geberg, behandel of beskik is of word, en van daardie persoon vereis om die bepaling van hierdie Wet of 'n voorwaarde van enige toepaslike lisensie of permit rakende afvalbestuur na te kom.
- (2) 'n Nakomingskennisgewing moet die volgende bepaal:
- (a) die betrokke bepaling van die Wet of voorwaarde van die lisensie of permit wat nagekom moet word;
- (b) die handeling of versuim wat nienakoming uitmaak;
- (c) die maatreëls wat getref moet word om na te kom;
- (d) die datum waarteen nakoming afgehandel moet word; en
- (e) die moontlike gevolge van nienakoming.
- (3) 'n Inspekteur kan, op versoek van die persoon aan wie 'n nakomingskennisgewing beteken is, by aanvoering van gegronde redes, die tydperk vir nakoming verleng deur 'n gewysigde nakomingskennisgewing uit te reik.
- (4) 'n Nakomingskennisgewing bly van krag tot die datum vir nakoming of enige verlenging daarvan, of die uitreiking deur die inspekteur van 'n nakomingsertifikaat soos voorgeskryf, wat ook al die vroegste is.
- (5) Indien 'n persoon aan wie 'n nakomingskennisgewing beteken is, daaraan voldoen het, moet die inspekteur so gou as wat redelikerwys moontlik is 'n nakomingsertifikaat soos voorgeskryf uitreik.
- (6) 'n Persoon aan wie 'n nakomingskennisgewing beteken is, kan binne die voorgeskrewe tydperk 'n verklaring by die inspekteur indien waarin die kennisgewing betwis word, met vermelding van die gronde waarop dit betwis word.
- (7) Die Provinsiale Minister kan op versoek van die persoon in subartikel (6) bedoel, by aanvoering van gegronde redes, die tydperk waarbinne daardie persoon die verklaring moet indien, skriftelik verleng.
- (8) 'n Inspekteur wat 'n verklaring ingevolge subartikel (6) ontvang, moet binne die voorgeskrewe tydperk die nakomingskennisgewing, die verklaring en enige ander dokument wat hy of sy as tersaaklik beskou, aan die Provinsiale Minister voorlê, wat moet besluit of die handeling of versuim in subartikel (2)(b) bedoel, die uitreiking van die nakomingskennisgewing regverdig.
- (9) Die Provinsiale Minister moet binne die voorgeskrewe tydperk, indien hy of sy bevind dat die uitreiking van die nakomingskennisgewing—
- (a) ongeregverdig was, dit tersyde stel;
- (b) geregverdig was, gelas dat die nakomingskennisgewing nagekom moet word teen die datum in subartikel (2)(d) bedoel of die later datum wat die Provinsiale Minister bepaal.
- (10) Die Provinsiale Minister kan die funksies in subartikels (7) en (9) bedoel, aan 'n beampte in die Departement delegeer.”.

Vervanging van artikel 11 van Wet 7 van 2007

5. Artikel 11 van die Hoofwet word deur die volgende artikel vervang:

55

“Misdrywe en strawwe

11. (1) ’n Persoon wat [strydig is met of weier om]—

(a) enige bepaling van artikel 5, 6 of 7(1); of

(b) ’n nakomingskennisgewing uitgereik ingevolge artikel [10(3)]
10A(1),

oortree of versuim om daaraan te voldoen, begaan ’n misdryf en is by skuldigebeving strafbaar met ’n boete of gevangenisstraf vir ’n tydperk van hoogstens [vyf] tien jaar, of met sowel ’n boete as gevangenisstraf van hoogstens [vyf] tien jaar.

(2) ’n Persoon wat skuldig bevind is aan ’n misdryf in subartikel (1) bedoel en wat na skuldigebeving voortgaan met die handeling of versuim wat die misdryf uitmaak, begaan ’n voortdurende misdryf en is by skuldigebeving strafbaar met ’n boete van hoogstens R1 000 of met gevangenisstraf vir ’n tydperk van hoogstens twintig dae, of met sowel sodanige boete as gevangenisstraf van hoogstens twintig dae ten opsigte van elke dag waarop daardie persoon met daardie handeling of versuim voortgaan.”

Vervanging van artikel 14 van Wet 7 van 2007

6. Artikel 14 van die Hoofwet word deur die volgende artikel vervang:

“Regulasies en kennisgewings

14. (1) Die Provinsiale Minister, [kan] na oorleg met die staande komitee van die Provinsiale Parlement verantwoordelik vir omgewingsake—

(a) moet regulasies uitvaardig oor aangeleenthede wat ingevolge hierdie Wet voorgeskryf moet word; en

(b) kan regulasies uitvaardig oor enige ander aspek van die bestuur van 25
gesondheidsorgafval.

(2) Die Provinsiale Minister kan, na oorleg met die staande komitee van die Provinsiale Parlement verantwoordelik vir omgewingsake, by kennisgewing in die *Provinsiale Koerant*, teikens stel om afval in die algemeen tot die minimum te beperk of vir ’n spesifieke instelling of sektor genereerders, vervoerders, behandelers of beskikers [, by kennisgewing in die *Provinsiale Koerant*].”

Kort titel en inwerkingtreding

7. Hierdie Wet heet die Wes-Kaapse Wysigingswet op die Bestuur van Gesondheidsorgafval, 2009, en tree in werking op ’n datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal.

VERDUIDELIKENDE MEMORANDUM

KONSEP WYSIGINGSWETSONTWERP OP DIE BESTUUR VAN GESONDHEIDSORGAFVAL

1. INLEIDING

Die Konsepwetsontwerp wysig die Wet op die Bestuur van Gesondheidsafval, 2007 (Wet 7 van 2007) om dit in lyn te bring met die terminologie wat gebruik word in die Nasionale Omgewingsbestuur Wet op die Bestuur van Afval, 2008 (Wet 58 van 2008); om sekere aspekte reg te stel en te voorsien vir die dien van voldoeningkennisgewings.

KOMMENTAAR OOR INDIVIDUELE KLOUSULES

Klousule 1

Verwys na die woordskrywings wat gewysing word.

Klousule 2

Wysig klousule 6 en voorsien vir die registrasie van genereerder, vervoerder, behandelaar of besikker van gesondheidsorgnisiko-afval.

Klousule 3

Wysig klousule 10 wat die bevoegthede van inspekteurs omskryf.

Klousule 4

Nuwe invoeging by klousule 10A voorsiening maak vir die dien van nakomings kennisgewings.

Klousule 5

Vervanging van klousule 11 van die Wet van 2007 om misdrywe en strawwe in lyn te bring.

Klousule 6

Vervanging van klousule 14 en dit voorsien vir die regulering en stel van teikens vir afval vermindering.

Klousule 7

Maak voorsiening vir die kort titel van die konsep wysingswetsontwerp.

2. FINANSIËLE IMPLIKASIES VIR DIE STAAT

Die finansiële implikasies van die wysiging van die Wet word gedek deur die operasionele departementele begroting.

3. DEPARTEMENTE, INRIGTINGS EN LIGGAME WAT GERAADPLEEG IS

In die opstel van die Konsep Wysigings Wetsontwerp het die Department van Omgewingsake en Ontwikkelings Beplanning met rolspelers. Die publisering van die Konsep Wysigings Wetsontwerp vir publike kommentaar sal verdere konsultasie verseker. Die volgende rolspelers was alreeds gekonsulteer op hierdie stadium:

Nasionale Departement:

Omgewingsake en Toerisme

Provinsiale departemente:

Premier: Regsdienste

Beleids Koördinerings

Gesondheid

Omgewingsake en Ontwikkelingsbeplanning

Ander Belanghebbendes:

Wes-Kaapse munisipaliteite

Akademiese inrigting

- “**indawo yokulahlela**” nasiphi na isiza okanye amasango—
- (a) asetyenziselwa ukuqokelelela inkunkuma ngeenjongo zokuyilahla loo nkunkuma kuloo ndawo okanye kuloo masango; kunye
- (b) ekuvumelekileyo ukuba asetyenziswe ngolo hlobo ngokwecandelo 80(4) okanye 81 loMthetho oyiNational Environmental Management: Waste Act okanye ngokwemiqathango yelayisenisi yolawulo lwenkunkuma phantsi kwecandelo 49 laloo Mthetho”;
- (d) ngokuthi endaweni yenkeazo yegama “**ukulahlela**” kufakwe le nkeazo ilandelayo: 10
- “**ukulahlela**”, ngokuphathelile kwinkunkuma yolondolozo lwempilo kuthetha ukugalela okanye ukukhupha okanye ukushiya okanye ukwenza okanye ukuvumela ukuba kugalelwe okanye kukhutshwe okanye kushiye, ngalo naluphi na uhlobo okanye kuyo nayiphi na indawo engeyiyo le [**ichazwe**] **ivumelekileyo ngokwalo Mthetho [okanye ivumelekileyo ngokwemiqathango yecandelo 20 loMthetho oyiEnvironment Conservation Act, kwaye]**”; 15
- (e) ngokuthi endaweni yenkeazo yebinzana “umhlathana(a)” kwinkeazo “yenkunkuma yolondolozo lwempilo” kufakwe ibinzana “umhlathi (1)(a)”; 20
- (f) ngokuthi emva kwenkeazo “yoMphathiswa weSizwe” kufakelwe le nkeazo ilandelayo: 25
- uMthetho oyi“**National Environmental Management: Waste Act**” uthetha uMthetho oyiNational Environmental Management: Waste Act, ka-2008 (uMthetho 59 ka-2008);”;
- (g) ngokucima inkeazo yebinzana elithi “enye inkunkuma””; 25
- (h) ngokuthi emva kwenkeazo yegama “umntu” kufakelwe le nkeazo ilandelayo: 30
- “**ukumisela**” kuthetha ukumisela ngomgaqo;”;
- (i) ngokucima inkeazo yebinzana elithi “indawo ekhuselekileyo”; 30
- (j) ngokuthi endaweni yenkeazo yebinzana “isibonelelo sococo” kufakwe le nkeazo ilandelayo: 30
- “**isibonelelo sococo**” sithetha isiza okanye amasango—
- (a) asetyenziselwa ukuqokelelela inkunkuma yolondolozo lwempilo ebeka emngciphekweni ngeenjongo zokuyigcina, zokuyibuyisela, zoluyicoca, zokuyisebenza kwakhona, zokuyivuselela okanye zokuyihlela loo nkunkuma; kunye 35
- (b) ekuvumelekileyo ukuba asetyenziswe ngolo hlobo ngokwecandelo 80(4) okanye 81 loMthetho oyiNational Environmental Management: Waste Act okanye ngokwemiqathango yelayisenisi yolawulo lwenkunkuma phantsi kwecandelo 49 laloo Mthetho”; and 40
- (k) ngokuthi endaweni yenkeazo yegama “inkunkuma” kufakwe le nkeazo ilandelayo: 45
- “**inkunkuma**” — ithetha nayiphi na isabstensi, nokuba loo sabstensi ingacuthwa, inokuphinda isetyenziswe, inokuvuselelwa ibuyiselwe—
- (a) eyintsalela, engalunwayo, ekhatyiweyo, elahliweyo, okanye eshiyiweyo; 45
- (b) okanye engenakuphinda isetyenziswe ngumenzi-nkunkuma ekuveliseni; 50
- (c) ekufuneka icocwe okanye ilahlwe; okanye 50
- (d) echazwa njengenkunkuma nguMphathiswa weSizwe ngesaziso esikwiGazethi, 55
- Nebandakanya inkunkuma eyenziwe licandelo lezimbiwa, lonyango okanye naliphi na elinye icandelo, kodwa ke ingasibandakani nasiphi na isivuliso esilisolotyayo nayo nayiphi na inxenye yenkunkuma ethe yasetyenziswa kwakhona, yavuselelwa okanye yabuyiselwa.”.

Inguqulo kwicandelo 6 loMthetho 7 ka-2007

2. Icandelo 6 loMthetho owenziwa izilungiso liyalungiswa ngokuthi endaweni yomhlathana (2) kufakwe umhlathi (n):

“(n) Indawo eyenza inkunkuma, umthuthi, umcoci okanye umlahli kwenkunkuma yolondolozo lwempilo ebeka emngciphekweni kufuneka [a] singadlulanga isithuba esi simiselweyo emva [kokusebenza] kokuqalisa kwaloMthetho, okanye singadlulanga isithuba esimiselweyo emva kokuqalisa njengaloo menzi wenkunkuma, mthuthi, mcoci okanye mlahli, ngokwemeko leyo, makabhalise kwiSebe eli ngokuthi angenise kwiSebe eli ifomu yokubhalisa ezalisiweyo efumaneka kwiSebe eli.” 5

Inguqulo kwicandelo 10 loMthetho 7 ka-2007

3. Icandelo 10 loMthetho owenziwa izilungiso liyalungiswa—

- (a) ngokuthi kufakelwe igama “kwaye” ekupheleni komhlathi (a) womhlathana (1); 10
- (b) ngokuthi endaweni yemihlathi (c) no-(d) yecandelwana (2) kufakwe le mihlathi ilandelayo:
- “(c) kucelwa iinkcukacha malunga nenkunkuma yolondolozo lwempilo [ebeka emngciphekweni] kumntu olawula inkunkuma yolondolozo lwempilo, okanye kumnini okanye kumntu ongumlawuli wamasango, wesiza okanye isithuthi; 15
- (d) kuhlolwa kwaye kusenziwa neekopi zalo naliphi na irekhodi elibhaliweyo eligcinwe ngekwecandelo 6(2)(j) okanye kuthathwa izicatshulwa kulo kuze ke kucelwe nenkcazeelo ngayo nayiphi na into efakiweyo kweli rekhodi libhaliweyo okanye likwikhompuyutha, okanye kumnini okanye kumntu ongumlawuli wamasango lawo, wesiza eso okanye wesithuthi eso.”; kunye 20
- (c) nangokucima amacandelwana (3) nele-(4). 25

Ufakelo lwecandelo 10A kuMthetho 7 ka-2007

4. Oku kulandelayo kufakelwe kuMthetho owenziwa izilungiso emva kwecandelo 10:

“Izaziso zothotyelo

- 10A.** (1) Umhloli usenokuthi akhuphele ahambisele isaziso sothotyelo esimiselweyo umntu owongamele okanye olawula naso nasiphi na isiza okanye nawaphi na amasango ebekukhutshwe okanye ekukhutshwa kuwo, ekusetyenzwa kuwo, ekucocwa kuwo okanye ekulahlwa inkunkunkuma yolondolozo lwempilo, esiyalela loo mntu ukuba makayithobele imiqathango ebekwa ngulo Mthetho okanye ekutshwe phantsi kwayo ilayisenisi okanye imvume emalunga nolawulo lwenkunkuma. 30
- (2) Isaziso sothotyelo kufuneka sichaze— 35
- (a) le miqathango yoMthetho lo okanye yelayisenisi okanye yemvume kufuneka ithotyelwe;
- (b) le nto yenziweyo okanye ingenziwanga ilutyeshelo;
- (c) loo manyathelo afane ukuthathwa ukuze kube kuyathotyelwa; 40
- (d) umhla elufanele kufezekiswa ngawo uthotyelo olo; kunye
- (e) nokunokuthi kube sisiphumo sokungathobeli.
- (3) Umhloli unokuthi, ngokucelwa ngumntu lowo ukhutshelwe isaziso sothotyelo, alathise ixesha lothotyelo, xa kuthe kwaniwka isizathu esibonakalyo, ngokuthi akhuphe esinye isaziso sothotyelo esenziwe inguqulo. 45
- (4) Isaziso sothotyelo sihlala sisebenza kude kuye kuba nguloo mhla wothotyelo okanye lowo luthe lwatshintshelwa kuwo, okanye ukukhutshwa kwesiqinisekiso sothotyelo ngumhloli, njengoko kumiselwe, nokuba yeyiphi na into ebithe yenzeka kuqala. 50
- (5) Ukuba ngaba umntu obekhutshelwe isaziso sothotyelo uye wasithobela, umhloli kufuneka akhuphe isiqinisekiso sothotyelo njengoko simiselwe ngokukhawuleza kangangoko.
- (6) Umntu okhutshelwe isaziso sothotyelo usenokuthi, lingadlulanga ixesha elimiselweyo, afake inkcazo kumhloli esiphikisa isaziso eso, exela nemihlaba asiphikisa phantsi kwayo. 55

(7) UMphathiswa wePhondo usenokuthi ngokucelwa ngulo mntu ukhankanywe kwicandelwana (6), ngokwesizathu esivakalayo esithe sanikwa, alandise ngento ebhaliweyo ixesha afanele ukuyingenisa ngayo inkcazo lo mntu.

(8) Umhloli ofumana le nkcazo ikwicandelwana (6) kufuneka, lingadlulanga eli xesha libekiweyo, angenise isaziso sothotyelo, inkcazo le kunye naliphi na elinye iphepha abona lifanelekile kuMphathiswa wePhondo, oya kuthi ke yena agqibe ukuba le nto yenziweyo okanye ingenziwanga ikhankanywe kwicandelwana (2)(b) ikufanele na ukukhutshelwa isaziso sothotyelo.

(9) UMphathiswa wePhondo kufuneka, lingadlulanga ixesha elimiselweyo, xa efumanisa ukuba ukukhutshwa kwesaziso sothotyelo—
(a) sasingafanelekanga, asirhoxise; okanye
(b) sasifanelekile, ayalele ukuba isaziso sothotyelo eso masithotyelwe ungadlulanga lo mhla uxelelwa kwicandelwana (2)(d) okanye omnye umhla othe wabekwa nguMphathiswa wePhondo.

(10) UMphathiswa wePhondo usenokuthi le misebenzi ikhankanywe kwicandelwana (7) nele-(9) ayinikezele kwigosa elilapha kwiSebe eli.”.

Inguqulo kwicandelo 11 loMthetho 7 ka-2007

5. Eli candelo lilandelayo lithatha indawo yecandelo 11 loMthetho owenziwa izilungiso: 20

“Utyeshelo nezohlwayo

11. (1) Umntu otyeshela okanye osilelayo ekuthobeleni—

(a) nawuphi na umqathango wecandelo 5, 6 okanye 7(1); okanye
(b) Isaziso sothotyelo esikhutshwe ngokwecandelo [10(3)] 10A(1), unetyala lotyeshelo kwaye apho athe wagwetywa uya kuhlawuliswa ifayini okanye avalelwe entolongweni isithuba esingadlulanga kwiminyaka [emihlanu] elishumi, okanye akanye azinikwe zozibini ezi zigwebo, ifayini nokuvallelwa entolongweni iminyaka engadlulanga [emihlanu] elishumi .

(2) Umntu othe wafunyanwa enetyala ngolu tyeshelo lukhankanywe kwicandelwana (1) nothi emva kokuba egwetyiwe aphinde aqhube enze olu olu tyeshelo aze agwetywe ifayini engadlulanga kwi-R1 000 okanye ukuvallelwa entolongweni isithuba esingadlulanga kwiintsuku ezingama-20, okanye zozibini ezi zigwebo, ifayini nouvallelwa entolongweni iintsuku ezingadlulanga kuma-20, ngosuku ngalunye athe loo mntu waphinda waqhuba ngeso senzo okanye ngolo tyeshelo.”.

Inguqulo kwicandelo 14 loMthetho 7 ka-2007

6. Eli candelo lilandelayo lithatha indawo yecandelo 14 loMthetho owenziwa izilungiso: 40

“Imigaqo nezaziso

14. (1) UMphathiswa wePhondo, [usenokuthi] emva kokuthethana nekomiti emileyo yePalamente yePhondo ejongene nemicimbi yokusingqongileyo—

(a) kufuneka enze imigaqo ephathelele kwimiba efanele kumiselwa ngokwalo Mthetho; kwaye
(b) usenokuthi enze imigaqo ephathelele kuyo nayiphi na enye inkalo enxulumene nolawulo lwenkunkuma yolondolozo lwempilo.

(2) UMphathiswa wePhondo, emva kokuthethana nekomiti emileyo yePalamente yePhondo ejongene nemicimbi yokusingqongileyo, ngesaziso esikwiGazethi yePhondo usenokuthi abeke iinkalo emakujoliswe kuzo zokucuthwa kwenkunkuma ngokubanzi okanye azibekela iziko elithile okanye icandelo elithile elenza inkunkuma, abathuthi, abacoci okanye abalahli abathile [ngesaziso esikwiGazethi yePhondo].”.

Isihloko esifutshane nokuqalisa kwawo

7. Lo Mthetho kuthiwa nguMthetho Wolungiso kuMthetho woLawulo lweNkunkuma yoLondolozo lweMpilo weNtshona Koloni ka-2009, kwaye uya kuqalisa ukusebenza kumhla oya kubekwa yiNkulumbuso yePhondo oya kwaziswa kwiGazethi yePhondo.

MEMORANDAM ECACISAYO

UMTHETHO OSAYILWAYO OSISIQULUNQO OWENZA IZILUNGISO KULAWULO LWENKUNKUMA

1. INTSHAYELELO

Lo Mthetho uSayilwayo uLungisayo wenza izilungiso kuMthetho oyiWestern Cape Health Care Waste Management Act, 2007 (uMthetho 7 ka-2007), khona ukuze kungqamaniseke isigama sawo neso sisetyenziswa kuMthetho oyiNational Environmental Management: Waste Act, 2008 (uMthetho 59 ka-2008); kulungiswe neendawo ezithile ezingangqinelaniyo kulo Mthetho, kananjalo kufakwe nemiqathango yokukhutshwa kwesaziso sothotyelo.

INGCACISO NGEMIHATHI

Umhlathi 1

Ubhekisele kwiinkcazo-magama ezenziwe izilungiso.

Umhlathi 2

Wenza izilungiso kwicandelo 6 kwaye ibandakanya nokubhaliswa kwabenzi benkunkuma, kwabathuthi, kwabacoci okanye abalahli benkunkuma yolondolozo lwempilo ebeka emngciphekweni.

Umhlathi 3

Wenza izilungiso kwicandelo 10 kwaye ibandakanya namagunya abahloli.

Umhlathi 4

Ufakelo olutsha ngokwecandelo, olubandakanya ukukhutshwa kwezaziso zothotyelo.

Umhlathi 5

Uthatha indawo yecandelo 11 kungqanyaniswa ngawo ize izenzo zotyeshelo nezohlwayo.

Umhlathi 6

Uthatha indawo yecandelo 14, ubonelela ngemigaqo nokubekwa kweenkalo zojoliso ekucuthweni kwenkunkuma.

Umhlathi 7

Unika isihloko esifutshane nomhla wokuqalisa kwawo ukusebenza

2. UCAHAPHAZELEKO LUKARHULUMENTE NGASEZIMALINI

Uchaphazeleko ngokwasezimalini ngenxa yokwenziwa kwezilungiso kulo Mthetho lulungiselelwe kolu hlahlo-mali lokusebenza lweSebe lukhoyo.

3. AMASEBE/AMAZIKO/IZIGQEBA EKUTHETHENWE NAZO

Ekuqulunqweni kwalo Mthetho uSayilwayo uLungisayo iSebe leMicimbi yokuSingqongileyo noCwangeiso loPhuhliso liye langena kuthethwano namaqela abachaphazelekayo. Ukushicilelwa kwalo Mthetho uSayilwayo uLungisayo okulungiselelwe uluntu ukuba lunike izimvo zalo ngawo kuya kwenza lukwazeke ngakumbi uthethwano nabo bachaphazelekayo:

iSebe leSizwe:

leMicimbi yokuSingqongileyo noKhenketho

Amasebe ephondo:

eleNkulumbuso yePhondo: iiNkonzo zezoMthetho Legal Services
uNxibelelaniso loMgaqo-nkqubo

elezeMpilo

leMicimbi yokuSingqongileyo noCwangeiso loPhuhliso

Amanye amaqela abachaphazelekayo:

ooMasipala baseNtshona Koloni Amaziko emfundo ephakamileyo