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OF THE PROVINCE OF
WESTERN CAPE**

P.N. 448/2010 8 December 2010

It is hereby notified that the Premier of the Province of Western Cape has assented to the following Act which is hereby published for general information:—

No. 6 of 2010: Western Cape Health Care Waste Management Amendment Act, 2010.

*As 'n Nuusblad by die Poskantoor Geregistreer***KANTOOR VAN DIE PREMIER
VAN DIE PROVINSIE
WES-KAAP**

P.K. 448/2010 8 Desember 2010

Hiermee word bekend gemaak dat die Premier van die Provinsie Wes-Kaap die onderstaande Wet wat hierby ter algemene inligting gepubliseer word, bekragtig het:—

No. 6 van 2010: Wes-Kaapse Wysigingswet op die Bestuur van Gesondheidsorgafval, 2010.

*Ibhaliswe ePosini njengePhephandaba***I-OFISI YENKULUMBUSO
YEPHONDO LENTSHONA
KOLONI**

P.N. 448/2010 8 Disemba 2010

Kwenziwa isaziso apha sokuba iNkulumbuso yePalamente yePhondo leNtshona Koloni iwamkele ngokusemthethweni lo Mthetho ulandelayo opapashelwe ulwazi gabalala apha:—

Nomb 6 ka-2010: UMthetho woLungiso woLawulo lwezeMpilo lweZinto eziLahlwayo, 2010.



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:
- “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”;
- (h) by the deletion of the definition of “secure area”;
- (i) by the substitution for the definition of “treatment facility” of the following definition:
- “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, 2008, or in terms of a waste management licence under section 49 of that Act;”;
- (j) by the substitution for the definition of “waste” of the following definition:
- “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 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.”.

Amendment of section 6 of Act 7 of 2007

2. Section 6 of the principal Act is amended—
- (a) by the substitution for paragraph (d) of subsection (2) of the following paragraph:
- “(d) A generator, transporter, treater or disposer of health care risk waste must at all times store health care risk waste in appropriate, clearly labelled containers[, as prescribed by the Provincial Minister].”;
- (b) by the substitution for paragraph (k) of subsection (2) of the following paragraph:
- “(k) A generator, transporter, treater or disposer of health care risk waste must keep the written or electronic records referred to in subsection (2)(j) [for a period prescribed by the Provincial Minister].”;
- (c) by the substitution for paragraph (m) of subsection (2) of the following paragraph:
- “(m) A generator, transporter, treater or disposer of health care risk waste must submit all the information contemplated in subsection (2)(j) to the Department [at a frequency to be prescribed by the Provincial Minister], and the Provincial Minister may stipulate the format and the specific dates for submission of such information.”;
- (d) by the substitution for paragraph (n) of subsection (2) of the following paragraph:
- “(n) A generator, transporter, treater or disposer of health care risk waste must [,within a prescribed period after the promulgation of this Act,] register with the Department by submitting to the Department a duly completed registration form that is available from the Department.”; and

(e) by the substitution for paragraph (o) of subsection (2) of the following paragraph:

“(o) A generator, transporter, treater or disposer of health care risk waste must perform and record internal audits [**at a frequency to be prescribed by the Provincial Minister,**] and must make them available to inspectors on request.”. 5

Amendment of section 8 of Act 7 of 2007

3. The following section is substituted for section 8 of the principal Act:

“Staff safety and training

8. A generator, transporter, treater or disposer of health care waste must comply with the Occupational Health and Safety Act, 1993 (Act 85 of 1993), in respect of staff safety and training regarding health care waste[, **and as prescribed by the Provincial Minister.**]”.

Amendment of section 10 of Act 7 of 2007

4. Section 10 of the principal Act is amended— 15

(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:

“(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; 20

(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 25

(c) by the deletion of subsections (3) and (4).

Insertion of section 10A in Act 7 of 2007 30

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

“Compliance notices

10A. (1) An inspector may issue and serve a compliance notice 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. 35

(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; 40

(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. 45

(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.

(4) The period for compliance may only be extended once and that extension may not exceed the period contemplated in subsection (2)(d). 50

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

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

(7) A person served with a compliance notice may lodge with the inspector a statement disputing the notice and stating the grounds upon which it is disputed.

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

(9) An inspector receiving a statement in terms of subsection (7) must 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.

(10) The Provincial Minister must, if he or she finds that the issuing of the compliance notice—

(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.

(11) The Provincial Minister may delegate the functions referred to in subsections (8) and (10) to an official in the Department.”

Substitution of section 11 of Act 7 of 2007

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

“Offences and penalties [and consequences of criminal convictions]

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

(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] 10 years, or to both a fine and imprisonment not exceeding [five] 10 years.

(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 of each day that person persists with that act or omission.”

Substitution of section 14 of Act 7 of 2007

7. 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 standing committee of the Provincial Parliament responsible for environmental affairs—

(a) must make regulations regarding—

(i) the manner in which health care risk waste must be stored;

(ii) the period for which written and electronic records referred to in section 6(2)(k) must be kept;

(iii) the frequency at which information referred to in section 6(2)(m) must be submitted to the Department;

(iv) the period within which a generator, transporter, treater or disposer of health care risk waste must register with the Department as contemplated in section 6(2)(n);

(v) the frequency at which internal audits referred to in section 6(2)(o) must be performed and recorded;

(vi) staff safety and training regarding health care waste;

- (vii) the format and content of a compliance notice referred to in section 10A(1);
 - (viii) the format and content of a compliance certificate referred to in section 10A(5);
 - (ix) the time period contemplated in section 10A(6) within which an inspector must issue a compliance certificate; 5
 - (x) the time period within which a person must lodge the statement contemplated in section 10A(7);
 - (xi) the time period within which an inspector must submit the documents referred to in section 10A(9) to the Provincial Minister; and 10
 - (xii) the time period within which the Provincial Minister must make a decision contemplated in section 10A(10);”; and
- (b) may make regulations regarding any other aspect related to the management of health care waste [**; and**]. 15
- [b]** (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, transporters, treaters or disposers [**, by notice in the *Provincial Gazette***].”. 20

Short title and commencement

8. This Act is called the Western Cape Health Care Waste Management Amendment Act, 2010, and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*.

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. 5

(Engelse teks deur die Premier geteken)
(Bekragtig op 6 Desember 2010)

WET

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 uitdrukings te omskryf of te heromskryf; om sekere onnodige omskrywings te skrap; om voorsiening te maak vir die uitreiking van nakomingskennisgewings; om die bepalings 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. 10 15

DAAR WORD BEPAAL deur die Provinsiale Parlement van die 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— 5

(a) deur die omskrywing van “afval” deur die volgende omskrywing te vervang:

“**afval**’ enige stof, hetsy daardie stof gereduseer, hergebruik, hersirkuleer of herwin kan word—

(a) wat oortollig, ongewens, verwerp, weggegooi, verlaat of beskik is; 10
(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 *Staatskoerant* as ’n afval geïdentifiseer is, 15
en ook afval gegenereer deur die mynbou-, mediese of enige ander sektor, maar nie enige neweproduk en enige deel van afval wat hergebruik, hersirkuleer of herwin is nie.”

(b) deur die omskrywing van “ander afval” te skrap;

(c) deur die omskrywing van “behandelingsfasiliteit” deur die volgende omskrywing te vervang: 20

“**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 hersirkuleer of te sorteer; en

- (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 5
vervang:
“**‘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 10
omskrywing te vervang:
“**‘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 15
National Environmental Management: Waste Act, 2008, of ingevolge 'n afvalbestuurslisensie ingevolge artikel 49 van daardie Wet;”
- (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 20
Minister” in te voeg:
“**‘National Environmental Management: Waste Act’** die *National Environmental Management: Waste Act*, 2008 (Wet 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 25
eienskappe van 'n ekwivalente onverwerkte produk of materiaal het;”;
- (h) deur die omskrywing van “stort” deur die volgende omskrywing te vervang:
“**‘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 30
[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.

Wysiging van artikel 6 van Wet 7 van 2007

2. Artikel 6 van die Hoofwet word gewysig— 35
- (a) deur paragraaf (d) van subartikel (2) deur die volgende paragraaf te 35
vervang:
“(d) 'n Geneereerder, vervoerder, behandelaar of besikker van gesondheidsorgrisiko-afval moet te alle tye gesondheidsorgrisiko-afval in gepaste, duidelik geëtiketteerde houers berg[, soos 40
voorgeskrif deur die Provinsiale Minister].”;
- (b) deur paragraaf (k) van subartikel (2) deur die volgende paragraaf te 40
vervang:
“(k) 'n Geneereerder, vervoerder, behandelaar of besikker van gesondheidsorgrisiko-afval moet die skriftelike of elektroniese 45
rekords hou waarna daar in subartikel (2)(j) verwys word [**vir 'n tydperk soos voorgeskryf deur die Provinsiale Minister**].”;
- (c) deur paragraaf (m) van subartikel (2) deur die volgende paragraaf te 50
vervang:
“(m) 'n Geneereerder, vervoerder, behandelaar of besikker van gesondheidsorgrisiko-afval moet al die inligting beoog in subartikel 50
(2)(j) aan die Departement voorlê [**met 'n tussenpose wat deur die Provinsiale Minister voorgeskryf gaan word**], en die Provinsiale Minister kan die formaat en die spesifieke datums vir die voorlegging van sodanige inligting bepaal.”; 55
- (d) deur paragraaf (n) van subartikel (2) deur die volgende paragraaf te 55
vervang:

- “(n) ’n Genereerder, vervoerder, behandelaar of besikker van gesondheidsorgisiko-afval moet [, **binne ’n voorgeskrewe tydperk na die afkondiging van hierdie Wet,**] by die Departement registreer deur ’n behoorlik ingevulde registrasievorm, wat by die Departement beskikbaar is, by die Departement in te dien.”; en 5
- (e) deur paragraaf (o) van subartikel (2) deur die volgende paragraaf te vervang:
- “(o) ’n Genereerder, vervoerder, behandelaar of besikker van gesondheidsorgisiko-afval moet interne oudits uitvoer en opteken **[met ’n tussenpose wat deur die Provinsiale Minister voorgeskryf gaan word,**] en moet dit op versoek aan inspekteurs beskikbaar stel.” 10

Wysiging van artikel 8 van Wet 7 van 2007

3. Artikel 8 van die Hoofwet word deur die volgende artikel vervang:

“Veiligheid en opleiding van personeel

8. ’n Genereerder, vervoerder, behandelaar of besikker van gesondheidsorgafval moet voldoen aan die Wet op Beroepsgesondheid en Veiligheid, 1993 (Wet 85 van 1993), ten opsigte van die veiligheid en opleiding van personeel wat gesondheidsorgafval hanteer[, **en soos deur die Provinsiale Minister voorgeskryf.**” 15

Wysiging van artikel 10 van Wet 7 van 2007

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4. Artikel 10 van die Hoofwet word gewysig—
- (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 paragraaf te vervang:
- “(c) aanvra van inligting betreffende **[die gesondheidsorgisiko-afval]** 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 25
- (c) deur subartikels (3) en (4) te skrap.

Invoeging van artikel 10A in Wet 7 van 2007

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

“Nakomingskennisgewings

10A. (1) ’n Inspekteur kan ’n nakomingskennisgewing uitreik en beteken aan ’n persoon in bevel of beheer van enige terrein of perseel waar gesondheidsorgafval gegenereer, hanteer, geberg, behandel of beskik is of word, en van daardie persoon vereis om die bepalings van hierdie Wet of ’n voorwaarde van enige toepaslike lisensie of permit rakende afvalbestuur na te kom. 35

(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; 40
- (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. 45

(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) Die nakomingstydperk mag slegs een keer verleng word en daardie verlenging mag nie die tydperk beoog in subartikel (2)(d) oorskry nie. 50

(5) '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.

(6) Indien 'n persoon aan wie 'n nakomingskennisgewing beteken is, daaraan voldoen het, moet die inspekteur so gou as wat redelikerwys moontlik is 'n nakomingsertifikaat uitreik.

(7) 'n Persoon aan wie 'n nakomingskennisgewing beteken is, kan 'n verklaring by die inspekteur indien waarin die kennisgewing betwis word, met vermelding van die gronde waarop dit betwis word.

(8) Die Provinsiale Minister kan op versoek van die persoon in subartikel (7) bedoel, by aanvoering van gegronde redes, die tydperk waarbinne daardie persoon die verklaring moet indien, skriftelik verleng.

(9) 'n Inspekteur wat 'n verklaring ingevolge subartikel (7) ontvang, moet 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.

(10) Die Provinsiale Minister moet, indien hy of sy bevind dat die uitreiking van die nakomingskennisgewing—

(a) ongeregverdig was, dit tersyde stel; of

(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.

(11) Die Provinsiale Minister kan die funksies in subartikels (8) en (10) bedoel, aan 'n beampte in die Departement deleger.”.

Vervanging van artikel 11 van Wet 7 van 2007

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

“Misdrywe en strawwe [en gevolge van strafregtelike skuldigbevinding]

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 skuldigbevinding strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens [vyf] 10 jaar, of met sowel 'n boete as gevangenisstraf van hoogstens [vyf] 10 jaar.

(2) 'n Persoon wat skuldig bevind is aan 'n misdryf in subartikel (1) bedoel en wat na skuldigbevinding voortgaan met die handeling of versuim wat die misdryf uitmaak, begaan 'n voortdurende misdryf en is by skuldigbevinding strafbaar met 'n boete van hoogstens R1 000 of met gevangenisstraf vir 'n tydperk van hoogstens 20 dae, of met sowel sodanige boete as gevangenisstraf van hoogstens 20 dae ten opsigte van elke dag waarop daardie persoon met daardie handeling of versuim voortgaan.”

Vervanging van artikel 14 van Wet 7 van 2007

7. 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—

(i) die manier waarop gesondheidsorgrisiko-afval geberg moet word;

(ii) die tydperk wat skriftelike en elektroniese rekords waarna daar in artikel 6(2)(k) verwys word, gehou moet word;

- (iii) die tussenpose waarmee inligting waarna daar in artikel 6(2)(m) verwys word, aan die Departement voorgelê moet word;
- (iv) die tydperk waarbinne 'n genereerder, vervoerder, behandelaar of besikker van gesondheidsorgisiko-afval by die Departement moet registreer soos beoog in artikel 6(2)(n); 5
- (v) die tussenpose waarmee interne oudits waarna daar in artikel 6(2)(o) verwys word, uitgevoer en opgeteken moet word;
- (vi) die veiligheid en opleiding van personeel wat gesondheidsorgafval hanteer; 10
- (vii) die formaat en inhoud van 'n nakomingskennisgewing waarna daar in artikel 10A(1) verwys word;
- (viii) die formaat en inhoud van 'n nakomingsertifikaat waarna daar in artikel 10A(5) verwys word; 15
- (ix) die tydperk beoog in artikel 10A(6) waarbinne 'n inspekteur 'n nakomingsertifikaat moet uitreik;
- (x) die tydperk waarbinne 'n persoon die verklaring beoog in artikel 10A(7) moet indien;
- (xi) die tydperk waarbinne 'n inspekteur die dokumente waarna daar in artikel 10A(9) verwys word, aan die Provinsiale Minister moet voorlê; en 20
- (xii) die tydperk waarbinne die Provinsiale Minister 'n besluit soos beoog in artikel 10A(10) moet neem;" en
- (b) kan regulasies uitvaardig oor enige ander aspek van die bestuur van gesondheidsorgafval [;]. 25
- [b] (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, behandelaars of besikkers [, by kennisgewing in die *Provinsiale Koerant*]."** 30

Kort titel en inwerkingtreeding

8. Hierdie Wet heet die Wes-Kaapse Wysigingswet op die Bestuur van Gesondheidsorgafval, 2010, en tree in werking op 'n datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal. 35

INKCAZELO NGOKUBANZI:

- [] Amagama abhalwe ngqindilili kwizibiyeli ezisisikwere abonisa oko kuye kwashiywa kule ikhoyo imithetho.
- Amagama akrwelwe umgca ongqindilili ngaphantsi abonisa oko kufakelweyo kule mithetho ikhoyo. 5

(Isiqendwana sesiNgesi sityikitywe yiNkulumbuso)
(Savunyelwa ngowama 6 Disemba 2010)

UMTHETHO

Ukulungisa uMthetho woLawulo lwezeMpilo lweZinto eziLahlwayo weNtshona Koloni, ka-2007, khona ukuze kungqanyaniswe isigama neso sisetyenziswe kuMthetho oyiNational Environmental Management: Waste Act 59, ka-2008; kucaciswe okanye kucaciswe ngokutsha amabinzana amagama athile; kucinywe iinkcazo-magama ezithile ezingeyomfuneko; kulungiselelwe nokukhutshwa kwezaziso zothotyelo; ukwenza izilungiso kwimihlathi ephathelele kutyeshelo nakwizohlwayo; ukufaka eminye imihlathi ephathelele kwimigaqo; ukufakela iinguqulelo ezithile ezenziweyo kwindlela ekubhalwe ngayo; kanaanjalokulungiselelwe neminye imiba enxulumene nawo. 10 15

NNGOKO KE KUWISWA UMTHETHO yiPalamente yePhondo leNtshona Koloni ngolu hlobo lulandelayo:—

Ukulungiswa kwecandelo 1 loMthetho 7 ka-2007

1. Icandelo 1 loMthetho woLawulo lwezeMpilo lweZinto eziLahlwayo weNtshona Koloni, ka-2007 (uMthetho oyiNtloko), lenziwa izilungiso— 5

(a) ngokufakela le nkcazo ilandelayo emva kwenkcazo “yohlolo-zincwadi”:

“**‘isiveliso esilisoloty’** sithetha into ethe yaveliswa njengenxenyeyomsebenzi obusenzelwa ukuvelisa enye into okanye imveliso neneempawu ezifanayo nezaleyo mveliso ingekasetyenziswa okanye isixhobo;”;

(b) ngokuthi endaweni yenkcazo yegama “ukulahla” kufakwe le nkcazo ilandelayo:

“**‘ukulahla’** kuthetha ukungcwaba, ukugalela, ukukhupha, ukubeka okanye ukukhuphela nayiphi na inkunkuma kuwo okanye phezu kwawo nawuphi na umhlaba;”;

(c) ngokuthi endaweni yenkcazo yegama “indawo yokulahlela” kufakwe le nkcazo ilandelayo:

“**‘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;”;

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- (d) ngokuthi endaweni yenkcazo yegama “ukulahlela” kufakwe le nkcazo ilandelayo:

“**ukulahlela**”, ngokuphathelele 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 la magama “ukulahla”, “elahliweyo” kunye “elahlwayo”];”;

- (e) ngokuthi endaweni yenkcazo yebinzana “umhlathana(a)” kwinkcazo “yenkunkuma yolondolozo lwempilo” kufakwe ibinzana “umhlathi (1)(a)”;
- (f) ngokuthi emva kwenkcazo “yoMphathiswa weSizwe” kufakelwe le nkcazo ilandelayo:

uMthetho oyi “**National Environmental Management: Waste Act**” uthetha uMthetho oyiNational Environmental Management: Waste Act, ka-2008 (uMthetho 59 ka-2008);”;

- (g) ngokucima inkcazo yebinzana elithi “enye inkunkuma”;
- (h) ngokucima inkcazo yebinzana elithi “indawo ekhuselekileyo”;
- (i) ngokuthi endaweni yenkcazo yebinzana “isibonelelo sococo” kufakwe na le nkcazo ilandelayo:

“**isibonelelo sococo**’ sithetha isiza okanye amasango—

- (a) asetyenziselwa ukuqokelelela inkunkuma yolondolozo lwempilo ebeka emngciphekweni ngeenjongo zokuyigcina, zokuyibuyisela, zokuyicoca, zokuyisebenza kwakhona, zokuyivuselela okanye zokuyihlela loo nkunkuma; kunye
- (b) ekuvumelekileyo ukuba asetyenziswe ngolo hlobo ngokwecandelo 80(4) okanye 81 loMthetho oyiNational Environmental Management: Waste Act 2008 okanye ngokwemiqathango yelayisenisi yolawulo lwenkunkuma phantsi kwecandelo 49 laloo Mthetho”; kunye
- (j) ngokuthi endaweni yenkcazo yegama “inkunkuma” kufakwe le nkcazo ilandelayo:

“**inkunkuma**’ — ithetha nayiphi na into, nokuba loo nto ingacuthwa, inokuphinda isetyenziswe, inokuvuselelwa ibuyiselwe—

- (a) eyintsalela, engafunwayo, ekhatyiweyo, elahliweyo, okanye eshiyiweyo;
- (b) okanye engenakuphinda isetyenziswe ngumenzi-nkunkuma ekuveliseni;
- (c) ekufuneka icocwe okanye ilahlwe; okanye
- (d) echazwa njengenkunkuma nguMphathiswa weSizwe ngesaziso esikwiGazethi,
- Nebandakanya inkunkuma eyenziwe licandelo lezimbiwa, lonyango okanye naliphi na elinye icandelo, kodwa ke ingasibandakanyi nasiphi na isiveliso esilisolotyayo nayo nayiphi na inxenye yenkunkuma ethe yasetyenziswa kwakhona, yavuselelwa okanye yabuyiselwa.”.

Ukulungiswa kwecandelo 6 loMthetho 7 ka 2007

2. Icandelo 6 loMthetho oyintloko lilungiswe—

- (a) ngokutshintshwa komhlathi (d) wecandelwana (2) kulo mhlathi ulandelayo:

“(d) Umenzi wenkunkuma, umthuthi, umcoci okanye umlahli wenkunkuma yolondolozo lwempilo ebeka emngciphekweni kufuneka ngalo lonke ixesha agcine inkunkuma yolondolozo lwempilo ebeka emngciphekweni ikwizinto zokugcina inkunkuma eziphawulwe ngokucacileyo [, **njengoko kumiselwe nguMphathiswa wePhondo**].”;

- (b) ngokutshintshwa komhlathi (k) wecandelwana (2) kulo mhlathi ulandelayo:

“(k) Umenzi wenkunkuma, umthuthi, umcoci okanye umlahli wenkunkuma yolondolozo lwempilo ebeka emngciphekweni

- kufuneka agcine ulwazi olubhaliweyo olukhankanywe kwicandelwana (2)(j) kwirekhodi okanye kwikhompuyutha **[ngexesha elimiselweyo nguMphathiswa wePhondo].**”;
- (c) ngokutshintshwa komhlathi (m) wecandelwana (2) lalo mhlathi ulandelayo: 5
 “(m)Umenzi wenkunkuma, umthuthi, umcoci okanye umlahli wenkunkuma yolondolozo lwempilo ebeka emngciphekweni kufuneka angenise lonke ulwazi nolukhankanywe kwicandelwana (2)(j) ngokupheleleyo kwiSebe **[rhoqo ngexesha eliza kumiselwa nguMphathiswa wePhondo]**, noMphathiswa wePhondo usenako 10 ukuthatha isigqibo sokwakhiwa kwesicwangciso kwaneentsuku ezithile zokunikezelwa kolwazi olulolu hlobo.”;
- (d) ngokutshintshwa komhlathi (n) wecandelwana (2) kulo mhlathi ulandelayo: 15
 “(n) Umenzi wenkunkuma, umthuthi, umcoci okanye umlahli wenkunkuma yolondolozo lwempilo ebeka emngciphekweni kufuneka **[kwixesha elimiselweyo emveni kokusebenza kwalo Mthetho]** abhalise kwiSebe ngokuthi angenise kwiSebe ifomu yokubhalisa efaneka kwiSebe nenazo zonke iinkcukacha ezifunekayo ngokupheleleyo.”; 20
- (e) ngokutshintshwa komhlathi (o) wecandelwana (2) lalo mhlathi ulandelayo: 25
 “(o) Umenzi wenkunkuma, umthuthi, umcoci okanye umlahli wenkunkuma yolondolozo lwempilo ebeka emngciphekweni kufuneka asebenze ngokufanelekileyo agcine nerekhodi ebhalwe phantsi yophicotho lweencwadi lwangaphakathi, **[rhoqo ngexesha eliza kumiselwa nguMphathiswa wePhondo,]** kwaye kufuneka enze ukuba abahloli babenako ukuzifumana ngokwesicelo sabo.”.

Ukulungiswa kwecandelo 8 loMthetho 7 ka 2007

3. Eli candelo lilandelayo litshintshelwa icandelo 8 loMthetho oyintloko: 30
“Uqeqesho nokhuseleko lwabasebenzi
8. Umenzi wenkunkuma, umthuthi, umcoci okanye umlahli wenkunkuma yolondolozo lwempilo ebeka emngciphekweni kufuneka athobele uMthetho oyiOccupational Health and Safety Act, ka 1993 (uMthetho 85 ka 1993), ngokunxulumene noqeqesho kunye nokhuseleko lwabasebenzi olumalunga nolondolozo lwempilo ebeka emngciphekweni **[, ngokumiselweyo nguMphathiswa wePhondo].**”.

Ukulungiswa kwecandelo 10 loMthetho 7 ka-2007

4. Icandelo 10 loMthetho oyintloko liyalungiswa—
- (a) ngokuthi kufakelwe igama “kwaye” ekupheleni komhlathi (a) womhlathana (1); 40
- (b) ngokuthi endaweni yemihlathi (c) no-(d) yecandelwana (2) kufakwe le mihlathi ilandelayo:
- “(c) kucelwa iinkcukacha malunga nenkunkuma yolondolozo lwempilo **[ebeka emngciphekweni]** umntu olawula inkunkuma yolondolozo lwempilo, okanye kumnini okanye kumntu ongumlawuli wamasango, wesiza okanye isithuthi; 45
- (d) kuhlolwa kwaye kusenziwa neekopi zalo naliphi na irekhodi elibhaliweyo eligcinwe ngokwemigaqo yecandelo 6(2)(j) okanye kuthathwa izicatshulwa kulo kuze ke kucelwe nenkcazelo ngayo nayiphi na into efakiweyo kweli rekhodi libhaliweyo okanye likwikhompuyutha, okanye kumnini okanye kumntu ongumlawuli wamasango lawo, wesiza eso okanye wesithuthi eso.”; kunye 50
- (c) nangokucima amacandelwana (3) nele-(4).

Ufakelo lwecandelo 10A kuMthetho 7 ka-2007

5. Eli candelo lilandelayo ifakelwe kuMthetho oyintloko emva kwecandelo 10:

“Izaziso zothotyelo

- 10A.** (1) Umhloli usenokuthi akhuphele ahambisele isaziso sothotyelo kumntu owongamele okanye olawula naso nasiphi na isiza okanye nawaphi na amasango ebekukhutshwe okanye ekukhutshwa kuwo, ekusetyenzwa kuwo, ekucocwa kuwo okanye ekulahlwa inkunkunkuma yolondolozo lwempilo, eyalela loo mntu ukuba makayithobeke imiqathango ebekwa ngulo Mthetho okanye ekhutshwe phantsi kwayo ilayisenisi okanye invume emalunga nolawulo lwenkunkuma. 5
- (2) Isaziso sothotyelo kufuneka sichaze —
- (a) le miqathango yoMthetho lo okanye yelayisenisi okanye yemvume ekufuneka ithotyelwe;
- (b) le nto yenziweyo okanye ingenziwanga ilutyeshelo;
- (c) loo manyathelo afanele ukuthathwa ukuze kube kuyathotyelwa;
- (d) umhla elufanele kufezekiswa ngawo uthotyelo olo; kunye 15
- (e) nokunokuthi kube sisiphumo sokungathobeli.
- (3) Umhloli unokuthi, ngokucelwa ngumntu lowo ukhutshelwe isaziso sothotyelo, alathise ixesha lothotyelo, xa kuthe kwanikwa isizathu esibonakalayo, ngokuthi akhuphe esinye isaziso sothotyelo esenziwe isilungiso. 20
- (4) Ukwandiselwa ixesha lokuthobela umgaqo kunokwenziwa isihlandlo esinye kuphela kwaye oko akunako kudlulisa kwixesha elikhankanywe kwicandelwana (2)(d).
- (5) Isaziso sothotyelo sihlala sisebenza kude kuye kuba nguloo mhla wothotyelo okanye lowo luthe lwatshintshelwa kuwo, okanye ukukhutshwa kwesiqinisekiso sothotyelo ngumhloli, nokuba yeyiphi na into ebithe yenzeka kuqala. 25
- (6) Ukuba ngaba umntu obekhutshelwe isaziso sothotyelo uye wasithobela, umhloli kufuneka akhuphe isiqinisekiso sothotyelo ngokukhawuleza kangangoko. 30
- (7) Umntu okhutshelwe isaziso sothotyelo usenokuthi, afake inkcazo kumhloli esiphikisa isaziso eso, exela nemihlaba asiphikisa phantsi kwayo.
- (8) UMphathiswa wePhondo usenokuthi ngokucelwa ngulo mntu ukhankanywe kwicandelwana (7), ngokwesizathu esivakalayo esithe sanikwa, alandise ngento ebhaliweyo ixesha afanele ukuyingenisa ngayo inkcazo lo mntu. 35
- (9) Umhloli ofumana le nkcazo ikwicandelwana (7) 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. 40
- (10) UMphathiswa wePhondo kufuneka, xa efumanisa ukuba ukukhutshwa kwesaziso sothotyelo— 45
- (a) sasingafanelekanga, asirhoxise; okanye
- (b) sasifanelekile, ayalele ukuba isaziso sothotyelo eso masithotyelwe ungadlulanga lo mhla uxelwa kwicandelwana (2)(d) okanye omnye umhla othe wabekwa nguMphathiswa wePhondo.
- (11) UMphathiswa wePhondo usenokuthi le misebenzi ikhankanywe kwicandelwana (8) nele-(10) ayinikezele kwigosa elilapha kwiSebe eli.”. 50

Ukutshintshwa kwecandelo 11 loMthetho 7 ka-2007

6. Eli candelo lilandelayo lithatha indawo yecandelo 11 loMthetho oyintloko owenziwa izilungiso:

“Utyeshelo nezohlwayo [neziphumo zokubanjelwa ukwaphula umthetho] 55

- 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 uyakufumana isohlwayo okanye avalelwe entolongweni isithuba esingadlulanga kwiminyaka 5 [emihlanu] neli-10, okanye azinikwe zozibini ezi zigwebo, isohlwayo nokuvalelwa entolongweni iminyaka engadlulanga [emihlanu] neli-10 .
- (2) Umntu othe wafunyaniswa enetyala ngolu tyeshelo lukhankanywe kwicandelwana (1) nothi emva kokuba egwetyiwe aphinde aqhube enze olu tyeshelo aze agwetywe isohlwayo singadlulanga kwi-R1 000 okanye 10 ukuvalelwa entolongweni isithuba esingadlulanga kwiintsuku ezingama-20, okanye zombini izohlwayo nokuvalelwa entolongweni iintsuku ezingadlulanga kuma-20, ngosuku ngalunye athe loo mntu waphinda waqhuba ngeso senzo okanye ngolo tyeshelo.”.

Ukutshintshwa kwecandelo 14 loMthetho 7 ka-2007

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7. Eli candelo lilandelayo lithatha indawo yecandelo 14 loMthetho oyintloko:

“Imigaqo nezaziso

- 14.** (1) UMphathiswa wePhondo, [usenokuthi] emva kokuthethana nekomiti esisigxina yePalamente yePhondo ejongene nemicimbi yeNdalo esingqongileyo— 20
- (a) kufuneka enze imigaqo—
- (i) kwindlela ekufuneka kugcinwe ngayo inkunkuma yolondolozo lwempilo;
 - (ii) kubude bexesha lokugcinwa kweerekhodi ezibhaliweyo okanye ezikwikhompuyutha ezikhankanywe kwicandelo 6(2)(k) 25
 - (iii) kwindlela yokungeniswa rhoqo kolwazi olukhankanywe kwicandelo 6(2)(m) kwiSebe
 - (iv) kwixesha lokubhalisa komenzi wenkunkuma, umthuthi, umcoci okanye umlahli wenkunkuma yolondolozo lwempilo ebeka emngciphekweni kwiSebe ngokukhankanyiweyo; 30
 - (v) kwindlela yokwenziwa rhoqo kophicotho lwangaphakathi olukhankanywe kwicandelo 6(2)(o) nokugcinwa kwalo;
 - (vi) kuqeqesho nokhuseleko lwabasebenzi ngokuphathelele kulawulo lwenkunkuma yolondolozo lwempilo; 35
 - (vii) kwisaziso sokuthotyelwa kunye nesiqulatho esinxulumene necandelo 10A(1);
 - (viii) kwisiqinisekiso sokuthotyelwa nesiqulatho sokwakhiwa kwesicwangciso esikwicandelo 10A(5);
 - (ix) kwixesha elikhankanywe kwicandelo 10A(6) nekufuneka umhloli akhuphe ngalo isiqinisekiso sothotyelo. 40
 - (x) kwixesha ekufuneka umntu afake ngalo intetho yakhe enxulumene necandelo 10A(7);
 - (xi) kwixesha ekufuneka umhloli angenise ngalo amaxwebhu anxulumene necandelo 10A(9) kuMphathiswa wePhondo; 45 kunye
 - (xii) nexesha ekufuneka uMphathiswa wePhondo athathe ngalo isigqibo esikhankanywe kwicandelo 10(A) (10); kwaye
- (b) usenokuthi enze imigaqo ephathelele kuyo nayiphi na enye inkalo enxulumene nolawulo lwenkunkuma yolondolozo lwempilo. 50
- (2) UMphathiswa wePhondo, emva kokuthethathethana nekomiti esisigxina yePalamente yePhondo ejongene nemicimbi yeNdalo esingqongileyo, ngesaziso esikwiGazethi yePhondo usenokuthi abeke iinkalo emakujoliswe kuzo zokucuthwa kwenkunkuma ngokubanzi okanye azibekele iziko elithile okanye icandelo elithile elenza inkunkuma, abathuthi, abacoci okanye abalahli abathile [ngesaziso esikwiGazethi yePhondo].”.

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Isihloko esifutshane nokuqalisa kwawo

8. Lo Mthetho kuthiwa nguMthetho Wolungiso woLawulo lwezeMpilo lweZinto eziLahlwayo weNtshona Koloni ka-2010, kwaye uya kuqalisa ukusebenza kumhla oya kubekwa yiNkulumbuso yePhondo oya kwaziswa kwiGazethi yePhondo.

