

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

IPHONDO LENTSHONA KOLONI

**Provincial Gazette
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INHOUD

IZIQUATHO

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(*Iikopi zifumaneka kwigumbi M21, kwiSakhiwo seNdlu yoWiso Mthetho yePhondo, e7 Wale Street, eKapa 8001.)

PROVINCIAL NOTICE

PROVINSIALE KENNISGEWING

ISAZISO SEPHONDO

The following Bill is hereby published for general information:

Die volgende Wetsontwerp word hiermee vir algemene inligting gepubliseer:

Lo Mthetho uSayilwayo ulandelayo upapashwa apha ukunika ulwazi ngokubanzi:

Western Cape Provincial Road Traffic Administration Amendment Bill [B 3—2017]

Wes-Kaapse Provinsiale Wysigingswetsontwerp op Padverkeersadministrasie [W 3—2017]

UMthetho oSayilwayo woLungiso woLawulo lokuHamba kweziThuthi eziNdleleni kwiPhondo leNtshona Koloni [B 3—2017]

P.N. 139/2017 14 July 2017

P.K. 139/2017 14 Julie 2017

I.S. 139/2017 14 Julayi 2017

Any person or organisation wishing to comment on the said Bill is requested to lodge such comment in writing before or on 14 August 2017—

Enige persoon of organisasie wat kommentaar oor die genoemde Wetsontwerp wens te lewer, word versoek om sodanige kommentaar skriftelik te lewer voor of op 14 Augustus 2017—

Nabani na okanye nawuphi na umbutho onqwenela ukuphawula ngalo Mthetho uSayilwayo kuthethwa ngawo uyacelwa ukuba afake izimvo zakhe phambi okanye ngomhla we-14 Agasti 2017—

(a) by posting it to—
The Secretary
Western Cape Provincial Parliament
(Attention: Mr M. Sassman)
PO Box 648
Cape Town 8000

(a) deur dit te pos aan—
Die Sekretaris
Wes-Kaapse Provinsiale Parlement
(Aandag: Mnr. M. Sassman)
Posbus 648
Kaapstad 8000

(a) ngokuposela ku—
uNobhala
IPalamente yePhondo leNtshona
Koloni
(Iya ku: Mnu M. Sassman)
PO Box 648
Ekapa 8000

(b) by email to—
msassman@wcpp.gov.za; or

(b) deur dit te e-pos aan—
msassman@wcpp.gov.za; of

(b) nge-imeyile ku—
msassman@wcpp.gov.za; okanye

(c) by fax to—
Mr M. Sassman
021 487 1685

(c) deur dit te faks aan—
Mnr. M. Sassman
021 487 1685

(c) ngefeksi ku—
Mnu M. Sassman
021 487 1685

G.A. Lawrence
Secretary to Parliament

G.A. Lawrence
Sekretaris van die Parlement

G.A. Lawrence
uNobhala wePalamente

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.
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AMENDMENT BILL

To amend the Western Cape Provincial Road Traffic Administration Act, 2012, so as to substitute, delete and insert certain definitions; to repeal provisions relating to the keeping of certain registers and records; to provide for the promotion and improvement of road safety; to make further provision for regulations under the Act; to repeal the National Road Safety Act, 1972, in so far as its administration has been assigned to the Province; to rectify an incorrect reference; 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 6 of 2012

1. Section 1 of the Western Cape Provincial Road Traffic Administration Act, 2012 (Act 6 of 2012)(the principal Act), is amended in subsection (1)— 5
- (a) by the insertion before the definition of “Head of Department” of the following definition:
 “ **‘Department’** means the provincial department responsible for road traffic matters in the Province;”;
- (b) by the substitution for the definition of “Head of Department” of the following definition: 10
 “ **‘Head of Department’** means the **[Head]** head of the provincial department responsible for road traffic **[administration]** matters in the Province;”;
- (c) by the deletion of the definition of “Minister”; 15
- (d) by the insertion after the definition of “Province” of the following definition:
 “ **‘Provincial Minister’** means the provincial minister responsible for road traffic matters in the Province;”;
- (e) by the deletion of the word “and” at the end of the definition of “regulation”.

Repeal of section 2 of Act 6 of 2012

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2. Section 2 of the principal Act is repealed.

Repeal of section 3 of Act 6 of 2012

3. Section 3 of the principal Act is repealed.

Insertion of section 5A in Act 6 of 2012

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

“Road safety

<p>5A. (1) The Provincial Minister may, after consultation with the Shareholders Committee, the chief executive officer and the municipalities in the Province, develop a comprehensive plan to promote and improve road safety in the Province.</p> <p>(2) The Head of Department must—</p> <p>(a) implement and monitor the plan contemplated in subsection (1);</p> <p>(b) collect information in connection with road safety and make it available by any means regarded fit by the Head of Department to the authorities or persons concerned and the general public;</p> <p>(c) give guidance on road safety to road users or the general public; and</p> <p>(d) consult with authorities and persons concerned with road safety systems in order to coordinate and facilitate the combating of road traffic collisions in the Province.</p> <p>(3) The Head of Department may—</p> <p>(a) finance research in connection with road safety;</p> <p>(b) assist municipalities who do not have the necessary staff in the laying out of grounds for the training of learner motor vehicle drivers;</p> <p>(c) assist municipalities in providing training facilities for learner motor vehicle drivers where such facilities are not provided by an authority;</p> <p>(d) provide support to organs of state aimed at enhancing road safety in the Province;</p> <p>(e) give guidance and assist associations or bodies of persons working towards the promotion or improvement of road safety;</p> <p>(f) enquire into any matter relating to the promotion or improvement of road safety in the Province;</p> <p>(g) take any other steps that may be necessary to achieve the promotion or improvement of road safety in the Province;</p> <p>(h) perform any other task that falls within the objects of this Act.”</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p>
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Amendment of section 7 of Act 6 of 2012

5. Section 7 of the principal Act is amended by the addition of the following subsection, the existing section becoming subsection (1):

“(2) The Provincial Minister must prescribe any applicable fees that are payable in terms of the prescribed system of impoundment contemplated in section 8(1)(cA) and the manner in which the fees must be administered.”.

Amendment of section 8 of Act 6 of 2012

6. Section 8 of the principal Act is amended—

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|---|-------------------------------|
| <p>(a) by the deletion in subsection (1) of the word “or” at the end of paragraph (c); and</p> <p>(b) by the insertion in subsection (1) after paragraph (c) of the following paragraphs:</p> <p>“(cA) the impoundment of vehicles for certain vehicle- or driver-related offences;</p> <p>(cB) additional measures to promote or improve road safety;</p> <p>(cC) the duties of road users;</p> <p>(cD) measures to regulate road traffic;</p> <p>(cE) any matter relating to inspections contemplated in section 5, including the establishment of an inspectorate, the powers and duties of the inspectorate, the appointment or authorisation of persons to carry out inspections and the powers and duties of such persons; or”.</p> | <p>45</p> <p>50</p> <p>55</p> |
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Substitution of section 9 of Act 6 of 2012

7. The following section is substituted for section 9 of the principal Act:

“Delegation

- 9.** (1) The Provincial Minister may [—
- (a) **delegate to any person any power conferred upon the Minister by or under this Act, except the power to make regulations; and** 5
- (b) **authorise any person to perform any duty assigned to the Minister by or under this Act]**
- delegate any of his or her powers or assign any of his or her duties in terms of this Act, except the power to make regulations, to the Head of Department. 10
- (2) **[The Minister may at any time withdraw a delegation or authorisation under subsection (1)]** The Head of Department may delegate any of his or her powers or assign any of his or her duties in terms of this Act to— 15
- (a) an employee in the Department; or
- (b) the holder of a specific office or position in the Department.
- (3) A delegation or assignment referred to in subsection (1) or (2)—
- (a) must be in writing; 20
- (b) may be made subject to conditions;
- (c) may be withdrawn or amended in writing by the Provincial Minister or the Head of Department, as the case may be;
- (d) may permit the further delegation of that power or further assignment of that duty;
- (e) does not prevent the Provincial Minister or the Head of Department, as the case may be, from exercising that power or performing that duty; and 25
- (f) does not divest the Provincial Minister or the Head of Department, as the case may be, of the responsibility regarding the exercise of the delegated power or the performance of the assigned duty.”. 30

Substitution of section 13 of Act 6 of 2012

8. The following section is substituted for section 13 of the principal Act:

“Transitional provisions

13. A regulation made under the Western Cape Provincial Road Traffic Act, 1998 (Act 12 of 1998), in respect of a matter referred to in section [10] 8 and in force at the commencement of this Act is regarded as having been made under this Act.”. 35

Substitution of section 16 of Act 6 of 2012

9. The following section is substituted for section 16 of the principal Act:

“Short title and commencement

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16. This Act is called the Western Cape Provincial Road Traffic [Administration] Act, 2012, and comes into operation on a date to be determined by the Premier by proclamation in the *Provincial Gazette*.”.

Substitution of word

10. The principal Act is amended by the substitution for the word “Minister”, 45 wherever it occurs, of the expression “Provincial Minister”.

Repeal of National Road Safety Act, 1972

11. The National Road Safety Act, 1972 (Act 9 of 1972), is repealed in so far as its administration has been assigned to the Province.

Substitution of long title of Act 6 of 2012

12. The following long title is substituted for the long title of the principal Act: 5

“To regulate certain road traffic matters in the Province; to promote and improve road safety in the Province; and to provide for matters incidental thereto.”.

Short title and commencement 10

13. This Act is called the Western Cape Provincial Road Traffic Administration Amendment Act, 2017, and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*.

**MEMORANDUM ON THE OBJECTS OF THE WESTERN CAPE
PROVINCIAL ROAD TRAFFIC ADMINISTRATION
AMENDMENT BILL, 2017**

1. BACKGROUND

- 1.1 The Western Cape Road Traffic Administration Act, 2012 (Act 6 of 2012) (the Act), was assented to on 7 December 2012 and brought into operation by proclamation on 1 June 2013.
- 1.2 The Act repealed the Western Cape Road Traffic Act, 1998 (Act 12 of 1998), which was meant to supplement the National Road Traffic Act, 1996 (Act 93 of 1996), and to deal with road traffic matters of provincial concern. Shortly after those two Acts were passed, the National Parliament passed the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act 46 of 1998), and the Road Traffic Management Corporation Act, 1999 (Act 20 of 1999). These Acts necessitated substantial amendments to the National Road Traffic Act, 1996, and the Western Cape Road Traffic Act, 1998.
- 1.3 The Act replaced the Western Cape Road Traffic Act, 1998, by providing limited legislation as was required to supplement the amended National Road Traffic Act, 1996. The Act was primarily aimed at providing for the administration of vehicle licence fees, which are required under section 92 of the National Road Traffic Act, 1996, to be administered by the Province, that is, vehicle licence fees are to be set by the Minister responsible for road traffic matters in the Province (the Provincial Minister) and the fees are to be paid into the Provincial Revenue Fund. Various sections in the Act were intended to provide for these administrative requirements.

2. OBJECTS OF THE BILL

- 2.1 One of the purposes of the Western Cape Provincial Road Traffic Administration Amendment Bill, 2017 (the Bill), is to provide for the Provincial Minister to make regulations for the impoundment of vehicles for certain road traffic offences. This followed a policy-making process undertaken by the Provincial Minister regarding the need for more stringent actions to curb the contraventions of traffic laws. The intention is to deal more effectively with certain offences that very substantially threaten road safety, but that cannot be adequately dealt with through the normal mechanism of issuing fines. It should be noted that the deterrent effect of impoundment will be an indirect benefit of the legislation, because its primary intent is to remove actual threats to road safety from the road network. Applying impoundment as a deterrent will thus be an additional measure to counter poor adherence to traffic laws.
- 2.2 A second purpose of the Bill is to address the need for revised legislation that allows the Province to promote road safety by repealing the National Road Safety Act, 1972 (Act 9 of 1972), and replacing it with provisions introduced through the Bill. In terms of the Bill, the Provincial Minister may also make regulations on the promotion or improvement of road safety. The National Road Safety Act, 1972, was assigned to the Province in 1995 and its repeal will be applicable only in the Province. The provisions contained in the Bill are similar to those in the National Road Safety Act, 1972, in that they allow the Province to undertake educational, promotional and research activities in the Province with the aim of educating and encouraging the public to use roads safely. The National Road Safety Act, 1972, has been amended insofar as the responsible persons for the administration of the legislation have been updated to reflect responsible elected or appointed office-bearers in the current Provincial Government.

3. CONTENTS OF THE BILL

- 3.1 **Clause 1** of the Bill provides additional definitions in section 1 not included in the National Road Safety Act, 1972, as are required to support new provisions inserted into the Act by the Bill.
- 3.2 **Clause 2** repeals section 2 of the Act. This section provided for registers and records as were originally considered necessary for the administration of vehicle licence fees. On review, it has been determined that the section is not required, because all registers and records for vehicle licence fees are provided for under the National Road Traffic Act, 1996. The eNaTIS system is the single national database where, among other information relating to drivers and vehicles, all records needed for the administration of applications, issuing and payments for vehicle licence fees are recorded.
- 3.3 **Clause 3** repeals section 3 of the Act. This section made provision for the making of copies of any document in a register or record where a document was required as documentary evidence. Any copy required can now be obtained through eNaTIS, making section 3 unnecessary.
- 3.4 **Clause 4** inserts section 5A of the Bill into the Act.

Section 5A of the Bill, titled “Road safety”, replaces the provisions of the National Road Safety Act, 1972. It requires the Provincial Minister to develop a road safety plan for the Province in consultation with the Shareholders Committee and the chief executive officer of the Road Traffic Management Corporation. The need for consultation is due to the Shareholders Committee (consisting of the National Minister and the MECs of the nine provinces) and the chief executive officer’s having responsibilities nationally for road safety, and any provincial road safety plan must be drawn up and implemented in coordination with national initiatives.

Section 5A further sets out the responsibilities of the head of the department responsible for road safety matters in the Province (the Head of Department) to implement the Province’s road safety plan. This essentially involves the development of information systems and the promotion of road safety through research, education and training.

- 3.5 **Clause 5** empowers the Provincial Minister under a new subsection in section 7 to prescribe fees for infringements that may lead to the impoundment of vehicles.
- 3.6 **Clause 6** inserts additional matters in section 8 for which the Provincial Minister is empowered to make regulations. These include legislation that will promote road safety and that can be made to regulate items included in section 5A. Clause 6 further gives the Provincial Minister the power to make regulations in connection with any duties of road users and on measures to regulate road traffic in the Province.

Clause 6 introduces new paragraphs empowering the Provincial Minister to make regulations on the impoundment of vehicles in instances where certain traffic laws are transgressed. The impoundment regulations will further determine the qualifications of “authorised officers”, who will be empowered to impound vehicles, and will provide for the establishment, declaration, operation and administration of impoundment facilities where impounded vehicles are to be stored securely until they can be released to the owner.

- 3.7 **Clause 7** amends section 9 to allow the Provincial Minister to delegate any powers under the Act, except the making of regulations, to the Head of Department. The amendment of section 9 further allows for the Head of Department to delegate any power to an official of the Department.
- 3.8 **Clause 8** corrects an incorrect reference in section 13 of the Act.

3.9 **Clause 9** alters the title of the Act to the “Western Cape Provincial Road Traffic Act, 2012” to reflect the change that the Act will no longer be confined to traffic administration, but will cover a wider scope of road traffic responsibilities, which will include road traffic safety promotion, road traffic regulation and road traffic enforcement.

3.10 **Clause 10** amends the references in the Act to the Minister responsible for road traffic matters in the Province from “Minister” to “Provincial Minister” for the sake of consistency in terminology in provincial legislation.

3.11 **Clause 11** repeals the National Road Safety Act, 1972, insofar as its administration has been assigned to the Province.

3.12 **Clause 12** alters the long title of the Act.

3.13 **Clause 13** deals with the short title and commencement of the Bill.

4. LEGISLATIVE COMPETENCE

The Provincial Minister responsible for road traffic matters in the Province is satisfied that the provisions of the Bill fall within the legislative competence of the Province.

5. CONSULTATION

Public consultation: A Draft Bill was published for public comment on 12 September 2016 under Provincial Notice 363/2016 in *Provincial Gazette* 7677. The closing date for comments was 12 October 2016. An extension was granted to the City of Cape Town until 24 October 2016, upon its request.

Department of the Premier: Legal Services

Department of Transport and Public Works: Traffic Administration Branch

6. FINANCIAL IMPLICATIONS

The Bill, once it is enacted and comes into operation, will not automatically invoke any financial implications.

7. PERSONNEL IMPLICATIONS

The Bill, once it is enacted and comes into operation, will not automatically invoke any personnel implications.

ALGEMENE VERDUIDELIKENDE NOTA:

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

WYSIGINGSWETSONTWERP

Om die Wes-Kaapse Provinsiale Wet op Padverkeersadministrasie, 2012, te wysig ten einde sekere woordskrywings te vervang, te skrap en in te voeg; om bepalings in verband met die hou van sekere registers en aantekeninge te herroep; om voorsiening te maak vir die bevordering en verbetering van padveiligheid; om verder voorsiening te maak vir regulasies kragtens die Wet; om die Wet op Nasionale Verkeersveiligheid, 1972, te herroep in soverre die administrasie daarvan aan die Provinsie opgedra is; om 'n verkeerde verwysing reg te stel; 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:—

Wysiging van artikel 1 van Wet 6 van 2012

1. Artikel 1 van die Wes-Kaapse Provinsiale Wet op Padverkeersadministrasie, 2012 (Wet 6 van 2012)(die Hoofwet), word in subartikel (1) gewysig— 5
- (a) deur die volgende omskrywing voor die omskrywing van “Departementshoof” in te voeg: 5
- “**‘Departement’** die provinsiale departement verantwoordelik vir padverkeersaangeleenthede in die Provinsie;”;
- (b) deur die omskrywing van “Departementshoof” deur die volgende 10 omskrywing te vervang:
- “**‘Departementshoof’** die hoof van die provinsiale departement verantwoordelik vir [**padverkeersadministrasie**] padverkeersaangeleenthede in die Provinsie;”;
- (c) deur die omskrywing van “Minister” te skrap; 15
- (d) deur die volgende omskrywing na die omskrywing van “Premier” in te voeg: 15
- “**‘Provinsiale Minister’** die provinsiale minister verantwoordelik vir padverkeersaangeleenthede in die Provinsie;” en
- (e) deur die woord “en” aan die einde van die omskrywing van “regulasie” te skrap. 20

Herroeping van artikel 2 van Wet 6 van 2012

2. Artikel 2 van die Hoofwet word herroep.

Herroeping van artikel 3 van Wet 6 van 2012

3. Artikel 3 van die Hoofwet word herroep.

Invoeging van artikel 5A in Wet 6 van 2012

4. Die volgende artikel word na artikel 5 in die Hoofwet ingevoeg:

“Padveiligheid

- 5A.** (1) Die Provinsiale Minister kan na oorleg met die Aandeelhouderskomitee, die hoof- uitvoerende beamppte en die munisipaliteite in die Provinsie ’n omvattende plan ontwikkel om padveiligheid in die Provinsie te bevorder en te verbeter. 5
- (2) Die Departementshoof moet—
- (a) die plan beoog in subartikel (1) uitvoer en monitor;
- (b) inligting met betrekking tot padveiligheid bymekaarmaak en dit op enige wyse wat die Departementshoof gepas ag, aan die betrokke owerhede of persone en aan die publiek in die algemeen beskikbaar stel; 10
- (c) voorligting oor padveiligheid aan padgebruikers of die publiek in die algemeen gee; en 15
- (d) oorleg pleeg met owerhede en persone betrokke by padveiligheidstelsels ten einde die bekamping van padverkeersbotsings in die Provinsie te koördineer en te fasiliteer.
- (3) Die Departementshoof kan—
- (a) navorsing met betrekking tot padveiligheid finansier; 20
- (b) bystand verleen aan munisipaliteite wat nie die nodige personeel het nie met die uitlê van werwe vir die opleiding van leerlingbestuurders van motorvoertuie;
- (c) bystand verleen aan munisipaliteite met die verskaffing van opleidingsfasiliteite vir leerlingbestuurders van motorvoertuie waar sodanige fasiliteite nie deur ’n owerheid verskaf word nie; 25
- (d) ondersteuning verskaf aan staatsorgane wat die verbetering van padveiligheid in die Provinsie ten doel het;
- (e) leiding gee en bystand verleen aan verenigings of liggame van persone wat hulle beywer vir die bevordering of verbetering van padveiligheid; 30
- (f) ondersoek instel na enige aangeleentheid in verband met die bevordering of verbetering van padveiligheid in die Provinsie;
- (g) enige ander stappe doen wat nodig kan wees om die bevordering of verbetering van padveiligheid in die Provinsie te bereik; 35
- (h) enige ander taak verrig wat binne die oogmerke van hierdie Wet val.”.

Wysiging van artikel 7 van Wet 6 van 2012

5. Artikel 7 van die Hoofwet word gewysig deur die volgende subartikel by te voeg, met die bestaande artikel wat subartikel (1) word: 40

“(2) Die Provinsiale Minister moet enige gelde van toepassing wat betaalbaar is ingevolge die voorgeskrewe skutstelsel beoog in artikel 8(1)(cA) en die wyse waarop die gelde gadministreer moet word, voorskryf.”.

Wysiging van artikel 8 van Wet 6 van 2012

6. Artikel 8 van die Hoofwet word gewysig— 45

- (a) deur in subartikel (1) die woord “of” aan die einde van paragraaf (c) te skrap; en
- (b) deur in subartikel (1) die volgende paragrawe na paragraaf (c) in te voeg:
- “(cA) die skut van voertuie vir sekere voertuig- of bestuurderverwante misdrywe; 50
- (cB) bykomende maatreëls om padveiligheid te bevorder of te verbeter;
- (cC) die pligte van padgebruikers;
- (cD) maatreëls om padverkeer te reguleer;
- (cE) enige aangeleentheid in verband met inspeksies beoog in artikel 5, met inbegrip van die instelling van ’n inspektoraat, die 55

bevoegdheids en pligte van die inspektoraat, die aanstelling of magtiging van persone om inspeksies uit te voer en die bevoegdheids en pligte van sodanige persone; of”.

Vervanging van artikel 9 van Wet 6 van 2012

7. Artikel 9 van die Hoofwet word deur die volgende artikel vervang: 5

“Delegering

9. (1) Die Provinsiale Minister kan [—
 (a) **enige bevoegdheid wat by of ingevolge hierdie Wet aan die Minister verleen is, uitgesonderd die bevoegdheid om regulasies uit te vaardig, aan enige persoon delegeer; en** 10
 (b) **enige persoon magtig om enige plig te verrig wat by of ingevolge hierdie Wet aan die Minister opgedra is]**
enige van sy of haar bevoegdheids of pligte ingevolge hierdie Wet, uitgesonderd die bevoegdheid om regulasies te maak, aan die Departementshoof delegeer of opdra. 15
 (2) **[Die Minister kan ’n delegasie of magtiging ingevolge subartikel (1) te eniger tyd intrek]** Die Departementshoof kan enige van sy of haar bevoegdheids of pligte ingevolge hierdie Wet delegeer of opdra aan—
 (a) ’n werknemer in die Departement; of 20
 (b) die houer van ’n spesifieke amp of pos in die Departement.
 (3) ’n Delegasie of opdrag bedoel in subartikel (1) of (2)—
 (a) moet op skrif wees;
 (b) kan onderhewig aan voorwaardes gemaak word;
 (c) kan skriftelik ingetrek of gewysig word deur die Provinsiale Minister of die Departementshoof, na gelang van die geval; 25
 (d) kan die verdere delegering van daardie bevoegdheid of verdere opdrag van daardie plig toelaat;
 (e) verhoed nie die Provinsiale Minister of die Departementshoof, na gelang van die geval, om daardie bevoegdheid uit te oefen of daardie plig te verrig nie; en 30
 (f) ontdoen nie die Provinsiale Minister of die Departementshoof, na gelang van die geval, van die verantwoordelikheid rakende die uitoefening van die gedelegerde bevoegdheid of die verrigting van die opgedraagde plig nie.”. 35

Vervanging van artikel 13 van Wet 6 van 2012

8. Artikel 13 van die Hoofwet word deur die volgende artikel vervang:

“Oorgangsbepalings

13. ’n Regulasie wat ingevolge die Wes-Kaapse Provinsiale Padverkeerswet, 1998 (Wet 12 van 1998), uitgevaardig is ten opsigte van ’n aangeleentheid in artikel [10] 8 bedoel en van krag is by die inwerkingtreeding van hierdie Wet, word geag ingevolge hierdie Wet uitgevaardig te wees.”. 40

Vervanging van artikel 16 van Wet 6 van 2012

9. Artikel 16 van die Hoofwet word deur die volgende artikel vervang: 45

“Kort titel en inwerkingtreeding

16. Hierdie Wet heet die Wes-Kaapse Provinsiale Wet op **[Padverkeersadministrasie]** Padverkeer, 2012, en tree in werking op ’n datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal.”. 50

Vervanging van woord

10. Die Hoofwet word gewysig deur die woord “Minister”, waar dit ook al voorkom, met die uitdrukking “Provinsiale Minister” te vervang.

Herroeping van Wet op Nasionale Verkeersveiligheid, 1972

11. Die Wet op Nasionale Verkeersveiligheid, 1972 (Wet 9 van 1972), word herroep 5
in soverre die administrasie daarvan aan die Provinsie opgedra is.

Vervanging van lang titel van Wet 6 van 2012

12. Die lang titel van die Hoofwet word deur die volgende lang titel vervang:

**“Om sekere padverkeersaangeleenthede in die Provinsie te reguleer; om 10
padveiligheid in die Provinsie te bevorder en verbeter; en om voorsiening te
maak vir aangeleenthede wat daarmee in verband staan.”**

Kort titel en inwerkingtreding

13. Hierdie Wet heet die Wes-Kaapse Provinsiale Wysigingswet op Padverkeersadministrasie, 2017, en tree in werking op ’n datum wat die Premier by 15
proklamasie in die *Provinsiale Koerant* bepaal.

**MEMORANDUM VAN DIE OOGMERKE VAN DIE WES-KAAPSE
PROVINSIALE WYSIGINGSWETSONTWERP OP
PADVERKEERSADMINISTRASIE, 2017**

1. AGTERGROND

- 1.1 Die Wes-Kaapse Provinsiale Wet op Padverkeersadministrasie, 2012 (Wet 6 van 2012) (die Wet), is op 7 Desember 2012 bekragtig en is op 1 Junie 2013 by proklamasie in werking gestel.
- 1.2 Die Wet het die Wes-Kaapse Wet op Padverkeer, 1998 (Wet 12 van 1998), wat bedoel was om die Nasionale Padverkeerswet, 1996 (Wet 93 van 1996), aan te vul en om werk te maak van padverkeersaangeleenthede van provinsiale belang, herroep. Kort nadat daardie twee wette goedgekeur is, het die Nasionale Parlement die Wet op die Administratiewe Beregting van Padverkeersmisdrywe, 1998 (Wet 46 van 1998), en die Wet op die Padverkeersbestuurskorporasie, 1999 (Wet 20 van 1999), goedgekeur. Hierdie wette het aansienlike wysigings van die Nasionale Padverkeerswet, 1996, en die Wes-Kaapse Wet op Padverkeer, 1998, genoodsaak.
- 1.3 Die Wet het die Wes-Kaapse Wet op Padverkeer, 1998, vervang deur beperkte wetgewing te voorsien soos nodig was om die gewysigde Nasionale Padverkeerswet, 1996, aan te vul. Die Wet was hoofsaaklik daarop gemik om voorsiening te maak vir die administrasie van voertuiglisensiegelde, wat kragtens artikel 92 van die Nasionale Padverkeerswet, 1996, vereis word om deur die Provinsie geadminestreer te word, dit is, dat voertuiglisensiegelde vasgestel moet word deur die Minister verantwoordelik vir padverkeersaangeleenthede in die Provinsie (die Provinsiale Minister) en die gelde in die Provinsiale Inkomstefonds gestort moet word. Verskeie artikels in die Wet is bedoel om voorsiening te maak vir hierdie administratiewe vereistes.

2. OOGMERKE VAN DIE WETSONTWERP

- 2.1 Een van die oogmerke van die Wes-Kaapse Provinsiale Wysigingswetsontwerp op Padverkeersadministrasie, 2017 (die Wetsontwerp), is om voorsiening te maak vir die Provinsiale Minister om regulasies te maak vir die skut van voertuie vir sekere padverkeersmisdrywe. Dit was die gevolg van 'n beleidmakingsproses wat die Provinsiale Minister onderneem het rakende die behoefte aan strengere optrede om oortredings van verkeerswette te beperk. Die bedoeling is om sekere misdrywe wat padveiligheid aansienlik bedreig, maar wat nie voldoende hanteer kan word deur die normale meganisme van boetes uitreik nie, meer doeltreffend te hanteer. Daar moet daarop gelet word dat die afskrikuitwerking wat die skut van voertuie het, 'n indirekte voordeel van die wetgewing sal wees, aangesien die hoofsaaklike doel is om werklike bedreigings vir padveiligheid van die padnetwerk te verwyder. Deur die skut van voertuie toe te pas as 'n afskrikmiddel sal 'n bykomende maatreël wees om swak nakoming van verkeerswette teen te werk.
- 2.2 'n Tweede oogmerk van die Wetsontwerp is om in die behoefte aan hersiene wetgewing te voorsien wat die Provinsie toelaat om padveiligheid te bevorder deur die Wet op Nasionale Verkeersveiligheid, 1972 (Wet 9 van 1972), te herroep en dit te vervang met bepalings wat deur die Wetsontwerp ingebring word. Ingevolge die Wetsontwerp kan die Provinsiale Minister ook regulasies maak oor die bevordering of verbetering van padveiligheid. Die Wet op Nasionale Verkeersveiligheid, 1972, is in 1995 aan die Provinsie opgedra, en die herroeping daarvan sal slegs in die Provinsie van toepassing wees. Die bepalings vervat in die Wetsontwerp is soortgelyk aan dié in die Wet op Nasionale Verkeersveiligheid, 1972, deurdat dit die Provinsie toelaat om opvoedkundige, bevorderende en navorsingsbedrywighede in die Provinsie te onderneem met die doel om die publiek te onderrig en aan te moedig om paai veilig te gebruik. Die Wet op Nasionale Verkeersveiligheid, 1972, is gewysig in soverre die verantwoordelike persone vir die administrasie van die

wetgewing bygewerk is om die verantwoordelike verkose of aangestelde ampsbektelers in die huidige Provinsiale Regering te weerspieël.

3. INHOUD VAN WETSONTWERP

- 3.1 **Klousule 1** van die Wetsontwerp verskaf bykomende woordskrywings in artikel 1 wat nie in die Wet op Nasionale Verkeersveiligheid, 1972, ingesluit is nie, soos wat nodig is om die nuwe bepalings wat deur die Wetsontwerp in die Wet ingevoeg word, te ondersteun.
- 3.2 **Klousule 2** herroep artikel 2 van die Wet. Hierdie artikel het voorsiening gemaak vir registers en aantekeninge soos oorspronklik nodig geag is vir die administrasie van voertuiglisensiegelde. By hersiening is daar bepaal dat die artikel nie nodig is nie omdat voorsiening gemaak is vir alle registers en aantekeninge vir voertuiglisensiegelde deur die Nasionale Padverkeerswet, 1996. Die eNaTIS-stelsel is die enkele nasionale databasis waar, tussen ander inligting in verband met bestuurders en voertuie, alle rekords aangeteken word wat benodig word vir die administrasie van aansoeke, uitreiking en betalings vir voertuiglisensiegelde.
- 3.3 **Klousule 3** herroep artikel 3 van die Wet. Hierdie artikel het voorsiening gemaak vir die maak van afskrifte van enige dokument in 'n register of aantekening waar 'n dokument nodig was as dokumentêre bewys. Enige afskrif wat nodig is, kan nou deur eNaTIS bekom word, wat artikel 3 onnodig maak.
- 3.4 **Klousule 4** voeg artikel 5A van die Wetsontwerp in die Wet in.

Artikel 5A van die Wetsontwerp, getiteld "Padveiligheid", vervang die bepalings van die Nasionale Wet op Verkeersveiligheid, 1972. Dit vereis van die Provinsiale Minister om 'n padveiligheidsplan vir die Provinsie te ontwikkel in oorleg met die Aandeelhouerskomitee en die hoof- uitvoerende beampte van die Padverkeersbestuurskorporasie. Oorlegpleging is nodig omdat die Aandeelhouerskomitee (wat bestaan uit die Nasionale Minister en die LUR'e van die nege provinsies) en die hoof- uitvoerende beampte op nasionale vlak verantwoordelike vir padveiligheid het, en enige provinsiale padveiligheidsplan moet gekoördineerd met die nasionale inisiatiewe opgestel en uitgevoer word.

Artikel 5A sit verder die verantwoordelike van die hoof van die departement verantwoordelik vir padveiligheidsaangeleenthede in die Provinsie (die Departementshoof) uiteen om die Provinsie se padveiligheidsplan te implementeer. Dit behels hoofsaaklik die ontwikkeling van inligtingstelsels en die bevordering van padveiligheid deur navorsing, opvoeding en opleiding.

- 3.5 **Klousule 5** verleen kragtens 'n nuwe subartikel in artikel 7 aan die Provinsiale Minister die bevoegdheid om gelde voor te skryf vir oortredings wat tot die skut van voertuie aanleiding kan gee.
- 3.6 **Klousule 6** voeg bykomende aangeleenthede in artikel 8 in waarvoor die Provinsiale Minister die bevoegdheid het om regulasies te maak. Hierdie sluit wetgewing in wat padveiligheid sal bevorder en wat gemaak kan word om items vervat in artikel 5A te reguleer. Klousule 6 verleen verder aan die Provinsiale Minister die bevoegdheid om regulasies te maak in verband met enige pligte van padgebruikers en oor maatreëls om padverkeer in die Provinsie te reguleer.

Klousule 6 bring nuwe paragrawe in wat aan die Provinsiale Minister die bevoegdheid verleen om regulasies te maak oor die skut van voertuie in gevalle waar sekere verkeerswette oortree word. Die skutregulasies sal die kwalifikasies van "gemagtigde beamptes", wat die bevoegdheid sal hê om voertuie te skut, verder bepaal en sal voorsiening maak vir die instelling,

verklaring, werking en administrasie van skutfasiliteite waar geskutte voertuie veilig gestoor staan te word totdat dit vrygelaat kan word.

- 3.7 **Klousule 7** wysig artikel 9 om die Provinsiale Minister toe te laat om enige bevoegdhede kragtens die Wet, behalwe die maak van regulasies, aan die Departementshoof te deleger. Die wysiging van artikel 9 laat verder die Departementshoof toe om enige bevoegdheid aan 'n beampte van die Departement te deleger.
- 3.8 **Klousule 8** stel 'n verkeerde verwysing in artikel 13 van die Wet reg.
- 3.9 **Klousule 9** verander die titel van die Wet na die “Wes-Kaapse Provinsiale Wet op Padverkeer, 2012” om die verandering weer te gee dat die Wet nie meer tot verkeersadministrasie beperk sal wees nie, maar 'n wyer omvang van padverkeersverantwoordelikhede sal dek, wat padverkeersveiligheid, padverkeersregulering en padverkeersafdwinging sal insluit.
- 3.10 **Klousule 10** wysig die verwysings in die Wet na die Minister verantwoordelik vir padverkeersaangeleenthede in die Provinsie van “Minister” na “Provinsiale Minister” vir eenvormigheid van terminologie in provinsiale wetgewing.
- 3.11 **Klousule 11** herroep die Nasionale Wet op Verkeersveiligheid, 1972, in soverre die administrasie daarvan aan die Provinsie opgedra is.
- 3.12 **Klousule 12** verander die lang titel van die Wet.
- 3.13 **Klousule 13** handel oor die kort titel en inwerkingtreding van die Wetsontwerp.

4. WETGEWENDE BEVOEGDHEID

Die Provinsiale Minister verantwoordelik vir padverkeersaangeleenthede in die Provinsie is tevrede dat die bepalings van die Wetsontwerp binne die wetgewende bevoegdheid van die Provinsie ressorteer.

5. OORLEGPLEGING

Openbare oorlegpleging: 'n Konsepwetsontwerp is op 12 September 2016 onder Provinsiale Kennisgewing 363/2016 in *Provinsiale Koerant* 7677 vir openbare kommentaar gepubliseer. Die sluitingsdatum vir kommentaar was 12 Oktober 2016. Uitstel is tot 24 Oktober 2016 op versoek aan die Stad Kaapstad gegee.
Departement van die Premier: Regsdienste
Departement van Vervoer en Openbare Werke: Verkeersadministrasietak

6. FINANSIËLE IMPLIKASIES

Die Wetsontwerp, wanneer dit verorden word en in werking tree, sal nie outomaties enige finansiële implikasies tot gevolg hê nie.

7. PERSONEELIMPLIKASIES

Die Wetsontwerp, wanneer dit verorden word en in werking tree, sal nie outomaties enige personeelimplikasies tot gevolg hê nie.

AMAGQABANTSHINTSHI ACACISAYO:

- [] Amagama abhalwe ngqindilili akwizigqweqe ezisikwere abonisa amagama asusiweyo kwimithetho ekhoyo.
- Amagama akrwelelweyo ngomgca ongqindilili abonisa kwimithetho ekhoyo.

ULUNGISO LOMTHETHO OSAYILWAYO

Ukwenza izilungiso kuMthetho woLawulo lokuHamba kweziThuthi eziNdleleni kwiPhondo leNtshona Koloni, 2012, ukuze kutshintshwe, kucinywe yaye kufakelwe iinkcazelo ezithile; ukutshitshisa imiqathango ebhekisa kwiirejista neerekhodi ezithile; ukubonelela ngokuphakanyiswa nokuphuculwa kokhuseleko lweendlela; ukwenza eminye imiqathango phantsi kwalo Mthetho; ukutshitshisa iNational Road Safety Act, 1972, ukuba ulawulo ludluliselwe kwiPhondo; ukulungisa izinto ekubhekiswe kuzo ezingachanekanga kunye nokubonelela ngemiba ehambelana naleyo.

MAWUPHUNYEZWE yiPalamente yePhondo leNtshona Koloni, ngolu hlobo lulandelayo:—

Ukwenziwa kwezilungiso kwicandelo 1 loMthetho 6 ka-2012

1. Icandelo 1 leWestern Cape Provincial Road Traffic Administration Act, 2012 (UMthetho 6 ka-2012)(uMthetho-ngqangi), lenziwa izilungiso kwicandelwana (1)— 5
- (a) ngokufakelwa phambi kwenkcazelo yegama elithi “INTloko yeSebe” kule nkcazelo ilandelayo:
 “**‘ISebe’** lithetha isebe lephondo elijongene nemicimbi yezithuthi ezindleleni kwiPhondo;”;
- (b) ngokufakelwa endaweni yenkcazelo “yeNtloko yeSebe” kwale nkcazelo ilandelayo: 10
 “**‘INTloko yeSebe’** ibhekisa [kwiNtloko] kwintloko yesebe lephondo ejongene nemicimbi [yolawulo] yezithuthi ezindleleni imicimbi kwiPhondo;”;
- (c) ngokucinywa kwenkcazelo “yoMphathiswa”; 15
- (d) ngokufakelwa emva kwenkcazelo yegama elithi “iPhondo” kwale nkcazelo ilandelayo:
 “**‘UMphathiswa wePhondo** ubhekisa kumphathiswa wephondo ojongene nemicimbi yezithuthi ezindleleni kwiPhondo;”;
- (e) nokucinywa kwegama elithi “kunye” ekupheleni kwenkcazelo “yomgaqo”. 20

Utshitshiso lwecandelo 2 loMthetho 6 ka-2012

2. Icandelo 2 loMthetho-ngqangi liyatshitshiswa.

Utshitshiso lwecandelo 3 loMthetho 6 ka-2012

3. Icandelo 3 loMthetho-ngqangi liyatshitshiswa.

Ukufakelwa kwecandelo 5A kuMthetho 6 ka-2012

4. Eli candelo lilandelayo lifakelwa kuMthetho-ngqangi emva kwecandelo 5:

“Ukhuseleko ezindleleni

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5A. (1) UMphathiswa wePhondo angathi emva kokubonisana neKomiti yaBanini-zabelo, igosa eliyinqonyela kunye noomasipala bePhondo kwiPhondo, enze isicwangciso esineenkukacha sokuphakamisa nokuphucula ukhuseleko ezindleleni kwiPhondo.

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(2) INTloko yeSebe kufuneka—

(a) imisele ze ibeke iliso kwisicwangciso esichazwe kwicandelwana (1);

(b) iqokelele iinkukacha ezimalunga nokhuseleko ezindleleni izenze ukuba zifumaneke kubantu abasemagunyeni okanye abantu abachaphazelekayo nakuluntu gabalala ngaloo ndlela iNTloko yeSebe liyibona ifanelekile;

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(c) inike isikhokelo sokhuseleko ezindleleni kubasebenzisi-zindlela noluntu gabalala; kananjalo

(d) abonisane nabantu abasemagunyeni nabachaphazelekayo ngeenkqubo zokhuseleko ezindleleni ukuze kulungiselelwe ukunqanda ungquzulwano olubulala abantu lwezithuthi ezindleleni kwiPhondo.

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(3) INTloko yeSebe ingathi—

(a) ihlawulele uphando olumalunga nokhuseleko ezindleleni;

(b) incedise oomasipala abangenabasebenzi abadingekayo ukwenza amabala okuqeqesha abaqhubi abafunda ukuqhuba;

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(c) incedise oomasipala ngezibonelelo zoqeqesho abaqhubi abasafunda ukuqhuba izithuthi apho ezo zibonelelo zingekhoyo;

(d) inike iinkxaso kumaqumrhu ombuso ajolise ekuphuculeni ukhuseleko ezindleleni kwiPhondo;

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(e) inike isikhokelo ze incedise imibutho okanye amaqumrhu abantu abasebenzela ukuphakamisa okanye ukuphucula ukhuseleko ezindleleni;

(f) ibuzise ngawo nawuphi na umba omalunga nokuphakanyiswa okanye ukuphuculwa kokhuseleko ezindleleni kwiPhondo;

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(g) ithathe nawuphi amanyathelo adingekayo ukuphumeza ukuphakanyiswa okanye ukuphuculwa kokhuseleko ezindleleni kwiPhondo;

(h) yenze nawuphi umsebenzi ohambelana neenjongo zalo Mthetho.”.

Ukwenziwa kwezilungiso kwicandelo 7 loMthetho 6 ka-2012

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5. Icandelo 7 loMthetho-ngqangi lenziwa izilungiso ngokongezwa kweli candelwana, lilandelayo kwicandelo elikhoyo ukuze libe licandelwana (1):

“(2) UMphathiswa wePhondo makabeke nayiphi imirhumo ekufuneka ihlawulelwe iimoto ezibanjiweyo ezichazwe kwicandelo 8(1)(cA) nendlela emayilawulwe ngayo loo mirhumo.”.

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Ukwenziwa kwezilungiso kwicandelo 8 loMthetho 6 ka-2012

6. Icandelo 8 loMthetho-ngqangi lenziwa izilungiso—

(a) ngokucinywa kwegama elingu “okanye” ekupheleni komhlathi (c) wecandelwana (1); kunye

(b) nangokufakelwa emva komhlathi (c) wecandelwana (1) kwale mihlathi ilandelayo:

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- “(cA) ukubanjwa kwezithuthi ngamatyala athile okanye amatyala abaqhubi;
- (cB) amanyathelo ongezelekileyo okuphakamisa okanye okuphucula ukhuseleko ezindleleni;
- (cC) imisebenzi yabasebenzisi-zindlela;
- (cD) amanyathelo okulawula izithuthi;
- (cE) nawuphi umba odibene nohlolo oluchazwe kwicandelo 5, kubandakanywa ukumisela icandelo lohlolo, amagunya nemisebenzi yecandelo lohlolo, ukuqeshwa okanye ukugunyaziswa kwabantu ukuba benze uhlobo nemisebenzi kunye namagunya aboo bantu; okanye”.

Ukutshintshwa kwecandelo 9 loMthetho 6 ka-2012

7. Eli candelo lilandelayo lingena endaweni yecandelo 9 loMthetho-ngqangi:

“Unikezo-magunya

9. (1) UMphathiswa wePhondo unakho [— 15
- (a) **ukunika amagunya kuye nawuphi umntu ukuba enze nantoni na uMphathiswa anegunya lokuyenza phantsi kwalo mthetho, ngaphandle kwegunya lokwenza imigaqo; kananjalo**
- (b) **angagunyazisa nabani na ukuba enze nawuphi na umsebenzi ofanele ukwenziwa nguMphathiswa ngokwalo Mthetho]** 20
- ukunikeza ngamagunya akhe okanye athumele ukuba kwenziwe nawuphi na umsebenzi wakhe ekufuneka wenziwe ngokwalo mthetho ngaphandle kwegunya lokwenza imigaqo kwiNtloko yeSebe.
- (2) [UMphathiswa angawarhoxisa nanini na loo magunya **akwicandelwana (1)**] INtloko yeSebe inganikeza nawuphi na 25
- amagunya ayo okanye nawuphi na umsebenzi wakhe ekufuneka wenziwe ngokwalo Mthetho—
- (a) kumsebenzi weSebe; okanye
- (b) umntu obambe isikhundla esithile kwiSebe.
- (3) Unikezo-magunya okanye umsebenzi ekubhekiswe kuwo 30
- kwicandelwana (1) okanye (2)—
- (a) kufuneka ubhalwe phantsi;
- (b) wenziwe phantsi kwemiqathango;
- (c) ungarhoxiswa okanye utshintshwe ngembalelwano nguMphathiswa wePhondo okanye yiNtloko yeSebe, ngokwemeko 35
- leyo;
- (d) kunganikezwa amanye amagunya okanye omnye umsebenzi;
- (e) awunqandi uMphathiswa wePhondo okanye iNtloko yeSebe, ngokwemeko leyo ukuba asebenzise eloo gunya okanye enze loo msebenzi; yaye 40
- (f) akumkhululi uMphathiswa wePhondo okanye iNtloko yeSebe, ngokwemeko leyo, kuxanduva olumalunga negunya elinikezelweyo okanye ukwenziwa komsebenzi ekuthiwe mawenziwe ngomnye umntu.”.

Ukutshintshwa kwecandelo 13 loMthetho 6 ka-2012

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8. Eli candelo lilandelayo lingena endaweni yecandelo 13 loMthetho-ngqangi:

“Imigaqo yethutyana

13. Umgaqo owenziwe kulandelwa umthetho iWestern Cape Provincial Road Traffic Act, 1998 (Umthetho 12 ka-1998), yaye ube ubusasebenza xa bekuqala ukusebenza kwalo Mthetho, malunga 50

nomcimbi ekubhekiswe kuwo kwicandelo [10] 8, uthathwa ngokuba wenziwe kulandelwa lo uMthetho.”.

Ukutshintshwa kwecandelo 16 loMthetho 6 ka-2012

9. Eli candelo lilandelayo lingena endaweni yecandelo 16 loMthetho-ngqangi:

“Isihloko esifutshane nokuqala kokusebenza komthetho

16. Lo Mthetho ubizwa ngokuba nguMthetho [woLawulo] lokuHamba kweziThuthi eziNdleleni kwiPhondo leNtshona Koloni, 2012, yaye uya kuqala ukusebenza ngomhla obekwe yiNkulumbuso ngokuthi yenze uMpoposho *kwiGazethi yePhondo*.”. 5

Ukusetyenziswa kwelinye igama endaweni yelo belisetyenziswa

10. UMthetho-ngqangi wenziwa izilungiso ngokuthi endaweni yegama elithi, “uMphathiswa”, qho apho likhoyo, kusetyenziswe elo lithi “uMphathiswa wePhondo”. 10

Utshintsho lweNational Road Safety Act, 1972

11. Umthetho iNational Road Safety Act, 1972 (UMthetho 9 ka-1972), uyatshintshiswa ngenxa yokuba umsebenzi wawo wokulawula udluliselwe kwiPhondo.

Ukutshintshwa kwesihloko eside soMthetho 6 ka-2012

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12. Esi sihloko side silandelayo singena endaweni yesihloko eside soMthetho-ngqangi:

“Ulungiselelwe ukuba ulawule imicimbi ethile yePhondo edibene nokuhamba kwezithuthi ezindleleni; ukuphakamisa nokuphucula ukhuseleko lweendlela kwiPhondo; kunye nemiba chambelana noko.” 20

Isihloko esifutshane nokuqala kokusebenza komthetho

13. Lo Mthetho ubizwa ngokuba nguMthetho weZilungiso woLawulo lokuHamba kweziThuthi eziNdleleni kwiPhondo leNtshona Koloni, 2017, yaye uya kuqala ukusebenza ngomhla obekwe yiNkulumbuso ngokuthi yenze uMpoposho *kwiGazethi yePhondo*. 25

**IMEMORANDAM YEENJONGO ZOMTHETHO OSAYILWAYO
WEZILUNGISO WOLAWULO LOKUHAMBA KWEZITHUTHI
EZINDLELENI KWIPHONDO LENTSHONA KOLONI, 2017**

1. INTSUKAPHI

- 1.1 UMthetho woLawulo lweziThuthi eziNdleleni weNtshona Koloni, 2012 (uMthetho 6 ka-2012) (Lo Mthetho), wamkelwa ngowe-7 kweyoMnga 2012 waze waqala ukusebenza emva kompoposho womhla wo-1 kweyeSilimela 2013.
- 1.2 Lo Mthetho watshitshisa umthetho iWestern Cape Road Traffic Act, 1998 (uMthetho 12 ka-1998), owawuxhasa iNational Road Traffic Act, 1996 (uMthetho 93 ka-1996), nowawujongene nemiba yezendlela yephondo. Emva kokuphunyeka kwaloo mithetho mibini, iPalamente yeSizwe, yaphumeza umthetho iAdministrative Adjudication of Road Traffic Offences Act, 1998 (uMthetho 46 ka-1998), neRoad Traffic Management Corporation Act, 1999 (uMthetho 20 ka-1999). Le mithetho yanyanzelisa ukuba kwenziwe izilungiso eziliqela kwiNational Road Traffic Act, 1996, nomthetho iWestern Cape Road Traffic Act, 1998.
- 1.3 Lo Mthetho wangena endaweni yomthetho iWestern Cape Road Traffic Act, 1998, ngokubonelela ngemigaqwana yokuxhasa iNational Road Traffic Act, 1996 eyayenziwe izilungiso. Eyona njongo yalo Mthetho yayikukulungiselela ukulawulwa kwemirhumo yeelayisenisi zezithuthi, ezidingekayo ngokwecandelo 92 leNational Road Traffic Act, 1996, ukuba ilawulwe liPhondo, ukutsho oko, imirhumo yeelayisenisi zezithuthi kufuneka ibekwe nguMphathiswa onoxanduva lwemiba yezothutho ezindleleni kwiPhondo (uMphathiswa wePhondo) yaye loo mirhumo kufuneka imali yayo ingene kwiNgxowa-mali yeNgeniso yePhondo. Amacandelo ahlukileyo alo Mthetho ayenzelwe ukuphumeza ezi mfundo zolawulo.

2. IINJONGO ZOMTHETHO OSAYILWAYO

- 2.1 Enye yeeNjongo zoMthetho oSayilwayo woLawulo lokuHamba kweziThuthi eziNdleleni wePhondo leNtshona Koloni, 2017 (umthetho osayilwayo) kukulungiselela uMphathiswa wePhondo ukuba enze imigaqo yokubanjwa kwezithuthi ngenxa yokwaphulwa kwemigaqo ethile yezendlela. Oku kulandela inkqubo yokwenziwa kwemigaqonkqubo eyenziwe nguMphathiswa wePhondo malunga nesidingo samanyathelo angqongqo ukunqanda ukophulwa kwemithetho yendlela. Injongo kukusebenza ngokufanelekileyo ngezenzo zolwaphulo-mthetho ezithile ezibeka ukhuseleko ezindleleni emngciphekweni kodwa ekungakwazekiyo ukusebenza ngazo ngokufanelekileyo ngendlela eqhelekileyo yokukhupha izohlwayo. Ukubamba izithuthi iya kuba linyathelo elongezelekileyo ukunyanzelisa ukuthotyelwa kwemigaqo yeendlela.
- 2.2 Injongo yesibini yalo Mthetho uSayilwayo kukuhoya isidingo sokuhlaziya imithetho evumela iPhondo ukuba liphakamise ukhuseleko ezindleleni ngokutshitshisa umthetho iNational Road Safety Act, 1972 (uMthetho 9 ka-1972), ze endaweni yawo kungene uMthetho oSayilwayo. Ngokwalo Mthetho uSayilwayo, uMphathiswa wePhondo angenza imigaqo yokuphakamisa okanye ukuphucula ukhuseleko ezindleleni. UMthetho iNational Road Safety Act, 1972, wadluliselwa kwiPhondo ngo-1995 yaye utshitshiso luya kusebenza kuphela kwiPhondo. Imiqathango equlethwe kulo Mthetho uSayilwayo ibufana naleyo ikwiNational Road Safety Act, 1972, kuba ivumela iPhondo ukuba lenze imisebenzi yokufundisa, yokuphakamisa okanye ukukhuthaza neyophando kwiPhondo ngenjongo yokufundisa nokukhuthaza ukusetyenziswa kweendlela zikawonke-wonke ngokukhuselekileyo. UMthetho iNational Road Safety Act, 1972, wenziwe izilungiso kumba wabantu abanoxanduva lolawulo lwemithetho, uhlaziyiwe ukubonisa amagosa anoxanduva okanye aqeshiweyo kuRhulumente wePhondo okhoyo ngoku.

3. IZINTO EZIQULETHWE NGULO MTHETHO USAYILWAYO

- 3.1 **Isoloty 1** loMthetho oSayilwayo linikeza iinkcazelo ezongezelweyo kwicandelo 1 ezingabandakanyanga kuMthetho iNational Road Safety Act, 1972, ezidingekayo ukuxhasa imigaqo emitsha efakwe kulo mthetho nguMthetho oSayilwayo.
- 3.2 **Isoloty 2** litshitshisa icandelo 2 lalo Mthetho. Eli candelo libonelela ngeerejista neerekhodi ezazidingeka ukulawula imirhumo yeelayisenisi zezithuthi. Kuthe xa kuphononongwa, kwabonwa ukuba eli candelo alidingeki ngoba zonke iirejista neerekhodi zemirhumo yeelayisenisi zezithuthi zifakiwe kwiNational Road Traffic Act, 1996. Inkqubo ye-eNaTIS nguvimba welizwe lonke apho kufakwe zonke iinkcukacha zabaqhubi nezezithuthi, nazo zonke iirekhodi ezidingekayo zolawulo lwezicelo nokukhutshwa nokuhlawulwa kwemirhumo yeelayisenisi zezithuthi.
- 3.3 **Isoloty 3** litshitshisa icandelo 3 lalo Mthetho. Eli candelo lilungiselele ukwenziwa kweekopi zalo naluphi uxwebhu olukwirejista okanye olukwirekhodi oludingwa njengobungqina. Nayiphi ngoku ikopi edingekayo ingafunyanwa kwi-NaTIS, nto leyo eyenza ukuba icandelo 3 lingadingeki.
- 3.4 **Isoloty 4** lifaka icandelo 5A loMthetho oSayilwayo kulo Mthetho.

Icandelo 5A loMthetho oSayilwayo, elinesihloko esithi “uKhuseleko ezindleleni”, lingena endaweni yemiqathango yeNational Road Safety Act, 1972. Lifuna ukuba uMphathiswa wePhondo enze isicwangciso sokhuseleko ezindleleni sePhondo esebenzisana neKomiti yaBanini-zabelo, nengqonyela okanye iRoad Traffic Management Corporation. Isidingo sokubonisana singenxa yokuba iKomiti yaBanini-zabelo (enoMphathiswa weSizwe ne-MECs zamaphondo olithoba) nengqonyela inoxanduva lokhuseleko lweendlela kwilizwe lonke, yaye nasiphi isicwangciso sokhuseleko ezindleleni kufuneka senziwe ze simiselwe ngokuhambisana namaphulo esizwe.

Icandelo 5A likwabeka uxanduva lwentloko yesebe enoxanduva lwemicimbi yokhuseleko ezindleleni kwiPhondo (iNtloko yeSebe) ukuba imisele isicwangciso sokhuseleko ezindleleni sePhondo. Oku kubandakanya ukwenziwa kweenkqubo zeeenkukacha nokuphakamisa ukhuseleko ezindleleni ngokuthi kwenziwe uphando, iimfundiso noqeqesho.

- 3.5 **Isoloty 5** lixhobisa uMphathiswa wePhondo phantsi kwecandelwana 7 ukuba abeke imirhumo yokophulwa kwemithetho enokukhokelela ekubanjweni kwezithuthi.
- 3.6 **Isoloty 6** lifaka imiba eyongezelelekileyo kwicandelo 8 egunyazisa uMphathiswa wePhondo ukuba enze imigaqo. Le miba ibandakanya umgaqo oza kuphakamisa ukhuseleko ezindleleni enokwenziwa ukuba ilawule imiba ebandakanywe kwicandelo 5A. Isoloty 6 likwanika uMphathiswa wePhondo igunya lokwenza imigaqo emalunga nemisebenzi yabasebenzisi-zindlela namanyathelo okulawula izithuthi ezisezindleleni kwiPhondo.

Isoloty 6 liza nemihlathi emitsha yokuxhobisa uMphathiswa wePhondo ukuba enze imigaqo yokubanjwa kwezithuthi apho kophulwe imigaqo ethile yezendlela. Imigaqo yokubanjwa kwezithuthi iza kugqiba nangokuba ngoobani abafanele ukuba babe “ngamagosa agunyazisayo” aza kunikwa igunya lokubamba izithuthi, yaye iza kubonelela ngomiselo, ubhengezo, ukusebenza nolawulo lwezibonelelo ezinezithuthi ezibanjiweyo apho ziza kugcinwa khona ngokukhuselekileyo de zize kukhululwa ngabanini bazo.

- 3.7 **Isoloty 7** lenza izilungiso kwicandelo 9 ukuvumela uMphathiswa wePhondo ukuba adlulisele amagunya alo Mthetho, ngaphandle kwalawo okwenziwa kwemigaqo, kwiNtloko yeSebe. Ukwenziwa kwezilungiso kwicandelo 9 kukwawumela ukuba iNtloko yeSebe idlulisele nawaphi na amagunya kumntu osebenzela iSebe.
- 3.8 **Isoloty 8** lilungisa ubhekiso olungachanekanga olukwicandelo 13 lalo Mthetho.
- 3.9 **Isoloty 9** litshintsha isihloko salo Mthetho ukuba ube “nguMthetho wokuHamba kweziThuthi eziNdleleni kwiPhondo leNtshona Koloni, 2012” ukubonisa utshintsho lokuba lo Mthetho awuzi kuphelela nje kulawulo lwezithuthi kodwa uza kudlulela nakuxanduva lwezithuthi ezisezindleleni olubandakanya ukuphakanyiswa kokhuseleko ezindleleni, imigaqo yezendlela nokunyanzeliswa kwemithetho yezendlela.
- 3.10 **Isoloty 10** lenza izilungiso kwindawo zalo Mthetho ezibhekisa kuMphathiswa onoxanduva lwemiba yezithuthi ezindleleni zePhondo ukuze “uMphathiswa” abizwe ngokuba “nguMphathiswa wePhondo” ngokuhambelana nesigama esisetyenziswa kwimithetho yephondo.
- 3.11 **Isoloty 11** litshitshisa iNational Road Safety Act, 1972, kumsebenzi wolawulo nanjengoko lo msebenzi unikwe iPhondo.
- 3.12 **Isoloty 12** litshintsha isihloko eside salo Mthetho.
- 3.13 **Isoloty 13** lijongana nesihloko esifutshane nokuqala kokusebenza kwalo Mthetho uSayilwayo.

4. AMAGUNYA OKWENZA UMTHETHO

UMphathiswa wePhondo onoxanduva lwemicimbi yezendlela kwiPhondo wanelisekile kukuba izimiso zalo Mthetho uSayilwayo zisemagunyeni ePhondo.

5. UTHETHWANO

Uthethwano noluntu ngokubanzi: Lo Mthetho uSayilwayo wapapashelwa ukufumana izimvo zoluntu ngomhla we-12 kweyoMsintsi 2016 phantsi kweSaziso sePhondo 363/2016 *kwiGazethi yePhondo 7677* ukuba uluntu lwenze iziphakamiso zalo. Umhla wokuphelelwa kokufakwa kweziphakamiso yayingumhla we-12 kweyeDwarha 2016. ISixeko seKapa saye sanikwa ixesha elongezelelweyo de kwangumhla wama-24 kweyeDwarha 2016, ngokwesicelo saso.

ISebe leNkulumbuso: iiNkonzo zoMthetho

ISebe lezoThutho neMisebenzi yoLuntu: iCandelo loLawulo lokuHamba kweZithuthi

6. IMALI EDINGEKAYO

UMthetho oSayilwayo nje ukuba umiselwe uze uSetyenziswe akuzudala naziphi na iindleko zokuphunyezwa kwawo.

7. ABASEBENZI ABADINGEKAYO

UMthetho oSayilwayo nje ukuba umiselwe uze uSetyenziswe akuzudinga nabaphi na abasebenzi bokuphunyezwa kwawo.