

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

IPHONDO LENTSHONA KOLONI

**Provincial Gazette  
Extraordinary**

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Provinsiale Koerant**

**Isongezelelo  
kwiGazethi yePhondo**

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**INHOUD**

**IZIQUATHO**

(\*Reprints are obtainable at Room M21, Provincial Legislature Building, 7 Wale Street, Cape Town 8001.)

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(\*Ushicilelo oLutsha lufumaneka kwigumbi M21, kwiSakhiwo sePhondo seNdlu yoWiso-Mthetho, 7 Wale Street, eKapa 8001.)

**Provincial Notice**

**Provinsiale Kennisgewing**

**ISaziso sePhondo**

The following Draft Bill is published for comment:

Die volgende Konsepwetsontwerp word vir kommentaar gepubliseer:

Lo Mthetho usaYilwayo upapashelwa ukufumana izimvo zoluntu:

Draft Western Cape Laws Repeal Bill, 2018

Wes-Kaapse Konsepwetsontwerp op die Herroeping van Wette, 2018

UMthetho osaYilwayo woTshitshiso lweMithetho weNtshona Koloni, 2018

P.N. 106/2018

17 August 2018

P.K. 106/2018

17 Augustus 2018

I.S. 106/2018

17 kweyeThupha 2018

Any person or organisation wishing to comment on the Draft Bill is requested to submit the comments in writing before or on 10 September 2018—

Enige persoon of organisasie wat kommentaar op die Konsepwetsontwerp wil lewer, word versoek om die kommentaar skriftelik in te dien voor of op 10 September 2018—

Nawuphi na umntu okanye umbutho onqwenela ukunika izimvo ngalo Mthetho usaqulunqwayo uyacelwa ukuba izimvo zakhe makazibhale phantsi ze azingenise phambi okanye ngomhla we-10 Septemba 2018—

(a) by posting the comments to:  
Head of Department  
Department of Social Development  
Private Bag X9112  
Cape Town 8000  
(Attention: Marion Johnson);

(a) deur die kommentaar te pos na:  
Departementshoof  
Departement van Maatskaplike  
Ontwikkeling  
Privaatsak X9112  
Kaapstad 8000  
(Aandag: Marion Johnson);

(a) ngokuposela kule dilesi:  
Head of Department  
Department of Social Development  
Private Bag X9112  
Cape Town 8000  
(Makubhalwe eli gama:  
Marion Johnson);

(b) by delivering the comments to:  
Marion Johnson  
10th Floor  
14 Queen Victoria Street  
Cape Town 8001; or

(b) deur die kommentaar af te lewer aan:  
Marion Johnson  
10de Verdieping  
Koningin Victoriastraat 14  
Kaapstad 8001; of

(b) ngokuzisa ngesandla kule dilesi:  
Marion Johnson  
Umgangatho 10  
14 Queen Victoria Street  
eKapa; okanye

(b) by e-mailing the comments to:  
Marion.Johnson@westerncape.gov.za.

(c) deur die kommentaar per e-pos te stuur na:  
Marion.Johnson@westerncape.gov.za.

(c) nge-imeyili:  
Marion.Johnson@westerncape.gov.za.

Queries can be made to Marion Johnson, tel.: 021 483 8273.

Navrae kan gerig word aan Marion Johnson, tel. 021 483 8273.

Imibuzo ingabhekiswa kuMarion Johnson kule nombolo: 021 483 8273.

**PROVINCIAL NOTICE**

The following Provincial Notice is published for comment.

ADV. B. GERBER,  
DIRECTOR-GENERAL

Provincial Legislature Building,  
Wale Street,  
Cape Town.

**PROVINSIALE KENNISGEWING**

Die volgende Provinsiale Kennisgewing word vir kommentaar gepubliseer.

ADV. B. GERBER,  
DIREKTEUR-GENERAAL

Provinsiale Wetgewer-gebou,  
Waalstraat,  
Kaaipstad.

**ISAZISO SEPHONDO**

Esi saziso silandelayo sipapashelwe ukunika izimvo.

ADV. B. GERBER,  
UMLAWULI-JIKELELE

ISakhiwo sePhondo,  
Wale Street,  
eKapa.

P.N. 106/2018

17 August 2018

**DRAFT WESTERN CAPE LAWS REPEAL BILL, 2018**

**To repeal certain obsolete laws; and to provide for matters incidental thereto.**

**B**E IT ENACTED by the Provincial Parliament of the Western Cape, as follows:—

**Repeal of laws**

1. The laws specified in the second column of the Schedule, in so far as they apply in or have been assigned to the Province of the Western Cape, are repealed to the extent indicated in the third column of the Schedule.

**Short title**

2. This Act is called the Western Cape Laws Repeal Act, 2018.

**SCHEDULE**

| <b>Number and year of law</b> | <b>Short title</b>                                     | <b>Extent of repeal</b>  |
|-------------------------------|--|--|
| Ordinance 21 of 1964          | Dryfe House and The Deanery Alienation Ordinance, 1964 | The whole  |
| Act 81 of 1967                | Aged Persons Act, 1967                                 | The whole, excluding sections 5, 6 and 16  |
| Act 100 of 1978               | National Welfare Act, 1978                             | The whole, excluding—<br>(a) sections 2, 3, 4, 20 and 22A(1) and (2)(a) and (b); and<br>(b) sections 1, 18 and 21(1)(d) and (g) in so far as they apply or relate to the sections listed in paragraph (a). |

## MEMORANDUM ON THE OBJECTS OF THE DRAFT WESTERN CAPE LAWS REPEAL BILL, 2018

### 1. BACKGROUND

- 1.1 The Dryfe House and The Deanery Alienation Ordinance, 1964 (Ordinance 21 of 1964) (the Ordinance), was assigned in its entirety to the Western Cape Province (the Province) by Proclamation 115 of 1994, published in *Government Gazette* 15813 of 17 June 1994. The title of the Ordinance refers to immovable property located in Cape Town then known as Dryfe House and The Deanery (the properties). Parts 1 and 2 of the Schedule to the Ordinance contain a description of the properties.
- 1.2 The Ordinance provides for the transfer of the properties to a welfare organisation, then known as the Cape Peninsula Welfare Organisation for the Aged, for the purpose of providing and maintaining a home and community centre for older persons of the white group and offices for the welfare organisation.
- 1.3 The Ordinance predates the Constitution of the Republic of South Africa, 1996, and does not comply with its provisions, in particular not with section 9, which prohibits unfair discrimination on the basis of race. The properties were subsequently redeveloped and the proceeds used to benefit other facilities for older persons, irrespective of race, in the Province. The Draft Western Cape Laws Repeal Bill, 2018 (the Draft Bill), seeks to repeal the whole of this Ordinance because it is obsolete.
- 1.4 The Aged Persons Act, 1967 (Act 81 of 1967) (the Aged Persons Act), was assigned to the Province, excluding certain sections, by Proclamation R.7 of 1996, published in *Government Gazette* 16992 dated 23 February 1996. The Aged Persons Act provides for the protection and welfare of certain older and debilitated persons, for the care of their interests, for the establishment and registration of certain institutions, for the accommodation and care of persons in such institutions, for the payment of old-age pensions and certain allowances and for incidental matters.
- 1.5 The Older Persons Act, 2006 (Act 13 of 2006), currently regulates the position of older persons in South Africa. The Aged Persons Act is, as a consequence, redundant legislation, and the Draft Bill seeks to repeal it to the extent of its assignment to the Province.
- 1.6 The National Welfare Act, 1978 (Act 100 of 1978) (the National Welfare Act), was assigned to the Province by the above-mentioned Proclamation R.7 of 1996, excluding certain sections.
- 1.7 The National Welfare Act seeks to provide for the establishment and constitution of a South African Welfare Council, regional welfare boards and certain committees, to define their powers and functions, to provide for welfare programmes and the registration of welfare organisations and to provide for incidental matters.

1.8 The National Welfare Act no longer has any practical utility for the Province because the contemplated regional welfare boards do not exist, and matters concerning the registration and funding of welfare organisations are currently regulated by more recent legislation, including the Nonprofit Organisations Act, 1997 (Act 71 of 1997). The Draft Bill seeks to repeal the National Welfare Act to the extent of its assignment to the Province.

## **2. OBJECT OF DRAFT BILL**

2.1 The object of the Draft Bill is to repeal the Ordinance, the Aged Persons Act and the National Welfare Act in so far as they apply in or have been assigned to the Province. These laws are obsolete and are of no application in the Province.

## **3. CONTENTS OF DRAFT BILL**

### **3.1 Clause 1**

Clause 1 provides for the repeal of the legislation and the extent of the repeal, as indicated in the second and third columns of the Schedule respectively.

### **3.2 Clause 2**

Clause 2 provides for the short title.

## **4. CONSULTATION**

Department of the Premier: Legal Services

## **5. FINANCIAL IMPLICATIONS**

None

## **6. PERSONNEL IMPLICATIONS**

None

## **7. LEGISLATIVE COMPETENCE**

The Provincial Minister responsible for social development is satisfied that the provisions in the Draft Bill fall within the legislative competence of the Province.

## WES-KAAPSE KONSEPWETSONTWERP OP DIE HERROEPING VAN WETTE, 2018

**Om sekere verouderde wette te herroep; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.**

**D**AAR WORD BEPAAL deur die Provinsiale Parlement van die Wes-Kaap, soos volg:—

### Herroeping van wette

1. Die wette vermeld in die tweede kolom van die Bylae, vir sover hulle van toepassing is in of opgedra is aan die Provinsie Wes-Kaap, word herroep in die mate aangedui in die derde kolom van die Bylae.

### Kort titel

2. Hierdie Wet heet die Wes-Kaapse Wet op die Herroeping van Wette, 2018.

### BYLAE

| Nommer en jaar van Wet  | Kort titel   | Omvang van herroeping  |
|-------------------------|--|--|
| Ordonnansie 21 van 1964 | Ordonnansie op die Vervreemding van Dryfe House en The Deanery, 1964 | Die geheel   |
| Wet 81 van 1967         | Wet op Bejaarde Persone, 1967  | Die geheel, uitgesonderd artikels 5, 6 en 16   |
| Wet 100 van 1978        | Nasionale Welsynswet, 1978   | Die geheel, uitgesonderd—<br>(a) artikels 2, 3, 4, 20 en 22A(1) en (2)(a) en (b); en<br>(b) artikels 1, 18 en 21(d) en (g) vir sover dit van toepassing is of betrekking het op die artikels vermeld in paragraaf (a). |

## MEMORANDUM OOR DIE OOGMERKE VAN DIE WES-KAAPSE KONSEPWETSONTWERP OP DIE HERROEPING VAN WETTE, 2018

### 1. AGTERGROND

- 1.1 Die Ordonnansie op die Vervreemding van Dryfe House en The Deanery, 1964 (Ordonnansie 21 van 1964) (die Ordonnansie), is in sy geheel opgedra aan die Provinsie Wes-Kaap (die Provinsie) by Proklamasie 115 van 1994, gepubliseer in *Staatskoerant* 15813 van 17 Junie 1994. Die titel van die Ordonnansie verwys na onroerende eiendom geleë in Kaapstad wat destyds bekendgestaan het as Dryfe House en The Deanery (die eiendomme). Deel 1 en 2 van die Bylae tot die Ordonnansie bevat 'n beskrywing van die eiendomme.
- 1.2 Die Ordonnansie maak voorsiening vir die oordrag van die eiendomme aan 'n welsynsorganisasie wat destyds bekendgestaan het as die Kaapse Skiereilandse Welsynorganisasie vir Bejaardes, met die doel om 'n tehuis en gemeenskapsentrum vir ouer persone van die wit groep en kantore vir die welsynsorganisasie te verskaf en in stand te hou.
- 1.3 Die Ordonnansie gaan die Grondwet van die Republiek van Suid-Afrika, 1996, vooraf, en voldoen nie aan sy bepalings nie, veral nie aan artikel 9 nie, wat onregverdigde diskriminasie op grond van ras verbied. Die eiendomme is sedertdien herontwikkel en die opbrengs is ten bate van ander fasiliteite vir ouer persone, ongeag ras, in die Provinsie gebruik. Die Wes-Kaapse Konsepwetsontwerp op die Herroeping van Wette, 2018 (die Konsepwetsontwerp), beoog om die hele Ordonnansie te herroep omdat dit verouderd is.
- 1.4 Die Wet op Bejaarde Persone, 1967 (Wet 81 van 1967) (die Wet op Bejaarde Persone), is, met die uitsondering van sekere artikels, by Proklamasie R.7 van 1996 gepubliseer in *Staatskoerant* 16992 van 23 Februarie 1996 aan die Provinsie opgedra. Die Wet op Bejaarde Persone maak voorsiening vir die beskerming en welsyn van sekere ouer en verswakte persone, vir die omsien na hul belange, vir die instelling en registrasie van sekere instellings, vir die akkommodasie en sorg van persone in sulke instellings, vir die betaling van ouderdomspensioene en sekere toelaes en vir verbandhoudende aangeleenthede.
- 1.5 Die "Older Persons Act, 2006" (Wet 13 van 2006), reguleer tans die posisie van ouer persone in Suid-Afrika. Gevolglik is die Wet op Bejaarde Persone oorbodige wetgewing, en die Konsepwetsontwerp beoog om dit te herroep in die mate van die opdrag daarvan aan die Provinsie.
- 1.6 Die Nasionale Welsynswet, 1978 (Wet 100 van 1978) (die Nasionale Welsynswet), is aan die Provinsie opgedra by die bogenoemde Proklamasie R.7 van 1996, met die uitsondering van sekere artikels.
- 1.7 Die Nasionale Welsynswet het ten doel om voorsiening te maak vir die instelling en samestelling van 'n Suid-Afrikaanse Welsynsraad, streekswelsynsrade en sekere komitees, om hul bevoegdhede en funksies te omskryf, om voorsiening te maak vir welsynsprogramme en die registrasie van welsynsorganisasies en om voorsiening te maak vir verbandhoudende aangeleenthede.

- 1.8 Die Nasionale Welsynswet het nie meer enige praktiese nut vir die Provinsie nie omdat die beoogde streekswelsynsrade nie bestaan nie, en aangeleenthede rakende die registrasie en befondsing van welsynsorganisasies word tans deur meer onlangse wetgewing gereguleer, waaronder die Wet op Organisasies Sonder Winsoogmerk, 1997 (Wet 71 van 1997). Die Konsepwetsontwerp beoog om die Nasionale Welsynswet te herroep in die mate waarin dit aan die Provinsie opgedra is.

## **2. OOGMERK VAN KONSEPWETSONTWERP**

- 2.1 Die oogmerk van die Konsepwetsontwerp is om die Ordonnansie, die Wet op Bejaarde Persone en die Nasionale Welsynswet te herroep vir sover dit van toepassing is in of opgedra is aan die Provinsie. Hierdie wette is verouderd en word nie toegepas in die Provinsie nie.

## **3. INHOUD VAN KONSEPWETSONTWERP**

- 3.1 **Klousule 1**  
Klousule 1 maak voorsiening vir die herroeping van die wetgewing en die omvang van die herroeping, soos aangedui in onderskeidelik die tweede en derde kolomme van die Bylae.
- 3.2 **Klousule 2**  
Klousule 2 maak voorsiening vir die kort titel.

## **4. OORLEGPLEGING**

Departement van die Premier: Regsdienste

## **5. FINANSIËLE IMPLIKASIES**

Geen

## **6. PERSONEELIMPLIKASIES**

Geen

## **7. WETGEWENDE BEVOEGDHEID**

Die Provinsiale Minister verantwoordelik vir maatskaplike ontwikkeling is oortuig dat die bepalings in die Konsepwetsontwerp binne die wetgewende bevoegdheid van die Provinsie ressorteer.

**UQULUNQO LOMTHETHO OSAYILWAYO WOTSHITSHISO LWEMITHETHO  
WENTSHONA KOLONI, KA-2018**

**Ukutshitshisa imithetho ethile engasetyenziswayo; nokubonelela ngemiba ehambelana naleyo.**

**M**AWUMISELWE yiPalamente yePhondo leNtshona Koloni ngolu hlobo lulandelayo:—

**Ukutshitshiswa kwemithetho**

1. Imithetho exelwe kwikholam yesibini yeShedyuli, njengoko isebenza okanye ilungiselelwe iPhondo leNtshona Koloni iyatshitshiswa ngolu hlobo kuchazwe ngalo kwikholam yesithathu yeShedyuli.

**Isihloko esifutshane**

2. Lo mthetho ubizwa ngokuba nguMthetho woTshitshiso lweMithetho weNtshona Koloni, ka-2018.

**ISHEDYULI**

| <b>Inombolo nonyaka womthetho</b> | <b>Isihloko esifutshane</b>                                   | <b>Iindawo ezitshitshiswayo kumthetho</b>   |
|-----------------------------------|---|---|
| UMmiselo 21 ka-1964               | <i>Dryfe House and The Deanery Alienation Ordinance, 1964</i> | Wonke   |
| UMthetho 81 ka-1967               | <i>Aged Persons Act, 1967</i>                                 | Wonke, ngaphandle kwamacandelo 5, 6 no-16   |
| UMthetho 100 ka-1978              | <i>National Welfare Act, 1978</i>                             | Wonke, ngaphandle—<br>(a) kwamacandelo 2, 3, 4, 20 no-22A(1) no-(2)(a) no-(b); kunye<br>(b) namacandelo 1, 18 no-21(1)(d) no-(g) kwiindawo asebenza kuzo kumacandelo adweliswe kumhlathi (a). |



## IMEMORANDUM YEENJONGO ZOQULUNQO LOMTHETHO OSAYILWAYO WOTSHITSHISO LWEMITHETHO WENTSHONA KOLONI, 2018

### 1. INTSUKAPHI

- 1.1 Ummiselo i*Dryfe House and The Deanery Alienation Ordinance, 1964* (uMmiselo 21 ka-1964) (uMmiselo), wawusebenzela iPhondo lonke leNtshona Koloni (iPhondo) emva koMpoposho 115 ka-1994, owapapashwa kwi*Gazethi yePhondo* 15813 ka-17 Juni 1994. Isihloko soMmiselo sibhekisa kwipropati engafudusekiyo eseKapa eyayibizwa ngelo xesha ngokuba yiDryfe House neThe Deanery (iipropati). Amacandelo 1 no-2 eShedyuli yoMmiselo anenkcazelo ngezi propati.
- 1.2 Ummiselo ubonelela ngodluliselo lweepropati kumbutho wezentlalontle, owawusaziwa ngelo xesha ngokuba yiCape Peninsula Welfare Organisation for the Aged, ngeenjongo zokubonelela nokumenteyina ihomu neziko loluntu labantu abadala labantu abamhlophe kunye neefisi zombutho wezentlalontle.
- 1.3 Ummiselo waphunyezwa kudala phambi kobukho boMgaqosiseko weRiphabliki yoMzantsi, ka-1996, yaye awuhambelani nemigaqo yawo, ingakumbi icandelo 9, elithintela ukuba abantu bangacalulwa ngokwebala. Ezi propati zaphinda zaphuhliswa yaze imali eyenziwa ngazo yasetyenziselwa ukuphuhlisa amanye amaziko abantu abadala angakhethanga bala lamntu kwiPhondo. Injongo yolu Qulunqo loMthetho oSayilwayo woTshitshiso lweMithetho weNtshona Koloni, 2018 (uQulunqo loMthetho oSayilwayo), kukutshitshisa wonke lo Mmiselo ngoba ngowakudala yaye awusasebenzi.
- 1.4 Umthetho i*Aged Persons Act, 1967* (uMthetho 81 ka-1967) (iAged Persons Act), waphunyezwa ukuba usebenze kwiPhondo, ngaphandle kwamacandelo athile, ngoMpoposho R.7 ka-1996, owapapashwa kwi*Gazethi yePhondo* 16992 womhla we-23 Februwari 1996. Umthetho iAged Persons Act ubonelela ngokhuselo nentlalontle yabantu abathile abadala nabayimilwelwe, ukukhathalela izidingo zabo, ukumisela nokubhalisa amaziko athile, ukuhlalisa nokukhathalela abantu kuloo maziko, ukuba yindawo yokuhlawulela indodla yabantu abadala neemali ezithile zezinto ezithile.
- 1.5 Umthetho i*Older Persons Act, 2006* (uMthetho 13 ka-2006), nguwo ngoku obeka imiqathango yokulawula iimeko zabantu abadala eMzantsi Afrika. Umthetho iAged Persons Act ngenxa yoko, awusasebenzi, yaye injongo yolu Qulunqo loMthetho oSayilwayo kukuwutshitshisa kuzo zonke iindawo apho ubhekisa kwiPhondo.
- 1.6 Umthetho i*National Welfare Act, 1978* (uMthetho 100 ka-1978) (iNational Welfare Act), waphunyezwa ukuba usebenze kwiPhondo ngoMpoposho okhakhanywe apha ngentla onguR.7 ka-1996, ngaphandle kwamacandelo athile.
- 1.7 Injongo yoMthetho iNational Welfare Act kukubonelela ngomiselo nobulungu beebhodi neekomiti ezithile zeSouth African Welfare Council, iibhodi zentlalontle zemimandla neekomiti ezithile, ukuchaza amagunya azo nemisebenzi yazo, ukubonelela ngeenkqubo zentlalontle nobhaliso lwemibutho yezentlalontle kunye nemiba ehambelana naleyo.

- 1.8 Umthetho iNational Welfare Act awuselolutho kwiPhondo ngoba ezo bhodi zentlalontle zemimandla azisekho yaye imiba emalunga nobhaliso kunye nenkxasomali yemibutho yezentlalontle ilawulwa yimithetho emitsha ekhoyo ngoku, kubandakanywa uMthetho *iNonprofit Organisations Act, 1997* (uMthetho 71 ka-1997). Injongo yolu Qulunqo loMthetho oSayilwayo ke ngoko kukutshitshisa iNational Welfare Act kwiindawo apho ubhekisa kwiPhondo.

## **2. INJONGO YOQULUNQO LOMTHETHO OSAYILWAYO**

- 2.1 Injongo yolu Qulunqo loMthetho oSayilwayo kukutshitshisa uMmiselo, kunye neAged Persons Act neNational Welfare Act kwiindawo apho usebenza okanye ubhekisa kwiPhondo. Le mithetho yeyakudala yaye ayisasebenzi kwiPhondo.

## **3. IZIQULATHO ZOQULUNQO LOMTHETHO USAYILWAYO**

- 3.1 **Isoloty 1**  
Isoloty 1 libonelela ngotshitshiso lomthetho neendawo ezitshitshiswayo kuwo njengoko kuxeliwe kwikholam yesibini nakweyesithathu eShedyuli ngokulandelelana.
- 3.2 **Isoloty 2**  
Isoloty 2 libonelela ngesihloko esifutshane.

## **4. UKUBONISANA**

ISEBE leNkulumbuso: Iinkonzo zoMthetho

## **5. UCHAPHAZELEKO LWEZIMALI**

Alukho

## **6. UCHAPHAZELEKO LWABASEBENZI**

Alukho

## **7. UTHOBELO LWEMITHETHO**

UMphathiswa wePhondo ojongene nophuhliso lwezentlalo wanelisekile ukuba imiqathango Yolu Qulunqo loMthetho oSayilwayo iyilandele yonke imithetho yePhondo.