

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

IPHONDO LENTSHONA KOLONI

**Provincial Gazette
Extraordinary**

**Buitengewone
Provinsiale Koerant**

**Isongezelelo
kwiGazethi yePhondo**

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Friday, 29 March 2019

Vrydag, 29 Maart 2019

uLwesihlanu, 29 kweyoKwindla 2019

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Ibhaliswe ePosini njengePhephandaba

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INHOUD

IZIQUATHO

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

(*Afskrifte is verkrygbaar by Kamer M21, Provinsiale Wetgewer-gebou, Waalstraat 7, Kaapstad 8001.)

(*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:

Olu qulunqo loMthetho oSayilwayo lupapashelwa izimvo:

41 Draft Western Cape Rail Transport Bill, 2019 2

41 Wes-Kaapse Konsepwetsontwerp op Spoorvervoer, 2019 14

41 Uqulunqo loMthetho oSayilwayo wezoThutho ngeZiporo weNtshona Koloni, 2019 27

Any person or organisation wishing to comment on the Draft Bill is requested to lodge such comments in writing before or on 15 May 2019, by—

Enige persoon of organisasie wat kommentaar op die Konsepwetsontwerp wil lewer, word versoek om die kommentaar skriftelik in te dien voor of op 15 Mei 2019, deur—

Nawuphi na umntu okanye umbutho ofuna ukufaka izimvo zakhe ngolu Qulunqo loMthetho oSayilwayo uyacelwa ukuba azifake zibhaliwe izimvo zakhe phambi komhla okanye ngomhla 15 kuCanzibe 2019, ngokuthi—

- (a) posting the comments to:
Doris Cassiem
Department of Transport and Public Works
Private Bag X9185
Cape Town 8000;
- (b) e-mailing the comments to:
doris.cassiem@westerncape.gov.za;
- (c) faxing the comments to:
Fax no.: 021 483 4243; or
- (d) delivering the comments to:
Doris Cassiem
Department of Transport and Public Works
Room 7-19
7th Floor
9 Dorp Street
Cape Town 8001.

- (a) die kommentaar te pos aan:
Doris Cassiem
Departement van Vervoer en Openbare Werke
Privaat Sak X9185
Kaapstad 8000;
- (b) die kommentaar te e-pos na:
doris.cassiem@westerncape.gov.za;
- (c) die kommentaar te faks na:
Faksnr.: 021 483 4243; of
- (d) die kommentaar af te lewer aan:
Doris Cassiem
Departement van Vervoer en Openbare Werke
Kamer 7-19
7de Verdieping
Dorpstraat 9
Kaapstad 8001.

- (a) azithumele ngeposi kulo ulandelayo:
KuDoris Cassiem
ISEbe lezoThutho neMisebenzi yoLuntu
Private Bag X9185
EKapa 8000;
- (b) azithumele nge-imeyili ku-:
doris.cassiem@westerncape.gov.za;
- (c) azifeksele:
Inombolo yefeksi: 021 483 4243; okanye
- (d) azise ngesandla:
KuDoris Cassiem
ISEbe lezoThutho neMisebenzi yoLuntu
KwiGumbi 7-19
kuMgangatho wesi-7
9 Dorp Street
EKapa 8001.

The name, telephone number, e-mail and/or fax number and address of the person submitting the comment should be clearly indicated.

Die naam, telefoonnommer, e-posadres en/of faksnommer en die adres van die persoon wat die kommentaar indien, moet duidelik aangedui word.

Igama, inombolo yomnxeba, i-imeyili kunye/okanye inombolo yefeksi yomntu ofaka izimvo zakhe kufuneka licace kakuhle.

For queries contact Doris Cassiem at 021 483 5058.

Vir navrae skakel Doris Cassiem by 021 483 5058.

Qhagamshelana noDoris Cassiem ku-021 483 5058 malunga nemibuzo.

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,
Kaapstad.

ISAZISO SEPHONDO

Esi saziso silandelayo sipapashelwe ukunika izimvo.

ADV. B. GERBER,
UMLAWULI-JIKELELE

ISakhiwo sePhondo,
Wale Street,
eKapa.

P.N. 41/2019

29 March 2019

DRAFT WESTERN CAPE RAIL TRANSPORT BILL, 2019

To provide for the monitoring, support and regulation of rail services in the Western Cape; and to provide for matters incidental thereto.

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

ARRANGEMENT OF SECTIONS**CHAPTER 1
INTERPRETATION AND OBJECTIVES**

1. Definitions
2. Objectives of Act

**CHAPTER 2
RAIL COMMITTEE**

3. Establishment of rail committee
4. Purpose and functions of rail committee
5. Cooperation agreements

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RAIL UNIT**

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16. Delegation and assignment
17. Offences
18. Short title and commencement

CHAPTER 1 INTERPRETATION AND OBJECTIVES

Definitions

1. In this Act, unless the context indicates otherwise—

“**Department**” means the provincial department responsible for public transport matters;

“**Head of Department**” means the head of the provincial department responsible for public transport matters;

“**integrated transport plan**” means an integrated transport plan as defined in the National Land Transport Act;

“**National Land Transport Act**” means the National Land Transport Act, 2009 (Act 5 of 2009);

“**prescribe**” means prescribe by regulations made under this Act;

“**Province**” means the Province of the Western Cape;

“**Provincial Minister**” means the member of the Provincial Cabinet responsible for public transport matters in the Province;

“**provincial norms and standards**” means the norms and standards made in terms of section 14(1)(a);

“**Provincial Regulatory Entity**” means the Provincial Regulatory Entity established for the Province in terms of section 23(1) of the National Land Transport Act;

“**rail committee**” means the committee established in terms of section 3(1);

“**rail inspectorate**” means the inspectorate established in terms of section 11(1);

“**rail operator**” means a person carrying on the business of operating a rail service in the Province;

“**rail service**” means a rail service as defined in the National Land Transport Act;

“**rail unit**” means the unit established in terms of section 6(1);

“**rail occurrence**” means a rail accident or rail incident prescribed as such, which could include criminal activity;

“Regulator” means the Regulator as defined in the National Railway Safety Regulator Act, 2002 (Act 16 of 2002);

“regulation” means a regulation made under this Act;

“this Act” includes the regulations made under this Act.

Objectives of Act

2. The objectives of this Act are—

- (a) to provide for measures to improve rail services in the Province;
- (b) to provide for the establishment of—
 - (i) a rail committee; and
 - (ii) a rail unit with a dedicated rail inspectorate;
- (c) to provide for cooperation between different organs of state in the performance of functions relating to rail;
- (d) to regulate the preparation and content of the commuter rail component of integrated transport plans; and
- (e) to regulate the process to address non-compliance by rail operators with national operational and service delivery norms and standards and provincial norms and standards.

CHAPTER 2 RAIL COMMITTEE

Establishment of rail committee

3. (1) The Provincial Minister must establish a committee called the rail committee to perform the functions contemplated in section 4.

(2) The rail committee must consist of the following members:

- (a) the Provincial Minister;
- (b) a representative of the rail unit;
- (c) a representative from the Department;
- (d) in the case of a municipality with significant rail infrastructure—
 - (i) an official of the municipality who is responsible for rail services;
 - (ii) an official of the municipality who is responsible for land transport law enforcement;
 - (iii) a member of the municipal police service established under section 64A of the South African Police Service Act, 1995 (Act 68 of 1995), deployed in the area of jurisdiction of the municipality;
- (e) the provincial commissioner appointed for the Province in terms of section 207(3) of the Constitution of the Republic of South Africa, 1996, or his or her authorised representative;
- (f) a representative of the national department responsible for rail services;
- (g) a representative of the Passenger Rail Agency of South Africa, established in terms of the Legal Succession to the South African Transport Services Act, 1989 (Act 9 of 1989);
- (h) a representative of the Regulator.

(3) The Provincial Minister must be the chairperson of the rail committee.

Purpose and function of rail committee

4. (1) The purpose of the rail committee is to give effect to the responsibility of provinces contemplated in section 11(1)(b)(iv) of the National Land Transport Act to bring together key players in order to—

- (a) ensure that rail services that operate in the Province are accessible, reliable, safe and efficient;
 - (b) ensure that both national and provincial norms and standards in respect of rail are adhered to; and
 - (c) coordinate the performance of functions between stakeholders to minimise duplication and promote consistency when performing a function that impacts on a rail service.
- (2) To give effect to the purpose set out in subsection (1), the members of the rail committee must cooperate with one another, including by meeting at least quarterly to—
- (a) consider the reports prepared by the rail unit in terms of section 7(2)(a)(v) and any recommendations of the rail unit contemplated in section 7(2)(b)(i);
 - (b) develop plans and programmes to improve rail services in the Province; and
 - (c) identify matters and particular interventions relating to rail services to be addressed by way of cooperation agreements, and the minimum content of the cooperation agreements.
- (3) The rail committee must make decisions on the recommendations made by the rail unit and on the implementation of plans and programmes.
- (4) The Provincial Minister may on reasonable notice call an urgent meeting of the rail committee for purposes of preventing, responding to or resolving a rail occurrence.

Cooperation agreements

5. (1) The Provincial Minister may enter into cooperation agreements with relevant organs of state for the purposes of achieving the objectives of this Act.
- (2) Members of the rail committee must use all reasonable endeavours to conclude and implement cooperation agreements.
- (3) Matters that may be provided for in cooperation agreements include—
- (a) the coordination of functions relating to the provision of rail services and rail safety;
 - (b) the implementation of plans and programmes to address non-compliance with national operational and service delivery norms and standards and provincial norms and standards;
 - (c) funding for rail infrastructure maintenance or rail law enforcement; and
 - (d) extraordinary measures that may be taken to prevent, respond to or resolve a rail occurrence.

CHAPTER 3 RAIL UNIT

Establishment of rail unit

6. (1) The Provincial Regulatory Entity must, with the concurrence of the Provincial Minister, establish a rail unit within the entity to perform the functions contemplated in section 7.
- (2) Members of the rail unit must have specialised knowledge of, or training or experience in, rail services and safe rail operations.

Functions of rail unit

7. (1) The rail unit must monitor and oversee the provision of rail services in the Province.

- (2) In performing the function contemplated in subsection (1), the rail unit—
- (a) must—
- (i) monitor compliance by rail operators in the Province with—
 - (aa) national operational and service delivery norms and standards; and
 - (bb) provincial norms and standards;
 - (ii) oversee rail safety in the Province;
 - (iii) identify municipalities that lack capacity and resources to perform their functions set out in the National Land Transport Act that relate to rail or impact on the delivery of rail services in the Province, and assist the municipalities to perform the functions;
 - (iv) collect and disseminate information relating to rail safety and rail service delivery;
 - (v) subject to section 15, report in the prescribed manner and within the prescribed period to the rail committee on—
 - (aa) the delivery of rail services in the Province;
 - (bb) non-compliance by a rail operator with national operational and service delivery norms and standards and provincial norms and standards;
 - (cc) rail safety concerns;
 - (dd) security incidents related to rail infrastructure; and
 - (ee) any other matter prescribed by the Provincial Minister for the rail unit to effectively fulfil its functions; and
 - (vi) develop and publish an annual report on the functions performed by it, in the manner and time frames prescribed by the Provincial Minister;
- (b) may—
- (i) make recommendations to the rail committee on—
 - (aa) measures that a rail operator may take to remedy the non-compliance by the rail operator with any national operational and service delivery norms and standards and provincial norms and standards; and
 - (bb) the improvement of any provincial norms and standards;
 - (ii) undertake feasibility studies aimed at improving rail services or rail safety, and engage with any person having the necessary expertise to furnish advice for that purpose;
 - (iii) provide education and conduct any other public awareness activities relating to efficient rail service delivery and safe railway operations;
 - (iv) receive and investigate complaints from the public in respect of rail services and rail safety; and
 - (v) make inquiries or hold hearings in the prescribed manner to enable it to perform its functions.

Information and monitoring systems

8. (1) The Provincial Regulatory Entity must establish and maintain information systems to assist the rail unit with the performance of its functions.

- (2) The information to be captured on the system may include the following:
- (a) records of non-compliance by rail operators with national operational and service delivery norms and standards and provincial norms and standards;
 - (b) rail occurrences;
 - (c) damage to or incidents related to rail infrastructure;
 - (d) the number and nature of complaints relating to rail services; and
 - (e) any other matter that the Provincial Regulatory Entity or rail unit regards necessary for the purpose contemplated in subsection (1).

(3) The rail unit may request any person, in writing, to provide it with data, information, documents, samples or materials required by the rail unit to perform its functions in terms of this Act.

(4) The Provincial Minister, after consultation with the rail operators, may make regulations prescribing the class, type and format of information or data to be submitted by rail operators, and the frequency of submission, for assessment of the performance of rail operators.

(5) The Provincial Minister may introduce monitoring systems to give effect to the functions contemplated in section 7(2)(a).

CHAPTER 4 INTEGRATED TRANSPORT PLANS

Commuter rail component of integrated transport plan

9. (1) Every municipality with significant rail infrastructure must prepare a commuter rail component as part of its integrated transport plan.

(2) The commuter rail component of an integrated transport plan must include the following information related to rail services in the area of jurisdiction of the municipality:

- (a) plans and schedules for linkages between towns;
- (b) plans to facilitate the implementation of provincial norms and standards;
- (c) a description of the level of law enforcement committed by the municipality to the safety of commuters;
- (d) a report on the state of rail services and rail safety; and
- (e) a report on the state of rail infrastructure, including the impact thereof on the delivery of rail services.

CHAPTER 5 FUNDING

Funds for rail improvement

10. The Provincial Minister may from funds appropriated by the Provincial Parliament facilitate the provision of rail services and the improvement of rail safety in the Province.

CHAPTER 6 RAIL INSPECTORATE

Appointment of rail inspectors

11. (1) The Provincial Regulatory Entity must, with the concurrence of the Provincial Minister, and as part of the rail unit, create a rail inspectorate and appoint rail inspectors to perform the functions set out in section 12.

(2) The Provincial Minister must issue a certificate of appointment and official proof of identity, in the prescribed form, to every person who is appointed as a rail inspector.

Functions of rail inspectors

12. (1) A rail inspector must—

- (a) monitor compliance by rail operators with the provisions of this Act; and
- (b) compile reports prescribed by the Provincial Minister.

(2) A rail inspector may request any person in writing to provide him or her with information or data that will assist him or her to determine whether a rail operator is or has been complying with any national operational and service delivery norms and standards or provincial norms and standards.

(3) A rail inspector may, at any reasonable time and without prior notice, enter premises under the control of a rail operator, except a private residence, in order to inspect whether or not the rail operator is or has been complying with national operational and service delivery norms and standards or provincial norms and standards.

(4) A rail inspector must—

- (a) identify himself or herself to the person in control of the premises;
- (b) upon the request of the person, show him or her the rail inspector's certificate of appointment contemplated in section 11(2); and
- (c) explain the purpose and the scope of the inspection to the person.

(5) A rail inspector may take all reasonable measures to collect relevant data and information for purposes of performing his or her monitoring functions set out in this section.

Duty to assist rail inspector and to produce documents

13. (1) A person contemplated in section 12(2) must provide the rail inspector with all the information and data requested in terms of section 12(2), within 10 days or within such reasonable period specified in the written request.

(2) No person may obstruct or hinder a rail inspector in the carrying out of any functions in terms of this Act.

(3) Any person questioned by a rail inspector must answer each question to the best of his or her ability, but no person is required to answer any question if the answer may be self-incriminating.

(4) A person who holds a document requested by the rail inspector must produce it and allow the inspection of the document, including the making of copies thereof.

CHAPTER 7 GENERAL PROVISIONS

Regulations

14. (1) The Provincial Minister must make regulations regarding any matter that must be prescribed and may make regulations regarding—

- (a) norms and standards for rail operators relating to—
 - (i) the provision of rail services in the Province;
 - (ii) passenger safety;
- (b) the monitoring and oversight of national operational and technical norms and standards;
- (c) any matter relating to the functioning of the rail unit, including a procedure for receiving and finalising complaints contemplated in section 7(2)(b)(iv);
- (d) the manner in which inspections contemplated in section 12 must be conducted;
- (e) the procedures for meetings of the rail committee, including quorums;
- (f) the keeping of records by the rail committee; or
- (g) in general, any matter which is necessary or expedient to prescribe in order to achieve the objects of this Act.

(2) Notwithstanding subsection (1), regulations contemplated in subsection (1)(a) must be made after consultation with rail operators, the Regulator, the national department responsible for rail matters, and municipalities with significant rail infrastructure.

Non-compliance with norms and standards

15. (1) Where the rail unit is aware that a rail operator has failed to comply with any national operational and service delivery norms and standards or provincial norms and standards, the rail unit must consult with the rail operator and may hold inquiries or hearings in order to ascertain the reasons for the non-compliance.

(2) Where the rail unit has consulted with the rail operator or has held an inquiry or hearing contemplated in subsection (1), it—

(a) must inform the rail committee of the non-compliance and its assessment of the reasons for the non-compliance; and

(b) may make recommendations to the rail committee as contemplated in section 7(2)(b)(i)(aa).

(3) The rail committee must—

(a) consider the reports and recommendations prepared by the rail unit;

(b) develop implementation plans or programmes to address the non-compliance; and

(c) report the non-compliance to the member of the National Cabinet responsible for rail services.

(4) The Provincial Minister, after consultation with the other members of the rail committee, may approve the implementation of plans or programmes developed in terms of subsection (3)(b).

(5) The rail operator must implement the plans or programmes approved in terms of subsection (4) to remedy the non-compliance and report on its progress with regard to such approved plans or programmes.

(6) Where a rail operator fails to implement a material term of the plans or programmes contemplated in subsection (4), the rail unit must afford the rail operator a reasonable opportunity to remedy the failure, failing which the rail unit may declare a dispute in terms of section 41 of the Intergovernmental Relations Framework Act, 2005 (Act 13 of 2005).

Delegation and assignment

16. (1) The Provincial Minister may delegate any of his or her powers or assign any of his or her duties in terms of this Act to the Head of Department or the rail unit, except the power to make regulations.

(2) The Head of Department may delegate any of his or her powers or assign any of his or her duties to an employee in the Department or the holder of a specific office or position in the Department.

(3) A delegation contemplated in subsection (1) or (2)—

(a) must be in writing;

(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 the 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

(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.

Offences

17. A person who impedes or obstructs the rail inspectorate from performing its functions in terms of this Act—

- (a) by refusing to give access to rail infrastructure;
- (b) by refusing to give access to records or provide relevant information requested by a rail inspector in terms of this Act and which is under that person's control;
- (c) by refusing to permit the making of copies of the records or information contemplated in paragraph (b); or
- (d) by knowingly giving false information that is material to questions posed by a rail inspector in terms of section 13(3),

commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding three months, or to both a fine and imprisonment.

Short title and commencement

18. This Act is called the Western Cape Rail Transport Act, 2019, and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*.

MEMORANDUM ON THE OBJECTS OF THE DRAFT WESTERN CAPE RAIL TRANSPORT BILL, 2019

1. BACKGROUND

- 1.1 Public transport is a functional area of concurrent national and provincial legislative competence (Part A of Schedule 4 to the Constitution of the Republic of South Africa, 1996). Passenger rail transport is a component of public transport.
- 1.2 The National Land Transport Act, 2009 (Act 5 of 2009), places a number of responsibilities on the provincial sphere of government regarding land transport. These include, among others, planning, coordination and facilitation of land transport functions in the province, liaising with other government departments in the national and provincial spheres with responsibilities that impact on transport and land use planning issues, bringing together key players, ensuring that municipalities lacking capacity and resources are capacitated to perform their land transport functions, building capacity in municipalities to monitor the implementation of the National Land Transport Act, 2009, and performing other provincial functions assigned to the Member of the Executive Council (MEC) in terms of that Act.
- 1.3 The National Land Transport Act, 2009, requires an MEC to set standards, performance criteria and related indicators to ensure intermodal and intramodal coordination and the efficient management of investment in transport and of transport infrastructure and systems. An MEC must also coordinate transport initiatives with municipalities and other stakeholders in the transport field by establishing coordinating structures or by other methods.
- 1.4 The Provincial Minister of Transport and Public Works has identified a number of strategic provincial objectives in respect of public transport in the Province. These include achieving an increase in the use of public transport by facilitating a modal shift from private to public transport through improved rail transport and increased access to safe and efficient public transport.
- 1.5 Passenger rail should play a vital role in the Province through the provision of high-capacity, affordable, efficient and rapid access to opportunities as an alternative to road-based transport. However, the passenger rail service in the Western Cape is in a state of crisis. Across all major measures of performance (capacity, punctuality, cancellations and overcrowding) the service has markedly declined. This decline has been hastened by arson attacks on trains, theft and vandalism. The crisis is having a detrimental impact on rail passengers, the broader public and the economy of the Western Cape. The consequent passenger exodus from rail transport is placing significant pressure on the road network and other public transport services, worsening congestion.
- 1.6 In order to achieve the Province's public transport strategic objectives and in the context of the enduring rail crisis, the need for the Province to play a stronger role in regulating, monitoring and overseeing passenger rail services in the Province has become increasingly urgent. The Draft Western Cape Rail Transport Bill (the Draft Bill) seeks to provide legislative measures to meet this need and enable the Province to fulfil its legal mandate in terms of the Constitution and national legislation.

2. OBJECTS OF DRAFT BILL

The primary object of the Draft Bill is to improve rail safety and rail service standards in the Province. The Draft Bill proposes various measures to achieve this, including: providing for cooperative rail management between relevant organs of state through the establishment of a rail committee and the conclusion of cooperation agreements, the establishment of a rail unit with a rail inspectorate to perform monitoring and oversight of rail services and safety, the establishment and maintenance of an information system, regulating the preparation and content of the commuter rail component of municipalities' integrated transport plans, and regulating the process of addressing non-compliance by rail operators with national operational and service delivery norms and standards and provincial norms and standards.

3. CONTENTS OF DRAFT BILL

- 3.1 **Clause 1** provides definitions for the interpretation of the Draft Bill.
- 3.2 **Clause 2** describes the objectives of the Draft Bill.
- 3.3 **Clause 3** provides for the establishment, membership and chairperson of a rail committee.
- 3.4 **Clause 4** sets out the purpose and functions of the rail committee.
- 3.5 **Clause 5** provides for cooperation agreements between the Provincial Minister and relevant organs of state.
- 3.6 **Clause 6** provides for the establishment of a rail unit and the expertise which members of the rail unit must possess.
- 3.7 **Clause 7** sets out the functions of the rail unit.
- 3.8 **Clause 8** provides for information and monitoring systems.
- 3.9 **Clause 9** deals with the commuter rail component of municipalities' integrated transport plans.
- 3.10 **Clause 10** provides for the allocation of funds for the purposes of facilitating the provision of rail services and improving rail safety in the Province.
- 3.11 **Clause 11** provides for the establishment of a rail inspectorate, the appointment of rail inspectors, and the issuing of a certificate of appointment.
- 3.12 **Clause 12** sets out the functions of rail inspectors and contains provisions relating to requests for information, the searching of premises, and the collection of relevant data and information.
- 3.13 **Clause 13** places a duty on persons to assist rail inspectors and to produce certain documents.

- 3.14 **Clause 14** empowers the Provincial Minister to make regulations on various matters.
- 3.15 **Clause 15** sets out the procedure that applies when a rail operator fails to comply with applicable norms and standards.
- 3.16 **Clause 16** provides for the delegation of powers or the assignment of duties by the Provincial Minister and the Head of Department.
- 3.17 **Clause 17** provides for offences.
- 3.18 **Clause 18** provides for the short title and commencement of the Draft Bill.

4. CONSULTATION

Department of the Premier: Legal Services

5. PERSONNEL IMPLICATIONS

- 5.1 It is estimated that between 50 and 100 staff members will be required for the rail unit, consisting of some office-based management and administrative staff supported by inspectors deployed in the field.
- 5.2 There are no personnel implications for the rail committee, considering that members of the committee will be full-time staff of relevant organs of state and other relevant entities in the public sector.

6. FINANCIAL IMPLICATIONS

- 6.1. The cost of implementing the Draft Bill will be covered in the annual budget of the Western Cape Department of Transport and Public Works.
- 6.2. The establishment costs of the rail unit and information systems were estimated between R14,7 million and R26,3 million, and the annual operational costs between R40 million and R80 million, depending on the level of intervention.
- 6.3. In addition to these costs, there may be costs to be funded by municipalities, with potential support from the Province. The main requirement is for municipalities with significant rail infrastructure to prepare a rail component as part of their integrated transport plans, for which the costs are estimated to range from R1,5 to R6 million per annum, depending on the level of intervention.
- 6.4. Costs may also be incurred in providing funding to municipalities to improve rail security. These costs will depend on unique municipal needs.

7. LEGISLATIVE COMPETENCE

The Provincial Minister responsible for transport and public works is satisfied that the provisions of the Draft Bill fall within the legislative competence of the Province.

WES-KAAPSE KONSEPWETSONTWERP OP SPOORVERVOER, 2019

Om voorsiening te maak vir die monitering, ondersteuning en regulering van spoordienste in die Wes-Kaap; 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:—

INDELING VAN ARTIKELS

HOOFSTUK 1 UITLEG EN OOGMERKE

1. Woordomskrywing
2. Oogmerke van Wet

HOOFSTUK 2 SPOORKOMITEE

3. Instelling van spoorkomitee
4. Doel en werksaamhede van spoorkomitee
5. Samewerkingsooreenkomste

HOOFSTUK 3 SPOOREENHEID

6. Instelling van spooreenheid
7. Werksaamhede van spooreenheid
8. Inligting- en moniteringstelsels

HOOFSTUK 4 GEÏNTEGREERDE VERVOERPLANNE

9. Pendelaarspoorkomponent van geïntegreerde vervoerplan

HOOFSTUK 5 BEFONDSING

10. Fondse vir spoorverbetering

HOOFSTUK 6 SPOORINSPEKTORAAT

11. Aanstelling van spoorinspekteurs
12. Werksaamhede van spoorinspekteurs
13. Plig om spoorinspekteurs behulpsaam te wees en dokumente te verskaf

HOOFSTUK 7 ALGEMENE BEPALINGS

14. Regulasies
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HOOFSTUK 1 UITLEG EN OOGMERKE

Woordoms krywing

1. In hierdie Wet, tensy dit uit die samehang anders blyk, beteken—

“**Departement**” die provinsiale departement verantwoordelik vir openbare-vervoeraangeleenthede;

“**Departementshoof**” die hoof van die provinsiale departement verantwoordelik vir openbarevervoeraangeleenthede;

“**geïntegreerde vervoerplan**” ’n geïntegreerde vervoerplan soos omskryf in die Wet op Nasionale Landvervoer;

“**hierdie Wet**” ook die regulasies wat kragtens hierdie Wet gemaak is;

“**Provinsiale Minister**” die lid van die Provinsiale Kabinet verantwoordelik vir openbarevervoeraangeleenthede in die Provinsie;

“**provinsiale norme en standaarde**” die norme en standaarde wat ingevolge artikel 14(1)(a) gemaak is;

“**Provinsiale Regulerende Entiteit**” die Provinsiale Regulerende Entiteit wat ingevolge artikel 23(1) van die Wet op Nasionale Landvervoer vir die Provinsie ingestel is;

“**Provinsie**” die Provinsie van die Wes-Kaap;

“**regulasie**” ’n regulasie wat kragtens hierdie Wet gemaak is;

“**Reguleerder**” die “Regulator” soos omskryf in die “National Railway Safety Regulator Act, 2002” (Wet 16 van 2002);

“**spoordiens**” ’n “rail service” soos omskryf in die Wet op Nasionale Landvervoer;

“**sporeenheid**” die eenheid wat ingevolge artikel 6(1) ingestel is;

“**spoorinspektoraat**” die inspektoraat wat ingevolge artikel 11(1) ingestel is;

“**spoorkomitee**” die komitee wat ingevolge artikel 3(1) ingestel is;

“**spooroperateur**” ’n persoon wat die besigheid van ’n spoordiens in die Provinsie bedryf;

“**spoorvoorval**” ’n spoorongeluk of spoorinsident wat as sodanig voorgeskryf is, wat kriminele aktiwiteite kan insluit;

“**voorskryf**” voorskryf by regulasies gemaak kragtens hierdie Wet;

“**Wet op Nasionale Landvervoer**” beteken die “National Land Transport Act, 2009” (Wet 5 van 2009).

Doelwitte van Wet

2. Die oogmerke van hierdie Wet is—

(a) om voorsiening te maak vir maatreëls om spoordienste in die Provinsie te verbeter;

(b) om voorsiening te maak vir die instelling van—

- (i) 'n spoorkomitee; en
- (ii) 'n spooreenheid met 'n toegewyde spoorinspektoraat;
- (c) om voorsiening te maak vir samewerking tussen verskillende staatsorgane by die verrigting van werksaamhede in verband met die spoorweë;
- (d) om die voorbereiding en inhoud van die pendelaarspoorkomponent van geïntegreerde vervoerplanne te reguleer; en
- (e) om die proses te reguleer om nievoldoening deur spooroperateurs aan nasionale bedryfs- en dienslewingsnorme en -standaarde en provinsiale norme en standaarde die hoof te bied.

HOOFSTUK 2 SPOORKOMITEE

Instelling van spoorkomitee

3. (1) Die Provinsiale Minister moet 'n komitee instel wat as die spoorkomitee bekend staan, om die werksaamhede beoog in artikel 4 te verrig.

(2) Die spoorkomitee moet uit die volgende lede bestaan:

- (a) die Provinsiale Minister;
- (b) 'n verteenwoordiger van die spooreenheid;
- (c) 'n verteenwoordiger van die Departement;
- (d) in die geval van 'n munisipaliteit met aansienlike spoorinfrastruktuur—
 - (i) 'n beampte van die munisipaliteit wat vir spoordienste verantwoordelik is;
 - (ii) 'n beampte van die munisipaliteit wat vir landvervoerwetstoepassing verantwoordelik is;
 - (iii) 'n lid van die munisipale polisiediens ingestel kragtens artikel 64A van die Wet op die Suid-Afrikaanse Polisiediens, 1995 (Wet 68 van 1995), wat in die regsgebied van die munisipaliteit ontplooi is;
- (e) die provinsiale kommissaris wat ingevolge artikel 207(3) van die Grondwet van die Republiek van Suid-Afrika, 1996, vir die Provinsie aangestel is, of sy of haar gemagtigde verteenwoordiger;
- (f) 'n verteenwoordiger van die nasionale departement verantwoordelik vir spoordienste;
- (g) 'n verteenwoordiger van die Passasierspooragentskap van Suid-Afrika, ingestel ingevolge die Wet op die Regsopvolging van die Suid-Afrikaanse Vervoerdienste, 1989 (Wet 9 van 1989);
- (h) 'n verteenwoordiger van die Reguleerder.

(3) Die Provinsiale Minister moet die voorsitter van die spoorkomitee wees.

Doel en werksaamhede van spoorkomitee

4. (1) Die doel van die spoorkomitee is om uitvoering te gee aan die verantwoordelikheid van provinsies beoog in artikel 11(1)(b)(iv) van die Wet op Nasionale Landvervoer om belangrike rolspelers bymekaar te bring ten einde—

- (a) toe te sien dat spoordienste wat in die Provinsie bedryf word, toeganklik, betroubaar, veilig en doeltreffend is;
- (b) toe te sien dat daar ten opsigte van die spoorweë aan beide nasionale en provinsiale norme en standaarde voldoen word; en
- (c) die verrigting van werksaamhede tussen belanghebbendes te koördineer om duplikasie te minimeer en konsekwentheid te bevorder wanneer 'n werksaamheid wat 'n impak op 'n spoordiens het, verrig word.

(2) Om uitvoering te gee aan die doel uiteengesit in subartikel (1) moet die lede van die spookomitee met mekaar saamwerk, met inbegrip daarvan om minstens kwartaalliks te vergader om—

- (a) die verslae opgestel deur die spooreenheid ingevolge artikel 7(2)(a)(v) en enige aanbevelings van die spooreenheid beoog in artikel 7(2)(b)(i) te oorweeg;
- (b) planne en programme te ontwikkel om spoordienste in die Provinsie te verbeter; en
- (c) met betrekking tot spoordienste, aangeleenthede en spesifieke ingrypings te identifiseer vir hantering deur samewerkingsooreenkomste en die minimum inhoud van die samewerkingsooreenkomste.

(3) Die spookomitee moet besluite neem oor die aanbevelings gemaak deur die spooreenheid en oor die implementering van planne en programme.

(4) Die Provinsiale Minister kan by redelike kennisgewing 'n dringende vergadering van die spookomitee byeenroep ten einde spoorvoorvalle te voorkom, daarop te reageer of dit op te los.

Samewerkingsooreenkomste

5. (1) Die Provinsiale Minister kan samewerkingsooreenkomste met relevante staatsorgane aangaan ten einde die doelwitte van hierdie Wet te bereik.

(2) Lede van die spookomitee moet alle redelike pogings aanwend om samewerkingsooreenkomste te sluit en te implementeer.

(3) Aangeleenthede waarvoor daar in samewerkingsooreenkomste voorsiening gemaak kan word, sluit in—

- (a) die koördinerings van werksaamhede in verband met spoordienste en spoorveiligheid;
- (b) die implementering van planne en programme om die nievoldoening aan nasionale bedryfs- en diensleweringse norme en -standaarde en provinsiale norme en standaarde die hoof te bied;
- (c) befondsing vir spoorinfrastruktuurinstandhouding of spoorwetstoepassing; en
- (d) buitengewone maatreëls wat getref kan word om 'n spoorvoorval te voorkom, daarop te reageer of dit op te los.

HOOFSTUK 3 SPOOREENHEID

Instelling van spooreenheid

6. (1) Die Provinsiale Regulerende Entiteit moet, met die instemming van die Provinsiale Minister, binne die entiteit 'n spooreenheid instel om die werksaamhede beoog in artikel 7 te verrig.

(2) Lede van die spooreenheid moet spesialiskennis van, of opleiding of ondervinding in, spoordienste en veilige spoorbedrywighede hê.

Werksaamhede van spooreenheid

7. (1) Die spooreenheid moet die verskaffing van spoordienste in die Provinsie monitor en daarvoor toesig hou.

(2) By die verrigting van die werksaamheid beoog in subartikel (1)—

- (a) moet die spooreenheid—
 - (i) die voldoening deur spooroperateurs in die Provinsie aan die volgende monitor:

- (aa) nasionale bedryfs- en diensleweringse norme en -standaarde; en
- (bb) provinsiale norme en standaarde;
- (ii) toesig hou oor spoorveiligheid in die Provinsie;
- (iii) munisipaliteite identifiseer wat 'n gebrek aan kapasiteit en hulpbronne het om hul werksaamhede uiteengesit in die Wet op Nasionale Landvervoer met betrekking tot die spoorweë te verrig of om 'n impak op die lewering van spoordienste in die Provinsie te maak, en die munisipaliteite bystaan met die verrigting van hul werksaamhede;
- (iv) inligting rakende spoorveiligheid en spoordienstlewering insamel en versprei;
- (v) behoudens artikel 15, op die voorgeskrewe wyse en binne die voorgeskrewe tydperk aan die spoorkomitee verslag doen van—
 - (aa) die lewering van spoordienste in die Provinsie;
 - (bb) nievoldoening deur 'n spooroperateur aan nasionale bedryfs- en diensleweringse norme en -standaarde en provinsiale norme en standaarde;
 - (cc) bekommernisse oor spoorveiligheid;
 - (dd) sekuriteitsvoorvalle in verband met spoorinfrastruktuur; en
 - (ee) enige ander aangeleentheid wat die Provinsiale Minister vir die spooreenheid voorskryf om hul werksaamhede doeltreffend te verrig; en
- (vi) 'n jaarverslag opstel en publiseer van die werksaamhede wat hy verrig het, op die wyse en binne die tydsraamwerke voorgeskryf deur die Provinsiale Minister;
- (b) kan die spooreenheid—
 - (i) aanbevelings aan die spoorkomitee maak oor—
 - (aa) maatreëls wat 'n spooroperateur kan tref om die nievoldoening deur die spooroperateur aan enige nasionale bedryfs- en diensleweringse norme en -standaarde en provinsiale norme en standaarde reg te stel; en
 - (bb) die verbetering van enige provinsiale norme en standaarde;
 - (ii) uitvoerbaarheidstudies onderneem wat daarop gemik is om spoordienste of spoorveiligheid te verbeter, en enige persoon betrek wat die nodige kundigheid het om advies vir daardie doel te verskaf;
 - (iii) opvoeding verskaf en enige ander openbare bewusmakingsaktiwiteite hou met betrekking tot doeltreffende spoordienstlewering en veilige spoorbedrywighede;
 - (iv) klagtes van die publiek ten opsigte van spoordienste en spoorveiligheid ontvang en ondersoek; en
 - (v) op die voorgeskrewe wyse navrae doen en verhoor hou wat hom in staat stel om sy werksaamhede te verrig.

Inligting- en moniteringstelsels

8. (1) Die Provinsiale Regulerende Entiteit moet inligtingstelsels daarstel en in stand hou om die spooreenheid met die verrigting van sy werksaamhede by te staan.

(2) Die inligting wat op die stelsel vasgelê word, kan die volgende insluit:

- (a) rekords van nievoldoening deur spooroperateurs aan nasionale bedryfs- en diensleweringse norme en -standaarde en provinsiale norme en standaarde;
- (b) spoorvoorvalle;
- (c) skade aan of insidente met betrekking tot spoorinfrastruktuur;
- (d) die getal en aard van klagtes in verband met spoordienste; en

(e) enige ander aangeleentheid wat die Provinsiale Regulerende Entiteit of spooreenheid nodig ag vir die doel beoog in subartikel (1).

(3) Die spooreenheid kan enige persoon skriftelik versoek om aan hom data, inligting, dokumente, eksemplare of materiale te verskaf wat die spooreenheid benodig om sy werksaamhede ingevolge hierdie Wet te verrig.

(4) Die Provinsiale Minister kan, vir die assessering van die prestasie van spoor-operateurs, ná oorleg met die spooroperateurs, regulasies maak wat die klas, tipe en formaat van inligting of data wat spooroperateurs moet indien en hoe gereeld dit ingedien moet word, voorskryf.

(5) Die Provinsiale Minister kan moniteringstelsels in gebruik stel om uitvoering te gee aan die werksaamhede beoog in artikel 7(2)(a).

HOOFSTUK 4 GEÏNTEGREERDE VERVOERPLANNE

Pendelaarspoorkomponent van geïntegreerde vervoerplanne

9. (1) Elke munisipaliteit met aansienlike spoorinfrastruktuur moet 'n pendelaarspoorkomponent as 'n deel van sy geïntegreerde vervoerplan voorberei.

(2) Die pendelaarspoorkomponent van 'n geïntegreerde vervoerplan moet die volgende inligting in verband met spoordienste in die regsgebied van die munisipaliteit bevat:

- (a) planne en roosters vir verbindings tussen dorpe;
- (b) planne om die implementering van provinsiale norme en standaarde te vergemaklik;
- (c) 'n beskrywing van die vlak van wetstoepassing waartoe die munisipaliteit hom vir die veiligheid van pendelaars verbind;
- (d) 'n verslag van die toestand van spoordienste en spoorveiligheid; en
- (e) 'n verslag van die toestand van spoorinfrastruktuur, met inbegrip van die impak daarvan op die lewering van spoordienste.

HOOFSTUK 5 BEFONDSING

Fondse vir spoorverbetering

10. Die Provinsiale Minister kan vanuit fondse wat deur die Provinsiale Parlement bewillig is, die verskaffing van spoordienste en die verbetering van spoorveiligheid in die Provinsie vergemaklik.

HOOFSTUK 6 SPOORINSPEKTORAAT

Aanstelling van spoorinspekteurs

11. (1) Die Provinsiale Regulerende Entiteit moet, met die instemming van die Provinsiale Minister en as 'n deel van die spooreenheid, 'n spoorinspektoraat skep en spoorinspekteurs aanstel om die werksaamhede uiteengesit in artikel 12 te verrig.

(2) Die Provinsiale Minister moet op die voorgeskrewe wyse 'n aanstellingsertifikaat en amptelike bewys van identiteit uitreik aan elke persoon wat as 'n spoorinspekteur aangestel word.

Wersaamhede van spoorinspekteurs

12. (1) 'n Spoorinspekteur moet—

- (a) die voldoening deur spooroperateurs aan die bepalings van hierdie Wet monitor; en
- (b) verslae opstel wat die Provinsiale Minister voorskryf.

(2) 'n Spoorinspekteur kan enige persoon skriftelik versoek om aan hom of haar inligting of data te verskaf wat hom of haar sal help om te bepaal of 'n spooroperateur aan enige nasionale bedryfs- en diensleweringse norme en -standaarde of provinsiale norme en standaardte voldoen of voldoen het.

(3) 'n Spoorinspekteur kan, te eniger redelike tyd en sonder voorafkennisgewing, 'n perseel wat onder die beheer van 'n spooroperateur is, behalwe 'n privaat woning, betree om te ondersoek of die spooroperateur aan nasionale bedryfs- en diensleweringse norme en -standaarde of provinsiale norme en standaardte voldoen.

(4) 'n Spoorinspekteur moet—

- (a) hom- of haarself identifiseer aan die persoon wat in beheer is van die perseel;
- (b) op versoek van die persoon, sy of haar spoorinspekteuraanstellingsertifikaat beoog in artikel 11(2) wys; en
- (c) die doel en omvang van die inspeksie aan die persoon verduidelik.

(5) 'n Spoorinspekteur kan alle redelike maatreëls tref om relevante data en inligting in te samel ten einde sy of haar moniteringswersaamhede uiteengesit in hierdie artikel te verrig.

Plig om spoorinspekteur behulpsaam te wees en dokumente te verskaf

13. (1) 'n Persoon beoog in artikel 12(2) moet, binne 10 dae of binne die redelike tydperk vermeld in die skriftelike versoek, alle inligting en data wat ingevolge artikel 12(2) aangevra is, aan die spoorinspekteur verskaf.

(2) Geen persoon mag die spoorinspekteur in die verrigting van enige wersaamhede ingevolge hierdie Wet dwarsboom of verhinder nie.

(3) Enige persoon wat deur 'n spoorinspekteur ondervra word, moet elke vraag na die beste van sy of haar vermoë beantwoord, maar geen persoon word verplig om enige vraag te beantwoord indien die antwoord moontlik selfinkriminerend kan wees nie.

(4) 'n Persoon wat 'n dokument het wat deur die spoorinspekteur aangevra word, moet dit verskaf en die inspeksie van die dokument toelaat, met inbegrip van die maak van afskrifte daarvan.

HOOFSTUK 7 ALGEMENE BEPALINGS

Regulasies

14. (1) Die Provinsiale Minister moet regulasies maak rakende enige aangeleentheid wat voorgeskryf moet word en kan regulasies maak rakende—

- (a) norme en standaardte vir spooroperateurs met betrekking tot—
 - (i) die voorsiening van spoordienste in die Provinsie;
 - (ii) passasiersveiligheid;
- (b) die monitering van en toesig oor nasionale bedryfs- en tegniese norme en standaardte;
- (c) enige aangeleentheid met betrekking tot die funksionering van die spooreenheid, met inbegrip van 'n prosedure beoog in artikel 7(2)(b)(iv) om klagtes te ontvang en af te handel;
- (d) die wyse waarop inspeksies beoog in artikel 12 uitgevoer moet word;

- (e) die prosedures vir vergaderings van die spoor Komitee, met inbegrip van kworums;
- (f) die hou van rekords deur die spoor Komitee; of
- (g) in die algemeen, enige aangeleentheid wat nodig of dienstig is om voor te skryf ten einde die oogmerke van hierdie Wet te bereik.

(2) Ondanks subartikel (1) moet regulasies beoog in subartikel (1)(a) gemaak word ná oorleg met spooroperateurs, die Reguleerder, die nasionale departement verantwoordelik vir spoor aangeleentede, en munisipaliteite met aansienlike spoorinfrastruktuur.

Nievoldoening aan norme en standaarde

15. (1) Waar die spooreenheid bewus is dat 'n spooroperateur versuim het om aan enige nasionale bedryfs- en dienslewingsnorme en -standaarde of provinsiale norme en standaarde te voldoen, moet die spooreenheid met die spooroperateur oorleg pleeg en kan hy ondersoek uitvoer of verhoor hou om die redes vir die nievoldoening vas te stel.

(2) Waar die spooreenheid soos beoog in subartikel (1) met die spooroperateur oorleg gepleeg het of 'n ondersoek uitgevoer of verhoor gehou het—

- (a) moet die spooreenheid die spoor Komitee in kennis stel van die nievoldoening en sy assessering van die redes vir die nievoldoening; en
- (b) kan die spooreenheid voorstelle aan die spoor Komitee maak soos beoog in artikel 7(2)(b)(i)(aa).

(3) Die spoor Komitee moet—

- (a) die verslae en aanbevelings wat die spooreenheid voorberei het, oorweeg;
- (b) implementeringsplanne of -programme ontwikkel om die nievoldoening die hoof te bied; en
- (c) die nievoldoening rapporteer aan die lid van die Nasionale Kabinet wat vir spoordienste verantwoordelik is.

(4) Die Provinsiale Minister, ná oorleg met die lede van die spoor Komitee, kan die implementering van planne of programme wat ingevolge subartikel (3)(b) ontwikkel is, goedkeur.

(5) Die spooroperateur moet die planne of programme wat ingevolge subartikel (4) goedgekeur is, implementeer om die nievoldoening reg te stel en van sy vordering teen sodanige goedgekeurde planne of programme verslag doen.

(6) Waar 'n spooroperateur versuim om 'n wesenlike bepaling van die planne of programme beoog in subartikel (4) te implementeer, moet die spooreenheid die spooroperateur 'n redelike geleentheid gee om die versuim reg te stel, by gebreke waarvan die spooreenheid ingevolge artikel 41 van die "Intergovernmental Relations Framework Act, 2005" (Wet 13 van 2005), 'n dispuut kan verklaar.

Delegasies en opdragte

16. (1) Die Provinsiale Minister kan enige van sy of haar bevoegdhede of pligte ingevolge hierdie Wet deleger of opdra aan die Departementshoof of die spooreenheid, behalwe die bevoegdheid om regulasies te maak.

(2) Die Departementshoof kan enige van sy of haar bevoegdhede deleger of enige van sy of haar pligte opdra aan 'n werknemer in die Departement of die bekleër van 'n spesifieke amp of posisie in die Departement.

(3) 'n Delegasie beoog in subartikel (1) of (2)—

- (a) moet op skrif wees;
- (b) kan aan voorwaardes onderhewig wees;
- (c) kan skriftelik deur die Provinsiale Minister of die Departementshoof ingetrek of gewysig word, na gelang van die geval;

- (d) kan die verdere delegasie van daardie bevoegdheid of die 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
- (f) ontdoen nie die Provinsiale Minister of die Departementshoof, na gelang van die geval, van die verantwoordelikheid rakende die uitoefening van die gedelegeerde bevoegdheid of die verrigting van die opgedraagde plig nie.

Oortredings

17. 'n Persoon wat die spoorinspektoraat belemmer of verhinder om sy werksaamhede ingevolge hierdie Wet te verrig—

- (a) deur te weier om toegang tot spoorinfrastruktuur te gee;
- (b) deur te weier om toegang tot rekords te gee of om relevante inligting te verskaf wat 'n spoorinspekteur ingevolge hierdie Wet aanvra en wat onder daardie persoon se beheer is;
- (c) deur te weier om die maak van afskrifte van die rekords of inligting beoog in paragraaf (b) toe te laat; of
- (d) deur bewustelik wesenlike inligting wat vals is, te verstrek op vrae wat ingevolge artikel 13(3) deur 'n spoorinspekteur gestel word,

pleeg 'n misdryf en is by skuldigbevinding strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens drie maande, of met beide 'n boete en gevangenisstraf.

Kort titel en inwerkingtreding

18. Hierdie Wet heet die Wes-Kaapse Wet op Spoorvervoer, 2019, en tree in werking op 'n datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal.

MEMORANDUM VAN DIE OOGMERKE VAN DIE WES-KAAPSE KONSEPWETSONTWERP OP SPOORVERVOER, 2019

1. AGTERGROND

- 1.1 Openbare vervoer is 'n funksionele gebied van konkurrente nasionale en provinsiale wetgewende bevoegdheid (Deel A van Bylae 4 by die Grondwet van die Republiek van Suid-Afrika, 1996). Passasierspoorvervoer is 'n komponent van openbare vervoer.
- 1.2 Die "National Land Transport Act, 2009" (Wet 5 van 2009), plaas 'n aantal verantwoordelikhede op die provinsiale regeringsfeer ten opsigte van landvervoer. Dit sluit onder meer beplanning, koördinerende en fasilitering van landvervoerwerkzaamhede in die provinsie in, skakeling met ander regeringsdepartemente in die nasionale en provinsiale sferes wat verantwoordelikhede het wat op vervoer- en grondgebruikbeplanningskwessies 'n impak maak, die bymekaarbring van sleutelrolspelers, om te sorg dat munisipaliteite met 'n gebrek aan kapasiteit en hulpbronne gekapasiteer word om hul landvervoerwerkzaamhede te verrig, die bou van kapasiteit in munisipaliteite om die implementering van die "National Land Transport Act, 2009", te monitor, en die verrigting van ander provinsiale werkzaamhede wat ingevolge die "National Land Transport Act, 2009", aan die Lid van die Uitvoerende Raad (LUR) opgedra is.
- 1.3 Die "National Land Transport Act, 2009", verwag van 'n LUR om standarde, prestasievereistes en verwante aanwysers te stel om intermodale en intramodale koördinasie en die doeltreffende bestuur van belegging in vervoer en van vervoerinfrastruktuur en -stelsels te verseker. 'n LUR moet ook vervoerinisiatiewe met munisipaliteite en ander belanghebbendes in die gebied van vervoer koördineer deur die instelling van koördinerende strukture of deur ander metodes.
- 1.4 Die Provinsiale Minister van Vervoer en Openbare Werke het 'n aantal strategiese provinsiale doelwitte ten opsigte van openbare vervoer in die Provinsie geïdentifiseer. Hierby word 'n toename in die gebruik van openbare vervoer deur die bevordering van 'n modale verskuiwing van privaat na openbare vervoer deur verbeterde spoorvervoer en verhoogde toegang tot veilige en doeltreffende openbare vervoer ingesluit.
- 1.5 Die passasierspoorstelsel behoort 'n noodsaaklike rol in die Provinsie te vervul deur hoëkapasiteits-, bekostigbare, doeltreffende en snelle toegang tot geleenthede te verskaf as 'n alternatief vir padvervoer. Die passasierspoordiens in die Wes-Kaap beleef egter 'n krisis. Die diens het regoor al die hoofaanwysers van prestasie (kapasiteit, stiptelikheid, kansellasies en oorlading) aansienlik afgeneem. Hierdie agteruitgang is vinnig vererger deur brandstiging op treine, diefstal en vandalisme. Die krisis het 'n nadelige uitwerking op spoorpassasiers, die breër publiek en die ekonomie van die Wes-Kaap. Die gevolglike uittog van passasiers uit spoorvervoer plaas aansienlike druk op die padnetwerk en ander openbarevervoerdienste, wat opeenhopings vererger.

- 1.6 Ten einde die Provinsie se strategiese doelwitte vir openbare vervoer te bereik en in die konteks van die voortslepende spoorwegkrisis, het die noodsaaklikheid dat die Provinsie 'n sterker rol in die regulering, monitering en toesig van passasierspoordienste in die Provinsie speel, toenemend dringend geword. Die Wes-Kaapse Konsepwetsontwerp op Spoorvervoer (die Konsepwetsontwerp) beoog om wetgewende maatreëls te verskaf om in hierdie behoefte te voorsien en om die Provinsie in staat te stel om sy wetlike mandaat ingevolge die Grondwet en nasionale wetgewing na te kom.

2. OOGMERKE VAN KONSEPWETSONTWERP

Die primêre oogmerk van die Konsepwetsontwerp is om spoorveiligheid en spoordienstandaarde in die Provinsie te verbeter. Die Konsepwetsontwerp stel verskeie maatreëls voor om dit te bereik, insluitende om voorsiening te maak vir samewerkende spoorbestuur tussen tersaaklike staatsorgane deur die daarstelling van 'n spoorkomitee en die afhandeling van samewerkingsooreenkomste, die stigting van 'n spooreenheid, met 'n spoorinspektoraat, om spoordienste en -veiligheid te monitor en daarvoor toesig te hou, die daarstelling en instandhouding van 'n inligtingstelsel, die regulering van die voorbereiding en inhoud van die pendelaarspoorkomponent van munisipaliteite se geïntegreerde vervoerplanne, en die regulering van die proses om nievoldoening deur spooroperateurs aan nasionale bedryfs- en diensleweringnorme en -standaarde en provinsiale norme en standaarde die hoof te bied.

3. INHOUD VAN KONSEPWETSONTWERP

- 3.1 **Klousule 1** verskaf omskrywings vir die uitleg van die Konsepwetsontwerp.
- 3.2 **Klousule 2** beskryf die oogmerke van die Konsepwetsontwerp.
- 3.3 **Klousule 3** maak voorsiening vir die instelling, lidmaatskap en voorsitter van 'n spoorkomitee.
- 3.4 **Klousule 4** sit die doel en werksaamhede van die spoorkomitee uiteen.
- 3.5 **Klousule 5** maak voorsiening vir samewerkingsooreenkomste tussen die Provinsiale Minister en tersaaklike staatsorgane.
- 3.6 **Klousule 6** maak voorsiening vir die instelling van 'n spooreenheid en die kundigheid wat lede van die spooreenheid moet hê.
- 3.7 **Klousule 7** sit die werksaamhede van die spooreenheid uiteen.
- 3.8 **Klousule 8** maak voorsiening vir inligting- en moniteringstelsels.
- 3.9 **Klousule 9** handel oor die pendelaarspoorkomponent van munisipaliteite se geïntegreerde vervoerplanne.

- 3.10 **Klousule 10** maak voorsiening vir die toewysing van fondse om die verskaffing van spoordienste en die verbetering van spoorveiligheid in die Provinsie te vergemaklik.
- 3.11 **Klousule 11** maak voorsiening vir die instelling van 'n spoorinspektoraat, die aanstelling van spoorinspekteurs en die uitreiking van 'n aanstellingsertifikaat.
- 3.12 **Klousule 12** sit die werksaamhede van die spoorinspekteurs uiteen en bevat bepalings met betrekking tot versoeke om inligting, die deursoeking van persele, en die insameling van relevante data en inligting.
- 3.13 **Klousule 13** verplig persone om spoorinspekteurs behulpsaam te wees en sekere dokumente te verskaf.
- 3.14 **Klousule 14** bemagtig die Provinsiale Minister om regulasies oor verskeie aangeleenthede te maak.
- 3.15 **Klousule 15** sit die prosedure uiteen wat van toepassing is wanneer 'n spooroperateur versuim om aan die toepaslike norme en standaarde te voldoen.
- 3.16 **Klousule 16** maak voorsiening vir die delegering van bevoegdhede of die opdrag van pligte deur die Provinsiale Minister en die Hoof van die Departement.
- 3.17 **Klousule 17** maak voorsiening vir misdrywe.
- 3.18 **Klousule 18** maak voorsiening vir die kort titel en inwerkingtreding van die Konsepwetsontwerp.

4. OORLEGPLEGING

Departement van die Premier: Regsdienste

5. PERSONEELIMPLIKASIES

- 5.1 Daar word beraam dat tussen 50 en 100 personeellede vir die spooreenheid benodig word, bestaande uit etlike kantoorgebaseerde bestuurs- en administratiewe personeel, wat ondersteun word deur inspekteurs wat in die veld ontplooi is.
- 5.2 Daar is geen personeelimplikasies vir die spoorkomitee nie, aangesien lede van die komitee voltydse personeel van relevante staatsorgane en ander relevante entiteite in die openbare sektor sal wees.

6. FINANSIËLE IMPLIKASIES

- 6.1 Die koste van die implementering van die Konsepwetsontwerp sal binne die jaarlikse begroting van die Wes-Kaapse Departement van Vervoer en Openbare Werke gedek word.

- 6.2 Die geraamde koste vir die instelling van die spooreenheid en inligtingstelsels is tussen R14,7 miljoen en R26,3 miljoen, en die jaarlikse bedryfskoste tussen R40 miljoen en R80 miljoen, afhangende van die vlak van ingryping.
- 6.3 Benewens hierdie kostes, kan daar kostes wees wat deur munisipaliteite befonds word, met moontlike ondersteuning van die Provinsie. Die belangrikste vereiste is dat munisipaliteite met aansienlike spoorinfrastruktuur 'n spoorkomponent as deel van hul geïntegreerde vervoerplanne moet voorberei, waarvoor die koste geraam word tussen R1,5 tot R6 miljoen per jaar, afhangende van die vlak van ingryping.
- 6.4 Koste kan ook aangegaan word om befondsing aan munisipaliteite te bied om spoorveiligheid te verbeter. Hierdie koste sal van unieke munisipale behoeftes afhang.

7. WETGEWENDE BEVOEGDHEID

Die Provinsiale Minister verantwoordelik vir vervoer en openbare werke is oortuig dat die bepalings van die Konsepwetsontwerp onder die wetgewende bevoegdheid van die Provinsie ressorteer.

UQULUNQO LOMTHETHO OSAYILWAYO WEZOTHUTHO NGEZIPORO, 2019

Kukunikezela isikhokelo sohlolo, inkxaso nomiselo lweenkonzo zeziporo eNtshona Koloni; kwanokunikezela ngesikhokelo kwimiba echaphazelekayo.

UZA KUMISELWA yiPalamente yeNtshona Koloni, ngokolu hlobo lulandelayo:—

UKULUNGELELANISWA KWAMACANDELO**ISAHLUKO 1
INKCAZO NEENJONGO**

1. Ingcaciso
2. Injongo zalo Mthetho

**ISAHLUKO 2
IKOMITI YEZIPORO**

3. Ukumiselwa kwekomiti yeziporo
4. Injongo nomsebenzi wekomiti yeziporo
5. Izivumelwano zentsebenziswano

**ISAHLUKO 3
ICANDELO LEZIPORO**

6. Ukumiselwa kwecandelo leziporo
7. Imisebenzi yecandelo leziporo
8. Iinkqubo zeenkukacha nohlolo

**ISAHLUKO 4
IZICWANGCIWO ZOTHUTHO EZIHLANGANISIWEYO**

9. Icandelo leziporo yothutho loluntu elikwiscwangciso sothutho esihlanganisiweyo

**ISAHLUKO 5
INKXASOMALI**

10. Inkxasomali yokuphuculwa kweziporo

**ISAHLUKO 6
ICANDELO LOHLOLO LWEZIPORO**

11. Ukuqashwa kwabahloli beziporo
12. Imisebenzi yabahloli beziporo
13. Uxanduva lokuncedisa umhloli weziporo nowokuveza amaxwebhu

ISAHLUKO 7 IZIBONELELO EZIPHANGALELEYO

14. Imimiselo
15. Ukungathotyelwa kwemigaqo nemimiselo
16. Ukudluliselwa kwamagunya nemisebenzi
17. Ukona
18. Isihloko esifutshane kwanokuqala ukusebenza

ISAHLUKO 1 INKCAZO NEENJONGO

Iingcaciso

1. Kulo Mthetho, ngaphandleni kokuba imeko yalathisa kwenye intsingiselo—
 - “**iSebe**” libhekisa kwisebe lephondo elinoxanduva lwemiba yothutho loluntu;
 - “**iNtloko yeSebe**” ibhekisa kwintloko yesebe lephondo enoxanduva lokujongana nemiba yothutho loluntu;
 - “**isicwangciso sothutho esihlanganisiweyo**” sibhekisa kwisicwangciso sothutho esihlanganisiweyo njengoko sichaziwe kumthetho iNational Land Transport Act;
 - “**iNational Land Transport Act**” ibhekisa kumthetho iNational Land Transport Act, ka-2009 (uMthetho 5 ka-2009);
 - “**ukumisela**” kubhekisa kumsebenzi wokumisela ngokwemigaqo yemimiselo equlunqwe phantsi kwalo Mthetho;
 - “**iPhondo**” libhekisa kuRhulumente wePhondo leNtshona Koloni;
 - “**uMphathiswa kwiPhondo**” ubhekisa kwilungu leKhabhinethi yePhondo elinoxanduva lokujongana nemiba yothutho loluntu kweli Phondo;
 - “**imigaqo nemimiselo yephondo**” ibhekisa kwimigqo nemimiselo equlunqwe ngokwesikhokelo secandelo 14(1)(a);
 - “**iQumrhu loMiselo kwiPhondo**” libhekisa kwiQumrhu loMiselo kwiPhondo elisekelwe eli Phondo ngokwemigaqo yecandelo 23(1) yomthetho iNational Land Transport Act;
 - “**ikomiti yeziporo**” ibhekisa kwikomiti esekwe ngokwemigaqo yecandelo 3(1);
 - “**icandelo lohloko lweziporo**” libhekisa kwicandelo elisekwe ngokwemigaqo yecandelo 11(1);
 - “**usomashishini kwicandelo leziporo**” ubhekisa kumntu oqhuba ishishini lokunikezela inkonzo yothutho kusetyenziswa iziporo kaloliwe kweli Phondo;
 - “**inkonzo yothutho kwiziporo**” ibhekisa kwinkonzo yothutho ngokweziporo njengoko ithiwe thaca kumthetho iNational Land Transport Act;
 - “**icandelo leziporo**” libhekisa kwicandelo elisekwe ngokwemigaqo yecandelo 6(1);
 - “**isihlo kwiziporo**” sibhekisa kwingozi okanye kwisihlo esihle kwiziporo nesithe sachazwa njengoko, nesinokuquka intshukumo yolwaphulomthetho;
 - “**Ummiseli**” ubhekisa kwiQumrhu lomiselo njengoko lithe lachazwa kumthetho iNational Railway Safety Regulator Act, ka-2002 (uMthetho 16 ka-2002);
 - “**ummiselo**” ubhekisa kummiselo omiselwe phantsi kwalo Mthetho;
 - “**lo Mthetho**” uquka nemimiselo eyenziwe phantsi kwalo Mthetho.

Iinjongo zalo Mthetho

2. Iinjongo zalo Mthetho—

- (a) kukubonelela ngesikhokelo sokuphuculwa kweenkonzo zothutho kwiziporo kweli Phondo;
- (b) kukunikezela isikhokelo sokusekwa—
 - (i) kwekomiti yeziporo; kwakunye
 - (ii) necandelo leziporo elikhatshwa licandelo elijongene nohlolo leziporo;
- (c) kukubonelela ngesikhokelo sentsebenziswano phakathi kwamaqumrhu ohlukeneyo ombuso kwimisebenzi enento yokwenza neziporo;
- (d) kukumisela ukwenziwa kwamalungiselelo kwakunye nomongo wecandelo loku-thuthwa koluntu kwiziporo elijolise kwizicwangciso zothutho ezihlanganisiweyo; kwakunye
- (e) nokumisela inkqubo yokujongana nomkhwa wokungathotyelwa kwemimiselo ngabanini-mashishini anikezela iinkonzo zothutho kwiziporo ngokwemigaqo nemimiselo yesizwe yokusebenza nokunikezelwa kweenkonzo kwakunye nemigaqo nemimiselo yephondo.

ISAHLUKO 2 IKOMITI YEZIPORO

Ukumiselwa kwekomiti yeziporo

3. (1) UMphathiswa kwiPhondo kufuneka amisele ikomiti ebizwa ngokuba yikomiti yeziporo ukuze yenze imisebenzi ethe yathiwa thaca kwicandelo 4.

(2) Ikomiti yeziporo kufuneka ibandakanye la malungu alandelayos:

- (a) uMphathiswa kwiPhondo;
- (b) ummeli wecandelo leziporo;
- (c) ummeli ophuma kwiSebe;
- (d) kwimeko kamaspala onezibonelelo zeziporo ezimandla—
 - (i) igosa likamaspala elithwaliswe uxanduva lweenkonzo zeziporo;
 - (ii) igosa likamaspala elithwaliswe uxanduva lokunyanzeliswa kwemithetho yezothutho lwasemhlabeni;
 - (iii) igosa lenkonzo yesipolisa kamaspala emiselwe ngokwemigaqo yecandelo 64A lomthetho iSouth African Police Service Act, ka-1995 (uMthetho 68 ka-1995) elisebenza kwingingqi ekwimida yalo maspala;
- (e) umkomishinala wephondo oqeshelwe iPhondo ngokwemigaqo yecandelo 207(3) loMgaqosiseko weRiphabliki yoMzantsi Afrika, ka-1996, okanye omnye umntu ommele ngokusesikweni;
- (f) ummeli wesebe lesizwe elithwaliswe uxanduva lweenkonzo zeziporo;
- (g) ummeli ophuma kwi-Arhente yeZiporo yoThutho loLuntu kuMzantsi Afrika, yona emiselwe ngokwemigaqo yomthetho iLegal Succession to the South African Transport Services Act, ka-1989 (uMthetho 9 ka-1989);
- (h) ummeli woMmiseli.

(3) uMphathiswa kwiPhondo kufuneka abe ngusihlalo wekomiti yeziporo.

Injongo nomsebenzi wekomiti yeziporo

4. (1) Injongo yekomiti yeziporo kukunika umlimandlela kuxanduva lwamaphondo njengoko uthiwe thaca kwicandelo 11(1)(b)(iv) lomthetho iNational Land Transport Act ukuze kuhlanganiswe amahlakani aphambili kulo msebenzi ngenjongo—

- (a) yokuqinisekisa ukuba iinkonzo zeziporo ezisebenza kwimida yeli Phondo ziyafikeleleka, zizezithembakeleyo, zikhuselekile yaye zisebenza ngendlela;

(b) yokuqinisekisa ukuba imigaqo nemimiselo yesizwe neyephondo kwicandelo leziporo iyathotyelwa; kwakunye

(c) neyokuhlanganisa ukwenziwa kwemisebenzi phakathi kwamahlakani ngenjongo yokunciphisa ukuphindaphindwa kwanokuphakamisa ukuqhubekeka ngendlela xa kusenziwa umsebenzi onefuthe kwinkonzo yeziporo.

(2) Kukuqinisekisa ukufezekiseka kwenjongo njengoko ithiwe thaca kwicandelo 4(1), amalungu ekomiti yeziporo kufuneka asebenzisane, kuquka nokuhlangana ubuncinci kane ngekota ukuze—

(a) kuqwalaselwe iingxelo eziqulunqwe licandelo leziporo ngokwemigaqo yecandelo 7(2)(a)(v), kwakunye naziphi na iziphakamiso zecandelo leziporo ezithiwe thaca kwicandelo 7(2)(b)(i);

(b) kukuqulunqa izicwangciso neenkqubo zokuphucula iinkonzo zeziporo kweli Phondo; kwakunye

(c) nokuchonga imiba kwakunye namalinge athile achaphazela iinkonzo zeziporo ekumele isonjululwe ngokuthi kuqulunqwe izivumelwano zokusebenzisana, kwakunye nesiseko somongo wezivumelwano zokusebenzisana.

(3) Ikomiti yeziporo kufuneka ithabathe izigqibo ngeziphakamiso ezenziwe licandelo leziporo, kwakunye nokumiselwa kwezicwangciso neenkqubo.

(4) UMphathiswa kwiPhondo, ngokusebenzisa isaziso esinik' ithuba elaneleyo, angawubiza umhlango wesikhawu wekomiti yeziporo ngenjongo yokuthintela, ukuphendula okanye ukusombulula ishlo eshle kwiziporo.

Izivumelwano zentsebenziswano

5. (1) UMphathiswa kwiPhondo angangena kwizivumelwano zentsebenziswano namaqumrhu ombuso abandakanyekayo ngenjongo yokufezekisa iinjongo zalo Mthetho.

(2) Amalungu ekomiti yeziporo kufuneka asebenzise onke amacebo afikelekayo ekuqulunqeni nasekumiseleni izivumelwano zentsebenziswano.

(3) Imiba enokubandakanywa kwizivumelwano zentsebenziswano iquka:

(a) ukulungelelaniswa kwemisebenzi echaphazela ukunikezelwa kweenkonzo zeziporo kwakunye nezokhuseleko kwiziporo;

(b) ukumiselwa kwezicwangciso neenkqubo zokuqwalasela umkhwa wokungathotyelwa kwemigaqo nemimiselo yesizwe yokusebenza neyokunikezelwa kweenkonzo kwakunye nemigaqo nemimiselo yephondo;

(c) inkxaso-mali yokulungiswa kwezixhobo nezibonelelo, okanye ukunyanzeliswa kwemithetho yeziporo; kwakunye

(d) namalinge akwizinga eliphezulu anokuthatyathelwa ukuthintela, ukuphendula okanye ukusombulula ishlo eshle kwiziporo.

ISAHLUKO 3 ICANDELO LEZIPORO

Ukumiselwa kwecandelo leziporo

6. (1) Ngokwemvume yoMphathiswa kwiPhondo, iQumrhu loMiselo kwiPhondo kufuneka limisele icandelo leziporo eliza kuba yingxenywe yeli qumrhu ukuze lenze imisebenzi njengoko kuthiwe thaca kwicandelo 7.

(2) Amalungu ecandelo leziporo anolwazi, uqeqesho okanye amava awodwa kwicandelo leenkono zeziporo kwakunye nezakhono zokusebenzisa iziporo ngendlela ekhuselekileyo.

Imisebenzi yecandelo leziporo

7. (1) Icandelo leziporo kufuneka lihlole lize lithathele kulo umsebenzi wokunikezelwa kweenkonzo zeziporo kweli Phondo.

(2) Ekwenzeni lo msebenzi uchazwe kwicandelwana (1), icandelo leziporo—

(a) kufuneka—

(i) lihlole ukuthotyelwa kwemigaqo ngabanini mashishini ecandelo leziporo kweli Phondo—

(aa) ngokwemigaqo nemimiselo yesizwe ejongene nokusebenza kwakunye nokunikezelwa kweenkonzo; kunye

(bb) nemigaqo nemimiselo yephondo;

(ii) lithathele kulo ukhuseleko lweziporo kweli Phondo;

(iii) lichonge oomasपाला abangenazo izakhono kwakunye nezixhobo nezibonelelo zokwenza imisebenzi yabo echaphazela iinkonzo zeziporo kweli Phondo, njengoko kuthiwe thaca kumthetho iNational Land Transport Act, lize libancedise oomasपाला abo ukuze bakwazi ukwenza imisebenzi yabo;

(iv) liqokelele lize lisasaze iinkcukacha ezichaphazela ukhuseleko lweziporo kwakunye nenkqubo yokunikezelwa kweenkonzo;

(v) ngokwemigaqo yecandelo 15, liqulunqe ingxelo njengoko kubekiwe kwakwisithuba esimiselweyo, liyithumele kwikomiti yeziporo—

(aa) ngokunikezelwa kweenkonzo zeziporo kweli Phondo;

(bb) ngokungathotyelwa kwemigaqo yesizwe elawula ukusebenza nokunikezelwa kweenkonzo zeziporo kwakunye nemigaqo nemimiselo yephondo;

(cc) ngeenkxalabo zokhuseleko kwiziporo;

(dd) ngezehllo zokhuselo ezichaphazela izibonelelo nezixhobo zeziporo; kunye

(ee) nangawo nawuphi na omnye umba omiselwe nguMphathiswa kwiPhondo ukuze icandelo leziporo libe nokwenza imisebenzi yalo ngokuchanekileyo; lize

(vi) liqulunqe futhi lipapashe ingxelo yonyaka ngemisebenzi elithe labe liya-yenza, ngendlela kwanangamaxesha amiselwe nguMphathiswa kwiPhondo;

(b) (i) lingazenza iziphakamiso kwikomiti yeziporo—

(aa) ngamalinge anokuthatyathwa ngumnini shishini elithile elisebenza kwiinkonzo zeziporo ngenjongo yokulungisa iziphoso zakhe zokungayithobeli imigaqo nemimiselo yesizwe yokusebenza kwaneyokunikezelwa kweenkonzo zeziporo kwakunye nemigaqo nemimiselo yephondo; kunye

(bb) nangokuphuculwa kwayo nayiphi na imigaqo nemimiselo yephondo; lize

(ii) lenze neentshukumo zophando ngamalinge okuphuculwa kweenkonzo zeziporo okanye ukhuseleko kwiziporo, lize lithethisane naye namphi na umntu onezakhono ezizizo ongalinika iingcebiso ngaloo njongo;

(iii) linikezele ngoqeqesho lize lenze naziphi na ezinye iintshukumo zokwazisa uluntu ezinentsho yokwenza nokunikezelwa kweenkonzo zeziporo ngendlela efanelekileyo kwakunye neentshukumo ezikhuselekileyo kwiziporo;

(iv) lamkele lize liphande izikhalazo zoluntu kwinkalo yeenkonzo zeziporo kwakunye nokhuseleko kwiziporo; lize

(v) lenze iintshukumo zophando okanye lichophele izimvo ngendlela emiselweyo ukuze likwazi ukwenza imisebenzi yalo.

Iinkqubo zeenkukacha nohlolo

8. (1) IQumrhu loMiselo kwiPhondo kufuneka limisele lize ligcine iinkqubo zeenkukacha ngenjongo yokuncedisa icandelo leziporo ekwenzeni imisebenzi yalo.

(2) Iinkukacha ekufuneka zifakwe kuvimba zingaku oku kulandelayo:

- (a) iirekhodi zokungathotyelwa kwemigaqo nemimiselo yesizwe yokusebenza neyokunikezelwa kweenkonzo zeziporo kwakunye nemigaqo nemimiselo yephondo ngabaninimashishini kwicandelo leenkonzo zeziporo;
- (b) izehlo kwiziporo;
- (c) umonakalo okanye izehlo ezichaphazele izibonelelo nezixhobo zeziporo;
- (d) inani nohlobo lwezikhazelo ezichaphazela iinkonzo zeziporo; kunye
- (e) nawuphi na omnye umba elithi iQumrhu loMiselo kwiPhondo liwuthabathe njengofanelekileyo ngenjongo emiselwe kwicandelwana (1).

(3) Icandelo leziporo lingacela nabani na, ngembalelwano, ukuba adlulisele kulo ulwazi, iinkukacha, amaxwebhu, iisampuli okanye izixhobo ezidingekayo kwicandelo leziporo ukuze libe nakho ukwenza imisebenzi yalo ngokwemigaqo yalo Mthetho.

(4) Emva kokubonisana nabaninimashishini akwicandelo leziporo, uMphathiswa kwiPhondo unakho ukumisela imigaqo ediza umgangatho, uhlobo nodidi lweenkukacha okanye lolwazi ekufuneka lungeniswe ngabanini-mashishini akwicandelo leziporo, nokuba kufuneka oku kungeniswe nini, kangaphi, ngenjongo yovavanyo lwentsebenzo yaba banini-mashishini akwicandelo leziporo.

(5) UMphathiswa kwiPhondo unakho nokumisela iinkqubo zohlolo ngenjongo yokuphakamisa umsebenzi njengoko ethe yathiwa thaca kwicandelo 7(2)(a).

ISAPHLUKO 4

IZICWANGCISO ZOTHUTHO EZIHLANGANISIWEYO

Icandelo leziporo yothutho loluntu elikwiscwangciso sothutho esihlanganisiweyo

9. (1) Wonke umaspala onezibonelelo nezixhobo zeziporo ezimandla kufuneka aqulunqe icandelo leziporo njengenxalenye yothutho loluntu eliza kuba kwiscwangciso sothutho esihlanganisiweyo.

(2) Icandelo leziporo yothutho loluntu elikwiscwangciso sothutho esihlanganisiweyo kufuneka liquke ezi nkukacha zilandelayo nezichaphazela iinkonzo zeziporo kwingingqi yolawulo lwaloo maspala:

- (a) izicwangciso neeshedyuli zothungelwano phakathi kweedolophu;
- (b) izicwangciso zokuqulunqwa kwesikhokelo sokumisela imigaqo nemimiselo yephondo;
- (c) ingcaciso yezinga lenkqubo yokunyanzeliswa komthetho athe umaspala lowo wazinikela kuyo kumba wokhuseleko lwabakhweli;
- (d) ingxelo ngemeko yeenkonzo zeziporo kwanokhuseleko lweziporo; kunye
- (e) nengxelo ngemeko yezibonelelo nezixhobo zeziporo, kuquka ifuthe layo kwinkqubo yokunikezelwa kweenkonzo zeziporo.

ISAPHLUKO 5

INKXASOMALI

Imali yokuphuculwa kweziporo

10. UMphathiswa kwiPhondo unakho ukuthabatha imali esuka kwiPalamente yesizwe okanye kwiPalamente yePhondo ayisebenzisele injongo yokunikezela isikhokelo kumba wokunikezelwa kweenkonzo zeziporo kwanokuphuculwa kokhuseleko lweziporo kweli Phondo.

ISAHLUKO 6 ICANDELO LOHLOLO LWEZIPORO

Ukuqashwa kwabahloli beziporo

11. (1) IQumrhu loMiselo kwiPhondo, ngemvume yoMphathiswa kwiPhondo, futhi ke njengengxenywe yeCandelo leZiporo, kufuneka limisele icandelo lohlolo lweziporo lize liqashe nabahloli beziporo ukuze benze imisebenzi ethiwe thaca kwicandelo 12.

(2) UMphathiswa kwiPhondo kufuneka akhuphe isiqinisekiso sengqesho kwakunye nobungqina beenkcukacha zesazisi, njengoko kumiselwe, zakhe womntu athe wamqasha njengomhloli weziporo.

Imisebenzi yabahloli beziporo

12. (1) Umhloli weziporo kufuneka—

(a) ahlole ukuthotyelwa kwemigaqo yalo Mthetho ngabanini mashishini akwicandelo leziporo; aze

(b) aqulunqe iingxelo eziyimfuno ezimiselwe nguMphathiswa kwiPhondo.

(2) Umhloli weziporo unalo igunya lokucela nabani na ngembalelwano ukuba amphe iinkcukacha okanye ulwazi oluya kumnceda afumanise ukuba umnini shishini othile kwicandelo leziporo uyayithobela okanye ebesoloko eyithobela na imigaqo nemimiselo yesizwe yokusebenza neyokunikezelwa kweenkonzo zeziporo, okanye imigaqo nemimiselo yephondo.

(3) Umhloli weziporo unlo igunya, nangaliphi na ixesha alibona lifanelekile, lokungena kumasango omzi ophantsi kolawulo lomnini shishini elithile elisebenza kwicandelo leziporo, ngaphandle kwekhaya lomnini shishini lowo, ngenjongo yokuya kuhlola ukuba umnini shishini lowo uyayithobela okanye ebesoloko eyithobela na imigaqo nemimiselo yesizwe yokusebenza neyokunikezelwa kweenkonzo zeziporo, okanye imigaqo nemimiselo yephondo.

(4) Umhloli weziporo kufuneka—

(a) azazise, kulowo uphethe loo mzi;

(b) athi akucelwa ngulowo ukuba aveze isiqinisekiso sokuqashelwa ukuhlola, asiveze umhloli njengoko kuthiwe thaca kwicandelo 11(2); aze

(c) acacise ngenjongo kwanobukhulu bohlobo olo kumntu lowo.

(5) Umhloli weziporo unakho ukuwenza onke amalinge okuqokelela iinkcukacha nolwazi oludingekayo ngenjongo yokuze abe nakho ukwenza umsebenzi wokuhlola njengoko uthiwe thaca kweli candelo.

Uxanduva lokuncedisa umhloli weziporo nowokuveza amaxwebhu

13. (1) Umntu ochazwe kwicandelo 12(2) kufuneka anike umhloli weziporo zonke iinkcukacha nolwazi athi alucele ngokwemigaqo yecandelo 12(2) kwisithuba seentsuku ezi-10, okanye ke ngokwexesha elifanelekileyo nelikhankanywe kuloo mbalelwano yesicelo.

(2) Akukho mntu uya kuthi axabe okanye aphazamisane nenkqubo yomsebenzi omiselwe ngokwemigaqo yalo Mthetho.

(3) Nabani na ke othi afakwe imibuzo ngumhloli weziporo kufuneka anikezele iimpendulo kangangolwazi analo, kodwa ke akanyazelekanga ukuba aphenyule nayiphi na imibuzo ukuba impendulo ingayemkhonkxa kwizenzo zolwaphulomthetho.

(4) Umntu onoxwebhu oluthi lucelwe ngumhloli weziporo kufuneka aluveze aze avumele nokuhlolwa kwalo, kuquka nokwenziwa kweekopi.

ISAHLUKO 7 IZIBONELELO EZIPHANGALELEYO

Imimiselo

14. (1) UMphathiswa kwiPhondo kufuneka enze imimiselo echaphazela nawuphi na umba ekufuneka umiselwe futhi ke unawo namagunya okwenza imimiselo enento yokwenza—

- (a) nemigaqo nemimiselo ejoliswe kubanini mashishini akwicandelo leziporo, echaphazela—
 - (i) ukunikezelwa kweenkonzo zeziporo kweli Phondo;
 - (ii) ukhuseleko lwabakhweli kwiziporo;
- (b) uhlolo nokubekwa esweni kwemigaqo nemimiselo yokusebenza nejongene nobuxhakaxhaka bobugcisa;
- (c) nawo nawuphi na umba ochaphazela ukusebenza kwecandelo leziporo, kuquka inkqubo yokwamkela nokuqoshelisa ukusonjululwa kwezikhazazo njengoko kuthiwe thaca kwicandelo 7(2)(b)(iv);
- (d) indlela ekufuneka luqhutywe ngayo uhlolo oluchazwe kwicandelo 12;
- (e) iinkqubo zokuchotshelwa kwemihlangano yekomiti yeziporo, kuquka iikhoram
- (f) ukugcinwa kweerekhodi yekomiti yeziporo; okanye
- (g) ngokuthe gabalala, nawuphi na umba ofanelekileyo okanye onokuba luncedo kumsebenzi womiselo ngenjongo yokufezekisa iinzuzo zalo Mthetho.

(2) Ngaphezu kobukho becandelwana (1), kufuneka kwenziwe ngokwemimiselo eyakhankanywe kwicandelwana (1)(a) emva kokubonisana nabanini-mashishini akwicandelo leziporo, uMmiseli, olisebe lesizwe elithwaliswe uxanduva lwemiba yeziporo, kwakunye noomaspala abanezixhobo nezibonelelo zeziporo ezimandla.

Ukungathotyelwa kwemigaqo nemimiselo

15. (1) Apho icandelo leziporo lifumanise ukuba umnini shishini othile kwicandelo leziporo uthe wasilela ekuthobeleni imigaqo nemimiselo yesizwe yokusebenza neyokunikezelwa kweenkonzo zeziporo okanye imigaqo nemimiselo yephondo, icandelo leziporo kufuneka lihlangene naloo mnini shishini, yaye ke lingenza nophando okanye lichophele ukuphulaphula kuye ngenjongo yokufikelela kwizizathu zesi siphoso.

(2) Apho icandelo lithe lahlangana naloo mnini shishini leziporo owonileyo, okanye apho lithe lenza uphando okanye lawuchophela umcimbi lo njengoko kuthiwe thaca kwicandelwana (1), kufuneka—

- (a) lazise ikomiti yeziporo ngeso siphoso kwanesigqibo salo sovavanyo lwezizathu zesi siphoso; futhi ke
- (b) lingenza neziphakamiso kwikomiti yeziporo njengoko kuthiwe thaca kwicandelo 7(2)(b)(i)(aa).

(3) Ikomiti yeziporo kufuneka—

- (a) iqwalasele iingxelo neziphakamiso ezithe zaqulunqwa licandelo leziporo;
- (b) iqulunqe izicwangciso okanye iinkqubo zokumisela ngenjongo yokusombulula nesi siphoso sokungathotyelwa kwemigaqo; ize
- (c) idlulise ingxelo leyo kuKhabhinethi kaZwelonke enoxanduva lweenkonzo zeziporo.

(4) Emva kokubonisana namanye amalungu ekomiti yeziporo, uMphathiswa kwiPhondo unakho ukuphumeza ukumiselwa kwezicwangciso okanye iinkqubo ezithe zaqulunqwa ngokwemigaqo yecandelwana (3)(b).

(5) Umnini shishini leziporo lowo yena kufuneka amisele izicwangciso okanye iinkqubo ezithe zaphunyezwa ngokwecandelwana (4) ngenjongo yokulungisa eso siphoso aze anikezele nengxelo ngenkqubela yalo ngokwezo zicwangciso neenkqubo ezithe zaphunyezwa.

(6) Apho ishishini elo likwicandelo leziporo lithi lisilele khona ekumiseleni isicwangciso okanye inkqubo ethe yaphunyezwa njengoko ithiwe thaca kwicandelwana (4), icandelo

leziporo kufuneka linike umnini shishini lowo ithuba elaneleyo lokulungisa eso siphoso, aze ukuba ke uthi asilele nalapho, icandelo leziporo lingakuthabatha oko njengokuvakalisa impixano ngokwemigaqo yecandelo 41 lomthetho i-Intergovernmental Relations Framework Act, 2005 (uMthetho 13 ka-2005).

Ukudluliselwa kwamagunya nemisebenzi

16. (1) UMphathiswa kwiPhondo unawo amagunya okudlulisele naliphi na kumagunya akhe, okanye anikezele nayiphi na kwimisebenzi yakhe ngokwalo Mthetho, kwiNtloko yeSebe okanye kwicandelo leziporo, ngaphandle kwegunya lokumisela imigaqo.

(2) INtloko yeSebe inawo amagunya okudlulisela naliphi na kumagunya ayo, okanye inikezele nangayiphi na kwimisebenzi yayo kumqashwa leli Sebe, okanye kulowo wongamele i-ofisi okanye ukwisikhundla esithile kweli Sebe.

(3) Ukudluliselwa kwamagunya ngokwemigaqo yecandelwana (1) okanye (2)—

- (a) kufuneka kubhalwe phantsi;
- (b) kungsekelezelwa kwimiqathango;
- (c) kungarhoxiswa okanye kuhlengahlengiswe ngokwembalelwano nguMphathiswa kwiPhondo okanye yiNtloko yeSebe, ngokwemeko leyo;
- (d) kuyakuvumela ukunweniswa kwala magunya okanye ukongezwa kwamagosa anokunikwa lo msebenzi;
- (e) akumthinteli uMphathiswa kwiPhondo okanye iNtloko yeSebe, njengoko iya kube isitsho imeko, ekubeni avakalise loo magunya okanye awenze ngokwakhe loo msebenzi; yaye ke
- (f) akumhluthi uMphathiswa kwiPhondo okanye iNtloko yeSebe, njengoko iya kube isitsho imeko, igunya noxanduva lokwenza umsebenzi asele ewudlulisele kwigosa elithile okanye ukwenza umsebenzi asele ewunike omnye umntu.

Ukona

17. Umntu othi aphazamisane nothi axabe endleleni yomsebenzi wecandelo lohloko ngokwemigaqo yalo Mthetho—

- (a) ngokuthi ale ukufikeleleka kwezixhobo nezibonelelo zeziporo;
- (b) ngokuthi ale ukunikezela ngeerekhodi, okanye ukunikezela ngeenkukacha eziphantsi kolawulo lwakhe ezithi zicelwe ngumhloli weziporo ngokwemigaqo yalo Mthetho;
- (c) ngokuthi ale ukunikezela ngemvume yokwenziwa kweekopi zeerekhodi okanye zeenkukacha ezikhankanywe kumhlathi (b); okanye
- (d) ngokuthi akhohlise ngabom kumba weenkukacha athi umhloli weziporo ambuze ngazo ngokwemigaqo yecandelo 13(3),

lowo wophula umthetho yaye uya kuthi akufunyaniswa enetyala adliwe okanye aye kuvalelwa emjiva isithuba esingadlulanga kwiinyanga ezintathu, okanye azifumane zombini, umdliwo nokuvalelwa emjiva.

Isihloko esifutshane kwanokuqala ukusebenza

18. Lo Mthetho ubizwa ngokuba nguMthetho wezoThutho ngeZiporo weNtshona Koloni, ka-2019, yaye ke uqalisa ukusebenza ngomhla oya kuthi udizwe yiNkulumbuso ngokuthi iwubhengeze kwiGazethi yePhondo.

**IMEMORANDAM ENGEENJONGO ZOQULUNQO LOMTHETHO OSAYILWAYO
WEZOTHUTHO NGEZIPORO WEPHONDO LENTSHONA KOLONI, 2019**

1. IMVELAPHI

- 1.1 Ngokomthetho, uthutho loluntu luxanduva loorhulumenre abalawula ngaxeshanye kwinqanaba lesizwe nelamaphondo (iSahlulo A seShedyuli 4 soMgaqosiseko weRiphabliki yoMzantsi, ka-1996). Uthutho loluntu ngeziporo lusingabonelelo sikawonkewonke.
- 1.2 Umthetho *iNational Land Transport Act, 2009* (uMthetho 5 ka-2009), ukwabeka uthutho lwemisebenzi njengoxanduva olusemagxeni esigaba sephondo sikarhulumente kumba wothutho oluhamba emhlabeni. Oku ke kuquka, phakathi kwezinye, ucwangciso, uhlanganyelo kwanokunikezelwa komlimandlela kwimisebenzi yothutho oluhamba emhlabeni kwiphondo, intsebenziswano namanye amasebe karhulumente kwinqanaba lesizwe nelephondo kwimisebenzi echaphazela imiba yothutho nocwangciso lokusetyenziswa komhlaba, kwanokuhlanganisa amahlakani abalulekileyo, ngenjongo yokunikekisa ukuba oomaspala abangenazo izakhono nezibonelelo bayaxhotyiswa ukuze babe nakho ukudlala indima yabo kumba wothutho oluhamba emhlabeni, kuxhotyiswe ngezakhono oomaspala ngenjongo yokuhlola umsebenzi wokuphunyezwa kwe*National Land Transport Act, 2009*, kwanokwenza eminye imisebenzi yephondo eluxanduva lweLungu leBhunga leSigqebao (U-MEC) ngokwemigaqo yoMthetho.
- 1.3 *INational Land Transport Act, 2009*, inesidingo sokuba iLungu leBhunga leSigqebao (u-MEC) amisele imigqaliselo, iinkqubo zokuvavanywa kwentsebenzo kwakunye nezinye izalathisi ezikwaphazekayo ngenjongo yokunikekisa ukuba uhlanganyelo phakathi kweentlobo ezahlukeneyo zothutho kwanaphakathi kohlobo oluthile lothutho kunye nolawulo lotyalo-mali olusemgangathweni kwezothutho kwanolwezibonelelo neenkqubo zothutho. Kukwalindeleke ukuba uMphathiswa kwiPhondo ahlanganise amalinge ezothutho noomaspala, kwakunye namanye amahlakani kwicandelo lezothutho ngokuthi amisele amaqumrhu ohlanganyelo okanye ngokwezinye iindlela.
- 1.4 UMphathiswa kwiPhondo ojongene nezothutho neMisebenzi yoLuntu uye wachonga uthutho lweenjongo zesicwangciso-qhinga sephondo kumba wothutho lukawonkewonke kweli Phondo. Oku kuquka ukuzuza ukwanda komyinge wokusetyenziswa kwezithuthi zikawonkewonke luluntu ngokuthi kunikezelwe isikhokelo sokutshintsha indlela, kusukwe ekusebenziseni izithuthi zabucala zabantu kusetyenziswe ezikawonkewonke kwanokwanda kwezinga lokufikeleleka kwezithuthi zikawonkewonke ezikhuselekileyo nezisebenza ngendlela eyiyo.
- 1.5 Iziporo zokuthutha abantu kufuneka idlale indima ebalulekileyo kweli Phondo ngokuthi kunikezelwe amathuba akwinqanaba eliphezulu okufikeleleka kwezithuthi ezifikelekayo ngokwasengxoweni, ezisebenza kuhle, ezikhawulezayo, njengeny indlela yothutho ngaphandle kweyasemigaqweni. Noxa kunjalo ke, inkonzo yothutho kwiziporo eNtshona Koloni isekwimeko yentlekele. Kuzo zonke iinkalo zentsebenzo (ngokwezakhono, ukufika nokunduluka ngexesha, ukurhoxiswa nokugcwala) izinga lale nkonzo lehle kakhulu. Oku kwehla kwezinga kwenziwe kukutshiswa nokuhlaselwa koololiwe, nangenxa yomkhwa wobusela. Le ntlekele ibe nefuthe elibi kakhulu kubakhweli, kuluntu ngokubanzi

kwanakuqoqosho lweNtshona Koloni. Isiphumo esibe kukushiya koololiwe ngabakhweli sibeka uxinzelelo olumandla kuthutho lwasemigaqweni kwanezinye iinkonzo zothutho lukawonkewonke, nto leyo ikhokelela ekuthontelaneni kwezithuthi nokulibaziseka kweehambo.

- 1.6 Ukuze zibe nokuzuzeka iinjongo zesicwangciso-qhinga sothutho lukawonkewonke esisele siphantsi kwale meko intlekenleke yothutho ngeziporo, siya singxamiseka nangakumbi isidingo sokuba eli Phondo lidlale indima emandla ekumiseleni, ekuhloleni nasekubekeni esweni iinkonzo zothutho ngeziporo zeli Phondo. Olu Qulunqo loMthetho oSayilwayo lunguThutho kwiZiporo zePhondo leNtshona Koloni, (uQulunqo loMthetho oSayilwayo) injongo ikukubonelela ngamalinge omthetho okuzuza esi sidingo ze yenze eli Phondo libe nokufezekisa umsebenzi walo ngokwemimiselo equlethwe kuMgaqo-siseko kunye nemithetho yeli lizwe.

2. IINJONGO ZOLU QULUNQO LOMTHETHO OSAYILWAYO

Eyona njongo iphambili yolu Qulunqo loMthetho oSayilwayo kukuphucula ukhuseleko kwiziporo kwakunye nemigangatho yenkonzo yothutho kwiziporo zeli Phondo. Olu Qulunqo loMthetho oSayilwayo luza nothotho lwamacebo ukuze kuzuzwe oku, kuquka isibonelelo samalinge olawulo lweziporo oluhlanganisiweyo phakathi kwamaqumrhu achaphazelekayo ombuso ngokuthi kusekwe ikomiti yeziporo kwanokuqokunjelwa kwezivumelwano zentsebenziswano, ukusekwa kwecandelo leziporo, elikhatshwa licandelo lohloho lweziporo, ngenjongo yokwenza umsebenzi wokuhlola nokubeka esweni iinkonzo zothutho ngeziporo kwakunye nokhuseleko, ukumiselwa nokugcinwa kwenkqubo yogcino zinkcukacha, ukumiselwa kwamalungiselelo kwakunye nomongo wecandelo lothutho loluntu ngeziporo esikwizicwangciso ezihlanganisiweyo zothutho koomaspala, kwanokumiselwa kwenkqubo yokuqwalasela umkhwa wokungathotyelwa kwemigaqo yesizwe yokusebenza kwakunye nemigaqo nemimiselo yokunikezelwa kwenkonzo yeziporo okanye imigaqo nemimiselo yephondo.

3. IZIQLATHO ZOQULUNQO LOMTHETHO OSAYILWAYO

- 3.1 **Isoloty 1** linikezela ngeengcaciso kumba wokutolikwa kolu Qulunqo loMthetho oSayilwayo.
- 3.2 **Isoloty 2** licacisa iinjongo zolu Qulunqo loMthetho oSayilwayo.
- 3.3 **Isoloty 3** liza nombisa wokumiselwa ubulungu kwakunye nosihlalo wekomiti yeziporo.
- 3.4 **Isoloty 4** lidiza injongo kwakunye nemisebenzi yekomiti yeziporo.
- 3.5 **Isoloty 5** lidiza umba wokumiselwa kwezivumelwano zentsebenziswano phakathi kukaMphathiswa kwiPhondo kwakunye namaqumrhu ombuso achaphazelekayo.
- 3.6 **Isoloty 6** libonelela ngombisa wokumiselwa kwecandelo lemizila kwakunye nezakhono ekufuneka enazo amalungu eli candelo leziporo.

- 3.7 **Isoloty 7** lidiza imisebenzi yecandelo leziporo.
- 3.8 **Isoloty 8** lidiza umba weenkqubo zogcinozinkcukacha nezohlolo.
- 3.9 **Isoloty 9** liqwalasela icandelo lothutho loluntu kwiziporo eliqulethwe kwizicwangciso ezihlanganyelweyo zothutho koomaspala.
- 3.10 **Isoloty 10** liza nombamba wokubonelela kwenkxasomali ngenjongo yokunikezelwa kwesikhokelo sokunikezelwa kweenkonzo zothutho kwiziporo kwanokuphuculwa kokhuseleko kwiziporo zeli Phondo.
- 3.11 **Isoloty 11** liza nombamba wokumiselwa kwecandelo lohlolo, ukuqashwa kwabahloli beziporo, kwanokunikezelwa kweziqinisekiso zokuqashwa.
- 3.12 **Isoloty 12** limisela imisebenzi yabahloli beziporo futhi ke likwaqulethe izibonelelo ezichaphazela ukucelwa kweenkcukacha, ukugqogqa kwizakhiwo kwanokuqokelelwa kweenkcukacha nolwazi oludingekayo.
- 3.13 **Isoloty 13** libeka uxanduva kubantu abathile ukuze bancede abahloli beziporo kwanokuze baveze amaxwebhu athile anokudingeka.
- 3.14 **Isoloty 14** linika amagunya uMphathiswa kwiPhondo ukuba amisele imigaqo kuthotho lwemiba.
- 3.15 **Isoloty 15** limisela inkqubo emele ukusetyenziswa xa usomashishini kwiinkonzo zeziporo ethi angabi nakuyithobela imigaqo nemimiselo yokusebenza.
- 3.16 **Isoloty 16** liza nombamba wokudluliselwa kwamagunya kwakunye nokunikezelwa koxanduva nguMphathiswa kwiPhondo okanye yiNtloko yeSebe.
- 3.17 **Isoloty 17** liza nombamba weziphoso.
- 3.18 **Isoloty 18** linikezela isihloko esifutshane kwakunye nokuqala ukusebenza kolu Qulunqo loMtehtlo oSayilwasyo.

4. IINGCEBISO

kwiSebe leNkulumbuso: kwiCandelo leeNkonzo zoMthetho

5. IMPEMBELELO KUBASEBENZI

- 5.1 Kuqikeleleka ukuba kuya kudingeka inani eliphakathi kwamashumi amahlanu nekhulu labasebenzi kwicandelo leziporo, eliya kuquka abaphathi nabasebenzi bezolawulo abaya kuba seziofisini abaya kufumana inkxaso kubahloli bona abaya kusebenza ngaphandle.

- 5.2 Akukho futhe lakongezeleka kwabasebenzi kwikomiti yeziporo, xa kuqwalaselwa ukuba amalungu ale komiti aya kuba ngabasebenzi abasisigxina bamaqumrhu ombuso achaphazelekayo ndawonye namanye amasebe anokuchaphazeleka kwicandelo laseburhulumenteni.

6. IMPEMBELELO NGOKWASEMALINI

- 6.1. Iindleko zokumiselwa kolu Qulunqo loMthetho oSayilwayo luya kufumaneka kwisabelomali sonyaka seSebe loThutho neMisebenzi yoLuntu kwiNtshona Koloni.
- 6.2. Iindleko zokumiselwa kwecandelo leziporo kwakunye nenkqubo yogcinozinkcukacha beziqikeleleka phakathi kwe-R14,7 lezigidi kunye nama-R26,3 ezigidi ze iindleko zokusebenza ngonyaka zona ziqikeleleke phakathi kwama-R40 ezigidi kunye nama-R80 ezigidi, ngokuxhomekeka kwinqanaba longenelelo.
- 6.3. Ngaphezu kwezi ndleko, kungakho ezinye iindleko nenkcitho ekuya kufuneka zimelwe ngoomaspala, mhlawumbi nenye inkxaso eya kusuka kwiPhondo. Eyona mfuno iphambili kukuba oomaspala abanezibonelelo zeziporo ezimandla benze amalungiselelo okumisela icandelo leziporo njengengxenyane yezicwangciso zabo ezihlanganyelweyo zothutho, apho iindleko ziqikeleleka ekubeni ziya kuba phakathi kwe-R1,5 ne-R6 sezigidi ngonyaka, nalapho ke kuxhomekeke kwinqanaba longenelelo.
- 6.4. Zikho ke nezinye iindleko ezinokubela ekuboneleleni oomaspala ngenkxasomali ukuze kufezekiseke injongo yokhuseleko kwiziporo. Ezi ndleko ziya kuxhomekeka kwizidingo zikamaspala ngamnye.

7. AMAGUNYA NGOKWEMITHETHO

UMphathiswa kwiPhondo ojongene nothutho kwakunye nemisebenzi yoluntu ukholisekile ekubeni iziqulatho zoqulunqo loMthetho oSayilwayo ziwela kumagunya okuqulunqwa kwemithetho leli Phondo.