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PROVINSIE WES-KAAP

IPHONDO LENTSHONA KOLONI

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**INHOUD**

**IZIQUATHO**

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

**Provincial Notice**

**Provinsiale Kennisgewing**

**ISaziso sePhondo**

The following draft regulations are published for comment:

Die volgende konsepregulasies word vir kommentaar gepubliseer:

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Any person or organisation wishing to comment on the draft regulations is requested to submit such comment in writing before or on 17 August 2020. Comments may be submitted:

Enige persoon of organisasie wat op die konsepregulasies kommentaar wil lewer, word versoek om sodanige kommentaar voor of op 17 Augustus 2020 in te dien. Kommentaar kan ingedien word:

Nawuphi na umntu okanye umbutho onqwenela ukunika izimvo kolu qulunqo lwemigaqo uyacelwa ukuba angenise olo luvo ngembalelwano ngaphambi okanye ngomhla we-17 kuAgasti 2020. Izimvo zingeniswa:

- (a) by posting it to:  
Head of Department  
Department of Community Safety  
PO Box 5346  
Cape Town 8000  
Attention: Adv JC Gerber SC;
- (b) by delivering it to:  
Main Reception  
Ground Floor  
35 Wale Street  
Cape Town 8000  
Attention: Adv JC Gerber SC;
- (c) by faxing it to:  
Fax no: 086 531 4283  
Attention: Adv JC Gerber SC; or
- (d) by e-mailing it to:  
jan.gerber@westerncape.gov.za.

- (a) deur dit te pos aan:  
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Departement van  
Gemeenskapsveiligheid  
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- (b) deur dit af te lewer by:  
Ontvangs  
Grondverdieping  
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Kaapstad 8000  
Aandag: Adv JC Gerber SC;
- (c) deur dit te faks na:  
Faksnr: 086 531 4283  
Aandag: Adv JC Gerber SC; of
- (d) deur dit te e-pos na:  
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- (d) ngokuzi-imeyilela ku:  
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Queries can be made to Adv JC Gerber SC, tel.: 084 814 4961.

Navrae kan gerig word aan adv JC Gerber SC, tel.: 084 814 4961.

Imibuzo ingabhekiswa kuAdv. JC Gerber SC kule nombolo: 084 814 4961.

**PROVINCIAL NOTICE**

The following draft regulations are published for comment:

DR H.C. MALILA,  
DIRECTOR-GENERAL

Provincial Legislature Building,  
Wale Street,  
Cape Town.

**PROVINSIALE KENNISGEWING**

Die volgende konsepregulasies word vir kommentaar gepubliseer:

DR H.C. MALILA,  
DIREKTEUR-GENERAAL

Provinsiale Wetgewer-gebou,  
Waalstraat,  
Kaapstad.

**ISAZISO SEPHONDO**

Le migaqo iqulunqwayo ilandelayo ipapashelwa ukufumana izimvo:

GQIR H.C. MALILA,  
MLAWULI-JIKELELE

ISakhiwo sePhondo,  
Wale Street,  
eKapa.

**PROVINCIAL NOTICE**

P.N. 53/2020

16 July 2020

**WESTERN CAPE DEPARTMENT OF COMMUNITY SAFETY  
WESTERN CAPE COMMUNITY SAFETY ACT, 2013 (ACT 3 OF 2013)  
WESTERN CAPE PROVINCIAL POLICE OMBUDSMAN REGULATIONS, 2015:  
DRAFT AMENDMENT, 2020**

The Provincial Minister of Community Safety, in terms of section 31 of the Western Cape Community Safety Act, 2013 (Act 3 of 2013), intends to make the regulations as set out in the Schedule.

**SCHEDULE****Definition**

1. In these regulations, “the Regulations” means the Western Cape Provincial Police Ombudsman Regulations, 2015, published under Provincial Notice 364/2015 of 22 October 2015.

**Amendment of regulation 1 of the Regulations**

2. Regulation 1 of the Regulations is amended by the substitution for the definition of “complainant” of the following definition:

“**complainant**” means any person or any member of the Provincial Parliament contemplated in section 16 of the Act who submits a complaint to the Ombudsman, or a person on whose behalf a complaint is submitted to the Ombudsman;”.

**Amendment of regulation 2 of the Regulations**

3. Regulation 2 of the Regulations is amended—

(a) by the substitution for subregulation (4) of the following subregulation:

“(4) Subject to subregulations (1) and (4A), a complaint is submitted in writing by submitting a completed and signed form in Annexure A to the Office of the Ombudsman.”;

(b) by the insertion after subregulation (4) of the following subregulations:

“(4A) Where a member of the Provincial Parliament submits a complaint to the Ombudsman, the complaint is not required to be in the form of Annexure A: Provided that the complaint must be in writing and contain the following information:

(a) a description of the nature of the complaint and of the incident which gave rise to the complaint; and

(b) the identity and contact particulars of the complainant.

(4B) A staff member duly designated by the Ombudsman must as soon as possible after receipt of the complaint contemplated in subregulation (4A)—

- (a) contact the complainant to acknowledge receipt of the complaint; and
  - (b) obtain from the complainant the information required in subregulation (5) for purposes of completing Annexure A.
- (4C) If a complainant cannot be traced or despite a request does not provide the information that is within his or her knowledge and that is required to complete Annexure A, the Ombudsman—
  - (a) may decide whether or not to proceed with the investigation; and
  - (b) must inform the member of the Provincial Parliament contemplated in subregulation (4A) of the decision taken in terms of paragraph (a).”;
- (c) by the substitution for subregulation (6) of the following subregulation:
  - “(6) The completed and signed form in Annexure A must be accompanied by the following documents:
    - (a) a copy of the complainant’s identity document or passport, if available, except that a member of the Provincial Parliament need not submit his or her identity document or passport;
    - (b) if a person is submitting the complaint as a member or in the interests of a group or class of persons or on behalf of an association or organisation—
      - (i) proof that the person submitting the complaint is authorised to act on behalf of the group or class of persons or on behalf of the association or organisation; and
      - (ii) a copy of the identity document or passport of the person submitting the complaint;
    - (c) if a person is submitting a complaint on behalf of another person—
      - (i) subject to subregulation (9), written proof in the form of Annexure B, of the consent of the complainant to the person submitting the complaint on his or her behalf;
      - (ii) a copy of the complainant’s identity document or passport; and
      - (iii) a copy of the identity document or passport of the person submitting the complaint on the complainant’s behalf.”; and
- (d) by the addition after subregulation (7) of the following subregulations:
  - “(8) A person may, with the written consent of the complainant, submit a complaint to the Ombudsman on behalf of the complainant.
  - (9) Written consent contemplated in subregulation (8) is not required if the complainant is—
    - (a) a minor;
    - (b) incapacitated due to a medical or physical condition;
    - (c) illiterate; or
    - (d) in the opinion of the Ombudsman, unable to provide written consent.

(10) Notwithstanding the provisions in any other law, any minor, or any person on behalf of a minor, may submit a complaint to the Ombudsman without the assistance of a parent, guardian or any other person.

(11) In addition to the information set out in subregulation (5), a complaint contemplated in subregulation (8) must, for purposes of completing Annexure B, specify—

- (a) the name, identity or passport number and contact particulars of the person submitting the complaint on behalf of the complainant;
- (b) the relationship of such person with the complainant; and
- (c) the reasons why the complainant cannot submit the complaint him or herself.”.

#### **Amendment of regulation 3 of the Regulations**

4. Regulation 3 is amended—

- (a) by the substitution for paragraph (e) of subregulation (2) of the following paragraph:
  - “(e) by completing and submitting a complaint form online on the website of the Office of the Ombudsman.”; and
- (b) by the deletion of subregulations 3(3) and 3(4).

#### **Amendment of regulation 4 of the Regulations**

5. Regulation 4 is amended by the substitution for subregulations (3), (4) and (5) of the following subregulations:

“(3) The Ombudsman may refer any complaint or aspect thereof in writing to the Provincial Commissioner or the executive head of the relevant municipal police or an appropriate authority or institution that is competent to deal with the complaint.

(4) The Ombudsman must inform the complainant in writing of the referral of the complaint to the Provincial Commissioner or the executive head of the relevant municipal police service or an appropriate authority or institution.

(5) If the Ombudsman investigates a complaint, the Ombudsman must inform the complainant in writing that the complaint is being investigated and identify the investigating officer by supplying his or her name and contact details.”.

#### **Amendment of regulation 5 of the Regulations**

6. The following regulation is substituted for regulation 5 of the Regulations:

“5. (1) The Ombudsman must give written notice to the Provincial Commissioner or the executive head of the relevant municipal police service, as the case may be, of an investigation in terms of section 17(1) and (2) of the Act and invite the police service concerned to submit written comment on the complaint to the Ombudsman within the period stated by the Ombudsman in the notice.

(2) If the police service concerned does not submit any written comment within the period prescribed in subregulation (1) or such further period as the Ombudsman may determine—

- (a) the police service concerned will be deemed to have no comment; and
- (b) the Ombudsman may conclude the investigation on the basis of the evidence available to him or her.”.

#### **Amendment of regulation 7 of the Regulations**

7. Regulation 7 is amended—

- (a) by the substitution for the heading to regulation 7 of the Regulations of the following heading:

**“Investigating powers and duties”;**

- (b) by the deletion of subregulation (1);
- (c) by the substitution for subregulation (8) of the following subregulation:

“(8) Any failure by a police official or official of an organ of state to co-operate with the Ombudsman in terms of this regulation must be reported to the Provincial Commissioner or executive head of the relevant municipal police service or organ of state, as the case may be.”; and
- (d) by the addition after subregulation (8) of the following subregulation:

“(9) Any failure by the Provincial Commissioner to co-operate with the Ombudsman must be reported to the National Commissioner of the South African Police Service appointed in terms of section 207(1) of the Constitution and the Provincial Minister.”.

#### **Amendment of regulation 8 of the Regulations**

8. The following regulation is substituted for regulation 8 of the Regulations:

##### **“Methods of investigation and resolution of complaints**

8. The Ombudsman must endeavour to resolve a complaint as soon as is reasonably possible and, with due regard to the circumstances of each case, determine the method to be followed in conducting an investigation in terms of section 17 of the Act, including the following methods or any combination thereof:

- (a) communication by telephone, e-mail or any other form of correspondence;
- (b) research, inspections *in loco*, surveys or questionnaires;
- (c) meetings with persons reasonably believed to have information relevant to the investigation;
- (d) requests to persons to appear before the Ombudsman for purposes of obtaining or clarifying information, or to produce any document as contemplated in section 18(1) of the Act;

- (e) requests to persons to provide explanations as contemplated in section 18(2) of the Act;
- (f) where insufficient information has been provided, by requesting the complainant to provide further information;
- (g) where sufficient information has been provided, by sending a notice contemplated in regulation 5 to the Provincial Commissioner or the executive head of the relevant municipal police service and requesting a response to the complaint;
- (h) where all the required information is received, by proceeding with a negotiation and conciliation process, if necessary;
- (i) where the complaint cannot be resolved by a negotiation and conciliation process, by finalising the investigation and submitting a report and recommendation to the Provincial Minister.”.

#### **Amendment of regulation 9 of the Regulations**

9. Regulation 9 is amended by the substitution for subregulation (2) of the following subregulation:

“(2) The direction or request must be signed by the Ombudsman and be served by email, registered post or by hand on the person who is required to appear, submit an affidavit or affirmed declaration, produce any document or to give an explanation.”.

#### **Repeal of regulation 14 of the Regulations**

10. Regulation 14 of the Regulations is repealed.

#### **Amendment of regulation 15 of the Regulations**

11. Regulation 15 is amended—

(a) by the substitution for subregulation (1) of the following subregulation:

“(1) A complaint is concluded by the Ombudsman under the following circumstances:

- (a) before or after conclusion of an investigation where the complaint is rejected due to the fact that it does not fall within the ambit of the Act or if it is frivolous or vexatious;
- (b) before the conclusion of an investigation if the complaint is resolved by means of agreement, negotiation or conciliation;
- (c) after conclusion of an investigation where it is found that—
  - (i) there is police inefficiency or a breakdown in relations but it could not be resolved and if a report is submitted as contemplated in section 17(8) of the Act;
  - (ii) there was police inefficiency or a breakdown in relations and if the said police inefficiency or the breakdown in relations is remedied;

- (iii) there was police inefficiency or a breakdown in relations and the said police inefficiency or breakdown in relations has been reported to the Provincial Commissioner or the executive head of the relevant municipal police service to deal with the matter further; or
  - (iv) there was no police inefficiency or a breakdown in relations and the said police inefficiency or breakdown in relations is recorded as unsubstantiated;
  - (d) if a complaint is withdrawn by the complainant and the Ombudsman is satisfied that there are no compelling reasons to proceed with the investigation;
  - (e) if a complainant despite request does not provide further information that is within his or her knowledge and which is required to finalise the investigation of the complaint; or
  - (f) if before or during the investigation, the Ombudsman becomes aware that the investigation of the complaint will be a duplication of the functions and activities of other authorities that have jurisdiction in respect of the investigation of the complaint.”; and
- (b) by the deletion of paragraphs (e) and (f) of subregulation (3).

#### **Amendment of regulation 16 of the Regulations**

**12.** Regulation 16 is amended—

- (a) by the substitution in subregulation (1) for the expression “30” of the expression “90”;
- (b) by the addition after subregulation (2) of the following subregulation:
  - “(3) The Ombudsman must submit a written report at the end of each quarter to the Provincial Parliament’s standing committee responsible for community safety indicating, in the manner the Ombudsman deems fit, the particulars of all matters reported to the Provincial Commissioner or the executive head of the relevant municipal police service in terms of regulation 15(1)(c)(iii).”.

#### **Amendment of regulation 17 of the Regulations**

**13.** Regulation 17 is amended by the substitution for subregulation (2) of the following subregulation:

- “(2) When performing a function in terms of the Act, an investigating officer must show his or her certificate of appointment to any person who is affected by the exercise of the functions of the investigating officer and requests to see the certificate.”.

### Amendment of Arrangement of Regulations

14. The Arrangement of Regulations before regulation 1 is amended—
- (a) by the substitution for the reference to the heading to regulation 7 of the following item:
    - “7. Investigating powers and duties”;
  - (b) by the substitution for the reference to the heading to regulation 8 of the following item:
    - “8. Methods of investigation and resolution of complaints”;
  - (c) by the deletion of the reference to the heading to regulation 14.

### Substitution of Annexure A to the Regulations

15. The following annexure is substituted for Annexure A to the Regulations:

#### “ANNEXURE A

#### Form 1

#### WESTERN CAPE DEPARTMENT OF COMMUNITY SAFETY

#### COMPLAINT TO THE OMBUDSMAN

#### Western Cape Community Safety Act, 2013 (Act 3 of 2013) (Section 16 of the Act)

#### PART A

#### Details of Complainant

Surname: .....

Full first names: .....

Identity or passport number: .....

Residential address: .....

Postal address: .....

Home tel. no.: ..... Work tel. no.: .....

Cell. no.: ..... E-mail: .....

Fax no.: .....



**Important: Complete PART B, in addition to PART A and PART C, if you are submitting the complaint on behalf of the complainant.**

<b>PART B</b>	
<b>Details of person submitting the complaint on behalf of the complainant</b>	
Surname: .....	
Full first names: .....	
Identity or passport number: .....	
Residential address: .....	
Postal address: .....	
Home tel. no.: .....	Work tel. no.: .....
Cell. no.: .....	E-mail: .....
Fax no.: .....	
Relationship to the complainant: .....	

<b>PART C</b>	
<b>Details of the complaint</b> <i>(Attach further pages if more space is required.)</i>	
1. Provide a short explanation of the complaint.	
.....	
.....	
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.....	
.....	
2. Date and place of occurrence:	
.....	
3. Provide a description of the incident and explain why you believe that the complaint should be investigated.	
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4. Provide the names and addresses of any other person who could provide information relevant to the complaint.

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5. Provide information regarding other mechanisms you have used to try to resolve the complaint.

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6. Provide particulars of any person who was involved in trying to resolve the complaint.

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7. Provide all other relevant information known to you.

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8. Provide the name of any police official(s) involved in the incident or matter, if known.

.....  
.....  
.....

9. Provide the name of the police station and the police reference number, if known.

.....  
.....  
.....

**I, the complainant/the person submitting the complaint on behalf of the complainant (delete whichever is not applicable),** whose details are provided above, confirm that the information provided by me is to the best of my knowledge true and correct.

**Signature:**

**Date:**

**Addition of Annexure B to the Regulations**

16. The following annexure is added after Annexure A to the Regulations:

**“ANNEXURE B**

**Form 2**

**WESTERN CAPE DEPARTMENT OF COMMUNITY SAFETY**

**CONSENT**

**Western Cape Community Safety Act, 2013 (Act 3 of 2013)  
(Regulation 2(6)(c)(i) of the Western Cape Provincial Police Ombudsman  
Regulations, 2015)**

**IMPORTANT:**

Complete this form if you are the complainant and you give consent to another person to submit a complaint to the Western Cape Provincial Police Ombudsman on your behalf.

<b>Details of Complainant</b>	
Surname:	.....
Full first names:	.....
Identity or passport number:	.....
Residential address:	.....
Postal address:	.....
Home tel. no.:	..... Work tel. no.: .....
Cell. no.:	..... E-mail: .....
	.....
Fax no.:	.....

<p><b>Reason(s) why the complainant cannot submit the complaint him- or herself</b></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
--

<p><b>Details of person to whom consent is given to submit a complaint on behalf of the complainant to the Western Cape Provincial Police Ombudsman</b></p> <p>Surname: .....</p> <p>Full first names: .....</p> <p>Identity or passport number: .....</p> <p>Residential address: .....</p> <p>Postal address: .....</p> <p>Home tel. no.: ..... Work tel. no.: .....</p> <p>Cell. no.: ..... E-mail: .....</p> <p>.....</p> <p>Fax no.: .....</p> <p>Relationship to the complainant: .....</p>
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<p>I, <b>the complainant</b>, whose details are provided in this form, give consent to ..... to submit the complaint in this matter on my behalf to the Western Cape Provincial Police Ombudsman, and I confirm that the information provided by me is to the best of my knowledge true and correct.</p> <p><b>Signature:</b> <span style="float: right;"><b>Date:</b></span></p>
---

I, ....., agree to submit the complaint in this matter to the Western Cape Provincial Police Ombudsman on behalf of the complainant, and I confirm that the information provided by me is to the best of my knowledge true and correct.

**Signature:**

**Date:**

”.

**Short title**

17. These regulations are called the Western Cape Provincial Police Ombudsman Regulations, 2015: Amendment, 2020.

## PROVINSIALE KENNISGEWING

P.K. 53/2020

16 Julie 2020

**WES-KAAPSE DEPARTEMENT VAN GEMEENSKAPSVEILIGHEID**  
**WES-KAAPSE WET OP GEMEENSKAPSVEILIGHEID, 2013 (WET 3 VAN 2013)**  
**REGULASIES VIR DIE WES-KAAPSE PROVINSIALE POLISIE-OMBUDSMAN,**  
**2015: KONSEPWYSIGING, 2020**

Die Provinsiale Minister van Gemeenskapsveiligheid, ingevolge artikel 31 van die Wes-Kaapse Wet op Gemeenskapsveiligheid, 2013 (Wet 3 van 2013), is van voorneme om die regulasies uiteengesit in die Bylae te maak.

**BYLAE**

**Woordomskrywing**

1. In hierdie regulasies beteken “die Regulasies” die Regulasies vir die Wes-Kaapse Provinsiale Polisie-ombudsman, 2015, gepubliseer onder Provinsiale Kennisgewing 364/2015 van 22 Oktober 2015.

**Wysiging van regulasie 1 van die Regulasies**

2. Regulasie 1 van die Regulasies word gewysig deur die omskrywing van “klaer” deur die volgende omskrywing te vervang:

“**‘klaer’** enige persoon of enige lid van die Provinsiale Parlement beoog in artikel 16 van die Wet wat ’n klagte by die Ombudsman indien, of ’n persoon namens wie ’n klagte by die Ombudsman ingedien word;”.

**Wysiging van regulasie 2 van die Regulasies**

3. Regulasie 2 van die Regulasies word gewysig—

(a) deur subregulasie (4) deur die volgende subregulasie te vervang:

“(4) Behoudens subregulasies (1) en (4A) word ’n klagte skriftelik ingedien deur ’n voltooide en ondertekende vorm in Aanhangsel A by die Kantoor van die Ombudsman in te dien.”;

(b) deur die volgende subregulasies ná subregulasie (4) in te voeg:

“(4A) Waar ’n lid van die Provinsiale Parlement ’n klagte by die Ombudsman indien, hoef die klagte nie in die vorm van Aanhangsel A te wees nie: Met dien verstande dat die klagte op skrif moet wees en die volgende inligting moet bevat:

(a) ’n beskrywing van die aard van die klagte en van die voorval wat tot die klagte aanleiding gegee het; en

(b) die identiteits- en kontakbesonderhede van die klaer.

(4B) ’n Personeellid behoorlik aangewys deur die Ombudsman moet so gou as moontlik na ontvangs van die klagte beoog in subregulasie (4A)—

- (a) met die klaer in verbinding tree om ontvangs van die klagte te erken; en
  - (b) die inligting wat in subregulasie (5) benodig word, van die klaer verkry ten einde Aanhangsel A te voltooi.
- (4C) Indien 'n klaer nie opgespoor kan word nie of ondanks 'n versoek nie die inligting wat binne sy of haar wete is en wat benodig word om Aanhangsel A te voltooi, verskaf nie—
- (a) kan die Ombudsman besluit om met die ondersoek voort te gaan al dan nie; en
  - (b) moet die Ombudsman die lid van die Provinsiale Parlement beoog in subregulasie (4A) in kennis stel van die besluit wat ingevolge paragraaf (a) geneem is.”;
- (c) deur subregulasie (6) deur die volgende subregulasie te vervang:
- “(6) Die voltooide en ondertekende vorm in Aanhangsel A moet van die volgende dokumente vergesel word:
- (a) 'n afskrif van die klaer se identiteitsdokument of paspoort, indien beskikbaar, behalwe dat 'n lid van die Provinsiale Parlement nie sy of haar identiteitsdokument of paspoort hoef te verskaf nie;
  - (b) indien 'n persoon die klagte indien as 'n lid of in belang van 'n groep of klas persone of namens 'n vereniging of organisasie—
    - (i) bewys dat die persoon wat die klagte indien, gemagtig is om namens die groep of klas persone of namens die vereniging of organisasie op te tree; en
    - (ii) 'n afskrif van die identiteitsdokument of paspoort van die persoon wat die klagte indien;
  - (c) indien 'n persoon 'n klagte namens 'n ander persoon indien—
    - (i) behoudens subregulasie (9), skriftelike bewys in die vorm van Aanhangsel B van die toestemming van die klaer aan die persoon wat die klagte namens hom of haar indien;
    - (ii) 'n afskrif van die klaer se identiteitsdokument of paspoort; en
    - (iii) 'n afskrif van die identiteitsdokument of paspoort van die persoon wat die klagte namens die klaer indien.”; en
- (d) deur die volgende subregulasies ná subregulasie (7) by te voeg:
- “(8) 'n Persoon kan, met die skriftelike toestemming van die klaer, 'n klagte namens die klaer by die Ombudsman indien.
- (9) Skriftelike toestemming beoog in subregulasie (8) word nie benodig nie indien die klaer—
- (a) minderjarig is;
  - (b) onbevoeg is weens 'n mediese of fisiese toestand;
  - (c) ongeletterd is; of
  - (d) na die mening van die Ombudsman, nie in staat is om skriftelike toestemming te gee nie.



(10) Ondanks die bepalings van enige ander wet kan enige minderjarige, of enigiemand namens 'n minderjarige, sonder die bystand van 'n ouer, voog of enige ander persoon 'n klagte by die Ombudsman indien.

(11) Benewens die inligting uiteengesit in subregulasie (5) moet 'n klagte beoog in subregulasie (8) die volgende vermeld met die doel om Aanhangsel B te voltooi:

- (a) die naam, identiteits- of paspoortnommer en kontakbesonderhede van die persoon wat die klagte namens die klaer indien;
- (b) die verhouding van sodanige persoon tot die klaer; en
- (c) die redes waarom die klaer nie self die klagte indien nie.”.

### **Wysiging van regulasie 3 van die Regulasies**

#### **4. Regulasie 3 word gewysig—**

- (a) deur paragraaf (e) van subregulasie (2) deur die volgende paragraaf te vervang:
  - “(e) deur 'n klagtevorm aanlyn te voltooi en in te dien op die webtuiste van die Kantoor van die Ombudsman.”;
- (b) deur subregulasie 3(3) en 3(4) te skrap.

### **Wysiging van regulasie 4 van die Regulasies**

**5. Regulasie 4 van die Regulasies word gewysig deur subregulasies (3), (4) en (5) deur die volgende subregulasies te vervang:**

“(3) Die Ombudsman kan enige klagte of aspek daarvan skriftelik verwys na die Provinsiale Kommissaris of die uitvoerende hoof van die tersaaklike munisipale polisie diens of na 'n geskikte owerheid of instelling wat bevoeg is om die klagte te hanteer.

(4) Die Ombudsman moet die klaer skriftelik in kennis stel van die verwysing van die klagte na die Provinsiale Kommissaris of die uitvoerende hoof van die tersaaklike munisipale polisie diens of na 'n geskikte owerheid of instelling.

(5) Indien die Ombudsman 'n klagte ondersoek moet die Ombudsman die klaer skriftelik in kennis stel dat die klagte ondersoek word en die ondersoekbeampte identifiseer deur sy of haar naam en kontakbesonderhede te verskaf.”.

### **Wysiging van regulasie 5 van die Regulasies**

#### **6. Regulasie 5 word deur die volgende regulasie vervang:**

“**5.** (1) Die Ombudsman moet skriftelike kennis aan die Provinsiale Kommissaris of die uitvoerende hoof van die tersaaklike munisipale polisie gee, na gelang van die geval, van 'n ondersoek ingevolge artikel 17(1) en (2) van die Wet en moet die betrokke polisie diens uitnooi om binne die tydperk vermeld deur die Ombudsman in die kennisgewing skriftelike kommentaar op die klagte aan die Ombudsman voor te lê.

(2) Indien die betrokke polisie-diens geen skriftelike kommentaar voorlê nie binne die tydperk voorgeskryf in subregulasie (1) of die verdere tydperk wat die Ombudsman kan bepaal—

- (a) word die betrokke polisie-diens geag geen kommentaar te hê nie; en
- (b) kan die Ombudsman die ondersoek op grond van die bewyse beskikbaar aan hom of haar afhandel.”.

### **Wysiging van regulasie 7 van die Regulasies**

7. Regulasie 7 van die Regulasies word gewysig—

- (a) deur die opskrif van regulasie 7 deur die volgende opskrif te vervang:

**“Ondersoekbevoegdheids- en -pligte”;**

- (b) deur subregulasie (1) te skrap;
- (c) deur subregulasie (8) deur die volgende subregulasie te vervang:
 

“(8) Enige versuim deur ’n polisie-beampte of beampte van ’n staatsorgaan om met die Ombudsman saam te werk ingevolge hierdie regulasie moet aan die Provinsiale Kommissaris of uitvoerende hoof van die tersaaklike munisipale polisie-diens of staatsorgaan, na gelang van die geval, aangemeld word.”;
- (d) deur die volgende subregulasie ná subregulasie (8) by te voeg:
 

“(9) Enige versuim deur die Provinsiale Kommissaris om met die Ombudsman saam te werk moet by die Nasionale Kommissaris van die Suid-Afrikaanse Polisie-diens, aangestel ingevolge artikel 207(1) van die Grondwet, en die Provinsiale Minister aangemeld word.”.

### **Wysiging van regulasie 8 van die Regulasies**

8. Regulasie 8 van die Regulasies word deur die volgende regulasie vervang:

#### **Metodes van ondersoek en oplossing van klagtes**

8. Die Ombudsman moet daarna streef om ’n klagte so gou as wat redelik moontlik is, op te los en, met behoorlike inagneming van die omstandighede van elke saak, die metode bepaal wat gevolg moet word by die uitvoering van ’n ondersoek ingevolge atikel 17 van die Wet, met inbegrip van die volgende metodes of enige kombinasie daarvan:

- (a) kommunikasie per telefoon, e-pos of enige ander vorm van korrespondensie;
- (b) navorsing, terplaats-ondersoeke, opnames of vraelyste;
- (c) vergaderings met persone wat op redelike gronde vermoed word oor inligting te beskik wat tersaaklik tot die ondersoek is;

- (d) versoeke aan persone om voor die Ombudsman te verskyn ten einde inligting te verkry of te verduidelik, of om enige dokument voor te lê soos beoog in artikel 18(1) van die Wet;
- (e) versoeke aan persone om verduidelikings te verskaf soos beoog in artikel 18(2) van die Wet;
- (f) waar onvoldoende inligting verskaf is, deur die klaer te versoek om verdere inligting te verskaf;
- (g) waar voldoende inligting verskaf is, deur 'n kennisgewing beoog in regulasie 5 aan die Provinsiale Kommissaris of die uitvoerende hoof van die tersaaklike munisipale polisie diens te stuur en 'n antwoord op die klagte te versoek;
- (h) waar al die vereiste inligting ontvang is, deur voort te gaan met 'n onderhandelings- en bemiddelingsproses, indien nodig;
- (i) waar die klagte nie deur 'n onderhandelings- en bemiddelingsproses opgelos kan word nie, deur die ondersoek te finaliseer en 'n verslag en aanbeveling aan die Provinsiale Minister voor te lê.”.

#### **Wysiging van regulasie 9 van die Regulasies**

9. Regulasie 9 word gewysig deur subregulasie (2) deur die volgende subregulasie te vervang:

“(2) Die lasgewing of versoek moet onderteken word deur die Ombudsman en per e-pos, geregistreerde pos of per hand beteken word op die persoon wat moet verskyn, 'n beëdigde verklaring of plegtige verklaring moet indien, enige dokument moet voorlê of 'n verduideliking moet gee.”

#### **Herroeping van regulasie 14 van die Regulasies**

10. Regulasie 14 van die Regulasies word herroep.

#### **Wysiging van regulasie 15 van die Regulasies**

11. Regulasie 15 word gewysig—

(a) deur subregulasie (1) deur die volgende subregulasie te vervang:

“(1) 'n Klagte is afgehandel deur die Ombudsman in die volgende omstandighede:

- (a) voor of na afhandeling van 'n ondersoek waar die klagte verwerp word weens die feit dat dit nie binne die omvang van die Wet val nie of indien dit beuselagtig of kwelsugtig is;
- (b) voor die afhandeling van 'n ondersoek indien die klagte opgelos is by ooreenkoms, onderhandeling of bemiddeling;
- (c) na afhandeling van 'n ondersoek waar daar bevind is dat—
  - (i) daar polisie-onbevoegdheid of 'n verbrokkeling in betrekkinge is maar dit nie opgelos kon word nie en

indien 'n verslag soos beoog in artikel 17(8) van die Wet voorgelê is;

- (ii) daar polisie-onbevoegdheid of 'n verbrokkeling in betrekkinge was en indien die genoemde polisie-onbevoegdheid of verbrokkeling in betrekkinge reggestel is;
  - (iii) daar polisie-onbevoegdheid of 'n verbrokkeling in betrekkinge was en die genoemde polisie-onbevoegdheid of verbrokkeling in betrekkinge is aan die Provinsiale Kommissaris of die uitvoerende hoof van die tersaaklike munisipale polisie-diens aangemeld is om die aangeleentheid verder te hanteer; of
  - (iv) daar geen polisie-onbevoegdheid of 'n verbrokkeling in betrekkinge was nie en die polisie-onbevoegdheid of verbrokkeling in betrekkinge as ongestaaf opgeteken is;
- (d) indien 'n klagte teruggetrek word deur die klaer en die Ombudsman tevrede is dat daar geen dwingende redes is om met die ondersoek voort te gaan nie;
- (e) indien 'n klaer ondanks 'n versoek nie verdere inligting verskaf wat binne sy of haar wete is en wat benodig word om die ondersoek van die klagte te finaliseer nie; of
- (f) indien die Ombudsman voor of gedurende die ondersoek te wete kom dat die klagte 'n duplikasie is van die funksies en aktiwiteite van ander owerhede wat ten opsigte van die ondersoek van die klagte jurisdiksie het.”; en

(b) deur paragrawe (e) en (f) van subregulasie (3) te skrap.

### **Wysiging van regulasie 16 van die Regulasies**

**12.** Regulasie 16 word gewysig—

- (a) deur in subregulasie (1) die uitdrukking “30” deur die uitdrukking “90” te vervang;
- (b) deur ná subregulasie (2) die volgende subregulasie in te voeg:

“(3) Die Ombudsman moet aan die einde van elke kwartaal 'n skriftelike verslag aan die Provinsiale Parlement se staande komitee verantwoordelik vir gemeensapsveiligheid voorlê wat, op die wyse wat die Ombudsman geskik ag, die besonderhede van alle aangeleenthede wat ingevolge regulasie 15(1)(c)(iii) aan die Provinsiale Kommissaris of die uitvoerende hoof van die tersaaklike munisipale polisie-diens aangemeld is.”.

### **Wysiging van regulasie 17 van die Regulasies**

**13.** Regulasie 17 word gewysig deur subregulasie (2) deur die volgende subregulasie te vervang:

“(2) By die verrigting van ’n funksie ingevolge die Wet moet ’n ondersoekbeampte sy of haar aanstellingsertifikaat aan enige persoon toon wat deur die uitoefening van die funksies van die ondersoekbeampte geraak word en versoek om die sertifikaat te sien.”.

**Wysiging van Indeling van Regulasies**

- 14. Die Indeling van Regulasies voor regulasie 1 word gewysig—
  - (a) deur die verwysing na die opskrif van regulasie 7 deur die volgende item te vervang:
    - “7. Onderzoekbevoegdhede en -pligte”;
  - (b) deur die verwysing na die opskrif van regulasie 8 deur die volgende item te vervang:
    - “8. Metodes van ondersoek en oplossing van klagtes”; en
  - (c) deur die verwysing na die opskrif van regulasie 14 te skrap.

**Vervanging van Aanhangsel A by die Regulasies**

- 15. Aanhangsel A word deur die volgende aanhangsel vervang:

**“AANHANGSEL A**

**Vorm 1**

**WES-KAAPSE DEPARTEMENT VAN GEMEENSKAPSVEILIGHEID**

**KLAGTE AAN DIE OMBUDSMAN**

**Wes-Kaapse Wet op Gemeenskapsveiligheid, 2013 (Wet 3 van 2013)  
(Artikel 16 van die Wet)**

<b>DEEL A</b>
<b>Besonderhede van Klaer</b>
Van: .....
Volle voorname: .....
Identiteits- of paspoortnommer: .....
Woonadres: .....
Posadres: .....
Tel.nr. Huis: ..... Tel.nr. Werk: .....
Selnr.: ..... E-pos: .....
Faksnr.: .....

**Let wel: Indien u die klagte namens die klaer indien, voltooi ook DEEL B, bo en behalwe DEEL A en DEEL C.**

<b>DEEL B</b>	
<b>Besonderhede van persoon wat die klagte namens die klaer indien</b>	
Van: .....	
Volle voorname: .....	
Identiteits- of paspoortnommer: .....	
Woonadres: .....	
Posadres: .....	
Tel.nr. Huis: .....	Tel.nr. Werk: .....
Selnr.: .....	E-pos: .....
Faksnr.: .....	
Verhouding tot die klaer: .....	

<b>DEEL C</b>	
<b>Besonderhede van die klagte</b> <i>(Heg nog bladsye aan indien meer ruimte benodig word.)</i>	
1. Gee 'n kort uiteensetting van die klagte.	
.....	
.....	
.....	
.....	
.....	
2. Datum en plek van voorval:	
.....	
3. Gee 'n beskrywing van die voorval en verduidelik waarom u glo dat die klagte ondersoek behoort te word.	
.....	
.....	
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.....	

4. Verskaf die name en adresse van enige ander persoon wat inligting relevant tot die klagte kan verskaf.

.....  
.....  
.....  
.....  
.....

5. Verskaf inligting van ander meganismes wat u gebruik het in 'n poging om die klagte op te los.

.....  
.....  
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.....

6. Verskaf besonderhede van enige persoon wat betrokke was om die klagte te probeer oplos.

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7. Verskaf alle ander relevante inligting wat aan u bekend is.

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8. Verskaf die naam van enige polisiebeampte(s) wat by die voorval of aangeleentheid betrokke is, indien bekend.

.....  
.....  
.....

9. Verskaf die naam van die polisiestasie en die polisieverwysingsnommer, indien bekend.

.....  
.....  
.....

Ek, die klaer/die persoon wat die klagte indien namens die klaer (*trek streep deur gedeelte wat nie van toepassing is nie*), wie se besonderhede hierbo verskaf word, bevestig dat die inligting wat deur my verskaf is, na my beste wete waar en korrek is.

**Handtekening:**

**Datum:**

..”



**Byvoeging van Aanhangsel B by die Regulasies**

16. Die volgende Aanhangsel word ná Aanhangsel A by die Regulasies bygevoeg:

**“AANHANGSEL B**

**Vorm 2**

**WES-KAAPSE DEPARTEMENT VAN GEMEENSKAPSVEILIGHEID**

**TOESTEMMING**

**Wes-Kaapse Wet op Gemeenskapsveiligheid, 2013 (Wet 3 van 2013)  
(Regulasie 2(6)(c)(i) van die Regulasies vir die Wes-Kaapse Provinsiale Polisie-  
ombudsman, 2015)**

**LET WEL:**

Voltooi hierdie vorm indien u die klaer is en u aan iemand anders toestemming gee om namens u 'n klagte by die Wes-Kaapse Provinsiale Polisie-ombudsman in te dien.

<b>Besonderhede van Klaer</b>	
Van: .....	
Volle voorname: .....	
Identiteits- of paspoortnommer: .....	
Woonadres: .....	
Posadres: .....	
Tel.nr. Huis: .....	Tel.nr. Werk: .....
Selnr.: .....	E-pos: .....
Faksnr.: .....	

<b>Rede(s) waarom klaer nie self die klagte kan indien nie</b>
.....
.....
.....
.....
.....

**Besonderhede van persoon aan wie toestemming gegee word om namens die klaer 'n klagte by die Wes-Kaapse Provinsiale Polisie-ombudsman in te dien**

Van: .....  
 Volle voorname: .....  
 Identiteits- en paspoortnommer: .....  
 Woonadres: .....  
 Posadres: .....  
 Tel.nr. Huis: ..... Tel.nr. Werk: .....  
 Selnr.: ..... E-pos: .....  
 Faksnr.: .....  
 Verhouding tot die klaer: .....

Ek, **die klaer**, wie se besonderhede in hierdie vorm verskaf word, gee toestemming aan ..... om die klagte oor hierdie aangeleentheid namens my by die Wes-Kaapse Provinsiale Polisie-ombudsman in te dien, en ek bevestig dat die inligting wat ek verskaf, na my beste wete waar en korrek is.

**Handtekening:**

**Datum:**

Ek, ....., stem in om namens die klaer die klagte oor hierdie aangeleentheid by die Wes-Kaapse Provinsiale Polisie-ombudsman in te dien, en ek bevestig dat die inligting wat deur my verskaf word, na my beste wete waar en korrek is.

**Handtekening:**

**Datum:**

**Kort titel**

17. Hierdie regulasies heet die Regulasies vir die Wes-Kaapse Provinsiale Polisie-ombudsman, 2015: Wysiging, 2020.

**ISAZISO SEPHONDO**

I.S. 53/2020

16 kweyeKhala 2020

**ISEBE LOKHUSELEKO LOLUNTU LENTSHONA KOLONI  
UMTHETHO WOKHUSELEKO LOLUNTU WENTSHONA KOLONI, 2013  
(UMTHETHO 3 KA-2013)  
IMIGAQO KANOZIKHALAZO WAMAPOLISA WEPHONDO LENTSHONA  
KOLONI, 2015: UQULUNQO LWESILUNGISO, 2020**

UMphathiswa wePhondo woKhuseleko loLuntu, ngokwecandelo lama-31 loMthetho woKhuseleko loLuntu eNtshona Koloni, 2013 (uMthetho 3 ka-2013), uzimisele ukwenza imimmisselo njengoko ibekiwe kwiShedyuli.

**ISHEDYULI****Inkcazo**

1. Kule migaqo, “iMigaqo” ithetha iMigaqo kaNozikhalazo wamaPolisa wePhondo leNtshona Koloni, 2015, epapashwe phantsi kweSaziso sePhondo esingunombolo 364/2015 somhla wama-22 kweyeDwarha 2015.

**ISilungiso somgaqo 1 seMigago**

2. Umgaqo 1 weMigaqo ulungiswe ngokufakelwa endaweni yenkcazo “yomfakisikhalazo” kule ngcaciso ilandelayo:

“‘**umfakisikhalazo**’ uthetha nawuphi na umntu okanye naliphi na ilungu lePalamente yePhondo elixelwe kwisiqendu 16 salo Mthetho ongenise isikhalazo kuNozikhalazo, okanye umntu lowo isikhalazo sakhe sithunyelwe kuNozikhalazo;”.

**ISilungiso somgaqo 2 seMigago**

3. UMgaqo wesi-2 weMigaqo ulungisiwe—

(a) ngokufakelwa endaweni yesolotyana lesi-(4) kweli solotyana lilandelayo:

“(4) Kuxhomekeka kwisolotyana loku-(1) kunye nomgaqwana we-(4A), isikhalazo singeniswa ngokubhaliweyo ngokungenisa ifomu ezalisiweyo netyikityiweyo kwiSihlomelo A kwiOfisi kaNozikhalazo.”;

(b) ngokufakelwa emva kwesolotyana lesi-(4) kula masolotyana alandelayo:

“(4A) Xa ilungu lePalamente yePhondo lingenisa isikhalazo kuNozikhalazo, isikhalazo eso akufuneki ukuba sibe kwimo yeSihlomelo A: Ngokuxhomekeka ekubeni isikhalazo kufuneka sibhalwe phantsi kwaye siqulathe olu lwazi lulandelayo:

(a) inkcazo ngohlobo lwesikhalazo kunye nesiganeko esakhokelela kwisikhalazo; kwaye

(b) isazisi kunye neenkukacha zonxibelelwano zomfakisikhalazo.

(4B) Umsebenzi otyunjwe ngokufanelekileyo nguNozikhhalazo kufuneka ngokukhawuleza emva kokufumana isikhhalazo esikhankanywe kwisolotyana lesi-(4A)—

- (a) nxibelelana nommangali ngenjongo yokwazisa ukuba isikhhalazo sisifumene; kwaye
- (b) afumane kummangali ulwazi olufunekayo kwisolotyana lesi-(5) ngeenjongo zokugcwalisa iSihlomelo A.

(4C) Ukuba umfakisikhhalazo akanakulandeleka okanye ngaphandle kwesicelo asiboneleli ngolwazi olungaphakathi kulwazi lwakhe olo kwaye okufunekayo ukugcwalisa iSihlomelo A, uNozikhhalazo—

- (a) inokuthatha isigqibo sokuba aqhubeke okanye angaqhubeki nophando; kwaye
- (b) makazise ilungu lePalamente yePhondo elixelwe kwisolotyana lesi-(4A) ngesigqibo esithathiwe ngokomhlathi (a).”;

(c) ngokufaka endaweni yesolotyana lesi-(6) le solotyana elilandelayo:

“(6) Ifomu egcwalisiweyo yaza yatyikitywa kwiSihlomelo A kufuneka ikhatshwe ngala maxwebhu alandelayo:

- (a) ikopi yesazisi yommangali okanye ipaspoti, ukuba zikhona, ngaphandle kokuba ilungu lePalamente yePhondo alidingi ukungenisa incwadi yesazisi okanye ipaspoti;
- (b) ukuba umntu ungenisa isikhhalazo njengelungu okanye egameni leqela okanye udidi lwabantu okanye egameni lombutho—
  - (i) ubungqina bokuba umntu ongenisa isikhhalazo ugunyazisiwe ukuba enze egameni leqela okanye lodidi lwabantu okanye egameni lombutho; kwaye
  - (ii) ikopi yesazisi okanye ipaspoti yomntu ongenisa isikhhalazo;

- (c) ukuba umntu ungenisa isikhhalazo egameni lomnye umntu—
  - (i) ngokuxhomekeke kwisolotyana lesi-(9), ubungqina obubhaliweyo ngohlobo lweSihlomelo B, sokuvuma kommangali kulowo mntu ungenisa isikhhalazo egameni lakhe;
  - (ii) ikopi yesazisi okanye ipaspoti yomfakisikhhalazo; kwaye
  - (iii) ikopi yesazisi okanye ipaspoti yomntu ongenisa isikhhalazo egameni lommangali.”.

(d) ngokongezwa emva kwesolotyana lesi-(7) kula masolotyana alandelayo:

“(8) Umntu unokuthi, ngemvume ebhaliweyo yomfakisikhhalazo, angenise isikhhalazo kuNozikhhalazo egameni lommangali.

(9) Imvume ebhaliweyo echatshazelwe kwisolotyana lesi-(8) ayifuneki ukuba umfakisikhhalazo—

- (a) ngumntwana;
- (b) ongakwaziyo ngenxa yonyango okanye imeko yomzimba;
- (c) ongafundanga; okanye
- (d) ngokombono kaNozikhhalazo, akanakho ukunika imvume ebhaliweyo.

(10) Ngaphandle kwezibonelelo nakuphi na omnye umthetho, nawuphi na umntwana, okanye nawuphi na umntu egameni lomntwana unokufaka isikhalazo kuNozikhhalazo ngaphandle koncedo lomzali, umgcini okanye omnye umntu.

(11) Ukongeza kulwazi oluchazwe kwisolotyana lesi-(5), isikhalazo esikhankanywe kwisolotyana lesi-(8) kufuneka ngeenjongo zokugcwalisa iSihlomelo B, sichaze—

- (a) igama, incwadi yesazisi okanye inombolo yepaspoti kunye neenkukacha zonxibelelwano zomntu ongenisa isikhalazo egameni lomngali;
- (b) ubudlelwane baloo mntu kunye nomfakisikhalazo; kwaye
- (c) izizathu zokuba umngali angangenisi isikhalazo ngokwakhe”.

#### **ISilungiso somgaqo 3 seMigaqo**

##### **4. UMgaqo 3 uhlonyelwe—**

- (a) ngokufaka endaweni yomhlathi (e) yesolotyana (2) womhlathi olandelayo:  
“(e) ngokugcwalisa ifomu yesikhalazo kwi-intanethi kwi-Ofisi kaNozikhhalazo.”;
- (b) ngokususa amasolotyana lesi-3(3) nelesi-3(4).

#### **ISilungiso somgaqo 4 seMigaqo**

##### **5. UMgaqo wesi-4 ulungiswa ngokuhlonyelwa endaweni yesolotyana lesi-(3), (4) nelesi-(5) kula masolotyana alandelayo:**

“(3) UNozikhhalazo unokuthumela nasiphi na isikhalazo okanye umbandela ngokubhalela kuMkhomishinala wePhondo okanye kwintloko yolawulo efanelekileyo yamapolisa kamasipala okanye kwabasemagunyeni abafanelekileyo okanye iziko elinolwazi lokujongana nesikhalazo.

(4) UNozikhhalazo kufuneka azise umfakisikhalazo ngencwadi ebhaliweyo malunga nokudluliselwa kwesikhalazo kuMkhomishinala wePhondo okanye kwintloko yolawulo efanelekileyo yamapolisa kamasipala okanye kwigunya elifanelekileyo okanye iziko.

(5) Ukuba uNozikhhalazo uphanda isikhalazo, uNozikhhalazo makazise umngali ngencwadi ebhaliweyo ukuba isikhalazo siyaphandwa kwaye achonge igosa eliphandayo ngokunika igama lakhe kunye neenkukacha zonxibelelwano.”.

#### **ISilungiso somgaqo 5 seMigaqo**

##### **6. Lo mgaqo ulandelayo ufakwe endaweni yommiselo wesi-5 weMigaqo:**

“5. (1) UNozikhhalazo makanike isaziso esibhaliweyo kuMkhomishinala wePhondo okanye kwintloko yolawulo efanelekileyo lwenkonzo yamapolisa kamasipala, njengoko imeko inokuba njalo, ngophando olwenziweyo malunga necandelo le-17(1) nelesi-(2) loMthetho kwaye ameme inkonzo yamapolisa

echaphazelekayo yokufaka ingxelo ebhaliweyo malunga nesikhalazo kuNozikhhalazo kwisithuba esichazwe nguNozikhhalazo kwisaziso.

(2) Ukuba inkonzo yamapolisa ayingenisi naluphi na uluvo olubhaliweyo kwisithuba esichazwe kwisolotyana loku-(1) okanye ixesha elingaphaya njengoko uNozikhhalazo anokumisela—

- (a) inkonzo yamapolisa iya kuthathwa njengengaphendulanga; kwaye
- (b) uNozikhhalazo unokuluphelisa uphando esebenzisa ubungqina abufumanayo.”.

### ISilungiso somgaqo 7 seMigaqo

7. Umgaqo wesi-7 uhlonyenelwe ngu—

- (a) ukufakelwa kwesihloko kummiselo wesi-7 woMgaqo wesi sihloko silandelayo:

**“Amandla okuphanda nemisebenzi”;**

- (b) ukucinywa komgaqwana (1);

- (c) kufakwe endaweni yomgaqwana (8) walo omgaqwana elilandelayo:

“(8) Nakuphi na ukusilela kwegosa lamapolisa okanye igosa likarhulumente ukuba libambisane noNozikhhalazo ngokwale migaqo kufuneka kuxelwe kuMkhomishinala wePhondo okanye kwintloko yesigqeba senkonzo yamapolisa kamasipala okanye icandelo likarhulumente, njengoko kunokuba njalo.”;

- (d) kongezwe emva komgaqwana (8) komgaqwanaolandelayo:

“(9) Nakuphi na ukusilela koMkhomishina wePhondo ukusebenzisana noNozikhhalazo kufuneka kuxelwe kuMkhomishinala weSizwe weNkonzo yamaPolisa oMzantsi Afrika okhethwe ngokwecandelo lama-207(1) loMgaqosiseko kunye noMphathiswa wePhondo.”.

### ISilungiso somgaqo 8 seMigaqo

8. Lo mimiselo ulandelayo ufakwe endaweni yommiselo wesi-8 weMigaqo:

**“Indlela zophando kunye nokusonjululwa kwezikhhalazo**

8. UNozikhhalazo kufuneka azame ukusombulula isikhhalazo kwakamsinya ngendlela enokwenzeka kwaye, ngokubhekisele kwiimeko zetyala ngalinye, ichonge indlela emayilandelwe xa kusenziwa uphando ngokwecandelo le-17 loMthetho, kubandakanya noku nezi ndlela zilandelayo okanye nayiphi na indibaniselwano yazo:

- (a) unxibelelwano ngomnxeba, nge-imeyile okanye nangayiphi na enye imbalelwano;
- (b) uphando, uhlolo *kwi-loco*, uvavanyo okanye amaphepha emibuzo;

- (c) iintlanganiso nabantu ekukholelwa ukuba banolwazi oluhambelana nophando);
- (d) izicelo zabantu zokuvela phambi koNozikhalazo ngeenjongo zokufumana okanye ukucacisa ulwazi, okanye ukuvelisa naluphi na uxwebhu njengoko kuchaziwe kwicandelo le-18(1) loMthetho;
- (e) izicelo zabantu zokubonelela ngeenkcazo njengoko kuchaziwe kwicandelo le-18(2) loMthetho;
- (f) apho kunikezelwe ulwazi olunganelanga, ngokucela ukuba umfakisikhalazo anikezele ngolwazi oluthe kratya;
- (g) apho ulwazi olwaneleyo lunikezelwe, ngokuthumela isaziso esikhankanywe kummiselo wesi-5 kuMkhomishinala wePhondo okanye kwintloko yolawulo efanelekileyo lwenkonzo yamapolisa kamasipala kwaye ecela impendulo kwisikhalazo;
- (h) apho lonke ulwazi olufunekayo lufunyenwe, ngokuqhubeka nenkqubo yothethathethwano kunye noxolelwaniso, ukuba ikho imfuneko;
- (i) apho isikhalazo singasombululwayo ngenkqubo yothethathethwano noxolelwaniso, ngokugqibezela uphando kunye nokungenisa ingxelo kunye nengebiso kuMphathiswa wePhondo.”.

### **ISilungiso somgaqo 9 seMigaqo**

9. Umgaqo wesi-9 ulungiswe ngokufakelwa komgaqwana 2 kulo mgaqwana ulandelayo:  
 “(2) Isikhokelo okanye isicelo kufuneka sityikitywe nguNozikhalazo kwaye sithunyelwe nge-imeyile, iposi ebhalisiweyo okanye ngesandla kumntu lowo ekufuneka ezile, angenise ingxelo ebhaliweyo okanye efunjelweyo, avelise naluphi na uxwebhu okanye anike inkcazo.”.

### **Ukurhoxiswa kummiselo we-14 seMigaqo**

10. Ummiselo we-14 weMigaqo uyekisiwe.

### **ISilungiso somgaqo 15 seMigaqo**

11. Umgaqo we-15 uhlonyelwe—
- (a) ngokufakelwa endaweni yesolotyana loku-(1) kwisolotyana elilandelayo:  
 “(1) Isikhalazo sigqitywa nguNozikhalazo phantsi kwezi meko zilandelayo:
    - (a) ngaphambi okanye emva kokugqitywa kophando apho isikhalazo saliwe khona ngenxa yokungabikho phantsi komda woMthetho okanye ukuba yinto engabalulekanga okanye engafanelekanga;
    - (b) ngaphambi kokugqitywa kophando ukuba isikhalazo sisonjululwe ngesivumelwano, uthethathethwano okanye uxolelwaniso;
    - (c) emva kokugqitywa kophando apho kufumaniseke ukuba—

- (i) kukho ukungasebenzi kakuhle kwamapolisa okanye ukonakala kubudlelwane kodwa akunakulungiswa kwaye ukuba ingxelo ingenisiwe njengoko kuchaziwe kwicandelo le-17 (8) loMthetho;
  - (ii) bekukho ukungasebenzi kakuhle kwamapolisa okanye ukonakala kubudlelwane kwaye ukuba ukungasebenzi kakuhle kwamapolisa okanye ukonakala kubudlelwane kuyalungiswa;
  - (iii) kukho ukungasebenzi kakuhle kwamapolisa okanye ukwaphulwa kobudlelwane kwaye ukungaqiniseki kwamapolisa okanye ukonakala kubudlelwane kuchaziwe kuMkhomishinala wePhondo okanye kwintloko yesigqeba efanelekileyo senkonzo yamapolisa kamasipala ukujongana nalo mbandela; okanye
  - (iv) akubangakho ukungasebenzis kakuhle kwamapolisa okanye ukonakala kubudlelwane kwaye ukungasebenzi kakuhle kwamapolisa okanye ukonakala kubudlelwane kubhalwe njengongabalulekanga;
  - (d) ukuba isikhalazo sirhoxisiwe ngummangali kwaye uNozikhalazo wanelisekile ukuba akukho sizathu sinyanzelekileyo sokuqhubeka nophando;
  - (e) ukuba umfakisikhalazo nangona eceliwe akaboneleli ngolunye ulwazi olungaphakathi kolwazi olo kwaye kufuneka egqibezele uphando lwesikhalazo; okanye
  - (f) ukuba ngaphambi okanye ngexesha lophando, uNozikhalzo uyaqonda ukuba uphando lwesikhalazo luyakuba kukuphindaphinda imisebenzi kunye nezinye izinto ezenziwa ngamanye amagunya anolawulo ngokubhekisele kuphando lwesikhalazo.”;
- (b) ngokususa imihlathi (e) no- (f) wesolotyala lesi-(3).

### **ISilungiso somgaqo 16 seMigaqo**

#### **12. Umgqo we-16 uhlonyelwe—**

- (a) ngokufakelwa endaweni yomgaqwana (1) igama elithi “30”; lebinzana elithi “90”;
- (b) ngokufakela emva komgaqwana (2) walo mgaqwana ulandelayo:
  - “(3) UNozikhalazo kufuneka angenise ingxelo ebhaliweyo ekupheleni kwekota nganye kwikomiti emileyo yePalamente yePhondo ejongene nokhuselo loluntu, ngendlela ethi uNozikhalazo abone kufanelekile, iinkcukacha zayo yonke imicimbi echazwe kuMkhomishinala wePhondo okanye intloko yolawulo lwenkonzo yamapolisa kamasipala ngokomgaqo we-15(1)(c)(iii).”.



**ISilungiso somgaqo 17 seMigaqo**

**13.** Umgaqo we-17 uhlonyelwe ngokufakelwa endaweni yesolotyale-2(2):

“(2) Xa esenza umsebenzi ngokoMthetho, igosa eliphandayo kufuneka libonise isatifikethi sokuqeshwa kwakhe nakuwuphi na umntu ochaphazeleka ngokwenziwa kwemisebenzi yegosa yophando kunye nezicelo zokubona isatifikethi.”.

**ISilungiso soLandelwaniso lweMigaqo**

**14.** Ukucwangciswa kweMigaqo ngaphambi kokuhlonyelwa komgaqo woku-1—

(a) ngokufaka endaweni yereferensi kwisihloko kumgaqo wesi-7 wento elandelayo:

“7. Amandla okuphanda nemisebenzi”;

(b) ngokufaka endaweni yereferensi yesihloko kumgaqo wesi-8 wento elandelayo:

“8. Iindlela zophando kunye nokusonjululwa kwezikhhalazo”;

(c) ngokususa ireferensi kwisihloko kumgaqo we-14.

**Ukufakwa endaweni yesiHlomelo A kwiMigaqo**

15. Esi sihlomelo silandelayo sithatha indawo yeSihlomelo A seMigaqo:

**“ISIHLOMELO A**

**IFomu yoku-1**

**ISEBE LOKHUSELEKO LOLUNTU LENTSHONA KOLONI**

**ISIMANGALO KUNOZIKHALAZO**

**UMthetho woKhuseleko loLuntu weNtshona Koloni, 2013 (UMthetho 3 k-2013)  
(ICandelo le-16 loMthetho)**

**ISIAHLULO A**

**Iinkcukacha zoMmangali**

Ifani: .....

Amagama okuqala apheleleyo: .....

Isazisi okanye inombolo yepaspoti:  
.....

Idilesi yendawo yokuhlala:  
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Idilesi yeposi:  
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Inombolo yefowuni yasekhaya: .....

Inombolo yefowuni. Yasemsebenzini: .....

Inombolo kanomyayi: .....

I-imeyile: .....

Inombolo yefeksi: .....

**Okubalulekileyo: ISAHLULO B esipheleleyo, ukongeza kwiSAHLULO A  
nakwiSAHLULO C, ukuba ufaka isikhalazo egameni lommangali.**

<b>ISAHLULO B</b>
<b>Iinkcukacha zomntu ongenisa isikhalazo egameni lommangali</b>
<p>Ifani: .....</p> <p>Amagama okuqala apheleleyo: .....</p> <p>Inombolo yesazisi okanye inombolo yepaspoti: .....</p> <p>Idilesi yendawo yokuhlala: .....</p> <p>Idilesi yeposi: .....</p> <p>Inombolo yefowuni yasekhaya: .....</p> <p>Inombolo yefowuni yasemsebenzini: .....</p> <p>Inombolo kanomyayi: .....</p> <p>I-imeyile: .....</p> <p>Inombolo yefeksi: .....</p> <p>Ubudlelwane nommangali: .....</p>

<b>ISAHLULO C</b>
<b>Iinkcukacha zesikhalazo</b> ( <i>Qhoboshela amanye amaphepha ukuba kusafuneka indawo.</i> )
<p>1. Nika inkcazo emfutshane yesikhalazo. ..... ..... ..... .....</p> <p>2. Umhla kunye nendawo eyenzeke kuyo: .....</p> <p>3. Nika inkcazo yesiganeko kwaye uchaze ukuba kutheni ukholelwa ukuba isikhalazo kufuneka siphandwe. ..... ..... ..... .....</p>

4. Nika amagama kunye needilesi zomnye umntu onokunikezela ngoLwazi oluhambelana nesikhalazo.

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5. Nikeza ulwazi malunga nezinye iindlela okhe wazama ukuzisebenzisa ukusombulula isikhalazo.

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6. Nika iinkcukacha zomntu obandakanyekayo ukuzama ukusombulula isikhalazo.

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7. Nikeza lonke olunye ulwazi olubalulekileyo olwaziyo.

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8. Nika igama laliphi na igosa/amagosa esipolisa abandakanyekayo kwisigameko okanye kumcimbi lowo, ukuba liyaziwa.

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9. Nika igama lesikhululo samapolisa nenombolo yereferensi yamapolisa, ukuba iyaziwa.

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.....

Mna, **ummangali/umntu ongenisa isikhalazo egameni lommandali** (*cima nayiphi na engangeniyo*) oneenkukacha ezinikezelwe apha ngasentla, ndiqinisekisa ukuba ulwazi endinikeze lona lolona lwazi lwam luyinyani kwaye luchanekile.

**Utyikityo:** **Umhla:**

**Ukongezwa kwesiHlomelo B kwiMigaqo**

16. Esi sihlomelo silandelayo songezwa emva kweSihlomelo A seMigaqo:

**“ISIHLOMELO B**

**IFomu yesi-2**

**ISEBE LOKHUSELEKO LOLUNTU LENTSHONA KOLONI**

<b>UKUVUMA</b>
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**UMthetho woKhuseleko loLuntu eNtshona Koloni, 2013 (UMthetho 3 ka-2013)  
(Umgaqo 2(6)(c)(i) weMigaqo, ka-2015 kaNozikhhalazo wamaPolisa ePhondo leNtshona Koloni)**

**OKUBALULEKILEYO:**

Gcwalisa le fomu ukuba ungummangali kwaye uvumela omnye umntu ukuba angenise isikhalazo egameni lakho kuNozikhhalazo wamaPolisa wePhondo laseNtshona Koloni.

<b>Iinkukacha zoMmandali</b>
Ifani: .....
Amagama okuqala apheleleyo: .....
Inombolo yesazisi okanye yepaspoti: .....
Idilesi yendawo yokuhlala: .....
Idilesi yeposi: .....
Inombolo yefowuni yasekhaya: .....
Inombolo yefowuni. yasemsebenzini: .....
Inombolo kanomyayi: .....
I-imeyile: .....
Inombolo yefeksi: .....

**Isizathu/izizathu zokuba kutheni ummangali angangenisi isikhalazo ngokwakhe**

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**Iinkcukacha zomntu onikwe imvume yokungenisa isikhalazo egameni lommandali kuNozikhalazo wamaPolisa weNtshona Koloni**

Ifani: .....

Amagama okuqala apheleleyo: .....

Inombolo yesazisi okanye yepaspoti: .....

Idilesi yendawo yokuhlala: .....

Idilesi yeposi: .....

Inombolo yefowuni yasekhaya: .....

Inombolo yefowuni yasemsebenzini: .....

Inombolo kanomyayi: .....

I-imeyile: .....

Inombolo yefeksi: .....

Ubudlelwane kummangali: .....

Mna, **ummangali**, onkcukacha zakhe zinikezelwe apha ngasentla, ndinika imvume ku ..... ukuba angenise isikhalazo kulo mbandela egameni lam kuNozikhalazo wamaPolisa eNtshona Kapa kwaye ndiqinisekise ukuba ulwazi endinikeze lona lolona lwazi lwam luyinyaniso noluchanekileyo.

**Utyikityo:****Umhla:**

Mna, ....., ndiyavuma ukungenisa isikhalazo kulo mba kuNozikhalazo wamaPolisa wePhondo leNtshona Kapa egameni lommandali kwaye ndiqinisekisa ukuba ulwazi endilunikileyo lolona lwazi lwam luyinyaniso noluchanekileyo.

**Utyikityo:****Umhla:**

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**Isihloko esifutshane**

17. Le mimiselo ibizwa ngokuba yiMigaqo kaNozikhalazo wamaPolisa wePhondo leNtshona Koloni, 2015: Isihlomelo, 2020.