

PROVINSIE WES-KAAP

PROVINCE OF WESTERN CAPE

Buitengewone Provinsiale Koerant

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INHOUD

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No.

Bladsy

Algemene Kennisgewing
PROVINSIALE GRONDWET

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(*Reprints are obtainable at Room 4-94, Provincial Building, Wale Street, Cape Town 8001.)

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General Notice
PROVINCIAL CONSTITUTION

ALGEMENE KENNISGEWING

Die gewysigde teks van die Provinsiale Grondwet is op Donderdag, 11 September 1997, met die vereiste tweederde meerderheid deur die Wes-Kaapse Wetgewer goedgekeur nadat dit op Dinsdag, 2 September 1997 deur die Konstitusionele Hof na die Wetgewer terugverwys is.

Die Speaker van die Wetgewer het op Dinsdag, 16 September 1997 die gewysigde teks, ingevolge artikel 144 van die Nasionale Grondwet, vir sertifisering aan die Konstitusionele Hof voorgelê. Die saak sal op Dinsdag, 18 November 1997 deur die Hof aangehoor word.

GENERAL NOTICE

The amended text of the Provincial Constitution was passed with the required two-thirds majority by the Western Cape Legislature on Thursday, 11 September 1997 after being referred back to the Legislature by the Constitutional Court on Tuesday, 2 September 1997.

The Speaker of the Legislature, in terms of section 144 of the National Constitution, submitted the amended text to the Constitutional Court for certification on Tuesday, 16 September 1997. The matter will be heard by the Court on Tuesday, 18 November 1997.

GRONDWET VAN DIE WES-KAAP

*(Soos gewysig deur die Staande Komitee oor Staatskundige Sake,
Plaaslike Bestuur en Behuising in opvolging van die uitspraak van die
Konstitusionele Hof op 2 September 1997 en aangeneem deur
die Wetgewer op 11 September 1997)*

(Premier)

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GRONDWET VAN DIE WES-KAAP

AANHEF

In nederige erkentlikheid teenoor die Almagtige God,

Neem ons, die mense van Wes-Kaap, déur ons verkose verteenwoordigers —

In diepe besef, en in die strewe ter heling van die onreg van die verlede,

In diepe besef dat vrede, versoening en geregtigheid noodsaaklik is,

In ons strewe om die ontwikkeling van Wes-Kaap en 'n beter lewensgehalte vir al sy inwoners deur regverdige en doeltreffende regering te bevorder, en

Met die bevestiging dat Wes-Kaap, 'n provinsie van die Republiek van Suid-Afrika, gegrondves is op:

demokratiese waardes,

die erkenning van menseregte,

die erkenning van die gesin,

verantwoordelike en verantwoordbare regering,

die heerskappy van die reg,

die beginsels van wedersydse vertroue en samewerking, en

trou aan die nasionale Grondwet —

nou hierdie Grondwet vir Wes-Kaap aan.

Mag God ons mense beskerm.

God seën Suid-Afrika, Nkosi Sikelel' iAfrika. God bless South Africa.

HOOFSTUK 1

STIGTINGSBEPALINGS

Provinsie Wes-Kaap

1. Wes-Kaap is 'n provinsie van die Republiek van Suid-Afrika, soos deur die Grondwet van die Republiek van Suid-Afrika ingestel.

Grense van Provinsie

2. Die grense van Wes-Kaap word deur die nasionale Grondwet vasgestel.

Aanname, status en uitleg van hierdie Grondwet

3. (1) Hierdie Grondwet word ingevolge die nasionale Grondwet, die hoogste reg van die Republiek van Suid-Afrika, vir Wes-Kaap aangeneem.
- (2) Die wetgewende en uitvoerende bevoegdhede en funksies van Wes-Kaap wat in hierdie Grondwet opgeteken is, word uitsluitlik aan die nasionale Grondwet ontleen.
- (3) Die bepalings van hierdie Grondwet moet nie uitgelê word as sou dit enige wetgewende of uitvoerende gesag wat onbestaanbaar met die nasionale Grondwet is, aan Wes-Kaap opdra nie.
- (4) In geval van 'n teenstrydigheid tussen verskillende tekste van hierdie Grondwet geniet die Engelse teks voorrang.

Toepassing van Grondwet

4. Hierdie Grondwet geld vir Wes-Kaap. Behoudens die nasionale Grondwet, is dit die hoogste reg in Wes-Kaap, en die verpligtinge wat dit opleë, moet getrou en sonder versuim nagekom word.

Tale

5. (1) Vir die doeleindes van provinsiale regering moet —
 - (a) die amptelike tale Afrikaans, Engels en isiXhosa gebruik word; en
 - (b) hierdie tale gelyke status geniet.
- (2) Die regering van die Wes-Kaap moet sy gebruik van Afrikaans, Engels en isiXhosa deur wetgewende en ander maatreëls reël en monitor.
- (3) Die provinsiale regering moet praktiese en daadwerklike maatreëls tref om die status en gebruik van dié inheemse tale van die mense van Wes-Kaap waarvan die status en gebruik histories ingekort is, te verhoog en te bevorder.

Provinsiale simbole en eerbewyse

6. (1) 'n provinsiale Wet kan voorsiening maak vir —
 - (a) provinsiale simbole; en
 - (b) die toekenning van provinsiale eerbewyse.
- (2) 'n provinsiale Wetsontwerp wat vir provinsiale simbole voorsiening maak, moet deur die Provinsiale Parlement met 'n ondersteunende stem van minstens twee derdes van sy lede aangeneem word.

HOOFSTUK 2

INTER-REGERINGSBETREKKINGE

Samewerkende Regering

7. As deel van die provinsiale regeringsfeer van die Republiek van Suid-Afrika moet die Wes-Kaapse regering —
 - (a) in al sy handelinge met die nasionale regering, die ander provinsiale regerings en die munisipaliteite in Wes-Kaap ooreenkomstig die beginsels van samewerkende regering en inter-regeringsbetrekkinge soos in die nasionale Grondwet uiteengesit, handel;

- (b) aan strukture en instellings vir die bevordering en fasilitering van inter-regeringsbetrekkinge wat ingevolge die nasionale Grondwet ingestel is, deelneem; en
- (c) van meganismes en prosedures vir die beslegting van inter-regeringsgeskille wat ingevolge die nasionale Grondwet ingestel is, gebruik maak.

Deelname aan Nasionale Raad van Provinsies

- 8. Afgevaardigdes na die Nasionale Raad van Provinsies moet aktief aan die Raad deelneem ten einde die belange van Wes-Kaap en van die land as geheel ooreenkomstig die beginsels van samewerkende regering en inter-regeringsbetrekkinge in die nasionale Grondwet uiteengesit, te bevorder.

HOOFSTUK 3

PROVINSIALE PARLEMENT

Wetgewende gesag

- 9. (1) Die wetgewende gesag van Wes-Kaap berus by die Provinsiale Parlement.
- (2) Die Provinsiale Parlement word slegs deur die nasionale Grondwet en hierdie Grondwet gebind, en moet in ooreenstemming met, en binne die perke opgelê deur, dié Grondwette handel.
- (3) Die Provinsiale Parlement kan —
 - (a) hierdie Grondwet vervang, wysig of herroep;
 - (b) wetgewing vir Wes-Kaap ingevolge die nasionale Grondwet en in ooreenstemming met hierdie Grondwet aanneem;
 - (c) wetgewing vir Wes-Kaap betreffende enige aangeleentheid wat deur nasionale wetgewing aan Wes-Kaap opgedra is, aanneem; en
 - (d) enige van sy wetgewende bevoegdhede in paragraaf (b) bedoel, en waar dit toegelaat word, enige van sy wetgewende bevoegdhede in paragraaf (c) bedoel, aan 'n Munisipale Raad opdra.
- (4) Die Provinsiale Parlement kan —
 - (a) by wyse van 'n besluit by die Nasionale Vergadering aanbeveel om wetgewing betreffende enige aangeleentheid buite die gesag van die Provinsiale Parlement, of ten opsigte waarvan 'n Parlements-wet voorrang bo provinsiale wetgewing geniet, aan te neem;
 - (b) by wyse van 'n besluit by die Nasionale Raad van Provinsies aanbeveel dat dit wetgewing betreffende enige ander aangeleentheid moet aanneem; en
 - (c) by wyse van 'n besluit wat met 'n ondersteunende stem van minstens twee derdes van sy lede aangeneem is, die Parlement versoek om die naam van die Provinsie te verander.

Wetsontwerpe om hierdie Grondwet te vervang, te wysig of te herroep

- 10. (1) 'n Wetsontwerp om hierdie Grondwet te vervang, te wysig of te herroep —
 - (a) moet deur die Provinsiale Parlement met 'n ondersteunende stem van minstens twee derdes van sy lede aangeneem word; en
 - (b) mag slegs grondwetlike bepalings insluit.
- (2) Minstens 30 dae voordat 'n Wetsontwerp bedoel in subartikel (1) by die Provinsiale Parlement ingedien word, moet die lid of komitee wat voornemens is om die Wetsontwerp in te dien —
 - (a) besonderhede van die beoogde Wetsontwerp in die amptelike koerant van die Provinsie en in minstens drie nuusblaaië wat in Wes-Kaap in omloop is, vir openbare kommentaar publiseer; en
 - (b) dié besonderhede ooreenkomstig die reëls van die Provinsiale Parlement aan munisipaliteite binne Wes-Kaap vir hul sienswyses voorlê.
- (3) Wanneer 'n Wetsontwerp bedoel in subartikel (1) ingedien word, moet die lid of komitee wat die Wetsontwerp indien, enige skriftelike kommentaar wat van die publiek en van munisipaliteite ontvang is, aan die Speaker voorlê vir tertaaflegging in die Provinsiale Parlement.

Sertifisering

11. Indien die Provinsiale Parlement hierdie Grondwet vervang of gewysig het, moet die Speaker die teks van die nuwe grondwet of die grondwetwysiging aan die Konstitusionele Hof vir sertifisering voorlê.

Ondertekening, veilige bewaring, publikasie en inwerkingtreding van provinsiale grondwet

12. (1) Die Premier moet die teks van 'n nuwe grondwet of enige grondwetwysiging wat deur die Konstitusionele Hof gesertifiseer is, bekragtig en onderteken.
- (2) Die teks wat die Premier bekragtig en onderteken het, moet in sowel die nasionale *Staatskoerant* as die amptelike koerant in die Provinsie gepubliseer word. Dit tree by publikasie of op 'n latere datum wat ingevolge die nuwe grondwet of die grondwetwysiging bepaal word, in werking.
- (3) Die ondertekende teks van 'n nuwe grondwet of 'n grondwetwysiging is afdoende bewys van die bepalinge daarvan. Na publikasie moet dit aan die Konstitusionele Hof vir veilige bewaring toevertrou word.

Samestelling

13. Die Provinsiale Parlement bestaan uit 42 verkose lede.

Verkiesing van Provinsiale Parlement

14. Die Provinsiale Parlement bestaan uit persone wat as lede verkies is ingevolge 'n kiesstelsel wat —

- (a) deur nasionale wetgewing voorgeskryf word;
- (b) op die Provinsie se segment van die nasionale gemeenskaplike kieserslys gebaseer is;
- (c) vir 'n minimum stem-ouderdom van 18 jaar voorsiening maak; en
- (d) in die algemeen, proporsionele verteenwoordiging tot gevolg het.

Lidmaatskap

15. (1) Elke burger wat bevoeg is om vir die Nasionale Vergadering te stem, is bevoeg om 'n lid van die Provinsiale Parlement te wees, uitgesonderd —
- (a) iemand wat aangestel is deur, of in die diens is van, die staat en besoldiging vir dié aanstelling of diens ontvang, behalwe —
 - (i) die Premier en ander Provinsiale Ministers van Wes-Kaap; en
 - (ii) ander ampsdraers wie se funksies met die funksies van 'n lid van die Provinsiale Parlement versoenbaar is, en deur nasionale wetgewing verklaar is met dié funksies bestaanbaar te wees;
 - (b) lede van die Nasionale Vergadering, vaste afgevaardigdes na die Nasionale Raad van Provinsies of lede van 'n Munisipale Raad;
 - (c) ongerehabiliteerde insolvente;
 - (d) iemand wat deur 'n hof van die Republiek as geestelik gekrenk verklaar is; of
 - (e) iemand wat na 3 Februarie 1997 binne die Republiek aan 'n misdryf skuldig bevind is of skuldig bevind word, of buite die Republiek aldus skuldig bevind is of skuldig bevind word indien die optrede wat die misdryf uitmaak, binne die Republiek 'n misdryf sou uitgemaak het, en tot meer as 12 maande gevangenisstraf sonder die keuse van 'n boete gevonnissen is, maar niemand word as gevonnissen beskou voordat 'n appél teen die skuldigbevinding of vonnis beslis is, of voordat die tyd om appél aan te teken, verstryk het nie. 'n Onbevoegdheid kragtens hierdie paragraaf verstryk vyf jaar nadat die vonnis voltooi is.
- (2) Iemand wat ingevolge subartikel (1)(a) of (b) onbevoeg is om 'n lid van die Provinsiale Parlement te wees, kan 'n kandidaat vir die Provinsiale Parlement wees behoudens enige beperkings of voorwaardes wat deur nasionale wetgewing voorgeskryf word.
- (3) 'n Persoon verloor lidmaatskap van die Provinsiale Parlement indien so 'n persoon —
- (a) ophou om bevoeg te wees om 'n lid te wees;
 - (b) as lid bedank; of
 - (c) sonder toestemming van die Provinsiale Parlement afwesig is in omstandighede waarvoor die reëls en orders van die Provinsiale Parlement verlies van lidmaatskap voorskryf.
- (4) Vakatures in die Provinsiale Parlement moet ingevolge nasionale wetgewing gevul word.

Eed of plegtige verklaring

16. Voordat lede van die Provinsiale Parlement begin om hul funksies as lede te verrig, moet hulle ooreenkomstig Bylae 1 'n eed of plegtige verklaring van trou aan die Republiek en Wes-Kaap en gehoorsaamheid aan die nasionale Grondwet en hierdie Grondwet aflê.

Duur

17. (1) Die Provinsiale Parlement word vir 'n termyn van vyf jaar verkies.
- (2) Indien die Provinsiale Parlement ingevolge artikel 18 ontbind word of wanneer sy termyn verstryk, moet die Premier by proklamasie 'n verkiesing uitskryf en datums daarvoor bepaal, en dié verkiesing moet gehou word binne 90 dae vanaf die datum waarop die Provinsiale Parlement ontbind is of sy termyn verstryk het.
- (3) Indien die uitslag van 'n verkiesing van die Provinsiale Parlement nie binne die tydperk deur nasionale wetgewing bepaal, bekend gemaak word nie, of indien 'n verkiesing deur 'n hof tersyde gestel word, moet 'n ander verkiesing ingevolge die nasionale Grondwet gehou word.
- (4) Die Provinsiale Parlement bly bevoeg om te funksioneer vandat dit ontbind het of die termyn daarvan verstryk het tot op die dag voor die eerste dag waarop die stemming vir die volgende Provinsiale Parlement plaasvind.

Ontbinding van Provinsiale Parlement voor verstryking van termyn

18. (1) Die Premier moet die Provinsiale Parlement ontbind indien —
- (a) die Provinsiale Parlement 'n besluit om te ontbind met 'n ondersteunende stem van 'n meerderheid van al die lede aangeneem het; en
- (b) drie jaar verstryk het sedert die Provinsiale Parlement verkies is.
- (2) 'n Waarnemende Premier moet die Provinsiale Parlement ontbind indien daar 'n vakature in die amp van Premier is en die Provinsiale Parlement in gebreke bly om binne 30 dae nadat die vakature ontstaan het, 'n nuwe Premier te kies.

Setel van Provinsiale Parlement, sittings en resesse

19. (1) Die setel van die Provinsiale Parlement is Kaapstad.
- (2) Die Provinsiale Parlement kan bepaal dat dit of enige van die komitees daarvan, indien nodig, elders in Wes-Kaap kan sit.
- (3) Die eerste sitting van die Provinsiale Parlement na 'n verkiesing vind plaas op 'n tyd en datum wat bepaal word deur 'n Regter wat deur die President van die Konstitusionele Hof aangewys word, maar nie later nie as 14 dae nadat die verkiesingsuitslag bekend gemaak is.
- (4) Die Provinsiale Parlement kan die tye en duur van sy ander sittings en resesse bepaal.
- (5) Die Premier kan die Provinsiale Parlement te eniger tyd vir 'n buitengewone sitting byeenroep om spesiale of dringende werksaamhede te verrig.

Speaker

20. (1) Die Provinsiale Parlement moet by die eerste sitting na sy verkiesing, of wanneer 'n vakature gevul moet word, 'n Speaker uit sy geledere kies.
- (2) 'n Regter deur die President van die Konstitusionele Hof aangewys, moet by die verkiesing van die Speaker voorsit. Die prosedure uiteengesit in Bylae 2 van hierdie Grondwet is op die verkiesing van die Speaker van toepassing.
- (3) Die Provinsiale Parlement kan —
- (a) 'n Adjunk-speaker uit eie geledere kies; en
- (b) ander voorsittende beamptes uit eie geledere kies om die Speaker en die Adjunk-speaker by te staan.
- (4) Die Provinsiale Parlement kan die Speaker, Adjunk-speaker en enige ander voorsittende beampte by wyse van 'n besluit wat met 'n ondersteunde stem van 'n meerderheid van al die lede goedgekeur word, van hul amp onthef.

Kworum en besluite

21. (1) Behalwe waar hierdie Grondwet anders bepaal —
- (a) moet 'n meerderheid van die lede van die Provinsiale Parlement teenwoordig wees voordat 'n stemming oor 'n Wetsontwerp of die wysiging van 'n Wetsontwerp gehou kan word;

- (b) moet minstens een derde van die lede teenwoordig wees voordat 'n stemming oor enige ander vraag wat voor die Provinsiale Parlement dien, gehou kan word; en
 - (c) word alle vrae wat voor die Provinsiale Parlement dien, beslis met 'n meerderheid van die stemme wat uitgebring word.
- (2) Die lid wat op 'n vergadering van die Provinsiale Parlement voorsit, het nie 'n beraadslagende stem nie, maar —
- (a) moet 'n beslissende stem uitbring wanneer daar 'n staking van stemme oor 'n vraag is; en
 - (b) kan 'n beraadslagende stem uitbring wanneer 'n vraag beslis moet word met 'n ondersteunende stem van minstens twee derdes van die lede van die Provinsiale Parlement.

Vaste afgevaardigdes se regte in Provinsiale Parlement

22. Vaste afgevaardigdes na die Nasionale Raad van Provinsies kan in die Provinsiale Parlement en sy komitees sitting neem en daarin praat maar mag nie stem nie. Die Provinsiale Parlement kan van 'n vaste afgevaardigde vereis om in die Provinsiale Parlement of sy komitees sitting te neem.

Bevoegdhede van Provinsiale Parlement

23. (1) By die uitoefening van sy wetgewende gesag kan die Provinsiale Parlement —
- (a) enige Wetsontwerp wat voor hom dien, oorweeg, aanneem, wysig of verwerp; en
 - (b) wetgewing, behalwe Geldwetsontwerpe, inisier of opstel.
- (2) Behoudens subartikel (4) moet die Provinsiale Parlement voorsiening maak vir meganismes om —
- (a) te verseker dat alle provinsiale staatsorgane aan hom verantwoording doen; en
 - (b) toesig te hou oor —
 - (i) die uitoefening van provinsiale uitvoerende gesag, insluitende die uitvoering van wetgewing; en
 - (ii) enige provinsiale staatsorgaan.
- (3) Die Provinsiale Parlement kan —
- (a) sy eie interne reëlings, verrigtinge en prosedures bepaal en beheer; en
 - (b) reëls en orders betreffende sy werksaamhede maak, met behoorlike inagneming van verteenwoordigende en deelnemende demokrasie, verantwoordbaarheid, deursigtigheid en openbare deelname.
- (4) Die Provinsiale Parlement moet in sy reëls en orders voorsiening maak vir —
- (a) die instelling, samestelling, bevoegdhede, funksies, prosedures en duur van sy komitees;
 - (b) die deelname van minderheidspartye wat in die Provinsiale Parlement verteenwoordig is, aan die verrigtinge van die Provinsiale Parlement en sy komitees op 'n wyse wat met die demokrasie bestaanbaar is;
 - (c) die opdra aan sy komitees van sodanige bevoegdhede wat hulle in staat stel om —
 - (i) toesig te hou oor die aktiwiteite van die provinsiale staatsorgane;
 - (ii) te verseker dat die provinsiale uitvoerende gesag verantwoordingspligtig is; en
 - (iii) deursigtigheid, verantwoordbaarheid en die doeltreffende bestuur van die provinsiale ekonomie, provinsiale begroting, provinsiale skuld en die provinsiale openbare sektor te bevorder;
 - (d) 'n staande komitee van die Provinsiale Parlement om die sosio-ekonomiese omstandighede van die inwoners van Wes-Kaap te monitor en aanbevelings aan die Provinsiale Parlement te doen aangaande die verbetering van sodanige omstandighede;
 - (e) koördinasie tussen die Provinsiale Parlement en sy komitees en die Nasionale Raad van Provinsies;
 - (f) die ontvangs van petisies, vertoë of voorleggings deur enige belanghebbende persoon of instelling;
 - (g) die deelname van verteenwoordigers van die verskillende kategorieë plaaslike regering in Wes-Kaap aan die beraadslagings van staande komitees oor Wetsontwerpe wat die belange van munisipaliteite in Wes-Kaap raak, en
 - (h) finansiële en administratiewe bystand aan elke party wat in die Provinsiale Parlement verteenwoordig is, in verhouding tot die verteenwoordiging wat dit geniet, ten einde die party en sy leier in staat te stel om hul funksies in die Provinsiale Parlement doeltreffend te verrig.

Leier van Opposisie

24. Die reëls en orders van die Provinsiale Parlement moet voorsiening maak vir die erkenning van die Leier van die Opposisie in die Provinsiale Parlement.

Getuienis of inligting voor Provinsiale Parlement

25. Die Provinsiale Parlement of enige van sy komitees kan —

- (a) enige persoon dagvaar om voor hom te verskyn om onder eed of plegtige verklaring getuienis af te lê, of om dokumente voor te lê;
- (b) van enige natuurlike of regspersoon of provinsiale staatsorgaan vereis om aan hom verslag te doen;
- (c) ingevolge provinsiale wetgewing of die reëls en orders van die Provinsiale Parlement enige persoon of provinsiale staatsorgaan verplig om aan 'n dagvaarding of vereiste ingevolge paragraaf (a) of (b) te voldoen; en
- (d) van enige belanghebbende persoon of instelling petisies, verzoë of voorleggings ontvang.

Privilegie

26. Lede van die Provinsiale Parlement en die vaste afgevaardigdes van Wes-Kaap na die Nasionale Raad van Provinsies —

- (a) het, behoudens die reëls en orders van die Provinsiale Parlement, vryheid van spraak in die Provinsiale Parlement en in sy komitees; en
- (b) is nie blootgestel aan siviele of strafregtelike verrigtinge, inhegtenisneming, gevangesetting of skadevergoeding weens —
 - (i) enigiets wat hulle gesê of blootgelê het in, of voorgelê het aan, die Provinsiale Parlement of enige van sy komitees nie; of
 - (ii) enigiets wat aan die lig gebring is as gevolg van enigiets wat hulle gesê of blootgelê het in, of voorgelê het aan, die Provinsiale Parlement of enige van sy komitees nie.

Gedragkode

27. Provinsiale wetgewing moet vir 'n gedragkode vir die lede van die Provinsiale Parlement voorsiening maak.

Openbare toegang

28. (1) Die verrigtinge van die Provinsiale Parlement en sy komitees vind in die openbaar plaas, maar redelike maatreëls kan getref word om —
- (a) openbare toegang, insluitende toegang van die media tot die Provinsiale Parlement en sy komitees, te reguleer; en
 - (b) voorsiening te maak vir die deursoeking van enige persoon en, waar dit gepas is, die weiering van toegang aan, of die verwydering van, enige persoon.
- (2) Die publiek, insluitende die media, mag nie van 'n sitting van 'n komitee van die Provinsiale Parlement uitgesluit word nie, tensy dit in 'n oop en demokratiese gemeenskap redelik en regverdigbaar is om dit te doen.
- (3) Die Provinsiale Parlement moet openbare deelname aan sy aktiwiteite en dié van sy komitees vergemaklik.

Indiening van Wetsontwerpe

29. Slegs 'n Provinsiale Minister, 'n komitee of lid van die Provinsiale Parlement kan 'n Wetsontwerp by die Provinsiale Parlement indien. Indien die Wetsontwerp 'n Geldwetsontwerp is, mag slegs die Provinsiale Minister verantwoordelik vir finansiële sake dit by die Provinsiale Parlement indien.

Geldwetsontwerpe

30. (1) 'n Wetsontwerp wat geld bewillig of belastings, heffings of regte oplê, is 'n Geldwetsontwerp. 'n Geldwetsontwerp mag oor geen ander aangeleentheid handel nie, behalwe 'n ondergeskikte aangeleentheid wat verband hou met die bewilliging van geld of die oplegging van belastings, heffings of regte.
- (2) 'n provinsiale Wet moet voorsiening maak vir 'n prosedure waarvolgens die Provinsiale Parlement 'n Geldwetsontwerp kan wysig.

Bekragtiging van Wetsontwerpe

31. (1) Die Premier van Wes-Kaap moet binne 45 dae nadat 'n Wetsontwerp deur die Provinsiale Parlement aangeneem is —

- (a) die Wetsontwerp bekragtig en onderteken; of
 - (b) indien die Premier voorbehoude omtrent die grondwetlikheid van die Wetsontwerp het, dit na die Provinsiale Parlement vir heroorweging terugverwys.
- (2) Indien die Wetsontwerp, na heroorweging, ten volle die Premier se voorbehoude in ag neem, moet die Premier die Wetsontwerp binne 45 dae vanaf die datum waarop dit heroorweeg is, bekragtig en onderteken; indien nie, moet die Premier binne 45 dae vanaf die datum waarop dit heroorweeg is —
- (a) die Wetsontwerp bekragtig en onderteken; of
 - (b) dit na die Konstitusionele Hof vir 'n beslissing oor die grondwetlikheid daarvan verwys.
- (3) Indien die Konstitusionele Hof beslis dat die Wetsontwerp grondwetlik is, moet die Premier dit binne 14 dae bekragtig en onderteken.

Aansoek by Konstitusionele Hof deur lede

32. (1) Lede van die Provinsiale Parlement kan by die Konstitusionele Hof aansoek doen om 'n bevel wat verklaar dat 'n provinsiale Wet in die geheel of ten dele ongrondwetlik is.
- (2) 'n Aansoek —
- (a) moet deur minstens 20 persent van die lede van die Provinsiale Parlement gesteun word; en
 - (b) moet gedoen word binne 30 dae vanaf die datum waarop die Premier die Wet bekragtig en onderteken het.

Publikasie en inwerkingtreding van provinsiale Wette

33. (1) 'n Wetsontwerp wat deur die Premier bekragtig en onderteken is, word 'n Wet van Wes-Kaap. Dit moet onverwyld in die amptelike koerant van die Provinsie gepubliseer word en tree in werking by publikasie daarvan of op 'n datum ingevolge die Wet bepaal.
- (2) Provinsiale wetgewing moet vir die verspreiding en verdere publikasie van besonderhede van provinsiale Wette voorsiening maak.

Veilige bewaring van provinsiale Wette

34. Die ondertekende eksemplaar van 'n Wet is afdoende bewys van die bepalings daarvan. Na publikasie moet die Wet aan die Konstitusionele Hof vir veilige bewaring toevertrou word.

HOOFSTUK 4

UITVOERENDE GESAG

Uitvoerende gesag

35. (1) Die uitvoerende gesag van Wes-Kaap berus by die Premier.
- (2) Die Premier oefen die uitvoerende gesag gesamentlik met die ander Provinsiale Ministers uit deur —
- (a) provinsiale wetgewing uit te voer;
 - (b) behalwe waar die nasionale Grondwet of 'n Parlements wet anders bepaal, alle nasionale wetgewing binne die funksionele terreine in Bylae 4 of 5 van die nasionale Grondwet gelys, uit te voer in die mate dat Wes-Kaap die administratiewe vermoë het om effektiewe verantwoordelikheid te aanvaar;
 - (c) nasionale wetgewing buite die funksionele terreine in Bylae 4 en 5 van die nasionale Grondwet gelys, uit te voer indien die administrasie daarvan ingevolge 'n Parlements wet aan die Provinsiale Kabinet opgedra is;
 - (d) provinsiale beleid te ontwikkel en uit te voer;
 - (e) die funksies van die provinsiale administrasie en sy departemente te koördineer;
 - (f) provinsiale wetgewing op te stel en te inisieer; en
 - (g) enige ander funksie wat ingevolge die nasionale Grondwet of 'n Parlements wet aan die Provinsiale Kabinet opgedra is, te verrig.
- (3) Die provinsiale uitvoerende gesag moet ooreenkomstig die nasionale Grondwet en hierdie Grondwet handel.

Opdra van funksies

36. 'n Provinsiale Minister kan enige bevoegdheid of funksie wat ingevolge 'n Parlements wet of 'n provinsiale Wet uitgeoefen of verrig moet word, aan 'n Munisipale Raad opdra. 'n Opdrag —
- (a) geskied ingevolge 'n ooreenkoms tussen die betrokke Provinsiale Minister en die Munisipale Raad;
 - (b) moet met die Wet ingevolge waarvan die betrokke bevoegdheid of funksie uitgeoefen of verrig word, bestaanbaar wees; en
 - (c) tree by proklamasie deur die Premier in die amptelike koerant van die Provinsie in werking.

Bevoegdhede en funksies van Premier

37. (1) Die Premier het die bevoegdhede en funksies wat deur die nasionale Grondwet, hierdie Grondwet en enige wetgewing aan daardie amp toevertrou is.
- (2) Die Premier is verantwoordelik vir —
- (a) die bekragtiging en ondertekening van Wetsontwerpe;
 - (b) die terugverwysing van 'n Wetsontwerp na die Provinsiale Parlement vir heroorweging van die grondwetlikheid van die Wetsontwerp;
 - (c) die verwysing van 'n Wetsontwerp na die Konstitusionele Hof vir 'n beslissing oor die grondwetlikheid van die Wetsontwerp;
 - (d) die byeenroeping van die Provinsiale Parlement vir 'n buitengewone sitting om spesiale of dringende werksaamhede te verrig;
 - (e) die aanstelling van kommissies van ondersoek; en
 - (f) die uitroep van 'n referendum in Wes-Kaap ooreenkomstig nasionale wetgewing.

Verkiesing van Premier

38. (1) Tydens sy eerste sitting na sy verkiesing, en wanneer dit nodig is om 'n vakature te vul, moet die Provinsiale Parlement 'n Premier uit sy geledere verkies.
- (2) 'n Regter deur die President van die Konstitusionele Hof aangewys, moet by die verkiesing van 'n Premier voorsit. Die prosedure uiteengesit in Bylae 2 van hierdie Grondwet is op die verkiesing van die Premier van toepassing.
- (3) 'n Verkiesing om 'n vakature in die amp van Premier te vul, moet gehou word op 'n tyd en datum deur die President van die Konstitusionele Hof bepaal, maar nie later nie as 30 dae nadat die vakature ontstaan.

Aanvaarding van amp deur Premier

39. Die aangewese Premier aanvaar die amp binne vyf dae na die Premiersverkiesing, deur ooreenkomstig Bylae 1 'n eed of plegtige verklaring van trou aan die Republiek en Wes-Kaap en gehoorsaamheid aan die nasionale Grondwet en hierdie Grondwet af te lê.

Ampstermyn en onthefling van Premier

40. (1) Die Premier se ampstermyn begin by ampsaanvaarding en eindig wanneer 'n vakature ontstaan of wanneer die persoon wat volgende tot Premier verkies word, die amp aanvaar.
- (2) Niemand mag die amp van Premier vir meer as twee termyne bekleed, maar wanneer iemand verkies word om 'n vakature in die amp van Premier te vul, word die tydperk tussen daardie verkiesing en die volgende verkiesing van 'n Premier nie as 'n ampstermyn beskou nie.
- (3) Die Provinsiale Parlement kan, by wyse van 'n besluit wat met 'n ondersteunende stem van minstens twee derdes van sy lede geneem word, die Premier van sy amp onthef slegs op grond van —
- (a) 'n ernstige skending van die nasionale Grondwet, hierdie Grondwet of die reg;
 - (b) ernstige wangedrag; of
 - (c) onvermoë om die funksies van die amp te verrig.

- (4) Iemand wat ingevolge subartikel (3)(a) of (b) van die amp van Premier onthef is, mag geen voordele van daardie amp ontvang nie, en mag in geen openbare amp dien nie.

Waarnemende Premier

41. (1) Wanneer die Premier afwesig is of anders nie in staat is om die pligte van die amp van Premier te verrig nie, of gedurende 'n vakature in die amp van Premier, neem 'n ampsdraer in die onderstaande volgorde as Premier waar:
- (a) 'n Provinsiale Minister deur die Premier aangewys;
 - (b) 'n Provinsiale Minister deur die ander Ministers aangewys; of
 - (c) die Speaker, totdat die Provinsiale Parlement een van sy ander lede aanwys.
- (2) 'n Waarnemende Premier het die verantwoordelikhede, bevoegdhede en funksies van die Premier.
- (3) Voordat die Waarnemende Premier die verantwoordelikhede, bevoegdhede en funksies van die Premier aanvaar, moet hy of sy ooreenkomstig Bylae 1'n eed of plegtige verklaring van trou aan die Republiek en Wes-Kaap en gehoorsaamheid aan die nasionale Grondwet en hierdie Grondwet aflê.

Provinsiale Kabinet

42. (1) Die Provinsiale Kabinet bestaan uit die Premier, as hoof van die Provinsiale Kabinet, en minstens vyf en hoogstens 10 lede wat deur die Premier uit die geledere van die Provinsiale Parlement aangestel word.
- (2) Die Premier stel die Provinsiale Ministers aan, dra hul bevoegdhede en funksies aan hulle op, en kan hulle ontslaan.

Aanspreeklikheid en verantwoordelikhede

43. (1) Die Provinsiale Ministers is verantwoordelik vir die funksies van die uitvoerende gesag wat die Premier aan hulle opgedra het.
- (2) Provinsiale Ministers is gesamentlik en afsonderlik teenoor die Provinsiale Parlement verantwoordbaar vir die uitoefening van hul bevoegdhede en die verrigting van hul funksies.
- (3) Provinsiale Ministers moet —
- (a) ooreenkomstig die nasionale Grondwet en hierdie Grondwet handel; en
 - (b) die Provinsiale Parlement van volledige en gereelde verslae oor aangeleenthede onder hul beheer voorsien.

Voortbestaan van Provinsiale Kabinet na verkiesings

44. Wanneer 'n verkiesing van die Provinsiale Parlement gehou word, bly die Provinsiale Kabinet en sy lede bevoeg om te funksioneer totdat die persoon wat deur die volgende Provinsiale Parlement tot Premier verkies is, dié amp aanvaar.

Eed of plegtige verklaring

45. Voordat Provinsiale Ministers begin om hul funksies te verrig, moet hulle ooreenkomstig Bylae 1'n eed of plegtige verklaring van trou aan die Republiek en Wes-Kaap en gehoorsaamheid aan die nasionale Grondwet en hierdie Grondwet aflê.

Gedrag van Lede van Provinsiale Kabinet

46. (1) Lede van die Provinsiale Kabinet moet optree ooreenkomstig die etiese kode deur nasionale wetgewing voorgeskryf.
- (2) Lede van die Provinsiale Kabinet mag nie —
- (a) enige ander betaalde werk onderneem nie;
 - (b) handel op enige wyse wat met hul amp onbestaanbaar is nie, of hulle blootstel aan enige omstandighede wat die risiko inhou van 'n botsing tussen hul amptelike verantwoordelikhede en hul privaat belange nie; of
 - (c) hul posisie of enige inligting aan hulle toevertrou, gebruik om hulself te verryk of enige ander persoon onbehoorlik te bevoordeel nie.

Oordrag van funksies

47. Die Premier kan by proklamasie in die amptelike koerant van die Provinsie aan 'n lid van die Provinsiale Kabinet oordra —
- (a) die administrasie van enige wetgewing wat aan 'n ander lid opgedra is; of
 - (b) enige bevoegdheid of funksie wat by wetgewing aan 'n ander lid opgedra is.

Tydlike opdra van funksies

48. Die Premier kan aan 'n lid van die Provinsiale Kabinet enige bevoegdheid of funksie van 'n ander lid wat uit die amp afwesig is of nie in staat is om daardie bevoegdheid uit te oefen of daardie funksie te verrig nie, tydelik opdra.

Toesig oor plaaslike regering

49. (1) Wanneer 'n munisipaliteit in Wes-Kaap 'n uitvoerende verpligting ingevolge wetgewing nie nakom of nie kan nakom nie, kan die Provinsiale Kabinet ingryp deur enige gepaste stappe te doen om te verseker dat daardie verpligting nagekom word, insluitende —
- (a) die uitreiking van 'n lasgewing aan die Munisipale Raad waarin die mate van die versuim om sy verpligting na te kom, beskryf word en stappe wat nodig is om sy verpligtinge na te kom, vermeld word; en
 - (b) die aanvaarding van verantwoordelikheid vir die betrokke verpligting in daardie munisipaliteit in die mate wat nodig is om —
 - (i) noodsaaklike nasionale standaarde te handhaaf of aan gevestigde minimum standaarde vir die lewering van 'n diens voldoen;
 - (ii) te voorkom dat daardie Munisipale Raad onredelike stappe doen wat nadelig is vir die belange van 'n ander munisipaliteit of van Wes-Kaap as geheel; of
 - (iii) ekonomiese eenheid te handhaaf.
- (2) Indien die Provinsiale Kabinet kragtens subartikel (1)(b) in 'n munisipaliteit ingryp, moet —
- (a) die ingryping beëindig word, tensy die lid van die Nasionale Kabinet wat vir plaaslike regeringsake verantwoordelik is, dit binne 14 dae vanaf die ingryping goedkeur;
 - (b) 'n kennisgewing van die ingryping in die Provinsiale Parlement en in die Nasionale Raad van Provinsies ter tafel gelê word binne 14 dae vanaf hul onderskeie eerste sittings nadat die ingryping 'n aanvang geneem het; en
 - (c) die ingryping beëindig word, tensy die Nasionale Raad van Provinsies dit binne 30 dae vanaf sy eerste sitting nadat die ingryping begin het, goedkeur.

Uitvoerende besluite

50. (1) 'n Besluit van die Premier moet op skrif wees indien dit —
- (a) ingevolge wetgewing geneem word; of
 - (b) regsgevolge het.
- (2) 'n Skriftelike besluit van die Premier moet deur 'n ander lid van die Provinsiale Kabinet mede-onderteken word indien daardie besluit 'n funksie raak wat aan daardie ander lid opgedra is.
- (3) Proklamasies, regulasies en ander ondergeskikte wetgewing van Wes-Kaap moet in die amptelike koerant van die Provinsie gepubliseer word en die Wes-Kaapse regering moet redelike stappe doen om dit vir die publiek toeganklik te maak.
- (4) Provinsiale wetgewing kan die wyse waarop en die mate waarin instrumente in subartikel (3) gemeld in die Provinsiale Parlement ter tafel gelê moet word en deur die Provinsiale Parlement goedgekeur moet word, spesifiseer.

Mosies van wantroue

51. (1) Indien die Provinsiale Parlement by wyse van 'n besluit ten gunste waarvan 'n meerderheid van al sy lede stem, 'n voorstel van wantroue in die Provinsiale Kabinet, uitgesonderd die Premier, aanneem, moet die Premier die Provinsiale Kabinet hersaamstel.
- (2) Indien die Provinsiale Parlement by wyse van 'n besluit ten gunste waarvan 'n meerderheid van al sy lede stem, 'n voorstel van wantroue in die Premier aanneem, moet die Premier en die ander Provinsiale Ministers bedank.

HOOFSTUK 5

PLAASLIKE REGERING

Plaaslike regering in Wes-Kaap

52. (1) Die plaaslike regeringsfeer in Wes-Kaap bestaan uit munisipaliteite wat ingevolge die nasionale Grondwet ingestel is. Die vermoë of reg van 'n munisipaliteit om sy bevoegdhede uit te oefen of sy funksies te verrig, mag nie gekompromitteer of belemmer word nie.
- (2) Die Wes-Kaapse regering moet deur wetgewende en ander maatreëls die vermoë van munisipaliteite om hul eie sake te bestuur, hul bevoegdhede uit te oefen en hul funksies te verrig, steun en versterk.
- (3) Die Wes-Kaapse regering moet by wyse van ooreenkomste en behoudens enige voorwaardes die administrasie van 'n aangeleentheid wat in Deel A van Bylae 4 of Deel A van Bylae 5 van die nasionale Grondwet vermeld word en wat noodsaaklikerwys op plaaslike regering betrekking het, aan 'n munisipaliteit opdra indien —
- (a) daardie aangeleentheid die doeltreffendste plaaslik geadministreer sou kon word; en
- (b) die munisipaliteit die vermoë het om dit te administreer.
- (4) Provinsiale wetgewing moet voorsiening daarvoor maak dat provinsiale konsepwetgewing wat die status, instellings, bevoegdhede of funksies van plaaslike regering raak, op so 'n wyse gepubliseer en versprei word voordat dit by die Provinsiale Parlement ingedien word, dat die georganiseerde plaaslike regering, munisipaliteite en ander belanghebbendes die geleentheid gebied word om vertoë met betrekking tot die konsepwetgewing te rig.
- (5) Die Wes-Kaapse regering moet 'n munisipale verordening op versoek van die betrokke munisipaliteit in die amptelike koerant van die Provinsie publiseer.

Instelling van munisipaliteite

53. (1) Provinsiale wetgewing moet die verskillende soorte munisipaliteite soos by nasionale wetgewing omskryf, wat in Wes-Kaap ingestel moet word, bepaal.
- (2) Die Wes-Kaapse regering moet munisipaliteite in Wes-Kaap instel op 'n wyse wat met nasionale wetgewing bestaanbaar is.

Monitor van plaaslike regering

54. (1) Die Wes-Kaapse regering moet by wyse van wetgewende of ander maatreëls —
- (a) voorsiening maak vir die monitor en ondersteuning van plaaslike regering in Wes-Kaap; en
- (b) die ontwikkeling van plaaslike regering se vermoë bevorder ten einde munisipaliteite in staat te stel om hul funksies te verrig en hul eie sake te bestuur.
- (2) Die Wes-Kaapse regering het ingevolge die nasionale Grondwet die wetgewende en uitvoerende gesag om toe te sien dat munisipaliteite hul funksies ten opsigte van aangeleenthede in Bylaes 4 en 5 van die nasionale Grondwet vermeld, doeltreffend verrig, deur die uitoefening van munisipaliteite se uitvoerende gesag te reguleer.

HOOFSTUK 6

PROVINSIALE ADMINISTRASIE

Provinsiale staatsamptenare

55. Die Wes-Kaapse regering is verantwoordelik, binne die raamwerk van eenvormige norme en standaarde, wat op die staatsdiens van toepassing is, vir die werwing, aanstelling, bevordering, oorplasing en ontslag van lede van die staatsdiens wat by die administrasie van Wes-Kaap betrokke is.

Basiese waardes en beginsels wat publieke administrasie in Wes-Kaap beheers

56. Publieke administrasie in Wes-Kaap moet beheers word deur die demokratiese waardes en beginsels wat in die nasionale Grondwet verskans is.

HOOFSTUK 7

FINANSIES

Bronne van provinsiale befondsing

57. Die bronne van provinsiale befondsing is —

- (a) die billike deel van die inkomste wat nasionaal ingevorder word en ingevolge die nasionale Grondwet aan Wes-Kaap toegeken word;
- (b) ander toekennings uit nasionale regeringsinkomste;
- (c) bykomende inkomste wat die Wes-Kaapse regering invorder; en
- (d) ander geld, middele en bates wat die Wes-Kaapse regering ontvang.

Provinsiale Inkomstefonds

58. (1) Alle geld deur die Wes-Kaapse regering ontvang, moet in die Provinsiale Inkomstefonds gestort word, behalwe dié geld wat deur 'n Parlements'wet uitgesluit word.

(2) Geld kan uit die Provinsiale Inkomstefonds onttrek word slegs —

- (a) ingevolge 'n bewilliging deur 'n provinsiale Wet; of
- (b) as 'n regstreekse las teen die Provinsiale Inkomstefonds, wanneer in die nasionale Grondwet of 'n provinsiale Wet daarvoor voorsiening gemaak word.

Belastings

59. (1) Die Provinsiale Parlement kan —

- (a) belastings, heffings en regte oplê, uitgesonderd inkomstebelasting, belasting op toegevoegde waarde, algemene verkoopbelasting, eiendomsbelasting of doeaneregte; en
 - (b) uniforme bobelasting hef op die belastingbasisse van enige belasting, heffing of reg wat deur nasionale wetgewing opgelê word, uitgesonderd die belastingbasisse van korporatiewe inkomstebelasting, belasting op toegevoegde waarde, eiendomsbelasting of doeaneregte.
- (2) Provinsiale wetgewing kan vir gebruikersgelde voorsiening maak.
- (3) Die bevoegdheid van die Provinsiale Parlement om belastings, heffings, regte en bobelastings op te lê, soos deur 'n Parlementswet gereël, mag nie uitgeoefen word op 'n wyse wat nasionale ekonomiese beleid, ekonomiese bedrywighede oor provinsiale grense heen, of die nasionale beweeglikheid van goedere, dienste, kapitaal of arbeid wesenlik en onredelik benadeel nie.

Provinsiale begroting

60. (1) Die provinsiale begroting en begrotingsproses moet deursigtigheid, verantwoordbaarheid en die doeltreffende finansiële bestuur van die provinsiale ekonomie, skuld en die openbare sektor bevorder.
- (2) Die provinsiale begroting moet aan nasionale wetgewing, soos in die nasionale Grondwet beoog, ten opsigte van die formaat daarvan, wanneer dit ter tafel gelê word, en die identifisering van die bronne van inkomste en voorgestelde uitgawe, voldoen.
- (3) Die Provinsiale Minister verantwoordelik vir finansiële sake moet ten opsigte van elke boekjaar 'n begroting aan die Provinsiale Parlement voorlê wat —
- (a) 'n begroting van inkomste en uitgawe bevat, waarin tussen kapitaaluitgawes en lopende uitgawes onderskei word;
 - (b) voorstelle bevat vir die finansiering van enige verwagte tekort vir die tydperk waarop die begroting van toepassing is; en
 - (c) 'n aanduiding bevat van voornemens betreffende lenings en ander vorms van openbare aanspreeklikheid wat in die daaropvolgende jaar die staatskuld sal verhoog.
- (4) Wanneer die toekenning van fondse in die provinsiale begroting in volgorde van belangrikheid bepaal word, is dit nodig dat wanbalanse, onbillikhede en die ontwikkelingsbehoefte van die mense van Wes-Kaap in ag geneem word.

Provinsiale Tesourie

61. (1) Provinsiale wetgewing moet 'n provinsiale tesourie instel en kan maatreëls ooreenkomstig nasionale wetgewing voorskryf om deursigtigheid, verantwoordbaarheid en uitgawebeheer te verseker deur die gebruik van —
- (a) algemeen erkende rekeningkundige praktyk;
 - (b) uitgawe-klasifikasies; en
 - (c) tesourienorme en -standaarde.
- (2) Die provinsiale tesourie kan, met die instemming van die Provinsiale Minister verantwoordelik vir finansiële sake, die oordrag van fondse na 'n provinsiale staatsorgaan slegs staak weens die ernstige of volgehoue wesenlike oortreding van die maatreëls wat ingevolge subartikel (1) ingestel is.

Verkryging

62. (1) Wanneer die Wes-Kaapse regering vir goedere of dienste kontrakteer, moet dit ooreenkomstig 'n stelsel wat regverdig, billik, deursigtig, mededingend en kostedoeltreffend is, gedoen word.
- (2) Subartikel (1) belet nie die Wes-Kaapse regering om, binne 'n raamwerk van nasionale wetgewing, 'n verkrygingsbeleid toe te pas wat voorsiening maak vir —
- (a) voorkeurkategorieë by die toekenning van kontrakte nie; en
 - (b) die beskerming of bevordering van persone, of kategorieë persone, wat deur onbillike diskriminasie benadeel is nie.

Lenings

63. Die Wes-Kaapse regering kan lenings vir kapitaaluitgawes of lopende uitgawes ooreenkomstig voorwaardes wat deur nasionale wetgewing bepaal word, aangaan, maar lenings vir lopende uitgawes —
- (a) kan slegs aangegaan word wanneer dit gedurende 'n belastingjaar vir oorbruggingsdoeleindes nodig is; en
 - (b) moet binne 12 maande terugbetaal word.

Waarborge

64. (1) Die Wes-Kaapse regering kan 'n lening slegs in ooreenstemming met voorwaardes wat in nasionale wetgewing bepaal is, waarborg.
- (2) Die Wes-Kaapse regering moet elke jaar 'n verslag oor die waarborge wat hy verstrek het, publiseer.

Bateregister

65. Provinsiale wetgewing moet voorsiening maak vir —
- (a) 'n register van provinsiale bates; en
 - (b) die aantekening van bates in daardie register.

HOOFTUK 8

POLISIE

Polisiëringsfunksies van Wes-Kaapse regering

66. (1) Die Wes-Kaapse regering is geregtig om —
- (a) polisie-optrede te monitor;
 - (b) die doeltreffendheid van sigbare polisiëring te bepaal;
 - (c) toesig te hou oor die doeltreffendheid en bevoegdheid van die polisiediens, waarby inbegrepe is die ontvangs van verslae oor die polisiediens;
 - (d) goeie betrekkinge tussen die polisie en die gemeenskap te bevorder; en
 - (e) met die nasionale Kabinetslid wat vir polisiëring verantwoordelik is, te skakel met betrekking tot misdaad en polisiëring in Wes-Kaap.

(2) Ten einde die funksies in subartikel (1) uiteengesit, te verrig —

- (a) kan die Wes-Kaapse regering enige klagtes oor polisie-onbevoegdheid of 'n verbodskeling in betrekkinge tussen die polisie en enige gemeenskap ondersoek of 'n kommissie van ondersoek in dié verband aanstel; en
- (b) moet die Wes-Kaapse regering aanbevelings doen aan die nasionale Kabinetslid wat verantwoordelik vir polisiëring is.

Bevoegdhede van Provinsiale Parlement

- 67. (1) Die Provinsiale Parlement kan wetgewing aanneem wat nodig is om die funksies in artikel 66(1) gelys, te verrig.
- (2) Die Provinsiale Parlement kan vereis dat die provinsiale kommissaris van polisie vir Wes-Kaap voor hom of voor enige van sy komitees moet verskyn om vrae te beantwoord.
- (3) Die Provinsiale Parlement moet elke jaar 'n verslag van die provinsiale kommissaris oor polisiëring in Wes-Kaap ontvang.

Uitvoerende gesag se verantwoordelikheid

- 68. (1) Die Provinsiale Kabinet is verantwoordelik vir polisiëringsfunksies —
 - (a) waarmee hy kragtens hierdie Grondwet of provinsiale wetgewing bekleed word;
 - (b) wat ingevolge nasionale wetgewing aan hom opgedra is; en
 - (c) wat volgens die nasionale polisiëringsbeleid aan hom toegeken word.
- (2) Die Provinsiale Kabinet —
 - (a) moet die polisiëringsbehoefte en -prioriteite van Wes-Kaap bepaal en oordra aan die nasionale Kabinetslid wat verantwoordelik vir polisiëring is;
 - (b) kan 'n klagte oor enige wangedrag van, of enige misdryf gepleeg deur, 'n lid van die polisie in Wes-Kaap by die nasionale onafhanklike polisie klagteliggaam deur nasionale wetgewing ingestel, indien; en
 - (c) moet deelneem aan die komitee bestaande uit die nasionale Kabinetslid en die Provinsiale Ministers verantwoordelik vir polisiëring, wat kragtens die nasionale Grondwet ingestel is om doeltreffende koördinering van die polisie en doeltreffende samewerking tussen die nasionale en provinsiale regeringsfere te verseker.

Provinsiale kommissaris van polisie

- 69. (1) Voordat die Provinsiale Kabinet tot die aanstelling van 'n provinsiale kommissaris instem soos vereis deur die nasionale Grondwet, kan hy vereis dat enige kandidaat of benoemde vir aanstelling as provinsiale kommissaris voor hom of 'n komitee van sy lede moet verskyn.
- (2) Indien die provinsiale kommissaris die vertroue van die Provinsiale Kabinet verloor het, kan die Provinsiale Kabinet ooreenkomstig nasionale wetgewing gepaste verrigtinge vir die verwydering of oorpasing van, of tugsappe teen, daardie kommissaris instel; met dien verstande dat, behalwe in uitsonderlike omstandighede, die Provinsiale Kabinet moet vereis dat die provinsiale kommissaris voor hom of voor 'n komitee van sy lede moet verskyn voordat hy daardie verrigtinge instel.

HOOFSTUK 9

ANDER GRONDWETLIKE INSTELLINGS

Kultuurraade

- 70. Provinsiale wetgewing moet voorsiening maak vir die instelling en redelike finansiering, binne die beskikbare middele van Wes-Kaap, vir 'n kultuurraad of rade vir 'n gemeenskap of gemeenskappe in Wes-Kaap wat 'n gemeenskaplike kultuur- en taalerfenis deel.

Instelling en bepalende beginsels van Omgewingskommissaris

- 71. (1) Daar is 'n provinsiale Omgewingskommissaris.
- (2) Die Kommissaris moet by die uitoefening van sy of haar bevoegdhede en die verrigting van sy of haar funksies die bewaring van die omgewing in Wes-Kaap verseker en moet aandag skenk aan die noodsaaklikheid daarvan om die ewewig tussen die doelstellings van omgewingsbewaring en volhoubare ontwikkeling te bewaar.
- (3) Die Kommissaris is onafhanklik en is slegs onderworpe aan die nasionale Grondwet, hierdie Grondwet en die reg, en moet onpartydig wees en moet sonder vrees, begunstiging of vooroordeel sy of haar bevoegdhede uitoefen en sy of haar funksies verrig.

- (4) Ander provinsiale staatsorgane moet die Kommissaris bystaan en beskerm ten einde die onafhanklikheid, onpartydigheid, waardigheid en doeltreffendheid van die amp van die Kommissaris te verseker.
- (5) Geen persoon of provinsiale staatsorgaan mag in die werksaamhede van die Kommissaris inmeng nie.

Bevoegdhede en funksies

72. (1) Die Kommissaris moet —

- (a) stedelike en landelike ontwikkeling wat 'n invloed op die omgewing kan hê, monitor;
- (b) klagtes ten opsigte van omgewingsadministrasie ondersoek;
- (c) 'n plan van aksie aan enige provinsiale staatsorgaan of munisipaliteit waarvan die aktiwiteite ondersoek is, aanbeveel; en
- (d) ooreenkomstig die beginsels van samewerkende regering en inter-regeringsbetrekkinge in Hoofstuk 2 bedoel, handel.

- (2) Die Kommissaris beskik oor die bykomende bevoegdhede en funksies waarvoor in provinsiale wetgewing voorsiening gemaak mag word.

Verpligtinge van provinsiale staatsorgane

73. (1) Waar die Kommissaris aanbevelings aan 'n provinsiale staatsorgaan gedoen het, moet daardie orgaan binne 'n redelike tyd aan die Kommissaris verslag doen oor sy optrede na aanleiding van daardie aanbevelings.

- (2) Enige provinsiale staatsorgaan wat weier of versuim om die Kommissaris se aanbevelings ten uitvoer te bring, moet op versoek van die Kommissaris, hom of haar van skriftelike redes vir daardie weiering of versuim voorsien.

Verslae deur Kommissaris

74. Die Kommissaris —

- (a) moet elke jaar aan die Provinsiale Parlement verslag doen oor sy of haar aktiwiteite en oor omgewingsaangeleenthede in Wes-Kaap;
- (b) moet enige aanbevelings wat hy of sy gedoen het, aan die Provinsiale Parlement voorlê; en
- (c) kan op enige ander tyd aan die Provinsiale Parlement verslag doen.

Aanstelling

75. (1) Die Kommissaris moet 'n Suid-Afrikaanse burger wees wat —

- (a) in die gewone loop van sake in Wes-Kaap woon;
- (b) 'n geskikte en gepaste persoon met gespesialiseerde kennis of ondervinding van omgewingsaangeleenthede is; en
- (c) voldoen aan die vereistes wat deur provinsiale wetgewing opgelê word.

- (2) Die Premier moet as Kommissaris 'n persoon aanstel wat —

- (a) deur 'n komitee bestaande uit alle partye wat in die Provinsiale Parlement verteenwoordig is en besluit het om deel te neem, benoem is; en
- (b) deur die Provinsiale Parlement by wyse van 'n besluit wat met 'n ondersteunende stem van minstens 60 persent van die lede van die Provinsiale Parlement aangeneem is, goedgekeur is.

- (3) Die reëls en orders van die Provinsiale Parlement moet daarvoor voorsiening maak dat die burgerlike samelewing by die benoemingsproses betrek word.

Ampstermyn

76. Die Kommissaris word vir 'n termyn van drie jaar, wat een maal hernu kan word, aangestel.

Onthefing en skorsing

77. (1) Die Kommissaris mag slegs van sy of haar amp onthef word —

- (a) op grond van wangedrag, onvermoë of onbevoegdheid;
- (b) op grond van 'n bevinding te dien effekte deur 'n komitee bestaande uit alle partye wat in die Provinsiale Parlement verteenwoordig is en besluit het om deel te neem; en

- (c) by aannane deur die Provinsiale Parlement, met 'n ondersteunende stem van minstens twee derdes van die lede van die Provinsiale Parlement, van 'n besluit wat die ontheffing van daardie persoon van sy of haar amp eis.

(2) Die Premier —

- (a) kan die Kommissaris uit die amp skors te eniger tyd ná die aanvang van die verrigtinge van 'n komitee van die Provinsiale Parlement om daardie persoon van die amp te onthef; en
- (b) moet 'n persoon van die amp onthef by aannane deur die Provinsiale Parlement van die besluit wat daardie persoon se ontheffing eis.

Instelling en bepalende beginsels van Kommissaris vir Kinders

78. (1) Daar is 'n provinsiale Kommissaris vir Kinders.

- (2) Die Kommissaris moet die Wes-Kaapse regering bystaan by die beskerming, en die bevordering van die belange, van kinders in Wes-Kaap, in die besonder met betrekking tot —

- (a) gesondheidsdienste;
- (b) onderwys;
- (c) welsynsdienste;
- (d) ontspanning en geriewe; en
- (e) sport.

Bevoegdhede en pligte

79. (1) Die Kommissaris het die bevoegdheid, soos in provinsiale wetgewing gereël, om enige aangeleenthede betreffende kinders te monitor en te ondersoek, na te vors, opvoeding daarvoor te voorsien, steun daarvoor te werf, daaroor te adviseer en verslag daaroor te doen.

(2) Die Kommissaris —

- (a) moet elke jaar aan die Provinsiale Parlement verslag doen oor die maatreëls wat deur die Wes-Kaapse regering getref is om die kinders in Wes-Kaap te beskerm en hul belange te bevorder, en
- (b) kan op enige ander tyd aan die Provinsiale Parlement verslag doen.

Aanstelling en ontheffing

80. Die Kommissaris word deur die Premier op aanbeveling van die Provinsiale Parlement aangestel en van die amp onthef.

HOOFSTUK 10

RIGTINGGEWENDE PROVINSIALE BELEIDSBEGINSELS

81. Die Wes-Kaapse regering moet 'n beleid om die welsyn van die mense van Wes-Kaap daadwerklik te bevorder en te handhaaf, aanneem en uitvoer, insluitende 'n beleid wat daarop gemik is om die volgende te bereik:

- (a) veiligheid en sekuriteit;
- (b) die bevordering van nie-rassigheid in Wes-Kaap;
- (c) die beskerming of bevordering van persone, of kategorieë persone, wat deur onbillike diskriminasie benadeel is;
- (d) die bevordering van respek vir die regte van kulturele, godsdienstige en taalgemeenskappe in Wes-Kaap;
- (e) die skepping van werkgeleenthede;
- (f) die bevordering van 'n werk-etiek
- (g) die bevordering van 'n markgerigte ekonomie
- (h) die verwesenliking van die reg van toegang tot —
- (i) toereikende behuising;
- (ii) gesondheidsorgdienste;

- (iii) voldoende voedsel en water; en
- (iv) maatskaplike sekerheid, insluitende geskikte maatskaplike bystand vir mense wat nie in staat is om hulself en hul afhanklikes te onderhou nie;
- (i) 'n omgewing waarin alle kinders —
 - (i) geleenthede en geriewe gebied word om op 'n gesonde wyse en in toestand van vryheid en waardigheid te ontwikkel;
 - (ii) teen uitbuiting, verwaarloos, misbruik en verlating beskerm word; en
 - (iii) basiese onderwys onder 'n stelsel van hul ouers se keuse ontvang;
- (j) die ontwikkeling van landelike gemeenskappe en die bevordering van die welsyn van landelike werkers;
- (k) 'n belastingstelsel wat billik en deursigtig is en mense se vermoë om te betaal, in ag neem.
- (l) 'n omgewing waarin alle verswaktes en bejaardes —
 - (i) toegang het tot gesinsorg of geskikte alternatiewe versorging as hulle uit die gesinsomgewing verwyder is;
 - (ii) basiese voeding, onderdak, basiese gesondheidsorgdienste en maatskaplike dienste gegee word; en
 - (iii) teen mishandeling, verwaarloos, misbruik, volslae armoede of onvrywillige afsondering beskerm word.
- (m) die beskerming van die omgewing in Wes-Kaap, insluitende sy unieke fauna en flora, tot voordeel van die huidige geslag en die nageslag; en
- (n) die beskerming en bewaring van die natuurhistoriese, kultuurhistoriese, argeologiese en argitektoniese erfenis van Wes-Kaap, tot voordeel van die huidige geslag en die nageslag;
- (o) die ontwikkelingsbevordering en verheffing van die jeug.

Status van rigtinggewende provinsiale beleidsbeginsels

82. Die rigtinggewende provinsiale beleidsbeginsels in hierdie Hoofstuk vervat, is nie regtens afdwingbaar nie, maar rig die Wes-Kaapse regering by die opstel en toepassing van wette.

HOOFSTUK 11

ALGEMENE BEPALINGS

Oorgangsreëlins

83. Bylae 3 is van toepassing op die oorgang na die nuwe grondwetlike bestel in Wes-Kaap wat deur hierdie Grondwet ingestel word en op aangeleenthede wat met dié oorgang in verband staan.

Kort titel en inwerkingtreding

84. (1) Hierdie Wet heet die Grondwet van die Wes-Kaap, 1997, en tree so gou as moontlik in werking op 'n datum wat deur die Premier by proklamasie in die amptelike koerant van die Provinsie bepaal word, maar wat nie later as 1 Julie 1998 mag wees nie.
- (2) Die Premier kan verskillende datums wat voor die datum gemeld in subartikel (1) is, ten opsigte van verskillende bepalings van hierdie Grondwet bepaal, met dien verstande dat artikels 57, 58, 59(1), 60, 61, 63 en 64 op 1 Januarie 1998 in werking tree.
- (3) Tensy uit die samehang anders blyk, word 'n verwysing in 'n bepaling van hierdie Grondwet na 'n tydstip waarop hierdie Grondwet in werking getree het, uitgelê as 'n verwysing na die tydstip waarop die bepaling in werking getree het.

BYLAE 1**AMPSEDE EN PLEGTIGE VERKLARINGS****1. Eed of plegtige verklaring van lede van Provinsiale Parlement**

- (1) Lede van die Provinsiale Parlement moet voor die President van die Konstitusionele Hof of 'n Regter deur die President van die Konstitusionele Hof aangewys, soos volg 'n eed aflê of plegtig verklaar:

Ek, A. B. sweer/verklaar plegtig trou aan die Republiek van Suid-Afrika en die provinsie Wes-Kaap en dat ek die nasionale Grondwet, die provinsiale Grondwet en alle ander reg van die Republiek sal gehoorsaam, eerbiedig en handhaaf, en belowe plegtig om my funksie as 'n lid van die Provinsiale Parlement na my beste vermoë te verrig.

(In die geval van 'n eed: So help my God)

- (2) Persone wat 'n vakature in die Provinsiale Parlement vul, kan ingevolge sub-item (1) voor die voorsittende beamppte van die Provinsiale Parlement 'n eed /plegtige verklaring aflê.

2. Eed of plegtige verklaring van Premier, Waarnemende Premier en Provinsiale Ministers

Die Premier of Waarnemende Premier van die Provinsie en elke Provinsiale Minister moet voor die President van die Konstitusionele Hof of 'n Regter deur die President van die Konstitusionele Hof aangewys, soos volg 'n eed aflê of plegtig verklaar:

Ek, A.B., sweer/verklaar plegtig trou aan die Republiek van Suid-Afrika en die provinsie Wes-Kaap en dat ek die nasionale Grondwet, die provinsiale Grondwet en alle ander reg van die Republiek sal gehoorsaam, eerbiedig en handhaaf, en ek onderneem om my amp as Premier/Waarnemende Premier/Provinsiale Minister van Wes-Kaap met eer en waardigheid te beklee, om 'n opregte en getroue raadslid te wees, geen sake wat aan my vir geheimhouding toevertrou word, regstreeks of onregstreeks te openbaar nie, en die funksies van my amp met nougesetheid en na my beste vermoë te verrig.

(In die geval van 'n eed: So help my God)

BYLAE 2**VERKIESINGSPROSEDURES****Aansoek**

1. Die prosedures in hierdie Bylae uiteengesit, is van toepassing wanneer ook al die Provinsiale Parlement byeenkom om die Premier van Wes-Kaap of die Speaker [of Adjunk-Speaker] van die Provinsiale Parlement te verkies.

Nominasie

2. Die persoon wat voorsit op 'n vergadering waarop hierdie Bylae van toepassing is, moet op die vergadering vir die nominasie van kandidate vra.

Formele vereistes

3. (1) 'n Nominasie moet voorgelê word op die vorm wat voorgeskryf word deur die reëls in item 9 vermeld.
 (2) Die vorm waarop 'n nominasie voorgelê word, moet deur twee lede van die Provinsiale Parlement onderteken word, indien die Premier van die Provinsie of die Speaker [of Adjunk-Speaker] van die Provinsiale Parlement verkies moet word.
 (3) 'n Persoon wat genomineer word, moet aanname van die nominasie te kenne gee deur die nominasievorm of enige ander vorm van skriftelike bevestiging te teken.

Aankondiging van name van kandidate

4. Op 'n vergadering waarop hierdie Bylae van toepassing is, moet die voorsittende persoon die name aankondig van die persone wat as kandidate genomineer is, maar die voorsittende persoon mag geen debat toelaat nie.

Enkele kandidaat

5. Indien slegs een kandidaat genomineer word, moet die voorsittende persoon verklaar dat daardie kandidaat verkies is.

Verkiesingsprosedure

6. Indien meer as een kandidaat genomineer word —

- (a) moet daar by wyse van geheime stemming op die vergadering gestem word;

- (b) mag elke lid wat op die vergadering teenwoordig is, een stem uitbring; en
- (c) moet die voorsittende persoon die kandidaat wat 'n meerderheid van die stemme kry, verkose verklaar.

Uitskakelingsprosedure

- 7. (1) Indien geen kandidaat 'n meerderheid van die stemme gekry het nie, moet die kandidaat wat die laagste getal stemme kry, uitgeskakel word en moet 'n verdere stemming oor die oorblywende kandidate ooreenkomstig item 6 plaasvind. Hierdie prosedure moet herhaal word totdat 'n kandidaat 'n meerderheid van die stemme kry.
- (2) Indien by die toepassing van sub-item 1, twee of meer kandidate elk die laagste getal stemme kry, moet 'n aparte stemming oor daardie kandidate gehou word, en so dikwels nodig herhaal word, om te bepaal watter kandidate uitgeskakel moet word.

Verdere vergaderings

- 8. (1) Indien slegs twee kandidate genomineer word, of indien slegs twee kandidate oorbly nadat 'n uitskakelingsprosedure toegepas is, en daardie twee kandidate dieselfde getal stemme kry, moet 'n verdere vergadering binne sewe dae gehou word op 'n tyd wat deur die voorsittende persoon bepaal word.
- (2) Indien 'n verdere vergadering ingevolge sub-item (1) gehou word, moet die prosedure in hierdie Bylae voorgeskryf op daardie vergadering toegepas word asof dit die eerste vergadering vir die betrokke verkiesing is.

Reëls

- 9. Die reëls wat op bogenoemde verkiesingsprosedures van toepassing is, is die reëls wat die President van die Konstitusionele Hof ingevolge die nasionale Grondwet maak.

BYLAE 3

OORGANGSREËLINGS

Uitleg van bestaande wetgewing

- 1. Tensy uit die samehang anders blyk of klaarblyklik onvanpas, word 'n verwysing in enige wetgewing wat bestaan het toe hierdie Grondwet in werking getree het, na die Provinsiale Wetgewer, Premier, Uitvoerende Raad of lid van die Uitvoerende Raad uitgelê as 'n verwysing na die Provinsiale Parlement, Premier, Provinsiale Kabinet of Provinsiale Minister kragtens hierdie Grondwet.

Tale

- 2. (1) artikel 5(1) van hierdie Grondwet is onderworpe aan die volgende:
Die regering van die Wes-Kaap moet binne sy beskikbare middele, redelike wetgewende en ander maatreëls tref om die gelyke status van Afrikaans, Engels en isiXhosa in toenemende mate te verwesenlik.
- (2) Provinsiale wetgewing in sub-item (1) beoog, moet binne twaalf maande vanaf die datum waarop hierdie Grondwet in werking tree, verorden word.

Provinsiale Parlement

- 3. (1) Enigiemand wat 'n lid of ampsdraer van die Provinsiale Wetgewer was toe hierdie Grondwet in werking getree het, word 'n lid of ampsdraer van die Provinsiale Parlement en beklee die amp van lid of ampsdraer ingevolge hierdie Grondwet.
- (2) Die Provinsiale Parlement soos ingevolge sub-item (1) saamgestel, word beskou as verkies te wees kragtens hierdie Grondwet vir 'n termyn wat op 30 April 1999 verstryk.
- (3) Vir die duur van die Provinsiale Parlement se termyn wat op 30 April 1999 verstryk behoudens artikel 17(4) van hierdie Grondwet, bestaan die Provinsiale Parlement uit 42 lede plus die voormalige senatore wat ingevolge die Nasionale Grondwet, lede van die Provinsiale Parlement geword het.
- (4) Die reëls en orders van die Provinsiale Wetgewer wat van krag was toe hierdie Grondwet in werking getree het, bly van krag behoudens enige wysiging of herroeping.

Verkiesing van Provinsiale Parlement

- 4. (1) Bylae 2 van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet 200 van 1993), soos gewysig by Aanhangsel A van Bylae 6 van die nasionale Grondwet, is van toepassing —
 - (a) op die eerste verkiesing van die Provinsiale Parlement kragtens hierdie Grondwet;
 - (b) op die verlies van lidmaatskap van die Provinsiale Parlement in ander omstandighede as dié waarvoor in artikel 15(3) van hierdie Grondwet voorsiening gemaak word, tot die tweede verkiesing van die Provinsiale Parlement kragtens hierdie Grondwet;
 - (c) op die vul van vakatures in die Provinsiale Parlement, en die aanvulling, hersiening en aanwending van partylyste vir die vul van vakatures, tot die tweede verkiesing van die Provinsiale Parlement kragtens hierdie Grondwet.

- (2) Geen verkiesing van die Provinsiale Parlement mag voor 30 April 1999 gehou word nie, tensy die Provinsiale Parlement ingevolge artikel 18(2) ontbind word as gevolg van 'n voorstel van wantroue in die Premier ingevolge artikel 51(2).

Ede en plegtige verklarings

5. 'n Persoon wat ingevolge hierdie Bylae in 'n amp aanbly en wat kragtens die vorige Grondwet of kragtens die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet 200 van 1993) 'n ampseed of plegtige verklaring afgelê het, is nie verplig om die ampseed of plegtige verklaring kragtens hierdie Grondwet te herhaal nie.

Ontbinding van Provinsiale Parlement voor verstryking van termyn

6. Artikel 18(1) van hierdie Grondwet word tot 30 April 1999 opgeskort.

Afgevaardigdes na Nasionale Raad van Provinsies

7. Die Provinsiale Parlement kan, totdat 'n Parlements-wet ingevolge artikel 65(2) van die nasionale Grondwet verorden word, in sy reëls en orders voorsiening maak vir die toewysing van gesag aan sy afvaardiging na die Nasionale Raad van Provinsies om namens hom in die Raad te beraadslaag, op te tree en stemme uit te bring.

Provinsiale Kabinet

8. (1) Enigiemand wat die Premier is wanneer hierdie Grondwet in werking tree, bly aan in en beklee die amp van Premier ingevolge hierdie Grondwet.
- (2) Behoudens artikel 44 van hierdie Grondwet, tot en met die tweede verkiesing van die Provinsiale Parlement ingevolge hierdie Grondwet, word artikels 42 en 43 geag te lui soos in Aanhangsel A van hierdie Bylae uiteengesit.

Verordening van wetgewing deur hierdie Grondwet vereis

9. (1) Waar hierdie Grondwet die verordening van wetgewing of reëls en orders van die Provinsiale Parlement vereis, moet daardie wetgewing en daardie reëls en orders deur die betrokke owerheid verorden of aangeneem word, na gelang van die geval, binne 'n redelike tyd na die datum waarop hierdie Grondwet in werking getree het.
- (2) Provinsiale wetgewing in artikels 65 en 70 van hierdie Grondwet beoog, moet binne 12 maande vanaf die datum waarop hierdie Grondwet in werking getree het, verorden word.

AANHANGSEL A

1. Artikel 42 van hierdie Grondwet word geag soos volg te lui:

Provinsiale Kabinet

42. (1) Die Provinsiale Kabinet bestaan uit die Premier, as hoof van die Provinsiale Kabinet, en:
- (a) minstens vyf en hoogstens tien Provinsiale Ministers wat lede is van die Provinsiale Parlement; en
- (b) 'n maksimum van twee Provinsiale Ministers wat as lede van die Provinsiale Parlement verkiesbaar is maar nie lede is nie, mits die Premier die aanstelling van daardie Provinsiale Ministers wenslik ag.
- (2) Die Premier stel die Provinsiale Ministers aan, dra hul bevoegdhede en funksies aan hulle op, en kan hulle ontslaan.
2. Artikel 43 van hierdie Grondwet word geag die volgende bykomende subartikel te bevat:
- (4) 'n Provinsiale Minister bedoel in artikel 42(1)(b) kan sitting neem en praat in die Provinsiale Parlement, maar mag nie stem nie, en is geregtig op die voorreg in artikel 26 van hierdie Grondwet uiteengesit.

VERKLARENDE MEMORANDUM

Die oorspronklike Wetsontwerp op die Grondwet is opgestel ingevolge die Grondwet van die Republiek van Suid-Afrika, Wet 108 van 1996, waarin artikel 142 bepaal dat 'n provinsiale wetgewer 'n grondwet vir 'n provinsie met 'n meerderheid van ten minste twee derdes van al sy lede mag goedkeur.

Op 3 Julie 1996 het die Speaker van die Wetgewer van die Provinsie Wes-Kaap die Staande Komitee op Staatskundige Sake, Plaaslike Bestuur en Behuising gevra om 'n grondwet vir die Provinsie op te stel.

Alle politieke partye wat in die Wetgewer verteenwoordig word, het aan die beraadslaginge van die Staande Komitee deelgeneem. In die opstel van hierdie teks was die oogmerk deurgaans om te verseker dat die Grondwet van die Provinsie legitiem is en dat dit die gevolg van aktiewe deelname deur al die mense van die Wes-Kaap is.

Die mense van die Wes-Kaap het mondelinge en skriftelike voorleggings aan die Staande Komitee gelewer. Die Komitee het al die hoofsentra in die Wes-Kaap besoek, en in Desember 1996 is 'n konsepwetsontwerp afgehandel, gepubliseer en wyd versprei. 'n Wye verskeidenheid mondelinge en skriftelike voorleggings is ontvang wat almal deur die Komitee oorweeg is.

Die Konstitusionele Hof het die aansoek om sertifisering van die Grondwet van die Provinsie Wes-Kaap op 14-15 Mei 1997 aangehoor. Die Hof het op 2 September 1997 uitspraak gelewer en het sertifisering geweier.

'n Gewysigde weergawe van die teks moet deur die Wetgewer van die Provinsie Wes-Kaap aanvaar en vir sertifisering aan die Konstitusionele Hof voorgelê word.

PROVINCE OF WESTERN CAPE

**CONSTITUTION
OF THE
WESTERN CAPE**

*(As amended by the Standing Committee on Constitutional Affairs,
Local Government and Housing in pursuance of the judgement of the
Constitutional Court on 2 September 1997 and passed by the
Legislature on 11 September 1997)*

(Premier)

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CONSTITUTION OF THE WESTERN CAPE

PREAMBLE

In humble submission to Almighty God,

We, the people of the Western Cape, through our elected representatives —

Recognising and striving to heal the injustices of the past,

Recognising the need for peace, reconciliation and justice,

Endeavouring to promote the development of the Western Cape and a better quality of life for all its people through just and effective government;

Affirming that the Western Cape, a province of the Republic of South Africa, is founded on —

democratic values,

the recognition of human rights,

the recognition of the family,

responsible and accountable government,

the rule of law,

the principles of mutual trust and co-operation, and

loyalty to the national Constitution;

Do now adopt this Constitution for the Western Cape.

May God protect our people.

God seën Suid-Afrika, Nkosi Sikelel' iAfrika, God bless South Africa.

CHAPTER 1

FOUNDING PROVISIONS

Province of the Western Cape

1. The Western Cape is a Province of the Republic of South Africa as established by the Constitution of the Republic of South Africa.

Boundaries of Province

2. The boundaries of the Western Cape are determined by the national Constitution.

Adoption, status and interpretation of this Constitution

3. (1) This Constitution is adopted for the Western Cape in terms of the national Constitution, the supreme law of the Republic of South Africa.
- (2) The legislative and executive powers and functions of the Western Cape recorded in this Constitution emanate exclusively from the national Constitution.
- (3) The provisions of this Constitution must not be interpreted as conferring any legislative or executive authority on the Western Cape which is inconsistent with the national Constitution.
- (4) In the event of an inconsistency between different texts of this Constitution, the English text prevails.

Application of this Constitution

4. This Constitution applies to the Western Cape. Subject to the national Constitution, it is the highest law in the Western Cape, and the obligations imposed by it must be performed diligently and without delay.

Languages

5. (1) For the purposes of provincial government —
 - (a) the official languages Afrikaans, English and isiXhosa are to be used; and
 - (b) these languages enjoy equal status.
- (2) The Western Cape government must through legislative and other measures, regulate and monitor its use of Afrikaans, English and isiXhosa.
- (3) The Western Cape government must take practical and positive measures to elevate the status and advance the use of those indigenous languages of the people of the Western Cape whose status and use have been historically diminished.

Provincial symbols and honours

6. (1) A provincial Act may provide for —
 - (a) provincial symbols;
 - (b) the conferral of provincial honours.
- (2) A provincial Bill to provide for provincial symbols must be passed by the Provincial Parliament with a supporting vote of at least two thirds of its members.

CHAPTER 2

INTERGOVERNMENTAL RELATIONS

Co-operative government

7. As part of the provincial sphere of government of the Republic of South Africa, the Western Cape government must —
 - (a) act in accordance with the principles of co-operative government and intergovernmental relations set out in the national Constitution in all its dealings with the national government, the other provincial governments and the municipalities in the Western Cape;

- (b) participate in structures and institutions to promote and facilitate intergovernmental relations, established in terms of the national Constitution; and
- (c) make use of mechanisms and procedures for the settlement of intergovernmental disputes, established in terms of the national Constitution.

Participation in National Council of Provinces

- 8. Delegates to the National Council of Provinces must take an active part in the Council in order to promote the interests of the Western Cape and of the country as a whole in accordance with the principles of co-operative government and intergovernmental relations set out in the national Constitution.

CHAPTER 3

PROVINCIAL PARLIAMENT

Legislative authority

- 9. (1) The legislative authority of the Western Cape is vested in the Provincial Parliament.
- (2) The Provincial Parliament is bound only by the national Constitution and this Constitution, and must act in accordance with, and within the limits imposed by, these Constitutions.
- (3) The Provincial Parliament may —
 - (a) replace, amend or repeal this Constitution;
 - (b) pass legislation for the Western Cape in terms of the national Constitution and in accordance with this Constitution;
 - (c) pass legislation for the Western Cape with regard to any matter assigned to the Western Cape by national legislation; and
 - (d) assign to a Municipal Council any of its legislative powers referred to in paragraph (b) and, where it is permitted to do so, any of its legislative powers referred to in paragraph (c).
- (4) The Provincial Parliament may —
 - (a) by a resolution recommend to the National Assembly that it passes legislation concerning any matter outside the Provincial Parliament's authority, or in respect of which an Act of Parliament prevails over provincial legislation;
 - (b) by a resolution recommend to the National Council of Provinces that it passes legislation concerning any other matter; and
 - (c) by a resolution adopted with a supporting vote of at least two thirds of its members request Parliament to change the name of the Province.

Bills to replace, amend or repeal this Constitution

- 10. (1) A Bill to replace, amend or repeal this Constitution —
 - (a) must be passed by the Provincial Parliament with a supporting vote of at least two thirds of its members; and
 - (b) may include only constitutional provisions.
- (2) At least 30 days before a Bill referred to in subsection (1) is introduced in the Provincial Parliament, the member or committee intending to introduce the Bill must —
 - (a) publish, in the official gazette of the Province and in at least three newspapers circulating in the Western Cape, particulars of the proposed Bill for public comment; and
 - (b) submit, in accordance with the rules of the Provincial Parliament, those particulars to municipalities within the Western Cape for their views.
- (3) When a Bill referred to in subsection (1) is introduced, the member or committee introducing the Bill must submit to the Speaker any written comments received from the public and from municipalities for tabling in the Provincial Parliament.

Certification

11. If the Provincial Parliament has replaced or amended this Constitution, the Speaker must submit the text of the new constitution or the constitutional amendment to the Constitutional Court for certification.

Signing, safekeeping, publication and commencement of provincial constitution

12. (1) The Premier must assent to and sign the text of a new constitution or any constitutional amendment that has been certified by the Constitutional Court.
- (2) The text assented to and signed by the Premier must be published in both the national *Government Gazette* and the official gazette of the Province. It takes effect on publication or on a later date determined in terms of the new constitution or the constitutional amendment.
- (3) The signed text of a new constitution or a constitutional amendment is conclusive evidence of its provisions. After publication, it must be entrusted to the Constitutional Court for safekeeping.

Composition

13. The Provincial Parliament consists of 42 elected members.

Election of Provincial Parliament

14. The Provincial Parliament consists of persons elected as members in terms of an electoral system that —
- (a) is prescribed by national legislation;
 - (b) is based on the Province's segment of the national common voters roll;
 - (c) provides for a minimum voting age of 18 years; and
 - (d) results, in general, in proportional representation.

Membership

15. (1) Every citizen who is qualified to vote for the National Assembly is eligible to be a member of the Provincial Parliament, except —
- (a) anyone who is appointed by, or is in the service of, the state and receives remuneration for that appointment or service, other than —
 - (i) the Premier and other Provincial Ministers of the Western Cape; and
 - (ii) other office-bearers whose functions are compatible with the functions of a member of the Provincial Parliament, and have been declared compatible with those functions by national legislation;
 - (b) members of the National Assembly, permanent delegates to the National Council of Provinces or members of a Municipal Council;
 - (c) unrehabilitated insolvents;
 - (d) anyone declared to be of unsound mind by a court of the Republic; or
 - (e) anyone who, after 3 February 1997, has been or is convicted of an offence and sentenced to more than 12 months' imprisonment without the option of a fine, either in the Republic, or outside the Republic if the conduct constituting the offence would have been an offence in the Republic, but no one may be regarded as having been sentenced until an appeal against the conviction or sentence has been determined, or until the time for an appeal has expired. A disqualification under this paragraph ends five years after the sentence has been completed.
- (2) A person who is not eligible to be a member of the Provincial Parliament in terms of subsection (1) (a) or (b) may be a candidate for the Provincial Parliament, subject to any limits or conditions determined by national legislation.
- (3) A person loses membership of the Provincial Parliament if that person —
- (a) ceases to be eligible;
 - (b) resigns as a member; or
 - (c) is absent from the Provincial Parliament without permission in circumstances for which the rules and orders of the Provincial Parliament prescribe loss of membership.
- (4) Vacancies in the Provincial Parliament must be filled in terms of national legislation.

Oath or affirmation

16. Members of the Provincial Parliament must swear or affirm faithfulness to the Republic and the Western Cape and obedience to the national Constitution and this Constitution, in accordance with Schedule 1, before they begin to perform their functions as members.

Duration

17. (1) The Provincial Parliament is elected for a term of five years.
- (2) When the Provincial Parliament is dissolved in terms of section 18 or when its term expires, the Premier must, by proclamation, call and set dates for an election, which must be held within 90 days of the date when the Provincial Parliament was dissolved or when its term expired.
- (3) If the result of an election of the Provincial Parliament is not declared within the period determined by national legislation, or if an election is set aside by a court, another election must be held in terms of the national Constitution.
- (4) The Provincial Parliament remains competent to function from the time it is dissolved or its term expires, until the day before the first day of polling for the next Provincial Parliament.

Dissolution of Provincial Parliament before its term expires

18. (1) The Premier must dissolve the Provincial Parliament if —
- (a) the Provincial Parliament has adopted a resolution to dissolve with a supporting vote of a majority of all its members; and
- (b) three years have passed since the Provincial Parliament was elected.
- (2) An Acting Premier must dissolve the Provincial Parliament if there is a vacancy in the office of Premier and the Provincial Parliament fails to elect a new Premier within 30 days after the vacancy occurred.

Seat of Provincial Parliament, sittings and recess periods

19. (1) The seat of the Provincial Parliament is Cape Town.
- (2) The Provincial Parliament may determine that it or any of its committees may, when necessary, sit elsewhere in the Western Cape.
- (3) After an election, the first sitting of the Provincial Parliament takes place at a time and on a date determined by a Judge designated by the President of the Constitutional Court, but not more than 14 days after the election result has been declared.
- (4) The Provincial Parliament may determine the times and duration of its other sittings and its recess periods.
- (5) The Premier may summon the Provincial Parliament to an extraordinary sitting at any time to conduct special or urgent business.

Speaker

20. (1) The Provincial Parliament must elect a Speaker from amongst its members at the first sitting after its election, or when necessary to fill a vacancy.
- (2) A Judge designated by the President of the Constitutional Court must preside over the election of the Speaker. The procedure set out in Schedule 2 to this Constitution applies to the election of the Speaker.
- (3) The Provincial Parliament may —
- (a) elect a Deputy Speaker from among its members; and
- (b) elect other presiding officers from among its members to assist the Speaker and the Deputy Speaker.
- (4) The Provincial Parliament may remove the Speaker, Deputy Speaker and any other presiding officer by a resolution adopted with a supporting vote of a majority of all its members.

Quorum and decisions

21. (1) Except where this Constitution provides otherwise—
- (a) a majority of the members of the Provincial Parliament must be present before a vote may be taken on a Bill or an amendment to a Bill;

- (b) at least one third of the members must be present before a vote may be taken on any other question before the Provincial Parliament; and
 - (c) all questions before the Provincial Parliament are decided by a majority of the votes cast.
- (2) The member presiding at a meeting of the Provincial Parliament has no deliberative vote, but —
- (a) must cast a deciding vote when there is an equal number of votes on each side of a question; and
 - (b) may cast a deliberative vote when a question must be decided with a supporting vote of at least two thirds of the members of the Provincial Parliament.

Permanent delegates' rights in Provincial Parliament

22. Permanent delegates to the National Council of Provinces may attend, and speak in, the Provincial Parliament and its committees, but may not vote. The Provincial Parliament may require a permanent delegate to attend the Provincial Parliament or its committees.

Powers of Provincial Parliament

23. (1) In exercising its legislative authority, the Provincial Parliament may —
- (a) consider, pass, amend or reject any Bill before it; and
 - (b) initiate or prepare legislation, except money Bills.
- (2) Subject to subsection (4), the Provincial Parliament must provide for mechanisms —
- (a) to ensure that all provincial organs of state are accountable to it; and
 - (b) to oversee —
 - (i) the exercise of provincial executive authority, including the implementation of legislation; and
 - (ii) any provincial organ of state.
- (3) The Provincial Parliament may —
- (a) determine and control its own internal arrangements, proceedings and procedures; and
 - (b) make rules and orders concerning its business, with due regard to representative and participatory democracy, accountability, transparency and public participation.
- (4) The Provincial Parliament must in its rules and orders provide for —
- (a) the establishment, composition, powers, functions, procedures and duration of its committees;
 - (b) the participation in the proceedings of the Provincial Parliament and its committees of minority parties represented in the Provincial Parliament in a manner consistent with democracy;
 - (c) the conferral on its committees of such powers as are necessary for them to —
 - (i) oversee the activities of the provincial organs of state;
 - (ii) hold the provincial executive accountable; and
 - (iii) promote transparency, accountability and the effective management of the provincial economy, provincial budget, provincial debt and the provincial public sector;
 - (d) a standing committee of the Provincial Parliament to monitor the socio-economic conditions of the residents of the Western Cape, and to make recommendations to the Provincial Parliament concerning the improvement of these conditions;
 - (e) co-ordination between the Provincial Parliament and its committees, and the National Council of Provinces;
 - (f) the receipt of petitions, representations or submissions from any interested person or institution;
 - (g) the participation of representatives of the different categories of local government in the Western Cape in the deliberations of standing committees on Bills that affect the interests of municipalities in the Western Cape; and
 - (h) financial and administrative assistance to each party represented in the Provincial Parliament, in proportion to its representation, to enable the party and its leader to perform their functions in the Provincial Parliament effectively.

Leader of the Opposition

24. The rules and orders of the Provincial Parliament must provide for the recognition of the Leader of the Opposition in the Provincial Parliament.

Evidence or information before Provincial Parliament

25. The Provincial Parliament or any of its committees may —
- (a) summon any person to appear before it to give evidence on oath or affirmation, or to produce documents;
 - (b) require any natural or juristic person or provincial organ of state to report to it;
 - (c) compel, in terms of provincial legislation or the rules and orders of the Provincial Parliament, any person or provincial organ of state to comply with a summons or requirement in terms of paragraph (a) or (b); and
 - (d) receive petitions, representations or submissions from any interested person or institution.

Privilege

26. Members of the Provincial Parliament and the permanent delegates of the Western Cape to the National Council of Provinces —
- (a) have freedom of speech in the Provincial Parliament and in its committees, subject to its rules and orders; and
 - (b) are not liable to civil or criminal proceedings, arrest, imprisonment or damages for —
 - (i) anything that they have said in, produced before or submitted to the Provincial Parliament or any of its committees; or
 - (ii) anything revealed as a result of anything that they have said in, produced before or submitted to the Provincial Parliament or any of its committees.

Code of Conduct

27. Provincial legislation must provide for a code of conduct for the members of the Provincial Parliament.

Public access

28. (1) The proceedings of the Provincial Parliament and its committees take place in public, but reasonable steps may be taken —
- (a) to regulate public access, including access of the media, to the Provincial Parliament and its committees; and
 - (b) to provide for the searching of any person and, where appropriate, the refusal of entry to, or the removal of any person.
- (2) The public, including the media, may not be excluded from a sitting of a committee of the Provincial Parliament unless it is reasonable and justifiable to do so in an open and democratic society.
- (3) The Provincial Parliament must facilitate public participation in its activities and those of its committees.

Introduction of Bills

29. Only a Provincial Minister, a committee or member of the Provincial Parliament may introduce a Bill in the Provincial Parliament. If the Bill is a money Bill, only the Provincial Minister responsible for financial matters may introduce it in the Provincial Parliament.

Money Bills

30. (1) A Bill that appropriates money or imposes taxes, levies or duties is a money Bill. A money Bill may not deal with any other matter except a subordinate matter incidental to the appropriation of money or the imposition of taxes, levies or duties.
- (2) A provincial Act must provide for a procedure by which the Provincial Parliament may amend a money Bill.

Assent to Bills

31. (1) The Premier of the Western Cape must within 45 days after a Bill has been passed by the Provincial Parliament —

- (a) assent to and sign the Bill; or
 - (b) if the Premier has reservations about the constitutionality of the Bill, refer it back to the Provincial Parliament for reconsideration.
- (2) If, after reconsideration, the Bill fully accommodates the Premier's reservations, the Premier must, within 45 days of the date of that reconsideration, assent to and sign the Bill; if not, the Premier must, within 45 days of the date of that reconsideration —
- (a) assent to and sign the Bill; or
 - (b) refer it to the Constitutional Court for a decision on its constitutionality.
- (3) If the Constitutional Court decides that the Bill is constitutional, the Premier must assent to and sign it within 14 days.

Application by members to Constitutional Court

32. (1) Members of the Provincial Parliament may apply to the Constitutional Court for an order declaring that all or part of a provincial Act is unconstitutional.
- (2) An application —
- (a) must be supported by at least 20 per cent of the members of the Provincial Parliament; and
 - (b) must be made within 30 days of the date on which the Premier assented to and signed the Act.

Publication and commencement of provincial Acts

33. (1) A Bill assented to and signed by the Premier becomes an Act of the Western Cape. It must be published promptly in the official gazette of the Province and takes effect when it is published or on a date determined in terms of the Act.
- (2) Provincial legislation must provide for the dissemination and further publication of particulars of provincial Acts.

Safekeeping of provincial Acts

34. The signed copy of an Act is conclusive evidence of its provisions. After publication, the Act must be entrusted to the Constitutional Court for safekeeping.

CHAPTER 4

EXECUTIVE

Executive authority

35. (1) The executive authority of Western Cape is vested in the Premier.
- (2) The Premier exercises the executive authority, together with the other Provincial Ministers, by —
- (a) implementing provincial legislation;
 - (b) implementing, to the extent that the Western Cape has the administrative capacity to assume effective responsibility, all national legislation within the functional areas listed in Schedule 4 or 5 of the national Constitution except where the national Constitution or an Act of Parliament provides otherwise;
 - (c) implementing national legislation outside the functional areas listed in Schedules 4 and 5 of the national Constitution, the administration of which has been assigned to the Provincial Cabinet in terms of an Act of Parliament;
 - (d) developing and implementing provincial policy;
 - (e) co-ordinating the functions of the provincial administration and its departments;
 - (f) preparing and initiating provincial legislation; and
 - (g) performing any other function assigned to the Provincial Cabinet in terms of the national Constitution or an Act of Parliament.
- (3) The provincial executive must act in accordance with the national Constitution and this Constitution.

Assignment of functions

36. A Provincial Minister may assign any power or function that is to be exercised or performed in terms of an Act of Parliament, or a provincial Act, to a Municipal Council. An assignment —
- (a) must be in terms of an agreement between the relevant Provincial Minister and the Municipal Council;
 - (b) must be consistent with the Act in terms of which the relevant power or function is exercised or performed; and
 - (c) takes effect upon proclamation by the Premier in the official gazette of the Province.

Powers and functions of Premier

37. (1) The Premier has the powers and functions entrusted to that office by the national Constitution, this Constitution and any legislation.
- (2) The Premier is responsible for —
- (a) assenting to and signing Bills;
 - (b) referring a Bill back to the Provincial Parliament for reconsideration of the Bill's constitutionality;
 - (c) referring a Bill to the Constitutional Court for a decision on the Bill's constitutionality;
 - (d) summoning the Provincial Parliament to an extraordinary sitting to conduct special or urgent business;
 - (e) appointing commissions of inquiry; and
 - (f) calling a referendum in the Western Cape in accordance with national legislation.

Election of Premier

38. (1) The Provincial Parliament must elect a Premier from among its members at its first sitting after its election, or when necessary to fill a vacancy.
- (2) A Judge designated by the President of the Constitutional Court must preside over the election of the Premier. The procedure set out in Schedule 2 of this Constitution applies to the election of the Premier.
- (3) An election to fill a vacancy in the office of the Premier must be held at a time and on a date determined by the President of the Constitutional Court, but not later than 30 days after the vacancy occurs.

Assumption of office by Premier

39. The Premier-elect must assume office within five days of being elected, by swearing or affirming faithfulness to the Republic and the Western Cape and obedience to the national Constitution and this Constitution, in accordance with Schedule 1.

Term of office and removal of Premier

40. (1) The Premier's term of office begins when the Premier assumes office and ends when a vacancy occurs or when the person next elected Premier assumes office.
- (2) No person may hold office as Premier for more than two terms, but when a person is elected to fill a vacancy in the office of Premier, the period between that election and the next election of a Premier is not regarded as a term.
- (3) The Provincial Parliament, by a resolution adopted with a supporting vote of at least two thirds of its members, may remove the Premier from office only on the grounds of —
- (a) a serious violation of the national Constitution, this Constitution or the law;
 - (b) serious misconduct; or
 - (c) inability to perform the functions of office.

- (4) Anyone who has been removed from the office of Premier in terms of subsection (3)(a) or (b) may not receive any benefits of that office, and may not serve in any public office.

Acting Premier

41. (1) When the Premier is absent or otherwise unable to fulfil the duties of the office of Premier, or during a vacancy in the office of Premier, an office-bearer in the order below acts as the Premier —
- (a) a Provincial Minister designated by the Premier;
 - (b) a Provincial Minister designated by the other Provincial Ministers; or
 - (c) the Speaker, until the Provincial Parliament designates one of its other members.
- (2) An Acting Premier has the responsibilities, powers and functions of the Premier.
- (3) Before assuming the responsibilities, powers and functions of the Premier, the Acting Premier must swear or affirm faithfulness to the Republic and the Western Cape and obedience to the national Constitution and this Constitution, in accordance with Schedule 1.

Provincial Cabinet

42. (1) The Provincial Cabinet consists of the Premier, as head of the Provincial Cabinet, and no fewer than five and no more than ten Provincial Ministers appointed by the Premier from among the members of the Provincial Parliament.
- (2) The Premier appoints the Provincial Ministers, assigns their powers and functions, and may dismiss them.

Accountability and responsibilities

43. (1) The Provincial Ministers are responsible for the functions of the executive assigned to them by the Premier.
- (2) Provincial Ministers are accountable collectively and individually to the Provincial Parliament for how they exercise their powers and carry out their functions.
- (3) Provincial Ministers must —
- (a) act in accordance with the national Constitution and this Constitution; and
 - (b) provide the Provincial Parliament with full and regular reports concerning matters under their control.

Continuation of Provincial Cabinet after elections

44. When an election of the Provincial Parliament is held, the Provincial Cabinet and its members remain competent to function until the person elected Premier by the next Provincial Parliament assumes office.

Oath or affirmation

45. Before Provincial Ministers begin to perform their functions, they must swear or affirm faithfulness to the Republic and the Western Cape and obedience to the national Constitution and this Constitution, in accordance with Schedule 1.

Conduct of members of the Provincial Cabinet

46. (1) Members of the Provincial Cabinet must act in accordance with the code of ethics prescribed by national legislation.
- (2) Members of the Provincial Cabinet may not —
- (a) undertake any other paid work;
 - (b) act in any way that is inconsistent with their office, or expose themselves to any situation involving the risk of a conflict between their official responsibilities and private interests; or
 - (c) use their position or any information entrusted to them, to enrich themselves or improperly benefit any other person.

Transfer of functions

47. The Premier by proclamation in the official gazette of the Province may transfer to a member of the Provincial Cabinet —
- (a) the administration of any legislation entrusted to another member; or
 - (b) any power or function entrusted by legislation to another member.

Temporary assignment of functions

48. The Premier may temporarily assign to a member of the Provincial Cabinet any power or function of another member who is absent from office or is unable to exercise that power or perform that function.

Supervision of local government

49. (1) When a municipality in the Western Cape cannot or does not fulfil an executive obligation in terms of legislation, the Provincial Cabinet may intervene by taking any appropriate steps to ensure fulfilment of that obligation, including —
- (a) issuing a directive to the Municipal Council, describing the extent of the failure to fulfil its obligations and stating any steps required to meet its obligations; and
 - (b) assuming responsibility for the relevant obligation in that municipality to the extent necessary —
 - (i) to maintain essential national standards or meet established minimum standards for the rendering of a service;
 - (ii) to prevent that Municipal Council from taking unreasonable action that is prejudicial to the interests of another municipality or to the Western Cape as a whole; or
 - (iii) to maintain economic unity.
- (2) If the Provincial Cabinet intervenes in a municipality under subsection (1)(b) —
- (a) the intervention must end unless it is approved by the national Cabinet member responsible for local government affairs within 14 days of the intervention;
 - (b) notice of the intervention must be tabled in the Provincial Parliament and in the National Council of Provinces within 14 days of their respective first sittings after the intervention began; and
 - (c) the intervention must end unless it is approved by the National Council of Provinces within 30 days of its first sitting after the intervention began.

Executive decisions

50. (1) A decision by the Premier must be in writing if it —
- (a) is taken in terms of legislation; or
 - (b) has legal consequences.
- (2) A written decision by the Premier must be countersigned by another member of the Provincial Cabinet if that decision concerns a function assigned to that member.
- (3) Proclamations, regulations and other subordinate legislation of the Western Cape must be published in the official gazette of the Province and the Western Cape government must take reasonable steps to make them accessible to the public.
- (4) Provincial legislation may specify the manner in which, and the extent to which, instruments mentioned in subsection (3) must be tabled in and approved by the Provincial Parliament.

Motions of no confidence

51. (1) If the Provincial Parliament, by a vote supported by a majority of all its members, passes a motion of no confidence in the Provincial Cabinet excluding the Premier, the Premier must reconstitute the Provincial Cabinet.
- (2) If the Provincial Parliament, by a vote supported by a majority of all its members, passes a motion of no confidence in the Premier, the Premier and the other Provincial Ministers must resign.

CHAPTER 5

LOCAL GOVERNMENT

Local Government in Western Cape

52. (1) The local sphere of government in the Western Cape consists of municipalities established in terms of the national Constitution. The ability or right of a municipality to exercise its powers or perform its functions may not be compromised or impeded.
- (2) The Western Cape government, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions.
- (3) The Western Cape government must assign to a municipality, by agreement and subject to any conditions, the administration of a matter listed in Part A of Schedule 4 or Part A of Schedule 5 of the national Constitution which necessarily relates to local government, if —
 - (a) that matter would most effectively be administered locally; and
 - (b) the municipality has the capacity to administer it.
- (4) Provincial legislation must provide for the publication and dissemination of draft provincial legislation that affects the status, institutions, powers or functions of local government, before it is introduced in the Provincial Parliament, in a manner that allows organised local government, municipalities and other interested persons an opportunity to make representations with regard to the draft legislation.
- (5) The Western Cape government must publish a municipal by-law in the official gazette of the Province upon request by the municipality.

Establishment of municipalities

53. (1) Provincial legislation must determine the different types of municipality to be established in the Western Cape, as defined by national legislation.
- (2) The Western Cape government must establish municipalities in the Western Cape in a manner consistent with national legislation.

Monitoring of local government

54. (1) The Western Cape government must, by legislative or other measures —
 - (a) provide for the monitoring and support of local government in the Western Cape; and
 - (b) promote the development of local government capacity to enable municipalities to perform their functions and manage their own affairs.
- (2) The Western Cape government has the legislative and executive authority in terms of the national Constitution to see to the effective performance by municipalities of their functions in respect of matters listed in Schedules 4 and 5 of the national Constitution, by regulating the exercise by municipalities of their executive authority.

CHAPTER 6

PROVINCIAL ADMINISTRATION

Provincial public servants

55. The Western Cape government is responsible for the recruitment, appointment, promotion, transfer and dismissal of members of the public service in the administration of the Western Cape within the framework of uniform norms and standards applying to the public service.

Basic values and principles governing public administration in the Western Cape

56. Public administration in the Western Cape must be governed by the democratic values and principles enshrined in the national Constitution.

CHAPTER 7

FINANCE

Sources of provincial funding

57. The sources of provincial funding are: —

- (a) the equitable share of revenue raised nationally and allocated to the Western Cape in terms of the national Constitution;
- (b) other allocations from national government revenue;
- (c) additional revenue raised by the Western Cape government; and
- (d) other money, resources and assets received by the Western Cape government.

Provincial Revenue Fund

58. (1) All money received by the Western Cape government must be paid into the Provincial Revenue Fund except such money excluded by an Act of Parliament.
- (2) Money may be withdrawn from the Provincial Revenue Fund only —
- (a) in terms of an appropriation by a provincial Act; or
 - (b) as a direct charge against the Provincial Revenue Fund, when it is provided for in the national Constitution or a provincial Act.

Taxes

59. (1) The Provincial Parliament may impose —
- (a) taxes, levies and duties other than income tax, value-added tax, general sales tax, rates on property or customs duties; and
 - (b) flat-rate surcharges on the tax bases of any tax, levy or duty that is imposed by national legislation, other than the tax bases of corporate income tax, value-added tax, rates on property or customs duties.
- (2) Provincial legislation may provide for user charges.
- (3) The power of the Provincial Parliament to impose taxes, levies, duties and surcharges, as regulated by an Act of Parliament, may not be exercised in a way that materially and unreasonably prejudices national economic policies, economic activities across provincial boundaries, or the national mobility of goods, services, capital or labour.

Provincial budget

60. (1) The provincial budget and budgetary process must promote transparency, accountability and the effective financial management of the provincial economy, debt and the public sector.
- (2) The provincial budget must comply with national legislation as envisaged by the national Constitution with respect to its form, when it must be tabled, the identification of the sources of revenue and proposed expenditure.
- (3) The Provincial Minister responsible for financial matters must in respect of every financial year lay before the Provincial Parliament a budget, containing —
- (a) estimates of revenue and expenditure, differentiating between capital and current expenditure;
 - (b) proposals for financing any anticipated deficit for the period to which they apply; and
 - (c) an indication of intentions regarding borrowing and other forms of public liability that will increase public debt during the ensuing year.
- (4) In prioritising the allocation of funds in the provincial budget, the need to address imbalances, inequities and the development needs of the people of the Western Cape must be taken into consideration.

Provincial Treasury

61. (1) Provincial legislation must establish a provincial treasury and may prescribe in accordance with national legislation measures to ensure transparency, accountability and expenditure control, by introducing —
- (a) generally recognised accounting practice;
 - (b) expenditure classifications; and
 - (c) treasury norms and standards.
- (2) The provincial treasury, with the concurrence of the Provincial Minister responsible for financial matters, may stop the transfer of funds to a provincial organ of state only for serious or persistent material breach of the measures prescribed in terms of subsection (1).

Procurement

62. (1) When the Western Cape government contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.
- (2) Subsection (1) does not prevent the Western Cape government, within a framework of national legislation, from implementing a procurement policy providing for —
- (a) categories of preference in the allocation of contracts; and
 - (b) the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination.

Loans

63. The Western Cape government may raise loans for capital or current expenditure, in accordance with conditions determined by national legislation, but loans for current expenditure —
- (a) may be raised only when necessary for bridging purposes during a fiscal year; and
 - (b) must be repaid within 12 months.

Guarantees

64. (1) The Western Cape government may guarantee a loan in accordance with conditions determined in national legislation only.
- (2) The Western Cape government must publish a report annually on the guarantees it has granted.

Asset register

65. Provincial legislation must provide for —
- (a) a register of provincial assets; and
 - (b) the registration of assets in that register.

CHAPTER 8

POLICE

Policing functions of Western Cape government

66. (1) The Western Cape government is entitled —
- (a) to monitor police conduct;
 - (b) to assess the effectiveness of visible policing;
 - (c) to oversee the effectiveness and efficiency of the police service, including receiving reports on the police service;
 - (d) to promote good relations between the police and the community; and
 - (e) to liaise with the national Cabinet member responsible for policing with respect to crime and policing in the Western Cape.

- (2) In order to perform the functions set out in subsection(1), the Western Cape government —
- (a) may investigate, or appoint a commission of inquiry into, any complaints of police inefficiency or a breakdown in relations between the police and any community; and
 - (b) must make recommendations to the national Cabinet member responsible for policing.

Powers of Provincial Parliament

67. (1) The Provincial Parliament may pass legislation necessary to carry out the functions listed in section 66(1).
- (2) The Provincial Parliament may require the provincial commissioner of police for the Western Cape to appear before it or any of its committees to answer questions.
 - (3) The Provincial Parliament must receive an annual report from the provincial commissioner on policing in the Western Cape.

Executive responsibility

68. (1) The Provincial Cabinet is responsible for policing functions —
- (a) vested in it by this Constitution or provincial legislation;
 - (b) assigned to it in terms of national legislation; and
 - (c) allocated to it in the national policing policy.
- (2) The Provincial Cabinet —
- (a) must determine, and convey to the member of the national Cabinet responsible for policing, the policing needs and priorities of the Western Cape;
 - (b) may lodge a complaint about any misconduct of, or any offence committed by, a member of the police service in the Western Cape, with the national independent police complaints body established by national legislation; and
 - (c) must participate in the committee composed of the national Cabinet member and the Provincial Ministers responsible for policing established by the national Constitution to ensure effective co-ordination of the police service and effective co-operation between the national and provincial spheres of government.

Provincial commissioner of the police service

69. (1) Before the Provincial Cabinet concurs in the appointment of a provincial commissioner of police, as required by the national Constitution, it may require any candidates or nominees for the appointment to appear before it or a committee of its members.
- (2) If the provincial commissioner has lost the confidence of the Provincial Cabinet, it may institute appropriate proceedings for the removal or transfer of, or disciplinary action against, that commissioner, in accordance with national legislation: Provided that, save in exceptional circumstances, the Provincial Cabinet must require the provincial commissioner to appear before it or a committee of its members before instituting those proceedings.

CHAPTER 9

OTHER CONSTITUTIONAL INSTITUTIONS

Cultural Councils

70. Provincial legislation must provide for the establishment and reasonable funding, within the Province's available resources, of a cultural council or councils for a community or communities in the Western Cape, sharing a common cultural and language heritage.

Establishment of and principles governing Commissioner for Environment

71. (1) There is a provincial Commissioner for the Environment.
- (2) In the exercise of his or her powers and functions the Commissioner must ensure the conservation of the environment in the Western Cape, and must give attention to the need to balance the goals of environmental conservation and sustainable development.
 - (3) The Commissioner is independent and subject only to the national Constitution, this Constitution and the law, and must be impartial and must exercise the powers and perform the functions of the office of Commissioner without fear, favour or prejudice.

- (4) Other provincial organs of state must assist and protect the Commissioner to ensure the independence, impartiality, dignity and effectiveness of the office of Commissioner.
- (5) No person or provincial organ of state may interfere with the functioning of the Commissioner.

Powers and functions

72. (1) The Commissioner must —

- (a) monitor urban and rural development which may impact on the environment;
- (b) investigate complaints in respect of environmental administration;
- (c) recommend a course of conduct to any provincial organ of state or municipality whose activities have been investigated; and
- (d) act in accordance with the principles of co-operative government and intergovernmental relations referred to in Chapter 2.

- (2) The Commissioner has the additional powers and functions as may be provided for in provincial legislation.

Obligations of provincial organs of state

- 73. (1) Where the Commissioner has made recommendations to a provincial organ of state, that organ must report to the Commissioner on its actions in response to those recommendations within a reasonable time.
- (2) Any provincial organ of state which refuses or fails to implement the Commissioner's recommendations must upon request furnish the Commissioner with written reasons for that refusal or failure.

Reports by the Commissioner

74. The Commissioner —

- (a) must report to the Provincial Parliament annually on his or her activities and on environmental matters in the Western Cape;
- (b) must submit any recommendations made by him or her to the Provincial Parliament; and
- (c) may report to the Provincial Parliament at any other time.

Appointment

75. (1) The Commissioner must be a South African citizen who —

- (a) is ordinarily resident in the Western Cape;
- (b) is a fit and proper person with specialised knowledge of, or experience in, environmental matters; and
- (c) complies with the requirements imposed by provincial legislation.

(2) The Premier must appoint as the Commissioner a person —

- (a) nominated by a committee composed of all parties represented in the Provincial Parliament and which decide to participate; and
- (b) approved by the Provincial Parliament by a resolution adopted with a supporting vote of at least 60 per cent of the members of the Provincial Parliament.

- (3) The rules and orders of the Provincial Parliament must provide for the involvement of civil society in the nomination process.

Tenure

- 76. The Commissioner is appointed for a term of three years, renewable once.

Removal and suspension

77. (1) The Commissioner may be removed from office only on —

- (a) the ground of misconduct, incapacity or incompetence;
- (b) a finding to that effect by a committee composed of all parties represented in the Provincial Parliament and which decide to participate; and

- (c) the adoption by the Provincial Parliament of a resolution calling for that person's removal from office with a supporting vote of at least two thirds of the members of the Provincial Parliament.
- (2) The Premier —
 - (a) may suspend the Commissioner from office at any time after the start of the proceedings of a committee of the Provincial Parliament for the removal of that person; and
 - (b) must remove a person from office upon adoption by the Provincial Parliament of the resolution calling for that person's removal.

Establishment of and principles governing Commissioner for Children

- 78. (1) There is a provincial Commissioner for Children.
- (2) The Commissioner must assist the Western Cape government in protecting and promoting the interests of children in the Western Cape, in particular as regards —
 - (a) health services;
 - (b) education;
 - (c) welfare services;
 - (d) recreation and amenities; and
 - (e) sport.

Powers and duties

- 79. (1) The Commissioner has the power as regulated in provincial legislation to monitor, investigate, research, educate, lobby, advise and report on, matters pertaining to children.
- (2) The Commissioner —
 - (a) must report annually to the Provincial Parliament on the measures taken by the Western Cape government to protect and promote the interests of children in the Western Cape; and
 - (b) may report to the Provincial Parliament at any other time.

Appointment and removal

- 80. The Commissioner is appointed and removed by the Premier on the recommendation by the Provincial Parliament.

CHAPTER 10

DIRECTIVE PRINCIPLES OF PROVINCIAL POLICY

- 81. The Western Cape government must adopt and implement policies to actively promote and maintain the welfare of the people of the Western Cape, including policies aimed at achieving the following —
 - (a) safety and security;
 - (b) the promotion of non-racialism in the Western Cape;
 - (c) the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination;
 - (d) the promotion of respect for the rights of cultural, religious and linguistic communities in the Western Cape;
 - (e) the creation of job opportunities;
 - (f) the promotion of a work ethic;
 - (g) the promotion of a market-oriented economy;
 - (h) realising the right of access to —
 - (i) adequate housing;
 - (ii) health care services;

- (iii) sufficient food and water; and
- (iv) social security, including appropriate social assistance for people who are unable to support themselves and their dependants;
- (i) an environment in which all children —
 - (i) are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity;
 - (ii) are protected against exploitation, neglect, abuse and abandonment; and
 - (iii) receive basic education under a system of their parents' choice;
- (j) the development of rural communities and the promotion of the welfare of rural workers;
- (k) a system of taxation which is fair, transparent and accommodates the capacity of people to pay;
- (l) an environment in which all frail and elderly persons —
 - (i) have access to family care or appropriate alternative care when removed from the family environment;
 - (ii) are given basic nutrition, shelter, basic health care services, and social services; and
 - (iii) are protected from maltreatment, neglect, abuse, degradation or involuntary seclusion;
- (m) the protection of the environment in the Western Cape, including its unique fauna and flora, for the benefit of present and future generations; and
- (n) the protection and conservation of the natural historical, cultural historical, archaeological and architectural heritage of the Western Cape for the benefit of the present and future generations;
- (o) the promotional development and enhancement of the youth.

Status of directive principles of provincial policy

82. The directive principles of provincial policy contained in this Chapter are not legally enforceable, but guide the Western Cape government in making and applying laws.

CHAPTER 11 GENERAL PROVISIONS

Transitional arrangements

83. Schedule 3 applies to the transition to the new constitutional order in the Western Cape established by this Constitution, and to matters incidental to that transition.

Short title and commencement

84. (1) This Act is called the Constitution of the Western Cape, 1997, and comes into effect as soon as possible on a date set by the Premier by proclamation in the official gazette of the Province, which may not be later than 1 July 1998.
- (2) The Premier may set different dates before the date mentioned in subsection (1) in respect of different provisions of this Constitution, provided that sections 57, 58, 59(1), 60, 61, 63 and 64 come into effect on 1 January 1998.
- (3) Unless the context otherwise indicates, a reference in a provision of this Constitution to a time when this Constitution took effect must be construed as a reference to the time when the provision took effect.

SCHEDULE 1

OATHS AND SOLEMN AFFIRMATIONS

1. Oath or solemn affirmation of members of Provincial Parliament

- (1) Members of the Provincial Parliament, before the President of the Constitutional Court or a Judge designated by the President of the Constitutional Court, must swear or affirm as follows:

I, A.B., swear/solemnly affirm that I will be faithful to the Republic of South Africa and the Province of the Western Cape and will obey, respect and uphold the National Constitution, the provincial Constitution and all other law of the Republic, and I solemnly promise to perform my function as a member of the Provincial Parliament to the best of my ability.

(In the case of an oath: So help me God.)

- (2) Persons filling a vacancy in the Provincial Parliament may swear or affirm in terms of subitem (1) before the presiding officer of the Provincial Parliament.

2. Oath or solemn affirmation of Premier, Acting Premier and Provincial Ministers

The Premier or Acting Premier of the Province and each Provincial Minister, before the President of the Constitutional Court or a Judge designated by the President of the Constitutional Court, must swear or affirm as follows:

I, A.B., swear/solemnly affirm that I will be faithful to the Republic of South Africa and the Province of the Western Cape and will obey, respect and uphold the national Constitution, the provincial Constitution and all other law of the Republic, and I undertake to hold my office as Premier/Acting Premier/Provincial Minister of the Western Cape with honour and dignity, to be a true and faithful counsellor; not to divulge directly or indirectly any secret matter entrusted to me; and to perform the function of my office conscientiously and to the best of my ability.

(In the case of an oath: So help me God.)

SCHEDULE 2

ELECTION PROCEDURES

Application

1. The procedures set out in this Schedule apply whenever the Provincial Parliament meets to elect the Premier of the Western Cape or the Speaker (or Deputy Speaker) of the Provincial Parliament.

Nomination

2. The person presiding at a meeting to which this Schedule applies must call for the nomination of candidates at the meeting.

Formal requirements

3. (1) A nomination must be made on the form prescribed by the rules mentioned in item 9.
 (2) The form on which a nomination is made must be signed by two members of the Provincial Parliament, if the Premier of the Province or the Speaker (or Deputy Speaker) of the Provincial Parliament is to be elected.
 (3) A person who is nominated must indicate acceptance of the nomination by signing the nomination form or any other form of written confirmation.

Announcement of names of candidates

4. At a meeting to which this Schedule applies, the person presiding must announce the names of the persons who have been nominated as candidates, but may not permit any debate.

Single candidate

5. If only one candidate is nominated, the person presiding must declare the candidate elected.

Election procedure

6. If more than one candidate is nominated —
 (a) a vote must be taken at the meeting by secret ballot;

- (b) each member present at the meeting may cast one vote; and
- (c) the person presiding must declare elected the candidate who receives a majority of the votes.

Elimination procedure

- 7. (1) If no candidate received a majority of the votes, the candidate who receives the lowest number of votes must be eliminated and a further vote taken on the remaining candidates in accordance with item 6. This procedure must be repeated until a candidate receives a majority of the votes.
- (2) When applying subitem (1), if two or more candidates each have the lowest number of votes, a separate vote must be taken on those candidates, and repeated as often as may be necessary to determine which candidates are to be eliminated.

Further meetings

- 8. (1) If only two candidates are nominated, or if only two candidates remain after an elimination has been applied, and those two candidates receive the same number of votes, a further meeting must be held within seven days, at a time determined by the person presiding.
- (2) If a further meeting is held in terms of subitem (1), the procedure prescribed in this Schedule must be applied at that meeting as if it were the first meeting for the election in question.

Rules

- 9. The rules applicable to the above election procedures are the rules made by the President of the Constitutional Court in terms of the national Constitution.

SCHEDULE 3

TRANSITIONAL ARRANGEMENTS

Interpretation of existing legislation

- 1. Unless inconsistent with the context or clearly inappropriate, a reference in any legislation that existed when this Constitution took effect, to the Provincial Legislature, Premier, Executive Council or member of the Executive Council, must be construed as a reference to the Provincial Parliament, Premier, Provincial Cabinet, or Provincial Minister under this Constitution.

Languages

- 2. (1) Section 5(1) of the Constitution is subject to the following:
The Western Cape government must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of the equal status of Afrikaans, English and isiXhosa.
- (2) Provincial legislation envisaged in sub-item (1) must be enacted within 12 months of the date when this Constitution took effect.

Provincial Parliament

- 3. (1) Anyone who is a member or office-bearer of the Provincial Legislature when this Constitution takes effect, becomes and holds office as a member or office-bearer of the Provincial Parliament in terms of this Constitution.
- (2) The Provincial Parliament as constituted in terms of subitem (1) must be regarded as having been elected under this Constitution for a term that expires on 30 April 1999.
- (3) For the duration of its term that expires on 30 April 1999, but subject to section 17(4) of this Constitution, the Provincial Parliament consists of 42 members plus the former senators who became members of the Provincial Parliament in terms of the national Constitution.
- (4) The rules and orders of the Provincial Legislature in force when this Constitution takes effect, continue in force, subject to any amendment or repeal.

Elections of the Provincial Parliament

- 4. (1) Schedule 2 to the Constitution of the Republic of South Africa Act, 1993 (Act 200 of 1993), as amended by Annexure A to Schedule 6 to the national Constitution, applies —
 - (a) to the first election of the Provincial Parliament under this Constitution;
 - (b) to the loss of membership of the Provincial Parliament in circumstances other than those provided for in section 15(3) of this Constitution, until the second election of the Provincial Parliament under this Constitution; and
 - (c) to the filling of vacancies in the Provincial Parliament, and the supplementation, review and use of party lists for the filling of vacancies, until the second election of the Provincial Parliament under this Constitution.

- (2) No election of the Provincial Parliament may be held before 30 April 1999 unless the Provincial Parliament is dissolved in terms of section 18(2) following a motion of no confidence in the Premier in terms of section 51(2).

Oaths and affirmations

5. A person who continues in office in terms of this Schedule and who has taken the oath of office or has made a solemn affirmation under the national Constitution or under the Republic of South Africa Constitution Act, 1993 (Act 200 of 1993), is not obliged to repeat the oath of office or solemn affirmation under this Constitution.

Dissolution of Provincial Parliament before expiry of its term

6. Section 18(1) of this Constitution is suspended until 30 April 1999.

Delegates to National Council of Provinces

7. The Provincial Parliament may, until an Act of Parliament is enacted in terms of section 65(2) of the national Constitution, provide in its rules and orders for the conferral of authority on its delegation to the National Council of Provinces to deliberate, act and cast votes on its behalf in the Council.

Provincial Cabinet

8. (1) Anyone who is the Premier when this Constitution takes effect, continues in and holds office in terms of this Constitution as the Premier.
(2) Subject to section 44 of this Constitution, until the second election of the Provincial Parliament under this Constitution sections 42 and 43 are deemed to read as set out in Annexure A to this Schedule.

Enactment of legislation required by this Constitution

9. (1) Where this Constitution requires the enactment of legislation or rules and orders of the Provincial Parliament, that legislation and those rules and orders must be enacted or adopted, as the case may be, by the relevant authority within a reasonable time after the date when this Constitution took effect.
(2) Provincial legislation envisaged in sections 65 and 70 of this Constitution must be enacted within 12 months of the date when this Constitution took effect.

ANNEXURE A

1. Section 42 of this Constitution is deemed to read as follows:

Provincial Cabinet

42. (1) The Provincial Cabinet consists of the Premier, as head of the Provincial Cabinet, and:
(a) no fewer than five and no more than ten Provincial Ministers who are members of the Provincial Parliament; and
(b) a maximum of two Provincial Ministers who are eligible to be but are not members of the Provincial Parliament, provided the Premier deems the appointment of such Provincial Ministers expedient.
(2) The Premier appoints the Provincial Ministers, assigns their powers and functions, and may dismiss them.
2. Section 43 of this Constitution is deemed to contain the following additional subsection:
(4) A Provincial Minister referred to in section 42(1)(b) may attend, and may speak in, the Provincial Parliament, but may not vote, and is entitled to the privilege set out in section 26 of this Constitution.

EXPLANATORY MEMORANDUM

The original Constitution Bill has been drafted in terms of the Constitution of the Republic of South Africa, Act 108 of 1996, section 142 of which provides that a provincial legislature may pass a constitution for a province with a majority of at least two thirds of all its members.

On 3 July 1996 the Speaker of the Legislature of the Province of the Western Cape requested the Standing Committee on Constitutional Affairs, Local Government and Housing to draft a constitution for the Province.

All political parties represented in the Legislature participated in the deliberations of the Standing Committee. The objective in drafting this text was to ensure that the Constitution of the Province would be legitimate and would come about through the active participation of all the people of the Western Cape.

The people of the Western Cape made oral and written submissions to the Standing Committee. The Committee visited all the major towns and cities in the Western Cape and, in December 1996, a draft constitution was completed, published and widely disseminated. A wide range of oral and written submissions were received. All those submissions were considered by the Committee.

On 14-15 May 1997 the Constitutional Court heard the application for the certification of the Constitution of the Province of the Western Cape. The Court gave judgement on 2 September 1997 and refused certification.

An amended version of the text has to be adopted by the Legislature of the Province of the Western Cape to be submitted to the Constitutional Court for certification.

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY

REPORT OF THE COMMITTEE ON THE
PROGRESS OF THE DEPARTMENT OF CHEMISTRY

FOR THE YEAR 1965-1966

IPHONDO LENTSHONA KOLONI

UMGAQO-SISEKO WEPHONDO LENTSHONA KOLONI

*(Njengoko wenziwe izilungiso yiKomiti eMileyo yeMicimbi
yoMgaqo-siseko, uLawulo lweeDolophu noBonelelo ngeZindlu,
ngokomyalelo weNkundla yoMgaqo-siseko owakhutshwa
ngomhla we-2 Septemba 1997)*

(INkulumbuso)

IZIQULATHO

Imbulambethe

Isahluko 1	Imiqathango yokusekwa
Isahluko 2	Ubudlelwane phakathi koorhulumente
Isahluko 3	IPalamente yePhondo
Isahluko 4	Ulawulo nabalawuli
Isahluko 5	Ulawulo lweedolophu
Isahluko 6	Ulawulo lwephondo
Isahluko 7	Ezemali
Isahluko 8	Amapolisa
Isahluko 9	Amanye amaziko aphahelele kumgaqo-siseko
Isahluko 10	Imigaqo ezizikhokelo zomgaqo-nkqubo wePhondo
Isahluko 11	Ezinye iingongoma ngokubanzi
IShedyuli 1	IziFungo noQinisekiso oluNyanisekileyo
IShedyuli 2	Unyulo
IShedyuli 3	AmaLungiselelo exeshana

UMTHETHO OYILWAYO NGOMGAQO-SISEKO WEPHONDO LENTSHONA KOLONI

IMBULAMBETHE

Ngokuzithoba okukhulu kuThixo uSomandla,

Thina bantu beNtshona Koloni, ngabameli bethu abanyuliweyo —

Kuba siziqonda sifuna nokuzilungisa iimeko zempathekombi zamaxesha adlulileyo,

Kuba siyiqonda imfuneko yokuba kubekho uxolo, uxolelwano nobulungisa,

Sizama kananjalo ukukhuthaza uphuhliso lweli phondo nophuculo lomgangatho wobomi babo bonke abantu baseNtshona Koloni ngoburhulumente obunobulungisa nempumelelo;

Siqinisekisa kananjalo ukuba iNtshona Koloni eliphondo leRiphabliki yoMzantsi Afrika isekelwe phezu kwezi ziseko zilandelayo:

ukuxatyiswa kwedemokhrasi,

ulwamkelo lwamalungelo oluntu aphambili,

ulwamkelo losapho/lwefemeli,

urhulumente onentelekelelo nolawuleko,

ukulawula komthetho,

intembano nentsebenziswano

nentobelo yoMgaqo-siseko;

Ngoku ke samkela lo Mgaqo-siseko weNtshona Koloni.

Wanga uThixo angabakhusela abantu bethu

Nkosi Sikelel' iAfrika, God seen Suid-Afrika, God bless South Africa.

ISIAHLUKO 1

IMIQUATHANGO YOKUSEKWA

I-Phondo leNtshona Koloni

1. InTshona Koloni liPhondo leRiphabliki yoMzantsi Afrika elisekwe nguMgaqo-siseko weRiphabliki yoMzantsi Afrika.

Imida yeli Phondo

2. Imida yeli Phondo ibekwe kuMgaqo-siseko wesizwe.

Ukwamkelwa, inqanaba nokutolikwa kwalo Mgaqo-siseko

3. (1) Lo Mgaqo-siseko wamkelwa eNtshona Koloni phantsi kwemiqathango yoMgaqo-siseko wesizwe, ongowona mthetho uphezulu weRiphabliki yoMzantsi Afrika.
- (2) Amagunya nomsebenzi okuwisa imithetho nokulawula zeli Phondo ezibhalwe kulo Mgaqo-siseko zivela kuMgaqo-siseko wesizwe kuphela.
- (3) Imiqathango yalo Mgaqo-siseko akufuneki ukuba ithathwe njengenika iPhondo eli igunya lokuba liwise imithetho okanye lilawule ngendlela etyekileyo kuMgaqo-siseko wesizwe.
- (4) Xa kunokuthi kubekho impikiswano kwintsingiselo yeelwimi ezisetyenziswe kulo Mgaqo-siseko, kuya kuthi kuhanjwe ngentsingiselo ekulwimi lwesiNgesi.

Ukusetyenziswa koMgaqo-siseko

4. Lo Mgaqo-siseko usebenza kwiNtshona Koloni. Ungowona mthetho uphezulu wePhondo eli, nakubeni ke ulawulwa nguMgaqo-siseko wesizwe ongowona mthetho uphezulu weRiphabliki yoMzantsi Afrika, kwaye ke imiqathango ebekwa nguwo kufuneka ithotyelwe ngenkuthalo ngaphandle kokulibazisa.

Iilwimi

5. (1) Kulawulo lukarhulumente wephondo
- (a) iilwimi zaseburhulumenteni eziya kuthi zisetyenziswe kwizinto zikarhulumente wephondo sisiBhulu, isiNgesi nesiXhosa kwaye;
- (b) ezi lwimi ziphathwa ngokulinganayo.
- (2) Urhulumente wephondo kufuneka ngemithetho namanye amanyathelo alawule akubeke iliso ukusetyenziswa kwesiBhulu, isiNgesi nesiXhosa.
- (3) Urhulumente wephondo kufuneka athathe amanyathelo abonakalayo okunyusa izinga leelwimi zomthonyama zabantu beNtshona Koloni nebezisoloko zisingelwe phantsi kumaxesha adlulileyo, kunjalo nje akhuthaze nokusetyenziswa kwazo.

Iimbasa zePhondo namawonga

6. (1) Uwiso-mthetho lwePhondo lunokuba namalungiselelo
- (a) eembasa zesizwe;
- (b) ukunikezelwa kwamawonga ePhondo.
- (2) Yonke imithetho eyilwayo yePhondo (iiBhili) malunga neembasa zePhondo kufuneka iwiswe yiPalamente yePhondo ixhaswe ngeevoti zamalungu azizahlulo zesithathu ezibini ubuncinane.

ISIAHLUKO 2

UBUDLELWANE PHAKATHI KOORHULUMENTE

Urhulumente wentsebenziswano

7. Njengecandelo elilodwa loburhulumente boMzantsi Afrika urhulumente wephondo eNtshona Koloni kufuneka —
- (a) ahambe ngokwemigaqo karhulumente wentsebenziswano nangobudlelwane obuphakathi koorhulumente obutyetyeshwa kuMgaqo-siseko wesizwe kuzo zonke iinkalo anxibelelana kuzo norhulumente wesizwe, namanye amaphondo noomasipala beNtshona Koloni;

- (b) athabathe inxaxheba kuzo naziphi na izigqeba namaziko ngenjongo yokukhuthaza nokukhawulezisa ubudlelwane phakathi koorhulumente obusekwe ngokwemiqathango yoMgaqo-siseko wesizwe;
- (c) asebenzise naziphi na iindlela neenkqubo zokusonjululwa kweembambano eziphakathi koorhulumente ezisekwe ngokwemiqathango yoMgaqo-siseko wesizwe.

Ukuthabatha inxaxheba kwiKhansile yeSizwe yamaPhondo

- 8. Abameli beli Phondo kwiKhansile yeSizwe yamaPhondo kufuneka bazamele ukufezekisa izinto ezilunge kwiNtshona Koloni nakwisizwe nje ngokubanzi ngokuthi bathathe inxaxheba kwiKhansile ngokwemiqathango nemigaqo karhulumente wentsebenziswano neyobudlelwane koorhulumente etyetyeshwe kuMgaqo-siseko wesizwe.

ISIAHLUKO 3

IPALAMENTE YEPHONDO

Igunya lokuwisa umthetho

- 9. (1) Igunya lokuwisa imithetho apha eNtshona Koloni libekwe ezandleni zePalamente yePhondo.
- (2) IPalamente yePhondo ibopheleleke kuphela kuMgaqo-siseko wesizwe nakulo Mgaqo-siseko, kwaye kufuneka kwizinto ezenzayo ihambe ngokwemiqathango nemida ebekwa nguMgaqo-siseko wesizwe nangulo Mgaqo-siseko.
- (3) IPalamente yePhondo
 - (a) lokuwuphumeza lo mgaqo-siseko weli nelokwenza izilungiso kuwo nelokuwutshitshisa;
 - (b) lokuwisa imithetho yeNtshona Koloni ngokwemiqathango yoMgaqo-siseko wesizwe neyalo Mgaqo-siseko;
 - (c) lokuwisa imithetho yeNtshona Koloni ephathelele kuwo nawuphi na umba onikezelwe ezandleni zeNtshona Koloni yimithetho karhulumente wesizwe;
 - (d) lokunikezela kwiKhansile kaMasipala nawuphi na kula magunya ayo okuwisa imithetho axelwe kumhlathi (b) nawo nawuphi na kula axelwe kumhlathi (c) xa ivumelekile ukuba ingakwenza oko.
- (4) IPalamente yePhondo —
 - (a) ngesigqibo inokwenza isindululo kwiNdlu yoWiso-mthetho yesizwe sokuba makuwiswe umthetho ophathelele kuwo nawuphi na umba ongaphaya kwamagunya ayo, okanye ethintelwayo nguMthetho wePalamente ukuba ingawisa umthetho ngawo;
 - (b) ngesigqibo inokwenza isindululo kwiKhansile yaMaphondo yeSizwe ukuba iwise umthetho ophathelele kuwo nawuphi na umba;
 - (c) ngesigqibo esixhaswa yivoti yezahlulo zesithathu ezibini zamalungu ayo ubuncinane isenokuthi icele iPalamente yesizwe ukuba ilijike igama leli Phondo.

Iibhili zokwenza omnye umgaqo-siseko endaweni yalo, ezokwenza izilungiso kulo Mgaqo-siseko nezokuwutshitshisa

- 10. (1) Umthetho uyilwayo (ibhili) owenza omnye uMgaqo-siseko endaweni yalo, owenza izilungiso okanye otshitshisa lo Mgaqo-siseko okanye owamkela uMgaqo-siseko omtsha —
 - (a) kufuneka wamkelwe yiPalamente yePhondo ngeevoti ezizizahlulo zesithathu ezibini zamalungu ayo ubuncinane.
 - (b) kufuneka ufake neminye imiqathango.
- (2) Lowo mntu okanye leyo komiti ifuna ukungenisa le bhili ixelwe kumhlathana (1) mayithi kwakwiintsuku ezingamashumi amathathu ubuncinane phambi kokuba ingeniswe kwiPalamente yePhondo —
 - (a) ipapashe ingcombolo yeso silungiso iceba ukusenza kwiGazethi yePhondo esemthethweni nakumaphephandaba amathathu ubuncinane akhoyo eNtshona Koloni khona ukuze abantu banike izimvo zabo ngaso;
 - (b) loo ngcombolo ayinike noomasipala beli Phondo ngokwemiqathango yePalamente yePhondo, khona ukuze nabo banike ezabo izimvo.
- (3) Xa lo mthetho uyilwayo kuthethwa ngawo kumhlathana (1) ungeniswa lowo mntu okanye leyo komiti iwungenisayo kufuneka ingeniswe nezimvo ezibhaliweyo ezithe zavakaliswa ngabantu noomasipala kuSomlomo ukuze ke zandlalwe phambi kwePalamente/kweNdlu yePhondo.

Uqinisekiso

11. Ukuba ngaba iPalamente yePhondo iye yenza izilungiso kuMgaqo-siseko, uSomlomo kufuneka loo mgaqo-siseko okanye ezo zilungiso azise kwiNkundla yoMgaqo-siseko ukuba iwuqinisekise.

Ukusayinwa, ukugcinwa, ukupapashwa nokuqala komgaqo-siseko wephondo

12. (1) INkulumbuso kufuneka iwamkele iwusayine lo Mgaqo-siseko, umgaqo-siseko omtsha okanye nazo naziphi na izilungiso ezithe zenziwa yakuba iwamkele iNkundla yoMgaqo-siseko.
- (2) Yakuba iNkulumbuso iwamkele yawusayina kufuneka upapashwe kwiGazethi kaRhulumente nakwiGazethi esemthethweni yeNtshona Koloni. Uqalisa ukusebenza wakuba upapashiwe okanye ngomhla osemva kopapasho othe wabekwa ngokwemiqathango yomgaqo-siseko omtsha okanye yesilungiso esenziweyo.
- (3) Wakuba usayiniwe lo Mgaqo-siseko, umgaqo-siseko omtsha okanye izilungiso esenziweyo, obo bubungqina bemiqathango yawo. Emva kokuba uthe wapapashwa kufuneka uye kugciniswa kwiNkundla yoMgaqo-siseko.

Inani lamalungu

13. IPalamente yePhondo inamalungu angama-42.

Ukunyulwa kwePalaente yePhondo

14. IPalamente yePhondo inabantu abanyulwe njengamalungu ngokwemiqathango yenkqubo yonyulo:

- (a) ebekwe yimithetho yesizwe;
- (b) esekelwe kwinxenye yePhondo yoluhlu lwabavoti lwesizwe;
- (c) ebeka iminyaka eli-18 ubuncinane njengobudala anokuvota kubo umntu;
- (d) nethi ibe nesiphumo esilumelo ngokwenani leevoti.

Ubulungu

15. (1) Umni ngamnye okufaneleyo ukuba angayivotela iPalamente yeSizwe unalo ilungelo lokuba anganyulwa njengelungu lePalamente yePhondo ngaphandle —
- (a) kokuba ngumntu oqeshwe kwinkonzo karhulumente wesizwe kwaye uyamkela ngaloo ngqesho okanye ngaloo nkonzo, ngaphandle —
 - (i) kweNkulumbuso nabanye abaPhathiswa beNtshona Koloni;
 - (ii) namanye amagosa anemisebenzi ehambelanayo nemisebenzi yamalungu ePalamente yePhondo nevunywayo ngumthetho karhulumente wesizwe ukuba iyahambelana;
 - (b) amalungu ePalamente yeSizwe, abameli abasisigxina beKhansile yeSizwe yamaPhondo okanye amalungu eKhansile kaMasipala;
 - (c) abantu abatshonileyo ngokwasezimalini;
 - (d) nabani na obonwe yinkundla yalapha kwiRiphabliki ukuba akemanga kakuhle ngokwasengqondweni;
 - (e) nabani na othe emva komhla we-3 Febhuwari 1997 wabanjelwa ulwaphulo-mthetho waza wagwetywa ixesha elingaphezu kweenyanga ezili-12 entolongweni kungekho kuhlawula fayini, nokuba kulapha kwiRiphabliki okanye ngaphandle kuyo ukuba ngaba uhlobo lwetyala elo lakhe lityala ebeliya kuba lityala nalapha kwiRiphabliki, kodwa ke akukho mntu unokuthathwa ukuba ugwetyiwe de sibe sixoxiwe sagqitywa isibheni sakhe ngeso sigwebo okanye de libe lidlule ixesha lokuba angabhena. Othe akafaneleka ngenxa yokubanjwa nokugwetywa okuchazwe kulo mhlathi akasayi kuphinda afaneleke ukuba anganyulwa de kube iphelile iminyaka emihlanu esigqibile isigwebo eso.
- (2) Umntu ongafanelekanga ukuba angaba lilungu lePalamente yePhondo ngokomhlathana (1) (a) okanye (b) usenokuba lilo ilungu lePalamente yePhondo kodwa ngokwemiqathango ebekwa ngumthetho karhulumente wesizwe.
- (3) Umntu uyaphelelwa bubulungu bakhe kwiPalamente yePhondo xa ngaba
- (a) kuye kwenzeka ukuba angafaneleki;
 - (b) okanye xa eziyekela ebulungwini;
 - (c) uye akabikho kwiPalamente yePhondo ngaphandle kwemvume phantsi kweemeko ekuchaziweyo ukuba umntu uyaphelelwa bubulungu xa engekho kuzo.
- (4) Izithuba kwiPalamente yePhondo kufuneka zivalwe ngokwemiqathango yemithetho yesizwe.

Isifungo okanye uqinisekiso

16. Amalungu ePalamente yePhondo kufuneka afungele okanye aqinisekisele intembeko yawo kwiRiphablikhi nakwiNtshona Koloni nentobelo yoMgaqo-siseko wesizwe nalo Mgaqo-siseko, ngokwemiqathango kaShedyuli 1 phambi kokuba aqalise ukusebenza njengamalungu.

Ubude besithuba esinyulelwayo

17. (1) IPalamente yePhondo inyulelwa isithuba seminyaka emihlanu.
- (2) Xa iPalamente yePhondo ithe yapheliswa ngokwemiqathango yomhlathi 18 okanye xa ixesha layo lifikelele esiphelweni iNkulumbuso, ngompoposho, kufuneka ibeke imihla yonyulo, nyulo olo kufuneka luqhutywe zingadlulanga iintsuku ezingama-90 itshitshiwe iPalamente yePhondo okanye liphelile ixesha layo.
- (3) Ukuba ngaba iziphumo zonyulo lwePalamente yePhondo zithe azaxelwa lada ladlula ixesha ezifanele kuxelwa ngalo, okanye xa ngaba unyulo lubhangisiwe yinkundla, kufuneka kuqhutywe olunye unyulo oluya kuthi ke luqhutywe ngokwemiqathango yoMgaqo-siseko wesizwe.
- (4) IPalamente yePhondo iyaqhuba ukusebenza nasemva kokuba itshitshiwe okanye liphelile ixesha layo de kuye kuba lusuku olwandulela umhla wokuqala wovoto lwePalamente elandelayo.

Ukutshitshiswa kwePalamente yePhondo phambi kokuba liphele ixesha layo

18. (1) INkulumbuso kufuneka iyitshitshise iPalamente yePhondo ukuba —
- (a) iPalamente yePhondo ithathe isigqibo esitshoyo nesixhaswe ziivoti zesininzi samalungu;
- (b) iminyaka emithathu idlule emva kokuba yanyulwayo iPalamente yePhondo.
- (2) INkulumbuso ebambelelo kufuneka iyitshitshise iPalamente yePhondo ukuba kukho isithuba esivulekileyo seNkulumbuso yaye iPalamente yePhondo isilela ekunyuleni iNkulumbuso entsha de kudlule iintsuku ezingama-30 emva kokuba sivulekile isithuba eso.

Ikomkhulu lePalamente yePhondo, ukuhlala kwayo namaxesha okungahlali

19. (1) Ikomkhulu lePalamente yePhondo liya kuba seKapa.
- (2) IPalamente yePhondo isenokuthi igqibe ukuba xa kukho imfuneko yoko, yona okanye nayiphi na ikomiti yayo ingaya kuhlalela naphi na apha kweli Phondo.
- (3) Emva konyulo iPalamente yePhondo iyakuhlala ngexesha nangomhla obekwe yiJaji ekhethwe nguMongameli weNkundla yoMgaqo-siseko, kodwa ke zingaphelanga iintsuku ezili-14 zikhutshiwe iziphumo zonyulo.
- (4) IPalamente yePhondo isenokuthi igqibe ukuba mayihlale nini na, ihlale ixesha elingakanani na nokuba mayikhe ivale nini na.
- (5) INkulumbuso inokuyibiza iPalamente yePhondo ukuba mayihlale indibano yesikhawu nanini na xa kukho umcimbi okhawulezileyo ofuna ukuqwalaselwa.

USomlomo

20. (1) IPalamente yePhondo kufuneka inyule uSomlomo apha kumalungu ayo xa ihleli okokuqala emva konyulo okanye xa kuthe kwavuleka isithuba.
- (2) IJaji ekhethwe nguMongameli weNkundla yoMgaqo-siseko kufuneka ichophele unyulo lukaSomlomo. Inkqubo echazwe kwiShedyuli 2 yalo Mgaqo-siseko kuhanjwa ngayo xa kunyulwa uSomlomo.
- (3) IPalamente yePhondo isenokuthi —
- (a) inyule uSekela-Somlomo apha kumalungu ayo;
- (b) inyule amanye amagosa awongameleyo okuncedisana noSomlomo noSekela-Somlomo apha kumalungu ayo.
- (4) IPalamente yePhondo ingamsusa esihlalweni uSomlomo, uSekela-Somlomo nalo naliphi na elinye igosa elingusihlalo, xa oko kusenziwa ngesigqibo esixhaswa sisininzi seevoti zamalungu anke.

Inani elinokuqhuba iindibano nezigqibo

21. (1) Ngaphandle kwalapho lo Mgaqo-siseko uyalela ngolunye uhlobo —
- (a) phambi kokuba kuvotelwe umthetho oyilwayo okanye isilungiso kuwo, kufuneka kubekho isininzi samalungu eNdlu yoWiso-mthetho;

- (b) phambi kokuba kuvotelwe nawuphi na umba ophethweyo kwiPalamente yePhondo, kufuneka kubekho amalungu asisahlulo sesithathu esinye ubuncinane;
 - (c) yonke imicimbi ephethwe yiPalamente yePhondo igqitywa ngeevoti zesininzi.
- (2) Ilungu elichophele indibano yePalamente yePhondo alinakho ukuba lingavota, kambe ke (a) linakho ukuba lingavota xa kulinganwa ngeevoti ukukhulula oko kulingana; (b) kanti ke likwanakho ukuvota naxa umba ovotelwayo kufuneka ufumene inkxaso yamalungu ePalamente yePhondo azizahlulo zesithathu ezibini ubuncinane.

Amalungelo abameli abasisigxina kwiPalamente yePhondo

22. Abameli beli Phondo abasisigxina kwiKhansile yaMaphondo yeSizwe anokuza kwiindibano zePalamente yePhondo nakwiikomiti zayo athathe inxaxheba ezingxoxweni, kodwa ke akanakuvota. IPalamente yePhondo isenokuyalela ummeli osisigxina ukuba makaye kwiindibano zayo okanye ezeekomiti zayo.

Amagunya ePalamente yePhondo

23. (1) Xa isebenzisa amagunya ayo iPalamente yePhondo isenokuthi —
- (a) iqwalasele, iphumeze, ilungise okanye ikhabe nawo nawuphi na umthetho oyilwayo othe wandlalwa phambi kwayo;
 - (b) isungule iqulunqe imithetho ngaphandle kweebhili zezemali.
- (2) Phantsi kwemiqathango yomhlathana (4) iPalamente yePhondo kufuneka ibe namanyathelo
- (a) okuqinisekisa ukuba zonke izigqeba zikarhulumente wephondo ziphantsi kolawulo lwayo;
 - (b) okubeka iliso —
 - (i) ekusetyenzisweni kwamagunya ephondo olawulo ekubandakanyeka kuwo nokusetyenziswa kwemithetho;
 - (ii) kuso nasiphi na isigqeba sikarhulumente wephondo.
- (3) IPalamente yePhondo inokuthi
- (a) iqulunqe iinkqubo zayo zangaphakathi,
 - (b) iqulunqe nemithetho nemigaqo ephathelele kumsebenzi wayo, ize ke kuloo nto iyithathele ingqwalaselo into yokubaluleka komelo nedemokhrasi enika inxaxheba, neyokuba phantsi kolawulo kunye nenxaxheba yoluntu.
- (4) Kwimithetho nemigaqo yayo iPalamente yePhondo kufuneka inike ingqwalaselo
- (a) kumiselo lweekomiti zayo, amalungu azo amagunya azo, umsebenzi wazo, iinkqubo zazo nobungakanani bexesha eziya kuqhuba ngalo;
 - (b) kwinxaxheba yamaqela amancinane amelweyo kwiPalamente yePhondo kwiinkqubo zePalamente yePhondo ngendlela ehambelanayo nenkqubo yedemokhrasi;
 - (c) ekubeni ezo komiti zithe zamiselwa zinikwa amagunya ayimfuneko kuzo khona ukuze zikwazi
 - (i) ukubeka iliso kwimisebenzi yolawulo yezigqeba zikarhulumente,
 - (ii) ukuqinisekisa ukuba abalawuli abaziphathi,
 - (iii) ukukhuthaza ukwenziwa kwezinto elubala, ukuba phantsi kolawulo olunempumelelo loqoqosho lwephondo, amatyala ephondo kwakunye norhulumente wephondo
 - (d) kwikomiti emileyo yePalamente yePhondo enikwe umsebenzi wokubeka iliso kwiimeko zentlalo noqoqosho zabemi beNtshona Koloni neyenza izindululo kwiPalamente yePhondo malunga namanyathelo anokuthathwa ukuphucula ezo meko;
 - (e) kunxibelelwano phakathi kwePalamente yePhondo neekomiti zayo neKhansile yaMaphondo yeSizwe;
 - (f) kulwamkelo lwezicelo ezivela kuye nawuphi na umntu okanye iziko elichaphazelekayo;
 - (g) kwinxaxheba yabameli abavela kwiinkalo ngeenkalo zolawulo lweedolophu eNtshona Koloni kwiingxoxo zeekomiti ezimileyo eziphathelele kwiibhili ezichaphazela oomasipala abalapha eNtshona Koloni;
 - (h) ekuncediseni ngemali iqela ngalinye elimelweyo apha kwiPalamente yePhondo ngokwenani lamalungu alo, khona ukuze iqela elo nenkokeli yalo likwazi ukwenza umsebenzi walo ngokuphumeleleyo kwiPalamente yePhondo.

INkokeli yeQela eliPhikisayo

24. Imithetho nemigaqo yePalamente yePhondo kufuneka iyamkele iNkokeli yeQela eliPhikisayo kwiPalamente yePhondo.

Ubungqina okanye inkcazo enikwe iPalamente yePhondo

25. IPalamente yePhondo okanye nayiphi na enye yeekomiti zayo isenokuthi —

- (a) ibize ngesamani nabani na ukuba makaye kuvela phambi kwayo aye kunika ubungqina obufungelweyo okanye obuqinisekisiweyo okanye aye kukhupha iimpepha ezithile;
- (b) ifune nawuphi na umntu okanye iziko okanye isigqeba sikarhulumente wephondo ukuba benze ingxelo kuyo;
- (c) inyanzelise ngokwemiqathango yemithetho okanye imigaqo yePalamente yePhondo nawuphi na umntu okanye isigqeba sikarhulumente wephondo ukuba bahambe ngokwale samani okanye ngokwale mfuno ikhankanywe kwimihlathana (a) okanye (b);
- (d) yamkele izicelo ezivela kuye nawuphi na umntu okanye iziko elichaphazelekayo.

Ilungelo

26. Amalungu ePalamente yePhondo kunye nabameli abasisigxina kwiKhansile yeSizwe yaMaphondo —

- (a) anelungelo lokuthetha ngokukhululekileyo kwiPalamente yePhondo nakwiikomiti zayo, phofu ke ehamba ngokwemithetho nemigaqo yayo;
- (b) akanakubanjwa asiwe kwinkundla yamatyala eembambano okanye kweyamatyala olwaphulo-mthetho, okanye avalelwe entolongweni okanye adliwe ngenxa
 - (i) yayo nantoni na athe ayithetha okanye athe ayivelisa okanye ayingenisa kwiPalamente yePhondo okanye kuyo nayiphi na ikomiti yayo;
 - (ii) okanye ngenxa yayo nantoni na ethe yadizeka kwintetho ayenzileyo okanye kwinto ayivelisileyo okanye ayingenisileyo kwiPalamente yePhondo okanye kuyo nayiphi na ikomiti yayo.

Umgaqo wokuziphatha

27. IMithetho yephondo kufuneka ibe nomqathango wokumiselwa komgaqo wokuziphatha kwamalungu ePalamente yePhondo.

Ukufikeleleka ebantwini

28. (1) Iindibano zePalamente yePhondo nezeekomiti zayo ziba sesidlangalaleni, kodwa ke kufuneka kuthathwe amanyathelo afanelekileyo —
- (a) okukulawula ukungena kwabantu kwakunye noonondaba;
 - (b) nawokuba abantu abangenayo basetshwe, kuze ke kuthi apho kufanelekileyo alelwe umntu ukuba makangene okanye akhutshelwe ngaphandle.
- (2) Abantu kunye noonondaba abanakwalelwa ukuba bangene kwiindibano zeekomiti zePalamente yePhondo ngaphandle kokuba kukho isizathu esivakalayo nesifanelekileyo kulawulo oluvulelekileyo nolunedemokhrasi.
- (3) IPalamente yePhondo kufuneka iququzelele ukuthatha kwabantu inxaxheba kwizinto zayo nakwezo zeekomiti zayo.

Ukungeniswa kweebhili (imithetho eyilwayo)

29. Abantu abanokungenisa iibhili kwiPalamente yePhondo kuphela nguMphathiswa wePhondo, ilungu lekomiti okanye ilungu lePalamente yePhondo. Ukuba ibhili ephathelele kwezemali nguMphathiswa wePhondo ojongene nezemali kuphela ekufuneka eyingenisile kwiPalamente yePhondo.

Iibhili zemali

- 30 (1) Ibhili ehlala imali yokusetyenziswa okanye ebeka iirhafu, imirhumo neentlawulo yibhili yezemali. Ibhili yezemali akufuneki ukuba ibandakanye neminye imiba ngaphandle kwemiba ephathelele ekuhlahlweni kwemali eza kusetyenziswa okanye ekubekweni kweerhafu, imirhumo neentlawulo.
- (2) UMithetho wephondo kufuneka ube nenkqubo enokuthi ihambe ngayo iPalamente yePhondo xa isenza isilungiso kwibhili yezemali.

Ukwamkelwa kweebhili

31. (1) INkulumbuso yeNtshona Koloni kufuneka zithi zingadlulanga iintsuku ezingama-45 ukusukela kumhla wokwamkelwa kweebhili yiPalamente yePhondo —

- (a) iyamkele iyisayine loo bhili;
- (b) ukuba ngaba iyakuthandabuza ukuba ngaba loo bhili ihambe ngokomgaqo-siseko na, kufuneka iyibuyisele kwiPalamente yePhondo ukuba mayiphinde iyiqwalasele ngokutsha.
- (2) Ukuba ngaba kuthe yakuba iqwalaselwe ngokutsha le bhili, iNkulumbuso yaneliseka ncam, kufuneka iyamkele iyisayine loo bhili; ukuba ngaba ayikaneliseki kufuneka zithi zingadlulanga iintsuku ezingama-45 emva kwaloo mhla wokuqwalaselwa kwayo ngokutsha —
 - (a) iyamkele iyisayine loo bhili; okanye
 - (b) iyidlulisele kwiNkundla yoMgaqo-siseko ukuba inike isigqibo malunga nokuba iyahambisana kusini na nomgaqo-siseko.
- (3) Ukuba ngaba iNkundla yoMgaqo-siseko iyavuma ukuba loo bhili ayichasenanga nomgaqo-siseko, iNkulumbuso kufuneka iyamkele iyisayine.

Izicelo zamalungu kwiNkundla yoMgaqo-siseko

- 32. (1) Amalungu ePalamente yePhondo anakho ukuba angenza izicelo kwiNkundla yoMgaqo-siseko zokuba mayikhuphe umyalelo wokuba uMthetho wephondo othile okanye inxenye yawo ayihambi ngokomgaqo.
- (2) Isicelo eso —
 - (a) kufuneka sixhaswe yi-20% yamalungu ePalamente yePhondo ubuncinane kwaye
 - (b) kufuneka singeniswe zingaphelanga iintsuku ezingama-30 emva komhla wokwamkelwa nokusayinwa kwawo yiNkulumbuso loo Mthetho.

Ukupapashwa nokuqalisa kweMithetho yephondo

- 33. (1) Yakuba iNkulumbuso iyamkele yayisayina ibhili, loo bhili iba nguMthetho. Kufuneka ukuba ikhawuleze ipapashwe kwiGazethi yeNtshona Koloni esemthethweni, ize ke ithi yakuba ipapashiwe iqalise ukusebenza okanye ke iqalise ngaloo mhla uthe wabekwa ngokwalo Mthetho.
- (2) UMthetho wePhondo kufuneka ube nomqathango wokuhanjiswa nowolunye upapasho lwengcombolo emalunga neMithetho yephondo.

Ukugcinwa kweMithetho yephondo

- 34. Ikopi yoMthetho esayiniweyo ibubungqina obupheleleyo bemiqathango yawo, kwaye ke emva kokuba ipapashiwe kufuneka iye kugciniswa kwiNkundla yoMgaqo-siseko.

ISAPHLUKO 4

ULAWULO NABALAWULI

Igunya lokulawula

- 35. (1) Igunya lokulawula libekwe ezandleni zeNkulumbuso.
- (2) Eli gunya lokulawula iNkulumbuso ilisebenzisa kunye nabaPhathiswa bePhondo ngokuthi —
 - (a) basebenzise imithetho ewiswe liphondo;
 - (b) basebenzise, kangangoko iNtshona Koloni inawo amandla ngokwaselulawulweni okuluthwala olo xanduva yonke imithetho ewiswe nguRhulumente wesizwe ngokweziya nkalo zemisebenzi zidweliswe kwiiShedyuli 4 okanye 5 zoMgaqo-siseko wesizwe ngaphandle kwalapho uMgaqo-siseko wesizwe okanye uMthetho wePalamente uyalela ngolunye uhlobo;
 - (c) baqhube imithetho yesizwe kwezinye iinkalo ezingekhoyo kweziya zidweliswe kwiiShedyuli 4 no-5 zoMgaqo-siseko wesizwe, nkalo ezo ziyekelwe kubaPhathiswa bePhondo ngokwemiqathango yoMthetho wePalamente;
 - (d) baqulunqe basebenzise imigaqo-nkqubo yephondo;
 - (e) baququzelele banxibelelanise imisebenzi yolawulo lwephondo neyamasebe alo;
 - (f) basungule balungise imithetho yephondo;
 - (g) benze nayo nayiphi na eminye imisebenzi abayinikwe yiKhabhinethi yePhondo ngokwemiqathango yoMgaqo-siseko wesizwe okanye yoMthetho wePalamente.
- (3) Abaphathiswa bephondo amagunya olawulo kufuneka bawasebenzise ngokwemiqathango yoMgaqo-siseko wesizwe neyalo Mgaqo-siseko.

Ukunikezelwa kwemisebenzi

36. UMphathiswa wePhondo unokuthi igunya elithile okanye umsebenzi othile ofanele kwenziwa ngokwemiqathango yoMthetho wePalamente okanye yoMthetho wePhondo awunikezele kwiKhansile kaMasipala. Umsebenzi othe wanikezelwa —
- kufuneka uhambe ngokwemiqathango yesivumelwano esiphakathi koMphathiswa wePhondo lowo naloo Khansile kaMasipala;
 - kufuneka uhambelane noMthetho lowo lisetyenziswa phantsi kwawo igunya elo okanye umsebenzi lowo;
 - kwaye ke kufuneka uqalise ukusebenza yakuba iNkulumbuso ithe yakhupha umpoposho kwigazethi yephondo esemthethweni.

Amagunya nemisebenzi yeNkulumbuso

37. (1) INkulumbuso inamagunya nemisebenzi eyinikwayo nguMgaqo-siseko wesizwe nangulo Mgaqo-siseko nayiyo nayiphi na imithetho.
- (2) Umsebenzi weNkulumbuso —
- kukwamkela nokusayina iibhili;
 - kukubuyisela iibhili kwiPalamente yePhondo ukuba iphinde iqwalasele ukuba ngaba iyahambisana kusini na nomgaqo-siseko;
 - kukudlulisela iibhili kwiNkundla yoMgaqo-siseko ukuba ikhuphe isigqibo malunga nokuba ngaba iyahambisana kusini na nomgaqo-siseko;
 - ukubizela iPalamente yePhondo kwindibano yesikhawu ngenjongo yokuza kuxovula umcimbi okhawulezileyo;
 - kukumisela iikhomishoni zokwenza uphando oluthile;
 - nokugunyazisa uvoto lokuvavanya izimvo zoluntu ngomba othile apha kwiPhondo eli ngokwemithetho arhulumente wesizwe.

Ukunyulwa kweNkulumbuso

38. (1) Kwindibano yayo yokuqala emva konyulo naxa kuthe kwavela isithuba, iPalamente yePhondo kufuneka inyule umntu apha kumalungu ayo oza kuba yiNkulumbuso.
- (2) Ijaji ekhethwe nguMongameli weNkundla yoMgaqo-siseko kufuneka ichophele unyulo lweNkulumbuso. Inkqubo echazwe kwiShedyuli 2 yalo Mgaqo-siseko kuhanjwa ngayo xa kunyulwa iNkulumbuso.
- (3) Unyulo lokuvala isithuba seNkulumbuso kufuneka luqhutywe ngexesha nangomhla obekwe nguMongameli weNkundla yoMgaqo-siseko kodwa ke zingaphelanga iintsuku ezingama-30 emva kokuba sivulekile isithuba eso.

Ukuqalisa kweNkulumbuso ukusebenza

39. Lowo uye wanyulelwa ukuba yiNkulumbuso kufuneka aqalise esikhundleni sakhe zingadlulanga iintsuku ezintlanu emva kokuba enyuliwe, ngokuthi afunge okanye aqinisekise intembeko yakhe kwiRiphabliki nakwiNtshona Koloni nentobeko yakhe kuMgaqo-siseko wesizwe nakulo Mgaqo-siseko, ngokwemiqathango kaShedyuli 1.

Isithuba sokuba yiNkulumbuso nokususwa kwesi sikhundla

40. (1) Isithuba sokuba sesikhundleni kweNkulumbuso siqala xa iqalisa esikhundleni siye kuphela ukuvela kwesithuba okanye xa eqalisa lowo mntu ulandelayo unyulelwe ukuba yiNkulumbuso.
- (2) Akukho mntu unokubamba isikhundla sobuNkulumbuso ngaphezu kwezihlandlo ezibini, kodwa ke xa umntu ethe wanyulelwa ukuvala isikhewu kwisikhundla seNkulumbuso, isithuba esiqalela ngoko ukuya kunyulo olulandelayo asithathwa njengokuba sisisihlandlo sobuNkulumbuso.
- (3) IPalamente yePhondo isenokuthi ngesigqibo esixhaswe ngeevoti ezizizahlulo zesithathu ezibini zamalungu ayo ubuncinane, iyisuse iNkulumbuso esihlalweni sayo kuphela ngezi zizathu —
- utyeshelo olukhulu loMgaqo-siseko wesizwe, lwalo Mgaqo-siseko okanye lomthetho;
 - ukuziphatha kakubi okukhulu;
 - okanye ukusilela ekwenzeni umsebenzi wesikhundla sayo.

- (4) Nabani na othe wasuswa kwisikhundla sokuba yiNkulumbuso ngokwemiqathango yomhlathana (3) (a) okanye (b) akanakho ukuba angawafumana amalungelo ahamba neso sikhundla, kwaye engenakuphinda abe naso nasiphi na esinye isikhundla kwinkonzo yakwarhulumente.

INkulumbuso elibamba

41. (1) Xa iNkulumbuso ingekho okanye ingakwazi ukuba ingayenza imisebenzi yayo yobuNkulumbuso okanye xa kuthe kwabakho isikhewu kwisikhundla seNkulumbuso, elinye kula magosa alandelelana ngolu hlobo lulandelayo liya kubamba njengNkulumbuso —
- (a) uMphathiswa wePhondo otyunjwe yiNkulumbuso;
- (b) uMphathiswa otyunjwe ngabanye abaPhathiswa;
- (c) okanye uSomlomo, de iPalamente yePhondo izinyulele omnye umntu kumalungu ayo.
- (2) INkulumbuso elibamba inamagunya nemisebenzi efanayo naleyo yeNkulumbuso.
- (3) Phambi kokuba iqalise kumagunya nemisebenzi yobuNkulumbuso iNkulumbuso elibamba kufuneka ifungele okanye iqinisekise intembeko kwiRiphabliki nakwiPhondo eli nentobeko kuMgaqo-siseko wesizwe nakulo Mgaqo-siseko ngokwemiqathango kaShedyuli 2.

IKhabhinethi yePhondo

42. (1) IKhabhinethi yePhondo yiNkulumbuso, eyiNtloko yabaPhathiswa kunye nabaphathiswa abangekho ngaphantsi kwesihlanu kodwa bengadlulanga eshumini benyulwe yiNkulumbuso phakathi kwamalungu ePalamente yePhondo.
- (2) INkulumbuso inyula abaphathiswa ize ke ibanike amagunya nemisebenzi, kwaye ke isenokubasusa kwezo zihlalo.

Ukulawulwa noxanduva

43. (1) AbaPhathiswa bePhondo banoxanduva lwaloo misebenzi yolawulo inokuthi iNkulumbuso ibanike.
- (2) AbaPhathiswa bebonke nje baphantsi kolawulo lwePalamente yePhondo xa besenza imisebenzi yabo naxa besebenzisa amagunya abawanikiweyo.
- (3) AbaPhathiswa kufuneka —
- (a) bahambe ngokoMgaqo-siseko wesizwe nalo Mgaqo-siseko;
- (b) kwaye kufuneka iPalamente yePhondo bayinike ingxelo epheleleyo malunga nemicimbi ephantsi kolawulo lwabo, kunjalo nje bayinike qho.

Ukuqhuba kwabaPhathiswa emva konyulo

44. Xa bekukho unyulo lukaRhulumente wePhondo abaphathiswa bephondo bayahlala baqhuba ezihlalweni zabo de aqalise emsebenzini wakhe loo mntu unyulwe yiPalamente yePhondo entsha ukuba abe yiNkulumbuso.

Isifungo noqinisekiso

45. Phambi kokuba iKhabhinethi iqalise kumagunya nemisebenzi yayo kufuneka ifungele okanye iqinisekise intembeko kwiRiphabliki nakwiNtshona Koloni nentobeko kuMgaqo-siseko wesizwe nakulo Mgaqo-siseko ngokwemiqathango kaShedyuli 1.

Indlela yokuziphatha yabaPhathiswa

46. (1) AbaPhathiswa bePhondo kufuneka baziphathe ngokwemiqathango yomgaqo wokuziphatha obekwe yimithetho yesizwe.
- (2) AbaPhathiswa abafanelanga ukuba —
- (a) benze nawuphi na omnye umsebenzi ohlawulayo;
- (b) baziphathe ngendlela engahambelaniyo nezikhundla zabo, okanye bazifake kwiimeko apho kunokuvela ungquzulwano phakathi komsebenzi wabo waseburhulumenteni nezinye izinto zabo ezisecaleni;
- (c) okanye basebenzise izikhundla zabo okanye inkcukacha abayinikiweyo ngenjongo yokuzenzela ubutyebi okanye yokwenzela inzuzo omnye umntu ngendlela egwenxa.

Ukudluliselwa kwemisebenzi

47. INkulumbuso isenokuthi ngompoposho kwigazethi yephondo esemthethweni idlulisele kumphathiswa othile —

- (a) ulawulo lwawo nawuphi na umthetho obuphantsi kolawulo lomnye umphathiswa;
- (b) okanye nalo naliphi na igunya okanye umsebenzi elibekwe ngumthetho phantsi kolawulo lomnye uMphathiswa wePhondo.

Ukunikezelwa komsebenzi okwexeshana

48. INkulumbuso isenokuthi okwexeshana inikezele kuMphathiswa wePhondo othile nalo naliphi na igunya okanye umsebenzi womnye umphathiswa ongekho emsebenzini wakhe okanye ongakwaziyo ukulisebenzisa elo gunya okanye ukuwenza loo msebenzi.

Ukubeka iliso kulawulo lweedolophu

49. Xa umasipala othile apha kweli Phondo engawenzi kakuhle umsebenzi wakhe wokulawula ngokwemithetho, iKhabhinethi yePhondo isenokuthi ingenelele ngokuthi ithathe amanyathelo afanelekileyo okuqinisekisa ukuba loo misebenzi iyenziwa, manyathelo lawo anokubandakanya la alandelayo:

- (a) ukukhupha ingcaciso eya kwiKhansile kaMasipala lowo ichaza ngokupheleleyo indlela esilele ngayo ekwenzeni umsebenzi wayo, inike nezikhokelo kananjalo zokuba loo meko ingalungiswa njani na;
- (b) ukuthathela kuyo uxanduva lokwenza loo msebenzi asilele kuwo umasipala lowo iluthwale kangangoko kuyimfuneko —
 - (i) ukugcina imigangatho yesizwe eyimfuneko okanye ukukhawulelana nemigangatho efunekayo ekunikweni kweenkonzo;
 - (ii) ukuthintela iKhansile kaMasipala lowo ukuba ingathabathi amanyathelo angafanelekanga naya kuthi abeke esichengeni izinto ezichaphazela omnye umasipala okanye iNtshona Koloni iphela;
 - (iii) okanye ukugcina umanyano kwinkalo yezoqoqosho.
- (2) Ukuba ngaba iKhabhinethi yePhondo ingenelela kwimeko kamasipala othile ngokwalo mhlathana (1)(b) —
 - (a) kufuneka oko kungenelela kufikelele esiphelweni ngaphandle kokuba kuyavunywa nguMphathiswa wesizwe ojongene nolawulo lweedolophu;
 - (b) kufuneka isaziso soko kungenelela sandlalwe phambi kwePalamente yePhondo nakwiKhansile yeSizwe yaMaphondo zingadlulanga iintsuku ezili-14 emva kokuba ihleli okokuqala emva kolo ngenelelo;
 - (c) kufuneka oko kungenelela kufikelele esiphelweni ngaphandle kokuba kuyavunywa yiKhansile yeSizwe yaMaphondo zingadlulanga iintsuku ezingama-30 emva kokuhlala kwayo okokuqala emva kolo ngenelelo.

Izigqibo zabalawuli

50. (1) Isigqibo esenziwe yiNkulumbuso kufuneka sibhalwe phantsi ukuba ngaba —

- (a) sithathwe phantsi kwemiqathango yomthetho othile;
- (b) okanye sineziphumo ezinokusa emthethweni.
- (2) Isigqibo esibhaliweyo seNkulumbuso kufuneka sibe nawo nomsayino womnye umphathiswa ukuba ngaba eso sigqibo siphathelele kumsebenzi osezandleni zaloo Mphathiswa wePhondo.
- (3) Imipoposho, imigaqo neminye imithetho ewisiweyo yiNtshona Koloni ephathelele kulo mba kufuneka ipapashwe kwigazethi yephondo esemthethweni, kwaye urhulumente weNtshona Koloni kufuneka athabathe amanyathelo afanelekileyo okwenza ukuba abantu bakwazi ukuzifumana.
- (4) Imithetho yephondo isenokuthi iyibeke indlela ekufuneka ezi zinto zingentla apha kumhlathana (3) zandlalwe, zamkelwe ngayo kwiPalamente yePhondo.

Isindululo sokukhutshwa kwabasilelayo emsebenzini

- 51. (1) Ukuba ngaba iPalamente yePhondo ithe ngesigqibo esivotelwe sisininzi samalungu ayo, yenza isindululo sokuba iKhabhinethi, ngaphandle kweNkulumbuso, mayisuswe ngenxa yokusilela emsebenzini wayo, iNkulumbuso kufuneka iyimise ngokutsha iKhabhinethi yayo.
- (2) Ukuba ngaba iPalamente yePhondo ithe ngesigqibo esivotelwe sisininzi samalungu ayo, yenza isindululo sokuba iNkulumbuso, mayisuswe esikhundleni sayo ngenxa yokusilela emsebenzini wayo, iNkulumbuso kunye nabanye abaPhathiswa bePhondo kufuneka bazibeke phantsi iintambo, baphume kwiKhabhinethi.

ISIAHLUKO 5**ULAWULO LWEEDOLOPHU**

52. (1) Apha kwiNtshona Koloni kwinkalo yolawulo lweedolophu kukho oomasipala abasekwe ngokwemiqathango yoMgaqo-siseko wesizwe. Ilungelo loomasipala lokuba basebenzise amagunya abo okanye benze imisebenzi yabo alingekhe lhluthwe okanye lithintelwe.
- (2) INtshona Koloni kufuneka ibaxhase oomasipala ibaxhobise ngobuchule ngokusebenzisa imithetho nezinye iindlela khona ukuze bakwazi ukuqhuba imicimbi yabo ngokufezekileyo.
- (3) Urhulumente weNtshona Koloni kufuneka eminye imicimbi iyinikezele koomasipala ukuba bayiqhube. Kufuneka inikezele kumasipala ngemvumelwano naphantsi kwayo nayiphi na imiqathango, ulawulo lomcimbi okhoyo kwedweliswe kwiSiqendu A sikaShedyuli 4 okanye kwiSiqendu A sikaShedyuli 5 woMgaqo-siseko wesizwe ebhekiselele kulawulo lweedolophu ukuba ngaba —
- (a) lowo mcimbi ungaqhuba ngempumelelo ebhetele xa unokuthi ulawulwe ngumasipala;
- (b) naxa ngaba umasipala lowo anganakho ukuba akwazi ukuwulawula.
- (4) Imithetho yephondo kufuneka ibe namalungiselelo okupapashwa kwedrafti yemithetho yephondo echaphazela ulawulo lweedolophu, imisebenzi namagunya oomasipala khona ukuze abantu bakwazi ukunika izimvo zabo ngazo phambi kokuba zandlalwe phambi kwePalamente yePhondo, kunjalo nje loo nto yenziwe ngendlela eya kuthi ulawulo lweedolophu, oomasipala kunye nabanye abantu abachaphazelekayo bakwazi ukuba bafumane ithuba lokuba bavakalise izimvo ngayo.
- (5) Urhulumente weNtshona Koloni kufuneka imithetho yoomasipala ayipapashe kwigazethi yephondo akuba eceliwe ngumasipala ukhupha umthetho kamasipala lowo.

Ukumiselwa koomasipala

53. (1) Imithetho yephondo kufuneka icacise ukuba ziziphi na iindidi zoomasipala ezifanele kumiselwa eNtshona Koloni, ngokwemiqathango yemithetho yesizwe.
- (2) Urhulumente weNtshona Koloni kufuneka amisele oomasipala apha kwiNtshona Koloni ngendlela ehambelanayo nemithetho yesizwe.

Ukubeka iliso kulawulo lweedolophu

54. (1) Urhulumente weNtshona Koloni, ngemithetho okanye ngezinye iindlela, kufuneka —
- (a) enze amalungiselelo okubeka iliso nokunika inkxaso koomasipala abalapha eNtshona Koloni;
- (b) kwaye kufuneka akhuthaze uphuhliso lobuchule nolwazi loomasipala obuya kubenza bakwazi ukuqhuba imisebenzi yabo nokulawula imicimbi yabo.
- (2) Urhulumente weNtshona Koloni unegunya, ngokwemiqathango yoMgaqo-siseko wesizwe, unegunya elisemthethweni naselulawulweni lokuba aqinisekise ukuba oomasipala baqhuba kakuhle kulaa misebenzi idweliswe kwiiShedyuli 4 no-5 zoMgaqo-siseko wesizwe ngokuthi ayilawule indlela abawasebenzisa ngayo amagunya abo oomasipala.

ISIAHLUKO 6**ULAWULO LWEPHONDO****Abasebenzi bakarhulumente wephondo**

55. Luxanduva lukarhulumente weNtshona Koloni ukufuna abasebenzi bakwarhulumente, ukubaqesha, ukubanyusela, ukubatshintsha nokubayekisa emsebenzini, oko ekwenza phantsi kwesikhokelo sezibakala nemigangatho elandelwa kwinkonzo yabasebenzi bakwarhulumente.

Iinkqubo ekuhanjwa ngazo elulawulweni lwephondo

56. Ulawulo lukarhulumente apha eNtshona Koloni kufuneka luhambe ngokwezikhokelo neenkqubo zedemokhrasi njengoko zityetyeshiwe kuMgaqo-siseko wesizwe.

ISAHLUKO 7

EZEMALI

Apho ivela khona imali yephondo

57. Imali yephondo ivela: —

- (a) kwisabelo esifanelekileyo kwimali efunyenwe ngurhulumente wesizwe nesithi sikhutshelwe iNtshona Koloni ngokwemiqathango yoMgaqo-siseko wesizwe;
- (b) kwezinye izabelo ezivela kwimali karhulumente wesizwe;
- (c) kwezinye iimali azifumanela ngokwakhe urhulumente weNtshona Koloni;
- (d) kwezinye iimali nakwezinye izinto anazo nathi azifumane urhulumente wephondo.

INGxowa yeMali yePhondo

58. (1) Yonke imali efunyenwe ngurhulumente weNtshona Koloni kufuneka ifakwe kwiNgxowa yeMali yephondo ngaphandle kwaleyo mali ithintelwa nguMthetho wePalamente ukuba ingangeniswa kule Ngxowa.
- (2) Imali ekwiNgxowa yeMali yePhondo ingakhutshwa kuphela —
- (a) phantsi kwemiqathango yoMthetho wephondo ophathelele kusetyenziso-mali, okanye
 - (b) xa itsalwa ngqo kwiNgxowa yeMali yePhondo xa ukwenza oko kuvunyelwa nguMgaqo-siseko wesizwe okanye nguMthetho wePhondo.

Iirhafu

59. (1) IPalamente yePhondo isenokuthi ibeke —

- (a) iirhafu, imirhumo neentlawulo ezingaphandle kwerhafu yengeniso nevethi nerhafu-ntengo, neentlawulo ezihlawulelwa imihlaba okanye zinto ezingena zivela kwamanye amazwe;
 - (b) iintlawulo ezilinganayo ezithiwa chatha kuyo nayiphi na irhafu okanye umrhumo okanye intlawulo ezibekwe yimithetho karhulumente wesizwe, ezingaphandle kwerhafu zengeniso ezibizwa abemveliso noshishino, nevethi neentlawulo ezihlawulelwa imihlaba okanye izinto ezingena zivela kwamanye amazwe.
- (2) IPalamente yePhondo isenokuthi iwise imithetho egunyazisa ukubizwa kweentlawulo kubasebenzisi.
- (3) Amagunya ePalamente yePhondo okubeka irhafu, imirhumo, iintlawulo ngokoMthetho wePalamente akufuneki asetyenziswe ngendlela enokuthi itshabhise imigaqo yezoqoqosho yesizwe okanye izinto ezenziwayo kwiinkalo zoqoqosho ngaphandle kwemida yephondo eli okanye enze ukuhamba kwezinto neenkonzo nemali nabasebenzi apha esizweni.

Uhlahlo-mali lwephondo

60. (1) Uhlahlo-mali lwephondo nomsebenzi wokwenziwa kwalo kufuneka zibonakalise ukuba izinto azenziwa ekhusini, ukungaziphathi nolwazi oluchubekileyo lokulawula inkalo yezemali kuqoqosho lwephondo, olokulawula amatyala nemisebenzi yakwarhulumente.
- (2) Uhlahlo-mali lwephondo kufuneka luhambe ngokwemithetho karhulumente wesizwe njengoko ityetyeshiwe kuMgaqo-siseko wesizwe ngokuphathelele kwindlela elumiswa ngayo, ukwandlalwa kwalo phambi kweNdlu yoWiso-mthetho, ukuxelwa kwalapho ivela khona imali kwakunye nenkcitho ecetywayo.
- (3) Umphathiswa osingathe imicimbi yemali kufuneka kunyaka-mali ngamnye andlale phambi kwePalamente yePhondo uhlahlo-mali oluqulathe
- (a) uqikelelo lwemali ekhoyo nolwenkcitho, lwahlule phakathi kwemali yokuthenga nokwenza izakhiwo kunye naleyo yokusetyenziswa umhla nezolo;
 - (b) izindululo malunga nendlela ekuya kuhlawulwa ngayo imali ekucingwa ukuba kuya qhwalelwa ngayo kweso sithuba solo hlahlo-mali;
 - (c) ingcaciso malunga neenjongo zokuboleka imali namalunga nezinye izinto eziya kwenza ityala likarhulumente linyuke kuloo nyaka kungenwa kuwo.
- (4) Xa kulandelelaniswa izinto ezifuna ukwabelwa imali ngokokubaluleka kwazo apha kuhlahlo-mali lwephondo kufuneka kunikwe ingqwalaselo kumba wokulungisa into yokungalingani, owokudlelwa indlala noweemfuno zophuhliso zabantu beli phondo.

ICandelo leMali lePhondo

61. (1) Imithetho yephondo kufuneka ibe namalungiselelo ecandelo lemali lephondo kwaye isenokuthi ngokwemiqathango yomgaqo-siseko wesizwe ibeke amanyathelo okuqinisekisa ukuba izinto zenziwa elubala kwaye akwenziwa nothanda, nawokuqinisekisa ulawulo lwenkcitho, ngokuthi ibeke —
- (a) imigaqo evunyiweyo yohlolo-mali;
 - (b) ulwahlulo lweenkcitho;
 - (c) nemigaqo nemigangatho ephathelele kwezemali.
- (2) Icandelo lemali lephondo ngemvumelwano noMphathiswa wezeMali, linokukunqanda ukukhutshelwa kwemali kwisigqeba sephondo kuphela xa ngaba kukho ukutyeshelwa okuthe rhoqo kwale migaqo ikumhlathana (1).

Ukufunyanwa kwezinto

62. (1) Xa urhulumente weNtshona Koloni engena kwikhontrakthi yokunikwa izinto ezithile okanye iinkonzo ezithile kufuneka oko akwenze ngendlela efanelekileyo nengenamkhethe nengaqhutywa khusini nengenazindleko ziphezulu.
- (2) Umhlathana (1) awumthinteli urhulumente weNtshona Koloni xa ehamba ngokwesikhokelo semithetho karhulumente wesizwe, ukuba abe nenkqubo yokufumana izinto ekuvumelayo ukuba —
- (a) kubekho iimeko apho kuqalwa ngabathile ekunikweni kwekhontrakthi;
 - (b) kuqinisekiswa ukhuselo nophuhliso lwabantu okanye udidi oluthile lwabantu abebekade besingelwe phantsi ngenxa yocalu-calulo.

Iimali-mboleko

63. Urhulumente weNtshona Koloni usenokuthi ehamba ngokwemiqathango yemithetho karhulumente wesizwe, afune imali-mboleko yokujongana neendleko zokuthenga izinto nokwenza izakhiwo kwakunye nezomhla nezolo, kodwa ke iimboleko ezenzelwa ukujongana neendleko zomhla nezolo —
- (a) kufuneka zenziwe kuphela xa kukho imfuneko yokuba kuvalwe izikhewu kuloo nyaka-mali;
 - (b) kwaye kufuneka zihlawulwe zingaphelanga iinyanga ezilishumi elinesibini.

Umelo-qinisekiso kwiimboleko

64. (1) Urhulumente weNtshona Koloni unakho ukuba abe ngummeli kwiimali-mboleko ngokwemiqathango ekwimithetho karhulumente wesizwe kuphela.
- (2) Urhulumente weNtshona Koloni kufuneka apapashe ingxelo yeemboleko aye waba ngummeli kuzo, qho ngonyaka.

Irejista yezinto zikarhulumente

65. Imithetho yephondo kufuneka inomqathango wokuba —
- (a) makubekho irejista yokubhala izinto zikarhulumente
 - (b) nowokuba izinto zikarhulumente mazibhalwe kuloo rejista.

ISAPHLUKO 8**AMAPOLISA****Iinkonzo zamapolisa kurhulumente weNtshona Koloni**

66. (1) Urhulumente weNtshona Koloni unelungelo —
- (a) lokubeka iliso kwindlela aziphatha ngayo amapolisa;
 - (b) lokuvandlakanya impumelelo yamapolisa asebenza phakathi koluntu;
 - (c) lokubeka iliso kwimpumelelo yenkonzo yamapolisa kwanelokufumana iingxelo malunga nenkonzo yamapolisa;
 - (d) lokukhuthaza umoya wobudlelwane phakathi kwamapolisa noluntu;
 - (e) nelokunxibelelana noMphathiswa karhulumente wesizwe ojongene neenkonzo zamapolisa malunga nemicimbi ephathelele kulwaphulo-mthetho nakumsebenzi wamapolisa apha eNtshona Koloni.

- (2) Ukuze ke akwazi ukuyenza le misebenzi ichakwe kumhlathana (1) urhulumente wephondo —
- (a) usenokuphanda okanye amisele ikhomishoni yokuphanda naziphi na izikhalazo zokungasebenzi kakuhle kwamapolisa okanye ukuphela komoya wobudlelwane phakathi kwamapolisa noluntu;
 - (b) kufuneka enze izindululo kuMphathiswa wesizwe ojongene neenkonzo zamapolisa.

Amagunya ePalamente yePhondo

67. (1) IPalamente yePhondo inokuwisa umthetho oyimfuneko ekufezekisweni kwale misebenzi ichakwe kumhlathana 66(1).
- (2) IPalamente yePhondo isenokubiza umkhomishinala wamapolisa wePhondo ukuba makaze kuvela phambi kwayo okanye phambi kwenye yeekomiti zayo aze kuphendula imibuzo ethile.
 - (3) IPalamente yePhondo kufuneka ifumane ingxelo yonyaka kumkhomishinala wamapolisa wephondo malunga nemiba yeenkonzo zamapolisa kweli Phondo.

Uxanduva lolawulo

68. (1) AbaPhathiswa bePhondo usezandleni zabo umsebenzi weenkonzo zamapolisa —
- (a) abawunikwa ngulo Mgaqo-siseko okanye yimithetho yephondo;
 - (b) abawunikwa ngokwemiqathango yemithetho karhulumente wesizwe;
 - (c) nabawunikwa yinkqubo yesizwe yeenkonzo zamapolisa.
- (2) IKhabhinethi yePhondo
- (a) kufuneka babekwe uMphathiswa wesizwe ojongene neenkonzo zamapolisa bamazise ngeemfuno zeNtshona Koloni ngokuphathelele kwiinkonzo zamapolisa nangendlela ezilandelelana ngayo ngokubaluleka ezo mfuno;
 - (b) basenokuthi bafake isikhalazo ngokuziphatha kwepolisa elithile kwinkonzo yamapolisa apha eNtshona Koloni okanye ngolwaphulo-mthetho elithe lalwenza, kumbutho ozimeleyo omiselwe ngumthetho karhulumente wesizwe nojongene nezikhalazo ngamapolisa;
 - (c) kufuneka bathabathe inxaxheba kwikomiti enoMphathiswa wesizwe nabaPhathiswa bamaPhondo abajongene neenkonzo zamapolisa nasekwe nguMgaqo-siseko wesizwe ngenjongo yokuqinisekisa unxibelelwano lweenkonzo zamapolisa olunempumelelo nentsebenziswano phakathi kukarhulumente wesizwe noorhulumente bamaphondo.

Umkhomishinala weenkonzo zamapolisa wephondo

69. (1) Phambi kokuba iKhabhinethi yePhondo ivane ngokunyulwa komkhomishinala wamapolisa ngokomqathango woMgaqo-siseko wesizwe isenokufuna ukuba nawuphi na lowo uthe watyunjelwa ukubekwa kwisikhundla sokuba ngumkhomishinala wephondo makakhe aze kuvela phambi kwayo okanye phambi kwekomiti yamalungu ayo.
- (2) Ukuba ngaba abaLawuli bamfumanisa umkhomishinala esilela emsebenzini wakhe, basenokuthi bathathe amanyathelo afanelekileyo okumsusa okanye okumshintsha okanye awoluleko, behamba ngokwemithetho yesizwe: kodwa ke kuqondakale ukuba phambi kokuba abaPhathiswa bePhondo bawathathe loo manyathelo, kufuneka bambize loo mkhomishinala aze kuvela phambi kwayo okanye phambi kwekomiti yamalungu abo.

ISAHLUKO 9

AMANYE AMAZIKO APHATHELELE KUMGAQO-SISEKO

IiKhansile zezeNkcubeko neZithethe

70. Imithetho yephondo isenokuba namalungiselelo okumiselwa kwekhansile okanye kweekhansile zezenkubeko nezithethe kwindawo ethile okanye kwiindawo ezithile apha kweli Phondo, ndawo ezo zinezithethe namasiko amanye nolwimi olunye.

UMKHOMISHINALA WENDALO ESINGQONGILEYO

Ukusekwa kunye nemigaqo yokulawula

71. (1) Kukho uMkhomishinala weNdalo esiNgqongileyo wephondo.
- (2) Xa esebenzisa amagunya akhe uMkhomishinala kufuneka aqinisekise ulondolozo lwendalo apha eNtshona Koloni, kwaye kufuneka anike ingqwalasela kwimfuno yokhuselo lwendaba kunye neyopkuqhutywa kophuhliso.
 - (3) UMkhomishinala uzimele, ulawulwa kuphela nguMgaqo-siseko wesizwe, ngulo Mgaqo-siseko nangumthetho, kwaye kufuneka angabi nadolo namagunya akhe awasebenzise ngaphandle komkhethe noloyiko; ngokunjalo naxa esenza imisebenzi yakhe.

- (4) Ezinye izigqeba zikarhulumente wephondo kufuneka zimncedise zimkhusele uMkhomishinala khona ukuze kuqinisekiswa ukuba uhlala ezimele, engenadolo, enesidima kunjalo nje enempumelelo.
- (5) Kufuneka kungabikho mntu uphithikezana nomsebenzi woMkhomishinala.

Amagunya nomsebenzi

- 72. (1) UMkhomishinala kufuneka —
 - (a) abeke iliso kuphuhliso lwemimandla yasezidolophini neyasemaphandleni apho lunokuthi lube nefuthe kwindalo esingqongileyo;
 - (b) aphande izikhalazo ezimalunga nolawulo lwendalo esingqongileyo;
 - (c) enze isindululo malunga nendlela yokuziphatha yaso nasiphi na isigqeba sikarhulumente wephondo ebekuthe kwenziwa uphando ngaso;
 - (d) asebenze ngokwenkqubo nemigaqo yosebenziswano loorhulumente ekuthethwa ngalo phaya kwisahluko 2.
- (2) UMkhomishinala unawo namagunya ongezelelweyo kwanemisebenzi eyongezelelweyo ayinikiweyo ngokomthetho wephondo.

Iimbopheleleko zezigqeba zikarhulumente wephondo

- 73. (1) Xa uMkhomishinala ethe wenza izindululo kwisigqeba esithile sikarhulumente wephondo, eso sigqeba kufuneka simnike ingxelo malunga naloo manyathelo sithe sawathatha sakuba sifumene ezo zindululo, oko sikwenze kungadlulanga xesha lininzi.
- (2) Xa nasiphi na isigqeba sephondo sakwarhulumente sithe sala okanye sasilela ekuzilandeleni izindululo esizininikwe nguMkhomishinala, kufuneka sithi sakucelwa simnike ingxelo ebhaliweyo uMkhomishinala yokuba kutheni na size sale okanye sisilele ukuhamba ngezo zindululo.

Iingxelo zoMkhomishinala

- 74. UMkhomishinala —
 - (a) kufuneka qho ngonyaka anike iPalamente yePhondo ingxelo ngezinto azenzileyo apha eNtshona Koloni eziphathelele kwimiba yendalo esingqongileyo;
 - (b) kufuneka naziphi na izindululo azenzileyo azingenise kwiPalamente yePhondo;
 - (c) kwaye ke ingxelo kwiPalamente yePhondo angayenza nangeliphi na elinye ixesha.

Ukubekwa

- 75. (1) UMkhomishinala kufuneka abe ngummi waseMzantsi Afrika —
 - (a) ohlala apha eNtshona Koloni;
 - (b) ofanelekileyo nonolwazi namava ngemiba ephathelele kwindalo esingqongileyo;
 - (c) noyifezekisayo imiqathango ebekwe yimithetho yephondo.
- (2) INkulumbuso kufuneka ibeke uMkhomishinala ongumntu —
 - (a) otyunjwe yikomiti enamalungu avela kuwo onke amaqela amelweyo kwiPalamente yePhondo nawagqiba ukuba athathe inxaxheba;
 - (b) owamkelwayo yiPalamente yePhondo ngesigqibo esixhaswe ubuncinane yi-60% yamalungu ayo.
- (3) Imithetho nemigaqo yePalamente yePhondo kufuneka ibavulele inxaxheba abantu kulo mba wokutyumba abantu bokungena kwesi sikhundla.

Ubude besithuba asihlalayo

- 76. UMkhomishinala ubekelwa isithuba seminyaka emithathu esinokuhlaziya kube kanye.

Ukususwa nokuyekiswa okwexeshana

- 77. (1) UMkhomishinala unokususwa esikhundleni sakhe kuphela —
 - (a) xa ethe wabonakalisa ukuziphatha kakubi, naxa ethe wagula ngengqondo naxa ebonakalise ukungakwazi ukwenza umsebenzi wakhe;
 - (b) xa ethe wafunyaniswa enjalo yikomiti enamalungu avela kumaqela onke amelweyo kwiPalamente yePhondo;

- (c) naxa iPalamente yePhondo yenza isigqibo sokuba lowo mntu makasuswe kweso sikhundla, sigqibo eso esixhaswe zizahlulo zesithathu ezibini ubuncinane zamalungu ePalamente yePhondo.
- (2) INkulumbuso —
- (a) isenokummisa emsebenzini uMkhomishinala nanini na emva kokuba iqalisile ukuhlala ikomiti yePalamente yePhondo eqwalasela ukususwa kwaloo mntu esikhundleni;
- (b) kufuneka imsuse umntu esikhundleni sakhe yakuba iPalamente yePhondo ithathe isigqibo sokuba makasuswe loo mntu esikhundleni.

UMKHOMISHINALA WEZABANTWANA

Ukusekwa kunye nemigaqo yokulawula

78. (1) Kukho uMkhomishinala wezabaNtwana wephondo.
- (2) UMkhomishinala lo kufuneka ancedisane norhulumente weNtshona Koloni ekukhuseleni nasekukhuthazeni izinto ezilunge ebantwaneni apha eNtshona Koloni, ngakumbi ngokuphathelele:
- (a) kwiinkonzo zempilo;
- (b) kwimfundo;
- (c) kwiinkonzo zentlalontle;
- (d) kwizibonelelo zolonwabo;
- (e) nakwimidlalo.

Amagunya nomsebenzi

79. (1) UMkhomishinala unamagunya abekwe yimithetho yephondo okuba abeke iliso aphande, afundise, agaye, acebise aze anike ingxelo ngemiba ephathelele ebantwaneni.
- (2) UMkhomishinala
- (a) kufuneka qho ngonyaka anike ingxelo kwiPalamente yePhondo malunga namanyathelo athathwe ngurhulumente weNtshona Koloni okukhusela nokukhuthaza izinto ezilunge ebantwaneni kweli Phondo;
- (b) kwaye ke ingxelo kwiPalamente yePhondo angayenza nangeliphi na elinye ixesha.

Ukubekwa nokususwa

80. UMkhomishinala ubekwa yiNkulumbuso asuswe kwayiyo ngokwesindululo esenziwe kuyo yiPalamente yePhondo.

ISAPHELA 10

IMIGAQO EZIZIKHOKELO ZOMGAQO-NKQUBO WEPHONDO

81. Urhulumente weNtshona Koloni kufuneka aqulunge asebenzise imigaqo-nkqubo ejolise ekukhuthazeni nasekulondolozeni intlalontle yabantu balapha eNtshona Koloni, kubandakanywe nemigaqo-nkqubo ejolise ekuphumezeni kwezi nkalo zilandelayo:
- (a) ukhuselo nokhuseleko
- (b) ukukhuthazwa kokuphela kobuhlanga eNtshona Koloni;
- (c) ukukhuselwa nokuphuculwa kwemeko yabantu okanye iindidi zabantu abebefudula besingelwe phantsi licalu-calulo
- (d) ukukhuthazwa kokuxatyiswa kwamalungelo ezithethe neenkonzo neelwimi zabahlali baseNtshona Koloni;
- (e) ukudalwa kwamathuba emisebenzi;
- (f) ukukhuthazwa kwenkqubo yomsebenzi enonyaniseko
- (g) ukukhuthazwa kwenkqubo yoqoqosho enoshishino olukhululekileyo; 10
- (h) ukunika ingqwalasela ukufumaneka —
- (i) kwezindlu;
- (ii) kweenkonzo zempilo;

- (iii) kokutya okwaneleyo namanzi;
- (iv) nokhuseleko kwezentlalontle olubandakanya ukuncediswa kawbo bantu bangakwaziyo ukuzondla bona nabo baluxanduva lwabo.
- (i) imeko apho abantwana —
 - (i) banikwa amathuba nezibonelelo zokuba bakhule ngendlela enemphilo nenkululeko nesidima;
 - (ii) nalapho bakhuselekileyo ekungcungcuthekisweni nasekungahoyweni nakwimpathekombi nasekulahlweni;
 - (iii) nalapho bafumana imfundo phantsi kwenkqubo yemfundo ekhethwe ngabazali babo;
- (j) uphuhliso lwemimandla yasemaphandleni nokukhuthazwa kwentlalontle yabasebenzi basemaphandleni;
- (k) indlela yokubizwa kweehafu elungileyo ehamba elubala neziqwalaselayo iimfuno namandla abantu abahluphekileyo kweli Phondo.
- (l) imeko apho bonke abantu abadala nabanobulwelwe —
 - (i) balufumana ngokufanelekileyo ulondolozo emakhayeni abo okanye kwindawo ezifanelekileyo zolondolozo lwabantu abadala xa bethe basuswa emakhayeni abo;
 - (ii) bondliwa kakuhle, bafumane iindawo zokuhlala, nolondolozo lwempilo yabo namalungiselelo entlalo aphambili;
 - (iii) nalapho bakhuselekileyo endlaleni, ekungahoyweni, kwimpathombi, ekungcungcuthekisweni nasekwenziweni amalolo ngenkani;
- (m) ukukhuselwa kwendalo esingqongileyo apha eNtshona Koloni, ekubandakanywa kuyo izilwanyana nezityalo, ngenjongo yokulungiselela ezi zikhoyo kunye nezizayo izizukulwana.
- (n) ukukhuselwa nokulondolozwa kwezinto zendalo ezinembali, nezibalulekileyo kwimbali yentlalo nezithethe neendawo ezibonakalisa intlalo nezakhiwo zamandulo apha kwiNtshona Koloni ngenjongo yokulungiselela ezi zikhoyo kunye nezizayo izizukulwana;
- (o) ukukhuthazwa kophuhliso naphuculo lolutsha.

Igunya lemigaqo ezizikhokelo zomgaqo-nkqubo wephondo.

82. Imigaqo ezizikhokelo zomgaqo-nkqubo wephondo equlathwe apha kulo mhlathi/kwesi sahluko ayinyanzeliswa ngokwasemthethweni, koko ibonisa urhulumente wephondo indlela anokuyihamba xa esenza imithetho naxa eyisebenzisa.

ISIAHLUKO 11

EZINYE IINGONGOMA NGOKUBANZI

Amalungiselelo exeshana

83. IShedyuli 3 imalunga nenguqu eya kwimeko yomgaqo-siseko omtsha eNtshona Koloni meko leyo esekwa ngulo Mgaqo-siseko, kwakunye neminye imiba ephethelele kuloo nguqu.

Itayitile emfutshane nokuqalisa

84. (1) Lo Mthetho ubizwa ngokuba nguMgaqo-siseko weNtshona Koloni, kwaye uya kuqalisa kungekudala ngomhla obekwe yiNkulumbuso ngompoposho okhutshwe kwigazethi karhulumente wePhondo, umhla lowo ekuya kufuneka ukuba ungabi semva komhla wokuqala kuJulayi ka-1998.
- (2) INkulumbuso isenokubeka eminye imihla engaphambili kulo mhla ubekwe kumhlathana (1) ngokuphathalele kweminye imiqathango yalo Mgaqo-siseko, kodwa ke kuqondakale ukuba amacandelo 57, 58, 59(1), 60, 61, 63 no-64 wona aqala ngomhla wokuqala kuJanuwari ka-1998.
- (3) Ngaphandle kwaxa intsingiselo iyenye, xa kumqathango othile apha kulo Mgaqo-siseko kuthethwa ngexesha lokuqalisa kwawo lo Mgaqo-siseko kufuneka ukuba oko kuthathwe ngokuba kubhekisele kwixesha owaqala ngalo umqathango lowo.
- (4) Amacandelo 57, 58, 59(1), 60, 61, 63 nelama-64 aqala ukusebenza ngomhla wokuqala kuJanuwari 1998.

(2) Akukho nyulo lunokuqhutywa apha kwiPalamente yePhondo phambi komhla wama-30 Apreli 1999 ngaphandle koubha iPalamente yePhondo ibiye yatshitshiswa ngokwecandelo 18(2) xa bekuthe kwabakho ivoti evakalisa ukunganeliseki yiNkulumbuso ngokwecandelo 51(2).

(a) imithetho yesizwe exelwe kwicandelo 105(1)(a) loMgaqo-siseko wesizwe iya kusebenza xa kuthe kwabakho olunye unyulo apha kwiPalamente yePhondo, de ibe imithetho yephondo exelwe kwicandelo 14 lalo Mgaqo-siseko iphunyeziwe;

(b) imithetho yesizwe exelwe kwicandelo 106(4) loMgaqo-siseko wesizwe iyasebenza xa kuvalwa izikhewu kwiPalamente yePhondo nasekongezweni nasekuhlaziyweni nasekusetyenzisweni koluhlu lwamaqela ngenjongo yokuvala izikhewu de ibe imithetho yephondo exelwe kwicandelo 15(4) lalo Mgaqo-siseko iphunyeziwe;

Izifungo noqinisekiso

5. Umntu oqhuba esikhundleni ngokwemiqathango yale Shedyuli nothe wenza isifungo seso sikhundla okanye uqinisekiso phantsi koMgaqo-siseko wesizwe okanye phantsi kweRepublic of South Africa Constitution Act, 1993 (UuMthetho 200 ka-1993), akukho mfuneko yokuba aphinde afunge okanye enze uqinisekiso olunyanisekileyo phantsi kwalo Mgaqo-siseko.

Ukutshitshiswa kwePalamente yePhondo phambi kokuba liphele ixesha layo

6. Icandelo 18(1) lalo Mgaqo-siseko lisaxhonyiwe de kube ngumhla wama-30 Apreli 1999.

Abameli kwiKhansile yaMaphondo yeSizwe

7. IPalamente yePhondo isenokuthi, ngalo mzuzu kungekabikho Mthetho wePalamente uwiwayo ngokwecandelo 65(2) loMgaqo-siseko wesizwe, yenze imithetho nemigaqo yokunikwa kwamagunya kubameli bayo kwiKhansile yaMaphondo yeSizwe okuba ayimele ezingxoweni avote nasegameni layo phaya kwiKhansile.

IKhabhinethi yePhondo

8. (1) Nabani na oyiNkulumbuso ukuqalisa kwalo Mgaqo-siseko, uya kuqhuba kweso sikhundla ngokwemiqathango yalo Mgaqo-siseko.

(a) nabani na oyiNkulumbuso okanye uMphathiswa wePhondo ngexzesha uqala lo Mgaqo-siseko ukusebenza uya kuqhuba kweso sikhundla;

(b) iPalamente yePhondo isenokuthi kwintlasnganiso yayo inyule uMphathiswa emva konyulo lwayo lokuqala nolwesibini ngokwalo Mgaqo-siseko, yenze isigqibo esixhaswe yi-60% yamalungu ayo sokuba ngalo lonke elo xesha isaqhubayo iPalamente yePhondo amacandelo 42 nele-43 alo Mgaqo-siseko kufuneka athathwe ngokuba afundeka ngokoluya hlobo luchazwe kwiSihlomelelo A sale Shedyuli, necandelo 42(1)(b) no-(7) okanye ngaphandle kwalo, njengoko kuchaziwe kwiSihlomelelo A sale Shedyuli: Kambe ke kuqondakale ukuba uSomlomo angavota kweso Siggibo.

(2) De kube lunyulo lwesibini oluhamba ngokwemiqathango yalo Mgaqo-siseko, amacandelo 42 no-43 alo Mgaqo-siseko kufuneka ukuba athathwe ukuba afundeka ngokoluya hlobo luchazwe kwiSihlomelelo A sale Shedyuli.

Ukuwiswa kwemithetho okufunwa ngulo Mgaqo-siseko

9. (1) Apho uMgaqo-siseko lo ufuna kuwisa imithetho okanye imithetho nemigaqo yePalamente yePhondo, loo mithetho naloo migaqo kufuneka iwiswe okanye yamkelwe sisiphathamandla esifanelekileyo lingadlulanga ixesha elifanelekileyo emva komhla wokuqala ukusebenza kwalo Mgaqo-siseko.

(2) Imithetho yephondo exelwe kumacandelo 65 nele-70 alo Mgaqo-siseko kufuneka iwiswe zingadlulanga iinyanga ezili-12 emva kokuba lo Mgaqo-siseko uqalisile.

ISIHLOMELELO A

URhulumente woManyano lwePhondo

1. Icandelo 42 lalo Mgaqo-siseko lithathwa ukuba lifundeka ngolu hlobo:

IKhabhinethi yePhondo

42. (1) IKhabhinethi yePhondo ineNkulumbuso, intloko yeKhabhinethi yePhondo

(a) kunye nabaPhathiswa bePhondo abangekho ngaphantsi kwesihlanu kodwa bengekho ngaphezulu kweshumi abangamalungu ePalamente

(b) nabaPhathiswa bePhondo abangadlulanga kwisibini abangabantu abaselungelweni lokuba ngamalungu ePalamente, phofu ke bengengawo, kodwa ke kube kanti iNkulumbuso ibona kufanelekile ikuba banyulwe abo baPhathiswa bePhondo balolu hlobo.

100. INkulumbuso inyula abaPhathiswa bePhondo, ibanike amagunya abo nemisebenzi yabo, kwaye ke isenokubakhupha kwezo zihlalo.

Wkandelo 43 lalo Mgaqo-siseko lithathwa ngokuba liqulathe nalo mhlathana wongezelelweyo:

101. UMphathiswa wePhondo ochazwe kumhlathi 42(1)(b) angeza kwiindibano zePalamente yephondo, athethe, kodwa ke akanalo ilungelo lokuba angavota, naxa nje ke phofu enalo lona ilungelo elichazwe kwicandelo 26 lalo Mgaqo-siseko.

INGCACISO

Mthetho uYilwayo woMgaqo-siseko uqulunqwe phantsi kwemiqathango yoMgaqo-siseko weRiphabliki yoMzantsi Afrika. Mthetho 108 ka-1996, ocandelo 142 lawo lithi indlu yowiso-mthetho yephondo ingaphumeza umgaqo-siseko wephondo nesininzi esizizahlulo zesithathu ezibini zamalungu ayo ewonke ubuncinane.

Ngomhla we-3 Julayi 1996 uSopmlomo weNdlu yoWiso-mthetho yePhondo leNtshona Koloni waye wacela iKomiti eMileyo iKucimbi yoMgaqo-siseko, uLawulo lweeDolophu noBonelelo ngeZindlu ukuba mayiqulunqele iPhondo eli umgaqo-siseko.

Izama amaqela opolitiko amelweyo kule Ndlu yoWiso-mthetho aye athabatha inxaxheba kwiingxoxo zale Komiti eMileyo. Nango yokuqulunqwa kwalo mgaqo-siseko yayikukuqinisekisa ukuba uMgaqo-siseko wePhondo eli ungowamkeleke kusekweni kwaye usisiphumo senxaxheba yabo bonke abantu baseNtshona Koloni.

Abantu baseNtshona Koloni baye bavakalisa izimvo zabo ngomlomo nangezinto ezibhaliweyo kule Komiti eMileyo. IKomiti le yaye yatyelela zonke iidolophu ezinkulu nezixeko zalapha eNtshona Koloni, waza ke umsebenzi woqulunqo lomgaqo-siseko kungwa ngoDisemba ka-1996, waza ke umgaqo-siseko osisiqulunqo wapapashwa wahanjiswa mbombo zone zeli phondo. Wazaye kwavakaliswa izimvo ngezimo, ngomlomo nangezinto ezibhaliweyo. Zonke ezo zimvo zaye zaqwalaselwa yikomiti le.

Ngomhla we-14 ikuya kowe-15 Meyi 1997 iNkundla yoMgaqo-siseko yaye yawalasela isicelo sokuqinisekiswa koMgaqo-siseko wePhondo leNtshona Koloni. Le Nkundla yaye ke yakhupha isigwebo ngomhla we-2 Septemba 1997, yasikhaba eso sicelo sokuqinisekisa.

Nangoku ke olunye unlelo lwalo Mgaqo-siseko olwenziwe izilungiso kufuneka lwamkeliwe yiNdlu yoWiso-methetho yePhondo leNtshona Koloni, luze ke lungeniswe kwiNkundla yoMgaqo-siseko ize kuwuqinisekisa.

