

PROVINCE OF THE WESTERN CAPE

**WESTERN CAPE
HOUSING DEVELOPMENT
AMENDMENT BILL**

(As introduced)

(MINISTER OF HUMAN SETTLEMENTS)

[B 2—2017]

PROVINSIE WES-KAAP

**WES-KAAPSE
BEHUISINGSONTWIKKELINGS-
WYSIGINGSWETSONTWERP**

(Soos ingedien)

(MINISTER VAN MENSLIKE NEDERSETTINGS)

[W 2—2017]

IPHONDO LENTSHONA KOLONI

**UMTHETHO OSAYILWAYO
WOLUNGISO KUPHUHLISO
LWEZEZINDLU
WENTSHONA KOLONI**

(Njengoko wazisiwe)

(uMPhathiswa weZokuHlaliswa koLuntu)

[B 2—2017]

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GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

AMENDMENT BILL

To insert certain new definitions, amend certain definitions and to delete the definition of “Fund”; to make provision for the administration of immovable property acquired in terms of the Act; to make provision for the acquisition or disposal of immovable property for housing development and the disposal of immovable property below market value subject to certain conditions; to substitute the expression “Fund” of the expression “Provincial Revenue Fund”; to disestablish the Western Cape Housing Development Fund; to repeal certain sections pertaining to the fund; to provide for savings and transitional measures; to effect textual improvements and to provide for matters incidental thereto.

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

Amendment of section 1 of Act 6 of 1999, as amended by section 1 of Act 2 of 2005

1. Section 1 of the Western Cape Housing Development Act, 1999 (Act 6 of 1999) (the principal Act), is amended—
- (a) by the insertion after the definition of “accounting officer” of the following definition:
- “**‘acquire’**, in relation to immovable property, includes—
- | | |
|--|----|
| (a) purchase; | 10 |
| (b) exchange; | |
| (c) receipt through donation or bequest; | |
| (d) leasing immovable property; | |
| (e) the conclusion of any form of land availability agreement; and | |
| (f) the registration of a real or personal right;”; | |
- (b) by the insertion after the definition of “Code” of the following definition: 15
- “**‘consideration’** includes any thing, act, service, undertaking, promise, agreement or assurance with intrinsic value;”;
- (c) by the insertion after the definition of “Department” of the following definition:
- “**‘dispose’**, in relation to immovable property acquired in terms of this Act, includes—
- | | |
|---|----|
| (a) sale; | 20 |
| (b) exchange; | |
| (c) donation; | |
| (d) letting of immovable property, including the allocation of immov- 25 | |
| able property without consideration for a period of time; | |
| (e) the conclusion of any form of land availability agreement with any person in respect of immovable property; | |

- (f) the registration of any real or personal right in respect of immovable property; and
- (g) the transfer of land to a local government without consideration;”;
- (d) by the deletion of the definition of “Fund”;
- (e) by the substitution for the definition of “housing development” of the following definition: 5
- “**‘housing development’** means the establishment and maintenance of habitable, stable and sustainable public and private residential environments to ensure viable households and communities **[and social amenities]** in areas allowing convenient access to economic opportunities and to health, educational and social amenities in which all citizens and permanent residents of the Province will, on a progressive basis, have access to—
- (a) permanent residential structures with secure tenure, ensuring privacy and providing adequate protection against the elements; and 15
- (b) potable water, adequate sanitary facilities and domestic energy supply;”;
- (f) by the insertion after the definition of “national housing programme” of the following definitions: 20
- “**‘prescribe’** means prescribe by regulation;
- ‘Province’** means the Province of the Western Cape;
- ‘Provincial Cabinet’** means the Provincial Cabinet referred to in section 42 of the Constitution of the Western Cape, 1997;”;
- (g) by the deletion of the definition of “Province” where it appears after the definition of “provincial housing programme”. 25

Amendment of section 4 of Act 6 of 1999, as amended by section 3 of Act 2 of 2005

2. Section 4 of the principal Act is amended—
- (a) by the substitution for paragraph (i) of subsection (1) of the following paragraph: 30
- “(i) must administer the assets contemplated in **[section] sections 6 and 22A.**”;
- (b) by the substitution for paragraphs (d) and (e) of subsection (2) of the following paragraphs: 35
- “(d) publish, in the manner deemed expedient, a code to be known as the Housing Code of the Province, which applies to all housing development in the Province; **[and]**
- (e) institute mechanisms or institutions or both and may use such mechanisms and institutions as well as existing institutions to ensure the proper integration of housing with all other facets of development in a holistic way[.]; **and**”;
- (c) by the addition to subsection (2) of the following paragraph: 40
- “(f) acquire immovable property in terms of section 22A and dispose of immovable property so acquired in terms of section 22B.”.

Amendment of section 16 of Act 6 of 1999, as amended by section 12 of Act 2 of 2005 45

3. Section 16 of the principal Act is amended by the substitution for subsection (5) of the following subsection: 50
- “(5) For the purposes of the administration contemplated in subsection (4), **[but subject to section 18,]** a local government may exercise such powers and must perform such duties of the Provincial Minister as are necessary.”.

Amendment of section 22 of Act 6 of 1999, as amended by section 16 of Act 2 of 2005

4. Section 22 of the principal Act is amended—
- (a) by the substitution for subsection (5) of the following subsection: 55
- “(5) If the Provincial Government wishes to alienate any immovable property that has passed to it in terms of section 6(2), other than property contemplated in subsections (1) to (4) **[or any properties acquired in terms of section 7(1)(g) or (2)],** the Provincial Government may do so at

a fair market value, or if it is not possible for such property to be alienated at a fair market value, it must be alienated in the best interest of the Provincial Government at a price approved by the Provincial Minister.”; and

- (b) by the substitution in subsections (9) and (10) and paragraph (a) of subsection (12) for the expression “(former) Provincial Government” of the word “Board”.

Insertion of sections 22A and 22B

5. The principal Act is amended by the insertion after section 22 of the following sections:

“Acquisition of immovable property

22A. (1) The Provincial Cabinet may on behalf of the Provincial Government, on the terms and conditions as may be required, acquire for the purpose of housing development immovable property of a market value equal to or above the prescribed value.

(2) The Provincial Minister may on behalf of the Provincial Government, on the terms and conditions as may be required, acquire for the purpose of housing development immovable property of a market value below the prescribed value contemplated in subsection (1).

(3) When immovable property is acquired in terms of subsection (1) or (2), the prescribed process must be followed.

(4) The process contemplated in subsection (3) must be fair, equitable, transparent and cost-effective and, where practical, provide for a competitive bidding procedure and the publication of bids and awarding of bids in the *Provincial Gazette* and newspapers in general circulation in the Province and, if effective, other media.

(5) Immovable property acquired under this section that is capable of registration must be registered in the name “Western Cape Provincial Government”.

Disposal of acquired immovable property

22B. (1) The Provincial Cabinet may on behalf of the Provincial Government, on the terms and conditions as may be required, dispose for the purpose of housing development of immovable property acquired in terms of section 22A of a market value equal to or above the prescribed value.

(2) The Provincial Minister may on behalf of the Provincial Government, on the terms and conditions as may be required, dispose for the purpose of housing development of immovable property acquired in terms of section 22A of a market value below the prescribed value contemplated in subsection (1).

(3) When immovable property is disposed of in terms of subsection (1) or (2)—

- (a) the prescribed process must be followed;
 (b) the immovable property must be utilised for a housing development project in accordance with national and provincial housing policy; and

(c) a housing development project for that immovable property must be approved by the Provincial Minister.

(4) The process contemplated in subsection (3)(a) must be fair, equitable, transparent and cost-effective and, where practical, provide for a competitive bidding procedure and the publication of bids and awarding of bids in the *Provincial Gazette* and newspapers in general circulation in the Province and, if effective, other media.

(5) Subject to the Public Finance Management Act and subsection (6), the Provincial Cabinet or the Provincial Minister, as the case may be, may dispose of immovable property acquired in terms of section 22A for

consideration that is less than its market value or for no consideration in terms of the prescribed process.

(6) When the disposal of an immovable property at consideration for less than the market value thereof, or at no consideration, is approved under subsection (5), it must be approved—

(a) after the following has been considered:

- (i) the best interest of the Provincial Government and the community;
- (ii) the social-development and socio-economic objectives of the Provincial Government;
- (iii) the long-term effects of the disposal and the benefits to the Provincial Government; and
- (iv) any other criteria as may be prescribed; and

(b) subject to subsection (8), on the condition that if the immovable property is no longer used for the purpose for which it was acquired, the immovable property reverts to the Provincial Government on the direction of the Provincial Minister, unless the Provincial Minister consents to the use of the immovable property for another purpose.

(7) When immovable property reverts to the Provincial Government as contemplated in subsection (6)(b), the former owner of the immovable property must be compensated by the Provincial Government in a fair amount determined by the Provincial Minister in accordance with prescribed factors.

(8) The Provincial Cabinet or Provincial Minister, as the case may be, must impose a condition contemplated in subsection (6)(b) unless—

- (a) the conditions referred to in sections 10A and 10B of the Housing Act will apply to the immovable property; or
- (b) the condition will hinder the intended use of the property.

(9) A condition contemplated in subsection (6)(b) must be registered against the title deed of the immovable property.

(10) The Provincial Minister must notify the Registrar of Deeds of the Province, contemplated in the Deeds Registries Act, 1937 (Act 47 of 1937), in writing of a consent given in terms of subsection (6)(b), and the Registrar of Deeds must endorse the title deed of the immovable property accordingly.”.

Substitution of expression in Act 6 of 1999

6. The principal Act is amended by the substitution for the expression “Fund”, wherever it appears, of the expression “Provincial Revenue Fund”, except in sections 4(1)(d) and 22(10) of the principal Act.

Disestablishment of Western Cape Housing Development Fund

7. The Western Cape Housing Development Fund established by section 13 of the principal Act is disestablished.

Repeal of sections 13, 14, 16(7), 17, 18 and 26 of Act 6 of 1999

8. Sections 13, 14, 16(7), 17, 18 and 26 of the principal Act are repealed.

Amendment of Arrangement of Act

9. The arrangement of the principal Act is amended—

- (a) by the deletion of the references to sections 13, 14, 17, 18 and 26; and
- (b) by the insertion after the reference to section 22 of the following items:

“**22A.** Acquisition of immovable property
22B. Disposal of acquired immovable property”.

Substitution of long title

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

“To provide for the abolition of the Western Cape Housing Development Board; to determine general principles applicable to housing in the Province of the Western Cape; to define the role of the provincial and local spheres of government in housing development; to establish a Western Cape Housing Advisory Panel; to make provision for the acquisition and disposal of immovable property for housing development; to ensure that housing development is integrated with all other facets of development in a holistic manner; and to provide for matters incidental thereto.”

Savings and transitional arrangements

11. (1) In this section—

“**accounting officer**” means the accounting officer of the Fund as contemplated in the principal Act; 15
 “**Fund**” means the Western Cape Housing Development Fund established by section 13 of the principal Act before its disestablishment in terms of this Act;
 “**Provincial Cabinet**” means the Provincial Cabinet referred to in section 42 of the Constitution of the Western Cape, 1997;
 “**Provincial Minister**” means the member of the Provincial Cabinet responsible for housing; 20
 “**Provincial Revenue Fund**” means the Provincial Revenue Fund of the Province referred to in section 226 of the Constitution of the Republic of South Africa, 1996.

(2) All money that—

(a) immediately before the commencement of this Act stood to the credit of the Fund devolves upon the Provincial Revenue Fund; 25
 (b) immediately before the commencement of this Act was payable to or for the credit of the Fund is payable to the Provincial Revenue Fund;
 (c) on or after the commencement of this Act would have become payable to or would have been for the credit of the Fund were it not for the disestablishment of the Fund by section 7 will become payable to the Provincial Revenue Fund; 30
 and
 (d) was advanced out of the Fund is regarded as having been advanced out of the Provincial Revenue Fund.

(3) Any reference in any other law to the Fund must be construed as a reference to the Provincial Revenue Fund. 35

(4) Despite the disestablishment of the Fund by section 7 of this Act and the repeal of section 14 of the principal Act, the accounting officer must prepare and submit to the Provincial Minister the financial statements contemplated in section 14(1)(f) of the principal Act in respect of the period from the end of the immediately preceding financial year in respect of which statements have been submitted to the day this Act commences. 40

(5) Despite the disestablishment of the Fund by section 7 of this Act, a person authorised in terms of section 23 of the principal Act may exercise the powers and perform the duties contemplated in that section of the principal Act in respect of land acquired by means of a loan or grant obtained from the Fund. 45

(6) The Provincial Minister, or the accounting officer if so authorised by the Provincial Minister, may issue directives to give effect to this section.

Short title and commencement

12. This Act is called the Western Cape Housing Development Amendment Act, 2017, and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*. 50

**MEMORANDUM ON THE OBJECTS OF THE WESTERN CAPE
HOUSING DEVELOPMENT AMENDMENT BILL, 2017**

1. BACKGROUND

- 1.1 The Western Cape Housing Development Act, 1999 (Act 6 of 1999)(the Act), was enacted on 1 January 2000 and amended by the Western Cape Housing Development Amendment Act, 2005 (Act 2 of 2005).
- 1.2 The Western Cape Department of Human Settlements (the Department) has since identified a number of shortcomings in the Act that need to be addressed.
- 1.3 Provincial Cabinet therefore granted in-principle approval to proceed with preparing the Western Cape Housing Development Amendment Bill, 2017 (the Bill), to amend the Act.

2. OBJECTS OF BILL

- 2.1 The purpose of the Bill is to—
 - 2.1.1 provide for immovable assets to be acquired or disposed of for the purpose of housing development; and
 - 2.1.2 disestablish the Western Cape Housing Development Fund (the Fund), established by section 13 of the Act, and to provide for matters incidental thereto.

3. CONTENTS OF BILL

- 3.1 **Clause 1** amends the definitions in the Act by inserting the definitions of “acquire”, “consideration”, “dispose” and “prescribe”, by substituting the definition of “housing development” and correcting the incorrect alphabetical order of the definitions in the Act.
- 3.2 **Clause 2** amends—
 - 3.2.1 section 4(1) of the Act by providing that the Provincial Minister also administer the assets acquired in terms of clause 22A of the Bill;
 - 3.2.2 section 4(2)(d) and (e) of the Act by adapting certain punctuation marks to accommodate the addition of another paragraph; and
 - 3.2.3 section 4(2) of the Act by adding paragraph (f), which adds the powers of acquisition and disposal of immovable property to the existing powers and duties of the Provincial Minister.
- 3.3 **Clause 3** amends section 16(5) of the Act to delete the reference to section 18, which is to be repealed by the Bill.
- 3.4 **Clause 4** amends section 22 of the Act to remove references and correct expressions replaced by the previous amendment of the Act.
- 3.5 **Clause 5** provides for the insertion of section 22A and 22B in the Act, to provide for both the acquisition and disposal of immovable properties for the purpose of housing development.

It is provided that immovable property may be acquired or disposed of in terms of a prescribed process that must be fair, equitable, transparent and cost-effective and, where practical, provide for a competitive bidding procedure and the publication of bids and awarding of bids in the *Provincial Gazette* and newspapers in general circulation in the Province and, if effective, other media.

This clause further provides that the Provincial Cabinet or Provincial Minister, as the case may be, may dispose of immovable property acquired for consideration that is less than the market value thereof or for no consideration in terms of the prescribed process. Such disposal will be subject to the Public Finance Management Act, 1999 (Act 1 of 1999), and after having considered the best interest of the Provincial Government and other factors provided for in the Bill.

When a disposal at consideration for less than the market value of the immovable property is approved, it must be approved after having considered certain criteria provided for in the Bill.

The Provincial Cabinet or Provincial Minister, as the case may be, must also in such instances impose a condition to provide for the immovable property to revert to the Provincial Government if the immovable property is no longer used for the purpose for which it was acquired. The Provincial Minister may consent to the use of the immovable property for another purpose.

When immovable property reverts to the Provincial Government, the person who previously held the immovable property will be compensated fairly by the Provincial Minister in accordance with prescribed factors.

The Provincial Minister must impose such a condition unless the conditions referred to in sections 10A and 10B of the Housing Act, 1997 (Act 107 of 1997), apply to the immovable property or the condition will hinder the intended use of the property.

- 3.6 **Clause 6** amends the Act by the substitution of the expression “Fund”, wherever it appears, with the expression “Provincial Revenue Fund”, except in sections 4(1)(d) and 22(10).
- 3.7 **Clause 7** provides for the disestablishment of the Fund.
- 3.8 **Clause 8** amends the Act by repealing sections 13, 14, 16(7), 17, 18 and 26 of the Act.
- 3.9 **Clause 9** amends the arrangement of the Act by deleting the references to the repealed sections and by inserting references to clauses 22A and 22B.
- 3.10 **Clause 10** amends the Act by substituting the long title of the Act to include the acquisition and disposal of immovable property for housing development.
- 3.11 **Clause 11** provides for savings and transitional arrangements to ensure that once the Bill is enacted money standing to the credit of or payable to the Fund will devolve upon the Provincial Revenue Fund, and that money that was advanced out of the Fund will be regarded as having been advanced out of the Provincial Revenue Fund.

Any reference in any other law to the Fund must be construed as a reference to the Provincial Revenue Fund.

It is required of the accounting officer of the Fund to finalise the financial statements of the Fund. Inspectors of the Department will still be authorised to conduct inspections in respect of land acquired by means of a loan or grant obtained from the Fund.

The Provincial Minister, or the accounting officer if so authorised by the Provincial Minister, may issue directives to give effect to this clause.

- 3.12 **Clause 12** contains the short title of the Bill and provides that the Bill, once enacted, will come into operation on a date determined by the Premier.

4. CONSULTATION

The Department of Transport and Public Works and the Provincial Treasury were consulted.

5. FINANCIAL IMPLICATIONS

Administrative costs pertaining to the implementation of this legislation once enacted will be covered within current budgets. The cost of publication of the Bill will also be covered within current budgets.

6. PERSONNEL IMPLICATIONS

Existing staff members of the Department will be responsible for the implementation of the Bill.

7. LEGISLATIVE COMPETENCE

The Provincial Minister is satisfied that all the provisions of the Bill fall within the legislative competence of the Province.

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vetdruk tussen vierkantige hake dui skappings uit
bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder dui invoegings in
bestaande verordenings aan.

WYSIGINGSWETSONTWERP

Om sekere nuwe omskrywings in te voeg, sekere omskrywings te wysig en om die omskrywing van “Fonds” te skrap; om voorsiening te maak vir die administrasie van onroerende eiendom wat ingevolge die Wet verkry is; om voorsiening te maak vir die verkryging van of beskikking oor onroerende eiendom vir behuisingsontwikkeling en die beskikking oor onroerende eiendom vir minder as die markwaarde behoudens sekere voorwaardes; om die uitdrukking “Fonds” met die uitdrukking “Provinsiale Inkomstefonds” te vervang; om die Wes-Kaapse Behuisingsontwikkelingsfonds af te skaf; om sekere artikels rakende die fonds te herroep; om voorsiening te maak vir voorbehoude en oorgangsmatreëls; om tekstuele verbeterings aan te bring en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Provinsiale Parlement van die Provinsie Wes-Kaap, soos volg:—

Wysiging van artikel 1 van Wet 6 van 1999, soos gewysig by artikel 1 van Wet 2 van 2005

1. Artikel 1 van die Wes-Kaapse Behuisingsontwikkingswet, 1999 (Wet 6 van 1999)(die Hoofwet), word gewysig—

(a) deur die omskrywing van “behuisingsontwikkeling” deur die volgende omskrywing te vervang:

“**‘behuisingsontwikkeling’** die totstandbrenging en instandhouding van bewoonbare, stabiele en volhoubare openbare en private residensiële omgewings om lewensvatbare huishoudings en gemeenskappe [**en sosiale geriewe**] te verseker in gebiede wat gerieflike toegang tot ekonomiese geleenthede en tot gesondheids-, opvoedkundige en sosiale geriewe toelaat, waarin alle burgers en permanente inwoners van die Provinsie op 'n progressiewe grondslag toegang sal hê tot—

(a) permanente residensiële strukture met sekerheid van besitreg, wat privaathed verseker en voldoende beskerming teen die elemente verskaf[,]; en
(b) drinkbare water, voldoende sanitêre geriewe en huishoudelike kragtoevoer;”;

(b) deur die volgende omskrywing na die omskrywing van “Behuisingswet” in te voeg:

“**‘beskik’**, met betrekking tot onroerende eiendom verkry ingevolge hierdie Wet, ook—

(a) verkoop;
(b) ruil;

25

- (c) skenking; 5
- (d) verhuur van onroerende eiendom, met inbegrip van die toekenning van onroerende eiendom vir 'n tydperk sonder teenprestasie;
- (e) die sluit van enige vorm van grondbeskikbaarheidsooreenkoms met enige persoon ten opsigte van onroerende eiendom;
- (f) die registrasie van enige saaklike of persoonlike reg ten opsigte van onroerende eiendom; en
- (g) die oordrag van grond na 'n plaaslike regering sonder teenprestasie;”;
- (c) deur die omskrywing van “Fonds” te skrap; 10
- (d) deur die volgende omskrywing voor die omskrywing van “Provinsiale Minister” in te voeg:
“ ‘Provinsiale Kabinet’ die Provinsiale Kabinet bedoel in artikel 42 van die Grondwet van die Wes-Kaap, 1997;”;
- (e) deur die omskrywing van “Province” in die Engelse teks te skrap waar dit voorkom en dit in die korrekte alfabetiese orde in te voeg; en 15
- (f) deur die volgende omskrywings na die omskrywing van “rekenpligtige beampte” in te voeg:
“ ‘teenprestasie’ ook enige saak, handeling, diens, onderneming, belofte, ooreenkoms of versekering met intrinsieke waarde; ‘verkry’, met betrekking tot onroerende eiendom, ook—
- (a) aankoop;
- (b) ruil;
- (c) ontvangs deur middel van skenking of bemaking;
- (d) huur van onroerende eiendom; 25
- (e) die sluit van enige vorm van grondbeskikbaarheidsooreenkoms; en
- (f) die registrasie van 'n saaklike of persoonlike reg;
‘voorskryf’ voorskryf by regulasie.’.

Wysiging van artikel 4 van Wet 6 van 1999, soos gewysig by artikel 3 van Wet 2 van 2005 30

2. Artikel 4 van die Hoofwet word gewysig—
- (a) deur paragraaf (i) van subartikel (1) deur die volgende paragraaf te vervang:
 “(i) moet die bates in [artikel] artikels 6 en 22A beoog, administreer.”;
- (b) deur paragrawe (d) en (e) van subartikel (2) deur die volgende paragrawe te vervang: 35
- “(d) ’n kode, wat as die Behuisingskode van die Provinsie bekend sal staan en op alle behuisingsontwikkeling in die Provinsie van toepassing is, publiseer op die wyse wat dienstig geag word; [en]
- (e) meganismes of instellings of albei instel of stig en kan sodanige meganismes en instellings asook bestaande instellings gebruik om te verseker dat behuising op ’n holistiese wyse behoorlik geïntegreer word met alle ander fasette van ontwikkeling[.]; en”;
- (c) deur die volgende paragraaf by subartikel (2) te voeg: 40
- “(f) ingevolge artikel 22A onroerende eiendom verkry en ingevolge artikel 22B oor onroerende eiendom sodanig verkry, beskik.” 45

Wysiging van artikel 16 van Wet 6 van 1999, soos gewysig by artikel 12 van Wet 2 van 2005

3. Artikel 16 van die Hoofwet word gewysig deur subartikel (5) deur die volgende subartikel te vervang: 50
- “(5) Vir die doeleindes van die administrasie beoog in subartikel (4) [**maar behoudens artikel 18,**] kan en moet ’n plaaslike regering die bevoegdhede en pligte van die Provinsiale Minister wat nodig is, uitoefen en verrig.”.

Wysiging van artikel 22 van Wet 6 van 1999, soos gewysig by artikel 16 van Wet 2 van 2005

4. Artikel 22 van die Hoofwet word gewysig—

(a) deur subartikel (5) deur die volgende subartikel te vervang:

“(5) Indien die Provinsiale Regering enige onroerende eiendom wil vervreem wat op hom oorgegaan het ingevolge artikel 6(2), uitgesonderd eiendom beoog in subartikel (1) tot (4), **[of enige eiendomme aangeskaf ingevolge artikel 7(1)(g) of (2)]** kan die Provinsiale Regering dit doen teen ’n redelike markwaarde, of indien dit nie moontlik is om daardie eiendom te vervreem teen ’n redelike markwaarde nie, moet dit vervreem word in die beste belang van die Provinsiale Regering teen ’n prys wat die Provinsiale Minister goedgekeur het.”; en

(b) deur in subartikels (9) en (10) en paragraaf (a) van subartikel (12) die uitdrukking “(voormalige) Provinsiale Regering” deur die woord “Raad” te vervang.

Invoeging van artikels 22A en 22B

5. Die Hoofwet word gewysig deur die volgende artikels na artikel 22 in te voeg:

“Verkryging van onroerende eiendom

22A. (1) Die Provinsiale Kabinet kan namens die Provinsiale Regering, op die bepalings en voorwaardes soos nodig kan wees, vir die doel van behuisingsontwikkeling onroerende eiendom met ’n markwaarde gelyk aan of hoër as die voorgeskrewe waarde verkry.

(2) Die Provinsiale Minister kan namens die Provinsiale Regering, op die bepalings en voorwaardes soos nodig kan wees, vir die doel van behuisingsontwikkeling onroerende eiendom met ’n markwaarde laer as die voorgeskrewe waarde beoog in subartikel (1) verkry.

(3) Wanneer onroerende eiendom ingevolge subartikel (1) of (2) aangeskaf word, moet die voorgeskrewe proses gevolg word.

(4) Die proses beoog in subartikel (3) moet regverdig, billik, deursigtig en kostedoeltreffend wees en, waar doenlik, voorsiening maak vir ’n mededingende tenderprosedure en die publikasie van tenders en toekenning van tenders in die *Provinsiale Koerant* en koerante in algemene omloop in die Provinsie en, indien doeltreffend, ander media.

(5) Onroerende eiendom wat kragtens hierdie artikel aangeskaf is wat geregistreer kan word, moet in die naam “Wes-Kaapse Provinsiale Regering” geregistreer word.

Beskikking oor aangeskafde onroerende eiendom

22B. (1) Die Provinsiale Kabinet kan namens die Provinsiale Regering, op die bepalings en voorwaardes soos nodig kan wees, vir die doel van behuisingsontwikkeling oor onroerende eiendom beskik wat ingevolge artikel 22A aangeskaf is met ’n markwaarde gelyk aan of hoër as die voorgeskrewe waarde.

(2) Die Provinsiale Minister kan namens die Provinsiale Regering, op die bepalings en voorwaardes soos nodig kan wees, vir die doel van behuisingsontwikkeling oor onroerende eiendom beskik wat ingevolge artikel 22A aangeskaf is met ’n markwaarde onder die voorgeskrewe waarde beoog in subartikel (1).

(3) Wanneer daar ingevolge subartikel (1) of (2) oor onroerende eiendom beskik word—

(a) moet die voorgeskrewe proses gevolg word;

(b) moet die onroerende eiendom vir ’n behuisingsontwikkelingsprojek ooreenkomstig nasionale en provinsiale behuisingsbeleid aangewend word; en

(c) moet ’n behuisingsontwikkelingsprojek vir daardie onroerende eiendom deur die Provinsiale Minister goedgekeur wees.

(4) Die proses beoog in subartikel (3)(a) moet regverdig, billik, deursigtig en kostedoeltreffend wees en, waar doenlik, voorsiening maak vir 'n mededingende tenderprosedure en die publikasie van tenders en toekenning van tenders in die *Provinsiale Koerant* en koerante in algemene omloop in die Provinsie en, indien doeltreffend, ander media. 5

(5) Behoudens die Wet op Openbare Finansiële Bestuur en subartikel (6) kan die Provinsiale Kabinet of die Provinsiale Minister, na gelang van die geval, teen 'n teenprestasie wat minder as die markwaarde is of teen geen teenprestasie nie, oor onroerende eiendom wat ingevolge artikel 22A aangeskaf is, beskik ingevolge die voorgeskrewe proses. 10

(6) Wanneer die beskikking oor 'n onroerende eiendom teen 'n teenprestasie van minder as die markwaarde daarvan, of teen geen teenprestasie nie, kragtens subartikel (5) goedgekeur word, moet dit goedgekeur word—

(a) nadat die volgende oorweeg is: 15

(i) die beste belang van die Provinsiale Regering en die gemeenskap;

(ii) die maatskaplikeontwikkelings- en sosio-ekonomiese doelwitte van die Provinsiale Regering;

(iii) die langtermyngevolge van die beskikking en die voordele vir die Provinsiale Regering; en 20

(iv) enige ander maatstawwe soos voorgeskryf kan word; en

(b) behoudens subartikel (8), op die voorwaarde dat indien die onroerende eiendom nie meer gebruik word vir die doel waarvoor dit aangeskaf is nie, die onroerende eiendom aan die Provinsiale Regering toeval, tensy die Provinsiale Minister toestem tot die gebruik van die onroerende eiendom vir 'n ander doel. 25

(7) Wanneer onroerende eiendom aan die Provinsiale Regering toeval soos beoog in subartikel (6)(b), moet die vorige eienaar van die onroerende eiendom deur die Provinsiale Regering vergoed word met 'n regverdigte bedrag bepaal deur die Provinsiale Minister ooreenkomstig voorgeskrewe faktore. 30

(8) Die Provinsiale Kabinet of Provinsiale Minister, na gelang van die geval, moet 'n voorwaarde beoog in subartikel (6)(b) oplê, tensy—

(a) die voorwaardes bedoel in artikels 10A en 10B van die Behuisingswet op die onroerende eiendom van toepassing sal wees; of 35

(b) die voorwaarde die beoogde gebruik van die eiendom sal verhoed.

(9) 'n Voorwaarde beoog in subartikel (6)(b) moet teen die titelakte van die onroerende eiendom geregistreer word. 40

(10) Die Provinsiale Minister moet die Registrateur van Aktes van die Provinsie, beoog in die Registrasie van Aktes Wet, 1937 (Wet 47 van 1937), skriftelik in kennis stel van 'n toestemming wat ingevolge subartikel (6)(b) gegee is, en die Registrateur van Aktes moet die titelakte van die onroerende eiendom dienoreenkomstig endosseer.’’ 45

Vervanging van uitdrukking in Wet 6 van 1999

6. Die Hoofwet word gewysig deur die uitdrukking “Fonds”, oral waar dit voorkom, deur die uitdrukking “Provinsiale Inkomstefonds” te vervang behalwe in artikels 4(1)(d) en 22(10) van die Hoofwet.

Afskaffing van Wes-Kaapse Behuisingsontwikkelingsfonds 50

7. Die Wes-Kaapse Behuisingsontwikkelingsfonds wat by artikel 13 van die Hoofwet ingestel is, word afgeskaf.

Herroeping van artikels 13, 14, 16(7), 17, 18 en 26 van Wet 6 van 1999

8. Artikels 13, 14, 16(7), 17, 18 en 26 van die Hoofwet word herroep.

Wysiging van Indeling van Wet

9. Die indeling van die Hoofwet word gewysig—

- (a) deur die verwysings na artikels 13, 14, 17, 18 en 26 te skrap; en
- (b) deur na die verwysing na artikel 22 die volgende items in te voeg:

“**22A. Verkryging van onroerende eiendom**

22B. Beskikking oor aangeskafde onroerende eiendom”.

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Vervanging van lang titel

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

“Om voorsiening te maak vir die afskaffing van die Wes-Kaapse Behuisingsontwikkelingsraad; om algemene beginsels wat op behuising in die Provinsie Wes-Kaap van toepassing is, te bepaal; om die rol van die provinsiale en plaaslike regeringsfeer in behuisingsontwikkeling te omskryf; om ’n Wes-Kaapse Behuisingsadviespaneel in te stel; om voorsiening te maak vir die verkryging van en beskikking oor onroerende eiendom vir behuisingsontwikkeling; om te verseker dat behuisingsontwikkeling op ’n holistiese wyse met alle ander fasette van ontwikkeling geïntegreer word; en om voorsiening te maak vir sake wat daarmee in verband staan.”.

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Voorbehoude en oorgangsmatreëls

11. (1) In hierdie artikel beteken—

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“**Fonds**” die Wes-Kaapse Behuisingsontwikkelingsfonds wat by artikel 13 van die Hoofwet ingestel is voor sy afskaffing ingevolge hierdie Wet;

“**Provinsiale Inkomstefonds**” die Provinsiale Inkomstefonds vir die Provinsie bedoel in artikel 226 van die Grondwet van die Republiek van Suid-Afrika, 1996;

“**Provinsiale Kabinet**” die Provinsiale Kabinet bedoel in artikel 42 van die Grondwet van die Wes-Kaap, 1997;

“**Provinsiale Minister**” die lid van die Provinsiale Kabinet verantwoordelik vir behuising;

“**rekenpligtige beampte**” die rekenpligtige beampte van die Fonds soos beoog in die Hoofwet.

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(2) Alle geld wat—

(a) onmiddellik voor die inwerkingtreeding van hierdie Wet tot krediet van die Fonds gestaan het, gaan oor op die Provinsiale Inkomstefonds;

(b) onmiddellik voor die inwerkingtreeding van hierdie Wet aan die Fonds betaalbaar was, is betaalbaar aan die Provinsiale Inkomstefonds;

35

(c) by of na die inwerkingtreeding van hierdie Wet betaalbaar sou word aan of wat tot die krediet sou wees van die Fonds indien dit nie vir die afskaffing van die Fonds by artikel 7 was nie, sal betaalbaar word aan die Provinsiale Inkomstefonds; en

(d) uit die Fonds voorgeskiet is, word geag uit die Provinsiale Inkomstefonds voorgeskiet te wees.

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(3) Enige verwysing in enige ander wet na die Fonds moet vertolk word as ’n verwysing na die Provinsiale Inkomstefonds.

(4) Ondanks die afskaffing van die Fonds by artikel 7 van hierdie Wet en die herroeping van artikel 14 van die Hoofwet moet die rekenpligtige beampte die finansiële state beoog in artikel 14(1)(f) van die Hoofwet voorberei en aan die Provinsiale Minister voorlê ten opsigte van die tydperk vanaf die einde van die onmiddellik voorafgaande boekjaar ten opsigte waarvan state voorgelê is tot die dag wat hierdie Wet in werking tree.

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(5) Ondanks die afskaffing van die Fonds by artikel 7 van hierdie Wet kan ’n persoon gemagtig ingevolge artikel 23 van die Hoofwet die bevoegdhede en pligte beoog in daardie artikel van die Hoofwet uitoefen en verrig ten opsigte van grond wat aangeskaf is deur middel van ’n lening of toekenning ontvang van die Fonds.

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(6) Die Provinsiale Minister, of die rekenpligtige beampte indien aldus gemagtig deur die Provinsiale Minister, kan voorskrifte uitreik om aan hierdie artikel uitvoering te gee.

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Kort titel en inwerkingtreding

12. Hierdie Wet heet die Wes-Kaapse Behuisingsontwikkelingswysigingswet, 2017, en tree in werking op 'n datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal.

MEMORANDUM OOR DIE OOGMERKE VAN DIE WES-KAAPSE BEHUISINGSONTWIKKELINGSWYSIGINGSWETSONTWERP, 2017

1. AGTERGROND

- 1.1 Die Wes-Kaapse Behuisingsontwikkingswet, 1999 (Wet 6 van 1999)(die Wet), het op 1 Januarie 2000 in werking getree en is gewysig by die Wes-Kaapse Behuisingsontwikkingswysigingswet, 2005 (Wet 2 van 2005).
- 1.2 Die Wes-Kaapse Departement van Menslike Nedersettings (die Departement) het sedertdien 'n aantal tekortkominge in die Wet geïdentifiseer wat uit die weg geruim moet word.
- 1.3 Die Provinsiale Kabinet het daarom goedkeuring in beginsel verleen om voort te gaan met die opstel van die Wes-Kaapse Behuisingsontwikkingswysigingswetsontwerp, 2017 (die Wetsontwerp), om die Wet te wysig.

2. OOGMERKE VAN WETSONTWERP

- 2.1 Die doel van die Wetsontwerp is om—
 - 2.1.1 voorsiening te maak vir die verkryging van of beskikking oor onroerende bates vir die doel van behuisingsontwikkeling; en
 - 2.1.2 die Wes-Kaapse Behuisingsontwikkingsfonds (die Fonds), ingestel by artikel 13 van die Wet, af te skaf en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

3. INHOUD VAN WETSONTWERP

- 3.1 **Klousule 1** wysig die omskrywings in die Wet deur die omskrywing van “behuisingsontwikkeling” te vervang, deur die omskrywings “beskik”, “teenprestasie”, “verkry” en “voorskryf” in te voeg en deur die verkeerde volgorde van die omskrywings in die Engelse Wet reg te stel.
- 3.2 **Klousule 2** wysig—
 - 3.2.1 artikel 4(1) van die Wet deur te bepaal dat die Provinsiale Minister ook die bates kan administreer wat ingevolge artikel 22A van die Wetsontwerp aangeskaf word;
 - 3.2.2 artikel 4(2)(d) en (e) van die Wet deur sekere leestekens aan te pas om plek te maak vir die byvoeging van nog 'n paragraaf; en
 - 3.2.3 artikel 4(2) van die Wet deur paragraaf (f) by te voeg, wat die bevoegdhede van verkryging van en beskikking oor onroerende eiendom by die bestaande bevoegdhede en pligte van die Provinsiale Minister voeg.
- 3.3 **Klousule 3** wysig artikel 16(5) van die Wet om die verwysing na artikel 18 te skrap, wat deur die Wetsontwerp herroep staan te word.
- 3.4 **Klousule 4** wysig artikel 22 van die Wet om verwysings te verwyder en uitdrukings wat deur die vorige wysiging van die Wet vervang is, reg te stel.
- 3.5 **Klousule 5** maak voorsiening vir die invoeging van artikel 22A en 22B in die Wet, om voorsiening te maak vir beide die verkryging van en beskikking oor onroerende eiendomme vir die doel van behuisingsontwikkeling.

Dit word bepaal dat onroerende eiendom aangeskaf kan word of oor beskik kan word ingevolge die voorgeskrewe proses wat regverdig, billik, deursigtig en kostedoeltreffend moet wees en, waar doenlik, voorsiening maak vir 'n mededingende tenderprosedure en die publikasie van tenders en toekenning

van tenders in die *Provinsiale Koerant* en koerante in algemene omloop in die Provinsie en, indien doeltreffend, ander media.

Hierdie klousule bepaal verder dat die Provinsiale Kabinet of Provinsiale Minister, na gelang van die geval, oor onroerende eiendom wat aangeskaf is teen 'n teenprestasie wat minder is as die markwaarde daarvan of teen geen prestasie nie, kan beskik ingevolge die voorgeskrewe proses. Sodanige beskikking sal onderworpe wees aan die Wet op Openbare Finansiële Bestuur, 1999 (Wet 1 van 1999), en na oorweging van die beste belang van die Provinsiale Regering en ander faktore waarvoor die Wetsontwerp voorsiening maak.

Wanneer 'n beskikking teen 'n teenprestasie van minder as die markwaarde goedgekeur word, moet dit goedgekeur word na oorweging van sekere maatstawwe waarvoor die Wetsontwerp voorsiening maak.

Die Provinsiale Kabinet of Provinsiale Minister, na gelang van die geval, moet ook in sulke gevalle 'n voorwaarde oplê om voorsiening te maak vir die onroerende eiendom om aan die Provinsiale Regering toe te val indien die onroerende eiendom nie meer gebruik word vir die doel waarvoor dit aangeskaf is nie. Die Provinsiale Minister kan toestem tot die gebruik van die onroerende eiendom vir 'n ander doel.

Wanneer onroerende eiendom aan die Provinsiale Regering toeval, sal die persoon wat voorheen die onroerende eiendom besit het, regverdig vergoed word deur die Provinsiale Minister ooreenkomstig die voorgeskrewe faktore.

Die Provinsiale Minister moet so 'n voorwaarde oplê, tensy die voorwaardes bedoel in artikel 10A en 10B van die Behuisingswet, 1997 (Wet 107 van 1997), van toepassing is op die onroerende eiendom of die voorwaarde die voorgenome gebruik van die eiendom sal verhinder.

- 3.6 **Klousule 6** wysig die Wet deur die vervanging van die uitdrukking “Fonds”, oral waar dit voorkom, deur die uitdrukking “Provinsiale Inkomstefonds”, behalwe in artikels 4(1)(d) en 22(10).
- 3.7 **Klousule 7** maak voorsiening vir die afskaffing van die Fonds.
- 3.8 **Klousule 8** wysig die Wet deur artikels 13, 14, 16(7), 17, 18 en 26 van die Wet te herroep.
- 3.9 **Klousule 9** wysig die indeling van die Wet deur die verwysings na die herroepe artikels te skrap en deur nuwe verwysings na klousules 22A en 22B in te voeg.
- 3.10 **Klousule 10** wysig die Wet deur die lang titel van die Wet te vervang om die verkryging van en beskikking oor onroerende eiendom vir behuisingsontwikkeling in te sluit.
- 3.11 **Klousule 11** maak voorsiening vir voorbehoude en oorgangsmatreëls om toe te sien dat wanneer die Wetsontwerp in werking tree, geld wat tot krediet van of betaalbaar aan die Fonds is, aan die Provinsiale Inkomstefonds sal toeval en dat geld wat uit die Fonds voorgeskiet is, geag sal word as dat dit uit die Provinsiale Inkomstefonds voorgeskiet is.

Enige verwysing in enige ander wet na die Fonds moet uitgelê word as 'n verwysing na die Provinsiale Inkomstefonds.

Dit word van die rekenpligtige beampte van die Fonds vereis om die finansiële state van die Fonds af te sluit. Inspekteurs van die Departement sal steeds gemagtig wees om inspeksies te doen ten opsigte van grond wat aangeskaf is deur middel van 'n lening of toekenning afkomstig van die Fonds.

Die Provinsiale Minister, of die rekenpligtige beampte indien aldus gemagtig deur die Provinsiale Minister, kan voorskrifte uitreik om aan hierdie klousule uitvoering te gee.

3.12 **Klousule 12** bevat die kort titel van die Wetsontwerp en bepaal dat die Wetsontwerp, wanneer dit eers verorden is, in werking sal tree op 'n datum wat die Premier bepaal.

4. OORLEGPLEGING

Die Departement van Vervoer en Openbare Werke en die Provinsiale Tesourie is geraadpleeg.

5. FINANSIËLE IMPLIKASIES

Administratiewe kostes met betrekking tot die implementering van hierdie wetgewing wanneer dit eers verorden is, sal gedek word binne die lopende begrotings. Die koste van publikasie van die Wetsontwerp sal ook binne lopende begrotings gedek word.

6. PERSONEELIMPLIKASIES

Bestaande personeellede van die Departement sal vir die implementering van die Wetsontwerp verantwoordelik wees.

7. WETGEWENDE BEVOEGDHEID

Die Provinsiale Minister is tevrede dat al die bepalings van die Wetsontwerp binne die wetgewende bevoegdheid van die Provinsie ressorteer.

AMAGQABANTSHINTSHI ACACISAYO:

[] Amagama abhalwe ngqindilili akwizikwere abonisa oko kucinyiweyo kwimithetho ekhoyo.

_____ Amagama akrwelwe ngomgca ongqindilili abonisa oko kufakelweyo kwimithetho ekhoyo.

UMTHETHO OSAYILWAYO WOLUNGISO

Ukufakela iinkcazelo ezintsha, ukwenza izilungiso kwiinkcazelo ezithile nokucima inkcazelo yegama elithi “iNgxowa-mali”; ukwenza imiqathango yolawulo lwepropati engenakufuduswa efunyenwe ngokwemiqathango yalo Mthetho; ukwenza imiqathango yokufunyanwa nokunikezwa kwepropati engenakufuduswa ukulungiselela ulwakhiwo lwezindlu nokunikezwa kwepropati engenakufuduswa engaphantsi kwexabiso lemakethi ngokuxhomekeke kwimiqathango ethile; ukufaka endaweni yegama elithi, “iNgxowa-mali”, fakela ibinzana elithi, “iNgxowa-mali yeNgeniso yePhondo”; ukuchitha iNgxowa-mali yoPhuhliso lwezeZindlu yeNtshona Koloni; ukutshitshisa amacandelo athile anento yokwenza neNgxowa-mali; ukufaka imiqathango yotshintsho neyamalungiselelo ethutyana; ukuphumeza uphuculo lwetekisi kunye nokubonelela ngemiba ehambelana nale ikhankanyiweyo.

MAWUPHUNYEZWE yiPalamente yePhondo leNtshona Koloni ngolu hlobo lulandelayo:—

Ukwenziwa kwezilungiso kwicandelo 1 loMthetho 6 ka-1999, njengoko lenziwe izilungiso licandelo 1 loMthetho 2 ka-2005

1. Icandelo 1 loMthetho woPhuhliso lweZindlu waseNtshona Koloni, 1999 5
(uMthetho 6 ka-1999) (uMthetho-ngqangi), lenziwa izilungiso—

(a) ngokufakela emva kwenkcazelo ye“gosa elinika inkcaza” kwale nkcazelo ilandelayo:

“**‘ukufumana’, ipropati engenakufuduswa, kubandakanya—**

- | | |
|--|----|
| (a) ukuthenga; | 10 |
| (b) ukutshitshisa; | |
| (c) ukufumana ngokuphiwa okanye ngokufumana ilifa; | |
| (d) ukurentisa ipropati engenakufuduswa; | |
| (e) ukugqitywa kwaso nasiphi isigqibo ngawo nawuphi umhlaba ofumanekayo; kunye | |
| (f) <u>nokubhaliswa kwalo naliphi ilungelo;</u> ” | |

(b) ngokufakela emva kwenkcazelo yegama “iKhowudi” le nkcazelo ilandelayo:

“**‘ingqwalasela’ ibandakanya nantoni na, nasiphi isenzo, inkonzo, isigqibo, isithembiso, isivumelwano okanye ingqinisekiso ebalulekileyo;**”;

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- (c) ngokufakela emva kwenkcazelo yegama “iSebe” le nkcazelo ilandelayo:
 “**‘ukunikeza’**, ipropati engenakufuduswa efunyenwe ngokwalo
Mthetho, kubandakanya—
 (a) ukuthengisa;
 (b) ukutshitshisa;
 (c) ukuphisa;
 (d) ukurentisa ngepropati engenakufuduswa, kubandakanya ukunikeza
 ngepropati engenakufuduswa kunganikwanga ngqwalasela
 yesithuba sexesha;
 (e) ukugqitywa kwaso nasiphi isigqibo ngawo nawuphi umhlaba
 ofumanekayo kunye nomntu malunga nepropati engenakufuduswa;
 (f) ukubhaliswa kwalo naliphi ilungelo elimalunga nepropati engena-
 kufuduswa; kunye
 (g) nokunikezwa komhlaba kurhulumente wommandla kunganikwa-
 nga ngqwalasela yanto;”;
 (d) ngokucinywa kwenkcazelo yegama “iNgxowa-mali”;
 (e) ngokuthi kutshintshwe inkcazelo ethi “uphuhliso lwezindlu” ze kufakwe le
 nkcazelo ilandelayo:
 “**‘uphuhliso lwezindlu’** luthetha umiselo nokukhathalelwa kweendawo
 zokuhlala ezikwaziyo ukuhlaleka nezizinzileyo zikarhulumente
 nezamashishini abucala ukuqinisekisa ukuba iintsapho zifumana izindlu
 neendawo zasekuhlaleni [**nezibonelelo zoluntu**] kwimimandla eyenza
 ukuba abantu bafikelele kumathuba oqoqosho, nezibonelelo zempilo,
 ezemfundo nezentlalo apho bonke abemi nabahlali abasisigxina
 bephondo baya kuthi bakwazi ukufikelela—
 (a) kwizindlu zokuhlala ezisisigxina ezikhuselekileyo, nalapho umntu
 anokuziphilela khona ubomi bakhe phantsi kokhuseleko
 olwaneleyo; kunye
 (b) nakumanzi aselekayo, izibonelelo zokuhlamba nezococo
 nombane wasemakhaya;”;
 (f) ngokufakela emva kwenkcazelo “inkqubo yobonelelo ngezindlu yesizwe”
 ezi nkcazelo zilandelayo:
 “**‘ukumisela’** kuthetha ukumisela ngomgaqo;
‘iPhondo’ lithetha iPhondo leNtshona Koloni;
‘iKhabhinethi yePhondo’ ithetha iKhabhinethi yePhondo ekubhekiswe
 kuyo kwicandelo 42 loMgaqosiseko weNtshona Koloni, 1997;”;
 (g) nokucima inkcazelo ye“Phondo” apho ikhoyo emva kwenkcazelo ethi
 “inkqubo yobonelelo ngezindlu yephondo”.

**Ukwenziwa kwezilungiso kwicandelo 4 loMthetho 6 ka-1999, njengoko lenziwe
 izilungiso licandelo 3 loMthetho 2 ka-2005**

2. Icandelo 4 loMthetho-ngqangi lenziwa izilungiso—
 (a) ngokuthi kutshintshwe umhlathi (i) wecandelwana (1) ze kufakwe lo mhlathi
 ulandelayo:
 “(i) kufuneka alawule ii-asethi ezichazwe [**kwicandelo**] kumacandelo 6
 no-22A.”;
 (b) ngokuthi kutshintshwe imihlathi (d) no-(e) yecandelwana (2) ze kufakwe le
 mihlathi ilandelayo:
 “(d) apapashe, ngendlela anokukwazi ngayo, umgaqo (*ikhowudi*) eya
 kwaziwa njengeHousing Code of the Province, eya kusebenza kulo
 lonke uphuhliso lwezindlu kwiPhondo; [**yaye**]
 (e) amisele iinkqubo namaziko okanye angasebenzisa ezo nkqubo
 okanye loo maziko akhoyo ukuqinisekisa ukuba ubonelelo
 ngezindlu luhlanganiswa ngendlela eyiyo nazo zonke ezinye izinto
 eziyinxalenye yophuhliso ngokupheleleyo [**.]; yaye**”;
 (c) nokongezwa kwecandelwana (2) lalo mhlathi ulandelayo:
 “(f) kufunyanwe ipropati engenakufuduswa ngokwecandelo 22A yaye
 kunikezwe ngepropati engenakufuduswa efunyenwe ngokwe-
 candelo 22B.”.

Ukwenziwa kwezilungiso kwicandelo 16 loMthetho 6 ka-1999, njengoko lenziwe izilungiso licandelo 12 loMthetho 2 ka-2005

3. Icandelo 16 loMthetho-ngqangi lenziwa izilungiso ngokuthi endaweni yecandelwana (5) kufakwe eli candelwana lilandelayo:

“(5) Ukulungiselela ulawulo oluxelwe kwicandelwana (4), [kodwa **kuxhomekeke kwicandelo 18**], urhulumente wemimandla angawasebenzisa amagunya yaye kufuneka enze loo misebenzi uMphathiswa wePhondo athi iyimfuneko.”

Ukwenziwa kwezilungiso kwicandelo 22 loMthetho 6 ka-1999, njengoko lenziwe izilungiso licandelo 16 loMthetho 2 ka-2005

4. Icandelo 22 loMthetho-ngqangi lenziwa izilungiso—

(a) ngokuthi endaweni yecandelwana (5) kufakwe eli candelwana lilandelayo:

“(5) Ukuba uRhulumente wePhondo ufuna ukuhlutha nayiphi ipropati engenakufuduswa ephunyeziweyo ngokwemiqathango yecandelo 6(2), ngaphandle kwepropati exelwe kumacandelwana (1) ukuya ku-(4) [okanye naziphi iipropati ezifunyenwe ngokwemiqathango yecandelo 7(1)(g) okanye (2)], uRhulumente wePhondo angakwenza oko ngexabiso elifanelekileyo lemakethi, okanye ukuba akukwazeki ukuba loo propati ithathwe ngexabiso elifanelekileyo lemakethi, kufuneka ithathwe nguRhulumente wePhondo ngexabiso elamkelwe nguMphathiswa wePhondo.”; yaye

(b) ngokuthi kutshintshwe kumacandelwana (9) no-(10) nomhlathi (a) wecandelwana (12) kwibinzana “uRhulumente wePhondo (*wangaphambili*)” kwegama elithi “iBhodi”.

Ukufakelwa kwamacandelo 22A no-22B

5. UMthetho-ngqangi wenziwa izilungiso ngokufakela emva kwecandelo 22 ala macandelo alandelayo:

“Ukufunyanwa kwepropati engenakufuduswa

22A. (1) IKhabhinethi yePhondo ingathi egameni loRhulumente wePhondo, ngokwemiqathango enikiweyo efunekayo, ukulungiselela uphuhliso lwezindlu, ifumane ipropati engenakufuduswa enxabiso lemakethi elilingana okanye elingaphezulu kwelo libekiweyo.

(2) UMphathiswa wePhondo angathi egameni loRhulumente wePhondo, ngokwemiqathango enikiweyo efunekayo, ukulungiselela uphuhliso lwezindlu ifumane ipropati engenakufuduswa enxabiso lemakethi elingaphantsi kwelo libekiweyo elixelwe kwicandelwana (1).

(3) Xa ipropati engenakufuduswa ifunyenwe ngokwecandelwana (1) okanye (2), kufuneka kulandelwe inkqubo ebekiweyo.

(4) Inkqubo exelwe kwicandelwana (3) kufuneka ibe nobulungisa, yenziwe elubala yaye ibe neendleko eziphantsi yaye, apho kunokwenzeka, kubekho inkqubo yokufaka iithenda, ipapashwe yaye nabaziphumeleleyo iithenda ezo bapapashwe *kwiGazethi yePhondo* nakumaphaphandaba akhoyo kwiPhondo lonke, yaye ukuba kunokwenzeka, kupapashwe nakwamanye amajelo eendaba.

(5) Ipropati engenakufuduswa efunyenwe phantsi kweli candelo enokubhaliseka, kufuneka ibhaliswe ngegama “loRhulumente wePhondo leNtshona Koloni.

Ukunikezwa kwepropati engenakufuduswa efunyenweyo

22B. (1) IKhabhinethi yePhondo ingathi egameni loRhulumente wePhondo, ngokwemiqathango enikiweyo efunekayo, ukulungiselela uphuhliso lwezindlu, inikeze ngepropati engenakufuduswa efunyenwe ngokwecandelo 22A enxabiso lemakethi elilingana okanye elingaphezulu kwelo libekiweyo.

- (2) UMphathiswa wePhondo angathi egameni loRhulumente wePhondo, ngokwemiqathango enikiweyo efunekayo, ukulungiselela uphuhliso lwezindlu anikeze ngepropati engenakufuduswa efunyenwe ngokwecandelo 22A enxabiso lemakethi elingaphantsi kwelo libekiweyo elixelwe kwicandelwana (1). 5
- (3) Xa ipropati engenakufuduswa inikezelwe ngokwecandelwana (1) okanye (2)—
- (a) kufuneka kulandelwe inkqubo ebekiweyo;
- (b) ipropati engenakufuduswa kufuneka isetyenziselwe iprojekthi yophuhliso lwezindlu ngokuhambelana nomgaqo-nkqubo wobonelelo ngezindlu wesizwe nowephondo; yaye 10
- (c) iprojekthi yophuhliso lwezindlu yaloo propati ingenakufuduswa kufuneka yamkelwe nguMphathiswa wePhondo.
- (4) Inkqubo exelwe kwicandelwana (3)(a) kufuneka ibe nobulungisa, yenziwe elubala yaye ibe neendleko eziphantsi yaye, apho kunokwenzeka, kubekho inkqubo yokufaka iithenda yaye ipapashwe yaye nokunikezwa kweethenda ezo kupapashwe *kwiGazethi yePhondo* nakumaphephandaba akhoyo kwiPhondo lonke, yaye ukuba kunokwenzeka, kupapashwe nakwamanye amajelo eendaba. 15
- (5) Kuxhomekeke kumthetho iPublic Finance Management Act necandelwana (6), iKhabhinethi yePhondo okanye uMphathiswa wePhondo, ngokwemeko leyo, anganikeza ngepropati engenakufuduswa efunyenwe ngokwecandelo 22A ukuba iqwalaselwe ngaphantsi kwexabiso layo lemakethi okanye ingaqwalaselwa ngokwenkqubo ebekiweyo. 20
- (6) Xa unikezelo lwepropati engenakufuduswa luqwalaselwe ngaphantsi kwexabiso layo lemakethi, okanye lunganikwanga ngqwalasela, lwamkelwe ngokwecandelwana (5), kufuneka loo propati yamkelwe—
- (a) emva kokuba kuqwalaselwe ezi zinto zilandelayo: 30
- (i) loo nto yenziwayo imlungele uRhulumente wePhondo ilulungele noluntu;
- (ii) uphuhliso lwentlalo neenjongo zezentlalo nezozoqoqosho zoRhulumente wePhondo;
- (iii) zakuthini iziphumo zexesha elide lwakube lwenziwe unikezelo lwepropati leyo, isaya kuba yintoni yona inzuzo kuRhulumente wePhondo; kunye 35
- (iv) nayo nayiphi enye inkqubo enokubekwa; yaye
- (b) kuxhomekeke kwicandelwana (8), ngomqathango othi ukuba ipropati engenakufuduswa ayisasetyenziselwa injongo eyayifunyanelwe yona, mayibuyele kuRhulumente wePhondo ngokomyalelo woMphathiswa wePhondo, ngaphandle kokuba uMphathiswa wePhondo uyavuma ukuba ipropati engenakufuduswa leyo ingasetyenziselwa enye injongo. 40
- (7) Xa ipropati engenakufuduswa ibuyiselwa kuRhulumente wePhondo njengoko kuxelwe kwicandelwana (6)(b), umnini wepropati engenakufuduswa wangaphambili kufuneka abuyekezwe nguRhulumente wePhondo imali efanelekileyo egqitywe nguMphathiswa wePhondo ngokuhambelana nemiba ebekiweyo. 45
- (8) IKhabhinethi yePhondo okanye uMphathiswa wePhondo, ngokwemeko leyo, makanyanzelise umqathango oxelwe kwicandelwana (6)(b) ngaphandle kokuba—
- (a) imiqathango ekubhekiswe kuyo kumacandelo 10A no-10B eHousing Act iya kusebenza kwipropati engenakufuduswa; okanye 50
- (b) umqathango uya kuthintela injongo ebekujoliswe kuyo ngale propati. 55
- (9) Umqathango oxelwe kwicandelwana (6)(b) kufuneka ubhalwe kwitayitile yobunini-propati engenakufuduswa.
- (10) UMphathiswa wePhondo kufuneka azise iRejistra yoBunini-Propati yePhondo echazwe kumthetho iDeeds Registries Act, 1937 (uMthetho 47 ka-1937), ngembalelwano malunga nemvume enikezwe kulandelwa icandelwana (6)(b), yaye iRejistra yoBunini-propati 60

kufuneka ibhalise iimpepha zobunini-propati engenakufuduswa ngolo hlobo.”.

Ukutshintshwa kwegama elikuMthetho 6 ka-1999

6. UMthetho-ngqangi wenziwa izilungiso ngokuthi kutshintshwe igama elithi “iNgxowa-mali”, kwindawo nganye elikuyo, ze kufakwe ibinzana “iNgxowa-mali yeNgeniso yePhondo”, ngaphandle kwakumacandelo 4(1)(d) no-22(10) oMthetho-ngqangi. 5

Ukuchithwa kweNgxowa-mali yoPhuhliso lweZindlu yeNtshona Koloni

7. INgxowa-mali yoPhuhliso lweZindlu yeNtshona Koloni eyamiselwa ngokwecandelo 13 loMthetho-ngqangi iyachithwa. 10

Ukutshitshiswa kwamacandelo 13, 14, 16(7), 17, 18 no-26 oMthetho 6 ka-1999

8. Amacandelo 13, 14, 16(7), 17, 18 no-26 oMthetho-ngqangi ayatshitshiswa.

Ukwenziwa kwezilungiso kuLandelwaniso loMthetho

9. Ulandelelwaniso loMthetho-ngqangi lwenziwa izilungiso—
 (a) ngokucinywa kwezinto ezibhekisa kumacandelo 13, 14, 17, 18 no-26; kunye 15
 (b) nangokufakela emva kobhekiso kwicandelo 22 lwale miba ilandelayo:
“22A. Ukufunyanwa kwepropati engenakufuduswa
22B. Ukunikezwa kwepropati engenakufuduswa efunyenweyo”.

Ukutshintsha isihloko eside

10. Esi sihloko side silandelayo singena endaweni yesihloko eside soMthetho-ngqangi: 20

“Ukubonelela ngotshitshiso lweBhodi yoPhuhliso lweZindlu yaseNtshona Koloni; ukugqiba ngemithetho-siseko gabalala esebenza kubonelelo ngezindlu kwiPhondo leNtshona Koloni; ukuchaza indima yamanqwanqwa orhulumente wephondo nowemimandla kuphuhliso lwezindlu; ukumisela iPhaneli yokuCebisa ngeMiba yezeZindlu yaseNtshona Koloni; ukwenza imiqathango yokufumana nokunikeza ngepropati engenakufuduswa ukulungiselela uphuhliso lwezindlu; ukuqinisekisa ukuba uphuhliso lwezindlu luhlanganiswa nazo zonke ezinye izinto eziyinxalenye yophuhliso olupheleleyo, nokubonelela ngemiba ehambelana nale ikhankanyiweyo.”. 25 30

Utshintsho namalungiselelo ethutyana

11. (1) Kweli icandelo—
“igosa elinika inkcaza” lithetha igosa elinika inkcaza leNgxowa-mali elichazwe kuMthetho-ngqangi; 35
“iNgxowa-mali” ithetha iNgxowa-mali yoPhuhliso lweZindlu yeNtshona Koloni emisewe ngokwecandelo 13 loMthetho-ngqangi phambi kokuchithwa kwayo ngokwalo Mthetho;
“iKhabhinethi yePhondo” ithetha iKhabhinethi yePhondo ekubhekiswe kuyo kwicandelo 42 loMgaqosiseko weNtshona Koloni, 1997; 40
“uMphathiswa wePhondo” uthetha ilungu leKhabhinethi yePhondo elijongene nobonelelo lwezindlu;
“INgxowa-mali yeNgeniso yePhondo” ithetha iNgxowa-mali yeNgeniso yePhondo ekubhekiswe kuyo kwicandelo 226 loMgaqosiseko weRiphabliki yoMzantsi Afrika, 1996. 45
 (2) Yonke imali ethe—
 (a) phambi ngqo kokuqala kwalo Mthetho yaba yikhredithi yeNgxowa-mali ingena kwiNgxowa-mali yeNgeniso yePhondo;
 (b) phambi ngqo kokuqala kwalo Mthetho ebekufuneka ihlawulwe kwiiNgxowa-mali, kufuneka ihlawulwe kwiNgxowa-mali yeNgeniso yePhondo; 50

- (c) ekuqaleni okanye emva kokuqala kwalo Mthetho ngeba ihlawulwe kwiNgxowa-mali ukuba ibingachithwanga iNgxowa-mali licandelo 7, kufuneka ihlawulwe kwiNgxowa-mali yeNgeniso yePhondo; kananjalo
- (d) ebikhutshwe kwiNgxowa-mali ithathwa njengebikhutshwe kwiNgxowa-mali yeNgeniso yePhondo. 5

(3) Nantoni ebhekisa kwiNgxowa-mali kweminye imithetho mayithathwe ngokuba ibhekisa kwiNgxowa-mali yeNgeniso yePhondo.

(4) Noxa ichithiwe iNgxowa-mali licandelo 7 lalo Mthetho notshitshiso olwenziwa licandelo 14 loMthetho-ngqangi, igosa elinika inkcaza kufuneka lilungise ze lingenise kuMphathiswa wePhondo iingxelo zemali ezixelwe kwicandelo 14(1)(f) loMthetho- 10 ngqangi zesithuba esisuka ekupheleni konyakamali ophambi konyakamali ekungeniswe ngawo iingxelo ukuya kutsho kumhla wokuqala kokusebenza kwalo Mthetho.

(5) Noxa ichithiwe iNgxowa-mali licandelo 7 lalo Mthetho, umntu ogunyazisiweyo ngokwecandelo 23 loMthetho-ngqangi angasebenzisa amagunya akhe ze enze umsebenzi wakhe oxelwe kwicandelo loMthetho-ngqangi kumba womhlaba ofunyenwe 15 ngetyala okanye ngegranti yeNgxowa-mali.

(6) UMphathiswa wePhondo, okanye igosa elinika inkcaza xa ligunyazisiwe nguMphathiswa wePhondo, lingakhupha imiyalelo yokusetyenziswa kweli candelo.

Isihloko esifutshane nokuqala kokusebenza

12. Lo Mthetho ubizwa ngokuba nguMthetho woLungiso kuPhuhliso lwezeZindlu 20 weNtshona Koloni, 2017, yaye uya kuqala ukusebenza ngomhla ogqitywe yiNkulumbuso ngokuthi yenze umpoposho kwi*Gazethi yePhondo*.

**IMEMORANDAM YEENJONGO ZOMTHETHO OSAYILWAYO
WOLUNGISO KUPHHLISO LWEZEZINDLU WASENTSHONA
KOLONI, 2017**

1. IMVELAPHI

- 1.1 UMthetho woPhuhliso lwezeZindlu waseNtshona Koloni, 1999 (uMthetho 6 ka-1999) (uMthetho), waqala ukusebenza ngowe-1 kweyoMqungu 2000 waze wenziwa izilungiso nguMthetho woLungiso kuPhuhliso lwezeZindlu waseNtshona Koloni, 2005 (uMthetho 2 ka-2005).
- 1.2 ISebe lokuHlaliswa koLuntu laseNtshona Koloni (iSebe) lifumanise ukuba kukho amakhwiniba ekufuneka ehoyiwe kulo Mthetho.
- 1.3 IKhabhinethi yePhondo ngoko inikeze imvume yokuba kuqhutyekwe kuqulunqwe uMthetho oSayilwayo woLungiso kuPhuhliso lwezeZindlu waseNtshona Koloni, 2017 (uMthetho oSayilwayo), ukwenza izilungiso kuMthetho.

2. IINJONGO ZOMTHETHO OSAYILWAYO

- 2.1 Injongo yalo Mthetho uSayilwayo—
 - 2.1.1 kukwenza imiqathango evumela ukuba ii-asethi ezingenakufuduswa zifunyanwe okanye zinikezelwe ngeenjongo zophuhliso lwezindlu; kunye
 - 2.1.2 nokuchitha iNgxowa-mali yoPhuhliso lwezeZindlu yeNtshona Koloni (iNgxowa-mali), emiselwe licandelo 13 loMthetho, nokubonelela ngemiba ehambelana nale ikhankanyiweyo.

3. IZINTO EZIQULATHWE NGUMTHETHO OSAYILWAYO

- 3.1 **Isoloty 1** lenza izilungiso kwiinkcazelo ezikuMthetho ngokufaka iinkcazelo zala magama, “ukufumana”, “ingqwalasela”, “nokunikeza” kunye no-“ukumisela”, ngokutshintsha inkcazelo yebinzana “uphuhliso lwezezindlu” kunye nokulungisa ulandelelwano loonobumba olungachanekanga kwiinkcazelo ezikuMthetho.
- 3.2 **Isoloty 2** lenza izilungiso—
 - 3.2.1 kwicandelo 4(1) loMthetho ngokwenza umqathango othi, uMphathiswa wePhondo makabeke iliso nakwii-asethi ezifunyenweyo, elandela imiqathango yesoloty 22A lomthetho osayilwayo;
 - 3.2.2 kwicandelo 4(2) (d) no-(e) loMthetho ngokulungisa iimpawu zocaphulo ezithile ukuze zivumele ukuba kongezwe omnye umhlathi; kananjalo
 - 3.2.3 kwicandelo 4(2) loMthetho ngokongeza umhlathi (f), owongeza amagunya okufumana nokunikeza ngepropati engenakufuduswa kumagunya nemisebenzi ekhoyo ngoku yoMphathiswa wePhondo.
- 3.3 **Isoloty 3** lenza izilungiso kwicandelo 16(5) loMthetho ukucima ubhekiso kwicandelo 18, elitshitshiswa nguMthetho oSayilwayo.
- 3.4 **Isoloty 4** lenza izilungiso kwicandelo 22 loMthetho ukususa ubhekiso kwizinto ezithile kwanokuba kusetyenziswe isigama esichanekileyo ebesikwizilungiso ebebenziwe ngaphambili zalo Mthetho.

- 3.5 **Isoloty 5** libonelela ngokufakelwa kwecandelo 22A no-22B kuMthetho, kwanokuba kufunyanwe yaye kunikezwe ngeepropati ezingenakufuduswa ukulungiselela uphuhliso lwezezindlu.

Kwenziwe umqathango wokuba ipropati engenakufuduswa ingafunyanwa okanye inikezwe kulandelwa inkqubo ebekiweyo ekufuneka ibe nobulungisa, yenziwe elubala yaye ibe neendleko eziphantsi yaye, apho kunokwenzeka, kubekho inkqubo yokufaka iithenda yaye zipapashwe ezo thenda nabazifumeneyo *kwiGazethi yePhondo* nakumaphephandaba akhoyo kwiPhondo lonke, yaye ukuba kunokwenzeka, kupapashwe nakwamanye amajelo eendaba.

Eli isoloty likwabonelela ngokuba iKhabhinethi yePhondo okanye uMphathiswa wePhondo, ngokwemeko leyo, anganikeza ngeepropati engenakufuduswa efunyenweyo ukuba iqwalaselwe ngaphantsi kwexabiso layo lemakethi okanye engenzanga ngqwalasela ngokwenkqubo ebekiweyo. Olo nikezo kufuneka lulandele umthetho iPublic Finance Management Act, 1999 (uMthetho 1 ka-1999), emva kokuba eqwalasele iimfuno zoRhulumente wePhondo neminye imiba ebonelelwe kuMthetho oSayilwayo.

Xa kusamkelwa ukunikezwa kwepropati ngexabiso elingaphantsi kwelo lisemakethini yepropati engenakufuduswa, kufuneka oko kwamkelwe emva kokuba kulandelwe inkqubo ethile echazwe kuMthetho oSayilwayo.

IKhabhinethi yePhondo okanye uMphathiswa wePhondo, ngokwemeko leyo, kufuneka naye kwezo meko abeke imiqathango eza kuvumela ukuba ipropati engenakufuduswa ibuyele kuRhulumente wePhondo ukuba ayisasetyenziselwa injongo eyayifunyanwe yona. UMphathiswa wePhondo angavuma ukuba ipropati engenakufuduswa isetyenziselwe enye injongo.

Xa ipropati engenakufuduswa ibuyele kuRhulumente wePhondo, umntu obe ngumnini waloo propati ingenakufuduswa uya kuhlawulwa ngokufanelekileyo nguMphathiswa wePhondo ngokuhambelana nemiba ebekiweyo.

UMphathiswa wePhondo kufuneka awubeke loo mqathango ngaphandle kokuba imiqathango ekubhekiswe kuyo kumacandelo 10A no-10B omthetho iHousing Act (uMthetho 10 ka 1997) iyasebenza kwipropati engenakufuduswa okanye lo mqathango uya kuthintela injongo ecwangciselwe ukusetyenziselwa yona ipropati leyo.

- 3.6 **Isoloty 6** lenza izilungiso kuMthetho ngokuthi kutshintshwe igama elithi “iNgxowa-mali”, kwindawo nganye elikuyo, ze kufakwe ibinzana “iNgxowa-mali yeNgeniso yePhondo”, ngaphandle kwakumacandelo 4(1)(d) no-22(10).
- 3.7 **Isoloty 7** libonelela ngokuchithwa kweNgxowa-mali.
- 3.8 **Isoloty 8** lenza izilungiso kuMthetho ngokubhangisa amacandelo 13, 14, 16(7), 17, 18 no-26 oMthetho.
- 3.9 **Isoloty 9** lenza izilungiso kulandelelwaniso loMthetho ngokucinywa kwezinto ezibhekisa kumacandelo atshitshisiweyo nangokufakela izinto ezibhekisa kumasoloty 22A no-22B.
- 3.10 **soloty 10** lenza izilungiso kuMthetho ngokutshintsha isihloko eside soMthetho ukuze sibandakanye ukufunyanwa nokunikezwa kwepropati engenakufuduswa ukulungiselela uphuhliso lwezezindlu.
- 3.11 **Isoloty 11** libonelela ngotshintsho namalungiselo ethutyana ukuqinisekisa ukuba wakuphunyezwa uMthetho oSayilwayo imali etyalwayo okanye ekufanele ukuba ingene kwiNgxowa-mali kufuneka ingene kwiNgxowa-mali

yeNgeniso yePhondo; kwanokuba imali ebikhutshiwe kwiNgxowa-mali iya kuthathwa njengebikhutshwe kwiNgxowa-mali yeNgeniso yePhondo.

Nantoni ebhekisa kwiNgxowa-mali kweminye imithetho mayithathwe ngokuba ibhekisa kwiNgxowa-mali yeNgeniso yePhondo.

Igosa elinika inkcaza leNgxowa-mali kufuneka lilungise ze lingenise iingxelo zemali zeNgxowa-mali. Abahloli beSebe baseza kugunyaziswa ukuba benze uhlobo lwemihlaba efunyenwe ngemboleko-mali okanye isibonelelo esivela kwiNgxowa-mali.

UMphathiswa wePhondo, okanye igosa elinika inkcaza xa ligunyazisiwe nguMphathiswa wePhondo, lingakhupha imiyalelo egunyazisa ukuba lifezekiswe eli soloty.

3.12 **Isoloty 12** linesihloko esifutshane soMthetho oSayilwayo yaye lichaza ukuba, xa uMthetho oSayilwayo uthe waphunyezwa, uya kuqala ukusebenza ngomhla ogqitywe yiNkulumbuso.

4. EKUBONISWENE NABO

Kuye kwaboniswa neSebe leZothutho neMisebenzi kaRhulumente kunye neSebe likaNondyabo wePhondo ngalo mthetho.

5. UCHAPHAZELEKO LWEZIMALI

Iindleko zokuphumeza lo mthetho, emva kokuba uphunyeziwe, ziya kuthathwa kwezi bhajethi zikhoyo ngoku. Iindleko zokupapashwa koMthetho oSayilwayo nazo ziza kuhlawula ngezi bhajethi zikhoyo ngoku.

6. UCHAPHAZELEKO LWABASEBENZI

Abasebenzi abakhoyo ngoku kwiSebe ngabo abaza kuba noxanduva lokumiselwa nokuphunyezwa kwalo Mthetho uSayilwayo.

7. ISAKHONO SOWISO-MITHEETHO

UMphathiswa wePhondo wanelisekile kukuba zonke izibonelelo zalo Mthetho uSayilwayo zibe phantsi kwesakhono sowiso-mithetho sePhondo.

