Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni

PROVINCE OF THE WESTERN CAPE

Provincial Gazette Extraordinary

7025

Wednesday, 22 August 2012

Registered at the Post Office as a newspaper

CONTENTS

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

PROVINCIAL NOTICE

The following Bill is hereby published for general information:

Western Cape Provincial Road Traffic Administration Bill [B 6—2012]

P.N. 234/2012 22 August 2012

Any person or organisation wishing to comment on the said Bill is requested to lodge such comment in writing before or on 20 September 2012—

(a) by posting it to—
The Secretary:
Western Cape Provincial Parliament
(Attention: Mr M Sassman)
P.O. Box 648
Cape Town 8000

(b) by e-mail to—
msassman@wcpp.gov.za; or

(c) by fax to—
Mr M Sassman
(021) 487-1685

R. G. Hindley
Secretary to Parliament

PROVINSIE WES-KAAP

Buitengewone Provinsiale Koerant

7025

Woensdag, 22 Augustus 2012

As 'n nuusblad by die Poskantoor geregistreer

INHOUD

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

PROVINSIALE KENNISGEWING

Die volgende Wetsontwerp word hiermee vir algemene inligting gepubliseer:

Wes-Kaapse Provinsiale Wetsontwerp op Padverkeersadministrasie [W 6—2012]

P.K. 234/2012 22 Augustus 2012

Enige persoon of organisasie wat kommentaar oor die genoemde Wetsontwerp wens te lewer, word versoek om sodanige kommentaar skriftelik te lewer voor of op 20 September 2012—

(a) deur dit te pos aan—
Die Sekretaris:
Wes-Kaapse Provinsiale Parlement
(Aandag: Mnr M Sassman)
Posbus 648
Kaapstad 8000

(b) deur dit te e-pos aan—
msassman@wcpp.gov.za; of

(c) deur dit te faks aan—
Mnr M Sassman
(021) 487-1685

R. G. Hindley
Sekretaris van die Parlement

IPHONDO LENTSHONA KOLONI

Isongezelelo kwiGazethi yePhondo

7025

Lwesithathu, 22 Agasti 2012

Ibhaliswe ePosini njengePhephandaba

IZIQULATHO

(Iikopi zifumaneka kwigumbi M21, kwiSakhiwo seNdlu yoWiso Mthetho yePhondo, e 7 Wale Street, eKapa 8001.)

ISAZISO SEPHONDO

Lo Mthetho uSayilwayo ulandelayo upapashwa apha ukunika ulwazi ngokubanzi:

UMthetho oSayilwayo woLawulo neZothutho eziNdleleni wePhondo leNtshona Koloni [B 6—2012]

I.S. 234/2012 22 Agasti 2012

Nabani na okanye nawuphi na umbutho onqwenela ukuphawula ngalo Mthetho uSayilwayo kuthethwa ngawo uyacelwa ukuba afake izimvo zakhe phambi okanye ngomhla wama-20 Septemba 2012—

(a) ngokuposela ku—
uNobhala:
IPalamente yePhondo leNtshona Koloni
(Iya ku: Mnu M Sassman)
P.O. Box 648
Ekapa 8000

(b) nge-imeyile ku—
msassman@wcpp.gov.za; okanye

(c) ngefeksi ku—
Mnu M Sassman
(021) 487-1685

R. G. Hindley
uNobhala wePalamente

BILL

To regulate certain road traffic matters in the Province; and to provide for matters incidental thereto.

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

Definitions

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

''Head of Department'' means the Head of the provincial department responsible for road traffic administration;

''Minister'' means the Provincial Minister responsible for road traffic administration;

''National Road Traffic Act'' means the National Road Traffic Act, 1996 (Act 93 of 1996), and includes the regulations made under that Act;

''Premier'' means the Premier of the Province;

''prescribe'' means prescribe by regulation;

''Province'' means the Province of the Western Cape;

''regulation'' means a regulation made under this Act; and

''this Act'' includes the regulations.

(2) Any word or expression defined in the National Road Traffic Act, but not defined in subsection (1), bears the meaning assigned to it by that Act, unless the context indicates otherwise.

Registers and records

2. (1) The prescribed registers or records in respect of the payment of fees referred to in section 92(1) of the National Road Traffic Act must be kept by the prescribed institutions or persons.

(2) The prescribed particulars must be recorded in the prescribed manner in the registers and records referred to in subsection (1).

(3) An institution or person referred to in subsection (1) must, in the prescribed manner and at the prescribed intervals, furnish the Minister, or any person or body designated by the Minister, with information recorded in a register or record referred to in subsection (1).

Copy of entry in register or record to be evidence

3. (1) A document purporting to be an extract from, or a copy of, any register or record kept in terms of section 2 and purporting to be certified as such, is in any court admissible as evidence and is *prima facie* proof of the truth of the matters stated in that document without the production of the original register or record from or of which the extract or copy was made.

(2) The information contained in a register or record kept in terms of section 2 must be furnished on request to—

(a) a traffic officer or inspector of licences who requires it for the performance of his or her duties;

(b) any person authorised by the Minister to demand such furnishing; or

(c) a municipality.

(3) Any institution or person keeping a register or record in terms of section 2 must at the request of any person and upon payment of the prescribed fee—

(a) confirm whether or not certain information corresponds to the information contained in that register or record, if the person requesting it on reasonable grounds requires confirmation of that information; or

(b) furnish the information mentioned in paragraph *(a)* to the person requesting it if that person on reasonable grounds requires that the information be furnished to him or her.

Minister may authorise refunds

4. (1) The Minister may, if he or she is satisfied that any amount paid by a person was in excess of the amount properly chargeable under this Act, authorise a refund of that amount, or of any part thereof, to that person.

(2) The Minister may not authorise any refund under this section unless the claim therefor is received by the registering authority concerned or the Province within three years after the date of the payment concerned.

Inspections

5. (1) The Minister may appoint or authorise any person to carry out an inspection to ensure that the provisions of this Act or the National Road Traffic Act are being complied with.

(2) A person appointed or authorised in terms of subsection (1) may at any reasonable time enter any premises, with the consent of the owner or a person in charge of the premises or with a warrant issued by a magistrate, to perform any duties in terms of this Act.

(3) No person may obstruct or hinder any person in the carrying out of any inspection in terms of this section.

Signature on documents

6. (1) Section 86 of the National Road Traffic Act applies to any signature required in terms of this Act.

(2) An electronic signature as defined in the Electronic Communications and Transactions Act, 2002 (Act 25 of 2002), is a valid signature for the purposes of this Act.

Minister to prescribe certain fees

7. The Minister must prescribe and administer the fees referred to in section 92(1) and (4)*(a)* of the National Road Traffic Act that are payable in respect of any application or request made, or document issued, or any other matter relating to the registration and licensing of motor vehicles.

Regulations

8. (1) The Minister may make regulations, not inconsistent with this Act or the National Road Traffic Act, in respect of—

(a) any matter required or permitted to be prescribed by this Act;

(b) any restrictions in respect of the use of lamps emitting a blue light or of sirens on vehicles operated by any person;

(c) the rights and duties of persons using pedal cycles on public roads and the duties of drivers of vehicles to ensure the safety of persons using pedal cycles; or

(d) any matter regarded as necessary or expedient for the implementation of this Act.

(2) The power to make regulations on any matter referred to in subsection (1) includes the power to restrict or prohibit any matter or thing in relation to that matter, either absolutely or conditionally.

(3) Any regulation may be made to apply generally throughout the Province or within any specified part thereof or to any specified category of vehicle or person.

(4) Before the Minister makes any regulation, the Minister must cause a draft of the proposed regulation to be published in the *Provincial Gazette* together with a notice

calling upon interested persons to lodge in writing, and within a period stated in the notice, but not less than four weeks as from the date of publication of the notice, any objections or representations with the Head of Department.

(5) If the Minister decides to alter the draft regulations as a result of any objections or representations in terms of subsection (4), it is not necessary to publish the alterations before making the regulations.

(6) A regulation may provide for penalties for the contravention thereof and also for different penalties in the case of successive or continuous contraventions.

Delegation

9. (1) The Minister may—

(a) delegate to any person any power conferred upon the Minister by or under this Act, except the power to make regulations; and

(b) authorise any person to perform any duty assigned to the Minister by or under this Act.

(2) The Minister may at any time withdraw a delegation or authorisation under subsection (1).

Offences and penalties

10. (1) A person commits an offence if he or she—

(a) contravenes section 5(3); or

(b) in connection with the furnishing of any information which, to his or her knowledge, is to be or may be used for any purpose in terms of this Act, makes a declaration or furnishes information which to his or her knowledge is false or in any material respect misleading.

(2) A person convicted of an offence in terms of subsection (1) is liable to a fine or to imprisonment for a period not exceeding one year.

Payment of fees

11. All fees referred to in section 7 must be paid into the Provincial Revenue Fund.

Payment of fines

12. A fine received in respect of a conviction in terms of section 10 must be paid into the Provincial Revenue Fund.

Transitional provisions

13. A regulation made under the Western Cape Provincial Road Traffic Act, 1998 (Act 12 of 1998), in respect of a matter referred to in section 10 and in force at the commencement of this Act is regarded as having been made under this Act.

Repeal of laws

14. (1) The Western Cape Provincial Road Traffic Act, 1998 (Act 12 of 1998), is repealed.

(2) The Road Traffic Act, 1989 (Act 29 of 1989), is repealed in so far as its administration has been assigned to the Province.

State bound

15. (1) This Act binds the State and any person in the service of the State.

(2) The Minister may, by notice in the *Provincial Gazette*, exempt the State or any department thereof or any person in the service of the State from any provision of this Act, subject to conditions determined by the Minister.

Short title and commencement

16. This Act is called the Western Cape Provincial Road Traffic Administration Act, 2012, and comes into operation on a date to be determined by the Premier by proclamation in the *Provincial Gazette.*

MEMORANDUM ON THE OBJECTS OF THE WESTERN CAPE PROVINCIAL ROAD TRAFFIC ADMINISTRATION BILL, 2012

1. OBJECTS OF BILL

The objects of the Western Cape Provincial Road Traffic Administration Bill (the Bill) are to regulate certain road traffic matters in the Province in response to the developments relating to the restructuring of national road traffic legislation, and to repeal the Western Cape Road Traffic Act, 1998 (Act 12 of 1998) (the Provincial Act).

2. BACKGROUND

2.1 The Provincial Act was passed to supplement the National Road Traffic Act, 1996 (Act 93 of 1996) (the National Act) and to deal with road traffic issues of provincial concern.

2.2 Shortly after these Acts were passed, the National Parliament passed the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act 46 of 1998) and the Road Traffic Management Corporation Act, 1999 (Act 20 of 1999). These Acts necessitated amendments to the National Act.

2.3 In response to amendments to the National Act, only limited sections of the Provincial Act were brought into operation on 14 December 2000 (Proclamation No. 118 of 2000). The Bill brings about comprehensive revisions so as to align the provincial legislation with all the national amendments, and to provide for related matters as set out below.

3. CONTENTS OF BILL

Clause 1

Clause 1 contains the definitions.

Clause 2

Clause 2 empowers the Provincial Minister to require persons to keep registers and records relating to the payment of fees for vehicle registrations and licences referred to in section 92(1) of the National Act.

Clause 3

Clause 3 allows entries in records and registers to be used as evidence in matters such as court proceedings, and allows the accessibility of such information in such registers and records on request by persons.

Clause 4

Clause 4 empowers the Provincial Minister to authorise refunds of fees that have been overpaid.

Clause 5

Clause 5 empowers the Provincial Minister to authorise inspections to ensure that the provisions of the Act and the National Act are being carried out.

Clause 6

Clause 6 provides that persons who are unable to sign their names for purposes of the Act may use thumb prints or fingerprints, and allows for electronic signatures.

Clause 7

Clause 7 empowers the Provincial Minister, in terms of Section 92 of the National Act, to prescribe fees for the registration and licensing of motor vehicles.

Clause 8

Clause 8 provides for the Provincial Minister to make regulations on certain issues relating to road traffic. These include vehicle licence fees, the application for forms or tokens which the Minister may deem expedient, the restrictions in the use of blue lights and sirens, the rights and obligations of persons using pedal cycles and the duties of drivers of vehicles to ensure the safety of cyclists.

Clause 9

Clause 9 provides for the delegation of powers in terms of this Act to any other person.

Clause 10

Clause 10 provides for offences and penalties.

Clause 11

Clause 11 provides that fees must be paid into the Provincial Revenue Fund.

Clause 12

Clause 12 provides for the payment of fines.

Clause 13

Clause 13 provides for transitional provisions.

Clause 14

Clause 14 provides for the repeal of the Provincial Act.

Clause 15

Clause 15 provides that the Act binds the State, but that the Provincial Minister may exempt the State or any of its departments from the provisions of the Act.

Clause 16

Clause 16 deals with the short title and commencement of the Bill.

4. CONSULTATION

Department of the Premier: Legal Services; and
Department of Transport and Public Works.

The Draft Western Cape Provincial Road Traffic Administration Bill, 2012 has been published for comment in the *Provincial Gazette Extraordinary* 6954 of 17 February 2012.

5. PERSONNEL IMPLICATIONS

None.

6. FINANCIAL IMPLICATIONS

None.

7. LEGISLATIVE COMPETENCE

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

WETSONTWERP

Om sekere padverkeersaangeleenthede in die Provinsie te reguleer; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

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

Woordomskrywing

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

"Departementshoof" die hoof van die provinsiale departement verantwoordelik vir padverkeersadministrasie;

"hierdie Wet" ook die regulasies;

"Minister" die Provinsiale Minister verantwoordelik vir padverkeersadministrasie;

"Nasionale Padverkeerswet" die Nasionale Padverkeerswet, 1996 (Wet 93 van 1996), en ook die regulasies uitgevaardig kragtens daardie Wet;

"Premier" die Premier van die Provinsie;

"Provinsie" die Provinsie Wes-Kaap;

"regulasie" 'n regulasie wat kragtens hierdie Wet uitgevaardig is; en

"voorskryf" by regulasie voorskryf.

(2) Enige woord of uitdrukking wat in die Nasionale Padverkeerswet omskryf is maar nie in subartikel (1) omskryf is nie, het die betekenis wat by daardie Wet daaraan geheg is, tensy dit uit die samehang anders blyk.

Registers en aantekenings

2. (1) Die voorgeskrewe registers of aantekeninge ten opsigte van die betaling van gelde in artikel 92(1) van die Nasionale Padverkeerswet bedoel, moet deur die voorgeskrewe instellings of persone gehou word.

(2) Die voorgeskrewe besonderhede moet op die voorgeskrewe wyse aangeteken word in die registers en aantekenings in subartikel (1) bedoel.

(3) 'n Instelling of persoon in subartikel (1) bedoel, moet, op die voorgeskrewe wyse en met die voorgeskrewe tussenpose, die Minister, of 'n persoon of liggaam deur die Minister aangewys, voorsien van inligting wat aangeteken is in 'n register of aantekening in subartikel (1) bedoel.

Afskrif van inskrywing in register of aantekening is bewys

3. (1) 'n Dokument wat voorgee 'n uittreksel uit, of 'n afskrif van, 'n register of aantekening te wees wat ingevolge artikel 2 gehou word en voorgee om as sodanig gesertifiseer te wees, is in enige hof toelaatbaar as bewys en is *prima facie* bewys van die waarheid van die aangeleenthede wat in daardie dokument gestel word sonder voorlegging van die oorspronklike register of aantekening waarvan of waaruit die uittreksel of afskrif gemaak is.

(2) Die inligting vervat in 'n register of aantekening wat ingevolge artikel 2 gehou word, moet op versoek verstrek word aan—

(a) 'n verkeersbeampte of inspekteur van lisensies wat dit verlang vir die uitvoering van sy of haar pligte;

(b) enige persoon wat deur die Minister gemagtig is om sodanige verstrekking aan te vra; of

(c) ’n munisipaliteit.

(3) Enige instelling of persoon wat ’n register of aantekening ingevolge artikel 2 hou, moet op versoek van enige persoon en teen betaling van die voorgeskrewe gelde—

(a) bevestig of sekere inligting ooreenstem met die inligting in daardie register of aantekening vervat, indien die persoon wat dit versoek, op redelike gronde bevestiging van daardie inligting verlang; of

(b) die inligting in paragraaf *(a)* bedoel, verstrek aan die persoon wat dit aanvra indien daardie persoon op redelike gronde versoek dat die inligting aan hom of haar verstrek word.

Minister kan terugbetalings magtig

4. (1) Die Minister kan, as hy of sy oortuig is dat enige bedrag wat deur ’n persoon betaal is, meer is as die bedrag wat behoorlik ingevolge hierdie Wet vorderbaar is, ’n terugbetaling van daardie bedrag of van enige deel daarvan aan daardie persoon magtig.

(2) Die Minister mag geen terugbetaling kragtens hierdie artikel magtig nie tensy die eis daarvoor deur die betrokke registrasie-owerheid of die Provinsie ontvang word binne drie jaar na die datum van die betrokke betaling.

Inspeksies

5. (1) Die Minister kan enige persoon aanstel of magtig om ’n inspeksie uit te voer om te verseker dat die bepalings van hierdie Wet of die Nasionale Padverkeerswet nagekom word.

(2) ’n Persoon wat ingevolge subartikel (1) aangestel of gemagtig is, kan op enige redelike tyd enige perseel betree, met die toestemming van die eienaar of ’n persoon in beheer van die perseel of met ’n lasbrief deur ’n landdros uitgereik, om enige pligte ingevolge hierdie Wet te verrig.

(3) Niemand mag enige persoon by die verrigting van enige inspeksie ingevolge hierdie artikel dwarsboom of hinder nie.

Handtekening op dokumente

6. (1) Artikel 86 van die Nasionale Padverkeerswet is van toepassing op enige handtekening wat ingevolge hierdie Wet vereis word.

(2) ’n Elektroniese handtekening soos omskryf in die Wet op Elektroniese Kommunikasie en Transaksies, 2002 (Wet 25 van 2002), is ’n geldige handtekening vir doeleindes van hierdie Wet.

Minister skryf sekere gelde voor

7. Die Minister moet die gelde voorskryf en administreer wat in artikel 92(1) en (4)*(a)* van die Nasionale Padverkeerswet bedoel word wat betaalbaar is ten opsigte van enige aansoek of versoek gerig of dokument uitgereik of enige ander aangeleentheid rakende die registrasie en lisensiëring van motorvoertuie.

Regulasies

8. (1) Die Minister kan regulasies uitvaardig wat nie met hierdie Wet of die Nasionale Padverkeerswet onbestaanbaar is nie, ten opsigte van—

(a) enige aangeleentheid wat by hierdie Wet voorgeskryf kan of moet word;

(b) enige beperkings ten opsigte van die gebruik van lampe wat ’n blou lig uitstraal of van sirenes op voertuie wat deur enige persoon bedryf word;

(c) die regte en pligte van persone wat trapfietse op openbare paaie gebruik en die pligte van bestuurders van voertuie om die veiligheid te verseker van persone wat trapfietse gebruik; of

(d) enige aangeleentheid wat as nodig of dienstig beskou word vir die uitvoering van hierdie Wet.

(2) Die bevoegdheid om regulasies uit te vaardig oor enige aangeleentheid in subartikel (1) bedoel, omvat die bevoegdheid om enige aangeleentheid of saak met betrekking tot daardie aangeleentheid volstrek of voorwaardelik te beperk of te verbied.

(3) Enige regulasie kan uitgevaardig word om in die algemeen in die hele Provinsie of binne enige bepaalde deel daarvan of op enige bepaalde kategorie voertuig of persoon van toepassing te wees.

(4) Voordat die Minister ’n regulasie uitvaardig, moet die Minister ’n konsep van die voorgestelde regulasie in die *Provinsiale Koerant* laat publiseer tesame met ’n kennisgewing waarby belanghebbende persone uitgenooi word om enige besware of vertoë skriftelik by die Departementshoof in te dien binne ’n tydperk in die kennisgewing vermeld, maar ten minste vier weke na die datum van publikasie van die kennisgewing.

(5) Indien die Minister besluit om die konsepregulasies te wysig na aanleiding van enige besware of vertoë ingevolge subartikel (4), is dit nie nodig om die wysigings te publiseer voordat die regulasies uitgevaardig word nie.

(6) ’n Regulasie kan voorsiening maak vir strawwe vir die oortreding daarvan en ook vir verskillende strawwe in die geval van agtereenvolgende of voortdurende oortredings.

Delegering

9. (1) Die Minister kan—

(a) enige bevoegdheid wat by of ingevolge hierdie Wet aan die Minister verleen is, uitgesonderd die bevoegdheid om regulasies uit te vaardig, aan enige persoon delegeer; en

(b) enige persoon magtig om enige plig te verrig wat by of ingevolge hierdie Wet aan die Minister opgedra is.

(2) Die Minister kan ’n delegasie of magtiging ingevolge subartikel (1) te eniger tyd intrek.

Misdrywe en strawwe

10. (1) ’n Persoon begaan ’n misdryf indien hy of sy—

(a) artikel 5(3) oortree; of

(b) in verband met die verstrekking van enige inligting wat na sy of haar wete vir enige doel ingevolge hierdie Wet gebruik gaan of kan word, ’n verklaring aflê of inligting verstrek wat na sy of haar wete vals of in enige wesenlike opsig misleidend is.

(2) ’n Persoon wat skuldig bevind is aan ’n misdryf ingevolge subartikel (1), is strafbaar met ’n boete of met gevangenisstraf vir ’n tydperk van hoogstens een jaar.

Betaling van gelde

11. Alle gelde in artikel 7 bedoel, moet in die Provinsiale Inkomstefonds gestort word.

Betaling van boetes

12. ’n Boete wat ten opsigte van ’n skuldigbevinding ingevolge artikel 10 ontvang word, moet in die Provinsiale Inkomstefonds gestort word.

Oorgangsbepalings

13. ’n Regulasie wat ingevolge die Wes-Kaapse Provinsiale Padverkeerswet, 1998 (Wet 12 van 1998), uitgevaardig is ten opsigte van ’n aangeleentheid in artikel 10 bedoel en van krag is by die inwerkingtreding van hierdie Wet, word geag ingevolge hierdie Wet uitgevaardig te wees.

Herroeping van wette

14. (1) Die Wes-Kaapse Provinsiale Padverkeerswet, 1998 (Wet 12 van 1998), word herroep.

(2) Die Padverkeerswet, 1989 (Wet 29 van 1989), word herroep in soverre die administrasie daarvan aan die Provinsie opgedra is.

Staat gebonde

15. (1) Hierdie Wet bind die Staat en enige persoon in diens van die Staat.

(2) Die Minister kan, by kennisgewing in die *Provinsiale Koerant*, die Staat of enige departement daarvan of enige persoon in diens van die staat vrystel van enige bepaling van hierdie Wet, behoudens voorwaardes wat die Minister bepaal.

Kort titel en inwerkingtreding

16. Hierdie Wet heet die Wes-Kaapse Provinsiale Wet op Padverkeersadministrasie, 2012, 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 WETSONTWERP OP PROVINSIALE PADVERKEERSADMINISTRASIE, 2012

1. OOGMERKE VAN WETSONTWERP

Die oogmerke van die Wes-Kaapse Wetsontwerp op Padverkeersadministrasie (die Wetsontwerp) is om sekere padverkeersaangeleenthede in die Provinsie te reguleer na aanleiding van verwikkelinge rakende die herstrukturering van nasionale padverkeerswetgewing, en om die Wes-Kaapse Wet op Padverkeer, 1998 (Wet 12 van 1998) (die Provinsiale Wet) te herroep.

2. AGTERGROND

2.1 Die Provinsiale Wet is aangeneem om die Nasionale Padverkeerswet, 1996 (Wet 93 van 1996) (die Nasionale Wet), aan te vul en om padverkeerskwessies van provinsiale belang te hanteer.

2.2 Kort nadat hierdie Wette aangeneem is, het die Nasionale Parlement die Wet op die Administratiewe Beregting van Padverkeersmisdrywe, 1998 (Wet 46 van 1998), en die Wet op die Padverkeersbestuurskorporasie, 1999 (Wet 20 van 1999), aangeneem. Hierdie wette het wysigings van die Nasionale Wet genoodsaak.

2.3 Na aanleiding van wysigings aan die Nasionale Wet is slegs beperkte gedeeltes van die Provinsiale Wet op 14 Desember 2000 (Proklamasie No. 118 van 2000) in werking gestel. Die Wetsontwerp voer omvattende hersienings in ten einde die provinsiale wetgewing met al die nasionale wysigings in ooreenstemming te bring, en om vir verbandhoudende aangeleenthede voorsiening te maak soos hieronder uiteengesit.

3. INHOUD VAN WETSONTWERP

Klousule 1

Klousule 1 bevat die woordomskrywings.

Klousule 2

Klousule 2 bemagtig die Provinsiale Minister om van persone te vereis om registers en rekords te hou rakende die betaling van gelde vir voertuigregistrasies en lisensies in artikel 92(1) van die Nasionale Wet bedoel.

Klousule 3

Klousule 3 bepaal dat inskrywings in rekords en registers gebruik kan word as bewys in aangeleenthede soos hofverrigtinge, en laat die toeganklikheid van sulke inligting in sodanige registers en rekords op versoek van persone toe.

Klousule 4

Klousule 4 bemagtig die Provinsiale Minister om die terugbetaling te magtig van gelde wat te veel betaal is.

Klousule 5

Klousule 5 bemagtig die Provinsiale Minister om inspeksies te magtig om te verseker dat die bepalings van die Wet en die Nasionale Wet uitgevoer word.

Klousule 6

Klousule 6 bepaal dat persone wat nie hulle name kan teken nie vir doeleindes van die Wet, hulle duimafdrukke of vingerafdrukke kan gebruik, en maak voorsiening vir elektroniese handtekeninge.

Klousule 7

Klousule 7 bemagtig die Provinsiale Minister, ingevolge artikel 92 van die Nasionale Wet, om gelde vir die registrasie en lisensiëring van motorvoertuie voor te skryf.

Klousule 8

Klousule 8 bepaal dat die Provinsiale Minister regulasies kan uitvaardig oor sekere sake wat op padverkeer betrekking het. Dit sluit in voertuiglisensiegelde, die aansoek vir vorms of kentekens wat die Minister dienstig ag, die beperkings ten opsigte van die gebruik van blou ligte en sirenes, die regte en verpligtinge van persone wat trapfietse gebruik en die pligte van bestuurders van voertuie om die veiligheid van fietsryers te verseker.

Klousule 9

Klousule 9 maak voorsiening vir die delegering van bevoegdhede ingevolge hierdie Wet aan enige ander persoon.

Klousule 10

Klousule 10 maak voorsiening vir misdrywe en boetes.

Klousule 11

Klousule 11 bepaal dat gelde in die Provinsiale Inkomstefonds gestort moet word.

Klousule 12

Klousule 12 maak voorsiening vir die betaling van boetes.

Klousule 13

Klousule 13 maak voorsiening vir oorgangsbepalings.

Klousule 14

Klousule 14 maak voorsiening vir die herroeping van die Provinsiale Wet.

Klousule 15

Klousule 15 bepaal dat die Staat deur die Wet gebind word, maar dat die Provinsiale Minister die Staat of enige staatsdepartement van die bepalings van die Wet kan vrystel.

Klousule 16

Klousule 16 het betrekking op die kort titel en inwerkingtreding van die Wetsontwerp.

4. OORLEGPLEGING

Departement van die Premier: Regsdienste; en
Departement van Vervoer en Openbare Werke.

Die Wes-Kaapse Konsepwetsontwerp op Provinsiale Padverkeersadministrasie, 2012, is in *Buitengewone Provinsiale Koerant* 6954 van 17 Februarie 2012 vir kommentaar gepubliseer.

5. PERSONEELIMPLIKASIES

Geen.

6. FINANSIËLE IMPLIKASIES

Geen.

7. WETGEWENDE BEVOEGDHEID

Die Provinsiale Minister is oortuig dat al die bepalings van die Wetsontwerp binne die Provinsie se wetgewende bevoegdheid val.

UMTHETHO OSAYILWAYO

Ulungiselelwe ukuba ulawule imicimbi ethile yePhondo edibene nokuhamba kwezithuthi ezindleleni kunye nemiba ehambelana noko.

NGOKO KE KUWISWA UMTHETHO yiPalamente yePhondo leNtshona Koloni ngolu hlobo:—

Iinkcazi-magama

1. (1) Kulo Mthetho, ngaphandle kokuba imeko ibhekisa kwenye into—

''iNtloko yeSebe'' ibhekisa kwiNtloko yesebe yephondo ejongene nemicimbi yolawulo lwezithuthi ezindleleni;

''uMphathiswa'' ubhekisa kuMphathiswa wePhondo ojongene nemicimbi yolawulo lwezithuthi ezindleleni;

''umasipala'' ngumasipala ochazwe kwicandelo 155(6) loMgaqosiseko weRiphabliki yoMzantsi Afrika, 1996;

''iNational Road Traffic Act'' ibhekisa kuMthetho iNational Road Traffic Act, 1996 (UMthetho 93 ka-1996), yaye ibandakanya nemigaqo eyenziwe phantsi kwaloo Mthetho;

''iNkulumbuso'' ibhekisa kwiNkulumbuso yePhondo;

''kumiselwe'' kuthetha okumiselwe ngomgaqo *;*

''iPhondo'' libhekisa kwiPhondo leNtshona Koloni;

''umgaqo'' uthetha umgaqo owenziwe phantsi kwalo Mthetho

''lo Mthetho'' ubandakanya imigaqo.

(2) Intsingiselo yalo naliphi na igama okanye intetho enikwe kuMthetho iNational Road Traffic Act, engachazwanga kwicandelwana (1), lisingise koko kutshiwo nguMthetho, ngaphandle kokuba imeko isingise kwinto eyahlukileyo kunaleyo ibichaziwe.

Iirejista namaxwebhu agciniweyo (iirekhodi)

2. (1) Iirejista namaxwebhu agciniweyo namiselweyo ngokumalunga nokuhlawulwa kwemirhumo echazwe kwicandelo 92(1) lomthetho i-National Road Traffic Act kufuneka agcinwe ngamaziko nabantu abamiselwe ukuba benze oko.

(2) Iinkcukacha ezifunekayo kufuneka zibhalwe ngendlela emiselweyo kwiirejista namaxwebhu ekubhekiswe kuwo kwicandelwana (1).

(3) Iziko okanye umntu ekubhekiswe kuye kwicandelwana (1) kufuneka, ngokwendlela emiselweyo, amane echazela uMphathiswa okanye umntu otyunjwe nguMphathiswa malunga neenkcukacha esele zigcinwe kwirejista okanye kuxwebhu ekubhekiswe kulo kwicandelwana (1).

Ikopi yeenkcukacha ezikwirejista okanye ezigciniweyo ingasebenza njengobungqina

3. (1) Uxwebhu okanye ikopi yayo nayiphi na irejista okanye yoxwebhu olugcinwe phantsi kwemiqathango yecandelo 2, eqinisekisiweyo ukuba yikopi yokwenene, iyamkeleka enkundleni njengobungqina bokuba imicimbi ebhalwe apho kuyo injengokuba ibhaliwe kungadanga kwaba kulandwa irejista ebekubhalwe kuyo kuqala okanye uqobelo loxwebhu ebekubhalwe kulo.

(2) Iinkcukacha eziqulathwe kwirejista okanye ezigcinwe phantsi kwemiqathango yecandelo 2 kufuneka zikhutshwe xa zicelwa—

(a) ligosa lezendlela okanye ngumhloli weelayisenisi ukwenza umsebenzi wakhe;

(b) nguye nabani na ogunyaziswe nguMphathiswa ukuba afune olo lwazi; okanye

(c) umasipala.

(3) Naliphi na iziko okanye umntu ogcine irejista okanye uxwebhu olugcinwe phantsi kwemiqathango yecandelo 2, kufuneka xa kukho umntu ofuna iinkcukacha ezikuyo, emva kokuba loo mntu ehlawule imali emiselweyo-

(a) aqinisekise ukuba iinkcukacha anazo ziyahambelana na nezo zigcinwe kwirejista okanye kumaxwebhu agciniweyo, ukuba ngaba loo mntu ufuna ukuziqinisekisa yaye abe enika izizathu ezivakalayo zokuzifuna; okanye

(b) anikeze ngeenkcukacha ezikhankanywe kumhlathi *(a)* kumntu lowo uzifunayo ukuba ngaba unezizathu ezivakalayo zokuzifuna.

UMphathiswa usenokugunyazisa ukubuyiselwa kwemali kumniniyo

4. (1) UMphathiswa unokuthi, emva kokuzanelisa ukuba okunene imali ehlawulwe ngumntu othile ingaphezulu kwemali efanelwe kukuhlawulwa ngokwalo Mthetho, agunyazise ukuba umntu lowo abuyiselwe loo mali okanye inxalenye yayo.

(2) UMphathiswa akanako ukugunyazisa ukubuyiswa kwemali phantsi kweli candelo ngaphandle kokuba ibango elo libe kuqala lifunyenwe ngugunyaziwe obhalisa imicimbi ehambelana nomba lo okanye libe lithunyelwe kwiPhondo ingaphelanga iminyaka emithathu emva kokuba umntu ehlawule imali leyo.

Uhlolo

5. (1) UMphathiswa angaqesha okanye angagunyazisa nabani ukuba enze uhlolo lokuqinisekisa ukuba imiqathango yalo Mthetho okanye eye-National Road Traffic Act iyathotyelwa.

(2) Umntu oqeshiweyo okanye ogunyazisiweyo ngokwecandelwana (1) angathi, ngexesha elamkelekileyo, angene kuso nasiphi na isakhiwo emva kokufumana imvume kumniniso okanye kumntu ophetheyo kuso okanye xa efumene amaphepha enkundla amgunyazisa ukuba angene apho ukuze enze nawuphi na umsebenzi ochazwe kulo Mthetho.

(3) Akukho mntu unokuphazamisa okanye anqande nawuphi na umntu ukuba enze naluphi na uhlolo ngokwemiqathango yeli candelo.

Utyikityo olukumaxwebhu

6. (1) Icandelo 86 lomthetho iNational Road Traffic Act lichaphazela nayiphi na into ekufuneka ityikityiwe ngokwalo Mthetho.

(2) Utyikityo olwenziwa ngekhompyutha njengoko luchaziwe kumthetho iElectronic Communications and Transactions Act, 2002 (Umthetho 25 ka-2002), lwamkelekile ukuba lungasetyenziswa ngokwalo Mthetho.

UMphathiswa angamisela imirhumo ethile

7. UMphathiswa makamisele okanye alawule imirhumo ekubhekiswe kuyo kwicandelo 92(1) nele-(4)*(a)* le-National Road Traffic Act emayihlawulwe kwimicimbi edibene nokufakwa kwezicelo okanye nasiphi isicelo esenziweyo okanye amaxwebhu akhutshiweyo okanye nawuphi na omnye umcimbi odibene nokubhalisa kunye nokukhutshwa kweelayisenisi zeemoto.

Imigaqo

8. (1) UMphathiswa angenza imigaqo engachasenanga nalo Mthetho okanye i-National Road Traffic Act, kwimiba emalunga—

(a) nawo nawuphi na umba ekufuneka okanye ekuvunyelwe ukuba umiselwe ngalo Mthetho;

(b) neyiphi na imiqathango yokusetyenziswa kwezibane eziluhlaza kunye neesayireni kwizithuthi ezisetyenziswa nguye nabani na;

(c) amalungelo kunye noxanduva lwabantu abasebenzisa iibhayisekile kwiindlela zikawonkewonke kunye noxanduva lwabaqhubi bezithuthi l okuqinisekisa ukhuseleko lwabantu abasebenzisa iibhayisekile; okanye

(d) nowuphi na umba othathwa ngokuba uyafuneka okanye uluncedo ekusetyenzisweni kwalo Mthetho.

(2) Igunya lokwenza imigaqo ngomba ekubhekiswe kuwo kwicandelwana (1) libandakanya igunya lokunyina okanye ukuthintela nawuphi na umcimbi okanye into edibene naloo mba ngokupheleleyo okanye phantsi kwemiqathango ethile.

(3) Nawuphi na umgaqo okweli candelo usenokusebenza kwiPhondo lonke okanye kwinxalenye yalo okanye kuluhlu oluthile lwezithuthi okanye lwabantu.

(4) Phambi kokuba uMphathiswa enze nawuphi na umgaqo phantsi kweli candelo, kufuneka kuqala enze umgaqo osayilwayo aze awupapashe *kwiGazethi yePhondo* ukhatshwe sisaziso esimema wonke umntu ochaphazelekayo ukuba afake izimvo zakhe okanye avakalise nayiphi na into ayichasayo ngaloo mgaqo kwiNtloko yeSebe, ngexesha elimiselweyo, kodwa elingekho ngaphantsi kweeveki ezine emva kokuphuma kweso saziso.

(5) Ukuba ngaba uMphathiswa uthatha isigqibo sokwenza utshintsho kwimigaqo esayilwayo ngenxa yeenkcaso okanye izimvo ezingeniswe luluntu ngokwecandelwana (4), akunyanzelekanga ukuba azipapashe ezo ndawo azitshintshileyo phambi kokuba akhuphe imigaqo egqityiweyo.

(6) Umgaqo owenziwe kulandelwa icandelwana (1) ungachaza nangezohlwayo kwabo bathe baphula imigaqo kananjalo kukhutshwe nezinye izohlwayo xa umntu ephindelela ukwaphula imigaqo.

Ugunyaziso

9. (1) UMphathiswa unakho—

(a) ukunika amagunya kuye nawuphi umntu ukuba enze nantoni na uMphathiswa anegunya lokuyenza phantsi kwalo mthetho, ngaphandle kwegunya lokwenza imigaqo; kananjalo

(b) angagunyazisa nabani na ukuba enze nawuphi na umsebenzi ofanele ukwenziwa nguMphathiswa ngokwalo Mthetho.

(2) UMphathiswa angawarhoxisa nanini na loo magunya akwicandelwana (1).

Amatyala nezohlwayo

10. (1) Umntu uya kuba netyala ukuba-

(a) uthe waphula imiqathango yecandelo 5(3); okanye

(b) uthe ngokuphathelele kunikezelo lweenkcukacha ezinokuthi, ngokolwazi lwakhe, zisetyenziselwe nasiphi na isizathu ngokwalo Mthetho, wanika ngabom iinkcukacha engezizo okanye ezilahlekisayo nangeyiphi na indlela.

(2) Umntu ofunyenwe enetyala ngokwemiqathango yecandelwana (1) uya kuthi ahlawuliswe okanye avalelwe entolongweni isithuba esingekho ngaphezulu konyaka.

Ukuhlawula kwemirhumo

11. Yonke imirhumo ekubhekiswe kuyo kwicandelo 7 kufuneka ihlawulwe okanye ingeniswe kwiNgxowa-mali yeNgeniso yePhondo (Provincial Revenue Fund) .

Ukuhlawula kweemali zezohlwayo

12. Isohlwayo semali esifunyenwe kumntu ogwetywe kulandelwa icandelo 10 kufuneka singeniswe kwiNgxowamali yeNgeniso yePhondo.

Imigaqo yethutyana

13. Umgaqo owenziwe kulandelwa umthetho iWestern Cape Provincial Road Traffic Act, 1998 (Umthetho 12 ka-1998), yaye ube ubusasebenza xa bekuqala ukusebenza kwalo Mthetho, malunga nomcimbi ekubhekiswe kuwo kwicandelo 10, uthathwa ngokuba wenziwe kulandelwa lo uMthetho.

Ukubhangiswa kwemithetho

14. (1) Umthetho i-Western Cape Provincial Road Traffic Act, 1998 (UMthetho 12 ka-1998), uyabhangiswa.

(2) I-Road Traffic Act, 1989 (Umthetho 29 ka-1989), iyabhangiswa nanjengoko ulawulo lwayo ludluliselwe kwiPhondo.

Ukubopheleleka kukaRhulumente

15. (1) Lo mthetho ubophelela uRhulumente kunye naye nawuphi na umntu osebenzela uRhulumente.

(2) UMphathiswa angenza isaziso, *kwiGazethi yePhondo*, esikhulula uRhulumente okanye naliphi na iSebe okanye nawuphi na umntu osebenzela uRhulumente, kwiimbophelelo zemigaqo yalo Mthetho, ngokwemiqathango emiselwe nguMphathiswa.

Isihloko esifutshane nokuqala kokusebenza komthetho

16. Lo Mthetho ubizwa ngokuba nguMthetho woLawulo lokuHamba kweziThuthi eziNdleleni kwiPhondo leNtshona Koloni, 2012, yaye uya kuqala ukusebenza ngomhla obekwe yiNkulumbuso ngokuthi yenze uMpoposho *kwiGazethi yePhondo.*

IMEMORANDAM YEENJONGO ZOMTHETHO OSAYILWAYO WOLAWULO LOKUHAMBA KWEZITHUTHI EZINDLELENI KWIPHONDO LENTSHONA KOLONI, 2012

1. IINJONGO ZOMTHETHO OSAYILWAYO

Iinjongo zoMthetho oSayilwayo woLawulo lokuHamba kweziThuthi eziNdleni kwiPhondo leNtshona Koloni (uMthetho oSayilwayo) kukulawula imiba ethile yezothutho ezindleleni kweli Phondo ukuhlangabezana nophuhliso olwenziwayo lokumisa ngokutsha imithetho yesizwe yolawulo lweendlela nokuguzula iWestern Cape Road Traffic Act, 1998 (uMthetho 12 ka-1998) (uMthetho wePhondo).

2. IMVELAPHI

2.1 UMthetho wePhondo waphunyezwa ngeenjongo zokuncedisana neNational Road Traffic Act, 1996 (uMthetho 93 ka-1996) nokuze ujongane nemiba yezendlela edala inkxalabo kwiphondo.

2.2 Kwakufutshane nje emva kokuba le Mithetho iphunyeziwe, iPalamente yeSizwe yaphumeza umthetho oyiAdministrative Adjudication of Road Traffic Offences Act, 1998 (uMthetho 46 ka-1998) (‘‘uMthetho iAARTO’’) kwakunye nomthetho iRoad Traffic Management Corporation Act, 1999 (uMthetho 20 ka-1999) (‘‘uMthetho iRTMC’’). Le Mithetho idale imfuneko yokwenziwa kweenguqu kuMthetho weSizwe.

2.3 Ukuhlangabezana neenguqu kuMthetho weSizwe, yabangamacandelo ambalwa athi abanokusetyenziswa ukususela ngomhla we-14 kweyoMnga 2000 (isiBhengezo 118 sowama-2000). UMthetho oSayilwayo uza neenguqu ezintsha ngokubanzi ukuze kulungelelaniswe umthetho wephondo neengunqu ezenziwe kowesizwe, kwakunye nokulungiselela imiba echazwe apha ngezantsi.

3. IZIQULATHO ZOMTHETHO OSAYILWAYO

ISolotya 1

ISolotya 1 liqulathe uchazo-magama

ISolotya 2

ISolotya 2 linika uMphathiswa wePhondo amagunya okuba afune ukuba kugcinwe irejista neenkcukacha ezimalunga nemirhumo yeelayisenisi zeenqwelo-mafutha neyeelayisenisi ezichazwe kwicandelo 92(1) loMthetho weSizwe.

ISolotya 3

ISolotya 3 livumela ukuba iinkcukacha ezibhaliweyo neerejista zisetyenziswe njengobungqina kwiimeko ezifana nasenkundleni, kwaye livumela ukuba ezo nkcukacha zifikeleleke, ngesicelo, kulowo uzifunayo.

ISolotya 4

ISolotya 4 linika uMphathiswa wePhondo amagunya okugunyazisa ukubuyiselwa kweentlawulo ezingaphezu kwezo zimiselweyo.

ISolotya 5

ISolotya 5 linika uMphathiswa wePhondo amagunya okugunyazisa uhlolo ukuqinisekisa ukuba imiqathango emiswa nguMthetho iyathotyelwa, kwakunye nemiqathango yeNational Act.

ISolotya 6

ISolotya 6 libonelela abantu abangakwaziyo ukubhala amagama wabo ngokwalo Mthetho ukuba basebenzise imizila yabo yeminwe, likwavumela nokusetyenziswa kweesignitsha zekhompuyutha.

ISolotya 7

Isolotya 7 linika uMphathiswa wePhondo amagunya, ngokweCandelo 92 loMthetho weSizwe, okuba amisele imirhumo yokubhaliswa nokukhutshwa kweelayisenisi zenqwelo-mafutha.

ISolotya 8

ISolotya 8 livumela uMphathiswa wePhondo ukuba enze imigaqo ngemiba ethile yezothutho ezindleleni. Oku kubandakanya imirhumo yeelayisenisi, izicelo zeefom okanye zeetoken anokuthi uMphathiswa abone zifanelekile, ukuqiniswa kwemiqathango yokusetyenziswa kwezibane eziluhlaza namaxilongo wamaxa kaxakeka, amalungelo wabantu abasebenzisa iibhayisekile kwakunye noxanduva lwabaqhubi beenqwelo-mafutha ukuqinisekisa ukhuseleko lwabahambi ngeebhayisekile.

ISolotya 9

ISolotya 9 limalunga nokudluliselwa kwamagunya komnye umntu ngokwalo Mthetho.

ISolotya 10

ISolotya 10 limalunga nolwaphulo-mthetho kwakunye nezohlwayo zoko.

ISolotya 11

ISolotya 11 lifunisa ukuba imirhumo ihlawulwe kwiNgxowa-mali yeNgeniso yePhondo.

ISolotya 12

ISolotya 12 limalunga nokuhlawulwa kwezohlwayo.

ISolotya 13

ISolotya 13 limalunga nemigaqo yethutyana.

ISolotya 14

ISolotya 14 limalunga nokuguzulwa koMthetho wePhondo.

ISolotya 15

ISolotya 15 limalunga nokubopheleleka kukaRhulumente ngulo Mthetho, kodwa uMphathiswa wePhondo usenokukhulula uRhulumente okanye naliphi na isebe lephondo kwiimbophelelo zalo Mthetho.

ISolotya 16

ISolotya 16 limalunga nesihloko esifutshane kwakunye nokuqalisa koMthetho oSayilwayo.

4. UTHETHWANO

ISebe leNkulumbuso: iiNkonzo zoMthetho
ISebe lezoThutho neMisebenzi yoLuntu
UQulunqo loMthetho oSayilwayo woLawula lokuHamba kweziThuthi eziNdleleni kwiPhondo leNtshona Koloni, 2012 upapashwe *kwiGazette yePhondo yesiKhawu* 6954 yomhla we-17 kweyoMdumba 2012 ukuba kwenziwe iziphakamiso

5. ABASEBENZI ABAFUNEKAYO

Abekho.

6. IMALI EFUNEKAYO

Ayikho.

7. IGUNYA LOMTHETHO

UMphathiswa wephondo wanelisekile kukuba konke okumiswa nguMthetho oSayilwayo kuwela phantsi kwamagunya omthetho wePhondo.

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