

PROVINCE OF THE WESTERN CAPE

**CONSTITUTION
OF THE WESTERN CAPE
FIRST AMENDMENT BILL**

(As introduced)

(THE PREMIER)

[B 1—2021]

PROVINSIE WES-KAAP

**EERSTE WYSIGINGSWETSONTWERP
OP DIE GRONDWET
VAN DIE WES-KAAP**

(Soos ingedien)

(DIE PREMIER)

[W 1—2021]

IPHONDO LENTSHONA KOLONI

**UMTHETHO OSAYILWAYO
WOLUNGISO WONKUQALA
WOMGAQO-SISEKO
WENTSHONA KOLONI**

(Njengoko wazisiwe)

(YIÑKULUMBUSO)

[B 1—2021]

ISBN 978-1-928393-67-2

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.

BILL

To amend the Constitution of the Western Cape, 1997, so as to align it with the Constitution of the Republic of South Africa, 1996, with regard to the loss of membership of the Provincial Parliament, the calling and setting of dates for an election of the Provincial Parliament, the definition of a money Bill, provincial intervention in local government, the imposition of surcharges by the Provincial Parliament and the raising of loans by the Western Cape government; to repeal the provisions regarding the Commissioner for the Environment; to substitute references to the President of the Constitutional Court; to effect certain textual changes; and to provide for matters connected therewith.

B **E IT ENACTED** by the Provincial Parliament of the Western Cape, as follows:—

Amendment of section 15 of Act 1 of 1998

1. Section 15 of the Constitution of the Western Cape, 1997 (the Provincial Constitution), is amended by the substitution for subsection (3) of the following subsection: 5

- “(3) A person loses membership of the Provincial Parliament if that person—
- (a) ceases to be eligible;
 - (b) resigns as a member; **[or]**
 - (c) is absent from the Provincial Parliament without permission in circumstances for which the rules and orders of the Provincial Parliament prescribe loss of membership ; or 10
 - (d) ceases to be a member of the party that nominated that person as a member of the Provincial Parliament.”.

Amendment of section 17 of Act 1 of 1998 15

2. Section 17 of the Provincial Constitution is amended by the insertion of the following subsection after subsection (2):

- “(2A) A proclamation calling and setting dates for an election may be issued before or after the expiry of the term of the Provincial Parliament.”.

Substitution of section 30 of Act 1 of 1998 20

3. The following section is substituted for section 30 of the Provincial Constitution:

“Money Bills

- 30.** (1) A Bill [**that**] is a money Bill if it—
- (a) appropriates money; [**or**]
 - (b) imposes provincial taxes, levies, [**or**] duties or surcharges [**is a money Bill**];
 - (c) abolishes or reduces, or grants exemptions from, any provincial taxes, levies, duties or surcharges; or
 - (d) authorises direct charges against the Provincial Revenue Fund.
- (2) A money Bill may not deal with any other matter except—
- (a) a subordinate matter incidental to the appropriation of money; [**or**]
 - (b) the imposition, abolition or reduction of provincial taxes, levies, [**or**] duties or surcharges;
 - (c) the granting of exemption from provincial taxes, levies, duties or surcharges; or
 - (d) the authorisation of direct charges against the Provincial Revenue Fund.
- [(2)](3) A provincial Act must provide for a procedure by which the Provincial Parliament may amend a money Bill.”.

Substitution of section 49 of Act 1 of 1998

4. The following section is substituted for section 49 of the Provincial Constitution: 20

“[Supervision of] Intervention in local government

- 49.** (1) When a municipality in the Western Cape cannot or does not fulfil an executive obligation in terms of the national Constitution, this Constitution or legislation, the Provincial Cabinet may intervene by taking any appropriate steps to ensure fulfilment of that obligation, including—
- (a) issuing a directive to the Municipal Council, describing the extent of the failure to fulfil its obligations and stating any steps required to meet its obligations; [**and**]
 - (b) assuming responsibility for the relevant obligation in that municipality to the extent necessary—
 - (i) to maintain essential national standards or meet established minimum standards for the rendering of a service;
 - (ii) to prevent that Municipal Council from taking unreasonable action that is prejudicial to the interests of another municipality or to the Western Cape as a whole; or
 - (iii) to maintain economic unity; or
 - (c) dissolving the Municipal Council and appointing an administrator until a newly elected Municipal Council has been declared elected, if exceptional circumstances warrant such a step.
- (2) If the Provincial Cabinet intervenes in a municipality under subsection (1)(b)—
- [(a)] **the intervention must end unless it is approved by the national Cabinet member responsible for local government affairs within 14 days of the intervention;**
 - (b) [(a)] it must submit a written notice of the intervention [**must be tabled in**] to—
 - (i) the national Cabinet member responsible for local government affairs;
 - (ii) the Provincial Parliament; and
 - (iii) [**in**] the National Council of Provinces,
 within 14 days [**of their respective first sittings**] after the intervention began; and
 - [(c)] [(b)] the intervention must end [**unless it is approved by the National Council of Provinces within 30 days of its first sitting after the intervention began**] if—
 - (i) the national Cabinet member responsible for local government affairs disapproves the intervention within 28

- days after the intervention began or by the end of that period has not approved the intervention; or
- (ii) the National Council of Provinces disapproves the intervention within 180 days after the intervention began or by the end of that period has not approved the intervention. 5
- (3) If a Municipal Council is dissolved in terms of subsection (1)(c)—
- (a) the Provincial Cabinet must immediately submit a written notice of the dissolution to—
- (i) the national Cabinet member responsible for local government affairs; 10
- (ii) the Provincial Parliament; and
- (iii) the National Council of Provinces; and
- (b) the dissolution takes effect 14 days from the date of receipt of the notice by the National Council of Provinces unless set aside by that national Cabinet member or the National Council of Provinces before the expiry of those 14 days. 15
- (4) If a municipality cannot or does not fulfil an obligation in terms of the national Constitution or legislation to approve a budget or any revenue-raising measures necessary to give effect to the budget, the Provincial Cabinet must intervene by taking any appropriate steps to ensure that the budget or those revenue-raising measures are approved, including dissolving the Municipal Council and— 20
- (a) appointing an administrator until a newly elected Municipal Council has been declared elected; and 25
- (b) approving a temporary budget or revenue-raising measures to provide for the continued functioning of the municipality.
- (5) If a municipality, as a result of a crisis in its financial affairs, is in serious or persistent material breach of its obligations to provide basic services or to meet its financial commitments, or admits that it is unable to meet its obligations or financial commitments, the Provincial Cabinet must— 30
- (a) impose a recovery plan aimed at securing the municipality's ability to meet its obligations to provide basic services or its financial commitments, which— 35
- (i) is to be prepared in accordance with national legislation; and
- (ii) binds the municipality in the exercise of its legislative and executive authority, but only to the extent necessary to solve the crisis in its financial affairs; and
- (b) dissolve the Municipal Council, if the municipality cannot or does not approve legislative measures, including a budget or any revenue-raising measures, necessary to give effect to the recovery plan, and— 40
- (i) appoint an administrator until a newly elected Municipal Council has been declared elected; and 45
- (ii) approve a temporary budget or revenue-raising measures or any other measures giving effect to the recovery plan to provide for the continued functioning of the municipality.
- (6) If the Provincial Cabinet imposes a recovery plan in terms of subsection (5)(a) and the Municipal Council is not dissolved in terms of subsection (5)(b), the Provincial Cabinet must assume responsibility for the implementation of the recovery plan to the extent that the municipality cannot or does not otherwise implement the recovery plan. 50
- (7) If the Provincial Cabinet intervenes in a municipality in terms of subsection (4), (5) or (6), it must submit a written notice of the intervention to— 55
- (a) the national Cabinet member responsible for local government affairs;
- (b) the Provincial Parliament; and
- (c) the National Council of Provinces, 60
- within seven days after the intervention began.”.

Amendment of section 59 of Act 1 of 1998

5. Section 59 of the Provincial Constitution is amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) flat-rate surcharges on **[the tax bases of]** any tax, levy or duty that is imposed by national legislation, other than **[the tax bases of]** on corporate income tax, value-added tax, rates on property or customs duties.”. 5

Substitution of section 63 of Act 1 of 1998

6. The following section is substituted for section 63 of the Provincial Constitution:

“Loans

63. The Western Cape government may raise loans for capital or current expenditure, in accordance with **[conditions determined by]** national legislation, but loans for current expenditure[—

(a) may be raised only when necessary for bridging purposes during a fiscal year[; and

(b) **must be repaid within 12 months]**.”. 15

Repeal of sections 71, 72, 73, 74, 75, 76 and 77 of Act 1 of 1998

7. Sections 71, 72, 73, 74, 75, 76 and 77 of the Provincial Constitution are repealed.

Substitutions of expressions in Act 1 of 1998

8. The Provincial Constitution is amended—

(a) by the substitution for the expression “President of the Constitutional Court”, wherever it appears, of the expression “Chief Justice”; and

(b) by the substitution in the Xhosa text for the expressions “kwisi Bhulu”, “sisiBhulu”, “kwesiBhulu” and “isiBhulu”, wherever they appear, of the expressions “kwisiAfrikansi”, “sisiAfrikansi”, “kwesiAfrikansi” and “isiAfrikansi”, respectively. 25

Short title

9. This Act is called the Constitution of the Western Cape First Amendment Act, 2021.

ALGEMENE VERDUIDELIKENDE NOTA:

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

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

WETSONTWERP

Tot wysiging van die Grondwet van die Wes-Kaap, 1997, ten einde dit in ooreenstemming te bring met die Grondwet van die Republiek van Suid-Afrika, 1996, met betrekking tot die verlies van lidmaatskap van die Provinsiale Parlement, die uitskrif van, en die bepaling van datums vir, 'n verkiesing van die Provinsiale Parlement, die omskrywing van 'n Geldwetsontwerp, provinsiale ingryping in plaaslike regering, die oplê van bobelastings deur die Provinsiale Parlement en die aangaan van lenings deur die Wes-Kaapse regering; om die bepalings betreffende die Omgewingskommissaris te herroep; om verwysings na die President van die Konstitusionele Hof te vervang; om bepaalde tekstuele veranderinge aan te bring; 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:—

Wysiging van artikel 15 van Wet 1 van 1998

1. Artikel 15 van die Grondwet van die Wes-Kaap, 1997 (die Provinsiale Grondwet), word gewysig deur subartikel (3) deur die volgende subartikel te vervang: 5

- “(3) 'n Persoon verloor lidmaatskap van die Provinsiale Parlement indien [so 'n] daardie persoon—
- (a) ophou om bevoeg te wees om 'n lid te wees;
 - (b) as lid bedank; [of]
 - (c) sonder toestemming van die Provinsiale Parlement afwesig is in 10 omstandighede waarvoor die reëls en orders van die Provinsiale Parlement verlies van lidmaatskap voorskryf; of
 - (d) ophou om 'n lid te wees van die party wat daardie persoon as 'n lid van die Provinsiale Parlement benoem het.”.

Wysiging van artikel 17 van Wet 1 van 1998 15

2. Artikel 17 van die Provinsiale Grondwet word gewysig deur die volgende subartikel ná subartikel (2) in te voeg:

- “(2A) 'n Proklamasie wat 'n verkiesing uitskrif en datums daarvoor bepaal, kan voor of ná die verstryking van die termyn van die Provinsiale Parlement uitgereik word.”. 20

Vervanging van artikel 30 van Wet 1 van 1998

3. Artikel 30 van die Provinsiale Grondwet word deur die volgende artikel vervang:

“**Geldwetsontwerpe**

- 30.** (1) ’n Wetsontwerp [**wat**] is ’n Geldwetsontwerp indien dit—
- (a) geld bewillig; [**of**]
 - (b) provinsiale belastinge, heffings, [**of**] regte of bobelastinge oplê, is ’n Geldwetsontwerp; 5
 - (c) provinsiale belastinge, heffings, regte of bobelastinge afskaf of verminder of vrystellings daarvan verleen; of
 - (d) ’n regstreekse las teen die Provinsiale Inkomstefonds magtig.
- (2) ’n Geldwetsontwerp mag oor geen ander aangeleentheid handel nie, behalwe— 10
- (a) ’n ondergeskikte aangeleentheid wat verband hou met die bewilliging van geld; [**of**]
 - (b) die oplegging, afskaffing of vermindering van provinsiale belastinge, heffings, [**of**] regte of bobelastinge;
 - (c) die verlening van vrystelling van provinsiale belastinge, heffings, regte of bobelastinge; of 15
 - (d) die magtiging van regstreekse laste teen die Provinsiale Inkomstefonds.

[(2)](3) ’n Provinsiale Wet moet voorsiening maak vir ’n prosedure waarvolgens die Provinsiale Parlement ’n Geldwetsontwerp kan wysig.”. 20

Vervanging van artikel 49 van Wet 1 van 1998

4. Artikel 49 van die Provinsiale Grondwet word deur die volgende artikel vervang:

“[**Toesig oor**] **Ingryping in plaaslike regering**

- 49.** (1) Wanneer ’n munisipaliteit in Wes-Kaap ’n uitvoerende 25
verpligting ingevolge die nasionale Grondwet, hierdie Grondwet of wetgewing nie nakom of nie kan nakom nie, kan die Provinsiale Kabinet ingryp deur enige gepaste stappe te doen om te verseker dat daardie verpligting nagekom word, insluitende—
- (a) die uitreiking van ’n lasgewing aan die Munisipale Raad waarin die mate van die versuim om sy [**verpligting**] verpligtinge na te kom, beskryf word en stappe wat nodig is om sy verpligtinge na te kom, vermeld word; [**en**] 30
 - (b) die aanvaarding van verantwoordelikheid vir die betrokke verpligting in daardie munisipaliteit in die mate wat nodig is om— 35
 - (i) noodsaaklike nasionale standaarde te handhaaf of aan gevestigde minimum standaarde vir die lewering van ’n diens te voldoen;
 - (ii) te voorkom dat daardie Munisipale Raad onredelike stappe doen wat nadelig is vir die belange van ’n ander munisipaliteit of van Wes-Kaap as geheel; of 40
 - (iii) ekonomiese eenheid te handhaaf; of
 - (c) die ontbinding van die Munisipale Raad en aanstelling van ’n administrateur totdat ’n pas verkose Munisipale Raad verkose verklaar is, indien buitengewone omstandighede so ’n stap regverdig. 45
- (2) Indien die Provinsiale Kabinet kragtens subartikel (1)(b) in ’n munisipaliteit ingryp, moet—
- [(a) **die ingryping beëindig word, tensy die lid van die Nasionale Kabinet wat vir plaaslike regeringsake verantwoordelik is, dit binne 14 dae vanaf die ingryping goedkeur;** 50
 - (b)](a) die Provinsiale Kabinet ’n skriftelike kennisgewing van die ingryping voorlê aan—
 - (i) die lid van die nasionale Kabinet wat vir plaaslike-regeringsaangeleenthede verantwoordelik is; 55
 - (ii) [**in**] die Provinsiale Parlement; en

- (iii) [in] die Nasionale Raad van Provinsies [ter tafel gelê word],
binne 14 dae [vanaf hul onderskeie eerste sittings] nadat die ingryping 'n aanvang geneem het; en
- [(c)](b) die ingryping beëindig word[, tensy die Nasionale Raad van Provinsies dit binne 30 dae vanaf sy eerste sitting nadat die ingryping begin het, goedkeur] indien—
- (i) die nasionale Kabinetslid wat vir plaaslikeregeringsaangeleenthede verantwoordelik is, die ingryping afkeur binne 28 dae nadat die ingryping 'n aanvang geneem het of by die einde van daardie tydperk die ingryping nie goedgekeur het nie; of
- (ii) die Nasionale Raad van Provinsies die ingryping afkeur binne 180 dae nadat die ingryping 'n aanvang geneem het of by die einde van daardie tydperk die ingryping nie goedgekeur het nie.
- (3) Indien 'n Munisipale Raad ingevolge subartikel (1)(c) ontbind is—
- (a) moet die Provinsiale Kabinet onmiddellik 'n skriftelike kennisgewing van die ontbinding voorlê aan—
- (i) die nasionale Kabinetslid wat vir plaaslike-regeringsaangeleenthede verantwoordelik is;
- (ii) die Provinsiale Parlement; en
- (iii) die Nasionale Raad van Provinsies; en
- (b) neem die ontbinding 'n aanvang 14 dae vanaf die datum van ontvangs van die kennisgewing deur die Nasionale Raad van Provinsies tensy tersyde gestel deur die nasionale Kabinetslid of die Nasionale Raad van Provinsies voor die verstryking van daardie 14 dae.
- (4) Indien 'n munisipaliteit 'n verpligting ingevolge die nasionale Grondwet of wetgewing om 'n begroting of inkomstegenererende maatreëls goed te keur wat nodig is om aan die begroting gevolg te gee nie kan nakom nie of dit nie nakom nie, moet die Provinsiale Kabinet ingryp deur enige gepaste stappe te doen om te verseker dat die begroting of daardie inkomstegenererende maatreëls goedgekeur word, met inbegrip van die ontbinding van die Munisipale Raad en—
- (a) die aanstelling van 'n administrateur totdat 'n pas verkose Munisipale Raad verkose verklaar is; en
- (b) die goedkeuring van 'n voorlopige begroting of inkomstegenererende maatreëls om vir die voortgesette funksionering van die munisipaliteit voorsiening te maak.
- (5) Indien 'n munisipaliteit, as gevolg van 'n krisis in sy finansiële sake, in ernstige of volgehoue wesenlike versuim is van sy verpligtinge om basiese dienste te verskaf of om sy finansiële ondernemings na te kom, of erken dat hy nie in staat is om sy verpligtinge of finansiële ondernemings na te kom nie, moet die Provinsiale Kabinet—
- (a) 'n herstelplan voorskryf wat daarop gerig is om die munisipaliteit se vermoë om sy verpligtinge om basiese dienste te verskaf of sy finansiële ondernemings na te kom, te verseker, wat—
- (i) voorberei moet word ooreenkomstig nasionale wetgewing; en
- (ii) die munisipaliteit in die uitoefening van sy wetgewende en uitvoerende gesag bind, maar slegs in die mate wat nodig is om die krisis in sy finansiële sake op te los; en
- (b) die Munisipale Raad ontbind, indien die munisipaliteit wetgewende maatreëls, met inbegrip van 'n begroting of enige inkomstegenererende maatreëls wat nodig is om aan die herstelplan gevolg te gee, nie kan goedkeur nie of dit nie goedkeur nie, en—
- (i) 'n administrateur aanstel totdat 'n pas verkose Munisipale Raad verkose verklaar is; en
- (ii) 'n voorlopige begroting of inkomstegenererende maatreëls of enige ander maatreëls wat aan die herstelplan gevolg gee, goedkeur om vir die voortgesette funksionering van die munisipaliteit voorsiening te maak.

(6) Indien die Provinsiale Kabinet 'n herstelplan ingevolge subartikel (5)(a) voorskryf en die Munisipale Raad nie ingevolge subartikel (5)(b) ontbind word nie, moet die Provinsiale Kabinet verantwoordelikheid aanvaar vir die uitvoer van die herstelplan in die mate wat die munisipaliteit die herstelplan nie andersins kan uitvoer of dit nie uitvoer nie. 5

(7) Indien die Provinsiale Kabinet ingevolge subartikel (4), (5) of (6) in 'n munisipaliteit ingryp, moet hy 'n skriftelike kennisgewing van die ingryping voorlê aan— 10

(a) die nasionale Kabinetslid wat vir plaaslikeregeringsaangeleenthede verantwoordelik is;

(b) die Provinsiale Parlement; en

(c) die Nasionale Raad van Provinsies, binne sewe dae nadat die ingryping 'n aanvang geneem het.”

Wysiging van artikel 59 van Wet 1 van 1998 15

5. Artikel 59 van die Provinsiale Grondwet word gewysig deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

“(b) uniforme bobelasting hef op [**die belastingbasisse van**] enige belasting, heffing of reg wat deur nasionale wetgewing opgelê word, uitgesonderd [**die belastingbasisse van**] op korporatiewe inkomstebelasting, belasting op toegevoegde waarde, eiendomsbelasting of doeaneregte.” 20

Vervanging van artikel 63 van Wet 1 van 1998

6. Artikel 63 van die Provinsiale Grondwet word deur die volgende artikel vervang:

“Lenings

63. Die Wes-Kaapse regering kan lenings vir kapitaaluitgawes of lopende uitgawes ooreenkomstig [**voorwaardes wat deur**] nasionale wetgewing [**bepaal word,**] aangaan, maar lenings vir lopende uitgawes[— 25

(a) kan slegs aangegaan word wanneer dit gedurende 'n belastingjaar vir oorbruggingsdoeleindes nodig is; en 30

(b) moet binne 12 maande terugbetaal word].”

Herroeping van artikels 71, 72, 73, 74, 75, 76 en 77 van Wet 1 van 1998

7. Artikels 71, 72, 73, 74, 75, 76 en 77 van die Provinsiale Grondwet word herroep.

Vervanging van uitdrukkings in Wet 1 van 1998

8. Die Provinsiale Grondwet word gewysig— 35

(a) deur die uitdrukking “President van die Konstitusionele Hof”, waar dit ook al voorkom, deur die uitdrukking “Hoofregter” te vervang; en

(b) deur in die Xhosateks die uitdrukkings “kwisi Bhulu”, “sisiBhulu”, “kwesiBhulu” en “isiBhulu”, waar dit ook al voorkom, onderskeidelik deur die uitdrukkings “kwisiAfrikansi”, “sisiAfrikansi”, “kwesiAfrikansi” en “isiAfrikansi” te vervang. 40

Kort titel

9. Hierdie Wet heet die Eerste Wysigingswet op die Grondwet van die Wes-Kaap, 2021.

INGCACISO GABALALA:

[] Amagama abhalwe ngqindilili kwizibiyeli ezisikwere abonakalisa oko kuye kwasuswa kwimithetho esele iphunyeziwe.

Amagama akrwelelwe umgca ongqindilili ngaphantsi abonakalisa oko kufakelweyo kumthetho osele uphunyeziwe kwimithetho ekhoyo.

UMTHETHO OSAYILWAYO

Ukwenziwa kwezilungiso kuMgaqo-siseko weNtshona Koloni, ka-1997, ukuze unqamane noMgaqo-siseko weRiphabliki yoMzantsi Afrika, ka-1996, ngokunxulumene nokulahlekelwa bubulungu kwiPalamente yePhondo, ukubizwa nokubekwa kwemihla yonyulo lwePalamente yePhondo, ukuchazwa kweBhili yemali, ukungenelela kwephondo kurhulumente wengingqi, ukufakwa kweerhafu yiPalamente yePhondo nokufunwa kwemali-mboleko ngurhulumente wePhondo leNtshona Koloni; kukubhangisa imiba enxulumene necandelo lemali lephondo, uMkhomishinala weNdalo esiNgqongileyo; ukutshintsha imbekiselo ethi uMongameli weNkundla yoMgaqo-siseko; ukuqalisa iinguqulelo zombhalo ezithile nokuchaza ngemiba enxulumene noku.

NGOKO KE yiPalamente yePhondo leNtshona Koloni, iphumeza umthetho ngale ndlela ilandelayo:—

Izilungiso kwicandelo 15 loMthetho 1 ka-1998

1. Icandelo 15 loMgaqo-siseko weNtshona Koloni, ka-1997 (uMgaqo-siseko wePhondo), lenziwa izilungiso ngokufakela eli candelwana (3) endaweni yelicandelwana lilandelayo:

“(3) Umntu uyaphelelwa bubulungu bakhe kwiPalamente yePhondo xa ngaba—

- (a) kuye kwenzeka ukuba angafaneleki;
- (b) [okanye] xa eziyekela ebulungwini;
- (c) uye akabikho kwiPalamente yePhondo ngaphandle kwemvume phantsi kweemeko ekuchaziweyo ukuba umntu uyaphelelwa bubulungu xa engekho kuzo; okanye
- (d) uyayeka ukuba lilungu lombutho owamkethayo ukuba awumele kwiPalamente yePhondo.”.

Izilungiso kwicandelo 17 loMthetho 1 ka-1998

2. Icandelo 17 loMgaqo-siseko wePhondo lenziwa izilungiso ngokufakelwa kweli candelwana (2) leli candelwana lilandelayo:

“(2A) Isibhengezo esibiza nesimisela umhla wolonyulo singakhutshwa phambi okanye emva kokuphela kwexesha lePalamente yePhondo.”.

Ukufakwa kwelinye icandelo endaweni yecandelo 30 loMthetho 1 ka-1998

3. Eli candelo lilandelayo liza kufakwa kwicandelo 30 loMgaqo-siseko wePhondo:

“[Ibhili zemali] IiBhili zeMali

- 30 . (1) [Ibhili ehlahla imali yokusetyenziswa okanye] IBhili yiBhili yezemali ukuba—**
- (a) ihlahla imali;
- (b) **[ebeka] ibeka** iirhafu, imirhumo **[neentlawulo yibhili yezemali.]**, imisebenzi okanye iintlawulo ezongezelelekileyo zephondo; 5
- (c) ibhangisa okanye inciphisa, okanye inikezela ngemvume yokungahlawuli, nazo naziphi na iirhafu zephondo, imirhumo, imisebenzi neentlawulo ezongezelelekileyo; okanye
- (d) ukugunyazisa iintlawulo ezingqale kwiNgxowamali yeRhafu yePhondo. 10
- (2) **[Ibhili] IBhili** yezemali akufuneki ukuba ibandakanye neminye imiba ngaphandle—
- (a) kwemiba ephathelele ekuhlahlweni kwemali; **[eza kusetyenziswa okanye]** 15
- (b) ekunyanzelweni **[ekubekweni kweerhafu, imirhumo neentlawulo]**, ekubhangisweni okanye ekuncitshisweni kweerhafu, imirhumo, imisebenzi okanye iintlawulo ezongezelelekileyo;
- (c) ukunikezelwa ngemvume yokungahlawuli iirhafu, imirhumo, imisebenzi okanye iintlawulo ezongezelelekileyo zephondo; okanye 20
- (d) ukugunyazisa iintlawulo ezingqale kwiNgxowamali yeRhafu yePhondo.
- [(2)](3) UMthetho wephondo kufuneka ube nenkqubo enokuthi ihambe ngayo iPalamente yePhondo xa isenza isilungiso kwibhili yezemali.” 25

Ukutshintshwa kwecandelo 49 loMthetho 1 ka-1998

4. Eli candelo lilandelayo lifakelwa endaweni yecandelo 49 loMgaqo-siseko wePhondo:

- “**[Ukubeka iliso kulawulo lweedolophu] Ungenelelo kurhulumente wengingqi** 30
- 49. (1)** Xa umasipala othile apha kweli Phondo engawenzi kakuhle umsebenzi wakhe wokulawula ngokoMgaqo-siseko kazwelonke, lo Mgaqo-siseko okanye ngokwemithetho, iKhabhinethi yePhondo isenokuthi ingenelele ngokuthi ithathe amanyathelo afanelekileyo okuqinisekisa ukuba loo misebenzi iyenziwa, manyathelo lawo anokubandakanya la alandelayo[:]:— 35
- (a) ukukhupha ingcaciso eya kwiKhansile kaMasipala lowo ichaza ngokupheleleyo indlela esilele ngayo ekwenzeni umsebenzi wayo, inike nezikhokelo kananjalo zokuba loo meko ingalungiswa njani na; 40
- (b) ukuthathela kuyo uxanduva lokwenza loo msebenzi asilele kuwo umasipala lowo iluthwale kangangoko kuyimfuneko—
- (i) ukugcina imigangatho yesizwe eyimfuneko okanye ukukhawulelana nemigangatho efunekayo ekunikweni kweenkonzo; 45
- (ii) ukuthintela iKhansile kaMasipala lowo ukuba ingathabathi amanyathelo angafanelekanga naya kuthi abeke esichengeni izinto ezichaphazela omnye umasipala okanye iNtshona Koloni iphela; 50
- (iii) okanye ukugcina umanyano kwinkalo yezoqoqosho; okanye
- (c) ukubhangisa iBhunga likaMasipala kuze kuqashwe umlawuli wethutyana kude kubhengezwe ukonyulwa kweBhunga lika-Masipala elitsha, ukuba iimeko ezizodwa zifunisa amanyathelo anjalo. 55
- (2) Ukuba ngaba iKhabhinethi yePhondo ingenelela kwimeko kamasipala othile ngokwalo mhlathana (1)(b)—

- [(a) kufuneka oko kungenelela kufikelele esiphelweni ngaphandle kokuba kuyavunywa nguMphathiswa wesizwe ojongene nolawulo lweedolophu;**
- (b)](a) kufuneka ingenise isaziso esibhaliweyo soko kungenelela [sandlalwe phambi kwePalamente] — 5**
- (i) kwilungu leKhabhinethi kazwelonke elijongene nemicimbi yorhulumente wengingqi;
- (ii) kwiPalamente yePhondo;
- (iii) **[nakwiKhansile yeSizwe yuMaphondo] nakwiBhunga laMaphondo leSizwe, 10**
- zingadlulanga iintsuku ezili-14 emva **[kokuba ihleli okokuqala emva] kolo ngenelelo; kwaye**
- [(c)](b)[kufuneka oko kungenelela] ungenelelo kuphele [kufikelele esiphelweni ngaphandle kokuba kuyavunywa yiKhansile yeSizwe yaMaphondo zingadlulanga iintsuku ezingama-30 emva kokuhlala kwayo okokuqala emva kolo ngenelelo] ukuba— 15**
- (i) ilungu leKhabhinethi kazwelonke elinoxanduva lwemicimbi yorhulumente wengingqi alivumelani nongenelelo kwisithuba seentsuku ezingama-28 emva kokuba ungenelelo luqalisile okanye ngasekupheleni kwelo xesha alikagunyazisi ukuba kungenelelwe; okanye
- (ii) iBhunga lamaPhondo leSizwe alivumelani nongenelelo zingaphelanga iintsuku ezili-180 emva kokuba luqalisile okanye ngasekupheleni kwelo xesha ayikagunyazisi ukuba kungenelelwe. 20
- (3) Ukuba iBhunga likaMasipala liyachithwa ngokwecandelwana (1)(c)—
- (a) iKhabhinethi yePhondo imele ukuba ngoko nangoko ithumele isaziso esibhaliweyo sokuchithwa kwalo— 30
- (i) kwilungu leKhabhinethi kazwelonke elinoxanduva lolawulo lwemicimbi yorhulumente wengingqi;
- (ii) kwiPalamente yePhondo;
- (iii) nakwiBhunga lamaPhondo leSizwe; kwaye
- (b) ukuchithwa kuya kusebenza kwiintsuku ezili-14 emva komhla wokufunyanwa kwesaziso liBhunga lamaPhondo leSizwe ngaphandle kokuba ilungu leKhabhinethi yesizwe okanye iBhunga lamaPhondo leSizwe lithi makungabi njalo ngaphambi kokuphela kwezo ntsuku zili-14. 35
- (4) Ukuba umasipala akakwazi okanye akayenzi imisebenzi yakhe ngokoMgaqo-siseko okanye ngokomthetho ogunyazisa ulwabiwo-mali okanye nawaphi na amanyathelo okwenza ingeniso efunekayo ukuze lusebenze ulwabiwo-mali, iKhabhinethi yePhondo imele ingenelele ngokuthatha nawaphi na amanyathelo afanelekileyo ukuze iqinisekise ukuba ulwabiwo-mali okanye loo manyathelo okwenza ingeniso ayagunyaziswa, kuquka nokuchitha iBhunga likaMasipala kunye— 40
- (a) nokubeka umlawuli kude kubhengezwe ukonyulwa kweBhunga likaMasipala elitsha;
- (b) nokugunyazisa ulwabiwo-mali lwexeshana okanye amanyathelo okwenza ingeniso ukuze umasipala aqhubeke esebenza. 45
- (5) Ukuba umasipala, ngenxa yeengxaki zemali, uyaqhubeka engayiphumezi imisebenzi yakhe yokunikela ngeenkonzo ezisisiseko okanye akayifezi imisebenzi yakhe yemali, okanye uyavuma ukuba akakwazi kuphumeza imisebenzi yakhe okanye ukuhlawula, iKhabhinethi yePhondo kufuneka— 50
- (a) inyanzelise isicwangciso sokulungisa loo ngxaki ngenjongo yokunceda loo masipala ukuba aphinde enze imisebenzi yakhe yokunikela ngeenkonzo ezisisiseko okanye yokwenza imisebenzi yakhe yemali, nekufuneka—
- (i) ilungiselelwe ngokungqamanayo nomthetho kazwelonke; yaye 55
- 60

- (ii) inyanzele umasipala ekusebenziseni igunya layo lomthetho nelesigqeba, ngokomlinganiselo olungele ukusombulula ingxaki leyo kunyaka-mali wayo; kwaye
- (b) ichithe iBhunga likaMasipala, ukuba umasipala akakwazi okanye akayilandeli imithetho, equka ulwabiwo-mali okanye nawaphi na amanyathelo okwenza ingeniso, afunekayo ukuze isicwangciso sokulungisa sisebenze, kwaye—
- (i) ibeke umlawuli de iBhunga likaMasipala elonyulwe ngokutsha libhengezwe;
- (ii) kwaye igunyazise ulwabiwo-mali lwexeshana okanye amanyathelo okwenza ingeniso okanye nawaphi na amanyathelo awenza isicwangciso sokulungisa sisebenze ukuze umasipala aqhubeke esebenza.
- (6) Ukuba iKhabhinethi yePhondo inyanzelisa isicwangciso sokulungisa ngokwecandelwana (5)(a) kwaye iBhunga likaMasipala alichithwanga ngokwecandelwana (5)(b), iKhabhinethi yePhondo kufuneka ithathele kuyo umsebenzi wokuqulunqa isicwangciso sokulungisa ngokwemeko embangela ukuba umasipala lowo angakwazi ukusebenzisa eso sicwangciso sokulungisa.
- (7) Ukuba iKhabhinethi yePhondo iyangenelela kumasipala ngokwecandelwana (4), (5) okanye (6), kufuneka ithumele isaziso esibhaliweyo sokungenelela kwayo—
- (a) kwilungu leKhabhinethi yesizwe elinoxanduva lokulawulwa kwemicimbi yorhulumente wengingqi;
- (b) kwiPalamente yePhondo;
- (c) nakwiBhunga lamaPhondo leSizwe, kwiintsuku ezisixhenxe emva kokuba ungenelelo luqalisile.”.

Izilungiso kwicandelo 59 loMthetho 1 ka-1998

5. Icandelo 59 loMgaqo-siseko wePhondo lenziwa izilungiso kwisiNgesi nakwiAfrikansi ngokufakelwa kwalo mhlathi (b) wecandelwana (1):
- “(b) flat-rate surcharges on **[the tax bases of]** any tax, levy or duty that is imposed by national legislation, other than **[the tax bases of]** on corporate income tax, value-added tax, rates on property or customs duties.”.

Izilungiso kwicandelo 63 loMthetho 1 ka-1998

6. Eli candelo lilandelayo lifakwa endaweni yecandelo 63 loMgaqo-siseko wePhondo:

“Iimali-mboleko

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

Ukubhangiswa kwamacandelo 71, 72, 73, 74, 75, 76 nelama-77 loMthetho 1 ka-1998

7. La macandelo alandelayo 71, 72, 73, 74, 75, 76, nelama-77 oMgaqo-siseko wePhondo ayabhangiswa.

Ukukhutshwa kwamabinzana kuMthetho 1 ka-1998

8. UMgaqo-siseko wePhondo wenziwa izilungiso—

- (a) ngokufakelwa kwebinzana elithi “uMongameli weNkundla yoMgaqosiseko” endaweni yebinzana elithi “uMongameli weNkundla yoMgaqosiseko”, naphi na apho livela khona;
- (b) ngokufakelwa kwegama elithi “kwisiAfrikansi”, “sisiAfrikansi”, “kwesiAfrikansi” nelithi “isiAfrikansi” endaweni yelithi “kwisi Bhulu”, “sisiBhulu”, “kwesiBhulu” nelithi “isiBhulu” naphi na apho livela khona kwinguqulelo yesiXhosa, ngokwahlukahlukeneyo. 5

Isihloko esifutshane

9. Lo Mthetho ubizwa ngokuba nguMthetho woLungiso wokuQala woMgaqo-siseko weNtshona Koloni, 2021. 10