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PROVINCE OF WESTERN CAPE

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**WESTERN CAPE TOLL ROADS  
ACT, 1999**

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PROVINSIE WES-KAAP

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**WES-KAAPSE WET OP  
TOLPAAIE, 1999**

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IPHONDO LENTSHONA KOLONI

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**UMTHETHO OYI-WESTERN  
CAPE TOLL ROADS ACT, 1999**

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**No 11, 1999**

# ACT

To provide for the tolling of provincial public roads in the Western Cape and for the planning, design, declaration, construction, operation, management, control, maintenance and rehabilitation of provincial toll roads; and to provide for matters related thereto.

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

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## Definitions

- 1.** In this Act, unless inconsistent with the context— 30
- “Department” means the Department of Transport referred to in Schedule 2 of the Public Service Act, 1994, under the section “Western Cape”;
- “Minister” means the member of the Provincial Cabinet of the Province responsible for transport affairs;
- “municipality”— 35
- (a) until the legislation envisaged in section 155(2) of the Constitution takes effect, means any local government body vested with municipal legislative and executive jurisdiction (whether on an exclusive or a shared basis) in respect of a particular area in terms of the Local Government Transition Act, 1993 (Act 209 of 1993), in compliance with section 155(1) of the 40 Constitution;
- (b) as from the date upon which that legislation takes effect, means any municipality as contemplated in that legislation;
- “prescribed” means prescribed by the Minister by regulation;

- “Province” means the province of Western Cape;
- “Provincial Minister of Finance” means the member of the Provincial Cabinet of the Province responsible for financial and fiscal affairs;
- “public road” means a public road as defined in the Roads Ordinance;
- “Roads Ordinance” means the Roads Ordinance, 1976 (Ordinance 19 of 1976), 5  
insofar as it applies in the Western Cape;
- “this Act” includes any regulations promulgated thereunder;
- “toll plaza”, in relation to a toll payable under this Act, means—
- (a) a structure on a toll road where the toll must be paid;
  - (b) an electric or electronic or a mechanical device on a toll road for recording the 10  
amount of toll which must be paid and for accepting the payment of the toll;
  - (c) a combination of a structure referred to in paragraph (a) and a device referred  
to in paragraph (b); or
  - (d) a toll-gate;
- “toll road” means a toll road declared in terms of section 2. 15

### **Declaration of toll roads by Minister**

2. (1) After the policy referred to in section 15 has been determined and made known in terms of that section, and in accordance with that policy but subject to the procedural requirements of subsections (2) and (3) and section 5, the Minister may, by notice in the *Gazette* and from a date specified in the notice— 20
- (a) declare a public road or a portion thereof (including a bridge or tunnel on the public road), in respect of which the Province is the road authority as defined in the Roads Ordinance, to be a toll road for the purposes of this Act; and
  - (b) amend or withdraw a notice in terms of paragraph (a).
- (2) Before the Minister declares a toll road under subsection (1)(a)— 25
- (a) the Head of the Department must, in the prescribed manner, give notice generally of the proposed declaration of the toll road, and must in the notice—
    - (i) give an indication of the type of toll plaza or plazas contemplated for the proposed toll road and the approximate position or positions thereof on the toll road; 30
    - (ii) invite interested persons to comment on or make representations regarding the proposed declaration of the toll road, the type of toll plaza or plazas contemplated and the proposed position or positions thereof;
    - (iii) direct the persons referred to in subparagraph (ii) to furnish their written comments or representations to the Department not later than a date 35  
mentioned in the notice, but a period of at least 30 days must be allowed for that purpose;
  - (b) the Head of the Department must in writing give every municipality in whose area of jurisdiction the proposed toll road will be situated an opportunity to comment on the proposed declaration of the toll road and any other matter 40  
with regard to that toll road (and particularly, as to the proposed position and type of the toll plaza or plazas) within a specified period (which may not be shorter than 60 days);
  - (c) the Department must forward its proposals in that regard to the Minister together with a report on the comments and representations that have been 45  
received (if any), and must, in the report, indicate the extent to which any of the matters raised in the comments and representations have been accommodated in the proposals; and
  - (d) the Minister must be satisfied that the Department has considered the 50  
comments and representations.
- (3) The procedural requirements in subsection (2) apply, with the necessary changes, if the Minister wishes to amend or withdraw a notice in terms of subsection (1)(b).

### **Levying and collection of toll by Minister**

3. (1) Subject to subsections (2), (3) and (4) and section 5, the Minister may, by notice in the *Gazette* and from a date specified in the notice, levy and collect a toll, the amount 55  
of which is likewise specified, for the driving or use of a vehicle on the toll road specified in the notice.
- (2) A toll levied in terms of subsection (1) is payable from the date specified in the notice—

- (a) by a person driving or using a vehicle on the toll road specified in the notice referred to in that subsection; and
  - (b) at a toll plaza or plazas on the toll road concerned or at any other place subject to the conditions which the Minister determines in that notice.
- (3) The amount of toll that may be levied under subsection (1), any rebate thereon and any increase or reduction thereof may differ in respect of— 5
- (a) different toll roads;
  - (b) different vehicles or different prescribed categories of vehicles driven or used on a toll road;
  - (c) different times at which any vehicle or any vehicle of a particular category is driven or used on a toll road; 10
  - (d) different categories of road users, irrespective of the vehicles driven or used by them.
- (4) Subject to section 5, the Minister may, by notice in the *Gazette* and from a date specified in the notice, increase the amount of toll levied in terms of subsection (1) or grant a rebate on or a reduction of such a toll. 15

### **Exemption, restriction or suspension of tolls**

4. Subject to section 5, the Minister may, by notice in the *Gazette* and from a date specified in the notice—
- (a) grant exemption from the payment of toll on a particular toll road— 20
    - (i) in respect of all vehicles of a category determined by the Minister and specified in the notice, either generally or at times so determined and specified;
    - (ii) to all users of the toll road of a category determined by the Minister and specified in the notice, irrespective of the vehicles driven or used by them, either generally or at times so determined and specified; 25
  - (b) restrict the levying of toll on a particular toll road to the hours or other times determined by the Minister and specified in the notice;
  - (c) suspend the levying of toll on a particular toll road for any specified or unspecified period, whether in respect of vehicles generally or in respect of all vehicles of a category determined by the Minister and specified in the notice, and resume the levying of toll after the suspension; 30
  - (d) amend or withdraw—
    - (i) an exemption under paragraph (a);
    - (ii) a restriction under paragraph (b); 35
    - (iii) a suspension under paragraph (c).

### **Specification of dates in notices**

5. A date specified in a notice issued in terms of section 2, 3 or 4 must not be earlier than 14 days or later than 28 days after the date on which the notice is published in the *Gazette*. 40

### **Operation of toll roads and levying of toll by authorised persons**

6. (1) Despite sections 2 and 3, the Minister may enter into an agreement with any person, including a municipality, in terms of which that person is authorised (hereafter in this section called an authorised person), for the period and in accordance with the terms and conditions of the agreement— 45
- (a) to operate, manage, control and maintain a public road or portion thereof which is a toll road in terms of section 2 or to operate, manage and control a toll plaza on any toll road; or
  - (b) to finance, plan, design, construct, maintain or rehabilitate such a public road or such a portion of a public road and to operate, manage and control it as a toll road. 50
- (2) Subject to subsections (3) and (4) an authorised person will be entitled—
- (a) to levy and collect toll for the authorised person's own account or for the Minister—
    - (i) on the toll road specified in the agreement; 55
    - (ii) during the period so specified; and
    - (iii) in accordance with the provisions of the agreement only; and

(b) in the circumstances mentioned in subsection (1)(b), to construct or erect, at the authorised person's own cost, a toll plaza and any facilities connected therewith for the purpose of levying and collecting toll.

(3) Where an agreement provides for any of the matters mentioned in section 3 or 4, an authorised person will be subject in all respects to the duties imposed on the Minister or the Department by that section as if the authorised person were the Minister or the Department. 5

(4) The amount of the toll that may be levied by an authorised person and any rebate on that amount or any increase or reduction thereof will be determined by the Minister in terms of section 3. 10

### **Powers of Minister**

7. (1) The Minister is responsible for, and is hereby given power to perform, all strategic planning with regard to the Province's toll road system, as well as the planning, design, construction, operation, management, control, maintenance and rehabilitation of toll roads for the Province. 15

(2) In addition to the other powers provided for by this Act, the Minister may—

- (a) provide, establish, erect and maintain facilities on toll roads for the convenience and safety of road users;
- (b) charge a levy, fee or rent for any authorisation, approval or permission that may be granted or given by the Minister to any person for the provision, construction, erection, establishment, carrying on or operation on, over or underneath a toll road of anything provided for in this Act; 20
- (c) subject to this Act, use any portion of a toll road that is not immediately required for traffic purposes, for any purposes which the Minister considers fit; 25
- (d) undertake or conduct any research, investigations or inquiries and collect any information in connection with toll roads, whether in the Republic or elsewhere;
- (e) take out insurance against any risk, loss or damage connected with the exercise of the powers or the performance of the functions or duties in terms of this Act; 30
- (f) liaise with bodies of professional persons performing work with regard to toll roads in the Province or similar roads elsewhere;
- (g) liaise and exchange information, knowledge and expertise with the official bodies or authorities entrusted with the control of toll roads, whether of a provincial, national or municipal character, in other countries, and participate in the conferences, seminars and workshops of those bodies or authorities and in the activities of any multinational or international association of those bodies or authorities; 35
- (h) grant a bursary, loan or subsidy to any person for study or research in any subject or field in connection with toll roads, or grant a subsidy to any institution or body engaged in research of that nature, if the study or research, in the Minister's opinion, will help to achieve the objects and perform the functions contemplated in this Act; and 40
- (i) do anything else which is reasonably ancillary to any of the main functions and powers in terms of this Act. 45

### **Information and management system**

8. The Minister must establish and operate an information and management system for toll roads in the Province.

### **Funding of toll roads** 50

9. There is a Toll Road Account in the Provincial Revenue Fund contemplated in section 226(1) of the Constitution, into which must be paid:

- (a) appropriations from the Provincial Parliament for purposes related to this Act;
- (b) subject to section 6(2), toll payable in terms of this Act;
- (c) income generated through developing, leasing out or otherwise managing assets related to toll roads within the scope of this Act; 55

- (d) any other levies and any fees, rentals or other moneys charged by and payable to the Province in terms of this Act;
- (e) income earned from participation in joint ventures in terms of section 14;
- (f) fines payable by persons as penalty on their conviction for offences contemplated in section 16(2) or 20(a), and all civil fines payable in terms of section 20(b); and 5
- (g) moneys received in connection with toll roads by way of grant or donation or from any source, whether inside or outside the Province or the Republic.

#### **Minister may institute legal proceedings to recover outstanding toll moneys**

**10.** (1) The Minister may institute legal proceedings to recover toll moneys owing by persons liable for toll in terms of this Act or to recover a civil fine payable in terms of section 20(b). 10

(2) The Minister's right to recover toll moneys will not be reduced, limited or affected in any other way where, and only because, the person concerned has been convicted and sentenced in the circumstances mentioned in section 20, or has paid or is liable to pay the civil fine provided for in paragraph (b) of that section. 15

#### **Agreements with other provinces**

**11.** (1) Where the Minister and another province have concluded an agreement in terms of which the Province undertakes to assist the other province in connection with the planning, design, construction, operation, management, control, maintenance or rehabilitation of any road of a provincial or main character in that other province, the Minister, subject to paragraph (b), may in that other province perform any function or work or undertake any operations with regard to the agreed assistance— 20

- (a) which, in terms of this Act, the Minister is competent to perform or undertake in the Province, if and to the extent designated for that purpose by a provision of the agreement; and 25
- (b) in accordance with an operating agreement entered into between the Minister and the administration of that other province.

(2) The Minister may charge a fee for performing a function or work or undertaking operations under subsection (1). 30

#### **Agreements with municipalities**

**12.** (1) The Minister may conclude an agreement with a municipality, in terms of which the municipality may do work in connection with a toll road, including the planning, design, construction and management of such a road or of a toll plaza, for the account of the Province. 35

(2) At the request of a municipality, the Minister may do any work in connection with a road of which that municipality is the road authority and which that authority has declared to be a toll road, including the planning, design and construction of such a road, or have it done under the Minister's supervision, for the account of that municipality.

(3) The Minister may charge a fee for a service rendered under this subsection. 40

#### **Agreements with South African National Roads Agency Limited**

**13.** The Minister may conclude an agreement with The South African National Roads Agency Limited established by section 2 of The South African National Roads Agency Limited and National Roads Act, 1998 (Act 7 of 1998), in terms of which—

- (a) that Agency may do work in connection with a toll road, including the planning, design, construction and management of such a road or of a toll plaza, or have the work done under its supervision, for the account of the Province, or the Province will do such work for the account of the Agency, or otherwise in terms of the agreement; 45
- (b) the Province will manage or maintain a toll road belonging to that Agency, or the Agency will manage or maintain a toll road declared under this Act, in which case the agreement may provide for the sharing of tolls and costs. 50

### Joint ventures

14. The Minister may, with the approval of the Provincial Minister of Finance, in regard to ventures involving provincial toll roads or infrastructure and other roads or infrastructure, participate jointly with the road authorities, or with a private person or body who has or will have ownership or control of the other roads or infrastructure, as the case may be. 5

### Provincial toll roads policy

15. (1) The Minister must make known the Province's policy with regard to toll roads by notice in the *Gazette*. The notice must state, among other things:

- (a) the goals with regard to toll roads that the Province wishes to achieve; 10
- (b) the policy objectives to be pursued so that those goals can be achieved; and
- (c) the general requirements for the declaration of a toll road or the levying of a toll or the amendment thereof.

(2) Whenever proposals relevant to determining or amending the toll roads policy are to be considered and decided, the Minister by notice published in the *Gazette* must make known those proposals and in that notice invite interested persons and the public to comment on the proposals and make representations with regard thereto, and must submit the proposed policy, or any amendment thereto, to the responsible standing committee of the Provincial Parliament for that committee's comments. 15

### Regulations 20

16. (1) Subject to subsection (4), the Minister may make regulations not inconsistent with this Act—

- (a) about traffic on a toll road or the use or protection of a toll road or the use or presence of vehicles or animals or any other thing on a toll road, on condition that such a regulation is not in conflict with any road traffic law; 25
- (b) prescribing a form to be used in connection with any claim for compensation or in connection with any application, authorisation, approval, permission or exemption provided for in this Act, or prescribing the information to be furnished and procedure to be followed in connection with any of those matters; 30
- (c) prescribing a fee to be paid for any application, authorisation, approval, permission or exemption provided for in this Act;
- (d) with regard to anything which in terms of this Act may or must be prescribed, governed or determined by regulation or which, in terms of this Act, may or must be provided for by regulation. 35

(2) Different regulations may be made under subsection (1) for different toll roads, and the regulations may provide that a person who contravenes or fails to comply with a regulation will be guilty of an offence and on conviction punishable with a term of imprisonment or a fine not exceeding that prescribed in the regulations. However, the maximum period of a term of imprisonment so prescribed may not exceed six months, and a fine imposed in conjunction therewith or as an alternative thereto may not exceed R20 000. 40

(3) The making or amendment of regulations under subsection (1) that have financial implications must be carried out in consultation with the Provincial Minister of Finance.

(4) Before the Minister makes a regulation in terms of subsection (1), the Minister must— 45

- (a) publish in the *Gazette* a draft of the proposed regulation;
- (b) invite interested parties to make written representations within 30 days of the date of the publication of the draft regulation;
- (c) submit a copy of any representations referred to in paragraph (b) to the responsible standing committee of the Provincial Parliament for that committee's comments thereon. 50

### Limitation on legal proceedings against Minister

17. (1) (a) Except as provided in subsection (2), legal proceedings may not be brought against the Minister, an employee of the Provincial Administration: Western Cape or any other person for damage or loss allegedly suffered by a person (hereafter in this section called the claimant) as a result of any act or omission with regard to a toll road which allegedly was performed or omitted by any of the persons mentioned in paragraph (b)— 55

- (i) unless instituted within 15 calendar months after the date upon which the claimant became aware of the alleged act or omission, or after the date upon which the claimant may reasonably be expected to have become aware of the alleged act or omission, whichever is the earlier; and
  - (ii) before the expiry of at least three calendar months after written notification of the claimant's intention to institute the legal proceedings, containing sufficient particulars of the alleged act or omission, has been served on the defendant or respondent, unless the defendant or respondent has denied liability in writing.
- (b) For the purposes of paragraph (a), the persons concerned include a person acting on behalf of the Minister in terms of this Act.
- (2) The High Court that has jurisdiction to determine the legal proceedings contemplated by the claimant in any particular case may, on application by that claimant, order that any requirement of subsection (1)(a) be dispensed with or relaxed or that non-compliance therewith be condoned if the interests of justice so require.
- (3) Neither the Minister nor a person mentioned in subsection (1)(b) or a person who operates or has constructed a toll road will be liable for damage or loss suffered by a person through the use of any part of the road other than the roadway, as defined in the Roads Ordinance, or as a result of the closure or deviation of a toll road under this Act.

**Minister may pay certain costs incurred by municipalities or other provinces, and compensation for damage or loss due to activities under this Act** 20

- 18.** The Minister may in concurrence with the Provincial Minister of Finance and, subject to any conditions considered fit—
- (a) pay the cost or part of the cost incurred by a municipality or another province as a result of the construction, maintenance or rehabilitation of a toll road which, by agreement between the Minister and the municipality or the other province, as the case may be, may have become necessary;
  - (b) pay an amount to any person for damage, loss or inconvenience which, in the opinion of the Minister, has been or will be suffered by the person as a result of the exercise or performance of any of the powers, functions or duties entrusted to the Minister or any other person by or in terms of this Act, and for which no compensation is payable in terms of this Act or any other law.

**Law enforcement on toll roads**

- 19.** The Minister may enter into an agreement with a municipality, in terms of which the municipality is authorised, and undertakes, to perform law enforcement functions on a toll road within the municipal area through employees of the municipality designated or appointed by it for that purpose.

**Offences**

- 20.** A person liable for toll who, at a toll plaza or some other place for the payment of toll determined and made known in terms of section 3, refuses or fails to pay the amount of toll that is due—
- (a) is guilty of an offence and on conviction punishable with imprisonment for a period not exceeding six months or a fine, or with both the term of imprisonment and the fine; and
  - (b) is liable, in addition, to pay to the Department a civil fine of R1 000; provided that the Minister may annually, after the date of the commencement of this Act, by notice in the *Gazette*, increase the amount of the aforesaid civil fine by an amount equivalent to, but not exceeding, an increase of that amount based on the increase in the official consumer price index for the relevant year as published in the *Government Gazette*.

**State bound by this Act** 50

- 21.** This Act binds the State.

**Short title and commencement**

- 22.** This Act is called the Western Cape Toll Roads Act, 1999, and comes into operation on a date determined by the Premier by proclamation in the *Gazette*.



# WET

**Om voorsiening te maak vir die heffing van tolgeld op provinsiale openbare paaie in die Wes-Kaap en vir die beplanning, ontwerp, verklaring, bou, bedryf, bestuur, beheer, instandhouding en rehabilitasie van provinsiale tolpaaie; en om voorsiening te maak vir sake wat daarmee in verband staan.**

**D**AAR WORD BEPAAL deur die Provinsiale Parlement van die Wes-Kaap, soos volg:—

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## Woordomsrywings

- 1.** In hierdie Wet, tensy onbestaanbaar met die sinsverband, beteken— 30
- “Departement” die Departement van Vervoer bedoel in Bylae 2 van die Staatsdienswet, 1994, onder die afdeling “Wes-Kaap”;
- “hierdie Wet” ook enige regulasies daarkragtens uitgevaardig;
- “Minister” die lid van die Provinsiale Kabinet van die Provinsie wat verantwoordelik is vir vervoersake; 35
- “munisipaliteit”—
- (a) tot tyd en wyl die wetgewing wat in artikel 155(2) van die Grondwet in die vooruitsig gestel word, in werking tree, enige plaaslike regeringsliggaam by wie die munisipale wetgewende en uitvoerende jurisdiksie ten opsigte van ’n bepaalde gebied (hetsy op ’n eksklusiewe of deelgrondslag) ingevolge die Oorgangswet op Plaaslike Regering, 1993 (Wet 209 van 1993), berus ter voldoening aan artikel 155(1) van die Grondwet; 40
- (b) vanaf die datum waarop daardie wetgewing in werking tree, enige munisipaliteit soos in daardie wetgewing beoog;
- “openbare pad” ’n openbare pad soos in die Ordonnansie op Paaie omskryf; 45

- “Ordonnansie op Paaie” die Ordonnansie op Paaie, 1976 (Ordonnansie 19 van 1976), vir sover dit in die Wes-Kaap van toepassing is;
- “Provinsiale Minister van Finansies” die lid van die Provinsiale Kabinet van die Provinsie wat verantwoordelik is vir finansiële en fiskale sake;
- “Provinsie” die provinsie Wes-Kaap; 5
- “tolpad” ’n tolpad wat kragtens artikel 2 verklaar is;
- “tolplaza”, met betrekking tot tolgeld wat kragtens hierdie Wet betaal moet word—
- (a) ’n struktuur op ’n tolpad waar die tolgeld betaal moet word;
- (b) ’n elektriese, elektroniese of meganiese toestel op ’n tolpad vir die registrering van die verpligting om tolgeld te betaal en vir die ontvangs van die tolgeld wat betaal word; 10
- (c) ’n kombinasie van ’n struktuur bedoel in paragraaf (a) en ’n toestel bedoel in paragraaf (b); of
- (d) ’n tolhek; 15
- “voorgeskryf” deur die Minister by regulasie voorgeskryf.

### Verklaring van tolpaaie deur Minister

2. (1) Nadat die beleid genoem in artikel 15 bepaal is en ingevolge daardie artikel bekend gemaak is, en ooreenkomstig daardie beleid maar behoudens die vereistes rakende prosedure van subartikels (2) en (3) en artikel 5, kan die Minister, by kennisgewing in die *Koerant* en vanaf ’n datum in die kennisgewing gespesifiseer—
- (a) ’n openbare pad of ’n gedeelte daarvan (insluitende ’n brug of tonnel op die openbare pad), ten opsigte waarvan die Provinsie die padowerheid is, soos omskryf in die Ordonnansie op Paaie, vir die toepassing van hierdie Wet tot tolpad verklaar; en 25
- (b) ’n kennisgewing ingevolge paragraaf (a) wysig of terugtrek.
- (2) Alvorens die Minister ’n tolpad kragtens subartikel (1)(a) verklaar—
- (a) moet die Hoof van die Departement, op die voorgeskrewe wyse, in die algemeen kennis gee van die voorgestelde verklaring van die tolpad, en in die kennisgewing— 30
- (i) ’n aanduiding gee van die tipe tolplaza of -plazas wat vir die voorgestelde tolpad beoog word en naastenby die ligging of liggings daarvan op die tolpad;
- (ii) belanghebbende persone vra om kommentaar te lewer of vertoë te rig oor die voorgestelde verklaring van die tolpad, die tipe tolplaza of -plazas wat beoog word en die voorgestelde ligging of liggings daarvan; 35
- (iii) die persone bedoel in subparagraaf (ii) aansê om hul skriftelike kommentaar of vertoë aan die Departement te besorg nie later nie as ’n datum in die kennisgewing genoem, maar ’n tydperk van minstens 30 dae moet vir daardie doel toegelaat word; 40
- (b) moet die Hoof van die Departement elke munisipaliteit in wie se regsgebied die voorgestelde tolpad geleë sal wees, skriftelik die geleentheid bied om kommentaar te lewer oor die voorgestelde verklaring van die tolpad en enige ander saak aangaande daardie tolpad (en, in die besonder, aangaande die voorgestelde ligging van en tipe tolplaza of -plazas) binne ’n tydperk wat gespesifiseer word (wat nie korter as 60 dae mag wees nie); 45
- (c) moet die Departement die voorstelle in dié verband aan die Minister stuur saam met ’n verslag oor die kommentaar en vertoë wat ontvang is (indien daar is) en in die verslag aandui in watter mate daar in die voorstelle voorsiening gemaak is vir enige van die sake wat in die kommentaar en vertoë geopper is; 50
- en
- (d) moet die Minister tevrede wees dat die Departement die kommentaar en vertoë oorweeg het.
- (3) Die vereistes aangaande prosedure in subartikel (2) is van toepassing, met die nodige veranderings, indien die Minister ’n kennisgewing ingevolge subartikel (1)(b) wil wysig of terugtrek. 55

### Heffing en invordering van tolgeld deur Minister

3. (1) Behoudens subartikels (2), (3) en (4) en artikel 5 kan die Minister by kennisgewing in die *Koerant* en vanaf ’n datum in die kennisgewing gespesifiseer,

tolgeld waarvan die bedrag eweneens gespesifiseer word, hef en invorder vir die bestuur of gebruik van 'n voertuig op die tolpad wat in die kennisgewing gespesifiseer word.

(2) Tolgeld wat ingevolge subartikel (1) gehef word, is vanaf die datum in die kennisgewing gespesifiseer, betaalbaar—

- (a) deur 'n persoon wat 'n voertuig bestuur of gebruik op die tolpad wat gespesifiseer word in die kennisgewing in daardie subartikel bedoel; en 5
- (b) by 'n tolplaza of -plazas op die betrokke tolpad of by enige ander plek onderworpe aan die voorwaardes wat die Minister in daardie kennisgewing bepaal.

(3) Die bedrag aan tolgeld wat kragtens subartikel (1) gehef kan word, enige korting daarop en enige verhoging of vermindering daarvan kan verskil ten opsigte van— 10

- (a) verskillende tolpaaië;
- (b) verskillende voertuie of verskillende wat voorgeskryf word kategorieë voertuie wat op 'n tolpad bestuur of gebruik word;
- (c) verskillende tye waarop enige voertuig of enige voertuig van 'n bepaalde kategorie op 'n tolpad bestuur of gebruik word; 15
- (d) verskillende kategorieë padgebruikers, ongeag die voertuie wat deur hulle bestuur of gebruik word.

(4) Behoudens artikel 5 kan die Minister, by kennisgewing in die *Koerant* en vanaf 'n datum wat in die kennisgewing gespesifiseer word, die bedrag aan tolgeld wat ingevolge subartikel (1) gehef word, verhoog of 'n korting op of vermindering van daardie tolgeld toestaan. 20

#### **Vrystelling, beperking of opskorting van tolgeld**

4. Behoudens artikel 5 kan die Minister, by kennisgewing in die *Koerant* en vanaf 'n datum in die kennisgewing gespesifiseer— 25

- (a) vrystelling van die betaling van tolgeld op 'n bepaalde tolpad verleen—
  - (i) ten opsigte van alle voertuie van 'n kategorie deur die Minister bepaal en gespesifiseer in die kennisgewing, hetsy in die algemeen of op tye aldus bepaal en gespesifiseer;
  - (ii) aan alle gebruikers van die tolpad van 'n kategorie deur die Minister bepaal en gespesifiseer in die kennisgewing, ongeag die voertuie deur hulle bestuur of gebruik, hetsy in die algemeen of op tye aldus bepaal en gespesifiseer; 30
- (b) die heffing van tolgeld op 'n bepaalde tolpad beperk tot die ure of ander tye deur die Minister bepaal en gespesifiseer in die kennisgewing; 35
- (c) die heffing van tolgeld op 'n bepaalde tolpad vir 'n bepaalde of onbepaalde tydperk opskort, hetsy ten opsigte van voertuie in die algemeen of ten opsigte van alle voertuie van 'n kategorie deur die Minister bepaal en gespesifiseer in die kennisgewing, en die heffing van tolgeld na die opskorting hervat; 40
- (d) (i) 'n vrystelling kragtens paragraaf (a);
  - (ii) 'n beperking kragtens paragraaf (b); en
  - (iii) 'n korting kragtens paragraaf (c),
 wysig of terugtrek.

#### **Spesifisering van datums in kennisgewings**

5. 'n Datum wat gespesifiseer word in 'n kennisgewing ingevolge artikel 2, 3 of 4 uitgereik, moet nie vroër wees as 14 dae of later wees as 28 dae na die datum waarop die kennisgewing in die *Koerant* gepubliseer word nie. 45

#### **Bedryf van tolpaaië en heffing van tolgeld deur gemagtigde persone**

6. (1) Ondanks artikels 2 en 3 kan die Minister 'n ooreenkoms met enige persoon, insluitende 'n munisipaliteit, aangaan ingevolge waarvan daardie persoon gemagtig word (hierna in hierdie artikel 'n gemagtigde persoon genoem), vir die tydperk en ooreenkoms die bedinge en voorwaardes van die ooreenkoms— 50

- (a) om 'n openbare pad of gedeelte daarvan wat ingevolge artikel 2 'n tolpad is, te bedryf, te bestuur, te beheer en in stand te hou, of om 'n tolplaza op enige tolpad te bedryf, te bestuur en te beheer; of 55
- (b) om so 'n openbare pad of so 'n gedeelte van 'n openbare pad te finansier, te beplan, te ontwerp, te bou, in stand te hou of te rehabiliteer, en om dit as 'n tolpad te bedryf, te bestuur en te beheer.

- (2) Behoudens subartikels (3) en (4) is 'n gemagtigde persoon geregtig—
- (a) om tolgeld te hef en in te vorder vir eie rekening of vir die Minister—
    - (i) op die tolpad in die ooreenkoms gespesifiseer;
    - (ii) gedurende die tydperk aldus gespesifiseer; en
    - (iii) alleenlik ooreenkomstig die bepalings van die ooreenkoms; en 5
  - (b) om in die omstandighede in subartikel (1)(b) genoem, op eie koste 'n tolplaza en enige fasiliteite wat daarmee verband hou, te bou of op te rig met die doel om tolgeld te hef en in te vorder.
- (3) Waar 'n ooreenkoms voorsiening maak vir enige van die sake genoem in artikel 3 of 4, is 'n gemagtigde persoon in alle opsigte onderworpe aan die pligte wat by daardie artikel aan die Minister of die Departement opgelê word, asof die gemagtigde persoon die Minister of die Departement is. 10
- (4) Die tolbedrag wat deur 'n gemagtigde persoon gehef kan word, en enige korting op daardie bedrag of enige verhoging of vermindering daarvan sal deur die Minister ingevolge artikel 3 bepaal word. 15

### Bevoegdhe van Minister

7. (1) Die Minister is verantwoordelik vir, en word hierby bekleed met bevoegdheid vir die verrigting van, alle strategiese beplanning met betrekking tot die Provinsie se tolpadstelsel, asook die beplanning, ontwerp, bou, bedryf, bestuur, beheer, instandhouding en rehabilitasie van tolpaai vir die Provinsie. 20
- (2) Benewens die ander bevoegdhe waarvoor hierdie Wet voorsiening maak, kan die Minister—
- (a) fasiliteite op tolpaai vir die gerief en veiligheid van padgebruikers verskaf, tot stand bring, oprig en in stand hou;
  - (b) 'n heffing oplê of 'n geldbedrag of huurgeld hef vir enige magtiging, goedkeuring of toestemming wat die Minister aan enige persoon verleen of gee vir die voorsiening, bou, oprigting, totstandbrenging, dryf of bedryf op, oor of onder 'n tolpad van enigiets waarvoor in hierdie Wet voorsiening gemaak word; 25
  - (c) behoudens hierdie Wet, enige gedeelte van 'n tolpad wat nie onmiddellik vir verkeersdoeleindes benodig word nie, gebruik vir enige doel wat die Minister geskik ag; 30
  - (d) enige navorsing, ondersoek of navrae doen en enige inligting in verband met tolpaai, hetsy in die Republiek of elders, insamel;
  - (e) versekering uitneem teen enige risiko, verlies of skade wat met die uitoefening van die bevoegdhe of die verrigting van die funksies of pligte ingevolge hierdie Wet verband hou; 35
  - (f) skakel met liggame van professionele persone wat werk in verband met tolpaai in die Provinsie of dergelike paai elders verrig;
  - (g) skakel, en inligting, kennis en kundigheid uitruil, met die amptelike liggame of owerhede aan wie die beheer van tolpaai, hetsy van 'n provinsiale, nasionale of munisipale aard, in ander lande toevertrou is, en deelneem aan die konferensies, seminare en werksessies van daardie liggame of owerhede en aan die aktiwiteite van enige multinasionale of internasionale vereniging van daardie liggame of owerhede; 40
  - (h) 'n beurs, lening of subsidie aan enige persoon toeken vir 'n studie van of navorsing oor enige vakgebied of studieveld wat met tolpaai verband hou, of 'n subsidie aan enige instelling of liggaam wat met navorsing van daardie aard gemoeid is, toeken, as die studie of navorsing na die Minister se oordeel sal help om die doelwitte en funksies in hierdie Wet beoog, te bereik en te verrig; 50 en
  - (i) enigiets anders doen wat redelikerwys verband hou met enige van die hoof funksies en -bevoegdhe ingevolge hierdie Wet.

### Inligting- en bestuurstelsel

8. Die Minister moet 'n inligting- en bestuurstelsel vir tolpaai in die Provinsie instel. 55

### Befondsing van tolpaai

9. Daar is 'n Tolpadrekening in die Provinsiale Inkomstefonds beoog in artikel 226(1) van die Grondwet, waarin die volgende betaal moet word:

- (a) bewilligings deur die Provinsiale Parlement vir doeleindes wat met hierdie Wet in verband staan;
- (b) behoudens artikel 6(2), tolgeld ingevolge hierdie Wet betaalbaar;
- (c) inkomste gegeneer deur bates met betrekking tot tolpaai binne die bestek van hierdie Wet te ontwikkel, te verhuur of andersins te bestuur; 5
- (d) enige ander heffings en enige geldbedrae, huurgeld of ander gelde gehef deur en betaalbaar aan die Provinsie ingevolge hierdie Wet;
- (e) inkomste verdien deur deelname aan gesamentlike ondernemings ingevolge artikel 14;
- (f) boetes deur persone betaalbaar as straf by hul skuldigbevinding aan misdrywe beoog in artikel 16(2) of 20(a), en alle siviele boetes ingevolge artikel 20(b) betaalbaar; en 10
- (g) gelde wat in verband met tolpaai ontvang word by wyse van toekenning of skenking of uit enige bron, hetsy binne of buite die Provinsie of die Republiek. 15

### **Minister kan regsgedinge instel om uitstaande tolgeld te verhaal**

**10.** (1) Die Minister kan regsgedinge instel om tolgeld te verhaal wat verskuldig is deur persone wat ingevolge hierdie Wet vir tolgeld aanspreeklik is, of om 'n siviele boete te verhaal wat ingevolge artikel 20(b) betaalbaar is.

(2) Die Minister se reg om tolgeld te verhaal sal nie verminder, beperk of op enige ander wyse geraak word waar, of bloot omdat, die betrokke persoon skuldig bevind en gevonnissen is in die omstandighede in artikel 20 genoem nie, of die siviele boete waarvoor in paragraaf (b) van daardie artikel voorsiening gemaak word, betaal het of vir die betaling daarvan aanspreeklik is nie. 20

### **Ooreenkomste met ander provinsies**

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**11.** (1) Waar die Minister en 'n ander provinsie 'n ooreenkoms aangegaan het ingevolge waarvan die Provinsie onderneem om die ander provinsie te help met die beplanning, ontwerp, bou, bedryf, bestuur, beheer, instandhouding of rehabilitasie van enige provinsiale of hoofpad in daardie ander provinsie, kan die Minister behoudens paragraaf (b), met betrekking tot die ooreengekome hulp, in daardie ander provinsie enige funksie of werk verrig of enige werksaamhede onderneem— 30

(a) wat die Minister ingevolge hierdie Wet bevoeg is om in die Provinsie te verrig of te onderneem, indien en in die mate deur 'n bepaling van die ooreenkoms vir dié doel aangewys; en

(b) ooreenkomstig 'n bedryfsooreenkoms wat tussen die Minister en die administrasie van daardie ander provinsie aangegaan is. 35

(2) Die Minister kan 'n geldbedrag hef vir die verrigting van 'n funksie of van werk of vir die onderneem van werksaamhede kragtens subartikel (1).

### **Ooreenkomste met munisipaliteite**

**12.** (1) Die Minister kan 'n ooreenkoms met 'n munisipaliteit aangaan ingevolge waarvan die munisipaliteit werk in verband met 'n tolpad, insluitende die beplanning, ontwerp, bou en bestuur van so 'n pad of van 'n tolpaza, vir die rekening van die Provinsie kan verrig. 40

(2) Op versoek van 'n munisipaliteit kan die Minister enige werk in verband met 'n pad ten opsigte waarvan daardie munisipaliteit die padowerheid is en wat deur daardie padowerheid tot 'n tolpad verklaar is, insluitende die beplanning, ontwerp en bou van so 'n pad, doen of onder toesig van die Minister laat doen vir die rekening van daardie munisipaliteit. 45

(3) Die Minister kan 'n geldbedrag hef vir 'n diens wat kragtens hierdie subartikel gelewer word. 50

### **Ooreenkomste met Suid-Afrikaanse Nasionale Padagentskap Beperk**

**13.** Die Minister kan 'n ooreenkoms met Die Suid-Afrikaanse Nasionale Padagentskap Beperk, ingestel by artikel 2 van die Wet op Die Suid-Afrikaanse Nasionale Padagentskap Beperk en op Nasionale Paaie, 1998 (Wet 7 van 1998), aangaan ingevolge waarvan— 55

- (a) daardie Agentskap werk in verband met 'n tolpad, insluitende die beplanning, ontwerp, bou en bestuur van so 'n pad of van 'n tolplaza kan doen, of die werk onder sy toesig kan laat doen vir die rekening van die Provinsie, of die Provinsie sulke werk sal doen vir die rekening van die Agentskap, of andersins ingevolge die ooreenkoms; 5
- (b) die Provinsie 'n tolpad wat aan daardie Agentskap behoort, sal bestuur of in stand hou, of die Agentskap 'n tolpad kragtens hierdie Wet verklaar, sal bestuur of in stand hou, in welke geval die ooreenkoms voorsiening daarvoor kan maak dat die tolgeld en koste gedeel word.

### Gesamentlike ondernemings 10

14. Die Minister kan, met die goedkeuring van die Provinsiale Minister van Finansies, ten opsigte van ondernemings waarby provinsiale tolpaaië of infrastruktuur en ander paaië of infrastruktuur betrokke is, gesamentlik deelneem met die padowerhede, of met 'n private persoon of liggaam wat eiendomsreg op of beheer van die ander paaië of infrastruktuur het of sal hê, na gelang van die geval. 15

### Provinsiale tolpadbeleid

15. (1) Die Minister moet die Provinsie se beleid betreffende tolpaaië by kennisgewing in die *Koerant* bekend maak. Die kennisgewing moet onder meer die volgende vermeld:

- (a) die eindmikpunte betreffende tolpaaië wat die Provinsie wil bereik; 20
- (b) die beleidsdoelwitte wat nagestreef moet word sodat daardie eindmikpunte bereik kan word; en
- (c) die algemene vereistes vir die verklaring van 'n tolpad of die heffing van tolgeld, of die wysiging daarvan.

(2) Wanneer ook al voorstelle wat ter sake is by die bepaling of wysiging van die tolpadbeleid, oorweeg en daarvoor besluit moet word, moet die Minister by kennisgewing, gepubliseer in die *Koerant*, daardie voorstelle bekend maak en in daardie kennisgewing belanghebbendes en die publiek versoek om kommentaar oor die voorstelle te lewer en versoë in verband daarmee te rig, en die voorgestelde beleid, of enige wysiging daarvan, voorlê aan die verantwoordelike staande komitee van die Provinsiale Parlement vir daardie komitee se kommentaar. 30

### Regulasies

16. (1) Behoudens subartikel (4), kan die Minister regulasies maak, wat nie onbestaanbaar is met hierdie Wet nie—

- (a) oor verkeer op 'n tolpad of die gebruik of beskerming van 'n tolpad of die gebruik of teenwoordigheid van voertuie of diere of enige ander ding op 'n tolpad, op voorwaarde dat so 'n regulasie nie strydig is met enige padverkeerswet nie; 35
- (b) wat 'n vorm voorskryf vir gebruik in verband met enige eis ten opsigte van vergoeding of in verband met enige aansoek, magtiging, goedkeuring, toestemming of vrystelling waarvoor in hierdie Wet voorsiening gemaak word, of wat voorskryf watter inligting verstrek en watter prosedure gevolg moet word in verband met enige van daardie sake; 40
- (c) wat 'n bedrag voorskryf wat betaal moet word vir enige aansoek, magtiging, goedkeuring, toestemming of vrystelling waarvoor in hierdie Wet voorsiening gemaak word; 45
- (d) betreffende enigiets wat ingevolge hierdie Wet by regulasie voorgeskryf, gereël of bepaal kan of moet word of waarvoor ingevolge hierdie Wet by regulasie voorsiening gemaak kan of moet word.

(2) Verskillende regulasies kan kragtens subartikel (1) vir verskillende tolpaaië gemaak word, en die regulasies kan bepaal dat 'n persoon wat 'n regulasie oortree of versuim om daaraan te voldoen skuldig sal wees aan 'n misdryf en by skuldigbevinding strafbaar sal wees met 'n termyn van gevangenisstraf of 'n boete van hoogstens dié wat in die regulasies voorgeskryf word. Die maksimum tydperk van 'n termyn van gevangenisstraf aldus voorgeskryf mag egter nie ses maande oorskry nie, en 'n boete wat tesame daarmee of as 'n alternatief daarvan opgelê word, mag nie R20 000 oorskry nie. 55

(3) Die maak of wysiging van regulasies kragtens subartikel (1) wat finansiële implikasies het, moet in oorleg met die Provinsiale Minister van Finansies plaasvind.

(4) Alvorens die Minister 'n regulasie ingevolge subartikel (1) maak, moet die Minister—

- (a) 'n konsep van die voorgestelde regulasie in die *Koerant* publiseer; 5
- (b) belanghebbende partye nooi om skriftelike vertoë te rig binne 30 dae vanaf die datum van publikasie van die konsepregulasie;
- (c) 'n kopie van enige vertoë genoem in paragraaf (b) aan die verantwoordelike staande komitee van die Provinsiale Parlement voorlê vir daardie komitee se kommentaar daarop. 10

### **Beperking op regsgedinge teen Minister**

17. (1)(a) Uitgesonderd soos in subartikel (2) bepaal, mag 'n regsgeding nie teen die Minister, 'n werknemer van die Provinsiale Administrasie: Wes-Kaap of enige ander persoon ingestel word nie weens skade of verlies wat na bewering gely is deur 'n persoon (hierna in hierdie artikel die eiser genoem) as gevolg van enige handeling of versuim met betrekking tot 'n tolpad wat enige van die persone genoem in paragraaf (b) na bewering verrig of nagelaat het— 15

- (i) tensy dit ingestel word binne 15 kalendermaande na die datum waarop die eiser bewus geword het van die beweerde handeling of versuim, of na die datum waarop redelikerwys van die eiser verwag kan word om van die beweerde handeling of versuim bewus te geraak het, watter datum ook al die vroegste is; en 20
- (ii) alvorens minstens drie kalendermaande verloop het nadat skriftelike kennis van die eiser se voorneme om die regsgeding in te stel, wat voldoende besonderhede van die beweerde handeling of versuim bevat, aan die verweerder of respondent beteken is, tensy die verweerder of respondent skriftelik aanspreeklikheid ontken het. 25

(b) Vir die toepassing van paragraaf (a) sluit die betrokke persone 'n persoon in wat ingevolge hierdie Wet namens die Minister optree.

(2) Die Hoë Hof wat regsbevoeg is om die regsgeding te beslis wat in 'n bepaalde geval deur die eiser beoog word, kan op aansoek van daardie eiser beveel dat daar van enige vereiste van subartikel (1)(a) afgesien word of dat dit verslap word of dat nie-nakoming daarvan gekondoneer word, indien die belange van die regspleging dit vereis. 30

(3) Nóg die Minister nóg enige persoon in subartikel (1)(b) genoem of 'n persoon wat 'n tolpad bedryf of dit gebou het, is aanspreeklik vir enige skade of verlies wat deur 'n persoon gely is weens die gebruik van 'n ander deel van die pad as die ryvlak, soos omskryf in die Ordonnansie op Paaie, of as gevolg van die sluiting of verlegging van 'n tolpad kragtens hierdie Wet. 35

### **Minister kan sekere koste deur munisipaliteite of ander provinsies aangegaan, en vergoeding vir skade of verlies vanweë aktiwiteite kragtens hierdie Wet, betaal 40**

18. Die Minister kan in oorleg met die Provinsiale Minister van Finansies en, onderworpe aan enige voorwaardes wat goed geag word—

- (a) die koste of deel van die koste betaal wat deur 'n munisipaliteit of 'n ander provinsie aangegaan is as gevolg van die bou, instandhouding of rehabilitasie van 'n tolpad wat volgens ooreenkoms tussen die Minister en die munisipaliteit of die ander provinsie, na gelang van die geval, nodig geword het; 45
- (b) 'n bedrag aan enige persoon betaal vir skade, verlies of ongerief wat na die oordeel van die Minister deur die persoon gely is of gely sal word as gevolg van die uitoefening of verrigting van enige van die bevoegdhede, funksies of pligte waarmee die Minister of enige ander persoon by of ingevolge hierdie Wet beklee is, en waarvoor daar geen vergoeding ingevolge hierdie Wet of enige ander wet betaalbaar is nie. 50

### **Wetstoepassing op tolpaaie 55**

19. Die Minister kan ooreenkomste met 'n munisipaliteit aangaan waarvolgens die munisipaliteit gemagtig word, en onderneem, om wetstoepassingsfunksies op 'n tolpad

binne die munisipale gebied te verrig deur middel van werknemers van die munisipaliteit wat deur die munisipaliteit vir daardie doel aangewys of aangestel word.

### **Misdrywe**

**20.** 'n Persoon wat vir tolgeld aanspreeklik is en wat weier of versuim om die verskuldigde tolbedrag te betaal by 'n tolplaza of ander plek wat ingevolge artikel 3 vir die betaling van tolgeld bepaal en bekend gemaak is— 5

- (a) is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met gevangenisstraf vir 'n tydperk van hoogstens ses maande of 'n boete, of met die termyn van gevangenisstraf sowel as die boete; en
- (b) is daarbenewens aanspreeklik vir die betaling aan die Departement van 'n siviele boete van R1 000; met dien verstande dat die Minister jaarliks, na die datum van inwerkingtreding van hierdie Wet, by kennisgewing in die *Koerant* die bedrag van voornoemde siviele boete kan verhoog met 'n bedrag wat gelyke is aan, maar nie meer is as, 'n verhooging van daardie bedrag gebaseer op die styging in die amptelike verbruikersprysindeks vir die betrokke jaar, soos in die *Staatskoerant* gepubliseer. 15

### **Staat deur hierdie Wet gebind**

**21.** Hierdie Wet bind die Staat.

### **Kort titel en inwerkingtreding**

**22.** Hierdie Wet heet die Wes-Kaapse Wet op Tolpaaie, 1999, en tree in werking op 'n datum wat die Premier, by proklamasie in die *Koerant* bepaal. 20



# UMTHETHO

Ojolise ekuhlawulelweni kweendlela zikawonke-wonke kwiPhondo leNtshona Koloni nasekutyunjweni nasekuqhutyweni nasekulondolozweni nasekwakhiweni nasekulawulweni kweendlela zephondo ezihlawulelwayo; nasekusekeni iNgxowa yeeNdllela eZihlawulelwayo yeNtshona Koloni; nasekujonganeni nayo nayiphi na imicimbi enxulumene nezi ndlela zihlawulelwayo.

**I**WISA UMTHETHO ngoko ke iPalamente yePhondo leNtshona Koloni ngolu hlobo lulandelayo:—

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| 19. Ukuqinisekiswa kokuthotyelwa komthetho kwiindlela ezihlawulelwayo  |    |
| 20. Amatyala   |    |
| 21. Urhulumente ubophelelekile kulo Mthetho  |    |
| 22. Isihlokwana esifutshane  | 30 |

### Inkcazo-magama

**1.** Kulo Mthetho, ngaphandle kwalapho igama lisetyenziswe ngendlela elinika enye intsingiselo—

- “iSebe” libhekisele kwiSebe lezoThutho elikhankanywe kwiShedyuli 2 yoMthetho oyiPublic Service Act ka-1994, phantsi kwecandelo elithi “uLawulo lwePhondo leNtshona Koloni; 35
- “uMphathiswa” ubhekisele kwilungu leKhabhinethi yePhondo elisingathe imicimbi yothutho;
- (a) de ube sele usebenza umthetho ochazwa kwicandelo 155(2) loMgaqo-siseko, eli gama libhekisele kwisigqeba solawulo lwedolophu esithe sanikwa amagunya okuwisa imithetho kamasipala nawokulawula umasipala (nokuba oko sikwenza sodwa okanye mhlawumbi sibambisene nesinye isigqeba) ngokuphathelele kwingingqi ethile ngokwemiqathango yoMthetho oyiLocal 40

- Government Transition Act ka-1993 (Act 209 ka-1993) nangokuhamba ngokwecandelo 155(1) loMgaqo-siseko;
- (b) ukuqalela kuloo mhla uya kuthi uqale ngawo ukusebenza lo mthetho, liya kubhekisa kuye nawuphi na umasipala ochazwa apha kulo mthetho; “okubekiweyo” kubhekisele koko kubekwe nguMphathiswa ngomgaqo; 5  
 “iPhondo” libhekisele kwiPhondo leNtshona Koloni;  
 “uMphathiswa wezeMali wePhondo” ubhekisele kwilungu leKhabinethi yePhondo elisengathe imicimbi yemali nokusetyenziswa kwemali karhulumente; “indlela kawonke-wonke” ibhekisele kwindlela yomntu wonke njengoko ichazwa kuMthetho weeNdlela kaMasipala (Roads Ordinance); 10  
 “indlela” ibhekisele kwindlela njengoko ichazwa kuMthetho weeNdlela kaMasipala;  
 “uMthetho weeNdlela kaMasipala” uthetha umthetho oyiRoads Ordinance ka-1976 (Ordinance 19 ka-1976), apho ubhekisele kwiNtshona Koloni;  
 “uMgaqo-siseko” uthetha uMgaqo-siseko weRiphabliki yoMzantsi Afrika ka-1996 (Act 108 ka-1996); 15  
 xa kusithiwa “lo Mthetho” kubandakanywa nawo nawuphi na umgaqo othe waqulunqwa phantsi kwalo mthetho;  
 “isango leentlawulo zendlela” lithetha
- (a) isakhiwo esikwindlela ehlawulelwayo apho kuhlawuliswa iintlawulo zendlela khona; 20  
 (b) nayiphi na into yombane okanye engumatshini ekwindlela ehlawulelwayo eyenzelwe ukubonisa intlawulo efanele ukuhlawulwa;  
 (c) zonke ezi zinto zixelwe ku-(a) naku-(b);  
 (d) isango lendlela ehlawulelwayo 25  
 “indlela ehlawulelwayo” ibhekisele kwindlela ethe yakhethwa ngokwecandelo 2.

### Ukubekwa kweentlawulo zeendlela nguMphathiswa

2. (1) “Emva kokumiselwa komgaqo-nkqubo ekuthethuwa ngawo kwicandelo le-15, waziswe ngokwelo candelo, nangokunxulumene nalo mgaqonkqubo” yecandelwana (2) nele-(3) neyecandelo 5 uMphathiswa— 30
- (a) angatyumba indlela kawonke-wonke ethile okanye inxenye yayo ebandakanya nebhulorho okanye netonela elikuyo, ukuba mayibe yindlela ehlawulelwayo ngokwalo Mthetho;  
 (b) angenza izilungiso kolo tyumbo okanye alurhoxise, ngokomhlathi (a).
- (2) Phambi kokuba uMphathiswa atyumbe indlela ehlawulelwayo phantsi komhlathana (1)(a) ngaphandle kokuba— 35
- (a) iNtloko yeSebe ithe yanika isaziso ngokwendlela ebekiweyo malunga noku kutyunjwa kwaloo ndlela, yaza kweso saziso—
- (i) yaxela ukuba isango lentlawulo kucetywa ukuba libe phi na okanye kucetywa ukuba intlawulo iqokelelwe njani na kuloo ndlela; 40  
 (ii) iye yabacela abantu abachaphazelekayo ukuba bavakalise izimvo zabo malunga naloo ndlela icetywayo nangaloo ndawo kucetywa ukubeka kuyo isango lentlawulo ekuya kuhlawulwa kulo;  
 (iii) yaza yabaxelela aba bantu bakumhlathana (ii) ukuba izimvo zabo mabazithumele kwiSebe eli ungadlulanga umhla othile oxelwe kwisaziso eso. Kambe ke kufuneka kubekwe iintsuku ezingama-30 ubuncinane. 45
- (b) iNtloko yeSebe ithe yazisa bonke oomasipala eza kuba kwimihlaba yabo loo ndlela yabanika ithuba lokuba bavakalise izimvo zabo ngoko kutyunjwa kwaloo ndlela nangeminye imiba ephathelele kuyo (ngakumbi ngokuphathelele ekubeni liza kuba phi na isango leentlawulo zendlela), baze bazivakalise ngexesha elithile elixeliweyo (kodwa ke lingabi ngaphantsi kweentsuku ezingama-60); 50
- (c) iSebe lithe lanika uMphathiswa izindululo zalo ngalo mba kunye nengxelo malunga nezimvo ezithe zangeniswa (ukuba zikhona). Kuloo ngxelo iSebe kufuneka lichaze ukuba ngaba ezo zimvo zithe zavakaliswa ziye zibandakanywa kanganani na kwezo zindululo zalo; 55
- (d) uMphathiswa wanelisekile ukuba iSebe lizithathele ingqalelo izimvo ezithe zangeniswa.
- (3) Imiqathango yenkqubo ekuhanjwa ngayo ekwicandelwana (2) isebenza, inezo nguqulelo zifunekayo, xa ngaba uMphathiswa wenza izilungiso okanye urhoxisa isaziso ngokwecandelwana (1)(b). 60

### Ukubekwa nokuqokelelwa kweentlawulo nguMphathiswa

3. (1) Ehamba ngokwemiqathango yamacandelwana (2), (3), (4) neyecandelo 5, uMphathiswa angathi ngesaziso esikwiGazethi ukuqalela ngomhla othile oxeliweyo kwisaziso eso, abeke aqokelele intlawulo yendlela, neya kuthi ixelwe kwalapha kwisaziso ukuba yimalini na, mali leyo ihlawulelwa ukuqhuba okanye ukusebenzisa isithuthi kuloo ndlela ichaziweyo kwisaziso eso. 5
- (2) Intlawulo exeliweyo ngokweli candelwana (1) ihlawulwa ukuqalela ngaloo mhla uthe waxelwa kulo—
- (a) ngulowo mntu uqhuba okanye usebenzisa isithuthi kuloo ndlela ixeliweyo kwisaziso esikweli candelwana, kwaye 10
- (b) kwisango leentlawulo zendlela okanye kumasango eentlawulo zendlela okanye kwenye nayiphi na enye indawo ngokwemiqathango anokuthi uMphathiswa ayibeke kweso saziso.
- (3) Imali yentlawulo ngokweliya candelwana (1) ngokunjalo nezaphulelo nonyuso lwemali zisenokushiyana— 15
- (a) ngokweendlela ezahlukeneyo;
- (b) ngokweendidi zezithuthi eziqhutywayo okanye ezimiselweyo ezisetyenziswayo endleleni leyo;
- (c) ngokwamaxesha esiqhutywa okanye esisetyenziswa ngawo naso nasiphi na isithuthi okanye isithuthi esiluhlobo oluthile; 20
- (d) ngokweendidi ezahlukeneyo zabasebenzisi beendlela nokuba izithuthi abaziqhubayo okanye abazisebenzisayo ziloluphi na uhlobo.
- (4) Ehamba ngokwecandelo 5 uMphathiswa usenokuthi ngesaziso esikhutshwe kwiGazethi nangomhla oxeliweyo kwisaziso eso, ayinyuse intlawulo yendlela ebekwe ngokwecandelwana (1) okanye anike isaphulelo okanye ayithobe loo ntlawulo. 25

### Imvume yokungahlawuli, ukusikwa kwamaxesha okuhlawula nokumiswa kweentlawulo

4. Ehamba ngokwecandelo 5 uMphathiswa usenokuthi ngesaziso esikhutshwe kwiGazethi nangomhla oxeliweyo kwisaziso eso, uMphathiswa—
- (a) usenokunika imvume yokuba kungahlawulwa kwindlela ehlawulelwayo ethile— 30
- (i) ngezithuthi eziluhlobo oluthile olukhethwe nguMphathiswa nezichazwe kwisaziso ngokwemiqathango yecandelwana (2), mhlawumbi ngokubanzi nje okanye ngamaxesha athile abekiweyo;
- (ii) kubo bonke abasebenzisi bendlela ethile abaluhlobo oluthile olukhethwe nguMphathiswa laza lachazwa kwisaziso nokuba izithuthi ezo baziqhubayo okanye bazisebenzisayo ziluhlobo luni na, mhlawumbi ngokubanzi nje okanye ngamaxesha athile abekiweyo; 35
- (b) kwindlela ethile usenokuthi makuhlawulwe kuphela ngeeyure okanye ngamaxesha athile athe wawabeka, wawachaza ngesaziso; 40
- (c) usenokuthi akumise ukuhlawulwa kwentlawulo yendlela kwindlela ethile isithuba esithile esixeliweyo okanye esingaxelwanga ukuba siya kuba ngakanani na, nokuba yeyezithuthi zonke okanye yeyezithuthi eziluhlobo oluthile olukhethwe nguMphathiswa nezichazwe kwisaziso zize ke ziphinde ziqalise ukuhlawulelwa emva kokuphela kweso sithuba sokumiswa kwentlawulo; 45
- (d) usenokulungisa okanye arhoxise
- (i) laa mvume inikwe phantsi komhlathi (a);
- (ii) la maxesha okanye eziya yure zixelwe phantsi komhlathi (b);
- (iii) okuya kumiswa kwentlawulo kuxelwe phantsi komhlathi (c). 50

### Ukubekwa kwemihla kwizaziso

5. Umhla othe wabekwa kwisaziso esikhutshwe phantsi kwecandelo 2, 3 nele-4 kufuneka ungabi ngaphantsi kwesithuba seentsuku ezili-14 okanye zingadlulanga iintsuku ezingama-28 ukusuka kulaa mhla siphume ngawo isaziso kwiGazethi.

**Ukuqhutywa kweendlela ezihlawulelwayo nokubekwa kweentlawulo ngabantu abagunyazisiweyo**

6. (1) Nakubeni kukho izibakala zecandelo 2 nele-3 uMphathiswa angangena kwisivumelwano naye nawuphi na umntu, nokuba ngumasipalathi, ekunokuthi ngaso lowo mntu anokuthi kwisithuba sexesha elithile naphantsi kwemiqathango ethile yesivumelwano eso, agunyaziswe— 5

(a) ukuba aqhube alawule aze alondoloze indlela kawonke-wonke ethile ehlawulelwayo okanye inxenye yayo ngokwemiqathango yecandelo 2 okanye aqhube alawule isango leentlawulo zendlela elithile elikuyo nayiphi na indlela; 10

(b) okanye ukuba ayixhase ngemali loo ndlela okanye inxenye yayo, ayicwangcise ayicebe ayakhe ayilondoloze okanye ayiphucule, aze ayiqhube ayilawule njengendlela ehlawulelwayo.

(2) Lowo mntu (kuthiwa apha kweli candelo ngumntu ogunyazisiweyo) uya kuba negunya, elihamba ngokwamacandelo (3) no-(4)— 15

(a) lokubeka intlawulo nokuyiqokelela egameni lakhe okanye loMphathiswa—

(i) kwindlela ethile exelwe kwisivumelwano eso;

(ii) ngexesha elithile elixeliweyo;

(iii) ngokwemiqathango ekuvunyelwene ngayo kwesi sivumelwano; kwaye

(b) kwezi meko zichazwe kwicandelwana (1)(b), nelokwakha ngendleko zakhe isango leentlawulo zendlela nazo naziphi na ezinye izibonelelo ezinxulumene nalo ngenjongo yokubeka nokuqokelela iintlawulo zendlela. 20

(3) Apho isivumelwano esi sibandakanya le miba ixelwe kwicandelo 3 okanye 4, lowo mntu unikwe igunya uya kuthi athwale uxanduva lwemisebenzi ebekwe nguMphathiswa okanye liSebe eli ngelo candelo ngokungathi lo mntu ugunyazisiweyo unguMphathiswa okanye uliSebe eli. 25

(4) Intlawulo yendlela inokubekwa nguloo mntu unikwe igunya, ngokunjalo nezaphulelo okanye ukunyuswa kwayo okanye ukuthotywa kwayo, ngokwale ndlela ichazwe kwicandelo, ziya kubekwa nguMphathiswa ngokwemiqathango yecandelo 3.

**Amagunya oMphathiswa** 30

7. (1) UMphathiswa apha unikwa igunya lokuba enze lonke ucwangciso oluphathelele kwinkqubo yePhondo yeendlela ezihlawulelwayo, ngokunjalo nelokuceba nelokwakha nelokuqhuba nelokulawula nelokulondoloza nokuphucula zonke iindlela ezihlawulelwayo zePhondo eli.

(2) Phezu kwamagunya anikwa ngulo Mthetho uMphathiswa usenokuthi— 35

(a) anike, aseke akhe alondoloze izibonelelo kwiindlela ezihlawulelwayo ngenjongo yokunqanda intsokolo yabasebenzisi bezi ndlela neyokuqinisekisa ukhuseleko lwabo;

(b) abeke umrhumo, intlawulo okanye irenti ngalo naluphi na ugunyaziso okanye imvume enokuthi inikwe nawuphi na umntu nguMphathiswa yokuba akhe okanye aseke okanye aqhube nantoni na evunyelwayo ngulo Mthetho ngaphezu okanye ngaphantsi kwendlela ehlawulelwayo; 40

(c) asebenzise inxenye yendlela ehlawulelwayo ngenye indlela ayibona ifanelekile xa ingekalusetyenziselwa uthutho, phofu ibe loo nto ayichasananga nalo Mthetho; 45

(d) aqhube naluphi na uphando okanye aqokelele nayiphi inkcukacha ephathelele kwiindlela ezihlawulelwayo, nokuba uluqhuba apha kwiRiphabliki okanye ngaphandle kwemida yayo;

(e) athathe i-inshorensi yokukhusela nayiphi na ilahleko okanye umonakalo onokuvela xa esebenzisa la magunya akhe anikwe ngulo Mthetho; 50

(f) aqhagamshelane nezinye izigqeba ezenza umsebenzi ophathelele kwiindlela ezihlawulelwayo kwiPhondo eli okanye iindlela ezilolu hlobo ngaphandle kweli Phondo;

(g) aqhagamshelane nezinye izigqeba zakwarhulumente ezinomsebenzi wokulawula iindlela ezihlawulelwayo zamanye amazwe nokuba ezo ndlela zizilawulayo zezephondo okanye zezesizwe okanye zezikamasipala na, ngenjongo yokuba kwabelwane ngolwazi nangenkcazo, kananjalo usenokuthatha inxaxheba kwiinkomfa neesemina neeworkshop zezi zigqeba nakuzo naziphi na izinto ezenziwa yimibutho okanye zizigqeba zamanye amazwe; 60

- (h) amnike ibhasari nawuphi na umntu ofunda okanye owenza uphando kwinkalo yeendlela ezihlawulelwayo okanye alinike uncediso-mali naliphi na iziko okanye umbutho owenza uphando olulolu hlobo, ukuba ngaba imfundo leyo okanye uphando olo, ngokokubona koMphathiswa, lunokuthi lukuncede ukufezekiswa kweenjongo zalo Mthetho nokwenziwa kwemisebenzi ekuwo nokusetyenziswa kwamagunya akuwo. 5
- (i) enze nayiphi na enye into aqonda ukuba iyahambelana nemisebenzi namagunya anikwe kulo Mthetho.

### **Inkqubo yenkcazelo nolawulo**

**8.** UMphathiswa kufuneka aseke inkqubo yenkcazelo nolawulo lweendlela ezihlawulelwayo kweli Phondo. 10

### **Imali yokuxhasa iindlela ezihlawulelwayo**

- 9.** Kukho iAkhawunti yeeNdlela eZihlawulelwayo kwiNgxowa yeMali yePhondo echazwe phaya kwiCandelo 226(1) loMgaqo-siseko ekufuneka kugalelwe kuyo—
- (a) iimali ezihlahlwe yiPalamente yePhondo; 15
- (b) kuhanjwa ngokwecandelo 6(2), iintlawulo zeendlela ezihlawulwe phantsi kwalo Mthetho;
- (c) iimali ezithe zenziwa ngokuphuhlisa okanye nangayiphi na enye indlela yokulawulwa kwezinto ezinxulumene neendlela ezihlawulelwayo ngokwalo Mthetho; 20
- (d) naziphi na ezinye iintlawulo ezithe zangeniswa ngokuqeshisa okanye nezinye imali nje ezithe zabizwa ukuba mazihlawule iPhondo eli ngokwalo Mthetho;
- (e) iimali ezithe zafunyanwa ngokuthatha inxaxheba kumaphulo adityanelwe ngokwemiqathango yecandelo 14;
- (f) iimali zeefayini ezidliwe abantu abathe benza amatyala athile achazwe kwicandelo 16(2) okanye 20(a) nezihlawulwa ngokwecandelo 20(b); 25
- (g) nazo naziphi na iimali ezithe zafunyanwa ezinxulumene neendlela ezihlawulelwayo zizizipho ezivela naphi na, nokuba kungaphandle kwePhondo eli okanye kweRiphabliki.

### **UMphathiswa angathatha amanyathelo omthetho ngenjongo yokufumana iimali ezingamatyala** 30

**10.** (1) UMphathiswa angathatha amanyathelo omthetho ngenjongo yokufumana zonke iimali zeentlawulo zeendlela ezityalwa ngabantu abafanele kuhlawula ngokwemiqathango yalo Mthetho okanye okufumana iimali zefayini ngokwecandelo 20(b). 35

(2) Ilungelo loMphathiswa lokwenza oku alisayi kuphungulwa okanye lisikelwe imida okanye lichaphazeleke nakanjani na xa nangenxa yokuba umntu lowo uchaphazelekayo eye wabanjwa, wagwetywa phantsi kweziya meko zikhankanywe kwicandelo 20 okanye kuba ehlawule okanye efanele kuhlawula ifayini echazwa kumhlathi (b) welo candelo; 40

### **Izivumelwano namanye amaphondo**

**11.** (1) Xa uMphathiswa ethe wangena kwisivumelwano nelinye iphondo esithi iPhondo eli liza kuncedisa elo phondo ngokuphathelele ekucwangcisweni, ekucetyweni, ekwakhiweni nasekuqhutyweni naselulawulweni naselulondolozweni okanye eluphuculweni lwayo nayiphi na indlela yephondo okanye indlela enguhola ekwelo phondo, uMphathiswa, ehamba ngokomhlathi (b), usenokuthi kwelo phondo enze nawuphi na umsebenzi onxulumene nolo ncedo kuvunyelwene ngalo—

- (a) msebenzi lowo akwaziyo ngokwalo Mthetho, ukuwenza apha eNtshona Koloni, ukuba ngaba ngumsebenzi ekufuneka ewenzile ngokwemiqathango yesivumelwano eso; 50
- (b) ngokwesivumelwano esisebenzayo ekungenwe kuso nguMphathiswa nolawulo lwelo phondo.

(2) UMphathiswa usenokubiza intlawulo ngokwenza umsebenzi ngokweli candelwana (1) lingentla apha.

**Izivumelwano noomasipala**

**12.** (1) UMphathiswa usenokwenza isivumelwano nomasipala esithi umasipala lowo makenze umsebenzi ophathelele kwindlela yephondo ehlawulelwayo, msebenzi lowo unokuthi ubandakanye ucwangciso, ukucetywa ukwakhiwa, ukulawulwa nokulawulwa kwaloo ndlela okanye isango leentlawulo zendlela, egameni lePhondo eli. 5

(2) Ngokucelwa ngumasipala othile uMphathiswa usenokwenza umsebenzi ophathelele kwindlela ephantsi kolawulo lwaloo masipala nathe loo masipala wayenza indlela ehlawulelwayo, msebenzi lowo unokuthi ubandakanye ucwangciso, ukucetywa, ukwakhiwa, ukulawulwa kwaloo ndlela, okanye ke abone ukuba oko kwenziwa phantsi kweliso loMphathiswa, egameni lomasipala lowo. 10

(3) UMphathiswa usenokubiza intlawulo ngokwenza umsebenzi ngokweli candelwana.

**Izivumelwano neSouth African National Roads Agency Limited**

**13.** UMphathiswa angangena kwisivumelwano neSouth African National Roads Agency Limited eyathi yasekwa ngokwecandelo 2 loMthetho oyiSouth African National Roads Agency Limited and National Roads Act ka-1998 (Act 7 ka-1998), esithi— 15

(a) eli Ziko lingenza umsebenzi ophathelele kwindlela yephondo ehlawulelwayo, msebenzi lowo unokuthi ubandakanye ucwangciso, ukucetywa ukwakhiwa, ukulawulwa nokulawulwa kwaloo ndlela okanye isango leentlawulo zendlela, okanye libone ukuba loo msebenzi uyenziwa phantsi kweliso lalo, egameni lePhondo eli, okanye esithi iPhondo eli malenze lo msebenzi egameni leli Ziko; 20

(b) iPhondo eli liya kulawula lilondolozwe indlela ehlawulelwayo yeli Ziko, okanye eli Ziko liya kulawula lilondolozwe indlela ehlawulelwayo ethe yatyunjwa ngokwalo Mthetho, ekuya kuthi ke xa kunjalo kwabelwane ngeemali ezithe zangena nangeendleko ekuthe kwangenwa kuzo. 25

**Amaphulo adityanelweyo**

**14.** UMphathiswa usenokuthi ngemvume yoMphathiswa wezeMali wePhondo kumaphulo anxulumene neendlela zephondo ezihlawulelwayo okanye nezinye izibonelelo okanye iindlela, athathe inxaxheba ebambisene kunye nezinye iziphathamandla okanye nomnye umntu okanye nesinye isigqeba esineendlela okanye esiza kuba neendlela okanye nolawulo kwiindlela okanye kwizibonelelo ezithile. 30

**Umgqaqo-nkqubo wephondo weendlela ezihlawulelwayo**

**15.** (1) UMphathiswa usenokuthi ngesaziso esikwiGazethi azise umgqaqo-nkqubo wephondo ophathelele kwiindlela ezihlawulelwayo. Kwizinto ezikweso saziso kufuneka kubekho— 35

(a) iinjongo zeendlela ezihlawulelwayo elifuna ukuziphumeza iPhondo eli  
(b) umgqaqo-nkqubo oya kulandelwa ukuze ezi njongo zikwazi ukuphumezeka;  
(c) nemiqathango eziimfuneko ekutyunjweni kwendlela ukuba ibe yindlela ehlawulelwayo okanye yokubekwa kweentlawulo zeendlela okanye yokwenziwa kwezilungiso kuzo. 40

(2) Nanini na xa kukho izindululo eziphathelele kwizilungiso emazeniwe kumgqaqo-nkqubo weendlela ezihlawulelwayo okanye emaziqwalaselwe kugqitywe ngazo, uMphathiswa kufuneka ezo zindululo azazise ngokuthi azipapashe kwiGazethi, kwaye kweso saziso acele uluntu namaqela achaphazelekayo ukuba anike izimvo zawo ngezo zindululo, aze ke lowo mgqaqo-nkqubo ucetywayo okanye ezo zilungiso zawo zicetywayo, azingenise kwiKomiti emileyo yePalamente yePhondo ejongene nemiba elolo hlobo, khona ukuze loo Komiti ikwazi ukuvakalisa ezayo izimvo. 45

**Imigqaqo**

**16.** (1) Ngokwecandelwana (4), UMphathiswa unokwenza imigqaqo engekho nxamnye nalo Mthetho— 50

(a) malunga nolawulo lwezithuthi kwindlela ehlawulelwayo okanye malunga nokusetyenziswa okanye nokukhuselwa kwendlela ehlawulelwayo okanye

malunga nokusetyenziswa okanye ubukho bezithuthi okanye bezilwanyana okanye obayo nayiphi na enye into kwindlela ehlawulelwayo, kodwa ke kuqondakale ukuba loo mgaqo awungqubani nawo nawuphi na umthetho wendlela;

- (b) echaza ifomu efanele kusetyenziswa xa kufakwa ikleyim yembuyekezo okanye nasiphi na isicelo okanye ugunyaziso okanye imvume okanye ulwaphulelo olukhoyo kulo Mthetho, okanye echaza inkcukacha ekufuneka inikwe okanye inkqubo efanele kulandelwa kule miba; 5
- (c) echaza intlawulo ekufuneka ikhutshelwe nasiphi na isicelo, ugunyaziso, imvume okanye ulwaphulelo ngokwalo Mthetho; 10
- (d) ephathelele kuyo nayiphi na into ekufuneka okanye ekufanele yenziwe okanye ilawulwe okanye ibekwe ngomgaqo ngokwemiqathango yalo Mthetho.

(2) Apha phantsi kweli candelwana (1) ngentla apha kunokuthi kwenziwe imigaqo eyahlukeneyo yokulawula iindlela ezihlawulelwayo ezahlukeneyo, kwaye loo mgaqo usenokubeka nendawo yokuba nawuphi na umntu owutyeshelayo umgaqo okanye osilelayo ekuhambeni ngawo uya kuba netyala kwaye usenokubanjwa anikwe isigwebo sokuvallelwa entolongweni okanye sefayini engekho ngaphezulu kwaleyo ibekwayo yimigaqo le. Kambe ke elona xesha lininzi liya kubekwa anokulivalelwa entolongweni umntu alisayi kudlula kwiinyanga ezintandathu, kwaye ke nefayini anokuthi ayibizwe ehamba neso sigwebo okanye afanele kuyikhupha endaweni yeso sigwebo ayisayi kudlula kuma-R20 000. 15

(3) Ukubekwa kwemigaqo ephathelele emalini okanye ukwenziwa kwezilungiso kuyo makwenziwe ngothethwano noMphathiswa wezeMali wePhondo.

(4) Phambi kokuba uMphathiswa enze umgaqo ngokwecandelwana (1), uMphathiswa kufuneka— 25

- (a) apapashe kwiGazethi idrafti yomgaqo lowo ocetywayo;
- (b) ameme amaqela anomdla ukuba abhale phantsi inkcazelo kwiintsuku ezingama-30 ukusuka kumhla wokwaziswa kwedrafti yomgaqo;
- (c) agqithise ikopi yayo nayiphina inkcazelo ekuthethwa ngayo kumhlathi (b) kwiKomiti esisiGxina yePalamente yePhondo ejongene noku ukuze ikomiti inike izimvo zayo. 30

### **Imida engenakutsitywa ekuthatheleni uMphathiswa amanyathelo omthetho**

**17.** (1)(a) Ngaphandle kwaxa kuhanjwa ngecandelwana (2) akukho manyathelo omthetho anokuthathelwa uMphathiswa, umsebenzi woLawulo lwePhondo leNtshona Koloni okanye naye nawuphi na umntu ngenxa yomonakalo okanye ilahleko athi umntu othile (esiya kuthi ukumbiza apha ngummangali) ungene kuyo ngenxa yesenzo esiphathelele kwindlela ehlawulelwayo ekuthiwa senziwa okanye sityeshelwe ngomnye waba bantu bakhankanywe kumhlathi (b)— 35

- (i) ngaphandle kokuba inyathelo elo lithathwe zingadlulanga iinyanga ezili-15 emva kwaloo mhla athe ummangali wayiqaphela loo nto athi yenziwe okanye ityeshelwe okanye emva komhla ekunokulindeleka ukuba noko ummangali wayefanele ukuba uyiqaphele loo nto yenziwayo okanye yatyeshelwayo, ngokwefike kuqala; 40
- (ii) phambi kokuba kudlule iinyanga ezintathu emva kokuba ummangalelwa esinikiwe isaziso sommangali esibhaliweyo sokuba uceba ukuthatha amanyathelo omthetho nesiqulathe inkcukacha epheleleyo yaloo nto athi yenziwe okanye ityeshelwe, ngaphandle kokuba ummangalelwa uye waphendula ngento ebhaliwe ekuphika ukuba konke oko kulityala lakhe. 45

(b) Ngokwalo mhlathi (a) aba bantu kuthethwa ngabo babandakanya nawuphi na umntu owenza into egameni loMphathiswa ngokwemiqathango yalo Mthetho. 50

(2) INkundla ePhakamileyo enegunya lokuchophela naliphi na ityala elinokufakwa ngummangali kuyo nayiphi na imbambano, xa athe ummangalelwa lowo wafaka isicelo soko, inokuthi iyalele ukuba nayiphi na imfuno yecandelwana (1)(a) ikhe ibekwe bucala okanye inyenysiswe okanye ukungathotyelwa kwayo kuxolelwe ukuba ngaba ukwenza njalo kuyahambelana nokwenziwa kobulungisa. 55

(3) UMphathiswa okanye nawuphi na umntu kwaba bakhankanywe kwicandelwana (1)(b) okanye nawuphi na omnye umntu oqhuba okanye owakhe indlela ehlawulelwayo, akusayi kufuneka ukuba ahlawulele nawuphi na umonakalo okanye ilahleko ethe yafunyanwa ngumntu othile ngenxa yokuba esebenzise enye indawo enguwo umphakathi wendlela, njengoko uchazwa kuMthetho weeNdlela kaMasipala (Roads 60

Ordinance) okanye ngenxa yokuvalwa kwendlela ngokwalo Mthetho okanye ngokuthi kwenziwe indlela ephumayo apha kuyo.

**UMphathiswa usenokuhlawula imbuyekezo ngomonakalo okanye ilahleko edalwe zizinto ezenziwa phantsi kwalo Mthetho**

**18.** UMphathiswa usenokuthi ngokokubona kwakhe ngoku vumelana noMphathiswa wezeMali wePhondo okanye phantsi kwayo nayiphi na imiqathango ayibona ifanelekile— 5

- (a) ahlawule iindleko okanye inxenye yeendleko athe wangena kuzo umasipala okanye elinye iphondo ngokuphathelele kwindlela okanye umsebenzi, ngokwesivumelwano ebethe wangena kuso uMphathiswa nomasipala lowo okanye nephondo elo, indleko ezo ezithe zaba yimfuneko ngenxa yolwakhiwo okanye yolondolozo okanye yophuculo lwendlela ehlawulelwayo; 10
- (b) ahlawule nawuphi na umntu imali yomonakalo ofunyenwe nguloo mntu okanye yelahleko efunyenwe nguloo mntu okanye yokuxakekiswa afakeke kuko loo mntu, xa uMphathiswa ebona ukuba lowo mntu ngenene wonakalelwe okanye uza konakalelwa ngenxa yesenzo ebesisenziwa ngokwamagunya anikwe okanye ngokomsebenzi osingathiswe uMphathiswa ngokwemiqathango yalo Mthetho, nesimalungiselelwanga ukuba singahlawulelwa ngokwemiqathango yalo Mthetho, neyawuphi na nomnye. 15

**Ukuqinisekiswa kokuthotyelwa komthetho kwiindlela ezihlawulelwayo** 20

**19.** UMphathiswa usenokungena kwisivumelwano nomasipala othile, esithi umasipala lowo unikwa igunya lokuqinisekisa ukuthotyelwa komthetho kwindlela ehlawulelwayo ephakathi kwemida yolawulo lwakhe ngokusebenzisa abasebenzi bakamasipala lowo abaqeshelwe okanye abatyunjelwe ukwenza loo msebenzi.

**Amatyala** 25

**20.** Umntu ofanele kuhlawula iintlawulo zeendlela ezibekiweyo nezathi zaziswa ngokwemiqathango yecandelo 3, kwisango leentlawulo zendlela okanye kwenye indawo ezihlawulwa kuyo, aze ke asilele ukwenza njalo okanye ale ukuyihlawula loo ntlawulo ifunekayo—

- (a) uya kuba netyala elohlwayelwayo, ngokubanjwa okanye ngokuvalelwa ixesha elingadlulanga kwiinyanga ezintandathu okanye ngokunikwa ifayini okanye ngokuzinikwa zozibini ezi zigwebo: ukuvalelwa nefayini; 30
- (b) ngaphezulu kuya kufuneka nokuba ahlawule iSebe eli ifayini yoluntu eyi-R1000; kuqondakale ke kambe ukuba, qho ngonyaka emva kosuku lokuqalisa kwalo Mthetho ukusebenza, uMphathiswa angathi ngesaziso esikhutshwe kwiGazethi, ayinyuse le fayini yoluntu ngemali elingana, nengadlulanga kwimali enyuke ngayo le mali ngokwakuluhlu lwamaxabiso lwaloo nyaka, njengoko lukhutshiwe kwiGazethi kaRhulumente. 35

**Urhulumente ubophelekile kulo Mthetho**

**21.** Lo Mthetho uyambophelela uRhulumente weSizwe. 40

**Isihlokwana esifutshane**

**22.** Lo Mthetho waziwa ngokuba yiWestern Cape Toll Roads Act ka- 1999, kwaye uya kuqalisa ukusebenza ngomhla othe wabekwa nguMphathiswa ngompoposho okhutshwe kwiGazethi.









