



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

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

IPHONDO LENTSHONA KOLONI

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## Buitengewone Provinsiale Koerant

## Isongezelelo kwiGazethi yePhondo

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### INHOUD

### IZIQLATHO

(\*Copies are obtainable at Room M21, Western Cape Provincial Parliament Building, 7 Wale Street, Cape Town 8001.)

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(\*Iikopi zifumaneka kwiGumbi M21, iSakhiwo sePalamente yePhondo leNtshona Koloni, 7 Wale Street, eKapa 8001.)

#### PROVINCIAL NOTICE

#### PROVINSIALE KENNISGEWING

#### ISAZISO SEPHONDO

The following Bill is hereby published for comment:

Die volgende Wetsontwerp word hiermee vir kommentaar gepubliseer:

Lo Mthetho uSayilwayo ulandelayo ngoku upapashelwa ukuba kuphawulwe:

Western Cape Public Library Services Bill [B 1–2025]

Wes-Kaapse Wetsontwerp op Openbarebiblioteekdienste [W 1–2025]

UMthetho oSayilwayo weeNkonzo zaMathala eeNcwadi oLuntu weNtshona Koloni [B 1–2025]

P.N. 15/2025 13 February 2025

P.K. 15/2025 13 Februarie 2025

I.S. 15/2025 13 Februwari 2025

Any person or organisation wishing to submit comment on the said Bill may submit to the standing committee to which the Bill has been referred—

Enige persoon of organisasie wat kommentaar oor hierdie Wetsontwerp wil indien, mag by die staande komitee na wie die Wetsontwerp verwys is, indien—

Nawuphi na umntu okanye umbutho onqwenela ukungenisa uphawulo kulo Mthetho uSayilwayo angalungenisa kwikomiti esisigxina apho lo Mthetho uSayilwayo uthunyelwe khona—

- (a) comments on the Bill in writing, for the attention of that committee; or  
(b) an application for that committee's leave to address it on the Bill.

- (a) skriftelike kommentaar oor die Wetsontwerp vir die aandag van daardie komitee; of  
(b) 'n aansoek om verlof van daardie komitee om dit oor die Wetsontwerp toe te spreek.

- (a) iintetha ngoMthetho oSayilwayo ngembalelwano, maziye ngqo kula komiti; okanye  
(b) isicelo sekhefu lalo komiti ukuba ihoyane naso kuMthetho oSayilwayo.

Any communication regarding (a) or (b) above must be submitted before or on 14 March 2025—

Enige kommunikasie oor (a) of (b) hier bo moet voor of op 14 Maart 2025 ingedien word—

Naluphi na unxibelwano malunga no (a) okanye u (b) ngentla apha malungeniswe phambi okanye ngowe-14 Matshi 2025—

- (i) by post to—  
Standing Committee on Police Oversight,  
Community Safety, Cultural Affairs and Sport  
Western Cape Provincial Parliament  
(Attention: Mr W Matthews)  
PO Box 648  
Cape Town 8000

- (i) per pos aan—  
Staaende Komitee oor Polisietoedig,  
Gemeenskapsveiligheid, Kultuursake en Sport  
Wes-Kaapse Provinsiale Parlement  
(Aandag: Mnr W Matthews)  
Posbus 648  
Kaapstad 8000

- (i) ngeposi luye—  
IKomiti eSisigxina kuLongamelo lwaMapolisa,  
uKhuseleko loLuntu, iMicimbi yezeNkcubeko  
nezeMidlalo  
IPalamente yePhondo leNtshona Koloni  
(Luye ngqo ku: Mnu W Matthews)  
PO Box 648  
eKapa 8000

- (ii) by email to—  
wmatthews@wcpp.gov.za

- (ii) per e-pos aan—  
wmatthews@wcpp.gov.za

- (ii) nge-imeyile ku—  
wmatthews@wcpp.gov.za

R Adams  
Secretary to the Provincial Parliament

R Adams  
Sekretaris van die Provinsiale Parlement

R Adams  
UNobhala wePalamente yePhondo

# BILL

**To regulate the provision of public library services in the Province; to provide for the coordination of responsibilities for public library services; to provide for the registration of public libraries; to make provision for the assignment to Municipal Councils of certain functions of the Provincial Minister in respect of public libraries; to determine the functions of public library administrators; and to provide for matters incidental thereto.**

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

## Definitions

1. In this Act, unless the context indicates otherwise—
  - “**Department**” means the provincial department responsible for public libraries in the Province; 5
  - “**Head of Department**” means the head of the Department;
  - “**information services**” means services relating to information sources and resources of public libraries, including outreach, community and literacy programmes; 10
  - “**library material**” means any item or material, including any book, periodical, document, manuscript, chart, map, record, audio and audio-visual material, promotional material and electronically generated information, made available or intended to be made available by a public library for loan or use by members of the public; 15
  - “**municipality**” means a municipality established in the Province as contemplated in section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);
  - “**prescribe**” means prescribe by regulation;
  - “**Province**” means the Province of the Western Cape; 20
  - “**Provincial Minister**” means the Provincial Minister responsible for public libraries in the Province;
  - “**public library**” means a library, other than a national library—
    - (a) conducted for the purpose of providing public library services; and
    - (b) registered as a public library in terms of section 4; 25
  - “**public library administrator**” means a person, including an organ of state, but excluding the Provincial Minister, that conducts a public library;
  - “**public library services**” means the services provided at public libraries to members of the public to access library material and information services;
  - “**the Ordinance**” means the Provincial Library Service Ordinance, 1981 (Ordinance 16 of 1981); 30
  - “**this Act**” includes the regulations made thereunder.

## Powers and functions of Provincial Minister

2. (1) The Provincial Minister—
  - (a) must ensure that public library services are provided in the Province in accordance with this Act; and 35
  - (b) may establish, control and conduct public libraries.

- (2) The Provincial Minister must promote equitable access to public library services, including by persons with disabilities and other categories of persons historically disadvantaged by unfair discrimination.
- (3) The Provincial Minister may, in respect of public libraries established, controlled or conducted by the Provincial Minister— 5
- (a) provide the necessary infrastructure to be used for the libraries, including buildings, furniture and equipment;
  - (b) appoint staff for the respective libraries;
  - (c) move a public library to another location;
  - (d) close a public library, either temporarily or permanently; 10
  - (e) obtain library material; and
  - (f) perform any other function as may be necessary for the purposes of such libraries.
- (4) The Provincial Minister may, after consultation with public library administrators, develop guidelines for public libraries and public library services in the Province, including guidelines on— 15
- (a) the administration, conduct and control of public libraries;
  - (b) access to public library services;
  - (c) public library infrastructure, facilities and other assets;
  - (d) the location and number of public libraries; 20
  - (e) the provision of equipment and resources to public libraries;
  - (f) information communication technology services relating to public libraries;
  - (g) the development and provision of library collections for public libraries; and
  - (h) staffing requirements for public libraries.

#### **Functions of Head of Department** 25

3. (1) The Head of Department must advise the Provincial Minister on—
- (a) the development of—
    - (i) measures to promote public library services in the Province; and
    - (ii) guidelines for public libraries and public library services;
  - (b) the capacity of public library administrators to conduct their public libraries; 30 and
  - (c) the powers and functions regarding public library services that can be assigned to a Municipal Council in terms of section 5(1) and the process for such assignment.
- (2) The Head of Department must— 35
- (a) promote capacity development, skills development, educational development and resource development of staff employed at public libraries by—
    - (i) providing professional guidance, advice and support;
    - (ii) providing training programmes and learning opportunities relating to public library services; and 40
    - (iii) facilitating cooperation between the Department and public library administrators;
  - (b) subject to available funds, and as agreed upon with a Municipal Council to which a function has been assigned in terms of section 5, provide financial assistance to the municipality concerned for the performance of that function; 45
  - (c) review, select, procure, classify, catalogue, process and distribute library material to public library administrators;
  - (d) subject to section 6(3), provide an information system for public libraries; and
  - (e) provide guidance and support regarding the registration and control of public libraries. 50
- (3) The Head of Department may—
- (a) visit and monitor a public library for the purposes of providing support and evaluating compliance by the public library administrator concerned with the provisions of this Act;
  - (b) provide equipment on loan to a public library; 55
  - (c) subject to available funds, provide financial assistance for the building or upgrading of a public library; and
  - (d) enter into an agreement with a public library administrator regarding the operation of a public library.
- (4) An agreement contemplated in subsection (3)(d) must include at least the following: 60

- (a) the role and responsibilities of the public library administrator;
- (b) the role and responsibilities of the Head of Department; and
- (c) arrangements for the allocation of resources that can be made by the Head of Department to the public library.

#### **Registration of public libraries**

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4. (1) A person, including an organ of state, but excluding the Provincial Minister, that intends to establish or conduct a library as a public library must apply to register the library by completing the registration form, which must be made available on the website of the Department, and submitting it to the Head of Department.

(2) When considering an application, the Head of Department must take all relevant factors into account, including—

- (a) guidelines contemplated in section 2(4);
- (b) the available resources that can be allocated by the Department to the proposed public library; and
- (c) the capacity of the applicant to provide public library services, which may include, where appropriate, the applicant's financial and operational plan regarding the public library.

(3) The Head of Department must—

- (a) either grant the application, with or without conditions, or refuse the application; and
- (b) inform the applicant in writing of the decision.

(4) If the application is granted, the Head of Department must issue the applicant with a registration certificate.

(5) If the application is refused, the Head of Department must inform the applicant in writing of the reasons for the refusal and the right to appeal against the decision.

(6) An applicant who is aggrieved at the outcome of an application may lodge an appeal in writing to the Provincial Minister within 180 days of receiving notice of the decision.

(7) Subsection (6) does not apply where the applicant is a municipality contemplated in section 5.

(8) The Head of Department must register a public library that is established or conducted by the Provincial Minister in terms of section 2(1)(b).

(9) The Head of Department must give public notice of the registration of a public library on the website of the Department and in any other media the Head of Department considers appropriate.

#### **Assignment of functions to Municipal Councils**

5. (1) The Provincial Minister may, in terms of a written agreement as contemplated in section 36 of the Constitution of the Western Cape, 1997 (Act 1 of 1998), and section 126 of the Constitution of the Republic of South Africa, 1996, assign to the Municipal Council of a municipality all or part of the administration of a function referred to in section 2(1) and (2).

(2) The written agreement must include at least the following in respect of the assigned functions:

- (a) the role and responsibilities of the municipality;
- (b) the roles and responsibilities of the Provincial Minister or the Head of Department, as the case may be; and
- (c) the funding arrangements for the municipality in respect of the assigned functions.

#### **Functions of public library administrators**

6. (1) A public library administrator must, in relation to a public library conducted or to be conducted by it, subject to any agreement contemplated in section 3(3)(d) or 5, where applicable—

- (a) provide the premises from where public library services are to be provided;
- (b) provide the operating expenditure associated with the day-to-day running of the public library; and
- (c) appoint the necessary staff for the public library.

(2) A public library administrator must, at the request of the Provincial Minister or the Head of Department, submit to the Provincial Minister or the Head of Department, as the case may be, a report on matters relating to the public library as specified in the request.

(3) A public library administrator that uses its own information system may do so if the system is effective and compatible with the Department's information system for public libraries. 5

### Admission and charges

7. (1) There is free admission to all public libraries in the Province.

(2) The Provincial Minister may, subject to subsection (1), prescribe maximum fees that may be charged for public library services. 10

### Closure of public libraries

8. (1) A public library administrator may, either temporarily or permanently, close a public library conducted by it.

(2) If a public library administrator intends to close a public library temporarily for more than 60 days, it must inform the Head of Department in writing of the reasons for the temporary closure. 15

(3) If a public library administrator intends to close a public library permanently, it must give the Provincial Minister written notice of its intention to do so together with the reasons for the intended closure, at least 90 days before the date of the intended closure. 20

(4) A public library that has been permanently closed is regarded as deregistered, and the Head of Department must give public notice of the closure on the website of the Department and in other media the Head of Department considers appropriate.

### Delegation

9. (1) The Provincial Minister may delegate any power or duty conferred on him or her in terms of this Act, except the power to make regulations, to the Head of Department. 25

(2) The Head of Department may delegate any power or duty conferred on him or her, or delegated to him or her in terms of this Act, to—

(a) an employee of the Department; or 30

(b) the holder of a specific office or position in the Department.

(3) A delegation referred to in subsection (1) or (2)—

(a) must be in writing;

(b) may be made subject to conditions;

(c) may be withdrawn or amended in writing by the Provincial Minister or the Head of Department, as the case may be; 35

(d) may include the power to subdelegate or further delegate that power or duty;

(e) does not prevent the Provincial Minister or the Head of Department, as the case may be, from exercising that power or performing that duty; and

(f) does not divest the Provincial Minister or the Head of Department, as the case may be, of the responsibility concerning the exercise of the delegated power or duty. 40

### Regulations

10. (1) The Provincial Minister may make regulations regarding—

(a) the registration of public libraries; 45

(b) the procedure for an appeal against a decision of the Head of Department regarding the outcome of an application for the registration of a public library;

(c) the return of library material and equipment to the Department following the closure of a public library and consequences where a public library administrator fails to return such library material and equipment; 50

(d) the management of the Department's assets, including library material, in public libraries and stocktaking of library material;

(e) liability for loss of and damage to the assets of the Department, including library material;

- (f) the charges relating to services which may be imposed at a public library conducted by the Provincial Minister;
  - (g) the obligations of a municipality contemplated in section 5 regarding payment to the Department for monies received from borrowers for lost and damaged library material; 5
  - (h) access to and the use of information services;
  - (i) access to public libraries and the conduct of persons in public libraries;
  - (j) mutual cooperation between libraries, including inter-library loans;
  - (k) any matter that may be prescribed in terms of this Act; and
  - (l) any other matter which may be necessary or expedient to prescribe for carrying out this Act. 10
- (2) Regulations relating to matters affecting public library administrators or public libraries conducted by them may be made only after consultation with the public library administrators concerned.
- (3) Regulations with financial implications must be made with the concurrence of the Provincial Minister responsible for finance. 15

### Repeal

11. The Ordinance is repealed.

### Transitional provisions

12. Despite the repeal of the Ordinance— 20
- (a) a library that was conducted as a public library in terms of the Ordinance immediately before the date of commencement of this Act is regarded as a public library registered in terms of section 4 of this Act;
  - (b) regulations 3(3), 12 and 13 of the Regulations Regarding the Free Provincial Library Service published under Provincial Notice 689/1980 in *The Province of the Cape of Good Hope Official Gazette* 4122 dated 12 September 1980 continue in force; and 25
  - (c) the Local Authorities: Standard Library By-Law made under section 12 of the Ordinance and published under Provincial Notice 640/1990 in *The Province of the Cape of Good Hope Official Gazette* 4664 dated 12 October 1990 continues in force— 30
    - (i) in so far as it is consistent with this Act;
    - (ii) for a period of 36 months from the date of commencement of this Act.

### Short title and commencement

13. This Act is called the Western Cape Public Library Services Act, 2025, and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*. 35

## MEMORANDUM ON THE OBJECTS OF THE WESTERN CAPE PUBLIC LIBRARY SERVICES BILL

### 1. BACKGROUND

- 1.1 The Constitution of the Republic of South Africa, 1996 (the Constitution), in Part A of Schedule 5 thereof, allocates to provinces exclusive legislative competence in respect of libraries other than national libraries.
- 1.2 The Department of Cultural Affairs and Sport in the Western Cape (the Department), whose mandate, amongst other matters, is in respect of public libraries, other than national libraries, seeks to develop, transform and promote a sustainable public library service for the Province. The Department currently serves 376 library service points provincially.
- 1.3 Public libraries in the Province are currently regulated by the Provincial Library Service Ordinance, 1981 (Ordinance 16 of 1981) (the Ordinance), which was assigned to the Province by Proclamation 115 published in *Government Gazette* 15813 dated 17 June 1994. The Ordinance, however, predates the Constitution, and some of its provisions are outdated and redundant. The Western Cape Public Library Services Bill (the Bill) therefore proposes the repeal of the Ordinance and the alignment of the provisions in the Bill with the Constitution.
- 1.4 Municipalities have historically, since the establishment of the Provincial Library Service in 1955, been conducting public libraries, and continue to do so with cooperative support from the Department. In terms of this cooperative relationship, the Department provides professional and technical services, in addition to library material, that is made available to all public libraries, while municipalities provide the building, staff and operational costs of public libraries with funding from the Department. Funding for public libraries is sourced from the equitable share of revenue allocated to the Province and the Community Library Services Grant. The Department funds public libraries conducted by municipalities through the Municipal Replacement Fund, Additional Municipal Replacement Fund and the Metro Library Grant.
- 1.5 In addition to public libraries conducted by municipalities, the Department supports other public libraries that are conducted by non-governmental organisations and certain organs of state, amongst others. The Bill also makes provision for public libraries to be established, controlled and conducted by the Provincial Minister of Cultural Affairs and Sport in the Western Cape (the Provincial Minister).
- 1.6 A municipality, under section 156(1)(b) of the Constitution, has the right to administer any matter assigned to it by national or provincial legislation. The Bill provides for the Provincial Minister to assign to Municipal Councils, in terms of a written agreement contemplated in section 36 of the Constitution of the Western Cape, 1997 (Act 1 of 1998) (the Provincial Constitution), and section 126 of the Constitution, all or part of the administration of a function referred to in the Bill.

### 2. CONTENTS OF THE BILL

The aims and objectives of the various clauses of the Bill are as follows:

- 2.1 **Clause 1** provides for the definitions in the Bill.
- 2.2 **Clause 2** provides for the powers and functions of the Provincial Minister to ensure the provision of public library services in the Province and to establish, control and conduct public libraries. As envisaged by clause 2(2), the Provincial Minister must promote equitable access to public library services by persons with disabilities and other categories of persons historically disadvantaged by unfair discrimination.

- 2.3 **Clause 3** provides for the functions of the Head of Department.
- 2.4 **Clause 4** provides for the registration of public libraries and the factors that the Head of Department must take into account when considering applications for registration.
- 2.5 **Clause 5** makes provision for the Provincial Minister to assign to Municipal Councils, in terms of a written agreement contemplated in section 36 of the Provincial Constitution and section 126 of the Constitution, all or part of the administration of a function referred to in the Bill.
- 2.6 **Clause 6** provides for the functions of public library administrators.
- 2.7 **Clause 7** confirms the right of free admission to all public libraries. Furthermore, this clause provides for the Provincial Minister to prescribe maximum fees that may be charged for public library services.
- 2.8 **Clause 8** provides for the closure of public libraries, either temporarily or permanently.
- 2.9 **Clause 9** enables the Provincial Minister to delegate any power or duty conferred on him or her to the Head of Department, who may also delegate any power or duty conferred on him or her to an employee or the holder of a specific office in the Department.
- 2.10 **Clause 10** seeks to empower the Provincial Minister to make regulations relating to specific matters which are required for the implementation and enforcement of the proposed legislation. The matters on which regulations are proposed do not require any parliamentary control.
- 2.11 **Clause 11** proposes the repeal of the Ordinance.
- 2.12 **Clause 12** provides for transitional provisions. Despite the repeal of the Ordinance—
- 2.12.1 a library that was conducted as a public library in terms of the Ordinance immediately before the commencement of the proposed legislation is regarded as a public library registered in terms of clause 4 of the Bill;
- 2.12.2 regulations with financial implications, namely regulations 3(3), 12 and 13 of the Regulations Regarding the Free Provincial Library Service published under Provincial Notice 689/1980 in *The Province of the Cape of Good Hope Official Gazette* 4122 dated 12 September 1980 continue in force; and
- 2.12.3 the Local Authorities: Standard Library By-Law made under section 12 of the Ordinance and published under Provincial Notice 640/1990 in *The Province of the Cape of Good Hope Official Gazette* 4664 dated 12 October 1990 continues in force for a period of 36 months in order to afford municipalities the opportunity to develop their own by-laws or for the Department to develop a standard draft by-law for municipalities in terms of section 14 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).
- 2.13 **Clause 13** provides for the short title and commencement of the Act.

### 3. CONSULTATION

- 3.1 Department of the Premier: Legal Services
- 3.2 The Provincial Minister of Finance



- 3.3 The Provincial Minister of Local Government, Environmental Affairs and Development Planning
- 3.4 Provincial Treasury
- 3.5 Municipalities in the Province
- 3.6 The Financial and Fiscal Commission
- 3.7 The South African Local Government Association

#### **4. PUBLIC PARTICIPATION**

The Draft Western Cape Public Library Services Bill, 2024, was published for public comment under Provincial Notice 87/2024 in *Provincial Gazette* 8967 dated 8 August 2024 for the commenting period from 8 August 2024 to 30 September 2024.

#### **5. FINANCIAL IMPLICATIONS**

- 5.1 The Department has engaged with the Provincial Treasury, municipalities in the Province and the Financial and Fiscal Commission.
- 5.2 The grants referred to in paragraph 1.4 do not make provision for full funding in respect of public libraries. Municipalities are partially funding this service to communities to varying degrees. Municipalities have been consulted on their ability to continue co-funding the intended performance of the assigned functions.
- 5.3 The proposed legislation will not impose any additional funding requirements or expenditure on the Department, municipalities or on any other public library administrator.
- 5.4 The Department will continue to support municipalities through the Conditional Grant for Community Libraries, the Municipal Replacement Funds and the Metro Library Grant. The 24 local municipalities and the City of Cape Town Metropolitan Municipality have a long history of providing public library services in the Province. The Bill will consolidate the practical cooperation and co-funding arrangements between the Province and municipalities, thus ensuring the ongoing execution of public library functions in the local sphere of government where it is best performed.
- 5.5 The Department obtained support for funding from the National Treasury through the Conditional Grant for Community Libraries and from Provincial Treasury through the Municipal Replacement Funds and the Metro Library Grant.

#### **6. LEGISLATIVE COMPETENCE**

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

# WETSONTWERP

**Om die voorsiening van openbarebiblioteekdienste in die Provinsie te reguleer; om voorsiening te maak vir die koördinerings van verantwoordelikhede vir openbarebiblioteekdienste; om voorsiening te maak vir die registrasie van openbare biblioteke; om voorsiening te maak vir die opdra aan Munisipale Rade van sekere funksies van die Provinsiale Minister ten opsigte van openbare biblioteke; om die funksies van openbarebiblioteekadministrateurs te bepaal; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.**

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

## Woordomskrywings

1. In hierdie Wet, tensy dit uit die samehang anders blyk, beteken—
  - “**biblioteekmateriaal**” enige item of materiaal, met inbegrip van enige boek, 5  
tydskrif, dokument, manuskrip, grafiek, kaart, plaat, audio- en audiovisuele  
materiaal, promosiemateriaal en inligting wat elektronies gegenereer is, wat vir  
uitlening of gebruik deur lede van die publiek beskikbaar gestel word of wat bedoel  
is om beskikbaar gestel te word;
  - “**Departement**” die provinsiale departement verantwoordelik vir openbare bi- 10  
blioteke in die Provinsie;
  - “**Departementshoof**” die hoof van die Departement;
  - “**die Ordonnansie**” die Ordonnansie op die Provinsiale Biblioteekdiens, 1981  
(Ordonnansie 16 van 1981);
  - “**hierdie Wet**” ook die regulasies wat daarkragtens gemaak word; 15
  - “**inligtingsdienste**” die dienste betreffende inligtingsbronne en hulpbronne van  
openbare biblioteke, met inbegrip van uitreik-, gemeenskaps- en geletterdheids-  
programme;
  - “**munisipaliteit**” ’n munisipaliteit wat tot stand gebring is soos in artikel 12 van  
die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998), 20  
beoog;
  - “**openbare biblioteek**” ’n biblioteek, behalwe ’n nasionale biblioteek—  
(a) wat bestuur word met die doel om openbarebiblioteekdienste te verskaf; en  
(b) wat ingevolge artikel 4 as ’n openbare biblioteek geregistreer is;
  - “**openbarebiblioteekadministrateur**” ’n persoon, met inbegrip van ’n staats- 25  
orgaan, maar met uitsondering van die Provinsiale Minister, wat ’n openbare  
biblioteek bestuur;
  - “**openbarebiblioteekdienste**” die dienste wat by openbare biblioteke aan lede van  
die publiek verskaf word om toegang tot biblioteekmateriaal en inligtingsdienste te  
verkry; 30
  - “**Provinsiale Minister**” die Provinsiale Minister verantwoordelik vir openbare  
biblioteke in die Provinsie;
  - “**Provinsie**” die Provinsie Wes-Kaap;
  - “**voorskryf**” by regulasie voorskryf.

## Bevoegdhede en funksies van Provinsiale Minister 35

2. (1) Die Provinsiale Minister—
  - (a) moet toesien dat openbarebiblioteekdienste ooreenkomstig hierdie Wet in die  
Provinsie verskaf word; en
  - (b) kan openbare biblioteke instel, beheer en bestuur.

- (2) Die Provinsiale Minister moet billike toegang tot openbarebiblioteekdienste bevorder, ook vir persone met gestremdhede en ander kategorieë persone wat histories deur onbillike diskriminasie benadeel is.
- (3) Die Provinsiale Minister kan, ten opsigte van openbare biblioteke wat deur die Provinsiale Minister ingestel, beheer en bestuur is— 5
- (a) die nodige infrastruktuur voorsien, met inbegrip van geboue, meubels en toerusting, wat vir biblioteke gebruik moet word;
  - (b) personeel vir die onderskeie biblioteke aanstel;
  - (c) 'n openbare biblioteek na 'n ander ligging verskuif;
  - (d) 'n openbare biblioteek sluit, hetsy tydelik of permanent; 10
  - (e) biblioteekmateriaal verkry; en
  - (f) enige ander funksie verrig soos nodig mag wees vir die doeleindes van sodanige biblioteke.
- (4) Die Provinsiale Minister kan, ná oorlegpleging met openbarebiblioteekadministrateurs, riglyne vir openbare biblioteke en openbarebiblioteekdienste ontwikkel, met inbegrip van riglyne oor— 15
- (a) die administrasie, bestuur en beheer van openbare biblioteke;
  - (b) toegang tot openbarebiblioteekdienste;
  - (c) infrastruktuur, geriewe en ander bates van openbare biblioteke;
  - (d) die ligging van en getal openbare biblioteke; 20
  - (e) die voorsiening van toerusting en hulpbronne aan openbare biblioteke;
  - (f) inligtings- en kommunikasietegnologiese dienste betreffende openbare biblioteke;
  - (g) die ontwikkeling en voorsiening van biblioteekversamelings vir openbare biblioteke; en 25
  - (h) personeelvereistes vir openbare biblioteke.

### Funksies van Departementshoof

3. (1) Die Departementshoof moet die Provinsiale Minister adviseer aangaande—
- (a) die ontwikkeling van—
    - (i) maatreëls om openbarebiblioteekdienste in die Provinsie te bevorder; en 30
    - (ii) riglyne vir openbare biblioteke en openbarebiblioteekdienste;
  - (b) die kapasiteit van openbarebiblioteekadministrateurs om hul openbare biblioteke te bestuur; en
  - (c) die bevoegdheid en funksies rakende openbarebiblioteekdienste wat aan 'n Munisipale Raad ingevolge artikel 5(1) opgedra kan word en die proses vir sodanige opdrag. 35
- (2) Die Departementshoof moet—
- (a) kapasiteits-, vaardigheids-, opvoedkundige en hulpbrontwikkeling van personeel in diens by openbare biblioteke bevorder deur—
    - (i) professionele leiding, advies en ondersteuning te bied; 40
    - (ii) opleidingsprogramme en leerleenthede met betrekking tot openbarebiblioteekdienste te verskaf; en
    - (iii) samewerking tussen die Departement en openbarebiblioteekadministrateurs te fasiliteer;
  - (b) behoudens beskikbare fondse, en soos ooreengekom met 'n Munisipale Raad aan wie 'n funksie ingevolge artikel 5 opgedra is, finansiële bystand aan die betrokke munisipaliteit vir die verrigting van daardie funksie verleen; 45
  - (c) biblioteekmateriaal aan openbarebiblioteekadministrateurs hersien, kies, verkry, klassifiseer, katalogiseer, verwerk en versprei;
  - (d) behoudens artikel 6(3) 'n inligtingstelsel vir openbare biblioteke verskaf; en 50
  - (e) leiding en ondersteuning rakende die registrasie en bestuur van openbare biblioteke bied.
- (3) Die Departementshoof kan—
- (a) 'n openbare biblioteek besoek en monitor met die doel om ondersteuning te bied en om die betrokke openbarebiblioteekadministrateur se voldoening aan die bepalinge van hierdie Wet te evalueer; 55
  - (b) toerusting op bruikleen aan 'n openbare biblioteek verskaf;
  - (c) behoudens beskikbare fondse finansiële bystand vir die bou en opgradering van 'n openbare biblioteek verleen; en
  - (d) 'n ooreenkoms met 'n openbarebiblioteekadministrateur rakende die bestuur van 'n openbare biblioteek aangaan. 60

- (4) 'n Ooreenkoms beoog in subartikel (3)(d) moet minstens die volgende insluit:
- (a) die rol en verantwoordelikhede van die openbarebiblioteekadministrateur;
  - (b) die rol en verantwoordelikhede van die Departementshoof; en
  - (c) reëlins vir die toekenning van hulpbronne wat deur die Departementshoof aan die openbare biblioteek gemaak kan word. 5

#### Registrasie van openbare biblioteke

4. (1) 'n Persoon, met inbegrip van 'n staatsorgaan, maar met uitsondering van die Provinsiale Minister, wat beoog om 'n biblioteek as 'n openbare biblioteek in te stel of te bestuur, moet die biblioteek registreer deur die registrasievorm te voltooi, wat op die webtuiste van die Departement beskikbaar gestel moet word, en dit by die Departementshoof in te dien. 10

(2) Wanneer 'n aansoek oorweeg word, moet die Departementshoof alle tersaaklike faktore in ag neem, met inbegrip van—

- (a) riglyne beoog in artikel 2(4);
- (b) die beskikbare hulpbronne wat deur die Departement aan die voorgestelde openbare biblioteek toegeken kan word; en 15
- (c) die kapasiteit van die aansoeker om openbarebiblioteekdienste te verskaf, wat die aansoeker se finansiële en bestuursplan betreffende die openbare biblioteek, waar toepaslik, kan insluit.

(3) Die Departementshoof moet— 20

- (a) die aansoek óf toestaan, met of sonder voorwaardes, óf weier; en
- (b) die aansoeker skriftelik in kennis stel van die besluit.

(4) Indien die aansoek toegestaan word, moet die Departementshoof 'n registrasiesertifikaat aan die aansoeker uitreik.

(5) Indien die aansoek geweier word, moet die Departementshoof die aansoeker skriftelik van die redes vir die weiering en die reg tot appèl teen die besluit in kennis stel. 25

(6) 'n Aansoeker wat verontreg is deur die uitkoms van die aansoek kan binne 180 dae ná kennisgewing van die besluit ontvang is skriftelik by die Provinsiale Minister appèl aanteken.

(7) Subartikel (6) geld nie waar die aansoeker 'n munisipaliteit beoog in artikel 5 is nie. 30

(8) Die Departementshoof moet 'n openbare biblioteek registreer wat deur die Provinsiale Minister ingevolge artikel 2(1)(b) ingestel of bestuur word.

(9) Die Departementshoof moet openbare kennis gee van die registrasie van die openbare biblioteek op die webtuiste van die Departement en in enige ander media wat die Departementshoof geskik ag. 35

#### Opdra van funksies aan Munisipale Rade

5. (1) Die Provinsiale Minister kan, ingevolge 'n skriftelik ooreenkoms soos beoog in artikel 36 van die Grondwet van die Wes-Kaap, 1997 (Wet 1 van 1998), en artikel 126 van die Grondwet van die Republiek van Suid-Afrika, 1996, die hele administrasie van 'n funksie bedoel in artikel 2(1) en (2) of 'n gedeelte daarvan aan die Munisipale Raad van 'n munisipaliteit opdra. 40

(2) Die skriftelike ooreenkoms moet minstens die volgende insluit ten opsigte van funksies wat opgedra word:

- (a) die rol en verantwoordelikhede van die munisipaliteit; 45
- (b) die rolle en verantwoordelikhede van die Provinsiale Minister of die Departementshoof, na gelang van die geval; en
- (c) die befondsingsreëlins vir die munisipaliteit ten opsigte van die funksies wat opgedra word.

#### Funksies van openbarebiblioteekadministrateurs 50

6. (1) 'n Openbarebiblioteekadministrateur moet, met betrekking tot 'n openbare biblioteek deur hom bestuur of wat deur hom bestuur gaan word, behoudens enige ooreenkoms beoog in artikel 3(3)(d) of 5, waar van toepassing—

- (a) die perseel voorsien vanwaar die openbarebiblioteekdienste verskaf sal word;
- (b) die bedryfskoste verstrek wat met die daaglikse bestuur van die openbare biblioteek verbind word; en 55
- (c) die nodige personeel vir die openbare biblioteek aanstel.

(2) 'n Openbarebiblioteekadministrateur moet, op versoek van die Provinsiale Minister of die Departementshoof, 'n verslag oor die aangeleenthede betreffende die openbare biblioteek soos in die versoek vermeld by die Provinsiale Minister of die Departementshoof, na gelang van die geval, indien.

(3) 'n Openbarebiblioteekadministrateur wat sy eie inligtingstelsel gebruik, kan so doen indien die stelsel doeltreffend is en met die Departement se inligtingstelsel vir openbare biblioteke ooreenstem. 5

### **Toegang en gelde**

7. (1) Daar is gratis toegang tot alle openbare biblioteke in die Provinsie.

(2) Die Provinsiale Minister kan, behoudens subartikel (1), maksimum gelde voorskryf wat vir openbarebiblioteekdienste gevra kan word. 10

### **Sluiting van openbare biblioteke**

8. (1) 'n Openbarebiblioteekadministrateur kan, hetsy tydelik of permanent, 'n openbare biblioteek sluit wat deur hom bestuur is.

(2) Indien 'n openbarebiblioteekadministrateur beoog om 'n openbare biblioteek tydelik vir meer as 60 dae te sluit, moet hy die Departementshoof skriftelik in kennis stel van die redes vir die tydelike sluiting. 15

(3) Indien 'n openbarebiblioteekadministrateur beoog om 'n openbare biblioteek permanent te sluit, moet hy minstens 90 dae voor die datum van die beoogde sluiting die Provinsiale Minister skriftelike kennis gee van sy voorneme om so te doen saam met die redes vir die beoogde sluiting. 20

(4) 'n Openbare biblioteek wat permanent gesluit is, word as gederegistreer beskou, en die Departementshoof moet openbare kennis gee van die sluiting op die webtuiste van die Departement en in ander media wat die Departementshoof geskik ag.

### **Delegering**

25

9. (1) Die Provinsiale Minister kan enige bevoegdheid of plig wat ingevolge hierdie Wet aan hom of haar verleen is, behalwe die bevoegdheid om regulasies te maak, aan die Departementshoof delegeer.

(2) Die Departementshoof kan enige bevoegdheid of plig aan hom of haar verleen, of wat aan hom of haar ingevolge hierdie Wet gedelegeer is, delegeer aan— 30

(a) 'n werknemer van die Departement; of

(b) die bekleër van 'n spesifieke amp of posisie in die Departement.

(3) 'n Delegering bedoel in subartikel (1) of (2)—

(a) moet op skrif wees;

(b) kan behoudens voorwaardes gemaak word; 35

(c) kan skriftelik deur die Provinsiale Minister of die Departementshoof, na gelang van die geval, ingetrek of gewysig word;

(d) kan die bevoegdheid om te subdelegeer of om daardie bevoegdheid of plig verder te delegeer, insluit;

(e) verhoed nie die Provinsiale Minister of die Departementshoof, na gelang van die geval, om daardie bevoegdheid uit te oefen of daardie plig te verrig nie; en 40

(f) onthef nie die Provinsiale Minister of die Departementshoof, na gelang van die geval, van die verantwoordelikheid rakende die uitoefening van die gedelegeerde bevoegdheid of plig nie.

### **Regulasies**

45

10. (1) Die Provinsiale Minister kan regulasies maak rakende—

(a) die registrasie van openbare biblioteke;

(b) die appèlprosedure teen 'n besluit van die Departementshoof rakende die uitkoms van 'n aansoek om die registrasie van 'n openbare biblioteek;

(c) die terugbesorging van biblioteekmateriaal en toerusting aan die Departement ná die sluiting van 'n openbare biblioteek en gevolgde waar 'n openbarebiblioteekadministrateur versuim om sodanige biblioteekmateriaal en toerusting terug te besorg; 50

(d) die bestuur van die Departement se bates, met inbegrip van biblioteekmateriaal, in openbare biblioteke en voorraadopname van biblioteekmateriaal; 55

- (e) aanspreeklikheid vir verlies van en skade aan die bates van die Departement, met inbegrip van biblioteekmateriaal;
  - (f) die heffings betreffende dienste wat opgelê kan word by 'n openbare biblioteek wat deur die Provinsiale Minister bestuur word;
  - (g) die verpligtinge van 'n munisipaliteit beoog in artikel 5 rakende betaling aan die Departement vir gelde wat van leners ontvang is vir verlore en beskadigde biblioteekmateriaal; 5
  - (h) toegang tot en die gebruik van inligtingsdienste;
  - (i) toegang tot openbare biblioteke en die gedrag van persone in openbare biblioteke; 10
  - (j) wedersydse samewerking tussen biblioteke, met inbegrip van interbiblioteeklenings;
  - (k) enige aangeleentheid wat ingevolge hierdie Wet voorgeskryf kan word; en
  - (l) enige ander aangeleentheid wat nodig of dienstig mag wees om voor te skryf vir die uitvoering van hierdie Wet. 15
- (2) Regulasies met betrekking tot aangeleenthede wat openbarebiblioteekadministrateurs raak of openbare biblioteke wat deur hulle bestuur word, kan slegs ná oorlegpleging met die betrokke openbarebiblioteekadministrateurs gemaak word.
- (3) Regulasies met finansiële implikasies moet met die instemming van die Provinsiale Minister verantwoordelik vir finansies gemaak word. 20

## Herroeping

11. Die Ordonnansie word herroep.

## Oorgangsbepalings

12. Ongeag die herroeping van die Ordonnansie—
- (a) word 'n biblioteek wat as 'n openbare biblioteek ingevolge die Ordonnansie bestuur is onmiddellik voor die inwerkingtreding van hierdie Wet as 'n openbare biblioteek beskou wat ingevolge artikel 4 van hierdie Wet geregistreer is; 25
  - (b) bly regulasies 3(3), 12 en 13 van die Regulasies Insake die Vry Provinsiale Biblioteekdiens gepubliseer onder Provinsiale Kennisgewing 689/1980 in die *Offisiële Koerant van die Provinsie die Kaap die Goeie Hoop* 4122 gedateer 12 September 1980 van krag; en 30
  - (c) bly die Plaaslike Owerhede: Standaard-Biblioteekverordening gemaak kragtens artikel 12 van die Ordonnansie en gepubliseer onder Provinsiale Kennisgewing 640/1990 in die *Offisiële Koerant van die Provinsie die Kaap die Goeie Hoop* 4664 gedateer 12 Oktober 1990 van krag— 35
    - (i) soverre dit bestaanbaar met hierdie Wet is;
    - (ii) vir 'n tydperk van 36 maande van die datum van inwerkingtreding van hierdie Wet.

## Kort titel en inwerkingtreding

40

13. Hierdie Wet heet die Wes-Kaapse Wet op Openbarebiblioteekdienste, 2025, en tree in werking op 'n datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal.

## MEMORANDUM OOR DIE OOGMERKE VAN DIE WES-KAAPSE WETSONTWERP OP OPENBARE BIBLIOTEEKDIENSTE

### 1. AGTERGROND

- 1.1 Eksklusiewe wetgewende bevoegdheid ten opsigte van biblioteke, behalwe nasionale biblioteke, word in Deel A van Bylae 5 van die Grondwet van die Republiek van Suid-Afrika, 1996 (die Grondwet), aan provinsies toegeken.
- 1.2 Die Departement van Kultuursake en Sport in die Wes-Kaap (die Departement), wie se mandaat, onder andere, ten opsigte van openbare biblioteke, behalwe nasionale biblioteke, is, het ten doel om 'n volhoubare openbare-biblioteekdiens vir die Provinsie te ontwikkel, te transformeer en te bevorder. Die Departement bedien tans 376 biblioteekdienspunte in die Provinsie.
- 1.3 Openbare biblioteke in die Provinsie word tans deur die Ordonnansie op die Provinsiale Biblioteekdiens, 1981 (Ordonnansie 16 van 1981) (die Ordonnansie), gereguleer, wat by Proklamasie 115 gepubliseer in *Staatskoerant* 15813 gedateer 17 Junie 1994 aan die Provinsie opgedra is. Die Ordonnansie het egter voor die Grondwet in werking getree, en sommige bepalinge daarvan is verouderd en oortollig. Die Wes-Kaapse Wetsontwerp op Openbare-biblioteekdienste (die Wetsontwerp) maak dus voorsiening vir die herroeping van die Ordonnansie en die ooreenstemming van die bepalinge in die Wetsontwerp met die Grondwet.
- 1.4 Munisipaliteite het histories, sedert die instelling van die Provinsiale Biblioteekdiens in 1955, openbare biblioteke bestuur, en gaan voort om dit met samewerkende steun van die Departement te doen. Ooreenkomstig hierdie samewerkende verhouding, lewer die Departement professionele en tegniese dienste, asook biblioteekmateriaal, wat aan alle openbare biblioteke beskikbaar gestel word, terwyl munisipaliteite die gebou, personeel en bedryfskoste van openbare biblioteke met befondsing van die Departement verskaf. Befondsing vir openbare biblioteke word van die billike deel van inkomste verkry wat aan die Provinsie en die Toekenning vir Gemeenskapsbiblioteekdienste toegeken word. Die Departement finansier openbare biblioteke wat deur munisipaliteite bestuur word deur die Munisipale Vervangingsbefondsing, die Bykomende Munisipale Vervangingsbefondsing en die Metro-biblioteektoekenning.
- 1.5 Buiten die openbare biblioteke wat deur munisipaliteite bestuur word, ondersteun die Departement ander openbare biblioteke wat deur nieregeringsorganisasies en sekere staatsorgane, onder andere, bestuur word. Die Wetsontwerp maak ook voorsiening vir openbare biblioteke om deur die Provinsiale Minister van Kultuursake en Sport in die Wes-Kaap (die Provinsiale Minister) ingestel, beheer en bestuur te word.
- 1.6 'n Munisipaliteit het, kragtens artikel 156(1)(b) van die Grondwet, die reg om enige aangeleentheid te administreer wat deur nasionale of provinsiale wetgewing aan hom opgedra word. Die Wetsontwerp maak voorsiening vir die Provinsiale Minister om, ingevolge 'n skriftelike ooreenkoms beoog in artikel 36 van die Grondwet van die Wes-Kaap, 1997 (Wet 1 van 1998) (die Provinsiale Grondwet), en artikel 126 van die Grondwet, die hele administrasie van 'n funksie bedoel in die Wetsontwerp of 'n gedeelte daarvan aan Munisipale Rade op te dra.

### 2. INHOUD VAN DIE WETSONTWERP

Die doelwitte en oogmerke van die verskeie klousules van die Wetsontwerp is soos volg:

- 2.1 **Klousule 1** maak voorsiening vir die woordskrywings in die Wetsontwerp.
- 2.2 **Klousule 2** maak voorsiening vir die bevoegdhede en funksies van die

Provinsiale Minister om die voorsiening van openbarebiblioteekdienste in die Provinsie te verseker en om openbare biblioteke in te stel, te beheer en te bestuur. Soos beoog deur klousule 2(2), moet die Provinsiale Minister billike toegang tot openbarebiblioteekdienste bevorder vir persone met gestremdhede en ander kategorieë persone wat histories deur onbillike diskriminasie benadeel is.

- 2.3 **Klousule 3** maak voorsiening vir die funksies van die Departementshoof.
- 2.4 **Klousule 4** maak voorsiening vir die registrasie van openbare biblioteke en die faktore wat die Departementshoof in ag moet neem by die oorweging van aansoeke om registrasie.
- 2.5 **Klousule 5** maak voorsiening vir die Provinsiale Minister om, ingevolge 'n skriftelike ooreenkoms beoog in artikel 36 van die Provinsiale Grondwet en artikel 126 van die Grondwet, die hele administrasie van 'n funksie bedoel in die Wetsontwerp of 'n gedeelte daarvan aan Munisipale Rade op te dra.
- 2.6 **Klousule 6** maak voorsiening vir die funksies van openbarebiblioteekadministrateurs.
- 2.7 **Klousule 7** bevestig die reg op gratis toegang tot alle biblioteke. Hierdie klousule maak verder voorsiening vir die Provinsiale Minister om maksimum gelde voor te skryf wat vir openbarebiblioteekdienste gevra kan word.
- 2.8 **Klousule 8** maak voorsiening vir die sluiting van openbare biblioteke, hetsy tydelik of permanent.
- 2.9 **Klousule 9** stel die Provinsiale Minister in staat om enige bevoegdheid of plig aan hom of haar verleen aan die Departementshoof te delegeer, wat ook enige bevoegdheid of plig aan hom of haar verleen aan 'n werknemer of die bekleër van 'n spesifieke amp in die Departement te delegeer.
- 2.10 **Klousule 10** het ten doel om die Provinsiale Minister te bemagtig om regulasies te maak betreffende spesifieke aangeleenthede wat vir die toepassing en handhawing van die voorgestelde wetgewing vereis word. Die aangeleenthede waarvoor regulasies voorgestel word, vereis nie enige parlementêre beheer nie.
- 2.11 **Klousule 11** maak voorsiening vir die herroeping van die Ordonnansie.
- 2.12 **Klousule 12** maak voorsiening vir oorgangsbepalings. Ongeag die herroeping van die Ordonnansie—
  - 2.12.1 word 'n biblioteek wat as 'n openbare biblioteek ingevolge die Ordonnansie bestuur is onmiddellik voor die inwerkingtreding van die voorgestelde wetgewing as 'n openbare biblioteek beskou wat ingevolge klousule 4 van die Wetsontwerp geregistreer is;
  - 2.12.2 bly regulasies met finansiële implikasies, naamlik regulasies 3(3), 12 en 13 van die Regulasies Insake die Vry Provinsiale Biblioteekdiens gepubliseer onder Provinsiale Kennisgewing 689/1980 in die *Offisiële Koerant van die Provinsie die Kaap die Goeie Hoop* 4122 gedateer 12 September 1980 van krag; en
  - 2.12.3 bly die Plaaslike Owerhede: Standaard-Biblioteekverordening gemaak kragtens artikel 12 van die Ordonnansie en gepubliseer onder Provinsiale Kennisgewing 640/1990 in die *Offisiële Koerant van die Provinsie die Kaap die Goeie Hoop* 4664 gedateer 12 Oktober 1990 van krag vir 'n tydperk van 36 maande om munisipaliteite die geleentheid te bied om hul eie verordeninge te ontwikkel of vir die Departement om 'n standaardkonsepverordening vir munisipaliteite ingevolge



artikel 14 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2002 (Wet 32 van 2000), te ontwikkel.

2.13 **Klousule 13** maak voorsiening vir die kort titel en inwerkingtreding van die Wet.

### 3. OORLEGPLEGING

3.1 Departement van die Premier: Regsdienste

3.2 Die Provinsiale Minister van Finansies

3.3 Die Provinsiale Minister van Plaaslike Regering, Omgewingsake en Ontwikkelingsbeplanning

3.4 Provinsiale Tesourie

3.5 Munisipaliteite in die Provinsie

3.6 Die Finansiële en Fiskale Kommissie

3.7 Die Suid-Afrikaanse Plaaslikeregeringsvereniging

### 4. OPENBARE DEELNAME

Die Wes-Kaapse Konsepwetsontwerp op Openbarebiblioteekdienste, 2024, is vir openbare kommentaar gepubliseer onder Provinsiale Kennisgewing 87/2024 in *Provinsiale Koerant* 8967 gedateer 8 Augustus 2024 vir die kommentaartydperk vanaf 8 Augustus 2024 tot 30 September 2024.

### 5. FINANSIËLE IMPLIKASIES

5.1 Die Departement het met die Provinsiale Tesourie, munisipaliteite in die Provinsie en die Finansiële en Fiskale Kommissie samesprekings gevoer.

5.2 Die toekennings bedoel in paragraaf 1.4 maak nie voorsiening vir volledige befondsing ten opsigte van openbare biblioteke nie. Munisipaliteite finansier hierdie diens gedeeltelik aan gemeenskappe in meerdere of mindere mate. Munisipaliteite is geraadpleeg oor hul vermoë om steeds die beoogde verrigting van die funksies wat opgedra is, te medefinansier.

5.3 Die voorgestelde wetgewing sal nie enige bykomende befondsingsvereistes of uitgawes op die Departement, munisipaliteite of enige ander openbarebiblioteekadministrateur oplê nie.

5.4 Die Departement sal steeds munisipaliteite deur die Voorwaardelike Toekenning vir Gemeenskapsbiblioteke, die Munisipale Vervangingsbefondsing en die Metrobiblioteektoekenning ondersteun. Die 24 plaaslike munisipaliteite en die Stad Kaapstad- Metropolitaanse Munisipaliteit het 'n lang geskiedenis van openbarebiblioteekdienste in die Provinsie lewer. Die Wetsontwerp sal die praktiese samewerking en medefinansieringsreëlings tussen die Provinsie en munisipaliteite konsolideer en sodoende die voortgesette uitvoering van openbarebiblioteekfunksies in die plaaslikeregeringsfeer waar dit die beste verrig word, verseker.

5.5 Die Departement het ondersteuning vir befondsing ontvang by die Nasionale Tesourie deur die Voorwaardelike Toekenning vir Gemeenskapsbiblioteke en by die Provinsiale Tesourie deur die Munisipale Vervangingsbefondsing en die Metrobiblioteektoekenning.

## **6. WETGEWENDE BEVOEGDHEID**

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

# UMTHETHO OSAYILWAYO

Ukulawula ukubonelelwa kweenkonzo zamathala eencwadi oluntu kwiPhondo; ukubonelela ngolungelelaniso lweembopheleleko zeenkono zamathala eencwadi oluntu; ukubonelela ngobhaliso lwamathala eencwadi oluntu; ukwenza isibonelelo sokwabela amaBhunga ooMasipala imisebenzi ethile yoMphathiswa wePhondo ngokubhekiselele kumathala eencwadi oluntu; ukufumanisa imisebenzi yabalawuli bamathala eencwadi oluntu; nangokubonela nangeminye imiba enxulumene nale.

**K**UWISWA UMTHETHO KE yiPalamente yePhondo leNtshona Koloni ngolu hlobo:—

## Ingcaciso

1. Kulo Mthetho, ngaphandle kokuba umongo ubonisa ngenye indlela—
  - “**ISEBE**” lithetha isebe lephondo elinoxanduva lwamathala eencwadi oluntu kwiPhondo; 5
  - “**INTLOKO YESEBE**” ithetha intloko yeSebe;
  - “**IINKONZO ZOLWAZI**” zithetha iinkonzo ezinxulumene nemithombo yolwazi kunye nezibonelelo zamathala eencwadi oluntu, kubandakanywa ukufikelela eluntwini, iinkqubo zolwazi lokufunda nokubhala; 10
  - “**IZIXHOBHO ZETHALA LEENCWADI**” zithetha nayiphi na into okanye isixhobo, kubandakanywa nayo nayiphi na incwadi, amaphephancwadi, uxwebhu, imanyuskripthi, itshati, imephu, irekhodi, imathiriyeli emanyelwayo nerekhodiweyo, imathiriyeli yokwazisa kunye nolwazi oluveliswe ngekhompyutha, ezenziwe zafumaneka okanye ekunenjongo zokuba zenziwe zifumaneka lithala leencwadi loluntu ukuze kubolekise ngazo okanye zisetyenziswe ngamalungu oluntu; 15
  - “**UMASIPALA**” uthetha umasipala omiselwe kwiPhondo, njengoko kuchaziwe kwicandelo 12 lomthetho i*Local Government: Municipal Structures Act, 1998* (uMthetho 117 ka-1998); 20
  - “**UKUMISELA**” kuthetha ukumisela ngomgaqo;
  - “**IPHONDO**” lithetha iPhondo leNtshona Koloni;
  - “**UMPHATHISWA WEPHONDO**” uthetha uMphathiswa wePhondo onoxanduva lwamathala eencwadi oluntu kwiPhondo;
  - “**ITHALA LEENCWADI LOLUNTU**” lithetha ithala leencwadi, ngaphandle kwethala leencwadi lesizwe— 25
    - (a) eliqhutywa ngeenjongo zokubonelela ngeenkono zamathala eencwadi oluntu; kwaye
    - (b) nelibhaliswe njengethala leencwadi loluntu ngokwecandelo lesi4;
  - “**UMLAWULI WETHALA LEENCWADI LOLUNTU**” lithetha umntu, kubandakanywa iziko likarhulumente, kodwa kungabandakanywa uMphathiswa wePhondo, oqhuba ithala leencwadi loluntu; 30
  - “**IINKONZO ZAMATHALA EENCWADI OLUNTU**” zithetha iinkonzo ezinikezelwa kumathala eencwadi oluntu kumalungu oluntu ukuba afikelele kwizixhobo zethala leencwadi nakwiinkonzo zolwazi; 35
  - “**IODINENSI**” ithetha i*Provincial Library Service Ordinance, 1981* (iOdinensi 16 ka-1981);
  - “**LO MTHETHO**” ubandakanya imigaqo eyenziwe phantsi kwawo.

## Amagunya nemisebenzi yoMphathiswa wePhondo

2. (1) UMphathiswa wePhondo—
- (a) kufuneka aqinisekise ukuba iinkonzo zamathala eencwadi oluntu ziyabonelelwa kwiPhondo ngokuhambelana nalo Mthetho; kwaye
- (b) angaseka, alawule aze aqhube amathala eencwadi oluntu. 5
- (2) UMphathiswa wePhondo kufuneka akhuthaze ukufikelela ngokulinganayo kwiinkonzo zamathala eencwadi oluntu, kubandakanywa nabantu abanokhubazeko kunye nolunye uhlobo lwabantu ababevinjwe amathuba ngaphambili ngenxa yocalucalulo olungenabulungisa.
- (3) UMphathiswa wePhondo, ngokubhekiselele kumathala eencwadi oluntu asekw, alawulwe okanye aqhutywe nguMphathiswa wePhondo— 10
- (a) angabonelela ngezixhobo zoncedo eziyimfuneko eziza kusetyenziselwa amathala eencwadi, kubandakanywa izakhiwo, ifenitshala nezixhobo zokusebenza;
- (b) angatyumba abasebenzi baloo mathala eencwadi; 15
- (c) angafudusela ithala leencwadi loluntu kwenye indawo;
- (d) angavala ithala leencwadi loluntu, nokuba kungethutyana okanye ngokusisigxina;
- (e) angafumana izixhobo zethala leencwadi; kwaye
- (f) angenza nawuphi na omnye umsebenzi onokuthi ube yimfuneko ukwenzela iinjongo zaloo mathala eencwadi. 20
- (4) UMphathiswa wePhondo usenokuthi, emva kokubonisana nabalawuli bamathala eencwadi oluntu, aphuhlise izikhokelo zamathala eencwadi oluntu kunye neenkonzo zamathala eencwadi oluntu kweli Phondo, kubandakanywa nezikhokelo malunga noku— 25
- (a) ulawulo, ukuziphatha nolawulo lwamathala eencwadi oluntu;
- (b) ukufikelela kwiinkonzo zamathala eencwadi oluntu;
- (c) iziseko zophuhliso zamathala eencwadi oluntu, izibonelelo nezinye iiasethi;
- (d) indawo kunye nenani lamathala eencwadi oluntu;
- (e) ukubonelela ngezixhobo kunye nezibonelelo kumathala eencwadi oluntu; 30
- (f) unxibelelwano lweenkonzo zobuchwepheshe ezinxulumene namathala eencwadi oluntu;
- (g) uphuhliso nobonelelo lwengqokelela yethala leencwadi ukwenzela amathala eencwadi oluntu; kunye
- (h) neemfuno zabasebenzi kumathala eencwadi oluntu. 35

## IMisebenzi yeNtloko yeSebe

3. (1) INtloko yeSebe kufuneka icebise uMphathiswa wePhondo—
- (a) ngophuhliso—
- (i) lwamanyathelo okukhuthaza iinkonzo zamathala eencwadi oluntu kwiPhondo; kunye 40
- (ii) nezikhokelo zamathala eencwadi oluntu kunye neenkonzo zamathala eencwadi oluntu;
- (b) amandla abalawuli bamathala eencwadi oluntu ekuqhubeni amathala eencwadi oluntu; kunye
- (c) namagunya nemisebenzi emalunga neenkonzo zamathala eencwadi oluntu anokwabelwa iBhunga likaMasipala ngokwemigaqo yecandelo 5(1) kunye nenkqubo yonikezelo olunjalo. 45
- (2) INtloko yeSebe kufuneka—
- (a) ikhuthaze uphuhliso lwamandla, uphuhliso lwezakhono, uphuhliso lwemfundo nophuhliso lwezibonelelo zabasebenzi abaqeshwe kumathala eencwadi oluntu— 50
- (i) ngokubonelela ngesikhokelo, ngeengebiso nangenkxaso yobungcali;
- (ii) ngokubonelela ngeenkqubo zoqeqesho namathuba okufunda anxulumene neenkonzo zamathala eencwadi oluntu; kunye
- (iii) nangokuququzelela intsebenziswano phakathi kweSebe kunye nabalawuli bamathala eencwadi oluntu; 55
- (b) ixhomekeke kwiimali ezikhoyo, nanjengoko kuvunyelwene neBhunga likaMasipala ekunikezelwe kulo umsebenzi ngokwecandelo 5, ibonelele ngoncedo lwemali kumasipala ochaphazelekayo ekwenzeni loo msebenzi;
- (c) iphonononge, ikukhetha, yenz' intengo, ikuhlele, yenz' uluhlu, ilungelelanise 60

- ize isasaze imathiriyeli yethala leencwadi kubalawuli bamathala eencwadi oluntu;
- (d) ixhomekeke kwicandelo 6(3), ibonelele ngenkqubo yolwazi kumathala eencwadi oluntu; kwaye
- (e) inike isikhokelo nenkxaso malunga nobhaliso nolawulo lwamathala eencwadi oluntu. 5
- (3) INTloko yeSebe—
- (a) ingatyelela ize ibeke esweni ithala leencwadi loluntu ngeenjongo zokubonelela ngenkxaso nokuvavanya ukuthotyelwa komlawuli wethala leencwadi loluntu onxulumene nezibonelelo zalo Mthetho; 10
- (b) ingabonelela ngezixhobo ezibolekwayo kwithala leencwadi loluntu;
- (c) ingaxhomekeka kwiimali ezikhoyo, ibonelele ngoncedo lwezemali ukulungiselela ukwakha okanye ukuphuculwa kwethala leencwadi loluntu; kwaye
- (d) ingene kwisivumelwano nomlawuli wethala leencwadi loluntu malunga nokusebenza kwethala leencwadi loluntu. 15
- (4) Isivumelwano esichatshazelwe kwicandelwana (3)(d) masibandakanye ubuncinane oku kulandelayo:
- (a) indima noxanduva lomlawuli wethala leencwadi loluntu loluntu;
- (b) indima noxanduva lweNtloko yeSebe; kunye 20
- (c) nezicwangciso zolwabiwo lwezibonelelo ezinokwenziwa yiNtloko yeSebe kwithala leencwadi loluntu.

#### Ukubhaliswa kwamathala eencwadi oluntu

4. (1) Umntu, kubandakanywa icandelo likarhulumente, kodwa kungabandakanywa uMphathiswa wePhondo, oneenjongo zokuseka okanye zokuqhuba ithala leencwadi njengethala leencwadi loluntu kufuneka enze isicelo sokubhalisa ithala leencwadi ngokugcwalisa ifomu yobhaliso, ekufuneka ifumaneke kwiwebhusayithi yeSebe; aze ayingenise kwiNtloko yeSebe. 25
- (2) Xa kuqwalaselwa isicelo, iNtloko yeSebe mayithathele ingqalelo yonke imiba echaphazelekayo, kubandakanywa— 30
- (a) izikhokelo ezichazwe kwicandelo 2(4);
- (b) izibonelelo ezikhoyo ezinokwabiwa liSebe kwithala leencwadi loluntu elicetywayo; kunye
- (c) namandla omfakisicelo okubonelela ngeenkonzo zamathala eencwadi oluntu, ezinokuthi zibandakanye, apho kufanelekileyo, isicwangciso semali nomsebenzi womfakisicelo malunga nethala leencwadi loluntu. 35
- (3) INTloko yeSebe kufuneka—
- (a) yamkele isicelo, nokuba sinemiqathango okanye asinayo, okanye ukwala isicelo; kwaye
- (b) yazise umfakisicelo ngembalelwano ngesigqibo eso. 40
- (4) Ukuba isicelo samkelwe, iNtloko yeSebe kufuneka inike umfakisicelo isatifikethi sobhaliso.
- (5) Ukuba isicelo saliwe, iNtloko yeSebe kufuneka yazise umfakisicelo ngembalelwano ngezizathu zokwaliwa kunye nelungelo lokubhena kwisigqibo eso.
- (6) Umfakisicelo onganiselikanga kwisiphumo sesicelo angafaka isibheni esibhaliweyo kuMphathiswa wePhondo kwiintsuku ezili 180 efumene isaziso sesigqibo. 45
- (7) Icandelwana (6) alisebenzi apho umfakisicelo engumasipala ochazwe kwicandelo 5.
- (8) INTloko yeSebe kufuneka ibhalise ithala leencwadi loluntu elisekwe okanye eliqhutywa nguMphathiswa wePhondo ngokwecandelo 2(1)(b). 50
- (9) INTloko yeSebe kufuneka inike uluntu isaziso sokubhaliswa kwethala leencwadi loluntu kwiwebhusayithi yeSebe nakuwo nawaphi na amajelo eendaba iNtloko yeSebe ekubona kufanelekile.

#### Ukwabelwa kwemisebenzi kumaBhunga ooMasipala

5. (1) UMphathiswa wePhondo usenokuthi, ngokwesivumelwano esibhaliweyo, njengoko kuchazwe kwicandelo 36 loMgaqosiseko weNtshona Koloni, 1997 (uMthetho 1 ka-1998), kunye necandelo 126 loMgaqosiseko weRiphabliki yoMzantsi Afrika, 1996, ukuba abele iBhunga likaMasipala lomasipala lonke okanye inxalenye yolawulo lomsebenzi okhankanywe kwicandelo 2(1) no(2). 55

(2) Isivumelwano esibhaliweyo kufuneka sibandakanye ubuncinane oku kulandelayo ngokubhekiselele kwimisebenzi eyabelweyo:

- (a) indima noxanduva lukamasipala;
- (b) iindima noxanduva loMphathiswa wePhondo okanye lweNtloko yeSebe, njengoko kunokuba njalo; kunye 5
- (c) namalungiselelo enkxasomali kamasipala ngokubhekiselele kwimisebenzi eyabelweyo.

#### **Imisebenzi yabalawuli bamathala eencwadi oluntu**

6. (1) Umlawuli wethala leencwadi loluntu kufuneka, ngokunxulumene nethala leencwadi loluntu eliqhutywayo okanye eliza kuqhutywa lilo, ngokuxhomekeke kuso nasiphi na isivumelwano esichazwe kwicandelo 3(3)(d) okanye lesi5, apho kuyimfuneko— 10

- (a) abonelele ngezakhiwo apho iinkonzo zamathala eencwadi oluntu ziya kunikezelwa khona;
- (b) abonelele ngenkcitho yokusebenza eyayanyaniswa nokusebenza kwemihla ngemihla kwethala leencwadi loluntu; kwaye 15
- (c) atyumbe abasebenzi abafunekayo kwithala leencwadi loluntu.

(2) Umlawuli wethala leencwadi loluntu kufuneka, ngesicelo soMphathiswa wePhondo okanye iNtloko yeSebe, angenise kuMphathiswa wePhondo okanye kwiNtloko yeSebe, njengoko kunokuba njalo, ingxelo ngemiba ephathelele kwithala leencwadi loluntu njengoko kucacisiwe kwisicelo eso. 20

(3) Umlawuli wethala leencwadi loluntu osebenzisa inkqubo yakhe yolwazi angenza njalo ukuba le nkqubo iyasebenza kwaye iyahambelana nenkqubo yolwazi leencwadi loluntu leSebe.

#### **Ukungena kunye nemirhumo**

25

7. (1) Kukho ukungena simahla kuwo onke amathala eencwadi oluntu kwiPhondo.

(2) UMphathiswa wePhondo, ngokuxhomekeke kwicandelwana (1), unokumisela imirhumo epehzu enokuhlawulwa ngeenkonzo zamathala eencwadi oluntu.

#### **Ukuvalwa kwamathala eencwadi oluntu**

8. (1) Umlawuli wethala leencwadi loluntu unokuthi, okwethutyana okanye ngokusisigxina, alivalwe ithala leencwadi loluntu eliqhutywa nguye. 30

(2) Ukuba umlawuli wethala leencwadi loluntu unenjongo yokuvala ithala leencwadi loluntu okwethutyana kangangeentsuku ezingaphezulu kwama60, kufuneka azise iNtloko yeSebe ngokubhaliweyo ngezizathu zokuvalwa kwethutyana.

(3) Ukuba umlawuli wethala leencwadi loluntu unenjongo yokuvala ithala leencwadi loluntu ngokusisigxina, kufuneka azise uMphathiswa wePhondo ngenjongo yakhe yokwenza njalo kunye nezizathu zokuvalwa okucetywayo, ubuncinane kwiintsuku ezingama90 phambi komhla wokuvalwa okucetywayo. 35

(4) Ithala leencwadi loluntu elivalwe ngokusisigxina lithathwa njengelikhutshiweyo ezincwadini, yaye iNtloko yeSebe kufuneka yazise uluntu ngokuvalwa kwiwebhusayithi yeSebe nakwamanye amajelo eendaba iNtloko yeSebe ewabona efanelekile. 40

#### **Ukugunyazisa**

9. (1) UMphathiswa wePhondo anganikezela naliphi na igunya okanye umsebenzi anikwe wona ngokwemiqathango yalo Mthetho, ngaphandle kwegunya lokwenza imimiselo, kwiNtloko yeSebe. 45

(2) INtloko yeSebe inganika naliphi na igunya okanye umsebenzi onikwe wona, okanye onikwe wona ngokwalo Mthetho—

- (a) kumsebenzi weSebe; okanye
- (b) kumnini weofisi okanye isikhundla esithile kwiSebe. 50

(3) Ugunyaziso ekubhekiswa kulo kwicandelwana (1) okanye (2)—

- (a) ngembalelwano;
- (b) lungenziwa ngokuxhomekeke kwimiqathango;
- (c) lunokurhoxiswa okanye lutshintshwe ngembalelwano nguMphathiswa wePhondo okanye yiNtloko yeSebe, njengoko kunokuba njalo; 55

- (d) lunokubandakanya igunya lokugunyazisa okanye lokugunyazisa kwakhona elo gunya okanye umsebenzi;
- (e) alumthinteli uMphathiswa wePhondo okanye iNtloko yeSebe, njengoko kunokuba njalo, ekusebenziseni elo gunya okanye ekwenzeni loo msebenzi; kwaye 5
- (f) aluhluthi uMphathiswa wePhondo okanye iNtloko yeSebe, njengoko kusenokuba njalo, kuxanduva olumalunga nokusetyenziswa kwegunya okanye umsebenzi awabelwe wona.

### Imigaqo

10. (1) UMphathiswa wePhondo unokwenza imigaqo malunga— 10
- (a) nokubhaliswa amathala eencwadi oluntu;
  - (b) nenkqubo yesibheni esichasene nesigqibo seNtloko yeSebe malunga nesiphumo sesicelo sokubhaliswa kwethala leencwadi loluntu;
  - (c) nokubuyiswa kwezixhobo nezixhobo zethala leencwadi kwiSebe emva kokuvalwa kwethala leencwadi loluntu kunye neziphumo apho umlawuli wethala leencwadi loluntu esilela ukubuyisela ezo zixhobo nezixhobo zethala leencwadi; 15
  - (d) nolawulo lwempahla yeSebe, kubandakanywa izixhobo zethala leencwadi, kumathala eencwadi oluntu nokubalwa kwempahla yethala leencwadi;
  - (e) noxanduva lokulahlekelwa kunye nomonakalo kwiasethi zeSebe, kubandakanywa izixhobo zethala leencwadi; 20
  - (f) neentlawulo ezinxulumene neenkonziso ezinokumiselwa kwithala leencwadi loluntu eliqhutywa nguMphathiswa wePhondo;
  - (g) noxanduva lukamasipala olucamngciwe kwicandelo 5 malunga nentlawulo kwiSebe yemali efunyenwe kubabolekisi ngenxa yezixhobo zethala leencwadi ezilahlekileyo nezonakeleyo; 25
  - (h) nokufikelela kunye nokusetyenziswa kweenkonzo zolwazi;
  - (i) nokufikelela kunye nokuziphatha kwabantu kumathala eencwadi oluntu;
  - (j) nentsebenziswano phakathi kwamathala eencwadi, kubandakanywa ukubolekisa phakathi kwamathala eencwadi; 30
  - (k) nawo nawuphi na umcimbi onokuthi umiselwe ngokwalo Mthetho; kwaye
  - (l) nawo nawuphi na omnye umcimbi onokuba yimfuneko okanye ofanelekileyo ukuba umiselwe ukuphumeza lo Mthetho.
- (2) Imigaqo ephathelele kwimiba echaphazela abalawuli bamathala eencwadi oluntu okanye amathala eencwadi oluntu aqhutywa ngabo inokwenziwa kuphela emva kokubonisana nabalawuli bamathala eencwadi oluntu achaphazelekayo. 35
- (3) Imigaqo echaphazela imali kufuneka yenziwe ngemvumelwano noMphathiswa wePhondo onoxanduva lwezemali.

### Utshitshiso

11. IOdinensi itshitshisiwe. 40

### Izibonelelo zenguqu

12. Nangona itshitshisiwe le Odinensi—
- (a) ithala leencwadi elaliqhutywa njengethala leencwadi loluntu ngokweOdinensi kanye phambi komhla wokuqalisa ukusebenza kwalo Mthetho lithathwa njengethala leencwadi loluntu elibhaliswe ngokwemiqathango yecandelo 4 lalo Mthetho; 45
  - (b) imigaqo 3(3), 12 no13 ye*Regulations Regarding the Free Provincial Library Service* epapashwe phantsi kweSaziso sePhondo 689/1980 kwi*The Province of the Cape of Good Hope Official Gazette* 4122 yomhla we12 kweyoMsintsi ka1980 iyaqhubeka nokusebenza; kwaye 50
  - (c) i*Local Authorities: Standard Library By-Law* owenziwe phantsi kwecandelo 12 leOdinensi kwaye upapashwe phantsi kweSaziso sePhondo 640/1990 kwi*The Province of the Cape of Good Hope Official Gazette* 4664 yomhla we12 kweyeDwarha ka1990 iyaqhubeka isebenza—
    - (i) ngokwendlela engqinelana ngayo nalo Mthetho; 55
    - (ii) kangangexesha leenyanga ezingama36 ukususela kumhla wokuqalisa ukusebenza kwalo Mthetho.

**Isihloko esifutshane kunye nesiqalo**

13. Lo Mthetho ubizwa ngokuba nguMthetho weeNkonzo zamaThala eeNcwadi oLuntu weNtshona Koloni, 2025, kwaye uya kuqalisa ukusebenza ngomhla omiselwe yiNkulumbuso ngokuwubhengeza kwi*Gazethi yePhondo*.



## MEMORANDAM YEENJONGO ZOMTHETHO OSAYILWAYO WEENKONZO ZAMATHALA EENCWADI OLUNTU WENTSHONA KOLONI

### 1. IMVELAPHI

- 1.1 UMgaqosiseko weRiphabliki yoMzantsi Afrika, 1996 (uMgaqosiseko), kwiCandelo A seShedyuli 5, wabela amaphondo igunya elikhethekileyo lokuwisa umthetho ngokuphathelele namathala eencwadi angengawo awelizwe.
- 1.2 ISebe leMicimbi yeNkcubeko neMidlalo eNtshona Koloni (iSebe), elimyalelo walo, phakathi kwezinye izinto, ngokubhekisele kumathala eencwadi oluntu kwiPhondo leNtshona Koloni lifuna ukuphuhlisa, ukuguqula nokukhuthaza iinkonzo zamathala eencwadi zoluntu ezizinzileyo kwiPhondo. Okwangoku iSebe libonelela ngeenkonzo zamathala eencwadi angama376 kwiphondo.
- 1.3 Amathala eencwadi oluntu kweli Phondo alawulwa i*Provincial Library Service Ordinance, 1981* (iOdinensi 16 ka-1981) (iOdinensi), owabelwa iPhondo ngoMpoposho 115 esapapashwa kwi*Gazethi kaRhulumente* 15813 yomhla we17 kweyeSilimela 1994. Nangona kunjalo, le Odinensi, yabakho phambi koMgaqosiseko, kwaye eminye yemimiselo yawo iphelelwe lixesha kwaye oLuntu ayisasebenzi. UMthetho oSayilwayo weeNkonzo zamaThala eeNcwadi oLuntu weNtshona Koloni (uMthetho oSayilwayo) ngoko uphakamisa ukuba ibhangiswe le Odinensi kunye nokulungelelaniswa kwezibonelelo ezikuMthetho oSayilwayo kunye noMgaqosiseko.
- 1.4 OoMasipala ngaphambili bebandakanyeka, ukusukela ekusekweni kweNkonzo yeThala leeNcwadi lePhondo ngo1955, basabonelela belawula, amathala eencwadi oluntu, ngenkxaso yentsebenziswano evela kwiSebe. Ngokwale ntsebenziswano, iSebe libonelela ngeenkonzo zobungcali nobuchwepheshe, ukongeza kwizixhobo zamathala eencwadi, ezifumaneka kuwo onke amathala eencwadi oluntu, ngelixa oomasipala bebonelela ngezakhiwo, abasebenzi nangeendleko zokusebenza zamathala eencwadi oluntu ngenkxasomali evela kwiSebe. Inkxasomali yamathala eencwadi oluntu ivela kwisabelo esilinganayo sengeniso eyabelwe iPhondo kunye neSibonelelo seeNkonzo zamaThala eeNcwadi asekuHlaleneni. ISebe lixhasa ngemali amathala eencwadi oluntu aqhutywa ngoomasipala ngeNgxowamali yoThathondawo kaMasipala eyoNgezelelweyo kunye neSibonelelo samaThala eeNcwadi soMasipal' ombhaxa.
- 1.5 Ukongeza kumathala eencwadi oluntu aqhutywa ngoomasipala, iSebe lixhasa amanye amathala eencwadi oluntu aqhutywa ngoomasipala, iSebe lixhasa amanye amathala eencwadi oluntu aqhutywa yimibutho engekho phantsi kolawulo lukarhulumente kunye neminye imibutho karhulumente, phakathi kwezinye. Lo Mthetho oSayilwayo wenza isibonelelo sokuba amathala eencwadi oluntu asekw, alawulwe kwaye aqhutywe nguMphathiswa wePhondo weMicimbi yeNkcubeko neMidlalo eNtshona Koloni (uMphathiswa wePhondo).
- 1.6 Umasipala, phantsi kwecandelo 156(1)(b) loMgaqosiseko, unelungelo lokulawula nawuphi na umba awunikwe ngumthetho wesizwe okanye wephondo. UMthetho oSayilwayo ubonelela uMphathiswa wePhondo ukuba abele amaBhunga ooMasipala, ngokwesivumelwano esibhaliweyo esikhankanwe kwicandelo 36 loMgaqosiseko weNtshona Koloni, 1997 (uMthetho 1 ka-1998) (uMgaqosiseko wePhondo), kunye necandelo 126 loMgaqosiseko, lonke okanye inxalenye yolawulo lomsebenzi ekubhekiswa kuwo nguMthetho oSayilwayo.

## 2. IZIQULATHO ZOMTHETHO OSAYILWAYO

Iinjongo nemigqaliselo yamacandelo ahlukeneyo oMthetho oSayilwayo ngala alandelayo:

- 2.1 **Isoloty 1** libonelela ngeenkcazelo eziqulathwe kuMthetho oSayilwayo.
- 2.2 **Isoloty 2** libonelela ngamagunya nemisebenzi yoMphathiswa wePhondo ukuqinisekisa ngobonelelo lweenkonzo zamathala eencwadi oluntu kwiPhondo kunye nokuseka, ukulawula noqhutyo lwamathala eencwadi oluntu. Njengoko kuchaziwe kwisoloty 2(2), uMphathiswa wePhondo kufuneka akhuthaze ukufikeleleka ngokulinganayo kwiinkonzo zamathala eencwadi oluntu kubantu abakhubazekileyo kunye nabanye abantu abakhe bangamaxhoba ocalucalulo olungenabulungisa.
- 2.3 **Isoloty 3** libonelela ngemisebenzi yeSebe eliyiNtloko.
- 2.4 **Isoloty 4** libonelela ngobhaliso lwamathala eencwadi oluntu kunye nemiba ekufuneka iNtloko yeSebe izithathele ingqalelo xa iqwalasela izicelo zokubhalisa.
- 2.5 **Isoloty 5** linika uMphathiswa wePhondo ilungelo lokwabela amaBhunga ooMasipala, ngokwesivumelwano esibhaliweyo esikhankanywe kwicandelo 36 loMgaqosiseko wePhondo, kunye necandelo 126 loMgaqosiseko, lonke okanye inxalenye yolawulo lomsebenzi ekubhekiswe kulo kuMthetho oSayilwayo.
- 2.6 **Isoloty 6** libonelela ngemisebenzi nolawulo lwamathala eencwadi oluntu.
- 2.7 **Isoloty 7** uqinisekisa ngelungelo lokungena simahla kuwo onke amathala eencwadi oluntu. Ukongeza koko, eli soloty libonelela ukuba uMphathiswa wePhondo amisele imirhumo epehuzulu enokuhlululiswa amathala eencwadi oluntu.
- 2.8 **Isoloty 8** libonelela ngokuvalwa kwamathala eencwadi oluntu, okwethutyana okanye ngokusisigxina.
- 2.9 **Isoloty 9** livumela uMphathiswa wePhondo ukuba anikezele ngawo nawaphi na amagunya okanye umsebenzi awunikiweyo yiNtloko yeSebe, enokuthi kananjalo inikezele ngawo nawaphi na amagunya okanye umsebenzi awunikiweyo koqeshiweyo okanye kwigosa elithile kwiSebe.
- 2.10 **Isoloty 10** ligunyazisa uMphathiswa wePhondo ukuba enze imigaqo enxulumene nemiba ethile efunekayo ukwenzela uzalisekiso nonyanzeliso lomthetho ondululiweyo. Imiba endulululelwe kuyo imithetho ayifunisi lawulo lwepalamente.
- 2.11 **Isoloty 11** libonelela ngokutshitshiswa kweOdinensi.
- 2.12 **Isoloty 12** libonelela ngemiqathango yotshintsho. Nangona iOdinensi ibhangisiwe—
  - 2.12.1 ithala leencwadi ebeliquba njengethala leencwadi loluntu ngokweOdinensi kanye phambi kokusebenza kwalo mthetho ucetywayo lithathwa njengethala leencwadi loluntu elibhalisweyo ngokwesoloty 4 loMthetho oSayilwayo;
  - 2.12.2 imigaqo eneziphumo zemali, eyile migaqo 3(3), 12 kunye no13 ye*Regulations Regarding the Free Provincial Library Service* epapashwe phantsi kweSaziso sePhondo 689/1980 kwi*The Province of the Cape of Good Hope Official Gazette* 4122 yomhla we12 kweyoMsintsi 1980 iyaqubeka isebenza; kunye

2.12.3 nomthetho kamasipala i*Local Authorities: Standard Library By-Law* owenziwe phantsi kwecandelo 12 le Odinensi kwaye upapashwe phantsi kweSaziso sePhondo 640/1990 kwi*The Province of the Cape of Good Hope Official Gazette* 4664 yomhla we12 kweyeDwarha 1990 iyaqhubeka isebenza kangangexesha leenyanga ezingama36 ukuze kunikwe oomasipala ithuba lokuphuhlisa imithetho yabo okanye iSebe liphuhlise umthetho kamasipala ngokwecandelo 14 le*Local Government: Municipal Systems Act, 2000* (uMthetho 32 ka-2000).

2.13 **Isolotya 13** libonelela ngesihloko esifutshane kunye nesiqalo soMthetho.

### 3. UKUCEBISANA

3.1 ISebe leNkulumbuso: IiNkonzo zoMthetho

3.2 UMphathiswa wePhondo wezeMali

3.3 UMphathiswa wePhondo wooRhulumente beNgingqi, iMicimbi yokuSingqongileyo noCwangciso loPhuhliso

3.4 UNondyebo wePhondo

3.5 OoMasipala kwiPhondo

3.6 IKomishoni yezeMali neRhafu

3.7 UMbutho wooRhulumente beNgingqi waseMzantsi Afrika

### 4. INTATHONXAXHEBA YOLUNTU

UQulunqo loMthetho oSayilwayo weeNkonzo zamaThala eeNcwadi oLuntu weNtshona Koloni, 2024, wapapashelwa ukufumana izimvo zoluntu phantsi kweSaziso sePhondo 87/2024 kwi*Gazethi yePhondo* 8967 yomhla we8 kweyeThupha 2024 ukwenzela ixesha lokunik' izimvo ukusukela ngomhla we8 kweyeThupha ka2024 ukuya kowama30 kweyoMsintsi ka2024.

### 5. UCHAPHAZELEKO LWEZEMALI

5.1 ISebe lizibandakanye noNondyebo wePhondo, oomasipala kwiPhondo kunye neKomishoni yezeMali neRhafu.

5.2 Izibonelelo ezikhankanywe kumhlathi 1.4 azenzi sibonelelo senkxasomali ipheleleyo ngokubhekiselele kumathatha eencwadi oluntu. Oomasipala bayixhasa ngokuyinxalenye le nkonzo kuluntu ngokwamanqanaba ahlukeneyo. Oomasipala kuye kwaboniswa nabo ngesakhono sabo sokuqhubeka nokuxhasa ngemali umsebenzi osacetywayo wemisebenzi eyabelweyo.

5.3 UMthetho osacetywayo awuyi kubeka naziphi na iimfuno zenkxasomali eyongezelelweyo okanye inkcitho kwiSebe, koomasipala okanye nakowuphi na umlawuli wamathala eencwadi oluntu.

5.4 ISebe liza kuqhubeka nokuxhasa oomasipala ngeSibonelelo esineMiqathango samaThala eeNcwadi soLuntu, iNgxowamali yeMbuyekezo kaMasipala eyoNgezelelweyo kunye neSibonelelo samaThala eeNcwadi seMetro. Oomasipala bengingqi abangama24 kunye noMasipala oMbaxa weSixeko saseKapa banembali ende yokubonelela ngeenkonzo zamathala eencwadi kwiPhondo. UMthetho oSayilwayo uza kuqinisa intsebenziswano kunye namalungiselelo eNkxasomali phakathi kwePhondo noomasipala, ngaloo ndlela kuza kuqinisekiswa uphuyeziso oluqhubekayo lwemisebenzi yamathala eencwadi oluntu kwicandelo likarhulumente wengingqi apho kusetyenzwa ngcono khona.

- 5.5 ISebe lifumene inkxasomali kuNondyebo kaZwelonke ngeSibonelelo esineMiqathango samaThala eeNcwadi oLuntu, kunye neNgxowamali esuka kuNondyebo wePhondo ngeNgxowamali yoThathondawo kaMasipala kunye neSibonelelo samaThala eeNcwadi woMasipal' ombaxa.

## **6. ISAKHONO SOWISO MTHETHO**

UMphathiswa wePhondo wanelisekile ukuba zonke izibonelelo zoMthetho oSayilwayo ziwela phantsi kwesakhona sowiso mthetho wePhondo.