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KwaZulu-Natal Provinsie
Isifundazwe saKwaZulu-Natali

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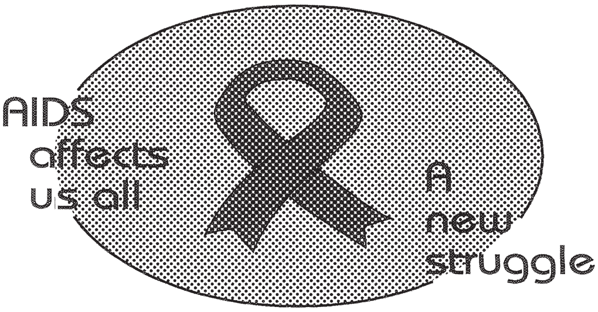
Part 1 of 4

We all have the power to prevent AIDS



Prevention is the cure

AIDS
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DEPARTMENT OF HEALTH

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MUNICIPAL NOTICE 17 OF 2017

ISINGEZELELO/ISENANELO A: IMITHESHWANA KA-SPLUMA EGUQULELWE KWI-ISIZULU

yoMkhandlu waseMsinga

Msinga Local Municipality

UMtheshwana owengamele ukusetshenziswa komhlaba nokuhlelwa kwezindawo ezahlukahlukene kumkhandlu

Ukuhlinzeka ukwakhiwa:

kwesigungu esinegunya lokuvumela ukuhlela umasipala
nesigungu esinegunya lokuhlela nokubuyekeza ukuhlela kukaMasipala nesigungu sokuqikekela ukusebenza komthetho wokuhlela umasipala.
Nokuhlinzeka ukwamukelwa nokuchibiyela uhlelo lokusetshenziswa kwendawo kamasipala nokuvumela ukuba uhlelo lokuhlela lukamasipala lusebenze.
Ihlinzeke futhi ukubuyekezwa kwezinqumo ezithathwe isigungu esinegunya lokuhlela nokuvumela ukusebenza kukamaspala.
Ihlinzeke ngezinhlawulo namacala; ukuze ihlinzeke isinxephezelo ezindabeni ezifana nalezo.

ISAHLUKO 1

ISANDULELA SOKUHLINZEKA

1.Isichasiselo/incazelo.
2.Ukusetshenziswa kwalomtheshwana
3.Imigomo namaqophelo namazinga emithetho nqubo.

ISAHLUKO 2

Ingxenye 1: Umsebenzi, ukukhethwa nokwakhiwa kwesiGungu esivumela ukuhlela uMkhandlu

4. UMkhandlu oHlelayo Ovumayo oneGunya.
5. UMphathiswa wesiGungu esigunyaza ukuhlela uMkhandlu
6. Ukukhethwa/ ukuqokwa koMphathiswa oneGunya lokuhlela wesiGungu esigunyaza ukuhlela uMkhandlu
7. Umsebenzi woMkhandlu oHlelayo oNqumayo ezicelweni zentuthuko noma isiGungu esiyiNhlangayela esiNqumayo kwizicelo zentuthuko sokuhlela uMkhandlu.
8. Ukwakhiwa / ukusekelwa koMkhandlu oHlelayo oNqumayo noma uMkhandlu oyiNhlanganisela oHlelayo oNqumayo kwizicelo zentuthuko.
9. Ukuqokwa nokwakheka koMkhandlu oHlelayo oNqumayo kwizicelo zentuthuko.
10. Ukutonyulwa kwabantu emikhakheni ezimele ukuba basebenze kuMkhandlu oHlelayo oNqumayo kwizicelo zeNtuthuko
11. Ukuhoxiswa kobulungu kuMkhandlu oHlelayo oNqumayo kwizicelo zentuthuko
12. usiHlalo noSekela Sihlalo woMkhandlu oNqumayo noHlelayo kwizicelo zentuthuko.
13. Imigomo nemibandela yokuqokwa kwamalungu oMkhandlu oHlelayo oNqumayo kwizicelo zentuthuko
14. Ukwaziswa kokuqokwa koMkhandlu oNqumayo noHlelayo kwizicelo zentuthuko.
15. Ukwesula nokususwa ehhovisi nokugcwaliswa kwezikhala zomsebenzi.
16. Ukwakhiwa koMkhandlu oHlelayo noNqumayo ozothatha iziNqumo ngezicelo zentuthuko.

17. Izinqumo zoMkhandlu oHlelayo noNqumayo ngezicelo zentuthiko.

Ingxenye 2: Ukwesekwa KoMkhandlu Onqumayo noHlelayo neSigungu Somkhandlu

18. Umsebenzi kaMgcini-mbiko woMkhandlu oHlelayo kunye neSekela Mgcini-mbiko woMkhandlu oHlelayo.
19. Ukuqokwa koMgcini-mbiko womkhandlu ohlelayo kanye neSekela loMgcini-mbiko woMkhandlu ohlelayo.
20. Umsebenzi kaMeluleki onguNgoti kwezobuchwepheshe.
21. Ukuqokwa koMeluleki onguNgoti kwezobuchwepheshe.

Ingxenye 3: Ukuhlela ngokwamazinga ezicelo ukuze ukuhlela koMkhandlu kuzigunyaze.

22. Ukuhleleka ngokwamazinga kwezicelo ukuze ukuhlela komkhandlu kuzigunyaze.

Ingxenye 4: Umsebenzi, ukuqokwa nokwakheka koMkhandlu oHlelayo nobuyekezayo noneGunya.

23.UMkhandlu Ohlelayo Ubuyekeze izinqumo Onegunya
24. Umsebenzi woMkhandlu Ohlelayo Ubuyekeze Onegunya
25. UMphathiswa wesiGungu esineGunya ukubuyekeza izicelo zentuthuko.

Ingxenye 5: Ukwesekwa koMkhandlu Ohlelayo Ubuyekeze Onegunya

26. Umsebenzi woMgcini-mbiko woMkhandlu Ohlelayo Onegunya kunye neSekela loMgcini-mbiko woMkhandlu Ohlelayo Nobuyekezayo izicelo zentuthuko Onegunya
27.Ukuqokwa koMgcini-mbiko woMkhandlu ohlelayo Onegunya kanye neSekela loMgcini-mbiko woMkhandlu Ohlelayo Nobukezayo Onegunya.
28. Umsebenzi kaMeseki kaNgoti kwezobuchwepheshe
29. Ukuqokwa kukaMeseki kaNgoti kwezobuchwepheshe.

Ingxenye 6: Umsebenzi nokuqokwa koMkhandlu Ohlelayo noQinisekisa ukugcinwa koMthetho Onegunya

30. Umsebenzi woMkhandlu Ohlelayo noQinisekisa ukuthi izinqumo zoMkhandlu ohlelayo noNqumayo ziyenziwa .
31. Ukuqokwa koMsebenzi i woMkhandlu Ohlelayo noQinisekisa ukugcinwa koMthetho.

***Ingxenye 7: Ukuzimela, ukuphikisana kwemibono ngezifiso, ukubopheleka nasekunxephezeleni*.**

32. Ukuzimela koMkhandlu Ohlelayo Nogunyazayo Onegunya noMkhandlu Ohlelayo Obuyekezeyo Onegunya.
33. Ukumemezela ngokusobala izifiso.
34. Ukuphatha kanye kanye izikhundla ezingaphezulu kwesisodwa.
35. Isihoxiso
36. Ukuphikisana kwezifiso zoMsebenzi woMkhandlu Ohlelayo Noqinisekisayo

37. Ukubophezeleka koMkhandlu Ohlelayo Ogunyazayo Onegunya, uMkhandlu Ohlelayo Nobukezayo Onegunya kanye nabasebenzi bawo abawesekayo
38. Ukunxephezeleka okusemthethweni

ISAHLUKO 3

UHLAKA LOKUSEBENZISA UMHLABA

39. Ihloso yohlaka lokusebenzisa umhlaba
40. Okuqukethwe uhlaka lokusebenzisa umhlaba
41. Imithelela esemthethweni yohlaka yokusebenzisa umhlaba
42. Uhlaka olukhona lokusebenzisa umhlaba
43. Ukwamukela ngokusemthethweni kohlaka lokusebenzisa umhlaba
44. Ukufaka ngaphansi kohlaka lokusebenzisa umhlaba, umhlaba onabahlali abahlaliswe ngabaholi bomphakathi noma abanikazi ngokwendabuko ngohlelo olungahlelekanga.
45. Ukubuyekezwa kohlaka lokusebenzisa umhlaba

ISAHLUKO 4

UMKHANDLU OHLELAYO ONEGUNYA

46. Imisebenzana edingekayo ukuze isicelo somkhandlu ohlelayo onegunya
47. Imisebenzana engadingeki ukuze kugunyazwe isicelo wumkhandlu ohlelayo onegunya
48. Imibandela evikelayo ubunikazi kanye namalungelo obunikazi angahle asuswe, achibiyelwe noma amiswe ngokwaloMtheshwana.
49. Imibandela yobunikazi namalungelo obunikazi angeke asuswa, achibiyelwe noma amiswe ngokomgomo waloMtheshwana.
50. Ubudlelwano obuphakathi komkhandlu ohlelayo onegunya kunye neSu Elididiyelwe leNtuthuko loMkhandlu
51. Ubudlelwano obuphakathi kohlaka lokusetshenziswa komhlaba nokunye komkhandlu ohlelayo onegunya
52. Ubudlelwano obuphakathi kwezivumelwano zomkhandlu womkhaya kanye nezinye izivumelwano
53. Inqubo yomkhandlu ohlelayo onegunya
54. Izinqumo zoMkhandlu Ohlelayo oGunyazayo Onegunya
55. Ukushicilela/ukuqoshwa kwezinqumo.
56. Abantu okufanele baziswe ngezinqumo zoMkhandlu Ohlelayo Ogunyazayo oneGunya
57. Ukubuyekeza kwesinqumo esithathwe umkhandlu ohlelayo onegunya.
58. Ukumiswa kosuku lokuqala ukusebenza kwesicelo ngesinqumo esithathwe umkhandlu Ohlelayo Onegunya
59. Ukunqabela ukwenza isicelo esithi masifane ncamashi nesicelo esake safakwa kodwa lesosicelo senqatshwa.
60. Ukuqinisekisa ukuhambisana nemibandela yokugunyazwa/ yokuvunyelwa

61. Ukwedluliselwa kwemigwaqo, nezindawo zokuzithokozisa kunye nezinye izindawo ezivulekile
62. Ukuveza obala ukuthi umhlaba ungebhaliseke ngaphambi kokuba kubonakale ukuhambisana nokugcina imibandela.
63. Ukunikezela amandla obunikazi bomhlaba emva kokuvala umgwaqo womkhandlu noma indawo yomphakathi.
64. Ukunikezela amasu nezincwadi zobufakazi kuMdabuli Omkhulu woMhlaba ngokwahlukaniswa komhlaba, noma ukuvala ngokugcwele/ngokuphelele umgwaqo womkhandlu emakhaya noma indawoyomphakathi.
65. Umdwebo noma isu elivulelekile elibonisa ukwahlukahlukana noma ukuhlanganiswa komhlaba
66. Ukubhaliswa kobunikazi bomhlaba ohlukahlukanisiwe noma komhlaba ohlanganisiwe noma ukuvulwa kokubhalisela idolobha
67. Ukufakwa kwezincwadi ezigunyazayo ubunikazi, izinhlelo kunye nezincwadi zobufakazi kuMgcini-mibiko wezobunikazi ukuze azivale ngokuphelele izincwadi zomgwaqo womkhandlu womkhaya noma indawo yomphakathi.
68. Ukufakwa kwezincwadi zobunikazi bomhlaba, kuMgcini-mbiko wezobunikazi ukulandelela esicelweni sokwesulwa, sokuchibiyela noma sokugudluza umbandela wobunikazi noma ilungelo lobunikazi kunye nesiqinisekiso sokuhambisana nemibandela ethize yokuvunyelwa
69. Isicelo sokuchibiyela kuMqophi -Zinqumo woMkhandlu womkhaya Ohlelayo Uvumele Ogunyaziwe ukulungisa iphutha emagameni okuqhoshwe ngawo isinqumo, ukulungisa iphutha ekubhalekeni kwegama, ukulungisa ukucacisa ngokuchazwa kwendawo, noma ukubuyekeza okumayelana nenkomba yomthetho, noma umuntu, noma isakhiwo, noma igama lendawo noma lesitaladi.
70. Isicelo sokuchibiyela okungenasidingo esinqumweni sesicelo noma ukwesula isigunyazo kuMkhandlu ohlelayo
71. Ukwesula noma ukwesula ingxenyana yamalungelo angazange asetshenziswe ngokugcwele nguMkhandlu
72. Umgudu wokwesula noma ukwesula ingxenyana yamalungelo oMkhandlu angazange aseenziswe ngokugcwele.

ISAHLUKO 5

ISIPHAKAMISO SOKUHLALA KUMKHANDLU ESENZIWA UMKHANDLU

73. Isiphakamiso soMkhandlu womkhaya ohlelayo eMkhandlwini
74. Umgudu wokugunyaza izicelo zokuhlela ezenziwa uMaspala.

ISAHLUKO 6

IZIBUYEKEZO

75. Isicelo salesisahluko
76. Imigudu yesibuyekezo
77. Ukutuswa kokubhekelelwa kwabahlulekile ukufaka izikhalazo zentuthuko
78. Isinqumo soMkhandlu Ohlelayo uBuyekeze Onegunya

79. Izizathu zesinqumo soMkhandlu Ohlelayo uBuyekeze Onegunya
80. Ukwaziswa kwemiphumela yesicelo sokubuyekeza
81. Umthelela womthetho ngesinqumo soMkhandlu Ohlelayo uBuyekeze oneGunya.
82. Ubudlelwano phakathi kwezibuyekezo ngokwaloMtheshwana kunye nezibuyekezo ezimayelana nesigaba 62 somthetho wezindlela zoMkhandlu
83. Okuqhubekayo ngaphambi kokuba uMkhandlu Ohlelayo uBuyekeze izinqum zentuthuko Onegunya uvulelekele emphakathini
84. Izindleko
85. Izinto eziphazamisa umsebenzi woMkhandlu nokuqhubekayo ngaphambi koMkhandlu Ohlelayo Obuyekeza izinqumo zentuthuko Onegunya.
86. uMgcini-mbiko woMkhandlu Ohlelayo uBuyekeze Onegunya kumele agcine imibiko emayelana nezibuyekezo.

ISAHLUKO 7

UKUQINISWA KWEMITHETHO

Ingxenye 1 : Amacala, nezinhlawulo kunye nokumiswa kwezinsiza

87. Ukwephulwa komthetho nezinhlawulo zakho okuhambisana nokuhlela kukamaspala okuvumelekile
88. Izinhlawulo ezengezeleliwe
89. Ukunciphisa noma ukunqamulwa kwemisebenzi yobunjiniyela ukuvikela ukuqhubeka kwemisebenzi osekwenza kube icala.

Ingxenye 2 : Ukushushiswa

90. Ukubhaliswa okusemthethweni kwesikhalazo.
91. Amandla oMphathiswa wezokuGcinwa komthetho kuMkhandlu oHlelayo.
92. Igunya lokungena ngenhloso yokuzobhekelela umthetho.
93. Ukubhekelelwa kwelungelo lemfihlo mayelana nokungena kokuzobhekelela umthetho.
94. Ukweqa ngokungahloniphi kwelunga lesigungu esengamele senhlangano noma komlingani ekwenzeni isenzo esimayelana nokuphula umthetho.
95. Ukwehluleka kwenhlangano yamalunga engamele umhlaba, noma isigungu esengamele noma inkampani enesabelo ukuphoqelela mayelana nokugcinwa kwezimiso ezavunyelwa.
96. Ukukhululwa yinkantolo.
97. Ubudlelwano obuphakathi kwezixazululo ezimiselwe lemitheshwana kunye nezinye izixazululo ezihambisana nomuthetho nemitheshwana yabahlali.
98. Ukukhangisa ngesaziso endaweni esikhombisa ngokungavumeleki kwezenzo ezingekho emthethweni.
99. Ukubalula abantu abagunyaziwe ukudlulisela eNkantolo Enkulu ukuqikelela kokuvikelwa kwamalungelo anikezwe uMthetho, noma uhlaka lokusetshenziswa komhlaba olwamukelwe ngokwemigomo yaloMtheshwana noma umkhandlu ohlelayo onegunya ngokwemigomo yaloMtheshwana.

Ingxenye 3: Isicelo esilandelayo sokuvuma sokuhlela komkhandlu

100. Isicelo esilandelayo somkhandlu ohlelayo onegunya.

Ingxenye 4: Icala nokungaziphathi ngendlela komphathi ngoku nikezela ngokusetshenziswa komhlaba noma ukwakha isakhiwo noma okuphikisana noMthetho, nohlelo lokusetshenziswa komhlaba noma umbandela ovimbelayo kubunikazi noma kwigunya eligodliwe elimelene nomhlaba

101. Icala nokungaziphathi ngendlela kwesikhulu esiqashwe uhulumeni esivumela ukwakhiwa kwesakhiwo noma ukusetshenziswa kwendawo ngaphambi kokugunyazwa ngokomthetho.
102. Icala lokuhlaleka komnikazi ukufaka imidwebo, amaplani nezincwadi ezisemthethweni kuMdabuli Jikelele emva kokucisha noma ukucisha okwesikhashana kwemvume yomkhandlu ohlelayo kwesahlukaniso noma sokuhlanganisa indawo noma ukwesekwa sekhawo??? sokusadolobha.
103. Icala lomnikazi lokuhlaleka ukufaka amaphepha obunikazi, amaplani namaphepha agunyaziwe kuMgcini-Mbiko wamabhuku emva kokucisha noma ukucisha kwesikhashana kwemvume yomkhnandlu ohlelayo noma isigatshana sesahlukaniso noma sokuhlanganisa kwendawo noma sesakhiwo sokusadolobha.

ISAHLUKO 8

ISINXEPHEZELO

104. Isibonelelo/isinxephezelo esimayelana nesicelo soMkhandlu sokuthatha indawo ephethwe ngumnikazi ngenhloso eyenza kungabilula ukuthuthukisa ingxeye leyo.
105. Isinxephezelo/isibonelelo esiqhamuka ekususweni, noma ekuchibiyeleni noma ekususweni kombandela othize kwincwadi yobunikazi.
106. Isibonelelo/isinxephezelo esiqhamuka ekuvalweni phaqa komgwaqo womkhandlu noma ukuvalwa phaqa kwendwo yomphakathi ivalwa wumkhandlu.
107. Inani lesinxephezelo.

ISAHLUKO 9

UKULUNGISWA KWEZINCWADI ZOBUFAKAZI

108.Ukulungiswa kwezincwadi zobufakazi.
109. Ukulungiswa kwezincwadi zobufakazi ezikuMgcini-mbiko okuMkhandlu Ohlelayo
110. Ukulungiswa kwezincwadi zobufakazi ezikuMgcini-mbiko wesigungu sikaMaspala Ohlelayo obukeza iziNqumo.
111. Usuku lokulungiswa kwezincwadi zobufakazi.

ISAHLUKO 10

IZIVUMELWANO NEZITHUNYWA NABAMELELI

112. Izivumelwano ezimayelana nokwenziwa komsebenzi ngokomthetho phakathi kwabameleli kanye mkhandlu.
113. Izivumelwano phakathi kwabameleli kanye nomkhandlu wendabuko.
114. Ukuthunywa ngokumela uMkhandlu.

ISAHLUKO 11

UKUGCINWA KOKUQOSHIWE NOKUFINYELELA KULWAZI OLUQOSHIWE

115. Ukugcinwa kolwazi oluqoshiwe kohlaka lokusetshenziswa komhlaba.
116. Ukugcinwa kolwazi oluqoshiwe lwezicelo zomkhandlu ohlelayo onegunya.
117. Isaziso esigunyaza ngobunikazi bezigatshana beplan lesiqeshana, imidwebo nohlelo oluvulelekile.
118. Isaziso mayelana nokunikezelwa komhlaba okumayelana nemithetho elawula ezamasiko
119. Ukufinyelela kulwazi oluqukethwe kuMgcini-mbiko woMkhandlu Ohlelayo
120. Ukufinyelela kulwazi oluqukethwe kuMgcini-mbiko woMkhandlu Obukezayo Onegunya.
121. Ukufinyelela kulwazi olugcinwe nguMphathi woMkhandlu.

ISAHLUKO 12

UKUHLINZEKELWA OKUVULELEKILE

122. Ukumemezelwa komhlaba njendawo yokuhlala ngendlela ehlelekile kumenyezelwa umphakathi wendabuko noma abaphathi bendawo bomnsinsi
123. Ukubalwa kwenani lezinsuku
124. Umphumela wenguquko yobunikazi bendawo okufakwe kuyo isicelo esimayelana nesigunyazo sikamasipala ohlelayo.
125. Umthelela wokunikezelwa kwamalungelo amayelana nalowo muntu ophawulile esicelweni somkhandlu ohlelayo onegunya kumnikazi womhlaba omusha.
126. Isicelo sokuvunyelwa ukungenelela esicelweni somkhandlu ohlelayo onegunya noma ekubuyekezweni kwesinqumo.
127. Izinhlelo zesikhathi soguquko kanye nokonga.
128. Imvume yobunikazi emfushane kanye nokuqala ukusebenza.

UHLA 1

IZINDABA OKUMELE ZILUNGISWE ESIVUMELWANENI SOKWAKHA ISISEKELO SENHLANGANISELA YOMKHANDLU OHLELAYO ONQUMAYO KWIZICELO ZENTUTHUKO

1. Izindaba okumele zilungiswe esivumelwaneni sokwakha isisekelo senhlanganisela yoMkhandlu oHlelayo Onqumayo kwizicelo zentuthuko.

UHLA 2

UKUHLELA NGOKWEZIGABA KWEZICELO ZEZINQUMO NGUMKHANDLU OHLELAYO OGUNYAZAYO ONEGUNYA

1. Izicelo zomkhandlu ohlelayo onegunya ezivunyiwe ezinganqunywa nguMphathi woMkhandlu oHlelayo oneGunya.
2. Izicelo zomkhandlu ohlelayo onegunya okumele zinqunywe nguMphathi womkhandlu ohlelayo onqumayo kwizicelo zentuthuko noma ilunga elikhonjwe uSihlalo ukwenza lowo msebenzi.
3. Izicelo zomkhandlu ohlelayo onegunya okumele zinqunywe nguMkhandlu oHlelayo oNqumayo kwizicelo zentuthuko.
4. Izicelo zomkhandlu ohlelayo onegunya ezinqunywa yisiGungu soMkhandlu.

UHLA 3

IZINHLELO EZINGENZIWA EZINDAWENI EZINGAPHANDLE KWENDAWO YOHLAKA LOKUSETSHENZISWA KOMHLABA ODINGA UKUVUMELA UMKHANDLU OHLELAYO ONEGUNYA

1. Izinhlelo ezidinga imvume yomkhandlu ohlelayo onegunya ezingaphandle kwendawo yohlaka lokusebenziswa komhlaba
2. Izincazelo zokusebenzisa umhlaba.

UHLA 4

IMIGUDU YOKUCELA: ZONKE IZICELO, NGAPHANDLE KWEZICELO ZOKWAKHA EMHLABENI OHLUKANISELWE UKWAKHA KUWO NGENDLELA EHLELEKILE IHLELWA NGUMPHAKATHI WENDABUKO NOMA ABANIKAZI BOZALO LWENDABUKO (UHLA 7)

1. Abantu abangafaka isicelo.
2. Izicelelo okumele zilungiswe ngumuntu oneziqu namava okuhlela ukusetshenziswa komhlaba noma umthetho.
3. Izinto okumele zenziwe singaka fakwa isicelo.
4. Ukwehluleka kwesigaba somyango kahulumeni ukuvuma esicelweni somkhandlu ohlelayo onegunya.
5. Ukufakwa kwesicelo.
6. Ukuqopha ukwemukelwa kwesicelo, nokucela eminye imininingwane engeziwe noma ukuqinisekisa ukuthi isicelo siphelele.
7. Ukuvulela ukunikezelwa kweminye imininingwane eyengeziwe.
8. Ukunqinisekisa ukufakwa kwesicelo esiphelele, uma kwakudingeke eminye imininingwane eyengeziwe.
9. Ukudluliselwa kwesicelo esithinta ezikaNgqongqoshe wezo zokuThuthukisa izindawo zaseMaphandleni kanye noku Hlela kabuSha kweMihlaba .
10. Ukwaluswa kwesicelo yilowo oyiLunga Lomkhandlu Ophezulu.
11. Ukwazisa ngesicelo emphakathini.
12. Ilungelo lokuziphendulela lomfaki sicelo.
13. Ukwedlulisela kwesicelo kuMkhandlu Ohlelayo Ovumayo oneGunya.
14. Ukuhlolwa kwesiza.

15. Ukulalelwa okuvulelekile komphakathi.
16. Umbiko oqoshiwe woMhleli wesicelo obhalisiwe ngokusemthethweni.
17. Isikhathi okuzothi ngaso uMphathiswa woMkhandlu oHlelayo oneGunya noma uMkhandlu Ohlelayo Onqumayo okumele unqume ngesicelo.
18. Izincomo esicelweni soMkhandlu Ohlelayo Oxazululayo kumele zinqunywe isiGungu soMkhandlu.
19. Ukwedluliselwa kwesicelo okumele sinqunywe yisiGungu soMkhandlu kuMkhandlu.
20. Isikhathi okumele isiGungu soMkhandlu sibe sesinqumile ngaso isicelo.

UHLA 5

ISAZISO SOMPHAKATHI

1. Izindlela zokwazisa umphakathi.
2. Okuqukethwe kwizaziso zomphakathi
3. Inhlanganisela yesaziso somphakathi ukucela imvume yomkhandlu ohlelayo onegunya kunye nesicelo ukugunyazwa kwabezemvelo
4. Inhlanganisela yesaziso yesicelo somkhandlu ohlelayo onegunya nesicelo selungelo lokumba okumbiwayo.

UHLA 6

INQUBO YOKUCHIBIYELA ISICELO NOMA ISINQUMO SIKAMASPALA OHLELAYO IMVUME NOKWESULA IMVUME KAMASPALA OHLELAYO

1. Isicelo sesichibiyelo esicelweni somkhandlu ohlelayo ngaphambi kwesaziso sesinqumo esimayelanana nesicelo esikhulu.
2. Isicelo sesichibiyelo Ezinqumeni Eziqoshiwe zoMkhandlu Ohlelayo uGunyaze oneGunya ukulungisa iphutha noma ukulungisa iminingingwane kwinkomba.
3. Isicelo sesichibiyelo sokungabambeki esinqumweni sesicelo noma ukwesula kwemvume kuMkhandlu Ohlelayo
4. Izindaba lezi okumele uMkhandlu Ohlelayo uGunyaze uziqaphele uma wenza isinqumo ekuthenini isicelo sifanelekile yini ukuthi kuthiwe isicelo sesicelo sesichibiyelo esifanele yini kulesosinqumo.

UHLA 7

IMIGUDU YOKUFAKA ISICELO SOKWAKHA EMHLABENI ODATSHULELWE UKUHLALA NGENDLELA ENGAHLELEKILE NGUMPHAKATHI WENDABUKO NOMA ABANIKAZI ABANOBUBHA.

1. Abantu abangafaka isicelo

2. Ukufakwa kwesicelo
3. Ukuqinisekisa kokubakhona kwesiza/isizinda
4. Ukunikezelwa komkhandlu ohlelayo onegunya
5. Ukwudluliselwa komkhandlu ohlelayo onegunya

UHLA 8

IZINDABA OKUMELE UKUTHI UMKHANDLU OHLELAYO UGUNYAZE ONEGUNYA UZIQAPHELE UMA UNQUMA NOMA WENZA UKUNCOMA KWISIPHAKAMISO SOMKHANDLU OHLELAYO ONEGUNYA

1. Izindaba okumele umkhandlu ohlelayo ugunyaze onegunya uziqaphele uma unquma noma wenza ukuncoma kwisicelo somkhandlu ohlelayo onegunya.

UHLA 9

ULWAZI OKUMELE LUFAKWE KOKUQOSHIWE KWEZINQUMO

1. Ulwazi okumele lufakwe esiNqumweni sokuQoshiwe kwisicelo somkhandlu ohlelayo onegunya.

UHLA 10

IMIGUDU YOKUCELA UKUBUYEKEZWA

Ingxenye 1: ukufakwa kohlu lwezicelo zokubuyekezwa, ukufakwa kohlu lwezimpendulo, ukubizelwa kwabantu abazofaka amaphepha nokuqoqa amaphepha

1. Ukufakwa kohlu lwezicelo zezibuyekezo
2. Ukufakwa kwezimpendulo zesibuyekezo
3. Abayingxenye yokulalelwa kwesibuyekzo
4. Ukuhoxiswa kwesibuyekezo noma ukuphikisana nesibuyekezo
5. Amandla esigungu esibuyekezayo sikamaspala ohlelwayo mayelana nofakazi
6. Ukukhishwa nokuhanjiswa kwezimemo zokubizela ofakazi ukuza enkantolo
7. Amandla esigungu sikamaspala ohlelayo sokubuyekeza mayelana nezincwadi zobufakazi ukunquma ngesibuyekezo
8. Ukukhipha nokudlulisela izicelo zokuthola/ ukunikezwa izincwadi zobufakazi.
9. Ukuqoqwa kwezincwadi zobufakazi ezidingekayo ukuze kunqunywe ngesibuyekezo.

Ingxenye 2: Ukuhlela kokuhlala kokulalelwa kwesibuyekezo, ukuhlolwa kwendawo nokulalelwa kwesibuyekezo

10. Ukuhlelwa kokuhlala kokulalelwa kwesibuyekezo
11. Ukuchithwa kokuhlala kwesigcawu sesibuyekezo ngenxa yokubambezela okungenasidingo komfaki sikhalazo

12. Ukuhlehliswa kokuhlolwa kwendawo noma ukulalelwa kodaba
13. Ukuhlolwa kwendawo
14. Ukulalelwa kodaba
15. Ukulalelwa kodaba zingekho izinhlangothi ezithintekayo
16. Izimo ezingenza ukulalelwa kuchithwe ngazo

UHLA 11

ISICELO SOKUFAKA UHLA LWEZIBUYEKEZO EMUVA KWESIKHATHI

1. Isicelo sokufaka uhla lwezibuyekezo emuva kwesikhathi
2. Ukuvinjelwa ngofake isicelo ukufaka uhla lwezibuyekezo emva kwesikhathi
3. Izindaba ezihambisanayo ezinesisindo ekunqumeni ukufaka emva kwesikhathi uhla lwezibuyekezo
4. Isinqumo esicelweni sokufaka isicelo sesibuyekezo emva kwesikhathi
5. Ukufika ngemva kwesikhathi kwesaziso ngesinqumo sokufakwa kohlu lwezibuyekezo emva kwesikhathi

UHLA 12

ISICELO ESIPHUTHUMAYO KUMKHANDLU OHLELAYO UBUYEKEZE ONEGUNYA UKUQINISEKISA UKUTHI ISICELO SESIBUYEKEZO ASINASISINDO NOMA UKUQALA UKUSEBENZISA INGXENYE YESINQUMO SESICELO SOMKHANDLU OHLELAYO ONEGUNYA

1. Isicelo esiphuthumayo kuMkhandlu oHlelayo uBuyekeze oneGunya ukuqinsekisa ukuthi isicelo sesibuyekezo asinasisindo noma ukuqala ukusebenzisa ingxenye yesinqumo sesicelo somkhandlu ohlelayo onegunya.
2. Ukuphikiswa kwesicelo esiphuthumayo
3. Izindaba ezihambisanayo ekunqumeni ngokufanele ngesinqumo sokuqinisekisa ukuthi isibuyekezo asinaso isisindo.
4. Izindaba ezihambisana nesiqiniseko ekunqumeni okuyikho kwisicelo sokusokuqalisa okwesikhashana ngesinqumo sokuvumela isicelo somkhandlu ohlelwayo onegunya
5. Isinqumo ngesicelo esiphuthumayo
6. Isaziso ngesinqumo sesicelo esiphuthumayo

UHLA 13

OKUMAYELANA NEZINGUQUKO

Ingxenye 1: Okunamandla oMthetho

1. Isicelo sokugunyaza esikhethekile esimayelana nokunamandla omthetho
2. Isicelo esimayelana namagunya okunamandla omthetho angazange aqedelwe ngaphambi kokuqala kokusebenza kwemitheshwana

Ingxenye 2: Umthetho woKwakhiwa kokusaDolobha okuhlelekile kwezinga eliphansi

3. Indawo yokuhlala ehleleke ngokwezinga eliphansi okugunyaziwe ngokoMthetho weZakhiwo sokusaDolobha ezihleke ngezinga eliphansi.

Ingxenye 3: Umthetho ogqugqquzela intuthuko

4. Intuthuko egunyazwe ngokomthetho ogunyaza ukugqugquzelwa kwentuthuko
5. Imisebenzi enikezelwe isikhulu sikaMaspala ukuba siyenze
6. Amandla agodlwe yisiGungu esixazululayo noma isiGungu esibuyekezayo seNtuthuko esinqumweni sesicelo esimayelana nemithetho yoMthetho Ogqugqquzela iNtuthuko

Ingxenye ***4: Umthetho wokuHlela nokuThuthukisa kwaZulu-Natal***

7. Isicelo esigunyaziwe esimayelana noMthetho wouHlela nokuThuthukisa kwaZulu- Natal
8. Isicelo mayelana nomthetho osuliwe ohlelayo okufanele uthathwe ngesicelo esigunyaziwe ngoMthetho Ohlelayo weNtuthuko kwaZulu-Natal
9. Isicelo ngokoMthetho waKwaZulu-Natal wokuHlela neNtuthuko ongazange uqedelwe ngaphambi kosuku lokuqala ukusebenza kwalomtheshwana
10. Ukunikeza isisindo kwesinqumo esenziwe ngokoMthetho wokuHlela neNtuthuko emva kuka 30 June 2015 kodwa ngaphambi kokusebenza kwalomtheshwana.

ISAHLUKO 1

OKWANDULELA UKUHLINZEKA

Izincazelo:

Kulomtheshwana, ngaphandle uma okuqukethwe umqondo ngokucacile kunikeza enye incazelo-
“umhlaba oncikene/oweyamile

ISAHLUKO 2

UKWAKHEKA/UMUMO

Ingxenye 1: Umsebenzi, ukuqokwa nokwakheka kesiGungu soMkhandlu oHlelayo oGunyazayo oneGunya

uMkhandlu Ohlelayo uGunyaze oneGunya

4. UMkhandlu Ohlelayo uGunyaze Onegunya wakheke –
(a) UMphathiswa woMkhandlu oHlelayo oneGunya
(b) UMkhandlu oHlelayo oNqumayo
(c) IsiGungu soMkhandlu

Umsebenzi womphathiswa ogunyaziwe womkhandlu ohlelayo

5.(1)Umphathiswa woMkhandlu oHlelayo oneGunya kumele anqume izicelo zomkhandlu ohlelayo onegunya ngokomgomo wesigaba 22(1)(a)

Ukuqokwa koMphathiswa woMkhandlu oHlelayo oneGunya

6. (1) Ngokubhalaphansi Umphathiwomkhandlu kumele –

(a) aqoke uMphathiswa woMkhandlu oHlelayo oneGunya; noma

(b) azimisele ukuthi osesikhundleni thizeni kwizikhundla ezisesisekweleni soMkhandlu uyena zoba uMphathiswa woMkhandlu oHlelayo oneGunya

(2) UMphathiswa woMkhandlu Ohlelayo –

(a) Akabe isisebenzi soMkhandlu noma umqashwa ngokugcwele esikhundleni ngomunye uMkhandlu ngaphansi kwesivumelwano sokwabelana ngokusebenzisana; futhi

(b) abe uMhleli Obhalisiwe

(3) uMkhandlu ungaba nabaPhathiswa bomkhandlu ohlelayo abaningi njengokwesidingo sawo

Umsebenzi woMkhandlu oHlelayo oNqumayo noma woMkhandlu Oyinhlanganisela oHlelayo Onqumayo

7. uMkhandlu oHlelayo onQumayo noma uMkhandlu oyiNhlanganisela oHlelayo oNqumayo kumele unqume ngezicelo zomkhandlu ohlelayo onegunya ezihambisana nesigaba 22(1)(b) noma (c)

Ukusekelwa koMkhandlu Ohlelayo Onqumayo noma Umkhandlu oyiNhlanganisela Ohlelayo Onqumayo

8. (1) isiGungu soMkhandlu kumeleseseke –

(a) uMkhandlu Ohlelayo Onqumayo

(b) uMkhandlu oyiNhlanganyela OhlelayoOnqumayo

(2) IsiGungu soMkhandlu singaqikekela lamaphuzu lapho sinquma ukuseka uMkhandlu Ohlelayo noNqumayo noma ukuba yingxenye ekusekweni koMkhandlu oHlelayo Onqumayo oHlanganisiwe; uma -

(a) umthelela walomtheshwana ngokwezimali, nokulawula kunye namandla okuqeqesheka.

(b) namandla awo okukwazi ukuthi asebenzise izinikezelo ezikusaHluko 4 ngokwenelisayo

(c) isilinganiso esiphakathi sezicelo umkhandlu ohlelayo onegunya obhekana nazongonyaka; futhi

(d) nezincindezi zentuthuko kuMkhandlu

(3) Uma uMkhandlu ungenawo amandla okwenza lezinikezelo ezisesaHlukweni 4 zalomtheshwana, lokho kuyinkomba yokuthi kumele kusekwe uMkhandlu Ohlelayo Onqumayo oHlanganisiwe.

(4) Uma isiGunguso Mkhandlu sinquma ukwakha uMkhandlu oHlelayo oNqumayo oHlanganisile, kumele ungene esivumelwaneni esibhaliwe phansi nalowo

Ukusetshenziswa komthetho

2. (1) Lomtheshwana ungaphansi kwesigaba 2(2) sokuthuthukisa umhlaba lapha nalapha noMthetho woHlelo Lokusetshenziswa komhlaba olunikeza ukuthi, ngaphandle uma kuhlinzekiwe kuhlelo lokuthuthukisa umhlaba lapha nalapha noma kuMthetho woHlelo lokusetshenziswa komhlaba, awukho umthetho ongakhomba okunye noma uhlelo oluhambisana, isinyathelo, isakhiwo noma uhlelo ekuthuthukiseni umhlaba lapha nalapha, ukusebenzisa umhlaba, ukuphatha uhlelo lokusebenzisa umhlaba nokuwuthuthukisa ngendlela engahambisani nawo.

(2) Lomtheshwana usebenza kuwowonke umhlaba obuswa uMkhandlu, kufaka phakathi nomhlaba kahulumeni noMkhandlu.

(3) Lomtheshwana ubophezela bonke abanikazi naba babelamayo encwadini yobunikazi nawowonke umsebenzisi womhlaba, okufakaphakathi nohulumeni nanoma yiluphi uhlaka lukahulumeni noma loMkhandlu.

Imitheshwana, namaqophelo namazinga kunye nezinqubo

3. (1) Noma yimiphi imitheshwana namaqophelo namazinga asetshenziswa ukuthuthukisa lapha napha umhlaba, nokuthuthukisa umhlaba nokuphatha ukusetshenziswa komhlaba okwenziwe ngokomgomo kazwelonke, ngokwesifundazwe uyasebenza nakuMkhandlu.

(2) IsiGungu soMkhandlu singamukela ngokusemthethweni izinqubo ezingahambisani nomthetho kazwelonke noma loMtheshwana ukuqondisa izicelo noma ukwenza izinqumo ngokwaloMtheshwana.

(3) Uma isiGungu soMkhandlu sihlela ukwamukela ngokusemthethweni noma ukuchibiyela inqubo ebalulekile engathunubeza amalungelo omuntu noma omphakathi, uMkhandlu kumele ulandela indlela lapho uwonke wonke ebanethuba nenqubo ehlangabezana nezidingo zoMthetho wokuLawula ukusebenza kwoMkhandlu.

ISAHLUKO 2

UKWAKHEKA/UMUMO

Ingxenye 1: Umsebenzi, ukuqokwa nokwakheka kwesiGungu soMkhandlu Hlelayo oGunyazayo oneGunya

uMkhandlu Ohlelayo Ogunyaziwe oneGunya

4. Lomkhandlu Ohlelayo uGunyaze oneGunya wakheke –
(a) UMphathiswa womkhandlu oHlelayo ogunyaziwe onegunya
(b) Isigungu somkhandlu ohlelayo esinqumayo
(c) UMkhandlu kaMaspala

Umsebenzi womphathiswa ogunyaziwe womkhandlu ohlelayo

5. (1) Umphathiswa onegunya womkhandlu ohlelayo kumele anqume ngezicelo ezimelekile zomkhandlu ohlelayo ogunyaziwe ezihambisana nesigaba 22(1)(a)

Ukuqokwako Mphathiswa wokhandlu oHlelayo oneGunya

6. (1) Ngokubhala phansi Umphathi womkhandlu kumele –

(a) aqoke uMphathiswa womkhandlu ohlelayo onegunya; noma

(b) azimisele ukuthi osesikhundleni thizeni kwizikhundla ezisesisekweleni soMkhandlu uyena ozoba uMphathiswa woMkhandlu oHlelayo oneGunya

(2) UMphathiswa womkhandlu Ohlelayo –

(a) Akabe isisebenzi soMkhandlu noma umqashwa ngokugcwele esikhundleni ngomunye uMkhandlu ngaphansi kwesivumelwano sokwabelana ngokusebenzisana; futhi

(b) abe uMhleli Obhalisiwe

(3) uMkhandlu ungabanabaPhathiswa bomkhandlu abahlelayo abaningi njengo kwesidingosawo

Umsebenzi wesiGungusomkhandlu esihlelayo esinqumayo noma wesigungu esiyinhlanganisela esinqumayo somkhandlu ohlelayo

7. uMkhandlu ohlelayo onqumayo noma oyinhlanganisela yomkhandlu ohlelayo onqumayo kumele unqume ngezicelo ezenziwe umkhandlu ovumayo ohlelayo ezihambisana nesigaba 22(1)(b) noma (c)

Ukusekelwa koMkhandlu Ohlelayo Onqumayo noma Umkhandlu Ohlelayo Onqumayo oyinhlanganisela

8. (1) isiGungu soMkhandlu kumele seseke –

(a) uMkhandlu Ohlelayo Onqumayo

(b) uMkhandlu Ohlelayo Onqumayo Ohlanganyele

(2) Umkhandlu kaMaspala ungaqikekela lamaphuzu lapho unquma ukuseka uMkhandlu Ohlelayo onqumayo noma ukuba yingxenye ekusekweni koMkhandlu ohlelayo Onqumayo oHlanganisile

(a) isisindo salomtheshwana ngokwezimali, nokulawula kanye namandla okuqeqesheka kuwo**.**

(b) namandla awo okukwazi ukuthi asebenzise izinikezelo ezikusaHluko 4 ngokwenelisayo

(c) isilinganiso esiphakathi sezicelo umkhandlu ohlelayo onemvume obhekana nazo ngonyaka; futhi

(d) nezincindezi zentuthuko kuMkhandlu

(3) Uma uMkhandlu ungenawo amandla okwenza lezinikezelo ezise saHlukweni 4 zalomtheshwana, lokho kuyinkomba yokuthi kumele kusekwe uMkhandlu Ohlelayo Onqumayo oHlanganisiwe

(4) Uma IsiGungu soMkhandlu sinquma ukweseka Umkhandlu Ohlelayo Onqumayo ohlanganisiwe, kumele ungene esivumelwaneni esibhalwe phansi naleyo miKhandlu, kufaka phakathi noMkhandlu waSifunda, njengokwesaHluko 3 soMthetho wobudlelwano ngokubusa ngokubambisana, 2005(Act No 13 of 2005).

(5) Isivumelwano sokuseka uMkhandlu Ohlelayo Onqumayo Oyinhlanganisela kumele uxazulule izinto eziphathelene noHlu 1

(6) isivumelwano sokusekela uMkhandlu Ohlelayo Onqumayo ungahlinzekela izimemo ezihlanganyelayo ezimayelana nesigaba 10(1) noma izaziso ezihlanganyelayo mayelana nesigaba 14

(7) Izihlinzekelo zezigaba 9 kuya ku 17 kunye nezinguquko ezifanele zisebenza kuMkhandlu Ohlelayo Ohlanganyele Onqumayo

Ukuqokwa nokwakheka koMkhandlu Ohlelayo Onqumayo

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9. (1) uMkhandlu Ohlelayo Onqumayo uba namalunga amahlanu noma ngaphezulu, labo, ngesizathu sesithunzi sabo, ukufunda kwabo, ubungoti, namava abo bafanelekile ukuba amalunga.

(2) UMkhandlu Ohlelayo Onqumayo kumele ube nabantu abaphuma kulamazinga –

(a) izikhulu ezisebenza ngokugcwele kuMkhandlu

(b) abantu abangezona izikhulu zoMkhandlu

(3) ilunga loMkhandlu Ohlelayo Onqumayo ongesona isikhulu soMkhandlu angaba –

(a) isikhulu noma isisebenzi sanoma isiphi isigaba sikahulumeni wesifunda noma sikazwelonke

(b) isikhulu noma isisebenzi somkhandlu ohleliwe sikahulumeni wasekhaya kwaZulu-Natal; noma

(c) umuntu othathwe ezinkampanini ezizimele

(4) iLunga loMkhandlu Ohlelayo Onqumayo othathwe ezinkampanini ezizimele, kumele njengokulayela kwesigaba 10(2), abe –

(a) uMhleli Obhalisiwe

(b) uMmeli noma uMmeli waseMajajini

(c) umuntu obhalisiwe ngokwesigaba 20(3) soMthetho weziSebenzi seKwezemvelo neSayensi, ka 2003 (Act No 27 of 2003) ongaphansi sayensi kwezemvelo

(d) umuntu obhaliswe ngaphansi kwesigaba esimayelana no 18(1)(a) seziSebenzi zobuNjiniyela ka 2000 (Act No 46 of 2000)

(e) umuntu obhlisiwe ngaphansi kwesigaba 18(1)(a) sabaSebenzi bezokuDweba; futhi

(f) umuntu obhalisiwe ngokwesigaba 13(1)(d) soMthetho ziSebenzi zezoMumo womhlaba njengoMdabuli womhlaba.

(5) Umuntu akanqatshelwa ukusebenza kuMkhandlu Ohlelayo Onqumayo ngesimo sokuthi yena –

(a) akahlali noma akaqashiwe kulowoMkhandlu othintekayo noma

(b) ngoba esebenza komunye uMkhandlu Ohlelayo Onqumayo

(6) Uma uMkhandlu unombono wokuthi kunesidingo sokuqoka amalunga okwengezelela noma amalunga amasha noma uSihlalo omusha noma uSekelaSihlalo omusha, ungangezelela noma uqoke amalunga amasha

(7) Inqubo yokuqoka amalunga amasha oMkhandlu Ohlelayo Onqumayo kumele ilandelwe lapho kuqokwa amalunga okungezelela noma kuqokwa uSihlalo noma usekela Sihlalo omusha

(8) Amalunga amasha noma lawa angeziwe azosebenza lesosikhathi esisasele kuMkhandlu Ohlelayo Onqumayo akhethelwe kuwo

Ukukhethwa kwabantu abavela ezinkampanini ezizimele ukuba basebenze kuMkhandlu Ohlealyo Onqumayo

10. Uma uMkhandlu ufisa ukuqoka abantu abavela ezinkampanini ezizimele ukuba basebenze kuMkhandlu Ohlelayo Onqumayo, uMphathi woMkhandlu kumele –

(a) Acele imikhandlu yezisebenzi eziqeqeshiwe ukuba bameme abantu abathandayo futhi abafanelekile ukuba bafake izicelo zokuqashwa

(b) Ngesaziso ephephandabeni elitholakala kuleyondawo abize abantu abafisayo futhi abafanelekile ukuba bafake izicelo zokuqashwa

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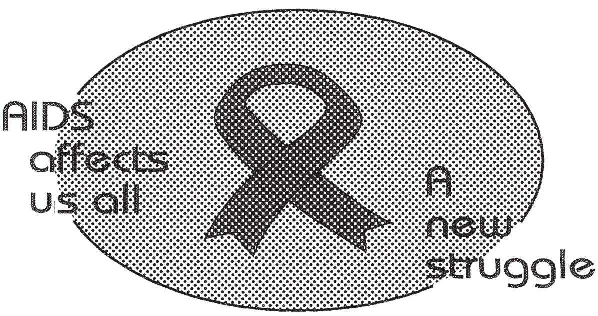

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(2) Uma abantu abaphendulile kwisaziso sokucela ukuthi abafisayo abafaneleyo bafake izicelo zokuqashwa bengenele, uMkhandlu ungafaka isaziso kwiphephandaba elitholakalayo endaweni ukuthi nalabo abangahlangabezani nezidingo zesigaba 9(4), kodwa benolwazi olunzulu lokusebenziswa nokuhlelwa komhlaba nentuthuko bangafaka nabo izicelo zokuqashwa.

(3) UMkhandlu kumele wakhe isigungwana esizohlola esiqukethe izikhulu ezisebenza eMkhandlwini ukuba zihlole izicelo zalabo abaphendulile obizweni lokuba bakhethwe.

(4) Umkhandlu kumele uziqaphele izincomo zesigungwana esihlolayo lapho sesiqoka amalunga avela ezinkampanini ezizimele abazo sebenza kuMkhandlu Ohlelayo Onqumayo.

(5) uMkhandlu uyoqoka kuphela amalunga kulabo abavela ezinkampanini ezizimele abaphendulile kwisimemo sokusebenza Kumkhandlu Ohlelayo Onqumayo

Ubulunga obungafanelekile kuMkhandlu Ohlelayo Onqumayo

11. Umuntu akavumelekile ukuqokwa njengelunga uma –

- **a)** Eyilunga loMkhandlu Ohlelayo Obuyekezayo onGunya
- **b)** Engumuntu ongahlumelekisekanga ekuweni kwakhe
- **c)** Omenyezelwe yiNkantolo yomthetho njengohlulekayo ukuphatha izindaba zakhe noma olawulelwayo izinto zakhe
- **d)** Oyilunga lePalamende, lesiShaya Mthetho sesiFundazwe, oyiLunga lesiGungu Mkhandlu noma seNdlu yabaHoli beNdabuko noma lowo muntu okhethwe njenge lunga lePalamende, lesiShaya Mthetho sesiFundazwe, lunga lesiGungu soMkhandlu noma leNdlu yabaHoli beNdabuko
- **e)** Noma oke wasuswa esikhundleni sokwethenjwa ngesizathu sokungathembeki okungaba wukweba nokukhwabanisa
- **f)** Ohlulekile ukuveza isifiso esimayelana nesigaba 33(1)
- **g)** Owahambela noma owabanesabelo ekuqhubekeni kokuthethwa kwesinquno umkhandlu onqumayo ebe enehloso ngaso; noma

h) Ubekwe icala ngokweNkantolo ngoku –

(i) ukuqamba amanga ngenhloso, kweba, ukukhwabanisa, ukudiza noma inkohlakalo noma yiluphi uhlobo lwecala lokungethembeki

(ii) noma yiliphi icala elingaphansi kwalomtheshwana

(iii) noma yiliphi icala owake wagwetshelwa lona wadonsa ejele awangavunyelwa ukukhokha inhlawulo ngalo wagwetshwa isikhathi esingangezinyanga eziyisithupha noma ngaphezulu

UsiHlalo neSekela Sihlalo woMkhandlu Ohlelayo Nonqumayo

12. (1) uMkhandlu kumele ukhethe uSihlalo no Sekela Sihlalo woMkhandlu Ohlelayo Onqumayo kumalunga angaba Hleli abaBhalisiwe, abaMmeli noma uMmwli wasemJajini

(2) USekela Sihlalo woMkhandlu Ohlelayo Onqumayo kumele asebenze endaweni kaSihlalo woMkhandlu Ohlelayo Onqumayo njalo uma –

(a) isikhundla sikaSihlalo sivulekile/singenamuntu osiphethe

(b) uSihlalo engekho noma ngasiphi isizathu sesikhashana esenza uSihlalo angakwazi ukusebenza

(3) Uma isikhundla sikaSekela Sihlalo woMkhandlu Ohlelayo Onqumayo sivulekile, uma uSekela Sihlalo engakwazi ukuba uSihlalo, uMkhandlu kuzomele ukhethe omunye kumalunga asele okungaba uMhleli oBhalisiwe, uMmeli noma uMmeli wasemaJajini

Imitheshwana nemigomo yokuqokwa kwamalunga oMkhandlu Ohlelayo Onqumayo

13. (1) Ilunga liphatha lesisikhundla iminyaka emihlanu, noma isikhathi esifushane njengokunquma koMkhandlu encwadini ilunga elaqashwa ngayo

(2) Ilunga liphatha lesisikhundla ngokwemitheshwana nemigomo emiswe nguMkhandlu kuhambisana nanoma yiliphi iqophelo nezinga elibekwe uNgqongqoshe wezokuThuthukiswa kwemiHlaba yaseMaphandleni nokukwenza kabusha ezomhlaba okungaphansi kwesigaba 37(2) soMthetho wokuSetshenziswa nokuHlela nokuNgamela ukuSetshenziswa koMhlaba

(3) iLunga elithathwe ezinkampanini ezizimele kumele –

(a) likhokhelwe futhi libuyiselwe ngezimali ezifanele ezihlelelwe lowomsebenzi nguMkhandlu

(b) akhokhelwe ngenkokhelo yansukuzonke, njengokunquma koMkhandlu; futhi

(c) abuyiselwe imali ayisebenzise ngokuhamba nezindleko angenekuzo ezimayelana naloluhambo

Isaziso mayelana nokuqokwa koMkhandlu Ohlelayo Onqumayo

14. Isaziso esimayelana nokuqokwa kwamalunga oMkhandlu Ohlelayo Onqumayo kumele sishicilelwe kusoMqulu nasephepha ndabeni elisabalaliswa kuleyondawo eliyengamele limemezela –

(a)Ukuthi selisekele uMkhandlu Ohlelayo Onqumayo

b) Namagama alabo abaqokwe ukuba amalunga oMkhandlu Ohlelayo Onqumayo kunye onSihlalo neSekela sihlalo

(c) Nosuku okuyothi ngalo izicelo zomkhandlu ohlelayo ovumayo ezingafakwa ngalo ukuba zidingidwe uMkhandlu Ohlelayo onqumayo; futhi

(d)Nokuthi kuphi futhi nobani okungafakwa kuye izicelo zomkhandlu ohlelayo ovumelekile

(e) Uma uMkhandlu wakhe Umkhandlu Ohlelayo Onqumayo oHlanganisiwe, uphinde –

(i) usho amagama emikhandlu enesabelo kulesisakhiwo

(ii) nokuthi isivumelwano esibhaliwe phakathi kwalemikhandlu enesabelo sitholakala kuphi.

Ukwesula nokukhishwa esikhundleni nokugcwalisa isikhala esivulekile

15.(1) Ilunga lingasula ngokubhala incwadi eMkhandlwini Ohlelayo Onqumayo ngokufaka isaziso sezinsuku ezingengaphansi kwamashumi amathathu, kuMphathi woMkhandlu

(2) uMkhandlu ungaligudluza ilunga eMkhandlwini Ohlelayo Onqumayo –

(a) uma lowomuntu noma lelolunga lehluleka ukwenza umsebenzi noma ukusebenzisa amandla eliwanikeziwe ngokwesikhundla sobulunga uMkhandlu Ohlelayo Onqumayo ngenxa yokukhubazeka noma ukugula ngekhanda

(b) ukwehluleka kwelunga ukwenza noma ukusebenzisa amandla ancikene nesikhundla soMkhandlu Ohlelayo Onqumayo ngokukhuthala nangokwenelisayo; noma

(c) ukungaziphathi ngendlela

(3) Noma yiliphi ilunga loMkhandlu Ohlelayo Onqumayo othi ngokuhlelwa kwesikhundla sakhe noma ngokuqokwa kwakhe, angafaneleki ngesigaba sokomtheshwana 11 umiswa

ngokushesha lapho sekutholakele ukungafaneleki kwakhe ukuba yilunga loMkhandlu Ohlelayo Onqumayo

(4) Ilunga kumele liphume esikhundleni salo uma liphuthile lingazange lithole imvume kuSihlalo woMkhandlu Ohlelalyo Onqumayo yokuba lingabibikho emhlanganweni emibili elandelanayo uma selinikeziwe isaziso sesikhathi esanele

Umthetho Sisekelo wokuthatha isinqumo soMkhandlu Ohlelayo Onqumayo

16.(1) USihlalo woMkhandlu Ohlelayo Onqumayo, esebenzisana noMgcini-mbiko woMkhandlu Ohlelayo, kufanele badlulisele isicelo somkhandlu ogunyazayo ohlelayo okunganani kumalunga amathathu oMkhandlu Ohlelayo Onqumayo amiselwe ngenhloso yoku –

(a) Nquma mayelana nesicelo; noma

(b) Enze isincomo esingesice**lo** kuMkhandlu

(2) Okungenani oyedwa oyilunga okuthunyelwe kuye isicelo nguMkhandlu ohlelayo ogunyazayo kumele abe nguMhleli Obhalisiwe.

(3) Okungenani makube noyedwa wamalunga okuthunyelwe kuye isicelo somkhandlu ohlelayo ovumayo kumele abe isikhulu esiqashwe ngokugcwele uMkhandlu

(4) Okungenani oyedwa kumalunga okuthunyelwe kuwo isicelo somkhandlu ohlelwayo ovunyiwe esidluliselwe kuye makube umuntu ongesona isikhulu somkhandlu

(5) uSihlalo woMkhandlu Ohlelayo Onqumayo kumele akhethe omunye oyilunga okuthunyelwe kuye isicelo soMkhandlu ohlelayo sokuvunyelwa ukuba abe nguMlawuli

(6) Ilunga elikhethiwe ngenhloso yokuqoka uMlawuli kuhlanganisa noSihlalo uqobo lwakhe.

Isinqumo soMkhandlu Ohlelayo Onqumayo

17. (1) Isincomo noma isinqumo ngesicelo somkhandlu ohlelwayo ukuvunyelwa sithathwa ngokuvuma kwamalunga amaningi agunyazwe uSihlalo womkhandlu Ohlelayo Onqumayo ngokwesigaba somtheshwana 16(1) ukwenza izinqumo noma izincomo ngesicelo

(2) uMlawuli unegunya levoti lokuxhazulula uma kwenzeka amavoti elingana

(3)uMlawuli kumele abeke uphawu lwakho esinqumweni soMkhandlu Ohlelayo Onqumayo

Ingxenye 2 : Ukuxaswa koMkhandlu Ohlelayo Onqumayo nesiGungu soMkhandlu
Umsebenzi woMgcini-mbiko woMkhandlu Ohlelayo nesekela likaMgcini-mbiko woMkhandlu Ohlelayo

18. (1) uMgcini-mbiko woMkhandlu Ohlelayo kumele anikezele ngoxhaso kumalunga oMkhandlu ohlelayo navumelayo a

(2) Usekela Mgcini-mbiko woMkhandlu Ohlelayo kumele –

(a) asize uMgcini-mbiko woMkhandlu Ohlelayo

(b) asebenze njeMgcini-mbiko njalo uma; -

(i) isikhundla soMgcini-mbiko woMkhandlu Ohlelayo sivulekile/singenamuntu

(ii) uMgcini-mbiko woMkhandlu Ohlelayo engekho okwesikhashana ngesizathu esinoma yisiphi engakwazi ukukwenza umsebenzi wakhe.

Ukuqokwa koMgcini-mbiko woMkhandlu Ohlelayo nesekela likaMgcini-mbiko woMkhandlu Ohlelayo

19. (1) UMphathi woMkhandlu kumele –

(a) Aqoke uMgcini-mbiko woMkhandlu Ohlelayo

(b) Aqinisekise ukuthi osesikhundleni esithizeni esakhiweni soMkhandlu uzokuba Umgcini-mbiko woMkhandlu Ohlelayo

(2) uMphathi woMkhandlu angase

(a) aqoke iSekela loMgcini-mbiko woMkhandlu Ohlelayo

(b) anqume ukuthi umuntu thizeni osesikhundleni somkhandlu oqashwe ngokugcwele ezakhiweni zoMkhandlu abe yiSekela loMgcini-mbiko woMkhandlu Ohlelayo

(3) uMgcini-mbiko woMkhandlu Ohlelayo kunye neSekela loMgcini-mbiko woMkhandlu Ohlelayo kumele babe izisebenzi zomkhandlu

(4) Umkhandlu ungaba nababagcini-mbiko abaningi kunye namasekelaangomgcini-mbiko amaningi njengesidingo somkhandlu

Umsebenzi kaMeluleki kaNgoti wezobuciko

20. UMeluleki ongungoti kwezoBuciko kumele aluleke futhi alekelele uMkhandlu Ohlelayo Onqumayo ukwenza izinqumo zesicelo sokuvunyelwa komkhandlu ohlelayo

Ukuqokwa koMeluleki onguNgoti kwezoBuciko

21. (1) uMkhandlu Ohlelayo Onqumayo noma isiGungu soMkhandlu singakhetha ukusebenzisa uMeluleki onguNgoti kwezoBuciko asebenzisane nawo
(2) uMeluleki onguNgoti kwezobuciko angekhethwa ngokukwesikhana okusheshayo okwalesosikhashana uMkhandlu unganquma izimo nezimiso okungavunyelwana ngazo noMeluleki onguNgoti kwezoBuciko
(3) uMeluleki onguNgoti kwezobuciko akasilona ilungu loMkhandlu Ohlelayo Onqumayo futhi akanawo amalungelo okuvota
(4) uMkhandlu ungamkhokhela uMeluleki OnguNgoti kwezoBuciko ongesona isikhulu sikahulumeni kaZwelonke, owesiFundazwe noma isikhulu soMkhandlu

Ingxenye 3: Ukuhlelwa ngokwezigaba izicelo zomkhandlu ukuvumela ukuhlela
Ukuhlelwa ngokwezigaba izicelo zomkhandlu ukuvumele ukuhlela

22.(1) izicelo zokuvumela ukuhlela komkhandlu kumele zinqunywe ngu-

(a) UMphathiswa Ogunyaziwe nguMkhandlu wokuHlela

(b) uSihlalo woMkhandlu Ohlelayo Onqumayo noma ilungu lesiGungu esinqumayo ogunyazwe uSihlalo ukwenza lokho

(c) uMkhandlu Ohlelayo Onqumayo

(d) isiGungu soMkhandlu, njengokuhambisana noHlu 2

(2) Uma ukuthuthukiswa kudinga zombili isicelo somkhandlu ohlelwayo ovunyelwe ukuba sinqunywe nguMphathiswa woMkhandlu Ohlelayo Ogunyaziwe nesicelo sesicelo somkhandlu ohlelayo ukugunyazwa sokuba kunqume uMkhandlu Ohlelayo Onqumayo, uMkhandlu Ohlelayo Onqumayo yiwo ozonquma kulezizicelo zombili.

(3) Uma ukuthuthukiswa kudinga zombili isicelo somkhandlu ohlelayo ukuvunywa ukuthi sinqunyelwe uMphathiswa woMkhandlu ogunyaziwe Ohlelayo kanye futhi nesicelo somkhandlu ohlelwayo sokuba ugunyazwe isiGungu soMkhandlu, uMkhandluOhlelayo Onqumayo ukuba unqumele ngesicelo ebesinganqunywa ngMphathiswa woMkhandlu Ohlelayo ogunyaziwe.

(4) uma ukuthuthukiswa kudinga zombili izicelo zokuhlela umkhandlu ovumelekile ukuba sinqunywe uMkhandlu Ohlelayo Onqumayo nesicelo somkhandlu ohlayo ukuvunyelwa ukuba sinqunywe isiGungu soMkhandlu, kumele uMkhandlu ngamunye ngokwehlukana unqume ngesicelo esifakwe kuwo, kulandelwa isigaba55(2).

(5) uMphathiswa Ogunyaziwe woMkhandlu Ohleayo, noma yinini, angadlulisela isicelo somkhandlu sokugunyazwa ukuhlela kuMkhandlu Ohlelayo Onqumayo, uma uMphathiswa Ogunyaziwe woMkhandlu Ohlealayo enombono wokuthi lesicelo siding isinqumo soMkhandlu Ohlelayo Onqumayo –

(a) ngenxa yobunzima/yobukukhuni besicelo

(b) ngenxa yesimo esibanga umbono wokwehlukana ngokwesicelo

(6) Ngokwesikhathi esibekiwe okumele kube sekukhona okwenziwe kwaphelela ngokudluliselwa kwesicelo sokuvunyelwa ukuba ukuhlela komkhandlu okuhlelwayo kugunyazwe nguMphathiswa Ougunyaziwe womkhandlu Ohlelayo kuMkhandlu Ohlelayo Onqumayo

(7) Isicelo somkhandlu ohlelayo sokuvunyelwa okumele sinqunywe isiGungu soMkhandlu angeke sanqunywa yinoma ubani noma isigungu

(8) Isicelo soku –

(a) guqula okuthize esinqunyweni soMkhandlu esicelweni sokuvunyelw ukuhlala umkhandlu

(b) ukucima isinqumo soMkhandlu esicelweni semvume sokuhlela umkhandlu ovunyelwe, ngaphandle kokuthatha ngokusemthethweni noma ukuchibiyela uhlelo lokusebenzisa umhlaba, kumele kunqunywe nguMkhandlu Ohlelayo Onemvume Ogunyaziwe owenza isinqumo sasekuqaleni sokuvumela ukuhlelwa komkhandlu

Ingxenye 4 : Umsebenzi, ukuqokwa nokwakhiwa komthetho sisekelo soMkhandlu Onegunya Ohlelayo Obukezayo

UMkhandlu Ohlelayo Obukezayo Onegunya

23. (1) UMkhandlu Ohlelayo Ubukeze Onegunya woMkhandlu yiwona oneGunya Elikhulu KuMkhandlu, ngaphandle

Uma isiGungu soMkhandlu sigidlabeze amandla okunquma izibuyekezo ku

(i) Khansela loMkhandlu

(ii) Komidi lezikhulu zomkhandlu; noma

(iii) kwisikhulu somkhandlu

uMkhandlu uthe, esikhundleni seGunya laso elinamandla, lavumela isigungu noma isakhiwo esingekho ngaphakathi kuwo noma ngendlela ebuswa ngokomthetho womthetho wesiFundawe, ukuthabatha izibopho zegunya lokubuyekeza.

Umsebenzi woMkhandlu Ohlelayo Obukeza Onegunya

24. Mkhandlu Ohlelayo Obukezayo Onegunya kumele unqume ngezibuyekezo ezinqunywe ezicelweni zokuvumela ukuhlela umaspala ezbezithathwe uMphathiswa woMkhandlu Ohlelayo Onegunya noma ebezithathwe uMkhandlu ohlelayo Onqumayo.

UMlawuli woMkhandlu Ohlelayo Abuyekeze Onegunya

25. UMlawuli woMkhandlu Ohlelayo Ubukeze Onegunya –

(a)uSodolobha woMkhandlu onamandla onke

(b) uSihlalo weSigungu esiphezulu soMkhandlu

(c) uSihlalo weKomiti LamaKhansela, uma uMkhandlu ungenaso isigungu esiphezulu noma uSodolobha ophezulu

(d) iKhansela loMkhandlu, uSihlalo weKomiti lezisebenzi zoMkhandlu noma isikhulu esinikezwe nguMkhandlu amandla okunquma okubuyekeza; noma

(e) uSihlalo noma uMlawuli okhethwe nguSihlalo wesigungu noma isakhiwo esingekho ngaphakathi kuMkhandlu esigunyaziwe ukuthi sense izibophezelo zokubuyekeza ngegunya

Ingxenye 5: Ukuxaswa koMkhandlu Ohlelayo Obuyekezayo ogunyaziwe

Umsebenzi woMgcini-mbiko woMkhandlu Ohlelayo Obuyekezayo Onegunya kunye neSekela khandlu Ohlayo ubuyekeze Onegunya Mgcini-mbiko

26. (1) umGcini-mbiko kunye neSekela Mgcini-mbiko boMkhandlu Ohlelayo Obuyekezayo Onegunya kumele banikezele ngoxhaso lwezokuphatha kuMkhandlu Ohlelayo Obuyekezayo Onegunya, okufaka phakathi nalokhu –

(a)Ukwenza amalungiselelo okuyohlola isiza okuzolawula kuzo uMkhandlu Ohlelayo Ubuyekeze Onegunya

(b)Ukwenza amalungiselelo afanelekile endawo lapho kuzolalelwa khona izibuyekezo

(c)Ukuqoshwa nokushicilelwa kwakho konke okuzoqhubeka koMkhandlu Ohlelayo Obuyekezayo Onegunya

(2) Isihlinzekelo sesigaba 18(2) sisebenza kumsebenzi kaSekela Mkhandlu Ohlelayo Obuyekzayo Mgcini-mbiko, ngaphandle kwalokhu –

(a) inkomba kuMgcini-mbiko woMkhandlu Ohlelayo kufanele sithathwe njengenkomba kuMkhandlu Ohlelayo Obuyekezayo Onegunya; futhi

(b) inkomba kuSekela Mgcini-mbiko womkhandlu Ohlelayo kufanele uthathwe njengenkomba kuMkhandlu Ohlelayo Obuyekezayo Obunyaziwe

Ukuqokwa koMgcini-mbiko woMkhandlu Ohlelayo Obuyekzayo Onegunya kunye neSekela loMkhandlu oHlelayo Obuyekzayo Ogunyaziwe Mgcini-mbiko

27.(1) Isishayelelo sesigaba 19 sisebenza ekuqokweni kukaMgcini-mbiko woMkhandlu Ohlalayo Obuyekezayo Onegunya noma ekuqokweni kweSekela loMkhandlu Ohlelayo Obukezayo Onegunya Mgcini-mbiko, ngaphandle uma –
Inkomba kuMgcini-mbiko woMkhandlu Ohlelayo kufanele ithathwe njengenkomba kuMgcini-mbiko kuMkhandlu Ohlelayo Obukezayo Onegunya
Inkomba kuSekela Mgcini-mbiko woMkhandlu Ohlelayo kufanele iithathwe njengenkomba kuSekela Mgcini-mbiko woMkhandlu Ohlelayo Obukeza oneGunya

(2) Uma uMphathi woMkhandlu engamkhethanga uMgcini-mbiko noma iSekela loMgcini-mbiko njengoba kushiwo kulesisigaba kufanele yena enze lemisebenzi kaMgcini-mbiko woMkhandlu Ohlelayo Ubukeze Onegunya

(3) Asikho isidingo sokuthi uMphathi woMkhandlu aqoke uMgcini-mbiko woMkhandlu Ohlelayo Obukezayo Ogunyaziwe, uma isiGungu soMkhandlu sigunyaze isigungu sesifundazwe njengo kwesishayamthetho sesifundazwe ukuba sense lomsebenzi

Umsebenzi kaMeluleki onguNgoti kwezobuciko

28. UMeluleki onguNgoti kwezobuCuko kumele aluleke futhi assize uMkhandluOhlelayo Ubukeze Ongunyaziwe ukuthatha izinqumo esicelweni sokubuyekeza isinqumo esiphikisana nesoMphathisa woMkhandlu Ohlelayo Ogunyaziwe noma noMkhandlu Ohlelayo Onqumayo ngesicelo sokuvunyelwa ukuhlela komkhandlu.

Ukuqokwa koMeluleki onguNgoti kwezobuCiko

29. Izihlinzekeko ezikusigaba 21 zisebenza ekuqokweni koMeluleki onguNgoti kwezobuCiko ukusiza uMkhandlu Ohlelayo Obuyekezayo oneGunya, ngaphandle kokuthi inkomba kuMkhandlu Ohlelayo Onqumayo noma kwisiGungu soMkhandlu kufanele ithathwe njegekhomba kuMkhandlu Ohlelayo Obukezayo Onegunya.

Ingxenye 6: Umsebenzi nokuqokwa kesiKhulu esibhekelele ukugcinwa komthetho soMkhandlu Ohlelayo

Umsebenzi woMphathiswa kwezokugcinwa komthetho woMkhandlu Ohlelayo

30. Umphathiswa wezokugcinwa komthetho kumele asize uMkhandlu ngokuqikekela ukugcinwa kwalomtheshwana, nohlelo lokusebenziswa komhlaba kunye nezinqumo ezithathwe wuMkhandlu Ohlelayo Ogunyazayo Onegunya kunye noMkhandlu Ohlelayo ubukeze Onegunya

Ukuqokwa koMphathiswa wezokugcinwa komthetho woMkhandlu Ohlelayo

31.(1) uMphathi woMkhandlu noma uMphathi woMkhandlu wesiFunda kumele aqoke uMphathiswa wezokugcinwa komthetho woMkhandlu Ohlelayo

(2) UMphathiswa wezokugcinwa komthetho woMkhandlu Ohlelayo kumele abe isisebenzi sezokuthula njengoba kuchasiswe kwisigaba 334(1)(a) seNqubo yoMthetho wezobuGebengu, 1977 (Act 51 of 1977)

(3) uMphathi woMkhandlu noma uMphathi woMkhandlu wesiFunda angaqoka abagcini mthetho abaningi bomkhadlu njengokwesidingo somkhandlu

(4) uMphathi woMkhandlu noma uMphathi woMkhandlu wesiFunda kufanele anikeze uMphathiswa wezokugcinwa komthetho isigqebhezana esiqukethe –

(a) isithombe salowomuntu
(b) amagama agcwele alowo muntu
(c) inombolo kamazisi walowo muntu
(d) isikhundla salowomuntu
(e) inombolo yakhe abhaliswe ngayo ngokusemthethweni
(f) usuku lesigqebhezana esakhishwa ngalo
(g) isikhathi esinqunyelwe ukusebenza kwalesigqebhezana
(h) uphawu abonisa ngalo ukuthi nguye obhaliwe
(i) izinombolo zocingo zoMkhandlu

(5) uMphathiswa wezokugcinwa komthetho woMkhandlu Ohlelayo kufanele lapho ecelwa ukuba akhombise noma azazise ngalesisigqebhezana enze njengoba ecelwa.

Ingxenye 7: Ukuzimela, ukushayisana kwezifiso, ukubanomthwalo ngokusemthethweni kunye nokuvikeleka ekuhlawulisweni

Ukuzimela koMkhandluOhlelayo Onunyazayo oneGunya kunye Mkhandlu Ohlelayo Ubukeze Onegunya

32. (1) uMkhandlu Ohlelayo Ugunyaze Onegunya kunye noMkhandlu Ohlelayo Ubuyekeze oneGunya kumele basebenzise amandla abo ngendlela ekhululekile, bakhululeke kuhulumeni noma yimuphi umthelela noma ukungenelela okuvela ngaphandle, bahambisane nemigangathu ephezulu enokuhlonipheka, engachemile, enenhloso ehambisana nemithetho emayelana nokwenza okuqeqeshiwe.

(2) akukho muntu, akukho Mkhandlu noma isitho sikahulumeni esingagxambukele emsebenzini woMkhandlu Ohlelayo Ogunyazayo Onegunya nakuMkhandlu Ohlelayo Ubukeze oneGunya.

Ukumemezela ngokuvuleleka ngokuba nesifiso

33.(1) UMphathiswa woMkhandlu Ohlelayo Ogunyaziwe, ilunga loMkhandlu Ohlelayo Onqumayo, ilunga lesiGungu soMkhandlu, umphathiswa womkhandlu onikwe amandla okunquma esicelweni sokubuyekeza njengokwalo mtheshwana ngokucelwa, uMgcini-Mbiko woMkhandlu Ohlelayo, yiSekela loMgcini-mbiko womkhadluOhlelayo, uMgcini-mbiko womkhandlu Ohlelayo Obukezayo Onegunya neSekela loMgcini-Mbiko woMkhandlu Ohlelayo onqumayo kufanele, zingakapheli izinsuku ezi 10 beqokiwe balethe incwadi ebhaliwe ukumemememzela ngokuvulelekile izifiso zabo kuMphathi woMkhandlu –

(a) Azisa ngokuvulelelkile isimo sezimali zakhe noma izifiso ezikwisigaba esihlelayo ezingaba nokushayisana nokuqokwa kwabo

(b) Azise ngokuvulelekile ezezimali noma zezifiso ezithintana nokuthuthukiswa ezenziwa amalunga omndeni wakhe noma abasondelene naye eMkhandlwini

(c) Amemezele ngokuvulelekile noma yiluphi uhlobo lokuboshwa olusoHlwini 1 sokukwephula komthetho ngokwenqubo yoMthetho wobugebengu ka 1977 (Act No 51 of 1977)

(2) Uma isimo salowuntu siguquka kufanele zingapheli izinsuku ezi 10 ukusuka osukwini lokuguquka kwesino, alethe incwadi ebhaliwe ememzela ngokuvuleleka lologuquko kuMpahthi woMkhandlu

(3) uMphathi woMkhandlu kumele agcine uhla lwezifiso eziveziwe.

Ukuphatha/ukubamba imisebenzi emibili noma engaphezulu kanyakanye

34.(1) Lowomuntu oyedwa angaphatha imisebenzi engaphezu kowodwa kanyekanye kulena elandelayo-

(a) uMphathiswa woMkhandlu Ohlelayo Ogunyaziwe

(b) uMgcini-mbiko woMkhandlu Ohlelayo

(c) iSekela Mgcini-mbiko woMkhandlu Ohlelayo

(d) ilungu loMkhandlu Ohlelayo Onqumayo

(e) uMgcini-mbiko womkhandlu Ohlelayo Obukezayo Ogunyaziwe

(f) uSekela Mgcini-mbiko woMkhandlu Ohlelayo Onegunya

(2) Akwakhi ingxabano ngokwesifiso uma umuntu esebenza njengoMphathiswa woMkhandlu Ohlewayo Ogunyaziwe futhi

(a) uMgcini-mbiko eMkhandlwini Ohlelayo

(b) uMgcini-mbiko woMkhandlu Ohlelayo ubukez, noyiSekela loMgcini-biko woMkhandlu Ohlelayo Obukezayo Onegunya, osesicelweni sinye sokugunyazwa umaspala ohlelayo

(3) akwakhi ingxabano ngokwesifiso uma umuntu esebenza njengelungu kuMkhandlu Ohlelayo Onqumayo futhi

(a) enguMgcini-mbiko woMkhandlu Ohlelayo noma eyiSekelaMgcini-mbiko eMkhandlwini oHlelayo

(b) enguMgcini-mbiko kuMkhandlu Ohlelayo Obukezayo Ogunyaziwe noma eyiSekelaMgcini-mbiko eMkhandlwini ohlelayo Obukezayo Ogunyaziwe esicelweni sinye somkhandlu ohlelayo ovunyiwe.

(4) Akwakhi ngxabano yokufisa kumuntu osebenza njengelungu MkhandluOhlelayo Onqumayo ukunquma noma ukwenza isincomo esicelweni somkhandlu ohlelayo ukuvuma ngokwamandla omabili okuba uMgcini-mbiko woMhleli nokuba umphathiswa ngokugcwele emsebenzini woMkhandlu

(5)Akwakhi ngxabano noma ukushayisana kwezifiso kumuntu osebenza njengelungu loMkhandlu Ohlelayo Onqumayo ukuba enze izinqumo noma izincomo esicelweni somkhandlu ukuvunyelwa ukuhlela ngokwamandla womabili okuba uMhleli oPhezulu futhi nanjengo muntu ongesona isikhulu somkhandlu.

(6) Kubanga yokushayisana kwesifiso uma umuntu eyilungu loMkhandlu Ohlelayo Ogunyaziwe Onegunya aphinde futhi abe kuMkhandlu oHlelayo Ubukeze Unegunya

(7) Kubanga ukuxabana nokushayisana umuntu osebenza njengelungu eliGunyaziwe kuMkhandlu Ohlelayo noma eyilungu loMkhandlu Ohlelayo Onqumayo aphinde futhi abe uMeluleki onguNgoti kwezobuciko woMkhandlu Ohlelayo Obukezayo Onegunya kuMkhandlu esicelweni somkhandlu munye ukuba uvumele isicelo

(8) UMphathiswa wezokuphepha woMkhandlu ohlelayo aneke akwazi ukuthi aphathe lezizikhundla –

(a) uMgcini-mbiko woMkhandlu Ohlelayo
(b) uSekelaMgcini-mbiko woMkhandlu Ohlelayo
(c) Umphathiswa kuMkhandlu Ohlelayo Onegunya
(d) iLungu loMkhandlu Ohlelayo Onqumayo
(e) uMgcini-mbiko womkhandlu ohlelayo obukezayo onegunya; noma
(f) iSekela Mgcini-mbiko woMkhandlu Ohlelayo Obukezayo onegunya

(9) IsiGungu soMkhandlu singenikezele ngamandla aso kuMphathiswa wezokuphepha ukunquma kwisibuyekezo, ngokomthetho walomtheshwana

Ukuzicelela ukuhoxiswa

35. (1) UMphathiswa woMkhandlu Ohlelayo Ogunyaziwe,ilungu loMkhandlu Ohlelayo Onqumayo, ilungu lesiGungu soMkhandlu, umphathiswa ophathiswe amandla okunquma ngezibuyekezo ezimayelana lalomtheshwana, uMgcini-mbiko woMkhandlu Ohlelayo, yiSekela Mgcini-mbiko woMkhandlu Ohlelayo, uMgcini-mbiko woKhandlu oNegunya Obukezayo, uSekela Mgcini-mbiko woMkhandlu Ohlelayo Onegunya Obukezayo abavumelekile ukuba babekhona noma babenesabelo odabeni olu-

(a) Thinta owesilisa noma owesifazane; noma
(b) Thinta umlingani wakhe, owomndeni wakhe, abambisene naye kwezebhizinisi, umqashi noma isisebenzi, uma enothando, noma okuthinta imali noma k.aluhlobo luni

(2) ILungu loMkhandlu Ohlelayo Onqumayo onikezwe amandla nguSihlalo woMkhandlu Ohlelayo Onqumayo ukuba enze isincomo noma ukuba athathe isinqumo somkhandlu ohlelayo ovumelekile noma ilungu lesiGungu soMkhandlu kumele akuveze ngokusobala okuyisifiso sakhe bese ecela ukuthi avunyelwe ukuphuma esigcawini esiqhubekayo, uma ilungu libona ukuthi kuzokuba nothelela ozokwenza isicelo singaphumeleli ngobukhona bakhe.

(3) Ukucela ukukhishwa kwelungu loMkhandlu oHlelayo Onqumayo akuthikamezi isisindo sokuqhubekayo okwenzeka lapho kuhleli uMkhandlu Ohlelayo Onqumayo, isiGungu soMkhandlu noma isiGungu Esikhulu soMkhandlu ngaphambi kokucela ukukhishwa, kuthi ke amalungu asalayo oMkhandlu oHlelayo Onqumayo agunyazwe uSihlalo woMkhandlu Ohlelayo Onqumayo , isiGungu soMkhandlu noma isiGungu Esikhulu soMkhandlu ekwazi ukwenza isincomo noma ukunquma ngesicelo ngsicelo noma ngesicelo sesibuyekezo, inkani nje uma ukucela ukukhishwa kwenzeka ngaphambi kokuthi amalungu oMkhandlu Ohlelayo nqumayo, isiGungu soMkhandlu noma isiGungu soMkhandlu Esikhulu esiNegunya sihlehlisa ukuxoxa ngesinqumo sabo.

(4) Uma kwenzeka isimo lapho Umlawuli ezicelela yena ukuba akhishwe, uSihlalo woMkhandlu Ohlelayo Onqumayo kumele agunyaze elinye ilungu okungaba uMhleli Obhalisiwe, uMmeli noma

uMmeli wasemaJajini ukuba abe uMlawuli walesosikhathi udaba luqhubeka phambi koMkhandlu Onqumayo.

Ukushayisana kwezifiso zoMphathiswa wezokugcinwa komthetho woMkhandlu Ohlelayo

36. uMphathiswa wezokugcinwa komthetho akumele abe nesifiso ngqo noma esayamile odabeni olucutshungulwayo.

Ukubophezela ekukhokheni koMkhandlu Ohlelayo uGunyaze Onegunya, uMkhandlu Ohlelayo Ubuyekeze Onegunya kunye nabasebenzi bawo abawuxhasile.

37. UMkhandlu Ohlelayo uGunyaze Onegunya, kunye noMkhandlu Ohlelayo Ubuyekeze Onegunya, ilungu lawo kanye nabasebenzi bawo ababopheki mayelana nomthetho abawenze ngokuthembeka okumayelana nalomtheshwana.

Ukungahlawuliseki okusemthethweni

38.(1) Uma kwenzeka isicelo sokuhlawulwa noma sokubekwa kwecala ngokusemthethweni ilungu loMkhandlu Ohlelayo Ogunyazayo Onegunya noma uMkhandlu Ohlelayo Obukezayo Onegunya noma abasebenzi bawo abawuxhasile kuvela okuthile ngokuphula noma ngokuphazama kwelungu noma omunye wabasebenzi abaxhasayo ekwenzeni umsebenzi wakhe noma ekusebenziseni amandla akhe ngokumayelana nalomtheshwana, uMkhandlu kumele, uma ubona ukuthi lelolungu lenze lokho ngokuthembeka emthethweni kungebona ubudedengu –

(a) Uma kufakwa isicelo sokuhlawuliswa noma kuthathwa izinyathelo zomthetho ngalowomuntu –

(i) angahlawuliswa lowomuntu ngalesosicelo noma angathathelwa zinyathelo

(ii) uMkhandlu kube yiwona omthathela uMmeli ngezindleko zawo noma ukhokhele lowo ohlawuliswayo nezindleko zalowo ommelile.

(b) Uma ethathelwe izinyathelo zokushushiswa, kufanele anikezelwe ngosizo lwezomthetho ngezindleko zoMkhandlu.

(2) Njengelungu loMkhandlu Ohlelayo Ogunyazayo Onegunya noma loMkhandlu Ohlelayo Obukezayo Onegunya noma isisebenzi sawo uyohlawuliswa uma kumayelana nesenzo sokweqa umthetho, uyokhokhiswa ngokusemthethweni uma –

(a) ngenhloso esebenzise amandla ache ngokweqile

(b) esebenzise izidakamizwa noma okudakayo

(c) engasebenzanga njengokuvumeleka kwamandla okuqashwa kwakhe, ngokwesikhundla asinikiwe, noma asiqashelwe.

(d) enzebudedengu noma ngenhloso

(e) noma evuma isenzo esibeka uMkhandlu kabi

(f) ehlulekile ukulandela noma eshaye indiva imilayelo emisiwe, ayaziyo noma okulindelkile ukuthi uyayazi kwase kubangela ukulahlekelwa, noma ukulimala imbangela yokuhlawuliswa.

(3) UMkhandlu usenokunquma usebenzisa imithetho yenqubo noma enye indlela –

(a) izimiso nemibandela ukuhlawuliswa noma ukumelwa ngokomthetho; noma

(b) ngokwezimo ekwengezeni kwizimo okukhulunywe ngazo kulesisigaba okungathi ngazo isicelo sokuhlawuliswa noma sokumelwa ngokomthetho sihoxiswe uMkhandlu.

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ISAHLUKO 3

UHLAKA LUKUSETSHENZISWA KOMHLABA

Inhloso yohlaka lokusetshenziswa komhlaba

39. (1) inhloso yohlaka lokusebenziswa umhlaba ukunquma ngamalungelo entuthuko kunye nokulawuleka koMkhandlu ukuze –

(a)Unikeze ukusebenziseka kwizinqubo nezinhlelo zikazwelonke, zesifundazwe kunye nokubusa komkhandlu kufaka phakathi izinqubo zomkhandlu nezinhlelo zawo

(b) Ukuvikela ngokufanelekile umuntu ngamunye kanye nezifiso zomphakathi ngomhlaba

(c)Kugqugquzelwe ukufiseka okunokwenzeka kwentuthuko

(d)Ukuthuthukisa umhlaba ngendlela ezokhuthaza ukwenzeka, ukukhona, umnotho, impilo, ukuphepha kunye nokuphatheka kahle komphakathi

(e) Kukhuthaze ukuhlangana kwezenhlala kahle

(f) Kukhuthaze ukukhula kwezomnotho nokukwakha amathuba emisebenzi

(g) Kuthunazwe ukusebenzisa umhlaba kabi nangezimo ezingafuneki ekuthuthukisweni komhlaba

(h) Kuthunazwe futhi kungenelelwe emiphumeleni eyenziwa yintuthuko emvelweni

(i) Kukhuthazwe ukuvikelwa kwezinto ezibalulekile eziyizakhiwo zemvelo nokongongiwa

(j)kwezakhiwo zemvelo nezindawo ezibalulekile emphakathini; futhi

(k) Kukhuthazwe ukuvikeleka kokudla kwezwe

Okuqukethwe kuhlaka lokusebenzisa umhlaba

40. (1) Uhlaka lokusetshenziswa komhlaba kumele –

(a)lukhonjiswe kwibalazwe kuhambisana namabinzana nanoma yimiphi imininingwane

(b) Umkhandlu oyibona ifanelekile ukuchaza noma ukubonisa, ububanzi, izihlinzeko nemiphumela yokusetshenziswa komhlaba

(c) luchachise ngendawo olukuyo

(d) luchaze amagama asentshenziswe kwibalazwe kunye nezigatshana

lubalule –

(i) izigaba zokusetshenziswa komhlaba kunye nentuthuko evumelekile nemibandela okuvunyelwane ngayo

(ii)izigaba zokusebenzisa umhlaba nezentuthuko ezingase zivumeleke ngokuvuma koMkhandlu mayelana nemithetho yokusebenzisa umhla, kufaka phakathi –

(aa) okusebenziseiwe ukuqondisa uMkhandlu ekuthatheni isinqumo sokuvuma

(bb) nezinto zokulawula ezisebenza uma uMkhandlu uthatha lesinqumo sokuvuma

(cc) nesiqinisekiso sokuthi asikho isidingo sokufaka lesisinqumo ephepha ndabeni

(e) izinhlelo ngokwezigaba zokusetshenziswa komhlaba nentuthuko ezingavumelekile

(f) nobubanzi bomhlaba osebenziswa ngokusemthethweni ngokenhloso engavumelani nohlelo lokusetshenziswa komhla olungaqhubeka lusetshenziselwe leyonhloso nokuthi kungabangakanani ukuthi izakhiwo noma izinhlaka kuleyondawo ezingancishiswa noma zandiswe

(g) okuhlinzekiwe ukukhuthaza ukufakwa kwezindawo zokuhlala zenani elilingene emhlabeni olungiselwe leyontuthuko

(h) ukusebenzisa umhlaba kunye nezibonelelo ezikhuthaza ukusebenzisa ngempumelelo indawo engathuthukiswa yoMkhandlu ngokohlelo loHlaka lokuThuthukisa indawo yokwakhiwa yoMkhandlu kunye nemigomo yentuthuko; futhi

(i) nohla lwezichibiyelo ezisohlelweni lokusetshenziswa komhlaba.

(2). Uhlelo lokusetshenziswa komhlaba lungafaka phakathi –

(a) uhla lwezichibiyelo zokusetshenziswa komhlaba nezimvume

(b) uhla lwezigunyaziso ezinikezelwe ukusebenzisa umhlaba

(c) uhla oluqukhethe imigudu elandelwayo, amaphepha azogcwaliswa kunye nolunye ulwazi olulungiselwe inkloso yolwazi kuphela.

Umthelela osemthethweni wokusebenzisa uhlelo lokusebenzisa umhlaba

41.(1) Uhlelo lokestshenziswa komhlaba luhlinzeka ngamalungelo okusebenzisa umhla futhi lunamandla omthetho futhi luyabophezela kuMkhandlu, nakwabanye abantu kunye nezinhlaka zikahulumeni.

(2) Ilungelo lokusebenzisa umhlaba ngaphambi kokuthola kuqala imvume youkwusebenzisa kuMkhandlu kulandelwa imigomo ebekiwe emayelana nokusetshenziswa komhlaba lokho kusemandleni omhlaba hhayi kwawomuntu

(3) ukuvumeleka okumayelana nemibandela yokusetshenziswa komhlaba kusemandleni omhlaba hayi kumuntu, ngaphandle uma uMkhandlu Ohlelayo oGunyazayo Onegunya ukuvuma kwawo kuqinisekisiwe ukuthi kuhlanganisa ilungelo lomuntu ovunyelwe ukuba asebenzise lelogunya

(4) Ilungeleo lokusebenzisa umhlaba angeke lagudlulwa /lahlukaniswa nomhlaba elihambisana nawo, ngaphandle uma uMkhandlu uhlinzeke ngomtheshwana ukudlulisela ukusebenzisa lowomhlaba kwenye indawo

(5) umhlaba obusetshenziswa ngokusemthethweni ngaphambi kosuku lokwamukela uhlelo lokusetshenziswa komhlaba ngaleyonhloso engahambisani nohlelo lokusetshenziswa komhlaba lungaqhubeka lusetshenziselwe leyonhloso

(6) uma ukusetshenziswa komhlaba njengoba kushiwo kwisigatshana (5) singasaqhubeki ukusetshenziswa kuze kuphele unyaka lowomhlaba angeke usakwazi ukuqhubeka ustshenziselwe leyonhloso.

Uhlelo lokusetshenziswa komhlaba olukhona

42. Lapho kuqala ukusebenza kwalomtheshwana uhlelo lokesetshenziswa komhlaba luyoqukatha lokhu –

(a) Noma yiluphi uhlelo lokusebenzisa umhlaba, kuhlanganisa nokuchibiyela kulo, lwamukele ngokusemthethweni ngokomgomo 13(1)(a) woMthetho wokuThuthukaNokuHlela waKwaZulu-Natal

(b) Noma uluphi uhlelo lokuhlela idolobha olwamukelwe, oluguquliwe noma oluchibiyelwe ngokomgomo wesigatshana 47*bis*(4)(a) noma esigatshana 47*bis*A(4) woMlayelo Omkhulu

(c)Noma yiziphi izichibiyelo ezenziwe yiNtuthuko eNqumayo mayelana nomgomo wesigatshana 33(2)(h)(i) woMthetho wokuqhubekiswa kweNtuthuko lowo owamukelwe ngokusemthethweni ohlelweni lokuhlela ngokwamukela ngomgomo osesigatshaneni 47*bis*(4)(a) noma 47*bis*A(4) soMlayelo Omkhulu.

Ukwamukelwa kohlelo lokusetshenziswa komhlaba

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43. (1) uMkhandlu kufanele ukuthi mhlaka, 1 Julayi 2020, ube usulwamukele uhlelo lokusetshenziswa komhlaba lusesimweni seESRI Shapeline lwawo wonke uMkhandlu walo.

(2) Uhlelo lokusetshenziswa komhlaba lungalokhu kuqhutshekwa lwamukelwa lwenziwe lusebenze lapho izinto zokusebenza nezimo zivuma.

Ukufakwa/ukungeniswa komhlaba owakhelwe ngendlela engahlelekile ngumphakathi noma abanikazi bendabuko kulolohlelo lokusetshenziswa komhlaba

44. (1) Uma lowomhlaba owakhelwe ngendlela engahlelekile ngumphakathi noma abanikazi bendabuko ungeniswa ohlelweni lokusetshenziswa komhlaba, ukusetshenziswa komhlaba ngendlela okwamukelwe umphakathi noma izindlela ezengamele akumele kuthikamezwe ngokungensidingo.

(2) Umthetho wokulawula ukusebenzisa umhlaba, nokulawula okusebenzisana nacho nokuqikelela kokugcinwa komthetho kwawo kungangeniswa kancanekancane, njengokubona kwesiGungu soMkhandlu, ukubambelela ohlelweni lokusebenzisa umhlaba ludinga ukungeiswa yibo.

(3) uMphakathi noBuholi bawo, okufaka nabaHoli beNdabuko, kumele kuxhunyanwe nabo lapho umhlaba owakhelwe ngumphakathi weNdabuko noma abanikazi ngokwendabuko ungeniswa ngaphansi kohlelo lokusetshenziswa komhlab.

(4) Uma umhlaba owakhelwe ngabanikazi bendabuko ungaphethwe ngumholi wendabuko noma ubani osemthethweni, uMkhandlu kumele –

(a) uqalise ukwakhiwa kwesakhiwo esingahleliwe sabazinikelayo esakhiwe ngamalungu abahlali balesosakhiwo abangaphezu kweminyaka engu 18 ukumela umphakathi

(b) uqalise isakhiwo sokubumba ikomiti elengamele elikhethwe ngamalunga esakhiwo sabazinikele

(c) uqalise ngokwamukela imithetho ezolawula ibuse nesigungwana abazinikele

(5) Imithetho elawula lenhlangano yabazinikele kumele ibe ngeyeningi, ifake phakathi futhi ivumele ukuthi imibono ikhulunywe/yethulwe.

(6) uMkhandlu, ngokuxhumana noMphakathi nobuHoli bawo kuhlanganisa nabaholi bendabuko kumele –

(a) uhlonze wonke amalungelo akhona angahleliwe omhlaba ongakhelwe futhi okungewona owokulima

(b) uhlonze ukusetshenziswa komhlaba okuhambisana namalungelo nangendlela yokudepha kwezinto

(c) uqagule kahle amalungelo ngokomumo wendawo ebalazweni

(d) uhlonze futhi uqophe phansi ilungelo elingahleliwe lomnikazi wendawo engakhelwe noma okungeyeno ebekelwe ukulima-

(i) igama, nenombolo kamazisi nendlela yokuxhumana naye lona ongumgcini walendawo onelungelo lalendawo

(ii) igama lalowomnikazi waleyondawo ephathiswe umgcini wayo ongenalungelo lalowo ammele

(iii) igama lendabuko laleyo ndawo kunye siGodi lapho lendawo ikhona, uma kwenzeka

(iv) igama lenkosi yaleyondawo yendabuko noma induna yalesosiGodi uma kwenzeka

(v) ukukhomba ngokulayela ngezinsiza kukhomba leyondawo lapho ilungelo elingagunyaziwe likhona kunye nemininingwane ekhombisa noma ebalula ubulapho bendawo

(vi) isithombe esithwetshuliwe esiwubufakazi baleyondawo

(7) ulwazi oluqukethwe esigatshaneni (6) kufanele lwazise uMkhandlu ukulungiselela uhlelo lokusetshenziswa komhlaba

Ukubukezwa kohlelo lokusetshenziswa komhlaba

45. (1) uMkhandlu kumele ubukeze uhlelo lokusetshenziswa komhlaba zingakapheli izinyanga eziyisithupha usulwamukele ngokusemthethweni uHlelo lokuThuthukiswa Oludidiyele lwesikhathi abasikhethelwe ngokomgomo wesigaba 25 soMthetho womMkhandlu.

(2) Indlela yokuchibiyela uhlelo lokusetshenziswa komhlaba kumele ilandelwe ukugcina ukuhlelwa kokusetshenziswa komhlaba kunjengo kwezincomo zoMkhandlu.

ISAHLUKO 4

UKUGUNYAZA KOKUHLELA KOMKHANDLU

Izinto okumele zenziwe ezidingekayo ukuze isicelo sokuhlela somkhandlu sivunyelwe/sigunyazwe

46. Isicelo somkhandlu sokuhlela esivunyelwe sidingeka ukuze –

(a) Kwemukelwe ngokusemthethweni uhlelo lokusetshenziswa komhlaba

(b) Ukuchibiyelwa kohlelo lokusetshenziswa komhlaba

(c) Ukuba nolwazi koMkhandlu mayelana nemigomo yokusebenza kohlelo lokusetshenziswa komhlaba

(d) Ukwesulwa kohlelo lokusetshenziswa komhlaba

(e) Ukuthuthukiswa komhlaba ongaphandle kwendawo kohlelo lokuthuthukiswa komhlaba, umalokukuthuthukiswa kuqhukethwe emsebenzaneni oqukethwe kuHlelo 3

(f) Ukukhuliswa noma ukuthathwa kwesikhundla sesakhiwo esisemhlabeni osetshenziselwa leyonhloso echazwe kuhla 3 okungachazi ukuthi igunya loMkhandlu lokuhlela elivumelekile lalingadingekile ngenkathi inhloso yokusebenza kwalesisakhiwo ekuqaleni iqala

(g) ukwahlukaniswa komhlaba

(h) Ukuhlanganiswa komhlaba

(i) Ukusekelwa kwelokishi

(j) Ukuboshelwa komhlaba owakhelene

(k) Ubungezwa kwesigatshana ohlweni lwencwadi yobunikazi ngokwengeza umhlaba ovulekile ngokomgomo wesigatshana 26 SoMthetho weSigaba sezoBunikazi.

(l) Ukuvala ngokugcwele umgwaqo womkhandlu noma indawo yomphakathi

(m) Ukususwa , ukuchibiyela noma ukumiswa kwesithiyo somgomo ovimbelayo kwincwadi yobunikazi noma sokusebenza

(n) Uguquko olubambekayo esinqumweni somkhandlu esicelweni sokhandlu ukuhlea nokugunyazwa

(o) Ukwesulwa kwesinqumo soMkhandlu esinqumweni sesicelo sokuhlela umkhandlu nokugunyazwa, ngaphandle uma kunqunywa ukwamukela ngokusemthethweni noma ukuchibiyela uhlelo lokusetshenziswa komhlaba.

Imisetshenzana engadingekile uma kufakwa isicelo sokuhlelwa nokugunyazwa komkhandlu

47. (1) isicelo sokuhlela umkhadlu sokuvunyelwa asidingeki ukuchibiyela uhlelo lokusebenziswa komhlaba

(a)Uma kuzokwakhiwa imigwaqo ezimele, imigwaqo yoMkhandlu, imigwaqo yomkhandlu ohlelayo onemvume noma wesifunda uma umhlaba uhlakaniswe njengokohlelo lwenjongo evele ibekelwe yona okusohlelweni lokusetshenziswa komhlaba ngaphandle uma uhlelo lokusebenziswa komhla likuchachise ngenye indlela

(b)Ukuqopha phansi okuyikhona khona kokusebenzisa umhlaba noma okukhethiwe kokusebenzisa umhlaba njengongoku hlinzekela kohlelo loksebenzisa umhlaba, ngaphandle uma uhlelo lokusebenza lomhlaba luchaza okunye

(c) Ukuqhopha phansi izinto ezikhona nobuhle bazo, ezifana nezakhiwo ezinomlando, nezakhiwo ezinobunyonichwe nezidonga ezibalulekile.

(d) Ukuhlonza nokubonisa umhlaba osenokwenzeka ukuthi ube yingxenye engaphansi komthetho wezokulima umhlaba

(e) Ukuhlonza nokubonisa umumo wendawo lapho kungenziwe lutho khona ngaphandle kokuthi kutholwe imvume kwabezemvelo njengokomgomo wesigaba 24(2)(a) somthetho wezemvelo (Act No. 107 of 1998)

(f) Ukuhlonza kubonise umumo wendawo lapho kungaqala kweziwe imisebenzana khona kungazange kufunwe imvume kwabezemvelo njengokomgomo wesigaba 24(2)(b) somthetho wezemvelo (Act No 107 of 1998)

(g) Ukuchibiyela uhla oluqukethe ohlwini lohlelo lokusetshenziswa komhlaba

(h)Ukuchibiyela uhla oluqukethe ohlu lwezimvume ezinikezelwe ngokohlelo lokusetshenziswa komhlaba

(i) Ukuchibiyela uhla oluqukethe ohlu izindlela ezilawulayo, amaphepha agcwaliswayo nolunye ulwazi oluhlelelwe kuphela ukunikezelangolwazi

(2) Isicelo somkhandlu ukugunyazwa ukuhlela asidingeki endaweni engaphandle kohlelo lokusetshenziswa komhlaba sentuthuko engahambisani nemisebenzi equkethwe kuhla 3

(3) Isicelo somkhandlu ukugunyazwa ukuhlela asidingeki uma isakhiwo esizosetshenziswa singaphandle kwendawo esohlelweni lokusetshenziswa komhlaba; uma –

(a) uma iskhiwo besisetshenziselwa inhloso echaziwe kuhla 3

(b) uma inhloso yokusebenzisa lesosakhiwo isiqaliwe –

(i) ngaphambi kokufuna imvume yokuthuthukisa ngokwentuthuko njengukusho kwesigaba 11(2) soMthetho omkhulu kusukela 1 Agasti 1951

(ii) ngaphambi kokuchibiyelwa kwesigaba 11(2) soMthetho Omkhulu esasidinga ukugunyazwa kwentuthuko ngokuthuthuka kusukela zi 10 Okthoba 2008 noma

(iii) ngaphambi kokuba ukuthuthukiswa okuvumelekile kwafunwa njengokogomo 14 wezomthetho wezeziNdawo waKwaZulu-Natal ka 1992 (Act No 11 of 1992) kusukela zi 19 June 1998

(4) isicelo somkhandlu wokuhlela sokuvunyelwa esbalulwe kusigaba 46(I) asidingeki uma kuzovalwa unomphela umgwaqo womkhandlu noma indawo yomphakathi engabhalisiwe ngokusemthethweni njengendawo enobunikazi obehlukile kuMgcini- zincwadi zobunikazi, kodwa isicelo esibalulwe kwisigaba 70 singadinga ukususa/ukugudlula inkomba kumgwaqo womkhandlu noma indawo yomphakathi emabhukwini eziNqumo zoMkhandlu Ohlelayo Ogunyazayo Onegunya.

Imibandela evimbelayo yezincwadi zobunikazi namagunya angagudluzwa, achibiyelwe noma amiswe ngokwemigomo yalomtheshwana.

48.(1) umbandela wobunikazi nomawegunya-

(a) Ukuthi ubhaliswe ngendawo

(b) Ukuthi lowomhlaba ubambelele ekutheni ; futhi

(c) Lokhu kumayelana noku

(i)uhlakaniswe noma uhlanganiswe nendawo

(ii) inhloso okungase usebenziselwe yona

(iii) izimfunekeo okufanele kuhanjiswane nazo lapho kwakhiwa isakhiwo noma kusetshenziswa umhlaba zinga gudluzwa, zichibiyelwe noma zimswe ngokwalomtheshwana

(2) umbandela ovimbelayo ushaywe ngokwemigomo

(a) umbandela ovimbelayo kubunikazi oshaywe nguMlawuli, uNdunankulu, noma iLungu lesiGungu esiphakeme sezokuThutha ngokomgomo 9(3) noma 9A(1) wezo Mthetho wokuThuthukisa ezokuKhangisa emiGwaqweni ka 1940 (Act No 21 of 1940)

(b) uMthetho Omkhulu wezemiGwaqo ka 1968 (Ordinance No 10 of 1968); noma

(c) uMthetho wezeMigwaqo KwaZulu-Natal Ochibiyelwa ka 1978 (Act No. 11 of 1978) ongasuswa, umiswe noma uguqulwe ngemigomo yalomthetho ngokubikezela okubhaliwe yilungu loMkhandlu Ophakeme eliphethe ezokuThutha

(3) Ukushicilela encwadini yezobunikazi ukuthi ingxenye yalendawo ibuyiselwe noma isusiwe, imisiwe noma iguquliwe njegokomgomo walomthetho njengoba kushicilelwe ngokohlaka lukahulumeni olugunyaza ukubuyiselwa komhlaba.

Imibandela yobunikazi namagunya obunikazi agodliwe angegudluzwe, achibiyelwe noma amiswe ngokwalomtheshwana

49. (1) umbandela wobunikazi noma wegunya eligodliwe lobunikazi azuzisa umhlaba angesuswe, noma achibiyelwe noma amiswe ngaphandle uma umaumbandela ovimbelayo webunikazi noma wegunya elivimbayo uchomekeke embandeleni noma ekususweni, ekuchibiyelweni noma ukumiswa kwegunya eligodliwe.

(2) Igunya lokumbiwayo elibhaliswe ngalowomhlaba lingesuswe, noma lichibiyelwe noma limiswe nemigomo yalomtheshwana.

(3) Umbandela ovimbayo wegunya lobunikazi elivumelana noMthetho Bhodi lokNgiwa kwezemvelo laKwaZulu-Natal lingesuswe, lichibiyelwe noma limiswe ngokombandela walomtheshwana kungazange kutholwe imvume ebhaliwe phansi yeBhodi lezeMvelo

(4) Umbandela ovimbelayo wobunikazi noma wobunikazi begunya eligodliwe onikezwe leMigwaqo lasNingizimu Africa njengoko mgomo womthetho webhodi lezemigwaqo eNingizimu Africa ka 1988 (Act No. Of 1988) lingesuswe, lichibiyelwe noma limiswe ngokwalomtheshwana.

(5) Umbandela ovimbelayo wobunikazi noma wegunya lobunikazi eligodliwe eliphoqwe ngokomgomo wesigungu senhlangano yezemigwaqo kazwelonke yase Ningizimu Africa ngokwesigaba 44(3) soMthetho wezeMigwaqo kaZwelonke ka1998 (Act No. 7 of 1998) ungesuswe, uchibiyelwe noma umiswe yilomtheshwana.

(6) Umbandela ovimbelayo ubunikazi noma igunya eligodliwe lobunikazi eliphoqwe uNgqongqoshe noma ilungu elinkizwe amandla yisiGungu esiphezulu sezemigwaqo

njengokulayela kwesigaba 10(1)(c), 13(2)(b) noma 21(2)(b) somthetho wezemigwaqo waKwaZulu-Natal ungesuswe, uchibiyelwe noma umiswe ngokwalomtheshwana
(7) Umbandela ovimbelayo omayelana nokuthengiswa komhlaba, ohlanganisa nelungelo lokuthengwa komhlaba nomandela othi inani lesakhiwokumele lendlule inani elincane elibekiwe lingeke lasuswa, noma limiswe nomaliguqulwe nokwezimiso zalomtheshwana.
(8) Umbandela ovimbelayo ohambisana nobunikazi ngokozalo noma ngokobuzukulwane kufakaphakathi nombandela onikezela umuntu ilungelo lokusebenzisa lowomhlaba impilo yakhe yonke, kumele wendlule inani elibekelwe lingesuswe, limiswe noma liguqulwe ngokwalomtheshwana

Ubudlelwano phakathi komkhandlu ohlelayo ugunyaze noMkhandlu oDidiyelwe woHlelo lweNtuthuko

50. (1) Uhlelo Oludidiyelwe Lwentuthuko alunikezi magunya kumuntu noma alumhoxisi kwisidingo sokuthola igunya lokuhlela kumkhandlu ogunyazayo njengoba kushiwo kwisigaba 46

(2) UMkhandlu Ohlelayo Ogunyazayo kumele uqondiswe futhi unikwe ulwazi nguHlelo Oludidiyele Lwentuthuko asebenza kuleyondawo yawo njengoba kushiwo kwisigaba 35 soMthetho woMkhandlu uma uthatha isinqumo ngesicelo somkhandlu ohlelayo ogunyaziwe
(3) UMkhandlu Ohlelayo uGunyaze Onegunya ungasinqaba isicelo somkhandlu ohlelayo ovumayo, ngisho kuthiwa isicelo sihambisana nakho konke okudingwa nguHlelo Oludidiyele Lwentuthuko
(4)) UMkhandlu Ohlelayo Ogunyazayo ungesivumele isicelo somkhandlu Ohlelwayo ogunyaziwe esingahambisani noHlelo Oludidiyele lwentuthuko olusebenza kuleyondawo.

(5) Ngenhloso yesigatshana (4) ukungahambisani kusho-

(a) ukuthi uHlelo oluDidiyele LweNtuthuko luvimbela ukusenzisa noma ukuthuthukisa umhlaba ngenhloso noma ngendlela okucelwe esicelweni somkhandlu wokuvunyelwa nokuhle

(b) ukuthi uHlelo oluDidiyele lweNtuthuko lucela ukuthi umhlaba usebenziswe noma uthuthukiswe ngenhloso noma ngendlela leyo engahambisani nesicelo somkhandlu ukuhlela okuvunyelwe; noma

(c) ukusetshenziswa noma ukuthuthukiswa komhlaba kuncike kumsebenzi wonjiniyela bomkhandlu noma olunye uhlaka lombuso ngokusho koHlelo oluDidiyele lweNtuthuko olungeke lwafumaniseka endaweni leyo emhlabeni okuxoxwa ngawo esicelweni sokuhlela ukuvunyelwa somkhandlu

(6) UMkhandlu ungasichibiyela isicelo sawo soHlelo oluDidiyele lweNtuthuko ngokwesigaba 34(b) soMthetho woMkhandlu ukuze sihambisane nesicelo sokuhlela somkhandlu ukugunyazwa.

(7) UMkhandlu ungasivumela isichibiyelo kuHlelo oluDidiyele lweNtuthuko yawo ukuze sihambisane nesicelo somkhandlu ohlelwayo ukugunyazwa ngaphansi kwalemibandela-

(a) ukuthi isichibiyelo sikwenzeka kuphela ngosuku okuyovunyelwa ngalo umkhandlu ohlelwayo ukugunyazwa ukuba uhlele

(b) ukuthi lesichibiyelo siyophela, uma isicelo somkhandlu ohlelayo ukuvunyelwa singaphumeleli

Ubudlelwano phakathi kohlelo lokusetshenziswa komhlaba kunye nezinye izinhlelo zomkhandlu zokuhlela kuvunyelwa

51. (1) Uma umuntu efuna ukusebenzisa umhlaba ongaphandle kohlelo lokusetshenziswa komhlaba ngokwenhloso esesigabeni 3, uMkhandlu uzodinga isicelo sokuchibiyela uhlelo lwawo lokusetshenziswa komhlaba ukwamukela uhlelo lokusebenzisa umhlaba; ngaphandle

(a) Uma ungenalo uhlelo lokusetshenziswa komhlaba futhi nesilinganiso sentuthuko singakudingi ubulungiswa bokusetshenziswa komhlaba;

(b) Futhi lengxenye eyahlukaniselwe ingaphansi koMthetho weZolimo futhi uNgqongqoshe owengamele ukuphathwa kwawo ekuvumele ukwahlukaniswa kwaleyongxenye ngokwesigaba 3(a) sifundwa kany kanye nesigaba 4(2), kodwa ungavunyelwanga uMkhandlu ukulawula ukusebenziswa kwalowomhlaba ngokohlelo lokusetshenziswa komhlaba ngokwesigaba 3(g) sifundwa kanye kanye nesigaba 4(2) soKwahlunkaniswa koMhlaba soMthetho weZolimo.

(2) uMkhandlu ungevumele ukwahlukaniswa komhlaba noma ukuhlanganiswa komhlaba uphikisane nezihlinzeko sokusetshenziswa komhlaba.

(3) Isinqumo sokuvumela ukwahlukaniswa komhlaba noma ukuhlanganiswa komhlaba noma ukwakhiwa kokusadolobha kuphikisana nezihlinzeko sokusetshenziswa komhlaba ezisemthethweni.

Ubudlelwano obuphakathi kwesigunyazo somkhandlu ukuhlela kunye nokunye okuvunyelwe

52. (1) UMkhandlu oHlela ukuvunyelwa awumkhululi ofake isicelo ekutholeni noma yikuphi okunye ukugunyazwa okusemthethweni ukuba avunyelwe ukukwenza lowo msebenzi.

(2) Uhlelo lokwesigatshana ngokwesigaba 1 sikaSectional Titles Act esiphikisana nezihlinzeko sokusebenzisa umhlaba asikho emthethweni

(3) UMkhandlu loma yiluphi uhlaka lombuso lungevumele isakhiwo esiphambene no-

(a) nohlaka lokusetshenziswa komhlaba lomkhandlu

(b) nokuvunyelwa okumayelana nokusetshenzisaw komhlaba

(c) kuthuthukiswa komhlaba ongaphandle kwendawo esohlelweni lokusetshenziswa komhlaba

(d) ingxenye yomhlaba ehlukaniswayo

(e) ukuhlanganiswa komhlaba

(f) ukubopha umhlaba ngokusemthethweni/ ubunikazi bomhlaba obusezandleni zomthetho kodwa ube usetshenziswa ngumphakathi

(g) ukuvala unomphela umgwaqo komgwaqo womkhandlu noma indawo yomphakathi

(h) umgomo osebunikazini omayelana nokusetshenziswa noma ukuthuthukiswa komhlaba

(4) Ukuvunyelwa/ukugunyazwa kweplani lokwakha eliphikisana no –

(a) nokugunyazwa komkhandlu ukuba –

(i) uhlelo lokusetshenziswa komhlaba lomkhandlu

(ii) ukuvunyelwa ngokomgomo wokusetshenziswa komhlaba

(iii) ukuthuthukiswa komhlaba ongaphandle kwendawo esohlelweni lokusetshenziswa komhlaba

(iv) ingxenye eyahlukanisiwe yomhlaba

(v) ukuhlanganiswa komhlaba

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(vi) ububopha okusemthethweni kwendawo
(vii) ukuvalwa ngokuphelele komgwaqo womkhandlu noma indawo yomphakathi

b) Umbandela wobunikazi omayelana nokusetshenziswa komhlaba noma ukuthuthukiswa kwawo

(c) Ukongiwa kwelungelo lobunikazi eligodliwe elishaywe yiBhodi leZokongiwa kweMvelo yaKwaZulu-Natal okusemthethweni

(5) Uma okwenziwayo kudinga imvume zombili zomkhandlu ohlela ukuvunyelwa nemvume yokuvunyelwa ukwakha, imvume yomkhandlu ohlelayo uvumele kumele itholwe ngaphambi kokuba imvume yokwakha inikezelwe.

Inqubo yomkhandlu ohlelayo ukuvunyelwa

53. (1) Inqubo esoHlwini 4 kumele ilandelwe kuzozonke izicelo zomkhandlu ohlelayo imvume, ngaphandle uma kwakhiwa indlu yokuhlala noma kumhlaba omenyezelwe ngumkhandlu njengendawo yokuhlala ngendlela engahleliwe ngumphakathi wendabuko noma abaholi bozalo njengoba kushiwo kwisigaba 122(1)

(2) Izihlinzeko kuhla 5 ziyasebenza, uma ukuxhumana nomphakathi kudingeka njengokusho kwesigaba 11(1) soHlu 4

(3) Isicelo sesichibiyelo esicelweni kumkhandlu wokuhlela nemvume ngaphambi kwesaziso sesinqumo soMkhandlu Ohlelayo Uvume Ogunyaziwe kumele ulandele inqubo esesigabeni 1 soHlu 6

(4) Inqubo ekuhla 7 kumele ilandelwe yesicelo somkhandlu ohlelayo imvume sokwakhiwa kwendlu yokuhlala endaweni emenyezelwe nguMkhandlu njengendawo yokuhlala ngendlela engahleliwe ngumphakathi wendabuko noma abaphathiswa bomsinsi njengokwesigaba 122(1)

(5) Izihlinzeko zezigatshana (1) kuya ku (3) nezigaba 54 kuya ku 72 azisebenzi esicelweni somkhandlu ohlelayo imvume ukwakha indlu yokuhlala emhlabeni omenyezelwe ngumkhandlu njengendawo yokuhlala abendabuko ngendlela engahleliwe.

Isinqumo soMkhandlu Ohlelayo Imvume Onegunya

54. (1) UMkhandlu Ohlelayo Uvume Onegunya kumele uziqaphele izindaba ezikleliswe kuhla 8 uma unquma noma uncoma esicelweni somkhandlu ohlelayo imvume

(2) Uma uMkhandlu Ohlelayo Ogunyazayo Onegunya kuyisiGungu soMkhandlu –

(a) ungaqikekela iqoqo lemibono eyizimpendulo elizitholile lapho kade lixhumana nomphakathi, esikhundleni sembono; futhi

(b) kumele liqaphele izincomo soMkhandlu Onqumayo esicelweni kuhlanganisa nezindaba ezikuhla 8

(3) UMkhandlu Ohlelayo Ugunyaze Onegunya kumele

(a) ugunyaze, okufaka phakathi negunya lesikhashana; noma

(b) unqabe isicelo somkhandlu ohlelayo imvume

(4) UMkhandlu Ohlelayo Ugunyaze Onegunya ungenikeze imvume yesicelo somkhandlu ohlelayo invume engahambisani

(a) nezinga lokuhlela okwamukelekile kukazwelonke

(b) nezinga lokuhlela elamukelekile kesifunda

(c) uhlelo oludidiyele lwentuthuko

(d) nohlaka lwetuthuko yokusebenzisa umhlaba ngokwentuthuko, ngaphandle uma izimo zesiza zikuvumela ukusuka ezihlinzekweni zawo

(5) Umkhandlu Ohlelayo uGunyaze Onegunya ungesivumele isicelo somkhndlu ohlelwayo imvume

(a) Ukunika imvume koMkhandlu mayelana nokusetshenziswa komhlaba

(b) ingxenye yomhlaba ohlukanisiwe

(c) ukuhlanganiswa komhlaba

(d) ukubopha ngokomthetho umhlaba

(e) ukuvalwa ngokuphelele umgwaqo womkhandlu noma indawo yomphakathi Okuchasene nohlelo lokusetshenziswa komhlaba

(6) uMKhandlu oHlelayo uGunyaze onGunya ungesamukele isicelo somkhandlu ohlelayo imvume, nganoma yimuphi umbandela, okufakaphakathi imibandela emayelana

(a) nezinga lesibophezelo lesicelo ukuhlinzeka ngomsebenzi ngonjiniyela

(b) ukwakheka kwegunya eligodliwe elivumelana nomhlaba noma eliphikisana nomhlaba livumelana nomunye umhlaba

(c) ukusulwa, ukumiswa kunye nokuguqulwa kwombandela noma kwegunya eligodliwe elivimbela intuthuko yomhlaba njengokwesinqumo soMkhandlu Ohlelayo Ogunyazayo Onegunya.

(d) umsebenzi wokunikeza uMkandlu iziqinisekiso ezikhishwe izakhiwo zezezimali noma abanye abaqinisekisi abemukelekile, esikhathini esibekiwe embandeleni wemali eyanele yezindleko uku

(i) hlangabezana nokugcwalisa isibophezelo sesicelo sokuhlinzeka ngosizo lonjiniyela

(ii) ukuhambisana nanoma yimuphi umbandela wemvume

(e)ukulungiselelwa kokudluliselwa kobunikazi komgwaqo womkhandlu, ipaki, noma indawo evulekile kumkhandlu

(f) ukuvimvela/ukenqabela ukwehlukaniswa kwendawo ngokunikezela kwamagunya obunikazi engxenye yomhlaba ngokucozulula ngokoMthetho weSectional Titles noma wokwabelana ngokwamasheya komthetho iShare Blocks Control Act ,1980 (Act No. 59 of 1980)

(g) ukulawula kwezakhiwo umakwenzeka esicelweni sokuthuthukisa esingaphandle kwendawo yohlelo lokusetshenziswa komhlaba, kufaka phakathi

(i) inani eliphezulu noma eliphansi lezakhiwo ezinokwakhiwa

(ii) ubuningi noma ubuncane bobukhulu bezakhiwo

(iii) indawo izakhiwo ezikuyo

(iv) umbandela onqandayo ngezinto okwakhiwa ngazo

(7) Uma kungumbandela wokuvuma kwengxenyana yendawo noma yokuskelwa kwelokishi sokuthi uMkhandlu udinga indawo ozyisebenzisa njengomgwaqo womkhandlu, ipaki noma njengendawo evulekile, umfaki wesicelo kumele, ngezindleko zakhe, noma zawo adlulisele umhlaba ukuba usetshenziswe njengomgwaqo, ipaki noma umhlaba ovulekile kuMkhandlu

(8) umhlaba uMkhandlu owudingela ukuwusebenzisa njengomgwaqo womkhandlu, ipaki noma yindawo evulekile kumele uthathwe njengomhlaba obunikazi bawo busegunyeni loMkhandlu njengokucabangiwe kwisigaba 32 se Deeds Registries Act.

Ukuqopha isinqumo

55. (1) Ongunyaza imvume yokuhlela yoMkhandlu uma engu Mphathiswa onegunya lokuhlala komkhandlu, enguMpahthiswa Onegunya lokuhlela koMkhandlu kumele enze uhlaka oluQoshiwe lweziNqumo**.**

(2) Uma ogunyazayo imvume yokuhlela womkhandlu engu Mxazululi ohlelayo womkhandlu nomayisiGungu soMkhandlu, uMhleli oBhalisile eyilungu elikhonjwe nguSihlalo woMkhandlu oHlelayo oNqumayo ngokomgomo 16(2) kumele unze uhla lweziNqumo Eziqoshiwe

(3) Uma ukuthuthuka kufaka zombili izinqumo eziphuma kuMkhandlu Ohlelayo Onqumayo nesiGungu soMkhandlu ilungu loMhleli Obhalisiwe elinikwe nguSihlalo woMkhandlu Ohlelayo Onqumayo ngokomgomo 16(2) kumele enze uhlaka lweNqumo EziQoshiwe.

(4) IziNqumo eziQoshiwe kumele zibe nolwazi olukleliswe kuhla 9

Abantu okumele baziswe ngesinqumo soMkhandlu Ohlelayo Ogunyazayo oneGunya

56. Umgcini-Mbiko woMkhandlu Ohlelayo kumele zingakapheli isinsuku ezi 21 emvakokuba uMkhandlu ohlelayo Ogunyazayom Onegunya uthathe isinqumo sokuvumela noma sokwenqaba isicelo somkhandlu ohlelayo ovumayo, anikezele ngokubhaliwe okufanayo kweziNqumo eziQoshiwe

(a) Kumfaki sicelo

(b) Kuwona wonke umuntu ophendule ngokubhala isiphawulo njengokumenywa ukuba aphawule ngesicelo lungakafiki usuku lokuvala olwaluqoshwe esicelweni njengokucabanga komgomo 7(f) woHlu 6, umangabe abantu babemenyiwe ukuba baphawule ngesicelo

(c) Wonke umuntu owabe enikiwe ithuba lokuba angenelele esicelweni somkhandlu ukuhlela imvume esibukisiswe kusigaba 126(3)(a)

Ukubukezwa okuchasene nesinqumo soMkhandlu Ohlelayo Ovumelayo Onegunya

57. (1) Umuntu omalungelo ache athintekile ngesinqumo soMphathiswa soMkhandlu Ohlelayo Ogunyaziwe noma soMkhandlu Ohlelayo oNqumayo ukuba uvume noma unqabe isicelo sokuhlela umkhandlu onemvume angafaka isicelo sesibukezo sesinqumo

(2) Umuntu omalungelo ache athintekile ngesinqumo soMphathiswa soMkhandlu Ohlelayo Ogunyaziwe noma soMkhandlu Ohlelayo oNqumayo ukuba uvume noma unqabe isicelo sokuhlela umkhandlu onemvume kufaka phakathi lababntu abalandelayo

(a) umfaki sicelo

(b) umuntu, okufaka phakathi nomuntu obenikeziwe ithuba lokuba angenelele esicelweni somkhandlu ohlelayo ogunyazayo okuhlisisiwe kwisigaba 126(3)(a)

(i) isifiso ngokufaneleka

(ii) inhloso yokwezimali

(iii) nezinye izinhloso

Ezingathunubezwa yisinqumo, ezingaphandle kokwehla kwenani komhlaba

(c)uMkhandlu umhlaba okuwo

(3) Umfaki sicelo kumele afake uhla lwezibuyekezo, njengokubona kwesigaba 1 kuhla 10, zingakapheli izinsuku ezin 30 ezithathwa njengokuthi wazisiwe nguMphathiswa woMkhandlu oHlelayo noma uMkhandlu oHlelayo oNqumayo ngesinqumo.

(4) Ilungelo lokufaka isibuyekezo kuMkhandlu oHlelayo ubuYekeze oneGunya esichasene nesinqumo soMphathiswa woMkhandlu oHlelayo oneGunya noma soMkhandlu Ohlelayo Onqumayo siyaphela, uma umfaki sicelo ehluleka uhla lwezibuyekezo zingakapheli izinsuku ezi 30 ezithathwa njengokuthi wazisiwe ngesinqumo.

Usuku esiqala ngalo ukusebenza isinqumo soMkhandlu oHlelayo Ogunyaziwe Onegunya ngesicelo

58. Isinqumo ngesicelo somkhandlu sokuhlela nemvume siqala ukusebenza

Ngosuku lokuQopha lweziNqumo, uma

(i)kungekho ukuphendula ngokuphawula okuvela okuvela emphakathini uma wawazisiwe ukuthi uphawule ngesicelo.

(ii)kungekho muntu ofake isicelo sethuba lokungenelela ngokwesigaba 57(2) ngaphambi kokuba kunqunywe ngesicelo

(iii) umfakisicelo eligwemile ilungelo lokucela isibuyekezo

Ukuphela kwesikhathi sezinsuku ezinga 30 ngengokusho kwesigaba 57(2), uma

(i)ukuphawula kwafika ngokwesaziso esasicele umphakathi ukuba uphawule

(ii)umuntu efakile isicelo sokuthi anikwe ithuba angenelele njengokwesigaba 126(1) ngaphambi kokuba kushishwe isinqumo ngesicelo

(iii)umfaki sicelo akazange aligweme ilungelo lakhe lokufaka isibuyekezo

(c) Ngosuku Umlawuli woMkhandlu oHlelayo Ubuyekeze oneGunya aqinisekisa ngalo ukuthi isicelo sesibuyekezo asikho emthethweni, uma umfaki sicelo noma uMkhandlu ufake ngempumelelo isicelo esiphuthumayo ukumemezela ukuthi isicelo sobuyekezo asikho emthethweni, ngaphandle uma isicelo somkhandlu ohlelayo imvume unesinye isicelo sesibuyekezo esisemthethweni

(d) Ngosuku okuthi ngalo Umlawuli woMkhandlu oHlelayo Ubuyekeze Onegunya aqinisekisa ngalo ukuthi

(i)isinqumo sesicelo somkhandlu ohlelayo imvume ungaqala mayelana nomhlaba ongathintekile ngalesicelo

(ii)izingxenye zesinqumo ngesicelo semvume yokuhlela yomkhandlu ezingathinteki kwisicelo sokubuyekeza zona zingaqala ukusebenza, uma isicelo noma Umkhandlu ufake isicelo esiphuthumayo ngempumelelo sokuthi iqale ukusebenza ingxenye yesinqumo esigunyaziwe semvume yomkhandlu

(e) Usuku okuhoxiswa ngalo isicelo sokubuyekeza, ngaphandle uma isicelo semvume ukuhlela somkhandlu sinesinye isicelo sesibuyekezo esisalinde isinqumo

(f) Ukuqedelwa kewsibukezo, uma isicelo sasifakwe sichasana nesibuyekezo sesinqumo soMphathi Onegunya lokuHlela womkhandlu noma oNqumayo ohlelayo woMkhandlu futhi

(i)uSihlalo Onegunya Obukezayo Ohlelayo woMkhandlu engazange amemezele ukuthi isicelo asinasisindo; noma

(ii)anikeze imvume yokuthi ingxenye ethize yesinqumo sonegunya onika imvume ohlelayo womkhandlu iqale ukusebenza ngokulalela umumo noma izingxenye zesinqumo sonegunya ovumile ohlelayo womkhandlu

Ukuvimbela ukwenza isicelo esifanayo, uma isicelo sasenqatshiwe

59. (1) Uma Onegunya lokuvuma nokuhlela uMkhandlu esinqabile isicelo sokuvumela ukuhlela umkhandlu, isicelo esifanayo naleso esnqatshiwe isiyikuvunyelwa ukuthi sifakwe ngokwalomtheshwana, noma ngamuphi umthetho, singakapheli isikhathi seminyaka emibili emva kosuku lokwenqatshwa, ngaphandle kwemvume ebhalwe phansi.

(2) Ongunya lokuvumela ukuhlela womkhandlu anganikeza imvume ebhaliwe ukuthi isicelo esifana naleso esanqatshwa sokuvumela ukuhlela umkhandlu singafakwa

ngokwalomtheshwana singaka pheli isikhathi seminyaka emibili kudlule usuku esnqatshwa ngalo, uma izimo seziguquke kangangokuba isicelo sesinethuba elingcono lokuphumelela.

Isiqinisekiso sokuhambisana nemibandela yokunikwa imvume

60. (1) Umkhandlu kumele uqinisekise ukuthi imibandela yemvume iyalandelwa

(a)Ngaphambi kokwakhiwa kohlaka kumhlaba, noma ukusebenzisa umhlaba njengokwemvume

(b) Ngaphambi kokwakha isakhiwo

(c) Ngaphambi kokuba kuhlalwe kulowo mhlaba

(d) Ngaphambi okuba umhlaba ubhaliswe ngobunikazi obehlukile Khambiswane nabo

(2) Ukunqatshelwa ukusetshenziswa komhlaba ngaphambi kokuba ukuhambisana nemvume nemibandela kugunyazwe akuvimbeli ukusebenzisa umhlaba ngokusemthethweni ngenhloso okwakuvele usetshenziselwa yona kungaka fakwa isicelo sokuvunyelwa umkhandlu, ngaphandle uma onegunya ogunyazayo ohlela umkhandlu ekubeke ngenye indlela kwimibandela yemvume

(3) Ukuvinjelwa ukusebenzisa isakhiwo ngaphambi kokuba ukuhambisana nemibandela kugunyazwe akuvimbeli ukusenzisa isakhiwo ebesivele sikhona ngokusemthethweni kumhlaba ingaka nikezelwa imvume yokuhlela yomkhandlu, ngaphandle uma onegunya ogunyazayo ohlela umkhandlu ekubeke ngenye indlela kwimibandela yemvume.

Ukudluliselwa kwemigwaqo, amapaki kunye nezinye izindawo ezivulelekile

61. (1) Uma kungumbandela kwimvume yemhlaba ohlukaniselwe ukuthi umkhandlu udinga umhlaba ozowusebenzisa njengomgwaqo womkhandlu, ipaki noma indawo evulelekile, umfaki sicelo kumele, adlulisele ukusebenzisa lowomhlaba njengomgwaqo, ipaki noma umhaba ovulelekile kuMkhandlu

(2) Umhlaba umkhandlu owudinga njengomgwaqo womkhandlu, ipaki noma indawo evulelekile kumele uthathwe ngokuthi ubunikazi bawo busemandleni oMkhandlu njenkwesigaba 32 soMthetho wokuBhalswa koBunikazi.

Ukuveza ukuthi umhlaba awubhaliseki ngaphambi kokuthi kuhambiswane nemibandela

62. Isivumelwano sokuhlakaniswa kwengxenye eyahlukaniselwe yomhlaba noma sokuhlanganiswa komhlaba owagunyazwa uMkhandlu, kodwa ongazange ukhiphe isitifiketi sokuthi umnikazi uhambisane nemibandela yokuvunyelwa ngaphambi kokuba ubhaliswe ebunikazini obuseceleni, kumele kube nesigatshana esiveza

(a) Ukuthi umnikazi akakahambisani nemibandela yemvume

(b) Ukuthi umhlaba awubhaliseki njengokusho kwesigaba 1 soMthetho wokuhlakaniswa koMhlaba (Act No. 68 of 1981)

Ukunikezelwa kobunikazi bomhlaba emuva kokuvala ngokugcwele komgwaqo womkhandlu noma indawo yomphakathi

63. (1) Ubunikazi bomhlaba obukhande uyingxenye yomgwaqo womkhandlu noma indawo yomphakathi, kumele, lapho kuvalwa ngokugcwele umgwaqo womkhandlu noma indawo yomphakathi

(a) Kube kuye okwakubhaliswe ngegama lakhe ubunikazi ngaphambi kokuvala ngokugcwele umgwaqo womkhandlu noma indawo yomphakathi

(b) Kube kuye okuvunyelwane naye ngokubhala

(i) kulowo muntu

(ii) kumkhandlu; futhi

(iii) kulowo umhlaba owawubhaliswe ngegama lakhe ngaphambi kokuvala ngokugcwele umgwaqo womkhandlu noma indawo yomphakthi; noma

(c) Kube kumkhandlu, uma umkhandlu uthathe izinyathelo ezifanelekile ukuthola lowo ogama lakhe kwakubhaliswe ngalo umhlaba kungakavalwa ngokugcwele umgwaqo womkhandlu noma indawo yomphakathi ngempumelelo

(2) Ngenhloso yesigatshana (1)(c), izinyathelo ezifanele zifakaphakathi ukufaka isaziso esishicilelwe emaphepha ndabeni endawo simema noma ubani othintekayo ebunikazini bomhlaba ukuba athintane nomkhandlu ngosuku olubaluliwe kwisaziso, okuwusuku olungeke lube ngaphansi kwezinsuku ezing 30, kungabalwa amaholide, emva kokuba isaziso sishicilelwe.

Ukufakwa kwamaplani namaphepha kuMdabuli-oMkhulu ukuze kudatshulwe umhlaba, kuhlanganiswe umhlaba noma kuvalwe ngokugcwele umgwaqo womkhandlu noma indawo yomphakathi

63. (1) Umnikazi kumele

Yonke imidwebo engazange iphumelele, namaplani avulelekile angaphumelelanga, amaplani kunye namanye amaphepha, angase awadinge uMdabuli-oMkhulu ukuze abhalise ingxenye eyahlukanisiwe noma ukuhlanganisa umhlaba, ukuqalwa kwelokishi, noma ukuqopha ngokuphelele ukuvalwa komgwaqo womkhandlu noma indawo yomphakathi ezibonisiwe njengomgwaqo noma indawo yomphakathi kwiplani evulelekile zifakwe kuMdabuli-oMkhulu; futhi

Kulethwe okufana ncamashi okuqinisekisiwe okunemvume kwemidwebo yonke noma amaplani avulelekile zingakapheli izinsuku ezinga 30 emva kosuku uMdabuli-oMkhulu aphasias ngalo imidwebo noma iplani elivulelekile, umangabe umfake sicelo engumuntu noma kuwuhlaka lombuso, kungewona uMkhandlu.

(2) Umdabuli oqeqeshiwe ofaka imidwebo engaphumelelanga, namaplani avulelekile angaphasisiwe, amaplani namanye amaphepha ewfaka ngokumela umnikazi kuMdabuli-oMkhulu, kumele afake nencwadi efungelwe efakazela

(a) isinqumo soMkhandlu oHlelayo uGunyaze onGunya siyiso futhi senziwa umuntu noma isigungu esigunyaziwe ukwenza lesosinqumo; futhi

(b) iplani yiplani lelo elaligunyaziwe womkhandlu ohlelayo ovumayo ugunyaze

Imidwebo namaplani avulelekile omhlaba ohlukanisiwe noma omhlaba ohlanganiswe

65. (1) Uma imvume yomhlaba ohlukanisiwe ifaka ukwakhekha kwezingxenyana zomhlaba ohlukanisiwe ezingaphansi kweshumi, kungafakiwe indawo ebekelwe inhloso yokwakha imigwaqo, uMdabuli-oMkhulu angayiphumelelisa imidwebo yendawo ngayinye, noma iplani lawowonke lowomhlaba.

(2) Uma imvume yomhlaba ohlukanisiwe ifaka ukwakheka kwezingxenyana zomhlaba eziyishumi noma izingxenyana ezingaphezulu, kungafakiwe phakathi indawo ebekelwe ngehloso yokwakha imigwaqo, uMdabuli-oMkhulu angeyiphasise imidwebo yendawo ngayinye, kodwa kumele aphasise iplani lonke noma amaplani avulelekile alezindawo.

Ukubhaliswa kobunikazi kwezingxenye zomhlaba ezihlukanisiwe, umhlaba ohlanganisiwe noma ukuvulwa kokubhalisa ilokishi

66. (1) Umnikazi womhlaba ofisa ukubhalisa umhlaba kumele afake kuMgcini-Mbiko imidwebo noma amaplani avulelekile kunye nesiqinisekiso sobunikazi namanye amaphepha uMgcini-Mbiko anokuwadinga ukuze abhalise leyondawo.

(2) Ngokweyama emthethweni kazwelonke, uMgcini-Mbiko angebhalise umhlaba ngobunikazi obehlukile, ngaphandle uma uMkhandlu ukhiphe isitifiketi esibalula ukuthi imibandela yemvume yesigaba esahlukanisiwe somhlaba, ukuhlanganiswa komhlaba noma sokuqala ilokishi kumele kuhanjiswane naso gaphambi kokuthi umhlaba ubhaliswe njengomhlaba onobunikazi obuseceleni njengokulayela kwesigaba 1(c)(iv) soHlu 9, kuhanjiswane naso

(3) Uma ukwahlukaniswa komhlaba, ukuhlanganiswa komhlaba noma ukwakhiwa kwelokishi kugunyaziwe kodwa kubambelele ebandeleni wobunikazi, umbandela wobunikazi kumele ubhaliswe uchasane nomhlaba ngMgciniMbiko weZobunikazi

(4)Uma ukwahlukaniswa komhlaba, ukuhlanganiswa komhlaba noma ukwakhiwa kwelokishi kugunyazwa ngokuphoqelela umbandela kubunikazi

(a) loko kumele kubhaliswe kumelane nomhlaba osele

(b) okusele kumele kugcinwe ngumdluliseli

Kumele kumenyezelwe ngokusemthethweni kwincwadi yobunikazi bendawo esele uma sekubhaliswa lowomhlaba ukuthi unobunikazi obuseceleni.

Ukufakwa kwezincwadi ezigunyaza ubunikazi, amaplani namaphepha kuMgcini-Mbiko wezoBunikazi zokuvala ngokuphelele umgwaqo womkhandlu noma indawo yomphakathi

67. (1) Umnikazi kumele aqinisekise ukuthi yonke imidwebo, amaplan nezinye izincwadi angahle azidinge uMgcini-Mbiko weZobunikazi ukuze aqophe ngokuphelele ukuvalwa komgwaqo womkhandlu noma indawo yomphakathi, ukuthi ziyafakwa kuMgcini-mbiko weZobunikazi.

(2) Uma umkhandlu usukuqaphelise ukuthi ubunikazi bomhlaba obukhande ingxenye yomgwaqo womkhandlu noma indawo yomphakathi uma isivaliwe ubunikazi buzoba kuwo noma buzobasemandleni ohlaka lombuso

(a) asizukubakhona isidingo sokuthi umhlaba udluliselwe kuwo noma kuhlaka lombuso

(b) ngokwencika emthethweni kazwelonke, uMgciniMbiko kumele abhalise ngokusemthethweni ukunikeza ukubhaliswa komhlaba egameni lomkhandlu noma lohlaka lombuso.

Ukufakwa kwezincwadi ezigunyaza ubunikazi, amaplani kunye namaphepha kuMgcini-Mbiko weZobunikazi kulandelela isicelo sokususa, ukuchibiyela noma ukumisa umbandela ovimbelayo ebunikazini noma egunyeni eligodliwe kunye nesitifiketi sokuhambisana nemibandela ethize kwimvume

68. (1) Umnikazi womhlaba kumele aqikekele ukuthi incwadi yobunikazi kunye namaphepha uMgcinimbiko angahle akudinge ukuze aqophe ukwesulwa, ukuchibiyela noma ukumisa umbandela ovimbelayo wobunikazi noma wegunya eligodliwe, ayafakwa kuMgcinimbiko weZobunikazi.

(2) Umuntu angefake isicelo kuMgcinimbiko weZobunikazi ukuba aqophe ukwesulwa, ukuchibiyela, noma ukumiswa kombandela ovimbelayo wobunikazi noma wegunya eligodliwe, ngaphandle uma umkhandlu ukhiphe isitifiketi esithi umbandela wemvume obekumele kuhanjiswane nawo ngaphambi kokuba umbandela wobunikazi noma wegunya eligodliwe ususiwe, uchibiyelwe noma umisiwe kuhanjiswane nawo.

Isicelo sokuchibiyela kwiSiQophi ziNqumo soMkhandlu Ongunya Ogunyazayo oHlelayo ukuba kulungiswe iphutha emagameni asetshenziswe esinqumweni, ukulungisa iphutha ekubhalweni kwegama, ukunikeza ulwazi olusha ukuchaza indawo noma ukunikeza inkomba entsha yomthetho, umuntu, inhlangano, indawo noma igama lomgwaqo

69. Isicelo sokuchibiyela kwiSiQophi ziNqumo soMkhandlu Ongunya Ogunyazayo oHlelayo ukuba kulungiswe iphutha emagameni asetshenziswe esinqumweni, ukulungisa iphutha ekubhalweni kwegama, ukunikeza ulwazi olusha ukuchaza indawo noma ukunikeza inkomba entsha yomthetho, umuntu, inhlangano, indawo noma igama lomgwaqo kumele silandele indlela yokwenza 1 yoHlu 6

Isicelo sokuchibiyela okungenzimehluko kwisinqumo sesicelo noma ukucima imvume yokuhlela umkhandlu

70. Isicelo sokuchibiyela okungenzimehluko kwisinqumo sesicelo noma ukucima imvume yokuhlela umkhandlu kumele silandele izinyathelo eziku 3 zoHlu 6

Ukwesulwa ngokugcwele noma ingxenye yamalungelo angasetshenziswanga ngokugcwele nguMkhandlu

71. (1) UMkhandlu uwodwa ungabonisani namuntu ungaqala ukwesula

(a) Ukuvuma okunikeze ngombandela wokusetshenziswa komhlaba

(b) Igunya lomkhandlu ukuhlela intuthuko kumhlaba ongaphandle kwendawo yohlelo lokusetshenziswa komhlaba

(c) Ingunya lomkhandlu ukuhlela ukuhlakanisa umhlaba

(d) Igunya lokhandlu ukuhlea ukuhlanganiswa komhlaba

(e) Igunya lomkhandlu ukuhlela ukuboshwa komhlaba ngomthetho

Uma amalungelo engazange asetshenziswe ngokugcwele

(2) Umkhandlu ungathatha isinqumo sokwesula uwodwa noma ukwesula ingxenye

(a) imvume yokwenza eyinikezile emayelana nohlelo lokusetshenziswa komhlaba

(b) igunya lomkhandlu ohlelayo lokuthuthukisa indawo engaphandle kohlelo lokusetshenziswa komhlaba

Emuva kweminyaka eyishumi yaqala ukusenza futhi yagunyazwa imvume

(3) Umkhandlu ungathatha kuphela isinqumo sokwesula uwodwa noma ukwesula ingxenye

(a) imvume yomkhandlu ohlelayo ukwahlukanisa umhlaba

(b)imvume yomkhandlu ohlelayo ukuhlanganiswa comhlaba

(c)imvume yomkhandlu ohlelayo ukubopha umhlaba ngomthetho

Emuva kweminyaka eyishumi yaqala ukusenza futhi yagunyazwa imvume

(4) Umkhandlu ungeke wathatha isinqumo uwodwa sokwesula noma sokwesula ingxenye

(a) yomkhandlu ohlelayo imvume yokuhlikanisa umhlaba

(b) yomkhandlu ohlelwayo imvume yokuhlanganisa umhlaba,

Wezindawo ezibhaliswe njengomhlaba owehlukanisiwe kuMgcini Mbiko weZobunikazi
Indlela yokwesula yoMkhandlu noma ukwesula ingxenye yamalungelo angasetshenziswanga ngokugcwele

72. (1) uMkhandlu kumele uhambise isaziso kumnikazi -

(a) Wazisa umnikazi ukuthi uzokwesula noma wesule ingxenye

(i)imvume yokwenza ngokohlelo lokusetshenziswa komhlaba

(ii)ilungel ukuthuthukiswa umhlaba ongaphandle kohlelo lokusetshenziswa komhlaba

(iii)ilungelo lokuhlakanisa izingxenyana umhlaba

(iv)ilungelo lokuhlanganisa umhlaba

(v)ilungelo lokubopha umhlaba ngomthetho

Ngokuthi uwodwa uchibiyele noma usule isinqumo sawo

Ungasibeki isikhathi okumele ngaso abe esesetshenziswe onke amalungelo

(2) UMkhandlu ungasihoxisa isaziso esixwayisa umnikazi noma ngasiphi isikhathi ngaphambi kosuku lokugcina olubekiwe kwisaziso.

(3) Isaziso sokuxwayisa umnikazi ngenhloso yawo ethi umkhandlu awuphoqelekile ukuthi uma uhlaleka ukwenza ngokomgomo singakapheli isikhathi esyizinyanga eziyisithupha emvakokudlula kosuku olwalubekiwe lokuthi usebenzise amalungelo awo

(4) Uma umnikazi ehluleka ukwenza ngokugcwele kwisikhathi asinqunyelwe

(a) ilungelo elinikiwe ngokomgomo wohlelo lokusetshenziswa komhlaba

(b) ilungelo lokuthuthukisa umhlaba ongaphandle kohlelo lokusetshenziswa komhlaba

(c) ilungelo lokuhlakanisa umhlaba

(d) ilungelo lokuhlanganisa umhlaba

(e) ilungelo lokubopha umhlaba ngomthetho

Umkhandlu ungabonisananga namuntu ungesula noma usule ingxenye ilungelo ngokuchibiyela noma wesule isinqumo sawo

(5) uMkhandlu kumele umazise uMdabuli oMkhulu noMgcinimbiko weZobunikazi umangabe uthathe isinqumo sokwesula noma sokwesula ingxenye yamalungelo amayelana nokuhlakaniswa komhlaba, ukuhlanganiswa komhlaba noma ukubopha izindawo ngomthetho uwodwa.

ISAHLUKO 5

ISICELO SOKUHLELA UMKHANDLU SOMKHANDLU

Isicelo somkhandlu sokuhlela uMkhandlu

73. (1) uMkhandlu ngokuzisukela kwawo ungacela

(a)Ukuthatha ngokusemthethweni uhlelo lokusetshenziswa komhlaba

(b)Ungachibiyela uhlelo lokusetshenziswa komhlaba

(c)Ungahoxisa/ungesula uhlelo lokusetshenziswa komhlaba

(d)Ukuchibiyela okubalulekile esinqumweni sawo ukuse wamukele ngokusemthweni, uchibiyele noma wesule uhlelo lokusetshenziswa komhlaba

Kungabaluleki ukuthi izindawo ezithintekayo ezobani

(2) uMkhandlu ungacela koGunyaza imvume yokuHlela uMkhandlu –

(a) ukusebenzisa umhlaba ngenhloso noma ngendlela edinga ukuba kucelwe imvume njengohlelo lokusetshenziswa komhlaba
(b) ukuthuthukisa umhlaba ongaphandle kohlelo lokusetshenziswa komhlaba
(c) ukwahlukanisa umhlaba
(d) ukuhlanganisa umhlaba
(e)ukuqala ilokishi
(f) ukubopha ngomthetho indawo eyakhelene nayo
(g) ukwelula uhlelo lobunikazi ngokweziqephu ngokwengeza umhlaba endaweni evulekile njengokomgomo 26 woMthetho wobunikazi besiQephu
(h) ukwesula, ukuchibiyela noma ukumisa umbandela ovimbelayo wobunikazi noma wegunya eligodliwe lobunikazi
(i) ukwesula imvume yokuhlela umkhandlu
Uma ungumnikazi womhlaba noma usemalungiselweni okuwuthola
(3) UMkhandlu ungacela isichibiyela esingabalulekile esinqumweni soNegunya lokuGunyaza ukuHlela uMkhandlu
(a)kwisicelo esiqashelwe kusigatshana (1) na
(b)kwisicelo esiqashelwe kusigatshana (2) uma ungumnikazi womhlaba noma usezinhlelweni zokuwuthola.

Umgudu wemvume yokuhlela umkhandlu yesicelo soMkhandlu

74. Izihlinzeko eziseSahluweni 4 zisebenza kuMkhandlu ofake isicelo sokuhlela umkhandlu, ngaphandle uma-

(a) Inkomba kumfaki sicelo kufanele ithathwe njengenkomba kuMkhandlu; futhi
(b) Isikhathi okufanele ngaso uMkhandlu ube usuqedile isikhathi esibekiwe esikhulu kwisinyathelo somgudu wesicelo, kufaka futhi nobude besikhathi esingangezwa ngaso

ISAHLUKO 6

IZICELO SEZIBUYEKEZO

Ukusetshenziswa kwalesisahluko

75. Lesisahluko sisebenza, ngaphandle uma uMkhandlu ugunyaze isigungu noma ukhandlwana ongaphandle komkhandlu, noma ngendlela ehleliwe ngokomgomo wesishayamthetho wesifunda, ukuba siqhube umsebenzi wokubanegunya nokuthi lesosigungu uma sinenqubo yaso okumele ilandelwe.

Umgudu wokucela ukubuyekeza

76. (1) Inqubo eshicilelwe kwuhla 10 kumele ilandelwe lapho kufakwa isicelo sesibuyekezo nokulalelwa kwaso

(2) inqubo eshicilelwe kuhla 11 kumele ilandelwe lapho kufakwa uhla lwezibuyekeza emva kwesikhathi
(3) inqubo eshicilelwe kuhla 12 kumele ilandelwe
(a) ngesicelo esiphuthumayo ukuvuma ukuthi isicelo sokubuyekeza asinaso isisindo;
(b) ukuqala kokusebenza kwengxenye yesinqumo sesicelo somkhandlu ohlelayo onegunya

Ukuthalalisa

77. (1) Umuntu angafaka isicelo sokuthalalisa

(a) Ngokuhlaleka ukufaka uhla lwezithalaliso zingakapheli izinsuku ezinga 30 ezithathwa njengezinsuku azisiwe ngazo uMkhandlu ngesinqumo

(b) Ukwehluleka ukuhlangabezana

(i) nenqubo yokufaka nokulalela isicelo sesibukezo njengokushiwo kuhla 10

(ii) nenqubo yokufaka emva kwesikhathi uhla lwezibuyekezo njengokushiwo kuhla 11

(iii) nenqubo yokufaka isicelo esiphuthumayo sokuvuma ukuthi isinqumo isicelo asinaso isisindo njengokushiwo kuhla 12; futhi

(iv) nenqubo yesicelo esiphuthumayo sokucela ukuqala ukusebenza kwengxenye yesinqumo sesicelo esivumela uMkhandlu ukuhlela njengokushiwo kuhla 12

(2) Uma onke amaqembu athintekayo kulesicelo sesibukezo ethalalisile ukwehluleka, Ogunyazayo Obukezayo Ohlelayo womkhandlu kumele anikeze isithalaliso

(3) Uma bonke abathintekayo kulesibuyekezo bengazange bakuthalalisile ukwehluleka, onegunya obukezayo ohlelayo womkhandlu kumele aqikekele lokhu okulandelayo uma enza isinqumo sokuvuma noma sokwala ukuthalisa

(a) loko okulethiwe okumayelana nesihlinzeko sokubaliwe ku 1 kuhla 10 mayelana nokufaka uhla lwesibuyekezo nokubaliwe ku 2 woHlu 10 olumayelana nokufaka uhla oluphendulayo

(b) ukuthi ngabe uMkhandlu umbikele umfakisicelo sokuthalalisa ngokumbhalela ngamalungelo akhe nokubophezeleka kwakhe

(c) incazelo kumfaki sicelo yokwehluleka kwesicelo sokuthalalisa

(d) ngabe kwakuyinto engenzeka yini ukusebenza amaphepha obufakazi, umangabe isicelo sokuthalalisa isicelo sokwehluleka ukunikezela ngamaphepha obufakazi

(e) ngabe umfakisicelo sokubuyekeza nguye kuphela umfakisicelo sokubuyekeza, noma kukhana abanye abafakile isicelo sokubuyekeza isinqumo somkhandlu ngezizathu ezifanayo

(g) ukubaluleka kwesibuyekezo

(h) umonakalo ongazwela kumfakisicelo, umfakisicelo ngokuthalalisa noma imuphi omunye umuntu okufaka phakathi nomphakathi

(i) izifiso somfakisicelo sokuthalalisa kumphumela wasicelo sokubuyekeza

(i) amathuba omfakisicelo sokuthalalisa okuphumelela

(j) izinga lokufika emva kwesikhathi

(k) ukugwema ukubambezela okungenasidingo ekusebenziseni ubulungiswa

(l) ukufaneleka ngoko Gunyazayo Abukeze Nokuhlela woMkhandlu; futhi

(m) noma yiliphi elinye iphuzu elingahambisana

(4) uMkhandlu Ohlelayo Obukezayo Onegunya unganquma ngesicelo sokuthalalisa

(a) uma unquma ngesibuyekezo esibukisiswe kuhla 10

(b) uma unquma ngesicelo sokufaka ngemuva kwesikhathi isicelo sokubuyekeza esibukisisiwe kuhla 11

(c) uma unquma ngesicelo esiphuthumayo sokuvuma ukuthi isicelo sesibuyekezo asinasisindo njekubukisisa uhla 12; noma

(d) uma unquma ngesicelo sokuvumela ukusebenza kwengxenye yesinqumo esivumela ukusebenza kwemvume yokuhlela umkhandlu njengokubukisisa koHlu 12

Isinqumo soMkhandlu Ohlelayo Ubuyekeze Onegunya

78. (1) UMkhandlu Ohlelayo Obukezayo oneGunya, noma umkhandlwana oqokiwe wangaphandle, noma isakhiwo kumele ufinyelele kwisinqumo ngomphumela wesicelo sokubuyekeza esilalelwe yiwo zingakapheli izinsuku ezilishumi nane emva kosuku lokugcina lokulalelwa.

(2) Uma uMkhandlu Ohlelayo Obukezayo oneGunya u

(a) uyisigungu esiphezulu somkhandlu

(b) uyikomoti laMakhansela, uma umkhandlu ungenaso isigungu esiphezulu noma usoDolobha/Meya

(c) ikomiti labaphathiswa bomkhandlu; noma

(d) isigungwana, noma isakhiwo esingaphandle komkhandlu; noma ngendlela okubukisiswe ngayo ngokwesishayamthetho sesifundazwe, esigunyaziwe ukubukeza ngegunya

Isinqumo sesibuyekezo sithathwa yiningi lamalungu anikezwe amandla nguSihlalo woMkhandlu Ohlelayo Ubukeze oneGunya lokulalela isibuyekezo.

(3) UMlawuli uma kwenzeka amavoti elingana ubanevoti elehlukanisayo/ lokuqagula

(4) Umkhandlu oHlelayo oBukezayo uneGunya

(a) ukuxhasa nokuvumela isinqumo soMkhandlu okufakwe isicelo sokubukeza

(b) ukuguqula isinqumo soMkhandlu

(c) ukubeka eceleni iisinqumo soMkhandlu; bese

(i) usebenzise esawo isinqumo uMkhandlu endaweni yesinqumo ebesithathiwe

(ii) wesule udaba eMkhandlwini ukuba luphinde lulalelwe uma kukhona iphutha elenzekile kwinqubo; noma

(d) Wenze umlayelo wezindleko ezibukisiswe kusigaba 84

(5) Isinqumo ngomphumela wesibuyekezo singanikezelwa ndawonye nanoma yimuphi umlayelo okhishwe uMkhandlu oHlelayo Ogunyazayo oneGunya esifanelekile futhi esizwakalayo mayelana naleso simo

(6)Umlawuli kumela asayine isinqumo soMkhandlu oHlelayo Obukezayo oneGunya kunye nanoma yikuphi okunye okungumyalelo okushiwo kuso

Izizathu zesinqumo soMkhandlu oHlelayo oBukezayo oneGunya

79. (1) Umlamuli kumele alungise izizathu azibhale phansi zesinqumo soMkhandlu oHlelayo uBukeze oneGunya zingaka pheli izinsuku ezngama 30 emuva kosuku lokugcina lokulalelwa kwesibukezo.

(2) Izizathu zesinqumo kumele , phakathi kwezinye izinto

(a) ukwenza iqoqo lezinqumo zoMkhandlu Ohlelayo Obukezayo oneGunya nanoma yimuphi umlayelo oshiwo yiso

(b) esimweni lapho isinqumo sithathwe ngevoti labaningi, enze iqoqo lezinqumo nemiyalelo ecelwe abayingcosana nezizathu zakho

(3) UMlawuli kumele asayine izizathu zezinqumo zoMkhandlu oHlelayo oBukezayo oneGunya.

Ukwazisa ngomphumela wesibuyekezo

80. UMgcinimbiko woMkhandlu oHlelayo oBukezayo oneGunya kumele

(a) Kungakaphothulwa ukulalelwa kwesibuyekezo, anqume indlela okumele baziswe ngayo abathintekayo ngesinqumo soMkhandlu oHlelayo oBukezayo oneGunya
(b) Azise abathintekayo ngesinqumo soMkhandlu oHlelayo oBukezayo oneGunya zingakapheli izinsuku ezi 7 emva kokuba uMkhandlu oHlelayo oBukezayo oneGunya wehlise isinqumo, kuhlanganise nezizathu sesinqumo sawo.

Umphumela wezomthetho ngsinqumo soMkhandlu oHlelayo oBukezayo oneGunya

81. Isinqumo soMkhandlu oHlelayo oBukezayo oneGunya siyabophezela kubobonke abathintekayo

Ubudlelwane phakathi kwezibuyekezo ngokoMtheshwana kunye nezibuyekezo ngokomgomo wesigaba 62 soMthetho woKusebenza koMkhandlu

82. Asikho isibuyekezo esingafakwa ngokomgomo wesigaba 62 soMthetho wokuSebenza koMkhandlu esichasene nesinqumo esithathwe ngokomgomo waloMtheshwana

Okuqhubekayo phambi kokuba uMkhandlu oHlelayo oBukezayo oneGunya uvulelekele umphakathi

83.(1) UMlawulisanga khomba ukuthi amalungu omphakathi angafakwa lapho kuqhubeka ukulalelwa kwesibuyekezo, uma enelisekile ukuthi ubufakazi obuzokwethulwa ekulalelweni kwesibuyekezo

(a) kungabangela ukuphatheka kabi nomonakalo noma ubunzima obungenasidingo

(b) bungabeka engozini impilo noma ukuphila kahle enyameni komuntu

(2) Noma yimuphi umuntu ohluleka ukulandela ukukhomba okukhishwe ngokwalomgomo wesigaba unecala lokuphula umthetho, ekugwetshweni angahlawuliswa noma adonse ejele isikhathi esingeqile onyankeni owodwa, noma kokubili inhlawulo nokudonsa ejele.

Izindleko

84.(1) UMkhandlu oHlelayo oBukezayo oneGunya ungekhiphe umlayelo wokuthi kungaba yiliphi iqembu ekubuyekezweni okuyilona okumele liyalelwe ukukhokha izindleko zanoma liphi iqembu kulokho kuqhubeka ekushushiseni noma ekuphikisaneni nesibuyekezo, ngaphandle uma kunjengokuhlinzeka koHlu 10, uhla 11 kunye noHlu 12.

(2) UMlawuli kumele anikeze amaqembu ithuba lokuziphendulela noma abhale phansi ukuzimela kwawo phambi kokuba umlayelo wokukhokha wenziwe.

Ukweqa umthetho okuxhumene nkwenzekayo phambi koMkhandlu oHlelayo oBukezayo oneGunya

85. (1) Umuntu unecala lokweqa umthetho, uma umuntu –

(a) ngaphandle kwesizathu esizwakalayo, futhi emva kokuba kade ethole incwadi embizela enkantolo azokwethula ubufakazi njengofakazi noma alethe ubufakazi obubhaliwe noma ezinye izinto, ahluleke ukufika ngosuku, ngesikhathi, endaweni eshiwo encwadini embizela enkantolo

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(b) emva kokuba kade esefikile ngokubizwa enkantolo ngoba ethole incwadi embizela enkantolo, ahluleke ukuhlala ekhona kulendawo okuqhubeka kuyo udaba, aze adedelwe uMlawuli

(c) ngaphandle kwesizathu esihle ahluleke ukuletha incwadi yobufakazi noma leyonto abizelwe yona enkantolo

(d) ngenhloso athunabeze noma avimbele uMkhandlu oHlelayo oBukezayo oneGunya ekusebenziseni amandla awo

(e) axove noma ngenhloso athikabeze ukuqhubeka kokuxoxwa kodaba

(f) athuke, eyise noma eye ilungu loMkhandlu oHlelayo oBukezayo oneGunya; noma

(h) ngomcabango wakhe ongenabufakazi noma afake umthelela ongemuhle ekuqhubekeni kodaba

(2) umuntu unecala lokuphula umthetho

(a) uma evimbela uMkhandlu oHlelayo oBukezayo oneGunya ekusebenziseni amandla awo ngaphansi kwalomtheshwana ngokuhlaleka, ngaphandle kwesizathu esihle, ukuphendula kahle ngokusemandleni alowo muntu, umbuzo osemthethweni awubuzwa wuMkhandlu oHlelayo oBukezayo oneGunya

(b) uma evimbela umuntu osebenza emele uMkhandlu oHlelayo oBukezayo oneGunya

(c) noma lapho ezama ukusebenzisa amandla ngaphansi kwalomtheshwana esebenza emele uMkhandlu oHlelayo oBukezayo oneGunya, ngaphandle kokunikwa igunya lokwenza lokho.

(3) umuntu olahlwe yicala ngokomgomo walesisigaba kumele agwetshwe ngokuhlawuliswa inhlawulo engengaphezulu kuka R10 000

UMgcinimbiko Mkhandlu oHlelayo oBukezayo oneGunya kumele agcine okuqoshiwe okumayelana nezibuyekezo

86. (1) UMkhandlu oHlelayo oBukezayo oneGunya kumele ugcine okuqoshiwe yokwenzekile ekusebenzeni kwawo

(2) UMkhandlu oHlelayo oBukezayo oneGunya kumele ugcine incwadi yokuqoshiwe okukuyo lemininingwane emayelana nazozonke izibuyekezo ngasinye

(a) Usuku okwafakwa ngalo isibuyekezo
(b) Inombolo eyinkomba enikezelwe yalesosibuyekezo
(c) Igama lomfakisibuyekezi
  (i) Amagama abobonke abafake isibuyekezo
  (ii) uMkhandlu osicelo sokubuyekeza isinqumo sibhekene nawo
  (iii)nabobonke abathintekayo kulesisicelo
(d) amagama amalungu oMkhandlu oHlelayo oBukezayo oneGunya aqokwe nguSihlalo woMkhandlu oHlelayo oBukezayo oneGunya ukulalela lesisibuyekezo
(e) isinqumo soMkhandlu oHlelayo oBukezayo oneGunya esifaka
  (i) ukuthi isinqumo sathathwa ngo elethu noma kwaba ngesibalo samavoti amaningi amalungu

(ii) usuku lwesinqumo

(3) Ikhophi yezizathu zazozonke izinqumo zoMkhandlu oHlelayo oBukezayo oneGunya nazozonke izinqumo ezinikezwe uSihlalo woMkhandlu oHlelayo oBukezayo oneGunya kumele zigcinwe uMgcinimbiko woMkhandlu oHlelayo oBukezayo oneGunya

(4) Incwadi okubhalwe futhi kwaqoshwa kuyo yoMgcinimbiko woMkhandlu oHlelayo oBukezayo oneGunya kufanele uvuleleke ukuhlolwa ngamalungu omphakathi ngesikhathi samahora okusebenza.

ISAHLUKO 7
UKUPHOQELELA

Ingxenye 1: Ukwephula umthetho, izinhlawulo kunye nokumiswa kezidingo

Ukwephula umthetho nezinhlawulo ezihambisana nomkhandlu ohlelwayo onegunya

87. (1) Umuntu

(a) osebenzisa umhlaba, ohlukanisa umhlaba, ahlanganise umhlaba, aqale ilokishi, abophe umhlaba akhelene nawo ngomthetho noma ache isakhiwo emhlabeni ngaphandle kokugunyazwa umkhandlu ohlelayo ugunyaze, uma imvume yomkhandlu ohlelayo ugunyaze idingeka ngokwalomtheshwana;
(b) osebenzisa umhlaba, ohlukanisa umhlaba, ahlanganise umhlaba, aqale ilokishi, abophe umhlaba akhelene nawo ngomthetho noma ache izakhiwo ephikisana nokuhlinzekwe kuhlelo lokusetshenziswa komhlaba
(c) osebenzisa umhlaba, ohlukanisa umhlaba, ahlanganise umhlaba, aqale ilokishi, abophe umhlaba akhelene nawo ngomthetho noma ache izakhiwo ephikisana nombandela ovimbelayo webunikazi noma welungelo eligodliwe
(d) osebenzisa umhlaba, ohlukanisa umhlaba, ahlanganise umhlaba, aqale ilokishi, abophe umhlaba akhelene nawo ngomthetho noma ache izakhiwo ephikisana nesiNqumo soMkhandlu esiQoshiwe sokugunyaza somkhandlu ohlelayo ogunyazayo njengokubukisiswa kwesigaba 54;

(e) ahluleke ukuveza ukuthi umhlaba awubhaliseki njengokubukisisa kwesigaba 62

(f) asuse isaziso esimemezela ukuthi loku okwenziwa kulomhlaba akukho emthethweni njengokubuka kwesigaba 98
(g) athembise noma akhokhe umklomelo we;
(i) wokuxhasa okubhliwe kohlaka lombuso exhasa isicelo somkhandlu ohlelayo ogunyazayo noma sesichibiyelo sesinqumo esingabalulekile soMkhandlu
(ii) wokukuxhasa okubaliwe koMbusi weNdabuko ngokwesicelo somkhandlu ohlelayo ogunyazayo noma ukuchibiyela isinqumo esingabalulekile soMkhandlu
wokuvumela noma ukwenqabela isicelo somkhandlu ohlelayo ogunyazayo noma isichibiyela isinqumo esingabalulekile soMkhandlu
(h)acele noma emukele umvuzo
(i)wokuxhasa okubhaliwe kwohlaka lombuso okuxhasa isicelo somkhandlu ohlelayo ogunyazayo noma ukuchibiyela isinqumo esingabalulekile soMkhandlu
(ii)wokuxhasa okubhaliwe koMbusi weNdabuko esiceleweni somkhandlu ohlelayo onegunya noma ukuchibiyela isinqumo esingabalulekile soMkhandlu

(iii)ukuvumela noma ukwenqabele isicelo somkhandlu ohlelayo ogunyazayo noma ukuchibiyela isinqumo esingabalulekile soMkhandlu
unecala lokwenza lokho.

(2) Umnikazi ovumela ukusetshenziswa komhlaba ngendlela ebukisiswe kwisigatshana (1)(a) to (d) futhi ongakuqedi lokokusetshenziswa noma athathe izinyathelo zokuqinisekisa ukuthi lokho kusetshenziswa kuyamiswa uyoba necala lalokho

(3) umuntu oneyicala ngokwalesisigaba ufanele ukuhlawuliswa inhlawulo engeqile kuR1 000 000 noma agwetshwe ejele isikhathi esingeqile kunyaka owodwa noma agwetshwe kokubili ukuhlawuliswe nokudonsa ejele.

(4) Umuntu olahlwe yicala ngokwalomtheshwana okuthe emva kwesigwebo waqhubeka nokuziphatha ngaleyondlela ayeboshelwe yona, uyokuba necala lokuqhubeka nokwephula umthetho aphinde agwetshwe ejele isikhathi esingeqile izinyanga ezintathu noma inhlawulo engeqile kuR10 000 noma agwetshwe kokubili ukuhlawula nokudonsa ejele njengokosuku ngalunye aqhubeka ngalo nokuziphatha ngaleyondlela

(5) Ukuhlawuliswa imaliyokuhlala ehambisana nokusetshenziswa komhlaba njengokubukisisa kwisigaba 8(1) soMthetho weNkokhelo yeziNdawo zoMkhandlu awunikezeli ukusebenziswa komhlaba ngokomthetho ngenhloso yalomtheshwana

Izinhlawulo ezengeziwe

88. (1) Uma inkantolo ibeka umuntu icala njengokubukisisa kwisigaba 87(1), ingahle

ngokwesicelo esibhaliwe soMkhandlu, ihlole okwesikhashana noma inqume inani ngokwemali ithuba elibeke lowomuntu ukwenza inzuzo ngenxa yomphumela waleso senzo sokwephula umthetho
ngokwengeza phezu kwehlawulo noma isinqumo sokugwetshwa ejele esibukiwe kwisigaba 87(2), unqume ukukhokhelwa ngokulimala, isibonelelo noma inhlawulo engeqile isilinganiso ngokwemali sanoma iliphi ithuba okungahle kube lowo muntu ulizuzile ngokwenza lelocala.

(2) Inkantolo ingamgweba umuntu ohlulekayo ukukhokha inhlawulo anikwe yona ngaphansi kwalesisigaba isikhathi esingeqile kunyaka owodwa.

Ukuncishiswa noma ukucishwa kwemisebenzi yobunjiniyela ukuvikele ukuqhubeka komsebenzi owenza ukwephula umthetho

89. (1) UMkhandlu kumele uthole umlayelo weNkantolo obukisiswe ngaphambi kokuba wehlise noma ucime imisebenzi yobunjiniyela ukunqanda ukuqhubeka kwesenzo sokwephula umthetho ngokubukisisa kwesigaba 87(1)(a)-(d).

(2) UMkhandlu unganciphisa noma ucishe imisebenzi yezobunjiniyela ukugwema ukuqhubeka kokwenza icala elibukiwe kwisigaba 87(1)(a)-(d) ngaphandle komyalelo obaluliwe, umangabe kuzodaleka umonakalo ongelungiseke kumhlaba, isakhiwo, kuhlaka noma kwindalo ngalesisenzo esingekho emthethweni.

(3) uMkhandlu kumele uthole umlayelo wenkantolo ngokukhulu ukushesha, uma sewehlisile noma ucimile imisebenzi yobunjiniyela ukugwema umonakalo ongelungiseke kumhlaba, isakhiwo, uhlaka noma kwimvelo njengokusho kwesigaba (2)

(4) UMkhandlu ungecishe imisebenzi yobunjiniyela ukuvimbele ukuqhubeka kwesenzo esiyicala esibalulwe kwisigaba 87(1)(a)-(d), umangabe umhlaba usetshenziselwa isenzo esisemthethweni futhi kungeke kwenzeka ukumisa umsebenzi wobunjiniyela eyenza umsebenzi ongekho emthethweni ungazange futhi ucime imisebenzi yobunjiniyela eyenza umsebenzi osemthethweni.

(5) UMkhandlu ungayicisha imisebenzi yobunjiniyela ukuvimbela ukuqhubeka komsebenzi owenza icala njengokushiwo kusigaba 87(1) (a)-(d), noma ngabe ukukhokhela umsebenzi wobunjiniyela kungasilele ngemuva .

(6) Igunya loMkhandlu ukunciphisa noma ukucima amanzi ukuvimbela ukuqhubeka kwesenzo esiyicala esibalulwe kwisigaba 87(1)(a)-(d) kumele sithathwe njengokuthi umsebenzi wokufakelwa kwamanzi ungaphansi kwalowomgomo ohlinzekwe kwisigaba esichasiswe 21(2)(b)(ii) soMthetho wezaManzi ka 1997 (Act No. 108of 1997).

(7) Ngenhloso yesigaba 21(5) woMthetho wokulawula uGesi ka 2006 (Act No. 4 of 2006), ukesetshenziswa kogesi okuhlanganisa ukwaphula umthetho njengoba kuchachiswe kusigaba 87(1)(a)-(d) kumele sithathwe njengokungahloniphi komthengigesi kwesivumelwanokunye nelayisensi.

Ingxenye 2: Ukushushiswa

Ukufakwa kwesikhalo

90. (1) Noma yimuphi umuntu angafaka kuMphathiswa woMkhandlu Ohlelayo Oqhaphela ukugcinwa komthetho ukuba ahlole izinsolo ezingaba ukwephula umthetho njengoba kushiwo kusigaba 88(1).

(2) Isikhalo esibhaliwe okusolwa kuso ukuthi kukhona owephula umthetho njengokushiwo kwisigaba 87(1) kumele siphelezelwe okubhaliwe okusemthethweni nobunye ubufakazi

(3) Umphathiswa woMkhandlu oHlelayo Oqaphela ukugcina komthetho kumele zingakapheli izinsuku ezi 7 ukusuka osukwini okwafakwa ngalo isikhalazo

(a) avume ukuthi usitholile isikhalo. Uma sinegama lomuntu okhalazayo, ikheli noma izinombolo atholakala kuzo; futhi

(b) ameme lowomuntu okufakwe isikhalo ngaye ukuba afake impendulo ngesikhalo zingakapheli izinsuku ezi 7 estheliwe ngaleso sikhalo.

(4) uMphathiswa woMkhandlu oHlelayo wezokuGcinwa komthetho kumele aqede ukusesha ngesikhalo esifakiwe njengokushiwo kusigaba 87(1) zingaka pheli izinsuku ezing 60 ukusuka osukwini okwafakwa ngalo isikhalo.

(5) uMphathiswa woMkhandlu oHlelayo wezokuGcinwa komthetho kumele azise umfaki sikhalo ngomphumela wokusesha, umangabe isikhalo siqukethe igama, nekheli noma izinombolo atholakala kuzo umfaki sikhalo.

Amandla oMphathiswa woMkhandlu oHlelayo wezokuGcinwa komthetho

91. (1) uMphathiswa woMkhandlu oHlelayo wezokuGcinwa komthetho ngemvume yalowo ohlala kuleyondawo noma umnikazi womhlaba, ngesikhathi samahora omsebenzi omkhandlu, angangena emagcekeni alowomhlaba, noma angene kwisakhiwo ngenhloso yokuzoqinisekisa ukuvumelana

(a) nalomtheshwana

(b) uhlelo lokusetshenziswa komhlaba

(c) uhla lweziNqumo eziQoshiwe ngokwesigaba 55 noma izinqumo zoMkhandlu oHlelayo oBukezayo oneGunya njengokushiwo kusigaba 80 ; noma

(d) umbandela ovimbelayo wobunikazi noma igunya eligodliwe elingasuswa, lichibiyelwe noma liguqulwe ngokwalomtheshwana

(2) uMphathiswa woMkhandlu oHlelayo wezokuGcinwa komthetho angangena kulowomhlaba noma isakhiwo nenhloso yesigatshana (1) noma kungesona isikhathi samahora okusebenza

(a) ngemvume yalowo ohlala kuleyondawo noma umnikazi wendawo

(b) umangabe ukungena kulowo mhlaba noma isakhiwo ngesikhathi esingaphandle kwamahora okusebenzai omkhandlu kudingekile

(3) uMphathiswa woMkhandlu oHlelayo wezokuGcinwa komthetho angaphelekezelwa utolika, iphoyisa noma ubani ongasiza ngokuhlola.

(4) Umuntu olawula noma owengamele umhlaba kumele ahlinzeke gezinto eziyisidingo ezifanele ezidingwa uMphathiswa woMkhandlu oHlelayo wezokuGcinwa komthetho ukusiza umphathiswa ukwenza umsebenzi wakhe ngokufanele futhi ngokuphepha.

(5) Umuntu ovimbela ngenhloso ukusebenza koMphathiswa woMkhandlu oHlelayo wezokuGcinwa komthetho, noma ubani ophelezela lomphathiswa ngokusemthethweni, ukungena kumhlaba noma kwisakhiwo, unecala ngalesosenzo, angajeza ngokuhlawuliswa inhlawulo engeqile iR10 000.

(6) uMphathiswa woMkhandlu oHlelayo wezokuGcinwa komthetho kumele ashiye lowmhlaba noma lesosakhiwo sivikelekile kuzephulamthetho njengalokhu esifice sinjalo umangabe ohlala khona noma umnikazi engekho.

(7) uMphathiswa woMkhandlu oHlelayo wezokuGcinwa komthetho angabuza noma imuphi umuntu okulowomhlaba ngokombono wakhe ongakwazi ukunikezela ngolwazi noma ngodaba olumayelana nalomtheshwana.

(8) uMphathiswa woMkhandlu oHlelayo wezokuGcinwa komthetho angahlola abuye athathe izithombe noma athwebule isithombe esihambayo

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(a) sanoma yini ebhaliwe, nomasokuthile, noma somshini owawukulowo mhlaba noma okulowo mhlaba.

(b) sanoma yimuphi umsebenzi owenzeka kulowomhlaba noma yisiphi isimo esisabalele kulowomhlaba

(9) uMphathiswa woMkhandlu oHlelayo wezokuGcinwa komthetho angathatha noma yimaphi amaphepha asemthethweni, aqophe, isaziso, okuthile noma umshini okuthi ngokubona kwakhe ubalulekile ebufakazini bokuthetha icala lanoma ubani obekwe icala ngaphansi kwalomtheshwana noma umthetho ojwayelekile.

(10) uMphathiswa woMkhandlu oHlelayo wezokuGcinwa komthetho angamnika umsebenzisi amaphepha obufakazi asemthethweni noma aqophe ilungelo lokwenza amakhophi encwadi noma okuqoshiwe kungakathathwa

(11) uMphathiswa woMkhandlu oHlelayo wezokuGcinwa komthetho kumele anikezele ngeresidi kumnikazi noma kulowo onelungelo lokulawula amaphepha anobufakazi, okuqoshiwe, isaziso, utho noma umshilni lowo awuthathile

(12) uMphathiswa woMkhandlu oHlelayo wezokuGcinwa komthetho angakhomba noma muphi umuntu ukuba avele phambi kwakhe ngalesosikhathi nedawo okubekiwe ngokuvumelana ukuzobuza lowomuntu.

Incwadi egunyaza ukungena ngenhloso yokuzobheka ukugcimwa komthetho

92. (1) Imantshi yesifunda yalapho lomhlaba ume khona, ngokucelwa uMkhandlu, ikhiphe incwadi egunyaza ukungena kulowo mhlaba noma kulesosakhiwo uma

(a) ngaphambilini imvume kohlala kuleyondawo noma kumnikazi wayo ingazange itholakale sekuzanyiwe imizamo eyanele ukuba itholakale

(b) umangabe inhloso yokuzohlola ingathunubezeka uma kwaziwe ngaphambili kokuba kuziwe

(2) Imantshi ingakhipha kuphela incwadi egunyaza ukungena umayona imantshi yanelisekile ukuthi kunezizathu ezizwakalayo sokusola ukuthi kukhona okwenziwayo okuphambene nezihlinzeko zalomtheshwana noma zoMkhandlu zohlelo lokusebenzisa umhlaba, zizokwenziwa noma zenzekile kulowomhlaba noma kuleso sakhiwo.

(3) Incawdi egunyazayo igunyaza uMkhandlu ukungena phezu komhlaba noma kwisakhiwo ngomcimbi owodwa, lokho kungena kufanele kwenzeke

(a) ingakapheli inyanga eyodwa yosuku okwakhishwa ngalo lesigunyazi; futhi

(b) ngehora elifanelekile, ngaphandle lapho lesinyazisi sikhishwe ngezizathu eziphuthumayo

Ukugcinwa kwemfihlo emayelana nokungena ngenhloso yokugcinwa komthetho

93. (1) uMphathiswa woMkhandlu oHlelayo wezokuGcinwa komthetho osengenile phezu komhlaba noma osengenile kwisakhiwo ngenhloso yokuzobheka ukuhambisana naloMtheshwana noma ukuhlelo lokusetshenziswa komhlaba futhi osefumane ukwazi ulwazi nomayiluphi noma udaba olungasese lomunye umuntu noma izindaba zebhizinisi elingasese lomunye umuntu ngenkathi eqhubeka nomsebenzi wakhe, kumele lololwazi noma lolodaba aluphathe njengemfihlo futhi angeluvezeli omunye umuntu.

(2) Umuntu unecala futhi umele ukuthweswa icala ngokuhlawuliswa noma afakwe ejele isikhathi esingeqile unyaka owodwa noma agwetshwe ngakho kokubili uma lowo muntu emvakwesikhathi kutholakale ukuthi waveza komunye umuntu izifihlo zokuhweba noma izimfihlo eziyilungelo lolwazi aluthola ngokungena kumhlaba noma kwisakhiwo ngenhloso yokuzobheka ukuhambisana nomtheshwana noma nohlelo lokusetshenziswa komhlaba, ngaphandle uma-

(a) lokho kuveza ukuthi kwakwenziwa ngenhloso yokuqikekela ukugcinwa komthetho noma uhlelo lokusetshenziswa komhlaba koMkhandlu

(b) uma lokho kuvezwa kawakulayelwe inkantolo efanelekile noma kudingeka ngaphansi umthetho

Ukucabangela ukuthi ilungu lomkhandlu wesigungu esengamele lesigungu esikhulu noma umlingani ekuphatheni ngokulingana wenze isenzo esinecala

94. Umuntu yena siqu sakhe unecala lokwephula umthetho ngokusho kwalomtheshwana uma

(a) ukwephula umthetho kwenziwa

isigungu esisemthethweni esikhandwe ngemigomo yanoma umuphi umthetho
umlingani osenkampanini eninamalungelo afanayo

(b) umuntu eyilungu lebhodi , lesigungu esiphezulu, lenkampani evalekile, noma omunye umkhandlu noma wobulingani ngobunikazi ngenkathi lokho kwephula umthetho kwakwenziwa

(c) uma umuntu ehlulekile uthatha izinyathelo ezifanele ukugwema lokho kuphulwa komthetho

Ukwehluleka kwenhlangano yabanikazi, isigungu senkampani noma inkampani enamasheya ukusebenzisa isibophezelo ngomgomo wokugunyazwa

95. Uma inhlangano yabanikazi, isigungu senkampani esakhiwe ngokomgomo wesigaba 36(1) soMthetho wokuBunikazi beziqeshana noma inkampani enemasheya njengokusho kwesigaba 1 somthetho iShare Blocks Contro Act, yehluleka ukwenza ekugunyaziwe ukuba ikwenze ngokugunyazwa umgomo onombandela ewugunyaziwo ngokushiwo kusigaba 54(6) noma uMkhandlu oHlelayo uBukezayo oneGunya usenokulungisa ukwahluleka uphinde ubuyise izindleko ezikumalungu enhlangano yabanikazi bomhlaba, isigungu esengamele noma kubanikazi zabelo benkampani yezabelo.

Ukukhululwa yinkantolo

96. (1) Uma uMkhandlu usuthathe izinyathelo ngomuntu thize ngesenzo esiphambene nomthetho ngokwesigaba 87(1) kanye kanye ungaphinde futhi ufake isicelo enkantolo sokuzithathela

(2) Inkantolo inganika noma yikuphi ukuzilawulela, okufaka –

(a) isimemezelo samalungelo;

(b) umlayelo noma isivimbelo esivimba umuntu ekutheni-

(i) ukusebenzisa umhlaba, ukwahlukanisa umhlaba, ukwakha ilokishi, noma ukubopha umhlaba owakhelene ngomthetho, noma ukwakha izakhiwo kumhlaba ngaphandle komkhandlu ohlelayo ugunyaze, uma igunya lomkhandlu lokugunyazwa lidingeka ngokomgomo walomtheshwana.

(ii) Ukusebenzisa umhlaba, ukwahlukanisa umhlaba, ukuhlanganisa umhlaba, ikwakha ilokishi, ukubopha ngomthetho umhlaba owakhelene noma ukwakha izakhiwo emhlabeni okuphikisana nezihlinzeko zohlelo lokusetshenziswa komhlaba

(iii)Ukusebenzisa umhlaba, ukwahlukanisa umhlaba, ukuhlanganisa umhlaba, ikwakha ilokishi, ukubopha ngomthetho umhlaba owakhelene noma ukwakha izakhiwo emhlabeni okuphikisana nomgomo ovimbelayo ebunikazini noma kwigunya eligodliwe

(iv) Ukusebenzisa umhlaba, ukwahlukanisa umhlaba, ukuhlanganisa umhlaba, ikwakha ilokishi, ukubopha ngomthetho umhlaba owakhelene noma ukwakha izakhiwo emhlabeni okuphikisana noMkhandlu esinqumweni somkhandlu ohlelayo ugunyazwe njengoba kuchachisiwe kusigaba 54 noma ngokwesinqumo soMkhandlu oHlelayo uBukeze oneGunya elikusigaba 79; noma

(v) Ukwhluleka ukuveza ukuthi umhlaba awubhaliseki njengobusho kwesigaba 62

(c) Ngokomlayelo wokunqamula noma ukunciphisa imisebenzi yobunjiniyela

(d) Ngokomlayelo wokubhidliza ususe noma uguqule isakhiwo noma uhlaka lwesakhiwo noma umsebenzi owakhiwe noma omisiwe ngokungemthetho

(e) Ngokomlayelo wokuhlamelelisa lowomhlaba othintekayo; noma

(f) Noma yikuphi ukuvimbela okufanelekile noma isinyathelo sokuvuselela/sokulungisa

Ubudlelwane phakathi kwezilungiso ezihlelelwe kulomtheshwana kanye nezinye zomthetho noma izilungiso zomthetho ezijwayelekile

97. Izilungiso ezihleliwe zalomtheshwana ziyizengezo kunoma yimuphi umthetho noma umthetho owejwayelikile wobelelesi noma izilungiso zokuphucuzeka uMkhandlu noma umuntu angazithola zisethubeni lokuzisebenzisaka

Ukuchaywa kwesaziso esithi okwenziwa kulomhlaba akukho emthethweni

98. UMkhandlu kumele uchaye isaziso kumhlaba, uma uthole isivimbeleo sesikhashana noma esigcwele ukuvimbele ukusebenzisa umhlaba noma ukwakha isakhiwo okuphikisana nalo Mtheshwana, uhlelo lokusetshenziswa komhlaba noma umgomo oovimbelayo ebunikazini noma egunyeni eligodliwe okubhaliswe kuphikisana nalomhlaba, kubalula ukuthi.

(a) umsebenziwe obhaliwe kwisaziso awuvumelekile ukwenziwa

(b) umlayelo wesikhashana noma ogcwele utholakele ukuvimbela ukuqhubeka lwalomsbenzi

(c) ukuthi noma ubani oqhubekayo nokwenza okuthile angabekwa icala; futhi

(d) noma ubani oqhubekayo nokwenza okuthile kulowomhlaba uzohlawuliswa inhlawulo engeqile ku R1 000 000 noma agwetshwe ejele isikhathi esingeqile onyakeni owodwa noma agwetshwe kokubili ukuhlawuliswa aphinde adonse ejele.

Abantu abangaya eNkantolo eNkulu befuna amalungelo okugcinwa komthetho anikezwe uMthetho, uhlelo lokusetshenziswa komhlaba olwamukelwa ngokwemigomo yaloMtheshwana noma umkhandlu ohlelayo ugunyaze ngokomthetho ngokomgomo waloMtyheshwana kusetshenziswe

99. Umuntu omangalela ukuthi ilungelo elinikezwe yiloMtheshwana, uhlelo lokusetshenziswa komhlaba noma imvume ngokwaloMtheshwana kuphuliwe noma kusengcupheni yokuphulwa ngomunye umuntu noma uhlaka lombuso, angaya eNkantolo eNkulu eyofuna ukwaphulwa, esigamekweni lapho ekwenza lokhu

(a) ngokubona kwakhe futhi ezithandela

(b) emele omunye umuntu ongeke akwazi ukuzenzela yena ngokwakhe

(c) njengelungu, ngokuzithandela, kweqembu labathile noma isigaba sabantu abathile;

(d) emele inhlangano futhi ngenhloso yamalunga ayo

(e) noma emele izinhhloso zomphakathi

Ingxenye 3: Okulandela isicelo somkhandlu ohlelayo imvume

Okulandela isicelo somkhandlu ohlelayo imvume

100. (1) umuntu angafaka isicelo somkhandlu ohlelayo onemvume njengokuchasiswa kwisigaba 46, noma kungukuthi

(a) eke wabekwa icala ngokwesigaba 87(1) noma

(b) ngokomlayelo wenkantolo okuchasiswe kwisigaba 96(2)

(2) Uma uMkhandlu uvumela isicelo esilandelayo somkhandlu ohlelayo novumelayo , kumele ubeke umbandela

(a) wokuthi ofake isicelo, zingakapheli izinsuku ezingu 30 emva kokukhishwa kwesaziso sokugunyazwa, akhokhele uMkhandlu ngokwelungelo inhlawulo yenani, elingengaphansi kokuhlanu ekhulwini futhi kungabi bgaphezu kokwekhulu ekhulwini ngokwenani lesakhiwo, sokwakha, ubunjiniyeli, ukumba noma okumayelana nacho, okwenziwe ngokungekho emthethweni kulandela isicelo esimayelana nnesicelo somkhandlu ohlelayo

(b) ukuthi isiceo siphelelwe yisikhathi, lapho kudlula isiskhathi esikhonjiwe kusigaba (a) imali eyinhlawulo ingakhokhiwe ngokugcwele.

(3) uMkhandlu ungayithalalisa inhlawulo ngokuhlaleka ukuthola kuqala imvume emeyelana nokuthobele ukuzuza komphakathi ngokuhla okubhalise ngokomgomo wesigaba 30 soMthetho wentela (Act No. 58 of 1962)

Ingxenye 4: Icala nokungaziphathi ngendlela komphathiswa evumela ukusetshenziswa komhlaba noma ukhwakha isakhiwo noma ephikisana noMthetho, nohlelo lokusetshenziswa komhlaba noma umbandela ovimbelayo noma wobunikazo noma wegunya eligodliwe elibhaliswe ngomhlaba.

Icala nokungaziphathi ngendlela komphathiswa oqashwe uhlaka lombuso ovumela ukwakhiwa kwezakhiwo noma ukusetshenziswa komhlaba ngaphambi kokunikezwa imvume ngokoMthetho

101. (1) Umphathiswa uyobanecala kwephula umthetho nokungaziphathi ngendlela

(a) uma egunyaza ukusetshenziswa komhlaba, ukwahlikanisa umhlaba, ukuhlanganisa umhlaba, ukwakhiwa kwelokishi, ukubopha umhlaba owakhelene ngomthetho noma ukwakhiwa kwezakhiwo kunhlaba umkhandlu ohlelayo ugunyaze ungamnikanga imvume njengokudingeka ngokusho kwaloMtheshwana

(b) uma evumela ukusetshenziswa komhlaba, ukwahlukaniswa komhlaba, ukuhlanganiswa komhlaba, ukwakhiwa kwelokishi, noma ukubopha umhlaba owakhelene ngokomthetho noma ukwakhiwa kwezakhiwo okuphikisana nokuhlinzekwa kohlelo lokusetshenziswa komhlaba

(c) uma evumela ukusetshenziswa komhlaba, ukwahlukaniswa komhlaba, ukuhlanganiswa komhlaba, ukwakhiwa kwelokishi, noma ukubopha umhlaba owakhelene ngokomthetho noma ukwakhiwa kwezakhiwo okuphikisana noMkhandlu ngesinqumo somkhandlu ohlelayo onegunya wesigaba 54 noma isinqumo soMkhandlu oHlelayo uBuyekeze oneGunya ngokwesigaba 78

(d) uma evumela ukusetshenziswa komhlaba, ukwahlukaniswa komhlaba, ukuhlanganiswa komhlaba, ukwakhiwa kwelokishi, noma ukubopha umhlaba owakhelene ngokomthetho noma ukwakhiwa kwezakhiwo okuphikisana nomgomo ovimbelayo ebunikazini noma kwigunya eligodliwe; noma

(e) noma uma umphathiswa eqinisekise ukuthi umgomo wemvume kumkhandlu ohlelayo ogunyaziwe ilaleliwe kwahanjiswana nayo, ekubeni kungenjalo

(2) Umphathiswa uyoba necala ngokwalesisigaba, noma wabe enolwazi noma wabe engenalo lokuthi igunya lifuneka ngaphambi kokuba lesisakhiwo sakhiwe ngokwaloMtheshwana.

(3) Umphathiswa olahlwe yicala ngokwalesisigaba ufanele ukuhlawuliswa ngokulahlwa yicala inhlawulo engeqile ku R1 000 000 noma agqunywe ejele isikhathi esingeqile kunyaka owodwa noma agwetshwe kokubili ukuhlawuliswa nokudonsa ejele

(4) Umphathiswa onecala lokungaziphathi kahle ngaphansi kwalesisigaba angaqondiswa izigwegwe njengokulayela kohlelo lokuqondisa izigwegwe lomqashi wakhe noma isgungu esilawula umsebenzi wakhe

(5) kungukuzivikela komphathiswa olahlwe ngecala lomgomo walesisigaba uma kungavezwa ngokusobala ukuthi umphathiswa wakwenza lokhu ngokuphuthuma ukuphephisa ukuphila komuntu, kendawo noma imvelo.

Icala lomnikazi lokwehluleka ukufaka imidwebo, izinhlelo ezingumdwebo nezincwadi ezingubufakazi kuMdabuli Omkhulu emva kokwesulwa okwesikhashana noma ngokugcwele komkhandlu ohlelayo onegunya ukwahlukaniswa noma ukuhlanganiswa komhlaba noma ukwakhiwa kwelokishi

102. (1) Umnikazi unecala lokwephula umthetho , uma umnikazi ehluleka ukuqinisekisa ukuthi imidwebo, izinhlelo zokuhlela ezidwetshiwe, nezinye izincwajana uMdabuli jikelele azidingayo ekwesuleni okesikhashana noma ngokugcwele kemvume yomdwebo ogunyaziwe noma uhlelo jikelele lokuhlakaniswa noma lokuhlanganiswa komhlaba noma lokwakhiwa kwelokishi kufakiwe kuMdabulijikelele, zingakapheli izinyanga eziyisithupha ngemuva kokucishwa noma ukucishwa okwesikhashana umkhandlu ohlelayo onegunya

(2) Umnikazi onecala ngokwalesisigaba umele ukuhlawuliswa ngokulahlwa yicala ahlawuliswe inhlawulo engeqile kuR1 000 000 noma adonse ejele isigwebo esingeqile kunyaka owodwa noma agwetshwe kokubili ukuhlawuliswa imali nokudonsa ejele.

Icala ngumnikazi lokwehluleka ukufaka izincwadi zobunikazi, izinhlelo ezidwetshiwe noma izincwadi kuMgcinimbiko wezoBunikazi emva kokucishwa noma ukucishwa kesikhashana komkhandlu ohlelayo onegunya ukwahlukaniswa noma ukuhlanganiswa komhlaba noma ukwakhiwa kwelokishi

103. (1) Umnikazi uyobanecala ngokusemthethweni, uma umnikazi ehluleka ukuqinesikisa ukuthi zonke izincwadi zobunikazi, nemidwebo yokuhlela nezincwadi zobufakazi ezidingwa uMgcini mbiko wezoBunikazi ukuze alungise okuqoshwe koMgcinimbiko wezoBunikazi ezithintekile mayelana nokwesulwa noma ukwesula okwesikhashana kwomkhandlu ohlelayo ongunya ukwehlukanisa noma ukuhlanganisa umhlaba noma ukwakhiwa kwelokishi kufakwe kuMgciniMbiko wezoBunikazi zingaka pheli izinyanga ezintathu emva kokuba uMdabulijikelele elungise okuqoshiwe kweHhovisi loMdabulijikelele ukuthi kubonise ukesulwa noma ukwesula kwesikhashana komkhandlu ohlelayo onegunya.

(2) umnikazi onecala ngokwalomgomo walesisigaba lapho eselahlwe yicala unokuhlawuliswa inhlawulo engeqile kuR1 000 000 noma agqunywe ejele isikhathi esingeqile unyaka owodwa noma agwetshwe kokubili ukuhlawuliswa nokugqunywa ejele.

ISAHLUKO 8
ISINXEPHEZELO

Isinxephezelo esivuka esiphakamisweni soMkhandlu sokufaka phakathi umhlaba onobunikazi obuzimele ngenhloso eyenza kungenzeki ukuthuthukisa noma iyiphi ingxenye yawo

104. (1) Uma uMkhandlu ufaka umhlaba phansi kwawo ngokubona kwawo beselokho kwenza ukuthi lowomhlaba ungasebenziseki, umnikazi womhlaba angafaka isicelo sokunxephezelwa kuMkhandlu

(a) kungakapheli iminyaka emithathu ukusuka osukwini lokusebenza kwesinqumo soMkhandlu

(b) ngokwezinga elifinyelela ekutheni umnikazi akakaze athole isinxephezelo ngokulahlekelwa ukusebenzisa lowomhlaba

(2) uMkhandlu ungachibiyela isihlinzeko sokuhlela ukusetshenziswa komhlaba esivimbela umnikazi womhlaba ukuthuthukisa ingxenye ethize yomhlaba, zingakapheli izinyanga ezisithupha emva kokuba umnikazi womhlaba efake isicelo sokunxephezelwa , ukuze kugwenywe ukufaneleka kokuhlawulwa ngokukhokhelwa

(3) Uma uMkhandlu usumnxephezele umnikazi womhlaba ngokwangaphansi kwalesisigaba, kumele uthathe isindluliselo salowomhlaba othintekayo.

Ukunxeshezelwa okubangelwa ukususwa, ukuchibiyelwa noma ukumiswa komgomo ebunikazini

105. (1) Umuntu othole ukulahlekelwa noma umonakalo, omhlaba wakhe noma ilungelo lempela lomhlaba lithunubezekile ngenxa yokususwa, ukuchibiyelwa noma ukuguqulwa kombandela ebunikazini ngokesigaba salomtheshwana, angafaka isicelo sesinxephezelo kulowomuntu, okuthe ngesikhathi sokususwa, sokuchibiyela noma sokumiswa kombandela wobunikazi, wayengumnikazi womhlaba owathweswa ngombandela wobunikazi

(2) Isicelo sesinxephezelo sime ekutheni umfakisicelo akakaze asithole isinxephezelo ngaphambili, futhi kumele sifakwe ingakapheli iminyaka emithathu emuva kosuku lokuchibiyelwa , lokumiswa noma lokwesulwa.

Isinxephezelo esivela ngokuvalwa ngokuphelele komgwaqo womkhandlu noma kwendawoyomphakathi nguMkhandlu

106. (1) Noma yimuphi umnikazi womhlaba, othole ukulahlekelwa noma ukulimala ngenxa yokuvalwa komgwaqo womkhandlu noma kwendawo yomphakathi angafaka isicelo sokunxeshezelwa nguMkhandlu

(2) Isicelo sokunxephezelwa

(a) silinganiselwa kwizinga elingukuthi umfakisicela akakaze athole sinxephezelo

(b) sifakwe ingakapheli iminyaka emithathu emva kokuvalwa komgwaqo womkhandlu noma indawo yomkphakathi nguMkhandlu

Inani lokunxeshezelwa

107. (1) Kumele inani lokunxeshezelwa kuvunyelwane ngalo phakathi

(a) umfakisicelo nomnikazi womhlaba ngokuphumezisa ngokombandela ovimbelayo ebunikazini noma kwigunya eligodliwe owaguqulwa, owamiswa noma owasulwa

(b) umfakisicelo noMkhandlu noma ngasiphi esinye isicelo sokunxephezelwa ngokwalesisaHluko

(2) Uma kwenzeka ukuthi lamaqembu awavumelani ukuphetha lesisivumelwano sokunxephezelana ungakapheli unyaka owodwa, inkantolo isinganquma ngenani lokunxephezelana.

ISAHLUKO 9

UKUTHUNYELWA KWEZINCWADI ZOBUFAKAZI

Ukuthunyelwa kwesincwadi zobufakazi

108. (1) Noma iziphi izincwadi zobufakazi ezidinga ukuhanjiswa , kunoma ubani, ngaphandle kukaMgcinimbiko woMkhandlu oHlelayo no Mgcinimbiko woMkhandlu oHlelayo oBUkezayo Onegunya angathunyelwa

(a) ngokuzihambisa ngesandla kulowo muntu

(b) ukuzinikezela ngesandla kumuntu obudala kawkhe bungaphezulu kweminyaka eyishumi nesithupha okungaba ukuthi usebenza noma uhlala kulelo kheli lobhalelwe

Ngokuzithumela ngempumelelo ngezinto zobuchwepheshe kukheli le email noma ngesikhahlamezi salowomuntu

Ngokuthumela lezincwadi zobufakazi ngeposi eliding ubufazi bokuzithola noma nge email edinga isiqinisekiso sokuthi uyifundile

Noma ngokunamathisela lamaphepha obufakazi emnyango ongaphandle noma emnyango omkhulu walowo othunyelelwe noma lapho endaweni yakhe yekusebenzela

(2) Ukuhanjiswa kwezincwadi zobufakazi kungethiwa akunasisindo ngoba ngombono wobhalelwe engazitholanga

(a) Incwadi yobufakazi yalethwa ngesandla kulowomuntu omyaka yakhe ingaphezulu kweshumi nesithupha ekhelini lokuhlala lalowo othunyelelwe

(b) Incwadi yobufakazi yathunyelwa ekhelini eliyilo le email noma kwinombolo yesikhahlamezi okuyiyo yalowo othunyelelwe

(c) Incwadi yobufakazi yathunyelwa ngeposi eliding ubufakazi bokuyithola noma ukusayina okuqinisekisa ukuyithola kwalowo obhalelwe

(d) Incwadi efanayo naleyo yobufakazi eyanamathiselwa emnyango ongaphandle noma emyango omkhulu wombhalelwa noma endaweni asebenzela kuyo

(3) Isaziso kunoma ubani onegunya lokusayina kuhla lwezikhalazo oluhlanganisile noma omele iqembu, anganikezelwa ukuba

(a) lowo ogunyaziwe omele abasayinayo umangabe uhla lwezikhalazo, noma ukumelelwa kufakwa umuntu othi unegunya lokumela; noma

(b) ogama lakhe liseqhulwini kwincwadi yobufakazi uma engekho othi nguyena futhi onegunya lokumela abasayinayo.

(4) Uma isaziso esiya kwabasayinayo kuhla lweziphakamiso noma iqembu elimele liqukethe isazizo esiya kumuntu ngamunye obhaliwe kulololuhla lweziphakamiso noma omele iqembu

Ukuhanjiswa kwezincwadi zobufakazi kuMgcini mbiko woMkhandlu oHlelayo

109. Noma iyiphi incwadi edinga ukuhanjiswa kuMgcinimbiko woKhandlu oHlelayo ingahanjiswa

(a) ngokuyihambisa ngesandla kuMgcinimbiko woMkhandlu Ohlelayo noma kuSekela Mgcinimbiko woMkhandlu Ohlelayo

(b) ngokuthumela ngempumelelo ngezobuchwepheshe incadi yobufakazi

(i) kwikheli le email noma kwinombolo yesikhahlamezi yoMgcinimbiko woMkhandlu oHlelayo; noma

(ii) kwikheli le email noma kwinombolo yesikhahlamezi soMphathi woMkhandlu

(c) Ngokuthumela ngeposi incwadi yobufakazi edinga ubufakazi bokuthi itholiwe noma esayinelwayo lapho inikezelwa

(i)Ekhelini leposi loMgcinimbiko woMkhandlu oHlelayo
(ii)ekhelini leposi lMphathi woMkhandlu

Ukuthunyelwa kwezincwadi zobufakazi kumgcinimbiko woMkhandlu Ohlelayo Ubuyekeze OneGunya

110. Noma iyiphi incwadiyobufakazi edinga ukuthunyelelwa kuMgcinimbuko woMkhandlu oHlelayo Obuyekazayo oneGunya kumele uhanjiswe

(a) ngokuyihambisa ngesandla kuMgcinimbiko woMkhandlu Ohlelayo uBuyekeze oneGunya noma kuMgcinimbiko woMkhandlu Ohlelayo uBuyekeze Onqumayo

(b) ngokuhambisa ngempumelelo ngobuchwepheshe incwadi yobufakazi

(i) kukheli le email noma lenombolo yesikhahlamezi soMgcinimbiko woMkhandlu Ohlelayo uuyekeze OneGunya

(ii) kwikheli le email noma lenombolo yoMphathi woKhandlu

Usuku okuhanjiswe ngalo izincwadi zobufakazi

111. (1) uma ukuhanjiswa kwencwadi yobufakazi kwenziwe ngokuyihambisa ngesandla kulowo eya kuye kumele kuthathwe usuku eyahanjiswa ngalo njengosuku lokuqala ukusebenza kwaleyoncwadi

(2) Uma incwadi ihanjiswe kumuntu oneminyaka engaphelu kweshumi nesithupha kufanele kuthathwe ngokuthi incwadi yahanjiswazingakapheli izinsuku ezingu14

(3) uma incwadi ihamjiswe ngempumelelo ngezobuchwepheshe kwikheli le email, noma kwinombolo yesikhahlamezi yalowo ethunyelwa kuye , usuku eyathunyelwa ngalo kufanele luthathwe njengosuku okwathunyelwa ngalo izincwadi.

(4) Uma incwdi yobufakazi yathunyelwa ngeposi lesithikithane noma ngokuthi isayinelwe lapho ifikayo, kufanele kuthathwe njengokuthi lowomsebenzi wokuyithumala wenzeka zingaka pheli izinsuku ezingama 21 ithunyeliwe, kungabalwa noma yafika nini noma lalandwa nini iposi.

ISAHLUKO 10

IZITHUNYWA KANYE NEZIVUMELWANO ZABAMELELE

Izivumelwano zokumelelwa eziphakathi kwemikhandlu ukwenza imisebenzi ngokomgomo woMthetho

112. (1) UMkhandlu emva kokuba ususebenzisile isilinganiso ozokkwahlulela ngaso esibalulwe kwisigaba 78 soMthetho sokuSebenza koMkhandlu, ube usungena kwisivumelwano nowodwa noma neminye imMikhandlu okuhlanganisa noMkhandlu wesiFunda ngomthetho wokuthi lona osanda kukhulunywa ngawo uzosebenzisa amandla njengomeleleuMkhandlu, noma maphi amandla ngokwalomtheshwana

(2) Isivumelwano nommeleli kumele sicacise ngokusobala amandla anikezelwe kumkhandlu ongummeleli nemithetho nemibandela okuzothi ngaphansi kwayo isebenzise amandla awo.

(3) Amandla asetshenziswa umkhandlu ongummeleli ngokomthetho wesivumelwano sokumela kufanele athathwe njegamandla omkhandlu.

(4) UMphathi woMkhandlu kumele agcine amaphepha afanayo esivumelwano esiphakathi kwemikhandlu ngenhloso yokuqhuba umsebenzi ngokwaloMtheshwana.

Isivumelwano sommeleli kunye nesigungu sendabuko

113. (1) UMkhandlu ungangena kwisivumelwano nesigungu sabendabuko ngokomthetho ngokomgomo lapho osandakubalulwa ezosebenzisa amandla, njengomeleli womkhandlu, noma yimaphi amandla awo ngokwa loMtheshwana; ngaphandle uma

(a) ngaphandle uma amandla alowomuntu owasebenzisayo edinga ukuba ngokukhethekile abe oqeqeshiwe futhi ebhalisiwe yinhlangano yalowomsebenzi aqeqeshelwe wona; futhi

(b)enamamndla okunquma ngesicelo somkhandlu ohlelayo ongunzayo

(2) Isivumelwano sommeleli kumele ngokucacile sibalule amandla anikezwe kusigungu sabendabuko nemigomo lawo mandla asetshenziswe ngaphansi kwawo

(3) Amandla asetshenziswa isigungu sabendabuko ngokomthetho wesivumelwano kumele athathe njenge mandla asetshenziswa uMkhandlu.

(4) UMphathi woMkhandlu kumele agcine amaphepha afanayo esivumelwano esiphakathi koMkhandlu nesigungu sabendabuko ukwenza imisebenzi ngokomgomo waloMtheshwana.

Ukuthunywa ngokoMkhandlu

114. (1) Isigungu zoMkhandlu singethumelelwe kulamandla alandelayo

(a) amandla okunquma ngesicelo somkhandlu ohlelayo onegunya; ukuthi

(i) ukuba kwanmukelwe ngokusemthethweni uhlelo lokusetshenziswa komhlaba

(ii) ukuchibiyelwa kohlelo lokusetshenziswa komhlaba oludinga isichibiyelo kwisigatshana sohlelo lokusetshenziswa komhlaba

(iii) ukwesulwa kohlelo lokusetshenziswa komhlaba

(iv) ukuguqula okubalulekile kwisinqumo soMkhandlu ukwamukela ngokomthetho uhlelo lokusetshenziswa komhlaba noma ukuguqula iscaphuno sithize kuhlelo lokusetshenziswa komhlaba

(b) ukuqokwa kwamalungu oMkhandlu oHlelayo oNqumayo

(c) ukubheka ngemibandela ngaphansi kwayo ilungu loMkhandlu Ohlelayo onQumayo elizobenza kuyo

(d) ukususwa kwelungu loMkhandlu Ohlelayo onQumayo

(e) ukuqokela kuSihlalo neSekela sihlalo loMkhandlu oHlelayo onQumayo

(f) ukuqokela uSihlalo, uma uSihlalo neSekelasihlalo boMkhandlu Ohlelayo onQumayo bengakwazi ukusebenza

(2) Amandla agidlabezwe phezu-

(a) koMkhandlu oHlelayo onQumayo

(b) uSihlalo woMkhandlu oHlelayo onQumayo

(c) uMlawuli oqokwe nguSihlalo woMkhandlu oHlelayo onQumayo

(d) ilungu loMkhandlu oHlelayo Onqumayo olilungu loMhleli oBhalisiwe, ummeli noma ummeli wasemaJajini.

(e) uMgcinimbiko oNqumayo; noma

(f) uMphathiswa woMkhandlu oHlelayo OneGunya

Angephathiswe, ngaphandle uma uMthetho ukubeke ngenye indlela

(3) uMkhandlu ungaphathisa noma yimaphi amandla onikwe wona nkokomgomo walomtheshwana, ngaphandle kwamandla onikwe wona kwizigatshana (1) no (2)

(a) kwikomiti loMkhandlu elakhiwe ngokwezigaba60(1)(a), 61(2), 71 noma 79(1)(a) soMthetho weziNhlaka zoMkhandlu; noma

(b) kumphathiswa oqashwe nguMkhandlu

(4) amandla noma umsebenzi

(a)ungaphathiswa koyedwa noma abangaphezulu umsebenzi

(b) phathiswa umuntu obizwe ngegama noma umphathi sikhundla noma umphathiswa

(c) ungaphathiswa ngaphansi kwemibandela ethize noma izithiyo lezo umkhandlu oyozibona zifanelekile

(d) okungathi noma nini ahoxiswe noma achibiyelwe ngokubhalwe phansi nguMkhandlu

(5) Isithunywa asivumelekile

(a) ukuvimbele uMkhandlu ukuba usebenzise lawomandla noma ukwenza umsebenzi

(b) ukukhulula uMkhandlu ukuthi ungabe usaphendula ngokusebenzisa kwawo amandla noma ukwenza umsebenzi wawo

(6) Isenzo esenziwe isithunywa sinamandla alinganayo namandla enziwe uMkhandlu
(7) Amamndla enziwe isithunywa esigunyaziwe, esiwenze ngokwamandla esiwanikiwe, sihlala sisebenza asithenwa amandla izizathu zokuthi
(a) isiGungu soMkhandlu sesikhethe ukuzenzela noma ukusebenzisa amandla aso ukwenza lokho
(b) ukuchibiyelwa noma ukuhoxiswa kokuthunywa
(8) ukuthunywa ngokwalomgomo walesisigaba
(a) kumele kubhalwe phansi
(b) kumele kube nalemininingwane
(i)udaba oyisithunywa kulo
(ii) imibandela owenziwe isithunywa ongaphansi kwayo

(9) uMkhandlu ungayichibiyela noma inini imigomo owenziwe isithunywa ngayo noma ikuhoxise ukuba isithunywa ngokwemigomo yalesisigaba

(10) UMphathi woMkhandlu kumele agcine okufanayo kwayoyonke imigomo yokuthunywa ngokwalomtheshwana

(11)Noma isiphi isenzo esenziwe ngokwamandla anikezwe kuMkhandlu ngokwalomtheshwana esenziwe ngaphandle kwegunya elifanelekile singachithwa

ISAHLUKO 11
UKUGCINWA KOKUQOSHIWE NOKUTHOLA ULWAZI

Okuqoshiwe kohlelo lokustshenziswa komhlaba
115. Izigatshana nemidwebo zezinhlelo sokusetshenziswa komhlaba zoMkhandlu kumele njalo mhla 1 Janawari nango 1 Julayi onyakeni zilungiswe zihambisane nalowonyaka ukukhombisa izichibiyelo zohlelo lokusetshenziswa komhlaba ezenziwe kulezonyanga eziyisithupha ezendlule.

Izicelo eziqoshiwe zomkhandlu ohlelayo ezinemvume
116. (1) uMkhandlu kumele ugcine umbiko wazozonke izicelo somkhandlu ohlelayo onemvume
(2) uMkhandlu kumele mawugcine komke okufanayo okuyizincwadi zobufakazi lezi umphakathi onelungelo lokuzithola lapho ufuna ukuzibona njengokwesigaba 120 no 122.

Isaziso sokuvumela isu elidwetshiwe lobunikazi lesakhiwo esihlukanisiwe, nemidwebo nesujikelele
117. UMdabulijikelele kumele azise uMkhandlu ngokubhala zingakapheli izinsuku eziyi 14 emuva kokuvuma kukaMdabulijikelele ngalamasu alandelayo
(a) isu elidwetshiwe lezahlukaniso ngokomgomo wasigaba 7(4) soMthetho woBunikazi wezabelo.
(b) isu elidwetshiwe lokuhlakaniswa kweziqeshana zokuhlanganiswa zesigaba 21(3) soMthetho wezobunikazi bezabelo
(c) isu elidwetshiwe lokwelula lesabelo njengokewsigaba 24(4) soMthetho woBunikazi bezabelo
(d) isu elidwetshiwe lokwelulwa kwesabelo sohlelo ngokunezelela izigaba nezindawo ezikhethekile njengokwesigaba 25(8) soMthetho woBunikazi Bezabelo
(e) umdwebo noma isu lomdwebo jikelele elinemvume ngokwesigaba 6(1)(b) soMthetho wezokuDabula umhlaba; noma
(f) ukulungiswa komdwebo okubhalisiwe okuthinta ukwakhelwa umhlaba ngokwesigaba 36 soMthetho wokuDabula umhlaba

(g) isinciphiso noma isichibiyelo sesu jikelele elidwetshiwe esthinta umhlaba owakhelwe ngokwesigaba 37 soMthetho wokuDabula uMhlaba.

Isaziso sokunikelwa komhlaba ngokomgomo womthetho wendabuko

118. (1) Umkhandlu wendabuko kumele wazise uMkhandlu ngokubhala zingakeqi izinsuku ezi 14

(a) noma yikuphi ukunikelzela ngomhlaba ngokomthetho wendabuko

(b) noma yikuphi ukubuyiselwa komhlaba ngokomthetho wedabuko

(2) Isigungu sabaHoli bendabuko kumele sihlinzeke uMkhandlu ngemininingwane yokuxhumana yomuntu lowo osenikelwe umhlaba noma osebuyiselwe umhlaba.

Ukufinyelela kulwazi oluphethwe uMgcinimbiko woMkhandlu oHlelayo

119. Lokhu okulandela okuqoshiwe okuphethwe nguMgcinimbiko woMkhandlu oHlelayo kumele kuthathwe njengokuqoshiwe okuvele kutholakale njengokomgomo wesigaba 15 soMthetho oGqugquzela ukufinyelela kuLwazi –

(a) lohlelo lokusetshenziswa komhlaba kwisigaba 40(1)

(b) isicelo somkhandlu ohlelayo onemvume esikwisigaba 46 noma isiphakamiso somkhandlu ohlelayo nguMkhnadlu ngokwesigaba 73;

(c) ubufakazi bokuthi isicelo sasifaka isaziso somkhandlu ohleayo onemvume ngokwesigaba 11(1) soHlu 4

(d) ukuphawula okutholwe nguMkhandlu kuphendulwa kwisimemo sokuphawula somkhandlu ohlelayo onemvume ngokwesigaba 11(1) soHlu 4

(e) ukuhlolisisa koMgcinimbiko woMkhandlu oHlelayo nezincomo zesicelo somkhandlu ohlelayo onemvume ngokuhambisana nomgudu wasicelo ngokwesigaba 13(2)(d) so Hlu 4

(f) ukuhlolisisa nokuncoma koMhleli Obhalisile kwisicelo somkhandlu ohlelayo onemvume ngokwesigaba 16(2) woHlu 4

(g) isincomo soMkhandlu oHlelayo onQumayo kwisicelo somkhandlu ohlelayo onemvume, uma isicelo kuyisicelo

(i) sokwamukela ngokusemthethweni uhlelo lokusetshenziswa komhlaba

(ii) uma kuyisichibiyelo sohlelo lokusetshenziswa komhlaba esidinga ukuchibiyelwa kwebinzana kuhlelo lokusetshenziswa komhlaba

(iii) ukwesulwa kohlelo lokusetshenziswa komhlaba

(iv) ukuguqula okubalulekile kwisinqumo sesiGungu soMkhandlu ukwemukela ngokusemthethweni uhlelo lokusetshenzisaw komhlaba noma ukuchibiyela ibinzana kuhlelo lokusetshenziswa komhlaba

Ngokuchachiswa kokuku 18 wo Hlu 4

(h) okuNqunyiwe okuQoshwe kumqulu wezinqumo woMkhandlu oHlelayo Onegunya Ogunyaziwe esicelweni ngokwesigaba 55; futhi

(i) ukuthalalisa komfaki sicelo ilungelo lakhe lokufaka isibuyekezo esibhekene nesinqumo soMkhandlu oHlelayo oGunyazayo oneGunya esicelweni somkhandlu ohlelayo njengokwesigaba 58(a)(ii).

Ukufinyelela kulwazi olugcinwe nguMgcinimbiko woMkhandlu oHlelayo uBuyekeze oneGunya

120. Lokhu okulandelayo okuqoshiwe okugcinwe nguMgcinimbiko woMkhandlu oHlelayo uBuyekeze oneGunya kumele kuthathwe njengokuqoshiwe okutholakala lula njengokusho kwesigaba 15 soMthetho oGqugquzela ukutholakala koLwazi

(a) okuqoqiwe kwezibuyekezo ngokwesigaba 1(1) soHlu 10

(b) okuqoqiwe kwezimpendulo ngokwesigaba 2(1) loHlu 10

(c) ukuhoxiswa kwesibuyekezo ngokwesigaba 4(1) soHlu 10

(d) ukuhoxiswa kwabaphikisana nesibuyekezo njengokwesigaba 4(2) soHlu 10

(e) incwadi ebizela enkantolo umuntu emcela ukuba azofakaza noma alethe amaphepha obufakazi kwisiza okuhlolwa kuso noma lapho kulalelwe khona isibuyekezo nkokwesigaba 6(1) so Hlu 10
(f) incwadi ebizela umuntu enkantolo ukufaka amaphepha obufakazi kuMgcinimbiko woMkhandlu oHlelayo oBuyekezayo oneGunya njengokwesigaba 7(1) woHlu 10
(g) amaphepha obufakazi okubuyekeza aqoqiwe ngokwesigaba 9(3) wo Hlu10
(h) isaziso ngendawo okuzohlolelwa kuyo nkokwesigaba 12(4) woHlu 10
(i) isaziso ngesicelo sokulalela isibuyekezo ngokwesigaba 13(1) woHlu 10
(j) isicelo sokufaka emva kwesikhathi okuqoqiwe kwezibuyekezo ngokwesigaba 1 soHlu 11
(k) ukuphikisana nokufakwa kwesicelo sokubuyekeza emva kwesikhathi ngokwesigaba 2 woHlu 11
(l) isinqumo ngesicelo sokufaka emva kwesikhathi okuqoqiwe kwesicelo sokubuyekeza njengokwesigaba 4 soHlu 11
(m) isinqumo esiphuthumayo esithi isicelo sokubuyekeza sinesisindo noma ukuvumela okungagcwele kokuqala kokusebenza kwesinqumo esivumela isicelo somkhandlu ohlelayo onegunya njengokwesigaba 1 soHlu 12
(n) ukuphikiswa kwesinqumo esiphuthumayo sokuqinisekisa ukuthi isicelo sinesisindo noma sokuvumela ukuqala kokusebenza okungagcwele kwesinqumo esigunyaza isicelo somkhandlu ohlelayo onegunya ngokwesigaba 2 soHlu 12
(o) isinqumo esiphuthumayo esiqinisa ukuthi isicelo sokubuyekeza asinasisindo noma ukuqala kokusebenza kwengxenye yesicelo esigunyaza isicelo somkhandlu ohlalayo onegunya njengokwesigaba 5 soHlu 12
(p) isinqumo soMkhandlu Ohlelayo uGunyaze Onegunya esikwisigaba 78(4)
(q) izizathu ezibhaliwe zesinqumo soMkhandlu Ohlelayo uBuyekeze oneGunya ngokwesigaba 79(1)
(r) uhla olubhalisiwe lwezibuyekezo njengokwesigaba 86(2)

Ukufinyelela kulwazi oluphethwe nguMphathi woMkhandlu

121. (1) Lokhu okuqoshiwe okulandelayo okugcinwe nguMphathi woMkhandlu kumele kuthathwe njengokuqoshiwe okungavele kutholakale kalula njengokwesigaba 15 soMthetho oGqugquzela ukuTholakala Kolwazi

(a) uhla olubhaliwe lokulangazela kwamalungu Omkhandlu Ohlelayo oGunyazayo oneGunya, uMkhandlu oHlelayo uBuyekeze oneGunya kunye noMkhandlu oHlelayo Wokugcinwa komthetho oneGunya njengokusho kwesigaba 33(3);

(b) Isivumelwano nommeleli sokwenza umsebenzi ngokomgomo waloMtheshwana njengokwesigaba 112(4)

(c) okuqoshiwe okuhambisana nesikhathi kwazozonke izithunywa ngokwalomtheshwana njengokwesigaba114(10)

CHAPTER 12
IZIHLINZEKO JIKELELE

Ukumenyezelwa komhlaba njengomhlaba wokuhlala ngendlela engahleliwe ngumphakathi wendabuko noma abampofu abahlala kusakhiwo

122. (1) UMkhandlu ungamemezela umhlaba njengomhlaba wokwakha kuwo ngendlela engahleliwe ngumphakathi wendabuko noma abampofu uma –

(a) umhlaba unabahleli kuwo noma ubekelwe ukuhlala kuwo ngabathathu noma ngaphezulu abampofu
(b) abampofu babekiwe kulomhlaba noma bazobekwa kuwo ngendlela engahleliwe

(c) iningi labampofu ababekiwe kulomhlaba noma abazobekwa kulomhlaba ngeke bakwazi ukuhambisana nemigudu yesicelo ebalulwe kuhla 4
(d) uMkhandlu usukhethe ngokusemthethweni lowomhlaba ukuwufaka oHlelweni lokuThuthukisa lapha nalapha uMhlaba njengomhlaba okusetshenziswa kwawo ngenqubo yentuthuko kufinqiwe njengokuchchisa kwesigaba 21(l)(ii) wokuThurhukisa umhlaba lapha nalapha noMthetho oweNgamele ukuSetshensiswa koMhlaba.

(2) Umkhandlu kumele wenze umdwebo walomhlaba osukhethelwe ukuhlalisa kuwo ngendlela engahleliwe umpakathi wendabuko noma abampofu

(3) UMkhandlu kumele ushicilele kwisiza sawo internet
(a) isinqumo sawo sokumemezela ukuthi lowo mhlaba usungumhlaba wokwakhelwa ngendlela engahleliwe ngumphakathi wendabuko noma abampofu
(b) wenze umdwebo walowomhlaba osumenyezelwe ukhwakhelwa ngendlela engahleliwe ngumphakathi wendabuko noma abampofu

Ukubalwa kwezinsuku

123. (1) Uma loMtheshwana ubalula isikhathi sokwenza okuthile, kumele kubalwe inani lezinsuku ngokungalubali usuku lokuqala, kodwa ulufake usuku lokugcina, ngaphandle uma usuku lokugcina lungoMgqibelo, iSonto noma lungeHolide, okuyosho ukuthi usuku lokuqala lokusebenza olulandela uMgqibelo. iSonto noma iHolide luyothathwa njengosuku lokugcina lwesikhathi.

(2) Izinsuku lapho uMkhandlu ozobe uphumule ngazo kumele zikhishwe kulesisikhathi lapho uMkhandlu kumele wenze umsebenzi ngokwakoloMtheshwana; uma
(a) uMkhandlu ungazange unike amandla okwenza lomsebenzi kwisithunywa; futhi
(b) kufanele kwenzeke lokho ezinsukwini eziyi 120 noma ngaphansi.

Umthelela wokuguquka kobunikazi bomhlaba osicelo sawo simayelana nomkhandlu ohlelayo onegunya

124. (1) Uma umhlaba, ongaphansi kwesicelo somkhandlu ohlelayo onegunya udluliselwe kumnikazi omusha, umnikazi omusha angaqhubeka nesicelo njengolandelayo osemthethweni ebunikazini somnikazi ongaphambili.

(2) Umnikazi omusha kumele azise uMkhandlu ngokubhala ukuthi ufisa ukuqhubeka nesicelo somkhandlu ohlelayo onegunya futhi ahlinzeke umkhandlu ngemininingwane yakhe atholakala kuyo.

Ukwedluliselwa kwamalungelo amayelana nomuntu ophawulile kwisicelo somkhandlu ohlelayo onegunya kumnikazi omusha

125. (1) Umnikazi ophawulile kwisicelo somkhandlu ohlelayo onegunya ngosuku olubaluliwe kwisimemo njengokushiwo lokuvala 2(f) woHlu 5 ngokubhala, adlulisele amalungelo anikezelwe kulowo ophawulile kwisicelo kumnikazi omusha womhlaba wakhe.

(2) Umnikazi omusha kumele anikeze umfaki sicelo noMkhandlu ngokufanayo kwesivumelwani sokudlulisela amalungelo kunye nemininingwane atholakala kuyo.

Isicelo sokuvunyelwa ukulamula esicelweni somkhandlu ohlelayo onegunya noma sokubuyekeza

126. (1) Noma yimuphi umuntu angafaka isicelo sokulamula ngokubhala esicelweni esesikhona somkhandlu ohlelayo onegunya phambi koMkhandlu oHlelayo uGunyaze oneGunya noma uMkhandlu oHlelayo uBuyekeze oneGunya.

(2) UMkhandlu oHlelayo uGunyaze oneGunya noma uMkhandlu oHlelayo uBuyekeze oneGunya kumele uqaphele lezindaba ezilandelayo lapho unquma ngesicelo sokuvunyelwa ukulamula –
(a) ukuthi ngabe ukuphawula komphakathi kuyadingeka yini ngomkhandlu ohlelayo onegunya
(b) ukuthi ngabe umfakisicelo sokulamula wanikwa yini isaziso sesicelo somkhandlu ohlelayo onegunya
(c) okugqugquzela umfaki sicelo ukucela ukuthi alamule

(d) ukuvuma okubhaliwe phansi kwabo bonke abathintekayo kwisicelo somkhandlu ohlelayo onegunya noma ukucela ukuvuma kulabo abalamulayo, uma babevumile kulabo abalamulayo.

(e) ukulimala okungenzeka kulowo ofake isicelo noma yimuphi omunye umuntu nokufaka phakathi nomphakathi

(f) ngamathuba omfakisicelo sokulamula okuphumelela.

(g) ukugwema ukubambezela okungenasidingo ekusebenzeni kobulungiswa

(h) ukusizakala koMkhandlu oHlelayo oGunyazyo oneGunya noMkhandlu oHlelayo uBukeze ongeGunya

(i) uma iqembu lifaka isicelo sokulamula esicelweni somkhandlu ohlelayo onegunya, noma lowo ocela ukungenelela nguye kuphela ocela ukuphawula ngesicelo, noma kukhona abanye abenze ukuphawula okufanayo ngesicelo

(j) uma iqembu licela ukulamula kwisibuyekezo –

(i) noma umfaki sicelo sokulamula kunguye yedwa ofisa ukubuyekeza okuphambene nesinqumo soMkhandlu oHlelayo oGunyziwe oneGunya noma kukhona nabanye abacele ukubuyekeza okumelene nesinqumo ngezizathu ezifanayo

(ii) ukubaluleka kwesibuyekezo

(iii) izinhloso zomlamuli ofake isicelo kumphumela wesibukezo; futhi

(k) noma yiliphi elinye iphuzu

(3) UMkhandlu oHlelayo oGunyaziwe oneGunya noma uMkhandlu oHlelayo uBukeze oneGunya kumele

(a) ugunyaze; noma

(b) wenqabe

Isicelo semvume yokulamula

(4) UMkhandlu oHlelayo oGunyaziwe oneGunya noma uMkhandlu oHlelayo uBukeze oneGunya ungamunqanda lowo ofake isicelo sokulamula odabeni lowo ozifiso zakhe sezibonakele ngesinqumo sokunikezelwa imvume yokulamula

(5) Uma lowo onikiwe imvume yokulamula kwisicelo somkhandlu ohlelayo onegunya, lowo kumele alethe ukuphawula okubhaliwe okuyisicelo kuMkhandlu oHlelayo uGunyaze oneGunya ngendlela nangosuku oluqagulwe Umkhandlu ngesinqumo sokunika imvume yokulamula.

(6) Uma umuntu enikwa imvume yokulamula kwisibuyekezo, kumele lowomuntu abe nesabelo ngendlela udaba oludingidwa ngayo nguMkhandlu oHlelayo uBukeze oneGunya kwisinqumo sawo ukunikeza imvume yokulamula.

(7) Umuntu owanikwa imvume yokulamula kwisicelo somkhandlu ohlelayo onegunya kumele athathwe njengomuntu ophawulile esicelweni uma umphakathi kwakuxhunyaniwe nawo, kungaqashelwe noma umphakathi kwaxhunyanwa nawo noma qha ngokwesidingo kwesicelo.

Amalungiselelo okuguquka kunye nokonga

127. uhla 13 lusebenza ukuguquka kumthetho wohlelo oludala kuya kuhlelo lomthetho omusha.

Ubunikazi obufushane kunye nokuqala

128. Lomtheshwana ubizwa ngokuthi: uMtheshwana woMkhandlu Hlelayo noweNgamele ukuSetshenziswa wango 2015 wase Mkhandlwini UMsinga, uqala ukusebenza ngosuku okubhalwe ngalo kwisaziso Somkhandlu.

UHLA 1

IZINDABA OKUMELE ZILUNGISWE KWISIVUMELWANO SOKWAKHA UMKHANDLU OHLELAYO ONQUMAYO OHLANGANE

(Isigaba 8(5))

1. Isivumelwano phakthi kwesiGungu soMkhandlu nanoma yimiphi eminue imikhandlu sokwakha uMkhandlu oHlelayo onQumayo kumele okungenani uhlinzeke ngalolkhu okulandelayo –
   (a) amagama emikhandlu enesabelo
   (b) amalungelo, izibopho nemisebenzi ethwelwe umkhandlu ngamunye onesabelo
   (c) ukuthi uzoxhaswa kanjani ngezimali loMkhandlu oHlelayo onQumayo oHlangane
   (d) ukuthi umgcinimbiko woMkhandlu oHlelayo neSekela Mgcinimbiko woMkhandlu oHlelayo bayoqokwa kanjani
   (e) nokuthi laba absebenzayo bayokhethwa kanjani –
      (i) amalungu oMkhandlu oHlelayo oNqumayo
      (ii) uSihlalo woMkhandlu oHlelayo onQumayo
      (iii) uSekelasihlalo woMkhandlu oHlelayo oNqumayo
   (f) ukuthi lemikhandlu enesabelo iyozibhala izisabalalise kanjani izaziso ezisemthethweni okufakaphathi –
      (i) isaziso esimema abantu ukuthi bazosebenza kuMkhandlu oHlelayo Onqumayo oHlangene
      (ii) isaziso esiqinisekisa ukuqokwa kwamalungu oMkhandlu Ohlelayo Onqumayo oHlangene
   (g) ukuthi okuqoshiwe kuzogcinwa kuphi futhi kanjani, okufakaphakathi –
      (i)uhla lwezicelo zomkhandlu ohlelayo onegunya ezinqunywe uMkhandlu oHlelayo oNqumayo oHlangene ngokomgomo 116(1)
      (ii) izincwadi zobufakazi umphakathi onelungelo lokufinyelela kuzo ngokwesigaba 120 kuya ku122; kunye
      (iii)nohlu lwezifiso ezidalulwe amalungu oMkhandlu Ohlelayo onQumayo oHlangene, noMgcinimbiko woMkhandlu Ohlelayo kunye neSekela Mgcinimbiko woMkhandlu ngokomgomo wesigaba 33(3)
   (h) ukuthi izimali zokufaka isicelo zonqunywa kanjani futhi ziphathwe kanjani
   (i) ukuthi izicelo zomkhandlu ohlelayo onegunya zifakwa kuphi
   (j) ukuthi uMkhandlu onesabelo uyokwaziswa kanjani ukuthi isicelo sesibuyekezo esiphikisana nentuthuko endaweni yawo sifakiwe kuMgcinimbuko woMkhandlu oHlelayo uBuyekeze oneGunye
   (k) abasebenzi abaxhasile kunye nendawo yokusebenzela yoMkhandlu oHlelayo onQumayo, uma kunesidingo
   (l) nemiphumela yangokomthetho yokuhoxa koMkhandlu onesabelo kuMkhandlu oHlelayo onQumayo oHlangene

UHLA 2

UKWAHLUKANISWA NGOKWEZIGABA KWEZICELO ZOKUNQUMA NGUMKHANDLU OHLELALYO OGUNYAZYO ONEGUNYA

(Isigaba 22(1))

Isicelo somkhandlu ohlelayo onegunya esinganqunywa nguMphathiswa woMkhandlu Ohlelayo oneGunya

1. (1) UMphathiswa woMkhandlu oHlelayo oneGunya anganquma kulezicelo ezilandelayo zo mkhandlu ohlelayo onegunya
   (a) Ukunikeza imvume ngokohlelo lokusetshenziswa komhlaba ukuxegisa ukulawula intuthuko, okuhlanganisa nezikhala ezizungeze izakhiwo

(b) Ukwahlukanisa nokuhlanganisa umhlaba
  (i) Ongafakiphakathi uguquko lokusetshenziswa komhlaba; futhi
  (ii) Okusiphethosakho kungukwakheka okungengaphezulu kwezakhiwo ezimbili, kungafaki phakathi izakhiwo ezibekelwe nje indawo eyanele umgwaqo noma eminye imisebenzi yobunjiniyela.
(c) Ukwahlukanisa nokuhlanganisa umhlaba obekelwe eceleni ngenhloso yokumumatha imisebenzi yobunjiniyeli
(d) Ukususa, ukuchibiyela noma ukumisa umbandela ovimbelayo wobunikazi
  (i) Onqunywe ngokomgomo walomtheshwana noma umthetho womkhandlu ohlelayo osusiwe
  (ii) Onganqunyiwe ngokomthetho waloMtheshwana noma womthetho osusiwe womkhandlu ohlelayo, kodwa uphelekezelwa yimvume egunyaziwe yomuntu noma inhlangano lombandela obhalwe ukugunyaza yona
(e) Isichibiyelo kwisicelo ngokomgomo wesigatshana (a) kuya ku (d) ngaphambi kokugunyaza koMkhandlu oHlelalyo uGunyaze oneGunya
(f) Ukulungisa isinqumo soMphathi woMkhandlu oHlelayo oneGunya kwisicelo ngokwesigatshana (a) kuya ku (d) ukulungisa iphutha ngokubhala amagama kwisinqumo, ukulungisa iphuth lokubhalwa kwegama, ukubeka kwisikhathi esiyiso ukuchaza umhlaba, ukubeka inkoma emthethweni osekuyiwo manje, umuntu, isakhiwo, igama lendawo noma igama lomgwaqo; noku
(g) Okungabalulekile okuyisichibiyelo kwisinqumo soMphathiswa woMkhandlu oHlelayo oneGunya kwisicelo ngokwesigatshana 9a) kuya ku (d).

Isicelo somkhandlu ohlelayo onegunya okumele sinqunywe nguSihlalo woMkhandlu oHlelayo oNqumayo noma ilungu elinqumayo eliqokwe uSihlalo

2. **(1)** USihlalo woMkhandlu oHlelayo oNqumayo kumele anqume kwisicelo somkhandlu ohlaleyo onegunya soku –
  (a) Chibiyela kwisicelo ngokwesigatshana (a) kuya ku(l) sokuku 3 phambi kokuba kugunyazwe lokho nguMkhandlu oHlelayo oNqumayo
  (b) Lungisa kwisinqumo soMkhandlu oHlelayo onQumayo kwisicelo ngokwesigatshana (a) kuya ku (l) wokuku 3 ukulungisa iphutha ekubhalweni kwamagama esinqumo, lungise ukubhalwa kwegama, ukuchazwa kwendawo kabusha, inkomba yomthetho kabusha, yomuntu, yesakhiwo, igama lendawo noma igama lomgwaqo

(2) USihlalo woMkhandlu oHlelayo angagunyaza elinye ilungu eliNqumayo ukunquma isicelo somkhandlu ohlelayo onegunya ukulungisa isinqumo soMkhandlu oHlelayo onqumayo kwisicelo ngokwesigatshana (a) kuyaku (l) ngokwesi 3 ukulungisa iphutha emagameni esicelo, alungise iphutha lokubhalwa kwegama, ukuchaza kabusha indawo, nenkomba entsha yomthetho, yomuntu, isakhiwo kumbe igama lendawo noma igama lomgwaqo.

Isicelo somkhandlu ohlelayo onegunya okumele sinqunywe nguMkhandlu oHlelayo oNqumayo

3. UMkhandlu oHlelayo oNqumayo kumele unqume kulezicelo ezilandelayo zomkhandlu ohlelayo onegunya
(a) Ukuklama noma ukuphinda uklame umhlaba njengokuklama okukhona
(b) Ukunika imvume ngokomthetho uhlelo lokusetshenziswa komhlaba ukusebenzisa umhlaba
(c) Ukugunyaza intuthuko endaweni engaphandle kohlelo lokusetshenziswa komhlaba
(d) Ukwahlukanisa nokuhlanganiswa komhlaba
  (i) okuhlanganisa ukuguquka kokusetshenziswa komhlaba; noma
  (ii) okumphumela wakho ungukwakheka okungaphezulu kwezakhiwo ezimbili, kungafaki phakathi izindawo ezibekelwe eceleni ukusetshenziselwa umgwaqo noma eminye imisebenzi yobunjiniyela.

(e) Ukwakhiwa kwelokishi
(f) Ukubopha ngomthetho izindawo ezakhelene
(g) Ukwandiswa kohlelo lobunikazi ngokohlelo lwezokuhlakaniselana ngokwengeza umhlaba emhlabeni ovulekile ngokwesigaba 26 soMthetho weZobunikazi ngokweZabelo.
(h) Ukwesulwa, ukuchibiyelwa noma ukumiswa kombandela ovimbelayo ebunikazini (i)ongazanye unikezelwe ngokwaloMtheshwana noma umthetho womkhandlu ohlelayo owesuliwe'
(ii) okungaphelezelwa igunya elibhaliwe lomuntu noma isakhiwo umbandela obhaliwe ovumelana naso
(i) Ukuvala ngokugcwele umgwaqo womkhandlu noma indawo yomphakathi
(j) Isicelo somkhandlu ohlelayo onegunya esidluliselwe kuMkhandlu oHlelayo oNqumayo nguMphathiswa woMkhandlu oHlelayo Onegunya
(k) Ischibiyelo esingabalulekile kwisinqumo soMkhandlu oHlelayo onQumayo esicelweni ngokesigatshana (a) kuya ku (j)

Izicelo somkhandlu ohlealyo onegunya okumele zinqunywe yisiGungu soMkhandlu

4. Leziceloezilandelayo zomkhandlu ohlelayo onegunya kumele zinqunywe isiGungu soMkhandlu
(a) Ukwamukela okusemthethweni kohlelo lokusetshenziswa komhlaba
(b) Ukuchibiyelwa kwamagama ohlelo lokusetshenziswa komhlaba, okufaka ukulawula intuthuko equkethwe kuyo
(c) Ukuklama noma ukuphinde kuklanywe komhlaba ngokuhambisana nokuklama okusha
(d) Ukuklama noma ukuphinde kuklanywe umhlaba nguMkhandlu ukuze kuchume izinhloso zentuthuko nezinjongo zomkhandlu nohlaka lokuthuthukisa umhlaba lapha nalapha.
(e) Ukuchibiyela kwisicelo ngokomgomo wesigatshana (a) kuya ku (d) ngaphambi kokugunyaziswa isiGungu soMkhandlu
(f) Ukulungisa kwisinqumo sesiGungu soMkhandlu kwisicelo ngokwemigomo yesigatshana (a) kuya ku (d) ukulungisa iphutha ekubhalweni kwamagama kwisinqumo, ukulungisa ukubhalwa kwegama, ukuchaza kabusha umhlaba, ukuchaza kabusha inkomba emthethweni, kumuntu, kwisakhiwo, noma igama lendawo noma igama lomgwaqo
(g) Ukuchibiyela okungabalulekile kwisinqumo sesiGungu soMkhandlu kwisicelo ngokomgomo osesigatshaneni (a) kuya ku (d)

UHLA 3

IMISEBENZI EZINDAWENI EZIBEKEKE NGAPHANDLE KWENDAWO YOHLELO LOKUSETSHENZISWA KOMHLABA EZIDINGA UMKHANDLU OHLELAYO ONEGUNYA

(Isigaba 46(e))

1. Lemisebenzi elandelayo idinga umkhandlu ohlelayo onegunya ngaphandle kwendawo yohlelo lokusetshenziswa komhlaba
Amadele
Indawo yabadala
Isakhiwo sezamahlathi noma sezolimo
Isikhumulo sezindiza
Isitolo sokubheja
Idepha yamabhasi
Ipaki yamakharavani
Indawo yokugezela izimoto
Ikhasino
Indawo yamathuna

Inkantolo indawo okushiswa kuyo izidumbu
Isikhungo sokusenga
Indawo eyinkulisa
Indawo yokuhlala abangabodwana
Izakhiwo zezemfundo
Indawo yeziphelezeli
Izimboni
Izindawo ezithengisa ngokudla ongena kuzo ngemoto
Indawo yezicimamlilo
Indawo yabangcwabi
Indawo yokuhlala exhaswe nguhulumeni
Indawo yezempilo
Indawo okubekwa kuyo izilwane
Indawo okuhlanzwa kuyo izingubo
Indawo yezokumbiwayo
Indawo okugcinwa kuyo izidumbu
Indawo exubile yokuhla
Amahhovisi
Isakhiwo esinendawo yokulala
Indawo eyenza iphepha
Indawo yokubeka izimoto
Indawo lapho kwenziwa khona ezobuwoyela
Indawo yokudlala yomphakathi
Indawo yokuhlanganela yomphakathi
Indawo yezokuphepha
Isiteshi samaphoyisa
Isikhungo esiphehla amandla
Ijele
Isakhiwo sokuzithokozisa
Izindawo zokudla
Ikhaya lokugugela
Indawo okukhandwa kuyo izingodo
Indawo lapho kulahlwa khona okusansimbi
Lapho kwenziwa khona imisebenzi
Indawo lapho kulungiswa khona imishini
Isitolo
Indawo enoxhaxha lwezitolo
Isigayo sikashukela
Indawo okushukwa kuyo izikumba
Indawo ethengisa iziphuzo ezidakayo
Isikhumulo sezimoto zomphakathi
Imibhoshongo yezokuxhumana
Isikhungo sesitimela
Lapho kulungiswa khona izimoto
Lapho kulahlwa khona izimoto
Indawo ekhangisa ngezimoto
Umtholampilo wezilwane
Indawo yokugcina impahla
Indawo efaka amanzi emabhodleleni

UHLA 4

UMGUDU WESICELO SOMKHANDLU OHLELAYO ONEGUNYA: ZONKE IZICELO, NGAPHANDLE KWESICELO SOKUHLALA ENDAWENI EBEKELWE UKUKWAKHIWA NGENDLELA ENGAHLELEKILE NGUMPHAKATHI WENDABUKO NOMA ABAMPOFU (SCHEDULE 7)

(Isigaba 53(1))

Abantu abangafaka sicelo

1. (1) isicelo somkhandlu ohlelayo onegunya kumele senziwe ngu

(a) Umnikazi womhlaba okukhulunywa ngawo, okuhlanganisa nohlaka lukahulumeni

(b) Umuntu owenza ngemvume ebhaliwe yomnikazi womhlaba okukhulunywa ngawo kwisicelo

(c) Uhla lukahulumeni, uma lusendleleni yokuthola umhlaba okukhulunyw ngawo kwisicelo

(2) Noma yimuphi umuntu angafaka isicelo somkhandlu ohlelayo onegunya ukuvala ngokugcwele umgwaqo womkhandlu noma indawo yomphakathi.

Izicelo okumele zihlelwe ngumuntu ngumuntu oneziqu namava okuhlela ukusetshenziswa komhlaba noma umthetho

2. (1) Lezicelo ezilandelayo zomkhandlu ohlelayo onegunya kumele zihlelwe Umhleli oBhalisiwe, umuntu obhalisiwe ngokomgomo wesigaba 18(1)(a) woMthetho wezobuchwepheshe bokuDweba, noma umuntu obhalisiwe ngokomgomo wesigaba 13(1)(d) woMthetho weZezwe njengoMdabuli womhlaba noma ngaphansi kokqondiswa noma ukudlelana nomuntu onjalo –

(a) Isicelo sokwamukelwa ngokusemthethweni sohlelo lokusetshenziswa komhlaba

(b) Isicelo sokulungisa amagama ohlelo lokusetshenziswa komhlaba, okufaka nokulawula intuthuko equkethwe kulo

(c) Isicelo sokuklama noma sokuphinde kuklanywe umhlaba

(d) Isicelo semvume esingomgomo wohlelo lokusetshenziswa komhlaba ukusebenzisa umhlaba ngenhloso yokuthi umhlaba ungasetshenziswa kuphela ngemvume yomkhandlu

(e) Isicelo sokwakha ilokishi

(f) Isicelo sokuvala ngokugcwele umgwaqo womkhadlu noma indawo yomphakathi

(2) Umuntu okulawulwa kwakhe kungaphansi noma umuntu ahlele naye lesicelo somkhandlu ohlelayo ngokwesigatshana esingaphansi kuka (1) kumele asayine lesicelo ngokusayina kwabo lokho kuyosho ukuthi bathatha umsebenzi wesicelo njengo wabo, njengabantu abalungise isicelo bona

(3) Isicelo somkhandlu ohlelayo onegunya esingabaliwe ngenhla kusigatshana (1) singahlelwa yinoma ubani, kodwa uMgcinimbiko woMkhandlu oHlelayo angadinga ukuthi simele silungiswe nguMhlali oBhalisiwe, umuntu obhalisiwe ngokwesigaba 18(1)(a) soMthetho wezobuchwepheshe ekwenzeni imidwebo, umuntu obhaliswe ngokomgomo wesigaba 13(1)(d) senhlangano yokuDabula uMhlaba nokweZwe, ummeli noma ummeli wasemaJajini noma ngaphansi kokulawulwa noma kobudlelwano nomuntu onjalo, uma kuyisicelo esixakile esidinga ubuchule obunjao

(4) Uma uMgcinimbiko woMkhandlu oHlelayo engeyena uMhleli oBhalisiwe, kumele axhumane noMhleli oBhalisiwe oqashwe nguMkhandlu ngaphambi kokuba adinge ukuthi isicelo somkhandlu ohlelayo onegunya sihlelwe noma sihlelwe ngaphansi kokuqondiswa noma ngokusebenzisana nalowo muntu obaluliwe ngaphansi kwesigatshana (3)

Inqubo ngaphambi kwesicelo

3. **(1)** Umfaki sicelo kumele athole ukugunyazwa izinhlaka zombuso, okufaka iminyango yomkhandlu nanoma yiluphi ulwazi olufanelekile ukuzimisela ngesicelo somkhandlu ohlelayo onegunya

(2) Izinhlaka zombuso, kufakwe neminyango yomkhandlu, kumele bahlinzeke umfakisicelo nglwazi aludingayo ukuze akwazi ukufaka isicelo somkhandlu ohlelayo onegunya zingakapheli

izinsuku ezinga 60 emva kokufaka isicelo sokunikwa ulwazi noma isikhathi esedlula leso okunyelwane ngaso nomfakisicelo.
(3**)** Umgcinimbiko woMkhandlu oHlelayo angasiza umfakisicelo ukumkhombisa ulwazi oludingekayo ukwenza isicelo somkhandlu ohlelayo onegunya
(4) UMgcinimbiko woMkhandlu oHlelayo angenikeze iseluleko ngezinga lesicelo somkhandlu ohlelayo onegunya lapho esiza umfakisicelo
(5) uMkhandlu oHlelayo oGunyazayo oneGunya ungacela umfaki sicelo ukuletha ubufakazi obugunyazyo bomthetho uma, ngombono wawo, kunokufaneleka ukuze ukwazi ukwenza isinqumo sawo nesicelo somkhandlu ohlelayo onegunya.

Ukwehluleka kohlaka lombuso ukuphawula kwisicelo somkhandlu ohlelayo onegunya

4. (1) Uhlaka lukahulumeni luyakuthathwa njengo lungaphawulanga kwisicelo somkhandlu ohlelayo nonegunya uma lungazange luhlinzeke ngokuphawula kisicelo esiphakanyisiwe ngesikhathi esivumelekile, ngaphandle uma ukusebenzisa noma ukuthuthukisa umhlaba kuchomekeke emsebenzini wobunjiniyela okufanele siwuhlinzeke
(2) uhlaka lukahulumeni lungenqaba ukuphawula kwisicelo somkhandlu ohlelayo onegunya, uma isicelo esehlukile sokugunyaza kwaso sidingeka ngokomthetho osibusayo
(3) UMgcinimbiko woMkhandlu oHlelayo angaqhubeka nokusebenza isicelo somkhandlu ohlelayo onegunya uma uhlaka lombuso luhlalekile ikuhlinzeka ngokuphawula kwisiphakamiso somkhandlu ohlelayo onegunya esikhathini esinikeziwe, noma esinye isikhathi esengeziwe okuvunyelwane ngaso nohlaka lombuso, ngahandle uma –
(a) ukusebenzisa umhlaba noma ukuthuthukisa umhlaba kuchomekeke kumsebenzi wobunjiniyela okumele uhlinzekwe uhlaka lombuso
(b) uhlaka lombuso lwenqaba ukuphawula ngesicelo ngoba isicelo esiseceleni sokugunyaza kwaso sidingeka ngokomthetho olawula lona
(c) omunye uthetho uvimbela uMgcinimbiko woMkhandlu oHlelayo ukuthi aqhubeke nalesisicelo

Ukufaka isicelo

5. (1) isicelo somkhandlu ohlelayo onegunya kumele siphelezelwe yilokhu –
(a) Iphepha eligcwaliswayo lesicelo
(b) Isikhuthazo esibhaliwe ngumfaki sicelo esixhasa isicelo
(c) Ubufakazi obubhalisiwe bobunikazi kunye nokufanayo komdwebo wendawo, ngaphandle uma isicelo simayelana nesichibiyelo jikelele sohlelo lokusetshenziswa komhlaba
(d) Imvume ebhaliwe yomnikazi okubhaliswe walowomhlaba, uma umfakisicelo engeyena umnikazi wendawo, ngaphandle uma isicelo simayelana nesichibiyelo jikelele sokhlelo lokusetshenziswa komhlaba
(e) Isqinisekiso esibhaliwe esivela kwinhlangano yabanikazi, isigungu esibunjiwe ngokwesigaba 36(1) soMthetho wezoBunikazi bezigatshana noma inkampani enamsheya avinjelwe ngokwesigaba 1 soMthetho wama Share Blocks Control ukuthi lesicelo siyahambisana nemigomo yokugunyaza ; uma ikhona
(f) Isixhaso esibhaliwe sesigungu sabaholi bendabuko sesicelo, uma umhlaba wakhele endaweni engaphansi kwegunya lomkhandlu wendabuko wendawo
(g) Ubufakazi bokusabalalisa isicelo kuhlaka lukahulumeni nakwiminyango yomkhandlu
(h) Uma isicelo kuyisicelo sesahlukaniso noma sokuhlanganisa umhlaba noma ukwakhiwa kwelokishi
(i) ukuthi ngabe uMdabuli jikelele kumele agunyaze
(aa) umdwebo noma
(bb) isu jikelele lokwakha isakhiwo
Lesisahlukaniso noma lesihlanganiso somhlaba noma ikwakha ilokishi

(iii) ukuthi uMdabulijikelele agunyaze umhla
(aa) njenge ndawo enezakhiwo zomlimi noma isahlukaniso sendawo enezakhiwo zomlimi, okuhlanganisa nengxenye esele yendawo enezakhiwo zomlimi
(bb) isahlukaniso somhlaba esingenayo indawo enezakhiwo zomlimi
(cc) njengesiqephu somhlaba elokishini elikhona
(dd) njengesiqhephu elokishini Elisha

(i) isiphakamiso sendawo echaziwe
(j) noma yimaphi amanye amasu okwakha izakhiwo, imidwebo, izincwadi zobufakazi, ESRI shape files, ulwazi noma izimali ezingahle zidingwe uMgcinimbiko Umkhandlu oHlelay

(2) isicelo somkhandlu ohlelayo onegunya kumele sifakwe
(a) kuMgcinimbiko woMkhandlu oHlelayo
(b) komunye umuntu okhonjwe nguMphathi woMkhandlu ukuba emukele izicelo zomkhandlu ohlelayo onegunya; noma
(c) uMphathi woMkhandlu, uma uMkhandlu ungazange uqoke uMgcinimbiko woMkhandlu oHlelayo noMphathi woMKhandlu engazange aqoke omunye umuntu ukwemukela izicelo zomkhandlu ohlelayo onegunya

(3) Umgcinimbiko angeke anqabe ukwamukela isicelo somkhandlu ohlelayo onegunya ngoba isicelo singaphelele

Okuqoshiwe okubonisa ukwamukelwa kwesicelo, sokucela ulwazi olungeziwe noku qinisekisa ukuthi isicelo siphelele

6. (1) uMgcinimbiko woMkhandlu oHlelayo kumele
(a) Abhalise ukwemukela isicelo somkhandlu ohlelayo onegunya ngokubhala ngosuku emukela ngalo isicelo
(b) Azise umfakisicelo ngokubhala zingakapheli izinsuku ezi 30 emva kokwemukela isicelo; noma lesosikhathi eseneziwe avumelane ngaso nomfakisicelo, esingeke sibe ngaphezu kwezinsuku ezingu 60 emva kokwemulela isicelo
(i)ukuthi isicelo siphelele
(ii)noma imaphi amasu okwakha, noma izincwadi zobufakazi nolunye ulwazi noma imali edingekayo

(2) Isicelo somkhandlu ohlelayo onegunya sithathwa njengesiphelele, uma uMgcinimbiko woMkhandlu oHlelayo engazange acele ulwazi olwengeziwe zingakapheli izinsuku ezingu 30 noma isikhathi eseluliwe okuvunyelwane ngaso nomfaki sicelo.

Ukuhlinzeka ngolwazi olwengeziwe

7. (1) Umfakisicelo kumele ahlinzeke uMgcinimbiko woMkhandlu Ohlelayo ngolwazi olwengeziwe oludingekayo ukuze kuphelelisiwe isicelo somkhandlu ohlelayo onegunya ngokwesigaba 6(1)(b)(ii) zingakapheli izinsuku ezingu 90 noma isikhathi eseluliwe okuvunyelwane ngaso nomfaki sicelo ezingeke zibengaphezulu kuka 180 kusuka kucelwe ulwazi olwengeziwe.
(2) Isihlinzeko sokuku 4 kusebenza olwazini olwengezelelwe oludingeka kuhlaka lombuso
(3) Umfakisicelo angenqaba ngokubhala ukuhlinzeka ulwazi olwengeziwe oludingekayo, okungathi ke kulesosimo uMgcinimbiko woMkhandlu oHlelayo kumele aqhubeke nesicelo somkhandlu ohlelayo onegunya
(4) Isicelo somkhandlu ohlelayo onegunya siyaphela uma umfakisicelo ehlulekile ukuletha imidwebo yamasu, izincwadi zobufakazi noma ulwazi olwengeziwe oludingwa uMgcinimbiko woMkhandlu oHlelayo ngesikhathi esivumelekile, ngaphandle uma umfakisicelo enqabile ngokubhala ukuhlinzeka amasu engeziwe, izincwadi zobufakazi noma ulwazi singaka pheli isikhathi.

(5) UMkhandlu oHlelayo uGunyaze oneGunya ungasenqabela isicelo somkhandlu ohlelayo, uma isicelo singaqukethe ulwazi olufanelekile ukwenza isinqumo esinzulu ngokwesigaba 6(2)(e)(iii) soMthetho wokugququzela ubuLungiswa ekuPhatheni ka 2000 (Act No. 3 of 2000).

Isiqinisekiso sokufaka isicelo esiphelele, uma ulwazi olwengeziwe lwaludingekile

8. (1) UMgcinimbiki woMkhandlu oHlelayo oneGunya kumele azise umfaki sicelo ngokubhala zingakapheli izinsuku ezinga 14 emva kokuthola amasu angeziwe, izincwadi zobufakazi noma ulwazi obeludingeka -

(a) Ukuthi isicelo sesiphelele

(b) Ukuthi amasu angeziwe, izincwadi zobufakazi noma ulwazi olwengeziwe aluhlangabezani nezidingo zoMkhandlu

(2) Uma isikhathi sokuthi umfakisicelo alethe amasu engeziwe, izincwadi zobufakazi noma ulwazi singakapheli, umfakisicelo angaphinda afake amasu alungisisiwe, izincwadi zobufakazi, noma ulwazi, uma kunjalo inqubo ekwisigatshana (1) kumele ayiphinde.

(3) Isicelo somkhandlu ohlelayo sithathwa njengesiphelele, uma uMgcinimbiko woMkhandlu Ohlelayo ehlulekile ukwazisa ngokubhala umfaki sicelo zingaka pheli izinsuku ezi 14

(a) ukuthi isicelo siphelele

(b) amasu engezelelwe, izincwadi zobufakazi noma ulwazi aluhlagabezani nezidingo zoMkhandlu

Ukwedluliselwa kwezicelo ezithinta okufiswa uzwelonke kuNgqongqoshe wezokuThuthukisa eZasemakhaya nokuGuqulwa koMhlaba

9. Uma isicelo somkhandlu ohlelayo sithinta okumayelana nokufiswa uzwelonke njengoku balulwe kwisigaba 52(1) no (2) somthetho wokuthuthukiswa komhlaba lapha nalapha nokusetshenziswa komhlaba, uMgcinimbiko woMkhandlu oHlelayo kumele athumele ikhophi yesicelo kuNgqongqoshe

(a) Uma sekuqinisekisiwe ukuthi isicelo siphelele

(b) Noma lapho isicelo sithathwa njengesiphelele

Ukweluswa kwesicelo seluswa iLungu elithweswe lokho lesiGungu esiPhezulu

10. Uma iLungu lesiGungu esiPhezulu eliphathiswe lokhu selikulungele ukuthi isicelo somkhandlu ohlelayo asilethwe kuye ukuze aseluse futhi asixhase njengokwesigaba 105(2) soMthetho weziNdle zokwenza woMkhandlu, uMgcinimbiko woMkhandlu oHlelayo kumele anikele ikhophi yesicelo kuye

(a) Uma sekuqinisekisiwe ukuthi isicelo siphelele

(b) Noma lapho isicelo sithathwa njengesiphelele

Ukuxhumana noMphakathi

11. (1) UMgcinimbiko kumele anqume ukuthi kufanelekile yini ukuthi kuxhunyanwe noMphakathi ngesicelo somkhandlu ohlelayo zingakapheli izinsuku

(a) Ezi 14 esebikeliwe ukuthi isicelo siphelele

(b) Ezi 14 emva kokuba isicelo sithathwe njengesiphelele

(2) UMgcinimbiko woMkhandlu oHlealyo angadinga ukuthi umfakisicelo axhumane nomphakathi ngezindleko zakhe ngokuhlanganisa noma iyiphi indlela yokwazisa umphakathi ezibalulwe kwisigaba 1 soHlu 5.

(3) Usuku lokuvala ukuletha iziphawulo ngesicelo somkhandlu ohlelayo alungeke libe ngaphansi kwezinsuku ezi 30 ukusuka osukwini okukhishwe ngalo isaziso

(4) Isaziso sesicelo somkhandlu ohlelayo kumele sibe nezinto ezikleliswe ku 2 woHlu 5.

(5) UMfakisicelo angafaka isaziso sesiselo somkhandlu ohlelayo onegunya ngokuhlanganyela nesicelo sokugunyazwa ngokwemvelo njengoba kushiwo ku 3 woHlu 5 noma kunye nesicelo selungelo lokumba njengokuka 4 woHlu 5.

(6) UMfakisicelo kumele anikeze uMgcinimbiko woMkhandlu oHlelayo ubufakazi bokuthi isaziso sesicelo somkhandlu ohlelayo onegunya safakwa.

Ilungelo lomfakisicelo lokuphendula

12. (1) UMgcinimbiko woMkhandlu oHlelayo kumele anikeze

(a) Amakhophi akho konke ukuphawula okufike ngokuphendula isaziso sesicelo

(b) Isaziso esibikela umfakisicelo ngelungelo lomfakisicelo lokuphendula ekuphawuleni nelungelo lokukuthalalisa ilungelo lokuphendula kwiziphawulo.

Esicelweni zingaka pheli izinsuku ezi 7 emva kosuku lokuvala ukuphawula

(2) Umfakisicelo zingakapheli izinsuku ezi 60 ukusuka osukwini lapho uMgcinimbiko anikeza iziphawulo kunye nesaziso esiphelezelayo kumfakisicelo, afake impendulo ebhaliwe kwiziphawulo kuMgcinimbiko woMkhandlu oHlelalyo.

(3) Umfakisicelo ngokubhala usengalithalalisa ilungelo lokuphendula iziphawulo.

Ukudlulisela kwesicelo kuMgcinimbiko woMkhandlu oHlelayo oneGunya

13. (1) UMgcinimbiko woMkhandlu oHlelayo kumele aqinisekise

(a) Isicelo somkhandlu ohlelayo onegunya siyahambisana no 5 kuya ku12 waloluhla, uma lungahambisani anikeze imininingwane eyiphutha

(b) Ukuthi isicelo siyahambisana nohlelo loHlaka loMkhandlu lokuthuthukisa umhlaba lapha nalapha, uma lungahambisani achaze lapho lwehluke khona

(2) UMgcinimbiko woMkhandlu oHlelayo kumele akhe incwadi yobufakazi ezoqashelwa uMphathiswa woMKhandlu oHlelayo oneGunya noma uMkhandlu oHelayo oNqumayo, okumele kufake lokhu phakathi

(a) isicelo somkhandlu ohlelayo onegunya

(b) ubufakazi bokuthi umfakisicelo wafaka isaziso ngesicelo uma kwakudingekile

(c) ukuphawula okwatholakala ukuphendula isaziso ngesicelo, uma kukhona

(d) izimpendulo zomfakisicelo umangabe waphendula

(e) isiqinisekiso sokuthi isicelo siyahambisana nokudingeka ku 5 kuya ku 11 waloluhla, noma imininingwane yokwehluleka uma sehlulekile.

(3) UMgcinimbiko woMkhandlu oHlelayo kumele adluliseleisicelo somkhandlu ohlelayo onegunya nezincwadi zobufakazi ezihamba naso

(a) okumele kunqunywe Mphathiswa woMkhandlu oHlelayo oneGunya kuMpahathiswa woMkhandlu oHlelayo oneGunya

(b) okumele kunqunywe nguMkhandlu Ohlelayo oNqumayo noma uSihlalo woMkhandlu oHlelayo oNqumayo kuSihlalo woMkhandlu oHlelayo oNqumayo

(c) okumele kunqunywe isiGungu soMkhandlu kuSihlao woMkhandlu oHlelayo oNqumayo ukuze uMkhandlu oHlelayo oNqumayo ulinganise futhi wenze nezincomo

(4) UMgcinimbiko woMkhandlu oHlelayo kumele adlulisele isicelo somkhandlu ohlelayo onegunya siye kuMphathiswa oHlelayo noma kuSihlalo woMkhandlu oHlelayo oNqumayo

(a) uma sasingekho isidingo sokunikeza isaziso ngesicelo

(i) lapho eqinisekisa ukuthi isicelo siphelele

(ii) lapho isicelo sithathwa njengesiphelele

(b) uma kwakufanele isaziso sikhishwe ngesicelo

(i) ngosuku lokuvala lokwezethulo njengokulindelwe ku 2(f) woHlu 5, uma kungekho ukuphawula okwamukelwa.

(ii) lapho kwemukelwa ukuphendula komfakisicelo ngokuphawula ngokwesigaba 12(2)

(iii) lapho kuphela izinsuku ezi 60 okufanele abe esephendulile ngazo umfaki sicelo kwiziphawulo ngokwesigaba 12(2)

(iv)noma lapho kwemukelwa isithalaliso somfakisicelo kwilungelo lokuphendula kokuphawuliwe ngokwesigaba 12(3)

(v)lapho kwemukelwa ukuhambisana

(aa)ukugunyazwa noma ukwenqatshwa kwesicelo ukuthi sigunyazwe ngabezemvelo

(bb)ukugunyazwa noma ukwenqatshwa kwelungelo lokumba

Uma ngabe ngokuhlanganyela isaziso sasinikeziwe njengokusho ku 3 no 4 woHlu 5 noma yikuphi okungokokugcina

(5) isicelo somkhandlu ohlelayo onegunya esidluliselwe kuMphathiswa woMkhandlu oHlelayo Onegunya noma kuSihlalo woMkhandlu oHlwlayo oNqumayo kumele siphelezelwe yilokhu

(a) ubufakazi bokuthi umfakisicelo wafaka isaziso ngesicelo, uma kwenzeka

(b) ukuphawula okwatholwa kuphendulwa isaziso, uma kukhona

(c) ukuphendula komfakisicelo kokuphawuliwe, uma kukhona.

Ukuhlolwa kwesiza

14. (1) Uma uMkhandlu oHlelayo oGunyazayo oneGunya kungu Mphathiswa woMkhandlu oHlelayo oneGunya kumele ahlele ukubhekwa kwesiza zingakapheli izinsuku ezi 30 ukusuka kusuku isicelo somkhandlu ohlelayo ogunyaziwe kunye nezincwadi zobufakazi zadluliselwa kuye.

(2) uma uMkhandlu oHlelayo oGunyazayo oneGunya kunguMkhandlu oHlelayu onQumayo noma isiGungu soMkhandlu

(a) uMkhandlu oHlelayo onQumayo kumele unqume ukuthi uzohlela yini ukubukwa kwesiza zingakapheli izinsuku ezi 21 ukusuka osukwini isicelo somkhandlu ohlelayo onegunya kunye nezincwadi zobufakazi ezihambisana naso zadluliselwa kuSihlalo woMkhandlu Onqumayo

(b) uMgcinimbiko woMkhandlu oHlelayo kumele azise ngokubhala

(i) umfakisicelo

(ii) nanoma ubani omunye ohlonzwe nguMphathiswa onguMlawuli

Ngosuku nesikhathi sokuhlola isiza, futhi

(c) Kumele ukuhlolwa kwesiza kwenzeke zingakapheli izinsuku ezi 60 ukusuka kusuku isicelo somkhandlu ohlelayo onegunya kunye nezincwadi zobufakazi ezihamba nesicelo zadluliselwa kuMkhamdlu Ohlelayo Onqumayo

(3) uMphathiswa woMkhandlu oHlelayo oNegunya noma uMkhandlu oHlelayo Onqumayo kumele ushiye umhlaba noma isakhiwo sivikeleke ngokugculisayo kuzaphulamthetho sinjengoba sisificile, uma umnikazi noma ohlala kuso engekho.

(4) Umuntu ongenile kumhlaba noma kwisakhiwo ngenhloso yalokhu, osefumane ukuqonda nolwazi lwanoma yiphi indaba ethinta imfihlo yomsebenzi walowo osesakhiweni noma kumhlaba oyimfihlo noma izindaba zomsebenzi wakhe kulendlela kumele lokho akuphathe njengemfihlo noma njengodaba oluvikelwe angeke aludlulisela komunye umuntu.

(5) Umuntu uyoba necala lokuboshwa futhi ahlawuliswe noma agwetshwe isikhathi esingekho ngaphezulu konyaka owodwa, noma agwetshwe kokubili uma lowomuntu ukulandela ukungena kumhlaba noma kwisakhiwo wase edalula izimfihlo noma ulwazi oluvikelekile azithole kulokho kungena kwisakhiwo noma kumhlaba, ngaphandle uma eveza ngoba

(a) Kwenzelwa ukuthatha isinqumo sesibuyekezo

(b) Waye layelwe inkantolo efanele noma kwakudingwa umthetho

(6) Umuntu ovimbela ngenhloso umuntu ukuba angene kumhlaba noma kwisakhiwo njengokubalulwe kulsisigaba unecala futhi uyojeziswa ngokuhlawuliswa noma ngokuboshwa isikhathi esingeqile kwizinyanga eziyisithupha noma kokubili

Ukulalelwa komphakathi

15. (1) Uma uMkhandlu oHlelayo uGunyaze oneGunya kunguMkhandlu oHlelayo onQumayo noma isiGungu soMkhandlu, uMkhandlu Ohlelayo onQumayo kumele unqume ukuthi uzohlela yini ukulalelwa umphakayhi zingaka pheli izinsuku ezi 21 ukusuka kusuku isicelo somkhandlu ohlelayo onegunya kunye nezincwadi zobufakazi ezihambisana naso zadluliselwa kuSihlalo woMkhandlu oHlelayo onQumayo

(2) ukulalelwa kumele bubizwe uma, ngokombono woMkhandlu oHlelayo onQumayo uma ukulalelwa kuzo

(a) siza ekuxazululeni ukuphikisana kwamaphuzu noma umthetho

(b) siza amaqembu asesicelweni ukuxazulula ukwahlukana kwemibono okuvela esicelweni noma yikuphi ukuphika okwenzi kuso

(c) gqugquzela ukuvumelena kunoma yiliphi iphuzu elikwisicelo

(3) UMkhandlu oHlelayo onQumay kumele ubame isigcawu sokulalelwa somphakathi, uma kunesidingo, zingakapheli izinsuku ezingu 60 ukusuka kusuku isicelo somkhandlu ohlelayo onegunya nezincwadi zobufakazi zathunyelwa kuwo

(4) UMgcinimbiko woMkhandlu oHlelayo kumele

(a) ngokubhala azise

(i) umfakisicelo

(ii) onke amaqembu aphawulile kwisicelo somkhandlu ohlelayo ogunyazayo Ngesigcawu sokulalelwa komphakathi

(b) kuchaywe okungenani izaziso ezine ezibukhulu bazo bu 210mm x 297mm(A4) ebusweni bomhlaba noma kuphinendawo okulula ukubona nokufinyelela kuyo; futhi

(c) ukubhala isaziso ephephandabeni elisakazwa kuleyo ndawo yomhlaba

(5) Isaziso sesigcawu sokulalelwa komphakathi kumele

(a) sichasise indawo, usuku nesikhathi saso

(b) sisho nenhloso yaso; futhi

(c) sitshele amaqembu ngamalungelo awo aqukethwe kulesisigaba

(i) ukuba abekhona noma amelelwe; futhi

(ii) babeke umbono wabo noma bahole ubufakazi obuxhasayo lokho

(6) Noma yimuphi umuntu unelungelo lokuzothamela lesisigcawu noma amelelwe kulesisigcawu sokulalela somphakathi; futhi yena siqu noma ngalowo ommele

(a) Babeke uhlangothi lwabo

(b) Babize ofakazi bazokwethula ubufakazi ukweseka udaba lwao

(c) Bapheke ngemibuzo noma umuphi obizelwe ukuzofakaza weqembu eliphikisayo

(d) Bavunyelwe ukubona izincwadi zobufakazi ezilethwe njengobufakazi; futhi

(e) Bakhulume ngokwezinga lesicelo somkhandlu ohlelayo onegunya

(7) Noma yiliphi ilungu lomphakathi lingathamela isigcawu sokulalela somphakathi kodwa angeke akwazi ukuphefumula kuloludaba ngaphandle ngokuvunyelwa uSihlalo wesigcawu sokulalelwa ongakwazi ukuthi abeke imibandela enqanda ukuphawula komuntu

(8) Noma yimuphi umuntu othikameza noma ogxambukela lapho kusaqhutshekwa nokulalelwa uyocelwa ukuba aphume ashiye isigcawu.

(9) UMkhandlu oHlelayo uGunyaze oneGunya uyoqaphela noma yibuphi ubufakazi obuyokwethulwa kwisigcawu sokulalela somphakathi lapho sekucutshungulwa isicelo somkhandlu ohlelayo onegunya.

Umbiko woMhleli oBhalisiwe ngesicelo

16. (1) Uma uMkhandlu oHlelayo oGunyazayo oneGunya enguMphathi woMkhandlu oHlelayo oneGunya –

(a) Kumele ahlolisise izinga lesicelo somkhandlu ohlelayo onegunya ngokubhala; noma

(b) Adlulisele lesisicelo kuMhleli Obhalisiwe oqashwe nguMkhandlu; ukuba

(i) ahlolisise izinga lalesisicelo ngokubhala ; futhi

(ii) enze izincomo ngalesosicelo

(2) Uma uMkhandlu oHlelayo oGunyazayo oneGunya enguMphathi woMkhandlu oHlelayo onQumayo noma yiGungu soMkhandlu –

(a) UMhleli oBhalisiwe oqokwe nguSihlalo woMkhandlu oHlelayo onQumayo ngokwesigaba 162) kumele

(i) ahlole isisindo sesicelo ngokubhala;futhi

(ii) enze izincomo ngesicelo

(b)UMphathiswa onguMlawuli kumele adlulisele isicelo Mhleli oBhaliwe oqashwe uMkhandlu ukuba

(i) ahlole isisindo sesicelo ngokubhala

(ii) enze izincomo ngesicelo

Isikhathi okumele ngaso uMphathi woMkhandlu oHlelayo ogunyaziwe oneGunya noma uMkhandlu oHlelayo onQumayo kumele unqume ngesicelo.

17. (1) Uma uMkhandlu oHlelayo oGunyazayo oneGunya enguMphathi woMkhandlu oHlelayo oneGunya noma enguMkhandlu oHlelayo Onqumayo, kumele anqume ngesicelo somkhandlu ohlelayo onegunya –

(a) Zingaka pheli izinsuku ezi 60 ukusuka osukwini lapho isicelo nezincwadi zobufakazi ezihambisana naso

(i) zadluliselwa kuMphathi woMkhandlu oHlelayo oGunyaziwe oneGunya; noma

(ii) zadluliselwa kuSihlalo woMkhandlu oHlelayo oNqumayo

uma uMphathi woMkhandlu oHlelayo Ongunyaziwe oneGunya engazange abize ukuhlolwa kwesiza noma isigcawu sokulalela umphakathi.

(b) Zingakapheli izinsuku ezingama 30 ngemuva kosuku lokuhlolwa kwesiza noma lokulalewa komphakathi noma yikuphi kulokhu, uma uMphathi woMkhandlu Ohlelayo oneGunya noma uMkhandlu oHlelayo onQumayo usibizile isigcawu sokulalela umphakathi noma ukuhlolwa kwesiza; noma

(c) Noma isikhathi esaluliwe ngokuvumelana nomfakisicelo, okuyisikhathi esingeke seve ku 180 wezinsuku emva kosuku lapho isicelo nezincwadi zobufakazi ezihamba naso sadluliselwa

(i) kuMphathi woMkhandlu oHlelayo onegunya

(ii) kuSihlalo woMkhandlu oHlelayo onQumayo

(2) Isicelo somkhandlu ohlelayo onegunya siphelelwa isikhathi uma uMphathi woMkhandlu oHlelayo oneGunya noma uMkhandlu oHlelayo onQumayo wehluleka ukunquma ngesicelo ngesikhathi esibekiwe.

Izincomo zoMkhandlu oHlelayo onQumayo kwisicelo okumele sinqunywe yisiGungu soMkhandlu

18. Uma uMkhandlu oHlelayo Ogunyazyo oneGunya uyisiGungu soMkhandlu , uMkhandlu Ohlelayo Onqumayo kumele wenze izincomo kwisicelo somkhandlu ohlelayo onegunya kwisiGungu soMkhandlu

(a) zingakadluli izinsuku ezi 60 ukusuka kusuku lapho isicelo kunye nezincwadi zobufakazi zadluliselwa kuSihlalo woMkhandlu oHelelayo onQumayo, uma uMkhandlu oHlelayo onQumayo ungazange uhlele ukuhlolwa kwesiza noma ubambe isigcawu sokulalela somphakathi.

(b) Zingaka pheli izinsuku ezi 30 emva kosuku lokuhlolwa kwesiza noma kwesigcawu sokulalela komphakathi noma ikuphi okwenzeke ekugcineni kwalokhu uma uMkhandlu oHlelayo onQumayo wahlela ukuhlolwa kwesiza noma wasibiza isigcawu sokulalela komphakathi

(c) Uma isikhathi eseluliwe njengokuvumelana nomfakisicelo, okuyisikhathi esingeqile izinsuku ezi 180 emva kosuku isicelo kunye nezincwadi zobufakazi ezihambisana naso zadluliselwa kuSihlalo woMkhandlu oHlelayo onQumayo

Ukwedluliselwa kwesicelo okumele sinqunywe isiGungu soMkhandlu kusigungu

19. (1) Lapho sekutholakele ukuncoma koMkhandlu oHlelayo onQumayo kumele uMgcinimbiko woMkhandlu oHlelayo adlulisele isicelo somkhandlu ohlelayo onegunya kwisiGungu soMkhandlu.

(2) isicelo somkhandlu ohlelayo onegunya esidluliselwe kwiGungu soMkhandlu kumele siphelezelwe –

(a) ukuphawula okuqoqiwe okutholakale lapho umphakathi uphendula ngenkathi kuxhunyanwa nawo

(b) izimpendulo zomfakisicelo ekuphawuleni komphakathi, uma kukhona

(c) umbiko woMkhandlu oHlelayo onQumayo ngesicelo

(d) ukuncoma koMkhandlu oHlelayo onQumayo ngesicelo; futhi

(e) isinqumo soMkhandlu Ohlelayo onQumayo kunoma isiphi isicelo somkhandlu ohlelayo ogunyaziwe esmayelana nalentuthuko esinqumile

Isikhathi okumele isiGungu soMkhandlu sinqume ngaso ngesicelo

20. **(1)** IsiGungu soMkhandlu kumele sinqume ngesicelo somkhandlu ohlelayo onegunya

(a) Zingakapheli izinsuku ezi 90 emva kokuthola izincwadi zobufakazi ezibalulwe ku 3;

(b) Zingakapheli izinsuku ezi 90 emva kokuba uMkhandlu usunqumile ukuthi uzochibiyela noma qha uHlelo lwawo lweNtuthuko oludidiyele ukuze uvumele isicelo somkhandlu ohlelayo onegunya obalulwe kwisigaba 50(6); noma

(c) Lesosikhathi esaluliwe okuvunyelwane ngaso nomfaki sicelo, okuyisikhathi esingeke sibe ngaphezulu kwezinsuku ezi 180 emva kosuku isicelo nezincwadi zobufakazi ezihambisana naso zadluliselwa kwisiGungu soMkhandlu.

(2) Isicelo somkhandlu ohlelayo onegunya siphelelwa yisikhathi, uma isiGungu so mkhandlu sehlulekile ukunquma ngesicelo esikhathini esinikeziwe.

UHLA 5
ISAZISO SOMPHAKATHI
(Isigaba 53(1)

Izindlela zokwazisa umphakathi

1. (1) Faka isaziso somkhandlu ohlealayo onegunya kwiphephandaba lelo uMkhandlu olubalulilenjengephephandaba lawo lemibiko njengokwesigaba 21(1)(b) soMthetho wokuSebenza koMkhandlu, ngosuku lweviki olubalulwe uMkhandlu njengosuku lwawo lokufaka izaziso ngokwaloMtheshwana, futhi ngolwimi olubalulwe njengokwesigaba 21(2) soMthetho wokuSebenza koMkhandlu, njengolwimi lwawo olusemthethweni.

(2) Ubize umhlangano womphakathi ukuze wazise umphakathi ngesicelo somkhandlu ohlelayo onegunya

(3) Wenze ikhophi yesicelo ukuthi itholakale ukuze ihlolwe endaweni eyaziwayo kwinxanxathela yezitolo kunye nomuntu oyokwazi ukuphendula imibuzo ngesicelo.

(4) Uchaye isaziso kumhlaba noma yikuphi lapho esiyobonakala lulakhona, inani futhi nendawo eyobalulwa uMgcinimbiko woMkhandlu oHlelayo.

(5) ukhiphe isaziso

(a) kumnikazi womhlaba owakhelene nawo, uma ungengamelwe isigungu sababusi noma inhlangano yabanikazi bomhlaba

(b) kusihlalo wesigungu esibusa umhlaba nezakhiwo owakhelene nawo okumele ahambise izaziso kumalungu esigungu esiphethe abathintekayo yilesisicelo

(c) usihlalo wenhlangano yabanikazi bomhlaba bezakhiwe ezakhelene nawo okumele ahambise isaziso kumalungu enhlangano yabanikazi bomhlaba abathintekayo ngalesisicelo.
(d) umphathi womhlaba ogunyalawo eligodliwe libhaliswe ngaye othintekayo ngalesisicelo
(e) umuntu omgomo wobunikazi bomhlaba bubhaliswe ngaye othintekayo ngalesisicelo
(f) iKhansela lesigceme soMkhandlu lapho umhlaba ukhona
(g) abaholi bendabuko noma abanye abaholi bomphakathi
(h) noma yimuphi umuntu ngokubona koMkhandlu ongase athinteke ngesicelo somkhandlu ohlelayo onegunya.

Okuqukethwe kwisaziso somphakathi

2. Isaziso esimema umphakathi noma umuntu ukuba uphawule ngesicelo somkhandlu ohlelayo kumele -
   (a) Sihlonze umhlaba isicelo esimayelana nawo –
       (i) ngokucacisa ngekheli lapho umhlaba ukhona , uma ingekho ikheli lendawo, ngokuchaza kabanzi ukuthi umhlaba ukuphi nendawo
       (ii) ngokuchaza isakhiwo leso noma indawo leyo ngokucacile
   (b) Usho inhloso yesicelo
   (c) Usho ukuthi ikhophi yesicelo kunye nezincwadi zobufakazi esihambisana nazo zivulelekile ukuthi amalungu omphakathi athandayo azihlole ngesikhathi sokusebenza endaweni eshiwo kwisaziso.
   (d) Umeme amalungu omphakathi ukuthi afake ukuphawula okubhaliwe kulowo obhalwe kwisicelo njengomuntu okuxhunyanwa naye.
   (e) Usho ukuthi ukuphawula kuyofakwa kanjani
   (f) Usho usuku okumele kube sekufakiwe ukuphawula ngalo, okungusuku olungeke lube usuku olunganeno kwezinsuku ezi 30, kungabalwa amaholide, emva kosuku okushicilelwe ngalo isaziso, sahanjiswa noma sachaywa.
   (g) Usho ukuthi ukwehluleka komuntu ukuletha ukuphawula ngokuphendula kwisaziso noma ukunikeza imininingwane yokuxhumana naye kuyokwenza ukuthi anqatshelwe ilungelo lokuthola isaziso esiqondene naye sesigcawu sokulalelwa komphakathi nelungelo lokufaka isibuyekezo; futhi
   (h) Usho ukuthi umuntu ofake ukuphawula ngaphambili ephendula isicelo akumele aphinde enze njalo futhi, umangabe isaziso sasikhishiwe ngaphambili saso futhi lesisicelo.

Isaziso somphakathi esihlanganyele sesicelo somkhandlu ohlelayo onegunya kanye nesicelo sezemvelo sokugunyazwa

3. (1) Umfakisicelo angafaka isaziso sakho kokubili umkhandlu ohlelayo onegunya nesicelo sokugunyazwa kwezemvelo kwisaziso esisodwa.
(2) Isaziso esihlanganyele kumele sisho ukuthi siyisaziso sakho kokubili njengokubalulwe ku 11(1) woHlu 4 saloMtheshwana nemitheshwana 54 kuya ku 57 we Environmental Assessment Regulations.
(3) Isaziso esihlanganisile kumele sihambisane nokuhlinzekwe ku 2 waloluhla nakumtheshwana 54 kuya ku 57 we Environmental Assessment Regulations

Isaziso esihlanganyele sesicelo somkhandlu ohlelayo onegunya nesicelo selungelo lokumba

4. **(1)** isicelo kunye noMphathiswa wesiFunda obalulwe kwisigaba 8 noma ummeleli obalulwe kwisigaba 70 soMthetho wezokuMbiwaphansi amaMineral nokuThuthukiswa angakhipha isaziso sakho kokubili isicelo somkhandlu ohlelayo onegunya nesicelo selungelo lokumba esicelweni esisodwa.

(2) isicelo esihlanganisile kumele sisho ukuthi siyisaziso ngokwezigaba zombili 11(1) woHlu 4 saloMtheshwana nomtheshwana 3(3) woMthetho **wezokuMbiwaphansi** neNtuthuko
(3) isicelo esihlanganisile kumele sihambisane nokuhlinzekwe kwisigaba 2 saloluhla nomtheshwana 3 wezokumbiwaphansi neNtuthuko.

UHLA 6
INQUBO YOKUCHIBIYELA ISICELO NOMA ISINQUMO SOMKHANDLU OHLELAYO ONEGUNYA NOKUCISHA UMKHANDLU OHLELAYO ONEGUNYA
(Isigaba 53(4) no 70

Isicelo sokuchibiyela kwisicelo somkhandlu ohlelayo ngaphambi kwesaziso ngesinqumo sesicelo esikhulu

1. (1) Umfakisicelo angacela ukuchibiyela isicelo somkhandlu ohlelayo onegunya ngokuzisukelayena noma ngokucelwa nguMkhandlu oHlelayo oneGunya oGunyazayo.
(2) UMkhandlu oHlelayo Onegunya oGunyazayo ungatshela umfakisicelo ukuba –
(a) nikeze isaziso esibhaliwe sesichibiyelo kwisicelo somkhandlu ohlelayo onegunya kumuntu owaphendula ngokubhala ngenkathi beceliwe ukuba baphawule kwisicelo somkhandlu ohlelayo onegunya
(b) ukuba aphinde indlela yokufaka isaziso, uma, ngokubona koMkhandlu oHlelayo oGunyazayo oneGunya, ukuthi isichibiyelo kwisicelo siqhukethe uguquko olubalulekile kwisicelo
(3) Ukuphawula okwemukelwe nguMgcinimbiko woMkhandlu oHlelayo ephendula kwizimpendulo ezilethwe ekuqaleni lapho kwakucelwe ukuba kuphawulwe ngesicelo somkhandlu ohlelayo onegunya zilokhu zingaguqukile zinesisindo, uma ukunikezwa kwenqubo yokwazisa umphakathi iphindwa.

Isicelo sesichibiyelo kuMqulu weziNqumo zoMkhandlu oHlelayo oGunyazayo oneGunya ukulungisa iphutha noma ukuhambisana ngokwesikhathi nenkomba

2. (1) Umuntu obalulwe kwisigaba 1 soHlu 4 angafaka isicelo sesichibiyelo sokulungisa amagama kuMqulu wezinNqumo zoMkhandlu oHlelayo oGunyazayo oneGunya ukuze
(a) Alungise iphutha kumagama okubhalwe ngawo isinqumo
(b) Ukulungisa iphutha igama elibhalwe ngayo
(c) Ukubonisa ngokulungile ukubalulwa komhlaba nguMdabuli oMkhulu
(d) Ukuhambisana ngokwesikhathi inkomba kumthetho, umuntu, ukusebenza, isigaba sombuso, noma lokho okushiwo; noma
(e) Ukuhambisana okuyikho nenkomba yomgwago noma igama lendawo
(2) UMgcinimbiko woMkhandlu oHlelayo kumele adlulise isicelo sokulungisa kuMqulu weziNqumo woMkhandlu oHlelayo ogunyazayo oneGunya kuMkhandlu Ohlelayo oGunyazayo oneGunya zingakapheli isinsuku ezi 14 emva kokuba isicelo sinikezwe kuye.
(3) Isicelo sokulungisa kuMqulu weziNqumo woMkhandlu oHlelayo oGunyazayo oneGunya kumele sinqunywe –
(a) UMphathi woMkhandlu oneGunya noma uSihlalom woMkhandlu onQumayo zingakapheli izinsuku ezi 30 iscelo sidluliselwe kuye.
(b) yisiGungu soMkhandlu, zingakapheli izinsuku ezi 60 isicelo sidluliselwe kuwo
(4) UMkhandlu oHlelayo uGunyaze oneGunya kumele –
(a) ugunyaze, okufaka phakathi nokugunyaza ingxenye; noma
(b) wenqabe.
Isicelo sokulungisa kuMqulu wezinQumo

Isicelo sokuchibiyela okungabalilekile kwisinqumo sesicelo noma ukwesula umkhandlu ohlelayo onegunya

3. (1) isicelo sokuchibiyela okungabalulekile kwisinqumo sesicelo somkhandlu ohlelayo onegunya noma ukwesula umkhandlu ohlelayo onegunya kumele kulandele inqubo esesigabeni 1 kuya ku 8, 13 (kushiywe ngaphandle isigaba 13(2)(b), 14 no 16 kuya ku 20 woHlu 4, ngaphandle –

(a) UMgcinimbiko woMkhandlu oHlelayo kumele azise umfakisicelo zingakapheli izinsuku ezi 15 esikhundleni sezinsuku ezi 30 emva kokuthola isicelo esiphelele noma ulwazi olwengeziwe olufunekayo ngengokubalula ku 6(1)(b)

(b) Inkomba ku 5 -12 kokubalulwe ku 13 kumele ithathwe njengenkomba ku 5-8

(c) uMphathi woMkhandlu oHlelayo oneGunya noma uMkhandlu oHlelayo onQumayo kumele unqume ngesicelo

(i)zingakapheli izinsuku ezi 30 endwaweni yezinsuku ezi 60 njengokushiwo ku17(1)(a)

(ii) zingakapheli izinsuku ezi 15 esikhundleni sezinsuku ezi 30 njengokusho kuka 17(1)(b) noma

(iii) singakapheli isikhathi esibalulwe ku 17(1)(c)

(d) uMkhandlu oHlelayo onQumayo kumele wenze izincomo kwisicelo okumele sinqunywe yisiGungu soMkhandlu

(i) zingakapheli izinsuku ezi30 esikhundleni sezinsuku ezi60 njengokushiwo ku 18(a)

(ii) zingakapheli eziwu 15 esikhundleni sezi 30 njengokushiwo ku 18(b) noma

(iii) singakapheli isikhathi esibalulwe ku 18(c)

(e) nenkomba kwisigcawu sokulalela komphakathi ngokubalula kuka 17(1)(b) no 18(b) kumele sishaywe indiva

Izindaba okumele uMkhandlu oHlelayo oGunyazayo oneGunya uziqhaphele lapho unquma ngesicelo ukuthi sifanelekile ukuba isicelo sokungabalulekile kwisichibiyelo kwisinqumo.

4. (1) UMkhandlu oHlelayo oGunyazayo oneGunya kumele unqume uma isicelo siqukethe isicelo sokuchibiyela okungabalulekile kwisinqumo

(2) UMkhandlu oHlelayo oGunyazayo oneGunya kumele uqaphele lezinto ezilandelayo uma unquma ukuthi isicelo sifanelekile yini njengesicelo sokuchibiyela okungabalulekile kwisinqumo sesicelo somkhandlu ohlelayo onegunya, uma kwenzeka –

(a) uma ukuchibiyela kuzoba nomphumela

(i) uguquko kwindawo engamelwe yintuthuko ikakhulukazi leyo engaphandle komngcele.

(ii) uguquko kwindawo engamelwe yizakhiwo

(iii) ukukhula okubonakalayo kokucinana kwentuthuko

(iv) Ukukhula okukhulu okunozwelo kwintuthuko yemisebenzi yezobunjiniyeli

(v) Inguquko enkulu lapho kukhona khona izakhiwo

(vi) Ukwakhekha kwezakhiwo eduze kwezakhiwo zendawo owakhelene nawo

(vii) Ukuphoqa okukhulu kokubona, ukuphoqa komsindo, ukuphoqa kokukhanya, ukuzizwa uvalelekile noma yikuphi okuphikisana nemigomo yokuphila kwabahlali bentuthuko noma bendawo okwakhelenwe nayo

(viii) Ukuguquko kulolonke uhlelo oluhleliwe noma lokubukeka kwentuthuko, ikakhulukazi uma lusendaweni enozwelo kwezemvelo; noma

(ix) Iphikisana nombandela wokugunyaza kwabahlali okhishwe umkhandlu ohlelayo ogunyazayo onegunya.

(b) uma noma yikuphi ukuphikisa kwisicelo sokuqala somkhandlu ohlelayo onegunya sizocekeleka phansi ngesicelo sokuchibiyela

(c) uma isichibiyelo sizoba nomphumela wokufaka okuthile okusha noma izinto ezizodinga ukuxhumana nabanikazi bomhlaba owakhelene, izinhlaka zombuso noma umphakathi

(d) umangabe uguquko lwaluzobe lungoluphumelele, uma lwalukhande ingxenye yesicelo sokuqala somkhandlu ohlelayo onegunya

(e) ubukhulu nezinga lokwenzeka kwezichibiyelo kulesosinqumo esisodwa.

(3) Uma, ngokombono woMkhandlu ohlelayo ogunyazayo oneGunya, isichibiyelo esihlongozwayo kwisinqumo siphathelene nokubalulekile, uMkhandlu Ohlelayo Ogunyazyo oneGunya kumele utshele umfakisicelo ngokubhala ukuba enze isicelo esisha somkhandlu ohlelayo onegunya.

UHLA 7

UMGUDU WESICELO SOKUHLALA KUMHLABA OWAHLUKANISELWE UKUHLALA NGENDLELA ENGAHLELIWE NGUMPHAKATHI WENDABUKO WABANINIMIZI

(Isigaba 53(2))

Abantu abangafaka isicelo

1. Isicelo somkhandlu ohlelayo onegunya sokwakha indlu yokuhlala kumhlaba okhonjwe nguMkhandlu njengomhlaba wokuhlalisa abantu bendabuko kumele wenziwe yinhloko yalowomphakathi.

Ukufakwa kwesicelo

2. (1) Isicelo somkhandlu ohlelalyo onegunya sokwakha indawo yokuhlala emhlabeni oqagulwe nguMkhandlu njengomhlaba wokuhlala ngendlela engahleliwe ngumphakathi wendabuko noma abanikazi bamakhaya ababhekene nobubha kumele ufake –

(a) Igama neminininingwane yokuxhumana yomfakisicelo
(b) Igama lawomphakathi omelwe ngofake isicelo
(c) Igama lendabuko laleyondawo nesiGodi lapho lomhlaba ukhona, uma kwenzeka
(d) Igama leNkosi yaleyondawo yendabuko neNduna yalesosiGodi, uma kwenzeka
(e) Imvume yaleyoNkosi neNduna noma abanye abaholi bomphakathi
(f) Izinkomba zendawo zohlelo lweGPS ezibalula ubulapho bendawo leyo okufakwe isicelo ngayo kunye nemnininingwane eyanele ukukhomba ukubabanzi kwayo; futhi
(g) Nesithombe esithwetshulwe emoyeni esingubufakazi bokuthi lendawo ikuphi.

(2) Isicelo somkhandlu ohlelayo onegunyasokwakha indawo yokuhlala emhlabeni oqagulwe nguMkhandlu njengomhlaba wokuhlala ngendlela engahleliwe ngumphakathi wendabuko noma abanikazi bamakhaya abhekene nobubha kumele sifakwe kunye -

(a) noMgcinimbiko woMkhandlu oHlelayo
(b) nomunye okethwe nguMphathi woMkhandlu ukuba emukele izicelo zomkhandlu ohlelayo onegunya; noma
(c) uMphathi woMkhandlu, uma Umkhandlu ungazange ukhethe uMgcinimbiko woMkhandlu oHlelayo futhi uMphathi woMkhandlu engazange aqoke omunye umuntu ukwamukela izicelo zomkhandlu ohlelayo onegunya.

Ukuqinisekisa kokubakhona komhlaba

3. (1) Uma ulwazi luphelele, uMgcinimbiko woMkhandlu oHlelayo kumele –

(a) Ahlolisise ukuthi umhlaba lowo akhanda ingxenye yomhlaba oqagulwe uMkhandlu njengomhlaba wokuhlala ngendlela engahleliwe ngumphakathi wendabuko noma abanikazi bamakhaya ababhekene nobubha; futhi
(b) Aqhathanise isicelo nokuqoshwe phansi koMkhandlu kunye –
(i) nezinye izicelo kanye nezimvume zomkhandlu ohlelayo onegunya kuyona leyo ndawo
(ii) nomhlaba obekelelwe imisebenzi yezobunjiniyela noma izinhlaka zezenhlalakahle endaweni.
Ukubona ukuthi umhlaba ukhona yini ukusetshenziselwa ukuhlala.

(2) Uma omunye umuntu ekewasicela lesisiza, uMgcinimbiko woMkhandlu oHlelayo kumele ambikele umfakisicelo ngendlela efanelekile bese emcela ofake isicelo ukuba –

(a) asihoxise isicelo; noma

(b) asichibiyele isicelo ngokuxhumana nalowo omunye osifakile, kunye neNkosi kanye neNduna noma abanye abaholi bomphakathi.

(3) Isicelo sithathwa njengesihoxisiwe, uma isicelo esivela kuMgcinimbiko woMkhandlu oHlelayo singaphenduliwe zingaka pheli izinsuku ezinga 90 emva kokuba isicelo senziwe.

Ukunikezwa komkhandlu ohlelayo ogunyaziwe

4. **(1)** Uma –

(a) Isicelo siphelele

(b) Umhlaba ukhanda ingxenye yomhlaba oqaguliwe uMkhandlu njengomhlaba wokuhlala ngendlela engahleliwe ngumphakathi wendabuko noma abanikazi ababhekene nobubha

(c) Umhlaba ungazange ucelwe omunye umuntu

(d) Umhlaba ungadingekeli imisebenzi yobunjiniyeli noma uhlaka lwezenhlalakahle

(e) Umhlaba ungavamile ukuba nezikhukhula noma yiziphi ezinye izimo eziwenza ungaphephi ukuhlalisa abantu kuwo

(f) Umhlaba ungazange uhlonzwe nguNgqongqoshe wezoLimo njengomhlaba omuhle wokulima odingakela ukuvikela ukudla kukazwelonke

(g) Umhlaba akusiwo umhlaba onozwelo kwezemvelo

uMgcinimbiko kumele akhiphele ofake isicelo isitifiketi esimgunyaza ukwakha izindlu zokuhlala kulowomhlaba.

(2) Lesitifiketi kumele siqukathe –

(a) igama, inombolo kamazisi kunye nemininingwane okuxhunyanwa ngayo yofakisicelo

(b) igama lomnikazi omelwe ngumfaki sicelo

(c) igama lendabuko lendawo kunye nesiGodi lapho lomhlaba ukhona, uma kwenzeka

(d) igama leNkosi yaleyondawo yendabuko kunye neleNduna yalesosiGodi; uma kwenzeka

(e) izinkomba zeGPS ezikhombisa ukubakuphi kwaleyondawo okufakwe isicelo sayo esinemininingwane eyanele ukukhombisa ngqo ilaphi lendawo

(f) nezithombe zobukazi ezithathwe emoyeni zaleyondawo.

(3) Umgcinimbiko woMkhandlu oHlelayo kumele akuqophe phansi lolulwazi oluku 2 ebhukwini elibalulwe kwisigaba 115(1).

(4) Uma isicelo siphelele, indawo/isiza singekho, noma sisendaweni ebalulwe kusigaba kusigatshana (1) uMgcinimbiko woMkhandlu oHlelayo angasenqaba lesisicelo.

(5) UMgcinimbiko woMkhandlu oHlelayo angagunyaza umkhandlu ohlelayo onegunya ngaphansi kwanoma yimiphi imibandela.

Ukudluliselwa komkhandlu ohlelayo onegunya

5. (1) Isitifiketi esigunyaza ukwakhiwa kwendawo yokuhlala emhlabeni oqagulwe uMkhandlu njengomhlaba wokuhlala ngendlela engahleliwe ngumphakathi wendabuko noma abanikazi muzi abahlaselwe ububha singadluliselwa komunye umuntu.

(2) Isicelo sokudlulisela isitifiketi esigunyaza ukwakhiwa kwendawo yokuhlala kumhlaba oqokwe uMkhandlu njengendawo yokuhlala ngendlela engahleliwe umphakathi wendabuko noma yabanikazi abahlaselwe ububha kumele ifake phakathi –

(a) igama, inombholo kamazisi kunye nemininingwane yofake isicelo

(b) igama lalobobunikazi obumelwe ofaka isicelo

(c) igama lendabuko lendawo nelesiGodi salapho lomhlaba ukhona, uma kudingeka

(d) igama leNkosi yaleyondawo yendabuko neleNduna yesiGodi, uma kwenzeka

(e) ikophi yalesositifiketi esizodluliselwa

(f) nokukodwa kwalezizincwadi zobufakazi ezilandelayo –

(i) isigunyazo somphathi sitifiketi sokudlulisela ilungelo lokusetshenziswa komhlaba

(ii) isitifiketi sokufa esikhombisa ukuthi umphathi wesitifiketi sewafa

(iii) isiqinisekiso seNkosi noma seNduna noma sanoma yimuphi umholi womphakathi sokuthi lomphathi sitifiketi usefile noma ukuthi akaziwa ukuthi washonaphi futhi ayaziwa imininingwane yokuxhumana naye.

(g) ukuvuma kweNkosi neNduna noma yibuphi ubuholi bomphakathi

(h) nezinkomba zeGPS ezikhomba indawo/isiza okufakwe ngaso isicelo futhi ezinemininingwane eyanele ukukhomba ukuthi lendawo ikuphi nendawo

(i) ubufakazi bezithombe zalendawo ezithathwe emoyeni ezisekhathini esisha

(3) Uma isiscelo siphelele, uMgcinimbiko kumele –

(a) anikeze ofake isicelo isitifiketi esiqukethe ulwazi olukumgomo 5(1); futhi

(b) afake lolulwazi olusha kwibhuku elibalulwe kwisigaba 115(1).

UHLA 8

IZINDABA OKUMELE UMKHANDLU OHLELAYO ONEGUNYA OGUNYAZAYO UZIQAPHELE LAPHO UNQUMA NOMA WENZA UKUNCOMA KWISICELO SOMKHANDLU OHLELAYO OGUNYAZAYO

(Isigaba 54(1))

1. UMkhandlu oHlelayo ogunyaziwe oneGunya kumele uqaphele lezindaba ezilandelayo lapho wenza isincomo kwisicelo somkhandlu ohlelayo ogunyzayo, uma kufanele –

(a) Isicelo

(b) Ukuphawula okwemukelwe kade kuphendula umphakathi kumgudu okuxhunyanwe ngawo

(c) Impendulo yofake isicelo

(d) Ukuhlola koMgcinimbiko woMkhandlu oHlelalyo kokuhambisana kwesicelo somkhandlu nemigudu yokufaka isicelo.

(e) Umbiko woMhleli Omkhulu kunye nezincomo ngesicelo

(f) Imithetho yentuthuko ngokomgomo wesigaba 7 somthetho wookuthuthukiswa lapha nalaphaya komhlaba nokwengamelwa kokusetshenziswa komhlaba

(g) Inqubomgomo, okufaka phakathi inqubomgomo kazwelonke neyesifundazwe emukelwe ngokwemigomo yanoma yimuphi umthetho nenqubomigomo yalowoMkhandlu.

(h) Okwemukelekile namaqophelo, okufaka –

(i) okwemukelekile namaqophelo kazwelonke okwengamela ukusetshenziswa nokuthuthukiswa komhlaba ngokwesigaba 8 sokuthuthukiswa komhlaba lapha nalaphaya nokungamelwa kokusetshenziswa komhlaba.

(ii) iqophelo nezinga lesifundazwe lokuhlela

(iii) amqophelo namazinga okuhlela oMkhandlu

(i) Uhlaka lokuthuthukisa komhlaba, lufaka –

(i) uhlaka lukazwelonke lokuthuthukisa lapha nalapha umhlaba olwemukelwe ngokwesigaba 13(1)

(ii) uhlaka lwesifundazwe lokuthuthukiswa komhlaba lapha nalapha olwemukelekile ngokomgomo wesigaba 15(1) soMthetho wokuthuthukisa umhlaba lapha nalapha nokwengamela ukusetshenziswa komhlaba

(iii) uhlaka lwesifunda lokuthuthukisa lapha nalapha komhlaba olwamukelwengokwesigaba 18(1) soMthetho wokuThuthukiswa nokwengamelwa kokuSetshenziswa komhlaba lapha nalapha; futhi

(iv) uhlaka lomkhandlu lokuthuthukisa umhlaba lapha nalapha olwemukelwe ngokwesigaba 25(1) soMthetho iMunicipa Systems Act isigaba 20(1) soMthetho wokuThuthukiswa komhlaba lapha nalapha nokwengamela ukuSetshenziswa komhlaba.

(j) uHlelo oludidiyele lokuThuthukiswa komhlaba loMkhandlu ngokwesigaba 25(1) soMthetho wokusebenza koMkhandlu

(k) uhlaka lokusetshenziswa komhlaba, okufaka phakathi nezindaba okumele uMkhandlu uziqaphele ezibalulwe kuhlaka lokusetshenziswa komhlaba
(l) Imithetho yokuqondisa nemithetho yokugunyaza iplan yenhlangano yabanikazi bomhlaba, noma isigungu sabaphethe noma inkampani yezabelo ezifakwe ukwengamelwa uMkhandlu.
(m) Ukugunyazwa kwezinto ezithile ngokwe Environmental Impact Assessment egulations
(n) Umthelela ongabananmandla, ohlanganisa nomthelela wabamelele inani labathile
(i)isimo esizungezile
(ii) izimo zezomnotho zomphakathi
(iii)okwemukelwa ngokwesiko
(iv)ukuthuthuka okukhona
(v)amalungelo akhona okuthuthukisa umhlaba; futhi
(v) namalungelo okumbiwayo
(o) imithombo yemali nabantu okungenzeka abekhona ukwenza ukusebenza umkhandlu ohlelayo onegunya
(p)inzuzo etholakala ngokwamukela, okuthatha indawo noma ukuchibiyelwa kohlaka lokusetshenziswa komhlaba kuqhathaniswa nezindleko zenhlawulo ngokwesigaba sesaHluko 8
(q) isihlinzeko nezinga lomsebenzi wobunjiniyela
(t) umthelela, kuhlanganisa nomthelela wabamele, kwisicelo kuzwelonke, kwisifunda nakuxhaxha lwemigwaqo yomkhandlu, nakwezokuthutha umphakathi, ezokuthutha indle nokuchitha amanzi angcolile, ukunikezela ngamazi nogesi, ukungamela inkunkuma nokuyisusa, ukuqapha nokuvikeleka.
(u) ukufinyelela kwezempilo, imfundo nezindawo zokuzithokozisa
(v) imithelela yomlando odlule wokucwasana ngokobuhlanga nomthetho wokuhlakaniswa kwezizwe ebunikazini bomhlaba, nokuthuthukiswa komhlaba nokufinyelela kwimisebenzi yezobunjiniyela nezindawo zomphakathi nesidingo sokulungisa umlando wokungalingani.
(w) Ukuvikela nokonga okwamasiko nemithombo yezemvelo, kufaka phakathi nemithombo yezokulima, nezindawo ezihlukile nezinezakhiwo ezinqabile, nesimo sokwakhekha kwezindawo nokwehlukahlukana kwemvelo.
(x) amaqophelo emvelo nokwakheka kwaleyondawo
(y) inani nenhloso eyosetshenziswa lapho uMkhandlu unquma ukuthi uMdabuli oMkhulu kumele yini
(i) agunyaze umdwebo wesakhiwo ngasinye noma agunyaze iplani lezakhiwo zonke; futhi
(ii) agunyaze umhlaba –
(aa) njengandawo yokulima, kubandakanya ingxenye noma insalela yaleyondawo yokulima
(bb) njengendawo eyahlukanisiwe yomhlaba engeyona indawo yokulima
(cc) isiqeshana somhlaba elokishini
(z) Isidingo sokuvimbela ukwehlukaniswa kwesigaba esithile somhlaba ngokusihlukanisa njengesiqeshana esahlukanisiwe sohlelo lobunikazi loMthetho wobunikazi beziqeshana noma lobunikazi bezabelo ngokomthetho wezabelo Share Block Controls Act, 1980(Act No 59 of 1980):
(aa) isihlinzeko sesigaba 13 se Legal Succession of the South African Transport Services Act, 1989 (Act No 9 of 1989) okumayelana nokudabulwa komhlaba ngu Transnet neminye imithetho elawula ukudatshulwa komhlaba
(ab) noma yikuphi ukwenza noma ukuvelela ekusetshenzisweni komhlaba okuhambisana ngokungagudluki no –
(i) kwimithetho yezwe
(ii) ukuhlela ngamazinga namaqophelo ngokwesifundazwe

(iii) uHlelo oluDidiyele lokuThuthukiswa koMkhandlu

(ac)noma yiliphi elinye iphuzu elingaba yingxenye yalokhu

(2) ukuncishiswa noma ukwehliswa kwenani akukhona kuphela okumele kuqashelwe ngenhloso yokuqaphela isicelo somkhandlu ohlelayo onegunya

(3) uma Umkhandlu oHlelayo oGunyazayo oneGunya uyisiGungu soMkhandlu –

(a) ungaqikelela okufinqiwe kweziphawulo ezamukelwa ekuphenduleni komphakathi kade kuxhunyanwe nawo ngenqubo yokuxhumana endaweni yeziphakamiso

(b) kumele ukucabange izincomo zoMkhandlu oHlelayo onQumayo kwisicelo phezi kwezindaba ezikuhla lolu.

UHLA 9

ULWAZI OKUMELE LUFAKWE EKUQOSHWENI KWEZINQUMO

(Isigaba 55(4))

Ulwazi okumele lufakwe kwiSiqopha Zinqumo ngesicelo somkhandlu ohlaleyo onegunya

(1) Lolwazi olulandelayo kumele luqoshwe kumqulu wokuqoshwa kwezinqumo ngesicelo somkhandlu ohlelayo onegunya –

(a) Imininingwane yesicelo ifaka

(i)Umumo wesicelo

(ii)ukuchazwa kwendawo leyo enezindawo ezithintekayo, ngaphandle uma isicelo kuyisicelo sesichibiyelo sohlaka lokusetshenziswa komhlaba esijwayelekile.

(iii)inombolo yesicelo

(b) Isinqumo sawo

(c) Imibandela isicelo esagunyazwa ngaphansi kwayo, uma sasigunyazwe ngaphansi kwemibandela, okufaka

(i)miphi imibandela okumele ihlangabezwe ngaphambi kokuba isakhiwo sakhiwe kumhlaba noma ukusebenzisa umhlaba njengokwesigunyazo

(ii) miphi imibandela okumele kuhanjiswane nayo ngaphambi kokuba isakhiwo sakhiwe kulowomhlaba

(iii) miphi imibandela okumele kuhanjiswane nayo ngaphambi kokuba kuhlalwe kumhlaba

(iv) miphi imibandela okumelwe kuhanjiswane nayo ngaphambi kokuba umhlaba ubhaliswe ebunikazini obehlukene; futhi

(v)miphi imibandela okumele ibhaliswe ichasane nomhlaba

(d) Uma kumele uMdabuli Omkhulu

(i)agunyaze iplani elijwayelekile noma umdwebo wendawo eyahlukanisiwe noma yomhlaba ohlanganisiwe

(ii)uma uMdabuli Omkhulu kumele agunyaze indawo

(aa)njengendawo yokulima, kufaka phakathi nengxenye yendawo noma insalela yendawo yokulima

(bb) njengendawo eyahlukanisiwe yomhlaba engeyona indawo yokulima

(cc) njengesiqephu esiselokishini

(e) izizathu zesinqumo esithathiwe

(f) izizathu zezinguquko, uma izinguquko zenziwa kwisinqumo ngofake isicelo noma umkhandlu

(g) imininingwane yohlelo lokuxhumana nomphakathi , okufaka

(i) umangabe ukuxhumana nomphakathi kwakudingekile lapho kufakwa isicelo

(ii) umangabe isaziso sesicelo sasifakwe kwiphephandaba, igama lephephandaba okwakufakwe kulo isaziso nosuku esashicilelwa ngalo

(iii) umangabe umhlangano womphakathi wabizwa ukuzo kwazisa umphakathi ngesicelo, nosuku lomhlangano
(iv) umangabe ukuhlolwa kwesiza kwenziwa, nosuku lokuhlolwa kwesiza
(v) uma isigcawu sokulalelwa kwesicelo sabizwa, nosuku okwalalelwa ngalo

(h) uma kwemukelwa noma yikuphi ukuphawula kuphendulwa ngesimemo sokuphawulo ngesicelo

(i) usuku lokuvala lokufaka uhla lwezibuyekezo

(ii) ukuthi okufinqiwe kwamalungelo nezibophezelo zabafake isicelo sokubuyekeza singatholakala kuMgcinimbiko woMkhandlu oHlelayo oneGunya Obuyekezayo

(iii)igama neminininingwane yokuxhumana

(aa) umfaki sicelo

(bb) uMgcinimbiko woMkhandlu oHlelayo oBuyekezayo oneGunya

(cc) umuntu kuMkhandlu okukuye kwanikezelwa uhla lwezibuyekezo, isicelo sokufaka emva kwesikhathi isicelo sesibuyekezo noma uhla lwezimpendulo ngesibuyekezo ezingalethwa; futhi

(i) usuku okuqala ngalo ukusebenza kwesinqumo soMkhandlu.

UHLA 10
UMGUDU WOKUBUYEKEZA
(Isigaba 76(1))

Ingxenye 1: Ukufakwa kohlu lwezibuyekezo, ukufakwa kohlu lwokuphendula, ukubizela abantu ukuba bafake izincwadi ezibalulekile nokuhlela ngokubaluleka izincwadi ezibalulekile

Ukufakwa kohlu lwezibuyekezo

1. (1) uhla lwezibuyekezo kumele –

(a) Luhlinzeke ngamaphuzu adingekayo amayena naloludaba
(b) Lusho izizathu sesicelo sesibuyekezo nokukhululeka okufunwayo
(c) Luphakamise okunye, umfakisicelo afuna uMkhandlu oHlelayo oBuyekezayo oneGunya ukuqaphele lapho wenza isinqumo sawo
(d) Ukugqugquzela okugcwele kokutusa isicelo; futhi
(e) Ukugqugquzela okugcwele kokunikezela ngokwezindleko, uma isicelo sokufuna ukukhululeka sifaka phakathi isicelo sokubuyiselwa izindleko ezichasene noMkhandlu ngezizathu zokuthi isinqumo sawo

(i)sikhulu ngokubabazekayo

(ii)sibonisa ngokucacile ukungashayindiva ko

(aa) inqubo echazwe kuloMtheshwana ; noma

(bb) imithetho yentuthuko ngokwesigaba sika 7 soMthetho wokuThuthukiswa nokwenganyelwa komhlaba napha nalapha

(cc)imithethonqubo, okufaka nemithetho nqubo kazwelonke nesifunda eyamukelwe ngokwanoma yimuphi umthetho nemithethonqubo yoMkhandlu lowo

(dd) amazing namaqophelo okwengamela ukusetshenziswa komhlaba nokuthuthukiswa kwawo ngokwesigaba 8 sokuHlaka lolkuthuthukiswa komhlaba lapha nalapha, namzinga namaqophelo esifundazwe namazinga namaqophelo oMkhandlu.

(2) Uma umcelisibuyekezo kunguye ofake isibuyekezo, umfakisicelo kumele anikezele uhla lwezibuyekezo ku

(a) Mgcinimbiko woMkhandlu oBukezayo Ohlelayo oneGunya
(b) uMphathi woMkhandlu
(c) Bonke abantu abaphendula ngokubhala kwisicelo sokuphawula kwisicelo somkandlu ohlelayo onegunya, o –
(i) waphendula ngaphambi kosuku lokuvala kokuphawula; futhi
(ii) ehlinzekile neminininingwane yakhe yokuxhumana

(3) Uma umcelisibuyekezo engumuntu owafaka ukuphawula okubhaliwe ngokomgomo, umfaki sicelo sokubuyekeza kumele alethe uhla lwezibuyekezo ku
(a) Mgcinimbiko woMkhandlu oHlelayo oBukezayo noneGunya
(b) uMphathi woMkhandlu
(c) umfakisicelo

(4) Uma kunokwenzeka, lomfakisicelo sokubuyekeza kumele alethe okufanayo okuqukethe uhla lwezibuyekezo noma akuthumele ngobuchwepheshe kuMgcinimbiko woMkhandlu oHlelayo Ubukeze oneGunya.

Ukufakwa kohlu oluphendulayo

2. **(1)** Umuntu okunikezelwe kuye uhla lwezibuyekezo, usenokufaka uhla lwezimpendulo
(2) uhla lwezimpendulo kumele –
(a) asho ukuthi isicelo siyaphikiswa noma cha, futhi, uma siphikiswa asho imininingwane yokuphikisa
(b) asho noma yiluphi udaba noma izindaba leloqembu elifisa ukuba uMkhandlu oHlelayo ubuyekeze oneGunya afisa ukuba uziqaphele lapho ukhipha isinqumo
(c) ukhuthaze ngokugcwele isicelo ngokutusa
(d) ufake futhi noma isiphi isicelo sesilawulo sokukhokhelwa esichasene nomfakisicelo wesibuyekezo nezizathu zesicelo, okufaka phakathi nokulayela ngezindleko ngezizathu zokuthi isicelo siyahlukumeza siyinto engenasidingo.

(3) Umuntu ofisa ukufaka uhla oluphendulayo kumele zingakadluli izinsuku ezingu 30 ngemuva kokuba uhla lwezibuyekezo lwanikezelwa kulowo muntu owanikela ngohlu lwezimpendulo
(a) Mgcinimbiko woMkhandlu Ohlelayo Obukezayo Onegunya
(b) uMphathi woMkhandlu

(4) uma kungenzeka , umuntu ofisa ukufaka uhla lwezimpendlo kumele afake okufanayo kohlu lwezimpendulo zesibuyekezo ngobuchwepheshe kokuposa kuMgcini mbiko woMkhandlu oHlelayo uBukeze oneGunya

Amaqembu kwisigcawu sokulalela

3. Yilababantu abalandela abayoba yingxenye yesigcawu sokulalela isibuyekezo
(a) Umfakisicelo
(b) Umuntu owafaka ukuphawula ngokubhala ngokomgomo 7(d) woHlu 6
(i) ofake isicelo sesibuyekezo esichasene nesinqumo soMkhandlu
(ii) ofake uhla lwezimpendulo kwisicelo sesibuyekezo

Ukuhoxiswa kwesicelo sesibuyekezo noma ukuphikisa isibuyekezo

4. (1) Umfakisicelo sesibuyekezo angahoxisa isibuyekzo ngokuletha isaziso esibhaliwe sokuhoxiswa kwesibuyekezo kuMgcinimbiko woMkhandlu oHlelayo uBuyekeze oneGunya, kuMphathi woMkhandlu nakuwo wonke amaqembu athintekayo kulesibuyekezo

(2) Ophendulile angahoxisa ukuphikisa kwisicelo sesibuyekezo ngokuletha isaziso esibhaliwe sokuhoxiswa kwesiphikiso kuMgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya, naku mfakisicelo sokubuyekeza nakuwo wonke amaqembu athinteka kulesigcawu sokulalela isibuyekezo

(3) Oyingxenye yalesisigcawu sokulalela isibuyekezo, ophatheka kabi ngokuhoxiswa kwalesisicelo sesibuyekezo ngumfakisicelo, angafaka kuMkhandlu oHlelayo oBukezayo oneGunya isinxephezelo ngezindleko azibhekise kumfakisicelo.

Amandla oMkhandlu oHlelayo uBukeze oneGunya mayelana nofakazi

5. (1) UMphathi angabizela noma yimuphi umuntu ukuba eze ukuzohlola isiza noma ukuzolalela isigcawu sokubuyekeza, ukuze –

(a) Athule ubufakazi futhi abuzwe imibuzo njengofakazi mayelana nomayini kuloludaba
(b) Ukuba aveze incwadi yobufakazi noma okuthile akuphethe noma okungaphansi kokulawulwa yilowomuntu futhi abuzwe mayelana nalokho

(2) Umuntu obizelwe esigcawini noma obizwe ngolunye uhlangothi njengofakazi ekuhlolweni kwesiza noma esigcawini sokulalelwa kwesibuyekezo angacelwa uMphathiswa ukuba enze isifungo noma enze isiqinisekiso njengofakazi ngaphambi kokuba aqale ukubuzwa.

(3) Umthetho omayela nelungelo osebenza enkantolo yomthetho uyasebenza futhi kufakazi obiziwe noma obizelwe ukuzokwethula ubufakazi noma ukuletha incwadi yobufakazi.

Ukukhipha nokuhambisa incwadi ebizela enkantolo nokuqinisekisa ukuza kofakazi enkantolo

6. (1) lencwadi ebizelaenkantolo ebalulwe kokuku 5(1) waloluhla kumele ikhishwe uMphathiswa isayinwe nguye, futhi kumele –

(a) Imemele ngqo lowomuntu obhalwe kuyo ukuba avele phambi koMkhandlu oHlelayo oBukezayo oneGunya ukuba ethule ubufakazi noma aveze incwadi enobufakazi noma yikuphi okunye kuMkhandlu oHlelayo oBukezayo oneGunya;
(b) Isho izizathu zokuthi kungani lowo muntu kufanele ukuba avele phambi koMkhandlu oHlelayo uBukeze oneGunya azokwethula ubufakazi noma aveze incwadi yobufakazi noma yini enye kuMkhandlu oHlelayo uBukeze oneGunya;
(c) Uma kwenzeka, ngokugculisayo ahlonze incwadi yobufakazi noma lokho okuthile okufanele lowomuntu ukuba akuveze; futhi
(d) Asho usuku, isikhathi nendawo lapho lowomuntu okumele azovela kuyo phambi koMkhandlu oBukezayo.

(2) Lencwadi ebizela esigcawini kumele ihanjiswe kumuntu ngumuntu ogunyaziwe ngokubhala phansi nguMkhandlu oHlelayo uBukeze oneGunya ukuba ayihambise.

(3) Lowo muntu ohambisa lencwadi ebizela umuntu esigcawini kumele achaye kulowomuntu othunyelelwa lencwadi incwadi yona uqobo leyo embizela esigcawini noma igunya elibhaliwe lokuthi alethe lesimemo, uma ecelwa ukuba enze njalo.

(4) Umuntu ohambise lencwadi ebizela esigcawini kumele ahlinzeke ngokubhaliwe kuMgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya okukhombisa ukuhanjiswa kwencwadi, kufaka phakathi nendlela lencwadi ebizela esigcawini ehanjiswe ngayo.

Amandla oMkhandlu oHlelayo uBukeze oneGunya mayelana nencwadi yobufakazi edingekayo ukunquma ngesibuyekezo

7. (1) UMphathiswa, ngokucelwa amalungunoMkhandlu oHlelayo uBukeze oneGunya noma yiluphi uhlangothi lokulalelwa kwesigcawu sesibuyekezo, angafaka incwadi ebizela noma yimuphi umuntu ukuba afake noma yiziphi izincwadi zobufakazi eziphethwe nguye noma ezingaphansi kokulawulwa nguye kuMgcinimbiko woMkhandlu oHlelayo Ubukeze oneGunya.

(2) Umuntu obizwe ngencwadi ukuba afake incwadi yobufakazi kuMgcinimbiko Mkhandlu oHlelayo uBukeze oneGunya kumele lowo muntu alethe kuMgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya okungenani zingakapheli izinsuku ezi 21 ngaphambi ngokuqala kwesigcawu sokulalelwa.

(3) Uma uMphathiswa ekhiphele uMkhandlu incwadi ewucela ukuba ufake incwadi yobufakazi leyo uMkhandlu owawethembele kuyo lapho unquma ngesicelo somkhandlu

ohlelayo onegunya, bese uMkhandlu uhlaleka ukuletha leyoncwadi yobufakazi kuMgcinimbiko woMKhandlu oHlelayo uBukeze oneGunya, uMkhandlu oHlelayo uBukeze oneGunya ungathatha ngokuthi uMkhandlu uhlalekile ngakhoke isicelo sesibuyekezo siphumelele ngezizathu zokuthi uMkhandlu awuzange ucabangisise lapho unquma ngesicelo.
(4) Umthetho omayena nelungelo enkantolo yomthetho uyasebenza nakumuntu obizelwe esigcawini ukufaka incwadi yobufakazi kuMgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya.

Ukukhishwa nokuhanjiswa kwencwadi emema ukugunyazwa ukuthola incwadi yobufakazi

8. (1) Incwadi ebizela esigcawini ebalulwe kokuku 5(1) waloluhla kumele ikhishwe uMphathiswa ngousayina kwakhe; futhi kumele –

(a) Ngokucacebha idinge ukuthi lowo obalulwe kuyo kubenguye ofaka incwadi yobufakazi kuMgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya;
(b) Usho izizathu ukuthi kungani incwadi yobufakazi idingwa uMkhandlu oHlelayo uBukeze oneGunya;
(c) Ihlonze ngokwenelisayo incwadi yobufakazi okumele lowomuntu ayifake kuMgcinimbiko woMkhandlu oHlelayo ubukeze oneGunya
(d) Uchaze ukuthi kanjani, kuphi ngaluphi usuku okumele kufakwe ngalo incwadi yobufakazi kuMgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya.

(2) Uma uMphathiswa ekhiphe incwadi emema uMkhandlu oHlelayo oGunyazayo oneGunya ukuba ufake incwadi owawuthembele kuyo lapho unquma ngesicelo somkhandlu ohlelayo ugunyaze, isexwayiso esithi uma uhlaleka ukuletha lencwadi yobufakazi kuMgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya, uMkhandlu oHlelayo uBukeze oneGunya ungasithatha isinqumo sesibuyekezo njengesimile ngokwezizathu zokuthi uMkhandlu oHlelayo uGunyaze oneGunya awuzange ucabangisise lapho unquma ngesicelo.
(3) Incwadi ebizela esigcawini kumele ilethwe kumuntu yilowomuntu ogunyaziwe ngokubhala nguMgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya ukuba ayihambise.
(4) Umuntu ohambisa lencwadi kumele akhombise kulowo muntu ahambisa kuye lencwadi incwadi uqobo lwayo noma igunya elibhliwe lokuthi ahambise lencwadi, uma ecelwa ukuba enze kanjalo.
(5) Umuntu ohambisa lencwadi ebizela esigcawini kumele alethe okubhaliwe kuMgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya okukhombisa ukuthi incwadi ihanjisiwe kufakephakathi nendlela incwadi ehanjiswe ngayo.
(6) Umthetho omayena nelungelo enkantolo yomthetho uyasebenza nakumuntu obizelwe esigcawini ukufaka incwadi yobufakazi kuMgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya.

Iqoqo lezincwadi zobufakazi ezidingekayo ukunquma ngesibuyekezo

9. (1) Okuyingxenye yesigcawu sokulalelwa kwesibuyekezo kumele kulethe zonke izincwadi zobufakazi leyongxenye efisa ukuthembela kuzo esigcawini sokulalelwa kuMgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya okungenani zingakapheli izinsuku ezi 21 ngaphambi kokuqala kwesigcawu sokulalelwa kwesibuyekezo.
(2) Uma kwenzeka, oyingxenye yokulalelwa kwesibuyekezo kumele alethe amakhophi ezincwadi zobufakazi ngeposi lobuchwepheshe lokuxhumana kuMgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya.
(3) uMgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya kumele aqoqe lonke uhla nazozonke izincwadi zobufakazi azemukele kwizingxenye zesicelo sesibuyekezo noma ezicelwe uMphathiswa bese eposa lezincwadi zobufakazi kwinternet okungenani kusasele izinsuku ezi 14 ngaphambi kokuqala kwesigcawu sokulalela isibuyekezo.

(4) Uma ingxenye ethize kwisigcawu sokulalelwa kwesibuyekezo ingakwazi ukufinyelela kwi internet, leyongxenye kumele ithole ikhophi yencwadi yobufakazi kuMgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya ngezindleko zokuphinda ikhishwe nokuyiposa.

Ingxenye 2: Ukuhlala phansi kwesigcawu sokulalelwa kwesibuyekezo, nokuhlola isiza nokulalelwa kwesibuyekezo

Ukuhlala phansi kwesibuyekezo ukuba silalelwe

10. (1) uMgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya kumele adlulisele uhla kuMphathiswa –

(a) Lapho kuphela isikhathi esivunyelwe ngokuku 2(3) wokufakwa kohlu lwezimpendulo;

(b) Masinyane lapho uMgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya esazisiwe ngokubhalelwa yizingxenye ezinegunya lokufaka uhla lwezimpendulo, ukuthi abazimisele ukwenza kanjalo

Noma yikuphi ke okwenzeka kuqala.

(2) uMgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya kumele –

(a) zingaka pheli izinsuku ezi 21 emva kokwamukela koMphathiswa uhla olubalulwe kokuku 1(1) waloluhla, abeke usuku, isikhathi nendawo yokulalelwa kwesibuyekezo, usuku ongeke lwaba ngemuva –

(i) kwezinsuku ezi 90 emva kosuku okwafakwa ngalo uhla lwezibuyekezo kuMgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya; noma

(ii) noma ngalolosuku okwavunyelwana ngalo ukwelula isikhathi phakathi kwezingxenye ngesicelo noMgcinimbiko

(c) ngokubhala phansi, kwaziswe bonke abayizingxenye zesicelo sesibuyekezo ngosuku, isikhathi nendawo elungiselwe ukulalelwa kwesibuyekezo.

Ukuchithwa kwesicelo sesibuyekezo ngenxa yokubambezela okungenasidingo komfakisikhalazo

11. UMphathiswa ngokubhala phansi angchitha isicelo sesibuyekezo uma eneliswa ukuthi –

(a) uMgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya uzamile okungenani amahlandla amathatu ukunquma usuku, nesikhathi nendawo yokulalelwa kwesibuyekezo;

(b) ukuthi umfakisicelo sesibuyekezo uxwayisiwe ukuthi ukwehluleka ukuvuma usuku, nesikhathi nendawo yokulalelwa kwesibuyekzo kungaholela ekutheni isicelo sesibuyekezo sithithwe; futhi

(c) umfakisicelo sesibuyekezo ube nethuba elanele ukuvuma usuku, nesikhathi nendawo ukulalelwa kwesibuyekezo

Ukuhlehliswa kokuhlolwa kwesizinda noma ukulalelwa

12. (1) Noma iyiphi ingxenye kwisibuyekezo ingacela ngokubhala phansi ukuthi ukuhlolwa kwesizinda noma ukulalelwa kuhlehliswe okungenani izinsuku ezi 10 ngaphambi koku ukuhlolwa kwesizinda noma ukulalelwa kwesibuyekezo.

(2) Umphathiswa angavumela ukuhlehliswa ngesizathu esihle esibonisiwe futhi azise izingxenye ezithintekayo ngesinqumo sakhe zingakapheli izinsuku ezi 5 zesicelo sengxenye.

(3) Uma ukwuhlehliswa kuphikiswa, umphathiswa angacela izingxenye zesicelo ukuba zizokwethula izethulo phambi kokuba anqume ngaloludaba.

Ukuhlolwa kwesizinda

13. (1) Amamlungu oMkhandlu oHlelayo uBukeze oneGunya angangena kumhlaba noma isakhiwo esingesicelo sesibuyekizo ngaphambi noma ngezikhathi zokusebenza noma kungasiphi isikhathi esamukelekile ukuzohlola isizinda.

(2) Zonke izingxenye zokulalelwa kwesibuyekezo sesicelo zivumelekile ukubakhona lapho kuhlolwa isizinda futhi zingamelelwa lapho kuhlolwa.
(3) UMgcinimbiko woMkhandlu Ohlelayo uBukeze oneGunya kumele azise zonke izingxenye ngesigcawu sokulalelwa kwesibuyekezo ngokuzibhalela ngenhloso yoMkhandlu oHlelayo uBukeze oneGunya yokuhlola isizinda.
(4) Isaziso sokuhlola kumele –
(a) sicacise indawo ngqo, usuku nesikhathi sokuhlola isizinda
(b) sisho inhloso ehlongozwayo ngalokukuhlola
(c) simeme zonke izingxenye zesigcawu sokulalelwa kwesibuyekezo ukuba zibekhona uma kuhlolwa.
(5) Usuku nesikhathi sokuhlola kumele sinqunywe UMgcinimbiko woMkhandlu Ohlelayo uBukeze oneGunya emva kokuxhumana nabahlala kulowo mhlaba noma kwisakhiwo othintekayo.
(6) Esigamekweni lapho umnini womhlaba noma ohlala kuwo engekho ngesikhathi sokuhlola, amalungu oMkhandlu oHlelayo uGunyaze oneGunya kumele bawushiye umhlaba noma isakhiwo leso sivikeleke kuzaphulamthetho njengalokhu belificile.
(7) Noma yimuphi umuntu ongena kumhlaba noma isakhiwo ngenhloso yokuzohlola isizinda nguMkhandlu oHlelayo uBukeze oneGunya, ozuza ulwazi olungasese lomuntu noma izindaba zebhizinisi kulokho kuhlola, kumele athathe lololwazi njengemfihlo futhi angeludalulele noma ubani omunye umuntu.
(8) Umuntu odalula ulwazi ngemfihlo yomunye umuntu noma ulwazi ngezindaba ngebhizinisi lomunye umuntu aluthole lapho kuhanjelwa ukuhlolwa kwesizinda UMgcinimbiko woMkhandlu Ohlelayo uBukeze oneGunya unecala, kumele lapho ebekwa icala ahlawuliswe inhlawulo noma agwetshwe isikhathi esingdluli unyaka owodwa noma agwetshwe kokubili, ngaphandle uma lokhukudalula –
(a) kwakwenziwa ngenhloso yokunquma ngesibuyekezo
(b) kwakuyalelwe yinkantolo enkulu
(c) kwakudingeka ngaphansi kwanoma yimuphi umthetho.
(9) Umuntu ovimbela ngenhloso ukungena koMkhandlu oHlelayo oGunyaziwe oneGunya kumhlaba noma isakhiwo esibalulwe kulokhu, unecala lokwephula umthetho angahlawuliswa noma agwetshwe inhlawulo ka R10 000.

Isigcawu sokulalela

14. (1) UMgcinimbiko woMkhandlu Ohlelayo uBukeze oneGunya kumele azise zonke izingxenye zesibuyekezo ngesigcawu sokulalelwa kwesibuyekezo ngokubhala isikhathi nendawo yesigcawu sokulalelwa.
(2) UMphathiswa
(a) kumele anqume inqubo yokulalelwa kwesibuyekezo
(b) anqume yonke imibuzo nezindaba ezivukayo ezimayelana nenqubo ekulalelweni kwesibuyekezo.
(3) UMkhandlu oHlelayo uBukeze oneGunya kumele uqaphele izinga lezindaba kwisicelo sesibuyekezo, kulesosiphetho uMphathiswa angavumela umfakisibuyekezo nezinye izingxenye zesibuyekezo ukuba ziphakamise izinto ezintsha futhi bangenise ubufakazi obusha, obubhaliwe noma obuzoshiwo ngomlomo.
(4) Oyingxenye yokulalelwa kwesibuyekezo uvumelekile ukuba abekhona lapho kulalelwa isibuyekezo, futhi
(a) amelelwe ngowomthetho noma ngomunye nje umuntu.
(b) asho icala futhi ahole ufakazi obesekayo udaba noma aphikise ubufakazi
(c) abize ofakazi bazothulaubufakazi aphinde afake imibuzo kofakazi
(d) ethule obunye ubufakazi
(e) abuzisise noma umuphi umuntu obizwe njengofakazi wanoma yiluphi uhlangothi;

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(f) abikele uMkhandlu oHlelayo uBukeze oneGunya ngokwamazinga

(5) Uhlangothi kwisibuyekezo lungaphikisa uhlangothi oluphikisayo uma luphakamisa udaba noma lwethembela kwincwadi yalo yobufakazi engazange ifakwe kuhla lwezibuyekezo ngezizathu zokuthi

(a) uhlangothi oluphikisayo azange lusekele ngezizathu ezizwakalayo ukwethula lolodaba noma leyoncwadi yobufakazi lapho kuqhutshekwa nodaba;

(b) lokhu kwethulwa ekuqhubekeni kodaba kunokwenza ukuthi uhlangothi oluphikisayo lukubone njengokwenzelela obungalilimaza icala labo.

(6) UMphathiswa kumele enze isinqumo sokuthi ukuphikisa kokwethulwa kodaba olusha noma ukuthembela encwadini yobufakazi entsha buzolalelwa noma qha, kuthi ke ngokukhanyisa kwalesosinqumo, akhiphe umyalelo oyiwo kubandakanye umyalelo wokuthi –

(a) ukukhokhela izindleko ezimayelana nokunqunywa kwesiphikiso, noma

(b) ukumiswa kwesigcawu sokulalelwa lesosikhathi esinqunyiwe kumlayelo.

Ukulalelwa kwesibuyekezo zingekho izinhlangothi ezithintekayo

15. (1) UMkhandlu oHlelayo uBukeze oneGunya emva kokuba ususikhiphele kuzozonke izinhlangothi isaziso, ulalele isibuyekzo engekho ofake isibuyekezo noma luphi olunye uhlangothi, uma –

(a) Wenelisekile ukuthi izizathu ezilethwe kuwo ngumfakisibuyekezo noma uhlangothi olunye akuzona ezenza kubenesidingo sokuthi abekhona

(b) Uhlangothi lumazisile obukezayo onegunya ukuthi yena akafisi ukubakhona esigcawini sokulalela; noma

(c) Uhlangothi lwehluleke ukuba khona esigcawini futhi lunganikezi zizathu zokungaphumeleli.

Izimo okungathi ngazo ukulalelwa kusabalaliswe

16. UMkhandlu oHlelayo uBukeze oneGunya unganquma ngesibuyekezo uqikelela izincwadi zobufakazi ezifakiwe kuwo ngaphandle kokubiza isigcawu sokulalela, uma –

(a) UMkhandlu oHlelayo uBukeze oneGunya unombono wokuthi udaba lokunquma ngalesisibuyekezo lunganqunywa ngokunelisayo zingekho izinhlangothi ezithintekayo;

(b) Izinhlangothi ezithintekayo ngokubhala phansi zivume ukuthi isibuyekezo sinqunywe ngaphandle kokuhlela isigcawu sokulalelwa.

UHLA 11

ISICELO SOKUFAKA UHLA LWESIBUYEKEZO EMVA KWESIKHATHI ESINQUNYIWE

(Isigaba 76(2))

Isicelo sokufaka uhla lwesibuyekezo emva kwesikhathi esinqunyiwe

1. (1) Umfakisicelo noma umuntu onelungelo lokufaka isibuyekezo, usenokuthi, zingakapheli izinsuku ezingama 30 ezivumelekile ukufaka isibuyekezo, afake isicelo kuSihlalo sokwelula isikhathi esibekiwe sokufakauhla lwezibuyekezo.

(2) Isicelo sokwelula isikhathi okumele ukuthi sithi singakapheli kufakwe uhla lwezibuyekezo kumele sibe ngedlela yencwadi efungelwe, sibonise inhloso enhle yokuthi kungani lesicelo kumele sivunyelwe.

(3) Isicelo sokwelula isikhathi okumele ngaso kube sekufakiwe uhla lwezibuyekezo kumele silethwe ku –

(a) Mgcinimbiko woMkhandlu oHlelayo uBuyekeze oneGunya;

(b) Mkhandlu;

(c) umfakisicelo, uma lowomuntu ofake isicelo sokufaka uhla lwezibuyekezo kungeyena umgakisicelo.

Ukuphikiswa ngumfakisicelo ekufakeni uhla lwezibuyekezo emva kwesikhathi

2. (1) Ukuphikiswa ngumfakisicelo ekufakeni uhla lwezibuyekzo emva kwesikhathi kumele lube yincwadi efungelwe, sibonise ngokusobala izizathu zokuthi kungani lesisicelo kumele singavunyelwa.

(2) Umfakisicelo ohlela ukuphikisa lesisicelo sokufaka uhla lwezibuyekezo emva kwesikhathi kumele alethe incwadi efungelwe ephikisa lesisicelo zingakapheli izinsuku eziyi 14 emva kokuba ethole isicelo sokufaka uhla lwezibuyekezo emva kwesikhathi esinqunyiwe ku –

(a) Mgcinimbiko woMkhandlu oHlelayo uBuyekeze oneGunya;
(b) Mkhandlu;
(c) umuntu ofake isicelo sokwelula isikhathi sokufaka uhla lwezibuyekezo

Izinto ezifanelekile ekunqumeni ngendlela efanele ngokufakwa emva kwesikhathi uhla lwezibuyekezo

3. UMphathiswa kumele aqikelele lokhu okulandelayo, ekuthenini yizinto ezizwakalayo, ekunqumeni ngesicelo sokufaka emva kwesikhathi uhla lwezibuyekezo

(a) Ulwazi nezizathu eziqukethwe kwisicelo sokufaka uhla lwezibuyekezo emva kwesikhathi
(b) Ulwazi nezizathu eziqukethwe kwincwadi efungelwe ephikisa ukufakwa emva kwesikhathi uhla lwezibuyekezo
(c) Amaphuzu abalulekile angacacisiwe nezimo zesicelo sokufaka emva kwesikhathi uhla lwezibuyekezo
(d) Namathuba omphumela ongaba yingozi kunoma yiluphi uhlangothi kwisibuyekezo
(e) Isikhathi esesidlule ukusuka kusuku lwesaziso ngesinqumo soMkhandlu.

Isinqumo ngesicelo sokufaka emva kwesikhathi uhla lwezibuyekezo

4. UMphathiswa kumele –

(a) Anqume ngesicelo sokufaka emva kwesikhathi uhla lwezibuyekezo zingakapheli izinsuku ezinga 30 zokuphela kwesikhathi sokufaka izicelo sokufaka emva kwesikhathi uhla lwezibuyekezo, lokhukunquma okungafaka phakathi umyalelo wezindleko uMphathiswa azibibona zifanelekile futhi zingenzeleli.
(b) Esimweni lapho isicelo sokufaka emva kwesikhathi uhla lwezibuyekezo sivunyelwa, kuyobukezwa futhi kuhlelwe kabusha izikhathi ezinqunyiwe ezimayelana nokufakwa kohlu nokulalelwa kwesibuyekezo nguMkhandlu oHlelayo uBukeze oneGunya.

Isaziso sesinqumo sesicelo sokufaka emva kwesikhathi uhla lwezibuyekezo

5. UMgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya kumele zingakapheli izinsuku eziyisikhombisa emva kokuba uSihlalo ekhiphe isinqumo ngesicelo sokufaka emva kwesikhathi uhla lwezibuyekezi, ahambise isaziso esibhaliwe phansi ngesinqumo ku –

(a) Mkhandlu;
(b) Kulowomuntu ofake isicelo sokwelulwa kwesikhathi sokufaka uhla lwezibuyekezo
(c) Mfakisicelo, uma ngabe umfakisicelo kungesuye umuntu ofake isicelo sokwelulwa kwesikhathi sokufaka uhla lwezibuyekezo.

UHLA 12

ISICELO ESIPHUTHUMAYO KUMKHANDLU OHLELAYO UBUKEZE ONEGUNYA SOKUQINISEKISA UKUTHI ISIBUYEKEZO SINESISINDO NOMA UKUQALA KOKUSEBENZA KWENGXENYE YESINQUMO ESIGUNYAZA ISICELO SOMKHANDLU OHLELAYO UGUNYAZE

(Isigaba 76(3))

Isicelo esiphuthumayo kuMkhandlu oHlelayo uBukeze oneGunya sokuqinisekisa ukuthi isibuyekezo sinesisindo noma ukuqala kokusebenza kwengxenye yesinqumo esigunyaza isicelo somkhandlu ohlelayo ugunyaze

1. (1) Umfakisicelo angafaka isicelo kuMphathiswa singakalalelwa isicelo

(a) Ukuqinisekisa ukuthi isicelo asinasisindo, uma

(i) isicelo safakwa umuntu ongafanelekile ukufaka isicelo kuMkhandlu oHlelayo oBukezayo oneGunya; noma

(ii) uma umfakisibuyekezo engumfakisicelo ehlulekile ukuhambisa ikhophi yehlu lwezibuyekezo kulowomuntu obalulwe kokuku 1(2) soHlu 10;

(iii) uma umfakisibuyekezo engumuntu owafaka ukuphawula okubhaliwe ngokomgomo wokuku 2(d) woHlu 5 ehlulekile ukuletha ikhophi yohlu lwezibuyekezo kumuntu obalulew ku 1(3) woHlu 10;

(b) sokuqala kokusebenza kwe -

(i) sinqumo kwisicelo somkhandlu ohlelayo onegunya ngokomhlaba ongathintekile kwisicelo sesibuyekezo

(ii) zingxenye zesinqumo sesicelo somkhandlu ohlelayo onegunya ezingathinteki kwisicelo sesibuyekezo

(2) isicelo esiphuthumayo kumele sibe yincwadi efungelwe, ebonisa ngokusobala ukuthi kungani kumele isicelo sivunyelwe

(3) isicelo esiphuthumayo kumele sihanjiswe ku

(a) Mgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya

(b) Mkhandlu

(c) kulowomuntu ofake isicelo sesibuyekezo

Ukuphikisa isicelo esiphuthumayo

2. (1) Ukuphikisa isicelo esiphuthumayo kumele kubesesimweni sencwadi efungelwe, sibonise ngokusobala ukuthi kungani lesisicelo kungafanele sivunywe.

(2) Umfakisibuyekezo ohlela ukuphikisa isicelo esiphuthumayo kumele althe incwadi efungelwe ephikisa isicelo esiphuthumayo zingakapheli izinsuku eziyi 14 emva kokuba ehanjiselwe isicelo esiphuthumayo ngu

(a) uMgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya

(b) uMkhandlu

(c) umfakisicelo

Izinto ezifanelekile enkunqumeni ngendlela efanele kwisicelo esiphuthumayo ukuqinsekisa ukuthi isicelo sinesisisindo

3. UMphathiswa kumele aqikelele lezinto ezilandelayo, ngokufaneleka kwazo, ekuthatheni isinqumo ngesicelo esiphuthumayo ukuqineskisa ukuthi isicelo asinasisindo –

(a) Ulwazi nezizathu eziqukethwe kwisicelo;

(b) Amaphuzu abalulekile angacacisiwe kwisicelo nezimo ngesicelo; futhi

(c) Amathuba omphumela ongaba yingozi kunoma yiluphi uhlangothi lwesicelo.

Izinto ezifanelekile ekunqumeni ngokwezinga lesicelo esiphuthumayo sokuqala kokusebenza kwengxenye yesinqumo esigunyaza isicelo somkhandlu ohlelayo igunya

4. UMphathiswa kumele aqaphele lezizinto ezilandelayo, ekutheni zingafaneleka, ekuthatheni isinqumo esiphuthumayo ngesicelo sokugunyaza ukuqala ukusebenza kwengxenye yesinqumo esigunyaza isicelo somkhandlu ohlelayo igunya –

(a) Ulwazi nezizathu eziqukethwe kwisicelo;

(b) Nobungakanani bomhlaba ozosala kuxhomekeke kwisibuyekezo ozothinteka ngesinqumo sokuvumela ukuqala kokusebenza kwesinqumo sokuvumela umkhandlu igunya ngomhlaba osele +
(c) Nobungakanani okungenza ukuthi kwehlukaniseke phakathi kwezingxenye zesinqumo, ezizokuvumela umkhandlu ukuthi uqale ukusebenzisa izingxenye ezivunyelwe, nezingxenye ezingeke zasebenziswa.
(d) Amaphuzu abalulekile angacacisiwe nezimo zesicelo; futhi
(e) Amathuba omphumela ongabayingozi kunoma yiluphi uhlangothi kwisicelo.

Isinqumo kwisicelo esiphuthumayo

5. UMphathiswa kumele anqume ngesicelo esiphuthumayo zingakapheli izinsuku eziyi 14 zosuku lokugcina lwesikhathi sokufaka isicelo sokuphikisa isicelo, isinqumo esingafaka phakathi umlayelo wezindleko njengalokhu uSihlalo ekubona kufanelekile futhi kuyindlela.

Isaziso ngesinqumo sesicelo esiphuthumayo

6. UMgcinimbiko woMkhandlu oHlelayo uBukeze oneGunya kumele, zingakapheli izinsuku eziyisikhombisa emva kokuba uMphathiswa enze isinqumo ngesicelo esiphuthumayo, anikezele ngesaziso esibhaliwe phansi ngesinqumo ku –
(a) Mfakisibuyekezo osibuyekezo sakhe bekuyiso esiphathelene nesicelo esiphuthumayo;
(b) Mfakisicelo.

UHLA 13
OKUMAYELANA NEZINGUQUKO
(*Isigaba 127*)

Isicelo sokuvunyelwa okukhethekile ukugunyazwa ngokwemigomo enamandla omthetho

1. (1) Ukugunyazwa kokuvunyelwa okukhethekile ngokomgomo wesigaba 67*bis* sokunaMandla oMthetho kumele sithathwe njesivumo soMkhandlu ngokomthetho wohlaka lokusetshenziswa komhlaba olubalulwe kwisigaba 54(3)(a) salomtheshwana
(2) Ngenhloso yesigaba 60(2) saloMtheshwana, usuku lokuqala ukusebenza lwemvume ekhethekile yoMkhandlu ebalulwe kwisigaba 67*bis* sokunaMandla oMthetho kuyoba –
(a) usuku okuphela ngalo isikhathi sezinsuku ezingama 28 esishiwo kwisigaba 67*ter* sokunaMandla oMthetho, uma kungazange kwafakwa isibuyekezo esiphikisa isinqumo soMkhandlu; noma
(b) ukusuku okwanqunywa ngalo ngesibuyekezo, uma isibuyekezo sasifakiwe esiphikisa isinqumo soMkhandlu ngokomgomo wesigaba 67*ter* sokunaMandla oMthetho.

Isicelo esikhethekile semvume ngokwemigomo yokunaMandla oMthetho okungazange kuqedelwe ngaphambi kokuqala kokusebenza kwaloMtheshwana

2. (1) isicelo esikhethekile semvume ngokomgomo wesigaba 67 bis sokunaMandla oMthetho , okungazange kuqedelwe ngaphambi kokuqala kokusebenza kwaloMtheshwana, kumele kuqhubeke ngemigomo yaloMtheshwana.
(2) UMgcinimbiko woMkhandlu oHlelayo kumele aqinisekise ngokuvumelanayo okuhlinzekiwe kwindlela okusuka kwisicelo somkhandlu ohlelayo ukugunyazwa okumele kuqhubekiswe.
(3) Umfakisicelo akubalulekile ukuthi ahambisane nezidingo zomgomo waloMtheshwana ezingumthwalo kunezidingo zokunaMandla oMthetho ngokumayelana nokuhlinzeka kwaloMtheshwana okwendulela ukuhlinzeka okuvela kuko iscelo somkhandlu ohlelayo onegunya kumele kuqhutshekiswe

(4) Umfakisicelo akaphoqelekile ukuhambisana nezidingo zokunaMandla oMthetho okungumthwalo kakhulu ngaphezu kokudingwa yiloMtheshwana.

Ingxenye 3: uMthetho wokuSekela okusaDolobha okuhleleke ngezinga eliphansi

Ukuhleleka okuphansi kwendawo yokuhlala okugunyazwe ngomgomo woMthetho wokuSekela okusaDolobha kwezinga eliphansi

3. (1) Isicelo sokuhlaliswa esigunyaziwe ngokomgomo wesigaba 3(1) noma okusadolobha okugunyazwe ngokomgomo wasigaba 14(1) soMthetho wokuSekela okusaDolobha koHlelo oluPhansi, okugunyaziwe –
   (a) Kuxhomekeke kwisu lemidwebo yezakhiwo
   (b) Kuxhomekeke kwimigomo yokuthuthuka yalo
   Kumelle ethathwe njengokusadolobha okugunyazwe ngokomgomo wesigaba 54(3)(a) saloMtheshwana.

(2) Phezu kwe –
   (a) izihlinzeko kwisigaba 3(5)b), (e) no(g) soMthetho wokuSekelwa kokusaDolobha ; noma
   (b) kwesinqumo esiphambene nguMlawuli ngokomgomo wesigaba 12(1) soMthetho wokuSekelwa kokusaDolobha.

loMthetho usebenza kumhlaba okhethelwe ukwakhelwa okungahleliwe ngokwesigaba 3(1) noma okusadolobha okungokomgomo wasigaba 14(1) soMthetho wokuSekelwa kokusaDolobha soMthetho.

(3) Isicelo asidingeki ngokomgomo waloMtheshwana
   (a) ukuthuthukiswa kwendawo yokuhlala ngezinga eliphansi kunjengokwesigunyazo sesu lemidwebo nemibandela yokugunyazwa ekwisigaba 4(1) soMthetho wokuSekelwa kokusaDolobha; noma
   (b) ukuthuthukiswa kokusadolobha kunjengokugunyazwa kwesu lwemidwebo yezakhiwo nemigomo yokugunyaza ebalulwe kwisigaba 14(1)(a) soMthetho wokuSekelwa kokusaDolobha.

(4) Isicelo siyadingeka ngokomgomo waloMtheshwana wokuhlakahlukanisa umhlaba noma ukusekela kokusadolobha kumhlaba okhonjwe njengomhlaba waezakhiwo ezihleleke ngokwezinga eliphansi ngokwesigaba 3(1) soMthetho wokuSekelwa kokusaDolobha, umangaba lowomhlaba waungazange uqagulwe
   (a) ngokuxhomekeka kwisu lwemidwebo yayo; noma
   (b) ngokuxhomekeka kwimibandla yentuthuko yayo.

Ingxenye 3: uMthetho wokuGqugquzelwa kweNtuthuko

Ukuthuthuka okugunyazwe ngokomgomo woMthetho oGqugquzela iNtuthuko

4. (1) Zonkeizicelo, izibuyekezo noma izindaba ezingakaphothulwa eziphambi kwesakhiwo esiNqumayo ngokwasigaba 15 soMthetho oGqugquzela iNtuthuko, 1995(No 67 of 1995) ngesikhathi sokuqala ukusebenza koMthetho wokuthuthukisa umhlaba lapha nalapha nokuSebenziswa koMhlaba (1st July 2015) okungakanqunywa noma uchithwe, kumele uqhubekiswe uchithwe ngokomthetho wokuthuthukiswa komhlaba lapha nalapha.

(2) Isicelo sokuthuthukiswa esagunyazwa ngokomgomo wesigaba 33(1) noma 51(1) soMthetho oGqugquzela iNtuthuko kumele uthathwe njengesicelo somkhandlu ohlelayo ogunyazayo ngokomgomo wesigaba 47(2)(a) no 54(3)(a) salomtheshwana.

Umsebenzi wesisebenzi esiqokiwe ongaphinde wenziwe uMkhandlu

5. **(1)** Naphezu kokuchithwa koMthetho oGqugquzela iNtuthuko, uMkhandlu kumele uqhubeke ukwenza umsebenzi obekwe phezu kwesisebanzi esikhethwe ngokomgomo woMthetho oGqugquzela iNtuthuko –

(a) Ushicilele imibandela yokwesekwa enikezwe yisigungu seNtuthuko esiNqumayo noma Umkhandlu weNtuthuko oHlelayo uBukeze oNqumayo okumele ushicilelwe kumqulu wezindaba zikahulumeni, njengokushiwo kwisigaba 33(4) no 51(3) wokuGqugquzela iNtuthuko, kumqulu kahulumeni

(b) Ukubikela uMgcinimbiko wezoBunikazi ukuthi imibandela yesisekelo okumele kuhanjiswane nayo ngaphambi kokuqala kokubhaliswa, kuhanjiswene nayo, njengokwesigaba 38(1)(c) soMthetho oGqugquzela ukuThuthukiswa kokusadolobha.; futhi

(c) Ubikele uMgcinimbiko wezoBunikazi ukuthi umfakisicelo noMkhandlu bahlangabezene nezibophezelo zabo ezimayelana nomsebenzi wokuhlinzeka, njegokwesigaba 38(1)(d) woMthetho oGqugquzela iNtuthuko.

(2) UMkhandlu kumele ukhethe isisebenzi somkhandlu esizokwenza umsebenzi othweswe isisebenzi esiqokiwe njengokewesigaba esikulokhu.

Amandla agodlwe yisigungu seNtuthuko esiNqumayo noma isgungu seNtuthuko esiBukezayo siNqume kwisinqumo sescelo ngokoMthetho oGqugquzela iNtuthuko

6. (1) Amandla agodlwe yisigungu seNtuthuko esiNqumayo noma isgungu seNtuthuko esiBukezayo siNqume kwisinqumo sescelo ngokoMthetho oGqugquzela iNtuthuko kumele sithathwe njengamandla okumele asetshenziswe nguMkhandlu.

(2) UMkhandlu kumele uhambisana nokuhlinzekwe yiloMtheshwana, kufaka phakathi isichibiyelo sesaziso ngesinqumo kwisicelo somkhandlu ohlelayo onegunzwayo, lapho usebenzisa amandla owanikeziwe ngokwalokhu okulapha.

Ingxenye 4: uMthetho wokuHlela neNtuthuko KwaZulu-Natal

Isicelo esivunyelwe ngokomgomo woMthetho wokuHlela neNtuthuko KwaZulu-Natal

7. Isinqumo soMkhandlu –

(a) Sokwamukela uhlelo olubalulwe kwisigaba 13(1)(a) soMthetho wokuHlela neNtuthuko yaKwaZulu-Natal;

(b) Ukuthatha indawo uhlelo olubalulwe kwisigaba 13(1)(a) soMthetho wokuHlela neNtuthuko yaKwaZulu-Natal;

(c) Ukugunyaza isichibiyelo sohlelo loMkhandlu olubalulwe kwisigaba 13(1)(a) soMthetho wokuHlela neNtuthuko yaKwaZulu-Natal;

(d) Ukugunyaza ukwahukaniswa komhlaba okubalulwe kwisigaba 26(1)(a) soMthetho wokuHlela neNtuthuko yaKwaZulu-Natal;

(e) Ukugunyaza ukuhlanganiswa komhlaba okubalulwe kwisigaba 26(1)(a) soMthetho wokuHlela neNtuthuko yaKwaZulu-Natal;

(f) Ukugunyaza ukuthuthukiswa komhlaba owakhele ngaphandle kwendawo yohlaka lokuthuthukiswa komhlaba okubalulwe kwisigaba 43(1)(a) soMthetho wokuHlela neNtuthuko yaKwaZulu-Natal;

(g) Ukugunyaza ukwahlukanisa ngezigaba noma ukucishwa kwemidwebo yesu lezakhiwo egunyaziwe njengokubalulwe kwisigaba 55(1) soMthetho wokuHlela neNtuthuko yaKwaZulu-Natal;

(h) Ukugunyaza ukwenziwa kabusha, ukumiswa noma ukwesulwa kokuvimbelayo okumayelana nomhlaba okubalulwe kwisigaba 65(1) soMthetho wokuHlela neNtuthuko yaKwaZulu-Natal;

Kumele sithathwe njengesigunyazo sesicelo somkhandlu ohlelayo ogunyaziwe ngokwesigaba 54(3)(a) saloMtheshwana.

Isicelo ngokomgomo womthetho wokuhlela osusiwe okumele uthathwe njengesicelo esigunyaziwe ngokomgomo woMthetho wokuHlela neNtuthuko yaKwaZulu-Natal

8. Isicelo ngokomthetho owesuliwe kumele sithathwe ngokuthi isicelo kuyoba isicelo esigunyaziwe ngoMthetho wokuHlela neNtuthuko yaKwaZulu-Natali kumele uthathwe njengesicelo somkhandlu ohlelayo ugunyaze njengokubalulwe keisigaba 54(3)(a) saloMtheshwana.

Isicelo ngokomgomo womthetho wokuHlela neNtuthuko yaKwaZulu-Natal esingazange siphothulwe ngaphambi kokuqala ukusebenza kwaloMtheshwana

9. (1) Isicelo kuMkhandlu noma isiphakamiso soMkhandlu ngokoMthetho wokuHlela neNtuthuko yaKwaZulu-Natal njengokubalulwe kokuku 1, lokho okungazange kuphothulwe ngaphambi kokuqala ukusebenza kwaloMtheshwana kumele kuqhutshekiswe ngokwemigomo yaloMtheshwana.

(2) UMgcinimbiko woMkhandlu oHlelayo kumele aqinisekise ukuhlinzeka okuhambisanayo kumgudu wesicelo okusuka kuwo isicelo somkhandlu ohlelayo onegunya kumele siqhubeke.

(3) Umfakisicelo akudingekile ukuthi avumelane nezidingo ngokwaloMtheshwana ezibonakala zingumthwalo ukwedlula izidingo zoMthetho wokuHlela neNtuthuko waKwaZulu-Natal mayelana nokuhlinzeka kwaloMtheshwana esandulela ukuhlinzeka okukwisicelo somkhandlu ohlelayo onegunya kumele siqhubeke.

(4) Umfakisicelo akudingekile ukuthi avumelane nezidingo zoMthetho wokuHlela neNtuthuko waKwaZulu-Natal obonakala ungumthwalo ngaphezu kokudingwa yiloMtheshwana.

Ukugunyazwa kwesinqumo esenziwe ngokomgomo woMthetho wokuHlela neNtuthuko waKwaZulu-Natal usudlulile umhlaka 30 June 2015 kodwa kungakaqali ukusebenza kwaloMtheshwana

10. Isinqumo esithathwe wuMkhandlu sokugunyaza noma sokwenqaba isicelo sawo noma isiphakamiso yiwo ngokwemigomo yoMthetho wokuHlela neNtuthuko waKwaZulu-Natal njengoba kushiwo ku 1 awunasisindo ngokungaziphathi kahle okusezingeni eliphezulu ngokunga vumelani nokuhlinzekwe kuMthetho wokuNgamela ukuSebenziswa koMhlaba nokuThuthukiswa koMhlaba Lapha Nalapha, uma

(a) Isicelo kuwo noma isiphakamiso sawo senziwa ngaphambi komhlaka 1 July 2015;
(b) Isinqumo sokugunyaza noma sokwenqaba isicelo noma isiphakamiso senziwa ngemuva komhlaka 30 June 2015 kodwa ngaphambi kokuqala kokusebenza kwaloMtheshwana.

Ukuchazwa kwamagama asetshenzisiwe:

1. Municipal Planning Approval Authority = uMkhandlu oHlelayo uGunyaze oneGunya
2. Municipal Planning Authorised Officer = uMphathiswa woMkhandlu oHlelayo oneGunya
3. Municipal Planning Tribunal = uMkhandlu oHlelayo oNqumayo ngezicelo zentuthuko
4. Joint Municipal Planning Tribunal = uMkhandlu oHlanganisiwe oHlelayo oNqumayo
5. Municipal Planning Registrar = uMgcinimbiko woMkhandlu oHlelayo
6. Expert Technical Advisor = Umeluleki onguNgoti kweZobuchwepheshe
7. Municipal Planning Appeal Authority = uMkhandlu oHlelayo uBukeze oneGunya
8. Presiding Officer for Appeal Authority = uMphathiswa woMkhandlu oBukezayo oneGunya
9. Registrar = uMgcinimbiko
10. Record of Decisions = okuQoshiwe kweziNqumo
11. Municipal Planning Enforcement Authority = uMkhandlu oHlelayo oBhekelele ukuGcinwa koMthetho
12. Appellant = Ofake isicelo sesibuyekezo/ Umfakisibuyekezo
13. Applicant = Ofake isicelo/ Umfakisicelo
14. Surveyor = uMdabuli
15. Registrar of Deeds = uMgcinimbiko wezoBunikazi
16. Household = abanikazi bomhlaba abanobubha
17. Land use scheme = uhlaka lokusetshenziswa komhlaba
18. Record of Deeds = okuQoshiwe kwezoBunikazi
19. Ordinance = okunamandla omthetho
20. Appeal = isicelo sesibuyekezo/ isibuyekezo
21. By-Law = uMtheshwana
22. Municipal = uMkhandlu
23. Municipal Council = isiGungu soMkhandlu
24. Compensation = isinxephezelo/ ukunxephezeleka
25. Documents = izincwadi zobufakazi
26. Process = umgudu
27. Procedure = inqubo/ inqubo mgomo
28. Executive Council = isiGungu esiPhezulu
29. Agency = isikhungo/inhlangano egunyaziwe ukumelela
30. Delegation = othunyelwe ukumelela
31. Party = ingxenye/ uhlangothi/ iqembu