UMTHETHOSIVIVINYO OVIKELA UMTHENGI, 2004
WAKWAZULU-NATALI

UMTHETHOSIVIVINYO

Wokuhlinzekela ukuphenywa kwezikhalazo zomthengi okugxile ekuvikelekeni kwabathengi, futhi nangenhloso yokuqalisa iHhovisi elizobhekana nokuPhenywa kweziKhalazo zomThengi, ukuqalisa iHhovisi loMvikeli womThengi **kanye nesiGungu somthetho esiphethe iziNdaba zomThengi; ukubeka phansi imigomo eyengamele isisombululo sokwehlukana phakathi kwabathengi kanye nosomabhizinisi;** ukuqalisa kanye nokugcina **amahhovisi** esesimweni esihle **kanye nezinye izindawo ezihlinzeka ngokufundisa ngomthengi,** nezelulekayo futhi zenze neminye imisebenzi kubathengi; ukuqalisa uhlu lwamagama olulotshwe ngezimpawu ezinezinombolo oluzogcinwa ehhovisi; kanye nokuhlinzeka ngezindaba eziphathelene nalokhu.

ISENDLALELO

NGAKHOKE abantu banelungelo lokungaxhashazwa njengabathengi;

FUTHI NJENGALOKHO umphakathini wethu wesimanje usezingeni eliphezulu kwezomthetho kanti **futhi njengamanje akukho ukusebenza ngendlela efanele kwizinhlelo zeziNkantolo** futhi ayikho indlela yokuthola usizo lwezomthetho nolungakwazi ukukhokheleka, abantu abanakho ukweneliseka ngendlela esebenzayo evikela ukuxhashazwa komthengi:

Manje Ngalokhu-ke:-

MAWUMISWE yisiShayamthetho sesiFundazwe saKwaZulu-Natali, kanjena: –

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ISAHLUKO 1
UKWETHULWA KWEZIHLINZEKO

Izincazelo

1. Kulo Mthetho, ngaphandle uma kungahambisani nengqikithi

amalungiselelo kusho**, ngaphandle kwendima (a) echaza ngokwenziwa kwebhizinisi**, amalungiselelo noma ukuxoxisana okwenziwayo futhi kuphethwe yihhovisi ngaphansi kwesigaba 17;

ibhizinisi kusho –

(a) ukunikezela, ukufakela okanye ukutholakala kwanoma yikuphi ukukhiqiza; noma

(b) ukunxenxa noma ukwemukela noma yikuphi ukufakwa kwemali emsebenzini ngenhloso yokuthi izale;

ukuphathwa kwebhizinisi kuhlanganisa –

(a) noma yisiphi isivumelwano, ukuhlanganyela, **ukulungiselela, ukuqonda** noma umsebenzi oxhumene nebhizinisi, oqhutshwa ngokomthetho noma cha, phakathi kwabantu ababili noma ngaphezulu;

(b) noma yiphi indlela, esetshenziswayo noma uhlobo lwendlela yokuhweba ehlanganisa ibhizinisi, ehambelana nanoma iyiphi indlela yokudayisa noma iyiphi indlela yokukhipha impahla;

(c) noma yikuphi ukukhangisa, uhlobo lokukhangisa noma yiluphi uhlobo olunxenxa ibhizinisi;

(d) noma yimuphi umthetho noma iphutha elixhumene nebhizinisi kunoma yimuphi umuntu, ozimele ngayedwana noma ohlanganyele nanoma yimuphi umuntu; futhi

(e) noma yisiphi isimo esixhumene nezinto zebhizinisi zanoma yimuphi umuntu noma yiliphi iqembu labantu,

kodwa alihlanganisi ukwenza okuqhuthswa ngokuncintisana **noma ngaluphi ulwazi okanye ukukhalaza ngaphansi koMeluleki weziMali okanye noMthetho wabaSebenza ukuLamula, 2002 (uMthetho No. 37 ka 2002)**:

ukutholakala kwanoma yikuphi ukukhiqiza kusho –

(a) kunoma yisiphi isakhiwo, umzimba noma okungesiwo umzimba okanye okugudluzekayo noma okungagudluzeki, kumbandakanya okwakhiwe noma yikanjani okanye okunelebuli elitholakala kunoma yikuphi ukukhiqiza;

(b) noma yikuphi ukusebenza, ngaphandle komsebenzi owenziwa ngokwesivumelwano sokwenza umsebenzi;

uMthethosisekelo kusho uMthethosisekelo woMthetho weRepubhuliki yaseNingizimu Afrika (uMthetho No. 37 ka 2002)

Abathengi kusho –

(a) noma ngabe yimuphi umuntu kunoma yikuphi ukukukhiqiza okwenziwayo, okufakelwayo noma okwenziwayo ukuba kutholakale lapho lowo muntu ehlose khona

ukuba enze kube nokutholakala komkhiqizo ngenhloso yokuwudayisa kanye nokuwuqasha, ukuhlinzeka ngemisebenzi noma ukukhiqiza izimpahla ngenhloso yokuthola inzuzo;

(b) noma ngabe yimuphi umuntu ocela noma yiluphi usizo lweziMali ngenhloso yokuqongelela inzuzo;

ukukhalaza kwabathengi kusho –

(a) noma yikuphi ukukhalaza komthengi okuthinta ibhizinisi noma ukuphathwa kwebhizinisi lapho umthengi eveza khona ukuthi uphathwe ngendlela engafanele nengenabo ubulungiswa, ngokwenza ngamabomu noma ngephutha, kwebhizinisi noma ngumuntu ozimbandakanye ekuphathweni kwebhizinisi; futhi

(b) lapho kwenzeka ukuphathwa ngendlela engafanele nengenabo ubulungiswa kuvela obala ngaphansi kwanoma yimuphi umthetho okhona, okufanele usebenze ekutholeni izephula mthetho othintekayo uyobekwa icala emphakathini; noma

(c) yisiphi isikhalazo esiqhamuka kumthengi esiphathelene nebhizinisi noma ukuphathwa kwebhizinisi lapho abathengi behlangabezana nokuphathwa ngendlela engafanele nengenabo ubulungiswa, kodwa ngokuzimbandakanya ekwenziweni kwenkontileka yokwenza umsebenzi ekhombisa ukuba ngumthwalo onzima kubathengi; okanye

(d) yinoma yisiphi isikhalazo esiqhamuka kumthengi esiphathelene nebhizinisi noma ukuphathwa kwebhizinisi lapho abathengi behlangabezana nokuphathwa ngendlela engafanele, kodwa hhayi engenabo ubulungiswa, kodwa ngendlela abathengi abakholwa ngukuthi ayinabo ubuqiniso noma indlela enokubandlulula okanye **engenabo ubuntu**;

uMvikeli womThengi kusho umuntu oqokwe ngokwesigaba 5(1)(a);

inkantolo kusho iNkantolo ePhakeme noma iNkantolo kaMantshi njengalokhu

kuhlongoziwe kwisigaba 166 kuMthethosisekelo;

uhlu lwamagama olulotshwe ngezinombolo kusho uhlu lwamagama oluhlongozwe kwisigaba 29(1)(c) **okudingeka ukuba luphathwe futhi lugcinwe ehhovisi ngokomyalelo okhishwe yisiGungu somthetho**;

umphenyi kusho umphenyi oqokwe ngaphansi kwesigaba 15 (1) noma obhekelelwe ngokwesigaba 15 (2) ukuba aqokwe;

ukubeka ngenhloso yokuthola inzuzo kusho noma yiphi imali okanye okuyigugu noma yikuphi okunye okuhlinzekwayo, okuhloswe ukuba kusetshenziswe maqondana nanoma yiliphi ibhizinisi okanye kuhlelo lokwakha inzuzo, noma lokho okuhlosiwe ukuba kwenzeke;

KwaZulu-Natali kusho isiFundazwe saKwaZulu-Natali esihlongozwe kwisigaba 103(1)(d) kuMthethosisekelo;

uNgqongqoshe kusho uNgqongqoshe oPhethe kwisiFundazwe nobhekelele ezokuthuthukiswa komnotho kanye nezokuvakasha;

uNgqongqoshe wezeZimali kusho uNgqongqoshe oPhethe KwaZulu-Natali isikhundla salo esihlanganisa ukusebenza ngezezimali zikahulumeni wesiFundazwe saKwaZulu-Natali;

uNgqongqoshe wezobuLungiswa kanye nezokuThuthukiswa koMthethosisekelo oqokelwe esikhundleni nguMongameli ngokwesigaba 91 soMthethosisekelo;

iHhovisi kusho iHhovisi lezokuPhenywa kweziKhalazo zabathengi elisungulwe ngokwesigaba 4;

iPhalamende kusho isiShayamthetho sesiFundazwe njengalokhu kuhlongozwe kwisigaba 105 kuMthethosisekelo kanye nokugunyazwa kwesiShayamthetho esihlongozwe kwisigaba 104 (1) kuMthethosisekelo;

okushicilelwe ngokusemthethweni kusho okushicilelwe ngokomthethonqubo;

isiFundazwe kusho isiFundazwe saKwaZulu-Natali esihlongozwe kwisigaba103(1)(d) kuMthethosisekelo;

umthethonqubo kusho umthethonqubo owenziwe ngaphansi kwesigaba 38;

Ibhodi elicubungulayo kusho ikomidi elaziwayo labantu abathathu abanolwazi lwezindaba eziphathelene nabathengi ezilungiswa nguNgqongqoshe ukucubugula izinqumo zoMvikeli womThengi ngokwesigaba 19;

INkantolo eHlala okwesiKhashana kusho inkantolo esungulwe ngokoMthetho weNkantolo eHlala okwesiKhashana kanye neXoxisana ngamacala athile omphakathi,

1991 (uMthetho 103 ka 1991);

INkantolo yokufaka iziMangalo zokukhokhelwa eziNcane kusho iNkantolo yokufaka izimangalo zokukhokhelwa ezincane esungulwe ngokoMthetho wokufaka iziMangalo zokuKhokhelwa eziNcane, 1984 (uMthetho No. 61 ka 1984);

Lo Mthetho umbandakanya nemithethonqubo;

isiGungu somthetho kusho ibhodi ephethe esisungulwe ngokwesigaba 25 futhi eyaziwa **njengesiGungu somthetho esiphethe iziNdaba zomThengi;**

Ukusebenza koMthetho

2. Lo Mthetho usetshenziswa kwisiFundazwe saKwaZulu-Natali.

Izinjongo zoMthetho

3. Izinjongo zoMthetho zingu B

(a) Ukuhlinzeka ngophenyo kwizikhalazo zomthengi;

(b) Ukusungula iHhovisi lezokuPhenya iziKhalazo zomThengi;

(c) Ukusungula iHhovisi loMvikeli wabaThengi;

(d) Ukusungula isiGungu somthetho esiphethe iziNdaba zomThengi; futhi

(e) **Ukusungula kanye nokugcina amahhovisi nezinye izindawo ezihlinzeka ngokufundisa ngomthengi, ezinikeza ngezeluleko neminye imisebenzi eqondene nabathengi.**

ISAHLUKO 2
AMA-EJENTI AVIKELA ABATHENGI

Ukusungulwa kwamaHhovisi ezokuPhenywa kweziKhalazo zomThengi

4. (1) Ihhovisi lezokuPhenywa kweziKhalazo zomThengi ngakho-ke lapha liyaqaliswa.

(2) Imisebenzi yeHhovisi kufanele yenziwe nguMvikeli womThengi.

(3) Ihhovisi kufanele libe sendaweni yaKwaZulu-Natali endaweni ebhalwe phansi.

UMvikeli womThengi kanye nabasebenzi baseHhovisi

5. (1) Maqondana nemithetho eyengamele izindawo zikahulumeni, uNgqongqoshe –

(a) kufanele aqoke umuntu ozoba nguMvikeli womThengi;

(b) angaqoka isikhathi nesikhathi ibamba loMvikeli womThengi, ukukhipha imisebenzi yoMvikeli womThengi noma ngabe yinini lapho kunezizathu zokuthi uMvikeli womThengi angakwazi ukwenza leyo misebenzi noma ngesikhathi kusalindelwe ukuqokwa komuntu ozoba nguMvikeli womThengi; futhi

(c) lingaqoka umuntu abe munye noma ngaphezulu ukulekelela ekwenziweni kwemisebenzi yaseHhovisi, eqondene nokuphathwa kanye nokuqondiswa nguMvikeli womThengi.

(2) **UMvikeli womThengi ekwenzeni kwakhe umsebenzi angasizwa yinoma ngabe yimuphi umuntu noma ibhodi imisebenzi yalo eliyenzayo ephethwe nguye ngenhloso yokwenza uphenyo oluthile. Maqondana nesigatshana (3) lowo muntu angayiswa kunoma kuyiphi indawo kwisiFundazwe noma kwiRiphabhuliki ukuba enze uphenyo oluthile.**

(3) **Umuntu ohlongozwe kwisigatshana (2) angaholelwa, akhokhelwe futhi izindleko njengalokhu uMvikeli womThengi enganquma ngokuvumelana noNgqongqoshe.**

Amandla kanye nemisebenzi yeHhovisi

6. (1) Imisebenzi yeHhovisi yilena –

(a) ukwemukela kanye nokuphenya izikhalo zabathengi ezifakwe eHhovisi ngokuhlongoziwe kulo Mthetho, kanye nokulungisa lezo zikhalazo ngokwalo Mthetho; futhi

(b) nokwenza eminye imisebenzi ekhishwe ngokwalo Mthetho

(2) Ihhovisi ngokushesha ngemva kokuqalisa kokwenziwa komsebenzi njalo ngomhlaka 31 kuNdasa kumele lilethe umbiko kuNgqongqoshe yemisebenzi eliyenzile unyaka wonke ngalolu suku.

(3) UNgqongqoshe kufanele abeke etafuleni ikhophi lombiko wonyaka wonke olethiwe ngokwesigatshana (2) ePhalamende ngaphambi kwezinsuku eziyishumi nane ewutholile.

Ukunikezwa izimali kweHhovisi

7. **Izimali zeHhovisi zihlanganisa**

(a) izimali ezihlukaniswe yisiShayamthetho sesiFundazwe; kanye

(b) neminikelo noma eqoqwe yamukelwa ngokomthetho yiHhovisi eziphuma noma yikuphi.

ISAHLUKO 3
INDLELA YOKUVIKELA UMTHENGI

Ukufakwa kwezikhalazo eHhovisi

8. (1) Noma yimuphi umthengi ngendlela ebekiwe angafaka isikhalazo eHhovisi. **Umthengi ofaka isikhalazo angathathwa njengomkhalazi.**

(2) Isikhalazo somthengi esihlongozwe kwisigatshana (1) esingabhaliwe phansi kufanele sibhalwe phansi yiHhovisi.

(3) Ihhovisi kumele livule ifayela noma umqulu omaqondana nezikhalazo zomthengi futhi kumele kugcinwe okuqukethwe yilokhu kanye nendlela yokwenza amafayela.

Inqubo yeHhovisi yokuphenya

9. (1) Ekwamukeleni isikhalazo somthengi ngokwesigaba 8, uMvikeli womThengi kumele ayalele umuntu okhalazayo eHhovisi noma kumphenyi ukuba aphenye isikhalazo ngokushesha okukhulu.

(2) Lowo muntu noma umphenyi kuyofanela ukuba acubungule isikhalo somthengi njengalokhu kuhlongozwe kwisigaba 10.

(3) Ihhovisi akufanele libize noma yimuphi umuntu ukuba limphenye kuze kube kucutshungulwa leso sikhalazo.

(4) Uma, ekucutshungulweni kwesicelo, uMvikeli womThengi eba nombono wokuthi isikhalazo somthengi kumele singeniswe ngendlela enobuhlakani nokucophelela ngomunye wabanegunya lamandla, lingasidlulisela noma kunini kumphenyi okanye kucwepheshe walokho nakwabanegunya lalokho, kumbandakanya onegunya lamandla nakwezinye izifundazwe: Kuhlinzekwe ngokuthi iHhovisi lingaqalisa noma ngasiphi isikhathi uphenyo maqondana nalolo daba.

Ukuqaliswa kokucutshungulwa kwesikhalazo somthengi

10. (1) Ihhovisi kumele lenze ngokucophelela ukucubungula isikhalazo somthengi. **Noma ngasiphi isikhathi ngesikhathi sophenyo, Ihhovisi lingashintsha uphenyo, kanye nezinye izinto ekuveleni kobufakazi obusha noma komthetho, liqhubeke ngokwesichibiyelo esicutshunguliwe.**

(2) IHhovisi kumele licubungule isikhalazo ukuthi ingabe isikhalazo somthengi sifakwe ngumthengi oqinisekisile ngaso. Umsebenzi wokuqaliswa kwalezo zinsolo zokuthi lowo mthengi uqinisekisile kufanele kube sezinsolweni. Uma izinsolo zingenakho ukuqinisekisa komthengi, iHhovisi akufanele liphenye isikhalazo.

(3) IHhovisi kumele licubungule ukuthi kungabe isikhalazo somthengi esimelene nebhizinisi,

noma umuntu oqonde ukuqhuba ibhizinisi noma ukwenza ibhizinisi, owenza ngendlela enecala nengekho emthethweni noma enecala emphakathini. Uma ubufakazi obungaba yiqiniso, bungaqukethwe kwisikhalo somthengi esibeka icala noma esingabeka lowo icala ngisho emphakathini, iHhovisi kumele licubungule ukuthi ingabe isikhalazo okumayelana ngaso sinobunzima noma umbuzo wokwenziwa kobulungiswa **njengalokhu kuhlongoziwe kwisigatshana (c) kanye no (d) maqondana nokuchazwa kwezikhalazo zomthengi.**

Ukucutshungulwa kobufakazi obubonakala buneqiniso lokwephula umthetho

11.(1) Uma isikhalazo somthengi siqukethe inhloso yokuphula umthetho, iHhovisi noma ngasiphi isikhathi, ngesikhathi sokwenza uphenyo, lingadlulisela udaba kuMqondisi wezokuShushiswa koMphakathi. Ukwedlulisela kuMqondisi wezokuShushiswa koMphakathi kufanele kuhambisane nencwadi ebhaliwe yekhophi yokuqala yokucubungula noma yombiko wokugcina ngophenyo olwenziwe.

(2) Ngaphambi kwezinsuku eziyishumi nane zekhalenda ngemuva kokwemukela incwadi yokuqala yokucutshungulwa kwesikhalo noma umbiko wokugcina ngophenyo olwenziwe, njengalokhu kubekiwe, uMqondisi wezokuShushiswa koMphakathi kufanele anqume ukuthi uzolushushisa yini udaba.

(a) Uma uMqondisi wezokuShushiswa koMphakathi enquma ukushushisa, incwadi yokugunyaza kufanele ikhishwe maqondana nalolu daba. Umthengi ofake isikhalo angabizwa ukuba azonika ubufakazi ngesikhathi sokulalela njengomkhalazi.

(b) Uma uMqondisi wezokuShushiswa koMphakathi enquma ukuba angalushushisi lolo daba, kufanele akhiphe isitifiketi *esifakazisa* lokho ngokwesigaba 7 soMthetho weNqubo yamaCala, 1977 (uMthetho 51 ka 1977) futhi ngokushesha adlulisele udaba kuMvikela womThengi.

(3) Ukwedlulisa ngokwesigaba (2) (b) uMvikeli womThengi kufanele anqume:

(a) ukuthi uyaqhubeka yini nendlela yokushushisa eyimfihlo engaphansi kwesigaba 7 soMthetho weNqubo yamaCala, 1977, emele umthengi, noma

(b) **uyalushushisa udaba ngaphambili kwesiGungu somthetho ngokuhambisana nalo Mthetho; okanye**

(c) ulushushisa udaba ngendlela ngendlela ejwayelekile ehambisana nalo Mthetho; noma

(d) azise ngokuqhutshwa okuhleliwe njengalokhu kuhlongoziwe kwisigaba 19.

(4) Izinhloso zanoma yikuphi ukushushisa ngendlela efihlekile, uMvikeli womThengi kufanele abe nobufakazi obunesiqiniseko ukuze ashushise udaba endaweni yomthengi

Ukucutshungulwa kobufakazi obuyiqiniso becala emphakathini

12. (1) Uma isikhalo somthengi siqukethe ukwenza ngenhloso kokwephulwa umthetho emphakathini, iHhovisi kumele licubungule isilinganiso sobungako noma izinga lokungenziwa kobulungiswa kumthengi.

(2) Uma isilinganiso noma izinga lisezandleni zeNkantolo eNcane yezokufaka isimangalo seNkokhelo, iHhovisi ngesikhathi sophenyo lingadlulisela udaba kumabhalane weNkantolo eNcane yezokufaka isimangalo sokuKhokhelwa.

(a) Ukwedlulisela kumabhalane weNkantolo eNcane yezokufaka isimangalo sokuKhokhelwa kuhambisane nekhophi yencwadi ebhaliwe yokucubungula okokuqala noma umbiko wokugcina maqondana nophenyo. **Ukucubungula kokuqala noma umbiko wokugcina kufanele kusetshenziswe ngukhomishana ngokwesigaba 26 kanye no 27 soMthetho weNkantolo eNcane yezokufaka isimangalo sokuKhokhelwa.**

(3) Uma isilinganiso noma izinga lingaphezulu kokuba lingaphatha yiNkantolo eNcane yokufaka isimangalo sokuKhokhelwa, iHhovisi kufanele, ngokubaluliwe kwisigaba (4), lilusebenze udaba ngokuhambisana nesigaba 18.

(4) Uma isikhalo somthengi siqukethe ukwenza ngenhloso kokwephulwa komthetho emphakathini noma ngabe okanye isilinganiso noma izinga lakho lingaphezulu kokuba lingaphathwa yiNkantolo eNcane yezokufakwa isimangalo sokuKhokhelwa, iHhovisi noma ngabe kunini lingazama ukuxazulula izikhalo somthengi ngokwenza amalungiselelo njengalokhu kuhlongoziwe kwisigaba 17.

(3) Uma iHhovisi lingasixazululi isikhalazo ngaphansi kwesigaba 17, kufanele lilulungise udaba ngokwesigaba 18, noma ngokokuhambisa kwesigatshana (2), njengalokhu kungaba njalo.

(4) **Ngaphezulu, akukho kulesi sigaba okungahunyushwa ekutheni kuvimbele iHhovisi ekutheni lishushise isikhalazo somthengi, esiqukethe ukwenziwa ngenhloso kokwephulwa komthetho emphakathini, ngaphambi kwesiGungu somthetho ngokuhambisana nesigaba 18.**

Abukho ubufakazi obungaba yiqiniso bokwenza icala noma ukwephula umthetho emphakathini: ubunzima noma ukwenziwa kobulungiswa.

13. (1) Uma isikhalazo somthengi singaqukethe ukwenziwa kweca,a ngenhloso noma kokwephulwa komthetho emphakathini, kodwa sikhathezeke ngobunzima noma ukungenziwa kobulungiswa, iHhovisi noma ngasiphi isikhathi sokwenza uphenyo lingazama ukwenza izixazululo zesikhalo somthengi ngokwenza amalungiselelo ngengalokhu kuhlongoziwe kwisigaba 17.

(2) Ukucutshungulwa kwesikhalazo sokusabela ubunzima noma ukungenziwa kobulungiswa, akumele kuvivinywe iHhovisi enkantolo ngokwesigaba 18 ngaphandle

uma uMvikeli womThengi ehambisana nombono wokuthi udaba lungakhulunywa njengodaba olusemthethweni.

(3) **Ngalokho, ukucutshungulwa, kokuthi isikhalo somthengi sikhathazeke ngobunzima noma ukungenziwa kobulungiswa, kumele kwenziwe iHhovisi ngaphambili kwesiGungu somthetho ngokwesigaba 18.**

Ukukhishwa kwencwadi egunyazayo kanye nokufakwa imibuzo kwabantu nokukwenziwa kwezincwadi kanye nemiqulu

14. (1) Izinhloso zokuphenya, komuntu oqokwe nguMvikeli womThengi noma ngumuntu okulowo msebenzi okhethwe nguye kumele –

(a) akhiphele incwadi egunyazayo noma yimuphi umuntu okukholakala ukuthi angakwazi ukuthi anikezele ulwazi maqondana nokubaluliwe kuphenyo noma emandleni akhe noma ngaphansi kwamandla akhe ephethe noma yiphi incwadi, umqulu okanye ezinye izinto ezihambelana nalokho okubaluliwe, ukuvela ngaphambi komuntu osebenza ehhovisi ngesikhathi esibekiwe nasendaweni ebekiwe encwadini egunyazayo, ukuba azofakwa imibuzo, noma alethe incwadi, umqulu okanye izinto ezifanele; kanye

(b) afake imibuzo lowo muntu, ngaphansi kokwenza isifungo noma kokwenza isitatimende esiphathwa ngumVikeli wabaThengi noma omunye umuntu osebenza eHhovisi oqokwe ngumVikeli womThengi futhi acubungule noma agcine ulwazi oluthe xaxa okanye adlulisele ulwazi noma avikele incwadi, umqulu noma izinto ezidingakalayo kulolo phenyo.

(2) Incwadi egunyazayo okukhulunywa ngayo kwisigatshana (1)(a) kufanele -

(a) ibe ngebhaliwe ibeke umuntu onikezwe yona njengonecala;

(b) iqukathe imininingwane yodaba lonke maqondana nomuntu okufunakala ukuba avele;

(c) isayindwe nguMvikeli womThengi noma ngumuntu osebenza eHhovisi oqokwe nguMvikeli womThengi ; futhi

(d) inikezwe ibhaliwe phansi.

(3) Umuntu ovela ngokuvunwa yisigatshana (1)(a) –

(a) angasizwa ekuhlolisisweni noma ngabe yimuphi umuntu azikhethele yena ngokwakhe; futhi

(b) kufanele abe nemvume ezimalini ezibekwe ngumthetho zokwenza lokho okuhlosiwe, okuyizimali zofakazi, imali elingana nemali eyisilinganiso naleyo

oyithola njengofakazi ogunyazwe ukuba afike ekuthethweni kwecala eNkantolo ePhakeme elizobanjelwa endaweni ebaluliwe encwadini egunyazayo.

(4) Umuntu kufanele uyotholwa enecala uma enikezwe incwadi emgunyazayo ngokwalesi sigaba –

(a) ehluleka ngaphandle kwesizathu esiqinile ukuvela ngesikhathi edaweni ebaluliwe encwadini egunyazayo, noma angahlali kuleyo ndawo kuze kube kuqedwa konke okwenziwayo okanye akhishwe ekutheni eze ecaleni ngumMvikeli womThengi ngokomthetho; noma

(b) enqabe ukwenza incwadi eyisefungo noma isitatimendi.

(5) Umuntu ofakwa imibuzo ngokwesigatshana (1), kumele aphendule ngokweqiniso futhi kube yikho konke okufanele angakusho, kodwa umuntu akavumelekile ukuba aphendule noma yimuphi umbuzo uma impendulo ivuna lokho okusho nguyena nokuqondwe nguye.

(6) Ayikho impendulo evuna umuntu uqobo lwakhe eyonikezelwa noma isitatimende esenziwe ngomuntu osebenzisa noma yimaphi amandla ngokwalesi sigaba okuyothathwa njengobufakazi obuyomelana nomuntu ophendule imibuzo noma owenze isitatimende ekwenziweni kokuqhutshwa kokwenziwa kokuyicala, ngaphandle kuphela ekuqhutshweni kokwenziwa kokuyicala ngaphansi kwesifungo esenziwe noma kulokho lowo muntu azanywe ukuba atholwe enze icala kukho okuhlongozwe kwisigatshana (5), ebese uthola ukuthi ekuqhubekeni impendulo noma isitatimendi siyahambisana nobufakazi bokuthi utholakala enecala.

Abaphenyi

15. (1) Okubaluliwe emithethweni elawula izindawo ezisebenza ngomphakathi, uNgqongqoshe, ekuxhumaneni **noNgqongqoshe wezeZimali,** angaqoka abantu ekwenziweni komsebenzi eHhovisi noma yimuphi umuntu ofanelekile njengomphenyi, **okufanele abalulwe ekuphatheni kanye nasekuqondiseni kumVikeli womThengi**.

(2) UMvikeli womThengi kufanele athathwe njengoqokelwe ukuba ngumphenyi ngaphansi kwesigatshana (1).

(3) Umphenyi kufanele anikezwe isitifiketi sokuqokwa futhi sisayinwe nguMvikeli womThengi noma egameni lakhe futhi nalapho kubalulwe ukuthi ungumphenyi oqokwe ngokwalo Mthetho.

(4) Umphenyi kufanele, ngenkathi enza noma yimuphi umsebenzi wakhe ngokwalo Mthetho, aphathe isitifiketi sokuqokwa kuye.

Ukusesha kanye nokubopha

16. (1) Ekutheni kutholakale noma yiluphi ulwazi oludingwa yiHhovisi oluhambelana nophenyo, umphenyi maqondana nokubaluliwe kwizihlinzeko zalesi sigaba, angangena kunoma kuziphi izakhiwo noma avule noma yimaphi amabhuku ezincwadi, imiqulu

okanye iznto ezihambelana nalolo phenyo noma okusolakala ukuthi zihambelana nalo, ngokuthi –

(a) aphenye noma afune lezo zakhiwo, futhi lapho afake imibuzo edingakalayo ngenhloso yokuthola noma yiluphi ulwazi;

(b) ahlole noma yini etholakalayo noma izindawo ezithintana nokuphenya ekubuzeni noma ekuceleni kumnikazi noma kumuntu ophethe lezo zakhiwo okanye noma yimuphi umuntu ezisesandleni sakhe izinto noma oziphethe, maqondana nolwazi oluphathelene nazo;

(c) enze amakhophi noma aphenye noma iyiphi incwadi noma imiqulu etholakala noma ezakhiweni ezithintana noma ezingaba eziholela kuphenyo olwenziwayo, futhi acele noma ngabe ngubani okukholakala ukuthi anganolwazi oludingakalayo, kanye nencazelo yokungena ngaphakathi;

(d) abophe, ngaphandle kodaba lokwemukela, noma ngabe yini okanye ezakhiweni ekungaba ngukuthi iholela ophenyweni olwenziwayo nokubuzakala ngalo, uma umphenyi edinga ukwenza uphenyo olunzulu noma ukuvikeleka.

(2) Ngaphandle uma umnikazi noma umuntu ophethe izakhiwo okumayelana nazo enikeze imvume ebhalwe phansi, umphenyi angangena ezakhiweni asebenzise noma yimaphi amandla awanikiwe ngokuhlongozwe kwisigatshana (1) kuphela uma enencwadi yokusesha, ekhishwa kuphela uimantshi noma ijaji uma kuvela kulwazi olunikezwe imantshi noma ijaji oluyisefungo noma isitatimende esifungelwe ukuthi kunezizathu eziqinile ezisola lelo bhuku lencwadi, umqingo noma ezinye izinto ezingakhipha ubufakazi bophenyo kulezo zakhiwo.

(3) Incwadi yokusesha ngokuhlongozwe kwisigaba (2) kufanele

(a) inike igunya umphenyi obalulwe kwincwadi enika imvume yokungena kwizakhiwo ezizishiwo encwadini ngenhloso yokusebenzisa ilungelo namandla ahlongozwe kwisigaba (1);

(b) ugcina ukwenziwa kokusesha ngelanga lasemini, ngaphandle uma imantshi noma ijaji ligunyaza ukuthi kwenziwe ukusesha ebusuku;

(c) iphoqe kuze kube kwenziwa ukusesha, imiswa yinkantolo, noma iba nesikhathi esingangesonto elilodwa kusukela osukwini lokuphela kwayo, noma yikuphi okunye okuvelayo.

(4) Umphenyi ogcina incwadi yokwenza ukusesha ngaphansi kwalesi sigaba kufanele, ngaphambi kokuthi akwenze, ekufuneni kwanoma yimuphi umuntu ophazamiseka kumalungelo akhe –

(a) aveze isitifiketi sokuqokwa kwakhe;

(b) anikeze lowo muntu incwadi eyikhophi egunyaza ukusesha.

(5) Umuntu izinto zakhe noma izincwadi okanye imiqingo ethathiwe ngaphansi kwalesi sigaba kufanele, uma nje kusezandleni noma kuphethwe ngumphenyi ophethe lokho noma eHhovisi kucelwe ngemvume ukwenza amakhophi noma avimbe noma ngasiphi isikhathi ngaphansi kweso lalowo mphenyi noma umuntu osebenza eHhovisi.

(6) Umuntu uyotholwa enecala uma –

a) evimba noma ebambezela umphenyi ekwenzeni umsebenzi wakhe ngokwalesi sigaba;

(b) uma sekwenziwe ukubuzwa kwakhe ngaphansi kwesigatshana (1)(a), noma eseceliwe ukuthi ahlinzeke ngolwazi okanye ukunikeza incazelo ngaphansi kwesigatshana (1)(b) noma (c) enikeza impendulo noma ehlinzeka ngolwazi noma incazelo okungesilo iqiniso noma adukise, ebe enolwazi lwalokho ukuthi akulona iqiniso noma kuyadukisa.

(7) Ayikho impendulo evuna umuntu enikezwayo noma isitatimende esenziwe kumuntu osebenzisa noma yimaphi amandla alesi sigaba kuvumelekile njengobufakazi obumelana nomuntu onikeza impendulo noma owenza isitatimende esiqhuba ukwephulwa komthetho, ngaphandle kokwenza isifungo esibhaliwe esingesilo iqiniso noma lowo muntu ezama ukwenza icala ngokuhlongozwe kwisigaba 13 (6) (b), kodwa kuphela lapho kutholakala ukuthi impendulo noma isitatimende siyahambisana nobufakazi obubeka icala.

Izingxoxo ngamalungiselelo okusombulula isikhalazo somthengi

17. (1) IHhovisi lingaxoxisana futhi liphethe amalungiselelo nanoma ngabe yimuphi umuntu maqondana –

(a) ukumiswa kokuqhutshwa noma ukuzitshwa kokuqhutshwa kwebhizinisi ngalo okuvele isikhalazo somthengi;

(b) ukukhokhelwa, okunenzalo noma okungenayo, komthengi othintekayo;

(c) ukumiswa noma uzitshwa kokuqhutshwa kwanoma yiluphi uhlobo lwebhizinisi ngalo okuvele isikhalazo somthengi; noma

(d) noma yiluphi udaba oluhlobene nokuqhutshwa kwebhizinisi okuvele ngalo isikhalazo somthengi.

(2) Amalungiselelo –

(a) angaphethwa noma yinini ngemuva kokwenziwa kophenyo, kodwa ngaphambi kokwenza kwencwadi ephoqayo yeNkantolo ePhakeme ngokwesigaba 21;

(b) kufanele kubhalwe phansi futhi kusayinwe izinhlangothi zombili; futhi

(c) kungaba wudaba okukhulunywa ngalo noluqinisekiswa yiNkantolo ePhakeme ngokuvumelana nesigaba 21.

Ukuqaliswa kokuqhutshwa kwesimangalo ngemuva kokuphothulwa kophenyo

18.(1) Ekuphothulweni kophenyo **futhi okukhulunywe ngakho kwisigatshana (6)**, uMvikeli womThengi angaqalisa ukuqhutshwa ekusizeni umthengi kwisiGungu somthetho noma eNkantolo yeMantshi noma eNkantolo ePhakeme ukumelana nomuntu okunguye ophethe ukuqhutshwa kwebhizinisi ngalo okuvele isikhalazo somthengi.

(2) Izinhloso zalokhu kuqhuba ngukuthi uMvikeli womThengi kufanele abe nesizathu eziqinile.

(3) Uma, kumbono woMvikeli womThengi, isikhalazo somthengi ezitholakala singesinzima noma singenabo ubulungiswa sivela njengodaba olusemthethweni, iHhovisi lingaqalisa ukuqhutshwa ukusiza umthengi eNkantolo ePhakeme. Ngalezo zinhloso zokuqhuba uMvikeli womThengi kufanele abe nesizathu esiqinile.

(4) Noma nini lapho iHhovisi liqalisa ukuqhutshwa kwisiGungu soMthetho noma enkantolo, uMvikeli womThengi kufanele ahlale njengommangali noma umfaki wesicelo wokuqala ebese umthengi abe ngummangali wesibili noma ngumfaki sicelo wesibi, njengalokhu kungaba njalo.

(5) UMvikeli womThengi kufanele akhethe umhlangano ofanelekile ozoshushisa udaba ngokubheka izihlinzeko zalo Mthetho, maqondana nalokhu kuze kube udaba luqhutshwa luze lufinyelela emaphethelweni nasekulisombululeni. UMvikeli womThengi angathatha izindleko zecala azibhekise kwizinhlangothi zombili ezithintekayo futhi ngendlela efanele aqalise ukwenza ukuba kuqhutshwe icala emhlanganweni lapho izindleko zingeke zibe ngumthwalo onzima kummangalelwa.

(6) akukho ukuqhubeka okufanele kuqaliswe nguMvikeli womThengi ngaphandle uma umthengi esayina umqulu lapho efunga khona ngobuqiniso besikhalozo asifakile futhi kuvimbela uMvikeli womThengi kanye neHhovisi ekujeziseni kwanoma yibuphi ubufakazi obungesilo iqiniso obunikezelwe ngumthengi.

Ibhodi ecubungulayo

19. (1) Uma iHhovisi liqoka ukuba lingaqalisi ukuqhutshwa kodaba okanye ukwedlulisa udaba konikezelwe igunya lokwenza lokho noma ukungaluqhubi ngaphambi kwesiGungu somthetho, uMvikeli womThengi kufanele, ngokubhala phansi, azise umthengi kanye nomuntu okanye abebhizinisi lelo umthengi afake isikhalazo ngalo. Isizathu saleso sinqumo kufanele sihambisane naleso saziso.

(2) Uma umthengi ecunulwa yisinqumo soMvikeli womThengi hhayi ekuqalisweni kokuqhuba, umthengi ngaphambi kwezinsuku eziyishumi nane emva kokuthola isinqumo, angadlulisa isinqumo ukuba sicutshungulwe ngabebhodi elicubungulayo.

(3) IBhodi eliCubungulayo kufanele lihlale eHhovisi. IHhovisi kufanele libhale phansi ukudluliswa ukwenzela ukucubungula futhi ngokushesha lazise uNgqongqoshe ngesidingo sokubizwa kweBhodi eCubungulayo.

(a) UNgqongqoshe kufanele abize iBhodi eCubungulayo ngaphambi kokuba kuphele izinsuku eziyishumi nane afuna ngazo umthengi ukuba kucutshungulwe isinqumo soMvikeli womThengi ngokuhloziwe kwisigaba (1).

(b) IBhodi eCubungulayo kufanele yakhiwe ikomid eliphezulu ibe nabantu abathathu **abanolwazi lokusebenza nabanolwazi ngezindaba zabathengi.** Lowo muntu kufanele abe ngoqashwe nguHulumeni kodwa ongaqashiwe yiHhovisi.

(c) Maqondana nemithetho engamele izindawo zikahulumeni, umuntu oqokelwe kwiBhodi eliCubungulayo ongasebenzi ngokugcwele kuHulumeni kufanele aqokwe ngaphansi kwalezi zimiso futhi ekukhokhelweni kwakhe ukwenza lokho njengalokhu **kubhale phansi uNgqongqoshe okunguye oxhumana noNgqongqoshe wezeziMali.**

(4) Maqondana nemithetho yobulungiswa obujwayelekile, IBhodi eCubungulayo kufanele ibubheke ubuhle besinqumo esithathiwe kanye nokukhulunyiwe noma okubhalwe phansi kwalethwa ngaphambili, **uma kukhona okunye**, ngakumthengi, **kumuntu noma kwibhizinisi isikhalazo somthengi esifakwe ngalo kanye noMvikeli womThengi.**

(5) IBhodi eCubungulayo kufanele ibe nelungelo lokukhetha isinqumo sayo ezosithatha ngaleso esithathwe nguMvikeli womThengi **kanye nokulayela uMvikeli womThengi ukuba aqalise ukuqhutshwa kwesimangali noma ugcizelela isinqumo soMvikeli womThengi Hhayi ukuthi aqalise ukuqhutshwa kwesimangali.** Isinqumo seBhodi eCubungulayo siyobizwa ngokuthi ukwehlulela okucutshunguliwe.

(6) Ukwehlulela okucutshunguliwe kufanele kube ngumnqamula juqu wesinqumo futhi kubophezelel umthengi, **umuntu okanye ibhizinisi isikhalazo somthengi esifakwe ngalo** kanye noMvikeli womThengi.

(7) IBhodi eCubungulayo kufanele, ngokubhala phansi yazise umthengi, **umuntu noma ibhizinisi isikhalazo somthengi esifakwe ngalo** kanye noMvikeli womThengi ngokuhlulela okucutshunguliwe futhi ibanikeze bonke ikhophi yencwadi yokwahlulela okucutshunguliwe mahhala.

Ukusebenza kokuhlulelwa okucutshunguliwe ukuqalisa ukuqhutshwa kwesimangali

20. Uma iBhodi eCubungulayo iyalela uMvikeli womThengi ukuba aqalise ukuqhutshwa kwesimangali emele umthengi, ngokwesigaba 18 kufanele asebenzise ushintsho oludingakalayo kuleso simo.

ISAHLUKO 4
AMALUNGISELELO KANYE NEZAZISO ZEZIKHALAZO

Ukuqinisekiswa kwamalungiselelo okuxoxiswene ngawo neHhovisi

21. (1) IHhovisi lingafaka isicelo eNkantolo ePhakeme sokuqinisekisa amalungiselelo aseqediwe ukwenziwa ngokwesigaba 17.

(2) INkantolo ePhakeme maqondana nokubhekelela abathengi abathintekayo namabhizinisi kanye nezinhlangothi ezithintekayo, ngokukhipha incwadi –

(a) eqinisekisa amalungiselelo;

(b) eqinisekisa amalungiselelo okulungisa njengalokhu kuvunyelwana nezinhlangothi ezithintekayo **kanye nokukhulunywa ngakho kulezi zimiso njengalokhu inkantolo ingahlulela;**

(c) ukubeka eceleni lawo malungiselelo uma, ngemuva kokuthi izinhlangothi ezithintekayo kumalungiselelo zinikeziwe ithuba lokuthi zilalelwe, inkantolo yenelisekile ukuthi amalungiselelo akuqinisekisi ukungaqhubeki noma ukuzitshwa kokuqhutshwa kwebhizinisi isikhalazo somthengi esivele ngalo.

(3) Incwadi yokulayela ngokwesigatshana (2) kufanele ishicilelwe kwiGazethi yesiFundazwe.

Ukunikeza isaziso komaziphathe ngezikhalazo zomthengi

22. (1) UMvikeli womThengi kufanele linikeze iKomidi leziNdaba zabaThengi elisungulwe ngokwesigaba 3 leziNdaba zabaThengi (Ukuqhutshwa kweBhizinisi ngendlela engenalo Iqiniso) uMthetho, 1988 (uMthetho 71 ka 1988, njengalokhu uchibiyelwe),fuhi noma yibaphi abanegunya lamandla abaqaliswe ngokomthetho wokuvikela abathengi kunoma yisiphi isifundazwe esithintekayo, ngemininingwane yebhizinisi elenziwayo eliqondene nesikhalazo somthengi okuphenywa ngaso kanye nanoma yiluphi ulwazi olunobudlelwano nalokhu okwaziwe ngalo ekuphenyeni kweHhovisi noma okuqhutshelwe phambi kweNkantolo kaMantshi noma iNkantolo ePhakeme.

(2) UMvikeli womThengi kufanele, uma kukhona isizathu noma kunini ngesikhathi noma ngemuva kokuphothulwa kophenyo okunokusolakala ukuthi kwenzekile noma kwenziwe, noma ukuzamile okanye kwenziwe ukuba kwenzeke –

(a) icala, laziswa uMqondisi wezokuShushiswa koMphakathi othintekayo ngendlela efanele;

(b) icala elinzima lezomnotho njengalokhu kuchaziwe eMthethweni wezokuphenywa kwamaCala aNzima ezoMnotho, 1991 (uMthetho 117 ka 1991), oshiwa udaba lunombuzo ngaphambi koMqondisi weHhovisi wezamaCala aNzima ezoMnotho ngendlela ehlinzekiwe kwisigaba 4 salowo Mthetho,

(c) icala elibhaliwe ngokoMthetho oVimbela uBugebengu obuHleliwe, 1998 (uMthetho 121 ka 1998), laziswa nuMqondisi kaZwelonke ngendlela okuyiyo.

ISAHLUKO 5
UKUQHUBA KWENKANTOLO

Ukuqhuba kwenkantolo

23. (1) Ekuqhutshweni kwesimangalo okuqaliswe nguMvikeli womThengi **eNkantolo kaMantshi noma eNkantolo ePhakeme** kanye nokushushiswa yiHhovisi **ekusekeni umthengi,** uMvikeli womThengi angamelelwa noma asizwe ngogqugquzela umthetho noma ngummeli.

(2) Ngaphandle kokuthi uMvikeli womThengi kufanele ukuba aqinisekise ukuqaliswa kokuqhutshwa kwesimangali eNkantolo kaMantshi noma eNkantolo ePhakeme, iHhovisi kanye noMvikeli womThengi kufanele zibophezele ekugcinweni kwemithetho ethile yenkantolo kumbandakanya umhlomulo wezindleko.

(3) Inkantolo inganikeza umhlomulo ngokuzwelana noma ngokumelana noMvikeli womThengi njengommangali wokuqala noma njengomfaki sicelo wokuqala ngaphandle ngaphandle kwencwadi yezindleko noma ngokumelela umthengi njengommangali wesibili, njengalokhu kungaba njalo.

Incwadi egunyazayo yeNkantolo ePhakeme

24. (1) Ngaphandle **kwesahluko 3 kanye no 4 salo Mthetho**, uNgqongqoshe angafaka isicelo eNkantolo ePhakeme ukwenzela ukuthola incwadi egunyaza ukumiswa kokuqhuba ibhizinisi, noma ezinye izindlela eziveza ikhambi, ngesikhathi semiphumela yanoma yiluphi uphenyo.

(2) Leyo ncwadi ekhishwe yinkantolo kufanele ikhishwe ngokuhambisana nomthetho okhona eNingizimu Afrika.

ISAHLUKO 6
ISIGUNGU SOMTHETHO ESIPHETHE IZINDABA ZABATHENGI

Ukusungulwa kwesiGungu somthetho esiPhethe iziNdaba zabaThengi

25. (1) UNgqongqoshe kufanele, ngokwesaziso kwiGazethi yesiFundazwe, asungule esisodwa noma ezimbili iziGungu zomthetho kwisiFundazwe.

(2) IsiGungu somthetho kufanele sisungulelwe indawo echaziwe kuleso saziso, ngemuva kokuxhumana noMvikeli womThengi.

(3) UNgqongqoshe ngemuva kokuxhumana noMvikeli womThengi ngalokhu anga –

(a) angangavuma nanoma yiphi indawo; noma

(b) amise leso saziso futhi abhidlize noma yisiphi isiGungu somthetho.

(4) Isihlalo noma izihlalo zabesiGungu somthetho kufanele kube kuleyo ndawo noma ezindaweni eziqokwe nguNgqongqoshe ngaso sonke isikhathi ngemuva kokuxhumana noMvikeli womThengi, noma ezihambelana nokuqhutshwa kwalokho kumangala.

Ukuqokwa kwesiGungu somthetho

26. (1) Amalungu esiGungu somthetho kufanele aqokwe nguNgqongqoshe ngemuva kokuxhumana noMvikeli womThengi.

(2) IsiGungu somthetho kufanele sibe namalungu angekho ngaphansi kwesibalo sabantu abathathu noma abayisihlanu, babe kanjena:

(a) Umphathi sihlalo, ongaba –

(i) ijaji leNkantolo ePhakeme eselithathe umhlala phansi ; noma
(ii) ummeli, umgqugquzeli wezemithetho, imantshi esithathe umhlaphansi noma umfundisi wezemithetho enyuvesi, ongenalo ulwazi lomsebenzi olungaphansi kweminyaka eyishumi kulowo mkhakha noma kweminye imikhakkha; kanye

(b) Amalungu ngaphezulu anolwazi olukhethekile noma enolwazi lokusebenza komgqugquzeli wezemthetho, kwezomnotho, kwezezimboni noma kwezokuhwebelana.

(3) UNgqongqoshe angaqoka ilungu elikhethekile kwilungu nelungu lesiGungu somthetho.

(4) UNgqongqoshe kufanele ameme izinhlangano ezinentshisekela ngokwenza isaziso kwiGazethi yesiFundazwe kanye nokukhangisa ephephandabeni elikhethwe nguye uNgqongqoshe, ukufaka amagama abangenele ukuba bakhethwe, ngaphambi kwezinsuku ezingamashumi amabili nanye senziwe leso saziso, ukumfaka njengelungu lesiGungu somthetho esithile.

(5) Amagama abangenele kufanele ngemva kwalokho ashicilelwe kwisazise seGazethi yesiFundazwe kanye nasephephandabeni ukuze kubekwe izincomo.

(6) Ukufakwa kwemibuzo kufanele kuvuleleke nasemphakathini.

(7) Ilungu kanye nelungu elikhethekile lesiGungu somthetho kufanele, benze futhi babhale phansi incwadi yesefungo nomabenze isitatimende esibhaliwe ngaphambi kukaNgqongqoshe.

(8) Ilungu kanye nelungu elikhethekile lesiGungu somthetho kufanele aqokelwe isikhathi esithile futhi aholelwe ngalokho nokukhokhelwa okongezelelwe njengalokhu kunganquma uNgqongqoshe, nomholo ohlukile kanye nokukhokhelwa okongezelelwe maqondana namalungu aqokwe ngokwehlukile kanye nelungu elikhethekile.

(9) Noma yikuphi ukuqokwa ngokwesigatshana (1) noma (3) kumele kube ngokwesikhathi esingedluli iminyaka emithathu kodwa umuntu isikhathi sakhe sokusebenza eHhovisi njengelungu sesiphelile angaqokwa futhi kabusha nguNgqongqoshe ngokwenezelela isikhathi esingeqile eminyakeni emithathu.

(10) (a) Noma yimuphi umsebenzi eHhovisi welungu lesiGungu somthetho kumele, ngaphambi kokuphela kwenyanga eyodwa lowo msebenzi uvelile, lifakwe esikhaleni nguNgqongqoshe ngokuqokwa ngaphansi kwesigatshana (1) noma (3).

(b) Noma yiliphi ilungu eliqokiwe ukuphatha iHhovisi esikhundleni esingaphelelwa yisikhathi sokusebenza ehhovisi.

(11) Amalungu esiGungu somthetho kumele akhokhelwe yiHhovisi ngezimali ezibekelwe lokho ngokwesigaba 2 (4) maqondana nezindleko ezenzekayo ekwenzeni kwabo umsebenzi ngaphansi kwalo Mthetho.

Abantu abamiswe ekubeni ngamalungu esiGungu somthetho

27. (1) Akekho umuntu oyoqokwa noma ahlale eyilungu lesiGungu somthetho uma engafanelekile ngokugcwele futhi engesiye umuntu ofunakalayo –

(a) nongesiso isakhamuzi seRiphabhuliki esihlala kwisiFundazwe;

(b) eyilungu lesiShayamthetho sesiFundazwe, leNdlu yabaHoli beNdabuko kwisiFundazwe noma isiPhathimandla saseNdaweni kwisiFundazwe;

(c) eyisisebenzi sikahulumeni;

(d) ngesikhathi esifanayo noma esikhathini esiyizinyanga eziyishumi nambili ezedlule wayesebenza noma engumqashwa wanoma uiliphi iqembu, inhlangano, umbimbi noma umgwamanda weqembu lezepolitiki;

(e) ecwile ezikweletini ngendlela engenakuhlengeka;

(f) eke wabanjwa wavalelwa ejele, noma eRiphabhuliki noma kwenye indawo, ngokweba, ukukhwabanisa, umgunyathi noma ukuba nezincwadi zomgunyathi, ukwenza isefungo esingesilo iqiniso, ene icala ngaphansi kwalo Mthetho noma koMthetho wezobugebengu1992 (uMthetho 94 ka 1992), noma yiliphi icala

elihlanganisa ukungethembeki; noma

(g) eke ngaphambili wakhishwa ehhovisi ngenxa yokuziphatha kabi

(2) Akekho umuntu okufanele ahlale eyilungu lesiGungu somthetho uma ehluleka ukuveza ukushisekela kwakhe ukuba ahoxiswe.

Umthethosisekelo wesigungu somthetho

28. (1) okubaluliwe kwisigatshana (4), isibalo samalungu esiGungu somthetho kufanele sibe ngesabantu abathathu.

(2) Ngaphandle lapho kunikezwe, isinqumo esikhishwe iningi lamalungu esiGungu somthetho akhona okufanele kube yisinqumo esithathwa yileso siGungu somthetho.

(3) Ilungu lesiGungu somthetho kufanele lizikhiphe ekuqhutshweni kwesimangali uma kunesizathu sanoma yini esihambisa nokuthi singaphazamisa ukukhipha kwakhe isinqumo esinokungachemi ngaloludaba, noma esingamenza abonakale esechema.

(4) uma noma ngasiphi isikhathi kuqhutshwa isimangali ngaphambi kwesiGungu somthetho –

(a) usihlalo uba yilungu futhi kuthathwa isinqumo esinokwehlukana phakathi, isinqumo sikasihlalo kufanele kube ngesibalulekile.

Ukusebenza, amandla egunya kanye nemisebenzi yesiGungu somthetho

29. (1) Isigungu somthetho –

(a) kufanele silalelwe, sicabangele futhi sikhiphe izinqumo kunoma yisiphi

isikhalazo somthengi esibekwa phambi kwaso ukuba sisibheke ngokwalo Mthetho;

(b) kufanele sisebenzise umthetho okhona waseNingizimu Afrika ekucubunguleni isikhalazo somthengi **futhi sibeke phansi imigomo eliyisebenzisayo ekwengameleni izisombululo ezidala uqhekeko phakathi kwabathengi kanye nosomabhizinisi;**

(c) lingahlawulisa, inani lemali ebekwe phansi, noma imali enqunywa yiso isiGungu somthetho, kunoma ngubani otholwa enecala phambi komthengi lokuziphatha ngokungemthetho, ngokokwenza noma ngephutha, ngaphansi kwanoma yimuphi umthetho okhona, kanye nokusiza kunoma yikuphi ukujaja, nokutshela uMvikeli womThengi ukuba ashicilele phansi, kuhla lwamagama anezinkinga ukuba lugcinwe eHhovisi, libe negama lebhizinisi, igama lomuntu ophethe ibhizinisi kanye nokutholwe yisiGungu somthetho;

(d) maqondana nesikhalazo somthengi esinzima noma ekuphathweni umthengi akholelwa ngukuthi akubanga nobulungiswa noma obunamanyala nehlazo, singenza esikutholile kulokho okwenzekile, futhi sisize kulokho elikutholile, litshele uMvikeli womThengi ukuba ashicilele phansi emabhukwini, **kuhla lwamagama anezinkinga ukuba lugcinwe eHhovisi,** libe negama lebhizinisi, igama lomuntu ophethe ibhizinisi kanye nokutholwe yisiGungu somthetho;

(e) **ekulaleleni isikhalazo somthengi uma sineliseka ngukuthi isikhalazo sifakwe ngokudlala noma asinabo ubufakazi obugcwele lingahlawulisa lowo mthengi, futhi kanye nommangalelwa litshele uMvikeli womThengi ukuba ashicilele phansi emabhukwini, kuhla lwamagama anezinkinga ukuba lugcinwe eHhovisi, libe negama lebhizinisi, igama lomuntu ophethe ibhizinisi kanye nokutholwe yisiGungu somthetho;**

(f) singaphatha ngokwejwayelekile zonke izindaba eziyisidingo noma ezimangalelwe ekwenzekeni komsebenzi ngaphansi kwalo; futhi

(g) kufanele sisebenzise noma yimaphi amandla futhi lenze ukusebenza kanye nemisebenzi ekhishwe ngokwalo Mthetho.

(2) **igama lomuntu ophethe ibhizinisi elibhalwe phansi emabhukwini ngokuhlongozwe kwisigatshana (1) (d) kufane lifakwe ohlwini lwamagama nguMvikeli womThengi iminyaka emibili kusukela ngosuku olwatholwa ngalo yisiGungu somthetho. Uhla lwamagama kufanele luvulelwe amalungu omphakathi ukuze liwahlaziye ngokucophelela ngezikhathi zokusebenza ehhovisi.**

(3) Ukuqhuba kwesiGungu somthetho kufanele kuhambe iFundazwe sonke futhi kufanele kwenziwe kuso sonke isiFundazwe.

(4) UNgqongqoshe kufanele, ngokweyame emithethweni eyangamele izindawo zikahulumeni, aqoke –

(a) unobhala wesiGungu somthetho wenza umsebenzi wokuphatha izimangali ezisetshenzwa yisiGungu somthetho; kanye

(b) kanye nabanye abantu abalekelela unobhala wesiGungu somthetho uma kunesidingo.

(5) Usihlalo wesiGungu somthetho kufanele nokushesha ngokusebenza njalo ngemuva komhlaka 31 kuNdasa njalo ngonyaka silethe umbiko wonyaka kuNgqongqoshe yemisebenzi yaso isiGungu somthetho **futhi kufanele sifake kumbiko ikhophi yohlu lwamagama abantu abakuthole kunzima ukubasiza**

(6) UNgqongqshe angadinga ukuba isiGungu somthetho silethe umbiko owengeziwe kuyena njengalokhu engawudinga uNgqongoshe ngezikhathi zonke.

(7) UNgqongqoshe kufanele abeke ngaphambili ikhophi yombiko wonyaka elethwe ngokwesigatshana (4) ePhalamende ngaphambi kokuba kuphele izinsuku eziyishumi nane ngemuva kokuwuthola.

Ukuqhuba kwesiGungu somthetho

30. (1) Ukuqhutshwa ngaphambi kwesiGungu somthetho kufanele kuqaliswe ngencwadi eyisamanisi elibhaliwe, **ngokwejwayelekile noma ngendlela esheshayo**, okufanele inikezelwe kumuntu othintekayo ngalendlela ebhalwe phansi, engahlanganisa ukusebenza ngaphandle kwesiFundazwe

(2) Konke ukuqhuba kwesiGungu somthetho kufanele, ngokweyame kwizihlinzeko zesigatshana (3), kuvuleleke emphakathini.

(3) IsiGungu somthetho **sinamandla afanayo njengenkantolo okuqondisa lokho, ekwenzeni okuhle okukhombisayo, nokuqhuba isimangalo kuthatha *ikhamera***.

(4) Ukuqhutshwa kwesimangalo ngaphambi kwesiGungu somthetho kufanele kushushiswe nguMvikeli womThengi, engamele noma alekelelwe ngumgqugquzeli wezomthetho noma ngummeli.

(5) Noma yimuphi umuntu ophazanyiswe ukuqhutshwa kwesimangalo kufanele abe nelungelo lokuzimbandakanya ekuqhutshweni kwesimangalo.

(6) Noma yimuphi umuntu okufakwe ngaye isimangali noma ophazanyiswe ukuqhutshwa kwesimangali angavela yena uqobo noma amelwe okanye alekelelwe ngumgqugquzeli wezomthetho, ngummeli noma omunye umuntu.

(7) IsiGungu somthetho kufanele sigcine imininingwane esetshenziswe kuqhutshwa isimangalo.

(8) IsiPhathimandla sasendaweni ekucelweni okungakhokhelwa mali kwisiGungu, singenza ukuba kutholakale indawo okuzoqhutshelwa kuyo isimangalo ngaphambi kwesiGungu

somthetho.

(9) Noma yimuphi umuntu ngokubhaliwe angathola amakhophi emininingwane ngokuhlongoziwe kwisigatshana (7) amelene nokukhokhwa kwemali ebhalwe phansi.

Ukubizwa kofakazi kanye nokwenziwa kwemiqulu

31. (1) Inhloso yokuqalisa noma yiluphi udaba olumaqondana nokuqhutshwa kwesimangalo ngaphambi kwesiGungu somthetho, isiGungu somthetho singa –

(a) biza noma yimuphi umuntu, kumbandakanya umuntu okwenziwe ngaye isikhalazo somthengi, ngokuthi abhalelwe incwadi ngunobhala wesiGungu somthetho, ecela lowo muntu ukuba avele ngambili kwesiGungu somthetho ngesikhathi esibekiwe endaweni eshiwo kwisamanisi, ukuba azonikeza ubufakazi kanye nokuveza noma yiphi incwadi edingakalayo, umqulu kanye into ethile okanye okuphethwe noma okungaphansi kwesandla salowo muntu futhi okudingakalayo, okuyimpahla futhi okuhambisana nalokho kuqhutshwa kwesimangali;

(b) kudingakala ukuba lowo muntu enze isefungo esibhalwe phansi noma isitatimende; kanye

(c) abuzwe lowo muntu futhi kuhlolwe noma yiphi incwadi, umqulu noma izinto okudingakala ukuba aziveze.

(2) Isefungo esibhaliwe noma isitatimende ngokuhlongoziwe kwisigatshana (1)(b) singaphathwa yinoma ngumuphi umuntu ofanelekile ukuphatha isefungo esibhaliwe noma isitatimende ngokoBulungiswa bokuThula kanye noMthetho weziFungo zoKhomishana, 1963 (uMthetho 16 ka 1963).

(3) Umuntu uyotholwa enecala uma enikezwa incwadi emgunyazayo yesamanisi ngokwalesi sigaba –

(a) ehluleka ngaphandle kokunika isizathu esiqinile sokuba afike ngesikhathi esibekiwe endaweni eshiwo encwadini yesamanisi, noma ehluleka ukufika kuze kube kuphela isimangali noma kuze kube utshelwa ukuba angabe esaqhubeka nokufika yisiGungu somthetho;

(b) enqaba ukwenza isefungo esibhaliwe noma isitatimende;

(c) enqaba ukuphendula, noma ukuphendula ngokugcwele nangendlela eyenelisayo akhiphe lonke ulwazi analo futhi akholwe ngukuthi yonke imibuzo afakwe yona isemthethweni;

(d) ehluleka ukuveza noma ngabe yiphi incwadi, umqulu noma izinto ezingezakhe noma ezingaphansi kwakhe noma eziphethwe nguye, okudingakala ukuba aziveze;

(e) enza isitatimende esingesilo iqiniso ngaphambi kwesiGungu somthetho ebe azi

ukuthi lokho akusilo iqiniso noma engazi okanye ekholwa ngukuthi kuyiqiniso.

(4) Umuntu onikezwe incwadi emgunyazayo yesamanisi lokuba avele ngokwalesi sigaba kufanele angavunyelwa ukuba enqabe ukuphendula noma yimuphi umbuzo noma ukuveza noma yiphi incwadi, umqulu noma izinto zakhe ezizomenza ukuba atholwe enze icala: kuhlinzekwe ngokuthi, izinga lempendulo, incwadi,umqulu noma izinto kuyamveza obala lowo othintekayo njengotholwa enecala, abukho ubufakazi obuyomukelwa obumelana nalowo muntu ekuqhutshweni kwesimangalo, ngaphandle lowo muntu uma emiswa evivinywa ngemibuzo ngokuhlongozwe kwisigatshana (2)(c) kuya ku (e), noma kwisigaba 319(3) soMthetho weNqubo yamaCala, 1955 (uMthetho 56 ka 1955).

(5) Umuntu ofikile ekuqhutshweni kwesimangalo sesiGungu somthethonjengofakazi kufanele avumeleke ukuthola imali ebhaliwe phansi yokukhokhela ofakazi njengokuba **kuhlongoziwe kwisigaba 14 (3) noshintsho oludingwa yingqikithi**.

ISAHLUKO 7
IZIHLINZEKO EZIKHETHEKILE KANYE NOKUQHUTSHWA KOMTHETHO

Imfihlo

32. Umphenyi noma umuntu osebenza eHhovisi noma owenza umsebenzi weHhovisi kufanele akhiphe noma yiluphi ulwazi aludingakalayo ekwenzeni noma ekusebenziseni noma yimaphi amandla, ukwenziwa komsebenzi noma imisebenzi ngokwalo Mthetho, ngaphandle –

(a) kangako uma kungaba nesidingo senhloso yokukhokha kanye nokwenzeka noma ukusetshenziswa kwanoma yimaphi amandla, ukusebenza noma imisebenzi ngokwalo Mthetho; noma

(b) ekugunyazweni yinkantolo yemithetho.

Izinga lecala

33. Akekho umuntu, kumbandakanya uHulumeni, okufanele abekwe icala kunoma yini ayenzile ngokukholeka ngaphansi kwalo Mthetho, owenza umsebenzi awunikeziwe ukuqalisa ukuwenza ngokwethembeka kwakhe lowo muntu noma uHulumeni.

Isimangalo sokukhokhelwa

34. Noma yisiphi isivumelwano noma isikhathi esibekiwe sokufaka isimangali

sokukhokhelwa ngaphandle kwezihlinzeko zalo Mthetho noma ukuqondiswa kokufakwa kwezicelo ngalokho kufanele kumiswe

Isisombululo somphakathi

35. Azikho izihlinzeko zalo Mthetho okufanele zithathwe ngokuthi zephuca noma yimuphi umuntu noma yisiphi isisombululo somphakathi ilungelo elingapheli lokuqalisa ukushishisa noma yiliphi icala lokwephula umthetho.

Isibophezelo sika Hulumeni

36. Lo Mthetho kufanele ubophezele uHulumeni.

Izinhlawulo

37. Noma yimiphi umuntu obekwe ukwenza amacala ngokwalo Mthetho kufanele ahlawuliswe imali engeqile ku R **10000.00**, noma avalelwe ejele isikhathi esingeqile onyakeni owodwa okanye kokubili

ISAHLUKO 8
IZIHLINZEKO EZEJWAYELEKILE

imithethonqubo

38. (1) UNgqongqoshe kufanele, ngokuxhumana nekomidi lasePhalamende eliphethe izindaba zabathengi futhi ngemuva kokuxhumana noMvikeli womThengi, enze imithethonqubo ehambelana nezindaba ngokwalo Mthetho ezidinga noma ezivunyelwe ukuba zibhalwe phansi.

(2) **UNgqongqoshe angenza imithethonqubo ehambelana nokuphathwa kokuqhuba isimangalo ngaphambi kwesiGungu esicubungulayo.**

(3) UNgqongqoshe kufanele, kungakapheli inyanga ngaphambi kokuba kwenziwe noma yimuphi umthethonqubo, abeke isizathu sokuthi kushicilelwe leyoi ncwadi yomthethonqubo kwiGazethi yesiFundazwe kuhambisane nesaziso esikhipha izinhloso zakhezokwenza umthethonqubo, futhi ameme abantu abanentshisekelo ukuba banikezele ngokusho noma yini abafisa ukuyibeka ngalokho noma abamelele izinhlangano abangathanda ukubeka okuthile ngalokhu.

Isihloko esifingqiwe kanye nokuqalisa

39. (1) Lo Mthetho kufanele ubizwe ngokuthi uMthetho oVikela umThengi, 2004.

(2) Lo Mthetho kufanele uqalise ukusebenza ngosuku olunqunywe nguNgqongqoshe ngokwenza isimemezelo kwiGazethi yesiFundazwe futhi izinsuku ezehlukene kufanele zinqunywe ngokuqalisa kokusebenza kwezigaba ezahlukene zalo Mthetho.