

REPUBLIC
OF
SOUTH AFRICA



REPUBLIEK
VAN
SUID-AFRIKA

Government Gazette Staatskoerant

Regulation Gazette

No. 6611

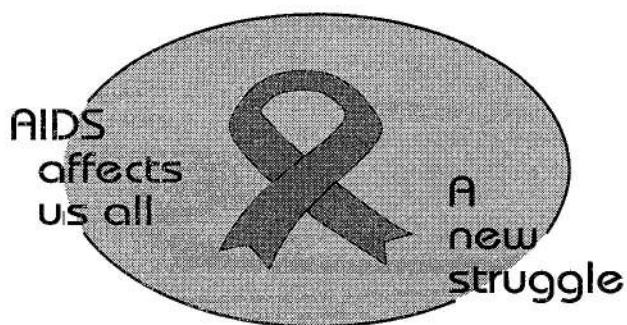
Regulasiekoerant

Vol. 410

PRETORIA, 20 AUGUST
AUGUSTUS 1999

No. 20398

We all have the power to prevent AIDS



Prevention is the cure

**AIDS
HELPLINE**

0800 012 322

DEPARTMENT OF HEALTH

ISAZISO SIKAHULUMENI**UMBUTHO WEZOKUVIKELA KAZWELONKE WASENINGIZIMU AFRIKA****No. R. 1008****20 Agasti 1999****UMTHETHO WEZOKUVIKELA WAMA - 44 KA 1957****UKUCIBIYELWA KWENQUBOMGOMO YOMBUTHO WEZOKUVIKELA
KANYE NOMBUTHO OLINDILE KAZWELONKE WASE-NINGIZIMU AFRIKA**

uNgqongqoshe wezokuVikela ushicilele lenqubomgomo ngaphansi
kwesigaba 87 (1)(rB) , kanye nesigaba 126C zoMthetho wezokuVikela ka
1957, (uMthetho wezokuVikela wama- 44 ka 1957.

UHLELO**Incazelo**

1. Kulenqubomgomo uhlelo lusho Isahluko XX salenqubomgomo
ejwayelekile yombutho wokuvikela kaZwelonke waseNingizimu Afrika.
2. Lenqubomgomo iyacibiyelwa ngokwengeza Isahluko XX.

ISIAHLUKO XX**AMALUNGelo NGEZOKUSEBENZA****INCAZELO**

1. Kulesisahluko lamagama alandelayo asho lokhu ngaphandle kokuba umusho uqonde okunye;

"UMthetho"

kushiwo uMthetho wezokuVikela ka 1957 (uMthetho wama- 44 ka 1957);

"isivumelwano"

Kushiwo isivumelwano esibophezelayo esibhaliwe esithathwe amaqembu eSigungu mayelana nezindaba ezintitha nhlangothzombili isivumelwano sokubonisa "ngokubambisana / ngokuhlanganyela" naso sisho okufanayo;

"ibhodi"

kushiwo ibhodi lezokuLamula loMbutho elisungulwe phansi kwalenqubomgomo;

*"ukubonisa
ngokuhlanganyela"*

Kusho inqubo lapho umqashi kanye nezinyunyana zoMbutho bexoxisana ngezindaba ezithinta nhlangothi zombili;

"uMthethosisekelo"

kushiwo uMthethosisekelo waseNingizimu Afrika wangonyaka ka 1996 (uMthetho we-108 ka 1996);

"Isigungu"

kushiwo isigungu sombutho wezokubonisa osungulwe phansi kwalenqubomgomo;

"Umbutho wezokuVikela"

kushiwo umbutho wezokuVikela kaZwelonke waseNingizimu Afrika;

"Umsebenzi"

Kushiwo umsebenzi osebenzela umbutho ngokugcwele noma umbutho wokuncedisa njengoba kubekiwe ngokoMthetho, kanye nomsebenzi osebenzela umbutho wangaphakathi nalabo abaqapha izindawo zokuhlala;

"Umqashi"

kushiwo uMnyango wezokuVikela noma imuphi umuntu ongunyazwe ukuba amele loMnyango

"Imibutho yangaphambilini"

kushiwo noma imuphi umbutho emibuthweni yesikhathi esedlule umbutho wezokuvikela waseNingizimu Afrika, uMbutho wezokuVikela waseBophuthatswana, uMbutho wezokuvikela waseTranskei, uMbutho wezokuVikela waseCiskei, uMbutho wezokuVikela waseVenda, uMkhonto weSizwe noma, uMbutho wokulwela inkululeko wamaAzaniya;

"izikhalazo"

kushiwo isikhalo esenziwe ilunga noma amalunga ombutho wezokuvikela esimayelana nobudlelwana basemsebenzini esiqondana nalelo lungu noma nalawo malunga noma-ke lapho ekhononda ngokuthi amalungelo awo ngokomthetho aphuliwe lokhu kubandakanya nenqubo yokusebenza engavumelekile;

"Inyunyana yoMbutho wezempi"

kushiwo inyunyana esungulwe ngaphansi kwalenqubomgomo;

"Umphathi-hovisi"

kushiwo ilunga lenyunyana yombutho wezempi elikhethwe ngokomthethosisekelo wenyunyana yombutho wezempi ukuba lisebenzele inyunyana elingesiye umsebenzi kahulumeni;

"isikhulu"

mayelana nenyunyana yombutho wezempi kushiwo umuntu oqashwe inyunyana ngokwayo njengonobhala noma umsizi kanobhala noma umgqugquzeli wenyunyana yombutho wezempi noma isiphi esinye isikhundla esimenza ukuba abe umsebenzi wenyunyana ngokugcwele;

"Ukubhalisa ngokomthetho"

kusho ukubhalisa ngokwalenqubomgomo;

"Usomqulu"

kushiwo uSomqulu wezinyunyana zombutho wezokuvikela obekwe kuleso sikhundla nguNgqongqoshe ngokugunyazwa yisigaba 41 salenqubomgomo;

"Inkokhelo"

kushiwo umholo oyimali noma ngayiphi enye indlela eyemukelekile noma leyo ndlela eyemukelekile ibandakanya nemali ekhokhelwa noma ekweletwa lowomuntu oyilunga lombutho embuthweni wezempi, nokuholela kungachazeka kanjena;

"Isiteleka sokuzwelana"

kuqondwe isiteleka noma isenzo esithile sokuqhuba isiteleka esibanjwe ngabanye abasebenzi abaqashwe ngomunye umqashi sokuzwelana nalabo basebenzi noma nje isiteleka sokuzwelana nabanye abasebenzi ababambe isiteleka kodwa abangasiwo amalunga ombutho wezempi esibhekiswe komunye nje umqashi;

"Isiteleka"

kushiwo ukwenqaba ukusebenza izikhawu noma ngokugcwele noma ukuthikameza ukusebenza noma ukwehluleka ukusebenza ube uyilunga lombutho wezempi ube ukwenza lokhu uqonde ukukhombisa ukuthi kunento ongayithakaseli noma isikhalo ofuna silungiswe esiyinto ethinta umqashi nelunga lenyunyana. Ukusebenza kulencazelo kusho ukusebenza ngokweqa isikhathi esijwayelekile somsebenzi noma ngokwentando yakho noma kuphoqelekile ukuthi usebenze;

"Inqubo yokusebenza engavumelekile"

kushiwo indlela engagculisi ngoba ingahambisani nobulungiswa noma ukungenzi lokho okufanele kwenzeke phakathi kukamqashi nomsebenzi, okubandakanya:

- (a) Ukubandlulula okusobala noma okufihlekile okuqondiswe kunoma iliphi ilunga kubandakanywa namalunga emibutho yesikhathi esedlule ngokobuhlanga, ngokobulili, indabuko, ibala, inkanuko ngezocansi, ubunkubela, inkolo, inkolelo, umbono ngezombuzwe, indabuko, ulimi, ukugana/ukuganwa, izibopho zomndeni;
- (b) Indlela yokungaziphathi kahle komqashi mayelana nokuqashwa kwabasebenzi,

ukukhushulwa ezikhundleni, noma ukwehliswa ezikhundleni, noma ukuqeqeshwa kwelunga noma okuphathelele nezizuzo;

(c) Ukuxoshwa noma ukumiswa kwelunga emsebenzini ngaphandle kokuthatha izinyathelo zokuthi lijeziswe ngaphambi kokuba lixoshwe;

(d) Ukwehluleka noma ukwenqaba komqashi ukubuyisela ilunga esikhundleni salo noma ukuqashafuthi kabusha lelo lungu ngokwesivumelwano sanoma iluphi uhlobo.

INGXENYE 1**IMPOKOPHELO KANYE NOKUSETSHENZISWA****Ukusetshenziswa**

2. UMbutho wezokuVikela njengoba ungumbutho okungenwa kuwona ngokuzikhethela nomiswe futhi uphathwe ngendlela yenhlonipho yombutho wezokuvikela; ufisa ukuthi zonke izakhamuzi ezingenela uMbutho wezokuVikela zamukele amalungelo kanye nesithiyo mayelana namalungelo azo okusebenza abekwe phansi kwalenqubomgomo.

IMPOKOPHELO

3. Lenqubomgomo iphokophele :

- (a) ukulungiselela inqubo yezokusebenza eyamukelekile;
- (b) ukusungula izinyunyana zombutho wezempi;
- (c) isigungu sokubonisana ngokuhlanganyela ngezindaba ezithile ezithinta nhlangothi zombili;
- (d) ukuqiniseka ukuthi imicimbi yezinyunyana ayiphazamasi ukusebenza kombutho, uqeqesho kanye nokuviva nokuthi akulimali izibopho zoMthethosisekelo wokugcina umbutho wezeMpi onenhlonipho;
- (e) ngokubanzi ukulungiselela ubudlelwano obuhle bokuqhuba umsebenzi ngobuhlobo.

INGXENYE 2**AMALUNGelo KANYE NEZITHIYO/NEZIVIMBELO****Amalungelo omuntu ngamunye kanye nezivimbelo****Amalungelo amalunga (ezisebenzi)**

4. (1) ilunga ngalinye noma ngokubambisana nenyunyana livumelekile ukuba lisebenzise amalungelo alo ezokusebenza njengoba kubekiwe esigabeni sama- 23 soMthethosisekelo, ngokulandela imibandela yalenqubomgomo;
- (2) Akukho lungu lombutho elisebenza ngokuphelele (Permanent Force) noma uMbutho wezokuncendisa (Auxillary Force) eliyovunyelwa ukuba lijoyine noma iyiphi inyunyana ngaphandle kwalena esungulwe ngaphansi kwalenqubomgomo;
- (3) Lenqubomgomo isebenza kumalunga oMbutho wangaphakathi kanye balawo aqapha izakhamuzi ezindaweni zokuhlala ekwenzeni umsebenzi wombutho , noma uma kudingeka benze umsebenzi wombutho, ngokwezikhundla zabo zokuba ngamalunga ombutho wangaphakathi noma umbutho wokuqapha izakhamuzi ezindaweni zokuhlala, ngokuhambisana nesimo;

Ukuthunywa Ngokusemthethweni okungenampikiso (lawful command)

5. Akukho lungu elingenqaba ukwenza lokhu elikuthunyiwe ngokusemthethweni ngoba lithi , lokho kuyingqikithi yokubonisana ngokubambisana, ukubonisana ngokuhlanganyela noma inqubo yezikhalazo.

Iziteleka

6. Akukho lungu eliyongenela isiteleka, noma isiteleka sokuzwelana, noma ligqugquzele amanye amalunga ukuba angenele isiteleka noma besekele noma bazibandakanye nesiteleka sokuzwelana.

Izenzo ezingavumelekile

7. Ngokuhambisana nenqubomgomo yesi-8 , akukho lungu eliyozibandakanya nombuthano ongahlomile noma onokuthula, ukuphatha

izingqwembe, ukukhankasela izikhalazo ukuze esekele isiteleka noma isiteleka sokuzwelana uma lokhu kuhambisana nanoma iluphi udaba lwezoMbutho.

Izenzo ezivumelekile

8. Amalunga anelungelo lokuzibandakanya nombuthano ongahlomile nonokuthula, ukuphatha izingqwembe, nokwethula izikhalo ngokwabo (private capacity): Ngaphandle kokuthi lelilungelo lingeze lasetshenziswa uma:

- (a) Lelo lunga ligqoke umfaniswano wamasotsha noma ligqoke yinoma ngayiphi indlela ekhombisa ukuthi lowo muntu usebenzela uMbutho wezokuVikela noma uMnyango wezoKuvikela; noma
- (b) ngokuhambisana nanoma yiluphi udaba oluphathelele nobuhlobo bokusebenzela uMnyango wezokuvikela noma iluphi udaba oluphathelele noMnyango wezokuVikela.

AMALUNGELO OBUNHLANGANO ENYUNYANA YOMBUTHO WEZEMPI (ORGANISATIONAL RIGHTS)

Amalungelo Okubambisana (collective rights)

9. Inyunyana yombutho wezempi ebhalisiwe yiyona kuphela enamalungelo obunhlangano kanye nelungelo lokubonisana ngokuhlanganyela.

Ilungelo lokukhankasela Amalunga (Right to Recruit)

10. Inyunyana yombutho wezempi efisa ukuba ibhaliswe iyakuba nelungelo lokukhankasela amalunga ukuze ifinyelele esibalweni samalunga esidingekayo ukuze ibhaliswe, kuphela nje:

- (a) uma leyonyunyana inikeza uNgqongqoshe isaziso ngalokhu; futhi
- (b) uNgqongqoshe azisa uMbutho wezokuVikela ngokuba khona kwaleNyunyana zingakapheli izinsuku eziyishumi nane ethole leso saziso.

Ilungelo lokulungisa izindaba zayo (Right to own Affairs)

11. Ngokuhambisana nemiyalo yenqubomgomo, inyunyana yombutho wezempi nelungelo:

- (a) lokuzenzela umthethosisekelo kanye nemigomo;
- (b) lokwenza ukhetho lwabantu abazoyimela kanye nalabo abazonakekela izindaba zenyunyana;
- (c) lokuqoka izikhulu zayo ; kanye
- (d) lokuhlela kanye nokulungisa ukuphathwa kwemisebenzi yayo evumelekile ngokusemthethweni, kubandakanya ilungelo lobamba imihlangano namalunga ayo njengoba kuvunyelwene namalunga esigungu.

Ukwehluka kweNyunyana yoMbutho weZempi (Exclusivity of the military trade union)

12. (1) Inyunyana yoMbutho wezeMpi ingasungula futhi ijoyinwe ngamalunga oMbutho wezokuvikela kuphela;
- (2) Ukusungulwa noma ubulunga benyunyana yombutho wezempi angeke buthathelwe noma beyamiswe ekuzibandakanyeni nezombusazwe, imibutho yokuzivikela yesikhathi esedlule, ibala, ubulili, noma inkolelo.

Ukwakha Ubudlelwano nezinye izinhlangano

13. Inyunyana yoMbutho wezeMpi ngeke yakhe ubudlelwano noma izibandakanye nanoma:

- (a) iyiphi inhlangano yezokusebenza , uMbuthwano wezokusebenza. Inyunyana , uMbimbi lwemibutho yezokusebenza engaziwayo noma engabhalisile; kanye
- (b) iyiphi inhlangano yezombusazwe, noma inhlangano.

Ukuqashwa kanye nenkokhelo yabasebenzi

14. Inyunyana yeMbutho wezeMpi ingaqasha noma ngubani ongasilo ilunga loMbutho wezokuVikela , ukuze abe isikhulu noma isisebenzi esibhekene nokuphathwa kwenyunyana , futhi ingamisa inkokhelo kanye nemibandela yokusebenza ebona ukuthi imlungelo lowomsebenzi noma lesosikhulu.

Inkokhelo engavumelekile

15. Akukho sikhulu seNyunyana yoMbutho wezokuvikela esiyothola inkokhelo noma inzuzo eMbuthweni wezokuVikela ngokuhambisana nomsebenzi waso noma ngokuthunywa yinoma iyiphi inyunyana yombutho wezeMpi.

Ukuzimela KweNyunyana yoMbutho wezeMpi

16. Inyunyana yoMbutho wezempi iyoba ngezimele futhi ayiyukuphathwa noma ibe ngaphansi kokulawulwa uMbutho wezokuVikela, ngaphandle kokuthi izikhulu zaleyo nyunyana ziyohlala zilandela iMithetho yezokuVikela ngaso sonke isikhathi.

Ukuzikhethela Ubulunga

17. (1) Umuntu uyozikhethela ukuba ilunga lenyunyana yombutho wezokuvikela.

(2) Akukho muntu onga-

(a) vimbela ilunga ngokuliphoqa noma yingayiphi indlela ukuba lijoyine inyunyana yombutho wezempi noma ukwenza noma imuphi umsebenzi noma umcimbi wenyunyana yombutho wezempi;

(b) bandlulula ilunga ngoba lisebenzise amalungelo eliwathola/eliwanikwe phansi kwalenqubomgomo.

Okungavunywelwe kumalunga

18. Akuvumelekile ukuba ilunga libe lilunga lezinyunyana zombutho wezempi eziningi ngesikhathi esisodwa.

Izivumelwano Ezingavunyelwe

19. Inyunyana yoMbutho wezempi ayinalo ilungelo lokuxoxisana nabaqashi ukuze kuvunyelwane ngenyunyana eyodwa yombutho (closed shop) noma ukubanjwa kwemali yobulunga kulabo abangesiwo amalunga enyunyana (agency shop).

Ukungavunyelwa kosizo Lwezimali

20. Umnyango wezokuVikela ungeke usize inyunyana yombutho wezeMpi ngezimali ukuze iqhube imisebenzi yayo, futhi ngeke ukhokhele izindleko zomsebenzi noma isikhulu senyunyana ezenzeke ngokuqhuba imisebenzi yenyunyana.

UKUDALULWA KWEMININGWANE/KOLWAZI**Isibopho sokudalula Imininingwane**

21. (1) Ngokuhambisana nezivimbelo ezimiswe phansi kwalenqubomgomo umqashi kufanele azise inyunyana yombutho wezempi ebhalisiwe yonke imininingwane nolwazi oludingekayo ukuze ikwazi ukuqhuba umsebenzi ngempumelelo njengoba kulindelekile kulenqubomgomo.

(2) Umqashi akumele adalule imininingwane noma ulwazi:

- (a) oluvikelekile ekudalulweni ngokomthetho (privileged information);
- (b) ngaphandle kokuphula imigomo yezinqabelo emiswe ngokomthetho noma ngaphandle kokuphula isinqumo senkantolo;
- (c) oluhambisana nenqubo yezombutho, ukusebenza kombutho, ukuhlelwa kwenqubo (kubandakanywa nokuhlelela lokho okungase kuvele), imigomo yokuzuza yoMbutho kanye nezimpahla zombutho;
- (d) okungathi uma ludalulwa lube yimbangela yengozi kumalunga noma kumqashi;
- (e) lolo oluphathelele nelunga elithile, ngaphandle uma lelo lunga livuma ngokubhaliwe ukuthi leyo mininingwane idalulwe.

Imininingwanwe/Ulwazi olukhethekile

22. (1) Umqashi uyobhalela azise Inyunyana yoMbutho wezeMpi ebhalisiwe uma ngabe imininingwane edaluliwe ngaphansi kwalenqubomgomo lukhethekile (classified).

- (2) Umqashi angayala inyunyana yombutho wezempi ebhalisiwe noma lowo omele Inyunyana ukuba isayinde isibophezelo sokuthi ngeke idalule imininingwane ethile ephathelene noMbuso ngaphambi kokuba adalulele Inyunyana leyo imininingwane ekhethekileyo.

ABAMELE INYUNYANA YOMBUTHO WEZEMPI

Ukhetho lwabazomela iNyunyana

23. (1) Amalunga enyunyana yombutho angakhetha kumalunga ayo ilunga elilodwa elizomela amalunga angamashumi amabili nanhlanu, kodwa abamele inyunyana abayikuba ngaphezu kweshumi enkanjini ngayinye;
- (2) Umthethosisekelo weNyunyana yoMbuthe wezeMpi uyolawula ukugqoka, ukukhethwa, isikhathi sokumela inyunyana kanye nokususwa kuleso sikhundla kwabazomela iNyunyana.

Ukubambelela Enhlonipheni kanye nobuchwepheshe boMbuthe

24. Ubuchwepheshe kanye nenhlonipho yaseMbutweni kuyobanjelwa kukho ngaso sonke isikhathi.

Amalungelo alabo abamele inyunyana yombutho wezempi

25. Lowo omele inyunyana yombutho wezempi uyakuba nelungelo:
- (a) ngokucelwa ilunga, asize lelo lungu ngokuphathelene nesikhalazo salo noma inqubo yokujeziswa, kodwa hayi ukulimela;
 - (b) ngokucelwa ilunga, asize lelo lungu, ukulungisa isenzo sokuphatha esingenabulungiswa noma inqubo yokusebenza engafanele ngokulandela inqubo eyamukelekile yokubhekana nezenzo zokuphatha ezingenabulungiswa noma inqubo yokusebenza engavumelekile;
 - (c) ngokubhaliwe uma kukhona ukwephulwa kwalenqubomgomo noma isivumelwano sokubonisana ngokubambisaba esiyisibopho kumqashi abikele:
 - (i) iNyunyana yoMbuthe wezeMpi ebhalisiwe;

- (ii) uMkhuzi noma imenenja yaleloqembu noma iHovisi eliyiNhloko noma iKomkhulu;
- (iii) uma lowo Mkhuzi noma iMenenja ihluleka ukuxhazulula lokho kuphulwa komthetho, abikele ophethe lowo Mkhuzi noma leyo menenja, ngaphandle kokuthi lowo Mkhuzi noma leyo menenja kumele yaziswe ngaleso sinyathelo.

Ukwenza umsebenzi wenyunyana ngesikhathi somsebenzi wombutho

26. Ngokuhambisana nenqubo kanye nohlelo lokuqeqesha lwalelo qembu noma ihovisi eliyikomkhulu kanye nokugcinwa kokuthula nenhlonipho, lowo omele inyunyana uvumelekile ukuba athathe isikhathi esithile esamukelekile ngesikhathi somsebenzi, kodwa esingedlule kumahora ayisishiyangalolunye ngenyanga, ukuze:

- (a) afeze umsebenzi wakhe wokuba ngomele inyunyana yombutho wezeMpi; nokuthi
- (b) athole uqeqesho nganoma isiphi isihloko, okuzomsiza ekwenzeni umsebenzi wakhe wokuba ngomele iNyunyana yoMbutho wezeMpi, ngaphandle kokuthi loloqeqesho akumele luphazamise uMnyango wezokuVikela.

USIZO NGENQUBO YOKUJEZISWA NOMA INQUBO YEZIKHALAZO

Ukusizwa nokumela iNyunyana yoMbutho wezeMpi

27. INyunyana yombutho wezempi inga:

- (a) siza futhi imele amalunga ayo enqubeni yezikhalazo noma ukuhlela izikhalazo; noma
- (b) siza umalunga enqubeni yokujeziswa noma enkantolo yoMbutho (Military court).

UKUBANJWA KWEMALI YOBULUNGA KANYE NEZINYE IZIMALI (LEVY)**Ukubanjwa Kwemali yobulunga nezinye izimali okuvumelekile emiholweni**

28. Noma imuphi umsebenzi oyilunga leNyunyana yombutho wezempi angagunyaza umqashi wakhe ngokubhaliwe ukuba abambe emholweni wakhe imadlana ethile engumnikelo wakhe wobulunga kuleNyunyana yombutho wezempi kanye nezinye izimali.

Ukubanjwa kwemali Ngumqashi

29. Ngemva kokuthola leyo ncwadi emgunyazayo okukhulunywa ngayo kulenqubomgomo esigabeni 28 ngenhla, umqashi kumele abambe leymali zingakapheli izinsuku ezingamashumi ama-30, bese edlulisela leymali ayibambile kulenyunyana yombutho wezempi lungakafiki usuku lomhlaka-15 kusukela osukwini ebanjwe ngalo leymali.

Ukuhoxiswa kwaleligunya

30. Ilunga lingahoxisa lelo gunya okukhulunywa ngalo kulenqubomgomo esigabeni 33 ngezansi ngokubhalela umqashi kanye nenyunyana yombutho wezempi ebhalisiwe abanike isaziso sezinyanga ezintathu.

Ukuqhubeka nokubamba imali

31. Umqashi kuyothi emva kokuthola isaziso okukhulunywa ngaso kulenqubomgomo esigabeni 30 ngenhla aqhubeke nokubamba imali njengoba egunyaziwe kuze kuphele isikhathi esiqunywe kuleso saziso, lapho eyobe esema ukubamba imali.

Ukwazisa inyunyana yoMbuthe wezempi

32. Njalo ngenyanga abambe ngayo imali, umqashi kuyofanele anikeze inyunyana yoMbuthe wezempi:-

- (a) uhla lwamagama amalunga enyunyana yombutho wezempi abambe imali emiholweni yawo;
- (b) imininingwane mayelana nenani lemali ebanjwe nokuthi leyo mali ngeyayiphi inyanga ; nokuthi;

- (c) umfanekiso wesaziso sokwesulwa kwegunya ekukhulunywa ngaso kulenqubomgomo.

UKUNGENA EMAGCEKENI OMNYANGO WEZOKUVIKELA

Imibandela mayelana nokungena emagcekeni Omnyango wezokuVikela

33. (1) Noma isiphi isikhulu seNyunyana yombutho wezempi sivumelekile ukuba singene emagcekeni enkambu noma ihovisi elikhulu noma ikomkhulu ukuze akhankasele amalunga noma ukuze axoxisane namalunga, noma nje eyobheka izindaba eziphathelene namalunga, ngaphandle kokuthi isikhathi sokungena kufanele kuvunyelwane ngaso nomkhuzi ngaphambi kokuba lesosikhulu singene;
- (2) Umkhuzi yena akumele avimbele ukungena kwaleso sikhulu okukhulunywa ngaso kulesisigaba 1 ngenhla uma kungenasizathu esizwakalayo;
- (3) Ukungena kuyovinjelwa kulezo zindawo zenkambu noma ehovisini elikhulu noma ikomkhulu ezimiswe ngu Ngqongqoshe njengezivikelekile ngezizathu zokuphephisa umbutho njengoba kubekiwe eMthethweni;
- (4) Angeke kuvunyelwe ukungena ezimotweni zokusebenza, izindiza kanye nasemikhunjini yoMbutho wezokuVikela.

Isikhathi Semihlangano

34. INyunyana yombutho wezempi ivumelekile ukuba ibambe imihlangano namalunga ayo ngaphakathi emagcekeni omqashi kodwa hayi ngesikhathi somsebenzi noma ngesikhathi sokuqeqeshwa.

Ukuvota Emagcekeni oMbutho

35. Amalunga eNyunyana yombutho ebhalisiwe avumelekile ukuba avote ngaphakathi kwamagceke omqashi kuphela nje uma ekhulumisene nomqashi ngaphambi kokubamba ukhetho, okukhulunywa ngalo kumthethosisekelo waleyoNyunyana

AMALUNGELO OKUXOXISANA NGOKUBAMBISANA ENYUNYANA YOMBUTHO WEZEMPI

Izithiyi kulelilungelo lokuxoxisana ngokubambisana

36. Inyunyana yombutho wezempi ingangenela izingxoxo zokubonisana nabaqashi, futhi yenze iziphakamiso yenzela amalunga ayo, mayelana nalokhu okulandelayo kuphela:-

- (a) inkokhelo, amaholo kanye nezimali ezithile zamalunga, ngisho nendlela yokumiswa kwemiholo;
- (b) izinzuzo zokusebenza eziwayelekile ;
- (c) ikhono lokwenza umsebenzi wokuphatha kanye nomihlomulo; (incentives)
- (d) imibandela yokusebenza eziwayelekile;
- (e) inqubo yokusebenza; kanye
- (f) nenqubo yokwenza imisebenzi yenyunyana ngaphakathi enkambini yoMbutho.

OKWENQATSHELWE INYUNYANA YOMBUTHO WEZEMPI

Inqubo kanye nemisebenzi yoMbutho

- 37.** (1) Alikho ilunga eliyozibandakanya nemicimbi yeNyunyana yombutho wezempi ngesikhathi lisembhidlangweni wokuviva kombutho noma lisembhidlangweni woqeqesho njengengxenye ebalulekile yoMbutho.
- (2) Akukho Nyunyana engaxoxisana noma ixhumane nelunga layo uma lelo lungu lisembhidlangweni wokuviva wombutho noma liqeqeshwa ngokwengxenye enkulu yombutho.

ISIMO ESIBUCAYI/INGOZI (Emergency)

38. Kusukela ngosuku uMongameli akhiphe ngalo izwi ngesimo esibucayi, noma ngosuku uMongameli aphake ngalo umbutho wezokuvikela ukuba uvikele izwe laseRepubliki njengoba kubekiwe esigabeni 201 (20 (b) soMthethosikelo,

yonke imisebenzi kanye nemicimbi yenyunyana iyakumiswa kuze kuphele isikhathi sesimo esibucayi.

Ukwenqatshelwa okungathikameza inqubo yombutho

39. Inyunyana yombutho wezeMpi angeke isekele noma yenze umcimbi ongabeka engozini inqubo yombutho, ukuviva kombutho, noma uqeqesho njengenqubo yombutho, ukwenza noma ukulungisela inqubo nemisebenzi yombutho.

Okunye okwenqatshelwe

40. Inyunyana yombutho wezempi ngeke ibonisane nabaqashi ngokubambisana ngodaba oluthinta inqubo yombutho, ukuziviva ngokoMbutho, izinhlelo zenqubo (kubandakanye nokuhlela lwalokho okungase kuvele), imigomo yokuzuza yombutho noma izimpahla zombutho.

INGXENYE 3**UKUBHALISWA KWEZINYUNYANA ZOMBUTHO WEZEMPI****USOMQULU WEZOKUBHALISA IZINYUNYANA ZOMBUTHO WEZEMPI****Ukuqokwa kukaSomqulu**

41. Umuntu oqokwe nguNgqongqoshe njengoSomqulu wezinyunyana zombutho wezempi uyoba namandla okwenza imisebenzi ethweswe yona ngokwalenqubomgomo/ ngaphansi kwalenqubomgomo.

IMISEBENZI KASOMQULU

42. USomqulu:

- (a) uyakusebenzisa amandla awanikeziwe ukwenza imisebenzi athweswe yona ngaphansi kwalenqubomgomo;
- (b) uyogcina umqulu wokubhaliswa kwezinyunyana zombutho wezempi;
- (c) zingakapheli izinsuku ezingama-30 kusukela ngosuku afake ngalo igama ngokokuqala noma asule ngalo igama lenyunyana , afake isaziso ngalokhu ePhephabhukwini lika Hulumeni mayelana;
- (d) angaxegisa noma elule lezozikhathi okukhulunywa ngazo kulesisahluko, ngandle kwesikhathi lapho umuntu esuke edlulisela kuNgqongqoshe icala/isikhalo sakhe; futhi
- (e) uyakusula emqulwini wokubhaliswa igama lenyunyana yombutho wezempi engasabhalisiwe , noma ewile ngokuphelelwa izimali.

IZIDINGO ZOKUBHALISA

43. (1) Inyunyana yombutho wezempi ingafaka isicelo sokubhaliswa kulowo onguSomqulu (Registrar) uma:-
- (a) yakhelwe ukusiza amalunga ombutho wezokuvikela kuphela;

- (b) izakhele umthethosisekelo ohambisana nezidingo zalenqubomgomo;
 - (c) inekheli elingaphakathi kulelizwe laseRephabhlilikhi;
 - (d) izimele njengoba kubekiwe esigabeni (2) esilandelayo;
 - (e) ikhombisa ukuthi inamalunga ahlangebezanyo nenani elinqunyiweyo lamalunga ayizinkulungwane ezinhlanu angamalunga ombutho wokuvikela ngosuku efaka ngalo isicelo sokubhalisa;
- (2) iNyunyana yombutho wezempi iyothathwa njengezimele:
- (a) uma ingaphethwe ngokusobala noma ngokufihlekile uMnyango wezokuVikela; noma
 - (b) ingayamile kunoma iliphi iqembu lezoMbusazwe noma inhlango noma ngenye iNyunyana noma ubumbano lwezinyunyana ezingaphandle koMbutu wezokuvikela futhi ingatholi usizo lwemali kunoma iliphi elinye iqembu.
- (3) iNyunyana efisa ukubhaliswa akufanele ibe negama eliphelele noma elifingqiwe elifana noma elicishe lifane negama lenye inhlango yakulelizwe noma yakuphi nomhlaba elingase lidale ukudideka kubantu.
- (4) uMthethosisekelo weNyunyana kufanele :-
- (a) ubeke ukuthi ukuba yilunga lenyunyana yombutho wezempi kuvumeleke kulabo abangamalunga oMbutu wezokuVikela kuphela nokuthi inyunyana izimele njengoba kubekiwe esigabeni se-13 salenqubomgomo;
 - (b) usho ukuthi iNyunyana yombutho wezempi iyinhlango engakhelwe ukwenza imali.
 - (c) ube nemigomo yokuziphatha, umise nemigomo eyolandelwa uma imigomo yokuziphathwa iphulwa;
 - (d) ubeke nemibandela yokuthi ilunga lungazuzi lutho ngokuba yilunga leNyunyana;
 - (e) usho ukuthi ubulunga buyopheliswa kanjani;
 - (f) ubeke ngenqubo eyolandelwa ilunga lifisa ukudlulisa isijeziso sokuphucwa izinzuzo zokuba yilunga noma

ukuphucwa ubulunga kanye nenqubo eyolandelwa nokuthi leso sikhalo singadluliselwa kubani;

- (g) ubeke mayelana nomnikelo noma izimali zobulunga nokuthi kuyoba malini nokuthi iyokhokhwa kanjani;
- (h) umise imigomo (rules) eyolandelwa uma kubizwa imihlangano yamalunga nendlela yokuziphatha kwamalunga emihlanganweni yamalunga kanye nemihlangano yalabo abamele amalunga, nenani lamalunga okufanele ligcinwe emihlanganweni (quorum), nokuthi amaminithi aleyomihlangano ayogcinwa kanjani;
- (i) usungule indlela yokuthathwa kwezinqumo;
- (j) uqoke umphathi-hovisi, nalabo abazomela iNyunyana yombutho wezempi, kanye nemisebenzi yalezizikhulu;
- (k) umise inqubo yokukhethwa noma ukuqokwa kwabazophatha amahovisi;
- (l) umise isimo nenqubo eyolandelwa uma kuxoshwa lezizikhulu;
- (m) umise inqubo yokudluliswa kwezikhalo zokuxoshwa kwalezizikhulu nokuthi lezo zikhalo ziyodluliselwa kubani;
- (n) usungule isimo kanye nendlela okuyoqhutshwa ngayo ukhetho;
- (o) ubeke ngokugcinwa kanye nokulondolozwa kwezimali;
- (p) umise indlela nenhloso yokusethenziswa kwezimali;
- (q) usungule ukuthengwa kanye nokuphathwa kwezimpahla;
- (r) umise usuku okuyophela ngalo unyaka wayo wezimali;
- (s) umise inqubo yokushintshwa koMthethosisekelo; kanye
- (t) nenqubo yokupheliswa noma ukuqedwa (wind up) kweNyunyana.

(5) uMthethosisekelo weNyunyana yombutho wezempi angeke waba nombandela onokubandlulula okusobala noma ukubandlulula okufihlekile okuncike kwezoMbusazwe, ekubeni yilunga loMbuthe wesikhathi esedlule, inkolo, izinkolelo, ubuzwe, ubulili noma izinkanunko zocansi.

Inqubo yokubhalisa

44. (1) INyunyana yombutho wezempi ingafaka isicelo sokubhaliswa ngokuhambisa lokhu okulandelayo kulowo oqokelwe ukubhalisa, uSomqulu:
- (a) ifomu eligcwalisiwe ngokuphelele elifana naleli eliyisixhumelo A (annexure A);
 - (b) umfanekiso woMthethosisekelo wayo;
 - (c) uhlu lamagama amalunga ayo akhokhile imali yobulunga, alofanayo nesixhumelo B;
- (2) uSomqulu angaxhisa iNyunyana yombutho wezempi ukuba ilethe eminye iminingwane ngaphezi kwaleyo eyobe ihambisana nesicelo.

Ukwemukelwa kwesicelo

45. USomqulu kufanele acubungule isicelo kanye nayo yonke imininingwane ehambisana naso uma aneliswa ukuthi leyo Nyunyana efake isicelo iyahlangabezana nazo zonke izidingo zokubhaliswa bese eyibhalisa ngokufaka igama layo emqulwini wezinyunyana zombutho wezokuvikela.

Isicelo sokwaziswa ngokuthile

46. (1) Uma ngabe usomqulu enganelisiwe ukuthi leyo Nyunyana efake isicelo iyahlangabezana nazo zonke izidingo zokubhaliswa angangathumela kuleyo Nyunyana isaziso eyazisa ngesinqumo sakhe kanye nezizathu sokuthatha leso sinqumo futhi azise iNyunyana ukuthi kufanele ifeze lezo zidingo ezibhalwe kuleso saziso zingakapheli izinsuku ezingana-30 kusukela osukwini ethole ngalo isaziso.
- (2) Uma ngabe iNyunyana ihlangabezana nalezo zidingo okukhulunywa ngazo esigabenie (1) ngenhla singakapheli isikhathi esinqunyiwe, uSomqulu uyobe eseyibhalisa leyo Nyunyana ngokufaka igama layo emqulwini ngendlela efanele.

Isiqinisekiso sokubhaliswa

47. Ngemva kokubhalisa iNyunyana uSomqulu uyo:
- (a) khipha isitifiketi sokubhaliswa esikhombisa igama laleyo Nyunyana: futhi

- (b) athumele isitifiketi kanye nomfanekiso woMthethosisekelo osubhalisiwe kuleyo Nyunyana

Imiphumela yokubhalisa inyunyana yombutho wezempi

48. (1) Isitifiketi sokubhaliswa siwubufakazi obanele bokuthi inyunyana ibhalisiwe futhi iyisigungu esamukelekile emehlweni omthetho (ngokwezohwebo).
- (2) Izincwadi zenyunyana ziyothunyelwe kulelo kheli lenyunyana elisada kunikwa uSomqulu, izincwadi ezithunyelwe ekhelinini elisada kunikwa usomqulu wezinyunyana iyothathwa ngokuthi ifikile ezandleni zaleyo Nyunyana yombutho wezempi.

Ukusulwa kokubaliswa kwenyunyana yombutho wezempi

49. (1) Uma nje uSomqulu wezinyunyana ethola ulwazi olukhombisa kuthi inyunyana ethile ayihambisani nemibandela emiswe phansi walenqubomgomo, usomqulu angazisa leyo Nyunyana ukuthi ufisa kususa igama layo emqulwini .
- (2) Leyo Nyunyana okukhulunywa ngayo esigabeni (1) kuyothi zingakapheli izinsuku ezi-30 ithole lesa saziso okukhulunywa ngaso esigabeni (1) ngenhla , inikeze usomqulu izizathu zokuthi yingani kungafanele ukuba lesulwe igama layo.
- (3) Ngemva kokuthola izizathu okukhulunywa ngazo esigabeni (2) ngenhla enze isinqumo mayelana nokwesulwa kwaleyo Nyunyana noma ukuthi iqhubeka ibhalisiwe kodwa phansi kwemibandela ethile angiyibeka usomqulu.

Ukuhlanganiswa kwezinyunyana zombutho wezempi

50. (1) Noma iyiphi inyunyana yombutho wezempi inganquma ukuzihlanganisa nenye noma nezinye izinyunyana zombutho wezempi.
- (2) Izinyunyana esihlanganisiwe zingafaka isicelo kuSomqulu weziNyunyana ukuba azibhalise ngisho noma eyodwa yalezo ziNyunyana ezifisa ukuhlanganiswa isibhalisiwe, usomqulu ufanele athathe lesa sicelo njengesicelo esisha esifake ngaphansi kwalenqubomgomo.

- (3) Emva kokuba esebhalise izinyunyana ezihlanganisiweyo usomqulu uyosusa igama laleNyunyana ebivele isibhalisile ngokuthi asule igama layo emqulwini.
- (4) Ukubhaliswa kwezinyunyana ezihlanganisiweyo kuyoqala ngosuku usomqulu ayofaka ngalo igama lazo emqulwini wokubhalisa.

Imiphumela yokuhlanganiswa kweziNyunyana zoMbutho wezempi

51. Uma uMbhalisi esebhalise iziNyunyana ezihlanganisiweyo:

- (a) zonke izimpahla, amalungelo kanye nezikweletu zalezo Nyunyana ezihlanganisiweyo ziyoba izimpahla, amalungelo kanye nezikweletu zeziNyunyana ezihlanganisiweyo; futhi
- (b) lezo Nyunyana ziyakulandela izinyunyana ezihlanganisiweyo ngokwa:-
 - (i) noma imaphi amalungelo alezo Nyunyana ezihlanganisiweyo;
 - (ii) noma iziphi izimali noma izimali eziqoqwe ngaphansi koMthethosisekelo wanoma imuphi umthetho;
 - (iii) ubulunga bomkhandlu;
 - (iv) imvume ebhaliwe ilunga ukuba kubanjwe iaimali zobulunga beNyunyana noma iziphi ezinye izimali emholweni walo;
 - (v) noma isiphi isinqumo sokulamula noma isinqumo senkantolo: kanye
 - (vi) nesivumelwano sokubonisana ngokubambisana noma nje isiphi isivumelwano.

Isibopho sokunikezela ngemininingwane ku Somqulu

52. Noma iyiphi inyunyana yombutho wezempi kufanele inikezele uSomqulu ngalemininingwane-

- (a) ngomhlaka 31 ka Mashi wanoma imuphi unyaka, inikezele ngesitatimende esigxotshiwe ngumabhalane waleyo Nyunyana esiqukethe imininingwane yaleyoNyunyana futhi esikhombisa inani lamalunga aleyo Nyunyana ngomhlaka 31 Decemba wonyaka

odlule lanye neminye imininingwane engabizwa nguSomqulu weziNyunyana.;

- (b) Zingakapheli izinsuku ezingama-30 itholile umbiko womcubungulu wamabhuku ezimali , ithumele umfanekiso walowo mbiko kanye nesitatimende sezimali;
- (c) Incazelo mayelana nesitatimende samalunga noma umbiko womcubungulu wamabhuku ezimali zingakapheli izinsuku ezingama-30 emva kokuthola isicelo esivela kuSomqulu;
- (d) Amagama kanye namakheli asemsebenzini ezikhulu zenyunyana zingakapheli izinsuku ezingama-30 ziqashiwe noma ziqokiwe ngisho noma lokho kuqasha kungadalanga lushintsho ezikhulwini /esisebenzini zeNyunyana; kanye
- (e) Isaziso ngokushintsha kwekheli leNyunyana lapho kungathunyelwa khona izincwadi zingakapheli izinsuku ezingama-30 lishintshile ikheli.

Ukuhoxiswa kokubhalisa

53. USomqulu angasula emabhukwini igama lonoma iyiphi inyunyana yombutho wezempi engahambisani nemibandela ebekwe kulengxenywe ngokunikeza leyo Nyunyana isaziso esibhaliwe, ngaphandle kokuthi iNyunyana efisa ukuqhubeka nokwenza umsebenzi wayo ogunyazwe yilenqubomngomo, ingaphinda ifake isicelo sokuba ibhaliswe ngokulandela inqubo emiswe kulenqubomngomo.

Eminye imininingwane

54. Noma iyiphi iNyunyana ebhaliswe phansi kwaleNqubomngomo iyokuthumela kuSomqulu weziNyunyana -:

- (a) amagama kanye namkheli amalunga ayo kanye nenani labantu abamelwe ileyo Nyunyana zingakapheli izinsuku ezingama-90 ibhalisile futhi njalo emva komhlaka 31 ka Mashi wonyaka nonyaka; kanye
- (b) amagama kanye namakheli ezisebenzi zenyunyana zingakapheli izinsuku ezingama-90 ibhalisile leyo nyunyana , emva kwalokho njalo zingakapheli izinsuku ezingama-30 lowomsebenzi eqashiwe noma ngabe ukuqashwa akudalanga lushintsho ezisebenzini zeNyunyana.

UMBIKO WEZEZIMALI KANYE NOKUCUTSHUNGULWA KWAMABHUKU EZIMALI

Ukugcinwa Kombiko wezimali

55. Inyunyana yombutho wezempi ebhalisiwe ngokuhambisana nenqubo yokugcinwa kwezimali iyo:

- (a) iyogcina imibiko kanye nezincwadi zemali engenayo , esetshenziswayo, izimpahla kanye nezikweletu; futhi kuyothi
- (b) zingakapheli izinyanga eziyisithupha emva kokuphela konyaka wayo wezimali iyakulungisa isitatimende sayo sezimali esiyobandakanya:
 - (i) isitatimende semali engenile kanye nesetshenzisiwe enyakeni odlule ; kanye
 - (ii) isitatimende esikhombisa izimpahla, izikweletu kanye nesimo sayo sezimali sonyaka odlule.

Ukucutshungulwa kwamabhuku ezimali

56. INyunyana yombutho wezempi ebhalisiwe iyolungisa ukuthi ibe nomcubunguli wamabhuku obhalisiwe ngokomthetho wabacubunguli bamabhuku ka 1991 (Accountant and Auditors Act of 1991) oyo:

- (a) nquba ukucutshungula kwamabhuku ngokuhambisana nemigomo yokucutshungulwa kwamabhuku.
- (b) Abikele iNyunyana yombutho wezempi ngombiko obhaliwe
 - (i) inani lamalunga akhokhile imali yobulunga ngosuku lokucutshungulwa kwamabhuku;
 - (ii) ukukhula noma ukwehla kwenani lamalunga emva kombiko odlule;
 - (iii) ukuthi mingaki imihlangano ebanjwe inyunyana yombutho wezempi nokuthi athathwa yini amaminithi aleyomihlangano;
 - (iv) amagama abasebenzi beNyunyana nokuthi bebebanga ngesikhathi sokucutshungulwa kwamabhuku;

- (v) zingaki izinkinga esezixazululiwe nezingakaxazululwa kusukela ekucutshungulweni kwamabhuku okwedlule;
 - (vi) zingaki izinkinga ezidluliselwe kubalamuli kusukela emva kokucutshungulwa kwamabhuku okwedlule;
 - (vii) nokuthi leyo Nyunyana yoMbuthe wezempi ibihambisana yini nemibandlela yokubhaliswa ebekwe kuleNqubomgomo ngesikhathi sokucutshungulwa kwamabhuku;
 - (viii) nokuthi inyunyana ibihambisana yini nomthethosisekelo wayo ngesikhathi sokucutshungulwa kwamabhuku; kanye
 - (ix) nokuthi kokhuna yini ushintsho mayelana nemali yobulunga.
- (c) Kulowo mbiko abeke umbono wakhe mayelana nokuthi leyo nyunyana ihambisana yini nemigomo yomthethosisekelo wayo ngasohlangothini lwezimali.

Ukwazisa Amalunga

57. Inyunyana yoMbuthe ebhalisiwe iya:

- (a) kukhombisa amalunga ayo isitatimende sezimali kanye nombiko womcunguli wamabhuku ukuze awuhlole; futhi
- (b) alethe emhlanganweni wamalunga noma emhlanganweni walabo abamele inyunyana (njengokusho komthethosisekelo) isitatimende kanye nombiko okukhulunywa ngakho esigabeni (a) ngenhla.

Ukugcinwa kwamabhuku (Presevation of Documents)

58. Inyunyana yombutho wezempi ebhalisiwe iyakugcina amabhuku ezimali, nobufakazi bezimali ezisentshenzisiwe, imininingwane ngezimali ezikhokhwa amalunga, nezinye nje izimali ezikhokhwa amalunga, isitatimende esikhombisa emali engenayo kanye nokusentshenziswa kwemali, umbiko womcubungulu unjengoba unjalo noma usubhalwe kabusha kuze kuphele iminyaka emithathu emva kwalowonyaka wezimali oqodene.

Isibopho sokugcina izincwadi

59. Ngaphezu kwalezincwadi okukhulunywa ngazo ngenhla, inyunyana ebhalisiwe iyakugcina :

- (a) uhlu lwamalunga ayo;
- (b) izinkulumo noma amaminithi emihlangano enjengoba enjalo noma esebhalwe kabusha kuze kuphele iminyana emithathu kusukela kulowo nyaka oqondene;
- (c) amaphepha okhetho kuze kuphele iminyana emithathu kusukelwa kulowo nyaka obekubanjwe ngawo ukhetho.

Ukushintshwa komthethosisekelo noma ukushintshwa kwegama

60. (1) Inyunyana yombutho wezempi inganquma ukushintsha noma kwenza omunye umthethosisekelo.
- (2) Inyunyana ethathe isinqumo sokushintsha noma ukwenza omunye umthethosisekelo kufanele yazise uSomqulu ngalokhu ngokumnikeza umfanekisi waleso sinqumo okukhulunywa ngaso esigabeni (1) kanye nesitifiketi esisayidwe ngumabhalane esishoyo ukuthi lesi sinqumo siyahambisana nomthethosisekelo.
- (3) USomqulu uyo:
- (a) bhalisa lowo mthethosisekelo osushintshiwe uma uhambisana nezidingo zokubhaliswa;
 - (b) athumele enyunyaneni umfanekiso waleso sinqumo osugxotshiwe, oshoyo ukuthi ushintsho selibhalisiwe.
- (4) Ukubhaliswa koshintsho kuqala ukusebenza ngosuku ushintsho olubhaliswe ngalo.

Ukushintsha igama

61. (1) Inyunyana yombutho wezempi inganquma ukushintsha igama layo, okuyothi emva kwalokho inikeza usomqulu umfanekiso waleso sinqumo kanye nesitifiketi sayo sokubhaliswa esidala soqobo (original).
- (2) Uma leligama elisha lihlangabezana nezidingo zokubhaliswa zalenqubomgomo uSomqulu uyo:
- (a) lenza igama elisha lifakwe emqulwini ofanele bese kukhishwe isitifiketi sokubhaliswa egameni elisha lenyunyana yamasosha;

- (b) ukususa igama elidala kulowo mqulu bese kususwa isitifiketi sangaphambilini sokubhaliswa; bese
 - (c) ukuthumela isitifiketi isisha sokubhaliswa siye kwinyunyana yamasosha.
- (3) Igama elisha lenyunyana ebhalisiwe yamasosha liyoqala ukusebenza mhlazana uSomqulu elifaka emqulwini ofanele.

INGXENYE 4

ISIGUNGU/UMKHANDU WOKUBONISANA WOMBUTHO

Ukusungulwa Komkhandlu

62. Kuyosungulwa Umkhandlu wokubonisana soMbutho.

Imisebenzi yeSigungu

63. Amandla kanye nezibopho zaalesisigungu ayokubandakanya:
- (a) ukuphothula izivumelwano zokubonisana ngokubambisana (collective agreements);
 - (b) ukwenza isiqiniseko ukuthi lezo zivumelwano ziyagcinwa;
 - (c) ukuvimbela kanye nokuxazulula izingxabano ngezomsebenzi; kanye
 - (d) nokukhuthaza kanye nokugqugquzela ubudlelwano emsebenzini.

UMthethosisekelo weSigungu

64. (a) ukukhethwa kwabazomela izinhlangothi zonke kulomkhandlu;
- (b) isimo kanye nendlela abayosuswa ngayo ezikhundleni kanye nenquba yokukhetha abayongena ezikhundleni zabo;
 - (c) imigomo yokubizwa kanye nokuqhutshwa kwemihlangano, kubandakanywa nobungako bamalunga okumele abe khona

emhlanganweni kanye nokugcinwa kwezinkulumo namaminithi aleyomihlangano;

- (d) isisindo sevoti samalunga omkhandlu, kubandakanywa nokuthi isisindo sevoti siyokunikezwa kanjani, ngaphandle kokuthi ivoti lomqashi lona liyothwala isisindo esingamashimi amahlanu ekhulwini (50%);
- (e) indlela yokwethula undaba emkhandlweni;
- (f) indlela okuyothathwa ngayo izinqumo;
- (g) ukukhethwa kukaSihlalo, umabhalane kanye nesekele likaMabhalane boMkhandlu, imisebenzi yabo, kanye nezimo kanye nendlela abangasuswa ngayo kulezizikhundla;
- (h) Ukumiswa kwekomiti elizobhekana nokuphathwa kwaloMkhandlu;
- (i) ukusungulwa kwemisebenzi yalelikomiti;
- (j) ukuxhazululwa kwezinkinga ngokubonisana (conciliation) uma kuhluleka ukubonisana, ukuxazululwa kwezinkinga ngokusetshenziswa koMlamuli (arbitration) mayelana nokuhunyushwa koMthethosisekelo woMkhandlu;
- (k) ukuxazululwa kwezinkinga ngokubonisana (conciliation) uma kuhluleka ngokusa eBhodini leyonkinga eqondene namalunga esiqungu ngodaba okungavunyelwana ngalo;
- (l) inqubo yokunqatshelwa ukubamba iqhaza ekuthathweni kwesivumelwano sokubonisana ngokubambisana;
- (m) ngokufakwa kwemali edonswayo yokwenza umsebenzi wesigungu, inqobo nje uma leyo mali izophoqeleka kuwo wonke amalunga futhi kuzovunyelwana ngayo;
- (n) ngokuhambisana nenqubomgomo 64, ukunikezela ngamandla kanye nezibopho;
- (o) ukwamukelwa kwezinye iziNyunyana zombutho wezempi ukuba zibe yingxenye yoMkhandlu, kanye nokubala isisindo samavoti;
- (p) ukwamukelwa kweziNyunyana zombutho wezempi ezisebenzisana ngambili noma ngaphezulu ukuze zifhlangabezane nenani elidingekayo ukuba zamukeleke kuloMkhandlu;
- (q) inqubo yokushintsha uMthethosisekelo woMkhandlu; kanye

- (r) nenqubo yokuthatha isinqumo sokuqeda isigungu.

USihlalo woMkhandlu

65. (1) Amalunga oMkhandlu angakhetha umuntu ozimele, ongenakuvota ukuba abe ngusihlalo woMkhandlu.
- (2) Inkokhelo/umholo kasihlalo, okukhulunywa ngayo esigabani (1) ngenhla, uyonqunywa ngokuthatha isivumelwano ngokubonisana ngokubambisana futhi uyokhokhwa ngokuhlukaniselana ngokuthi ingxenye yokungama-50 ekhulwini ikhokhwe ngumqashi bese kuthi ingxenye eseleyo ikhokhele iziNyunyana ezamukelekile emkhandlwini.

Ikomiti yomkhandlu

66. (1) isigungu singadlulisela amandla kanye nemisebenzi yaso eKomitini loMkhandlu ngaphansi kwemibandela ethile eyomiswa isigungu ngokulandela uMthethosisekelo wayo, kuphela nje uma:
- (a) ikomiti iyakuba namalunga alinganayo amele izinyunyana zombutho wezempi kanye nalawo amele abaqashi, ngaphandle uma isigungu sivumelene ngokunye;
 - (b) amalunga ekomiti akudingekile ukuthi abe izikhulu ezimele isigungu;
 - (c) ikomiti inganxusa uchwepheshe ukuba asize noma aluleke nganoma iluphi undaba ebhekene nalo, ngaphandle kokuthi ukuholelwa kwaloyochwepheshe kuyovunyelwana ngakho ngokubonisana ngokubambisana; futhi
 - (d) ikomiti ngeke libe namandla okuthatha isinqumo noma ukungenela izivumelwano zokubonisana nangokubambisana.
- (2) ikomiti yomkhandlu iyokwethula lokho ekutholile eMkhandlwini ukuze uthathe isinqumo noma wenze isivumelwano, ngokuhambelana nesimo.

Ukumiswa koMkhandlu wokuqala NgokoMthetho

67. (1) Ukumiswa koMkhandlu wokuqala kuyokwenziwa ngosuku oluyomiswa nguNgqongqoshe;

- (2) iziNyunyana ezihlangabezana nenani elidingekayo lokwamukelwa ziyokwamukelwa Umkhandlu esinsukwini ezingu-60, okuyothi kungakapheli izinsuku ezingu-60 izamukelekile zinikeze isigungu uhla lwamalunga azo.
- (3) Ukuhluleka kweNyunyana ukunikezela ngohlu lwamalunga ayo okukhulunywa ngalo esigabeni esingenhla kuyoholela ekutheni leyoNyunyana ingavunyelwa ukuba ibambe iqhaza eMkhandlwini kuze kube iyahlangabezana nenani elifanele bese iyamukelwa emkhandlwini ngokwalenqubomgomo.
- (4) Isigungu sokuqala siyomukela uMthethosisekelo wesigungu ezinsukwini ezingu-120 zokuhlangana okukuqala.
- (5) Umkhandlu uyophathwa umuntu okhethwe nguNgqongqoshe kuze kufike isikhathi lapho uMkhandlu ukhetha usihlalo ngokoMthethosisekelo wesigungu.

Ukwamukelwa kwamalunga

68. (1) iNyunyana yombutho ebhalisiwe ingafaka isicelo esibhalisiwe isibhekise eMkhandlwini ukuze yamukeleke njengelunga loMkhandlu, uma nje ihlangabezana nenani elidingekayo ukuze yamukeleke ngokuthi ibe namalunga ayizinkulungwane e-15 ngosuku lokufaka isicelo. (see regulation 80 (1) (e))
- (2) iziNyunyana zombutho wezempi zingasebenza ngokubambisaba ukuze zihlangabezane nenani elidingekayo ukuze zamakuleke eMkhandlwini uma nje lezo Nyunyana ezibamisene zifeza noma ziba ngaphezulu kwalelo nani esidingekayo.
 - (3) isicelo okukhulunywa ngaso esigabeni esingenhla (1) kufanele sihambisane nomfanekiso woMthethosisekelo obhalisiwe waleyoNyunyana kanye nesitifiketi sokubhaliswa futhi siyohambisana nesitifikethi esiphethe imininingwane ngamalunga aleyoNyunyana efaka isicelo.
 - (4) Isigungu siyocubungula lesicelo zingakapheli izinsuku ezingamashumi ayi-60 kusukela osukwini esithole ngaso isicelo bese sinquma ukuthi siyayivumela noma siyakuphika ukwamukelwa kwaleyoNyunyana, bese wazisa leyo Nyunyana efake isicelo ngesinqumo sayo.

(5) Uma ngabe isigungu sikwalile ukwamukelwa kweNyunyana siyokwazisa leyoNyunyana ngesinqumo saso kanye nezizathu okuthathelwe kuso lesi sinqumo, zingakapheli izinsuku ezingu-30 kusukela osukwini esithathwe ngalo lesosinqumo sokungavumeli.

(6) Leyo Nyunyana efake isicelo inganxusa iBhodi ukuba iphenye izizathu nokuthi yenze izincomo ngokunqatshelwa kwayo ukuba yamukelwe emkhandlwini.

Imiphumela yezivumelwano zokubonisana ngokomthetho

69. (1) Isivumelwano sokubonisana ngokubambisana sibopha:

- (a) amaqembu enze lesi sivumelwano;
- (b) amalunga amaqembu enze lesi sivumelwano, uma nje leyo mibandela ibandakanya nawo;
- (c) amalunga angesiwo amalunga eNyunyana yombutho wezempi kanye nezinyunyana ebezingabambanga iqhaza ekuthathweni kwesivumelwano, kuphela nje uma:
 - (i) lawo malunga echaziwe kahle kulesisivumelwano;
 - (ii) kubhaliwe esivumelwaneni ukuthi isivumelwano sibopha nalowo malunga;
 - (iii) isivumelwano singeyona ingozi kulawo malunga.

(3) ngokuhambisana nesigaba (1) ngenhla uma isivumelwano sinombandela wokuchibiyela isivumelwano sokusebenza (contract of employment) lesi sivumelwano sokusebenza siyokuthatha njengesesichibiyelwe uma nje lokho kuhambisana nomthetho.

(4) Alikho iqembu elingazikhipha kulesisivumelwano ngokwalo ngaphandle kokukhulumisana namanye amaqembu ethathe lesi sivumelwano, ngaphandle uma isivumelwano sona qobo sikuvumela lokhu.

(5) Umqashi uyosabalalisa lokho okuqukethwe isivumelwano akwazise uMnyango wonke nokuthi kusho ukuthini ukuthathwa kwaleso sivumelwano ngendlela efishane nefinyelelekayo.

Izimpikiswano ngesivumelwano sokubonisana ngokubambisana

70. (1) Zonke izivumelwano zokubonisana ngokubambisana ziyoqukatha inqubo yokuxhazululwa kwezinkinga noma izimpikiswano eziphathelele nokuhunyushwa noma ukuchazwa noma ukusebenza kwesivumelwano, leyonqubo kufanele ibeke ukuthi amaqembu kumele aqale azame ukuxhazulula inkinga wona ngokwawo ngokuxoxisana (conciliation), uma bahluleka ukuxazulula inkinga ingadluliselwa kwiBhodi ukuze kusetshenziswe ukulamula okuphoqelekile.
- (2) Uma kukhona impikiswano ngokuchaza noma ukusebenza kwesivumelwano sokubonisana, noma iliphi iqembu lingadlulisela leyo mpikiswano ngokufaka isicelo esibhaliwe eBhodini ukuze ixazulule inkinga uma:
- (a) isivumelwano singenayo inqubo yokuxhazululwa kwezinkinga njengoba kudingekile ngaphansi kwalenqubomgomo;
 - (b) inqubo emiswe esivumelwaneni ingasebenziseki; noma
 - (c) elinye iqembu kulesisivumelwano lenze okuthile okwenza inqubo emiswe phansi kwesivumelwano ingasebenziseki.
- (3) Iqembu elidlulisela impikiswano eBhodini ukuba kuyoxoxiswana noma iyolanyulwa, kufanele yanelise isigungu ukuthi elinye iqembu kulempikiswano nalo linikeziwe umfanekiso obhaliswe wokudluliswa kwalenkinga.

Umsebenzi womkhandlu ekuxazululeni izinkinga/izimpikiswano

71. (1) Kulesisigaba "inkinga/impikiswano" noma eyaluphi uhlobo lokungaboni ngasolinye mayelana nesivumelwano noma olunye udaba okungaboniswa ngalo ngokubambisana, amaqembu abhekene naleyonkinga angabandakanya –
- (a) amaqembu angamalunga oMkhandlu;
 - (b) izinyunyana zombutho wezempi ezingewona amalunga oMkhandlu; kanye
 - (c) namalunga.
- (2) Isigungu siyozama ukuxazulula inkinga ngokusebenzisa uMthethosisekelo woMkhandlu.

(3) Ielo qembu elidlulisele inkinga eMkhandlwni kumele lanelise umkhandlu ukuthi leli elinye eqembu lazisiwe ngokubhaliwe ngokwedluliswa kwenkinga.

(4) isigungu singenza isivumelwano nesithunywa (independent agency) esizimele ngenhloso yokuba lesosithunywa sinqube ukubonisana ngenhloso yokuxazulula inkinga njengoba kubekiwe kulesisigaba.

(5) Uma lesisithunywa okukhulunywa ngaso esigabeni (5) sihluleka ukubonisana ngenkinga zingakapheli izinsuku ezingama-60 kusukela ngosuku eyadluliswa ngayo inkinga-

- (a) Ieso sithunywa siyokhipha isitifikethi esibika ngalokhu;
- (b) isigungu sesidlulisela leyo nkinga ebhodini.

INGXENYE 5

IBHODI YOKULAMUMA YOMBUTHO

Ukusungulwa kweBhodi

72. Kumiswa iBhodi yokulamuma yombutho okuyodluliselwa kuyona izinkinga ukuze ziyolanyulwa njengoba kubekiwe phansi kwalenqubomgomo.

Ukwakheka kweBhodi

73. IBhodi iyoba nabantu abahlanu abayokhethwa uNgqongqoshe Abayobandakanya:-

- (a) uSihlalo oyakuba nguKhomishani omkhulu woMkhandlu wokuXoxisana, nokulamuma; kanye
- (b) nabanye abantu abane abahlukaniswe ngokulandelayo:
 - (i) ngababili abaqokwe umqashi; kanye
 - (ii) nababili abakhethwe izinyunyana zombutho wezempi.

Omabhalane beBhodi

74. Umqashi kanye nenyunyana yezombutho wezeMpi bayonikezela iBhodi ngomabhalane.

Inqubo yokuxazulula izinkinga

75. (1) Noma iyiphi inkinga edluliswe ukuze ilanyulwe iyosebetshenzwa ngokulandela imigomo emiswe kulenqubomgomo kanye nokulandela imigomo emiswe eMthethweni wezokulamula ka 1965 (Umthetho wama-42 wonyaka ka 1965, uma ungasebenziseka .

(2) iBhodi ingaxazulula inkinga nganoma iyiphi indlela ebona ukuthi ifanele ukuze kuxazululwe inkinga ngendlela efanele nesheshayo, kodwa kufanele ibhekisise ingqikithi yenkinga igweme ukulandela imibandela yoMthetho.

(3) Ngokuhambisana nesigaba (2) ngenhla amaqembu alethe inkinga angethula ubufakazi bawo ngokubiza ofakazi, ukuphonsa imibuzo kofakazi belinye iqembu, ukuphetha ukwethula undaba lalo eBhodini.

(4) Ibhodi ingakhetha ukuxazulula inkinga ngokuxoxisana yinoma ingasiphi isikhathi kusanqutshwa inqubo yokuxazulula inkinga ngokulamula uma nje amaqembu alethe inkinga evumelana ; uma futhi iBhodi ibona kuyiyona ndlela efanele yokuxazulula leyo nkinga ingadlulisela inkinga kuMlamuli ozimele.

(5) Amaqembu adlulise inkinga angamelwa kulenqubo yokuxazulula inkinga ngokubonwa kwawo, angamelwa ngisho nangumeli wenkantolo.

(6) Isinqumo esithathwe ngumlamuli singanikezwa amaqembu n geposi noma ngezinye izindlela ngale kokuthi sikhishwe phambi kwawo amaqembu .

Ukungafiki kulenqubo yokuxazululwa kweNkinga

76. (1) Uma ngabe iqembu elidlulisele inkinga eBhodini lihluleka ukufika lona qobo noma lehlulekile ukuthumela ozolimela kulenqubo yokulamula emveni kokuba selazisiwe , iBhodi ingachitha lolondaba futhi isinqumo sebhodi ngalolondaba siyakuthathwa njengasona sinqumo sokugcina futhi siyobophezela wonke amaqembu akulenkinga

(2) Uma ngabe elinye iqembu okungesilona leli elifake undaba lehluleka ukufika kulenqubo yokulamula noma lehluleka ukuthumela ozolimela, iBhodi inga:-

- (a) ingaqhubeka nenqubo yokulamula noma leloqembu lingekho; noma
- (b) lingahlehlisa leyonqubo iyihlehlisele kolunye usuku.

Isinqumo sokuLamula

77. Zingakapheli izinsuku ezingama-15 iphothuliwe inqubo yokulamula iBhodi iyokhipha isinqumo esisayindiwe inikeze nezizathu ezenze kufinyelelwe kuleso sinqumo bese kuthi ngokushesha emva kwalokho ithumele umfanekiso (copy) wesinqumo kuwo onke amaqembu abefake lelondaba, lesinqumo kuyakuba ngesokugcina futhi amaqembu ayobophezeleka yilesi sinqumo.

78. (1) IBhodi ngeke ikhiphe isinqumo sokulamula esithinta ukukhokhwa kwemali nguHulumeni uma umqashi enganikwanga amandla okokukhuluma ngezimali kuloMkhandlu.

(2) Uma iBhodi ingeke ikwazi ukukhipha isinqumo ngenxa yokuthiywa yilokhu okukhulunywa ngakho ngenhla esigabeni(1), iBhodi iyokwenza umbiko oyimfihlo (confidential advisory report) iwuhambise kuNgqongqoshe bese ibikela amaqembu ukuthi yenze lombiko.

(3) Noma yisiphi isinqumo sokulamula isithinta ukukhokhwa kwezimali esigabeni esingenhla (2) simbandakanya:

- (a) isinsuku ezingu-30 emveni wenkokhelo uma uNgqongqoshe engayidluliselanga ePhalamende kulesosikhathi.

(4) Uma iPhalamende lingahlangene ekupheleni (expiry) kwesikhathi okukhulunywa phezu kwaso esigabeni esingenhla 3(a), lesi sikhathi siyosukela ekuqaleni kuze kube yingxenyi elandelayo.

(5) IBhodi ayiphoqelekele ukuba idalule okuqukethwe kulombiko okukhulunywa ngawo esigabeni (2) ngenhla kunoma iliphi iqembu ebelibambe iqhaza kulenqubo yokulamula.

(6) IBhodi ingakhipha noma isiphi isinqumo ebona sifanele, kubandakanywa nesinqumo:-

- (a) esingagcizelela ukusentshenziswa kwesivumelwano sokubonisana ngokubambisana (collective agreement)

- (b) esixuba noma esifana nesinqumo esingaphikiswa
(declaratory order)

Izindleko

79. IBhodi ingeke yakhipha isinqumo sokulamula esimayelana nezindleko amaqembu angene kuzona ngenxa yalenqubo, ngaphandle uma umuntu obemele elinye inqembu kulenqubo yokulamula esebenzise ubungani noma enze izinto ngendlela ecasulayo noma enenzondo ngoku:-

- (a) ngokuqhubeka nodaba noma ngokuqhubeka ukuvikela iqembu alimele kulenqubo yokulamula; noma
- (b) ngesenzo sakhe esithile asenze ngesikhathi kunqutshwa lenqubo yokulamula.

Ukushitshwa noma Ukuchithwa kwesinqumo

80. IBhodi ingashintsha noma ichithe izinqumo yona ngokwayo noma ngokucelwa ngelinye lamaqembu uma:-

- (a) leso sinqumo sikhishwe ngephutha noma sitholakale ngephutha lingekho elinye iqembu elithintekayo;
- (b) uma kukhona okungaqondakali noma kunephutha elithile noma kukhona okungenziwanga, kodwa kungachitha noma kushitshwe kuphela leyo ngxenye engaqondakali, enephutha noma okokhona kuyo okungenziwanga kahle ;noma.
- (c) esikhishwe ngenxa yephutha elenziwe yiwona wonke amaqembu abethinteka kuloludaba.

CONTENTS

No.	Page No.	Gazette No.
GOVERNMENT NOTICE		
South African National Defence Force		
<i>Government Notice</i>		
R. 1008 Defence Act (44/1957): Amendment: General Regulations for the South African National Defence Force and Reserve.....	2	20398

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Tel: (012) 334-4507, 334-4511, 334-4509, 334-4515
Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaat Sak X85, Pretoria, 0001
Tel: (012) 334-4507, 334-4511, 334-4509, 334-4515