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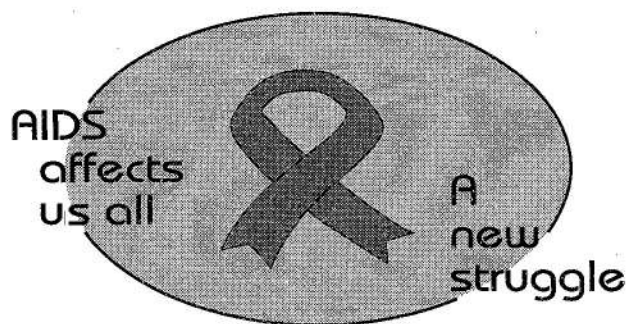
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DEPARTMENT OF HEALTH

GOVERNMENT NOTICE

SOUTH AFRICAN NATIONAL DEFENCE FORCE

No. R. 1043

1 September 1999

DEFENCE ACT, 1957

AMENDMENT TO THE GENERAL REGULATIONS FOR THE SOUTH AFRICAN NATIONAL DEFENCE FORCE AND RESERVE

The Minister of Defence has, under section 87 (1)(rB), read with section 126C of the Defence Act, 1957 (Act No.44 of 1957), made the regulations in the Schedule.

SCHEDULE

1. In this Schedule "the Regulations" means Chapter XX of the General Regulations for the South African National Defence Force and the Reserve.
2. The Regulations are hereby amended by the inclusion of Chapter XX.

CHAPTER XX

LABOUR RIGHTS

Definitions

1. In this Chapter, unless the context otherwise indicates –

"Act" means the Defence Act, 1957 (Act No. 44 of 1957);

"agreement" means a binding written agreement concluded between the parties to the Council in respect of matters of mutual interest, and **"collective agreement"** shall have the same meaning;

"Board" means the Military Arbitration Board established by regulation 72;

"collective bargaining" means the process whereby the employer and military trade unions engage in negotiations on matters of mutual interest;

"Constitution" means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

"Council" means the Military Bargaining Council established by regulation 62;

"Defence Force" means the South African National Defence Force;

"employer" means the Department of Defence or any authorised person acting as its representative;

"former constituent force" means any of the former South African Defence Force, Bophuthatswana Defence Force, Transkei Defence Force, Ciskei Defence Force, Venda

Defence Force, Umkhonto we Sizwe, Azanian Peoples Liberation Army or a Self Protection Unit;

"grievance" means a complaint by a member or members of the Defence Force affecting the employment relationship of the member or members concerned, or where there is an alleged violation of his or her or their rights, including any unfair labour practice;

"military trade union" means a trade union established in terms of these regulations;

"office-bearer" means a member of the military trade union who is elected in terms of the constitution of a military trade union to hold office in that military trade union and who is not an official;

"official" in relation to a military trade union means a person employed as a secretary, assistant secretary or organiser of a military trade union, or in any other prescribed capacity in a full time post;

"registered" means registered in terms of these Regulations;

"Registrar" means the Registrar of Military Trade Unions appointed by the Minister in terms of regulation 41;

"remuneration" means any payment in money or in kind, or both money and in kind, made or owing to a member for that person serving in the Defence Force, and remunerate has a similar meaning;

"secondary strike" means a strike, or conduct in contemplation or furtherance of a strike by other employees against their employer, that is in support of any other strike or in solidarity with a strike undertaken by employees other than members of the Defence Force against any employer;

"strike" means the partial or complete concerted refusal to serve, or the retardation or obstruction of service, or failure to serve, by members of the Defence Force, for the purpose of protest, petition or remedying a grievance or resolving a dispute in respect of any matter of mutual interest between the employer and member and every reference to "serve" in this definition includes overtime service or duty, whether it is voluntary or compulsory;

"unfair labour practice" means any unfair act or omission that arises between a member and the employer, involving –

- (a) unfair discrimination, either directly or indirectly, against a member on any arbitrary ground, including, but not limited to membership of a former constituent force, race, gender, sex, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, political opinion, culture, language, marital status or family responsibility;
- (b) the unfair conduct by the employer relating to the appointment to a post, promotion, demotion or training of a member or relating to the provision of benefits to a member;
- (c) the unfair suspension or dismissal of a member or other disciplinary action short of dismissal; or

- (d) the failure or refusal by the employer to reinstate or re-employ a former member in terms of any agreement.

PART 1

OBJECTIVES AND APPLICATION

Application

2. The Defence Force, being an all volunteer force that is structured and managed as a disciplined military force, requires that all citizens who voluntarily join the Defence Force accept the rights and limitations with respect to their labour rights as specified in these Regulations.

Objectives

3. The objectives of these Regulations are to provide for -
- (a) fair labour practices;
 - (b) the establishment of military trade unions;
 - (c) collective bargaining on certain issues of mutual interest;
 - (d) to ensure that trade union activities do not disrupt military operations, military exercises and training and do not undermine the Constitutional imperative of maintaining a disciplined military force; and
 - (e) generally to provide for an environment conducive to sound and healthy service relations.

PART 2

RIGHTS AND LIMITATIONS

Individual Rights And Limitations

Rights of members

4. (1) Subject to the provisions of these Regulations, a member shall be entitled to exercise his or her labour rights as contemplated in section 23 of the Constitution, on an individual basis or collectively through a military trade union.
- (2) No member of the Permanent Force or of any Auxiliary Service may join or belong to any trade union other than one established in terms of these Regulations.
- (3) These regulations apply to members of the Citizen Force and Commandos only in respect of military service rendered, or required to render by them, in their capacity as members of the Citizen Force or Commandos, as the case may be.

Lawful commands

5. No member may refuse to obey a lawful command on the grounds that some matter is, or may become, the subject of collective bargaining, joint consultation or grievance proceedings.

Strikes

6. No member may participate in a strike, secondary strike or incite other members to strike or to support or to participate in a secondary strike.

Prohibited activities

7. Subject to regulation 8, no member may participate in peaceful and unarmed assembly, demonstration, picket and petition in support of a strike or secondary strike if this relates to any Defence matter.

Permissible activities

8. Members have the right to peaceful and unarmed assembly, demonstration, picket and petition, and to present petitions in their private capacity: Provided that such right shall not be exercised –

- (a) while in uniform or wearing any part of a uniform or displaying any insignia linked to the Defence Force, in a manner which indicates in any other way employment in the Defence Force or the Department of Defence; or
- (b) in respect of any matter concerning either the employment relationship with the Department of Defence or any matter related to the Department of Defence.

ORGANISATIONAL RIGHTS OF MILITARY TRADE UNIONS**Collective rights**

9. Only a registered military trade union has collective bargaining and organisational rights in respect of members.

Right to recruit

10. A military trade union that wishes to register has the right to recruit members with the aim of meeting the threshold requirements for registration provided that –

- (a) such a military trade union gives notice to the Minister to that effect; and
- (b) the Minister causes the existence of the said union to be communicated within the Defence Force within 14 days of receipt of such notification.

Right to organise own affairs

11. Subject to the provisions of these Regulations, a military trade union has the right-

- (a) to determine its own constitution and rules;

- (b) to hold elections for its office-bearers and representatives;
- (c) to appoint its officials; and
- (d) to plan and organise its administration and lawful activities, including the right to hold meetings with its members as agreed upon by the parties to the Council.

Exclusivity of military trade unions

12. (1) Military trade unions may be formed and joined only by members of the Defence Force.

(2) The establishment or membership of a military trade union shall not be based on any political affiliation, former constituent force, race, gender, sexual orientation or religion.

Affiliation with other organisations

13. A military trade union shall not affiliate or associate with -

- (a) any labour organisation, labour association, trade union or labour federation that is not recognised and registered; and
- (b) any political party or organisation.

Employment and remuneration of staff

14. Military trade unions may employ any person who is not a member of the Defence Force for their own internal administration as employees or officials, and may determine the remuneration and conditions of service that they deem appropriate for such employees or officials.

Prohibited remuneration

15. No official of a military trade union shall receive any remuneration or benefit from the Defence Force in relation to his or her duties on behalf of, or on instruction from, any military trade union.

Independence of military trade unions

16. All military trade unions shall be independent of and shall not be subject to the command and control of the Defence Force, save that members who are office bearers in such military trade unions shall remain subject to Defence legislation at all times.

Membership voluntary

17. (1) Membership of a military trade union shall be voluntary.
- (2) No person may -
- (a) prevent a member forcibly or in any other manner from joining a military trade union or engaging in any activity of a military trade union; or

- (b) discriminate against a member for exercising any right conferred by these Regulations.

Membership restriction

18. A member may not belong to more than one military trade union at the same time.

Prohibited agreements

19. Military trade unions shall not have the right to negotiate a closed shop or agency shop agreement with the employer.

Prohibited funding

20. The Department of Defence shall not fund the activities of military trade unions, and shall not fund the costs incurred by any official or employee of a military trade union in the execution of their activities, save as provided for in a collective agreement.

DISCLOSURE OF INFORMATION

Duty to disclose information

21. (1) Subject to the limitations in terms of these Regulations the employer must disclose to a registered military trade union all relevant information that will allow that union to effectively perform the functions contemplated in these Regulations.

- (2) The employer is not required to disclose information –

- (a) that is legally privileged;
- (b) that the employer cannot disclose without contravening a prohibition imposed on the employer by any law or order of any Court;
- (c) that relates to military operations, military exercises, operational planning (including contingency planning), military acquisition programmes or military equipment;
- (d) that if disclosed, may cause substantial harm to a member or the employer;
- (e) that is private personal information relating to a member, unless that member consents in writing to the disclosure of that information.

Classified information

22. (1) The employer shall notify a registered military trade union in writing if any information disclosed in terms of these Regulations is classified.

- (2) The employer may require a military trade union or a representative of such a registered military trade union to sign an undertaking relating to the non-disclosure of official information before making any classified information available.

MILITARY TRADE UNION REPRESENTATIVES

Election of trade unions representatives

23. (1) Military trade union members may elect from amongst themselves one union representative for every twenty-five members, but not more than ten representatives per union per any one unit or base.

(2) The constitution of a military trade union shall govern the nomination, election, terms of office and removal from office of a military trade union representative.

Adherence to military professionalism and discipline

24. Military professionalism and military discipline shall be adhered to at all times by members of military trade unions.

Rights of military trade union representatives

25. A military trade union representative has the right to -

- (a) at the request of a member, assist the member with respect to grievance and disciplinary proceedings, but not to representation;
- (b) at the request of a member, assist the member in redressing any alleged unjust administrative action or unfair labour practice through the use of the official channels for redressing such alleged unjust administrative action or unfair labour practice;
- (c) report, in writing, any alleged contravention of these Regulations or a collective agreement binding on the employer to -
 - (i) the registered military trade union;
 - (ii) the commander or manager of the unit, base, headquarters or head office; and
 - (iii) failing any action by the commander or manager to remedy or solve the alleged contravention, the immediate superior of such commander or manager, provided that such commander or manager be so informed.
- (d) perform any other function agreed to in the form of a collective agreement.

Time off during official working hours

26. Subject to the operational and training schedule of the unit, base or headquarters, and the maintenance of good order and military discipline, a military trade union representative is entitled to take reasonable time off with pay during working hours, but not more than eight hours per month, to -

- (a) perform the functions of a military trade union representative; and
- (b) be trained in any subject relevant to the performance of the functions of a military trade union representative, provided that such training shall not be at the expense of the Department of Defence.

ASSISTANCE WITH RESPECT TO DISCIPLINARY AND GRIEVANCE PROCEEDINGS

Assistance to members by military trade unions

27. Military trade unions may –

- (a) assist their members with respect to grievance procedures, including the formulation of grievances; or
- (b) assist their members with respect to any disciplinary hearings and military court proceedings,

provided that such assistance shall not include representation by an official, office bearer or military trade union representative.

DEDUCTION OF SUBSCRIPTIONS AND LEVIES

Authorised deductions from wages or salaries

28. Any member who is a member of a military trade union may authorise the employer in writing to deduct subscriptions or levies payable to that military trade union from the member's wages or salary.

Deductions by employer

29. On receiving the authorisation contemplated in regulation 28 the employer shall make the authorised deduction within 30 days, and shall remit the amount deducted to the military trade union by not later than the 15th day of the month following the date when each deduction was made.

Revocation of authority

30. A member may revoke an authorisation contemplated in regulation 28 by giving the employer and the registered military trade union three months' written notice.

Continuation of deduction

31. The employer shall, upon receipt of a notice contemplated in regulation 30, continue to make the authorised deduction until the notice period has expired and shall then cease the deduction.

Information to military trade unions

32. With each monthly remittance, the employer must give the respective military trade unions –

- (a) a list of the names of members of that military trade union from whose salary the employer has made deductions that are included in the remittance;
- (b) details of the amounts deducted and the period to which the deductions relate; and

- (c) a copy of every notice or revocation in terms of these Regulations.

ACCESS TO DEPARTMENT OF DEFENCE PREMISES

Conditions for access to Defence premises

33. (1) Any office-bearer or official of a military trade union is entitled to enter a unit, base, headquarters or head office in order to recruit members, communicate with members or otherwise serve their interests, provided that the time of entry be agreed to by the Officer Commanding prior to entry.

(2) An Officer Commanding shall not unreasonably deny the access contemplated in subregulation (1).

(3) Access shall be limited to those areas of a unit, base, headquarters or head office that are designated as restricted by the Minister for military security reasons as specified in the Act.

(4) Access shall not be granted to operational vehicles, aircraft or vessels of the Defence Force.

Time of meetings

34. A military trade union is entitled to hold meetings with members outside their working or training hours on the employer's premises.

Voting on Defence premises

35. The members of a registered military trade union are entitled to vote at the employer's premises by prior arrangement with the employer in any election or ballot contemplated by the military trade unions' constitution.

COLLECTIVE BARGAINING RIGHTS OF MILITARY TRADE UNIONS

Limitations on collective bargaining rights

36. Military trade unions may engage in collective bargaining, and may negotiate on behalf of their members, only in respect of -

- (a) the pay, salaries and allowances of members, including the pay structure;
- (b) general service benefits;
- (c) general conditions of service;
- (d) labour practices; and
- (e) procedures for engaging in union activities within units and bases of the Defence Force.

LIMITATIONS ON MILITARY TRADE UNIONS

Military operations or exercises

37. (1) No member may participate in the activities of a military trade union while participating in a military operation including operation in fulfilment of an authorised international obligation as contemplated in section 201(2)(c) of the Constitution or military exercise, undergoing training as an integral part of a military operation or during military training.

(2) No military trade union may liaise or consult with its members whilst such members participate in a military operation or exercise, undergo training as an integral part of a military operation or during military training.

Emergencies

38. As from the date of a declaration of state of emergency, or when the President has employed the Defence Force in the defence of the Republic as provided for in section 201(2)(b) of the Constitution, all activities other than administrative and financial maintenance functions of trade unions shall be suspended until termination of such declaration or employment.

Prohibition on impediment of military activities

39. A military trade union shall not undertake or support any activity which may impede military operations, military exercises, training during military operations or exercises or the preparation for military operations or exercises or during military training.

Other prohibited activities

40. A military trade union shall not engage in collective bargaining with the employer with respect to military operations, military exercises, operational planning (including contingency planning), military acquisition programmes, military equipment or curriculum or geographic location of military training.

PART 3

REGISTRATION OF MILITARY TRADE UNIONS

REGISTRAR OF MILITARY TRADE UNIONS

Appointment of Registrar

41. A person designated by the Minister as the Registrar of military trade unions shall exercise the powers and perform the duties conferred on him or her by or in terms of these Regulations.

Functions of Registrar

42. The Registrar -

- (a) shall exercise all the powers and perform all the duties conferred on him or her by or in terms of these Regulations;
- (b) shall keep a register of registered military trade unions;
- (c) shall within 30 days of making an entry in or deletion from a register, give notice of that entry or deletion in the Government Gazette;
- (d) may on good cause shown, extend or condone late compliance with any of the time periods established in this Part, except the period within which a person may note an appeal against a decision of the Registrar; and
- (e) shall remove from the appropriate register the name of any military trade union that has been deregistered, wound up, liquidated or sequestered.

Requirements for registration

43. (1) A military trade union may apply to the Registrar for registration if –

- (a) it is composed exclusively of serving members of the Defence Force;
- (b) it has adopted a constitution that meets the requirements of these Regulations;
- (c) it has an address in the Republic;
- (d) it is independent as contemplated in subregulation (2), and
- (e) it has a proven membership that meets the threshold requirement of five thousand members of the Defence Force on the date of application for registration.

(2) A military trade union shall be deemed to be independent if –

- (a) it is not under the direct or indirect control of the Department of Defence; and
- (b) it is not aligned to any political party or organisation or to any trade union or trade union federation outside the Defence Force, or does not receive any funding from such a party.

(3) A military trade union that intends to register may not have a name or a shortened form of the name which so closely resembles the name or shortened form of the name of any other local or international organisation that it is likely to mislead or cause confusion.

(4) The constitution of a military trade union shall –

- (a) state that membership of the union is restricted to members of the Defence Force and the union is independent as contemplated in regulations 13 and 16;
- (b) state that the military trade union is an association not for gain;

- (c) provide for the adoption of a code of conduct, and methods of dealing with breaches of such a code;
- (d) establish the circumstances in which a member will no longer be entitled to the benefits of membership;
- (e) provide for the termination of membership;
- (f) provide for appeals against loss of the benefits of membership or against termination of membership, prescribe a procedure for those appeals and determine the body to which those appeals may be made;
- (g) provide for membership fees and the method for determining membership fees and other payments by members;
- (h) prescribe rules for the convening and conducting of meetings of members and meetings of representatives of members, including the quorum required for, and the minutes to be kept of those meetings;
- (i) establish the manner in which decisions are to be made;
- (j) establish the office of secretary and define its functions;
- (k) provide for other office-bearers, officials and military trade union representatives, and define their respective functions;
- (l) prescribe a procedure for nominating or electing office-bearers;
- (m) prescribe a procedure for appointing or nominating and electing officials;
- (n) establish the circumstances and manner in which office-bearers, officials and representatives, may be removed from office;
- (o) provide for appeals against removal from office of office-bearers, officials and representatives, prescribed a procedure for those appeals and determine the body to which those appeals may be made;
- (p) established the circumstances and manner in which a ballot must be conducted;
- (q) provide for banking and investing its money;
- (r) establish the purposes for which its money may be used;
- (s) provide for acquiring and controlling property;
- (t) determine a date for the end of its financial year;
- (u) prescribe a procedure for changing its constitution; and
- (v) prescribe a procedure by which it may resolve to wind up.

- (5) The constitution of a military trade union may not include any provision that discriminates directly or indirectly against any person on the grounds of political affiliation, membership of former constituent force, religion or religious beliefs, race, gender or sexual orientation.

Procedure for registration

44. (1) A military trade union may apply for registration by submitting to the Registrar –
- (a) a completed form in the format approved by the Registrar that has been properly completed;
 - (b) a copy of its constitution; and
 - (c) a list of names of its paid up members in the format approved by the Registrar.
- (2) The Registrar may require additional information from a military trade union in support of the application.

Approval of application

45. The Registrar shall consider the application and any further information provided by the applicant and, if he or she is satisfied that the applicant meets the requirements for registration, shall register the applicant by entering the applicant's name in the register of military trade unions.

Request for further information

46. (1) If the Registrar is not satisfied that the applicant meets the requirements for registration, the Registrar shall send the applicant a written notice of the decision and the reasons for that decision and in that notice, inform the applicant that it has 30 days from receipt of the notice to meet the specified requirements.

(2) If the applicant meets the requirements for registration within the period contemplated in subregulation (1), the Registrar shall register the applicant by entering the applicant's name in the appropriate register.

Proof of registration

47. After registering the applicant, the Registrar shall –
- (a) issue a certificate of registration in the applicant's name; and
 - (b) send the certificate and a certified copy of the registered constitution to the applicant.

Effect of registration of a military trade union

48. (1) A certificate of registration is sufficient proof that a military trade union is a body corporate.

(2) Service of any document directed to a registered military trade union at the address most recently provided to the Registrar shall, for all purposes, be deemed to be proper service of that document on that military trade union.

Cancellation of registration of a military trade union

49. (1) Whenever the Registrar receives information which indicates that a military trade union does not comply with the provisions of these Regulations, the Registrar may inform the military trade union concerned that he or she intends terminating its registration.

(2) A military trade union contemplated in subregulation (1) shall within 30 days of receiving a notification to that effect, provide the Registrar with reasons why its registration should not be cancelled, failing which its registration will be cancelled.

(3) Upon receipt of the reasons contemplated in subregulation (2), the Registrar shall within 30 days make a decision with regard to the cancellation of the registration of such military trade union or allow the continued registration of such a military trade union subject to conditions imposed by the Registrar.

Amalgamation of military trade unions

50. (1) Any military trade union may resolve to amalgamate with one or more other military trade unions.

(2) The amalgamating military trade unions may apply to the Registrar for registration of the amalgamated military trade union, even if any of the amalgamating military trade unions is itself already registered, and the Registrar must treat such application as a new application in terms of these Regulations.

(3) After the Registrar has registered the amalgamated military trade unions, the Registrar must cancel the registration of each of the amalgamating military trade unions by causing the removal of their names from the appropriate register.

(4) The registration of an amalgamated military trade union takes effect from the date that the Registrar causes its name to be entered in the appropriate register.

Effects of amalgamation of military trade unions

51. When the Registrar has registered an amalgamated military trade union –

- (a) all the assets, rights, obligations and liabilities of the amalgamating military trade unions devolve upon and vest in the amalgamated military trade union; and
- (b) that military trade union succeeds the amalgamating military trade unions in respect of –
 - (i) any right that the amalgamating military trade unions enjoyed;
 - (ii) any fund or funds established in terms of their constitution or any other law;
 - (iii) membership of the Council;
 - (iv) any written authorisation by a member for the periodic deduction of levies or subscriptions due to the amalgamating military trade unions;
 - (v) any arbitration award or court order; and

- (vi) any collective agreement or other agreement.

Duty to provide information to the Registrar

52. Every military trade union must provide to the Registrar –

- (a) by 31 March each year, a statement, certified by the General Secretary of the military trade union that accords with its records, showing the number of members as at 31 December of the previous year and any other related details that may be required by the Registrar;
- (b) within 30 days of receipt of its auditor's report, a certified copy of that report and of the financial statements;
- (c) within 30 days of receipt of a written request by the Registrar, an explanation of anything relating to the statement of membership, the auditor's report and the financial statements;
- (d) within 30 days of any appointment or election of its office-bearers, the names and work addresses of those office-bearers, even if their appointment or election did not result in any changes to its office-bearers; and
- (e) at least 30 days before a new address for service of documents will take effect, notice of that change of address.

Withdrawal of registration

53. The Registrar may withdraw the registration of a military trade union that does not comply with the provisions of this part and inform the military trade union of such withdrawal in writing: Provided that if a military trade union wishes to continue exercising its activities in terms of these Regulations, it may reapply for registration in the manner prescribed in these Regulations.

Other information

54. Any military trade union that has been registered in terms of these Regulations shall submit to the Registrar –

- (a) within 90 days of its registration, and after that by 31 March each year, the names and addresses of its members and the number of persons each military trade union represents; and
- (b) within 90 days of its registration, and after that within 30 days of any appointment or election of its national office-bearers, the names and work addresses of those office-bearers, even if their appointment or election did not result in any changes to its office-bearers.

ACCOUNTING RECORDS AND AUDITS

Keeping of books and financial records

55. A registered military trade union shall, in accordance with the standards of generally recognised accounting practice –

- (a) keep books and records of its income, expenditure, assets and liabilities; and
- (b) within six months after the end of each financial year, prepare financial statements, including at least –
 - (i) a statement of income and expenditure for the previous financial year; and
 - (ii) a balance sheet showing its assets, liabilities and financial position as at the end of the previous financial year.

Annual audit

56. A registered military trade union shall arrange for an annual audit of its books, records of account and financial statements by an auditor registered in terms of the Public Accountants and Auditors Act, 1991 (Act No. 80 of 1991), who shall –

- (a) conduct the audit in accordance with generally recognised auditing principles;
- (b) report to the military trade union by means of a certified report on the following:
 - (i) The paid-up membership numbers at the time of the audit;
 - (ii) the growth or decline in membership numbers since the previous report;
 - (iii) the number of official meetings held by the military trade union and whether all meetings were properly minuted;
 - (iv) the number and names of office bearers at the time of the audit;
 - (v) the number of disputes resolved or unresolved since the previous audit;
 - (vi) the number of disputes referred for arbitration since the previous audit;
 - (vii) whether the military trade union complies with the requirements for registration under these Regulations at the time of the audit;
 - (viii) whether the military trade union complied with its constitution during the audit period, and
 - (ix) the cost of membership during the audit period and any changes therein; and
- (c) in that report express an opinion as to whether or not the military trade union has complied with those provisions of its constitution relating to financial matters.

Submission to members

57. A registered military trade union shall –

- (a) make the financial statements and the auditor's report available to its members for inspection; and
- (b) submit the statements contemplated in paragraph (a) and the auditor's report contemplated in regulation 56, to a meeting or meetings of its members or their representatives as provided for in its constitution.

Preservation of documents

58. A registered military trade union shall preserve its books of account, supporting vouchers, records of subscriptions or levies paid by its members, income and expenditure statements, balance sheet, and auditor's reports, in an original or reproduced form, for a period of three years from the end of the financial year to which they relate.

Duty to keep records

59. In addition to the records required by these Regulations, a registered military trade union shall keep –

- (a) a list of its members;
- (b) the minutes of its meetings, in an original or reproduced form, for a period of three years from the end of the financial year to which they relate; and
- (c) the ballot papers for a period of three years from the date of every ballot.

Changing of a constitution or name

60. (1) A registered military trade union may resolve to change or replace its constitution.

(2) A military trade union must submit to the Registrar a copy of the resolution contemplated in subregulation (1) and a certificate signed by its secretary stating that the resolution complies with its constitution.

(3) The Registrar shall –

- (a) register a changed or new constitution if it meets the requirements for registration; and
- (b) send the registered military trade union a copy of the resolution endorsed by the Registrar, certifying that the change or replacement has been registered.

(4) A changed or new constitution takes effect from the date of the registrar's certification.

Change of name

61. (1) A registered military trade union may resolve to change its name, whereafter the military trade union shall submit to the Registrar a copy of the resolution and the original of its current certificate of registration.

(2) If the new name of a registered military trade union meets the requirements of these Regulations the Registrar shall –

- (a) cause the new name to be entered in the appropriate register and issue a certificate of registration in the new name of the military trade union;
- (b) remove the old name from that register and cancel the earlier certificate of registration; and
- (c) send a new certificate of registration to that military trade union.

(3) The new name of a registered military trade union takes effect from the date that the Registrar causes it to be entered in the appropriate register.

PART 4

MILITARY BARGAINING COUNCIL

Establishment of Council

62. The Military Bargaining Council is hereby established.

Functions of Council duties

63. The powers and duties of the Council include –

- (a) the conclusion of collective agreements;
- (b) the enforcement of collective agreements;
- (c) the prevention and resolution of labour disputes; and
- (d) the promotion of labour relations and training in this regard.

Constitution of Council

64. The constitution of the Council shall provide for –

- (a) the appointment of representatives of the parties to Council;
- (b) the circumstances and manner in which representatives must vacate their seats and the procedure for replacing them;
- (c) rules for the convening and conducting of meetings, including the quorum required for and the minutes to be kept of, those meetings;
- (d) the vote weights of parties in Council, including the determination of how vote weights are to be allocated, provided that the employer shall have a fifty percent vote;
- (e) the manner in which representations shall be made to Council;

- (f) the manner in which decisions are to be made;
- (g) the appointment or election of the chair-person, secretary and supporting secretariat of the Council, their functions, and the circumstances and manner in which they may be removed from office;
- (h) the setting up of an executive committee to manage administrative matters addressed to Council;
- (i) the establishment and functioning of committees;
- (j) the resolution through conciliation, or failing conciliation, arbitration of any dispute arising between the parties to Council about the interpretation or application of Council's constitution;
- (k) the resolution through conciliation, and failing conciliation, referral to the Board of any dispute arising between the parties to the Council about matters of mutual interest on which an agreement can not be reached;
- (l) the procedure for exemption from collective agreements;
- (m) the institution of a levy to fund the operation of the Council, provided that such levy shall be compulsory for all members, and the amount of which shall be determined by agreement
- (n) subject to regulation 63, the delegation of its powers and duties;
- (o) the admission of additional military trade unions as parties to Council, including the recalculation of vote weights;
- (p) the admission of two or more military trade unions that are acting together to meet the threshold for admission to the Council;
- (q) a procedure for changing the Councils' constitution; and
- (r) a procedure by which the Council may resolve to wind up.

Chairperson of Council

65. (1) The parties to the Council may appoint an independent, non-voting chairperson for the Council.

(2) The remuneration of a chairperson contemplated in subregulation (1) shall be determined by collective agreement and shall be divided in the percentage of 50 percent for the employer and 50 percent for the admitted military trade unions in the Council.

Committees of Council

66. (1) The Council may delegate any of its powers and functions to a committee of the Council on any condition determined by the Council in accordance with its constitution, provided that –

- (a) committees shall consist of equal numbers of representatives of military trade unions and the employer, unless otherwise agreed to in the Council;
- (b) members of committees need not be official representatives in the Council;

- (c) committees may co-opt experts to assist and advise on the matter at hand, provided that payment to such experts shall be determined by collective agreement; and
- (d) committees shall not have the power of decision-making or entering into collective agreements.

(2) Any committee of the Council shall present its findings to the Council for a decision or collective agreement, as the case may be.

Formal setting up of first Council

67. (1) The establishment of the first Council shall take place on a date to be determined by the Minister.

(2) All military trade unions that comply with the threshold requirements for admission referred to in regulation 69 shall be recognised in Council for not more than 60 days, within which 60 days such admitted trade unions must furnish the Council with a certified list of the members of that trade union.

(3) Any failure by a military trade union to provide the Council with a list contemplated in subregulation (2), shall result in the automatic exclusion of that union from the Council until it meets the threshold and reapplies for admission in terms of these Regulations.

(4) The first Council shall adopt a Constitution for the Council within 120 days of its first sitting.

(5) The Council shall be chaired by a person appointed by the Minister until such time as the Council appoints a chairperson as contemplated in the constitution of the Council.

(6) The employer shall provide a secretariat for the setting up of Council.

(7) The procedures to be followed during the setting up of the Council shall be as determined by the appointed chairperson.

Admission of parties to the council

68. (1) A registered military trade union may apply in writing to the Council for admission as a party to the Council if that union meets the threshold requirement of fifteen thousand members on the date of application.

(2) Military trade unions may act jointly with one another to gain admission to the Council on the proviso that such military trade unions acting together meet or exceed the threshold requirement.

(3) An application contemplated in subregulation (1) shall be accompanied by a certified copy of the applicant's registered constitution and certificate of registration and shall include certified details of the applicant's membership.

(4) The Council shall, within 60 days of receiving an application for admission, evaluate the application and decide whether to grant or refuse an applicant admission, and shall thereafter advise the applicant of its decision.

(5) If the Council refuses to admit an applicant it must within 30 days of the date of refusal, advise the applicant in writing of its decision and the reasons for that decision.

(6) An applicant may request the Board to investigate the reasons and make recommendations in any case of refusal of admission.

Legal effect of collective agreements

69. (1) A collective agreement shall be implemented by the parties bound by such an agreement in terms of subregulation (2), and within the time limit provided for in the agreement.

(2) A collective agreement binds –

- (a) the parties to the agreement;
- (b) the members of every party to the agreement, insofar as the provisions are applicable to them;
- (c) members who are not members of military trade unions and military trade unions not party to the agreement: Provided that –
 - (i) such members are identified in the agreement;
 - (ii) the agreement expressly binds the members; and
 - (iii) the agreement is not prejudicial in any way to such members.

(3) Subject to subregulation (2), where a collective agreement has the effect of amending a contract of employment, such contract shall be deemed to have been amended accordingly.

(4) Unless a collective agreement provides otherwise, no party may unilaterally withdraw from such agreement.

(5) The employer shall communicate the contents and implications of collective agreements in a concise and accessible manner within the Department.

Disputes about collective agreements

70. (1) Every collective agreement shall provide for a procedure to resolve any dispute about the interpretation or application of the agreement, which procedure must first require the parties to attempt to resolve the dispute through conciliation and, if the dispute remains unresolved, through referral to the Board for compulsory arbitration.

(2) If there is a dispute about the interpretation or application of a collective agreement, any party to the dispute may refer the dispute in writing to the Board for dispute resolution if –

- (a) the collective agreement does not provide for a procedure as required by these Regulations;
- (b) the procedure provided for in the collective agreement is not operative; or

- (c) any party to the collective agreement has frustrated the resolution of the dispute in terms of the collective agreement.

(3) A party who refers a dispute for conciliation, or to the Board for compulsory arbitration, must satisfy the Council that a copy of the referral has been served on all the other parties to the dispute.

Dispute resolution functions of Council

71. (1) In this regulation, "*dispute*" means any disagreement in respect of a collective agreement, or any other matter which is or could be the subject of collective bargaining, and the parties to the dispute may include –

- (a) parties to the Council;
- (b) military trade unions not party to the Council; and
- (c) members.

(2) The council shall attempt to resolve a dispute between the parties through conciliation in accordance with the constitution of the Council.

(3) A party who refers a dispute to the Council must satisfy the Council that a copy of the referral has been served on all the other parties to the dispute.

(4) The Council may enter into an agreement with an independent agency for the purposes of conducting conciliation in terms of its dispute resolution functions specified in this section.

(5) If an agency contemplated in subregulation (4) is unable to achieve a conciliation within 60 days of referral –

- (a) that agency shall issue a certificate to this extent; and
- (b) the Council shall refer the matter to the Board.

PART 5

THE MILITARY ARBITRATION BOARD

Establishment of Board

72. The Military Arbitration Board to whom matters shall be referred for arbitration as specified in these Regulations is hereby established.

Composition of Board

73. The Board shall consist of five independent persons appointed by the Minister.

Secretariat of Board

74. The employer and the military trade unions shall provide a secretariat for the Board, each bearing half of the cost.

Dispute resolving procedure

75. (1) Any dispute referred for arbitration shall be dealt with in accordance with these Regulations and in accordance with the Arbitration Act, 1965 (Act No. 42 of 1965), where applicable.

(2) The Board may conduct the arbitration in a manner that it considers appropriate in order to resolve the dispute fairly and quickly, but must deal with the substantial merits of the dispute with the minimum of legal formalities.

(3) Subject to subregulation (2), a party to a dispute may give evidence, call witnesses, question the witnesses of any other party, and address concluding arguments to the Board.

(4) The Board may at any stage prior to or during arbitration proceedings attempt to resolve the dispute through conciliation with the consent of the parties to the dispute, and if the Board deems it appropriate the Board may refer the dispute to be conciliated by an independent conciliator.

(5) Any of the parties subject to arbitration may be represented during the proceedings as they see fit, including legal practitioners, provided that each party be represented on an equal footing.

(6) Arbitration awards may be delivered other than in the presence of the parties, thereby enabling the Board to deliver awards to parties by post or other similar means.

Failure to appear

76. (1) If a party who referred a dispute to the Board fails to appear in person or to be represented at the arbitration proceedings, after having been given written notification thereof, the Board may dismiss the matter, and the Board's decision in respect of that matter shall be final and binding on all parties to the dispute.

(2) If a party, other than a party who referred the dispute to the Council, fails to appear in person or to be represented at the arbitration proceedings, the Board may –

- (a) continue with the arbitration proceedings in the absence of that party; or
- (b) adjourn the arbitration proceedings to a later date.

Arbitration orders

77. Within 15 working days of the conclusion of arbitration proceedings, the Board shall issue a signed arbitration award with reasons and the Council shall as soon thereafter as possible serve a copy of that award on each party to the dispute, which award shall be final and binding on all parties to the dispute.

Arbitration Award

78. (1) The Board shall not make an arbitration award that has financial implications for the State as employer that falls outside the mandated position of the employer in the Council.

(2) If an award cannot be made as a result of a limitation contemplated in subregulation (1), the Board shall submit a confidential advisory report to the Minister and inform each party that such submission has been made.

(3) Any arbitration award in terms of subregulation (2) becomes binding -

- (a) 30 calendar days after the date of the award if the Minister has not tabled the award in Parliament within that period; or
- (b) 30 calendar days after the date of tabling the award, unless Parliament has passed a resolution that the award is not binding, which decision shall be final

(4) If Parliament is not in session on the expiry of -

- (a) the period referred to in subregulation (3)(a), that period shall run from the beginning of the next session of Parliament;
- (b) the period referred to in subregulation (3)(b), that period shall run from the beginning from the next session of Parliament.

(5) The Board shall not be obliged to disclose the contents of a report to any party to the arbitration proceedings.

(6) The Board may make any appropriate award including, but not limited to, an award -

- (a) that gives effect to a collective agreement; or
- (b) that includes, or is in the form of, a declaratory order.

Costs

79. The Board may not include an order in an arbitration award for costs incurred by the parties, unless a party, or the persons who represented that party in the arbitration proceedings, acted in a frivolous, vexatious or malicious manner -

- (a) by proceeding with or defending the dispute in the arbitration proceedings; or
- (b) in its conduct during the arbitration proceedings.

Variation of rescission of award

80. The Board may on its own initiative, or as a result of an application by an affected party, vary or rescind an award -

- (a) erroneously sought or erroneously made in the absence of any party affected by the award; or
- (b) in which there is an ambiguity, or any obvious error or omission, but only to the extent of that ambiguity, error or omission; or
- (c) granted as a result of a mistake common to the parties to the proceedings.

HIGH COURT

Application to High Court

81. Any of the parties to a dispute, may apply to the High Court to make the arbitration award an order of court.

High Court review procedure

82. (1) Any party to a dispute who alleges a defect in any arbitration proceedings in terms of these Regulations may apply to the High Court for an order setting aside the arbitration award within six weeks of the date on which the award was served on the applicant.

(2) A defect referred to in subregulation (1) above means that –

(a) the Board, or an individual member of the Board –

(i) has committed misconduct in relation to the duties of the Board, or an individual member, as an arbitrator;

(ii) has committed a gross irregularity in the conduct of the arbitration proceedings; or

(iii) has exceeded the Boards' powers; or

(b) that an award has been improperly obtained.

(3) The High Court may stay the enforcement of an award pending its decision.

Award set aside

83. If the award is set aside by the High Court, the court may –

(a) determine the dispute in the manner it considers appropriate; or

(b) make any order it considers appropriate about the procedures to be followed to determine the dispute.

OFFENCES AND PENALTIES

84. Any person who contravenes any provision of these Regulations is guilty of an offence.

ISAZISO SIKAHULUMENI

UMBUTHO WEZOKUVIKELA KAZWELONKE WASENINGIZIMU AFRIKA

No. R. 1043

1 Septemba 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 sokubonisan"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 lunga 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 zomnden;
- (b) Indlela yokungaziphathi kahle komqashi mayelana nokuqashwa kwabasebenzi,

ukukhushulwa ezikhundleni, noma
ukwehliswa ezikhundleni, noma
ukuqeqeshwa kwelunga noma
okuphathelene 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 (Auxiliary 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 esekela 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 lungu liggoke umfaniswano wamasotsha noma liggoke 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 lesa sazi.

Ilungelo lokulungisa izindaba zayo (Right to own Affairs)

11. Ngokuhambisana nemiyalo yenqubomgomo, inyunyana yombutho wezempi nelungelo:

- (a) lokuzenzela umthethosisekelo kanye nemigomo;
- (b) lokwenza ukhethe 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 imlungele lowomsebenzi noma lesosikhulu.

Inkokhelo engavumelekile

15. Akukho sikhulu seNyunyana yoMbutho wezokuvikela esiyothola inkokhelo noma inzuzo eMbuthewni 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 ngokuliphoka 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.

Okungavunyelwe kumalunga

18. Akuvumelekile ukuba ilunga libe lilunga lezinnyunyana 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 yoMbuthe kanye nezimpahla zombutho;
 - (d) okungathi uma ludalulwa lube yimbangela yengozi kumalunga noma kumqashi;
 - (e) lolo oluphathelele nelunga elithile, ngaphandle uma lelo lungu livuma ngokubhaliwe ukuthi leyo mininingwane idalulwe.

Imininingwanwe/Ulwazi olukhethekile

- 22.** (1) Umqashi uyobhalela azise Inyunyana yoMbuthe 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 yoMbutho wezeMpi uyolawula ukuqokwa, ukukhethwa, isikhathi sokumela inyunyana kanye nokususwa kuleso sikhundla kwabazomela iNyunyana.

Ukubambelela Enhlonipheni kanye nobuchwepheshe boMbutho

24. Ubuchwepheshe kanye nenhlonipho yaseMbuthweni kuyobanjelelwa 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 yoMbutho 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 leyomali zingakapheli izinsuku ezingamashumi ama-30, bese edlulisela leyomali ayibambile kulenyunyana yombutho wezempi lungakafiki usuku lomhlaka-15 kusukela osukwini ebanjwe ngalo leyomali.

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 yoMbutho wezempi

32. Njalo ngenyanga abambe ngayo imali, umqashi kuyofanele anikeze inyunyana yoMbutho 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

Izithiyo 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 ezijwayelekile;
- (c) ikhono lokwenza umsebenzi wokuphatha kanye nomihlomulo; (incentives)
- (d) imibandela yokusebenza ejwayelekile;
- (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 ahlangebezanyayo nenani elinqunyiweyo lamalunga ayizinkulungwane ezinhlano 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 koMbuthe 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 oMbuthe 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 loMbutso 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 iminingwane 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 ekhelini 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 leso 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 leso 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 ezihianganisiweyo 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 emabhukwnini 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 WEZEMALI 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 beNyunynana nokuthi bebebangaki 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 yoMbutho 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 yoMbutho 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 emkhandlwni;
- (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) mayelanaa 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 izophoqekele 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 ezi-15 ngosuku lokufaka isicelo. (see regulation 80 (1) (e))
- (2) iziNyunyana zombutho wezempi zingasebenza ngokubambisana 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 lesisicelo zingakapheli izinsuku ezingamashumi ayi-60 kusukela osukwini esithole ngaso isicelo bese siinquma 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 leso 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 leso sivumelwano;
- (b) amalunga amaqembu enze leso 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) leso 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, amaqembi 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 yingxenye elandelayo.

(5) IBhodi ayiphoqelekele ukuba idalule okuqukethwe kulombiko okukhulunywa ngawo esigabei (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.
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