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NGOKWENJENJE KUYAZISWA UKUBA UMONGAMELI
UWUVUMILE UMTHETHO OLANDELAYO NOBHENG-
ZWAYO APHA KUSAZISWA ULUNTU NGOKUBANZI:-

UMTHETHO WOTYWALA - 1983

UMTHETHO NOMBOLO 13 WOVE-1983

DEPARTMENT OF JUSTICE

GOVERNMENT NOTICE NO. 47

IT IS HEREBY NOTIFIED THAT THE PRESIDENT HAS
ASSENTED TO THE FOLLOWING ACT WHICH IS HEREBY
PUBLISHED FOR GENERAL INFORMATION:-

LIQUOR ACT, 1983

ACT NO. 13 OF 1983

UMTHETHO WOTYWALA, 1983

UMTHETHO

Yokuzinzisa nokuhlomela imithetho yotywala.

(Okubhalwe ngesiNgesi kusayinwe nguMongameli. Kwavunywa ngomhla wama 29 Juni 1983).

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ISIAHLUKO 1

IINGCACISO-MAGAMA

lingcaciso-magama.

1. Kulo mthetho, ngaphandle kokuba ingxam ibonisa ngenye indlela -
 - "iziko lendawo yokuhlala" kuthethwa iziko lendawo yokuhlala elilayisenswa ngokufanelekileyo ngolu hlobo phantsi koMthetho weLayisensi, 1982;
 - "ummandla wolawulo" kuthethwa ummandla ophantsi kolawulo lwayo nayiphina inkosi okanye usibonda;
 - "iqumrhu lolawulo" kuthethwa igunya lesizwe okanye lenqila okanye naliphina igunya ledolophu;
 - "intlanguaniso yonyaka" kuthethwa intlanguaniso yonyaka yeBhodi ekusingiselwe kuyo kwicandelo 6;
 - "umceli" kuthethwa nawuphina umntu okanye umnyulwa owenza isicelo;
 - "isicelo" kuthethwa isicelo phantsi kwalo Mthetho esenziwe kwisiphatha-mandla esilayisensayo okanye elinye igunya elifanelekileyo;
 - "umbutho wabantu" kuthethwa inkampani, iqumrhu, ulwahlulelwano okanye omnye umbutho wabantu;
 - "intselo" kuthethwa intlanguanisela yabantu abavela kumakhaya angaphezu kwelinye kwintendezezo engeyontendezezo ilayisensiweyo apho kuselwa utywala besiXhosa;
 - "iBhodi" kuthethwa iBhodi yoTywala yeCiskei esekwe ngokwemigaqo yecandelo 5;
 - "umhambi bona fide" kuthethwa nawuphina umntu ongathintelwanga ukuba anikwe utywala phantsi kwawo nawuphina umthetho nalowo, ngokunxulumene -
 - (a) nayo nayiphina ihotele emi kummandla wedolophu, uhlala ngaphandle, novela ngaphaya kwemida yaloo mmandla;
 - (b) nayo nayiphina ihotele emi emaphandleni, uhambe umgama ongekho ngaphantsi kweekilomitha ezilishumi;
 - "ikhefi" kuthethwa ishishini eliqhutywa phantsi kwelayisenisi yomnini welayisenisi ekhutshwe ngokwemigaqo yoMthetho weLayisenisi, 1982;
 - "uSihlalo" kuthethwa usihlalo weBhodi ekusingiselelwe kuye kwicandelo 5 (a) yaye kubandakanywa naliphina ilungu leBhodi elibambe njengosihlalo;
 - "inkosi" kuthethwa inkosi njengoko icacisiwe kwicandelo 1 loMthetho weCiskei wooGunyaziwe, iiNkosi neZibonda, 1978 (uMthetho 4 wowe-1978) yaye kubandakanywa isekela lenkosi;
 - "imini ekuvaliweyo ngayo" -
 - (a) kuthethwa iCawe, uLwesihlanu oNgcwele, uMhla woVuko, uMhla woMnqophiso, iKrisimesi nawo nawuphina umhla wovoto;
 - (b) ibandakanya, ngokunxulumene nayo nayiphina ilayisenisi inkanti nalo naliphina ilungelo elilodwa lokuthengisa kuhanjwe nabo eligunyaziswe ndawonye nelayisenisi yehotele, naluphina usuku oluyiholide karhulumente; yaye
 - (c) ikwabandakanya naluphina olunye usuku olubhengezwe nguMphathiswa ngesaziso kwiGazethi ukuba lusuku oluvalileyo ngokuphathelele kuwo nawuphina ummandla okwesoboniso;
 - "umqathango", ngokuphathelele kuyo nayiphina ilayisenisi, ubandakanya isiqhobosho;
 - "uMlawuli-Jikelele" kuthethwa uMlawuli-Jikelele weSebe loBulungisa yaye kubandakanywa uSekela-Mlawuli-Jikelele welo sebe;
 - "isithili" kuthethwa isithili sikamantyi apho iintendezezo ezilayisensiweyo okanye iintendezezo ezilayisensiweyo ezicetywayo zimi okanye ziya kuma khona;
 - "iGazethi" kuthethwa iGazethi kaRhulumente weRiphabliki weCiskei;
 - "usibonda" kuthethwa usibonda njengoko ecacisiwe kwicandelo 1 loMthetho weCiskei wooGunyaziwe, iiNkosi neZibonda, 1978;
 - "umhloli" kuthethwa umhloli ekusingiselwe kuye kwicandelo 104;
 - "intlanguaniso yexeshana" kuthethwa intlanguaniso yexeshana yeBhodi ekusingiselwe kuyo kwicandelo 9;
 - "iyeza elinxilisayo" kuthethwa naliphina iyeza elibhengezwe ukuba linjalo phantsi kwecandelo 96;
 - "igosa elikhuphayo" kuthethwa ilayisenisi yokuthengisa okanye yokuhambisa utywala emiselwe okanye enikwe phantsi kwalo Mthetho;
 - "umnini-layisenisi" kuthethwa nawuphina umntu okanye umtyunjwa onelayisenisi;
 - "iintendezezo ezilayisensiweyo" kuthethwa isakhiwo okanye inxenye yesakhiwo esinelayisenisi ibonisiwe kwiplanini yaso evunywe phantsi kwalo Mthetho yaza yanikezelwa kwiBhodi, yaye zibandakanywe ezo zakhiwo zingaphandle, iiveranda, amasango, izitiya okanye imihlaba eyiyeseso sakhiwo okanye loo nxenye njengoko kubonisiwe kodwa kungabandakanywa elo candelo leso sakhiwo okanye inxenye

yaso nezo ndawo zizezinye zinokuthi kuyo nayiphina imeko eyodwa zingabandakanywa ngokukodwa kuzo ligunya elilayisensayo;

"isiphatha-mandla esilayisensayo" kuthethwa uMphathiswa okanye umantyi, ngokwemeko leyo, yaye ngokunxulumene nesicelo sokuthathwa kwelayiseni kubandakanywa iBhodi;

"utywala" kuthethwa, kulawula amalungiselelo ecandelo 127 (2), -

- (a) nasiphina isipirithi (ngokungaphandle kwesipirithi esinemethili), iwayini, utywala, utywala bemi thombo okanye ihops;
- (b) nasiphina esinye isiselo esithwele ngaphezu kwesibini sepesenti kumthambo we-alkoholi;
- (c) utywala besogama;
- (d) nasiphina isiselo, ulutho okanye ingxubavange anokuthi uMphathiswa kumaxesha abhengeze ngesaziso *kwiGazethi* ukuba ibandakanywe kule ngcaciso-magama;
- (e) nasiphina isiselo esixutywe nayo nayiphina into ecacisa njengotywala kumhlathi (a), (b), (c) okanye (d);

(f) nayiphina iswithi ethwele ngaphezu kwesibini sepesenti sealkoholi ngemesi;

"iloja" kuthethwa, ngokunxulumene nazo naziphina iintendezezo ezilayisensiweyo, nawuphina umntu (ngokungaphandle komqeshwa womnini-layiseni okanye wenqununu yomnini-layiseni okanye umqeshi) ohlala nolala *bona fide* kwezo ntendezezo;

"umantyi" kuthethwa umantyi, umantyi owongezelelweyo, okanye isekela-mantyi wesithili;

"utywala bemolthi" kuthethwa yaye kubandakanywa ibhiya (oko kukuthi ulwelo lwealkohol olufu nyenwe ngokubiliswa komgrayo wemolthi, udityanise okanye ungadityaniswa nesiriyali, efakelwe isongo nehops) ieyile, istawuthi nolunye ulwelo olwenziwe okanye oluthengiswe okanye phantsi kwe gama ibhiya, ieyile okanye isitawuti, ukuba sithwele ngaphezu kwesibini sepesenti kumthambo wealkohol kodwa kungabandakanywa utywala besogamu;

"isipirithi esinemethile" kuthethwa -

- (a) isipirithi esiguqulweyo ngokwawo nawuphina umthetho wokuguqulwa okanye ukufakwa kwemethile esipirithini;
- (b) nasiphina esinye isipirithi esiguqulweyo, esifakwe amayeza, esifakwe iziqholo okanye esisetyenzi siweyo anokuthi uMphathiswa, ngokwemigaqo yecandelo 95 asibhengeze njengesipirithi esinemethile ngeenjongo zalo Mthetho;

"uMphathiswa" kuthethwa uMphathiswa weSebe loBulungisa;

"umtyunjwa" kuthethwa umtyunjwa wawo nawuphina umbutho wabantu okanye umbutho wenkqubela;

"ilayisenisi yokusela ngaphandle" kuthethwa ilayisenisi yomsili botywala besogamu, ilayisenisi yenkanti okanye ilayisenisi yehoseyile yotywala yaye kubandakanywa ilungelo elilodwa lokuthengisa kuhanjwe nalo elibanjwe ndawonye nelayisenisi yotywala besogamu okanye ilayisenisi yehotele;

"ilungu" kuthethwa ilungu njengoko kucacisiwe kwicandelo 1 loMthetho weNkonzo yobuRhulumente, 1981 (uMthetho 2 wowe-1981);

"ilayisenisi yokuselela ngaphakathi" kuthethwa ilayisenisi yebhari, ilayisenisi yeklabhi, ilayisenisi yeeyure zangokuhlwa, ilayisenisi yerestorenti yotywala, ilayisenisi yotywala obuyiwayini nobuyimolthi, ilayisenisi yethaveni, ilayisenisi yotywala yexeshana, ilayisenisi yotywala besiXhosa okanye ilayisenisi yehotele ngokwahlukileyo kulo naliphina ilungelo lenkanti eligunyaziswe ngokudibene noko;

"esinye isiselo esivundisiweyo" kuthethwa nasiphina isiselo esivezwe okanye esenziwe kwiziqhamo ngokungaphandle kwemidiliya, esiqulethe ngaphezu kwesibini sepesenti ngomthwalo kwialkohol nesingqinelana neemfuno ezimiswe nguMthetho weWayini, ezinye iZiselo neZipirithi, 1957 ngokuphathelele kwezinye iziselo ezivundisiweyo ekusingiselwe kuzo kuloo Mthetho, okanye nasiphina isiselo esinealkohol ukuthengiswa kwaso ekuvunyelwe ngesaziso esikhutshwe phantsi kwecandelo 7 (2) (a) (ii) laloo Mthetho;

"usuku lokuvula" kuthethwa naluphina usuku lonyaka ngaphandle kosuku lokuvala;

"uLawulo lwamaPolisa" kuthethwa iKhomanda yeCandelo lamaPolisa ekusingiselwe kuyo kwicandelo (2) (a) (1) loMthetho woNyanzelo-Gcino-Mthetho, 1981 (uMthetho 5 wowe-1981) okanye naliphina igosa eligunyazisiweyo kwelo Candelo elisebenza phantsi kwegunya layo;

"umhla wovoto", ngokuphathelele kuyo nayiphina ilayisenisi, kuthethwa usuku lokuvotelwa ukunyu-lwa kwalo naliphina ilungu okanye amalungu eNdlu yeNdibano yeSizwe kuyenziwa kwisithili apho kukho iintendezezo ezilayisensiweyo ezinaloo layisenisi;

"unyaka owandulelayo" ngeenjongo zokubalwa kwesixa-mali sawo nawuphina umrhumo welayisenisi, kuthethwa ithuba ukusuka kumhla we-16 kuDisemba wawo nawuphina unyaka we-15 kuDisemba wonyaka olandelayo nyaka lowo wandulela kwangoko unyaka ekuza kuqingqelwa wona umrhumo welayisenisi kodwa akubandakanywa nasiphina isixa-mali esesibaliwe ngaphambili ekuqingqweni kwesixa-mali sawo nawuphina umrhumo welayisenisi;

"okumiselweyo" kuthethwa okumiselweyo phantsi okanye ngulo Mthetho;

"iholide karhulumente" kuthethwa iholide karhulumente esekwe nguMthetho weeHolidi zikaRhulumente, 1981 (uMthetho 3 wowe 1981)

"igunya lenqila" kuthethwa igunya lenqila elisekwe okanye ekuthathwa ngokuba lisekwe ngokwemigaqo yecandelo 12 loMthetho wooGunyaziwe, iNkosi neZibonda, 1978

"umgaqo" kuthethwa nawuphina umgaqo owenziwe okanye osebenza phantsi kwalo Mthetho

"izihlomelo ezichaphazelekayo" kuthethwa amaxwebhu amiselweyo angeniswe ngumceli nesicelo sakhe nayo nayiphina inkcaso ebhaliweyo, iinkcukacha okanye intethwana okanye naluphina uxwebhu okufakwe okanye olungeniswe kwigunya elifanelekileyo ngokwemigaqo yalo Mthetho nguye nawuphina umntu okanye umbutho okanye luLawulo lwamaPolisa, iGunya labaKhenkethi, okanye umantyi ngokuphathelele kweso sicelo

"irestorenti" kuthethwa irestorenti elayiseniswa ngokufanelekileyo ngolo hlobo phantsi koMthetho weeLayisenisi, 1982

"icandelo elinemiqobo" kuthethwa ngokunxulumene neentendezezo ezilayisenisiweyo, loo ndawo yezo ntendezezo ngokwesiqhelo yaziwa ngokuba yibhari nalapho kuthengiswa utywala ekhawuntareni naloo magumbi angamanye okanye iingcandelo zezakhiwo zinokuthi kuyo nayiphina imeko ethile ziqingqwe ligunya elilayisensayo ngokwemigaqo yecandelo 48 (1) (a)

"ummandla wasemaphandleni" kuthethwa nawuphina ummandle ongaphandle kwemida yommandla wasezidolophini

"thengisa" ukongeza kwintsingiselo yakho eqhelekileyo kubandakanya ukugcina, ukubonisa okanye ukuhambisela ukuthengisa, okanye ukugunyazisa ukuyalela okanye ukuvumela ukuthengisa okanye ukwananiselisa okanye ukutshintshiselisa okanye ukuba notywala ngeenjongo zokuthengisa

"utywala" kuthethwa -

- (a) utywala ngokwesiqhelo obusilwa ngeenkozi zamabele, amazimba okanye ezinye iinkozo obunga thwelanga ngaphezulu kwesithathu sepesenti sealkhohol, kananjalo
- (b) nabuphina obunye utywala obuvundisiweyo obungathwalanga ngaphezulu kwesithathu sepesenti sealkhohol, anokuthi uMphathiswa kumaxesha ngamaxesha ngesaziso kwiGazethi abhengeze ukuba butywala besogamu

"nikezela" kuthethwa, ngokunxulumene nokunikezelwa kwabo nabuphina utywala okanye into kuve nawuphina umntu, ukubekwa kwalo mntu kulawulo lobo tywala okanye into

"iwayini yasetafileni" kuthethwa iwayini eyimveliso kuphela yokuvunda kwealkhohol yencindi yee diliya ezintsha yaye engathwele ngaphezu kweshumi elinesine leepesenti,

"iqumrhu lenkqubela" kuthethwa iqumrhu lenkqubela njengoko licacisiwe kwicandelo 1 loMthetho weCiskei wamaQumrhu, 1981 (uMthetho 16 wowe 1981)

"lo Mthetho" kubandakanywa nawuphina umgaqo

"iGunya labaKhenkethi" kuthethwa iBhodi yeCiskei yabaKhenkethi esekwe icandelo 2 loMthetho wokuPhuhliswa koKhenketho, 1983;

"igunyabantu lesizwe" kuthethwa igunyabantu lesizwe okanye labantu elisekwe okanye ekuthathwa ngokuba lisekwe, phantsi kwecandelo 2 loMthetho wooGunyaziwe, iNkosi neZibonda, 1978

"ummandla wedolophu" kuthethwa nawuphina ummandla osekwe igunya lendawo yasezidolophini

"igunya lendawo yasezidolophini" kuthethwa ikhansile kamasipala okanye nayiphina ikhansile yedolophana esekwe phantsi kweSihlokomiso R293 sowe-1962

ISIAHLUKO 2

ILAYISENISI NEMIRHUMO YEELAYISENISI

ilayisenisi

2. (1) ilayisenisi ezinokukhutshwa okanye ezinokuhlaziya phantsi kwalo Mthetho ziya kuba ngolo hlobo kuchazwe ngalo kwiSiqendu 1 seShedyuli 1 yaye, ngaphandle kwanjengoko kulungiselelwe apha ngezantsi, ziya kusebenza ukususela kumhla wokuqala kuJanuwari ngokuphathelele kwilayisenisi yonyaka okanye ukusuka kumhla wokuqala kuJulayi ngokuphathelele kwilayisenisi yesiqingatha sonyaka de kube ngumhla wamashumi amathathu ananye kaDisemba waloo nyaka zombini ezo ntsuku zibandakanyiwe.
- (2) Akusayi kubakho thuba lakumelwa mayela nokuhlaziya kwayo nayiphina ilayisenisi Phantsi kwento ethi nakuphina ukusilela ukuhlawula umrhumo welayisenisi ofanelekileyo ngethuba kuya kuxolelwa ukuba -
 - (a) loo mrhumo welayisenisi uhlawulwe phambi komhla wamashumi amathathu ananye kaJanuwari wonyaka ohlawulelwa wona;
 - (b) ukuba, ukongeza kuloo mrhumo welayisenisi, kuhlawulwe ngaxesha-nye isohlwayo esibalwe ngomlinganiselo wesithathu seepesenti salo mrhumo welayisenisi ngazo zonke iintsuku loo mrhumo welayisenisi uhleli ungahlawutwanga.

Phantsi kwento ethi ngaphezulu umrhumo welayisenisi onjalo yaye isohlwayo esinjalo asisayi kukhulula umnini-layisenisi ekusiweni emthethweni phantsi kwalo Mthetho yaye nakuphina oko kufakwa emthethweni akusayi kumkhulula ebutyaleni beso sohlwayo.

- Uhlobo lwelayisenisi.* 3. (1) Zonke ilayisenisi ziya kuba ngohlobo okumiselweyo yaye ziya kuqulatha *inter alia* ingxelo -
- (a) ngokodidi lwaloo layisenisi;
 - (b) ngokwendawo ezikuyo iintendezezo ekhutshelwa zona;
 - (c) nalo naliphina ilungelo elikhutshelwe, okanye umqathango, umyalelo okanye isiqhobosho esibekelwe, umnini-layisenisi ngokwemigaqo yalo Mthetho, kubandakanywa naliphina ilungelo, umqathango okanye isiqhobosho ngokweentsuku okanye iiyure anokuthi umnini-layisenisi athengise okanye ahambise utywala ngazo yaye, apho kuyimfuneko, uhlobo lotywala obuno kuthengiswa okanye buhanjiswa; yaye
 - (d) ngokwendawo apho umnini-layisenisi aya kugcina utywala bakhe kuyo.
- (2) Ukusilela kwalo naliphina igosa elikhuphayo ukubhala kuyo nayiphina ilayisenisi iinkcukacha ekusingiselwe kuzo kwicandelo (1) akusayi kumkhulula umnini-layisenisi kuyo nayiphina imbo-phelelo nangayiphina indlela ngokuphathelele kuso nasiphina isiqhobosho, umyalelo okanye umqathango obekwe kuye, okanye kumbandezele naliphina ilungelo alinikiweyo, phantsi kwamalungiselelo alo Mthetho.

Ukukhutshwa kwe-layisenisi.

4. (1) Akukho layisenisi iya kukhutshwa ngaphandle kwaxa kuhlawulwe isixa-mali esimiselwe kumcimbi ofanelekileyo weSiqendu 1 seShedyuli 1 yaye ekuvelisweni kwigosa elikhuphayo kwesatifikethi esixela ukuba ukukhutshwa kwaloo layisenisi kugunyazisiwe ngokomthetho nesixela iinkcukacha emaziqukathwe kwilayisenisi leyo ngokwemigaqo yecandelo 3 (1).
- (2) Isatifikethi ekusingiselwe kuso kwicandelwana (1) siya kusayinwa -
- (a) nguMphathiswa okanye nawuphina umntu osebenza phantsi komyalelo wakhe, kwimeko yelayisenisi enikwe nguMphathiswa; okanye
 - (b) ngumantyi kwimeko yayo nayiphina ilayisenisi egunyaziswe apho; okanye
 - (c) nguMlawuli-Jikelele okanye umabhalana weBhodi kwimeko yaya nayiphina ilayisenisi ihlaziywa.
- (3) Nasiphina isatifikethi esisayinwe njengoko kujongwe njalo kwicandelwana (2) (a) siya kuphelelwa singasebenzi ukuba akukho layisenisi ikhutshiweyo ngokwemigaqo yoko ngethuba leentsuku ezingamashumi amathandathu emva komhla weso satifikethi.
- (4) Zonke ilayisenisi ezikhutshwe phantsi kwalo Mthetho -
- (a) ziya kukhutshwa ngumamkeli wengeniso; yaye
 - (b) ziya kubhalwa kwikopi yokuqala kunye nelo nani leekopi linokumiselwa, eya kuthi ikopi yokuqala igqithiselwe kumnini-layisenisi, enye ikopi igcinwe ligosa elikhuphayo, enye ikopi ithunyelwe kuLawulo lwamaPolisa, enye ikopi ithunyelwe kwiGunya labaKhenkethi zize iikopi ezishiyekileyo, ukuba zikho, zithunyelwe kwezo ofisi zinokuthi zimiselwe.
- (5) Akukho layisenisi iya kukhutshwa ukuba kutshintshelwe okanye kuthathwe nayiphina ilayisenisi koko umantyi uya kuthi, xa kuveliswe kuye isatifikethi esisayinwe nguMphathiswa okanye nawuphina umntu osebenza ngokwemiyalelo yakhe okanye uSihlalo okanye uMabhalana weBhodi, ngokwemeko leyo, esixela ukuba oko kutshintshwa okanye ukuthathwa kugunyaziswe ngokufanelekileyo phantsi kwalo Mthetho yaye akuba anelisekile ukuba isixa-mali esimiselwe kumcimbi ofanelekileyo weSiqendu 2 seShedyuli 1 sihlawulwe, abhale kwilayisenisi eyikopi yokuqala aze enze ukuba kubhalwe kwikopi yelayisenisi egcinwe ligosa elikhuphayo, imiba enxulumene noku-tshintshwa okanye ukuthathwa, ngokwemeko leyo.
- (6) Igunya elilayisensayo okanye uMabhalana weBhodi, ngokwemeko leyo, liya kwenza ukuba kuthunyelwe kuLawulo lwamaPolisa, kwiGunya labaKhenkethi nakwigosa elikhuphayo elichaphazelekayo ikopi yazo zonke izatifikethi ezikhutshwe phantsi kweli candelo.

ISAHLUKO 3

IBHODI YECISKEI YOTYWALA

Ukusekwa kweBhodi yeCiskei yoTywala.

5. Ukwenjenje kusekwa iBhodi eya kwaziwa ngokuba yiBhodi yeCiskei yoTywala emalungu ayo, kula-wula amalungiselelo alo Mthetho, aya kuba -
- (a) nguMlawuli-Jikelele, oya kuba kwanguSihlalo wale Bhodi; kunye
 - (b) namalungu amabini atyunjwe kumaxesha ngamaxesha nguMphathiswa kumagosa esebe lakhe elinye lawo ubuncinane eliya kuba ngumantyi.

**Ukwalelwa kwama-
lungu eBhodi.**

6. (1) Akukho mntu uya kuhlala okanye avote njengelungu leBhodi okanye athathe inxaxheba kuwo nawaphina amanyathelo, okanye uya kusebenzisa okanye azame ukusebenzisa nawaphina amagunya okanye umsebenzi, weBhodi ukuba yena okanye atshate naye okanye umntwana wakhe
 - (a) ngumnini, umnini mogeji, umqeshi okanye ngumqeshiselwa wazo naziphina iintendelezo ezisicelo okanye ingxelo yazo phantsi kwalo Mthetho iphambi kweBhodi okanye
 - (b) yipatnara, iarhente okanye umqeshwa wakhe nawuphina umceli osicelo sakhe okanye yakhe nawuphina umchasi kuso nasiphina isicelo onkcaso yakhe iza kuqwalaselwa yiBhodi okanye
 - (c) ngumlawuli, umanejala okanye iarhente okanye naliphina iqumru labantu eliphantsi kwamalungiselelo omhlathi (a) okanye (b) ukuba belingumntu othile okanye
 - (d) unento yokwenza kulo naliphina ishishini okanye ilayisenisi esicelo sayo okanye ingxelo yayo iqwalaselwayo yiBhodi.
- (2) Nawuphina umntu othi esazi atyeshela naliphina ilungiselelo lecandelwana (1) uya kuba netyala lokwaphula umthetho

**Indawo yentlanganiso
yeBhodi.**

7. IBhodi iya kubamba iintlanganiso zayo kwikomkhulu likaRhulumente. Phantsi kwento ethi uSihlalo angathi ngokokubona kwakhe amisele ixesha elizayo nayiphina intlanganiso yeBhodi okanye ngeenjo ngo zecandelo 10 (1) (b) (vi) okanye 10 (2) (a) (ii) ameme intlanganiso yexeshana kuyo nayiphina indawo eseCiskei

**Intlanganiso yoNyaka
yeBhodi.**

8. (1) Ngaphandle kokuba uMphathiswa uyalele ngenye indlela, iBhodi iya kubamba intlanganiso (eya kwaziwa njengentlanganiso yonyaka) ngoLwesithathu kwinyanga kaNovemba kunyaka ngamnye okanye, ukuba olo suku yiholide kaRhulumente, ke ngoko ngosuku lokuqala emva koko olungeyo holide kaRhulumente
- (2) Kungekho ngaphambi kweentsuku ezingamashumi amathathu okanye emva kweentsuku ezingama shumi amathathu phambi kwentlanganiso yonyaka uMlawuli-Jikelele uya kunika isaziso *kwiGazethi* ngomhla, indawo nexesha layo

**Intlanganiso zexeshana
zeBhodi.**

9. (1) Intlanganiso yeBhodi ingaminywa nguMlawuli-Jikelele ngalo naliphina ixesha kodwa kungabikho rhoqo ngaphezu kwakanye kuyo nayiphina inyanga
- (2) Kungekho ngaphantsi kweentsuku ezisixhenxe phambi kosuku olwalathelwa intlanganiso yexeshana na uMlawuli-Jikelele uya kunika isaziso *kwiGazethi* ngomhla, ixesha nendawo, nangemicimbi eya kuqwalaselwa yiBhodi kuloo ntlanganiso

**Amagunya nemisebenzi
yeBhodi.**

10. (1) Kulawula amalungiselelo alo Mthetho, iBhodi iya kuqwalaselwa -
 - (a) kwintlanganiso yonyaka, nasiphina isicelo phantsi kwecandelo 22 sokukhutshwa kwelayisenisi entsha;
 - (b) kwintlanganiso yexeshana -
 - (i) nasiphina isicelo phantsi kwecandelo 28 sokutshintshwa okanye ukuthathwa kwelayisenisi;
 - (ii) nasiphina isicelo sokwandiswa kwethuba elimiselwe kwiGunya elinemiqathango elikhu tshwe ligunya okanye egameni legunya elilayisensiweyo phantsi kwecandelo 44 (1);
 - (iii) ngeenjongo zecandelo 62, nasiphina isicelo esenziwe ngumnini welayisenisi yehotele efuna ilungelo lokuthengisa okanye ukunikezela utywala ngalo naliphina ixesha nguwo nawuphina umhla (nokokuba olo suku lusuku ekuvaliweyo okanye ekuvaliweyo ngalo) ukuba mabuselwe kwiintendelezo ezilayisensiweyo;
 - (iv) nasiphina isicelo esisingiselwe kwiBhodi phantsi kwecandelo 67 (2) (b);
 - (v) nasiphina isicelo phantsi kwecandelo 68, 70 okanye 71 okanye nasiphina esinye isicelo okanye umcimbi iBhodi egunyaziswe ngulo Mthetho ukuba iquqwalasele kwintlanganiso yexeshana;
 - (vi) nayiphina ingxelo esingiselwe kwiBhodi ngokwemigaqo yecandelo 102 okanye 103;
 - (vii) nayiphina ingxelo esingiselwe kwiBhodi ngokwemigaqo yecandelo 104.
 - (c) kuyo nayiphina intlanganiso, nasiphina isicelo okanye omnye umcimbi nokuba nguwo uphina anokuthi uMphathiswa ayisingisele kuloo ntlanganiso.
- (2) Nakubeni kungekho amalungiselelo ecandelwana (1), kuya kufaneleka ukuba iBhodi iqwalasele -
 - (a) kwintlanganiso yonyaka -
 - (i) nasiphina isicelo phantsi kwecandelo 28 sokutshintshwa okanye ukuphathwa kwelayisenisi;
 - (ii) nayiphina ingxelo esingiselwe kwiBhodi ngokwemigaqo yecandelo 102 okanye 103; okanye
 - (iii) nayiphina ingxelo esingiselwe kwiBhodi ngokwemigaqo yecandelo 104;

- (b) kwintlanganiso yexeshana ebanjwe ngenyanga kaMeyi kuwo nawuphina unyaka, nasiphina isicelo phantsi kwecandelo 22 sokunikezelwa kwelayisenisi entsha, yaye
- (c) kwintlanganiso yexeshana ebanjwe ingaphelanga inyanga kaMeyi kuwo nawuphina unyaka, nasiphina isicelo -
 - (i) sokunikwa kwelayisenisi iBhodi eyayingenakho ukufikelela esigqibeni ngomhla wama-shumi amathathu ananye kuDisemba wonyaka owandulelayo; okanye
 - (ii) sokunikwa kwelayisenisi eyayingavunywanga yiBhodi kwintlanganiso yonyaka owandulelayo ngenxa yokubanjwa komceli okuthe, okokoko kwangaloo ntlanganiso yonyaka, kwabuyiswa okanye kwatshitshiswa xa kuphindwa kuxoxwa okanye kubhencwe okanye apho umceli exolelwe; okanye
 - (iii) sokunikwa kwelayisenisi, endaweni yelayisenisi ecinyiweyo ngesizathu esisesomnini layisenisi, nguye nawuphina umntu ngaphandle kwaloo mnini layisenisi amele umceli ukuhlawula, ukongeza kumrhumo omiselwe kwicandelo 22 (3), kwesixa-mali samashumi amabini eerandi nokuthobela kwakhe loo miqathango inokuthi iBhodi, ise iso ngokufanelekileyo amalungiselelo eSahluko 4, iyimisele.
- (3) IBhodi iya kwenza ingxelo nengebiso kuMphathiswa ngesicelo ngasinye okanye ukutshintshwa kwelayisenisi.
- (4) Kwintlanganiso apho ingxelo ekusingiselwe kuyo kwicandelwana (1) (b) (vi) okanye (vii) okanye icandelwana 2 (a) (ii) okanye (iii) kuye kwasetyenzwa ngayo, iBhodi ingathi ngokubona kwayo (kodwa noko kunjalo kulawula amalungiselelo ecandelwana (5) icime ngoko nangoko ilayisenisi yomnini-layisenisi ochaphazelekayo: Phantsi kwento ethi, ukuba iBhodi ayiyivumi loo layisenisi, iwise kumnini-layisenisi ezo ziqhobosho, imiyalelo okanye imiqathango inokuthi, ise iso ngokufanelekileyo amalungiselelo alo Mthetho, izibone ziyimfuneko okanye zifanelekile, kubandaka nywa -
 - (a) kwimeko yelayisenisi yehotele enelungelo elilodwa lokuthengisa utywala kuhanjwe nabo
 - (i) isiqhobosho esirhoxisa elo lungelo lilodwa lokuthengisa utywala kuhanjwe nabo ukususela kumhla olandela umhla ephela ngawo loo layisenisi okanye ukususela kuloo mhla unga-phambili inokuthi iBhodi iwumisele; okanye
 - (ii) isiqhobosho sokuba umnini-layisenisi akasayi kuthengisa okanye ahambise kwiintendezezo ezilayisensiweyo, nokuba kuselelwa apho okanye ngaphandle kwezo ntendezezo, nabuphina utywala ngokungaphandle kwewayini, utywala bemolthi notywala besogamu; okanye
 - (iii) isiqhobosho sokuba umnini-layisenisi akasayi kuthengisa okanye afumanise kwiintendezezo ezilayisensiweyo ukuba kuselelwe ngaphandle nabuphina utywala ngaphandle kwewayini, utywala bemolthi notywala besogamu; okanye
 - (iv) isiqhobosho esirhoxisa elo lungelo lilodwa lokuthengiswa utywala kuhanjwe nabo ndawonye nomnye umqobo ngaphezulu wokuba umnini-layisenisi uya kuthengisa kwiintendezezo ezilayisensiweyo, ukuba kuselelwe kwezo ntendezezo, iwayini, utywala bemolthi notywala besogamu kuphela kananjalo athengisele kuphela oza kufumana isidlo asithenge kwiintendezezo ezilayisensiweyo ezo, kodwa kungekho ngalo naliphina ixesha ngaphandle kwangentsimbi yeshumi emini emaqanda necala emva kwentsimbi yesibini emva kwemini naphakathi kwentsimbi yesithandathu ngokuhlwa; neyeshumi, yethoba ngokuhlwa; okanye
 - (b) kwimeko yelayisenisi yenotele engenalungelo lilodwa lokuthengisa kuhanjwe nabo, isiqhobosho ekujongwe kuso kumhlathana (iv) okanye (v) womhlathi (a); okanye
 - (c) kwimeko yelayisenisi yotywala yerestorenti, isiqhobosho sokuba umnini-layisenisi akayi kuthi phantsi kwelayisenisi yakhe nangeeyure ezigunyazisiweyo apho, athengise nabuphina utywala ngaphandle kwewayini, utywala bemolthi notywala besogamu.

Ngaphezulu phantsi kwento ethi akukho isiqhobosho, myalelo okanye umqathango ubekwe phezu kwakhe nawuphina umnini-layisenisi nguMphathiswa uya kuhlonyelwa okanye urhoxiswe ngaphandle kwemvume yoMphathiswa.

- (5) (a) Nawuphina umntu oziva enganelisekanga siso nasiphina isigqibo seBhodi phantsi kwecandelwana (4) angathi, ebhalile athumele ngedilesi kaMlawuli-Jikelele yaye zingaphelanga iintsuku ezilishumi elinesine emva komhla wesigqibo seBhodi, isibheni ngeso sigqibo kuMphathiswa yaye uMphathiswa angathi ngoko asirhoxise okanye asihlomele okanye asijike eso sigqibo.
- (b) Isigqibo soMphathiswa kuso nasiphina isigqibo phantsi komhlathi (a) asisayi kujikwa.
- (6) Naliphina ilungelo elinikwe, okanye isiqhobosho, umyalelo okanye umqathango esibekwe kuye, nawuphina umnini-layisenisi ngokwemigaqo yalo naliphina ilungiselelo leli candelo liya kuthi, ngazo, zonke iinjongo, lithatyathwe ngokuba liqulethwe kwilayisenisi ekhutshelwe umnini-layisenisi phantsi kwecandelo 4 yaye liya kuthi, ngeenjongo zokuhlaziywa kwaloo layisenisi, libandakanywe kwisatifikethi ekujongwe kuso kwicandelwana (2) (c) lelo candelo.

UMabhalana weBhodi. 11. Umlawuli-Jikelele uya kwalathela igosa kwisebe lakhe ukuba libe nguMabhalana weBhodi.

Inkqubo kwiintlanganiso zeBhodi.

12. (1) Intlanganiso yonyaka nazo zonke iintlanganiso zamaxesha ngamaxesha, iya kuvuleleka eluntwini ngaphandle kokuba kuqingqwe ngenye indlela nguSihlalo.
- (2) Kulawula nawuphina umgaqo, ukulandelelana kwemicimbi nenkqubo kuyo nayiphina intlanganiso yeBhodi, kubandakanywa ukubuzwa-buzwa kudliwana iindlebe nabantu abanika ubungqina phambi kweBhodi, kuya kuqingqwa nguSihlalo yaye angathi nangaliphina ixesha abekele elinye ixesha nayiphina intlanganiso.
- (3) Bonke ubungqina obuphambi kweBhodi buya kunikwa ngesifungo okanye isiqiniso esenziwe nguSihlalo.
- (4) Isigqibo okanye uluvo lwesininzi samalungu akhoyo kuyo nayiphina intlanganiso yeBhodi siya kuba sisigqibo okanye uluvo lweBhodi. Phantsi kwento ethi, kwimeko yokulingana kweevoti, uSihlalo uya kuba nayo nevoti eyahlulayo.
- (5) USihlalo uya kwenza ukuba kugcinwe irekhodi yeenkqubo ezenziwe phambi koluntu ziBhodi yaye loo rekhodi iya kufayilishwa kwiofisi yoMlawuli-Jikelele apho inokuhlolwa yaye kufunyanwe iikopi zayo ngokungathi yirekhodi yeenkqubo zamatyala eSizi kwinkundla kaMantyi.
- (6) Ngaphandle kwaxa iBhodi icima ilayisenisi okanye ibeka isiqhobosho apho naliphina ilungelo lirhoxiswa okanye licuthwa okanye liphendula nawuphina umbandela womthetho, akusayi kufu neka ukuba inike naziphina izizathu ngesigqibo sayo

Ikhoram

13. (1) Ngaphandle kwanjengoko kulungiselelwe kwicandelwana (2), amalungu amabini eBhodi aya kwenza ikhoram. Phantsi kwento ethi, ukuba uMlawuli-Jikelele akakho kuyo nayiphina intlanganiso yeBhodi, ilungu leBhodi elibambe isikhundla sobumantyi liya kubamba isikhundla sokuba nguSihlalo.
- (2) Naninina, xa kuqwalaselwa isicelo, nawuphina amalungu amabini eBhodi engakwazi ukwenza imisebenzi yawo njengamalungu, isicelo siya kuchotshelwa lilungu elishiyekielyo leBhodi.
- (3) Ukuba ikhoram ayikho ekuqaleni kwayo nayiphina intlanganiso yeBhodi, loo ntlanganiso iya kuhlala ilinde elinye ixesha de kubekho ikhoram

*Ukumanyelwa noku-
melwa kwabaceli, aba-
chasi okanye eminye
imibutho okanye aba-
ntu abanomdla.*

14. (1) Kwintlanganiso enxulumene noku yeBhodi -
- (a) nawuphina umceli osicelo sakhe siphambi kweBhodi okanye ummeli wakhe ogunyaziswe ngokufanelekileyo;
- (b) nawuphina umchasi ochasa nasiphina isicelo ofake inkcaso ngendlela emiselweyo okanye ummeli wakhe ogunyaziswe ngokufanelekileyo;
- (c) uLawulo lwamaPolisa okanye ummeli walo ogunyaziswe ngokufanelekileyo (ngokunxulumene nayo nayiphina inkcaso, ingxelo okanye isicelo esenziwe luLawulo lwamaPolisa ngokwemigaqo yalo Mthetho);
- (d) iGunya labaKhenkethi okanye nawuphina ummeli ogunyaziswe ngokufanelekileyo lelo Gunya (ngokuphathelele kuyo nayiphina ingxelo eyenziwe lelo Gunya ngokwemigaqo yalo Mthetho, kananjalo);
- (e) umnini-layisenisi wayo nayiphina ekuthethwa ngayo kuyo nayiphina ingxelo ethunyelwe kwiBhodi ngokwemigaqo yecandelo 102, 103 okanye 104 okanye waso nasiphina isicelo esenziwa luLawulo lwamaPolisa phantsi kwecandelo 105 okanye ummeli ogunyaziswe ngokufanelekileyo walo mnini-layisenisi
- uya kuthi abe nelungelo lokuba avele phambi kwayo aphulaphulwe yiBhodi, abize nobungqina bokuxhasa isicelo, inkcaso yakhe, ingxelo okanye ukuphikisa kwakhe ngokwemeko leyo
- (2) Ummeli ngokwasemthethweni welifa lomceli okanye womnini-layisenisi othi afe okanye atshone okanye othi aziswe ukuba akakwazi kusingatha imicimbi yakhe ngomhla okanye phambi komhla otyunjelwe ukuba iBhodi iqwalasele ngawo isicelo sakhe okanye ngokwemeko leyo umcimbi lowo uchukumisa ilayisenisi yakhe, okanye xa engekho ummeli onjalo, naliphina ilungu losapho lomceli okanye lomnini-layisenisi eligunyaziselwe loo nto yiBhodi, liya kuba nawo onke amalungelo liwasebenzise onke loo malungelo ngendlela loo mceli okanye loo mnini-layisenisi ebeya kuwa sebenzisa ngayo, ukuba bekungengasizathu sokufa kwakhe, sakutshona kwakhe, okanye sakungabi nakho kwakhe ukusingatha imicimbi yakhe.
- (3) Amalungiselelo ecandelwana (2) aya kuthi asebenze *mutatis mutandis* -
- (a) kwimeko yayo nayiphina ikhampani ephantsi kophengulo-matyala ngomhla okanye phambi komhla otyunjelwe ukuqwalaselwa yiBhodi kwawo nawuphina umcimbi ochaphazela ilayisenisi yomtyunjwa waloo khampani, nangokuphathelele kumntu onyuliwe ngokusemthethweni njengomphengululi-matyala aloo khampani;
- (b) ngokuphathelele kuye nawuphina omnye umntu othe ngemvume yeBhodi watyunjwa nguwo

nawuphina umbutho wabantu okanye liqumrhu lenkqubela njengomtyunjwa walo endaweni yomtyunjwa othe wafa okanye othe wafa okanye othe ngandlela yimbi walahlekana nesihlalo sakhe.

*Ukubizwa kwama-
ngqina yiBhodi.*

15. (1) IBhodi ingathi ngesaziso esibhalwe ngumabhalana wayo -
- (a) ifune ubukho phambi kwentlanganiso yeBhodi, bakhe nawuphina umceli osicelo siza kuqwalasela kwintlanganiso enjalo, bakhe nawuphina umnini-layisenisi, ukuba akakho, nawuphina umntu osingathiswe umthwalo woshishino oluqhutywa phantsi kwalo Mthetho, okanye bakhe nawuphina umntu othi ngokokubona kweBhodi, abe nakho ukungqina ngawo nawuphina umcimbi ekufanele ukuba iBhodi iwuqwalasele okanye iwuqingqe;
 - (b) ifune ukuba umceli onjalo, umnini-layisenisi okanye umntu aveze nayiphina incwadi, okanye uxwebhu, olufanelekileyo ngokumayela nawo nawuphina umcimbi ophambi kweBhodi oluselugcinweni lwakhe okanye oluphantsi kolawulo lwakhe.
- (2) Ngesicelo sakhe nawuphina umntu -
- (a) osicelo sakhe siphambi kweBhodi, okanye
 - (b) olayisenisi yakhe iyintloko yengxelo phantsi kwecandelo 102 okanye 104, iBhodi iyakuthi, ngesaziso ngokubhaliweyo ngesandla sikaNobhala wayo, ibize njengengqina, ngokulawulwa ngamalungiselelo ecandelo 14 (1), ilungu lamaPolisa okanye ummeli weGunya labaKhenkethi, njengoko imeko inokuba njalo, owenze ingxelo ngeso sicelo okanye ilayisenisi.

*Ulwaphulo-mthetho
ngamangqina okanye
abantu ababizwe nje-
ngamangqina.*

16. Wonke umntu uya kuba netyala lokwaphula umthetho othi -
- (a) ngaphandle kwesizathu esanelisayo ale okanye angaphumeleli ukuya aze anike ubungqina phambi kwebhodi ngexesha nasendaweni ekhankanyiweyo kwisaziso esinikwe phantsi kwecandelo 15 (1) okanye (2) okanye akhuphe nayiphina incwadi okanye uxwebhu ebekufunwa ukuba aluphuphe seso saziyo; okanye
 - (b) phantsi kwesifungo okanye isiqinisekiso anike ubungqina obububuxoki phambi kwebhodi esazi ukuba obo bungqina bububuxoki okanye engakholelwa ukuba buyinene.

*Amandla eBhodi oku-
phula-phula okanye
ukwamkela izichaso.*

17. IBhodi inokuthi nangaliphi na ixesha -
- (a) ngokokubona kwayo iphulaphule nayiphina inkcaso eyenziwe liqumrhu elilawulayo kuso nasiphina isicelo esiphambi kweBhodi nakubeni loo nkcaso ingakhange yenziwe ngendlela emiselweyo, kodwa xa kunjalo, iBhodi iya kumnika umceli ithuba elifanelekileyo lokuphendula loo nkcaso.
 - (b) ngokuzibonela kwayo iqaphele nawuphina umbandela okanye into enokuthi ngokoluvo lwayo ibe yinkcaso kuso nasiphina isicelo esiphambi kweBhodi nangona kungekho nkcaso injalo ibiyenziwe nguye nawuphina umntu. Phantsi kwento ethi iBhodi iya kwazisa umceli lowo ngaloo mbandela okanye into imnike ithuba elifanelekileyo lokuyiphendula.

*Ukunikezelwa kwezi-
celo ezithile kuMpha-
thiswa.*

18. (1) USihlalo uya kuthi, ngokukhawuleza kangangoko emva kokuphethwa kwentlanganiso yonyaka okanye nayiphina intlanganiso yexeshana ebanjwe ngeenjongo zecandelo (10 (1) (b) (1), anikezele kuMphathiswa zonke izicelo zelayisenisi entsha okanye ukutshintshwa kwelayisenisi esiqwalasela kuloo ntlanganiso kunye nezihlomelo ezifanelekileyo, ingxelo neengcebiso zeBhodi nekopi yoku-bhaliweyo ngeenkqubo zeBhodi ngokunxulumene neso sicelo.

*Ukuqwalasela ngoku-
tsha kwenkqubo ye-
Bhodi.*

19. (1) Ngokulawulwa zizibonelelo zecandelwana (2) nayiphina inkqubo yeBhodi inokuthi ngesicelo sakhe nawuphina umceli okanye umchasi iqwalaseliwe ngokutsha yiNkundla ePhakamileyo ye-Ciskei.
- (2) Ukuba kuyavela kulo nkundla ukuba, kuloo nkqubo kuthethwa ngayo, iBhodi igqithisile kumandla ayo okanye ayiphumelelanga okanye yalile ukusebenzisa nawuphina amagunya okanye ingqiqo, ngokwemigaqo yalo Mthetho, ebifanelekile ukuba iwasebenzise okanye iwasebenzise amandla ayo ngendlela engamiselwanga emela fide okande engafanelekanga, inkundla inokuyibeka ecaleni loo nkqubo yenze loo myalelo ngokunokwayo okhangeleka ufanelekile, kubandakanywa nomyalelo wokuba intlanganiso yeBhodi ibanjwe ukuze kuphinde kuchotshelwe okanye kuphinde kuqwalaseliwe loo mbandela. Phantsi kwento ethi akukho nkqubo yeBhodi iya kubekwa ecaleni ngesizathu kuphela sesiphene kwinkqubo emiyo okanye kubugoci-goci bomcimbi esithe ngokoluvo lwenkundla, asakhokelela kukudlelwa indlela okugqithisileyo kumceli.

*Isibheni kwiNkundla
ePhakamileyo ngesi-
gqibo seBhodi.*

20. (1) Isibheni siyakwandlwa kwiNkundla ePhakamileyo ngokundululwa ngumceli okanye umchasi ngokubhekiselele kuwo nawuphina umbandela womthetho ogqitywe yiBhodi ngokubhekiselele okanye ngokunxulumene nesicelo sakhe okanye inkcaso, njengoko imeko inokuba njalo.

- (2) Umthetho onxulumene nezibheni kwimicimbi yembambano kwinkundla kamantyi iya kubhekiselela *mutatis mutandis* kuso nasiphina isibheni phantsi kwecandelwana (1).
- (3) Ngaphandle kwangale ndlela kubonelelwe ngayo kweli candelo akuyi kubakho sibheni kwiNkundla ephakamileyo ngaso nasiphina isigqibo seBhodi.

Amanyathelo ngokusemthethweni ngokuchasene neBhodi.

21. (1) Kuwo nawaphina amanyathelo ngokusemthethweni athatyathwe ngokuchasene neBhodi, unikezelo lwawo nawaphina amaxwebhu etyala kuMlawuli-Jikelele luya kuthatyathwa ngokuba lunikezelo lwamaxwebhu etyala olwaneleyo kwiBhodi.
- (2) Ngaphandle kwalapho iNkundla ePhakamileyo iya kube igunyazise ngokukodwa ngokuchasene noko, ixesha eliya kuvunyelwa lokwazisa inyathelo ejonge kulo ngesamani ekhutshwe kuwo nawaphina amanyathelo ngokusemthethweni ekubhekiselelwe kuwo kwicandelwana (1) aliyi kuba ngaphantsi kwenyanga enye emva kokuhanjiswa kwalo samani nakwizicelo ngendlela yesindululo okanye isibongozo ixesha eliya kuvunyelwa ukuphula-phula isicelo okanye ukuphendulwa kwe-*rule nisi* aliyi kuba ngaphantsi kweentsuku ezingamashumi amabini anesibhozo emva kokunikezelwa kwesaziso sesindululo okanye *irule nisi*, njengoko imeko inokuba njalo.

ISIAHLUKO 4

IZICELO ZEELAYISENISI NEENKCASO KOKO

(a) Ilayisenisi ezintsha nokususwa kweelayisenisi ezikhoyo.

22. (1) Nasiphina isicelo sokunikwa ilayisenisi entsha (ngaphandle kwelayisenisi yotywala yexeshana okanye ilayisenisi yeeyure zangokuhlwa) siyakuthi –
 - (a) senziwe kuMphathiswa ngeBhodi; kwaye;
 - (b) ngokulawulwa ngamalungiselelo ecandelo 26, senziwe kumantyi ngosuku okanye phambi kosuku lokuqala kuSeptemba kuwo nawuphina unyaka kwimeko yesicelo selayisenisi yaminyaka le nangosuku okanye phambi kosuku lokuqala kuMatshi kuwo nawuphina unyaka kwimeko yesicelo selayisenisi yesiqingatha sonyaka.
- (2) Wonke umceli welayisenisi entsha uya kuthi, kungekho ngaphantsi kweentsuku ezilishumi elinesine phambi komhla enze ngawo isicelo sakhe, azise injongo yakhe yokucela ngesaziso ngokuzelelo kwifomu emiselweyo –
 - (a) *kwiGazethi*, ngeelwimi zasemthethweni;
 - (b) nakwiphepha-ndaba elijikeleza esithilini elikulwini elibhalwe ngalo elo phepha-ndaba.
- (3) Kuya kuhlulwa kumamkeli wengeniso ngokubhekiselele kwisicelo ngasinye esenziwe phantsi kweli candelo, umrhumo wesicelo (ukuba ukhona) okhankanyiweyo kumcimbi ofanelekileyo wesahluko 3 seShedyuli 1.
- (4) Akukho sixa-mali simele ukuhlawulwa ngokwemigaqo yecandelwana (3), okanye nayiphina inxenye yoko, siyakuthi nangasiphina isizathu sibuyiselwe kumceli.

Isicelo sokuhlaziywa kwelayisenisi.

23. Nasiphina isicelo sokuhlaziywa kwelayisenisi (ngaphandle kwelayisenisi yexeshana yotywala okanye ilayisenisi yangokuhlwa) siya kuthi –
 - (a) senziwe kanye ngokwendlela emiselweyo; yaye
 - (b) senziwe kuMlawuli-Jikelele ngomhla okanye phambi komhla wokuqala kuSeptemba wawo nawuphina unyaka.
24. Zonke izicelo eziphantsi kwecandelo 22 ziya kuthi –
 - (a) zenziwe kanye ngokwendlela emiselweyo;
 - (b) zikhatshwe ngamaxwebhu amiselweyo neenkukacha ezibandakanya, kwimeko yaso nasiphina isicelo selayisenisi yombutho, ikopi yemigaqo yombutho engqinwe nguSihlalo wawo yaye
 - (c) zithi kwakhona zikhatshwe sisiboniso sokuhlulwa komrhumo wesicelo omiswe licandelo 22 (3).

Ukuhlolwa neSichaso (ukuba sikhona) sesicelo.

25. (1) UMantyi lowo kwenziwe kuye isicelo phantsi kwecandelo 22 uya kuthi ngaphandle kokulibazisa –
 - (a) abeke endaweni esemboniselweni kwiofisi yakhe isaziso esenziwe ngendlela emiselweyo ebiza *wonke ubani* onomdla afake kuye ngokubhaliweyo ngendlela emiselweyo, ngentsuku ezili-14 emva kosuku lwesaziso esinjalo, naluphina uchaso umntu onjalo anokuba nalo kwisicelo esinjalo; aze
 - (b) athumele ikopi yesicelo –
 - (i) kuLawulo lwamaPolisa ngeenjongo zokufumana ingxelo ngaso phantsi kwecandelo 99;
 - (ii) ukuba isicelo sesokunikezelwa kwelayisenisi yehotele, ilayisenisi yotywala yerestorenti

okanye ilayisenisi yewayini notywala bemolthi kwiziphatha-mandla zoKhenketho ukuze kwenziwe ingxelo yoko phantsi kwecandelo 100 nakulo

(iii) iqumrhu elilawulayo kwindawo leyo ekwakhiwe okanye ekuza kwakhiwa kuyo iintende-
lezo ezo ngokuphathelele kwisicelo eso senziweyo yaye uya kuthi kwangoko azise iqum-
rhu elinjalo ukuba lingathi kwiintsuku ezingamashumi amathathu lithumele kuye naluphi-
na uchaso ngokubhaliweyo olubhekiselele kweso sicelo, okanye ingxelo, ngesicelo.

- (2) Ngesithuba esingangentsuku ezilishumi elinesine emva komhla wokwenziwa kwaso nasiphina isicelo esiphantsi kwecandelo 22 nomantyi, wonke umntu uya kuba nalo ilungelo, ngesicelo, yaye simahla lokusihlola isicelo esinjalo.
- (3) UMantyi uya kuthi ngokubhaliweyo azise umceli ngalo naluphina uchaso nengxelo eyenziwe kuye ngokwemigaqo yecandelwana (1), uyakuvumela umceli enze ikopi yalo yaye amnike ithuba lokuphendula ngokwendlela emiselweyo kwiintsuku ezisixhenxe emva kosuku abethe waziswa njalo ngalo.

Isicelo selayisenisi yexeshana okanye ilayisenisi yeeyure zasebusuku.

27. Nasiphina isicelo selayisenisi yexeshana okanye selayisenisi yangokuhlwa, siyakwenziwa kwaMantyi ngendlela emiselweyo.

(b) Ilayisenisi yokutshintshelwa okanye yokususwa.

Isicelo selayisenisi yokutshintshelwa okanye yokususwa.

28. (1) Nawuphina umnini-layisenisi ofuna ngalo naliphina ixesha –
 - (a) ukutshintshela ilayisenisi yakhe komnye umntu, uyakwenzela isicelo soko kuMlawuli nge-Bhodi;
 - (b) ukususa ilayisenisi yakhe, kwiintendeleso ezilayisenisiweyo eyisa kuzo naziphina iintendeleso kwakuloo mmandla, nokuba kukokwexeshana okanye okusigxina uya kwenza isicelo soko kwiBhodi.
- (2) Nasiphina isicelo esiphantsi kwecandelwana (1) siya kwenziwa kumantyi yaye amalungiselelo ala macandelwana 22 (2) ne-24 (a), (b) no (c) ayakusebenza *mutatis mutandis* ngokuphathelele kwisicelo esinjalo. Phantsi kwento ethi, kwimeko yesicelo esiphantsi kwecandelwana (1) (a) umceli (ngaphandle komtyunjwa) uya kuthi naye anike isaziso sesicelo ngokubhaliweyo kuye wonke ubani onenxaxheba yezemali kwilayisenisi yaye uya kunika ubungqina bokuba ukwenzile oko kumantyi.
- (3) (a) Nakubeni kungakho amalungiselelo amacandelo 1 ne 2, ukuba umanejala, unobhala okanye isitywathi esiyintloko wawo nawuphina umbutho olayisenisi yombutho iphume negama lakhe, okanye ukuba umtyunjwa wombutho wabantu okanye wequmrhu lenkqubela ongumnini-layisenisi, othe ngezizathu ezithile wayeka ukubamba isihlalo esinjalo, uSihlalo okanye igosa eliyintloko lombutho onjalo okanye umbutho onjalo okanye wequmrhu lenkqubela ngokwemeko leyo, uya kuthi anike isaziso ngokubhaliweyo kumantyi, ulawulo lwamaPolisa yaye kwimeko yombutho wabantu okanye wequmrhu lenkqubela kwisiphatha-mandla soKhenketho segama lomntu okanye umtyunjwa owalathelweyo, nokuba ngowexeshana okanye ngowesigxina kweso sithuba, yaye uyakwenza isaziso esinjalo esiya kusayinwa ngumntu okanye umtyunjwa onjalo;
- (b) Ukuba umntu okanye umtyunjwa lowo walathelweyo akawahluthwanga amalungelo okuba ngumnini-layisenisi phantsi kwalo Mthetho, uMantyi uya kufakela ingcombolo kwilayisenisi yakuqala aze enze ukuba kufakelwe ingcombolo kwikopi yelayisenisi ebanjwe ligosa elizikhuphayo igama laloo mntu loo mtyunjwa njengomnini-layisenisi yaye loo mntu okanye loo mtyunjwa uya kuthi ke ngoko abe nawo onke amalungelo yaye alawulwe zizo zonke iimfanelo, imbophelelo, nezohlwayo zomnini-layisenisi.
- (4) Akukho mrumo wakutshintshwa uya kuthi uhlawulwe ngokuphathelele kufakelo-ngcombolo lwayo nayiphina ilayisenisi phantsi kwecandelwana (3).

(c) NGOKUBANZI

Ukuthunyelwa kwesicelo kwiBhodi.

29. UMantyi uya kuthi, kungekho ngaphambili kweentsuku ezingamashumi amathathu emva kokuba nasiphina isicelo esiza kuqwalaselwa yiBhodi sithe senziwa kuye, phantsi kwawo nawuphina amalungiselelo esi sahluko athumele eso sicelo sinjalo kuMlawuli-Jikelele, kunye nazo zonke izihlomelo ezichaphazelekayo.

Ulwaphulo-Mthetho phantsi kwesi sahluko.

30. Uya kuba netyala lokwaphula umthetho nawuphina umntu othe ngaso nasiphina isicelo okanye ngokuphathelele kuso nasiphina isicelo –
 - (a) angenise nayiphina ingxelo, ayaziyo ukuba ibubuxoki, okanye angayaziyo okanye angayikholelwayo ukuba iyinyaniso; okanye

- (b) angenise naluphina uxwebhu olubuxoki, okanye olubanga ukuba luyikopi eyiyo yoxwebhu lokuqala kodwa lube ngenyani lungeyiyo; okanye
- (c) okanye ngayo nayiphina indlela athabathe inxaxheba ekungeniseni nayiphina ingxelo ebuxoki, okanye uxwebhu olububuxoki.

ISAPHLUKO 5

UMFUNO KWABAFUNA ILAYISENISI

(a) Ngokuphathelele kubaceli nohlobo lwamashishini abo okanye ezinye iintshukumo.

Abantu abangaba neelayisenisi.

31. Ngokulawulwa ngamalungiselelo alo Mthetho isiphatha-mandla esilayisenisayo singathi sinikezele ilayisenisi okanye sigunyazise ugqithiselo lwelayisenisi egameni lakhe nawuphina umntu, (kubandakanywa umtyunjwa, okufaneleyo ngazo zonke iindlela ukuba nelayisenisi.

Abantu abayekisiweyo ukuba neelayisenisi.

32. (1) Akukho layisenisi iya kunikezelwa, iya kutshintshwa okanye iya kukhutshelwa -
- (a) nawuphina umntu, kubandakanywa umtyunjwa -
 - (i) ongenasimo nasimilo sihle.
 - (ii) ongaphantsi kwamashumi amabini ananye eminyaka; okanye
 - (iii) ontengiso okanye ukubonelelwa ngotywala kwaliweyo ngokuphatheleleyo ngokuphathelele kuye ubuqu; okanye
 - (iv) ongalali eCiskei; okanye
 - (v) otshonileyo ongabuyiselwanga emagunyeni; okanye
 - (vi) owaziswe phantsi kwecandelo 129 (2) ukuba uyekisiwe ukuba abe nelayisenisi, ngelo xesha ahluthwe elo lungelo; okanye
 - (vii) Othe wafunyaniswa enobutyala ngolwaphulo mthetho waza wagwetyelwa ukuvallelwa entolongweni, nongathanga anikwe ithuba lokuthetha phakathi kwefayini neso sigwebo kuthethwa ngaso (lunga-ukwe naluphina unqunyanyiso okanye ulwaphulo lwaso nasiphina isiqephu seso sigwebo, esingaphelelwanga ubuncinane iminyaka emihlanu phambi komhla wesicelo sakhe; okanye
 - (viii) Othe wafunyanwa enetyala lolwaphulo-mthetho phantsi kwawo nawuphina umthetho wokuthengisa okanye wokunikisa ngotywala, waza wathi ingaphelanga iminyaka emihlanu yobo butyala bungaphambili waphinda wafunyaniswa enetyala lolwaphulo-mthetho olukwafanayo nolokuqala; okanye
 - (ix) Othi nangona enalo ilungelo lokuba nelayisenisi, abe engumfazi womntu owahluthwa ilungelo lokuba nelayisenisi phantsi komhlathana (v), (vi), (vii) okanye (viii) ngaphandle kokuba uhlala bona fide ngaphandle komnyeni wakhe; okanye
 - (b) nawuphina umntu osicelo siphathelele kwiintendeze ezizezelo okanye eziqeshwe lilo nali-phina ilungu lamaPolisa okanye nawuphina ummeli okanye umqeshwa wegunya labaKhenkethi okanye nawuphina kwaba baxelwa ngasentla babe nayo nayiphina inxaxheba kuzo, okanye
 - (c) naku liphina iqumrhu elilawulayo; okanye
 - (d) nakuwuphina umbutho wabantu okanye umbutho wophuhliso: Phantsi kwento ethi akukho nto iqulathwe kulo mhlathi iya kuthi ithintele unikezelo okanye ukukhutshwa kwayo nayiphina ilayisenisi kumtyunjwa wombutho wabantu okanye umbutho wophuhliso.
- (2) Akukho layisenisi iya kuthi ikhutshelwe, okanye itshintshelwe kuye nawuphina umntu obambe nasiphina isikhundla sengeniso kwinkonzo karhulumente ngaphandle, yaye de umntu onjalo anikezele kuMlawuli-Jikelele ubungqina obubhaliweyo bokuba akasibambanga isikhundla esinjalo, yaye ukuba loo mntu, uthi emva koko amkele isikhundla sengeniso kwinkonzo karhulumente, uya kuthi ngaloo mhla aqalisa ngawo ukusebenza kweso sikhundla, athatyathwe ngokungathi, ngokweenjongo zecandelwana (4) lalo Mthetho, ungumntu owahluthiweyo amalungelo okuba nelayisenisi enjalo, ngokwemigaqo yalo Mthetho
- (3) Ngokweenjongo zecandelwana (1) -
- (a) umbutho wophuhliso, yaye ingakhethwe indawo ahlala kuyo, umtyunjwa wombutho wophuhliso okanye nawuphina umntu ogunyaziswe licandelo okanye phantsi kwecandelo 54 ukuba aqhube okwexeshana naluphina ushishino oluqhutywa phantsi kwelayisenisi, uya kuthatyathwa ngokungathi uhlala eCiskei; yaye
 - (b) isigwebo okanye ubutyala ekujongwe kubo kumhlathi (a) (vii) okanye (viii) abuyi kubandakanya isigwebo okanye ukufunyanwa unetyala okuthe kwachithwa ekufakweni kwesibheni okanye ekuqwalaseleni ngokutsha okanye ekuthe ngokuphathelele kuko kwanikezelwa uxolelo.

- (4) Ukukhutshwa okanye ukutshintshelwa kwelayisenisi kuye nawuphina umntu owalelweyo ukuba abe nelayisenisi ngokwemigaqo yalo Mthetho kuya kwenza ukuba loo layisenisi iphelelwe ngamandla okusebenza zize ezo ntendezezo ilayisenisi leyo ibikhutshelwe zona okanye ibitshintshelwe zona kuloo mntu (oya kuthatyathwa ngokungathi akalayiseniswanga), zingathi zivalwe ekuthengiseni utywala ngomyalelo kaMantyi.

*limfanelo zabafuna
ilayisenisi yombutho.*

33. Isiphatha-mandla esilayisenisiweyo asiyi kuthi sinikezele okanye sigunyazise ukutshintshwa kwelayisenisi yombutho -
- (a) kumntu okanye egameni lomntu ongenguye umanjala, unobhala okanye isitywathi esiyintloko sombutho;
 - (b) ngaphandle kokuba sanelisekile, emva kokuba siqwalasele isicelo nengxelo yoLawulo lwamaPolisa ukuba -
 - (i) loo mbutho ngumbutho *obona fide* onamalungu angekho ngaphantsi kwamashumi amathathu anesihlanu;
 - (ii) loo mbutho ubukho isithuba esingekho ngaphantsi kweenyanga ezilishumi elinambini;
 - (iii) loo mbutho ulawulwa yikomiti yamalungu ayo;
 - (iv) loo komiti ibamba iintlanganiselo rhoqo ekuthi kugcinwe imizuzu eyiyo yazo;
 - (v) kuphela ngamalungu ombutho (kubandakanywa amalungu ekukho uthungelwano *bona fide* phakathi kwawo nombutho) avunyelweyo ukuba ahlawulele indawo yokuhlala okanye izihla ziyi ezinikezelwa kwiintendezezo zombutho lowo;
 - (vi) akukho lungu liqhelekileyo lombutho linokunyulwa njalo isithuba esingaphantsi kweentsuku ezilishumi elinesine emva kokutyunjwa ngaphandle kokuba igama lalo lithe laxhonywa kwiintendezezo zombutho isithuba esibuncinane bungangeentsuku ezisixhenxe;
 - (vii) unyulo lwalo naliphina ilungu elitsha lombutho lwenziwa yikomiti okanye ngawo onke amalungu ombutho;
 - (viii) akukho mntu uhlala kumgama ongangekhilomitha ezilishumi elinesihlanu kwiintendezezo zombutho uya kuthi akufanele ukunyulwa njengelungu lombutho lembeko okanye lexeshana ngaphandle kokuba, ngokungqamene nemigaqo yombutho okanye ngokwezigqibo zekomiti umntu onjalo uxhamla amalungelo awodwa obulungu ngesizathu sokuba ubambe isikhundla sobugosa kwezikawonke-wonke, ungumqatswa wobulungu bombutho *obona fide*, okanye uthabatha inxaxheba kulo naluphina uqatso okanye ukhuphiswano kuloo mbutho;
 - (ix) kube kugcinwe irejista eyiyo yamalungu neekhawunti;
 - (x) umrhumo kumalungu nje ubuncinane ziirandi ezintlanu ngonyaka;
 - (xi) ukuba, ngaphandle kwaxa kuphantsi kwemvumelwano ebhaliweyo evunywe sisiphathamandla esilayisenisayo, akukho ngeniso evela kwintengiso yotywala eyenziwe ngumbutho iya kuthi yongezeleleke kuye nawuphina umntu okanye iqela labantu abangengabombutho yaye;
 - (xii) ilungu elimrhumo uhlala ungahlawulwanga ithuba elingaphezu kweenyanga ezintathu, aliya kuba nabango kumalungelo awodwa obulungu. Phantsi kwento ethi imithetho yombutho ingathi ilihluthi amalungelo okuvota naliphina ilungu elithe ngalo naliphina ixesha lisilele ngayo nayiphina intlawulo elunge nombutho.

*limfanelo zokufumana
ilayisenisi yehotele.*

34. Ilayisenisi yehotele iya kunikezelwa okanye iya kugunyaziswa sisiphathamandla esilayisenisayo kuphela ukuba sanelisekile ukuba umceli uqhuba okanye uceba ukuqhuba kwiintendezezo ezo ihotele *bona fide*.

*limfanelo zokufumana
ilayisenisi yenkanti.*

35. Ilayisenisi yenkanti iya kunikezelwa okanye iya kugunyaziswa sisiphathamandla esilayisenisayo ukuba sanelisekile ukuba umceli uthi rhoqo ebonelele okanye uya kuthi rhoqo abonelele, kwezo ntendezezo zilayisenisiweyo, izidlo, ekuya kufuneka ukuba zenzelwe intlawulo engamashumi amahlanu eesenti ubuncinane.

*limfanelo zokufumana
ilayisenisi yotywala
yerestorenti.*

36. Ilayisenisi yotywala yerestorenti iya kuthi inikezelwe okanye igunyaziswe sisiphathamandla esilayisenisayo kuphela ukuba sanelisekile ukuba umceli unerestorenti okanye uceba ukuba nerestorenti *bona fide* kwezo ntendezezo ekuya kuthi kuyo kubonelelwe rhoqo nangenene izidlo ezimgangatho ulungelelene neemfuno zoluntu ngokubanzi kunye nabakhenkethi.

*limfanelo zokufumana
ilayisenisi yewayini
yesidlo notywala be-
molithi.*

37. Ilayisenisi yewayini yesidlo notywala bemolithi iya kuthi inikezelwe okanye igunyaziswe sisiphathamandla esilayisenisayo kuphela ukuba sanelisekile ukuba umceli uneziko lendawo yokuhlala okanye uceba ukuba neziko lendawo yokuhlala okanye ikhefi *ebona fide* kwezo ntendezezo ekuya kuthi kuyo rhoqo nangenene kubonelelwe ngezidlo.

*limfanelo zokufumana
ilayisenisi yethaveni.*

38. Ilayisenisi yethaveni iya kunikezelwa okanye igunyaziswe sisiphathamandla esilayisenisayo kuphela ukuba sanelisekile ukuba umceli unendlu yoluntu okanye uceba ukuba nendlu yoluntu, ebiya kuthi ukuba bekungengasizathu sogunyaziso okuthethwe ngalo ngasentla, ibe yishibhini.

*limfanelo zelayisenisi
yotywala yexeshana.*

39. Ilayisenisi yotywala yexeshana iya kunikezelwa kuphela -
(a) kumnini-layisenisi yenkanti, eyehotele, eyotywala yerestorenti okanye eyombutho, okanye
(b) kunobhala womboniso nje okanye umboniso wolimo *obona fide*, okanye
(c) kunobhala, umanjala, okanye isitywathi esiyintloko sendibano yogqatso okanye indibano yemi-
dlalo okanye isiganeko esiyeleleyo *esibona fide*, yaye
ngokweenjongo zenkanti enye nangaphezulu, njengoko zichaziwe kwilayisenisi, eziya kuthi ziqhutywe ngaphakathi okanye ngaphakathi kumhlaba wawo nawuphina umboniso, umboniso wezolimo okanye enye indawo, esetyenziswa luluntu, yolonwabo okanye yokuyolisa.

*limfanelo zokufumana
ilayisenisi yasebusuku.*

40. Ilayisenisi yasebusuku iya kunikezelwa kuphela -
(a) kumnini-layisenisi yenkanti, yehotele, yombutho okanye yotywala yerestorenti, yaye kuphela ngokuphathelele kwezo ntendezezo anelayisenisi yazo, okanye
(b) kumnini welayisenisi yotywala yexeshana yaye
(c) ukuba umantyi wanelisekile ukuba, ngelo lixa ifunelwa lona ilayisenisi, kuya kuqhutywa itheko lokuzonwabisa eli *bona fide*.

(b) Ngokuphathelele kwiintendezezo.

*Ukufaneleka kweente-
ntendezezo ngokubanzi.*

41. Phambi kokuba sivunywe nasiphina isicelo sokunikezela, sokutshintshela komnye umntu okanye kwe-
layisenisi, isiphathamandla esilayisenisayo siya kuzanelisa ngokokuba ezo ntendezezo ekwenziwe isicelo ngokuphathelele kuzo okanye ekufuduselwa kuzo ilayisenisi: -
(a) zinakho na, okanye emveni kokuba zigqityiwe ukwakhiwa ziya kuba nakho na ukunika indawo yokuhlala yazo zonke iinjongo ezinokuthi zisetyenziselwe zona ngokusemthethweni ngokwemi-
gaqo yelayisenisi nokuba zilunge nganxa zonke ngokwempilo yoluntu okanye ukhuseleko loluntu.
(b) azenziwanga, okanye aziyi kwenziwa ngendlela eyothi ixakanise okanye yonakalise nawuphina umntu ohlala okanye oqhuba naliphina ishishini elilelinye, urhwebo, okanye umsebenzi ofunde-
lweyo kuloo mmandla uchaphazelekayo, okanye eyothi ichaphazele ngokonakalisayo, nayiphina indawo yonqulo okanye naliphina iziko lemfundo loluntu okanye ubuncwane kummandla wazo, kubandakanywa nasiphina isikolo okanye indlu yabafundi okanye iziko eliyeleleyo.

*limfuneko ezizezinye
ngokuphathelele kwii-
ntendezezo ezithile.*

42. Akusayi kubakho sicelo sokunikezela, sokutshintshwa okanye sokufudusa ilayisenisi siya kuthi sivu-
nywe ngaphandle kokuba isiphathamandla esilayisenisayo saneliseke ngaphezulu -
(a) ukuba loo layisenisi yilayisenisi yehotele -
(i) ukuba ezo ntendezezo okanye ezo ntendezezo zicetywayo zinikezela okanye ziya kuthi zinike-
zele indawo yokuhlala eyaneleyo, kwiindwendwe nabo nabaphi abaqeshwa abazikhaphayo,
ekumgangatho olungelelene neemfuno zoluntu olukhenkethayo nezabakhenkethi, kubanda-
kanywa abakhenkethi bamanye amazwe;
(ii) ukuba izidlo neenkonzo ezikumgangatho oyeleleyo ziya kubonelelwa kwiintendezezo ezinjalo;
(iii) ukuba kukho izinto neendlela ezaneleyo zokugatya izifo, amagumbi okuhlambela athi abe-
khona okanye aya kuthi abekho kwezo ntendezezo;
(iv) ukuba amalungiselelo awenziweyo okanye aya kuthi enziwe okugcinwa nokulungiswa kwezi-
tyo athi okanye aya kuthi abe ngafanelekileyo, nganxa zonke, ngokokwasempilweni yoluntu;
(v) ukuba ezo ntendezezo zithe okanye ziya kuthi zibonelelwe ngeendlela zokuphuma ezaneleyo,
ukwenzela abantu abaphakathi kuzo xa kunokuthi kuvele umlilo, nangexa lengxakeko enkulu
equphileyo;
(vi) ukuba amalungiselelo, afanelekileyo enziwe okanye aya kuthi enziwe okugcina emagumbini
okanye okubeka izithuthi ezizimoto ezizezabahambi;
(vii) ukuba ngokuphathelele kwilungelo elilodwa lokuthenga uhambe, ezo ntendezezo zithi zibone-
lele okanye ziya kuthi aibonelele ngegumbi okanye ngamagumbi abucala ekuya kuthi kuwo
utywala buthengiswe ngeebhotile: Phantsi kwento ethi ngemvume yesiphathamandla esilayi-
senisayo, umnini welungelo elilodwa lokuthenga uhambe. Okummandla wedolophu angathi,
endaweni yokubeka bucala igumbi okanye amagumbi anjalo kwiintendezezo zehotele enze
amalungiselelo endawo eyodwa phakathi kommandla wedolophu apho utywala buya kuthi-
buthengiswe ngeebhotile, ndawo leyo eyothi ngokweenjongo zalo mthetho ithatyathwe ngoku-
ngathi yinxenye yezo ntendezezo zilayisenisiweyo;
(viii) ukuba ezo ntendezezo ziyazithobela okanye xa zigqityiwe ziya kuthi zithobele naziphina
ezinye iimfuneko ezinokuthi zimiselwe.

- (b) ukuba loo layisenisi yilayisenisi yehotele eza kuthi igunyazise intengiso okanye unikezelo lotywala kumalungu oluntu ukuba buselelwe kwezo ntendelezo zilayisenisiweyo okanye yilayisenisi yenkanti;
 - (i) ukuba ezo ntendelezo zithi zibonelele okanye ziya kuthi zibonelele ngegumbi okanye ngamagumbi abucala aya kusetyenziswa njengenkanti yoluntu.
 - (ii) ukuba umnyango ekungenwa ngawo kwinkanti yoluntu enjalo uphumela ngqo ngaphandle;
 - (iii) ukuba igumbi okanye amagumbi ekubhekiselelwe kuwo kumhlathana (i) athi anike okanye aya kuthi anike indawo yokuhlala efanelekileyo, yaye zanefanishala okanye aya kuba nefanishala eyaneleyo ukwenzela ukuba abantu babe nakho ukuselela utywala apho behleli phantsi.
 - (iv) ukuba utywala buselelwa okanye buza kuthi buselelwe kuyo nayiphina indawo engaphandle kwamasango indawo enjalo ikhuswe okanye iya kukhuswa ngokwaneleyo kuso nasiphina isitalato okanye indledlana, yaye kukho okanye kuya kubakho ifanishala eyaneleyo kwindawo efana naleyo;
- (c) ukuba loo layisenisi yehotele enelungelo elilodwa lokuthenga uhambe okanye yilayisenisi yenkanti kwiintendelezo ekuqhutywa okanye ekuza kuqhutywa kuzo ishishini lenkanti, ukuba igumbi okanye amagumbi ekuselelwa okanye ekuya kuthi kuselelwe kuwo utywala kwezo ntendelezo athe okanye aya kuthi ahlulwe kulo naliphina igumbi elayamileyo ekuthengiselwa okanye ekuya kuthi kuthengiselwe kulo utywala ngebhotile, ngodonga okanye ngomkhusane ongqingqwa, engenamnyango okanye ithuba elilelinye;
- (d) ukuba ilayisenisi enjalo yilayisenisi yebhari ukuba, ezo ntendelezo ziya kuthi ngamaxesha onke zinike izinto ezenza kube lula kubantu abafumana izidlo apho.
- (e) ukuba ilayisenisi enjalo yeyewayini yexesha lesidlo notywala bemolthi leyo kuthe kwenzelwa yona isicelo ngumnini weziko leendawo yokuhlala, ukuba ezo ntendelezo ziya kuthi ngamaxesha zinike indawo efanelekileyo yokuhlala kubahambi; yaye
- (f) ukuba ilayisenisi enjalo yeyomsili wotywala besogamu, ukuba ezo ntendelezo ziintendelezo ekungathi kuzo umceli aqhube ishishini lokwenza okanye lokusila utywala besogamu.

ISIAHLUKO 6

UKUSINGATHWA KWEZICELO

Amagunya oMphathiswa okunikezela ilayisenisi entsha okanye okugunyazisa utshintshelo lwelayisenisi komnye umntu.

- 43. (1) UMphathiswa angathi ngokwengqiqo yakhe, ngokulawulwa ngamaliungiselelo alo Mthetho, nayiyo nayiphina imida ewiswe nguMongameli ngokwemigaqo yecandelo 50, nasemva kokuba athe wawalasela isicelo selayisenisi entsha (esingesiso eselayisenisi yotywala yexeshana okanye ilayisenisi yasebusuku) okanye esokutshintshela komnye umntu ilayisenisi kunye nayo yonke ingcaciso ekubhekiselelwe kuyo kwicandelo 18, nangokuthi kuthathelwe ingqalelo ngokwemeko leyo,
 - (a) inani lelayisenisi, ukuba zikho, esezikho kakade kweso sithili okanye kuloo mmandla uchaphazelekayo,
 - (b) inani labantu nendlela abahleli ngayo, ababonelelwa zizo naziphina ilayisenisi esezikho kakade, nabaya kuthi babonelelwe yiloo layisenisi intsha isacetywayo,
 - (c) ukuma kwazo naziphina iintendelezo lezo ezikhoyo ezilayisenisiweyo ngokuphathelele kwezo zintsha zisacetywayo,
 - (d) ukunganqweneleki kwako nakuphina ukuthatyathwa kwamashishini ngumntu okanye iqela elinye ekuthengiseni utywala, kunye
 - (d) nemfuneko yokukhuthaza nokuphuhlisa ukhenketho asivume isicelo esinjalo: Phantsi kwento ethi uMphathiswa akayi kuthi avume nasiphina isicelo ngaphandle kokuba ibhodi ithe yacebisa njalo.
- (2) Isigqibo soMphathiswa ngaso nasiphina isicelo selayisenisi entsha, okanye sokutshintshelwa kwelayisenisi komnye umntu asiya kuphikiswa.

Izicelo eziya kuqwalasela yiBhodi.

- 44. Ngokulawulwa ngamalungiselelo alo Mthetho iBhodi iya kuthi, kwintlanganiselo efanelekileyo iqwalasele zonke izicelo egunyaziswe okanye ekufuneka ngokwalo Mthetho ukuba iziqwalasele, kubandakanywa nasiphina isicelo sokufuduselwa kwenye indawo kwelayisenisi.

Izicelo eziya kuqwalaselwa nguMantyi.

- 45. UMantyi angathi, ngokulawulwa ngamalungiselelo alo Mthetho, nasemva kokubonisana nommeli wolawulo lwamaPolisa kweso sithili okanye kuloo mmandla uchaphazelekayo, avume nasiphina isicelo esenziwe kuye, ngalo ndlela kobe kumiselwe ukuba senziwe ngayo sayo nayiphina ilayisenisi yotywala yexeshana okanye ilayisenisi yasebusuku.

Isiphathamandla esilayisenisayo singathi sibeke iziqhobosho sinike imiyalelo okanye senze imiqathango kumnini layisenisi.

46. Naninina xa kuvunywa isicelo selayisenisi, isiphathamandla esilayisenisayo singathi, ngokwengqiqo yaso siwise phezu komnini layisenisi ezo ziqhobosho, sinike loo myalelo, senze nalo miqathango sinokuthi siyibone ifanelekile: Phantsi kwento ethi akukho ziqhobosho ziwisiweyo, miyalelo inikiweyo, namiqathango yenzelwe umnini-layisenisi nguMongameli okanye nguMphathiswa, ngokwemeko leyo, ziya kuthi zihlonjwe okanye zihoxiswe yiBhodi ngaphandle kwemvume yakhe.

(2) Iziquhobosho ziwiswe, imiyalelo ayenziweyo, nemiqathango ayenzelwe umnini-layisenisi sisiphathamandla esilayisenisayo phantsi kwecandelwana (1) ziya kuthi zibandakanye -

(a) kwimeko yesicelo sokunikwa, sokufuduselwa kwenye indawo, okanye sokutshintshelwa komnye umntu kwelayisenisi yehotele, isiqhobosho ngokuphathelele kwiinyure anokuthi umnini-layisenisi athengise okanye anikezele utywala ngazo.

(b) kwimeko yesicelo sokunikwa okanye sokutshintshela komnye umntu ilayisenisi yotywala yehoyiseyile, isiqhobosho sokuba umnini-layisenisi akayi kuthengiselana ngqo noluntu; okanye

(c) kwimeko yaso nasiphina isicelo, nawuphina umyalelo, okanye imiqathango ngokuphathelele nokugququla, ucwangciso, okanye ukulungiswa kwezo ntendezezo.

(3) Isiphathamandla esilayisenisayo singathi siwise umyalelo wokuba umnini-layisenisi athobele nawuphina umyalelo okanye umgaqo owiswe ngokwemigaqo yeli candelo kwisithuba esinokuthi simiselwe okanye singathi siyalele ukuba ilayisenisi ingakhutshelwa umnini-layisenisi de abe uthe wathobela nawuphina umyalelo okanye umgaqo owisiweyo.

47. (1) Naninina ngokwemigaqo yalo Mthetho isiphathamandla esilayisenisayo -

(a) sivuma isicelo selayisenisi entsha okanye ukufuduswa kwelayisenisi ngokuphathelele kwiintendezezo ezisaza kwakhiwa, okanye ukuba sezakhiwe kakade, eziguna ukuguqulwa ukuze nza ukuba zilifanele elo shishini licetywayo, okanye

(b) sithi siyalele ukuba ilayisenisi ayiyi kuthi ikhutshelwe umnini-layisenisi de abe uthambele naziphina izikhokelo okanye imiqathango ewiswe phezu kwakhe sisiphathamandla esinjalo, isiphathamandla esilayisenisayo siya kukhuphela okanye senze ukuba kukhutshelwe umceli okanye umnini-layisenisi, ngokwemeko leyo, igunya elixhomekekileyo ngendlela emiselweyo elixela ukuba -

(i) yonke imiyalelo okanye imiqathango ewiswe phezu kwaloo mceli okanye loo mnini-layisenisi ngokuphathelele kwiintendezezo ezinjalo, kwakunye

(ii) nethuba ekuya kuthi ngalo kwakhiwe okanye kuguqulwe nasiphina isakhiwo okanye kuthotyelwe nawuphina umyalelo okanye umgaqo ngokwemeko leyo.

(2) Ukuba emva kokubonisana nolawulo lwamaPolisa nesiPhathamandla sabaKhenkethi, isiphathamandla esilayisenisayo sanelisekile ukuba, ngelo thuba limiselweyo, okanye ngethuba elingaphezu kwelo limiselweyo elinokuthi ligunyaziswe sisiphathamandla esilayisenisayo kweso sicelo somceli okanye esomnini layisenisi, ezo ntendezezo zithe zagqitywa nganxa zonke ngokungqamene nokwayilwayo zingcaciso, nokuba zifezekisa nayiphina imiqathango ewiswe phezu komceli ngokuphathelele kuzo, ngokwemeko leyo, umnini-layisenisi uthe wathobela imiyalelo okanye imiqathango ewiswe phezu kwakhe, isiphathamandla esilayisenisayo siya kukhuphela okanye siya kwenza ukuba sikhutshwe isiqinisekiso njengoko kujongwe njalo kwicandelo 4 (1) okanye (5) ngokwemeko leyo.

Isiphathamandla esilayisenisayo siya kuqingqa isiqephu sentendezezo ezilayisenisiweyo esibekelwe isiqhobosho nendawo yokugcina utywala.

48. (1) Isiphathamandla esilayisenisayo siya kuqingqa, xa sigunyazisa ukuvunywa okanye ukufuduswa -

(a) kwelayisenisi yebhari okanye ilayisenisi yehotele egunyazisa intengiso okanye ukuhanjiswa kotywala eluntwini ukuba buselelwe kwezo ntendezezo zilayisenisiweyo, isiqephu okanye isiqephu zezo ntendezezo zilayisenisiweyo (kungeyiyo nayiphi na indlu yokudlela) eya kuthi ithatyathwe ngokungathi ibandakanyiwe kweso siqephu okanye kwezo ziqephu zibekelwe iziqhobosho zeentendezezo ezinjalo;

(b) kwayo nayiphina ilayisenisi, indawo apho umnini-layisenisi, ngokulawulwa ngamalungiselelo ecandelo 71, aya kuthi agcine bonke utywala obufunyenwe nguye, nobungazi kuthengiswa kwangoko.

(2) Ekusebenziseni kwaso amagunya aso phantsi kwecandelwana (1) (a) isiphathamandla esilayisenisayo singathi sigunyazise ukuba kongezwe ibhari enye nangaphezulu kwezo ntendezezo zilayisenisiweyo zingazithobeliyo iimfuneko zecandelo 42 (b) (ii).

(3) Amalungiselelo ecandelwana (1) (a) ne (2) aya kuthi asebenze *mutatis mutandis* kwimeko yaso nasiphina isicelo esinxulumene nelayisenisi yebhari okanye ilayisenisi yehotele esingathwe yiBhodi ngokwemigaqo yecandelo 70.

lirekhodi zelayisenisi

49. (1) Umabhalana weBhodi uya kuthi, phantsi kokukhokelwa nokulawulwa nguMlawuli-Jikelele, nga-

*nokusingathwa kwezicelo
ukulungiselela ukuhlazi-
ziywa kwelayisenisi.*

phandle kwakwimeko yelayisenisi yasebusuku okanye ilayisenisi yexeshana, agcine irekhodi yazo zonke iintendezezo ezilayisenisiweyo eCiskei, ezibonisa *inter alia* -

- (a) linkcukacha ekufuneka ukuba zibhalwe phantsi kuloo layisenisi iphathelele kwiintendezezo ezinjalo ngokwemigaqo yecandelo 3 (1) lalo Mthetho nawo nawuphina umgaqo;
 - (b) linkcukacha zaso nasiphina isiqhobosho esiwiswe phezu komnini-layisenisi, ekuthi ngaso nawuphina amalungelo angawakhe arhoxiswe okanye aphuntshwe;
 - (c) linkcukacha eziphathelele ekugcinweni kwayo nayiphina ilayisenisi;
 - (d) nezinye iinkcukacha anokuthi uMlawuli-Jikelele azimisele amaxesha ngamaxesha.
- (2) Ngokukhawuleza okunokwenzeka, emva komhla wesihlanu kuNovemba wonyaka ngamnye okanye emva kokuqokunjelwa kwentlanganisano yonyaka, nokuba yeyiphina kwezo eza emva kwenye, uMlawuli-Jikelele, okanye ukuba uMlawuli-Jikelele uthe wayalela njalo umabhalana weBhodi, uya kuthi ngokweenjongo zamacandelo 3 nele 4, akhuphele umnini-layisenisi, othe ngokwemigaqo yecandelo 23 wenza isicelo sokuhlaziywa kwelayisenisi yakhe, nebingacinywanga isiqinisekiso ekubhekiselelwe kuso kwicandelo 4 (1).
- (3) Umnini-layisenisi othe akasifumana isatifikethi asikhutshelweyo phantsi kwecandelwana (2) akayi kuthi ngeso sizathu nje soko, akhululwe kwimfanelo yokuba ayihlaziye ngexesha ilayisenisi yakhe.

ISAHLUKO 7

UKUQHOTYOSHA KWEELAYISENISI NOKUVALWA OKWETHUTYANA KWEENTENDELEZO EZILAYISENISIWEYO

*Amandla oMongameli
okwenza imida okanye
okubekela iziqhobosho
imiyalelo okanye imi-
qathango ngokuphathe-
lele kwilayisenisi.*

50. (1) Nakubeni kungakho nayiphina enye into equlathwe ngulo Mthetho, uMongameli angathi ngalo naliphina ixesha ngesibhengezo kwiGazethi.
- (a) abeke imida mayela netotali yenani leelayisenisi okanye lwalo naluphina udidi oluthile lweelayisenisi ezingathi zinikezelwe sisiphathamandla esilayisenisayo ngokuphathelele kwiintendezezo ezikuyo nayiphina indawo exeliweyo eCiskei.
 - (b) amisele isiseko ekungathi ngaso kunikezelwe ilayisenisi entsha eCiskei, okanye, kuyo nayiphina indawo exeliweyo yayo, kunikezelwe ilayisenisi entsha sisiphathamandla esilayisenisayo.
 - (c) abeke iziqhobosho okanye imiqathango malunga nokuthengiswa okanye ukufunyaniswa kotywala okanye malunga nokungeniswa okanye ukwaziswa okokuqala kotywala kuwo nawuphina ummandla okhankanywe kwisibhengezo ithuba eliqingqiweyo ukuba, ngokokubona kwakhe, ezo ziqhobosho okanye loo miqathango ziyimfuneko kuluntu lommandla onjalo okanye nasiphina isiqephu sawo.
- yaye angathi ngendlela ekwanjalo ahlomele okanye arhoxise nasiphina isibhengezo esinjalo.
- (2) (a) Imiqathango okanye iimeko phantsi kwecandelwana (1) (c) zingaphathelela -
- (i) kubantu okanye kwiindidi zabantu ezingasayi kuthengiselwa utywala okanye naluphina uhlobo oluthile lotywala;
 - (ii) kubuninzi nohlobo lotywala obuya kuthengiswa;
 - (iii) kwizikhongozeli obuya kuthi utywala obuthengiswayo buqulathwe kuzo;
 - (iv) kwindawo yentengiso yokuselela;
 - (v) kwiintsuku utywala obuya kuthengiswa ngazo;
 - (vi) kwiiyure ngezo ntsuku ekuya kuthi kuthengiswe ngazo; okanye
 - (vii) kubuninzi okanye uhlobo lotywala obunokuthi bungeniswe okanye baziswe okokuqala kummandla ochaphazelekayo nguye nawuphina umntu ongenguye umnini-layisenisi.
- (b) Zonke ilayisenisi ezisebenzayo kuwo nawuphina ummandla ekuthe ngokuphathelele kuwo nasiphina isiqhobosho, okanye umqathango ekubhekiselelwe kuso kwimihlathana (i), (ii), (iii), (iv), (v) okanye (vi) yomhlathi (a) sawiswa, ziya kuthi, ngexa elimiselweyo kwisibhengezo esiwisa ezo ziqhobosho okanye loo mqathango zibanjwe ngokulawulwa zezo ziqhobosho okanye loo miqathango.
- (3) Nawuphina umntu othi aphule okanye ale ukuthobela nayiphina imiqathango okanye iimeko eziwiswe phantsi kwecandelwana (1) (c) uya kuba netyala lesono.

*Ukuvalwa kweentende-
lezo ezilayisenisiweyo
ngexa loqhushululu.*

51. (1) Naninina xa kuthe kwabakho okanye kwalindeleka ukuba kungakho, kuyo nayiphina indawo naluphina uqhushululu, intshukumo, umlo, okanye olunye uphazamiso uMantyi, okanye, xa engekho uMantyi onjalo igosa alilipolisa elisikhundla silinganayo okanye esingaphezulu seajudanti, okanye, ukuba loo ndawo imi kummandla wenkosi okanye isibonda, loo nkosi okanye eso sibonda angathi ayalele ukuba naziphina iintendezezo ezilayisenisiweyo phantsi kwalo Mthetho ezikuloo ndawo okanye ezikufutshane kuloo ndawo ukuba zivalwe ngelo xesha, ithuba elingadlulanga iiyure ezingamashumi amane anesibhozo ngexesha elibude buthile, elinokuthi liqingqwe nguloo mntu unika umyalelo onjalo.

- (2) Umnini-layisenisi okanye imanejala okanye i-arhente iya kuthi kwangoko ithobele umyalelo onjalo, yaye ukuba uthi angaphumeleli ukwenza njalo loo mntu unika loo myalelo angathi athabathe loo manyathelo angathi awabone efanelekile okuvalwa kwezo ntendelezo.
- (3) Ukuba phambi kokuphela kwelo xesha ebekuyalelwe ngalo ukuba iintendelezo ezilayisenisiweyo zivalwe, loo mntu unika umyalelo onjalo ubona ukuba isizathu sokuvalwa kwazo asisasebenzi angathi awurhoxise umyalelo onjalo.

ISAHLUKO 8

UKUQHUBA KWEXESHANA KWELAYISENISI OKANYE ISHISHINI ELILAYISENISIWEYO

Ukuqhuba kwexeshana kwelayisenisi apho isigqibo seBhodi sibambezelekileyo.

52. Naninina apho iBhodi ingenakho, ngomhla wamashumi amathathu ananye kuDisemba kuwo nawuphina unyaka, ukwenza isigqibo ngokumayela nokucinywa kwelayisenisi, loo layisenisi iya kuqhuba ukusebenza de ibe iBhodi ithe yada yenza isigqibo ngalo mcimbi: Phantsi kwento ethi umnini-layisenisi uya kuthi, ekuqaleni kwenyanga nganye ekuthi ngayo ilayisenisi enjalo iqhube ukusebenza, ahlawule kumamkeli weNgeniso isinye kwishumi elinambini lesi sixa-mali besiya kuhlalulwa ukwenzela ukuhlaziya ilayisenisi.

Ilungelo lokuthengisa utywala ekuyekeni okanye ekucinyweni kwelayisenisi.

53. (1) Naninina, ngokwemigaqo yalo Mthetho okanye yawo nawuphina uMthetho apho inkundla efanelekileyo ithi ibhengeze ukuba ilayisenisi ihayelelwe okanye naninina apho iBhodi ithi icime ilayisenisi, loo layisenisi iya kuthi kwangoko iyeke ukusebenza: Phantsi kwento ethi ngeso sithuba sinokuthi siqingqwe yiNkundla okanye yiBhodi xa ethe wenza isicelo, loo mntu ubefudula engumnini-layisenisi angathi athengise ngendlela yentengiso kuwonke-wonke kwezo ntendelezo ebekugcinwe ilayisenisi ngokuphathelele kuzo ngokusebenzisana nomthetheli-ntengiso olayisenisiweyo, nangobuninzi obungekho ngaphantsi kweelitha ezisithoba, nabuphina utywala, obabukwezo ntendelezo ngomhla wesibhengezo okanye wokucinywa kwaloo layisenisi.
- (2) Ukuba nasiphina isaziso sokuhayelelwa okanye sokucinywa kwelayisenisi sithe sajikwa yiNkundla ePhakamileyo ekubeni ithe yasiqwalasela ngokutsha okanye xa kuthe kwenziwa isibheni, loo layisenisi ichaphazelekayo iya kuthi ipso facto kwakhona isebenze ngokuzelelo nangokupheleleyo.
- (3) Akukho nxalenye yesixa-mali esihlawulwe okanye esidipozithwe ngokuphathelele kuyo nayiphina ilayisenisi ehayelelweyo okanye ecinyiweyo phantsi kwalo Mthetho, okanye nawuphina omnye umthetho, ethe ngaso nasiphina isizathu ayasebenza ngaso nasiphina isithuba, iya kuthi ibuyiselwe kumnini-layisenisi.

Ukuqhutywa okwexeshana koshishino kwiimeko ezithile.

54. (1) Ngokulawulwa ngamalungiselelo alo Mthetho okanye nawuphina omnye umthetho, ilayisenisi okanye naliphina elinye igunya lelayisenisi okanye elinxulumene nelayisenisi, iya kuthi isebenze ukwenzela ukunceda umphathi welifa okanye nawuphina umgcini wendawo, okanye umphatheli womnini layisenisi okanye umntu obe enikwe igunya elinjalo (kubandakanywa umqoqoshi zimpahla nemali walo naluphina ushishino oluqhutywa okanye oluza kuqhutywa phantsi kwelayisenisi) angathi ngaphandle kotshintshelo ngokomgaqo aqhube olo shishino ngokwakhe, okanye luqhutywe yiarhente ethile evunywe ngencwadi ebhaliweyo nguMlawuli-Jikelele, de loo layisenisi iphelelwe, yaye emva nokuphelelwa kwayo, ithuba elingaphezulu, elingadlulanga kwiinyanga ezilishumi elinambini ngexesha ngalinye, anokuthi uMlawuli-Jikelele ngokwengqiqo yakhe alimisele xa akhangela nasiphina isicelo sokuhlaziya ilayisenisi enjalo.
- (2) Naliphina igosa elithi lithimbe naziphina iintendelezo ezilayisenisiweyo ukuphumeza isigwebo okanye umyalelo wenkundla, lingathi, ngemvume yoMlawuli-Jikelele, nangokulawulwa zazo meko angathi azibekwe, linyule nawuphina umntu ukuba aqhube olo shishino ngexa ezo ntendelezo zisathinjiwe.
- (3) Kuyo nayiphina imeko, ekungenziwanga kuyo amalungiselelo awodwa kulo Mthetho, ngokuphathelele ekuqhubeni okwexeshana naluphina ushishino olulayisenisiweyo ngummeli womnini-layisenisi engekho, okanye obanjwe kuko nakuphina ubulwelwe bempilo, okanye welifa lomnini-layisenisi ongasekhoyo, okanye apho akhoyo amalungiselelo anjalo, kodwa abe loo mmeli akakabi nakho okwelo xesha ukwenza imisebenzi yakhe yomthetho, uMlawuli-Jikelele angathi ngokusebenzisa ingqiqo yakhe, agunyazise nawuphina umntu ukuba aqhube ushishino ngexesha eliseleyo lokusebenza kwelayisenisi okanye de abe ummeli unakho ukwenza imisebenzi yakhe nokuba leliphina ithuba elifutshane kunelinye: Phantsi kwento ethi akukho gunya linjalo liya kunikwa ngaphandle kokuba uMlawuli-Jikelele wanelisekile ukuba isaziso esifanelekileyo sale ngebisithe sanikezelwa kubo bonke abantu abanenxaxheba ngezemali kolo shishino: Phantsi kwento ethi

ngaphezulu kuya kufaneleka ukuba uMlawuli-Jikelele ukuba agunyazise ukughutywa kolo shishino okwelo thuba, lingekho ngaphezulu kweenyanga ezilishumi elinambini ngexesha ngalinye, ngalo ndlela anokuthi abone ngayo xa ekhangela nasiphina isicelo sokuhlaziywa kwelayisenisi.

- (4) Akukho nto iqulathwe kweli candelu, iya kuthi ithatyathwe ngokungathi idlelelela nawaphina amalungelo okanye amabango awo nawuphina umntu onenxaxheba ngokusemthethweni kolo shishino kuthethwa ngalo.

Amagunya neemfanelo zabameli babanini-zilayisenisi okanye abantu abagunyaziswe ukuba baqhuba ushishino okwexesha.

55. Nawuphina umntu okutshintshelwe kuya ilayisenisi okanye oqhuba ushishino olulayisenisiweyo phantsi kwamalungiselelo alo Mthetho, uya kuba namalungelo aze abe phantsi kweemfanelo, iimbophelelo, nezohlwayo, ebeya kuthi umnini-layisenisi alawulwe zizo.

ISAHLUKO 9

IMFANELO, IIMBOPHELELO NAMALUNGELO NOLWAPHULO-MTHETHO NGUMNINI-LAYISENISI

Abantu abangenaku-thengiselwa tywala ngumnini-layisenisi.

56. Ngokulawulwa ngamalungiselelo alo Mthetho akuyi kubakho mnini-layisenisi uya kuthi athengisele okanye anikezele okanye ahambise utywala kuye nawuphina umntu -
- (a) ongaphantsi kweshumi elinesibhozo leminyaka; okanye
 - (b) oese enxilile kakade; okanye
 - (c) othintelweyo ukuba angathengiselwa okanye anikwe utywala phantsi kwalo Mthetho okanye phantsi komnye umthetho.

Abantu abangenaku-qeshwa ngabanini-layisenisi mayela nokuthengiswa kotywala.

57. Akukho mnini-layisenisi uya kuthi aqeshe ekuthengiseni okanye mayela nokuthengiswa kotywala -
- (a) nawuphina umntu ongaphantsi kweminyaka elishumi elinesibhozo, okanye umntu othintelweyo ukuba athengiselwe okanye anikwe utywala phantsi kwalo Mthetho okanye nawuphina omnye uMthetho; okanye
 - (b) nawuphina umntu kulwazi lwakhe, othe kwiminyaka emihlanu edlulileyo wafunyaniswa enobutyala bokwaphula nawuphina umthetho onxulumene nokuthengiswa okanye ukunikezelwa kotywala, nothe ngenxa yoko wagwetyelwa intolongo ngaphandle kokuba awiselwe isigwebo esihamba nefayini ngenxa yoko, okanye ifayini engekho ngaphezulu kwamashumi amahlanu eerandi.

liMfanelo zomnini layisenisi ngokumayela nendawo ekuselelwa kuyo utywala.

58. (1) Akukho mnini-layisenisi uya kuvumela nawuphina umntu othenge utywala kuye ukuba abuselele kwezo ntendezele zilayisenisiweyo emke nobo tywala kwezo ntendezele zilayisenisiweyo.
- (2) Akukho mnini-layisenisi uya kuthi avumele okanye anyanzele nawuphina umntu ukuba aselele kwiintendezele ezilayisenisiweyo okanye kuzo naziphina iintendezele okanye indawo emelene okanye ekufuphi kwiintendezele ezilayisenisiweyo ezisetyenziswa okanye eziphantsi kolawulo lomnini-layisenisi, nabuphina utywala abuthengisele ukuba buselelwe ngaphandle kweentendezele ezilayisenisiweyo: Phantsi kwento ethi, akukho nto iqulathwe kweli candelwana iya kuthatyathwa njengokuba ithintela umnini-layisenisi yokuselela kwalapho ukuba avumele iloja kwezo ntendezele zakhe ukuba lisele kwigunjana elibucala elihlala kulo elo loja, utywala obuthengwe lelo loja kumnini-layisenisi ukuba libuselele ngaphandle kweentendezele ezilayisenisiweyo.

Iziqhubosho ezibekiweyo ngokumayela nobukho babantu abathile kwiintendezele ezilayisenisiweyo.

59. (1) Ngaphandle kokuya kuthi ga ngako o kugunyaziselwe phantsi kwalo mthetho, akukho mnini-layisenisi uya kuvumela okanye uya kunyazela ukuba kubekho -
- (a) kuloo ndawo ibekelwe iziqhubosho yeentendezele ezilayisenisiweyo okanye kuyo nayiphina indawo agcina kuyo utywala -
 - (i) ngalo naliphina ixesha; nawuphina umntu ongaphantsi kweshumi elinesibhozo leminyaka okanye othintelweyo ukuba athengiselwe okanye anikwe utywala phantsi kwalo Mthetho okanye nawuphina omnye uMthetho; okanye
 - (ii) ngezo yure apho utywala bungenakuthengiswa nguye kuloo ndawo ibekelwe iziqhubosho yeentendezele ezilayisenisiweyo, nawuphina umntu ngaphandle kwelungu lendlu yakhe okanye umqeshwa wakhe obona fide.
 - (2) Akukho mnini-layisenisi uya kuthi avumele ukuba kubekho kwiintendezele zakhe ezilayisenisiweyo (ngaphandle kwaxa esenza umsebenzi wakhe womthetho) naliphina ilungu lamapolisa ngexesha elimiselwe ukuba libe lisemsebenzini.

Imida ebekiweyo malungu noku thengiswa kotywala ngetyala ngumnini-layisenisi.

60. (1) Akukho mnini-layisenisi (ngaphandle komnini-layisenisi yombutho) uya kuthi athengise, anikezele, okanye ahambise utywala kuye nawuphina umntu, okanye avumele ukuselwa kotywala nguye nawuphina umntu, ngaphandle kokuba ngelo xesha ebuthengiswa ngalo, okanye ebunikezelwa ngalo, okanye ebuthengiswa ngalo buyahlawulelwa. Phantsi kwento ethi amalungiselelo alo Mthetho akayi kuthatyathwa ngokungathi aphulwe –
- (a) ngumnini-layisenisi yehotele, welayisenisi yewayini yexesha lesidlo, noweyotywala bemolthi, okanye yotywala yerestorenti, ukuba uthi anikezele ngotywala ukuba buselwe kunye nesidlo sesiqhelo kwiintendezezo ezilayisenisiweyo, ize ixabiso lotywala lihlawulwe kunye nelelo leso sidlo;
 - (b) ngumnini welayisenisi yebhari, yehotele okanye yotywala yerestorenti, ukuba uthi anikezele utywala, ukuba buselwe kwitheko elibanjelwe kwezo ntendezezo zilayisenisiweyo kubantu abakhoyo kulo; okanye
 - (c) ngumnini welayisenisi yehotele, ukuba uthi anikezele utywala ngobungakanani obungephi, ngomyalelo wakhe nawuphina umntu ohlala okanye oloje kwezo ntendezezo zilayisenisiweyo; okanye
 - (d) ngumnini welayisenisi yomsili wotywala besogamu okanye welayisenisi yotywala yehoseyile, ukuba unikezele utywala komnye umnini-layisenisi.
- (2) Ngaphandle kwakwiimeko ekujongwe kuzo kwimeko yoxhomekeko yecandelwana (1) akukho mnini-layisenisi uya kuthi afumane kwakhona nasiphina isixa semali okanye enye into okanye athathe nawaphina amanyathelo etyala ngenxa okanye ngesizathu sabo nabuphina utywala obuthengiswe nguye ngetyala kuye nawuphina umntu.
- (3) Emva kokuphela kwethuba leentsuku ezingamashumi asithoba ukususela kwimini ekwakunikezwe ngayo nabuphina utywala kuye nawuphina umntu, nguye nawuphina umnini-layisenisi ekubhekiselelwe kuye kumhlathi (b) okanye (c) wemeko yoxhomekeko yecandelwana (1), akukho manyathelo okanye nkqubo yasenkundleni iya kuthi ibe nakho ukuziswa nguye nawuphina umntu ngokumayela nokufunyanwa kwakhona kwayo nayiphina imali ekuthiwa iyatyalwa ngokuphathelele koko kunikezelwa, kwaye kananjalo ityala elinjalo ekuthiwa likho, lingasayi kucingwa ngenye into okanye libe lelobizo-mbuyekezo nguye nawuphina umntu.

Indawo apho utywala bungenakuthengiswa okanye buhanjiswa ngumnini-layisenisi khona.

61. Ngokulawulwa ngamalungiselelo alo Mthetho akukho mnini-layisenisi uya kuthi –
- (a) athengise okanye anikele okanye abonise ngotywala ngeenjongo zokuthengisa kuyo nayiphina indawo kungekho kwiintendezezo ezilayisenisiweyo;
 - (b) ngaphandle kokuba unelayisenisi yokuselela ngaphandle, ahambise utywala kuyo nayiphina indawo, engezizo iintendezezo ezilayisenisiweyo kuye nawuphina umntu.

Iintsuku neeyure eku-ngayi kuthengiswa okanye kuhanjiswa utywala ngazo.

62. (1) Ngaphandle kokuya kuthi ga apho agunyezalwe ukuba eme khona nguwo okanye phantsi kwawo lo Mthetho –
- (a) akusayi kubakho mnini-layisenisi uya kuthi iintendezezo zakhe ezilayisenisiweyo azigcine zivulelwe ukuba kuselwe utywala, okanye ukuthengiswa, okanye ukuhanjiswa kotywala ngayo nayiphina imini ebuvaliweyo ngayo.
 - (b) akusayi kubakho mnini-layisenisi yokuselela ngaphakathi uya kuthi azigcine iintendezezo zakhe ezilayisenisiweyo zivulelwe ukuthengisa okanye ukuselwa kotywala, okanye uya kuthi athengise okanye anikezele ngotywala ngaphandle kwangeeyure ezimiselwe kwiShedyuli 1 ngokuphathelele kudidi lwelayisenisi analo, okanye ngokwemeko leyo, ngeeyure ezigunyaziswe ngokuphathelele kwilayisenisi yakhe sisiphathamandla esilayisenisayo, okanye kungenjalo ngokwemigaqo yalo Mthetho.
- (2) Ngokulawulwa ngamalungiselelo alo Mthetho okanye nawuphina omnye umthetho olawulayo, kweso sithili okanye kuloo mmandla uchaphazelekayo, iintsuku neeyure zokuvalwa kweevenkile, okanye kwaloo macala eevenkile ekuqhutywa kuwo ushishino lomthengisi wento zonke phantsi kwelayisenisi ekhutshwe ngokwemigaqo yamalungiselelo awo nawuphina umthetho, akukho mnini layisenisi yokuselela ngaphandle uya kuthi azigcine iintendezezo ezilayisenisiweyo zakhe zivulelwe ukuthengiswa okanye ukunikezelwa kotywala okanye uya kuthi athengise, okanye anikezele okanye ahambise utywala, ngaphandle kwangethuba lezo yure zimiselwe kwiShedyuli 1 ngokuphathelele kudidi lwelayisenisi analo.

Amagama nedilesi zabantu abathile abanikwa utywala ngeentsuku ekuvaliweyo ngazo kufuneka zibhalwe phantsi.

63. (1) Akukho mnini-layisenisi yehotele (ngaphandle komnini layisenisi enalo elo gunya njengoko kucha ziwe kwicandelo 10 (1) (b) (iii) uya kuthi ngalo naluphina usuku ekuvaliweyo ngalo athengise okanye anikezele utywala ukuba buselwe nguye nawuphina umhambi *abona fide* okanye naliphina iloja elikwiintendezezo zakhe okanye lundwendwe lwelo loja ngaphandle kokuba igama nedilesi yaloo mhambi *ubona fide* okanye elo loja kwaye negama lolo ndwendwe zibhalwe phantsi ngokucacileyo nangokungenakucinywa kwirejista emiseliweyo ngulo mhambi okanye lelo loja, ngokwe-

meko leyo.

- (2) Akukho mnini-layisenisi yombutho uyakuthi nangaluphina usuku ekuvaliweyo ngalo athengise okanye ahambise utywala kulo naliphina ilungu laloo mbutho. Ukuba buselwe lundwendwe lwalo, ngaphandle kokuba igama nedilesi yelo ndwendwe zibhalwe phantsi ngokucacileyo nango-kungenakucinywa lelo lungu kwiregista emiselweyo.

*Umlinganiselo ekuno-
kuthi ngawo utywala
buthengiswe okanye
bungathengiswa ngu-
mnini-layisenisi.*

64. (1) Akukho mnini-layisenisi yokuselela ngaphakathi uyakuthengisa okanye anike nawuphina umntu utywala obumlinganiselo mkhulu kunokuba bungaselwa nguloo mntu kwintendezezo elayisenisi-
weyo.
(2) Ngokulawulwa ngamalungiselelo amacandelwana (3) nele (4) akukho mnini-layisenisi yokuselela ngaphandle uya kuthengisa okanye ase kuye nawuphina umntu utywala obungengawo nawuphina umlinganiselo ongaphantsi kwamakhulu amabini anesihlanu eemilimitha.
(3) Akukho mnini-welayisenisi yehoseyile yotywala uya kuthi -
(a) ukuba uyagunyaziswa yilayisenisi yakhe ukuba athengisele ngqo uluntu, athengise, anike okanye ahambise nangaliphina ixesha elinye kuye nawuphina umntu omnye, ngaphandle komnini-layisenisi, utywala nangawuphina umlinganiselo ongaphantsi kweelitha ezisithoba iilitha ezingekho ngaphantsi kwe 4,5 zabo ziya kuba luhlobo, inkcazo kunye nophawu lotywa-
la olunye ngaphandle kotywala bemolthi;
(b) agcine okanye astore kumasango akhe alayisenisiweyo kangangalo naliphina ixesha elidlula iiyure ezingamashumi amane anesibhozo nabuphina utywala obuthengisiweyo okanye obuha-
njiswe nguye kuye nawuphina umntu.
(4) Akukho mnini-layisenisi yokusila utywala besogamu uya kuthi athengise, anike okanye ahambise ngalo naliphina ixesha elinye kuye nawuphina umntu omnye ngaphandle komnini-layisenisi, utywala besogamu nangawuphina umlinganiselo ongaphantsi kweelitha ezingamakhulu amabini.

*Utywala obuthengise-
lwa ukuba buselwe
ngaphandle kufuneka
bube kwizikhongozeli
ezivaliweyo kwaye
zibhalwe ngaphandle.*

65. Akukho mnini-welayisenisi yokuselela ngaphandle uya kuthi -
(a) athengise, anike okanye ahambise kuye nawuphina umntu nabuphina utywala, ngaphandle kokuba busefatyini, emphandeni, embodloleni, epakethini okanye nasiphina isikhongozeli esivingcwe ngokuqinileyo okanye esitywiniweyo nangaphandle kokuba loo fatyi, umphanda imbodlela, ipakethi okanye enye imvaba ibhalwe ngaphandle ngaloo ndlela kunokumiselwa ngayo;
(b) avule isivingco okanye avumele ukuba kuvulwe isivingco okanye kuvulwe kwintendezezo elayise-
siweyo okanye kuyo nayiphina loo ntendezezo yayame okanye ikufuthane nentendezezo elayise-
nisiweyo njengoko kubhekiselelwe kuyo kwicandelo 58 (2), nayiphina ifaty, umphanda, imbodle-
la ipakethi, okanye esinye isikhongozeli sotywala obuthangiswe nguye.

*Ishishini elilayisenisi-
weyo alinakudityani-
swa nelinye ishishini.*

66. Ngokulawulwa ngamalungiselelo omthetho olawula ukubheja ngemali, akukho mnini-layisenisi (nga-
phandle komnini layisenisi yotywala yehoseyile, ilayisenisi yotywala yendawo yokutyela okanye
ilayisenisi yewayini yexesha lesidlo notywala bamazimba) uya kuqhuba ishishini lakhe phantsi kwelayi-
senisi yakhe nakuyiphina intendezezo apho kuqhutywa naliphina elinye ishishini: Phantsi kwento ethi
akukho nto kweli candelo iya kuthathwa ngokuba inqanda -
(a) umnini-layisenisi ekuqhubeni kwishishini lakhe kuyo nayiphina intendezezo eyahlulwe ludonga
okanye umkhusane, ongenacango okanye elinye isango, kwenye intendezezo apho naliphina
elinye ishishini liqhutywa khona;
(b) umnini-layisenisi (ngaphandle komnini layisenisi yomsili wotywala besogamu) ekuthengiseni
kwintendezezo elayisenisiweyo (ukuba loo ntengiso ivumelekile ngokwasemthethweni) amaphepha-
ndaba, amanzi aneeminerale nezinye iziselo (ezingebo tywala), isipirithi, ivinika yeediliya, iinqawe,
icuba, iisiga, iisigarethi, iimatshisi, iingxowa zokuphazisa nezinye izinto ezidla ngokusetyenziswa
ngokunxulumene nokusetyenziswa kotywala njengoko uMphathiswa anokuqingqa ngesaziso
kwiGazethi.

*Ukuphathisa amaguna
okulawula okanye uku-
lawula ngumnini-layi-
senisi.*

67. (1) Akukho mnini-layisenisi uya kuvumela nawuphina umntu oneminyaka engaphantsi kwemashumi
amabini ananye ukuba alawule aphaathe okanye aqhube intendezezo elayisenisiweyo.
(2) Ngokulawulwa ngamalungiselelo ecandelwana (1) akukho mnini-layisenisi uya kuvumela nawuphi-
na omnye umntu ukuba alawule, aphaathe okanye aqhube indawo elayisenisiweyo -
(a) kangangalo naliphina ithuba elingaphezulu kuneentsuku ezilishumi kodwa zingedluli kwii-
ntsuku ezingamashumi amathathu, ngaphandle kokuba kungemvume ebhalwe kwangaphambili
kamantyi;
(b) kangangalo naliphina ithuba elingaphezulu kweentsuku ezingamashumi amathathu, ngapha-
ndle kwemvume ebhalwe kwangaphambili yoMlawuli-Jikelele: Phantsi kwento ethi uMlawuli-
Jikelele uyakubhekisa nasiphina isicelo esifuna igunya lakhe elibhaliweyo kwintlanganiso
yexeshana yeBhodi.

- Isiqhoboso kulwahlulo lwengeniso.* 68. Akukho mnini-layisenisi (ngaphandle kwekhampani ebanjelwe ilayisenisi ngumntu onyuliweyo) uya kuthi, ngaphandle kwegunya elibhalwe ngaphambili leBhodi, avumele nawuphina umntu ukuba apha-the okanye abe yipatnara okanye umntu onesahlulo kwingeniso yeshishini lakhe elilayisenisiweyo.
- Umnini-layisenisi ku-funeka anezise iimfuno ezifanelekileyo zoluntu.* 69. (1) Umnini-layisenisi uya kuthi ngamaxesha onke anezise iimfuno ezifanelekileyo zoluntu ngokubhekiselele kutywala abonelela ngabo.
(2) Akukho mnini layisenisi uya kuthengisa, njengohlobo oluthile okanye udidi lotywala okanye njengemveliso, ukwenziwa okanye ukudidiyelwa ngumvelisi othile, umenzi okanye umdidiyeli, utywala obungelulo olo hlobo okanye udidi okanye obungeyiyo loo mveliso, ukwenziwa okanye udidiyelo: Phantsi kwento ethi, kuzo naziphina iinkqubo ngokusingisele ekwaphulweni kweli candelwana, kuya kuba bubungqina obuzeleyo ukuba ummangalelwa uyayaneza inkundla ukuba ebengenalo ulwazi lwento yokuba obo tywala bebungeyiyo loo mveliso, ukwenziwa okanye udidiyelo.
- Ukongeza okanye inguqulelo yemo yentendezezo elayisenisiweyo.* 70. Akukho mnini-layisenisi uya kuthi, ngaphandle kokuba iBhodi imgunyazisa kuloo nto, enze nayiphina inguqulelo ephathekayo okanye ukongeza kwiintendezezo ezilayisenisiweyo zakhe okanye aguqule imo yangaphakathi yaloo ntendezezo.
- Ukugcinwa kotywala ngumnini-layisenisi.* 71. Umnini-layisenisi uya kugcina bonke utywala obufunyenwe nguye nobungekazukuthengiswa kwakamsinya kwindawo eqingqwe sisiphathamandla esilayisenisayo ngokwemigaqo yecandelo 48 (1) (b) okanye kuloo ndawo iyenye okanye indawo eyongezelelweyo njengoko iBhodi inokuthi, ngokwesicelo sakhe, igunyazise.
- Iirekhodi neerejista kufuneka zigcinwe ngumnini-layisenisi.* 72. Wonke umnini-layisenisi uya kugcina ngokufanelekileyo nangokwanelisayo, ngolunye lweelwimi zasemthethweni, ezo rekhodi zabo bonke utywala obufunyenweyo nobuthengisiweyo nguye nezo rejista njengoko zinokumiselwa ngokodidi lwelayisenisi angumnini-layisenisi wayo okanye ngokwesithili okanye ummandla ezakhiwe kuwo iintendezezo zakhe.
- Amagunya omnini-layisenisi ngokubhekiselele kulwamkelo lwabantu kwiintendezezo ezilayisenisiweyo.* 73. (1) Nawuphina umnini-layisenisi okanye iarhente yakhe okanye isicaka unokuthi –
(a) ale ukwamkela nawuphina umntu kwiintendezezo ezilayisenisiweyo zaloo mnini-layisenisi;
(b) Ngezizathu zempilo nococeko, ukugcinwa kwesimilo soluntu, ukugcinwa kocwangco loluntu okanye ngenxa yaso nasiphina isizathu esilungileyo nesanelisayo –
(i) ale ukwamkela nawuphina umntu kwiintendezezo ezilayisenisiweyo njengeloja, undwendwe okanye umhlali, okanye
(ii) ale ukunika nawuphina umntu utywala, okanye
(c) ayalele nawuphina umntu –
(i) nokuba ukweliphi icandelo lezi ntendezezo zilayisenisiweyo apho utywala buselelwa khona okanye nakuliphi na igumbi lempahla okanye igumbi langasese elayama apho, okanye
(ii) ongengomhlali walapho nakulo naliphina icandelo lezi ntendezezo zilayisenisiweyo eligcinelwe abahlali, ukuba ahambe kwelo candelo leentendezezo ezilayisenisiweyo.
(2) Nawuphina umnini-layisenisi okanye iarhente yakhe okanye isicaka unokugxotha kwiintendezezo ezilayisenisiweyo nawuphina umntu onxilileyo, odlongodlongo okanye ongenacwangco okanye obukho bakhe kwiintendezezo ezilayisenisiweyo bunokufaka umnini-layisenisi kwisohlwayo phantsi kwalo Mthetho okanye nawuphina omnye umthetho.
- Umda wobutyala bomnini-layisenisi welayisenisi yehotele ngenxa yempahla yabaqeshi-ndawo.* 74. (1) Akukho mnini welayisenisi yehotele uya kuba nobutyala bokubuyekeza nawuphina umntu ngemali edlula amashumi amane eerandi ngenxa yayo nayiphina ilahleko okanye umonakalo okanye ukwenzakala kwezo mpahla zaloo mntu okwenzeke okufumaneka ngelixa loo mntu angumqeshi-ndawo kwiintendezezo ezilayisenisiweyo zaloo mnini-layisenisi ngaphandle kokuba –
(a) le lahleko, umonakalo okanye ukwenzakala kuqinisekisiwe ukuba kubangelwe sisenzo sanga-bom, okanye ngenxa yokusilela okanye ukunganyameki komnini-layisenisi okanye nawuphina umntu amqeshileyo; okanye
(b) le lahleko, umonakalo okanye ukwenzakala kwenzeke okanye kufumaneka ngelixa le mpahla ibigciniswe umnini-layisenisi okanye umntu ogunyaziswe ngokuthe ngqo okanye ngokungathanga ngqo ngumnini-layisenisi ukuba amkele olo gciniso; okanye
(c) umnini-layisenisi walile, ngaphandle kwakwiimeko ezanekiweyo kwicandelwana (2), ukwamkela impahla ayinikiweyo ukuba ayigcine okanye akaphumelelanga ukwenza amalungiselelo awaneleyo ekuya kuthi ngawo impahla ibe nokugcinwa nguye; okanye

(d) umnini-layisenisi akawathobelanga amalungiselelo ecandelwana (3).

- (2) Umnini welayisenisi yehotele onikwa impahla ukuba ayigcine nguye nawuphina umntu oliloja okanye oza kuba liloja kwiintendeze ezilayisenisiweyo zakhe, unokufuna ukuba impahla ifakwe kwisiqukathi esifanelekileyo, esivalwe satywinwa ngumgcinisi, kwaye nakuphina ukwala komnini-layisenisi ukwamkela impahla eza kugcinwa kusekwe phezu kokungaphumeleli kwaloo mntu ukuthobela loo mfuneko, akayi kumbandezela loo mnini-layisenisi amalungelo okubeka umda wobutyala ngenxa yelahleko okanye umonakalo okanye ukwenzakala kuloo mpahla anikwa licandelwana (1).
- (3) Umnini layisenisi yehotele uya kubonisa ikopi yamacandelwana (1) nele-(2) akwiliwimi zasebu-Rhulumenteni ngohlobo nakwindawo yomnyango weentendeze ezilayisenisiweyo zakhe eya kwenza ukuba ibonakale ngokucacileyo kwaye ibe nokufundwa nguye nawuphina umntu ocela ukuloja kwezo ntendeze.
- (4) Akukho nto iqulethwe apha kweli candelo eyakuthathwa ngokuba ichaphazela ukusebenza komthetho wesiqhelo ngokubhekiselele kubutyala bomnini-layisenisi kangangesixa esinokuba ngamashumi amane eerandi.
- (5) Izibonelelo zeli candelo ziya kusebenza *mutatis mutandis* ngokunxulumene naye nawuphina umntu (oko kukuthi nawuphina umntu ngaphandle komnini layisenisi yehotele) onelayisenisi yokuqhuba isakhiwo sokuhlala.

Abanini beelayisenisi ezithile kufuneka babonelele ngendawo yokuhlala okanye izidlo.

75. Ngaphandle kokubonelelweyo kwicandelo 73, akukho mnini layisenisi yehotele uya kwala ukunika ngexabiso elifanelekileyo indawo yokuhlala kunye nezidlo, kwaye akukho mnini-layisenisi yenkanti, ilayisenisi yotywala bendawo yokudlela okanye ilayisenisi yewayini notywala bemolthi uya kwala ukunika ngamaxabiso afanelekileyo izidlo, kuye nawuphina umntu ofuna oko: Phantsi kwento ethi, kuso nasiphina isimangalo ngokwaphulwa kwaso nasiphina isibonelelo seli candelo, uxanduva lokuqinisekisa ukuba ebenesizathu esibalulekileyo nesanelisayo sokwala ukunika loo ndawo yokuhlala okanye ezo zidlo uya kuhlala emagxeni ommangalelwa.

Ukuboniswa komqondiso ngumnini-layisenisi.

76. Wonke umnini-layisenisi (ngaphandle komnini-layisenisi yotywala yexeshana) uya kuthi, kwindawo ebonakalayo ngaphambi kwentendeze ezilayisenisiweyo zakhe, amilisele kwaye agcine kakuhle ibhodi yomqondiso okanye isaziso esibonakalisa ngoonobumba abamalunga nemilimitha ezingamashumi amane ubude –
 - (a) igama lakhe;
 - (b) udidi lwelayisenisi anayo; nokuba
 - (c) ngaba unelayisenisi yokuthengisa utywala bokuselwa ngaphakathi okanye ngaphandle, okanye ngaphandle nangaphakathi, kweentendeze ezilayisenisiweyo, ngokwemeko leyo.

Umnyango wangaphandle oya kwinkanti yoluntu kufuneka ukhanyisiwe.

77. Wonke umnini-layisenisi yokuselela ngaphakathi uya kwenza ukuba umnyango wangaphandle wenkanti yoluntu ukhanyiswe ngeeyure zasebusuku xa kuthengiswa okanye kuhanjiswa utywala kuloo nkanti.

Ukunxila, ukubheja ngemali okungekho mthethweni, ukuziphatha kakubi nezenzo ezingafanelekanga azivumelekanga kwiintendeze ezilayisenisiweyo.

78. Akukho mnini-layisenisi uya kuthi –
 - (a) avumele ukunxila okanye naluphina uqhushululu ukuba benzeke kwiintendeze ezilayisenisiweyo zakhe; okanye
 - (b) avumele nawuphina umdlalo ongekho mthethweni okanye ukubheja ngemali okungekho mthethweni ukuba iqhutywe kwiintendeze ezilayisenisiweyo zakhe; okanye
 - (c) avumele iintendeze ezilayisenisiweyo zakhe ukuba zibe yindawo yokuhlala amahenyukazi okanye indawo yokubutha amahenyukazi awaziwayo; okanye
 - (d) avumele nawuphina umntu ukuba enze nasiphina isenzo esonayo, esingenambeko okanye amanyala, okanye nawuphina umntu ohamba ze okanye onganxibanga kakuhle, ukuba athabathe inxaxheba okanye avele, kuyo nayiphina indawo yale ntendeze ilayisenisiweyo apho ulonwabo lwalo naluphina uhlobo iibanjelwe khona okanye apho uluntu lunokufikelela khona.

Ulwaphulo-mthetho ngumnini-layisenisi.

79. Nawuphina umnini-layisenisi –
 - (a) owaphula okanye ongathobeli nasiphina isibonelelo sesi Sahluko, okanye
 - (b) othengisa, onikisa okanye osebenza ngotywala ngokuphikisanayo nemiqathango yelayisenisi yakhe okanye ngayo nayiphina indlela engagunyaziswayo yilayisenisi yakhe, naphina apho oko kuthengisa, ukunikisa okanye ukusebenza ngotywala kungelo lwaphulo okanye ukungathobeli nasiphina esinye isibonelelo salo Mthetho, okanye

- (c) ongancedisi ngawo onke amandla akhe kulo naliphina ilungu lamapolisa elenza nawuphina umsebenzi ngaphakathi okanye ecaleni kweentendezezo ezilayisenisiweyo zakhe. uya kuba netyala lokwaphula umthetho.

ISAPHLUKO 10

UKUZIPHATHA NEEMBOPHELELO. NOKWAPHULWA KOMTHETHO NGABANTU NGOKUBANZI NGOKUBHEKISELELE KWINTENGISO. UFUMANISO OKANYE UKUSELWA KOTYWALA

- Urhwebo ngotywala ngaphandle kwelayisenisi* 80. Ngaphandle kwale ndlela kubonelelwe ngayo kulo Mthetho akukho mntu uya kuthengisa arhwebe okanye anikise ngotywala ngaphandle kwelayisenisi efanelekileyo
- Ukuthenga okanye ukufumana utywala ngokungekho mthethweni.* 81. Akukho mntu uya kuthenga okanye afumane nabuphina utywala ngexesha, okanye endaweni okanye kwiimeko ekungekho mthethweni ukuba obo tywala buthengiswe okanye bubonelelwe kuye
- Ukuthintelwa kwe-ngxubevange.* 82. Akukho mntu uya kwenza, abe nabo okanye agcine, asebenzise okanye asele, okanye anike okanye afumanise nawuphina umntu -
(a) Nayiphina ingxubevange yotywala eyenziwe ngokubiliswa kwamashiga eswekile, iswekile okanye nayiphina into neyaziwa ngokuba sisigomfana, igavini, isitshimiyana, isiqedaveki, iskokiya, inkawu okanye iqhilika; okanye
(b) nayiphina ingxubevange yotywala, nangona ibizwa ngelinye igama, ifana, okanye ifana ngokwe nziwa nayo nayiphina enye yeengxubevange zotywala ezikhankanyiwe kumhlathi (a) okanye
(c) Nayiphina ingxubevange eveliswa ngokubiliswa kwayo nayiphina into, ekuselwa kwayo kuya kuthi ngokuluvu loMphathiswa, kube nobungozi empilweni nakwintlalo-ntle yabantu nanokuyi cacisa ngesaziso kwiGazethi; okanye
(d) nasiphina isiselo esenziwa ngokuhlulwa ngokubiliswa kwayo nayiphina ingxubevange ekubhekise lelwe kuyo kumhlathi (a) (b) okanye (c)
- Ukuzenza omnye umntu okungeyo nyani ngenjongo zokufumana utywala.* 83. Akukho mntu uya kuthi ngenjongo zokuphemelela nawuphina umntu-ityalisenisi ukuba afumanise yena okanye nawuphina omnye umntu utywala ngokuphikisanayo namalungiselelo alo Mthetho ngokungeyonyani azenze okanye achaze ngokungeyonyani omnye umntu
(a) ukuba uneminyaka okanye ungaphezulu kweminyaka elishumi elinesibhozo ubudala, okanye
(b) ukuba liloja okanye undwendwe leloja ehotele, okanye
(c) ongumhambi obona fide, okanye
(d) ukuba ngumntu oza kufumana isidlo esiqhelekileyo kuyo nayiphina intendezezo elayisenisiweyo
- Ukusetyenziswa ngokungekho mthethweni kwamaxwebhu.* 84. Akukho mntu uya kuthi -
(a) ngenjongo yokulahlekisa, ukusebenzisa, ngayo nayiphina injongo, kwaso nasiphina isiqinisekiso ilayisenisi okanye olunye uxwebhu olukhutshwe phantsi okanye ngayo nayiphina injongo yalo Mthetho nengeyo yakhe; okanye
(b) ngabom nangenjongo yokulahlekisa, aguqule, onakalise, atshabalalise okanye adlakaze nasiphina isiqinisekiso ilayisenisi okanye olunye uxwebhu olukhutshwe phantsi okanye, ngayo nayiphina injongo yalo Mthetho, okanye athathe ngokungekho mthethweni nasiphina isiqinisekiso esinjalo ilayisenisi okanye olunye uxwebhu kuye nawuphina umntu onelungelo lazo
- Ukunxila kwintendezezo elayisenisiweyo okanye indawo yoluntu akuvumelekanga.* 85. Akukho mntu uya kunxila, abe dlongodlongo, okanye angabi nacwangco kuyo nayiphina intendezezo elayisenisiweyo okanye anxile ngaphakathi okanye kufutshane
(a) kwayo nayiphina indlela, isitalato, ileyini okanye nayiphina indlela yoluntu ephumelisayo okanye ummandla olithafa osecaleni kwendlela, isitalato, ileyini, okanye indlela, yoluntu ephumelisayo okanye
(b) kwayo nayiphina ivenkile, isitora, isitora esikhulu okanye igaraji yoluntu; okanye
(c) kwayo nayiphina indawo yolonwabo, indawo yokudlela okanye ezinye iintendezezo okanye indawo apho uluntu luvulelekileyo okanye lunokufikelela, nokuba ilungelo lokwamkeleka linikwe ngoku hlawulwa kwentlawulo yolwamkelo okanye hayi

- Ukuselwa kotywala* 86. Akukho mntu uya kuthi nakuwuphina ummandla wedolophu asele utywala kuso nasiphina isitalato

*kwezinye iindawo
zoluntu kuyathintwa.*

indlela, ileyini, okanye kwenye indlela yoluntu ephumelisayo okanye ummandla olithafa osecaleni kwaso nasiphina isitalato, indlela, ileyini okanye enye indlela ephumelisayo yoluntu (ngaphandle kwalapho obo tywala buthengiswe baza banikezelwa kuloo ndawo phantsi kwelayisenisi yokuselela ngaphakathi): Phantsi kwento ethi amalungiselelo eli candelo akayi kusebenza ngokubhekiselele kulo naluphina ulonwabiso olwenziwa kwelo thafa njengoko kuxeliwe apha ngasentla nguye nawuphina umntu ongumnini okanye ngenye indlela ohleli ngokusemthethweni kuloo mhlaba okanye ekusetye-nzisweni kwaloo mhlaba nguloo mntu ngexesha ehleli kuwo.

*Ukusela nokuba no-
tywala kwintendezezo
eziprayivethi okanye
zikaRhulumente.*

87. Akukho mntu uya kusela nabuphina utywala, okanye abe nabo nabuphina utywala, nakuziphina iintendezezo eziprayivethi okanye naziphina iintendezezo zoMbuso ngaphandle kwemvume yomnini wazo okanye umhlali ngokusemthethweni okanye umntu ojongene nezo ntendezezo ethe yafunyanwa kwangaphambili: Phantsi kwento ethi, ngokweenjongo zeli candelo, nawuphina umntu ehleli kuzo naziphina ezo ntendezezo njengomqesha womnini okanye umhlali ngokusemthethweni womhlaba ekwakhwe kuwo ezo ntendezezo akayi kuthathwa njengomhlali ngokusemthethweni wezo ntendezezo

*Ixesha lokuhlawula
utywala obunikezelwe
ukuba buselwe nga-
phakathi*

88. Ngaphandle kweemeko ekusingiselwe kuzo kumhlathi (a), (b) no (c) kwimeko yoxhomekeko kwicandelo 60 (1), akukho mntu uya kuthi, kuzo naziphina iintendezezo ezilayisenisi (ngaphandle kwelayisenisi yombutho) yokusela ngaphakathi, asele nabuphina utywala obunikezelwe kuye ukuba abusele kwezo ntendezezo ngaphandle kokuba, ngelo xesha bunikezelwa ngalo, buhlawulelwe ngemali esetye nziwayo okanye ngetshekhi

*Indawo yokusela
utywala obunikezele-
lwe ukuba buselwe
ngaphandle*

89. Akukho mntu uya kuthi, ngaphandle kwakwiimeko ekujongwe kuzo kwimeko yoxhomekeko kwi-candelo 58 (2), asele kuzo naziphina iintendezezo ezilayisenisiweyo okanye kuzo naziphina iintendezezo okanye indawo emelene okanye ekufutshane nezo ntendezezo zilayisenisiweyo ezimiwe okanye eziphantsi kolawulo lomnini-layisenisi, utywala obunikezelwe kuye nguloo mnini-layisenisi ukuba abuselele ngaphandle kwezo ntendezezo zilayisenisiweyo

*Ubukho ngokungekho
mthethweni kwiindawo
ezithile zeentendezezo
ezilayisenisiweyo.*

90. (1) Akukho mntu uya kungena okanye abekho kwindawo ekungavumelekanga bantu kuyo yazo nazi-phina iintendezezo ezilayisenisiweyo okanye kuyo nayiphina indawo ekugcinwa okanye ekustorwa kuyo utywala, esazi ukuba ubukho bakhe apho abukho mthethweni.
(2) Akukho mntu uya kuthi ahlale okanye abekho nakuyiphi na indawo yeentendezezo ezilayisenisiweyo ekubhekiselelwe kuyo kwicandelo 73 (1) (c) emva kokuba eyalelwe ukuba emke apho ngumnini-layisenisi okanye iarhente yakhe okanye isicaka

*Ukunikezelwa kotywa-
la kubantwana.*

91. Ngaphandle kwemeko yomntu ohlala kwintendezezo ezilayisenisiweyo nonika utywala ukuba buselwe ngoko nangoko lilungu losapho lwakhe elihlala naye ngokwesiqhelo naye, akukho mntu uya kuthi, kwintendezezo ezilayisenisiweyo, anikezele utywala kuye nawuphina umntu ongaphantsi kweminyaka elishumi elinesibhozo.

Ukungahlawuli.

92. Akukho mntu uya kushiya naziphina iintendezezo ezilayisenisi yehotele, nokuba ngaba kukummandla wedolophu okanye emaphandleni, engahlawulanga ityala lakhe lokuhlala nokutya akunikiweyo, ngaphandle kokuba uthethathethene nomnini-layisenisi ngokuba alihlawule kamva elo tyala.

Ulwaphulo-mithetho.

93. Nawuphina umntu owaphula nawaphina amalungiselelo esi Sahluko uya kuba netyala lokwaphula umthetho.

ISIAHLUKO 11

ISIPIRITHI NAMAYEZA ANXILISAYO

*Ilungelo lokuthengisa
isipirithi esinemethili.*

94. (1) Ngokulawulwa zizibonelelo zecandelo 66 (b) akukho mntu uya kuthengisa okanye abe nesipirithi esinemethili ngenjongo yokusithengisa ngaphandle kokuba ungumnini ngokusemthethweni welayisenisi yokuthengisa yonke into okanye ilayisenisi yokuthengisa amayeza.
(2) Nawuphina umntu owaphula amalungiselelo ecandelwana (1) uya kuba netyala lokwaphula umthetho.

*Isipirithi esithile sino-
kubhengezwa njenge-
sipirithi esinemethili.*

95. UMphathiswa unokuthi, ngesaziso kwiGazethi, abhengeze ukuba sisipirithi esinemethili ngokweenjongo zalo Mthetho, nasiphina isipirithi esiguqule imo yaso, esiqholiweyo okanye esinyangiweyo esingachazwanga kumhlathi (a) wenkcazo "yesipirithi esinemethili" kwicandelo 1.

Amayeza anxilisayo.

96. UMphathiswa unokuthi amaxesha ngamaxesha, emva kokuthethathethana naso nasiphina isiphatha mandla esifanelekileyo, ngesaziso *kwiGazethi*, abhengeze ukuba naliphi na iyeza elikhuselekileyo, iyeza elikwenziwa nokuthengiswa kulawulwa lukhuselo, okanye iyeza lamaDatshi elikhankanyiweyo okanye elichaziweyo kweso saziso liya kuthi, ukususela okanye emva komhla okhankanyiweyo apho ngaphakathi lithathwe ngokuba liyeza elinxilisayo.

ISIAHLUKO 12

UKUTHINTELWA KOKUNIKISWA NGOTYWALA KUBANTU ABATHILE

Umantyi angakuthintela ukunikiswa ngotywala kubantu abathile.

97. (1) Ukuba ngalo naliphina ixesha kuyabonakala kumantyi ukuba nawuphina umntu -
- (a) uthe ubuncinane amaxa amathathu kwezi nyanga zilishumi elinesibini zandulelayo wagwetyelwa ukwaphula umthetho phantsi kwalo Mthetho okanye nawuphina omnye umthetho wotywala (kubandakanywa nawuphina umthetho otshitshiswe ngulo Mthetho) okanye woku nxila, okanye
 - (b) uthe, lingadlulanga eli thuba lixeliweyo, *wagwetywa* amaxa amabini ubuncinane wagwetyelwa ukwaphula umthetho njengoko kujongwe njalo kumhlathi (a) nakwilixa elinye okanye ngaphezulu wagwetyelwa ukubetha umntu okanye nakuphina ukwaphula umthetho okunobu ndlobongela.
 - (c) ngokusela ngokugqithisileyo utywala usebenzisa ngokungafanelekanga okanye uchitha imali yakhe, impilo yakhe, uphazamisa okanye ubeka engozini uxolo okanye wonakalisa okanye unokonakalisa ulonwabo lomzi wakhe,
- umantyi unokuthi, ngomyalelo obhaliweyo, athintele unikezelo ngotywala kuloo mntu kangangelo thuba, lingadlulanga kwiinyanga ezilishumi elinesibini, anokubona lifanelekile.
- (2) Akukho myalelo uya kwenziwa phantsi kwecandelwana (1) ngokubhekiselele kuye nawuphina umntu ngaphandle kokuba -
- (a) loo mntu ucele oko okanye ukuvumele oko; okanye
 - (b) ithuba elifanelekileyo linikwe loo mntu ukuba avele phambi komantyi ukuze abonakalise isizathu sokuba loo myalelo ungenziwa.
- (3) Kuwo nawuphina amanyathelo asemthethweni phantsi kwecandelwana (2) (b) umantyi ehleli bucala uya kuqhuba ukuphanda ukuba ngaba lo mntu kuthathwa ngaye ungumntu onjengoko kujongwe njalo kwicandelwana (1) (a), (b) okanye (c) kwaye uya kuthi ngaloo njongo
- (a) enze isifungo okanye ukuqinisekisa kwaye abhale phantsi nabuphina ubungqina anokububona bufanelekile; kwaye
 - (b) avumele loo mntu ukuba abuze naliphina ingqina nokuphendula, phantsi kwesifungo okanye isiqinisekiso njengoko anokuthetha, kubo nabuphina ubungqina obunikiweyo ngaye
- Phantsi kwento ethi, ukuba loo mntu uthi ngabom angabikho ematyaleni, umantyi unokunika umyalelo obhekiselele kuye nangona engekho.
- (4) Umantyi onika umyalelo ngokwemigaqo yecandelwana (1) uya kuthi, engalibazisanga, agqithise ikopi yawo kwigosa elijongene namapolisa kuloo mmandla loo mntu uchatshazelwe nguloo myalelo, ahlala kuwo okanye aqeshwe kuwo kwaye elo gosa liya kuthi kwangoko emva kokuba lwufu mene lazise eso sithintelo okanye lenze ukuba saziswe kuloo mntu, kuye wonke umnini-layisenisi okwesithili olo phando beluqhutywa kuso nakuLawulo lwamaPolisa: umantyi anika loo myalelo, umantyi uya kunikezela okanye anikele kuye ikopi yoko apho kuya kuthi kungaphindi kubekho mfuneko yokunye ukwaziswa.

Ulwaphulo mthetho oluphantsi kwesi Sahluko.

98. (1) Nawuphina umntu othintelweyo ukuba anikwe utywala phantsi kwecandelwano 97 yaye othenga ofumana, onabo okanye osela utywala, uya kuba netyala lokwaphula umthetho.
- (2) Nawuphina umntu onika, othengisa, ofumanisa okanye ohambisa utywala kuye nawuphina umntu othintelweyo ukuba afunyaniswe utywala phantsi kwecandelwano 97 okanye obeka utywala elugcineni okanye phantsi kolawulo lwaloo mntu, uya kuba netyala lokwaphula umthetho. Phantsi kwento ethi, kuwo nawuphina amanyathelo ngokusemthethweni ngokwaphulwa kweli candelwana, kuya kuba bubungqina obaneleyo ukuba obekwa ityala uyayanelisa inkundla ukuba ebengenalwazi ngeso sithintelo.

ISIAHLUKO 13

AMANDLA, AMAGUNYA NEMISEBENZI YOLAWULO LWAMAPOLISA, AMAGUNYA ABAKHENKETHI NAMAGOSA ATHILE

Igxelo ngesicelo sela-

99. Ngokubhekiselele kuzo zonke izicelo zelayisenisi entsha (ngaphandle kwelayisenisi yeevure zangoku

yisenisi entsha eyenziwa luLawulo lwamaPolisa.

hlwa okanye ilayisenisi yexeshana) uLawulo lwamaPolisa luyakuthi, ubuncinane iintsuku ezingamashumi amathathu phambi komhla eso sicelo esiza kuqwalaselwa ngawo yiBhodi, luxele kumantyi ngokubhaliweyo -

- (a) ukube umceli akafelwanga sinina phantsi kwaso nasiphina isilungiselelo secandelo 32, kwaye
- (b) ukuba iintendezezo esisingisele kuzo esi sicelo sele zikhona, ukuba ngaba ezo ntendezezo ngokweembono zamapolisa nokhuseleko loluntu, zifanelekile na ngazo zonke iindlela ukuqhuba elo shishini licitywayo okanye enye intshukumo, okanye
- (c) ukuba iintendezezo esi sicelo esibhekisa kuzo azikakhiwa okanye azikagqitywa, nokuba ezo ntendezezo ziya kuthi zakugqitywa ngokweepiani ezicetywayo zifaneleke ngokweembono zamapolisa noluntu ukuba kuqhutywe elo shishini licitywayo okanye enye intshukumo, yaye
- (d) nokuba ilayisenisi esenzelwa yona isicelo, ngokwezimvo zoLawulo lwamaPolisa, iyafuneka na ukulungiselela iimfuno zoluntu, yaye
- (e) nokuba le ndawo apha utywala buza kugcinwa khona ifanelekile, ikhuselekile kwaye iyanelisa na, Kwaye luya kutsalela iingqondo kuyo nayiphina enye into, enokuthi ngokwemigaqo yalo Mthetho, okanye ngokoluvo loLawulo lwamaPolisa ifanele ukuba, iqwalaselwe sisiphathamandla esilayisenisayo

Ingxelo ngezicelo ezithile kwigunya labakhenkethi.

100. Ngokubhekiselele kuzo zonke izicelo ezintsha zelayisenisi yehotele, ilayisenisi yotywala yendawo yokutyela okanye ilayisenisi yotywala obuyiwayini nobemolithi liGunya labakhenkethi liya kuthi, ubuncinane iintsuku ezingashumi amathathu phambi komhla esiya kuqwalaselwa ngawo yiBhodi eso sicelo, linike ingxelo kuMantyi ngokubhaliweyo -

- (a) ukuba iintendezezo esibhekiselele kuzo isicelo eso sele zikho, ukuba ngaba ezo ntendezezo zilu ngelene nangokusemgangathweni neemfuno zoluntu jikelele nezabakhenkethi, kubandakanywa nabaphina abakhenkethi bamazwe asemzini;
- (b) ukuba iintendezezo esibhekiselele kuzo isicelo azikamiliselwa okanye azikagqitywa, ukuba ngaba ezo ntendezezo ziya kuthi, zakugqitywa ngokohlobo lweepiani ezicetyiweyo, zibe kumgangatho owanelisayo na kwaye zizifanele ngazo zonke iindlela iimfuno zoluntu ngokubanzi nezabakhenkethi, kubandakanywa abakhenkethi bamazwe asemzini;
- (c) apho isicelo selayisenisi yotywala yerestorenti senziweyo ngokubhekiselele kwishishini elikhoyo ukuba ngaba imo okanye imeko yezidlo neenkonzo ezinikwayo kuloo restorenti iyanezisana na nokuba ngaba ifanishala nezinto ezibethelelweyo kunye neeglas nezitya nezixhobo zokutya kuloo restorenti, nokulungiswa kwezidlo, kwanele kwaye kuyakholisa, na, kwaye
- (d) nokuba ngaba umceli okanye lo mntu uphethe okanye oza kuphatha eli shishini okanye eli shishini licitywayo uqeqeshiwe okanye unamava na ekuphatheni ihotele okanye irestorenti, ngokwemeko leyo,

Kwaye liya kutsalela iingqondo kuyo nayiphina enye into ethi, ngokoluvo lweGunya loKhenketho ifanela ukuqatshelwa siSiphathamandla esilayisenisayo.

Ingxelo ngesicelo sokutshintshwa okanye ukususwa kwelayisenisi.

101. Ngokubhekiselele kuzo zonke izicelo zokutshintshwa okanye ukususwa kwelayisenisi, kuya kuba ngumsebenzi woLawulo lwamaPolisa neGunya labaKhenkethi ukuxela ukwazisa iBhodi, ngokwamalu ngiselelo *mutatis mutandis* ecandelo 99 okanye 100, ngokwemeko leyo, ngazo zonke izinto ezithi ngokwemigaqo yalo Mthetho eziya kuthi, okanye ngokoluvo loLawulo lwamaPolisa neGunya labaKhenkethi ngokulandelelana ezifanele ukuba, ziqwalaselwe sisiphathamandla esilayisenisayo ekuphononongeni eso sicelo.

Ukuhlolwa, nengxelo, ngeentendezezo ezilayisenisiweyo luLawulo lwamaPolisa.

102. (1) ULawulo lwamaPolisa luya kubangela ukuba zonke iintendezezo ezilayisenisiweyo zihlolwe amaxesha ngamaxesha ligosa eligunyazisiweyo kwaye luya kuthi kwangoko lwenze ingxelo ngokubhaliweyo kuMlawuli-Jikelele -

- (a) ngako nakuphina ukungaphumeleli komnini-layisenisi ukuthobela nasiphina isiqhobosho, umyalelo okanye umqathango obekwe phezu kwakhe phantsi kwalo mthetho apho oko kungaphumeleli kungenzi ulwaphulo mthetho lwesizi;
- (b) Ukuba nawuphina umnini-layisenisi walelwe ngokwemigaqo yecandelo 32 ukuba nelayisenisi;
- (c) xa ngaba, nayiphina ilayisenisi ibonakala ngathi ayisananzwanga;
- (d) nanini na xa ishishini libonakala lingasagqutywa phantsi kwayo nayiphina ilayisenisi; nokuba
- (e) kuyo nayiphina enye into ngokwezimvo zoLawulo lwamaPolisa efanele ukwaziswa uMlawuli-Jikelele.

(2) UMlawuli-Jikelele uya kuthi engalibazisanga abhekise yonke ingxelo eyenziwe nguye phantsi kwecandelwana (1) kwintlanganiso yeBhodi ukuze iqwalaselwe ngomhla oya kuthi umiselwe nguye (ukuba intlanganiso eyakuthi loo ngxelo iqwalaselwe kuyo asiyontlanganiso yonyaka) kwaye uya kuthi ngexesha elingekho ngaphantsi kweentsuku ezilishumi elinesine phambi komhla waloo ntlanganiso -

- (a) azise uLawulo lwamaPolisa ngokubhaliweyo ukuba olo Lawulo okanye ummeli walo kuyafuneka ukuba avele phambi kwaloo ntlanganiso; kwaye
- (b) uya kwenza ukuba ihanjisiwe, okanye ithunyelwe ngeposi ebhaliweyo okanye eqiniselweyo, kumnini-layisenisi nakuye wonke umntu onomdla wezemali kwelo shishini nogama lakhe nedilesi zaziwayo nguye ikopi yengxelo yoLawulo lwamaPolisa phantsi kwecandelwana (1).

Isicelo soLawulo lwamaPolisa sokurhoxiswa kwelayisenisi.

103. (1) Nanini na xa nawuphina umnini-layisenisi agwetyelwe ukwaphulo-mthetho, nokuba kuphantsi kwalo mthetho okanye nawuphina omnye umthetho (kubandakanywa nomthetho wesintu) yaye uLawulo lwamaPolisa lunoluvo lokuba kuzimfuno zabantu ukuba iBhodi ifanele ukuwugwalasela umbandela wokurhoxiswa kwelayisenisi yaloo mnini-layisenisi, uLawulo lwamaPolisa luyakuthi kwangoko luwuxele loo mbandela kuMlawuli-Jikelele.
- (2) UMlawuli-Jikelele uya kuthi phezu koko awuchophele lo mcimbi ngokwamalungiselelo *mutatis mutandis* ecandelo 102 (2).

Ukuhlolwa, nengxelo, ngentendezezo ezithile ezilayisenisiweyo liGunya labaKhenkethi.

104. (1) (a) IGunya labaKhenkethi liya kuthi, kungekho ngaphantsi kwakanye ngalo lonke ithuba leenyanza ezintathu, libangele ukuba zonke iihotele nazo zonke iirestorenti nekhefi ezilayisenisi esebenzayo phantsi kwalo Mthetho zihlolwe ngummeli ogunyazisiweyo (emva koku ekubhekiselelwe kuye njengomhloli) kwaye liya kuthi kwangoko emva kolo hlolo linike ingxelo ngokubhaliweyo kuMlawuli-Jikelele.
- (b) Ingxelo njengoko kujongiwe kumhlathi (a) iya kuphathela *phakathi kwezinye izinto* -
- (i) Kwinkangeleko nemo yokulungiswa kweentendezezo ezilayisenisiweyo neyefanishala nezinto ezakhelweyo apho;
 - (ii) kwimo yococeko okanye kungenjalo yayo yonke indawo yeentendezezo ezilayisenisiweyo kubandakanywa, kwimeko yehotele, onke amagumbi okulala, amagumbi okuhlambela kunye namagumbi angasese;
 - (iii) kwimo yagumbi okanye amagumbi ekwenziwa (nekutyelwa kuwo izidlo nekugcinwa kuwo ukutya);
 - (iv) kwimo nemeke yeebhedi nempahla yokulala, umgangatho wezikhanyisi, kuwo onke amagumbi okulala ehotele;
 - (v) kwimeko yezidlo nenkonzo enikwayo kwiintendezezo ezilayisenisiweyo.
 - (vi) kwimeko nokwanela kwezixhobo zokutya nezitya kwiintendezezo ezilayisenisiweyo;
 - (vii) kwimiqathango emiselweyo, kwimeko yehotele, ukugcinwa elowo ekwimeko eprayivethi nenokhuseleko, nokuthintela ukuphazanyiswa, kweendwendwe;
 - (viii) kwimeko yamagumbi okuhlala (ukuba akhona) abekwe bucala ukuba ahlalwe ngabasebenzi bomnini-layisenisi; kunye
 - (ix) nakulawulo nokuphathwa kweshishini elilayisenisiweyo ngokubanzi.
- (c) Xa isinika ingxelo phantsi kweli candelwana igunya labaKhenkethi liya kuchaza ngokupheleleyo, ukuba imeko injalo, ukuba kungayiphi indlela apho athi umnini-layisenisi asilele ukubonelela inkonzo elungene neemfuno zoluntu jikelele kunye nabakhenkethi, kubandakanywa nabaphina abakhenkethi bamazwe asemzini, kwaye liya kuthi kwangeli xesha linye libonakalise amaqanaba ekufuneka ethathiwe ngumnini-layisenisi ukulungisa ukusilela kwakhe.
- (2) Akufumana ingxelo eyile mo kujongiswe kuyo kwicandelwana (1) (c) uMlawuli-Jikelele uya kuthi -
- (a) abangele ukuba ikopi yaloo ngxelo ihanjisiwe okanye ithunyelwe ngeposi ebhaliweyo okanye eqiniselweyo kumnini-layisenisi nakuye wonke umntu onomdla kwezemali kwelo shishini nogama lakhe nedilesi zaziwayo nguye; kwaye
 - (b) ngesaziso esibhaliweyo acele umnini-layisenisi ukuba amazise, zingedlulanga iintsuku ezingamashumi amabini ananye emva komhla weso saziso, ukuba uyavumelana na naloo ngxelo, ukuba kunjalo, ufuna ixesha elingakanani na ukulungisa ukusilela kwakhe.
- (3) Ukuba ngaba ukusabela isaziso ekubhekiselelwe kuso kwicandelwana (2) (c) umnini-layisenisi uyakuvuma ukusilela kwakhe, uMlawuli-Jikelele uya kuthi ngokubhaliweyo amcele ukuba alungise oko kusilela lingedlulanga ithuba eliceliweyo nguye okanye lingedlulanga elinye ixesha elinokubekwa nguMlawuli-Jikelele (nokuba liliphina ithuba elilelifuntshane): Phantsi kwento ethi ukuba umnini-layisenisi uthintelwa ziimeko ezingaphezulu kwamandla akhe ukuba alungise ukusilela kwakhe lingekadluli ithuba alivunyelweyo uMlawuli-Jikelele unokuthi emva kokuthethana neGunya labaKhenkethi, alandise elo thuba.
- (4) Ukuba ngaba umnini-layisenisi -
- (a) akasisabelanga isaziso ekubhekiselelwe kuso kwicandelwana (2) (c), okanye
 - (b) ukusabela esi saziso sixeliweyo akakuvumi nakuphina ukusilela kwicala lakhe, okanye
 - (c) akaphumeleli ngeli thuba okanye ngelo thuba landisiweyo kubhekiselelwe kulo kwicandelwana

na (3) ukulungisa ukusilela kwakhe, uMlawuli-Jikelele uya kuthi engalibazisanga awubhekise lo mbandela kwintlanganiso yeBhodi ukuba uqwalaselwe ngosuku oluya kubekwa nguye (ukuba ngaba loo ntlanganiso asiyo intlanganiso yonyaka) kwaye uya kuthi, ngokubhaliweyo, azise iGunya labaKhenkethi ukuba lona okanye ummeli walo uya kufuneka aye kuloo ntlanganiso.

Amagunya amapolisa namanye amagosa ngokubhekiselele eku-setsheni nasekuthimbeni.

105. (1) Ngokulawulwa ngamalungiselelo oMthetho weNkqubo yamaTyala eSizi, 1977, naliphina ilungu lamapolisa linokuthi -
- (a) nangaliphina ixesha elifanelekileyo lingene kwaye lihlole naliphina igumbi okanye enye indawo yentendezezo ezilayisenisiweyo okanye nayiphina indawo ekubhekiselelwe kuyo kwicandelo 71 apho utywala bugcinwe khona kwaye linokubala bonke utywala obufunyenweyo kwezo ntendezezo; okanye
 - (b) ngawo onke amaxesha lingene likhangele naziphina iintendezezo, igumbi okanye indawo, nokuba ilayisenisiwe phantsi kwalo Mthetho nokuba ayilayisenisiwanga, okanye nasiphina isithuthi, okanye lisetshe nawuphina umntu okanye nasiphina isikhongozeli nokuba siluphina uhlobo nokuba sifunyenwe phakathi okanye phezu kwezo ntendezezo, igumbi, indawo okanye hayi, ukuba -
 - (i) lirhanela ngezizathu eziphathekayo ukuba ukwaphulwa kwaso nasiphina isilungiselelo salo Mthetho kuyenzeka phakathi okanye kwezo ntendezezo, igumbi, indawo okanye isithuthi okanye luyenziwa nguloo mntu okanye ngeso sithuthi okanye isikhongozeli okanye;
 - (ii) lirhanela ngezizathu eziphathekayo ukuba loo mntu unabo nabuphina utywala okanye into, okanye ukuba nabuphina utywala okanye into bugcinwe phakathi okanye kwezo ntendezezo igumbi, indawo, isithuthi okanye isikhongozeli ngokuchasene naso nasiphina isilungiselelo salo Mthetho; okanye
 - (iii) unezizathu eziphathekayo zokukholelwa ukuba loo mntu ugcine njengokwakhe, okanye ukuba kukho phakathi okanye kwezo ntendezezo, igumbi, indawo, isithuthi okanye isikhongozeli, nabuphina utywala okanye into ekujongwe ukuba isetyenziswe ngenjongo yokwenza naluphina ukwaphulo-mthetho phantsi kwalo Mthetho;
 - (c) lingene kuzo naziphina iintendezezo apho kuthengiswa kufunyaniswa khona utywala kwaye lifune ukuba kuvezwe ilayisenisi egunyazisa loo ntengiso okanye oko kufunyaniswa.
- (2) Naliphina ilungu lamapolisa liya kuthimba lisuse nayiphina into eselugcinweni lwalo mntu usetshiweyo okanye phakathi okanye kwezo ntendezezo, igumbi, indawo, isithuthi okanye isikhongozeli ezingeniweyo okanye ezikhangelweyo ukuba, ngokwezimvo zakhe, ukugcinwa kwazo nguloo mntu okanye ukugcinwa kwazo phakathi okanye kwezo ntendezezo, igumbi, indawo, isithuthi okanye isikhongozeli kusemthethweni okanye, ukuba lirhanela ukuba naluphina ukwaphulo-mthetho lwenziwe ngokubhekiselele koko, okanye ukuba linezizathu sokukholelwa ukuba loo nto kujongwe ukuba isetyenziswe ngenjongo yokwenza ukwaphulo-mthetho phantsi kwalo Mthetho.
- (3) Naliphina ilungu lamapolisa nalo naliphina igosa larhafu okanye lerhafu yezinto zasekhaya linokuthi -
- (a) nangaliphina ixesha lingene likhangele iintendezezo okanye naliphina igumbi okanye inxenye yalo yakhe nawuphina umntu onelayisenisi ekubhekiselelwe kuyo ngaphakathi, kwaye unokuhlola nasiphina isitokhwe sesipirithi esinemethili esigciniweyo phantsi kwecandelo 94 kunye naziphina iirejista ezimiseliweyo okanye okubhalwe phantsi okunxulumene noko;
 - (b) lingene likhangele iintendezezo, igumbi okanye indawo yakhe nawuphina umntu elimrhanelayo ngokusebenzisa ngokungekho mthethweni okanye ngokugcina isipirithi esinemethili; nokuthi kwezo ntendezezo okanye kulo naliphina igumbi okanye indawo engeniweyo, lithimbe nasiphina isipirithi esinemethili esigciniweyo ngokuchasene necandelo 94 okanye nawuphina umthetho.

Amapolisa anokufuna amagama nedilesi zabantu abathile.

106. (1) Naliphina ilungu lamapolisa linokufuna igama nedilesi yakhe nawuphina umntu elimfumana phakathi okanye kuzo naziphina iintendezezo, igumbi, indawo okanye isithuthi elithi phakathi okanye kuzo lithimbe okanye elithi lisuse kuzo utywala, isipirithi esinemethili okanye enye into.
- (2) Ukuba nawuphina loo mntu, xa kufunwa oko -
- (a) akaphumeleli ukunika igama lakhe nedilesi ezeleyo elo lungu lamapolisa linokumbamba;
 - (b) unika elo lungu lamapolisa igama nedilesi elithi elo lungu, ngezizathu eziphathekayo, lilirhanela ukuba aliyonyani, elo lungu linokumbamba limgcine kangangethuba elingedlulanga kwiinyure ezilishumi elinesibini kude kube liqinisekisiwe igama nedilesi enikiweyo.

Amagunya amapolisa okugxotha abantu abathile kwiintendeze ezilayisenisiweyo.

107. Naliphina ilungu lamapolisa liya kuthi, ukuba ngaba umnini-layisenisi okanye iarhente yakhe okanye umqeshwa ufuna ngolo hlobo -
- (a) ligxothe kwiintendeze ezilayisenisiweyo nawuphina umntu ongaphumelelanga okanye owalileyo ukuthobela nasiphina isicelo esenziwe kuye phantsi kwecandelo 73 (1) (c);
 - (b) ligxothe okanye lincede ekugxotheni kwiintendeze ezilayisenisiweyo nawuphina umntu ekubhekiselelwe kuye kwicandelo 73 (2).

Amagunya omhloli.

108. (1) Nawuphina umhloli unokuthi ngokweenjongo zalo Mthetho -
- (a) enganikanga saziyo kwangaphambili kwaye nangaliphina ixesha elifanelekileyo, angene kuzo naziphina iintendeze ezilayisenisiweyo ezicetywayo kwaye, emva kokuba emazisile umnini-layisenisi okanye omnye umntu okwelo xeshana ophetheyo okanye olawula ezo ntendeze ngenjongo yokutyelela kwakhe, enze olo phononongo uphando nongqawo nakuyiphi na indawo kwezo ntendeze zilayisenisiweyo njengoko anokubona kuyimfuneko;
 - (b) xa engaphakathi okanye kwezo ntendeze okanye nangaliphi na elinye ixesha elifanelekileyo, abuze nawuphina umnini-layisenisi okanye nawuphina umntu ofuna ukuqhuba naliphina ishishini kwezo ntendeze okanye nawuphina umqeshwa waloo mnini-layisenisi okanye umntu phakathi kwabanye okanye bucala kwabanye acele kuloo mnini-layisenisi, umntu okanye uqeshwa ukuvezwa ngoko nangoko, okanye ngexesha nakwindawo ebekwe ngumhloli lowo, kwayo nayiphina incwadi, isaziso, okubhaliweyo, udweliso lwezinto okanye olunye uxwebhu okanye nayiphina into elapho okanye elalapho kwezo ntendeze eyiyeyakhe okanye eselugcinweni okanye phantsi kolawulo lwaloo mnini-layisenisi, umntu okanye umqeshwa ukuba ngokoluvo lwakhe ukuphonononga loo ncwadi, isaziso, okubhaliweyo, uludwe lwezinto, uxwebhu okanye into kuyimfuneko ngokwe njongo zalo naluphina uphando alwenzayo;
 - (c) ngalo naliphina ixesha elifanelekileyo afuna kuye nawuphina umntu onazo okanye ogcine okanye olawula nayiphina incwadi, isaziso, okubhaliweyo, uludwe lwezinto okanye olunye uxwebhu olunxulumene nezo ntendeze sezixelwe ngaphambili okanye kwishishini eliquhutyelwa apho ukuveza ngoko nangoko, okanye ngexesha nakwindawo ebekwe ngumhloli, lowo, kwaloo ncwadi, isaziso, okubhaliweyo, udweliso lwezinto okanye uxwebhu kuyimfuneko ngokweenjongo zalo naluphina uphando aluqhubayo.
 - (d) aphonononge athathe izicatshulwa neekopi zayo nayiphina loo ncwadi, isaziso, okubhaliweyo, uludwe lwezinto okanye uxwebhu, afune inkcazelo ngako konke okufakiweyo kuyo nayiphina incwadi, isaziso, okubhaliweyo, uludwe lwezinto okanye uxwebhu kwaye athimbe nayiphina incwadi enjalo, isaziso, okubhaliweyo, uludwe lwezinto okanye uxwebhu njengoko kuluvo lwakhe kunokwanezisa ubungqina bako nakuphina ukuphetshwa kwaso nasiphina isilungiselelo salo Mthetho okanye nawuphina omnye umthetho okanye nawuphina uqathango okanye esiwiswe phantsi kwalo Mthetho.
- (2) Wonke umnini-layisenisi naye wonke omnye umntu oqhuba okanye ojonge ukuqhuba naliphina ishishini kuzo naziphina iintendeze ezilayisenisiweyo okanye iintendeze ezilayisenisiweyo ezicetywayo ezingenwe ngumhloli phantsi kwecandelwana (1) naye nawuphina umqeshwa waloo mnini-layisenisi okanye loo mntu uya kuthi ngawo onke amaxesha anike amathuba afanelekileyo njengoko efunwa ngumhloli ngenjongo yokusebenzisa amagunya akhe phantsi kweli candelwana lixeliweyo.

Ulwaphulo-mithetho phantsi kwesi Sahluko.

109. Wonke umntu -

- (a) ongaphumeleliyo okanye owalayo ukuvumela naliphina ilungu lamapolisa okanye igosa leerhafu okanye igosa lerhafu yezinto zasekhaya okanye umhloli ukuba ahlale nakuphina okubhaliweyo, irejista, isaziso, incwadi, udweliso lwezinto okanye olunye uxwebhu, ngokwamalungiselelo alo Mthetho, ofanele ukuzigcina okanye ezikuye ezikugcino okanye ulawulo lwakhe okanye kungenjalo ezikwiintendeze ekuthethwa ngazo;
- (b) othi nangayiphi indlela uxabe okanye aphazamise naliphina ilungu lamapolisa okanye igosa lerhafu yezinto ezingeniswayo okanye lerhafu yezinto zasekhaya okanye umhloli ekwenzeni kwakhe umsebenzi wakhe phantsi kwalo Mthetho, okanye
- (c) ongaphumeleliyo okanye owalayo ukunika igama lakhe elizeleyo nedilesi xa lifunwa lilo naliphina ilungu lamapolisa ngokwemigaqo yecandelo 106 (1) okanye onika igama okanye idilesi elingeyonyani, uyakuba netyala lokwaphula umthetho.

ISAHLUKO 14

UBUNGQINA NOBUTYALA KUMATYALA ESIZI

- Ukuzindlwa kokuthe-* 110. Kuko nakuphina ukuqhutywa kwetyala phantsi kwalo Mthetho lakhe nawuphina umntu ngokuthengi-

ngiswa ngumntu onge-
naliyisenisi.

sa utywala ngaphandle kwelayisenisi, ubungqina bokuba loo mntu -

- (a) phakathi okanye ecaleni kweentendelezo zakhe ube nayo nayiphina ibhodi yomqondiso okanye isaziso esichaza ukuba unelayisenisi, okanye
- (b) ubehleli okanye kuyacaca ukuba ubehleli kwiintendelezo ezinebhari okanye indawo efana nayo equlethe iibhotile, iifatyini okanye imiphanda ebekwe ngendlela enokubangela inkolelo efaneleki-leyo yokuba utywala bebuthengiswa okanye bekusindlekwa ngabo apho okanye
- (c) kwiintendelezo zakhe ube notywala obuninzi kunokuba bebufuneka ukuba buselwe ngabantu abahleli apho, okanye
- (d) uthenga okanye ufumene okanye elugcinweni lwakhe okanye phantsi kolawulo lwakhe ube no-tywala obuninzi kunokuba bebufuneka ukuba buselwe nguye, usapho lwakhe nabantu abaqeshwe nguye *bona fide*, buya kuba sisiboniso *prima facie* sokuthengiswa kotywala nguloo mntu.

Ukuzindlwa kwente-
ngiso ngokususela ku-
hlobo lokuthengelana.

111. Kuko nakukuphina ukuqhutywa kwetyala phantsi kwalo Mthetho ngokubhekiselele kuyo nayiphina intengiso yotywala engekho mthethweni, kuya kuthathwa ngokuthi utywala buthengisiwe ukuba inkundla iyaneliseka ukuba, naxa kukho nje ukungabikho kwengqinisekiso yokugqithiswa kwemali, ukuthengelana okuluhlobo lwentengiso kwenzekile okanye ukuselwa kotywala bekuza kwenzeka.

Ukuzindlwa kwente-
ngiso ngokususela ku-
bukho kwindawo eku-
ngavumelekanga naba-
nina kuyo.

112. Ubungqina bokuba nawuphina umntu (ngaphandle komnini-layisenisi, ilungu losapho lwakhe, isicaka okanye iarahente okanye umntu oliloja kwiintendelezo ezilayisenisiweyo) abekwindawo ekungavumele-
kanga nabanina kuyo yezo ntendelezo ngexesha intengiso yotywala ebantwini kuloo ndawo kungavu-
melekanga nabanina kuyo ibingagunyaziswanga, buya kuba sisiboniso *prima facie* sentengiso yotywala
kuloo mntu ngumnini-layisenisi okanye endaweni yomnini-layisenisi ngeeyure ekungavumelekanga
mntu ngazo.

Isizindlo esisusela eku-
nikisweni ngotywala
ngumqeshwa okanye
ilungu losapho.

113. Ubungqina bokuba nabuphina utywala bunikwe nawuphina umntu kwiintendelezo ezilayisenisiweyo
lilo naliphina ilungu losapho okanye nayiphina iarahente okanye umqeshwa womnini-layisenisi buya
kuba sisiboniso *prima facie* sokuba obo tywala bunikwe ngumnini-layisenisi okanye endaweni yomnini-
layisenisi.

Isizindlo esisusela
ekuselweni kotywala.

114. Ubungqina bokuselwa okanye benjongo yokusela utywala kwiintendelezo ezilayisenisiweyo ngumntu
ongenguye umnini-layisenisi, ilungu losapho lwakhe iarahente okanye isicaka, buya kuba sisiboniso
prima facie sokuba obu tywala buselweyo okanye bujongwe ukuselwa bunikwe ngumnini-layisenisi
okanye endaweni yomnini layisenisi.

Imfanelo yokubonisa
apho umntu atninte-
lweyo ekwiintende-
lezo.

115. Ukuba nawuphina umntu, othi phantsi kwaso nasiphina isilungiselelo salo Mthetho othintelwe ukuba
afikelele, okanye ekubeni nangaliphina ixesha elithile abe, kuzo naziphina iintendelezo ezilayisenisi-
weyo okanye nayiphina indawo ethile yazo, kuqinisekisiwe ukuba ebekwezo ntendelezo okanye
inxalenye yazo, okanye ukuba ebelapho ngelo xesha, umnini-layisenisi wezo ntendelezo uya kuthatya-
thwa ngokuba umvumele loo mntu ukuba abe kulo ndawo kubonisiweyo ukuba abekuyo ngaphandle
kokuba uyayaneza inkundla ukuba yena kunye nearahente zakhe nezicaka basebenzise inyameko
kangangoko ukuthintela ubukho apho baloo mntu.

Isiboniso selayisenisi
neengxelo ezilapho.

116. Kuko nakukuphina ukuqhutywa kwetyala phantsi kwalo Mthetho uxwebhu olwenziweyo okanye
olunikezelwe enkundleni lilungu leqela labasebenzi likamantyi okanye lilo naliphina ilungu lamapolisa
olubonakalisa ukuba lolunye lweekopi zelayisenisi ekubhekiselelwe kuzo kwicandelo 4 (4) (b) okanye
ikopi yegunya elikhutshwe phantsi kwalo Mthetho, luya kuba bubungqina *prima facie* baloo layisenisi
okanye igunya kwaye nayiphina imigaqo iziqhobosho, izalathiso, nemiqathango ekhankanywe kolo
xwebhu iya kuthi *prima facie* ithathwe ngokuba yimigaqo, iziqhobosho, izalathiso nemiqathango
ewiswe phantsi kwalo Mthetho ngaloo layisenisi okanye igunya.

Iziqinisekiso zabacaluli.

117. (1) Ngokulawulwa ngamalungiselelo oMthetho nobungqina kwiNkqubo yamaTyala eSizi, 1982 (UM-
thetho 17 we-1982), nayiphina ingxelo okanye isiqinisekiso esibonakalisa ukuba sisayinwe ngum-
caluli okanye ikhemisti oqeshwe nguRhulumente weCiskei okanye uRhulumente weRiphabliki
yoMzantsi Afrika owenze ucalulo lwento okanye icandelo lazo olungumxholo wesimangalo luya-
kuthi nje ngokuvezwa ngumtshutshisi kuyo nayiphina inkqubo yetyala phantsi kwalo Mthetho
lube bubungqina obaneleyo beengongoma ezikhankanyiweyo kule ngxelo okanye isiqinisekiso
ngaphandle kokuba ummangalelwa ufuna ukuba loo mcaluli okanye ikhemisti (ukuba umtshutshisi
unakho ukumnyanzela ukuba abekho njengengqina) abizwe njengengqina kwaye, ukuba ngaba
inkundla igqibe ngolo hlobo, ushiya okanye unika ukhuselo oluyanezayo inkundla, ukuhlawula eso

sixa siya kuthi, ngokoluvo lwenkundla, sifuneke ukuhlangabezana neendleko neenkitho zaloo mcaluli okanye ikhemisti emenyiweyo nevela njengengqina.

- (2) Kuyo nayiphina inkqubo enjalo ummangalelwa uya kuthi, endaweni yokufuna ubukho baloo mcaluli okanye (ikhemisti), avumeleke ukuba amfake imibuzo ngokubhaliweyo okwamkelweyo yinkundla, kwaye iimpendulo zalo mibuzo ziya kwamkeleka kubungqina ekuqhutyweni kwetyala.

Isizindlo sokuba loo mntu ungaphantsi kobudala obuthile.

118. Apho kuko nakuphina ukuqhutywa kwetyala phantsi kwalo Mthetho -

- (a) ubungqina obunikiweyo bokuba umntu, ngokwenkangeleko yakhe ngokucacileyo ungaphantsi kobudala obuthile, kwaye
(b) umantyi ochophele eli tyala wazisa ukuba ngokokubona kwakhe loo mntu, uyaneliseka ukuba loo mntu ubonakala engaphantsi kobo budala, kwaye
(c) loo mantyi ubhala phantsi irekhodi yokuqhutywa kwetyala ukuba wanelisekile koko, loo mntu kuthethwa ngaye uya kuthelekelelwa ukuba ungaphantsi kobo budala kude kuqinisekise oko-kuba akunjalo.

Impazamo ebona fide yenyani asilogwiba.

119. Akuyi kuba ligwiba kuso nasiphina isimangalo phantsi kwalo Mthetho ukuba ummangalelwa okanye intloko yakhe, iarhente okanye isicaka ukholelwe *bona fide* ekubeni nayiphina inyani ebinokwenza ukuba isenzo okanye utyeshelo esingumxholo wesimangalo samkeleke ngokwasemthethweni, ukuba ngaba ngenene ibinokubakho kodwa ngokwenyani ingakhange ibekho.

Xa into elulwelo ithelekelelwa ukuba yingxubevange okanye isiselo esingavumelekanga.

120. Ukuba kulo naluphina utshutshiso ngenxa yolwaphulo-mthetho phantsi kwalo Mthetho kuqinisekisiwe ukuba ummangalelwa wenze, elugcinweni lwakhe ube nayo, okanye usebenzise, usele, umnike okanye ufumanise nawuphina omnye umntu, nayiphina into elulwelo ebi okanye enenkangeleko yayo nayiphina ingxubevange okanye isiselo ekubhekiselelwe kuso kwicandelo 82, kuya kuthelekelelwa ukuba loo nto ilulwelo ibi okanye iyingxubevange okanye isiselo ekubhekiselelwe kuyo kwicandelo 82 elixeliweyo ngaphandle kokuba kubonisiwe ukuba akunjalo.

Isizindlo sokuba into ethile elulwelo butywala besintu.

121. Apho kuso nasiphina isimangalo phantsi kwalo Mthetho kuthiwa nayiphina into elulwelo ibi bubo okanye butywala besogamu, ubungqina bokuba loo nto ilulwelo ibinayo okanye inenkangeleko yotywala besogamu buya kuba sisiboniso *prima facie* bokuba ibi bubo okanye butywala besintu.

Iimfanelo zemanejala.

122. Nawuphina umntu othi nangaliphina ixesha apha, alawule okanye aqhube ishishini lomnini-layisenisi uya kulawula kwaye uya kuthobela imisebenzi, iimfanelo, nezohlwayo ezifanayo nezomnini-layisenisi: Phantsi kwento ethi akukho nto equlethwe kweli candelo eya kucaciswa ngokuba iyamkhululela nawuphina umnini-layisenisi kuwo nawuphina umsebenzi, imfanelo okanye isohlwayo anokuthi ngokomthetho abe phantsi kwazo okanye alawulwe zizo.

Umnini-layisenisi uya-kuphendula ngezenzo ezingekho mthethweni zabanye abantu.

123. (1) Ngalo lonke ixesha, kuwo nawuphina umcimbi obhekiselele okanye nangayiphina indlela enxulumene neshishini okanye enye intshukumo eqhutywayo phantsi kwelayisenisi, imanejala, iarhente, isicaka, okanye ilungu losapho lomnini-layisenisi yenza okanye ityeshela ukwenza nayiphina into ethi, ukuba ibiyenziwe okanye ityeshelwe ngumnini-layisenisi, ikhokelela kulwaphulo-mthetho loo mnini-layisenisi uyakuthathwa ngokuba uyenzile okanye ukutyeshela ngokwakhe ukwenza loo nto kwaye uyakumelwaakuba egwetyiwe zizohlwayo ezimiseliweyo zoko, ngaphandle kokuba unika ubungqina obuyanezayo inkundla -

- (a) ukuba akakhange ayekelele okanye avumele eso senzo okanye olo tyeshelo,
(b) ukuba eso senzo okanye utyeshelo, okanye nasiphina isenzo okanye utyeshelo olunjalo, nokuba ngaba lusemthethweni nokuba ngaba alukho mthethweni, besingekho emagunyeni okanye umgaqo wokuqeshwa kwemanejala, iarhente, isicaka okanye ilungu losapho lwakhe,
(c) nokuba uthabathe amanyathelo afanelekileyo ukuthintela nasiphina isenzo okanye utyeshelo olulolo hlobo.

Phantsi kwento ethi into yokuba umnini-layisenisi abenike imiyalelo ethintela nasiphina isenzo okanye utyeshelo olunjalo ayiyi kuthi iyodwa yamkelwe njengobungqina obaneleyo bokuba uthabathe amanyathelo afanelekileyo ukuthintela eso sehlo.

- (2) Akukho nto iqulathwe kwicandelwana (1) iya kucaciswa ngokuba ikhululela nayiphina imanejala, iarhente, isicaka okanye ilungu losapho lomnini-layisenisi kuyo nayiphina imfanelo ngokubhekiselele kwisenzo okanye utyeshelo ekuthethwe ngalo.

ISAHLUKO 15

IZIBONELELO EZIZODWA EZIBHEKISELELE KUTYWALA BESOGAMU

- Ulawulo lweentselo.* 124. (1) Ngokulawulwa zizibonelelo zecandelo 87, akukho mntu uya kuthi kuwo nawuphina ummandla wolawulo -
- (a) enze intselo engathanga kuqala afumane imvume yenkosi okanye isibonda saloo mmandla; nokuthi
 - (b) kuyo nayiphina intselo -
 - (i) avumele okanye amkele ukuba kubekho okanye anike utywala besogamu, nawuphina umntu ongaphantsi kweminyaka elishumi elinesibhozo ngaphandle kokuba ubukho babantu abangaphantsi kobo budala nokungenelela kwabo ekuseleni utywala besogamu kuhamba ngokwesiko; okanye
 - (ii) avumele okanye ayekelele ukunxila okanye nasiphina isenzo soqhushululu ukuba siqhubeke.
- (2) Ngokulawulwa zizibonelelo zomhlathi (b) (1) zecandelwana (1) akukho mntu ungaphantsi kweminyaka elishumi elinesibhozo uya kuthabatha inxaxheba okanye abekho okanye asele utywala besogamu, nakuyiphina intselo.
- Ukusilwa nokuba notywala kunokuthintelwa kwiimeko ezithile.* 125. (1) Nanini na xa nasiphina isimo soqhushululu, umlo okanye esinye isiphazamiso sisenzeka okanye silindeleke ukuba senzeke nakuyiphina indawo kuwo nawuphina ummandla wolawulo okanye nanini na xa kukho izizathu eziphathekayo zokurhanela ukuba utywala besogamu busilwa kakhulu ngokugqithisileyo kuyo nayiphina indawo ekuhlalwa kuyo okanye iintendezezo kuloo mmandla, umantyi unokuthi ngokubhaliweyo athintele ukusilwa nokuba notywala besogamu kuloo ndawo, umzi okanye iintendezezo ngelo xesha njengoko anokuthi aqingqe ngokwengqiqo yakhe.
- (2) Umantyi uya kubeka kwindawo ebonakalayo kwiofisi yakhe kwaye anike abangele kunikwe inkosi okanye isibonda saloo mmandla wolawulo kuthethwa ngawo, ikopi yaso sonke isithintelo esenziwe nguye phantsi kwecandelwana (1) kwaye loo nkosi okanye isibonda iya kuthi kwangoko ibangele ukuba iziqukatho zesithintelo zaziswe kumntu okanye abantu abachaphazelekayo koko.
- (3) Ukuba, phambi kokuphela kwelo thuba liqingqwe ngumantyi ngokubhekiselele kuso nasiphina isithintelo phantsi kwecandelwana (1), unoluvo lokuba isizathu sokuthintelwa asisekho, usenoku-sirhoxisa eso sithintelo.
- Ulwaphulo-mthetho phantsi kwesi Sahluko.* 126. Nawuphina umntu -
- (a) owaphula nasiphina isibonelelo secandelo 124 (1) okanye (2), okanye
 - (b) osila okanye anotywala besogamu kuyo nayiphina indawo, indawo yokuhlala, okanye iintendezezo ekusebenza ngokubhekiselele kuzo nasiphina isithintelo phantsi kwecandelo 125 (1), uya kuba netyala lokwaphula umthetho.
- Okusalayo.* 127. (1) Akukho nto iqulethwe kulo Mthetho iya kucaciswa -
- (a) njengokuba igunyazisa intengiso yotywala besogamu nguye nawuphina umntu ngaphandle komnini-layisenisi;
 - (b) njengokuba ithintela, ngaphandle kokuya kuthi ga ngangoko kujongiwe kwaye ngokulawulwa ngamalungiselelo ecandelo 87 -
 - (i) intloko yalo naluphina usapho kummandla wolawulo ekusileni nasekubeni abe notywala besogamu kangangemilinganiselo efanelekileyo ukuze buselwe kuyo nayiphina intselo yotywala engathintelwanga ngokwemigaqo yecandelo 124 (1) (a); okanye
 - (ii) umnini okanye nawuphina umhlali ngokusemthethweni weentendezezo nakuwuphi na ummandla wolawulo ekusileni nasekubeni abe notywala besogamu ngemilinganiselo efanelekileyo ukuze buselwe nguye okanye usapho lwakhe okanye ngabantu abaqeshwe bona fide nguye, okanye ngokwesiko elifanelekileyo, abanike nayiphina inkonzo kuye okanye abenze nawuphina umsebenzi besenzela yena; okanye
 - (c) ngokuba iphuma ecaleni kwizibonelelo zawo nawuphina umthetho obhekiselele ekuphathweni okanye kulawulo hweentlanganiselo, iindibano okanye intlangano.
- (2) Ngaphandle kwalapho ingxam inezinye iimfuno nayiphina into kulo Mthetho ebhekiselele "kutywala" iya kuthi -
- (a) ngokubhekiselele kwilayisenisi yotywala besogamu ilayisenisi yomsili wotywala besogamu okanye umnini-layisenisi wayo nayiphina ilayisenisi enjalo, icaciswe njengokuba kukubhekiselela kutywala besogamu; kwaye
 - (b) ngokubhekiselele kulo naluphina olunye udidi lwelayisenisi, icaciswe njengokuba kukubhekiselela kuhlobo lotywala anokuthi umnini-layisenisi ochaphazelekayo abuthengise ngokusemthethweni phantsi kwemiqathango ephathelele kwilayisenisi yakhe.

ISAPHLUKO 16

AMALUNGISELELO AZINTLOBO NGEENTLOBO

Izohlwayo.

128. (1) Nawuphina umntu -

- (a) ogwetyelwe ukwaphula umthetho ngokwaphula icandelo 80 uya kuba sesichengeni sesohlwayo esingekho ngaphezulu kweerandi ezingamakhulu amahlanu okanye ukuvaliwa entolo ngweni ithuba elingekho ngaphezulu kweenyanga ezintandathu okanye kuzo zombini esohlwayo kunye noko kuvaliwa entolongweni;
- (b) ogwetyelwe ukwaphula umthetho ngokwaphula nasiphina esinye isilungiselelo salo Mthetho uya kuba sesichengeni sesohlwayo esingekho ngaphezulu kweerandi ezingamakhulu amabin anesihlanu okanye ukuvaliwa entolongweni ithuba elingekho ngaphezulu kweenyanga ezintathu.

(2) Ukuba, ngalo naliphina ixesha ngale minyaka mihlanu iphambi kwako nakuphina ukugwetywa ngenxa yokwaphula umthetho okubhekiselelwe kuko kwicandelwana (1) ummangalelwa wagwetyelwa ukwaphula umthetho phantsi kwalo Mthetho okanye phantsi kwawo nawuphina umthetho otshitshiswe ngulo Mthetho, izohlwayo ezimiseliweyo kwicandelwana (1) zoko kwaphulwa komthetho zinokuphindwa kabini.

(3) Nasekubeni kukho nayiphina into equlethwe kuwo nawuphina umthetho, inkundla kamantyi iya kuba negunya lokuwisa nasiphina esinye sezohlwayo ezimiseliweyo kwelicandelo.

129. (1) (a) Nanini na xa nawuphina umntu ongumnini-layisenisi okanye obengumnini-layisenisi egwetywe yiyo nayiphina inkundla ngenxa yokwaphula nawuphina umthetho phantsi kweSahluko 9, inkundla inokuyiphelisa ilayisenisi ekhutshelwe ishishini okanye enye intshukumo umnini wayo ogwetyiweyo ebengumnini layisenisi ngexa lokwenziwa kolo lwaphulo-mthetho.

(b) Akukho layisenisi yakhe nawuphina umntu okanye ebeyiyakhe nawuphina umntu njengomntu onyuliweyo okanye njengomqeshwa wakhe nawuphina umntu iya kupheliswa phantsi komhlathi (a) ukuba intloko okanye umqeshi waloo mntu ugwetyiweyo (oya kuba nelungelo lokumanyelwa yinkundla) uyiqinisekisa ngokwanelisayo inkundla ukuba akakhange avumele okanye ayekele ukwaphulo-mthetho ekuthethwa ngalo koko uthathe onke amanyathelo afaneleyo ukuthintela ukwenzeka kwalo: Phantsi kwento ethi into yokuba loo ntloko okanye umqeshi ubenike imiyalelo ethintela eso senzo okanye utyeshelo iyodwa ayiyi kwamkelwa njengobungqina obanelisayo bokuba uthathe onke amanyathelo afanelekileyo ukuthintela eso sehlo.

(c) Intloko okanye umqeshi iyakuba nelungelo lokubhena ngalo naluphina upheliso, ngokungathi sisigwebo senkundla leyo yenza olo pheliso, kanye eso, sibheni sinokuthi sichotshelwe ngamaxesha awahlukeneyo nesigwebo esibangele olo pheliso okanye nesichasene nesigwebo esiwiswe yinkundla.

(2) Ngesigwebo sesibini okanye esilandelayo ngokwaphulwa kwecandelo 80 okanye 82 sakhe nawuphina umntu ongengumnini layisenisi phantsi kwalo Mthetho kodwa onelayisenisi okanye ilayisenisi zalo naluphina urhwebo okanye umsebenzi, inkundla inokuphelisa zonke okanye nayiphina enye yezo layisenisi kwaye inokuyalela ukuba loo mntu angavunyelwa ukuba athathe nayiphina ilayisenisi nokuba yeyaluphina urhwebo okanye umsebenzi ngexesha eliseleyo laloo nyaka okanye ekubeni, ngalo naliphina okanye ngexesha elikhankanyiweyo elingekho ngaphezulu kweminyaka emihlanu, nayiphina ilayisenisi phantsi kwalo Mthetho.

(3) Apho inkundla iphelise nayiphina ilayisenisi phantsi kwecandelwana (1) umbhali okanye unobhala wenkundla uya kuthi kwangoko acebise uMlawuli-Jikelele, uLawulo lwamaPolisa neGunya laba-Khenkethi ngokunjalo.

Ukutshona kotywala okanye ezinye izinto.

130. (1) Ngesigwebo sakhe nawuphina umntu ngokwaphula icandelo 80 bonke utywala obufunyenwe kuye buyakuthi ipso facto butshone kuRhulumente: Phantsi kwento ethi, ukuba loo mntu ugwetyiweyo ebe ngumnini-layisenisi okanye ngumnini-layisenisi othi nangona enelungelo layo abe uthe okanye wathi wakutyeshela ukufumana uhlaziyo, lwelayisenisi yakhe, kuya kuba sekuboneni kwenkundla ukuba ibhengeze ukuba nabuphina utywala obufunyenwe kuye butshone okanye bungatshoni kusinina.

(2) Nabuphina utywala okanye into ethinjwe phantsi kwegunya lalo Mthetho okanye uMthetho we-Nkqubo yamaTyala eSizi, 1977 uya kuthi, kunye nemiphanda obuqulathwe kuyo itshone eMbusweni ngaphandle -

(a) Kwakwimeko apho obo tywala okanye loo nto yenza umxholo wotshutshiso lomntu, obuhluthwe kuye inkundla ifumanisa ukuba utywala okanye into ibingagcinwanga nguye ngokuchaseneyo naso nasiphina isilungiselelo salo Mthetho okanye nawuphina omnye umthetho; okanye

- (b) kuyo nayiphina enye imeko, umntu ebebuthathwe kuye obo tywala okanye into uqinisekisa zingedlulanga iintsuku ezingamashumi amathathu emva kokuthinjwa ngokumanelisayo uMphathiswa ukuba ukuba naloo nto kwakhe okanye nawuphina omnye umntu bekungekho phantsi kwanjongo zingekho mthethweni.
- (3) Nabuphina utywala okanye enye into enikezelwe kwiSizwe ngokwemigaqo yalo Mthetho okanye, ngokubhekiselele kulo Mthetho, phantsi kwamalungiselelo oMthetho weNkqubo yamaTyala eSizi, 1977, iya kuthengiswa kwaye inzuzo yoko iya kugcinwa kwiNgxowa-mali yeNgeniso yeCiskei: Phantsi kwento ethi inkundla okanye uMphathiswa, njengoko imeko inokuba njalo, inokuthi ngokubona kwayo okanye ngokubona kwakhe ayalele ukuba nabuphina obo tywala okanye into butshatyalaliswe okanye kusetyenzwe ngayo ngenye indlela njengoko inkundla okanye uMphathiswa anokuyalela.

Imigaqo.

131. (1) Umphathiswa unokwenza imigaqo -

- (a) ngokunikezelwa kwelayisenisi phantsi kwalo Mthetho, kubandakanywa imo yeelayisenisi, inani leekopi zeelayisenisi ezizakukhutshwa ngamagosa anikezelayo neeofisi ekuya kuthunye-lwa kuzo iikopi zeelayisenisi;
 - (b) ngokulandelelana kwemicimbi nenkqubo ekufuneka ilandelwe kwintlanganiso zeBhodi;
 - (c) ngemo nendlela ezenziwe ngayo izicelo, izaziso ekufuneka zipapashiwe okanye zixhonywe ngokubhekiselele kwizicelo nangamaxwebhu nengcaciso ekufuneka inikezelwe ngabaceli ngezicelo zabo;
 - (d) ngemo nendlela yokwenza izichaso kwizicelo nezeempendulo zezo zichaso;
 - (e) ngeemfuneko ekufuneka zithotyelwe ngokubhekiselele kwiintendelezo ekwenzelwa zona izicelo zeelayisenisi okanye naluphina udidi oluthile lweelayisenisi;
 - (f) ngemo yaso nasiphina isatifikethi okanye igunya elibekelwe imiqathango elikhutshwe okanye elinikezelwe sisiphathamandla esilayisenisayo;
 - (g) ngemo yeerekhodi neerejista ekufuneka zigcinwe nabanini-zilayisenisi, okanye iindidi ezahlukeneyo zabanini-zilayisenisi, iinkcukacha ekufuneka zibhalwe phantsi kwezo rekhodi okanye kwezo rejista, ukuhlolwa kwazo nayo nayiphina into ezalwa koko;
 - (h) ngokulawulwa okanye ukuqhotyoshwa kokungeniswa eCiskei, nowokugcinwa, ukuthengiswa, ukufunyaniswa okanye ukusetyenziswa kwesipirithi esinemethili;
 - (i) ngodidi lwabantu abaya kuthi nakubeni ekhona amalungiselelo ecandelo 94, bangasithengisi isipirithi esinemethili;
 - (j) ngokugcinwa nangendlela yokugcina iirejista okanye okubhaliweyo ngayo yonke intengiso yesipirithi esinemethili okanye yamayeza anxilisayo;
 - (k) ngendlela isipirithi esinemethili esithengisiweyo okanye esigcinelwe ukuthengiswa eCiskei esiya kuthi siguqulwe kwimo yaso, sinikwe iumba kwaye kuthiwe asinakuselwa ukuba oku bekungekenziwa ngokwemigaqo yawo nawuphina umthetho.
 - (l) ngokuqhotyoshwa kobungakanani besipirithi esinemethili esinokuthengiswa ngezikhongozeli esiya kuthengiswa sikuzo;
 - (m) ngokunqanda okanye ukuqhotyoshwa kokugcinwa, ukuthengiswa, ukufunyaniswa okanye ukusetyenziswa kwamayeza anxilisayo;
 - (n) ngokunqandwa okanye ukuqhotyoshwa kokuthengwa okanye ukuba nesipirithi esinemethili okanye naliphina iyeza elinxilisayo okanye amayeza anxilisayo ngokubanzi ngabo nabaphina abantu okanye udidi lwabantu kuwo nawuphina ummandla, kwaye
 - (o) ngokubhekiselele kuwo nawuphina umcimbi, ngokwemigaqo yalo Mthetho, ekufuneka umiselwe ngomgaqo okanye anokuthi uMphathiswa awubone unqweneleka okanye kuyimfuneko ukuba umiselwe ukuphumaza iinjongo zalo Mthetho nangona loo mcimbi ungakhankanywanga ngokuphandle kwimihlathi eyandulelayo.
- (2) Imigaqo eyahlukeneyo inokubekwa ngokubhekiselele kwiindidi zeelayisenisi okanye abanini-layisenisi okanye imimandla eyahlukeneyo.
- (3) Imigaqo inokubonelela ukuba naluphina ulwaphulo lwayo okanye ukungaphumeleli ukuyithobela kuya kuba lulwaphulo-mthetho.

*Uthengiselwano olu-
khukulelweyo eku-
sebenzeni kwalo Mthe-
tho.*

132. (1) Akukho nto kulo Mthetho iya kusebenza kuye -

- (a) nawuphina umntu othengisa isiqholo esinesipirithi okanye esihluziweyo okanye indawo ekuthengiswa kuyo iziqholo okanye isipirithi esinyangiweyo, ukuba eso siqholo, indawo ethengisa iziqholo okanye isipirithi esinyangiweyo esibhengezwa okanye esingakhange sibhengezwe phantsi kwecandelo 95 ukuba sisipirithi esinemethili;
- (b) (i) nawuphina umsebenzisi wamayeza obhalisiweyo okanye umthengisi wamayeza ophethe

okanye othengisa *bona fide*, ngenjongo zokunyanga kuphela nangokwawo nawuphina umthetho ophethe ulawulo nentengiso yamayeza, nabuphina utywala obuneyeza;

(ii) nawuphina umthengisi wamayeza ongathengisi ngaphezulu kwamakhulu amabini anesihlanu eemilitha zezipirithi ezilungisiweyo okanye ialkhoholi epheleleyo yomsebenzi wokunyanga *obona fide*; okanye

(iii) nawuphina umthengisi wamayeza othengisa izipirithi ezilungisiweyo okanye ialkhoholi epheleleyo kuye nawuphina umthengisi wamayeza;

(c) nawuphina umntu othengisa *bona fide* ngenjongo zokunyanga nangemilinganiselo efanelekileyo ukuze kuselwe njengeyeza, phantsi kwayo nayiphina ilayisenisi evumela loo ntengiso naliphina iyeza lepeyitenti, lobunini okanye iyeza lamaDatshi elinotywala okanye elibhengezwe phantsi kwecandelo 96 ukuba liyeza elinxilisayo: Phantsi kwento ethi naliphina elo yeza linxiliso liya kugcinwa, lithengiswe okanye likhutshwe kuphela ngokwamalungiselelo awo nawuphina umgaqo; okanye

(d) intengiso yotywala kulo naliphina igumbi lezihlaziyi kulungiselelwa amalungu eNdibano yeSizwe, ukuba obo tywala buthengiswa phantsi kwegunya leNdibano okanye nayiphina ikomiti yayo.

(2) (a) Ngokulawulwa ngamalungiselelo omhlathi (b) weli candelwana, akukho nto equlethwe kulo Mthetho eyakucaciswa njengokuba iyanxaxha kumalungiselelo ecandelo 6 bis loMthetho weeHambo ngoMoya, 1962 (UMthetho 74 we 1962).

(b) Ngokweenjongo zalo Mthetho naziphina iintendezezo kwibala lweenqwelo-moya ezakhiwe ngokwemigaqo yecandelo 6 loMthetho weeHambo ngoMoya 1962, ngaphakathi okanye apho utywala buthengiswa khona ngokwemigaqo yecandelo 6 bis loMthetho oxeliweyo, nokuba ngaba kungeSebe lezoThutho okanye nguye nawuphina omnye umntu, ziya kuthi, njengoko obo tywala buthengiselwa *ukuselwa* ngaphakathi okanye kwezo ntendezezo, zithathwe ngokuba ziintendezezo ezilayisenisi yehotele engenalo ilungelo elilodwa lentengiso yangaphandle inikezelweyo phantsi kwalo Mthetho, nomntu ojongene nezo ntendezezo uya kuthathwa ngokuba ngumnini waloo layisenisi kwaye engumqeshi wabo bonke abantu abasebenza ngaphakathi okanye kuzo ezo ntendezezo.

Iekzemshini kwimfanelo yokuba nelayisenisi.

133. Akukho nto kulo Mthetho ebhekiselele kwisicelo selayisenisi okanye ukuba neelayisenisi iya kusebenza kuye -

(a) nawuphina umntu othengisa, phantsi kwegunya leKhomanda-Jikelele yoMkhosi woKhuselo, utywala kulo naliphina iziko okanye inkanti ekufunyaniswa kuzo utywala ukuba buselwe kuphela kwezo ntendezezo ngamalungu emikhosi exhobileyo okanye yonyanzeliso-gcino mthetho yeRiphabliki yeCiskei; okanye

(b) nawuphina umsila isekela-msila okanye elinye igosa elisebenza phantsi kwegunya lejaji, umantyi okanye inkundla, okanye naliphina igosa leerhafu ekusebenziseni ngokusemthethweni okanye ekwenzeni umsebenzi wakhe; okanye

(c) umphathi welifa lomntu oswelekileyo okanye umphatheli wepropati yotshonileyo okanye umgcini wepropati othengisela umnini-layisenisi utywala obubobaloo propati; okanye

(d) nawuphina unofandesi olayisenisiweyo othengisa ngefandesi, kwiintendezezo ezilayisenisiweyo zomnini-layisenisi wayo nayiphina ilayisenisi yotywala behoseyile okanye zakhe nawuphina umnini-layisenisi ogunyaziswa siso nasiphina isilungiselelo salo Mthetho ukuba athengise isitokhwe sakhe sotywala ngefandesi, utywala obubobaloo mnini-layisenisi okanye obuthengiswa ngefandesi kuyo nayiphina indawo evunyelweyo ngumantyi nabuphina utywala obulilifa lomntu oswelekileyo okanye kwipropati yotshonileyo okanye ipropati ephantsi kgcino, kuyo nganye imeko ngemilinganiselo engekho ngaphantsi kweelitha ezisithoba; okanye

(e) nawuphina umntu othi, kwinqwelo-moya elawulwa nesetyenziswa ngumthuthi ngomoya elayiseniswe ngokusemthethweni kwaye iphantsi kwegunya loMphathiswa kwaye ngaloo miqathango okanye izithintelo anokuziqingqa, athengise utywala kubahambi abangaphezulu kweminyaka elishumi elinesibhozo ngelixa loo nqwelo-moya ibhabhayo.

Ukungaqwalaseli amalungiselelo athile oMthetho akwenzi ukuba ilayisenisi zingaba namandla.

134. Ukuba namandla kwaso nasiphina isiqinisekiso okanye igunya elikhuthswe okanye elinikwe phantsi kwaso nasiphina isilungiselelo salo Mthetho ukunika, ukutshintshisa okanye ukuthatha ilayisenisi, okanye kwayo nayiphina ilayisenisi ekhutshiweyo, etshintshiselweyo okanye ethathiweyo ngegunya laso nasiphina eso siqinisekiso okanye igunya, akuyi kuchatshazelwa sisizathu sokuba nasiphina isaziso ekufuneka sipapashiwe okanye sixhonyiwe ngokwemigaqo yalo Mthetho besingapapashwanga okanye besingaxhonywanga ngokufanelekileyo.

Ishedyuli 1 yinxenye yalo Mthetho.

135. Ishedyuli 1 iya kufundwa njengenxalenye namalungiselelo alo Mthetho.

*Ukutshitshiswa kwe-
mithetho nezinxaxhi.*

136. (1) Ngokulawulwa ngamalungiselelo amacandelwana (2) nele (3), imithetho ekhankanyiweyo kwi-Shedyuli 2 ukwenjenje iyatshitshiswa.
- (2) Nayiphina ilayisenisi okanye olunye uxwebhu elikhutshiweyo okanye elihlaziyiweyo, nawuphina umgaqo obekiweyo, nakuphina ukuvuma okanye igunya elinikiweyo, nasiphina isiqhobosho okanye umqathango owisiweyo okanye nasiphina esinye isenzo esenziweyo okanye into eyenziweyo phantsi kwaso nasiphina isilungiselelo sawo nawuphina umthetho otshitshiswe licandelwana (1) nobunamandla kanye phambi kokuqala kwalo Mthetho iya kuthathwa ngokuba ikhutshiwe, ihlaziyiwe, yenziwe, inikiwe, iwisiwe, ithathiwe okanye yenziwe, njengoko imeko inokuba njalo, phantsi kwamalungiselelo alungelelene noku alo Mthetho.
- (3) Amalungiselelo alo Mthetho aya kusebenza kuwo nawuphina ummandla obandakanywe eCiskei emva kokuqala kwalo Mthetho kwaye, ukusukela kumhla wolo bandakanyo, nawuphina umthetho ekubhekiselele kuwo nawuphina umcimbi ekusetyenzwe ngawo kulo Mthetho nosebenezileyo kuloo mmandla kanye phambi kolo bandakanyo uya kuthathwa ngokuba utshitshisiwe: Phantsi kwento enti nayiphina ilayisenisi okanye elinye igunya lentengiso okanye ufuniso lotywala kuloo mmandla ethi, kanye phambi komhla lo Mthetho uqale ukusebenza kuloo mmandla ibe ibisebenza ngokubhekiselele kuzo naziphina iintendezezo kuloo mmandla uya kuhlala isebenza ide iphelelwe ngokuhamba kwexesha okanye kude kube lusuku lwamashumi amathathu ananye kuDisemba waloo nyaka amalungiselelo alo Mthetho aqale ngawo ukusebenza kuloo mmandla, nokuba luluphi olungaphambili, kodwa ngokulawulwa ngamalungiselelo alo Mthetho: Phantsi kwento ethi ngaphezulu ukuba loo layisenisi okanye elinye igunya iyaphelelwa phambi kolo suku lwamashumi amathathu ananye, kuDisemba, uMlawuli-Jikelele unokulongeza ithuba lamandla ayo ukuya kutsho kuloo mhla ngokuhlawula komnini wayo kwiNgxowa-mali yeNgeniso yeCiskei ngazo zonke iinyanga ezipheleleyo zethuba lokongezwa kwesixa esilingana neepesenti ezilishumi zentlawulo ehlawulelwe loo layisenisi okanye igunya.
- (4) Akukho nto iqulathiweyo kulo Mthetho iya kuthi -
- (a) ichaphazele nasiphina isicelo okanye iinkqubo zamatyala alo naluphina uhlobo ezenziwe okanye eziqaliswe phambi kokuqala kwalo Mthetho phantsi kwawo nawuphina umthetho otshitshisiweyo licandelwana (1) okanye njengoko imeko inokuba njalo, phantsi kwawo nawuphina obusebenza kuyo nayiphina ilayisenisi okanye elinye igunya ekubhekiselelwe kulo kwicandelwana (3) ngoko nangoko phambi kokubandakanywa eCiskei kommandla ebekwakhiwe kuwo iintendezezo, ebezikhutshelwe loo layisenisi okanye elinye igunya, kwaye eso sicelo okanye inkqubo yamatyala iya kuthathwa ngokuba sisicelo esenziweyo okanye inkqubo yamatyala esungulwe phantsi kwamalungiselelo alo Mthetho; kwaye
- (b) ithathwe ngokuba achaphazela amandla aso nasiphina isiqinisekiso okanye elinye igunya lokukhutshwa, ukutshintshwa okanye ukususwa kwayo nayiphina ilayisenisi okanye ukususwa kwayo nayiphina ilayisenisi okanye elinye igunya lentengiso okanye ukunikiswa ngotywala enikezelwe nguloo mntu unelungelo, igosa okanye iqumrhu ngokusemthethweni phambi kokubandakanywa eCiskei kommandla ekwakhiwe kuwo okanye ekuza kwakhiwa kuwo iintendezezo ekunikezelwe eso siqinisekiso okanye elinye igunya ngokubhekiselele kuzo, ukuba eso siqinisekiso okanye elinye igunya liyavumelana namalungiselelo alo Mthetho, kwaye loo layisenisi okanye elinye igunya iya kukhutshwa, itshintshwe okanye isuswe ngokwamalungiselelo alo Mthetho.
- (5) Ngokwenjongo zaso nasiphina isicelo ngokwemigaqo yalo mthetho sokuhlaziywa kwayo nayiphina ilayisenisi okanye elinye igunya ekubhekiselelwe kulo kwicandelwana (3) okanye (4) (b), umnini waloo layisenisi okanye elinye igunya uya kuthathwa ngokuba ngumnini-layisenisi welayisenisi phantsi kwalo Mthetho evumelanayo naloo layisenisi okanye elinye igunya okanye enikezela kuye amalungelo afanayo namalungelo awodwa.
- (6) Ukususela kusuku ekuthe ngalo nawuphina ummandla, ekuthi kuwo kusebenze uMthetho woTywala besogamu 1962 (UMthetho 63 we 1962), wabandakanywa eCiskei, amalungiselelo alo mthetho uxeliweyo aya kuthi, njengoko esebenza kuloo mmandla uthathwe ngokuba utshitshisiwe

UMTHETHO WOTYWALA WOVE-1983

Intloko emfutshane.

137. Lo Mthetho uyakubizwa ngokuba nguMthetho woTywala wove-1983.

SHEDYULI 1

ISAHLUKO 1: IINTLOBO-NTLOBO ZEELAYISENISI, IIMALI ZEELAYISENISI NEEMKO
EZITHIELE EZIPHATHELELE KWILAYISENISI

- (a) Kwilayisenisi zokuselela ngaphakathi, oko kukuthi ilayisenisi eziya kuthi ngokulawulwa ngamalungi-selelo alo Mthetho, zigunyazise ukuthengiswa kotywala obuza kusetyenziswa kwintendeze ezine-mvume yoko kuphela.

Umcimbi 1

*Ilayisenisi
yeNkanti.*

Ilayisenisi yonyaka yeNkanti ngama-R30 yaye ngaphezu koko apho ingeniso yeshishini yonyaka owandulelayo iyonke ingaphezulu kwama-R3 000, li R10 ngama-R2 000 nganye okanye inxalenye yawo ngaphaya kwama-R3 000.

Phantsi kwale layisenisi umnini-layisenisi angabuthengisa utywala nangalo naluphina usuku kodwa kungabikho phambi kwentsimbi yeshumi kusasa okanye emva kweyeshumi elinanye ebusuku.

Umcimbi 2

*Ilayisenisi
yombutho.*

Ilayisenisi yonyaka ngama-R60.
Ilayisenisi yesiqingatha sonyaka ngama-R30.

Phantsi kwale layisenisi umnini-layisenisi angathi nakubeni kukho nayiphina into equlathwe nguwo nawuphina umthetho athengise okanye anikise ngotywala ngalo naluphina usuku, nangosuku okuvaliweyo ngalo (ngaphandle kwemini yovoto) kulo naliphina ilungu lombutho ukuze busetyenziswe lilungu elinjalo okanye undwendwe lwakhe, kodwa kungabikho phambi kwentsimbi yeshumi kusasa okanye emva kwentsimbi yeshumi elinanye ebusuku.

Umcimbi 3

*Ilayisenisi yo-
tywala yeResto-
renti.*

Ilayisenisi yonyaka ngama-R50.
Ilayisenisi yesiqingatha sonyaka ngama-25.

Phantsi kwale layisenisi, umnini-layisenisi angathi nakubeni kukho nayiphina into equlathwe nguwo nawuphina umthetho athengise ngalo naluphina usuku, nangosuku okuvaliweyo ngalo (ngaphandle kosuku lovoto) kuye nawuphina umntu (o bona fide ofumana okanye oza kufumana ukutya kwe restorenti akuthengileyo apho yaye akubhateleleyo okanye ekufaneleke abhathale imali engekho ngaphantsi kwesenti ezingama-50) utywala obuza kusetyenziswa nokutya okanye phambi kokutya okunjalo kodwa kungabikho naliphina ixesha elingekho phakathi kwentsimbi yeshumi eline-2 emini necala emva kweye-2 emva kwemini naphakathi kwentsimbi yesithandathu malanga nentsimbi yeshumi elinanye ebusuku.

Umcimbi 4

*Ilayisenisi yewa-
wayini yesidlo
notywala ba-
mazimba.*

Ilayisenisi yonyaka ngama-R30.
Ilayisenisi yesiqingatha sonyaka li-R15.

Phantsi kwale layisenisi umnini-layisenisi angathi nakubeni kukho nayiphina into achasayo kuwo nawuphina umthetho, athengisele okanye anikise ngewayini, utywala bemolthi okanye naziphina iziselo ezivundisiweyo ngalo naluphina usuku nangosuku okuvaliweyo ngalo (ngaphandle kosuku lovoto) kuye nawuphina umntu oliloja okanye omnye umntu njengoko imelo inokutsho, obona fide ofumana ukutya akubhateleleyo okanye ekufaneleke ukuba ahlawule imali engekho ngaphantsi kwe-30 leesenti) kwintendeze ezilayisenisiweyo azakubusebenzisa nesidlo esinjalo kodwa kungabilo naliphina ixesha elingekho phakathi kwentsimbi yeshumi elinesibini emini nentsimbi yesibini emva kwemini naphakathi kwentsimbi yesithandathu malanga nentsimbi yesithoba ebusuku.

Umcimbi 5

Ilayisenisi yeeyure zangokuhlwa. R5

Le layisenisi iya kugunyazisa uthengiso okanye unikezelo lotywala phakathi kweyure yeshumi elinanye ebusuku baloo mini neyure enjalo, engasayi kuba semva kwentsimbi yesibini kusasa yemini elandelayo, njengoko isiphathamandla esilayisenisayo sinokuthi sinokumisela xa sivumela isicelo.

Umcimbi 6

*Ilayisenisi yo-
tywala yexe-
shana.*

lirandi ezimbini ngosuku ngokuphathelele kwinkanti nganye.

Le layisenisi iya kugunyazisa ukuthengiswa kotywala ngalo naluphina usuku ekuvuliweyo ngalo (zingadluli kwintsuku ezintandathu ezilandelelanayo ekuvuliweyo ngazo) apho indawo yetheko loluntu, yolonwabo okanye uyoliso enikezelwe yona, ivulelwe uluntu yaye iyakuba kungezo yure kuphela ziya kucaciswa imantyi iiyure eiyakuba ziphakathi kwexesha ekuvuliweyo nekuvaliweyo ngalo kwindawo enjalo kodwa nokuba kuthenina akusayi kuba phambi kwentsimbi yesumi kusasa okanye emva kwentsimbi yeshumi elinanye ngokuhlwa.

(b) IILAYISENISI ZOKUSELELA NGAPHAKATHI NGEGUNYA OKANYE NGAPHANDLE KWEGU NYA ELILODWA LENTENGISO YANGAPHANDLE oko kukuthi ilayisenisi ezilawulwa ngamalungi selelo alo Mthetho ziya kugunyazisa uthengiso lotywala -

- (i) ngokumayela nelayisenisi (ngaphandle kwelungelo elilodwa lentengiso yangaphandle) bokokuba busetyenziswe kwiintendeze ezilayisenisiweyo kuphela yaye akusayi kuba kuyo nayiphina enye indawo.
- (ii) ngokumayela nelungelo elilodwa lentengiso yangaphandle buya kusetyenziswa ngaphandle kwente-ndeze ezilayisenisiweyo

Umcimbi 7

Ilayisenisi yo-tywala besoga-
mu. Ilayisenisi yonyaka li-R10.
Ilayisenisi yesiqingatha sonyaka zi-R5

Phantsi -

- (A) kwelayisenisi yotywala besogamu engenalungelo lilodwa lentengiso yangaphandle, umnini-layise-nisi angabuthengisa utywala besogamu ngalo naluphina usuku ekuvuliweyo ngalo kodwa kunga bikho phambi kwentsimbi yeshumi kusasa okanye emva kwentsimbi yeshumi elinanye ngokuhlwa
- (B) kwelungelo elilodwa lentengiso yangaphandle ligunyazisa ndaweninye nelayisenisi yotywala besogamu, umnini-layisenisi ukuba angathi naluphina usuku ekuvuliweyo ngalo athengise okanye anikise ngotywala besogamu phakathi kweyure yesithoba kusasa nentsimbi yesibhozo ebusuku yaye ahambise utywala besogamu phakathi kweyure yesithoba kusasa neyethoba ngokuhlwa

Umcimbi 8

Ilayisenisi yeHo-tele (kumma-
ndla osedolophi-
ni.) Ilayisenisi yonyaka ngama-R40 yaye, ngaphezulu apho ingeniso yeshishini iyonke yonya-ka ongaphambili ingaphezulu kwama-R4 000, li-R10 ngama R2 000 nganye okanye inxalenye yawo ngaphaya kwama-R4 000 kodwa ingabi ngaphezulu kwama-R6 000 nama-R20 ngama-2 000 nganye okanye inxalenye ngokuthe chatha kuma-R6 000.
Ilayisenisi yesiqingatha sonyaka isiqingatha semali yonyaka.

Umcimbi 9

Ilayisenisi ye-Hotele (ngapha-
ndle kommandla
wedolophu). Ilayisenisi yonyaka engama-R30 yaye ngaphezulu apho yengeniso iyonke yeshishini yonyaka ongaphambili ingaphezulu kwama-R4 000 li-R10 ngama-R2 000 nganye okanye inxalenye yawo ngaphaya kwama-R4 000 kodwa ingabi ngaphezulu kwama-R6 000 nama-R20 ngama-R2 000 nganye okanye inxalenye ngokuthe chatha kuma-R6 000
Ilayisenisi yesiqingatha sonyaka isiqingatha somrhumo wonyaka.

Phantsi -

- (A) kwelayisenisi yeHotele (eyahlukileyo kwilungelo elilodwa lwentengiso yangaphandle) umnini layisenisi angathi ngokulawulwa ziziqhobosho ziwiswe kuye, sisiphatha-mandla esilayisenisayo yayo ngaphandle kokuba ugunyaziswe ngokucacileyo ngokwemigaqo yalo Mthetho
 - (aa) athengise utywala ngalo naluphina usuku ekuvuliweyo ngalo kodwa kungabikho phambi kwentsimbi, yeshumi kusasa okanye emva kwentsimbi yeshumi elinanye ngokuhlwa
 - (bb) nakubeni kungakho nayiphina into equlathwe nguwo nawuphina uMthetho athengise okanye anikise ngotywala ngalo naluphina usuku ekuvaliweyo ngalo (ngaphandle kwemini yovoto) kumhambi o bona fide okanye kuye nawuphina umntu oliloja uzakubusebenzisa kwezo ntendeze zikwenye indawo engeyiyo leyo ibekelwe iziqhobosho ngumhambi onjalo obona fide okanye iloja elinjalo, okanye undwendwe lwakhe njengoko imeko inokutsho kodwa kungabikho phambi kwentsimbi yeshumi kusasa okanye emva kwentsimbi yeshumi elinanye ngokuhlwa.
- (B) Ilungelo elilodwa lentengiso yangaphandle eligunyaziswe ndaweninye nelayisenisi yeHotele, umni ni-layisenisi angathi -
 - (aa) ngalo naluphina usuku ekuvuliweyo ngalengaphandle kwemini emiselwe ukuba ibe yimini engaphelelanga yokusebenza ngokwemigaqo yawo nawuphina umthetho ekubhekiselelwe kuwo kwicandelo 59 (2), athengise okanye anikise ngotywala phakathi kweyure yesithoba

kusasa nentsimbi yesibhozo ngokuhlwa yaye ahambise utywala phakathi kweyure yesithoba kusasa neyesithoba ngokuhlwa;

- (bb) ngalo naluphina usuku ekuvaliweyo ngalo, elimiselwe ukuba libe yimini engaphelelanga yokusebenza ngokwemigaqo yawo nawuphina umthetho ekubhekiselelwe kuwo kwicandelo 59 (2) athengise okanye anikise ngotywala phakathi kweyure yesithoba kusasa nentsimbi yesithathu emva kwemini, yaye ahambise utywala phakathi kwentsimbi yesithoba kusasa nentsimbi yesine emva kwemini.

Umcimbi 10

Ilayisenisi
yeThaveni.

Ilayisenisi yonyaka engama-R40 yaye, ngaphezulu apho ingeniso yeshishini iyonke yonyaka ongaphambili ingaphezulu kwama-R4 000 li-R10 kwisixa esingama-R2 000 ngasinye ngokuthe chatha kuma-R4 000 kodwa ingabi ngaphezulu kwama-R6 000 nama-R20 kwisixa esingama-R2 000 ngasinye okanye inxalenye ngokuthe chatha kuma-R6 000. Ilayisenisi yesiqingatha sonyaka isiqingatha sibe sinye somrhumo wonyaka.

Phantsi -

- (A) Kwelayisenisi yethaveni (eyahlukileyo kwilungelo elilodwa lentengiso yangaphandle) umnini-layisenisi angathi, ngokulawulwa siso nasiphina isiqhobosho esiwiswe kuye sisiphathamandla esilayisenisayo yaye ngaphandle kokuba ugunyaziswe ngokucacileyo ngandlela yimbi ngokwemigaqo yalo Mthetho, athengise utywala ngalo naluphina usuku, nangosuku ekuvaliweyo ngalo (ngaphandle kosuku lovoto) obuzakuselwa kwiintendeze ezilayisenisiweyo kodwa kungabikho phambi kwentsimbi yeshumi kusasa okanye emva kweyeshumi elinanye ngokuhlwa;
- (B) ilungelo elilodwa lwentengiso yangaphandle eligunyaziswe ndaweninye nelayisenisi yethaveni ngalo naluphina usuku, nangosuku ekuvaliweyo ngalo (ngaphandle kosuku lovoto) athengise utywala obuza kusetyenziswa ngaphandle kwentendeze ezilayisenisiweyo phakathi kwentsimbi yesithoba kusasa nentsimbi yesibhozo ngokuhlwa.

- (c) ILAYISENISI YOKUSELELA NGAPHANDLE, oko kukuthi ilayisenisi eziya kuthi ngokulawulwa ngamalungiselelo alo Mthetho sigunyazise ukuthengiswa kotywala obuzakuselelwa ngaphandle kweintendeze ezilayisenisiweyo

Umcimbi 11

Udidi lweleyise-
nisi

Umrhumo welayisenisi

Ilayisenisi yeve-
kile yotywala.

Ilayisenisi yonyaka ngama-R30 yaye ngaphezu koko apho yengeniso yeshishini iyonke yonyaka ongaphambili ingaphezulu kwama-R4 000, yali-R10 kwisixa esingama-R2 000 ngasinye okanye inxalenye yayo ngokuthe chatha kuma-R4 000 kodwa ingabi ngaphezulu kwama-R600, nama-R20 ngesixa esingama-R2 000 ngasinye okanye inxalenye ngokuthe chatha kuma-R6 000. Ilayisenisi yesiqingatha sonyaka, isiqingatha somrhumo wonyaka.

Phantsi kwale layisenisi umnini-layisenisi angathi -

- (A) ngalo naluphina usuku, ngaphandle kosuku kwemini emiselwe ukuba ibe yimini engaphelelanga yokusebenza ngokwemigaqo yawo nawuphina umthetho ekubhekiselelwe kuwo kwicandelo 59 (2), athengise okanye anikise ngotywala phakathi kweyure yesithoba kusasa nentsimbi yesibhozo ngokuhlwa yaye ahambise utywala phakathi kweyure yesithoba kusasa nentsimbi yesithoba ngokuhlwa;
- (B) ngalo naluphina usuku olumiselwe ukuba lube lusuku olumiselwe ukuba lube yimini engaphelelanga yokusebenza yawo nawuphina umthetho ekubhekiselelwe kuwo kwicandelo 59 (2) athengise okanye anikise ngotywala phakathi kweyure yesithoba kusasa nentsimbi yesine emva kwemini.

Umcimbi 12

Ilayisenisi yom-
sili wotywala
besogamu.

Ilayisenisi yonyaka ngama-R30 yaye ngaphezu koko isenti ezimbini ngoelitha ezintlanu ngazinye zotywala besintu obusilwe ngonyaka ongaphambili. Ilayisenisi yesiqingatha sonyaka isiqingatha sibe sinye somrhumo waminyaka le.

Phantsi kwale layisenisi umnini-layisenisi angathi -

- (A) kwiintendeze zakhe ezilayisenisiweyo asile okanye enze yaye athengise aze anikise ngotywala besogamu;
- (B) ngalo naluphina usuku olumiselwe ukuba lube yimini engaphelelanga yokusebenza ngokwemigaqo yawo nawuphina umthetho ekubhekiselelwe kuwo kwicandelo 59 (2), athengise, okanye anikise kuye nawuphina umntu ngaphandle komnini-layisenisi phakathi kweyure yesithoba kusasa nentsimbi yesibhozo ngokuhlwa yaye ahambise utywala besogamu nakuye nawuphina umntu onjalo

- phakathi kwentsimbi yesithoba kusasa nentsimbi yesithoba ngokuhlwa;
- (C) ngalo naluphina usuku ekuvuliweyo ngalo, olumiswe njengemini engaphelelanga yokusebenza ngokwemigaqo yawo nawuphina umthetho ekubhekiselelwe kuwo kwicandelo 59 (2) athengise okanye anikise ngotywala besogamu kuye nawuphina umntu ngaphandle komnini-layisenisi phakathi kwentsimbi yesithoba kusasa neyentsimbi yokuqala emva kwemini yaye ahambise utywala besogamu kuye nawuphina umntu onjalo phakathi kweyure yesithoba kusasa nentsimbi yesine emva kwemini;
- (D) ngalo naluphina usuku ekuvuliweyo athengise utywala obusiliweyo kuye nawuphina umnini-layisenisi phakathi kwentsimbi yesixhenxe kusasa nentsimbi yesithandathu ngokuhlwa yaye ngalo naluphina usuku (nangemini ekuvaliweyo ngayo) ahambise utywala besogamu kuye nawuphina umnini-layisenisi okanye enze ukuba buhanjise ngaso nasiphina isithuthi sika wonke-wonke ukuze busiwe kumnini-layisenisi.

Umcimbi 13

Ilayisenisi yotywala yehosayili.

Ilayisenisi yotywala ngama-30 yaye ngaphezu apho yengeniso yeshishini iyonke yonyaka ongaphambili ingaphezulu kwama-R3 000 li-R10 ngama-R2 000 ngamanye okanye inxalenye yayo ngokuthe chatha kuma-R3 000. Ilayisenisi yesiqingatha saminyaka le isiqingatha somrhumo wonyaka.

Phantsi kwale layisenisi umnini-layisenisi angathi ngalo naluphina usuku ekuvuliweyo ngalo, athengise aze ahambise utywala kuye nawuphina umnini-layisenisi phakathi kweyure yesixhenxe kusasa nentsimbi yesithandathu ngokuhlwa yaye nangalo naluphina usuku ekuvaliweyo ngalo ngaphandle kwangecawa, umhla weKrisimesi uhwesihlanu oNgcwele, umhla wonyuko okanye umhla woMnqophiso, ahambise utywala kuye nawuphina umnini-layisenisi okummandla wasemaphandleni okanye enze ukuba buhanjise ngesithuthi sika wonke-wonke ukuze buhanjise busiwe kuye nawuphina umnini-layisenisi, yaye ngokulawulwa yimida ewiswe phezu kwakhe, sisiphatha-mandla esilayisenisayo -

(aa) ngalo naluphina usuku ngaphandle kosuku olumiswe njengemini engaphelelanga yokusebenza ngokwemigaqo yawo nawuphina umthetho ekubhekiselelwe kuwo kwicandelo 59 (2) athengise okanye anikise ngotywala kuye nawuphina umntu ngaphandle komnini-layisenisi phakathi kwentsimbi yesithoba kusasa nentsimbi yesithandathu ngokuhlwa aze ahambise utywala kuye nawuphina umntu onjalo phakathi kweyure yesithoba kusasa neyesixhenxe ngokuhlwa;

(bb) ngalo naluphina usuku olumiswe njengomhla ongaphelelanga wokusebenza ngokwemigaqo yawo nawuphina umthetho ekubhekiselelwe kuwo kwicandelo 59 (2), athengise okanye anikise ngotywala kuye nawuphina umntu ngaphandle komnini-layisenisi phakathi kweyure yesithoba kusasa nentsimbi yokuqala emva kwemini aze ahambise utywala kumntu onjalo phakathi kweyure yesithoba kusasa nentsimbi yesihlanu emva kwemini.

ISIAHLUKO 2 IMIRHUMO EMELE UKUHLAWULWA EKUTSHINTSHWENI OKANYE EKUTHATHWENI KWELAYISENISI

Inombolo yomcimbi

Ilayisenisi

Umrhumo

| | | |
|---|---|-----|
| 1 | Ilayisenisi yombutho okanye ilayisenisi yotywala besogamu | R5 |
| 2 | nayiphina ilayisenisi | R10 |

ISIAHLUKO 3 UMRHUMO WESICELO SELAYISENISI ENTSHA

Inombolo yomcimbi

Ilayisenisi

Umrhumo

| | | |
|---|--|------|
| 1 | Ilayisenisi yeNkanti | R50 |
| 2 | Ilayisenisi yoMbutho | R10 |
| 3 | Ilayisenisi yotywala ye Restorenti | R50 |
| 4 | Ilayisenisi yewayini yexesha lesidlo notywala bemolthi | R30 |
| 5 | Ilayisenisi yotywala besogamu | R10 |
| 6 | Ilayisenisi yehotele (ekummandla wedolophu) | R100 |
| 7 | Ilayisenisi yehotele (ngaphandle kommandla wedolophu) | R100 |

| <i>Inombolo yomcimbi</i> | <i>Ilayisenisi</i> | <i>Umrhumo</i> |
|--------------------------|---|----------------|
| 8 | Ilayisenisi yevenkile yotywala | R100 |
| 9 | Ilayisenisi yeThaveni | R100 |
| 10 | Ilayisenisi yomsili wotywala besogamu | R100 |
| 11 | Ilayisenisi yotywala beHoseyili. | R100 |

ISHEDYULI 2

IMITHETHO ETSHITSHISIWEYO

| <i>Ino. nonyaka woMthetho</i> | <i>Intloko emfutshane</i> |
|-------------------------------|--|
| UMthetho 6 wowe-1973 | UMthetho woTywala weCiskei wowe-1973 |
| UMthetho 5 wowe-1974 | UMthetho osisihlomelo wotywala weCiskei, wowe-1974 |
| UMthetho 4 wowe-1975 | UMthetho osisihlomelo wotywala weCiskei wowe-1975 |
| UMthetho 8 wowe-1976 | UMthetho osisihlomelo wotywala wowe-1976 |
| UMthetho 8 wowe-1977 | UMthetho osisihlomelo wotywala wowe-1977 |
| UMthetho 13 wowe-1979 | UMthetho osisihlomelo wotywala wowe-1979 |
| UMthetho 14 wowe-1980 | UMthetho osisihlomelo wotywala wowe-1980 |
| UMthetho 8 wowe-1981 | UMthetho osisihlomelo wotywala wowe-1981 |
| UMthetho 9 wowe-1982 | UMthetho osisihlomelo wotywala wowe-1982 |

LIQUOR ACT, 1983

ACT

To consolidate and amend the liquor laws.

(English text signed by the President. Assented to on 29 June 1983).

ARRANGEMENT OF CHAPTERS AND SCHEDULES

| Chapter or Schedule | Subject | Sections |
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| Chapter 1 | Definitions | 1 |
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| Chapter 3 | Ciskeian Liquor Board | 5 - 21 |
| Chapter 4 | Applications for licences and objections thereto: | |
| | (a) New licences and renewal of existing licences | 22 - 27 |
| | (b) Transfer or removal of licences | 28 |
| | (c) General | 29 - 30 |
| Chapter 5 | Qualifications for Licences: | |
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| Part 1 | Classes of licences, licence fees and certain conditions attaching to licences | |
| Part 2 | Fees payable on transfer or removal of licence | |
| Part 3 | Application fee for new licence | |
| Schedule 2 | Laws repealed. | |

BE IT ENACTED by the National Assembly of the Republic of Ciskei, as follows:-

CHAPTER 1

DEFINITIONS

Definitions.

1. In this Act, unless the context otherwise indicates -

"accommodation establishment" means an accommodation establishment duly licensed as such under the Licences Act, 1982;

"administrative area" means the area falling under the administrative control of any chief or headman;

"administrative body" means a tribal or regional authority or any urban local authority;

"annual meeting" means an annual meeting of the Board referred to in section 8;

"applicant" means any person or nominee who makes an application;

"application" means an application under this Act made to the licensing or other competent authority;

"association of persons" means a company, society, partnership or other association of persons;

"beer drink" means a gathering of persons from more than one household on premises which are not licensed premises and at which sorghum beer is consumed;

"Board" means the Ciskeian Liquor Board constituted in terms of section 5;

"bona fide traveller" means any person to whom the supply of liquor is not prohibited under any law and who, in relation to -

(a) any hotel situate in an urban area, resides outside, and has travelled from beyond the limits of, such urban area;

(b) any hotel situate in a rural area, has travelled a distance of not less than ten kilometres;

"café" means the business carried on under a café-keeper's licence issued in terms of the Licences Act, 1982;

"Chairman" means the chairman of the Board referred to in section 5 (a) and includes any member of the Board acting as chairman;

"chief" means a chief as defined in section 1 of the Ciskeian Authorities, Chiefs and Headmen Act, 1978 (Act 4 of 1978) and includes a chief's deputy;

"closed day" -

(a) means a Sunday, Good Friday, Ascension Day, Day of the Vow, Christmas Day and any polling day;

(b) includes, in relation to any bottle store licence and any special right of off-sale authorized in conjunction with an hotel licence, any other day which is a public holiday; and

(c) further includes any other day declared by the Minister by notice in the *Gazette* to be a closed day in respect of any area specified in such notice;

"condition", in relation to any licence, includes any restriction;

"Director-General" means the Director-General of the Department of Justice and includes a Deputy Director-General of that department;

"district" means the magisterial district in which the licensed premises or the proposed licensed premises are or will be situate;

"*Gazette*" means the Government Gazette of the Republic of Ciskei;

"headman" means a headman as defined in section 1 of the Ciskeian Authorities, Chiefs and Headmen Act, 1978;

"inspector" means an inspector referred to in section 104;

"interim meeting" means an interim meeting of the Board referred to in section 9;

"intoxicating medicine" means any medicine declared to be such under section 96;

"issuing officer" means the receiver of revenue of the district;

"licence" means a licence for the sale or supply of liquor prescribed in or granted under this Act;

"licence-holder" means any person or nominee who holds a licence;

"licensed premises" means the building or portion of a building in respect of which a licence is held and which is indicated on the plan thereof approved under this Act and lodged with the Board, and includes such outbuildings, verandahs, yards, gardens or grounds appurtenant to such building or portion as are so indicated but excludes such part of such building or portion and such other places as may in any particular case be specially excluded therefrom by the licensing authority;

"licensing authority" means the Minister or the magistrate, as the case may be, and in relation to an application for the removal of a licence includes the Board;

"liquor" means, subject to the provisions of section 127 (2), -

(a) any spirit (other than methylated spirit), wine, liquor, malt liquor or hop beer;

(b) any other drink containing more than two per cent by volume of alcohol;

(c) sorghum beer;

(d) any drink, substance or concoction which the Minister may from time to time declare by notice in the *Gazette* to be included in this definition;

(e) any drink with which anything defined as liquor in paragraph (a), (b), (c) or (d) has been mixed;

(f) any sweet containing more than two per cent of alcohol by mass;

"lodger" means, in relation to any licensed premises, any person (other than an employee of the licence-holder or of the licence-holder's principal or employer) who *bona fide* lives and sleeps upon such premises;

"magistrate" means the magistrate, additional magistrate, or assistant magistrate of the district;

"malt liquor" means and includes beer (that is to say the alcoholic liquid obtained by the fermentation of a mash of malt, with or without cereals, flavoured with hops), ale, stout and other liquor made or sold as or under the name of beer, ale or stout, if it contains more than two per cent by volume of alcohol but does not include sorghum beer;

"methylated spirit" means -

- (a) spirit denatured in accordance with any law for the denaturation or methylation of spirit;
- (b) any other denatured, medicated, perfumed or otherwise treated spirit which the Minister may, in terms of section 95 declare to be methylated spirit for the purposes of this Act;

"Minister" means the Minister of Justice;

"nominee" means the nominee of any association of persons or of the development corporation;

"off-consumption licence" means a sorghum beer brewer's licence, a bottle store licence or a wholesale liquor licence and includes a special right of off-sale held in conjunction with a sorghum beer licence or an hotel licence;

"officer" means an officer as defined in section 1 of the Public Service Act, 1981 (Act 2 of 1981);

"on-consumption licence" means a bar licence, a club licence, a late-hours licence, a restaurant liquor licence, a wine and malt liquor licence, a tavern licence, a temporary liquor licence, a sorghum beer licence or an hotel licence as distinct from any special right of off-sale authorized in conjunction therewith;

"other fermented beverage" means any beverage produced or manufactured from fruit, other than grapes, containing more than two per cent by volume of alcohol and complying with the requirements prescribed by or under the Wine, Other Fermented Beverages and Spirits Act, 1957 in respect of other fermented beverages referred to in that Act, or any alcoholic beverage the sale of which is permitted by a notice issued under section 7 (2) (a) (ii) of that Act;

"open day" means any day of the year except a closed day;

"Police Administration" means the Divisional Commander of the Police Division referred to in section 2 (a) (i) of the Law Enforcement Act, 1981 (Act 5 of 1981) or any commissioned officer of that Division acting under his authority;

"polling day", in relation to any licence, means the day on which a poll for the election of any member or members of the National Assembly is being taken in the district in which are situated the licensed premises in respect of which such licence is held;

"preceding year" for the purposes of the calculation of the amount of any licence fee, means the period from 16 December of any year to 15 December of the next succeeding year which year immediately precedes the year in respect of which the licence fee is to be determined but does not include any amount previously taken into account in the determination of the amount of any licence fee;

"prescribed" means prescribed by or under this Act;

"public holiday" means a public holiday established by the Public Holidays Act, 1981 (Act 3 of 1981);

"regional authority" means a regional authority established or deemed to have been established in terms of section 12 of the Ciskeian Authorities, Chiefs and Headmen Act, 1978;

"regulation" means any regulation made and in force under this Act;

"relevant annexures" means the prescribed documents submitted by an applicant with his application and any written objection, information or comment or any document lodged with or submitted to the competent authority in terms of this Act by any person or body or by the Police Administration, the Tourist Authority, or the magistrate in respect of such application;

"restaurant" means a restaurant duly licensed as such under the Licences Act, 1982;

"restricted portion" means in relation to licensed premises, such part of such premises commonly known as the bar and in which liquor is served over a counter and such other rooms or portions of the premises as may in any particular case be determined by the licensing authority in terms of section 48 (1) (a);

"rural area" means any area outside the limits of an urban area;

"sell", in addition to its ordinary meaning, includes keeping, exposing or delivering for sale, or authorizing, directing or allowing sale, or bartering or exchanging or possessing for purposes of sale;

"sorghum beer" means -

- (a) the drink commonly brewed from grain sorghum, millet or other grain and containing not more than three per cent by volume of alcohol; and

(b) any other fermented liquor containing not more than three per cent by volume of alcohol, which the Minister may from time to time by notice in the *Gazette* declare to be sorghum beer;

"supply" means, in relation to the supply of any liquor or thing to any person, the placing of that person in control of such liquor or thing;

"table wine" means wine which is the product solely of the alcoholic fermentation of the juice of fresh grapes and containing not more than fourteen per cent of alcohol by volume;

"the development corporation" means the development corporation as defined in section 1 of the Ciskeian Corporations Act, 1981 (Act 16 of 1981);

"this Act" includes any regulation;

"Tourist Authority" means the Ciskeian Tourist Board established by section 2 of the Promotion of Tourism Act, 1983;

"tribal authority" means a tribal or community authority established or deemed to have been established, under section 2 of the Ciskeian Authorities, Chiefs and Headmen Act, 1978;

"urban area" means any area for which an urban local authority has been established;

"urban local authority" means any municipal council and any township council established under Proclamation R.293 of 1962.

CHAPTER 2

LICENCES AND LICENCE FEES

Licences.

2. (1) The licences which may be granted or renewed under this Act shall be as specified in Part 1 of Schedule 1 and, save as hereinafter provided, shall be of force from the first day of January in respect of a yearly licence or from the first day of July in respect of a half-yearly licence until the thirty-first day of December of the same year, both days inclusive.
- (2) There shall be no period of grace for the renewal of any licence: Provided that any failure to pay the appropriate licence fee timeously shall be condoned if -
 - (a) such fee is paid before the thirty-first day of January of the year in respect of which it is payable; and
 - (b) if, in addition to such licence fee, there is simultaneously paid a penalty calculated at the rate of three per cent of such licence fee for every day for which such licence fee remained unpaidProvided further that payment of such licence fee and such penalty shall not exempt the licence-holder from prosecution under this Act nor shall any such prosecution absolve him from liability for such penalty

Form of licence.

3. (1) Every licence shall be in the prescribed form and shall contain *inter alia* a statement -
 - (a) as to the class of such licence;
 - (b) as to the situation of the premises in respect of which it is issued;
 - (c) of any right granted to, or condition, direction or restriction imposed upon, the licence-holder in terms of this Act, including any right, condition or restriction as to the days or hours during which the licence-holder may sell or supply liquor and, where applicable, the kind of liquor or which may be sold or supplied; and
 - (d) as to the place in which the licence-holder shall store his liquor.
- (2) Failure on the part of any issuing officer to record on any licence the particulars referred to in subsection (1) shall not relieve the licence-holder from any obligation whatsoever in respect of any restriction, direction or condition imposed upon him, or deprive him of any right granted to him under the provisions of this Act.

Issue of licence.

4. (1) No licence shall be issued except upon payment of the amount specified in the appropriate item of Part 1 of Schedule 1 and upon production to the issuing officer of a certificate to the effect that the issue of such licence has been authorized in accordance with law and setting forth the particulars to be contained in the licence in terms of section 3 (1)
- (2) The certificate referred to in subsection (1) shall be signed -
 - (a) by the Minister or any person acting under his direction, in the case of a licence granted by the Minister; or
 - (b) by the magistrate in the case of any licence authorized by him; or
 - (c) by the Director-General or the Clerk of the Board in the case of any licence which is being renewed.

- (3) Any certificate signed as contemplated in subsection (2) (a) shall lapse and become null and void if no licence is issued in terms thereof within a period of sixty days after the date of such certificate.
- (4) Every licence issued under this Act -
 - (a) shall be issued by the receiver of revenue, and
 - (b) shall be made out in original and such number of copies as may be prescribed, whereof the original shall be delivered to the licence-holder, one copy retained by the issuing officer, one copy transmitted to the Police Administration, one copy transmitted to the Tourist Authority, and the remaining copies, if any, transmitted to such offices as may be prescribed.
- (5) No licence shall be issued for the transfer or removal of any licence but the magistrate shall, on production to him of a certificate signed by the Minister or any person acting under his direction or the Chairman or Clerk of the Board, as the case may be, to the effect that such transfer or removal has been duly authorized under this Act and on being satisfied that the amount specified in the appropriate item of Part 2 of Schedule 1 has been paid, endorse on the original licence and cause to be endorsed on the copy of the licence retained by the issuing officer, the facts relating to the transfer or removal, as the case may be.
- (6) The licensing authority or the Clerk of the Board, as the case may be, shall cause to be transmitted to the Police Administration, to the Tourist Authority and to the issuing officer concerned a copy of every certificate issued under this section.

CHAPTER 3

CISKEIAN LIQUOR BOARD

*Establishment of
Ciskeian Liquor
Board.*

5. There is hereby established a Board to be known as the Ciskeian Liquor Board which, subject to the provisions of this Act, shall consist of -
 - (a) the Director-General, who shall also be the Chairman of the Board, and
 - (b) two other members nominated from time to time by the Minister from amongst the officers of his department and of whom at least one shall be a magistrate.

*Disqualification of
members of Board.*

6. (1) No person shall sit or vote as a member of the Board or take part in any proceedings, or exercise or attempt to exercise any power or function, of the Board if he or his spouse or child -
 - (a) is an owner, mortgagee, lessor or lessee of any premises in respect of which an application or report under this Act is before the Board; or
 - (b) is a partner, agent or employee of any applicant whose application or of any objector to any application whose objection, is to be considered by the Board; or
 - (c) is a director, manager or other officer, employee or agent or any association of persons which would fall within the provisions of paragraph (a) or (b) if it were an individual; or
 - (d) has any interest in any business or licence in respect of or in relation to which any application or report is under consideration by the Board.
- (2) Any person who knowingly contravenes any provision of subsection (1) shall be guilty of an offence.

*Place of meeting
of Board.*

7. The Board shall hold its meetings at the seat of the Government: Provided that the Chairman may at his discretion adjourn any meeting of the Board to or for the purposes of section 10 (1) (b) (vi) or (vii) or 10 (2) (a) (ii) or (iii) convene an interim meeting at, any other place within Ciskei.

*Annual meeting
of Board.*

8. (1) Unless the Minister has directed otherwise, the Board shall hold a meeting (to be known as the annual meeting) on the first Wednesday in the month of November in each year or, if that day is a public holiday, then on the first day thereafter which is not a public holiday.
- (2) Not earlier than sixty or later than thirty days before the annual meeting the Director-General shall give notice in the *Gazette* of the date, place and time thereof.

*Interim meetings
of Board.*

9. (1) An interim meeting of the Board may be convened by the Director-General at any time but not more often than once in any month.
- (2) Not less than seven days before the day appointed for an interim meeting the Director-General shall give notice in the *Gazette* of the date, time and place of, and of the matters to be considered by the Board at such meeting.

*Powers and functions
of Board.*

10. (1) Subject to the provisions of this Act, the Board shall consider -
 - (a) at the annual meeting, any application under section 22 for the grant of a new licence;
 - (b) at an interim meeting -
 - (i) any application under section 28 for the transfer or removal of a licence;
 - (ii) any application for the extension of the period specified in a conditional authority issued by or on behalf of the licensing authority under section 44 (1);
 - (iii) for the purposes of section 62, any application by the holder of an hotel licence for the right to sell or supply liquor at any time on any day (whether such day is an open day or a closed day) for consumption on the licensed premises;
 - (iv) any application referred to the Board under section 67 (2) (b);
 - (v) any application under section 68, 70 or 71 or any other application or matter which the Board is authorized by this Act to consider at an interim meeting;
 - (vi) any report referred to the Board in terms of section 102 or 103;
 - (vii) any report referred to the Board in terms of section 104;
 - (c) at any meeting, any application or other matter whatsoever which the Minister may refer to that meeting.
- (2) Notwithstanding the provisions of subsection (1), it shall be competent for the Board to consider -
 - (a) at the annual meeting -
 - (i) any application under section 28 for the transfer or removal of a licence;
 - (ii) any report referred to the Board in terms of section 102 or 103; or
 - (iii) any report referred to the Board in terms of section 104;
 - (b) at an interim meeting held during the month of May in any year, any application under section 22 for the grant of a new licence; and
 - (c) at an interim meeting held not later than during the month of May in any year, any application -
 - (i) for the grant of a licence upon which the Board was unable to come to a decision by the thirty-first day of December of the preceding year; or
 - (ii) for the grant of a licence which was not recommended by the Board at the annual meeting for the preceding year on the grounds of a conviction of the applicant which, since such annual meeting, has been reversed or set aside on review or appeal or in respect of which the applicant has been granted a free pardon; or
 - (iii) for the grant of a licence, in the place of a licence which has been cancelled for a reason personal to the licence-holder, by any person other than such licence-holder subject to the payment by the applicant, in addition to the fee prescribed in section 22 (3), of an amount of twenty rand and to the compliance by him with such conditions as the Board with due regard to the provisions of Chapter 4, may stipulate.
- (3) The Board shall make a report and a recommendation to the Minister on each application for a new licence or the transfer of a licence.
- (4) At the meeting at which a report referred to in subsection (1) (b) (vi) or (vii) or subsection 2 (a) (ii) or (iii) has been dealt with, the Board may at its discretion (but subject nevertheless to the provisions of subsection (5)) cancel forthwith the licence of the licence-holder concerned. Provided that, if the Board does not cancel such licence, it may impose upon the licence-holder such restrictions, directions or conditions as, with due regard to the provisions of this Act, it may deem necessary or expedient, including -
 - (a) in the case of an hotel licence with a special right of off-sale -
 - (i) a restriction withdrawing such special right of off-sale with effect from the day following the day on which such licence expires or with effect from such earlier date as the Board may determine; or
 - (ii) the restriction that the licence-holder shall not sell or supply on the licensed premises, whether for consumption on or off such premises, any liquor other than wine, malt liquor and sorghum beer; or
 - (iii) the restriction that the licence-holder shall not sell on the licensed premises for consumption off such premises any liquor other than wine, malt liquor and sorghum beer; or
 - (iv) a restriction withdrawing such special right of off-sale together with the further restriction that the licence-holder shall not sell or supply on the licensed premises for consumption on such premises any liquor other than wine, malt liquor and sorghum beer; or
 - (v) a restriction withdrawing such special right of off-sale together with the further restriction that the licence-holder shall sell on the licensed premises, for consumption on such premises, only wine, malt liquor and sorghum beer and then only to a person about to partake of a meal which he has purchased on the licensed premises, but not at any time other than between twelve o'clock noon and half-past two o'clock in the afternoon and between six o'clock in the evening and nine o'clock at night; or

- (b) in the case of an hotel licence without a special right of off-sale, the restriction contemplated in subparagraph (iv) or (v) of paragraph (a); or
- (c) in the case of a restaurant liquor licence, the restriction that the licence-holder shall not under his licence and during the hours authorized thereunder, sell any liquor other than wines, malt liquor and sorghum beer:

Provided further that no restriction, direction or condition imposed upon any licence-holder by the Minister shall be amended or withdrawn except with the Minister's consent.

- (5) (a) Any person who feels aggrieved at any decision of the Board under subsection (4) may, in writing addressed to the Director-General and not later than fourteen days after the date of the Board's decision, appeal against such decision to the Minister and the Minister may thereupon set aside or amend or vary such decision.
- (b) The decision of the Minister on any appeal under paragraph (a) shall be final.
- (6) Any right granted to, or restriction, direction or condition imposed upon, any licence-holder in terms of any provision of this section shall, for all purposes, be deemed to be contained in the licence issued to such licence-holder under section 4 and shall, for the purposes of the renewal of such licence, be included in the certificate contemplated in subsection (2) (c) of that section.

Clerk of Board.

- 11. The Director-General shall appoint an officer in his department to be the Clerk of the Board.

Procedure at meetings of Board.

- 12. (1) The annual meeting and all interim meetings shall be open to the public unless otherwise determined by the Chairman.
- (2) Subject to any regulation, the order of business and the procedure at any meeting of the Board, including the examination and cross-examination of persons testifying before the Board, shall be as determined by the Chairman and he may at any time adjourn any meeting.
- (3) All evidence before the Board shall be given on oath or affirmation to be administered by the Chairman.
- (4) The decision or opinion of the majority of the members present at any meeting of the Board shall be the decision or opinion of the Board: Provided that, in the event of an equality of votes, the Chairman shall also have a casting vote.
- (5) The Chairman shall cause a record to be kept of the proceedings in public of the Board and such record shall be filed in the office of the Director-General where it may be inspected and copies thereof obtained as if it were the record of civil proceedings in a magistrate's court.
- (6) Except when the Board cancels a licence or imposes a restriction whereby any right is withdrawn or curtailed or decides any question of law, it shall not be required to give any reasons for its decision.

Quorum.

- 13. (1) Except as provided in subsection (2), two members of the Board shall form a quorum: Provided that, if the Director-General is absent from any meeting of the Board, a member of the Board who holds a post of magistrate shall act as Chairman.
- (2) Whenever, during the consideration of an application, any two members of the Board become incapable of performing their functions as such, the application shall be dealt with by the remaining member of the Board.
- (3) If a quorum is not present at the commencement of any meeting of the Board, such meeting shall stand adjourned until a quorum is present.

Hearing and representation of applicants, objectors or other interested bodies or persons.

- 14. (1) At the relative meeting of the Board -
 - (a) any applicant whose application is before the Board or his duly authorized representative,
 - (b) any objector to any application who has lodged an objection in the prescribed manner or his duly authorized representative,
 - (c) the Police Administration or its duly authorized representative (in respect of any objection, report or application made by the Police Administration in terms of this Act),
 - (d) the Tourist Authority or any duly authorized representative of such Authority (in respect of any report made by such Authority in terms of this Act), and
 - (e) the licence-holder of any licence which is the subject of any report referred to the Board in terms of section 102, 103 or 104 or of any application made by the Police Administration under section 105, or the duly authorized representative of such licence-holder, shall have the right to appear before and to be heard by the Board and to call evidence in support of his or its application, objection, report or opposition as the case may be.
- (2) The lawful representative of the estate of an applicant or a licence-holder who dies or becomes insolvent or is declared incapable of managing his own affairs on or before the day appointed for the consideration by the Board of his application or, as the case may be, the matter affecting his

licence or, in the absence of any such representative, any member of the family of the applicant or the licence-holder authorized hereto by the Board, shall have and may exercise all such rights as the applicant or licence-holder would have had and been entitled to exercise but for his death, insolvency or disability.

- (3) The provisions of subsection (2) shall apply *mutatis mutandis* -
- (a) in the case of any company which is placed under liquidation on or before the day appointed for the consideration by the Board of any matter affecting the licence held by the nominee of such company and in respect of the person lawfully appointed as liquidator of such company; and
 - (b) in respect of any other person who with the approval of the Board has been nominated by any association of persons or the development corporation as its nominee in the place of a nominee who has died or otherwise ceased to hold his position.

*Calling of witnesses
by Board.*

15. (1) The Board may by notice in writing under the hand of its Clerk -
- (a) require the attendance before a meeting of the Board of any applicant whose application is to be considered at such meeting, of any licence-holder or, if he is absent any person charged with the conduct of the business carried on under his licence, or of any other person who, in the opinion of the Board, is able to testify as to any matter which the Board has to consider or determine;
 - (b) require such applicant, licence-holder or person to produce any book or document, relevant to any matter before the Board, which is in his possession or under his control.
- (2) At the request of any person -
- (a) whose application is before the Board, or
 - (b) whose licence is the subject of a report under section 102 or 104,
- the Board shall, by notice in writing under the hand of its Clerk, call as a witness, subject to the provisions of section 14(1), the member of the police or the representative of the Tourist Authority, as the case may be, who has made a report on such application or licence.

*Offences by witnesses
or persons called as
witnesses.*

16. Every person shall be guilty of an offence who -
- (a) without sufficient cause refuses or fails to attend and give evidence before the Board at the time and place specified in a notice given under section 15 (1) or (2) or to produce any book or document which he has been required by such notice to produce; or
 - (b) under oath or affirmation gives false evidence before the Board knowing such evidence to be false or not believing it to be true.

*Powers of Board to
hear or take objections.*

17. The Board may at any time -
- (a) at its discretion hear any objection made by an administrative body to any application before the Board notwithstanding that such objection has not been lodged in the prescribed manner, but in that event, the Board shall afford the applicant a reasonable opportunity of replying to the objection;
 - (b) of its own motion take notice of any matter or thing whatsoever which in its opinion would be an objection to any application before the Board although no such objection has been lodged by any person: Provided that the Board shall inform the applicant of such matter or thing and afford him a reasonable opportunity of answering it.

*Submission of certain
applications to the
Minister.*

18. The Chairman shall, as soon as possible after the conclusion of the annual meeting or any interim meeting held for the purposes of section 10 (1) (b) (i), submit to the Minister every application for a new licence or the transfer of a licence considered at such meeting together with the relevant annexures, the report and recommendation of the Board and a copy of the record of the Board's proceedings relating to such application.

*Review of Board's
proceedings.*

19. (1) Subject to the provisions of subsection (2) any proceedings of the Board may on the petition of any applicant or objector be reviewed by the Supreme Court of Ciskei.
- (2) If it appears to such court that, in the proceedings in question, the Board exceeded its powers or failed or refused to exercise any power or discretion which, in terms of this Act, it was obliged to exercise or exercised its powers in an arbitrary, *mala fide* or grossly unreasonable manner, the court may set aside the proceedings and make such order as to it seems just, including an order that a meeting of the Board be held for the rehearing or reconsideration of the matter: Provided that no proceedings of the Board shall be set aside by reason merely of a formal or technical defect which, in the opinion of the court, has not resulted in substantial injustice to the petitioner.

Appeal to Supreme Court from Board's decision.

20. (1) An appeal shall lie to the Supreme Court at the instance of an applicant or objector in respect of any question of law decided by the Board in connection with or in relation to his application or objection, as the case may be.
(2) The law relating to appeals in civil matters in a magistrate's court shall apply *mutatis mutandis* to any appeal under subsection (1).
(3) Save as provided in this section there shall be no appeal to the Supreme Court from any decision of the Board.

Legal proceedings against the Board.

21. (1) In any legal proceedings instituted against the Board, service of any process on the Director-General shall be deemed to be sufficient service on the Board.
(2) Save where the Supreme Court shall have specially authorized to the contrary, the time to be allowed for the entering of appearance to a summons issued in any legal proceedings referred to in subsection (1) shall not be less than one month after service of such summons and in applications by way of motion or petition the time to be allowed for the hearing of the application or for the return of a *rule nisi* shall not be less than twenty-eight days after service of the notice of motion or the *rule nisi*, as the case may be.

CHAPTER 4

APPLICATIONS FOR LICENCES AND OBJECTIONS THERETO

- (a) New licences and removal of existing licences:

Application for new licence.

22. (1) Any application for the grant of a new licence (other than a temporary liquor licence or a late hours licence) shall —
(a) be made to the Minister through the Board; and,
(b) subject to the provisions of section 26, be lodged with the magistrate on or before the first day of September in any year in the case of an application for a yearly licence and on or before the first day of March in any year in the case of an application for a half-yearly licence.
(2) Every applicant for a new licence shall, not less than fourteen days before the date upon which he lodges his application, make known his intention so to apply by notice substantially in the prescribed form —
(a) in the *Gazette*, in the official languages; and
(b) in a newspaper circulating in the district in the language in which such newspaper is published.
(3) There shall be payable to the receiver of revenue, in respect of every application made under this section, the application fee (if any) specified in the appropriate item of Part 3 of Schedule 1.
(4) No amount paid in terms of subsection (3), or any part thereof shall for any reason be refunded to the applicant.

Application for renewal of licence.

23. Any application for the renewal of a licence (other than a temporary liquor licence or a late hours licence) shall —
(a) be substantially in the prescribed form; and
(b) be lodged with the Director-General on or before the first day of September in any year.

Requirements for application for new licence.

24. Every application under section 22 shall —
(a) be substantially in the prescribed form;
(b) be accompanied by the prescribed documents and information including, in the case of any application for a club licence, a copy of the rules of the club certified by the chairman thereof; and
(c) further be accompanied by proof of the payment of the application fee prescribed by section 22 (3).

Inspection of and objection (if any) to application.

25. (1) The magistrate with whom any application has been lodged under section 22 shall without delay —
(a) post in a conspicuous place at his office a notice substantially in the prescribed form calling upon any interested person to lodge with him in writing in the prescribed manner, within fourteen days after the date of such notice, any objection which such person may have, to such application; and
(b) transmit a copy of the application —
(i) to the Police Administration for a report thereon under section 99;
(ii) if the application is for the grant of an hotel licence, a restaurant liquor licence or a wine

and malt liquor licence to the Tourist Authority for a report thereon under section 100; and

(iii) to the administrative body within whose area are or will be situate the premises in respect of which the application has been made, and shall, at the same time, notify such body that it may within thirty days submit to him any written objection to, or report on, the application.

(2) During a period of fourteen days after the date upon which any application under section 22 is lodged with the magistrate any person shall have the right, upon request and free of charge, to inspect such application.

(3) The magistrate shall, in writing, inform the applicant of every objection and report lodged with him in terms of subsection (1), shall allow the applicant to make a copy thereof and afford him an opportunity of replying thereto, in such manner as may be prescribed, within seven days after the date upon which he was so informed.

Filing of late application for new licence.

26. Notwithstanding the provisions of section 22 the magistrate shall, upon payment by the applicant of a fee of ten rand, accept for consideration by the licensing authority any application for the grant of a licence which is lodged with him within ten days of the last day upon which it should have been lodged.

Application for temporary liquor licence or late hours licence.

27. Every application for a temporary liquor licence or a late hours licence shall be made to the magistrate in such manner as may be prescribed.

(b) Transfer or removal of licence

Application for transfer or removal of licence.

28. (1) Any licence-holder who desires at any time –
(a) to transfer his licence to another person shall make application therefor to the Minister through the Board;

(b) to remove his licence from the licensed premises to any other premises in the same district, whether temporarily or permanently, shall make application therefor to the Board.

(2) Any application under subsection (1) shall be lodged with the magistrate and the provisions of sections 22 (2) and 24 (a), (b) and (c) shall apply *mutatis mutandis* in respect of such application: Provided that, in the case of an application under subsection (1) (a), the applicant (other than a nominee) shall also give notice of the application in writing to every person who has a financial interest in the licence and shall furnish proof to the magistrate that he has done so.

(3) (a) Notwithstanding the provisions of subsections (1) and (2), if the manager, secretary or chief steward of any club in whose name a club licence has been issued, or if the nominee of any association of persons or of the development corporation who is a licence-holder, ceases for any reason to hold such position, the chairman or chief officer of such club or the association of persons or the development corporation, as the case may be, shall forthwith give notice in writing to the magistrate, the Police Administration and, in the case of an association of persons or the development corporation, to the Tourist Authority, of the name of the person or nominee appointed, whether temporarily or permanently, to the vacancy and shall cause such notice to be countersigned by such person or nominee.

(b) If the person or nominee so appointed is not disqualified under this Act from being a licence-holder, the magistrate shall endorse on the original licence and cause to be endorsed on the copy of the licence retained by the issuing officer of the name of such person or nominee as the licence-holder and such person or nominee shall thereupon possess all the rights and be subject to all the duties, obligations and penalties of the licence-holder.

(4) No transfer fee shall be payable in respect of the endorsement of any licence under subsection (3).

(c) General

Transmission of application to Board.

29. The magistrate shall, not earlier than thirty days after any application which is to be considered by the Board has been lodged with him under any provision of this Chapter, transmit such application to the Director-General together with all the relevant annexures.

Offences under this Chapter.

30. There shall be guilty of an offence any person who, in or in connection with any application –
(a) submits any information which he knows to be false or does not know or believe to be true; or
(b) submits any false document or any document which purports to be but is not in fact a true copy of the original document; or
(c) is in any way a party to the submission of any such false information or false document.

CHAPTER 5

QUALIFICATIONS FOR LICENCES

Persons who may become licence-holders.

(a) As to applicants and the nature of their businesses or other activity.

31. Subject to the provisions of this Act the licensing authority may grant a licence to, or authorize the transfer of a licence in favour of, any person (including a nominee) who is in all respects qualified to hold a licence.

Persons disqualified from holding licences.

32. (1) No licence shall be granted, transferred or issued to -

(a) any person, including a nominee -

(i) who is not of good character and repute; or

(ii) who is under the age of twenty-one years; or

(iii) to whom, personally, the sale or supply of liquor is totally prohibited; or

(iv) who does not reside in Ciskei; or

(v) who is an unrehabilitated insolvent; or

(vi) who has been declared under section 129 (2) to be disqualified from holding a licence, during the period of such disqualification; or

(vii) who has been convicted of an offence and sentenced to imprisonment without the option of a fine and the said sentence (irrespective of any suspension or remission of any part of such sentence) has not expired at least five years before the date of his application; or

(viii) who has been convicted of an offence under any law of selling or supplying liquor and has, within five years of such previous conviction, again been convicted of a similar offence; or

(ix) who, although otherwise qualified, is the wife of any person disqualified under subparagraph (v), (vi), (vii) or (viii) unless she is *bona fide* living apart from her husband; or

(b) any person whose application relates to premises of which any member of the police or any representative or employee of the Tourist Authority is the owner or lessee or in which any such member or representative or employee has any interest; or

(c) any administrative body; or

(d) any association of persons as such or the development corporation as such: Provided that nothing in this paragraph contained shall prohibit the grant or issue of any licence to the nominee of an association of persons or of the development corporation.

(2) No licence shall be issued or transferred to any person who holds any office of profit in the public service unless and until such person furnishes to the Director-General proof in writing that he no longer holds such office, and if such person thereafter accepts an office of profit in the public service, he shall from the date of his assumption of duty in such office be deemed, for the purposes of subsection (4), to be a person who is disqualified in terms of this Act from holding such licence.

(3) For the purposes of subsection (1) -

(a) the development corporation, and irrespective of his place of residence a nominee of the development corporation or any person authorised by or under section 54 to continue temporarily any business conducted under a licence, shall be deemed to reside in Ciskei; and

(b) a sentence or conviction contemplated in paragraph (a) (vii) or (viii) shall not include a sentence or conviction which has been set aside on appeal or review or in respect of which a free pardon has been granted.

(4) The issue or transfer of a licence to any person who is disqualified in terms of this Act from holding such licence shall be null and void and the premises in respect of which such licence was issued or transferred to such person (who shall be deemed not to be licensed) may be closed for the sale of liquor by order of the magistrate.

Qualifications for club licence.

33. The licensing authority shall not grant or authorize the transfer of a club licence -

(a) to or in favour of any person other than the manager, secretary or chief steward of a club; and

(b) unless it is satisfied, after having considered the application and the report of the Police Administration -

(i) that the club is a *bona fide* club consisting of not less than thirty-five members;

(ii) that the club has been in existence for a period of not less than twelve months;

(iii) that the club is managed by a committee of its members;

(iv) that such committee holds regular meetings of which proper minutes are kept;

(v) that only members of the club (including *bona fide* reciprocity members) are permitted to pay for accommodation or refreshment supplied on the club premises;

- (vi) that no ordinary member of the club is elected as such less than fourteen days after nomination or without his name having been screened on the club premises for at least seven days;
- (vii) that the election of any new member of the club is either by the committee or by all the members of the club;
- (viii) that no person residing within fifteen kilometres of the club premises is eligible as an honorary or temporary member of the club unless, in accordance with the rules of the club or by resolution of the committee, such person is allowed the privileges of membership by reason of the fact that he holds some public office, is a *bona fide* candidate for membership of the club, or is participating in any match or competition at the club;
- (ix) that a register of members and proper accounts are kept;
- (x) that the annual subscription for ordinary members is at least five rand;
- (xi) that, save under an agreement in writing approved by the licensing authority, no profit from the sale of liquor by the club accrues to any person or body other than the club; and
- (xii) that a member, whose subscription remains unpaid for longer than three months, shall not be entitled to any of the privileges of membership. Provided that the rules of the club may disqualify from voting any member who is at any time in arrear with any payment due to the club.

Qualification for hotel licence.

34. An hotel licence shall be granted or authorized by the licensing authority only if it is satisfied that the applicant conducts or proposes to conduct upon the premises a *bona fide* hotel.

Qualifications for bar licence.

35. A bar licence shall be granted or authorised by the licensing authority only if it is satisfied that the applicant regularly provides, or will regularly provide, on the licensed premises meals for which payment of at least fifty cents is required.

Qualifications for restaurant liquor licence.

36. A restaurant liquor licence shall be granted or authorized by the licensing authority only if it is satisfied that the applicant keeps or proposes to keep upon the premises a *bona fide* restaurant at which meals of a standard commensurate with the needs of the general public and of tourists will regularly and actually be provided.

Qualifications for mealtime wine and malt liquor licence.

37. A mealtime wine and malt liquor licence shall be granted or authorized by the licensing authority only if it is satisfied that the applicant keeps or proposes to keep on the premises a *bona fide* accommodation establishment or a *bona fide* cafe, at which meals will regularly and actually be supplied.

Qualification for tavern licence.

38. A tavern licence shall be granted or authorized by the licensing authority only if it is satisfied that the applicant keeps or proposes to keep upon the premises a public house which, but for such authorization as aforesaid, would constitute a shebeen.

Qualification for temporary liquor licence.

39. A temporary liquor licence shall be granted only –
- (a) to the holder of a bar licence, an hotel licence, a restaurant liquor licence or a club licence, or
 - (b) to the secretary of a *bona fide* exhibition or agricultural show, or
 - (c) to the secretary, manager or chief steward of a *bona fide* race meeting or sports meeting or similar event, and
- for the purpose of one or more bars, as specified in the licence, to be conducted within, or within the grounds of, any exhibition, agricultural show or other place of public function, recreation or amusement.

Qualification for late hours licence.

40. A late hours licence shall be granted only –
- (a) to the holder of a bar licence, an hotel licence, a club licence or a restaurant liquor licence and only in respect of the premises on which he holds such licence, or
 - (b) to the holder of a temporary liquor licence, and
 - (c) if the magistrate is satisfied that, on the occasion for which a licence is sought, a *bona fide* social function is to be held.

(b) As to premises

Suitability of premises in general.

41. Before granting any application for the grant, transfer or removal of a licence, the licensing authority shall satisfy itself that the premises in respect of which the application is made or to which the licence is to be removed –
- (a) afford, or after completion will afford, reasonable and satisfactory accommodation for all the purposes for which such premises may lawfully be used in terms of the licence and are or will be suitable in all respects from a public health and public safety point of view;
 - (b) are not or will not be so situated as to inconvenience or prejudice any person residing or carrying on any other business, trade or profession in the area concerned or to affect adversely any place of worship or any public institution or amenity in the vicinity thereof, including any school or hostel or similar institution.

Additional requirements in respect of certain premises.

42. No application for the grant, transfer or removal of a licence shall be granted by the licensing authority unless it is further satisfied -
- (a) if such licence is an hotel licence -
 - (i) that the premises or proposed premises afford or will afford sufficient residential accommodation for guests and any employees accompanying them of a standard commensurate with the requirements of the travelling public and of tourists, including foreign tourists;
 - (ii) that meals and services of a similar standard will be provided on such premises;
 - (iii) that adequate and proper sanitary and bathroom conveniences are or will be provided on the premises;
 - (iv) that the provision made or to be made for the storage and preparation of foodstuffs is or will be suitable in all respects from a public health point of view;
 - (v) that the premises are or will be provided with sufficient means of egress for persons therein in the event of fire or other state of emergency;
 - (vi) that reasonable provision has or will be made for the garaging or parking of motor vehicles belonging to guests;
 - (vii) that, in respect of a special right of off-sale, the premises provide or will provide a separate room or rooms in which liquor will be sold by the bottle: Provided that with the approval of the licensing authority, the holder of a special right of off-sale within an urban area may, in lieu of setting apart such room or rooms on the hotel premises, provide a separate place within the urban area where liquor will be sold by the bottle, which place shall for the purposes of this Act be deemed to be part of the licensed premises;
 - (viii) that the premises comply, or when completed will comply, with such other requirements as may be prescribed;
 - (b) if such licence is an hotel licence which is to authorize the sale or supply of liquor to members of the public for consumption on the licensed premises or is a bar licence -
 - (i) that the premises provide or will provide a separate room or rooms as a public bar;
 - (ii) that there is an outside entrance to such public bar;
 - (iii) that the room or rooms referred to in subparagraph (i) afford or will afford reasonable accommodation and are or will be sufficiently and suitably furnished to enable persons consuming liquor therein to be seated; and
 - (iv) that, if liquor is consumed or to be consumed in any outdoor place, such place is or will be adequately screened from any public street or thoroughfare and that suitable and sufficient furniture is or will be provided in such place;
 - (c) if such licence is an hotel licence with a special right of off-sale or is a bar licence in premises on which there is or will be conducted the business of a bottle store, that the room or rooms in which liquor is or will be consumed on the premises, is or will be separated from any adjoining room in which liquor is or will be sold by the bottle, by a substantial wall or partition containing no door or other opening;
 - (d) if such licence is a bar licence, that the premises shall at all times afford reasonable facilities for persons taking meals thereon;
 - (e) if such licence is a mealtime wine and malt liquor licence for which application has been made by the keeper of an accommodation establishment, that the premises shall at all times afford reasonable residential accommodation for guests; and
 - (f) if such licence is a sorghum beer brewer's licence, that the premises are premises on which the applicant may lawfully carry on the business of manufacturing or brewing sorghum beer.

CHAPTER 6

DISPOSAL OF APPLICATIONS

Power of Minister to grant new licence or to authorize transfer of licence.

43. (1) The Minister may at his discretion, subject to the provisions of this Act and to any limitation imposed by the President in terms of section 50 and after having considered the application for a new licence (other than a temporary liquor licence or a late hours licence) or for the transfer of a licence together with all the information referred to in section 18 and with due regard, as the case may be, to -
- (a) the number of licences, if any, already existing in the district or area concerned,
 - (b) the number and distribution of the persons served by any such existing licences and to be served by the proposed new licence,
 - (c) the situation of any existing licensed premises in relation to the proposed new premises,
 - (d) the undesirability of any monopoly in the sale of liquor, and
 - (e) the necessity to encourage and to promote tourism,

grant such application. Provided that the Minister shall not grant any application unless the Board has so recommended.

- (2) The decision of the Minister on any application for a new licence or the transfer of a licence shall be final.

Applications to be determined by the Board

44. Subject to the provisions of this Act the Board shall at the appropriate meeting, determine every application which it is authorized or required by this Act to determine, including any application for the removal of a licence.

Applications to be determined by the magistrate.

45. The magistrate may, subject to the provisions of this Act and after consultation with the representative of the Police Administration in the district or area concerned, grant any application made to him in such manner as may be prescribed for any temporary liquor licence or late hours licence.

Licensing authority may impose restrictions, directions or conditions upon licence-holder

46. (1) When granting any application the licensing authority may at its discretion impose upon the licence-holder such restrictions, directions or conditions as it may deem fit. Provided that no restriction, direction or condition imposed upon the licence-holder by the President or by the Minister, as the case may be, shall be amended or withdrawn by the Board without his consent.
- (2) The restrictions, directions or conditions imposed by the licensing authority upon any licence holder under subsection (1) may include
- (a) in the case of an application for the grant, removal, or transfer of an hotel licence a restriction as to the hours during which the licence-holder may sell or supply liquor;
 - (b) in the case of an application for the grant or transfer of a wholesale liquor licence the restriction that the licence-holder shall not deal directly with the public; or
 - (c) in the case of any application, any direction or condition as to the alteration, arrangement or repair of the premises.
- (3) The licensing authority may stipulate that the licence-holder shall comply with any direction or condition imposed in terms of this section within a specified period or may order that a licence shall not be issued to the licence-holder until he has complied with any direction or condition so imposed.

Conditional authority for licence

47. (1) Whenever in terms of this Act the licensing authority -
- (a) grants an application for a new licence or the removal of a licence in respect of premises still to be erected or which, if already erected, require alteration to make them suitable for the proposed business, or
 - (b) orders that a licence shall not be issued to the licence-holder until he has complied with any direction or condition imposed upon him by such authority,
- the licensing authority shall issue or cause to be issued to the applicant or the licence-holder as the case may be, a conditional authority, substantially in the prescribed form, specifying
- (i) every direction or condition imposed upon such applicant or such licence-holder in respect of such premises, and
 - (ii) the period within which such premises shall be erected or altered or any direction or condition shall be complied with, as the case may be.
- (2) If, after consultation with the Police Administration and the Tourist Authority the licensing authority is satisfied that, within the specified period or within such further period as the licensing authority may have authorized on the application of the applicant or the licence-holder, the premises have been completed in all respects in accordance with the plans and in fulfilment of any condition imposed upon the applicant in respect thereof or, as the case may be, the licence-holder has complied with the directions or conditions imposed upon him, the licensing authority shall issue or cause to be issued the certificate contemplated in section 4 (1) or (5), as the case may be.

Licensing authority to determine restricted portion of certain licensed premises and storage place of liquor.

48. (1) The licensing authority shall determine, when authorizing the grant or removal of -
- (a) a bar licence or an hotel licence which authorizes the sale or supply of liquor to members of the public for consumption on the licensed premises, the portion or portions of the licensed premises (other than any dining-room) which shall be deemed to be included in the restricted portion or portions of such premises;
 - (b) any licence, the place where the licence-holder shall, subject to the provisions of section 71, store all liquor received by him and not immediately required for sale.
- (2) In the exercise of its powers under subsection (1) (a) the licensing authority may authorize one or more additional bars on the licensed premises which do not comply with the requirements of section 42 (b) (ii).

- (3) The provisions of subsections (1) (a) and (2) shall apply *mutatis mutandis* in the case of any application relating to a bar licence or an hotel licence which is dealt with by the Board in terms of section 70.

Record of licences and disposal of applications for renewal of licences.

49. (1) The Clerk of the Board shall, under the direction and control of the Director-General and, except in the case of a late hours licence or a temporary licence, keep a record of all licensed premises in Ciskei showing *inter alia* -
- (a) the particulars required to be recorded on the licence held in respect of such premises in terms of section 3 (1) of this Act and any regulation;
 - (b) particulars of any restriction imposed upon the licence-holder whereby any right held by him is withdrawn or curtailed;
 - (c) particulars relating to the cancellation of any licence; and
 - (d) such other particulars as the Director-General may from time to time prescribe.
- (2) As soon as practicable after the fifth day of November in each year or after the conclusion of the annual meeting, whichever is the later, the Director-General, or if the Director-General so directs the Clerk of the Board, shall for the purposes of sections 3 and 4, issue to each licence-holder, who in terms of section 23 has applied for the renewal of his licence and whose licence has not been cancelled, the certificate referred to in section 4 (1).
- (3) A licence-holder who does not receive the certificate issued to him under subsection (2) shall not, by reason merely of that fact, be absolved from the obligation of renewing his licence timeously.

CHAPTER 7

RESTRICTION OF LICENCES AND TEMPORARY CLOSING OF LICENSED PREMISES

Power of President to limit or restrict licences or to impose restrictions, directions or conditions in respect of licences.

50. (1) Notwithstanding anything in this Act contained, the President may at any time by proclamation in the *Gazette* -
- (a) limit the total number of licences or of any particular class of licence which may be granted by the licensing authority in respect of premises situated in any specified part of Ciskei,
 - (b) prescribe the basis on which any new licence may, in Ciskei or in any specified part thereof be granted by the licensing authority, or
 - (c) impose restrictions or conditions on the sale or supply of liquor in, or the importation or introduction of liquor into, any area mentioned in the proclamation for a specified period if, in his opinion, such restrictions or conditions are necessary in the interest of the population of such area or any section thereof,
- and may in like manner amend or withdraw any such proclamation.
- (2) (a) The restrictions or conditions under subsection (1) (c) may relate -
- (i) to the persons or classes of persons to whom liquor or any kind of liquor shall not be sold;
 - (ii) to the quantity and kind of liquor to be sold;
 - (iii) to the receptacles in which liquor sold shall be contained;
 - (iv) to the place of sale and of consumption;
 - (v) to the days on which liquor may be sold;
 - (vi) to the hours of those days during which sales may take place; or
 - (vii) to the quantity and kind of liquor which may be imported or introduced into the area in question by any person other than a licence-holder.
- (b) Every licence in force in any area in respect of which any restriction or condition referred to in subparagraph (i), (ii), (iii), (iv), (v) or (vi) of paragraph (a) has been imposed shall, during the period specified in the proclamation imposing such restriction or condition, be held subject to such restriction or condition.
- (3) Any person who contravenes or fails to comply with any restriction or condition imposed under subsection (1) (c) shall be guilty of an offence.

Closing of licensed premises during tumult.

51. (1) Whenever any riot, tumult, fight or other disturbance occurs or is expected to occur in any place, the magistrate, or in the absence of any such magistrate, a police official of or above the rank of warrant officer or, if such place is situate in the area of any chief or headman, such chief or headman, may order any premises licensed under this Act in or near such place to be closed during such time not exceeding forty-eight hours at any one time, as the person giving such order may determine.

- (2) The licence-holder or his manager or his agent shall forthwith comply with such order and, if he fails to do so, the person giving the order may take such steps as he may deem necessary for the closing of the premises.
- (3) If, before the expiration of the time for which the licensed premises were ordered to be closed, the person who gave such order is of the opinion that the reason for the closure no longer exists, he may withdraw such order.

CHAPTER 8

TEMPORARY CONTINUATION OF LICENCE OR LICENSED BUSINESS

Temporary continuation of licence where decision of Board delayed.

52. Whenever the Board is unable, by the thirty-first day of December in any year to come to a decision upon the question of the cancellation of a licence, such licence shall continue in force until the Board shall have decided upon the matter: Provided that the licence-holder shall, at the beginning of every month during which such licence continues in force, pay to the receiver of revenue one-twelfth of the amount which would have been payable for the renewal of the licence.

Right of disposal of liquor on forfeiture or cancellation of licence.

53. (1) Whenever, in terms of this Act or any other law a competent court declares a licence to be forfeited or whenever the Board cancels a licence, such licence shall forthwith become null and void: Provided that within such period as the court or the Board may on his application determine, the person who was the licence-holder may sell by public auction upon the premises in respect of which the licence was held through a duly licensed auctioneer and in quantities of not less than nine litres, any liquor which was upon his licensed premises at the date of the declaration or cancellation.
- (2) If any declaration of forfeiture or cancellation of a licence is reversed by the Supreme Court on review or appeal, the licence in question shall *ipso facto* again become of full force and effect.
- (3) No portion of the sum paid or deposited in respect of any licence forfeited or cancelled under this Act or any other law or which has, for any reason whatsoever, not been in force for any period, shall be refunded to the licence-holder or person who was the licence-holder.

Temporary continuation of business in certain circumstances.

54. (1) Subject to the provisions of this Act or any other law, a licence or any other authority for or relating to a licence shall enure for the benefit of the executor or any curator or trustee of the licence-holder or person in whose favour such authority was granted (including the liquidator of any business conducted or to be conducted under a licence) who, without formal transfer, may carry on the business personally or by some agent approved in writing by the Director-General until the expiry of the licence and thereafter for such further period, not exceeding twelve months at any one time, as the Director-General may at his discretion determine when considering any application for the renewal of such licence.
- (2) Any officer who attaches any licensed premises in execution of a judgement or order of a court may, with the approval of the Director-General and subject to such conditions as he may stipulate, appoint any person to carry on the licensed business while the premises are under attachment.
- (3) In any case in which no specific provision has been made in this Act for the temporary continuation of any licensed business by a representative of a licence-holder who is absent or subject to any disability, or of the estate of a deceased licence-holder, or where such provision exists but such representative is not yet able to carry out his lawful functions, the Director-General may at his discretion, authorize any person to carry on the business for the remainder of the period for which the licence is in force or until a representative is able to carry out his functions, whichever period is the lesser: Provided that no such authority shall be granted unless the Director-General is satisfied that reasonable notice of the proposal has been given to every person who has a financial interest in the business: Provided further that it shall be competent for the Director-General to authorize the continuation of such business for such additional period, not exceeding twelve months at any one time, as he may at his discretion determine when considering any application for the renewal of the licence.
- (4) Nothing in this section contained shall be construed as prejudicing any right or claim of any person who has a lawful interest in the business in question.

Powers and duties representative of licence-holder or person authorised to carry on business temporarily.

55. Any person to whom a licence has been transferred or who is carrying on the licensed business under the provisions of this Act, shall possess the rights and be subject to the duties, obligations and penalties to which the licence-holder in whose name such licence was issued, would have been entitled or subject.

CHAPTER 9

DUTIES, OBLIGATIONS AND RIGHTS OF AND OFFENCES BY LICENCE-HOLDERS

*Persons to whom
liquor may not be
sold by licence-
holder*

56. Subject to the provisions of this Act, no licence-holder shall sell, supply or deliver liquor to any person—
- who is below the age of eighteen years; or
 - who is already in a state of intoxication; or
 - to whom personally the sale or supply of liquor has been prohibited under this Act or any other law.

*Persons who may not
be employed by
licence-holder in con-
nection with the sale
of liquor.*

57. No licence-holder shall employ in or in connection with the sale of liquor —
- any person who is below the age of eighteen years or to whom personally the supply of liquor has been prohibited under this Act or any other law; or
 - any person, who to his knowledge, has within the preceding five years been convicted of any contravention of any law relating to the sale or supply of liquor and has been sentenced therefor to imprisonment without the option of a fine or to a fine exceeding fifty rand

*Duty of licence-holder
as regards place of
consumption of
liquor.*

58. (1) No licence-holder shall permit any person who has purchased liquor from him for consumption on the licensed premises to take such liquor away from the licensed premises.
- (2) No licence-holder shall allow or suffer any person to consume upon the licensed premises or in any premises or place adjoining or near the licensed premises which are in the occupation or under the control of the licence-holder, any liquor which he has sold for consumption off the licensed premises: Provided that nothing in this subsection contained shall be construed as prohibiting the holder of an on-consumption licence from permitting a lodger at his premises to consume, in the private apartment occupied by such lodger, liquor which such lodger has purchased from such licence-holder for consumption off the licensed premises.

*Restriction on pre-
sence of certain per-
sons on licensed
premises.*

59. (1) Except to the extent to which he is authorized thereto under this Act, no licence-holder shall allow or suffer to be present —
- in the restricted portion of his licensed premises or in any place in which he keeps or stores liquor—
 - at any time, any person who is below the age of eighteen years or to whom personally the supply of liquor has been prohibited under this Act or any other law; or
 - during the hours when liquor may not be sold by him in the restricted portion of his licensed premises, any person other than a member of his household or his *bona fide* employee.
 - No licence-holder shall permit to remain on his licensed premises (except in the performance of his lawful functions) any member of the police during the time appointed for him to be on duty.

*Restriction on credit
sales of liquor by
licence-holder.*

60. (1) No licence-holder (other than the holder of a club licence) shall sell, supply or deliver liquor to any person or allow the consumption of liquor by any person unless, at the time when it is sold, supplied or delivered, it is paid for: Provided that the provisions of this subsection shall be deemed not to have been contravened —
- by the holder of an hotel licence, a mealtime wine and malt liquor licence, or a restaurant liquor licence, if he supplies liquor for consumption on the licensed premises together with an ordinary meal and the price of the liquor is paid together with the price of such meal;
 - by the holder of a bar licence, an hotel licence or a restaurant liquor licence if he supplies liquor for consumption at a *bona fide* function held on licensed premises to persons present thereat; or
 - by the holder of an hotel licence, if he supplies liquor in moderate quantity on the order of any person actually boarding or lodging on the licensed premises; or
 - by the holder of a sorghum beer brewer's licence or a wholesale liquor licence, if he supplies liquor to another licence-holder.
- (2) Except in the circumstances contemplated in the proviso to subsection (1) no licence-holder shall recover any sum of money or other thing or institute any suit of law for or on account of any liquor sold by him on credit to any person.
- (3) After the expiration of a period of ninety days from the day of which any liquor was supplied to any person by any licence-holder referred to in paragraph (b) or (c) of the proviso to subsection (1), no action or other judicial proceeding shall be capable of being brought by any person for the recovery of any money alleged to be owing in respect of such supply nor shall such alleged debt be capable of being set off or being the subject of any claim in reconvention by any person.

- Place at which liquor may be not sold or delivered by licence-holder*
61. Subject to the provisions of this Act no licence-holder shall
- sell or offer or expose for sale any liquor at any place other than upon the licensed premises,
 - unless he holds an off-consumption licence deliver liquor at any place other than the licensed premises to any person
- Days and hours on which sale or delivery of liquor shall not take place*
62. (1) Except to the extent to which he is authorized thereto by or under this Act
- no licence-holder shall keep his licensed premises open for the sale or consumption of liquor or sell, supply or deliver liquor on any closed day
 - no holder of an on-consumption licence shall keep his licensed premises open for the sale or consumption of liquor or shall sell or supply liquor save during the hours prescribed in Schedule 1 in respect of the class of licence held by him or, as the case may be, the hours authorized in respect of his licence by the licensing authority or otherwise in terms of this Act
- (2) Subject to the provisions of this Act and of any other law regulating, in the district or area concerned, the days and hours of closing of shops or of those parts of shops in which is carried on the business of a general dealer under a licence issued in terms of the provisions of any law no holder of an off-consumption licence shall keep his licensed premises open for the sale or supply of liquor or sell, supply or deliver liquor, except during the hours prescribed in Schedule 1 in respect of the class of licence held by him
- Names and addresses of certain persons supplied with liquor on closed days to be recorded*
63. (1) No holder of an hotel licence (other than a licence-holder possessing such a right as is referred to in section 10 (1) (b) (iii) shall on any closed day sell or supply liquor for consumption by any *bona fide* traveller or any lodger on his premises or by the guest of such lodger, unless the name and address of such *bona fide* traveller or such lodger and the name of such guest have been clearly and indelibly recorded in the prescribed register by such traveller or such lodger as the case may be.
- (2) No holder of a club licence shall on any closed day sell and deliver liquor to any member of the club for consumption by his guest, unless the name and address of such guest have been clearly and indelibly recorded by such member in the prescribed register
- Quantities in which liquor may or may not be sold by licence-holder*
64. (1) No holder of an on-consumption licence shall sell or supply to or for any person liquor of a greater quantity than may reasonably be consumed by such person upon the licensed premises.
- (2) Subject to the provisions of subsections (3) and (4) no holder of an off-consumption licence shall sell or deliver to any person liquor in any quantity less than two hundred and fifty millilitres.
- (3) No holder of a wholesale liquor licence shall
- if he is authorized by his licence to deal directly with the public, sell, supply or deliver at any one time to any one person, other than a licence-holder, liquor in any quantity less than nine litres of which not less than four comma five litres shall be of the same kind, description and brand of liquor other than malt liquor,
 - keep or store on his licensed premises for any period exceeding forty-eight hours any liquor sold or delivered by him to any person.
- (4) No holder of a sorghum beer brewer's licence shall sell, supply or deliver at any one time to any one person other than a licence-holder, sorghum beer in any quantity less than two hundred litres.
- Liquor sold for off-consumption to be in closed containers and to be labelled.*
65. No holder of an off-consumption licence shall –
- sell, supply, or deliver to any person any liquor, other than in a cask, jar, bottle, package or other receptacle securely corked, stoppered or sealed and unless such cask, jar, bottle, package or other receptacle is labelled in such manner as may be prescribed;
 - uncork or suffer or permit to be uncorked or opened upon the licensed premises or in any such other premises adjoining or near the licensed premises as are referred to in section 58 (2), any cask, jar, bottle, package or other receptacle of liquor sold by him.
- Licensed business may not be combined with other business.*
66. Subject to the provisions of the law regulating gambling, no licence-holder (other than the holder of a wholesale liquor licence, a restaurant liquor licence or a mealtime wine and malt liquor licence) shall carry on his business under his licence in any premises in which any other business whatsoever is carried on: Provided that nothing in this section contained shall be construed as prohibiting –
- a licence-holder from carrying on his business in any premises which are separated by a substantial wall or partition, without any door or other opening whatsoever, from other premises in which any other business is carried on;

- (b) a licence-holder (other than the holder of a sorghum beer brewer's licence) from selling in the licensed premises (if such sale is otherwise lawful) newspapers, mineral waters and other drinks (not being liquor), methylated spirit, grape vinegar, pipes, tobacco, cigars, cigarettes, matches, cooler bags and such articles as are normally used in conjunction with the dispensing of liquor as the Minister may determine by notice in the *Gazette*.

Delegation of management or control by licence-holder

67. (1) No licence-holder shall permit any person under the age of twenty-one years to manage, superintend or conduct the licensed business at any time
(2) Subject to the provisions of subsection (1) no licence-holder shall permit any other person to manage, superintend or conduct the licensed premises -
(a) for any period longer than ten days but not exceeding thirty days, except with the prior written permission of the magistrate;
(b) for any period exceeding thirty days, except with the prior written permission of the Director-General: Provided that the Director-General may refer any application for his written authority to an interim meeting of the Board

Restriction on sharing of profits

68. No licence-holder (other than a company on whose behalf a licence is held by a nominee) shall, without the prior written authority of the Board, allow any other person in effect to control or to become a partner or a sharer in the profits of his licensed business.

Licence-holder to provide for reasonable requirements of the public.

69. (1) A licence-holder shall at all times satisfy the reasonable requirements of the public in regard to the supply of liquor
(2) No licence-holder shall sell, as a particular kind or brand of liquor or as the product, manufacture or brew of a particular producer, manufacturer or brewer, liquor which is not that kind or brand or not such product, manufacture or brew: Provided that, in any proceedings in respect of any contravention of this subsection, it shall be a sufficient defence if the accused satisfies the court that he had no knowledge of the fact that the liquor was not of that kind or brand or was not such product, manufacture or brew

Addition to or structural alteration of licensed premises.

70. No licence-holder shall, unless the Board authorizes him thereto, make any substantial alteration or addition to his licensed premises or alter the internal arrangement of such premises.

Storing of liquor by licence-holder.

71. A licence-holder shall store all liquor received by him and not immediately required for sale in the place determined by the licensing authority in terms of section 48 (1) (b) or in such other place or additional place as the Board may, on his application, authorize.

Records and registers to be kept by licence-holder.

72. Every licence-holder shall keep properly and adequately, in one of the official languages, such records of all liquor acquired and disposed of by him and such registers as may be prescribed in respect of the class of licence of which he is the licence-holder or in respect of the district or area in which his premises are situate.

Rights of licence-holder in regard to admission of persons to licensed premises.

73. (1) Any licence-holder or his agent or servant may -
(a) refuse to admit any person to the licensed premises of such licence-holder;
(b) for reasons of health or hygiene, the preservation of public morals, the maintenance of public order or for any other good and sufficient reason -
(i) refuse to admit any person to the licensed premises as a lodger, guest or resident, or
(ii) refuse to supply liquor to any person; or
(c) order any person -
(i) who is in any portion of the licensed premises in which liquor is served or in any cloak-room or latrine attached thereto, or
(ii) who is non-resident and who is in any portion of the licensed premises reserved for residents, to depart from such portion of the licensed premises.
(2) Any licence-holder or his agent or servant may eject from the licensed premises any person who is drunk, violent or disorderly or whose presence on the licensed premises might subject the licence-holder to any penalty under this Act or any other law.

Limitation of liability of licence-holder of hotel licence in respect

74. (1) No holder of an hotel licence shall be liable to indemnify any person in any amount exceeding forty rand in respect of any loss of or damage or injury to such person's property which is sustained or suffered while such person is a lodger in the licensed premises of such licence-holder unless-

of property of lodgers.

- (a) the loss, damage or injury is proved to have been caused by the wilful act, or as a result of the default or negligence of the licence-holder or any person in his employ; or
 - (b) the loss, damage or injury was sustained or suffered while the property was deposited with the licence-holder or a person expressly or impliedly authorized by the licence-holder to receive such deposit; or
 - (c) the licence-holder refused, save in the circumstances set forth in subsection (2), to receive the property offered for deposit or failed to make adequate provision whereby the property could be deposited with him; or
 - (d) the licence-holder failed to comply with the provisions of subsection (3).
- (2) The holder of an hotel licence to whom any property is offered for deposit by any person lodging or about to lodge in his licensed premises, may require that the property shall be contained in a suitable receptacle, closed and sealed by the depositor, and any refusal by such licence-holder to accept property for deposit based upon the failure of such person to comply with such requirement, shall not deprive such licence-holder of the benefits of the limitation of liability in respect of loss of or damage or injury to such property conferred by subsection (1).
- (3) The holder of an hotel licence shall exhibit a copy of subsections (1) and (2) in the official languages in such manner and in such part of the entrance of his licensed premises that it may readily be seen and read by any person proposing to lodge in such premises.
- (4) Nothing in this section contained shall be deemed to affect the operation of the common law in so far as the liability of the licence-holder up to the amount of forty rand is concerned.
- (5) The provisions of this section shall apply *mutatis mutandis* in relation to any other person (that is to say any person other than the holder of an hotel licence) who holds a licence to carry on an accommodation establishment.

Holders of certain licences to provide lodging or meals.

75. Save as provided in section 73, no holder of an hotel licence shall refuse to supply at reasonable charges lodging and meals, and no holder of a bar licence, restaurant liquor licence or a wine and malt liquor licence shall refuse to supply at reasonable charges meals, to any person demanding the same. Provided that, in any proceedings for a contravention of any provision of this section, the onus of proving that he had good and sufficient reason for refusing to supply such lodging or meals shall rest upon the accused.

Display of sign by licence-holder

76. Every licence-holder (other than the holder of a temporary liquor licence) shall, in a conspicuous place in the front of his licensed premises, fix and maintain a signboard or notice setting forth in letters at least forty millimetres long -
- (a) his name;
 - (b) the class of licence held by him; and
 - (c) whether he is licensed to sell liquor for consumption on or off, or on and off, the licensed premises as the case may be.

Outside entrance to public bar to be illuminated.

77. Every holder of an on-consumption licence shall cause the outside entrance to the public bar to be illuminated during the hours of the night when liquor is being sold or supplied in such bar.

Drunkenness, unlawful gambling, immorality and indecency not permitted on licensed premises.

78. No licence-holder shall -
- (a) permit drunkenness or any riotous conduct to take place upon his licensed premises; or
 - (b) permit any unlawful game or unlawful gambling to be carried on in or upon his licensed premises; or
 - (c) permit his licensed premises to be a brothel or an habitual resort of reputed prostitutes; or
 - (d) permit any person to perform any offensive, indecent or obscene act, or any person who is not clothed or not properly clothed, to perform or to appear, in any part of the licensed premises where entertainment of any kind is held or to which the public has access.

Offences by licence-holder.

79. Any licence-holder -
- (a) who contravenes or fails to comply with any provision of this Chapter, or
 - (b) who sells, supplies or deals in liquor contrary to the conditions of his licence or in any manner not authorised by his licence, where any such sale, supply or dealing in liquor is not a contravention of or failure to comply with any other provision of this Act, or
 - (c) who fails to render assistance to the best of his ability to any member of the police engaged on any duty in or about his licensed premises, shall be guilty of an offence.

CHAPTER 10

CONDUCT AND OBLIGATIONS OF AND OFFENCES BY PERSONS
GENERALLY IN RELATION TO THE SALE, SUPPLY OR
CONSUMPTION OF LIQUOR

- Dealing in liquor without licence.* 80. Save as provided in this Act no person shall sell, deal in or dispose of liquor without the necessary licence.
- Purchasing or obtaining liquor unlawfully.* 81. No person shall purchase or obtain any liquor at a time when, or at a place at which, or in circumstances in which, it is unlawful for such liquor to be sold or supplied to him.
- Prohibition of concoctions.* 82. No person shall make, be in possession or custody of, use or drink, or give or supply to any person —
 (a) any concoction made from the fermentation of treacle, sugar or any other substances and known as isigomfana, gavini, isitshimiyana, qandaviki, skokiyana, nkawu or qilika; or
 (b) any concoction which, though called by another name, is similar or substantially similar to any of the concoctions named in paragraph (a); or
 (c) any concoction produced by the fermentation of any substance, the consumption of which would in the opinion of the Minister be prejudicial to the health and well-being of the people and which he may specify by notice in the *Gazette*; or
 (d) any drink produced by the distillation of any concoction referred to in paragraph (a), (b) or (c).
- False representation to obtain supply of liquor* 83. No person shall, with intent to induce any licence-holder to supply him or any other person with liquor contrary to the provisions of this Act, falsely represent himself or such other person —
 (a) to be of or above the age of eighteen years, or
 (b) to be a lodger or the guest of a lodger at an hotel, or
 (c) to be a *bona fide* traveller, or
 (d) to be a person who is about to take an ordinary meal on any licensed premises.
- Misuse of documents.* 84. No person shall —
 (a) with intent to deceive, make use, for any purpose whatsoever, of any certificate, licence or other document which has been issued under or for any purpose of this Act and which is not his own; or
 (b) wilfully and with intent to deceive, alter, deface, destroy or mutilate any certificate, licence or other document issued under or for any purpose of this Act, or unlawfully withhold any such certificate, licence or other document from any person entitled to the possession thereof.
- Drunkenness on licensed premises or public place prohibited.* 85. No person shall be drunk, violent or disorderly upon any licensed premises or be drunk in or near —
 (a) any road, street, lane or other public thoroughfare or on vacant land adjoining any road, street, lane or other public thoroughfare; or
 (b) any shop, store, warehouse or public garage; or
 (c) any place of entertainment, restaurant or other premises or place to which the public are granted or have access, whether or not the right of admission be granted on payment of an admission charge.
- Consumption of liquor in certain public places forbidden.* 86. No person shall in any urban area consume liquor in any street, road, lane or other public thoroughfare or on vacant land adjoining any street, road, lane or other public thoroughfare (except where such liquor has been sold and supplied on such land under an on-consumption licence): Provided that the provisions of this section shall not apply in relation to any entertainment provided on such vacant land as aforesaid by any person who owns or otherwise lawfully occupies such land or to the use of such land by such a person in the ordinary course of his occupation thereof.
- Consumption and possession of liquor on private or Government premises.* 87. No person shall consume any liquor, or be in possession of any liquor, on any private premises or any premises owned by the State without the consent of the owner or lawful occupier or the person in charge of such premises first having been obtained: Provided that, for the purposes of this section, any person occupying any such premises as an employee of the owner or lawful occupier of the land upon which such premises are situated shall not be deemed to be the lawful occupier of such premises.
- Time of payment for liquor supplied for on-consumption.* 88. Except in the circumstances referred to in paragraph (a), (b) and (c) of the proviso to section 60 (1), no person shall, in any premises in respect of which an on-consumption licence (other than a club licence) is held, consume any liquor supplied to him for consumption on such premises unless, at the time when it is supplied, it is paid for in current money or by cheque.

- Place of consumption of liquor supplied for off-consumption.* 89. No person shall, except in the circumstances contemplated in the proviso to section 58 (2), consume on any licensed premises or in any premises or place adjoining or near such licensed premises which are in the occupation or under the control of the licence-holder, liquor which has been supplied to him by such licence-holder for consumption off such licensed premises.
- Unlawful presence in certain parts of licensed premises.* 90. (1) No person shall enter or be present in the restricted portion of any licensed premises or in any place in which liquor is kept or stored, knowing that his presence there is unlawful.
(2) No person shall remain or be present in any portion of licensed premises referred to in section 73 (1) (c) after having been ordered to depart therefrom by the licence-holder or his agent or servant.
- Supply of liquor to children.* 91. Save in the case of a person who resides on licensed premises and who gives liquor for immediate consumption to a member of his family ordinarily residing with him, no person shall, on licensed premises, supply liquor to any other person who is under the age of eighteen years.
- Bilking.* 92. No person shall leave any premises in respect of which an hotel licence is held, whether in an urban or a rural area, without paying his account for lodging and meals supplied, unless he has arranged with the licence-holder for the later payment of such account.
- Offences.* 93. Any person who contravenes any provision of this Chapter shall be guilty of an offence

CHAPTER 11

METHYLATED SPIRIT AND INTOXICATING MEDICINES

- Right of sale of methylated spirit.* 94. (1) Subject to the provisions of section 66 (b) no person shall sell or have in his possession for the purpose of sale any methylated spirit unless he is the lawful holder of a general dealer's or pharmacist's licence
(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence
- Certain spirit may be declared to be methylated spirit.* 95. The Minister may, by notice in the *Gazette*, declare to be methylated spirits for the purposes of this Act, any denatured, perfumed or otherwise treated spirit not described in paragraph (a) of the definition of "methylated spirit" in section 1
- Intoxicating medicines.* 96. The Minister may from time to time, after consultation with any competent authority, by notice in the *Gazette*, declare that any patent, proprietary or Dutch medicine named or described in such notice shall, from and after a date specified therein, be deemed to be an intoxicating medicine.

CHAPTER 12

PROHIBITION OF SUPPLY OF LIQUOR TO CERTAIN PERSONS

- Magistrate may prohibit supply of liquor to certain persons.* 97. (1) If at any time it appears to a magistrate that any person —
(a) has on at least three occasions within the preceding twelve months been convicted of an offence under this Act or any other liquor law (including any law repealed by this Act) or of drunkenness, or
(b) has, within the said period, been convicted on at least two occasions of an offence contemplated in paragraph (a) and on one or more occasions of assault or any offence involving violence, or
(c) by excessive drinking of liquor misspends or wastes his means, impairs his health, disturbs or endangers the peace or prejudices or is likely to prejudice the welfare of his household, the magistrate may, by order in writing, prohibit the supply of liquor to such person for such period, not exceeding twelve months, as he may deem necessary.
- (2) No order shall be made under subsection (1) in respect of any person unless —
(a) such person has applied therefor or consented thereto; or
(b) a reasonable opportunity has been afforded to such person to appear before the magistrate in order to show cause why such order should not be made.
- (3) In any proceedings under subsection (2) (b) the magistrate, sitting *in camera*, shall proceed to enquire whether the person in question is such a person as is contemplated in subsection (1) (a), (b) or (c) and shall for that purpose —
(a) take on oath or affirmation and record any evidence which he may deem necessary; and

(b) allow the person in question to cross-examine any witness and to reply, under oath or affirmation as he may elect, to any evidence given against him;

Provided that, if such person wilfully absents himself from the proceedings, the magistrate may make an order in respect of him in his absence.

- (4) The magistrate who makes an order in terms of subsection (1) shall, without delay, forward a copy thereof to the officer in charge of the police in the area in which the person who is the subject of such order, resides or is employed and such officer shall forthwith upon receipt thereof notify the prohibition or cause it to be notified to such person, to every licence-holder in the district in which the enquiry was held and to the Police Administration: Provided that if such person is present when the magistrate makes the order, the magistrate shall hand or tender to him a copy thereof in which event no further notification to that person shall be necessary.

Offences under this Chapter

98. (1) Any person to whom the supply of liquor has been prohibited under section 97 and who purchases, procures, possesses or consumes liquor, shall be guilty of an offence.
(2) Any person who gives, sells, supplies or delivers liquor to any person to whom the supply of liquor has been prohibited under section 97 or who places liquor in the possession or under the control of such person, shall be guilty of an offence: Provided that, in any proceedings for a contravention of this subsection, it shall be a sufficient defence if the accused satisfies the court that he had no knowledge of such prohibition.

CHAPTER 13

POWERS, AUTHORITIES AND FUNCTIONS OF THE POLICE
ADMINISTRATION, THE TOURIST AUTHORITY AND CERTAIN OFFICERS

Report on application for new licence by Police Administration

99. In respect of every application for a new licence (other than a late hours licence or a temporary licence) the Police Administration shall, at least thirty days before the date on which such application is to be considered by the Board, report to the magistrate in writing -
(a) whether the applicant is not disqualified under any provision of section 32, and
(b) if the premises to which the application relates are already in existence, whether such premises are from a police and public safety point of view, suitable in all respects for the carrying on of the proposed business or other activity, or
(c) if the premises to which the application relates have not yet been erected or completed, whether such premises will on completion in accordance with the proposed plans be suitable from a police and public safety point of view for the carrying on of the proposed business or other activity, and
(d) whether the licence for which application is made is, in the opinion of the Police Administration, reasonably required for the convenience of the public, and
(e) whether the place where liquor is to be stored is suitable, safe and adequate, and shall call attention to any other matter which, in terms of this Act shall be, or in the opinion of the Police Administration ought to be, taken into account by the licensing authority.

Report on certain applications by Tourist Authority

100. In respect of every new application for an hotel licence, a restaurant liquor licence or a wine and malt liquor licence the Tourist Authority shall, at least thirty days before the date on which such application is to be considered by the Board, report to the Magistrate in writing -
(a) if the premises to which the application relates are already in existence, whether such premises are of a standard commensurate with the needs and requirements of the general public and of tourists, including any foreign tourists;
(b) if the premises to which the application relates have not yet been erected or completed, whether such premises will, on completion in accordance with the proposed plans, be of an adequate standard and suitable in all respects for the needs and requirements of the general public and of tourists, including any foreign tourists;
(c) where application is made for a restaurant liquor licence in respect of an existing business, whether the nature and quality of the meals and the services provided in such restaurant are adequate and whether the furniture and fittings as well as the glassware and crockery and the eating utensils in such restaurant, and the preparation of the meals, are sufficient and satisfactory, and
(d) whether the applicant or the person who is managing or is to manage the business or proposed business has any training or experience in the conduct of an hotel or of a restaurant, as the case may be, and shall call attention to any other matter which in the opinion of the Tourist Authority, ought to be taken into account by the licensing authority.

Report on application for transfer or removal of licence.

101. In respect of every application for the transfer or removal of a licence, it shall be the duty of the Police Administration and the Tourist Authority to report for the information of the Board, in accordance with the provisions *mutatis mutandis* of section 99 or 100, as the case may be, on all matters which in terms of this Act shall be, or in the opinion of the Police Administration and the Tourist Authority respectively ought to be, taken into account by the licensing authority in the consideration of the application.

Inspection of, and report on, licensed premises by Police Administration.

102. (1) The Police Administration shall cause all licensed premises to be inspected regularly by a commissioned officer and shall forthwith make a report in writing to the Director-General —

- (a) on any failure on the part of any licence-holder to comply with any restriction, direction or condition imposed upon him under this Act where such failure does not constitute a criminal offence;
- (b) if any licence-holder has become disqualified in terms of section 32 from holding a licence;
- (c) whenever any licence appears to have been abandoned;
- (d) whenever business appears no longer to be carried on under any licence; and
- (e) on any other matter which in the opinion of the Police Administration ought to be brought to the notice of the Director-General.

(2) The Director-General shall without delay refer every report made to him under subsection (1) to a meeting of the Board for consideration on a date to be determined by him (if the meeting at which such report is to be considered is not the annual meeting) and he shall not less than fourteen days before the date of such meeting —

- (a) notify the Police Administration in writing that that Administration or its representative will be required to appear before such meeting; and
- (b) cause to be delivered, or to be sent by registered or certified post, to the licence-holder and to every person who has a financial interest in the business and whose name and address are known to him a copy of the report of the Police Administration under subsection (1).

Application by Police Administration for cancellation of licence.

103. (1) Whenever any licence-holder has been convicted of an offence, whether under this Act or any other law (including the common law) and the Police Administration is of the opinion that it is in the public interest that the Board should consider the question of the cancellation of the licence of such licence-holder, the Police Administration shall forthwith report the matter to the Director-General.

(2) The Director-General shall thereupon deal with the matter in accordance with the provisions *mutatis mutandis* of section 102 (2).

Inspection of, and report on, certain licensed premises by Tourist Authority.

104. (1) (a) The Tourist Authority shall, not less often than once in every period of three months, cause every hotel and every restaurant and cafe in respect of which a licence under this Act is in force to be inspected by a duly authorised representative (hereinafter referred to as an inspector) and shall forthwith after such inspection make a report thereon in writing to the Director-General.

(b) The report contemplated in paragraph (a) shall relate *inter alia* —

- (i) to the appearance and state of repair of the licensed premises and of the furniture and fittings thereon;
- (ii) to the state of cleanliness or otherwise of each and every part of the licensed premises including, in the case of an hotel, every bedroom, bathroom and toilet;
- (iii) to the state of the room or rooms in which meals are prepared and served and in which foodstuffs are stored;
- (iv) to the quality and condition of the beds and bedding, and the standard of illumination, in every hotel bedroom;
- (v) to the quality of the meals and service provided on the licensed premises;
- (vi) to the condition and sufficiency of the cutlery and crockery on the licensed premises;
- (vii) to the measures instituted, in the case of an hotel, for the preservation of the privacy and safety of, and to prevent interference with, guests;
- (viii) to the condition of the quarters (if any) set aside for occupation by the employees of the licence-holder; and
- (ix) to the control and management of the licensed business generally.

(c) When making a report under this subsection the Tourist Authority shall describe in detail, if such be the case, in what respects the licence-holder is failing to provide a service which is commensurate with the needs and requirements of the general public and of tourists, including any foreign tourists, and shall at the same time indicate the steps required to be taken by the licence-holder to remedy his default.

- (2) Upon receipt of the report of the nature contemplated in subsection (1) (c) the Director-General shall -
 - (a) cause a copy of such report to be delivered or sent by registered or certified post to the licence-holder and to every person who has a financial interest in the business and whose name and address are known to him; and
 - (b) by notice in writing call upon the licence-holder to inform him, not later than twenty-one days after the date of such notice, whether he agrees with such report and, if so, what period he reasonably requires to remedy his default.
- (3) If in response to the notice referred to in subsection (2) (c) the licence-holder admits his default, the Director-General shall in writing require him to remedy such default within the period requested by him or within such other reasonable period as the Director-General may fix (whichever is the shorter period): Provided that if the licence-holder is prevented by circumstances beyond his control from remedying his default within the approved period, the Director-General may, after consultation with the Tourist Authority, extend such period.
- (4) If the licence-holder -
 - (a) fails to respond to the notice referred to in subsection (2) (c), or
 - (b) in response to the said notice does not admit any default on his part, or
 - (c) fails within the period or extended period referred to in subsection (3) to remedy his default, the Director-General shall without delay refer the matter to a meeting of the Board for consideration on a date to be determined by him (if that meeting is not the annual meeting) and he shall, in writing, advise the Tourist Authority that it or its representative shall be required to attend such meeting.

Powers of police and other officers in regard to search and seizure.

105. (1) Subject to the provisions of the Criminal Procedure Act, 1977, any member of the police may -
 - (a) at any reasonable time enter and inspect any room or other part of any licensed premises or any place referred to in section 71 where liquor is stored and may take stock of all liquor found in or upon such premises; or
 - (b) at all times enter and search any premises, room or place, whether licensed under this Act or not, or any vehicle, or search any person or any receptacle of whatever nature, whether found in or upon such premises, room, place or vehicle or not, if -
 - (i) he suspects on reasonable grounds that a contravention of any provision of this Act is taking place in or upon such premises, room, place or vehicle or is being committed by such person or by means of such vehicle or receptacle; or
 - (ii) he suspects on reasonable grounds that such person has in his possession any liquor or thing, or that any liquor or thing is kept in or upon such premises, room, place, vehicle or receptacle, in contravention of any provision of this Act; or
 - (iii) he has reasonable grounds to believe that such person has in his possession, or that there is in or upon such premises, room, place, vehicle or receptacle, any liquor or thing intended to be used for the purpose of committing any offence under this Act;
 - (c) enter any premises upon which liquor is being sold or supplied and demand the production of the licence authorizing such sale or supply.
- (2) Any member of the police shall seize and remove anything in the possession of the person so searched or in or upon the premises, room, place, vehicle or receptacle so entered or searched if, in his opinion, the possession thereof by such person or the keeping or possession thereof in or upon such premises, room, place, vehicle or receptacle is unlawful or, if he suspects that any offence has been committed in respect thereof, or if he has reason to believe that such thing is intended to be used for the purpose of committing any offence under this Act.
- (3) Any member of the police and any customs or excise officer may -
 - (a) at any time enter and search the premises or any room or part thereof of any person who holds a licence referred to in, and may inspect any stock of methylated spirit kept under section 94 together with any prescribed registers or records relating thereto;
 - (b) enter and search the premises, room or place of any person whom he suspects of unlawfully dealing in or keeping methylated spirit; and
 - (c) upon the premises or in any room or place so entered, seize any methylated spirit kept in contravention of section 94 or of any regulation.

Police may demand names and addresses of certain persons.

106. (1) Any member of the police may demand the name and address of any person whom he finds in or upon any premises, room, place or vehicle in or upon which he seizes or from which he removes any liquor, methylated spirit or other thing.
- (2) If any such person, on such demand -

- (a) fails to furnish his full name and address, such member of the police may forthwith arrest him;
- (b) furnishes to such member of the police a name and address which such member, on reasonable grounds, suspects to be false, such member may arrest and detain him for a period not exceeding twelve hours until the name and address so furnished have been verified.

Powers of police to expel certain persons from licensed premises.

107. Any member of the police shall, if the licence-holder or his agent or servant so demands
- (a) expel from the licensed premises any person who has failed or refused to comply with any demand made to him under section 73 (1) (c);
 - (b) expel or assist in expelling from the licensed premises any person referred to in section 73 (2)

Powers of Inspectors

108. (1) Any inspector may, for the purposes of this Act -
- (a) without prior notice and at any reasonable time enter any licensed premises or proposed licensed premises and, after having informed the licence-holder or other person who is for the time being in charge or control of such premises of the purpose of his visit, make such examination, investigation and enquiry at any place on such licensed premises as he may deem necessary;
 - (b) while he is in or upon such premises or at any other reasonable time, question any licence-holder or any person who intends to conduct any business on such premises or any employee of such licence-holder or person in the presence of or apart from others and require such licence-holder, person or employee the production there and then, or at a time and place fixed by the inspector, of any book, notice, record, list or other document or any other thing whatsoever which is or has been upon such premises or in the possession or custody or under the control of such licence-holder, person or employee if in his opinion examination of that book, notice, record, list, document or thing is necessary for the purpose of any investigation which he is carrying out;
 - (c) at any reasonable time require from any person who has the possession or custody or control of any book, notice, record, list or other document relating to such premises as aforesaid or to the business conducted thereon, the production there and then, or at a time and place fixed by the inspector, of that book, notice, record, list or document if in his opinion examination of that book, notice, record, list or document is necessary for the purpose of any investigation which he is carrying out;
 - (d) examine and make extracts from and copies of any such book, notice, record, list or document, and require an explanation of any entries in any such book, notice, record, list or document and seize any such book, notice, record, list or document as in his opinion may afford evidence of any evasion of any provision of this Act or any other law or of any condition or restriction imposed under this Act.
- (2) Every licence-holder and every other person conducting or intending to conduct any business on any licensed premises or proposed licensed premises entered by an inspector under subsection (1) and any employee of such licence-holder or person shall at all times furnish such reasonable facilities as are required by the inspector for the purpose of exercising his powers under the said subsection.

Offences under this Chapter.

109. Every person -
- (a) who fails or refuses to allow any member of the police or customs or excise officer or inspector to inspect any record, register, notice, book, list or other document which, in accordance with the provisions of this Act, he is obliged to keep or which is in his possession, custody or control or otherwise on the premises in question,
 - (b) who in any way obstructs or hinders any member of the police or customs or excise officer or inspector in the performance of his duty under this Act, or
 - (c) who fails or refuses to furnish his full name and address on the demand of any member of the police in terms of section 106 (1) or furnishes a false name or address,
- shall be guilty of an offence.

CHAPTER 14

EVIDENCE AND CRIMINAL RESPONSIBILITY

Presumption of sale by unlicensed

110. In any proceedings under this Act against any person for selling liquor without a licence, evidence that such person -

person.

- (a) had on or near his premises any signboard or notice purporting that he was licensed, or
- (b) was in occupation or apparent occupation of premises fitted with a bar or similar place containing bottles, casks or vessels so displayed as to induce a reasonable belief that liquor was sold or served therein, or
- (c) had on his premises more liquor than was reasonably required for consumption by the persons residing thereon, or
- (d) bought or acquired or had in his possession or under his control more liquor than was reasonably required for consumption by himself, his household and persons *bona fide* employed by him, shall afford *prima facie* proof of the sale of liquor by such person.

Presumption of sale arising from nature of transaction.

111. In any proceedings under this Act relating to any unlawful sale of liquor, it shall be presumed that liquor was sold if the court is satisfied that, notwithstanding the absence of proof of the passing of money, a transaction in the nature of a sale took place or that consumption of liquor was about to take place.

Presumption of sale arising from presence in restricted portion.

112. Evidence that any person (other than the licence-holder, a member of his household, his servant or agent, or a person lodging in the licensed premises) was in the restricted portion of such premises at a time when the sale of liquor to the public in such restricted portion was not authorized, shall be *prima facie* proof of a sale of liquor to such person by or on behalf of the licence-holder during prohibited hours.

Presumption arising from supply of liquor by employee or member of household.

113. Evidence that any liquor was supplied to any person upon the licensed premises by any member of the household or any agent or employee of the licence-holder shall be *prima facie* proof that such liquor was supplied by or on behalf of the licence-holder.

Presumption arising from consumption of liquor.

114. Evidence of consumption or intended consumption of liquor on licensed premises by some person other than the licence-holder, a member of his household or his agent or servant, shall be *prima facie* proof that the liquor being consumed or about to be consumed was supplied by or on behalf of the licence-holder.

Onus of proof where prohibited person on premises.

115. If any person, who under any provision of this Act is prohibited from access to, or from being at any particular time upon, any licensed premises or any particular portion thereof, is proved to have been upon such premises or portion thereof, or to have been there at such time, the licence-holder of such premises shall be deemed to have permitted such person to be at the place where he is proved to have been unless he satisfies the court that he and his agents and servants exercised all due diligence to prevent the presence there of such person.

Proof of licence and statements thereon.

116. In any proceedings under this Act a document produced or handed into court by a member of the staff of the magistrate or by any member of the police which purports to be one of the copies of a licence referred to in section 4 (4) (b) or a copy of an authority issued under this Act, shall be *prima facie* evidence of such licence or authority and any terms, restrictions, directions and conditions stated in such document shall *prima facie* be deemed to be the terms, restrictions, directions and conditions imposed under this Act in respect of such licence or authority.

Analysts' certificates.

117. (1) Subject to the provisions of the Evidence in Criminal Proceedings Act, 1982 (Act 17 of 1982), any statement or certificate purporting to be signed by an analyst or chemist in the employment of the Government of Ciskei or the Government of the Republic of South Africa who has made an analysis of the article or liquor or portion thereof which is the subject of the charge, shall on its mere production by the prosecutor in any proceedings under this Act be sufficient evidence of the facts stated in the statement or certificate unless the accused requires that such analyst or chemist (if the prosecutor is able to compel him to attend as a witness) be called as a witness and, if the court so decides, deposits or gives security to the satisfaction of the court, for the payment of such sum as, in the opinion of the court, will be necessary to meet the costs and expenses of such analyst or chemist being summoned and appearing as a witness.
- (2) In any such proceedings the accused shall, in lieu of requiring the attendance of such analyst or chemist, be entitled to put to him interrogatories in writing approved by the court, and the answer to such interrogatories shall be admissible in evidence in the proceedings.

Presumption that person is under particular age.

118. Where in any proceedings under this Act -

- (a) evidence is given that a person is, from his appearance, apparently under a particular age, and
- (b) the magistrate hearing the case announces that from his personal observation of such person, he is satisfied that such person appears to be under the age, and
- (c) such magistrate enters upon the record of the proceedings that he is so satisfied, the person in question shall be presumed to be under that age until the contrary is proved.

Bona fide mistake of fact no defence.

119. It shall be no defence to any charge under this Act that the accused or his principal, agent or servant *bona fide* believed in the existence of any fact which would have made lawful the act or omission which is the subject of the charge, had it in truth existed by which in reality never existed

When liquid presumed to be prohibited concoction or drink.

120. If in any prosecution for an offence under this Act it is proved that the accused made, had in his custody or possession or used, drank, gave or supplied to any other person, any liquid which had or has the appearance of any concoction or drink referred to in section 82, it shall be presumed that such liquid was or is a concoction or drink referred to in the said section 82 unless the contrary is proved.

Presumption that certain liquid is sorghum beer.

121. Where in any charge under this Act it is alleged that any liquid was or is sorghum beer, evidence that such liquid had or has the appearance of sorghum beer shall be *prima facie* proof that it was or is sorghum beer.

Liability of manager.

122. Any person who at any time is managing, superintending or conducting the business of a licence-holder shall be subject and liable to the same duties, obligations and penalties as the licence-holder: Provided that nothing in this section contained shall be construed as relieving any licence-holder from any duty, obligation or penalty to which he may by law be subject or liable.

Licence-holder may be held responsible for unlawful acts of other persons.

123.(1) Whenever, in any matter relating to or in any way connected with the business or other activity carried on under a licence, the manager, agent, servant or member of the household of the licence-holder does or omits to do anything which, if it had been done or omitted by the licence-holder, would amount to an offence under this Act, such licence-holder shall be deemed himself to have done or to have omitted to do such thing and shall be liable on conviction to the penalties prescribed in respect thereof, unless he proves to the satisfaction of the court -

- (a) that he did not in any way connive at or permit such act or omission,
- (b) that such act or omission, or any similar act or omission, whether lawful or unlawful, was not within the scope of the authority or the course of the employment of the manager, agent, servant or member of his household, and
- (c) that he had taken all reasonable steps to prevent any act or omission of that nature:

Provided that the fact that the licence-holder had given instructions prohibiting any such act or omission shall not by itself be accepted as sufficient proof that he had taken all reasonable steps to prevent the occurrence.

(2) Nothing in subsection (1) contained shall be construed as exempting any manager, agent, servant or member of the household of the licence-holder from any liability whatsoever in respect of the act or omission in question.

CHAPTER 15

SPECIAL PROVISIONS RELATING TO SORGHUM BEER

Control of beer drinks. 124. (1) Subject to the provisions of section 87, no person shall in any administrative area -

- (a) hold a beer drink without first having obtained the consent of the chief or headman of such area; and
- (b) at any beer drink -
 - (i) allow or suffer to be present, or supply sorghum beer to, any person below the age of eighteen years except when the presence of persons under that age and the indulgence by them in the drinking of sorghum beer is in accordance with custom; or
 - (ii) permit or suffer drunkenness or any riotous conduct to take place.

(2) Subject to the provisions of paragraph (b) (i) of subsection (1) no person under the age of eighteen years shall take part in, or be present or consume sorghum beer at, any beer drink.

Brewing and possession of sorghum beer may

125. (1) Whenever any riotous conduct, fight or other disturbance occurs or is expected to occur at any place in any administrative area or whenever there are reasonable grounds to suspect that sorghum

be prohibited in certain circumstances.

beer is being brewed in excessive quantities at any dwelling or premises in such an area, the magistrate may in writing prohibit the brewing and possession of sorghum beer at such place, homestead or premises during such period as he may at his discretion determine.

- (2) The magistrate shall post in a conspicuous place at his office and serve or cause to be served on the chief or headman of the administrative area in question, a copy of every prohibition made by him under subsection (1) and such chief or headman shall forthwith cause the contents of the prohibition to be conveyed to the person or persons affected thereby.
- (3) If, before the expiration of the period determined by the magistrate in respect of any prohibition under subsection (1), he is of the opinion that the reason for the prohibition no longer exists, he may withdraw such prohibition.

Offences under this Chapter.

126. Any person -

- (a) who contravenes any provision of section 124 (1) or (2), or
- (b) who brews or possesses sorghum beer at or in any place, dwelling or premises in respect of which any prohibition under section 125 (1) is in force, shall be guilty of an offence.

Savings.

127. (1) Nothing in this Act contained shall be construed -

- (a) as authorizing the sale of sorghum beer by any person other than a licence-holder;
 - (b) as prohibiting, except to the extent contemplated in and subject to the provisions of section 87 -
 - (i) the head of any household in an administrative area from brewing and possessing sorghum beer in reasonable quantities for consumption at any beer drink which is not prohibited in terms of section 124 (1) (a); or
 - (ii) the owner or any lawful occupier of premises in any administrative area from brewing and possessing sorghum beer in reasonable quantities for consumption by himself or his household or by persons *bona fide* employed by him or who, in accordance with any applicable custom, have rendered any service to him or performed any work on his behalf; or
 - (c) as derogating from the provisions of any other law relating to the control or regulation of meetings, gatherings or assemblies.
- (2) Except where the context otherwise requires, any reference in this Act to "liquor" shall -
- (a) in relation to a sorghum beer licence, a sorghum beer brewer's licence or the licence-holder of any such licence, be construed as a reference to sorghum beer; and
 - (b) in relation to any other class of licence, be construed as a reference to the kind of liquor which the licence-holder concerned may lawfully sell under the conditions attaching to his licence.

CHAPTER 16

MISCELLANEOUS PROVISIONS

Penalties.

128. (1) Any person -

- (a) who is convicted of the offence of contravening section 80 shall be liable to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment;
 - (b) who is convicted of the offence of contravening any other provision of this Act, shall be liable to a fine not exceeding two hundred and fifty rand or to imprisonment for a period not exceeding three months.
- (2) If, at any time during the five years immediately preceding any conviction of an offence referred to in subsection (1), the accused was convicted of any offence under this Act or under any law repealed by this Act, the penalties prescribed in subsection (1) for the relevant offence may be doubled.
- (3) Notwithstanding anything in any other law contained, a magistrate's court shall have jurisdiction to impose any of the penalties prescribed in this section.

Jurisdiction of court to declare certain licences cancelled.

129. (1) (a) Whenever any person who is or was a licence-holder is convicted by any court of any offence under Chapter 9, the court may cancel the licence issued in respect of the business or other activity of which the person convicted was the licence-holder when such offence was committed.

- (b) No licence which is or was held by any person as a nominee or as an employee of any other person shall be cancelled under paragraph (a) if the principal or employer of the convicted person (who shall have the right to be heard by the court) proves to the satisfaction of the court that he did not permit or connive at the contravention in question but took all reasonable steps to prevent its occurrence: Provided that the fact that such principal or employer had given instructions prohibiting the act or omission shall not by itself be accepted as sufficient proof that he had taken all reasonable steps to prevent the occurrence.
- (c) The principal or employer shall have the right to appeal from any such cancellation as if it were a conviction by the court making the cancellation and such appeal may be heard either separately from or jointly with an appeal against the conviction which gave rise to the cancellation or against the sentence imposed by the court.
- (2) Upon the second or subsequent conviction for a contravention of section 80 or 82 of any person who is not a licence-holder under this Act but who holds a licence or licences in respect of any trade or occupation, the court may cancel all or any of such licences and may order that such person be disqualified from taking out any licence for any other trade or occupation for the remainder of the year then current or from holding, at any time or during a stated period of not more than five years, any licence under this Act.
- (3) Where a court has cancelled any licence under subsection (1) the registrar or clerk of the court shall forthwith advise the Director-General, the Police Administration and the Tourist Authority accordingly.

*Forfeiture of liquor
or other things.*

- 130. (1) Upon conviction of any person of contravening section 80 all liquor found in his possession shall *ipso facto* be forfeited to the State: Provided that, if the person so convicted was or is a licence-holder who although duly authorized thereto has or had omitted to obtain the renewal of his licence, it shall be in the discretion of the court whether or not to declare any liquor found in his possession to be forfeited.
- (2) Any liquor or thing seized under the authority of this Act or of the Criminal Procedure Act, 1977 shall, together with any vessels in which the same is contained be forfeited unless –
 - (a) in the case where such liquor or thing forms the subject of the prosecution of the person in whose possession it was seized the court finds that the liquor or thing was not possessed by him in contravention of any provision of this Act or any other law; or
 - (b) in any other case, the person from whom such liquor or thing was taken proves within thirty days of the seizure to the satisfaction of the Minister that the possession thereof by himself or any other person was not for an unlawful purpose.
- (3) Any liquor or other thing forfeited to the State in terms of this Act or, with reference to this Act, under the provisions of Criminal Procedure Act, 1977, shall be sold and the proceeds thereof deposited in the Ciskeian Revenue Fund: Provided that the court or the Minister, as the case may be, may at its or his discretion order that any such liquor or thing be destroyed or that it be dealt with in such other manner as the court or the Minister may direct.

Regulations.

- 131. (1) The Minister may make regulations –
 - (a) as to the issue of licences under this Act, including the form of licences, the number of copies of licences to be made out by issuing officers and the offices to which copies of licences shall be transmitted;
 - (b) as to the order of business and the procedure to be followed at meetings of the Board;
 - (c) as to the form and manner of applications, the notices to be published or posted in connection with applications and as to the documents and information to be submitted by applicants with their applications;
 - (d) as to the form and manner of objections to applications and of replies to such objections;
 - (e) as to the requirements to be complied with in respect of the premises in respect of which applications for licences or any particular class of licence are made;
 - (f) as to the form of any certificate or conditional authority issued or granted by the licensing authority;
 - (g) as to the form of records and registers to be kept by licence-holders, or different classes of licence-holders, the particulars to be recorded in such records or registers, the inspection thereof and any other matter incidental thereto;
 - (h) as to the regulation or restriction of the importation into Ciskei, and of the keeping, sale, supply or use, of methylated spirit;
 - (i) as to the class of persons who, notwithstanding the provisions of section 94, shall not sell methylated spirit;
 - (j) as to the keeping and the manner of keeping of registers or records of all dealings in methylated spirit or in intoxicating medicines;

- (k) as to the manner in which methylated spirit sold or kept for sale in Ciskei shall be denatured, odorized and rendered impotable if this has not already been done in terms of any other law;
 - (l) as to the restriction of the quantity of methylated spirit which may be sold and the receptacles in which it shall be sold;
 - (m) as to the prohibition or restriction of the keeping, sale, supply or use of intoxicating medicines;
 - (n) as to the prohibition or restriction of the purchase or possession of methylated spirit or any intoxicating medicine or intoxicating medicines generally by any persons or class of persons in any area, and
 - (o) in regard to any other matter which, in terms of this Act, is required to be prescribed by regulation or which the Minister may deem desirable or expedient to prescribe for the achievement of the objects of this Act even though such matter is not expressly mentioned in the preceding paragraphs.
- (2) Different regulations may be made in respect of different classes of licences or licence-holders or different areas.
- (3) The regulations may provide that any contravention thereof or failure to comply therewith shall be an offence.

Transactions exempted from operation of Act. 132. (1) Nothing in this Act shall apply to -

- (a) any person selling any spirituous or distilled perfume or perfumery or medicated spirit, if such perfume, perfumery or medicated spirit is not, or has not under section 95 been declared to be methylated spirit;
 - (b) (i) any registered medical practitioner or pharmacist *bona fide* administering or selling, for purely medicinal purposes and in accordance with any law governing the administration and sale of medicine, any medicine containing liquor;
 - (ii) any pharmacist selling not more than two hundred and fifty millilitres of rectified spirits or absolute alcohol for *bona fide* medicinal use; or
 - (iii) any pharmacist selling rectified spirits or absolute alcohol to any other pharmacist;
 - (c) any person selling *bona fide* for medicinal purposes and in reasonable quantities for consumption as medicine, under any licence permitting such sale, any patent, proprietary or Dutch medicine which contains liquor or which has been declared under section 96 to be an intoxicating medicine: Provided that any such intoxicating medicine shall be kept, sold or supplied only in accordance with the provisions of any regulation; or
 - (d) the sale of liquor in any refreshment room for members of the National Assembly, if such liquor is sold under the authority of the Assembly or any committee thereof.
- (2) (a) Subject to the provisions of paragraph (b) of this subsection, nothing in this Act contained shall be construed as derogating from the provisions of section 6 *bis* of the Aviation Act, 1962 (Act 74 of 1962).
- (b) For the purposes of this Act any premises at an aerodrome established in terms of section 6 of the Aviation Act, 1962, in or on which liquor is sold in terms of section 6 *bis* of the said Act, whether through the Department of Transport or by any other person, shall, in so far as such liquor is so sold for consumption in or on the premises, be deemed to be premises in respect of which a hotel licence without a special right of off-sale has been issued under this Act, and the person in charge of such premises shall be deemed to be the holder of such licence and to be the employer of all persons working in or on such premises.

Exemption from obligation to hold licence.

133. Nothing in this Act relating to the application for or the holding of licences shall apply to -

- (a) any person selling, under the authority of the Commander-General of State Security, liquor in any institution or canteen in which liquor is supplied solely to and for consumption on the premises by members of the armed or law enforcement forces of the Republic of Ciskei; or
- (b) any sheriff, deputy sheriff or other officer acting under the authority of any judge, magistrate or court, or any customs officer in the lawful exercise or discharge of his duties; or
- (c) the executor in the estate of a deceased person or the trustee of an insolvent estate or the curator of an estate who sells to a licence-holder liquor belonging to the estate; or
- (d) any duly licensed auctioneer selling by auction, upon the licensed premises of the licence-holder of any wholesale liquor licence or of any licence-holder authorized by any provision of this Act to dispose of his stock of liquor by auction, liquor belonging to such a licence-holder or selling by auction at a place approved of by the magistrate any liquor belonging to the estate of a deceased person or to an insolvent estate or an estate under curatorship, in each case in quantities of not less than nine litres; or

- (e) any person who, in an aircraft controlled and operated by an air carrier licensed in accordance with law and under the authority of the Minister and on such conditions or restrictions as he may determine, sells liquor to passengers above the age of eighteen years while such aircraft is in flight.

Non-observance of certain provisions of Act does not render licences invalid.

134. The validity of any certificate or authority issued or granted under any provision of this Act for the grant, transfer or removal of a licence, or of any licence issued, transferred or removed by virtue of any such certificate or authority, shall not be affected by reason merely of the fact that any notice required to be published or posted in terms of this Act was not duly published or posted.

Schedule 1 is part of this Act.

135. Schedule 1 shall be read as one with the provisions of this Act.

Repeal of laws and savings.

136. (1) Subject to the provisions of subsections (2) and (3), the laws specified in Schedule 2 are hereby repealed.
- (2) Any licence or other document issued or renewed, any regulation made, any approval or authority given, any restriction or condition imposed or any other action taken or thing done under any provision of any law repealed by subsection (1) and which was valid immediately prior to the commencement of this Act shall be deemed to have been issued, renewed, made, given, imposed, taken or done, as the case may be, under the corresponding provision of this Act.
- (3) The provisions of this Act shall apply in any area included in Ciskei after the commencement of this Act and, with effect from the date of such inclusion, any law relating to any matter dealt with in this Act and which applied in such area immediately prior to such inclusion shall be deemed to have been repealed: Provided that any licence or other authority for the sale or supply of liquor in such area which, immediately prior to the date on which this Act became applicable in such area was in force in respect of any premises in such area shall remain in force until it expires by effluxion of time or until the thirty-first day of December of the year in which the provisions of this Act became applicable in that area, whichever is the earlier, but subject to the provisions of this Act: Provided further that where such licence or other authority expires before such thirty-first day of December, the Director-General may extend the validity thereof to that date upon payment by the holder thereof to the Ciskeian Revenue Fund for every complete month of the period of extension of an amount equal to ten per cent of the fee paid for such licence or other authority.
- (4) Nothing in this Act contained shall –
- (a) affect any application or proceedings of whatever nature made or instituted prior to the commencement of this Act under any law repealed by subsection (1) or, as the case may be, under any law which applied to any licence or other authority referred to in subsection (3) immediately prior to the inclusion in Ciskei of the area in which were situate the premises in respect of which such licence or other authority was issued, and such application or proceedings shall be deemed to be an application made or proceedings instituted under the provisions of this Act; and
- (b) be deemed to affect the validity of any certificate or other authorization for the issue, transfer or removal of any licence or other authority for the sale or supply of liquor granted by the competent person, officer or body in accordance with law prior to the inclusion in Ciskei of the area in which are or will be situate the premises in relation to which such certificate or other authorization was granted, if such certificate or other authorization is not inconsistent with the provisions of this Act, and such licence or other authority shall be issued, transferred or removed in accordance with the provisions of this Act.
- (5) For the purposes of any application in terms of this Act for the renewal of any licence or other authority referred to in subsection (3) or (4) (b), the holder of such licence or other authority shall be deemed to be the licence-holder of a licence under this Act which corresponds to such licence or other authority or which confers upon him similar rights and privileges.
- (6) As from the date on which any area, in which the Sorghum Beer Act, 1962 (Act 63 of 1962) applies, is included in Ciskei, the provisions of the said Act shall, in so far as they apply in such area, be deemed to have been repealed.

Short title.

137. This Act shall be called the Liquor Act, 1983.

SCHEDULE 1

PART 1: CLASSES OF LICENCES, LICENCE FEES AND CERTAIN CONDITIONS ATTACHING TO LICENCES.

(a) ON-CONSUMPTION LICENCES, that is to say licences which, subject to the provisions of this Act, shall authorize the sale of liquor for consumption on the licensed premises and nowhere else.

Item 1

Bar licence. For a yearly licence R30 and in addition, where the gross receipts from the business during the preceding year exceeded R3000, R10 for every R2000 or part thereof in excess of R3000.
For a half-yearly licence one-half of the yearly fee.

Under this licence the licence-holder may sell liquor on any open day, but not earlier than ten o'clock in the morning or later than eleven o'clock at night.

Item 2

Club licence. For a yearly licence R60.
For a half-yearly licence R30.

Under this licence the licence-holder may, notwithstanding anything in any other law contained, sell or supply liquor on any day including a closed day (other than polling day) to any member of the club for consumption by such member or his guest, but not earlier than ten o'clock in the morning or later than eleven o'clock at night.

Item 3

Restaurant For a yearly licence R50.
liquor licence. For a half-yearly licence R25.

Under this licence the licence-holder may, notwithstanding anything in any other law contained, sell on any day, including any closed day (other than polling day), to any person (who is *bona fide* taking or about to take in the restaurant a meal which he has purchased thereat and for which he has paid or is required to pay not less than fifty cents) liquor for consumption with or immediately before such meal, but not at any time other than between twelve o'clock midday and half-past two o'clock in the afternoon and between six o'clock in the evening and eleven o'clock at night.

Item 4

Mealtime wine For a yearly licence R30.
and malt liquor For a half-yearly licence R15.
licence.

Under this licence the licence-holder may, notwithstanding anything to the contrary in any other law contained, sell or supply table wine, malt liquor or other fermented beverages on any day including a closed day (other than polling day) to any lodger or person, as the case may be, who is *bona fide* taking a meal (for which he has paid or is required to pay not less than thirty-five cents) on the licensed premises for consumption with such meal but not at any other time than between twelve o'clock midday and two o'clock in the afternoon and between six o'clock in the evening and nine o'clock at night.

Item 5

Late hour's licence R5

This licence shall authorize the sale or supply of liquor between the hour of eleven o'clock at night on the day in question and such hour, which shall not be later than two o'clock in the morning of the following day, as the licensing authority may determine when granting the application.

Item 6

Temporary R2 per day in respect of each bar.
liquor licence.

This licence shall authorize the sale of liquor on any open day (not exceeding six consecutive open days) on which the place of public function, recreation or amusement, in respect of which it is granted, is open to the public and then only during such hours as the magistrate shall specify, which hours shall be between the hours at which such place is opened and closed to the public, but in any event not earlier than ten o'clock in the morning or later than eleven o'clock at night.

- (b) ON-CONSUMPTION LICENCES WITH OR WITHOUT SPECIAL RIGHT OF OFF-SALE, that is to say licences which, subject to the provisions of this Act, shall authorize the sale of liquor -
- (i) in so far as the licence (other than a special right of off-sale) is concerned, for consumption on the licensed premises and nowhere else;
 - (ii) in so far as a special right of off-sale is concerned, for consumption off the licensed premises:

Item 7

Sorghum beer licence. For a yearly licence R10
For a half-yearly licence R5

Under -

- (A) a sorghum beer licence without a special right of off-sale, the licence-holder may sell sorghum beer on any open day, but not earlier than ten o'clock in the morning or later than eleven o'clock at night
- (B) a special right of off-sale authorized in conjunction with a sorghum beer licence, the licence-holder may on any open day sell or supply sorghum beer between the hours of nine o'clock in the morning and eight o'clock in the evening and deliver sorghum beer between the hours of nine o'clock in the morning and nine o'clock at night

Item 8

Hotel licence (within an urban area) For a yearly licence R40 and in addition, where the gross receipts from the business during the preceding year exceeded R4000, R10 for every R2000 or part thereof in excess of R4000 but not exceeding R6000, and R20 for every R2000 or part thereof exceeding R6000.
For a half-yearly licence one-half of the yearly fee.

Item 9

Hotel licence (outside an urban area) For a yearly licence R30 and in addition, where the gross receipts from the business during the preceding year exceeded R4000, R10 for every R2000 or part thereof in excess of R4000 but not exceeding R6000, and R20 for every R2000 or part thereof exceeding R6000.
For a half-yearly licence one-half of the yearly fee.

Under -

- (A) an hotel licence (as distinct from a special right of off-sale) the licence-holder may, subject to any restriction imposed upon him by the licensing-authority and unless he has expressly been authorized otherwise in terms of this Act
 - (aa) sell liquor on any open day but not earlier than ten o'clock in the morning or later than eleven o'clock at night;
 - (bb) notwithstanding anything in any other law contained, sell or supply liquor on any closed day (other than polling day) to any *bona fide* traveller or to any lodger on the licensed premises for consumption on such premises elsewhere than in the restricted portion thereof by such *bona fide* traveller or such lodger or his guest, as the case may be, but not earlier than ten o'clock in the morning or later than eleven o'clock at night;
- (B) a special right of off-sale authorized in conjunction with an hotel licence, the licence-holder may -
 - (aa) on any open day other than the day fixed as a half working day in terms of any law referred to in section 59 (2), sell or supply liquor between the hours of nine o'clock in the morning and eight o'clock at night, and deliver liquor between the hours of nine o'clock in the morning and nine o'clock at night,
 - (bb) on any open day fixed as half working day in terms of any law referred to in section 59 (2), sell or supply liquor between the hours of nine o'clock in the morning and three o'clock in the afternoon and deliver liquor between the hours of nine o'clock in the morning and four o'clock in the afternoon

Item 10

Tavern licence For a yearly licence R40 and in addition, where the gross receipts from the business during the preceding year exceeded R4000, R10 for every R2000 or part thereof in excess of R4000 but not exceeding R6000, and R20 for every R2000 or part thereof exceeding R6000.
For a half-yearly licence one-half of the yearly fee.

Under -

- (A) a tavern licence (as distinct from a special right of off-sale) the licence-holder may, subject to any restriction imposed upon him by the licensing authority and unless he has expressly been authorized

ized otherwise in terms of this Act, sell liquor on any day including a closed day (other than polling day) for consumption on the licensed premises but not earlier than ten o'clock in the morning or later than eleven o'clock at night;

- (B) a special right of off-sale authorized in conjunction with a tavern licence on any day including a closed day (other than polling day) sell liquor for consumption off the licensed premises between the hours of nine o'clock in the morning and eight o'clock at night.

(c) OFF-CONSUMPTION LICENCES, that is to say licences which, subject to the provisions of this Act, shall authorize the sale of liquor for consumption off the licensed premises:

Item 11

Class of licence

Licence Fee

Bottle store licence For a yearly licence R30 and in addition, where the gross receipts from the business during the preceding year exceed R4000, R10 for every R2000 or part thereof in excess of R4000 but not exceeding R6000 and R20 for every R2000 or part thereof exceeding R6000.
For a half-yearly licence one-half of the yearly fee.

Under this licence the licence-holder may -

- (A) on any open day, other than the day fixed as a half working day in terms of any law referred to in section 59 (2), sell or supply liquor between the hours of nine o'clock in the morning and eight o'clock in the evening and deliver liquor between the hours of nine o'clock in the morning and nine o'clock at night;
- (B) on any open day fixed as a half working day in terms of any law referred to in section 59 (2), sell or supply liquor between the hours of nine o'clock in the afternoon and deliver liquor between the hours of nine o'clock in the morning and four o'clock in the afternoon.

Item 12

Sorghum beer brewer's licence

For a yearly licence R30 and in addition two cents for every five litres of sorghum beer brewed during the preceding year.
For a half-yearly licence one-half of the yearly fee.

Under this licence the licence-holder may -

- (A) on his licensed premises brew or manufacture and sell and supply sorghum beer;
- (B) on any open day, other than the day fixed as a half working day in terms of any law referred to in section 59 (2), sell or supply sorghum beer to any person, other than a licence-holder, between the hours of nine o'clock in the morning and eight o'clock in the evening and deliver sorghum beer to any such person between the hours of nine o'clock in the morning and nine o'clock at night;
- (C) on any open day fixed as a half working day in terms of any law referred to in section 59 (2), sell or supply sorghum beer to any person, other than a licence-holder, between the hours of nine o'clock in the morning and one o'clock in the afternoon and deliver sorghum beer to any such person between the hours of nine o'clock in the morning and four o'clock in the afternoon;
- (D) on any open day sell sorghum beer to any licence-holder between the hours of seven o'clock in the morning and six o'clock in the evening and on any day (including any closed day) deliver sorghum beer to any licence-holder or cause it to be conveyed to any public carrier for delivery to any licence-holder.

Item 13

Wholesale liquor licence

For a yearly licence R30 and in addition, where the gross receipts from the business during the preceding year exceeded R3000, R10 for every R2000 or part thereof in excess of R3000.
For a half-yearly licence one-half of the yearly fee.

Under this licence the licence-holder may on any open day sell and deliver liquor to any licence-holder between the hours of seven o'clock in the morning and six o'clock in the evening and on any closed day, other than a Sunday, Christmas Day, Good Friday, Ascension Day or the Day of the Vow, convey liquor for delivery to any licence-holder in a rural area or cause it to be conveyed to any public carrier for delivery to any licence-holder and, subject to any restriction imposed upon him by the licensing authority -

- (aa) on any open day other than the day fixed as a half working day in terms of any law referred to in section 59 (2), sell or supply liquor to any person other than a licence-holder between the hours of nine o'clock in the morning and six o'clock in the evening and deliver liquor to any such person between the hours of nine o'clock in the morning and seven o'clock at night;

(bb) on any open day fixed as a half working day in terms of any law referred to in section 59 (2), sell or supply liquor to any person other than a licence-holder between the hours of nine o'clock in the morning and one o'clock in the afternoon and deliver liquor to any such person between the hours of nine o'clock in the morning and five o'clock in the afternoon.

PART 2: FEES PAYABLE ON TRANSFER OR REMOVAL OF LICENCE

| <i>Item No.</i> | <i>Licence</i> | <i>Fee</i> |
|-----------------|--|------------|
| 1 | Club Licence or sorghum beer licence | R5 |
| 2 | Any other licence | R20 |

PART 3: APPLICATION FEE FOR NEW LICENCE

| <i>Item No.</i> | <i>Licence</i> | <i>Fee</i> |
|-----------------|---|------------|
| 1 | Bar Licence | R50 |
| 2 | Club licence | R10 |
| 3 | Restaurant liquor licence | R50 |
| 4 | Mealtime wine and malt liquor licence | R30 |
| 5 | Sorghum beer licence | R10 |
| 6 | Hotel licence (within an urban area) | R100 |
| 7 | Hotel licence (outside an urban area) | R100 |
| 8 | Bottle Store licence | R100 |
| 9 | Tavern licence | R100 |
| 10 | Sorghum beer brewer's licence | R100 |
| 11 | Wholesale liquor licence | R100 |

SCHEDULE 2

LAWS REPEALED

| <i>No. and Year of law</i> | <i>Short title</i> |
|----------------------------|-------------------------------------|
| Act 6 of 1973 | Ciskeian Liquor Act, 1973 |
| Act 5 of 1974 | Ciskeian Liquor Amendment Act, 1974 |
| Act 4 of 1975 | Ciskeian Liquor Amendment Act, 1975 |
| Act 8 of 1976 | Ciskeian Liquor Amendment Act, 1976 |
| Act 8 of 1977 | Ciskeian Liquor Amendment Act, 1977 |
| Act 13 of 1979 | Ciskeian Liquor Amendment Act, 1979 |
| Act 14 of 1980 | Ciskeian Liquor Amendment Act, 1980 |
| Act 8 of 1981 | Liquor Amendment Act, 1981 |
| Act 9 of 1982 | Liquor Amendment Act, 1982 |

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